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VOL
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29
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Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

SENATE—*Thursday, March 21, 1996*

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Lord, You know what is ahead today for the women and men of this Senate. Crucial issues confront them. Votes will be cast and aspects of the future of our Nation will be shaped by what is decided. And so, we say with the Psalmist:

> Show me Your ways, O Lord; teach me Your paths. Lead me in Your truth and teach me, for You are the God of my salvation; on You I wait all the day.—Psalm 25:4–5.
>
> 'I delight to do Your will, O my God, and Your law is within my heart.—Psalm 40:8.

We prepare for the decisions of today by opening our minds to the inflow of Your spirit. We confess that we need Your divine intelligence to invade our thinking brains and flood us with Your light in the dimness of our limited understanding.

We praise You, Lord, that when this day comes to an end we will have the deep inner peace of knowing that You heard and answered this prayer for guidance. In the name of Him who is the Truth. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Washington State is recognized.

SCHEDULE

Mr. GORTON. Mr. President, for the information of our colleagues, the Senate today will immediately resume consideration of the conference report to accompany the product liability bill for a period of 3 hours of debate, equally divided.

At 12 noon there will be two consecutive rollcall votes. The first will be on the adoption of the product liability conference report, and that vote will be immediately followed by a vote on the motion to invoke cloture on the motion to proceed to Senate Resolution 227, a resolution concerning the Special Committee To Investigate Whitewater and Related Matters.

Following those votes, the Senate will resume consideration of the grazing bill, and there will be 75 minutes for debate remaining on the Bumpers amendment, amendment No. 3556, as modified. A rollcall vote will occur on or in relation to that amendment immediately upon the expiration or yielding of debate time. Other votes are expected, and a late night session is possible in order to complete action on that grazing bill.

COMMONSENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, the Senate will now proceed to the conference report to accompany H.R. 956. The time between now and 12 noon is equally divided.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956), a bill to establish legal standards and procedures for product liability litigation, and for other purposes, having met, after full and fair conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, as we proceed toward the climax of the debate on product liability and a vote on the bill at noon, I believe it appropriate to state what I think the issues in this debate truly are. The question involved in whether or not we wish to reform the product liability litigation system of this country has, I think, primarily to do with the products that are available to the American people, the rapidity with which new products are researched, developed, introduced, and marketed, and the cost of those products to the people of the United States.

In each of these cases, the closely related question, of course, is the system of justice by which people who believe that they have been wronged get a determination as to whether or not such a wrong has been committed and how much compensation should be granted when a wrong is determined.

Our present legal system serves well neither of these goals. We have, in many areas, a frequent reduction in the number of companies that are willing to engage in vitally important businesses: a reduction from something like a dozen to one, in the producers of serum for whooping cough; a reduction from 20 to 2, in the number of companies willing to produce helmets, football helmets, for players, whether professional or college or high school or otherwise.

There is a constant fear on the part of product developers that the unpredictable costs of product liability litigation, whether or not it is successful, are simply greater than any potential profits that can be gained from the development and marketing of a product. For example, Science magazine has identified three U.S. laboratories that suspended or canceled research on promising AIDS vaccines. Union Carbide funded and developed a suitcase-size kidney dialysis unit for home use. It was sold to a foreign corporation after the company determined that potential liability risks under the present system of law made the product uneconomical.

Another company developed a phosphate fiber substitute for asbestos, the subject, obviously, of a tremendous amount of litigation. Not only was the product safe, it was biodegradable and environmentally sound. Although the product could have generated an estimated $100 million a year in revenues, the company concluded that plaintiffs' attorneys would make the product a target for expensive legal claims, and it was therefore too risky to market.

Another company developed a chemical process that would speed up the

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

VOL
142
PT
5
MR
21
—
29
1996
UMI

natural bacterial decomposition of hazardous materials and might have been used to clean up hundreds of leaking underground storage sites. Despite its successful demonstration at several sites, the new technology was abandoned because the risk from potential lawsuits was too great.

In addition, even those companies that have been willing to stay in a particular business have been forced to increase the charges for the products they market, sometimes astronomically, in order to cover their cost of product liability litigation. Lederle Laboratories, which is now the lone maker cf the DPT vaccine, all other manufacturers having abandoned the field, raised its price per dose from $2.80 in 1986 to $11.40 in 1987 to pay for the cost of lawsuits. One other company does continue to produce, solely out of a feeling of social responsibility.

This chart behind me indicates the litigation tax cost of a number of products produced and marketed in the United States: almost $24 for an 8-foot aluminum ladder; $3,000 for a heart pacemaker; $170 for a motorized wheelchair; 18 cents for a regulation baseball. There are example after example of the added costs to American consumers to pay for the lottery that is product liability litigation today.

What do we have in the litigation system itself? We have a system that is truly a lottery, one in which the average small claimant with a very minor injury is likely to recover much more than that person's actual losses, while the average seriously injured individual recovers much less, with a few lucky ones in a few States with high punitive damage award histories receiving much more. But the bottom line, the total cost, is that for every dollar which the system itself costs, every dollar that goes into the product liability litigation system, well under 50 cents goes to the victim. Mr. President, 50 cents or more goes to the lawyers, and an additional amount in transaction costs for related professions. There is no wonder the defense of the present system is so fierce.

So this bill is designed to do two things. It is designed, to a certain degree, to make more uniform and predictable the way in which the product liability litigation or claim system will work; to make it more just, actually to increase claimants' rights in some areas, like the statute of limitations; to reduce the cost of litigation and the overall transaction costs; to restore the competitiveness of American industry; to provide additional incentives for research, to develop, to offer for sale in the market widely the kinds of new and better medical devices, mechanical products, sporting goods that we, as Americans, have come to expect.

No one else in the world has a system like ours. No one else has a system more expensive, no one else has a system that so discourages research and development and marketing of new products.

Finally, Mr. President, we already have an example of how legislation like this works in the real world. In August 1994, less than 2 years ago, this Congress passed and this President signed an 18-year statute of repose for piston-driven aircraft, small aircraft. An industry that had almost been driven out of the United States—famous companies like Piper went into bankruptcy and others like Cessna, with barely one-tenth of the production that they had a decade earlier because of the cost of litigation—has now begun a recovery, a recovery which has proceeded much more rapidly, I think, even than the sponsors of that bill hoped, but one which is symbolized better than anything else by the construction of a new plant for Cessna at a cost of some $40 million to employ some 2,000 men and women at highly skilled, first-rate jobs, producing high-quality private aircraft for American purchasers.

This kind of legislation works, Mr. President. It works for the economy, it works for our consumers, it works for our system of justice. It should be passed and should become law.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I wonder if the Senator from South Carolina will yield me 15 minutes.

Mr. HOLLINGS. I will be delighted to yield the distinguished Senator 15 minutes.

Mr. KENNEDY. Mr. President, just in terms of schedules, I ask unanimous consent that the Senator from California be recognized for 15 minutes for her comments at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I think it is only appropriate that we look at the context in which this legislation has been presented to the Senate. Others have described the bill in great detail, and, if time permits, I will mention the various provisions in the bill that I find most objectionable. But I think this body and the American people ought to understand in a comprehensive way what is happening to consumer protections during the course of this Congress in this and other bills.

This bill is supported by a number of big business, special interest groups who have advanced a series of legislative and regulatory initiatives designed to protect those interests.

We cannot just look at this legislation in a vacuum, Mr. President. For example, we have to look at what is happening in the Appropriations Committees, where the appropriators are cutting back on inspections by the various agencies of Government responsible for protecting health and safety in the workplace. In the Occupational Safety and Health Administration, there is a 20-percent reduction in enforcement. In the Environmental Protection Agency, there is a 25-percent reduction in enforcement. The Consumer Product Safety Commission has been cut and is now at its lowest level of enforcement funding since 1972. Even the National Transportation Safety Administration is facing cuts, and that is an agency whose total enforcement budget is only about $8 million to begin with.

What is happening? The same forces that are supporting this tort-related legislation are trying to reduce protection for the American worker and the American consumer in the regulatory agencies by denying adequate enforcement of existing regulations.

Second, these same forces are proposing sweeping changes in the landmark legislation that established the regulatory agencies. In the Labor and Human Resources Committee, for example, last week we considered a bill to weaken the Occupational Safety and Health Act, and next week we're moving on to the Food and Drug Administration. In the OSHA bill, 90 percent of all the companies would be excluded from any kind of inspection at all. That so-called reform bill would reduce the penalties and reduce the kinds of enforcement mechanisms that would be available to OSHA.

So you have the cutbacks in inspections and you have the efforts by the same interests to reduce the effectiveness of the enforcement tools available to OSHA, FDA, EPA, and these other agencies. And at the same moment that is happening, we are presented with this product liability legislation. Anybody who believes that we are considering this in a vacuum does not understand what the legislative process is all about.

Nor are the limits on tort liability in this bill the only ones under consideration in this Congress. The Republican leadership in the House of Representatives has added medical malpractice liability limits to the bipartisan bill that Senator KASSEBAUM and I introduced. We will have a chance to debate that next month. And it was not long ago that we were debating the loser pays concept, an antiquated system used in Great Britain which is now being abandoned there because it fails to protect the consumers in that country. And no doubt we will again face proposals to create an "FDA Defense" under which medical devices or pharmaceuticals approved by the FDA would be immune from lawsuits, no matter how recklessly they are manufactured. How long are we going to have to wait for that particular proposal? And the list goes on and on.

So, Mr. President, we have to ask ourselves: What are the two major protections for American consumers?

They are the tort system and regulatory protection. Those are the twin pillars under which the American people are protected. They are the twin pillars that assure us of the safest food, the safest water and the safest consumer products available. They are the twin pillars for the protection of the American worker in the workplace and against environmental hazards.

But both pillars are under assault. That is the context in which this bill comes before the Senate.

The other context in which we operate is a Republican Congress that has told us over and over again that Washington does not know best. But in the tort area, which has been recognized for over 200 years as being a State prerogative, its a different ballgame. I suppose our good friends who are proposing this bill say, "All right, Washington knows best on this one."

Well under this bill, it appears that Massachusetts does not know best. Because even though my State legislature has decided that Massachusetts consumers should have the benefit of no statute of repose, this bill is going to impose a Federal 15-year period of repose on them. So there is going to be fewer protections for the people of Massachusetts because Washington knows best. Any State that has provided additional kinds of protections for their consumers, they are out of business.

We have been listening to a lot of speeches in the last year and a half about how Washington does not always know best, there is local knowledge, States can fulfill their responsibilities to the people. I hope we will hear a diminution of the number of those speeches, because what in this particular proposal it turns out that the special interests, the special business interests, know what is best for the American consumer. That is hogwash, Mr. President, absolute hogwash.

The American consumer wants to know who is going to be on their side. They want a safe workplace, safe food, inspections to ensure that we are going to have clean air, clean water, and a safe transportation system.

All those are under assault in this Congress, and now in this product liability bill we are going to immunize the major companies that may even willingly or knowingly commit grievous negligence. In 15 years after they put a ticking time bomb on the market they are going to be immunized under this statute of repose. So, Mr. President, we should understand that this really is not about the research costs. This is not about health and safety costs to the consumer.

What about those 2,700 women who died from perforated uteruses from the Dalkon shield before we passed the medical device legislation? We had those hearings. It was not long ago. You talk to individual after individual who appeared at those hearings and they say, "Why didn't someone do something to protect us? Why didn't someone speak out?" This is the responsibility of Government. Individual citizens have limited resources. They do not have the great financial resources to protect their interests alone.

So, Mr. President, I agree with those who say to the consumer—beware, beware. This legislation has a head of steam. It is bad enough. But, my friends, this is just the camel's nose under the tent with regard to the attack on consumer protections in this country.

For that reason, and for all of the reasons that have been outlined in considerable detail in my statement which I will include in the RECORD, I hope this bill will be rejected in the Senate. And I admire the President of the United States for standing up against the special big business interests. He understands the anticonsumer context in which this bill may come before him. He understands what I am saying about the camel's nose under the tent. He understands that the next bill he sees may include medical malpractice liability limits.

According to the Harvard public health study, tens of thousands of people died in hospitals in this country last year from negligence in the medical system. We will have an opportunity to debate that issue in the coming months.

So, Mr. President, this is a matter of fundamental protection of American consumers. These extreme regulatory reform and tort reform bills are poised to deprive the American people of the safest food in the world, the safest air and water in the world and the safest products on the market. We must not sacrifice the interests of the American consumer.

If we accept this bill, Mr. President—and if we did not have a President with the guts to stand up and veto it—we would be retreating on our commitment to the American consumer to protect them from death and serious bodily injury. I hope this bill is rejected, and I ask that the text of my prepared statement, be printed in the RECORD, along with an editorial from today's New York Times.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR EDWARD M. KENNEDY ON H.R. 956 THE PRODUCT LIABILITY CONFERENCE REPORT

I strongly oppose the conference report on the product liability bill, and I urge my colleagues to reject it, because it constitutes an unacceptable threat to the health and safety of American consumers.

This is not "common sense legal reform." It is special interest legislation of the worst kind. Our Republican friends pretend that it is designed to end current abuses of the legal system. In reality, this bill panders to the worst instincts of big business. President Clinton has promised to veto this bill, and it eminently deserves the veto it will get.

This bill has three grave flaws. It arbitrarily caps punitive damages against the most reckless manufacturers of deadly products. It nullifies the sound common law principle of joint and several liability. And it preempts State law in ways that are both unwise and unfair.

Even worse, this bill does not come before the Senate in isolation. It is part of a shameful pattern. It comes before the Senate at a time when the Republican Congress is waging an all-out assault on the health and safety of the American public:

So-called regulatory reform bills would drastically weaken the existing rules that protect public health and safety.

Republican appropriations bills would drastically slash enforcement funds for agencies that carry out the current health and safety laws.

And now, the entire tort system, which provides basic legal protections for the public against defective products, is under Republican attack in this bill.

This is not a liability reform bill at all—it is an avoid-liability bill. It is part of a Republican triple play against the health and safety of the American people by irresponsible business interests.

The strategy is all too clear—undermine the Government's ability to protect health and safety by slashing agency rules and budgets, then slam the courthouse door in the face of all those harmed by the lack of consumer protections.

Wise regulation, effective enforcement, and access to the courts are three basic pillars of consumer protection. Regulation is intended to prevent the manufacture of defective products in the first place. Enforcement keeps business honest. Tort law guarantees adequate remedies for victims of dangerous and unsafe products when regulation and enforcement fail.

The same business interests who support this bill are also urging Congress to weaken the regulatory protections and defund enforcement.

It is ironic that the many Republican supporters of this bill who preach respect for the States refuse to practice what they preach. This legislation is intentionally designed to ride roughshod over State law.

For the past year and a half, we have heard a great deal from the Republican majority about States' rights. On issues such as welfare, education and crime, the Republican majority says it wants to return power to the States.

But when it comes to making sure that big business is protected from lawsuits brought by injured consumers, suddenly "Washington knows best."

Tort law is traditionally a State responsibility. In fact, in recent years, many State legislatures have enacted genuine reforms to address the problems of frivolous lawsuits and excessive damage awards. Federal intervention is completely unnecessary—and in this case, counter-productive.

This bill is also very different from the securities litigation reform bill enacted earlier this year, which I supported. The integrity of the stock market is clearly a Federal concern, and Congress has legislated in that area for over 60 years. The field of product liability law, in contrast, has been the province of State legislatures for over 200 years. There is no compelling reason for substituting the judgment of Congress for the judgment of elected State officials and the State

VOL
142
PT
5
MR
21
—
29
1996
UMI

courts where the vast majority of these cases are resolved.

Our specific objections to this bill are numerous and serious. It denies adequate compensation to victims of defective products, and undermines necessary incentives for manufacturers to produce safe products.

The cap on punitive damages will limit the ability of the courts to punish the most flagrant conduct by reckless manufacturers. Punitive damages serve a valid purpose by deterring wrongful conduct that injures innocent victims. Such damages are especially justified as a deterrent against manufacturers who engage in intentional wrongful conduct, or who are recklessly indifferent to the safety of others. They should not be let off with a slap on the wrist. Such extreme misconduct must be fully punished in a manner that creates a clear deterrent to future wrongdoing.

The so-called "waiver" in the conference report is supposed to permit courts to exceed the cap in flagrant cases. But there is serious doubt about the constitutionality of that provision under the seventh amendment. If it is struck down, all that is left will be a rigid Federal cap on damages.

The nullification of the common law principle of "joint and several liability" is also unacceptable. It will severely hamper the ability of innocent victims to obtain compensation for their injuries. For at least 100 years, courts and State legislatures have recognized the unfairness of forcing an innocent party to bear the cost of other people's negligence, if one or more of the wrongdoers are available to pay compensation. That is a sensible rule, and Congress should not undermine it.

Proponents of Federal product liability reform say they want national standards for goods that are sold across State lines. But the conference report before us achieves no such uniformity. It preempts State laws in an uneven and unfair manner.

Punitive damage laws favorable to plaintiffs will be replaced by the new Federal standard. But laws prohibiting punitive damages altogether will stand. Similarly, the bill creates a 15-year Federal statute of repose, but permits State statutes of shorter length to remain in effect.

The end result is not uniformity, but unfairness. This bill is rigged to benefit negligent manufacturers and their insurance companies, while ignoring injured plaintiffs and the millions of American consumers who will no longer be protected adequately from dangerous and defective products.

All of these flaws were present in the Senate bill that many of us opposed. But the anticonsumer bias of this legislation became even worse after the conference with the House of Representatives.

For example, the Senate bill contained a 20-year statute of repose, but the conferees have adopted a 15-year period. As a result, after 15 years, manufacturers of even the most defectively designed or recklessly produced products are immunized from liability and will get off scot-free, no matter how much injury their products may cause.

In addition, types of products that qualify for this blatant protection are expanded dramatically. In the Senate bill, only workplace machinery was covered. But now, all durable goods, including common household products, are given this unjustified protection.

Massachusetts currently has no statute of repose, so this bill represents a major loss of protection for consumers in my State.

When the Senate debated this bill last year, I spoke at length in opposition to medical malpractice amendments. I am pleased that the conference report does not include such amendments. Nor does it include the so-called "FDA defense" in the House bill, which would prevent punitive damages in cases involving drugs or medical devices approved by the FDA.

But the bill does apply to manufacturers of drugs and medical devices, just as it applies to other products. The cumulative effect of the many anticonsumer provisions in the bill is to protect these manufacturers at the expense of the health and safety of the people who rely on these products.

This bill is nonsense, not common sense. It pretends to support the legitimate goals of reducing frivolous litigation and improving the civil justice system. In reality, it is special interest legislation that denies fair compensation to victims of negligence and limits the ability of the tort system to deal effectively with gross misconduct by business.

If this bill came off the factory assembly line, it would be labeled "unsafe for human use." And if the principle of quality control applies in the United States Senate, this bill would be soundly rejected. It is a sweetheart deal for business and insurance interests, and a raw deal for the public interest.

[From the New York Times, Mar. 21, 1996]

THE ANTI-CONSUMER ACT OF 1996

The Senate is preparing to vote today on a pernicious piece of anti-consumer legislation masquerading as product liability "reform." The measure is little more than a bipartisan gift to manufacturers and trade associations that supplemented their lobbying and generous campaign contributions with misleading propaganda exaggerating the problem of high verdicts. The bill would arbitrarily cap the punitive damages that juries may award—dangerously weakening the ability of the civil justice system to punish, and thereby deter, the reckless manufacture or sale of unsafe products.

If a majority of senators will not heed legitimate concerns about the measure's rollback of consumer protection, President Clinton must be prepared to make good on his veto threat.

The bill is a convenient exception to Capitol Hill's prevailing philosophy of devolving power to the states. It would compel all states, even in their own courts, to limit punitive damages. The phony rationale given is the need to create a single national commercial standard. But that standard would be applied only when it would benefit the manufacturers. The bill would override the product liability laws of states that allow unlimited punitive damages, for example, but it would impose no such damages on states that do not now have them.

Under the measure, plaintiffs who sue successfully for farm from faulty products could be compensated, as they should be, for medical expenses, lost wages, damaged property and other actual damages. But punitive damages, which are awarded by juries in cases of egregious misconduct, would be limited in most cases to $250,000 or two times actual damages, whichever is greater. That is hardly enough money to serve as a deterrent to major corporations.

Senator John D. Rockefeller 4th of West Virginia, a Democratic architect of this attack on civil justice, has suggested that President Clinton is trying to scuttle the bill to reward major campaign contributors, like trial lawyers. True, the American Association of Trial Lawyers has been one of Mr. Clinton's strongest political and financial backers. But by now it is laughable for Mr. Rockefeller to make purity an issue, given the far greater sums tossed into this fight by the powerful business interests amassed on the other side.

"For irresponsible companies willing to put profits above all else, the bill's capping of punitive damages increases the incentive to engage in the egregious misconduct of knowingly manufacturing and selling of defective products," Mr. Clinton said last week. On the merits, the President was right.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much, Mr. President.

I want to thank the Senator from Massachusetts for explaining, in his usual way, why this bill deserves to be defeated. Explaining that it is, in fact, part of a pattern of this Congress which continually brings up legislation that does not make life better for people, but in fact, puts them at risk. In fact, puts them at risk, whether it is cutting, as the Senator said, enforcement funds from the Environmental Protection Agency, or weakening our laws that have worked well to bring us the safest products in the world.

Mr. President, I come to this debate by asking a very straightforward question. I am not an attorney, and I tend to look at things in a different way. This is the question I ask: If a young woman, say age 21, is working in a factory and a faulty machine blows up in her face and she is disfigured beyond belief for the rest of her life, should the company who made that faulty product be penalized in such a way that they, and for that matter no other company, will ever make such a faulty product again? I say yes. I say yes.

The company that made that faulty product, and as you will see in many cases, knew they were doing it, should face damages that act as a deterrent for the future. This bill does just the opposite. It will let a company that made such a product, and other companies that might make such a product, off the hook. If we pass this bill, such a company, which might well have profits in the billions of dollars, will be given the equivalent of a slap on the wrist. Because those punitive damages meant to punish them—that is what punitive damages mean, punishment—will be so low they will not be large enough for them to care. Those are the brutal and cold facts. I wish they were not true, but they are true.

I have heard many businesses use words like this: "Oh, well, it is just a cost of doing business." "Just a cost of doing business." In other words, they will factor in lawsuits that go against them into their bottom line. I think the Senator from Washington has proved the point. They factor it into their bottom line. He shows it on his chart.

How cold can you get? If we cap punitive damages, as is put forth in this bill, we are taking the safest system in

the world for consumers, changing it, and putting people at risk.

There are other problems in this bill that deal with the statute of repose. Some machinery has a lifetime of 30. or 40 years. In 15 years, those companies are completely off the hook under this bill.

I also join with the Senator from Massachusetts in thanking our President. He is taking the heat on this one. He is standing up for the consumers. He is standing up for future victims. He is standing up so that we will not have so many victims of faulty products.

I want to give you some examples of actual cases. We are going to take the case of the Pinto automobile, and a young man named Richard Grimshaw. The exploding Pinto tank is a very clear example of what I am talking about. The gas tank exploded and burned in rear-end collisions. Many of us remember this. The company knew this was a problem. It all came out in court. But they sold the car anyway after they did a cost-benefit analysis and found out it would save them $21 million to delay the corrections for 2 years.

What happened when that fatal decision was made? A 13-year-old boy from my State, Richard Grimshaw, was badly burned in a rear-end accident while driving from Anaheim to Barstow. In the words of the California State court judge who presided over Richard's lawsuit, he suffered "ghastly" burns over 60 percent of his body, had whole fingers burned off, and required 60 surgeries over a 10-year period.

That was 25 years ago. That tragic accident is still with Richard. For the rest of his life, it will be with Richard. Is that the kind of world we want to encourage, where a company figures it is more cost effective to delay fixing a dangerous product than to risk a lawsuit? I hope not. Yet, if this bill passes, my friends, that is what is going to happen in the boardrooms across America.

Now, not all people in business fall into that category, but unfortunately we have got to look at history, my friends, and learn from it. The memos clearly showed in the Pinto case that a calculated decision was made to delay fixing that car.

Let me read from the pen of the California State judge who upheld that award. In part, "Punitive damages remain the most effective remedy for consumer protection against defectively designed mass produced articles." "* * *. Punitive damages thus remain the most effective remedy." What does this bill do? It guts that. The court concluded, "Ford could have corrected the hazardous design defects at minimal cost but decided to defer defection of the shortcomings by engaging in a cost-benefit analysis, balancing human lives and limbs against corporate profits."

Mr. President, are we going to ignore this judge's warning and turn back the clock to a time when callous companies ruined the lives of children, like that boy in Barstow, because of their bottom line? God, I hope we do not do that. If we do, in this particular Congress, I hope this President sticks with it and vetoes this bill.

Did you ever hear about the baby crib story? Another example of a situation that happened in California in the 1970's. A baby crib company produced a dangerous crib where side slats would strangle a baby trying to climb out. Six babies were strangled and the company stopped selling the crib, but it refused to warn the existing owners that there was a problem. They refused to do that. So the parents of Gail Crusan, she was 13 months old, did not know it was a dangerous crib. The company even refused a request by the Consumer Product Safety Commission to issue a national press release. It took an award of $475,000 in punitive damages against the company to finally get them to notify parents who had bought that crib. Punitive damages did what the Government could not do. It caused the manufacturer to warn parents that their children were in cribs that could kill them.

What are we going to do? We are going to make it possible for future companies to put our children at risk. I do not want to go back to those days, Mr. President. The proponents of this bill want us to substitute the long arm of the U.S. Senate and the Congress for the local jury of peers who sit in a courtroom.

Again, I back up what my colleague from Massachusetts says. State control, local control, give them the welfare, give them the Medicaid, cancel national nursing home standards, let the local people decide—that is what we hear out of the Republicans in this Congress, day in and day out. But when it comes to this, protecting consumers, we are going to pass a weaker law and force it on the States? Not on my watch. Not if I can help it. And not on this President's watch. Not if he can help it.

I cannot believe the selective logic that we hear around here. When it suits this Republican Congress, they are all for shipping things back to the States. But when it is in their interest, keep the control in Washington. Boy, I tell you, there is not much shame about that. It simply does not add up.

Now, we hear talk about special interests. Face it, there are special interests here. There are the lawyers on the one side and there are the corporations on the other. So I want to look at who does not have an ax to grind. Who are they? Let me tell you some of the people who oppose this bill. They have no ax to grind. They are not on one special interest or the other. The Brain Injury Association, the Center for Auto Safety, Children Afflicted by Toxic Substances, Citizen Action, Coalition for Consumer Rights, Coalition to Stop Gun Violence, Consumer Federation of America, Consumers Union, the Gray Panthers, National Consumers League, National Hispanic Council on Aging, Public Citizen, Remove Intoxicated Drivers, U.S. Public Interest Research Group, Violence Policy Center, Nuclear Information and Resource Services, Clean Water Action, the Sierra Club, Dalkon Shield Information Network, DES Action USA, the Feminist Majority, the National Organization of Women, the National Women's Health Network, the National Women's Law Center, and Women Employed.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of all of these groups.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THIRTY-SEVEN CITIZEN GROUPS OPPOSING THE PRODUCT LIABILITY CONFERENCE REPORT

AFL–CIO.
Brain Injury Association.
Center for Auto Safety.
Children Afflicted by Toxic Substances.
Citizen Action.
Coalition for Consumer Rights.
Coalition to Stop Gun Violence.
Consumer Federation of America.
Consumers Union.
The Empower Program.
Gray Panthers.
International Association of Machinists and Aerospace Workers.
Int'l Union, United Automobile Aerospace & Agricultural Implement Workers of America.
Nat'l Conference of State Legislatures.
National Consumers League.
National Farmers Union.
National Hispanic Council On Aging.
Public Citizen.
Remove Intoxicated Drivers.
Safe Tables Our Priorities.
United Food and Commercial Workers.
U.S. Public Interest Research Group.
United Steelworkers of America.
Violence Policy Center.
Nuclear Groups:
Nuclear Information & Resource Service.
Public Citizen's Critical Mass.
Safe Energy Communication Council.
U.S. Public Interest Research Group.
Environmental Groups:
Clean Water Action.
Sierra Club.
Sierra Club Legal Defense Fund.
U.S. Public Interest Research Group.
Women's Groups:
Dalkon Shield Information Network.
DES Action USA.
Feminist Majority.
National Organization for Women.
National Women's Health Network.
National Women's Law Center.
Women Employed.

Mrs. BOXER. Mr. President, we should not look to the lawyers and we should not look to the companies. We should look to the people who stand up and speak for consumers and speak for victims.

Now, I think this bill is particularly tough on women. I do not know what has happened to this place, but do we

VOL
142
PT
5
MR
21
—
29
1996
UMI

forget things that just happened? Do we forget about the silicone gel breast implants which were introduced in the market in 1962 with no long-term testing before being placed inside women? Implant patients and some doctors were told by manufacturers that the implants were safe and would last a lifetime. However, the implants were found to leak or rupture, releasing silicone into the body, now known to migrate to the brain, liver, spinal fluid, and kidneys. Now many women with ruptured implants are sick with a variety of autoimmune diseases.

It was because of a lawsuit that included a punitive damage award of $6.5 million that the full extent of the hazards associated with silicone gel breast implants were brought to the public's attention. The availability of silicone gel breast implants were restricted only after Dow-Corning was held liable for punitive damages.

Do we not think more about women's health? Have we forgotten that? Have we forgotten the Copper-Seven IUD? The manufacturer knew for more than 10 years that their product could cause loss of fertility, serious infection, and the need to remove reproductive organs. Instead of doing anything about it, the manufacturer continued to earn profits and put millions of women at risk. A jury awarded one $7 million punitive damage award for what it determined to be the manufacturer's intentional misrepresentation of its birth control devices. Under this bill, that manufacturer would have had to pay $250,000, or double the plaintiff's compensatory damages, whichever is higher. We know in most cases women do not get as much in compensatory damages as men because women often earn less money. We know that. This bill is antiwomen. We should call it what it is.

How about the Dalkon shield? You heard the Senator from Massachusetts talk about that. It took eight punitive damage awards before A.H. Robins discontinued the Dalkon shield. A $7.5 million punitive damage award was awarded to a 27-year-old woman who had to have her uterus removed, rendering her sterile and in need of dangerous synthetic hormone treatments. That was extraordinary. But it took more than one punitive damage award. They made so much profit they kept on producing it. They concealed studies of the dangerous effects and even misled the doctors into prescribing the IUD.

If it takes multiple punitive damage awards to force a major corporation like A.H. Robins to stop selling dangerous products, how could dangerous products be stopped by this legislation which caps punitive damage awards to relatively low amounts? The Dalkon shield is yet another example of how the current system finally took a dangerous contraceptive off the market.

I cannot believe there are those in this body who feel that this legislation can make life better for the people of this country, just on the few examples that I have brought here today. To the contrary, it will put our people at great risk.

The Senator from Washington shows you with his chart that businesses write it into the bottom line.

The proponents of this legislation argue that the current system prevents women from having more choices when it comes to contraceptives. Well, I have a daughter, and a lot of you have daughters. Do you want to see dangerous contraceptives come on the market? Let me tell you unequivocally—and I will debate this point toe to toe with anyone in this Chamber—if the current system is preventing other Copper-7 IUD's or Dalkon shields, or other dangerous contraceptives from coming on the market, I say that is good. Because I do not want my daughter sterile, and I do not want my daughter sick, and I want her to have more children if she chooses to do that, and to live a healthy life. We want contraceptives, but we want them to be safe.

In conclusion, Mr. President, let there be no mistake as to what this conference report is all about. This is not proconsumer legislation. This legislation is anticonsumer. That is why every major consumer group in this country opposes it strongly.

The conference report is about protecting wrongdoers. Now, if some of my colleagues, for whom I have great respect, see it another way, that is their right. But I am here to call it the way I see it. It is designed to relieve corporate America of its proper legal duty to make safe products, represent them accurately, and treat consumers fairly.

I have seen no justification put forth thus far in this debate by the proponents of this conference report that leads me to believe that it will help our people. I believe it will, in fact, trample on the rights of American consumers. We, in this Senate, are the last line of defense of the rights of the American consumers and for working families. I tell you, we need to protect them from this legislation.

Again, I thank the President for getting out there and saying he is standing on the side of the consumers. To those who say, "He is doing it for lawyers," we can argue that from night until day, lawyers on one side, big business on the other. For some, that is a tough choice. That is not what the choice is about. The choice is about the consumer. The choice is about little babies in cribs. The choice is about women's reproductive health, safety in the workplace, at home, and when we are at leisure. That is what it is about. I say that this U.S. Senate should stand with the consumers. If you do that, you are fulfilling your responsibilities.

I thank the Chair, and I thank Senator HOLLINGS.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator, first, from Massachusetts, for his presentation this morning, in a most meaningful way and, of course, the Senator from California. She really keynoted the issue as it should be in a very cogent and persuasive fashion. When we say consumers, that is the people versus those making a profit on defective products, with shoddy manufacturing.

America is the safest place in the world to live. That is part and parcel, as mostly I would say, I guess, because of our State legislatures. The State legislatures have acted on the need of product liability provisions. They have acted and they have maintained their laws. But it now becomes an assault in the name of a cost of a hotel room, or a ski lift, and such nonsense as that, trying to really move the attention, I guess, of the Senators, thinking they, frankly, do not have much sense and will go along with that kind of nonsense. Thinking that Senators will not understand what the Senator from California is trying to emphasize—these are real life injuries, and the more we get into them in a very meaningful way, as we do in trial law practice, the less danger and injury has been caused. So I could not express my gratitude enough to the Senator from California. I wish we could go ahead and vote right now, but I will retain the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. Mr. President, I yield such time as the Senator from West Virginia may desire.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank my colleague. Mr. President, I am very happy that we are here this morning with this remaining part of the debate. Already, a variety of charges have been made, which have no basis in fact, as they relate to the product liability reform. But I think rather than to try to go into that, it would be better to focus on what this law is trying to do and why it is a good conference report.

In a matter of a couple of hours, we are going to pass this conference report. It will pass. The House and the Senate, for the first time, I believe, in recent history will have passed product liability tort reform. So it is an interesting and, I think, a rather noteworthy point of history.

We have had really a couple of decades of hearings, markups, and arguments. I remember one time a number of years ago we actually had 60 votes on cloture, and the majority leader at that time—it was still legal to do so—stopped the vote, actually stopped the vote. The Presiding Officer was not here in this body yet. For 45 minutes we waited, and all of a sudden, two "yes" votes became two "no" votes. I retain in a desk drawer in my office the

sheet which is held at the Democratic desk, which shows how the numbers go up, and they went up to 57, 58, 59, and got to 60, and then it went from 60 to 59 to 58. So there is a lot of history on this. Of course, there is a lot of emotion. A lot of that emotion is justified. Some of it is not. But history, there is.

I expect the House to approve this report in short order and send it on to the President, who has a chance, I think, to do something remarkable and significant for this country, if he should choose to sign what will then be the legislation.

I regret that yesterday's debate demonstrated—and already this morning some, too—there are some very fundamental misunderstandings. I think some of the misunderstandings are very deliberate. They are deliberately put forward to obscure and obfuscate. I think the reason for that is understandable. Product liability tort reform law is not everybody's first choice of the day when they get up in the morning. They do not say, "How can I get deeper into product liability tort reform law?" Those of us who are not even lawyers understand best what I am talking about.

Therefore, it becomes easy to mislead. I suppose it is easy for the proponents, as well as for the opponents of this legislation, to mislead. But I think that the proponents have really tried not to mislead, to stick to what is in the legislation. The opponents have been vigorous in their work, which is part of the legislative process.

I want to emphasize that this conference report is only, Mr. President, about something called product liability reform. That is all it is. It does not pretend to be more. It does not pretend to solve the crisis in Bosnia or hunger in Rwanda, nor anything else. It is just about product liability reform.

It establishes some uniformity for consumers and businesses in our product liability system. That is what we attempted to do. That is it. Product liability reform. This is not broad civil justice reform. This is not an overreaching House contract item. This is not a bill that protects drug traffickers, or gun users, or those who sell drugs or guns. This is not an extreme bill. This is a limited bill.

The Senator from the State of Washington, who has been credible throughout this process, has been extraordinary, I think, in helping to discipline and to make sure that we sculpted this bill and then kept this bill basically in the form —virtually, with the main exception of the statute of repose—as the Senate passed it last May, which is almost a year ago.

One of the reasons for this long, long period of time is that it took a long time for the House to accept that we really meant it, and that when we said we were going to stick with the Senate bill, we really meant it, and that in fact we had to, in any event because it was a matter of mathematics. Yesterday we did not get 58 votes, we got 60 votes. Finally that was understood.

So what this bill does is establish a fair and a balanced commonsense rule which benefits both consumers and business persons, and it will create jobs. The Senator from Washington has discussed the aviation liability reform. I think it will improve product safety because it will allow manufacturers to make improvements.

Now, manufacturers often decline to make improvements to their product because they are afraid that if they make an improvement, it will infer somehow that their previous iteration of the same product was deficient or unsafe. So rather than take that chance they do not make the improvement. That does not help consumers.

I think it will encourage innovation. I know it is going to encourage innovation. And I think it will stimulate economic growth just as the aviation bill did.

I have to say once again that there are all kinds of ways of protecting the consumer. We can do it through being sure that there are punitive damages available. That is the reason for the additional amount that was added, and that is also the reason that at the suggestion of the Department of Justice we clarify, the additional amount to make it a stronger case should there be a constitutional challenge against it—because we are determined that there will be no cap on punitive damages except whatever the jury decides.

I am forced just by definition of the world that we live in to look at, once again, at our competition. You know that when people lose jobs in our country or do not gain jobs that they might gain, that is one of the worst things you can do to them. It is injuring them in a very severe way. It is depriving them of family and economic justice. In the case where it puts people on Medicaid, that is very obviously the consequence of that. Not having a job is a way to hurt somebody deep and hard.

In the European Economic Community, which has, I think, 350 million consumers—Europe is one of our huge competitors—there are 13 countries in that community. Those countries presumably have provinces, or whatever they call them. It does not make any difference. They overrun all of that, and they have one uniform product liability law for all of those countries because they want to be able to minimize transactional costs, maximize research and development, maximize jobs, and maximize their competition against the United States of America, which is their principal competitor. So they have banded together to do this because they know that, if they do that, they will have a leg up on us in terms of the creation of jobs.

Japan, which I think very few would argue is not a competitor to the United States economically, has just this year done the same thing. So they have a single uniform liability law for their entire nation. They do not sue a whole lot anyway. I think there are 13,000 lawyers in Japan, and there are 600,000 or 700,000 in the United States. Nevertheless, they are ready.

So they understand that the system that America has has very, very high transaction costs, and they understand that the high transaction costs exceed the compensation that is ultimately paid to the victims of defective products. That is great for lawyers—both for trial lawyers and defense lawyers. They are both equally guilty. But they get the money, not the victim. They get the majority of it. It used to be that in the Wild West people carried six-shooters, and they would just shoot. We have a different, more modern way of doing it now, and we destroy ourselves in other kinds of ways.

So these transaction costs, of course, are then real costs, and they have to be passed on to the consumers through higher priced products. People say when you pay more for a product that, "Well, that is the kind of argument people make." It is true. We pay more. The Senator from Washington is prepared to give all kinds of statistics about that. He did yesterday. We pay more. Consumers pay more so that the trial lawyers and the defense lawyers can make more. In a sense, I am not blaming them because that is the system of law that they live under, as do we. That is why we are trying to change the law—so as to bring some more common sense into this process.

The system's unpredictability and inefficiency are big items. Unpredictability is a bad thing. It is a bad thing. It is a lack of uniformity, a lack of predictability. It is harmful. It stifles innovation. It stifles research and development.

What is the very first thing that happens in this country? I have heard many times the distinguished Senator from South Carolina say this. When a company gets in trouble, or a company is up against a lawsuit, or a company is whatever for whatever reason in trouble, what is the first thing they do? They cut out research and development. That is the first thing they cut, which is, in fact in many instances, one of the last things they should cut.

It is just like a hospital. When a hospital gets in trouble financially, what is the first thing they do? They close the emergency room because it is the most expensive, which is often the last thing they should do in terms of the community they serve. But they act as they believe they have to act, and we have to understand that.

So, stifling innovation and keeping beneficial products off the market has handicapped American firms as they

VOL
142
PT
5
MR
21
—
29
1996
UMI

try to compete in a global marketplace. The current system is simply unfair, therefore, again to consumers and to businesses alike, and that is why we are projecting this conference report forward.

Of course, many of the States have fully recognized the inequities of the current system, as has been pointed out by a number on the other side of this argument. The States are very aggressive on this, and they have moved ahead to enact product liability reform. Thirty States have made major changes in joint and several, for example, and in most cases—virtually all cases—it is limiting joint and several. But by doing so, while solving some issues, they have inadvertently created other kinds of problems.

Only through Federal product liability reform can we, in this Senator's judgment, resolve the problems caused by the current State-by-State product liability system. State legislatures can be very helpful in this area, but it is virtually impossible for them to be uniform because they are all different.

We have 134 legislators in our State of West Virginia in the senate and house. They are not going to do the same thing that Ohio does, or that Kentucky does, or that Virginia or Maryland do. They are just not going to. So you have, in fact, 51 different laws relating to product liability in our country.

As I said yesterday, years and years ago I suppose that the majority of products made in the States were sold in those States. That is no longer true. Seventy percent of products made in the State of Ohio, and in the State of the Presiding Officer, if it is at the national average, are sold outside of Ohio. The same is true with the State of West Virginia, the State of Washington, and the State of South Carolina. So we are an interstate as well as an international economy. Therefore, we need uniformity at certain points to shape and adapt to that.

For this reason, State reform legislation—because of the 70 percent being shipped outside of the State of manufactured goods, less than 30 percent effectiveness is the standard for State law. I mean, by definition, they have to be less than 30 percent effective. On the other hand, all of the State citizens who sue in the State are governed by that State's product liability statute, and thus they fall victim to an antiquated system, and the people here want to protect them.

That is why the National Governors' Association recognized both the need for product liability reform and the necessity of Federal action to effectuate that reform. They did not say, well, States, you have to do a better job and do things more alike. They said, no, there have to be places where the Federal Government sets uniform standards.

The Senator from South Carolina was talking yesterday about how the States always want to have more power; they want to have the power shifted to them. That is the direction in which our country is going.

That is not the direction of the National Governors' Association on product liability and tort reform. They want more Federal action. That is why the American Legislative Exchange Council, not very well-known, but it is a bipartisan group of over 2,500 State legislators—that is a lot of them—representing all 50 States, three times has called upon Congress to enact product liability law which is Federal. That is why President Clinton has said that he supports the enactment of limited but meaningful product liability reform at the Federal level. He said that in a number of statements—in a letter to us, in a statement of policy to us—during the course of this debate. H.R. 956 contains that limited but meaningful product liability reform which makes common sense and which has measures which are good for ordinary consumers and businesses.

Incidentally, Mr. President, I wish to make one point. People keep referring—and even there was an article this morning in the Washington Post—to big business versus trial lawyers. On the business side, it is not big business which is really at stake here. It is small business. That is the reason for the support of the National Federation of Independent Businesses.

Mr. President, 98 percent of businesses in America are small. Those are the people who get put out of business most quickly. Those are the people who have the least cash reserve. Those are the people who live at the margins. Those are also places, we have long established, from where often the best ideas come. That is the overwhelming dynamic center of the American economy.

So H.R. 956 contains, as I have said, what I believe is needed.

Mr. President, I ask unanimous consent that a list describing the major provisions of the conference report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ROCKEFELLER. Mr. President, the conference report does, however, provide the following: legal fairness for product sellers; a rule to discourage illegal use of alcohol and drugs—we cannot stop it but to discourage it, certainly not to reward it—a proconsumer statute of limitations, an enormously proconsumer statute of limitations; a statute of repose that will stimulate jobs and economic growth; alternative dispute resolution as a way of settling some of these matters. It is voluntary, which is not so thrilling to me. I wish it were not. I wish it were mandatory, but it is voluntary. At least it is there. That is the way they do things in Japan. That is why they settle everything over there, which is not to say they do not have their economic problems, but product liability is not one of their problems. Punitive damages fairness is in this bill. Opponents of the bill say we cap punitive damages. Untrue. Untrue. I will not vote for legislation which caps punitive damages, as I would not vote for legislation that caps what lawyers can make. Part of me would like to, but I do not believe that because I believe the market should make that decision. But punitive damages are not capped.

We added the additional amount provision, originally called the judge additur provision, a suggestion which was endorsed by a number of high-up folks at the White House and then the whole idea for making sure that it was more constitutional came from the Department of Justice, which I presume to be the executive branch of Government. So there are no caps on punitive damages, and I will assert there could not be because I was a part of this bill. I was not going to go along with a bill that would allow such a thing.

There is several liability for noneconomic loss; workers compensation subrogation; biomaterials access assurance.

These, Mr. President, are some of the highlights.

Now, in winding up here, I should like to take a moment to comment on where we stand in the legislative process. I wish to be hopeful; I try to be hopeful; I am hopeful; I will insist on being hopeful; I will be everlastingly hopeful that the President will reconsider his decision to veto this product liability conference report and that in fact he will sign it. I firmly believe that the President can sign this bill, even recognizing that he will not support each of its provisions. There are some provisions that I think ought to be in this. There are some provisions which I think ought to be changed, some. Nobody gets everything they want. There are 535 people in the Congress.

Even though the President might not support each of its provisions, when the product liability conference report is considered in its totality, in balance with the need for this reform, I remain hopeful that the President will still seize this opportunity to participate in product liability reform which will benefit in fact the American people and the American economy. From my point of view, I stand ready to work with the President to achieve what I believe is our common goal, his goal, my goal, our goal, of fairly balancing what needs to be fixed in our broken product liability system, which he surely must recognize, while preserving important rights for consumers. This is not business versus consumers. We are trying

to achieve a balance where each business and consumer gets certain improvements, and providing business with the predictability that they need to compete in today's economy.

In conclusion, because I do not know how much time is remaining—and I am not interested—I wish to thank a few people. First of all, I again wish to thank Senator GORTON, Senator SLADE GORTON from the State of Washington, G-O-R-T-O-N. That is his name. He has been absolutely incredible over the years and continues to be in this process—remarkable, calm, intellectual, unflappable, fair, flexible. It is just a stunning privilege to be able to work with SLADE GORTON and with his staff, Jeanne Bumpus, Trent Erickson; Commerce Committee staff, Lance Bultena. We spend a lot of time together. When you do these things, you get real close.

I thank all of the Democratic supporters, not that that is a convention full of people, but I thank each and every one of them and all of their staff. And, obviously and particularly, I want to thank my own staff: Jim Gottlieb, a superb lawyer—inventive, flexible, calm, tough, a great negotiator and a marvelous human being; Ellen Doneski, who is just indefatigable. She is just like some kind of a rolling army—cannot be stopped. She has a tremendous sense of humor, is relaxed, adamant, just puts her mind to this or other things. She is actually part of my health care staff, but she is so smart and so flexible she can get this mastered. She is not a lawyer, but do not tell anybody that because everybody thinks she is.

Then I want to thank another person who is not here because her fiance has been through, and is still going through, a terrible, terrible crisis, and that is Tamera Stanton, who is kind of here in spirit. When we were having this debate last year, she sat next to me. She is my legislative director, an extraordinary, brilliant, wonderful person who is now going through a very, very tough—but also encouraging—experience in terms of the health of her fiance, as they hope and plan to get married in June.

So, I am mindful of these people, grateful to these people, and I thank my colleagues for their forbearance.

Mr. President, I ask unanimous consent that numerous fact sheets, and a list and letter from small business organizations, be printed in the RECORD. I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

MAJOR PROVISIONS OF CONFERENCE REPORT

Legal Fairness For Product Sellers: Product sellers are held liable only for their own negligence or failure to comply with an express warranty. The product seller, however, remains liable as if it were the manufacturer if the manufacturer cannot be brought into court or is unable to pay a judgement. This provision assures injured persons will always have available an avenue for recovery, while relieving retailers and wholesaler-distributors of substantial unnecessary legal costs. The provision is "consumer neutral" and any attempt to characterize it another way lacks credibility.

Rule to Discourage Illegal Use of Alcohol and Drugs: The defendant has an absolute defense in a product liability action if the plaintiff was under the influence of intoxicating alcohol or illegal drugs and as a result this influence was more than 50 percent responsible for his or her own injuries. The alcohol/drug defense in H.R. 956 is consistent with law of the substantial majority of states implements sound public policy. It tells persons that if they are drunk or on drugs and that is the principal cause of an accident, they will not be rewarded through the product liability system. It also relieves law-abiding citizens from having to subsidize others' irresponsible conduct through higher consumer prices. This provision has not been controversial or challenged by professional consumer groups as unfair.

Pro-Consumer Statute of Limitation: H.R. 956 permits a plaintiff to file a complaint within 2 years after he or she discovers or should have discovered both the harm and its cause. This is a liberal, pro-claimant provision, which will be particularly helpful to persons who have been injured by products that result in latent inquiries (*e.g.*, drugs and chemicals). Contrary to the suggestion by some opponents, this provision will create a uniform, fair national standard which will open courthouse doors to plaintiffs in many states, such as Virginia.

Statue Of Repose Will Create Jobs and Stimulate Economic Growth: A limited statistic of repose of 15 years is established for durable goods used in the workplace, unless the defendant made an express warranty in writing as to the safety of the specified product involved, and the warranty was longer than the period of repose (15 years). Then, the statue of repose does not apply until that warranty period is complete. The statute of repose provision will not apply in cases involving a "toxic harm."

Strong support exists for this reform, particularly as a result of the enactment of the General Aircraft Revitalization Act of 1994, signed by President Clinton in August 1994, which created a federal eighteen year statute of repose of general aviation aircraft. This law has resulted in production of safer aircraft and the creation of thousands of new jobs and has not been perceived as unfair to consumers. A growing number of states have enacted legislation in this area as well. The statute of repose in H.R. 956 is both longer and more limited in scope than any existing law.

As one might expect, there are very few cases involving older workplace durable goods and they are generally won by defendants. Nevertheless, cases involving very old products bring about substantial legal costs and put American machine tool builders and other durable goods manufacturers at a disadvantage with foreign competitors. Foreign competitors rarely have machines in this country that are thirty or more years old, so they pay less liability insurance than their American competitors.

Alternative Dispute Resolution: Either party may offer to participate in a voluntary, non-binding state-approved alternative dispute resolution (ADR) procedure. This pro-consumer provision is intended to promote the use of ADR procedures, which can provide a quicker and cheaper mechanism of handling legal claims. This provision should help such individuals receive compensation for their claims more quickly and bypass the need to retain costly legal representation.

Punitive Damages Fairness: Punitive damages are quasi-criminal punishment for wrongdoing; they are a windfall to the claimant and have nothing to do with compensation for injury. H.R. 956 permits punitive damages to be awarded if a plaintiff proves, by clear and convincing evidence, that the harm was caused by the defendant's "conscious, flagrant indifference to the rights or safety of others." The standard is consistent with law in most states.

Punitive damages may be awarded against a larger business up to the greater of $250,000 or two times the claimant's total economic and noneconomic damages; against an individual or small business, punitive damages can be awarded up to the lesser of $250,000 or two times the claimant's total economic and noneconomic damages. The provision is "gender neutral" and places no limitation on compensatory damages (economic damages plus "noneconomic damages" such as pain and suffering). A special rule allows a judge to augment the punitive damages award against a big business when the "proportionate" award is "insufficient to punish the egregious conduct of the defendant." A controversial provision that would allow the defendant the right to a new trial if the court used this special power has been removed from the legislation and does not appear in the conference report—as Senator Gorton and I vowed it would not.

Approximately one-quarter of the States have set forth guidelines on punitive damages awards, including Illinois, Indiana, North Carolina, New Jersey, Oklahoma, and Texas in 1995. Because H.R. 956 is not preemptive, the outcome of many punitive damages cases involving larger businesses would not be affected. In some cases against small businesses, however, the outcome may help the business survive, because the bill limits the amount of punitive damages recoverable against a small business to $250,000. This is a particular benefit to the small business community, since an award exceeding $250,000 could virtually wipe out most small businesses.

Several Liability For Noneconomic Loss: The rule of joint liability, commonly called joint and several liability, provides that when two or more persons engage in conduct that might subject them to individual liability and their conduct produces a single, indivisible injury, each defendant will be liable for the total amount of damages. This system is unfair and blunts incentives for safety, because it allows negligent actors to under-insure and puts full responsibility on those who may have been only marginally at fault. Thus, a jury's specific finding that a defendant is minimally at fault gets overridden and the minor player in the lawsuit bears an unfair and costly burden.

Joint and several liability produces extreme harm for our society. For example, Julie Nimmons, CEO of Shutt Sports Group, Inc. in Illinois, has testified that joint liability has caused manufacturers of protective sporting goods equipment, such as safety helmets, to withdraw products from the market or be chilled from introducing new products. Recognizing the urgent need for reform of this unfair doctrine, 33 states have already abolished or modified the principle of joint and several liability.

H.R. 956 adopts a balanced approach between those who call for joint liability to be

VOL
142
PT
5
MR
21
—
29
1996
UMI

abolished and those who wish for it to remain unchecked. The legislation eliminates joint liability for "noneconomic damages" (e.g., damages for pain and suffering or emotional distress), while permitting the states to retain full joint liability with respect to economic losses (e.g., lost wages, medical expenses, and substitute domestic services). This means that each defendant will be liable for noneconomic damages in an amount proportional to its percentage of fault of the harm. This "fair share" rule is based on a joint liability reform enacted in California through a ballot initiative approved by the majority of voters in 1986. The same approach was enacted by the Nebraska legislature in 1991.

It has been argued by some opponents that the provision is "anti-women" because their economic damages may be lower than men and, for that reason, they depend on noneconomic or so-called "pain and suffering" damages. However, there has been absolutely no showing in California, a large and litigious state, that the California approach discriminated against any sex or any group. In fact, noted California trial attorney Suzell Smith has testified that the California law is fair and has worked well for consumers.

Workers' Compensation Subrogation: This provision preserves an employer's right to recover workers' compensation benefits from a manufacturer whose product harmed a worker unless the manufacturer can prove, by clear and convincing evidence, that the employer caused the injury. This provision would modify state law in a very positive way. It would create a new private incentive on employers to keep their workplace safe and achieve this goal without reducing the amount an injured employee can recover in a product liability action. This provision has not been challenged by professional groups as controversial or unfair.

Biomaterials Access Assurance: Millions of citizens depend on the availability of lifesaving and life-enhancing medical devices, such as pacemakers and hip and knee joints. The availability of these devices is critically threatened, however, because suppliers have ceased supplying basic raw materials to medical device manufacturers. A 1994 study by Aronoff Associates concluded that there are significant numbers of raw materials that are "at risk" of shortages in the immediate future. Suppliers have found that the risks and costs of responding to litigation related to medical technology far exceeds potential sales revenues, even though costs are *not* finding suppliers liable!

H.R. 956 will safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices. The provision was introduced in this Congress as S. 303, the "Biomaterials Access Assurance Act of 1995," by Senators Lieberman and McCain and was added to the Senate version of H.R. 956 during the Commerce Committee's markup. The provision, which has been the subject of hearings and enjoys very strong bipartisan support, will help prevent a public health crisis by limiting the liability of biomaterials suppliers to instances of genuine fault and establishing a procedure to ensure that suppliers—not manufacturers, can avoid litigation without incurring heavy legal costs. This provision is critically important to all Americans, particularly women, according to Phyllis Greenberger, Executive Director for the Society for the Advancement of Women's Health Research.

Ironically, even though this bipartisan provision would unquestionably provide a tremendous public health benefit and would not adversely affect consumers, it is not well understood by some and, therefore, becomes a target by those who are willing to concoct and perpetuate untruths in the desperate attempt to selfishly promote their own economic agenda. The fact is that this is a proconsumer provision which does not in any way limit the ability of claimants to seek recovery from medical device manufacturers; the provision recognizes the "common sense" principle that suppliers of basic materials, who are *not* currently found liable, should not be permitted to be indiscriminately hauled into court.

EXHIBIT 2

THE FACTS ON PRODUCT LIABILITY

Fact: There is no cap on economic or noneconomic damages. Claimants will continue to be able to recover whatever they are awarded in a court.

Fact: The statue of repose remains limited to durable goods in the workplace only. Statements being made that we now cover all goods are simply wrong.

Fact: Product sellers, lessors, or renters will NOT be protected from negligent entrustment liability. That is precisely why the "negligent entrustment" exception was moved to the product sellers section of the bill.

Fact: Dow Corning, and other companies who made or make breast implants will NOT be shielded from liability. Whether or not they supplied the silicone, they remain liable as manufacturers.

Fact: Drunk drivers, gun users, etc will NOT be protected from liability in any way. Opponents are intentionally trying to confuse harm caused by a product, which IS covered in the bill, and harm cause by the products' use by another, which is NOT covered in the bill and remains totally subject to existing state law. (See Sec 101 (15) and 102 (a)(1)—definition of product liability action includes only "harm caused by a product" not "use." This is a big difference.

Fact: In all states that permit punitive damages, they will continue to be available, and the "additional amount" provision will apply in all those states, regardless of whether caps are higher or lower in that state.

Fact: Tolling of the statue of limitations will be covered as they now are, by applicable state and federal law. For example, see 11 USC 108c automatic tolling in bankruptcy cases. Nothing in the bill or omitted from the bill will change state law on tolling.

Fact: State law will continue to control whether or not electricity, stem, etc is considered a product or not.

Fact: This is NOT one-way preemption, but a mix of state and federal rules. Products are in interstate commerce, and should be subject to more uniform rules for businesses and consumers.

Fact: 30 states have modified joint and several liability at this point. The federal proposal follows the California law affecting ONLY noneconomic damages.

PROVISION AND PRODUCT LIABILITY CONFERENCE REPORT, MARCH 13, 1996

Liability of Product Seller

Same as Senate bill—Product seller can be held liable as manufacturer only in limited circumstances.

Applicability/Preemption

Same as Senate bill—Applicable to product liability cases only.

Alternative Dispute Resolution

Same as Senate bill—Dispute Resolution (ADR), with no defendant loser pays provision.

Defenses Regarding Alcohol or Drugs

Same as Senate bill—Complete defense if claimant was more than 50 percent responsible.

Reduction for Misuse or Alteration

Same as Senate bill—Reduction of damages by the percentage of harm which is the result of the misuse or alteration.

Punitive Damages

Same as Senate bill: (a) Ceiling of greater of $250,000 or 2 × compensatory; (b) DeWine Amendment including assets in determination of damages; (c) DeWine small business amdt—limits punitive damage awards for business under 25 employees, to the lesser of $250,000 or 2 × compensatory damages; and (d) Judge can award an additional amount for punitive damages in egregious cases, under factors set forth in bill. [Clarification that judge can award all the way up to the initial jury award.]

Statute of Limitations

Same as Senate bill—Two years after date of discovery of the harm and cause of harm or date that these should have been discovered.

Statute of Repose

Retains Senate scope—Limits to 15 years for durable goods in the workplace only, with exception for toxic harm.

Joint and Several Liability for Noneconomic Loss

Same as Senate bill—Joint and several liability for all economic damages, and several liability for noneconomic damages.

Federal Cause of Action

Same as Senate bill—No new federal cause of action.

Biomaterials

Same as Senate bill—Biomaterial suppliers who furnish raw materials or component parts, but who are not manufacturers or sellers, are protected from liability; amendments addressing shell corporation concerns and deleting the certificate of merit requirement.

Is this one-way pre-emption?

This is a real red herring argument. The truth is this is a balanced bill—for consumers and for business. In some cases state law prevails, and in some cases, the federal law controls.

The goal of federal legislation, especially where you are dealing with interstate commerce, is uniformity, fairness, and predictability. It naturally follows that Federal laws very often must preempt inconsistent state laws. And this product liability bill allows maximum flexibility for the states within a uniform federal system.

The interpretation of which laws apply to which situations, is complicated (and is best left to the lawyers). But lets look at a few of the specifics of the bill:

If a state has a shorter statute of limitations, and many do, this bill makes it longer. Period. Which way is that preemption?

If a state has a statute of repose, this bill makes no change as to the time period, but does make sure that victims of toxic harm receive compensation regardless of the time that their injury is discovered.

If a state doesn't allow punitive damages, at all under current law, this bill makes no change in that state's laws.

In some states that do permit punitive damages, such as Colorado and Maryland, the standard for allowing punitive damages is lessened, not stricter. (The standard goes from one requiring proof "beyond a reasonable doubt" and "actual malice" to "clear and convincing evidence.)

If a state does permit punitive damages, I believe that the new federal rules will, for the first time, permit judicial flexibility in determining the amount of punitive damages, even if there is a cap on the amount of punitive damages under that state's law which is different that the new federal bill.

So, in summary, yes this bill does preempt state law in some situations. But to suggest that it is totally one-way is misleading at best.

The conference report is a tightly balanced bill seeking to make some uniformity out of a patchwork of conflicting state laws.

U.S. SENATE,
Washington, DC, March 20, 1996.

KATHERINE PRESCOTT,
National President, MADD, Irving, TX.

DEAR MS. PRESCOTT: Your letter of March 19 is wrong, and based on a totally incorrect quoting of the proposed law.

Your letter says that the product liability bill covers "harm caused by a product or product use." that is incorrect.

The legislation reads: "harm caused by a product" only.

You have been misinformed, perhaps intentionally, in an effort to convince you that cases of drunk driving would be covered under the bill. The fact is that cases of drunk driving or so-called dram shop cases would not be covered by this legislation.

In addition, those who "negligently entrust" a product, such as alcohol, resulting in drunk driving situations, would not be protected in any way under the law.

I will read your incorrect letter, and this response, into the CONGRESSIONAL RECORD today, and I expect you will want for me to include your retraction letter as well.

Kindly FAX your retraction to me immediately at 202-224-9575.

Thank you.

Sincerely,

JOHN D. ROCKEFELLER IV.

IMPACT OF FEDERAL PROVISIONS ELIMINATING JOINT AND SEVERAL LIABILITY FOR NONECONOMIC DAMAGES IN PRODUCT LIABILITY CASES

The Conference Committee version of the product liability bill is currently expected to retain the Senate bill's provision eliminating joint liability for noneconomic damages. This Federal law provision would not significantly change the law in those states which already either have eliminated or severely limited joint liability, or have imposed specific limitations on the award of noneconomic damages.

Twelve states have eliminated joint liability altogether: Alaska, Arizona, Colorado, Idaho, Indiana, Kansas, Kentucky, North Dakota, Tennessee, Utah, Vermont and Wyoming.

Two states have eliminated joint liability for noneconomic damages: California and Nebraska.

Ten states have otherwise limited the availability of joint liability as to noneconomic damages or damages generally, so as to make it significantly less likely that noneconomic damages would be subject to joint liability: Florida, Illinois, Iowa, Mississippi, Montana, New Hampshire, New Jersey, New York, Oregon, and Texas.

Three states have eliminated joint liability in cases in which the plaintiff is negligent: Georgia, Ohio and Oklahoma.

Five states (including three already mentioned) have capped awards of noneconomic damages: Alaska, California, Kansas, Maryland, Massachusetts and Michigan.

In all, 30 states have adopted measures that already limit the recovery of noneconomic damages. These include eight of the nine largest states in the union—California, New York, Texas, Florida, Illinois, Ohio, Michigan and New Jersey.

SMALL BUSINESS ORGANIZATIONS SUPPORTING PRODUCT LIABILITY REFORM

National Federation of Independent Business (600,000 small businesses).

National Association of Wholesaler-Distributors (156 trade associations representing 250,000 small businesses).

U.S. Chamber of Commerce (215,000 small businesses).

National Association of Manufacturers (10,000 small businesses).

Small Business Legislative Council.

National Association of Women Business Owners.

National Small Business United.

JOINT LETTER TO MEMBERS OF CONGRESS FROM AMERICAN SMALL BUSINESS LEADERS ON PRODUCT LIABILITY REFORM, APRIL 3, 1995

DEAR MEMBERS OF CONGRESS: On behalf of the nation's more than 21 million small and growing businesses, we are writing to strongly urge your support of S. 565, The Product Liability Fairness Act of 1995.

You know the problem: A single lawsuit can and has put many small business owners out of business.

For many small businesses, the explosion in product liability cases means it is simply impossible to find and keep affordable liability insurance.

You've heard the horror stories. (If you haven't, give us a call.)

Why should you care? Small businesses create virtually all the net new jobs in the economy. And businesses owned by women now employ more people than the entire Fortune 500 combined. While most of our company names are not household words, small business comprises the backbone of the nation's economy—from Main Street to Wall Street.

We need your help.

Product liability reform was the #1 issue at the White House Conference on Small Business in 1986. Finally, after more than a decade of struggle, product liability reform seems within our reach.

Please support S. 565, The Product Liability Fairness Act of 1995, and help protect U.S. consumers, workers and small businesses. Our future and the future of our nation's economy, depends on it.

Thank you for your support.

Gary Kushner, President, Kushner & Company, Inc., President, National Small Business United, Kalamazoo, Michigan
Carol Ann Schneider, President, Seek, Inc., President, Independent Business Association of Wisconsin
Patty DeDominici, President, National Association of Women Business Owners (NAWBO), Los Angeles, California
Willis T. White, President, California Black Chamber of Commerce, Burlingame, California
Thomas Gearing, President, The Patriot Company, Federal Reserve Board, Small Business Advisory Committee, Milwaukee, Wisconsin
Margaret M. Morris, NAWBO Chapter President, Chevy Chase, Maryland
Lewis G. Kranick, Chairman of the Board, Krandex Corporation, Wisconsin Delegation Chair—1986, White House Conference on Small Business, Milwaukee, Wisconsin
Linda Pinson, Principal, Out of Your Mind . . . and Into the Marketplace, NAWBO Financial Services Council, Tustin, California
Dale O. Anderson, President, Greater North Dakota Association, Bismarck, North Dakota
Chellie Campbell, President, Cameren Diversified Management, Inc., NAWBO Public Policy Council, Pacific Palisades, California
Brooke Miller, NAWBO Chapter President, St. Louis, Missouri
John F. Robinson, President & C.E.O., National Minority Business Council, Inc., New York, New York
Lucille Treganowan, President, Transmissions by Lucille, Inc., NAWBO Chapter President, Pittsburgh, Pennsylvania
Wanda Gozdz, President, W. Gozdz Enterprises, Inc., NAWBO Public Policy Council, Plantation, Florida
Frank A. Buethe, Manager, Advance Business Development Center, Green Bay Chamber of Commerce, Green Bay, Wisconsin
Rachel A. Owens, Family Business Specialist, Mass Mutual, NAWBO Chapter President, Irvine, California
Brenda Dandy, Vice President, Marine Enterprises International, Inc., NAWBO Financial Services Council, Baltimore, Maryland
Terry E. Tullo, Executive Director, National Business Association, Dallas, Texas
Tana S. Davis, Owner, Tana Davis C.P.A., NAWBO Chapter President, Encino, California
Mary G. Zahn, President, M.C. Zahn & Associates, NAWBO Public Policy Council, Philadelphia, Pennsylvania
Gary Woodbury, President, Small Business Association of Michigan
Hector M. Hyacinthe, President, Packard Frank Organization, Inc., New York Delegation Chair—1986, White House Conference on Small Business, Ardsley, New York
Mary Ellen Mitchell, Executive Director, Independent Business Association of Wisconsin, NSBU Council of Regional Executives, Madison, Wisconsin
Susan J. Winer, President, Stratenomics, Illinois Delegation Chair—1986, White House Conference on Small Business, Chicago, Illinois
Lucy R. Benham, Vice President, Keywelland Rosenfeld, P.C., NAWBO Public Policy Council, Troy, Michigan
Beverly J. Cremer, Chief Executive Officer, I & S Packaging, NAWBO Chapter President, Kansas City, Missouri
C. Virginia Kirkpatrick, President/Owner, CVK Personnel Management & Training Specialists, NAWBO Financial Services Council, St. Louis, Missouri
Mary Ann Ellis, President, American Speedy Printing, NAWBO Chapter President, Boynton Beach, Florida
Shaw Mudge, Jr., Vice President, Operations, Shaw Mudge & Company, Connecticut Delegation Chair—1986, White House Conference on Small Business, Stamford, Connecticut
Eunice M. Conn, Executive Director, Small Business United of Illinois, NSBJ Council of Regional Executives, Niles, Illinois
Ronald B. Cohen, President, Cohen & Company, Immediate Past President, NSBJ, Cleveland, Ohio
Hilda Heglund, Executive Director, Council of Small Business Executives, Metropolitan Milwaukee Association of Commerce, Milwaukee, Wisconsin

VOL 142 PT 5 MR 21 — 29 1996 UMI

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Suzanne Pease, Owner, Ampersand Graphics, NAWBO Chapter President, Morganville, New Jersey

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Arlene Weis, President, Heart to Home, Inc., NAWBO Public Policy Council, Great Neck, New York

Deepay Mukerjee, President, R.F. Technologies, 1995 Delegate, White House Conference on Small Business, Lewiston, Maine

David Sahagun, Dealer, Castro Street Chevron, 1995 Delegate, White House Conference on Small Business, San Francisco, California

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Sheelah R. Yawitz, President, Missouri Merchants and Manufacturers Association, Chesterfield, Missouri

David R. Pinkus, Executive Director, Small Business United of Texas, Texas Delegation Chair—1986, White House Conference on Small Business, Austin, Texas

David P. Asbridge, Partner, Sunrise Construction, Inc., 1995 Delegate, White House Conference on Small Business, Rapid City, South Dakota

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Gordon Thomsen, Chief Executive Officer, Trail King Industries, Inc., 1994 Small Business Administration National Exporter of the Year, Mitchell, South Dakota

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Marguerite Tebbets, President, Window Pretties, Inc., President, Women Business Development Center, Kennebunk, Maine

Catherine Pawelek, NAWBO Chapter President, Coral Gables, Florida

Mak Gonzenbach, Vice President, Valley Queen Cheese Factory, Inc., 1995 Delegate, White House Conference on Small Business, Milbank, South Dakota

Geoff Titherington, Owner, Bonanza, American Franchisees Association, Sanford, Maine

Richard Watson, Executive Vice President, Walker Machine Products, Inc., National Screw Machine Products Association, Collierville, Tennessee

Tonya G. Jones, President, Mark IV Enterprises, Inc., NFIE Guardian Advisory Council, 1995 Delegate, White House Conference on Small Business, Nashville, Tennessee

The PRESIDING OFFICER (Mr. COVERDELL). Who yields time?

The Chair recognizes the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, my distinguished colleague from West Virginia just thanked a group of people. I wondered who they were. I knew no lawyer who had ever tried a case in a courtroom would ever put up a bill of this kind. So, having sponsored this measure, they would have to have some extraneous help of some kind to fashion an abortion as this "conspiracy"—not conference—report. I emphasize "conspiracy," Mr. President.

The distinguished Senator from West Virginia says when you work with him, it is very close and everything else. Of course, he did not thank the Senator from South Carolina because we never got close because we never conferred and we never were told about a meeting. We could not see the draft. We heard first about this so-called conference, or conspiracy, report, with Richard Threlkeld on CBS at 7:20 last Thursday evening on the evening news, when he said it was coming up. I had yet to get a copy, even though I am a member of the conference, struggling around on Friday to try to find out what we were going to have.

The story down in the local press, the way they politically work it, was that the Senator from South Carolina was going to filibuster. We had not had a chance to debate. We had not had a chance to debate. But the point of the matter is that, as the Senator from West Virginia talks about small business, small business—look at the chart. That is not small business. I think he ought to talk more closely with the distinguished Senator from Washington, whom he has been working with, because they are not quite in step.

These heart pacemakers at $3,000, motorized wheelchairs, hotel bills, tonsillectomies, maternity stays, and all—maybe somebody is selling a baseball. We will let that one go by—18 cents. I hope we are not finding a Federal need up here, with all the States rights atmosphere, to all of a sudden pass a Federal law on account of 18 cents on the cost of a baseball.

We go through, and it is really sad, because, going right to the chart, we have never seen that before. I guess that is the option of those who do not have a case, to try to do it by sheer surprise. They came in first years ago—I will never forget it—and said there was a litigation explosion. You do not hear them arguing about the litigation explosion anymore.

They said there was an insurance crisis. We have here in the record that insurance companies are making billions and billions of dollars, so there is not that. Their reserves are up to an all-time high. They are doing great. So the insurance company is doing well, so you do not have that.

Then they had the matter of uniformity. Mr. President, they were going to get all the States together and have uniformity, but it is quite obvious that the many splendored thing, the test tube of federalism at the State level, clashed with that uniformity. And they created specific exemptions for those States who had more stringent requirements of an injured party. Those State laws could hold. Those who had less stringent laws would have to come under the stringent restrictions of this particular measure. So on the face of it, it showed absolutely no uniformity. So they gave up on uniformity, in a fashion.

Then they went to the matter of global competition. That is a sort of mystique around this Congress. We in Washington have discovered global competition. The matter of losing your job is psychological—the "anxiety society" they write about. "Downsizing." It is all so polite. Heck, they have been fired, and they moved the jobs overseas. Who has moved them? It is not global; it is us.

It is like the Spanish Civil War with the fifth column. Over half of what we are importing in here are American multinational generated. I used the figure that they had researched back in the late 1970's. It was 41 percent. I know over 50 percent of the imports are by 200 companies of the Fortune 500. They are the big, powerful people who can afford it. Small business cannot move overseas, but big business has moved overseas and continues, in a veritable hemorrhage. We explained it to everyone so they could understand the cost of manufacture. It was 30 percent of volume for the associates or workers, employees—you can save as much as 20 percent.

It is a given, if you move to a low-wage country, a $500 million company can save $100 million if they just keep their executive office here, their sales force, but move their manufacture to a low-wage country. They can move offshore and get rich, or they can continue to stay and work their own people and go broke. That is the trade policy of this Congress. These companies are not greedy. If I ran the company, if you ran the company, we would do the same thing. Competition has moved. So are we going to sit around here and wonder—what? That Congress is running around in a circle about term limits and all these other little funny things they can think of, including product liability that the States have long handled.

The distinguished Senator from Rhode Island got up and said "15 years, 15 years" the Congress has considered this issue. But the State of Rhode Island has responded. That is the mystery to me, that the proponents come around and act, all of a sudden, like they have discovered these things. Assume everything is true on that chart next to the Senator of Washington. What has the legislature of the State of Washington done about it? They have acted. The State of Georgia has acted. The State of South Carolina had product liability reform back in 1988. It was fully debated. But all of a sudden, we in Congress discover things. Why? Because we take a poll. None of these pollsters has ever served in public office, but they get the hot-button items, six or seven of them—and you have Victor Schwartz, that is a good one—saying how they went after the lawyers. They go after the doctors. Everybody is against the doctors, until they need one. Everybody is against the lawyers, until they need one. That is a given in society.

But you do not just pass Federal laws to vitiate the laws of the 50 States on a statute of repose. Take the referendum they had in the State of Arizona. The proponents of this measure say, "Forget about your referendum." They want to get back to the people, but "we are going to tell you from Washington what to do, State of Arizona, regardless of your referendum." So what is going on up here?

Now they come with the shunt. We are used to trying cases. You are limited to the record and the proof that you have, but this crowd just makes it up at the last minute. They have gone back to the products that have been kept off the market, and the shunt. I had not heard about the shunt, so we

VOL
142
PT
5
MR
21
—
29
1996
UMI

called up the Food and Drug Administration and they said there is no problem.

Yes, Dow has been cited by our distinguished colleagues from Connecticut and Washington as going broke. It ought to go broke. They will never make—and a lot of other companies will never make—those implants like that again and try to sell them like hot cakes. Yes, sirree, that is what happens in our society, and we repair that kind of nonsense that goes on. Innocent women going in and thinking they are getting a health cure and instead they are ending their lives.

So Dow does not sell them anymore, but Applied Silicon sells silicon, Neusal sells silicon. And we get another list of those—that little bit of material that goes into the shunt that takes the water off the brain. The inference of the Senators here trying to use that argument is that children and individuals are going to die unless we pass product liability at the Federal level. Come on.

Take that chart next to the Senator from Washington. If a pacemaker costs $3,000, that has far more intricate materials than a shunt. They would take pacemakers off the market if you followed the logic of their argument. You could not afford $3,000 for that. I question that figure, to tell you the truth. I wish I had a chance to try it. My mother passed on just a few years ago, dying at 95 years of age, but she had four pacemakers and we never paid that. Maybe it is cheaper in Georgia and South Carolina than up here in this land—$18,000.

But let us assume the truth. If the truth is there, then pacemakers have to get off the market, using the logic of the argument about the shunt and a little bit of silicon material that goes into it. Come on. It is available. It is a false argument.

We are going to have to have a legislative congressional committee appointed on ski lifts, because it is only $2. It is way more dangerous than $2. I have been on them. The Presiding Officer has been on them. Get on one of those things and find out they are only spending $2 for safety. We have to get that up.

That is the real Federal problem. Their little charts. They had the coffee chart yesterday. They took down the coffee chart. At least they have some shame. We proved that punitive damages award had been cut. The judges in New Mexico have sense, but the coffee case had no sense. When the proponents finally found that out, they took the chart down.

What do they do here? Assuming all of that, as I say, is true, they act like the States have never acted before. I wanted to emphasize, too, coming in with this thing. Now let me read you this particular ad by the American pharmaceutical research companies, which appeared on the Federal page of the Washington Post on March 27, 1995. Here is what the American pharmaceutical group of manufacturers advertise in this ad:

> Drug companies target major diseases with record R&D investment. Pharmaceutical companies will spend nearly $15 billion on drug research and development in 1995. New medicines in development for leading diseases include 86 for heart disease and stroke, 124 for cancer, 107 for AIDS and AIDS-related diseases, 19 for Alzheimer's, 46 for mental diseases, and 79 for infectious diseases.

In this ad the pharmaceutical companies include a bar graph showing their steady increase in R&D investment since 1977. They spent $1.3 billion in 1977, $2 billion in 1980, $3.2 billion in 1983, $4.7 billion in 1986, $7.3 billion in 1989, $11.5 billion in 1992, and an estimated $14.9 billion in 1995.

Maybe they will go out and research a new kind of silicon—they spent almost $15 billion on overall research in 1995. But if you listen to the Senator from Connecticut and the Senator from Washington, you would think you cannot get the drugs on account of product liability; the drug companies are all going out of business.

In fact, the foreign drug companies are all coming from Europe over here like gangbusters and investing. I will have a list before we end this debate this morning of the pharmaceutical companies joining in and they are not complaining. They are coming from Switzerland to South Carolina and Hoffmann-La Roche is not complaining about product liability. Wellcome is coming in with Glaxo in North Carolina. They are not complaining about product liability. We have product liability laws in our States.

What they do in this measure, Mr. President, if you read it, goes way too far. We see this the more we now have a chance to look at it and wonder why. For example, I wondered why MADD came out against this bill, and then when I read that provision about punitive damages and substances—let us have all the drunk drivers not worry about punitive damages, do not worry about punishment, go ahead, drive drunk. Here we have the finest movement under MADD at the Federal and the State level. But this crowd now wants to write a bill so zealous about punitive damages and getting rid of it—at least one Senator said he did not even believe in punitive damages—that I can tell you now that they said tell the drunk drivers to go ahead, do not worry about punishment, drive. Tell the trial judge that you are obligated under the common law to charge the jury with the law, but keep it a secret.

The Senator from West Virginia said we do not have a cap. I guess that is the part he is reading in the bill, because as far as the jury knows, there is no cap. Why? Because that is the law under the common law, but they have a provision in here where the judge does not tell the jury about the law.

Now come on, what kind of laws are we passing here? Tell the drunk drivers, "Go ahead, drive drunk." Tell the judge who has the responsibility to stay out of the facts of the case, to, by gosh, keep the law secret and then come around and have a new hearing on the facts in violation of the Constitution.

The Cessna crowd, tell them now with the statute of repose, "Don't worry about it, as long as the part would last for 15 years." Most of the planes I have been flying in are more than that. When you fly around in a State in small planes, you will find they are more than 15 years old. But tell Cessna that they can go like gangbusters, do not worry about the parts.

There, shoot the Maytag man. Put him out of business. He does not have to stand there and say, "My refrigerator is not going to catch fire. It is 30 years old, and they still haven't called me to repair it." Shoot the Maytag man.

Blow up the furnaces. I went through a textile plant just the other day. It is 100 years old, but the machinery is brand new. They are competitive. When I first started, the shunts, as they call them, in the weaving machines used to be about 200; then they got to 400, then 1,500. The Japanese made machines up above that, I do not know how many thousands. They have the newest machinery.

Yes, somebody in the plant may have been hurt. But now, hereafter, when you have to put all that investment in there, do not worry about the cost of the safety of the worker after the machine is 15 years old. I think they will close down the textile show we have in Greenville for new machinery because we are going to pass the law that after 15 years you can forget about how safe a machine is. There is no more product liability. They will take the hindmost. Just get hurt. Do not worry about it. Let society take care of the injuries and everything else because the national Congress, in the face of the State laws and provisions that are working extremely well as of now, decided exactly what to do.

The utilities, oh, heavens, we had a good half-hour show on yesterday about the utilities. The utilities, now they did not want to write strict liability, so they wrote a double negative in the particular provision. Of course, the distinguished Senator had a difficult time trying to answer the questions because you could tell the lawyers downtown wrote this thing, not the staff. If the staff had written it, you would have seen somebody getting cussed out for writing that kind of thing. But the lawyers downtown were writing that thing up. They did not want to mention what they really meant.

That is, for the utilities, do not worry about the highest degree of care

we require in Georgia, South Carolina and the States of America because now we have a provision in here to tell the utilities to go ahead, forget about the highest degree of care.

Then, the corporate head was riding with his worker after work in the evening. They get into a wreck. A big trucking company runs the red light. The corporate head can get $16 million—no, excuse me, it says double economic damages. We had one corporate head making $16 million, so he could get a $32 million verdict. But the poor fellow sitting in the front seat with him has got a cap—the gentleman said it "ain't no cap" —but he gets $250,000. He is capped.

That is how the workers and consumers got this. The proponents of the bill discriminate against the people they say they are trying to help. They cannot name an organization of workers, consumers or others who are not affluent that favors this nonsense. The proponents come around and discriminate against those of modest means—the senior citizens, women, children.

Oh, on pain and suffering, well, they are compensated. They have to have another hurdle. We put in another hurdle for them regarding joint and several liability. Mr. President, they come right down to the wire.

I was watching this morning when the distinguished majority leader was on TV. He was talking about guns and the second amendment. Let me read two other amendments.

> In suits at common law [amendment VII], where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of common law.

They absolutely mandate it be reexamined by the trial judge. That is in violation of amendment VII.

Then amendment X:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to States respectively, or to the people.

The distinguished majority leader always comes and says, "Look, I have got here in my pocket" the 10th amendment—some carry around the contract. The distinguished senior Senator from West Virginia carries around the Constitution. The distinguished majority leader carries around the 10th amendment, until this.

When it comes to Medicaid, let the States handle it. When it comes to education, abolish the Department; that is a function of the States. When it comes to welfare, the Governors come in and say, let the States handle it. When it comes, by cracky, to crime, we have had a 2-year intramural around here trying to make sure that we get back to a program that we know did not work.

President Nixon put in LEAA, block grants, to the States. The next thing you know, they had a tank down in Hampton, VA, to protect the courthouse. I do not know what was going to attack the courthouse in Hampton. They had the Governor of Indiana buying a plane, a Beechcraft, so his wife could go and buy her clothes in New York. They were buying planes and buying tanks and everything else. Trying to get the money down to the officer on the beat was like delivering letters by way of a rabbit; you could not get it there.

At the time the city, the council, got it, the State, whatever, a politician got his hands on it. It was all for law enforcement, but law enforcement never saw it. But they say, "Oh, no, we've got to have block grants." After the experience where we had to abolish the LEAA, they come with this one on account of the political poll.

Lawyers. They have two giants, they say, the consumers and the trial lawyers, consumers and trial lawyers. The Senator from California emphasized what needs to be emphasized, and that is that we are looking out for individuals and individual injuries. It is not easy to try these injury cases. As we all know, less than 4 percent of all civil cases are product liability, less than 1 percent get to the courts, and product liability accounts for less than 1 percent of the cost of any of these products. They can keep on putting up charts, but the Conference Board refuted that. They said less than 1 percent of the cost of any of their articles were attributable to product liability. So what did we do? What did we do? We pass a totally unconstitutional measure. But more than anything else, Mr. President, the word "greed" has been used around here. I could not, in conscience, come and say, now, let us apply this all to injured individuals but not to injured businesses. Oh, no. No, no.

I see where United Airlines wants to sue that manufacturer of the baggage handler. It got loose up in Denver, that machine. We had one of those machines, Mr. President, when I was in college. It had the laundry where you sent your clothes over there, and it had a machine that ripped the buttons off your shirt and shot them through your socks. I know that machine now is up at the Denver airport. It tears up the package, rips into the bags, and skirts it into the gears, stopping everything.

So now, Mr. President, we have the business that can go ahead and get its way on punitive damages—do not worry about any $250,000, keeping it a secret, and then tell the trial judge later to start on his own factual findings and everything else like that in violation of the Constitution. Do not worry about any of that. Sue, like Pennzoil did Texaco—get a $10 billion verdict, $10.2 billion. That is more than all the product liability verdicts for injured matters in the last 20 years put together—$10.2 billion. Add them up. One business.

The overwhelming majority of product liability is businesses suing businesses. They believe when they get a bad product misrepresented, they ought to have a cause of action. But they have done everything in the world to put hurdles in this thing, unconstitutional provisions, separating the injured parties, separating the businesses out, making sure that the corporate heads and those of affluence get big economic damages. They can get big verdicts; not women, not children, not senior citizens who have retired. They have all of a sudden become second-class citizens.

That is the bill. It is a shame. I yield the floor.

Mr. GORTON. Mr. President, I think a few brief moments in outlining what this bill does and what it does not do may be particularly in order at this stage in the debate.

If we were to take at face value what we have heard from my distinguished colleague from South Carolina, coupled with his colleagues from Massachusetts and California, we would entirely lose sight of the fact that nothing in this bill limits in any respect the ability of any individual to recover a verdict in any court for all of the actual damages suffered by that individual as a result of what a jury may determine to have been a defective product.

Let me repeat that. The Presiding Officer, if he is injured by a defective product, will recover in the future, as he has in the past, all of his actual and provable damages. Obviously, there will be a difference in those damages from one person to another, even with similar injuries.

Second, Mr. President, nothing in this bill limits the ability of an injured person to recover as a result of a jury verdict all of the damages that jury may attribute to pain and suffering or to noneconomic damages.

I find the argument of the Senator from South Carolina particularly curious. He says this is a terrible bill because an executive making $2 million a year can recover more than someone making the minimum wage. Mr. President, that seems to me to be an argument that we ought to impose caps, caps that we have not imposed. Perhaps the Senator from South Carolina is suggesting a reform which no one, as far as I know, has ever proposed anywhere in the United States. That is, that there ought to be a cap on the economic damages that any individual can receive, and that if an individual making $100,000 loses a year of work, that person should not be able to recover any more than a person who makes $20,000, or vice versa. But that is a change in the law that, as far as I know, no one has ever proposed.

This bill allows you, Mr. President, to recover all of the actual damages

VOL
142
PT
5
MR
21
—
29
1996
UMI

that you have suffered as a result of an accident that is the fault of some product, including your lost wages, based on whatever your wages are. Is that unequal justice because some people have higher wages than others? I do not think so. It also allows the jury to award you or anyone else whatever it may determine in the way of noneconomic damages.

We did have a debate on this subject in this body the first time around, not in connection with punitive damages but in connection with medical malpractice. There was an attempt on the floor to put a ceiling on the amount of noneconomic damages that could be recovered in a medical malpractice case. That proposition lost on the floor of the Senate, Mr. President, and ultimately the entire medical malpractice section was taken out of the bill, to be dealt with separately.

This bill proposed no such limit in committee, no such limit on the floor when it was being debated last year, and has no such limitations now. What is limited in any respect is the imposition of punitive damage awards—by definition, an award that is above and beyond all of the damages caused by the defective product.

My distinguished friend and colleague who is so complimentary to me, the Senator from West Virginia, has said that he would not vote for a bill that had an absolute cap on punitive damages. This is a field in which we disagree. I would. In fact, I do not believe, as an individual Senator, that there is any place in the civil justice system for punitive damages at all. They are not permitted in tort litigation in the State of Washington and in a handful of other States.

There are very few serious arguments made that there is no justice available for civil litigants as a result. There is an extremely strong argument, it seems to me, against punitive damages at all. Why should any individual recover more than a jury thinks that individual has actually suffered, especially when there is no limitation on the ability of the jury to make an award for pain and suffering for noneconomic damages in addition to the proven actual damages in a case?

We have a system in this country that is peculiar with respect to punitive damages designed as punishment without any limitations whatever. Every criminal code, for every crime up to and including first-degree murder and treason, has some kind of limitation. You cannot be executed twice for two murders. But with respect to punitive damages, in most places there are no limitations at all.

The Supreme Court of the United States has asked us to address this issue. I think we ought to address this issue. We do address it in a modest fashion in this bill, a very modest fashion, but only punitive damages, not any of the actual losses to any plaintiff in a product liability action whatever.

If you heard only the arguments on the other side of this case, you would think everyone was being denied justice, that no one was going to be able to recover their losses, their actual damages in a piece of product liability litigation.

Why should there be some predictability, some limitation on punitive damages? First, of course, because under the present system there can be an infinite number of actions with respect to the same product. We have a sentence, a punishment imposed, not with all of the protections of the criminal code, not with the usual unanimous jury requirement, but just at the total, complete and unfettered discretion of juries.

I think, as I say, that it is a terribly poor system. I did not prevail in my debates with my allies on my own side of the aisle or with my friend from West Virginia. I cannot remember what the views of my friend from Connecticut are on the subject. So we have a form of control which is not a cap. The Senator from West Virginia is entirely correct with respect to that; however, nothing with respect to requiring a company or an individual to pay its full share of the damages that it has caused, whether noneconomic or economic.

Mr. President, this bill is about people. I spoke yesterday, and speak again today, briefly, about young Miss Tara Ransom in the State of Arizona who has spoken to Senator McCAIN and to people in my office about her silicon-based shunt for hydrocephalus.

The great and deep concern that she and thousands of others have about the availability of a medical device, which has literally given her life and made that life worth living, is that it is increasingly unavailable due to a present system of absolutely uncontrolled and unlimited punitive damages.

The next to the last paragraph in the article about this young lady from Arizona reads:

> The good news is that there are reform efforts underway in Arizona and at the Federal level. The Senate is planning to vote, as early as today, on legislation to place reasonable limits on punitive damages and eliminate unfair allocations of liability in all civil cases. This would protect all Americans —not just the manufacturers of medical products, but also small businesses, service providers, local governments, and non-profit groups. Above all, it would save children like Tara.

This is about American business, and competitiveness, and low prices for products. But it is even more about the people who use those products.

Finally, Mr. President, we get this nonsense about drunk drivers, this utter nonsense about the drunk drivers. Well, of course, nothing in this bill has anything to do with suing drunk drivers. The implication that it has something to do with suing the people who supply them with alcohol negligently, the so-called dram stop situation—well, this bill specifically says, "A civil action for negligent entrustment shall not be subject to the provisions of this section but shall be subject to any applicable State law."

That argument, Mr. President, is pure nonsense. This is a product liability bill. It is not a negligent entrustment bill. It has nothing to do with someone who deliberately sells a gun to someone to kill a third person, or deliberately allow someone to become drunk and is sued under dram stop statutes at all. It does have to do with product liability, with people like Tara Ransom, with companies like Cessna, with those who manufacture devices and therapeutic drugs, and a myriad of other products for the American people. It does have to do with giving them a better deal than the present system does, which is a lottery for plaintiffs and a bonanza for those who represent them.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield the distinguished Senator from Alabama 15 or more minutes, as he may require.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. HEFLIN. Mr. President, I just found out that Senator ROCKEFELLER is going to vote for the conference report. Senator GORTON has said that Senator ROCKEFELLER could never vote for a bill if it had a cap in it, a definite cap. And as I read it—now, maybe he can, in some way or another, explain this language —we have a language on page 10 of the report relating to punitive damages. First, the language in the report says the "greater" of two times the sum of the amount awarded to a claimant for economic loss and noneconomic loss, or $250,000. That is not a definite cap because the amount of economic loss and noneconomic loss is a variable. But language immediately thereafter says, "special rule." This applies to the rule on punitive damages for small businesses where these corporations have 25 employees or less. I might add that this language applies also to individuals. The "special rule" provides that punitive damages shall not exceed the "lesser" of two times the economic loss and noneconomic loss, or $250,000. So punitive damages cannot exceed, in any event, $250,000. So that is a definite, established cap.

I am not going to hold Senator ROCKEFELLER to that since he did not make the statement to me. He must have made that statement to Senator GORTON who is present on the floor. I would not want to put him in an embarrassing situation. But I think this special rule shows very definitely that there is a cap in the bill.

Now, that also points out that a lot of language in this bill is slyly inserted, and so craftily placed, that I think some of its key features have escaped a great number of people's attention. That is true with regard to the biomaterials provision. The biomaterials provisions, to which Senator LIEBERMAN refers regarding raw materials, also contains language regarding component parts. There are numerous implants that have component parts. I mentioned before that I have a pacemaker which has numerous component parts. There is a battery, and there are various wires that go down into the chambers of the heart that causes electrical charges to emit; it has various sensors and a computer that records the history of my heartbeats over a period of time. When doctors check it, they can check and see whether or not there was some unusual rhythm or unusual activity taking place. Basically under the provisions of title II, on an implant that has component parts, there is complete immunity in regard to the supplier of the component parts, or the raw materials of an implant.

Now, there is an exception in the event the manufacturer of the component part is also the manufacturer of the entire device or also the seller. But most medical devices are made from component parts, such as the batteries, and people furnish those separately. Title II gives complete immunity to suppliers with no chance to even discover whether or not there was any negligence on the part of the supplier. It is interesting to see where the crafty language is written. It indicates that "implant" means—and this is the definition on page 17 of the conference report—

> a medical device that is intended by the manufacturer of a device to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days, or to remain in contact with bodily fluids, or internal human tissue through a surgically produced opening for a period of less than 30 days.

Well, what is less than 30 days? I would assume that less than 30 days could mean 2 seconds or 1 second. It is very craftily designed. What is a surgically produced opening? Well, there is no definition in here, but a surgically produced opening would appear to me to be an opening in which you use surgical tools. Of course, that would mean that you normally think of a knife, of a scalpel, or of something like that. But what about intravenous materials, one of these locks where you tie it into you? You have devices where they put it in and out of your body, and they can put fluids into the body such as a blood transfusion. Consider a hypodermic needle—is that a surgical tube?

You have a situation where we find that title could have some applicability with a blood transfusion. We should consider where a blood transfusion occurs. and we know that blood has to be highly inspected and is subject to the highest standard of care because of AIDS and other matters. This bill is designed toward an interpretation that could mean that AIDS in blood is subject—where someone has made a mistake, who has been negligent or otherwise—to the provisions and the limitations and protections that are put within this bill.

It is very carefully crafted, as I pointed out yesterday, in inserting a comma in the definitions section of durable goods, now within the purview of the report is any type of a product that has a life of more than 3 years—baby cribs, lawn mowers, toasters, or virtually any type of kitchen appliance.

There are a great number of provisions in the bill that disturb me, in particular, the way that they are designed to favor the manufacturer or the seller, and it puts the injured party at such a disadvantage. For example, there is the misuse or alteration provision, which provides that in a product liability action, the damages of a defendant will be reduced by the percentage of responsibility for a claimant's harm attributable to the misuse or alteration. But I see problems where there could phantom defendants—the phantom defendants where there is nobody there to be held responsible—and they can try to invoke the several liability provisions in the report as to noneconomic damages. These phantoms are the ones that are all at fault and there is nobody left responsible for a claimant's injury.

Then we have a situation in regard to employer and coemployee, as to whether or not they might have misused or altered, or were at fault. So, in order to leave the impression on the jury, this bill requires that that be the last issue that is presented to a jury, because when they leave and go back to the jury room to decide, that is the last thing that they heard. So they are trying to put it off—the negligence or the lack of responsibility on the part of the manufacturer—and impose it on someone else and to give it to that person just as he goes into the jury room as the last thing that they hear that will be predominantly on their mind. Is that fair to the claimant?

There are numerous other aspects of that which disturb me. I suppose one of the things that I just cannot understand at all in regard to this is how—if it is good for the goose, why is it not good for the gander? And they exempt business losses. One business suing another business can bring his suit for commercial losses, losses of profit, unlimited amount, unlimited amount relative to punitive damages. and different statutes of limitation.

The Uniform Commercial Code, I assume, is uniform everywhere. I understand there are a few differences in it. But in our State in Alabama, you have a 4-year statute of limitations in regard to the Uniform Commercial Code. The conference report imposes a shorter 2-year statute of limitations.

The Senate-passed bill contained an exception to the 2-year statute-of-limitation provision stating that if a civil action under the bill is stayed or enjoined, the statute of limitation is suspended or tolled until the end of the injunction. That provision was deleted from the conference report. Is that fair? I think not.

I yield the floor.

The PRESIDING OFFICER (Mr. SHELBY). Who yields time?

Mr. GORTON. How much time remains?

The PRESIDING OFFICER. Thirty-four minutes.

Mr. GORTON. How much of that time does the Senator from Connecticut request?

I yield 15 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair. I thank my friend from the State of Washington.

Mr. President, I have been thinking as I listened to the debate this morning, and what preceded it yesterday and before that, that there is a way of thinking around the Capitol that is not the way of thinking that I hear back home in Connecticut. It is what I call either-or. You know if an idea is put forward by a Republican, no Democrat shall be for it. If an idea is put forward by a Democrat, no Republican should be for it, or, in this case, if something is good for business, it has to be bad for consumers. That does not figure, particularly if you look at the overall effects of this bill.

What I want to contend here is that because of the extraordinary work done by Senators GORTON and ROCKEFELLER, and by the conferees from the Senate and the House, this is a win-win bill.

This is a bill that is good for consumers and good for business. In that sense, it is good for our country overall.

There is a way in which the opponents to the legislation approach it with such skepticism, turning every word in the most potentially damaging light and not considering the intentions of the sponsors and the authors and the record that we have tried constantly to build on the floor.

Everybody in America knows, at least most everybody knows, that our civil justice system is not working well. I do not think anybody really can stand up and defend the status quo of the litigation system in America. Nothing is wrong with it. That is preposterous. The average person on the street—I stop them in Hartford, New Haven, Bridgeport—knows that lawsuits take too long; that people do not get justice in a timely fashion; that too much of the money goes to lawyers. They know that.

VOL
142
PT
5
MR
21
—
29
1996
UMI

I think the question is, how are we going to make it better? Why should we make it better? Because of the specific problems and shortcomings of the current system I just referred to and also because the public, the people have as little faith as the people of our country do today in our system of justice. That is a profound problem that goes beyond tort reform and anything else. It strikes at the very heart of people's faith in the Government they have. Lord knows, we know they have enough lack of confidence in the legislative branch, maybe some in the executive, but it goes to the judicial as well.

I honestly believe, deeply believe that this bill—moderate, modest, sensible, small, incremental reform—is a step in the direction of beginning to restore some faith in the system, making it work for people who are injured and making sure that it does not destroy faith in the system by punishing people who are not guilty and letting those who are guilty often off without being punished.

So I say this is win-win. It is good for business and it is good for consumers. It will create jobs by removing a deterrent to innovation and investment. It will reduce consumer prices by making litigation less expensive. If 20 percent of the costs that we are paying for a ladder is litigation-related costs, the cost of that ladder is going to go down if we can reduce that litigation cost some, and it goes on and on throughout the system.

I wish to talk particularly again about this biomaterials section of the bill of which I am a cosponsor. It comes from something that is very real that is threatening something very good. The very real element here is that there is an unnatural shortage of raw materials. Judge HEFLIN referred to it. Thank God, Judge HEFLIN is healthy and well today because of the pacemaker he has. He is one of 8 million people who have benefited from medical implants of one kind or another. The device is put together by a manufacturer but it takes parts they buy from people who do not make these parts particularly for this purpose. They are not making much money on selling those parts. Batteries are one. The information I put into the RECORD yesterday shows that one of the manufacturers of batteries—a couple actually—used in pacemakers have stopped selling to the manufacturers of pacemakers because they are afraid they are going to get sued for something that is not their fault. They would just as well sell the batteries to somebody else where the chance of a lawsuit is not as great. They are not worried about the negligence. They are worried about what it is going to cost them if they get tied up in a lawsuit.

In the debate there is such skepticism expressed about these medical devices and pharmaceutical companies, et cetera. Sometimes when I look back and read history and I say, now, how far have we really come; how much better is the human race? I wonder if we have ascended very far in the way in which we deal with one another.

However, there is one way we can objectively show that there has been extraordinary progress in human experience and that is in our health. We are living longer. You can see it year-by-year. We are up, I guess, in the mid-seventies now in terms of average lifespan. A lot of that has to do with pharmaceuticals, these wonder drugs that have been invented. And a lot of it has to do with these medical devices that we are trying to protect by making sure that the manufacturers can continue to get the parts, the materials and the component parts, and are not frightened out of supplying those parts because of the fear of lawsuits.

I said yesterday, when I talked about the allegations, the opponents of this bill keep lighting fires around the periphery to sort of stop people from voting for the bill. Those of us who support it put out one or two fires and there are three more burning over here. And one of the fires has been lit about how this bill would affect the existing breast implant procedure. I said at length yesterday—I will not repeat it today—the bill will not impact this procedure. This is prospective, only affects people who may file claims later. Breast implants are not being done any more. They were stopped by the FDA, except for a small number of clinical trials in 1992.

With regard to new products, you cannot escape liability under the biomaterials section of this bill, if you are not just a supplier but you are a manufacturer or a seller or what you have done is negligently done in the sense that it violates either the contract requirements that the manufacturer has given you for the raw material or component part, which obviously would be for a part or material that is not negligently made, or the specifications for that part that are issued as part of the approval process. Every one of these medical devices has to go through the FDA before it can be sold and used to benefit people.

Senator GORTON has spoken about one young girl and the extraordinary benefit to her life from the shunt that was put in her brain. We had testimony at a hearing I conducted from a Mr. Martin Reily of Houston, TX, about his young child, Thomas, who was discovered when he was 8 months old to have water on the brain, hydrocephalus. Mr. Reily said:

> Jane and I will never forget the Saturday in late October 1985, when we learned that Thomas had hydrocephalus. We initially were told that based on the level of fluid accumulated on his brain and the resulting pressure, he would surely have brain damage, probably severe. Surgery to place a shunt in Thomas was scheduled for the first thing Monday morning [2 days later]. The hours from late Saturday to Monday morning were the longest and darkest we have ever experienced.
>
> The thought of waiting even 1 day to have the surgery was almost unbearable, for each minute that passed the pressure was building in Thomas' head, which could further damage him. . . .
>
> On Monday morning, Thomas received a shunt. Within hours, he was showing improvement. His lethargy disappeared. He was alert. He smiled again for the first time in weeks and even stood up in his hospital crib. Within 36 hours, we were back home with the new Thomas. How different the outcome would have been for Thomas that day without the availability of the medical device he so desperately needed.

What a miracle. Mr. Reily continues:

> Six months after his original surgery, Thomas' shunt clogged and required revision. In the 6 hours that Thomas waited for his shunt revision surgery, he became violently ill, vomiting continuously and finally becoming semi-comatose. Mercifully, his revision was successful and immediately he regained his old form, laughing and smiling while playing games in his hospital bed. Again, how different yet predictably sad and final would have been Thomas' fate without this medical device. As I reflect on Thomas' brief life, I see a child who has already overcome a lifetime of medical difficulties.
>
> * * * * *
>
> Early on, Thomas' mother and I went through a grieving process. We were grieving for the death of our vision of our perfect child. It was not until we let that vision go that we were able to see something much more beautiful; a young boy with an indomitable yet loving spirit who will not let his personal medical setbacks defeat him. I think that must be surely God's spirit living inside him.

Mr. Reily concluded:

> So I stand before you today, as the guardian of that spirit, as Thomas' father, beseeching you to do everything in your power to ensure that the biomaterials necessary for Thomas' medical implant device be readily available and of the highest quality. For some time in the future, perhaps next month or next year, Thomas will wake me in the middle of the night to tell me that his head hurts and that he thinks his shunt has broken. He will ask if we can go to the hospital to get a new one right away. I pray I will be able to give him the only acceptable answer.

It is remarkable testimony. We had other testimony that day from a most impressive woman, Peggy Phillips, who has worked for awhile as chief of congressional affairs for the Air Force Surgeon General, going to law school in the evening, getting home at 10 p.m., working until midnight, and so on, office work, very busy. "However, on November 26, 1986," as she says, "my life changed. I am told that I collapsed as I walked from my office to my car. I stopped breathing. I had no pulse. I had no blood flow to my brain, I was clinically dead."

The story ends happily. She agreed to have an automatic implantable cardioverter defibrillator put into her stomach.

"Following a few minor adjustments," she says, "life with the AICD

has not been much different than before." She goes on to document changes that have occurred, and appeals to us to make sure that some of the simple parts of that AICD, which keeps her going, monitors her heartbeat, gives her a shock when there is a danger that her heart is going to stop, keeping her alive—that flow of materials is not going to stop.

These are consumers. Does this help business? It helps the businesses that make the medical devices; it helps Thomas Reily; it helps Peggy Phillips; it helps 8 million other people who are going to be kept alive, allowed to live normally by these devices.

Earlier this morning my friend from California made some references about the impact of this legislation—somewhat on breast implant cases which I have spoken to earlier—but on women generally. I do want to put into the RECORD a statement here. I am going to quote from it.

Phyllis Greenburger, who is the executive director of a group called the Society for the Advancement of Women's Health Research, testified on April 4, 1995, to that same Senate subcommittee, that, "* * * the current liability climate is preventing women from receiving the full benefits that science and medicine can provide. That," she says, "is the reason I am here before you today."

She went on to say:

> . . . there is evidence that maintaining the current liability system harms the advancement of women's health research.

She completed her testimony by stating:

> Manufacturers of raw materials, unwilling to risk lawsuits, are limiting, and in some cases, terminating the sale of their product for use in an implantable medical device. . . . The threat to health is further magnified in cases where suitable substitute materials are not available.
>
> Women may be disproportionately impacted by such a shortage simply because they live longer than men, and as a result, suffer more from chronic disease, increasing their chances of needing a medical device, such as hip or joint replacements. For those of us currently in good health, the loss of these substances seems inconsequential. Yet for those like Peggy Phillips . . . [Whom I spoke of before] and others suffering from osteoporosis, heart disease, rheumatoid arthritis, and other diseases, access to a full range of medical devices is crucial.

I wonder if I might ask the Senator from Washington for 5 more minutes?

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. The Senator from Nebraska also wishes to speak on our side. Will the Senator from Connecticut settle for 2?

Mr. LIEBERMAN. I will settle for 3.

Mr. GORTON. Fine.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. LIEBERMAN. A study by the Committee for Contraceptive Development, jointly staffed and administered by the National Research Council and the Institute of Medicine, found that only one major U.S. pharmaceutical company still invests in contraceptive research. Why? The study blamed the legal climate, fear of lawsuits, for this situation. H.R. 956, this bill before us, would make these drugs and other medical devices more available.

We have said over and over again, this bill protects the right of an injured plaintiff to get full recovery for damages, cost of medical care, loss of wages, any other provable item. It goes beyond, and says you can get recovery for noneconomic losses, intangibles like pain and suffering, from those who are responsible for the negligence.

It simply puts a small limit on punitive damages. In doing so, yes, it helps some businesses expand, provide the miraculous products I have talked about, sell products for less; but it helps millions of other people. In a way, the beneficiaries of this legislation are not so visible. That is why I read from this testimony. But they, and millions and millions of others of them, are counting on us to pass this bill to bring balance and trust back to our legal system.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, let me just for a minute respond.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I will yield to the distinguished Senator from Nebraska.

The distinguished Senator from Connecticut is very persuasive and I wanted to answer these pleading comments about "walking down the street" and "everybody knows the litigation system is in disrepair." Absolutely false, with respect to the civil justice system.

We have all seen the O.J. case and that jury of 12 let him go. But the American public jury did not let him go. Everybody knows that.

We have, here, just this past week, March 18, U.S. News & World Report:

> In New York City, a movement is under way to impeach Criminal Court Judge Laurin Duckman. A 33-year-old woman sought court protection from a former boyfriend, a convicted rapist, who had attacked her three times. Despite the beatings, Judge Duckman coolly noted that the woman was "bruised but not disfigured," lowered bail in the case and suggested that the man would stop bothering the woman if she gave back his dog. Three weeks later, the man shot her to death.

In another case:

> Police in a high-activity drug area at 5 a.m. noticed a slowly moving car with out-of-state plates. The car stopped, the driver popped the hood of the trunk and four men placed two large duffel bags inside. When police approached, the men moved away rapidly in different directions. One ran. Police searched the trunk and found 80 pounds of cocaine. The driver, a Michigan woman, confessed in a 40-minute videotaped statement, saying that this was just one of more than 20 large drug buys she had made in Manhattan. But Judge Baer ruled that police had conducted an unreasonable search. What about the men bolting from the scene? Since residents in the area regard cops as corrupt and abusive, opined the judge, it would have been unusual if the men hadn't run away, so fleeing was no cause for a search. In other words, the perps had reason to be suspicious of police, but police had no reason to be suspicious of the perps.

Come on. I ask unanimous consent to have this list of cases printed in the RECORD

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HOLLINGS. We are all disturbed about the criminal court system. But not, where the distinguished Senator from Connecticut served as the majority leader in the State legislature of Connecticut, he acts—"walking down the street," that he is the only one walking down the street talking.

Come on. We even had one former member went up as Governor and pull an income tax on the people of Connecticut, Governor Weicker. The people of Connecticut will respond, with leadership. And they do have a product liability statute in that State.

But these folks come and talk about fair. "Yes, I hope I can certainly get this shot so I can continue breathing." I mean, grown folks, men and women in the U.S. Senate, acting like this? That case would be thrown out. Talking about what is not good for the consumer, good for business.

I ask unanimous consent to have printed in the RECORD "Suing For Safety." It is by Thomas Lambert, Jr. I ask to have this printed in the RECORD, included with the "Stupid Court Tricks." Include them both.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HOLLINGS. Mr. President, that "Suing for Safety" gives case after case after case where it had not been good for the consumer. The consumer had to get a trial lawyer, had to go before 12 jurors in his community, had to go up on appeal and pay all the court costs and finally get a verdict.

Why is it good for the consumer and good for the business? On account of product liability. We have it at the

VOL
142
PT
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State level, and it is working. That is why I put that case in the RECORD.

We know what business does. Some businesses will cut corners, they will not give warnings, they try to save money. Everybody knows there were a few dollars in the Pinto case. Now we see time and again, week after week, recalls. They just recalled one of my cars to put another safety device on.

Why do you think that was done? On account of the trial lawyers. Product liability. That is why they have done it, and everybody in the Senate knows it. But the little poll says get rid of the lawyers, like Dick the Butcher in Henry VI, "Kill all the lawyers." That is a popular thing.

So that is what we have. I reserve the remainder of my time.

EXHIBIT 1

[From U.S. News & World Report, Mar. 18, 1996]

STUPID COURT TRICKS

(By John Leo)

Some judges and some judges' decisions are better than others. Here are some others:

In New York City, a movement is under way to impeach Criminal Court Judge Laurin Duckman. A 33-year-old woman sought court protection from a former boyfriend, a convicted rapist, who had attacked her three times. Despite the beatings, Judge Duckman coolly noted that the woman was "bruised but not disfigured," lowered bail in the case and suggested that the man would stop bothering the woman if she gave back his dog. Three weeks later, the man shot her to death. In another domestic violence case, Judge Duckman allowed a beater to go free hours after a jury had found him guilty. Last month, the man was charged with another attack on the same woman.

North of the border, the loopiest judicial decision of the year came when the Canadian Supreme Court ruled that drunkenness was a defense against rape charges. It ordered a new trial for a Montreal man who had been convicted of sexually assaulting a 65-year-old woman in a wheelchair. The court predicted that the alcohol defense would be rare, but within weeks drunks and addicts were being acquitted across Canada. Sanity prevailed, however. Parliament passed a law banning the drunkenness defense.

Judge Rosemary Barkett, a Clinton appointee, has brought sexual harassment litigation into the fifth grade. Writing for the majority on the 11th Circuit Court of Appeals last month, she said that the mother of a fifth grader who was repeatedly pestered by another fifth grader could sue the school district under Title IX of the 1972 Education Amendments. In a recent dissent in another case, Barkett implied that a statute requiring drug tests for some state jobs in Georgia may violate the First Amendment by seeking to keep persons "who might disagree with the current policy criminalizing drug use" out of government.

Another Clinton appointee, Judge Harold Baer, caused a spreading uproar with his colorful botching a drug case. Police in a high-activity drug area at 5 a.m. noticed a slowly moving car with out-of-state plates. The car stopped, the driver popped the hood of the trunk and four men placed two large duffel bags inside. When police approached, the men moved away rapidly in different directions. One ran. Police searched the trunk and found 80 pounds of cocaine. The driver, a Michigan woman, confessed in a 40-minute videotaped statement, saying that this was just one of more than 20 large drug buys she had made in Manhattan. But Judge Baer ruled that police had conducted an unreasonable search. What about the men bolting from the scene? Since residents in the area regard cops as corrupt and abusive, opined the judge, it would have been unusual if the men hadn't run away, so fleeing was no cause for a search. In other words, the perps had reason to be suspicious of police, but police had no reason to be suspicious of the perps. Since the confession stemmed from the search, Baer threw it out. The prevailing New York opinion: Judge Baer is an idiot.

Can the state legally confiscate the property of innocent people? The U.S. Supreme Court said yes this month in a Detroit case. A 5-to-4 ruling allowed confiscation of a 1977 Pontiac half-owned by a woman after her husband was arrested for having sex with a prostitute in the car. The Wayne County prosecutor's office had sued to confiscate the car under Michigan's public nuisance statutes. In a dry dissent, Justice John Paul Stevens said that until this case, no state had "decided to experiment with the punishment of innocent third parties."

In a notably tortured decision, the federal 10th Circuit Court of Appeals ruled that a male prisoner who wishes to become a female is not entitled to get hormone injections at public expense under the 14th Amendment, but he may be entitled to them under the Eighth Amendment, which bans cruel and unusual punishment.

Much egg is on the faces of federal judges of the Fourth Circuit Court of Appeals for their handling of the Rodney Hamrick case. While serving prison time for threatening the life of President Reagan, Hamrick built five bombs and threatened to blow up a courthouse, an airplane and NAACP headquarters. While serving more time for threatening to kill the judge in his case, he built and mailed a bomb to a U.S. attorney who had prosecuted him. The bomb fizzled, scorching the envelope but not detonating. Hamrick was convicted, but a three-judge panel of the Fourth Circuit reversed the conviction on grounds that the bomb was not a deadly or dangerous weapon because it had been badly built. This decision flew in the face of a relevant Supreme Court ruling that even an unloaded gun could be considered dangerous. For some strange reason, Solicitor General Drew Days did not request a rehearing on the Hamrick ruling by all the judges of the entire Fourth Circuit. But the judges decided to do so on their own, and they narrowly upheld Hamrick's conviction. Eight judges thought that the faulty bomb qualified as dangerous, while six judges disagreed. No word yet from Drew Davis. Is anybody in charge here?

EXHIBIT 2

[From the Trial magazine, November 1983]

SUING FOR SAFETY

(By Thomas F. Lambert, Jr.)

It has been well and truly said, "If you would plant for a year, plant grain; for a decade, plant trees; but if you would plant for eternity, educate a man." For nearly four generations, ATLA has been teaching its men and women, and they have been demonstrating to one another, that you can sue for safety. Indeed, one of the most practical measures for cutting down accidents and injuries in the field of product failure is a successful lawsuit against the supplier of the flawed product. Here, as well as elsewhere in Tort Law, immunity breeds irresponsibility while liability induces the taking of preventive vigilence. The best way to make a merchant responsible is to make him accountable for harms caused by his defective products. The responsible merchant is the answerable merchant.

Harm is the tort signature. The primary aim at Tort Law, of the civil liability system, is compensation for harm. Tort law also has a secondary, auxiliary and supportive function—the accident prevention function or prophylactic purpose of tort law—sometimes called the deterrent or admonitory function. Accident prevention, or course, is even better than accident compensation, an insight leading to ATLA's longstanding credo: "A Fence at the Top of the Cliff Is Better Than an Ambulance in the Valley Below."

As trial lawyers say, however, "If you would fortify, specify." The proposition that you can sue for safety is readily demonstratable because it is laced and leavened with specifics. They swarm as easily to mind as leaves to the trees.

ACCIDENT PREVENTION THROUGH SUCCESSFUL SUITS IN THE PRODUCTS LIABILITY FIELD

(1) Case for Charcoal Briquets Causing Death from Carbon Monoxide. Liability was imposed on the manufacturer of charcoal briquets for the carbon monoxide death and injury of young men who used the briquets indoors to heat an unvented mountain cabin. The 10-pound bags read, "Quick to Give Off Heat" and "Ideal for Cooking in or Out of Doors." The manufacturer was guilty of failure to warn of a lethal latent danger. Any misuse of the product was foreseeable because it was virtually invited. Next time you stop in at the local supermarket or hardware store, glance at the label on the bags of charcoal briquets. In large capital letters you will find the following: "WARNING. DO NOT USE FOR INDOOR HEATING OR COOKING UNLESS VENTILATION IS PROVIDED FOR EXHAUSTING FUMES TO OUTSIDE. TOXIC FUMES MAY ACCUMULATE AND CAUSE DEATH." Liability here inspired and exacted a harder, more emphatic warning, once again reducing the level of excessive preventable danger.

(2) Case of the Exploding Cans of Drano. When granular Drano is combined with water, its caustic soda interacts with aluminum, another ingredient in its formula and produces intensive heat converting any water into steam at a rapid rate. If the mixture is confined, the pressure builds up until an explosion results. The manufacturer's use of a screw-on top in the teeth of such well known hazard was a design for tragedy. The expectable came to pass (as is the fashion with expectability). In Moore v. Jewel Tea Co., a 48-year-old housewife suffered total blindness from the explosion of a Drano can with a screw-on top, eventuating in a $900,000 compensatory and $10,000 punitive award to the wife and a $20,000 award to her husband for loss of conjugal fellowship.

A high school chemistry student could see that what was needed was a "flip top" or "snap cap" designed to come off at a pressure of, say, 15–20 pounds per square inch. After a series of adverse judgments, the manufacturer substituted the safer flip top. Of course, even the Drano flip top will be marked for failure if not accompanied by adequate testing and quality control. Capers involved a suit for irreversible blindness suffered by 10-year-old Joe Capers when the redesigned flip top of a can of Drano failed to snap off when the can fell into the bathtub and the caustic contents spurted 8½ feet high impacting Joe in the face and eyes with

resulting total blindness. The shortcomings in testing the can with the reformulated design cost the company an award of $805,000. As a great Torts scholar has said, "Defective products should be scrapped in the factory, not dodged in the home."

Drayton v. Jiffee Chemical Corp., is a grim and striking companion case to the Drano decisions mentioned above, and it underscores the same engineering verities of those cases: the place to design out dangers is on the drawing boards or when prescribing the chemical formula. A one-year-old black girl suffered horrendous facial injuries, "saponification" or fusion of her facial features, when an uncapped container of Liquid-Plumr was inadvertently tipped over. At the time of the accident, this excessively and unnecessarily caustic drain cleaner was composed of 26 percent sodium hydroxide, i.e., lye. No antidote existed because, as the manufacturer knew, Liquid-Plumr would dissolve human tissue in a fraction of a second. To a child (or any human being) a chemical bath of this drain cleaner could be as disfiguring as falling into a pool of piranha fish. Liquid-Plumr, mind you, was a household product, which means that its expectable environment of use must contemplate the "patter of little feet," as the children's hour in the American home encompasses 24 hours of the day.

At the time of marketing this highly caustic drain cleaner, having made no tests as to its effect on human tissue, within the existing state of the art, the defendant could have reformulated the design to use 5 percent potassium hydroxide which would have been less expensive, just as effective and much safer. After some 59 other Liquid-Plumr injuries were reported to defendant, it finally reformulated its design to produce a safer product. In Drayton the defendant was allowed to argue in defense and mitigation that its management was new, that it had learned from its prior claims and litigation experience and that it had purged the enterprise of its prior egregious misconduct.

To open the courtroom door is often to open a school door for predatory producers.

(3) Case of the Tip-Over Steam Vaporizer. A tip-over steam vaporizer, true to that ominous description, was upset by a little girl who tripped over the unit's electric outlet cord on the way to the bathroom in the middle of the night. The sudden spillage of scalding water in the vaporizer's glass jar severely burned the 3-year-old child. The worst injuries in the world are burn injuries. The cause of the catastrophe was a loose-lidded top which could have been eliminated by adopting any one of several accessible, safe, practical, available, desirable and feasible design alternatives, such as a screw-on or child-guard top. The truth is that the manufacturer, Hankscraft, had experienced a dozen prior similar disasters. In the instant case, the little girl recovered a $150,000 judgment against the heedless manufacturer, impeaching the vaporizer's design because of lack of a screw-on or child-guard top. When the manufacturer, with icy indifference to the serious risks to infant users of its household product refused to take its liability carrier's advice to recall and redesign its loose-lidded vaporizer, persisting in its stubborn refusal when over 100 claims had been filed against it, the carrier finally balked and refused to continue coverage unless the company would recall and redesign. Then and only then did Hankscraft stir itself to redeem and correct the faulty design of its product, thereafter proudly proclaiming (and I quote), "Cover-lock top protects against sudden spillage if accidentally tipped." Once again Tort Law had to play professor and policeman and teach another manufacturer that safety does not cost: It pays. Under what might be called the Cost-Cost formula, the manufacturer will add safety features when it comes to understand that the cost of accidents is greater than the cost of their prevention. The Tip-Over Steam Vaporizer case is the most graphic example known to use showing that corporate management can be recalled to its social responsibilities by threat of stringent liability, enhanced by deserved civil punishment via punitive damages, and that belief in such a proposition is more than an ivory tower illusion.

A good companion case to the Tip-Over-Steam-Vaporizer case, serving the same Tort Touchstone of Deterrence, is the supremely instructive Case of the Remington Mohawk 600 Rifle. While a 14-year-old boy was seeking to unload one of these rifles, pushing the safety to the "off" position as required for the purpose, the rifle discharged with the bullet entering the boy's father's back, leaving him paralyzed and near death for a long time. The agony of his guilt, his feeling that he was to blame for his father's devastating injuries, pressed down on the boy's brow like a crown of thorns and almost unhinged his sanity. Assiduous investigation by the family's lawyer unearthed expert evidence of unsafe design and construction and lax quality control of the safety selector and trigger assemblies of the Mohawk 600.

The result of the exertions of the plaintiff's lawyer, deeply and redoubtedly involved in challenging the safety history of the rifle model, was a capitulation by Remington and an agreement to settle the father's claim (he was a seasoned and successful defense trial lawyer) for $6.8 million. Remington also wrote the son a letter, muting some of his anguish by stating that the weapon was the whole problem and that he was in no way responsible for his father's injuries. Then, facing the threat of cancelled coverage from its carriers for skyrocketing premiums in the projection of other multimillion dollar awards, Remington commendably served the public interest by announcing the recall campaign in which we see another electrifying example of Tort Law litigating another hazardous product feature from the market.

Remington's nationwide recall program affected 200,000 firearms; notices in newspapers and magazines similar to this one that appeared in the January 1979 issue of Field and Stream cut back on the harvest of hurt and heartbreak: "IMPORTANT MESSAGE TO OWNERS OF REMINGTON MODEL 600 AND 660 RIFLES, MOHAWK 600 RIFLES, AND XP–100 PISTOLS. Under certain unusual circumstances, the safety selector and trigger of these firearms could be manipulated in a way that could result in accidental discharge. The installation of a new trigger assembly will remedy this situation. Remington is therefore recalling all Model 600 rifles except those with a serial number starting with an 'A' . . . Remington recommends that prior to any further usage of guns included in the recall, they be inspected and modified if necessary. [Directions are then given for obtaining name and address of nearest Remington Recommended Gunsmith who would perform the inspection and modification service free of charge.]."

Tort Law forced Remington to look down the barrel and see what it was up against. Once again Tort Law was the death knell to excessive preventable danger.

For a wonderfully absorbing account of the Mohawk 600, see Stuart M. Speiser's justly praised Lawsuit (Horizon Press, New York, 1980) 348–55.

(4) Case of MER/29, the Anti-Cholesterol Drug Which Turned out to Cause Cataracts. Many trial lawyers will recall the prescription drug MER/29 marketed for its benign and benevolent effect in lowering blood cholesterol levels and treating hardening of the arteries but which turned out to have an unpleasant and unbargained-for effect on users, the risk of causing cataracts. As Peter DeVries recently observed, "There is nothing like a calamity to help us fight our troubles." Blatant fraud and suppression of evidence from animal experiments were proved on the manufacturer's part in the marketing of this dangerous drug. Who did more—the federal government or private trial lawyers—in getting this dangerous drug off the market and compensating the numerous victims left in its wake? The question carries its own answer. The United States drug industry has annual sales of 16 billion dollars per year, while the Food and Drug Administration has an annual budget of 65 million dollars to oversee all drug manufacture, production and safety. How can the foothills keep the Alps under surveillance? Worse, as shown by the MER/29 experience, enforcement of the law in that situation, far from being vigorous and vigilant, was lame, limp and lackluster. It was only private suits advanced by trial lawyers that furnished the real muscle of enforcement and sanction, compensation for victims, deterrence of wrongdoing, and discouragement of corporate attitudes toward the public recalling that attributed to Commodore Vanderbilt.

As to the indispensible role and mission of the trial lawyer in Suing for Safety, it should not be overlooked that the current Administration has moved to sharply restrict the regulation of product safety by the Consumer Product Safety Commission. The 1982 budget for the commission was reduced by 30 percent in the first round of Reagan Administration budget cuts and is marked for further cuts in the future.

As the Thalidomide, MER/29, Dalkon Shield, Asbestos, DES, Slip-into-Reverse Transmissions and Fuel Tank scandals have been starkly revealed, we have crime in the suites as well as crime in the streets. Corporate culpability calls for corporate accountability, and our society has developed no better instrument to encourage socially responsible corporate behavior than the vehicle of adverse judgments beefed up by punitive damages. In the MER/29 situation, for example, the criminal fines levied on the corporate producer and its executives were slap-on-the-wrist trivial when contrasted with the deterrent impact of punitive damage awards in current uncrashworthiness cases where flagrant corporate indifference to public safety was established.

Our leading scholar in the field of punitive damages, writing with verve and virtuosity on that subject, concluded in 1976 that punitive damages awards should be permitted in appropriate products liability cases. Writing in 1982 with the same unbeatable authority, Professor David G. Owen traces the ferment and developments of doctrine in the ensuing years and then delivers a conclusion informed by exhaustive research, seasoned reflection, and an obvious morality of mind. "I remain convinced of the need to retain this tool of legal control over corporate abuses. . . ."

(5) Case of the Infant Who Died from Drinking Toxic Furniture Polish Where Manufacturer Failed to Warn Mother to Keep Toxic Product out of Reach of Children. This

VOL 142 PT 5 MR 21 — 29 1996 UMI

is the celebrated case of Spruill v. Boyle-Midway, Inc., in which a 14-month-old child reached over from his crib and pulled a doily off a bureau, causing a bottle of Old English Red Oil Furniture Polish, manufactured by the defendant, to fall into the toddler's crib. During the few minutes his mother was out of the room, the baby got the cap off the bottle and drank a little bit of the polish. He was dead within two days of resulting chemical pneumonia. The bottle had a separate warning about combustibility in letters ⅛ inch high, but only in the midst of other text entitled "Directions" in letters 1/32 inch high did it say "contains refined petroleum distillates. May be harmful if swallowed, especially by children." The mother testified that she saw the warning about combustibility but did not read the directions because she knew how to use furniture polish. In a negligence action against the maker, the jury found that both defendant and the baby's mother were negligent and awarded wrongful death damages to the child's father and siblings but not to the mother. The Fourth Circuit in keeping with the grain of modern authority held that it was irrelevant that the child's ingestion of the toxic polish was an unintended use of the product. The jury could properly find that in the absence of an adequate warning to the mother that she could read and heed—to keep the polish out of the reach of children—such misuse of the product was a foreseeable one. The defect was to be tested not only by intended uses but by foreseeable misuses.

The jury could find that the manufacturer's placement of the warning was designed more to conceal than reveal, especially in view of the grater prominence given the fire warning (⅛ of an inch compared to the Lilliputian print, 1/32 of an inch, as to the contents containing "refined petroleum distillates"). The poison warning could be found to fall short to what was required to convey to the average person the dangerous nature of this household product. The label suggested that harm from drinking the polish was not certain but merely possible, while experts on both sides agreed that a single teaspoon would be lethal to children.

The warning in short could properly be found to be inadequate—too soft, mispositioned and not sufficiently eye-arresting. Defendant admitted in answer to interrogatories that it knew of 32 prior cases of poisoning from ingestion of its "Old English Red Polish."

Did the imposition of liability in this seminal Spruill case supra stimulate, goad or spur the manufacturer to take safety measures against the foreseeable risk of ingestion by innocent children? A trip to the local hardware store a couples of days ago reveals that Old English Red Oil Polish now sports the following on its label: "DANGER HARMFUL OR FATAL IF SWALLOWED. COMBUSTIBLE. KEEP OUT OF REACH OF CHILDREN. SAFETY CAP."

An error is not a mistake unless you refuse to correct it.

(6) Case Holding Manufacturer of PAM (Intended to Keep Food from Sticking to Cooking Surfaces) Liable for Death of Teen-Ager from Inhalation of PAM's Concentrated Vapors. Harless v. Boyle-Midway Div. of Amer. Home Products, involved an increasing number of teenagers who were dying of a "glue-sniffing syndrome," inhaling the concentrated vapors of PAM, a household product intended to keep food from sticking to cooking surfaces. Originally, the manufacturer used only a soft warning on the can's label: "Avoid direct inhalation of concentrated vapors. Keep out of the reach of children." However, to the knowledge of defendant, the children continued sniffing and dying. Then the manufacturer, as an increasing number of lawsuits were pressed upon it for the preventable deaths of such children, changed the warning on its labels, shifting to harder warning: "CAUTION: Use only as directed, intentional misuse by deliberately concentrating and inhaling the contents can be fatal." This was, of course, a much harder and more emphatic warning. The Fifth Circuit held that it was reversible error to exclude plaintiff's evidence (in an action for the wrongful death of a PAM-sniffing 14-year-old) that no deaths had occurred from PAM sniffing after the defendant had hardened its warning by warning against the danger of death, the ultimate trauma.

On remand the jury brought in a verdict for the boy's estate in the amount of $585,000 with an additional finding by the jury that the lad's administrator was entitled to an award of punitive damages. Prior to the punitive damages suit, the case was settled for a total of $1.25 million. It was uncontested that prior to the lad's death the manufacturer knew of 45 inhalation deaths from foreseeable misuse of its product, and upon remand admitted to an additional 68 from the same expectable cause.

If you will examine the label on the can of PAM on your shelf, as the writer has just done, you will find: "WARNING: USE ONLY AS DIRECTED. INTENTIONAL MISUSE BY DELIBERATELY CONCENTRATING AND INHALING THE CONTENTS CAN BE HARMFUL OR FATAL." Once again the pressures of liability stimulated a producer to avoid excessive preventable dangers in its product's use by strengthening its warning label, thereby enhancing consumer protection.

(7) Case of the Poisonous Insecticide Holding That Warnings Must Contain Appropriate Symbols. Such as Skull and Crossbones, Where Manufacturer knows That Product May Be Used by Illiterate Workers (Spanish-Speaking Imported Puerto Rican Laborers) Who Would Not Understand English. This is the salutary holding in the celebrated case of Hubbard-Hall Chem. Co. v. Silverman. The First Circuit upheld judgments entered on jury verdicts for the wrongful death of two illiterate migrant farm workers who were imported by a Massachusetts tobacco farmer and killed by contact with a highly toxic insecticide manufactured and distributed by defendant. Even though the comprehensive and detailed danger warnings on the sacks fully complied with label requirements of the Department of Agriculture, the jury could properly find that because of the lack of a skull or crossbones or other comparable symbols the warning was inadequate. Use of the admittedly dangerous product by persons who were of limited education and reading ability was within the range of apprehension of the manufacturer. While evidence of compliance with governmental regulations was admissible, it was not decisive. Governmental standards are "minimums," a floor not a ceiling, and so far as adequate precautions are concerned, federal regulations do not oust the possibly higher common-law standards of the Commonwealth of Massachusetts.

The steady, unflagging pressures of litigation against the inertia, complacency and moral obtuseness of manufacturers have not only resulted in enhanced safety in the field of conscious design choices (substituting child-guard screw-on tops on tip-over steam vaporizers or over-the-axle fuel tanks for those mispositioned more vulnerably in front of the axle or adding rear-view mirrors to blind behemothic earth-moving machines whose design obstructs the vision of a reversing operator, etc.) But also in inducing product suppliers to reduce marketing defects in the products they sell by strengthening the adequacy of the instructions and warnings that accompany their products set afloat in the stream of commerce.

The net effect of such benign and beneficial litigation has been to improve the adequacy and efficacy of the educational information given to consumers by producers via improvements in the conspicuousness of warnings given; making them more prominent, eye-arresting, comprehensive, complete and emphatic; placing the warnings in more effective locations; avoiding ambiguous warning; extending warnings to the safe disposition of the product; and avoiding any dilution of the warnings given. In short, the bottom line, as indicated in the cited representative sampling of cases, is that successful lawsuits operate as safety incentives to "inspire" product suppliers to furnish instructions and warnings that are in ratio to the risk and in proportion to the perils attending foreseeable uses of the marketed products.

Here, too, we see the conspicuous usefulness of the lawsuit as the weapon for ferreting out marketing defects, whether ingenious or ingenuous, in selling dangerously defective products.

(8) Case of Marketing Carbon Tetrochloride Using Warnings Found to Be Inadequate Because Inconspicuous. Suppose a defendant sells carbon tetrachloride and places on all four sides of the can, in large letters, the words "Safety Kleen," and then uses small letters (Lippiputian print) to warn of the serious risk of using the cleaning fluid in an unventilated place (or places the fine print warning only on the bottom of the can). It requires no tongue of prophecy to predict that this warning will be found inadequate because too inconspicuous. It was so held in Maize v. Atlantic Refining Co. Not only was the warning inadequate because not conspicuous enough, but the representation of safety ("Safety Kleen") operated to dilute, weaken, and counteract the warning. Moreover, in Tampa Drug Co. v. Wait, the court upheld a judgment for the wrongful death of a 38-year-old husband who died from carbon tetrachloride poisoning after using a jug of the product to clean the floors of his home. While the label warned that the vapor from the liquid was harmful and that prolonged breathing of it or repeated contact with the skin should be avoided and that the product should only be used in well ventilated areas, the court with laser-beam accuracy ruled that the warning nonetheless could be found inadequate because of its failure to warn with qualitative sufficiency as to deadly effects or fatal potentialities which might follow from exposure to its fumes.

Decisions such as Maize and Wait supra were the prologue and predicate for the action taken by the FDA in 1970, under the Federal Hazardous Substances Act, to ban and outlaw carbon tetrachloride.

Torts archivists know that successful private lawsuits to recover for harm from products simply too dangerous to be sold at all, regardless of the completeness or urgency of the warning given, frequently lead to a recall and reformulation of the product's design or to a decision to ban the product from the market. Life and limb are too important to trade off against unmarketed inventory.

(9) Case of the 8-Year-Old Boy Who Choked to Death from Strangling on a Quarter-Inch Rubber Rivet, Part of a Riviton Toy Kit Given Him for Christmas. This case will indeed rivet the attention (in the sense of attract, fasten and hold) of concerned citizens who wish to understand how the threat of liability operates as a spur to safety on the part of product producers. The present example involves a toymaker whose work is indeed "child's play."

Parker Brothers, a General Mills subsidiary headquartered some 18 miles north of Boston, had big plans for Riviton. This was a toy kit consisting of plastic parts, rubber rivets and a riveting tool with which overjoyed children could put together anything from a windmill to an airplane. In the first year on the market in 1977, the Riviton set seemed on its way to becoming one of those classic toys that parents will buy everlastingly. However, one of the 450,000 Riveton sets bought in 1977 ended up under the Christmas tree of an 8-year-old boy in Menomonee Falls, Wis. He played with it daily for three weeks. Then he put one of the quarter-inch-long rubber rivets into his mouth and choked to death. Ten months later, with Riveton sales well on their way to an expected $8.5 million for the year, a second child strangled on a rivet.

What should the company do? Just shrug off the two fatal child strangulations, ascribe the deaths to freakish mischance, try to shift the blame to parental failure to supervise and police their children at play, or assign responsibility to the child's abnormal misuse or abuse of their product? Could not the company cap its disavowal of responsibility by a bromidic disclaimer that, "After all, peanuts are the greatest cause of strangulation among children and nobody advocates the banning of the peanut."

However, as manufacturers, Parker Brothers well knew that they would be held liable to an expert's skill and knowledge in the particular business of toymaking and were bound to keep reasonably abreast of scientific knowledge, discoveries and hazards associated with toys in their expectable environment of use by unsupervised children in the home. The toymaker knew that the Riveton set must be so designed and accompanied by proper instructions and warnings that its parts would be reasonably safe for purposes for which it was intended but also for other uses which, in the hands of the inexperienced, impulsive and artless children, were reasonably foreseeable. When you manufacture for children, you produce for the improvident, the impetuous, the irresponsible. As a seasoned judge put it: "The concept of a prudent child, God forbid, is a grotesque combination." Much must be expected from children not to be anticipated when you are dealing with adults, especially the propensity of children to put dangerous or toxic or air-stopping objects into their mouths. The motto of childhood seems to be: "When in doubt, eat it." Knowledge of such childish propensity is imputed to all manufacturers who produce products, especially toys, which are intended for the use of or exposure to children. Cases abound to document this axiom.

Recently, Wham-O Manufacturing Co. of San Gabriel, Calif., voluntarily recalled its Water Wiggle, a garden hose attachment that drowned a child when it jammed in its throat. Still more recent, Mattel, Inc. of Hawthorne, Calif., initiated a recall of missiles fired by its Battlestar Gallactica toys when a 4-year-old boy inhaled one and died. The manufacturer of a "Play Family" set of toy figurines would have been well advised to pull from the market and redesign the small carved and molded figures in the toy set, intended for children of the teething age. A 14-month-old child swallowed one of the toy figures 1¾″ high and ⅞″ in diameter, and before it could be extricated from his throat at a hospital's emergency room, the child was reduced to vegetable status as a result of irreversible brain damage from the toy's windpipe blockage of air supply to the brain. The manufacturer's dereliction of design and lack of product testing were to cost it a $3.1 million jury verdict for the child and his parents.[24]

Against the marketing milieu and the legal setting sketched above, what should be the proper response of Parker Brothers, manufacturers of the Riviton toy set, when its executives learned of the second child's death from strangulation on the quarter-inch rubber rivet in the toy kit? Should they have tried to tough it out or luck it out in the well known lottery called "do nothing and wait and see"? The company was sensitive not only to the constraints of the law (liability follows the marketing of defective products), but also to the imperatives of moral duty and social responsibility, and the commercial value of an untarnished public image. Parker Brothers decided to halt sales and recall the toy. As the company president succinctly stated, "Were we supposed to sit back and wait for death No. 3?"

Business, the Frenchman observed, is a combination of war and sport. Tort Law pressures business to realize how profitless it may provide to war against children or to trifle and jest with their safety. The commendable conduct of Parker Brothers in this case is one of the most striking tributes we know to the deterrent value and efficacy of Tort Law and the example would make a splendid case study for the nation's business schools.

(10) Case of the Recycling Washing Machine That Pulled Out a Boy's Arm. In Garcia v. Halsett, the plaintiff, an 11-year-old boy, sued the owner of a coin-operated laundromat for injuries inflicted while he was using one of the washing machines in the launderette. He waited several minutes after the machine had stopped its spin cycle before opening the door to unload his clothing. As he was inserting his hand into the machine a second time to remove a second handful of clothes the machine suddenly recycled and started spinning, entangling his arm in the clothing, causing him serious resulting injuries. The evidence was clear that a common $2 micro switch—feasible, desirable, long available—would have prevented the accident by automatically shutting off the electricity in the machine when the door was opened. The reviewing court held the launderette owner strictly liable for defective design because the machine lacked a necessary safety device, an available micro switch. Shortly thereafter the defendant obtained 12 of these micro switches and installed them himself on the machines. Once again, the threat of tort liability serves to deter—the prophylactic purpose of Tort Law at work. The deterrent function of Tort Law is not just an idea in the air; it has landing gear, has come down to earth and gone to work.

SUMMARY

The foregoing 10 cases and categories are merely random and representative examples, not intended to be complete or exhaustive, of the deterrent aim and effect of Tort Law in the field of product failure or disappointment.

It needs to be emphasized that the preventive aim of Tort Law is pervasive and runs like a red thread throughout the entire corpus of Torts. For example, the private Tort litigation system has served, continues to serve, as an effective and useful therapeutic and prophylactic tool in achieving better health care for our people by discouraging and thereby reducing the incidence of medical mistakes, mishaps and "misadventures." An error does not become a mistake unless you refuse to correct it. For example, successful medical malpractice suits have induced hospitals and doctors to introduce such safety procedures as sponge counts, electrical grounding of anesthesia machines, the padding of shoulder bars on operating tables, and the avoidance of colorless sterilizing solutions in spinal anesthesia agents. Remember, the fraudulent butchery practiced on defenseless patients by the notorious Dr. John Nork was not unearthed, pilloried or ended by the vigilant action of hospital administrators, peer review groups, or medical societies but by successful, energetically pressed malpractice actions prosecuted by trial lawyers in behalf of the victimized patients.

So we come full circle and end as we began: Accident Prevention Is Better Than Accident Compensation: "A Fence at the Top of the Cliff Is Better Than an Ambulance in the Valley Below." A successful lawsuit and the pressures of stringent liability are one of the most effective means for cutting down on excessive preventable dangers in our risk-beleaguered society.

My hero in the foregoing chronicle of good lawyering has been the hard-working trial lawyer with his care, commitment and concern for public safety, the civil religion of us all.

He more than any other professional has proved that we can indeed Sue for Safety. My tribute to him is in words Raymond Chandler used to salute his hero: "Down these mean streets a man must go who is not himself mean, who is neither tarnished nor afraid."

PRODUCT LIABILITY DOES NOT EXTEND TO NEGLIGENT ENTRUSTMENT

Mr. ROCKEFELLER. Will the Senator from Washington yield for a question about the applicability of the bill?

Mr. GORTON. Yes, I would be glad to do so.

Mr. ROCKEFELLER. Mr. President, we have been seeing a lot of paper about this conference reports' effects on so-called dram shop laws which allow victims of drunk driving crashes to seek recovery from those individuals or establishments who negligently sell, or serve, alcoholic beverages to persons who are intoxicated or to minors who subsequently kill or injure someone while driving under the influence.

Mr. GORTON. Yes, we have. I believe those laws can be valuable and help enhance highway safety and antidrunk driving initiatives, as well as encourage the responsible service of alcoholic beverages. Section 104 of the conference report is an example of a provision in the very bill we are considering which tries, in a small way, to discourage alcohol and drug abuse in this country. Section 104 tells persons that, if they are drunk or on drugs and that is the principal cause of an accident, they will not be rewarded through the product liability system.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. ROCKEFELLER. I agree. I am troubled that I continue to hear opponents of product liability reform, claim that these laws will be adversely affected by the proposed legislation.

Mr. GORTON. The short response, Senator, is these laws will not be adversely affected or affected in any way. The Senate Commerce Committee report, which has been adopted as the legislative history of the conference report, states unequivocally at page 25, footnote 90:

> [T]he provisions of the Act would not cover a seller of liquor in a bar who sold to a person who was intoxicated or a car rental agency that rents a car to a person who is obviously unfit to drive or a gun dealer that sells a firearm to a "straw man" fronting for children or felons. These actions would not be covered by the Act, because they involved a claim that the product seller was negligent with respect to the purchaser and not the product. Such actions would continue to be governed by state law.

Clearly, H.R. 956 will not in any way affect State law regarding the liability of those individuals who serve additional alcohol to persons who are obviously under the influence. Similarly, H.R. 956 will not affect State law regarding the liability of a product seller who fails to exercise reasonable care in selling a weapon, such as a handgun, to a minor or known criminals. The legislation also will not affect State law regarding the liability of a rental agency that fails to exercise reasonable care by renting an automobile to someone who, at the time, is obviously unfit to drive.

Mr. ROCKEFELLER. Mr. President, I think we should say to our colleagues that the product seller provision's application does not mean that these cases will be affected.

Mr. GORTON. The Senator is absolutely correct, these cases are not affected. First and foremost, this is a product liability bill and it applies to product liability actions. Product liability actions generally involve harm caused by alleged product defect.

As all are aware, the harm in cases involving drunk drivers is often severe, indeed, and may even mean the death of an innocent person or a child. It is important, however, to avoid the misleading arguments by those who oppose legal fairness and who intentionally attempt to confuse product liability actions, which are covered by the conference report, with negligent entrustment cases, which are not covered by the legislation. As in the past, they use attention-getting, but totally irrelevant examples, such as drunk driving cases and gun violence.

Mr. ROCKEFELLER. And that remains true, regardless of the fact that the applicability section of the conference report, says that the act applies to "any product liability action brought in any State or Federal Court on any theory for harm caused by a product." Is that not right?

Mr. GORTON. The reason for this broad definition is to assure that the bill covers all theories of product liability, such as negligence, implied warranty, and strict liability. It is not broadly defined in order to extend to cases beyond product liability, and certainly not to extend the bill to cases involving negligent entrustment, such as in cases involving the sale of alcohol to an obviously intoxicated individual or the sale of a gun to a known felon.

Mr. ROCKEFELLER. Mr. President, section 103 of the bill, the so-called product sellers provision, imposes liability when a product seller fails to exercise reasonable care with respect to a product. If a tavern owner fails to exercise reasonable care in selling alcohol to an intoxicated person, would that case be subject to the bill?

Mr. GORTON. No. The case against the tavern owner is based on the tavern owner's action; it is not based on an alleged defect in the product, that is, the alcohol. Cases in which a tavern owner sells alcohol to an intoxicated person involve negligent entrustment and are not subject to the provisions of the conference report; State law continues to apply.

To hold that such laws were affected by the bill would be a clear and obvious misconstruction of the bill. To make this clear, one only need look to the acts covered by product sellers in the conference report. This appears in the definition of product seller, which is set forth in sections 101(11)(B), 101(16)(A). H.R. 956 is applicable to product sellers, "but only with respect to those aspects of a product (or component part of a product) which are created or affected when before placing the product in the stream of commerce." The definition then addresses those things where the product seller "produces, creates, makes, constructs, designs, or formulates * * * an aspect of the product * * * made by another." This is classic product liability and simply does not apply to the negligent tavern owner.

Mr. ROCKEFELLER. And would you agree with me that the "product sellers" provision, as it applies to rented or leased products (section 103(c)(2)) in the conference report which states that a "'product liability action' means a civil action brought on any theory for harm caused by a product or product use," cannot be interpreted to mean use of alcohol, or use of a gun?

Mr. GORTON. The Senator is correct. First, the clarification is only included in the rented or leased products portion of the product seller provision. Thus, by way of example, in a situation where a car rental agency has exercised reasonable care with respect to maintaining and inspecting a vehicle, for example, the brakes, the engine, or the tires, and the person who shows up at the desk to rent the vehicle has an impeccable driving record, does not appear unfit to drive, and has a valid driver's license. The renter then takes the car and is subsequently involved in an accident. The product use language in section 103(c)(2) holds that the rental company cannot be held vicariously liable for the negligence of the renter simply because the company owns the product and has given permission for its use.

In contrast, if the rental agency rented a car to an obviously intoxicated person and that person was in a subsequent accident, then the rental agency would have been negligent in renting, or in negligently entrusting, the car to the person who was, at the time, obviously intoxicated. As spelled out clearly in the legislative history, "Such actions would continue to be governed by State law," and are not subject to H.R. 956.

Thus, even in the renter and lessor context, the distinction comes down to whether the seller was negligent as to the product, such as by failing to inspect the brakes, or negligent as to the person, such as by renting to a person with no driver's license and a notorious criminal record. H.R. 956 covers product liability actions; it does not cover negligent entrustment actions.

Mr. ROCKEFELLER. Thank you for that discussion. I hope it will help counter some of the misinformation that has been circulating regarding this provision. Is there any special provision of the bill that emphasizes what you have said here today?

Mr. GORTON. In fact, in order to address these very concerns you have thoughtfully raised, Senator, the product seller section specifically provides that the conference report does not cover negligent entrustment or negligence in selling, leasing or renting to an inappropriate party. Section 103(d) expressly states: "A civil action for negligent entrustment shall not be subject to the provisions of this Act, but shall be subject to any applicable State law." Frankly, I believe this provision is superfluous, and for this reason, it does not matter if, or where the provision appears in the conference report.

In sum, the product liability bill covers product liability, not negligent entrustment or failure to exercise reasonable care with regard to whom products are sold, rented or leased. H.R. 956 clearly would not cover "a seller of liquor in a bar who sold to a person who was intoxicated or a car rental agency that rents a car to a person who is obviously unfit to drive or a gun dealer that sells a firearm to a 'straw man' fronting for children or felons."

Mr. ABRAHAM. Mr. President, I rise today in support of H.R. 956, a bill to reform product liability law.

A few months ago, the 104th Congress took the first momentous step toward legal reform. Over President Clinton's veto, we passed H.R. 1056, a bill to reform securities litigation.

This legislation will significantly curb the epidemic of frivolous lawsuits that are diverting our Nation's resources away from productive activity and into transaction costs.

In passing H.R. 956, the Senate will be taking an equally important second step on the road toward a sane legal regime of civil justice.

Our current legal system, under which we spend $300 billion or 4.5 percent of our gross domestic product each year, is not just broken, it is falling apart.

This is a system in which plaintiffs receive less than half of every dollar spent on litigation-related costs. It is a system that forces necessary goods, such as pharmaceuticals that can treat a number of debilitating diseases and conditions, off the market in this country.

This is a system in which neighbors are turned into litigants. I was particularly struck by a recent example reported in the Washington Post. This case involved two 3-year-old children whose mothers could not settle a sandbox dispute—literally, a pre-school altercation in the sandbox—without going to court.

Something must be done about this situation and this litigious psychology, Mr. President, and this bill puts us on the road to real, substantive reform.

It institutes caps on punitive damages, thereby limiting potential windfalls for plaintiffs without in any way interfering with their ability to obtain full recovery for their injuries.

It provides product manufacturers with long-overdue relief from abusers of their products.

And it protects these makers, and sellers, from being made to pay for all or most noneconomic damages when they are responsible for only a small percentage.

First, as to punitive damages. No one wants to see plaintiffs denied full and fair compensation for their injuries. And this bill would do nothing to get in the way of such recoveries.

Unfortunately, punitive damages have come to be seen as part of the normal package of compensation to be expected by plaintiffs. George Priest of the Yale Law School reports that in one county, Bullock, AL, 95.6 percent of all cases filed in 1993–94 included claims for punitive damages.

Punitive damages are intended to punish and deter wrongdoing. When they become routine—one might say when they reach epidemic proportions—they end up hurting us all by increasing the cost of important goods and services.

For example, the American Tort Reform Association reports that, of the $18,000 cost of a heart pacemaker, $3,000 goes to cover lawsuits, as does $170 of the $1,000 cost of a motorized wheelchair and $500 of the cost of a 2-day maternity hospital stay.

We can no longer afford to allow this trend to continue. I am glad, therefore, that this bill begins to cap punitive damages—although in my judgment it only makes a beginning in that area.

I am particularly glad that the bill imposes a hard cap of $250,000 on punitive damages assessed against small businesses—the engine of growth and invention in our Nation.

Of course, punitive damage awards are not the only things increasing the costs of needed products.

Throughout the debate over civil justice reform I have been referring to the case of Piper Aircraft versus Cleveland. I use that example because it shows how ridiculous legal standards can literally kill an industry—as they did light aircraft manufacturing in America—and cost thousands of American jobs.

In Piper Aircraft, a man took the front seat out of his plane and intentionally attempted to fly it from the back seat. He crashed, not surprisingly, and his family sued and won over $1 million in damages on the grounds that he should have been able to fly safely from the back seat.

These are the kinds of decisions we must stop. Drunken plaintiffs, plaintiffs who abuse and misuse products—plaintiffs who blame manufacturers and sellers for their own misconduct—should not be rewarded with large sums of money. They may deserve our concern and sympathy, but we as a people do not deserve to pay for their misconduct through the loss of entire industries.

I am happy that this bill establishes defenses based on plaintiff inebriation and abuse of the product because I believe these defenses will benefit all Americans.

Finally, it seems clear to me that no manufacturer should be held liable for noneconomic damages which that individual or company did not cause.

In its common form, the doctrine of joint liability allows the plaintiff to collect the entire amount of a judgment from any defendant found partially responsible for the plaintiff's damages.

Thus, for example, a defendant found to be 1 percent responsible for the plaintiff's damages could be forced to pay 100 percent of the plaintiff's judgment.

This is unfair. And the unfairness is aggravated when noneconomic damages are awarded.

Noneconomic damages are intended to compensate plaintiffs for subjective harm, like pain and suffering, emotional distress, and humiliation.

Because noneconomic damages are not based on tangible losses, however, there are no objective criteria for calculating their amount. As a result, the size of these awards often depends more on the luck of the draw, in terms of the jury, than on the rule of law. Defendants can be forced to pay enormous sums for unverifiable damages they did not substantially cause.

This bill would reform joint liability in the product liability context by allowing it to be imposed for economic damages only, so that a defendant could be forced to pay for only his proportionate share of noneconomic damages.

As a result, plaintiffs would be fully compensated for their out-of-pocket losses, while defendants would be better able to predict and verify the amount of damages they would be forced to pay.

This reform thus would address the most pressing concerns of plaintiffs and defendants alike.

Mr. President, problems will remain with our civil justice system after this bill is made into law—if this bill is signed by President Clinton and made law.

Charities and their volunteers will remain unprotected from frivolous lawsuits.

Our municipalities will remain exposed to profit-seeking plaintiffs.

And the nonproducts area of private civil law in general will remain unreformed—3-year-olds and their mothers may still end up in court over a sandbox altercation.

In the last session I and some of my colleagues fought for more extensive, substantive, and programmatic reforms to our civil justice system. These were consistently turned back.

I believe at this point it is time for us to consider more neutral, procedural reforms, such as in the area of Federal conflicts rules, to rationalize a system we cannot seem to tame.

But I am certain, Mr. President, that this bill marks an important step toward a fairer, more reasonable and less expensive civil justice system.

This is why I am frustrated that President Clinton has threatened to veto this bill.

The President has stated repeatedly that he would support balanced, limited product liability reform. He has been singularly unhelpful in his opposition to more far-reaching reforms that would do more for American workers and consumers. But he has claimed that he would support product liability reform.

Now the President is claiming that this legislation is somehow "unfair to consumers."

Mr. President, is a system in which fifty-seven cents of every dollar awarded in court goes to lawyers and other transaction costs fair to consumers of legal services?

Is it really pro-consumer to have a system in which, as reported in a conference board survey, 47 percent of firms withdraw products from the marketplace, 25 percent discontinue some form of research, and 8 percent lay off employees, all out of fear of lawsuits?

VOL 142 PT 5 MR 21—29 1996 UMI

Please tell me, Mr. President, are consumers helped by a system in which, according to a recent Gallup survey, one out of every five small businesses decides not to introduce a new product, or not to improve an existing one, out of fear of lawsuits?

The clear answer, I believe, is that consumers are hurt by our out-of-control civil justice system, a system which makes them pay more for less sophisticated and updated goods.

I respectfully suggest that President Clinton look beyond the interests of his friends among the trial lawyers to the interests of the American people as a whole.

If he looks to that interest he will find a nation hungry for reform, yearning to be freed from a civil justice system that is neither civil nor just, seeking protection from egregious wrongs, but not willing to sacrifice necessary goods, important public and voluntary services, and the very character of their communities to a system that no longer produces fair and predictable results.

If we in this chamber consult the interest of the people, Mr. President, we will pass this bill. If President Clinton consults that primary interest, he will sign the bill and make it law.

Mr. President, I yield the floor.

Ms. SNOWE. Mr. President, for those who were becoming skeptical, the conference report before us demonstrates that bipartisanship is still alive and well in the U.S. Congress.

First, I would like to express my appreciation to those who have contributed so greatly to the completion of this legislation—not only in the 104th Congress, but in some cases for more than a decade. The chairman of the Commerce Committee, Senator PRESSLER, has been instrumental in shepherding this legislation from the committee, to the Senate floor, into conference, and now back to the Senate floor. Also, Senator ROCKEFELLER and Senator GORTON—whose commitment and leadership on this issue have been unsurpassed in the Senate, and without whose efforts we would not be voting on this conference report today—were invaluable in crafting this legislation.

As I stated during the markup of S. 565 in the Senate Commerce Committee, and later during consideration of the bill on the floor of the Senate, I believe there is a compelling case for product liability reform in this country.

I firmly believe the legislation the Senate adopted early last year was a critical and long overdue first step to reforming an area of law that touches each and every one of us as consumers in America. Therefore, I am now eager to see a well-conceived and balanced bill accomplishing this goal enacted during the 104th Congress. It is a goal I think we can and should reach. I believe the conference report before us is well-conceived and balanced, and am particularly pleased that it contains the punitive damage cap I offered, and which was adopted, during consideration of the Senate bill.

In my statement on product liability on the floor of the Senate many months ago, I established my own personal checklist of critical issues I believed this legislation ought to address to make the bill fair, equitable, and effective. That is now also true for this conference report.

First, we must allow safe consumer products to be developed to meet consumer needs, and ensure that consumers can seek reasonable compensation when injuries and damages occur.

Second, the law must dissuade consumers from filing frivolous lawsuits, without discouraging Americans who have substantive complaints from filing legitimate suits.

Third, a uniform law must encourage companies to police the safety of their own products—both by providing incentives for excellence in safety and strong punishment when product safety is breached.

Last, and perhaps most importantly, one of our fundamental goals must be to ensure that this legislation protects the interests of the average American consumer who makes hefty use of products, but knows little of their innate safety or risk.

I believe that this conference report—like the Senate-passed bill—meets these criteria. One component of this conference report that I considered crucial to fulfilling these requirements is the cap on punitive damages.

To understand the issue of a punitive damage cap, I think it is valuable to remember what punitive damages are—and are not. I believe this issue is particularly important before today's vote because of recent reports in various news sources that have confused a cap on punitive damages with a cap on pain and suffering, or a cap on economic damages.

Punitive damages are punishment that serve an invaluable role in deterring quasi-criminal behavior by businesses. They have nothing to do with providing compensation to a person who has been harmed and are not intended in any way to make the plaintiff whole. That purpose is served by compensatory damages, which provide recovery for both economic damages—which include lost wages and medical expenses—and noneconomic damages, which include pain and suffering and other losses, such as those caused by the loss of one's sight, appendage, or reproductive organs.

One of the overriding problems in our current system is the absence of any consistent, meaningful standards for determining whether punitive damages should be awarded and—if so—in what amounts. The absence of consistent standards not only leads to widely disparate and runaway punitive awards, but it also affects the settlement process. Individuals and companies that are sued often face a catch-22: pay high legal fees to fight a case through trial, verdict, and appeal—or simply settle out of court for any amount less than these anticipated legal fees.

Even for the defendant who recognizes the cost of proving innocence to be too great, or simply hopes to avoid the lottery nature of a possible punitive award—seeking a settlement carries a hidden cost. The lack of a uniform national standard—or simply the existence of vague State standards—forces the defendant to include a punitive premium in their settlements, even when the likelihood of a punitive award is small or even nonexistent. In addition, the high reversal rate of punitive damage awards underscores the absence of clear and understandable rules.

Therefore, in establishing a cap, I considered it vital that the measure we chose be fair, uniform, act as adequate punishment, and serve as an adequate deterrent. I believe a cap based on compensatory damages accomplishes all of these objectives, which is why I fought to include such a measure in the Senate bill. This measure is fair because it is blind to the socioeconomic position of the plaintiff. In addition, because a punitive cap that includes noneconomic damages in its formula is inherently unpredictable, one cannot argue that a business with quasi-criminal intents will be able to predict the ultimate cost of all possible punitive claims and make a financial decision to produce a dangerous product.

At the same time, I do not believe that a cap based on a measure of economic damages alone would accomplish all of these objectives in all circumstances. Although such a measure might serve as adequate punishment and act as an adequate deterrent in many cases, it relies too greatly on the economic position of the plaintiff in establishing a sufficient level of punishment.

While the Senate bill also included an additur provision that allowed the judge to impose a higher punitive damage award in particularly egregious circumstances—and this conference report also includes a modified additur provision—I believe the measure based on compensatory damages will work for everyone and will subject egregious offenders to strong punishment. This standard is fair and nondiscriminatory. It will apply to all litigants equally—whether you are a man or woman, wealthy or poor, a child or an adult. Therefore, I am particularly pleased that the conference report before us maintains the Snowe amendment on punitive damages. And while I believe that the additur will be proven to be unnecessary due to the inherently even-handed and unpredictable nature of total compensatory damages, I accept its inclusion in the conference report as a means of providing the opportunity for additional punishment in cases where a judge—staying within the parameters set by the jury—deems it necessary.

Mr. President, the bill before us—as outlined by Senators GORTON and ROCKEFELLER—is a targeted bill that brings common sense and reform to one class of lawsuits: those pertaining to product liability. I believe this legislation is sound and will benefit consumers and businesses. As a result, I share the disappointment of other Members of this body in President Clinton's statement that he would veto this bipartisan legislation. At the least, I found it surprising that President Clinton opposes legislation that he endorsed as a member of the National Governors' Association when he was Governor Clinton. I remain hopeful that President Clinton will reconsider his opposition in the coming days. I think a strong bipartisan vote in favor of this legislation is just what the President needs in order to see the light on this issue.

Mr. President, we must be able to show the American people that we not only considered this essential and historic legislation, but that we passed it with strong bipartisan support as well. There is simply no question that, if enacted, this reform will have a positive and wide-ranging impact on millions of Americans. Thank you, Mr. President, I yield the floor.

Mr. COHEN. Mr. President, I continue to oppose the product liability reform bill for two main reasons: it unnecessarily intrudes upon the prerogatives of our State governments and the purported problem the bill attempts to address—the impact of punitive damages—is overstated.

For over two centuries, tort law has been developed by our common law courts and State legislatures. The same is true for our contract law, real property law, insurance law, and a host of other subjects. The core principles of tort law are the same across the country, but each State has adjusted its laws to suit its individual needs, experimented with liability reforms, and attempted to strike a careful balance the interests of business and consumers.

The Federal product liability bill would put an end to this era of local experimentation and adjustment. Instead, it would contribute to the trend of the last half century of centralizing power in Washington. Unfortunately, the product liability bill will be only the first step in this process. Once it is completed other interests will follow with pleas for Federal intervention. And eventually the States will be stripped of yet another area of authority. This trend runs entirely counter to the generally accepted principle that the Federal Government is too big and that more authority should be returned to the States and localities.

Ironically, we are taking this step at a time when the States are vigorously engaged in the topic of tort reform. Just this year, New Jersey, Indiana, Wisconsin, Illinois, and Texas have passed tort reform legislation. In fact, since 1986, 31 States have altered their product liability laws, 30 States limit the amount of punitive damages in some manner and 41 States have changed or abolished the rule of joint and several liability. With this much activity on the state level, there is no justification for this sweeping, intrusive Federal bill.

I also believe that the case for tort reform has been exaggerated. Unfortunately, the debate over this legislation has been driven more by anecdote and horror stories than objective facts. Indeed, the dearth of solid, unbiased research led the Wall Street Journal to conclude last year that "Truth Is the First Casualty of the Tort-Reform Debate."

A review of some data collected by the Bureau of Justice Statistics, a neutral arbiter on this topic, demonstrates that runaway jury verdicts are not as great of a problem as the tort reform advocates suggest. The study showed that courts in the 75 largest counties in the country decided 762,000 civil cases in 1992. Punitive damages were awarded in only 364 of these cases—.04 percent. Only 360 of the 762,000 cases involved product liability. Punitive damages were awarded in only three of those cases. And the total amount of punitive damages awarded was only $40,000.

The study also suggests that if we are looking to solve problems with the application of punitive damages, perhaps we should be addressing other areas of the law. Of the cases in which the plaintiff won a jury verdict, punitive damages were awarded in 30 percent of all slander cases, 21 percent of all fraud cases, but only 2 percent of all product liability cases.

I do not deny that there have been abusive cases where excessive awards have been made for minor injuries. But to address this problem, we need to do more to punish attorneys who bring frivolous cases or use the force of the legal system to coerce companies to settle meritless claims. We also need to encourage judges to intervene when juries run amok. Instead of taking these steps, this bill places caps on damages and limits the ability of injured parties to collect judgments imposed against wrongdoers. In essence, it limits the ability of those with meritorious claims to gain full compensation in order to rid the system of shameful cases that should have never been filed in the first place.

In my view, this is an unwise approach that will do damage to our principle of federalism. I will vote against this conference report.

Mrs. MURRAY. Mr. President, I would like to explain why I voted against this product liability conference report.

All of us in this room have heard horrific stories about people who got hurt when they did stupid or silly things with a product and then recovered tremendous amounts of money from innocent businesses. Those few stories have gotten a lot of mileage. They have gotten us to a conference report that takes power from consumers and gives it to corporations.

Mr. President, I am a mother who wants to be responsible for passing laws that improve the chances for my children to live healthy, safe lives. I am glad that victims have used the current State-based product liability laws to force manufacturers to make safe toys, nonflammable pajamas, and cars and trucks that don't explode. The current legal system forced companies to be responsible or face the possibility of significant financial loss.

I also want to be responsible for passing laws that provide the hard working men and women of this country an opportunity to be fully compensated for injuries that are a direct result of products they use in the workplace. This conference report makes it much harder for our workers to recover damages from those responsible for their injuries. It is designed to give advantage to corporations and disadvantage to our workers through its limits on joint liability for noneconomic damages, on punitive damages, and on seller liability, as well as its broadly drawn defenses to liability, such as the statute of repose.

In addition, I want to support legislation that allows our citizens to trust that the medical devices they are receiving are safe. So many women needlessly suffered when the maker of silicone gel breast implants refused to heed initial warning signs that their product was flawed. Today, there is no dispute that there is a strong correlation between silicone breast implants and serious health disorders, including joint and muscle pain, tremors, and autoimmune diseases. And, unfortunately, not all of the victims of these implants are known. For those who have not yet filed, this bill will block them from seeking redress from this grossly negligent company. That is wrong.

Finally, I want to be responsible for legislation that improves our citizens' quality of life. This bill could severely limit lawsuits involving products that damage the environment, such as pesticides and toxic chemicals. In particular, the provision addressing joint and several liability could make it nearly impossible for victims to receive full and fair compensation for harm caused by a mixture of toxic substances where

VOL
142
PT
5
MR
21
—
29
1996
UMI

a victim is unable to prove the percentage of damage caused by each chemical. Especially now, when we see efforts to scale back Government's role in environmental protection, the civil justice system is an even more important mechanism for deterring environmental degradation.

I know that responsible businesses feel threatened by the current system. I believe we should seek to reform and improve our system. But this approach is too sweeping. We need to take smaller steps and make more incremental reforms.

Mr. President, I have voted against this conference report for all of the above reasons. I cannot support a products liability law that shifts power from the States to the Federal Government and takes power away from our children, the elderly and working people and gives it to the companies that produce harmful products.

Mr. DOMENICI. Mr. President, today I am pleased to support the conference agreement on product liability litigation reform—reached after tremendous efforts by my colleagues in both the House and Senate. The Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], and the Senator from West Virginia [Mr. ROCKEFELLER] deserve a lot of credit for putting together a thoughtful, bi-partisan approach to solving the problems associated with products liability lawsuits. This is a bill that President Clinton should sign.

I also must commend the House conferees, particularly the distinguished chairman of the House Judiciary Committee, Mr. Hyde, for their willingness to reach a compromise on some of the more controversial provisions in their bill, in order that we could successfully pass a conference report that still will have a positive impact on our products liability litigation system. There are some, and I am among them, who would have liked to see a conference report which went even further on some issues than the agreement we have before us. However, I realize that we would have had a difficult time passing a more expansive and comprehensive legal reform bill. Clearly some reform is better than no reform at all. Our legal system needs it.

I have watched the products liability reform debate over the past several months with great interest. There was a time when many believed that this type of legal reform would not be possible. No one, least of all me, underestimates the power of the trial lawyers to derail even the most reasonable lawsuit reform efforts. Senator DODD and I fought for years to fix our Nation's securities class-action system, and late last year the Congress overrode President Clinton's veto of the bill and enacted comprehensive securities litigation reform. I hope that the President will examine this bill closely, because if he does, the only conclusion he should reach is that this is a reasonable, commonsense approach to reform that is good for the country.

There can be no doubt that our current products liability system extracts tremendous costs from the business community and from consumers. The great expense associated with products liability lawsuits drives up the cost of producing and selling goods, and these costs are passed on to the American consumer. I have heard many tell me about how half of the cost of a $200 football helmet is associated with products liability litigation, and how $8 out of the cost of a $12 vaccine goes to products liability costs. We can no longer afford to require our consumers to pay this tort tax.

Because of the high costs associated with products liability litigation, American companies often find it difficult to obtain liability insurance. The insurance industry has estimated that the current cost to business and consumers of the U.S. tort system is over $100 billion. Insurance costs in the United States are 15 to 20 times greater than those of our competitors in Europe and Japan. Much of this money ends up in the pockets of lawyers, who exploit the system and reap huge fee awards while plaintiffs go under compensated. Meanwhile, businesses which create jobs and prosperity in America suffer.

For companies involved in the manufacture of certain products, like machine tools, medical devices, and vaccines, this means that beneficial products go undeveloped, or after they are developed, they do not make it to the marketplace out of fear of generating a products liability lawsuit. This hampers our competitiveness abroad, and limits the products available to consumers. Harvard Business School Prof. Michael Porter has written about how products liability affects American competitiveness. He has written:

> In the United States . . . product liability is so extreme and uncertain as to retard innovation. The legal and regulatory climate places firms in constant jeopardy of costly, and, as importantly, lengthy product liability suits. The existing approach goes beyond any reasonable need to protect consumers, as other nations have demonstrated through more pragmatic approaches.

In the case of manufacturers of vaccines and other medical devices, the cost of our unreasonable and certainly un-pragmatic products liability litigation system often means that potentially life-saving innovations never make it to the American public. Products liability adds $3,000 to the cost of a pacemaker, and $170 to the cost of a motorized wheelchair. It also has caused the DuPont Co. to cease manufacturing the polyester yarn used in heart surgery out of fears of products liability litigation. Five cents worth of yarn cost them $5 million to defend a case, and DuPont decided that they simply could not afford further litigation costs. Now, foreign companies manufacture the yarn, but will not sell it in the United States out of fear of also being sued. These are products which could save lives and improve the quality of living for all Americans.

In cases where a truly defective product has injured an individual, the litigation process is too slow, too costly and too unpredictable. This bill, because it creates a Federal system of products liability law, will return some certainty to a system that now often undercompensates those really injured by defective products and overcompensates those with frivolous claims.

Those injured by defective products often must wait 4 or 5 years to receive compensation. This leads some victims to settle more quickly in order to receive relief within a reasonable time. Companies often must expend huge amounts of money in legal fees to settle or litigate these long, complicated cases. These again are resources that could be better spent developing new products or improving the designs of existing ones.

I believe that the most important reform in this conference report is the way it treats punitive damages. As their name implies, punitive damages are designed to punish companies and deter future wrongful conduct. They are assessed in these cases in addition to the actual damages suffered by injured victims.

Unfortunately, these damages do not do much, except line the pockets of lawyers. They serve relatively little deterrent purpose and led former Supreme Court Justice Lewis Powell to describe them as inviting "punishment so arbitrary as to be virtually random." Justice Powell wisely has commented that because juries can impose virtually limitless punitive damages, they act as "legislator and judge, without the training, experience, or guidance of either." Justice Powell is absolutely correct, and I applaud the drafters of this bill for dealing with the problems associated with these types of damages.

The Washington Post also agrees that punitive damages reform is necessary. An editorial in support of the conference report printed last week notes that "there are no ground rules for judges and juries in this area" and that "the whole thing is like a lottery, which is terribly unfair." The editorial concludes that "the compromise should be accepted by both houses and signed by the President."

Reform of punitive damages will return some common sense to the system. Huge punitive damage awards threaten to wipe out small businesses and charitable organizations and I applaud the conferees for providing special protection for these important entities, which are particularly vulnerable to legal extortion by trial lawyers.

By capping the amount of punitive damages available in product liability cases and raising the legal threshold for an award of punitive damages, the conference report will relieve some of the pressure on even the most innocent defendant to settle or face an award which could potentially bankrupt the company. It however reasonably allows judges some flexibility to go above the cap in truly egregious cases, where increased punitive damages might be warranted.

The conferees also have taken the wise step to reform joint liability, without limiting the ability of plaintiffs to recover their economic damages. The new law will abolish joint liability for noneconomic damages, like pain and suffering, but allows States to retain it for economic damages like hospital bills. This will reduce the pressure on defendants who are only nominally responsible for the injury to settle the case or risk huge liability out of proportion to their degree of fault, while ensuring that injured victims get compensated for their out-of-pocket loss.

The compromise also limits liability in cases where the victim altered or misused the allegedly defective product in an unforeseeable way. It simply is unfair to hold manufacturers liable in cases where consumers use products in ways for which they were not intended. It also is unfair to hold defendants liable in cases where the plaintiff's use of alcohol or drugs significantly contributed to their injury. I am happy to see that the new law will provide an absolute defense in such cases.

Mr. President, as I said earlier, I am no stranger to legal reform. Many of those who are responsible for this important and well-crafted legislation were cosponsors of the securities reform bill Senator DODD and I authored earlier this Congress. Our tort system is badly in need of reform, and the conference report on products liability before us is a step in the right direction. I support it, and I hope that my colleagues and the President will as well.

Ms. MOSELEY-BRAUN. Mr. President, I voted for S. 565, the Senate product liability bill, when it was before the Senate last May, and I support this conference report, which is, in virtually all of its essential provisions, identical to that bill. I supported the bill last year, and I continue to support it now, because I believe that Federal product liability reform makes sense for Americans, and because it makes sense for America.

Let's be clear what product liability reform is and is not about. It is not about an explosion of litigation that our courts physically cannot handle. It is about the chilling effect that product liability judicial decisions in one State can have on businesses across the Nation.

It is not about making it more difficult for Americans injured by products to get justice from those who injured them. It is about reducing the number of frivolous suits and unnecessary legal costs.

It is not about tilting the playing field in favor of business and against consumers or employees. It is about taking a step toward making the playing field more level for consumers, employees and businesses all across this Nation.

And it is not about taking powers away from States in order to disadvantage ordinary Americans. Rather, it is a narrow, carefully crafted approach to reform based on the realities of commerce today.

The basic fact that underlies this bill is that commerce is not local, but national and international. Over 70 percent of what is manufactured in Illinois is sold elsewhere, and Illinois is not unique in that regard. Because commerce is national, and indeed, increasingly international, the laws of any one State are simply not effective in establishing product liability standards for manufacturers in that State. Our Nation's Governors have recognized that fact, which is why the National Governor's Association has three times unanimously approved resolutions supporting Federal product liability reform.

Article I, section 8 of the Constitution grants Congress the power to regulate interstate commerce. Given the interstate and international nature of commerce, and the importance of having a healthy climate for manufacturing here in the United States, reform is essential, both so we can compete successfully in an ever-more competitive world marketplace and so we can generate the kind of economic growth needed to offer every American the opportunity to achieve the American Dream.

Achieving that dream depends on being able to find a good job at good wages, jobs that make it possible for American families to purchase their own homes and to send their children to college, and that suggests a healthy climate for manufacturing—which tends to produce the kinds of jobs Americans want and need—is in our national interest.

The current fragmented product liability system offers less certainty than a casino. That lack of certainty means that the current product liability system imposes costs far greater than the amounts awarded to successful plaintiffs, or the costs involved in defending and pursuing product liability cases. It adds costs to products, even when a company has never been sued, and unnecessary higher costs hurt consumers, and hurt job creation. And, while it is impossible to quantify, there is no doubt that the current product liability system causes some companies not to produce some products. That, too, means fewer good paying manufacturing jobs.

I do not suggest that Americans who might be injured by products should sacrifice their rights to redress for their injuries in order to help our economy generate new, good paying jobs—and this bill does not ask that of any American. But we must all remember that Americans aren't just consumers; they don't have just one interest at stake. Instead of dividing Americans from one another, therefore, we should be working together for the kind of reform that is in all of our interests.

By creating greater certainty, by reducing unnecessary cost, and by addressing the inadvertent chilling effect the current system has on new product creation, product liability reform will help generate new economic growth, and new jobs. And reform will add to the competitiveness of U.S. manufacturing, something that is essential in this ever more competitive world economy.

Some continue to argue that we should leave this issue to the States to address. However, the fact is that, given today's economic realities—and tomorrow's—product liability, no less than health care and other components of our social safety net, is a legitimate and necessary subject for Federal action. And the fact is is that the right kind of product liability reform, like the right kind of health care reform, and the right kind of welfare reform, and expand opportunity, and help create a brighter future for Americans individually and for our Nation collectively.

While this bill is not perfect, I think that, in general, it is the right kind of reform. It will bring greater uniformity to product liability law. It will help cut out the unnecessary costs the current product liability system imposes on businesses, consumers, and employees. And it tries very hard to appropriately balance the competing concerns involved.

I know that some Americans do not share the view that Federal product liability reform is needed, and that there are a number of concerns regarding specific provisions of the bill. I think it is worth noting, however, that the conference report now before us is, with very modest changes, the bill this Senate sent to conference. I ask unanimous consent, Mr. President, that a table comparing the original Senate bill and the conference report be printed in the RECORD at the conclusion of my remarks.

I know the statute of repose has generated some controversy. I would simply point out three things. First, the 15-year statute of repose applies to workplace goods only.

Second, no State with a statute of repose provides a more liberal time period than the one in the conference report; and

Third, the bill permits plaintiffs in every State to file a complaint after

VOL
142
PT
5
MR
21
—
29
1996
UMI

she or he discovers or should have discovered both the harm and its cause, a provision that is particularly important to plaintiffs who have trouble identifying the cause of the injury they suffered. For example, a person who developed a cancer many years after exposure to a chemical would be able to file suit anytime up to 2 years after the link between the chemical, and the harm he or she suffered, was identified.

The punitive damages provision has also been controversial. However, this provision is virtually identical to the bill as it passed the Senate last year. And it is more proconsumer than the laws in about half of the States.

Moreover, the bill does not put a hard cap on punitive damages. For cases involving all but the smallest of businesses, it allows punitive damages to be imposed up to the greater of $250,000 or twice the plaintiff's economic and noneconomic damages, including pain and suffering, and allows the judge in the case to increase the award by up to double those limits—in other words, to go up to four times the plaintiff's economic and noneconomic damages—if necessary "to punish the egregious conduct of the defendant." This approach was modeled on a recommendation made by the American College of Trial Lawyers, and it will permit huge punitive damages awards in cases where such awards are justified by the nature of the conduct and the severity of the harm involved, even when the harm is mostly noneconomic in nature.

As to the concerns regarding joint and several liability, I think it is worth pointing out that the conference report, like the original Senate-passed bill, only eliminates joint and several liability for noneconomic damages. This formulation is already the law in California, and it provides reasonable protection both for plaintiffs and for businesses who have only a minor involvement in the harm suffered by the plaintiff, but who can be held responsible for the entire amount of damages if the other defendants in the case are not able to pay their share of the amount awarded.

It is also worth noting that the conference report does not contain the broad, unjustified preemption of State civil justice systems that was in the House-passed bill, provisions that could of undermined the civil rights of Americans, and which would have almost casually overturned our whole State justice system. And it does not contain the medical malpractice provisions that were in the House bill, provisions that did not and do not belong in a product liability bill.

Moreover, the conference report does not contain the so-called FDA excuse that I strongly opposed in the last Congress. The bill that emerged from conference is the kind of narrow, carefully tailored approach that was needed, and the only approach that I could possibly support.

Mr. President, I said in 1994 that the problems present in our product liability system are problems that this body must address. Last year, when the product liability bill was before the Senate, I reiterated my view that reform is necessary, and I supported S. 565 as a reasonable approach to achieving that necessary reform. The conference report before now before us does not contain the provisions from the House bill that I believe have no place in this legislation. And, as I said at the outset of my remarks, it is close to identical to the bill I voted for last May. I therefore voted for cloture yesterday, and will vote in favor of sending this conference report to the President. I hope he will reconsider his position, and sign it, because enacting this bill into law is in the interest of every American.

Mr. President, I want to conclude by congratulating Senators GORTON and ROCKEFELLER for their leadership in bringing the bill to this point. I particularly want to thank my colleague from West Virginia. He went to great lengths to consult with me, and with other Senators, and to make all of us part of that conference, even though we technically were not among the conferees. I greatly appreciate his commitment to the kind of balanced, narrowly crafted reform that is so greatly needed and so long overdue. I am pleased to have this opportunity to vote with him, and with the other supporters on a set of reforms that are based on common sense, and that make sense for America.

Mr. KERRY. Mr. President, our laws play an important role in fostering a competitive economic environment by establishing ground rules for fair competition and by helping to reduce the costs of doing business. But our laws play an even more critical role in protecting the rights of individuals, workers, and consumers. Congress, therefore, has a special responsibility to ensure that the laws we write are reasonable and fair.

The conference report on H.R. 956, the so-called Common Sense Product Liability Reform Act of 1996, fails the "reasonable and fair" test.

The conference report, if enacted, will take away the rights U.S. citizens enjoy today in seeking redress for harm caused by unsafe products while giving manufacturers no incentive to produce safer products. This conference report is not fair to the working men and women of this country. It is biased against low-income individuals, women, and the elderly and it is plain dangerous for consumers. The products liability conference report will overturn the laws of every State and, I fear, will do great harm.

Consider that every year thousands of workers are injured or killed as a direct result of defects in products they use in the workplace. For many of them, the tort system is the only recourse for full redress of their injuries. Yet, this conference report will make it harder for workers to hold fully accountable those who cause the injury. The limits on joint liability for noneconomic damages, on punitive damages, on seller liability and the greatly expanded coverage under the statute of repose are all one-sided. Together, these provisions clearly favor wealthy corporations at the expense of working Americans.

The 15-year statute of repose would affect more than one-half of the products claims filed against machine tool manufacturers. Under the conference report, workers injured by defective machinery 15 years after first delivery would be prohibited from seeking to prove in court that even a grossly negligent manufacturer was responsible for their injury. On the other hand, the right of the business to pursue an action against the same manufacturer for commercial loss would be fully preserved.

The conference report would cap punitive damages at $250,000 or two times compensatory damages, whichever is greater, except in cases involving small businesses with fewer than 25 employees, where punitives would be capped at $250,000 or two times compensatories, whichever is the lesser amount. Such limits clearly undermine the deterrent value of punitive damages.

The threat of punitive damages has in part contributed to the recall, discontinuance, or change in the use of many dangerous and defective products, including the Ford Pinto, asbestos, the Dalkon shield, the Suzuki Samurai, heart valves, and silicone breast implants. Punitive damages have also helped make products safer: the redesign of the Jeep CJ–5; adding guards to chainsaws; the replacement of lap-belts with rear-seat three-point safety belts in passenger cars; the use of roll bars on farm tractors; warnings on toxic household chemicals; the use of flame-retardant fabric in children's sleepwear; and the list goes on and on. The conference report will defang the threat inherent in punitive damages.

But perhaps the most disturbing aspect of this legislation is that Ford Motor calculated that it was cheaper under the current tort system to settle rather than to try to protect the lives of every Pinto owner with a recall. The manufacturers of silicone breast implants calculated it was cheaper under the current tort system to continue selling implants that their own sales force reported had leakage problems rather than to alert the more than 1 million women in this country with implants about the danger of the products. Playtex calculated it was cheaper to continue to market its super-absorbent tampon than to try to warn women

about the deadly effects of toxic shock syndrome. If Ford Motor, Dow, Playtex, and other major manufacturers failed to take corrective action to make their products safer under the present tort system, there is no reason to expect this conference report will encourage them to act more responsibly.

Would anyone settle for $250,000 in exchange for losing a loved one to death by a product that the manufacturer knew was unsafe? If this conference report becomes law, no one would be able to get even $250,000 because there is not a lawyer in this country who would take the case. No law firm could afford to go up against companies like Ford Motor or Dow or others with their host of attorneys and huge legal budgets and an infinite ability to push motions and appeals to the limit and slow down the process to their advantage. It just would not happen.

Proponents of this legislation stress that the current tort system is biased against them: they point to insurance rates that disable American manufacturers by forcing them to pay 10 to 50 times more for product liability insurance than their foreign competitors; they claim there is an "explosion" in products liability litigation, with uncontrollable punitive damages awards; and they argue that the present system of "lottery" liability, where liability differs from state to state, does not enhance the safety of U.S. products. The proponents are wrong on each of these points.

Over the past decade, products liability insurance cost 26 cents per $100 of retail product sales, or about $26 on the price of a $10,000 automobile. Two recent reports by the National Association of Insurance Commissioners confirm there is no "crisis" in the cost of product liability insurance. In fact, the Association reported in January 1995 that earned premiums for product liability have steadily dropped from more than $2.1 billion in 1989 to $1.6 billion in 1994—a drop of 26 percent. The Association pointed to shifts to self-insurance and competition in the industry as reasons for the decline, but did not mention tort reform as a factor. Moreover, the Association reported in October 1995 that the premium volume for product liability insurance premiums has remained virtually flat from 1986 through 1994.

The so-called explosion in products cases is another myth. While consumer products are responsible for some 39,000 deaths and 30 million injuries each year, a 1993 study by Boston's Suffolk University Law School and Northeastern University found there were only 355 awards in products suits from 1965 through 1990, and that half of these were overturned or reduced. Indeed, the National Center for State Courts reported that product liability cases accounted for .0036 percent of the total civil case load in 1992, and the Legal Times reported that products claims in Federal courts declined by 36 percent from 1985 to 1991. In my own State of Massachusetts, there were absolutely no punitive damages awarded in products cases; punitive damages are only permitted in wrongful death cases.

The conference report on H.R. 956 will not resolve the problem of 51 different products liability laws in the United States. On the contrary, it will only serve to further complicate the tort system and tilt it strongly in favor of manufacturers and against consumers. The conference report contains only one-way preemption.

The conference report places caps on punitive damages in products cases, yet allows the laws to stand in the 39 States where those laws prohibit punitive damage awards or where they place more restrictions on victims' rights. On the other hand, the conference report does not require that these States award punitive damages.

The conference report preempts State law on misuse or alteration of a product only to the extent State law is inconsistent with the conference report, meaning that the 37 States that provide a complete defense to liability in some cases of product misuse or alteration would not be preempted.

The conference report prohibits lawsuits involving durable goods that are more than 15 years old, but specifically preserves State laws with shorter limitations.

The Products Liability Fairness Act, S. 565, will overturn the laws of every State that enable people who have been harmed by unsafe or faulty products from obtaining full and fair recovery. It will prevent citizens from holding wrongdoers accountable. It will preempt legitimate claims that deserve to be heard. It will strip citizens of their rights and it should be rejected.

I cannot support legislation that would have placed limits on punitive damages for the family of the 5-year-old boy in New Bedford, MA, who died in a house fire after igniting a couch with matches. I cannot support legislation that would have limited damages for the family of the 8-month-old boy who suffered second and third degree burns on his arms, legs and back in a house fire that started when the bedding in his crib was ignited by a portable electric heater that had been placed within 6 inches of his crib to keep him warm.

I surely cannot support legislation that would have limited the liability of the big corporations in Woburn, MA, whose highly toxic pollutants killed and injured children. The Woburn case, in which eight working class families sued two of our Nation's biggest corporations because they suspected the companies had polluted the water supply with highly toxic industrial solvents, took 9 years. The young attorney that pleaded the case spent $1 million of his own money on it. The jury ultimately found one of the companies negligent, and the scientific research done during the 9-year trial demonstrated the link between the industrial solvents in the water supply and human disease. The company is now helping to cleanup the polluted aquifer. The attorney has said that if this bill were law today, he would never have considered the case.

Mr. President, the conference report on H.R. 956 will take away the right every American enjoys today through the jury box to force accountability for dangerous, careless or reckless behavior. In the jury box, every American can bring about positive change. If we take away this fundamental right, we will have compromised our Nation's core values.

The conference report promotes the interests of business at the expense of the rights of consumers. It will create a nightmarish new legal thicket that should be avoided rather than embraced. After we have argued all the complicated points of law, after we have poured over horror story after horror story, the issues boil down to one simple point: this bill is not fair, it is not reasonable and it should be rejected.

Mr. GLENN. Mr. President, I rise in support of this legislation and want to commend the efforts of Senators ROCKEFELLER and GORTON on their work. This legislation has been needed for a long time and I am pleased that we will be taking this positive step forward today.

I have been concerned for years about our current product liability system and I believe that meaningful reform is long overdue. I believe that this bill will benefit both consumers and businesses. Under our current system, manufacturers of products are subject to a patchwork of varying State laws which contribute to unpredictable outcomes. In some cases plaintiffs receive less than they deserve and in others, plaintiffs receive too much. Because of the unpredictability, cases that are substantially similar receive very different results.

The Congress is currently debating the proper role of the Federal Government across a broad range of issue areas. Many believe that functions now conducted at the Federal level should be moved to the States. On this issue I believe that we need a more uniform system of product liability and therefore Federal standards are necessary.

I believe this legislation will improve the competitiveness of our industries which means jobs. I also believe that the biomaterials provisions will help insure that much needed medical devices will remain available to many Americans. Because of liability concerns many products are becoming unavailable. Examples include materials

VOL
142
PT
5
MR
21
—
29
1996
UMI

used in heart valves, artificial blood vessels, and other medical implants. In Cincinnati, OH, Fusite, a part of Emerson Electric Co., has been in business since 1943. They supply glass-to-metal sealed hermetic terminals. One terminal body is used by the makers of implantable batteries in heart pacemakers. In 1995, because of the liability concerns, Fusite determined it would no longer supply this product.

The current system is unfair to consumers. Much too much money is spent on litigation rather than compensation and the high cost of product liability insurance means higher costs for consumers.

Without doubt an injured party deserves fair compensation, however the cost of litigation is substantial. More and more is spent on legal fees and less is spent on important areas such as research and development. In some cases manufacturers decide not to invest in or develop new products because of product liability concerns. Ultimately this burden of product liability makes our companies less competitive in world markets than foreign companies.

I have been particularly concerned that as we reform our product liability laws we do not affect the rights of individuals to bring suits when they have been harmed. On the contrary, it is my intent to bring rationality to a system that has become more like a lottery. For me, legal reform does not mean putting a padlock on the court house door.

There are several very important improvements that this legislation will provide. A statute of repose of fifteen years is established. Joint liability is abolished for noneconomic damages in product liability cases. Defendants are liable only in direct proportion to their responsibility for harm. Therefore, fault will be the controlling factor in the award of damages, not the size of a defendant's wallet.

Another important area is punitive damages. Although I am concerned about the establishment of caps on punitive damages, I believe that the judge additur provision included in the bill will allow for appropriate punitive damages in egregious cases.

Mr. President, not every provision in this legislation is written the way I would have preferred, but I believe that it is significant reform and urge its passage.

Mr. GORTON. Mr. President, I would like to clarify an issue I discussed in a lengthy, and frankly, rather confusing colloquy with my colleague from North Dakota, Mr. DORGAN.

Mr. DORGAN sought clarification of a provision on the Product Liability Conference Report dealing with the way in which this legislation will apply to utilities. Although I had characterized a change made in conference as technical, he asserted that the change was substantive.

The intent of the bill is to cover all products. This intent is expressed in the comprehensive definition of a product found in section 101(14) of the conference report, which defines products to include "any object, substance, mixture, or raw material in a gaseous, liquid, or solid state * * *." This definition clearly encompasses electricity, water delivered by a utility, natural gas, and steam. To simplify this discussion I will refer only to electricity.

Another goal of the legislation, however, is to leave in place state determinations of when electricity is a product. Most States treat the transmission of electricity as a service. For this reason, the Senate bill excluded electricity from the definition of product. This exclusion, however, overlooked the fact that once electricity has passed through a customer's meter, many States consider it to be a product, and subject it to a strict liability standard.

Because of this oversight, the Senate provision created an unintended conflict between the two goals of this bill: First to cover all products, and second, to leave undisturbed the state determination of whether or not electricity is a product. The desire to meet both these goals is reflected on page 24, footnote 86, of the Committee on Commerce, Science, and Transportation Report on the Senate bill. But to repeat, the language of the Senate did not do what it needed; it exempted electricity, whether or not it was treated as a product by state law and whether or not it was subject to a rule of strict liability.

In conference, the statutory language was made explicitly consistent with those dual intentions. That is to say, the bill should respect state choice as to whether or not a utility is a product, but the bill should apply evenly to all products. Consequently, language was added to the conference report saying that electricity was excluded from the definition of product, unless it was subject under State law to strict liability, that is to say, is treated as a product.

Senator DORGAN is correct that the conference report does change the substance of this provision. I think it does so wisely and in order to make the legislation clearly express our intent.

Mr. SPECTER. Mr. President, after extensive deliberation, on a very close call, I have decided to vote against the conference report on product liability legislation.

This is a close question for me because the conference report corrects my concern on punitive damages and there is a need to make American business more competitive in world markets to provide economic expansion and job opportunities.

In the final analysis, my judgment is that the disadvantages of the bill outweigh the advantages. For example, the 15-year statute of repose would deny recovery to injured parties from products intended for and used long after 15 years.

The changes in the law involving workmen's compensation make it more difficult for plaintiffs to recover where a coworker or the employer is at fault. That provision also limits the employer's traditional subrogation rights leading to the opposition of homebuilders, workmen's compensation insurance carriers and other business interests because workmen's compensation costs will escalate.

The conference report further limits the manufacturers' liability in cases where injuries result from a defective product where alcohol has been used. A defective seat belt is supposed to protect the car's driver regardless of his/her condition.

This vote against the conference report is consistent with my vote yesterday for cloture. As I said in my statement on yesterday's vote, I believe the Senate's final determination on product liability legislation should be decided by majority vote rather than the super majority of 60 required for cloture.

A decision on whether to support cloture depends upon a variety of factors such as whether there should be more debate to fully air the issue or whether a constitutional issue or some other fundamental issue is involved which warrants a super majority of 60.

On this bill on the merits, I believe it should be decided by the traditional majority vote because it is such a close question without an underlying constitutional issue or some other fundamental matter. On the merits of the bill, in my judgment the disadvantages outweigh the advantages.

Mr. GRAMS. Mr. President, today is a day of victory and celebration for America's manufacturers, consumers, and taxpayers. Congress has finally succeeded in taking the first important step in overhauling our Nation's badly broken product liability system.

Mr. President, I would like to commend my colleagues, Senators GORTON and ROCKEFELLER for their endless hours of hard work and commitment to enacting long-needed product liability reforms. This truly is a significant accomplishment.

Unfortunately, the President has already issued his press release stating that he will stop this important bill—dead in its tracks—with his veto pen. Despite bipartisan support, he claims this bill fails to "fairly balance the interests of consumers with those of manufacturers and sellers." Mr. President, I disagree.

This bill is a good compromise; it's fair; and it does protect sellers, manufacturers and most importantly, consumers.

Mr. President, too many people today are filing lawsuits in the hopes that they will hit the jackpot even if there is little merit to their case. The lawyers get wealthy, but under our current

system, that wealth comes at the expense of America's consumers.

Our society has become so accustomed to suing that a recent study showed that 90 percent of all U.S. companies can expect to be named in a product liability lawsuit. Furthermore, 89 percent of Americans believe that "too many lawsuits are being filed in America today."

Mr. President, the price tag of lawsuits is astronomical. In fact, some experts have estimated that the total cost of all lawsuits filed in America exceeds $300 billion each year. And according to the Product Liability Coordinating Committee, the cost of product liability lawsuits, alone, ranges anywhere from $80 to $120 billion annually.

American consumers ultimately pay the price of frivolous lawsuits which are paralyzing our country's economic growth and ability to create new jobs. Instead, prices increase and jobs are eliminated when businesses close, downsize or decline new product introduction for fear of a frivolous lawsuit.

As a former small businessman, I understand how devastating the threat of a potential lawsuit can be on any company. Our laws have created a hostile business climate that has compromised the competitive position of many companies, forcing them to reduce salaries or lay off employees to avoid going out of business.

Companies who are sued have two choices: endure a lengthy and costly trial in the hopes of proving their innocence or settle out of court to save trial costs. Small businesses don't have the time or resources to spend countless days in a courtroom when they are struggling to make payroll and meet customer needs.

Everyone agrees that an injured person should have a day in court, and this legislation will not prevent legal recourse for justifiable claims. However, it will put an end to the fishing expeditions that trial attorneys use to extract huge, unwarranted settlements from businesses fearful of protracted litigation costs.

Businesses, taxpayers, and consumers can no longer bear this burden, making passage of this legislation critical. Americans understand that our current system is a litigation lottery which increases the costs consumers pay when they purchase a product. It even forces companies to lay-off employees.

Far too often, the cost of meeting these outrageous judgments eats up resources that could have gone toward new jobs and better salaries. The President and the trial lawyers are kidding themselves if they believe these costs are not passed on to you and me as consumers. Appropriately, this is called the tort tax.

Mr. President, most of my colleagues know that I am a strong opponent of tax increases of any kind. I believe the Product Liability Conference Report will lessen the tort tax on America's consumers.

This legislation addresses many of the problems in our current system. It limits manufacturer liability when a product is misused or altered by the user; it caps punitive damages to twice the compensatory damages or $250,000, whichever is greater; it allows judges the flexibility to impose higher damages in extreme cases; and, it eliminates joint and several liability for certain damages, such as pain and suffering, so defendants pay only for the damages they cause—not those caused by others.

In addition to the overall benefits consumers will enjoy after enactment of this bill, Minnesota will see an additional benefit. The reality is our current system is stifling technological innovation, in particular, the production of medical devices.

Mr. President, Minnesota is a world leader in the development of lifesaving medical technology and this industry is a vital part of Minnesota's growing economy.

In 1994, there were 568 registered medical device establishments in Minnesota. Furthermore, Minnesota ranks 2nd in the Nation with over 16,000 people employed in medical device manufacturing.

More than 11 million Americans rely on implanted medical technologies to sustain or enhance the quality of their lives. Many of these products are manufactured in my State including artificial joints, cardiac defibrillators, drug infusion pumps and heart valves.

Unfortunately, many suppliers of the raw materials used to make medical devices are restricting the use of their products in medical implants for fear of exposing themselves to costly product liability litigation.

Suppliers of raw materials play no role in the design or manufacture of the medical device and courts have consistently found them free from liability. Unfortunately, the costs of the lawsuit "discovery" process are surpassing the profits raw material suppliers will receive from selling their products to device manufacturers.

If biomaterials suppliers refuse to sell their raw materials to America's medical device companies, device manufacturers are forced to either substitute another material, which many times is impossible, or discontinue production of a device which is fulfilling a vital need for patients.

A recent example was highlighted in the Wall Street Journal by a mother whose daughter suffers from hydrocephalus, or water on the brain. The only medical therapy that treats this is a surgically implanted device, called a shunt, made of silicone.

Fifty-thousand Americans depend on shunts to keep them alive, but because of recent lawsuits, companies who supply silicone for the production of devices like shunts are no longer willing to sell the raw materials. This situation is devastating to patients who desperately need these lifesaving devices.

Essentially, this legislation's Biomaterials Access Assurance provision would allow suppliers of the raw materials or biomaterials used to make medical devices, to obtain dismissal, without extensive discovery or other legal costs, in certain tort suits in which plaintiffs allege harm from a finished medical device.

This provision would allow raw materials suppliers to be dismissed from lawsuits if the generic raw material used in the medical device met contract specifications, and if the biomaterials supplier cannot be classified as either a manufacturer or seller of the medical device. Most importantly, this provision would not affect the ability of plaintiffs to sue manufacturers or sellers of medical devices.

As the chairman of the Senate's Medical Technology Caucus, I would like to thank the Senator from Connecticut for all his hard work to ensure that the Product Liability bill recognizes the urgency of providing much-needed relief to suppliers of bio-materials who have no direct role in the raw material's ultimate use as a "biomaterial" in a medical device.

Mr. President, I would like to note that even President Clinton recognizes this provision as "a laudable attempt to ensure that suppliers of biomaterials will provide sufficient quantities of their products" to medical device manufacturers.

The bill before us today is the first step in the right direction, but certainly not the last. While we have made great progress toward reforming our current system, I believe we should do more. We need to extend protections to America's consumers in civil liability cases which have devastated local girl scout troops, neighborhood little leagues and community recreational organizations.

Furthermore, Congress should pass medical malpractice reforms to ensure that the doctor-patient relationship is protected from lawyers. Doctors complain that many times they are forced to order unnecessary tests just to protect themselves against frivolous lawsuits. This practice called "defensive medicine" costs our country over $15 billion each year.

Mr. President, the Senate should adopt this first step and continue moving forward to reform our overall liability system. Failing to enact this legislation will result in even higher costs to customers, fewer products developed and fewer jobs as companies downsize to adjust to increasingly high legal costs.

I urge my colleagues to recognize the positive impact this legislation will have on countless businesses across our

VOL 142 PT 5 MR 21 — 29 1996 UMI

country. Ultimately, it will benefit the employees whose jobs will be secured as a result of enactment of this long overdue legislation, while at the same time, we continue to protect consumers seeking judgements against companies who have manufactured faulty products.

Mr. DORGAN. Mr. President, today the Senate will vote on the conference report on H.R. 956, the Common Sense Product Liability Legal Reform Act of 1996. I intend to vote in favor of this legislation because I believe that modest legislation in this area is necessary.

The issue of product liability reform is one of those circumstances where I think there is some truth on both sides. Tort reform is by its very nature controversial. The ability of citizens to seek redress through the courts for harm caused to them is a very important right we must respect and protect. At the same time, it is a fact that our court system in the United States is deluged with a flood of lawsuits, many of which have no merit.

Unfortunately, the excesses of some force a reaction that affects everyone. I appreciate the sensitivity with which we in the Congress must proceed in passing any Federal legislation that reforms tort laws. I realize that because of our court system and because of the activism of well meaning consumer advocates, our Nation does have safer cars, toys, and other products. If it had not been for key cases that put the fire to the feet of corporations who would rather cut corners to enhance the bottom line than concern themselves with the safety of consumers, I am convinced that there would be more exploding cars and more dangerous toys that hurt children.

Deadly and dangerous products such as asbestos, flammable children's pajamas, and exploding Ford Pintos were all removed from the market only after action was taken in court to hold the manufacturers of these products accountable. Because these cases occurred, our lives are safer as a result. There have been many cases where manufacturers were legitimately held liable for their negligent or egregious actions.

However, these cases do not tell the entire story about our tort system. Unfortunately, there are so many other cases that may have little merit that are filed, not with the goal to seek fair compensation or change the behavior of a manufacture, but are filed with a goal to get rich quick. The result is that many manufacturers and businesses are strangled in liability cases that defy common sense. These cases don't help consumers.

It seems to me that Federal action is warranted in the area of product liability suits. But, I believe that any Federal action in this area must be modest and narrowly construed. Over the past few years, I have been an active participant in the development of this legislation. In the 103d Congress, I fought against a provision that would have provided complete immunity to manufacturers of medical products and aircraft manufacturers from all punitive damage awards. The FDA/FAA defense provision, as it was called, took this reform effort way too far in my judgment. That is why I fought to have the provision removed and if this provision existed in the legislation before the Senate today, I would be voting no.

Fortunately, the bill sponsors saw fit to not include the FDA/FAA defense provision in the conference report we are considering today. As a result, we have a bill which I believe advances some modest reform without closing the door on consumers who legitimately need to look to the courts for compensation.

I believe it is important to advance this modest tort reform legislation. It is my hope that if this legislation becomes law, it will result in more reasonableness in our tort system.

I am under no illusions that this legislation is going to create a perfect world in the courts. However, I hope this legislation will create a better world that restores some moderation to excessive litigation, while not destroying the rights of consumers to seek redress for their grievances in the courts.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. Mr. President, I yield 5 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. EXON. Mr. President, I thank the Chair and thank my friend and colleague from Washington. I signed the conference report with regard to the product liability measure that is before us. I recommend that the Senate accept this. I hope the President will not veto it, as he has threatened.

I have been listening to the debate, and I have studied this issue for a long, long time. Over 20 years ago, when I had the opportunity to serve my State as Governor, we worked on and we enacted a piece of legislation that is related to this whole area. It was with regard to malpractice in the health care field. There were concerns about that. I listened to both sides at that time. I finally decided, in the best interest of Nebraska, that malpractice piece of legislation should go into effect to provide adequate and better health care, to keep everyone involved.

I must say, that was one of the early pieces of legislation with regard to placing caps on malpractice legislation, and I must say that it has been a resounding success in Nebraska.

I recognize and have heard the debate on both sides of the issue, and, as so often is the case, Mr. President, we do not pass perfect legislation here, but ignoring the problem that we have today, that we have had for all of these years—this is as near a place we can solve it with what I think is a reasonable piece of legislation, a piece of legislation that where, if there is gross misconduct on the part of the manufacturer or the inventor, there is some relief.

I think we accomplish very little by citing this case and citing that case. If we continue with that kind of a proposition, we will simply confuse the public at large, and maybe the House and Senate, that we should do nothing. I think if there is one thing that is obvious, it is that we have to do something. I think the "something" is this bill that has been carefully crafted, that has been worked out in committee, that has been worked out in the conference between the House and the Senate, and I believe if there was ever a true workable compromise, this is a principal example.

So, I simply salute the people who have provided the leadership in this over the years. I hope the bill will be resoundingly approved by the Senate with our vote around noontime today. Maybe we can get on with solving this problem. There is a problem. No one can deny that. I am sure many of my colleagues feel very strongly that this is a bad piece of legislation. It is not a perfect piece of legislation, but it is a piece of legislation that has been carefully crafted, compromised. I think it is the best we can do under the circumstances, and I believe we should do it.

I intend to vote enthusiastically in support of this legislation. I thank the Chair and thank my friend from Washington.

Mr. GORTON. Mr. President, I yield 5 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. ROCKEFELLER. Mr. President, I thank the distinguished Senator from Washington. The debate now is about over, and we are about to vote. We are about to vote on a bill which I think is profoundly important, not only in the symbolism of it but in the reality. You cannot have an engine in a car that is invented by 51 separate people who do not communicate with each other and expect the engine to move the car forward.

Similarly, you cannot protect and extend predictability and fairness and consumer protection—for example, as witness the statute of limitations—to help people in this country get justice from injury, from defective products if the engine that they have to depend upon is invented by 51 separate people who never talk to each other, and then somebody turns the key on and who knows where the system goes, or where the car goes. Probably nowhere.

We have a system that works particularly well for a few. We have, however, a system that works particularly poorly for the most. It is the job, it seems to me, of the U.S. Senate and the U.S. Congress to try to improve the condition and the lot of our people in a fair and balanced manner. One cannot reasonably come into this Chamber all the time and say, "I'm only going to do things which will help an injured person but pay no attention to other aspects of their life," for example, whether they are employed, whether they have a reasonable expectation of having a job.

What we have tried to do in this product liability conference report is to make a fair, reasonable balance between the interests of consumers and business. We have done that. We have had asserted constantly against us that we have not, assertions which are made every year we discuss these things, which are wrong.

So now we are prepared to do something, and I fully expect the Senate will adopt this conference report. It is an important bill. I repeat that I hope the President of the United States, who I think very much wants to sign a product liability reform bill—in fact, I am told very directly that he wants to sign a product liability bill. The question is what condition must it be in. I think we are presenting the President with a fair bill, one in which the Senate did not try to expand beyond products, one in which the Senate rejected virtually all other suggestions in which the only basic change was the statute of repose.

It is a very good bill. There is no other way to say it than that. I also want to thank the Senator from Connecticut, Senator LIEBERMAN, for his enormous role in all of this product liability debate, and his chief of staff, Bill Bonvillian, who is also an extraordinary person, who has been unbelievably kind and attentive to my legislative director, Tamera Stanton, to whom I referred earlier, who is going through a difficult situation just now.

This is fair. This is the way America ought to work. The bill, I believe, will pass. I can only pray that the President will sign it. I thank the President and yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina has 12 minutes.

Mr. HOLLINGS. How much, Mr. President?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. HOLLINGS. I thank the distinguished Chair. I want to reserve time for the distinguished minority leader, the Senator from South Dakota, who just notified us he would like a little time here.

Mr. President, I rise to urge my colleagues to reject this legislation. The only thing that stands in the way of an act of Congress overturning 200 years of State law and placing severe restrictions on the civil rights of American citizens is the vote on this conference report.

Some try to simplify this issue as a debate between trial lawyers and manufacturers. But this issue is larger than that. This matter goes to the heart of our Nation's constitutional federalism. I am convinced that to the extent Congress can selectively preempt State law, override State constitutions, overturn State legislative decisions, and dictate to State judges and juries the standards they must follow on matters that have nothing to do with Federal constitutional rights, then States essentially have lost their sovereignty. Maintaining an independent civil justice system is the essence of a free state. This freedom, however, would be seriously eroded by this bill.

I. STATE SOVEREIGNTY/DUAL FEDERALISM

The stated purpose of this bill is to erect barriers regarding the use of the civil justice system for redress of injuries caused by dangerous products. However, I would remind my colleagues that, unlike the judicial systems of other countries, the American judicial system is rooted in democratic principles of individual redress, the right to a jury trial, and reliance on the people to resolve disputes. These were principles established by the Founding Fathers when they adopted the 7th and 10th amendments to the Constitution. Surely, issues such as whether to limit access to courts, limit redress remedies, or penalize citizens for merely bringing suits were considered by the Founding Fathers, as well as the judges and State officials that have administered our system of justice for over 200 years. But they decided against such measures, and opted instead to maintain a system that features free access to the courts, common law, and giving the people the ultimate authority to resolve conflicts.

The supporters of this bill, however, are seeking to overturn this longstanding American history and judicial precedent. They would prefer to ram through this sweeping and unprecedented legislation.

I am, indeed, confounded that the Senate is even considering this legislation. At the beginning of this Congress, Member after Member came to the floor during consideration of S. 1, the unfunded mandates bill, to declare that this would be the Congress of States' rights, where Government would be returned to the people. The Jeffersonian democracy of government was revived. If we've heard it once, we've heard it a million times, that State and local governments know best how to protect the health and safety of their citizens, and that they do not need Congress telling them what to do. How many times did we hear that the one clear message sent by the voters in November 1994 was that the people wanted to get the Federal Government off their backs and out of their pockets?

The 10th amendment, lost in the shuffle for many years, was given new light. The majority leader himself, in his opening address to the new Congress, proclaimed:

> . . . America has reconnected us with the hopes for a nation made free by demanding a Government that is more limited. Reigning in our government will be my mandate, and I hope it will be the purpose and principal accomplishment of the 104th Congress.
>
> . . . We do not have all the answers in Washington, D.C. Why should we tell Idaho, or the State of South Dakota, or the State of Oregon, or any other State that we are going to pass this Federal law and that we are going to require you to do certain things . . .

The majority leader went on to say:

> . . . Federalism is an idea that power should be kept close to the people. It is an idea on which our nation was founded. But there are some in Washington—perhaps fewer this year than last—who believe that our states can't be trusted with power. . . . If I have one goal for the 104th Congress, it is this: That we will dust off the 10th Amendment and restore it to its rightful place.

If we are going to respect the 10th amendment, Mr. President, then we must be consistent.

But consistency is not something in which this Congress seems to be interested. The same Congress that has championed States rights regarding welfare is now advancing the power of the Federal Government over State civil courts. It appears that some believe the States have all the answers when it comes to welfare and education, but for some reason are incapable of running their own courts.

To the extent any reforms are needed, the States already have instituted such measures. Since 1986, over 40 States have enacted tort reform legislation. This includes my home State of South Carolina, which enacted a major tort reform measure in 1988. The States—through their work with members of the bar, the chamber of commerce, the insurance industry, and consumer groups—have addressed concerns about the tort system, and have crafted legislation they believe is in the best interest of their citizens. The proponents of this bill, however, would override the enormous and commendable efforts and time the States have devoted to this issue, and force their own brand of reform on the States.

Ironically, during the 1994 elections, when many of those who now so vehemently champion States rights were elected, the people of Arizona considered a State-wide tort reform referendum that consisted of many of the initiatives in this conference agreement. By a 2-to-1 vote, the people of Arizona rejected the referendum. Now some Members would like to reward them by using their Federal power to force on the citizens of Arizona the initiatives they soundly rejected at the ballot box.

VOL
142
PT
5
MR
21
—
29
1996
UMI

II. REFUTATION OF CLAIMS REGARDING NEED OF LEGISLATION

The conference report contains a number of "findings" regarding the need for this legislation. Most of the findings are repeats of the various claims that have been made over the last decade. Nevertheless, it is necessary again to set the record straight with the facts.

Finding No. 1 states:

> Our nation is overly litigious, the civil justice system is overcrowded, sluggish, and excessively costly and the costs of lawsuits, both direct and indirect, are inflicting serious and unnecessary injury on the national economy.

Rebuttal:

This is the old litigation explosion claim. However, there has never been any evidence of a litigation explosion as the following data demonstrate:

A 1991 Rand study found that only 2 percent of Americans injured by products ever file a lawsuit.

A 1994 report by the National Center for State Courts found that product liability cases are less than 1 percent of all civil filings.

A 1995 study by the National Center for State Courts found that, of the 2 percent of lawsuits that are filed, 90 percent are disposed of by nontrial, such as dismissals or settlements.

In June 1994, the New York Times featured a front page story on how juries are growing tougher on plaintiffs. Citing the latest research by Jury Verdicts Research, Inc., the Times stated that plaintiffs' success rates in product liability cases have dropped from 59 to 41 percent between 1989 and 1994. A 1995 report by the National Center for State Courts shows that tort filings have declined 6 percent since 1991.

Profs. James Henderson, a supporter of State product liability reform, and Theodore Eisenberg of Cornell University released a study in 1992, which showed that product liability filings had declined by 44 percent by 1991. They concluded that by "most measures, product liability has returned to where it was at the beginning of the decade," beginning in the 1980's.

BUSINESS LITIGATION

Where is the real litigation explosion? It is in the corporate board rooms. According to professor Marc Galanter of the University of Wisconsin Law School, the real litigation explosion in recent years has involved businesses suing each other, not injured persons seeking redress of their rights. He found that business contract filings in Federal courts increased by 232 percent between 1960 and 1988. and by 1988 comprised the largest category of civil cases in the Federal courts.

In August 1995, the National Law Journal released the findings of its study of judicial emergencies in Federal courts. The study found that 33 percent of the judicial emergencies involved business litigation.

Between 1989 and 1994, of the 83 largest civil damage awards nationwide, 73 percent involved business suits. Between 1987 and 1994, just 76 of the top business verdicts alone accounted for more than $10 billion. They included: Litton Systems versus Honeywell, a patent infringement dispute—$1.2 billion; Rubicon Petroleum versus Amoco, a breach of contract dispute—$500 million, including $250 million in punitive damages; Amoco Chemical versus Certain Lloyds of London, a breach of contract dispute—$425 million, including $341 million in punitive damages; Avia Development versus American General Reality Investment, a breach of contract—$309 million, including $262 million in punitive damages. Of course, this does not include the greatest verdict of them all—the $10.5 billion awarded in 1985 in the Pennzoil versus Texaco case.

Notwithstanding the excessiveness of business suites, however, the bill specifically exempts business litigation from the legislation.

II. COMPETITIVENESS

Finding No. 2 of the conference report states:

> Excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability have a direct and undesirable effect on interstate commerce by increasing the cost and decreasing the availability of goods and services.

Rebuttal:

To refute these unfounded claims about competitiveness, I simply cite the comments of Mr. Jerry Jasinowski, president of the National Association of Manufacturers [NAM], that appeared in the Washington Post editorial section on Sunday, March 17, 1996. Mr. Jasinowski severely decried those who have criticized American business competitiveness.

According to Mr. Jasinowski: the American industrial renaissance over the last 4 years has restored the United States "to the top spot among the world's economies." While some are "busy berating our capitalist system, the U.S. economy has become the envy of the industrialized world." "The American economy has quietly grown richer—gaining 8 million new jobs since 1992 and putting the unemployment rate at an historically low 5.5 percent." "In the past 25 years"—during the midst of the so-called product liability crisis—"U.S. employment has increased 59 percent and we have created more than 5 times as many net jobs as all the countries of Europe combined."

OTHER STUDIES ON COMPETITIVENESS

Mr. Jasinowski's editorial affirms other studies which have found no evidence relating product liability to U.S. competitiveness.

A 1987 Conference Board survey of risk managers of 232 corportions shows that product liability costs for most businesses are 1 percent or less of the final price of products, and have very little impact on larger economic issues such as market share or jobs.

The Rand Corporation found that less than 1 percent of U.S. manufacturers are ever named in a product liability lawsuit, and that "available evidence does not support the notion that product liability is crippling American business."

In 1991, the GAO released a study of the effects of product liability on competitiveness, and stated that it could find "no acceptable methodology for relating product liability to competitiveness."

FINDINGS ON INSURANCE COSTS

Finding No. 7 states:

> The unpredictability of damage awards is inequitable to both plaintiffs and defendants and has added considerably to the high cost of liability insurance, making it difficult for producers, consumers, volunteers, and nonprofit organizations to protect themselves from liability with any degree of confidence and at a reasonable cost.

Rebuttal:

The claim that there was an insurance crisis was one of the first justifications put forth by supporters of the legislation in the 1980's. However, there is ample evidence that there never was, and is not currently, a product liability insurance crisis.

A study released in March 1995 by Bob Hunter of the Consumer Federation of America, who was formerly the Texas Insurance Commissioner, shows that product liability insurance costs for U.S. businesses amount to no more than 26 cents for every $100 of total costs.

In January 1995, the National Association of Insurance Commissioners reported that between 1989 and 1993 product liability insurance premiums declined by 26 percent.

According to the Insurance Information Institute, insurance companies' surplus, assets minus liabilities, rose from $29 billion to over $230 billion between 1977 and 1995. Surplus is the money available after all losses and bills have been paid. These figures show that, to the extent there was an insurance downfall, it sure was not felt by the insurance industry.

Additionally, according to the testimony of the American Insurance Association [AIA], the legislation will have no effect on insurance rates anyway.

UNIFORMITY

Finding No. 10 states:

> The rules of law governing product liability actions, damage awards, and allocations of liability have evolved inconsistently within and among the states, resulting in a complex, contradictory, and uncertain regime that is inequitable to both plaintiffs and defendants and unduly burdens interstate commerce.

Rebuttal:

This finding is part of the proponents' claim regarding uniformity. However, contrary to the proponents' claims, the bill does not, and is not intended to, create uniformity. State law

is preempted in this bill only to the extent it favors defendant corporations. For example, with respect to punitive damages, the legislation would not disturb the law in the State of Washington since that State prohibits punitive damages, but would preempt the law in South Carolina, which permits punitive awards.

The Chief Justices of the States have indicated that the legislation is likely to create considerable confusion, and lead to more litigation, as a result of the varying interpretations and applications of its provisions by different State courts.

The bill imposes its own set of rules on State courts without imposing the same rules directly on the Federal courts. Because of the absence of a Federal cause of action, Federal courts will hear cases involving the legislation only if there is diversity of citizenship or location of the parties.

CONFERENCE REPORT HURTS CONSUMERS MORE THAN SENATE BILL

Proponents continue to state that the conference report is not expanded beyond the Senate amendment. However, the conference agreement extends well beyond the Senate amendment in undercutting the rights of victims. The bill now limits victims' rights to be compensated for harm caused by energy and utility related disasters, such as hazardous gas storage facilities, and negligent entrustment cases, including the unlawful sale of dangerous products to minors. In addition, the statute of repose has been reduced from 20 to 15 years. Once restricted to workplace products, this provision has also been expanded to cover any product that has an expected life span of more than 3 years. Further, products now covered by the legislation include used cars, elevators, children's toys, and medical devices made for handicapped citizens.

The bill has retained the abolition of joint liability for pain and suffering damages. The restriction is applicable even if there is proof that defendants worked together as a joint venture, or as parent and subsidiary.

The bill has maintained discriminatory punitive damages caps. By basing the cap on income and wealth, the bill permits higher punitive awards for individuals with the most economic advantages. In an effort to rectify the disparate treatment of high income and low income victims, a provision was added on the Senate floor to permit judges to increase punitive awards beyond the cap. Federal judges, and judges in most State jurisdictions, however, are constitutionally prohibited from increasing damages without the consent of the parties. Indeed, we find it hard to believe that any defendant would consent to higher punitive awards. The proponents stated the constitutional issue would be resolved in conference. The conference agreement, however, has actually enhanced the power of judges to increase damages, all but ensuring the provision will be deemed unconstitutional. The end result will be that additur will be removed, and the discriminatory cap will remain. Additionally, we question why Congress would pass a law it recognizes as unfair, and then shift the responsibility to judges to rectify the problem.

CONCLUSION

Simply put, Mr. President, there is no product liability crisis. Indeed, if there are problems that need to be examined in the tort system, they already are being addressed by the States, where this issue belongs.

This legislation is the epitome of congressional arrogance. It takes away from the States an area of the law that has been reserved to the States for 200 years.

What will this bill do? It will make it more difficult for consumers to be compensated for their harm from products; it will shield from liability manufacturers which consciously manufacture defective products; it will take away from the States rules of law they have carefully developed; and it will remove incentives for manufacturers to make their products safe. These are some of the results of this bill, results which are not in the best interests of our citizens.

I conclude by urging my colleagues to reject cloture on this conference report. Despite years of effort, no case has ever been made for Federal product liability law. The proponents move from claim to claim about the need for this bill, because they know that this is a sham. If there ever was special interest legislation, it is this bill. It is special interest at the expense of the constitutional and civil liberties of the American people. I urge my colleagues not to be misled by the proponents' claims, and to vote against this conference report.

There are so many things to say in the limited time. But section 106(b)(3)(C) refers to a general aviation statute of repose limitation period. It is for 18 years. That is the way the distinguished Senator from Washington started talking about this bill yesterday. It was all about Cessna and aviation and everything else like that.

All the provisions of the products bill apply to general aviation, so there are no longer protections for people injured, of course, on the ground or the air ambulance people, even though the 1994 law provided those protections. But what I wonder about, if this general aviation provision of 18 years has done such a remarkable revival of the aviation industry, why are we limiting it? There we go.

No. The Senator from Nebraska says there is a real problem and everybody knows it. That is absolutely false. We know that the States have taken care of this problem. Yes, there is a political problem, because Presidential politics has preempted everything up here in Washington.

I saw some article in one of the magazines about the campaign starting. The campaign started early last year. In 100 days we were going to do this. get rid of everybody, 10 things in the Contract, we are going to pass them in 100 days, and whoopee. And we were off, and everything else of that kind—until reality set in.

But now there is the time of some embarrassment, since some of these things have not been passed—and for very, very good reason. A good reason, of course, assuming the truth of everything that the Senator from Connecticut says, is that the State Legislature of Connecticut is ready, willing, able, alert, and responsive. He was a majority leader of it. The State of Connecticut has taken care of these problems. We all take care of these problems in the several States.

But right to the point, this bill is a travesty, Mr. President. The Presiding Officer knows it. It separates people. It separates them according to their economic worth. That is a dastardly thing to do. I cannot see people of good sense and reason voting for a thing of this kind and hoping the President will sign it. The President knows the facts. He has reiterated them in the letter. He said, if it is so good and so fair, as they plead, then why does it not apply to business—the very people who drew it up? This thing was drafted by business, of business, for business, greedy business. That is what it has been for, and the proponents all know it.

I say that advisedly. I have gotten every business award you can find. I am proud of them. I work closely with business. We have more business coming to our State than all these other States that these Senators represent. I challenge them to compete with us on taking care of business. That has been my 40-year record of public service.

So I know when they step over the line. The fact of the matter is, there is a small segment, Victor Schwartz and his crowd, stepping over the line that has picked up the political fever of "kill all the lawyers." It is the business of travesty that increases the legal costs for those trying to really try their cases. They know that these are contingency fees.

So if you get a good verdict, and it is a punitive damage verdict, you do OK. We put in the RECORD where punitive damages have disciplined these businesses. Thank heavens it has because we are all safer on account of it. That is why we get the recalls, because the manufacturers are put on notice. The proponents know that is why we are getting the recalls in our society. But now they have to go through a whole new hearing. And they talk about simplicity and transaction costs.

How can they claim simplicity with all the different proceedings they have

VOL
142
PT
5
MR
21
—
29
1996
UMI

here now, trying to limit legal costs? They tell the utilities they can forget about strict liability, they can forget about the highest degree of care. The Senator from North Dakota and the Senator from Washington got into a very clear dialog about simple negligence. Let the boilers blow up, let the gas blow up, let it explode. The highest degree of care now is no longer required under this bill.

Yes, we put in the RECORD about the drunk drivers. I reiterate, in the letter of MADD in opposition, Mothers Against Drunk Drivers, they oppose this bill. They know and they read and they understand and they stand by their particular opposition.

It encourages the lack of care with that statute of repose on manufacturers. Manufacturers here are exercising the highest degree of care. They are not in these other lands. But now the proponents want to talk about global competition. I have touched on that. They are competing with themselves. They want to take down the high degree of care by overriding the strict liability. Punitive damages is another thing that has given us safe products in this land, safe places to work, safe places to sleep, safe drugs and food, and everything else of that kind.

More than anything else, Mr. President, it is just patently unconstitutional. Amendment VII:

> In suits of common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States. . . .

This particular bill says reexamine it at the trial court level, but keep it a secret. The judge is supposed to charge the jury under the law, stay out of the facts. But this bill says, by gosh, reexamine it in violation of amendment VII. Of course, it ignores amendment X that the distinguished majority leader has run all over the entire United States talking about, saying, "I've got one thing here in my pocket, the 10th amendment."

These folks all come up here and act like they never heard of the States from which they were sent. The States have acted on product liability over the 15 years that the Senator from Rhode Island complained about. They have acted very judiciously. It is not a problem. It is a little political gimmick in the contract. It is a shame and disgrace that we have taken up the time of the National Congress on this matter that the States have taken care of.

I reserve the remainder of my time. How many minutes do I have?

The PRESIDING OFFICER. The Senator from South Carolina has 3 minutes 30 seconds.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I thank the distinguished Senator from South Carolina for yielding. I will use whatever leader time I may require to finish my statement.

Let me commend the Senator from South Carolina for the arguments he has again made in his summary on this debate. I applaud him for the leadership and the effort he has put forth. I very enthusiastically endorse his position. Let me also thank the distinguished Senators from Washington and from West Virginia and from Connecticut that have, as well as they have, brought this bill closer to a bill that is reasonable.

As the distinguished Senator from South Carolina said, Mr. President, it is ironic in the extreme that, in this era of devolution, in this era of States rights, in this era of empowering States with more opportunities to deal with issues at the local level, this Congress, of all Congresses, would now pass a bill that says the Federal Government knows better. It is especially ironic that this Congress would say the Federal Government knows better on an issue as profound as this, affecting victims in the worst set of circumstances.

I respect the Presiding Officer for his consistency in suggesting that devolution and new Federalism, or whatever we call it, ought to be sustained, regardless of the issue, that we ought not pick issues depending on the special interests, that we really have a responsibility to be consistent.

Certainly in this case it would require, I believe, a second look. We can do better than this. We can do better than what we are going to be voting on this afternoon.

I am very troubled by a couple of provisions. One in particular troubles me. Mr. President, to say that someone working on a defective piece of machinery is going to be protected if that machinery is functional for 15 years, but not for 16 years, to me is amazing. To ask people on the work line, to ask people on the combine, to ask people in whatever set of working circumstances they face, to accept the risk that this equipment is going to hold out after that period is more than I can support. To ask American companies to live up to their obligation, to understand how important it is that people working on assembly lines or in a field have the protection and the certainty and the opportunity to come to work knowing they will be able to come home whole is not too much to ask. A 20-year statute of repose is not too much to ask.

Mr. President, the other issue has to do with component parts. We have gone through some terrible situations in the last several years involving defective component parts. One example involves women who were given breast implants that were defective, when it was well known that a component of the breast implants posed severe health risks in the body of a woman. Now to immunize from liability people who manufacture defective component parts and to say we are going to, through statute, give them our blessing is wrong. It is wrong.

Mr. President, we can do better than this. We have to do better than this. Those of us opposing this bill will continue to do so. This fight is not over. The President has said in no uncertain terms this bill will be vetoed. I predict we will have more than enough votes to sustain a veto.

Again, this fight is not over. We can do better than this. We ought to do better than this. In working with the President, the Presiding Officer and others, we will. I yield the floor.

Mr. GORTON. Mr. President. I yield 3 minutes to the Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Washington. I commend the Senator from Washington and the Senator from West Virginia for bringing to the floor of the Senate a reasonable, moderate product liability bill which the President ought to sign.

The representations in this Chamber that we should do better and could do better belie the current performance of this Chamber, which for 15 years has sought to enact a bill like this, but never really brought one forward that could be passed. This is a bill that can be passed.

There can be debate about whether or not there is a litigation explosion in this country. Some can say we have too much litigation or too little. Let me give you a fact. The fact is that tort costs are 2.3 percent of the Gross Domestic Product in the United States, according to the Tillinghast study. That is 2½ times the world average. In short, we have the most expensive tort liability system in the world. It is time for us to change that. We must stop wasting money by exchanging it between the trial lawyers and punitive damage recipients instead of using it to create the competitive and economic edge that will allow us to be successful—to create jobs and build equipment, and to grow this economy. We need to revitalize the industrial base of the United States of America.

Uniform standards in product liability law would help return good products to the markets, reduce the price of consumer goods, and break the legal shackles on American businesses to help them become more competitive internationally.

This bill will make products safer. Litigation, which we have had plenty of, stifles innovation that makes products safe. Overall product safety in the United States improved steadily in the first half of this century, when a much more limited liability system was in effect. We need to make sure that safety, not greed, is what is emphasized by our laws in this area.

Let me make another point. We need to make this fundamentally clear: No person will be denied the right to recover actual damages under this bill. Every cent of damages, even damages for pain and suffering previously that has been available, is available under this bill. The bill has limits on punitive damages, but those are damages to punish. Those are not damages to make a person whole for what has happened to them.

One last point that I raise, this bill was pared down from what it ought to be and what it should be—in an effort to accommodate the President. We ought to really be extending some tort reform protection to our charities. This bill does not provide protection to churches, to voluntary and charitable organizations, which means there will be no liability protection for volunteers in the Little League, the American Red Cross, the Salvation Army, the American Cancer Society, for people who run soup kitchens. We need an explosion of people helping solve America's endemic social pathologies. What do we have in the United States instead? A tort system which threatens everyone who tries to help his neighbor with the potential of bankrupting liability.

Dick Aft, president of the United Way & Community Chest of Cincinnati, put it this way, "The litigious climate imposes a cost for all charities, costs that can be measured in resigning trustees, lost volunteer hours and sky-high insurance premiums. These are tough times for charities. The last thing we need is a legal system that adds to our burden."

Mr. President, as long as our litigation system forces a would-be volunteer to consider whether the risks of being sued outweigh the benefits of contributing one's time and talent to charitable organizations efforts to solve society's problems will continue to be unnecessarily stymied.

In order to try to entice the President of the United States to go back to his previous position supporting federal product liability reform, the Senate has had to take the protections for non-profits out of this bill. Then the President still comes out and opposes the bill. As a result, I do not know how to trust the President on anything he says. He previously said he supports it. Now he says he does not.

Maybe we should distrust his latest representation that he will veto this. We should pass this legislation and give the President a chance to flip-flop back to the right side of the agenda, and I do not mean political right, I mean right versus wrong as a matter of good government policy. This bill is right, it provides a reasonable framework to do business in the United States. It will protect consumers. I believe it should be enacted for the good of consumers and the good of the country.

Mr. GORTON. I yield 30 seconds to the Senator from Virginia.

Mr. WARNER. I thank the distinguished managers of the bill. I strongly support the bill and commend the managers of this bill.

Mr. President, this is a jobs bill. It throws a liferaft to small business. Small business today is being buffeted in the turbulent seas of lawsuits, yet it affords adequate protection in litigation for those who are wrongfully hurt.

Mr. President, I rise in support of the Commonsense Product Liability and Legal Reform Act of 1996. I do so because I believe that this bill is strongly proconsumer. The opponents of this bill may claim to be defending the rights of the injured. Well, this bill not only defends their rights to be fairly compensated for injuries caused by defective products, but also defends the rights of the rest of us not to pay for the outrageous verdicts, settlements, and insurance payments that American businesses pass on to consumers because of our broken legal system.

It is important to remember what exactly this bill does. There are a number of commonsense provisions which nobody besides the trial lawyers could oppose. For example, no longer would companies be liable when the injured party was drunk, on drugs, or otherwise responsible for their own injuries, or when the consumer had altered the product. It also would provide protection to companies producing biomaterials for use in medical implants: These sections are necessary to allow these companies to help save lives and to worry less about being sued for merely providing raw materials which ended up in a heart valve or pacemaker.

Then there is the issue of punitive damages which have been the subject of so much discussion. Again, it is important to remember what punitive damages are. Imagine a plaintiff injured by a defective product, say a car with faulty brakes which causes an accident. The plaintiff will be able to recover every last penny of lost income, medical costs, and financial losses he can demonstrate. In addition, he will be entitled to recover for pain and suffering as the jury sees fit and in relation to the injuries suffered. Then, on top of being completely compensated, he can ask for punitive damages which may have no relation to the amount he received for compensatory damages. Sometimes punitive damages are granted, sometimes not: more often a company is forced to settle a case to avoid the possibility of a outrageous jury verdict. This is a pure lottery having nothing to do with the injuries suffered by the plaintiff which mainly benefits the lawyer working on a contingent fee. It is a crazy way to dispense justice.

My State of Virginia has recognized this problem and placed a reasonable cap on punitive damages. But Virginians buy products produced in other States and pay for the costs of this legal lottery created by the legal systems in other States. President Clinton says that this bill usurps the power of the States. Commerce, however, is nationwide and where States are placing undue burdens on interstate commerce, Congress is correct to step in and make reforms.

Now remember also that when President Clinton was Governor, he endorsed uniform legislation for punitive damages. Even the Washington Post has recognized that the President and the opponents of this bill are on the side of the trial attorneys, rather than American consumers and businesses.

I urge that the Senate move to consideration of this badly needed legislation and that it be enacted as soon as possible.

Mr. GORTON. Mr. President, article 1, section 8 of the Constitution of the United States reads in part as follows: "The Congress shall have power to regulate commerce among the several States." The purposes of this bill, as outlined in this bill, read as follows:

> Based upon the powers contained in Article 1, Section 8, Clause 3 of the 14th amendment of the United States Constitution, the purposes of this act are to promote the free flow of goods and services, to lessen burdens on interstate commerce, and to uphold the constitutionally protected due process by, (1), establishing certain uniform legal principles of product liability which provide a fair balance among the interests of product users, manufacturers and product sellers; (2), placing reasonable limits on damages over and above the actual damages suffered by a claimant; (3), ensuring the fair allocation of liability in civil actions; (4), reducing the unacceptable cost and delays of our civil justice system caused by excessive litigation which harm both plaintiffs and defendants; (5), establishing greater fairness, rationality, and predictability, in the civil justice system.

That is precisely what this bill is designed to do, Mr. President. That is precisely what this bill does.

I yield the remaining 2 minutes to the distinguished chairman of the Commerce Committee.

Mr. PRESSLER. Mr. President, I rise in strong support of this legislation. I want to pay tribute to both Senator ROCKEFELLER and Senator GORTON who have had such great courage, leading this controversial bill and bringing it here. This is perhaps one of the most important pieces of legislation this Congress will consider because of the benefits it will have for small business.

Senator GORTON, who has appeared before the Supreme Court 14 times, is a legal expert. His expertise in explaining this bill, both in the committee and on the floor, have been very, very valuable. This bill would not be here without Senator SLADE GORTON. He has been able to explain this bill, the technical parts of it.

Senator ROCKEFELLER, in my opinion has shown great courage. I wanted to

VOL
142
PT
5
MR
21
—
29
1996
UMI

use my time to pay tribute to those two leaders who have fought so long and hard through the committee.

I strongly support this legislation.

Mr. GORTON. Mr. President, I simply would like to say after this extended debate, not only over the period of the last 2 days but over the period of the last year, and for that matter several Congresses, that it is wonderful to have at least this phase of it completed. This very important element in the reform of our country's legal system would not have been completed with this degree of success without the help of both many Members and a significant number of staff.

When one names names, one runs the risk of leaving out many people who deserve credit, but particular credit from my perspective belongs to Lance Bultena of the Commerce Committee staff, and my own Jeanne Bumpus and Trent Erickson. Together they have put in so many hours on this subject that it cannot possibly be measured, and have done a wonderful job in educating and advising me.

For Senator ROCKEFELLER, Jim Gottlieb, a magnificent and skilled attorney, and Ellen Doneski have provided similar services. All of my cosponsors I wish to thank. All those who voted with me, I wish to thank. Most particularly, however, is the Senator from West Virginia [Mr. ROCKEFELLER]. We have come to be close personal friends during the course of the many years that we have worked together on this subject. He is a wonderful, thoughtful, and hard-working individual. In this connection, he is a courageous individual with the willingness to take on a majority of his own party and his own President.

His devotion to the public interest is not exceeded by any Member of this body. The ability to become such a close personal friend has been an important ancillary privilege of leading the debate on product liability.

With that, Mr. President, I am sure it is time to move on.

Mr. President, I yield the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the conference report to accompany H.R. 956.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] is necessarily absent.

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 46 Leg.]

YEAS—59

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Frist
Glenn
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Nunn
Pell
Pressler
Pryor
Rockefeller
Santorum
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—40

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
Feingold
Feinstein
Ford
Graham
Harkin
Heflin
Hollings
Inouye
Kennedy
Kerry
Lautenberg
Leahy
Levin
Mikulski
Moynihan
Murray
Reid
Robb
Roth
Sarbanes
Shelby
Simon
Simpson
Specter
Wellstone
Wyden

NOT VOTING—1

Kerrey

So the conference report was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS

CLOTURE MOTION

The PRESIDING OFFICER (Mr. FAIRCLOTH). Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Senate Resolution 227, regarding the Whitewater extension:

Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, Bill Roth, Bill Cohen, Jim Jeffords, R.F. Bennett, John Warner, Larry Pressler, Spencer Abraham, Conrad Burns, Al Simpson, John H. Chafee, Frank H. Murkowski.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to Senate Resolution 227 shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] is necessarily absent.

The yeas and nays resulted—yeas 52, nays 46, as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—52

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—2

Jeffords
Kerrey

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

PRIVILEGE OF THE FLOOR

Mr. GORTON. Mr. President, I ask unanimous consent that A.J. Martinez of Senator BENNETT's staff be permitted privilege of the floor during consideration of the Public Rangelands Management Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC RANGELANDS MANAGEMENT ACT

The PRESIDING OFFICER. The Chair lays before the Senate, S. 1459, the Public Rangelands Management Act, with 75 minutes equally divided on the Bumpers amendment.

The clerk will report.

The bill clerk read as follows:

A bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Domenici amendment No. 3555, in the nature of a substitute.

Bumpers modified amendment No. 3556 (to amendment No. 3555), to maintain the current formula used to calculate grazing fees for small ranchers with 2,000 animal unit

months [AUM's] or less, with certain minimum fees, and establish a separate grazing fee for large ranchers with more than 2000 AUMs.

AMENDMENT NO. 3556, AS MODIFIED

Mr. DOMENICI. Mr. President, Senator BUMPERS is here. Might I inquire of Senator BUMPERS, we do not need our entire 37 minutes. Is there any chance, in the interest of moving the Senate's business along, you might get by with a little less of your time so that we could vote a little earlier?

Mr. BUMPERS. I am quite sure we will not use all of our time, either. We will be happy to yield the balance of such time. I only know of two people on this side, Senator JEFFORDS and I, who will be speaking.

Mr. DOMENICI. Thank you. Mr. President, on this side, might I say in earshot of staff and administrative assistants, that some Republican Senators have indicated they want to speak on this very amendment. Senator CAMPBELL has indicated, the distinguished Senator from the State of Colorado; I think Senator CRAIG has indicated that he would like to speak; and perhaps a couple of others. Let me put the word out, we are trying very hard to move this bill along and use as little time on the amendments as possible. If you could get hold of me, perhaps I could set up a time, and perhaps we could agree at a certain time that Senator CAMPBELL will speak for 8 or 9 minutes. If we can work to arrange that, I will not have to be here anxiously wondering who is coming because they will have a time set.

Mr. President, let me suggest that this amendment with reference to grazing fees, if it were adopted and if it becomes law, would put out of business, in this Senator's opinion, hundreds and hundreds of small ranches and ranching families that have been the backbone of this kind of activity for a long time. Let me yield myself 5 minutes and see if I can make the case for that, and then I will yield back to Senator BUMPERS.

Mr. President, first of all, this amendment attempts to set up a two-tier fee system. That two-tier system that is established here, the distinguished Senator indicates it is only going to have an impact on the very large ranches. I want to get to that in a moment to try to make sure that the Senate understands that all grazing permits do not have the same tenure. Some are for 3 months, some are for 5 months during the year. In a State like New Mexico, parts of Arizona, parts of California, and parts of a few of the other States that have year-long grazing.

Some private property, small portion of State property, and Federal leases make up a ranching unit in a State like mine. We are called water-based States. Essentially, the water and everything is on that unit. So you do not move the cattle off to public property for part of the year. The livestock are there all the time.

As a consequence, when the distinguished Senator who had in mind that this would be just for very, very large ranches, those numbers did not take into consideration a ranch in New Mexico, Arizona, or California, that had 12-month-a-year permits and was substantially—that is, a lot of the property—federally controlled. I will come back to that point when I get the actual numbers.

Having laid the foundation to establish this fact that it will apply to small ranches, not large ranches, that are on a 12-month basis and have a lot of public domain, let me tell you what we try to do in the bill. We attempt to increase the grazing fee 37-percent. We intend it go up to $1.85. This is a 37-percent increase. Now, Mr. President, in addition to a 37-percent increase, we are aware of the fact that you cannot have ranching units continue to operate, and have prices go arbitrarily up in total disregard for the market, based upon what the State might charge for completely different land. Ours is based upon the 3-year rolling average of the gross value of the commodity, which takes into account such things, Mr. President, as this year where cattle prices have come down 30 percent to 35 percent. It is obvious you should not be increasing fees. You could not on private land. The market would not bear that. You should not increase it arbitrarily under a formula when the gross value of the product is coming down.

I stress gross value. Senator BUMPERS, in the mining reform debate, has always wanted gross value. We use gross value.

In addition, we use it on figuring out the interest component, so we get a market movement, the 10-year average of the 6-month Treasury bills, so that we have a very good way to establish stability and let the leases go up, but not go up in total disregard to the market.

Now, Mr. President, under the Bumpers proposal, the permits could be as much as $3 per animal unit per month up to $10 per month. I must say to the Senate, not even Secretary Babbitt, in his wildest dreams about what we should charge, had anything like $5, $6, $7, or $10, which some of the permits would be worth under the Bumpers proposal. And he had $4.60 once and came off that because everybody told him it was absolutely ludicrous and the ranchers would go broke.

Incidentally, the Department of Interior and Secretary Babbitt never supported, and to this day do not support, having two different fee schedules, depending upon the size of the ranch and the number of units and the number of cattle you graze, for a lot of reasons. It is arbitrary. It was said it will not work, and obviously there are many other reasons.

I note that the distinguished Senator from Arkansas would suggest that because States have a different fee schedule, we should follow them. I want to make three or four points about that. First, Senators must note that many of the State leases are exclusive leases. That means the only thing you can do on them is graze. From the very beginning, the Federal leases are not exclusive. They must be used for multiple purposes. That is a very different concept of what you can use it for. If you can only use it for that, to the exclusion of all the other uses, obviously, it would be worth more.

Likewise, many States have very few regulations, as compared to the Federal Government, making it more attractive for the rancher. Last but not least, for the most part, the State lands are a very small portion of a unit of ranching. The Federal land is more often a very large part of that unit. And so, to be able to exist, you have to have stability on that Federal side, and you have to have something that is reasonably consistent with a formula that acts upon the price of the commodity, such as ours.

I will put in the RECORD that under the amendment which purports to save small ranches, and charge large ranches a lot more—I will give you just two numbers. If 95 percent of a unit is Federal land—and there are a number of those—in the State of New Mexico, the maximum number of cows that you can have on this ranch to get into the lower-tier price is 176—not 500, not 1,000, but 176. The ranching unit could be between 50 and 95 percent Federal land, and the number of head would be between 334 and 176.

Mr. President, this just shows when you try to establish these arbitrary formulas, you have to find out really everything that is involved.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PERCENTAGE OF NEW MEXICO RANCHES WITH VARIOUS LEVELS OF RELIANCE ON FEDERAL LAND FOR GRAZING CAPACITY

Reliance on Federal land	0–5 percent	5–50 percent	50–95 percent	>95 percent
Percent of all ranches in New Mexico	49	21	26	5
Max. number of cows for small rancher exemption to apply	>3,340	3,340–334	334–176	176–167

Adapted from Torell et al. (1992).

Mr. DOMENICI. Mr. President, this amendment will not, as it purports to, have any positive effect on small ranchers staying in business in New Mexico and in the other States of the Union. There is a lot more to say, but distinguished Senators are here on our side. I have used 8 minutes, which means we have about 25 minutes left.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Senator CAMPBELL, how much time would you like?

Mr. CAMPBELL. About 10 minutes.

Mr. DOMENICI. The Senator from Wyoming needs 10 minutes. As soon as Senator BUMPERS yields the floor—does he want to speak now? We can yield to Senator BUMPERS for 8 or 10 minutes and come back and have them use their time.

Mr. BUMPERS. Is the Senator yielding the floor?

Mr. DOMENICI. I was trying to get an agreement so we would know who was speaking on our side.

Mr. BUMPERS. I do not have a schedule in mind. I do not have a certain length of time that I am going to speak. I will yield myself such time as I will use.

Mr. DOMENICI. On our side, when one of our Senators is able to get the floor, we have agreed that Senator CAMPBELL will speak for 10 minutes, and the Senator from Wyoming will speak for 10 minutes.

I yield the floor.

The PRESIDING OFFICER (Mr. GREGG). Who yields time?

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, before I stepped on the floor a few minutes ago, something happened. I have a friend that came here from Colorado. He ranches out there. He was teasing me, and he said, "What is Congress' only Indian doing in here defending the cowboys?" I have to tell you, Mr. President, I had a good laugh with him, but this is not about cowboys and Indians. This is about real families. Some happen to be Indians, who are cowboys, by the way.

Anybody who knows the ranch lifestyle out West knows that ranchers grew up with guns. They learn how to use them from childhood, and they get good with them. They use them for protection and for hunting. I guess the first thing they learn about guns is that you try to hit what you aim at. I have to tell you, I admire my colleague from Arkansas and, certainly, Senator JEFFORDS, too, but they are not going to hit what they are aiming at.

As I understand both of their amendments, it is like hunting a wolf that gets in your lambs or your calves with a shotgun. You may get the wolf, but with a scatter-gun approach, you get everything else, too.

I believe Senator BUMPERS' amendment and Senator JEFFORDS', too, is really aimed at corporate freeloaders. But by putting everybody in the same category, it is certainly going to hit ranchers that are full-time ranchers, with no other income except ranching. I think that is a very sad mistake. I think they should both be opposed. To put them in the same category is simply not fair.

They are trying to define, as I understand both amendments, the difference between real ranchers and nonranchers. But the approach they have taken puts the large ranchers and the small ranchers in the same category as the nonranchers. And so when we hear the debate, they often use Hewlett-Packard, Simplot, Anheuser-Busch, and many of the big corporations who, somehow, in the past, have gotten some of the permits and, in fact, probably use them as tax writeoffs or some kind of a tax structure in order to get tax breaks from the products they are producing. But they are not what we call "real ranchers." I do not think anybody here from the West is trying to defend people who have used the ranching industry for a tax writeoff. What we are trying to defend and protect are the real ranchers, the family ranchers.

There was some reference made to ranchers who have made it big. Clearly, some ranchers have made some money. As Senator GRAMM, our friend from Texas, said, "Welcome to America." What is wrong with that if they made it by honest labor, made the ranch grow, and have weathered storms, drought, wolves, cats, and everything, and they managed to make a little more money and invest in something else or buy some more land? What in the world is wrong with that in this country? Yet, when they succeed, they are sort of put in the category of preying on the American public and somehow taking advantage of the American public because they have succeeded.

I think that also is not only unfair but it is wrong. This shotgun approach very clearly of putting the ranchers in the same category as those people who use ranching as a tax break is simply wrong to do.

Senator BUMPERS said yesterday—I mentioned it last night—that we should watch where the money goes. And I have to tell you, I live among family ranchers. I know where the money goes. It goes to Main Street by and large—to the hardware stores, to the movie theaters, to the used car lots, to the school districts through property taxes, to the fire district, and to every other special district you can imagine. Very little goes to recreational pursuits. If they have any money left usually it is put back into the herd, or into the land, or some way to improve their own family lot. They do not, I know, take vacations to Nice, France, or to Montserrat, or somewhere else like the corporate people do that the Senator is aiming to get.

So I think both of these amendments are probably going to miss the target and get the wrong people.

We also dealt a little bit last night with the question about fair market value. And the accusation, of course, is that ranchers on public lands are not paying a fair market value because, if you compare it with what the rancher is paying on private lands, it is much lower. That is right. It is probably much lower.

We have a small ranch. And we sometimes let other ranchers rent some of our pasture. And I know there is a difference. But there is also a difference in the amount of work they have to put up with on private land, whether it is rotating the fields, whether it is irrigation, or a lot of other things that come into play that make the difference.

To try to charge the person on public lands the same amount I frankly just think would simply run a lot of them out of business, and it simply will not work. I often compare that question of fair market value with some of the other things that we have out West. I live near Durango, CO. Durango is near a world famous archaeological site called Mesa Verde, a cliff dwelling that everybody in this country knows about. It is run by the National Park Service. If you go to the cliff dwellings it costs you $3—as I recall from the last time I went—to go in, for an adult to get really a great historic cultural experience. You can stay in there for half a day, or all day, for that $3.

Just down the road apiece in downtown Durango is another cultural and historic activity. It is in private ownership. It is the old train called "The Durango to Silverton Train." It has been there 100 years. That old train carries about 250,000 people every year, and you get a marvelous western experience. But it costs you about $30 to go on that train. If you say that we are not getting fair market value from the things that are being done on public land, maybe we ought to raise the park fee to $30 to compare it with the other experiences that people are getting a few miles away on the train. If you said that to the people in this audience, or to the people watching the proceedings today, most of them would tell you that you are nuts. They simply will not pay it.

Yesterday, I mentioned the zoo in Denver. It cost $6 when you go to the zoo. You see wild animals. They are caged but they are basically wild, whether it is deer, or elk, or bear, or wolves. Yet, when you go into the national forests you can often see those same animals for free. Maybe we ought to charge everybody that goes in the forests $6 so we get a fair market value for viewing those animals as they get when they go to the zoo.

I could go on and on about the difference it would cost. Go cut a Christmas tree. You need a $5 permit from the Forest Service. But it cost $5 per foot if you go downtown. If you suggested to people that we are going to charge $5 a foot when they go into the forest to cut a Christmas tree, you would have a rebellion on your hands.

So I think the whole discussion of fair market value simply does not wash.

So I want to come in and restate my opinion on this. I think we ought to leave this bill alone. It has been worked on for virtually years. I have been involved in it myself for over a decade. Senator DOMENICI has taken a leadership role in bringing to the floor of the Senate what I think is about as good a balance as we could put together.

I hope my colleagues will resist any attempt to change that and oppose both the Bumpers amendment and the Jeffords amendment.

Thank you, Mr. President. I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself such time as I may use.

First, I want to point out that while this is commonly referred to as a western issue, it is also a national issue. The 270 million acres of land that people control to graze cattle in the United States belong to the taxpayers of America. The public land may be located in Wyoming. It may also be located in Wyoming, Idaho, or Nevada. However, it is owned by the taxpayers. And 100 United States Senators have a solemn duty to protect the taxpayers' interests.

Unhappily, these so-called "western issues" somehow or other fall into the category of what my mother used to say as "Everybody's business is nobody's business." Unless you have a significant number of grazing permits in your State, you do not immerse yourself into these kind of issues.

Why am I involved in it? No. 1, I sit on the committee from whence the Domenici bill was reported out. No. 2, I am an unabashed environmentalist and I am concerned about the conditions of the rangeland. Third, and above all, I am totally committed to fairness.

Yesterday afternoon, speaking on this amendment, I pointed out that when I first discovered that the U.S. Government was selling its land for $2.50 an acre for miners to mine gold and silver, I was utterly awestruck and did not believe it. I found out that it was indeed true. That law is still on the books. The mining law was originally intended to encourage people to go west and help small mom- and pop-mining operations succeed.

As I delved into the mining law, I discovered that it ain't mom and pop at all. Who is it? Who is mining the billions and billions and billions of dollars worth of gold, silver, platinum, and palladium off of Federal lands? It "ain't" mom and pop. It is Bannister Resources, the biggest gold company in the world, who bought the gold for $2.50 an acre. They are still doing it. It is Newmont Mining Co., one of the biggest gold producers in the world. It is Crown Butte, and the list goes on. It is not mom and pop. It is the biggest corporations—not in America but in the world—who are mining not only gold but mining the U.S. Treasury which also happens to belong to the taxpayers of America.

So when I began studying the grazing issue I found that, No. 1, the amount of money involved is infinitesimal. It is about $2 billion worth of gold that is being mined off Federal land every year, for which we do not get a dime—$2 billion worth. All of the 22,000 grazing permits in this Nation only produce $25 million. I would be willing to forsake all of the grazing fees except for just the element of fairness. It is not that much money. But it is not fair.

So what is my amendment about? I invite you to look at a chart.

We permit our public rangelands to people on the basis of what we call an AUM. That is an "animal unit month." Right now we receive $1.35 per AUM for every cow, or horse, or five sheep that graze on Federal lands under these permits. The fee was $1.85 in 1986. It is $1.35 now.

So who are these people that have the permits—these little mom and pop ranchers you have been hearing about?

Here they are. Here are the 91 percent of the small ranchers my colleagues on the other side say they want to protect. Count me in, Mr. President. I do, too. My amendment would cost less by the year 2005 than the amendment of the Senator from New Mexico would cost, so do not talk to me about who is being fair to small ranchers. These 91 percent of the permittees control only 40 percent of the animal unit months. They are not hurt under my amendment. They should have no squawk at all. Do not shed any tears for them because of my amendment.

What else does my amendment do? Look at the right-hand side of that chart. Mr. President, 60 percent—60 percent—of the animal unit months are held by this 9 percent. Nine percent of the permittees own 60 percent of the AUM's. If you want to think of it in pure terms of acreage, 2 percent of the permittees own 50 percent of the 270 million acres.

Is that fair? You say yes. Let me add something else to the equation then. Who is that 9 percent of the permittees? There they are. This is just a smattering, just a small list. Anheuser-Busch, the 80th biggest corporation in America. In 1994, they were on Forbes list as the 80th. Anheuser-Busch has 4 permits controlling more than 8,000 AUM's. My amendment only raises the fees on people who have more than 2,000 AUM's. Yes, my amendment would affect Anheuser-Busch. My amendment would affect Newmont Mining Co,, the biggest gold company in this country. Newmont Mining Co. controls 12,000 AUM's. Small mom and pop operation. Poor little old rancher out there struggling to survive. Biggest gold company in the United States.

Who else? Hewlett-Packard. Maybe you have one of their computers in your home. Poor little old rancher Hewlett-Packard, we have got to protect them. Hewlett-Packard runs cattle on only 100,000 acres of public rangelands. They run cattle on those public rangelands because those lands adjoin their ranch.

What are we doing here? It is sickening. Here is a man—one Senator rose in the Chamber yesterday and said he is a wonderful man, a very engaging person, a good citizen. I do not know him. I am sure people who know him like him a lot—an 85-year-old billionaire, not a small mom and pop rancher, a billionaire, J.R. Simplot, from the State of Idaho. What does he have? Well, he is not all that big. He only has 50,000 AUM's. Mom and pop rancher?

Here is a Japanese company. They control 6,000 AUM's on 40,000 acres. You look at those. The list goes on and on. I have another list here. I am not going to bore you with all of them. The biggest corporations of the United States of America mining the U.S. Treasury, and who can blame them as long as they know this body is not going to do anything about it.

A Senator who is no longer here, a Republican Senator, whom I admired very much, when I first took on the mining issue I walked over to him, and I said, "I need a Republican colleague to cosponsor this bill if we are going to change the mining laws of this country." I explained to him how the Department of the Interior actually issued deeds to people for $2.50 an acre that had billions of dollars' worth of gold under it. I said, "All you have to do is put up 4 stakes for every acre you want to claim. If you find gold underneath, it is yours for $2.50 an acre. How about joining me in this crusade?" He said, "I'd like to, but I think I will go to Nevada and start staking claims." At least he was honest about it. He was being facetious, of course,

All we are saying in our amendment is that Anheuser-Busch and Hewlett-Packard and people like that are going to have to pay an average of what you would pay if you were renting State lands. The States cannot afford to give away the public domain like we do. They do not own the public domain. They own some land. The State of Arkansas owns some of its lands. Your respective States own some of the lands there, too. If those little mom and pop operators go to the State of Montana or the State of Wyoming and say, "I would like to lease some of this land for $1.35," they would laugh them out of the State capitol building.

The Senator from Colorado just left the floor. You want a permit in Colorado? Not for $1.35 per AUM but $6.50. They are not stupid. Do you know what else? There is a line of people waiting for a permit in Colorado.

Then look at Wyoming. Go into Cheyenne and say, "I would like a permit on some State lands to graze some

VOL
142
PT
5
MR
21
—
29
1996
UMI

cattle." No. 1, they would say, "We are sorry; we do not have any land at the moment, but if we did it would cost you $3.50 an AUM," not $1.35 like "Uncle Sucker" gets. And in Montana, the home of my distinguished good friend across the floor, $4.05.

Our amendment says to that 9 percent, mostly America's biggest corporations, we would rather you leave the land and make it available to small people to make a living, but if you insist on keeping it, we want you to at least pay the weighted average for permits that the State lets in the State where your land is located. Who can quarrel about that?

Mr. President, I will close by just simply saying two things. You know who my amendment affects? Ten percent, 10 percent of the permittees, and they are the biggies. Only one State, Nevada, would have more than 10 percent of its permittees covered by my amendment. I did not know until I looked this over.

For the interest of my colleagues who may or may not be in the Chamber but who I hope are listening, here is how your State would be affected: Arizona, 10 percent; California, 8 percent; Colorado, 5 percent; Idaho, 7 percent; Montana, North Dakota, and South Dakota, 2 percent; Nevada, 39 percent; New Mexico, 10 percent; Oregon, Washington, 8 percent; Utah, 10 percent; Wyoming, 9 percent.

Is it any wonder people think campaign contributions play a role in what happens around here? There is no justification for allowing this to happen. Since 1981, the grazing fee for cattle grazing on private lands has gone from $7.88 to $11.20 per AUM. The fee on State lands has increased from $3.22 to $5.58, and Federal grazing fees in real dollars have gone from $2.31 to $1.61, to this year's $1.35.

I say to my colleagues, I would like to appeal not only to your sense of fairness but to your sense of compassion. At a time when 100 Senators committed to a balanced budget and we are cutting education, we are cutting environmental funds and housing funds and school lunches and Medicaid and Medicare, and everything that is necessary to give people at least a fighting chance at a piece of the action, a piece of the rock, we allow things like this to go on. It is unconscionable.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THOMAS. Mr. President, I yield myself 1 minute, and I want to yield to my colleague from Montana.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I guess I am sorry the Senator has suggested anyone who does not agree with him is a victim of contributions. I think that is not a very appropriate remark.

Mr. BUMPERS. Senator, I want to apologize for that remark. I am sorry. There is a certain personal thing in that, and I regret it. I regret I said it. I am sorry.

Mr. THOMAS. Mr. President, there are a couple of things I think are important here. One is the predication of this idea. This amendment is based on the idea that there is a subsidy here.

Yesterday I reported on the Pepperdine University study, an unbiased study that indicates very clearly this is not a subsidy. If you come from this area, where we have 8 inches of rain instead of 40, you will find that this is not a subsidy and Pepperdine University says that Montana ranchers—this was in Montana—who rely on Federal lands do not have a competitive advantage over those who do not.

Second, it seems to me we enter here into a great deal of class warfare which I think is unnecessary. Yesterday, the Rock Springs Grazing Association was mentioned as one of these corporate robbers. Let me tell you what the Rock Springs Grazing Association is. It was started in 1909 in southwestern Wyoming to stop overgrazing which was taking place in the Red Desert, which, by the way, is the largest grazing district in the whole BLM in this country. The association breaks down roughly this way: 550,000 deeded acres are in here. This is what is called the checkerboard; 450,000 are leased from private and 900,000 are Federal permits in the checkerboard. They are all intermixed. There is no fencing. You cannot use one from the other. There are 11,000 there.

What is the association? It is 64 shareholders, 64 family ranchers, that is who it is. It is not a corporation. It is 64 family ranchers that use that.

So I think, really, when we take a look at this thing, as I said yesterday, this is a unique circumstance. It is very easy to come from somewhere else and say, "This is the way it is at home." Well, this is not home. This is a unique aspect where your State is 80 percent owned by the Federal Government. We do have some feeling about it. It is our economic future.

I yield 4 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank the manager of the bill. Let us just talk about it from an environmental standpoint.

Basically, what the amendment of my friends from Arkansas and Vermont does, or the amendments do, is throws us right back into this old class warfare again, the "haves" and the "have-nots." Nobody is asking for that kind of situation.

There is no doubt in my mind, my friend from Arkansas is a dedicated and a wild environmentalist. Every figure that we can give you is backed up by facts, that there is more wildlife on public lands now than ever in the history of this country. When you take off grazing management—we cannot tell the antelope not to graze the same time the cattle do, or the deer, or the elk. They all have the same forage. They all get along on the same range. That is why we have more of them now.

But when the management of that resource goes away, do you know what goes away? Water. And, folks, nothing living goes out there in that country without water. Strictly from an environmental standpoint, pull all the cattle off, get all the people out of there, and watch that range turn into the way it was at the turn of the century, with nothing on it—no life, no water. Wind erosion is rampant. That is what we get into.

If these amendments prevail, the impact it has on cooperative—as my friend from Wyoming said. These things sound big, but they are a bunch of little folks who throw together enough to run their cattle and their sheep. Rock Springs, WY is a perfect example.

Another thing, we have two cooperative agreements, in Fleece Creek and Wall Creek. This is where environmental groups, U.S. Fish and Wildlife, Montana Fish and Wildlife, the Stock Growers, BLM, and the Forest Service, all got together and made out a grazing pattern and developed a plan, to where they can graze and where they cannot graze on what part of the year.

Do you know what? It is working. It is working on the ground. It is working because local groups got together and solved a problem, instead of going down this road of throwing everything back into the courts again, into an adversarial environment in which we have to do business, because it cracks up communities both within and from without.

I know there are folks around here, in the sound of my voice, who say as soon as some outsider comes into our town and tries to make a decision for us, what happens? Polarization.

Montana has three fees. There are different fees for different Federal lands, State lands—but, you know, there is a lot of difference in the lands, the carrying capacity, what they will produce, where they are, access. There is a multitude of factors that go into it before you set a rental. Private lands are pretty accessible. You have somebody going up those gravel roads every day. Some of these Federal lands you cannot even get to unless you are on horseback, and that is another cost that has to go into the grazing fees.

So there is the difference. If I take an acre out of Arkansas, maybe I want to give the same price for an acre in southeast Arkansas as I do for an acre in northwest Arkansas. Are they the same? Will they produce the same, just because it is designated a State land? I do not think so.

The same is true out where we live, too.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BURNS. So, from an environmental standpoint, this is an antienvironmental vote if you take everything into consideration, and I ask for its defeat.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Mr. President, I believe the Senator from Arkansas has yielded me time.

The PRESIDING OFFICER. The Senator yields to the Senator from Vermont?

Mr. BUMPERS. I yield such time as he may wish to use.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, this is not the first time we have had these issues raised. I have been here, now—this is my 8th year. I do not know how many times we have had this issue raised.

I remember when I first raised these issues in the early 1990's, I learned a lot about what the situation was in the West. In fact, I even traveled out to Wyoming and met with ranchers and saw the land and examined the situation. At that time there were assurances from those who were out there saying, "Yes, we know we have to raise the grazing fees. We know that they are too low. We know that it is not fair, relative to those who graze on private lands and State lands."

What has happened since that time? Have the rates gone up? Have they made an effort to try to remove the inequities between these beef producers and other beef producers who are grazing on State lands and private lands? No. The fee has gone down, whereas, the private land fees have gone up. The State land fees have gone up; the fees on the Federal lands have gone down.

I also just point out for those who wonder what happened between the time I offered this amendment yesterday and now—I want to thank Senator BUMPERS and Senator DOMENICI for incorporating my second-degree amendment into the original Bumpers amendment—it is that yesterday I had second-degreed the amendment of the Senator from Arkansas. They agreed that my concept of trying to help the small farmers out was a valid one and ought to be adopted. So that was done. So you have now the Bumpers-Jeffords amendment.

Mr. THOMAS. Will the Senator yield?

Mr. JEFFORDS. Yes.

Mr. THOMAS. Does the Senator recognize that under this bill the rate goes up 40 percent, under the bill as Senator DOMENICI presents it?

Mr. JEFFORDS. That may be. But in the interim it has gone down, so you have not gotten to ground zero yet.

Mr. THOMAS. This bill brings it up 40 percent.

Mr. JEFFORDS. But 40 percent of what, though? That is the problem.

Mr. THOMAS. Higher than yours.

Mr. JEFFORDS. But a lot lower than it should have been relative to what it has been, is my point. In fact, mine is low, if you consider that my amendment is to help the small farmers out. So in the sense that you want to help out the small farmer, as I do, then perhaps you would want to vote for this amendment so that you can improve that aspect of the amendment.

I do not have a problem with that, because that is not my problem. My problem is with giving a huge subsidy, which would happen without my amendment, to the corporate entities and the large owners that are going to get a huge benefit without any need or any rationale for it.

The Senator from Arkansas has gone through, and I went through yesterday, the people that are going to be benefited by this. Yesterday, you heard on the floor a great deal about the merits and detractions of the underlying bill. Whether or not we agree on the merits of the bill, I think the majority of this body can agree on the merits of this amendment, which is now included in the amendment you will be voting on, that is, the Bumpers amendment.

My amendment is very simple. It protects 90 percent of the ranchers. So, I do not understand why anyone can disagree with it. Small ranchers, who embody the history of the West, are going to get a benefit better than the underlying bill. But it also rectifies an ongoing injustice relative to the large users of the AUM's.

For 9 percent of the ranchers, the large, wealthy corporate ranchers that consume over 60 percent of the total AUM's—over 60 percent of the total AUM's—who forage on public land, this amendment will simply have them pay the same price—the same price—that they would pay if it were State lands, that the rancher using the rangeland next to them are currently paying to the States. Now, how in the world can that be inequitable, wrong or inappropriate to say that those on Federal lands who are huge corporate owners should not pay the same as they are paying on the State lands?

Organizations who have been calling for sound spending in the balanced budget, such as the Cato Institute—that is a conservative organization—believe it is time to change the fee structure. I was told several years ago, "Yeah, we're going to change the fee structure." The Cato Institute has been promoting grazing fee reform for years, highlighting the need to adjust needs to reflect their true value so you would not have that inequity between those that are grazing on State lands and those that are grazing on private lands and the rest of the beef farmers of this country.

I spoke to this issue yesterday, as did my colleague from Arkansas, quite thoroughly, I might add. I want to reiterate that this amendment not only makes good budget sense, but it makes good common sense. There is no reason why a large rancher on Federal land should be paying up to five times less to use what is basically the same land that his neighbor is grazing just because he is sending his check to Washington instead of to the State capital.

The point has been made that there are a lot of wild animals grazing on this. There are a lot of wild animals grazing on the State lands and a lot of wild animals grazing on the private lands. So there is no inequity to be rationalized out by giving a lower fee on the Federal lands.

But there are other benefits of this amendment I want to discuss today. Farmer protection, land stewardship, and local input.

First, as I mentioned, this bill protects the small rancher by keeping the grazing fee he or she pays low. We are all aware of the plummeting beef prices and the economic hardships facing these ranchers. I firmly believe that we have a responsibility for the success of small ranchers. But I tell you, my dairy producers, they do not get a higher milk price when the price of grain goes up. No way. But they are trying to say now, when the price of the beef goes down, they should allow the price of the rangeland to go down. That does not happen to those on State lands or private lands.

Not only by keeping their fee low for the small farmers, but by raising additional revenue that we could return to the local governments—this money would go back to the local governments for range improvements, most of it—by increasing the fee to the large ranchers, additional revenue will come into the Range Betterment Fund, a program that has helped countless ranchers.

Second, by addressing the large ranchers, this amendment will begin to reduce the significant proportion of the environmental degradation taking place on the public lands. Studies have shown that it is the large ranchers who are causing ecological degradation of the public lands. So the ones we are giving the most benefit to are the ones that are causing the most damage.

Currently, the low Federal grazing fee encourages overstocking on Federal lands, which has been shown to be detrimental to the environment and the grazing lands. A comparison of the size of herds on Federal lands versus the average size on private and State lands shows that Federal lands bear a much higher number of large ranching operations than the other lands. Why? Of course; it is cheaper.

Third, this amendment brings the Federal grazing program closer to the local level. In the past years, on numerous issues, we have heard from

VOL 142 PT 5 MR 21 — 29 1996 UMI

State and local government that they want greater participation in the decisionmaking. This amendment accommodates this request by saying the fee will be at the State level. My amendment will make the system more equitable and make it more responsive to local ranchers.

Yesterday, Senator DOMENICI discussed how one program cannot fit all ranchers. But by leaving the fee schedule as it is in the Domenici bill, we are making one size fit all. This amendment will put more flexibility into the fee system. Large ranchers will be paying what their neighbors on State lands are paying, not what everyone else in the West is paying. As land costs and transportation costs, fee costs and beef prices in the State change, all things will be taken into consideration, and the State fee will change, and the Federal fee for large ranchers will also change.

Again, in summary, let me emphasize how this amendment not only makes good balanced budget sense, but also good environmental and economic sense. Although this amendment is fairly simple in its concept, it builds upon many of the themes in Senator DOMENICI's bill. It protects the small rancher and promotes good land stewardship, and it brings the Federal grazing program closer to the local level. It is time we face this issue. We have been talking about it for years and years and years with promises of review and promises of change and promises otherwise. What has happened? Nothing has happened. The fee is going down again.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THOMAS. Mr. President, I yield 4 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, in my comments here on the floor, I will simply make two points: First, this has been described repeatedly as having something to do with balancing the budget. We are being told how many millions—by implication, billions—of dollars of corporate welfare are going to the huge ranchers because of the Domenici bill. I would like to put that in context, Mr. President.

If the revenue projections of the Secretary's proposed raise in grazing fees are met, which I do not believe they will be, we will generate in increased revenue less money than it took us to put the subway in between the Capitol and the Hart Building. We are not talking about enough money to make any difference whatsoever in terms of the balanced budget circumstance. I repeat, Mr. President, it cost us more to renovate the subway cars running between the Capitol and the Hart Building than the administration will generate in increased fees if their projections are correct.

I do not believe their projections are correct for this very reason. That is a tiny amount of money as far as the Federal Government is concerned. The amount of increased grazing fees is an enormous amount of money for those families who are living, literally, on the edge right now. They will be unable to pay the increased amount called for by the Secretary, so they will go out of business. We will not only not get the increases the Secretary is projecting, we will not get any money at all.

I believe the Federal revenues will go down rather than up if the Domenici position is not maintained. I believe that we will see significant financial damage throughout all parts of the rural West. That is my first point.

My second point, Mr. President, is illustrated with this photograph. Some of you may have seen the pictures that were in full-page ads in the New York Times and the Washington Post and other national publications in which this part of the land was shown in a photograph. The question was asked, whose public lands are they? The implication was that we were getting degradation on the lands. I have heard that again here—degradation on the lands.

Well, I call your attention to the lower photograph. Maybe it is difficult to see across the Senate. It is very clear that the riparian areas in this part of rural Utah are substantially better off in the lower photograph, the more recent photograph, than they were in the first paragraph. What is the difference? The first photograph was taken before grazing was allowed in the area, before the cattle were allowed to get into the area, break up the hard crust of the land with their hooves, allow water to get below the ground surface, allow seeds that were in the air to take root and fertilize the ground with their urine and defecation. We see here lush, lush growth in the riparian area. We see a better environmental circumstance than we saw before the cattle were there.

I wish every Member of this body could have been here last night when the senior Senator from Wyoming [Mr. SIMPSON] had a series of photographs showing 100 years' difference in the State of Wyoming. In every case, the environment was substantially better 100 years later because cattle had been in it.

This is an environmental vote, Mr. President, and the proper environmental vote is to vote with Senator DOMENICI.

Mr. President, I appreciate the leadership shown by my colleague, Senator DOMENICI in bringing this legislation to the floor. I am pleased to join with many of my colleagues in support of this revised and significantly improved legislation.

Grazing of livestock on western Federal lands has been increasingly and unfairly referred to as a subsidized form of welfare. Yet, the western livestock industry is key to preserving the social, economic, and cultural base of rural communities in the West. This lifestyle helped open the West to productive development and responsible stewardship. Grazing is a healthy way to sustain and utilize renewable resources.

We are all familiar with the administration's highly controversial regulations, and the significant impact on the way grazing on public lands are to be managed. I believe these regulations pose a serious threat to the stability of the industry.

The Interior Department's Bureau of Land Management and the Agriculture Departments U.S. Forest Service manage 268 million acres, or 37 percent of the 720 million acres of public and private rangelands in the West. The State of Utah is 69 percent controlled by the Federal Government. We have 22 million acres of BLM lands and an additional 8 million acres of Forest Service lands. Detractors of grazing speak of continued rangeland degradation, yet the professional range managers for these agencies have admitted that Federal rangelands are in the best condition they have been in this century. Great strides have been made in improving the range lands through the use of partnerships and promotion of good stewardship. Furthermore, through shared stewardship with the livestock industry and the general public, populations of wildlife are increasing and stabilizing, and water quality on Federal lands has improved significantly. I believe that S. 1459 will eliminate the controversy caused by the administration's grazing regulations and help mitigate the firestorm they caused in the West.

I am as concerned about the public's right to be part of the planning and decisionmaking process as I am about the bureaucratic quagmire caused by frivolous appeals and protests. Our legislation provides for full public participation in the planning process, allows for protest by affected interests and encourages public involvement through the Resource Advisory Committees and the NEPA process. The general public has the opportunity to comment on actions and site specific NEPA documents, by attending scoping meetings, hearings, and by responding to requests for comments by the agencies.

Since the BLM and U.S. Forest Service offer service to the same list of customers, often from the same building. This legislation would cut bureaucratic redtape and simplify the management of livestock grazing by simply managing all Federal land grazing by the same rules, regardless of jurisdiction. This makes it convenient for the permittee and/or lessee and greatly reduces conflict while reducing the costs of Federal land management.

Grazing is only one of the many uses that occur on Federal lands. This legislation supports and strengthens the concepts of multiple use management, which is basic to the management strategies of both agencies. The privileges of all Americans to access and use these lands is protected. The investments made by the livestock operator in range improvements, which have significantly helped wildlife, are protected. Our legislation seeks to eliminate the on-going clash over water between State and Federal levels by simply recognizing each State's right to allocate and manage water in their jurisdiction.

Mr. President, I believe this legislation provides a vehicle for our professional Federal land managers to join with livestock men and women in managing our Federal rangelands. We can do this while protecting the rights and privileges of all Americans, enhancing wildlife and riparian values and maintaining the viability of the livestock industry in the West. Grazing on Federal lands is economically and socially important in my State and in the West. I encourage my colleagues to support this legislation in the hope that common sense can once again prevail in Federal land management decisions.

I ask unanimous consent to have a summary printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY

State Land grazing fees can be higher because the states are generally not shackled by the regulatory burden carried by Federal Land management agencies.

In some western states, because of the checkerboard effect, state lands are managed by federal land managers by default.

SIZE OF RANGELAND PERMITS, BLM NATIONALLY

	Number of permits	Percent of total permits	Number of AUM's (millions)	Percent of total AUM's
<100 AUM's	8,600	45	1.6	12
>100–500 AUM's	8,600	45	5.5	41
>500 AUM's	1,900	10	6.2	46

Very few of the "large" ranchers (over 2000 aums in Bumpers amendment) are owned by major corporations such as Turner Broadcasting or Prudential. However, many of the family ranches in this category are incorporated for tax purposes, thereby meeting the definition of "corporate ranches."

The majority of these ranches (over 2000 aums) are family owned corporations and most make 100% of their income from federal land grazing.

Because their sole source of income is from federal lands and tend to be heavy indebted, they are probably the most susceptible to even moderate increases in fees.

These ranchers tend to be the best stewards of BLM lands because they live on the land, not in Los Angeles.

These ranches tend to invest heavily in federal land multiple use range improvements and generally have the lowest management costs to the federal land managers.

Bottom line: If they fail, there could be significant ecological changes on federal lands, major range improvements will not occur and costs to the federal government could increase due to the higher cost associated with management of numerous small permits.

Mr. BUMPERS. I yield myself such time as I may consume.

Mr. President, the Senator from Montana a moment ago discussed a large grazing association, individual ranchers, and he said that they would be considered somebody who had more than 2,000 AUM's.

Senator, our bill specifically—specifically—takes care of that. Your association in Montana would be judged according to the AUM's of each individual member, not the association.

No. 2, my good friend from Utah, and I have utmost respect for him, began his statement by saying that we talk about this amendment producing millions and billions in balancing the budget. I have said time and time again the amount of money in this would not wet a whistle. If my amendment passed, it might accidentally produce up to $13 million a year.

But, Senator, I have also said the issue here is not money except in the context of fairness. It is not fair for us to have a law on the books under the guise of helping small ranchers make a living out West, and allowing the biggest corporations in America to slurp up that land and deprive the very people you say you want to defend from grazing permits.

That is the ultimate fairness we are talking about. That is all that my amendment does. My amendment affects less—repeat, less—than 10 percent of the 22,000 permittees in this country. Who are they? Need I repeat it? The biggest corporations in America, slurping up the lands that ought to be used by your small ranchers who need the land, who could make a living on it.

Class warfare? Somebody used that term a moment ago. How foolish can you get? We are not talking about class warfare. We are talking about a basic, elemental fairness. Some day these issues are going to catch on with the American public. Right now, the American public does not have a clue about grazing fees.

I might say they are beginning to hone in on these mining claims. That is getting to be a topic across the country. It has only taken 7 years to raise the voters' awareness slightly on that issue. Not one single State except Nevada will suffer a raise in rates for more than 10 percent of the permittees in that State. Montana and the Dakotas all combined, only 2 percent of their permittees.

I hope that the Senators from Montana and from the Dakotas certainly would vote for my amendment because they would never know it passed out there.

Let me just say, Senator JEFFORDS and I may not prevail, but it will be sort of like my fights with Betty Bumpers. Those I win are just not over. I plead with my colleagues to think very seriously about whether you want to go home, and on those rare occasions when somebody says, "Senator, how did you vote on the grazing fee bill," you will have a good answer. If you vote against this amendment, you are going to have some tall explaining to do. I yield the floor.

Mr. CRAIG. Mr. President, I yield myself 6 minutes.

Mr. President, let me tell the Senator from Arkansas how I am going to vote. I am going to vote against the Senator from Arkansas and his amendment and the amendment that he has modified. In doing that, I will vote for fairness and equity and balance in the sale of a publicly held resource, the public grass of the public land States of this Nation.

What the Senator from Arkansas did not tell you is that he has never asked for a two-tiered rise in the sale of the trees of the Ozark's St. Francis forest. The reason is because he thinks it is fair that the largest timber companies in the world and the smallest man with a sawmill in his backyard ought to pay the same price for trees.

The only thing the Senator from Arkansas has done, and I agree with him, is say the small mill operator ought to be given some advantage through small business set-asides. I think we have agreed with that over the years. But the tree he buys or that Boise Cascade buys is sold on the market at the same price.

Now, when it comes to selling the grass of the public lands, that grass should be sold in a fair way. Those who are buying it ought to be able to purchase it in a fair way. Should we ask that a blade of grass bought by a small rancher be less in value than one bought by a large rancher? No. I think when the Energy and Natural Resources Committee of this Senate—who took it as their responsibility this year to revise grazing law, grazing policy, and we did. I say to the Senator from Arkansas, we heard you. We heard the American people that public land grazing policy ought to be adjusted and changed.

We introduced a bill earlier this year. It was not as pleasing to some as it ought to be. The Senator from New Mexico and I pulled that bill back, along with our colleague from Wyoming and other Western States, reviewed it, and reached out to a variety of public interest groups.

They made 27 different recommendations, and we pooled those recommendations together. The legislation you have before you today does a variety of things, but one thing it does is it raises grazing fees. It puts in place a new formula. It brings about a fairness and equity that every permittee that is a rancher, large or small, who

VOL
142
PT
5
MR
21
—
29
1996
UMI

has grazing on public lands, agrees with, and that is that the fees ought to go up. But what I do not believe in—and I do not think the Senator from Arkansas wants to do it—is to establish class warfare in the selling of public resources for the public good.

We do not say to rich people who go to the U.S. parks, "Oh, I am sorry, you are a millionaire, so you have to pay $2 more to use the campground." Maybe we should. Maybe the Senator from Arkansas ought to propose that. What about the backpacker that pays the fee to enter a wilderness area? Should they pay more if their portfolio says they are a multimillion dollar person? I think not.

We in this country have always spoken to fairness, equity, and reasonable values. But what the Senator has offered is not fair, not equitable, and, in my opinion, it is class warfare. It makes great headlines in the newspapers.

So if it is none of those things, what is it? Why is the Senator asking for this kind of dramatic change from the policy that the committee he serves on has crafted? I do not think it is anything to do about money, and he has admitted that. Whether you charge the big multimillion-dollar ranchers much, much more for the going market rate of grass than you would the smaller—the Senator from Utah said it would not even pay for the subway the Senate purchased a year ago. And if it would not, then what is the issue? The issue is power and control, to get a few more folks off the land so we can have a different image or a different idea as to how the lands ought to be managed. That is what we are really talking about here.

I sincerely believe—coming from a public land State, where ranching is an important part of our economy—that it is good public policy to have a sound grazing policy in our country that says that grass ought to be grazed in a reasonable fashion, that it is a resource of our country that ought to be utilized for the development and the growth of red protein, for the consumption of our country and for the health of our citizens. We have always held that value in this country. What we have done over time is change the way the lands are managed, and that is fair. We should not be managing the grazing lands of the West the way they were managed in 1935, and we are not. The public is telling us today that they ought to be managed differently in 1996 than they were in 1995. Our legislation does that.

So we accept change. We should accept change. But I plead with the Senator from Arkansas to accept fairness and equity. Public resources, whether it is the campground, whether it is the trail, whether it is the log, minerals, or grass, what we are talking about here is that it should be managed responsibly, and it should be marketed in a fair and equitable fashion.

We have never in this country engaged in class warfare, nor should we now, whether it is the sale of public grass, the sale of the public tree, or the public resources. I plead with my colleagues in the Senate to vote down the amendment of the Senator from Arkansas.

Mr. CAMPBELL. Mr. President, raising the grazing fees under the Bumpers amendment is fundamentally unfair to ranchers. This proposal does not fully consider the investments that ranchers already have made in building their lots.

In addition, the profit margins for many ranchers is small, and many ranchers already have fallen into bankruptcy. Raising the fees as this amendment proposes to do will make things even more difficult for ranchers and may force more ranchers to exit the business during the next few years.

Mr. President, a look at the increasing losses suffered by ranchers paints a bleak picture. In the business of ranching, analysts consider the industry average for the "estimated calf break-even" prices in tracking trends.

In the industry, we refer to the "calf break-even price" to mean the cost of supporting a cow to produce a calf for a year divided by the weight of the calf. There are many costs associated with supporting cows, such as summer pasture, winter feed, breeding costs, health costs, veterinary visits, and medications. Producers in the northern regions, including my home State of Colorado, have even higher winter feed costs and have to pay more out-of-pocket expenses for the winter.

In the fall of 1993, the estimated industry average calf break-even price was $81.95 per 100 weight. The average profit was $42 per head.

Since then, however, the industry average shows increasing losses.

In 1994, the break-even price was $80.78 per 100 weight, but there was a $12 per head loss.

In 1995, the break-even price was $80.41 per 100 weight, but the losses increased to an average of $59 per head.

For 1996, industry analysts already are predicting another year of losses which will be even to or greater than the losses incurred in 1995.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a table which shows the industry average for the "estimated calf break-even" prices and the average losses sustained by the producers. I also ask unanimous consent to have printed a second table in the RECORD which reflects the average sale price and profit or loss per hundred weight.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1—COW/CALF PRODUCER PROFITABILITY

[Industry average for costs versus returns]

Year	Estimated [1]	Profit/loss (per head)
1993	$81.95	[2] $42
1994	80.78	[3] 12
1995	80.41	[3] 59
1996	TDB	([4])

[1] Estimated calf break-even pnces (per 100 weigbt).

[2] Profil.

[3] Loss.

[4] Projected loss is even to or greater than less in 1995.

TABLE 2—COW/CALF PRODUCER PROFITABILITY

[Industry average sale price and profit/loss per hundred weight]

Year	Est. calf break-even (per 100 weight)	Avg. sale price (per 100 weight)	Profit/loss (per 100 weight)
1993	$81.95	$94.50	+$12.55
1994	80.78	78.36	−2.42
1995	80.41	63.43	−16.98
1996	TBD	TDB	([1])

[1] Projected loss is even to or greater than loss in 1995.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, how much time do I have?

The PRESIDING OFFICER. Five minutes, 25 seconds.

Mr. BUMPERS. Mr. President, I yield to my distinguished colleague, Senator JEFFORDS, 2 minutes.

Mr. JEFFORDS. Mr. President, if you only listened to the facts right now, you would come out with completely different conclusions than you would from the positions people have been taking here. Let us remind ourselves, as far as this class warfare argument, just yesterday all of my friends voted in favor of the product liability bill, which has quite a different situation for small and big business. Why? Because small business obviously gets a greater hit, with a smaller amount of money. Well, the measure we are dealing with now will have a fee lower for the small farmers, the small users. All your small farmers—the only ones you are going to benefit, or the only ones my friends arguing so strongly against me are going to benefit, are the large corporate guys, the ones that do not need any help, the ones getting a benefit far above what the present price is for State lands, which we would charge them for private lands.

So why in the world do my colleagues, who want to give all their smaller farmers a lower rate, want to vote against the amendment that would do that, when it only charges the wealthy and huge corporate ranchers the same as they pay on State lands? It does not make any sense at all. I do not understand it. It is just because we are so used to taking positions on one side or the other, and you cannot recognize when we are doing something to benefit you. It is purely to establish a system of equity and sense in the fee system.

I urge all my colleagues to vote for the Bumpers-Jeffords amendment. I yield the remainder of my time.

The PRESIDING OFFICER (Mr. THOMAS). Who yields time?

Mr. DOMENICI. How much time remains?

The PRESIDING OFFICER. The Senator from Arkansas has 3 minutes, 30 seconds. The Senator from New Mexico has 1 minute.

Mr. BUMPERS. Mr. President, the Senator from Idaho raised a question about timber. I do not understand the relevance of it. We do set aside timber for small business people. Even so, timber is sold on a competitive basis.

If you want to start leasing 270 million acres of public rangelands for grazing on a competitive basis, I may or may not vote for that, but we do not do that. Do you know how you get a permit? You have to own land. Hewlett-Packard may own 400 acres of land, which they have to do in order to be eligible for a permit. If they have a 400-acre ranch that they own themselves, they can run cattle on 100,000 acres of Federal land.

I am telling you something else. You could not pry these permits from permittees with a wedge. They literally hand these permits down from generation to generation. Under the current regulations, the term of a permit is 12 years. The Senator from New Mexico, his bill originally considered 15 years—is it 15 or 12 now?

Mr. DOMENICI. I believe it is 12.

Mr. BUMPERS. Twelve years is a long time. You cannot compare timber sales, which are let competitively, to a permit which you give some corporation like Anheuser-Busch or Hewlett-Packard, simply because they own a few hundred acres in their own right, give them 50,000 to 100,000 acres to raise cattle on for $1.35 a month per cow.

Everybody here knows what this is—corporate welfare, pure and simple, just like the Market Promotion Program where we give McDonald's money to advertise the Big Mac in Moscow. That is more of the same. Here we are trying to make just a small dent and say that these big corporations who own 60 percent of this 270 million acres pay at least what the State would charge you if you were renting lands from the State.

Why is it that the Government only receives $1.35, and that is way under what any State in the Nation charges for the same thing? It is politics. It is corporate welfare. And it is grossly unfair. I plead with my colleagues to come in here and search their consciences about whether this is right or wrong.

Should we allow this practice to continue? As I say, these things are so patently unfair. They never go away, Senators. They never go away. Let us address it now. If my amendment is not perfect, we will go to conference and make it perfect.

My fee is actually less than the fee of the Senator from New Mexico in the year 2005. We are not talking about what we are charging the small ranchers; we are talking about what Hewlett-Packard, Newmont Mining, Anheuser-Busch, and the biggest corporations in America ought to pay.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute.

Mr. DOMENICI. I wonder if I could get 1 additional minute. Does Senator BUMPERS object?

Mr. BUMPERS. Not at all.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I want to give two reasons why you should vote against Senator BUMPERS' amendment. First of all, let me suggest that if this were an issue of politics, if this were an issue of how many people are ranchers and cowboys in the State of New Mexico versus those that are not, the politics would be to vote for the Bumpers amendment and put all the small ranchers in New Mexico out of business because there are not very many of them. This argument about the big corporate users—I am not here trying to protect them. They will protect themselves. I am here to protect the small guy.

Let me tell you, in Arizona, New Mexico, parts of California, and in other States, this amendment that is pending will say to ranchers with 176 animal units who use it year long, "You are a big rancher, and you pay up to $10 in some States, and you are out of business." That is what this amendment will do. For another huge portion of them, 354 head will qualify as being large under that amendment that we are debating. They are not big ranchers. They will go broke under this formula.

And last, my second point, Senator BINGAMAN, who has been working on this for a long time, has a bill, and what do you think his fee schedule is? His fee schedule is exactly the same as that in the Domenici bill. I think he has looked at it. He does not agree with everything that we are for, but he does agree that the fee schedule that is being sought by Senator BUMPERS is outrageously high for many, many ranchers in the United States. And if you want them to quit, fold up their tents and go home, vote for the amendment that the Senator from Arkansas has before us.

Mr. BUMPERS. Mr. President, I ask unanimous consent to be granted 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, Karl Hess, Jr., a senior fellow at the Cato Institute—that is not exactly the citadel of liberalism down here—says:

> Domenici's bill is bad for ranchers, bad for public lands, and bad for the American taxpayer. It will not improve management of public lands and it will not be a fix for the hard economic times now faced by ranchers. What it will do, however, is deepen the fiscal crisis of the public land grazing program by plunging it into an ever-deepening deficit. If western ranchers insist on supporting this bill and the additional costs associated with it, they should be prepared to pay the price.

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. Mr. President, I move to table the Bumpers amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico to lay on the table the amendment, as modified, of the Senator from Arkansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—52

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brown
Bryan
Burns
Campbell
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Daschle
Dole
Domenici
Dorgan
Faircloth
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Grassley
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Shelby
Simpson
Stevens
Thomas
Thurmond

NAYS—47

Akaka
Biden
Boxer
Bradley
Bumpers
Byrd
Chafee
Cohen
DeWine
Dodd
Exon
Feingold
Glenn
Graham
Gregg
Harkin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Roth
Santorum
Sarbanes
Simon
Smith
Snowe
Specter
Thompson
Warner
Wellstone
Wyden

NOT VOTING—1

Kerrey

So the motion to lay on the table the amendment (No. 3556), as modified, was agreed to.

VOL
142
PT
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MR
21
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29
1996
UMI

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent Amy Lueders, a congressional fellow, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. I also ask unanimous consent that Philip Kosmacki, who is a fellow in Senator WELLSTONE's office, be granted the privilege of the floor for the remainder of the debate and voting on S. 1459.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, Senator BINGAMAN is to be recognized for an amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. Might I say, from the Republican side, there are no time limitations on this amendment. I do not believe we want to speak a long time on it. There are a lot of Senators who would like to get some votes behind them here today. I am going to do everything I can to accommodate, without jeopardizing Senator BINGAMAN and those who support him having their opportunities to speak on the floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 3559 TO AMENDMENT NO. 3555

(Purpose: An amendment in the nature of a substitute to the Domenici substitute to S. 1459, the Public Rangelands Improvement Act of 1995)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] for himself, Mr. DORGAN, Mr. REID, Mr. BRYAN, and Mr. DASCHLE, proposes an amendment numbered 3559 to amendment No. 3555.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BINGAMAN. Mr. President, this is a substitute amendment I am offering on behalf of myself, Senator DORGAN, Senator REID, Senator BRYAN, and Senator DASCHLE. I know there will be at least three other Senators who wish to speak in favor of this substitute.

Mr. President, there are some basic differences between the bill as proposed, Senate bill 1459, and the substitute that I have just sent to the desk and which we are going to vote on here at some point. Senate bill 1459 deals with BLM land and Forest Service land.

Let me just say generally what I believe it does in regard to each of those. On BLM land, it repeals all the existing regulations the Department of the Interior has in place with regard to grazing on BLM land. It would also put in statutory form a significant amount of the policy that has previously been handled by regulation in the Department of the Interior with regard to BLM land, grazing on BLM land.

Then it states that with regard to any subject that is not covered by this new statute, Senate bill 1459, it would reinstate the old regulations which were developed during James Watts' administration in the early 1980's and which have been in place since that time. So that is what it does on BLM land.

On Forest Service land, it changes the statutory law that the Forest Service has operated under for grazing in our national forests for at least 60 years. It changes it in a way that, in my view at least, encourages more use of the national forest for grazing rather than less use of the national forest for grazing. That is the underlying bill, Senate bill 1459.

The substitute I and my colleagues have offered here has a very different purpose. Its purpose is to identify the portions of the new BLM regulations that have raised legitimate concerns among people who are affected by them, and it proposes that we legislate new statutory policy in those areas. The goal of the amendment is to ensure that the public maintains adequate input into the process of policymaking on our public lands, ensure that land managers have adequate authority to maintain the health of our public lands and, of course, maintain the use of our public lands for all of our citizens.

The substitute that I want to address here works to accomplish these goals. I believe it will provide real stability for permittees and lessees as well. In some detail, I would like to describe, first, what the substitute does and then some of the things that it clearly does not do.

First of all, what the substitute does. I have a chart here, Mr. President, that tries to identify the key policy changes contained in this substitute and the issues we have tried to address. As I said before, what we have tried to do is listen to the concerns of people who are permittees and lessees, listen to the concerns of others who have need to use the land or desire to use the public land, and put in statute those things we believe need to be statutorily provided for because they are not adequately covered by existing regulations.

We otherwise leave in place the existing regulations on the BLM land, and, of course, we do not apply most of this bill—all but three provisions of this bill do not apply to the Forest Service. We allow the Forest Service to continue to administer the lands under the existing law that they have in place.

The first thing we have changed is that we provided that "interested publics," as described in the existing regulations of the Department of the Interior, are replaced by a definition of "affected interests." Now, what does this mean?

One of the complaints we heard from ranchers about these new Department of the Interior regulations was that those regulations expanded the group of people who were entitled to be consulted or notified about grazing decisions. The old regulations provided that, in order to be notified, you had to be a so-called affected interest, as determined by the Bureau of Land Management.

Under the new regulations, anyone who is part of the interested public—that is the phrase that is used in the new regulations; the "interested public"—anyone who is part of the interested public has a right to be notified.

In our view, this was a legitimate concern by ranchers. They did not believe that anybody who just had an interest should be given equal standing to be notified. What we have done in this substitute is return to the old language in the old regulation instead of the broader definition of an "interested public." We believe that that is an appropriate change in the law that responds to a legitimate concern that was raised and brought to our attention.

The second item here is regarding NEPA, the National Environmental Policy Act. A concern was raised, again by permittees and lessees, that the application of NEPA had become so pervasive by the land management agencies that many of the actions and decisions which the permittees and, in fact, the agencies considered to be fairly routine and not posing any threat to the environment, they were being required to go through long procedures under NEPA, and it was slowing down the process of getting a response from the agencies.

Let me point out that this is not something you can blame on Secretary Babbitt. There is a lot of criticism of Secretary Babbitt from many corners here in this debate. But he cannot be blamed for this. Neither can Dan Glickman, our Secretary of Agriculture. This requirement that applies NEPA to all of these different activities applied before those two individuals ever came into office. It is not the result of regulations that have been adopted; it is the result of the law that we in the Congress passed.

The question is, how do we deal with the problem? Senate bill 1459 tries to deal with the problem of NEPA application to all of these routine activities by essentially saying that NEPA only applies in the preparation of a land use plan and saying that, after that, any action or decision related to grazing is not covered by NEPA and therefore NEPA does not have to be complied with with regard to those other items.

In our view, that exemption is too broad. We propose a much more limited exception for NEPA. We say that renewal and transfer of grazing permits, and only the renewal and transfer of grazing permits or leases, can be done without complying with NEPA; that that can only happen where it is determined by the Secretary that the renewal or transfer will not involve significant changes in management practice or use and that significant environmental damage is not occurring or imminent. But where he can determine there is no significant change in management practice or use and no significant damage is imminent, then clearly he can go ahead and renew a lease or transfer a lease or a permit without complying with NEPA.

We have done one other thing, Mr. President, with regard to NEPA. That is, we have included in the substitute a provision that directs both the head of the BLM and the head of the Forest Service to prepare a list of NEPA so-called categorical exclusions for nonsignificant grazing activities. The effect of having categorical exclusions for nonsignificant grazing activities will be to expedite the process. This is not a new loophole or a change in NEPA; it is a clear congressional direction that they should, under NEPA as it now exists, go ahead and use these categorical exclusions.

In our view, this is a much more limited and targeted way to deal with the problem of routine concerns that are not involving significant damage to the environment. It addresses the specific problem. It does not blow a major hole in the application of NEPA to everything that relates to grazing except that at the land-use-plan level.

The next item I want to mention is that in our substitute we reinstate grazing advisory boards. Again, Mr. President, this is a change in the existing regulations. The new regulations that were adopted this last year eliminated grazing advisory boards. They became, essentially, defunct. They had not been appointed, and the Secretary did not reestablish those in the new regulations. We have done what I believe the underlying bill does, and that is to provide for the reestablishment of these grazing advisory boards.

In my view, it is appropriate to do so because they would provide a significant forum that ranchers, permittees, and lessees could use to have input. Half of the membership is to be made up of permittees and lessees, and half to be made up of other local individuals chosen by the Secretary.

Another change that we have adopted in this substitute, another provision, is that we do adopt the grazing fee formula that is in S. 1459, but we have put in a stabilizing provision. We have put in a minimum fee of $1.50 per animal unit month. This would involve some slight increase from $1.35, which is what the formula now results in, to $1.50 per month. Then the fee would go ahead and be whatever fee was higher than that, if the new fee that Senator DOMENICI devised would call for that.

Quite frankly, I do not know if that is the exact right level of the fee. I do not think that the main issue here is how much money can be obtained from people for use of this land. I think that is a very secondary issue. The main issue here is what laws do we put in place to preserve the health of the rangeland.

The next provision deals with indirect control. The indirect control provision is removed from the affiliate provisions. This is a fairly arcane item. The concern here is that looking at renewals, permittees were being held accountable for actions of people who were not under their control. That was the concern that was brought to us.

To the extent that problem exists, we have corrected it in our substitute. The new regulations that are in place can look at actions of persons under the indirect control of the permittee. Our substitute bill makes it clear that the BLM could only consider the actions of the permittee and persons under that permittee's direct control in deciding whether or not to renew that lease or that permit. That is a very small item that was called to our attention and seemed legitimate.

The next item is the surcharge exemption. In cases where subleasing is occurring, the new regulations provide an exemption from any surcharge only for sons and daughters of the permittee or the lessee. We heard the complaint from permittees and lessees that that was too narrow a provision, that there should be an exemption from surcharges for other immediate family members, as well. So we have put a provision in saying that the surcharge exemption should be expanded to include a spouse, a child, or a grandchild. Again, we have proposed a specific solution to a specific concern that was drawn to our attention or brought to our attention.

The next item on our list is for fallback standards and guidelines. The substitute that we are proposing does not require any minimum national standard or guideline. Instead, the Secretary, in consultation with the resource advisory councils, the grazing advisory boards, appropriate State and local government and educational institutions, and after providing an opportunity for public participation, will establish statewide or regional standards and guidelines. We believe that is more acceptable to many of the people involved. That seemed like a reasonable resolution of that problem from our perspective.

The final item I have is the resource advisory councils and the grazing advisory boards are to be involved in developing criteria and standards for conservation use and temporary nonuse. Our substitute expressly provides for conservation use. That is a major difference between our bill and the underlying bill.

The resource advisory councils and grazing advisory boards should be consulted when the Secretary develops criteria and standards. Conservation use can be conducted if the agency approves the use, because it is necessary to promote rangeland resource protection, and the use is consistent with the land use plan. A permittee under our proposal does not need to be engaged in the livestock business to practice conservation use.

When I spoke yesterday about the underlying bill and read the letter from the Nature Conservancy where they expressed their concern about this in the underlying bill, the substitute makes it clear that they do not need to pass a test, a threshold test, of being in the livestock business in order to attain a permit and engage in conservation use.

Now, what we have done is to leave the decision to the land management agency as to whether or not to permit or to allow a permit to be transferred to a person who wants to use it for a conservation use. In my view, that discretion is appropriate. It is important this issue is resolved both for the permittees and the lessees who reside in our States.

The underlying bill authorizes coordinated resource management agreements which could be, presumably, used for conservation purposes. It appears that under the underlying bill, a rancher could agree to enter into a conservation agreement with other groups, but those groups—groups such as the Nature Conservancy—cannot by themselves hold a permit and enter into a conservation use. We try to correct that problem.

Mr. President, this is a fairly good description or a fairly complete description of what is in our bill and a summary of the problems that were brought to our attention as a result of the new regulations of the Department of the Interior. We did solicit concerns from permittees and lessees and others who had problems. With the exception of these provisions, we do allow those regulations to remain in place.

VOL 142 PT 5 MR 21—29 1996 UMI

We had several speeches on the floor yesterday about how both the Department of the Interior through BLM and the Department of Agriculture through the Forest Service were, in the view of some, trying to run the ranchers off the land; they were trying to end this way of life that the cowboy has had historically in the West. I have heard those speeches, Mr. President. I have heard them now for several years. I just need to say for all my colleagues to hear that I do not think that reflects the reality that I see in my home State.

I do not dispute that there have been instances where one or both of those agencies have overstepped, or where permittees and lessees have been unfairly treated, but I also do not dispute that there are some provisions in the existing regulations of the Department of Interior that should be changed. We have tried to change those in this proposed substitute.

I want all of my colleagues to know that what we are trying to do in the substitute is to correct specific problems that have been pointed out to us. We are not trying to create new problems. It is a very difficult balance that is required between those who graze on the land and those who want to use the land for other purposes. I believe the agencies themselves have been trying to find that balance, sometimes ineffectively, but they have been trying to.

I believe Senate bill 1459 will bring imbalance to this relationship. For that reason, I do not support it. I think our substitute is preferable. I will briefly recite the concerns I have with S. 1459 later in the debate, Mr. President.

I see I have a colleague here from North Dakota anxious to speak. I yield the floor.

Mr. DORGAN. Mr. President, I commend the Senator from New Mexico, [Senator BINGAMAN]. I want to follow his statement with some observations of my own about the substitute that he offers with myself and others today on this issue.

I view this issue not only from a national perspective, but also, especially, from the perspective of western North Dakota. That is where I was raised, where I grew up. It includes the grasslands and badlands and a lot of wonderful territory. I have, when I was younger, ridden a horse with my father through most of the badlands and much of western North Dakota. I have spent a lot of time on horseback, riding across those wonderful tracts of land. I do not have any interest, in any way, in injuring the scenic value, in interrupting the multiple use, or in preventing the American public, who owns much of this land in western North Dakota, from having full access to and full use of the land.

But I also know from having been there, especially when I was younger with my father, and since then as a public official, I have been there visiting ranches and going to meetings with ranchers and others. I also know there are a lot of people who live out in western North Dakota, who make their living out on a family ranch, who invest a little money, maybe raise some cattle, do not quite know what the price will be when they get to the point where they are going to sell cattle. They have an enormous risk. They rent some land to graze on. They pay a grazing fee to the Federal Government and run some cattle on that land. Most of them have an interest in treating that land well. They understand that stewardship. Most of them are environmentalists, in my judgment. Most of them care about wildlife and care about the shape that land is in.

I thought it would be interesting to read for my colleagues a letter from Merle Jost, from Grassy Butte, ND, because there is a lot of hyperbole about these issues. People stand up and wave their arms and talk about the Bingaman substitute, the Domenici bill, or this or that, or the other approach will destroy wildlife, destroy hunting, destroy the scenic beauty. I have heard all of these things. I have some feelings about what we ought to do and ought not to do today. But I want to say to you that on behalf of a lot of people out in my part of the country, who are trying to make a living and do a good job and be good stewards of the land, they also care about the same things that many of us care about in here, that stand up and talk about wildlife. Here is a letter from Merle Jost:

> As I write this letter, the deer are sneaking into the bird feeder—guess I'll have to put out more sunflower seeds.
>
> There goes another bunch—after the pheasant food—more of that. There goes a flock of sharptales—to dine on my oat bales.
>
> The antelope are in the alfalfa field again. Oh, well, spring coming; they will soon scatter. My neighbor to the north is feeding 200 turkeys these days. He deserves a medal—turkeys are hell.
>
> My neighbor to the east has 30 deer a night—eating ground feed out of his augers.

I see a lot of press conferences screaming about ranchers wrecking this and that or destroying this and that. He said, "We support wildlife." He is right. Anybody that knows much about ranching could exist with the wildlife in western North Dakota. This is an issue for a lot of people, an issue for ranchers. It is an issue for people who also want to use that public land for hiking, for hunting, for a whole range of issues. That land will be, and ought to be, open to multiple uses.

We are here because, especially in my part of the country, ranchers who are involved in the use of that land for grazing purposes—that is one of the uses—have had some difficulty with respect to the management of that land. Let me give you an example. One permittee, the McKenzie County Grazing Association, has been denied a permit for a dozen years to construct a crossfence along a pipeline corridor in this allotment. He was going to construct it at his expense. A dozen years, no permit. The Forest Service agrees that the fence would improve the range conditions. But only now, after pressure from the association, are they going through the scoping process.

Another permittee is unable to construct a water pipeline into a crested wheat-grass area, which the Forest Service also agrees would result in better range conditions. Why? Because, after 3½ years, the Forest Service has not been able to do a biological survey. It is not that somebody says it is not a good idea. It is a good idea and ought to be done. But the landlord is not able to do the survey, does not have the money, does not, apparently, have the will, or is not interested in the speed to do a survey. So 3½ years later, something that probably ought to be done, and will be done at the expense of the rancher on public lands, is not even started. Ranchers say, "Wait a second, why can we not get answers and have better stewardship on the part of the managers of this land?" It is a reasonable request.

When those of us who evaluate these things look over these kinds of complaints—I have concluded that we ought to respond to them. There ought to be a better management scheme and management system on these public lands so that in those areas where we have grazing use, those who are grazing these lands, if they need to have a water pipe come in, or have a water tank moved, or construct a fence someplace, you ought not have to wait 18 months or 12 years for answers about that. That is what this is about. It is not about anything more than that.

I have seen editorials in the last couple of days that talk about this is a land grab, and that this is giving public property to the ranchers, this is turning the keys over to the ranchers, it is trying to disrupt multiple use, and it means turning our back on wildlife. That is not the case.

Now, we have before us a couple of choices today. One is the Bingaman-Dorgan substitute, which we now offer on the floor of the Senate. The other is the underlying Domenici bill. Let me say this about the Domenici bill. It has changed some, and I think along the way it has been improved some. I think it could be and should be improved more. But the fact is, it has moved. This has been a process over a series of months where there have been a series of changes. The Bingaman substitute, which we offer, I think, is a better solution. They are, in fact, almost identical with respect to title II. The substantial differences in the substitute are in title I. Let me go through a couple of points with respect to the substitute and why I think it is a better approach.

First of all, it is a better way to construct law. It is a shorter piece of legislation. The Domenici bill started with the proposition they were going to—I said in the committee that the Domenici bill is really a letter to Secretary Babbitt. There is a better way to write to him than to write 95 pages of codifications of regulations. I do not think you ought to codify regulations in law. I respect the fact that there are some problems with the Babbitt regulations. What Senator BINGAMAN and I are trying to do is determine, with the ranchers and others, what are the problems, and then address the solutions to the problem. That is the best way to legislate. That is what the substitute does.

We, I think, come to a better conclusion and a more appropriate conclusion on the issue of public participation. These are, and will be, multiple-use lands. Hunters have a right to these lands; hikers have a right to these lands; and a myriad of other users have a right to these properties, and that will remain the circumstances under the legislation we have proposed. They will remain in a situation where they will have access to these decisions, and they will be consulted as affected interests on the major decisions, and the significant decisions about the use of these lands.

We also recognize that we are addressing some language in this legislation to respond to real problems ranchers face. We do this, as Senator BINGAMAN said appropriately, in a manner designed to solve problems, not create new problems. I think that our approach is an approach that addresses legitimately the problems that ranchers have described to us—and they are real problems—but doing it in a way that does not cause additional problems and does not diminish the opportunities of other multiple users to use this property.

One of the issues that we were at odds about, which was never resolved in a whole series of negotiations we had, was the issue of conservation use. I firmly believe that conservation use ought to be available. If an organization such as The Nature Conservancy wants to have a permit on 500 acres in North Dakota for its own reasons and has decided it does not want to graze cattle on that, I think that ought to be allowed. It is explicitly prohibited in the underlying Domenici substitute. That is one of the areas we were simply never able to resolve.

Would I want there to be a circumstance where someone came in and said they were going to take all of that grassland in western North Dakota and make it conservation use and graze nothing on it? No, I would not want that. The fact is that too much of western North Dakota is already becoming a wilderness area without a designation because too many people are leaving. We need more people coming to our part of the country. My home county, which is in western North Dakota, has lost 20 percent of its population in the last 15 years.

So, would I think it is appropriate for us to have a circumstance where an organization comes in and tries to buy it all up and says, "By the way, we bought it for the purpose of deciding not to graze it"? No; I would not support that. But do I, on the other hand, believe that we ought to expressly prohibit someone from taking a small tract of land for the purpose of trying to nurture some specific kind of wildlife and then say to them that they cannot get a permit and decide not to graze that? I do not think that is appropriate either. We have had circumstances, even in our State, where it has been to the benefit of all of the surrounding ranchers that a conservation use on a small acreage has helped all of the other surrounding ranchers who are grazing other acreage, with respect to wildlife production.

So I think the expressed prohibition in the Domenici bill is inadvisable.

In the substitute that Senator BINGAMAN and I have offered, in title II, we incorporate a portion of title I which deals with a conditional NEPA exemption for permit renewal and transfers. We think that makes sense. We think what you ought to do is invoke NEPA when you have significant actions. We think that when you have insignificant actions, such as a permit transfer renewal, which is not a significant action and which would not affect the condition or circumstances of that land, we think that NEPA should not be traded.

So those are the kinds of things that we have included in this substitute. I have mentioned three of them. But there are about 10 that make this substitute a much more advisable piece of legislation for this Senate to enact.

I feel very strongly that the kinds of things we have done in this substitute are the kinds of initiatives that are designed to address the problems that have been brought to us by ranchers, but to address the problems in a way that does not cause other problems or does not restrict in any unfair way others who want access to and have every right to have access to this property.

Let me conclude, without going through all of the details of the substitute because I think Senator BINGAMAN has done an excellent job of that, by ending where I began.

I would not come to the floor of the Senate supporting any initiative under any condition if I felt it was an attempt by anybody to grab land for one specific interest in western North Dakota. These lands are owned by the public. The public has a right for multiple use of these properties. That right shall remain. But I also understand, having grown up there, that this land has been populated for many, many years by a lot of families out there struggling to make a living raising cattle. One use of this land has been grazing, and the circumstances under which this land has been managed have in some cases been acceptable but in other cases been deficient. Both of us, Senator BINGAMAN and I, as well as Senator DOMENICI, are offering initiatives today to say we would like to address those problems. We address them in different ways. I think ours is preferable to Senator DOMENICI's. I say that, at the end of the day, I hope the Senate will have spoken in a way that says these are real problems, here is a solution that is appropriate and is a satisfactory solution that solves the problems without creating additional problems.

Mr. President, with that, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The distinguished Senator from New Mexico is recognized.

Mr. DOMENICI. Might I ask Senator BINGAMAN if he has any idea of how many more speakers he might have?

Mr. BINGAMAN. Mr. President, in response, I know that Senator DASCHLE wanted to speak for a very short period, and I know that Senator REID asked to be allowed to speak for up to 45 minutes. Senator REID had a meeting at 3, and he will get here as quickly as he can. We just sent word to see if Senator DASCHLE is able to speak now.

Those are the only two that I am aware of that want to speak. There may be others.

Mr. DOMENICI. Did the Senator indicate that Senator DASCHLE would like to speak now?

Mr. BINGAMAN. I indicated that we are trying to check to see when he wants to speak.

Mr. DOMENICI. We do not need very much time at this point.

Does the Senator from Idaho want to speak to the water issue? Could he take a short amount of time in his succinct way to address this important issue?

Mr. CRAIG. No more than 5 minutes.

Mr. DOMENICI. I yield 5 minutes to the distinguished Senator, Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. I thank my colleague for yielding.

Mr. President, I will be succinct. But I do think that we have a great concern about Senator BINGAMAN's substitute and how he deals with water. It is very clear in our legislation that the States have primacy in all water issues and that the Federal Government must comply with State water law. We know that Congress after Congress has affirmed this very position. In the Democrat substitute that Senator BINGAMAN has offered, it declares that new water rights shall be acquired, perfected, maintained, and administered in connection with all livestock grazing in accordance with State law.

VOL
142
PT
5
MR
21
—
29
1996
UMI

The key word here is "new" water rights. The Democrat substitute makes no provision against the extortion of water rights as a condition to grant a grazing permit or leased range improvements, cooperative agreements, or range improvement permits as provided in the Republican substitute, nor does the Democrat substitute require that the Secretary follow State law with regard to water rights ownership and appropriation as provided in the Republican substitute. Both substitutes protect valid existing water rights, but the operative word here is "new." Let me repeat, "new" water rights.

What about all water rights? What about existing water rights? Does anyone seriously believe that this Secretary of the Interior, who I think helped write this legislation, is not concerned about water and trying to grab back as much water as he can off the lands where valid and existing water rights have already existed?

In the 1995 appropriation act, the Secretary of the Interior tried directly to assert Federal ownership and control over all water rights on Federal lands. This time he plans to do it indirectly through this kind of legislation by talking about dealing only with new water rights and leaving it up to his solicitor to interpret the language of excluding all existing water rights.

Mr. President, this is a concern that I hope, if my interpretation of it is wrong, the Senator from New Mexico, the junior Senator, will correct. We know where Secretary Babbitt is. He is very clear, and he has even sidestepped NEPA and the ESA to stage a media event with his friends and special interests in the Grand Canyon with an artificial flood event that could jeopardize important ruins, threaten endangered species, and jeopardize blue ribbon trout fisheries.

I say this in all sincerity. I hope that the junior Senator from New Mexico could clarify for me because it is very important that we stay within State law on this water issue; that we stay with "existing and new water rights." I believe his legislation speaks only to "new," and that must be clarified. I hope he can do that.

I yield back the remainder of my time.

Mr. BINGAMAN. Mr. President, let me just respond to the questions because I think what has been raised is a classic red herring. In the West, many more people have been killed for water than for infidelity to their spouse, and I think this is obviously a hot button issue. We have provided as explicitly and as clearly as we can understand the English language that valid existing water rights are protected. We say on page 11, line 14, "Valid Existing Water Rights." That is the title of the sentence, or the section. It says, "Nothing in this title shall be construed as affecting valid existing water rights." Period.

I do not know how to make it any clearer than that.

In the previous sentence, we say, "No Federal reserved water rights." We say, "Nothing in this title shall be construed as creating an express or implied reservation of water rights in the United States."

So we have covered the exact concern that the Senator from Idaho is raising.

In the previous sentence we say:

> New water rights shall be acquired, perfected, maintained, or administered in connection with livestock grazing on public lands in accordance with State law.

That is appropriate. Clearly that is what we intended the law to be. And we have covered valid existing rights in section (c) of that same section. I do not understand what the issue can be. If there is a more plain-English way to say that valid existing water rights are not affected than to say "nothing in this title shall be construed as affecting valid existing water rights," I would like to hear it.

Mr. CRAIG. Will the Senator yield?

Mr. BINGAMAN. I am glad to yield.

Mr. CRAIG. If the Senator had said "all" water rights, I would agree with him. The Senator did not. His amendment explicitly singles out "new" water rights. It is very important that we have that understood for the record, and it is important, I think, if we are to protect these State rights and individual rights, that language comply with the bill of the senior Senator from New Mexico because it clearly sets out that whole issue.

Is there a reason for a singling out of "new" versus the interpretation of, and excluding all existing rights?

Mr. BINGAMAN. Mr. President, what I said before was that we have the section, section 112, broken down into three subsections. The first section deals with new water rights. The second section deals with Federal reserved water rights. The third section deals with existing water rights. So we have covered all three. I do not understand what the problem is. We have covered existing water rights in section (c). We have covered new water rights in section (a). We have covered Federal reserved water rights in section (b). What is the problem?

Mr. CRAIG. It is this Senator's opinion that by selectively singling out "new" water rights, you leave open to opinion by a very unfriendly solicitor and by a very unfriendly State water rights Secretary this issue. I think the question must be closed or you place those water rights in jeopardy.

Mr. BINGAMAN. Obviously, differences of opinion are what makes for horse races, Mr. President, and the Senator from Idaho can believe what he will about what the language provides. I can tell him that my intent was and our intent was in drafting this language to make it crystal clear that with regard to existing water rights, with regard to new water rights, with regard to Federal reserved water rights, we were not changing the law. And that is what we say.

Mr. CRAIG. Yes. Will the Senator yield?

Mr. BINGAMAN. I am glad to yield.

Mr. CRAIG. I think the Senator has answered my question.

The Senator has argued an interpreted point of view. We can stumble around on interpretations when it comes to western water. The Senator and I must be in agreement with exactly what is said or the Solicitor of the Department of the Interior will jump squarely into that hole.

Now, I believe the language of the senior Senator from New Mexico is much clearer. It says, "No water rights on Federal lands shall be acquired, perfected, owned, controlled, maintained, administered or transferred in connection with livestock grazing permits other than in accordance with State law concerning the use and appropriation of water within the State."

The Senator and I both know that water is critical in the West and water is especially critical as it relates to the grazing on these arid public lands, and who controls that water oftentimes controls the grazing. We already know the position of this Interior Department on water. They want it. They want to control it. In 1995, the Secretary went directly at us on that. We must not allow this to be interpreted. I hope that the Senator could agree with the language that appears on page 19, section 124 under "Water Rights of the Underlying Bill, S. 1459."

Mr. BINGAMAN. Again, Mr. President, I think the Senator from Idaho is pointing out a problem that does not exist. I think we have made it very clear that with regard to existing water rights, with regard to new water rights, with regard to Federal reserved water rights, there is nothing in this bill and there is nothing intended in this bill that is to change the law with regard to it. That is exactly what we have said. That is exactly what we mean.

There is no hole for the Solicitor of the Department of the Interior to jump into. There is no ambiguity here that needs an interpretation. Nobody in the committee raised this issue. The Senator chairs the appropriate subcommittee. This was not raised. This language has remained unchanged through the markup. Nobody has raised this concern until right now on the Senate floor. I do not think it is a valid concern. That is my response.

Mr. CRAIG. Will the Senator yield for one more question?

Mr. DOMENICI. Mr. President, I will yield another minute.

The PRESIDING OFFICER. The junior Senator from New Mexico has the floor unless he yields.

Mr. BINGAMAN. I will yield the floor.

Mr. DOMENICI. I yield 1 minute to the distinguished Senator, Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. I only say to the junior Senator from New Mexico that his language was not at issue because it was not the document that makes it to the floor of the Senate coming out of the committee for the one area of the committee of jurisdiction that I was responsible for.

All I say is I believe there is a difference. I believe there is an opportunity to interpret. I think it ought to be closed, and the way that can be closed is for the Senator to accept the language in section 124 of the language of the senior Senator from New Mexico. If the Senator will do that, I then have no argument.

Mr. DOMENICI. Wait a minute. The Senator will have no argument with that provision.

Mr. CRAIG. I thank the Senator for the clarification—with that provision.

Mr. BINGAMAN. Mr. President, I respond that if we could pick up the Senator's vote for our substitute, we clearly would be willing to consider that. But I should say that our language is, in my mind, very clear and clearer than the language in the underlying bill. So I suggest that the Senator accept our language rather than we accept his.

Mr. CRAIG. Returning to my time, when you speak of no water rights, that is all. That is inclusive. And when we speak specifically of no action, no water rights unless they are in accordance with State law, you have broken it out and allowed interpretation. I know this solicitor and I know this Secretary of the Interior, and I know westerners do not trust them. And this is one Senator who does not trust them either. I do not want to give them a chance to play interpretive games with western water.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The senior Senator from New Mexico.

Mr. DOMENICI. Does the Senator from Wyoming desire a couple of minutes?

Mr. THOMAS. Just a couple of minutes.

Mr. DOMENICI. I yield 2 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, in general terms, it seems to me that what we have been doing in Congress for a year, year-and-a-half and continue to do is to try to find a way to cut through some of the kinds of regulations, maintain the effort without all of the difficulties, and one of the places—and I have worked very closely with it—is NEPA. I think we have to remember that NEPA was designed and developed as a process for major Federal action, major Federal action. That is precisely what we have done in the Domenici bill, is to hold that to major Federal action.

Now, the problem that has happened in the past, particularly with the Forest Service—we did it this year; we had to go through with some legislation—was that it was uncertain, it was uncertain, so the lawyers over at Justice and over at the Department of Agriculture said to the Department, said to the Forest Service, "Look, you have to do it. It doesn't say to in the law, but it is uncertain, and the Secretary may decide or may not decide." And that is how we ended up with all the NEPA things on grazing allotments. We have been through that the whole year long.

This substitute continues with that kind of uncertainty, and it says you do not have to do it if the Secretary does this, if the Secretary does that. We will end up right back as the subject of lawsuits.

Mr. President, that is precisely what we are trying to avoid, and the substitute puts us right back in that field where in the other one we have tried to make it clear that the NEPA requirement is there, the NEPA process is there for land use planning, the NEPA process is not there for those rather mundane, daily decisions that are made on grazing allotments and the kinds of things that in no stretch would constitute major Federal action.

That is where we are. So I just think that the whole point of this thing is to try to do away with that ambiguity. And the fact is that this substitute puts it right back there.

I do not understand what the sponsor was talking about on surcharge. There are two opportunities within the Domenici bill for subleasing. One, of course, is in the case of death or illness. The other is with a cooperative agreement, which we have had. You have to have an agreement with the agency to have subleasing. We want to continue with that. It is a very important part of grazing in our part of the country and our bill does that. This one does not talk about subleasing. It simply talks about surcharges.

So I think that moves away from what we are seeking to do. It is a matter of conservation use. There is an opportunity for conservation use. I think, though, if you are going to have a land use plan which requires grazing, which is part of the community, and part of what upholds these communities is grazing, then to say maybe you do not need to have any grazing, that you dissociate base land—we went through our map yesterday. There is a very real relationship between base land and winter feed, for wildlife or livestock, and these leases. The idea that you can come in from Cincinnati and have a lease, here, with none of the other portions that go with it, is not realistic. That does not reveal much understanding of the way these lands are interdependent.

So I think the Domenici bill, in these cases, deals both with conservation nonuse—it allows that, with an agreement with the agency—it allows for subleasing, and it deals with the surcharge. But most important of all, it clarifies this area of NEPA process.

Mr. President, I feel very strongly that the substitute simply weakens this process that we have been through for so long a time.

I yield the floor.

Mr. DOMENICI. Does the Senator desire some additional time? I will be pleased to yield 5 more minutes, because we are waiting for Senator REID. He will not be here for some time, so we are going to use up some time.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. DOMENICI. I yield 5 minutes.

Mr. THOMAS. Mr. President, I know we are talking here about the whole question of our bills. I do want to talk about how important it is that we have passage of this bill and I am pleased that, in the process of the discussion, it has been demonstrated that there is not a great deal of difference here. We have already talked about the fact that these fees do not amount to a great deal, in terms of money. But we are talking here, now, about trying to establish a long-term economy in our States. We are talking about stability in the area of grazing. We are talking about moving some of the decisions more close to the States and to the users.

Of course this is public land. I understand that. That is why we are so careful and so clear in the Domenici bill, to say this is multiple use. There can be no question about that. This question of dominant use is simply not a valid observation.

But we do need to begin to involve more closely, people who are in the area. For instance, Secretary Babbitt came out to the West all last year and the year before. We had these series of meetings. He talked to all these folks and, yet, came back with his proposal last year that was exactly the same as it was when it began.

We need to involve, for instance, land-grant colleges in the development of the policy that is involved here. We need to involve State departments of agriculture. And we are there to do that. We need to make it a situation where communities can depend upon this economy. It is one that is very important.

I think, most of all, what is not understood generally, and I know why—because it is unique to the West—is that these lands are interdependent. These are low-production lands, for the most part, these BLM lands. They do

VOL
142
PT
5
MR
21
—
29
1996
UMI

depend on winter feed. They depend on deeded land for winter feed. They depend on deeded land for water. Sometime earlier this afternoon someone was saying you could have 400 acres of base land and lease 100,000 animal units. That is not the case. You cannot do that. You have to have someplace to take care of this livestock in the wintertime.

So we are looking for some balance here. I think we have worked at this, now, for more than a year. We have made considerable accommodations. Both the Senators from New Mexico have worked at this, and I salute both of them.

We have some basic difference. One of them, I think, is bureaucracy. I think we are seeking to reduce bureaucracy. Frankly, I think the substitute increases bureaucracy. We do not need to deal with that. We need to deal with NEPA. It is there, clearly there. I am the chairman of the subcommittee that is taking a look at the NEPA process and we need to find ways to reduce some of that bureaucracy.

I met with the new supervisor of the Black Hills Forest 2 weeks ago. They are in the midst of a forest plan. He has documents higher than his desk, the things they have done.

The people on the ground are beginning to understand that we need to reduce that NEPA process. Not do away with the purpose, not do away with input, not reduce the opportunity for people to participate, but not to have that process in the minutia of the management of a grazing unit.

We also need to do something with the forest. I think the Domenici bill treats it very well. It says "substantially the same." Our folks feel very strongly about that. There is no real reason to have two unique opportunities here. We have not told them to be exactly the same. We said you should be substantially the same.

So, I think we have made a great deal of progress here. Frankly, other than the water thing, the department does not want this because they like what they have. But I can tell you they have not moved very fast on the implementation of their regulations. If we do not make some changes now, a year from now, if they are still there, Babbitt is still there, you will see a real rush to change. I believe that very strongly. Now is our opportunity to soften some of those kinds of things that we think are difficult and troublesome.

We have this opportunity. So I really feel very strongly about the efforts that we have made. We have accommodated the other side to a great extent. And now we have a few areas in which we have different views. I think the one we just talked about in water is a different view. I happen to have the idea that States rights are very important in water. We have part of that in the agriculture bill that is going on right now. The water, when you live in a State where much of the water comes from snow pack, and much of it on the forest, then you have to have some real strong State rights in water. We make some progress, we make some progress in that.

I certainly encourage my colleagues to support this bill. I think we can pass it here in a very short while. I hope we do not accept the substitute and go back into this maze of NEPA regulations that are not necessary to have the proper outcome.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to say to my good friend from Wyoming, I kind of got myself carried away for a bit, because all the previous debate was under a time limit. But we are not under one now. So, nobody has to ask for time. They just have to get the floor.

As a parliamentary inquiry, am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I want to speak for a few minutes and I want to say to anyone on the other side who arrives, who wants to speak, in the interests of an early evening I will try to cut it short when anyone arrives who wants to speak.

First, I would like to say that an awful lot has been said across this land about the National Environmental Policy Act as it applies to grazing leases. We have heard across this land those who side with the environmentalists, or those who are at least joined together in an effort to minimize the use of the public domain by the grazing community—we have heard talk about the National Environmental Policy Act as it applies to grazing as if it were the Bible for environmental protection. I mean that in both contexts of the Bible—specific and ancient. Neither is true.

The Bureau of Land Management, the entire Bureau of Land Management, does not use National Environmental Policy Act statements to control, manage, or evaluate the public domain.

Let me repeat. They do not use them. Frankly, I commend them. Just because there is a request for a National Environmental Policy Act implementation, or a NEPA statement, does not mean that it is the best, that it is even the prescribed, that it is even close to being the appropriate way to evaluate the environmental impact and the overall management, or land use as it pertains to managing a permit. The reason is because nobody had in mind when they drew up NEPA that we would even consider applying NEPA to a grazing permit and its renewal.

I say that because I have read the early history, and I cannot find anything in it that refers to such. Mr. President, do you know what it says? It says, if there is a major Federal action, then NEPA applies.

I cannot believe that with thousands upon thousands of grazing permits that anyone really believed that every time one of those was going to be renewed that it was a major Federal action. Again, the Bureau of Land Management does not use them. Frankly, the reason was precisely stated on the record at a hearing. No. 1, they are not very good for this kind of evaluation. No. 2, they are very, very expensive, anywhere from $50,000 to $1 million. And No. 3, they are very, very time consuming, anywhere from a quick turnaround of 6 months to a year and a half.

Frankly, accolades to the Bureau of Land Management for saying that does not even apply to grazing permits on the public domain lands.

How many times has it been written across this land by those who oppose the Domenici bill that you are taking away environmental protection because you are abolishing and abandoning NEPA? Let me repeat, NEPA does not apply today to the issuance of Bureau of Land Management grazing permits, and I have just told you why, because there is nothing magical about it being the only evaluating tool around to determine whether a 50,000-acre grazing permit in a State which might have 20 million acres or 30 million acres—there is nobody saying that is a major Federal action.

Let us move over to the other part of the public lands, the Forest Service. The best that can be said about NEPA and the Forest Service is that there has been a gradual movement in this administration in the last 3 years to use NEPA on public lands of the Forest Service where grazing is involved. It was used sparingly for the very reasons I just stated. But there are those who want no grazing on the public domain. They have had mottos to speak of how long cattle can be on the public domain. "Cattle free in '93" was a cry not too many years ago. I am glad they have not won yet, but we have been moving in that direction.

That kind of entity will begin filing lawsuits against the Forest Service, and sure enough, we will get some court someplace that will interpret this to mean NEPA applies to even the renewal of a grazing permit, and then they will come and tell us that is the law.

The law is what Congress says is the law. We are asking Congress in this bill to make sure the Bureau of Land Management's policy remains intact. We are also asking that with reference to the Forest Service and the Bureau of Land Management that there be one major use for NEPA, and it is big and it is important, and it is appropriate in its full implementation.

NEPA will be applied to the Forest Service and the BLM when the land use plan is developed for a national forest that is being reviewed for all of the various competing uses. A full environmental impact statement will be obtained; all the citizens will be involved. As the plan is put together, there will be rights to go to court, to litigate. But we contend in this bill, contrary to what my friend, Senator BINGAMAN, provides, we provide that beyond that, you use other tools to evaluate, not NEPA. I do not think that is antienvironment.

Senator BINGAMAN chooses to say there may be other cases. It is left up to the discretion of the Secretary. Frankly, I do not want to do that. This whole problem is before the Senate because of this Secretary of the Interior. That is why we are here, because Secretary Bruce Babbitt declared a war on the ranchers and decided that he would go all one way. How am I going to sit here with the understanding that he might be around for a while and give him the authority to determine when we are going to use environmental impact statements on the public domain when we have a bill right here before us? This is the place to decide it. We determine the law. I do not believe we should open that approach to the thousands of permits on the public domain. It is not the right tool.

Because I am standing here saying that does not mean for one second that I am for degrading the public domain. I am saying that a NEPA statement can be used for long delays, for reasons never intended by the act and, in particular, by those who would like to see ranching off the public domain. I do not want to sit here and hide under a tent and say that does not exist, because it does.

But I want to make one more point, one more time. The environmental impact statement approach to assessment is not currently being used on the BLM land day by day for issuances or renewals, and it is being used sparingly by the Forest Service. If there ever was a time when we had an opportunity to take a look at this, it is right now. Let us see how we really ought to apply it and how it ought to be done.

Frankly, I am so tired of having people interpret the bill that I have written and write reports and use this famous word "may." "It may have an impact." They do not tell you it will. That last report by the Congressional Research Service, if you read it, they have about six or eight mays—m-a-y. They do not say it will, they say it may.

I would like to say, as I read my friend and colleague's bill, I can find a lot of "mays" that I am sure he did not intend. But if I sent it over to the Congressional Research Service and said, "You look at it my way," they will say, "Maybe it does the following and maybe it does the following."

For instance, in our bill, we unequivocally state that nothing in this legislation shall change the rights, privileges and all the other things that you talk about for hunting and fishing. We put it in because we kept getting bombarded that we were trying to take away fishing rights and hunting rights. I might say that provision is not in the bill you produced, the bill before the Senate. It may be that since that provision is not in there, there may be a serious negative effect against trout fishing and hunting under the BINGAMAN substitute.

I hope everybody is listening carefully to what I am saying, because that is the way the underlying bill we have before us has been treated more times than not. I can go through and cite a number of others. The substitute before us does not iterate or reiterate that multiple use is the order of the day, if I understand from the staff who have read it. It does not say that.

Senator BINGAMAN would say, I am sure, it does not have to be in there. I would say, like some of those who have reported on the Domenici-Craig bill, "Well, since it isn't in there, it may be intended to have a negative impact on multiple use."

I am not suggesting Senator BINGAMAN intended that. But neither do I believe others ought to insinuate that our bill does that when they have some difference of opinion, or when they approach the interpretation from a position that I do not have.

I do not intend to go through Senator BINGAMAN's bill in detail. But I want to say one more time—and perhaps a better way than yesterday; and it is good that the distinguished Senator from Rhode Island is in the Chamber because I have talked to him about this issue for a number of times—let me say to the U.S. Senate, sometimes we come to the floor and talk politics and sometimes we exaggerate our position and sometimes we state or understate, depending upon how the debate proceeds, but this Senator, from the State of New Mexico, one of the most beautiful States in America, this Senator who has seen more wilderness created in New Mexico under bills that I have introduced than any in history, I do not intend to spoil the public domain nor to turn it over to one of the myriad of multiple users.

If I thought for a minute that the bill I have before the U.S. Senate was calculated to make the public domain worse or to degrade it, or to take away the power of the Forest Service managers and the BLM managers, I would tell everybody to vote against it today. I am not here for that reason. I am here simply because I am convinced that multiple use can be made to work. It is the law of the land. I think it should continue to be. But I do not believe ranching can continue under the regulations established by Secretary of the Interior Bruce Babbitt.

I believe if those stay in effect there will be no more ranching. For those who would say, wait a minute, Senator, it has been in effect for 6 months, well they are written such that none of the impact will occur for a long time. If the Secretary has time to implement them, he will not implement them until after the election. I do not say that very often. But I believe that from the very soul of myself that this Secretary made a mistake when he adopted the so-called "Babbitt Rangeland Reform '94 regulations." If I were a poet I would phrase something about that.

Anyway, we are going to do away with Secretary Bruce Babbitt's set of regulations and substitute some that we think will manage the range properly, and do three very important things—stabilize the public domain from the standpoint of the ranching community so that they are not on a constant roller coaster depending upon the administration, depending upon the regulator, depending upon who gets them into court under some lawsuit.

We will try to stabilize it at a level and we will see, once and for all, can ranching as a way of life exist in the public domain in America? This may be a debate about whether you want to have any more cowboys out in the West that are true, or whether you want them all to come from Hollywood. This may be the debate. There will be plenty of it in Hollywood because it is a fantastic culture. The lifestyle is tremendous.

I did not come from that lifestyle. I did not know anything about it when I became a Senator. In fact, I was from a place where you could be city folk in the State of New Mexico; that was Albuquerque. Anywhere else, because the towns are all smaller, I probably would have been somewhat associated with ranching. I was not, but I have been since then.

I believe we ought to stabilize that environment without jeopardizing the other multiple users. I think there is a chance of doing that. The only thing that stands in the way is a vote here in the Senate and a pen in the hand of the President of the United States. He will have the last shot when we get this bill through here. I hope we can get this accomplished.

My third point is, that for those who insist that the ranching community are abusers of the public domain, that the community is not a conservation community, for those who insist that they are the ones who will ruin the range and the other people will preserve the range, that they are the ones against wild animals and habitat, let me suggest they are the best conservationists around. Let me suggest, but for their actions, habitat would disappear in many areas of America. Not just a little bit, but in a manifold manner it would start disappearing.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Those who live and work on the land provide the water, they provide the management, and yes, a few riparian areas have been overgrazed because of the water being short in other areas, but most ranchers take as good a care of the resources as they possibly can. So I am here because I have confidence that this system will work, but I do not have one bit of confidence that multiple use will be preserved with equanimity and fairness for all to use if we leave the Babbitt regulations in place. It is just that simple.

I commend my friend, Senator BINGAMAN, my cohort from New Mexico, because to some extent he agrees. He does not come before the Senate saying we want to leave every one of Secretary Bruce Babbitt's regulations in place. He has selectively decided some of them must go. I believe our bill is fairer for the ranching community and is more apt to add stability to the range and protect the other users.

So this may be the last word I have on this. I would not have spoken this long if there were Members on the other side ready to speak. I see Senator BRYAN is here. I yield the floor, and I thank the Senate for listening.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair, and I thank my friend, the distinguished senior Senator from New Mexico, for yielding the floor.

Mr. President, most of those who are privileged to represent the West on both sides of the political divide recognize that we need to enact responsible grazing legislation that balances the concerns of the livestock industry with the concerns of the conservation community. It is in seeking that illusive goal of balance that we find ourselves operating from a slightly different approach.

In my view, notwithstanding the best efforts of the distinguished senior Senator from New Mexico, his bill fails to achieve that balance and, in my view, would seriously threaten the multiple-use concept which has governed public land policy for decades. It is for that reason that I rise this afternoon to support the substitute amendment offered by the distinguished junior Senator from New Mexico, which I believe represents a preferred course of action. The Bingaman substitute is a thoughtful, balanced approach to correct what is wrong with the current grazing regulations.

Let me just also note for the RECORD, Mr. President, that each summer on the occasion of our recess I spend most of that recess traveling throughout rural Nevada. Today Nevada, paradoxically, is the fastest growing State in the country, although 87 percent of the total land area is under Federal jurisdiction. It is also one of the most urban States in the country, with most of the population located in the metropolitan Las Vegas area, which today exceeds 1 million people, and in northern Nevada in the so-called Truckee Meadows, embracing Reno-Sparks. One might logically say it extends to Carson City and Douglas County, that they are as well in a metropolitan area.

Although rural Nevada represents a small part of the population, I have been concerned, since the time I first assumed statewide office in 1979 as attorney general, with the concerns of those good people who choose, as our colleague and friend, Senator DOMENICI, points out, a lifestyle which has been part of the heritage of the West and part of the heritage of our State.

Their concerns are legitimate. They are good people. They work hard. They want to protect a livelihood and a lifestyle which is terribly important to them. It is for that reason, Mr. President, for the last 6 months I have been a participant in a bipartisan group of western Senators and their staffs in an effort to reach a consensus on grazing legislation.

Notwithstanding the hours of effort made on both sides of the political aisle, it is my view the negotiations failed because of the approach insisted upon by the distinguished senior Senator from New Mexico, that is, his insistence on using S. 1459, his bill, as a baseline for discussions. Because of that methodology or that approach, which sought to codify a series of old grazing regulations, superimposing a new series of regulations and statutory provisions as well, it became very difficult to modify his bill, and ultimately we failed to achieve a consensus in working out an issue which we all share a legitimate interest in resolving.

I would note that some improvements were made to the Domenici bill, as a result of our discussions. But I have never been of the view that Congress should micromanage grazing policy to the extent that is provided for in the Domenici bill. For example, the bill limits public participation in grazing decisions by listing seven arbitrary instances in which an "affected interest"—those are words of art—occur and individuals are entitled to be notified of a proposed grazing decision. It denies the public the opportunity to protest a grazing decision; it exempts on-the-ground grazing management decisions from the National Environment Policy Act; and finally, it does not target specific, troublesome regulations for repeal, rather, it contains a blanket repeal of all the current BLM grazing regulations.

What we are presenting here today in the Domenici bill in many respects takes a step back from the policies originally established during the Reagan administration under the tenure of Interior Secretary James Watt. To put that in some context, the former Secretary has been accused of many things, but he has never been accused of being an environmentalist. I believe we ought to make the necessary changes to the so-called rangeland reform proposals that have been offered under Secretary Babbitt.

Efforts to limit the public's right to be involved in grazing decisions will not, in my opinion, bring stability to the ranching industry, nor will it improve rangeland conditions. It will only lead to continued turmoil and lawsuits that are a drain on the resources of both the ranching community and the Federal Government.

By way of contrast, the substitute amendment offered by Senator BINGAMAN, which I am pleased to cosponsor, reflects a balanced approach that, in my opinion, addresses the legitimate concerns of the ranching industry. I repeat, again, I believe that there are many such legitimate concerns.

It also addresses the equally valid concern and interests of the conservation community. It does not arbitrarily repeal the current grazing regulations and replace them with an inflexible statutory scheme which, in my view, S. 1459 would create.

For example, in response to concerns raised by Nevada ranchers and others, the Bingaman substitute waives the application of NEPA for permit renewals and transfers unless significant changes are made. It contains expedited NEPA provisions where grazing activities would not have a significant effect on the environment. I believe those are positive and instructive changes that meet some of the concerns raised by the Nevada ranchers. It also reinstates the grazing advisory boards and expands the surcharge exemption to include spouses and grandchildren, or children which Nevada ranchers have raised.

On the other hand, however, in response to concerns expressed by conservation groups, those who enjoy the public land for outdoor recreational use, whether hunting, fishing or hiking, these organizations, as well, have legitimate interests. I believe the Bingaman substitute protects public involvement in grazing decisions and requires that other public land values, as important as grazing is, it is not the only important public land value that needs to be protected, but wildlife is given equal consideration in the decisionmaking process in the goal of achieving a balance, recognizing that we want to be fair to Nevada ranchers, we want to make sure they are able to continue to use the public lands as they have for generations and to provide for themselves and their families.

We also need to recognize that the West has changed. The demand made upon public lands for outdoor recreational uses have grown exponentially over the years, as Nevada in my own lifetime has gone from a State

whose population the year I started school in Las Vegas in 1942 had slightly more than 100,000. We used to say, somewhat tongue-in-cheek but true, that every person, every man, woman, and child in Nevada, could be comfortably seated in the Los Angeles coliseum in 1942. Today, it is the fastest growing State in the Nation. Our population, small by contrast with some of our larger States, is 1.6 million. So the uses of public land, where we strike that balance, is very important to this Senator in making sure that public recreational values are considered in the decisionmaking process, as well as grazing interests.

In addition, the substitute offered by Senator BINGAMAN specifically authorizes conservation use so that nonranching entities can hold a permit and rest an allotment if the practice is not deemed inconsistent with the land use. Conservation use, as a management practice, is particularly important to us in southern Nevada. It is an integral part of the Clark County's Habitat Conservation Plan, a plan devised in response to the concerns advanced by many about the federally listed endangered species, the desert tortoise. Without that habitat conservation plan, a moratorium might very well have gone into effect with potentially catastrophic economic impacts for those of us who make southern Nevada our home. That habitat conservation plan was a compromise achieved as a result of the ability to use conservation use as a management practice.

Another important provision of the Bingaman substitute concerns the use of the portion of grazing fees that are returned to the States and dispensed to local grazing boards. The substitute provides that these funds may only be used for on-the-ground range improvements and for the support of local public schools in the counties in which the fees were generated. Currently, those fees are subject, in my opinion, to an abuse, an unconscionable abuse, in that these moneys are currently being used to finance lobbying activities and litigation.

Nye County, NV, has used more than $40,000 of these funds to finance a legal battle against the BLM, where they have asserted a claim of ownership over all of BLM publicly administered land in Nye County. This is indefensible. I acknowledge that my friends and neighbors in Nye County have every right to avail themselves of the Federal court system to make these claims, but they do not, in my view, have the right to rely on federal grazing fees returned to local grazing boards to fight these causes. Those ought to be confined to on-the-ground improvements for public schools in the county in which the fees are generated.

The Bingaman substitute, in my view, strikes an appropriate balance by reinstating the grazing boards but prohibiting this outrageous behavior and improper use of these funds.

As I began, I mentioned over the year I have had a chance to visit extensively with Nevada's ranchers and to hear their legitimate concerns about the new grazing regulations, concerns that I feel should be, but are not, addressed by the legislation before us today. The ranchers I have met with are honest, hard-working people who asked Congress, in essence, to set ground rules for grazing on public lands that will bring a sense of stability to the ranching community. If stability is of paramount concern to the ranching community, it is my view that S. 1459 is not the answer.

Finally, Mr. President, let me conclude by reminding my colleagues that the administration has promised to veto S. 1459 as it is currently written. Our only hope, if we are interested in achieving that stability and balance to which I have addressed myself earlier this afternoon, is to enact a balanced piece of legislation which the administration can sign into law.

For those reasons, I strongly encourage my colleagues to join me in the Bingaman substitute so this issue can be put to rest and a sense of stability can be brought to our friends and neighbors in the ranching communities. I yield the floor.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Montana.

Mr. BURNS. I thank the Chair. My statement will not be very long, but I just wanted to make a couple of comments. We just completed debate on the salvage timber, and the package offered by Senator BINGAMAN is, at best, described as yet another example of a mindset that prevails here in Washington, DC.

Yesterday, I stated in this body that in order to answer that question, we, this generation—this generation—if we are to hand over to the next generation, our children and our grandchildren, a better Earth than we were handed, a world that will sustain them and their daily needs for food and fiber, we have to approach the way the Federal Government writes rules and regulates them.

In the salvage logging debate, there were examples of actions taken by local authorities to protect the integrity of the law and the intent of the law. It has, in my State, brought some peace to the woods. There are examples of how land managers went the extra mile involving the local groups in the decisionmaking process of salvage. The involvement was loggers, environmental groups, local government, and land managers themselves. We should really congratulate the region I director of the U.S. Forest Service, because he used that process to determine a timber sale and used the same guidelines that we have always used, adhering to current environmental law. As dedicated as he is to the forest, he used all of those, and the result was that local folks signed off on the salvage sale.

Forest health is the goal, and it was then. Salvage is part of that goal. It is a dual goal. Loggers have gone back to work, mills are turning out wood products again for Americans—all Americans—and we are having and using forest resources that have been tied up in the courts for a long time.

Decisions that are made on the ground work best. Yet, this substitute calls for decisions to be made thousands of miles away from the resource that is now being used by all Americans, we all benefit.

At this point, I want to associate myself with the words of my friend from Iowa last night, Senator GRASSLEY, in his brief statement made on this floor. There are times in this country when we who are involved in agriculture get a little bit timid about what we do, telling the people what we do. Well, I am here to tell you it is about time, and this country better wake up and realize what the production of food and fiber does for this Nation. Yes, we like to call ourselves agriculturalists, proclaiming the importance of it. I think we get timid because we go under the false assumption that everybody understands and knows the importance of agriculture and knows that we produce the largest segment of the GDP in this country, over 20 percent. Yet, that GDP has produced a raw product by less than 2 percent of the population. It is also the largest export this country has. In other words, we feed the world.

Now, why do we so distrust the direction in which the present Secretary of the Interior is taking us? Can I cite one example? Wolf reintroduction into Yellowstone Park. Hearings all over the West. We did not hear a lot of support for that. Yet, it has caused some polarization of groups that actually share the same goal in my State—share the same goal of a better world and, yes, the environment. But the actions of the Federal Government and the arrogance of this particular occurrence have damaged the relationship within and without the communities in Montana. Not only is it expensive, spending your tax dollars, but if you contrast that, exactly the same thing is happening in Glacier National Park. But that is a natural migration of wolves from Canada. That does not seem to get any headlines in the newspaper. In that area of Montana, there is hardly any contact between man and wolf because, basically, both have learned the hard reality of the rules of survival. One never hears of that occurrence. Yet, we have wolves up there in Glacier Park and in the Bob Marshall. But one hears of the artificial introduction of that animal into that Yellowstone Park, which, in my opinion, is doomed to fail.

VOL
142
PT
5
MR
21
—
29
1996
UMI

There are different fee rates. In my opinion, there is one main problem of this debate. We are trying to find the answer to a very, very difficult question. I say this: We are trying to recommend a policy of "one size fits all," when there are differences in the lands, the topography, thus, the production capability of the lands. Those differences are huge.

I guess that is why I so strongly recommend that we allow all the major decisions to be made on the ground locally, to involve local people. There is no way that we, in Montana, run and manage our range the same way as they do in New Mexico, Colorado, Nevada, or anywhere else. There are different soils, different growing seasons, different weather conditions, different patterns, all dictating managing our range differently. It is just like privately owned land. All Federal lands and locales are not alike. The management scheme has to be different to attain the same result. Anyone who has ever had anything to do with land understands that. I understand that. I was raised on a small farm of 160 acres, with two rocks and one section of dirt in northwest Missouri. Every acre was not the same on that little 160 acres either. But you knew how to handle them. You farmed each one sort of differently in order to get the desired results.

That is hard to explain to folks who have not had a personal relationship with the land or a real understanding of it. Most times, they do not care about the knowledge, or the common sense, or even less caring and respect for the thousands of families who have the sense, knowledge, history, and responsibility to manage this land that sustains them, and the rest of America, as well.

Let us not go backwards. Let us make those decisions on the ground. The Bingaman substitute takes us backward. Let us force people to sit down and talk, but let us base our decisions on the right decisions and on what has to happen on rangeland. Take the management. If hunters are worried about access, in the Domenici bill there is express language dealing with access. If you are worried about wildlife, we have already given you the figures that we have more wildlife today than ever in the history of this country. Water quality, that, too. Once you take the management of the land away—and this could well do it because there are folks who do not have a real good understanding—then we are in real trouble in the communities that derive a living from this resource. It is resource management.

So what I suggest and what I tell my colleagues is to defeat the Bingaman substitute and let us pass the Domenici bill, because there have been so many hours and so much work that has gone into this bill, working with the administration and with everybody concerned. No, everybody will not get everything they want. But everybody is going to want what they get. Let us put people into the equation whenever we start talking about resource management on public lands because real people are involved and will be impacted.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I rise in support of the Bingaman substitute. In August of 1994, as a member of the Interior Appropriations Subcommittee, when we were attempting to work out differences with the House, we had adopted in that conference a measure that was debated long on this Senate floor. In fact, the debate went on for several weeks. Four or five cloture votes were held on that matter. I believe we got 57 votes on several occasions, but we were never able to reach that magic figure of 60 to terminate debate and go forward with a revision of the grazing law. Had we done so, Mr. President, we would not be here today debating whether or not the Babbitt regulations were good or bad. We would have been working under a series of rules that would bind one administration to another. Ranchers would have had some defined rules in law to work under. They would have been able to obtain loans on their property, and there would be peace and quiet in "Ranchland U.S.A." The problem is, however, Mr. President, that there were those who felt it was better not to adopt that.

Following the unsuccessful effort to invoke cloture, even though the majority of this body and the other body approved the compromise, Secretary of Interior Babbitt issued a series of regulations that are now in effect. The proposed compromise that was debated so long and hard here in my opinion was better than the Babbitt regulations, much more defined, not nearly as complicated, direct to the point, and would have allowed the ranchers of western America to be able to determine how they should run their properties. There were many months that went by before the regulations were promulgated. They were phased in. The ranchers even today really do not know for sure what the impact of those regulations are going to be. They are all in effect. They certainly are not as disastrous as prophesied by a number of people.

I say this: I think what has gone on this past year has been constructive. It has been educational, I think. I extend my appreciation to the western Senators, particularly Senator CRAIG THOMAS and Senator JOHN KYL. Those two Republicans and this Senator were appointed by the western Senators to try to come up with a compromise. We were making great headway when the House ducked grazing reform and reconciliation, and had the work terminated that we had done. But even that was not a failure because the work that I did with the Senator from Wyoming and the Senator from Arizona was helpful in the next wave of negotiations that we had. Senator DOMENICI's first bill that was offered had around 65 pages in it. After indicating to him that the bill was too complex, too broad, he came out with another draft about half that size. That is what we have been working from.

We have made progress. There are matters in this Domenici bill that are ones that I asked to be put in that bill. I appreciate that. Progress has been made. That is one reason that the debate today is not as acrimonious as it was in August 1994. The debate is constrained. It is deliberative and constructive. I have listened to almost all of the debate that has taken place, and I think it is something that the Senate should feel good about.

But I reiterate that we would have been better off, there would have been finality, if we had adopted the compromise of August 1994 that came out of Interior appropriations.

We are now faced with reality. We have been told by the administration that if the Domenici bill is adopted it will be vetoed. I think it is quite clear that, if it is vetoed, the veto will be sustained. That is one reason I feel so strongly about the alternative, the substitute, that has been put together by a group of western Democratic Senators. I believe that we could prevail upon the President not to veto that bill.

I understand the importance of livestock grazing in the western part of the United States. The small town that I was raised in southern Nevada had both mining and ranching. I worked as a boy and as a young man for those permittees of grazing in the southern part of the State around Searchlight. I did all kinds of things for them. Most of it was manual labor. But I understand—having gone out and taken water to cattle, taken feed to the cattle, cleaned out wells, generally helped those ranchers maintain their ranch on this very arid land—how important it is.

Most all ranchers, Mr. President, are hard working, good citizens—really the epitome of what is good about our country. They have great respect for the land. They consider it their land. I have no problem with that. But, Mr. President, we have talked today about western ranchers in a flattering way. And I repeat that the vast majority of those in the ranching community are good citizens. There are some who are not. There are the so-called proverbial rotten apples that spoil the barrel. What did they do? There are all kinds of things that these few rotten apples do. One is they deny access to public

land. Others do not have a concern for the continued health of the land.

Mr. President, in 1986 we debated in this body the Forest Service Wilderness bill for the State of Nevada. There had been 25-plus years since the Wilderness Act was passed. And Nevada basically had not done their work. I worked on that for a long time. Even though I started in the House of Representatives before I came here, after Senator BRYAN arrived in the Senate we were finally able to get it passed preserving in Nevada beautiful land.

Nevada is the most mountainous State in the Union. Most people think it is arid with no greenery on it. That is not true. We have great mountain meadows and streams. We have animal life, antelope, and mountain sheep. We even have mountain goats in Nevada, and beaver, and eagles. It is beautiful country. After the wilderness bill was passed some ranchers in Nevada blocked off their land. As an excuse for not allowing hunters onto public lands they said it was because of wilderness. It is simply not true.

We have, for example, in northern Nevada a public land rancher who has blocked access to public lands on a road that was public in the mid-1800's to the mid-1980's. This same individual has harassed hunters on public land that come near his land. Also, this individual rides his horse onto public lands in an effort to disrupt hunting. Not coincidentally this same individual operates a guide service, and has a financial incentive to disrupt public hunting. He wants it to be private hunting. It is only one rotten apple. But it is enough to spoil the barrel.

Another example that has been brought to my attention is a grazing permittee in northern Nevada who, armed with a rifle, harassed hunters on public lands.

Mr. President, we need to ensure that the legitimate users of the public lands are not prohibited from hunting on these public lands, nor prohibited from using these public lands, nor even discouraged from using these public lands.

We need legislation that will provide land managers with the flexibility to protect the environment with multiple use without placing an administrative burden or undue restriction on hunters.

Mr. President, as my colleague from the State of Nevada indicated, when he started high school there were less than 100,000 people in the State of Nevada. We are now approaching 2 million—not large by the standards of the State of Pennsylvania, the State represented by the Chair. But it is a big State in our mind, and we have tens of thousands, now in the hundreds of thousands of hunters throughout the State of Nevada. It used to be, when my colleague and I were young men growing up in Nevada, that rangelands were used basically by no one other than cattlemen, but it is not that way anymore. There is competition for those lands: off-road vehicle users, all-terrain vehicle users, snowmobilers, backpackers, cross-country skiers, and family outings to go on picnics. There is lots of competition for those public lands in addition to the hunters and fishers and the ranchers.

We need to make sure that those people who ranch on public lands treat them the way they should treat the lands. They are not the lands of the individual rancher. They are public lands and should be treated accordingly.

As I have indicated, in the past, ranchers have had the public lands to themselves. The West is different today with many competing uses for these public lands. We cannot go backward. Today, in Nevada, we have had a tremendous increase, as I have indicated, in the number of hunters and other people who want to use the land. Because of these competing interests, it is essential we get a bill that provides for a balanced approach to multiple use. The Domenici proposal does not adequately provide for this.

Now, Mr. President, as I complimented my friend from Wyoming, my friend from Arizona, I also compliment the senior Senator from New Mexico. He has come some ways in this bill, and I appreciate that very much. I also compliment the junior Senator from New Mexico who I think with this alternate proposal has done a good job in really framing the issues before this body.

As I have indicated, a balanced approach to multiple use is not adequately contained in this bill. It elevates a single use of the public lands above other multiple uses, and it reduces the agency ability to protect the rangeland environment and limits citizen involvement in public lands management.

It is not my goal to prohibit livestock on public lands, although that is how some opponents of the Domenici bill were characterized yesterday. I think that I have had as much experience as most western Senators, more than others, in grazing land, ranch land generally. It is not my ultimate goal to prohibit livestock grazing. I think we should maintain it. I think grazing livestock, if done right, makes land healthier. It makes it better. But it has to be done right. And we have to allow the land managers to make sure that those few rotten apples that are going to spoil the barrel are taken from the barrel, they have the ability to take the rotten apple out of the barrel.

That is all we are asking in this alternative, this substitute. The substitute represents a compromise designed to provide a balance between providing stability to the livestock industry and the need for the BLM and Forest Service to have the flexibility necessary to responsibly manage Federal grazing lands and ensure multiple uses of the public lands.

My concerns with this bill of my friend, the senior Senator from New Mexico, I will talk about. The alternative prohibits use of the State's share of grazing fees for litigation, ensuring that the money is used to benefit the land or community, that is, making improvements in the land, riparian improvements, other improvements on the land. Currently, in Nevada, the State's share of Federal grazing fees is being used to sue the Federal or State government like the Nye County case, the so-called Sagebrush Rebellion II case. I have to tell you, frankly, Mr. President, everyone knew in the beginning that case was a loser. You would not have to graduate from Harvard Law School; I do not think you would have to graduate from Harvard elementary school to understand that that effort was doomed to failure.

In spite of that and the demagoguery that went forward based upon it, they used these moneys which were intended to be spent on the land in Nevada, improving water holes, fixing streams, building a road maybe—that is not what they used it for. They used in Nevada almost $300,000 of Federal moneys for legal counsel, foundation, associations, lawyers generally. This money was wasted. a total waste.

The bill that has been propounded by the senior Senator from New Mexico makes a provision for that. It does a good job. It is not as good as the substitute, but it is fine. It says those moneys can still be used for lawyers for administrative hearings. I do not think they should be able to use them even for that, and we have plugged that hole in the substitute.

The money that comes from these grazing fees that is returned to the States, Mr. President, I want used to improve the land, not to be spent on litigation or lobbying activities.

As I have indicated, the Domenici bill restricts the use of the State's share of the grazing fees, but it provides a number of loopholes. It may allow States to continue to use Federal moneys for lobbying and administrative appeals. We need these moneys used to improve the land.

The Domenici bill excludes grazing activities, management actions and decisions from NEPA.

The substitute that I am cosponsoring represents a compromise between sportsmen and ranchers. The renewal or transfer of permits is not subject to NEPA unless it will involve significant changes in management practices or significant environmental damage is occurring or is imminent.

This is not good enough. For example, when a rancher's permit comes up for renewal, if he or she has been a good steward of the land and has maintained the health of the land, that renewal will not be subject to NEPA nor

VOL
142
PT
5
MR
21
—
29
1996
UMI

should it be. If, however, as a result of an ongoing drought caused by nature or bad management practices of the rancher environmental damage has occurred or is occurring, renewal would be subject to a NEPA review.

That does not sound unreasonable. It also provides a mechanism to exclude grazing actions such as moving a fence or moving a stock tank from NEPA. That is what the alternative does, that is what the substitute does, when the activity is determined to have a significant impact on the environment. That is the way it should be.

The Domenici bill does not provide for public participation up front in the decisionmaking process. What this is going to cause is a lot more litigation because you cannot stop people from filing lawsuits, and that is what they will do early on. So what we need is to continue some semblance of administrative proceedings on these decisions that have been made. This will avoid litigation.

Yesterday, in the debate, it was stated that the Domenici bill does not take away rights from fishermen and hunters. I respectfully submit that perhaps the Domenici bill might not limit sportsmen's right to access. It does, however limit their access to the process. Sportsmen and other users of the public lands are precluded from involvement in the development of grazing decisions. They should be involved, because, Mr. President, they have rights to that public land. It does not involve the public up front in the decisionmaking process, and it should.

The substitute that I am cosponsoring allows persons defined as "affected interests" to be consulted on significant grazing actions and decisions taken by the Secretary. No formal, complicated process is mandated. What it does, though, is strike a reasonable balance between the Secretary's regulations, which would include involvement by the "interested public," and the Domenici bill, which provides for participation only after a draft decision has been made.

In the Domenici bill, only permittees and lessees are able to protest proposed management decisions. This is wrong. All other citizens could be excluded from taking an active role in a protest and appeal process. This restricts the ability to resolve conflicts early and, I believe, cheaply. So, in our substitute, affected interests are allowed to protest proposed decisions, allowing these conflicts to be resolved earlier and more informally, without litigation.

I also say that there are some who think, if you just eliminate this affected interest ability to challenge some of these administrative decisions, they are not going to challenge them. They will do it, but they will do it in the courts.

The Domenici bill limits the managers' ability to tailor and develop terms and conditions to protect winter forage for elk and deer, nesting habitat of game birds, water resources for wildlife, and water quality, and healthy riparian interests. Only allotments under an allotment management plan can have terms and conditions attached. But this will not work, because only 20 percent of the permits are currently under an allotment management plan.

So, under their proposal, 80 percent of the permits simply would not be under terms and conditions. And it would limit the manager's ability to do anything about tailoring and developing terms and conditions to protect the things that I have already outlined.

Allotment management plans look to the lands in a specific area and prescribe the livestock grazing practices necessary to meet multiple users' objectives. They can be costly and time consuming to complete. So we cannot decree that 100 percent of them be done. But, to the contrary, we cannot take away the managers' ability to put reasonable conditions on the land. The substitute balances the need for the BLM to have adequate authority to properly manage the public lands to ensure their long-term health with the need for ranchers to have some stability in terms and conditions of the grazing permit that we have talked about.

The proposed substitute ensures that ranchers will not be subject to arbitrary changes in the terms and conditions of a grazing permit. I think that should make the ranchers feel secure. One of the things we talked about when we had this long debate in August of 1994 was the fact that we needed to give the ranching community stability. We needed to give the ranching community certainty, so they could go forward and borrow money, make improvements. Here it is, almost 2 years later, and things are more uncertain than they have ever been. I respectfully submit, my friends who so badly want to get the Domenici bill passed, for what? The President is going to veto this bill. No matter what happens when we get it out of the House, the President said he is going to veto it.

I think we would do much better if we came with a bill that would be approved, that will be voted for by a majority of the Democratic Senators from the western part of the United States, and I am sure we could have some influence on the President to sign the bill.

Mr. President, the Domenici bill impedes permittees from employing proven restoration techniques, such as conservation use, by threatening permit loss if they do not make grazing use under the terms and conditions of a grazing permit.

What this means is that if someone wants to purchase a grazing permit, they cannot do it unless they want to ranch on it, unless they want to graze on it. It was stated last night that the minority chose to make nonuse of public lands a dominant use. This simply is not true. I recognize what the benefits of conservation nonuse can provide to the environment, and I believe it should be an option available to permittees.

In Southern Nevada, because of an endangered species problem, an animal called the desert tortoise, construction basically was brought to a grinding halt in the Las Vegas area.

Mr. President, we were able to work out our problems very quickly. One of the ways we were able to work out our problems under the terms of the Endangered Species Act was we had a conservation nonuse program. Clark County, NV, where Las Vegas is located, along with the Nature Conservancy, holds allotments in conservation nonuse for the benefit of this endangered species and allowed us to get back to work in building the most rapidly growing city and State in the United States.

Under our substitute, conservation use may be approved for periods up to 10 years if consistent with the land use plan. This is important. I will also suggest I do not know what my friends on the other side of the aisle are worried about, or I should say my friend the senior Senator from New Mexico, because under the present rules and regulations in the law, there is not a big line forming for people to sign up for conservation nonuse. It is used infrequently, but when it is used, it is important.

I repeat, there is not a long line of institutions or people saying, "I want a conservation nonuse permit." It does not happen very often, but when it does, it is important.

If the Domenici bill were approved, it, in effect, would deny citizens of this country the ability to hold a grazing permit. I think that is wrong. In our substitute, permittees do not have to be in the livestock business to hold a permit.

Another problem I have with the bill of my friend from New Mexico is it requires managers—that is, someone from BLM or Forest Service—to provide 48 hours of advance notice to the rancher that they are going to take a look at the land. It inhibits the ability to manage the land. It also limits the flexibility of the manager to do complete monitoring. Mr. President, who are they trying to protect? They are trying to protect one of the bad apples. That is the only type of individual who would be concerned about someone coming on their land to see if they were grazing too many cattle in a riparian area or whatever else they were doing to degrade the environment.

So the substitute I am cosponsoring with others does not require advance notification for monitoring or inspection.

Also yesterday, it was stated that proponents of the Domenici bill were not here to defend the chief executive office's tycoons who bought some of this land out West. I acknowledge that. I think that is probably true. The subleasing provisions, though, of the Domenici bill limits the ability of the Forest Service and BLM to manage subleasing.

What do I mean by this? What I mean by this is if someone named Tom Jones has a grazing permit, under our provision, if he wanted to sublease this to his children or grandchildren, he could do it. But if he wanted to sublease it to Bob Jones from the State of Arizona or the State of New Mexico or someplace else, he would not be able to do it. The permit should run to the permittee and should not give them the right to start leasing Federal land and making money on it. That, in effect, is what they have been doing. It should be stopped. We should not allow subleasing unless it is to family members.

I would also suggest, Mr. President, that the Domenici legislation requires excessive amounts of costly time for monitoring rangeland studies and other delays before management actions that protect the environment can be implemented. That is not the right way to go. Agencies do not have the money nor the manpower to monitor all allotments. Our substitute allows agencies to rely on both monitoring data—and that means things they have actually seen—monitoring data, information they have collected, and also objective data that they have seen in making their decisions.

The Domenici bill excludes groups such as Ducks Unlimited, Trout Unlimited, and other hunting and fishing groups and State agencies from entering into cooperative agreements for the development of a permanent range improvement or development of a rangeland.

Mr. President, 5,000 cooperative agreements for range improvements are currently issued to nonpermittees. And 503 of these are in Nevada alone, representing about 15 percent of all range improvement permits and cooperative agreements in the State. The DOMENICI bill would dramatically limit agencies to leverage funds for range improvements. That is something we should not allow to happen.

The substitute that I am cosponsoring allows nonpermittees to enter into cooperative agreements.

Mr. President, in short, the Domenici substitute is certainly better than the first draft we got of the bill. I say here that I appreciate the work that has been done by all western Senators. I am especially grateful to the staffs of all western Senators who have spent hours and days and weeks trying to come up with this. And there has been a spirit of cooperation. I wish we could have arrived at a bipartisan bill. We could not. But the issues have been narrowed significantly as a result of our sitting down and spending this endless time together.

In conclusion, Mr. President, what I believe that the substitute offers is balance. It provides balance between multiple uses and ensuring that no one use is put on a higher plane than any other.

The bill by my friend, the senior Senator from New Mexico, does not provide this balance. It elevates a single use of the public lands, grazing, above other multiple uses. That is not right. This is not what public lands are all about.

I extend my appreciation to the junior Senator from New Mexico for his tireless efforts in coming up with what I think is a veto-proof bill, one that we should all join in supporting, get it out of the House, get it signed and allow Nevada ranchers and other western ranchers to get about their business.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, for the last 2 days we have discussed the merits and shortcomings of the Public Rangelands Management Act. It is apparent that this is a complicated debate, riddled with hyperbole and misunderstanding.

Let no one misunderstand, however, the context within which this debate has been conducted. There exists today throughout the West a palpable sense of economic anxiety that has its roots in the issuance of new grazing regulations by the Department of the Interior 2½ years ago; regulations that fueled fear among ranchers that they face a campaign by the Government to permanently remove them from Federal lands.

This apprehension about Government insensitivity to the economic realities of ranching is tangible in my State of South Dakota and widespread throughout the West. Moreover, it has been aggravated by a prolonged period of extremely low cattle prices coupled with record high feed costs.

There is no doubt in my mind, Mr. President, that ranchers' frustration with current Federal grazing policy is justified. Their grievances are both procedural and substantive.

It was apparent that the regulations issued by the Interior Department in 1993 were conceived and issued in a manner that discounted the views of ranchers who earn their livelihood from public land.

Those rules clearly reflect the dominant views and interests of other users, including environmentalists, conservationists, sportsmen and other recreationists. While these groups all have legitimate interests in the quality of Federal land management, the new rules simply do not strike a fair balance among competing uses.

Like the first law of thermodynamics, every political action has a political reaction. The political reaction in the West to the new grazing rules was one of outrage and protest. Many in the ranching community understandably began to demonize these regulations. The legislation we are considering today was conceived in reaction to those rules.

But unlike the laws of physics, in politics the appropriate reaction is not always an equal and opposite reaction. Often a political reaction does not solve problems, but rather only recasts them.

That is the case with S. 1459. And that is why I will oppose the bill, and why I have worked with many of my Western States Democratic colleagues to develop an alternative to it.

The Bingaman substitute solves many problems for ranchers without harming the interests of other users of Federal lands. For grasslands ranchers in South Dakota and elsewhere, it would create a separate management regime apart from the National Forest System—a system that is ill-suited to dealing with the unique requirements of Federal rangeland.

Moreover, the Bingaman substitute overrides the language in the current regulations with respect to the United States Government perfecting all the water rights on Federal land. It places NEPA analysis in its proper perspective, ensuring that agency resources are spent evaluating the impacts of decisions that truly will effect the environment. And, it establishes a realistic fee formula with which ranchers can live.

In other words, the Bingaman substitute addresses the legitimate concerns of ranchers in the West. It represents a better way of addressing prevailing concerns about Federal grazing policy.

I do not question the commitment or motives of my colleagues who developed the committee bill. They have attempted to redress a serious matter through a serious effort. But their product moves Federal policy too far back in the opposite direction to the detriment of other public policy goals.

S. 1459 strikes me as an overreaction to a very real threat to American ranchers. It will not bring us closer to a reasonable and balanced compromise. It will simply shift the equilibrium. If this bill is enacted, I suspect it will not be long before we are back here on the Senate floor debating the same issue from the opposite perspective.

Mr. President, while we need grazing reform, S. 1459 shifts the balance past the sensible middle ground we should be seeking. Let me elaborate.

To begin with, S. 1459 curtails public input beyond what I consider to be reasonable or necessary by restricting the ability of the public to be involved in the development of grazing proposals and to challenge specific decisions.

VOL 142 PT 5 MR 21 — 29 1996 UMI

What does this mean for users of Federal lands: campers, hikers, and scientists to name a few?

It means that those who may know and use the land will have their opportunity for input into the decision-making process restricted, despite the fact that they may be able to offer very credible and useful advice. It means that recreational users will no longer be able to challenge a decision they feel precludes them from having access to lands they have a right to use.

In contrast, Senator BINGAMAN's alternative retains the rights of ranchers and other interested parties to protest management decisions—a provision that exists in current law.

This is a very important point. The opportunity for public comment, protest, and appeal has become one of the most contentious elements in the grazing policy debate.

The history of public involvement by various interest groups has not always been constructive. Appeals and protests have not always been used to offer useful advice or to ensure that decisions are faithful to the letter and spirit of the law. On occasion, they have been used to delay and derail reasonable decisions, sometimes on the basis of flimsy or irrelevant evidence or argument.

Despite this acknowledgment, I am voting today to protect the public's right to comment on decisions that affect the public's lands. The course that some propose—to curtail comment process—is one that I do not feel can be justified by the historical evidence. Only through the unfettered competition of ideas will we be able to ensure development of the very best policies. No process of government should be sheltered by legal artifice from the force of a compelling argument. The management of our public lands demands no less a standard.

I am also concerned that S. 1459 creates an unworkable system for holding title to range improvements. The Bingaman alternative retains the title to permanent range improvements in the name of the United States, while the committee bill would share the title between the United States and the ranchers. Under the substitute, ranchers are compensated for their expenses if they give up the permit or the land use changes and they can no longer graze the land.

Further, S. 1459 restricts the ability of those outside the livestock business to obtain permits for conservation purposes. No longer would a Nature Conservancy be able to obtain permits and rest the land in conservation use. It simply is not fair to prohibit nonlivestock entities from obtaining permits to use Federal lands.

The Bingaman alternative amendment allows anyone meeting basic requirements to obtain permits and rest the land in conservation use. The Nature Conservancy does this with 24 permits now and the Republican bill would curtail this ability.

In addition, S. 1459 significantly restricts the flexibility of the land managers to ensure adequate flows of water on Federal lands. If this proposal is enacted, the Federal Government will no longer be able to protect fish and wildlife populations on Federal lands. Under the substitute, no such punitive restrictions would be imposed.

Taken together, and particularly when read in the context of the objectives of the bill, these provisions persuade me that S. 1459 goes too far in one direction and fails to strike a reasonable balance among the multiple uses of public lands. It is not a solution to favor one group of users of the public lands over another. To manage this resource in a fair and equitable manner, a careful balance must be struck that responsibly addresses the legitimate concerns of all the public land users.

Passage of S. 1459 will not end the debate over grazing in the west. In its current form, this legislation will be vetoed, and that veto will be sustained. Under that scenario, we will not have accomplished anything except to have provided more grist for the political mill.

The Bingaman substitute will not please everyone.

Environmentalists may feel that in some respects it is too generous to the ranching community, while ranchers may feel that it does not adequately insulate them from appeals, protests, red tape and the whims of the Federal Government.

I believe it strikes a fair balance.

The Bingaman substitute will protect the public's right to participate in grazing management decisions. It will ensure that Federal land managers have the authority and flexibility to guarantee sound stewardship of the land and protection of fish and wildlife populations. It will allow conservation organizations the opportunity to obtain permits and rest the land.

In short, Senator BINGAMAN offers a sound, fair, and moderate amendment that will establish security for western ranchers, while genuinely protecting the interests of other users of the land. And, I believe, it can be signed into law.

I sincerely want to resolve this issue—for the permittees and lessees who reside in our States; for the communities that rely on the livestock industry; for the users of the public land; and for the American public in general. The uncertainty surrounding the management of the public lands must be clarified.

I believe the Bingaman approach will allow us to achieve our common goal—healthy public rangelands. I urge my colleagues to support the Bingaman substitute.

Mr. PRESSLER. Mr. President, ever since Department of the Interior Secretary, Bruce Babbitt, proposed Rangeland Reform '94, I have worked with other western Senators to pass meaningful legislation addressing the concerns raised in Secretary Babbitt's proposal. The bill before the Senate is the result of those efforts.

While we were able to postpone implementation of Secretary Babbitt's misguided reforms for some time, Rangeland Reform '94 is now operative. It became effective August 21, 1995. Ranchers are expecting and should get relief from those regulations. We must pass S. 1459.

Ranchers in South Dakota have told me one thing: Rangeland Reform '94 must be changed. Many of those reforms could have a detrimental impact on ranching operations in South Dakota. The Secretary's reforms are shortsighted, weigh in too heavy on the side of environmental extremists and could drive many hard-working ranchers off the land.

Hardest hit would be our young farmers and ranchers. Many have just started ranching on their own. These young farmers and ranchers are our future. They are agriculture's future. Yet they are the ones that could be most hurt if Rangeland Reform '94 is allowed to stand. I have heard from a number of ranchers who are more concerned with Rangeland Reform '94 than they are with low cattle prices. Now that is quite a statement. It clearly shows why this bill must be passed.

The legislation before us today represents nearly 2 years of hard work by many Senators and a vast number of individuals of different interest and professions who are most affected by Federal rangeland policies. I also want to commend the Senate staff who worked to develop our reforms into legislation. They worked late into the night and on weekends.

I do want to note that the bill has been significantly modified since it was first introduced last year. Every effort was made to reach a bipartisan consensus. Over the last 6 months Western States Senators from both sides of the aisle worked hard to reach a compromise that could ultimately be passed.

S. 1459 has bipartisan support and strong support throughout the country. I ask unanimous consent that a letter describing this support be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Mr. President, many South Dakota organizations support this bill. First of all it is strongly supported by South Dakota ranchers. It is also supported by the South Dakota Public Lands Council, the South Dakota Farm Bureau, the South Dakota Sheep Growers Association, and the South Dakota Stock Growers, to name a few.

Let me outline specifically what this bill would do. Under S. 1459:

Ranchers who depend on the use of public lands would be able to continue operating in an economically viable manner.

Multiple-use management objectives would be achieved.

The rights of sportsmen, like hunters and fishers, would be protected and their use of Federal lands would not be restricted.

Water rights for livestock management grazing would be in accordance with State laws.

Local input from virtually every key interest into the management of public lands would be assured.

I urge my colleagues to keep in mind the fundamental goal of the legislation to remove a clearly objectionable rangeland policy.

If left alone, Rangeland Reform '94 will have a detrimental effect on ranching operations in South Dakota. Many of these reforms are short-sighted, take away local input and control, and could drive many ranchers off the land.

It is clear that extreme environmental groups support Rangeland Reform '94 and are waging a baseless scare campaign on S. 1459.

Supporters of Rangeland Reform '94 are spreading the laughable charge that this bill would hurt wildlife and restrict hunting on Federal lands.

I say this is laughable because it simply is not true. All one has to do is read the bill which specifically states:

> Nothing [in this title] shall be construed as limiting or precluding hunting or fishing activities on national Grasslands in accordance with applicable Federal and State laws, nor shall appropriate recreational activities be limited or precluded.

I originally had two important improvements to S. 1459. One was included in the bill and the second I intend to offer as an amendment. South Dakotans made it abundantly clear of the need for local and public input. I worked with Senator DOMENICI on an amendment to require consultation with State, local, and other interests in land-use policies and land-conservation programs for the national grasslands.

All users of Federal lands should have a voice in land-use policies. This added input will provide needed suggestions on better grazing practices that will protect the land and enhance wildlife management.

After discussing this with Senator DOMENICI, my amendment was included in S. 1459 as reported. I thank Senator DOMENICI and Senator CRAIG for working with me on this proposal.

The second improvement is designed to address concerns expressed by sportsmen. South Dakota is probably the best hunting and fishing State in the Nation. I know there may be others who may disagree, but I will gladly promote South Dakota as a sportsmen's haven.

Sportsmen have expressed concerns that S. 1459 could limit use of Federal lands for hunting, fishing, and other recreational purposes. My amendment would reinforce Federal policy to protect the interests of sportsmen who hunt and fish and use our public rangelands for sport. My amendment would preserve the rights of hunters, fishermen, and other sport enthusiasts to use Federal lands.

I hope this amendment can be accepted and made part of the bill.

Mr. President, the Congress needs to pass S. 1459. The bill would address the problems with Rangeland Reform '94, provide needed stability to farmers and ranchers, and help preserve the social, economic, and cultural base of rural communities in the western States. Current use of Federal lands could be greatly restricted in future years without S. 1459. I urge its adoption.

EXHIBIT 1

MARCH 14, 1996.

Hon. LARRY PRESSLER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRESSLER: The undersigned organizations represent the diverse interests of millions of citizens who currently participate in the multiple use of America's public lands. On their behalf, we strongly urge you to support S. 1459, the Public Rangelands Management Act. This bill is the result of innumerable hours of bipartisan negotiations. It fosters balanced multiple use management of our public lands, resource protection and public participation. We have the following reasons for asking your support for this legislation:

The bill maintains widespread public participation in the management of federal lands. For the cost of a postcard, any individual or organization may qualify as an "affected interest" under the bill simply by writing to the Secretary to express concern for the management of grazing on a specific federal grazing allotment. They will then receive notice of and an opportunity for comment and consultation on proposed decisions made by the Secretary of the Interior affecting that particular federal parcel. Public participation extends down to the level of designation of allotment boundaries, development of allotment management plans, increasing or decreasing the use of the land by permittees, issuance and modification of permits and reports evaluating monitoring data applicable to a permit.

The legislation maintains the "multiple use" of public lands. There are those in the environmental community who would have you believe this bill somehow establishes ranching as a dominant use. You need not accept the word of these environmentalists or our word; the legislation speaks for itself. The bill states simply and clearly that "multiple use as set forth in current law has been, and continues to be, a guiding principle in the management of public lands and national forests." Section 102 states that nothing shall affect valid existing rights, reservations, agreements or authorizations. The bill specifically states that nothing in the bill shall be construed as limiting or precluding hunting or fishing activities on federal lands in accordance with applicable federal and state laws, nor shall appropriate recreational activities be limited or precluded. The canard raised by these environmentalists that this bill would somehow lock in current livestock usage levels is simply wrong (see Section 101(a)).

The issue of NEPA compliance is important. The National Environmental Policy Act was well intended for the protection of the environment with regard to major federal actions. Unfortunately, over the decades since its passage, NEPA has been used by obstructionists as a tool to put a stranglehold on any use of federal lands. The statutorily required major federal action has devolved to the digging of a single post hole on federal lands. Everyone familiar with current agency interpretations of NEPA realizes the system is badly broken. The reality is that agency officials are not getting out on the land and monitoring multiple use; they are desk bound by NEPA paper shuffling and the fear of litigation. The NEPA provisions in the bill will protect the environment, restore the original intent of NEPA and free up federal land managers to do their job, all while saving the public money.

The Public Rangelands Management Act is a major cost saver for the federal government. The Congressional Budget Office has scored the new grazing fee formula contained in the bill and determined that enactment would decrease direct federal spending by about $21 million over the 1996 to 2000 period. CBO estimates that offsetting receipts would increase by about $28 million over the same period. The western livestock industry supports this new formula at a time when cattle prices are at a 13 year low. Ranchers are stepping up to the plate and expressing a willingness to pay more during the hard times.

If enacted, S. 1459, the Public Rangelands Management Act will be the first major revision of federal lands grazing activities since the 1934 Taylor Grazing Act. The time has come to restore common sense to the management of the federal lands and to allow ranchers utilizing those lands to continue the production of food and fiber. Support responsible land management, prudent resource conservation and continued multiple use of national lands. Please support S. 1459.

Sincerely,

Agricultural Retailers Association; American Chianina Association; American Farm Bureau Federation; American Forest and Paper Association; American Gelbvieh Association; American Horse Council; American International Charolais Association; American National Cattle Women; American Sheep Industry Association; Arizona Cattle Feeders' Association; Arizona Cattle Growers Association; Arizona Farm Bureau Federation; Arizona State Cowbelles; Arizona Wool Producers Association; Association of National Grasslands; Black Hills Regional Multiple Use Coalition; California Cattlemen's Association; California Farm Bureau Federation; California Public Lands Council; California Wool Growers Association; Cochise Grand Cattle Growers; Colorado Cattlemen's Association; Colorado Cattle Feeders Association; Colorado Farm Bureau; Colorado Public Lands Council; Colorado Woolgrowers Association; Dixie Escalante Rural Electric Association; Empire Sheep Producers, NY; Florida Cattlemen's Association; Gem State Hunters Association; Idaho Cattlemen's Association; Idaho Dairymen's

VOL
142
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29
1996
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Association; Idaho Farm Bureau Federation; Idaho Food Producers Association; Idaho Hunters' Association; Idaho Mint Growers Association; Idaho State Grange; Idaho Wool Growers Association; Independent Petroleum Association of America; Indiana Sheep Breeders Association; Iowa State Grange; Kansas Sheep Association; Michigan Cattlemen's Association; Michigan State Grange; Mississippi Cattlemen's Association; Montana Association of Grazing Districts; Montana Farm Bureau Federation; Montana Public Lands Council; Montana Stockgrowers Association; Montana Wool Growers Association; National Association of Counties; National Association of State Departments of Agriculture; National Cattlemen's Beef Association; National Grange; National Lumber and Building Material Dealers Association; National Mining Association; Nebraska Cattlemen; Nevada Cattlemen's Association; Nevada Farm Bureau Federation; New Mexico Farm and Livestock Bureau; North Dakota Lamb & Wool Producers; North Dakota Stockmen's Association; Oregon Cattlemen's Association; Oregon Farm Bureau Federation; Oregon Sheep Growers Association; Ozona Wool & Mohair; Public Lands Council; Regional Council of Rural Counties, California; Rocky Mountain Oil & Gas Association; Roswell Wool, New Mexico; South Dakota Public Lands Council; South Dakota Sheep Growers Association; South Dakota Stockgrowers; Southern Timber Purchaser's Council; Tennessee Cattlemen's Association; Texas Sheep & Goat Raisers Association; Texas & Southwestern Cattle Raisers Association; Utah Cattlemen's Association; Utah Farm Bureau Federation; Utah Wool Growers Association; Utah Wool Marketing; Washington Cattlemen's Association; Washington Farm Bureau; Washington State Grange; Wilderness Unlimited, California; Wyoming Farm Bureau Federation; Wyoming Stock Growers Association; Wyoming Wool Growers Association.

Mr. HATCH. Mr. President, I rise today in support of S. 1459, the Public Rangeland Management Act. I am proud to be a cosponsor of this bill. And, I congratulate Senator DOMENICI and others who have worked so hard to balance the many interests involved in this legislation.

Livestock grazing has always played a major role in our western lifestyle, providing a number of important economic, social, and cultural benefits to all Americans. Utah's rangelands are a renewable resource that can be used and reused without sharing the land. In fact, grazing has become a natural part of the ecological system. A 1990 report from the Bureau of Land Management states that "Public rangelands are in a better condition than at any time in this century." ["State of Public Rangelands 1990," U.S. Bureau of Land Management, emphasis supplied.] This is true because livestock grazers, armed with the latest available knowledge, have become wise users of the resources available to them.

There have been instances in the past of overgrazing to the detriment of the land and the local ecology; today these cases are the exception. Now we hold those who abuse our lands responsible for their actions.

Mr. President, let me state clearly that the Public Rangeland Management Act provides no relief or protection to bad actors on our rangelands. Instead, it reinforces all environmental laws as they relate to grazing on public lands. This is as it should be.

But, Mr. President, I am extremely concerned for the plight of livestock producers in Utah and throughout the United States. I am not aware of any cattle producers in Utah who are making a profit. There are a number of factors contributing to this devastating trend. But when I ask them what we can do to help, they unanimously plead for stability—stability in the fees they are charged and stability in the laws and regulations they must obey.

In Utah most of the livestock producers are small family-owned cattle and sheep operations. An increasing number of these families who have paid for grazing permits on public land, will be unable to afford to use the. They will simply be unable to survive under the difficult regulations promulgated by the Secretary of the Interior known as Rangeland reform 94. Even the possibility that these regulations will be implemented has been sufficient cause for many lenders to hold back their money rather than provide necessary loans to ranchers. Lenders know the business, and they know that Secretary Babbitt's proposal is bad for the industry. Without the necessary credit these families have little hope for survival.

Mr. President, it breaks my heart to watch as families, who have been in the livestock business for generations—in some cases since before Utah became a State—are forced to pull up their stakes and fold up the family business. These families have withstood terrible winters, devastating droughts, the depression, and other economic downturns. But faced with an all powerful, antipathetic Federal Government, their ability to endure is coming to an end.

Considering the serious situation of our livestock industry, one might wonder how far S. 1459 goes to provide for their relief.

Some fear that S. 1459 exempts grazers from some environmental laws. There is absolutely no ground for this fear. The language in this bill could not more clearly reinforce all environmental laws, and it does nothing to impede future changes or additions to current environmental law.

Some who oppose the bill believe it would restrict the use of permitted lands from sportsmen and recreationists. They are dead wrong. Senator DOMENICI went so far as to add an amendment to this bill stating plainly that multiple use of permitted land would not be inhibited in any way. Mr. President, those who continue to criticize the bill for this reason must oppose the idea of grazing on public lands altogether, because it is clear that this concern has been addressed.

Mr. President, even with the difficulty faced by families in the livestock industry, there are still those who argue that we do not raise grazing fees high enough. The truth is that this bill raises grazing fees by 30 to 40 percent from current law, generating millions more revenue for the Treasury than in the past.

These critics point to the higher fees that are charged for forage on private lands. But, there can be little comparison made between grazing on private land and grazing on public land. On one hand, the private landowner must provide all the livestock management services as well as continual forage. Of course private owners charge more, they provide all the necessary services for grazers and must maintain them. On public lands, it is the grazers who are required to install and maintain stock water ponds, fences, and other improvements at their own expense.

Before he was named as Secretary of the Interior, Bruce Babbitt said that "multiple use has run its course."—Public Lands Reform Vital, Denver Post, Mar. 9, 1990. This view is certainly disheartening to use in the West, and I, for one, regret that Secretary Babbitt has set in motion a number of challenges to multiple use. The Rangeland Reform '94 plan is amount the most difficult.

Besides putting grazing fees at a level that is sure to run a host of ranchers off of public lands, Secretary Babbitt's Rangeland Reform '94 proposal would lay down a long list of new standards and regulations that address all public grazing in a one-shoe-fits-all approach. This approach just does not make sense. Every grazing district throughout the country has its own set of challenges and resources that must be dealt with to ensure sustainable use of that area.

S. 1459, the Public Rangeland Management Act, would set into law a framework for managing our lands according to each district's specific needs. And I might add that it would do so while keeping all current environmental protections in full force and effect. This bill would also set into law a fee formula that, although much higher than current law, would provide stability for families in the livestock business and their creditors. Fees should not be set by political appointees who come and go, and who bring with them differing philosophies of public land management.

Again, I commend Senator DOMENICI, Senator MURKOWSKI, and all my colleagues who have worked to develop this compromise legislation. This bill

is long overdue. When this process began the need for these reforms was great. Since then, that need has taken on great urgency. We must pass this bill without delay.

Mr. KEMPTHORNE. Will the Senator from New Mexico yield for a question?

Mr. DOMENICI. I would be pleased to yield for a question.

Mr. KEMPTHORNE. It is my understanding that the grazing bill S. 1459, the Public Rangelands Management Act does not affect the issue of grazing on national parks and national wildlife refuges.

Mr. DOMENICI. The Senator from Idaho is correct.

Mr. KEMPTHORNE. The reason I ask that question is that on many national wildlife refuges, including at least two in my own State, grazing is a traditional use of refuge lands originating in some cases before the land was acquired by the Fish and Wildlife Service.

Mr. DOMENICI. Have grazing rights been continued on those refuges?

Mr. KEMPTHORNE. It has taken a lot of effort to get the administration to admit that grazing rights on the refuges were retained by the previous landowners when the land was transferred to the Fish and Wildlife Service. As things stand right now, there may be room for some optimism that grazing will continue both as a retained right, and as a wildlife management technique.

Mr. DOMENICI. I thank the Senator from Idaho for his observation.

Mr. KEMPTHORNE. I thank the Senator from New Mexico.

Mr. HATFIELD. Mr. President, I support Senator DOMENICI's Public Rangelands Management Act. I had hoped to support a substitute or a series of amendments to address the concerns I expressed in the Energy and Natural Resources Committee meetings. However, we are faced with an amendment that fails to address my concerns and a substitute that goes beyond the changes that I believe we called for in the Domenici bill.

I am concerned with two aspects of S. 1459—public participation and flexible management. We could have done a better job in these two areas.

Affected interests should be consulted and allowed to protest and appeal decisions;

Site-specific NEPA analysis should be allowed when it is determined to be useful; and

A permittee or lessee should not have to be engaged in the livestock business and own base property in order to practice conservation use.

The substitute makes an attempt to address these two areas, but fails in other respects:

It continues to advocate two distinct range management programs, one for the Forest Service and one for the Bureau of Land Management;

It fails to adequately address the water rights issue; and

It does not adequately credit permittees for their rangeland investments.

I oppose the amendment offered by Senators BUMPERS and JEFFORDS for the following reasons:

It would create two classes of rangeland users without improving natural resource management;

It would become an administrative nightmare for the regulatory agencies; and

It is bad policy for Government to "reward" small operators or "penalize" large operators. The goal is to charge a fair fee to all.

I therefore will support Senator DOMENICI's bill. I see it as a reasonable, if flawed, attempt to bring closure to this longstanding issue.

The long and often contentious rangeland management debate reflects the profound ties that we as a Nation feel for our public lands. These ties are more than economic or sentimental. They are true bonds we hold to our Nation's past and its future.

The decades of debate have not been wasted. They have produced information that is leading to new management strategies and cooperation where previously rancor prevailed. We now have an inspiring number of coalitions of ranchers, conservation groups, and State and Federal agencies working together voluntarily to improve rangelands.

In Southeastern Oregon's Trout Creek, for example, permittees are working together with Oregon Trout (a private conservation organization) and State and Federal agencies to improve riparian areas and resolve conflicts between big game and livestock. Their efforts have been very successful in improving range conditions on private, State, and Federal lands.

The Malapai Border Project in my esteemed colleagues' State of New Mexico offers another example of cooperative management. Here, permittees, the Nature Conservancy, and State and Federal officials have come together voluntarily to solve regional ecosystem problems. Through their efforts, we hope to stop the encroachment of brush into grasslands.

These and other examples should encourage us all. The condition of our grasslands is improving and should continue to do so if we work together.

It is interesting to observe the evolution of grazing fee proposals. For years grazing fees provided the hot button for all sides of the argument. Ranchers let us know loud and clear that their fees were high enough. Today, by and large, they support the legislation before us, which would increase the fees. This change of heart reflects a better understanding of the issues and a desire to respond to others' concerns.

We need to capitalize on this spirit and ensure that it grows. It is too easy to focus on remaining differences and go away convinced that they are too great to resolve. If we do this, we will inspire the cooperation necessary to resolve the remaining differences.

It is my hope that my Senate colleagues will work in conference, in cooperation with the House and the administration, to make the adjustments necessary to address my continuing concerns.

Mr. KEMPTHORNE. Mr. President, the final analysis is clear. Rangelands need grazing in order to be healthy. Given that understanding, do we work with the stewards now on the land to improve range health, and find the right balance of grazing? Or do we focus instead on regulations that will have the end result of driving many of those stewards off the range?

The second alternative is unacceptable to me, and should be to all of us here. But under the regulations now in place, that is the direction we are headed. Innovative managers, like conservation award winner Bud Purdy from Picabo, ID, are seeing their children leave a generations-old tradition because of the uncertainty of depending on Federal lands. And this all despite his nationally recognized conservation projects.

We should be encouraging, not discouraging, private enterprise and individual initiative. We should be looking out for the best interests of the public in the long term. Creating vast empty wastelands is not in the best interest of the American public, and it is the responsibility of this body to set policy that will plot the course to protect environmental health and economic stability for rural communities.

Mr. Chairman, as you might have guessed, this debate is a source of great frustration for me. The focus of this Congress, and supposedly of the administration, is to reduce and simplify government, to serve the public better by decreasing overhead cost, reducing needless oversight and review, and improving cooperation with the private sector. But the regulations which the administration implemented last August fly in the face of those goals.

We have to ask ourselves what our priorities are. Ranching is a primary industry across the West. Do we want to tap into the resources that industry has to offer, to encourage conservation and cooperation, to foster stewardship and local management? Or do we want to micromanage from the top down, effectively pulling the rug out from under fragile rural economies?

Mr. President, there are efforts underway as we speak to support rural America. The President is supporting an aggressive rural development program that is being included in the farm bill. But does it make sense to undertake a significant rural development program on the one hand while implementing regulations that will stifle development on the other?

VOL 142 PT 5 MR 21 — 29 1996 UMI

Mr. President, I believe the answer is clear, and further, that Senator DOMENICI's bill is the better path to achieving those goals. I urge my colleagues to support this bill.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. There are no other Senators on our side desiring to speak on this matter. I will speak maybe 3 to 4 minutes.

Mr. President, let us talk a minute about public input into decisionmaking. Senate bill 1459, as introduced, has been criticized for its provisions regarding public involvement in management decisions regarding grazing activities on Federal lands.

In fact, Mr. President, under the Domenici substitute amendment, public involvement has been expanded. For the first time the public will be given an opportunity to comment on reports by the Secretary of the Interior, and Secretary of Agriculture, summarizing range-monitoring data. The only area where the role of the public has been somewhat diminished is in the area of protests. Let me talk about that a minute.

Under the Domenici substitute, protests cannot be filed by so-called affected interests on very limited types of decisions, such as proposed decisions on applications for grazing permits or leases or relating to terms and conditions of grazing permits or leases or range improvement permits. Other types of protests are allowed, as are appeals of final decisions under the Domenici substitute.

The reason for limiting protests, Mr. President, is very simple: We have found that we need to reduce the potential for filing vexatious and frivolous objections by individuals not even remotely affected by proposed decisions on specific grazing allotments. We want the Government to work better, not worse. We want decisions to be implemented without being protested, then appealed and delayed, and then delayed some more.

Mr. President, the substitute defines an affected interest to include individuals and organizations that have expressed in writing to the Secretary concern for the management of livestock grazing on specific allotments for the purpose of receiving notice and an opportunity for comment and informal consultation on proposed decisions of the Secretary affecting allotments.

As a result of being affected interests, an individual or organization can receive notice of and the opportunity to comment on summary reports of resource conditions as well as proposals and final decisions. They can also appeal final decisions, assuming they have standing to appeal.

If an individual organization is an affected interest, notice of a proposed decision will allow a reasonable opportunity for comment and informal consultation regarding the proposed decision within 30 days, for designation or modification of allotment boundaries, development, revision or termination of allotment management plans, increase or decrease of permitted use, issuance, renewal of transfer of grazing permits, modification of terms and conditions, reports, evaluating monitoring data and the issuance of temporary nonrenewable permits.

In addition to all of the above, Mr. President, public participation occurs in the following areas under this substitute: First, resource advisory councils; second, grazing advisory councils; third, all the FLPMA processes, development of land use plans and amendments thereto.

The NEPA process, where it is used in land use planning, is used to its absolute maximum. It Is also applicable in the development of standards and guidelines.

It is not accurate, nor is it fair, to argue that 1459 or the substitute amendment to it significantly diminishes public participation in management decisions affecting grazing allotments. The intent of our legislation is to ensure fair and frequent public participation by interested individuals, but to curb frivolous and vexatious attempts by outsiders to micromanage—not macromanage, but micromanage—grazing on the public domain from a distance of 2,000 miles away.

In short, our bill attempts to keep those who would file with a 32-cent stamp, from Boston, on a postcard, from spawning administrative and judicial litigation. That brings livestock grazing and economic activity in the West to a halt. This happens with more frequency than you might imagine. We think we have the right amount, which is a very significant amount of public participation, in the right type of decision points.

In some areas, our bill goes further than the Bingaman substitute; in others, it does not go as far. But I believe public participation is maintained in a very broad way and is very significant in this bill.

Mr. President, I have a number of responses in writing that I have written out with reference to other contentions that have been made here on the floor. I do not think, in the interest of time, that I will go through each and every one of them. But there are some significant differences in conservation partnerships that are allowed, cooperative partnerships, than have been stated here on the floor.

The only thing that concerns us and that is epitomized in our bill, is after the land use plan is put together, we do not permit those who would like to get rid of grazing to come in and pick the very best land and say, "We'd like to take all the cattle off. We have enough money to pay for it. We would like to turn it into nothing more than a nongrazing area."

We think there are other, better ways to improve conservation measures without doing that to the public domain. I might indicate that even in States which have a very, very broad-based approach to conservation uses, instead of just pure grazing, this idea of going and picking leases, picking the best of leases and taking them out of grazing and putting them into an exclusive conservation use, has been denied at the State level, not only in New Mexico but in other States.

Mr. President, another criticism of S. 1459 is that it provides for cooperative range improvement agreements with permittees and lessees only. Had Senator BINGAMAN read the Domenici substitute amendment, he would have known that his criticism of S. 1459 is utterly baseless. Section 105(b) directs the Secretary, where appropriate, to authorize and encourage coordinated resource management practices. Such practices shall be for the purposes of promoting good stewardship and conservation of multiple use rangeland resources. And, such practices can be authorized under a cooperative agreement with a permittee or lessee, or an organized group of permittees or lessees.

Language was specifically added at the urging of some conservation groups to provide that such cooperative agreements could include other individuals, organizations, or Federal land users irrespective of the mandatory qualifications required to obtain a grazing permit required by S. 1459 or any other act. This was done so that non-permittee or non-lessee conservation groups could voluntarily make improvements on the public rangelands.

So, Mr. President, contrary to what Senator BINGAMAN claims, a cooperative agreement is not limited to just permittees and lessees. Anyone can enter into a cooperative agreement with a permittee or a lessee and voluntarily make range improvements on grazing allotments.

I hope, Mr. President, that Senator BINGAMAN isn't suggesting that we should discourage or prohibit this type of voluntary rangeland stewardship, because one of the groups that urged us to change section 105 voluntarily makes $3 million in range improvements each year, based on funds raised at dinners and benefits. If Senator BINGAMAN wants to make it the policy of the United States that we should not allow this type of voluntarism, I think our colleagues should be skeptical about supporting his substitute.

Next, Mr. President, it has been said that S. 1459 denies the right of affected interests to protest grazing decisions on public land and national forests by providing that only an applicant, permittee, or lessee may protest a proposed decision. Again, Senator BINGAMAN should read the Domenici substitute more carefully. Either that, or he must be confused about what the Domenici substitute actually does. Section 151(b) of the Domenici substitute requires the authorized officer to send copies of a proposed decision to "affected interests."

Section 155(b) requires the Secretary to notify "affected interests" of seven different kinds of proposed decisions: first, the designation or modification of allotment boundaries; second, the development, revision, or termination of allotment management plans; third, the increase or decrease of permitted use; fourth, the issuance, renewal, or transfer of grazing permits or leases; fifth, the modification of terms and conditions of permits or leases; sixth, reports evaluating monitoring data for a permit or lease; and seventh, the issuance of temporary nonrenewable use permits.

Section 151(c)(3) states that any notice of a proposed decision to an affected interest must state that "any protest to the proposed decision must be filed not later than 30 days after service."

The only limitation on protests is found in section 152, which states, "an applicant, permittee, or lessee may protest a proposed decision under section 151 in writing to the authorized officer within 30 days after service of the proposed decision."

If there is a limitation on the filing of protests by affected interests, Mr. President, the Domenici substitute does not allow affected interests to file protests on very limited types of decisions, such as proposed decisions on an application for a grazing permit or lease, or relating to a term or condition of a grazing permit or lease or a range improvement permit. Each of these types of issues, Mr. President, involve the contract-like relationship between the permittee or lessee and the United States. In our view, these are the type of decisions that do not warrant armchair quarterbacking and second-guessing by those who want to micromanage livestock grazing on the public lands.

Other types of protests are allowed—as I have already more than adequately explained—as are appeals of final decisions, under the Domenici substitute.

On this one, Mr. President, Senator BINGAMAN is wrong again. So is the Congressional Research Service attorney who analyzed the bill for Senator BINGAMAN.

Next, Mr. President, Senator BINGAMAN claims that under S. 1459 only ranchers would qualify to appeal a final decision affecting the public lands. This is false. Persons who are aggrieved by a final decision of an authorized officer can appeal such a decision, so long as the agency's standing requirements can be met. The same would be true for a judicial appeal of a final agency action.

The reference to the Administrative Procedure Act simply clarifies that a person must actually be aggrieved—actually injured—as set forth in the APA and case law interpreting it. This does not mean that someone whose interest might be affected, or who might suffer some unknown injury at some point in the future can sue.

Mr. President, what we are trying to do here is to eliminate frivolous and vexatious administrative and judicial appeals by those who are not actually adversely affected by a land manager's decision, but who oppose grazing on public lands or have some particular ax to grind.

Senator BINGAMAN seems to think that being an "affected interest" should automatically confer rights to bring administrative or judicial appeals of final decisions. He cites the language in section 154 that states "being an affected interest as described in section 104(3) shall not in and of itself confer standing to appeal a final decision upon any individual or organization."

Mr. President, under the administrative case law of the Interior Board of Land Appeals, a clear distinction has been made as to the appeal rights of "affected interests" as opposed to those "whose interests may be adversely affected." The IBLA has ruled in several cases, Mr. President, that being "deemed" to be an "affected interest" does not automatically confer upon a person a right to appeal. The Interior Department's regulations state that only a person "whose interest is adversely affected by a final decision may appeal to an administrative law judge." (Donald K. Majors, 123 IBLA 142, 146 (1992).)

Mr. President, the Domenici substitute is consistent with the Interior Department's regulations.

Senator BINGAMAN also claims that S. 1459 exempts on-the-ground management from NEPA. NEPA has been eliminated in site-specific situations. He cites a CRS analysis that states that elimination of site-specific analysis is a significant change in current law and procedures. In place of NEPA, S. 1459 proposes a review of resource conditions.

The Domenici substitute states that grazing permit or lease issuance, renewal, or transfer are not "major Federal actions" significantly affecting the environment under NEPA. This will spare the Government the time and expense—1½ years per EIS at a cost of about $1 million per EIS—of doing full-blown EIS' on the more than 20,000 grazing permits and leases on BLM and Forest Service lands.

Also, the Republican substitute places NEPA consideration of grazing activities at the appropriate place: at the land use or forest plan level. The Republican substitute does not trivialize the NEPA process by requiring an EIS for simple decisions such as where to locate a watering tank or whether a fence should be built.

What Senator BINGAMAN and the CRS analysis ignores is that the measure of whether NEPA analysis is done on "site-specific management" is whether "site-specific management"—and it is not clear what Senator BINGAMAN means by this term—constitutes a major Federal action significantly affecting the quality of the environment within the meaning of NEPA. The Bureau of Land Management does not now perform NEPA analysis on grazing permit renewals, so this is not a significant change from current procedures.

Current law does not require NEPA analysis on "site specific management." Current law requires NEPA analysis of major Federal actions significantly affecting the environment. For Senator BINGAMAN to say that S. 1459 eliminates NEPA analysis of site specific management is a gross mischaracterization of the process and of what NEPA requires. And, as I already mentioned, decisions on the location of a stock watering tank or construction of a fence cannot possibly be considered "major Federal actions."

Finally, Mr. President, Senator BINGAMAN is trying to dupe everyone into believing that the Domenici substitute eliminates NEPA analysis of grazing activities, and places instead a simple review of resource conditions. The facts about what the Domenici substitute does are these: first, NEPA analysis would be required at the BLM land use plan—also known as the resource management plan—level and at the Forest plan level. NEPA is not eliminated. Let me repeat—NEPA is not eliminated.

Mr. President, let me just say that the Bingaman substitute would not require the completion of any analysis under NEPA on renewals and transfers unless the Secretary determines that the renewal or transfer would involve significant changes in management practices or use, or that significant environmental damage is occurring or is imminent. Nowhere does the Bingaman substitute specify what "significant" is.

Second, Mr. President, the Domenici substitute would require monitoring of resource condition at an interval of no less than every 6 years. This is not required now. Neither BLM or the Forest Service conduct monitoring with any regularity, if at all.

Third, notwithstanding Senator BINGAMAN's complaints that monitoring data consists of very specific measures of vegetative attributes, or that, in many cases, it is not available, the Domenici substitute will ensure—for

VOL
142
PT
5
MR
21
—
29
1996
UMI

the first time—that adequate monitoring data are available to BLM and the Forest Service. Why is this so important? Because—for the first time—monitoring can help guide the agencies in determining whether grazing activities or land management practices should be changed to protect the public rangelands. The substitute of Senator BINGAMAN would do no such thing.

So, Mr. President, how in the world can Senator BINGAMAN criticize the Domenici substitute?

Last, Mr. President, Senator BINGAMAN claims that, under S. 1459, the public is not given a say in range improvements.

While no specific provision is made in the Domenici substitute for a public say in range improvements—just as the Bingaman substitute does not specifically give the public a role in range improvements—an opportunity for such input would be welcomed through input from the resource advisory councils and grazing advisory councils.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just summarize my response on a few of these areas, and then I think we will have concluded the debate as far as I am aware on this substitute amendment.

I wanted to talk briefly about three issues. First, the NEPA issue that was raised by several of my colleagues, and the difference between our bill and the underlying Senate bill 1459 on NEPA application; second, the opportunity to protest, which Senator DOMENICI was just referring to; then the question that was raised earlier in the debate about why our own substitute did not have a specific provision reserving the right of people to hunt and fish or otherwise use the public lands.

First on NEPA, let me state my understanding of NEPA. The statement I think was made earlier by my colleague that NEPA today is not applied or used in the management of the BLM lands. My understanding is very different, Mr. President. My understanding is the National Environmental Policy Act sets up a procedure which applies to all of the Federal land management agencies and essentially says that when you take an action or make a decision, you need to determine by virtue of the National Environmental Policy Act whether there is an impact, a major Federal impact on the environment.

You can do it one of three ways. If you are fairly confident that there is no impact on the environment to speak of, and it is clear that what you are doing is consistent with decisions you have otherwise made, you can make an administrative determination, and that is in compliance with NEPA, but you are complying with NEPA, as I understand it, by making an administrative determination that nothing more is required. If you think possibly a more serious impact on the environment might be involved you can, instead, make an environmental assessment, and only once you have made an environmental assessment and determined that there will be a significant impact on the environment are you required to do a full-blown environmental impact statement.

Now, whether you do an administrative determination or whether you do an environmental assessment or whether you do the full-blown environmental impact statement, the BLM in this case is complying with NEPA, so the notion that the BLM is not in compliance with NEPA in the way they presently operate and the way they have historically operated is just wrong. In fact, when you look at the CEQ regulations—not the new regulations that Secretary Babbitt promulgated—in the CEQ regulations, it is made very clear that based on regulation 1501.4, based on the environment assessment, the agency will make its determination on whether to prepare an environmental impact statement.

My understanding is that the BLM did comply with that. In most cases they determine that they should do an environmental assessment before renewing leases. We are trying to address that in our substitute, as I have explained here, and I think everybody concedes we are saying that NEPA should not apply when you are just renewing a lease, when you are just renewing a permit, unless there is some evidence that there is a change in the management or some evidence that there is danger to the land involved or to the environment. That is the first point on NEPA.

On the opportunity to protest, under our bill, under this proposed substitute we are offering, the department will determine whether or not a particular group or person is an affected interest. Not everybody who writes in or contacts the department is necessarily an affected interest. If a third-grade class in Hartford, CT, wants to write and they say they are an affected interest on the land in a ranch in New Mexico, it is very doubtful that any Secretary would determine that they were an affected interest under the language of our substitute. We have made it clear that the Secretary is given discretion as to look at whether or not a group is, in fact, affected.

If they are affected, we provide they have an opportunity to protest. Now, the CRS report, which I know some are critical of, let me state I think they make a very good point here. They say a protest is similar to a predecisional appeal that gives the public an opportunity to object to a proposal, gives the agency an opportunity to change or modify its course before committing itself to a final course of action.

That is all we are saying. We are not saying that someone should have legal rights as such, except to state their position and do so at a stage in the process before a final decision is made. That is not permitted under the underlying bill. It is permitted in our substitute. I think, clearly, it should be permitted.

Again, it should be permitted for those who are determined to be affected interests—not for the so-called interested public, which is what the current Department of Interior regulations refer to. We have corrected that. We agree that is an overly broad category, the interested public. So we have said in the case of an affected interest, if you are determined to be an affected interest you should have a right to protest before they finalize the decision.

The other area I wanted to particularly point out, I know my colleague had said that someone could raise an objection to our bill on the grounds that we did not specify that hunting and grazing are, in fact, permitted. Well, we did not. I point out that the reason we did not is that in our bill we made it very clear that our legislation is not an amendment to all of the different statutes that are being amended in the underlying legislation. The underlying legislation, by its very language, section 102, page 5, says,

> The Act applies to the Taylor Grazing Act, Federal Land Policy Management Act, Public Range Improvement Act, Organic Administration Act of 1897, the Multiple Use Sustained Yield Act of 1960, the Forest and Rangeland Renewable Resource Planning Act, the National Forest Management Act.

Since they are saying that all of those acts are modified or changed to the extent necessary by this, they then have to come back later in that same section 102, and say nothing in this title shall limit or preclude the Federal language from being used for hunting, fishing, recreation, watershed management, et cetera.

We did not have that same proviso in there because we are not affecting those acts. Nothing in our bill affects those earlier acts. We are proposing very limited statutes which have the effect of correcting regulatory provisions that we had concerns about. That is a basic reason why we did not repeat that same provision that the Senator from New Mexico has in his earlier bill.

I gather he wants to speak in response to that.

Mr. DOMENICI. I just wanted to say, Senator, and ask you if you would turn to the section called Applications of the Act on page 5. It says, "This act applies to," and then it says, "(1) the management of grazing on Federal land by the Secretary of Interior under * * *." So it is the management of grazing as affected by these acts.

All I said about your failure to include the provision was that somebody,

if they wanted to treat your bill like they have treated my bill, would say, why does it not have in that language that says it in no way would affect, and all I said was somebody might write—since that is not there, maybe it affects them in some adverse way.

I do not believe with that language which says "grazing on Federal land," that we are changing these acts. It is the management of grazing on Federal land.

Mr. BINGAMAN. Mr. President, let me respond that there are a great many groups and individuals around the country very concerned about preserving hunting and fishing rights. To my knowledge, none of them have raised concerns about whether our legislation impinges upon those or our proposed substitute impinges upon those rights, or fails to adequately protect those rights. I think those concerns have been raised about the underlying bill. Senate bill 1459, not about our substitute. So I think this is a problem which is not real, in my view.

Mr. President, I will conclude my comments by just going back to the basic point that I think needs to be understood by our colleagues. In putting together our substitute, which we are getting ready to vote on, we sent a letter to my colleague, Senator DOMENICI, in September of last year. It was signed by myself, Senators DORGAN, DASCHLE, BRYAN, and REID, all five of us, who have spoken here on this issue. We sent a letter saying that, in our view, the only way we should go forward and develop legislation that would do what needs to be done here is to identify the problems that exist in the new grazing regulations and then legislate corrections to those, legislate solutions to those, correct the specific problems that have been pointed out. Do not go beyond that and create new problems.

I believe that we have done that in the substitute. We have tried to strike a balance between those who graze the land, the authority of those who graze the land, and the authority of those who want to use the land for other purposes. I believe that balance is very important to maintain. I fear that the underlying bill gives us an imbalance, which we will be back here trying to correct in future years, if the underlying bill were to become law. With that, I believe we have concluded debate on this.

I yield the floor.

Mr. DOMENICI. Mr. President, before I move to table the Bingaman amendment, I want to say to Senator BINGAMAN, and other Senators who have worked with him on that side of the aisle, obviously, even with reference to the Domenici amendment, your work has not been in vain because we changed it rather dramatically in response to various meetings we held with Senator BINGAMAN, and the other Senators he mentioned. A number of changes have been made since he suggested them, and the major one was made because of a suggestion Senator BINGAMAN made—that we not provide by statute to wipe out all of the regulations and say these are the regulations. We left many of the old regulations in place, which he recommended we do. I thought that was a major change. That it reduced the bill by two-thirds in length, if nothing else, should be good. Many of us think we ought to have fewer words rather than more. In many areas we have complimented their efforts.

We believe that the Domenici amendment will create the balance, and that it will create more of a certainty for the ranching community to continue to exist. At the same time, it will protect all the other interests.

With that, Mr. President, I move to table the Bingaman amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. BURNS). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—57

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Inouye
Jeffords
Kassebaum
Kempthorne
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NAYS—40

Akaka
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

NOT VOTING—3

Bradley
Gregg
Kerrey

So the motion to lay on the table the amendment (No. 3559) was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. As I understand it, there is a request for the yeas and nays on final passage.

Mr. PRESSLER. Mr. President, I still have an amendment.

Mr. DOMENICI addressed the Chair.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. As I understand it, the Senator from South Dakota has an amendment.

Mr. DOMENICI. We are going to fix that right now and then vote on it.

Mr. DOLE. There has also been a request for final passage on the Taiwan resolution which has been agreed to. That can be the second vote, and then everybody can vote and leave.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 165

Mr. DOLE. Mr. President, I also ask unanimous consent at this time that when the Senate receives from the House House Joint Resolution 165, the continuing resolution, it be deemed considered read three times, passed, and the motion to reconsider be laid upon the table, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

The Chair hears none, and it is so ordered.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Is there a sufficient second on the yeas and nays on final passage of S. 1459, the grazing bill?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. And on Taiwan.

The PRESIDING OFFICER. And on Taiwan? Without objection, it is so ordered.

The yeas and nays were ordered.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DOMENICI. Could we have a bit of order.

The PRESIDING OFFICER. May we have order, please. All conversations should be removed to the cloakrooms.

AMENDMENT NO. 3560 TO AMENDMENT NO. 3555

(Purpose: Amendment To make clear the intent of title II to preserve sporting activities on the National Grasslands)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

VOL
142
PT
5
MR
21
—
29
1996
UMI

The assistant legislative clerk read as follows.

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 3560 to amendment No. 3555.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 202(a)(3), after "preserving" insert "sporting,".

In section 202(b), strike "hunting, fishing, and recreational activities" and insert "sportsmen's hunting and fishing and other recreational activities".

In section 205(f), strike "HUNTING, FISHING, AND RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities" and insert "SPORTSMEN'S HUNTING AND FISHING AND OTHER RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding sportsmen's hunting or fishing activities".

Mr. PRESSLER. Mr. President, my amendment is designed to address a concern expressed by sportsmen in South Dakota. South Dakota is probably the best hunting and fishing State in the Nation. I know there may be others who may disagree, but I will gladly promote South Dakota as a sportsman's haven.

Mr. WELLSTONE. I object.

Mr. DOMENICI. Could we have order, Mr. President.

The PRESIDING OFFICER. Could we have order. And the Chair will withhold comment.

Mr. PRESSLER. Mr. President, this amendment reinforces Federal policy to protect the interests of sportsmen who hunt and fish and use our public rangelands for sport. My amendment would preserve the rights of hunters, fishermen and recreationalists to use Federal lands.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. PRESSLER. I will yield.

Mr. FORD. The longer the Senator talks, the less chance this amendment has of passing.

Mr. DOMENICI. I thank the Senator.

Mr. PRESSLER. Mr. President, I hope this amendment can be accepted and made a part of the bill.

Mr. DOMENICI addressed the Chair.

Mr. President, I wonder if the Senator would agree for a moment to set his amendment aside.

Mr. PRESSLER. I will.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATIONS TO AMENDMENT NO. 3555

Mr. DOMENICI. I send to the desk a Pressler amendment and two other technical amendments in behalf of Senator CAMPBELL and Senator DORGAN and one in behalf of Senator BURNS. They have been approved by Senator BINGAMAN in behalf of the minority. I send them to the desk and ask that my amendment be modified to include those amendments.

The PRESIDING OFFICER. Without objection, the underlying amendment is so modified.

The modifications are as follows:

In section 202(a)(3), after "preserving" insert "sporting,".

In section 202(b), strike "hunting, fishing, and recreational activities" and insert "sportmen's hunting and fishing and other recreational activities".

In section 205(f), strike "HUNTING, FISHING, AND RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities" and insert "SPORTSMEN'S HUNTING AND FISHING AND OTHER RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding sportsmen's hunting or fishing activities".

On page 7, line 7, strike paragraph (7) in its entirely and insert a new paragraph (7) as follows:

"(7) maintain and improve the condition of Federal land for multiple-use purposes, including but not limited to wildlife and habitat, consistent with land use plans and other objectives of this section. "

On page 9, line 10, after "Service" insert' "in the 16 contiguous Western States".

On page 21, line 17, strike "and" and insert in lieu thereof "or".

On page 21, line 21, strike "A grazing permit or lease shall reflect such ", and insert in lieu thereof "The authorized officer shall ensure that a grazing permit or lease will be consistent with appropriate".

On page 18, line 23, strike "or" and insert in lieu thereof "and".

On page 6, strike the present text in lines 9-13 and insert in lieu thereof the following: "Nothing in this title shall affect grazing in any unit of the National Park System, National Wildlife Refuge System or on any lands that are not federal lands as defined in this title."

On page 13, line 22: add the following subsection:

"(4) State Grazing Districts established under state law."

On page 29, line 20: add the following subsection:

"(i) STATE GRAZING DISTRICTS.—Resource Advisory Councils shall coordinate and cooperate with State Grazing Districts established pursuant to state law."

On page 31, line 13: add the following subsection:

"(f) STATE GRAZING DISTRICTS.—Grazing Advisory Councils shall coordinate and cooperate with State Grazing Districts established pursuant to state law."

AMENDMENT NO. 3560 WITHDRAWN

Mr. PRESSLER. Mr. President, I withdraw my amendment.

Mr. DOMENICI. Senator PRESSLER has withdrawn his amendment.

Mr. President, I believe we are ready for final passage. Is that correct?

AMENDMENT NO. 3555, AS MODIFIED

The PRESIDING OFFICER. If there is no objection, the substitute amendment is agreed to.

The amendment (No. 3555), as modified, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

UNANIMOUS-CONSENT AGREEMENT—HOUSE CONCURRENT RESOLUTION 149

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, on behalf of the leader, who did not read the unanimous-consent request, I ask unanimous consent that following the vote on passage of S. 1459, the grazing bill, the Senate proceed immediately to the consideration of House Concurrent Resolution 149 regarding Taiwan, with Senator Thomas to be recognized to offer an amendment, the amendment be considered agreed to, and the Senate immediately vote on adoption of House Concurrent Resolution 149, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair.

VOTE

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 50 Leg.]

YEAS—51

Abraham	Frist	Mack
Ashcroft	Gorton	McCain
Baucus	Gramm	McConnell
Bennett	Grams	Moynihan
Bond	Grassley	Murkowski
Brown	Hatch	Nickles
Burns	Hatfield	Pressler
Campbell	Heflin	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Conrad	Inhofe	Smith
Coverdell	Johnston	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
Dole	Kyl	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner

NAYS—46

Akaka	Feinstein	Moseley-Braun
Biden	Ford	Murray
Bingaman	Glenn	Nunn
Boxer	Graham	Pell
Breaux	Harkin	Pryor
Bryan	Hollings	Reid
Bumpers	Inouye	Robb
Byrd	Jeffords	Rockefeller
Chafee	Kennedy	Roth
Cohen	Kerry	Sarbanes
Daschle	Kohl	Simon
DeWine	Lautenberg	Snowe
Dodd	Leahy	Wellstone
Dorgan	Levin	Wyden
Exon	Lieberman	
Feingold	Mikulski	

NOT VOTING—3

Bradley	Gregg	Kerrey

So the bill (S. 1459), as amended, was passed.

The text of the bill will be printed in a future edition of the RECORD.

Mr. DOMENICI. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I wish to acknowledge the following staff for their important contribution to the passage of S. 1459, and I ask unanimous consent that their names be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD; as follows:

Charles Gentry and Gary Ziehe of Senator DOMENICI's staff.

Energy Committee Majority Staff: Gary Ellsworth, Jim Bierne, Mike Poling, and Jo Meuse.

The personal staff of the following members:

Dan Naatz—Senator THOMAS.
Ric Molen—Senator BURNS.
Nils Johnson—Senator CRAIG.
Rhea Suh—Senator CAMPBELL.
Kevin Cook and Greg Smith—Senator KYL.

Energy Committee Minority Staff: David Brooks and Tom Williams.

The personal staff of the following members:

Damon Martinez—Senator BINGAMAN.
Eric Washburn—Senator DASCHLE.
Mike Eggl and Doug Norrell—Senator DORGAN.
Bret Heberle—Senator BRYAN.
Bob Barbour and Peter Arapis—Senator REID.
Bryan Cavey and Kurt Rich—Senator BAUCUS.
Kevin Price—Senator CONRAD.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

DOMESTIC VIOLENCE HOTLINE

Mr. WELLSTONE. Mr. President, if I could just say this. I announced last week that as a part of the Violence Against Women Act we now have a national domestic violence hotline. Senator BIDEN, of course, did so much work on this, as did many others. Every day I come out and show this. It is 1-800-799-SAFE; and the TTD number for the hearing-impaired is 1-800-787-3224.

Mr. President, I spoke about this issue last week. But every day I want to announce this number for women and children and those who need to make this call. I thank the Chair.

EXPRESSING THE SENSE OF THE CONGRESS THAT THE UNITED STATES IS COMMITTED TO MILITARY STABILITY IN TAIWAN STRAIT

The PRESIDING OFFICER. The clerk will report the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 148) expressing the sense of the Congress that the United States is committed to military stability in Taiwan Strait and the United States should assist in defending the Republic of China (also known as Taiwan) in the event of invasion, missile attack, or blockade by the People's Republic of China.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

AMENDMENT NO. 3562

(Purpose: To amend the resolution)

Mr. THOMAS. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. THOMAS] for himself, Mr. HELMS, Mr. DOLE, Mr. MURKOWSKI, Mr. PELL, Mr. SIMON, Mr. MACK, Mr. GRAMS, Mr. PRESSLER, Mr. BROWN, Mr. LUGAR, Mr. D'AMATO, Mr. WARNER, Mr. FORD, Mr. LIEBERMAN, Mr. ROTH, Mr. NICKLES, Mr. HATCH, Mr. GORTON, Mr. CRAIG, Mr. SANTORUM, Mr. DORGAN, Mr. ROBB, Mr. ROCKEFELLER, Mr. BRYAN, and Ms. MOSELEY-BRAUN proposes an amendment numbered 3562.

Mr. THOMAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The amendment is as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

"That it is the sense of the Congress—

"(1) to deplore the missile tests and military exercises that the People's Republic of China is conducting from March 8 through March 25, 1996, and view such tests and exercises as potentially serious threats to the peace, security, and stability of Taiwan and not in the spirit of the three United States-China Joint Communiqués;

"(2) to urge the Government of the People's Republic of China to cease its bellicose actions directed at Taiwan and enter instead into meaningful dialogue with the Government of Taiwan at the highest levels, such as through the Straits Exchange Foundation in Taiwan and the Association for Relations Across the Taiwan Strait in Beijing, with an eye towards decreasing tensions and resolving the issue of the future of Taiwan;

"(3) that the President should, consistent with section 3(c) of the Taiwan Relations Act of 1979 (22 U.S.C. 3302(c)), immediately consult with Congress on an appropriate United States response to the tests and exercises should the tests or exercises pose an actual threat to the peace, security, and stability of Taiwan;

"(4) that the President should, consistent with the Taiwan Relations Act of 1979 (22 U.S.C. 3301 et seq.), reexamine the nature and quantity of defense articles and services that may be necessary to enable Taiwan to maintain a sufficient self-defense capability in light of the heightened military threat; and

"(5) that the Government of Taiwan should remain committed to the peaceful resolution of its future relations with the People's Republic of China by mutual decision."

Amend the preamble to read as follows:

"Whereas the People's Republic of China, in a clear attempt to intimidate the people and Government of Taiwan, has over the past 9 months conducted a series of military exercises, including missile tests, within alarmingly close proximity to Taiwan;

"Whereas from March 8 through March 15, 1996, the People's Republic of China conducted a series of missile tests within 25 to 35 miles of the 2 principal northern and southern ports of Taiwan, Kaohsiung and Keelung;

"Whereas on March 12, 1996, the People's Republic of China began an 8-day, live-ammunition, joint sea-and-air military exercise in a 2,390 square mile area in the southern Taiwan Strait;

"Whereas on March 18, 1996, the People's Republic of China began a 7-day, live-ammunition, joint sea-and-air military exercise between Taiwan's islands of Matsu and Wuchu

"Whereas these tests and exercises are a clear escalation of the attempts by the People's Republic of China to intimidate Taiwan and influence the outcome of the upcoming democratic presidential election in Taiwan;

"Whereas through the administrations of Presidents Nixon, Ford, Carter, Reagan, and Bush, the United States has adhered to a "One China" policy and, during the administration of President Clinton, the United States continues to adhere to the "One China" policy based on the Shanghai Communiqué of February 27, 1972, the Joint Communiqué on the Establishment of Diplomatic Relations Between the United States of America and the People's Republic of China of January 1, 1979, and the United States-China Joint Communiqué of August 17, 1982;

"Whereas through the administrations of Presidents Carter, Reagan, and Bush, the United States has adhered to the provisions of the Taiwan Relations Act of 1979 (22 U.S.C. 3301 et seq.) as the basis of continuing commercial cultural, and other relations between the people of the United States and the people of Taiwan and, during the administration of President Clinton, the United States continues to adhere to the provisions of the Taiwan Relations Act of 1979;

"Whereas relations between the United States and the People's Republic of China rest upon the expectation that the future of Taiwan will be settled solely by peaceful means;

"Whereas the strong interest of the United States in the peaceful settlement of the Taiwan question is one of the central premises of the three United States-China Joint Communiqués and was codified in the Taiwan Relations Act of 1979;

"Whereas the Taiwan Relations Act of 1979 states that peace and stability in the Western Pacific "are in the political, security, and economic interests of the United States, and are matters of international concern";

"Whereas the Taiwan Relations Act of 1979 states that the United States considers "any effort to determine the future of Taiwan by other than peaceful means, including by boycotts, or embargoes, a threat to the peace and security of the western Pacific area and of grave concern to the United States";

"Whereas the Taiwan Relations Act of 1979 directs the President to "inform Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom";

"Whereas the Taiwan Relations Act of 1979 further directs that "the President and the Congress shall determine, in accordance with constitutional process, appropriate action by the United States in response to any such danger";

VOL
142
PT
5
MR
21
—
29
1996
UMI

"Whereas the United States, the People's Republic of China, and the Government of Taiwan have each previously expressed their commitment to the resolution of the Taiwan question through peaceful means; and

"Whereas these missile tests and military exercises, and the accompanying statements made by the Government of the People's Republic of China, call into serious question the commitment of China to the peaceful resolution of the Taiwan question: Now, therefore, be it."

Amend the title so as to read: "Expressing the sense of Congress regarding missile tests and military exercises by the People's Republic of China.".

Mr. THOMAS. Mr. President, under the order I believe we are to vote. I ask unanimous consent for 2 minutes—1 minute for the Senator from Alaska, 1 minute for the Senator from Louisiana.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I am pleased the Senate will vote on this timely issue regarding the current situation in the Taiwan Strait. I am referring, of course, to the military action by the People's Liberation Army to intimidate the people of Taiwan on the eve of the first Democratic, direct election of their President.

The executive branch has criticized, correctly, the military exercises. The administration has backed up its words by sending a naval presence to monitor the exercises in the Taiwan Strait. The House has passed its own resolution. It is time for the U.S. Senate to also go on record deploring the military threat of the People's Republic of China, and recommitting the United States to the terms and conditions of the Taiwan Relations Act.

Senator THOMAS, the majority leader, Senator HELMS, and I, along with our staffs, have been in close consultation with the administration and with our colleagues on the other side of the aisle to address their concerns, and am pleased that we have crafted a compromise that will have broad bipartisan support. I think it is important for the leaders of the People's Republic of China to understand that America is united in maintaining the historical commitments we have made to Taiwan.

The Taiwan Relations Act clearly states that peace and stability in the Western Pacific are in the political, security, and economic interests of the United States, and makes clear that U.S. policy is to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic interests of the United States.

The amendment we have offered makes five important points. First, the amendment directs the President to consult with the Congress, as required by the Taiwan Relations Act, when it is determined that there is a threat to the security or the social or economic system of the people of Taiwan.

I do not believe this threshold has been met, both because the People's Republic of China ended the missile tests as scheduled on March 15 and one of its naval exercises on March 20 and because the People's Republic of China has indicated that it does not plan to attack Taiwan. We will have to wait and see if their actions match their words.

Second, the amendment directs the President and Congress, as required by the Taiwan Relations Act, to reexamine the nature and quantity of defense articles and services that may be necessary to enable Taiwan to maintain a sufficient self-defense capability in light of the heightened threat. The purpose of this commitment, of course, is to deter China from considering any type of attack.

I am pleased that United States officials and officials from the Republic of China met this week to discuss additional sales of necessary defensive weapons. I hope the approved list is sufficient to maintain their self-defensive capability. I wonder, for example, whether the Patriot system that is scheduled for delivery in late 1997 is timely or adequate given the recent missile tests?

Third, the amendment deplores the missile tests and other military exercises that have the potential to disrupt air and shipping routes. The missile tests resulted in four unarmed warheads falling in waters near Taiwan's northern and southern ports. The naval exercises using live ammunition encroach upon international shipping lanes. These actions call into question the commitment of the People's Republic of China to the peaceful resolution of the future of Taiwan.

Fourth, the amendment calls on the People's Republic of China to cease its threats, and instead enter into a constructive dialog with the Government of the Republic of China on Taiwan, perhaps through their informal organizations, the Straits Exchange Foundation in Taiwan and the Association for Relations Across the Taiwan Straits in Beijing. In the past, these two organizations have dealt with many other issues between the two countries, from fishing to highjackers, and have helped fuel the enormous investment in mainland China by Taiwanese investors, estimated at some $20 billion.

Finally, the amendment notes that the Government of the Republic of China should remain committed to the peaceful resolution of its future relations with the People's Republic of China by mutual decision, consistent with government policy.

Mr. President. I do not believe that China is on the verge of attacking Taiwan. I also do not believe that China's scare tactics will have their intended affect on Taiwan. When the roar of the military tests have subsided, and the last vote is counted in Taiwan, I hope the two sides will pursue a course of constructive dialog. Until the time, the United States must maintain its vigilance and monitor events in the Taiwan Strait.

Before I conclude, Mr. President, I want to comment on one issue that is related to the debate surrounding this resolution, an that is Congress' role in the visit of President Lee Teng-hui to his alma mater. There are some who have blamed that visit, and Congress' role in bringing about that visit, for the current crisis. Mr. President, that is simply not the case. I would refer my friends to a recent op-ed in the New York Times by Christopher Sigur that points out that it was not that visit, but the prospect of democracy in Taiwan, that has so upset the leaders in Beijing.

As Mr. Sigur notes, until recently, both China and Taiwan had implicitly recognized the island's de facto independence and dealt with it peacefully. They negotiated Taiwan's participation in numerous international institutions, from the Asian Development Bank and the Asia Pacific Economic Cooperation forum to the Olympics by sidestepping the independence question.

But as Taiwan moved closer to a full fledged democracy with the December parliamentary elections and the March Presidential elections, Beijing's leaders saw the island moving toward a less predictable future, because, of course, in a democracy, there will be many different voices that the leadership must accommodate.

All of this came at a time when Beijing is preparing to take over Hong Kong and thus test Chairman Deng's "One Country, Two Systems" proposition. In addition, the leadership in Beijing is still in transition as Chairman Deng fades from the scene.

Finally, Mr. President, I would argue that our own administration contributed to hardening the People's Republic of China's reaction to a private visit by Lee Teng-hui by not issuing the visa initially and assuring Beijing that this private visit did not constitute a departure from the "One China" policy. Instead, Secretary of State Christopher told President Jiang Zemin that such a visit would not occur, and therefore caused the President to lose face when the decision was reversed.

The United States was right to allow President Lee to return to his alma mater. The United States is right to continue to sell defensive weapons to Taiwan. And the United States is right to go on record deploring the recent missile tests and military exercises. Although these actions are condemned by the People's Republic of China they are consistent with United States policy under the four joint communiques

with the Peoples Republic of China and the Taiwan Relations Act, the law of the land.

Mr. President, China must understand that missile diplomacy does not work. This amendment sends that message, and I ask my colleagues for their support.

Mr. President, I ask unanimous consent that the New York Times article, as well as a recent op-ed I authored in the Wall Street Journal entitled "What We Owe Taiwan" be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WHY TAIWAN SCARES CHINA

(By Christopher J. Sigur)

In the debate over China's military exercises in the Taiwan Strait, few have discussed a fundamental reason for its actions: Taiwan's emerging democracy. China's main concern is not any movement toward independence but rather the effects of Taiwanese democracy on the island's foreign policy.

Until recently, both China and Taiwan had implicitly recognized the island's de facto independence and dealt with it peacefully. They negotiated Taiwan's participation in numerous international institutions, from the International Monetary Fund to the Olympics, by sidestepping the independence question. China tolerated Taiwan's efforts to open embassies abroad. But the military exercises in the strait show that this implicit understanding is in tatters.

What has changed? With its first-ever direct presidential elections on Saturday, Taiwan will become a full-fledged democracy.

President Lee Teng-hui's controversial visit to Cornell University last summer was a symptom of Taiwanese democracy. To stay in power in a democracy, of course, one must respond to the opposition's views. The opposition in Taiwan does not want reunification with the mainland and has increasingly demanded international recognition of the island. Hence, President Lee's campaign to rejoin the United Nations, his trips to Asia, Latin America and Europe (which have been termed "vacation diplomacy") and the push to have Congress grant him a United States visa.

It is naive to think that if only Mr. Lee had chosen not to go to Cornell, if only he had not offered the United Nations a $1 billion gift in an apparent attempt to gain a seat, China would not be acting so belligerently.

Beijing's leaders recognize that Mr. Lee's actions are prodded by democracy and it horrifies them. China's state newspapers often refer to Taiwan's "demands for independence in the guise of democratization," clearly linking one with the other.

What the People's Republic sees across the strait is a China whose people are ready to choose their own leaders, with all the demands that makes on a political system: regularly scheduled elections, a free press and political parties that must take their opponents' ideas seriously, because you never know who will be in power tomorrow. Beijing is not prepared to accept this model in Taiwan or on the mainland.

Thus, even if Mr. Lee renounced Taiwan's United Nations bid, canceled all his overseas trips and closed his country's few embassies, both he and Beijing would recognize that the moves are meaningless. Democracy institutionalizes uncertainty, and neither Beijing nor Taiwan could predict how the voters would react. China may not have liked seeing Taiwan under the firm grip of the Nationalists for the last four decades, but at least they were predictable.

The United States must recognize that it has a fundamental interest in promoting Chinese democracy, and in protecting its sole example in Taiwan. Thus, we must warn China in no uncertain terms that we will not sit idly by if Taiwanese democracy is threatened, encouraged our allies to make similar declarations and continue to back up our words with a show of American naval power.

Democracy's uncertainties will only increase the threats to the security and economic stability of the entire region. The United States is vital to any long-term solution. The Chinese on both sides of the strait are unlikely to reach a solution unless Washington keeps them talking.

WHAT WE OWE TAIWAN

(By Frank Murkowski)

President Nixon must be spinning in his grave.

When he first opened relations with Beijing some 20 years ago, Nixon believed that Asia could not progress if China remained isolated. His actions promised to help that country enter into a new and constructive relationship with the rest of the modern world. But Beijing's recent self-defeating actions can only turn back the pages of history and cripple China's economic progress.

Beijing's decision to start missile tests near Taiwan—and it is to be hoped nothing worse—effectively imposes a miniblockade of Taiwan's two major ports prior to Taiwan's first free presidential elections on March 23. The tests, while probably intended to affect the election, have ramifications beyond the Taiwan Strait.

For that reason, Sen. Craig Thomas (R., Wyo.) and I have introduced in the Senate a resolution recommitting us to the Taiwan Relations Act of 1979, which clearly states that America believes that peace and stability in the area are in the "political, security and economic interests of the United States."

The Taiwan Relations Act, which is the law of the land, commits the U.S. to "resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people of Taiwan."

We must remind Beijing that the decision of the U.S. to establish diplomatic relations with China was "based upon the expectation that the future of Taiwan will be determined by peaceful means."

Some China-watchers are inclined to rationalize Beijing's behavior. Apologists have blamed China's belligerence on the firm stands taken by Congress. But today it is clear that China, not Congress, is to blame for the current state of U.S.-China relations. Time and again, before and after the 1989 Tiananmen Square attack on student protesters, China's rulers have shown themselves to be almost oblivious to the fact that a larger world—one that is sensitive to human rights concerns, capable of helping improve China's quality of life, and with a firm belief in religious and political freedom—exists beyond the borders of the People's Republic of China.

President Jiang Zemin and his lieutenants must understand that this is why the U.S. finds China's missile diplomacy unacceptable. We support the peaceful settlement of differences between China and Taiwan, and cannot idly watch a peaceful, democratic ally be threatened—and certainly not attacked militarily.

We must, furthermore, continue selling Taiwan defense weapons to help counter any thoughts China might have of using military force against the island. Along with these weapons, we must let the leaders in Beijing know that threats are useless as tools of foreign policy and are the rusted relics of diplomacy from a bygone and dangerous era.

China's leaders must know that economic gains will evaporate if continued military threats (or worse) create havoc in East Asia. Beijing's officials must understand they cannot conduct business as usual with the world if missiles start falling. They also need to know that fear of war is every bit as chilling to investment as the real thing.

Congress should congratulate the people of Taiwan for their continued steps toward democracy. Congress should also state its support for the people of Taiwan to become involved in international organizations. Taiwan has emerged as a force for democracy and stability in Asia, and its people should be represented. The U.S. must continue at the same time to encourage a true dialogue between Beijing and Taipei that will lead to understanding and conciliation, rather than threats and confrontation.

With this latest round of threats against Taiwan—and the U.S.—it is time to step back and gather forces to support reason and dialogue, rather than the rumblings of hostility and war.

President Nixon was correct in seeing the vast potential importance of China as a world economic power. But more than 20 years later, the world still waits for Beijing to abandon its totalitarian ways and to behave consistently as a civilized nation.

Mr. MURKOWSKI. I thank the Chair and commend the Senator from Wyoming for his effort in this regard.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, when the matter originally came up, I strongly opposed the resolution because it seemed to be a shift of ground away from the Shanghai Communique which has been the basis for almost a quarter of a century of our relationship to China.

Mr. President, we are deeply grateful, Senator NUNN, Senator FEINSTEIN, and I, and others, who had serious objection to the resolution in its original form.

With Senator THOMAS, Senator MURKOWSKI, and others, we are now working this out in a balanced way that makes clear that this Nation continues to adhere to the one-China policy, as enunciated in the Shanghai Communique and the communiques since that time under five American presidents. I believe it is not a perfect resolution, but it is a balanced resolution. On that basis, I can vote for it. I thank the Chair.

The PRESIDING OFFICER. The question in on agreeing to the amendment.

The amendment (No. 3562) was agreed to.

Mr. NUNN. Mr. President, the current tension in the Taiwan Strait creates a very dangerous situation. While

VOL
142
PT
5
MR
21
—
29
1996
UMI

I do not believe that China intends to invade Taiwan, there is always the risk that accident or miscalculation could lead to conflict. China's actions have been precipitated by its perception that Taiwan is unilaterally seeking independence. While I regret that it is necessary, I applaud the decision by President Clinton to send two carrier battle groups to the region.

I would have preferred that no legislation or concurrent resolutions be passed by Congress in the current tense situation but I am opposed to the resolution passed by the other body and believe that it is necessary for the Senate to go on record on this important matter.

Mr. President, the concurrent resolution we are considering this afternoon is reasoned and responsible and is designed to make a constructive contribution to the situation. It is important because it recognizes that the one China policy that is based upon the three United States-China joint communiques has been and is being adhered to by the United States. It is important because it deplores the People's Republic of China's recent military actions and urges China to cease its action and to enter into a meaningful dialogue with Taiwan. It is important because it reminds everyone of the provisions of the Taiwan's Relations Act. And finally it is important because it states that the Government of Taiwan should remain committed to the peaceful resolution of its future relations with China by mutual decision.

Mr. President, as I noted in my floor speech on United States-China relations last month, the framework of the three communiques and the Taiwan Relations Act has served both sides of the Taiwan Strait as well as the United States well for almost 16 years. That framework made possible the relaxation of tensions in the Strait; has encouraged Taiwan to abolish martial law and become a prosperous democracy; made available to the Chinese on the mainland that talent and capital of the people on Taiwan; it played a major role in China's drive for modernization; and it produced a sense of security for China, for Taiwan, and the region. The thrust of this concurrent resolution is to remind both sides of the Taiwan Strait of these facts and to encourage them to maintain that framework—both its letter and its spirit.

Mr. President, I would like to repeat what I said at the end of last month's floor speech because it continues to sum up my thinking on this subject and is, I believe, totally consistent with this concurrent resolution.

Americans feel close to the people of Taiwan and are proud of their accomplishments. The people of Taiwan have made enormous strides economically and politically. They are an example to much of the developing world.

It is important for the United States, as a friend, to be clear with the Taiwanese that they must not misjudge China on the question of Taiwan independence.

It is important that the people of Taiwan understand that a unilateral declaration of Taiwan's independence would be inconsistent with United States foreign policy as set forth and followed by President Nixon, President Ford, President Carter, President Reagan, President Bush, and President Clinton.

It is also important for the Chinese to understand that the United States values its friendship and relationship with the people on Taiwan. It is crucial that the Chinese understand that if China uses force to resolve the Taiwan issue, the United States will not stand idly by but will surely respond.

For our part, the U.S. should make it very clear that we will oppose either side's attempt to change the status quo either by the use of force by Beijing or by unilateral declaration of independence by Taiwan. The United States position should be clear that we are prepared to live with any outcome negotiated in good faith between China and Taiwan. The future of Taiwan must be settled by mutual agreement between the parties, not by the unilateral actions of either. For that to happen, Taipei must stop its political provocations and Beijing must stop its military provocations.

The people of China and the people of Taiwan should resume a high-level dialogue to foster clear understandings and increased cooperation. Enormous progress has been made in economic cooperation and people-to-people contacts and visits on both sides of the Strait. While economic development and people-to-people cooperation are emphasized, political questions are complicated and emotional and their resolution will require a long-term effort. This will involve a trait for which the Chinese people are famous—patience.

Mr. President, I support this concurrent resolution.

Mr. KEMPTHORNE. Mr. President, I strongly support the resolution currently before the Senate reiterating this Nation's support for the people of Taiwan. I rise to speak about the recent escalation in military operations by the People's Republic of China—Mainland China—in the Taiwan Strait which is intended to intimidate the Republic of China—Taiwan. Mainland China announced on March 5, 1996, that it would test fire surface-to-surface missiles off the coast of Taiwan from March 8 through 15. China has made good on its threat and began missile firing and conducting amphibious live ammunition exercises on the southern tip of the Taiwan Strait on March 12. China plans to continue these exercises through March 24. The missile tests have forced the rerouting of commercial flights out of the Chiang kai-shek International Airport and have also impacted the shipping operations of the southern seaport of Kaohsioung. It has become painfully obvious that China's sole purpose in conducting these exercises is to attempt to demoralize the people and destabilize the government of Taiwan.

I am deeply concerned, as are other Members of Congress, with the rise in military activities in the Taiwan Strait meant to influence the first-ever Taiwanese presidential election on March 23, 1996. The importance of this election cannot be understated. It is the first election of president by popular vote in the 5,000-year history of China. The actions taken by mainland China have further hindered United States-China relations already convulsed by China's human rights violations, its failure to adequately deter the pirating of United States products in violation of copyright laws and suspected exportation and proliferation of nuclear equipment and technologies.

The primary reason for the renewed China-Taiwan tension is an ongoing power struggle within the Chinese government. The hardliners are using the Taiwan issue to exploit and capitalize on a vacuum in leadership caused by the continued failing health of Deng Xiaoping. These same hardliners will do whatever necessary to boost their own stock while simultaneously devaluing the stock of rivals.

The 1979 Taiwan Relations Act proclaims American support for the peaceful reunification of Taiwan and the mainland, and commits the United States to help Taiwan defend itself in case of Chinese aggression. The recent activity by the Clinton administration which includes the deployment of the carrier battle group U.S.S. *Independence* to the region to be joined later in the month by the U.S.S. *Nimitz* and its support ships, although a step in the right direction, does not clearly define our commitment to democracy in the region. The possibility of miscalculation leading to war cannot be ruled out as the Beijing government has refused to renounce the use of force against Taiwan.

With a population of more than 21 million people, Taiwan has much to contribute to the world. Its robust and vibrant economy ranks among the 20 largest in the world. Taiwan has one of the largest foreign exchange reserves of any nation with assets of approximately $100 billion. Taiwan has improved its record on human rights and routinely holds free and fair elections in a multiparty system. Taiwan has over the years demonstrated its continued support for humanitarian efforts through its contributions and response to international disasters, environmental destruction and famine relief operations. Additionally, Taiwan is a member of the Asian Development Bank and Asia-Pacific Economic Cooperation group.

In the face of psychological intimidation and outward aggression, the Taiwanese people stand firm in their commitment to full democracy. As stated by President Lee and Premier Lien, the Taiwanese presidential election will be held as scheduled. The Taipei government has repeatedly and adamantly expressed its pursuit of national reunification and strong opposition to Taiwan independence. Taiwan would like nothing more than to strengthen the cross-

Taiwan Strait relation and further the security and prosperity of the Asia-Pacific region.

It must be made clear and in very specific terms that China's actions endanger the peace and security in the region and therefore merit condemnation by all peace-loving countries of the world. I am sure I speak for a number of my colleagues when I urge the Administration to make a more definitive commitment to Taiwan's sovereignty. I ask that the President take every measure necessary to ensure that the pursuit of democracy and democratic practices are not fettered by Chinese intimidation and aggression.

Mr. GRAMS. Mr. President, I rise in strong support for the Senate amendment to H. Con. Res. 148, a resolution which expresses strong House opposition to the Chinese military exercises in the Taiwan Strait. The Senate amendment contains the language of S. Con. Res. 43, which I have cosponsored.

The Senate amendment, drafted by the chairman of the East Asia and Pacific Subcommittee of the Foreign Relations Committee, Mr. THOMAS, and cosponsored by Senators DOLE, HELMS, MURKOWSKI, myself and others, is similar to the House resolution yet sends an equally strong message to China that the United States views the missile tests as a threat to Taiwan, contrary to the spirit of the Taiwan Relations Act as well as the three United States-China Joint Communiques.

Mr. President, we are all painfully aware of the sensitivity portrayed by China to any effort by Taiwan to cultivate relationships with other nations. These actions have been wrongfully perceived to be efforts to pursue independence. The Taiwanese Government denies the allegations.

I am disappointed that China has gone to this extreme to counter what it believes is a growing interest in independence among the Taiwanese people. Even though the Democratic Progressive Party, which supports independence, has picked up a few seats in the Taiwan Parliament, it appears to be far from a threat in the presidential election of March 23. The major party, the National Party, has supported future unification.

While the administration has recently sent elements of the United States 7th Fleet to provide support for Taiwan, these Chinese exercises have been conducted for over 8 months. There has been a very weak response by the administration until this time. I feel compelled to ask the question of why these exercises occurred in the first place. Why have we let our relationship with China deteriorate to the point where military exercises that threaten Taiwan, where sales of nuclear materials continue, and where many other disputes and differences have worsened with China.

It should be an important United States foreign policy objective to set our relationship with China back on track. The administration must place this as a very high priority before the situation worsens. Constant, high-level communication with Chinese leaders may have enabled us to avoid these harmful disputes.

We must work toward ensuring that, after the March 23 election, both China and Taiwan begin a high-level dialog to decrease tensions and to resolve the issue of the future of Taiwan. This must be done in a peaceful manner, consistent with the Taiwan Relations Act and the Three Communiques.

The harm done by the military exercises will not make this an easy task.

I urge support for the Senate amendment to the House resolution.

Mr. SANTORUM. Mr. President, the People's Republic of China has conducted a series of missile tests in the last few weeks in a clear attempt to intimidate the people of Taiwan as they prepare for the first direct democratic election of President. These military exercises are not in the spirit of the three United States China Joint Communiques and serve as a threat to the peace, security, and stability of Taiwan.

I join my other colleagues who have cosponsored H. Con. Res. 148 in condemning the recent actions of the Chinese Government. This action severely tests the assumption that was set when we normalized relations with the People's Republic of China in 1979. We did so on the expectation that the future of Taiwan would be settled solely by peaceful means. We codified this commitment and understanding in the Taiwan Relations Act. In this legislation, we state clearly that America believes that peace and stability in the area are in the political, security and economy interests of the United States. This Act also commits the United States to reset any resort to force or other coercion that would jeopardize the security of Taiwan's people.

I urge the Chinese Government to honor the intent of the Joint Communiques and the Taiwan Relations Act by seeking a peaceful solution to this situation through dialog with Taiwan, and by ceasing their military actions.

Mr. DASCHLE. Mr. President, I am pleased to cosponsor the amendment to the resolution, H. Con. Res. 168, condemning the missile tests and military exercises being conducted by the People's Republic of China near Taiwan.

Last week I suggested that China's missile tests and military exercises have been dangerous and provocative. Unfortunately, tensions between China and Taiwan have not subsided. In fact, with Taiwan's first democratic Presidential election just around the corner, China's rhetoric continues loud and unabated.

The Clinton administration has gone to great lengths to warn China about the potential consequences of its actions and to underscore United States policy that the future of Taiwan must be resolved by peaceful means. I am pleased the Senate has joined in sending a strong signal to China.

With one clear voice, the Senate is now on record deploring the missile tests China has been conducting near Taiwan and recognizing that such tests are a potentially serious threat to peace and stability in the region. As I mentioned last week, China's missile tests and military exercises are dangerous in and of themselves, and they increase the chances of an accident that could cause tensions to spiral out of control.

It is important to emphasize that this resolution also supports the commitment of the United States, China, and Taiwan to resolve the future of Taiwan through peaceful means. United States policy clearly stipulates that the future of Taiwan should be determined peacefully. Taiwan has made similar overtures. China must also begin conducting itself in a way that reaffirms its commitment to that goal.

China can do just that by ceasing its attempts to intimidate the people of Taiwan and influence their upcoming Presidential election. This resolution urges China to cease missile tests and military exercises and enter into "meaningful dialog" with Taiwan. I completely agree, and it seems to me that Beijing should begin to communicate with Taiwan in a nonthreatening and peaceful way rather than carrying out reckless missile tests and military exercises.

I hope the resolution adopted by the Senate today will encourage China to resolve its differences with Taiwan peacefully.

Mr. PELL. Mr. President, this resolution is a thoughtful, appropriate response to recent developments in the Taiwan Strait. With this resolution, the Senate deplores the People's Republic of China's recent missile tests and military exercises in the Taiwan Strait as an unwarranted and dangerous attempt to intimidate Taiwan as it prepares to hold direct presidential elections this Saturday. It calls on China to return to negotiations at the highest levels between the two governments, negotiations which have successfully resolved a number of issues in the past. The resolution also reiterates our long-standing policy that maintaining peace and stability in the region is in the interest of the United States and that we expect Taiwan's future to be resolved peacefully and in a way that satisfies the Chinese on both sides of the Taiwan Strait.

As a sponsor of this resolution, I urge all parties involved to move away from provocative measures and to find new ways to de-escalate tensions. It is incumbent upon all parties to avoid taking steps which could lead unexpectedly, through mistake or miscalculation, to a conflict that no one wants.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Now is the time for calmer voices to prevail and I hope that all governments will listen for them.

I think this is a thoughtful and appropriate response, worked in a bipartisan way. It is a resolution we can support with pride.

The PRESIDING OFFICER. The question on agreeing to House Concurrent Resolution 148, as amended. The yeas and nays are ordered. The clerk will call the roll. The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 51 Leg.]

YEAS—97

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NOT VOTING—3

Bradley
Gregg
Kerrey

So, the concurrent resolution (H. Con. Res. 148) was agreed to.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I ask unanimous consent that I may proceed as in morning business for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPERFUND LEGISLATION

Mr. CHAFEE. Mr. President, I come to the floor today to join Senator SMITH, the distinguished chairman of the subcommittee of the Environment and Public Works which deals with Superfund. Let me take a moment to describe our progress and plans for Superfund reform.

The Superfund Program is our most troubled environmental statute. No one could disagree that the Congress should enact Superfund reform this year. No one is happy with the status quo—not industry, not environmentalists, not insurers, not State and local governments, not even the EPA and other Federal agencies.

Superfund reform is No. 1 priority of my committee in 1996.

Senator SMITH introduced S. 1285, the Accelerated Cleanup and Environmental Restoration Act, last September 29. This reform package represents a remarkable improvement over the status quo, and it is deserving of widespread support. I am a cosponsor.

Since introduction, Senator SMITH and I have met with the minority members of the subcommittee and administration for countless hours to explain the bill, make technical changes, and clarify its intent where needed. We have solicited the views of interested outsiders. As a result of these discussions, we have incorporated numerous changes, large and small, into the bill.

These negotiations, which are still continuing, have been productive, and I hope and expect that they will lead to a bill that garners widespread bipartisan support in the Senate, a bill that satisfies the President's often-stated desire to fix this program, a bill that he can and should sign.

At this point in our process, as our negotiations move into some of the more difficult issues, Senator SMITH and I agreed that it is important to give members of this body, as well as those outside parties interested in Superfund reform, an opportunity to look at, and comment upon, the results of our negotiations to date. The document, a staff draft that will be printed in today's CONGRESSIONAL RECORD, represents a snapshot of the current status of our negotiations. In a few moments, Senator SMITH will offer more detailed comments on this new draft of the Superfund bill.

All sides in our negotiations have justifiably reserved final judgment until negotiations are complete and important constituencies have had the chance to analyze and comment on the final product.

As we move forward, we want to provide opportunities to receive formal comments on the bill. In the next few days we will schedule hearings on the bill to occur as soon as possible after the Easter recess. We hope that we can reach substantive agreement on a bipartisan bill by that time, or else use the hearings to further explore the remaining areas of difference. We plan to move on to a markup and prepare the bill for floor action as soon as we can this spring.

I want to express my appreciation the ranking member of the committee, Senator BAUCUS, and the Superfund Subcommittee, Senator LAUTENBERG, for their contributions to the process. I also want to thank the administration for their efforts in these negotiations.

Most of all I would like to thank Senator SMITH for the many hours he and his staff have devoted to keeping Superfund reform on-track and moving forward. This is no easy task. Superfund is a complex and controversial program, and progress is always difficult in the best of circumstances, not to mention in a Presidential election year. We have a very good chance to enact Superfund reform this year, and if we do, a great deal of the credit should go to Senator SMITH.

Mr. SMITH. Mr. President, I want to thank my friend and colleague from Rhode Island, Senator CHAFEE, for working with me to enact a comprehensive Superfund reform measure. As Senator CHAFEE oulined, on September 29, 1995, I introduced S. 1285, the Accelerated Cleanup and Environmental Restoration Act. This legislation, which was cosponsored by Senator CHAFFEE and nine other members, was an effort to provide comprehensive reform of this troubled program.

I would like to thank Senator CHAFEE, the chairman of the Environment and Public Works Committee for his strong support in this effort. Over the last year, he and I have worked cooperatively to reform this program, and it is because of his assistance that I believe that this legislation can be passed this year.

As Senator CHAFEE has mentioned, he and I are here today to continue the process toward making sure that reasonable Superfund reform legislation will reach the floor this Spring. To achieve this goal, our respective staffs have spent more than 150 hours with Democrats on the Senate Environment Committee as well as representatives of the Environmental Protection Agency, the Justice Department, and the White House working toward achieving a bipartisan consensus toward reauthorizing the Superfund Program.

In a few moments, I will ask to be entered into the RECORD a copy of a staff discussion draft outlining changes that Senator CHAFEE and I are willing to make to achieve bipartisan consensus on this issue. As Senator CHAFEE stated, this is a snapshot of where we currently are in negotiations.

Let me be clear: this draft includes changes that I found to be constructive and reasonable—without compromising the underlying principles necessary for real Superfund reform. I remain committed to passing a strong bill that reduces litigation and accelerates clean up. As Senator CHAFEE indicated, the committee intends to hold a hearing the week we return from the Easter recess. At that point in time, interested parties will have the opportunity to testify on a final product that will be

used for markup. Additional agreements and disagreements will be worked out in the normal committee process through amendment.

Before I describe some of the details of this proposal, I would like to say a few words what this draft is and what it is not. During the last few months our staffs have met with hundreds of individuals who are interested in the future of this program, and who have provided us with specific comments about S. 1285. We have carefully weighted these comments, and this staff discussion draft, in part, is intended to respond to some of those concerns.

This draft is also intended to address some of the concerns that have been raised by Governors, the Clinton administration, Senate Democrats, as well as other interested parties. While this language represents a good faith effort address some of these concerns, these changes have not been agreed to by any other parties, and we are continuing to negotiate and address concerns that have been raised. Indeed, there are areas of this bill, including Federal facilities issues, amendments to the Resource Conservation and Recovery Act and natural resource damages, that we have not yet had the opportunity to fully address in these negotiations.

Nonetheless, as Senator CHAFEE has pointed out, we wanted to provide a window into our ongoing negotiations, and allow interested parties to have the opportunity to comment on these proposed changes. And again, it is important for me to stress that a final product will be forthcoming. Where we are in agreement, we will agree. Where we are in disagreement, we will agree to disagree, and move on with the process.

One area I do want to spend some time on this evening is the issue of liability reform. As many of my colleagues may know, when we released our initial liability reform proposal in September, there were some Members on our side of the aisle who felt that we had limited our horizons too much when we proposed a 50-percent tax credit for pre-1980 disposal activities. Although I was convinced, and continue to believe that our proposal had a great deal of merit, we have nonetheless decided to modify this section to address these concerns.

The liability proposal in the staff discussion draft, I believe, will provide significant liability reform, and will vastly diminish the scope and nature of ongoing litigation. In particular, our proposal would have the effect of eliminating liability for parties at multiparty disposal sites—those sites where there was an off-site generator or transporter—for disposal activities that occurred prior to December 11, 1980. These sites involve some of the most contentious and expensive litigation in the Superfund Program and have only helped to slow down the pace of cleanups.

This litigation has not helped to address this important environmental problem, but instead, has hindered the ability to protect human health and the environment in the shortest time possible. By providing orphan share contribution for these costs, I believe that we will not only significantly reduce the contentious nature of this litigation, but our reforms will allow these sites to be cleaned up faster.

Our liability proposal provides that deminimis parties, such as small mom and pop businesses, will be eliminated from the liability net if they were responsible for disposing of less than 1 percent of the volume of materials at a site prior to December 11, 1980, or if they disposed less than 200 pounds or 110 gallons of materials at an NPL site. This change will significantly reduce the number of parties at these sites who are needlessly dragged into the quagmire of litigation. Our legislation will not only eliminate their liability, but it will also provide for an up-front determination that they are not subject to this damaging and costly litigation process.

In addition, this staff discussion draft also provides a 10 percent cap on the total amount of liability for those municipalities whose potential liability resulted only from generating or transporting municipal solid waste or sewage sludge. This change, combined with the orphan share contribution for pre-1980 disposal at multiparty sites, will provide significant relief for cities and towns caught in the Superfund liability net.

I would be remiss if I did not discuss changes that we have proposed to make in the remedy selection portion of S. 1285. In the legislation we introduced in September, we proposed eliminating the requirements under current law that mandate the use of applicable, relevant, and appropriate State and Federal environmental cleanup laws. Both Senator CHAFEE and I received a significant number of comments from States about this provision. After a good deal of reflection, we decided to provide that applicable State and Federal cleanup laws can be applied to these hazardous waste cleanups.

There are a number of other issues that have been raised about the remedy selection portion of this legislation, including provisions related to groundwater cleanup, that we have not modified at this time. However, I do want to note that these issues are under discussion, and this draft does not represent our final proposal on this section.

Mr. President, Senator CHAFEE and I are here on the floor today to declare that Superfund reform is alive and well. As Senator CHAFEE has mentioned, he and I are here today to continue the process towards making sure that significant Superfund reform legislation will reach the floor this Spring. While our colleagues have not heard much from us recently, this does not mean we have not been working hard—we have. This is not to say that we still don't have a ways to go—we do.

I believe that the discussions we have been involved in over the last few weeks have been fruitful and have been conducted in good faith. Our colleagues, the President, and all parties involved in this program have frequently stated that they want comprehensive Superfund reform. Frankly, given its inadequacies, we simply can not afford to push Superfund reform off for another year. If our colleagues, including those on both sides of the aisle—as well as those in the White House—can keep the rhetoric down, we believe that we can pass a comprehensive Superfund reauthorization bill this year that will ensure faster, safer and cheaper cleanups.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that I be able to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TAIWAN RESOLUTION

Mrs. FEINSTEIN. Mr. President, I want to thank the Senator from Wyoming, Senator THOMAS, for his leadership on the issue of the resolution which was just passed by a vote of 97 to 0 in this body. I thank him for his cooperative approach to finding a text that all parties could agree on. I also express my thanks and admiration to the Senator from Louisiana, Senator JOHNSTON, and the Senator from Georgia, Senator NUNN, for their understanding of this issue and their efforts to craft a responsible resolution.

I would also like to thank Senators MURKOWSKI, HELMS, SIMON, and PELL, and the distinguished majority leader. and their staffs, for working with all of us in a cooperative spirit on this resolution.

Mr. President, in the last 2 weeks we have watched as China has tested four missiles in close proximity to Taiwan, and the People's Liberation Army has conducted live-ammunition military exercises in the Taiwan Strait.

These tests and exercises are, obviously, aimed at showing in a militant fashion China's depth of feeling about the Taiwan issue and, many believe, to influence the Taiwanese election which will take place in a 2 short days.

It is unfortunate, I believe, that China has chosen to express its displeasure through the use of military threats. It is wrong, and the United States is right to deplore it. The United States has for over 24 years adhered to a One China policy that is

VOL 142 PT 5 MR 21 — 29 1996 UMI

based, in part, on the understanding that China will not seek to resolve its differences with Taiwan through other than peaceful means.

Our One China policy, of course, is also based on an understanding that Taiwan will not make any efforts to resolve its differences with China unilaterally or through any effort or move toward independence.

Clearly, a number of Taiwan's actions over the past several months—including President Lee Teng-hui's visit to the United States, Taiwanese military exercises concurrent with that visit, and an ongoing campaign for a seat at the United Nations—have called into question whether Taiwan is sincere in its statements that it opposes independence.

This resolution, then, sends two messages. It says to the Chinese that their use of military threats against Taiwan is unacceptable and represents a potential threat to United States interests in the western Pacific. President Clinton has deployed the USS Independence and the USS Nimitz to the region to monitor events. China must understand that the use of force against Taiwan would have grave consequences.

In addition, the resolution says to Taiwan that it must avoid provocative actions that cast doubt on its commitment not to pursue independence and, instead, to work for eventual peaceful reunification. Taiwan's security is important to the United States, but the United States will not sanction actions by Taiwan that raise tensions unnecessarily.

The One China policy is the essential element of the United States-China-Taiwan relationship. This policy has been the acknowledged framework that has served all three parties well for some two decades: The United States and China have been able to conduct normal relations befitting two great powers; China has entered into a period of dynamic economic growth; the United States and Taiwan have developed extensive economic and cultural ties; Taiwan has become the single largest investor in China, with over $20 billion in investments on the mainland; and, Taiwan has prospered and moved toward a democracy of which its people can be rightfully proud.

With all of these benefits flowing from the One China policy, and the fact that in a poll a week ago in Taiwan only 8 percent of the people favored independence and the overwhelming majority preferred the status quo, no one should take any precipitous action which would threaten to undermine the One China policy. In the aftermath of the Taiwan election, all three parties must move to restore balance to this relationship by reaffirming the One China policy.

China's concern, as relayed to me from its highest leadership, has been that Taiwan will not say that it endorses a One China policy and speaks with two tongues.

Mr. President, I would like to introduce into the RECORD a directive from Premier Lien Chan, the number two official of the Republic of China. His directive was made in writing on March 5. It was made public by Patrick Tyler, the Beijing reporter for the New York Times. I called the Taiwan office and received a copy of it. It is on two pages.

The part that I would like to quote is as follows:

> I reiterate that the Republic of China government is adamant in its pursuit of national reunification and strong opposition to Taiwan independence.

When I called the Chinese Ambassador and made clear that this had been presented in writing, he made the point that it is presented in English but that it has appeared nowhere in Taiwan in Chinese.

I ask unanimous consent to have the directive printed in the RECORD, if I may, at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A DIRECTIVE FROM PREMIER LIEN CHAN, THE EXECUTIVE YUAN, REPUBLIC OF CHINA, MARCH 5, 1996

> It is the responsibility of the government of the Republic of China to preserve peace and stability in and around the Taiwan Straits in order to ensure public welfare and the security of the nation. Since July 1995, the Chinese communists have conducted several military exercises. Thanks to the unity of our people and proper measures taken by our government, the Taiwan, Penghu, Kinmen, and Yatsu area has remained stable.
>
> Early this morning, the mainland authorities announced plans to launch missiles in waters to the northwest and southwest of Taiwan between March 8 and March 15, 1996. This action clearly is aimed at influencing the ROC's ninth presidential and vice presidential election, destroying the peace in the Taiwan Straits, and endangering regional peace and stability. On behalf of the ROC Government, I wish to express the strongest protest, and call upon the mainland authorities to cancel this provocation. We will hold Peking responsible for any unfortunate consequences which arise from this action.
>
> Facing this situation, the Executive Yuan has directed the concerned agencies to make the following preparation:
>
> (1) The ROC armed forces have been directed by the government to maintain a state of alert, and are prepared to meet all possible actions of the Peking regime. They will continue to monitor military activity on the mainland closely provide instant reports, and take all necessary measures immediately, as the need arises.
>
> (2) We have already adopted necessary measures to ensure the safety of our fishermen and normal air and sea transportation in the vicinity.
>
> (3) We will continue to maintain law and order, stabilize the financial sector, and maintain normal economic activities.
>
> (4) The ROC's ninth presidential and vice presidential election, a historic event to be held on March 23rd, shall be carried out as planned.
>
> I reiterate that the ROC Government is adamant in its pursuit of national reunification and strong opposition to Taiwan independence. This election is being carried out in accordance with the Constitution of the Republic of China, and is in line with the will of the ROC people, and with world trends.
>
> The outcome of this election will not affect our position on cross-Straits relations; nor will it alter our government's steadfast pursuit of national reunification.
>
> It has also been, and still is, the longstanding policy of the ROC Government to strengthen cross-Straits exchange and negotiation while promoting positive interaction. The difference in political systems and ways of life across the Taiwan Straits is the main obstacle to reunification. However, this is not an issue that can be resolved by military means. An atmosphere that is conducive to reunification can be created only by relying on patience, promoting understanding through step-by-step exchange, dissolving hostility, and pursuing a way of life that is most beneficial to the Chinese on both sides of the Straits. Popular will has indicated time and again that it is the common aspiration of the people on both sides to see the end of cross-Straits enmity and promote mutual benefits and prosperity on the basis of peace.
>
> The government of the Republic of China has already decided that, in the future, it will foster consensus on a concrete and feasible proposal that will make a historic contribution to the development of cross-Straits peace and to the security and prosperity of the Asia-Pacific region. The mainland authorities should not unilaterally distort our position and repeatedly take actions that damage the bonds between the people on either side of the Taiwan Straits. This only hampers cross-Straits exchanges and progress toward reunification.
>
> I hope that the entire body of ROC citizens will remain calm and rational during this period, and continue to trust and support their government. The government will take appropriate and effective measures, and handle the situation with caution and in a manner that ensures full protection to the welfare of the people.

Mrs. FEINSTEIN. Mr. President, I think it is very important that this directive, which clearly states that it is the policy of the Taiwanese Government to pursue national reunification and strongly oppose independence, be known by the world.

Now there will be a window of opportunity following Saturday's election for resumption of the Cross-Straits Initiative that was derailed last summer after Lee Teng-hui's visit. This dialogue, conducted by China's Association for Relations Across the Taiwan Straits and Taiwan's Straits Exchange Foundation, offers a unique opportunity to begin to meet and discuss the major issues concerning reunification.

China has for some time offered Taiwan direct air service. As you know, today the plane leaves Taiwan, it appears to land at Macao, it changes its flight number, and it goes on to China. This is not necessary. China is prepared to once again offer, as its Vice Foreign Minister told 10 U.S. Senators who were present at a meeting last week, direct sea service and direct postal service.

I ardently urge both parties to sit down at the table and begin to discuss

issues around which there is a common interest. One has to be a One China policy. The second has to be peaceful reunification. The third has to be steps taken to achieve both of the foregoing.

I think the peace, security, and stability of Asia, and perhaps the world, are at stake in these discussions.

I earnestly and sincerely implore the parties, both the People's Republic of China and the Republic of China, to sit down at the table, to end these military exercises, and to resolve a peaceful reunification for the future.

I thank the Chair for your indulgence.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

THE NOMINATION OF CMDR. ROBERT STUMPF

Mr. COATS. Mr. President, I would like to address the issue concerning the procedures used by the Senate Armed Services Committee in evaluating nominations and, in particular, the nomination of Cmdr. Robert E. Stumpf.

The Senate Armed Services Committee has received considerable public criticism since the Secretary of the Navy removed Commander Stumpf from the promotion list.

The committee, and some of its members, have been the subject of numerous articles in the media relating to both substantive and procedural issues concerning this matter. Much of the material that has appeared in the media reports has been inaccurate and incomplete. Some of the material has been written by Commander Stumpf's lawyer. Others quote either Commander Stumpf, his attorney, or both.

To this point, members of the Armed Services Committee have not responded publicly on the substance of the information provided to the committee by the Navy, nor on the deliberations conducted within the executive session. This is in accordance with established committee rules and procedures, including procedures designed to protect the privacy and reputation of nominees, with appropriate regard for the rights of Commander Stumpf.

Last Thursday, Senator THURMOND, as the chairman of the Armed Services Committee, on behalf of the committee, placed a statement in the RECORD which began by reciting the chronology of events concerning the nomination of Commander Stumpf. I do not think there is any doubt or debate about the sequence of events. But I want to review those events for the RECORD.

On March 11, 1994, the President submitted various nominations for promotion in the Navy to the grade of captain (O–6), including a list containing the nomination of Commander Stumpf. On the same date, the Assistant Secretary of Defense, in the letter required by the committee on all Navy and Marine Corps nominees, advised the committee that none of the officers had been identified as potentially implicated on matters related to Tailhook. After careful review, the list was reported favorably to the Senate on May 19, 1994, and all nominations on the list were confirmed by the Senate on May 24, 1994.

Subsequent to the Senate's confirmation of this promotion list, but prior to the appointment by the President of Commander Stumpf to the grade of captain, the committee was advised by the Department of Defense that the March 11, 1994, letter had been in error because the Navy had failed to inform the Office of the Secretary of Defense that Commander Stumpf had been identified as potentially implicated in Tailhook.

As a result, on June 30, 1994, the Armed Services Committee requested that the Navy withhold action on the promotion of Commander Stumpf until the committee had an opportunity to review the information that had not been made available to the Senate during its confirmation proceedings. It was entirely appropriate that the committee request the withholding of Commander Stumpf's promotion once it had been notified of the Navy's failure to report the potential implication of Commander Stumpf in Tailhook-related activities.

It is also worth noting that the Armed Services Committee has no capacity to investigate nominations on its own. The committee must rely solely on the information provided by the Department of Defense, which, in this case, was incomplete.

On April 4, 1995, the Navy provided the committee with the report of investigation and related information concerning Commander Stumpf. And I would note this is not all the information related to Commander Stumpf for his case. The committee is still receiving documents relating to that particular case. And subsequently, the Navy provided additional information in response to requests from the committee. And those requests are ongoing.

On October 25, 1995, the committee met in closed session, consistent with its longstanding practice, to consider a number of nominations and to further consider the matter involving Commander Stumpf. After due consideration, the committee directed the chairman and ranking member to advise the Secretary of the Navy that, and I quote:

> Had the information regarding Commander Stumpf's activities surrounding Tailhook 91 been available to the committee, as required, at the time of the nomination, the committee would not have recommended that the Senate confirm his nomination to the grade of captain.

The committee also directed that the letter advise the Secretary that, and again I quote from the letter:

> The committee recognizes that, in light of the Senate having earlier given its advice and consent to Commander Stumpf's nomination, the decision to promote him rests solely with the executive branch.

A draft letter was prepared, reviewed by the Senate legal counsel, made available for review by all members of the committee, and was transmitted to the Secretary on November 13, 1995. On December 22, 1995, the Secretary of the Navy removed Commander Stumpf's name from the promotion list.

The committee met next on March 12, 1996, to review the committee's procedures for considering Navy and Marine Corps nominations in the aftermath of Tailhook. At that meeting, the committee again reviewed the proceedings concerning Commander Stumpf.

I do not think many people outside the committee fully understand the committee's procedures in handling controversial nominations. Just to make it clear, when the committee is notified by the Department of Defense that there is potentially adverse information concerning a nominee, that nomination moves to a separate, more deliberate track than those nominations about which there is no adverse information. The committee staff is required to research the information provided by the Department of Defense and to brief the members in an executive or closed session. Attendance at these executive sessions is limited to Members of the Senate and committee counsel. These restrictions are designed to minimize the number of people who may learn of information which may be very personal, sometimes inflammatory, and may involve allegations which have been found to not be substantiated.

Following a procedure developed late in the 103d Congress, the chairman and ranking member of the Personnel Subcommittee are charged with reviewing those cases prior to an executive session. In the case of Commander Stumpf, the committee followed those procedures precisely.

The committee met in executive session on October 25, 1995, to discuss a series of nominations, as I indicated. Seven Tailhook-related nominations were considered that day. For the record, those members present voted to favorably recommend two of the seven and to return five of the nominations to the executive branch at the end of the first session. The one remaining Tailhook-related individual discussed during that meeting was Commander Stumpf.

On December 22, 1995, as I earlier indicated, Secretary Dalton removed Commander Stumpf from the promotion list. Following that action by the Secretary of the Navy, a number of public articles, some written by Commander Stumpf's defense team, questioned the committee's integrity, its processes and its judgment. These allegations have been characterized by

VOL
142
PT
5
MR
21
—
29
1996
UMI

misinformation, distortions of the record, and misstatement of the facts.

Numerous articles and sources have questioned the committee's procedures related to Tailhook nominations, alleging that the prospect of confirmation of service members nominated for promotion but involved in Tailhook are "slim."

The records of the committee show that the committee has received 23 nominations of service members potentially implicated in Tailhook. Only eight of those have been rejected by the committee. To put this in perspective, the committee has confirmed 43,270 Navy and Marine Corps officers since 1992.

A published article says that "one member of the committee now maintains that there were reasons other than Tailgate for rejecting Commander Stumpf." There have been other allegations that the committee had information other than that provided by the Navy. An article in the March 1996 edition of the Armed Forces Journal says that Commander Stumpf and Mr. Gittins, Commander Stumpf's attorney, believe there were anonymous phone calls to the committee. These allegations imply that the committee based its conclusions concerning Commander Stumpf on information which was unknown to Commander Stumpf and the Navy.

While it is true that on occasion the committee does receive information from outside sources, since the committee does not have the capacity to independently investigate, committee procedures are to refer such information to the Department of Defense. In Commander Stumpf's case, there was no outside information provided to the committee. The committee did not consider any material other than that provided by the Navy when it determined that, as the November 13, 1995 letter to Secretary Dalton states, "Had the information regarding Commander Stumpf's activities surrounding Tailhook '91 been available to the committee as required at the time of the nomination, the committee would not have recommended that the Senate confirm his nomination to the grade of captain."

Mr. President, unfortunately, misrepresentations and misstatement of the facts related to the committee deliberations on this matter have put the Armed Services Committee at a severe disadvantage. Our policy has been to protect the confidentiality of the nominee, and we are limited in our ability to respond.

Certainly in this case, the nominee, Commander Stumpf, does not share our concern. In fact, a Wall Street Journal article dated March 12, 1996, stated that Commander Stumpf and his attorneys have indicated that the committee should feel free to tell the entire world whatever it is that Senators think they know about him. It is noteworthy, Mr. President, that Commander Stumpf, in a letter to the chairman of the Armed Services Committee dated March 13, 1996, requested that he be permitted to testify before the committee but in a closed hearing, not open to the public or the media.

Mr. President, I believe it is important that our Senate colleagues be advised that the committee, in reviewing nominations for promotion, carefully examines each individual case and, among other criteria, believes the standard set forth in title X of the United States Code pertaining to the responsibilities of a commander entitled "Requirement for exemplary conduct" are applicable, and I quote from title X:

> All commanding officers and others in authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant in inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them; and to take all necessary and proper measures, under the laws, regulations, and customs of the naval service to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.

This standard, Mr. President, is repeated verbatim in article 1131 of the U.S. Navy Regulations issued in 1990. There are similar provisions in title X which pertain to the other services, as well as other provisions relating to members of the armed services.

The committee does not take lightly these statutory and regulatory standards. Nor do they take lightly their constitutional responsibilities to provide their advice and consent on military nominations.

A number of articles that have been written have referred to Senator NUNN's involvement in the committee's deliberations and decisions. While Senator NUNN has exercised his due diligence in this case, as he does with every other matter before the Senate Armed Services Committee, I would like to state for the record that as chairman of the Subcommittee on Personnel of the Senate Armed Services Committee, I take responsibility for the procedures used by the subcommittee staff to review military nominations and I fully stand by those procedures used by the staff in carefully reviewing the nominations presented to the committee by the executive branch, including the procedures used to evaluate the nomination of Commander Stumpf.

I have reviewed that material in depth. I have personally and carefully evaluated the file on Commander Stumpf. I have discussed the matter at length with the staff and I have concluded that, based exclusively—exclusively on the facts presented to the committee by the Department of Defense with due regard for the statutory and regulatory standards governing the conduct of military commanders and officers, as well as long-established military precedents, that I could not recommend approval of Commander Stumpf's nomination to the committee.

Each member of the committee is, of course, free to accept or reject any recommendation, and I certainly respect those who have come to a different conclusion in this matter. Each member is free to separately evaluate all of the material available to the committee on this nomination or any nomination. Each member is, of course, free to debate the case for or against either Commander Stumpf's nomination or any other nomination. In the final analysis, of course, each member is free to vote yea or nay on any particular case.

I am disappointed that so many in the media followed the well-intentioned but misinformed lead of those who do not know the facts of the case and the committee's deliberations. The Armed Services Committee is an important part of the institution of the Senate. Everyone in this body is hurt when the Senate Armed Services Committee is vilified and members cannot respond because of loyalty to rules and procedures put in place to protect the confidentiality of the matters before it and the nominees before its consideration.

Mr. President, I look forward to a time when respect for the privacy of an individual and respect for such a great institution as the U.S. Navy is not overridden by the desire of a journalist or an attorney or any others to take advantage of a situation to forward their own agenda.

The Secretary of the Navy has removed Commander Stumpf from the promotion list. The committee no longer has any nomination before it pertaining to Commander Stumpf. The committee has no legal authority to take any further action concerning the promotion of Commander Stumpf at this time.

As in every case in which a military nominee has been removed from a promotion list, the only process by which Commander Stumpf can be renominated for promotion is to be selected by another promotion board and be nominated by the President again, or, alternately, directly nominated by the President under his authority, granted by article 2 of the Constitution.

As I have stated before, the decision of the committee after due deliberation was that, had the information regarding Commander Stumpf's activities surrounding Tailhook '91 been available to the committee as required at the time of the nomination, the committee would not have recommended

that the Senate confirm his nomination to the grade of captain. That was the committee's determination then. That is the committee's determination now. Nothing that has transpired since has altered the committee's decision.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I am pleased to join with the leaders of the Subcommittee on Personnel of the Armed Services Committee, Senator COATS and Senator BYRD, in addressing the review of the military nominations in the aftermath of Tailhook, including the nomination of Commander Robert Stumpf, U.S. Navy. Senator COATS has addressed this matter with extreme accuracy in an absolutely factual presentation, for which I applaud him, in making that presentation.

The review of military nominations, particularly those involving adverse information, is a responsibility taken very seriously by the members of the Armed Services Committee, as the Chair well knows, being a member of that committee. This is a responsibility that the Constitution assigns to the Senate and the Senate has assigned to the Committee on Armed Services, as its, in effect, agent, to make recommendations to the full Senate. Within the committee, the responsibility of making recommendation on military nominations rests with the leadership of the Subcommittee on Personnel.

Senator COATS and Senator BYRD, as chairman and ranking member of the Subcommittee on Personnel, have fulfilled this responsibility with skill, dignity, and absolute fairness. They have provided the committee with serious, sober, and balanced recommendations on military nominations.

When the committee considered the promotion of Commander Stumpf on October 25, 1995, I listened, as other members did, with care to the presentation made by Senator COATS on behalf of himself and Senator BYRD. I found his assessment to be persuasive and I voted in favor of the recommendation of Senator COATS and Senator BYRD, that Commander Stumpf not be promoted.

The subject of Commander Stumpf's promotion has been the subject of some attention in the Department of the Navy, among those who follow Naval aviation, and in the news media. I am pleased to join Senator COATS, Senator BYRD, and others, in placing this matter in the proper perspective.

On March 13, 1996, the Armed Services Committee issued a statement concerning the committee's consideration of the promotion of Commander Stumpf, U.S. Navy.

I ask unanimous consent that statement be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

> On March 11, 1994, the President submitted various nominations for promotion in the Navy to the grade of Captain (O-6), including a list containing the nomination of Commander Stumpf. On the same date, the Assistant Secretary of Defense, in the letter required by the committee on all Navy and Marines Corps nominees, advised the committee that none of the officers had been identified as potentially implicated on matters related to Tailhook. The list was reported favorably to the Senate on May 19, 1994, and all nominations on the list were confirmed by the Senate on May 24, 1994.
>
> Subsequent to the Senate's confirmation of the list, but prior to the appointment by the President of Commander Stumpf to the grade of Captain, the committee was advised by the Department of Defense that the March 11, 1994 letter had been in error because the Navy had failed to inform the Office of the Secretary of Defense that Commander Stumpf had been identified as potentially implicated in Tailhook. On June 30, 1994, the committee requested that the Navy withhold action on the promotion until the committee had an opportunity to review the information that had not been made available to the Senate during the confirmation proceedings.
>
> On April 4, 1995, the Navy provided the Committee with the report of the investigation and related information concerning Commander Stumpf, and subsequently provided additional information in response to requests from the committee. On October 25, 1995, the committee met in closed session—consistent with longstanding practice—to consider a number of nominations and to consider the matter involving Commander Stumpf. The committee directed the Chairman and Ranking Member to advise the Secretary of the Navy that "had the information regarding Commander Stumpf's activities surrounding Tailhook '91 been available to the committee, as required, at the time of the nomination, the committee would not have recommended that the Senate confirm his nomination to the grade of Captain." The committee also directed that the letter advise the Secretary that: "The committee recognizes that, in light of the Senate having earlier given its advice and consent to Commander Stumpf's nomination, the decision to promote him rests solely with the Executive Branch." A draft letter was prepared, made available for review by all members of the committee, and was transmitted to the Secretary on November 13, 1995. On December 22, 1995, the Secretary of the Navy removed Commander Stumpf's name from the promotion list.
>
> The committee met on March 12, 1996, to review the committee's procedures for considering Navy and Marine Corps nominations in the aftermath of Tailhook. At that meeting, the committee reviewed the proceedings concerning Commander Stumpf.
>
> The committee, in considering the promotion of Commander Stumpf, acted in good faith and in accordance with established rules and procedures, including procedures designed to protect the privacy and reputation of nominees, with appropriate regard for the rights of Commander Stumpf. The Chief of Naval Operations has testified that he believes such confidentiality should be maintained. The committee made its November 13, 1995 recommendation based upon information that was made available by the Navy.
>
> At the present time, no nomination concerning Commander Stumpf is pending before the committee, and the Secretary of the Navy has removed his name from the promotion list. The committee has been advised by the Navy's General Counsel that this administrative action taken by the Secretary of the Navy is final and that the Secretary cannot act unilaterally to promote Commander Stumpf.
>
> The committee notes that much of the material that has appeared in the media about the substantive and procedural issues concerning this matter, is inaccurate and incomplete.
>
> As with any nominee whose name has been removed from a promotion list, Commander Stumpf remains eligible for further nomination by the President. If he is nominated again for promotion to Captain, the committee will give the nomination the same careful consideration it would give any nominee.

Mr. NUNN. Mr. President, I believe that statement has already been alluded to by my friend from Indiana. Commander Stumpf had a distinguished military record, including decorated combat service. That record was considered strongly by the committee in the review of his promotion.

The Navy also provided the committee with information, subsequent to his confirmation by the Senate, which raised issues about Commander Stumpf's qualifications for promotion to a higher grade.

As with almost any nomination involving such information, factual information, reasonable people can disagree on whether the information considered by the committee disqualified Commander Stumpf for promotion. I respect my colleagues, and others, who come to a different conclusion than I.

The significance of the committee's statement that has just been printed in the RECORD is that both those who support Commander Stumpf's promotion and those who do not support his promotion have agreed that the Armed Services Committee, quoting the committee, "* * * acted in good faith and in accordance with established rules and procedures, including procedures designed to protect the privacy and reputation of nominees, with appropriate regard for the rights of Commander Stumpf." That was a unanimous statement of the Armed Services Committee.

In addition, all the members of the committee agreed, "Much of the material that appeared in the media about the substance and procedural issues surrounding this matter is inaccurate and incomplete." That, too, was a unanimous opinion of the Armed Services Committee, including both those who favored the Stumpf nomination and those who did not.

The inaccurate stories, unfortunately, continue. The March 15 Washington Times asserts, for example, that there was, "* * * an effort to rescind the committee's November 1995 letter," recommending that Commander Stumpf not be promoted. That statement in the Washington Times is misleading. I was there for the whole meeting. No such motion was made or voted on. No such motion was ever made or voted on in the committee.

VOL
142
PT
5
MR
21
—
29
1996
UMI

PROCEDURES OF THE SENATE ARMED SERVICES COMMITTEE FOR THE CONSIDERATION OF NOMINATIONS

Mr. President, before addressing issues that have been raised about the Committee's consideration of CDR Stumpf, I would like to summarize the Committee's procedures for handling Navy and Marine Corps nominations in the aftermath of Tailhook.

The Department of Defense provides the committee with a letter on all flag and general officer nominees in the Army, Navy, Air Force, and Marine Corps advising the Committee of any potentially adverse information since the individual's last confirmation.

In 1992, when the committee learned of the serious flaws in the Navy's Tailhook investigations, we established a similar requirement for Navy and Marine Corps nominees of all grades—a procedure that was supported by all members of the committee. The then-chairman and ranking minority member of the Manpower Subcommittee, Senator GLENN and Senator McCAIN, were instrumental in establishing that process. Had we not done so, it is doubtful we could have moved any Navy/Marine Corps nominations through the Senate in view of the serious concern in the Senate about the inability of the Navy to investigate itself and identify those who were involved in misconduct or leadership deficiencies.

In August 1993, the Department of Defense proposed that the Tailhook procedure be modified in view of the completion of the additional investigations, and the Committee concurred. Under the modified procedure, DOD notifies the Committee as to whether any nominee was identified as potentially implicated by the Department of Defense Inspector General or by the Department of the Navy. With respect to any individual so identified, DOD advises us of the status of any administrative or disciplinary action. In April 1995, Senator Thurmond, as Chairman, specifically rejected a request from the Department of the Navy to change these procedures, noting that decision would have to be made by the Committee.

It is the longstanding policy of the committee—under both Republican and Democratic chairmen—that when we consider adverse information about a nominee—whether related to Tailhook or any other matter—we do so in closed session. Senate Rule 26.5(b)(3) authorizes a closed hearing when the matters to be discussed "will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual."

The committee's practice of conducting nomination proceedings involving adverse information in closed session is based upon concern for the interests of the military officers whose nominations are pending before the committee. In the overwhelming majority of cases, the adverse information provided to the committee involves minor infractions which have been addressed internally by DOD and which the committee determines to be not disqualifying.

In view of the fact that adverse information about an officer considered by the committee is determined to be not disqualifying in most cases, few if any officers would want this information to be considered in a public session. In the relatively few cases where the Committee does not take favorable action, neither the Service nor the officer normally seeks to publicize the adverse information. When the committee publicly discusses the basis for rejecting a nomination, it normally is in the context of a report on systemic problems.

CONSIDERATION OF THE PROMOTION OF CDR STUMPF

The committee's traditional procedures for reviewing nominations in closed session, as well as the procedures for considering Navy and Marine Corps nominations in the aftermath of Tailhook, were in place when the committee considered the promotion of Commander Stumpf. As I noted earlier, the members of the committee who supported his promotion as well as those who opposed the promotion have agreed the committee followed the appropriate procedures in addressing this matter, and the letter so indicates. That opinion, apparently, is not shared by Commander Stumpf's attorney, Mr. Charles Gittins.

Although the committee took no steps to publicize its October 25, 1995 decision to recommend that Commander Stumpf not be promoted, nor did the committee release any of the information that led the committee to recommend against his promotion, Commander Stumpf's attorney has made repeated public comments about the committee's consideration of Commander Stumpf's promotion.

In the December 19, 1995, Washington Times, Commander Stumpf's attorney, Mr. Gittins, was quoted as accusing the committee of operating on the basis of "rumor and innuendo."

A CBS Evening News interview on January 8, 1996, quoted Commander Stumpf's attorney as stating his client was removed from the promotion list as a result of "blackmail."

In the January 31, 1996, Washington Times, Commander Stumpf's attorney was quoted as stating that the decision was a result of "political pressure and threats to Navy programs."

In a February 2 op-ed piece in the Washington Times entitled "Get the Senate Out of the Navy," Commander Stumpf's attorney asserted that his client was not promoted as a result of "political pressure" and that the Armed Services Committee was acting "for political advantage."

He concluded: "Senator McCarthy may be gone, but McCarthyism lives on in the Senate."

These statements have spawned a host of editorials, columns and letters which have painted a picture of this matter which, as noted in the statement issued by the committee on March 13—with unanimous committee approval—"is inaccurate and incomplete."

For the last 3 months, Commander Stumpf's counsel and advocates have argued his case in the public arena, citing only those portions of the material favorable to his cause. Material that would have given a complete picture of the basis for the committee's recommendation has not been released, was not released by Commander Stumpf, was not released by his attorney, and has not been released by the committee, because the committee has been restrained by a self-imposed gag order. Why have we not responded? Because we play by the rules, and we do not release materials from our nomination files without a vote by the committee.

It is interesting to note that those of us who have been under attack—and I appreciate very much the statement of the Senator from Indiana—those who have been under attack have not leaked anything in self-defense or in any other way. Nothing has been leaked on the committee's side of the issue. So it is an interesting kind of committee restraint here.

Indeed, the committee has shown remarkable restraint. As Members of the Senate know, I believe we should conduct most—not all—most nomination proceedings involving adverse information in a closed session. I discussed this matter at length in a speech I delivered on this floor on October 16, 1991, in the aftermath of the proceedings on the nomination of Justice Clarence Thomas, which was in the Judiciary Committee, not our committee.

I also believe, however, that when a nominee chooses to place his or her version of the facts in the public arena and challenges the motives and the good faith of the committee—indeed, statements like McCarthyism, and so forth—the committee must find an appropriate way to respond.

Although the committee provided a general response on March 13, the committee decided at that time to not release specific information about Commander Stumpf. There is no nomination now pending before the committee. The committee deferred to the views of the Chief of Naval Operations, Admiral Boorda, who testified in a public hearing on March 12 when I asked him a question, that they did not favor public dissemination of nomination information in this case. That is the view of the Chief of Naval Operations.

While I do not concur in that view because of the unique circumstances of this matter being handled, in effect, in a public relations matter in the public arena, since it results in a one-sided public presentation of information, I understand and respect those who believe we should not release any information when this matter is no longer pending before the committee. I deferred to that view in committee, because it was, obviously, the view of the majority.

The committee has agreed, however, that it is appropriate for Senators to identify the areas in which the statements in the media are inaccurate and incomplete.

CONSIDERATION OF COMMANDER STUMPF'S NOMINATION IN CLOSED SESSION

Commander Stumpf's attorney, in the December 19, 1995, Washington Times, is quoted as criticizing action of the Armed Services Committee because the committee has "operated behind closed doors" when considering his client's case.

As I noted earlier, the committee considers adverse information in closed session. We do that all the time. That is our normal operating procedure, and that is done in order to protect the reputation of nominees, a process that is strongly supported by the U.S. military. As far as I know, all branches of the military support that procedure, as well as the civilian leadership of the Department of Defense.

Prior to the committee's October 25, 1995, decision to recommend Commander Stumpf not be promoted, the committee received no letter from his attorney requesting that we proceed on this nomination in open session. We received no such letter, no such information, no such request, according to all the information I have received, checking with both majority staff and minority staff.

Commander Stumpf's attorney apparently made a tactical decision not to request an appearance or an open session. Having made that decision, how can he now fault the committee for reviewing the promotion in closed session in accordance with longstanding committee procedure, which we do on all nominations that have adverse information of a personal nature.

It is not clear Commander Stumpf's attorney wants this matter to be considered in public. The March 12 Wall Street Journal reported, "Commander Stumpf and his attorney say that the committee should feel free to tell the whole world whatever it is the Senators think they know about him."

That was a story for public consumption. That was a PR story. Yet, on March 13, 1996, as the committee was completing our review of Tailhook matters, the committee received a letter from Commander Stumpf faxed from his attorney's law firm, I am told, in which he asked to meet with the committee "in closed session."

Mr. President, I ask unanimous consent that the letter from Commander Stumpf, as well as Chairman THURMOND's response, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. NUNN. Mr. President, I note that the letter I just referred to from Commander Stumpf faxed to us on March 13, 1996, was dated February 13, even though it was faxed to us on March 13. I have to assume that was a typographical error, unless there is another explanation. I am informed by the majority staff that the committee did not receive such a request until March 13 and certainly did not receive that prior to our review of Commander Stumpf's promotion in 1995.

Mr. President, just in case anyone does not understand what it means to hold a closed session, let me make it clear. It is a proceeding in which the public is excluded. The press is excluded. Virtually all staff are excluded. The hearing record is not published. Under the Senate rules, Senators are specifically prohibited from disclosing information received in a closed session. When we hold a closed session, the committee is not free to tell the whole world what transpired before the committee.

In light of Admiral Boorda's request that the information regarding Commander Stumpf not be released to the public, and in view of Commander Stumpf's request to proceed in closed session, the committee decided during its deliberations last week to not release materials from the nomination files. While I personally believe the materials should have been released in light of the decision by Commander Stumpf's attorney to selectively release information to the public, I respected the views of others—and still do—who felt the material should not be released at that time.

Having decided on March 13 not to release the material in deference to the Navy and Commander Stumpf's privacy interests, the committee now finds itself subjected to yet another misleading story as a result of a statement in the press attributed to Commander Stumpf's attorney.

A March 19, 1996, AP wire story states that he "has no objection" if the committee releases its material on Commander Stumpf. According to the story, Commander Stumpf's attorney said, "I've told them they can release anything they want."

Mr. President, I have received no such communication from Commander Stumpf's attorney. I have been informed again by majority staff that Senator THURMOND, the chairman of the committee, has received no such communication. I assume Senator COATS and Senator BYRD have received no such communication, and they are indicating that is accurate.

I have no idea with whom the attorney, Mr. Gittins, is communicating, but it is not the Senate Armed Services Committee. Mr. President, if these press accounts accurately quote Commander Stumpf's lawyer—and I always allow that the press reports could be inaccurate—it would appear that the rules of the Senate and the committee designed to protect the privacy of nominees are being manipulated to imply a willingness to support and release information when, in fact, no such willingness has been communicated to the committee nor, as far as I know, to the Navy. I do not know what has been communicated to the Navy, but I certainly have not had any indication that Commander Stumpf's attorney has said to the Navy, "Please release the information," or, "You have our permission to release all the information."

First, counsel is quoted as criticizing the committee for having closed sessions; then the press reports that the officer whose privacy is being protected by the committee wants everything made public. Then the Chief of Naval Operations, who supports the promotion and said so in the committee, says the material should not be made public. Subsequently, the officer requests a closed session. After the committee issues a statement reaffirming its commitment to the officer's privacy interests, his counsel is quoted as saying he told the committee again, "They can release anything they want," even though no such communication had been received by the committee.

If Commander Stumpf's attorney wants all the information related to his client released to the press, he should clearly communicate his views to the committee and the Navy. I suggest a letter would be the normal way to communicate. The Navy has full authority to release all documents related to Commander Stumpf, including the investigation into matters relating to Tailhook, the recommendations of the chain of command, and the final action taken on that investigation by the Navy. All of that can be released, and then the Senate can decide whether the committee was correct or not. The news media can then make their judgment accordingly.

PROCEDURAL CONSIDERATIONS

In the December 19, 1995, Washington Times, Commander Stumpf's attorney is quoted as stating the committee denied his client the opportunity "to face his accusers, cross-examine them and test the so-called evidence that the committee had collected."

The March 1996 Armed Forces Journal International reported that "Stumpf and Gittins asked to speak to the Senators on the committee, offered to testify, and attempted to discover

VOL
142
PT
5
MR
21
—
29
1996
UMI

what new evidence the committee had uncovered. All requests were refused."

Mr. President, I am informed again by majority staff that the committee received no letter from Commander Stumpf's counsel, prior to the committee action on October 25, 1995, requesting his client be allowed to testify before the committee, nor did counsel for Commander Stumpf submit a request to discover additional information.

The materials provided by the Navy make it clear that CDR Stumpf was well aware that the matter of his promotion was pending before the Committee. On June 30, 1995, he received the statutorily required notice from the Navy that his promotion was being delayed, and he was specifically notified that his involvement in Tailhook was under review by the Armed Services Committee.

The majority staff has advised me that the committee received one letter from CDR Stumpf's counsel, dated August 2, 1995, prior to completion of our review on October 25, 1995. That letter provided counsel's view of CDR Stumpf's military record and the proceedings involving his client in the aftermath of Tailhook. The only specific request of Chairman THURMOND set forth in the letter was to "end the delay in the SASC review." CDR Stumpf's attorney noted that he was available for discussions, but did not make any specific request regarding testimony by his client or discovery of evidence:

> Should you or your staff have any questions, please do not hesitate to call. Further, I would be pleased to review with you or a member of your staff the facts as they were established at the Court of Inquiry.

From the Committee's perspective, this did not constitute a request that his client be permitted to testify at a Committee hearing, nor did it constitute a request for further information about the materials under review by the Committee.

CDR Stumpf's counsel apparently chose to proceed without submitting a specific request for a hearing, without submitting a specific request that his client be permitted to testify, and without submitting a specific request for further details about information available to the Committee. If discussions with individual members or staff raised any questions about the Committee's willingness to entertain such requests, he had the opportunity to provide an unambiguous request in writing. He did not do so. Whether his tactical decisions at the time were in the best interests of his client is not a matter for the Committee to judge.

Each one of those matters, if clearly communicated to the Committee, would have been given appropriate consideration. It is well known that nomination proceedings are not criminal trials. They are not formal evidentiary proceedings. They are designed to assess the fitness of a nominee for higher office. If counsel for a nominee believes that the informality of a nomination proceeding is inappropriate in his client's case, then it is his responsibility to bring his concerns to the attention of the Committee. If he does not do so, it is puzzling for him to now claim that his client was denied rights that he did not request when the matter was pending before the Committee.

RELIANCE ON INFORMATION PROVIDED BY THE NAVY

Commander Stumpf's attorney is quoted in the December 19, 1995, Washington Times as stating that the committee's decision to recommend that he not be promoted was based on "rumor and innuendo and anonymous phone calls."

As the Senator from Indiana said very clearly, that is flat wrong. The committee's recommendation was based on the records of the fact-finding board that reviewed Commander Stumpf's activities relating to Tailhook—the Navy fact-finding board—as well as other documents officially transmitted to the committee by the Navy.

I am informed by the Navy that Commander Stumpf had full opportunity at the fact-finding board to testify, to present evidence, and to cross-examine witnesses.

Mr. President, that is the record that we have been primarily focusing on. The Navy has advised the committee that it has provided all of these materials to Commander Stumpf, so he knows what these materials are. The committee did not rely on rumors. The committee did not rely on innuendo. The committee certainly did not rely on anonymous phone calls.

An op-ed piece by CDR Stump's attorney in the February 2, 1996 Washington Times states that the Senate relies on "largely false and discredited allegations of misconduct collected by the Pentagon inspector general . . . to make their decisions on Navy promotion nominations." That is an inaccurate and incomplete description of the Committee's procedures for reviewing Navy and Marine Corps nominations in the aftermath of Tailhook. After the Navy turned the Tailhook matter over to the DOD Inspector General, the IG conducted an investigation. The results of the investigation were returned by the IG to the Navy for further proceedings, including administrative or disciplinary proceedings where appropriate. DOD/IG materials do not provide the primary source of information used by the Committee. In virtually all cases, including the case of CDR Stumpf, the Committee has relied primarily on material from the proceedings conducted by the Navy after the DOD/IG investigation, as well as related documents provided by the Navy.

It is noteworthy, however, that in at least one well known, contested nomination, many Senators placed significant reliance on information developed by the DOD Inspector General, rather than in a Navy proceeding. That was the nomination of Admiral Kelso to retire in grade, in which the military judge in a Tailhook court-martial, Captain William T. Vest, Jr., opined that Admiral Kelso observed misconduct at Tailhook, whereas the DOD Inspector General, who reviewed the judge's opinion in light of the IG's investigations, concluded that Admiral Kelso did not observe the misconduct. As one who fought hard on the Senate floor for ADM Kelso's confirmation, I do not believe that Navy and Marine Corps nominees would want the Committee to preclude consideration of such material from the DOD/IG.

Commander Stumpf's attorney, in a February 2, 1996, op-ed article, attempted to analogize his client's case to that of Adm. Joseph Prueher. According to Commander Stumpf's attorney in this February 2, 1996, op-ed piece in the Washington Times, "Just last Friday, the Senate failed to vote to confirm Adm. Joseph Prueher as Commander, U.S. Pacific Command. The reason? A few Senators, bowing to feminist pressure, decided to revisit, for the third time, Admiral Prueher's handling of a sexual harassment case while superintendent of the U.S. Naval Academy."

Mr. President, I am sure that the Navy, as well as Admiral Prueher, were just as surprised as I was to learn on February 2 from Commander Stumpf's attorney that Admiral Prueher's confirmation had not gone through. The Senate received Admiral Prueher's nomination on Wednesday, January 10; the Armed Services Committee reported him out of committee on Friday, January 26; and the Senate unanimously confirmed him on Tuesday, January 30, 2 days before the op-ed piece appeared in the Washington Times. The date of the admiral's confirmation, January 30, was the first day the Senate was in session after the nomination was reported out of committee. That is prompt action by any standard.

Moreover, the date of Admiral Prueher's confirmation by the Senate, January 30, was 2 days before Commander Stumpf's attorney wrote in the Washington Times that the Senate was "bowing to feminist pressure."

In the same article, Commander Stumpf's attorney stated: "The Senate now fancies itself as a super selection board, reviewing de novo executive branch promotion decisions for political advantage." That opinion has been echoed by others, such as the statement in the March 1996 Armed Forces Journal International that "Cmdr. Stumpf is being sacrificed on the altar of political correctness."

As I noted earlier in my statement, Senator COATS and Senator BYRD, as

leaders of the Personnel Subcommittee, have the unenviable task of taking the lead in reviewing nominations involving adverse information. I have been chairman of the Manpower Subcommittee. That is the first subcommittee I headed after I became a member of the committee. I know how hard that job is. It is one of the most important jobs, one of the most difficult jobs. I think we owe both Senator COATS and Senator BYRD a great deal of gratitude for the work they do. They have given the committee a serious, sober recommendation in each case based on the merits.

I do not believe that anyone can seriously argue that they or the committee have gained any political advantage by taking on this responsibility. If there is any political advantage attached to it, then someone is going to have to explain it to me. After being in the Senate for 24 years, I cannot think of anything that has less political advantage to it than this tough, hard, but absolutely essential job.

This is not something that the Senate grabbed. This is something that the Constitution of the United States gives to the Senate, a responsibility. We are doing our constitutional duty. If anyone does not think the Senate ought to be involved—"get the Senate out of the Navy"—then they ought to change the Constitution of the United States. This is our duty. It is our duty. As long as I am on the committee, I, for one, will continue to exercise that duty.

Mr. President, the committee has a keen appreciation for the values that differentiate military service from civilian society, the requirements of good order and discipline in the armed forces, and the standards of responsibility and accountability applicable to military commanders—including their responsibility and accountability for the morale and welfare of their troops.

The committee also has a clear understanding that a promotion is not a reward for past service; it is a judgment on the fitness of an officer for higher levels of command and responsibility.

Mr. President, it has been the traditional practice of the Committee on Armed Services to look primarily to the statutes, regulation, and time-honored customs of military service in assessing adverse information on a nominee.

One of those standards is the affirmative obligation of commanding officers, under section 5947 of title 10, United States Code, to demonstrate "a good example of virtue, * * * to be vigilant in inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices; * * * and to take all necessary and proper measures, under the laws, regulations, and customs of the naval service, to promote and safeguard the morale, the physical well-being, and general welfare of the officers * * * under their command or charge."

Article 0802.1 of the Navy regulations makes it clear that commanding officers operate under a higher standard of responsibility, and that they are not relieved of that responsibility simply because they are not present during misconduct or a mishap:

> The responsibility of the commanding officer for his or her command is absolute, except when, and to the extent to which, he or she has been relieved therefrom by competent authority or as provided in these regulations. The authority of the commanding officer is commensurate with his or her responsibility. While the commanding officer may, at his or her discretion, and when not contrary to regulations, delegate authority to subordinates for the execution of details, such delegation of authority shall in no way relieve the commanding officer of continued responsibility for the safety, well-being and efficiency of the entire command.

Article 0802.4 of the Navy Regulations places a special responsibility on commanding officers with respect to their conduct and the conduct of their subordinates:

> The commanding officer and his or her subordinates shall exercise leadership through personal example, moral responsibility and judicious attention to the welfare of persons under their control or supervision. Such leadership shall be exercised in order to achieve a positive, dominant influence on the performance of persons in the Department of the Navy.

Mr. President, these are not post-Tailhook standards. These are not "politically correct" rules of the nineties foisted on the Navy by "feminist pressure." Those standards were in effect at the time of Tailhook and reflect bedrock principles of good order and discipline.

The committee also looks to the standards in section 654(a) of title 10, United States Code, which states:

> (8) Military life is fundamentally different from civilian life in that—
>
> (A) the extraordinarily responsibilities of the armed forces, the unique conditions of military service, and the critical role of unit cohesion, require that the military community, while subject to civilian control, exist as a specialized society; and
>
> (B) the military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in civilian society.
>
> (9) The standards of conduct for members of the armed forces regulate a member's life for 24 hours each day commencing upon entry on active duty and not ending until that person is discharged or otherwise separated from the armed forces.
>
> (10) Those standards of conduct, including the Uniform Code of Military Justice, apply to a member of the armed forces at all times that the member has a military status, whether the member is on base or off base, and whether the member is on duty or off duty.

Those findings reflect some of the most fundamental, enduring values of military service.

Mr. President, the Armed Services Committee has reviewed Navy and Marine Corps nominations in the aftermath of Tailhook, including CDR Stump's promotion, in the context of these well-known military standards. In light of these standards, it would have been irresponsible for the Committee to ignore adverse information related to a nominee's conduct or leadership at Tailhook '91, set forth in information provided to the Committee by the Department of Defense—particularly in view of the military significance of that event.

Tailhook 1991 was designed and promoted to showcase the aviation components of the Department of the Navy. The Navy actively encouraged members to attend to enhance their professional military development.

The Navy provided significant financial, logistical, and personnel support—including featured presentations by the Secretary of the Navy, the Chief of Naval Operations, the Assistant Chief of Staff (Air Warfare), and numerous other Navy and Marine Corps officers and civilian officials. Many military personnel traveled under government orders, which paid for their transportation, food, and lodging. Over 1,700 were transported at government expense,

Tailhook 1991 was a showcase event where all officers, particularly those in command, were under an obligation to ensure that their conduct, and that of their subordinates would represent the very best in the U.S. Navy and U.S. Marine Corps. The failure of some to demonstrate appropriate standards of conduct and leadership is an appropriate consideration in assessing an officer's fitness for promotion.

Mr. President, I also reject any suggestion that the committee acted out of political motivation or as a result of outside pressures.

Mr. President, I personally talked to every Secretary of the Navy since Tailhook came up and every Chief of Naval Operations since Tailhook came up. I have cautioned them against overreacting. I have cautioned them against denial of due process for individuals accused of inappropriate behavior. I have cautioned them against unlawful command influence. I have done that personally. I have felt it was my responsibility to counsel the Navy not to overreact and to give to their own members the kind of due process that they deserve.

During my tenure as chairman I assured every civilian and military leader of the Department of Defense and the Department of the Navy involved in nominations that the committee would carefully consider each nomination on the merits, and that they should not hesitate to recommend promotion in any case where the Navy deemed it appropriate.

The committee has ensured that when the Navy recommends promotion

VOL
142
PT
5
MR
21
—
29
1996
UMI

in a case involving a Tailhook certification, we are provided with the Navy's official information, not rumor, innuendo, or anonymous information.

When the committee has received information from the Navy bearing on an individual's conduct or leadership at Tailhook, we have considered it carefully and judiciously on a case-by-case basis.

Let us look at the facts. Since Tailhook, the committee has approved 36,839 Navy nominations, 6,431 Marine nominations, a total of 43,270 nominations in the Navy and Marine Corps since Tailhook. During that period, how many have we not recommended because of Tailhook matters? A total of 8; 8, a total of 8. You would not think that from some of the hysteria going on in some of the news coverage, particularly editorials that I have seen.

Let me repeat, the committee has approved 43,270 Navy and Marine Corps nominations and turned down only 8 since Tailhook came up. During the same period, 15 officers who were the subject of administrative action by the Navy as a result of Tailhook have been confirmed by the Senate. These figures clearly demonstrate that the committee has reviewed each of these nominations involving a Tailhook certification on the merits.

While reasonable people could come to different conclusions on those who were recommended, as well as those who were disapproved, the fact is, we have not indiscriminately rejected anyone who had been investigated in connection with Tailhook. I have personally taken the floor of the Senate to try to get nominations through and have succeeded virtually in every case, with the help of the committee and the good judgment of the Senate, that were bitterly opposed here on the floor relating the Tailhook.

I think people ought to have a little knowledge of history. I do not expect people to understand everything that has been done, but there ought to be some slight knowledge and acknowledgement of the history of how we handled this whole matter of Tailhook.

Someone ought to recall also the Secretary of the Navy decided that the Navy botched this investigation so badly that he himself, back in 1992, in a previous administration, removed the Navy from the investigative responsibilities because it had been so badly botched.

It is also important to contrast the Senate's action with the results of action taken within the executive branch. As a result of the actions taken by the Navy and Marine Corps, 39 officers have had their careers adversely affected. Twelve officers were rejected by promotion boards, another 12 who were selected by a board subsequently were removed from a promotion list within the executive branch, and another 15 officers resigned or retired before being considered for promotion after receiving adverse administrative action by the Navy. In other words, the number of officers whose careers have been adversely affected by the Navy outnumbers the officers returned by the Senate by a ratio of more than 4 to 1.

Mr. President, this Committee has a strong record of support for military nominations, even in the face of considerable criticism. We have been willing to take the political heat. We did it in the case of Admiral Kelso. We did it in the case of Admiral Mauz. We did it in the case of Admiral Prueher. We have done it in the case of 15 nominees who were confirmed even though administrative action had been taken against them as a result of Tailhook. There was no political advantage in our action, but we did it because it was the right thing to do.

OVERSIGHT, LEADERSHIP, AND RESPONSIBILITY

Mr. President, the Armed Services Committee has a vital oversight role over the Armed Forces, including matters involving nomination and promotions. The Navy failed to provide the Armed Services Committee with the information required to assess Commander Stumpf." fitness for promotion prior to the Senate's vote on his nomination. It was incumbent on this committee to conduct a review of that promotion when information was belatedly turned over to the committee.

I am informed by majority staff that, prior to the Committee's October 25, 1995, decision to recommend that Commander Stumpf not be promoted, his attorney did not raise a legal objection to the propriety of the committee's review. Although the obvious outcome of any such review would be a communication to the Secretary of the Navy regarding the merits of Commander Stumpf's promotion, counsel did not raise a legal objection to any communication from the committee to the Secretary. Counsel for Commander Stumpf was well aware of the committee's review of his client's promotion, as reflected in his August 2, 1995, letter to Senator THURMOND discussing the review and the action taken by the Secretary of the Navy to delay Commander Stumpf's promotion. The letter vigorously supported the merits of his client's promotion and requested that the committee complete its review. The letter, however, did not state any legal objection to the committee's review, the action of Secretary Dalton in delaying the promotion, or to any communication from the committee to the Secretary on the merits of the promotion.

As I noted earlier, the committee's letter of November 13, 1995, specifically advised the Secretary of the Navy that:

> The committee recognizes that, in light of the Senate having given its advice and consent to Commander Stumpf's nomination, the decision to promote him or not to promote him rests solely within the executive branch.

Let me repeat that, Mr. President. We made it very clear that "the decision to promote him or not to promote him rests solely within the executive branch." Mr. President, those were not idle words. We fully recognized that the Secretary of the Navy—acting under a delegation of authority from the President—has unfettered discretion under section 629 of title 10, United States Code, to remove or not remove the name of an officer from a selection board list.

On December 22, 1995, Secretary Dalton directed that Commander Stumpf's name be removed from the promotion list.

Mr. President, I would like to make my own position clear.

These are tough decisions. I do not quarrel with anyone who comes to a different conclusion. They involve subjective judgment. Different people draw the line between right and wrong in different places. Based upon the information available at the time, we made our decision. I made my judgment about right and wrong, and I made my judgment about the question of leadership. That judgment was based on the recommendation, the very thoughtful recommendation, of Senator COATS and Senator BYRD.

Others may have a different definition of right and wrong. Others may have a different definition of leadership. They have every right to their perspective. All of us have some obligation to strive for consistency in drawing the line, consistency between officers who may have been involved in similar circumstances. To draw one line for officers in the Navy and another line for officers in the Marine Corps relating to the same event, to me, is totally unacceptable.

The promotion process must ensure that all officers meet the high standards of conduct and leadership that demonstrate potential for leadership at a higher grade. This is appropriate not just for the Navy, but for the Army, Air Force, and for the Marine Corps. Does the Navy now want to set a standard for leadership lower than the Marines? Does the Navy want to set a standard of leadership lower than the Army? Does the Navy want to set a standard of leadership lower than the United States Air Force? That is a question that the Navy leadership has to answer.

Mr. President, if the Navy's withholding of information prior to the Senate's confirmation of Commander Stumpf was the result of administrative error, then the Navy's administrative process needs review and overhaul. These administrative errors deprived Secretary Perry, the Secretary of Defense, of the information he needed to make his recommendations to the U.S.

Senate and to the President. These administrative errors deprived the Armed Services Committee of the information that we needed to make a recommendation to the Senate. These administrative errors deprived the Senate of the information it needed prior to deciding whether Commander Stumpf should have been confirmed.

In closing, Mr. President, I make the following points: First, my review of the material provided to the committee by the Navy, including the record of the conduct, review, and disposition of the proceedings of the factfinding board confirms my assessment that Senator COATS' recommendation to the committee was sound, and that the committee's October 25, 1995, recommendation that Commander Stumpf not be promoted was appropriate.

Second, it was appropriate to the committee to communicate its recommendation to the Secretary of the Navy, particularly in light of the Navy's failure to provide the committee with the information it had pledged to provide prior to the committee's recommendation to the Senate that Commander Stumpf be confirmed.

Third, it was appropriate for the committee to remind Secretary Dalton that he had unfettered direct discretion to promote or not promote Commander Stumpf, which we did in the letter. If Secretary Dalton believed in December that Commander Stumpf's promotion was warranted, he could have promoted him at that time. The letter made that absolutely clear.

Fourth, the executive branch has an obligation to conduct a thorough review of adverse information with respect to all nominations, including but not limited to Tailhook. In terms of the issues of conduct and leadership bearing on the individual's fitness for promotion, the question in Commander Stumpf's case, for example, was not whether he was guilty of a crime, but whether he met the standards of leadership that would qualify him for a promotion to a higher grade.

Fifth, the executive branch must strive for consistency in its approach to military nominations, and consistency is essential for fairness. Although each proposed nomination must be judged on its own merits and its own facts, it is critical that careful attention be paid to issues of consistent treatment, particularly when adverse information is related to a single event such as Tailhook. The Navy leadership has effectively forced 39 officers to retire or resign or has removed their names from promotion lists for Tailhook-related matters. The committee has a very difficult time justifying favorable action on other nominees whose conduct or leadership deficiencies appear to be worse than those who were not nominated or who were forced to retire or resign by the United States Navy.

Sixth, the Navy should determine whether Commander Stumpf's attorney is serious about the public release of information concerning his client. If so, the Navy should not be selective in the release of information. The Navy should make available a complete record of proceedings concerning Commander Stumpf in the aftermath of Tailhook, including the full record of proceedings, review, recommendations, and action on the fact-finding board. If they do, there will be no mystery anymore and everybody can make their own considered judgment.

Seventh, after learning that the Navy had failed to provide the committee with information about Commander Stumpf, prior to the committee's action on his nomination, the committee requested the Navy to provide "a complete description of the conduct, review and disposition of the allegations concerning Commander Stumpf." The Navy provided information to the committee in response to this request. Subsequent to the committee's October 25, 1995, meeting on Commander Stumpf's nomination, the Navy has provided the committee with additional information, including information on the review and disposition of the allegations concerning Commander Stumpf, which we asked for to begin with. The Navy needs to explain why, after failing to provide the commitee with timely information prior to the confirmation of Commander Stumpf by the Senate, the Navy subsequently did not provide the committee with complete information on the review and disposition of the allegations.

Finally, Mr. President, and what I number as eighth, section 629 of title 10, United States Code, provides that "An officer whose name is removed from a list continues to be eligible for consideration of promotion." As noted in the statement issued by the committee on March 13 with respect to Commander Stumpf, quoting from the letter, "If he is nominated again for promotion to captain, the committee will give the nomination the same careful consideration it would give to any nominee."

I certainly concur in that. For my part, I would carefully consider any information that might be presented by Commander Stumpf or on his behalf. I would consider the full record of information provided by the executive branch, and I would certainly take into consideration the views of my colleagues on the Armed Services Committee on both sides of this issue, before reaching a final conclusion on the merits of such a nomination, should it be submitted to the Senate.

Mr. President, I close by saying I do not believe that the committee held Commander Stumpf responsible for the Navy's administrative errors. If Commander Stumpf is nominated in the future, I would separate these matters, and I would view the Navy's administrative errors as separate and apart from Commander Stumpf's nomination.

EXHIBIT 1

ROBERT E. STUMPF,
2616 BOUSH QUARTER,
Virginia Beach, VA, February 13, 1996.

Hon. STROM THURMOND,
Chairman, Senate Armed Services Committee,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: As it appears that the Committee continues to have lingering concerns about my promotion and my attendance at the Tailhook 1991 Symposium, it may be beneficial to the Committee to hear from me personally. Accordingly, I respectfully request to meet with the Committee in closed session at the earliest opportunity to address Committee questions or concerns.

Very truly yours,

ROBERT E. STUMPF,
Commander, USN.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, March 14, 1996.

Commander ROBERT E. STUMPF,
2616 Boush Quarter, Virginia Beach, VA.

DEAR COMMANDER STUMPF: This is in response to your letter dated February 13, 1996. It was first received by Committee via telefax on March 13, 1996.

I understand your request to appear before the Committee in closed session. However, at present there is no nomination before the Committee concerning you. Should a nomination concerning you be presented to the Committee in the future, your reqnest will be given appropriate consideration.

Sincerely,

STROM THURMOND,
Chairman.

Mr. BYRD. Mr. President, I listened with great interest to the remarks by both Mr. COATS, the distinguished Senator from Indiana, and by Mr. NUNN, the distinguished Senator from Georgia.

First of all, with reference to the work that has been done on this particular subcommittee, I want to pay tribute to the Senator from Indiana, Mr. COATS. As far as I am concerned, between the two of us, he has done by far the major part of the work. He has shouldered the workload and he has done it professionally and with great skill and exceedingly well. I admire his courage for taking the position that he is taking on this particular issue here this evening.

Mr. President, with reference to the Senator from Georgia, I came to the Senate 38 years ago, at which time there was a very distinguished Georgian by the name of Richard Brevard Russell, who was chairman of the Senate Committee on Armed Services. I became a member of that committee 2 years after I had become a Member of the Senate, and I served with Senator Russell on that committee.

In these 38 years, Mr. President, I have seen some great chairmen of that committee, chairmen from both parties. But in my considered judgment—

VOL
142
PT
5
MR
21
—
29
1996
UMI

and I realize that I have my own flaws and I am capable of erring in my judgment—the two greatest chairmen of the Armed Services Committee in my 38 years here have been those two distinguished Senators from the State of Georgia. Senator Richard Russell was someone whom I adopted as my mentor. He never knew that, but in my own heart I admired him so greatly that I tried to follow in his footsteps and study the rules and precedents of the Senate. It was my resolution which, when adopted by the Rules Committee of the Senate and by the Senate, brought about the naming of what was then the Old Senate Office Building, the Richard Brevard Russell Building. That is how much I admired Senator Russell.

I admire this distinguished Senator from Georgia, Senator NUNN, who will be retiring from the Senate at the end of this year, no less, insofar as his skill is concerned and handling of the work of the committee. I have marveled at the organization of the committee and the organization, work, and dedication of the Senator from Georgia. I have often said to others that Senator NUNN is probably the finest chairman of the committee that we have had in the Senate.

Now, Napoleon once had a general staff officer in his army by the name of Michel Ney. Well, Marshal Ney was cut off from the rest of the army of Napoleon, and he had to fight his way through thousands of Cossacks, which he did. He came to the River Dnieper and he crossed it. In so doing, he lost all of his guns, but he finally was reunited with the other units of Napoleon's army. When Napoleon heard that Ney had escaped and had returned, he was overjoyed. He said to some of the other officers, "I have 400 million francs in the cellars of the Tuileries, and I would gladly give them all for the ransom of my good companion in arms." That was the old palace in Paris, which later burned down. "I have 400 million francs in the cellars of the Tuileries, and I would gladly give them all for the ransom of my good companion in arms." That is how much Napoleon prized this officer, General Ney.

Well, I feel that way about Senator NUNN, and I am proud to be associated with him and with the distinguished Senator from Indiana in their remarks here today. I will be very brief.

I wish to associate myself with the remarks made by the distinguished Senator from Georgia, the ranking member of the Committee on Armed Services, on the matter of the promotion of Commander Robert Stumpf, U.S. Navy.

It is very clear to me that the committee has acted with great responsibility in the handling of the so-called Tailhook 1991 events, and attempted to protect the rights of the individuals involved while working closely with the Navy and the Department of Defense to get to the bottom of the events that did occur. It is vitally important that the Navy be consistent and forthright in its consideration of the individual cases that still are pending, and take every step to insure that the lessons learned from the scandal can be absorbed and remedies can be implemented.

In the light of these considerations, it is disappointing to see the kind of recent attacks that have been leveled at the Armed Services Committee by the media, and by Commander Stumpf's attorney.

I believe that Commander Stumpf's nomination was clearly prejudiced by the incredible administrative ineptness that accompanied his nomination. According to the well-established procedures that had been put into place by the committee, in cooperation with the Navy, adverse information that was associated with Tailhook should have been forwarded to the committee when this nomination for promotion to captain was first provided to the committee. It is extremely unfortunate that only after the fact, that is, after the nomination was approved by the Senate, did the committee learn of the results of a board of inquiry into Commander Stumpf's participation at Tailhook.

The issue that is at the heart of this matter, Mr. President, is the question of consistency of standards by which we hold commanding officers in the Navy accountable for their actions. Senator NUNN has itemized in detail the standards that exist in the law and in Navy regulations, and they are engraved on the long honorable traditions of the Navy. Commander Stumpf, like all commanding officers, bears a heavy responsibility not only for his own actions, but also for the actions of the officers and men under his command. That is what this unfortunate affair is really all about.

It was William Wordsworth who said, "No matter how lofty you are in your department, the responsibility for what the lowliest assistant is doing is yours."

Frederick the Great of Prussia said, that, "The quality of the troops depends directly on that of the officers: a good colonel; a good battalion."

That is why the committee acted properly in holding up those standards as a mirror by which to judge the qualifications of commanding officers for further promotion, given what happened in the hospitality suites of the Las Vegas Tailhook convention hotel. It is not a pretty picture, and the record in the case of Commander Stumpf is complete enough, in my judgment, to call his nomination into serious question. Given the visibility of Commander Stumpf, and his professional achievements as an airman in combat in Desert Storm, and as a role model as the flight leader of the Blue Angels Navy Demonstration Team, what we do here in terms of his promotion is all the more important. It is the job of the committee to reconcile this matter and make a considered judgment based on standards, not on personalities.

Additionally, while Senators may well differ in their judgment as to the seriousness of the charges brought against Commander Stumpf regarding his performance as a commanding officer during the Tailhook convention, the failure of the Navy to provide the committee with all pertinent information readily available to the Navy, makes the situation far worse for his nomination. We have the appearance of a coverup of vital information bearing on his nomination. How could such an administrative error have, in good faith, occurred? Clearly the information was pertinent to his nomination, in that the committee did inform the Secretary of the Navy that it would not have agreed to Commander Stumpf's promotion, had it been provided the information at the time when the Stumpf nomination was pending before the committee.

I think it is important to look further into this vital omission—and I have not spoken with the chairman of the Personnel Subcommittee about this—but it would be my hope that consideration might be given to having the DOD inspector general investigate the matter. If there is a flaw in the way in which, after all this time and furor over Tailhook, the paper trail is provided to the Committee, then it should be corrected. If there was an intention on the part of one or another element of the Navy bureaucracy that thought it was doing Commander Stumpf a favor by not providing the committee with this information, then it should be known that a great disservice was done to Commander Stumpf and to the Navy by the omission.

Mr. President, as the Senator from Georgia has pointed out, Commander Stumpf has engaged an attorney who seems to think that his client has something to gain by attacking the procedures and integrity of the Armed Services Committee. The usage of the terms "McCarthyism," "blackmail," and operating on the basis of "rumor" in describing the committee's actions in the matter are ludicrous, and further prejudice his client's case. Commander Stumpf, in my opinion, would be far better off with no attorney than with the advice he is currently getting.

The committee has decided to keep the record of the nomination confidential, but if further action is warranted, such as a resubmission by the Navy of the nomination, then I think the record should be open for all to see. Lay it all out. It should be opened entirely.

Additionally, Commander Stumpf has asked for a hearing by the committee, and I think that request should be granted if his nomination is resubmitted by the Navy. But the hearing and the record should be out in the open. Let the sunshine in.

Commander Stumpf's lawyer has openly attacked the committee, there is a campaign underway to impugn the procedures of the committee. The committee has little choice but to open the record. All the facts should be on the table. Senators can judge for themselves whether the Navy's own standard of conduct for commanding officers was breached substantially enough for the nomination to be rejected.

Mr. President, fame is a vapor; popularity, an accident; riches take wings; those who cheer today may curse tomorrow; only one thing endures—character. And it is the character of the Navy here that is at stake.

I would not want to send my grandsons into an organization that I thought would destroy character. I would expect the organization to be one that would build character. And it is the character of the Navy that we are concerned about.

Mr. President, I thank again Senator NUNN, and I thank Senator COATS for the fine work that they have done. And I regret that they have been made to suffer as a result of their efforts to do the right thing by all concerned.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I thank the Chair.

Mr. President, first I would like to be associated with the remarks in this regard by the chairman of the Personnel Subcommittee, my friend and colleague from Indiana, and with the statement that was made by my longtime friend and seatmate, Senator NUNN from Georgia, and, last but not least, the excellent summation just given to the U.S. Senate by a Member of this body who we all cherish and recognize for his sound leadership and common sense over the years.

Mr. President, I do not take any pleasure at all in making the remarks that I am about to make. It would have been much easier to just skip it and not say anything. But I am very much moved by the unfair attacks on the Armed Services Committee on which the four Members now in the Senate have served for a long, long time. For myself, this will be my 18th year. And I come to the floor to give my views as briefly as I can. I have no written statement, but I am speaking from my heart on this matter that I think is being glossed over.

Mr. President, I have not been happy with the majority on the committee, both Democrats and Republicans, for what I feel has been a folding like an accordian into the spotlight of pressure by the press that has been brought on this particular issue.

I take no pleasure in this, Mr. President, because as a veteran of World War II—and 2 years of that overseas—I was taken over there by the U.S. Navy, and they brought me back. I have a very soft spot in my heart for the Navy of the United States of America. There is no better navy anywhere—nor do I suggest there ever has been—than the men and women that make up the U.S. Navy today. And I am proud of all of them. But I wish to raise some questions and cite some examples tonight on what I feel are some holes, if you will, in some places—not a lot—but in some places in the top leadership of this Navy that have been spotted and brought out into the light with several events of the last few years.

Talking about the Navy, I am not going to go into my record with votes and the leadership positions that I have taken for the Navy in a whole series of areas. I guess the only serious difference I ever had with regard to some of the initiatives of the U.S. Navy was over the reincarnation of the battleships, which I said was nonsense at the time. It was a multimillion-dollar fiasco. We brought four battleships back into commission when we obviously did not need them. But, under the leadership of the Navy, the Congress of the United States was convinced otherwise. We are still paying for that costly mistake. But do we not all make mistakes? I think I was right on that, but I believe that event was the only time in my 18 years of service in the Armed Services Committee that I had serious disagreement with the U.S. Navy.

I emphasize again that I do not condemn the Navy as a whole. But I am here to support the outstanding efforts by Senator COATS, Senator NUNN, Senator BYRD, and others who have taken on the dragon in this case—the dragon being certain key parts of leadership of the U.S. Navy. That is not easy to do, but it is something that has to be done.

I cite, for example, that—while I think Tailhook, we can all agree, was not one of the finer moments of the great history of the U.S. Navy—it may be that it has been overshadowed, and I join with Senator NUNN in his comments. I have heard him say it. Let us not overreact to things of this nature. But we have to act. That is part of our responsibility in the Armed Services Committee.

I stood on this floor to give an example of how in Tailhook and everybody within 100 miles of Las Vegas during that weekend, that riotous weekend, I might say, of "fun loving fun," I guess, by primarily some of the officers of this man's Navy—and sometimes boys will be boys—leadership people should not be boys, and that is my concern and that is my major problem without condemning any of them or all of them.

I have not been one of those who sanctimoniously says it was such a terrible thing that we have to do something about it. I stood at that desk in the Chamber and provided the leadership for the Armed Services Committee with a lot of serious debate with regard to not retiring a very famous, very capable, top leadership man in the U.S. Navy, an admiral who happened to be at Tailhook but was not involved in any of these things. And I stood there and took the advice of SAM NUNN and others of saying let us keep this in perspective. So we retired that outstanding admiral and did not take away his top-grade retirement as some in this body wished to do. So I simply give that as an example that this Senator is not consumed by Tailhook, but I am concerned about Tailhook.

I emphasize once again that we have a great Navy, but some in the leadership of that great organization have let that organization down in recent years. Let me cite one or two examples. I do not know whether they have been talked about by my friends and colleagues before or not. There certainly has been, though, a most unfortunate series, unfortunate series, Mr. President, of serious and distressing shortcomings in part of the U.S. Navy in the last few years.

Without going into any detail, I would simply cite the problems of cheating and scandal and sex at the Naval Academy in Annapolis that we finally seem to be getting turned around, but there was too much of it. I would simply say that one of the most distressing things that I ever saw practiced by certain select leadership, not everybody, was the coverup of the blowup of the *Iowa* battleship, one of those four that I referenced earlier that I thought should never have been brought back in any event.

Just so you will remember, my colleagues in the Senate, that was the case where after a high-level naval investigation of the blowup on the battleship *Iowa* that caused 130 some deaths. The Navy leadership, part of it, came forth with a program that it was the responsibility of two homosexuals. Well, it turned out later when some of us wanted proof, that the two homosexuals were not involved at all; it was a typical case of the old-boy network working very effectively in part of the coverup. They were not successful, but they almost were.

I would simply like to mention in that regard also the glossy coverup, or not so glossy coverup, that the U.S. Navy, some of its leaders, did after Tailhook was exposed in the press. We would not have had the difficulty that we are in today with Commander Stumpf nor would he have his difficulties at least to this extent were it not for the fact that key leadership in the U.S. Navy again fouled up by not following a very simple procedure that

VOL 142 PT 5 MR 21—29 1996 UMI

was well-known to all of the leadership of the U.S. Navy when Commander Stumpf's nomination came up, and I am sure that Senator COATS and Senator NUNN went into that in great detail.

Then there was another serious situation with regard to the spy scandal of a marine in Moscow in our Embassy. That was a tough blow.

I simply say, Mr. President, that all of these attacks that have been made on the integrity of the Armed Services Committee in the press are nonsense. And for rules and reasons, those of us who are knowledgeable of the full extent of this situation for the protection of the innocent and not to inflame the story are not privileged to talk about it in detail. One editorial that I read said that was McCarthyism, keeping the secret to ourselves like Joe McCarthy did. Well, those of us who have had the top secrets of the United States of America with us and live with us all the time we have been in the Senate know our responsibility and know how to live up to the commitments that we make while editorial writers are not so constrained.

I thought one of the most disgusting articles that I read on this was by the Detroit News. I do not know anything about the Detroit News except that they printed an editorial on Friday, March 15, 1996: "Commander Stumpf Gets Blacklisted." They then go on to launch an all-out attack on Senator CARL LEVIN, who most of us on both sides of the aisle recognize as one of the most decent, most fair, sound men in the Senate. But the Detroit News was very critical. Let me quote from that:

> Senator Levin and his aides refused to discuss Commander Stumpf's case or the workings of the Armed Services Committee, or anything else for that matter. Citing his allegiance to striking unions, he refuses to talk to the News but his committee colleagues lack so handy an excuse.

CARL LEVIN is one of my best friends in the Senate. I came here with him. And for the Detroit News to attack that fine U.S. Senator in the manner they did is unconscionable. And many other members of the press including our own Navy Times, of course. The Navy Times in an editorial of March 11, 1996, says "Commander Stumpf is a Marked Man:"

> The Senate can strike a blow for naval aviation safety right now by dropping the Tailhook "acid test" now used to block some aviator promotions.

And at the bottom of the editorial, the last paragraph:

> But Tailhook was nearly 5 years ago. It's time for the sore to heal. It's time to abandon that list and help the men and women of naval aviation get back to the basics of safe flying.

Five years is not very long. I also cite, for the record, an excellent statement in this regard made by a nonmember of the Armed Services Committee, Senator GRASSLEY of Iowa, printed in the CONGRESSIONAL RECORD of March 13, 1996, on S. 1999.

Senator GRASSLEY goes on to say that he feels that the flagging of officers who were promoted, who were investigated, should be and should continue to be brought to the attention of the Armed Services Committee. And I agree.

That does not mean, as Senator COATS and Senator NUNN and Senator BYRD have pointed out, that we blacklist these people at all. That is not the way we work. I simply say that the major reason that Commander Stumpf has had some trouble was, once again, the top leadership of the U.S. Navy failed to do the routine thing when they submitted Stumpf to the Armed Services Committee for us to discharge our responsibilities that we have sworn to uphold. They just forgot.

It was a legitimate error. I do not believe it was intentional, but it was another error, another shortcoming of some of the leadership of the U.S. Navy.

I simply say that the Armed Services Committee, nor any of its members, are at fault. Yet, our integrity is being questioned because of what we collectively did and thought was our duty.

Let me close, if I might, by giving my own personal view, without detailing any of the information at my disposal that, for good reasons, I am sworn to protect. I know most or all of the details, some of them sordid, about Tailhook. I happen to feel that Commander Stumpf may be being overly criticized for some things. It is true, in the opinion of this Senator, that he was not in that room at a time when an act was taking place that I think would have probably guaranteed that he not be recommended for promotion. He got out in time. But he did not do anything about anything that he saw going on.

But I simply say and emphasize once again that I am not one of those who feel that Commander Stumpf should be blacklisted, should be eliminated for consideration—and I emphasize consideration—by the Armed Services Committee in carrying out its responsibilities. My view is that circumstances following the unfortunate foul-up by the top echelon in the U.S. Navy in not giving us the information is the main reason for the problem.

But what happened after that? And this is something that I feel very strongly about. After that happened, we began to see articles appearing, although none of the authors came to see me. The old boy network took over for a top gun.

Let me emphasize that again. The old boy network took over for a top gun and dedicated themselves to seeing, as quickly as possible, that the promotion was granted.

I think—and I am very much upset with Commander Stumpf—that he did not take the first logical step that he could, should, and had the right to take, by appealing to a board that looks after these things, called the correction board. No, he bypassed that, because the other top guns and their supporters went to work by lobbying.

So it seems to me that if and when I have a responsibility to discharge, as one member, my duties as one member of the Armed Services Committee, I would not, having known what I know, interfere with Stumpf's promotion on the basis of Tailhook. Some other Members may not see it that way. But I am very much concerned about an individual that we look to, and certainly is one of the finest performing officers that we have today in the U.S. Navy, there is no question about that, but there are other things that we look for when we go through the promotion scheme. In all likelihood, Commander Stumpf, if and when he is promoted—as I think he will be, eventually, to captain; he is very likely to become an admiral someday. There are lots of things beside your ability to fly and your courage in battle that play into the promotion role.

As much as anything else, I simply say that as far as this Senator is concerned, the hiring of a lawyer without going through the proper procedures is a step in the wrong direction and emphasizes what I am most concerned about in this particular matter, and that is that the Navy, unto themselves, with the machoism that they show time and time again, decided they were going to get the Armed Services Committee, regardless of our faithfulness, regardless of what we have done, regardless of what we will do as members of that committee in the future.

And the crowning blow, although I recognize that he has a right to do it, was a Washington Post news story of March 19 that I will submit for the RECORD. The headline is "Tailhook Figure Files Suit Over Navy Promotion." Going to the courts, hiring a lawyer to get what he wants and is probably entitled to, it seems to me was not the wise way to proceed.

I ask unanimous consent the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Some will disagree with me, probably, about Commander Stumpf. But the main reason for my appearing on the floor tonight was to try to set the record straight as to the legitimate role that the Armed Services Committee has played in this matter. We played the role right by the book.

I happen to feel, when Commander Stumpf comes before us again, he may be approved. He might get my support. But I will be asking some questions about why the lawsuit, why the full-

court press by some of his friends, trying to discredit, by their actions, the legitimate steps and actions and decisions made by the Armed Services Committee?

Mr. President, I think we have not heard the last of this matter. I think it is just another bungled handling of a situation by certain top leadership in the U.S. Navy, and I will simply say to Commander Stumpf that had the information been furnished to us when it was not about what happened, or that he was even at that Tailgate party 5 years ago, I would have voted to send Stumpf on through after I took a look and had a thorough briefing on what the allegations against him were. I do not think they were that serious.

But the U.S. Navy is the one that caused Commander Stumpf his problem. His friends are in the Armed Services Committee.

Mr. President, I yield the floor.

EXHIBIT 1

TAILHOOK FIGURE FILES SUIT OVER NAVY PROMOTION

A former commander of the Blue Angels squadron, who was cleared of wrongdoing in the Tailhook scandal, has accused Navy Secretary John H. Dalton of improperly blocking his promotion to captain.

In a suit filed Friday in federal court in Alexandria, Cmdr. Robert E. Stumpf said Dalton bowed to political pressure from Capitol Hill. Stumpf, stationed at Oceana Naval Air Station in Virginia Beach, asked that he be given his promotion as of July 1995.

Stumpf's was one of the most high-profile cases resulting from the 1991 Tailhook convention of Navy aviators, in which dozens of women and female officers complained of sexual harassment. A three-officer panel found that Stumpf left a Las Vegas hotel suite before a stripper performed oral sex on an officer.

The suit said Congress approved Stumpf's promotion after Dalton inadvertently failed to notify Capitol Hill of Stumpf's Tailhook connection. Dalton, pressured by the Senate Armed Services Committee, withdrew Stumpf from a promotion list in December.

The suit said federal law allows a promotion approved by Congress to be canceled only if an officer "is mentally, physically, morally or professionally unqualified."

MORNING BUSINESS

Mr. COATS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING THE PARTICIPANTS IN THE SOUTH DAKOTA HIGH SCHOOL BOYS' BASKETBALL TOURNAMENT

Mr. DASCHLE. Mr. President, today I want to commend the hard work, competitive spirit, and teamwork recently exhibited by thousands of young people across South Dakota during the State High School Boys' Basketball Tournament.

Each year during late February and early March, towns from across the State come together in support of their high school basketball teams in district, regional, and State tournaments. This exciting period culminated last week with three teams from across South Dakota winning State championships in their respective divisions.

There is a tremendous amount of pride that each community in South Dakota feels for its high school sports teams. Having grown up in one of those communities, I know that each time a high school team is successful, its community glows with the same accomplishment. Communities like these are still proud of their young people's abilities, their hard work, and their determination to work together and achieve a common goal, both on and off the court.

Today, I would like to congratulate all of the teams who participated in this year's tournaments. In particular, I would like to commend the high schools of Warner, Douglas, and Mitchell for having earned their respective State boys' basketball championship titles in 1996. Clearly, these schools exemplify the commitment to excellence and teamwork that all South Dakota high schools share with their communities.

HOW MUCH FOREIGN OIL BEING CONSUMED BY UNITED STATES? HERE'S TODAY'S WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that, for the week ending March 15, the U.S. imported 7,145,000 barrels of oil each day, 752,000 barrels more than the 6,393,000 barrels imported during the same period a year ago.

Americans now rely on foreign oil for more than 50 percent of their needs, and there are no signs that this upward trend will abate.

The increasingly dangerous U.S. dependency on foreign oil must be addressed by those who care about restoring domestic production of oil—by U.S. producers using American workers.

The American people should consider the economic calamity that will occur if and when foreign producers shut off our supply, or double the already enormous cost of imported oil flowing into the U.S.—now 7,145,000 barrels a day. We must not delay in seeking to solve this troubling problem.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, 4 years ago when I commenced these daily reports to the Senate it was my purpose to make a matter of daily record the exact Federal debt as of the close of business the previous day.

In that first report—February 27, 1992—the Federal debt the previous day stood at $3,825,891,293,066.80, as of the close of business. The point is, the Federal debt has since shot further into the stratosphere.

As of yesterday at the close of business, a total of $1,233,906,465,897.14 has been added to the Federal debt since February 26, 1992, meaning that as of the close of business yesterday, Wednesday, March 20, 1996, the exact Federal debt stood at $5,059,797,758,963.94. (On a per capita basis, every man, woman, and child in America owes $19,131.71 as his or her share of the Federal debt.)

FRANKLIN N. MEISSNER DAY ON THE SOUTH SHORE

Mr. KENNEDY. Mr. President, I am honored to take this opportunity to pay tribute to one of Massachusetts' finest citizens, Franklin N. Meissner, and his contributions to the business community on the south shore of Massachusetts.

Next Tuesday, March 26, the South Shore Chamber of Commerce will be honoring Frank Meissner, who is the chamber's past chairman. The south shore chamber is currently the second largest chamber of commerce in Massachusetts, and it is also one of the largest suburban business organizations in the country. With its substantial resources and its committed membership, the chamber has been an instrumental factor in promoting economic growth and community development that benefits all families in southern Massachusetts.

Frank Meissner has been deeply involved in all of these initiatives and he deserves great credit for their success. He is currently the president of Electro Switch Corp., which employs almost 300 people. He also serves as director of both the Bank of Braintree and the South Shore Hospital, and is also the past president and still an active member of the Weymouth Rotary Club.

I congratulate Frank Meissner for his many achievements and for his leadership in so many effective ways for the people of the South Shore. March 26 is truly Franklin N. Meissner Day on the south shore, and all of us are proud of him.

GREEK INDEPENDENCE DAY

Mr. KENNEDY. Mr. President, I am honored to be a sponsor of the resolution designating March 25, 1996 as Greek Independence Day.

On this, the 175th anniversary of Greek independence from the Ottoman Empire, we honor the courageous struggle by the Greeks to regain their freedom. After being ruled by the Ottoman Turks for four centuries, the people of Greece were able to restore democracy for the Nation where democracy was first born in the ancient world.

VOL
142
PT
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MR
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1996
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The people of Greece have made extraordinary contributions to all nations of the world, and no country has benefited more from these contributions than the United States. It has been said that except for the blind forces of nature, nothing moves in this world which is not Greek in origin. Our Founding Fathers modeled our own system of democratic government on the basic principles of democracy of ancient Greece, and over 3-million Greek-Americans today continue to make valuable contributions to all aspects of American life. This resolution, in commemorating Greek Independence Day, also commemorates the close and enduring ties between our two nations. Long may they flourish.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1266. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

H.R. 1787. An act to amend the Federal Food, Drug, and Cosmetic Act to repeal the saccharin notice requirement.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

At 2:59 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence Senate:

H.J. Res. 165. Joint resolution making further appropriations for the fiscal year 1996, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–503. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Agriculture, Nutrition, and Forestry.

"JOINT RESOLUTION

"Whereas, the federal budget allocates less heating assistance for low-income homeowners than provided in previous years; and

"Whereas, food stamp assistance under certain circumstances is linked to heating assistance; and

"Whereas, the significant reduction in heating assistance to 54,000 households in Maine, 12,000 of which involve subsidized housing and 7,000 of this 12,000 involve elderly households, will have a severe impact on Maine people, especially those receiving food stamps; and

"Whereas, cuts to the Low-Income Home Energy Assistance Program are concurrent with cutbacks in the prescription drug program, increases in Medicare premiums and the loss of food stamps. These cuts will be especially hard felt by Maine seniors and the disabled community who rely on these programs in their day-to-day existence; now, therefore, be it

"*Resolved*, That we, your Memorialists, respectfully recommend and urge the Congress of the United States to change current federal policy to allow persons who meet the eligibility requirements for food stamps but who do not receive heating assistance under the Low-Income Home Energy Assistance Program to receive food stamps in the same amount as they would have received had they received heating assistance; and be it further

"*Resolved*, That we, your Memorialists, respectfully recommend and urge the Congress of the United States to restore heating assistance and weatherization funds that have been recently cut in order that states such as Maine, which ranks 33rd in the nation with respect to median household income, do not have to make the choice whether people starve or freeze; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

POM–504. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Agriculture, Nutrition, and Forestry.

"HOUSE JOINT MEMORIAL 4017

"Whereas, nonnative noxious weeds pose a substantial and significant threat to the economic welfare of the citizens of the state of Washington in that noxious weeds are detrimental or destructive of crops, fruit, trees, shrubs, valuable plants, forage, other cultivation, and agricultural plants or produce; and

"Whereas, in recognition of the substantial threat to economic welfare, the state of Washington has mandated the control and eradication of nonnative noxious weeds on all privately held and state-held lands, which has up to this time been effectively managed by the state of Washington; and

"Whereas, nonnative noxious weeds continue to proliferate and burgeon on lands that are the property of the United States of America, or under the control of the United States; and

"Whereas, the failure of the federal government of the United States to control or eradicate nonnative noxious weeds poses a substantial and significant threat to the economic welfare of the citizens of the state of Washington in that these weeds are detrimental or destructive of crops, fruits, trees, shrubs, valuable plants, forage, other cultivation, and agricultural plants or produce; and

"Whereas, this nonfeasance and malfeasance of the federal government, committed by and through the principal instrumentality of the United States Forest Service, is in direct violation of federal law and regulation; namely, the Carlson-Foley Act and Federal Noxious Weed Act; and

"Whereas, the previously mentioned unrestrained propagation and exponential reproduction of nonnative noxious weeds is an exigent economic and agricultural peril; and

"Now, therefore, your Memorialists respectfully pray that Congress recognize the enormous threat to the economic and agricultural welfare of the state of Washington, caused by the failure of the federal government to control or eradicate the agricultural and economic menacing nonnative noxious weeds, within the borders of the state of Washington and upon property of the United States of America or property under control of the United States, and as much, immediately direct all federal instrumentalities and agencies managing or controlling this property to comply with all relevant laws and regulations regarding control or eradication of nonnative noxious weeds in the state of Washington; and be it

"*Resolved*, That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM–505. A resolution adopted by the Senate of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Banking, Housing, and Urban Affairs.

"RESOLUTION

"Whereas, commencing on January 7, 1996, the Commonwealth suffered from the loss of lives and severe property and economic damages as a result of the Blizzard of 1996, which was followed by unreasonable thaws, torrential rains and resulting flooding; and

"Whereas, the President of the United States has declared this entire Commonwealth a major disaster area because of extensive flooding, making individuals and businesses eligible for disaster assistance for flood damages, but not for similar blizzard-related damages; and

"Whereas, the President of the United States has also declared that 17 of 58 counties in this Commonwealth affected by flooding are eligible for Federal public disaster assistance on account of the flooding; and

"Whereas, the cost of responding to the Blizzard of 1996 left many municipalities without sufficient resources to react to and recover from severe flooding which resulted when melting snow and ice combined with heavy rain across this Commonwealth; and

"Whereas, the Federal Government has yet to acknowledge that the Blizzard of 1996 and the resulting flooding were related events that combined to cause a single major disaster; and

"Whereas, failure to treat the blizzard and flooding as one major disaster will result in undue hardship; and

"Whereas, failure to include the 41 additional counties among those declared eligible for Federal public disaster assistance will result in the lack of sufficient funds to return many communities in this Commonwealth to an acceptable level of public health and safety; and

"Whereas, the threat of additional snow and rain continues to present serious risk to

the health, safety and welfare of the citizens of this Commonwealth; and

"Whereas, the Commonwealth and its citizens, businesses and municipalities are in need of immediate and comprehensive financial assistance to recover from the combined effects of snow, ice and flooding that resulted from the Blizzard of 1996; therefore, be it

"*Resolved*, That the Senate join with the Governor in respectfully petitioning the President of the United States to direct the Federal Emergency Management Agency to:

"(1) acknowledge that the Blizzard of 1996 and resulting flooding were related events that combined to cause a single major disaster;

"(2) declare 41 additional counties eligible to receive Federal public disaster assistance as a result of that disaster; and

"(3) expedite the process of providing and prioritizing disaster assistance; and be it further

"*Resolved*, That a copy of this resolution be delivered to the President of the United States and the Director of the Federal Emergency Management Agency for immediate action; and be it further

"*Resolved*, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

POM–506. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

"ASSEMBLY JOINT RESOLUTION NO. 41

"Whereas, it is necessary for the United States to seize the opportunities presented by commercial space activity and, for the benefit of all Americans, regain the position of leadership in this highly competitive, multi-billion dollar international market; and

"Whereas, investment in commercial space activity will lead to the creation of jobs, the expansion of economic opportunity, and the continuance of American world-leadership; and

"Whereas, it is important to assess where America stands in a rapidly expanding world marketplace and the direction in which America needs to proceed in order to compete in that marketplace; and

"Whereas, the United States was once the world leader in the provision of commercial space launch services and has, over the past few years, ceded this leadership to the European Space Agency, which now controls over 60 percent of this booming industry; and

"Whereas, in the newly emerging low-earth orbit satellite market, the area where California has the best opportunity to lead, the Chinese have taken the inside track, assisted in part by the favorable trade policies of the present federal administration; and

"Whereas, California is uniquely well-placed to serve as one of the leading commercial spaceport locations in the nation; and

"Whereas, enactment of a national spaceport program will put the United States in a stronger position to compete in the commercial space activity industry because it will enable this nation to fill in the missing piece of the commercial space activity circle, launch facilities; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California hereby declares its support for the enactment of a national spaceport program; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–507. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Commerce, Science, and Transportation.

"HOUSE JOINT MEMORIAL 4014

"Whereas, Washington's economy depends heavily on international trade, shipbuilding, seafaring, and tourism; and

"Whereas, the United States merchant marine continues to play a vital role in meeting the economic, military defense, and international aid objectives of our nation; and

"Whereas, the cruise ship industry has grown on average 9.3 percent annually since 1980 and is expected to double by the year 2000; and

"Whereas, the cruise ship trade, which now features Alaska, could grow even faster if it also featured Washington state; and

"Whereas, the cruise ship industry could potentially provide an additional one hundred million dollars to the Washington state economy if a United States coastwise cruise ship trade were established, with United States vessels transporting passengers between Washington state and other states, such as Alaska; and

"Whereas, representatives from United States ports, labor organizations, government agencies, and the maritime industry have met to develop an agreement on the successful advancement of a United States coastwise cruise ship trade; and

"Whereas, the United States Congress has been considering legislation that provides financial incentives and operating provisions to effectively establish a United States coastwise cruise ship trade;

"Now, therefore, your memorialists respectfully pray that the United States Congress and President William J. Clinton establish a United States cruise ship industry, thereby developing a United States cruise ship registry, United States jobs, and a United States coastwise cruise ship trade, be it

"*Resolved*, That copies of this Memorial be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM–508. A resolution adopted by the Senate of the Legislature of the State of Washington; to the Committee on Commerce, Science, and Transportation.

"SENATE RESOLUTION 1996–8695

"Whereas, tourism is of vital economic and cultural importance to the states and provinces of the Pacific Northwest comprised of Washington, Alaska, Alberta, British Columbia, Idaho, Montana, and Oregon; and

"Whereas, the State and Provincial governments of the Pacific Northwest are members of the Pacific Northwest Economic Region, a nonprofit public-private partnership established to promote regional economic cooperation; and

"Whereas, the States and Provinces of the Pacific Northwest Region expend in excess of $50 million per year to promote the tourism industry and attract millions of tourists from throughout North America and the World; and

"Whereas, the tourism industry constitutes billions of dollars in economic activity for the States and Provinces of the Pacific Northwest Region; and

"Whereas, the States and Provinces of the Pacific Northwest Economic Region have undertaken numerous collaborative and innovative tourism initiatives that have been successful in promoting tourism in the region and have laid the ground work for ongoing cooperative tourism development efforts; and

"Whereas, current proposals before Congress to establish a National Tourism Board and a National Tourism Organization to develop a national travel and tourism strategy to promote tourism in the United States is of considerable importance to the States of the Pacific Northwest; and

"Whereas, participation on the National Tourism Board and the National Tourism Organization is of vital interest and importance to the States of the Pacific Northwest; now, therefore, be it

"*Resolved*, that the Senate of the state of Washington respectfully request that a public and a private sector representative of the Pacific Northwest Economic Region be appointed to the National Tourism Board and the National Tourism Organization respectively; and be it further

"*Resolved*, That copies of this resolution be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM–509. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"ASSEMBLY JOINT RESOLUTION NO. 39

"Whereas, the Clinton Administration has proposed to end the United States Army Corps of Engineers' involvement in flood control projects in this state; and

"Whereas, the flooding that arose from the March storms resulted in catastrophic damages to lives and property, including statewide agricultural losses of $363,700,000, following $97,000,000 in losses in January; and

"Whereas, the recent storms illustrate the need to maintain the proactive and cooperative efforts of the federal government and the state to anticipate flood control needs; and

"Whereas, the citizens of the state are calling upon the federal government to continue the 80-year presence of the United States Army Corps of Engineers in this state, and allow the corps to continue working successfully with state and local officials in preparing and implementing flood control projects and policies; and

"Whereas, the federal proposal to withdraw the United States Army Corps of Engineers from active involvement in state flood control efforts, thus ending the working relationship between the federal government and the state regarding flood control, should be reviewed critically; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California recognizes the importance of preserving the existing partnership between the United States Army Corps of Engineers and the state in pursuing flood control projects, and respectfully memorializes the President and Congress of the United States to review and reevaluate the federal proposal to end the involvement of the United States Army Corps of Engineers in flood control projects in the state; and be it further

VOL 142 PT 5 MR 21—29 1996 UMI

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-510. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Environment and Public Works.

"HOUSE JOINT MEMORIAL 4043

"Whereas, the proposed conference mark for Mitchell Act funds is three and one-half million dollars less than the previous fiscal year; and

"Whereas, this proposed cut to Mitchell Act funds is in addition to cuts to this fund source over the past several years; and

"Whereas, the Mitchell Act was created to mitigate for the loss of naturally spawning salmon due to the federal power system developed on the Columbia River; and

"Whereas, a reduction in Mitchell Act funds will significantly reduce the quantity of hatchery-produced salmon produced in the Columbia River; and

"Whereas, reduced Mitchell Act funding will make it significantly more difficult to enter into an equitable treaty with Canada under the United States/Canada Pacific Salmon Treaty and will result in increased levels of wild salmon being harvested by Canadian fishers; and

"Whereas, commercial fishing families already hard hit by the effects of adverse ocean conditions, endangered species act restrictions, and recent natural disasters will be dealt yet another blow if full Mitchell Act funding is not restored; and

"Whereas, local economies dependent on cash inflow from recreational fishing activity will also be severely impacted by the effects of reduced Mitchell Act funding; and

"Whereas, Federal funding for fish hatcheries on the Columbia River is of critical importance to the states of Washington, Oregon, and Idaho;

"Now, therefore, your Memorialists respectfully pray that full Mitchell Act funding of eighteen and one-half million dollars be restored, be it

"*Resolved*, That copies of this Memorial be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-511. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION NO. 22

"Whereas, social security laws, with respect to the taxing of social security as income at the federal level, have not been changed since the additional law was passed in 1983; and

"Whereas, social security is still taxable if personal income is more than twenty-five thousand dollars ($25,000) if single, or thirty-two thousand dollars ($32,000) if married; and

"Whereas, during that period of time, inflation has increased more than 35 percent, with no change in the limits of taxable income; and

"Whereas, on top of the initial tier of social security taxes, a federal law that imposes an additional higher social security tax was recently enacted whereby, under specified conditions, in the case of a single person earning thirty-four thousand dollars ($34,000) and a married couple earning forty-four thousand dollars ($44,000), 85 percent of social security benefits are added to taxable income without an upward shift in the first tier threshold of taxable income; and

"Whereas, senior income increases at a very low percentage but the amount of social security that is taxed is increasing each year; and

"Whereas, the people who are affected by this inflation are the people who can least afford it; and

"Whereas, those income limits, which include both social security and any tax-free income, no longer represent a fair amount of earnings to warrant tax on social security; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the Congress and the President to enact appropriate legislation which would provide that the two tier taxation of social security benefits be eliminated by allowing a single person to earn thirty-four thousand dollars ($34,000) and a married couple to earn forty-four thousand dollars ($44,000) before any portion of their social security income is taxed, and that those income limits be indexed to inflation; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairpersons of the House and Senate Committees on Aging, and to each Senator and Representative from California in the Congress of the United States."

POM-512. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION NO. 19

"RESOLUTION CHAPTER 78

"Whereas, section 405 of Title 42 of the United States Code mandates that states collect the social security account numbers of parents when birth certificates are issued; and

"Whereas, due to their common use as individual identifiers by both the public and private sectors, social security account numbers are essential tools for enforcing child support obligations because many of the child support enforcement actions mandated by federal law cannot be successfully undertaken without the use of social security account numbers; and

"Whereas, California has made tremendous progress in collecting delinquent child support orders through use of the state's tax collection agency, the Franchise Tax Board, and by refusing to issue or renew licenses if an individual is delinquent in paying his or her child support; and

"Whereas, these are model child support enforcement programs that have been adopted in several other states; and

"Whereas, these programs will not continue to be successful without utilization of the obligor's social security account number; and

"Whereas, a further exception to federal law is needed for documents used to enforce child support orders, specifically, marriage certificates and family law court documents; and

"Whereas, in many cases, these documents represent the only real opportunity to obtain the social security account numbers of the petitioner and respondent; and

"Whereas, social security account numbers are not provided on the marriage certificate at the beginning of the marriage, nor on the dissolution court documents at the end of the marriage, or on documents relating to the establishment of paternity, and consequently, the gathering of this information is entirely dependent on voluntary cooperation of the petitioner and the respondent; and

"Whereas, as of December 31, 1994, there were 2,304,362 Title IV–D cases, of which 1,126,422 were cases in which either a parent of the assets of a parent had not yet been located; and

"Whereas, it is essential that federal law be amended to allow the inclusion of social security account numbers on applications for licenses and certificates of marriage and on family law court records, and that federal law be further clarified to permit the continued maintenance of social security account numbers on court and other public agency records where the numbers were collected prior to October 1, 1990, and to permit states to make the social security account numbers available to child support agencies for the exclusive purpose of child support enforcement in accordance with federal and state law: Now, therefore, be it

"*Resolved, by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend federal law (42 U.S.C.A. Sec. 405) to allow social security account numbers to be included on applications for licenses and certificates of marriage and on records related to petitions for dissolution of marriage, and to clarify that social security account numbers on court and other public agency records may be maintained if they were collected prior to October 1, 1990, and permit states to make the social security account numbers available to child support agencies for the exclusive purpose of child support enforcement in accordance with federal and state law; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM-513. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION 24

"Whereas, the ancient civilization of Assyria, located in Bet-Nahirain (Mesopotamia) in what is now modern day Iraq, was renown for its art and culture; and

"Whereas, in the eighth century B.C. King Assurnasirpal II of Assyria built the palace at Nimrud which contained highly descriptive bas-relief sculptures; and

"Whereas, an Assyrian relief from the palace at Nimrud was recently purchased at auction for $11.9 million by an anonymous buyer; and

"Whereas, Assyrians who are in diaspora throughout the world today are united in their vehement objection to the illicit sale and trafficking of Assyrian ancient antiquities and artifacts; and

"Whereas, the illicit sale and trafficking of ancient antiquities and artifacts is not limited to Assyrian artifacts but involves the cultural treasures of historical civilizations throughout the world, from the ancient temples of Angkor Wat in Cambodia, to Native American villages in the United States; and

"Whereas, the United Nations Educational, Scientific and Cultural Organization

(UNESCO) is seeking to establish an international code of ethics for art dealers and cultural professionals to help combat the rise in illicit trafficking of cultural antiquities and artifacts throughout the world; and

"Whereas, the illicit sale and purchase of cultural and antiquities and artifacts by personal art collectors diminishes their educational and aesthetic value, denigrates the history, art, legacy, and culture of the ancient civilizations that created those antiquities and artifacts, displays a lack of sensitivity toward the descendants of those civilizations, and demonstrates disrespect for the cultural heritage of all of humankind; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to take measures to halt the illicit sale and trafficking of cultural antiquities, including Assyrian artifacts, and to support the efforts of UNESCO to combat this serious problem; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-514. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Finance.

"SENATE RESOLUTION NO. 222

"Whereas, an excellent highway network is vitally important to Michigan's economic well-being. All of the components of the state's economy are closely tied to the quality of the roadways used in transporting goods, services, and people throughout Michigan; and

"Whereas, Michigan's ability to maintain our transportation infrastructure is seriously impaired by the current policies of the federal government with regard to the federal gas tax each individual and business pays with every gallon of gasoline purchased. This unfair system costs the state hundreds of millions of dollars each year. The result is an increasing problem with the conditions of our roads and bridges; and

"Whereas, the largest element of the overall gas tax is the federal gas tax, which represents 18.4 cents of each dollar of gasoline sold. Of all of the states required to forward taxes to the federal government each year, Michigan ranks among the lowest in the ratio of gas tax revenues being returned to the citizens who paid the tax. In 1993, for example, $733.7 million was paid to the Federal Highway Trust Fund, and only $520.1 million was returned, a loss of $213.6 million, a loss that sets Michigan at a distinct disadvantage when making road improvements. Considering the inequitable manner in which this money is reallocated to the states of the union, it is clear that Michigan is bearing an oppressive burden through this taxation, a development of the tax structure that must be changed; and

"Whereas, adding to Michigan's tremendous burden, during the years 1990–1995, our state contributed $1.168 billion to federal deficit reduction, dollars that were initially collected to improve transportation routes in Michigan. This amount comprises approximately 20 percent of the total amount levied on Michigan citizens for the years 1990–1995. In addition, by 1999 Michigan's total contributions to deficit reduction are expected to total $2.099 billion, an amount that would certainly enable us to better maintain our roads and highways; and

"Whereas, clearly, Michigan is at a great disadvantage with states that receive far higher returns on their gas tax dollars marked for road improvements. In effect, we are subsidizing transportation maintenance and projects elsewhere when improvements are so desperately needed in our own state; and

"Whereas, with the new approaches to budgetary matters in Washington and a renewed willingness to examine the true costs of all spending policies, the time is right to remedy this unjust situation; now, therefore, be it

"*Resolved by the Senate*, That we urgently and respectfully request the Congress of the United States to return to Michigan all of the revenue from the federal gas tax collected in Michigan; and be it further

"*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Michigan congressional delegation with the request that each member review this issue and offer a formal response to this body, the Michigan State Senate."

POM-515. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Finance.

"SENATE RESOLUTION NO. 223

"Whereas, the quality of Michigan roadways has a great deal to do with the state's competitiveness in attracting and retaining jobs for our citizens. Every individual and every business in Michigan is affected when Michigan roads suffer from insufficient maintenance. Finding the means to meet this financial challenge is of the utmost importance to both state and local policymakers as we prepare for the twenty-first century; and

"Whereas, the difficult task of providing excellence in transportation in Michigan is made far worse by some of the current practices of the federal government with regard to the allocation of money raised by the federal gas tax; and

"Whereas, the current practices of the federal government with regards to the allocation of dollars raised by the federal tax make it difficult for Michigan to improve and expand its transportation system. Of the states required to send money to the federal government, in accordance with the federal funding formula, Michigan sends significantly more money to Washington than it receives back. In 1993, for example, Michigan paid a total of $733.7 million to the Federal Highway Trust Fund, and only $520.1 million was returned; and

"Whereas, in addition, even more money designated for return to Michigan, and several other states, is being withheld by federal transportation authorities. This money is critical to our transportation infrastructure and a vital component of the state's economic well-being.

"Whereas, the current budget debate offers an opportunity to reexamine this critical aspect of public spending. This examination should include immediately correcting the gross inequities in allocating the funds generated by the federal gas tax; now, therefore, be it

"*Resolved by the Senate*, That we respectfully, but urgently, ask the Congress of the United States to release to the states, including Michigan, any federal road funding due under the gas tax formula but currently being held back by the federal government; and be it further

"*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Michigan congressional delegation with the request that each member review this issue, offering a formal response to this body, the Michigan State Senate."

POM-516. A resolution adopted by the Senate of the Legislature of the State of Washington; to the Committee on Finance.

"SENATE RESOLUTION 1996-8696

"Whereas, the Pacific Northwest Region comprising of Washington, Alaska, British Columbia, Alberta, Montana, Idaho, and Oregon contains numerous border crossings between the United States and Canada; and

"Whereas, cultural, social, and economic exchanges between the citizens, organizations, and businesses of the region have historically been and continue to be an integral part of the regions economic and cultural development; and

"Whereas, the historically close and constant ties between the two countries of Canada and the United States have been forged and maintained by continuous cultural exchanges ranging from fraternities, social, sports, and business clubs to name but a few; and

"Whereas, the rapid changes in global affairs require countries to renew and enhance their ties with neighboring states and countries; and

"Whereas, millions of individuals cross the borders of the Pacific Northwest per annum including numerous tourists expending billions of dollars in the United States and Canada; and

"Whereas, a border crossing fee as proposed by current federal legislation would adversely impact both the economy, culture, and quality of life for many of the regions' citizens; now, therefore, be it

"*Resolved*, That the Senate of the state of Washington opposes any proposal that would levy a fee on any individuals crossing the borders of the United States; and be it further

"*Resolved*, That copies of this resolution be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, each member of Congress from the State of Washington, Oregon, Montana, and Idaho, and the Secretary of the United States Customs and Immigration Department."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG:

S. 1632. A bill to prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, and for other purposes; to the Committee on the Judiciary.

S. 1633. A bill to provide for school bus safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEVIN (for himself, Mr. DOLE, Mr. DASCHLE, Mr. INOUYE, and Mr. D'AMATO):

VOL
142
PT
5
MR
21
—
29
1996
UMI

S. 1634. A bill to amend the resolution establishing the Franklin Delano Roosevelt Memorial Commission to extend the service of certain members; to the Committee on Rules and Administration.

By Mr. DOLE (for himself, Mr. THURMOND, Mr. STEVENS, Mr. HELMS, Mr. COCHRAN, Mr. WARNER, Mr. LOTT, Mr. KYL, Mr. SMITH, Mr. INHOFE, Mr. NICKLES, Mr. KEMPTHORNE, Mr. ABRAHAM, Mr. MCCAIN, Mrs. HUTCHISON, Mr. COATS, Mr. COHEN, Mr. SANTORUM, Mr. MACK, and Mr. DOMENICI).

S. 1635. A bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes; to the Committee on Armed Services.

By Mr. WYDEN:

S. 1636. A bill to designate the United States Courthouse under construction at 1030 Southwest 3rd Avenue, Portland, Oregon, as the "Mark O. Hatfield United States Courthouse," and for other purposes; to the Committee on Environment and Public Works.

By Mr. HARKIN:

S. 1637. A bill to amend the Internal Revenue Code of 1986 to revise the tax rules on expatriation, and for other purposes; to the Committee on Finance.

By Mr. PRESSLER (for himself, Mr. GLENN, Mr. D'AMATO, Mr. KERREY, Mr. BENNETT, and Mrs. FEINSTEIN):

S. 1638. A bill to promote peace and security in South Asia; to the Committee on Foreign Relations.

By Mr. DOLE (for himself, Mr. THURMOND, Mr. WARNER, and Mr. GRAMM):

S. 1639. A bill to require the Secretary of Defense and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Defense with reimbursement from the Medicare program for health care services provided to Medicare-eligible beneficiaries under TRICARE; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG:

S. 1632. A bill to prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, and for other purposes; to the Committee on the Judiciary.

FIREARMS LEGISLATION

• Mr. LAUTENBERG. Mr. President, today I am introducing legislation that would prohibit individuals who have been convicted of a crime involving domestic violence from owning or possessing firearms.

Under current Federal law, Mr. President, it is illegal for people convicted of felonies to possess firearms. Yet many people who engage in serious spousal or child abuse ultimately are not charged with or convicted of felonies. At the end of the day, maybe following a plea bargain, they are convicted of misdemeanors. And these people are still free under Federal law to possess firearms.

This legislation will close this loophole, and will help keep guns out of the hands of people who have proven themselves to be violent and a threat to those closest to them. The legislation would add to the list of persons disqualified from owning or possessing a firearm individuals who have been convicted of any crime involving domestic violence, regardless of the length, term, or manner of punishment. This includes violent crimes committed by a spouse, former spouse, paramour, parent, guardian or similar individual.

Mr. President, although there is a growing awareness about the problem of domestic violence, in many places, even today, these outrageous acts are not taken as seriously as other forms of brutal behavior. Yet each year an estimated 2 million women are victimized by domestic violence. That is 10 times the number of women who are diagnosed with breast cancer. Of those 2 million women, nearly 6,000 die at the hands of men who at least at one time claimed to love them. About 70 percent of the time, those hands are holding a gun.

Mr. President, much of the killing and maiming associated with domestic violence could not happen but for the presence of a firearm. The New England Journal of Medicine reports that in households with a history of battering, a gun in the home increases the likelihood that a woman will be murdered fivefold. Often, the only difference between a battered woman and a dead woman is the presence of a gun.

Acts of domestic violence, by their nature, are especially dangerous and require special attention. These crimes involve people who have a history together, and who perhaps share a home or a child. These are not violent acts between strangers, and they do not arise from a chance meeting. Even after a split, the individuals involved often by necessity have a continuing relationship of some sort. The husbands, boyfriends, and former husbands who commit these crimes often have a record of violent and threatening behavior. And yet, frequently, these men are being permitted to possess firearms—with no legal restrictions.

The statistics and data are clear. Domestic violence, no matter how it is labeled, leads to more domestic violence. And guns in the hand of convicted spouse abusers lead to death.

To me, Mr. President, it is a simple proposition. Those guilty of acts of domestic violence should not be trusted to acquire or possess a gun. Period.

Mr. President, this legislation would save the lives of many innocent Americans. But it also would send a message about our Nation's commitment to ending domestic violence, and about our determination to protect the millions of women and children who suffer from this abuse.

I hope my colleagues will support the bill, and ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1632

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(33) The term 'crime involving domestic violence' means a felony or misdemeanor crime of violence, regardless of length, term, or manner of punishment, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim under the domestic or family violence laws of the jurisdiction in which such felony or misdemeanor was committed.".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by striking "or" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; or"; and

(C) by inserting after paragraph (8) the following new paragraph:

"(9) is under indictment for, or has been convicted in any court of, any crime involving domestic violence."; and

(2) in subsection (g)—

(A) by striking "or" at the end of paragraph (7);

(B) in paragraph (8), by striking the comma and inserting "; or"; and

(C) by inserting after paragraph (8) the following new paragraph:

"(9) who is under indictment for, or has been convicted in any court, or any crime involving domestic violence,".

SEC. 3. RULES AND REGULATIONS.

Section 926(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) regulations providing for the effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(9) or (g)(9) of section 922.".

SEC. 4. RESTORATION OF CIVIL RIGHTS AFTER CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by striking the period at the end and inserting the following: "; or such restoration of civil rights occurs following conviction of a crime of domestic violence (as defined in section 921(a)(33)). A conviction of a crime of domestic violence shall not be considered to be a conviction for purposes of this chapter if the conviction is reversed or set aside based on a determination that the conviction is invalid, or if the person has been pardoned, unless the authority that grants the pardon expressly states that the person may not ship, transport, possess, or receive firearms.".

SEC. 5. ADMINISTRATIVE RELIEF FROM CERTAIN FIREARM PROHIBITIONS.

(a) IN GENERAL.—Section 925(c) of title 18, United States Code, is amended—

(1) in the first undesignated sentence, by inserting "(other than a person convicted of a crime of domestic violence as defined in section 921(a)(33))" before "who is prohibited"; and

(2) in the fourth undesignated sentence—

(A) by inserting "person (other than a person convicted of a crime of domestic violence as defined in section 921(a)(33)) who is a" before "licensed importer"; and

(B) by striking "his" and inserting "the person's".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to—

(1) application for administrative relief and actions for judicial review that are pending on the date of enactment of this Act; and

(2) applications for administrative relief filed, and actions for judicial review brought, after the date of enactment of this Act.•

By Mr. LAUTENBERG:

S. 1633. A bill to provide for schoolbus safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE OMNIBUS SCHOOL TRANSPORTATION SAFETY ACT OF 1996

• Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Omnibus School Transportation Safety Act of 1996, that would improve the safety of schoolbus travel.

The legislation would require background checks of schoolbus drivers, establish minimum proficiency standards for such drivers, and promote advanced technologies that can help prevent schoolbus accidents. In addition, the bill calls for a variety of studies that could improve schoolbus safety and increase the information on bus safety available to school districts and parents.

Mr. President, America's schoolchildren have a right to safe transportation to and from school. And we have a responsibility to do everything we can to guarantee that safety.

To ensure our children's safety, we first must ensure that bus drivers are decent individuals who will not harm their passengers. Unfortunately, sexual deviants often are attracted to driving a schoolbus because the job gives them easy access to children who are the focus of their sexual desires.

Children who ride on schoolbuses, particularly those in elementary school, are extremely vulnerable to physical abuse. They are too young to comprehend what is being done to them and too small to physically defend themselves from an attack. As a nation, we have a responsibility to provide as much protection as possible to this vulnerable population. My bill therefore would require all States to perform a Federal background check on potential schoolbus drivers before they are allowed to be alone with our children.

Eighteen States—Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Michigan, Mississippi, New Jersey, New York, Ohio, Oregon, Pennsylvania, Utah, Virginia, Washington, and Louisiana—already conduct State and Federal background checks on their drivers. My amendment generally would not affect how these States administer their programs.

Fourteen States—Hawaii, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, North Carolina, Rhode Island, Texas, West Virginia, Nebraska, Illinois, and Wisconsin—currently perform only State background checks. This is well-meaning, but insufficient. A convicted sexual deviant can easily move to one of these States, receive a clean background check, and begin driving his prey to and from school. My bill therefore would require those States to participate in the nationwide, Federal program.

There also are 18 States—Alabama, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Maine, Montana, Nevada, New Mexico, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Vermont, and Wyoming—that have no background checks for their schoolbus drivers. There is no rational reason why these States should not do more to protect their citizens.

Mr. President, during the 2 months after California instituted Federal criminal background checks in 1990, it screened out 150 convicted sex offenders, child molesters, and violent criminals who tried to get permits to drive schoolbuses. This is shocking and my bill would address this problem.

Beyond requiring background checks for prospective schoolbus drivers, Mr. President, my bill includes a variety of provisions designed to reduce schoolbus accidents.

During the past 10 years, 300 school-age pedestrians under 19 years of age have died in schoolbus-related crashes. Two-thirds were killed by their own schoolbus. Half of all school-age pedestrians killed by schoolbuses in the past 10 years were 5- and 6-year-olds. On average, 21 school-age pedestrians are killed by schoolbuses each year, and 9 are killed by other vehicles involved in schoolbus-related crashes.

Mr. President, as a nation, we need to do much more to prevent schoolbus accidents. This bill attacks the problem on a number of fronts.

First, it would establish proficiency standards for schoolbus drivers.

Mr. President, driving a schoolbus with 40 young, screaming children is a unique skill that deserves specialized training. Unfortunately, many drivers are distracted when their young passengers are noisy or otherwise disruptive, and the results can be tragic. Inattention is one of the two factors most often reported by police for schoolbus drivers striking school-age pedestrians.

Bus drivers already are required to possess a commercial driver's license with a general endorsement for those driving vehicles with more than 15 passengers. However, there are no Federal standards specifically directed to schoolbus drivers. My bill would require the Secretary of Transportation to prescribe such standards.

Mr. President, some States already prescribe a level of proficiency for schoolbus drivers, but many do not. My bill generally would not interfere with existing State programs, but it would ensure that all schoolbus drivers meet a minimum standard of proficiency.

Another way that my bill would reduce schoolbus accidents is by assisting States to develop safer places for children to enter and leave their bus. For example, States could make bus stops more safe by increasing their visibility. Similarly, States could establish special safe areas in which children could disembark from busses, away from traffic.

The legislation also would require the Secretary of Transportation to promote the use and reduce the cost of hazard warning systems or sensors that alert schoolbus drivers of pedestrians or vehicles in, or approaching, the path of the schoolbus. These types of warning systems can be critical in saving the lives of young people. Unfortunately, many school districts have failed to invest in such systems. One reason is that their cost can be high. We need to explore ways to reduce those costs.

Another provision in the bill would require the Secretary to improve training materials on schoolbus safety and to improve the distribution and availability of such materials to schools for use by the student safety patrols. The most effective way to protect schoolchildren is to teach them to protect themselves. The Department of Transportation can do more in this area.

My legislation also would promote research into the possibility of installing safety belts in schoolbuses.

Mr. President, in addition to the loss of life attributed to schoolbus accidents that I mentioned earlier, approximately 10,000 schoolbus passengers are injured every year. Most injuries occur during side and rollover collisions. In this type of collision, the compartmentalized seat does not protect children, who can fall up to 8 feet to strike the roof, windows, other seats, and other children.

To reduce these types of injuries, the State of New Jersey requires the installation and use of safety belts in all schoolbuses. New Jersey's State law in this area was adopted after a study by the New Jersey Office of Highway Traffic Safety into the safety of lap seatbelts in large school vehicles. That study concluded that installation of seatbelts in all schoolbuses would improve vehicles' overall safety performance. The study recommended that schoolbuses be required to be equipped with seatbelts, which led to later enactment of the New Jersey law.

Mr. President, I support this law and believe it should be adopted on a Nation-wide basis. It is nearly impossible for a bus without belts to rollover without causing injuries or death.

VOL 142 PT 5 MR 21 — 29 1996 UMI

However, I recognize that some in Washington believe more information is needed before establishing such a Federal requirement.

One cause of this skepticism is that the Federal Government does not study crashes in which there are no injuries. The National Transportation Safety Board only investigates bus crashes where there are severe injuries or fatalities. Therefore, the data they collect do not accurately reflect the benefits of safety belts in schoolbuses.

A bus with safety belts costs an average of $1,000 more than a bus without belts. With an estimated schoolbus life of 15 years, seatbelt installation would cost approximately $66 per bus per year.

Children are already required to wear seatbelts in cars. Installation of seatbelts on the standard size schoolbuses would reinforce the importance of wearing seatbelts, reduce injuries to our children, cost relatively little to install and maintain, and overall, makes schoolbus transportation safer for our children.

My bill would require the National Highway Traffic Safety Administration [NHTSA] to study the safety impact of safety belts on schoolbuses. It specifically requires that NHTSA evaluate the real life consequences of New Jersey's safety belt law. I am hopeful that the resulting study will help end the longstanding debate on this issue, so we can move forward to protect the lives of our Nation's children.

Mr. President, this legislation also requires the Secretary of Transportation to begin a rulemaking process to determine the feasibility and practicability of: First, decreasing the flammability of materials used in the construction of the interiors of schoolbuses; second, informing purchasers of schoolbuses on the secondary market that those buses may not meet current NHTSA standards; and third, establishing construction and design standards for wheelchairs used in the transportation of students in schoolbuses.

The bill also requires the Secretary to conduct a variety of studies designed to provide an accurate data base of schoolbus safety information. In addition, the bill, in response to requests from some States, calls for Federal guidelines on the securing in a schoolbus of children under the age of five, and on measures to facilitate their evacuation in an emergency.

Mr. President, the Omnibus School Transportation Safety Act of 1996 is comprehensive legislation that would dramatically reduce deaths and injuries of children associated with schoolbus accidents.

I hope my colleagues will support the bill, and ask unanimous consent that the text of the legislation, along with a section-by-section analysis of the bill, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) Short Title.—This Act may be cited as the "Omnibus School Transportation Safety Act of 1996".

(b) Findings.—The Congress finds the following:

(1) In the United States, school buses travel more than 4,000,000,000 miles each year to transport approximately 25,000,000 children to and from school and various school-related activities.

(2) School buses are specifically designed to carry children safely to and from school, and generally are operated by educational agencies that receive Federal assistance for educational activities.

(3) On the average, each year in the United States—

(A) 17 occupants are killed while riding school buses, of which—

(i) 10 pupils are killed while riding type I school buses with a gross weight rating of greater than 10,000 pounds, and those school buses are predominantly used in the United States;

(ii) 2 pupils are killed while riding other vehicles used as school buses; and

(iii) 5 drivers are killed while driving school buses;

(B) 38 children are killed in loading zones surrounding school buses;

(C) 480 children are seriously injured while riding school buses; and

(D) 160 children are seriously injured while boarding or leaving school buses.

(4) Although most crashes involving school buses are minor, some examples of serious crashes that have had tragic consequences, include—

(A) the school bus crash that occurred in Alton, Texas;

(B) the school bus crash that occurred in October of 1995, in Fox River Grove, Illinois; and

(C) the recent school bus crash outside of Green Bay, Wisconsin, that killed the driver.

(5) Each year approximately 35,000 school buses are manufactured in the United States. The components for those buses are produced in various locations throughout the United States. The few companies that manufacture those buses ship the buses throughout the United States and to foreign countries.

(6) Numerous Federal laws, including subtitle VI of title 49, United States Code, regulate school buses as commercial motor vehicles. Subtitle VI of title 49, United States Code, provides for—

(A) motor vehicle safety standards under chapter 311 of that subtitle; and

(B) the regulation of commercial motor vehicle operators under chapter 313 of that subtitle.

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) Bus.—The term "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons.

(2) Local educational agency.—The term "local educational agency" means a local educational agency (as that term is defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) that receives Federal funds.

(3) National criminal history background check system.—The term "national criminal history background check system" has the meaning given that term in section 5(6) of the National Child Protection Act of 1993 (42 U.S.C. 5119c(6)).

(4) Newly employed.—With respect to the employment of a school bus driver by an employer, the term "newly employed" applies to the initial employment of an individual who has not been similarly employed by that employer.

(5) Postsecondary institution.—The term "postsecondary institution" means an institution of higher education, as that term is defined in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)).

(6) Private school.—The term "private school" includes any private postsecondary institution.

(7) School bus.—The term "school bus"—

(A) means a bus that is used for purposes that include carrying pupils to and from a public or private school or school-related events on a regular basis; and

(B) does not include a transit bus or a school-chartered bus.

(8) School-chartered bus.—The term "school-chartered bus" means a bus that is operated under a short-term contract with State, local, or private school authorities, which have acquired exclusive use of the bus at a fixed charge in order to provide transportation for a group of pupils to a special school-related event.

(9) Secretary.—The term "Secretary" means the Secretary of Transportation.

(10) State.—The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 3. PROFICIENCY STANDARDS FOR SCHOOL BUS DRIVERS.

(a) Proficiency Standards.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations establishing proficiency standards for school bus drivers (including drivers of school-chartered buses) who are required under applicable State law to possess a commercial driver's license to operate a school bus.

(b) Exemption for Certain States.—The regulations issued under subsection (a) shall provide that a State may use State proficiency standards, in lieu of the standards established by such regulations, if—

(1) the State proficiency standards are established before the date on which the proficiency standards under such regulations are established; and

(2) the Secretary determines that such State proficiency standards are as rigorous as the proficiency standards under such regulations.

(c) Demonstration of Proficiency.—Upon the establishment of the proficiency standards under subsection (a), each school bus driver referred to in such subsection shall demonstrate (at such intervals as the Secretary shall prescribe) to the employer of the driver, the local educational agency, the State licensing agency, or other person or agency responsible for regulating school bus drivers, the proficiency of that driver in operating a school bus in accordance, as the case may be, with the proficiency standards—

(1) established by the regulations issued under subsection (a); or

(2) established by the State concerned and determined by the Secretary to be as rigorous as the proficiency standards established by the regulations issued under subsection (a).

SEC. 4. CRIMINAL BACKGROUND CHECKS OF SCHOOL BUS DRIVERS.

(a) Prohibition on Employment Pending Check.—Notwithstanding any other provision of law, no local educational agency, private school, or contractor providing school transportation services to a local educational agency or private school, may newly employ an individual as a driver of a school bus of, or on behalf of, the agency or private school before the completion of a background check of that individual through the national criminal history background check system to determine whether the individual has been convicted of a crime which would warrant barring the person from duties as a driver of a school bus.

(b) Background Check Procedures.—

(1) In general.—Each State shall establish procedures for conducting a background check under this section.

(2) Requirements for procedures.—The procedures established under this subsection shall include the designation of an agency of the State to—

(A) carry out the background checks; and

(B) meet the guidelines set forth in section 3(b) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(b)).

(c) Limitation on Liability.—A local educational agency, private school, or a contractor providing school transportation services to a local educational agency or private school shall not be liable in an action for damages on the basis of a criminal conviction of a person employed by that agency or contractor as a school bus driver if—

(1) a background check of the person was conducted under this section; and

(2) the conviction was not disclosed to the local agency, private school, or contractor providing such transportation services pursuant to the background check.

(d) Fees.—

(1) In general.—The Director of the Federal Bureau of Investigation may impose and collect a fee for providing assistance in the conduct of a background check under this section. The amount of such fee may not exceed the actual cost to the Federal Bureau of Investigation for providing such assistance.

(2) Monitoring.—The Attorney General of the United States shall monitor the collection of fees under this subsection for purposes of ensuring that—

(A) the fees are collected on a uniform basis; and

(B) the amounts collected reflect only the actual cost to the Federal Bureau of Investigation of providing assistance in the conduct of background checks under this section.

(e) Applicability.—

(1) In general.—Except as provided in paragraph (2), this section shall apply to an individual newly employed by a local educational agency, private school, or contractor providing school transportation services to a local educational agency or private school beginning on the later of—

(A) the date that is 60 days after the date of enactment of this Act; or

(B) the date on which the State agency in which the local educational agency, private school, or contractor providing such transportation services is located establishes the procedures required under subsection (c).

(2) Background checks conducted by the FBI.—

(A) In general.—To the maximum extent practicable, during the period specified in subparagraph (B), a local educational agency, private school, or contractor providing school transportation services shall request that the Federal Bureau of Investigation conduct a background check with fingerprints of each individual newly employed by the local educational agency, private school, or contractor as a school bus driver of the local educational agency, private school, or contractor.

(B) Period of applicability.—Subparagraph (A) shall apply to a local educational agency, private school, or contractor providing school transportation services during the period beginning on the date of enactment of this Act and ending on the date of applicability of this section, as determined under paragraph (1).

(f) Funding.—

(1) Violence prevention programs.—Section 4116(b)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7116(b)(5)) is amended by striking "and neighborhood patrols" and inserting "neighborhood patrols, and criminal background checks of potential drivers of school buses under section 4 of the Omnibus School Transportation Safety Act of 1996".

(2) Innovative education assistance.—Section 6301(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7351(b)) is amended—

(A) by striking "and" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(9) the carrying out of criminal background checks of potential drivers of school buses under section 4 of the Omnibus School Transportation Safety Act of 1996.".

SEC. 5. DEVELOPMENT OF INTELLIGENT VEHICLE-HIGHWAY SYSTEMS FOR SCHOOL BUS SAFETY.

Section 6055(d) of the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) ensure that 1 or more operational tests advance the use and reduce the cost of intelligent vehicle-highway system technologies (including hazard warning systems or sensors) that alert school bus drivers of pedestrians or vehicles in, or approaching, the path of the school bus.".

SEC. 6. STUDY OF OCCUPANT RESTRAINTS IN SCHOOL BUSES.

(a) Study.—The National Transportation Safety Board organized under chapter 11 of title 49, United States Code, shall conduct a study on the safety consequences of the requirement of the State of New Jersey for lap belts in school buses.

(b) Report.—Not later than 2 years after the date of enactment of this Act, the Chairman of the National Transportation Safety Board shall submit to the Congress a report containing the findings of the study conducted under this section.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the National Transportation Safety Board to carry out this section $100,000, which shall remain available until expended.

SEC. 7. TRAFFIC ENGINEERING ACTIVITIES TO IMPROVE SCHOOL BUS SAFETY.

Notwithstanding any other provision of law, the Secretary shall ensure that each State receiving aid to conduct highway safety programs under section 402(c) of title 23, United States Code, may utilize a portion of such aid for the purpose of conducting traffic engineering activities in order to improve the safe operation of school buses.

SEC. 8. DETERMINATION OF PRACTICABILITY AND FEASIBILITY OF CERTAIN SAFETY AND ACCESS REQUIREMENTS FOR SCHOOL BUSES.

(a) Commencement of Rulemaking Process.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall commence or continue to carry out a rulemaking process to determine the feasibility and practicability of—

(1) a requirement for a decrease in the flammability of the materials used in the construction of the interiors of school buses;

(2) a requirement that individuals, local educational agencies, or companies that sell in the secondary market school buses that may be used in interstate commerce inform purchasers of those buses that those buses may not meet applicable National Highway Transportation Safety Administration standards or Federal Highway Administration standards; and

(3) the establishment of construction and design standards for wheelchairs used in the transportation of pupils in school buses.

(b) Final Rule.—Not later than 30 months after the date of enactment of this Act, the Secretary shall issue a final regulation providing for any requirement or standard referred to in paragraph (1), (2), or (3) of subsection (a) that the Secretary determines to be feasible and practicable.

(c) Report to Congress.—If the Secretary makes a determination that a requirement or standard referred to in paragraph (1), (2), or (3) is not feasible or practicable, not later than the date specified in subsection (b), the Secretary shall prepare and submit to the Congress a report that provides the reasons for that determination.

SEC. 9. GUIDELINES FOR SAFE TRANSPORTATION OF CHILDREN BY SCHOOL BUS.

The Administrator of the National Highway Traffic Safety Administration shall develop and disseminate guidelines for ensuring the safe transportation in school buses of children under the age of 5. Those guidelines shall include recommendations for the evacuation of such children from such buses in the event of an emergency.

SEC. 10. DISSEMINATION OF INFORMATION ON SCHOOL BUS SAFETY.

(a) Dissemination of Information.—In carrying out research on highway safety under section 403 of title 23, United States Code, in consultation with the appropriate officials or representatives of the American Automobile Association, State educational agencies, and highway safety organizations, the Secretary shall provide for the improvement of—

(1) training materials on school bus safety; and

(2) the distribution and availability of such materials to public and private schools for use by the student safety patrols of those schools and to appropriate law enforcement agencies.

(b) Funding.—Notwithstanding any other provision of law, of the funds made available to the Secretary for research on highway safety and traffic conditions under section 403 of title 23, United States Code, for each of fiscal years 1996 through 2001, $100,000 shall be available for each of those fiscal years for the purposes of carrying out this section.

SEC. 11. STUDY AND REPORT ON SCHOOL BUS SAFETY.

(a) Study.—

(1) In general.—The Secretary shall carry out a study to determine—

(A) the extent to which public transit vehicles (as defined by the Secretary) are engaged in school bus operations;

VOL
142
PT
5
MR
21
—
29
1996
UMI

(B) the point at which a public transit vehicle is sufficiently engaged in such operations as to be considered a school bus for purposes of regulation under Federal law; and

(C) the differences between school bus operations carried out directly by schools or local educational agencies and school bus operations carried out by schools or local educational agencies by contract or tripper service (as defined by the Secretary).

(2) AREAS.—The study conducted under this subsection shall address the differences between the services and operations referred to in paragraph (1)(C) in terms of—

(A) crash injury data;

(B) driver and carrier requirements;

(C) passenger transportation requirements;

(D) routes and operational requirements that affect safety;

(E) vehicle attributes that affect safety;

(F) bus construction and design standards;

(G) Federal and State operating assistance (per passenger, per mile, per hour);

(H) total operating costs;

(I) Federal and State capital assistance (per passenger, per mile, per hour);

(J) total capital costs; and

(K) any other factor that the Secretary considers appropriate.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the committees described in paragraph (2) a report on the results of the study carried out under subsection (a).

(2) COMMITTEES.—The committees referred to in paragraph (1) are—

(A) the Committee on Environment and Public Works of the Senate;

(B) the Committee on Commerce, Science, and Transportation of the Senate;

(C) the Committee on Appropriations of the Senate;

(D) the Committee on Transportation and Infrastructure of the House of Representatives;

(E) the Committee on Commerce of the House of Representatives; and

(F) the Committee on Appropriations of the House of Representatives.

SEC. 12. IMPROVED INTERSTATE SCHOOL BUS SAFETY.

(a) APPLICABILITY OF FEDERAL MOTOR CARRIER SAFETY REGULATIONS TO INTERSTATE SCHOOL BUS OPERATIONS.—Section 31136 of title 49, United States Code, is amended—

(1) by striking the second sentence of subsection (e); and

(2) by adding at the end the following new subsection:

"(g) APPLICABILITY TO SCHOOL TRANSPORTATION OPERATIONS OF LOCAL EDUCATIONAL AGENCIES.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall issue regulations making the relevant commercial motor carrier safety regulations issued under subsection (a) applicable to all interstate school transportation operations by local educational agencies (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)).".

(b) EDUCATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop and implement an education program informing all local educational agencies that those agencies are required to comply with the Federal commercial motor vehicle safety regulations issued under section 31136 of title 49, United States Code, when providing interstate transportation on a school bus vehicle to and from school-sanctioned and school-related activities.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

OMNIBUS SCHOOL TRANSPORTATION SAFETY ACT OF 1996—SECTION BY SECTION

Sec. 1: Short Title; Findings.

Sec. 2: Definitions.

Sec. 3: Directs the Secretary to prescribe proficiency standards for school bus drivers.

At present, school bus drivers are required to have a Commercial Drivers License (CDL). However, CDL training for bus drivers is geared primarily towards commercial motor carrier drivers. "Inattention" and "failure to yield" were the factors most often reported by police for school bus drivers striking a school-age pedestrian. A school bus driver faces unique driving and pupil control situations that current CDL training does not address. This section will require school bus drivers to be trained to handle these unique situations before they are allowed on the road.

Sec. 4: Requires states to conduct federal background checks with fingerprints of prospective school bus drivers.

School bus drivers are alone and off of school property with students for extended periods of time. At present, 18 States conduct Federal background checks, 14 States only do state background checks, and 18 States do no background checks on potential drivers. State background checks are not sufficient. Someone can easily move from one State to another and leave their criminal history behind. This provision is designed to ensure that parents know who is alone with their children. Just 2 months after requiring fingerprint criminal background checks, California screened out 150 convicted sex offenders, child molesters and violent criminals who tried to get permits to drive school buses. Funding to assist states that are not already committing resources to this type of activity is provided through the Department of Education's crime free school program.

Sec. 5: Directs the Secretary to do one or more operation tests to advance the use and reduce the cost of hazard warning systems that alert school bus drivers of pedestrians or vehicles in, or approaching, the path of the school bus.

Two out of every three children killed in school bus related accidents are killed outside the school bus. Many are struck by their own school bus. The causes vary from driver inattentiveness, blind spots, or children's clothing being caught on a part of the bus causing the bus to drag the child to death. These accidents occur in the bus' "danger zone." While there are electronic devices on the market that are designed to detect and warn drivers when an object is in the danger zone, most are expensive and have reliability problems. The goal of this section is to increase the reliability and reduce the cost of existing technology.

Sec. 6: Directs to the National Transportation Safety Board to study the safety consequences of required use of safety belts in New Jersey school buses.

Approximately 10,000 school bus passengers are injured every year. Most injuries and fatalities in the bus occur during side and rollover collisions. In these types of collisions the "compartmentalized" seat does not protect children who fall about eight feet and strike the roof, windows, seats and other children. Safety belts have been standard equipment in passenger automobiles for quite some time, and they have proven to be effective life-saving and injury-preventing devices. However, not all school buses are required to be equipped with seat belts.

The debate on whether or not safety belts should be required on school buses is heated. However, the lack of sufficient data, makes an accurate estimate on the effectiveness of school bus seat belts very difficult. Therefore, my bill directs the National Transportation Safety Board to study the safety consequences of the use of safety belts in New Jersey school buses. New Jersey is the only State which has mandatory school bus safety belt use and it will provide an excellent opportunity for researchers to build the base of knowledge on this subject that we need to determine if safety belts in school buses should be the norm.

Sec. 7: Provides aid for the purpose of conducting traffic engineering activities in order to improve the safe operation of school buses in the "danger zone."

An overwhelming number of students are killed during the loading and unloading of the school bus. Proper engineering of loading and unloading zones will improve the safety and reduce the number of accidents and fatalities which take place in the "danger zone." This provision will allow States to utilize section 402(C) funds to assist in the development of safety guidelines for the construction and selection of school bus loading and un-loading zones.

Sec. 8: Requires the Secretary to begin a rulemaking process to determine the feasibility and practicality of:

A requirement for a decrease in the flammability of the materials used in the construction of the interiors of school buses;

A requirement that sellers of school buses in the secondary market inform purchasers that such buses may not meet current National Highway Transportation Safety Administration or Federal Highway Administration standards and;

Establishing construction and design standards for wheelchairs used in the transportation of students in school buses.

Reduction of the flammability of material in school buses continues to be on the National Transportation Safety Board's most wanted list. NTSB made this recommendation after the 1988 Carrollton, KY bus accident. In that incident, a pre-1977 school bus was struck by a pick-up truck. The bus' gas tank was ruptured and a fire ensued, engulfing the entire bus. The bus driver and 26 bus passengers were fatally injured. Had stricter flammability requirements been in effect during construction of this bus the NTSB believes more of the passengers could have escaped the bus without serious injury.

Used school buses are a popular form of transportation for church groups and civic organizations. Unfortunately, many of these groups believe that school buses are built to the highest safety standards available. This is not the case. Therefore, the bill would require that potential purchasers of used buses are made aware of this fact so they can modify their uses of the bus based upon the level of safety the bus offers in certain situations.

While there are Federal standards relating to how wheelchairs must be secured into school buses, there are no standards for the wheelchairs themselves. This provision is designed to ensure that students who use a wheelchair are afforded maximum protection in case of a school bus accident.

Sec. 9: Requires NHTSA to develop and disseminate guidelines on securing children under the age of five in school buses and on evacuating those same children from school buses.

For one reason or another school districts are beginning to transport more and more children below the age of five in traditional school buses. Most, if not all, school buses and school bus seats are designed to accommodate and protect children age five and older. In addition, state laws and common sense dictate that children under the age of four use a car seat when riding in a motor vehicle. Many communities are struggling with the appropriate way to safely transport children below the age of five in school buses. This provision would require NHTSA to develop guidelines on securing young children in school buses. The provision also addresses the problems evacuation of children in car seats could pose in an emergency.

Sec. 10: Requires the Secretary to improve and distribute school bus safety information.

Every year approximately 20 children are killed outside their school bus. They are either struck by their own bus or by another vehicle. One of the most effective ways to prevent these types of accidents is to properly educate children and their parents to these dangers. While a variety of safety information is available, it is not widely distributed. This provision would require the Secretary to review existing safety material, make improvements if necessary and then ensure that the material is adequately distributed to children and parents.

Sec. 11: Require the Secretary to carry out a study to determine the following:

The extent to which public transit vehicles are engaged in school bus operations;

The point at which a public transit vehicle is sufficiently engaged in such operations as to be considered a school bus for purposes of regulation under Federal law and;

The differences between school bus operations carried out directly by schools or school districts and school bus operations carried out by schools or school districts by contract.

Federal law prohibits school districts from contracting out to the local municipal bus service to carry out the school district's pupil transportation activities. However, there are some specific exceptions to this rule. With present budget pressures school districts are increasingly looking to take advantage of these exceptions also known as "tripper service." This provision is designed to determine how many communities may be using tripper service as a means of school transportation, at what point a municipal bus engaged in tripper service should be considered a school bus, and the differences between contracted school bus operations and non-contracted school bus operations.

Sec. 12: Extends the applicability of Federal Motor Carriers Safety Regulations to the school transportation operations of Local Education Agencies.

When operating across State lines, school buses almost without exception must use the same highways—many of them high-speed arteries—as other vehicles. The speeds attained are considerably greater and there is an elevated risk of associated driver fatigue. This fact underscores the need for comprehensive and consistent application of the FMCSR's to any school bus operating across state lines when engaged in school-related and sanctioned activities.

Since their inception in 1935, the FMCSR's have been incrementally modified. For example, in 1989 the FHWA issued modifications which for the first time subjected all interstate contractor-operated school transportation operations to the FMCSR's. In 1994, the FHWA extended application of the FMCSR's to most interstate private bus operations such as scout groups and churches. My bill would extend the applicability of FMCSR's to buses used by local education agencies which are used in interstate commerce.

Sec. 13: Authorization of Appropriations.•

By Mr. DOLE (for himself, Mr. THURMOND, Mr. STEVENS, Mr. HELMS, Mr. COCHRAN, Mr. WARNER, Mr. LOTT, Mr. KYL, Mr. SMITH, Mr. INHOFE, Mr. NICKLES, Mr. KEMPTHORNE, Mr. ABRAHAM, Mr. MCCAIN, Mrs. HUTCHISON, Mr. COATS, Mr. COHEN, Mr. SANTORUM, Mr. MACK, and Mr. DOMENICI):

S. 1635. A bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes; to the Committee on Armed Services.

THE DEFEND AMERICA ACT OF 1996

Mr. DOLE. Mr. President, today I rise to introduce legislation which will have a profound impact on America's future. I am pleased to be joined by the chairman of the Armed Services and Foreign Relations Committees, the chairman of the Defense Appropriations Subcommittee, the Republican leadership, and other Republicans strongly interested in missile defense, in introducing the Defend America Act of 1996. An identical bill is being introduced in the House by the Speaker and the chairmen of the Appropriations Committee and the National Security Committee, among others. This bill addresses the most fundamental responsibility the U.S. Government has to its citizens: to protect them from harm. At present, the United States has no defense—I repeat—no defense against ballistic missiles.

The Defend America Act of 1996 answers the question of whether Americans should be protected from the threat of ballistic missile attack with a resounding "Yes." There should be no doubt that we have the technical capability to defend our great Nation from the growing threat of ballistic missiles. What we need is the will and the leadership. We have seen no leadership from the White House on this issue. Indeed, we have witnessed a complete denial from the highest levels of the administration that there is even a threat to the United States. President Clinton vetoed the fiscal year 1996 Defense authorization bill because it required developing a national missile defense system for deployment by the end of 2003. President Clinton refuses to defend America preferring to rely on the false protection of the cold-war-era antiballistic missile [ABM] treaty.

The cold war is over and the threat from ballistic missiles is real and growing. Among others, North Korea, Iran, Libya, Iraq, and Syria are seeking to obtain weapons of mass destruction and ballistic missile delivery systems. China and Russia have been engaged in transferring related components and technologies.

Just last week, the former Director of the Central Intelligence Agency, James Woolsey testified before the House National Security Committee on his views of the threat posed by ballistic missiles—as well as the current national intelligence estimate on this threat. I would like to quote from his testimony:

> We are in the midst of an era of revolutionary improvements in missile guidance. These improvements will soon make ballistic missiles much more effective for blackmail purposes . . . even without the need for warheads containing weapons of mass destruction. . . .
>
> With such guidance improvements, it is quite reasonable to believe that within a few years Saddam or the Chinese rulers will be able to threaten something far more troubling . . .

Woolsey went on to say:

> But, in current circumstances, nuclear blackmail threats against the United States may be effectively posed by North Korean intermediate ranged missiles targeted on Alaska or Hawaii, or by Chinese ICBM's targeted on Los Angeles.

With respect to the national intelligence estimate, Woolsey criticized the narrow focus of the estimate which concentrated on indigenous intercontinental ballistic missile development—as opposed to the transfer of such components and technology. As Woolsey pointed out, since the end of the cold war, Russia, China, and North Korea have been actively exporting missile technology and components. Furthermore, Woolsey noted that the national intelligence estimate only looked at the threat to the 48 continental States. Well, the last time I checked, Alaska and Hawaii were part of the United States. The bottom line is that the threat is real and we cannot wait for it to arrive on our doorstep before we act. As former Assistant Secretary of Defense Richard Perle stated before the National Security Committee, and I quote:

> If we achieve a defensive capability a little before it is absolutely necessary, no harm will have been done. But if we are too late, the result could be catastrophic. In cases like this, it is always wise to err on the side of too much, too soon, rather than too little, too late.

Mr. President, this legislation establishes a clear policy to deploy a national missile defense [NMD] system by the end of 2003, that is capable of providing a highly effective defense of U.S. territory against limited, unauthorized, or accidental ballistic missile attacks. The bill also specifies the components of a national missile defense system that are to be developed for deployment, including: An interceptor system, fixed ground-based radars, space-based sensors, and battle management, command, control, and communications.

To implement this policy, this legislation directs the Secretary of Defense

VOL
142
PT
5
MR
21
—
29
1996
UMI

to: Promptly initiate planning to meet this deployment goal; conduct by the end of 1998, an integrated systems test using NMD components; to use streamlined acquisition procedures to reduce cost and increase efficiency; and to develop a follow-on NMD program.

The Secretary of Defense is also required to submit a detailed report to the Congress no later than March 15, 1997, which outlines his plans for implementing this policy, the estimate costs associated with the development and deployment of the NMD system, a cost and operational effectiveness analysis of follow-on options, and a determination of the point at which NMD development would conflict with the ABM Treay.

With respect to the ABM Treaty, the legislation urges the President to bring the Russians on board, by pursuing high-level discussions with Russia to amend the ABM Treaty to allow for the deployment of the NMD system specified in this act. If the Russians do agree, the legislation requires any agreement to be submitted to the Senate for advice and consent. However, if a satisfactory agreement is not reached within a year of the date of enactment of this legislation, the President and Congress will consider U.S. withdrawal from the ABM Treaty.

Mr. President, deploying a national missile defense system—which will protect all 50 States—should be our top defense priority. The Defend America Act lays out a realistic and responsible course by which we can do so.

A national missile defense system will not only defend, it will deter—by reducing the incentive of rogue regimes to acquire ballistic missiles and weapons of mass destruction.

I hope that the White House is listening. Republicans are united and clear in their message that America must be defended. We are ready to exercise leadership to fulfill our responsibility to all Americans to protect them from ballistic missile attack.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Defend America Act of 1996".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Although the United States possesses the technological means to develop and deploy defensive systems that would be highly effective in countering limited ballistic missile threats to its territory, the United States has not deployed such systems and currently has no policy to do so.

(2) The threat that is posed to the national security of the United States by the proliferation of ballistic missiles is significant and growing, both quantitatively and qualitatively.

(3) The trend in ballistic missile proliferation is toward longer range and increasingly sophisticated missiles.

(4) Several countries that are hostile to the United States (including North Korea, Iran, Libya, and Iraq) have demonstrated an interest in acquiring ballistic missiles capable of reaching the United States.

(5) The Intelligence Community of the United States has confirmed that North Korea is developing an intercontinental ballistic missile that will be capable of reaching Alaska or beyond once deployed.

(6) There are ways for determined countries to acquire missiles capable of threatening the United States with little warning by means other than indigenous development.

(7) Because of the dire consequences to the United States of not being prepared to defend itself against a rogue missile attack and the long-lead time associated with preparing an effective defense, it is prudent to commence a national missile defense deployment effort before new ballistic missile threats to the United States are unambiguously confirmed.

(8) The timely deployment by the United States of an effective national missile defense system will reduce the incentives for countries to develop or otherwise acquire intercontinental ballistic missiles, thereby inhibiting as well as countering the proliferation of missiles and weapons of mass destruction.

(9) Deployment by the United States of a national missile defense system will reduce concerns about the threat of an accidental or unauthorized ballistic missile attack on the United States.

(10) The offense-only approach to strategic deterrence presently followed by the United States and Russia is fundamentally adversarial and is not a suitable basis for stability in a world in which the United States and the states of the former Soviet Union are seeking to normalize relations and eliminate Cold War attitudes and arrangements.

(11) Pursuing a transition to a form of strategic deterrence based increasingly on defensive capabilities and strategies is in the interest of all countries seeking to preserve and enhance strategic stability.

(12) The deployment of a national missile defense system capable of defending the United States against limited ballistic missile attacks would (A) strengthen deterrence at the levels of forces agreed to by the United States and Russia under the START I Treaty, and (B) further strengthen deterrence if reductions below START I levels are implemented in the future.

(13) Article XIII of the ABM Treaty envisions "possible changes in the strategic situation which have a bearing on the provisions of this treaty".

(14) Articles XIII and XIV of the treaty establish means for the parties to amend the treaty, and the parties have in the past used those means to amend the treaty.

(15) Article XV of the treaty establishes the means for a party to withdraw from the treaty, upon six months notice "if it decides that extraordinary events related to the subject matter of this treaty have jeopardized its supreme interests".

(16) Previous discussions between the United States and Russia, based on Russian President Yeltsin's proposal for a Global Protection System, envisioned an agreement to amend the ABM Treaty to allow (among other measures) deployment of as many as four ground-based interceptor sites in addition to the one site permitted under the ABM Treaty and unrestricted exploitation of sensors based within the atmosphere and in space.

SEC. 3. NATIONAL MISSILE DEFENSE POLICY.

(a) It is the policy of the United States to deploy by the end of 2003 a National Missile Defense system that—

(1) is capable of providing a highly-effective defense of the territory of the United States against limited, unauthorized, or accidental ballistic missile attacks; and

(2) will be augmented over time to provide a layered defense against larger and more sophisticated ballistic missile threats as they emerge.

(b) It is the policy of the United States to seek a cooperative transition to a regime that does not feature an offense-only form of deterrence as the basis for strategic stability.

SEC. 4. NATIONAL MISSILE DEFENSE SYSTEM ARCHITECTURE.

(a) Requirement for Development of System.—To implement the policy established in section 3(a), the Secretary of Defense shall develop for deployment an affordable and operationally effective National Missile Defense (NMD) system which shall achieve an initial operational capability (IOC) by the end of 2003.

(b) Elements of the NMD System.—The system to be developed for deployment shall include the following elements:

(1) An interceptor system that optimizes defensive coverage of the continental United States, Alaska, and Hawaii against limited, accidental, or unauthorized ballistic missile attacks and includes one or a combination of the following:

(A) Ground-based interceptors.

(B) Sea-based interceptors.

(C) Space-based kinetic energy interceptors.

(D) Space-based directed energy systems.

(2) Fixed ground-based radars.

(3) Space-based sensors, including the Space and Missile Tracking System.

(4) Battle management, command, control, and communications (BM/C^3).

SEC. 5. IMPLEMENTATION OF NATIONAL MISSILE DEFENSE SYSTEM.

The Secretary of Defense shall—

(1) upon the enactment of this Act, promptly initiate required preparatory and planning actions that are necessary so as to be capable of meeting the initial operational capability (IOC) date specified in section 4(a);

(2) plan to conduct by the end of 1998 an integrated systems test which uses elements (including BM/C^3 elements) that are representative of, and traceable to, the national missile defense system architecture specified in section 4(b);

(3) prescribe and use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of developing the system specified in section 4(a); and

(4) develop an affordable national missile defense follow-on program that—

(A) leverages off of the national missile defense system specified in section 4(a), and

(B) augments that system, as the threat changes, to provide for a layered defense.

SEC. 6. REPORT ON PLAN FOR NATIONAL MISSILE DEFENSE SYSTEM DEVELOPMENT AND DEPLOYMENT.

Not later than March 15, 1997, the Secretary of Defense shall submit to Congress a report on the Secretary's plan for development and deployment of a national missile defense system pursuant to this Act. The report shall include the following matters:

(1) The Secretary's plan for carrying out this Act, including—

(A) a detailed description of the system architecture selected for development under section 4(b); and

(B) a discussion of the justification for the selection of that particular architecture.

(2) The Secretary's estimate of the amount of appropriations required for research, development, test, evaluation, and for procurement, for each of fiscal years 1997 through 2003 in order to achieve the initial operational capability date specified in section 4(a).

(3) A cost and operational effectiveness analysis of follow-on options to improve the effectiveness of such system.

(4) A determination of the point at which any activity that is required to be carried out under this Act would conflict with the terms of the ABM Treaty, together with a description of any such activity, the legal basis for the Secretary's determination, and an estimate of the time at which such point would be reached in order to meet the initial operational capability date specified in section 4(a).

SEC. 7. POLICY REGARDING THE ABM TREATY.

(a) ABM Treaty Negotiations.—In light of the findings in section 2 and the policy established in section 3, Congress urges the President to pursue high-level discussions with the Russian Federation to achieve an agreement to amend the ABM Treaty to allow deployment of the national missile defense system being developed for deployment under section 4.

(b) Requirement for Senate Advice and Consent.—If an agreement described in subsection (a) is achieved in discussions described in that subsection, the President shall present that agreement to the Senate for its advice and consent. No funds appropriated or otherwise available for any fiscal year may be obligated or expended to implement such an amendment to the ABM Treaty unless the amendment is made in the same manner as the manner by which a treaty is made.

(c) Action Upon Failure To Achieve Negotiated Changes Within One Year.—If an agreement described in subsection (a) is not achieved in discussions described in that subsection within one year after the date of the enactment of this Act, the President and Congress, in consultation with each other, shall consider exercising the option of withdrawing the United States from the ABM Treaty in accordance with the provisions of Article XV of that treaty.

SEC. 8. ABM TREATY DEFINED.

For purposes of this Act, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

Mr. THURMOND. Mr. President, I am extremely proud to be a principal cosponsor of the Defend America Act of 1996, which was introduced by Senator Dole today. This legislation will fill a glaring void in U.S. national security policy by requiring the deployment of a national missile defense system by 2003 that is capable of defending the United States against a limited, accidental, or unauthorized ballistic missile attack.

Ironically, most Americans already believe that we have such a system in place. This assumption is understandable since under the Constitution the President's first responsibility is to provide for the defense of the American homeland. Unfortunately, the current President has decided that this obligation is one that can be indefinitely delayed. I join Senator Dole and others today in proclaiming that the time has come to end America's complete vulnerability to ballistic missile blackmail and attack.

The President and senior members of the administration have argued that there is no threat to justify deployment of a national missile defense system. This is simply not true. The political and military situation in the former Soviet Union has deteriorated, leading to greater uncertainty over the control and security of Russian strategic nuclear forces. China is firing missiles near Taiwan as if it were a skeet range, and has even made veiled threats against the United States. North Korea is developing an intercontinental ballistic missile that will be capable of reaching the United States once deployed. Other hostile and unpredictable countries, such as Libya, Iran, and Iraq, have made clear their desire to acquire missiles capable of reaching the United States. The technology and knowledge to produce missiles and weapons of mass destruction is available on the open market.

China's recent provocations against Taiwan highlight the need for the United States to deploy a national missile defense system as soon as possible. Although veiled threats against the United States may be only saber rattling, American military and political leaders should not ignore them. If the United States possessed even a limited national missile defense system, U.S. decision-makers would have a much greater degree of flexibility in considering our military and diplomatic options. A vulnerable America is not only subject to missile attack, but also to blackmail and intimidation.

Last year, President Clinton vetoed the Defense authorization bill mainly because it called for deployment of a national missile defense system. The administration argued that there was no need for such a system, that the threat is 10 or 15 years away. China has clearly illustrated how their judgment is flawed. The threat is here today.

If the situation should deteriorate between China and Taiwan, President Clinton will almost certainly regret the fact that the United States has no means of dealing with Chinese missile threats other than by our own nuclear threats. This is hardly a credible response. A national missile defense system, on the other hand, would eliminate the risk and uncertainty that would surely occur if China and the United States engaged in a series of nuclear threats and counterthreats. This would be an invitation for disaster. If we had an operational national missile defense system, we could confidently deal with Chinese missile threats and pursue our policies and objectives without intimidation.

The other important factor to bear in mind when considering the need for a national missile defense system, is that such a system can actually discourage countries from acquiring long-range missiles in the first place. In this sense, we should view national missile defense as a powerful nonproliferation tool, not just something to be considered some time in the future as a response to newly emerging threats.

The policy advocated in the Defend America Act of 1996 is virtually identical to that contained in the fiscal year 1996 Defense Authorization Act, which was passed by Congress and vetoed by the President. Like the legislation vetoed by the President, the Defend America Act of 1996 would require that the entire United States be protected against a limited, accidental, or unauthorized attack by the year 2003. It differs from the vetoed legislation in that it provides the Secretary of Defense greater flexibility in determining the precise architecture for the system.

The Defend America Act of 1996 urges the President to begin negotiations to amend the AMB Treaty to allow for deployment of an effective system. But it also recommends that, if these negotiations fail to produce acceptable amendments within 1 year, Congress and the President should consider withdrawing the United States from the ABM Treaty. Nothing in this legislation, however, requires or advocates abrogation or violation of the ABM Treaty.

Mr. President, 3 months ago, the President of the United States vetoed the Defense authorization bill because he opposed the deployment of a system to defend the American people against ballistic missile attack. Today, I am honored to join Senator Dole in sending a clear message—we will not stand idly by while the United States remains undefended against a real and growing threat. The legislation we are introducing today will fulfill a constitutional, strategic, and moral obligation that has been neglected for 4 years.

Mr. McCAIN. Mr. President, I am proud to cosponsor this legislation to establish a policy for deploying a national defense system for the United States. This bill, the National Missile Defense Act of 1996, returns the United States on a clear path toward deploying a system to defend the American people against limited, accidental, or unauthorized ballistic missile attacks.

In 1991, the Congress enacted the first Missile Defense Act, in a bipartisan effort to give direction to the Strategic Defense Initiative program, now known as the Ballistic Missile Defense program. The need for theater missile defense systems had been tragically demonstrated during the Persian Gulf war,

VOL
142
PT
5
MR
21
—
29
1996
UMI

and it was clear that the potential threats to our continent would continue to exist, even with the collapse of the Soviet Union.

Subsequently, that policy was watered down and its deployment objectives were delayed time and again. I congratulate Senator DOLE for taking the lead today in restoring much-needed direction to our national missile defense efforts.

Our Nation has invested over $38 billion on missile defense programs over the past 15 years, with very little effective defensive capability to show for it. We are at a turning point in the development of capabilities to effectively defend our citizens and our troops deployed overseas from the devastating effects of ballistic missile attacks.

We should focus our missile defense programs on the risk of accidental or unauthorized missile launch, missile proliferation in the Third World, and particularly the risk of theater missile attacks on our forces and allies.

Deployment of effective, mobile theater missile defense systems for our troops in the field should be our first priority. To do so requires an evaluation of the many ongoing research programs to determine which demonstrates the most promise for deployable capability against battlefield missile attacks.

I am greatly disappointed that the administration chose to ignore Congressional direction and cut the theater missile defense funding approved by the Congress last year. The core programs identified in the fiscal year 1996 Defense authorization bill, including both lower and upper tier systems, must be fully funded to ensure the most effective protection for our troops in the field. I fully expect Congress to restore the funding and restate the programmatic direction to make these systems available to our forces.

At the same time, we must develop a deployment plan for an initial national missile defense system to provide an effective defense of U.S. territory against limited ballistic missile attacks. This bill establishes a goal of 2003 to deploy such a system and directs the Secretary of Defense to develop a plan to implement that goal. It is now up to the Congress to provide the funding to develop and procure the most cost-effective system.

Both efforts, toward theater and national missile defense systems, must balance the critical need for defenses with the reality of fiscal constraints. Every effort should be made to engage our allies both financially and technically in developing these systems.

Mr. President, the threat of proliferation is too great to ignore. We must not replace the nuclear confrontation of the cold war with vulnerability to dictators, extremists, and nations who threaten us with nuclear blackmail, or our forces and allies with missile attack. Without effective, deployed missile defense systems, we remain at risk.

I intend to work with Senator DOLE to achieve early passage of this legislation in the Senate, and I urge President Clinton to approve it to ensure the safety of the American people.

Mr. WARNER. Mr. President, I am proud to join the Republican leadership of both the Senate and the House, and all Republican members of the Senate Armed Services Committee, as an original cosponsor of the Defend America Act of 1996. I call on all Members of Congress to join us in our effort to protect the citizens of the United States from ballistic missile attack.

Earlier this year, President Clinton's veto of the Defense authorization bill forced us to reluctantly drop the important national missile defense provisions that we had included in that bill. At that time, we promised that we would be back with separate legislation to provide for the defense of the United States. With the introduction of today's legislation, we have fulfilled that promise and will continue the fight until this legislation is enacted into law—over President Clinton's veto, if necessary.

Many Americans find it hard to believe that we currently have no system in place which could defend our Nation against even a single intercontinental ballistic missile strike. This, despite the fact that Russia and China currently have the capability to reach our shores with their intercontinental ballistic missiles; and North Korea is well on its way to deploying a long-range missile capable of striking Alaska. In addition, over 30 nations now have short-range ballistic missiles—30 nations, many hostile to the United States. As China's saber rattling against Taiwan continues, we hear reports of veiled threats from China of a missile attack against California—something they are very capable of doing. And today's papers report that Iraq continues to possess Scud missiles.

The need for defenses against these capabilities is clear. The cold war may be over, but the desire of more and more nations to acquire ballistic missiles is growing.

But the Clinton administration believes there is no threat, and they have presented the Congress with a defense budget request which "slow rolls" our ballistic missile defense efforts. The American people deserve better.

That is why I have long been in the forefront of the Republican effort to provide both our troops deployed overseas and Americans here at home with adequate defenses to counter the very real threat of ballistic missile attack. I drafted the Missile Defense Act of 1991 which—in the aftermath of the Iraqi Scud missile attacks—set the United States on the path to acquiring and deploying theater and national missile defense systems. I also joined with my Republican colleagues on the Armed Services Committee in drafting the Missile Defense Act of 1995, an update of the earlier Missile Defense Act. Unfortunately, as I mentioned earlier, President Clinton's veto stopped that Republican effort to defend Americans.

The Defend America Act calls for the deployment of a national missile defense [NMD] system to protect the United States against limited, unauthorized or accidental ballistic missile attacks. It is important to emphasize that we are talking about a limited system—one that would provide a highly effective capability against a limited ballistic missile attack. This is precisely the type of defensive system we need to deal with the threats we are facing in the post-cold-war world.

A key difference between the Defend America Act and the missile defense legislation adopted last year, is that the current bill does not require the deployment of a specific NMD system. Rather, it establishes the requirement to deploy a system by a date certain, but leaves it to the Secretary of Defense to propose a plan by March 15, 1997, to implement this requirement. This is a prudent approach which focuses the debate on the real issue—do you want to defend the American people against ballistic missile attacks?

Mr. President, we all remember the Iraqi Scud missile attacks on our forces in Saudi Arabia, and our friends in Israel. I was in Tel Aviv during the last Scud attack—February 18, 1991.

I do not want to see U.S. citizens subjected to the terror I witnessed in Israel. I pray that we never see a time when Americans are forced to carry gas masks around because some madman is threatening our shores. We owe it to our citizens to take action now—before it is too late—to provide them with effective defenses against these types of attacks.

Mr. SMITH. Mr. President, I rise in strong support of the legislation introduced today by Senator DOLE regarding national missile defense. I am proud to be an original cosponsor, and I want to commend Senator DOLE for his steadfast commitment to defending America.

Mr. President, our Nation is walking a very dangerous tightrope. For reasons that are unknown and certainly inconceivable to most Americans, President Clinton refuses to defend our country against ballistic missiles, even though the technology to do so is available today.

The truth is our Nation is absolutely, completely vulnerable to ballistic missiles. We have no defense whatsoever against a missile targeted on our territory, our industry, our national treasures, or our people. The Patriot missiles that everyone remembers from Desert Storm 5 years ago are not capable of stopping a long-range missile. In fact, they can only defend very small areas against short-range missiles. The Patriot is a point-defense system that we send along with our troops when they go into harm's way.

But here at home we have no defenses against long-range missiles based in China, in Russia, or in North Korea. We have no defenses against the missiles that Iran, Iraq, Syria, and Libya are so vigorously seeking to acquire. That is the truth. That is a fact. And that is unacceptable.

When told of this situation, the vast majority of Americans become enraged. They cannot understand why their elected Representatives would leave them defenseless against the likes of Saddam Hussein, Mu'ammar Qadhafi, or Kim Jong-Il. They cannot understand why the tax dollars that they contribute for national defense are not being used to protect them. Frankly, they have every right to be upset. There is simply no excuse.

The Congress agrees with the American people and took action last year to defend all Americans against ballistic missiles, whatever their source. In the Defense authorization bill for fiscal year 1996, Congress established a program to develop and deploy a national missile defense system for the United States. This program was not some elaborate star wars concept, but rather, a very modest yet capable ground-based system that would provide a limited defense of America against accidental, unauthorized, or hostile missile attacks.

But President Clinton vetoed the Defense bill specifically because of the requirement to defend America. In fact, in his statement of administration policy, the President called national missile defense quote "unwarranted and unnecessary."

Mr. President, that is a very insightful quote, and it gets right to the heart of the differences between President Clinton, Presidential candidate BOB DOLE, and the Republican Congress. To President Clinton, providing for the common defense is "unwarranted and unnecessary." To the Congress and Senator DOLE, it is the most fundamental of our constitutional responsibilities.

Simply put, this is a defining issue. It is an issue that defines our Nation's character and commitment to its people. It is an issue that defines the two parties. It is an issue that defines the very basic difference between two men who are seeking the Presidency. It is an issue that history will undoubtedly look back and pass judgment upon and, for better or worse, it is an issue that will define our generation.

Mr. President, if we fail to take action to defend America now, while we still have the chance, we will certainly regret it. At some point in the very near future, we will have waited too long. The theoretical threat of a hostile ballistic missile launch will have become a reality. And we will have no defense against it.

What will it take for President Clinton to recognize this threat? Must a ballistic missile equipped with a chemical, biological, or nuclear warhead rain down upon citizens before he will act? Must tens of thousands of Americans perish before he corrects this terrible vulnerability?

To those of us who are cosponsoring this legislation, the answer is, "No." The time to act is now, not tomorrow. Our Nation is in jeopardy. Ballistic missiles and weapons of mass destruction are spreading throughout the world and we cannot stop them. In fact, some 30 nations currently possess, or are actively acquiring, weapons of mass destruction and the missiles to deliver them.

Just yesterday, the United Nations admitted that Iraq is covertly storing up to 16 ballistic missiles armed with chemical or biological warheads. Iraq is the most inspected and thoroughly monitored country in the world. If we cannot find these missiles in the deserts of Iraq, how can we expect to track them in the mountains and valleys of China, North Korea, Iran, or Syria?

The answer is, We can't, and even if we could, we have no system to counter them. The only solution is to develop missile defenses. This bill does just that, and would require that our Nation deploy a national missile defense system capable of protecting all Americans by the year 2003.

Mr. President, this is not about politics. It is not about partisanship. It is about national security and keeping faith with those who elected us and those who depend upon us to safeguard their lives and property. If we ignore this obligation, we will have failed in our most fundamental constitutional responsibility. To me that is unacceptable. It runs against every principle that I stand for, and as long as I have a breath in my body, I will fight to prevent that from happening.

Mr. President, I want to again thank the distinguished majority leader for bringing this issue before the Senate. He does our Nation a profound service by highlighting the missile defense issue, and I am proud to cosponsor this important legislation.

I yield the floor.

By Mr. HARKIN:

S. 1637. A bill to amend the Internal Revenue Code of 1986 to revise the tax rules on expatriation, and for other purposes; to the Committee on Finance.

THE EXPATRIATION TAX REFORM ACT OF 1996

• Mr. HARKIN. Mr. President, the time has come to close one of the most outrageous tax loopholes on our books today. In fact, it is so outrageous, it's hard to believe.

But today a small number of very wealthy individuals—often billionaires—can renounce their U.S. citizenship in order to avoid paying their fair share of taxes. And under current law, those same individuals can still live in the United States for up to half a year—tax-free.

That's right. Amazingly, the current tax code has a loophole big enough for the super rich to fly their private jets right through. I call it the Benedict Arnold loophole. You can turn your back on the country that made you rich—to get even richer.

In many cases, those same people come right back to the United States. They spend up to 6 months here and claim to be citizens of another country just so they can skip out on their tax bill.

In one case, for example, a very wealthy American acquired citizenship in Belize, a small country along the Caribbean coast. Soon thereafter, Belize tried to set up a counsel's office in Florida where their new citizen had his factories. That way their new "counsel" could live in the U.S. for a large part of the year without paying his U.S. taxes. Ultimately, this was not allowed, but these types of games should be stopped once and for all.

Hard working, tax paying, middle-class Americans have every right to be outraged by these tax loopholes. They are costing Americans about $1.5 billion. And the money these wealthy tax cheats fail to pay is adding to our debt and to the bill that our kids will one day be forced to pay. That's unconscionable.

The bill I am introducing today says enough is enough: It's time to close the Benedict Arnold loophole. My legislation provides that if these so called "expatriates" spend 30 days in the United States they must pay their full taxes as a resident alien. Essentially, they would be treated like a resident alien, similar to how a U.S. citizen is treated.

In addition, my bill provides that—upon renouncing their citizenship—these individuals would pay taxes on all of their gains, including those not yet sold. Under current law they can effectively escape paying their fair share of taxes by delaying the sale of their assets through available loopholes. The Senate passed a provision in last year's Budget Reconciliation bill, but it was gutted in conference.

Where there is a problem with a bilateral tax treaty, the Secretary of the Treasury may waive the provision for that individual.

I hope that the bill I am introducing today become law this year. I urge the Senate to support and pass this common sense measure that will save taxpayer $1.5 billion.•

By Mr. PRESSLER (for himself, Mr. GLENN, Mr. D'AMATO, Mr.

VOL
142
PT
5
MR
21
—
29
1996
UMI

KERREY, Mr. BENNETT, and Mrs. FEINSTEIN):

S. 1638. A bill to promote peace and security in South Asia; to the Committee on Foreign Relations.

THE SOUTH ASIA PEACE AND SECURITY PROMOTION ACT OF 1996

Mr. PRESSLER. Mr. President, today along with my colleagues, Senators GLENN, D'AMATO, JOHN KERRY, BENNETT, and FEINSTEIN, I am introducing legislation in an effort to restore credibility to our Nation's already damaged nuclear nonproliferation policy. Nonproliferation is one of our most important national security concerns, if not the most important. Even the President admitted last year that no issue is more important to the security of all people than nuclear nonproliferation.

At present, our efforts in this area are tied to another vital goal: the promotion of peace and security in South Asia. I have visited South Asia. I have said before it is a region of striking contrasts—a region of such enormous potential clouded by tension and instability.

As all of us well know, last year President Clinton requested, and Congress agreed to, a one time exception and partial repeal of one our most important nonproliferation laws: the so-called Pressler amendment. The Pressler amendment, approved by Congress in 1985, prohibits United States military and nonmilitary assistance to Pakistan, including arms sales, so long as Pakistan possesses a nuclear explosive device. The Senate had an extensive debate on this subject last fall. As a result of last year's exception—known as the Brown amendment—approximately 370 million dollars' worth of American military goods is scheduled for delivery to Pakistan.

The Brown amendment was very controversial. The central point of the controversy was the fact that the Brown amendment was both waiving and repealing nuclear nonproliferation law without obtaining one concrete nonproliferation concession from Pakistan. We have never provided that kind of exception to any other country before. That was one of the central reasons why I opposed the Brown amendment. I feared it would send the worst possible message: Nuclear proliferation pays.

The Clinton administration lobbied the Congress quite heavily on the Brown amendment. The administration even tried to convince Members of Congress that Pakistan did make a nonproliferation concession. The Clinton administration claimed its support for the Brown amendment was based in part on an understanding it believed it had with the Government of Pakistan. On August 3, 1995, Acting Secretary of State Peter Tarnoff stated the context of this understanding in a letter to the distinguished ranking member and former chairman of the Armed Services Committee, Senator NUNN:

> Pakistan knows that the decision to resolve the equipment problem is based on the assumption that there will be no significant change on nuclear and missile non-proliferation issues of concern to the United States.

Frankly, at the time, I felt the justification was too weak at best and unbelievable at worst. I say that from the standpoint of experience. You see, the Pressler amendment was passed with a similar assurance from Pakistan. Let me remind my colleagues that the Pressler amendment was designed to ensure that Pakistan—at that time our Nation's third largest foreign aid recipient—continued to receive United States assistance. We had an understanding that Pakistan would not develop a bomb program, and in return, we would pass the Pressler amendment so that our existing laws would not result in a United States aid cutoff. As we all know, they did build a bomb program, and continued to receive U.S. taxpayer dollars. So I had some serious misgivings and a sense of foreboding when the Clinton administration stated it was basing its support of the Brown amendment on an assurance from Pakistan.

But that was then, this is now. Now we have a clear, unequivocal statement by the Director of Central Intelligence that Pakistan did not accept the administration's position in August. This is what Director John Deutch told the Senate Select Committee on Intelligence on February 22:

> Mr. Chairman, the intelligence community continues to get accurate and timely information on Chinese activities that involve inappropriate weapons technology assistance to other countries: nuclear technology to Pakistan, M–11 missiles to Pakistan, cruise missiles to Iran.

For the record, I would like to point out that the Director said "M–11 missiles," not "M–11 missile technology."

So, the administration's assumption that the Government of Pakistan would freeze development of its bomb program was erroneous. Our intelligence community has found "accurate and timely information" that Pakistan has, indeed, made significant changes on nuclear and missile proliferation issues of concern to the United States. The nuclear technology to which Director Deutch alluded would allow Pakistan a 100-percent increase in its capacity to make enriched uranium, the explosive material of nuclear weapons. The M–11s are modern, mobile, nuclear capable ballistic missiles and clearly intended to be the principal delivery system of the Pakistani nuclear weapons system.

With the underlying assumption of the administration's position now destroyed, there is no longer any justification for the administration's support of the Brown amendment. The administration has the authority to put the Brown amendment on hold. Federal law specifically states that if the President determines that a country has delivered or received "nuclear enrichment equipment, materials or technology," no funds may be made available under the Foreign Assistance Act of 1961, which would include military equipment purchased with Foreign Military Sales [FMS]. All the President needs to do is enforce our nonproliferation laws and most, if not all of the military equipment provided by the Brown amendment remains undelivered. That is what I urged the President to do last month.

Sadly, even though Pakistan broke its assurance to the Clinton administration, it has been reported yesterday that the President intends to go through with the transfer. This is stunning news. The Brown amendment alone was a tough blow to our nonproliferation policy. Now the Clinton administration is preparing to cripple our already shaken credibility as an enforcer of nuclear nonproliferation. If that is the President's decision, and I certainly hope he reconsiders, then the law requires that he make an appropriate certification to the Congress. This gives Congress two options: First, it could disapprove of the President's certification. Under the law it would have 30 days to do that. Or, should a certification not be forthcoming, it could enact the legislation I am introducing today. This bill, which I introduce with bipartisan support, simply repeals the Brown amendment.

Mr. President, I believe passage of this legislation is necessary if our Nation's nuclear nonproliferation policy is to have any credibility. Indeed, beyond the simple policy justifications for this legislation, I urge my colleagues to keep in mind the circumstance that brings me to the floor today. As I stated a moment ago, Pakistan's receipt of nuclear technology from China is a sanctionable offense, as is its receipt of M–11 missile technology. What makes these offenses disturbing is that they were occurring while Pakistan was lobbying the administration and Congress to waive and partially repeal nuclear nonproliferation law. Equally disturbing are reports that members of the Clinton administration knew of the ring magnet transfer at that time, but did not divulge this information to members of Congress. The irony would be humorous if the issue wasn't so serious.

I believe that if all my colleagues were aware of this blatant violation of our non-proliferation laws last fall, the Brown amendment would have failed. Indeed, a supporter of the Brown amendment, Congressman DOUG BEREUTER, admitted that if the Brown amendment was reconsidered, its passage would be unlikely. I am confident enough that this Congress understands the seriousness of this matter and would agree that we need to repeal the

Brown amendment or at least suspend its implementation until the underlying policy of the administration is restored—that being the return of the ring magnets and the M–11s from Pakistan to China.

Mr. President, finally a word about South Asia. Also on February 22, CIA Director Deutch named South Asia as his No. 1 worry in the annual world wide threat assessment. He noted, "the potential for conflict is high." Just a few weeks ago, the Washington Post reported that Pakistan is preparing for a possible nuclear weapons test. Even a limited nuclear exchange between Pakistan and India would result in deaths and destruction on an unprecedented scale in world history. Under the circumstances, I feel it would be the height of irresponsibility to allow for military aid to one side in such an unstable environment. The aftermath of the Brown amendment is proof that our relationship with India is impacted by United States nonproliferation policy. Because of India's unsafeguarded nuclear program, there is no United States-Indian agreement for nuclear cooperation. United States military cooperation with India is virtually nonexistent. The United States will not export certain forms of missile equipment and technology to India and any other goods that are related to weapons of mass destruction. It is true that United States sanctions have not been invoked against India, but that is because India has not violated its commitments under United States law.

I stand ready to seek a commonsense approach to improve our relations with all the countries in South Asia. We need a commonsense approach to deal with the problems in that troubled region. Illicit narcotics trafficking, terrorism, economic stagnation, and weapons proliferation are just some of the issues that plague South Asia. We must seek ways to help these countries address all these problems. I am ready to start that process. We can start by repealing the Brown amendment and begin working on an approach that serves the mutual interests of the people of the United States and the people of South Asia.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROMOTION OF PEACE AND SECURITY IN SOUTH ASIA.

(a) FINDINGS.—Congress makes the following findings:

(1) The American people fervently desire that all the peoples of South Asia enjoy peace and share an increased sense of security.

(2) The peace and security of South Asia are threatened by an arms race, particularly the spread of weapons of mass destruction and their modern delivery systems.

(3) Congress has granted both a one-time exception to and partial repeal of United States nuclear nonproliferation laws in order to permit the Government of Pakistan to receive certain United States military equipment and training and limited economic aid.

(4) The exception and partial repeal was based on direct assurances to the United States Government that "there will be no significant change on nuclear and missile nonproliferation issues of concern to the United States".

(5) The Director of Central Intelligence has informed Congress that Pakistan has taken recent delivery of "nuclear technology" and "M–11 missiles" from the People's Republic of China.

(6) The justification for the exception to and partial repeal of United States nonproliferation laws is no longer valid.

(b) REPEAL.—Section 620E of the Foreign Assistance Act of 1961 (22 U.S.C. 2375) is amended to read as if the amendments made to such section by section 559 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107) had not been made.

Mr. KERRY. Mr. President, last September the Senate approved an amendment offered by Senator BROWN that allowed the administration to deliver hundreds of millions of dollars worth of military equipment to Pakistan. In doing so, we decided to ignore Pakistan's continuing efforts to acquire nuclear weapons and the ballistic missiles to carry them, and we turned our backs on United States non-proliferation law and international arms control agreements. Today, I am pleased to cosponsor a bill being introduced by Senator PRESSLER that will repeal this misguided provision and will help put U.S. nonproliferation policy back on track.

During Senate consideration of the Brown amendment, the proponents, including the administration, argued that transferring the military equipment would remove what had become an irritant in our relations with Pakistan and would result in enhanced cooperation on nonproliferation issues. Unfortunately, the opposite has happened.

Even as we debated the Brown amendment we had clear and convincing evidence that Pakistan had received M–11 ballistic missiles from China—a sanctionable offense under the Missile Technology Control Regime. We now know that Pakistan also has continued to pursue its Nuclear Weapons Program. In an unclassified hearing earlier this year, Director of Central Intelligence John Deutch testified to the Intelligence Committee that he was especially concerned about Pakistani efforts to acquire nuclear technology. Although he did not provide details, the press has reported that last summer China sent Pakistan specialized magnets for use in centrifuges to produce enriched uranium. Such a transfer would violate the 1994 Nuclear Non-Proliferation Act. Finally, Director Deutch told the Intelligence Committee that Pakistan was likely to test a nuclear weapon if India did, hardly the restraint we were promised.

Since the late 1970's the Pakistani Government has repeatedly assured the United States that it does not possess nuclear weapons despite our certainty that it does. As recently as November of 1994, Prime Minister Bhutto said in an interview with David Frost "We have neither detonated one, nor have we got nuclear weapons." Now they are practicing the same deception with regard to acquiring missiles from China. In July of 1995, a press release from the Pakistan Embassy asserted that "Pakistan has not acquired the M–11 or any other missile from China that violates the Missile Technology Control Regime." The evidence to the contrary is, in my opinion, overwhelming.

Pakistan has been a friend and ally of the United States since its independence. But how many times can you let a friend mislead you and how many times can you let a friend put you in danger before you are forced to change the nature of the relationship. This is not a question of whether we want good relations with Pakistan. Of course we do. We want good relations with all countries, but the proliferation of weapons of mass destruction and the delivery systems to carry them is far more important to our national security than relations with any one country. Indeed, this is one of the most important national security issues facing us today.

I congratulate my colleague from South Dakota for his leadership on this issue and I am pleased to cosponsor his legislation. I hope that we can address this issue before the transfer of this equipment is completed.

By Mr. DOLE (for himself, Mr. THURMOND, Mr. WARNER, and Mr. GRAMM):

S. 1639. A bill to require the Secretary of Defense and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Defense with reimbursement from the Medicare Program for health care services provided to Medicare-eligible beneficiaries under TRICARE; to the Committee on Finance.

MEDICARE SUBVENTION LEGISLATION

Mr. DOLE. Mr. President, today I am pleased to introduce legislation which will demonstrate the cost effectiveness of Medicare reimbursement to the Department of Defense [DOD] for treatment of military beneficiaries age 65 and older. This bill will enable these individuals to enroll in Tricare Prime and be treated in military hospitals.

CURRENT SYSTEM IS FLAWED

As I am sure my colleagues know, Tricare is DOD's new managed health care program. While Tricare has merit, it also has flaws: It bars all Medicare-eligible retirees and family members

VOL
142
PT
5
MR
21
—
29
1996
UMI

from enrolling in Tricare Prime. In fact, all career military members and their families eventually will be affected, because even those who enroll now will be dropped from Tricare at age 65, when they become eligible for Medicare. In my view, this breaks long standing health care commitments to retirees, may increase costs, and affect military readiness.

IDENTIFYING THE PROBLEM

Current law inadvertently encourages DOD and Medicare to work against each other. As the defense budget tightens, DOD has a strong incentive to push older retirees and families out of the military medical system and back into Medicare, although Medicare probably costs both the Government and retirees more money than care under the military system. Theoretically, Medicare-eligible retirees may still use military hospitals on a space-available basis. However, space-available care is rapidly becoming nonexistent as military facilities downsize and Tricare expands across the country.

MEDICARE SUBVENTION IS THE SOLUTION

It seems to me, the solution to this problem is to change the law to allow Medicare subvention, allowing Medicare to reimburse DOD for care provided to older beneficiaries enrolling in Tricare Prime or otherwise using military hospitals.

DEMONSTRATION TEST OF MEDICARE SUBVENTION

We need to demonstrate to the interested parties, Department of Health and Human Services, and Department of Defense, that subvention is indeed a feasible and cost-effective program. Therefore I am introducing the legislation which gives those agencies the authority to conduct such a test. I believe this test will justify implementing subvention and allow those eligible military retirees over 65 to participate in Tricare Prime and receive care in military hospitals.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1639

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEMONSTRATION PROJECT FOR MEDICARE REIMBURSEMENT OF DEPARTMENT OF DEFENSE FOR HEALTH CARE PROVIDED TO MEDICARE-ELIGIBLE BENEFICIARIES UNDER TRICARE.

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense and the Secretary of Health and Human Services shall enter into an agreement in order to carry out a demonstration project under which the Secretary of Health and Human Services reimburses the Secretary of Defense, on a capitated basis, from the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for certain health care services provided by the Secretary of Defense to medicare-eligible military beneficiaries through the TRICARE program.

(b) PROJECT REQUIREMENTS.—(1)(A) The Secretary of Defense shall budget for and expend on health care services in each region in which the demonstration project is carried out an amount equal to the amount that the Secretary would otherwise budget for and expend on such services in the absence of the project.

(B) The Secretary may not be reimbursed under the project for health care services provided to medicare-eligible military beneficiaries in a region until the amount expended by the Secretary to provide health care services in that region exceeds the amount budgeted for health care services in that region under subparagraph (A).

(2) The agreement between the Secretary of Defense and the Secretary of Health and Human Services shall provide that the cost to the medicare program of providing services under the project does not exceed the cost that the medicare program would otherwise incur in providing such services in the absence of the project.

(3) The authority of the Secretary of Defense to carry out the project shall expire 3 years after the date of the commencement of the project.

(c) REPORTS.—Not later than 14 months after the commencement of the demonstration project under subsection (a), and annually thereafter until the year following the year in which the project is terminated, the Secretary of Defense and the Secretary of Health and Human Services shall jointly submit to Congress a report on the demonstration project. The report shall include the following:

(1) The number of medicare-eligible military beneficiaries provided health care services under the project during the previous year.

(2) An assessment of the benefits to such beneficiaries of receiving health care services under the project.

(3) A description of the cost-shifting, if any, among medical care programs of the Department of Defense that results from the project.

(4) A description of the cost-shifting, if any, from the Department to the medicare program that results from the project.

(5) An analysis of the effect of the project on the following:

(A) Access to the military medical treatment system, including access to military medical treatment facilities.

(B) The availability of space and facilities and the capabilities of medical staff to provide fee-for-service medical care.

(C) Established priorities for treatment of beneficiaries under chapter 55 of title 10, United States Code.

(D) The cost to the Department of providing prescription drugs to the beneficiaries described in subparagraph (C).

(E) The quality of health care provided by the Department.

(F) Health care providers and medicare-eligible military beneficiaries in the communities in which the project is carried out.

(6) An assessment of the effects of continuing the project on the overall budget of the Department for health care and on the budget of each military medical treatment facility.

(7) An assessment of the effects of continuing the project on expenditures from the medicare trust funds under title XVIII of the Social Security Act.

(8) An analysis of the lessons learned by the Department as a result of the project.

(9) Any other information that the Secretary of Defense and the Secretary of Health and Human Services jointly consider appropriate.

(d) REVIEW BY COMPTROLLER GENERAL.—Not later than December 31 each year in which the demonstration project is carried out under this section, the Comptroller General shall determine and submit to Congress a report on the extent, if any, to which the costs of the Secretary of Defense under the TRICARE program and the costs of the Secretary of Health and Human Services under the medicare program have increased as a result of the project.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "medicare-eligible military beneficiary" means a beneficiary under chapter 55 of title 10, United States Code, who is entitled to benefits under part A of title XVIII of the Social Security Act.

(2) The term "TRICARE program" means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of that title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 1139

At the request of Mr. LOTT, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1139, a bill to amend the Merchant Marine Act, 1936, and for other purposes.

S. 1150

At the request of Mr. SANTORUM, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 1150, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall Plan and George Catlett Marshall.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1183, a bill to amend the Act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the act, and for other purposes.

S. 1188

At the request of Mr. SANTORUM, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1188, a bill to provide marketing quotas and a price support program for the 1996 through 1999 crops of quota and additional peanuts, to terminate marketing quotas for the 2000 and subsequent crops of peanuts, and

to provide a price support program for the 2000 through 2002 crops of peanuts, and for other purposes.

S. 1317

At the request of Mr. D'AMATO, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 1317, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1995, and for other purposes.

S. 1355

At the request of Mr. DORGAN, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 1355, a bill to amend the Internal Revenue Code of 1986 to end deferral for U.S. shareholders on income of controlled foreign corporations attributable to property imported into the United States.

S. 1470

At the request of Mr. MCCAIN, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1470, a bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes.

S. 1521

At the request of Mr. DOLE, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1521, a bill to establish the Nicodemus National Historic Site in Kansas, and for other purposes.

S. 1597

At the request of Mr. DORGAN, the names of the Senator from Illinois [Mr. SIMON], the Senator from Nebraska [Mr. EXON], the Senator from West Virginia [Mr. BYRD], the Senator from Arkansas [Mr. PRYOR], the Senator from Colorado [Mr. CAMPBELL], the Senator from Iowa [Mr. HARKIN], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 1597, a bill to amend the Internal Revenue Code of 1986 to discourage American businesses from moving jobs overseas and to encourage the creation of new jobs in the United States, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. HELMS, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

SENATE RESOLUTION 202

At the request of Mr. ABRAHAM, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], the Senator from Texas [Mrs. HUTCHISON], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Massachusetts [Mr. KERRY], the Senator from Vermont [Mr. LEAHY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Michigan [Mr. LEVIN], the Senator from Mississippi [Mr. LOTT], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alaska [Mr. STEVENS], and the Senator from Tennessee [Mr. THOMPSON] were added as cosponsors of Senate Resolution 202, a resolution concerning the ban on the use of United States passports for travel to Lebanon.

AMENDMENTS SUBMITTED

THE PUBLIC RANGELANDS MANAGEMENT ACT OF 1996 NATIONAL GRASSLANDS MANAGEMENT ACT OF 1996

BINGAMAN (AND OTHERS) AMENDMENT NO. 3559

Mr. BINGAMAN (for himself, Mr. DORGAN, Mr. REID, Mr. BRYAN, and Mr. DASCHLE) proposed an amendment to amendment No. 3555 proposed by Mr. DOMENICI to the bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes; as follows:

In lieu of the matter proposed insert the following new language:

SECTION 101. SHORT TITLE.

This title may be cited as the "Public Rangelands Management Act of 1996".

SEC. 102. DEFINITIONS.

As used in this title, the term—

(1) "public land" has the same meaning as given in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e));

(2) "Secretary" means the Secretary of the Interior, or where appropriate, the Secretary acting through the Bureau of Land Management; and

(3) "Secretary of Agriculture" means, where appropriate, the Secretary acting through the Forest Service.

SEC. 103. APPLICABILITY.

(a) BUREAU OF LAND MANAGEMENT LANDS.—This title shall apply to the grazing of livestock on public lands administered by the Secretary. Except as otherwise provided in this title, grazing on public lands administered by the Secretary shall be managed in accordance with applicable laws and regulations.

(b) FOREST SERVICE LANDS.—(1) Except as provided in section 113 (concerning the applicability of NEPA provisions), section 115 (establishing a new grazing fee formula), and section 116 (concerning expenditures of grazing fee receipts) livestock grazing on National Forest System lands in the sixteen contiguous Western States shall be managed in accordance with applicable laws and regulations.

(2) None of the provisions of this title shall apply to livestock grazing on National Forest System lands outside of the sixteen contiguous Western States. Livestock grazing on those lands shall be administered by the Secretary of Agriculture in accordance with applicable laws and regulations.

(c) NATIONAL GRASSLANDS.—Livestock grazing on the National Grasslands shall be administered in accordance with title II of this Act, except that sections 113 and 115 of title I shall also apply to the National Grasslands.

(d) COORDINATED MANAGEMENT.—(1) The Secretary and the Secretary of Agriculture shall seek to provide, to the maximum extent practicable, for consistent and coordinated grazing activities and management practices on lands in the sixteen contiguous Western States administered by the Forest Service (excluding the National Grasslands) and the Bureau of Land Management, consistent with the laws governing the public lands and the National Forest System.

(2) To the extent current regulations are inconsistent with the provisions of this title, the Secretary and the Secretary of Agriculture, as necessary, shall promulgate new regulations in accordance with this title.

SEC. 104. RANGELAND HEALTH STANDARDS AND GUIDELINES.

(a) IN GENERAL.—The Secretary, in consultation with the Resource Advisory Councils established in section 108, the Grazing Advisory Boards established in section 109, and appropriate State and local governmental and educational entities, and after providing an opportunity for public participation, shall establish State-wide or regional standards and guidelines to ensure the health and continued improvement of public land range conditions: *Provided, however,* That nothing in this title shall be construed as requiring the establishment of a minimum national standard for public land range conditions.

(b) CRITERIA.—Such standards and guidelines shall seek to ensure that—

(1) watersheds are in, or are making significant progress toward properly functioning condition;

(2) upland soils exhibit stability and infiltration and permeability rates that are appropriate to soil type, climate, and landform;

(3) ecological processes, including the hydrological cycle, nutrient cycle, and energy flow are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities;

(4) water quality complies with State water quality standards; and

(5) healthy, productive, and diverse native plant and animal populations are being supported.

(c) INCORPORATION.—Standards and guidelines developed for a specific region pursuant to this section shall, upon completion, be incorporated by operation of law into applicable land use plans. Standards and guidelines shall also be incorporated into allotment management plans and the terms and conditions of grazing permits and leases.

SEC. 105. PUBLIC PARTICIPATION.

(a) IN GENERAL.—In developing and revising land use plans, allotment management

VOL
142
PT
5
MR
21
—
29
1996
UMI

plans, activity plans, and rangeland standards and guidelines, the Secretary shall provide appropriate opportunities for public participation.

(b) AFFECTED INTEREST.—An individual or organization that has expressed in writing to the Secretary concern for the management of livestock grazing on specific allotments and who has been determined by the Secretary to be an affected interest, shall be consulted on significant grazing actions and decisions taken by the Secretary. Such consultation shall include, but need not be limited to, providing notice of the proposed action or decision and the reasons therefore, and a reasonable time in which to submit comments on the proposed action or decision.

(c) ABILITY TO PROTEST.—An applicant, permittee, lessee, or affected interest shall be entitled to protest proposed decisions of the Secretary.

SEC. 106. TERMS AND CONDITIONS.

(a) IN GENERAL.—The Secretary shall include such reasonable terms and conditions in a grazing permit or lease as the Secretary determines to be appropriate to achieve management and resource condition objectives.

(b) MODIFICATION.—Following careful and considered consultation, cooperation, and coordination with lessees, permittees, and other affected interests, the Secretary may modify terms and conditions of a grazing permit or lease if monitoring data or objective evidence shows that present grazing use is not meeting management and resource condition objectives.

(c) MONITORING.—(1) Monitoring shall be conducted at a sufficient level to enable the Secretary to determine the effectiveness of management toward meeting management and resource condition objectives and to issue decisions or enter into agreements requiring management changes. The Secretary shall seek to ensure that monitoring is conducted in a timely and consistent manner.

(2) Monitoring shall be conducted according to regional or State-wide scientifically-based criteria and protocals. The criteria and protocals shall be developed by the Secretary in consultation with applicable Resource Advisory Councils, Grazing Advisory Boards, and appropriate State entities.

SEC. 107. RANGE IMPROVEMENTS.

(a) PERMANENT IMPROVEMENTS.—(1) The Secretary may authorize the installation of permanent range improvements by permittees, lessees, or other parties pursuant to cooperative agreements. Title to permanent range improvements constructed or installed after the date of enactment of this title shall be in the name of the United States.

(2) If the Secretary cancels a grazing permit or lease in whole or in part in order to devote the lands covered by the permit to another public purpose, including disposal, the permittee or lessee shall receive from the United States reasonable compensation for the adjusted value of the permittee's or lessee's interest in authorized permanent improvements placed or constructed on the lands covered by the canceled permit or lease. The adjusted value shall be determined by the Secretary, not to exceed fair market value of the terminated portion of the permittee's or lessee's interest therein.

(b) TEMPORARY IMPROVEMENTS.—The Secretary may authorize the installation of temporary range improvements by permittees, lessees, or other parties pursuant to range improvements permits. Title to temporary range improvements shall be in the name of the permittee or lessee, where no part of the cost for the improvement is borne by the United States

(c) VALID EXISTING RIGHTS.—Nothing in this section shall affect valid existing rights to range improvements existing prior to the date of enactment of this title.

(d) NO INTEREST IN LANDS.—A range improvement permit or cooperative agreement does not convey to a permittee or lessee any right, title, or interest in any lands or resources held by the United States.

SEC. 108. RESOURCE ADVISORY COUNCILS.

(A) ESTABLISHMENT.—The Secretary, in consultation with the Governors of the affected States, shall establish and operate Resource Advisory Councils on a regional, State, or planning area level to provide advice on management issues for all lands administered by the Bureau of Land Management within such State or regional area, except where the Secretary determines that there is insufficient interest in participation on a council to ensure that membership can be fairly balanced in terms of the points of view represented and the functions to be performed.

(b) DUTIES.—Each Resource Advisory Council shall advise the Secretary regarding the preparation, amendment, and implementation of land use and activity plans for public lands and resources within its area.

(c) MEMBERSHIP.—(1) The Secretary, in consultation with the Governor of the affected State or States, shall appoint the members of each Resource Advisory Council. A council shall consist of not less than 9 members and not more than 15 members.

(2) In appointing members to a Resource Advisory Council, the Secretary shall provide for balanced and broad representation from among various groups, including but not limited to, permittees and lessees, other commercial interests, recreational users, representatives of recognized environmental or conservation organizations, educational, professional, or academic interests, representative of State and local government or governmental agencies, Indian tribes, and other members of the affected public.

(3) The Secretary shall appoint at least one elected official of general purpose government serving the people of the area to each Resource Advisory Council.

(4) No person may serve concurrently on more than one Resource Advisory Council.

(5) Members of a Resource Advisory Council must reside in one of the States within the geographic jurisdiction of the council.

(d) SUBGROUPS.—A Resource Advisory Council may establish such subgroups as the council deems necessary, including but not limited to working groups, technical review teams, and rangeland resource groups

(e) TERMS.—Resource Advisory Council members shall be appointed for 2-year terms. Members may be appointed to additional terms at the discretion of the Secretary.

(f) PER DIEM EXPENSES.—Resource Advisory Council members shall serve without compensation as such, but shall be reimbursed for travel and per diem expenses while on official business, as authorized by 5 U.S.C. 5703.

(g) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this section, the Federal Advisory Committee Act shall apply to the Resource Advisory Councils established under this section.

(h) OTHER FLPMA ADVISORY COUNCILS.—Nothing in this section shall be construed as modifying the authority of the Secretary to establish other advisory councils under section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739).

SEC. 109. GRAZING ADVISORY BOARDS.

(a) ESTABLISHMENT.—For each district office of the Bureau of Land Management in the sixteen contiguous Western States having jurisdiction over more than 500,000 acres of public lands subject to commercial livestock grazing, the Secretary, upon the petition of a simple majority of livestock lessees and permittees under the jurisdiction of such office, shall establish and maintain at least one Grazing Advisory Board of not more than 15 members.

(b) FUNCTION.—The function of the Grazing Advisory Boards established pursuant to this section shall be to provide advice to the Secretary concerning management issues directly related to the grazing of livestock on public lands within the area administered by the district office.

(c) MEMBERS.—(1) The number of members on each Grazing Advisory Board shall be determined by the Secretary. Members shall serve for a term of 2 years. One-half of the members of each board shall consist of livestock representatives who shall be lessees or permittees in the area administered by the district office and who shall be chosen by the lessees and permittees in the area through an election prescribed by the Secretary. The remaining members shall be appointed by the Secretary from among residents of the area, to represent other interests.

(2) No person may serve concurrently on more than one Grazing Advisory Board.

(d) PER DIEM EXPENSES.—Grazing Advisory Board members shall serve without compensation as such, but shall be reimbursed for travel and per diem expenses while on official business, as authorized by 5 U.S.C. 5703.

(e) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this section, the Federal Advisory Committee Act shall apply to the Grazing Advisory Boards established under this section.

SEC. 110. ALLOTMENT MANAGEMENT PLANS.

Where practicable, feasible, and appropriate, the Secretary shall develop allotment management plans (or other activity plans serving as the functional equivalent thereof). Such plans shall be prepared in consultation, cooperation and coordination with permittees or lessees, Resource Advisory Councils, Grazing Advisory Boards, and affected interests.

SEC. 111. CONSERVATION AND TEMPORARY NON-USE.

(a) IN GENERAL.—(1) The Secretary may approve a request by a permittee or lessee for temporary non-use or conservation use if such use is determined by the Secretary to be not inconsistent with the applicable land use plans, allotment management plans, or other applicable plans.

(2) In developing criteria and standards for conservation use and temporary non-use, the Secretary shall consult with applicable Resource Advisory Councils and Grazing Advisory Boards.

(b) CONSERVATION USE.—(1) Conservation use may be approved for periods of up to ten years when, in the determination of the Secretary, the proposed conservation use will promote rangeland resource protection or enhancement of resource values or uses, including more rapid progress toward achieving resource condition objectives.

(2) Conservation use shall be a voluntary action on the part of a permittee or lessee. No such use shall be approved by the Secretary unless requested by a permittee or lessee.

(c) TEMPORARY NON-USE.—Temporary non-use for reasons including but not limited to financial conditions or annual fluctuations

of livestock, may be approved by the Secretary on an annual basis for no more than 3 consecutive years.

(d) The Secretary shall not approve applications for non-renewable grazing permits and leases for areas for which conservation use has been authorized. Forage made available as a result of temporary non-use may be made available to qualified applicants.

(e) DEFINITION.—As used in this section, the term—

(1) "conservation use" means an activity, excluding livestock grazing, on all or a portion of a grazing allotment for the purposes of—

(A) protecting the land and its resources from destruction or unnecessary injury.

(B) improving rangeland conditions; or

(C) enhancing resource values, uses, or functions;

(2) "temporary non-use" means the authorized withholding, on an annual basis, of all or a portion of permitted livestock use, in response to a request of a permittee or lessee.

SEC. 112. WATER RIGHTS.

(a) IN GENERAL.—New water rights shall be acquired, perfected, maintained, or administered in connection with livestock grazing on public lands in accordance with State law.

(b) NO FEDERAL RESERVED WATER RIGHT.—Nothing in this title shall be construed as creating an express or implied reservation of water rights in the United States.

(c) VALID EXISTING RIGHTS.—Nothing in this title shall be construed as affecting valid existing water rights.

SEC. 113. NEPA COMPLIANCE.

(a) RENEWALS OR TRANSFERS.—Unless the Secretary or the Secretary of Agriculture, as appropriate, determines that the renewal or transfer of a grazing permit or lease will involve significant changes in management practices or use, or that significant environmental damage is occurring or is imminent, the renewal or transfer of such permit or lease shall not require the completion of any analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) RANGELAND MANAGEMENT ACTIVITIES.—(1) The Secretary and the Secretary of Agriculture shall expedite the consideration of applications for non-significant grazing activities on Federal lands administered by the respective Secretary, including the development of a list of activities (or mandatory eligibility criteria) that would constitute a "categorical exclusion" from consideration under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) where the Secretary concerned determines that such activities would not have a significant effect on the environment.

(2) Nothing in this subsection shall preclude the Secretary or the Secretary of Agriculture, as appropriate, from requiring additional analysis where the Secretary concerned determines that the proposed activity may have a significant effect on the environment.

SEC. 114. GRAZING FEE SURCHARGE.

No grazing fee surcharge shall be imposed for grazing use by a spouse, child, or grandchild of the permittee or lessee on the lands covered by the permit or lease.

SEC. 115. GRAZING FEE.

(a) IN GENERAL.—(1) The fee for each animal unit month in a grazing fee year to be determined by the Secretary and the Secretary of Agriculture shall be equal to the three-year average of the total gross value production for beef cattle for the three years preceeding the grazing fee year, multiplied by the ten-year average of the United States Treasury Securities six-month bill "new issue" rate, divided by twelve: *Provided*, That the grazing fee shall not be less than $1.50 per animal unit month.

(2) The gross value of production for beef cattle shall be determined by the Economic Research Service of the Department of Agriculture in accordance with subsection (e)(1).

(b) DEFINITION OF ANIMAL UNIT MONTH.—For billing purposes only, the term "animal unit month" means one month's use and occupancy of range by—

(1) one cow, bull, steer, heifer, horse, burro, or mule; or seven sheep or goats; each of which is six months of age or older on the date on which the animal begins grazing on Federal land;

(2) any such animal regardless of age if the animal is weaned on the date on which the animal begins grazing on Federal lands; and

(3) any such animal that will become twelve months of age during the period of use authorized under a grazing permit or lease.

(c) LIVESTOCK NOT COUNTED.—There shall not be counted as an animal unit month the use of Federal land for grazing by an animal that is less than six months of age on the date which the animal begins grazing on Federal land and that is the natural progeny of an animal on which a grazing fee is paid if the animal is removed from the Federal land before becoming twelve months of age.

(d) OTHER FEES AND CHARGES.—(1) A service charge shall be assessed for each crossing permit, transfer of grazing preference, and replacement or supplemental billing notice except in a case in which the action is initiated by the authorized officer.

(2) The fees and charges under section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a)) shall reflect processing costs and shall be adjusted periodically as costs change.

(3) Notice of a change in a service charge shall be published in the Federal Register.

(e) CRITERIA FOR ERS.—(1) The Economic Research Service of the Department of Agriculture shall continue to compile and report the gross value of production of beef cattle, on a dollars-per-bred-cow basis for the United States, as currently published in "Economic Indicators of the Farm Sector: Cost of Production—Major Field Crops and Livestock and Dairy" (Cow-calf production cash costs and returns).

(2) For the purposes of a determining a grazing fee for a given grazing fee year, the gross value of production (as defined in subsection (a)) for the previous calendar year shall be made available to the Secretary and the Secretary of Agriculture, and published in the Federal Register, on or before February 15 of each year.

SEC. 116. USE OF STATE SHARE OF GRAZING FEE RECEIPTS.

Section 10 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (43 U.S.C. 315i) is amended—

(1) in subsection (a), by striking "the benefit of" and inserting in lieu thereof "investment in all forms of on-the-ground improvements that benefit rangeland resources, and for support of local public schools in"; and

(2) in subsection (b), by striking "the benefit of" and inserting in lieu thereof "investment in all forms of on-the-ground improvements that benefit rangeland resources, and for support of local public schools in".

SEC. 117. CONSIDERATION OF ACTIONS BY AFFILIATES.

In issuing or renewing grazing permits or leases, the Secretary may only consider acts undertaken by—

(1) the permittee or lessee;

(2) persons under the direct control of the permittee or lessee; or

(3) persons acting in collusion with the permittee or lessee.

TITLE II—MANAGEMENT OF NATIONAL GRASSLANDS

SEC. 201. SHORT TITLE.

This title may be cited as the "National Grasslands Management Act of 1996".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the inclusion of the National Grasslands within the National Forest System has prevented the Secretary of Agriculture from effectively administering and promoting grassland agriculture on National Grasslands as originally intended under the Bankhead-Jones Farm Tenant Act;

(2) the National Grasslands can be more effectively managed by the Secretary of Agriculture if administered as a separate entity outside of the National Forest System; and

(3) a grazing program on National Grasslands can be responsibly carried out while protecting and preserving recreational, environmental, and other multiple uses of the National Grasslands.

(b) PURPOSE.—The purpose of this title is to provide for improved management and more efficient administration of grazing activities on National Grasslands while preserving and protecting multiple uses of such lands, including but not limited to preserving hunting, fishing, and recreational activities, and protecting wildlife and wildlife habitat in accordance with applicable laws.

SEC. 203. DEFINITIONS.

As used in this title, the term—

(1) "National Grasslands" means those areas managed as National Grasslands by the Secretary of Agriculture under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012) on the day before the date of enactment of this title; and

(2) "Secretary" means the Secretary of Agriculture.

SEC. 204. REMOVAL OF NATIONAL GRASSLANDS FROM NATIONAL FOREST SYSTEM.

Section 11(a) of the Forest and Rangeland Renewable Resource Planning Act of 1974 (16 U.S.C. 1609(a)) is amended by striking the phrase "the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525; 7 U.S.C. 1010–1012)".

SEC. 205. MANAGEMENT OF NATIONAL GRASSLANDS.

(a) IN GENERAL.—The Secretary, acting through the Chief of the Forest Service, shall manage the National Grasslands as a separate entity in accordance with this title and the provisions and multiple use purposes of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012).

(b) CONSULTATION.—The Secretary shall provide timely opportunities for consultation and cooperation with interested State and local governmental entities and others in the development and implementation of land use policies and plans, and land conservation programs for the National Grasslands.

(c) GRAZING ACTIVITIES.—In furtherance of the purpose of this title, the Secretary shall administer grazing permits and implement grazing management decisions in consultation, cooperation, and coordination with local grazing associations and other grazing permit holders.

(d) REGULATIONS.—The Secretary shall promulgate regulations to manage and protect the National Grasslands, taking into account

VOL
142
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29
1996
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the unique characteristics of the National Grasslands and grasslands agriculture conducted under the Bankhead-Jones Farm Tenant Act. Such regulations shall facilitate the efficient administration of grazing and provide protection for environmental values, including but not limited to wildlife and wildlife habitat, and Federal lands equivalent to that on units of the National Forest System.

(e) Conforming Amendment to Bankhead-Jones Act.—Section 31 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010) is amended to read as follows:

"To accomplish the purposes of title III of this Act, the Secretary is authorized and directed to develop a separate program of land conservation and utilization for the National Grasslands, in order thereby to correct maladjustments in land use, and thus assist in promoting grassland agriculture and secure occupancy and economic stability of farms and ranches, controlling soil erosion, reforestation, preserving and protecting natural resources, protecting fish and wildlife and their habitat, developing and protecting recreational opportunities and facilities, mitigating floods, preventing impairment of dams and reservoirs, developing energy resources, conserving surface and subsurface moisture, protecting the watersheds of navigable streams, and protecting the public lands, health, safety, and welfare, but not to build industrial parks or commercial enterprises.".

(f) Hunting, Fishing, and Recreational Activities.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities on National Grasslands in accordance with applicable Federal and State laws, nor shall appropriate recreational activities be limited or precluded.

(g) Valid Existing Rights.—Nothing in this title shall affect valid existing rights, reservations, agreements, or authorizations. Section 1323(a) of Public Law 96-487 shall continue to apply to non-Federal lands and interests therein within the boundaries of the National Grasslands.

(h) Fees and Charges.—Fees and charges for livestock grazing on the National Grasslands shall be determined in accordance with section 115 of this Act, except that the Secretary may adjust the grazing fee to compensate for approved conservation practice expenditures.

PRESSLER AMENDMENT NO. 3560

Mr. PRESSLER proposed an amendment to amendment No. 3555 proposed by Mr. Domenici to the bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes; as follows:

In section 202(a)(3), after "preserving" insert "sporting,".

In section 202(b), strike "hunting, fishing, and recreational activities" and insert "sportsmen's hunting and fishing and other recreational activities".

In section 205(f), strike "Hunting, Fishing, and Recreational Activities.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities" and insert "Sportsmen's Hunting and Fishing and Other Recreational Activities.—Nothing in this title shall be construed as limiting or precluding sportsmen's hunting or fishing activities".

THE PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1996

MURKOWSKI AMENDMENT NO. 3561

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—THE PRESIDIO OF SAN FRANCISCO

SECTION 101. FINDINGS.

The Congress finds that—

(1) the Presidio, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

(2) the Presidio is the oldest continuously operated military post in the Nation dating from 1776, and was designated a National Historic Landmark in 1962;

(3) preservation of the cultural and historic integrity of the Presidio for public use recognizes its significant role in the history of the United States;

(4) the Presidio, in its entirety, is a part of the Golden Gate National Recreation Area, in accordance with Public Law 92-589;

(5) as part of the Golden Gate National Recreation Area, the Presidio's significant natural, historic, scenic, cultural, and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protects the Presidio from development and uses which would destroy the scenic beauty and historic and natural character of the area and cultural and recreational resources;

(6) removal and/or replacement of some structures within the Presidio must be considered as a management option in the administration of the Presidio; and

(7) the Presidio will be managed through an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources.

SECTION 102. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF THE INTERIOR.

(a) Interim Authority.—the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to manage leases in existence on the date of this Act for properties under the administrative jurisdiction of the Secretary and located at the Presidio. Upon the expiration of any such lease, the Secretary may extend such lease for a period terminating not later than 6 months after the first meeting of the Presidio Trust. The Secretary may not enter into any new leases for property at the Presidio to be transferred to the Presidio Trust under this Title, however, the Secretary is authorized to enter into agreements for use and occupancy of the Presidio properties which are assignable to the Trust and are terminable within 30 days notice by the Trust. Prior to the transfer of administrative jurisdiction over any property to the Presidio Trust, and notwithstanding section 1341 of title 31 of the United States Code, the proceeds from any such lease shall be retained by the Secretary and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. The Secretary may adjust the rental charge on any such lease for any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to properties and infrastructure within the Presidio.

(b) Public Information and Interpretation.—The Secretary shall be responsible, in cooperation with the Presidio Trust, for providing public interpretive services, visitor orientation and educational programs on all lands within the Presidio.

(c) Other.—Those lands and facilities within the Presidio that are not transferred to the administrative jurisdiction of the Presidio Trust shall continue to be managed by the Secretary. The Secretary and the Presidio Trust shall cooperate to ensure adequate public access to all portions of the Presidio. Any infrastructure and building improvement projects that were funded prior to the enactment of this Act shall be completed by the National Park Service.

(d) Park Service Employees.—(1) Any career employee of the National Park Service, employed at the Presidio at the time of the transfer of lands and facilities to the Presidio Trust, shall not be separated from the Service by reason of such transfer, unless such employee is employed by the Trust, other than on detail. The Trust shall have sole discretion over whether to hire any such employee or request a detail of such employee.

(2) Any career employee of the National Park Service employed at the Presidio on the date of enactment of this Title shall be given priority placement for any available position within the National Park System notwithstanding any priority reemployment lists, directives, rules, regulations or other orders from the Department of the Interior, the Office of Management and Budget, or other federal agencies.

SECTION 103. ESTABLISHMENT OF THE PRESIDIO TRUST.

(a) Establishment.—There is established a wholly owned government corporation to be known as the Presidio Trust (hereinafter in this Title referred to as the "Trust").

(b) Transfer.—(1) Within 60 days after receipt of a request from the Trust for the transfer of any parcel within the area depicted as Area B on the map entitled "Presidio Trust Number 1," dated December 7, 1995, the Secretary shall transfer such parcel to the administrative jurisdiction of the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Secretary shall transfer to the Trust administrative jurisdiction over all remaining parcels within Area B. Such map shall be on file and available for public inspection in the offices of the Trust and in the offices of the National Park Service, Department of the Interior. The Trust and the Secretary may jointly make technical and clerical revisions in the boundary depicted on such map. The Secretary shall retain jurisdiction over those portions of the building identified as number 102 as the Secretary deems essential for use as a visitor center. The Building shall be named the "William Penn Mott Visitor Center". Any parcel of land, the jurisdiction over which is transferred pursuant to this subsection, shall remain within the boundary of the Golden Gate National Recreation Area. With the consent of the Secretary, the Trust may at any time transfer to the administrative jurisdiction of the Secretary any other properties within the Presidio which are surplus to the needs of the Trust and which serve essential purposes of the Golden Gate National Recreation Area. The Trust is encouraged to transfer to the administrative jurisdiction of the Secretary open space areas which have high public use potential and are contiguous to other lands administrated by the Secretary.

(2) Within 60 days after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively which records, equipment, and other personal property are deemed to be necessary for the immediate administration of the properties to be transferred, and the Secretary shall immediately transfer such personal property to the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively what, if any, additional records, equipment, and other personal property used by the Secretary in the administration of the properties to be transferred should be transferred to the Trust.

(3) The Secretary shall transfer, with the transfer of administrative jurisdiction over any property, the unobligated balance of all funds appropriated to the Secretary, all leases, concessions, licenses, permits, and other agreements affecting such property.

(4) At the request of the Trust, the Secretary shall provide funds to the Trust for preparation of such plan, hiring of initial staff and other activities deemed by the Trust as essential to the establishment of the Trust prior to the transfer of properties to the Trust.

(c) Board of Directors.—

(1) In general.—The powers and management of the Trust shall be vested in a Board of Directors (hereinafter referred to as the "Board") consisting of the following 7 members:

(A) the Secretary of the Interior or the Secretary's designee; and

(B) six individuals, who are not employees of the federal Government, appointed by the President, who shall possess extensive knowledge and experience in one or more of the fields of city planning, finance, real estate development, and resource conservation. At least one of these individuals shall be a veteran of the Armed Services. At least 3 of these individuals shall reside in the San Francisco Bay Area. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act and shall ensure that the fields of city planning, finance, real estate development, and resource conservation are adequately represented. Upon establishment of the Trust, the Chairman of the Board of Directors of the Trust shall meet with the Chairman of the Energy and Natural Resources Committee of the United States Senate and the Chairman of the Resources Committee of the United States House of Representatives.

(2) Terms.—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 3 shall serve for a term of 2 years. Any vacancy in the Board shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of the term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms.

(3) Quorum.—Four members of the Board shall constitute a quorum for the conduct of business by the Board.

(4) Organization and compensation.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

(5) Liability of directors.—Members of the Board of Directors shall not be considered federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

(6) Meetings.—The Board shall meet at least three times per year in San Francisco and at least two of those meetings shall be open to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues through the Golden Gate National Recreation Area Advisory Commission.

(7) Staff.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(8) Necessary powers.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(9) Taxes.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of California, and its political subdivisions, including the City and County of San Francisco.

(10) Government corporation.—(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(B) At the end of each calendar year, the Trust shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes in general terms the Trust's goals for the current fiscal year.

SECTION 104. DUTIES AND AUTHORITIES OF THE TRUST.

(a) Overall Requirements of the Trust.—The Trust shall manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with the purposes set forth in section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes," approved October 27, 1972 (Public Law 92-589; 86 Stat. 1299; 16 U.S.C. 460bb), and in accordance with the general objectives of the General Management Plan (hereinafter referred to as the "management plan") approved for the Presidio.

(b) The Trust may participate in the development of programs and activities at the properties transferred to the Trust. The Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of federal, State and local governments as are necessary and appropriate to finance and carry out its authorized activities. Any such agreement may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b). The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Presidio facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition. The Trust may not dispose of or convey fee title to any real property transferred to it under this Title. Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust. The Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust's procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition. Such procedures shall conform to laws and regulations related to federal government contracts governing working conditions and wage scales, including the provisions of 40 U.S.C. Sec. 276a-276a6 (Davis-Bacon Act).

(c) The Trust shall develop a comprehensive program for management of those lands and facilities within the Presidio which are transferred to the administrative jurisdiction of the Trust. Such program shall be designed to reduce expenditures by the National Park Service and increase revenues to the federal government to the maximum extent possible. In carrying out this program, the Trust shall be treated as a successor in interest to the National Park Service with respect to compliance with the National Environmental Policy Act and other environmental compliance statutes. Such program shall consist of—

(1) demolition of structures which in the opinion of the Trust, cannot be cost-effectively rehabilitated, and which are identified in the management plan for demolition,

(2) evaluation for possible demolition or replacement those buildings identified as categories 2 through 5 in the Presidio of San Francisco Historic Landmark District Historic American Buildings Survey Report, dated 1985,

(3) new construction limited to replacement of existing structures of similar size in existing areas of development, and

(4) examination of a full range of reasonable options for carrying out routine administrative and facility management programs.

The Trust shall consult with the Secretary in the preparation of this program.

(d) To augment or encourage the use of non-federal funds to finance capital improvements on Presidio properties transferred to its jurisdiction, the Trust, in addition to its other authorities, shall have the following authorities subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.):

(1) The authority to guarantee any lender against loss of principal or interest on any loan, provided that (A) the terms of the

VOL
142
PT
5
MR
21
—
29
1996
UMI

guarantee are approved by the Secretary of the Treasury, (B) adequate subsidy budget authority is provided in advance in appropriations acts, and (C) such guarantees are structured so as to minimize potential cost to the federal Government. No loan guarantee under this Title shall cover more than 75 percent of the unpaid balance of the loan. The Trust may collect a fee sufficient to cover its costs in connection with each loan guaranteed under this Act. The authority to enter into any such loan guarantee agreement shall expire at the end of 15 years after the date of enactment of this Title.

(2) The authority, subject to appropriations, to make loans to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(3) The authority to issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy and that a repayment schedule is established and only to the extent authorized in advance in appropriations acts. The Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes or obligations acquired by the Secretary of the Treasury under this subsection. Obligations issued under this subparagraph shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(4) The aggregate amount of obligations issued under this subsection which are outstanding at any one time may not exceed $50,000,000.

(e) The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purpose of carrying out its duties. The Trust shall maintain a liaison with the Golden Gate National Park Association.

(f) Notwithstanding section 1341 of title 31 of the United States Code, all proceeds received by the Trust shall be retained by the Trust, and such proceeds shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties under its administrative jurisdiction. Upon the Request of the Trust, the Secretary of the Treasury shall invest excess moneys of the Trust in public debt securities with maturities suitable to the needs of the Trust.

(g) The Trust may sue and be sued in its own name to the same extent as the federal government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Northern District of California shall have exclusive jurisdiction over any suit filed against the Trust.

(h) The Trust shall enter into a Memorandum of Agreement with the Secretary, acting through the Chief of the United States Park Police, for the conduct of law enforcement activities and services within the those portions of the Presidio transferred to the administrative jurisdiction of the Trust.

(i) The Trust may adopt, amend, repeal and enforce bylaws, rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised. The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities under this Title. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

(j) For the purpose of compliance with applicable laws and regulations concerning properties transferred to the Trust by the Secretary, the Trust shall negotiate directly with regulatory authorities.

(k) INSURANCE.—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

(l) BUILDING CODE COMPLIANCE.—The Trust shall bring all properties under its administrative jurisdiction into compliance with federal building codes and regulations appropriate to use and occupancy within 10 years after the enactment of this Title to the extent practicable.

(m) LEASING.—In managing and leasing the properties transferred to it, the Trust consider the extent to which prospective tenants contribute to the implementation of the General Management Plan for the Presidio and to the reduction of cost to the Federal Government. The Trust shall give priority to the following categories of tenants: tenants that enhance the financial viability of the Presidio and tenant that facilitate the cost-effective preservation of historic buildings through their reuse of such buildings.

(n) REVERSION.—If, at the expiration of 15 years, the Trust has not accomplished the goals and objectives of the plan required in section (105)(b) of this Title, then all property under the administrative jurisdiction of the Trust pursuant to section (103)(b) of this Title shall be transferred to the Administrator of the General Services Administration to be disposed of in accordance with the procedures outlined in the Defense Authorization Act of 1990 (104 Stat. 1809), and any real property so transferred shall be deleted from the boundary of the Golden Gate National Recreation Area. In the event of such transfer, the terms and conditions of all agreements and loans regarding such lands and facilities entered into by the Trust shall be binding on any successor in interest.

SECTION 105. LIMITATIONS ON FUNDING.

(a)(1) From amounts made available to the Secretary for the operation of areas within the Golden Gate National Recreation Area, not more than $25,000,000 shall [illegible] available to carry out this Title in each fiscal year after the enactment of this Title until the plan is submitted under subsection (b). Such sums shall remain available until expended.

(2) After the plan required in subsection (b) is submitted, and for each of the 14 fiscal years thereafter, there are authorized to be appropriated to the Trust not more than the amounts specified in such plan. Such sums shall remain available until expended. Of such sums, not more than $3 million annually shall be available through the Trust for law enforcement activities and services to be provided by the United States Park Police at the Presidio in accordance with section 104(h) of this Title.

(b) Within one year after the first meeting of the Board of Directors of the Trust, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funding that will achieve, at a minimum, self-sufficiency for the Trust within 15 complete fiscal years after such meeting of the Trust.

(c) The Administrator of the General Services Administration shall provide necessary assistance to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Presidio.

SECTION 106. GENERAL ACCOUNTING OFFICE STUDY.

(a) Three years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this Title.

(b) In consultation with the Trust, the General Accounting Office shall develop an interim schedule and plan to reduce and replace the federal appropriations to the extent practicable for interpretive services conducted by the National Park Service, and law enforcement activities and services, fire and public safety programs conducted by the Trust.

(c) Seven years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct a comprehensive study of the activities of the Trust, including the Trust's progress in meeting its obligations under this Title, taking into consideration the results of the study described in subsection (a) and the implementation of plan and schedule required in subsection (b). The General Accounting Office shall report the results of the study, including any adjustments to the plan and schedule, to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives.

TITLE II—MINOR BOUNDARY ADJUSTMENTS AND MISCELLANEOUS PARK AMENDMENTS

SECTION 201. YUCCA HOUSE NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of Yucca House National Monument are revised to include the approximately 24.27 acres of land generally depicted on the map entitled "Boundary—Yucca House National Monument, Colorado", numbered 318/80,001–B, and dated February 1990.

(b) MAP.—The map referred to in subsection (a) shall be one file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

(c) ACQUISITION.—

(1) IN GENERAL.—Within the lands described in subsection (a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(2) The Secretary of the Interior may pay administrative costs arising out of any donation described in paragraph (1) with appropriated funds.

SECTION 202. ZION NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW¼ of Section 28, Township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is authorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary of Zion National Park to add the 5.48 acres in section 28 to the park and to exclude the 5.51 acres in section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) EXPIRATION.—The authority granted by this section shall expire two years after the date of the enactment of this Title.

SECTION 203. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY ADJUSTMENT.

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on the a entitled "Area Proposed for Addition to Pictured Rocks National Lakeshore," numbered 625–80, 043A, and dated July 1992.

SECTION 204. INDEPENDENCE NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled "Exhibit 1, Independence National Park, Boundary Adjustment", and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

SECTION 205. CRATERS OF THE MOON NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) BOUNDARY REVISION.—The boundary of Craters of the National Monument, Idaho, is revised to add approximately 210 acres and to delete approximately 315 acres as generally depicted on the map entitled "Craters of the Moon National Monument, Idaho, Proposed 1987 Boundary Adjustment", numbered 131–80,008, and dated October 1987, which map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(b) ADMINISTRATION AND ACQUISITION.—Federal lands and interests therein deleted from the boundary of the national monument by this section shall be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Federal lands and interests therein added to the national monument by this section shall be administered by the Secretary as part of the national -monument, subject to the laws and regulations applicable thereto. The Secretary is authorized to acquire private lands and interests therein within the boundary of the national monument by donation, purchase with donated or appropriated funds, or exchange, and when acquired they shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto.

SECTION 206. HAGERMAN FOSSIL BEDS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 302 of the Arizona-Idaho Conservation Act of 1988 (102 Stat. 4576) is amended by adding the following new subsection:

"(d) To further the purposes of the monument, the Secretary is also authorized to acquire from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange not to exceed 65 acres outside the boundary depicted on the map referred to in section 301 and develop and operate thereon research, information, interpretive, and administrative facilities. Lands acquired and facilities developed pursuant to this subsection shall be administered by the Secretary as part of the monument. The boundary of the monument shall be modified to include the lands added under this subsection as a noncontiguous parcel.".

SECTION 207. WUPATKI NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

The boundary of the Wupatki National Monument, Arizona, is hereby revised to include the lands and interests in lands within the area generally depicted as "Proposed Addition 168.89 Acres" on the map entitled "Boundary—Wupatki and Sunset Crater National Monuments, Arizona", numbered 322–80,021, and dated April 1989. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Subject to valid existing rights, Federal lands and interests therein within the area added to the monument by this section are hereby transferred without monetary consideration or reimbursement to the administrative jurisdiction of the National Park Service, to be administered as part of the monument in accordance with the laws and regulations applicable thereto.

SECTION 208. NEW RIVER GORGE NATIONAL RIVER.

Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15) is amended by striking out "NERI–80,023, dated January 1987" and inserting "NERI–80,028, dated January 1993".

SECTION 209. GAULEY RIVER NATIONAL RECREATION AREA.

(a) Section 201(b) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww(b)) is amended by striking out "NRA–GR/20,000A and dated July 1987" and inserting "GARI–80,001 and dated January 1993".

(b) Section 205(c) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–4(c) is amended by adding the following at the end thereof; "If project construction is not commenced within the time required in such license, or if such license is surrendered at any time, such boundary modification shall cease to have any force and effect.".

SECTION 210. BLUESTONE NATIONAL SCENIC RIVER.

Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65) is amended by striking out "WSR–BLU/20,000, and dated January 1987" and inserting "BLUE–80,004, and dated January 1993".

SECTION 211. ADVISORY COMMISSIONS.

(a) KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK.—(1) This subsection under this Title may be cited as the "Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1995".

(2) Notwithstanding section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), the Na Hoa Pili O Kaloko-Honokohau, the Advisory Commission for Kaloko-Honokohau National Historical Park, is hereby re-established in accordance with section 505(f), as amended by paragraph (3) of this section.

(3) Section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), is amended by striking "this Act" and inserting in lieu thereof, "the Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1995".

(b) WOMEN'S RIGHTS NATIONAL HISTORICAL PARK.—(1) This subsection under this Title may be cited as the "Women's Rights National Historical Park Advisory Commission Re-establishment Act of 1995."

(2) Not withstanding section 1601(h)(5) of Public Law 96–607 (16 U.S.C. 410ll(h)(5)), the advisory commission for Women's Rights National Historical Park is hereby re-established in accordance with section 1601(h), as amended by paragraph (3) of this section.

(3) Section 1601(h)(5) of Public Law 96–607 (16 U.S.C. 410ll(h)(5)), is amended by striking "this section" and inserting in lieu thereof, "the Women's Rights National Historical Park Advisory Commission Re-establishment Act of 1995".

SECTION 212. AMENDMENT TO BOSTON NATIONAL HISTORIC PARK ACT.

Section 3(b) of the Boston National Historical Park Act of 1974 (16 U.S.C. 410z–1(b)) is amended by inserting "(1)" before the first sentence thereof and by adding the following at the end thereof:

"(2) The Secretary of the Interior is authorized to enter into a cooperative agreement with the Boston Public Library to provide for the distribution of informational and interpretive materials relating to the park and to the Freedom Trail.".

SECTION 213. CUMBERLAND GAP NATIONAL HISTORICAL PARK.

(a) REMOVAL OF RESTRICTIONS.—The first section of the Act of June 11, 1940, entitled "An Act to provide for the establishment of the Cumberland Gap National Historical Park in Tennessee, Kentucky, and Virginia: (54 Stat. 262, 16 U.S.C. 261 et seq.) is amended by striking out everything after the words "Cumberland Gap National Historical Park" and inserting a period.

(b) USE OF APPROPRIATED FUNDS.—Section 3 of such Act (16 U.S.C. 263) is amended by inserting "or with funds that may be from time to time appropriated for the purpose," after "funds".

SECTION 214. WILLIAM O. DOUGLAS OUTDOOR CLASSROOM.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service, is authorized to enter into cooperative agreements, as specified as subsection (b), relating to Santa Monica Mountains National Recreation Area (hereafter in this Title referred to as "recreation area") in accordance with this section.

(b) COOPERATIVE AGREEMENTS.—The cooperative agreements referred to in subsection (a) are as follows:

(1) A cooperative agreement with appropriate organizations or groups in order to promote education concerning the natural and cultural resources of the recreation area and lands adjacent thereto. Any agreement entered into pursuant to this paragraph—

(A) may provide for Federal matching grants of not more than 50 percent of the total cost of providing a program of such education;

(B) shall provide for visits by students or other beneficiaries to federally owned lands within the recreation area;

VOL
142
PT
5
MR
21
—
29
1996
UMI

(C) shall limit the responsibility of the Secretary to providing interpretation services concerning the natural and cultural resources of the recreation area; and

(D) shall provide that the non-Federal party shall be responsible for any cost of carrying out the agreement other than the cost of providing interpretation services under subparagraph (C).

(2) A cooperative agreement under which—

(A) the Secretary agrees to maintain the facilities at 2600 Franklin Canyon Drive in Beverly Hills, California, for a period of 8 fiscal years beginning with the first fiscal year for which funds are appropriated pursuant to this section, and to provide funding for programs of the William O. Douglas Outdoor Classroom or its successors in interest that utilize those facilities during such period; and in return; or

(B) the William O. Douglas Outdoor Classroom, for itself and any successors in interest with respect to such facilities, agrees that at the end of the term of such agreement all right, title, and interest in and to such facilities will be donated to the United States for addition and operation as part of the recreation area.

(c) EXPENDITURE OF FUNDS.—Federal funds may be expended on non-Federal property located within the recreation area pursuant to the cooperative agreement described in subsection (b)(2).

(d) LIMITATIONS.—(1) The Secretary may not enter into the cooperative agreement described in subsection (b)(2) unless and until the Secretary determines that acquisition of the facilities described in such subsection would further the purposes of the recreation area.

(2) This section shall not be construed as authorizing an agreement by the Secretary for reimbursement of expenses incurred by the William O. Douglas Outdoor Classroom or any successor in interest that are not directly related to the use of such facilities for environmental education and interpretation of the resources and values of the recreation area and associated lands and resources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the 8-year period beginning October 1, 1995, not to exceed $2,000,000 to carry out this section.

SECTION 215. MISCELLANEOUS PROVISIONS.

(a) NEW RIVER CONFORMING AMENDMENTS.—Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15, et seq.) is amended by adding the following new section at the end thereof:

"SEC. 1117. APPLICABLE PROVISIONS OF OTHER LAW.

(a) COOPERATIVE AGREEMENTS.—The provisions of section 202(e)(1) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-1(e)(1)) shall apply to the New River Gorge National River in the same manner and to the same extent as such provisions apply to the Gauley River National Recreation Area.

(b) REMNANTS OF LANDS.—The provisions of the second sentence of section 203(a) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-2(a)) shall apply to tracts of land partially within the boundaries of the New River Gorge National River in the same manner and to the same extent as such provisions apply to the tracts of land only partially within the Gualey River National Recreation Area.".

(b) BLUESTONE RIVER CONFORMING AMENDMENTS.—Section 3(a) (65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking "leases" in the fifth sentence and inserting in lieu thereof "the lease" and in the seventh sentence by striking "such management may be continued pursuant to renewal of such lease agreement. If requested to do so by the State of West Virginia, the Secretary may not terminate such leases and assume administrative authority over the areas concerned." and inserting in lieu thereof the following" "if the State of West Virginia so requests, the Secretary shall renew such lease agreement with the same terms and conditions as contained in such lease agreement on the date of enactment of this paragraph under which the State management shall be continued pursuant to such renewal. If requested to do so by the State or West Virginia, or as provided in such lease agreement, the Secretary may terminate or modify the lease and assume administrative authority over all or part of the areas concerned.".

SECTION 216. GAULEY ACCESS.

Section 202(e) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-1(e) is amended by adding the following new paragraph at the end thereof:

"(4) ACCESS TO THE RIVER.—Within 90 days after the date of enactment of this subsection, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate setting forth a plan to provide river access for non-commercial recreational users within the Gauley River National Recreation Area. The plan shall provide that such access shall utilize existing public roads and rights-of-way to the maximum extent feasible and shall be limited to providing access for such non-commercial users.".

SECTION 217. VISITOR CENTER.

The Secretary of the Interior is authorized to construct a visitor center and such other related facilities as may be deemed necessary to facilitate visitor understanding and enjoyment of the New River Gorge National River and the Gauley River National Recreation Area in the vicinity of the confluence of the New and Gauley Rivers. Such center and related facilities are authorized to be constructed at a site outside of the boundary of the New River Gorge National River or Gauley River National Recreation Area unless a suitable site is available within the boundaries of either unit.

SECTION 218. EXTENSION.

For a 5-year period following the date of enactment of this Act, the provisions of the Wild and Scenic Rivers Act applicable to river segments designated for study for potential addition to the wild and scenic rivers system under subsection 5(b) of that Act shall apply to those segments of the Bluestone and Meadow Rivers which were found eligible in the studies completed by the National Park Service in August 1983 but which were not designated by the West Virginia National Interest River Conservation Act of 1987 as part of the Bluestone National Scenic River or as part of the Gauley National Recreation Area, as the case may be.

SECTION 219. BLUESTONE RIVER PUBLIC ACCESS.

Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1271 and following) is amended by adding the following at the end thereof: "In order to provide reasonable public access and vehicle parking for public use and enjoyment of the river designated by this paragraph, consistent with the preservation and enhancement of the natural and scenic values of such river, the Secretary may, with the consent of the owner thereof, negotiate a memorandum of understanding or cooperative agreement, or acquire lands or interests in such lands, or both, as may be necessary to allow public access to the Bluestone River and to provide, outside the boundary of the scenic river, parking and related facilities in the vicinity of the area known as Eads Mill.".

SECTION 220. LIMITATION ON PARK BUILDINGS.

The 10th undesignated paragraph (relating to a limitation on the expenditure of funds for park buildings) under the heading "MISCELLANEOUS OBJECTS, DEPARTMENT OF THE INTERIOR", which appears under the heading "UNDER THE DEPARTMENT OF THE INTERIOR", as contained in the first section of the Act of August 24, 1912 (37 Stat. 460), as amended (16 U.S.C. 451), is hereby repealed.

SECTION 221. APPROPRIATIONS FOR TRANSPORTATION OF CHILDREN.

The first section of the Act of August 7, 1946 (16 U.S.C. 17j-2), is amended by adding at the end the following:

"(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.".

SECTION 222. FERAL BURROS AND HORSES.

Section 9 of the Act of December 15, 1971 (16 U.S.C. 1338a), is amended by adding at the end thereof the following: "Nothing in this Title shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this Title, or the provisions of section 47(a) of title 18, United States Code, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18, United States Code, shall be applicable to such use.".

SECTION 223. AUTHORITIES OF THE SECRETARY OF THE INTERIOR RELATING TO MUSEUMS.

(a) FUNCTIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), is amended—

(1) in paragraph (b) of the first section, by striking out "from such donations and bequests of money"; and

(2) by adding at the end thereof the following:

"SEC. 2. ADDITIONAL FUNCTIONS.

"(a) In addition to the functions specified in the first section of this Act, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

"(1) Transfer museum objects and museum collections that the Secretary determines are no longer needed for museum purposes to qualified Federal agencies that have programs to preserve and interpret cultural or natural heritage, and accept the transfer of museum objects and museum collections for the purposes of this Act from any other Federal agency, without reimbursement. The head of any other Federal agency may transfer, without reimbursement, museum objects and museum collections directly to the administrative jurisdiction of the Secretary of the Interior for the purpose of this Act.

"(2) Convey museum objects and museum collections that the Secretary determines are no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under

section 501(c)(3) of the Internal Revenue Code of 1986 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpretation of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

"(3) Destroy or cause to be destroyed museum objects and museum collections that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

"(b) The Secretary shall ensure that museum collections are treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a), the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the highest standards of the museum profession for all actions taken under this section.".

(b) APPLICATION AND DEFINITIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), as amended by subsection (a), is further amended by adding the following:

"SEC. 3. APPLICATION AND DEFINITIONS.

"(a) APPLICATION.—Authorities in this Act shall be available to the Secretary of the Interior with regard to museum objects and museum collections that were under the administrative jurisdiction of the Secretary for the purposes of the National Park System before the date of enactment of this section as well as those museum objects and museum collections that may be acquired on or after such date.

"(b) DEFINITION.—For the purposes of this Act, the terms 'museum objects' and 'museum collections' mean objects that are eligible to be or are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.".

SECTION 224. VOLUNTEERS IN PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j.) is amended by striking out "1,000,000" and inserting in lieu thereof "$1,750,000".

SECTION 225. COOPERATIVE AGREEMENTS FOR RESEARCH PURPOSES.

Section 3 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and for other purposes" approved August 18, 1970 (16 U.S.C. 1a-2), is amended—

(1) in paragraph (i), by striking the period at the end and thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(j) enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, or private conservation organizations for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to any such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.".

SECTION 226. CARL GARNER FEDERAL LANDS CLEANUP DAY.

The Federal Lands Cleanup Act of 1985 (Public Law 99-402; U.S.C. 1691-1691-1) is amended by striking the terms "Federal Lands Cleanup Day" or "Federal Lands National Cleanup Day" each place they occur and inserting in lieu thereof, "Carl Garner Federal Lands Cleanup Day."

SECTION 227. FORT PULASKI NATIONAL MONUMENT, GA.

Section 4 of the Act of June 26, 1936 (ch. 844; 49 Stat. 1979), is amended by striking ": *Provided*, That" and all that follows and inserting a period.

SECTION 228. LAURA C. HUDSON VISITOR CENTER.

(a) DESIGNATION.—The visitor center at Jean Lafitte National Historical Park, located at 419 Rue Decatur in New Orleans, Louisiana, is hereby designated as the "Laura C. Hudson Visitor Center."

(b) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "Laura C. Hudson Visitor Center".

SECTION 229. UNITED STATES CIVIL WAR CENTER.

(a) FINDINGS.—The Congress finds that—

(1) the sesquicentennial of the beginning of the Civil War will occur in the year 2011;

(2) the sesquicentennial will be the last significant opportunity for most Americans alive in the year 2011 to recall and commemorate the Civil War;

(3) the Civil War Center in Louisiana State University in Baton Rouge, Louisiana, has as its principal missions to create a comprehensive database that contains all Civil War materials and to facilitate the study of the Civil War from the perspectives of all ethnic cultures and all professions; academic disciplines, and occupation;

(4) the two principal missions of the Civil War Center are consistent with commemoration of the sesquicentennial;

(5) the missions of the Civil War Institute at Gettysburg College parallel those of the Civil War Center; and

(6) advance planning to facilitate the four-year commemoration of the sesquicentennial is required.

(b) DESIGNATION.—The Civil War Center, located on Raphael Semmes Drive at Louisiana State University in Baton Rouge, Louisiana, (hereinafter in this section referred to as the "center") shall be known and designated as the "United States Civil War Center".

(c) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the center referred to in subsection (b) shall be deemed to be a reference to the "United States Civil War Center".

(d) FLAGSHIP INSTITUTIONS.—The center and the Civil War Institute of Gettysburg College, located at 233 North Washington Street in Gettysburg, Pennsylvania, shall be the flagship institutions for planning the sesquicentennial commemoration of the Civil War.

TITLE III—ROBERT J. LAGOMARSINO VISITOR CENTER

SECTION 301. DESIGNATION.

The visitor center at the Channel Islands National Park, California, is designated as the "Robert J. Lagomarsino Visitor Center".

SEC. 302. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the visitor center referred to in section 301 is deemed to be a reference to the "Robert J. Lagomarsino Visitor Center".

TITLE VI—ROCKY MOUNTAIN NATIONAL PARK VISITOR CENTER

SECTION 401. VISITOR CENTER.

The Secretary of the Interior is authorized to collect and expend donated funds and expend appropriated funds for the operation and maintenance of a visitor center to be constructed for visitors to and administration of Rocky Mountain National Park with private funds on lands located outside the boundary of the park.

TITLE V—CORINTH, MISSISSIPPI, BATTLEFIELD ACT

SECTION 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the sites located in the vicinity of Corinth, Mississippi, that were Designated as a National Historic Landmark by the Secretary of the Interior in 1991 represent nationally significant events in the Siege and Battle of Corinth during the Civil War; and

(2) the landmark sites should be preserved and interpreted for the benefit, inspiration, and education of the people of the United States.

(b) PURPOSE.—The purpose of this Title is to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the Region and to enhance public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

SECTION 502. ACQUISITION OF PROPERTY AT CORINTH, MISSISSIPPI.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Title as the "Secretary") shall acquire by donation, purchase with donated or appropriated funds, or exchange, such land and interests in land in the vicinity of the Corinth Battlefield, in the State of Mississippi, as the Secretary determines to be necessary for the construction of an interpretive center to commemorate and interpret the 1862 Civil War Siege and Battle of Corinth.

(b) PUBLICLY OWNED LAND.—Land and interests in land owned by the State of Mississippi or a political subdivision of the State of Mississippi may be acquired only by donation.

SECTION 503. INTERPRETIVE CENTER AND MARKING.

(a) INTERPRETIVE CENTER.—

(1) CONSTRUCTION OF CENTER.—The Secretary shall construct, operate, and maintain on the property acquired under section 502 a center for the interpretation of the Siege and Battle of Corinth and associated historical events for the benefit of the public.

(2) DESCRIPTION.—The center shall contain approximately 5,300 square feet, and include interpretive exhibits, an auditorium, a parking area, and other features appropriate to public appreciation and understanding of the site.

(b) MARKING.—The Secretary may mark sites associated with the Siege and Battle of Corinth National Historic Landmark, as designated on May 6, 1991, if the sites are determined by the Secretary to be protected by State or local governmental agencies.

(c) ADMINISTRATION.—The land and interests in land acquired, and the facilities constructed and maintained pursuant to this

VOL
142
PT
5
MR
21
—
29
1996
UMI

Title, shall be administered by the Secretary as a part of Shiloh National Military Park, subject to the appropriate laws (including regulations) applicable to the Park, the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

SECTION 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated such sums as are necessary to carry out this Title.

(b) CONSTRUCTION.—Of the amounts made available to carry out this Title, not more than $6,000,000 may be used to carry out section 503(a).

TITLE VI—WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION

SECTION 601. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that:

(1) Walnut Canyon National Monument was established for the preservation and interpretation of certain settlements and land use patterns associated with the prehistoric Sinaguan culture of northern Arizona.

(2) Major cultural resources associated with the purposes of Walnut Canyon National Monument are near the boundary and are currently managed under multiple-use objectives of the adjacent national forest. These concentrations of cultural resources, often referred to as "forts", would be more effectively managed as part of the National Park System.

(b) PURPOSE.—The purpose of this Title is to modify the boundaries of the Walnut Canyon National Monument (hereafter in this Title referred to as the "national monument") to improve management of the national monument and associated resources.

SECTION 602. BOUNDARY MODIFICATION.

Effective on the date of enactment of this Act, the boundaries of the national monument shall be modified as depicted on the map entitled "Boundary Proposal—Walnut Canyon National Monument, Coconino County, Arizona", numbered 360/80,010, and dated September 1994. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior. The Secretary of the Interior, in consultation with the Secretary of Agriculture, is authorized to make technical and clerical corrections to such map.

SECTION 603. ACQUISITION AND TRANSFER OF PROPERTY.

The Secretary of the Interior is authorized to acquire lands and interest in lands within the national monument, by donation, purchase with donated or appropriated funds, or exchange. Federal property within the boundaries of the national monument (as modified by this Title) is hereby transferred to the administrative jurisdiction of the Secretary of the Interior for management as part of the national monument. Federal property excluded from the monument pursuant to the boundary modification under section 603 is hereby transferred to the administrative jurisdiction of the Secretary of Agriculture to be managed as a part of the Coconino National Forest.

SECTION 604. ADMINISTRATION.

The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national monument in accordance with this Title and the provisions of law generally applicable to units of the National Park Service, including "An Act to establish a National Park Service, and for other purposes" approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4).

SECTION 605. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out this Title.

TITLE VII—DELAWARE WATER GAP

SECTION 701. PROHIBITION OF COMMERCIAL VEHICLES.

(a) IN GENERAL.—Effective at noon on September 30, 2005, the use of Highway 209 within Delaware Water Gap National Recreation Area by commercial vehicles, when such use is not connected with the operation of the recreation area, is prohibited, except as provided in subsection (b).

(b) LOCAL BUSINESS USE PROTECTED.—Subsection (a) does not apply with respect to the use of commercial vehicles to serve businesses located within or in the vicinity of the recreation area, as determined by the Secretary.

(c) CONFORMING PROVISIONS.—

(1) Paragraphs (1) through (3) of the third undesignated paragraph under the heading "ADMINISTRATIVE PROVISIONS" in chapter VII of title I of Public Law 98–63 (97 Stat. 329) are repealed, effective September 30, 2005.

(2) Prior to noon on September 30, 2005, the Secretary shall collect and utilize a commercial use fee from commercial vehicles in accordance with paragraphs (1) through (3) of such third undesignated paragraph. Such fee shall not exceed $25 per trip.

TITLE VIII—TARGHEE NATIONAL FOREST LAND EXCHANGE

SECTION 801. AUTHORIZATION OF EXCHANGE.

(a) CONVEYANCE.—Notwithstanding the requirements in the Act entitled "An Act to Consolidate National Forest Lands", approved March 20, 1922 (16 U.S.C. 485), and section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) that Federal and non-Federal lands exchanged for each other must be located within the same State, the Secretary of Agriculture may convey the Federal lands described in section 802(a) in exchange for the non-Federal lands described in section 802(b) in accordance with the provisions of this Title.

(b) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Except as otherwise provided in this Title, the land exchange authorized by this section shall be made under the existing authorities of the Secretary.

(c) ACCEPTABILITY OF TITLE AND MANNER OF CONVEYANCE.—The Secretary shall not carry out the exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

SECTION 802. DESCRIPTION OF LANDS TO BE EXCHANGED.

(a) FEDERAL LANDS.—The Federal lands referred to in this Title are located in the Targhee National Forest in Idaho, are generally depicted on the map entitled "Targhee Exchange, Idaho-Wyoming—Proposed, Federal Land", dated September 1994, and are known as the North Fork Tract.

(b) NON-FEDERAL LANDS.—The non-Federal lands referred to in this Title are located in the Targhee National Forest in Wyoming, are generally depicted on the map entitled "Non-Federal land, Targhee Exchange, Idaho-Wyoming—Proposed". dated September 1994, and are known as the Squirrel Meadows Tract.

(c) MAPS.—The maps referred to in subsections (a) and (b) shall be on file and available for inspection in the office of the Targhee National Forest in Idaho and in the office of the Chief of the Forest Service.

SECTION 803. EQUALIZATION OF VALUES.

Prior to the exchange authorized by section 801, the values of the Federal and non-Federal lands to be so exchanged shall be established by appraisals of fair market value that shall be subject to approval by the Secretary. The values either shall be equal or shall be equalized using the following methods:

(1) ADJUSTMENT OF LANDS.—

(A) PORTION OF FEDERAL LANDS.—If the Federal lands are greater in value than the non-Federal lands, the Secretary shall reduce the acreage of the Federal lands until the values of the Federal lands closely approximate the values of the non-Federal lands.

(B) ADDITIONAL FEDERALLY-OWNED LANDS.—If the non-Federal lands are greater in value than the Federal lands, the Secretary may convey additional federally owned lands within the Targhee National Forest up to an amount necessary to equalize the values of the non-Federal lands and the lands to be transferred out of Federal ownership. However, such additional federally owned lands shall be limited to those meeting the criteria for land exchanges specified in the Targhee National Forest Land and Resource Management Plan.

(2) PAYMENT OF MONEY.—The values may be equalized by the payment of money as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

SECTION 804. DEFINITIONS.

For purpose of this Title:

(1) The term "Federal lands" means the Federal lands described in section 802(a).

(2) The term "non-Federal lands" means the non-Federal lands described in section 802(b).

(3) The term "Secretary" means the Secretary of Agriculture.

TITLE IX—DAYTON AVIATION

Section 201(b) of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419, approved October 16, 1992), is amended as follows:

(1) In paragraph (2), by striking "from recommendations" and inserting "after consideration of recommendations".

(2) In paragraph (4), by striking "from recommendations" and inserting "after consideration of recommendations".

(3) In paragraph (5), by striking "from recommendations" and inserting "after consideration of recommendations".

(4) In paragraph (6), by striking "from recommendations" and inserting "after consideration of recommendations".

(5) In paragraph (7), by striking "from recommendations" and inserting "after consideration of recommendations".

TITLE X—CACHE LA POUDRE

SECTION 1001. PURPOSE.

The purpose of this Title is to designate the Cache La Poudre River National Water Heritage Area within the Cache La Poudre River Basin and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Area.

SECTION 1002. DEFINITIONS.

As used in this Title:

(1) AREA.—The term "Area" means the Cache La Poudre River National Water Heritage Area established by section 1003(a).

(2) COMMISSION.—The term "Commission" means the Cache La Poudre River National Water Heritage Area Commission established by section 1004(a).

(3) GOVERNOR.—The term "Governor" means the Governor of the State of Colorado.

(4) PLAN.—The term "Plan" means the water heritage area interpretation plan prepared by the Commission pursuant to section 1008(a).

(5) POLITICAL SUBDIVISION OF THE STATE.—The term "political subdivision of the State" means a political subdivision of the State of Colorado, any part of which is located in or adjacent to the Area, including a county, city, town, water conservancy district, or special district.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SECTION 1003. ESTABLISHMENT OF THE CACHE LA POUDRE RIVER NATIONAL WATER HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State of Colorado the Cache La Poudre River National Water Heritage Area.

(b) BOUNDARIES.—The boundaries of this Area shall include those lands within the 100-year flood plain of the Cache La Poudre River Basin, beginning at a point where the Cache La Poudre River flows out of the Roose velt National Forest and continuing east along said floodplain to a point one quarter of one mile west of the confluence of the Cache La Poudre River and the South Platte Rivers in Weld County, Colorado, comprising less than 35,000 acres, and generally depicted as the 100-year flood boundary on the Federal Flood Insurance maps listed below:

(1) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0146B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(2) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0147B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(3) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0162B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(4) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0163C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(5) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0178C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(6) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080102 0002B, February 15, 1984. Federal Emergency Management Agency, Federal Insurance Administration.

(7) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0179C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(8) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0193D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(9) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0194D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(10) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0208C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(11) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0221C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(12) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0605D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(13) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080264 0005A, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(14) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0608D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(15) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0609C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(16) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0628C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(17) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080184 0002B, July 16, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(18) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0636C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(19) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0637C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

As soon as practicable after the date of enactment of this Title, the Secretary shall publish in the Federal Register a detailed description and map of the boundaries of the Area.

(c) PUBLIC ACCESS TO MAPS.—The maps shall be on file and available for public inspection in—

(1) the offices of the Department of the Interior in Washington, District of Columbia, and Denver, Colorado; and

(2) local offices of the city of Fort Collins, Larimer Country, the city of Greeley, and Weld County.

SECTION 1004. ESTABLISHMENT OF THE CACHE LA POUDRE RIVER NATIONAL WATER HERITAGE AREA COMMISSION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Cache La Poudre River National Water Heritage Area Commission.

(2) FUNCTION.—The Commission, in consultation with appropriate Federal, State, and local authorities, shall develop and implement an integrated plan to interpret elements of the history of water development within the Area.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members appointed not later than 6 months after the date of enactment of this Title. Of these 15 members—

(A) 1 member shall be a representative of the Secretary of the Interior which member shall be an ex officio member;

(B) 1 member shall be a representative of the Forest Service, appointed by the Secretary of Agriculture, which member shall be an ex officio member;

(C) 3 members shall be recommended by the Governor and appointed by the Secretary, of whom—

(i) 1 member shall represent the State;

(ii) 1 member shall represent Colorado State University in Fort Collins; and

(iii) 1 member shall represent the Northern Colorado Water Conservancy District;

(D) 6 members shall be representatives of local governments who are recommended by the Governor and appointed by the Secretary, of whom—

(i) 1 member shall represent the city of Fort Collins;

(ii) 2 members shall represent Larimer County, 1 of which shall represent agriculture of irrigated water interests;

(iii) 1 member shall represent the city of Greeley;

(iv) 2 members shall represent Weld County, 1 of which shall represent agricultural or irrigated water interests; and

(v) 1 member shall represent the city of Loveland; and

(E) 3 members shall be recommended by the Governor and appointed by the Secretary, and shall—

(i) represent the general public;

(ii) be citizens of the State; and

(iii) reside within the Area.

(2) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission from among members appointed under subparagraph (C), (D), or (E) of paragraph (1). The chairperson shall be elected for a 2-year term.

(3) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(c) TERMS OF SERVICE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each member of the Commission shall be appointed for a term of 3 years and may be reappointed.

(2) INITIAL MEMBERS.—The initial members of the Commission first appointed under subsection (b)(1) shall be appointed as follows:

(A) 3-YEAR TERMS.—The following initial members shall serve for a 3-year term:

(i) The representative of the Secretary of the Interior.

(ii) 1 representative of Weld County.

(iii) 1 representative of Larimer County.

(iv) 1 representative of the city of Loveland.

(v) 1 representative of the general public.

(B) 2-YEAR TERMS.—The following initial members shall serve for a 2-year term:

(i) The representative of the Forest Service.

(ii) The representative of the State.

(iii) The representative of Colorado State University.

(iv) The representative of the Northern Colorado Water Conservancy District.

(C) 1-YEAR TERMS.—The following initial members shall serve for a 1-year term:

(i) 1 representative of the city of Fort Collins.

(ii) 1 representative of Larimer County.

(iii) 1 representative of the city of Greeley.

(iv) 1 representative of Weld County.

(v) 1 representative of the general public.

VOL
142
PT
5
MR
21
—
29
1996
UMI

(3) PARTIAL TERMS.—

(A) FILLING VACANCIES.—A member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of their term.

(B) EXTENDED SERVICE.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

(d) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission.

(e) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

SECTION 1005. STAFF OF THE COMMISSION.

(a) STAFF.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out the duties of the Commission.

(1) APPOINTMENT AND COMPENSATION.—Staff appointed by the Commission—

(A) shall be appointed without regard to the city service laws and regulations; and

(B) shall be compensated without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(c) STAFF OF OTHER AGENCIES.—

(1) FEDERAL.—Upon request of the Commission, the head of a Federal agency may detail, on a reimbursement basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the Commission's duties. The detail shall be without interruption or loss of civil service status or privilege.

(2) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(3) STATE.—The Commission may—

(A) accept the service of personnel detailed from the State, State agencies, and political subdivisions of the State; and

(B) reimburse the State, State agency, or political subdivision of the State for such services.

SECTION 1006. POWERS OF THE COMMISSION.

(a) HEARINGS.—

(1) IN GENERAL.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out this Title.

(2) SUBPOENAS.—The Commission may not issue subpoenas or exercise any subpoena authority.

(b) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(c) MATCHING FUNDS.—The Commission may use its funds to obtain money from any source under a program or law requiring the recipient of the money to make a contribution in order to receive the money.

(d) GIFTS.—

(1) IN GENERAL.—Except as provided in subsection (e)(3), the Commission may, for the purpose of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services received from any source.

(2) CHARITABLE CONTRIBUTIONS.—For the purpose of section 170(c) of the Internal Revenue Code of 1986, a gift to the Commission shall be deemed to be a gift to the United States.

(e) REAL PROPERTY.—

(1) IN GENERAL.—Except as provided in paragraph (2) and except with respect to a leasing of facilities under section 6(c)(2), the Commission may not acquire real property or an interest in real property.

(2) EXCEPTION.—Subject to paragraph (3), the Commission may acquire real property in the Area, and interests in real property in the Area—

(A) by gift or device;

(B) by purchase from a willing seller with money that was given or bequeathed to the Commission; or

(C) by exchange.

(3) CONVEYANCE TO PUBLIC AGENCIES.—Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate non-Federal public agency, as determined by the Commission. The conveyance shall be made—

(A) as soon as practicable after acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used in furtherance of the purpose for which the Area is established.

(f) COOPERATIVE AGREEMENTS.—For the purpose of carrying out the Plan, the Commission may enter into cooperative agreements with Federal agencies, State agencies, political subdivisions of the State, and persons. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action that may affect the implementation of the Plan.

(g) ADVISORY GROUPS.—The Commission may establish such advisory groups as it considers necessary to ensure open communication with, and assistance from Federal agencies, State agencies, political subdivisions of the State, and interested persons.

(h) MODIFICATION OF PLANS.—

(1) IN GENERAL.—The Commission may modify the Plan if the Commission determines that such modification is necessary to carry out this Title.

(2) NOTICE.—No modification shall take effect until—

(A) any Federal agency, State agency, or political subdivision of the State that may be affected by the modification receives adequate notice of, and an opportunity to comment on, the modification;

(B) if the modification is significant, as determined by the Commission, the Commission has—

(i) provided adequate notice of the modification by publication in the area of the Area; and

(ii) conducted a public hearing with respect to the modification; and

(C) the Governor has approved the modification.

SECTION 1007. DUTIES OF THE COMMISSION.

(a) PLAN.—The Commission shall prepare, obtain approval for, implement, and support the Plan in accordance with section 9.

(b) MEETINGS.—

(1) TIMING.—

(A) INITIAL MEETING.—The Commission shall hold its first meeting not later than 90 days after the date on which its last initial member is appointed.

(B) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the chairperson or 7 of its members, except that the commission shall meet at least quarterly .

(2) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(3) BUDGET.—The affirmative vote of not less than 10 members of the Commission shall be required to approve the budget of the Commission.

(c) ANNUAL REPORTS.—Not later than May 15 of each year, following the year in which the members of the Commission have been appointed, the Commission shall publish and submit to the Secretary and to the Governor, an annual report concerning the Commission's activities.

SECTION 1008. PREPARATION, REVIEW, AND IMPLEMENTATION OF THE PLAN.

(a) PREPARATION OF PLAN.—

(1) IN GENERAL.—Not later than 2 years after the Commission conducts its first meeting, the Commission shall submit to the Governor a Water Heritage Area Interpretation Plan.

(2) DEVELOPMENT.—In developing the Plan, the Commission shall—

(A) consult on a regular basis with appropriate officials of any Federal or State agency, political subdivision of the State, and local government that has jurisdiction over or an ownership interest in land, water, or water rights within the Area; and

(B) conduct public hearings within the Area for the purpose of providing interested persons the opportunity to testify about matters to be addressed by the Plan.

(3) RELATIONSHIP TO EXISTING PLANS.—The Plan—

(A) shall recognize any existing Federal, State, and local plans;

(B) shall not interfere with the implementation, administration, or amendment of such plans; and

(C) to the extent feasible, shall seek to coordinate the plans and present a unified interpretation plan for the Area.

(b) REVIEW OF PLAN.—

(1) IN GENERAL.—The Commission shall submit the Plan to the Governor for his review.

(2) GOVERNOR.—The Governor may review the Plan and if he concurs in the Plan, may submit the Plan to the Secretary, together with any recommendations.

(3) SECRETARY.—The Secretary shall approve or disapprove the Plan within 90 days. In reviewing the Plan, the Secretary shall consider the adequacy of—

(A) public participation; and

(B) the Plan in interpreting, for the educational and inspirational benefit or present and future generations, the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Area.

(c) DISAPPOVAL OF PLAN.—

(1) NOTIFICATION BY SECRETARY.—If the Secretary disapproves the Plan, the Secretary shall, not later than 60 days after the date of disapproval, advise the Governor and the Commission of the reasons for disapproval, together with recommendations for revision.

(2) REVISION AND RESUBMISSION TO GOVERNOR.—Not later than 90 days after receipt of the notice of disapproval, the Commission shall revise and resubmit the Plan to the Governor for review.

(3) RESUBMISSION TO SECRETARY.—If the Governor concurs in the revised Plan, he may submit the revised Plan to the Secretary who shall approve or disapprove the revision within 60 days. If the Governor does not concur in the revised Plan, he may resubmit it to the Commission together with his recommendations for further consideration and modification.

(d) IMPEMENTATION OF PLAN.—After approval by the Secretary, the Commission shall implement and support the Plan as follows:

(1) CULTURAL RESOURCES.—

(A) IN GENERAL.—The Commission shall assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the conservation and interpretation of cultural resources within the Area.

(B) EXCEPTION.—In providing the assistance, the Commission shall in no way infringe upon the authorities and policies of a Federal agency, State agency, or political subdivision of the State concerning the administration and management of property, water, or water rights held by such agency, political subdivision, or private persons or entities, or affect the jurisdiction of the State of Colorado over any property, water, or water rights within the Area.

(2) PUBLIC AWARENESS.—The Commission shall assist in the enhancement of public awareness of, and appreciation for, the historical, recreational, architectural, and engineering structures in the Area, and the archaeological, geological, and cultural resources and sites in the Area—

(A) by encouraging private owners of identified structures, sites, and resources to adopt voluntary measures for the preservation of the identified structure, site, or resource; and

(B) by cooperating with Federal agencies, State agencies, and political subdivisions of the State in acquiring, on a willing seller basis, any identified structure, site, or resource which the Commission, with the concurrence of the Governor, determines should be acquired and held by an agency of the State.

(3) RESTORATION.—The Commission may assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the restoration of any identified structure or site in the Area with consent of the owner. The assistance may include providing technical assistance for historic preservation, revitalization, and enhancement efforts.

(4) INTERPRETATION.—The Commission shall assist in the interpretation of the historical, present, and future uses of the Area—

(A) by consulting with the Secretary with respect to the implementation of the Secretary's duties under section 1010;

(B) by assisting the State and political subdivisions of the State in establishing and maintaining visitor orientation centers and other interpretive exhibits within the Area;

(C) by encouraging voluntary cooperation and coordination, with respect to ongoing interpretive services in the Area, among Federal agencies, State agencies, political subdivisions of the State, nonprofit organizations, and private citizens, and

(D) by encouraging Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations to undertake new interpretive initiatives with respect to the Area.

(5) RECOGNITION.—The Commission shall assist in establishing recognition for the Area by actively promoting the cultural, historical, natural, and recreational resources of the Area on a community, regional, statewide, national, and international basis.

(6) LAND EXCHANGES.—The Commission shall assist in identifying and implementing land exchanges within the State of Colorado by Federal and State agencies that will expand open space and recreational opportunities within the flood plain of the Area.

SECTION 1009. TERMINATION OF TRAVEL EXPENSES PROVISION.

Effective on the date that is 5 years after the date on which the Secretary approves the Plan, section 5 is amended by striking subsection (e).

SECTION 1010. DUTIES OF THE SECRETARY.

(a) ACQUISITION OF LAND.—The Secretary may acquire land and interests in land within the Area that have been specifically identified by the Commission for acquisition by the Federal government and that have been approved for such acquisition by the Governor and the political subdivision of the State where the land is located by donation, purchase with donated or appropriated funds, or exchange. Acquisition authority may only be used if such lands cannot be acquired by donation or exchange. No land or interest in land may be acquired without the consent of the owner.

(b) TECHNICAL ASSISTANCE.—The Secretary shall, upon the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the Plan pursuant to section 1008.

(c) DETAIL.—Each fiscal year during the existence of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under section 1007.

SECTION 1011. OTHER FEDERAL ENTITIES.

(a) DUTIES.—Subject to section 1001, a Federal entity conducting or supporting activities directly affecting the flow of the Cache La Poudre River through the Area, or the natural resources of the Area shall consult with the Commission with respect to such activities;

(b) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary or Administrator of a Federal agency may acquire land in the flood plain of the Area by exchange for other lands within such agency's jurisdiction within the State of Colorado, based on fair market value: *Provided*, That such lands have been identified by the Commission for acquisition by a Federal agency and the Governor and the political subdivision of the State or the owner where the lands are located concur in the exchange. Land so acquired shall be used to fulfill the purpose for which the Area is established.

(2) AUTHORIZATION TO CONVEY PROPERTY.—The first sentence of section 203(k)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(3)) is amended by striking "historic monument, for the benefit of the public" and inserting "historic monument or any such property within the State of Colorado for the Cache La Poudre River National Water Heritage Area, for the benefit of the public".

SECTION 1012. EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS, RESTRICTIONS, AND SAVINGS PROVISIONS.

(a) EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS.—

(1) VOLUNTARY COOPERATION.—In carrying out this Title, the Commission and Secretary shall emphasize voluntary cooperation.

(2) RULES, REGULATIONS, STANDARDS, AND PERMIT PROCESSES.—Nothing in this Title shall be considered to impose or form the basis for imposition of any environmental, occupational, safety, or other rule, regulation, standard, or permit process that is different from those that would be applicable had the Area not been established.

(3) ENVIRONMENTAL QUALITY STANDARDS.—Nothing in this Title shall be considered to impose the application or administration of any Federal or State environmental quality standard that is different from those that will be applicable had the Area not been established.

(4) WATER STANDARDS.—Nothing in this Title shall be considered to impose any Federal or State water use designation or water quality standard upon uses of, or discharges to, waters of the State or waters of the United States, within or adjacent to the Area, that is more restrictive than those that would be applicable had the Area not been established.

(5) PERMITTING OF FACILITIES.—Nothing in the establishment of the Area shall abridge, restrict, or alter any applicable rule, regulation, standard, or review procedure for permitting of facilities within or adjacent to the Area.

(6) WATER FACILITIES.—Nothing in the establishment of the Area shall affect the continuing use and operation, repair, rehabilitation, expansion, or new construction of water supply facilities, water and wastewater treatment facilities, stormwater facilities, public utilities, and common carriers.

(7) WATER AND WATER RIGHTS.—Nothing in the establishment of the Area shall be considered to authorize or imply the reservation or appropriation of water or water rights for any purpose.

(b) RESTRICTIONS ON COMMISSION AND SECRETARY.—Nothing in this Title shall be construed to vest in the Commission or the Secretary the authority to—

(1) require a Federal agency, State agency, political subdivision of the State, or private person (including an owner of private property) to participate in a project or program carried out by the Commission or the Secretary under the Title;

(2) intervene as a party in an administrative or judicial proceeding concerning the application or enforcement of a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including, but not limited to, authority relating to—

(A) land use regulation;

(B) environmental quality;

(C) licensing;

(D) permitting;

(E) easements;

(F) private land development; or

(G) other occupational or access issue;

(3) establish or modify a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including authority relating to—

(A) land use regulation;

(B) environmental quality; or

(C) pipeline or utility crossings;

(4) modify a policy of a Federal agency, State agency, or political subdivision of the State;

(5) attest in any manner the authority and jurisdiction of the State with respect to the acquisition of lands or water, or interest in lands or water;

(6) vest authority to reserve or appropriate water or water rights in any entity for any purpose;

VOL
142
PT
5
MR
21
—
29
1996
UMI

(7) deny, condition, or restrict the construction, repair, rehabilitation, or expansion of water facilities, including stormwater, water, and wastewater treatment facilities; or

(8) deny, condition, or restrict the exercise of water rights in accordance with the substantive and procedural requirements of the laws of the state.

(c) SAVINGS PROVISION.—Nothing in this Title shall diminish, enlarge, or modify a right of a Federal agency, State agency, or political subdivision of the State—

(1) to exercise civil and criminal jurisdiction within the Area; or

(2) to tax persons, corporations, franchises, or property, including minerals and other interests in or on lands or waters within the urban river corridor portions of the Area.

(d) ACCESS TO PRIVATE PROPERTY.—Nothing in this Title requires an owner of private property to allow access to the property by the public.

SECTION 1013. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated not to exceed $50,000 to the Commission to carry out this Act.

(b) MATCHING FUNDS.—Funds may be made available pursuant to this section only to the extent they are matched by equivalent funds or in-kind contributions of services or materials from non-Federal sources.

TITLE XI—GILPIN COUNTY, COLORADO LAND EXCHANGE

SECTION 1101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares that—

(1) certain scattered parcels of Federal land located within Gilpin County, Colorado, are currently administered by the Secretary of the Interior as part of the Royal Gorge Resource Area, Canon City District, United States Bureau of Land Management;

(2) these land parcels, which comprises approximately 133 separate tracts of land, and range in size from approximately 38 acres to much less than an acre have been identified as suitable for disposal by the Bureau 'of Land Management through its resource management planning process and are appropriate for disposal; and

(3) even though the Federal land parcels in Gilpin County, Colorado, are scattered and small in size, they nevertheless by virtue of their proximity to existing communities appear to have a fair market value which may be used by the Federal Government to exchange for lands which will better lend themselves to Federal management and have higher values for future public access, use and enjoyment, recreation, the protection and enhancement of fish and wildlife and fish and wildlife habitat, and the protection of riparian lands, wetlands, scenic beauty and other public values.

(b) PURPOSE.—It is the purpose of this Title to authorize, direct, facilitate and expedite the land exchange set forth herein in order to further the public interest by disposing of Federal lands with limited public utility and acquire in exchange therefor lands with important values for permanent public management and protection.

SECTION 1102. LAND EXCHANGE.

(a) IN GENERAL.—The exchange directed by this Title shall be consummated if within 90 days after enactment of this Act, Lake Gulch, Inc., a Colorado Corporation (as defined in section 1104 of this Title) offers to transfer to the United States pursuant to the provisions of this Title the offered lands or interests in land described herein.

(b) CONVEYANCE BY LAKE GULCH.—Subject to the provisions of section 1103 of this Title, Lake Gulch shall convey to the Secretary of the Interior all right, title, and interest in and to the following offered lands—

(1) certain lands comprising approximately 40 acres with improvements thereon located in Larimer County, Colorado, and lying within the boundaries of Rocky Mountain National Park as generally depicted on a map entitled "Circle C Church Camp", dated August 1994, which shall upon their acquisition by the United States and without further action by the Secretary of the Interior be incorporated into Rocky Mountain National Park and thereafter be administered in accordance with the laws, rules and regulations generally applicable to the National Park System and Rocky Mountain National Park;

(2) certain lands located within and adjacent to the United States Bureau of Land Management San Luis Resource Area in Conejos County, Colorado, which comprise approximately 3,993 acres and are generally depicted on a map entitled "Quinlan Ranches Tract", dated August 1994; and

(3) certain lands located within the United States Bureau of Land Management Royal Gorge Resource Area in Huerfano County, Colorado, which comprise approximately 4,700 acres and are generally depicted on a map entitled "Bonham Ranch-Cucharas Canyon", dated June 1995: *Provided, however*, That it is the intention of Congress that such lands may remain available for the grazing of livestock as determined appropriate by the Secretary in accordance with applicable laws, rules, and regulations: *Provided further*, That if the Secretary determines that certain of the lands acquired adjacent to Cucharas Canyon hereunder are not needed for public purposes they may be sold in accordance with the provisions of section 203 of the Federal Land Policy and Management Act of 1976 and other applicable law.

(c) SUBSTITUTION OF LANDS.—If one or more of the precise offered land parcels identified above is unable to be conveyed to the United States due to appraisal or other problems, Lake Gulch and the Secretary may mutually agree to substitute therefor alternative offered lands acceptable to the Secretary.

(d) COVEYANCE BY THE UNITED STATES.—(1) Upon receipt of title to the lands identified in subsection (a) the Secretary shall simultaneously convey to Lake Gulch all right, title, and interest of the United States, subject to valid existing rights, in and to the following selected lands—

(A) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 18, Lots 118–220, which comprise approximately 195 acres and are intended to include all federally owned lands in section 18, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994;

(B) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 17, Lots 37, 38, 39, 40, 52, 53, and 54, which comprise approximately 96 acres, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994; and

(C) certain unsurveyed lands located in Gilpin County, Colorado, Township 3 South, Range, 73 West, Sixth Principal Meridian, Section 13, which comprise approximately 11 acres, and are generally depicted as parcels 302–304, 306 and 308–326 on a map entitled "Lake Gulch Selected Lands", dated July 1994: *Provided, however*, That a parcel or parcels of land in section 13 shall not be transferred to Lake Gulch if at the time of the proposed transfer the parcel or parcels are under formal application for transfer to a qualified unit of local government. Due to the small and unsurveyed nature of such parcels proposed for transfer to Lake Gulch in section 13, and the high cost of surveying such small parcels, the Secretary is authorized to transfer such section 13 lands to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate to carry out the basic intent of the map cited in this subparagraph.

(2) If the Secretary and Lake Gulch mutually agree, and the Secretary determines it is in the public interest, the Secretary may utilize the authority and direction of this Title to transfer to Lake Gulch lands in sections 17 and 13 that are in addition to those precise selected lands shown on the map cited herein, and which are not under formal application for transfer to a qualified unit of local government, upon transfer to the Secretary of additional offered lands acceptable to the Secretary or upon payment to the Secretary by Lake Gulch of cash equalization money amounting to the full appraised fair market value of any such additional lands. If any such additional lands are located in section 13 they may be transferred to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate as long as the Secretary determines that the boundaries of any adjacent lands not owned by Lake Gulch can be properly identified so as to avoid possible future boundary conflicts or disputes. If the Secretary determines surveys are necessary to convey any such additional lands to Lake Gulch, the costs of such surveys shall be paid by Lake Gulch but shall not be eligible for any adjustment in the value of such additional lands pursuant to section 206(f)(2) of the Federal Land Policy and Management Act of 1976 (as amended by the Federal Land Exchange Facilitation Act of 1988) (43 U.S.C. 1716(f)(2)).

(3) Prior to transferring out of public ownership pursuant to this Title or other authority of law any lands which are contiguous to North Clear Creek southeast of the City of Black Hawk, Colorado in the County of Gilpin, Colorado, the Secretary shall notify and consult with the County and City and afford such units of local government an opportunity to acquire or reserve pursuant to the Federal Land Policy and Management Act of 1976 or other applicable law, such easements or rights-of-way parallel to North Clear Creek as may be necessary to serve public utility line or recreation path needs: *Provided, however*, That any survey or other costs associated with the acquisition or reservation of such easements or rights-of-way shall be paid for by the unit or units of local government concerned.

SECTION 1103. TERMS AND CONDITIONS OF EXCHANGE.

(a) EQUALIZATION OF VALUE.—

(1) The values of the lands to be exchanged pursuant to this Title shall be equal as determined by the Secretary of the Interior utilizing comparable sales of surface and subsurface property and nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(2) In the event any cash equalization or land sale moneys are received by the United States pursuant to this Act, any such moneys shall be retained by the Secretary of the Interior and may be utilized by the Secretary until fully expended to purchase from willing sellers land or water rights, or a combination thereof, to augment wildlife habitat and protect and restore wetlands in the Bureau of Land Management's Blanca Wetlands, Alamosa County, Colorado.

(3) Any water rights acquired by the United States pursuant to this section shall be obtained by the Secretary of the Interior in accordance with all applicable provisions of Colorado law, including the requirement to change the time, place, and type of use of said water rights through the appropriate State legal proceedings and to comply with any terms, conditions, or other provisions contained in an applicable decree of the Colorado Water Court. The use of any water rights acquired pursuant to this section shall be limited to water that can be used or exchanged for water that can be used on the Blanca Wetlands. Any requirement or proposal to utilize facilities of the San Luis Valley Project, Closed Basin Diversion, in order to effectuate the use of any such water rights shall be subject to prior approval of the Rio Grande Water Conservation District.

(b) RESTRICTIONS ON SELECTED LANDS.—(1) Conveyance of the selected lands to Lake Gulch pursuant to this Title shall be contingent upon Lake Gulch executing an agreement with the United States prior to such conveyance, the terms of which are acceptable to the Secretary of the Interior, and which—

(A) grant the United States a covenant that none of the selected lands (which currently lie outside the legally approved gaming area) shall ever be used for purposes of gaming should the current legal gaming area ever be expanded by the State of Colorado; and

(B) permanently hold the United States harmless for liability and indemnify the United States against all costs arising from any activities, operations (including the strong, handling, and dumping of hazardous materials or substances) or other acts conducted by Lake Gulch or its employees, agents, successors or assigns on the selected lands after their transfer to Lake Gulch: *Provided, however*, That nothing in this Title shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of the selected lands prior to or on the date of their transfer to Lake Gulch.

(2) Conveyance of the selected lands to Lake Gulch pursuant to this Title shall be subject to the existing easement of Gilpin County Road 6.

(3) The above terms and restrictions of this subsection shall not be considered in determining, or result in any diminution in, the fair market value of the selected land for purposes of the appraisals of the selected land required pursuant to section 1102 of this Title.

(c) REVOCATION OF WITHDRAWAL.—The Public Water Reserve established by Executive order dated April 17, 1926 (Public Water Reserve 107), Serial Number Colorado 17321, is hereby revoked insofar as it affects the NW¼SW¼ of Section 17, Township 3 South, Range 72 West, Sixth Principal Meridian, which covers a portion of the selected lands identified in this Title.

SECTION 1104. MISCELLANEOUS PROVISIONS.

(a) DEFINITIONS.—As used in this Title:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Lake Gulch" means Lake Gulch, Inc., a Colorado corporation, or its successors, heirs or assigns.

(3) The term "offered land" means lands to be conveyed to the United States pursuant to this Title.

(4) The term "selected land" means lands to be transferred to Lake Gulch, Inc., or its successors, heirs or assigns pursuant to this Title.

(5) The term "Blanca Wetlands" means an area of land comprising approximately 9,290 acres, as generally depicted on a map entitled "Blanca Wetlands", dated August 1994, or such land as the Secretary may add thereto by purchase from willing sellers after the date of enactment of this Act utilizing funds provided by this Title or such other moneys as Congress may appropriate.

(b) TIME REQUIREMENT FOR COMPLETING TRANSFER.—It is the intent of Congress that unless the Secretary and Lake Gulch mutually agree otherwise the exchange of lands authorized and directed by this Title shall be completed not later than 6 months after the date of enactment of this Act. In the event the exchange cannot be consummated within such 6-month-time period, the Secretary, upon application by Lake Gulch, is directed to sell to Lake Gulch at appraised fair market value any or all of the parcels (comprising a total of approximately 11 acres) identified in section 1102(d)(1)(C) of this Title as long as the parcel or parcels applied for are not under formal application for transfer to a qualified unit of local government.

(c) ADMINISTRATION OF LAND ACQUIRED BY UNITED STATES.—In accordance with the provisions of section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)), all lands acquired by the United States pursuant to this Title shall upon acceptance of title by the United States and without further action by the Secretary concerned become part of and be managed as part of the administrative unit or area within which they are located.

TITLE XII—BUTTE COUNTY, CALIFORNIA LAND CONVEYANCE

SECTIN 1201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) certain landowners in Butte County, California who own property adjacent to the Plumas National Forest have been adversely affected by certain erroneous surveys;

(2) these landowners have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that they believed are accurate; and

(3) the 1992 Bureau of Land Management dependent resurvey of the Plumas National Forest will correctly establish accurate boundaries between such forest and private lands.

(b) PURPOSE.—It is the purpose of this Title to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Butte County, California, to persons claiming to have been deprived of title to such lands.

SECTION 1202. DEFINITIONS.

For the purpose of this Title—

(1) the term "affected lands" means those Federal lands located in the Plumas National Forest in Butte County, California, in sections 11, 12, 13, and 14, township 21 north, range 5 East, Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1992, and subsequent Forest Service land line location surveys, including all adjoining parcels where the property line as identified by the 1992 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident;

(2) the term "claimant" means an owner of real property in Butte County, California, whose real property adjoins Plumas National Forest lands described in subsection (a), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys; and

(3) the term "Secretary" means the Secretary of Agriculture.

SECTION 1203. CONVEYANCE OF LANDS.

Notwithstanding any other provision of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in section 1202(1), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in section 1204.

SECTION 1204. TERMS AND CONDITIONS OF CONVEYANCE.

(a) NOTIFICATION.—Not later than 2 years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Plumas National Forest, in writing of their claim to affected lands. Such claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(b) ISSUANCE OF DEED.—(1) Upon a determination by the Secretary that issuance of a deed for affected lands is consistent with the purpose and requirements of this Title, the Secretary shall issue a quitclaim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989;

(B) all new property lines established by such surveys have been monumented and marked; and

(C) all terms and conditions necessary to protect third party and Government Rights-of-Way or other interests are included in the deed.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(c) NOTIFICATION TO BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this Title no later than 30 days after the date such deed is issued.

SECTION 1205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out the purposes of this Title.

TITLE XIII—CARL GARNER FEDERAL LANDS CLEANUP DAY

SECTION 1301.

The Federal Lands Cleanup Act of 1985 (36 U.S.C. 169i—169i-1) is amended by striking the terms "Federal Lands Cleanup Day" each place it appears and inserting "Carl Garner Federal Lands Cleanup Day."

TITLE XIV—ANAKTUVUK PASS LAND EXCHANGE

SECTION 1401. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The village of

VOL
142
PT
5
MR
21
—
29
1996
UMI

Anaktuvuk Pass, located in the highlands of the central Brooks Range, is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

(2) Unlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk Pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access of pursue caribou and other subsistence resources.

(3) In a 1993 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

SECTION 1402. RATIFICATION OF AGREEMENT.

(a) RATIFICATION.—

(1) IN GENERAL.—The terms, conditions, procedures, covenants, reservations and other provisions set forth in the document entitled "Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America" (hereinafter referred to in this Title as "the Agreement"), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this Title, are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

(2) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

(b) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled "Land Exchange Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

SECTION 1403. NATIONAL PARK SYSTEM WILDERNESS.

(a) GATES OF THE ARCTIC WILDERNESS.—

(1) REDESIGNATION.—Section 701(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2417) establishing the Gates of the Arctic Wilderness is hereby amended with the addition of approximately 56,825 acres as wilderness and the rescission of approximately 73,993 acres as wilderness, thus revising the Gates of the Arctic Wilderness to approximately 7,034,832 acres.

(2) MAP.—The lands redesignated by paragraph (1) are depicted on a map entitled "Wilderness Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,040, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the office of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(b) NOATAK NATIONAL PRESERVE.—Section 201(8)(a) of the Alaska National Interest Land Conservation Act (94 Stat. 2380) is amended by—

(1) striking "approximately six million four hundred and sixty thousand acres" and inserting in lieu thereof "approximately 6,477,168 acres"; and

(2) inserting "and the map entitled "Noatak National Preserve and Noatak Wilderness Addition" dated September 1994" after "July 1980".

(c) NOATAK WILDERNESS.—Section 701(7) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417) is amended by striking "approximately five million eight hundred thousand acres" and inserting in lieu thereof "approximately 5,817,168 acres".

SECTION 1404. CONFORMANCE WITH OTHER LAW.

(a) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid existing rights.

(b) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this Title or the Agreement, nothing in this Title or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

TITLE XV—ALASKA PENINSULA SUBSURFACE CONSOLIDATION

SECTION 1501. DEFINITIONS.

As used in this Title.

(1) AGENCY.—The term agency—

(A) means—

(i) any instrumentality of the United States; and

(ii) any Government corporation (as defined in section 9101(1) of title 31, United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term "Alaska Native Corporation" has the same meaning as is provided for "Native Corporation" in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTEREST THEREIN.—The term "Federal lands or interests therein" means any lands or properties owned by the United States (i) which are administered by the Secretary, or (ii) which are subject to a lease to third parties, or (iii) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties; provided, however, excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term "Koniag" means Koniag, Incorporated, which is a regional Corporation.

(5) REGIONAL CORPORATION.—The term "Regional Corporation" has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term "selection rights" means those rights granted to Koniag, pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as "Koniag Selections" on the map entitled "Koniag Interest Lands, Alaska Peninsula", dated May 1989.

SECTION 1502. VALUATION OF KONIAG SELECTION RIGHTS.

(a) Pursuant to subsection (b) hereof, the Secretary shall value the Selection Rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(b) VALUE.—

(1) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(A) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(B) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Title the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to clause (ii), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(ii) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in clause (i), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(B) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(C) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the

appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(c), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(B) ALTERNATIVE DETERMINATION OF VALUE.—

(i) IN GENERAL.—Subject to clause (ii), if Koniag does not agree with the value determined by the Secretary under subparagraph (A), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 (d)) shall be used to establish the value.

(ii) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

SECTION 1503. KONIAG ACCOUNT.

(a) IN GENERAL.—

(1) the Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the Selection Rights.

(2) If the value of the federal property to be exchanged is less than the value of the Selection Rights established in section 1501, and if such federal property to be exchanged is not generating receipts to the federal government in excess of one million dollars per year, then the Secretary may exchange the federal property for that portion of the Selection Rights having a value equal to that of the federal property. The remaining selection rights shall remain available for additional exchanges.

(3) For the purposes of any exchange to be consummated under this Title II, if less than all the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined pursuant to Section 202 hereof and the denominator of which is the total number of acres of selection rights.

(b) ADDITIONAL EXCHANGES.—If, after ten years from the date of the enactment of this Title, the Secretary was unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts to the federal government in excess of one million dollars per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (i) declining to proceed with the exchange and identifying other property or (ii) paying the difference in value between the property rights.

(c) REVENUES.—Any property received by Koniag in an exchange entered into pursuant to subsection (a) of (b) of this section shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) provided, however, should Koniag make a payment to equalize the value in any such exchange, then Koniag will be deemed to hold an undivided interest in the property equal in value to such payment which interest shall not be subject to the provisions of section 9(j).

SECTION 1504. CERTAIN CONVEYANCES.

(a) INTERESTS IN LANDS.—For the purposes of section 21 (c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620 (e)), the receipt of consideration, including, but not limited to, lands, cash or other property, by a Native Corporation for the relinquishment to the United States of land selection rights granted to any Native Corporation under such Act shall be deemed to be an interest in land.

(b) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under section 39 of such Act (43 U.S.C. 1629c), Koniag may delegate, in whole or in part, the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

TITLE XVI—STERLING FOREST

SECTION 1601. FINDINGS.

The Congress finds that—

(1) the Palisades Interstate Park Commission was established pursuant to a joint resolution of the 75th Congress approved in 1937 (Public Resolution No. 65; ch. 706; 50 Stat. 719), and chapter 170 of the Laws of 1937 of the State of New York and chapter 148 of the Laws of 1937 of the State of New Jersey;

(2) the Palisades Interstate Park Commission is responsible for the management of 23 parks and historic sites in New York and New Jersey, comprising over 82,000 acres;

(3) over 8,000,000 visitors annually seek outdoor recreational opportunities within the Palisades Park System;

(4) Sterling Forest is a biologically diverse open space on the New Jersey border comprising approximately 17,500 acres, and is a highly significant watershed area for the State of New Jersey, providing the source for clean drinking water for 25 percent of the State;

(5) Sterling Forest is an important outdoor recreational asset in the northeastern United States, within the most densely populated metropolitan region in the Nation;

(6) Sterling Forest supports a mixture of hardwood forests, wetlands, lakes, glaciated valleys, is strategically located on a wildlife migratory route, and provides important habitat for 27 rare or endangered species;

(7) the protection of Sterling Forest would greatly enhance the Appalachian National Scenic Trail, a portion of which passes through Sterling Forest, and would provide for enhanced recreational opportunities through the protection of lands which are an integral element of the trail and which would protect important trail viewsheds;

(8) stewardship and management costs for units of the Palisades Park System are paid for by the States of New York and New Jersey; thus, the protection of Sterling Forest through the Palisades Interstate Park Commission will involve a minimum of Federal funds;

(9) given the nationally significant watershed, outdoor recreational, and wildlife qualities of Sterling Forest, the demand for open space in the northeastern United States, and the lack of open space in the densely populated tri-state region, there is a clear Federal interest in acquiring the Sterling Forest for permanent protection of the watershed, outdoor recreational resources, flora and fauna, and open space; and

(10) such an acquisition would represent a cost effective investment, as compared with the costs that would be incurred to protect drinking water for the region should the Sterling Forest be developed.

SECTION 1602. PURPOSES.

The purposes of this title are—

(1) to establish the Sterling Forest Reserve in the State of New York to protect the significant watershed, wildlife, and recreational resources within the New York-New Jersey highlands region;

(2) to authorize Federal funding, through the Department of the Interior, for a portion of the acquisition costs for the Sterling Forest Reserve;

(3) to direct the Palisades Interstate Park Commission to convey to the Secretary of the Interior certain interests in lands acquired within the Reserve; and

(4) to provide for the management of the Sterling Forest Reserve by the Palisades Interstate Park Commission.

SECTION 1603. DEFINITIONS.

In this title:

(1) COMMISSION.—The term "Commission" means the Palisades Interstate Park Commission established pursuant to Public Resolution No. 65 approved August 19, 1937 (ch. 707; 50 Stat. 719).

(2) RESERVE.—The term "Reserve" means the Sterling Forest Reserve.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SECTION 1604. ESTABLISHMENT OF THE STERLING FOREST RESERVE.

(a) ESTABLISHMENT.—Upon the certification by the Commission to the Secretary that the Commission has acquired sufficient lands or interests therein to constitute a manageable unit, there is established the Sterling Forest Reserve in the State of New York.

(b) MAP.—

(1) COMPOSITION.—The Reserve shall consist of lands and interests therein acquired by the Commission within the approximately 17,500 acres of lands as generally depicted on the map entitled "Boundary Map, Sterling Forest Reserve", numbered SRF-60,001 and dated July 1, 1994.

(2) AVAILABILITY FOR PUBLIC INSPECTION.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Commission and the appropriate offices of the National Park Service.

(c) TRANSFER OF FUNDS.—Subject to subsection (d), the Secretary shall transfer to the Commission such funds as are appropriated for the acquisition of lands and interests therein within the Reserve.

(d) CONDITIONS OF FUNDING.—

(1) AGREEMENT BY THE COMMISSION.—Prior to the receipt of any Federal funds authorized by this Title, the Commission shall agree to the following:

(A) CONVEYANCE OF LANDS IN EVENT OF FAILURE TO MANAGE.—If the Commission fails to manage the lands acquired within the Reserve in a manner that is consistent with this Title, the Commission shall convey fee

VOL
142
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1996
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title to such lands to the United States, and the agreement stated in this subparagraph shall be recorded at the time of purchase of all lands acquired within the Reserve.

(B) CONSENT OF OWNERS.—No lands or interest in land may be acquired with any Federal funds authorized or transferred pursuant to this title except with the consent of the owner of the land or interest in land.

(C) INABILITY TO ACQUIRE LANDS.—If the Commission is unable to acquire all of the lands within the Reserve, to the extent Federal funds are utilized pursuant to this title, the Commission shall acquire all or a portion of the lands identified as "National Park Service Wilderness Easement Lands" and "National Park Service Conservation Easement Lands" on the map described in section 1604(b) before proceeding with the acquisition of any other lands within the Reserve.

(D) CONVEYANCE OF EASEMENT.—Within 30 days after acquiring any of the lands identified as "National Park Service Wilderness Easement Lands" and "National Park Service Conservation Easement Lands" on the map described in section 1604(b), the Commission shall convey to the United States:

(i) conservation easements on the lands described as "National Park Service Wilderness Easement Lands" on the map described in section 1604(b), which easements shall provide that the lands shall be managed to protect their wilderness character; and

(ii) conservation easements on the lands described as "National Park Service Conservation Easement Lands" on the map described in section 1604(b), which easements shall restrict and limit development and use of the property to that development and use that is—

(I) compatible with the protection of the Appalachian National Scenic Trail; and

(II) consistent with the general management plan prepared pursuant to section 1605(b).

(2) MATCHING FUNDS.—Funds may be transferred to the Commission only to the extent that they are matched from funds contributed by non-Federal sources.

SECTION 1605. MANAGEMENT OF THE RESERVE.

(a) IN GENERAL.—The Commission shall manage the lands acquired within the Reserve in a manner that is consistent with the Commission's authorities and with the purposes of this title.

(b) GENERAL MANAGEMENT PLAN.—Within 3 years after the date of enactment of this title, the Commission shall prepare a general management plan for the Reserve and submit the plan to the Secretary for approval.

SECTION 1606. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

(b) LAND ACQUISITION.—Of amounts appropriated pursuant to subsection (a), the Secretary may transfer to the Commission not more than $17,500,000 for the acquisition of lands and interests in land within the Reserve.

TITLE XVII—TAOS PUEBLO LAND TRANSFER

SECTION 1701. LAND TRANSFER.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 21, 1933 (48 Stat. 108) (as amended, including as amended by Public Law 91–550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled "Land transferred to the Pueblo of Taos—proposed" and dated September 1994, comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) RESOLUTION OF OUTSTANDING CLAIMS.—The Congress finds and declares that, as a result of the enactment of this Act, the Taos Pueblo has no unresolved equitable or legal claims against the United States on the lands to be held in trust and to become part of the Pueblo de Taos Reservation under this Title.

TITLE XVIII—SKI FEES

SECTION 1801. SKI AREA PERMIT RENTAL CHARGE.

(a) The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs under the heading "SURVEYING THE PUBLIC LANDS" under the heading "UNDER THE DEPARTMENT OF THE INTERIOR" in the Act of June 4, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. Permit rental charges for permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be calculated as set forth in subsection (b). Permit rental charges for existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, shall be calculated in accordance with those existing permits: *Provided*, That a permittee may, at the permittee's option, use the calculation method set forth in subsection (b).

(b)(1) The ski area permit rental charge (SAPRC) shall be calculated by adding the permittee's gross revenues from lift ticket/year-round ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. The amount shall be increased by the gross year-round revenue from ancillary facilities (GRAF) physically located on national forest land, including all permittee or subpermittee lodging, food service, rental shops, parking other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit rental charge. The final rental charge shall be calculated by multiplying the AGR by the following percentages for each revenue bracket and adding the total for each revenue bracket:

(A) 1.5 percent of all adjusted gross revenue below $3,000,000;

(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000;

(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000; and

(D) 4.0 percent for the amount of adjusted gross revenue that exceed $50,000,000.

Utilizing the abbreviations indicated in this subsection the ski area permit fee (SAPF) formula can be simply illustrated as:

SAPF=((LT+SS)STFP)+GRAF=AGR;
AGR%BRACKETS

(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in subsection (b) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from Nordic ski operations shall be included or excluded from the rental charge calculation according to the percentage of trails physically located on national forest land.

(3) In order to ensure that the rental charge remains fair and equitable to both the United States and the ski area permittees, the adjusted gross revenue figures for each revenue bracket in paragraph (1) shall be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year. No later than 5 years after the date of enactment of this Act and every 10 years thereafter the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives a report analyzing whether the ski area permit rental charge legislated by this Act is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications of the system.

(c) The rental charge set forth in subsection (b) shall be due on June 1 of each year and shall be paid or pre-paid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to enactment of this Act. To reduce costs to the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual rental charge calculation brackets and rates) to be used for rental charge calculation and submitted with the rental charge payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, U.S. Forest Service.

(d) The ski area permit rental charge set forth in this section shall become effective on June 1, 1996 and cover receipts retroactive to June 1, 1995: Provided, however, That if a permittee has paid rental charges for the period June 1, 1995, to June 1, 1996, under the graduated rate rental charge system formula in effect prior to the date of enactment of this Act, such rental charges shall be credited toward the new rental charge due on June 1, 1996. In order to ensure increasing rental charge receipt levels to the United States during transition from the graduated rate rental charge system formula to the formula of this Act, the rental charge paid by any individual permittee shall be—

(1) for the 1995–1996 permit year, either the rental charge paid for the preceding 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(2) for the 1996–1997 permit year, either the rental charge paid for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(3) for the 1997–1998 permit year, either the rental charge for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher.

If an individual permittee's adjusted gross revenue for the 1995–1996, 1996–1997, or 1997–1998 permit years falls more than 10 percent below the 1994–1995 base year, the rental

charge paid shall be the rental charge calculated pursuant to this Act.

(e) Under no circumstances shall revenue, or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.

(f) To reduce administrative costs of ski area permittees and the Forest Service the terms "revenue" and "sales", as used in this section, shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets) for which the permittee does not receive money.

(g) In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental charge payment pursuant to subsection (a), the permittee shall pay an annual minimum rental charge of $2 for each national forest acre under permit or a percentage of appraised land value, as determined appropriate by the Secretary.

(h) Where the new rental charge provided for in subsection (b)(1) results in an increase in permit rental charge greater than one half of one percent of the permittee's adjusted gross revenue as determined under subsection (b)(1), the new rental charge shall be phased in over a five year period in a manner providing for increases of approximately equal increments.

(i) To reduce federal costs in administering the provisions of this Act, the reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit shall not constitute a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

SECTION 1802. WITHDRAWALS.

Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on or after the date of enactment of this Act pursuant to authority of the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), and the Act of June 4, 1897, or the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal thereof. Unless the Secretary requests otherwise of the Secretary of the Interior, such withdrawal shall be canceled automatically upon expiration or other termination of the permit and the land automatically restored to all appropriation not otherwise restricted under the public land laws.

TITLE XIX—THE SELMA TO MONTGOMERY NATIONAL HISTORIC TRAIL

SECTION 1901.

That section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end thereof the following new paragraph.

"(20) The Selma to Montgomery National Historic Trail, consisting of 54 miles of city streets and United States Highway 80 from Brown Chapel A.M.E. Church in Selma to the State Capitol Building in Montgomery, Alabama, traveled by voting rights advocates during March 1965 to dramatize the need for voting rights legislation, as generally described in the report of the Secretary of the Interior prepared pursuant to subsection (b) of this section entitled "Selma to Montgomery" and dated April 1993. Maps depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered in accordance with this Act, including section 7(h). The Secretary of the Interior, acting through the National Park Service, which shall be the lead Federal agency, shall cooperate with other Federal, State and local authorities to preserve historic sites along the route, including (but not limited to) the Edmund Pettus Bridge and the Brown Chapel A.M.E. Church.".

TITLE XX—UTAH PUBLIC LANDS MANAGEMENT ACT

SECTION 2001. DESIGNATION OF WILDERNESS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following lands in the State of Utah are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Certain lands in the Desolation Canyon Wilderness Study Area comprised of approximately 291,130 acres, as generally depicted on a map entitled "Desolation Canyon Proposed Wilderness" and dated December 3, 1995, and which shall be known as the Desolation Canyon Wilderness.

(2) Certain lands in the San Rafael Reef Wilderness Study Area comprised of approximately 57,982 acres, as generally depicted on a map entitled "San Rafael Reef Proposed Wilderness" and dated December 12, 1995, and which shall be known as the San Rafael Reef Wilderness.

(3) Certain lands in the Horseshoe Canyon Wilderness Study Area (North) comprised of approximately 26,118 acres, as generally depicted on a map entitled "Horseshoe/Labyrinth Canyon Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Horseshoe/Labyrinth Canyon Wilderness.

(4) Certain lands in the Crack Canyon Wilderness Study Area comprised of approximately 20, 293 acres, as generally depicted on a map entitled "Crack Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Crack Canyon Wilderness.

(5) Certain lands in the Muddy Creek Wilderness Study Area comprised of approximately 37,245 acres, as generally depicted on a map entitled "Muddy Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Muddy Creek Wilderness.

(6) Certain lands in the Sids Mountain Wilderness Study Area comprised of approximately 44,308 acres, as generally depicted on a map entitled "Sids Mountain Proposed Wilderness" and dated December 12, 1995, and which shall be known as the Sids Mountain Wilderness.

(7) Certain lands in the Mexican Mountain Wilderness Study Area comprised of approximately 33,558 acres, as generally depicted on a map entitled "Mexican Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mexican Mountain Wilderness.

(8) Certain lands in the Phipps-Death Hollow Wilderness Study Area comprised of approximately 41,445 acres, as generally depicted on a map entitled "Phipps-Death Hollow Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Phipps-Death Hollow Wilderness.

(9) Certain lands in the Steep Creek Wilderness Study Area comprised of approximately 21,277 acres, as generally depicted on a map entitled "Steep Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Steep Creek Wilderness.

(10) Certain lands in the North Escalante Canyons/The Gulch Wilderness Study Area comprised of approximately 101,896 acres, as generally depicted on a map entitled "North Escalante Canyons/The Gulch Proposed Wilderness" and dated October 3, 1995, and which shall be known as the North Escalante Canyons/The Gulch Creek Wilderness.

(11) Certain lands in the Scorpion Wilderness Study Area comprised of approximately 16,693 acres, as generally depicted on a map entitled "Scorpion Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Scorpion Wilderness.

(12) Certain lands in the Mt. Ellen-Blue Hills Wilderness Study Area comprised of approximately 65,355 acres, as generally depicted on a map entitled "Mt. Ellen-Blue Hills Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mt. Ellen-Blue Hills Wilderness.

(13) Certain lands in the Bull Mountain Wilderness Study Area comprised of approximately 11,424 acres, as generally depicted on a map entitled "Bull Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Bull Mountain Wilderness.

(14) Certain lands in the Fiddler Butte Wilderness Study Area comprised of approximately 22,180 acres, as generally depicted on a map entitled "Fiddler Butte Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Fiddler Butte Mountain Wilderness.

(15) Certain lands in the Mt. Pennell Wilderness Study Area comprised of approximately 18,619 acres, as generally depicted on a map entitled "Mt. Pennell Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mt. Pennell Wilderness.

(16) Certain lands in the Mt. Hillers Wilderness Study Area comprised of approximately 14,746 acres, as generally depicted on a map entitled "Mt. Hillers Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mt. Hillers Wilderness.

(17) Certain lands in the Little Rockies Wilderness Study Area comprised of approximately 49,001 acres, as generally depicted on a map entitled "Little Rockies Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Little Rockies Wilderness.

(18) Certain lands in the Mill Creek Canyon Wilderness Study Area comprised of approximately 7,846 acres, as generally depicted on a map entitled "Mill Creek Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mill Creek Canyon Wilderness.

(19) Certain lands in the Negro Bill Canyon Wilderness Study Area comprised of approximately 8,321 acres, as generally depicted on a map entitled "Negro Bill Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Negro Bill Canyon Wilderness.

(20) Certain lands in the Floy Canyon Wilderness Study Area comprised of approximately 28,794 acres, as generally depicted on a map entitled "Floy Canyon Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Floy Canyon Wilderness.

(21) Certain lands in the Coal Canyon Wilderness Study Area and the Spruce Canyon

VOL
142
PT
5
MR
21
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29
1996
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Wilderness Study Area comprised of approximately 56,673 acres, as generally depicted on a map entitled "Coal/Spruce Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Coal/Spruce Canyon Wilderness.

(22) Certain lands in the Flume Canyon Wilderness Study Area comprised of approximately 47,247 acres, as generally depicted on a map entitled "Flume Canyon Proposed Wilderness" and dated December 12, 1995, and which shall be known as the Flume Canyon Wilderness.

(23) Certain lands in the Westwater Canyon Wilderness Study Area comprised of approximately 26,657 acres, as generally depicted on a map entitled "Westwater Canyon Proposed Wilderness" and dated December 12, 1995, and which shall be known as the Westwater Canyon Wilderness.

(24) Certain lands in the Beaver Creek Wilderness Study Area comprised of approximately 24,620 acres, as generally depicted on a map entitled "Beaver Creek Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Beaver Creek Wilderness.

(25) Certain lands in the Fish Springs Wilderness Study Area comprised of approximately 36,142 acres, as generally depicted on a map entitled "Fish Springs Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Fish Springs Wilderness.

(26) Certain lands in the Swasey Mountain Wilderness Study Area comprised of approximately 34,803 acres, as generally depicted on a map entitled "Swasey Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Swasey Mountain Wilderness.

(27) Certain lands in the Parunuweap Canyon Wilderness Study Area comprised of approximately 19,107 acres, as generally depicted on a map entitled "Parunuweap Canyon Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Parunuweap Wilderness.

(28) Certain lands in the Canaan Mountain Wilderness Study Area comprised of approximately 32,395 acres, as generally depicted on a map entitled "Canaan Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Canaan Mountain Wilderness.

(29) Certain lands in the Paria-Hackberry Wilderness Study Area comprised of approximately 94,805 acres, as generally depicted on a map entitled "Paria-Hackberry Proposed Wilderness" and dated December 3, 1995, and which shall be known as the Paria-Hackberry Wilderness.

(30) Certain lands in the Escalante Canyon Tract 5 Wilderness Study Area comprised of approximately 756 acres, as generally depicted on a map entitled "Escalante Canyon Tract 5 Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Escalante Canyon Tract 5 Wilderness.

(31) Certain lands in the Fifty Mile Mountain Wilderness Study Area comprised of approximately 125,823 acres, as generally depicted on a map entitled "Fifty Mile Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Fifty Mile Mountain Wilderness.

(32) Certain lands in the Howell Peak Wilderness comprised of approximately 14,518 acres, as generally depicted on a map entitled "Howell Peak Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Howell Peak Wilderness.

(33) Certain lands in the Notch Peak Wilderness Study Area comprised of approximately 17,678 acres, as generally depicted on a map entitled "Notch Peak Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Notch Peak Wilderness.

(34) Certain lands in the Wah Wah Mountains Wilderness Study Area comprised of approximately 41,311 acres, as generally depicted on a map entitled "Wah Wah Mountains Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Wah Wah Wilderness.

(35) Certain lands in the Mancos Mesa Wilderness Study Area comprised of approximately 48,269 acres, as generally depicted on a map entitled "Mancos Mesa Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mancos Mesa Wilderness.

(36) Certain lands in the Grand Gulch Wilderness Study Area comprised of approximately 52,821 acres, as generally depicted on a map entitled "Grand Gulch Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Grand Gulch Wilderness.

(37) Certain lands in the Dark Canyon Wilderness Study Area comprised of approximately 67,099 acres, as generally depicted on a map entitled "Dark Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Dark Canyon Wilderness.

(38) Certain lands in the Butler Wash Wilderness Study Area comprised of approximately 24,888 acres, as generally depicted on a map entitled "Butler Wash Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Butler Wash Wilderness.

(39) Certain lands in the Indian Creek Wilderness Study Area comprised of approximately 6,742 acres, as generally depicted on a map entitled "Indian Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Indian Creek Wilderness.

(40) Certain lands in the Behind the Rocks Wilderness Study Area comprised of approximately 14,169 acres, as generally depicted on a map entitled "Behind the Rocks Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Behind the Rocks Wilderness.

(41) Certain lands in the Cedar Mountains Wilderness Study Area comprised of approximately 325,647 acres, as generally depicted on a map entitled "Cedar Mountains Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Cedar Mountains Wilderness.

(42) Certain lands in the Deep Creek Mountains Wilderness Study Area comprised of approximately 70,735 acres, as generally depicted on a map entitled "Deep Creek Mountains Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Deep Creek Mountains Wilderness.

(43) Certain lands in the Nutters Hole Wilderness Study Area comprised of approximately 3,688 acres, as generally depicted on a map entitled "Nutters Hole Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Nutters Hole Wilderness.

(44) Certain lands in the Cougar Canyon Wilderness Study Area comprised of approximately 4,370 acres, including those lands located in the State of Nevada, as generally depicted on a map entitled "Cougar Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Cougar Canyon Wilderness.

(45) Certain lands in the Red Mountain Wilderness Study Area comprised of approximately 9,216 acres, as generally depicted on a map entitled "Red Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Red Mountain Wilderness.

(46) Certain lands in the Deep Creek Wilderness Study Area comprised of approximately 3,063 acres, as generally depicted on a map entitled "Deep Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Deep Creek Wilderness.

(47) Certain lands in the Dirty Devil Wilderness Study Area comprised of approximately 75,301 acres, as generally depicted on a map entitled "Dirty Devil Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Dirty Devil Wilderness.

(48) Certain lands in the Horseshoe Canyon South Wilderness Study Area comprised of approximately 11,393 acres, as generally depicted on a map entitled "Horseshoe Canyon South Proposed Wilderness" and dated September 18, 1995, and which shall be known as the 49 Wilderness.

(49) Certain lands in the French Spring-Happy Canyon Wilderness Study Area comprised of approximately 13,766 acres, as generally depicted on a map entitled "French Spring-Happy Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the French Spring-Happy Canyon Wilderness.

(50) Certain lands in the Road Canyon Wilderness Study Area comprised of approximately 33,783 acres, as generally depicted on a map entitled "Grand Gulch Proposed Wilderness" and dated December 8, 1995, and which shall be known as the Road Canyon Wilderness.

(51) Certain lands in the Fish & Owl Creek Wilderness Study Area comprised of approximately 16,562 acres, as generally depicted on a map entitled "Grand Gulch Proposed Wilderness" and dated December 8, 1995, and which shall be known as the Fish & Owl Creek Wilderness.

(52) Certain lands in the Turtle Canyon Wilderness Study Area comprised of approximately 27,480 acres, as generally depicted on a map entitled "Desolation Canyon Proposed Wilderness" and dated December 3, 1995, and which shall be known as the Turtle Canyon Wilderness.

(53) Certain lands in the The Watchman Wilderness Study Area comprised of approximately 664 acres, as generally depicted on a map entitled "The Watchman Proposed Wilderness" and dated December 8, 1995, and which shall be known as the The Watchman Wilderness.

(b) MAP AND DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior (hereafter in this Title referred to as the "Secretary") shall file a map and a legal description of each area designated as wilderness by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each such map and description shall have the same force and effect as if included in this Title, except that corrections of clerical and typographical errors in each such map and legal description may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, and the office of the State Director of the Bureau of Land Management in the State of Utah, Department of the Interior.

SECTION 2002. ADMINISTRATION OF WILDERNESS AREAS.

(a) IN GENERAL.—Subject to valid existing rights, each area designated by this Title as wilderness shall be administered by the Secretary in accordance with this Title, the Wilderness Act (16 U.S.C. 1131 et seq.), and section 603 of the Federal Land Policy and Management Act of 1976. Any valid existing rights recognized by this Title shall be determined under applicable laws, including the land use planning process under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712). Any lands or interest in lands within the boundaries of an area designated as wilderness by this Title that is acquired by the United States after the date of enactment of this Act shall be added to and administered as part of the wilderness area within which such lands or interests in lands are located.

(b) MANAGEMENT PLANS.—The Secretary shall, within five years after the date of the enactment of this Act, prepare plans to manage the areas designated by this Title as wilderness.

(c) LIVESTOCK.—(1) Grazing of livestock in areas designated as wilderness by this Title, where established prior to the date of the enactment of this Act, shall—

(A) continue and not be curtailed or phased out due to wilderness designation or management; and

(B) be administered in accordance with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in House Report 9601126.

(2) Wilderness shall not be used as a suitability criteria for managing any grazing allotment that is subject to paragraph (1).

(d) STATE FISH AND WILDLIFE.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1131(d)(7)), nothing in this Title shall be construed as affecting the jurisdiction or responsibilities of the State of Utah with respect to fish and wildlife management activities, including water development for fish and wildlife purposes, predator control, transplanting animals, stocking fish, hunting, fishing and trapping.

(e) PROHIBITION OF BUFFER ZONES.—The Congress does not intend that designation of an area as wilderness by this Title lead to the creation of protective perimeters or buffer zones around the area. The fact that nonwilderness activities or uses can be seen, heard, or smelled from areas within a wilderness shall not preclude such activities or uses up to the boundary of the wilderness area.

(f) OIL SHALE RESERVE NUMBER TWO.—The area know as "Oil Shale Reserve Number Two" within Desolation Canyon Wilderness (as designated by section 2001(a)(1)), located in Carbon County and Uintah County, Utah, shall not be reserved for oil shale purposes after the date of the enactment of this Title and shall be under the sole jurisdiction of and managed by the Bureau of Land Management.

(g) ROADS AND RIGHTS-OF-WAY AS BOUNDARIES.—Unless depicted otherwise on a map referred to by this Title, where roads form the boundaries of the areas designated as wilderness by this Title, the wilderness boundary shall be set back from the center line of the road as follows:

(1) 300 feet for high standard roads such as paved highways.

(2) 100 feet for roads equivalent to high standard logging roads.

(3) 30 feet for all unimproved roads not referred to in paragraphs (1) or (2).

(h) CHERRY-STEMMED ROADS.—(1) The Secretary may not close or limit access to any non-Federal road that is bounded on one or both sides by an area designated as wilderness by this Title, as generally depicted on a map referred to in section 2002, without first obtaining written consent from the State of Utah or the political subdivision thereof with general jurisdiction over roads in the area.

(2) Any road described in paragraph (1) may continue to be maintained and repaired by any such entity.

(i) ACCESS.—Reasonable access, including the use of motorized equipment where necessary or customarily or historically employed, shall be allowed on routes within the areas designated wilderness by this Title in existence as of the date of enactment of this Act for the exercise of valid-existing rights, including, but not limited to, access to existing water diversion, carriage, storage and ancillary facilities and livestock grazing improvements and structures. Existing routes as of such date may be maintained and repaired as necessary to maintain their customary or historic uses.

(j) LAND ACQUISITION BY EXCHANGE OR PURCHASE.—The Secretary may offer to acquire from nongovernmental entities lands and interests in lands located within or adjacent to areas designated as wilderness by this Title. Lands may be acquired under this subsection only by exchange, donation, or purchase from willing sellers.

(k) MOTORBOATS.—As provided in section 4(d)(1) of the Wilderness Act, within areas designated as wilderness by this Title, the use of motorboats, where such use was established as of the date of enactment of this Act, may be permitted to continue subject to such restrictions as the Secretary deems desirable.

(l) DISCLAIMER.—Nothing in this Title shall be construed as establishing a precedent with regard to any future wilderness designation, nor shall it constitute an interpretation of any other Act or any wilderness designation made pursuant thereto.

SECTION 2003. WATER RIGHTS.

(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising from the designation of areas as wilderness by this Title.

(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER UTAH LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities on any lands designated as wilderness by this Title pursuant to the substantive and procedural requirements of the State of Utah. Nothing in this Title shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands. Within areas designated as wilderness by this Title, all rights to water granted under the laws of the State of Utah may be exercised in accordance with the substantive and procedural requirements of the State of Utah.

(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER UTAH LAWS.—Nothing in this Title shall be construed to limit the exercise of water rights as provided under Utah State laws.

(d) CERTAIN FACILITIES NOT AFFECTED.—Nothing in this Title shall affect the capacity, operation, maintenance, repair, modification, or replacement of municipal, agricultural, livestock, or wildlife water facilities in existence as of the date of enactment of this Act within the boundaries of areas designated as wilderness by this Title.

(e) WATER RESOURCE PROJECTS.—Nothing in this Title or the Wilderness Act shall be construed to limit or to be a consideration in Federal approvals or denials for access to or use of the Federal lands outside areas designated wilderness by this Title for development and operation of water resource projects, including (but not limited to) reservoir projects. Nothing in this subsection shall create a right of access through a wilderness area designated pursuant to this title for the purposes of such projects.

SECTION 2004. CULTURAL, ARCHAEOLOGICAL, AND PALEONTOLOGICAL RESOURCES.

The Secretary is responsible for the protection (including through the use of mechanical means) and interpretation (including through the use of permanent improvements) of cultural, archaeological, and paleontological resources located within areas designated as wilderness by this Title.

SECTION 2005. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.

In recognition of the past use of portions of the areas designated as wilderness by this Title by Native Americans for traditional cultural and religious purposes, the Secretary shall assure nonexclusive access from time to time to those sites by Native Americans for such purposes, including (but not limited to) wood gathering for personal use of collecting plants or herbs for religious or medicinal purposes. Such access shall be consistent with the purpose and intent of the Act of August 11, 1978 (42 U.S.C. 1996; commonly referred to as the "American Indian Religious Freedom Act").

SECTION 2006. MILITARY OVERFLIGHTS.

(a) OVERFLIGHTS NOT PRECLUDED.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to the new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title, shall restrict or preclude overflights of military aircraft over such areas, including military overflights that can be seen or heard within such units.

(b) SPECIAL USE AIRSPACE.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to the new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title, shall restrict or preclude the designation of new units of special use airspace or the use or establishment of military flight training rules over such areas.

(c) COMMUNICATIONS OR TRACKING SYSTEMS.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title shall be construed to require the removal of existing communication or electronic tracking systems from areas designated as wilderness by this Title, to prohibit the maintenance of existing communications or electronic tracking systems within such new wilderness areas, or to prevent the installation of portable electronic communication or tracking systems in support of military operations so long as installation, maintenance, and removal of such systems does not require construction of temporary or permanent roads.

SECTION 2007. AIR QUALITY.

(a) IN GENERAL.—The Congress does not intend that designation of wilderness areas in the State of Utah by this Title lead to reclassification of any airshed to a more stringent Prevented of Significant Deterioration (PSD) classification.

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(b) Role of State.—Air quality reclassification for the wilderness areas established by this Title shall be the prerogative of the State of Utah. All areas designated as wilderness by this Title are and shall continue to be managed as PSD Class II under the Clean Air Act unless they are reclassified by the State of Utah in accordance with the Clean Air Act.

(c) Industrial Facilities.—Nothing in this Title shall be construed to restrict or preclude construction, operation, or expansion of industrial facilities outside of the areas designated as wilderness by this Title, including the Hunter Power Facilities, the Huntington Power Facilities, the Intermountain Power Facilities, the Bonanza Power Facilities, the Continental Lime Facilities, and the Brush Wellman Facilities. The permitting and operation of such projects and facilities shall be subject to applicable laws and regulations.

SECTION 2008. WILDERNESS RELEASE.

(a) Finding.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712 and 1782).

(b) Release.—Except as provided in subsection (c), any public lands administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712). Such lands shall not be managed for the purpose of protecting their suitability for wilderness designation.

(c) Continuing Wilderness Study Areas Status.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)):

(1) Bull Canyon: UT00800419/CO00100001.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West; UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon: UT00600227/CO00300265A.

(4) Cross Canyon; UT00600229/CO00300265.

SECTION 2009. EXCHANGE RELATING TO SCHOOL AND INSTITUTIONAL TRUST LANDS.

(a) Findings.—The Congress finds that—

(1) approximately 242,000 acres of school and institutional trust lands are located within or adjacent to areas designated as wilderness by this Title, including 15,000 acres of mineral estate;

(2) such lands were originally granted to the State of Utah for the purpose of generating support for the public schools through the development of natural resources and other methods; and

(3) it is in the interest of the State of Utah and the United States for such lands to be exchanged for interests in Federal lands located outside of wilderness areas to accomplish this purpose.

(b) Exchange.—The Secretary is authorized to accept on behalf of the United States title to all school and institutional trust lands owned by the State of Utah described in Subsection (c)(1) that may be exchanged for lands or interests therein owned by the United States described in Subsection (c)(2) as provided in this section. The exchange of lands under this section shall be subject to valid existing rights, including (but not limited to) the right of the State of Utah to receive, and distribute pursuant to state law, 50 percent of the revenue, less a reasonable administrative fee, from the production of minerals that are leased or would have been subject to leasing pursuant to the Mineral Leasing Act (30 U.S.C. 191 et seq).

(c) State and Federal Exchange Lands Described.—

(1) School and institutional trust lands.—The school and institutional trust lands referred to in this section are those lands generally depicted as "Surface and Mineral Offering" on the map entitled "Proposed Land Exchange Utah (H.R. 1745)" and dated December 6, 1995, which—

(A) are located within or adjacent to areas designated by this Title as wilderness; and

(B) were granted by the United States in the Utah Enabling Act to the State of Utah in trust and other lands which under State law must be managed for the benefit of the public school system or the institutions of the State which are designated by the Utah Enabling Act.

(2) Federal lands.—The Federal lands referred to in this section are the lands located in the State of Utah which are generally depicted as "Federal Exchange Lands" on the map referred to in paragraph (1).

(d)(1) Land Exchange for Equal Value.—The lands exchanged pursuant to this section shall be of approximate equal value as determined by nationally recognized appraisal standards.

(2) Partial Exchanges.—If the State of Utah so desires, it may identify from time to time by notice to the Secretary portions of the lands described in subsection (c)(1) which it is prepared to exchange together with a list of the portion of the lands in subsection (c)(2) which it intends to acquire in return. In making its selections, the state shall work with the Secretary to minimize or eliminate the retention of federal inholdings or other unmanageable federal parcels as a consequence of the transfer of federal lands, or interests therein, to the state. Upon receipt of such notice, the Secretary shall immediately proceed to conduct the necessary valuations. The valuations shall be completed no later than six months following the state's notice. The Secretary shall then enter into good faith negotiations with the state concerning the value of the lands, or interests therein, involved in each proposed partial exchange. If the value of the lands or interests therein are not approximately equal, the Secretary and the State of Utah shall either agree to modify the lands to be exchanged within the partial exchange or shall provide for a cash equalization payment to equalize the value. Any cash equalization payment shall not exceed 25 percent of the value of the land to be conveyed. The State shall submit all notices of exchange within four years of the date of enactment of this Act.

(3)(i) Deadline and Dispute Resolution.—If, after one year from the date of enactment of this Act, the Secretary and the State of Utah have not agreed upon the final terms of some or all of the individual exchanges initiated by the state pursuant to subsection (d)(2), including the value of the lands involved, notwithstanding any other provisions of law, the United States District Court for the District of Utah, Central Division, shall have jurisdiction to hear, determine, and render judgment on the value of any and all lands, or interests therein, involved in the exchange.

(ii) No action provided for in this subsection may be filed with the court sooner than one year and later than five years after the date of enactment of this Act. Any decision of the District Court under this section may be appealed in accordance with the applicable laws and rules.

(4) Transfer of Title.—The transfer of lands or cash equalizations shall take place within sixty days following agreement on an individual partial exchange by the Secretary and the Governor of the State of Utah, or acceptance by the governor of the terms of an appropriate order of judgment entered by the district court affecting that partial exchange. The Secretary and the State shall each convey, subject to valid existing rights, all right, title and interest to the lands or interests therein involved in each partial exchange.

(e) Duties of the Parties and Other Provisions Relating to the Exchange.—

(1) Map and legal description.—The State of Utah and the Secretary shall each provide to the other legal descriptions of the lands under their respective jurisdictions which are to be exchanged under this section. The map referred to in subsection 9c)(1) and the legal descriptions provided under this subsection shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management and the office of the State Director of the Bureau of Land Management in the State of Utah, Department of the Interior.

(2) Hazardous materials.—The Secretary and the State of Utah shall inspect all pertinent records and shall conduct a physical inspection of the lands to be exchanged pursuant to this Title for the presence of any hazardous materials as presently defined by applicable law. The results of those inspections shall be made available to the parties. The responsibility for costs of remedial action related to such materials shall be borne by those entities responsible under existing law.

(3) Provisions relating to federal lands.—(A) The enactment of this Act shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

(B) The transfer of lands and related activities required of the Secretary under this section shall not be subject to the National Environmental Policy Act of 1969.

(C) The value of Federal lands transferred to the State under this section shall be adjusted to reflect the right of the State of Utah under Federal law to share the revenues from such Federal lands, and the conveyances under this section to the State of Utah shall be subject to such revenue sharing obligations as a valid existing right.

(D) Subject to valid existing rights, the Federal lands described in subsection (c)(2) are hereby withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following). The Secretary shall have the authority to extend any existing leases on such Federal lands prior to consummation of the exchange.

(4) Proceeds from lease and production of minerals and sales and harvests of timber.—

(A) Collection and distribution.—The State of Utah, in connection with the management of the school and institutional trust lands described in subsections (c)(2) and (d), shall upon conveyance of such lands, collect and distribute all proceeds from the lease and production of minerals and the sale and harvest of timber on such lands as required by law until the State, as trustee, no longer owns the estate from which the proceeds are produced.

(B) Disputes.—A dispute concerning the collection and distribution of proceeds under subparagraph (A) shall be resolved in accordance with State law.

(f) Administration of Lands Acquired by the United States.—The lands and interests in lands acquired by the United States under this section shall be added to and administered as part of areas of the public lands, as indicated on the maps referred to in this section or in section 2002, as applicable.

SECTION 2010. LAND APPRAISAL.

Lands and interests in lands acquired pursuant to this title shall be appraised without regard to the presence of a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SECTION 2011. SAND HOLLOW LAND EXCHANGE.

(a) Definitions.—As used in this section:

(1) District.—The term "District" means the Water Conservancy District of Washington, County, Utah.

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

(3) Bulloch site.—The term "Bulloch Site" means the lands located in Kane County, Utah, adjacent to Zion National Park, comprised of approximately 1,380 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(4) Sand hollow site.—The term "Sand Hollow Site" means the lands located in Washington County, Utah, comprised of approximately 3,000 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(5) Quail creek pipeline.—The term "Quail Creek Pipeline" means the lands located in Washington County, Utah, comprised of approximately 40 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(6) Quail creek reservoir.—The term "Quail Creek Reservoir" means the lands located in Washington County, Utah, comprised of approximately 480.5 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(7) Smith property.—The term "Smith Property" means the lands located in Washington County, Utah, comprised of approximately 1,550 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(b) Exchange.—

(1) In general.—Subject to the provisions of this Title, if within 18 months after the date of the enactment of this Act, the Water Conservancy District of Washington County, Utah, offers to transfer to the United States all right, title, and interest of the District in and to the Bulloch Site, the Secretary of the Interior shall, in exchange, transfer to the District all right, title, and interest of the United States in and to the Sand Hollow Site, the Quail Creek Pipeline and Quail Creek Reservoir, subject to valid existing rights.

(2) Water rights associated with the bulloch site.—The water rights associated with the Bulloch Site shall not be included in the transfer under paragraph (1) but shall be subject to an agreement between the District and the Secretary that the water remain in the Virgin River as an instream flow from the Bulloch Site through Zion National Park to the diversion point of the District at the Quail Creek Reservoir.

(3) Withdrawal of mineral interests.—Subject to valid existing rights, the mineral interests underlying the Sand Hollow Site, the Quail Creek Reservoir, and the Quail Creek Pipeline are hereby withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from the operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the "Materials Act of 1947" (30 U.S.C. 601 et seq.).

(4) Grazing.—The exchange of lands under paragraph (1) shall be subject to agreement by the District to continue to permit the grazing of domestic livestock on the Sand Hollow Site under the terms and conditions of existing Federal grazing leases or permits, except that the District, upon terminating any such lease or permit, shall fully compensate the holder of the terminated lease or permit.

(c) Equalization of Values.—The value of the lands transferred out of Federal ownership under subsection (b) either shall be equal to the value of the lands received by the Secretary under subsection (c) or, if not, shall be equalized by—

(1) to the extent possible, transfer of all right, title, and interest of the District in and to lands in Washington County, Utah, and water rights of the District associated thereto, which are within the area providing habitat for the desert tortoise, as determined by the Director of the Bureau of Land Management;

(2) transfer of all right, title, and interest of the District in and to lands in the Smith Site and water rights of the District associated thereto; and

(3) the payment of money to the Secretary, to the extent that lands and rights transferred under paragraphs (1) and (2) are not sufficient to equalize the values of the lands exchanged under subsection (b).

(d) Management of Lands Acquired by United States.—Lands acquired by the Secretary under this section shall be administered by the Secretary, acting through the Director of the Bureau of Land Management, in accordance with the provisions of law generally applicable to the public lands, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(e) National Environmental Policy Act of 1969.—The exchange of lands under this section is not subject to section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

TITLE XXI—FORT CARSON—PINON CANYON MILITARY LANDS WITHDRAWAL

SECTION 2101. WITHDRAWAL AND RESERVATION OF LANDS AT FORT CARSON MILITARY RESERVATION.

(a) Withdrawal.—Subject to valid existing rights and except as otherwise provided in this Title, the lands at the Fort Carson Military Reservation that are described in subsection (c) are hereby withdrawn from all forms of appropriations under the public land laws, including the mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws.

(b) Reservation.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering, training, and weapons firing; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) Land Description.—The lands referred to in subsection (a) comprise approximately 3,133.02 acres of public land and approximately 11,415.16 acres of federally-owned minerals in El Paso, Pueblo, and Fremont Counties, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Base", dated March 2, 1992, and filed in accordance with section 2003.

SECTION 2102. WITHDRAWAL AND RESERVATION OF LANDS AT PINON CANYON MANEUVER SITE.

(a) Withdrawal.—Subject to valid existing rights and except as otherwise provided in this title, the lands at the Pinon Canyon Maneuver Site that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws.

(b) Reservation.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering and training; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) Land Description.—The lands referred to in subsection (a) comprise approximately 2,517.12 acres of public lands and approximately 130,139 acres of federally-owned minerals in Los Animas County, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Maneuver Area—Pinon Canyon Site", dated March 2, 1992, and filed in accordance with section 2003.

SECTION 2103. MAPS AND LEGAL DESCRIPTIONS.

(a) Preparation.—As soon as practicable after the date of enactment of this Title, the Secretary of the Interior shall publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this Act.

(b) Legal Effect.—Such maps and legal descriptions shall have the same force and effect as if they were included in this Title, except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) Location of Maps.—Copies of such maps and legal descriptions shall be available for public inspection in the offices of the Colorado State Director and the Canon City District Manager of the Bureau of Land Management, and the Commander, Fort Carson, Colorado.

(d) Costs.—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

SECTION 2104. MANAGEMENT OF WITHDRAWN LANDS.

(a) Management Guidelines.—(1) Except as provided in section 2005, during the period of withdrawal the Secretary of the Army shall manage for military purposes the lands covered by this Title and may authorize use of such lands covered by the other military departments and agencies of the Department of Defense, and the National Guard, as appropriate.

(2) When military operations, public safety, or national security, as determined by

VOL
142
PT
5
MR
21
—
29
1996
UMI

the Secretary of the Army, require the closure of roads or trails on the lands withdrawn by this Title commonly in public use, the Secretary of the Army is authorized to take such action, except that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. Appropriate warning notices shall be kept posted during closures.

(3) The Secretary of the Army shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands as a result of military activities and may seek assistance from the Bureau of Land Management in suppressing such fires. The memorandum of understanding required by this subsection (c) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for the transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) Management Plan.—Not later than 5 years after the date of enactment of this Act, the Secretary of the Army, with the concurrence of the Secretary of the Interior, shall develop a plan for the management of acquired lands and lands withdrawn under sections 2001 and 2002 of this Title for the period of the withdrawal. Such plan shall—

(1) be consistent with applicable law;

(2) include such provisions as may be necessary for proper resource management and protection of the natural, cultural, and other resources and values of such lands; and

(3) identify those withdrawn and acquired lands, if any, which are to be open to mining, or mineral or geothermal leasing, including mineral materials disposal.

(c) Implementation of Management Plan.—(1) The Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding to implement the management plan described in subsection (b).

(2) The duration of any such memorandum of understanding shall be the same as the period of withdrawal under section 2007.

(3) The memorandum of understanding may be amended by agreement of both Secretaries.

(d) Use of Certain Resources.—Subject to valid existing rights, the Secretary of the Army is authorized to utilize sand, gravel, or similar mineral or mineral material resources from lands withdrawn by this Title, when the use of such resources is required for construction needs of the Fort Carson Military Reservation or Pinon Canyon Maneuver Site.

SECTION 2105. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

Except as provided in section 2004(d) of this title, the Secretary of the Interior shall manage all withdrawn and acquired mineral resources within the boundaries of the Fort Carson Military Reservation and Pinon Canyon Maneuver Site in accordance with section 12 of the Military Lands Withdrawal Act of 1986 (Public Law 99–606; 100 Stat. 3466), as applicable.

SECTION 2106. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing and trapping on the lands withdrawn and reserved by this Title shall be conducted in accordance with section 2671 of title 10, United States Code.

SECTION 2107. TERMINATION OF WITHDRAWAL AND RESERVATION AND EFFECT OF CONTAMINATION.

(a) Termination Date.—The withdrawal and reservation established by this Title shall terminate 15 years after the date of the enactment of this Act.

(b) Determination of Continuing Military Need.—(1) At least three years prior to the termination under subsection (a) of the withdrawal and reservation established by this Title, the Secretary of the Army shall advise the Secretary of the Interior as to whether or not the Department of the Army will have a continuing military need for any of the lands after the termination date.

(2) If the Secretary of the Army concludes under paragraph (1) that there will be a continuing military need for any of the lands after the termination date established by subsection (a), the Secretary of the Army, in accordance with applicable law, shall evaluate the environmental effects of renewal of such withdrawal and reservation, shall hold at least one public hearing in Colorado concerning such evaluation, and shall thereafter file an application for extension of the withdrawal and reservation of such lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals for military uses. The Secretary of the Interior shall notify the Congress concerning such filing.

(3) If the Secretary of the Army concludes under paragraph (1) that prior to the termination date established by subsection (a), there will be no military need for all or any of the lands withdrawn and reserved by this Act, or if, during the period of withdrawal, the Secretary of the Army shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) Determination of Contamination.—Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(3), the Secretary of the Army shall prepare a written determination as to whether and to what extent the lands are contaminated with explosive, toxic, or other hazardous materials. A copy of the determination made by the Secretary of the Army shall be supplied with the notice of intention to relinquish. Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(d) Effect of Contamination.—(1) If any land which is the subject of a notice of intention to relinquish under subsection (b)(3) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Army, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination, the land could be opened to the operation of some or all of the public land laws, including the mining laws, the Secretary of the Army shall decontaminate the land to the extent that funds are appropriated for such purpose.

(2) If the Secretaries of the Army and the Interior conclude either that the contamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws, or if Congress declined to appropriate funds for decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment.

(3) If, because of their contaminated state, the Secretary of the Interior declines under paragraph (2) to accept jurisdiction of the lands proposed for relinquishment, or if at the expiration of the withdrawal made by the Title the Secretary of the Interior determines that some of the lands withdrawn by this Title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(A) the Secretary of the Army shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(B) after the expiration of the withdrawal, the Secretary of the Army shall undertake no activities on such lands except in connection with decontamination of such lands; and

(C) the Secretary of the Army shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of the subsection.

(4) If the lands are subsequently decontaminated, upon certification by the Secretary of the Army that the lands are safe for all nomilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(5) Nothing in this Title shall affect, or be construed to affect, the Secretary's obligations, if any, to decontaminate such lands pursuant to applicable law, including but not limited to the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601 et seq.), and the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.).

(e) Program of Decontamination.—Throughout the duration of the withdrawal and reservation made by the Title, the Secretary of the Army, to the extent funds are made available, shall maintain a program of decontamination of the lands withdrawn by this Title at least at the level of effort carried out during fiscal year 1992.

(f) Acceptance of Lands Proposed for Relinquishment.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over those lands proposed for relinquishment, is authorized to revoke the withdrawal and reservation established by this Title as it applies to the lands proposed for relinquishment. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws if appropriate.

SECTION 2108. DELEGATION.

The function of the Secretary of the Army under this Act may be delegated. The functions of the Secretary of the Interior under this Title may be delegated, except that the order referred to in section 2007(f) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SECTION 2109. HOLD HARMLESS PROVISION.

(a) In General.—The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any mining, mineral activity, or geothermal leasing activity conducted on lands comprising the Fort Carson Military Reservation or Pinon Canyon Maneuver Site, including liabilities to non-Federal entities under sections 107 or 113 of the

Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9607 and 9613, or section 7003 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6973.

(b) Indemnification.—Any party conducting any mining, mineral or geothermal leasing activity on such lands shall indemnify the United States and its departments or agencies thereof against any costs, fees, damages, or other liabilities, including costs of litigation, arising from or related to such mining activities, including costs of minerals disposal, whether arising under the Comprehensive Environmental Resource Compensation and Liability Act, the Resource Conservation and Recovery Act, or otherwise.

SECTION 2110. AMENDMENTS TO MILITARY LANDS WITHDRAWAL ACT OF 1986.

(a) Use of Certain Resource.—Section 3(f) of the Military Lands Withdrawal Act of 1986 (Public Law 99–606; 100 Stat. 3461) is amended by adding at the end a new paragraph (2) as follows:

"(2) Subject to valid existing rights, the Secretary of the military department concerned may utilize sand, gravel, or similar mineral or material resources from lands withdrawn for the purposes of this Act when the use of such resources is required for construction needs on the respective lands withdrawn by this Act.".

(b) Technical Correction.—Section 9(b) of the Military lands Withdrawal Act of 1986 (Public Law 99–606; 100 Stat. 3466) is amended by striking "7(f)" and inserting in lieu thereof, "8(f)".

SECTION 2111. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out this Title.

TITLE XXII—SNOWBASIN LAND EXCHANGE ACT

SECTION 2201. FINDINGS AND DETERMINATION.

(a) Findings.—The Congress finds that—

(1) in June 1995, Salt Lake City, Utah, was selected to host the 2002 Winter Olympic Games and the Snowbasin Ski Resort, which is owned by the Sun Valley Company, was identified as the site of six Olympic events: the men's and women's downhills, men's and women's Super-Gs, and men's and women's combined downhills;

(2) in order to adequately accommodate these events, which are traditionally among the most popular and heavily attended at the Winter Olympic Games, major new skiing, visitor, and support facilities will have to be constructed at the Snowbasin Ski Resort on land currently administered by the United States Forest Service;

(3) while certain of these new facilities can be accommodated on National Forest land under traditional Forest Service permitting authorities, the base area facilities necessary to host visitors to the ski area and the Winter Olympics are of such a nature that they should logically be located on private land;

(4) land exchanges have been routinely utilized by the Forest Service to transfer base area lands to many other ski areas, and the Forest Service and the Sun Valley Company have concluded that a land exchange to transfer base area lands at the Snowbasin Ski Resort to the Sun Valley Company is both logical and advisable;

(5) an environmental impact statement and numerous resource studies have been completed by the Forest Service and the Sun Valley Company for the lands proposed to be transferred to the Sun Valley Company by this Title;

(6) the Sun Valley Company has assembled lands with outstanding environmental, recreational, and other values to convey to the Forest Service in return for the lands it will receive in the exchange, and the Forest Service has identified such lands as desirable for acquisition by the United States; and

(7) completion of a land exchange and approval of a development plan for Olympic related facilities at the Snowbasin Ski Resort is essential to ensure that all necessary facilities can be constructed, tested for safety and other purposes, and become fully operational in advance of the 2002 Winter Olympics and earlier pre-Olympic events.

(b) Determination.—The Congress has reviewed the previous analyses and studies of the lands to be exchanged and developed pursuant to this Title, and has made its own review of these lands and issues involved, and on the basis of those reviews hereby finds and determines that a legislated land exchange and development plan approval with respect to certain National Forest System Lands is necessary to meet Olympic goals and timetables.

SECTION 2202. PURPOSE AND INTENT.

The purpose of this Title is to authorize and direct the Secretary to exchange 1,320 acres of federally-owned land within the Cache National Forest in the State of Utah for lands of approximately equal value owned by the Sun Valley Company. It is the intent of Congress that this exchange be completed without delay within the period specified by section 2104.

SECTION 2203. DEFINITIONS.

As used in this Title—

(1) the term "Sun Valley Company" means the Sun Valley Company, a division of Sinclair Oil Corporation, a Wyoming Corporation, or its successors or assigns; and

(2) the term "Secretary" means the Secretary of Agriculture.

SECTION 2204. EXCHANGE.

(a) Federal Selected Lands.—(1) Not later than 45 days after the final determination of value of the Federal selected lands, the Secretary shall, subject to this Title, transfer all right, title, and interest of the United States in and to the lands referred to in paragraph (2) to the Sun Valley Company.

(2) The lands referred to in paragraph (1) are certain lands within the Cache National Forest in the State of Utah comprising 1,320 acres, more or less, as generally depicted on the map entitled "Snowbasin Land Exchange—Proposed" and dated October 1995.

(b) Non-Federal Offered Lands.—Upon transfer of the Federal selected lands under subsection (a), and in exchange for those lands, the Sun Valley Company shall simultaneously convey to the Secretary all right, title and interest of the Sun Valley Company in and to so much of the following offered lands which have been previously identified by the United States Forest Service as desirable by the United States, or which are identified pursuant to paragraph (5) prior to the transfer of lands under subsection (a), as are of approximate equal value to the Federal selected lands:

(1) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 640 acres and are generally depicted on a map entitled "Lightning Ridge Offered Lands", dated October 1995.

(2) Certain lands located within the Cache National Forest in Weber County, Utah, which comprise approximately 635 acres and are generally depicted on a map entitled "Wheeler Creek Watershed Offered Lands-Section 2" dated October 1995.

(3) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, and lying immediately adjacent to the outskirts of the City of Ogden, Utah, which comprise approximately 800 acres and are generally depicted on a map entitled "Taylor Canyon Offered Lands", dated October 1995.

(4) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 2,040 acres and are generally depicted on a map entitled "North Fork Ogden River-Devil's Gate Valley", dated October 1995.

(5) Such additional offered lands in the State of Utah as may be necessary to make the values of the lands exchanged pursuant to this Title approximately equal, and which are acceptable to the Secretary.

(c) Substitution of Offered Lands.—If one or more of the precise offered land parcels identified in paragraphs (1) through (4) of subsection (b) is unable to be conveyed to the United States due to appraisal or other reasons, or if the Secretary and the Sun Valley Company mutually agree and the Secretary determines that an alternative offered land package would better serve long term public needs and objectives, the Sun Valley Company may simultaneously convey to the United States alternative offered lands in the State of Utah acceptable to the Secretary in lieu of any or all of the lands identified in paragraph (1) through (4) of subsection (b).

(d) Valuation and Appraisals.—(1) Values of the lands to be exchanged pursuant to this Title shall be equal as determined by the Secretary utilizing nationally recognized appraisal standards and in accordance with section 206 of the Federal Land Policy and Management Act of 1976. The appraisal reports shall be written to Federal standards as defined in the Uniform Appraisal Standards for Federal Land Acquisitions. If, due to size, location, or use of lands exchanged under this Title, the values are not exactly equal, they shall be equalized by the payment of cash equalization money to the Secretary or the Sun Valley Company as appropriate in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)). In order to expedite the consummation of the exchange directed by this Title, the Sun Valley Company shall arrange and pay for appraisals of the offered and selected lands by a qualified appraiser with experience in appraising similar properties and who is mutually acceptable to the Sun Valley Company and the Secretary. The appraisal of the Federal selected lands shall be completed and submitted to the Secretary for technical review and approval no later than 120 days after the date of enactment of this Act, and the Secretary shall make a determination of value not later than 30 days after receipt of the appraisal. In the event the Secretary and the Sun Valley Company are unable to agree to the appraised value of a certain tract or tracts of land, the appraisal, appraisals, or appraisal issues in dispute and a final determination of value shall be resolved through a process of bargaining or submission to arbitration in accordance with section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(2) In order to expedite the appraisal of the Federal selected lands, such appraisal shall—

(A) value the land in its unimproved state, as a single entity for its highest and best use

VOL
142
PT
5
MR
21
—
29
1996
UMI

as if in private ownership and as of the date of enactment of this Act;

(B) consider the Federal lands as an independent property as though in the private marketplace and suitable for development to its highest and best use;

(C) consider in the appraisal any encumbrance on the title anticipated to be in the conveyance to Sun Valley Company and reflect its effect on the fair market value of the property; and

(D) not reflect any enhancement in value to the Federal selected lands based on the existence of private lands owned by the Sun Valley Company in the vicinity of the Snowbasin Ski Resort, and shall assume that private lands owned by the Sun Valley Company are not available for use in conjunction with the Federal selected lands.

SECTION 2205. GENERAL PROVISIONS RELATING TO THE EXCHANGE.

(a) In General.—The exchange authorized by this Title shall be subject to the following terms and conditions:

(1) Reserved Rights-of-Way.—In any deed issued pursuant to section 5(a), the Secretary shall reserve in the United States a right of reasonable access across the conveyed property for public access and for administrative purposes of the United States necessary to manage adjacent federally-owned lands. The terms of such reservation shall be prescribed by the Secretary within 30 days after the date of the enactment of this Act.

(2) Right of Rescission.—This Title shall not be binding on either the United States or the Sun Valley Company if, within 30 days after the final determination of value of the Federal selected lands, the Sun Valley Company submits to the Secretary a duly authorized and executed resolution of the Company stating its intention not to enter into the exchange authorized by this Title.

(b) Withdrawal.—Subject to valid existing rights, effective on the date of enactment of this Act, the Federal selected lands described in section 5(a)(2) and all National Forest System lands currently under special use permit to the Sun Valley Company at the Snowbasin Ski Resort are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws) and from disposition under all laws pertaining to mineral and geothermal leasing.

(c) Deed.—The conveyance of the offered lands to the United States under this Title shall be by general warranty or other deed acceptable to the Secretary and in conformity with applicable title standards of the Attorney General of the United States.

(d) Status of Lands.—Upon acceptance of title by the Secretary, the land conveyed to the United States pursuant to this Title shall become part of the Wasatch or Cache National Forests as appropriate, and the boundaries of such National Forests shall be adjusted to encompass such lands. Once conveyed, such lands shall be managed in accordance with the Act of March 1, 1911, as amended (commonly known as the "Weeks Act"), and in accordance with the other laws, rules and regulations applicable to National Forest System lands. This subsection does not limit the Secretary's authority to adjust the boundaries pursuant to section 11 of the Act of March 1, 1911 ("Weeks Act"). For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Wasatch and Cache National Forests, as adjusted by this Title, shall be considered to be boundaries of the forests as of January 1, 1965.

SECTION 2206. PHASE I FACILITY CONSTRUCTION AND OPERATION.

(a) Phase I Facility Finding and Review.—(1) The Congress has reviewed the Snowbasin Ski Area Master Development Plan dated October 1995 (hereinafter in this section referred to as the "Master Plan"). On the basis of such review, and review of previously completed environmental and other resource studies for the Snowbasin Ski Area, Congress hereby finds that the "Phase I" facilities referred to in the Master Plan to be located on National Forest System land after consummation of the land exchange directed by this Title are limited in size and scope, are reasonable and necessary to accommodate the 2002 Olympics, and in some cases are required to provide for the safety of skiing competitors and spectators.

(2) Within 60 days after the date of enactment of this Act, the Secretary and the Sun Valley Company shall review the Master Plan insofar as such plan pertains to Phase I facilities which are to be constructed and operated wholly or partially on National Forest System lands retained by the Secretary after consummation of the land exchange directed by this Title. The Secretary may modify such Phase I facilities upon mutual agreement with the Sun Valley Company or by imposing conditions pursuant to subsection (b) of this section.

(3) Within 90 days after the date of enactment of this Act, the Secretary shall submit the reviewed Master Plan on the Phase I facilities, including any modifications made thereto pursuant to paragraph (2), to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives for a 30-day review period. At the end of the 30-day period, unless otherwise directed by Act of Congress, the Secretary may issue all necessary authorizations for construction and operation of such facilities or modifications thereof in accordance with the procedures and provisions of subsection (b) of this section.

(b) Phase I Facility Approval, Conditions, and Timetable.—Within 120 days of receipt of an application by the Sun Valley Company to authorize construction and operation of any particular Phase I facility, facilities, or group of facilities, the Secretary, in consultation with the Sun Valley Company, shall authorize construction and operation of such facility, facilities, or group of facilities, subject to the general policies of the Forest Service pertaining to the construction and operation of ski area facilities on National Forest System lands and subject to reasonable conditions to protect National Forest System resources. In providing authorization to construct and operate a facility, facilities, or group of facilities, the Secretary may not impose any condition that would significantly change the location, size, or scope of the applied for Phase I facility unless—

(1) the modification is mutually agreed to by the Secretary and the Sun Valley Company; or

(2) the modification is necessary to protect health and safety. Nothing in this section shall be construed to affect the Secretary's responsibility to monitor and assure compliance with the conditions set forth in the construction and operation authorization.

(c) Congressional Directions.—Notwithstanding any other provision of law, Congress finds that consummation of the land exchange directed by this Title and all determinations, authorizations, and actions taken by the Secretary pursuant to this Title pertaining to Phase I facilities on National Forest System lands, or any modifications thereof, to be nondiscretionary actions authorized and directed by Congress and hence to comply with all procedural and other requirements of the laws of the United States. Such determinations, authorizations, and actions shall not be subject to administrative or judicial review.

SECTION 2207. NO PRECEDENT.

Nothing in section 2104(d)(2) of this Title relating to conditions or limitations on the appraisal of the Federal lands, or any provision of section 2106 relating to the approval by the Congress or the Forest Service of facilities on National Forest System lands, shall be construed as a precedent for subsequent legislation.

TITLE XXIII—COLONIAL NATIONAL HISTORICAL PARK

SECTION 2301. COLONIAL NATIONAL HISTORICAL PARK.

(a) Transfer and Rights-of-Way.—The Secretary of the Interior (hereinafter in this Title referred to as the "Secretary") is authorized to transfer, without reimbursement, to York County, Virginia, that portion of the existing sewage disposal system, including related improvements and structures, owned by the United States and located within the Colonial National Historical Park, together with such rights-of-way as are determined by the Secretary to be necessary to maintain and operate such system.

(b) Repair and Rehabilitation of System.—The Secretary is authorized to enter into a cooperative agreement with York County, Virginia, under which the Secretary will pay a portion, not to exceed $110,000, of the costs of repair and rehabilitation of the sewage disposal system referred to in subsection (a).

(c) Fees and Charges.—In consideration for the rights-of-way granted under subsection (a), and in recognition of the National Park Service's contribution authorized under subsection (b), the cooperative agreement under subsection (b) shall provide for a reduction in, or the elimination of, the amounts charged to the National Park Service for its sewage disposal. The cooperative agreement shall also provide for minimizing the impact of the sewage disposal system on the park and its resources. Such system may not be enlarged or substantially altered without National Park Service concurrence.

SECTION 2302. INCLUSION OF LAND IN COLONIAL NATIONAL HISTORICAL PARK.

Notwithstanding the provisions of the Act of June 28, 1938 (52 Stat. 1208; 16 U.S.C. 81b et seq.), limiting the average width of the Colonial Parkway, the Secretary of the Interior is authorized to include within the boundaries of Colonial National Historical Park and acquire by donation, exchange, or purchase with donated or appropriated funds—

(1) the lands or interests in lands described as lots 30 to 48, inclusive;

(2) the portion of lot 49 that is 200 feet in width from the existing boundary of Colonial National Historical Park;

(3) a 3.2-acre archaeological site, as shown on the plats titled "Page Landing At Jamestown being a subdivision of property of Neck O Land Limited Partnership" dated June 21, 1989, sheets 2 and 3 of 3 sheets and bearing National Park Service Drawing Number 333.80031; and

(4) all or a portion of the adjoining lot number 11 of the Neck O Land Hundred Subdivision, with or without improvements.

SECTION 2303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Title.

TITLE XXIV—WOMEN'S RIGHTS NATIONAL HISTORICAL PARK

SECTION 2401. INCLUSION OF OTHER PROPERTIES.

Section 1601(c) of Public Law 96-607 (16 U.S.C. 410ll) is amended to read as follows: "To carry out the purposes of this section there is hereby established the Women's Rights National Historical Park (hereinafter in this section referred to as the "park"). The park shall consist of the following designated sites in Seneca Falls and Waterloo, New York:

"(1) Stanton House, 32 Washington Street, Seneca Falls;

"(2) dwelling, 30 Washington Street, Seneca Falls;

"(3) dwelling, 34 Washington Street, Seneca Falls;

"(4) lot, 26–28 Washington Street, Seneca Falls;

"(5) former Wesleyan Chapel, 126 Fall Street, Seneca Falls;

"(6) theater, 128 Fall Street, Seneca Falls;

"(7) McClintock House, 16 East Williams Street, Waterloo;

"(8) Hunt House, 401 East Williams Street, Waterloo;

"(9) not to exceed 1 acre, plus improvements, as determined by the Secretary, in Seneca Falls for development of a maintenance facility

"(10) dwelling, 1 Seneca Street, Seneca Falls;

"(11) dwelling, 10 Seneca Street, Seneca Falls;

"(12) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Street, Seneca Falls; and

"(13) dwelling, 12 East Williams Street, Waterloo.".

SECTION 2402. MISCELLANEOUS AMENDMENTS.

Section 1601 of Public Law 96-607 (16 U.S.C. 410ll) is amended by redesignating subsection (i) as "(i)(1)" and inserting at the end thereof the following new paragraph:

"(2) In addition to those sums appropriated prior to the date of enactment of this paragraph for land acquisition and development, there is hereby authorized to be appropriated an additional $2,000,000.".

TITLE XXV—FRANKLIN D. ROOSEVELT FAMILY LANDS

SECTION 2501. ACQUISITION OF LANDS.

(a) In General.—(1) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire, by purchase with donated or appropriated funds, donation, or otherwise, lands and interests therein in the following properties located at Hyde Park, New York identified as lands critical for protection as depicted on the map entitled "Roosevelt Family Estate" and dated September 1994—

(A) the "Open Park Hodhome Tract", consisting of approximately 40 acres, which shall be the highest priority for acquisition;

(B) the "Top Cottage Tract", consisting of approximately 30 acres; and

(C) the "Poughkeepsie Shopping Center, Inc. Tract", consisting of approximately 55 acres.

(b) Administration.—Lands and interests therein acquired by the Secretary pursuant to this Title shall be added to, and administered by the Secretary as part of the Franklin Delano Roosevelt National Historic Site or the Eleanor Roosevelt National Historic Site, as appropriate.

(c) Authorization of Appropriations.—There is hereby authorized to be appropriated not to exceed $3,000,000 to carry out this Title.

TITLE XXVI—GREAT FALLS HISTORIC DISTRICT, NEW JERSEY

SECTION 2601. FINDINGS.

Congress finds that—

(1) the Great Falls Historic District in the State of New Jersey is an area of historical significance as an early site of planned industrial development, and has remained largely intact, including architecturally significant structures;

(2) the Great Falls Historic District is listed on the National Register of Historic Places and has been designated a National Historic Landmark;

(3) the Great Falls Historic District is situated within a one-half hour's drive from New York City and a 2 hour's drive from Philadelphia, Hartford, New Haven, and Wilmington;

(4) the District was developed by the Society of Useful Manufactures, an organization whose leaders included a number of historically renowned individuals, including Alexander Hamilton; and

(5) the Great Falls Historic District has been the subject of a number of studies that have shown that the District possesses a combination of historic significance and natural beauty worthy of and uniquely situated for preservation and redevelopment.

SECTION 2602. PURPOSES.

The purposes of this Title are—

(1) to preserve and interpret, for the educational and inspirational benefit of the public, the contribution to our national heritage of certain historic and cultural lands and edifices of the Great Falls Historic District, with emphasis on harnessing this unique urban environment for its educational and recreational value; and

(2) to enhance economic and cultural redevelopment within the District.

SECTION 2603. DEFINITIONS.

In this Act:

(1) District.—The term "District" means the Great Falls Historic District established by section 5.

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

SECTION 2604. GREAT FALLS HISTORIC DISTRICT.

(a) Establishment.—There is established the Great Falls Historic District in the city of Paterson, in Passaic County, New Jersey.

(b) Boundaries.—The boundaries of the District shall be the boundaries specified for the Great Falls Historic District listed on the National Register of Historic Places.

SECTION 2605. DEVELOPMENT PLAN.

(a) Grants and Cooperative Agreements.—The Secretary may make grants and enter into cooperative agreements with the State of New Jersey, local governments, and private nonprofit entities under which the Secretary agrees to pay not more than 50 percent of the costs of—

(1) preparation of a plan for the development of historic, architectural, natural, cultural, and interpretive resources within the District; and

(2) implementation of projects approved by the Secretary under the development plan.

(b) Contents of Plan.—The development plan shall include—

(1) an evaluation of—

(A) the physical condition of historic and architectural resources; and

(B) the environmental and flood hazard conditions within the District; and

(2) recommendations for—

(A) rehabilitating, reconstructing, and adaptively reusing the historic and architectural resources;

(B) preserving viewsheds, focal points, and streetscapes;

(C) establishing gateways to the District;

(D) establishing and maintaining parks and public spaces;

(E) developing public parking areas;

(F) improving pedestrian and vehicular circulation within the District;

(G) improving security within the District, with an emphasis on preserving historically significant structures from arson; and

(H) establishing a visitors' center.

SECTION 2606. RESTORATION, PRESERVATION, AND INTERPRETATION OF PROPERTIES.

(a) Cooperative Agreements.—The Secretary may enter into cooperative agreements with the owners of properties within the District that the Secretary determines to be of historical or cultural significance, under which the Secretary may—

(1) pay not more than 50 percent of the cost of restoring and improving the properties;

(2) provide technical assistance with respect to the preservation and interpretation of the properties; and

(3) mark and provide interpretation of the properties.

(b) Provisions.—A cooperative agreement under subsection (a) shall provide that—

(1) the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes;

(2) no change or alteration may be made in the property except with the agreement of the property owner, the Secretary, and any Federal agency that may have regulatory jurisdiction over the property; and

(3) if at any time the property is converted, used, or disposed of in a manner that is contrary to the purposes of this Act, as determined by the Secretary, the property owner shall be liable to the Secretary for the greater of—

(A) the amount of assistance provided by the Secretary for the property; or

(B) the portion of the increased value of the property that is attributable to that assistance, determined as of the date of the conversion, use, or disposal.

(c) Applications.—

(1) In General.—A property owner that desires to enter into a cooperative agreement under subsection (a) shall submit to the Secretary an application describing how the project proposed to be funded will further the purposes of the District.

(2) Consideration.—In making such funds available under this section, the Secretary shall give consideration to projects that provide a greater leverage of Federal funds.

SECTION 2607. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this Title—

(1) $250,000 for grants and cooperative agreements for the development plan under section 6; and

(2) $50,000 for the provision of technical assistance and $3,000,000 for the provision of other assistance under cooperative agreements under section 7.

TITLE XXVII—RIO PUERCO WATERSHED

SECTION 2701. FINDINGS.

Congress finds that—

(1) over time, extensive ecological changes have occurred in the Rio Puerco watershed, including—

(A) erosion of agricultural and range lands;

(B) impairment of waters due to heavy sedimentations;

(C) reduced productivity of renewable resources;

(D) loss of biological diversity;

(E) loss of functioning riparian areas; and

VOL
142
PT
5
MR
21
—
29
1996
UMI

(F) loss of available surface water;

(2) damage to the watershed has seriously affected the economic and cultural well-being of its inhabitants, including—

(A) loss of communities that were based on the land and were self-sustaining; and

(B) adverse effects on the traditions, customs, and cultures of the affected communities;

(3) a healthy and sustainable ecosystem is essential to the long-term economic and cultural viability of the region;

(4) the impairment of the Rio Puerco watershed has caused damage to the ecological and economic well-being of the area below the junction of the Rio Puerco with the Rio Grande, including—

(A) disruption of ecological processes;

(B) water quality impairment;

(C) significant reduction in the water storage capacity and life expectancy of the Elephant Butte Dam and Reservoir system due to sedimentation;

(D) chronic problems of irrigation system channel maintenance; and

(E) increased risk of flooding caused by sediment accumulation;

(5) the Rio Puerco is a major tributary of the Rio Grande, and the coordinated implementation of ecosystem-based best management practices for the Rio Puerco system could benefit the larger Rio Grande system;

(6) the Rio Puerco watershed has been stressed from the loss of native vegetation, introduction of exotic species, and alteration of riparian habitat which had disrupted the original dynamics of the river and disrupted natural ecological processes;

(7) the Rio Puerco watershed is a mosaic of private, Federal, tribal trust, and State land ownership with diverse, sometimes differing management objectives;

(8) development, implementation, and monitoring of an effective watershed management program for the Rio Puerco watershed is best achieved through cooperation among affected Federal, state, local, and tribal entities;

(9) the Secretary of the Interior, acting through the Director of the bureau of Land Management, in consultation with Federal, State, local, and tribal entitles and in cooperation with the Rio Puerco Watershed Committee, is best suited to coordinate management efforts in the Rio Puerco Watershed; and

(10) accelerating the pace of improvement in the Rio Puerco Watershed on a coordinated, cooperative basis will benefit persons living in the watershed as well as downstream users on the Rio Grande.

SECTION 2702. MANAGEMENT PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management shall—

(1) in consultation with the Rio Puerco Management Committee established by section 4—

(A) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin, as depicted on the map entitled "the Rio Puerco Watershed" dated June 1994, including—

(i) current and historical natural resource conditions; and

(ii) data concerning the extent and causes of watershed impairment; and

(B) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project, ad depicted on the map entitled "the Rio Puerco Watershed" dated June 1994; and

(2) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices.

(b) RIO PUERCO MANAGEMENT REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall prepare a report for the improvement of watershed conditions in the Rio Puerco Drainage Basin described in subsection (a)(1).

(2) CONTENTS.—The report under paragraph (1) shall—

(A) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco watershed;

(B) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(C) recommend voluntary implementation of appropriate best management practices on public and private lands;

(D) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on public and private lands;

(E) provide for the development of public participation and community outreach programs that would include proposals for—

(i) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(ii) Involvement of private citizens in restoring the watershed;

(F) provide for the development of proposals for voluntary cooperative programs among the members of the Rio Puerco Management Committee to implement best management practices in a coordinated, consistent, and cost-effective manner;

(G) provide for the encouragement of, and support implementation of, best management practices on private lands; and

(H) provide for the development of proposals for a monitoring system that—

(i) builds on existing data available from private, Federal, and State sources;

(ii) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(iii) will provide information to—

(I) assess existing resource and socioeconomic conditions;

(II) identify priority implementation actions; and

(III) assess the effectiveness of actions taken.

SECTION 2703. RIO PUERCO MANAGEMENT COMMITTEE.

(a) ESTABLISHMENT.—There is established the Rio Puerco Management Committee (referred to in this section as the "Committee").

(b) MEMBERSHIP.—The Committee shall be convened by a representative of the Bureau of Land Management and shall include representatives from—

(1) the Rio Puerco Watershed Committee;

(2) affected tribes and pueblos;

(3) the National Forest Service of the Department of Agriculture;

(4) the Bureau of Reclamation;

(5) the United States Geological Survey;

(6) the Bureau of Indian Affairs;

(7) the United States Fish and Wildlife Service;

(8) the Army Corps of Engineers;

(9) the Natural Resources Conservation Service of the Department of Agriculture;

(10) the State of New Mexico, including the New Mexico Environment Department of the State Engineer;

(11) affected local soil and water conservation districts;

(12) the Elephant Butte Irrigation District;

(13) private landowners; and

(14) other interested citizens.

(c) DUTIES.—The Rio Puerco Management Committee shall—

(1) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in section 3; and

(2) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in section 3.

(d) TERMINATION.—The Committee shall terminate on the date that is 10 years after the date of enactment of this Act.

SECTION 2704. REPORT.

Not later than the date that is 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives a report containing—

(1) a summary of activities of the management program under section 3; and

(2) proposals for joint implementation efforts, including funding recommendations.

SECTION 2705. LOWER RIO GRANDE HABITAT STUDY.

(a) IN GENERAL.—The Secretary of the Interior, in cooperation with appropriate State agencies, shall conduct a study of the Rio Grande that—

(1) shall cover the distance from Caballo Lake to Sunland Park, New Mexico; and

(2) may cover a greater distance.

(b) CONTENTS.—The study under subsection (a) shall include—

(1) a survey of the current habitat conditions of the river and its riparian environment;

(2) identification of the changes in vegetation and habitat over the past 400 years and the effect of the changes on the river and riparian area; and

(3) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and to restore habitat through reintroduction or establishment of appropriate native plant species.

(c) TRANSMITTAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary of the Interior shall transmit the study under subsection (a) to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives.

SECTION 2706. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out sections 1, 2, 3, 4, and 5 a total of $7,500,000 for the 10 fiscal years beginning after the date of enactment of this Act.

TITLE XXVIII—COLUMBIA BASIN

SECTION 2801. LAND EXCHANGE.

The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to convey to the Boise Cascade Corporation (hereinafter referred to as the "Corporation"), a corporation formed under the statutes of the State of Delaware, with its principal place of business at Boise, Idaho, title

to approximately seven acres of land, more or less, located in sections 14 and 23, township 36 north, range 37 east, Willamette Meridian, Stevens County, Washington, further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC–19860, and to accept from the Corporation in exchange therefor, title to approximately one hundred and thirty-six acres of land located in section 19, township 37 north, range 38 east and section 33, township 38 north, range 37 east, Willamette Meridian, Stevens County, Washington, and further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC–19858 and Tract No. GC–19859, respectively.

SECTION 2802. APPRAISAL.

The properties so exchanged either shall be approximately equal in fair market value or if they are not approximately equal, shall be equalized by the payment of cash to the Corporation or to the Secretary as required or in the event the value of the Corporation's lands is greater, the acreage may be reduced so that the fair market value is approximately equal: *Provided*, That the Secretary shall order appraisals made of the fair market value of each tract of land included in the exchange without consideration for improvements thereon: *Provided further*, That any cash payment received by the Secretary shall be covered in the Reclamation Fund and credited to the Columbia Basin project.

SECTION 2803. ADMINISTRATIVE COSTS.

Costs of conducting the necessary land surveys, preparing the legal description of the lands to be conveyed, performing the appraisals, and administrative costs incurred in completing the exchange shall be borne by the Corporation.

SECTION 2804. LIABILITY FOR HAZARDOUS SUBSTANCES.

(a) The Secretary shall not acquire any lands under this Title if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(b) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this Title after their transfer to the ownership of any party, but nothing in this Act shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party. The Corporation shall indemnify the United States for liabilities arising under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601), and the Resource Conservation Recovery Act (42 U.S.C. 6901 et seq.).

SECTION 2805. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this Title.

TITLE XXIX—GRAND LAKE CEMETERY

SECTION 2901. MAINTENANCE OF CEMETERY IN ROCKY MOUNTAIN NATIONAL PARK.

(a) AGREEMENT.—Notwithstanding any other law, not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall enter into an appropriate form of agreement with the town of Grand Lake, Colorado, authorizing the town to maintain permanently, under appropriate terms and conditions, a cemetery within the boundaries of the Rocky Mountain National Park.

(a) CEMETERY BOUNDARIES.—The cemetery shall be comprised of approximately 5 acres of land, as generally depicted on the map entitled "Grand Lake Cemetery" and dated February 1995.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—The Secretary of the Interior shall place the map described in subsection (b) on file, and make the map available for public inspection, in the headquarters office of the Rocky Mountain National Park.

(d) LIMITATION.—The cemetery shall not be extended beyond the boundaries of the cemetery shown on the map described in subsection (b).

TITLE XXX—OLD SPANISH TRAIL

SECTION 3001. DESIGNATION.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"(36) The Old Spanish Trail, beginning in Santa Fe, New Mexico, proceeding through Colorado and Utah, and ending in Los Angeles, California, and the Northern Branch of the Old Spanish Trail, beginning near Espanola, New Mexico, proceeding through Colorado, and ending near Crescent Junction, Utah."

TITLE XXXI—BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR

SECTION 3101. BOUNDARY CHANCES.

Section 2 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by striking the first sentence and inserting the following new sentence: "The boundaries shall include the lands and water generally depicted on the map entitled Blackstone River Valley National Heritage Corridor Boundary Map, numbered BRV–80–80,011, and dated May 2, 1993.".

SECTION 3102. TERMS.

Section 3(c) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by inserting immediately before the period at the end the following: ", but may continue to serve after the expiration of this term until a successor has been appointed".

SECTION 3103. REVISION OF PLAN.

Section 6 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

"(d) REVISION OF PLAN.—(1) Not later than 1 year after the date of enactment of this subsection, the Commission, with the approval of the Secretary, shall revise the Cultural Heritage and Land Management Plan. The revision shall address the boundary change and shall include a natural resource inventory of areas or features that should be protected, restored, managed, or acquired because of their contribution to the understanding of national cultural landscape values.

"(2) No changes other than minor revisions may be made in the approved plan as amended without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the plan, except minor revisions, in accordance with subsection (b).".

SECTION 3104. EXTENSION OF COMMISSION.

Section 7 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended to read as follows:

"TERMINATION OF COMMISSION

"SEC. 7. (a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the date that is 10 years after the date of enactment of the Blackstone River Valley National Heritage Corridor Amendments Act of 1995.

"(b) EXTENSION.—The Commission may be extended for an additional term of 10 years if—

"(1) not later than 180 days before the termination of the Commission, the Commission determines that an extension is necessary to carry out this Title;

"(2) the Commission submits a proposed extension to the appropriate committees of the Senate and the House of Representatives; and

"(3) the Secretary, the Governor of Massachusetts, and the Governor of Rhode Island each approve the extension.

"(c) DETERMINATION OF APPROVAL.—The Secretary shall approve the extension if the Secretary finds that—

"(1) the Governor of Massachusetts and the Governor of Rhode Island provide adequate assurances of continued tangible contribution and effective policy support toward achieving the purposes of this Title; and

"(2) the Commission is effectively assisting Federal, State, and local authorities to retain, enhance, and interpret the distinctive character and nationally significant resources of the Corridor.".

SECTION 3105. IMPLEMENTATION OF THE PLAN.

Subsection (c) of section 8 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended to read as follows:

"(c) IMPLEMENTATION.—(1) To assist in the implementation of the Cultural Heritage and Land Management Plan in a manner consistent with purposes of this Title, the Secretary is authorized to undertake a limited program of financial assistance for the purpose of providing funds for the preservation and restoration of structures on or eligible for inclusion on the National Register of Historic Places within the Corridor which exhibit national significance or provide a wide spectrum of historic, recreational, or environmental education opportunities to the general public.

"(2) To be eligible for funds under this section, the Commission shall submit an application to the Secretary that includes—

"(A) a 10-year development plan including those resource protection needs and projects critical to maintaining or interpreting the distinctive character of the Corridor; and

"(B) specific descriptions of annual work programs that have been assembled, the participating parties, roles, cost estimates, cost-sharing, opr cooperative agreements necessary to carry out the development plan.

"(3) Funds made available pursuant to this subsection shall not exceed 50 percent of the total cost of the work programs.

"(4) In making the funds available, the Secretary shall give priority to projects that attract greater non-Federal funding sources.

"(5) Any payment made for the purposes of conservation or restoration of real property or structures shall be subject to an agreement either—

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(A) to convey a conservation or preservation easement to the Department of Environmental Management or to the Historic Preservation Commission, as appropriate, of the State in which the real property or structure is located; or

"(B) that conversion, use, or disposal of the resources so assisted for purposes contrary to the purposes of this Title, as determined by the Secretary, shall result in a right of the United States for reimbursement of all funds expended upon such resources or the proportion of the increased value of the resources attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

"(6) The authority to determine that a conversion, use, or disposal of resources has been carried out contrary to the purposes of this Title in violation of an agreement entered into under paragraph (5)(A) shall be solely at the discretion of the Secretary.".

SECTION 3106. LOCAL AUTHORITY.

Section 5 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

"(j) Local Authority and Private Property not Affected.—Nothing in this Title shall be construed to affect or to authorize the Commission to interfere with—

"(1) the rights of any person with respect to private property; or

"(2) any local zoning ordinance or land use plan of the Commonwealth of Massachusetts or a political subdivision of such Commonwealth.".

SECTION 3107. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), as amended, is further amended—

(1) in subsection (a), by striking "$350,000" and inserting "$650,000"; and

(2) by amending subsection (b) to read as follows:

"(b) Development Funds.—For fiscal years 1996, 1997, and 1998, there is authorized to be appropriated to carry out section 8(c), $5,000,000 in the aggregate.".

TITLE XXXII—CUPRUM, IDAHO RELIEF

SECTION 3201. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds and declares that:

(1) In 1899, the citizens of Cuprum, Idaho, commissioned E.S. Hesse to conduct a survey describing these lands occupied by their community. The purpose of this survey was to provide a basis for the application for a townsite patent.

(2) In 1909, the Cuprum Townsite patent (Number 52817) was granted, based on an aliqot parts description which was intended to circumscribe the Hesse survey.

(3) Since the day of the patent, the Hesse survey has been used continuously by the community of Cuprum and by Adams Country, Idaho, as the official townsite plat and basis for conveyance of title within the townsite.

(4) Recent boundary surveys conducted by the United States Department of Agriculture, Forest Service, and the United States Department of the Interior, Bureau of Land Management, discovered inconsistencies between the official aliquot parts description of the patented Cuprum Townsite and the Hesse survey. Many lots along the south and east boundaries of the townsite are now known to extend onto National Forest System lands outside the townsite.

(5) It is the determination of Congress that the original intent of the Cuprum Townsite application was to include all the lands described by the Hesse survey.

(b) Purpose.—It is the purpose of this Title to amend the 1909 Cuprum Townsite patent to include those additional lands described by the Hesse survey in addition to other lands necessary to provide an administratively acceptable boundary to the National Forest System.

SECTION 3202. AMENDMENT OF PATENT.

(a) The 909 Cuprum Townsite patent is hereby amended to include parcels 1 and 2, identified on the plat, marked as "Township 20 North, Range 3 West, Boise Meridian, Idaho, Section 10: Proposed Patent Adjustment Cuprum Townsite, Idaho" prepared by Payette N.F.—Land Survey Unit, drawn and approved by Tom Betzold, Forest Land Surveyor, on April 25, 1995. Such additional lands are hereby conveyed to the original patentee, Pitts Ellis, trustee, and Probate Judge of Washington County, Idaho, or any successors or assigns in interest in accordance with State law. The Secretary of Agriculture may correct clerical and typographical errors in such plat.

(b) The Federal Government shall survey the Federal property lines and mark and post the boundaries necessary to implement this section.

SECTION 3203. RELEASE.

Notwithstanding section 120 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9620), the United States shall not be liable and shall be held harmless from any and all claims resulting from substances or petroleum products or any other hazardous materials on the conveyed land.

TITLE XXXIII—ARKANSAS AND OKLAHOMA LAND EXCHANGE

SECTION 3301. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds that:

(1) The Weyerhaeuser Company has offered to the United States Government an exchange of lands under which Weyerhaeuser would receive approximately 48,000 acres of Federal land in Arkansas and Oklahoma and all mineral interests and oil and gas interests pertaining to these exchanged lands in which the United States Government has an interest in return for conveying to the United States lands owned by Weyerhaeuser consisting of approximately 180,000 acres of forested wetlands and other forest land of public interest in Arkansas and Oklahoma and all mineral interests and all oil and gas interest pertaining to 48,000 acres of these 180,000 cares of exchanged lands in which Weyerhaeuser has an interest, consisting of:

(A) certain lands in Arkansas (Arkansas Ouachita lands) located near Poteau Mountain, Caney Creek Wilderness, Lake Ouachita, Little Missouri Wild and Scenic River, Flatside Wilderness and the Ouachita National Forest;

(B) certain lands in Oklahoma (Oklahoma lands) located near the McCurtain County Wilderness, the Broken Bow Reservoir, the Glover River, and the Ouachita National Forest; and

(C) certain lands in Arkansas (Arkansas Cossatot lands) located on the Little and Cossatot Rivers and identified as the "Pond Creek Bottoms" in the Lower Mississippi River Delta section of the North American Waterfowl Management Plan;

(2) acquisition of the Arkansas Cossatot lands by the United States will remove the lands in the heart of a critical wetland ecosystem from sustained timber production and other development;

(3) the acquisition of the Arkansas Ouachita lands and the Oklahoma lands by the United States for administration by the Forest Service will provide an opportunity for enhancement of ecosystem management of the National Forest System lands and resources;

(4) the Arkansas Ouachita lands and the Oklahoma lands have outstanding wildlife habitat and important recreational values and should continue to be made available for activities such as public hunting, fishing, trapping, nature observation, enjoyment, education, and timber management whenever these activities are consistent with applicable Federal laws and land and resource management plans; these lands, especially in the riparian zones, also harbor endangered, threatened and sensitive plants and animals and the conservation and restoration of these areas are important to the recreational and educational public uses and will represent a valuable ecological resource which should be conserved;

(5) the private use of the lands the United States will convey to Weyerhaeuser will not conflict with established management objectives on adjacent Federal lands;

(6) the lands the United States will convey to Weyerhaeuser as part of the exchange described in paragraph (1) do not contain comparable fish, wildlife, or wetland values;

(7) the values of all lands, mineral interests, and oil and gas interests to be exchanged between the United States and Weyerhaeuser are approximately equal in value; and

(8) the exchange of lands, mineral interests, and oil and gas interests between Weyerhaeuser and the United States is in the public interest.

(b) Purpose.—The purpose of this Title is to authorize and direct the Secretary of the Interior and the Secretary of Agriculture, subject to the terms of this Title, to complete, as expeditiously as possible, an exchange of lands, mineral interests, and oil and gas interests with Weyerhaeuser that will provide environmental, land management, recreational, and economic benefits to the States of Arkansas and Oklahoma and to the United States.

SECTION 3302. DEFINITIONS.

As used in this Title:

(a) Land.—The terms "land" or "lands" mean the surface estate and any other interests therein except for mineral interests and oil and gas interests.

(b) Mineral Interests.—The term "mineral interests" means geothermal steam and heat and all metals, ores, and minerals of any nature whatsoever, except oil and gas interests, in or upon lands subject to this Title including, but not limited to, coal, lignite, peat, rock, sand, gravel, and quartz.

(c) Oil and Gas Interests.—The term "oil and gas interests" means all oil and gas of any nature, including carbon dioxide, helium, and gas taken from coal seams, (collectively "oil and gas").

(d) Secretaries.—The term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture.

(e) Weyerhaeuser.—The term "Weyerhaeuser" means Weyerhaeuser Company, a company incorporated in the State of Washington.

SECTION 3303. EXCHANGE.

(a) Exchange of Lands and Mineral Interests.—

(1) In general.—Subject to paragraph (a)(2) and notwithstanding any other provision of law, within 90 days after the date of the enactment of this Title, the Secretary of Agriculture shall convey to Weyerhaeuser, subject to any valid existing rights, approximately 20,000 acres of Federal lands and mineral interests in the State of Arkansas and approximately 28,000 aces of Federal lands and mineral interests in the State of Oklahoma as depicted on maps entitled "Arkansas-Oklahoma Land Exchange—Federal Arkansas and Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(2) Offer and acceptance of lands.—The Secretary of Agriculture shall make the conveyance to Weyerhaeuser if Weyerhaeuser conveys deeds of title to the United States, subject to limitations and the reservation described in subsection (b) and which are acceptable to and approved by the Secretary of Agriculture to the following:

(A) approximately 120,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Oklahoma, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries;

(B) approximately 35,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Ouachita Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries; and

(C) approximately 25,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Cossatot Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(b) Exchange of Oil and Gas Interests.—

(1) In general.—Subject to paragraph (b)(2) and notwithstanding any other provision of law, at the same time as the exchange for land and mineral interests is carried out pursuant to this section, the Secretary of Agriculture shall exchange all Federal oil and gas interests, including existing leases and other agreements, in the lands described in paragraph (a)(1) for equivalent oil and gas interests, including existing leases and other agreements, owned by Weyerhaeuser in the lands described in paragraph (a)(2).

(2) Reservation.—In addition to the exchange of oil and gas interests pursuant to paragraph (b)(1), Weyerhaeuser shall reserve oil and gas interests in and under the lands depicted for reservation upon a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oil and Gas Interest Reservation Lands", dated February 1996 and available for public inspection in appropriate offices of the Secretaries. Such reservation shall be subject to the provisions of this Title and a Memorandum of Understanding jointly agreed to by the Forest Service and Weyerhaeuser. Such Memorandum of Understanding shall be completed no later than 60 days after date of enactment of this Title and shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. The Memorandum of Understanding shall not become effective until 30 days after it is received by the Committees.

(c) General Provisions.—

(1) Maps controlling.—The acreage cited in this Title is approximate. In the case of a discrepancy between the description of lands, mineral interests, or oil and gas interests to be exchanged pursuant to subsection (a) and the lands, mineral interests, or oil and gas interest depicted on a map referred to in such subsection, the map shall control. Subject to the notification required by paragraph (3), the maps referenced in this Title shall be subject to such minor corrections as may be agreed upon by the Secretaries and Weyerhaeuser.

(2) Final maps.—Not later than 180 days after the conclusion of the exchange required by subsections (a) and (b), the Secretaries shall transmit maps accurately depicting the lands and mineral interests conveyed and transferred pursuant to this Title and the acreage and boundary descriptions of such lands and mineral interests to the Committees on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(3) Cancellation.—If, before the exchange has been carried out pursuant to subsections (a) and (b), Weyerhaeuser provides written notification to the Secretaries that Weyerhaeuser no longer intends to complete the exchange, with respect to the lands, mineral interests, and oil and gas interests that would otherwise be subject to the exchange, the status of such lands, mineral interests, and oil and gas interests shall revert to the status of such lands, mineral interests, and oil and gas interests as of the day before the date of enactment of this Title and shall be managed in accordance with applicable law and management plans.

(4) Withdrawal.—Subject to valid existing rights, the lands and interests therein depicted for conveyance to Weyerhaeuser on the maps referenced in subsections (a) and (b) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from the operation of mineral leasing and geothermal steam leasing laws effective upon the date of the enactment of this Title. Such withdrawal shall terminate 45 days after completion of the exchange provided for in subsections (a) and (b) or on the date of notification by Weyerhaeuser of a decision not to complete the exchange.

SECTION 3304. DESIGNATION AND USE OF LANDS ACQUIRED BY THE UNITED STATES.

(a) National Forest System.—

(1) Addition to the system.—Upon approval and acceptance of title by the Secretary of Agriculture, the 155,000 acres of land conveyed to the United States pursuant to Section 3303(a)(2) (A) and (B) of this Act shall be subject to the Act of March 1, 1911 (commonly known as the "Weeks Law") (36 Stat. 961, as amended), and shall be administered by the Secretary of Agriculture in accordance with the laws and regulations pertaining to the National Forest system.

(2) Plan amendments.—No later than 12 months after the completion of the exchange required by this Title, the Secretary of Agriculture shall begin the process to amend applicable land and resource management plans with public involvement pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1604).

(b) Other.

(1) Addition to the national wildlife refuge system.—Once acquired by the United States, the 25,000 acres of land identified in section 3303(a)(2)(C), the Arkansas Cossatot lands, shall be managed by the Secretary of the Interior as a component of the Cossatot National Wildlife Refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

(2) Plan preparation.—Within 24 months after the completion of the exchange required by this Title, the Secretary of the Interior shall prepare and implement a single refuge management plan for the Cossatot National Wildlife Refuge, as expanded by this Title. Such plans shall recognize the important public purposes served by the nonconsumptive activities, other recreational activities, and wildlife-related public use, including hunting, fishing, and trapping. The plan shall permit, to the maximum extent practicable, compatible uses to the extent that they are consistent with sound wildlife management and in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws. Any regulations promulgated by the Secretary of the Interior with respect to hunting, fishing, and trapping on those lands shall, to the extent practicable, be consistent with State fish and wildlife laws and regulations. In preparing the management plan and regulations, the Secretary of the Interior shall consult with the Arkansas Game and Fish Commission.

(3) Interim use of lands.—

(A) In general.—Except as provided in paragraph (2), during the period beginning on the date of the completion of the exchange of lands required by this Title and ending on the first date of the implementation of the plan prepared under paragraph (2), the Secretary of the Interior shall administer all lands added to the Cossatot National Wildlife Refuge pursuant to this Title in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) and other applicable laws.

(B) Hunting seasons.—During the period described in subparagraph (A), the duration of any hunting season on the lands described in subsection (1) shall comport with the applicable State law.

SECTION 3305. OUACHITA NATIONAL FOREST BOUNDARY ADJUSTMENT.

(a) In General.—Upon acceptance of title by the Secretary of Agriculture of the lands conveyed to the United States pursuant to Section 3303(a)(2) (A) and (B), the boundaries of the Ouachita National Forest shall be adjusted to encompass those lands conveyed to the United States generally depicted on the appropriate maps referred to in section 3303(a). Nothing in this section shall limit the authority of the Secretary of Agriculture to adjust the boundary pursuant to section 11 of the Weeks Law of March 1, 1911. For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Ouachita National Forest, as adjusted by this Title, shall be considered to be the boundaries of the Forest as of January 1, 1965.

(b) Maps and Boundary Descriptions.—Not later than 180 days after the date of enactment of this Title, the Secretary of Agriculture shall prepare a boundary description of the lands depicted on the map(s) referred to in section 3303(a)(2) (A) and (B). Such map(s) and boundary description shall have the same force and effect as if included in this Title, except that the Secretary of Agriculture may correct clerical and typographical errors.

Mr. MURKOWSKI. Mr. President, it is my understanding that on Monday the Senate will proceed to the consideration of various bills reported by the

VOL
142
PT
5
MR
21
—
29
1996
UMI

Committee on Energy and Natural Resources. It is my intention at that time to offer an amendment in the nature of a substitute to H.R. 1296, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, and for other purposes.

TAIWAN CONCURRENT RESOLUTION

THOMAS (AND OTHERS) AMENDMENT NO. 3562

Mr. THOMAS (for himself, Mr. HELMS, Mr. DOLE, Mr. MURKOWSKI, Mr. PELL, Mr. SIMON, Mr. MACK, Mr. GRAMS, Mr. PRESSLER, Mr. BROWN, Mr. LUGAR, Mr. D'AMATO, Mr. WARNER, Mr. FORD, Mr. LIEBERMAN, Mr. ROTH, Mr. NICKLES, Mr. HATCH, Mr. GORTON, Mr. CRAIG, Mr. SANTORUM, Mr. DORGAN, Mr. ROBB, Mr. ROCKEFELLER, Mr. BRYAN, Ms. MOSELEY-BRAUN, Mr. KERRY, Mr. DASCHLE, and Mrs. FEINSTEIN) proposed an amendment to the concurrent resolution (H. Con. Res. 148) expressing the sense of the Congress that the United States is committed to the military stability of the Taiwan Straits and United States military forces should defend Taiwan in the event of invasion, missile attack, or blockade by the People's Republic of China; as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

"That it is the sense of the Congress—

"(1) to deplore the missile tests and military exercises that the People's Republic of China is conducting from March 8 through March 25, 1996, and view such tests and exercises as potentially serious threats to the peace, security, and stability of Taiwan and not in the spirit of the three United States-China Joint Communiqués;

"(2) to urge the Government of the People's Republic of China to cease its bellicose actions directed at Taiwan and enter instead into meaningful dialogue with the Government of Taiwan at the highest levels, such as through the Straits Exchange Foundation in Taiwan and the Association for Relations Across the Taiwan Strait in Beijing, with an eye towards decreasing tensions and resolving the issue of the future of Taiwan;

"(3) that the President should, consistent with section 3(c) of the Taiwan Relations Act of 1979 (22 U.S.C. 3302(c)), immediately consult with Congress on an appropriate United States response to the tests and exercises should the tests or exercises pose an actual threat to the peace, security, and stability of Taiwan;

"(4) that the President should, consistent with the Taiwan Relations Act of 1979 (22 U.S.C. 3301 et seq.), reexamine the nature and quantity of defense articles and services that may be necessary to enable Taiwan to maintain a sufficient self-defense capability in light of the heightened military threat; and

"(5) that the Government of Taiwan should remain committed to the peaceful resolution of its future relations with the People's Republic of China by mutual decision."

Amend the preamble to read as follows:

"Whereas the People's Republic of China, in a clear attempt to intimidate the people and Government of Taiwan, has over the past 9 months conducted a series of military exercises, including missile tests, within alarmingly close proximity to Taiwan;

"Whereas from March 8 through March 15, 1996, the People's Republic of China conducted a series of missile tests within 25 to 35 miles of the 2 principal northern and southern ports of Taiwan, Kaohsiung and Keelung;

"Whereas on March 12, 1996, the People's Republic of China began an 8-day, live-ammunition, joint sea-and-air military exercise in a 2,390 square mile area in the southern Taiwan Strait;

"Whereas on March 18, 1996, the People's Republic of China began a 7-day, live-ammunition, joint sea-and-air military exercise between Taiwan's islands of Matsu and Wuchu;

"Whereas these tests and exercises are a clear escalation of the attempts by the People's Republic of China to intimidate Taiwan and influence the outcome of the upcoming democratic presidential election in Taiwan;

"Whereas through the administrations of Presidents Nixon, Ford, Carter, Reagan, and Bush, the United States has adhered to a "One China" policy and, during the administration of President Clinton, the United States continues to adhere to the "One China" policy based on the Shanghai Communiqué of February 27, 1972, the Joint Communiqué on the Establishment of Diplomatic Relations Between the United States of America and the People's Republic of China of January 1, 1979, and the United States-China Joint Communiqué of August 17, 1982;

"Whereas through the administrations of Presidents Carter, Reagan, and Bush, the United States has adhered to the provisions of the Taiwan Relations Act of 1979, (22 U.S.C. 3301 et seq.) as the basis for continuing commercial, cultural, and other relations between the people of the United States and the people of Taiwan and, during the administration of President Clinton, the United States continues to adhere to the provisions of the Taiwan Relations Act of 1979;

"Whereas relations between the United States and the People's Republic of China rest upon the expectation that the future of Taiwan will be settled solely by peaceful means;

"Whereas the strong interest of the United States in the peaceful settlement of the Taiwan question is one of the central premises of the three United States-China Joint Communiqués and was codified in the Taiwan Relations Act of 1979;

"Whereas the Taiwan Relations Act of 1979 states that peace and stability in the western Pacific "are in the political, security, and economic interests of the United States, and are matters of international concern";

"Whereas the Taiwan Relations Act of 1979 states that the United States considers "any effort to determine the future of Taiwan by other than peaceful means, including by boycotts, or embargoes, a threat to the peace and security of the western Pacific area and of grave concern to the United States";

"Whereas the Taiwan Relations Act of 1979 directs the President to "inform Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom";

"Whereas the Taiwan Relations Act of 1979 further directs that "the President and the Congress shall determine, in accordance with constitutional process, appropriate action by the United States in response to any such danger";

"Whereas the United States, the People's Republic of China, and the Government of Taiwan have each previously expressed their commitment to the resolution of the Taiwan question through peaceful means; and

"Whereas these missile tests and military exercises, and the accompanying statements made by the Government of the People's Republic of China, call into serious question the commitment of China to the peaceful resolution of the Taiwan question: Now, therefore, be it,"

Amend the title so as to read: "Expressing the sense of Congress regarding missile tests and military exercises by the People's Republic of China."

THE ACCELERATED CLEANUP AND ENVIRONMENTAL RESTORATION ACT OF 1996

SMITH (AND CHAFEE) AMENDMENT NO. 3563

(Ordered to lie on the table.)

Mr. SMITH (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed by them to the bill (S. 1285) to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980, and for other purpose; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Accelerated Cleanup and Environmental Restoration Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COMMUNITY PARTICIPATION

Sec. 101. Community response organizations; technical assistance grants; improvement of public participation in the Superfund decisionmaking process.

TITLE II—STATE ROLE

Sec. 201. Delegation to the States of authorities with respect to national priorities list facilities.

TITLE III—VOLUNTARY CLEANUP

Sec. 301. Assistance for qualifying State voluntary response programs.
Sec. 302. Brownfield characterization program.
Sec. 303. Treatment of security interest holders and fiduciaries as owners or operators.
Sec. 304. Federal Deposit Insurance Act amendment.
Sec. 305. Contiguous properties.
Sec. 306. Prospective purchasers and windfall liens.
Sec. 307. Safe harbor innocent landholders.

TITLE IV—SELECTION OF REMEDIAL ACTIONS

Sec. 401. Definitions.
Sec. 402. Selection and implementation of remedial actions.
Sec. 403. Remedy selection methodology.
Sec. 404. Remedy selection procedures.
Sec. 405. Completion of physical construction and delisting.
Sec. 406. Transition rules for facilities currently involved in remedy selection.

Sec. 407. Judicial review.
Sec. 408. National Priorities List.

TITLE V—LIABILITY

Sec. 501. Liability exceptions and limitations.
Sec. 502. Contribution from the Fund for certain retroactive liability.
Sec. 503. Allocation of liability for certain facilities.
Sec. 504. Liability of response action contractors.
Sec. 505. Release of evidence.
Sec. 506. Contribution protection.
Sec. 507. Treatment of religious, charitable, scientific, and educational organizations as owners or operators.
Sec. 508. Common carriers.
Sec. 509. Limitation on liability for response costs.

TITLE VI—FEDERAL FACILITIES

Sec. 601. Transfer of authorities.
Sec. 602. Limitation on criminal liability of Federal officers, employees, and agents.
Sec. 603. Innovative technologies for remedial action at Federal facilities.
Sec. 604. Federal facility listing.
Sec. 605. Federal facility listing deferral.
Sec. 606. Transfers of uncontaminated property.

TITLE VII—NATURAL RESOURCE DAMAGES

Sec. 701. Restoration of natural resources.
Sec. 702. Assessment of damages.
Sec. 703. Consistency between response actions and resource restoration standards and alternatives.
Sec. 704. Miscellaneous amendments.

TITLE VIII—MISCELLANEOUS

Sec. 801. Result-oriented cleanups.
Sec. 802. National Priorities List.
Sec. 803. Obligations from the fund for response actions.
Sec. 804. Remediation waste.

TITLE IX—FUNDING

Subtitle A—General Provisions

Sec. 901. Authorization of appropriations from the Fund.
Sec. 902. Orphan share funding.
Sec. 903. Department of Health and Human Services.
Sec. 904. Limitations on research, development, and demonstration programs.
Sec. 905. Authorization of appropriations from general revenues.
Sec. 906. Additional limitations.
Sec. 907. Reimbursement of potentially responsible parties.

TITLE I—COMMUNITY PARTICIPATION

SEC. 101. COMMUNITY RESPONSE ORGANIZATIONS; TECHNICAL ASSISTANCE GRANTS; IMPROVEMENT OF PUBLIC PARTICIPATION IN THE SUPERFUND DECISIONMAKING PROCESS.

(a) AMENDMENT.—Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking subsection (e) and inserting the following:

"(e) COMMUNITY RESPONSE ORGANIZATIONS.—

"(1) ESTABLISHMENT.—The Administrator shall create a community response organization for a facility that is listed or proposed for listing on the National Priorities List—

"(A) if the Administrator determines that a representative public forum will be helpful in promoting direct, regular, and meaningful consultation among persons interested in remedial action at the facility; or

"(B) at the request of—

"(i) 50 individuals residing in, or at least 20 percent of the population of, the area in which the facility is located;

"(ii) a representative group of the potentially responsible parties; or

"(iii) any local governmental entity with jurisdiction over the facility.

"(2) RESPONSIBILITIES.—A community response organization shall—

"(A) solicit the views of the local community on various issues affecting the development and implementation of remedial actions at the facility;

"(B) serve as a conduit of information to and from the community to appropriate Federal, State, and local agencies and potentially responsible parties;

"(C) serve as a representative of the local community during the remedial action planning and implementation process; and

"(D) provide reasonable notice of and opportunities to participate in the meetings and other activities of the community response organization.

"(3) ACCESS TO DOCUMENTS.—The Administrator shall provide a community response organization access to documents in possession of the Federal Government regarding response actions at the facility that do not relate to liability and are not protected from disclosure as confidential business information.

"(4) COMMUNITY RESPONSE ORGANIZATION INPUT.—

"(A) CONSULTATION.—The Administrator (or if the remedial action plan is being prepared or implemented by a party other than the Administrator, the other party) shall—

"(i) consult with the community response organization in developing and implementing the remedial action plan; and

"(ii) keep the community response organization informed of progress in the development and implementation of the remedial action plan.

"(B) TIMELY SUBMISSION OF COMMENTS.—The community response organization shall provide its comments, information, and recommendations in a timely manner to the Administrator (and other party).

"(C) CONSENSUS.—The community response organization shall attempt to achieve consensus among its members before providing comments and recommendations to the Administrator (and other party), but if consensus cannot be reached, the community response organization shall report or allow presentation of divergent views.

"(5) TECHNICAL ASSISTANCE GRANTS.—

"(A) PREFERRED RECIPIENT.—If a community response organization exists for a facility, the community response organization shall be the preferred recipient of a technical assistance grant under subsection (f).

"(B) PRIOR AWARD.—If a technical assistance grant concerning a facility has been awarded prior to establishment of a community response organization—

"(i) the recipient of the grant shall coordinate its activities and share information and technical expertise with the community response organization; and

"(ii) 1 person representing the grant recipient shall serve on the community response organization.

"(6) MEMBERSHIP.—

"(A) NUMBER.—The Administrator shall select not less than 15 nor more than 20 persons to serve on a community response organization.

"(B) NOTICE.—Before selecting members of the community response organization, the Administrator shall provide a notice of intent to establish a community response organization to persons who reside in the local community.

"(C) REPRESENTED GROUPS.—The Administrator shall, to the extent practicable, appoint members to the community response organization from each of the following groups of persons:

"(i) Persons who reside or own residential property near the facility;

"(ii) Persons who, although they may not reside or own property near the facility, may be adversely affected by a release from the facility.

"(iii) Persons who are members of the local public health or medical community and are practicing in the community.

"(iv) Representatives of Indian tribes or Indian communities that reside or own property near the facility or that may be adversely affected by a release from the facility.

"(v) Local representatives of citizen, environmental, or public interest groups with members residing in the community.

"(vi) Representatives of local governments, such as city or county governments, or both, and any other governmental unit that regulates land use or land use planning in the vicinity of the facility.

"(vii) Members of the local business community.

"(D) PROPORTION.—Local residents shall comprise not less than 60 percent of the membership of a community response organization.

"(E) PAY.—Members of a community response organization shall serve without pay.

"(7) PARTICIPATION BY GOVERNMENT REPRESENTATIVES.—Representatives of the Administrator, the Administrator of the Agency for Toxic Substances and Disease Registry, other Federal agencies, and the State, as appropriate, shall participate in community response organization meetings to provide information and technical expertise, but shall not be members of the community response organization.

"(8) ADMINISTRATIVE SUPPORT.—The Administrator shall provide administrative services and meeting facilities for community response organizations.

"(9) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a community response organization.

"(f) TECHNICAL ASSISTANCE GRANTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) AFFECTED CITIZEN GROUP.—The term 'affected citizen group' means a group of 2 or more individuals who may be affected by the release or threatened release of a hazardous substance, pollutant, or contaminant at any facility on the State Registry or the National Priorities List.

"(B) TECHNICAL ASSISTANCE GRANT.—The term 'technical assistance grant' means a grant made under paragraph (2).

"(2) AUTHORITY.—

"(A) IN GENERAL.—In accordance with a regulation issued by the Administrator, the Administrator may make grants available to affected citizen groups.

"(B) AVAILABILITY OF APPLICATION PROCESS.—To ensure that the application process for a technical assistance grant is available to all affected citizen groups, the Administrator shall periodically review the process and, based on the review, implement appropriate changes to improve availability.

"(3) SPECIAL RULES.—

"(A) NO MATCHING CONTRIBUTION.—No matching contribution shall be required for a technical assistance grant.

"(B) AVAILABILITY IN ADVANCE.—The Administrator shall make all or a portion (but

VOL
142
PT
5
MR
21
—
29
1996
UMI

not less than $5,000 (or 10 percent of the grant amount, whichever is greater) of the grant amount available to a grant recipient in advance of the total expenditures to be covered by the grant.

"(4) Limit per facility.—

"(A) 1 grant per facility.—Not more than 1 technical assistance grant may be made with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of response action.

"(B) Duration.—The Administrator shall set a limit by regulation on the number of years for which a technical assistance grant may be made available based on the duration, type, and extent of response action at a facility.

"(5) Availability for facilities not yet listed.—Subject to paragraph (6), 1 or more technical assistance grants shall be made available to affected citizen groups in communities containing facilities on the State Registry as of the date on which the grant is awarded.

"(6) Funding limit.—

"(A) Percentage of total appropriations.—Not more than 2 percent of the funds made available to carry out this Act for a fiscal year may be used to make technical assistance grants.

"(B) Allocation between listed and unlisted facilities.—Not more than the portion of funds equal to ⅛ of the total amount of funds used to make technical assistance grants for a fiscal year may be used for technical assistance grants with respect to facilities not listed on the National Priorities List.

"(7) Funding amount.—

"(A) In general.—Except as provided in subparagraph (B), the amount of a technical assistance grant may not exceed $50,000 for a single grant recipient.

"(B) Increase.—The Administrator may increase the amount of a technical assistance grant, or renew a previous technical assistance grant, up to a total grant amount not exceeding $100,000, to reflect the complexity of the response action, the nature and extent of contamination at the facility, the level of facility activity, projected total needs as requested by the grant recipient, the size and diversity of the affected population, and the ability of the grant recipient to identify and raise funds from other non-Federal sources.

"(8) Use of technical assistance grants.—

"(A) Permitted use.—A technical assistance grant may be used to obtain technical assistance in interpreting information with regard to—

"(i) the nature of the hazardous substances located at a facility;

"(ii) the work plan;

"(iii) the facility evaluation;

"(iv) a proposed remedial action plan, a remedial action plan, and a final remedial design for a facility;

"(v) response actions carried out at the facility; and

"(vi) operation and maintenance activities at the facility.

"(B) Prohibited use.—A technical assistance grant may not be used for the purpose of collecting field sampling data.

"(9) Grant guidelines.—

"(A) In general.—Not later than 90 days after the date of enactment of this paragraph, the Administrator shall develop and publish guidelines concerning the management of technical assistance grants by grant recipients.

"(B) Hiring of experts.—A recipient of a technical assistance grant that hires technical experts and other experts shall act in accordance with the guidelines under subparagraph (A).

"(g) Improvement of Public Participation in the Superfund Decisionmaking Process.—

"(1) In general.—

"(A) Meetings and notice.—In order to provide an opportunity for meaningful public participation in every significant phase of response activities under this Act, the Administrator shall provide the opportunity for, and publish notice of, public meetings before or during performance of—

"(i) a facility evaluation, as appropriate;

"(ii) announcement of a proposed remedial action plan; and

"(iii) completion of a final remedial design.

"(B) Information.—A public meeting under subparagraph (A) shall be designed to obtain information from the community, and disseminate information to the community, with respect to a facility concerning the Administrator's facility activities and pending decisions.

"(2) Participants and subject.—The Administrator shall provide reasonable notice of an opportunity for public participation in meetings in which—

"(A) the participants include Federal officials (or State officials, if the State is conducting response actions under a delegated or authorized program or through facility referral) with authority to make significant decisions affecting a response action, and other persons (unless all of such other persons are coregulators that are not potentially responsible parties or are government contractors); and

"(B) the subject of the meeting involves discussions directly affecting—

"(i) a legally enforceable work plan document, or any significant amendment to the document, for a removal, facility evaluation, proposed remedial action plan, final remedial design, or remedial action for a facility on the National Priorities List; or

"(ii) the final record of information on which the Administrator will base a hazard ranking system score for a facility.

"(3) Limitation.—Nothing in this subsection shall be construed—

"(A) to provide for public participation in or otherwise affect any negotiation, meeting, or other discussion that concerns only the potential liability or settlement of potential liability of any person, whether prior to or following the commencement of litigation or administrative enforcement action;

"(B) to provide for public participation in or otherwise affect any negotiation, meeting, or other discussion that is attended only by representatives of the United States (or of a department, agency, or instrumentality of the United States) with attorneys representing the United States (or of a department, agency, or instrumentality of the United States); or

"(C) to waive, compromise, or affect any privilege that may be applicable to a communication related to an activity described in subparagraph (A) or (B).

"(4) Evaluation.—

"(A) In general.—To the extent practicable, before and during the facility evaluation, the Administrator shall solicit and evaluate concerns, interests, and information from the community.

"(B) Procedure.—An evaluation under subparagraph (A) shall include, as appropriate—

"(i) face-to-face community surveys to identify the location of private drinking water wells, historic and current or potential use of water, and other environmental resources in the community;

"(ii) a public meeting;

"(iii) written responses to significant concerns; and

"(iv) other appropriate participatory activities.

"(5) Views and preferences.—

"(A) Solicitation.—During the facility evaluation, the Administrator (or other person performing the facility evaluation) shall solicit the views and preferences of the community on the remediation and disposition of hazardous substances or pollutants or contaminants at the facility.

"(B) Consideration.—The views and preferences of the community shall be described in the facility evaluation and considered in the screening of remedial alternatives for the facility.

"(6) Alternatives.—Members of the community may propose remedial action alternatives, and the Administrator shall consider such alternatives in the same manner as the Administrator considers alternatives proposed by potentially responsible parties.

"(7) Information.—

"(A) The community.—The Administrator, with the assistance of the community response organization under subsection (g) if there is one, shall provide information to the community and seek comment from the community throughout all significant phases of the response action at the facility.

"(B) Technical staff.—The Administrator shall ensure that information gathered from the community during community outreach efforts reaches appropriate technical staff in a timely and effective manner.

"(C) Responses.—The Administrator shall ensure that reasonable written or other appropriate responses will be made to such information.

"(8) Nonprivileged information.—Throughout all phases of response action at a facility, the Administrator shall make all nonprivileged information relating to a facility available to the public for inspection and copying without the need to file a formal request, subject to reasonable service charges as appropriate.

"(9) Presentation.—

"(A) Documents.—

"(i) In general.—The Administrator, in carrying out responsibilities under this Act, shall ensure that the presentation of information on risk is complete and informative.

"(ii) Risk.—To the extent feasible, documents prepared by the Administrator and made available to the public that purport to describe the degree of risk to human health shall, at a minimum, state—

"(I) the distribution of risk, including upperbound and lowerbound estimates of the incremental risk;

"(II) the population or populations addressed by any estimates of the risk;

"(III) the expected risk or central estimate of the risk for the specific population;

"(IV) the reasonable range or other description of uncertainties in the assessment process; and

"(V) the assumptions that form the basis for any estimates of such risk posed by the facility and a brief explanation of the assumptions.

"(B) Comparisons.—The Administrator, in carrying out responsibilities under this Act, shall provide comparisons of the level of risk from hazardous substances found at the facility to comparable levels of risk from those hazardous substances ordinarily encountered by the general public through other sources of exposure.

"(10) Requirements.—

"(A) Lengthy removal actions.—Notwithstanding any other provision of this subsection, in the case of a removal action taken in accordance with section 104 that is expected to require more than 180 days to complete, and in any case in which implementation of a removal action is expected to obviate or that in fact obviates the need to conduct a long-term remedial action—

"(i) the Administrator shall, to the maximum extent practicable, allow for public participation consistent with paragraph (1); and

"(ii) the removal action shall achieve the goals of protecting human health and the environment in accordance with section 121(a)(1).

"(B) Other removal actions.—In the case of all other removal actions, the Administrator may provide the community with notice of the anticipated removal action and a public comment period, as appropriate.".

(b) Issuance of Guidelines.—The Administrator of the Environmental Protection Agency shall issue guidelines under section 117(e)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), not later than 90 days after the date of enactment of this Act.

TITLE II—STATE ROLE

SEC. 201. DELEGATION TO THE STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

(a) In General.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 302, is amended by adding at the end the following:

"SEC. 135. DELEGATION TO THE STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

"(a) Definitions.—In this section:

"(1) Comprehensive delegation State.—The term 'comprehensive delegation State', with respect to a facility, means a State to which the Administrator has delegated authority to perform all of the categories of delegable authority.

"(2) Delegable authority.—The term 'delegable authority' means authority to perform (or ensure performance of) all of the authorities included in any 1 or more of the categories of authority:

"(A) Category A.—All authorities necessary to perform technical investigations, evaluations, and risk analyses, including—

"(i) a preliminary assessment or facility evaluation under section 104;

"(ii) facility characterization under section 104;

"(iii) a remedial investigation under section 104;

"(iv) a facility-specific risk evaluation under section 129(b)(4); and

"(v) any other authority identified by the Administrator under subsection (b).

"(B) Category B.—All authorities necessary to perform alternatives development and remedy selection, including—

"(i) a feasibility study under section 104; and

"(ii)(I) remedial action selection under section 121 (including issuance of a record of decision); or

"(II) remedial action planning under section 129(b)(5); and

"(iii) any other authority identified by the Administrator under subsection (b).

"(C) Category C.—All authorities necessary to perform remedial design, including—

"(i) remedial design under section 121; and

"(ii) any other authority identified by the Administrator under subsection (b).

"(D) Category D.—All authorities necessary to perform remedial action and operation and maintenance, including—

"(i) a removal under section 104;

"(ii) a remedial action under section 104 or section 10 (a) or (b);

"(iii) operation and maintenance under section 104(c); and

"(iv) any other authority identified by the Administrator under subsection (b).

"(E) Category E.—All authorities necessary to perform information collection and allocation of liability, including—

"(i) information collection activity under section 104(e);

"(ii) allocation of liability under section 132;

"(iii) a search for potentially responsible parties under section 104 or 107;

"(iv) settlement under section 122; and

"(v) any other authority identified by the Administrator under subsection (b).

"(F) Category F.—All authorities necessary to perform enforcement, including—

"(i) issuance of an order under section 106(a);

"(ii) a response action cost recovery under section 107;

"(iii) imposition of a civil penalty or award under section 109 (a)(1)(D) or (b)(4);

"(iv) settlement under section 122; and

"(v) any other authority identified by the Administrator under subsection (b).

"(3) Delegated State.—The term 'delegated State' means a State to which delegable authority has been delegated under subsection (c), except as may be provided in a delegation agreement in the case of a limited delegation of authority under subsection (c)(5).

"(4) Delegated authority.—The term 'delegated authority' means a delegable authority that has been delegated to a delegated State under this section.

"(5) Delegated facility.—The term 'delegated facility' means a non-federal listed facility with respect to which a delegable authority has been delegated to a State under this section.

"(6) Noncomprehensive delegation State.—The term 'noncomprehensive delegation State', with respect to a facility, means a State to which the Administrator has delegated authority to perform fewer than all of the categories of delegable authority.

"(7) Nondelegable authority.—The term 'nondelegable authority' means authority to—

"(A) make grants to community response organizations under section 117; and

"(B) conduct research and development activities under any provision of this Act.

"(8) Non-federal listed facility.—The term 'non-federal listed facility' means a facility that—

"(A) is not owned or operated by a department, agency, or instrumentality of the United States in any branch of the Government; and

"(B) is listed on the National Priorities List.

"(b) Identification of Delegable Authorities.—

"(1) In general.—The President shall by regulation identify all of the authorities of the Administrator that shall be included in a delegation of any category of delegable authority described in subsection (a)(2).

"(2) Limitation.—The Administrator shall not identify a nondelegable authority for inclusion in a delegation of any category of delegable authority.

"(c) Delegation of Authority.—

"(1) In general.—Pursuant to an approved State application, the Administrator shall delegate authority to perform 1 or more delegable authorities with respect to 1 or more non-Federal listed facilities in the State.

"(2) Application.—An application under paragraph (1) shall—

"(A) identify each non-Federal listed facility for which delegation is requested;

"(B) identify each delegable authority that is requested to be delegated for each non-Federal listed facility for which delegation is requested; and

"(C) certify that the State, supported by such documentation as the State, in consultation with the Administrator, considers to be appropriate, has—

"(i) statutory and regulatory authority (including appropriate enforcement authority) to perform the requested delegable authorities in a manner that is protective of human health and the environment;

"(ii) resources in place to adequately administer and enforce the authorities; and

"(iii) procedures to ensure public notice and, as appropriate, opportunity for comment on remedial action plans, consistent with sections 117 and 129.

"(3) Approval of application.—

"(A) In general.—Not later than 60 days after receiving an application under paragraph (2) by a State that is authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), and not later than 120 days after receiving an application from a State that is not authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), unless the State agrees to a greater length of time for the Administrator to make a determination, the Administrator shall—

"(i) issue a notice of approval of the application (including approval or disapproval regarding any or all of the facilities with respect to which a delegation of authority is requested or with respect to any or all of the authorities that are requested to be delegated); or

"(ii) if the Administrator determines that the State does not have adequate legal authority, financial and personnel resources, organization, or expertise to administer and enforce any of the requested delegable authority, issue a notice of disapproval, including an explanation of the basis for the determination.

"(B) Failure to act.—If the Administrator does not issue a notice of approval or notice of disapproval of all or any portion of an application within the applicable time period under subparagraph (A), the application shall be deemed to have been granted.

"(C) Resubmission of application.—

"(i) In general.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

"(ii) Failure to act.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the applicable time period under subparagraph (A), the resubmitted application shall be deemed to have been granted.

"(D) No additional terms or conditions.—The Administrator shall not impose any term or condition on the approval of an application that meets the requirements stated in paragraph (2) (except that any technical deficiencies in the application be corrected).

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(E) JUDICIAL REVIEW.—The State (but no other person) shall be entitled to judicial review under section 113(b) of a disapproval of a resubmitted application.

"(4) DELEGATION AGREEMENT.—On approval of a delegation of authority under this section, the Administrator and the delegated State shall enter into a delegation agreement that identifies each category of delegable authority that is delegated with respect to each delegated facility.

"(5) LIMITED DELEGATION.—

"(A) IN GENERAL.—In the case of a State that does not meet the requirements of paragraph (2)(C) the Administrator may delegate to the State limited authority to perform, ensure the performance of, or supervise or otherwise participate in the performance of 1 or more delegable authorities, as appropriate in view of the extent to which the State has the required legal authority, financial and personnel resources, organization, and expertise.

"(B) SPECIAL PROVISIONS.—In the case of a limited delegation of authority to a State under subparagraph (A), the Administrator shall specify the extent to which the State shall be considered to be a delegated State for the purposes of this Act.

"(d) PERFORMANCE OF DELEGATED AUTHORITIES.—

"(1) IN GENERAL.—A delegated State shall have sole authority (except as provided in paragraph (6)(B), subsection (e)(4), and subsection (g)) to perform a delegated authority with respect to a delegated facility.

"(2) AGREEMENTS FOR PERFORMANCE OF DELEGATED AUTHORITIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a delegated State may enter into an agreement with a political subdivision of the State, an interstate body comprised of that State and another delegated State or States, or a combination of such subdivisions or interstate bodies, providing for the performance of any category of delegated authority with respect to a delegated facility in the State if the parties to the agreement agree in the agreement to undertake response actions that are consistent with this Act.

"(B) NO AGREEMENT WITH POTENTIALLY RESPONSIBLE PARTY.—A delegated State shall not enter into an agreement under subparagraph (A) with a political subdivision or interstate body that is, or includes as a component an entity that is, a potentially responsible party with respect to a delegated facility covered by the agreement.

"(C) CONTINUING RESPONSIBILITY.—A delegated State that enters into an agreement under subparagraph (A)—

"(i) shall exercise supervision over and approve the activities of the parties to the agreement; and

"(ii) shall remain responsible for ensuring performance of the delegated authority.

"(3) COMPLIANCE WITH ACT.—

"(A) NONCOMPREHENSIVE DELEGATION STATES.—A noncomprehensive delegation State shall implement each applicable provision of this Act (including regulations and guidance issued by the Administrator) so as to perform each delegated authority with respect to a delegated facility in the same manner as would the Administrator with respect to a facility that is not a delegated facility.

"(B) COMPREHENSIVE DELEGATION STATES.—

"(i) IN GENERAL.—A comprehensive delegation State shall implement applicable provisions of this Act or of similar provisions of State law in a manner comporting with State policy, so long as the remedial action that is selected protects human health and the environment to the same extent as would a remedial action selected by the Administrator under section 121.

"(ii) COSTLIER REMEDIAL ACTION.—

"(I) IN GENERAL.—A delegated State may select a remedial action for a delegated facility that has a greater response cost (including operation and maintenance costs) than the response cost for a remedial action that would be selected by the Administrator under section 121, if the State pays for the difference in cost.

"(II) NO COST RECOVERY.—If a delegated State selects a more costly remedial action under subclause (I), the State shall not be entitled to seek cost recovery under this Act or any other Federal or State law from any other person for the difference in cost.

"(4) JUDICIAL REVIEW.—An order that is issued under section 106 by a delegated State with respect to a delegated facility shall be reviewable only in United States district court under section 113.

"(5) DELISTING OF NATIONAL PRIORITIES LIST FACILITIES.—

"(A) DELISTING.—After notice and an opportunity for public comment, a delegated State may remove from the National Priorities List all or part of a delegated facility—

"(i) if the State makes a finding that no further action is needed to be taken at the facility (or part of the facility) under any applicable law to protect human health and the environment consistent with section 121(a) (1) and (2);

"(ii) with the concurrence of the potentially responsible parties, if the State has an enforceable agreement to perform all required remedial action and operation and maintenance for the facility or if the cleanup will proceed at the facility under section 3004 (u) or (v) of the Solid Waste Disposal Act (42 U.S.C. 6924 (u), (v)); or

"(iii) if the State is a comprehensive delegation State with respect to the facility.

"(B) EFFECT OF DELISTING.—A delisting under subparagraph (A) (ii) or (iii) shall not affect—

"(i) the authority or responsibility of the State to complete remedial action and operation and maintenance;

"(ii) the eligibility of the State for funding under this Act;

"(iii) notwithstanding the limitation on section 104(c)(1), the authority of the Administrator to make expenditures from the Fund relating to the facility; or

"(iv) the enforceability of any consent order or decree relating to the facility.

"(C) NO RELISTING.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Administrator shall not relist on the National Priorities List a facility or part of a facility that has been removed from the National Priorities List under subparagraph (A).

"(ii) CLEANUP NOT COMPLETED.—The Administrator may relist a facility or part of a facility that has been removed from the National Priorities List under subparagraph (A) if cleanup is not completed in accordance with the enforceable agreement under subparagraph (A)(ii).

"(6) COST RECOVERY.—

"(A) RECOVERY BY A DELEGATED STATE.—Of the amount of any response costs recovered from a responsible party by a delegated State for a delegated facility under section 107—

"(i) 25 percent of the amount of any Federal response cost recovered with respect to a facility, plus an amount equal to the amount of response costs incurred by the State with respect to the facility, may be retained by the State; and

"(ii) the remainder shall be deposited in the Hazardous Substances Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1986.

"(B) RECOVERY BY THE ADMINISTRATOR.—

"(i) IN GENERAL.—The Administrator may take action under section 107 to recover response costs from a responsible party for a delegated facility if—

"(I) the delegated State notifies the Administrator in writing that the delegated State does not intend to pursue action for recovery of response costs under section 107 against the responsible party; or

"(II) the delegated State fails to take action to recover response costs within a reasonable time in light of applicable statutes of limitation.

"(ii) NOTICE.—If the Administrator proposes to commence an action for recovery of response costs under section 107, the Administrator shall give the State written notice and allow the State at least 90 days after receipt of the notice to commence the action.

"(iii) NO FURTHER ACTION.—If the Administrator takes action against a potentially responsible party under section 107 relating to a release from a delegated facility, the delegated State may not take any other action for recovery of response costs relating to that release under this Act or any other Federal or State law.

"(e) FEDERAL RESPONSIBILITIES AND AUTHORITIES.—

"(1) REVIEW USE OF FUNDS.—

"(A) IN GENERAL.—The Administrator shall review the certification submitted by the Governor under subsection (f)(8) not later than 120 days after the date of its submission.

"(B) FINDING OF USE OF FUNDS INCONSISTENT WITH THIS ACT.—If the Administrator finds that funds were used in a manner that is inconsistent with this Act, the Administrator shall notify the Governor in writing not later than 120 days after receiving the Governor's certification.

"(C) EXPLANATION.—Not later than 30 days after receiving a notice under subparagraph (B), the Governor shall—

"(i) explain why the Administrator's finding is in error; or

"(ii) explain to the Administrator's satisfaction how any misapplication or misuse of funds will be corrected.

"(D) FAILURE TO EXPLAIN.—If the Governor fails to make an explanation under subparagraph (C) to the Administrator's satisfaction, the Administrator may request reimbursement of such amount of funds as the Administrator finds was misapplied or misused.

"(E) REPAYMENT OF FUNDS.—If the Administrator fails to obtain reimbursement from the State within a reasonable period of time, the Administrator may, after 30 days' notice to the State, bring a civil action in United States district court to recover from the delegated State any funds that were advanced for a purpose or were used for a purpose or in a manner that is inconsistent with this Act.

"(2) WITHDRAWAL OF DELEGATION OF AUTHORITY.—

"(A) DELEGATED STATES.—If at any time the Administrator finds that contrary to a certification made under subsection (c)(2), a delegated State—

"(i) lacks the required financial and personnel resources, organization, or expertise to administer and enforce the requested delegated authorities;

"(ii) does not have adequate legal authority to request and accept delegation; or

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"(iii) is failing to materially carry out the State's delegated authorities,

the Administrator may withdraw a delegation of authority with respect to a delegated facility after providing notice and opportunity to correct deficiencies under subparagraph (D).

"(B) STATES WITH LIMITED DELEGATIONS OF AUTHORITY.—If the Administrator finds that a State to which a limited delegation of authority was made under subsection (c)(5) has materially breached the delegation agreement, the Administrator may withdraw the delegation after providing notice and opportunity to correct deficiencies under subparagraph (D).

"(C) NO WITHDRAWAL WITH 1 YEAR OF APPROVAL.—The Administrator shall not withdraw a delegation of authority within 1 year after the date on which the application for delegation is approved (including approval under subsection (c)(3) (B) or (C)(ii)).

"(D) NOTICE AND OPPORTUNITY TO CORRECT.—If the Administrator proposes to withdraw a delegation of authority for any or all delegated facilities, the Administrator shall give the State written notice and allow the State at least 90 days after the date of receipt of the notice to correct the deficiencies cited in the notice.

"(E) FAILURE TO CORRECT.—If the Administrator finds that the deficiencies have not been corrected within the time specified in a notice under subparagraph (D), the Administrator may withdraw delegation of authority after providing public notice and opportunity for comment.

"(F) JUDICIAL REVIEW.—A decision of the Administrator to withdraw a delegation of authority shall be subject to judicial review under section 113(b).

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of the Administrator under this Act to—

"(A) take a response action at a facility listed on the National Priorities List in a State to which a delegation of authority has not been made under this section or at a facility not included in a delegation of authority; or

"(B) perform a delegable authority with respect to a facility that is not included among the authorities delegated to a State with respect to the facility.

"(4) EMERGENCY REMOVAL.—

"(A) NOTICE.—Before performing an emergency removal action under section 104 at a delegated facility, the Administrator shall notify the delegated States of the Administrator's intention to perform the removal.

"(B) STATE ACTION.—If, after receiving a notice under subparagraph (A), the delegated State notifies the Administrator within 48 hours that the State intends to take action to perform an emergency removal at the delegated facility, the Administrator shall not perform the emergency removal action unless the Administrator determines that the delegated State has failed to act within a reasonable period of time to perform the emergency removal.

"(C) IMMEDIATE AND SIGNIFICANT DANGER.—If the Administrator finds that an emergency at a delegated facility poses an immediate and significant danger to human health or the environment, the Administrator shall not be required to provide notice under subparagraph (A).

"(5) PROHIBITED ACTIONS.—Except as provided in subsections (d)(6)(B), (e)(4), and (g) or except with the concurrence of the delegated State, the President, the Administrator, and the Attorney General shall not take any action under section 104, 106, 107, 109, 121, or 122 in performance of a delegable authority that has been delegated to a State with respect to a delegated facility.

"(f) FUNDING.—

"(1) IN GENERAL.—The Administrator shall provide grants to or enter into contracts or cooperative agreements with delegated States to carry out this section.

"(2) NO CLAIM AGAINST FUND.—Notwithstanding any other law, funds to be granted under this subsection shall not constitute a claim against the Fund or the United States.

"(3) DETERMINATION OF COSTS ON A FACILITY-SPECIFIC BASIS.—The Administrator shall—

"(A) determine—

"(i) the delegable authorities the costs of performing which it is practicable to determine on a facility-specific basis; and

"(ii) the delegable authorities the costs of performing which it is not practicable to determine on a facility-specific basis; and

"(B) publish a list describing the delegable authorities in each category.

"(4) FACILITY-SPECIFIC GRANTS.—The costs described in paragraph (3)(A)(i) shall be funded as such costs arise with respect to each delegated facility.

"(5) NONFACILITY-SPECIFIC GRANTS.—

"(A) IN GENERAL.—The costs described in paragraph (3)(A)(ii) shall be funded through nonfacility-specific grants under this paragraph.

"(B) FORMULA.—The Administrator shall establish a formula under which funds available for nonfacility-specific grants shall be allocated among the delegated States, taking into consideration—

"(i) the cost of administering the delegated authority;

"(ii) the number of sites for which the State has been delegated authority;

"(iii) the types of activities for which the State has been delegated authority;

"(iv) the number of facilities within the State that are listed on the National Priorities List or are delegated facilities under section 127(d)(5);

"(v) the number of other high priority facilities within the State;

"(vi) the need for the development of the State program;

"(vii) the need for additional personnel;

"(viii) the amount of resources available through State programs for the cleanup of contaminated sites; and

"(ix) the benefit to human health and the environment of providing the funding.

"(6) PERMITTED USE OF GRANT FUNDS.—A delegated State may use grant funds, in accordance with this Act and the National Contingency Plan, to take any action or perform any duty necessary to implement the authority delegated to the State under this section.

"(7) COST SHARE.—

"(A) ASSURANCE.—A delegated State to which a grant is made under this subsection shall provide an assurance that the State will pay any amount required under section 104(c)(3).

"(B) PROHIBITED USE OF GRANT FUNDS.—A delegated State to which a grant is made under this subsection may not use grant funds to pay any amount required under section 104(c)(3).

"(8) CERTIFICATION OF USE OF FUNDS.—

"(A) IN GENERAL.—Not later than 1 year after the date on which a delegated State receives funds under this subsection, and annually thereafter, the Governor of the State shall submit to the Administrator—

"(i) a certification that the State has used the funds in accordance with the requirements of this Act and the National Contingency Plan; and

"(ii) information describing the manner in which the State used the funds.

"(B) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a regulation describing with particularity the information that a State shall be required to provide under subparagraph (A)(ii).

"(g) COOPERATIVE AGREEMENTS.—Nothing in this section shall affect the authority of the Administrator under section 104(d)(1) to enter into a cooperative agreement with a State, a political subdivision of a State, or an Indian tribe to carry out actions under section 104.

"(h) NON-NATIONAL PRIORITIES LIST FACILITIES.—

"(1) DEFINITIONS.—In this subsection, the term 'non-National Priorities List facility' means a facility that is not, and never has been, listed on the National Priorities List and that is not owned or operated by a department, agency, or instrumentality of the United States.

"(2) FINALITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a determination that a response action at a non-National Priorities List facility or portion of a non-National Priorities List facility is complete under State law is final, and the facility shall not be subject to further response action notwithstanding any provision of this Act or any other Federal law.

"(B) EXCEPTION FOR EMERGENCY REMOVALS.—The Administrator may conduct an emergency removal action under the authority of section 104 subject to the notice requirement of section 135(e)(4) at a non-National Priorities List facility.".

(b) STATE COST SHARE.—Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)) is amended—

(1) by striking "(c)(1) Unless" and inserting the following:

"(c) MISCELLANEOUS LIMITATIONS AND REQUIREMENTS.—

"(1) CONTINUANCE OF OBLIGATIONS FROM FUND.—Unless";

(2) by striking "(2) The President" and inserting the following:

"(2) CONSULTATION.—The President"; and

(3) by striking paragraph (3) and inserting the following:

"(3) STATE COST SHARE.—

"(A) IN GENERAL.—The Administrator shall not provide any remedial action under this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the Administrator providing assurances deemed adequate by the Administrator that the State will pay, in cash or through in-kind contributions, a specified percentage of the costs of the remedial action and operation and maintenance costs.

"(B) ACTIVITIES WITH RESPECT TO WHICH STATE COST SHARE IS REQUIRED.—No State cost share shall be required except for remedial actions under section 104 and facilities with respect to which there is an exemption under section 107(r).

"(C) SPECIFIED PERCENTAGE.—

"(i) IN GENERAL.—The specified percentage of costs that a State shall be required to share shall be the lower of 10 percent or the percentage determined under clause (ii).

"(ii) MAXIMUM IN ACCORDANCE WITH LAW PRIOR TO 1996 AMENDMENTS.—

"(I) On petition by a State, the Director of the Office of Management and Budget (referred to in this clause as the 'Director'),

VOL
142
PT
5
MR
21
—
29
1996
UMI

after providing public notice and opportunity for comment, shall establish a cost share percentage, which shall be uniform for all facilities in the State, at the percentage rate at which the total amount of anticipated payments by the State under the cost share for all facilities in the State for which a cost share is required most closely approximates the total amount of estimated cost share payments by the State for facilities that would have been required under cost share requirements that were applicable prior to the date of enactment of this subparagraph, adjusted to reflect the extent to which the State's ability to recover costs under this Act were reduced by reason of enactment of amendments to this Act by the Accelerated Cleanup and Environmental Restoration Act of 1996.

"(II) The Director may adjust a State's cost share under this clause not more frequently than every 3 years.

"(D) INDIAN TRIBES.—In the case of remedial action to be taken on land or water held by an Indian Tribe, held by the United States in trust for Indians, held by a member of an Indian Tribe (if the land or water is subject to a trust restriction on alienation), or otherwise within the borders of an Indian reservation, the requirements of this paragraph shall not apply.".

(c) USES OF FUND.—Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended by inserting after paragraph (6) the following:

"(7) GRANTS TO DELEGATED STATES.—Making a grant to a delegated State under section 135(f).".

(d) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—Section 114(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9614(b)) is amended by striking "removal" each place it appears and inserting "response".

(2) CONFORMING AMENDMENT.—Section 101(37)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(37)(B)) is amended by striking "section 114(c)" and inserting "section 114(b)".

TITLE III—VOLUNTARY CLEANUP

SEC. 301. ASSISTANCE FOR QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.

(a) DEFINITION.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

"(39) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAM.—The term 'qualifying State voluntary response program' means a State program that includes the elements described in section 133(b).".

(b) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 501, is amended by adding at the end the following:

"SEC. 133. QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.

"(a) ASSISTANCE TO STATES.—The Administrator shall provide technical and other assistance to States to establish and expand qualifying State voluntary response programs that include the elements listed in subsection (b).

"(b) ELEMENTS.—The elements of a qualifying State voluntary response program are the following:

"(1) Opportunities for technical assistance for voluntary response actions.

"(2) Adequate opportunities for public participation, including prior notice and opportunity for comment in appropriate circumstances, in selecting response actions.

"(3) Streamlined procedures to ensure expeditious voluntary response actions.

"(4) Oversight and enforcement authorities or other mechanisms that are adequate to ensure that—

"(A) voluntary response actions will protect human health and the environment and be conducted in accordance with applicable Federal and State law; and

"(B) if the person conducting the voluntary response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

"(5) Mechanisms for approval of a voluntary response action plan.

"(6) A requirement for certification or similar documentation from the State to the person conducting the voluntary response action indicating that the response is complete.".

(c) FUNDING.—Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611), as amended by section 201(b), is amended by inserting after paragraph (7) the following:

"(8) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.—For assistance to States to establish and administer qualifying State voluntary response programs, during the first 5 full fiscal years following the date of enactment of this subparagraph, in a total amount to all States that is not less than 2 percent and not more than 5 percent of the amount available in the Fund for each such fiscal year, distributed among each of the States that notifies the Administrator of the State's intent to establish a qualifying State voluntary response program and each of the States with a qualifying State voluntary response program in the amount that is equal to the total amount multiplied by a fraction—

"(A) the numerator of which is the number of facilities in the State that, as of September 29, 1995, were listed on the Comprehensive Environmental Response, Compensation, and Liability Information System (not including facilities that are listed on the National Priorities List); and

"(B) the denominator of which is the total number of such facilities in the United States.".

(d) COMPLIANCE WITH ACT.—A person that conducts a voluntary response action under this section at a facility that is listed or proposed for listing on the National Priorities List shall implement applicable provisions of this Act or of similar provisions of State law in a manner comporting with State policy, so long as the remedial action that is selected protects human health and the environment to the same extent as would a remedial action selected by the Administrator under section 121(a).

SEC. 302. BROWNFIELD CHARACTERIZATION PROGRAM.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 301(b), is amended by adding at the end the following:

"SEC. 134. BROWNFIELD CHARACTERIZATION PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATIVE COST.—The term 'administrative cost' does not include the cost of—

"(A) investigation and identification of the extent of contamination;

"(B) design and performance of a response action; or

"(C) monitoring of natural resources.

"(2) BROWNFIELD FACILITY.—The term 'brownfield facility' means—

"(A) a parcel of land that contains an abandoned, idled, or underused commercial or industrial facility, the expansion or redevelopment of which is complicated by the presence or potential presence of a hazardous substance; but

"(B) does not include—

"(i) a facility that is the subject of a removal or planned removal under title I;

"(ii) a facility that is listed or has been proposed for listing on the National Priorities List or that has been delisted under section 135(d)(5);

"(iii) a facility that is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u) or 6928(h)) at the time at which an application for a grant or loan concerning the facility is submitted under this section;

"(iv) a land disposal unit with respect to which—

"(I) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

"(II) closure requirements have been specified in a closure plan or permit;

"(v) a facility with respect to which an administrative order on consent or judicial consent decree requiring cleanup has been entered into by the United States under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or title XIV of the Public Health Service Act (commonly known as the 'Safe Drinking Water Act') (42 U.S.C. 300f et seq.);

"(vi) a facility that is owned or operated by a department, agency, or instrumentality of the United States; or

"(vii) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a general purpose unit of local government;

"(B) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;

"(C) a regional council or group of general purpose units of local government;

"(D) a redevelopment agency that is chartered or otherwise sanctioned by a State; and

"(E) an Indian tribe.

"(b) BROWNFIELD CHARACTERIZATION PROGRAM.—

"(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide interest-free loans for the site characterization and assessment of brownfield facilities.

"(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

"(A) IN GENERAL.—On approval of an application made by an eligible entity, the Administrator may make interest-free loans out of the Fund to the eligible entity to be used for the site characterization and assessment of 1 or more brownfield facilities.

"(B) APPROPRIATE INQUIRY.—A site characterization and assessment carried out with the use of a loan under subparagraph (A) shall be performed in accordance with section 101(35)(B).

"(C) REPAYMENT.—

"(i) IN GENERAL.—An eligible entity that receives a loan under subparagraph (A) shall agree to repay the full amount of the loan within 10 years after the date on which the loan is made.

"(ii) DEPOSIT IN FUND.—Repayments on a loan under subparagraph (A) shall be deposited in the Fund.

"(3) HAZARDOUS SUBSTANCE SUPERFUND.—Notwithstanding section 111 of this Act or any provision of the Superfund Amendments and Reauthorization Act of 1986 (100 Stat. 1613), there is authorized to be appropriated out of the Fund $15,000,000 for each of the first 5 fiscal years beginning after the date of enactment of this section, to be used for making interest-free loans under paragraph (2).

"(4) MAXIMUM LOAN AMOUNT.—A loan under subparagraph (A) shall not exceed, with respect to each brownfield facility covered by the loan, $100,000 for any fiscal year or $200,000 in total.

"(5) SUNSET.—No amount shall be available from the Fund for purposes of this section after the fifth fiscal year after the date of enactment of this section.

"(6) PROHIBITION.—No part of a loan under this section may be used for payment of penalties, fines, or administrative costs.

"(7) AUDITS.—The Inspector General of the Environmental Protection Agency shall audit all loans made under paragraph (2) to ensure that all funds are used for the purposes described in this section and that all loans are repaid in accordance with paragraph (2).

"(8) AGREEMENTS.—Each loan made under this section shall be subject to an agreement that—

"(A) requires the eligible entity to comply with all applicable State laws (including regulations);

"(B) requires that the eligible entity shall use the loan exclusively for purposes specified in paragraph (2); and

"(C) contains such other terms and conditions as the Administrator determines to be necessary to protect the financial interests of the United States and to carry out the purposes of this section.

"(9) LEVERAGING.—An eligible entity that receives a loan under paragraph (1) may use the loaned funds for part of a project at a brownfield facility for which funding is received from other sources, but the loan funds shall be used only for the purposes described in paragraph (2).

"(c) LOAN APPLICATIONS.—

"(1) IN GENERAL.—Any eligible entity may submit an application to the Administrator, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, for a loan under this section for 1 or more brownfield facilities.

"(2) APPLICATION REQUIREMENTS.—An application for a loan under this section shall include—

"(A) an identification of each brownfield facility for which the loan is sought and a description of the redevelopment plan for the area or areas in which each facility is located, including a description of the nature and extent of any known or suspected environmental contamination within the area;

"(B) an analysis that demonstrates the potential of the grant to stimulate economic development on completion of the planned response action, including a projection of the number of jobs expected to be created at the facility after remediation and redevelopment and, to the extent feasible, a description of the type and skill level of the jobs and a projection of the increases in revenues accruing to Federal, State, and local governments from the jobs; and

"(C) information relevant to the ranking criteria stated in paragraph (4).

"(3) APPROVAL.—

"(A) INITIAL LOANS.—On or about March 30 and September 30 of the first fiscal year following the date of enactment of this section, the Administrator shall make loans under this section to eligible entities that submit applications before those dates that the Administrator determines have the highest rankings under ranking criteria established under paragraph (4).

"(B) SUBSEQUENT LOANS.—Beginning with the second fiscal year following the date of enactment of this section, the Administrator shall make an annual evaluation of each application received during the prior fiscal year and make loans under this section to eligible entities that submit applications during the prior year that the Administrator determines have the highest rankings under the ranking criteria established under paragraph (4).

"(4) RANKING CRITERIA.—The Administrator shall establish a system for ranking loan applications that includes the following criteria:

"(A) The extent to which a loan will stimulate the availability of other funds for environmental remediation and subsequent redevelopment of the area in which the brownfield facilities are located.

"(B) The potential of the development plan for the area in which the brownfield facilities are located to stimulate economic development of the area on completion of the cleanup, such as the following:

"(i) The relative increase in the estimated fair market value of the area as a result of any necessary response action.

"(ii) The potential of a loan to create new or expand existing business and employment opportunities (particularly full-time employment opportunities) on completion of any necessary response action.

"(iii) The estimated additional tax revenues expected to be generated by economic redevelopment in the area in which a brownfield facility is located.

"(iv) The estimated extent to which a loan would facilitate the identification of or facilitate a reduction of health and environmental risks.

"(v) The financial involvement of the State and local government in any response action planned for a brownfield facility and the extent to which the response action and the proposed redevelopment is consistent with any applicable State or local community economic development plan.

"(vi) The extent to which the site characterization and assessment or response action and subsequent development of a brownfield facility involves the active participation and support of the local community.

"(vii) Such other factors as the Administrator considers appropriate to carry out the purposes of this section.".

SEC. 303. TREATMENT OF SECURITY INTEREST HOLDERS AND FIDUCIARIES AS OWNERS OR OPERATORS.

(a) DEFINITION OF OWNER OR OPERATOR.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 301(a), is amended—

(1) in paragraph (20)—

(A) in subparagraph (A) by striking the second sentence; and

(B) by adding at the end the following:

"(E) SECURITY INTEREST HOLDERS.—

"(i) IN GENERAL.—The term 'owner or operator' does not include a person that, without participating in the management of a vessel or facility, holds an indicium of ownership primarily to protect the person's security interest in a vessel or facility.

"(ii) PARTICIPATING IN MANAGEMENT.—A security interest holder—

"(I) shall be considered to be participating in management of a vessel or facility only if the security interest holder has undertaken—

"(aa) responsibility for the hazardous substance handling or disposal practices of the vessel or facility; or

"(bb) overall management of the vessel or facility encompassing day-to-day decisionmaking over environmental compliance or over an operational function (including functions such as those of a plant manager, operations manager, chief operating officer, or chief executive officer), as opposed to financial and administrative aspects, of a vessel or facility; and

"(II) shall not be considered to be participating in management solely on the ground that the security interest holder—

"(aa) serves in a capacity or has the ability to influence or the right to control the operation of a vessel or facility if that capacity, ability, or right is not exercised;

"(bb) acts, or causes or requires another person to act, to comply with an applicable law or to respond lawfully to disposal of a hazardous substance;

"(cc) performs an act or omits to act in any way with respect to a vessel or facility prior to the time at which a security interest is created in a vessel or facility;

"(dd) holds, abandons, or releases a security interest;

"(ee) includes in the terms of an extension of credit, or in a contract or security agreement relating to an extension of credit, a covenant, warranty, or other term or condition that relates to environmental compliance;

"(ff) monitors or enforces a term or condition of an extension of credit or a security interest;

"(gg) monitors or undertakes 1 or more inspections of a vessel or facility;

"(hh) requires or conducts a response action or other lawful means of addressing a release or threatened release of a hazardous substance in connection with a vessel or facility prior to, during, or on the expiration of the term of an extension of credit;

"(ii) provides financial or other advice or counseling in an effort to mitigate, prevent, or cure a default or diminution in the value of a vessel or facility;

"(jj) exercises forbearance by restructuring, renegotiating, or otherwise agreeing to alter a term or condition of an extension of credit or a security interest; or

"(kk) exercises any remedy that may be available under law for the breach of a term or condition of an extension of credit or a security agreement.

"(iii) FORECLOSURE.—Legal or equitable title acquired by a security interest holder through foreclosure (or the equivalent of foreclosure) shall be considered to be held primarily to protect a security interest if the holder undertakes to sell, re-lease, or otherwise divest the vessel or facility in a reasonably expeditious manner on commercially reasonable terms.

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(iv) DEFINITION OF SECURITY INTEREST.—In this subparagraph, the term 'security interest' includes a right under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, or lease, or any other right accruing to a person to secure the repayment of money, the performance of a duty, or any other obligation.

"(F) FIDUCIARIES.—

"(i) IN GENERAL.—The term 'owner or operator' does not include a fiduciary that holds legal or equitable title to, is the mortgagee or secured party with respect to, controls, or manages, directly or indirectly, a vessel or facility for the purpose of administering an estate or trust of which the vessel or facility is a part."; and

(2) by adding at the end the following:

"(40) FIDUCIARY.—The term 'fiduciary' means a person that is acting in the capacity of—

"(A) an executor or administrator of an estate, including a voluntary executor or a voluntary administrator;

"(B) a guardian;

"(C) a conservator;

"(D) a trustee under a will or a trust agreement under which the trustee takes legal or equitable title to, or otherwise controls or manages, a vessel or facility for the purpose of protecting or conserving the vessel or facility under the rules applied in State court;

"(E) a court-appointed receiver;

"(F) a trustee appointed in proceedings under title 11, United States Code;

"(G) an assignee or a trustee acting under an assignment made for the benefit of creditors; or

"(H) a trustee, or a successor to a trustee, under an indenture agreement, trust agreement, lease, or similar financing agreement, for debt securities, certificates of interest of participation in debt securities, or other forms of indebtedness as to which the trustee is not, in the capacity of trustee, the lender.".

(b) LIABILITY OF FIDUCIARIES AND LENDERS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

"(n) LIABILITY OF FIDUCIARIES.—

"(1) IN GENERAL.—The liability of a fiduciary that is liable under any other provision of this Act for the release or threatened release of a hazardous substance from a vessel or facility held by a fiduciary may not exceed the assets held by the fiduciary that are available to indemnify the fiduciary.

"(2) NO INDIVIDUAL LIABILITY.—Subject to the other provisions of this subsection, a fiduciary shall not be liable in an individual capacity under this Act.

"(3) EXCEPTIONS.—This subsection does not preclude a claim under this Act against—

"(A) the assets of the estate or trust administered by a fiduciary;

"(B) a nonemployee agent or independent contractor retained by a fiduciary; or

"(C) a fiduciary that causes or contributes to a release or threatened release of a hazardous substance.

"(4) SAFE HARBOR.—Subject to paragraph (5), a fiduciary shall not be liable in an individual capacity under this Act for—

"(A) undertaking or directing another to undertake a response action under section 107(d)(1) or under the direction of an on-scene coordinator designated by the Administrator or the Coast Guard to coordinate and direct responses under subpart D of the National Contingency Plan or by the lead agency to coordinate and direct removal actions under subpart E of the National Contingency Plan;

"(B) undertaking or directing another to undertake any other lawful means of addressing a hazardous substance in connection with a vessel or facility;

"(C) terminating the fiduciary relationship;

"(D) including, monitoring, or enforcing a covenant, warranty, or other term or condition in the terms of a fiduciary agreement that relates to compliance with environmental laws;

"(E) monitoring or undertaking 1 or more inspections of a vessel or facility;

"(F) providing financial or other advice or counseling to any party to the fiduciary relationship, including the settlor or beneficiary;

"(G) restructuring, renegotiating, or otherwise altering a term or condition of the fiduciary relationship;

"(H) administering a vessel or facility that was contaminated before the period of service of the fiduciary began; or

"(I) declining to take any of the actions described in subparagraphs (B) through (H).

"(5) DUE CARE.—This subsection does not limit the liability of a fiduciary if the fiduciary fails to exercise due care and the failure causes or contributes to the release of a hazardous substance.

"(6) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) affect the rights or immunities or other defenses that are available under this Act or other applicable law to any person;

"(B) create any liability for any person; or

"(C) create a private right of action against a fiduciary or against a Federal agency that regulates lenders.

"(o) LIABILITY OF LENDERS.—

"(1) DEFINITIONS.—In this subsection:

"(A) ACTUAL BENEFIT.—The term 'actual benefit' means the net gain, if any, realized by a lender due to an action.

"(B) EXTENSION OF CREDIT.—The term 'extension of credit' includes a lease finance transaction—

"(i) in which the lessor does not initially select the leased vessel or facility and does not during the lease term control the daily operations or maintenance of the vessel or facility; or

"(ii) that conforms to all regulations issued by any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))) and any appropriate State banking regulatory authority.

"(C) FORECLOSURE.—The term 'foreclosure' means the acquisition of a vessel or facility through—

"(i) purchase at sale under a judgment or decree, a power of sale, a nonjudicial foreclosure sale, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if the vessel or facility was security for an extension of credit previously contracted;

"(ii) conveyance under an extension of credit previously contracted, including the termination of a lease agreement; or

"(iii) any other formal or informal manner by which a person acquires, for subsequent disposition, possession of collateral in order to protect the security interest of the person.

"(D) LENDER.—The term 'lender' means—

"(i) a person that makes a bona fide extension of credit to, or takes a security interest from, another party;

"(ii) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or any other entity that in a bona fide manner is engaged in the business of buying or selling loans or interests in loans;

"(iii) a person engaged in the business of insuring or guaranteeing against a default in the repayment of an extension of credit, or acting as a surety with respect to an extension of credit, to another party; and

"(iv) a person regularly engaged in the business of providing title insurance that acquires a vessel or facility as a result of an assignment or conveyance in the course of underwriting a claim or claim settlement.

"(E) NET GAIN.—The term 'net gain' means an amount not in excess of the amount realized by a lender on the sale of a vessel or facility less acquisition, holding, and disposition costs.

"(F) VESSEL OR FACILITY ACQUIRED THROUGH FORECLOSURE.—The term 'vessel or facility acquired through foreclosure'—

"(i) means a vessel or facility that is acquired by a lender through foreclosure from a person that is not affiliated with the lender; but

"(ii) does not include such a vessel or facility if the lender does not seek to sell or otherwise divest the vessel or facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.

"(2) LIABILITY LIMITATION.—

"(A) IN GENERAL.—The liability of a lender that is liable under any other provision of this Act for the release or threatened release of a hazardous substance at, from, or in connection with a vessel or facility shall be limited to the amount described in subparagraph (E) if the vessel or facility is—

"(i) a vessel or facility acquired through foreclosure;

"(ii) a vessel or facility subject to a security interest held by the lender;

"(iii) a vessel or facility held by a lessor under the terms of an extension of credit; or

"(iv) a vessel or facility subject to financial control or financial oversight under the terms of an extension of credit.

"(B) AMOUNT.—The amount described in this subparagraph is the excess of the fair market value of a vessel or facility on the date on which the liability of a lender is determined over the fair market value of the vessel or facility on the date that is 180 days before the date on which the response action is initiated, not to exceed the amount that the lender realizes on the sale of the vessel or facility after subtracting acquisition, holding, and disposition costs.

"(3) EXCLUSION.—This subsection does not limit the liability of a lender that causes or contributes to the release or threatened release of a hazardous substance.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) affect the rights or immunities or other defenses that are available under this Act or other applicable law to any person;

"(B) create any liability for any person; or

"(C) create a private right of action against a lender or against a Federal agency that regulates lenders.".

SEC. 304. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

"SEC. 45. FEDERAL BANKING AND LENDING AGENCY LIABILITY.

"(a) DEFINITIONS.—In this section:

"(1) FEDERAL BANKING OR LENDING AGENCY.—The term 'Federal banking or lending agency'—

"(A) means the Corporation, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, a Federal Reserve Bank, a Federal Home Loan Bank, the Department of Housing and Urban Development, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the Farmers Home Administration, the Rural Electrification Administration, the Small Business Administration, and any other Federal agency acting in a similar capacity, in any of their capacities, and their agents or appointees; and

"(B) includes a first subsequent purchaser of the vessel or facility from a Federal banking or lending agency, unless the purchaser—

"(i) would otherwise be liable or potentially liable for all or part of the costs of the removal, remedial, corrective, or other response action due to a prior relationship with the vessel or facility;

"(ii) is or was affiliated with or related to a party described in clause (i);

"(iii) fails to agree to take reasonable steps necessary to remedy the release or threatened release or to protect public health and safety in a manner consistent with the purposes of applicable environmental laws; or

"(iv) causes or contributes to any additional release or threatened release on the vessel or facility.

"(2) FACILITY.—The term 'facility' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

"(3) HAZARDOUS SUBSTANCE.—The term 'hazardous substance' means a hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

"(4) RELEASE.—The term 'release' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

"(5) RESPONSE ACTION.—The term 'response action' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

"(6) VESSEL.—The term 'vessel' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

"(b) FEDERAL BANKING AND LENDING AGENCIES NOT STRICTLY LIABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a Federal banking or lending agency shall not be liable under section 106 or 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606, 9607) for the release or threatened release of a hazardous substance at or from a vessel or facility (including a right or interest in a vessel or facility) acquired—

"(A) in connection with the exercise of receivership or conservatorship authority, or the liquidation or winding up of the affairs of an insured depository institution, including a subsidiary of an insured depository institution;

"(B) in connection with the provision of a loan, a discount, an advance, a guarantee, insurance, or other financial assistance; or

"(C) in connection with a vessel or facility received in a civil or criminal proceeding, or administrative enforcement action, whether by settlement or by order.

"(2) ACTIVE CAUSATION.—Subject to section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(d)), a Federal banking or lending agency that causes or contributes to a release or threatened release of a hazardous substance may be liable for a response action pertaining to the release or threatened release.

"(3) FEDERAL OR STATE ACTION.—Notwithstanding subsection (a)(1)(B), if a Federal agency or State environmental agency is required to take a response action because a subsequent purchaser—

"(A) fails to agree to take reasonable steps necessary to remedy a release or threatened release or to protect public health and safety in a manner consistent with the purposes of applicable environmental laws; or

"(B) causes or contributes to any additional release or threatened release on the vessel or facility,

the subsequent purchaser shall reimburse the Federal agency or State environmental agency for the costs of the response action in an amount not to exceed the increase in the fair market value of the vessel or facility attributable to the response action.

"(c) LIEN EXEMPTION.—Notwithstanding any other law, a vessel or facility held by a subsequent purchaser described in subsection (a)(1)(B) or held by a Federal banking or lending agency shall not be subject to a lien for costs or damages associated with the release or threatened release of a hazardous substance existing at the time of the transfer.

"(d) EXEMPTION FROM COVENANTS TO REMEDIATE.—Notwithstanding section 120, a Federal banking or lending agency shall be exempt from any law requiring the agency to grant a covenant warranting that a response action has been, or will in the future be, taken with respect to a vessel or facility acquired in a manner described in subsection (b)(1).

"(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) affect the rights or immunities or other defenses that are available to any party under this Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or any other law;

"(2) create any liability for any party;

"(3) create a private right of action against an insured depository institution or lender, a Federal banking or lending agency, or any other party, except as provided in subsection (b)(3);

"(4) preempt, affect, apply to, or modify a State law or a right, cause of action, or obligation under State law, except that the liability of a Federal banking or lending agency for a response action under a State law shall not exceed the value of the interest of the agency in the asset giving rise to the liability; or

"(5) preclude a Federal banking or lending agency from agreeing with a State to transfer a vessel or facility to the State in lieu of any liability that might otherwise be imposed under State law.".

SEC. 305. CONTIGUOUS PROPERTIES.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)), as amended by section 303(b), is amended by adding at the end the following:

"(p) CONTIGUOUS PROPERTIES.—

"(1) NOT CONSIDERED TO BE AN OWNER OR OPERATOR.—A person that owns or operates real property that is contiguous to or otherwise similarly situated with respect to real property on which there has been a release or threatened release of a hazardous substance and that is or may be contaminated by the release shall not be considered to be an owner or operator of a vessel or facility under subsection (a) (1) or (2) solely by reason of the contamination if—

"(A) the person did not cause, contribute, or consent to the release or threatened release; and

"(B) the person is not liable, and is not affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.

"(2) COOPERATION, ASSISTANCE, AND ACCESS.—Notwithstanding paragraph (1), a person described in paragraph (1) shall provide full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

"(3) ASSURANCES.—The Administrator may—

"(A) issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

"(B) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113(f).".

SEC. 306. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.

(a) DEFINITION.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 303(a)(2), is amended by adding at the end the following:

"(41) BONA FIDE PROSPECTIVE PURCHASER.—The term 'bona fide prospective purchaser' means a person that acquires ownership of a facility after the date of enactment of this paragraph, or a tenant of such a person, that establishes each of the following by a preponderance of the evidence:

"(A) DISPOSAL PRIOR TO ACQUISITION.—All active disposal of hazardous substances at the facility occurred before the person acquired the facility.

"(B) INQUIRIES.—

"(i) IN GENERAL.—The person made all appropriate inquiries into the previous ownership and uses of the facility and the facility's real property in accordance with generally accepted good commercial and customary standards and practices.

"(ii) STANDARDS AND PRACTICES.—The standards and practices referred to in paragraph (35)(B)(ii) or those issued or adopted by the Administrator under that paragraph shall be considered to satisfy the requirements of this subparagraph.

"(iii) RESIDENTIAL USE.—In the case of property for residential or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.

"(C) NOTICES.—The person provided all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

"(D) CARE.—The person exercised appropriate care with respect to each hazardous

VOL
142
PT
5
MR
21
—
29
1996
UMI

substance found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release and prevent or limit human or natural resource exposure to any previously released hazardous substance.

"(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

"(F) RELATIONSHIP.—The person is not liable, and is not affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.".

(b) AMENDMENT.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 305, is amended by adding at the end the following:

"(q) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

"(1) LIMITATION ON LIABILITY.—Notwithstanding subsection (a), a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the bona fide prospective purchaser does not impede the performance of a response action or natural resource restoration.

"(2) LIEN.—If there are unrecovered response costs at a facility for which an owner of the facility is not liable by reason of subsection (n)(1)(C) and each of the conditions described in paragraph (3) is met, the United States shall have a lien on the facility, or may obtain from appropriate responsible party a lien on any other property or other assurances of payment satisfactory to the Administrator, for such unrecovered costs.

"(3) CONDITIONS.—The conditions referred to in paragraph (1) are the following:

"(A) RESPONSE ACTION.—A response action for which there are unrecovered costs is carried out at the facility.

"(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed 180 days before the response action was initiated.

"(C) SALE.—A sale or other disposition of all or a portion of the facility has occurred.

"(4) AMOUNT.—A lien under paragraph (2)—

"(A) shall not exceed the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

"(B) shall arise at the time at which costs are first incurred by the United States with respect to a response action at the facility;

"(C) shall be subject to the requirements of subsection (l)(3); and

"(D) shall continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility.".

SEC. 307. SAFE HARBOR INNOCENT LANDHOLDERS.

(a) AMENDMENT.—Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended by striking subparagraph (B) and inserting the following:

"(B) KNOWLEDGE OF INQUIRY REQUIREMENT.—

"(i) ALL APPROPRIATE INQUIRIES.—To establish that the defendant had no reason to know of the matter described in subparagraph (A)(i), the defendant must show that, at or prior to the date on which the defendant acquired the facility, the defendant undertook all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices.

"(ii) STANDARDS AND PRACTICES.—The Administrator shall by regulation establish as standards and practices for the purpose of clause (i)—

"(I) the American Society for Testing and Materials (ASTM) Standard E1527–94, entitled 'Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'; or

"(II) alternative standards and practices under clause (iii).

"(iii) ALTERNATIVE STANDARDS AND PRACTICES.—

"(I) IN GENERAL.—The Administrator may by regulation issue alternative standards and practices or designate standards developed by other organizations than the American Society for Testing and Materials after conducting a study of commercial and industrial practices concerning the transfer of real property in the United States.

"(II) CONSIDERATIONS.—In issuing or designating alternative standards and practices under subclause (I), the Administrator shall consider including each of the following:

"(aa) The results of an inquiry by an environmental professional.

"(bb) Interviews with past and present owners, operators, and occupants of the facility and the facility's real property for the purpose of gathering information regarding the potential for contamination at the facility and the facility's real property.

"(cc) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records to determine previous uses and occupancies of the real property since the property was first developed.

"(dd) Searches for recorded environmental cleanup liens, filed under Federal, State, or local law, against the facility or the facility's real property.

"(ee) Reviews of Federal, State, and local government records (such as waste disposal records), underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility or the facility's real property.

"(ff) Visual inspections of the facility and facility's real property and of adjoining properties.

"(gg) Specialized knowledge or experience on the part of the defendant.

"(hh) The relationship of the purchase price to the value of the property if the property was uncontaminated.

"(ii) Commonly known or reasonably ascertainable information about the property.

"(jj) The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate investigation.

"(iv) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.".

(b) STANDARDS AND PRACTICES.—

(1) ESTABLISHMENT BY REGULATION.—The Administrator of the Environmental Protection Agency shall issue the regulation required by section 101(35)(B)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), not later than 1 year after the date of enactment of this Act.

(2) INTERIM STANDARDS AND PRACTICES.—Until the Administrator issues the regulation described in paragraph (1), in making a determination under section 101(35)(B)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), there shall be taken into account—

(A) any specialized knowledge or experience on the part of the defendant;

(B) the relationship of the purchase price to the value of the property if the property was uncontaminated;

(C) commonly known or reasonably ascertainable information about the property;

(D) the degree of obviousness of the presence or likely presence of contamination at the property; and

(E) the ability to detect the contamination by appropriate investigation.

TITLE IV—SELECTION OF REMEDIAL ACTIONS

SEC. 401. DEFINITIONS.

Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 306(a), is amended by adding at the end the following:

"(42) ACTUAL OR PLANNED OR REASONABLY ANTICIPATED FUTURE USE OF THE LAND AND WATER RESOURCES.—The term 'actual or planned or reasonably anticipated future use of the land and water resources' means—

"(A) the actual use of the land, surface water, and ground water at a facility on the date of submittal of the proposed remedial action plan; and

"(B)(i) with respect to land—

"(I) the use of land that is authorized by the zoning or land use decisions formally adopted, at or prior to the time of the initiation of the facility evaluation, by the local land use planning authority for a facility and the land immediately adjacent to the facility; and

"(II) any other reasonably anticipated use that the local land use authority, in consultation with the community response organization (if any), determines to have a substantial probability of occurring based on recent (as of the time of the determination) development patterns in the area in which the facility is located and on population projections for the area; and

"(ii) with respect to water resources, the future use of the surface water and ground water that is potentially affected by releases from a facility that is reasonably anticipated, by a local government or other governmental unit that regulates surface or ground water use or surface or ground water use planning in the vicinity of the facility, on the earlier of—

"(I) the date of issuance of the first record of decision; or

"(II) the initiation of the facility evaluation.

"(43) SIGNIFICANT ECOSYSTEM.—The term 'significant ecosystem', for the purpose of section 121(a)(1)(B), means an ecosystem that exhibits a uniqueness, particular value, or historical presence or that is widely recognized as a significant resource at the national, State or local level.

"(44) VALUABLE ECOSYSTEM.—The term 'valuable ecosystem' means an ecosystem that is a known source of significant human or ecological benefits for its function.

"(45) SUSTAINABLE ECOSYSTEM.—The term 'sustainable ecosystem' means an ecosystem that has redundancy and resiliency sufficient to enable the ecosystem to continue to function and provide benefits within the normal range of its variability notwithstanding exposure to hazardous substances resulting from releases.

"(46) ECOLOGICAL RESOURCE.—The term 'ecological resource' means land, fish, wildlife, biota, air, surface water, and ground water within an ecosystem.

"(47) SIGNIFICANT RISK TO ECOLOGICAL RESOURCES THAT ARE NECESSARY TO THE SUSTAINABILITY OF A SIGNIFICANT ECOSYSTEM OR VALUABLE ECOSYSTEM.—The term 'significant risk to ecological resources that are necessary to the sustainability of a significant ecosystem or valuable ecosystem' means the risk associated with exposures and impacts resulting from the release of hazardous substances which together reduce or eliminate the sustainability (within the meaning of paragraph (45)) of a significant ecosystem or valuable ecosystem.".

SEC. 402. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621) is amended—

(1) by striking the section heading and subsections (a) and (b) and inserting the following:

"SEC. 121. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

"(a) GENERAL RULES.—

"(1) SELECTION OF MOST COST-EFFECTIVE REMEDIAL ACTION THAT PROTECTS HUMAN HEALTH AND THE ENVIRONMENT.—

"(A) IN GENERAL.—The Administrator shall select a remedial action that is the most cost-effective means of achieving the goals of protecting human health and the environment as stated in subparagraph (B) using the criteria stated in subparagraph (C).

"(B) GOALS OF PROTECTING HUMAN HEALTH AND THE ENVIRONMENT.—

"(i) PROTECTION OF HUMAN HEALTH.—A remedial action shall be considered to protect human health if, considering the expected exposures associated with the actual or planned or reasonably anticipated future use of the land and water resources, the remedial action achieves a residual risk—

"(I) from exposure to carcinogenic hazardous substances, pollutants, or contaminants such that cumulative lifetime additional cancer from exposure to hazardous substances from releases at the facility range from 10^{-4} to 10^{-6} for the affected population; and

"(II) from exposure to noncarcinogenic hazardous substances, pollutants, or contaminants at the facility that does not pose an appreciable risk of deleterious effects.

"(ii) PROTECTION OF THE ENVIRONMENT.—A remedial action shall be considered to protect the environment if, based on the actual or planned or reasonably anticipated future use of the land and water resources, the remedial action will protect against significant risks to ecological resources that are necessary to the sustainability of a significant ecosystem or valuable ecosystem and will not interfere with a sustainable functional ecosystem.

"(C) COMPLIANCE WITH FEDERAL AND STATE LAWS.—

"(i) SUBSTANTIVE REQUIREMENTS.—

"(I) IN GENERAL.—Subject to clause (iii), a remedial action shall—

"(aa) comply with the substantive requirements of all promulgated standards, requirements, criteria, and limitations under each Federal law and each State law relating to the environment or to the siting of facilities (including a State law that imposes a more stringent standard, requirement, criterion, or limitation than Federal law) that is applicable to the conduct or operation of the remedial action or to determination of the level of cleanup for remedial actions; and

"(bb) comply with or attain any other promulgated standard, requirement, criterion, or limitation under any State law relating to the environment or siting of facilities that applies to the conduct or operation of remedial actions under this Act, as determined by the State, after the date of enactment of the Accelerated Cleanup and Environmental Restoration Act of 1996, through a rulemaking procedure that includes public notice, comment, and written response comment, and opportunity for judicial review, but only if the State demonstrates that the standard, requirement, criterion, or limitation is consistently applied to remedial actions under State law.

"(II) IDENTIFICATION OF FACILITIES.—Compliance with a State standard, requirement, criterion, or limitation described in subclause (I) shall be required at a facility if the standard, requirement, criterion, or limitation has been identified by the State to the Administrator in a timely manner as being applicable to the facility.

"(III) PUBLISHED LISTS.—Each State shall publish a comprehensive list of the standards, requirements, criteria, and limitations that the State may apply to remedial actions under this Act, and shall revise the list periodically, as requested by the Administrator.

"(IV) CONTAMINATED MEDIA.—Compliance with this clause shall not be required with respect to return, replacement, or disposal of contaminated media or residuals of contaminated media into the same media in or very near then-existing areas of contamination onsite at a facility.

"(ii) PROCEDURAL REQUIREMENTS.—Procedural requirements of Federal and State standards, requirements, criteria, and limitations (including permitting requirements) shall not apply to response actions conducted onsite at a facility.

"(iii) WAIVER PROVISIONS.—

"(I) DETERMINATION BY THE PRESIDENT.—The Administrator shall evaluate and determine if it is not appropriate for a remedial action to attain a Federal or State standard, requirement, criterion, or limitation as required by clause (i).

"(II) SELECTION OF REMEDIAL ACTION THAT DOES NOT COMPLY.—The Administrator may select for a facility a remedial action that meets the requirements of subparagraph (B) but does not comply with or attain a Federal or State standard, requirement, criterion, or limitation described in clause (i) if the Administrator makes any of the following findings:

"(aa) IMPROPER IDENTIFICATION.—The standard, requirement, criterion, or limitation was improperly identified as an applicable requirement under clause (i)(I)(aa) and fails to comply with the rulemaking requirements of clause (i)(I)(bb).

"(bb) PART OF REMEDIAL ACTION.—The selected remedial action is only part of a total remedial action that will comply with or attain the applicable requirements of clause (i) when the total remedial action is completed.

"(cc) GREATER RISK.—Compliance with or attainment of the standard, requirement, criterion, or limitation at the facility will result in greater risk to human health or the environment than alternative options.

"(dd) TECHNICALLY IMPRACTICABILITY.—Compliance with or attainment of the standard, requirement, criterion, or limitation is technically infeasible from an engineering perspective or unreasonably costly.

"(ee) EQUIVALENT TO STANDARD OF PERFORMANCE.—The selected remedial action will attain a standard of performance that is equivalent to that required under a standard, requirement, criterion, or limitation described in clause (i) through use of another approach.

"(ff) INCONSISTENT APPLICATION.—With respect to a State standard, requirement, criterion, limitation, or level, the State has not consistently applied (or demonstrated the intention to apply consistently) the standard, requirement, criterion, or limitation or level in similar circumstances to other remedial actions in the State.

"(gg) BALANCE.—In the case of a remedial action to be undertaken solely under section 104 or 132 using amounts from the Fund, a selection of a remedial action that complies with or attains a standard, requirement, criterion, or limitation described in clause (i) will not provide a balance between the need for protection of public health and welfare and the environment at the facility, and the need to make amounts from the Fund available to respond to other facilities that may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of the threats presented by the various facilities.

"(III) PUBLICATION.—The Administrator shall publish any findings made under subclause (II), including an explanation and appropriate documentation.

"(D) REMEDY SELECTION CRITERIA.—In selecting a remedial action from among alternatives that achieve the goals stated in subparagraph (B), the Administrator shall balance the following factors, ensuring that no single factor predominates over the others:

"(i) The effectiveness of the remedy in protecting human health and the environment.

"(ii) The reliability of the remedial action in achieving the protectiveness standards over the long term.

"(iii) Any short-term risk to the affected community, those engaged in the remedial action effort, and to the environment posed by the implementation of the remedial action.

"(iv) The acceptability of the remedial action to the affected community.

"(v) The implementability and technical feasibility of the remedial action from an engineering perspective.

"(vi) The reasonableness of the cost.

"(2) TECHNICAL INFEASIBILITY AND UNREASONABLE COST.—

"(A) MINIMIZATION OF RISK.—If the Administrator, after reviewing the remedy selection criteria stated in paragraph (1)(C), finds that achieving the goals stated in paragraph (1)(B), is technically infeasible from an engineering perspective or unreasonably costly, the Administrator shall evaluate remedial measures that mitigate the risks to human health and the environment and select a technically practicable remedial action that will most closely achieve the goals stated in paragraph (1) through cost-effective means.

"(B) BASIS FOR FINDING.—A finding of technical impracticability may be made on the basis of a determination, supported by appropriate documentation, that, at the time at which the finding is made—

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(i) there is no known reliable means of achieving at a reasonable cost the goals stated in paragraph (1)(B); and

"(ii) it has not been shown that such a means is likely to be developed within a reasonable period of time.

"(3) Presumptive remedial actions.—A remedial action that implements a presumptive remedial action issued under section 128 shall be considered to achieve the goals stated in paragraph (1)(B) and balance adequately the factors stated in paragraph (1)(C).

"(4) Ground water.—

"(A) In general.—A remedial action shall protect uncontaminated ground water that is suitable for use as drinking water by humans or livestock in the water's condition at the time of initiation of the facility evaluation.

"(B) Considerations.—A decision under subparagraph (A) regarding remedial action for ground water shall take into consideration—

"(i) the actual or planned or reasonably anticipated future use of the ground water and the timing of that use;

"(ii) any attenuation or biodegradation that would occur if no remedial action were taken; and

"(iii) the criteria stated in paragraph (1)(C).

"(C) Official classification.—For the purposes of subparagraph (A), there shall be no presumption that because ground water is suitable for use as drinking water by humans or livestock, such use is the actual or planned or reasonably anticipated future use of the ground water.

"(D) Uncontaminated ground water.—A remedial action for protecting uncontaminated ground water may be based on natural attenuation or biodegradation so long as the remedial action does not interfere with the actual or planned or reasonably anticipated future use of the ground water.

"(E) Contaminated ground water.—A remedial action for contaminated ground water may include point-of-use treatment.

"(5) Other considerations applicable to remedial actions.—A remedial action that uses institutional and engineering controls shall be considered to be on an equal basis with all other remedial action alternatives.";

(2) by redesignating subsection (c) as subsection (b), and, in the first sentence of that subsection, by striking "5 years" and inserting "7 years";

(3) by striking subsection (d); and

(4) by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

SEC. 403. REMEDY SELECTION METHODOLOGY.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

"SEC. 127. FACILITY-SPECIFIC RISK EVALUATIONS.

"(a) Uses.—

"(1) In general.—A facility-specific risk evaluation shall be used to—

"(A) identify the significant components of potential risk posed by a facility;

"(B) screen out potential contaminants, areas, or exposure pathways from further study at a facility;

"(C) compare the relative protectiveness of alternative potential remedies proposed for a facility; and

"(D) demonstrate that the remedial action selected for a facility is capable of protecting human health and the environment considering the actual or planned or reasonably anticipated future use of the land and water resources.

"(2) Compliance with principles.—A facility-specific risk evaluation shall comply with the principles stated in this section to ensure that—

"(A) actual or planned or reasonably anticipated future use of the land and water resources is given appropriate consideration; and

"(B) all of the components of the evaluation are, to the maximum extent practicable, scientifically objective and inclusive of all relevant data.

"(b) Risk Evaluation Principles.—A facility-specific risk evaluation shall—

"(1) be based on actual or plausible estimates of exposure considering the actual or planned or reasonably anticipated future use of the land and water resources;

"(2) be comprised of components each of which is, to the maximum extent practicable, scientifically objective, and inclusive of all relevant data;

"(3) use chemical and facility-specific data and analysis (such as toxicity, exposure, and fate and transport evaluations) in preference to default assumptions;

"(4) use a range and distribution of realistic and plausible assumptions when chemical and facility-specific data are not available;

"(5) use mathematical models that take into account the fate and transport of hazardous substances, pollutants, or contaminants, in the environment instead of relying on default assumptions; and

"(6) use credible hazard identification and dose/response assessments.

"(c) Risk Communication Principles.—The document reporting the results of a facility-specific risk evaluation shall—

"(1) contain an explanation that clearly communicates the risks at the facility;

"(2) identify and explain all assumptions used in the evaluation, all alternative assumptions, the policy or value judgments used in choosing the assumptions, and whether empirical data conflict with or validate the assumptions;

"(3) present—

"(A) a range and distribution of exposure and risk estimates, including, if numerical estimates are provided, central estimates of exposure and risk using—

"(i) the most plausible assumptions or a weighted combination of multiple assumptions based on different scenarios; or

"(ii) any other methodology designed to characterize the most plausible estimate of risk given the scientific information that is available at the time of the facility-specific risk evaluation; and

"(B) a statement of the nature and magnitude of the scientific and other uncertainties associated with those estimates;

"(4) state the size of the population potentially at risk from releases from the facility and the likelihood that potential exposures will occur based on the actual or planned or reasonably anticipated future use of the land and water resources; and

"(5) compare the risks from the facility to other risks commonly experienced by members of the local community in their daily lives and similar risks regulated by the Federal Government.

"(d) Regulations.—Not later than 18 months after the date of enactment of this section, the Administrator shall issue a final regulation implementing this section that promotes a realistic characterization of risk that neither minimizes nor exaggerates the risks and potential risks posed by a facility or a proposed remedial action.

"SEC. 128. PRESUMPTIVE REMEDIAL ACTIONS.

"(a) In General.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a final regulation establishing presumptive remedial actions for commonly encountered types of facilities with reasonably well understood contamination problems and exposure potential.

"(b) Practicability and Cost-Effectiveness.—Such presumptive remedies must have been demonstrated to be technically practicable and cost-effective methods of achieving the goals of protecting human health and the environment stated in section 121(a)(1)(B).

"(c) Variations.—The Administrator may issue various presumptive remedial actions based on various uses of land and water resources, various environmental media, and various types of hazardous substances, pollutants, or contaminants.

"(d) Engineering Controls.—Presumptive remedial actions are not limited to treatment remedies, but may be based on, or include, institutional and standard engineering controls.".

SEC. 404. REMEDY SELECTION PROCEDURES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 403, is amended by adding at the end the following:

"SEC. 129. REMEDIAL ACTION PLANNING AND IMPLEMENTATION.

"(a) In General.—

"(1) Basic rules.—

"(A) Procedures.—A remedial action with respect to a facility that is listed or proposed for listing on the National Priorities List shall be developed and selected in accordance with the procedures set forth in this section.

"(B) No other procedures or requirements.—The procedures stated in this section are in lieu of any procedures or requirements under any other law to conduct remedial investigations, feasibility studies, record of decisions, remedial designs, or remedial actions.

"(C) Limited review.—In a case in which the potentially responsible parties prepare a remedial action plan, only the work plan, facility evaluation, proposed remedial action plan, and final remedial design shall be subject to review, comment, and approval by the Administrator.

"(D) Designation of potentially responsible parties to prepare work plan, facility evaluation, proposed remedial action, and remedial design and to implement the remedial action plan.—In the case of a facility for which the Administrator is not required to prepare a work plan, facility evaluation, proposed remedial action, and remedial design and implement the remedial action plan—

"(i) if a potentially responsible party or group of potentially responsible parties—

"(I) expresses an intention to prepare a work plan, facility evaluation, proposed remedial action plan, and remedial design and to implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith); and

"(II) demonstrates that the potentially responsible party or group of potentially responsible parties has the financial resources and the expertise to perform those functions, the Administrator shall designate the potentially responsible party or group of potentially responsible parties to perform those functions; and

"(ii) if more than 1 potentially responsible party or group of potentially responsible parties—

"(I) expresses an intention to prepare a work plan, facility evaluation, proposed remedial action plan, and remedial design and to implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith); and

"(II) demonstrates that the potentially responsible parties or group of potentially responsible parties has the financial resources and the expertise to perform those functions, the Administrator, based on an assessment of the various parties' comparative financial resources, technical expertise, and histories of cooperation with respect to facilities that are listed on the National Priorities List, shall designate 1 potentially responsible party or group of potentially responsible parties to perform those functions.

"(E) Approval required at each step of procedure.—No action shall be taken with respect to a facility evaluation, proposed remedial action plan, remedial action plan, or remedial design, respectively, until a work plan, facility evaluation, proposed remedial action plan, and remedial action plan, respectively, have been approved by the Administrator.

"(F) National contingency plan.—The Administrator shall conform the National Contingency Plan regulations to reflect the procedures stated in this section.

"(2) Use of presumptive remedial actions.—

"(A) Proposal to use.—In a case in which a presumptive remedial action applies, the Administrator (if the Administrator is conducting the remedial action) or the preparer of the remedial action plan may, after conducting a facility evaluation, propose a presumptive remedial action for the facility, if the Administrator or preparer shows with appropriate documentation that the facility fits the generic classification for which a presumptive remedial action has been issued and performs an engineering evaluation to demonstrate that the presumptive remedial action can be applied at the facility.

"(B) Limitation.—The Administrator may not require a potentially responsible party to implement a presumptive remedial action.

"(b) Remedial Action Planning Process.—

"(1) In general.—The Administrator or a potentially responsible party shall prepare and implement a remedial action plan for a facility.

"(2) Contents.—A remedial action plan shall consist of—

"(A) the results of a facility evaluation, including any screening analysis performed at the facility;

"(B) a discussion of the potentially viable remedies that are considered to be reasonable under section 121(a) and how they balance the factors stated in section 121(a)(1)(C);

"(C) a description of the remedial action to be taken;

"(D) a description of the facility-specific risk-based evaluation under section 127 and a demonstration that the selected remedial action will satisfy sections 121(a) and 128; and

"(E) a realistic schedule for conducting the remedial action, taking into consideration facility-specific factors.

"(3) Work plan.—

"(A) In general.—Prior to preparation of a remedial action plan, the preparer shall develop a work plan, including a community information and participation plan, which generally describes how the remedial action plan will be developed.

"(B) Submission.—A work plan shall be submitted to the Administrator, the State, the community response organization, the local library, and any other public facility designated by the Administrator.

"(C) Publication.—The Administrator or other person that prepares a work plan shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the work plan is available for review at the local library and that comments concerning the work plan can be submitted to the preparer of the work plan, the Administrator, the State, or the local community response organization.

"(D) Forwarding of comments.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall forward the comments to the preparer of the work plan.

"(E) Notice of disapproval.—If the Administrator does not approve a work plan, the Administrator shall—

"(i) identify to the preparer of the work plan, with specificity, any deficiencies in the submission; and

"(ii) require that the preparer submit a revised work plan within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

"(4) Facility evaluation.—

"(A) In general.—The Administrator (or the preparer of the facility evaluation) shall conduct a facility evaluation at each facility to characterize the risk posed by the facility by gathering enough information necessary to—

"(i) assess potential remedial alternatives, including ascertaining, to the degree appropriate, the volume and nature of the contaminants, their location, potential exposure pathways and receptors;

"(ii) discern the actual or planned or reasonably anticipated future use of the land and water resources; and

"(iii) screen out any uncontaminated areas, contaminants, and potential pathways from further consideration.

"(B) Submission.—A draft facility evaluation shall be submitted to the Administrator for approval.

"(C) Publication.—Not later than 30 days after submission, or in a case in which the Administrator is preparing the remedial action plan, after the completion of the draft facility evaluation, the Administrator shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the draft facility evaluation is available for review and that comments concerning the evaluation can be submitted to the Administrator, the State, and the community response organization.

"(D) Availability of comments.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall make the comments available to the preparer of the facility evaluation.

"(E) Notice of approval.—If the Administrator approves a facility evaluation, the Administrator shall—

"(i) notify the community response organization; and

"(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

"(F) Notice of disapproval.—If the Administrator does not approve a facility evaluation, the Administrator shall—

"(i) identify to the preparer of the facility evaluation, with specificity, any deficiencies in the submission; and

"(ii) require that the preparer submit a revised facility evaluation within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

"(5) Proposed remedial action plan.—

"(A) Submission.—In a case in which a potentially responsible party prepares a remedial action plan, the preparer shall submit the remedial action plan to the Administrator for approval and provide a copy to the local library.

"(B) Publication.—After receipt of the proposed remedial action plan, or in a case in which the Administrator is preparing the remedial action plan, after the completion of the remedial action plan, the Administrator shall cause to be published in a newspaper of general circulation in the area where the facility is located and posted in other conspicuous places in the local community a notice announcing that the proposed remedial action plan is available for review at the local library and that comments concerning the remedial action plan can be submitted to the Administrator, the State, and the community response organization.

"(C) Availability of comments.—If comments are submitted to a State or the community response organization, the State or community response organization shall make the comments available to the preparer of the proposed remedial action plan.

"(D) Hearing.—The Administrator shall hold a public hearing at which the proposed remedial action plan shall be presented and public comment received.

"(E) Approval.—

"(i) In general.—The Administrator shall approve a proposed remedial action plan if the plan—

"(I) contains the information described in section 127(b); and

"(II) satisfies section 121(a).

"(ii) Default.—If the Administrator fails to issue a notice of disapproval of a proposed remedial action plan in accordance with subparagraph (G) within 90 days after the proposed plan is submitted, the plan shall be considered to be approved and its implementation fully authorized.

"(F) Notice of approval.—If the Administrator approves a proposed remedial action plan, the Administrator shall—

"(i) notify the community response organization; and

"(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

"(G) Notice of disapproval.—If the Administrator does not approve a proposed remedial action plan, the Administrator shall—

"(i) inform the preparer of the proposed remedial action plan, with specificity, of any deficiencies in the submission; and

"(ii) request that the preparer submit a revised proposed remedial action plan within a reasonable time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

"(6) Implementation of remedial action plan.—A remedial action plan that has been approved or is considered to be approved under paragraph (5) shall be implemented in accordance with the schedule set forth in the remedial action plan.

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(7) Remedial design.—

"(A) Submission.—A remedial design shall be submitted to the Administrator, or in a case in which the Administrator is preparing the remedial action plan, shall be completed by the Administrator.

"(B) Publication.—After receipt by the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall—

"(i) notify the community response organization; and

"(ii) cause a notice of submission or completion of the remedial design to be published in a newspaper of general circulation and posted in conspicuous places in the area where the facility is located.

"(C) Comment.—The Administrator shall provide an opportunity to the public to submit written comments on the remedial design.

"(D) Approval.—Not later than 90 days after the submission to the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall approve or disapprove the remedial design.

"(E) Notice of approval.—If the Administrator approves a remedial design, the Administrator shall—

"(i) notify the community response organization; and

"(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

"(F) Notice of disapproval.—If the Administrator disapproves the remedial design, the Administrator shall—

"(i) identify with specificity any deficiencies in the submission; and

"(ii) allow the preparer submitting a remedial design a reasonable time (which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator) in which to submit a revised remedial design.

"(c) Judicial Review.—

"(1) Final action.—Notwithstanding any other provision of this Act or any other law, an approval or disapproval of a remedial action plan described in paragraph (2), shall be final action of the Administrator subject to judicial review in United States district court.

"(2) Application and subsection.—A remedial action plan is described in this paragraph if—

"(A) the plan is approved or disapproved after the date of enactment of this section; and

"(B) the capital cost of the remedial action under the plan is projected to cost more than $15,000,000 for any operating unit that is the subject of a separately enforceable remedial action plan or more than $27,000,000 for an entire facility.

"(d) Enforcement of Remedial Action Plan.—

"(1) Notice of significant deviation.—If the Administrator determines that the implementation of the remedial action plan has deviated significantly from the plan, the Administrator shall provide the implementing party a notice that requires the implementing party, within a reasonable period of time specified by the Administrator, to—

"(A) comply with the terms of the remedial action plan; or

"(B) submit a notice for modifying the plan.

"(2) Failure to comply.—

"(A) Class one administrative penalty.—In issuing a notice under paragraph (1), the Administrator may impose a class one administrative penalty consistent with section 109(a).

"(B) Additional enforcement measures.—If the implementing party fails to either comply with the plan or submit a proposed modification, the Administrator may pursue all additional appropriate enforcement measures pursuant to this Act.

"(e) Modifications to Remedial Action.—

"(1) Definition.—In this subsection, the term 'major modification' means a modification that—

"(A) fundamentally alters the interpretation of site conditions at the facility;

"(B) fundamentally alters the interpretation of sources of risk at the facility;

"(C) fundamentally alters the scope of protection to be achieved by the selected remedial action;

"(D) fundamentally alters the performance of the selected remedial action; or

"(E) delays the completion of the remedy by more than 180 days.

"(2) Major modifications.—

"(A) In general.—If the Administrator or other implementing party proposes a major modification to the plan, the Administrator or other implementing party shall demonstrate that—

"(i) the major modification constitutes the most cost-effective remedial alternative that is technologically feasible and is not unreasonably costly; and

"(ii) that the revised remedy will continue to satisfy section 121(a).

"(B) Notice and comment.—The Administrator shall provide the implementing party, the community response organization, and the local community notice of the proposed major modification and at least 30 days' opportunity to comment on any such proposed modification.

"(C) Prompt action.—At the end of the comment period, the Administrator shall promptly approve or disapprove the proposed modification and order implementation of the modification in accordance with any reasonable and relevant requirements that the Administrator may specify.

"(3) Minor modifications.—Nothing in this section modifies the discretionary authority of the Administrator to make a minor modification of a record of decision or remedial action plan to conform to the best science and engineering, the requirements of this Act, or changing conditions at a facility.".

SEC. 405. COMPLETION OF PHYSICAL CONSTRUCTION AND DELISTING.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 404, is amended by adding at the end the following:

"SEC. 130. COMPLETION OF PHYSICAL CONSTRUCTION AND DELISTING.

"(a) In General.—

"(1) Proposed notice of completion and proposed delisting.—Not later than 60 days after the completion by the Administrator of physical construction necessary to implement a response action at a facility, or not later than 60 days after receipt of a notice of such completion from the implementing party, the Administrator shall publish a notice of completion and proposed delisting of the facility from the National Priorities List in the Federal Register and in a newspaper of general circulation in the area where the facility is located.

"(2) Physical construction.—For the purposes of paragraph (1), physical construction necessary to implement a response action at a facility shall be considered to be complete when—

"(A) construction of all systems, structures, devices, and other components necessary to implement a response action for the entire facility has been completed in accordance with the remedial design plan; or

"(B) no construction, or no further construction, is expected to be undertaken.

"(3) Comments.—The public shall be provided 30 days in which to submit comments on the notice of completion and proposed delisting.

"(4) Final notice.—Not later than 60 days after the end of the comment period, the Administrator shall—

"(A) issue a final notice of completion and delisting or a notice of withdrawal of the proposed notice until the implementation of the remedial action is determined to be complete; and

"(B) publish the notice in the Federal Register and in a newspaper of general circulation in the area where the facility is located.

"(5) Failure to act.—If the Administrator fails to publish a notice of withdrawal within the 60-day period described in paragraph (4)—

"(A) the remedial action plan shall be deemed to have been completed; and

"(B) the facility shall be delisted by operation of law.

"(6) Effect of delisting.—The delisting of a facility shall have no effect on—

"(A) liability allocation requirements or cost-recovery provisions otherwise provided in this Act;

"(B) any liability of a potentially responsible party or the obligation of any person to provide continued operation and maintenance;

"(C) the authority of the Administrator to make expenditures from the Fund relating to the facility; or

"(D) the enforceability of any consent order or decree relating to the facility.

"(7) Failure to make timely disapproval.—The issuance of a final notice of completion and delisting or of a notice of withdrawal within the time required by subsection (a)(3) constitutes a nondiscretionary duty within the meaning of section 310(a)(2).

"(b) Certification.—A final notice of completion and delisting shall include a certification by the Administrator that the facility has met all of the requirements of the remedial action plan (except requirements for continued operation and maintenance).

"(c) Future use of a Facility.—

"(1) Facility available for unrestricted use.—If, after completion of physical construction, a facility is available for unrestricted use and there is no need for continued operation and maintenance, the potentially responsible parties shall have no further liability under any Federal, State, or local law (including any regulation) for remediation at the facility, unless the Administrator determines, based on new and reliable factual information about the facility, that the facility does not satisfy section 121(a).

"(2) Facility not available for any use.—If, after completion of physical construction, a facility is not available for any use or there are continued operation and maintenance requirements that preclude use of the facility, the Administrator shall—

"(A) review the status of the facility every 7 years; and

"(B) require additional remedial action at the facility if the Administrator determines, after notice and opportunity for hearing, that the facility does not satisfy section 121(a).

"(3) Facilities available for restricted use.—The Administrator may determine that a facility or portion of a facility is available for restricted use while a response action is under way or after physical construction has been completed. The Administrator shall make a determination that uncontaminated portions of the facility are available for unrestricted use when such use would not interfere with ongoing operations and maintenance activities or endanger human health or the environment.

"(d) Operation and Maintenance.—The need to perform continued operation and maintenance at a facility shall not delay delisting of the facility or issuance of the certification if performance of operation and maintenance is subject to a legally enforceable agreement, order, or decree.

"(e) Change of Use of Facility.—

"(1) Petition.—Any person may petition the Administrator to change the use of a facility described in subsection (c) (2) or (3) from that which was the basis of the remedial action plan.

"(2) Grant.—The Administrator may grant a petition under paragraph (1) if the petitioner agrees to implement any additional remedial actions that the Administrator determines are necessary to continue to satisfy section 121(a), considering the different use of the facility.

"(3) Responsibility for risk.—When a petition has been granted under paragraph (2), the person requesting the change in use of the facility shall be responsible for all risk associated with altering the facility and all costs of implementing any necessary additional remedial actions.".

SEC. 406. TRANSITION RULES FOR FACILITIES CURRENTLY INVOLVED IN REMEDY SELECTION.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 405, is amended by adding at the end the following:

"SEC. 131. TRANSITION RULES FOR FACILITIES INVOLVED IN REMEDY SELECTION ON DATE OF ENACTMENT.

"(a) No Record of Decision.—

"(1) Option.—In the case of a facility or operable unit that, as of the date of enactment of this section, is the subject of a remedial investigation and feasibility study (whether completed or incomplete), the potentially responsible parties or the Administrator may elect to follow the remedial action plan process stated in section 129 rather than the remedial investigation and feasibility study and record of decision process under regulations in effect on the date of enactment of this section that would otherwise apply if the requesting party notifies the Administrator and other potentially responsible parties of the election not later than 90 days after the date of enactment of this section.

"(2) Submission of facility evaluation.—In a case in which the potentially responsible parties have or the Administrator has made an election under subsection (a), the potentially responsible parties shall submit the proposed facility evaluation within 180 days after the date on which notice of the election is given.

"(b) Remedy Review Boards.—

"(1) Establishment.—Not later than 60 days after the date of enactment of this section, the Administrator shall establish 1 or more remedy review boards (referred to in this subsection as a 'remedy review board'), each consisting of at least 3 independent technical experts, to review petitions under paragraphs (3) and (4).

"(2) General procedure.—

"(A) Completion of review.—The review of a petition submitted to a remedy review board shall be completed not later than 180 days after the receipt of the petition unless the Administrator, for good cause, grants additional time.

"(B) Costs.—All costs of review by a remedy review board shall be borne by the petitioner.

"(C) Decisions.—At the completion of the 180-day review period, a remedy review board shall issue a written decision including responses to all comments submitted during the review process with regard to a petition.

"(D) Opportunity for comment and meetings.—In reviewing a petition, a remedy review board shall provide an opportunity for all interested parties, including representatives of the State and local community in which the facility is located, to comment on the petition and, if requested, to meet with the remedy review board.

"(E) Review by the administrator.—

"(i) In general.—The Administrator shall have final review of any decision of a remedy review board.

"(ii) Standard of review.—In conducting a review of a decision of a remedy review board, the Administrator shall accord substantial weight to the remedy review board's decision.

"(iii) Rejection of decision.—Any determination to reject a remedy review board's decision must be approved by the Administrator or the Assistant Administrator for Solid Waste and Emergency Response.

"(F) Decision of the board.—A decision of a remedy review board decision under subparagraph (B) and the Administrator's review of a decision under subparagraph (E) shall be subject to judicial review under section 113(h).

"(3) Construction not begun.—

"(A) Petition.—In the case of a facility or operable unit with respect to which a record of decision has been signed but construction has not yet begun prior to the date of enactment of this section, the implementor of the record of decision may file a petition with a remedy review board not later than 90 days after the date of enactment of this section to determine whether an alternate remedy under section 127 should apply to the facility or operable unit.

"(B) Criteria for approval.—Subject to subparagraph (C), a remedy review board shall approve a petition described in subparagraph (A) if—

"(i) the alternative remedial action proposed in the petition satisfies section 121(a);

"(ii) the alternative remedial action achieves a cost savings of at least $1,500,000.

"(iii) implementation of the alternative remedial action will not result in a substantial delay in the implementation of a remedial action.

"(C) Review of comments.—A remedy review board may reject or modify a petition under subparagraph (A), even though the petition meets the criteria stated in subparagraph (B), based on a review of comments submitted by persons other than the petitioner.

"(D) Contents of petition.—A petition described in subparagraph (A) shall rely on risk assessment data that were available prior to issuance of the record of decision but shall consider the actual or planned or reasonably anticipated future use of the land and water resources.

"(E) Incorrect data.—Notwithstanding subparagraph (B) and (D), a remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information.

"(4) Additional construction.—

"(A) Petition.—In the case of a facility or operable unit with respect to which a record of decision has been signed and construction has begun prior to the date of enactment of this section, but for which additional construction or long-term operation and maintenance activities are anticipated, the implementor of the record of decision may file a petition with a remedy review board within 90 days after the date of enactment of this section to determine whether an alternative remedial action should apply to the facility or operable unit.

"(B) Criteria for approval.—Subject to subparagraph (C), a remedy review board shall approve a petition described in subparagraph (A) if—

"(i) the alternative remedial action proposed in the petition is protective of human health and the environment in accordance with the standards of section 121, as in effect prior to the date of enactment of this section;

"(ii) implementation of the alternative remedial action will not result in a substantial delay in the implementation of a remedial action; and

"(iii)(I) the petitioner demonstrates that the selected remedial action is inconsistent with the most recent version of any guidance issued by the Administrator prior to the date of enactment of this section concerning the selection or implementation of any remedial action; or

"(II) the alternative remedial action employs a phased remedial approach which, if successful would preclude the need for full implementation of the selected remedial action.

"(C) Review of comments.—A remedy review board may reject or modify a petition under subparagraph (A), even though the petition meets the criteria stated in subparagraph (B), based on a review of comments submitted by persons other than the petitioner.

"(D) Incorrect data.—Notwithstanding subparagraph (B), a remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information.

"(5) Delay.—In determining whether an alternative remedial action will substantially delay the implementation of a remedial action of a facility, no consideration shall be given to the time necessary to review a petition under paragraph (3) or (4) by a remedy review board or the Administrator.".

SEC. 407. JUDICIAL REVIEW.

(a) Review of Certain Actions.—Section 113(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(h)) is amended by adding at the end the following:

"(6) An action under section 129(c).".

(b) Stay.—Section 113(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(b)) is amended by adding at the end the following: "In the case of a challenge under section 113(h)(6), the court may stay the implementation or initiation of the challenged actions pending judicial resolution of the matter.".

SEC. 408. NATIONAL PRIORITIES LIST.

(a) Revision of National Contingency Plan.—

VOL
142
PT
5
MR
21
—
29
1996
UMI

(1) AMENDMENTS.—Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended—

(A) in subsection (a)(8) by adding at the end the following:

"(C) provision that in listing a facility on the National Priorities List, the Administrator shall not include any parcel of real property at which no release has actually occurred, but to which a released hazardous substance, pollutant, or contaminant has migrated in ground water that has moved through subsurface strata from another parcel of real estate at which the release actually occurred, unless—

"(i) the ground water is in use as a public drinking water supply or was in such use at the time of the release; and

"(ii) the owner or operator of the facility is liable, or is affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed."; and

(B) by adding at the end the following:

"(h) LISTING OF PARTICULAR PARCELS.—

"(1) DEFINITION.—In subsection (a)(8)(C) and paragraph (2) of this subsection, the term 'parcel of real property' means a parcel, lot, or tract of land that has a separate legal description from that of any other parcel, lot, or tract of land the legal description and ownership of which has been recorded in accordance with the law of the State in which it is located.

"(2) STATUTORY CONSTRUCTION.—Nothing in subsection (a)(8)(C) shall be construed to limit the Administrator's authority under section 104 to obtain access to and undertake response actions at any parcel of real property to which a released hazardous substance, pollutant, or contaminant has migrated in the ground water.".

(2) REVISION OF NATIONAL PRIORITIES LIST.—The President shall revise the National Priorities List to conform with the amendment made by paragraph (1) not later that 180 days of the date of enactment of this Act.

TITLE V—LIABILITY

SEC. 501. LIABILITY EXCEPTIONS AND LIMITATIONS.

(a) IN GENERAL.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 306(b), is amended by adding at the end the following:

"(r) 10-PERCENT LIMITATION FOR MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.—No person or group of persons (other than the United States or a department, agency, or instrumentality of the United States) shall be liable for more than 10 percent of total response costs at a facility listed on the National Priorities List, in the aggregate, incurred after the date of enactment of this subsection if—

"(1) the person is liable solely under subparagraph (C) or (D) of subsection (a)(1); and

"(2) the arrangement for disposal, treatment, or transport for disposal or treatment, or the acceptance for transport for disposal or treatment, involved only municipal solid waste or sewage sludge.

"(s) DE MINIMIS CONTRIBUTOR EXEMPTION.—In the case of a vessel or facility that is not owned by the United States and is listed on the National Priorities List, no person described in subparagraph (C) or (D) of subsection (a)(1) (other than the United States or any department, agency, or instrumentality of the United States) shall be liable to the United States or to any other person (including liability for contribution) under Federal or State law for any costs under this section incurred after the date of enactment of this subsection, if no activity specifically attributable to the person resulted in—

"(1) the disposal or treatment of more than 1 percent of the volume of material containing a hazardous substance at the vessel or facility prior to December 11, 1980; or

"(2) the disposal or treatment of not more than 200 pounds or 110 gallons of material containing hazardous substances at the vessel or facility prior to January 1, 1996, or such greater or lesser amount as the Administrator may determine by regulation.

"(t) SUCCESSOR LIABILITY.—The liability of a person that has purchased assets from another person that is otherwise liable under this section shall be determined in accordance with the law of the State in which the vessel or facility is located.".

(b) CONFORMING AMENDMENT.—Section 107(a) is amended by striking "of this section" and inserting ", the limitation stated in subsection (r), and the exemption stated in subsection (s)".

(c) EFFECTIVE DATE AND TRANSITION RULES.—The amendments made by this section—

(1) shall take effect with respect to an action under section 106, 107, or 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606, 9607, and 9613) that becomes final on or after the date of enactment of this Act; but

(2) shall not apply to an action brought by any person under section 107 or 113 of that Act (42 U.S.C. 9607 and 9613) for costs or damages incurred by the person before the date of enactment of this Act.

SEC. 502. CONTRIBUTION FROM THE FUND FOR CERTAIN RETROACTIVE LIABILITY.

Section 112 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9612) is amended by adding at the end the following:

"(g) CONTRIBUTION FROM THE FUND FOR CERTAIN RETROACTIVE LIABILITY.—

"(1) COMPLETION OF OBLIGATIONS.—A person that is subject to an administrative order issued under section 106 or has entered into a settlement decree with the United States or a State as of the date of enactment of this subsection shall complete the person's obligations under the order or settlement decree.

"(2) CONTRIBUTION.—A person described in paragraph (1) shall receive contribution from the Fund for any portion of the costs incurred for the performance of the response action after the date of enactment of this subsection—

"(A) if the person is not liable for such costs by reason of the de minimis contributor exemption under section 107(s); or

"(B) if and to the extent the person's allocated share, as determined under section 503, is funded by the orphan share under section 503(1)(2)(B).

"(3) APPLICATION FOR CONTRIBUTION.—

"(A) IN GENERAL.—Contribution under this section shall be made upon receipt by the Administrator of an application from the person requesting contribution.

"(B) PERIODIC APPLICATIONS.—Application may be made no more frequently than every 6 months after such payments are made or such costs are incurred, commencing 6 months after the enactment of this subsection.

"(4) REGULATIONS.—Contribution shall be made in accordance with such regulations as the Administrator shall issue within 180 days after the date of enactment of this section.

"(5) DOCUMENTATION.—The regulations under paragraph (4) shall, at a minimum, require that an application for contribution contain such documentation of costs and expenditures as the Administrator considers necessary to ensure compliance with this subsection.

"(6) EXPEDITION.—The Administrator shall develop and implement such procedures as may be necessary to provide contribution to such persons in an expeditious manner, but in no case shall a contribution be made later than 1 year after submission of an application under this subsection.

"(7) CONSISTENCY WITH NATIONAL CONTINGENCY PLAN.—No contribution shall be made under this subsection unless the Administrator determines that such costs are consistent with the National Contingency Plan.".

SEC. 503. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 406, is amended by adding at the end the following:

"SEC. 132. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) ALLOCATED SHARE.—The term 'allocated share' means the percentage of liability assigned to a potentially responsible party by the allocator in an allocation report under section 132(j)(6).

"(2) ALLOCATION PARTY.—The term 'allocation party' means a party, named on a list of parties that will be subject to the allocation process under this section, issued by an allocator under subsection (g)(3)(A).

"(3) ALLOCATOR.—The term 'allocator' means an allocator retained to conduct an allocation for a facility under subsection (f)(1).

"(4) MANDATORY ALLOCATION FACILITY.—The term 'mandatory allocation facility' means—

"(A) a non-federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section, and at which one or more potentially responsible parties are liable or potentially liable for status or conduct after December 11, 1980;

"(B) a non-federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section, and with respect to which no person is liable or potentially liable pursuant to section 107(a)(1) (C) or (D) for conduct prior to December 11, 1980;

"(C) a federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section, and with respect to which 1 or more potentially responsible parties (other that a department, agency, or instrumentality of the United States) are liable or potentially liable for status or conduct after December 11, 1980; and

"(D) a federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section, and with respect to which one or more of the potentially responsible parties is not a department, agency, or instrumentality of the United States and with respect to which no person is liable or potentially liable pursuant to section 107(a)(1) (C) or (D) for conduct prior to December 11, 1980.

"(5) ORPHAN SHARE.—The term 'orphan share' means the total of the allocated shares determined by the allocator under section 132(1).

"(b) ALLOCATIONS OF LIABILITY.—

"(1) MANDATORY ALLOCATIONS.—For each mandatory allocation facility involving 2 or more potentially responsible parties (including 1 or more potentially responsible parties that are qualified for de minimis contributor exemption under section 107(s)), the Administrator shall conduct the allocation process under this section.

"(2) REQUESTED ALLOCATIONS.—For a facility (other than a mandatory allocation facility) involving 2 or more potentially responsible parties, the Administrator shall conduct the allocation process under this section if the allocation is requested in writing by a potentially responsible party that has—

"(A) incurred response costs with respect to a response action; or

"(B) resolved any liability to the United States with respect to a response action in order to assist in allocating shares among potentially responsible parties.

"(3) PERMISSIVE ALLOCATIONS.—For any facility (other than a mandatory allocation facility or a facility with respect to which a request is made under paragraph (2)) involving 2 or more potentially responsible parties, the Administrator may conduct the allocation process under this section if the Administrator considers it to be appropriate to do so.

"(4) ORPHAN SHARE.—An allocation performed at a vessel or facility identified under subsection (b) (2) or (3) shall not require payment of an orphan share under subsection (l) or reimbursement under subsection (t).

"(5) EXCLUDED FACILITIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of the allocation process only, this section does not apply to a response action at a mandatory allocation facility for which there was in effect as of the date of enactment of this section, a settlement, decree, or order that determines the liability and allocated shares of all potentially responsible parties with respect to the response action.

"(B) AVAILABILITY OF ORPHAN SHARE.—For any mandatory allocation facility that is otherwise excluded by subparagraph (A) and for which there was not in effect as of the date of enactment of this section a final judicial order that determined the liability of all parties to the action for response costs incurred after the date of enactment of this section, an allocation shall be conducted for the sole purpose of determining the availability of orphan share funding pursuant to subsection (l)(2) for any response costs incurred after the date of enactment of this section.

"(6) SCOPE OF ALLOCATIONS.—An allocation under this section shall apply to—

"(A) response costs incurred after the date of enactment of this section, with respect to a mandatory allocation facility described in subsection (a)(3) (A), (B), (C), or (D); and

"(B) response costs incurred at a facility that is the subject of a requested or permissive allocation under subsection (b) (2) or (3).

"(7) ORPHAN SHARE FACILITY.—Any non-federally owned vessel or facility that is listed on the National Priorities List at which at least 1 person is liable or potentially liable under section 107(a)(1) (C) or (D) for conduct prior to December 11, 1980, and at which no person is liable or potentially liable for status or conduct after December 11, 1980, shall be considered to be an orphan share facility, and all response costs incurred at the vessel or facility after the date of enactment of this section shall be paid by the orphan share.

"(8) OTHER MATTERS.—This section shall not limit or affect—

"(A) the obligation of the Administrator to conduct the allocation process for a response action at a facility that has been the subject of a partial or expedited settlement with respect to a response action that is not within the scope of the allocation;

"(B) the ability of any person to resolve any liability at a facility to any other person at any time before initiation or completion of the allocation process, subject to subsection (l)(3);

"(C) the validity, enforceability, finality, or merits of any judicial or administrative order, judgment, or decree, issued prior to the date of enactment of this section with respect to liability under this Act; or

"(D) the validity, enforceability, finality, or merits of any preexisting contract or agreement relating to any allocation of responsibility or any indemnity for, or sharing of, any response costs under this Act.

"(c) MORATORIUM ON LITIGATION AND ENFORCEMENT.—

"(1) IN GENERAL.—No person may assert a claim for recovery of a response cost or contribution toward a response cost (including a claim for insurance proceeds) under this Act or any other Federal or State law in connection with a response action—

"(A) for which an allocation is required to be performed under subsection (b)(1); or

"(B) for which the Administrator has initiated the allocation process under this section,

until the date that is 120 days after the date of issuance of a report by the allocator under subsection (j)(6) or, if a second or subsequent report is issued under subsection (q), the date of issuance of the second or subsequent report.

"(2) PENDING ACTIONS OR CLAIMS.—If a claim described in paragraph (1) is pending on the date of enactment of this section or on initiation of an allocation under this section, the portion of the claim pertaining to response costs that are the subject of the allocation shall be stayed until the date that is 120 days after the date of issuance of a report by the allocator under subsection (j)(6) or, if a second or subsequent report is issued under subsection (q), the date of issuance of the second or subsequent report, unless the court determines that a stay would result in manifest injustice.

"(3) TOLLING OF PERIOD OF LIMITATION.—

"(A) BEGINNING OF TOLLING.—Any applicable period of limitation with respect to a claim subject to paragraph (1) shall be tolled beginning on the earlier of—

"(i) the date of listing of the facility on the National Priorities List if the listing occurs after the date of enactment of this section; or

"(ii) the date of initiation of the allocation process under this section.

"(B) END OF TOLLING.—A period of limitation shall be tolled under subparagraph (A) until the date that is 180 days after the date of issuance of a report by the allocator under subsection (j)(6), or of a second or subsequent report under subsection (q).

"(4) LATER ACTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), until the date that is 180 days after the date of issuance of a report by the allocator under subsection (j)(6) or of a second or subsequent report under subsection (q), the Administrator shall not issue an order under section 106 after the date of enactment of this section in connection with a response action for which an allocation is required to be performed under subsection (b)(1) to any party that, based on the initial list of parties compiled pursuant to subsection (d)(5) appears to be entitled to full orphan share funding under section (l)(2)(B).

"(B) EMERGENCIES.—Subparagraph (A) does not preclude an order requiring the performance of a removal action that is necessary to address an emergency at a facility.

"(C) SUBSEQUENT ALLOCATION REPORT.—If, after the date of enactment of this section, the Administrator issues an order under section 106 to a party that the allocator subsequently determines is entitled to full funding for the party's allocated share pursuant to section (l)(2)(B)—

"(i) all response costs incurred by the party after the date of enactment of this section shall be reimbursed; and

"(ii) the party's obligations under the order shall cease 90 days after the issuance of the allocator's report under subsection (j)(6) or a second report under subsection (q).

"(5) RETAINED AUTHORITY.—Except as specifically provided in this section, this section does not affect the authority of the Administrator to—

"(A) exercise the powers conferred by section 103, 104, 105, 106, or 122;

"(B) commence an action against a party if there is a contemporaneous filing of a judicial consent decree resolving the liability of the party;

"(C) file a proof of claim or take other action in a proceeding under title 11, United States Code; or

"(D) require implementation of a response action at an allocation facility during the conduct of the allocation process.

"(d) INITIATION OF ALLOCATION PROCESS.—

"(1) RESPONSIBLE PARTY SEARCH.—For each facility described in paragraph (2), the Administrator shall initiate the allocation process as soon as practicable by commencing a comprehensive search for all potentially responsible parties with respect to the facility under authority of section 104.

"(2) FACILITIES.—The Administrator shall initiate the allocation process for each—

"(A) mandatory allocation facility;

"(B) facility for which a request for allocation is made under subsection (b)(2); and

"(C) facility that the Administrator considers to be appropriate for allocation under subsection (b)(3).

"(3) TIME LIMIT.—The Administrator shall initiate the allocation process for a facility not later than the earlier of—

"(A) the date of completion of the facility evaluation or remedial investigation for the facility; or

"(B) the date that is 60 days after the date of selection of a removal action.

"(4) SUBMISSION OF INFORMATION AT ALLOCATION FACILITIES.—Any person may submit information to the Administrator concerning a potentially responsible party for a facility that is subject to a search, and the Administrator shall consider the information in carrying out the search.

"(5) INITIAL LIST OF PARTIES.—

"(A) IN GENERAL.—As soon as practicable after initiation of an allocation process for a facility, the Administrator shall publish, in accordance with section 117(d), a list of all potentially responsible parties identified for a facility.

"(B) TIME LIMIT.—The Administrator shall publish a list under paragraph (1) not later

VOL 142 PT 5 MR 21 — 29 1996 UMI

than 120 days after the commencement of a comprehensive search.

"(C) Copy of list.—The Administrator shall provide each person named on a list of potentially responsible parties with—

"(i) a copy of the list; and

"(ii) the names of not less than 25 neutral parties—

"(I) who are not employees of the United States;

"(II) who are qualified to perform an allocation at the facility, as determined by the Administrator; and

"(III) at least some of whom maintain an office in the vicinity of the facility.

"(D) Proposed allocator.—A person identified by the Administrator as a potentially responsible party may propose an allocator not on the list of neutral parties.

"(e) Selection of Allocator.—

"(1) In general.—As soon as practicable after the receipt of a list under subsection (d)(5)(C), the potentially responsible parties named on the list shall—

"(A) select an individual to serve as allocator by plurality vote on a per capita basis; and

"(B) promptly notify the Administrator of the selection.

"(2) Vote by representative.—The representative of the Fund shall be entitled to cast 1 vote in an election under paragraph (1).

"(3) Eligible allocators.—The potentially responsible parties shall select an allocator under paragraph (1) from among individuals—

"(A) named on the list of neutral parties provided by the Administrator;

"(B) named on a list that is current on the date of selection of neutrals maintained by the American Arbitration Association, the Center for Public Resources, or another nonprofit or governmental organization of comparable standing; or

"(C) proposed by a party under subsection (d)(5)(D).

"(4) Unqualified allocator.—

"(A) In general.—If the Administrator determines that a person selected under paragraph (1) is unqualified to serve, the Administrator shall promptly notify all potentially responsible parties for the facility, and the potentially responsible parties shall make an alternative selection under paragraph (1).

"(B) Limit on determinations.—The Administrator may not make more than 2 determinations that an allocator is unqualified under this paragraph with respect to any facility.

"(5) Determination by administrator.—If the Administrator does not receive notice of selection of an allocator within 60 days after a copy of a list is provided under subsection (d)(5)(C), or if the Administrator, having given a notification under paragraph (4), does not receive notice of an alternative selection of an allocator under that paragraph within 60 days after the date of the notification, the Administrator shall promptly select and designate a person to serve as allocator.

"(6) Judicial review.—No action under this subsection shall be subject to judicial review.

"(f) Retention of Allocator.—

"(1) In general.—On selection of an allocator, the Administrator shall promptly—

"(A) using the procurement procedures authorized by section 109(e), contract with the allocator for the provision of allocation services in accordance with this section; and

"(B) notify each person named as a potentially responsible party at the facility that the allocator has been retained.

"(2) Discretion of allocator.—A contract with an allocator under paragraph (1) shall give the allocator broad discretion to conduct the allocation process in a fair, efficient, and impartial manner.

"(3) Provision of information.—

"(A) In general.—Not later than 30 days after the selection of an allocator, the Administrator shall make available to the allocator and to each person named as a potentially responsible party for the facility—

"(i) any information or documents furnished under section 104(e)(2); and

"(ii) any other potentially relevant information concerning the facility and the potentially responsible parties at the facility.

"(B) Privileged information.—The Administrator shall not make available any privileged information, except as otherwise authorized by law.

"(4) Recovery of contract costs.—The costs of the Administrator in retaining an allocator under paragraph (1) shall be considered to be a response cost for all purposes of this Act.

"(g) Additional Parties.—

"(1) In general.—Any person may propose to the allocator the name of an additional potentially responsible party at a facility, or otherwise provide the allocator with information pertaining to a facility or to an allocation, until the date that is 60 days after the later of—

"(A) the date of issuance of the initial list described in subsection (d)(5)(A); or

"(B) the date of retention of the allocator under subsection (f)(1)(A).

"(2) Nexus.—Any proposal under paragraph (1) to add a potentially responsible party shall include all information reasonably available to the person making the proposal regarding the nexus between the additional potentially responsible party and the facility.

"(3) Final list.—

"(A) In general.—The allocator shall issue a final list of all parties that will be subject to the allocation process (referred to in this section as the 'allocation parties') not later than 120 days after publication of the initial list under subsection (d)(5)(A).

"(B) Standard.—The allocator shall include each party proposed under paragraph (1) in the final list of allocation parties unless the allocator determines that the party is not liable under section 107.

"(C) Identification of de minimis contributors.—

"(i) In general.—In compiling the final list of allocation parties, the allocator shall identify, to the extent possible, all parties entitled to the de minimis contributor exemption under section 107(s) and provide a list of the parties identified to the Administrator.

"(ii) Notification of exemption.—Not later than 60 days after receipt of the list, the Administrator shall provide to each party identified on the list a written notification of the party's entitlement to the de minimis contributor exemption unless the Administrator publishes a written determination that—

"(I) no rational interpretation of the facts before the allocator supports the allocator's decision; or

"(II) the allocator's decision was directly and substantially affected by bias, procedural error, fraud, or unlawful conduct.

"(iii) No judicial review.—Any determination by the Administrator under this subparagraph shall not be subject to judicial review.

"(D) Effect.—If the allocator determines that there is an inadequate basis in law or fact to conclude that a party is liable based on the information presented by the nominating party or otherwise available to the allocator, the nominated party's costs (including reasonable attorney's fees) shall be borne by the party that proposed the addition of the party to the allocation.

"(h) Federal, State, and Local Agencies.—

"(1) In general.—Other than as set forth in this Act, any Federal, State, or local governmental department, agency, or instrumentality that is named as a potentially responsible party or an allocation party shall be subject to, and be entitled to the benefits of, the allocation process and allocation determination under this section to the same extent as any other party.

"(2) Orphan share.—The Administrator or the Attorney General shall participate in the allocation proceeding as the representative of the Fund from which any orphan share shall be paid.

"(i) Potentially Responsible Party Settlement.—

"(1) Submission.—At any time prior to the date of issuance of an allocation report under subsection (j)(6) or of a second or subsequent report under subsection (q), any group of potentially responsible parties for a facility may submit to the allocator a private allocation for any response action that is within the scope of the allocation under subsection (b)(6).

"(2) Adoption.—The allocator shall promptly adopt a private allocation under paragraph (1) as the allocation report if the private allocation—

"(A) is a binding allocation of 100 percent of the recoverable costs of the response action that is the subject of the allocation; and

"(B) does not allocate a share to—

"(i) any person who is not a signatory to the private allocation; or

"(ii) any person whose share would be part of the orphan share under subsection (l), unless the representative of the Fund is a signatory to the private allocation.

"(3) Waiver of rights.—Any signatory to a private allocation waives the right to seek from any other party for a facility—

"(A) recovery of any response cost that is the subject of the allocation; and

"(B) contribution under this Act with respect to any response action that is within the scope of the allocation.

"(j) Allocation Determination.—

"(1) Allocation process.—An allocator retained under subsection (f)(1) shall conduct an allocation process culminating in the issuance of a written report with a nonbinding equitable allocation of percentage shares of responsibility for any response action that is within the scope of the allocation under subsection (b)(6).

"(2) Identification of de minimis contributors.—

"(A) In general.—If all parties entitled to the de minimis contributor exemption were not previously identified under subsection (g)(3)(C), the allocator's report under paragraph (1) shall identify all parties entitled to the de minimis contributor exemption under section 107(s).

"(B) Procedure.—If a party is identified under subparagraph (A), the Administrator shall follow the procedural requirements of subsection (g)(3)(C)(ii).

"(2) Copies of report.—An allocator shall provide the report issued under paragraph (1) to the Administrator and to the allocation parties.

"(3) Information-gathering authorities.—

"(A) In general.—An allocator may request information from any person in order to assist in the efficient completion of the allocation process.

"(B) Requests.—Any person may request that an allocator request information under this paragraph.

"(C) Authority.—An allocator may exercise the information-gathering authority of the Administrator under section 104(e), including issuing an administrative subpoena to compel the production of a document or the appearance of a witness.

"(D) Disclosure.—Notwithstanding any other law, any information submitted to the allocator in response to a subpoena issued under paragraph (4) shall be exempt from disclosure to any person under section 552 of title 5, United States Code.

"(E) Orders.—In the event of contumacy or a failure of a person to obey a subpoena issued under paragraph (4), an allocator may request the Attorney General to—

"(i) bring a civil action to enforce the subpoena; or

"(ii) if the person moves to quash the subpoena, to defend the motion.

"(F) Failure of attorney general to respond.—If the Attorney General fails to provide any response to the allocator within 30 days of a request for enforcement of a subpoena or information request, the allocator may retain counsel to commence a civil action to enforce the subpoena or information request.

"(4) Additional authority.—An allocator may—

"(A) schedule a meeting or hearing and require the attendance of allocation parties at the meeting or hearing;

"(B) sanction an allocation party for failing to cooperate with the orderly conduct of the allocation process;

"(C) require that allocation parties wishing to present similar legal or factual positions consolidate the presentation of the positions;

"(D) obtain or employ support services, including secretarial, clerical, computer support, legal, and investigative services; and

"(E) take any other action necessary to conduct a fair, efficient, and impartial allocation process.

"(5) Conduct of allocation process.—

"(A) In general.—The allocator shall conduct the allocation process and render a decision based solely on the provisions of this section, including the allocation factors described in subsection (k).

"(B) Opportunity to be heard.—Each allocation party shall be afforded an opportunity to be heard (orally or in writing, at the option of an allocation party) and an opportunity to comment on a draft allocation report.

"(C) Responses.—The allocator shall not be required to respond to comments.

"(D) Streamlining.—The allocator shall make every effort to streamline the allocation process and minimize the cost of conducting the allocation.

"(6) Allocation report.—

"(A) Deadline.—

"(i) In general.—The allocator shall provide a written allocation report to the Administrator and the allocation parties not later than 180 days after the date of issuance of the final list of allocation parties under subsection (g)(3)(A) that specifies the allocation share of each potentially responsible party and any orphan shares, as determined by the allocator.

"(ii) Extension.—On request by the allocator and for good cause shown, the Administrator may extend the time to complete the report by not more than 90 days.

"(B) Breakdown of allocation shares into time periods.—The allocation share for each potentially responsible party with respect to a mandatory allocation facility at which 1 or more persons are liable or potentially liable pursuant to section 107(a)(1) (C) or (D) for conduct prior to December 11, 1980, shall be comprised of percentage shares of responsibility stated separately for status or conduct prior to December 11, 1980, and status or conduct on or after December 11, 1980.

"(k) Equitable Factors for Allocation.—The allocator shall prepare a nonbinding allocation of percentage shares of responsibility to each allocation party and to the orphan share, in accordance with this section and without regard to any theory of joint and several liability, based on—

"(1) the amount of hazardous substances contributed by each allocation party;

"(2) the degree of toxicity of hazardous substances contributed by each allocation party;

"(3) the mobility of hazardous substances contributed by each allocation party;

"(4) the degree of involvement of each allocation party in the generation, transportation, treatment, storage, or disposal of hazardous substances;

"(5) the degree of care exercised by each allocation party with respect to hazardous substances, taking into account the characteristics of the hazardous substances;

"(6) the cooperation of each allocation party in contributing to any response action and in providing complete and timely information to the allocator; and

"(7) such other equitable factors as the allocator determines are appropriate.

"(l) Orphan Shares.—

"(1) In general.—The allocator shall determine whether any percentage of responsibility for the response action shall be allocable to the orphan share.

"(2) Makeup of orphan share.—The orphan share shall consist of—

"(A) any share that the allocator determines is attributable to an allocation party that is insolvent or defunct and that is not affiliated with any financially viable allocation party;

"(B) any share that the allocator determines is attributable to an allocation party (other than a department, agency, or instrumentality of the United States) at a vessel or facility at which one or more persons is liable or potentially liable pursuant to section 107(a)(1) (C) or (D) for status or conduct prior to December 11, 1980, to the extent such allocation party's share is based on status or conduct prior to December 11, 1980; and

"(C) the difference between the aggregate share that the allocator determines is attributable to a person and the aggregate share actually assumed by the person in a settlement with the United States if—

"(i) the person is eligible for an expedited settlement with the United States under section 122 based on limited ability to pay response costs;

"(ii) the liability of the person is eliminated, limited, or reduced by any provision of this Act; or

"(iii) the person settled with the United States before the completion of the allocation.

"(3) Unattributable shares.—A share attributable to a hazardous substance that the allocator specifically determines was disposed at the site prior to December 11, 1980, but which cannot be attributed to any identified and viable party shall be considered an orphan share. All other unattributable shares shall be distributed among the allocation parties and the orphan share in accordance with the allocated share assigned to each.

"(m) Information Requests.—

"(1) Duty to answer.—Each person that receives an information request or subpoena from the allocator shall provide a full and timely response to the request.

"(2) Certification.—An answer to an information request by an allocator shall include a certification by a representative that meets the criteria established in section 270.11(a) of title 40, Code of Federal Regulations (or any successor regulation), that—

"(A) the answer is correct to the best of the representative's knowledge;

"(B) the answer is based on a diligent good faith search of records in the possession or control of the person to whom the request was directed;

"(C) the answer is based on a reasonable inquiry of the current (as of the date of the answer) officers, directors, employees, and agents of the person to whom the request was directed;

"(D) the answer accurately reflects information obtained in the course of conducting the search and the inquiry;

"(E) the person executing the certification understands that there is a duty to supplement any answer if, during the allocation process, any significant additional, new, or different information becomes known or available to the person; and

"(F) the person executing the certification understands that there are significant penalties for submitting false information, including the possibility of a fine or imprisonment for a knowing violation.

"(n) Penalties.—

"(1) Civil.—

"(A) In general.—A person that fails to submit a complete and timely answer to an information request, a request for the production of a document, or a summons from an allocator, submits a response that lacks the certification required under subsection (m)(2), or knowingly makes a false or misleading material statement or representation in any statement, submission, or testimony during the allocation process (including a statement or representation in connection with the nomination of another potentially responsible party) shall be subject to a civil penalty of not more than $10,000 per day of violation.

"(B) Assessment of penalty.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

"(2) Criminal.—A person that knowingly and willfully makes a false material statement or representation in the response to an information request or subpoena issued by the allocator under subsection (m) shall be considered to have made a false statement on a matter within the jurisdiction of the United States within the meaning of section 1001 of title 18, United States Code.

"(o) Document Repository; Confidentiality.—

"(1) Document repository.—

"(A) In general.—The allocator shall establish and maintain a document repository containing copies of all documents and information provided by the Administrator or any allocation party under this section or generated by the allocator during the allocation process.

"(B) Availability.—Subject to paragraph (2), the documents and information in the

VOL
142
PT
5
MR
21
—
29
1996
UMI

document repository shall be available only to an allocation party for review and copying at the expense of the allocation party.

"(2) Confidentiality.—

"(A) In general.—Each document or material submitted to the allocator or placed in the document repository and the record of any information generated or obtained during the allocation process shall be confidential.

"(B) Maintenance.—The allocator, each allocation party, the Administrator, and the Attorney General—

"(i) shall maintain the documents, materials, and records of any depositions or testimony adduced during the allocation as confidential; and

"(ii) shall not use any such document or material or the record in any other matter or proceeding or for any purpose other than the allocation process.

"(C) Disclosure.—Notwithstanding any other law, the documents and materials and the record shall not be subject to disclosure to any person under section 552 of title 5, United States Code.

"(D) Discovery and admissibility.—

"(i) In general.—Subject to clause (ii), the documents and materials and the record shall not be subject to discovery or admissible in any other Federal, State, or local judicial or administrative proceeding, except—

"(I) a new allocation under subsection (q) or (v) for the same response action; or

"(II) an initial allocation under this section for a different response action at the same facility.

"(ii) Otherwise discoverable or admissible.—

"(I) Document or material.—If the original of any document or material submitted to the allocator or placed in the document repository was otherwise discoverable or admissible from a party, the original document, if subsequently sought from the party, shall remain discoverable or admissible.

"(II) Facts.—If a fact generated or obtained during the allocation was otherwise discoverable or admissible from a witness, testimony concerning the fact, if subsequently sought from the witness, shall remain discoverable or admissible.

"(3) No waiver of privilege.—The submission of testimony, a document, or information under the allocation process shall not constitute a waiver of any privilege applicable to the testimony, document, or information under any Federal or State law or rule of discovery or evidence.

"(4) Procedure if disclosure sought.—

"(A) Notice.—A person that receives a request for a statement, document, or material submitted for the record of an allocation proceeding, shall—

"(i) promptly notify the person that originally submitted the item or testified in the allocation proceeding; and

"(ii) provide the person that originally submitted the item or testified in the allocation proceeding an opportunity to assert and defend the confidentiality of the item or testimony.

"(B) Release.—No person may release or provide a copy of a statement, document, or material submitted, or the record of an allocation proceeding, to any person not a party to the allocation except—

"(i) with the written consent of the person that originally submitted the item or testified in the allocation proceeding; or

"(ii) as may be required by court order.

"(5) Civil penalty.—

"(A) In general.—A person that fails to maintain the confidentiality of any statement, document, or material or the record generated or obtained during an allocation proceeding, or that releases any information in violation of this section, shall be subject to a civil penalty of not more than $25,000 per violation.

"(B) Assessment of penalty.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

"(C) Defenses.—In any administrative or judicial proceeding, it shall be a complete defense that any statement, document, or material or the record at issue under subparagraph (A)—

"(i) was in, or subsequently became part of, the public domain, and did not become part of the public domain as a result of a violation of this subsection by the person charged with the violation;

"(ii) was already known by lawful means to the person receiving the information in connection with the allocation process; or

"(iii) became known to the person receiving the information after disclosure in connection with the allocation process and did not become known as a result of any violation of this subsection by the person charged with the violation.

"(p) Rejection of Allocation Report.—

"(1) Rejection.—The Administrator and the Attorney General may jointly reject a report issued by an allocator only if the Administrator and the Attorney General jointly publish, not later than 180 days after the Administrator receives the report, a written determination that—

"(A) no rational interpretation of the facts before the allocator, in light of the factors required to be considered, would form a reasonable basis for the shares assigned to the parties; or

"(B) the allocation process was directly and substantially affected by bias, procedural error, fraud, or unlawful conduct.

"(2) Finality.—A report issued by an allocator may not be rejected after the date that is 180 days after the date on which the United States accepts a settlement offer (excluding an expedited settlement under section 122) based on the allocation.

"(3) Judicial review.—Any determination by the Administrator or the Attorney General under this subsection shall not be subject to judicial review unless 2 successive allocation reports relating to the same response action are rejected, in which case any allocation party may obtain judicial review of the second rejection in a United States district court under subchapter II of chapter 5 of part I of title 5, United States Code.

"(4) Delegation.—The authority to make a determination under this subsection may not be delegated to any officer or employee below the level of an Assistant Administrator or Acting Assistant Administrator or an Assistant Attorney General or Acting Assistant Attorney General with authority for implementing this Act.

"(q) Second and Subsequent Allocations.—

"(1) In general.—If a report is rejected under subsection (p), the allocation parties shall select an allocator under subsection (e) to perform, on an expedited basis, a new allocation based on the same record available to the previous allocator.

"(2) Moratorium and tolling.—The moratorium and tolling provisions of subsection (c) shall be extended until the date that is 180 days after the date of the issuance of any second or subsequent allocation report under paragraph (1).

"(3) Same allocator.—The allocation parties may select the same allocator who performed 1 or more previous allocations at the facility, except that the Administrator may determine under subsection (e) that an allocator whose previous report at the same facility has been rejected under subsection (p) is unqualified to serve.

"(r) Settlements Based on Allocations.—

"(1) Definition.—In this subsection, the term 'all settlements' includes any orphan share allocated under subsection (l).

"(2) In general.—Unless an allocation report is rejected under subsection (p), any allocation party at a mandatory allocation facility (including an allocation party whose allocated share is funded partially or fully by orphan share funding under subsection (l)) shall be entitled to resolve the liability of the party to the United States for response actions subject to allocation if, not later than 90 days after the date of issuance of a report by the allocator, the party—

"(A) offers to settle with the United States based on the percentage share specified by the allocator; and

"(B) agrees to the other terms and conditions stated in this subsection.

"(3) Provisions of settlements.—

"(A) In general.—A settlement based on an allocation under this section—

"(i) may consist of a cash-out settlement or an agreement for the performance of a response action; and

"(ii) shall include—

"(I) a waiver of contribution rights against all persons that are potentially responsible parties for any response action addressed in the settlement;

"(II) a covenant not to sue that is consistent with section 122(f) and, except in the case of a cash-out settlement, provisions regarding performance or adequate assurance of performance of the response action;

"(III) a premium, calculated on a facility-specific basis and subject to the limitations on premiums stated in paragraph (5), that reflects the actual risk to the United States of not collecting unrecovered response costs for the response action, despite the diligent prosecution of litigation against any viable allocation party that has not resolved the liability of the party to the United States, except that no premium shall apply if all allocation parties participate in the settlement or if the settlement covers 100 percent of the response costs subject to the allocation;

"(IV) complete protection from all claims for contribution regarding the response action addressed in the settlement; and

"(V) provisions through which a settling party shall receive prompt reimbursement from the Fund under subsection (s) of any response costs incurred by the party for any response action that is the subject of the allocation in excess of the allocated share of the party, including the allocated portion of any orphan share.

"(B) Right to reimbursement.—A right to reimbursement under subparagraph (A)(ii)(V) shall not be contingent on recovery by the United States of any response costs from any person other than the settling party.

"(4) Report.—The Administrator shall report annually to Congress on the administration of the allocation process under this section, providing in the report—

"(A) information comparing allocation results with actual settlements at multiparty facilities;

"(B) a cumulative analysis of response action costs recovered through post-allocation litigation or settlements of post-allocation litigation;

"(C) a description of any impediments to achieving complete recovery; and

"(D) a complete accounting of the costs incurred in administering and participating in the allocation process.

"(5) Premium.—In each settlement under this subsection, the premium authorized—

"(A) shall be determined on a case-by-case basis to reflect the actual litigation risk faced by the United States with respect to any response action addressed in the settlement; but

"(B) shall not exceed—

"(i) 5 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 80 percent and less than 100 percent of responsibility for the response action;

"(ii) 10 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 60 percent and not more than 80 percent of responsibility for the response action;

"(iii) 15 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 40 percent and not more than 60 percent of responsibility for the response action; or

"(iv) 20 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for 40 percent or less of responsibility for the response; and

"(C) shall be reduced proportionally by the percentage of the allocated share for that party paid through orphan funding under subsection (l).

"(s) Funding of Orphan Shares.—

"(1) Reimbursement.—For each settlement agreement entered into under subsection (r), the Administrator shall promptly reimburse the allocation parties for any costs incurred that are attributable to the orphan share, as determined by the allocator.

"(2) Entitlement.—Paragraph (1) constitutes an entitlement to any allocation party eligible to receive a reimbursement.

"(3) Amounts owed.—Any amount due and owing in excess of available appropriations in any fiscal year shall be paid from amounts made available in subsequent fiscal years, along with interest on the unpaid balances at the rate equal to that of the current average market yield on outstanding marketable obligations of the United States with a maturity of 1 year.

"(4) Documentation and auditing.—The Administrator—

"(A) shall require that any claim for reimbursement be supported by documentation of actual costs incurred; and

"(B) may require an independent auditing of any claim for reimbursement.

"(t) Post-Allocation Contribution.—

"(1) In general.—Subject to paragraph (2), an allocation party (including a party that is subject to an order under section 106 or a settlement decree) that incurs costs after the date of enactment of this section for implementation of a response action that is the subject of an allocation under this section to an extent that exceeds the percentage share of the allocation party, as determined by the allocator, shall be entitled to prompt reimbursement of the excess amount, including any orphan share, from the Fund, unless the allocation report is rejected under subsection (p).

"(2) Exception.—No person whose allocated share is fully funded by the orphan share pursuant to subsection (l)(2)(B) shall be subject to an order pursuant to section 106 issued after the date of enactment of this section.

"(3) Not contingent.—The right to reimbursement under paragraph (1) shall not be contingent on recovery by the United States of a response cost from any other person.

"(4) Terms and conditions.—

"(A) Risk premium.—A reimbursement shall be reduced by the amount of the litigation risk premium under subsection (r)(5) that would apply to a settlement by the allocation party concerning the response action, based on the total allocated shares of the parties that have not reached a settlement with the United States.

"(B) Timing.—

"(i) In general.—A reimbursement shall be paid out during the course of the response action that was the subject of the allocation, using reasonable progress payments at significant milestones.

"(ii) Construction.—Reimbursement for the construction portion of the work shall be paid out not later than 120 days after the date of completion of the construction.

"(C) Equitable offset.—A reimbursement is subject to equitable offset or recoupment by the Administrator at any time if the allocation party fails to perform the work in a proper and timely manner.

"(D) Independent auditing.—The Administrator may require independent auditing of any claim for reimbursement.

"(E) Waiver.—An allocation party seeking reimbursement waives the right to seek recovery of response costs in connection with the response action, or contribution toward the response costs, from any other person.

"(F) Bar.—An administrative order shall be in lieu of any action by the United States or any other person against the allocation party for recovery of response costs in connection with the response action, or for contribution toward the costs of the response action.

"(u) Post-Settlement Litigation.—

"(1) In general.—Subject to subsections (q) and (r), and on the expiration of the moratorium period under subsection (c)(4), the Administrator may commence an action under section 107 against an allocation party that has not resolved the liability of the party to the United States following allocation and may seek to recover response costs not recovered through settlements with other persons.

"(2) Orphan share.—The recoverable costs shall include any orphan share determined under subsection (l), but shall not include any share allocated to a Federal, State, or local governmental agency, department, or instrumentality.

"(3) Impleader.—A defendant in an action under paragraph (1) may implead an allocation party only if the allocation party did not resolve liability to the United States.

"(4) Certification.—In commencing or maintaining an action under section 107 against an allocation party after the expiration of the moratorium period under subsection (c)(4), the Attorney General shall certify in the complaint that the defendant failed to settle the matter based on the share that the allocation report assigned to the party.

"(5) Response costs.—

"(A) Allocation procedure.—The cost of implementing the allocation procedure under this section, including reasonable fees and expenses of the allocator, shall be considered as a necessary response cost.

"(B) Funding of orphan shares.—The cost attributable to funding an orphan share under this section—

"(i) shall be considered as a necessary cost of response cost; and

"(ii) shall be recoverable in accordance with section 107 only from an allocation party that does not reach a settlement and does not receive an administrative order under subsection (r) or (t).

"(v) New Information.—

"(1) In general.—An allocation under this section shall be final, except that any settling party, including the United States, may seek a new allocation with respect to the response action that was the subject of the settlement by presenting the Administrator with clear and convincing evidence that—

"(A) the allocator did not have information concerning—

"(i) 35 percent or more of the materials containing hazardous substances at the facility; or

"(ii) 1 or more persons not previously named as an allocation party that contributed 15 percent or more of materials containing hazardous substances at the facility; and

"(B) the information was discovered subsequent to the issuance of the report by the allocator.

"(2) New allocation.—Any new allocation of responsibility—

"(A) shall proceed in accordance with this section;

"(B) shall be effective only after the date of the new allocation report; and

"(C) shall not alter or affect the original allocation with respect to any response costs previously incurred.

"(w) Allocator's Discretion.—The Administrator shall not issue any rule or order that limits the discretion of the allocator in the conduct of the allocation.

"(x) Illegal Activities.—Section 107 (n), (o), (p), (q), (r), (s), (t), and (u), section 112(g), and (l)(2)(B) shall not apply to any person whose liability for response costs under section 107(a)(1) is otherwise based on any act, omission, or status that is determined by a court or administrative body of competent jurisdiction, within the applicable statute of limitation, to have been a violation of any Federal or State law pertaining to the treatment, storage, disposal, or handling of hazardous substances if the violation pertains to a hazardous substance, the release or threat of release of which caused the incurrence of response costs at the vessel or facility.".

SEC. 504. LIABILITY OF RESPONSE ACTION CONTRACTORS.

(a) Liability of Contractors.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)), as amended by section 303(a), is amended by adding at the end the following:

"(G) Liability of contractors.—

"(i) In general.—The term 'owner or operator' does not include a response action contractor (as defined in section 119(e)).

"(ii) Liability limitations.—A person described in clause (i) shall not, in the absence of negligence by the person, be considered to—

"(I) cause or contribute to any release or threatened release of a hazardous substance, pollutant, or contaminant;

"(II) arrange for disposal or treatment of a hazardous substance, pollutant, or contaminant;

"(III) arrange with a transporter for transport or disposal or treatment of a hazardous substance, pollutant, or contaminant; or

"(IV) transport a hazardous substance, pollutant, or contaminant.

"(iii) Exception.—This subparagraph does not apply to a person potentially responsible under section 106 or 107 other than a person

VOL
142
PT
5
MR
21
—
29
1996
UMI

associated solely with the provision of a response action or a service or equipment ancillary to a response action.".

(b) National Uniform Negligence Standard.—Section 119(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(a)) is amended—

(1) in paragraph (1) by striking "title or under any other Federal law" and inserting "title or under any other Federal or State law"; and

(2) in paragraph (2)—

(A) by striking "(2) Negligence, etc.—Paragraph (1)" and inserting the following:

"(2) Negligence and intentional misconduct; application of state law.—

"(A) Negligence and intentional misconduct.—

"(i) In general.—Paragraph (1)"; and

(B) by adding at the end the following:

"(ii) Standard.—Conduct under clause (i) shall be evaluated based on the generally accepted standards and practices in effect at the time and place at which the conduct occurred.

"(iii) Plan.—An activity performed in accordance with a plan that was approved by the Administrator shall not be considered to constitute negligence under clause (i).

"(B) Application of state law.—Paragraph (1) shall not apply in determining the liability of a response action contractor under the law of a State if the State has adopted by statute a law determining the liability of a response action contractor.".

(c) Extension of Indemnification Authority.—Section 119(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(1)) is amended by adding at the end the following: "The agreement may apply to a claim for negligence arising under Federal or State law.".

(d) Indemnification Determinations.—Section 119(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)) is amended by striking paragraph (4) and inserting the following:

"(4) Decision to indemnify.—

"(A) In general.—For each response action contract for a vessel or facility, the Administrator shall make a decision whether to enter into an indemnification agreement with a response action contractor.

"(B) Standard.—The Administrator shall enter into an indemnification agreement to the extent that the potential liability (including the risk of harm to public health, safety, environment, and property) involved in a response action exceed or are not covered by insurance available to the contractor at the time at which the response action contract is entered into that is likely to provide adequate long-term protection to the public for the potential liability on fair and reasonable terms (including consideration of premium, policy terms, and deductibles).

"(C) Diligent efforts.—The Administrator shall enter into an indemnification agreement only if the Administrator determines that the response action contractor has made diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

"(D) Continued diligent efforts.—An indemnification agreement shall require the response action contractor to continue, not more frequently than annually, to make diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

"(E) Limitations on indemnification.—An indemnification agreement provided under this subsection shall include deductibles and shall place limits on the amount of indemnification made available in amounts determined by the contracting agency to be appropriate in light of the unique risk factors associated with the cleanup activity.".

(e) Indemnification for Threatened Releases.—Section 119(c)(5)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(5)(A)) is amended by inserting "or threatened release" after "release" each place it appears.

(f) Extension of Coverage to All Response Actions.—Section 119(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(1)) is amended—

(1) in subparagraph (D) by striking "carrying out an agreement under section 106 or 122"; and

(2) in the matter following subparagraph (D)—

(A) by striking "any remedial action under this Act at a facility listed on the National Priorities List, or any removal under this Act," and inserting "any response action,"; and

(B) by inserting before the period at the end the following: "or to undertake appropriate action necessary to protect and restore any natural resource damaged by the release or threatened release".

(g) Definition of Response Action Contractor.—Section 119(e)(2)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(2)(A)(i)) is amended by striking "and is carrying out such contract" and inserting "covered by this section and any person (including any subcontractor) hired by a response action contractor".

(h) Surety Bonds.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended—

(1) in subsection (e)(2)(C) by striking ", and before January 1, 1996,"; and

(2) in subsection (g)(5) by striking ", or after December 31, 1995".

(i) National Uniform Statute of Repose.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended by adding at the end the following:

"(h) Limitation on Actions Against Response Action Contractors.—

"(1) In general.—No action may be brought as a result of the performance of services under a response contract against a response action contractor after the date that is 7 years after the date of completion of work at any facility under the contract to recover—

"(A) injury to property, real or personal;

"(B) personal injury or wrongful death;

"(C) other expenses or costs arising out of the performance of services under the contract; or

"(D) contribution or indemnity for damages sustained as a result of an injury described in subparagraphs (A) through (C).

"(2) Exception.—Paragraph (1) does not bar recovery for a claim caused by the conduct of the response action contractor that is grossly negligent or that constitutes intentional misconduct.

"(3) Indemnification.—This subsection does not affect any right of indemnification that a response action contractor may have under this section or may acquire by contract with any person.

"(i) State Standards of Repose.—Subsections (a)(1) and (h) shall not apply in determining the liability of a response action contractor if the State has enacted a statute of repose determining the liability of a response action contractor.".

SEC. 505. RELEASE OF EVIDENCE.

(a) Timely Access to Information Furnished Under Section 104(e).—Section 104(e)(7)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(e)(7)(A)) is amended by inserting after "shall be available to the public" the following: "not later than 14 days after the records, reports, or information is obtained".

(b) Requirement To Provide Potentially Responsible Parties Evidence of Liability.—

(1) Abatement actions.—Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(a)) is amended—

(A) by striking "(a) In addition" and inserting the following: "(a) Order.—"

"(1) In general.—In addition"; and

(B) by adding at the end the following:

"(2) Contents of order.—An order under paragraph (1) shall provide information concerning the evidence that indicates that each element of liability described in section 107(a)(1) (A), (B), (C), and (D), as applicable, is present.".

(2) Settlements.—Section 122(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(e)(1)) is amended by inserting after subparagraph (C) the following:

"(D) For each potentially responsible party, the evidence that indicates that each element of liability contained in section 107(a)(1) (A), (B), (C), and (D), as applicable, is present.".

SEC. 506. CONTRIBUTION PROTECTION.

Section 113(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(2)) is amended in the first sentence by inserting "or cost recovery" after "contribution".

SEC. 507. TREATMENT OF RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS AS OWNERS OR OPERATORS.

(a) Definition.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)), as amended by section 502(a), is amended by adding at the end the following:

"(H) Religious, charitable, scientific, and educational organizations.—The term 'owner or operator' includes an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is organized and operated exclusively for religious, charitable, scientific, or educational purposes and that holds legal or equitable title to a vessel or facility.".

(b) Limitation on Liability.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 306(b), is amended by adding at the end the following:

"(u) Religious, Charitable, Scientific, and Educational Organizations.—

"(1) Limitation on liability.—Subject to paragraph (2), if an organization described in section 101(20)(I) holds legal or equitable title to a vessel or facility as a result of a charitable gift that is allowable as a deduction under section 170, 2055, or 2522 of the Internal Revenue Code of 1986 (determined without regard to dollar limitations), the liability of the organization shall be limited to the lesser of the fair market value of the vessel or facility or the actual proceeds of the sale of the vessel or facility received by the organization.

"(2) Conditions.—In order for an organization described in section 101(20)(I) to be eligible for the limited liability described in paragraph (1), the organization shall—

"(A) provide full cooperation, assistance, and vessel or facility access to persons authorized to conduct response actions at the vessel or facility, including the cooperation and access necessary for the installation, preservation of integrity, operation, and maintenance of any complete or partial response action at the vessel or facility;

"(B) provide full cooperation and assistance to the United States in identifying and locating persons who recently owned, operated, or otherwise controlled activities at the vessel or facility;

"(C) establish by a preponderance of the evidence that all active disposal of hazardous substances at the vessel or facility occurred before the organization acquired the vessel or facility; and

"(D) establish by a preponderance of the evidence that the organization did not cause or contribute to a release or threatened release of hazardous substances at the vessel or facility.

"(3) Limitation.—Nothing in this subsection affects the liability of a person other than a person described in section 101(20)(G) that meets the conditions specified in paragraph (2).".

SEC. 508. COMMON CARRIERS.

Section 107(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(b)(3)) is amended by striking "a published tariff and acceptance" and inserting "a contract".

SEC. 509. LIMITATION ON LIABILITY FOR RESPONSE COSTS.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 505(b), is amended by adding at the end the following:

"(v) Limitation on Liability of Railroad Owners.—Notwithstanding subsection (a)(1), a person that does not impede the performance of a response action or natural resource restoration shall not be liable under this Act to the extent that liability is based solely on the status of the person as a railroad owner or operator of a spur track, including a spur track over land subject to an easement, to a facility that is owned or operated by a person that is not affiliated with the railroad owner or operator, if—

"(1) the spur track provides access to a main line or branch line track that is owned or operated by the railroad;

"(2) the spur track is 10 miles long or less; and

"(3) the railroad owner or operator does not cause or contribute to a release or threatened release at the spur track.".

TITLE VI—FEDERAL FACILITIES

SEC. 601. TRANSFER OF AUTHORITIES.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by striking subsection (g) and inserting the following:

"(g) Transfer of Authorities.—

"(1) Definitions.—In this section:

"(A) Interagency agreement.—The term 'interagency agreement' means an interagency agreement under this section.

"(B) Transfer agreement.—The term 'transfer agreement' means a transfer agreement under paragraph (3).

"(C) Transferee state.—The term 'transferee State' means a State to which authorities have been transferred under a transfer agreement.

"(2) State application for transfer of authorities.—A State may apply to the Administrator to exercise the authorities vested in the Administrator under this Act at any facility located in the State that is—

"(A) owned or operated by any department, agency, or instrumentality of the United States (including the executive, legislative, and judicial branches of government); and

"(B) listed on the National Priorities List.

"(3) Transfer of authorities.—

"(A) Determinations.—The Administrator shall enter into a transfer agreement to transfer to a State the authorities described in paragraph (2) if the Administrator determines that—

"(i) the State has the ability to exercise such authorities in accordance with this Act, including adequate legal authority, financial and personnel resources, organization, and expertise;

"(ii) the State has demonstrated experience in exercising similar authorities;

"(iii) the State has agreed to be bound by all Federal requirements and standards under section 129 governing the design and implementation of the facility evaluation, remedial action plan, and remedial design; and

"(iv) the State has agreed to abide by the terms of any interagency agreement or agreements covering the Federal facility or facilities with respect to which authorities are being transferred in effect at the time of the transfer of authorities.

"(B) Contents of transfer agreement.—A transfer agreement—

"(i) shall incorporate the determinations of the Administrator under subparagraph (A); and

"(ii) in the case of a transfer agreement covering a facility with respect to which there is no interagency agreement that specifies a dispute resolution process, shall require that within 120 days after the effective date of the transfer agreement, the State shall agree with the head of the Federal department, agency, or instrumentality that owns or operates the facility on a process for resolution of any disputes between the State and the Federal department, agency, or instrumentality regarding the selection of a remedial action for the facility; and

"(iii) shall not impose on the transferee State any term or condition other than that the State meet the requirements of subparagraph (A).

"(4) Effect of transfer.—

"(A) State authorities.—A transferee State—

"(i) shall not be deemed to be an agent of the Administrator but shall exercise the authorities transferred under a transfer agreement in the name of the State; and

"(ii) shall have exclusive authority to exercise authorities that have been transferred.

"(B) Effect on interagency agreements.—Nothing in this subsection shall require, authorize, or permit the modification or revision of an interagency agreement covering a facility with respect to which authorities have been transferred to a State under a transfer agreement (except for the substitution of the transferee State for the Administrator in the terms of the interagency agreement, including terms stating obligations intended to preserve the confidentiality of information) without the written consent of the Governor of the State and the head of the department, agency, or instrumentality.

"(5) Selected remedial action.—The remedial action selected for a facility under section 129 by a transferee State shall constitute the only remedial action required to be conducted at the facility, and the transferee State shall be precluded from enforcing any other remedial action requirement under Federal or State law, except for—

"(A) any corrective action under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that was initiated prior to the date of enactment of this subsection; and

"(B) any remedial action in excess of remedial action under section 129 that the State selects in accordance with paragraph (10).

"(6) Deadline.—

"(A) In general.—The Administrator shall make a determination on an application by a State under paragraph (2) not later than 120 days after the date on which the Administrator receives the application.

"(B) Failure to act.—If the Administrator does not issue a notice of approval or notice of disapproval of an application within the time period stated in subparagraph (A), the application shall be deemed to have been granted.

"(7) Resubmission of application.—

"(A) In general.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

"(B) Failure to act.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the time period stated in paragraph (6)(A), the resubmitted application shall be deemed to have been granted.

"(8) Judicial review.—A disapproval of a resubmitted application shall be subject to judicial review under section 113(b).

"(9) Withdrawal of authorities.—The Administrator may withdraw the authorities transferred under a transfer agreement in whole or in part if the Administrator determines that the State—

"(A) is exercising the authorities, in whole or in part, in a manner that is inconsistent with the requirements of this Act;

"(B) has violated the transfer agreement, in whole or in part; or

"(C) no longer meets one of the requirements of paragraph (3).

"(10) State cost responsibility.—The State may require a remedial action that exceeds the remedial action selection requirements of section 121 if the State pays the incremental cost of implementing that remedial action over the most cost-effective remedial action that would result from the application of section 129.

"(11) Dispute resolution and enforcement.—

"(A) Dispute resolution.—

"(i) Facilities covered by both a transfer agreement and an interagency agreements.—In the case of a facility with respect to which there is both a transfer agreement and an interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in the dispute resolution process provided for in the interagency agreement, except that the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

VOL 142 PT 5 MR 21 — 29 1996 UMI

"(ii) FACILITIES COVERED BY A TRANSFER AGREEMENT BUT NOT AN INTERAGENCY AGREEMENT.—In the case of a facility with respect to which there is a transfer agreement but no interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in dispute resolution as provide in paragraph (3)(B)(ii) under which the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

"(iii) FAILURE TO RESOLVE.—If no agreement is reached between the head of the Federal department, agency, or instrumentality and the Governor in a dispute resolution process under clause (i) or (ii), the Governor of the State shall make the final determination regarding selection of a remedial action. To compel implementation of the State's selected remedy, the State must bring a civil action in United States district court.

"(B) ENFORCEMENT.—

"(i) AUTHORITY; JURISDICTION.—An interagency agreement with respect to which there is a transfer agreement or an order issued by a transferee State shall be enforceable by a transferee State or by the Federal department, agency, or instrumentality that is a party to the interagency agreement only in the United States district court for the district in which the facility is located.

"(ii) REMEDIES.—The district court shall—

"(I) enforce compliance with any provision, standard, regulation, condition, requirement, order, or final determination that has become effective under the interagency agreement;

"(II) impose any appropriate civil penalty provided for any violation of an interagency agreement, not to exceed $25,000 per day;

"(III) compel implementation of the selected remedial action; and

"(IV) review a challenge by the Federal department, agency, or instrumentality to the remedial action selected by the State under this section, in accordance with section 113(j).

"(12) COMMUNITY PARTICIPATION.—If, prior to the date of enactment of this section, a Federal department, agency, or instrumentality had established for a facility covered by a transfer agreement a facility-specific advisory board or other community-based advisory group (designated as a 'site-specific advisory board', a 'restoration advisory board', or otherwise), and the Administrator determines that the board or group is willing and able to perform the responsibilities of a community response organization under section 117(e)(2), the board or group—

"(A) shall be considered to be a community response organization for the purposes of section 117 (e) (2), (3), (4), and (9), and (g) and sections 127 and 129; but

"(B) shall not be required to comply with, and shall not be considered to be a community response organization for the purposes of, section 117 (e) (1), (5), (6), (7), or (8) or (f).".

SEC. 602. LIMITATION ON CRIMINAL LIABLIITY OF FEDERAL OFFICERS, EMPLOYEES, AND AGENTS.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by adding at the end the following:

"(l) CRIMINAL LIABILITY.—Notwithstanding any other provision of this Act or any other law, an officer, employee, or agent of the United States shall not be held criminally liable for a failure to comply, in any fiscal year, with a requirement to take a response action at a facility that is owned or operated by a department, agency, or instrumentality of the United States, under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or any other Federal or State law unless—

"(1) the officer, employee, or agent has not fully performed any direct responsibility or delegated responsibility that the officer, employee, or agent had under Executive Order 12088 (42 U.S.C. 4321 note) or any other delegation of authority to ensure that a request for funds sufficient to take the response action was included in the President's budget request under section 1105 of title 31, United States Code, for that fiscal year; or

"(2) appropriated funds were available to pay for the response action.".

SEC. 603. INNOVATIVE TECHNOLOGIES FOR REMEDIAL ACTION AT FEDERAL FACILITIES.

(a) IN GENERAL.—Section 311 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660) is amended by adding at the end the following:

"(h) FEDERAL FACILITIES.—

"(1) DESIGNATION.—The President may designate a facility that is owned or operated by any department, agency, or instrumentality of the United States, and that is listed or proposed for listing on the National Priorities List, to facilitate the research, development, and application of innovative technologies for remedial action at the facility.

"(2) USE OF FACILITIES.—

"(A) IN GENERAL.—A facility designated under paragraph (1) shall be made available to Federal departments and agencies, State departments and agencies, and public and private instrumentalities, to carry out activities described in paragraph (1).

"(B) COORDINATION.—The Administrator—

"(i) shall coordinate the use of the facilities with the departments, agencies, and instrumentalities of the United States; and

"(ii) may approve or deny the use of a particular innovative technology for remedial action at any such facility.

"(3) CONSIDERATIONS.—

"(A) EVALUATION OF SCHEDULES AND PENALTIES.—In considering whether to permit the application of a particular innovative technology for remedial action at a facility designated under paragraph (1), the Administrator shall evaluate the schedules and penalties applicable to the facility under any agreement or order entered into under section 120.

"(B) AMENDMENT OF AGREEMENT OR ORDER.—If, after an evaluation under subparagraph (A), the Administrator determines that there is a need to amend any agreement or order entered into pursuant to section 120, the Administrator shall comply with all provisions of the agreement or order, respectively, relating to the amendment of the agreement or order.".

(b) REPORT TO CONGRESS.—Section 311(e) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(e)) is amended—

(1) by striking "At the time" and inserting the following:

"(1) IN GENERAL.—At the time"; and

(2) by adding at the end the following:

"(2) ADDITIONAL INFORMATION.—A report under paragraph (1) shall include information on the use of facilities described in subsection (h)(1) for the research, development, and application of innovative technologies for remedial activity, as authorized under subsection (h).".

SEC. 604. FEDERAL FACILITY LISTING.

Section 120(h)(4)(C) of the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9620(h)(4)(C)) is amended by adding at the end the following:

"(v) On identification of parcels of uncontaminated property under this paragraph, the President may provide notice that the listing does not include the identified uncontaminated parcels.".

SEC. 605. FEDERAL FACILITY LISTING DEFERRAL.

Paragraph (3) of section 120(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(d)), as designated by section 604, is amended by inserting after "persons" the following: ", but an appropriate factor as referred to in section 105(a)(8)(A) may include the extent to which the Federal agency has arranged with the Administrator or with a State to respond to the release or threatened release under other legal authority".

SEC. 606. TRANSFERS OF UNCONTAMINATED PROPERTY.

Section 120(h)(4)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(4)(A)) is amended in the first sentence by striking "stored for one year or more,".

TITLE VII—NATURAL RESOURCE DAMAGES

SEC. 701. RESTORATION OF NATURAL RESOURCES.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 504(b), is amended by adding at the end the following:

"(52) BASELINE.—The term 'baseline' means the condition or conditions that would have existed at a natural resource had a release of hazardous substances not occurred.

"(53) COMPENSATORY RESTORATION.—The term 'compensatory restoration' means the provision of ecological services lost as a result of injury to or destruction or loss of a natural resource from the initial release giving rise to liability under section 107(a)(2)(C) until primary restoration has been achieved with respect to those services.

"(54) ECOLOGICAL SERVICE.—The term 'ecological service' means a physical or biological function performed by an ecological resource, including the human uses of such a function.

"(55) PRIMARY RESTORATION.—The term 'primary restoration' means rehabilitation, natural recovery, or replacement of an injured, destroyed, or lost natural resource, or acquisition of a substitute or alternative natural resource, to reestablish the baseline ecological service that the natural resource would have provided in the absence of a release giving rise to liability under section 107(a)(2)(C).

"(56) RESTORATION.—The term 'restoration' means primary restoration and compensatory restoration.".

(b) LIABILITY FOR NATURAL RESOURCE DAMAGES.—

(1) AMENDMENT.—Section 107(a) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)) is amended—

(A) by inserting "IN GENERAL.—" after "(a)";

(B) by striking "Notwithstanding" and inserting the following:

"(1) PERSONS LIABLE.—Notwithstanding";

(C) by redesignating paragraphs (1), (2), (3), and (4) (as designated prior to the date of enactment of this Act) as subparagraphs (A),

(B), (C), and (D), respectively, and adjusting the margins accordingly;

(D) by striking "hazardous substance, shall be liable for—" and inserting the following: "hazardous substance,

shall be liable for the costs and damages described in paragraph (2).

"(2) COSTS AND DAMAGES.—A person described in paragraph (1) shall be liable for—

";

(E) by striking subparagraph (C) of paragraph (2), as designated by subparagraph (D), and inserting the following:

"(C) damages for injury to, destruction of, or loss of the baseline ecological services of natural resources, including the reasonable costs of assessing such injury, destruction, or loss caused by a release; and";

(F) by striking "The amounts" and inserting the following:

"(3) INTEREST.—The amounts"; and

(G) in the first sentence of paragraph (3), as designated by subparagraph (F), by striking "subparagraphs (A) through (D)" and inserting "paragraph (2)".

(2) CONFORMING AMENDMENTS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended—

(A) in subsection (d)(3) by striking "the provisions of paragraph (1), (2), (3), or (4) of subsection (a) of this section" and inserting "subsection (a)";

(B) in subsection (f)(1) by striking "subparagraph (C) of subsection (a)" each place it appears and inserting "subsection (a)(2)(C)".

(c) NATURAL RESOURCE DAMAGES.—Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended—

(1) by inserting "NATURAL RESOURCE DAMAGES.—" after "(f)";

(2) by striking "(1) NATURAL RESOURCES LIABILITY.—In the case" and inserting the following:

"(1) LIABILITY.—

"(A) IN GENERAL.—In the case";

(3) in paragraph (1)(A), as designated by paragraph (2)—

(A) in the first sentence by inserting "the baseline ecological services of" after "loss of";

(B) in the third and fourth sentences, by striking "to restore, replace, or acquire the equivalent" each place it appears and inserting "for restoration";

(C) by inserting after the fourth sentence the following: "Sums recovered by an Indian tribe as trustee under this subsection shall be available for use only for restoration of such natural resources by the Indian tribe. A restoration conducted by the United States, a State, or an Indian tribe shall proceed only if it is technologically practicable, cost-effective, and consistent with all known or anticipated response actions at or near the facility."; and

(D) by striking "The measure of damages in any action" and all that follows through the end of the paragraph and inserting the following:

"(B) LIMITATIONS ON LIABILITY.—

"(i) MEASURE OF DAMAGES.—The measure of damages in any action under subsection (a)(2)(C) shall be limited to the reasonable costs of restoration and of assessing damages.

"(ii) NONUSE VALUES.—There shall be no recovery under this Act for any impairment of non-use values.

"(iii) NO DOUBLE RECOVERY.—A person that obtains a recovery of damages, response costs, assessment costs, or any other costs under this Act for injury to, destruction of, or loss of a natural resource caused by a release shall not be entitled to recovery under or any other Federal or State law for injury to or destruction or loss of the natural resource caused by the release.

"(iv) NO RETROACTIVE LIABILITY.—

"(I) COMPENSATORY RESTORATION.—There shall be no recovery from any person under this section for the costs of compensatory restoration for a natural resource injury, destruction, or loss that occurred prior to December 11, 1980.

"(II) PRIMARY RESTORATION.—There shall be no recovery from any person under this section for the costs of primary restoration if the natural resource injury, destruction, or loss for which primary restoration is sought and the release of the hazardous substance from which the injury resulted occurred wholly before December 11, 1980.

"(v) BURDEN OF PROOF ON THE ISSUE OF THE DATE OF OCCURRENCE OF A RELEASE.—The trustee for an injured, destroyed, or lost natural resource bears the burden of demonstrating that any amount of costs of compensatory restoration that the trustee seeks under this section is to compensate for an injury, destruction, or loss (or portion of an injury, destruction, or loss) that occurred on or after December 11, 1980."; and

(4) by adding at the end the following:

"(3) SELECTION OF RESTORATION METHOD.—When selecting appropriate restoration measures, including natural recovery, a trustee shall select the most cost-effective method of achieving restoration.".

SEC. 702. ASSESSMENT OF DAMAGES.

(a) DAMAGE ASSESSMENTS.—Section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)) is amended by striking subparagraph (C) and inserting the following:

"(C) DAMAGE ASSESSMENT.—

"(i) REGULATION.—A natural resource damage assessment conducted for the purposes of this Act made by a Federal, State, or tribal trustee shall be performed, to the extent practicable, in accordance with—

"(I) the regulation issued under section 301(c); and

"(II) generally accepted scientific and technical standards and methodologies to ensure the validity and reliability of assessment results.

"(ii) FACILITY-SPECIFIC CONDITIONS AND RESTORATION REQUIREMENTS.—Injury determination, restoration planning, and quantification of restoration costs shall, to the extent practicable, be based on an assessment of facility-specific conditions and restoration requirements.

"(iii) USE BY TRUSTEE.—A natural resource damage assessment under clause (i) may be used by a trustee as the basis for a natural resource damage claim only if the assessment demonstrates that the hazardous substance release in question caused the alleged natural resource injury.

"(iv) COST RECOVERY.—As part of a trustee's claim, a trustee may recover only the reasonable damage assessment costs that were incurred directly in relation to the site-specific conditions and restoration measures that are the subject of the natural resource damage action.".

(b) REGULATIONS.—

(1) NEW REGULATIONS.—Section 301 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9651) is amended by striking subsection (c) and inserting the following:

"(c) REGULATIONS FOR DAMAGE ASSESSMENTS.—

"(1) IN GENERAL.—The President, acting through Federal officials designated by the National Contingency Plan under section 107(f)(2), shall issue a regulation for the assessment of restoration damages and assessment costs for injury to, destruction of, or loss of natural resources resulting from a release of a hazardous substance for the purposes of this Act.

"(2) CONTENTS.—The regulation under paragraph (1) shall—

"(A) specify protocols for conducting assessments in individual cases to determine the injury, destruction, or loss of baseline ecological services of the environment;

"(B) identify the best available procedures to determine damages for the reasonable cost of restoration and assessment;

"(C) take into consideration the ability of a natural resource to recover naturally and the availability of replacement or alternative resources; and

"(D) specify an appropriate mechanism for the cooperative designation of a single lead decisionmaking trustee at a site where more than one Federal, State, or Indian tribe trustee intends to conduct an assessment, which designation shall occur not later than 180 days after the date of first notice to the responsible parties that a natural resource damage assessment will be made.

"(3) BIENNIAL REVIEW.—The regulation under paragraph (1) shall be reviewed and revised as appropriate every 2 years.".

(2) INTERIM PROVISION.—Until such time as the regulations issued pursuant to the amendment made by paragraph (1) become effective, the regulations issued under section 301(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9651(c)) shall remain in effect and shall be applied, subject to challenge on any ground, in the same manner and to the same extent as if this Act had not been enacted, except to the extent that those regulations are inconsistent with this Act or an amendment made by this Act.

SEC. 703. CONSISTENCY BETWEEN RESPONSE ACTIONS AND RESOURCE RESTORATION STANDARDS AND ALTERNATIVES.

(a) RESTORATION STANDARDS AND ALTERNATIVES.—Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)), as amended by section 701(b)(4), is amended by adding at the end the following:

"(4) CONSISTENCY WITH RESPONSE ACTIONS.—A restoration standard or restoration alternative selected by a trustee for a facility listed or proposed for listing on the National Priorities List shall not be duplicative of or inconsistent with actions undertaken pursuant to section 104, 106, 121, or 129.".

(b) RESPONSE ACTIONS.—

(1) ABATEMENT ACTION.—Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(a)) is amended by adding at the end the following: "The President shall not take action under this subsection except such action as is necessary to protect the public health and the baseline ecological services of the environment.".

(2) LIMITATION ON DEGREE OF CLEANUP.—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)), as amended by section 402(1), is amended by adding at the end the following:

"(7) LIMITATION.—

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"(A) IN GENERAL.—The Administrator shall not select a remedial action under this section that goes beyond the measures necessary to protect human health and the environment and restore the baseline ecological services of the environment.

"(B) CONSIDERATIONS.—In evaluating and selecting remedial actions, the Administrator shall take into account the potential for injury to or destruction or loss of a natural resource resulting from such actions.

"(C) NO LIABILITY.—No person shall be liable for injury to or destruction or loss of a natural resource resulting from a response action or remedial action selected by the Administrator that is properly implemented without negligence or other improper performance on the part of a potentially responsible party or other person acting at the direction of a potentially responsible party.".

SEC. 704. MISCELLANEOUS AMENDMENTS.

Section 113(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(1)) is amended in the third sentence by inserting "and natural resource damages" after "costs".

TITLE VIII—MISCELLANEOUS

SEC. 801. RESULT-ORIENTED CLEANUPS.

(a) AMENDMENT.—Section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by inserting after paragraph (10) the following:

"(11) procedures for conducting response actions, including facility evaluations, remedial investigations, feasibility studies, remedial action plans, remedial designs, and remedial actions, which procedures shall—

"(A) use a results-oriented approach to minimize the time required to conduct response measures and reduce the potential for exposure to the hazardous substances, pollutants, and contaminants in an efficient, timely, and cost-effective manner;

"(B) require, at a minimum, expedited facility evaluations and risk assessments, timely negotiation of response action goals, a single engineering study, streamlined oversight of response actions, and consultation with interested parties throughout the response action process;

"(C) be subject to the requirements of sections 117, 120, 121, and 129 in the same manner and to the same degree as those sections apply to response actions; and

"(D) be required to be used for each remedial action conducted under this Act unless the Administrator determines that their use would not be cost-effective or result in the selection of a response action that achieves the goals of protecting human health and the environment stated in section 121(a)(1)(B).".

(b) AMENDMENT OF NATIONAL HAZARDOUS SUBSTANCE RESPONSE PLAN.—Not later than 180 days after the date of enactment of this Act, the Administrator, after notice and opportunity for public comment, shall amend the National Hazardous Substance Response Plan under section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)) to include the procedures required by the amendment made by subsection (a).

SEC. 802. NATIONAL PRIORITIES LIST.

Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605), as amended by section 408(a)(1)(B), is amended by adding at the end the following:

"(i) NATIONAL PRIORITIES LIST.—

"(1) ADDITIONAL VESSELS AND FACILITIES.—

"(A) LIMITATION.—

"(i) IN GENERAL.—After the date of the enactment of this subsection, the President may add vessels and facilities to the National Priorities List only in accordance with the following schedule:

"(I) Not more than 30 vessels and facilities in 1996.

"(II) Not more than 25 vessels and facilities in 1997.

"(III) Not more than 20 vessels and facilities in 1998.

"(IV) Not more than 20 vessels and facilities in 1999.

"(V) Not more than 10 vessels and facilities in 2000.

"(VI) Not more than 10 vessels and facilities in 2001.

"(VII) Not more than 10 vessels and facilities in 2002.

"(ii) RELISTING.—The relisting of a vessel or facility under section 135(d)(5)(C)(ii) shall not be considered to be an addition to the National Priorities List for purposes of this subsection.

"(B) PRIORITIZATION.—The Administrator shall prioritize the vessels and facilities added under subparagraph (A) on a national basis in accordance with the threat to human health and the environment presented by each of the vessels and facilities, respectively.

"(C) STATE CONCURRENCE.—A vessel or facility may be added to the National Priorities List under subparagraph (A) only with the concurrence of the State in which the vessel or facility is located.

"(2) SUNSET.—

"(A) NO ADDITIONAL VESSELS OR FACILITIES.—The authority of the Administrator to add vessels and facilities to the National Priorities List shall expire on December 31, 2002.

"(B) LIMITATION ON ACTION BY THE ADMINISTRATOR.—At the completion of response actions for all vessels and facilities on the National Priorities List, the authority of the Administrator under this Act shall be limited to—

"(i) providing a national emergency response capability;

"(ii) conducting research and development;

"(iii) providing technical assistance; and

"(iv) conducting oversight of grants and loans to the States.".

SEC. 803. OBLIGATIONS FROM THE FUND FOR RESPONSE ACTIONS.

Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(1)) is amended—

(1) in subparagraph (C) by striking "consistent with the remedial action to be taken" and inserting "not inconsistent with any remedial action that has been selected or is anticipated at the time of any removal action at a facility.";

(2) by striking "$2,000,000" and inserting "$4,000,000"; and

(3) by striking "12 months" and inserting "2 years".

SEC. 804. REMEDIATION WASTE.

(a) DEFINITIONS.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) is amended by adding at the end the following:

"(42) DEBRIS.—The term 'debris'—

"(A) means—

"(i) a solid manufactured object exceeding a 60 millimeter particle size;

"(ii) plant or animal matter; and

"(iii) natural geologic material; but

"(B) does not include material that the Administrator may exclude from the meaning of the term by regulation.

"(43) IDENTIFIED CHARACTERISTIC WASTE.—The term 'identified characteristic waste' means a solid waste that has been identified as having the characteristics of hazardous waste under section 3001.

"(44) LISTED WASTE.—The term 'listed waste' means a solid waste that has been listed as a hazardous waste under section 3001.

"(45) MEDIA.—The term 'media' means ground water, surface water, soil, and sediment.

"(46) REMEDIATION ACTIVITY.—The term 'remediation activity' means the remediation, removal, containment, or stabilization of—

"(A) solid waste that has been released to the environment; or

"(B) media and debris that are contaminated as a result of a release.

"(47) REMEDIATION WASTE.—The term 'remediation waste' means—

"(A) solid and hazardous waste that is generated by a remediation activity; and

"(B) debris and media that are generated by a remediation activity and contain a listed waste or identified characteristic waste.

"(48) STATE VOLUNTARY REMEDIATION PROGRAM.—The term 'State voluntary remediation program' means a program established by a State that permits a person to conduct remediation activity at a facility under general guidance or guidelines without being subject to a State order or consent agreement specifically applicable to the person.".

(b) IDENTIFICATION AND LISTING.—Section 3001 of the Solid Waste Disposal Act (42 U.S.C. 6921) is amended by adding at the end the following:

"(j) REMEDIATION WASTE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a person that manages remediation waste that is an identified characteristic waste or listed waste or that contains an identified characteristic waste or listed waste shall be subject to the requirements of this subtitle (including regulations issued under this subtitle, including the regulation for corrective action management units published in section 264.552, Code of Federal Regulations, and the regulation for temporary units published in section 264.553, Code of Federal Regulations, or any successor regulation).

"(2) EXCEPTIONS.—

"(A) REQUIREMENTS UNDER SECTION 3004.—Media and debris generated by a remediation activity that are identified characteristic wastes or listed wastes or that contain an identified characteristic waste or a listed waste shall not be subject to the requirements of section 3004 (d), (e), (f), (g), (j), (m), or (o).

"(B) PERMIT REQUIREMENTS.—No Federal, State, or local permit shall be required for the treatment, storage, or disposal of remediation waste that is conducted entirely at the facility at which the remediation takes place.

"(3) REMEDIATION WASTE SUBJECT TO ORDERS, CONSENT AGREEMENTS, VOLUNTARY REMEDIATION PROGRAMS, AND OTHER MECHANISMS.—

"(A) REQUIREMENTS NOT APPLICABLE.—Notwithstanding paragraph (1), a person that manages remediation waste that—

"(i) is identified characteristic waste or listed waste or that contains an identified characteristic waste or listed waste; and

"(ii) is subject to a Federal or State order, Federal or State consent agreement, a State voluntary remediation program, or such

other mechanism as the Administrator considers appropriate,

shall not be subject to the requirements of this subtitle (including any regulation under this subsection) unless the requirements are specified in the Federal or State order, Federal or State consent agreement, State voluntary cleanup program, or other mechanism, as determined by the Administrator.

"(B) ENFORCEMENT.—Unless other enforcement procedures are specified in the order, consent agreement, or other mechanism, a person described in subparagraph (A) (except a person that manages remediation waste under a State voluntary remediation program) shall be subject to enforcement of the requirements of the order, consent agreement, or other mechanism by use of enforcement procedures under section 3008.".

(c) REGULATION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue a regulation implementing section 3001(j) of the Solid Waste Disposal Act, as added by subsection (b).

TITLE IX—FUNDING

Subtitle A—General Provisions

SEC. 901. AUTHORIZATION OF APPROPRIATIONS FROM THE FUND.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended in the first sentence by striking "not more than $8,500,000,000 for the 5-year period beginning on the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, and not more than $5,100,000,000 for the period commencing October 1, 1991, and ending September 30, 1994" and inserting "a total of $8,500,000,000 for fiscal years 1996, 1997, 1998, 1999, and 2000".

SEC. 902. ORPHAN SHARE FUNDING.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)), as amended by section 301(c), is amended by inserting after paragraph (8) the following:

"(9) ORPHAN SHARE FUNDING.—Payment of orphan shares under section 132.".

SEC. 903. DEPARTMENT OF HEALTH AND HUMAN SERVICES.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (m) and inserting the following:

"(m) HEALTH AUTHORITIES.—There are authorized to be appropriated from the Fund to the Secretary of Health and Human Services to be used for the purposes of carrying out the activities described in subsection (c)(4) and the activities described in section 104(i), $50,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000. Funds appropriated under this subsection for a fiscal year, but not obligated by the end of the fiscal year, shall be returned to the Fund.".

SEC. 904. LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (n) and inserting the following:

"(n) LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

"(1) ALTERNATIVE OR INNOVATIVE TECHNOLOGIES RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

"(A) LIMITATION.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, not more than $20,000,000 of the amounts available in the Fund may be used for the purposes of carrying out the applied research, development, and demonstration program for alternative or innovative technologies and training program authorized under section 311(b) other than basic research.

"(B) CONTINUING AVAILABILITY.—Such amounts shall remain available until expended.

"(2) HAZARDOUS SUBSTANCE RESEARCH, DEMONSTRATION, AND TRAINING.—

"(A) LIMITATION.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000 not more than $20,000,000 of the amounts available in the Fund may be used for the purposes of section 311(a).

"(B) FURTHER LIMITATION.—No more than 10 percent of such amounts shall be used for training under section 311(a) for any fiscal year.

"(3) UNIVERSITY HAZARDOUS SUBSTANCE RESEARCH CENTERS.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, not more than $5,000,000 of the amounts available in the Fund may be used for the purposes of section 311(d).".

SEC. 905. AUTHORIZATION OF APPROPRIATIONS FROM GENERAL REVENUES.

Section 111(p) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(p)) is amended by striking paragraph (1) and inserting the following:

"(1) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund—

"(i) for fiscal year 1996, $250,000,000;

"(ii) for fiscal year 1997, $250,000,000;

"(iii) for fiscal year 1998, $250,000,000;

"(iv) for fiscal year 1999, $250,000,000; and

"(v) for fiscal year 2000, $250,000,000.

"(B) ADDITIONAL AMOUNTS.—There is authorized to be appropriated to the Hazardous Substance Superfund for each such fiscal year an amount, in addition to the amount authorized by subparagraph (A), equal to so much of the aggregate amount authorized to be appropriated under this subsection and section 9507(b) of the Internal Revenue Code of 1986 as has not been appropriated before the beginning of the fiscal year.".

SEC. 906. ADDITIONAL LIMITATIONS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by adding at the end the following:

"(q) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAM.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, not more than $25,000,000 of the amounts available in the Fund may be used for the purposes of subsection (a)(7) (relating to qualifying State voluntary response programs).

"(r) BROWNFIELD CLEANUP ASSISTANCE.—For each of fiscal years 1996 through 2000, not more than $15,000,000 of the amounts available in the Fund may be used to carry out section 134(b).

"(s) COMMUNITY RESPONSE ORGANIZATION.—For the period commencing October 1, 1995, and ending September 30, 2000, not more than $15,000,000 of the amounts available in the Fund may be used to make grants under section 117(f) (relating to Community Response Organizations).

"(t) RECOVERIES.—Effective beginning October 1, 1995, any response cost recoveries collected by the United States under this Act shall be credited as offsetting collections to the Superfund appropriations account.".

SEC. 907. REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)), as amended by section 902, is amended by inserting after paragraph (9) the following:

"(10) REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.—If—

"(A) a potentially responsible party and the Administrator enter into a settlement under this Act under which the Administrator is reimbursed for the response costs of the Administrator; and

"(B) the Administrator determines, through a Federal audit of response costs, that the costs for which the Administrator is reimbursed—

"(i) are unallowable due to contractor fraud;

"(ii) are unallowable under the Federal Acquisition Regulation; or

"(iii) should be adjusted due to routine contract and Environmental Protection Agency response cost audit procedures,

a potentially responsible party may be reimbursed for those costs.".

NOTICE OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. STEVENS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings regarding the global proliferation of weapons of mass destruction, part II.

This hearing will take place on Friday, March 22, 1996 in room 342 of the Dirksen Senate Office Building. For further information, please contact Daniel S. Gelber of the Subcommittee staff at 224–9157.

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I wish to announce that the Special Committee on Aging will hold a hearing on Thursday, March 28, 1996, at 9:30 a.m., in room 562 of the Dirksen Senate Office Building. The hearing will discuss adverse drug reactions and the effects on the elderly.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, March 21, 1996, in open session, to receive testimony from the unified commanders on their military strategies, operational requirements, and the defense authorization request for fiscal year 1997 and the future years defense programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2 p.m. on Thursday, March 21, 1996 to receive testimony on Department of the Navy shipbuilding programs in review of the defense authorization request for fiscal year 1997 and the future years defense program.

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The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GORTON. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, March 21, at 9:00 a.m. for a hearing on the Tenth Amendment Enforcement Act of 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, March 21, 1996 at 10:00 a.m. in SH216.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to hold a meeting during the session of the Senate on Thursday, March 21, 1996. The committee will be in executive session at 9:00 a.m. on S. 1578, The Individuals With Disabilities in Education Act [IDEA].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing on Thursday, March 21, 1996, at 10:30 a.m., in room 428A of the Russell Senate Office Building, to conduct a hearing focusing on "S. 1574, the HUBZones Act of 1996—Revitalizing Inner Cities and Rural America."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 21, 1996, at 2 p.m. to hold a closed briefing for members on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT AND STRUCTURE

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on HUD Oversight and Structure, of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 21, 1996, to conduct a hearing on the 1992 Federal Housing Enterprises Safety and Soundness Act as it affects Fannie Mae and Freddie Mac.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, March 21, 1996, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to review S. 305, a bill to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia; H.R. 1091, a bill to improve the National Park System in the Commonwealth of Virginia; S. 1225, a bill to require the Secretary of the Interior to conduct an inventory of historic sites, buildings, and artifacts in the Champlain Valley and the upper Hudson River Valley; S. 1226, a bill to require the Secretary of the Interior to prepare a study of battlefields of the Revolutionary War and the War of 1812, to establish an American Battlefield Protection Program; and S.J. Res. 42, a joint resolution designating the Civil War Center at Louisiana State University as the U.S. Civil War Center, making the center the flagship institution for planning the sesquicentennial commemoration of the Civil War.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 2:30 p.m. on Thursday, March 21, 1996, in open session, to receive testimony on the readiness of the Guard and Reserve to support the national military strategy.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CORPORATE SUBSIDY REVIEW, REFORM AND TERMINATION COMMISSION

• Mr. McCAIN. Mr. President, last year, I introduced bipartisan legislation to establish a Corporate Subsidy Review, Reform, and Termination Commission.

The proposed eight-member panel, styled after the military base closing commission would review Federal programs as well as provisions of the U.S. Tax Code to identify those that unduly subsidize specific profit-making companies, select industries, or segments of an industry in a manner that is unfair or anticompetitive and has no compelling public benefit. The Commission would recommend to Congress specific reforms and or termination of such subsidies, and Congress would consider the package under limited procedures spelled out in the legislation.

The establishment of such a Commission, though an inferior alternative to Congress taking action directly, has become necessary because Congress does not appear willing or able to eliminate or significantly reform corporate subsidies.

In these times of budget austerity, we are asking millions of Americans—from families who receive food stamps to our men and women in uniform—to sacrifice in order to stop the Nation's fiscal bleeding. As a matter of simple fairness, we have a moral obligation to ensure that corporate interests share the burden.

The Cato and Progressive Policy Institutes, have identified 125 Federal programs that subsidize industry to the tune of $85 billion every year, and PPI found an additional $30 billion in tax loopholes to powerful industries.

Mr. President, I want to make clear, I am sure there are a number of programs which could be classified as a corporate subsidy which may serve a public interest. And, every Senator in this Chamber, including this Senator, have supported at one time or another a variety of these programs.

So, no one is pure or innocent on the question of corporate subsidies. But, blame is not the issue, that's only an oft-used diversion. The issue is what is required of us today to reduce the debt that grown larger every day, eating up a greater percentage of the budget in debt service and submerging the prospects of our children as they are required to spend an evergrowing portion of their life to pay our bills.

Under such circumstances, we are compelled to take a harder, more judicious, look at corporate subsidies and eliminate those that are not justified and do not have a compelling public interest.

As the Public Policy Institute observed,

> The President and Congress can break the current impasse and substantially reduce both spending and projected deficits * * * if they are willing to eliminate or reform scores of special spending programs and tax provisions narrowly targeted to subsidize influential industries.

Let me conclude, Mr. President, by acknowledging that I do not really like the idea of commissions. In some instances reasonable and well-intentioned people may disagree on what is pork as opposed to a necessary and vital program. But in many instances we know what can and should be eliminated. The reality, however, is that Members will simply not gore their own ox, unless others are forced to do the same. As with military base closures—the mentality is—we either all go together or we do not go at all. Perhaps that is the only fair way to do it.

An independent corporate pork commission with privileged and expedited procedures to ensure congressional action would help us even better define what is an unnecessary and unwarranted corporate subsidy, and it will help us depoliticize the process, guarantee that the pain is shared, and

might be the only realistic means of achieving the meaningful reform that the public and our dire fiscal circumstances demand.

I look forward to working with my colleagues to refine a commission and congressional consideration process that is fair, targeted, and appropriate.•

TRIBUTE TO CF INDUSTRIES, INC.

• Mr. BREAUX. Mr. President, I rise today along with my colleagues: Mr. GRAHAM and Mr. MACK of Florida, Mr. SIMON and Mrs. MOSELEY-BRAUN of Illinois, and Mr. JOHNSTON of Louisiana, to pay tribute to CF Industries, Inc., which is celebrating its 50th anniversary this year. CF is an interregional farm supply cooperative owned by 11 regional cooperatives in the United States and Canada. CF's nitrogen, phosphate, and potash products reach over 1 million farmer-owners who depend on the CF system to manufacture and distribute agricultural fertilizers to them. We would like to congratulate CF and its employees on the high-quality products and services they have provided to the Nation's farmers over the past 50 years and their commitment to sound environmental, health, and safety practices.

Established in 1946 as Central Farmers Fertilizer Co., CF began as a broker for sales of fertilizer products to farmer-members with the goal of becoming the Nation's major fertilizer supplier for the agricultural cooperative community. Through 1960, CF evolved from a broker to a manufacturer and distributor of fertilizer products.

Today, CF has become more than the founding members have ever envisioned. CF manufacturing plants include nitrogen fertilizer complexes in Donaldsonville, LA, and Medicine Hat, AB, Canada, as well as extensive phosphate mining and manufacturing facilities in Florida. CF plants have the capacity to produce more than 8 million tons of fertilizer products annually. In 1995, CF sales totaled over $1.3 billion.

Products are distributed to farmer-members in 46 States and two Canadian provinces through an extensive system. CF has ownership and lease positions in 63 regional terminals and warehouses. Total storage capacity of CF distribution terminals and warehouses is in excess of 2.4 million tons of product.

In closing, Mr. President, we want to express our good wishes to CF Industries, Inc., and its employees as they continue to respond to the needs of the cooperative community and look to providing high-quality products and services into the 21st century.•

THE 100TH ANNIVERSARY OF ST. PAUL'S EVANGELICAL LUTHERAN CHURCH

• Mr. ABRAHAM. Mr. President, I rise today to congratulate St. Paul's Evangelical Lutheran Church of Northville, MI, on their 100th anniversary. Just over 100 years ago, a group of German speaking residents began meeting on Sunday mornings, forming what was to become the Evangelical Lutheran Church of the Reformation of Northville. On August 30, 1896, the congregation celebrated Holy Communion for the first time.

Remembering the verse in Proverbs, "The fear of the Lord is the beginning of wisdom," the congregation started a Christian Day School in September with seven children attending the first semester. Less than 1 year later, St. Paul's church purchased the deed to property on Elm Street. The church still resides at that location.

On November 28, 1948, ground was broken for the new church building. Dedicated in February 1950, the Gothic building contained three beautiful stained glass windows located above the altar symbolizing the Holy Trinity. Other windows throughout the nave tell the story of Christ's apostles.

Since 1896, the congregation at St. Paul's has met faithfully on Sunday mornings. The Day School continues to serve families of St. Paul's and the Northville community.

Again, congratulations to this community. I wish it many more years of fellowship and worship.•

ICI EXPORT LTD.

• Mr. DODD. Mr. President, it has come to my attention that ICI Export Ltd. was erroneously listed among the "Corporations and companies cited in the international media as having commercial activities with the Republic of Cuba" in the CONGRESSIONAL RECORD of March 5, 1996. ICI Export Ltd., which is in no way affiliated with ICI Americas, Inc., has not existed since 1992. I ask that the attached letter from William A. Meaux of ICI Americas, Inc. be printed in the RECORD.

The letter follows:

ICI AMERICAS INC.,
Washington, DC, March 12, 1996.

Hon. CHRISTOPHER DODD,
Committee on Foreign Relations, U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: Thank you very much for your offer to correct the erroneous listing of ICI Export Ltd. in the Congressional Record of March 5, 1996, on page S 1490. The listing of ICI Export Ltd. by the U.S.-Cuba Trade and Economic Council, Inc. is in error. ICI Export does not exist, has not existed since 1992, and is not affiliated with any company in the ICI group. After 1992, it is our understanding that ICI Export Ltd. became Zeneca International Ltd. located at 10 Stanhope Gate in London, England. Zeneca International Ltd. is not affiliated with, does not own, and is not owned by, ICI Americas or any other ICI company. We are very grateful for your offer to correct this inaccuracy in the RECORD.

Sincerely,

WILLIAM A. MEAUX.•

RECOGNIZING ILLINOIS WESLEYAN UNIVERSITY

• Mr. SIMON. Mr. President, the Illinois Wesleyan University Titans Men's Basketball Team recently placed third in the Nation among NCAA Division III schools. The Titans head coach, Denny Bridges, has been with the team for 31 years. He is one of the winningest coaches in Division III basketball. The university ought to be proud of its coach and players.

We should also recognize the quality education that the school offers. Illinois Wesleyan was recently ranked by U.S. News and World Report in the top 5 among Liberal Arts universities in the United States.

I commend the university and its basketball team. They deserve our accolades.•

THE 75TH ANNIVERSARY OF THE JACKSON LIONS HOST CLUB

• Mr. ABRAHAM. Mr. President, I rise today to congratulate the 75th anniversary of the Jackson Lions Host Club. For 75 years, members of this outstanding organization have been providing care and assistance to the handicapped and less fortunate as well as contributing both physical and monetary resources toward a brighter future.

In 1921 at the International Host Lions Club Convention, Helen Keller challenged the delegates to dedicate their charitable outreach to the blind. The Jackson club has been generously meeting this challenge, furnishing free Leader Dogs, promoting the enactment of the White Cane Law, and supporting numerous other civic projects and local charities.

Once again, I would like to congratulate this organization and to encourage the spirit of giving that its members have demonstrated in so many ways.•

COMMENDING THE ANTI-DEFAMATION LEAGUE FOR THEIR EFFORTS TO COMBAT HATE CRIMES

• Mr. SIMON. Mr. President, I applaud the Anti-Defamation League [ADL] for its continuing work to expose and combat hate crimes, and to bring your attention to its most recent "Audit of Anti-Semitic Incidents." For the past 17 years, the ADL has compiled data about anti-Jewish attacks. Their efforts in the collection of data and the development of programs regarding anti-Semitic acts increase public awareness of this problem, and help generate constructive solutions. I commend ADL for continuing this important endeavor and would like to share with you some of their recent findings.

In 1995, the total number of anti-Semitic incidents reported to the Anti-Defamation League—including acts against property and persons—was

VOL 142 PT 5 MR 21 — 29 1996 UMI

1,843. I am pleased to report that this total represents a decrease of 223 incidents, or 11 percent, from the 1994 total of 2,066. This is the largest decline in 10 years. Unfortunately, the decline is contrasted with the seriousness of many of the incidents reported. For the fifth straight year in a row, acts of anti-Semitic harassment against individuals outnumber incidents of vandalism against institutions and other property. In 1995, the 1,116 incidents of harassment account for 61 percent of all incidents, compared to 727 accounts of vandalism. Fortunately, the 1,116 incidents of harassment, threats, and assaults represents a decrease of 81, or 7 percent from the 1994 total of 1,197, which was the highest on record. Although it is encouraging to see the number of harassments down from previous years, I am troubled that incidents of harassment remain one of the dominant forms of anti-Semitic activity.

Although the ADL audit provides useful statistics about anti-Semitism generally, it is particularly revealing to consider specific incidents. One particularly violent incident occurred in Cincinnati, OH, when a group of four youths assaulted the son of a community rabbi, chasing him for about a block before they caught him outside of the synagogue and beat him until he collapsed on the street. The ADL also reported an incident of arson in New York City, at Freddy's Fashion Mart, where eight people, including the arsonist himself, died. At Fresno State College, following the assassination of Israeli Prime Minister Yitzhak Rabin, the student-run newspaper printed an article calling Rabin, "The most despicable mass murderer the 20th century has seen, making Hitler look like Big Bird."

Sadly, 1995 saw a large number of anti-Semitic incidences on college campuses. One disturbing incident occurred at the University of Pennsylvania. On March 24, two students were walking in an area immediately off campus. Derogatory epithets were shouted at them by two students sitting on the porch of a private home. When the Jewish students confronted them, one of the two went into the house and returned brandishing a shotgun which he used to threaten the Jewish students, who quickly fled the scene.

On another somber note, the number of arrests made in conjunction with anti-Semitic hate crimes was 108, a significant decrease of 33 from last year's arrest total of 141. This may be attributed to either fewer crimes or under-reporting of crime instances. However, the number of arrests is still relatively high, which is encouraging. Law enforcement agencies have been making intensive efforts to refine procedures for investigation of hate crimes, with the assistance of the ADL and other human relations organizations.

In closing, I again want to commend the ADL for its outstanding and important work and ask that portions of the ADL report be printed in the RECORD.

The material follows:

AUDIT OF ANTI-SEMITIC INCIDENTS—1995

THE FINDINGS

In 1995, the total number of anti-Semitic incidents reported to the Anti-Defamation League—including acts against both property and persons—was 1,843. This total, comprising reports from 42 states and the District of Columbia, represents a decrease of 223 incidents, or 11 percent, from the 1994 total of 2,066.

The four states reporting the highest totals of anti-Semitic incidents of all kinds in 1995 were: New York (370), California (264), New Jersey (228), and Florida (152). These four states account for 1,014 of the 1,843 incidents reported (55 percent).

The 1995 audit reveals the following new developments:

(1) The decline in violent crime in the U.S. that has been reported by Federal and municipal law enforcement in 1995 carries over into anti-Semitic bias incidents as well. The overall 11 percent decline reflected in this year's Audit is the first since 1992, and the largest decline in 10 years. Thus, the Audit statistics mirror the state of crime in American society. Enhanced security awareness by Jewish institutions, steadily improving law enforcement action, and passage of hate crimes legislation have likely contributed to this decline.

(2) The decline is contrasted with the seriousness of many of the incidents reported. An extremely violent arson incident in New York City led to several deaths. In addition, the number of cemetery desecrations (one of the most serious and hurtful forms of vandalism, which affects an entire community) actually increased over 1994.

(3) The number of incidents occurring on the college campus shows the first decline since 1987, and only the second since the Audit began separately counting such incidents in 1984. In 1995, 118 campus incidents occurred, a decrease of 25 (17 percent) from the 1994 total of 143.

In addition to the aforementioned findings, the 1995 figures maintain two important trends noted in the 1994 ADL study:

(1) For the fifth straight year, acts of anti-Semitic harassment outnumber incidents of vandalism. In 1995, the 1,116 incidents of harassment account for 61 percent of all incidents, vs. 727 incidents of vandalism. The number of harassments and assaults in 1995 dropped by 81, or 7 percent, from 1994.

(2) As in previous years, of the total of 727 incidents of vandalism, the number of vandalism incidents committed against public properly locations (362)—i.e., public school buildings, bridges, and sign posts—in 1995 was more than twice that committed against synagogues and other Jewish institutional targets (145). (The remaining 220 vandalism incidents were perpetrated against privately owned property.) This pattern continues a trend seen over the previous five years. Vandals, it seems, are still opting for the more numerous and harder-to-protect public locations rather than the generally better secured and increasingly more aware Jewish institutions. In recent years, such institutions have also become better protected by more intensive law enforcement action.

FEWER INCIDENTS—BUT MANY STILL VERY SERIOUS

In contrast to the overall decline in incidents reported in 1995, there were several particularly troubling incidents which took place over the last year.

On November 11, 1995, the FBI arrested four suspects in a foiled attempt to bomb several offices of civil rights organizations around the country, including ADL Regional Offices. Willie Ray Lampley, Cecilia Lampley, Larry Wayne Crow, and John Dare Baird had been allegedly conspiring since August 1995 to build homemade bombs out of ammonium nitrate, fuel oil, and other ingredients to destroy the ADL Houston office, a second unnamed ADL office, the Southern Poverty Law Center in Montgomery, Alabama, and two other targets to be decided by the "Tri-State Militia."

The FBI became aware of the plans on a tip from local law enforcement sources in South Dakota, and closely monitored the development plot through the use of undercover informants and surveillance. All of the suspects were arrested without incident, and indicted on Federal charges.

On December 8th, Roland Smith entered Freddy's Fashion Mart on Harlem's historic 125th Street in New York City. According to the New York Times (Dec. 9, 10), he then produced a revolver and yelled "It's on now!" and ordered all blacks to leave the store. After this he began to fire the gun, and to spread a flammable liquid over the racks of clothing in the store, before igniting them. When the fire department had finally extinguished the flames, 8 people were dead, including Smith. An additional 4 people were wounded.

Fred Harari, the Jewish owner of Freddy's, was involved in a landlord-tenant dispute with Sikhulu Shange, the black owner of the Record Shack, a store subletting an adjacent property. (The entire property was actually owned by the United House of Prayer for All People, a Black church). Mr. Shange enlisted the support of the 125th Street Vendors Association, which organized demonstrations outside of Freddy's. Though it started as a simple economic dispute, the demonstrators quickly began to characterize it in terms of a white Jewish-owned business trying to force a black business off 125th Street. In late November, Mr. Harari complained that the demonstrations, which was supported by community newspapers and radio stations, were taking an anti-Semitic tone, and were laced with increasingly violent racist rhetoric.

On Saturday, February 18, members of the Ohev Shalom Synagogue in York, PA, arrived for services to find a severed pig's head mounted on the front door. The community quickly rallied behind the efforts of law enforcement officials to apprehend the perpetrator, and support the synagogue. At a vote on a motion to condemn the incident, town supervisor Lori Mitrick states that the Jewish community should know "this is not just an embarrassment to them, it is an embarrassment to all decent human beings."

Determined police work led to the eventual arrest and conviction of 22-year-old Mason E. Aldrich for institutional vandalism, desecration of venerated objects, and criminal conspiracy. He was sentenced to 23 months in jail and ordered to perform 120 hours of community service, including 15 hours of cultural awareness programming with ADL.

In interviews leading up to his October 16 Million Man March, the Nation of Islam leader Louis Farrakhan sought to justify his referring to Jews and others as "blood suckers." On Reuters Television, Farrakhan explained, "Many of the Jews who owned the homes, the apartments in the black community, we considered them bloodsuckers because they took from our community but

didn't offer anything back to our community." Minister Farrakhan was interviewed by many national news programs in the weeks leading up to the march, interspersing many of his remarks with thinly veiled conspiracy theory anti-Semitism.

In addition to the above incidents, other troubling acts included the beating of a rabbi's son in Cincinnati, OH, and the intimidation of the cast of a play about the Holocaust in Honolulu, HI. At the University of Pennsylvania, two Jewish students were threatened by other students brandishing a shotgun, after being taunted with anti-Semitic epithets. In California, a home-made fire-bomb was thrown at a synagogue. The bomb did not detonate, and the synagogue was spared. (Please see Examples of Harassment, Threats and Assaults, p. 4; Campus Incidents, p. 9; and A Look at Some Noteworthy Incidents, p. 13, for more information.)

HARASSMENT, THREATS, AND ASSAULTS

In 1995, the number of incidents of anti-Semitic harassment, threats, and assaults directed at Jewish individuals and institutions totaled 1,116. This total represents a decrease of 81, or 7 percent from the 1994 total of 1,197, which was the highest on record.

This category of incidents covers a large variety of intimidating and hostile acts, including: slanderous anti-Semitic and neo-Nazi hate literature mailed or disseminated in public places; slurs directed against Jewish individuals walking to synagogue services or campus gatherings; speeches given on campus containing anti-Semitic language; Holocaust-denial advertisements in campus newspapers; a threatening phone call to a synagogue or Jewish school; as well as direct physical violence against Jewish persons as a result of their identity. Although many incidents of harassment are not crimes, they continue to constitute overt and painful expressions of anti-Semitic hatred.

While it is encouraging that the number of harassments is down from previous years, a troubling trend has been maintained in the 1995 totals. As in past years, incidents of harassment are significantly more common than incidents of vandalism. While any expression of anti-Semitic behavior is troubling, the high number of these more personalized attacks is a cause for particular concern.

EXAMPLES OF HARASSMENT, THREAT, AND ASSAULT INCIDENTS

The following is a representative sampling of 1995 incidents of anti-Semitic harassment, threats, and assaults in the 20 states reporting the highest totals of such acts.

1. New York (200 incidents) March—Upon leaving a dance club late at night, a group of men was approached by several people who asked if they were Jewish. When they responded that they were, one of them was beaten with a "Club" anti-car-theft device. (New York City)

2. California (175) August—A car with four young men in it drove past a group of campers and staff at a JCC camp and shouted profanities and anti-Semitic epithets. (San Diego)

3. Florida (102) October—Police officers and social workers received messages on their beepers leading them to call the Children of the Reich hate line, with a message threatening Jews and African-Americans.

4. New Jersey (97) January/February—Community leaders were threatened with bodily harm if they supported an application to erect a new synagogue building. (Closter)

5. Connecticut (51) February—An anti-Semitic, Holocaust-denying letter was sent to a Jewish newspaper. (Hartford)

6. Ohio (50) November—Soon after the assassination of Israeli Prime Minister Yitzhak Rabin, a spectator at a Cleveland Browns football game held a sign saying, "They killed the wrong Jew," a reference to Art Modell, the owner of the team who decided to move it to Baltimore. (Cleveland)

7. Massachusetts (47) June—A 74-year-old Russian immigrant was assaulted by his neighbor, who yelled, "F_ _ _ing Jew—go back to Russia." (Brighton)

8. Maryland (44) May—A Holocaust information center received numerous anti-Semitic phone calls after its phone number was posted on the Internet. (Baltimore)

9. Illinois (40) August—A man was walking on a downtown street wearing a sandwich board sign which read, "HIROSHIMA + NAGASAKI Were (and are) JEWISH ATROCITIES." (Chicago)

10. Pennsylvania (36) April—A synagogue nursery school received a letter which stated, "Fuel oil fertilizer. Jews go boom." (Western Pennsylvania)

11. Missouri (31) March—The Aryan Revolutionary Army passed out flyers stating that the "only good Jew is a dead Jew." (St. Louis)

12. Georgia (27) April—A high school history teacher asserted in class that the Jews control the media and film industry. (Atlanta)

13. District of Columbia (21)—A U.S. Congressman received anti-Semitic hate mail including, "How is it that a Jew backs a Nazi?" and "You Jews cause trouble all around the world and then try to hide behind your religion," and imagery such as swastikas and other offensive drawings.

14. Minnesota (20) February—The National Socialist American Workers Freedom Movement, a neo-Nazi group, distributed flyers questioning the Holocaust and filled with virulently anti-Semitic statements. (Minneapolis)

15. Texas (20) February—A 15-year-old Jewish student was assaulted by a gang of 15 skinheads. He escaped without serious injury. (Alamo Heights)

16. Colorado (16) October—A threatening message was left on the voice mail of the ADL Regional Office, stating, "Hello, is this the rabbi? F_ _ _ you. Six million more, hey six zillion more!" (Denver)

17. Wisconsin (16) April—A letter addressed to the Executive Director of the Jewish Council said "Death to all jews [sic]. Six million more!!! May you be next!!!" (Milwaukee)

18. Washington (13) April—A package of dog feces was left on the front porch of a Jewish family, with the message, "Happy Passover from Congregation Beth Shalom."

19. North Carolina (11) January—Skinhead hate literature was distributed at a flea market by Gary Lauck's National Socialist German Workers Party. (Fayetteville)

20. Virginia (11) January—Anti-Semitic hate literature from the National Alliance was left in people's driveways. (Henrico County) •

COMPREHENSIVE TERRORISM PREVENTION ACT

Mr. COATS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 735, a bill to prevent and punish acts of terrorism, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 735) entitled "An Act to prevent and punish acts of terrorism, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Effective Death Penalty and Public Safety Act of 1996".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CRIMINAL ACTS

Sec. 101. Protection of Federal employees.
Sec. 102. Prohibiting material support to terrorist organizations.
Sec. 103. Modification of material support provision.
Sec. 104. Acts of terrorism transcending national boundaries.
Sec. 105. Conspiracy to harm people and property overseas.
Sec. 106. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
Sec. 107. Expansion and modification of weapons of mass destruction statute.
Sec. 108. Addition of offenses to the money laundering statute.
Sec. 109. Expansion of Federal jurisdiction over bomb threats.
Sec. 110. Clarification of maritime violence jurisdiction.
Sec. 111. Possession of stolen explosives prohibited.
Sec. 112. Study and recommendations for assessing and reducing the threat to law enforcement officers from the criminal use of firearms and ammunition.

TITLE II—INCREASED PENALTIES

Sec. 201. Mandatory minimum for certain explosives offenses.
Sec. 202. Increased penalty for explosive conspiracies.
Sec. 203. Increased and alternate conspiracy penalties for terrorism offenses.
Sec. 204. Mandatory penalty for transferring a firearm knowing that it will be used to commit a crime of violence.
Sec. 205. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.
Sec. 206. Directions to Sentencing Commission.
Sec. 207. Amendment of sentencing guidelines to provide for enhanced penalties for a defendant who commits a crime while in possession of a firearm with a laser sighting device.

TITLE III—INVESTIGATIVE TOOLS

Sec. 301. Study of tagging explosive materials, detection of explosives and explosive materials, rendering explosive components inert, and imposing controls of precursors of explosives.
Sec. 302. Exclusion of certain types of information from wiretap-related definitions.
Sec. 303. Requirement to preserve record evidence.
Sec. 304. Detention hearing.
Sec. 305. Protection of Federal Government buildings in the District of Columbia.
Sec. 306. Study of thefts from armories; report to the Congress.

TITLE IV—NUCLEAR MATERIALS

Sec. 401. Expansion of nuclear materials prohibitions.

VOL
142
PT
5
MR
21
—
29
1996
UMI

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

Sec. 501. Definitions.
Sec. 502. Requirement of detection agents for plastic explosives.
Sec. 503. Criminal sanctions.
Sec. 504. Exceptions.
Sec. 505. Effective date.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

Sec. 601. Funding for detention and removal of alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

Sec. 611. Denial of asylum to alien terrorists.
Sec. 612. Denial of other relief for alien terrorists.

Subtitle B—Expedited Exclusion

Sec. 621. Inspection and exclusion by immigration officers.
Sec. 622. Judicial review.
Sec. 623. Exclusion of aliens who have not been inspected and admitted.

Subtitle C—Improved Information and Processing

PART 1—IMMIGRATION PROCEDURES

Sec. 631. Access to certain confidential INS files through court order.
Sec. 632. Waiver authority concerning notice of denial of application for visas.

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

Sec. 641. Criminal forfeiture for passport and visa related offenses.
Sec. 642. Subpoenas for bank records.
Sec. 643. Effective date.

Subtitle D—Employee Verification by Security Services Companies

Sec. 651. Permitting security services companies to request additional documentation.

Subtitle E—Criminal Alien Deportation Improvements

Sec. 661. Short title.
Sec. 662. Additional expansion of definition of aggravated felony.
Sec. 663. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 664. Restricting the defense to exclusion based on 7 years permanent residence for certain criminal aliens.
Sec. 665. Limitation on collateral attacks on underlying deportation order.
Sec. 666. Criminal alien identification system.
Sec. 667. Establishing certain alien smuggling-related crimes as RICO-predicate offenses.
Sec. 668. Authority for alien smuggling investigations.
Sec. 669. Expansion of criteria for deportation for crimes of moral turpitude.
Sec. 670. Miscellaneous provisions.
Sec. 671. Construction of expedited deportation requirements.
Sec. 672. Study of prisoner transfer treaty with Mexico.
Sec. 673. Justice Department assistance in bringing to justice aliens who flee prosecution for crimes in the United States.
Sec. 674. Prisoner transfer treaties.
Sec. 675. Interior repatriation program.
Sec. 676. Deportation of nonviolent offenders prior to completion of sentence of imprisonment.
Sec. 677. Authorizing state and local law enforcement officials to arrest and detain certain illegal aliens.

TITLE VII—AUTHORIZATION AND FUNDING

Sec. 701. Firefighter and emergency services training.
Sec. 702. Assistance to foreign countries to procure explosive detection devices and other counter-terrorism technology.
Sec. 703. Research and development to support counter-terrorism technologies.
Sec. 704. Sense of Congress.

TITLE VIII—MISCELLANEOUS

Sec. 801. Study of State licensing requirements for the purchase and use of high explosives.
Sec. 802. Compensation of victims of terrorism.
Sec. 803. Jurisdiction for lawsuits against terrorist states.
Sec. 804. Study of publicly available instructional material on the making of bombs, destructive devices, and weapons of mass destruction.
Sec. 805. Compilation of statistics relating to intimidation of Government employees.
Sec. 806. Victim Restitution Act of 1995.
Sec. 807. Overseas law enforcement training activities.
Sec. 808. Closed circuit televised court proceedings for victims of crime.
Sec. 809. Authorization of appropriations.

TITLE IX—HABEAS CORPUS REFORM

Sec. 901. Filing deadlines.
Sec. 902. Appeal.
Sec. 903. Amendment of Federal rules of appellate procedure.
Sec. 904. Section 2254 amendments.
Sec. 905. Section 2255 amendments.
Sec. 906. Limits on second or successive applications.
Sec. 907. Death penalty litigation procedures.
Sec. 908. Technical amendment.
Sec. 909. Severability.

TITLE X—INTERNATIONAL COUNTERFEITING

Sec. 1001. Short title.
Sec. 1002. Audits of international counterfeiting of United States currency.
Sec. 1003. Law enforcement and sentencing provisions relating to international counterfeiting of United States currency.

TITLE XI—BIOLOGICAL WEAPONS RESTRICTIONS

Sec. 1101. Short title.
Sec. 1102. Attempts to acquire under false pretenses.
Sec. 1103. Inclusion of recombinant molecules.
Sec. 1104. Definitions.
Sec. 1105. Threatening use of certain weapons.
Sec. 1106. Inclusions of recombinant molecules and biological organisms in definition.

TITLE XII—COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

Sec. 1201. Establishment.
Sec. 1202. Duties.
Sec. 1203. Membership and administrative provisions.
Sec. 1204. Staffing and support functions.
Sec. 1205. Powers.
Sec. 1206. Report.
Sec. 1207. Termination.

TITLE XIII—REPRESENTATION FEES

Sec. 1301. Representation fees in criminal cases.

TITLE XIV—DEATH PENALTY AGGRAVATING FACTOR

Sec. 1401. Death penalty aggravating factor.

TITLE XV—FINANCIAL TRANSACTIONS WITH TERRORISTS

Sec. 1501. Financial transactions with terrorists.

TITLE I—CRIMINAL ACTS

SEC. 101. PROTECTION OF FEDERAL EMPLOYEES.

(a) HOMICIDE.—Section 1114 of title 18, United States Code, is amended to read as follows:

"§1114. Protection of officers and employees of the United States

"Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished, in the case of murder, as provided under section 1111, or in the case of manslaughter, as provided under section 1112, or, in the case of attempted murder or manslaughter, as provided in section 1113.".

(b) THREATS AGAINST FORMER OFFICERS AND EMPLOYEES.—Section 115(a)(2) of title 18, United States Code, is amended by inserting ", or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or" after "assaults, kidnaps, or murders, or attempts to kidnap or murder".

SEC. 102. PROHIBITING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—That chapter 113B of title 18, United States Code, that relates to terrorism is amended by adding at the end the following:

"§2339B. Providing material support to terrorist organizations

"(a) OFFENSE.—Whoever, within the United States, knowingly provides material support or resources in or affecting interstate or foreign commerce, to any organization which the person knows is a terrorist organization that has been designated under section 212(a)(3)(B)(iv) of the Immigration and Nationality Act as a terrorist organization shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) DEFINITION.—As used in this section, the term 'material support or resources' has the meaning given that term in section 2339A of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

"2339B. Providing material support to terrorist organizations.".

SEC. 103. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended read as follows:

"§2339A. Providing material support to terrorists

"(a) OFFENSE.—Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for or in carrying out, a violation of section 32, 37, 81, 175, 351, 831, 842 (m) or (n), 844 (f) or (i), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, or 2340A of this title or section 46502 of title 49, or in preparation for or in carrying out the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

"(b) DEFINITION.—In this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other

physical assets, except medicine or religious materials.".

SEC. 104. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after section 2332a the following:

"§2332b. Acts of terrorism transcending national boundaries

"(a) PROHIBITED ACTS.—

"(1) Whoever, involving any conduct transcending national boundaries and in a circumstance described in subsection (b)—

"(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any individual within the United States; or

"(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

in violation of the laws of any State or the United States shall be punished as prescribed in subsection (c).

"(2) Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished as prescribed in subsection (c).

"(b) JURISDICTIONAL BASES.—The circumstances referred to in subsection (a) are—

"(1) any of the offenders travels in, or uses the mail or any facility of, interstate or foreign commerce in furtherance of the offense or to escape apprehension after the commission of the offense;

"(2) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

"(3) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

"(4) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, used by, or leased to the United States, or any department or agency thereof;

"(5) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

"(6) the offense is committed in those places within the United States that are in the special maritime and territorial jurisdiction of the United States.

Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of such circumstances is applicable to at least one offender.

"(c) PENALTIES.—

"(1) Whoever violates this section shall be punished—

"(A) for a killing or if death results to any person from any other conduct prohibited by this section by death, or by imprisonment for any term of years or for life;

"(B) for kidnapping, by imprisonment for any term of years or for life;

"(C) for maiming, by imprisonment for not more than 35 years;

"(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

"(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

"(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

"(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

"(2) Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

"(d) LIMITATION ON PROSECUTION.—No indictment shall be sought nor any information filed for any offense described in this section until the Attorney General, or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, makes a written certification that, in the judgment of the certifying official, such offense, or any activity preparatory to or meant to conceal its commission, is a Federal crime of terrorism.

"(e) PROOF REQUIREMENTS.—

"(1) The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

"(2) In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

"(f) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

"(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

"(2) over conduct which, under section 3 of this title, renders any person an accessory after the fact to an offense under subsection (a).

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'conduct transcending national boundaries' means conduct occurring outside the United States in addition to the conduct occurring in the United States;

"(2) the term 'facility of interstate or foreign commerce' has the meaning given that term in section 1958(b)(2) of this title;

"(3) the term 'serious bodily injury' has the meaning prescribed in section 1365(g)(3) of this title;

"(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) the term 'Federal crime of terrorism' means an offense that—

"(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

"(B) is a violation of—

"(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear weapons), 842(m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844(f) or (i) (relating to arson and bombing of certain property), 956 (relating to conspiracy to commit violent acts in foreign countries), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property), 1362 (relating to destruction of communication lines), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 2152 (relating to injury of harbor defenses), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and violence outside the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title;

"(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954; or

"(iii) section 46502 (relating to aircraft piracy), or 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

"(h) INVESTIGATIVE AUTHORITY.—In addition to any other investigatory authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, that relates to terrorism is amended by inserting after the item relating to section 2332a the following new item:

"2332b. Acts of terrorism transcending national boundaries.".

(c) STATUTE OF LIMITATIONS[1] AMENDMENT.—Section 3286 of title 18, United States Code, is amended by—

(1) striking "any offense" and inserting "any non-capital offense";

(2) striking "36" and inserting "37";

(3) striking "2331" and inserting "2332";

(4) striking "2339" and inserting "2332a"; and

(5) inserting "2332b (acts of terrorism transcending national boundaries)," after "(use of weapons of mass destruction),".

(d) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting ", 956(a), or 2332b" after "section 924(c)".

(e) CONFORMING AMENDMENT.—Section 846 of title 18, United States Code, is amended by striking "In addition to any other" and all that follows through the end of the section.

SEC. 105. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

"§956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

"(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to

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effect any object of the conspiracy, be punished as provided in subsection (a)(2).

"(2) The punishment for an offense under subsection (a)(1) of this section is—

"(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

"(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

"(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.".

(b) CLERICAL AMENDMENT.—The item relating to section 956 in the table of sections at the beginning of chapter 45 of title 18, United States Code, is amended to read as follows:

"956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.".

SEC. 106. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking "and later found in the United States";

(2) so that paragraph (2) reads as follows:

"(2) There is jurisdiction over the offense in paragraph (1) if—

"(A) a national of the United States was aboard the aircraft;

"(B) an offender is a national of the United States; or

"(C) an offender is afterwards found in the United States."; and

(3) by inserting after paragraph (2) the following:

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking ", if the offender is later found in the United States,"; and

(2) by inserting at the end the following: "There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.".

(c) MURDER OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

"(7) 'National of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."; and

(2) in subsection (c), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(d) PROTECTION OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (e), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(e) THREATS AND EXTORTION AGAINST FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (d), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(f) KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States."; and

(2) by adding at the end the following: "For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting "(A)" before "the offender is later found in the United States"; and

(2) by inserting "; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))" after "the offender is later found in the United States".

(h) BIOLOGICAL WEAPONS.—Section 178 of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding the following at the end:

"(5) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

SEC. 107. EXPANSION AND MODIFICATION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "AGAINST A NATIONAL OR WITHIN THE UNITED STATES" after "OFFENSE";

(B) by inserting ", without lawful authority" after "A person who";

(C) by inserting "threatens," before "attempts or conspires to use, a weapon of mass destruction"; and

(D) by inserting "and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce" before the semicolon at the end of paragraph (2);

(2) in subsection (b)(2)(A), by striking "section 921" and inserting "section 921(a)(4) (other than subparagraphs (B) and (C))";

(3) in subsection (b), so that subparagraph (B) of paragraph (2) reads as follows:

"(B) any weapon that is designed to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;";

(4) by redesignating subsection (b) as subsection (c); and

(5) by inserting after subsection (a) the following new subsection:

"(b) OFFENSE BY NATIONAL OUTSIDE THE UNITED STATES.—Any national of the United States who, without lawful authority and outside the United States, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.".

SEC. 108. ADDITION OF OFFENSES TO THE MONEY LAUNDERING STATUTE.

(a) MURDER AND DESTRUCTION OF PROPERTY.—Section 1956(c)(7)(B)(ii) of title 18, United States Code, is amended by striking "or extortion;" and inserting "extortion, murder, or destruction of property by means of explosive or fire;".

(b) SPECIFIC OFFENSES.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting after "an offense under" the following: "section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),";

(2) by inserting after "section 215 (relating to commissions or gifts for procuring loans)," the following: "section 351 (relating to Congressional or Cabinet officer assassination),";

(3) by inserting after "section 793, 794, or 798 (relating to espionage)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),";

(4) by inserting after "section 875 (relating to interstate communications)," the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),";

(5) by inserting after "1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution)," the following: "section 1111 (relating to murder), section 1114 (relating to protection of officers and employees of the United States), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),";

(6) by inserting after "section 1203 (relating to hostage taking)," the following: "section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),";

(7) by inserting after "section 1708 (theft from the mail)," the following: "section 1751 (relating to Presidential assassination),";

(8) by inserting after "2114 (relating to bank and postal robbery and theft)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),"; and

(9) by striking "of this title" and inserting the following: "section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code".

SEC. 109. EXPANSION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended by striking "commerce," and inserting "interstate or foreign commerce, or in or affecting interstate or foreign commerce,".

SEC. 110. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking "and the activity is not prohibited as a crime by the State in which the activity takes place"; and

(2) in clause (iii), by striking "the activity takes place on a ship flying the flag of a foreign country or outside the United States,".

SEC. 111. POSSESSION OF STOLEN EXPLOSIVES PROHIBITED.

Section 842(h) of title 18, United States Code, is amended to read as follows:

"(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.".

SEC. 112. STUDY AND RECOMMENDATIONS FOR ASSESSING AND REDUCING THE THREAT TO LAW ENFORCEMENT OFFICERS FROM THE CRIMINAL USE OF FIREARMS AND AMMUNITION.

(a) The Secretary of the Treasury, in conjunction with the Attorney General, shall conduct a study and make recommendations concerning—

(1) the extent and nature of the deaths and serious injuries, in the line of duty during the last decade, for law enforcement officers, including—

(A) those officers who were feloniously killed or seriously injured and those that died or were seriously injured as a result of accidents or other non-felonious causes; and

(B) those officers feloniously killed or seriously injured with firearms, those killed or seriously injured with, separately, handguns firing handgun caliber ammunition, handguns firing rifle caliber ammunition, rifles firing rifle caliber ammunition, rifles firing handgun caliber ammunition and shotguns; and

(C) those officers feloniously killed or seriously injured with firearms, and killings or serious injuries committed with firearms taken by officers' assailants from officers, and those committed with other officers' firearms; and

(D) those killed or seriously injured because shots attributable to projectiles defined as "armor piercing ammunition" under 18, §921(a)(17)(B) (i) and (ii) pierced the protective material of bullet resistant vests and bullet resistant headgear; and

(2) whether current passive defensive strategies, such as body armor, are adequate to counter the criminal use of firearms against law officers; and

(3) the calibers of ammunition that are—

(A) sold in the greatest quantities; and

(B) their common uses, according to consultations with industry, sporting organizations and law enforcement; and

(C) the calibers commonly used for civilian defensive or sporting uses that would be affected by any prohibition on non-law enforcement sales of such ammunition, if such ammunition is capable of penetrating minimum level bullet resistant vests; and

(D) recommendations for increase in body armor capabilities to further protect law enforcement from threat.

(b) In conducting the study, the Secretary shall consult with other Federal, State and local officials, non-governmental organizations, including all national police organizations, national sporting organizations and national industry associations with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be presented to Congress twelve months after the enactment of this Act and made available to the public, including any data tapes or data used to form such recommendations.

(c) There are authorized to be appropriated for the study and recommendations such sums as may be necessary.

TITLE II—INCREASED PENALTIES

SEC. 201. MANDATORY MINIMUM FOR CERTAIN EXPLOSIVES OFFENSES.

(a) INCREASED PENALTIES FOR DAMAGING CERTAIN PROPERTY.—Section 844(f) of title 18, United States Code, is amended to read as follows:

"(f) Whoever damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be fined under this title or imprisoned for not more than 25 years, or both, but—

"(1) if personal injury results to any person other than the offender, the term of imprisonment shall be not more than 40 years;

"(2) if fire or an explosive is used and its use creates a substantial risk of serious bodily injury to any person other than the offender, the term of imprisonment shall not be less than 20 years; and

"(3) if death results to any person other than the offender, the offender shall be subject to the death penalty or imprisonment for any term of years not less than 30, or for life.".

(b) CONFORMING AMENDMENT.—Section 81 of title 18, United States Code, is amended by striking "fined under this title or imprisoned not more than five years, or both" and inserting "imprisoned not more than 25 years or fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both".

(c) STATUTE OF LIMITATION FOR ARSON OFFENSES.—

(1) Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§3295. Arson offenses

"No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 of this title unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.".

(2) The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3295. Arson offenses.".

(3) Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

SEC. 202. INCREASED PENALTY FOR EXPLOSIVE CONSPIRACIES.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 203. INCREASED AND ALTERNATE CONSPIRACY PENALTIES FOR TERRORISM OFFENSES.

(a) TITLE 18 OFFENSES.—

(1) Sections 32(a)(7), 32(b)(4), 37(a), 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H), and 2281(a)(1)(F) of title 18, United States Code, are each amended by inserting "or conspires" after "attempts".

(2) Section 115(b)(2) of title 18, United States Code, is amended by striking "or attempted kidnapping" both places it appears and inserting ", attempted kidnapping, or conspiracy to kidnap".

(3)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking "or attempted murder" and inserting ", attempted murder, or conspiracy to murder".

(B) Section 115(b)(3) of title 18, United States Code, is amended by striking "and 1113" and inserting ", 1113, and 1117".

(4) Section 175(a) of title 18, United States Code, is amended by inserting "or conspires to do so," after "any organization to do so,".

(b) AIRCRAFT PIRACY.—

(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting "or conspiring" after "attempting".

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting "or conspiring to commit" after "committing".

SEC. 204. MANDATORY PENALTY FOR TRANSFERRING A FIREARM KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 924(h) of title 18, United States Code, is amended by striking "imprisoned not more than 10 years, fined in accordance with this title, or both." and inserting "subject to the same penalties as may be imposed under subsection (c) for a first conviction for the use or carrying of the firearm.".

SEC. 205. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3) of this title) or drug trafficking crime (as defined in section 924(c)(2) of this title) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of the explosive materials.".

SEC. 206. DIRECTIONS TO SENTENCING COMMISSION.

The United States Sentencing Commission shall forthwith, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired, amend the sentencing guidelines so that the chapter 3 adjustment relating to international terrorism only applies to Federal crimes of terrorism, as defined in section 2332b(g) of title 18, United States Code.

SEC. 207. AMENDMENT OF SENTENCING GUIDELINES TO PROVIDE FOR ENHANCED PENALTIES FOR A DEFENDANT WHO COMMITS A CRIME WHILE IN POSSESSION OF A FIREARM WITH A LASER SIGHTING DEVICE.

Not later than May 1, 1997, the United States Sentencing Commission shall, pursuant to its authority under section 994 of title 28, United

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States Code, amend the sentencing guidelines (and, if the Commission considers it appropriate, the policy statements of the Commission) to provide that a defendant convicted of a crime shall receive an appropriate sentence enhancement if, during the crime—

(1) the defendant possessed a firearm equipped with a laser sighting device; or

(2) the defendant possessed a firearm, and the defendant (or another person at the scene of the crime who was aiding in the commission of the crime) possessed a laser sighting device capable of being readily attached to the firearm.

TITLE III—INVESTIGATIVE TOOLS

SEC. 301. STUDY OF TAGGING EXPLOSIVE MATERIALS, DETECTION OF EXPLOSIVES AND EXPLOSIVE MATERIALS, RENDERING EXPLOSIVE COMPONENTS INERT, AND IMPOSING CONTROLS OF PRECURSORS OF EXPLOSIVES.

(a) STUDY.—The Attorney General, in consultation with other Federal, State and local officials with expertise in this area and such other individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the tagging of explosive materials for purposes of detection and identification;

(2) technology for devices to improve the detection of explosives materials;

(3) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(4) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible to require it.

(b) EXCLUSION.—No study undertaken under this section shall include black or smokeless powder among the explosive materials considered.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 302. EXCLUSION OF CERTAIN TYPES OF INFORMATION FROM WIRETAP-RELATED DEFINITIONS.

(a) DEFINITION OF "ELECTRONIC COMMUNICATION".—Section 2510(12) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by inserting "or" at the end of subparagraph (C); and

(3) by adding a new subparagraph (D), as follows:

"(D) information stored in a communications system used for the electronic storage and transfer of funds;"

(b) DEFINITION OF "READILY ACCESSIBLE TO THE GENERAL PUBLIC".—Section 2510(16) of title 18, United States Code, is amended—

(1) by inserting "or" at the end of subparagraph (D);

(2) by striking "or" at the end of subparagraph (E); and

(3) by striking subparagraph (F).

SEC. 303. REQUIREMENT TO PRESERVE RECORD EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

"(f) REQUIREMENT TO PRESERVE EVIDENCE.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records, and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity.".

SEC. 304. DETENTION HEARING.

Section 3142(f) of title 18, United States Code, is amended by inserting "(not including any intermediate Saturday, Sunday, or legal holiday)" after "five days" and after "three days".

SEC. 305. PROTECTION OF FEDERAL GOVERNMENT BUILDINGS IN THE DISTRICT OF COLUMBIA.

The Attorney General is authorized—

(1) to prohibit vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia which is in whole or in part owned, possessed, used by, or leased to the Federal Government and used by Federal law enforcement authorities; and

(2) to prohibit any person or entity from conducting business on any property immediately adjacent to any such building.

SEC. 306. STUDY OF THEFTS FROM ARMORIES; REPORT TO THE CONGRESS.

(a) STUDY.—The Attorney General of the United States shall conduct a study of the extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report on the study required by subsection (a).

TITLE IV—NUCLEAR MATERIALS

SEC. 401. EXPANSION OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "nuclear material" each place it appears and inserting "nuclear material or nuclear byproduct material";

(2) in subsection (a)(1)(A), by inserting "or the environment" after "property";

(3) so that subsection (a)(1)(B) reads as follows:

"(B)(i) circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property or the environment; or (ii) such circumstances are represented to the defendant to exist;";

(4) in subsection (a)(6), by inserting "or the environment" after "property";

(5) so that subsection (c)(2) reads as follows:

"(2) an offender or a victim is a national of the United States or a United States corporation or other legal entity;";

(6) in subsection (c)(3), by striking "at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and";

(7) by striking "or" at the end of subsection (c)(3);

(8) in subsection (c)(4), by striking "nuclear material for peaceful purposes" and inserting "nuclear material or nuclear byproduct material";

(9) by striking the period at the end of subsection (c)(4) and inserting "; or";

(10) by adding at the end of subsection (c) the following:

"(5) the governmental entity under subsection (a)(5) is the United States or the threat under subsection (a)(6) is directed at the United States.";

(11) in subsection (f)(1)(A), by striking "with an isotopic concentration not in excess of 80 percent plutonium 238";

(12) in subsection (f)(1)(C) by inserting "enriched uranium, defined as" before "uranium";

(13) in subsection (f), by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(14) by inserting after subsection (f)(1) the following:

"(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;";

(15) by striking "and" at the end of subsection (f)(4), as redesignated;

(16) by striking the period at the end of subsection (f)(5), as redesignated, and inserting a semicolon; and

(17) by adding at the end of subsection (f) the following:

"(6) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, district, commonwealth, territory or possession of the United States.".

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

SEC. 501. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following:

"(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

"(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

"(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

"(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

"(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

"(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

"(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

"(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form have a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.".

SEC. 502. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following:

"(l) It shall be unlawful for any person to manufacture any plastic explosive which does not contain a detection agent.

"(m)(1) it shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive which does not contain a detection agent.

"(2) Until the 15-year period that begins with the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military Reserve component) or by or on behalf of the National Guard of any State.

"(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive which does not contain a detection agent.

"(2)(A) During the 3-year period that begins on the effective date of this subsection, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before such effective date by any person.

"(B) Until the 15-year period that begins on the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State.

"(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the effective date of this subsection, to fail to report to the Secretary within 120 days after the effective date of this subsection the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may by regulations prescribe.".

SEC. 503. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

"(a) Any person who violates subsections (a) through (i) or (l) through (o) of section 842 of this title shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 504. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "(l), (m), (n), or (o) of section 842 and subsections" after "subsections";

(2) in subsection (a)(1), by inserting "and which pertains to safety" before the semicolon; and

(3) by adding at the end the following:

"(c) It is an affirmative defense against any proceeding involving subsection (l), (m), (n), or (o) of section 842 of this title if the proponent proves by a preponderance of the evidence that the plastic explosive—

"(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

"(A) research, development, or testing of new or modified explosive materials;

"(B) training in explosives detection or development or testing of explosives detection equipment; or

"(C) forensic science purposes; or

"(2) was plastic explosive which, within 3 years after the effective date of this paragraph, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located. For purposes of this subsection, the term 'military device' includes shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.".

SEC. 505. EFFECTIVE DATE.

The amendments made by this title shall take effect 1 year after the date of the enactment of this Act.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

SEC. 601. FUNDING FOR DETENTION AND REMOVAL OF ALIEN TERRORISTS.

In addition to amounts otherwise appropriated, there are authorized to be appropriated for each fiscal year (beginning with fiscal year 1996) $5,000,000 to the Immigration and Naturalization Service for the purpose of detaining and removing alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

SEC. 611. DENIAL OF ASYLUM TO ALIEN TERRORISTS.

(a) IN GENERAL.—Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)) is amended by adding at the end the following: "The Attorney General may not grant an alien asylum if the Attorney General determines that the alien is excludable under subclause (I), (II), or (III) of section 212(a)(3)(B)(i) or deportable under section 241(a)(4)(B).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to asylum determinations made on or after such date.

SEC. 612. DENIAL OF OTHER RELIEF FOR ALIEN TERRORISTS.

(a) WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following new sentence: "For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.".

(b) SUSPENSION OF DEPORTATION.—Section 244(a) of such Act (8 U.S.C. 1254(a)) is amended by striking "section 241(a)(4)(D)" and inserting "subparagraph (B) or (D) of section 241(a)(4)".

(c) VOLUNTARY DEPARTURE.—Section 244(e)(2) of such Act (8 U.S.C. 1254(e)(2)) is amended by inserting "under section 241(a)(4)(B) or" after "who is deportable".

(d) ADJUSTMENT OF STATUS.—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended—

(1) by striking "or" before "(5)", and

(2) by inserting before the period at the end the following: ", or (6) an alien who is deportable under section 241(a)(4)(B)".

(e) REGISTRY.—Section 249(d) of such Act (8 U.S.C. 1259(d)) is amended by inserting "and is not deportable under section 241(a)(4)(B)" after "ineligible to citizenship".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

Subtitle B—Expedited Exclusion

SEC. 621. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) IN GENERAL.—Subsection (b) of section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended to read as follows:

"(b)(1)(A) If the examining immigration officer determines that an alien seeking entry—

"(i) is excludable under section 212(a)(6)(C) or 212(a)(7), and

"(ii) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution,

the officer shall order the alien excluded from the United States without further hearing or review.

"(B) The examining immigration officer shall refer for an interview by an asylum officer under subparagraph (C) any alien who is excludable under section 212(a)(6)(C) or 212(a)(7) and has indicated an intention to apply for asylum under section 208 or a fear of persecution.

"(C)(i) An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (B).

"(ii) If the officer determines at the time of the interview that an alien has a credible fear of persecution (as defined in clause (v)), the alien shall be detained for an asylum hearing before an asylum officer under section 208.

"(iii)(I) Subject to subclause (II), if the officer determines that the alien does not have a credible fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

"(II) The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum office at the port of entry of a determination under subclause (I).

"(iv) The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

"(v) For purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

"(D) As used in this paragraph, the term 'asylum officer' means an immigration officer who—

"(i) has had professional training in country conditions, asylum law, and interview techniques; and

"(ii) is supervised by an officer who meets the condition in clause (i).

"(E)(i) An exclusion order entered in accordance with subparagraph (A) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

"(ii) In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of exclusion entered under subparagraph (A).

"(2)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

"(B) The provisions of subparagraph (A) shall not apply—

"(i) to an alien crewman,

"(ii) to an alien described in paragraph (1)(A) or (1)(C)(iii)(I), or

"(iii) if the conditions described in section 273(d) exist.

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"(3) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.".

(b) CONFORMING AMENDMENT.—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "Deportation" and inserting "Subject to section 235(b)(1), deportation", and

(2) in the first sentence of paragraph (2), by striking "If" and inserting "Subject to section 235(b)(1), if".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

SEC. 622. JUDICIAL REVIEW.

(a) PRECLUSION OF JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) by amending the section heading to read as follows:

"JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION, AND SPECIAL EXCLUSION"; and

(2) by adding at the end the following new subsection:

"(e)(1) Notwithstanding any other provision of law, and except as provided in this subsection, no court shall have jurisdiction to review any individual determination, or to entertain any other cause or claim, arising from or relating to the implementation or operation of section 235(b)(1). Regardless of the nature of the action or claim, or the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection nor to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

"(2) Judicial review of any cause, claim, or individual determination covered under paragraph (1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

"(A) whether the petitioner is an alien, if the petitioner makes a showing that the petitioner's claim of United States nationality is not frivolous;

"(B) whether the petitioner was ordered specially excluded under section 235(b)(1)(A); and

"(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such review as is provided by the Attorney General pursuant to section 235(b)(1)(E)(i).

"(3) In any case where the court determines that an alien was not ordered specially excluded, or was not properly subject to special exclusion under the regulations adopted by the Attorney General, the court may order no relief beyond requiring that the alien receive a hearing in accordance with section 236, or a determination in accordance with section 235(c) or 273(d).

"(4) In determining whether an alien has been ordered specially excluded, the court's inquiry shall be limited to whether such an order was in fact issued and whether it relates to the petitioner.".

(b) PRECLUSION OF COLLATERAL ATTACKS.—Section 235 of such Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(d) In any action brought for the assessment of penalties for improper entry or re-entry of an alien under section 275 or section 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under this section or sections 236 and 242.".

(c) CLERICAL AMENDMENT.—The item relating to section 106 in the table of contents of such Act is amended to read as follows:

"Sec. 106. Judicial review of orders of deportation and exclusion, and special exclusion.".

SEC. 623. EXCLUSION OF ALIENS WHO HAVE NOT BEEN INSPECTED AND ADMITTED.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this title, an alien found in the United States who has not been admitted to the United States after inspection in accordance with section 235 is deemed for purposes of this Act to be seeking entry and admission to the United States and shall be subject to examination and exclusion by the Attorney General under chapter 4. In the case of such an alien the Attorney General shall provide by regulation an opportunity for the alien to establish that the alien was so admitted.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act.

Subtitle C—Improved Information and Processing

PART 1—IMMIGRATION PROCEDURES

SEC. 631. ACCESS TO CERTAIN CONFIDENTIAL INS FILES THROUGH COURT ORDER.

(a) LEGALIZATION PROGRAM.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting "(i)" after "except that the Attorney General", and

(2) by inserting after "title 13, United States Code" the following: "and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

"(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

"(II) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the legalization application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant".

(b) SPECIAL AGRICULTURAL WORKER PROGRAM.—Section 210(b) of such Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting ", except as allowed by a court order issued pursuant to paragraph (6)" after "consent of the alien", and

(2) in paragraph (6), by inserting after subparagraph (C) the following:

"Notwithstanding the previous sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used (i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or (ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the special agricultural worker application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant.".

SEC. 632. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by striking "If" and inserting "(1) Subject to paragraph (2), if"; and

(3) by adding at the end the following new paragraph:

"(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of aliens excludable under subsection (a)(2) or (a)(3).".

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

SEC. 641. CRIMINAL FORFEITURE FOR PASSPORT AND VISA RELATED OFFENSES.

Section 982 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after paragraph (5) the following new paragraph:

"(6) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States any property, real or personal, which the person used, or intended to be used, in committing, or facilitating the commission of, the violation, and any property constituting, or derived from, or traceable to, any proceeds the person obtained, directly or indirectly, as a result of such violation."; and

(2) in subsection (b)(1)(B), by inserting "or (a)(6)" after "(a)(2)".

SEC. 642. SUBPOENAS FOR BANK RECORDS.

Section 986(a) of title 18, United States Code, is amended by inserting "1028, 1541, 1542, 1543, 1544, 1546," before "1956".

SEC. 643. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

Subtitle D—Employee Verification by Security Services Companies

SEC. 651. PERMITTING SECURITY SERVICES COMPANIES TO REQUEST ADDITIONAL DOCUMENTATION.

(a) IN GENERAL.—Section 274B(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes" and inserting "(A) Except as provided in subparagraph (B), for purposes", and

(2) by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall not apply to a request made in connection with an individual seeking employment in a company (or division of a company) engaged in the business of providing security services to protect persons, institutions, buildings, or other possible targets of international terrorism (as defined in section 2331(1) of title 18, United States Code).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests for documents made on or after the date of the enactment of this Act with respect to individuals who are or were hired before, on, or after the date of the enactment of this Act.

Subtitle E—Criminal Alien Deportation Improvements

SEC. 661. SHORT TITLE.

This subtitle may be cited as the "Criminal Alien Deportation Improvements Act of 1995".

SEC. 662. ADDITIONAL EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended—

(1) in subparagraph (J), by inserting ", or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses)," after "corrupt organizations)";

(2) in subparagraph (K)—

(A) by striking "or" at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or";

(3) by amending subparagraph (N) to read as follows:

"(N) an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;";

(4) by amending subparagraph (O) to read as follows:

"(O) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 18 months;"

(5) in subparagraph (P), by striking "15 years" and inserting "5 years", and by striking "and" at the end;

(6) by redesignating subparagraphs (O), (P), and (Q) as subparagraphs (P), (Q), and (U), respectively;

(7) by inserting after subparagraph (N) the following new subparagraph:

"(O) an offense described in section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;"; and

(8) by inserting after subparagraph (Q), as so redesignated, the following new subparagraphs:

"(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which a sentence of 5 years' imprisonment or more may be imposed;

"(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to convictions entered on or after the date of the enactment of this Act, except that the amendment made by subsection (a)(3) shall take effect as if included in the enactment of section 222 of the Immigration and Nationality Technical Corrections Act of 1994.

SEC. 663. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ADMINISTRATIVE HEARINGS.—Section 242A(b) of the Immigration and Nationality Act (8 U.S.C. 1252a(b)), as added by section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A) and inserting "or", and

(B) by amending subparagraph (B) to read as follows:

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.";

(2) in paragraph (3), by striking "30 calendar days" and inserting "14 calendar days";

(3) in paragraph (4)(B), by striking "proccedings" and inserting "proceedings";

(4) in paragraph (4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(B) by adding after subparagraph (C) the following new subparagraphs:

"(D) such proceedings are conducted in, or translated for the alien into, a language the alien understands;

"(E) a determination is made for the record at such proceedings that the individual who appears to respond in such a proceeding is an alien subject to such an expedited proceeding under this section and is, in fact, the alien named in the notice for such proceeding;".

(5) by adding at the end the following new paragraph:

"(5) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in the Attorney General's discretion.".

(b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a), as added by section 130004(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended to read as follows:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) PRESUMPTION OF DEPORTABILITY.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting after subsection (b) the following new subsection:

"(c) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 664. RESTRICTING THE DEFENSE TO EXCLUSION BASED ON 7 YEARS PERMANENT RESIDENCE FOR CERTAIN CRIMINAL ALIENS.

The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.".

SEC. 665. LIMITATION ON COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.

(a) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to criminal proceedings initiated after the date of the enactment of this Act.

SEC. 666. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Section 130002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended to read as follows:

"(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.".

SEC. 667. ESTABLISHING CERTAIN ALIEN SMUGGLING-RELATED CRIMES AS RICO-PREDICATE OFFENSES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting "section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain," before "section 1029";

(2) by inserting "section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581–1588 (relating to peonage and slavery)," after "section 1513 (relating to retaliating against a witness, victim, or an informant),";

(3) by striking "or" before "(E)"; and

(4) by inserting before the period at the end the following: ", or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain".

SEC. 668. AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

"(o) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or".

VOL
142
PT
5
MR
21
—
29
1996
UMI

SEC. 669. EXPANSION OF CRITERIA FOR DEPORTATION FOR CRIMES OF MORAL TURPITUDE.

(a) IN GENERAL.—Section 241(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(II)) is amended to read as follows:

"(II) is convicted of a crime for which a sentence of one year or longer may be imposed,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 670. MISCELLANEOUS PROVISIONS.

(a) USE OF ELECTRONIC AND TELEPHONIC MEDIA IN DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien".

(b) CODIFICATION.—

(1) Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: "Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(2) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416) is amended by striking "and nothing in" and all that follows through "1252(i))".

(3) The amendments made by this subsection shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416).

SEC. 671. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 672. STUDY OF PRISONER TRANSFER TREATY WITH MEXICO.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the Prisoner Transfer Treaty with Mexico (in this section referred to as the "Treaty") to remove from the United States aliens who have been convicted of crimes in the United States.

(b) USE OF TREATY.—The report under subsection (a) shall include the following information:

(1) The number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the Treaty.

(2) The number of aliens described in paragraph (1) who have been transferred pursuant to the Treaty.

(3) The number of aliens described in paragraph (2) who have been incarcerated in full compliance with the Treaty.

(4) The number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty.

(5) The number of aliens described in paragraph (4) who are incarcerated in State and local penal institutions.

(c) EFFECTIVENESS OF TREATY.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the Treaty. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address the following areas:

(1) Changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(2) Changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(3) Changes in the Treaty that may be necessary to increase the number of aliens convicted of crimes who may be transferred pursuant to the Treaty.

(4) Methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty.

(5) Any recommendations of appropriate officials of the Mexican Government on programs to achieve the goals of, and ensure full compliance with, the Treaty.

(6) An assessment of whether the recommendations under this subsection require the renegotiation of the Treaty.

(7) The additional funds required to implement each recommendation under this subsection.

SEC. 673. JUSTICE DEPARTMENT ASSISTANCE IN BRINGING TO JUSTICE ALIENS WHO FLEE PROSECUTION FOR CRIMES IN THE UNITED STATES.

(a) ASSISTANCE TO STATES.—The Attorney General, in cooperation with the Commissioner of Immigration and Naturalization and the Secretary of State, shall designate an office within the Department of Justice to provide technical and prosecutorial assistance to States and political subdivisions of States in efforts to bring to justice aliens who flee prosecution for crimes in the United States.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Attorney General shall compile and submit to the Congress a report which assesses the nature and extent of the problem of bringing to justice aliens who flee prosecution for crimes in the United States.

SEC. 674. PRISONER TRANSFER TREATIES.

(a) NEGOTIATION.—Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of the enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations shall be to expedite the transfer of aliens unlawfully in the United States who are incarcerated in United States prisons, to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts, and to eliminate any requirement of prisoner consent to such a transfer.

(b) CERTIFICATION.—The President shall submit to the Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

SEC. 675. INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country's border with the United States.

SEC. 676. DEPORTATION OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.

(a) IN GENERAL.—Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

"(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

"(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

"(A) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

"(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

"(3) Any alien deported pursuant to this subsection shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens deported under paragraph (2).".

(b) REENTRY OF ALIEN DEPORTED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) amended by adding at the end the following new subsection:

"(c) Any alien deported pursuant to section 242(h)(2) who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.".

SEC. 677. AUTHORIZING STATE AND LOCAL LAW ENFORCEMENT OFFICIALS TO ARREST AND DETAIN CERTAIN ILLEGAL ALIENS.

(a) IN GENERAL.—Notwithstanding any other provision of law, to the extent permitted by relevant State and local law, State and local law enforcement officials are authorized to arrest and detain an individual who—

(1) is an alien illegally present in the United States and

(2) has previously been convicted of a felony in the United States and deported or left the United States after such conviction,

but only after the State or local law enforcement officials obtain appropriate confirmation from the Immigration and Naturalization Service of the status of such individual and only for such period of time as may be required for the Service to take the individual into Federal custody for purposes of deporting or removing the alien from the United States.

(b) COOPERATION.—The Attorney General shall cooperate with the States to assure that information in the control of the Attorney General, including information in the National Crime Information Center, that would assist State and local law enforcement officials in carrying out duties under subsection (a) is made available to such officials.

TITLE VII—AUTHORIZATION AND FUNDING

SEC. 701. FIREFIGHTER AND EMERGENCY SERVICES TRAINING.

The Attorney General may award grants in consultation with the Federal Emergency Management Agency for the purposes of providing specialized training or equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks. To carry out the purposes of this section, there is authorized to be appropriated $5,000,000 for fiscal year 1996.

SEC. 702. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTER-TERRORISM TECHNOLOGY.

There is authorized to be appropriated not to exceed $10,000,000 for fiscal years 1996 and 1997 to the President to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States or puts United States nationals at risk—

(1) in obtaining explosive detection devices and other counter-terrorism technology; and

(2) in conducting research and development projects on such technology.

SEC. 703. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTER-TERRORISM TECHNOLOGIES.

There are authorized to be appropriated not to exceed $10,000,000 to the National Institute of Justice Science and Technology Office—

(1) to develop technologies that can be used to combat terrorism, including technologies in the areas of—

(A) detection of weapons, explosives, chemicals, and persons;

(B) tracking;

(C) surveillance;

(D) vulnerability assessment; and

(E) information technologies;

(2) to develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and

(3) to identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

SEC. 704. SENSE OF CONGRESS.

It is the sense of Congress that, whenever practicable recipients of any sums authorized to be appropriated by this Act, should use the money to purchase American-made products.

TITLE VIII—MISCELLANEOUS

SEC. 801. STUDY OF STATE LICENSING REQUIREMENTS FOR THE PURCHASE AND USE OF HIGH EXPLOSIVES.

The Secretary of the Treasury, in consultation with the Federal Bureau of Investigation, shall conduct a study of State licensing requirements for the purchase and use of commercial high explosives, including detonators, detonating cords, dynamite, water gel, emulsion, blasting agents, and boosters. Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to Congress the results of this study, together with any recommendations the Secretary determines are appropriate.

SEC. 802. COMPENSATION OF VICTIMS OF TERRORISM.

(a) REQUIRING COMPENSATION FOR TERRORIST CRIMES.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(d)(3)) is amended—

(1) by inserting "crimes involving terrorism," before "driving while intoxicated"; and

(2) by inserting a comma after "driving while intoxicated".

(b) FOREIGN TERRORISM.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(6)(B)) is amended by inserting "are outside the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or" before "are States not having".

SEC. 803. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

"(A) if the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration;

"(B) if the claimant or victim was not a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when the act upon which the claim is based occurred; or

"(C) if the act occurred in the foreign state against which the claim has been brought and that state establishes that procedures and remedies are available in such state which comport with fundamental fairness and due process."; and

(2) by adding at the end the following:

"(e) For purposes of paragraph (7) of subsection (a)—

"(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

"(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

"(3) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

"(f) No action shall be maintained under subsection (a)(7) unless the action is commenced not later than 10 years after the date on which the cause of action arose. All principles of equitable tolling, including the period during which the foreign state was immune from suit, shall apply in calculating this limitation period.".

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting ", or"; and

(B) by adding at the end the following new paragraph:

"(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.".

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

(A) by striking "or (5)" and inserting "(5), or (7)"; and

(B) by striking "used for the activity" and inserting "involved in the act".

(c) APPLICABILITY.—The amendments made by this title shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

SEC. 804. STUDY OF PUBLICLY AVAILABLE INSTRUCTIONAL MATERIAL ON THE MAKING OF BOMBS, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.

(a) STUDY.—The Attorney General, in consultation with such other officials and individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the extent to which there are available to the public material in any medium (including print, electronic, or film) that instructs how to make bombs, other destructive devices, and weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic and international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism; and

(4) the application of existing Federal laws to such material, the need and utility, if any, for additional laws, and an assessment of the extent to which the First Amendment protects such material and its private and commercial distribution.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 805. COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.

(a) FINDINGS.—Congress finds that—

(1) threats of violence and acts of violence are mounting against Federal, State, and local government employees and their families in attempts to stop public servants from performing their lawful duties;

(2) these acts are a danger to our constitutional form of government; and

(3) more information is needed as to the extent of the danger and its nature so that steps can be taken to protect public servants at all levels of government in the performance of their duties.

(b) STATISTICS.—The Attorney General shall acquire data, for the calendar year 1990 and each succeeding calendar year about crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees in performance of their lawful duties. Such data shall include—

(1) in the case of crimes against such employees, the nature of the crime; and

(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees, whether or not criminally punishable, which deter the employees from the performance of their jobs.

(c) GUIDELINES.—The Attorney General shall establish guidelines for the collection of such data, including what constitutes sufficient evidence of noncriminal incidents required to be reported.

(d) ANNUAL PUBLISHING.—The Attorney General shall publish an annual summary of the data acquired under this section. Otherwise such data shall be used only for research and statistical purposes.

VOL
142
PT
5
MR
21
—
29
1996
UMI

(e) EXEMPTION.—The United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threats made against any individual for whom the United States Secret Service is authorized to provide protection.

SEC. 806. VICTIM RESTITUTION ACT OF 1995.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law" and inserting "shall order"; and

(ii) by adding at the end the following: "The requirement of this paragraph does not affect the power of the court to impose any other penalty authorized by law. In the case of a misdemeanor, the court may impose restitution in lieu of any other penalty authorized by law.";

(B) by adding at the end the following:

"(4) In addition to ordering restitution to the victim of the offense of which a defendant is convicted, a court may order restitution to any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(B) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (b)—

(A) by striking "and" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and";

(5) in subsection (c) by striking "If the court decides to order restitution under this section, the" and inserting "The";

(6) by striking subsections (d), (e), (f), (g), and (h);

(7) by redesignating subsection (i) as subsection (m); and

(8) by inserting after subsection (c) the following:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restitution order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender. A restitution order shall direct the offender to give appropriate notice to victims and other persons in cases where there are multiple victims or other persons who may receive restitution, and where the identity of such victims and other persons can be reasonably determined.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution to each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution to victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful; and

"(B) notify the court and the interested parties when an offender is 30 days in arrears in meeting those obligations; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. 807. OVERSEAS LAW ENFORCEMENT TRAINING ACTIVITIES.

The Director of the Federal Bureau of Investigation is authorized to support law enforcement training activities in foreign countries for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses.

SEC. 808. CLOSED CIRCUIT TELEVISED COURT PROCEEDINGS FOR VICTIMS OF CRIME.

(a) IN GENERAL.—Notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crime to watch criminal trial proceedings in cases where the venue of the trial is changed—

(1) out of the State in which the case was initially brought; and

(2) more than 350 miles from the location in which those proceedings originally would have taken place;

the courts involved shall, if donations under subsection (b) will defray the entire cost of doing so, order closed circuit televising of the proceedings to that location, for viewing by such persons the courts determine have a compelling interest in doing so and are otherwise unable to do so by reason of the inconvenience and expense caused by the change of venue.

(b) NO REBROADCAST.—No rebroadcast of the proceedings shall be made.

(c) LIMITED ACCESS.—

(1) GENERALLY.—No other person, other than official court and security personnel, or other persons specifically designated by the courts, shall be permitted to view the closed circuit televising of the proceedings.

(2) EXCEPTION.—The courts shall not designate a person under paragraph (1) if the presiding judge at the trial determines that testimony by that person would be materially affected if that person heard other testimony at the trial.

(d) DONATIONS.—The Administrative Office of the United States Courts may accept donations to enable the courts to carry out subsection (a). No appropriated money shall be used to carry out such subsection.

(e) DEFINITION.—As used in this section, the term "State" includes the District of Columbia and any other possession or territory of the United States.

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for each of fiscal years 1996 through 2000 to the Federal Bureau of Investigation such sums as are necessary—

(1) to hire additional personnel, and to procure equipment, to support expanded investigations of domestic and international terrorism activities;

(2) to establish a Domestic Counterterrorism Center to coordinate and centralize Federal, State, and local law enforcement efforts in response to major terrorist incidents, and as a clearinghouse for all domestic and international terrorism information and intelligence; and

(3) to cover costs associated with providing law enforcement coverage of public events offering the potential of being targeted by domestic or international terrorists.

TITLE IX—HABEAS CORPUS REFORM

SEC. 901. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

"(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

"(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

"(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.".

SEC. 902. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§2253. Appeal

"(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

"(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the United States, or to test the validity of such person's detention pending removal proceedings.

"(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

"(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

"(B) the final order in a proceeding under section 2255.

"(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

"(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).".

SEC. 903. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"Rule 22. Habeas corpus and section 2255 proceedings

"(a) APPLICATION FOR THE ORIGINAL WRIT.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

"(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or its representative, a certificate of appealability is not required.".

SEC. 904. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

"(A) the applicant has exhausted the remedies available in the courts of the State; or

"(B)(i) there is an absence of available State corrective process; or

"(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

"(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

"(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

"(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

"(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

"(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

"(A) the claim relies on—

"(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

"(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense."; and

(5) by adding at the end the following new subsections:

"(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.".

SEC. 905. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

VOL
142
PT
5
MR
21
—
29
1996
UMI

(2) by adding at the end the following new undesignated paragraphs:

"A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the date on which the judgment of conviction becomes final;

"(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

"(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

"Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

"(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

"(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.".

SEC. 906. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking "and the petition" and all that follows through "by such inquiry." and inserting ", except as provided in section 2255.".

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

"(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

"(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

"(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

"(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

"(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

"(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

"(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

"(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

"(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.".

SEC. 907. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2263. Filing of habeas corpus application; time requirements; tolling rules.
"2264. Scope of Federal review; district court adjudications.
"2265. Application to State unitary review procedure.
"2266. Limitation periods for determining applications and motions.

"§2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by State law, a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

"(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

"(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

"§2263. Filing of habeas corpus application; time requirements; tolling rules

"(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

"(b) The time requirements established by subsection (a) shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

"(3) during an additional period not to exceed 30 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

"§2264. Scope of Federal review; district court adjudications

"(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

"(1) the result of State action in violation of the Constitution or laws of the United States;

"(2) the result of the Supreme Court recognition of a new Federal right that is made retroactively applicable; or

"(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

"(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

"§2265. Application to State unitary review procedure

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) To qualify under this section, a unitary review procedure must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Sections 2262, 2263, 2264, and 2266 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to 'an order under section 2261(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

"§2266. Limitation periods for determining applications and motions

"(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

"(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

"(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

"(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

"(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

"(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

"(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

"(III) Whether the failure to allow a delay in a case, that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

"(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

"(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ or mandamus not later than 30 days after the filing of the petition.

"(5)(A) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

"(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

"(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

"(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

"(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

"(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.".

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases .... 2261".

(c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 908. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

"(9) Upon a finding that investigative, expert, or other services are reasonably necessary for

VOL 142 PT 5 MR 21 — 29 1996 UMI

the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.".

SEC. 909. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstances shall not be affected thereby.

TITLE X—INTERNATIONAL COUNTERFEITING

SEC. 1001. SHORT TITLE.

This title may be cited as the "International Counterfeiting Prevention Act of 1996".

SEC. 1002. AUDITS OF INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary"), in consultation with the advanced counterfeit deterrence steering committee, shall—

(1) study the use and holding of United States currency in foreign countries; and

(2) develop useful estimates of the amount of counterfeit United States currency that circulates outside the United States each year.

(b) EVALUATION AUDIT PLAN.—

(1) IN GENERAL.—The Secretary shall develop an effective international evaluation audit plan that is designed to enable the Secretary to carry out the duties described in subsection (a) on a regular and thorough basis.

(2) SUBMISSION OF DETAILED WRITTEN SUMMARY.—The Secretary shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act.

(3) 1ST EVALUATION AUDIT UNDER PLAN.—The Secretary shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

(4) SUBSEQUENT EVALUATION AUDITS.—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

(c) REPORTS.—

(1) IN GENERAL.—The Secretary shall submit a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

(2) CONTENTS.—In addition to such other information as the Secretary may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

(A) A detailed description of the evaluation audit process and the methods used to develop estimates of the amount of counterfeit United States currency in circulation outside the United States.

(B) The method used to determine the currency sample examined in connection with the evaluation audit and a statistical analysis of the sample examined.

(C) A list of the regions of the world, types of financial institutions, and other entities included.

(D) An estimate of the total amount of United States currency found in each region of the world.

(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

(3) CLASSIFICATION OF INFORMATION.—

(A) IN GENERAL.—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

(B) CLASSIFIED AND UNCLASSIFIED FORMS.—If, in the interest of submitting a complete report under this subsection, the Secretary determines that it is necessary to include classified information in the report, the report shall be submitted in a classified and an unclassified form.

(d) SUNSET PROVISION.—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act.

(e) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing any entity to conduct investigations of counterfeit United States currency.

SEC. 1003. LAW ENFORCEMENT AND SENTENCING PROVISIONS RELATING TO INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) FINDINGS.—The Congress hereby finds the following:

(1) United States currency is being counterfeited outside the United States.

(2) The 103d Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement of section 470 and related criminal provisions, has been delayed.

(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

(b) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

(1) IN GENERAL.—The Secretary of State shall—

(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Secretary of the Treasury considers appropriate in posts in overseas embassies; and

(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any information requested by the Secretary of State in connection with such requests.

(3) REPORTS REQUIRED.—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

(c) ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.

TITLE XI—BIOLOGICAL WEAPONS RESTRICTIONS

SEC. 1101. SHORT TITLE.

This Act may be cited as the "Biological Weapons Enhanced Penalties Act of 1996.".

SEC. 1102. ATTEMPTS TO ACQUIRE UNDER FALSE PRETENSES.

Section 175(a) of title 18, United States Code, is amended by inserting "attempts to acquire under false pretenses, after "acquires,".

SEC. 1103. INCLUSION OF RECOMBINANT MOLECULES.

Section 175 of title 18, United States Code, is amended by inserting "recombinant molecules," after "toxin," each place it appears.

SEC. 1104. DEFINITIONS.

Section 173 of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting "or naturally occurring or bioengineered component of any such microorganism, virus, or infectious substance," after "infectious substance";

(2) in paragraph (2)—

(A) by inserting "the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances" after "means"; and

(B) by inserting ", and includes" after "production";

(3) in paragraph (4), by inserting "or a molecule, including a recombinant molecule," after "organism".

SEC. 1105. THREATENING USE OF CERTAIN WEAPONS.

Section 2332a of title 18, United States Code, is amended by inserting ", threatens," after "uses, or".

SEC. 1106. INCLUSION OF RECOMBINANT MOLECULES AND BIOLOGICAL ORGANISMS IN DEFINITION.

Section 2332a(b)(2)(C) of title 18, United States Code, is amended by striking "disease organism" and inserting "biological agent or toxin, as those terms are defined in section 178".

TITLE XII—COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

SEC. 1201. ESTABLISHMENT.

There is established a commission to be known as the "Commission on the Advancement of Federal Law Enforcement" (in this title referred to as the "Commission").

SEC. 1202. DUTIES.

The Commission shall investigate, ascertain, evaluate, report, and recommend action to the Congress on the following matters:

(1) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.

(2) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement operations, and their uniformity and compatibility on an interagency basis, including standards related to the use of deadly force.

(3) The criminal investigation and handling by the United States Government, and the Federal law enforcement agencies therewith—

(A) on February 28, 1993, in Waco, Texas, with regard to the conception, planning, and

execution of search and arrest warrants that resulted in the deaths of 4 Federal law enforcement officers and 6 civilians;

(B) regarding the efforts to resolve the subsequent standoff in Waco, Texas, which ended in the deaths of over 80 civilians on April 19, 1993; and

(C) concerning other Federal criminal law enforcement cases, at the Commission's discretion, which have been presented to the courts or to the executive branch of Government in the last 25 years that are actions or complaints based upon claims of abuse of authority, practice, procedure, or violations of constitutional guarantees, and which may indicate a pattern or problem of abuse within an enforcement agency or a sector of the enforcement community.

(4) The necessity for the present number of Federal law enforcement agencies and units.

(5) The location and efficacy of the office or entity directly responsible, aside from the President of the United States, for the coordination on an interagency basis of the operations, programs, and activities of all of the Federal law enforcement agencies.

(6) The degree of assistance, training, education, and other human resource management assets devoted to increasing professionalism for Federal law enforcement officers.

(7) The independent accountability mechanisms that exist, if any, and their efficacy to investigate, address, and correct systemic or gross individual Federal law enforcement abuses.

(8) The extent to which Federal law enforcement agencies have attempted to pursue community outreach efforts that provide meaningful input into the shaping and formation of agency policy, including seeking and working with State and local law enforcement agencies on Federal criminal enforcement operations or programs that directly impact a State or local law enforcement agency's geographic jurisdiction.

(9) Such other related matters as the Commission deems appropriate.

SEC. 1203. MEMBERSHIP AND ADMINISTRATIVE PROVISIONS.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed as follows:

(1) 1 member appointed by the President pro tempore of the Senate.

(2) 1 member appointed by the minority leader of the Senate.

(3) 1 member appointed by the Speaker of the House of Representatives.

(4) 1 member appointed by the minority leader of the House of Representatives.

(5) 1 member (who shall chair the Commission) appointed by the Chief Justice of the Supreme Court.

(b) DISQUALIFICATION.—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

(c) TERMS.—Each member shall be appointed for the life of the Commission.

(d) QUORUM.—3 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(e) MEETINGS.—The Commission shall meet at the call of the Chair of the Commission.

(f) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day, including travel time, during which the member is engaged in the performance of the duties of the Commission.

SEC. 1204. STAFFING AND SUPPORT FUNCTIONS.

(a) DIRECTOR.—The Commission shall have a director who shall be appointed by the Chair of the Commission.

(b) STAFF.—Subject to rules prescribed by the Commission, the Director may appoint additional personnel as the Commission considers appropriate.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed per day the daily equivalent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

SEC. 1205. POWERS.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it. The Commission may establish rules for its proceedings.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission.

(d) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

(e) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) FAILURE TO OBEY SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to the United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(f) IMMUNITY.—The Commission is an agency of the United States for the purpose of part V of title 18, United States Code (relating to immunity of witnesses).

SEC. 1206. REPORT.

The Commission shall transmit a report to the Congress and the public not later than 2 years after a quorum of the Commission has been appointed. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for such actions as the Commission considers appropriate.

SEC. 1207. TERMINATION.

The Commission shall terminate 30 days after submitting the report required by this title.

TITLE XIII—REPRESENTATION FEES

SEC. 1301. REPRESENTATION FEES IN CRIMINAL CASES.

(a) IN GENERAL.—Section 3006A of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by redesignating paragraphs (4), (5) and (6) as paragraphs (5), (6), and (7), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) DISCLOSURE OF FEES.—The amounts paid under this subsection, for representation in any case, shall be made available to the public."; and

(2) in subsection (3) by adding at the end of the following:

"(4) DISCLOSURE OF FEES.—The amounts paid under this subsection for services in any case shall be made available to the public.".

(b) FEES AND EXPENSES AND CAPITAL CASES.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended to read as follows:

"(10)(A) Compensation shall be paid to attorneys appointed under this subsection at a rate of not less than $75, and not more than $125, per hour for in-court and out-of-court time, Fees and expenses shall be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9) at the rates and in the amounts authorized under section 3006A of title 18, United States Code.

"(B) The amounts paid under this paragraph for services in any case shall be made available to the public.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to cases commenced on or after the date of the enactment of this Act.

TITLE XIV—DEATH PENALTY AGGRAVATING FACTOR

SEC. 1401. DEATH PENALTY AGGRAVATING FACTOR.

Section 3592(c) of title 18, United States Code, is amended by adding after paragraph (15) the following:

"(16) MULTIPLE KILLINGS OR ATTEMPTED KILLINGS.—The defendant intentionally kills or attempts to kill more than one person in a single criminal episode.".

TITLE XV—FINANCIAL TRANSACTIONS WITH TERRORISTS

SEC. 1501. FINANCIAL TRANSACTIONS WITH TERRORISTS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting before section 2333 the following:

"§2332c. Financial transactions

"(a) Except as provided in regulations made by the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is a country that has been designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as a country supporting international terrorism; engages in a financial transaction with that country, shall be fined under this title or imprisoned not more than 10 years, or both.

VOL 142 PT 5 MR 21—29 1996 UMI

"(b) As used in this section—

"(1) the term 'financial transaction' has the meaning given that term in section 1956(c)(4); and

"(2) the term 'United States person' means any United States citizen or national, permanent resident alien, juridical person organized under the laws of the United States, or any person in the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter of title 18, United States Code, to which the amendment of subsection (a) was made is amended by inserting before the item relating to section 2333 the following new item:

"2332c. Financial transactions.".

Mr. COATS. Mr. President, I ask unanimous consent that the Senate disagree to the amendments of the House, agree to the request for a conference, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, the Presiding Officer (Mr. SMITH) appointed Mr. HATCH, Mr. THURMOND, Mr. SIMPSON, Mr. BIDEN, and Mr. KENNEDY conferees on the part of the Senate.

ORDERS FOR MONDAY, MARCH 25, 1996

Mr. COATS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Monday, March 25; further, that immediately following the prayer, the Journal of proceedings be approved to date, no resolutions come over under the rule, the call of the Calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to the consideration of calendar No. 300, H.R. 1296, the Presidio legislation; and further, that Senator MURKOWSKI be recognized at that time to offer a substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. COATS. Mr. President, for the information of all Senators, the Senate will debate the Presidio legislation on Monday. No rollcall votes will occur during Monday's session. Senators are expected to offer and debate their amendments to H.R. 1296 on Monday. Any votes ordered on those amendments will be stacked to occur during Tuesday's session.

ADJOURNMENT UNTIL 10 A.M., MONDAY, MARCH 25, 1996

Mr. COATS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:22 p.m., adjourned until Monday, March 25, 1996, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 21, 1996:

DEPARTMENT OF STATE

KENNETH C. BRILL, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CYPRUS.

GENTA HAWKINS HOLMES, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO AUSTRALIA.

THOMAS C. HUBBARD, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE PHILIPPINES AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PALAU.

DAY OLIN MOUNT, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ICELAND.

GLEN ROBERT RASE, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

DEPARTMENT OF JUSTICE

CALVIN D. BUCHANAN, OF MISSISSIPPI, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF MISSISSIPPI FOR THE TERM OF 4 YEARS, VICE ROBERT Q. WHITEWELL, RESIGNED.

HOUSE OF REPRESENTATIVES—*Thursday, March 21, 1996*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mrs. WALDHOLTZ].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 21, 1996.

I hereby designate the Honorable ENID G. WALDHOLTZ to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As the days lengthen and the Sun brightens our hours, so may we anticipate the renewal of the bounty of Your creation. When we see the blossoms of nature, may they recall for us the seasons of our own lives; as we await the warmth of the days, may we remember the warmth of Your grace that is ever with us. In all things, O God, may we experience the wonders of Your love and so live our lives with strength and hope. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New Jersey [Mr. PALLONE] come forward and lead the House in the Pledge of Allegiance.

Mr. PALLONE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment a bill of the House of the following title:

H.R. 3019. An act making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3019) "An act making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATFIELD, Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. GORTON, Mr. MCCONNELL, Mr. MACK, Mr. BURNS, Mr. SHELBY, Mr. JEFFORDS, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. KERREY, Mr. KOHL, and Mrs. MURRAY to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 942. An act to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes;

S. 956. An act to establish a Commission on Structural Alternatives for the Federal Courts of Appeals;

S. Con. Res. 47. Concurrent resolution to provide for a Joint Congressional Committee on Inaugural Ceremonies; and

S. Con. Res. 48. Concurrent resolution authorizing the rotunda of the United States Capitol to be used on January 20, 1997, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States.

The message also announced that pursuant to sections 276h–276k, of title 22, United States Code, the Chair, on behalf of the Vice President, appoints Mrs. HUTCHISON as the chairperson of the Senate delegation to the Mexico-United States Interparliamentary Union during the 2d session of the 104th Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes on each side.

VETO PRESIDENT POISED TO STRIKE AGAIN

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Madam Speaker, bowing to special interests, the veto President is poised to strike again. The President who stopped welfare reform, tax cuts, and a balanced budget announced this past weekend that he will veto a bipartisan legal reform bill.

As Governor of Arkansas, the President called for just this type of legislation to limit frivolous lawsuits and sky-high punitive damage awards. But as President, the special interest lobbying group of trial lawyers is a heavy contributor to his reelection campaign.

Democrat Senator JAY ROCKEFELLER said it best: "Special interests and raw political considerations in the White House have overridden sound policy judgment."

Raw political considerations drove the President to veto welfare reform after he promised to "end welfare as we know it." Political considerations made the President veto tax cuts and a balanced budget after he promised both. It is time for Bill Clinton to consider the American people—and not special interest lobbyists—for a change.

ANOTHER CONTINUING RESOLUTION

(Mr. PALLONE asked was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Madam Speaker, here they go again. Again the Republican leadership is going to bring up today another one of these stopgap funding measures, the continuing resolution. I think many people have forgotten that the Government was closed down on two occasions, at least two occasions, by the Republicans in this last year, and they are still moving forward with these temporary spending measures, last week and now again this week, for 1 more week. What it means is a great deal of uncertainty back in our districts, particularly when it comes to education.

Many teachers are now getting pink slips and being told they are going to be laid off. The school boards do not know whether they are going to have funding for education because of the continual assault against education. They are proposing the largest cut in

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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the history of this country in education, over $3 billion. It is not fair, because the American people have told us over and over again that education is a priority, that they want to prioritize in terms of funding here.

Why should we be cutting back on education funding at the Federal Government and making the local school boards have to pay more in their taxes, in their local property taxes? It is not fair. We should put a stop to it.

THE PRESIDENTIAL VETO THREAT

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Madam Speaker, the vicious, vindictive veto looms over the American people once again, this time threatening the lives and health of 8 million Americans who right at this moment, because of their health problems, have medical devices in their bodies, heart valves, pacemakers, brain shunts, a whole host of things, knee replacements, hip replacements. But the availability of these medical devices is threatened by the veto that the President has threatened to issue because of some quarrel that he has with other elements of the Trial Lawyers Association, et cetera.

Now, the suppliers of these medical devices, elements of the medical devices, are going out of business, in many respects because they are being sued out of their existence. What we have tried to do with the measure that is about to be vetoed is to make sure that the suppliers will feel comfortable in sending these supplies for the medical devices to be made available to the American people.

CONTINUED ATTACK ON THE AMERICAN EDUCATION SYSTEM

Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Madam Speaker, once again today we are going to have a continuing resolution. What is continuing about this resolution is the resolution of the Republicans to continue to attack the American education system.

In this continuing resolution, once again the Republican Party will put forth the largest cuts to education in the history of this country. They will put forth cuts in programs of title I to put in jeopardy those children in our school systems that most need an education. They will put forth cuts in the DARE Program, the program that brings our community police, our young children, and the campaign against drugs in schools and drugs in young people's lives together. They will cut that program. Over $3 billion in cuts will be in this continuing resolution, which continues their assault on our education system.

They do this at a time when more and more parents are revaluing education because they now understand how terribly important it is to the future of their children's success and our economic existence. The Republicans should stop this attack on the American education system.

LET US PUT AN END TO PARTISANSHIP

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Madam Speaker, here we go again. As the American people look to this Congress to find innovative solutions, the guardians of the old order, those who tell us that big government is always the best answer, those who would confuse the process of education with the Washington bureaucrats in the Department of Education, seek to strike fear in the heart of every American.

We do not need to be involved in name calling. In fact, we need to get past partisanship. That is why, Madam Speaker, I noted with interest the comment of the junior Senator from the State of Nebraska in talking about the proposed budget of the President of the United States. "The budget, this budget, is the same smoke and mirrors. It is ridiculous. They are just not serious."

Madam Speaker, the fact is we will always have differences, but let us work together constructively, end the fear mongering, and solve problems for America.

AMERICA LOSING JOBS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, the standard of living in America is going down. Family income dropped from $30,000 in 1989 to $27,000 in 1993. But economists still say "Don't worry, NAFTA is creating jobs."

Let us check out those jobs. One million jobs were created by temporary agencies; 800,000 jobs, restaurants and bars; 400,000 jobs, health clubs and casinos; 400,000 jobs in Government.

The truth is, the American worker is losing a factory job with full benefits and is now washing dishes and waiting on tables. But Government economists still tell us this is an unfair study, that 1989 was actually a boom year.

Boom year? Beam me up, Madam Speaker. The truth is, with economists like this, the only growth industry in America is our bars, restaurants, and Government, and we pay for all of it.

Madam Speaker, I yield back the balance of these jobs.

ENERGY SECURITY

(Mr. WATTS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATTS of Oklahoma. Madam Speaker, as we note the fifth anniversary this month of the successful conclusion of the Persian Gulf war, we must also rededicate ourselves to achieving energy security. Five years after defeating Saddam Hussein's armies, America still depends on other nations to meet the majority of our petroleum needs. We as Americans face the prospect of depending on foreign nations, often unstable nations, to provide us with up to 68 percent of our oil supply within the next 20 years. That is a dependence on foreign oil that America should not be exposed to.

America does not lack for proven oil reserves. Today, the House Resources Committee has scheduled a hearing on America's oil and natural gas resource base and Federal initiatives to encourage domestic oil and gas exploration. I strongly urge my colleagues to pay close attention to this hearing. Experts from the industry will discuss the promise of oil and natural gas development in America. For example, did you know we have over 60 years worth of proven oil and gas reserves waiting to be developed? Why are we not relying on our own resources rather than on unstable foreign resource?

Today at the Resources Committee we will hear answers from America's oil and natural gas industry on how we, as leaders of this Nation, can help make America more secure against the threat of oil supply disruptions. I strongly encourage my colleagues to listen.

CONTINUING RESOLUTIONS HURTING AMERICA'S CHILDREN

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Madam Speaker, today House Republicans will bring up another temporary funding bill to keep the Government running for another week. Sound familiar? It should, because that is exactly what happened last week.

If enacted, this will be the 11th temporary spending bill to become law this year. Republicans are lurching from one temporary bill to the other, desperately clinging to their deep cuts in education and environmental protection.

It is almost halfway through the Federal fiscal year, and Republicans still have not funded major parts of the Government for the rest of the year. Among those paying the price for these budget games are local school districts. Many have already let teachers go because they still do not know if they

will get enough funding to hire them for next year. This is unfair to our Nation's children, who will suffer from larger classes and less help with basic skills like reading and writing. But who asked for these deep education cuts? Certainly not working families, who overwhelmingly support funding for education.

Let us not hold education hostage to politics.

AMERICA TOO DEPENDENT ON FOREIGN OIL

(Mr. THORNBERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THORNBERRY. Madam Speaker, those who do not learn from the mistakes of the past are condemned to repeat them. It has been 5 years since the gulf war, and yet the United States has not yet seemed to learn the dangers of being dependent on others for our energy needs.

In fact, the United States is more dependent on foreign oil than ever before. More than 50 percent of our oil is imported, with about 20 percent coming from the Persian Gulf. We continue to lose producing wells, independent exploration and producing companies, as well as expertise. Talk about downsizing and exporting jobs—more than 500,000 jobs have been lost in oil and gas. And yet we go right along—acting as though domestic energy production is a luxury rather than a necessity of life in an unstable world.

Madam Speaker, it's time we learned from the past and take steps now to put us on the road to energy independence.

ASSAULT ON PUBLIC EDUCATION

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Madam Speaker, still high on the agenda of this Gingrich Congress is the assault on public education. It began last year with school lunch. You will remember the Speaker's assault and attempt to destroy a program that had enjoyed 50 years of bipartisan support to assure and guarantee school lunches for our Nation's young people. Then it was on to college. Let us add $5,000, the Speaker said, to the cost of going to college for those families that have struggled to get their kids through public school.

This year it is back to our smallest children. It is the program of giving not a Head Start, but a wrong start, to millions of American children. In my hometown it means cutting prekindergarten for 2,300 children in half. That is the program of placing obstacles in the way of opportunity for America's young children.

I know Speaker GINGRICH was very gleeful yesterday at this microphone as he blocked educational opportunities for immigrant children. Well, what about all the people that have been here and spent all of their lives and generations in this country and the hopes and aspirations of their parents? Let us stand up against this assault on public education.

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BIG GOVERNMENT AND EDUCATION

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Madam Speaker, as we have heard this morning the rhetoric from the other side about education, let us talk about education in this country for just 1 second. Since the mid-1960's, the Great Society, billions of dollars thrown at education, and where are our kids today? Where are students today? Has money helped the education in this country coming from the Federal Government? I say no.

The SAT scores have gone down. Drugs have gone up. Illegitimacy has gone up. Where is education in this country today? Billions of dollars thrown at it from the Federal Government. I think it is time we give it back to the parents and the communities and let them give their children a good education.

WHICH REPUBLICAN MEMBERS TRUSTS HAMAS?

(Mr. EDWARDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS. Madam Speaker, this morning I saw one of the most blessed sights that any husband or parent could ever see: My wife, cuddling in her arms, our 3-month-old son, both of them happy, healthy, and safe. But as I left them, I was haunted by the words spoken by a Republican House Member on the floor in this House last Wednesday when that person said: "I trust Hamas more than I trust my own Government."

Madam Speaker, Hamas is a terrorist organization that proudly murders innocent women and children. Every parent and every person in America should be outraged that a Member of this Congress could place trust in terrorists that would destroy the lives of innocent children and the families who love them. The Republican Member of this House who made this extremist, morally repugnant statement owes it to his or her colleagues and the people of this Nation to admit his or her identity.

BIG GOVERNMENT AND OUR CHILDREN

(Mr. LARGENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LARGENT. Madam Speaker, we have heard this morning about the cruel Republicans cutting education. Let us talk about our children for just a minute. Less than a month ago, the President of the United States stood at that podium and said the era of big government is over. Now, everybody on this side of the aisle stood up and applauded when he said that, and nobody on this side said anything about it. They sat in their seats.

Why was that? Because nobody believed him when he said that. The era of big government is not over. Otherwise, why is the President asking for more and more money? Why is this a concern for our children? Why should parents be concerned about government continuing to spend more and more money? I will tell you why. A child born today will owe $187,109 over their lifetime just to pay their share of the interest on the national debt.

If we continue things, the status quo in Washington, they will face an effective tax rate of 84 percent in their lifetime; 84 cents of every dollar they earn will go to the government at one level. That is wrong. Let us do make the savings and think about our children and the future.

"WHO DO YOU TRUST?"

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Madam Speaker, the entire world has been shocked, appalled, and reviled by the latest wave of terrorist attacks by Hamas in Israel. More than 50 innocent men, women, and children have been killed by suicide bombings in Jerusalem and Tel Aviv.

So I was similarly shocked and reviled to hear a comment made on the House floor last week in the course of debate on the so-called antiterrorist bill. The gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary, said this: "Early in the day standing back there, I heard a dear friend of mine, a great Republican say, 'I trust Hamas more than I trust my own Government.'"

He went on to say those words hurt. Those words do hurt indeed. But who, Madam Speaker, who, Mr. HYDE, who on the Republican side really believed they could trust Hamas more than our own Government? Who among my colleagues truly believes they can trust a terrorist organization that sends suicide bombers to rob innocent children more than the U.S. Government?

Madam Speaker, the American people have a right to know who among

VOL
142
PT
5
MR
21
—
29
1996
UMI

their elected Representatives trusts Hamas more than the United States. Until that person steps forward, or is identified, a cloud hangs over each and every Republican Member of this House.

COLORECTAL CANCER

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana, Madam Speaker, I yield to the gentleman from New York [Mr. TOWNS].

Mr. TOWNS. Madam Speaker, I rise today to discuss the health issue that is very important to a vulnerable population; namely, Medicare beneficiaries. This year, colorectal cancer will claim an estimated 54,000 lives. This is the second leading cancer killer in the United States; 134,000 new cases of colorectal cancer will be diagnosed this year, most of them in the elderly population. And we are talking about cutting Medicare.

Madam Speaker, we know that early detection will save lives and save money. The technology exists to eradicate more than 90 percent of colorectal cancer in this country. Let us work toward a Medicare package or preventative benefits, one which will include colorectal cancer screening. It makes good health sense, and it makes good economic sense.

I urge my colleagues to move forward in addressing this disease in the Medicare population, the group most vulnerable to colorectal cancer.

VOTE AGAINST REPEAL OF ASSAULT WEAPON BAN

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Madam Speaker, the Bible says, by your deeds ye shall know them. Now last week by amendment, the Republicans gutted the terrorism bill. Many people asked why did they take out the guts of that bill? By their own words, from the gentleman from Illinois [Mr. HYDE], we know the answer: Because Members on the Republican side trust Hamas more than they trust their own Government.

They were afraid that, if we put the power in the hands of the Government to deal with terrorism, we might turn our eyes away from the Middle East and come to look at some of the organizations in this country. People on this floor have forgotten Oklahoma City. People have forgotten what has happened.

Madam Speaker, we cannot allow our Government to be powerless in the face of terrorist organizations wherever they come from. Now, tomorrow we are going to add insult to injury. The police officers of this country want the assault weapon ban kept in place. But the Republicans, led by the Speaker, are going to bring out a repeal of that ban to this floor to put those guns on the street again.

I urge my colleagues to vote against that bill.

WE CAN FIGHT TERRORISM WITHOUT VIOLATING OUR CONSTITUTION

(Mr. McINNIS asked and was given permission to address the House for 1 minute.)

Mr. McINNIS. Madam Speaker, I yield to my good friend, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Madam Speaker, I thank the gentleman for yielding to me.

The so-called antiterrorism bill infringed upon the liberties, the constitutional rights of the people of this country. While we are concerned about law and order and fighting terrorism, we do not want to violate the Constitution and hurt the liberties that our forefathers gave to us.

My colleagues on the other side are saying because we did not vote for the terrorism bill the way they wanted it, that we are sanctioning the terrorist activities that took place in Israel where 50 or 60 people were killed by terrorist activities by the Hamas organization. That is a ludicrous argument. We hate that just as much as anybody. We deplore those actions. We want to see those people brought to justice, and our Government is doing everything possible to stop that terrorism, not only there but in the United States.

But in the process, we must not violate the constitutional rights and liberties of American citizens.

A REPUBLICAN MEMBER TRUSTS HAMAS

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Madam Speaker, the fact of the matter is that the antiterrorism bill passed last week in this body allows Hamas to raise funds in the United States of America, to raise their funds to go out and to kill innocent men and women and children. We had one Member, a colleague from the Republican side of the aisle, say that it was he or she who trusted Hamas more than they trust their own government.

Let me tell my colleagues, how can any Member trust a despicable organization, a bloodthirsty and terrorist organization? The pain and the misery that Hamas has caused may be abstract for some of my colleagues, but it is not for me, and it is not for my constituents. Last year my constituent Joan Davenney of Woodbridge, CT, was in Israel. She was a teacher at the Ezra Academy on a fellowship in Israel studying ways to improve curriculum at her school, a decent, wonderful young woman. Let me say that she was on one of those buses. She was killed by the terrorist organization Hamas. A sad day indeed when Republicans can defend Hamas on this floor.

THE PRESIDENT WILL NOT ASK SECRETARY O'LEARY TO RESIGN

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Madam Speaker, Vice President GORE, in his national performance review, indicated that Clinton's Secretary of Energy, Secretary O'Leary, and the Department of Energy, was 40 percent inefficient in their environmental management and it is going to cost the taxpayers $70 billion over the next 30 years.

Madam Speaker, what does that mean to taxpayers or what is that like? What is the equivalent of being 40 percent inefficient? That is like filling your car with gasoline, putting 10 gallons of it in, or running 10 gallons out of the pump and 4 of it goes on the ground and 6 of it goes in your tank. That is like sitting down at a restaurant, for every five bites you attempt to take, two of them end up in your lap. That is like sending your child to school and expecting your child to sleep for more than 2½ hours every day.

Forty percent inefficient, I think that is too much for the taxpayers. Seventy billion dollars, too much of a burden for the taxpayers. Yet it is condoned by Mr. Clinton. He will not call for reforms. He will not abolish the waste. He will not ask Secretary O'Leary to resign.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 165, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996, AND WAIVING REQUIREMENT OF CLAUSE 4(B) OF RULE XI WITH RESPECT TO CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. McINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 386 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 386

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 165) making further continuing appropriations for the fiscal year 1996, and for other purposes. The joint resolution shall be debatable for one hour equally divided and controlled

by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit. The motion to recommit may include instructions only if offered by the minority leader or his designee.

SEC. 2. The requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported from that committee before April 1, 1996, and providing for consideration or disposition of any of the following measures.

(1) A bill making general appropriations for the fiscal year ending September 30, 1996, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

(2) A bill or joint resolution that includes provisions making further continuing appropriations for the fiscal year 1996, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

(3) A bill or joint resolution that includes provisions increasing or waiving (for a temporary period or otherwise) the public debt limit under section 3101(b) of title 31, United States Code, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The gentleman from Colorado [Mr. McINNIS] is recognized for 1 hour.

Mr. McINNIS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 386 is a closed rule providing for consideration in the House with 1 hour of debate equally divided between the chairman and ranking minority member of the Committee on Appropriations. The rule orders the previous question to final passage without intervening motion except one motion to recommit which, if containing instructions, may only be offered by the minority leader or his designee.

Section 2 of the proposed rule merely waives the requirement of clause 4(b) of rule 11 for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House for resolutions reported from the Rules Committee before April 1, 1996, under certain circumstances.

This narrow waiver will only apply to special rules providing for the consideration or disposition of any measures, amendments, conference reports, or items in disagreement from a conference that make general appropriations for fiscal year 1996, include provisions making continuing appropriations for fiscal year 1996, or any bill, or joint resolution, that includes provision increasing or waiving the public debt limit. The Rules Committee recognized the need for expedited procedures to bring these legislative measures forward as soon as possible. Mr. Speaker, House Resolution 386 is straightforward, and it was reported by the Committee on Rules by voice vote.

In order to prevent a Government shutdown and provide the conferees on the omnibus continuing resolution adequate time to iron out the differences between the House, Senate, and administration, House Joint Resolution 165 is necessary. The legislation will keep the Government operating through March 29, and in the case of AFDC and the Foster Care Program through April 3. I urge my colleagues to support House Resolution 386 and the underlying legislation, House Joint Resolution 165.

☐ 1030

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule is proof positive that the Republican majority cannot finish the job they were sent to Washington to do. It seems to me that in addition to bringing about the revolution they have spoken of so often in the past 15 months, their responsibility, as the majority party, is to make sure that the trains run on time. Well, Mr. Speaker, not only have the trains not run on time in this Republican Congress, we have had to live through two major train wrecks, and now, nearly 7 months into fiscal year, most of the train is still off the tracks.

But, Mr. Speaker, my Republican colleagues have added insult to injury by asking this House to once again impose martial law. And what does martial law do, Mr. Speaker? Quite simply, martial law allows a majority to disregard the rules that they once so vigorously defended when they were in the minority. For 4 continuous months the House has operated under procedures that, had they been imposed by the Democrats, my Republican friends would have screamed bloody murder.

Today the Republican leadership plans to bring up the sixth martial law resolution of the 104th Congress. The resolution allows the Speaker to bypass the regular committee process and bring legislation immediately to the House floor without the normal 1-day layoff period required by the rules of the House. Usually this extraordinary authority is granted only in the final days of a session as adjournment approaches. But under, Republican control, the House has operated under martial law continuously for 4 months, from November 15 through March 15. Today they plan to extend that authority again until April 1.

In the Democratic 103d Congress the House operated under martial law for a total of 5 days with no martial law resolution lasting more than 1 day. In this Republican Congress a single martial law resolution, House Resolution 330, lasted 50 days. In the Democratic 103d Congress each martial law resolution applied to only one bill. Under the Republican control all martial law resolutions have applied to entire classes of bills encompassing everything from spending bills to Bosnia.

So, Mr. Speaker, I am going to make an offer my Republican colleagues should not be able to refuse. Let us go back to regular order and use the rules which have in previous Congresses served both the majority and the minority. Let us not circumvent the rules and undercut the democratic process in an effort to cover up the fact that the Republican majority cannot do its job.

I intend to oppose ordering the previous question in order to be able to offer an alternative rule which strikes the martial law provisions recommended by the Committee on Rules Republicans. I think that after 7 months of delay, if the Republican majority is serious about finally funding the Federal Government, the very least the Republican majority can do is offer the Members of the House the opportunity to take the time to read the bill. Martial law does not give anyone, Republican or Democrats, such an opportunity.

So I would encourage those Members across the aisle who are serious about maintaining democratic, with a small "d," principles to vote again the previous question and to support my alternative to the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think initially here we need to clarify a couple of points.

Mr. Speaker, I think at the very initial stages here we need to correct or clarify some of the statements made by my respected friend, the gentleman from the State of Texas [Mr. FROST]. Circumvent the rules? I think the gentleman is confused. This is the rule. That is why we are down here today.

The gentleman and I were both in the Committee on Rules last night. The gentleman did not ask for two rules. We had a voice vote. I did not see this kind of vigorous debate in the Committee on Rules last night. This is kind of a blind side that we are getting down here.

What we are asking for is approval of a rule, and then from that rule let us go into the debate. Let us talk about he comes up with this magic phantom word called martial law. Again, in due respect to the gentleman from Texas, I call it economic common sense. What does he want to do? Stop the Government?

Of course, some leadership on the Democratic Party would like to stop the Government because this is an election year. This is a very convenient time to try to put blame on the Republicans, who have brought more economic sense to this Government than any governing part of this body has brought for 40 years.

We have got some tough decisions to make here. We have got to move this thing forward. We have got negotiations going on between the administration, the President of the United States, between the U.S. Senate and between the U.S. House. We need to allow them some continued time for these kind of negotiations.

We are changing, Mr. Speaker, the habits of this House. We are changing 40 years, in my opinion, of bad habits. We cannot do it overnight. My colleague has got to allow the parties good faith, and he has got to allow them time so that these good-faith negotiations can continue. I do not think it helps the negotiations, it certainly does not help the relations between the two parties on this House floor, to use some of the types of exaggerations that I have just seen in the previous statement.

I would urge my colleagues, look beyond the political aspect of this, put aside the fact that we are in an election year right now, and let us move toward the best interests of this country, and that is called economic common sense.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

If I understand the previous speaker, he is generally making two points. One is that the ends justify the means; and, two, that democracy is a very dangerous thing. What law we are asking for is that this House follow the rules of this House that have been followed for years and years when Democrats were in the majority. The question is are we going to suspend the rules of the House and not require a 1-day layover, a simple 24-hour layover for the House to have a chance to read bills before bringing up a rule on the floor of the House. We very rarely did that when we were in the majority, and only at the end of a session, and only for 1 day at a time.

The new majority wants to suspend the rules of the House for 4 months. I guess they consider democracy very dangerous. The ends perhaps do justify the means in their view, not in mine.

Mr. Speaker, I reserve the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let us again address the points from the fine gentleman from the State of Texas. We have got to have a bill by Friday. Does my colleague want to shut the Government down? We have to have a bill by Friday.

Now, I am sorry we cannot allow for time through next week and the following week to read some of the things that the gentleman would like to read. The fact is this Government continues second by second.

Now, we can either allow it to continue on Friday, or we can shut it down.

Now, today is Thursday. That means we have less than 24 hours, or about 24 hours, to do something to keep this Government operating. It is the Republicans' priority to keep the Government on course, but to run it on an economic course that is going to make common sense to the average taxpayer in this country, and that is a balanced budget.

Furthermore, I think it is important to understand that the waiver that we have talked about here, the narrow waiver, it is allowed by the rules. Suspension of the rules is a rule. The gentleman from Texas [Mr. FROST] has many years of experience on the Committee on Rules; he is a very capable individual. He knows this is not undemocratic; that is how the rules are written. We are utilizing the rules. I would be called out of order, the Speaker would not allow me to continue this debate today, if it was not in the rules. If I am not authorized to be on this floor with this proposal, which, as the gentleman from Texas admitted, the Democrats used while they were in the majority, if I were not allowed to do that, it would not be in the rules. Of course it is allowed.

We have got to have this, Mr. Speaker. We have got to continue to allow this Government to operate in a fiscally sound manner.

Now, again it is a dramatic change in the last 40 years of leadership in this House. In the last 40 years of leadership in this House we have accumulated a debt that is about $38 million an hour. In other words, our Government, right now, is spending about $38 million an hour more than it is bringing in. We cannot do that. No country in the history of civilization, no free country in the history of civilization, has survived with the kind of economic factors that we now have in place the way this Government has been run the last 40 years.

The gentleman from Texas [Mr. FROST] knows it, the gentlemen and the gentlewomen from all the 50 States in this Union know it. We have got to face up to fiscal reality, and that means that we have got to get some resolution, we have got to allow time for negotiations, and this rule allows it, and that joint resolution will allow the Government to operate in a commonsense, good judgment fashion.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Michigan [Mr. BONIOR], the Democratic whip.

Mr. BONIOR. I thank the gentleman from Texas [Mr. FROST] for yielding the time this morning.

Mr. Speaker, the distinguished political analyst, Kevin Phillips, has said that this is the most unproductive Congress in the last 50 years. I have been here 20 years, and I have never seen this place run so poorly, so inefficiently, and without care and deliberation.

What this resolution we have before us does, is say to virtually all Members of the Congress, at least the House, and all of the public, "You can't participate."

Now, what do we mean when we say martial law? The gentleman from Texas [Mr. FROST] has referred to this word, martial law. It means that the Speaker and the majority leader can bring legislation to this floor without going through the committee structure, without hearings, without giving us even a day's notice, bring it right to the floor, and we vote on it, and, as Mr. FROST has said earlier, this is being done for the fourth month in a row. Seventy-three percent of all the bills that have been brought to the House floor have gone right to the floor without committee consideration or approval this year, 73 percent.

Mr. Speaker, we started this Congress by shutting down voices, by closing the Black Caucus, the Women's Caucus, the Hispanic Caucus, and then there was an attack on public television, there was an attack on the Endowment for the Arts, closing down those important voices in our society, and now it has gotten to the point where Members of this body cannot even participate in committee hearings or committee votes, everything dumped right on the floor.

Mr. Speaker, the tragedy with this is it is not getting anything done. It is not getting anything done. This is the sixth martial law resolution we have had on the floor. We are going to be into our 12th continuing resolution in a few minutes.

☐ 1045

Yet, we still have not done five appropriation bills from the 1996 fiscal year. We are going backward. We are not getting anything done. It is not me saying it, it is respected Republicans on the outside who are looking in and saying, "What in God's name is going on up there?"

How does this affect the general public? When you stop and you go and you stop and you go in terms of these resolutions, you throw a lot of uncertainty out there into the public. School boards and school officials all across the country are trying to plan their school year in September. They are trying to figure out how many teachers they need next year, they are trying to figure out the curricula, they are trying to figure out class size. They cannot do that because we have not dealt with the education budget of this Nation from a Federal perspective.

The cuts that have been proposed by the Republicans have been in the neighborhood of $3.3 billion, cuts in the

DARE Program, the Safe and Drug-free Schools Program, cuts in the Title I Program, which is for math and reading; 40,000 to 50,000 teachers getting pink-slipped all over the country, because they have not done their business.

This is a Congress of do little and delay. They have done little and they have delayed, and they have delayed. My friend, the gentleman from Colorado [Mr. McINNIS], has had the nerve to stand up here and talk about shutting down the Government. They shut down the Government twice at the cost of $1.5 billion. That is what it costs to shut the Government down, $1.5 billion.

Mr. Speaker, there is a better way to run this place. The fair way to do it is to let the public participate, the Members participate, have up and down votes, give us a chance to offer the amendments that are necessary to keep our schools open, to take care of our toxic waste sites. We have toxic waste sites that are not being dealt with because they have not provided the money.

There is a better way to do this, Mr. Speaker. I ask my colleagues to vote against this rule, and to look closely at what the gentlemen on the other side of the aisle and the gentlewomen on the other side of the aisle are offering us in the 12th continuing resolution, which is closed for debate and for consideration by most of the Members of this body and by the American people.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is obvious from the previous remarks that we are into an election year. Let us look at the remarks made by the gentleman from Michigan. First of all, clearly, none of this would have happened, and I do not believe the gentleman's statistics are right. If 50,000 or 40,000 teachers got their pink slips because we said the Government had to operate with a balanced budget, maybe, if in fact that many got pink slips as a direct result of the negotiations here, it happened because President Clinton vetoed and vetoed and vetoed and vetoed and vetoed the budgets that we have given to him.

We are trying to get cooperation from this President. I can tell the Members, we have moved the President a long ways. Did Members ever think we would see this President saying that the era of big Government is over? Did we ever think we would see this President talking about a balanced budget? Finally we have gotten him to that point in the negotiations, but this takes time.

Mr. Speaker, let me point out, too, to assist the gentleman from Michigan, we have a Webster's dictionary up here. He keeps using this words "martial law," as if the gentleman knows what it says. He is not using it in its proper context. Let me talk about martial law, as given to us by the Webster's dictionary: "Martial law," "The law temporarily imposed upon an area by State or national military forces," military forces, "when civil authority is broken down, or during wartime military operations."

If the gentleman wants to continue to use the term "martial law," then he should clearly stand up here at the podium and talk about, under his definition of martial law, the times the Democrats used it in 1993. I have it right here. House Resolution 61, February 3, 1993, they did exactly the same thing. It is allowed under the rules. House Resolution 111, March 3, 1993, allowed under the rules. House Resolution 142, March 30, allowed under the rules, the same exact thing.

Mr. Speaker, if the gentleman and the gentlewomen from the other side there are trying to continue this argument, which clearly is a diversion from what we need to do, that is to cooperate toward a balanced budget, to cooperate keep this Government operating, if they want to continue to divert attention by using these terms, they should apply them to themselves. We are learning from them. We are using the rules. I could go on and on with this.

I think it is critical to understand that while the President has continued to veto, veto, veto, veto, and veto, we must, as a result of those vetoes, continue to negotiate, negotiate, negotiate, and negotiate. Do Members know what is going to happen as a result of those negotiations? At some point we are going to reach a compromise, a compromise that is good for the American people.

I know the gentleman from Michigan [Mr. BONIOR], and I must say right off the bat, I am not educated at an Ivy League school. I went to a very small school in the mountains of Colorado. I think I am very capable, but not able to quote great scholars. He quotes a distinguished scholar about his analysis of what is happening here in the U.S. House.

Let me quote a couple of people: My buddy Al. He is a rancher, he is not an Ivy League graduate, but do you know what he analyzed? He said "It is about time, it is about time that somebody insisted that this Government, that this Congress, run its budget like every average American citizen has to do. It is about time somebody had enough guts to stand up to the bureaucracy in Washington, D.C. and demand that a balanced budget be in place. It is about time somebody called the President on these vetoes after veto after veto."

Those are the kinds of quotes I can give. I can talk about Linda, I can talk about Betsy. These are just common folk out there. They know what it means to have a balanced budget. They have to balance their checkbook. So let us not use these diversionary tactics, first of all, by using this term "martial law," unless, of course, you want to apply it to yourselves, as you used it for the last several years.

Let us talk about unity in working toward a balanced budget to bring this Government to an economic, sensible, type of plan that will move us forward in a positive fashion.

Mr. Speaker, let me say that sometimes it is easy for people who observe us debating on this floor to go away with a pretty pessimistic attitude. I am optimistic about the future of this country. I think we have a great future ahead of us. But we do have some responsibilities that we have to carry forward, so the greatness of this country can continue. Those responsibilities right now center on fiscal responsibility. In order for us to get to that fiscal responsibility, we need to pass this rule.

Mr. Speaker, I should point out once again, and again, we can tell it is an election year. We were just in the Committee on Rules last night, so I have lost my memory on what occurred. We did not see this kind of rancor last night. We did not see this kind of debate in the Committee on Rules. In fact, this passed on a voice vote. Do Members know why? Because it is a procedure that has been used in the past, it is a procedure that is necessary to keep this Government from shutting down by tomorrow. I urge that Members support the rule. I urge that we support the House joint resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, what we have before us today is conclusive proof that the governing Republican majority in this Congress is both incompetent and does not care about democracy. The gentleman just mentioned that Democrats suspended the rules during the last Congress. We did that for 5 days on five different occasions, 1 day at a time. They have done it for 4 months now, and they want to do it even longer than that. There is a basic disagreement on democracy, on how we should function as a democratic institution.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, the remarks of the gentleman from Colorado are irrelevant * * * He talks about the suspension of the rules, as if——

Mr. McINNIS. Mr. Speaker, I ask that the words be stricken, the words of the gentleman be stricken.

Mr. NADLER. Mr. Speaker, I did not refer to the gentleman in any way. I said his remarks.

Mr. McINNIS. The gentleman referred to the gentleman from Colorado. I ask that those words be stricken.

Mr. NADLER. Mr. Speaker, I said those remarks were * * * I did not say he was.

VOL 142 PT 5 MR 21 — 29 1996 UMI

The SPEAKER pro tempore. (Mr. BURTON of Indiana). The gentleman will suspend. The gentleman will be seated.

The Clerk will report the words.

□ 1055

Mr. NADLER. Mr. Speaker, rather than waste time, I will withdraw the remarks.

The SPEAKER pro tempore. Without objection, the gentleman withdraws the remarks.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York may proceed in order.

Mr. NADLER. Mr. Speaker, let me say that most of what the gentleman from Colorado was saying is irrelevant to the point that we are making. The relevance of the balanced budget, the merits of the economics of both sides of the House and of the President are not what is at issue here. What is at issue is an abuse of the rules of the House.

The procedure for suspending the rules and what we call martial law is for an emergency. Instead, it is being used for every single day of this Congress, every single day of this Congress, not to give Members the right to read the bills, to have a bill on the floor without a 1-day layover so we can read them and look at them, to take bills away from committees, put them on the floor without consideration. In an emergency, maybe. The gentleman says it is an emergency. The Government will shut down unless there is a continuing resolution.

No. 1, why do we not have a continuing resolution, instead of lasting a week or two, that lasts until a budget agreement is reached or for the balance of the year? But forgetting that, if that is the emergency, why does the gentleman not ask for a rule that suspends the 1-day rule for 1 day for this bill? Not for another few weeks and keep it going that way.

The gentleman says it is within the rules to suspend the rules. Of course. There is that emergency provision, but this is an abuse of it. Lots of things can be done legally. The Reichstag passed the Enabling Act to give certain powers to the chancellor legally. That was an abuse of an emergency provision. Look what it led to.

I do not compare this to that, but it is the same abuse that eliminates democratic procedures. There is no necessity for it. Let them have a 1-day suspension, if necessary, so we can do this continuing resolution that is made necessary by the irresponsibility of the Republicans by not bringing it up earlier and by refusing lengthy CR's.

But let us not let that excuse be used to say we need to suspend the rules so that the Speaker can at any time bypass the committee, bring brand new legislation to the floor without even a day for Members to read it and a day for the Members of the public to read it. That, sir is an abuse of the Members and of the public.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

I certainly respect the comments from the gentleman from New York, and I think that his point is a valid point. It is that exact reasoning from the gentleman from New York that the Democrats, when they were running this House floor and they had control of the Rules Committee, used exactly what he is talking about, using the word "emergency."

Let me refer the gentleman from New York to House Resolution 111, this is March 3, 1993, relating to the emergency unemployment compensation. We can go on from there to House Resolution 150 on March 30, 1993, making emergency appropriations. We can move on from there to House Resolution 153, making emergency appropriations, so on and so forth.

Mr. Speaker, I am going to try and pull us back. I would love to engage in debate with the gentlemen from the other side of the aisle. I think it is exciting. But the fact is we have got to get on with business. The fact is we need to keep this Government up and operating. The fact is we need to operate this Government in an economic, fiscally sane way. So let us pull it back to where we are today.

What are we debating right now? We are debating a rule. This is not the first time that this rule has been debated. In the past this rule has been utilized when the Democrats controlled the chair up there, and now the Republicans intend to use this rule. We need to have it.

Yesterday we debated this rule in the Rules Committee. We did not see this kind of vigorous debate in the Rules Committee. The only time we have seen this kind of vigorous debate is when we are down here on the House floor. Because up in the Rules Committee, we know that we have got to cooperate to keep this Government open tomorrow. That is what we are down to. We are down to 1 day. We are down to 24 hours.

Some would say, well, why did you let it get this close? The fact is very simple. We have got good-faith negotiations going on right now between the administration, between the Senate and between the House.

We can shortcut those negotiations. If we do, it is going to shortcut all of us. It is going to fall way short of a goal that I think, once we put the politics aside, once we put the election year aside, a goal that we want, for this country to be fiscally sound.

We should support this rule. This rule is important for us to move on. As I said, and again I stress this, this rule has been used in the past when the Democrats headed the Rules Committee, and we are using it today. It is not a subversion of democratic procedure. It is an allowed rule up there. The reason for it is for the very kind of circumstances that we face today.

The option, of course, is to go ahead, vote down the rule, as has been proposed by some Members who have taken the opposite stance of mine, and close down the Government tomorrow. We do not think it is necessary to close down the Government tomorrow.

We think you should support this rule and help us keep the Government open. We think your idea of closing down the Government by voting down this rule is not a good idea. It does not make sense. Work with us on this. Help us keep this Government operating for the next few days while the negotiations continue.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, the gentleman from Colorado movingly referred a moment or two ago to his friends in Colorado who speak common sense and my friends, Betsy and Al and others, are of much the same mind. They know a couple of things, too. They know people have to pay their bills on time, and they sure hate it when they lose their job because somebody else did not do their job. That is what this debate is about.

There is a lot of talk about martial law and whether it is an unusual remedy. It depends on the circumstances. Yes, Democrats did use it for 5 days over a 2-year period and then limited it to one bill at a time. In the Republican majority in this Congress, not yet finished, they have used it for 4 months and covered whole classes of bills.

The definition of an emergency is interesting. They are approaching the definition of emergency about as long as Fidel Castro and Chiang Kai-shek and Generalissimo Franco used their definitions of emergency.

Because what is this martial law resolution? It permits you to skip committees, it permits you to avoid 1-day layovers so Members can read bills. It sets up a situation so your representatives do not know what is in those bills when they vote on them. This is a very, very serious matter. Now they want another one, the 11th this year, to go until April 1, not 1 day, not one bill, April 1.

The gentleman from Colorado speaks about economic common sense. Let us talk about common sense, economic common sense. We are 6 months into the 1996 budget year. Incidentally, they are already trying to work up the 1997 budget even though we do not have a 1996 budget yet. We are 6 months into the 1996 budget year. There have been 11 temporary spending resolutions and another 2 weeks of uncertainty coming up. This is businesslike?

Because the Republican leadership cannot operate the House and cannot agree on a budget, others must suffer. When this next continuing resolution expires on April 1, the West Virginia school boards, 55 of them, will have had to have laid off 226 teachers, 90 aides and denied title I reading and math services to 6,500 students. That is economic common sense, I ask you?

The gentleman says that economic common sense is necessary. What kind of economic common sense is it that costs teachers, that costs parents, that costs children these opportunities, and is only going to suffer more setbacks?

Let me talk about why they want martial law or why I believe that what happens because of martial law, because nobody knows what will be in the bills that come to the floor. Understandably, they do not know yet. They have not written them. They do not know yet what is in them. But I have to be honest, given what has come in the past, I would not want to know what is in them, either, because it is just better that way.

What finally bothers me is when I hear this analogy that somehow if we do not vote for this, we are 2 days away from the deadline and you are going to shut the Government down.

I tried that in my school, too. It does not matter what school you went to, we all tried the same thing. I would go to the teacher and I would say, "You know, 2 days, I didn't have enough time." The teacher would say, "Yeah, Bob, but you had 6 months to work on this budget."

Actually you had a year because you were supposed to have started a year before. I am not impressed and I do not think the American people are impressed, either. That is why this martial law is not good for the Congress and not good for the democracy.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from West Virginia is an excellent speaker. He presents his points well, but I think we need to look at the substance of the points.

First of all, one of the points that the gentleman from West Virginia says, "Hey, we're 6 months into this process and we still don't have an agreement." I will tell you why we do not have an agreement, is because of that veto pen down there at the White House, veto, veto, veto, veto.

When you talk about the difficulties that we have had on a compromise up here, you should also point out, to be fair to all parties listening to this debate, that there are three parties in this negotiation: The administration, President Clinton; the U.S. Senate; and the U.S. House. On some occasions the U.S. House and the U.S. Senate have come to a compromise and it has been the administration which has vetoed these bills and caused this kind of delay.

But let me also say, in fairness to the economic history of the last 40 years, it does make economic sense, if necessary, to delay this process if we can move this country toward a balanced budget, if we can get this country to quit spending more than it brings in.

Sure, you can look at the record of the last 40 years and say there were not very many times, if any, and I do not know that history for sure, but even if there were not any times that they went 6 months beyond that deadline, take a look at the product that we got. The product that we have got is a government that spends $40 million an hour on its debt more than it brings in. The product we have got is it now requires every man, woman, and child in this country to pick up $18,000 on their share of what is going to be necessary to get us out of debt.

It is kind of like running a credit card. Most of us have credit cards. Sure, if you can continue to use the credit card and charge and charge and charge and charge, and nobody ever calls you on it or nobody ever forces you to pay up the bill, then it is pretty easy not to delay buying something because you do not have the money. You just go down and charge it. That is what has happened for 40 years. Now before we let you use the charge card, we are saying, "Wait a minute. Look at how much we owe on the charge card."

Certainly we are going to have to spend some money. Obviously education is a priority for all of us. Obviously we have to have a defense. But we need to spend the money more efficiently. Before we just go down and willy-nilly charge anything we want, we have got to be careful with that credit card. That is what we are saying. That is what these negotiations are about.

I think further, let me say to the gentleman from West Virginia, he continues to use the words "martial law," but at least the gentleman from West Virginia also applied that term when the Democrats had the Rules Committee. I would venture to say to the gentleman from West Virginia, the Democrats did not use martial law when they utilized this rule. We are not using martial law by utilization of this rule.

I read the definition over here from Webster's dictionary, martial law, which involves military forces. It is the utilization of the rules to get us to a common point. That common point, which you are coming to very resistantly, and you are tugging and you are pulling getting to that point but you are moving to that point, is a balanced budget for this country. I think that is the essence of what we have to get to.

You say we misuse the title of emergency. Well, folks, we are going to have an emergency in 24 hours. The clock is ticking. It is ticking second by second. That clock right up there, 24 hours from today, if you do not cooperate with us, you are going to shut this Government down.

We do not want the Government shut down. We want a government that is going to operate in an efficient manner and we are asking for your cooperation to give us some more time for good-faith negotiations. Is that too much to ask from you? I do not think so.

Last night when we were in the Rules Committee, they did not think so. We did not have this kind of argument last night in Rules. Let us pass this rule, let us get a good, healthy debate on the floor and let us keep the Government open.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3½ minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Well, you may not want it shut down this morning, but you were mighty proud to shut it down twice last year. You use this term "civil disorder." You say that martial law is something that we bring into play when there is civil disorder.

Well, what better term to describe the mess that you have made of this Government? Coming to the American people and bragging about your power to shut down the Government, not once but twice, costing the American taxpayer $1.5 billion, frittered away by this Republican leadership, totally and completely wasted so that they could have their Government shutdowns. What do they propose today? Well, they want to erect a monument to the mismanagement, to the failures of this Gingrich Congress.

This year after those two Government shutdowns, what have they given us? Loud talk and long weekends. It took them 3 weeks to celebrate Valentine's Day, breaking from this Congress. They come in and they break a little after noon.

There are people across America that these Republican colleagues of ours simply do not understand. They are working families. They are facing a tough time trying to make ends meet. If they for 1 week were to handle their business in the total mismanagement fashion of our Republican colleagues, taking 5 and 6-day weekends, taking 3 weeks for Valentine's Day, working part-time, asking to be paid full time, and caring about the real problems of the American people no time, then those ordinary working families would be out without a job in their own situation.

At the same time, we find ourselves in these sputtering spurts of Government that occur here with the same kind of extremist rhetoric that we heard all of last year from day one. When Republicans over in the other body hear the cry of the American people and approve money so that we can

VOL 142 PT 5 MR 21 — 29 1996 UMI

keep Head Start going instead of giving our young children a wrong start, keep our teachers going with Federal support of education, the response from the House Republican leadership is that the Senate Republicans have somehow been spineless, rather than to commend them for their willingness to finally come around and listen to the American people.

There are programs for young people in this country that are going to be shut down unless this kind of extremism can be put to a halt. We got just this week another example of that same kind of extremism, where we have one Member of this body coming and saying that he heard right here in the House a great Republican say, "'I trust Hamas more than I trust my own government.' Those words hurt."

They do indeed hurt, and they hurt not just the pride of this body. They hurt ordinary working families across this country, because they are the ones that are being savaged, that are being impacted by this kind of extremism in the House that has the Government operating literally from 1 day to the next, without the planning that our local school boards need and our Government agencies need to do their job.

□ 1115

So what is proposed as a solution? What this rule does is to say they think the solution to it all is to do one thing: Give Speaker NEWT GINGRICH more power. I do not believe the American people think the Speaker needs more power. I think they view him as part of the problem instead of part of the solution.

This allows him to come forward with more sneak attacks, just like tomorrow. Every time the American people realize what is happening to them, they come up with some sneak attack and some distraction piece of legislation. There is only one good feature of this resolution that our Republican colleagues are offering, and that is this authority is going to expire on April 1. Yes, they quite appropriately picked April Fools' Day. I say the American people are not going to be fooled again by this kind of nonsense.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find it somewhat amusing that the gentleman defines a sneak attack as an attack that comes tomorrow. That is not too sneaky if it is coming tomorrow.

Second of all, the gentleman talks about how the Republicans have stretched Valentine's Day for 3 weeks. I would let the gentleman from Texas know, I actually got to spend Valentine's Day with my wife, and I wish I could have figured out how to stretch that for 3 weeks, because it was a wonderful day.

Let us get back to the rule here. You want to vote against this rule, then you want to shut down the Government. That is how simple the choice is. It is the bottom line. We can talk about quotes here and there, and we can bring in posters and jump up and down and talk about all these kind of things. But the fact is, if you want to vote against the rule, you vote to shut the Government down tomorrow. No way around it. It is that simple. If you vote against the rule, you shut down the Government tomorrow.

I do not think that is what you really want to do. I think what you really want to do is cause a little havoc, and that is certainly within the debate here. I do not think that is going to get us anywhere. I think we have to pull back, unify, and work towards a balanced budget. You talk about the word "extreme," this word "extreme." What I think most Americans would define as extreme is that you up here, some of you, decide to vote against a rule, this is a procedure, a procedure that has been used by the Democrats, a procedure used by the Republicans, that you would vote against a rule just to demonstrate a point to shut down the Government tomorrow.

Do not shut it down. You do not need to shut the Government down tomorrow. That would be an extreme move. I would hope that the gentleman from Texas votes for this rule, because if you do not vote for the rule, then I think the next logical step is using the definition of the word "extreme." It shuts the Government down.

Again, let me remind my colleagues, last night when we were in the Committee on Rules, we did not have this kind of debate. The members of the Committee on Rules on both sides of the aisle understood that we need to continue to operate the Government. They understood that we can operate in a positive fashion. Now we have got a little insurgence, coming over here today saying, hey, this is a bad rule. For some reason, we could use the rule, but you cannot use the rule. We see all these kinds of words being used, "extreme, extreme, extreme."

I would suggest we use the words "veto, veto, veto," and once we are through with that debate, let us get to the issue at hand, and that is to vote "yes" on this rule so we can keep the Government from closing down tomorrow.

This is serious business. If we do not pass this rule, this Government is shutting down tomorrow. So let me urge all of my colleagues, let me say to you, Democrats, if you really want to push it, you may win the battle, you may beat the rule, but you are going to lose the war. And who loses if you lose? We all lose. Tomorrow we have got to keep this Government operating. There is no reason. In the past there has been, I think, logical argument on both sides that you have to bring an operation to halt that is spending $38 million an hour more than it brings in. But tomorrow, you do not have that kind of justification. You do not need to shut this Government down. Vote "yes" on this rule and keep the Government in operation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, my colleague on the other side of the aisle is a little confused. I have listened to him and listened to him and tried to understand what he is saying. He obviously is confused. Let me see if I can set it straight.

We are not suggesting that the CR should not be brought up. The CR will be brought up today, should be brought up today, even under what we are suggesting. The only thing that we are asking is that the martial law provision of this rule be stripped out. Strip that out, you still bring the CR up today, because the CR is laid over 24 hours. That is all we are asking.

The gentleman seems to be very, very confused. He seems to think that if we won the previous question and we were able to strip out the martial law provision, that the CR could not come up. That is not the case at all. The CR would come up. It would be the next order of business.

I guess perhaps the staff on the other side may explain that to the gentleman, that even if we win, that the CR will be voted on today. I know it is a little hard to follow, what goes on around this place sometimes, but we are not suggesting the CR should not be brought up. We are suggesting it should be brought up, voted on today, so the Government can stay open.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, today what we are seeing and what we are listening to is another consequence of the incompetence of those who run this House. The resolution that we debate will grant Speaker GINGRICH extraordinary powers to bypass the regular process of this body and to bring bills immediately to the floor. What does this mean? No time to read the bills, no time to understand what is being voted on, no time for committees to air the process.

It is a subterfuge, a way in which you want to hide what you truly want to do.

We have precedent here: The Medicare debate, its Medicare debate, one hearing on dismantling the Medicare Program, which serves 99 percent of the seniors in this Nation. However, we were able to expose what our Republican colleagues wanted to do about Medicare, and now they have backed off of that issue.

This is a subterfuge tactic to hide what they want to do. The incompetent management has consequences in the lives of working families. Medicare is an example. As we lurch now from one short-term spending bill to another, citizens, businesses, have no idea what the Federal Government is about. My State of Connecticut, the educators are contemplating cutting reading, writing, mathematics programs, for our kids, the programs that talk about making our schools safe for our kids, providing the opportunity for high school students through school to work to be able to move into a profession. College loans will be cut. They do not know in my State of Connecticut what the Federal Government wants to do in funding for education. They are unable to plan for the school year.

I say to my colleague from Colorado that your friend Al's children are in serious jeopardy. Let us not give NEWT GINGRICH any more powers. Let us do the people's business, pass a budget that reflects the values and priorities of this Nation.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do find the previous Speaker's comments entertaining, but I think it is important for us to address the comments of substance, and those are the comments from the gentleman from Texas. The gentleman from Texas is correct, I am confused, because last night in the Committee on Rules, we offered two separate rules specifically to the gentleman from Texas. I remember his comments. I was there. I was right opposite him. We said to the gentleman from Texas, "Mr. FROST, would you like two rules?" The answer was no.

Now, why two rules? One rule, if you are having a problem with the waiver of the bill, then we will give you a separate rule on the continuing resolution which will stop the Government from shutting down tomorrow. Then you can have a separate rule on this debate on the waiver or on the procedure we are using.

The gentleman from Texas said no. Now I am confused. If he is not attempting to shut down the Government tomorrow, why did he not ask for separate rules last night? It is very clear. The fact is, there is a little game playing going on here. That is OK. We are in a debate. But it gets real, real serious here in about 24 hours. You are going to shut down that Government if you vote "no" on this rule.

Last night, if you were really serious about your objections to the waiver we have requested, you should have asked, you had the opportunity to ask, and you did not ask, for a separate rule. You could have had a separate rule. You did not ask. You did not go after it for the continuing resolution.

Then maybe some of the comments you would have made would have had more merit to me. As we stand right now, we are playing, again as I say, a very serious game with the lives of 240 million Americans when we do not need to. We do not need to shut down the Government tomorrow. We are not at that point in a crisis. We are not at that point in our negotiations where it requires a shutdown, where we walk off the job. Let us stay on the job. The way we stay on the job is you vote "yes" on this rule. If you want to shut down the Government, then go ahead with this game playing, vote "no" on the rule, and then we will see who is confused tomorrow night at about midnight.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I rise today against this closed rule. This is just another example of this 2-year experiment, which we have to call the Republican control of Congress. I think in order to evaluate this experiment, we need certain things. We need to look at issues and numbers.

The first issue is priorities. This Republican Congress wants to cut $3 billion this year from education. Another number, 22. It has decided, this Republican Congress, to cut 22 percent of the environmental protection moneys. That is the protection for health for our children.

Another issue, failures. Another number, 11. This Republican Congress has tried to shut down the Government, or actually failed to keep the Government going, 11 times.

Now, in 208 years, that has never happened before. The U.S. Congress has never threatened to shut down the Government 11 times.

Another failure is five, and another number, five. That is the number of appropriations bills from last year that have not yet been passed this year.

Value, what about value? Well, there is the number 133,000. That is what Members of Congress get paid in order to run the Government, in order to do their job. Well, I would say that the Republican majority has not been able to do its job, so I would say that the American public really has not got their money's worth from this Republican control of Congress.

Mr. Speaker, I rise against this closed rule, another closed rule, and I rise against the priorities of this Republican Congress.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to the gentlewoman, let me tell you, there is a big priority right here in front of you, it is in front of me, and it is in front of every one of our colleagues, and that is if you do not vote on this rule and we lose the rule and we shut down the Government tomorrow, that should not be the priority, the shutdown of the Government. We do not need it. The negotiations are not there.

Our priority, the Republican leadership's priority, is to try to keep this Government operating. Now we are trying to negotiate in good faith with the President. All we get is veto, veto, veto, veto, veto, veto, veto, but we think we can negotiate something. We think we should continue the good faith negotiation.

We do not think you need to shut down the Government tomorrow to prove your point that you are displeased with the Committee on Rules. If you are unhappy with the Committee on Rules, come up and have your representative on the Committee on Rules entertain a motion.

Certainly yesterday the members of the Democratic Party on the Committee on Rules had every right, they did not do it, they could have done it, but they did not do it, to offer a motion to have two separate rules. In fact, it was members of the Republican side of the aisle on the Committee on Rules that asked the gentleman from Texas [Mr. FROST], on the Democrat side, would they like two separate rules? The answer was no.

I will tell Members, the cooperation last night in the Committee on Rules was good. It was excellent. But you cannot hardly believe in less than 24 hours the cooperation we saw upstairs in the Committee on Rules has developed into this. There has not been any tough negotiations or disagreements between us in the last 12 hours. What brought this on?

Come on folks. We have got to keep this Government going. We can do it. Vote "yes" on this rule. It is absolutely essential if we want to keep the Government operating.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I sympathize with the gentleman from Colorado. He has been left all alone on his side to defend this latest trampling of open procedures, and he is a little testy because he apparently thought he had a nice deal worked out last night and democracy has broken out on the floor of the House. I understand that is unsettling, but he has to learn to live with it.

On the other hand, I want to give him credit. Some people think others do not learn things. Clearly he at least has learned that shutting down the Government is a terrible idea. He has several times today talked about how outrageous it is to shut down the Government. One would not infer from that he is part of the majority that made a habit of shutting down the Government as a deliberate tactic. People boasted about shutting down the Government.

Well, they have learned that was not a good thing and the gentleman from

VOL
142
PT
5
MR
21
—
29
1996
UMI

Colorado has the zeal of a convert against shutting down the Government. He has joined Government-shutters-down-anonymous. We are on a 12-step program. Unfortunately, it does not include democracy.

What we are being told here is you may not continue to debate these issues openly. You may not have the rules which say you got to wait a day so we can study this big thing. He says you better do this in a hurry or we will shut the Government down.

Why is that the case? Because the Republican majority has not been able to run the place sufficiently to give us enough time. So, yes, they have created an emergency from which they now want to profit.

They are asking us to sacrifice democratic procedures on the altar of their own incompetence. I agree, it is an imposing altar. I have never seen incompetence so dazzlingly displayed. But I do not think that is a justification for shutting down fair procedures.

What is their justification? "Well, you guys did it, too. You guys did it." Every time we talk about one more procedural outrage, they go to the history books and they say "Hey, the Democrats once did that."

Well, as I recall, the Republicans ran in 1994 on a slogan of "Throw the bums out. They have run the House unfairly, they have been undemocratic." Speaker GINGRICH, whe he was still Speaker, before he kind of deposed himself and put ARMEY in charge, he used to talk about that.

Now what do we have? Every time the Republicans get in a bind because of their own incompetence, they decide to do some shortcut that they used to attack us for. So they used to run on the slogan "Throw the bums out." Then they decided to take power and emulate us, and this year apparently their slogan for reelection will be, "Keep the bums in."

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think there ought to be a new song and dance out there called veto and spend, veto and spend, veto and spend. The gentleman ought to mention a little of that in his comments, the gentleman from Massachusetts.

But let me also say to the gentleman from Massachusetts, I respect his compliment that I have unilaterally had to take on speaker after speaker after speaker here for the last hour. Bring on your best. I think I can handle it. I am ready for it.

The issue here is not whether or not we have had a great debate in the last hour, and I think we have. Certainly it has been somewhat entertaining. The fact is this: If we do not pass this rule, if we carry through with the gentleman's comments to vote no on this rule and this rule loses, we will close this Government down tomorrow.

□ 1130

As I have said, there are times where it may be necessary to close down the Government for a temporary period of time. This is not one of those times. My colleagues do not need to bring this battle upon themselves. Do not do it. Do not do it to the American people.

Vote "yes" on this rule and keep that Government operating tomorrow. I can tell the Republicans intend to vote "yes" on this rule. We do not think it is time to close down the Government, and we urge them to reconsider their strategy of closing down the Government tomorrow. Do not do it. Vote "yes" on the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, today is another one of those sad days in the history of the 104th Congress. Today, once again, you are seeing the Democratic minority gagged basically by the Republican majority. They are going to, by passing this rule, be able to take up legislation in the foreseeable future all the way to the 1st of April, approximately, without going through the normal process of the rules of the House.

This is not new to the 104th Congress. This is a way that the 104th Congress, under Speaker GINGRICH, has operated for over a year. Yet, a little over a year ago in this well, the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules, said that we were going to have openness in this Congress, we were going to have over 75 percent of the open rules. Where is the open rule?

So far this year, major legislation, the farm bill, antiterrorism, today we will finish immigration, all of those, major legislation, every one of them, closed rule, semi-closed rule. No open rule. Not letting Members who are elected by their constituents to this house, to this democratic body, any democracy at all, not letting them talk about their amendments and offer their amendments.

Mr. Speaker, no, there is no democracy in this great House of Representatives. This bulwark, this great light for every other nation, we do not have democracy. We have a dictatorship, a strong dictatorship, one that rules with an iron hand and tells Members they do not have to participate. In fact, we cannot even participate in the operation of this House and what legislation goes and what amendments are offered and even what debate is had.

They are limiting time. Even if we get to offer an amendment, opponents to it cannot get up and speak unlimited on it and discuss it. No, no, 10 minutes, 15 minutes for a major amendment. Why? Because they want to run this House with an iron hand, not with openness, not with democracy. There is no democracy in this House of Representatives.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

It is awfully hard not to like the gentleman from Missouri. His comments are amusing, but his comments certainly are not relevant here. He talks about the fact that I, as a representative of the majority party here today, am trying to gag the minority party. I think he probably had 20 speakers, I have spoken this entire time, he has had 20 speakers. There is no gagging going on here.

Let me just say that these comments are all fine, and it may play good for the liveliness of this debate because sometimes these rule debates get pretty boring; but the fact is this. Your President, our President, the President of the United States agrees with this continuing resolution. He does not want to shut down the Government tomorrow. So I urge my colleague to call his President, call our President, call the Democratic National Committee and say, should we really vote no on this rule and shut this Government down? Is this the right strategy to pursue, to shut down the Government tomorrow? It is a darned risky strategy. I do not think they are going to succeed.

Mr. Speaker, I am trying to offer some advice to the Democrats over there that are urging a "no" vote. Do not do it, it will backfire on you. Do not shut down the Government. Work with us on this rule. Cooperate with us. The President is going to sign it. It does not take a rocket scientist to figure this thing out. We have got to keep the Government operating tomorrow.

The gentleman talks about fairness and a gag, the minority leader has the right to offer the final amendment tomorrow to the gentleman from Missouri. We did not gag him. We did not gag any of them in the last hour. There is plenty of time for debate. But do not let that debate run the next 24 hours and shut this Government down. Because if they do, they are making a mistake. We do not need to shut the Government down.

Vote "yes" on this rule or take the option of shutting it down. Do not do the latter because it will hurt every man, woman, and child in this country.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge a "no" vote on the previous question. If the previous question is defeated, I shall offer an amendment to the rule which will provide an open rule for consideration of a clean continuing resolution without the martial law provisions. These extraordinary procedures would allow the House to bring up a series of budget bills without the normal 1-day layover period required by the

rules. It's time to return to the regular order and live by the rule which protects the rights of Members on both sides of the aisle.

I include for the RECORD the text of the amendment I would offer if the previous question were defeated.

AMENDMENT TO H. RES. 386

On page 2, strike all after line 9 through the end of the resolution.

On page 1, strike lines 1 and 2 and insert:

"*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the joint reso-"

On page 2, line 4, after the period add the following:

"After general debate the joint resolution shall be considered for amendment under the five-minute rule. At the conclusion of consideration of the joint resolution for amendment the Committee shall rise and report the joint resolution to the House with such amendments as many have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the joint resolution."

Explanation: The amendment to the resolution strips out the martial law provisions of the rule and provides on open rule for consideration of the short-term continuing resolution.

Mr. Speaker, every single rule the House has adopted this session has been a restrictive rule; yes, you heard that correctly, the Republican House has so far adopted 100 percent restrictive rules in this session. And if it is adopted, the rule before us will leave that 100 percent purely restrictive rules record intact.

This is the 62d restrictive rule reported out of the Rules Committee this Congress.

In addition more than 72 percent of the legislation considered this session has not been reported from committee—8 out of 11 measures brought up this session have been unreported.

At this point I include the following information for the RECORD.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 withio the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provide for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 95	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(l)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute, allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution, self-executes Agriculture language.	3D; 1R.

VOL
142
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29
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FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(l)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Rescissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 "Rule Defeated"	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H.Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. **"RULE AMENDED"**.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title..	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	1D.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliley amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional Record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and Managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a Senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (3/5 requirement on votes raising taxes).	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pinots of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (3/5 requirement on votes raising taxes).	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res.	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate.	N/A.
H.R. 1745	Utah Public Lands Management Act of 1995	H. Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min)..	N/A.
H.Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dornan), H. Res. 302 (Buyer), and H. Res. 306 (Gephardt); 1 hour of debate on each..	1D; 2R
H. Res. 309	Revised Budget Resolution	H. Res. 309	Closed; provides 2 hours of general debate in the House.	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H. Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.
		PROCEDURE IN THE 104TH CONGRESS 2D SESSION		
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered. ** NR.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131. ** NR.	N/A.
H.R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the house the motion printed in the Rules Committee report; 1 hr. of general debate; previons quesetion is considered as ordered. ** NR.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed; ** NR	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate. makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law. Chairman has en bloc authority for amends in report (20 min.) on each en bloc..	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H. Res. 368	Open rule; makes in order the Hyde substitute printed in the Record as original text, waives cl 7 of rule XVI against the substitute. Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A.
H.R. 3021	To Guarantee the Continuing Full Investment of Social Security and Other Federal Funds in Obligations of the United States.	H. Res. 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H. Res. 372	Restrictive; self-executes CBO language regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report: Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which if contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	2D/2R.
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735. ** NR.	6D; 7R; 4 Bipartisan.

VOL
142
PT
5
MR
21
—
29
1996
UMI

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2202	The Immigration and National Interest Act of 1995	H. Res. 384	Restrictive; waives all points of order against the bill and amendments in the report except for those arising under sec. 425(a) of the Budget Act (unfunded mandates); 2 hrs. of general debate on the bill; makes in order the committee substitute as base text; makes in order only the amends in the report; gives the Judiciary Chairman en bloc authority (20 min.) of debate on the en blocs; self-executes the Smith (TX) amendment re: employee verification program..	12D; 19R; 1 Bipartisan.
H.J. Res. 165	Making further continuing appropriations for FY 1995	H. Res. 386	Closed; provides for the consideration of the CR in the House and gives one motion to recommit which may contain instructions only if offered by the Minority Leader; the rule also waives cl 4(b) of rule XI against the following: an omnibus appropriations bill, another CR, a bill extending the debt limit. ** NR.	N/A.

*Contract Bills, 67% restrictive; 33% open. ** All legislation 1st Session, 53% restrictive; 47% open. *** Legislation 2d Session, 91% restrictive; 9% open. **** All legislation 104th Congress 62% restrictive; 38% open. ***** NR indicates that the legislation being considered by the House for amendment has circumvented standard procedure and was never reported from any House committee. ****** Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

Mr. FROST. Mr. Speaker, as I stated earlier, I am asking for a "no" vote on the previous question. This matter, we fully explored this matter today. I would only point out to the gentleman on the other side the concept of martial law really was a concept that was talked about by a Member on his side of the aisle during preceding Congresses, the gentleman from Pennsylvania, Mr. WALKER, who is still with us, and he may want to discuss that with Mr. WALKER some time. But it is Mr. WALKER, who when we were in the majority, stood up at that microphone when they were in the minority and railed against this procedure time and time again. I have not seen Mr. WALKER on the floor today.

Mr. Speaker, I would be interested to share his observations at this point because he was the leading proponent on your side of the aisle for not suspending the rules, for not doing what you are doing today and have done for 4 months now. I urge my colleagues to vote down the previous question and to proceed with the consideration of this measure in an orderly manner.

Mr. Speaker, I yield back the balance of my time.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let us first start out by advising the gentleman from Texas that the gentleman from Missouri [Mr. GEPHARDT] is the one who first utilized this rule in this fashion. Second of all, I do consider the gentleman from Texas a professional friend. We have had a good working business relationship. But let me offer a little advice. Do not shut down the Government in a battle over this rule. It is not right. It is not going to work, and it is going to backfire on you.

Now, from a political viewpoint, maybe it would benefit the Republicans for you to take the hit on this deal, but you do not need to take the hit. I am putting myself above that partisanship and worrying about 250 million people, 230 million people in this country. We do not need to shut the Government down. That is exactly what you are doing by urging what is, in essence, a "no" vote on the rule. Let us pass the rule. Let us get some more negotiating time for the good-faith negotiations that are going on between the President, the U.S. Senate and the U.S. House.

Mr. Speaker, on this issue of the rule, the gentleman from Texas [Mr. FROST] had the opportunity last night to entertain the type of motions that he is now having introduced into the RECORD. In fact, he did not bring it up on his own initiative, as certainly he had in the past, but he did not bring it up last night. I am not being critical of that point. The point I am making is the chairman of the committee, the Republican chairman, offered to the gentleman from Texas the opportunity to do exactly what he is attempting to do today on the floor.

Mr. Speaker, now they have revised their strategy, and I think their strategy is headed straight for a Government shutdown as that hand moves 24 hours on that clock. We do not want to close this Government down. We should not want to close this Government down. Let us keep the Government open. Let us vote "yes" on the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MCINNIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 234, nays 187, not voting 10, as follows:

[Roll No. 80]

YEAS—234

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—187

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—10

Collins (IL)
Forbes
Johnston
Moakley
Radanovich
Scarborough
Stark
Stokes
Waters
Williams

☐ 1159

Ms. RIVERS and Mr. COYNE changed their vote from "yea" to "nay."

Mr. GILMAN changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. SCARBOROUGH. Mr. Speaker, on rollcall No. 80, I was unavoidably detained and was unable to vote. Had I been present, I would have voted "yea."

The SPEAKER pro tempore (Mr. BURTON of Indiana). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 237, noes 183, not voting 11, as follows:

[Roll No. 81]

AYES—237

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—183

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Yates

NOT VOTING—11

Collins (IL)
Cox
Farr
Johnston
Moakley
Radanovich
Solomon
Stark
Stokes
Waters
Williams

☐ 1208

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1972

Ms. FURSE. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1972.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

VOL
142
PT
5
MR
21
—
29
1996
UMI

REPEALING TEA IMPORTATION ACT OF 1897

Mr. KLUG. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2969) to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897 and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Tea Tasters Repeal Act of 1996".

SEC. 2. REPEAL OF TEA IMPORTATION ACT OF 1897.

The Tea Importation Act (21 U.S.C. 41 et seq.) is repealed.

SEC. 3. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KLUG] is recognized for 1 hour.

Mr. KLUG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2969, the Federal Tea Tasters Repeal Act of 1996. This bipartisan legislation repeals the Tea Importation Act of 1897 by eliminating the Federal Board of Tea Experts. It was favorably reported by the Committee on Ways and Means on February 29.

This bill ends the antiquated and outdated requirement that each lot of imported tea meet taste standards recommended to the Secretary of Health and Human Services by the Federal Board of Tea Experts.

The bill also ends the imposition of a Customs Service fee on tea imports that partly finances tea quality inspections. The cost to the taxpayer for matching teas to the quality standards of the Tea Board is over $170,000 each year. Tea is the only food or beverage for which the Food and Drug Administration samples every lot upon entry for comparison to a quality standard recommended by a Federal board.

I believe there is no justification for tea being held to a higher Federal standard on behalf of the tea industry, which should assume responsibility for the competitive quality of its products. The Board of Tea Experts is outdated and the taxpayer's money could be more efficiently used elsewhere.

Under the Federal Food, Drug, and Cosmetic Act of 1938, the FDA will continue to examine and sample imported tea for compliance with health and safety standards. The FDA will ensure that tea is held to the same high level of safety and quality as every other food and beverage entering the United States.

I applaud the sponsors of this bill for introducing a measure which strikes a blow for good government by reducing an unnecessary regulatory burden on American industry and the lives of American citizens.

I urge my colleagues to support passage of the bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—RETURNING TO THE SENATE S. 1518, REPEALING TEA IMPORTATION ACT OF 1897

Mr. CRANE. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a privileged resolution (H. Res. 387) returning to the Senate the bill S. 1518, and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 387

Resolved, That the bill of the Senate (S. 1518) to eliminate the Board of Tea Experts by prohibiting funding for the Board and by repealing the Tea Importation Act of 1897, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

Mr. CRANE (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The resolution constitutes a question of privilege.

The gentleman from Illinois [Mr. CRANE] is recognized for 30 minutes.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution is necessary to return to the Senate the bill S. 1518, because it contravenes the constitutional requirement that revenue measures shall originate in the House of Representatives. S. 1518 would repeal an import restriction found in current law, and therefore contravenes this constitutional requirement.

S. 1518 proposes to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897. Under the act, it is unlawful to import to the United States tea which is substandard, and the importation of all such tea is prohibited, except as provided in the Harmonized Tariff Schedule of the United States.

The repeal of this provision would have a direct effect on customs revenues. The proposed change in our tariff laws is a revenue-affecting infringement on the House's prerogatives, which constitutes a revenue measure in the constitutional sense. Therefore, I am asking that the House insist on its constitutional prerogatives.

There are numerous precedents for the action I am requesting. For example, on July 21, 1994, the House returned to the Senate S. 729, prohibiting the import of specific products which contain more than specified quantities of lead. On February 25, 1992, the House returned to the Senate S. 884, requiring the President to impose sanctions, including import restrictions, against countries that fail to eliminate large-scale drift net fishing. On October 31, 1991, House returned to the Senate S. 320, including provisions imposing, or authorizing the imposition of, a ban on imports in connection with export administration.

I want to emphasize that this action does not constitute a rejection of the Senate bill on its merits. Adoption of this privileged resolution to return the bill to the Senate should in no way prejudice its consideration in a constitutionally acceptable manner.

The proposed action today is procedural in nature, and is necessary to preserve the prerogatives of the House to originate revenue matters. It makes it clear to the Senate that the appropriate procedure for dealing with revenue measures is for the House to act first on a revenue bill, and for the Senate to accept it or amend it as it sees fit.

☐ 1215

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Does any Member on the minority side seek recognition?

Mr. CRANE. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 165 and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, pursuant to House Resolution 386, I call up the joint resolution (H.J. Res. 165) making further continuing appropriations for the fiscal year 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 165 is as follows:

H.J. RES. 165

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 104–99 is further amended by striking out "March 22, 1996" in sections 106(c), 112, 126(c), 202(c), and 214 and inserting in lieu thereof "March 29, 1996", and that Public Law 104–92 is further amended by striking out "March 22, 1996" in section 106(c) and inserting in lieu thereof "April 3, 1996".

The SPEAKER pro tempore. Pursuant to House Resolution 386, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] each will control 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I come before the House again today regarding funding for the remaining fiscal year 1996 appropriations bills. I do hope that we will have everyone's help to prevent a Government shutdown and allow the House and the Senate conferees on the omnibus wrap-up continuing resolution time to close out this fiscal year and get on with the business of the Congress.

On Tuesday evening, the Senate concluded action on H.R. 3019, the omnibus continuing resolution, making a further downpayment toward a balanced budget. This was a big bill in the House because it addressed big problems. In the Senate it became a bigger bill because they added funding for the District of Columbia as well as providing additional funding, with some offsets, for programs in education and the environment.

We have begun analyzing the differences between the House and the Senate bill, and I might add that the Senate amendment is some 933 pages long, so it has taken us some effort to do so, and we are trying to find out additional offsets to pay for these program increases without exceeding our budget allocations. I have talked with Senator HATFIELD, distinguished chairman of the Appropriations Committee in that body, and it is our intention to get together informally this afternoon to begin the process of working out the differences between the two bodies on the omnibus bill. Both of us are asking the administration to join with us in concluding the business of fiscal year 1996 so that we can indeed move on to the pending budget for fiscal year 1997.

I might just point out that regardless of what happens on this bill or subsequent ones, by December 31, 1996, this year, the 104th Congress ceases to exist. It is going to be over. And in the interim we have about 4 months that are going to be predominantly taken up by the election season, if you will. So that really only leaves between now and the middle of September for active, ongoing effort to conclude the business of Congress.

We have got lots of policy initiatives to deal with from the authorizing committees, and we have to conclude the fiscal year 1997 appropriations process, which entails 13 bills which must pass the House, pass the Senate, go to conference, pass both Houses again, and be ultimately sent to the President and signed by the President. That means we have a great deal of business to do for fiscal year 1997, and here we are still contemplating the effort in fiscal year 1996, primarily because the President vetoed three of the bills under consideration and because the fourth bill, the Labor-Health bill, languished in the Senate for some 9 months because our liberal friends over there decided to just filibuster it and keep it from coming up for consideration.

In addition, the District of Columbia bill, which should have been sent to the President a month or two ago, was not because of some few Members' concern about a little $3 million school voucher program which would allow poor youngsters to go to private schools. They do not want to take on the NEA, the National Education Association, and all of those great stalwart protectionist organizations which protect the great quality education provided by our public schools today, or lack thereof; they just do not want to let the camel's nose get under the tent, and have opposed the possibility of poor youngsters going to quality schools. As a result, the District of Columbia bill has been hung up, and now the Senate has included that bill in this omnibus wrap-up effort which we are going to be considering in conference over the next 8 days.

But obviously since the Senate did not complete their business until Tuesday, and here it is Thursday, and for the last 24 hours we have been evaluating the 933 pages of additions that the Senate put on our effort, we need some time for the conference to do its work. We begin today, we will work through the next 8 to 10 days, and we hope to be concluded before the close of business on Friday next. If we are, we will be delighted, because that will wrap up the fiscal year 1996 season. Then we can go on to the fiscal year 1997 season.

I regret that we have to be here today, but our work is not yet completed. I do believe that we have to keep Government open. We tried doing the other in the past, and that was not a pleasant experience for anybody. So we come here to try to keep Government open while Congress does its business on the remaining stages of the process for fiscal year 1996.

The bill I bring before the Members today keeps Government operational through March 29 with the exception of two programs, the AFDC and the foster care program, which we carry through into law through April 3 to allow continuity of the bureaucratic effort to make sure that people who are entitled to the benefits under those programs actually get those benefits.

But we really must have this extension. I expect some prolonged debate here today, much as we had last week on a similar 1-week extension. I would like to think that despite whatever debate we have, the issue is not that controversial, that the vast majority of our Members will ultimately vote for this bill, and that we can go about the business of the conference and conclude fiscal year 1996 once and for all.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 6 minutes to the gentleman from Michigan [Mr. BONIOR], the distinguished minority whip.

Mr. BONIOR. Mr. Speaker, I thank my friend from Wisconsin for yielding me the time. Let me just say, with due respect to my friend from Louisiana, that this is indeed controversial, at least it is on our side of the aisle, and I will tell the Members why.

We had a rather interesting, heated and enlightening debate on the rule that governs the discussion of this resolution. The objection from this side of the aisle is that we are continuing stop-and-go Government. Stop-and-go Government is not good for this country, it is not good for this Congress, and we are doing it under such a closed procedure. We are in our sixth martial law resolution right now.

What does that mean? That means basically that the folks out there in the country have been shut out from the process, from testifying at hearings, from having their input into legislation. Members of this body have been shut out from their committee work. This is all being done out of the leader's and the Speaker's office, coming right to the floor. We have been at it now for 4 months like this. Seventy-three percent of all legislation that has come to the floor this year has bypassed the committees, come right to the floor. Why have a committee structure?

Mr. Speaker, this is distressing because it runs roughshod over the rules and the traditions of this great institution. This is supposed to be a deliberative body. It is supposed to look at legislation, discuss it, have people come and give witness to whether it is on-track or off-track. Yet here we are jamming through another resolution.

VOL 142 PT 5 MR 21 — 29 1996 UMI

The reason we are doing this, the gentleman from Louisiana is correct in this, is to give a little bit more space so they can do the work that they were supposed to have gotten done 6 months ago. The budget was supposed to be finished 6 months ago. Here we are with five appropriation bills unfinished.

That is maybe all well and good in terms of discussion in this institution, and people are saying, "Well, what does that have to do with me out there in America?" What it has to do with people out there in America is that it gives them no sense of where this country is going, where their school district is going to in terms of education. Let me use education as an illustration of the incompetence of this do-nothing and delay Congress that we are in now.

Mr. Speaker, when is this assault on education going to end? For 15 months now you have been talking about giving our kids a better life. You have come to the well, you have made that case, but time and again you have denied our children in this country the skills that they need to have a better life.

You started off the beginning of this Congress by cutting school lunch, and then you attacked student loans. You wanted to take $17 billion out of student loans, so kids could climb that ladder of success? No, you have brought that ladder up and you have said, "We can't afford it."

Then, after the student loan debate, you have gone after a very important program called DARE, safe and drug-free school program. We are talking about cuts of $3 billion plus in this fiscal year in education as a result of this inaction and this stop-and-go. DARE is just one of the programs that is going to be affected. It is a great program. It deals with drug abuse in our schools and for our children.

What these cuts will do, Mr. Speaker, is put approximately 13,000 DARE officials out of work. It will deny literally millions of our kids the opportunity to get the education they need to say no to drugs.

□ 1230

In addition to that, title I, a program that helps our young people in math and science, is going to be cut. It is going to be cut by $1 billion, if you take this over the course of the full year.

Now, school districts across the country right now are trying to plan for September. They are making decisions about how large the classes are going to be, they are making decisions about how many teachers they are going to have. Across this Nation, this week and next week, 40,000 to 50,000 teachers are going to get pink slips and classes are going to be enlarged because you cannot get your act together to let us know where the budget is going to be on education.

Now, the Speaker likes to refer to public education as subsidized public dating. He actually said that. This is much more than subsidized public dating. This is about the best investment that we can make in this country, investing in our young people today, and they know that. They know what they earn will depend upon what they learn.

This is the 12th time in 5 months that we have had a stopgap continuing resolution, the 12th time. You cannot run a government that way. You cannot do it. It does not work, and it has proved it does not work.

Mr. Speaker, I encourage my colleagues this afternoon to vote against this resolution. It denies us the opportunity to restore those education funds, to restore those cuts in the Environmental Protection Agency, to restore those Superfund cuts so we can clean up our toxic waste sites and our dumps and disposal sites. We need to have that opportunity, so we can get on with the business of this country.

I urge my colleagues to vote against this resolution.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am absolutely astounded. I just heard the distinguished whip from the minority party say he wants to vote against this simple bill to keep Government going for 1 week. He gives a lot of reasons, but basically instead of allowing the committee to do its business and go ahead and go to conference and work out the bigger issues by a week from Friday, he wants to shut the Government down. He would totally shut the 9 departments, I think, maybe 10 departments, and the entire District of Columbia down, because he is frustrated about a program that he says works.

I would like to comment on the DARE Program. First of all, I would like to make this point: He says we have not done our job. We are talking about the labor-health-education-human services bill that passed this House at the end of July 1995. It passed this House, and whoever is responsible dutifully took it from the House of Representatives over to the Senate and delivered it to them. Every time someone wanted to bring it up for discussion in the other body, the Democrats stood up and objected and filibustered it.

Now, I want it to be clear that the gentleman is accusing the majority of creating a situation whereby this bill was not funded.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Wisconsin. I am just replying to the minority whip, if I might.

Mr. OBEY. Mr. Speaker, I thank my good friend for yielding, but I would suggest if you are going to point out the history of the Senate, that you point out the complete and accurate history of the Senate. The fact is that there were objections to consideration of that bill from both sides of the aisle, not just once, but many times more than once, on both sides of the aisle, as we both well now know.

Mr. LIVINGSTON. Mr. Speaker, reclaiming my time, the issue of striker replacement was repugnant to the liberals on the other side. I personally turned on the television and watched the proceedings and watched one of the liberal Democrats object to the bringing up of this bill.

The fact is it is the normal process for the House to pass a bill and the Senate to pass a bill and to meet in conference. This bill has never been conferenced, because the bill never got out of the Senate. Now, it is absolutely impossible to draw the conclusion that anybody in the House of Representatives, Republican or Democrat, is responsible for that state of affairs.

Mr. Speaker, if I might go on, the DARE Program, it is Safe and Drug-Free Schools. As I pointed out last week, this is a program that has got a wonderful name, an absolutely fantastic name, until you start to understand that in the implementation of that program, it often goes terribly awry. In Talbot County, VA, they spent grant money on disc jockeys and guitarists for a dance, lumber to build steps for an aerobics class, and school administrators spent over $175,000 on a retreat to a St. Michaels resort. I think that is in Maryland on the Eastern Shore. Nice place.

Additionally, a single school district in Texas, the Alomar Independent School District, received a grant of $13. How many bureaucrats had to get together and huddle in a room for how many weeks to figure out that we have got to give this district a $13 grant? And all for a good cause, mind you, to promote the advocacy of Safe and Drug-Free Schools, to discourage children from using drugs.

What is the history during the entire Clinton administration. After the Clinton administration decimated its own drug abuse office in the White House by 85 percent of its budget, what is the history? Drug abuse among teenagers went up, not down. This program does not work.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, I would hope that we can cut through the bull gravy and focus on what is really happening here today. The fact is that this proposal really represents the majority party's determination to keep Government running on the installment plan. They do not have enough gas in the tank to get the car down the road apiece, so what they are doing is driving the Government about a block and then they have to get renewed authority and fill

up the gas tank to get the Government to go down another block. That is no way to drive a car, it is no way to run a railroad, it is certainly no way to run a government.

What you really are doing, by extending the ability to operate on a week-to-week basis, is you are playing weekly Russian roulette with local school districts, with veterans, with recipients of government assistance and a wide variety of programs. It is an immature way to run a government, and it ought to stop.

This is the 12th time, the 12th time, that we have now had a temporary continuing resolution before us. In 2 weeks we will be one-half of the way through the fiscal year, and yet 70 percent of the domestic appropriations will still not be in law.

Now, why is that? It is because the majority in this House insisted on passing through this House an extreme ideological agenda under which you slashed funding for education by 15 percent, you slashed job training by 18 percent, you slashed environmental cleanup enforcement by one-third. You attached a laundry list of special interest legislative riders to these appropriations bills, and to protect the public interest the President vetoed a number of the bills.

The Education and Labor proposal was so extreme that the Republican-dominated Senate added more than $3 billion to at least partially restore the draconian cuts that you made in education, in manpower training, in summer jobs, and the like.

Because of the extreme nature of that bill, we have not even yet been able to get to conference. The chairman just says "Why don't you let the committee do its work and go to conference?" Why does the committee not bring up the motion to appoint conferees? You cannot even have a conference until conferees are first appointed. The last time I looked, there is a dispute between the majority leader and the Speaker about process on the floor, so we cannot even officially get to conference because of yet another internal division within the Republican Party leadership in this House.

Meanwhile, what is happening? What is happening is because they cannot get the decisions made, they are saying "OK, let us run the Government on a reduced funding basis a week at a time." So they are funding education at a low level, which is going to require the layoff of a good many teachers and teachers' aides. They are preventing us from continuing to clean up all of the Superfund sites that we ought to be cleaning up, and then what do they do? They gin up a smokescreen. And the gentleman says, "well," he justifies the cuts in drug free schools by pointing out something that some idiotic administrator did at the local level in a city or two to justify cutting back by a huge amount in that entire program.

I would like to take just a minute to run through some of the arguments the gentleman is making. He argues, for instance, about what has happened to drug free schools. Let me say to the chairman of the committee, I will have unanimous-consent requests at the proper time to remove funding for virtually any of these items that you name. If you do not like the fact, for instance, as the gentleman indicated, that we had cosmetology schools being funded under the Student Aid Program, fine. I will ask unanimous consent to strike all funding for cosmetology schools.

You mentioned last week you did not like the fact that there were massage schools being funded. I will have the unanimous-consent request to eliminate all funding for massage schools. I hope the gentleman will support that unanimous-consent request.

I will have a number of other unanimous-consent requests.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, while the gentleman is in the business of asking for unanimous-consent requests, would he join with me in asking for a unanimous-consent request that might obviate the need for continuing to come back in this manner? Would he join with me in just striking the date March 29 and inserting the date September 30 on the issue pending before us here today? That way we would not have to come back. We would not have to go to conference. We would go ahead and be done with this whole doggone thing.

Mr. OBEY. Mr. Speaker, reclaiming my time, let us take a look at what the effect of that would be on the local school districts. You would require local school districts to lay off 40,000 teachers. Am I going to support a unanimous-consent request for that? Absolutely not.

It means you would nail in the large reductions in Federal support for School to Work programs. Am I going to support a unanimous-consent request to do that? Absolutely not.

It means you would nail in the huge reductions in enforcement for environmental cleanup. You think I am going to support a unanimous-consent request to do that? Absolutely not.

I will offer a unanimous-consent request to eliminate some of the abuses of funding which the gentleman claimed he was concerned about last week, but I am not going to support a unanimous-consent request that will tell schoolteachers that 40,000 of you are going to get pink slips so you can continue to provide tax cuts in your budget for very wealthy people making over $200,000 a year. If you want to offer a responsible unanimous-consent request, I will be happy to entertain it. But it is not responsible to suggest that local school districts should lay off 40,000 teachers because you've got a political dispute within the leadership of the Republican Party in this House. That is not responsible and the gentleman knows that.

So let me simply say that what is at stake here is whether or not we are going to vote for a continuing resolution which cooperates in the strategy by which we tell working families, for instance, that we are going to raise the cost of their getting student loans by $10 billion over the next 7 years.

□ 1245

We are not going to cooperate in that kind of an agenda. What ought to happen here is very simple. Instead of bringing these silly, stop-and-go, week-by-week extensions to the floor, what my colleagues ought to do is go into that conference and recognize they need to restore funding for the NLRB, they need to more fully restore funding for education. They need to fully restore more funding for environmental cleanup.

They need to buy into some of the offsets that the administration has suggested to pay for those programs. They need to drop the extraneous special interest language which is going to let timber companies rip up the Tongass Forest, which is going to allow other special interests to get away with murder in the environmental field. And they need to rip up some of the other special interest language that they have attached to these appropriation bills.

Mr. Speaker, that is what the President is asking for. That is the rational thing to do. That is what they ought to do rather than running the risk every week that the Government is going to shut down again.

Mr. LIVINGSTON. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. PORTER], the distinguished chairman of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations.

Mr. PORTER. Mr. Speaker, I feel like I have walked into the middle of the same movie I was in a week ago. Why are we debating this matter? This is the same thing we did last week. Mr. Speaker, we might as well just play the tapes of last week's debate. All the same things are being said all over again.

Mr. Speaker, the gentleman from Wisconsin, I think he has got that "tax cuts for the rich" down like a mantra. He says it over and over again and cannot remember what the words are, they just pour out the same way.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from Wisconsin.

VOL
142
PT
5
MR
21
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29
1996
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Mr. OBEY. Is the gentleman making a unanimous-consent request to play the tape again so we can stop going through this charade?

Mr. PORTER. Mr. Speaker, I will make that unanimous consent.

Mr. OBEY. Mr. Speaker, I would agree to that request.

Mr. PORTER. Why do we not yield back the balance of the time and vote then? Would the gentleman agree to that?

Mr. Speaker, what we are having here in Washington lately is about 70 percent politics and about 30 percent substance. While politics are always going to be a part of it, I think what the American people expect of us is 30 percent politics and 70 percent substance, or even more.

We have to reverse all of this. There is way too much politics involved.

Mr. Speaker, the President has just sent to the Congress a budget that is 90 percent politics and 10 percent substance. It ramps up spending in a lot of areas. I agree with the gentleman on some of the areas he mentioned earlier and some of the special interests that are not contributing at all to deficit reduction and ought to. But the President very easily ramps up spending and plays to every special interest group in our country saying we are going to do better for you in this, better for you in that, better for you in another thing. And he does it without any responsibility for the bottom line, and that is for the country as a whole.

Mr. Speaker, he sends up a budget that has in it cuts that are made only in the last 2 years after he is constitutionally out of office that he knows very well would be impossible to be made because they are so huge and they are in the discretionary spending side alone. He plays the same old game of playing to seniors and farmers and union people and the like with no responsibility for where the money is coming from to pay for it.

Where is it coming from? Well, it is coming from adding to the deficit, that is where it is coming from. We were asking future generations to pay our bills. That is the old way of doing it in Washington. It has been done for years, and here we are attempting again apparently to do it all over again.

The fall election, Mr. Speaker, is going to be about whether we are going to continue to do business in the old way and play the special interest politics game or not. Whether we are going to change to a new way, to take responsibility for the country, to ask people not what they get out of the process but what they are willing to give to the process to make it work for all the American people, to look at everything that Government does to ensure that it is worth doing in the first place. That it is something that has to be done through Government in Washington and can only be done there, to decide our priorities and to make certain that the money is spent to get results for people.

That is what has been failing to happen over and over and over again in Washington. It is money that is shoveled out the door to serve interests rather than getting results for people. It is time that we change this process and that we make Government work for people and that we stop playing the special interest game and the political games that are so evident throughout the President's budget and throughout all of these debates.

It is time that we get control of this process. It is time that we behave responsibly. It is time that we work budgets within a framework of fiscal responsibility and not ask people in the future to pay for what we receive from Government today.

So I would say to the gentleman from Wisconsin, yeah, let us just play the tape. It is all the same old stuff over and over again. It is all the same old banter. It is all the class warfare and playing the special interest game. Let us get on with it. Let us get this job done. Let us get the substance done. That is what the American people expect of us and not just politics as usual.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we do not have either the President's budget or the Republican budget before us today. What we have before us is a proposition which continues the reduced funding levels of education and environmental protection which will threaten the environmental future of the country and the educational future of our children. That is what is before us today.

But if we are going to mention the President's budget, let me simply point out the gentleman can say all he wants about how too many of the budget cuts in the President's budget are in the outyears.

Mr. Speaker, let me simply point out that in the seventh year of the budget which my colleague voted for, the budget reductions in the seventh year in the Republican budget are larger in the seventh year than they are in President Clinton's. Now, my colleague may not know that fact, but that is a fact.

So I would suggest that, if he is concerned about reliance upon outyear cuts, I think he ought to look in the mirror because the budget that he supported has deeper cuts in the seventh year than the President has.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 1 minute and 30 seconds.

Mr. Speaker, the point was made earlier that this practice of a lot of continuing resolutions coming directly to the floor and not going to committee, is highly unusual. I think it is important to point out for the record that in fact it is not unusual. In 1985, when the Democrats controlled the House of Representatives, we had three continuing resolutions that went directly to the floor. In 1986, there were six continuing resolutions that went directly to the floor; two in 1987; five in 1991; three in 1993.

The point is nobody likes the process that we have engaged in, but we are where we are because the President vetoed three of the major appropriations bills just before Christmas, prompting the expulsion of thousands of Federal employees from their jobs at Christmas time. And the other bill, the labor HHS bill, was hung up in the Senate because it was filibustered for 9 months until really now.

So as distasteful as this whole process is, it has been done before. It will be done again. The old adage that you do not look at sausage and laws being made because it is troublesome is painfully apparent in this particular process we are working our way through. I think for the Democrats, the minority's position seems to be to vote against this bill and close down Government because they do not like provisions that are being discussed in the conference in H.R. 3019; that is ludicrous. It just does not even make sense.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. REGULA], the distinguished chairman of the Subcommittee on Interior.

Mr. REGULA. Mr. Speaker, just a few comments on the interior portion of the omnibus bill that will be coming before us in the near future in the form of a conference report.

Obviously, it was very difficult to meet all the needs with the allocation that we had. The final product that we put out was $1.7 billion under the President's request. Now, that is $1.7 billion that we are not loading on to future generations. What that means is that, when young people in the next century, soon to be upon us, want to borrow money to buy a house, it will be at a reasonable interest rate instead of an inflated rate. If we can reduce the deficit and ensure to the marketplace that we are going to achieve a balanced budget over the next 7 years, I think we would see a dramatic decrease in interest rates. Even now, of course, that translates into jobs, as people start businesses, as they expand businesses, as we gain a larger share of the export market because the cost of production is reduced by not having the high overhead of interest rates, and I remember the late 1970's when we were up at something like 21 percent. So the potential benefits are enormous.

Mr. Speaker, in structuring the interior bill, we did all that we could to make our contribution. We divided our responsibilities into must-do's, need-to-do's and nice-to-do's. On the must-do's, we kept the funding for the parks

flat, a little bit of increase but relatively flat, and said manage it better. They are doing that.

We did the same thing with the forests. The cut of timber we allowed was at the President's number. So it was not a case of cutting below in that instance because we recognized that the availability of timber is very important, wood for housing. When we had the bill on initially, I had a piece of 2-by-4 to illustrate what has happened to prices for lumber, and this affects of course the price that young people need to pay when they build or buy a house.

So I think what we tried to do was recognize that the agencies that dealt with people, the parks, the forests, fish and wildlife facilities, BLM, and they also have a lot of facilities that are used by people on a multiple use basis, we kept that funding level so they would have the people and the ability to respond.

We eliminated the Bureau of Mines. I noticed in the President's 1997 budget he takes credit for eliminating Bureau of Mines, which we have done already in 1996. He has become a budget cutter.

What we did is took care of the things that we had to do on the must-do's. We finished facilities that were under way because that was important. If there was a repairs, for example, we put—and this has just been recently—$2 million in the CR to take care of the C&O Canal because thousands of people enjoy that every week. Those sorts of things are must-do's.

Now when we got the nice-to-do's, build new visitor centers, buy more land, we did not do it because let us take care of what we have.

Mr. Speaker, all I am saying is that we are trying to be responsive and be reasonable and to get the job done but not do it at the expense of loading an enormous burden of debt on future generations. I think they will thank us for it when they go to buy that house and maybe get a mortgage at 5 percent instead of 8, 9, or 10 percent. They will thank us when they are not saddled with all the costs that go with the debt burden that this Government has.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the previous speaker just gave a wonderful speech on the reasons to have debt reduction and deficit reduction. The problem is that has nothing whatsoever to do with this bill and nothing whatsoever to do with the budget that the gentleman voted for.

If the gentleman will check the numbers, he can talk about bringing interests rates down all he wants, but the budget that he is trying to foist onto the American people has a deficit which goes up next year. It does not go down. If he can explain to me how interest rates are going to go down as the deficit goes up, he is a whole lot smarter than Alan Greenspan.

□ 1300

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding me this time.

I took the floor last week when we had this debate and said I felt like I was at the Groundhog Day movie. My colleagues know how every morning the alarm went off, the guy gets out of bed, and they run through the same day. But even in the Groundhog Day movie they did not do it 12 times, because they figured the audience could not even take that. And here we are with the 12th time.

Now the gentleman from Louisiana says continuing resolutions are not new, we have had those in prior Congresses. He is right; we have. But it seems to me the other side seems to think we have to hit our full 40-years score in one 6-month period. Our colleagues are about to throw as many continuing resolutions up on the scoreboard as it took us to accumulate over 40 years, and I want to say that is not something we were proud of. We tried to have as few as possible.

I think the reason is because it is impossible to manage, it is impossible to plan, when we have this lurching, and jerking, and week to week, and will it continue, will it shut down?

But the real bottom line is we now have out there school boards all over America trying to decide whether they give teachers pink slips, whether 40,000 teachers are going to get a pink slip, because we are going to slash education at such a low level.

As my colleagues know, my concept had always been the family was the seat of virtue in this country. That is where we plant the seeds of virtue, in the family, and our job is to try and help that family raise that child, and one of the ways we try and help through the Federal level is with some supplemental money to education so that we have safe schools, drug-free schools, we have remedial education and math and science and reading. Those are key things that school districts need extra help with, and I cannot stand here and say it is a great idea to gut that, nor can I stand here, as spring has broken out over America, and say it is a great idea to cancel many of the environmental programs and, while America is going green, we are going to go brown.

That is why this is happening, and I think the time has come to end this.

Mr. LIVINGSTON. Mr. Speaker, I yield 3 minutes and 30 seconds to the distinguished gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker and my colleagues, I rise in support of this continuing resolution and to correct some of the implications of comments that have been made about its impact on the environment.

First, let us put a lot of politicking aside. This continuing resolution is for 1 week, 7 days. It is not permanent policy, although I think much of it would be reasonable policy for the rest of the year.

We need another week's continuing resolution because until recently, and very candidly, the administration has not been willing to bargain, and bargaining, the last time I checked, did not mean simply holding out until the other side capitulates.

So now real bargaining seems possible, and we ought not to shut down the Government while that negotiation continues. Again, this is only about 1 week. Not even Congress can cause much damage in that time.

Concerning the environment, this resolution is obviously not perfect, but it moves responsibly in the right direction pending further negotiations. It provides more dollars to the Environmental Protection Agency than either the House or the Senate passed, not enough, but a good start until the President comes to the negotiation table.

Similarly, with the riders. I prefer no riders. Maybe that is where we will end up. But by and large, these are not the kind of damaging riders that the House debated last year.

Take the Tongass, for example. The Tongass rider in this bill is a compromise that I helped negotiate with the Alaskan delegation and other concerned parties that allows the scientific planning process to continue. Let me stress that: That allows the scientific planning process to continue, and it will not increase actual timbering in that important national forest.

So let us not waste a lot of time trying to score political points when we are on the verge of serious negotiations. Let us pass this harmless 1-week bill. We can do so in good conscience.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the gentleman is exactly wrong about the Tongass because the Tongass provision still contains a waiver of ANILCO and NEPO as far as environmental safeguards are concerned. All it has is the safeguards provided in a contract, which were not nearly as much as provided for.

Mr. BOEHLERT. Reclaiming my time, my distinguished colleague from Illinois knows full well the budget realities, the dollars and cents of it all. There will not be an increased timber cut in the Tongass. That is something that I strongly believe is the right policy. I do not want that. I think my distinguished colleague, the gentleman from Ohio [Mr. REGULA], has worked very well and very diligently on this.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

VOL
142
PT
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MR
21
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29
1996
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Mr. BOEHLERT. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, I just want to point out on the Tongass that the allowable cut with the money we put in is less than has been true in the fiscal year 1995 and fiscal 1994. We have actually reduced the cut, recognizing, of course, some of the differences of opinion. But I think that is an important fact that ought to be brought out here.

Mr. BOEHLERT. And I am so glad the gentleman did, Mr. Speaker, and I want to thank him publicly for the outstanding work he has done and all the help he has given us to try to fashion a responsible compromise that was environmentally sensitive, and that is very important.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

I simply note that earlier in the year we were told, "Let's just pass a 45-day continuing resolution. That will give us enough time to work out the long-term budget problems." That expired. Then they brought to the floor another continuing resolution. Then last week they brought to the floor another one, saying, "Let's pass one to keeping the Government going for a week. That will be enough time to work out our problems." Now they are here saying the same thing they said the previous week, "Just give us another week. We will work out the problems."

Meanwhile, I still see no indication that the gentlemen on that side of the aisle are willing to back away from the environmental riders that are holding us up on the Interior bill. I see no indication that they are willing to restore the funding the President has asked so that we do not have to lay off 40,000 teachers.

The problem is that every week that they continue with this "government on the installment plan" they push local school districts further and further to the point where they have to lay off teachers. We do not want that done. We want them to get down to the business now, deal with the regular long-term CR rather than continuing this "let's pretend" extension of the Government under which you are continuously week by week squeezing the guts out of education and squeezing the guts out of our ability to enforce the law when it comes to environmental cleanup.

That is the problem we face here today. And we believe sincerely that the way that you are running this House is going to greatly increase and enhance the likelihood that, in fact, they are going to either have to come up with another CR next week or else they are going to have to shut the Government down next week.

I mean every week it is the same thing. When are we going to get serious and simply resolve the differences on the long-term resolution. Otherwise they are using that as an opportunity to gouge every local school district in the country.

Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding this time to me.

I just want to clear up a point. The gentleman from New York who was in the well was saying that the Tongass provisions, the rape and ruin of America's only temperate rain forest, have not been corrected. In fact, what they have done under this legislation is put in place a harvest plan for that forest that has already been found to be flawed scientifically, that is unsustainable and will lead to the overcutting of that rain forest, and then they put hurdles in the place of replacing that. So, in fact, they have gone from having a plan for 2 years to having a plan that essentially is in perpetuity that will lead to the overharvesting and the stripping of that forest and its resources. It is the only temperate rain forest that we have in North America, and it ought to be protected, and it ought to be harvested in a scientifically acceptable and understandable fashion.

Mr. Speaker, that is not what this legislation does. It overrides the scientists, puts in place a plan that was rejected already by the scientists, and then says that is the method by which we will harvest the Tongass Forest. That is why it continues to be unacceptable to the administration, to the American people, and to those of us who care about reasonable forest practices.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. I thank the gentleman from Wisconsin [Mr. OBEY] for yielding this time to me.

To put it crudely, my colleagues, this is indeed a lousy way to do the people's business. These weekly CR's are Government by political hiccup. It is atrocious that ideology, and stubbornness, and extremists, and extremism and hostage-taking have been substituted for what in previous Congresses had been a rational and timely consideration of and passage of the Nation's budget and appropriations process. These CR's come weekly, many of them. This is the 12th, as we have heard, the 12th continuing resolution.

The gentleman from Wisconsin [Mr. OBEY] and a couple of others have mentioned what I know each of my colleagues has heard in their own offices, and that is that school boards are apoplectic about this situation. Many teachers do not know if they are going to have their contracts renewed or at what salary levels.

It is not true that the environment is not suffering. Public lands acquisition has been put on hold. Necessary construction on public lands has been put on hold. EPA enforcement has been slowed in some areas almost to a stop. There has been disruption in the Superfund work, and I can tell my colleagues, in that I have two great national parks, all or part within my State of Montana, that the morale of Park Service workers is the lowest I have ever seen it, and that may be true throughout the Federal system.

Let me say in closing, what I said at the beginning. Crudely put, this is a lousy way to do the people's business. It is perhaps no wonder that for 40 years the American people kept the current majority in the minority. If this is the way they do the public's business, they will probably be put in the minority again with good reason.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, this is indeed the same speeches and same thing this Congress did last week, and the month before, and the week before, and the weekend before that, but there really is something different: It is a week later, and another week of cuts, significant cuts in education, and the environment, and important other areas. One week, Mr. Speaker, 1 week, 45 days.

I voted for the 45-day temporary spending bill because I thought that it was fair to give time to work this out, and so I voted "yes" for those 45 days of cuts. But yet now, it is another week, and another week, and another week. At some point, we say "no."

As my colleagues know, education and the environment, like Caesar, can die by 100 cuts just as easily as 1, and the impact is very clear, Mr. Speaker. In West Virginia, when this temporary spending bill expires, and they are asking for another one, 226 teachers will have gotten their pink slips, 90 aides; 6,500 students that benefit from the math and reading programs that are so important will no longer be eligible.

Mr. Speaker, whether it is the environmental cleanup, the toxic waste cleanup, the education programs, the job training programs, this is no way to do business.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from Wisconsin for yielding this time to me.

Mr. Speaker, this is an unfortunate procedure. This is an unfortunate year. This is an unfortunate Congress.

I agree with the gentleman from Montana who spoke that the judgment that will have been made of this Congress, is that it is probably the worst-run Congress in 50 years. That is the sentiment expressed by Kevin Phillips, a very conservative Republican columnist; not my view, but I share that view. And today we see another result of that.

□ 1315

I do not believe, frankly, that the chairman of the committee would want this to happen. I have said that before. I do not think the Chair of any of our subcommittees would want that to happen. I am speaking of the Republican chairs. I frankly think it is central management that is to blame for this, but I want to say that I supported the last continuing resolution, a CR, as we call it, or perhaps "completely ridiculous," as the American public must view it.

I supported it because obviously I want to see the 56,000 Federal employees that I represent remain on the job doing the work that America expects of them, and being paid for that work. But the fact of the matter is I am going to oppose this resolution, because what is happening is, in my opinion, part strategy and part an admission of failure; strategy to the extent that it is, as the gentleman from West Virginia, said, death by a thousand cuts; just drip, drip, drip, drip; cut, cut, cut, cut, education, environment, energy assistance for old people and poor people; drip, drip, cut, cut.

Mr. Speaker, this is not a responsible action to take. The Contract With America talked about personal responsibility. I have said it before, but in point of fact, we have abrogated our responsibility to the American public to handle the finances of this Nation responsibly. This is not responsible management of the Congress.

Mr. Speaker, these 1-week CR's are unprecedented. This is the 12th extension, because we cannot get our business done in this Congress. Mr. Speaker, it is not because the President is vetoing so many bills. In fact, this President has vetoed fewer bills than either George Bush or Ronald Reagan. Let us be responsible. Let us fund at least the balance of this fiscal year, halfway through it.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEWIS], chairman of the Subcommittee on VA, HUD, and Independent Agencies of the Committee on Appropriations.

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I must say my colleague, the gentleman from Maryland, very much was helping us all focus upon the point. There is little doubt that the American public knows full well that we need to reduce the rate of growth of Government, because the past rate of growth of Government has taken us to a deficit that is pushing $5 trillion. The American public further knows that in their own households they have to be able to pay their bills, and if consistently they do not pay their bills, they eventually declare bankruptcy.

Mr. Speaker, some suggest that a $5 trillion deficit has a tremendously negative impact upon our economy. The problem is not the result of cuts, but rather the result of spend, spend, spend, spend. This Congress, dominated by one party for 40 years, moved us toward this horrendous condition. In the short time the gentleman from Maryland and I have been together on this committee, the majority, the former majority: spend, spend, spend. Never could they find a program that was not working, never cancel a program whenever you create one, but expand it; spend, spend, spend, spend; tax, tax, tax, tax. Mr. Speaker, that is not the way to solve the problems of our people or our Government. Indeed, it is time for a change.

If the President would work with us instead of vetoing bills, we would not have to be here today. Indeed, Mr. Speaker, it is time for a change.

Mr. LIVINGSTON. Mr. Speaker, I reserve the balance of my time, and I reserve the right to close.

Mr. OBEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have a simple choice here today. We can continue to pass 1-week continuing resolutions, which will force our school districts within the next 3 or 4 weeks to begin laying off 40,000 teachers; we can continue in place the policy of the majority party that will make it much more difficult for 1 million kids to learn how to read and how to deal with math; we can continue the process of cutting deeply into the school-to-work program, which largely enables kids who are not planning to go to college to get some help in transitioning from high schools to the world of work; we can continue to cripple the ability of the Government to protect the public interest from environmental damage by continuing the very large reductions in environmental cleanup that we have in the bill; or we can decide that we have had enough of that, and we are going to ask that those funds be restored.

This issue is not about how much will be spent, because the President has offered offsets to every single dollar he wants to put back in this budget for education and for environment. The majority party simply made a decision that they want to buy twice as many B–2 bombers as the Pentagon asked for, and then they want to pay for it by taking it out of education and out of worker training and out of environmental cleanup. We think those are dumb priorities.

Mr. Speaker, the gentleman can talk all he wants. He invents this fictitious list of about 760 Federal programs that are supposedly for education. If the gentleman wants to take out air traffic controller training, he is the chairman of the committee. Why does he not do it? He is not a helpless victim. If he wants to eliminate NIH kidney research, which they ludicrously count as an education program, if he wants to eliminate NIH heart research, which he ludicrously counts as an education program, if he wants to eliminate FBI advanced police training, go ahead, offer the motion. He is the chairman of the committee. He has the power to do so. We do not think it is a good idea to eliminate those things.

The President's budget recommends the consolidation or elimination of 70 education programs so we can focus our money where it is needed most in the education area. Yet, we get this smokescreen pointing to some little silly action here or there at the local level to justify the fact that they are trying to impose on this country the largest reduction in support for education in the history of the country.

We do not think that is a good way to help middle-class families raise their living standards and help give their kids decent jobs. We do not think it is a good idea to raise the cost of getting student loans by $10 billion over the next 7 years. We think we ought to get about the business of keeping the Government open full time, rather than this week-to-week nonsense.

Mr. Speaker, I urge Members to end the nonsense and vote against this silly piece of legislation.

Mr. LIVINGSTON. I yield myself such time as I may consume, Mr. Speaker.

Mr. Speaker, I think it is interesting to hear my friend, the gentleman from Wisconsin, talk about how we could do this or how we could do that. The fact is, we tried to take out all those programs and zero them out. The gentleman voted against the bill.

Now the gentleman says, well, he is willing to stand up and give me a unanimous consent request to get rid of such screwy things as an Ounce of Prevention Council, that funds 2 billion dollars worth of a glossy magazine, because they have not done anything else. Hopefully he will join with us in reducing the extremely dumb grants of $175,000 for school administrators to go on a St. Michael's resort retreat under safe and drug-free schools, or buy lumber for the steps of aerobics classes. Hopefully he would like to join with us and strike the good old President's favorite AmeriCorps Program, which, in Baltimore, the average cost per participant of a volunteer is some $50,000.

Mr. Speaker, he said that he wants to strike the unnecessary and wasteful, yet never have I heard him offer one single cut, ever. He always wants to spend more money, more programs, tax the American people. We have got 726 education programs, each with their own bureaucracy, each with their own beneficiaries. it does not matter how duplicative, wasteful, unnecessary, or redundant they may be.

The point is, the gentleman talks a good game, but the fact is, all he wants to do is tell the American taxpayer to

VOL
142
PT
5
MR
21
—
29
1996
UMI

pay more money so he can tell them how it can best be spent.

This is a simple request to keep the Government working so the conference can go into action between the House and Senate and we can send the President a final bill. Mr. Speaker, they would close down the Government. They are hoping to vote unanimously against this and get a few Republican votes and just close down the Government so they can say, "I told you so." Is that the answer? Does that help all the beneficiaries of the various programs the gentleman is concerned about? I think not.

The point is, Mr. Speaker, they do not have a leg to stand on, because the American people have caught on to their game. They have said, "We have paid enough taxes, and you have misspent it time and time and time again, and the time has come to quit, to streamline, to strike the redundant and the necessary programs, to try to make government work as efficiently as business works, to downsize the government, the bureaucratic conglomerate that Washington has created."

He talks about the harm that would happen to education if our downsizing goes through. The fact of the matter is 30 years ago the Federal Government did not give $1 to education. It was always the State and local responsibilities. Now the Federal Government pays between $20 and $30 billion in education, and we pile on the regulations, we pile on the restrictions, we pile on the bureaucracy, we extract the money from the American people and tell them what we did for them, and the quality of education goes down. Look at the charts. Look at the statistics. American pupils, students throughout America, are going lousy today compared with what we did 20 years ago.

When are we ever going to restore common sense to the American budget? never, if the gentleman from Wisconsin has his way.

Mr. STOKES. Mr. Speaker, I rise in opposition House Joint Resolution 165, the 12th short-term continuing resolution for the current fiscal year. Where will it end? How many stopgap measures will it take for our Republican colleagues to realize that this is not the way to operate the Government?

After two GOP-politically contrived shutdowns, which cost the American people over a billion dollars, action is still pending on five major appropriations bills. This week-to-week, piecemeal, and part-time management of the Nation's Government must end. Funding for nine critical Federal agencies is in jeopardy including the Departments of Education, Housing and urban Development, Labor, Health and Human Services, and Veterans Affairs. These agencies provide vital services upon which families across the country depend.

Mr. Speaker, this needless and continuing disruption of the lives of the American people is irresponsible. This is the 12th continuing resolution in less than 6 months. Our Nation's children are among the hardest hit by the Republicans' budget. While hard-working parents are raising their children, telling them to study hard, play by the rules, and you will succeed, our colleagues on the other side of the aisle are destroying the very foundation upon which that philosophy was built.

I know the children and families in my district, in Cleveland, OH, as well as those throughout the State, and across the country will suffer as a result of the Republicans' mean spirited budget. Over $3 billion is gutted from education, the largest cut in history. Where will our disadvantaged children, who need and want to learn, turn for teaching assistance in basic reading, writing, and arithmetic, when the GOP-measure cuts over a billion dollars from title I alone? Approximately 40 thousand teachers would be eliminated. In Ohio, 1,300 title I teachers would be removed from the classroom, 32,000 children would suffer.

School systems across the country would suffer from the $266 million cut in the Safe and Drug-free Schools Program. Ohio's students would suffer from an over $8 million cut. This would make it nearly impossible to maintain effective violence and substance-abuse prevention programs. Most programs would be destroyed. Children must be provided a safe, crime-free environment in which to learn.

Communities and States would be denied the funding they need to provide youth and adults vocational education training. This program would be devastated by the Republicans' $185 million cut. Ohio's students would suffer tremendously from the loss of $7 million in basic grant funding alone.

Mr. Speaker, the cuts in education coupled with those in critical employment training programs including the elimination of the Summer Jobs Program, and the $362 million cut in dislocated workers' assistance would threaten the quality of life for hundreds of thousands of hard-working families across the country.

The elimination of the Summer Jobs Program alone means that over 600,000 students would be denied the opportunity to gain the skills they need to enter the work force. The cut in the dislocated workers' program means that workers who have been laid-off through no fault of their own would be denied the assistance they need to reenter the work force. It is estimated that over 20 million workers will be permanently laid-off in 1996 alone.

Mr. Speaker, the American people need and want to work. Our children and their families must not be denied the resources necessary to help them achieve their highest academic and economic potential. In this era of escalating global competitiveness, the American people must be equipped with the knowledge and skills necessary to earn a living wage.

Furthermore, this short-term fix still does not dismiss the fact that what is ultimately being proposed by our colleagues on the other side would: Jeopardize the welfare of millions of veterans, who are dependent upon a certain level of interaction from the Secretary of Veterans Affairs, by restricting the Secretary's travel; threaten the security of millions of elderly and low-income Americans who, without adequate Federal assisted housing, are at-risk of going homeless; add to the growing ranks of persons living in the streets as a result of their appalling reductions to homeless programs; endanger the environment by cutting EPA funding for programs that maintain clean air and keep our drinking water safe; and imperil the public's health by reducing Superfund efforts to clean up hazardous waste sites.

Mr. Speaker, America must protect and invest appropriately in her No. 1 resource, the American people—to do otherwise is fiscally irresponsible. I strongly urge my colleagues to stand up for children, and to stand up for families. Let's go back to the budget negotiation table and restore the Nation's investment in human capital including education, summer jobs, health care services, employment training, veterans's services, the environment, and housing. Vote "no" on House Joint Resolution 165.

The SPEAKER pro tempore. All time has expired.

REQUEST TO OFFER AMENDMENT

Mr. OBEY. Mr. Speaker, in light of the express concern of the chairman of the committee about retreats or administrative personnel, student vacations, cosmetology schools, et cetera, I offer an amendment, and I ask unanimous consent that notwithstanding the operation of the previous question on this amendment, that I be permitted to offer the amendment at this point, which would read as follows:

At the end of the joint resolution, add the following new section:

SEC. 101. Notwithstanding any other provision of law—

(a) none of the funds made available under this Act for the Safe and Drug Free Schools Program and the Title 1 Compensatory Education Program for Disadvantaged Students shall be used to pay the costs of disc jockeys, aerobics classes, retreats for administrative personnel, and student vacations; and

(b) none of the funds made available under this Act may be used to administer any program subsidizing massage therapy and cosmetology schools.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. LIVINGSTON. Reserving the right to object, Mr. Speaker, the fact is that I probably will object to this in a second, but I want to point out that the gentleman will have ample opportunity in the conference that begins today informally and will be more formalized as we go through the next 10 days, so he will have an opportunity to strike these programs.

If he is sincere, if he really means what he says, I will join with him to strike the money for this waste and this inefficiency. But Mr. Speaker, I would point out that the gentleman is grandstanding here. The request before the House of Representatives is simply to extend the existing CR's for 1 week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. LIVINGSTON. Mr. Speaker, this gentleman is constrained to object, because the gentleman from Wisconsin [Mr. OBEY] will have his opportunity later on.

The SPEAKER pro tempore. Objection is heard.

Pursuant to House Resolution 386, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

□ 1330

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Is the gentleman opposed to the joint resolution?

Mr. OBEY. Mr. Speaker, I most certainly am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the joint resolution, H.J. Res. 165, to the Committee on Appropriations with instructions to report the resolution back promptly with an amendment to provide the necessary funding during the period of the joint resolution to avert all layoffs of instructional school personnel whose salaries are paid in whole or in part by programs of the Department of Education for the 1996–1997 academic year.

Mr. LIVINGSTON. Mr. Speaker, I reserve a point of order on the gentleman's amendment. We have just now received it and I would like to have a chance to read it.

The SPEAKER pro tempore. The gentleman from Louisiana reserves a point of order.

The gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, let me explain what we have just seen and let me explain this motion. The majority party is insisting that we pass a resolution which continues in place lower funding levels that cut some $3 billion out of education and continue very savage reductions in environmental cleanup legislation.

They argue the necessity to do that because the chairman has pointed out the abuse of a few programs. I just tried to offer a motion directed to eliminating every single abuse the gentleman just mentioned. I asked unanimous consent that they eliminate under safe and drug-free schools the ability to fund programs such as the gentleman just objected to. I also asked that under this bill we eliminate all funding for schools of cosmetology and massage therapy because the gentleman has objected to those.

The gentleman then accuses me of a smokescreen for responding to the criticisms he has made in existing programs. He said, "Why don't we fix it when we go into conference?" Why do we not fix it right now? I would suggest what is really at stake here is they are desperately trying to hang onto the money they are cutting out of education so they can funnel it into their tax cuts for very wealthy people. And I do not think we ought to lay off 40,000 teachers so they can give a gift to their rich contributors.

So what I am saying is simply this. In this recommit motion, we are simply asking the committee to go back into committee and to restore all of the funds necessary so that no local school district has to lay off any teaching personnel.

What this motion does is ensure that those local school districts will have the Federal funds they need to pay for the teachers and other instructional personnel to provide the reading and math classes for disadvantaged kids, to hire guidance counselors, to provide antidrug abuse and drug prevention education to both teachers and students, to retain teachers and counselors to help students make a successful transition from schools to jobs, and to the jobs they need.

What this simply says is, do not fund your tax cuts by cutting the guts out of personnel in the local school districts. That is what it says. I urge a vote for the motion.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 5 minutes in opposition to the motion.

Mr. LIVINGSTON. Mr. Speaker, I withdraw my reservation and speak in opposition to the motion to recommit.

The fact is that if the gentleman's motion to recommit were granted and were adopted by this House, the entire guts of the bill before us would be virtually obviated, would be wiped out, and we would be forced to either report today a conference agreement on the overall four bills that remain outstanding, actually five counting the District of Columbia, or else Government would shut down.

I do not think that the other side is serious when they say that they want the Government to shut down. But the fact is if they all vote in unison for this motion to recommit and some of our Members vote for it, the likelihood is that the Government could indeed shut down with respect to those departments which are covered by the five outstanding bills.

I think that that would be a terrible thing to happen.

I know, I hear all of the pleas of mercy for the beneficiaries of the multitudinous numbers of redundant, unnecessary, and crazy programs that the taxpayers have been forced to fund under the outstanding bills, but the fact is that the same beneficiaries would be really in trouble if we were to create a procedural vote, adopt their motion to recommit, and just close the Government down.

In 1 week, the Department of Education would not be able to figure out the cost of impact of the Obey amendment. So all those teachers we heard about, and I question the figures that they were using, but all those teachers that we heard about, that they say they are concerned about, would be automatically not getting any Federal funding and that would be ludicrous. That would be absolutely absurd.

So if you want to close the Government down, go ahead and vote for the Obey motion to recommit. If you want to keep an orderly process and show that Government can operate, albeit no matter how ugly the process sometimes gets, then we would urge that you vote against the motion to recommit, vote for this 1-week extension, and hopefully by the end of the next week, a week from tomorrow, we will, in fact, have a conference agreement which will wrap up and conclude action for fiscal year 1996 on all of the outstanding bills.

That is my fondest hope, it is my desire, and I am going to work every hour that I can to make sure that comes to pass. But we need a "no" vote on the motion to recommit or else this Government is going to shut down.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the joint resolution.

The vote was taken by electronic device, and there were—yeas 192, nays 230, not voting 9, as follows:

[Roll No. 82]

YEAS—192

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green

VOL
142
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MR
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29
1996
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Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NAYS—230

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zimmer

NOT VOTING—9

Collins (IL)
Johnston
Moakley
Radanovich
Roukema
Stark
Stokes
Waters
Zeliff

☐ 1354

Mr. TIAHRT, Mr. SCHIFF, and Mrs. CUBIN changed their vote from "yea" to "nay."

Mr. DOGGETT changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. LIVINGSTON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 244, noes 180, not voting 7, as follows:

[Roll No. 83]

AYES—244

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—180

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Beilenson
Bentsen
Berman
Bevill
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Moran
Murtha

Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sawyer
Scarborough
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Yates

NOT VOTING—7

Collins (IL)
Johnston
Moakley
Radanovich
Stark
Stokes
Waters

☐ 1406

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR ALL COMMITTEES TO SIT TODAY AND THE BALANCE OF THE WEEK DURING THE 5-MINUTE RULE

Mr. ARMEY. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the motion.

The Clerk read as follows:

> Mr. ARMEY moves pursuant to clause 2(i) of rule XI that for today and the balance of the week all committees be granted special leave to sit while the House is reading a measure for amendment under the 5-minute rule.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARMEY] is recognized for 1 hour.

Mr. ARMEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a good deal of important business ahead of us, both on the floor and in the committees, during this week and the next. It is, of course, out of consideration for the Members on the floor and in the committees relative to their pending district work period that I make this request. I want to appreciate for a moment the Members of the body on both sides of the aisle for their cooperation with me with respect to this request.

Mr. Speaker, for purposes of debate only, I am happy to yield 5 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I first wish to thank the gentleman from Texas for yielding the time.

Mr. Speaker, the gentleman from California has now just arrived, and I was waiting until he got here.

Mr. FAZIO of California. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from California.

Mr. FAZIO of California. Mr. Speaker, I want to thank the gentleman from Missouri not only for yielding but for that introduction.

Mr. VOLKMER. Mr. Speaker, I will be frank about it. I really have nothing to say about this. We are going to let the gentleman from California speak for a few minutes and tell the Members about what happened.

Mr. FAZIO of California. Mr. Speaker, would my friend from Missouri yield for a second?

Mr. VOLKMER. Mr. Speaker, I yield to the gentleman all the time I have.

Mr. FAZIO of California. That is what I wanted to know, how much time he was yielding to me.

The SPEAKER pro tempore. Without objection, the gentleman from Missouri [Mr. VOLKMER] yields 5 minutes to the gentleman from California [Mr. FAZIO].

There was no objection.

Mr. FAZIO of California. Mr. Speaker, we had an interesting session this morning, however brief it may have been. Interesting in the sense that it, I think, is perhaps too typical of the kind of hearings that we are seeing here in the House of Representatives. Unfortunate in that it did not include a balanced presentation on a very important issue to Members of this House.

In fact, I think to the country at large, and that is how we deal with the question of voter education, how we deal with the issue of expenditures that are made outside the Federal election process. We had invited almost 25 groups from all across the spectrum, from Common Cause and the Sierra Club to the Christian Coalition and Citizens for a Sound Economy. Yet, when it came time to hold the hearing, the only people who were brought to the witness table, theoretically, they chose not to come. In my view that was the right decision, those people representing working men and women, organized labor.

Mr. Speaker, now, it is easy to demonize our foes in this area, and both parties certainly have a preponderance of friends from one side of the spectrum to the other which they often like to demonize. But if we are going to hold hearings that really get to the root cause of how we can reform our political system, we cannot play favorites. We cannot just hold up those people representing the interest of working people because they have priorities and they have concerns that do not know in the direction the majority wants to go in.

We have seen too much of this when the AARP was brought up before a Senate committee because they were standing up for Social Security, or critical of some of the Medicare reform proposals. I just simply wanted my colleagues to know, and I think I speak for every member of our committee, that this behavior of the Committee on House Oversight today is going to inflame passions here, is going to create an impossible environment for us to work this most important issue of campaign finance reform in.

There are many, many groups spending hundreds of millions of dollars without limitation, without any attribution to any individual, no disclosure at all, who are working hand in glove with the majority in this House to affect its agenda. We were not willing or able to hear any of the testimony that might have enlightened us about that. It was only to go after people who in the minds of, I guess, the majority of that committee, were associated with the Democratic Caucus. I feel very much compelled to object to that process.

Every member of our committee absented ourselves from the hearing today because we felt it was an inquisition. It was a kangaroo court designed to embarrass people who are merely spending, legally, their dues to put across a point of view to help educate their members and hopefully to impact on the Members in this body before they make a number of mistakes.

Mr. Speaker, I would simply close by saying this side of the aisle is prepared to work on these issues as long as we come to the table in a bipartisan manner. I am told in the aftermath of our decision to leave that we were told the room was not big enough, the table was not large enough to bring all the various interests together to discuss this. We only had to select one. Well, I think that is a metaphor that concerns me. The table ought to be big enough for all of the interest groups and all the points of view in this country to be heard.

When we single out people, then we make enemies of people. Then I think we are doing a lot of damage to this process. As long as the working people of this country want to be heard in this institution legally through their organizations that they pay dues to, we ought to listen to them and we ought to accommodate them. We ought not to single them out and take vengeance on them simply because they have another point of view that is unpopular with the majority.

☐ 1415

Mr. ARMEY. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I thank the majority leader for yielding me this time, and I want to thank my colleague from California for once again letting the chairman know of his interest in making sure that there is no hearing in which labor unions have to present any testimony about anything at all. Today's hearing was, in fact, the fourth hearing in a series of hearings,

VOL
142
PT
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21
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29
1996
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which are the most extensive in the history of this Congress on the campaign finance bills that were passed in the 1970's.

Our hearings started off in a bipartisan way. We had the Speaker of the House and the minority leader of the House talk about their vision of where they wanted to go. We also had all of the Members who have introduced legislation who want to see change in campaign finance laws. In fact, there were so many Members, we had to carry some over to the second hearing.

In the second hearing we heard from corporations, we heard from people who believe constitutionally they have a right to form political action committees, we heard from labor unions about the narrow segment of union political activity under the Federal Election Commission.

In our third hearing we had national chairmen of both the Democratic and Republican Parties talking about how the law unnecessarily hamstrings political parties, in their opinion, vis-a-vis labor unions and other groups who are able to participate in the process far beyond political parties, and on a bipartisan basis those leaders urged us to look at changing the law affecting political parties.

This is the fourth hearing in our series of hearings. It seemed entirely appropriate since less than 1 week from now labor unions are meeting here in Washington to discuss increasing their dues to put more than $35 million into the political arena, which they have, and I will not yield at this time because I would like to finish my statement, in which the workers who are paying for this have no knowledge under the law, either under the FEC, or the Labor Department, or the NLRB, National Labor Relations Board, as to where and how much money is spent in the political process. The people who participate in elections, the voters, do not under the law have any understanding, or idea, of how much money because it simply is not required under current law to be reported. We invited the president of the AFL–CIO, the president of the Teamsters, and the secretary-treasurer of the AFL–CIO to provide us with some understanding of this involvement in the political process. We fully intend to go forward with additional hearings to hear from other groups.

What was the response of the minority to yet one more hearing to get a full, complete understanding of particicipation in this process? Either within or outside the law? Either through sheer arrogance or fear the union leaders decided they would not show up and the Democrats would not participate in the hearing.

Who did we have testifying that made it so slanted, so misrepresentative? We had two individuals from the Congressional Research Service, individuals who are pledged in their testimony to be fair and bipartisan; in fact, so much so that every opening statement of a witness from the Congressional Research Service has to state as much. We had professors of economics and labor to help us to understand that under the law, in an incomparable way, labor unions can participate in the political process without any, without any, requirement to disclose to the public when and how that money is spent, but, even more fundamentally, to the people who contribute the money themselves. That information is so shocking, so important to the Democrats, that they have to walk out of a committee and refuse to have people come to the committee so that the American people can understand when and how labor unions influence elections.

Mr. ARMEY. Mr. Speaker, I thank the two gentlemen from California for that scintillating debate, and, if I might, I would like to thank the gentleman from Missouri for having made it possible.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. LaHood). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. Armey].

The motion was agreed to.

A motion to reconsider was laid on the table.

IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 384 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2202.

☐ 1420

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing Border Patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes with Mr. Bonilla in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, March 20, 1996, amendment No. 18 printed in part 2 of House Report 104–483, offered by the gentleman from California [Mr. Dreier] had been disposed of.

It is now in order to consider amendment No. 19 printed in part 2 of House Report 104–483, as modified by the order of the House of March 19, 1996.

AMENDMENT, AS MODIFIED, OFFERED BY MR. CHRYSLER

Mr. CHRYSLER. Mr. Chairman, I offer an amendment, as modified, made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment, as modified.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. Chrysler: Strike from title V all except section 522 and subtitle D.

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. Chrysler] and a Member opposed, the gentleman from Texas [Mr. Smith], each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. Chrysler].

Mr. CHRYSLER. Mr. Chairman, I yield 15 minutes to the gentleman from California [Mr. Berman], and I ask unanimous consent that he be able to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CHRYSLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me first start out by addressing some unfortunate distortions concerning our amendment. Our amendment does not increase immigration levels, and it does not touch the welfare restrictions in the bill. It does keep families together. Our amendment will simply restore the legal immigration categories that are defined under current law, strike the cuts in permanent employer-sponsored immigration, and keep refugees' admission at the current annual limit.

It is simply wrong that this immigration reform bill prohibits adult children, brothers, sisters, and parents from immigrating to the United States. That is right. Under this bill, no American citizen will be able to apply for a visa for their close family members. The excuse being used for the closing the door on the families of American citizens is that we need to give more family visas to former illegal aliens who were granted amnesty in 1986. Mr. Chairman, slamming the door on immediate family members of U.S. citizens in order to give former illegal immigrants more visas for their families is unconscionable.

I also have a difficult time with the bill's definition of family as only spouses, minor children, and parents with health insurance coverage. I believe that brothers, sisters, parents

without long-term health care coverage, and children over the age of 21 are all part of the nuclear family. In the interests of families and keeping families together, our amendment will restore the current definition of "family" to include spouses, children, parents, and siblings.

Mr. Chairman, in a country of 260 million people, 700,000 legal immigrants is not an exorbitant amount. There is simply no need to cut legal immigration, people who play by the rules and wait their turn, to 500,000. We are all immigrants and descendants of immigrants. In fact, 12 percent of the Fortune 500 companies were started by immigrants.

There are numerical caps on family immigration, per-country limits, and income requirements placed on sponsors. My amendment does not change any of these requirements.

In addition, title 6 in this bill will place restrictions on immigrants from receiving welfare benefits as well as increase the income requirement on sponsors to 200 percent of the poverty level. I fully support these requirements, and my amendment does not change these provisions in the bill.

Immigrants who go through all of the legal channels to come into this country should not be lumped into the same category as those who choose to ignore our laws and come into our country illegally. I agree with most of the illegal immigration reforms that are included in the bill, and I would like to vote for an immigration reform bill that cracks down on illegal immigration. But I cannot justify voting for drastic cuts in legal immigration because of the problems of illegal immigration. These are clearly two distinct issues that must be kept separate.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment, and I yield 5 minutes of my time to the gentleman from Texas [Mr. Bryant], and I ask unanimous consent that he may be permitted to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. Bryant] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. Smith].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there are many reasons why over 80 percent of the American people want legal immigration reform, and there are many reasons why this legislation has attracted such widespread support, such as from organizations like the National Federation of Independent Business, the Hispanic Business Roundtable, the Traditional Values Coalition, United We Stand America, and, as of today, our endorsement by the United States Chamber of Commerce.

The reasons to support immigration reform and oppose this killer amendment are these: First, now is the time to reform legal immigration. Four times in the past 30 years Congress has acted to substantially increase legal immigration. There was the Immigration Act of 1965, the Refugee Act of 1980, the Immigration Reform and Control Act of 1986, and the Immigration Act of 1990.

The Commission on Immigration Reform has recommended a permanent legal immigration system of 550 admissions per year plus an additional 150,000 per year for 5 years to reunify close families. This bill is very close to those recommendations. In fact, it actually exceeds those recommendations and, for that reason, is very generous.

Second, this amendment hurts American families and workers. A fundamental problem in our current immigration system is that more than 80 percent of all illegal immigrants are now admitted without reference to their skills or education. Thirty-seven percent of recent immigrants lack a high school education, compared to just 11 percent of those who are native born. Experts agree that this surplus of unskilled immigrants hurts those Americans who can least afford it, those at the lowest end of the economic ladder.

The Commission on Immigration Reform said, "Immigrants with relatively low education skills compete directly for jobs and public benefits with the most vulnerable of Americans particularly those who are unemployed and under employed, and they total 17 million today."

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The Bureau of Labor Statistics estimates that low-skilled immigration accounted for up to 50 percent of the decline in real wages among those Americans who dropped out of high school. The bill addresses this problem by reducing the primary source of unskilled immigration, eliminating the unskilled worker category in employment-based immigration, but the bill actually increases the number of visas available for high-skilled and educated immigrants. Mr. Chairman, this amendment eliminates these reforms. This is the last thing we need to do, hurt Americans who work with their hands and are struggling in today's economy.

Third, this amendment will continue the crisis in illegal immigration. This status quo amendment will continue to drive illegal immigration. The myth is that millions of people are waiting patiently for their visas outside of the United States. The reality is very different. Large numbers of aliens waiting in line for visas are actually present in the United States illegally. This amendment will do absolutely nothing to solve this problem. The backlogs will increase, as will the numbers of those backlogged applicants who decide not to wait and instead choose to enter the United States illegally. Meanwhile, we can expect the backlogs to continue to grow.

Setting priorities means making choices. The elimination of the category for siblings was proposed as early as 1981 by the Hessburgh Commission on Immigration Policy, and the elimination of all categories for adult children and siblings was recommended by the Jordan Commission.

Today, a 3-year-old little girl and her mother could be separated, a continent away, from the father living in the United States as a legal immigrant. Meanwhile, in the same city, in the same country, we would be admitting a 50-year-old adult brother of a U.S. citizen.

The amendment is immigration policy as usual. It is a decision not to make a decision, not to set priorities, and not to have a real debate over what level of immigration is in the national interest. These extended family members, more than any other, contribute to the phenomenon of chain migration, under which the admission of a single immigrant over time can result in the admissions of dozens of increasingly distant family members. Without reform of the immigration system, chain migration of relatives who are distantly related to the original immigrant will continue on and on and on.

We need to remember that immigration is not an entitlement, it is a privilege. An adult immigrant who decides to leave his or her homeland to migrate to the United States is the one who has made a decision to separate from their family. It is not the obligation of U.S. immigration policy to lessen the consequences of that decision by giving the immigrant's adult family members an entitlement to immigrate to the United States.

One point raised by the gentleman from Michigan I want to respond to. That is in regard to the question, Does the bill favor the families of former illegal aliens over the families of citizens. The answer is no. The backlog clearance provisions of the bill give first preference to those who are not relatives of legalized aliens. These will be the first family members under the backlog clearance.

Last, this amendment allows continued abuse of the diversity program. Currently, diversity visas are often given to illegal aliens, those who deliberately have chosen not to wait in line, but to break our immigration law. The diversity program has turned into a permanent form of amnesty for illegal aliens.

The bill eliminates the eligibility for illegal aliens and reserves diversity

VOL
142
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visas to those who have obeyed our laws. It also raises the educational and skills standards for diversity immigrants so we are not admitting still more unskilled and uneducated immigrants.

Mr. Chairman, I want to close by saying to an overwhelming majority of Americans, we hear you. We understand why we need to put the interests of families and workers and taxpayers first. To the National Federation of Independent Business, the Hispanic Business Round Table, the United We Stand America, the Traditional Values Coalition, and the United Chamber of Commerce, thank you for our endorsement.

Mr. Chairman, today we have the opportunity of a generation. We have the opportunity to reform a legal immigration system, but to do so we must vote no on this status quo amendment, we must vote no to kill legal immigration reform.

Mr. Chairman, I reserve the balance of my time.

Mr. CHRYSLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to just say that the report that the gentleman referred to on the Bureau of Labor Statistics was done by a graduate student and it had a BLS disclaimer on it, and also the comment was made that "I think we made a mistake on this one."

Mr. Chairman, I yield 30 seconds to the gentlewoman from Connecticut [Mrs. JOHNSON], the distinguished chairman of the Committee on Standards of Official Conduct.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of the Chrysler-Berman amendment. The case has not been made for reform of our legal immigration system. The backlog is the result of the past immigration reform effort and will be taken care of by the system. Any abuse of the welfare system by legal aliens will be taken care of by the strengthening of the sponsors obligations in this bill and the provision in the welfare reform bill.

Mr. Chairman, I rise in strong support of the Chrysler-Berman amendment, and I urge my colleagues to vote likewise.

Mr. Chairman, I appreciate the hard work and leadership of my colleague from Texas, LAMAR SMITH, and strongly support the provisions in the bill that would stem the flow of illegal aliens that now impose unfair financial burdens on many States.

Increasing the number of border patrol agents, improving border barriers, and cracking down on document fraud are all forceful steps in the right direction. In addition, limiting the number of public benefits available to illegal aliens—while still allowing emergency medical care and school lunches for children—should help States reduce the now truly overwhelming costs of providing public benefits for illegal aliens.

But while I agree that illegal immigration is a problem that must be addressed by Congress, I am not convinced that our legal immigration program needs reform, and I am concerned that our hard working legal immigrants have been unfairly criticized during debate on this issue. Most immigrants come to this country in search of a better life for themselves and their families, not to receive a welfare check. The strong work ethic of immigrants has fueled American economic strength throughout our history and will continue to do so. These immigrants deeply cherish the freedoms and opportunities of their adopted country, having left behind family, friends, and the familiarity of their native land to come here.

H.R. 2202 would significantly restrict the admission of parents of U.S. citizens, admit only a small number of adult children, and eliminate the current preference categories for adult children and brothers and sisters of U.S. citizens. Some say we need to do this because immigrants are more prone to use welfare benefits. Though there are areas of concern, particularly in regard to the elderly immigrant and the refugee populations, welfare use among working age immigrants is about the same as in the nonimmigrant population. It's especially illogical to reduce legal immigration on the grounds of welfare use, when other parts of the bill will address the matter by strengthening the obligation of sponsors to support immigrants and when our welfare reform bill will reduce access to benefits by limiting the eligibility for benefits of legal aliens and illegal immigrants.

You will also hear supporters of restricting legal immigration say that people enter the country legally with tourist and student visas and then overstay them. This is true and a legitimate problem—however, it has nothing to do with our family based immigration system. Those who overstay their visas are nonimmigrants, not family sponsored immigrants. Do we punish family members overseas who are patiently waiting to enter the country through legal methods because this country is not able to adequately track temporary visitors and students who have overstayed their time here? Of course we shouldn't. The provision that pilots a new tracking program to make sure that visitors return to their country of origin is far more appropriate.

Finally, you will hear that we must limit legal immigration in order to reduce the backlog of family-sponsored immigrants now waiting to enter this country. This backlog does exist and does need to be addressed but we do not need to eliminate the visas for the adult children and siblings of U.S. citizens in order to do so. The backlog is due to our one-time Amnesty Program in the 1980's overtime is will be cleared. We do not have to give out extra visas in the name of backlog reduction at the expense of the family-sponsored immigrants now on the waiting lists. These are people who have chosen to wait patiently for years in order to come to America through the proper and legal methods. Do we punish them by denying them admittance when their perseverance and values prove that they are just the kind of people who would thrive given the opportunities America has to offer?

I met with legal immigrants in my district who have been the best citizens a country could hope for—bright, hard working, and raising children who will continue in their footsteps. It pains and angers them to know that legal immigrants like themselves might not be able to reunite their families, see their siblings, their parents, or their adult children as their neighbors.

Finally, I want to acknowledge a teach in Connecticut named Jean Hill who was recognized in the 1995 Connecticut Celebration of Excellence Program for a lesson she taught in her elementary school class. It's a lesson from which we all could learn. Titled "We Came To America, Too" foreign students study the Pilgrim's voyage to America and then compare that experience to their own voyage to the United States and Connecticut. They learn that they are no different from our Nation's first immigrants—immigrants who went on to create the country we know today. We are a nation of immigrants, each with the potential to make this country a better place. So I ask my colleagues, when you find yourself swept up in the tide of antilegal immigration fervor this week—stop—remember your own heritage—and that we came to America, too.

Mr. BERMAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this debate is really about one's vision of America. I think it is fundamentally wrong to take the justifiable anger about our failure to deal with the issue of illegal immigration and piggyback on top of that anger a drastic, in 5 years, 40 percent cut in permanent legal immigration, a cause and a force that has been good for this country; 8 out of 10 Americans polled say, "Deal with the problem of illegal immigration before you touch legal immigration."

I hereby reaffirm my commitment to participate when the Senate, as they will, sends us over a legal reform mechanism, to participate and support legal reforms; not these drastic and draconian reforms, but reforms that deal with situations in the legal immigration system that can be changed. But do not make it part of this bill. Build a base for this. Legal immigration has been good for this country. Preserve that existing system. Do not tear it apart. Do not tear family unification apart.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, what is really at stake in the consideration of the Chrysler-Berman amendment is whether we are going to do anything meaningful with regard to numbers in this whole debate.

The fact of the matter is that legal immigration accounts for about 1 million people a year coming into the country. Illegal immigration, which we all want to stop, accounts for about 300,000 a year. If Members are concerned, as I am, about the fact that in about 4 years we are going to have twice as many people in this country as we had at the end of World War II, and by the year 2050 we are going to have 400 million people, it is conservatively estimated to be that, and we do not want to see our country have that many people in it, and I do not, then we have to stand up and face the need to deal with the question of legal immigration, because that is where the numbers are.

If we do not, we will have skipped that opportunity to really deal with the problem, and we will then have a situation where there will be a bunch of Members going around there beating their breasts, talking about how tough they got on illegal immigrants, but they avoided the tough question where the interest groups are putting the pressure on everybody; that is, the question of legal immigration.

Mr. Chairman, I submit to the Members, that is not in the national interest. We will have made the decision, if we vote for the Chrysler-Berman amendment, not to set priorities, not to set levels of immigration in the national interest, and not to address the problem of chain migration, all of which were addressed in the Jordan Commission, which recommended significant cuts, bringing us back below the 1991 levels of legal immigration.

I would point out once again, from 1981 to 1985 we had about 2.8 million legal immigrants coming to the country. From 1991 to 1995, we had 5 million come into the country. We have to deal with the question of legal immigration, or admit to the country that we are afraid to act.

Mr. CHRYSLER. Mr. Chairman, I would just point out that the GAO proved that, on average, it takes 12 years for an immigrant to bring over the next immigrant.

Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Kansas [Mr. BROWNBACK], the cosponsor of this amendment.

Mr. BROWNBACK. Mr. Chairman, I would like to recognize the gentleman from Michigan [Mr. CHRYSLER], the gentleman from California [Mr. BERMAN], and also the gentleman from Texas [Mr. SMITH], for the excellent work they have done on the issue of immigration.

Mr. Chairman, I would like to point out a couple of things. I rise in strong support of the Chrysler amendment. I think the bill as it is currently written would cut legal immigration far too far. According to the State Department, and I have a chart up here showing the numbers from the State Department, it would cut legal immigration a minimum of 30 percent, and maybe as much as 40 percent. That is simply too much.

The Chrysler amendment has broad support from the Christian Coalition to the AFL–CIO, from the Wall Street Journal editorial page to the L.A. Times. It has broad support because it just simply goes too far, the current bill does.

Mr. Chairman, the Senate has split this legislation already, legal and illegal immigration. We should pass this amendment, deal with illegal immigration aggressively, as the gentleman from Texas [Mr. SMITH] has dealt with illegal immigration very aggressively, and then take up the issue of legal immigration with the Senate bill.

Finally, I would just like to plead with my fellow Members, we are a Nation of immigrants. Congress should preserve this proud tradition and not threaten it. Ronald Reagan, in his final address to the Nation, spoke often and spoke then of America being a shining city on a hill, and in his mind it was a city that was teeming with people of all kinds, living in peace and harmony. Then he went on to say, "And if this city has walls, the walls have doors, and the doors are open to those with the energy and the will and the heart to get in. That is the way I saw it, that is the way I see it," is what Ronald Reagan said then. That is the way we should see it. Support the Chrysler amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would simply point out that State Department speculation is fine, but facts are better. If individuals will look at the bill and add up the figures, they will see that we average 700,000 for each of the next 5 years.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I rise in opposition to the amendment and in strong support of the reform of our legal immigration system contained in H.R. 2202.

The bill would allow an average of 700,000 legal immigrants annually for the next 5 years, then 570,000 per year. This is comparable to the average number of legal immigrants coming to this country every year since the 1965 Immigration Act was enacted—600,000. This doesn't close America's doors.

What it does do is put more priority on immigrants with skills that American employers need. We will continue to accept the same number of employment-based immigrants. It also puts more priority on admitting spouses and minor children of immigrants, thus reunifying nuclear families.

The reduction in immigration is primarily in the area of adult relatives of immigrants. Under current law, these all get preference over immigrants with skills but no relatives already here. This misallocation of priorities will be changed by the bill. In most cases those grown-up children don't continue to live with their parents. We just have to make a decision as to what is more important, reuniting 10 year olds with their parents, or 30 year olds? In some cases, a sibling will be brought to this country, go home and marry, thus reuniting a family that was never disunited.

On the other hand, this amendment will increase legal immigration to the United States by 500,000 over 5 years. This is not what the American people want. This amendment will keep all that is wrong with our current legal immigration system. We need to make changes. Let us make them now.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, No. 1, the last comment of the gentlewoman is simply inaccurate. The author of the bill knows that. There was a technical correction made in the rules, and this bill simply returns to existing law.

Second, the State Department says it is not 1 million people a year coming in now, it is 800,000 coming in through permanent legal immigration.

Third, the gentleman from Kansas [Mr. BROWNBACK] was right, and the gentleman from Texas [Mr. SMITH] is wrong. His bill will result in a cut of 30 percent, and a 40-percent cut in overall numbers.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Chairman, I rise today to express my strong support for the Chrysler-Berman amendment. This amendment will repeal the antifamily, antigrowth provisions of the underlying bill.

While I support H.R. 2202's attempts to control illegal immigration, I believe that the issue of legal immigration should be addressed at a later time by separate legislation. The issues of legal and illegal immigration are separate and distinct issues, and should be addressed in separate bills.

As the bill is currently drafted, after a 5-year transition period, H.R. 2202 cuts legal immigration by 40 percent—a level unprecedented in the last 70 years. In one fell swoop, H.R. 2202 slashes family immigration by approximately one-third. In addition to arbitrarily reducing the number of family members admitted each year, the bill completely eliminates major eligibility categories. H.R. 2202 not only eliminates visa categories for adult children and siblings but would also unfairly wipe out the corresponding backlogs of visa applications. Individuals who have played by the rules, paid necessary fees, and waited patiently for as many as 15 years would be summarily rejected for legal immigration.

The bill also places nearly insurmountable obstacles for parents and adult children who are attempting to legally reunite with family members. H.R. 2202's restrictive family based immigration policies undermine American families and American family values.

In addition to my concerns regarding family based immigration, H.R. 2202 is an antigrowth bill. As our economy grows, the job base expands. Both the Wall Street Journal and the Washington Times editorial pages have noted

VOL
142
PT
5
MR
21
—
29
1996
UMI

that the U.S. economy benefits from legal immigration. In fact, in a recent Cato Institute study, not one economist surveyed believed that reducing legal immigration would increase economic growth. In addition, not one economist believed that reducing the level of legal immigration would increase Americans' standard of living.

As drafted, H.R. 2202 is an antifamily and antigrowth bill. I urge Members to support the Chrysler-Berman-Brownback amendment so that we can address the issues of illegal and legal immigration thoroughly and responsibly through separate pieces of legislation.

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Mr. BRYANT of Texas. Mr. Chairman, I yield myself 30 seconds, simply to say that I think it is extremely unfair and extremely inaccurate for the advocates of this amendment to describe the bill as antifamily. It is not antifamily.

What it does is recognize what the Jordan Commission observed, and that is that we have chain migration and we cannot continue forever allowing everyone who is allowed to come into the country legally to bring in brothers and sisters. That is really what is at stake here. The same recommendation was made in 1981 by Father Hessburgh's commission. It is not a radical proposal. What is radical is the idea of doing nothing, which is what they advocate, and letting the population increase to 500 million people in this country.

Mr. CHRYSLER. Mr. Chairman, I yield myself such time as I may consume.

Let me just add that I do not know anyone who does not consider their brothers and sisters extended family.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois [Mr. CRANE], a cosponsor of the amendment.

Mr. CRANE. I thank the gentleman for yielding me the time, and I compliment him on his amendment.

Mr. Chairman, I think there are many good provisions of H.R. 2202 dealing with illegal immigration, and adding approximately 6,000 people to monitoring our borders certainly can address that problem. But what we are proposing in the current language, unless the Chrysler amendment is adopted, to me runs contrary to all our values.

Just stop and think where your ancestors came from. Why did they join the cosmic race here? It was for the same reasons that we enjoy being Americans. It is the land of opportunity and the home of the brave, and we enjoy a degree of personal liberty that is unprecedented. Looking at the historic figures, the first time we deviated from our traditional policy was with the Chinese Exclusion Act in 1882. We locked Chinese out for a decade. Then in 1924 we started establishing quotas and we discriminated against the Orient in that package.

This kind of thing is inconsistent with our historic tradition. Our percentage of immigrants in this country today is infinitely lower than it was for the first 150 years. I urge Members to support the Chrysler amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to point out to some of my friends on the other side of the issue, they may not be aware that the new figures for the 1995 immigration levels are in. The 1995 level was 715,000. Under this bill we average 700,000 each for the next 5 years. I might concede a 2-percent reduction at most.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, I just wanted to briefly ask the gentleman from Texas a question. That is, having listened to the comments of the gentleman from California [Mr. DOOLEY], with which I generally agree, that is, that kind immigration and illegal immigration are rather separate subjects and for various purposes deserve to be discussed separately. It is the case that this amendment merely splits the two so that they can be discussed separately, or is it rather the case that the effect of the amendment would be to strike out all of the parts of the bill for good that deal with legal immigration?

Mr. SMITH of Texas. Mr. Chairman, that is an excellent question by my friend from California. In point of fact the whole thrust behind this amendment is not to reform legal immigration. In fact, it is to kill any reform that we have in legal immigration. There is no separate legal immigration reform bill on the House side as there is on the Senate side. The gentlemen who have put forth this amendment to my knowledge have not proposed one amendment to reform legal immigration. I think that is very regrettable.

Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, I rise in strong support of the Berman-Chrysler amendment.

Proponents of H.R. 2202 have argued that it is profamily. On the contrary, this legislation would eliminate whole categories of family sponsored immigration.

Let me talk if I can for one moment about Mary Ward. Mary Ward emigrated to America at the turn of the century from County Down, Ireland. Mary Ward became a citizen in her late 50's and raised a family and worked as a domestic, passing on the very values that we cherish and honor in this Nation. Mary Ward was as patriotic as any American in this institution, and loved the opportunities that it brought to her family.

Our goal here should be to separate legal from illegal immigration. Legal immigration serves this Nation very well. We acknowledge that illegal immigration is a problem. But where I live there are thousands of Polish-Americans and Russian-Americans and Franco-Americans and Italian-Americans and Irish-Americans and Asian-Americans. They add to the fiber and fabric and strength of this country. They do not subtract from it. In many instances they are more patriotic and more loyal than those who have been here for decades and decades and decades, and we should not forget about that in this debate.

In our haste to address this crisis, let us not make the mistake of penalizing those who love the notion and idea that someday they might be called an American.

Think as you vote on this about Mary Ward from County Down, Ireland. Mary Ward was my grandmother.

Mr. BRYANT of Texas. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. BEILENSON].

Mr. SMITH of Texas. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. BEILENSON].

The CHAIRMAN. The gentleman from California [Mr. BEILENSON] is recognized for 4 minutes.

Mr. BEILENSON. Mr. Chairman, I thank the gentlemen for yielding me the time.

Mr. Chairman, I rise in strong opposition to the amendment.

Supporters of eliminating the bill's reductions in legal immigration argue that legal and illegal immigration are separate and distinct issues, and therefore ought to be dealt with in separate bills. But we all know that if these provisions are dropped now, the chances of the House acting on legal immigration reform this year are very slim indeed.

The fact is, legal and illegal immigration are related because they both affect the size of our country's population. And, we are letting too many people into our country.

What Congress does with regard to both types of immigration will determine how many newcomers our communities will have to absorb, how fierce the competition for jobs will be, and how much the quality of life in the United States will change in the coming decades.

Fueled by both legal and illegal immigration, the population of the United States is growing faster than that of any other industrialized country. By the end of this decade—less than 4 years from now—our population

will reach 275 million, more than double its size at the end of World War II. Unless we reduce our high rate of immigration—the highest in the world—our population will double again in just 50 years.

Middle-range Census Bureau projections show our population rising to nearly 400 million by the year 2050, an increase the equivalent of adding 40 cities the size of Los Angeles.

But many demographers believe it will actually be much worse, and alternative Census Bureau projections agree. If current immigration trends continue—and that's what we're debating here—our population will exceed half a billion by the middle of the next century—a little more than 50 years from now.

Immigration now accounts for half our—and that rate of growth—proportion is growing. Post-1970 immigrants, and their descendants have been responsible for U.S. population increases of nearly 25 million—half the growth of those years.

In other words, much of what demographers consider our natural growth rate is actually the result of the large number of immigrants in our country—and the great majority of them have come here legally.

As recently as 1990, the Census Bureau predicted that the population of the United States would peak, and then level off, a few decades from now. Since 1994, however, because of unexpectedly high rates of legal immigration, the Bureau has changed its projections, and now sees our population growing unabated into the late 21st century—when it will reach 700 million, 800 million, a billion Americans—unless we start acting now to lower our levels of legal immigration.

Those of us who represent communities where large numbers of immigrants settle have long felt the effects of our Nation's high rate of immigration. Our communities are already being overwhelmed by the burden of providing educational, health, and social services for the newcomers.

With a population of 500 million or more, our problems, of course, will be much, much greater. With twice as many people, we can expect to have at least twice as much crime, twice as much congestion, and twice as much poverty.

We will also face demands for twice as many jobs, twice as many schools, and twice as much food. At a time when many of our communities are already straining to educate, house, protect, and provide services for the people we have right now, how will they cope with the needs and problems of twice as many people or more?

Without a doubt, our ability in the future to provide the basic necessities of life, to ensure adequate water and food supplies, to dispose of waste, to protect open spaces and agricultural land, to control water and air pollution, to fight crime and educate our children, is certain to be tested in ways we cannot even imagine.

But however we look at it, our current rate of population growth clearly means that future generations of Americans cannot possibly have the quality of life that we ourselves have been fortunate enough to have enjoyed.

The reductions in legal immigration in this bill are very reasonable, and humane. They are based on the well-thought-out recommendations of the Jordan Commission, whose purpose was to develop an immigration policy that serves the best interests of our Nation as a whole. These proposed changes are designed to enhance the benefits of immigration, while protecting against the potential harms.

Reducing the rate of legal immigration, as the bill in its current form would do, constitutes a modest, but absolutely essential, response to the enormous problems our children and grandchildren will face in the next century if we do not reduce the huge number of new residents the United States accepts each year, beginning now.

I strongly urge Members to reject the Chrysler-Berman-Brownback amendment.

Mr. CHRYSLER. Mr. Chairman, I yield myself 10 seconds.

I would just like to point out that the Senate split their immigration bill, so there will be a separate legal immigration bill that will come before the House.

Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. GILMAN], the distinguished chairman of the Committee on International Relations.

Mr. GILMAN. I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong support of the Chrysler-Berman-Brownback amendment to separating the unique concerns of legal and illegal immigration.

Proponents of deep cuts in legal immigration are blurring this distinction in order to make it difficult for us to vote against sorely needed illegal immigration reform. They know that their cuts in legal immigration cannot pass on merit alone.

Immigrant bashers argue that America needs to take a time out and limit or provide a moratorium. In the 1920's, they say, we experienced unprecedented economic growth the last time the United States had such a policy.

Mr. Chairman, in response to those specious arguments: One, that was no time out. That was a policy based on xenophobia and racism.

Two, moreover, when our Nation endured an unprecedented depression in the 1930's, the same restrictive immigration policy was in place.

I am disappointed with the anti-immigration forces who have denied us a chance to address the restrictive asylum and humanitarian parole provisions that were included in H.R. 2202.

Accordingly, I urge my colleagues to support this important Chrysler-Berman-Brownback amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BILBRAY], whom I understand is the only Member of Congress who can see the southern border from his home.

Mr. BILBRAY. Mr. Chairman, my mother happened to be the first Australian war bride to become a U.S. citizen. She emigrated in 1944. I have cousins who would love to emigrate to the United States right now. But let me tell Members, I am sworn to represent the people of my district here in America, and I am not sworn to represent my cousins in Australia or to represent certain businesses that would love to be able to bring my cousins in to work for them. I am sworn to represent the general population of the 49th District of the great State of California.

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I think that we ought to be up front about this. Who are we serving here with the Chrysler amendment, who is going to benefit from this, and is it going to be the people of the United States?

Mr. Chairman, it is not only our right to have an immigration policy for the good of the American national interests, it is our responsibility as Members of Congress to make sure our decisions on immigration are for the good of America, and America first. In the words my mother said to me when I asked her loyalty between Australia and the United States, she said "America, America must take care of America first and that will help the rest of the world."

Mr. BERMAN. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, U.S. law does not allow you to petition for your cousins, your uncles, your nieces, your nephews. It would not under this bill, it does not under existing law, and it never has. Bogus arguments should be dispensed with quickly.

Second, the gentleman from Texas [Mr. BRYANT] says 1 million people a year come in, to show how bad it is. The gentleman from Texas [Mr. SMITH] says "I just got information, 715,000 a year come in. Our bill only cuts by 15,000."

The gentlemen from Texas [Mr. BRYANT] and [Mr. SMITH] are right about the number. What they do not say is that for the first 5 years, his bill allows 700,000, and it then has a massive 30 percent drop in legal immigration to far below that. That is the accurate story.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. HARMAN].

VOL
142
PT
5
MR
21
—
29
1996
UMI

Ms. HARMAN. Mr. Chairman, I rise today as the daughter of immigrants in favor of removing the poorly designed and unfairly restrictive legal immigration provisions from the bill before us. I strongly support and have cosponsored the tough measures in this legislation to crack down on illegal immigration. But, like most Americans, although not some that we have just heard from, I believe that legal immigration is the lifeblood of this country, enriching our Nation economically and culturally.

We should, of course, be open to reasonable reforms in our legal immigration policy, but H.R. 2202 goes too far. By the year 2002, as we have already heard, the bill will cut legal immigration by 40 percent, and the bill's cap on refugee admissions, which, fortunately, has already been removed, would effectively have ended our historical commitment to helping those who, like my father, who grew up in Nazi Germany, flee oppression and genocide.

H.R. 2202 includes important and effective tools for fighting illegal immigration. Let us not bind those changes to the unacceptable legal immigration cuts in title IV.

Mr. CHRYSLER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. DAVIS], a cosponsor of this amendment.

Mr. DAVIS. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, first of all I want to commend the gentleman from Texas for taking on a tough issue. I rise reluctantly to oppose his position on this and support this amendment.

This amendment continues the current level of immigration. It allows children and the brothers and sisters of immigrants to apply for immigration. Otherwise they are barred for the most part.

This amendment does not affect the changes in this bill regarding immigrant eligibility for public benefits and it does not affect the provisions relating to illegal immigration, but family reunification has long been a principal purpose of U.S. immigration policy. This bill's provisions barring adult children in particular turns that principle on its head by ensuring that many families will never become whole.

Why would a child who turns 26 automatically be considered extended family and not allowed to immigrate under his parents' sponsorship? Many of these adult children are exactly the type of Americans this country needs. They help in their prime working years, working in many cases in family-owned businesses, helping them to prosper. They save, invest, and give back to their communities.

I see the pioneer spirit in this country alive and well in the shops in my district where you have much of this. They also help care for their elderly parents and reduce the elderly's use of social services.

Mr. Chairman, I ask approval of this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise today in opposition to the Berman-Chrysler-Brownback amendment to H.R. 2202.

This bill was drafted in response to concerns echoed across this Nation about the influx of immigrants in this country, both legal and illegal. However, a vote for this amendment is a vote to kill any attempt to pass legal immigration reform in the 104th Congress.

We are a country of immigrants. Our ancestors came here for the promise of a better life and a better place to raise their families. They wanted the American dream. This bill does not deny this dream to anyone. Contrary to what has been said about this bill, it maintains America's historic generosity toward legal immigration and places a priority on uniting families.

Our current system of legal immigration is clearly flawed. There is currently a backlog of 1.1 million spouses and young children of legal immigrants who are forced to wait years to join their families. H.R. 2202 provides for the highest level of legal immigration in 70 years, averaging 700,000 per year over the next 5 years.

People should not be fooled into believing the rhetoric that only illegal immigration needs reform. The unfortunate fact is that the majority of illegal immigrants in this country entered the country legally with tourist visas. But our Government gives them every incentive to stay here illegally after their temporary visa has expired. Just by virtue of being here, they are automatically entitled to generous Government assistance for health care, food stamps, and education benefits. Where is the incentive to leave?

We can put up bigger fences, hire more border patrol agents, and establish a fool-proof system to detect fraudulent documents. However, until we reform legal immigration, we will continue to face the same problems.

The Berman-Chrysler-Brownback amendment will kill legal immigration reform. H.R. 2202 fairly and generously reforms legal immigration, and I encourage all of my colleagues to vote "no" on this amendment.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, with respect to the population projections, I just want to remind everyone of the demographer Malthus, who looked at population projections in the early 19th century and concluded that by the end of the 19th century, there is no way in the world there would be enough food in the world to feed the people.

I have great faith in the capacity of technology and the economy to grow, and I believe that is going to deal with the particular issue of our future ability to handle the population.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BECERRA], my friend on the Committee on the Judiciary.

Mr. BECERRA. Mr. Chairman, I support the efforts of the Chrysler amendment to try to have a reasoned debate on legal immigration separate from the very impassioned debate on illegal immigration. I would urge Members to support that particular amendment.

Let me say that the whole issue here is about family-based immigration. That is all we are talking about here. In order for someone to be able to come into this country under the provisions being debated, you must have an American petition to have that particular individual come to the country. This issue of chain migration is a false one. By the time you have someone come into this country, it usually takes 12 to 13 years before that individual can then petition to have anyone who is an immediate relative—not a distant relative—come into this country. So this issue of chain migration is really a quarter century long before you see any additional relatives possibly having the chance to come in, if even that soon.

There is no chain migration. What we do have though, if we continue to go this course with H.R. 2202, is a lack of family-based immigration, where brothers, sisters, children, and parents will not have an opportunity to join their U.S. citizen relatives.

Mr. Chairman, I urge a "yes" vote on this particular amendment.

Mr. CHRYSLER. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, I would just point out that there are provisions in the illegal portion of the bill dealing with the problems of visa overstayers and they are not entitled in title IV.

Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. CHABOT], a member of the Committee on the Judiciary.

Mr. CHABOT. Mr. Chairman, I rise in very strong support of the Chrysler amendment, because I deeply value the fundamental character of this Nation as a land of hope and opportunity and because I cherish our unique American heritage as a country of immigrants, united by shared values, a strong work ethic, and a commitment to freedom. Let us not tarnish that heritage or ignore our greatest strength, which is our people.

Our legal immigration system doubtless could use reform, and other titles of this bill will make some useful changes, but I do not believe the rush to do something about the very real problems of illegal immigration should cloud our treatment of people who play by the rules and who come here legally and add to our human capital.

Should we crack down on illegal immigration? Yes. Absolutely. Let us, for example, not let welfare be a magnet for illegal immigrants to come here, and let us beef up our border patrols. But legal immigration is a separate and distinct issue. Let us split the issues of legal and illegal immigration and let each be determined upon its merits.

Mr. Chairman, I urge a vote for American family values, and I urge support for the Chrysler amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I think that there are two great political issues that face this country. One is welfare reform and the other is immigration reform. Unfortunately, the two of them are inextricably linked together. When you consider the fact that 21 percent of all immigrant households receive some form of assistance, when you consider that for the 12-year period between 1982 and 1994 that the applications for SSI by immigrant families increased some 580 percent compared with only a 49-percent increase for native Americans, then you have to say that the two are linked together. Unfortunately, if we do not address one, it is going to be almost impossible to address and solve the other.

So I would urge that we defeat the amendment that is before the House.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, this amendment does not touch title VI of the bill. Title VI requires before any legal immigrant can participate in any variety of public benefit programs, including Medicaid, AFDC, SSI, that you have to deem the family sponsor's income. Our amendment does not touch that particular reform.

Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Chairman, the guiding principle in our Nation's immigration policy should be to reward controlled legal immigration and dissuade illegal immigration.

As an American-born son of legal immigrants, I can tell you this bill sends the wrong message. Instead of saying to potential immigrants that if you play by the rules, wait your turn, and follow the law, you will benefit by becoming a permanent resident, we say, we're going to treat you just about the same as an illegal immigrant.

The cuts in legal immigration hurt family reunification efforts and show the hypocrisy of a Congress that promotes family values.

Why does this family friendly Congress want to prohibit the adult sons, daughters, brothers, and sisters of U.S. citizens from entering the country? Legal immigration reinforces family structure, upholds family values, and benefits the Nation.

Creating a hardship for U.S. citizens by permanently separating them from their close family members does not promote family values. It disintegrates the fabric of American values and jeopardizes the Nation's future. We can fight illegal immigration and preserve family-centered legal immigration by supporting this amendment.

Mr. CHRYSLER. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in support of this amendment. Legal immigration is a basic building block in the cultural development of our United States. The family is an American tradition. When we talk about our families, we do not simply speak of our spouse or our young children. The tradition extends to our grown children, our parents, our brothers and sisters.

For years we have told new immigrants that if they play by the rules, their family members will be able to join them. Now, as many as 2 million people may be told that they are no longer qualified family members.

Having a visa petition approved may not be a guarantee that a person will actually receive the visa. However, there was an implicit act of good faith when INS approved the petitions and the people began their wait. To break faith with such a strong American tradition sends a strong message and does not address the real concerns of illegal immigration.

Our immigrant population strengthens the diversity upon which our great country is built. As a former immigrant and naturalized American, I urge us to stand up for our families, our traditions, and strike the cuts in legal immigration.

□ 1515

Mr. SMITH of Texas. Mr. Chairman, I just want to point out that the reason we have the record percentage, 21 percent of all legal immigrants on welfare today, is because we admit over 80 percent of all legal immigrants with absolutely no regard to their education or skill levels. That is the reason we have the problem.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I do not think there is any question that we need and must face both legal immigration reform and illegal reform. If we vote for this amendment today, we are going to kill legal immigration reform in this Congress.

Why do we need it? Why do we need to attack and change family unification principles that have been in the law for quite some time? I will tell my colleagues why, because the system is broken, because we have a backlog. Millions of close family ties, people who we would like to see be able to come over here have to wait up to 20 years to come over. The system is not working. The brothers and sisters cannot continue to be brought in under the kind of preference we have today and leave any room for seed immigrants, that is, those who can provide skills and special things we would like to see but who have no relatives here at all.

Why should just being a relative be the primary reason you get to come here? We have to have balance in our system. The current legal immigration system is imbalanced, out of whack. We need to change it.

Now, there is nothing draconian about the legal reforms we have here today. If we look at what happened in 1990, we increased legal immigration in a bill that passed this Congress and went and was signed into law by 40 percent. This bill reduces it by 20 percent. So we are kind of compromising.

Over the next 5 years under this bill we will add 3½ million new legal immigrants to this Nation which, except for the legalization years that we had right after 1986, will be the greatest increase in legal immigration in American history in the last 70 years.

This is a very generous legal immigration bill that the gentleman from Texas [Mr. SMITH] has crafted. But what it is doing is extremely important. It is trying to give us an opportunity which business and all of us should be pleased with to get more seed immigrants since almost none can come in today who have no family ties but who have skills and things they can offer America and should be allowed to come to this country and get rid of the backlog of those people who are close family relatives who really should come here, the children and spouses and so forth, instead of having the broken system we have today.

So I implore my colleagues to vote against the amendment. As well-meaning as it may be, it is not a good amendment. Keep legal immigration in this bill and allow it to exist, because a vote for this amendment kills legal immigration reform.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Of the 500 fastest growing companies in this country, 12 percent are headed by legal immigrants. They are, again, a source of economic strength, the creation of jobs, the growth of our economy.

Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, this amendment deals with striking the family immigration sections of the bill in order to address these issues in a

VOL 142 PT 5 MR 21 — 29 1996 UMI

more seemly and deliberative manner, and I agree with that. If we are for family values, we need to value families; and that is what the Berman amendment would do. However, disapproval of the Berman amendment will also have implications for the business community.

I recently received a letter from a Mr. Yao, who lives in Mountain View, CA. I cannot read his whole letter, but I can excerpt from it. He is a senior scientist at his company, an American company, and is originally from China. When he started with the company, it was a very small company, but it has since experienced rapid growth and expansion. Its products are well received. In fact, the company received an award for outstanding achievement from the White House.

The major reason why the company has done so well is that Mr. Yao has designed all of the antennas that the company sells and in fact is the holder of a number of patents. However, a few years ago, he missed his daughter in China so much that he was going to take his patents and go home to China. However, the company, fearing to lose him and to lose their business, petitioned to make him a permanent resident so that his daughter could come here. He wrote to me to say that she is now 30 years old, and he is desperate to see her, but she cannot come for a visit because of the pending application.

Mr. Chairman, I guess the upshot is that, if the Smith bill passes without the Berman amendment, Mr. Yao can take his patents and go home to China. Then we can have the opportunity to compete with a Chinese company that he founds instead of dominating our economic adversaries abroad.

I think it is worth noting that one of the fastest growing companies in our country, Intel, was founded by an immigrant. Sun Microsystems was founded by immigrants. The Java computer technology that is taking off on the Internet was devised by an immigrant. We are shooting ourselves in the foot if we fail to adopt the Berman amendment, economically, and also hurting families.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the Bureau of Labor Statistics reports that the high level of immigration is responsible for 50 percent of the decline in real wages for America's lowest skilled workers, that is, those who did not complete high school. Yet, Members stand on the floor of the House and tell us that we have an obligation to continue a system of chain migration in which, when immigrants decide to bring their spouse and children and come to the United States, they also are allowed later to bring in their adult children and their brothers and their sisters.

Well, I submit that 20 years of experts recommending that we change this ought to give us a heads up about something, and that is simply this. If you do not want to leave your brothers and sisters and do not want to leave your adult children, then do not leave them. The American people have no obligation to tell all the people of the world that when you immigrate here you can bring family members other than one's spouse, minor children, and parents. We cannot continue to allow new arrivals to bring brothers and sisters and adult children with them as well, and expect to maintain a manageable population size.

What about our high school dropouts? What about our low-wage workers? It is not fair to continue driving down their wages with an immigration policy that disregards the interests of low skilled American workers.

Mr. CHRYSLER. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, the backlog the gentleman from Florida was referring to is the 1 million former illegal aliens that were granted amnesty in 1986. Giving extra visas to former illegal aliens instead of U.S. citizens is unconscionable.

Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Chairman, I rise in strong support of the Chrysler amendment and in support of legal immigration. America is a nation of immigrants. My grandfather came to America from Norway when he was 16 years old. Like most immigrants, he sought a better life for himself and his family. Three years after becoming a citizen, he was drafted, and served with distinction in the battle of the Argonne in World War I. And his story is one of only millions of immigrant stories, of hope and opportunity, and of service to our Nation.

If someone is in our country legally, and paying taxes, they should be able to receive the benefits that their tax dollars pay for.

Legal immigrants are hardworking, taxpaying contributors to our society. Legal immigrants most often have intact families, college degrees, and are working. Overall, immigrants generate $25 to $30 billion a year in tax revenues—far more than the cost of services they may consume.

There is a problem with illegal immigration in our country. We need to take strict steps to reduce and eliminate illegal immigration. But let's not destroy what has contributed to America's greatness for past centuries. Let's not treat legal immigrants as though they had broken the law, when they are law abiding.

In his farewell address to the Nation, President Ronald Reagan recalled his favorite metaphor of America as a shining city. President Reagan stated that "If there had to be city walls, the walls had doors and the doors were open to anyone with the will and heart to get here. That's how I saw it and see it still." I share Ronald Reagan's vision of immigration; the same vision that brought my grandfather to these shores and ancestors for generations to come.

Mr. SMITH of Texas. Mr. Chairman, first I want to say to my colleague, the gentleman from California [Mr. BERMAN], that I appreciate what he said about the ownership of businesses by immigrants, and I trust that he will feel better about the bill when I remind him that we are actually increasing the number of skilled immigrants whom we admit in the country under H.R. 2202. We want immigrants who are going to come here to work, to produce and contribute to our communities and to own and operate businesses.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. GALLEGLY], the chairman of the task force on immigration reform.

Mr. GALLEGLY. Mr. Chairman, as someone that has dealt with the issue of illegal immigration in this great House for the last 10 years, I have focused my energy on trying to find ways to stop the unchecked flow of illegal immigration.

Initially I was opposed to having legal and illegal immigration combined, but the more I have studied this issue, the more I realize that we cannot deal with one without the other. We are a very generous nation. We allow more people to legally immigrate to this country every year than all of the rest of the countries in the world combined. This bill continues to provide that ability for those to continue to immigrate here. I ask you to oppose this amendment and let us address the issue of immigration once and for all in a way that will stop illegal immigration and we cannot do it without addressing legal as well.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE], a member of the committee.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman very much, and I would like to place, Mr. Chairman, a personal face on this whole question of legal immigration.

I rise in support of the separation in this legislation of legal immigration from illegal immigration. Claudia Gonzales left her family in Houston as a teenager to care for her grandparents in Mexico. She rejoined her family in Houston at age 23 where she has begun a new job and is attending school.

Mr. Chairman, under this bill, legal residents would be prohibited from sponsoring their sons and daughters over the age of 21, hard-working sons and daughters. The adult children could be deportable or have no preferential treatment in gaining legal residency. Claudia's father said, who has lived here since 1967: I have worked hard here and pay taxes. What am I going to say to my son 21 and my daughter who is 23?

Mr. Chairman, that is the real face of legal immigrants, hard-working taxpayers. I offered a bill that would have allowed parents to be brought here. Now we have a situation where parents and children cannot be united.

Mr. Chairman, I clearly think with all respect to those who worked so hard on this issue, we would do well to pay respect to hard-working legal immigrants and to acknowledge that it is now time to separate the legislation and treat illegal immigration separately.

Mr. Chairman, I rise today in support of the Chrysler-Berman-Brownback-Crane-Dooley-Davis amendment, which would strike the parts of title V—subtitles A, B, and C—that would virtually prevent American citizens from sponsoring their adult children, siblings, and parents; reduce America's support for refugees; and place additional experience requirements that will complicate companies' ability to hire skilled foreign scientists and engineers.

The current legal immigration system is specifically designed to strengthen families by reuniting close family members and fueling prosperity by attracting hardworking individuals. We must not abandon these principles. At a time when strong family bonds are more important than ever, restrictions in family based immigration will hurt legal immigrant families in America.

It is disturbing to think that Government policy will keep such families, even parents and their children, apart just because a child is older than 21 years of age. Energetic young people, about to enter the work force, are exactly the type of new Americans that complement the existing work force. Not only will they fuel our economy along with our existing population, but they will be here to care for their aging parents. Most Americans do not think that their children, at any age, are ever distant family members.

I recently read about a family in my hometown of Houston who would be affected if this legislation became law. Claudia Gonzales left her family in Houston as a teenager to care for her grandparents in Mexico. She rejoined her family in Houston at age 23 where she has begun a new job and is attending school. Under this bill, legal residents would be prohibited from sponsoring their sons and daughters over the age of 21. The adult children could be deportable or have no preferential treatment in gaining legal residency. Claudia's father, who has lived here since 1967, said: "I've worked hard here and paid taxes. What am I going to say to my son, who is 21, and my daughter, who is 23, if they have to leave this country? I will respect every single day the laws of this country. But this one would be unjust and I denounce this law that would hurt many families."

Similarly, barring entry of brothers and sisters of U.S. citizens because of the current backlog in that visa category is especially unfair to the citizens and their siblings who have followed the rules and waited patiently in line—some for 15 years or more.

H.R. 2202 imposes nearly insurmountable obstacles for U.S. citizens seeking to bring their own mothers and fathers to the United States. The legislation enables the U.S. Government to control and overrule the decisions of families by requiring that U.S. citizens purchase high levels of insurance for their parents and lowers the priority for the parents' visa category. This category will only receive visas if any are left over from other categories. The State Department projects that within 3 years after the law takes effect no visas will be available for parents.

In addition, H.R. 2202 would require citizens and legal residents to show that their income will be 200 percent above the poverty line in order to bring their parents, minor children, or spouses to the United States. More than 35 percent of Americans—over 91 million people—have incomes below 200 percent of the poverty line. The bill will have a devastating impact on American families who will be barred from living in the United States with their own husbands, wives, and children.

The centerpiece of U.S. immigration policy is, and should be, family reunification. It is consistent with our Nation's values when we allow U.S. citizens to reunite with their spouses, children—both minors and adults—their parents, and their siblings. This policy is good not only for the individuals involved, but for the Nation as a whole. Our policy of family reunification brings in energetic, committed new Americans who work hard, pay their taxes, and enrich the country economically and socially. There is little rationale for limiting opportunities for family reunification, when the end results are so positive for everyone involved.

Since when is America not big enough for the parents of its citizens? A recent CNN USA Today poll shows that immigrants come with strong family values and a strong work ethic. These are values we ought to be promoting, not undermining.

Proposed restrictions in employment-based immigration will hurt the U.S. economy. It is crucial that the American workplace reflects the international character of its customers and responds to both domestic and international competitive pressures. Achieving such a work force requires looking beyond the U.S. labor market. Employees, researchers, and professors possessing both innovative technical skills and multicultural competence ensures our economic viability in world markets.

Placing a cap on the number of refugees admitted to the United States ignores the leadership role of this country in providing protection and safe harbor to those fleeing political and religious persecution. Strict levels of refugee admissions ignore the changing and urgent nature of refugee situations. U.S. policy should maintain the flexibility to respond appropriately to emergency situations.

Mr. Chairman, today, and throughout history, immigrants have come to the United States in pursuit of the American dream, to make a better life for themselves and their children. They come to the United States to join the work force and their families, to educate their children and contribute to the communities where they live, their professions and the American economy. They enrich us with their diverse cultures and languages, and with their skills, education, business, and artistic talents. The United States, a nation of immigrants, has welcomed individuals from around the world who came here seeking better economic futures or fleeing political persecution. We must not abandon this history. I urge my colleagues to support their amendment.

Mr. CHRYSLER. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I want to thank my good friend for yielding time to me and especially thank him for his leadership.

Mr. Chairman, I strongly support the Chrysler-Berman-Brownback amendment, which will help keep the focus where it belongs, on the real danger of illegal immigration, not on orderly legal immigration by close relatives of U.S. citizens. I am particularly troubled by the provision in the current bill that would cut off eligibility for so-called adult children unless they meet a series of new tests, including economic dependency. Ironically, supporters justify these restrictions by suggesting that we somehow protect nuclear families by excluding other relatives. Most Americans I think would be surprised, perhaps shocked comes closer to describe it, to know that if their 21-year-old daughter or son gets a job, he or she is no longer a member of your nuclear family and can never live with you again.

The present language in the bill also virtually eliminates the Attorney General's power to use the humanitarian parole to deal with compelling cases at the margins of our immigration laws. Most congressional offices have had to deal with cases in which an American family has adopted an orphan overseas or wishes to sponsor a relative for a sick family, only to run up against a brick wall. Humanitarian parole is gone.

Mr. Chairman, I urge support for the Chrysler amendment.

Mr. SMITH of Texas. Mr. Chairman, I just want to remind the gentleman from New Jersey that the bill actually has an additional 10,000 visas for humanitarian purposes that the Attorney General can disseminate.

Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE], a former practicing immigration attorney.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as he noted, I did practice immigration law, am proud of the fact I helped people from more than 70 countries immigrate to the United States during my career as an immigration lawyer, all law-abiding citizens and hard working. Many people here have noted how important it is that we maintain our Nation as a nation of immigrants. Most of us can go back just a few generations and find family members who immigrated to this country, my grandfather, my wife's parents.

Mr. Chairman, there is no question that with this bill, we are going to continue to do that, continue to be the

VOL
142
PT
5
MR
21
—
29
1996
UMI

most generous nation on earth in terms of our immigration policy. But if this amendment is passed, it does not simply split legal immigration reforms, which are needed, both to help the immigration process and to limit it from illegal immigration, it will kill it outright. We have got to defeat this amendment because of the fact that our legal immigration process needs to be reformed.

We need to help immediate family members be reunified more quickly. Young married couples with young children, they need to be able to come here more quickly when one member qualifies for a visa than to have that separation taking place for years, as it does now. How do we pay for that? By breaking immigration chains that have very remote connections.

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Now, my colleagues say, how can a brother or sister be a remote connection? The fact of the matter is it takes 20 years now for a member of a family to come to this country and go through the process it takes to petition for another member to come. So we are not talking about a situation where the family member got left behind last year and we want to bring them to this country. It is a matter of having to reform this process to be fair to everybody and fair to everyone in this country.

This chart shows the problem. First, the highest line shows the immigration trend over the next 55 years under current law. The second line shows the trend with the reforms in this bill. Forty million people is the difference involved there.

My colleagues, we need reasonable immigration reform. We will still be very generous. Oppose this amendment and support the bill.

Mr. BERMAN. Mr. Chairman, I yield 30 seconds to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Chairman, this debate can more appropriately be called debate over discrimination, not a debate over immigration. What we are seeing in collecting both legal and illegal immigrants is that we are going to treat legal immigrants as if they are illegal aliens. To me, this is no more than policy by prejudice and analysis by anecdote.

Mr. Chairman, I ask my colleagues to support the Berman amendment so we can differentiate between the two issues here.

I rise today in support of the Chrysler-Brownback amendment and in support of the generations of immigrants who have built this country into the great Nation that it is today.

This debate can be more appropriately called a debate over discrimination—not immigration. H.R. 2202 places drastic restrictions on legal immigrants—essentially treating them like second-class citizens who do not deserve the rights and privileges that are afforded native-born Americans.

This short-sighted action is a part of the unfortunate anti-immigrant fervor that has swept up this House and swept across the Nation. This is of great concern to me as the land of liberty, freedom, equality, and hope will have the image of being an unwelcoming closed nation. This is a troubling image—one that goes directly against the cornerstone principles of America.

It is a travesty that in an effort to curb illegal immigration, the authors of this bill have chosen to blatantly discriminate against those individuals who are in this country legally. Not only do the legal immigrant provisions make it extremely difficult for families to be reunited, but they also deprive parents and children of assistance should they fall upon hard times. Under this bill, more than one third of all Americans will be unable to sponsor a family member—simply because they are not wealthy enough. No longer will a grown child, a brother or sister be able to join their family here in the United States. Could any of you imagine being separated from family members so close? I certainly cannot.

These provisions will only hinder many new Americans who are trying to put the right foot forward and adapt to a new country. While I agree that measures must be taken to encourage individuals to stay off the welfare rolls, denying taxpayers assistance simply because they weren't born in this country is reprehensible.

In our rush to ensure that we are not allowing foreigners to sneak across our borders and live off the fruits of our labor, we have lost sight of what "America" means. Have we forgotten the foundation that this great Nation was built upon? The dreams, hopes, and aspirations that embody America were first envisioned by our forefathers who immigrated here in search of freedom and prosperity.

I am also deeply troubled at the tone that this debate has taken. Rather than looking broadly at the problem of illegal immigration, we have chosen to fixate on one source of our problem—our southern border. Have we forgotten that we have a border to the north? That we have two long coasts with many harbors and ports? Are not these open doors to Canadians? To Irish? But there is silence here, while the debate is filled with sound and fury over the menace to our south. This is not right. It is blind and unfair. It fans the flames of prejudice. It makes it possible for a bill to deal so callously with our legal immigrants.

My State of Rhode Island is enriched by the many people who have brought their cultures and traditions to this great Nation to build a life for themselves and for future generations. I am proud of these hard-working Americans, who each day go to work, pay taxes, and make their contribution toward creating a stronger United States.

The Chrysler-Berman amendment is a vote for equity for all Americans—new and old. It will ensure that hard-working, tax-paying legal residents of this country are treated with decency and fairness. We owe them at least this much.

Mr. CHRYSLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is important to restore the rights to U.S. citizens to petition for their brothers and sisters and adult children to come to America.

There are currently provisions to prevent immigrants from becoming public charges, and there are additional welfare restrictions in this bill. The amendment does not change these welfare restrictions.

In addition, the Senate split their immigration bill. So we will see legal immigration reform this year in the House.

I ask my colleagues to support this profamily amendment and vote "yes" for this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to point out to my friend, the gentleman from Michigan [Mr. CHRYSLER], who just spoke, that the reason we have the record-level 21 percent of all legal immigrants on welfare is because we do admit over 80 percent without any regard to skills or education.

The problem with this amendment is that it will continue the status quo. The bill tries to increase the percentage of individuals who are admitted on the basis of skills and education. This amendment would leave us right where we are, and over 80 percent would be admitted without any regard to that.

Mr. Chairman, I would like to cite some studies that have been done on the question of how legal immigrants, competition with legal immigrants, depresses wages and costs jobs, and I just do not see how the proponents of this amendment can ignore these studies when we know we are dealing with real lives and real hardship.

According to the Bureau of Labor Statistics, immigration was responsible for 50 percent of the decline in real wages for America's lowest scale workers, those who did not complete high school. A recent study by the Economic Policy Institute says that in the high-immigration States of Arizona, California, Florida, New York, and Texas, that men's wages were 2.6 percent and women's wages 3.1 percent below the average for other States that were not high-immigration States.

Dr. Frank Morris, the immediate past president of the Council of Historically Black Graduate Schools, said there can be no doubt that our current practice of permitting more than 1 million legal and illegal immigrants per year into the United States, into our already difficult low-skilled labor markets, clearly leads to both wage depression and the de facto displacement of African-American workers with low skills.

The Urban Institute says this. The immigration reduces the weekly earnings of less-skilled African-American men and women and also that group most clearly and severely disadvantaged by newly arrived immigrants is

other recent immigrants. A 10-percent increase in the number of immigrants reduces other immigrants' wages by 9 to 10 percent.

Finally, in a book by Julian Simon, the patrol saint of the open-borders proponents, he says this: "There is no doubt that workers in some industries suffer immediate injury from the addition of immigrant workers in these same categories."

Mr. Chairman, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry. Could it please be indicated who has the right to close?

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] has the right to close.

Mr. BERMAN. And how much time is remaining?

The CHAIRMAN. The gentleman from California [Mr. BERMAN], has 2 minutes remaining; the gentleman from Michigan [Mr. CHRYSLER] has 30 seconds remaining, and the gentleman from Texas [Mr. SMITH] has 1 minute and 15 seconds remaining.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, I thank the gentleman for yielding this time to me.

I rise in strong support of the Chrysler-Berman-Brownback amendment. It is a refreshingly bipartisan amendment, and that is because it is the right thing to do.

This bill is well intentioned. It talks about the legitimate problem, which is illegal immigration. Unfortunately, it goes too far because it tries to make changes in legal immigration. We do not have a problem with legal immigration, and as I listened to the debate, I have not heard one articulated.

The fact of the matter is we are all immigrants. We are all the descendants of immigrants, some voluntary, and some, like myself, on an involuntary basis. But the point is we all came to America.

America is a beacon to immigrants. But this bill would reduce legal immigration by 40 percent over 5 years, and yet there has been no rationale presented to justify why we should shut people out of our country, why we should pull families apart.

Why are we doing this?

This bill is not trying to increase immigration. I realize we cannot accept everyone, but there is no reason to significantly reduce the level of immigration.

There are those who want to suggest immigrants are a burden on our society. Not legal immigrants. They earn $240 billion, they pay $90 billion in taxes. They only consume $5 billion in benefits. Clearly, we need legal immigrants. We ought to vote for this amendment.

Mr. CHRYSLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to say that there is not a fixed number of jobs in America, as an American businessman for 25 years. Job totals have more than doubled from 1960 to 1995, so immigrants do not take jobs, jobs from natives and actually the bill does, indeed, cut legal immigration from 775,000 to 542,000 in 2002, and I think that is unconscionable because I think we are going to need all the workers we can get as we move into a growth opportunity that we are going to have in this country.

Mr. SMITH of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Abe Lincoln used to say calling a tail a leg does not make it one. No matter how many times you cite 21 percent of legal immigrants on welfare, it is wrong. Saying it a lot of times does not make it true.

The Urban Institute says 7 percent less than the average American who did not come here as a legal immigrant relies on welfare, 7 percent less than the average.

Second, you can cite a graduate student who is working at the Bureau of Labor Statistics for a survey, Manhattan Institute, a survey, top economists in the country of all ideologies and persuasions. Eighty-one percent said legal immigration is very helpful to the economy. The other 19 percent said it is slightly helpful to the economy. No one said it hurts the economy.

We have put together a coalition on this amendment, with the great work of my colleagues, the gentleman from Michigan [Mr. CHRYSLER] and the gentleman from Kansas [Mr. BROWNBACK] and the gentleman from California [Mr. DOOLEY] and the gentleman from Virginia [Mr. DAVIS] and the gentleman from Illinois [Mr. CRANE], that includes the AFL–CIO, the Leadership Conference on Civil Rights, the Christian Coalition, the Americans for Tax Reform, a whole slew of organizations that believe in economic growth, family values and family reunification.

I urge that the Committee of the Whole adopt this amendment.

Mr. SMITH of Texas. Mr. Chairman I yield such time as she may consume to the gentlewoman for New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in strong opposition to this gutting amendment. This amendment would destroy this bill's ability to reform our notoriously deficient immigration laws.

No one will argue that immigrants have not formed the backbone of our country. Immigrants from all over the world have helped make this great Nation what it is today. And, they will continue to bring America forward in the 21 century.

But, we can no longer espouse an open border/open port immigration policy. In the face of increasing corporate mergers, downsizing, and technological advancement, our economy cannot absorb greater numbers of immigrants, let alone provide jobs to those people who have been laid off or can't find work.

This is a gutting amendment that refuses to recognize the problems that legal immigration causes for our country and hard-working American taxpayers.

Over half of the 400,000 illegal aliens who come to the United States every year come here legally and overstay their visas. Over 80 percent of all admitted legal immigrants are low skilled and uneducated which has resulted in a drop of 50 percent in real wages for those who never graduate from high school. Legal immigrants receive $25 billion more in public benefits than they pay in taxes, including a 580 percent surge in their SSI payments over the past 12 years.

Mr. Chairman, these figures are startling and totally unacceptable. They are a direct result of our misguided immigration policies of 1986 and 1990 which first granted amnesty to 2.7 million illegal aliens, and second almost tripled employment-based visas and removed limits on family-related categories for immediate relatives.

Consequently, legal immigration and sponsorship have ballooned. They continue to drain our welfare system and slow our economy by taking away jobs from those already here. We can no longer idly sit by and watch this happen when our own citizens are living below the poverty level, without health care, without jobs.

That is why we must restructure our current legal immigration system now. H.R. 2202 does this fairly and sensibly: By offering preference to nuclear families—spouses, minor/dependent children up to age 25, and parents whose health care is prepaid—and highly skilled workers, by allowing entrance to at least 50,000 annual backlogged nuclear family members, and by keeping categories for refugees and diversity visas. Even with the bill's numerical limits, we will still be admitting 600,000 to 700,000 legal immigrants annually. Could anyone say that these levels are not generous? I think not.

Mr. Chairman, it is impossible to implement immigration reform without tackling legal immigration. Legal immigration feeds illegal immigration, and feeds on our welfare system. This amendment would not only gut this legislation, but it would perpetuate both of these problems. We cannot let this happen.

I urge my colleagues to oppose this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Mark Twain said, "First you get your facts straight, then you can distort them all you want." I am afraid that we have heard some of that just a minute ago. In point of fact, when we consider both cash and noncash benefits, there is 21 percent, a record high percentage, of legal immigrants on welfare.

The point, though, of this amendment is, it is a motion to kill, it is not just a motion to strike. There is no

VOL
142
PT
5
MR
21
—
29
1996
UMI

separate legal immigration reform bill on the House side, and, as I mentioned awhile ago, the proponents have not offered any amendments to try to improve our legal immigration system.

This amendment simply makes a bad situation worse. It will keep the status quo. It will keep the huge backlogs. It will keep the long waits, and, in fact, it will allow them to grow larger and longer.

Legal immigration drives illegal immigration. Today almost half of the illegal immigrants in the country today actually came over here on legitimate visa, typically tourist visas, and then overstayed, and that is the result of these huge backlogs and long waits, which is what the bill fixes and what the amendment ignores.

Also, Mr. Chairman, I have to say that one of the worst reasons to go back to the status quo is because we have a broken legal immigration system that depresses wages and costs jobs. The American people know immigration can hurt them because they have to compete with them. This amendment ignores the wishes of the vast majority of the American people: 83 percent want us to control immigration including a majority of African-Americans and Hispanics.

Mr. Chairman, I appreciate the fact that the National Federation of Independent Business, the Chamber of Commerce, United We Stand, Hispanic Business Roundtable and Traditional Values Coalition have all endorsed this bill.

Mr. LAZIO of New York. I rise today in support of the Chrysler-Brownback amendment which separates the issue of legal and illegal immigration. Without a doubt, we need to tackle illegal immigration in this country. Hundreds of thousands of illegal immigrants pour across our border every year, and quite frankly, people have a right to be angry. Illegal aliens are after all illegal and their presence is a reflection of the Federal Government's inability to address the problem. According to the INS, there are an estimated 4 million illegal aliens in the United States. New York's share of this figure is 449,000, or 13 percent. This bill gets tough on illegal immigration, and I commend Chairman SMITH for his hard work and diligence in tackling this issue.

But I remain unconvinced that we need to target those who play by the rules, work within the process, and legally immigrate to this country. Those who are illegal aliens are breaking the law. There are tens of thousands of family members who have obeyed the law and are within the legal immigration process who would have the door slammed in their faces should this provision remain in the bill.

I have heard many of my colleagues talk about how we are a Nation of immigrants, and then in the same breath argue that we need to cut the number of legal immigrants. Although it is argued that the decrease is modest, the question is whether it is really necessary. I have heard the argument that this reduction in legal immigration is profamily. But I find it ironic that many of the groups that I have heard from in New York that would be most affected, such as Irish, Italian, and Jewish groups, among others, have told me that this would divide families, not unite them.

Some have argued that legal family-based immigrants have less to contribute, and there is always the threat that they will become a public charge. But keeping families—including extended families—intact, is culturally and empirically, a way to keep people off the public dole, especially among many foreign cultures from which these individuals come. Besides, there are other provisions in the bill which address this without excluding these individuals.

As someone who grew up in the shadow of the Statue of Liberty, and, like most of us, is a descendant of immigrants, I believe that legal immigration enriches our country, rather than pulling it down. Those who have come to this country to make a better life for themselves, and their families, have given our Nation its strength and its unique character. It is simply unfair to punish those who follow the rules for the sins of those who do not. I urge a "yes" vote on this amendment.

Mr. MATSUI. Mr. Chairman, much of the debate that we have had over the last 2 days is a discussion of what steps we should take to address the serious illegal immigration problem facing our Nation. That is an important debate, and I welcome it. There may be differences in this Chamber about what steps will be most effective in addressing the problem of illegal immigration, but we are in agreement that we must act and act quickly.

We should complete the illegal immigration debate and send legislation to the President. I rise in strong support of the amendment being offered by Mr. CHRYSLER, Mr. BERMAN, and Mr. BROWNBACK because I firmly believe that we should separately address the far more controversial and questionable contention that legal immigration is having a negative impact on the United States. The House should affirm, as the Senate Judiciary Committee has, that it is absolutely inappropriate to view legal immigration as a part of the same problem as illegal immigration.

When we talk about legal immigrants, we are talking about individuals who have waited patiently to enter our Nation, who have come here and contributed a tremendous amount to our society, our economy, and our tax base. I would call my colleagues' attention to observations made by the chairman of the Federal National Mortgage Association, James Johnson, in assessing the results of a recent survey by the association. Mr. Johnson wrote the following about legal immigrants in the Wall Street Journal:

> [T]hey are optimistic about our Nation's future; and they are willing to work and save to buy a home. That desire translates into millions of American jobs—in homebuilding, real estate, mortgage banking, furniture and appliance manufacturing, and the dozens of other industries that are dependent on a strong housing market. They hold significant economic power which, if realized, translates into jobs for Americans and prosperity for our Nation. . . . Before Congress enacts legislation to further restrict immigration, it should consider what the costs of "people protectionism" are likely to be for neighborhoods, job creation and the democratic ideals upon which our Nation was founded.

While opponents of this amendment will argue that there is a demand for legal immigration reform, a prominent Republican pollster has found that 80 percent of Americans believe that we should address the problem of illegal immigration first. This polling also suggests that seven of every eight Americans oppose penalizing those who have played by the rules in applying to immigrate to the United States. Yet this bill would slam the door on many individuals who have done exactly that—applied for visas and waited as long as 17 years to legally enter the United States.

We ought to reserve judgment on the question of whether changes are warranted in our legal immigration policy until we have taken effective steps to address illegal immigration. Let us move forward with that work before taking radical and unwarranted steps such as denying our citizens the right to reunite with their siblings, adult children, or parents.

I thank Mr. BERMAN, Mr. CHRYSLER, and Mr. BROWNBACK for offering this important amendment, and I strongly urge all of my colleagues to support it.

Mr. REED. Mr. Chairman, I rise in support of this amendment. I do so as someone who believes strongly in immigration reform. In fact, I was one of three Democrats who voted in support of H.R. 2202 when it was considered by the Judiciary Committee.

However, I believe the House should address the very different issues of legal and illegal immigration in separate legislation.

I support reasonable restrictions on legal immigration: the United States has the right and responsibility to ensure that only those who are likely to become productive citizens may immigrate to our shores. I would not support this amendment if I thought it was an effort to derail these initiatives.

But the issues of legal immigration should not be considered in the context of the emotionally charged debate on illegal immigration. Addressing illegal immigration involves criminal laws, border enforcement, deportation issues, and workplace enforcement. The policy decisions to be made regarding legal immigration are completely different and by being thrown in with what is essentially a law enforcement debate have been, I believe, distorted.

For example, the House ought to consider more carefully the impact of redefining 'family member' for immigration purposes in a way that excludes parents of U.S. citizens, as well as most children over age 21. Most Americans do not believe that any of their children, regardless of how old they are, are distant family members. The bill arbitrarily denies millions of U.S. citizens who have played by the rules and waited in line, in many cases for as long as a decade after having paid fees and gotten applications approved, the opportunity to sponsor and reunite with an overseas family member.

Again, I am not an opponent of reducing the levels of immigration or of ensuring that immigrants who are admitted are able to support themselves.

But Mr. Chairman, legal immigrants pay their taxes and abide by our laws. They are integral parts of our communities. We should give them the respect they deserve and treat the issues of legal and illegal immigration separately.

Ms. PELOSI. Mr. Chairman, I rise in support of the Berman, Brownback and Chrysler amendment, which strikes the provisions in this legislation which reduce and restrict legal immigration.

I agree with my colleagues that we must curb illegal immigration responsibly and effectively. However, as the Berman, Brownback and Chrysler amendment recognizes, the issue of legal immigration is clearly distinct and separate.

Legal immigration is currently tightly controlled and regulated. Yet this legislation proposes the largest cut in immigration in nearly 70 years.

Lawful and orderly family reunification contributes to strengthening American families. Yet almost ¾ of the bill's reductions in the number of legal immigrants admitted come in family-related categories.

Provisions in this legislation make it impossible for legal immigrants to be united with some family members. Under this legislation, virtually no Americans would be able to sponsor their parents, adult children or siblings for immigration. Not all Americans subscribe to the restrictive definition of family imposed in the bill—nor should they.

America has long been a haven for refugees seeking freedom from political, religious and gender persecution. Yet this bill would cut in half our current ability to offer asylum to people in dire need.

Immigrants today who come to our country through legal means are not at all different from immigrants of generations past—our parents or grandparents. They should have every opportunity to reunite their families. They should have every opportunity to contribute to our economy and culture. They have played by the rules. They should not be punished.

I urge my colleagues to recognize the extraordinary benefits to our country of legal immigration and support the Berman, Brownback, and Chrysler amendment.

Mr. UNDERWOOD. Mr. Chairman, I rise today in support of the Chrysler-Berman-Brownback amendment to H.R. 2202.

In its current form, H.R. 2202 dramatically reduces family-related immigration. About three-fourth of the bill's reductions in the number of legal immigrants come in the family-related category. It eliminates the current preference category for brothers and sisters of U.S. citizens. The bill limits the number of adult children immigrants admitted to include only those who are financially dependent upon their parents, unmarried, and between the ages of 21 and 25. It also allows parents of citizens to be admitted only if the health insurance is prepaid by the sponsor.

What practical effect will these provisions have on law-abiding Americans who want to reunite with members of their immediate nuclear family? According to this legislation, virtually no American would be able to sponsor their parents, adult children or brothers and sisters for immigration. If your only son or daughter turns 21 then he or she ceases to be a part of your "nuclear" family and would never be able to immigrate once he or she turns 26. If you have a brother or sister, they're not part of your nuclear family either. And if you cannot afford the type of health and nursing home care required in the bill then your mother and father are not part of your nuclear family either.

While the Chrysler-Berman-Brownback amendment would strike these provisions, I would point out that there is one area which it does not cover. Unfortunately, this amendment does not deal with the so-called 200% rule. Another title of the bill requires that an individual sponsoring an immigrant must earn more than 200 percent of the poverty line. This provision effectively means that about 46 percent of all Americans cannot sponsor a relative to enter the United States. The message this sends to all Americans is that in the future we will continue to be a Nation of immigrants, but only rich immigrants.

On Guam, we put a high premium on the role of families, which includes mothers, fathers, sons, daughters, and brothers. In our community, supporting families means helping them stay together. That's what we consider family values.

If this bill becomes law, it will have a definite practical effect on many families, particularly those of Filipino descent, on Guam. It will prevent many of them from reuniting with their brothers and sisters, even though in some cases they have waited for upwards of 10 to 15 years. Furthermore, it will shut out all future family reunification, even in categories that were not eliminated, for many immigrants on Guam because they do not earn over 200 percent of the poverty line or cannot afford to pay for their parents' health insurance.

In each of the cases of sponsoring families, you are talking about people who have played by the rules. They have worked through the system and petitioned to be reunited with their nuclear family. They have waited patiently. Now we will turn our backs on them.

These proposed restrictions and eliminations of entire categories is unwarranted and unnecessary. The Chrysler-Berman-Brownback amendment would strike these restrictions and restore the current system which supports family-based reunification.

I urge my colleagues to vote in favor of the Chrysler-Berman-Brownback amendment to restore the family categories and reject these arcane provisions. While I regret that it does not cover the 200 percent rule, I believe that its passage will make the bill better than what we have in the current bill.

Mr. KIM. Mr. Chairman, I rise in support of the Brownback-Chrysler-Berman amendment. As one of the few first generation legal immigrants in Congress, I am offended by the merging of the initiatives to combat illegal aliens with legal immigration reform. While I strongly support legislative efforts to both eliminate illegal immigration and substantially reform legal immigration, there is a significant difference between these two issues.

Illegal aliens have knowingly and willingly violated the law by entering the United States without permission. They defraud the taxpayer. On the contrary, legal immigrants have patiently waited, paid all the requisite fees and deposits, and followed all the rules and regulations for resettling in the United States. They will soon be proud, patriotic citizens. They dutifully pay their fair share of taxes. They join current citizens in totally opposing illegal aliens and their criminal actions. Thus, to consider the status of these two, totally opposite groups in the same bill is both unfair and an insult to legal immigrants.

The Brownback amendment gives this House the opportunity to deal with illegal and legal immigration issues separately—as they should be.

Without reservation, I strongly endorse the tough, anti-illegal immigration provisions in H.R. 2202. As a member of the Republican Task Force on Immigration Reform, I helped craft some of these very provisions and I am committed to enacting them into law and enforcing them in the field. Mr. Chairman, we have the votes to pass these important barriers to illegal immigration and thereby help stem the tide of illegal immigration that is engulfing my State of California. Let's do it now.

The Brownback-Chrysler amendment does not affect in any way our anti-illegal alien initiatives. Furthermore, I disagree and challenge the validity of the claims by critics of the Brownback-Chrysler amendment that it is nothing more than a back door attempt to scuttle legal immigration reform. From my perspective, it is not.

I agree fully with immigration Subcommittee Chairman Lamar Smith that our country's legal immigration system and priorities are in desperate need of reform. And, while I do not agree with every, single legal immigrant-related provision in H.R. 2202, overall I support the bill's priority for immediate family unification and I understand the need to slow down the current rate of immigration by reducing the number of annual visas. I am ready and willing to consider and pass comprehensive legal reform legislation today. It is needed.

But, I again stress, that we should deal with legal immigration independently of legislation combating illegal aliens so as to ensure that these two very different issues are not confused. The Brownback-Chrysler amendment affords us this opportunity and I urge its passage.

Mr. ORTIZ. Mr. Chairman, I rise in support of the Chrysler, Berman, Brownback amendment and ask unanimous consent to revise and extend my remarks. This provision would enable the bill to be divided into separate legislation to deal with illegal and legal immigration reform. This is the key aspect to the immigration debate.

The greatest danger to an immigration debate in this country is the merging and confusing of issues concerning legal and illegal immigration. In truth they have nothing to do with one another. Legal immigrants strengthen America. They should not be linked with those who come here illegally.

Illegal immigration on the other hand is a matter that has reached enormous proportions and which Congress must pursue earnestly. I strongly support efforts to halt illegal immigration by strengthening our borders. I also strongly support increasing the number of border patrol agents along our borders and providing them with the resources needed to get the job done.

Those who enter this country illegally exert strain on our economy and Nation. As Representative of a border district, I am uniquely aware of the burden that illegal immigration poses on local communities. Illegal immigration must be curtailed but it is a mistake to link this important goal with legal immigration.

VOL
142
PT
5
MR
21
—
29
1996
UMI

For these reasons, I urge my colleagues to vote in support of the Berman, Brownback, Chrysler amendment.

Mr. RICHARDSON. Mr. Chairman, almost all Americans realize the value of past immigration. They look with pride at their ancestors, who came to this country full of energy with empty pockets and were able to succeed and improved the quality of life of all Americans.

Yet, many people doubt the value of immigration today. Too many Americans wrongly believe that today's immigrants drain our economy and use far more welfare than native-born citizens. There is nothing further from the truth.

Today's immigrants come to this country with the same desire, energy, and enthusiasm to succeed and looking for opportunities, not guarantees.

I have one of these immigrants working in my office. A legislative fellow now on my office staff arrived in this country only 7 years ago without knowing English and with only a ninth grade education.

In only 5 years, this young woman managed to learn English, get a high school diploma and graduate from the School of Foreign Service at Georgetown University. She, like many of those immigrants who came to this country within the past 100-plus years, came with empty pockets and a tremendous desire to succeed and take advantage of the opportunities that America still offers.

The Chrysler, Berman, and Brownback amendment would keep the doors open to law abiding immigrants, who like the fellow in my office, come to this country not only looking for a better life, but also bring with them the desire and energy that has made America a great Nation.

Mr. PASTOR. Mr. Chairman, I rise in support of this pro-family, pro-immigration amendment.

The issues of legal and illegal immigration are not, and should not, be linked to one another. It is unfortunate that the anger, frustration, and misinformation over illegal immigration has been used to target hard-working, law-abiding, legal immigrants. Focusing our efforts on reducing illegal immigration is a responsible and proper undertaking. Slashing legal immigration, however, as H.R. 2202 does, is like fighting crime by imprisoning the innocent. While the Chrysler-Berman-Brownback amendment does not eliminate all the evils contained in this bill, it does strike some of the most blatantly xenophobic and anti-family provisions of the legislation.

The legislation, as you know, would reduce legal immigration by 40 percent over 5 years. Whole categories of legal immigration would be eliminated and excessive restrictions would be placed on the sponsors of legal immigrants. Under the bill, parents of U.S. citizens would no longer be able to migrate to the United States unless they are covered by health insurance and long-term health care policies, a requirement that is clearly beyond the means of many Americans. It is unconscionable that only the wealthy will be able to bring their parents into this country.

In addition, the bill guarantees that families of legal immigrants will forever remain divided. The unmarried adult sons and daughters of U.S. citizens and legal permanent residents are all but prohibited from joining their parents. Should brothers and sisters of U.S. citizens be able to migrate to the United States and live with one another? Not according to the sponsors of the legislation; under H.R. 2202, this category of immigration is completely eliminated. I ask the supporters of these provisions: Is America not big enough for the parents, children,and siblings of its citizens?

Mr. Chairman, though it has been said several times before, it must be said again. We are a Nation of immigrants. Ours is a proud, though not unblemished, history of providing hope and opportunity to people from all nations who are willing to work hard and abide by our laws. This bill turns that history on its head and does so by striking at one of our most cherished institutions—the nuclear family.

Legal immigrants have provided the United States with a rich return on its investment. Legal immigrants and foreign-born citizens work hard and contribute to the economy well beyond the cost of services that they consume. It is estimated that 77 percent of the foreign-born population is gainfully employed, compared to 74 percent of native-born Americans. In addition, immigrants generate $285 billion in income and pay more than $70 billion in taxes annually—$25 billion more than they receive in benefits. Legal immigrants and naturalized citizens also contribute immeasurably to the rich mixture of cultures and heritages that can only be found in the United States. I find strength and pride in this diversity, not fear and anxiety.

Mr. Chairman, H.R. 2202 is, without a doubt, a bill that is bad for America. The Chrysler-Berman-Brownback amendment removes some, but not all, of the draconian measures in the legislation. I urge my colleagues to support the amendment and oppose final passage of the bill.

The CHAIRMAN. All time has expired on this amendment.

The question is on the amendment, as modified, offered by the gentleman from Michigan [Mr. CHRYSLER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 183, not voting 10, as follows:

[Roll No. 84]

AYES—238

Abercrombie
Ackerman
Allard
Andrews
Armey
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bishop
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bunn
Camp
Campbell
Cardin
Chabot
Chapman
Christensen
Chrysler
Clay
Clayton
Clyburn
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Crane
Danner
Davis
de la Garza
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Durbin
Edwards
Engel
English
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frisa
Frost
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Goodling
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hamilton
Hansen
Harman
Hastings (FL)
Hayworth
Hefner
Hilliard
Hoekstra
Holden
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Klink
Klug
Knollenberg
LaFalce
LaHood
Lantos
LaTourette
Lazio
Levin
Lewis (CA)
Lewis (GA)
Linder
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McHugh
McInnis
McIntosh
McKinney
McNulty
Meehan
Meek
Menendez
Mica
Miller (CA)
Miller (FL)
Mink
Mollohan
Moran
Morella
Murtha
Myrick
Nadler
Neal
Oberstar
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Porter
Portman
Poshard
Pryce
Quinn
Rahall
Rangel
Reed
Regula
Richardson
Rivers
Roemer
Ros-Lehtinen
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Souder
Spratt
Studds
Stupak
Tejeda
Thomas
Thompson
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Upton
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Walker
Walsh
Ward
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
White
Williams
Woolsey
Wynn
Yates
Young (FL)
Zimmer

NOES—183

Archer
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Bono
Brewster
Bryant (TN)
Bryant (TX)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Castle
Chambliss
Chenoweth
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Deal
DeFazio
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Ehlers
Ehrlich
Emerson
Everett
Ewing
Fawell
Fields (TX)
Foley
Fowler
Franks (CT)
Frelinghuysen
Funderburk
Gallegly
Ganske
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Goodlatte
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hastert
Hastings (WA)
Hayes
Hefley
Heineman
Herger
Hilleary
Hinchey

Hobson
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kingston
Kolbe
Largent
Latham
Laughlin
Leach
Lewis (KY)
Lightfoot
Lincoln
Lipinski
Longley
Lucas
Martini
McCollum
McCrery
McDade
McKeon
Metcalf
Meyers
Minge
Molinari
Montgomery
Moorhead
Myers
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Oxley
Packard
Parker
Petri
Pickett
Pombo
Pomeroy
Quillen
Ramstad
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Smith (TX)
Smith (WA)
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Traficant
Vucanovich
Wamp
Watts (OK)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Zeliff

NOT VOTING—10

Collins (IL)
Johnston
Moakley
Radanovich
Rose
Stark
Stockman
Stokes
Waters
Wise

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Mr. LUCAS, Mrs. CHENOWETH, and Mr. KASICH changed their vote from "aye" to "no."

Messrs. DE LA GARZA, McINTOSH, and WELDON of Florida changed their vote from "no" to "aye."

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

Mr. CHAIRMAN. It is now in order to consider amendment No. 20 printed in part 2 of House Report 104-483.

Does the gentleman from Texas [Mr. BRYANT] wish to offer this amendment?

Mr. BRYANT of Texas. Mr. Chairman, the preceding amendment having been adopted, the Bryant amendment as listed is rendered moot. I do not wish to offer it at this time.

The CHAIRMAN. It is now in order to consider amendment No. 21 printed in part 2 of House Report 104-483.

AMENDMENT OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROHRABACHER: Amend section 808 of the bill to read as follows:

SEC. 808. LIMITATION ON ADJUSTMENT OF STATUS OF INDIVIDUALS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—Section 245(1) (8 U.S.C. 1255), as added by section 506(b) of the Department of State and Related Agencies Appropriations Act, 1995 (Public Law 103-317. 108 Stat. 1765), is amended—

(1) in paragraph (1), by inserting "pursuant to section 301 of the Immigration Act of 1990 is not required to depart from the United States and who" after "who" the first place it appears; and

(2) by adding at the end of paragraph (2) the following: "For purposes of subparagraph (A), the ground of inadmissibility described in section 212(a)(9) shall not apply.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall apply to applications for adjustment of status filed after September 30, 1996.

(2) The amendment made by subsection (a)(2) shall take effect on the title III-A effective date (as defined in section 309(a)).

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. ROHRABACHER] and a Member opposed, the gentleman from Texas [Mr. BRYANT], will each control 5 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment will close an immigration loophole opened 2 years ago by a rider to the fiscal year 1995 Commerce-State-Justice appropriations bill. This loophole, which was put into the bill by Senator KENNEDY, rewards many illegal aliens who are in the United States illegally. Let me repeat that. This only deals with people who are in the United States illegally by allowing them to apply for permanent resident status and remain here while their applications are pending. That was the loophole that was put into that bill by Senator KENNEDY.

While waiting for their applications to be adjudicated, these illegal aliens are considered PRUCOL, Persons Residing Under Color of Law. Those individuals that we are talking about are here illegally, but they are then eligible for several taxpayer-funded government benefits.

This loophole also has serious repercussions for the security of our Nation. Under the Kennedy loophole, certain people who sneak across our border or illegally overstay their visas can apply for permanent resident status at the local INS office. That is right, right here in the United States, in their local communities, at the local INS office.

Even these aliens who have flagrantly violated our immigration laws are now able to avoid an examination by the State Department officials in their home countries because they are applying to the INS here locally. In their home countries may be, however, the only place where information such as criminal records or terrorist activities can be found. Thus, the INS does not have the availability of that information when looking at this request, but the State Department would have had that information.

Allowing these lawbreakers to apply for permanent status in the United States, rather than having to return to their home countries to do so, circumvents a screening process that has been carefully established to protect our country's security. If the records are in their native countries, how can the INS employees whose job it is to look at this request thoroughly investigate the backgrounds of these illegal aliens?

Last year I asked the General Accounting Office to investigate the impact of this new law. During the first 5 months this loophole was in effect, nearly 80,000 illegal aliens used it to stay in the United States. INS officials anticipated that that number would double by the end of 1995.

This means that possibly as many as 160,000 illegal aliens now have access to public assistance benefits who otherwise would not have had access had this loophole not been snuck into the law. We must stretch even further our overstrained welfare system to cover these people who broke our law to come here in the first place.

This new provision of law is an absolute travesty. To reward those who have consciously violated our immigration law is an insult not only to the citizens of this country but to those persons in foreign countries who have obeyed our laws and are now waiting in line for their turn.

I hope Members will join the gentleman from Texas [Mr. SMITH] and myself in supporting this amendment to close this loophole which rewards people who have flagrantly violated our laws, people who are here illegally, and also puts our country at a security risk.

Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, I rise in strong opposition to the Rohrabacher amendment.

Mr. Chairman, I guess to some extent I am a little mystified as to why this would even be proposed. Years ago before I ran for Congress, I taught immigration law, at the University of Santa Clara. At the time I pointed out to my students that the provision that this amendment would reinstate made absolutely no sense whatsoever.

The correction that is now part of current law makes a lot of practical sense. For people who are here, who entered the United States legally and who have become legal residents under the current law, there is absolutely no reason to force them to buy an airplane ticket, go to an American consulate overseas and then reenter the United States. The correction that the Rohrabacher amendment seeks to undo recognizes that.

I will give an example, a circumstance where this might happen. You have a student who legally enters the United States under an F visa to attend graduate school. The individual receives their Ph.D. in physics. They graduate, and for 2 days they are not

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employed until they receive a temporary visa to do research in a high-tech Silicon Valley company. Later they fall in love and get married, and the U.S. citizen spouse decides to petition for the individual to make them a permanent resident.

Under the current law, you can pay a penalty fee to the U.S. Treasury and have your paperwork done here so long as you did not work in an unauthorized capacity. However, the Rohrabacher amendment would say, "No, no, you can't do that. Instead you have to buy an airplane ticket, go to the overseas consulate, get your visa there, and then come back."

There is no benefit to the U.S., there is no benefit to the integrity of our immigration laws. There is no benefit to anyone. There is no benefit to the U.S. citizen spouse, the company or anyone else. The only one who benefits are the travel agents and United Airlines. I would rather have the money go to the Immigration and Naturalization Service in the form of fees.

This has nothing to do with illegal immigrations. It has nothing to do with anything but having a sensible, pragmatic approach to having our immigration laws work smoothly.

I would add that for the business community in particular, they were strong advocates of this change in the law, because having an individual pulled out of a company to do paperwork abroad can disrupt the flow of important high-tech work, and when there is no good reason for the U.S. Government to do this, it makes no sense.

I strongly urge opposition to the Rohrabacher amendment.

Mr. ROHRABACHER. Mr. Chairman, who has the right to close?

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] has the right to close.

Mr. ROHRBACHER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman from Texas [Mr. SMITH] joins me in supporting this amendment because it closes a loophole which, although it has been presented today by my colleague from California as being somewhat innocent, means that 160,000 illegal aliens who otherwise would have to go to their home countries in order to have their status readjusted now can remain in the United States.

What does that mean? What that means is during that time period when it may take years, maybe 5 or 6 years, those people are eligible for government benefits. The questions we have to ask ourselves, if someone did overstay their visa, even if it was a graduate student from a university, why should that person who violated our law be provided a status in which they would be able to partake from government benefits?

Also that graduate student, for all we know, is a criminal in his home country. The loophole that we are closing permits the State Department to thoroughly investigate the background of those people because they have those resources in the person's home country. For security's sake, for the sake of a strained budget, I would propose that we close this loophole.

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Mr. BRYANT of Texas. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. BECERRA].

The Chairman. The gentleman from California [Mr. BECERRA] is recognized for 2 minutes.

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, let me make sure I make this as clear as I can: Section 245(i) within the Immigration and Naturalization Act, which this amendment by the gentleman from California [Mr. ROHRABACHER] would repeal, does not permit anyone to gain lawful permanent residence who would otherwise be disqualified. So if you are someone who crossed over our border without documents, you cannot qualify for adjustment to status to be a permanent resident. This only applies in the cases where people would otherwise qualify. You cannot be eligible for this program unless you meet the criteria.

What this particular provision in the code currently does is it just takes away the fiction of having someone fly back home just to submit an application to the U.S. consulate office in that country of origin and then come back here, because the person will be entitled to come back. These are people who will be entitled to gain lawful permanent resident status.

Let me give you a quick example. If an engineer is working on a project that terminates prematurely, and this person cannot line up new employment immediately and fill out all the immigration paperwork quickly enough, the engineer would need to make a planned trip back home to the country of origin to get the green card that he or she is entitled to get. That would disrupt work, school, other things in lining up the new employment, but the person would ultimately qualify. What 245(i) was meant to do within the act was to take care of this situation.

We charge these particular individuals much higher sum to apply for permanent residency status. The reason we do that is we say to them rather than pay for the airline ticket to go back and submit paperwork to the consulate office, which is already overworked, give the money directly to the INS and let them use it immediately. That is one of the reasons why we got close to $100 million last year to do work for the INS, for border enforcement activities, for filling out paperwork for those naturalizing, and also helping people become U.S. citizens who are lawful permanent residents and have the right to be here.

This is a good provision in the law. It does not allow those who are crossing illegally to come in. This is not a good amendment. Defeat the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 22 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. POMBO

Mr. POMBO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. POMBO:

Subtitle B—Guest Worker Visitation Program

SEC. 821. SHORT TITLE.

This subtitle may be cited as the "Temporary Agricultural Worker Amendments of 1996".

SEC. 822. NEW NONIMMIGRANT H-2B CATEGORY FOR TEMPORARY AGRICULTURAL WORKERS.

(a) ESTABLISHMENT OF NEW CLASSIFICATION.—Section 101(a)(15)(H)(ii) (8 U.S.C. 1101(a)(15)(H)(ii)) is amended by striking "or (b)" and inserting "(b) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States pursuant to section 218A to perform such agricultural labor or services of a temporary or seasonal nature, or (c)".

(b) NO FAMILY MEMBERS PERMITTED.—Section 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) is amended by striking "specified in this paragraph" and inserting "specified in this subparagraph (other than in clause (ii)(b))".

(c) DISQUALIFICATION IF CONVICTED OF OWNERSHIP OR OPERATION OF A MOTOR VEHICLE IN UNITED STATES WITHOUT INSURANCE.—Section 214 (8 U.S.C. 1184) is amended by adding at the end the following:

"(l)(1) An alien may not be admitted (or provided status) as a temporary worker under section 101(a)(15)(H)(ii)(b) if the alien (after the date of the enactment of this subsection) has been convicted of owning (or knowingly operating) a motor vehicle in the United States without having liability insurance that meets applicable insurance requirements of the State in which the alien is employed or in which the vehicle is registered.

"(2) An alien who is admitted or provided status as such a worker who is so convicted shall be considered, on and after the date of the conviction and for purposes of section 241(a)(1)(C), to have failed to comply with a condition for the maintenance of status under section 101(a)(15)(H)(ii)(b)."

(d) CONFORMING REDESIGNATION.—Subsections (c)(5)(A) and (g)(1)(B) of section 214 (8 U.S.C. 1184) are each amended by striking "101(a)(15)(H)(ii)(b)" and inserting "101(a)(15)(H)(ii)(c)".

SEC. 823. ALTERNATIVE AGRICULTURAL TEMPORARY WORKER PROCESS USING ATTESTATIONS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 218 the following:

"ALTERNATIVE AGRICULTURAL TEMPORARY WORKER PROGRAM

"SEC. 218A. (a) CONDITION FOR THE EMPLOYMENT OF H-2B ALIENS.—

"(1) IN GENERAL.—No alien may be admitted or provided status as an H-2B alien (as defined in subsection (n)(4)) unless—

"(A) the employment of the alien is covered by a currently valid labor condition attestation which—

"(i) is filed by the employer, or by an association on behalf of the employer, for the occupation in which the alien will be employed;

"(ii) has been accepted by the qualified State employment security agency having jurisdiction over the area of intended employment; and

"(iii) states each of the items described in paragraph (2) and includes information identifying the employer or association and agricultural job opportunities involved; and

"(B) the employer is not disqualified from employing H-2B aliens pursuant to subsection (g).

"(2) CONTENTS OF LABOR CONDITION ATTESTATION.—Each labor condition attestation filed by or on behalf of, an employer shall include the following:

"(A) WAGE RATE.—The employer will pay H-2B aliens and all other workers in the occupation not less than the prevailing wage for similarly employed workers in the area of employment, and not less than the applicable Federal, State or local statutory minimum wage.

"(B) WORKING CONDITIONS.—The employment of H-2B aliens will not adversely affect the working conditions with respect to housing and transportation of similarly employed workers in the area of employment.

"(C) LIMITATION ON EMPLOYMENT.—An H-2B alien will not be employed in any job opportunity which is not temporary or seasonal, and will not be employed by the employer in any job opportunity for more than 10 months in any 12-consecutive-month period.

"(D) NO LABOR DISPUTE.—No H-2B alien will be employed in any job opportunity which is vacant because its former occupant is involved in a strike, lockout or work stoppage in the course of a labor dispute in the occupation at the place of employment.

"(E) NOTICE.—The employer, at the time of filing the attestation, has provided notice of the attestation to workers employed in the occupation in which H-2B aliens will be employed.

"(F) JOB ORDERS.—The employer will file one or more job orders for the occupation (or occupations) covered by the attestation with the qualified State employment security agency no later than the day on which the employer first employs any H-2B aliens in the occupation.

"(G) PREFERENCE TO DOMESTIC WORKERS.—The employer will give preference to able, willing and qualified United States workers who apply to the employer and are available at the time and place needed, for the first 25 days after the filing of the job order in an occupation or until 5 days before the date employment of workers in the occupation begins, whichever occurs later.

"(3) ESTABLISHMENT AS PILOT PROGRAM; RESTRICTION OF ADMISSIONS TO PILOT PROGRAM PERIOD.—

"(A) IN GENERAL.—The program under this section is deemed to be a pilot program and no alien may be admitted or provided status as an H-2B alien under this section except during the pilot program period specified in subparagraph (B).

"(B) PILOT PROGRAM PERIOD.—

"(i) IN GENERAL.—Subject to clause (ii), the pilot program period under this subparagraph is the period (ending on October 1, 1999) during which the employment eligibility verification system is in effect under section 274A(b)(7) (as amended by the Immigration in the National Interest Act of 1995).

"(ii) CONSIDERATION OF EXTENSION.—If Congress extends such verification system, Congress shall also extend the pilot program period under this subparagraph for the same period of time.

"(C) ANNUAL REPORTS.—The Comptroller General shall submit to Congress annual reports on the operation of the pilot program under this section during the pilot program period. Such reports shall include an assessment of the program and of the need for foreign workers to perform temporary agricultural employment in the United States.

"(4) LIMITATIONS ON NUMBER OF VISAS.—

"(A) IN GENERAL.—In no case may the number of aliens who are admitted or provided status as an H-2B alien in a fiscal year exceed the numerical limitation specified under subparagraph (B) for that fiscal year.

"(B) NUMERICAL LIMITATION.—The numerical limitation specified in this subparagraph for—

"(i) the first fiscal year in which this section is applied is 250,000; and

"(ii) any subsequent fiscal year is the numerical limitation specified in this subparagraph for the previous fiscal year decreased by 25,000.

"(b) FILING A LABOR CONDITION ATTESTATION.—

"(1) FILING BY EMPLOYERS—Any employer in the United States is eligible to file a labor condition attestation.

"(2) FILING BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—An agricultural association may file a labor condition attestation as an agent on behalf of its members. Such an attestation filed by an agricultural association acting as an agent for its members, when accepted, shall apply to those employer members of the association that the association certifies to the qualified State employment security agency are members of the association and have agreed in writing to comply with the requirements of this section.

"(3) PERIOD OF VALIDITY.—A labor condition attestation is valid from the date on which it is accepted by the qualified State employment security agency for the period of time requested by the employer, but not to exceed 12 months.

"(4) WHERE TO FILE.—A labor condition attestation shall be filed with such agency having jurisdiction over the area of intended employment of the workers covered by the attestation. If an employer, or the members of an association of employers, will be employing workers in an area or areas covered by more than one such agency, the attestation shall be filed with each such agency having jurisdiction over an area where the workers will be employed.

"(5) DEADLINE FOR FILING.—An employer may file a labor condition attestation at any time up to 12 months prior to the date of the employer's anticipated need for workers in the occupation (or occupations) covered by the attestation.

"(6) FILING FOR MULTIPLE OCCUPATIONS.—A labor condition attestation may be filed for one or more occupations and cover one or more periods of employment.

"(7) MAINTAINING REQUIRED DOCUMENTATION.—

"(A) BY EMPLOYERS.—Each employer covered by an accepted labor condition attestation must maintain a file of the documentation required in subsection (c) for each occupation included in an accepted attestation covering the employer. The documentation shall be retained for a period of one year following the expiration of an accepted attestation. The employer shall make the documentation available to representatives of the Secretary during normal business hours.

"(B) BY ASSOCIATIONS.—In complying with subparagraph (A), documentation maintained by an association filing a labor condition attestation on behalf of an employer shall be deemed to be maintained by the employer.

"(8) WITHDRAWAL.—

"(A) COMPLIANCE WITH ATTESTATION OBLIGATIONS.—An employer covered by an accepted labor condition attestation for an occupation shall comply with the terms and conditions of the attestation from the date the attestation is accepted and continuing throughout the period any persons are employed in an occupation covered by such an accepted attestation, whether or not H-2B aliens are employed in the occupation, unless the attestation is withdrawn.

"(B) TERMINATION OF OBLIGATIONS.—An employer may withdraw a labor condition attestation in total, or with respect to a particular occupation covered by the attestation. An association may withdraw such an attestation with respect to one or more of its members. To withdraw an attestation the employer or association must notify in writing the qualified State employment security agency office with which the attestation was filed of the withdrawal of the attestation. An employer who withdraws an attestation, or on whose behalf an attestation is withdrawn by an association, is relieved of the obligations undertaken in the attestation with respect to the occupation (or occupations) with respect to which the attestation was withdrawn, upon acknowledgement by the appropriate qualified State employment security agency of receipt of the withdrawal notice. An attestation may not be withdrawn with respect to any occupation while any H-2B aliens covered by that attestation are employed in the occupation.

"(C) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by the employer under any other law or regulation as a result of recruitment of United States workers under an offer of terms and conditions of employment required by the H-2B program is unaffected by withdrawal of a labor condition attestation.

"(c) EMPLOYER RESPONSIBILITIES AND REQUIREMENTS FOR EMPLOYING H-2B NONIMMIGRANTS.—

"(1) REQUIREMENT TO PAY THE PREVAILING WAGE.—

"(A) EFFECT OF THE ATTESTATION.—Employers shall pay each worker in an occupation covered by an accepted labor condition attestation at least the prevailing wage in the occupation in the area of intended employment. The preceding sentence does not require employers to pay all workers in the occupation the same wage. The employer may, in the sole discretion of the employer, maintain pay differentials based on experience, tenure with the employer, skill, or any other work-related factor, if the differential is not based on a criterion for which discrimination is prohibited by the law and all workers in the covered occupation receive at least the prevailing wage.

"(B) PAYMENT OF QUALIFIED STATE EMPLOYMENT SECURITY AGENCY DETERMINED WAGE SUFFICIENT.—The employer may request and obtain a prevailing wage determination from

VOL
142
PT
5
MR
21
—
29
1996
UMI

the qualified State employment security agency. If the employer requests such a determination, and pays the wage determined, such payment shall be considered sufficient to meet the requirement of this paragraph if the H–2B workers—

"(i) are employed in the occupation for which the employer possesses an accepted labor condition attestation, and for which the employer or association possesses a prevailing wage determination by the qualified State employment security agency, and

"(ii) are being paid at least the prevailing wage so determined.

"(C) RELIANCE ON WAGE SURVEY.—In lieu of the procedures of subparagraph (B), an employer may rely on other information, such as an employer generated prevailing wage survey and determination, which meets criteria specified by the Secretary by regulation. In the event of a complaint that the employer has failed to pay the required wage, the Secretary shall investigate to determine if the information upon which the employer relied complied with the criteria for prevailing wage determinations.

"(D) ALTERNATE METHODS OF PAYMENT PERMITTED.—

"(i) IN GENERAL.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate (described in clause (ii)), or other incentive pay system, including a group rate (described in clause (iii)). The requirement to pay at least the prevailing wage in the occupation and area of intended employment does not require an employer to pay by the method of pay in which the prevailing rate is expressed. However, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer's method of pay is designed to produce earnings equivalent to the earnings that would result from payment of the prevailing rate.

"(ii) TASK RATE.—For purposes of this subparagraph, a task rate is an incentive payment based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

"(iii) GROUP RATE.—For purposes of this subparagraph, a group rate is an incentive payment system in which the payment is shared among a group of workers working together to perform the task.

"(E) REQUIRED DOCUMENTATION.—The employer or association shall document compliance with this paragraph by retaining on file the employer or association's request for a determination by a qualified State employment security agency and the prevailing wage determination received from such agency or other information upon which the employer or association relied to assure compliance with the prevailing wage requirement.

"(2) REQUIREMENT TO PROVIDE HOUSING AND TRANSPORTATION.—

"(A) EFFECT OF THE ATTESTATION.—The employment of H–2B aliens shall not adversely affect the working conditions of United States workers similarly employed in the area of intended employment. The employer's obligation not to adversely affect working conditions shall continue for the duration of the period of employment by the employer of any H–2B aliens in the occupation and area of intended employment. An employer will be deemed to be in compliance with this attestation if the employer offers at least the benefits required by subparagraphs (B) through (D). The previous sentence does not require an employer to offer more than such benefits.

"(B) HOUSING REQUIRED.—

"(i) HOUSING OFFER.—The employer must offer to H–2B aliens and United States workers recruited from beyond normal recruiting distance housing, or a housing allowance, if it is prevailing practice in the occupation and area of intended employment to offer housing or a housing allowance to workers who are recruited from beyond normal commuting distance.

"(ii) HOUSING STANDARDS.—If the employer offers housing to such workers, the housing shall meet (at the option of the employer) applicable Federal farm labor housing standards or applicable local or State standards for rental, public accommodation, or other substantially similar class of habitation.

"(iii) CHARGES FOR HOUSING.—An employer who offers housing to such workers may charge an amount equal to the fair market value (but not greater than the employer's actual cost) for utilities and maintenance, or such lesser amount as permitted by law.

"(iv) HOUSING ALLOWANCE AS ALTERNATIVE.—In lieu of offering housing to such workers, at the employer's sole discretion on an individual basis, the employer may provide a reasonable housing allowance. An employer who offers a housing allowance to such a worker under this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) merely by virtue of providing such housing allowance.

"(v) SECURITY DEPOSIT.—The requirement, if any, to offer housing to such a worker under this subparagraph shall not preclude an employer from requiring a reasonable deposit to protect against gross negligence or willful destruction of property, as a condition for providing such housing.

"(vi) DAMAGES.—An employer who offers housing to such a worker shall not be precluded from requiring a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

"(C) TRANSPORTATION.—If the employer provides transportation arrangements or assistance to H–2B aliens, the employer must offer to provide the same transportation arrangements or assistance (generally comparable in expense and scope) for other individuals employed by the employer in the occupation at the place of employment who were recruited from beyond normal commuting distance.

"(D) WORKERS' COMPENSATION.—If the employment covered by a labor condition attestation is not covered by the State workers' compensation law, the employer must provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the workers' employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(E) REQUIRED DOCUMENTATION.—

"(i) HOUSING AND TRANSPORTATION.—No specific documentation is required to be maintained to evidence compliance with the requirements of subparagraphs (B) and (C). In the event of a complaint alleging a failure to comply with such a requirement, the burden of proof shall be on the employer to show that the employer offered the required benefit to the complainant, or that the employer was not required by the terms of this paragraph to offer such benefit to the complainant.

"(ii) WORKERS' COMPENSATION.—The employer shall maintain copies of certificates of insurance evidencing compliance with subparagraph (D) throughout the period of validity of the labor condition attestation.

"(3) REQUIREMENT TO EMPLOY ALIENS IN TEMPORARY OR SEASONAL AGRICULTURAL JOB OPPORTUNITIES.—

"(A) LIMITATIONS.—

"(i) IN GENERAL.—The employer may employ H–2B aliens only in agricultural employment which is temporary or seasonal.

"(ii) SEASONAL BASIS.—For purposes of this section, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.

"(iii) TEMPORARY BASIS.—For purposes of this section, a worker is employed on a temporary basis where the employment is intended not to exceed 10 months.

"(B) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirement of subparagraph (A). In the event of a complaint, the burden of proof shall fall on the employer to show that the employment meets such requirement.

"(4) REQUIREMENT NOT TO EMPLOY ALIENS IN JOB OPPORTUNITIES VACANT BECAUSE OF A LABOR DISPUTE.—

"(A) IN GENERAL.—No H–2B alien may be employed in any job opportunity which is vacant because its former occupant is involved in a strike, lockout, or work stoppage in the course of a labor dispute in the occupation at the place of employment.

"(B) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirement of subparagraph (A). In the event of a complaint, the burden of proof shall fall on the employer to show that the job opportunity in which the H–2B alien was employed was not vacant because the former occupant was on strike, locked out, or participating in a work stoppage in the course of a labor dispute in the occupation at the place of employment.

"(5) NOTICE OF FILING OF ATTESTATION AND SUPPORTING DOCUMENTATION.—

"(A) IN GENERAL.—The employer shall—

"(i) provide notice of the filing of a labor condition attestation to the appropriate certified bargaining agent (if any) which represents workers of the employer in the occupation (or occupations) at the place of employment covered by the attestation; or

"(ii) in the case where no appropriate bargaining agent exists, post notice of the filing of such an attestation in at least two conspicuous locations where applications for employment are accepted.

"(B) PERIOD FOR POSTING.—The requirement for a posting under subparagraph (A)(ii) begins on the day the attestation is filed, and continues through the period during which the employer's job order is required to remain active pursuant to paragraph (6)(A).

"(C) REQUIRED DOCUMENTATION.—The employer shall maintain a copy of the notice provided to the bargaining agent (if any), together with evidence that the notice was provided (such as a signed receipt of evidence of attempt to send the notice by certified or registered mail). In the case where no appropriate certified bargaining agent exists, the employer shall retain a copy of the posted notice, together with information as to the dates and locations where the notice was displayed.

"(6) REQUIREMENT TO FILE A JOB ORDER.—

"(A) EFFECT OF THE ATTESTATION.—The employer, or an association acting as agent for its members, shall file the information necessary to complete a local job order for each occupation covered by an accepted labor condition attestation with the appropriate local office of the qualified State employment security agency having jurisdiction over the area of intended employment, or with the State office of such an agency if workers will be employed in an area within the jurisdiction of more than one local office of such an agency. The job orders shall remain on file for 25 calendar days or until 5 calendar days before the anticipated date of need for workers in the occupation covered by the job order, whichever occurs later. The job order shall provide at least the minimum terms and conditions of employment required for participation in the H–2B program.

"(B) DEADLINE FOR FILING.—A job order shall be filed under subparagraph (A) no later than the date on which the employer files a petition with the Attorney General for admission or extension of stay for aliens to be employed in the occupation for which the order is filed.

"(C) REQUIRED DOCUMENTATION.—The office of the qualified State employment security agency which the employer or association provides with information necessary to file a local job order shall provide the employer with evidence that the information was provided in a timely manner as required by this paragraph, and the employer or association shall retain such evidence for each occupation in which H–2B aliens are employed.

"(7) REQUIREMENT TO GIVE PREFERENCE TO QUALIFIED UNITED STATES WORKERS.—

"(A) FILING 30 DAYS OR MORE BEFORE DATE OF NEED.—If a job order is filed 30 days or more before the anticipated date of need for workers in an occupation covered by a labor condition attestation and for which the job order has been filed, the employer shall offer to employ able, willing, and qualified United States workers who apply to the employer and who will be available at the time and place needed for the job opportunities covered by the attestation until 5 calendar days before the anticipated date of need for workers in the occupation, or until the employer's job opportunities in the occupation are filled with qualified United States workers, if that occurs more than 5 days before the anticipated date of need for workers in the occupation.

"(B) FILLING FEWER THAN 30 DAYS BEFORE DATE OF NEED.—If a job order is filed fewer than 30 days before the anticipated date of need for workers in an occupation covered by such an attestation and for which a job order has been filed, the employer shall offer to employ able, willing, and qualified United States workers who are or will be available at the time and place needed during the first 25 days after the job order is filed or until the employer's job opportunities in the occupation are filled with United States workers, regardless of whether any of the job opportunities may already be occupied by H–2B aliens.

"(C) FILLING VACANCIES.—An employer may fill a job opportunity in an occupation covered by an accepted attestation which remains or becomes vacant after expiration of the required preference period specified in subparagraph (A) or (B) of paragraph (6) without regard to such preference.

"(D) JOB-RELATED REQUIREMENTS.—No employer shall be required to initially employ a worker who fails to meet lawful job-related employment criteria, nor to continue the employment of a worker who fails to meet lawful job-related standards of conduct and performance, including failure to meet minimum productivity standards after a 3-day break-in period.

"(E) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirements of this paragraph. In the event of a complaint, the burden of proof shall be on the complainant to show that the complainant applied for the job and was available at the time and place needed. If the complainant makes such a showing, the burden of proof shall be on the employer to show that the complainant was not qualified or that the preference period had expired.

"(8) REQUIREMENTS OF NOTICE OF CERTAIN BREAKS IN EMPLOYMENT.—

"(A) IN GENERAL.—The employer (or an association in relation to an H–2B alien) shall notify the Service within 7 days if an H–2B alien prematurely abandons the alien's employment.

"(B) OUT-OF-STATUS.—An H–2B alien who abandons the alien's employment shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(b) and shall leave the United States or be subject to deportation under section 241(a)(1)(C)(i).

"(d) ACCEPTANCE BY QUALIFIED STATE EMPLOYMENT SECURITY AGENCY.—The qualified State employment security agency shall review labor condition attestations submitted by employers or associations only for completeness and obvious inaccuracies. Unless such an agency finds that the application is incomplete or obviously inaccurate, the agency shall accept the attestation within 7 days of the date of filing of the attestation, and return a copy to the applicant marked 'accepted'.

"(e) PUBLIC REGISTRY.—The Secretary shall maintain a registry of all accepted labor condition attestations and make such registry available for public inspection.

"(f) RESPONSIBILITIES OF THE QUALIFIED STATE EMPLOYMENT SECURITY AGENCIES.—

"(1) DISSEMINATION OF LABOR MARKET INFORMATION.—The Secretary shall direct qualified State employment security agencies to disseminate nonemployer-specific information about potential labor needs based on accepted attestations filed by employers. Such dissemination shall be separate from the clearance of job orders through the Interstate and Intrastate Clearance Systems, and shall create no obligations for employers except as provided in this section.

"(2) REFERRAL OF WORKERS ON QUALIFIED STATE EMPLOYMENT SECURITY AGENCY JOB ORDERS.—Such agencies holding job orders filed by employers covered by approved labor condition attestations shall be authorized to refer any able, willing, and qualified eligible job applicant who will be available at the time and place needed and who is authorized to work in the united States, including H–2B aliens who are seeking additional work in the United States and whose eligibility to remain in the United States pursuant to subsection (h) has not expired, on job orders filed by holders of accepted attestations.

"(g) ENFORCEMENT AND PENALTIES.—

"(1) ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATION OF COMPLAINTS.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in subsection (a) or an employer's misrepresentation of material facts in such an application. Complaints may be filed by any aggrieved person or organizations (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively. The Secretary shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

"(B) WRITTEN NOTICE OF FINDINGS AND OPPORTUNITY FOR APPEAL.—After an investigation has been conducted, the Secretary shall issue a written determination as to whether or not any violation described in paragraph (2) has been committed. The Secretary's determination shall be served on the complainant and the employer, and shall provide an opportunity for an appeal of the Secretary's decision to an administrative law judge, who may conduct a de novo hearing.

"(2) REMEDIES.—

"(A) BACK WAGES.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages due to any United States worker or H–2B alien employed by the employer in the specific employment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

"(B) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this section, the Secretary may assess a civil money penalty up to $1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of H–2B aliens for a period of time determined by the Secretary not to exceed 1 year.

"(C) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an accepted labor condition attestation has—

"(i) filed an attestation which misrepresents a material fact; or

"(ii) failed to meet a condition specified in subsection (a),

the Secretary may assess a civil money penalty not to exceed $1,000 for each violation. In determining the amount of civil money penalty to be assessed, the Secretary shall consider the seriousness of the violation, the good faith of the employer, the size of the business of the employer being charged, the history of previous violations by the employer, whether the employer obtained a financial gain from the violation, whether the violation was willful, and other relevant factors.

"(D) PROGRAM DISQUALIFICATION.—

"(i) 3-YEARS FOR SECOND VIOLATION.—Upon a second final determination that an employer has failed to pay the wages required under this section, the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from the employment of H–2B aliens for a period of 3 years.

"(ii) PERMANENT FOR THIRD VIOLATION.—Upon a third final determination that an employer has failed to pay the wages required under this section, the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from any subsequent employment of H–2B aliens.

"(3) ROLE OF ASSOCIATIONS.—

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(A) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf a labor condition attestation is filed by an association acting as its agent is fully responsible for such attestation, and for complying with the terms and conditions of this section, as though the employer had filed the attestation itself. If such an employer is determined to have violated a requirement of this section, the penalty for such violation shall be assessed against the employer who committed the violation and not against the association or other members of the association.

"(B) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing a labor condition attestation on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under paragraph (2)(D), no individual member of such association may be the beneficiary of the services of an H-2B alien in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files a labor condition attestation as an individual employer or such an attestation is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this section.

"(h) PROCEDURE FOR ADMISSION OR EXTENSION OF H-2B ALIENS.—

"(1) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

"(A) PETITIONING FOR ADMISSION.—An employer or an association acting as agent for its members who seeks the admission into the United States of H–2B aliens may file a petition with the District Director of the Service having jurisdiction over the location where the aliens will be employed. The petition shall be accompanied by an accepted and currently valid labor condition attestation covering the petitioner. The petition may be for named or unnamed individual or multiple beneficiaries.

"(B) EXPEDITED ADJUDICATION BY DISTRICT DIRECTOR.—If an employer's petition for admission of H–2B aliens is correctly filled out, and the employer is not ineligible to employ H–2B aliens, the District Director (or the Director's designee) shall approve the petition within 3 working days of receipt of the petition and accepted labor condition attestation and immediately (by fax, cable, or other means assuring expedited delivery) transmit a copy of the approved petition to the petitioner and to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

"(C) UNNAMED BENEFICIARIES SELECTED BY PETITIONER.—The petitioning employer or association or its representative shall approve the issuance of visas to beneficiaries who are unnamed on a petition for admission granted to the employer or association.

"(D) CRITERIA FOR ADMISSIBILITY.—

"(i) IN GENERAL.—An alien shall be admissible under this section if the alien is otherwise admissible under this Act and the alien is not debarred pursuant to the provisions of clause (ii).

"(ii) DISQUALIFICATION.—An alien shall be debarred from admission or being provided status as an H–2B alien under this section if the alien has, at any time—

"(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

"(II) has otherwise violated a term or condition of admission to the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

"(E) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the petitioner not to exceed 10 months, or the remaining validity period of the petitioner's approved labor condition attestation, whichever is shorter, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless the original petitioner or a subsequent petitioner has filed an extension of stay on behalf of the alien.

"(F) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

"(i) IN GENERAL.—The Attorney General shall cause to be issued to each H–2B alien a card in a form which is resistant to counterfeiting and tampering for the purpose of providing proof of identity and employment eligibility under section 274A.

"(ii) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and distinguishing marks) that would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall—

"(I) contain a fingerprint or other biometric identifying data (or both);

"(II) specify the date of the aliens authorization as an H-2B alien;

"(III) specify the expiration date of the alien's work authorization; and

"(IV) specify the alien's admission number or alien file number.

"(2) EXTENSION OF STAY.—

"(A) APPLICATION FOR EXTENSION OF STAY.—If a petitioner seeks to employ an H–2B alien already in the United States, the petitioner shall file an application for an extension of stay. The application for extension of stay shall be accompanied by a currently valid labor condition attestation.

"(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF STAY.—An application may not be filed for an extension of an alien's stay for a period of more than 10 months, or later than a date which is 2 years from the date of the alien's last admission to the United States as a H–2B alien, whichever occurs first. An application for extension of stay may not be filed during the pendency of an alien's previous authorized period of admission, nor after the alien's authorized stay in the United States has expired.

"(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien already in the United States in H–2B status on the day the employer files its application for extension of stay with the Service. For the purpose of this requirement, the term 'filing' means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of receipt of the application. The employer shall provide a copy of the employer's application for extension of stay to the alien, who shall keep the application with the alien's identification and employment eligibility card as evidence that the extension has been filed and that the alien is authorized to work in the United States. Upon approval of an application for extension of stay, the Service shall provide a new employment document to the alien indicating a new validity date, after which the alien is not required to retain a copy of the application for extension of stay.

"(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF H–2B ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility card, together with a copy of an application for extension of stay, shall constitute a valid work authorization document for a period of not more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility card shall be acceptable.

"(3) LIMITATION ON AN INDIVIDUAL'S STAY IN H–2B STATUS.—An alien having status as an H–2B alien may not have the status extended for a continuous period longer than 2 years unless the alien remains outside the United States for an uninterrupted period of 6 months. An absence from the United States may break the continuity of the period for which an H–2B visa is valid. If the alien has resided in the United States 10 months or less, an absence breaks the continuity of the period if its lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an absence breaks the continuity of the period if it lasts for at least one-fifth the duration of the stay.

"(i) TRUST FUND TO ASSURE WORKER RETURN.—

"(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund (in this section referred to as the 'Trust Fund') for the purpose of providing a monetary incentive for H–2B aliens to return to their country of origin upon expiration of their visas under this section.

"(2) WITHHOLDING OF WAGES; PAYMENT INTO THE TRUST FUND.—

"(A) IN GENERAL.—Employers of H–2B aliens shall—

"(i) withhold from the wages of their H–2B alien workers an amount equivalent to 25 percent of the wages of each H-2B alien worker and pay such withheld amount into the Trust Fund in accordance paragraph (3); and

"(ii) pay to the Trust Fund an amount equivalent to the Federal tax on the wages paid to H–2B aliens that the employer would be obligated to pay under the Federal Unemployment Tax Act and the Federal Insurance Contributions Act.

Amounts withheld under clause (i) shall be maintained in such interest bearing account with such a financial institution as the Attorney General shall specify.

"(3) DISTRIBUTION OF FUNDS.—The amounts paid into the Trust Fund and held pursuant to paragraph (2)(A)(i), and interest earned thereon, shall be paid by the Attorney General as follows:

"(A) REIMBURSEMENT OF EMERGENCY MEDICAL EXPENSES.—To reimburse valid claims for reimbursement of emergency medical services furnished to H–2B aliens, to the extent that sufficient funds are not available on an annual basis from the Trust Fund pursuant to paragraphs (2)(A)(ii) and (4)(B).

"(B) PAYMENTS TO WORKERS.—Amounts paid into the Trust Fund on behalf of a worker, and interest earned thereon, less a pro rata reduction for any payments made pursuant to subparagraph (A), shall be paid by the Attorney General to the worker if—

"(i) the worker applies to the Attorney General (or the designee of the Attorney General) for payment within 30 days of the expiration of the alien's last authorized stay in the United States as a H–2B alien;

"(ii) in such application the worker establishes that the worker has complied with the terms and conditions of this section; and

"(iii) in connection with the application, the worker tenders the identification and employment authorization card issued to the worker pursuant to subsection (h)(1)(F) and establishes that the worker is identified as the person to whom the card was issued based on the biometric identification information contained on the card.

"(4) ADMINISTRATIVE EXPENSES AND EMERGENCY MEDICAL EXPENSES.—The amounts paid into the Trust Fund and held pursuant to paragraph (2)(A)(ii), and interest earned thereon, shall be paid by the Attorney General as follows:

"(A) ADMINISTRATIVE EXPENSES.—First, to the Attorney General, the Secretary of Labor, and the Secretary of State in amounts equivalent to the expenses incurred by such officials in the administration of section 101(a)(15)(H)(ii)(b) and this section.

"(B) REIMBURSEMENT OF EMERGENCY MEDICAL SERVICES.—Any remaining amounts shall be available on an annual basis to reimburse hospitals for emergency medical services furnished to H–2B aliens as provided in subsection (k)(2).

"(5) REGULATIONS.—The Attorney General shall prescribe regulations to carry out this subsection.

"(j) INVESTMENT OF TRUST FUND.—

"(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in the Secretary's judgement, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

"(A) on original issue at the price; or

"(B) by purchase of outstanding obligations at the market price.

The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

"(2) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

"(3) CREDITS TO TRUST FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(4) REPORT TO CONGRESS.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Attorney General) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and a Senate document of the session of the Congress to which the report is made.

"(k) REIMBURSEMENT OF COST OF EMERGENCY MEDICAL SERVICES.—

"(1) IN GENERAL.—The Attorney General shall establish procedures for reimbursement of hospitals operated by a State or by a unit of local government (or corporation owned or controlled by the State or unit) for the reasonable cost of providing emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services) in the United States to H–2B aliens for which payment has not been otherwise reimbursed.

"(2) SOURCE OF FUNDS FOR REIMBURSEMENT.—Funds for reimbursement of hospitals pursuant to paragraph (1) shall be drawn—

"(A) first under subsection (i)(4)(B), from amounts deposited in the Trust Fund under subsection (i)(2)(A)(ii) after reimbursement of certain administrative expenses; and

"(B) then under subsection (i)(3)(A), to the extent that funds described in subparagraph (A) are insufficient to meet valid claims, from amounts deposited in the Trust Fund under subsection (i)(2)(A)(i).

"(l) MISCELLANEOUS PROVISIONS.—

"(1) APPLICABILITY OF LABOR LAWS.—Except as provided in paragraphs (2), (3), and (4), all Federal, State, and local labor laws (including laws affecting migrant farm workers) applicable to United States workers shall also apply to H–2B aliens.

"(2) LIMITATION OF WRITTEN DISCLOSURE IMPOSED UPON RECRUITERS.—Any disclosure required of recruiters under section of 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) need not be given to H–2B aliens prior to the time their visa is issued permitted entry into the United States.

"(3) EXEMPTION FROM FICA AND FUTA TAXES.—The wages paid to H–2B aliens shall be excluded from wages subject to taxation under the Federal Unemployment Tax Act and under the Federal Insurance Contributions Act.

"(4) INELIGIBILITY FOR CERTAIN PUBLIC BENEFITS PROGRAMS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subparagraph (B), any alien provided status as an H-2B alien shall not be eligible for any Federal or State or local means-tested public benefit program.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to the following:

"(i) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

"(ii) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

"(iii) SHORT-TERM EMERGENCY DISASTER RELIEF.—The provision of non-cash, in-kind, short-term emergency disaster relief.

"(m) CONSULTATION ON REGULATIONS.—

"(1) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Agriculture, and the Attorney General shall approve, all regulations dealing with the approval of labor condition attestations for H–2B aliens or enforcement of the requirements for employing H–2B aliens under an approved attestation.

"(2) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary of Agriculture on all regulations dealing with the approval of petitions for admission or extension of stay of H–2B aliens or the requirements for employing H–2B aliens or the enforcement of such requirements.

"(n) DEFINITIONS.—For the purpose of this section:

"(1) AGRICULTURAL ASSOCIATION.—The term 'agricultural association' means any nonprofit or cooperative association of farmers, growers, or ranchers incorporated or qualified under applicable State law, which recruits, solicits, hires, employs, furnishes, or transports any agricultural workers.

"(2) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1986 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

"(3) EMPLOYER.—The term 'employer' means any person or entity, including any independent contractor and any agricultural association, that employs workers.

"(4) H–2B ALIEN.—The term 'H-2B alien' means an alien admitted to the United States or provided status as a nonimmigrant under section 101(a)(15)(H)(ii)(b).

"(5) QUALIFIED STATE EMPLOYMENT SECURITY AGENCY.—The term 'qualified State employment security agency' means a State employment security agency in a State in which the Secretary has determined that the State operates a job service that actively seeks to match agricultural workers with jobs and participates in a multi-State job service program in States where significant supplies of farm labor exist.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Labor.

"(7) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a United States citizen, a United States national, or an alien, who is legally permitted to work in the job opportunity within the United States other than aliens admitted pursuant to this section."

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218 the following new item:

"Sec. 218A. Alternative agricultural worker program.".

At the end of section 308(g)(10), add the following:

(H)(i) Section 214(l)(2), as added by section 822(c), is amended by striking "241(a)(1)(C)" and inserting "237(a)(1)(C)".

(ii) Section 218A(c)(8)(B), as inserted by section 823(a), is amended by striking "deportation under section 241(a)(1)(C)(i)" and inserting "removal under section 237(a)(1)(C)(i)".

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. POMBO] and a Member opposed will each control 30 minutes of time.

VOL 142 PT 5 MR 21—29 1996 UMI

The Chair recognizes the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer an amendment that I believe accomplishes two very important goals. First, and most important, my amendment creating a pilot guest worker program makes H.R. 2202 a better bill—a more effective bill—that will strengthen our ability to curb illegal immigration. Second, my amendment will ensure that should H.R. 2202 create shortages in the availability of seasonal, agricultural labor, that non-Americans can be used—on a temporary basis—to pick the crops and manage the herds. This is in everyone's best interest.

Contrary to some of the rhetoric on this issue, my amendment supports and enhances immigration control. The increased employer sanctions already in H.R. 2202 for hiring illegals—coupled with strong incentives to leave this country when the growing season ends—creates a vast improvement over current law. Added to that is the mandatory withholding of 25 percent of the worker's salary to be returned to his country of origin and collected when he returns. Even now, without the sanctions in H.R. 2202 or the incentives to leave in my amendment, very few alien agricultural workers overstay their visas. We can expect even this small number to drop under my proposal.

This pilot program represents a substantial improvement over current law and provides numerous sanctions and incentives to stem the tide of illegals coming to America.

At the same time, this pilot program would allow non-Americans to provide the farm and ranch labor when—and only when—we cannot find Americans to do it. Every consumer enjoys lowcost food benefits from this.

My amendment accomplishes this not through loopholes or underenforcement of law, but rather by creating a workable program addressing a real shortage of Americans able and willing to provide seasonal farm and ranch labor, accompanied with strict control and enforcement.

I also want to reiterate that this program would only be used if there is a shortage in American labor. If all those who say that there will be no shortage of workers are right—then this program will never be used and that's fine. But should these people be wrong, my amendment provides an insurance policy against fields of rotting, unharvested crops, which inevitably raises food prices.

Finally, this amendment will not cost one American job. Any American who wants to do this work must be given the opportunity—as is already the case with the H2–A program.

Currently, the only program designed to address this shortage of farm and ranch labor is the H–2A program. Anyone familiar with that program can speak of its shortcomings and constraints, and why it is largely unworkable for the agricultural needs of many States. It is my hope that the pilot program in my amendment can serve as the model for replacing the current H–2A program.

My amendment is supported by an unprecedented coalition of nearly 70 State and Federal agricultural organizations including the American Farm Bureau, National Cattlemen's Association, National Council of Agricultural Employers, and many others. I urge my colleagues to support this pilot program as both an important tool to fight illegal immigration and as an insurance policy against unharvested food, closed farms and higher food costs. Please vote "yes" on the Pombo-Chambliss amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member opposed to this amendment?

Mr. GOODLATTE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Virginia [Mr. GOODLATTE] is recognized for 30 minutes.

Mr. GOODLATTE. Mr. Chairman, I yield 15 minutes of my time to the gentleman from California [Mr. BERMAN], and I ask unanimous consent that he may be permitted to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as a Committee on Agriculture member, I too have heard the concerns of agriculture employers who call the current H–2A guest worker program unworkable and thus understand that my colleagues want to give the growers a program that works. I agree that growers need some relief and must be able to depend on a reliable source of foreign workers.

But the Pombo-Chambliss amendment takes the completely wrong approach. We should not create an entirely new, untested, massive guest worker program when we have a program already. Let us fix the H–2A program instead.

The Pombo-Chambliss amendment creates an institutionalized program which could bring up to 250,000 aliens into our country per year.

The Goodlatte compromise amendment is based on hearings held on the H–2A program in both the Committee on Agriculture and Committee on the Judiciary. It will cap the number of visas available for H–2A workers at 100,000. Seventeen thousand guest workers are currently coming into the United States under the H–2A program. That allows for a very substantial increase. It pays for workers' way home, it protects American workers by making sure that guest workers do not adversely affect wages and working conditions of American workers, and it will also require that growers actively recruit for U.S. workers before they can get guest workers. It lifts the burdensome regulations on growers, such as the 50 percent rule and the 3–4 guarantee, and cuts 33 percent off the application processing time for the H–2A certification.

Take a lesson from the history books. The Bracero Program was the beginning of our illegal immigration problem we are attempting to curb in H.R. 2202. Hundreds of thousands of braceros became accustomed to the American standard of living and wages. Once the Bracero Program ended, many braceros resorted to coming to this country illegally. That trend continues today.

Supporters of the Pombo-Chambliss amendment claim unless we create a massive new guest worker bureaucracy, the illegal immigration patterns begun with the Bracero Program will simply grow. How can it get any worse? National organizations representing the growers have on the record stated that at any given time, at least 50 percent of their work force is comprised of illegal aliens. If we enact the H–2B program in the Pombo-Chambliss amendment, we will simply take the inroad we have made in H.R. 2202 to cut illegal immigration and throw them away.

This program will let in 250,000 unskilled foreign workers a year. That is four times the number of skilled workers we are going to admit. We are limiting the number of visas for family reunification. What is the point if we create this new program? This flies in the fact of evidence that there is now a great surplus of domestic farm workers. In the agriculture counties of California, there has been a 10 to 20 percent unemployment rate even in the summer months of peak demand by growers. The research director of the U.S. Commission on Agricultural Workers, which was evenly balanced with grower representatives, stated that there is and has been for many years an overall agricultural labor surplus in the United States and there will not be a labor shortage in the future. H.R. 2202's employment verification system is voluntary. Agriculture employers do not have to use it unless they choose to.

Even if the 25 percent of the seasonal labor force which is presently illegal were to magically disappear, there will still be no shortage. The U.S. Commission on Immigration Reform, headed by the late Barbara Jordan, recently found that if the supply of illegal farm workers dried up tomorrow or if growers chose to stop hiring illegal workers, the supply of work-authorized farm workers is ample, even in peak harvest months.

Let me talk about some of the specific problems with the Pombo-Chambliss H–2B program. This program would gut protections for guest workers and U.S. workers. It is an attestation program. The current H–2A system is a certification program. Under a certification procedure, an employer has to prove to the Secretary of Labor that it has met certain conditions before the Secretary will permit the entry of an alien worker.

With an attestation program, such as the one set up by Pombo-Chambliss, there are no controls on the number of foreign workers a grower brings in until after the growing season is over. The Secretary will permit the entry of an alien worker based on the employer promising it will meet certain conditions in the future. Only if an interested party, such as a union, complains to the Secretary that the employer is not fulfilling an attestation, will the Secretary initiate an investigation.

This type of program invites abuse. It has no practical provision for enforcement. In addition, no mechanism for enforcement exists for its recordkeeping and other requirements. Guest workers cannot be expected to leave the United States and return home when their work contracts end. The program that currently exists, that previously existed, has taught us that lesson. The lure of American jobs at much higher pay than available back home is just too great. Once settled and plugged into their job networks, they will then encourage their families and friends to come illegally and join them. We must stop this trend from continuing. Let us fix the H–2A program, not create an immigration nightmare.

Mr. Chairman, I urge my colleagues to oppose the Pombo-Chambliss amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas [Mr. BRYANT], the ranking member of the subcommittee.

Mr. BRYANT of Texas. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, this should be an easy decision for all of us. This is an amendment that proposes to allow 250,000 foreign workers to come into the country to do work that could be done by American workers.

We have already been through this once. In 1986 we faced this situation, and many will remember that we at that time granted amnesty to what ultimately were, I think, 1.1 million people that had become workers on whom growers principally in southern California were dependent.

It was the hardest vote and the most difficult decision of the entire bill. We did it because it was the right thing to do. We should not be in a position to have to do it again. That is exactly where this amendment is going to lead us.

Second, we have got to get away from this idea that we have the obligation or the need to bring foreign workers into the country in order to deal with our economic needs. The fact of the matter is, there is a surplus of seasonal farm workers, and in fact even now 50 percent of seasonal farm workers live in poverty. There is a surplus of these folks. There are thousands of them available.

Mr. Chairman, I submit to the authors of the amendment and to those listening to this debate that there is not any credible study that indicates there is a need to bring in 250,000 people to do work on our farms in this country, and I urge Members to vote against it.

□ 1630

It will clearly, in my view, lead to not only making life more miserable for folks that do very tough work at very low wages already by, in effect, reinstating the old bracero program, but it also will lead to increased illegal immigration because we are not being realistic if we expect guest workers to leave at the end of every worker contract. That simply is not going to happen. They are going to stay here.

In fact, the terms of the amendment allow them to stay as long as 2 years if their initial stay is extended and to do so legally. We have got to start sticking up for American workers. We have an American work force that can do this work. Maybe they do not want to do it at dirt-level wages. Maybe they need to have their wages raised. But we have the people to do this work.

We ought not to pass this amendment. We ought not to vote in favor of letting 250,000 people come into the country to do work that ought to be done and can be done and will be done by American workers.

Mr. BERMAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas [Mr. DE LA GARZA], the ranking Democrat on the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, under ordinary circumstances, I would be interested in supporting an amendment of this nature, but the way that we have handled this bill throughout the day, I must oppose it. One cannot say to people, you cannot bring your mother, you cannot bring your father, you have to speak English, you cannot come, we do not want you, get the dickens out of this country, but if you come to work temporarily when we can withhold 25 percent of your wages, when we can tell you if you have insurance for your car and not have insurance for your car, then you can come and work.

I can get all the workers we want in my congressional district, and they are good hard workers. But in the spirit in which we are dealing here today, to me it is insulting, it is demeaning. These will be indentured servants in the United States of America, indentured to individuals who will withhold under law 25 percent of their pay, maybe or maybe not get housing or be charged for housing or forced to buy it at the ranch store or the company store.

It is bad as it is, but I cannot accept all of the other things that are coming through. We are almost to the point where I am tempted to offer an amendment that anyone who is a descendant of a foreigner has to go back to the country of origin. That is about what we are up to. We even might want to change my name from GARZA to CRANE. It has gotten to the point where it is now ridiculous.

If we have problems with population, we work on the numbers, work on the numbers legitimately. I do not have any objection if we are overpopulated. But let me say to my California friends, if not one more alien comes to California, by 2012 California is more than 50 percent Asian and Hispanic. So, listen to that; 12, 15 more years, more than 50 percent, no matter what else is done. So I would think that we would be interested in seeing what we can do legally.

Mr. Chairman, if my colleagues are interested in numbers, I am with them. We have to work on that. But saying they are going to be terrorists, they are going to come blow the countryside apart, they are going to come and destroy the Government, they are only talking about Mexico and Central America, and they have to admit that. They have to admit that.

Anyone that does not look like, I do not know, the gentleman from California [Mr. POMBO] and I look alike. But maybe like the gentleman from California [Mr. BERMAN] then his is OK. If he looks like Mr. POMBO and me, he is not OK, throw him out, send him back. I cannot support this under this, the way that we are handling it.

Mr. POMBO. Mr. Chairman, I thank the former ranking member, and I do agree with many of his sentiments. I hope in the future we do have a chance to work on this.

Mr. Chairman, I yield 1½ minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Chairman, I rise in support of the Pombo-Chambliss amendment to H.R. 2202 to establish a pilot program to allow temporary, and I want to underline temporary, guest workers into this country to help out in the agricultural industry. This amendment is carefully constructed to allow only guest workers into this country after, after a series of steps have been taken to find domestic workers to fill agricultural jobs.

In addition, the bill provides strong incentives for guest workers to return

VOL
142
PT
5
MR
21
—
29
1996
UMI

to their native homeland by withholding 25 percent of their wages until they return home. In addition, the number of workers allowed in this country has a capped span of 3 years.

Mr. Chairman, I just would like to point out how important this is to my district on the central coast of California and give an example of how this is important to a farm in my district. The Logoluso Farms in my district is located in Cuyama, a very isolated area. They farm 1,100 acres of Fuji apples and they are going to need at least 600 workers at peak harvest time.

Now they are very concerned as to where the labor is going to be coming from because their farm, their acreage, is located some 60 miles away from the nearest small town. A temporary guest worker program that mandates strict labor conditions be met along with adequate housing facilities is a safety valve needed in case the labor supply cannot be met domestically. Most importantly, there are strong incentives here in this amendment, and I would just ask that my colleagues vote in favor of this amendment.

Mr. GOODLATTE. Mr. Chairman, I reserve the balance of my time.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. JONES].

Mr. JONES. Mr. Chairman, I thank the gentleman from California for yielding me the time.

Mr. Chairman, my district consists of approximately 18,000 farms. Most of these farms engage in the production of cucumbers, sweet potatoes, tobacco, and peanuts, very labor-intensive work. Roughly 80 percent of the produce in my district is harvested by seasonal migrant workers. Throughout our Nation, as in North Carolina, seasonal workers have helped labor-intensive farm commodities to become the fastest growing sector of the U.S. agricultural world.

However, farmers in the South are having a very difficult time finding people to do farm work. If it was not for the migrant workers, our farmers would not be able to harvest their crops. We need to guarantee our farmers an ample supply of legal workers. The Pombo-Chambliss amendment creates a workable solution to this important issue. It admits temporary workers by creating a 3-year pilot program with an annual cap on the number of workers admitted.

Congress is trying to control illegal immigration, not destroy the work force of the American farmer. Please support the Pombo amendment.

Mr. POMBO. Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina [Mr. FUNDERBURK].

Mr. FUNDERBURK. Mr. Chairman, H.R. 2202 provides comprehensive reform of our immigration laws but ignores an irrefutably broken H–2A program. This H–2A program has failed to provide temporary migrant farm workers when domestic workers are unavailable. The Pombo-Chambliss amendment is an essential part of illegal immigration control. It admits workers temporarily and provides guarantees they will return home and not remain. Twenty-five percent of the workers' wages are withheld until they return to their home countries. Future participation is barred if workers don't return home on time. This program has a users' fee that pays for the government administrative costs.

The Goodlatte amendment tinkers with a broken H–2A program rather than fixing it, but in fact makes a bad program worse.

First and foremost, we must assure an adequate work force during harvest. Without this Pombo amendment, our cucumber, sweet potato, tobacco and other farmers could be out of business, meaning a tremendous loss of food and jobs in the Second District of North Carolina—something we can't afford. Therefore, Mr. Speaker, I strongly urge my colleagues to vote "yes" on Pombo and "no" on Goodlatte.

Mr. GOODLATTE. Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, before I yield to the gentleman from North Dakota, I just want to point out that in the gentleman from North Carolina's district, rural unemployment is now 9 percent.

Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. POMEROY], a member of the Committee on Agriculture.

Mr. POMEROY. Mr. Chairman, I thank the gentleman for yielding me the time.

The statistic just quoted shows exactly what this bill is about. This bill is not about desperately needed workers to fulfill jobs. This is about having a cheap supply of labor to hold wages down. There have been some in favor of immigration reform that want to have it both ways: Crack down on immigration, triple fence the border, but by golly, do not disrupt our ability to get that cheap supply of unskilled labor up from south of the border. They want to have it both ways, but you cannot have it both ways.

Mr. Chairman, I am reminded a bit of how the French chose to construct their defense in anticipation of World War II. They constructed an invincible line called the Maginot Line, and it was to withhold any German attack. The Germans flanked the Maginot Line and of course rendered the defense useless. We build triple fences, our Maginot Line against immigration, and we are going to provide the transport. We ourselves are going to allow the transport of unskilled workers up from Mexico around the fences and on to farms where they can wander off and become a continuing part of the illegal immigration problem this country has had an experience with.

Make no bones about it, the Pombo amendment blows a hole in everything we are trying to do to crack down on illegal immigration and that will even more be the case when the other immigration reforms take effect under the law. Already we see under the guest worker program overstays represent 12 percent of the program, meaning 12 percent of the workers stay longer than they are authorized to under the program. That will only increase if this amendment should be incorporated into this law.

Mr. Chairman, in addition, we have a revenue estimate today from the Congressional Budget Office that shows a loss in revenue of $23 million and an increase in direct spending of $67 million if the Pombo amendment is enacted. This amendment would cost us at a minimum $90 million a year while compounding the illegal immigration, unskilled worker problem in our country. Please join me in voting down this amendment.

AMENDMENT OFFERED BY MR. CONDIT TO THE AMENDMENT OFFERED BY MR. POMBO

Mr. CONDIT. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The Clerk will designate the amendment to the amendment.

The text of the amendment to the amendment is as follows:

> Amendment offered by Mr. CONDIT to the amendment offered by Mr. POMBO.
>
> In section 823(a), in the section 218A(a)(3)(B) of the Immigration and Nationality Act inserted by such section, add at the end the following:
>
> "(iii) CONSEQUENCES OF PERMANENT EXTENSION.—If the Congress makes the program under this section permanent, Congress shall provide for a two-year phase out of admissions (and adjustments of status) of nonimmigrants under section 101(a)(15)(H)(ii)(a). In the case of such a phase out, the Attorney General and the Secretary of Labor shall provide for the application under this section of special procedures (in the case of occupations characterized by other than a reasonably regular workday or workweek) in the same manner as special procedures are provided for under regulations in such a case for the nonimmgrant workers under section 101(a)(15)(H)(ii)(a).

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. CONDIT] and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from California [Mr. CONDIT].

PARLIAMENTARY INQUIRIES

Mr. BECERRA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BECERRA. Mr. Chairman, at this time we are moving on to the amendment by the gentleman from California [Mr. CONDIT], in which case 5 minutes will be accorded to both those supporting and those opposing.

My parliamentary inquiry is, what happens to the time that had been allotted for the Pombo amendment? Does

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that remain at the end of the debate of the Condit amendment?

The CHAIRMAN. All remaining time would be reserved on the Pombo amendment that is currently pending.

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BERMAN. Mr. Chairman, as I understand the amendment from the gentleman from California, it is an amendment to the Pombo amendment.

The CHAIRMAN. The gentleman is correct.

Mr. BERMAN. Under the rule, an individual opposed to the amendment has 5 minutes of time to control; is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. BERMAN. So this will be 5 minutes in addition to the remaining time on the Pombo amendment.

The CHAIRMAN. The gentleman is correct.

The Chair recognizes the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I yield myself such time as I may consume.

First of all, let me commend the gentleman from California [Mr. POMBO] and the gentleman from Georgia [Mr. CHAMBLISS] for their efforts in this issue. They both have demonstrated leadership, and my amendment to their amendment is a friendly amendment and it is pretty straightforward.

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It simply says and assures that should the pilot guest worker program established by this amendment gain permanent status, that we will be left with only one guest worker program. As it stands right now, if the Pombo amendment passes, Pombo-Chambliss, it will create two guest worker programs. I do not believe that is the intent of the Committee on Agriculture, nor is it the intent of the author of the amendment to create two programs.

So basically what it does, simply, whenever it becomes permanent, it will be one program, and it will encompass all the people that need to be serviced under a guest worker program.

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. CONDIT. I yield to the gentleman from California.

Mr. POMBO. The gentleman is correct. The intention of the amendment, because it is a pilot program and is a temporary program, if it were to be made a permanent program, the repeal of the H–2A program so that we would have one program, would be the intention of the committee. And I would support the gentleman's amendment and accept it.

Mr. CONDIT. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member opposed to the amendment offered by the gentleman from California?

Mr. BERMAN. Yes, Mr. Chairman, I rise in opposition to the amendment to the amendment.

The CHAIRMAN. The gentleman from California [Mr. BERMAN] is recognized for 5 minutes.

Mr. BERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not intend to call for a rollcall vote on this amendment. It is the Pombo amendment, with or without the Condit amendment, that I seek to defeat.

Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, today we are here to debate immigration reform. Most people agree that immigration reform needs cutting back on the number of illegal immigrants entering this country. Some would go further to say that it means cutting the number of legal immigrants entering this country. Never mind the problems each of us may have with the bill, at least we can debate these issues on the merits. But this amendment, the Pombo amendment before us, flies in the face of the purported goals.

The gentleman from California [Mr. POMBO] is offering an amendment that would open a back door to allow 250,000 foreign agricultural workers into this country.

What is the power behind this amendment?

It is agribusinesses. Agribusinesses want to circumvent the market system by carving out a giant government loophole in the immigration system, and while everybody knows that there is no shortage of labor in this country, agribusinesses insist that there is.

In simple terms, agribusiness is saying that this immigration bill goes too far. It is saying that it does not want to pay fair wages for legal farm workers. Agribusiness is saying that bringing a quarter of a million foreign agricultural workers into this country will help control illegal immigration. This is tantamount to saying that one can put out a fire with gasoline. We cannot have it both ways, my colleagues.

For too long the U.S. Government has granted select agricultural growers a privilege which few other industries have. Many of us remember the old Bracero program, which brought in and contracted Mexican workers to come here and work. I saw that program in action. As a young man, I went to the Central Valley in California, and I picked crops, and I saw the squalor and the deprivation in which these people worked and had to live.

Mr. Chairman, we cannot commit this mistake again in this country. It would be scandalous. It would be insidious.

Instead of allowing to bring in foreign workers with virtually no rights, agricultural employers should turn to market methods for recruiting American workers. It is simple, it is simple to recruit them. Just offer American workers adequate pay, decent wages decent working conditions, and let us stop the deception that we are seeing here with this amendment.

Mr. Chairman, I urge my colleagues to not repeat those mistakes of history and vote "no" for the Pombo amendment.

Mr. CONDIT. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Come on, folks. The operative word in the gentleman from California's statement that he just spoke was "was." He is talking about yesterday.

I know it is not useful sometimes, or even politic, to deal factually with amendments in front of us on this floor, but this is not the re-creation of a guest worker or Bracero program from 20 or 30 years ago. We can relive the problems, if my colleagues want to, in a kind of a nostalgic way and talk about Wilga, and talk about workers rights, but, come on. This is 1996.

Let us take a look at what is the Pombo amendment actually requires.

No. 1, we got to give preference to U.S. workers. Now, unemployment figures have been cited in various counties. Let me tell my colleagues unemployment figures and willing workers are two different things. Sometimes they are night and day. But if people are willing to work, they have got a job. We do not go without jobs. Our problem is we have difficulty sometimes finding willing workers, especially in peak harvest periods when, for example, in a 7-day period in Fresno County more than 50,000 people are needed to pull those what were grapes, now sun-dried into raisins, down onto the ground, put them on clean paper, and in a very short period of time prepare that product for market. I say to my colleagues, you need labor when you need it in the agricultural arena.

Starvation wages? The Pombo amendment says,

> You have to pay at least the prevailing wage in the occupation area, at least the prevailing wage, and you have to pay it the same to the U.S. worker and the alien. You have to provide comparable transportation, U.S. worker and alien. You have got to cover all of the alien workers, as you do U.S. workers, with Workmen's Comp, comparable insurance. You have to go through a whole series of procedures. You have got to guarantee these aliens don't replace striking workers. You have got a procedure here that says these workers will receive every opportunity that workers who otherwise would be working will receive with one additional factor, they can only be here 10 months, a portion of their wages are withheld, that portion that's withheld is paid interest, and that pot of money, which is the reason these people came here in the first place, that pot of money is available to them if they go home on time. If they don't go home on time, they lose the pot of money

VOL
142
PT
5
MR
21
—
29
1996
UMI

I heard a figure in which 12 percent of these individuals move away from those jobs. Guess what percent of the workers who run across the border and risk their lives in freeway traffic, what percent of those folks go home when the job is up? The answer is zero, 100 percent of those people do not.

Without a responsible program to allow people who want to work to come in to work when the work is needed we are going to have more illegals. The Pombo amendment is a creative, positive 1996 respective amendment, and I ask for its adoption.

Mr. BERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before I yield I might just point out that in Kern County, the base county of the gentleman from California who just spoke, I wonder what the 13.6 percent unemployed people in that county will say about this effort to go.

Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Chairman, this is a powerfully bad program that should not be enacted. I find it ironic that we are hearing for the last 2 days how terrible it is that we have all these people coming into our country, we do not want these people in our country, we do not want these people who cannot pass an English test to come to our country. But we do want them if they will be cheap labor, we do want them if it is going to be easy for us to send them home like they are widgets at the end of a period of time.

Mr. Chairman, that is not how this country should act. That is not how this country should operate.

Let us look at the people who are going to be coming to work in this program. These are people who are coming here for a better life. They would not be coming here if they were not doing better economically, and the proponents of this program are saying at the end of this time they are just going to go home. Well, Mr. Chairman, I do not think they are just going to go home because they came here to have a better life, and then we are going to have more problems with more people in prison, we are going to have more problems with more people on welfare because they are still going to have a better life, even if they are living in the underground in the United States, many times, than in their old communities.

Now people say that we need this. I find it ironic that the proponents of this program who are pushing so hard do not want to rely on the time-tested notion of using the free market. This is a capitalistic society. If there is a shortage of workers, and we hear people talking about unemployment rates of 13 percent, 9 percent, I will tell my colleagues how we can get more workers: Pay them more. Pay them more money, and they will come. That is how we have done it for hundreds of years.

Let us continue to do it, Mr. Chairman, Let us not have this program. Let us defeat this program and help American workers.

Mr. CONDIT. Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. DEUTSCH].

The CHAIRMAN. The gentleman from Florida is recognized for 30 seconds.

Mr. DEUTSCH. Mr. Chairman, I rise today to speak in favor of this amendment. I represent a district that provides most of the tropical foliage for the United States. Without passage of the Pombo-Chambliss amendment, the immigration bill will severely hurt U.S. agricultural producers in south Florida. This bill will make it tougher to hire workers during peak harvesting periods.

Some of my colleagues will argue that this amendment hurts American workers by allowing employers to hire illegal immigrants. This is simply not true. In fact, the Pombo-Chambliss amendment requires an employer to give preference to U.S. workers for a minimum of 25 days before the position can be offered to an immigrant. Moreover, no aliens can be employed at a position which is open due to strikes or labor disputes.

Let us be clear. This amendment helps the American economy. And it does not sacrifice our desire to stem the tide of illegal immigrants. It allows agricultural producers to hire guest workers only when there is a temporary shortage of American workers. It requires employers to withhold 25 percent of the guest workers pay until they return home. Finally, those immigrants that violate this program can be deported and prevented from participating with this program in the future. This amendment does not weaken the immigration bill. Rather, it enhances the effectiveness of this bill and helps the American economy.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FARR], a member of the Committee on Agriculture.

Mr. FARR of California. Mr. Chairman, I rise in opposition to this amendment. I represent a lot of agriculture, 2.4 billion dollars' worth of agriculture, and what we do in agriculture is we honor labor, and this Congress honors labor. We are always talking about productivity and how great American workers are. We have done that with the autoworker industry and the aerospace industry, and we ought to be doing it more with farm labor supply. We have got 18-percent unemployment in most rural counties in America.

This is not an issue about labor shortage. This is an issue about wages. If my colleagues think people will not go out and do hard work, just look at all the people that flee to Alaska when they can catch salmon and have to work all day and night to do it because the wages they get out of that process is very high.

I urge my colleagues to really honor American labor. Honor farm productivity by not allowing 250,000 foreigners to come in and say to this country, "You can't do your own work." We produce quality agriculture in America, we can do it with our own labor. We do not need a foreign supply. Vote "no" on the Pombo amendment.

PARLIAMENTARY INQUIRY

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BERMAN. Mr. Chairman, am I to understand that there is no time left in opposition to the Condit amendment?

The CHAIRMAN. The gentleman is correct.

There is no time left on the Condit amendment only.

Mr. BERMAN. That is the Condit amendment which amends, but does not improve, the Pombo amendment?

The CHAIRMAN. It is the amendment that amends the Pombo amendment.

The question is on the amendment offered by the gentleman from California [Mr. CONDIT] to the amendment offered by the gentleman from California [Mr. POMBO].

The amendment to the amendment was agreed to.

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Mr. POMBO. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I just want to say today that I do support the Pombo amendment, because we have a problem today in agriculture. We have a problem with illegal immigrants working in our agriculture. The most conservative estimates are 50 to 60 percent of those working in our fields today across this Nation are in this country illegally. That was confirmed by the Jordan Commission. Most of them have their families, one, two, three, four members here, most of which are living on public subsidies.

Mr. Chairman, we are here today and we have been here for the past 3 days debating legislation that will significantly reduce the number of illegal immigrants in this country. All this amendment says is that if we can prove that there is a need for temporary guest labor to keep the crops from rotting in the fields, then we will allow a limited number of workers into this country to prevent that from happening, based on the following provisions: One, it must be proven that there is no domestic labor available to fill these jobs. Also, the employer must assume all financial responsibility for any and all benefits that would be a burden to the taxpayer. Further, temporary workers could not bring family workers along with them. Further, the program must provide a strong, positive verification provision through the use of biometric data, and it must include strong financial incentives for the workers to return to their homeland after the job is done, in the form of withheld wages.

Mr. Chairman, these are the elements that the Pombo amendment provides for. We know the existing H–2A program is unworkable. If it were not, we probably would not be here today. We can do better. We must do better. The Pombo amendment provides for that. I urge my colleagues to support this amendment.

Mr. GOODLATTE. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. SMITH], chairman of the Subcommittee on Immigration and Claims of the Committee on the Judiciary.

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, this amendment will have a devastating impact on immigration policy. It will lead to increased illegal immigration. It would lawfully admit a quarter of a million individuals who otherwise would be called illegal aliens. If Congress is serious about reducing illegal immigration, we will reject this amendment.

The legitimate and understandable needs of American fruit and vegetable growers will be met by the Goodlatte amendment, which we will consider in just a few minutes. This amendment would worsen our illegal immigration crisis by letting in 250,000 unskilled guest workers in the first year alone. Guest workers are not going to leave when their work ends. This is a lesson to be learned from guest worker programs around the world. The lure of American jobs at significantly higher pay than in the homelands is just too great.

There will be no labor shortage in the future. Some growers are concerned that the employment eligibility quick-check system in this bill will reveal their farm workers to be illegal aliens, but we have made the verification system voluntary. If growers do not want to use it, they do not have to use it. Under a voluntary system, any rationale for a new guest worker program simply vanishes.

Even if part of the seasonal agricultural labor force that is presently illegal were to disappear, there would still be no shortage. The bill contains a backlog reduction program that will add substantial numbers of new permanent residents who are likely to go into agricultural work. The program will provide approximately 500,000 visas for spouses and children of permanent residents, to eliminate the current 1 million-plus backlog.

Supporters of the amendment seem to forget that we already have an agricultural guest worker program. It is called the H–2A program. I know that growers have had concern about the workability of the program, but the Goodlatte amendment will address every concern the growers raised at hearings we have had on the H–2A program. The current guest worker program does not provide a grower with foreign guest workers unless he or she has shown that there are no available American workers.

The amendment that we are considering requires no recruitment on the part of the growers. One of the most fundamental principles of immigration law is that foreign workers should not displace qualified American workers. That would be violated by this amendment. The current guest worker program should be improved. We know that. That is exactly what the Goodlatte amendment will do in just a few minutes.

Mr. Chairman, I urge my colleagues to defeat Pombo and support the Goodlatte amendment. It does meet the legitimate needs of growers without striking at the heart of our efforts to reduce illegal immigration. Vote "no" on the Pombo amendment and "yes" on the Goodlatte amendment.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from California [Mr. BECERRA], from the Subcommittee on Immigration and Claims of the Committee on the Judiciary.

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, we are in a situation where we just finished a day and a half worth of debate, where we were talking about eliminating about 300,000 visas for U.S. citizens to be able to bring in their family members, their parents, their children, their brothers, their sisters. Now we are dealing with an amendment that says, "Let us bring in 250,000 imported foreign workers to do work in our fields."

Mr. Chairman, probably the worst part about this amendment is the following: In 1992, the rural unemployment rate in the United States was 11 percent. It was even higher for young people working in rural areas. It was close to 19 percent. A substantial number of those that are employed in rural areas, about 40 percent, earned wages below the poverty threshold for a family of four. Real wages for rural workers have declined between 1979 and 1992 by over $1 an hour.

The rural unemployment rate is even more pronounced in those areas and in those counties with high concentrations of migrant and seasonal agricultural workers, the same kind of people that we want to import from other countries. Even during the peak months of agricultural labor demand, we still see very high rates of unemployment.

During July 1995, which is a very high, peak time of year for agricultural work, in California, in 19 of the biggest counties of California dealing with agriculture, 17 of those 19 counties had double-digit unemployment rates. Only two of those counties did not have unemployment rates in the rural areas below 10 percent. One county had an unemployment rate exceeding 32 percent. Yet, most of these folks that we are talking about importing in to do agricultural work would go into those areas of California with these high rates of unemployment.

Mr. Chairman, one other very disturbing aspect of the Pombo amendment. It would dispense with any requirement that the Government verify that growers are in fact experiencing labor shortages, and that the growers have made a good-faith effort to recruit domestic American workers. This amendment would simply ask that growers self-attest that they made efforts to recruit locally, without any independent verification. This amendment should be defeated.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, I stand in strong support of the Pombo amendment. The main arguments against this amendment are that supposedly there are a lot of workers in America who will be displaced by guest workers, and that they will be displaced by the intent of providing lower wages.

The fact, again, is that the Pombo amendment requires that American workers get first crack at the job. It requires that they must get that crack without having to compete against guest workers. Employers must list job opportunities with the job service and give qualified U.S. workers the first preference for the first 25 days. There is no incentive to use guest workers if there are U.S. workers available.

What about the issue of wages? The fact is that farm work is one of the highest paying low-skill, entry-level occupations in the United States. The average hourly wage for field and livestock workers in 1995 was $6.12 per hour, almost $2 above the minimum wage. The average for piece rate workers was $7.30 per hour. The fact is that since the Immigration Reform and Control Act was passed in 1986, farm wages have outperformed nonfarm wages 35 to 27 percent. Mr. Chairman, this is a good amendment, and it will help.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. LOBIONDO].

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. LoBIONDO. Mr. Chairman, I rise in strong support of the Pombo amendment to create a 3-year agriculture guestworker program.

Mr. Chairman, by all accounts the current guestworker program needs to be reformed because it is not working for farmers or for guestworkers. And it is clear that this immigration bill will reduce the number of foreign workers available to farmers. As the Agriculture Committee Report on the Pombo amendment states, "Without an adequate guestworker program, illegal immigrants fill the void. The Department of Labor estimates that 25 percent of the 1.6 million agricultural workers are illegal aliens."

Let me repeat: Without an adequate guestworker program, illegal immigrants fill the void.

The new H-2B program created by the Pombo amendment will fix the problems with the current program and help eliminate the use of illegal aliens in agriculture. And by requiring growers to hire U.S. citizens if they are available, this program will not displace American jobs.

Some opponents have characterized this amendment as nothing but a benefit to agri-business. This is simply not the case. I represent numerous family growers with small farms in southern New Jersey. These growers depend on short-term labor, but the present program is difficult and cumbersome to use. The small, family growers in southern New Jersey and around the country need a new guestworker program.

Mr. Chairman, let's not pretend we are cracking down on illegal immigration by opposing the Pombo amendment. This amendment will help to reduce the number of illegal farm workers by creating a workable program for Americas farmers.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. COOLEY].

Mr. COOLEY. Mr. Chairman, I rise today in support of the Pombo amendment, and against the Goodlatte amendment.

For those Members who see the Goodlatte amendment as a compromise on the guest worker program, don't be fooled.

The Goodlatte amendment is another Band-Aid fix to the H-2A program—and fails to provide growers with a workable system for hiring temporary workers.

The current H-2A program is a program only a bureaucrat could love.

Like most government-run programs, it's too complex—time-consuming—and inflexible for the real world.

Our produce industry in eastern and southern Oregon will be devastated if they don't have the ability to hire farm workers in a timely manner.

As we begin to crack down on immigration, our growers need a program that will strike a balance between their needs—and those who fear that a guest worker program will lead to more illegal immigration.

The Pombo amendment strikes that balance.

I urge my colleagues to support the Pombo amendment, and oppose the Goodlatte amendment.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of the Pombo-Chambliss amendment. This amendment is vital to the success of immigration reform.

Without this amendment immigration reform could have the unintended consequence of causing a widespread labor shortage for American agriculture.

That in turn could cause the industry to lose valuable markets to foreign competition and could cause hardships to millions of American consumers by raising the cost of the food they buy.

The Pombo-Chambliss amendment creates a new H-2B guest worker program that is farmer friendly, while respecting our need to control immigration.

Simply put, it would allow workers to enter our country on a temporary basis and return to their country when their term of employment is over.

The provision cuts paperwork and administrative costs dramatically.

Mr. Chairman, my State of Idaho is representative of much of the Nation on this issue.

Even though Idaho is a Northwestern State, guest workers provide an essential source of labor for our agricultural industry.

The president of the Idaho Farm Bureau Federation wrote me an impassioned plea for this amendment, Mr. Chairman.

He argues that without the Pombo-Chambliss amendment, the Farm Bureau cannot support H.R. 2202.

This amendment is also strongly supported by such agriculture groups as the Western Range Association, the Idaho Cattlemen's Association, and the Idaho-Oregon Fruit and Vegetable Association.

The Pombo-Chambliss amendment is essential to making H.R. 2202 good law. I urge a yea vote.

Mr. Chairman, I include for the RECORD the letter from the Idaho Farm Bureau Federation.

The letter referred to is as follows:

IDAHO FARM BUREAU FEDERATION,
Boise, Idaho, March 15, 1996.

Re Pombo amendment—nonimmigrant H2–B category for temporary agricultural workers.

Hon. HELEN CHENOWETH,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN CHENOWETH: Thank you for your letter of March 6 and the opportunity to respond to Congressman Pombo's amendment to H.R. 2202.

H.R. 2202 does three things that could adversely effect the number of agricultural workers in this country. This legislation will significantly increase interior enforcement seeking to find illegal aliens at their places of employment, increase border interdiction. and impose some sort of employment eligibility verification.

It is imperative that a temporary alien worker program be included in H.R. 2202. This can be accomplished with the adoption of the Pombo amendment. The temporary alien worker program, coupled with the verification process already outlined in H.R. 2002 will help assure agricultural employers that they and their employees are complying with the law. The three year pilot program established by Rep. Pombo's amendment will help meet the administrative and labor supply needs of the agricultural industry.

The Idaho Farm Bureau Federation can support H.R. 2202 with the inclusion of the Pombo amendment. It is of utmost importance that the Pombo amendment be included in original form, without amendment. Without the Pombo amendment, the Idaho Farm Bureau Federation will oppose H.R. 2202 or any immigration reform legislation that does not consider the needs of our industry.

Thank you very much for your time and consideration in this matter.

Sincerely,

V. THOMAS GEARY,
President.

Mr. POMBO. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I could not disagree more with my respected colleague, the gentleman from Texas [Mr. SMITH]. I joined with my colleague in cosponsoring his bill, but we badly need the Pombo amendment. I will tell the Members why. We will never have an effective program to contain illegal immigration without having an effective, reasonable, and legitimate program for temporary guest workers in this country. I quote from statistics prepared for none other than Senator EDWARD M. KENNEDY in 1980, a report at his request when he chaired the Senate Committee on the Judiciary. This report reads the following: "Illegal immigration was brought to a halt in the mid-1950's by a greatly increased law enforcement effort on the part of the U.S. Government, combined with a subsequent expansion of the bracero program as a substitute legal means of entry."

☐ 1715

Without question the Bracero program was also instrumental in ending the illegal alien problem of the mid 1940's and 1950's. It should be noted that throughout its duration, and particularly during the 1950's, one of the major arguments used in support of the Bracero program was that it offered an alternative and therefore at least a partial solution to the illegal alien problem. The other part of the solution was effective law enforcement, which this Smith bill does do. Here is the graph. Here it shows what happened. We went from over 1 million apprehensions of illegals in 1954 to where it was brought down in 1959 to just over 45,000.

Mr. Chairman, history shows this program works. We need to incorporate this into the Smith bill to give us the maximum protection against illegal immigration. Today the Labor Department's own statistics say that 25 percent of the seasonal agricultural workers self-identify as illegals. The INS will tell you that indeed it is much higher. Support the Pombo amendment. Oppose the Goodlatte amendment.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Chairman, I rise today in support of the Pombo-Chambliss amendment.

One of the promises I made to the farmers in Kentucky's second district was to help relieve the regulatory burden the Federal Government has placed on them.

Mr. Chairman, this amendment will cut paperwork, save farmers money and better control illegal immigration.

Our farmers must be able to obtain the needed and legal work force to competitively compete in the growing world market, so they can continue to provide the safe and abundant supply of food and other agricultural products Americans have come to expect.

I challenge anyone here to tell a Kentucky farmer there are enough domestic workers. Again and again farmers tell me that one of the biggest problems they face is a willing and qualified work force. These jobs are mostly seasonal, temporary, and there simply are not enough domestic workers to do the hard work for short periods that are still a big part of agriculture production needs.

It is important to note this amendment requires employers to give preference to U.S. workers who apply for these jobs, ensuring that domestic workers are not displaced.

I urge my colleagues to vote "yes" on the Pombo-Chambliss amendment.

Mr. GOODLATTE. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I want to respond briefly to my good friend from California [Mr. DOOLITTLE] and the comments he made a while ago. Actually the chart that he showed shows the exact opposite, if I may say so.

At the beginning of the Bracero program we had an increase in the number of illegal aliens coming into the country. The decrease that was caused was not by the Bracero program. It was by President Eisenhower instituting what was then called Operation Wetback that effectively sealed the border. It had nothing to do with the Bracero program. The reduction in illegal aliens was because of the President's policy at that time. The Bracero program at the beginning of it actually increased the number of illegal aliens coming in, because more people were encouraged to come and try to get into the country.

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in reluctant opposition to the amendment of my good friend from California [Mr. POMBO] to create a new guest worker program. At a time when our focus is on reducing immigration levels, the Pombo amendment attempts to allow an additional 250,000 nonskilled temporary workers to help the agricultural industry because they feel there will not be a sufficient work force once this legislation becomes law.

We know that there is currently a surplus of agricultural workers in this country. We know that half of the illegal aliens currently working in this country remain here past their visa time. We know that the work force has helped to drive down the wages to agricultural workers to the point where most low-skilled U.S. citizens simply cannot afford to take these jobs.

Knowing this, do we fix these problems by creating another program out of fear of what could happen? Or do we reform our current H-2A program to create a compromise solution while continuing to address a problem that actually has happened?

The problem is that our immigration system is broken. Our agricultural workers' wages are down because the system is broken. The last thing we should do now is bring in more temporary agricultural workers who will not want to leave.

We do not want to create more problems for farmers with the INS. I think the Pombo amendment will do that. We do not want to create more problems for our farmers with legal aid. We do not want more conflict with the local job market.

Local people in your community will not be hired if there is a flood of foreign workers who wages may sound high, but far too often the foreman, the person in charge of bringing in these workers, often takes much of that money away from the workers.

I urge a "no" vote on the Pombo amendment and an "aye" vote on the Goodlatte amendment.

Mr. BERMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Chairman, I rise in support of the Pombo amendment.

Mr. Chairman, I rise today to express my support for the Pombo-Chambliss amendment to H.R. 2202. As a representative from one of the leading agricultural production regions in the United States, I am concerned with the potential impact of H.R. 2202 on the agricultural labor force.

Measures in H.R. 2202 to control illegal immigration through effective border and interior enforcement and improving the employment verification system could significantly reduce the work force currently entering the United States illegally and working with false documentation, I support those efforts.

At the same time, we must recognize that the agricultural industry in the United States has historically been faced with a need to supplement the domestic work force, especially during peak harvesting periods. Agricultural employers estimate that between 50 and 70 percent of the seasonal work force find employment using fraudulent employment eligibility documents. if provisions included in H.R. 2202 are enacted, agricultural growers could be facing a severe shortage of skilled seasonal workers during peak employment periods.

History has shown that the current H–2A program has been a regulatory and bureaucratic nightmare, rendering the program unusable for the vast majority of agricultural employers. Thus agriculture has no reliable means for ensuring an adequate supply of temporary and seasonal workers if the border and interior enforcement measures included in this legislation are really effective in controlling the entry of undocumented workers.

An adequate supply of skilled seasonal labor is necessary to maintain the competitiveness of U.S. labor intensive agriculture, and to maintain the jobs and livelihood of hundreds of thousands of farmers, U.S. farm workers, and workers in related industries. I urge you to support the Pombo-Chambliss amendment.

Mr. BERMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, I think it is time to talk about illegal immigration when we talk about the Pombo amendment. We have talked a lot about that in these last few days. Now we are talking about bringing in a quarter of a million agricultural workers a year, and we are saying that that will do nothing to increase illegal immigration. That is a ludicrous idea.

As someone who worked in the immigration field for many, many years, I have been thinking as I have heard the rhetoric today, who are these people? Not the farmers, but who are the people that will leave their families behind for months at a time, come to America, work very hard in hot fields, picking crops for very modest wages? Who are these people?

These are people who are desperate for a better way of life and they do not plan to go home. They will send their money back to their families so their families will have something to live on.

VOL 142 PT 5 MR 21 — 29 1996 UMI

I do not have anything against these people. I admire their courage. But I also know they will not go home.

The 25 percent of the wages that would be withheld from these individuals is probably less than what they would pay to a coyote to come across the border today. So to think that we are somehow going to be remedying the problem of illegal immigration by bringing in a quarter of a million desperate agricultural workers a year is absolutely ludicrous.

Those who would say with a straight face that we are doing something about illegal immigration in a bill that contains the Pombo amendment should have red faces indeed. I urge everyone to oppose the amendment.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise today in support of this amendment which will ensure a steady supply of labor for one of the most important sectors of our economy.

The issue before us today is quite simple: The illegal immigration provisions in the underlying bill could create a shortage of labor in the agricultural sector of our economy. This must not be allowed to happen and the gentleman from California's amendment is, in my view, a reasonable attempt to ensure the continued survival of labor-intensive agriculture.

Mr. Chairman, a series of joint hearings held late last year made it clear that agriculture had legitimate concerns which had not yet been addressed. In responding to these concerns, this amendment installs a workable mechanism for importing needed labor. It caps the number of program participants, and permits the entry of legal temporary farm workers only when American workers cannot be found. Producers are required to pay a decent wage and ensure humane treatment and living conditions for their workers.

The House must understand, Mr. Chairman, that the competitiveness of U.S. agriculture—especially the fruit and vegetable industry—depends on a reliable labor supply. It is also important to note the thousands of U.S. jobs that depend on the continued success of these industries. We should accept the amendment offered by the gentleman from California and provide agriculture the labor it needs to survive.

Mr. POMBO. Mr. Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield myself 15 seconds to respond to the last speaker.

The Center for Immigration Studies just released a study by Wallace Huffman, professor of economics and agricultural economics at Iowa State University, finding that the complete elimination of the supply of illegal labor, and we know we are not going to accomplish that with any of the legislation we have here, but the complete elimination would only result in a 1 percent increase in U.S. imports of fruits and vegetables.

Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, a lot has been said about this amendment, how we are going to deter illegal immigration. But the motive, Mr. Chairman, is greed. That is the motive, greed. Right now with undocumented people, we are keeping the wages on the fields low. Once they are gone, we want to bring in guest workers to keep the wages low. It is greed, Mr. Chairman.

Today we hear how these guest workers will be treated, housing, decent wages. Mr. Chairman, in practical terms, the industry is going to get around it by hiring labor contractors who will not give the guest workers the time of day. They will abuse them, they will use them and send them back.

Mr. Chairman, it is a bad amendment and I would ask for a "no" vote.

Mr. BERMAN. Mr. Chairman, I reserve the balance of my time.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Chairman; I rise in support of the Pombo-Chambliss temporary guest worker amendment. First, I want to thank my colleague from California and my neighboring colleague from Georgia for addressing this issue.

Currently there is a shortage of farm labor in many parts of this country. This is definitely the case in my home State of Georgia. A major reason for this shortage is clear. The U.S. Government's welfare system has lowered the work ethic in many areas of the labor market and has almost ruined the farm labor. As a result of this shortage, farmers are forced to import laborers from other countries.

Until we break the cycle of dependency on the Federal Government, their will continue to be a great need for seasonal agricultural labor. American farmers should not be forced to bear the burden of misguided social programs. In fact, Mr. Chairman, farmers tell me it is difficult for their paycheck to compete with that of the welfare check.

This guest worker amendment offers a viable remedy. It establishes a process through which farmers can acquire legal immigrant labor when no domestic workers are available. Bear in mind that under this amendment, farmers must still look to the domestic market labor first.

This amendment will provide a means to track and ensure the return of imported laborers, something the existing program does not do. Additionally, the number of immigrants brought in is based on need, which will vary from year to year.

Further, the amendment extends work visas for a maximum of only 10 months and the program bans aliens who overstay from future participation. As an additional incentive, 25 percent of the laborer's paycheck is withheld until they return home.

On another point, Mr. Chairman, the recent farm bill removes many restrictions on how much farmers will be able to plant. As a result, farm production will dramatically increase over the next few years, creating a greater need for farm labor than ever before.

I urge my colleagues to support the Pombo-Chambliss amendment. It will help the farmers throughout this country obtain labor because they do not have the labor force today to draw from.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. KINGSTON].

□ 1735

Mr. KINGSTON. Mr. Chairman, I thank the gentleman from California for yielding me time.

Mr. Chairman, I support the Pombo-Chambliss amendment, but, you know, it is not my first choice and it is not the first choice of the farmers in Georgia. The first choice of the farmers in Georgia are American workers, and the Pombo-Chambliss amendment will not change that a bit. American workers will still get the first crack at these jobs.

But, sadly, if you ate fresh fruit or vegetables today at lunchtime, whether you were in New York, Washington, DC, New Jersey, or Georgia, those vegetables probably were picked not by a migrant worker, but probably by an illegal alien. The Pombo-Chambliss amendment responsibly addresses this problem by allowing guest workers to come over here, but, unlike the current broken system, it withholds some of their pay, so that when they return home, then they get the rest of it.

This is a responsible choice, but, again, it is a second choice. The first choice of the American farmers is the same choice as the American people, and that is welfare reform.

In Glennville, GA, a small town in the First District that I represent, an onion farmer told me recently that he pays $9 an hour for people to pick Vidalia onions, but he cannot get Americans to do the work because they make too much money enjoying the public largesse that we call welfare reform.

We have a President who was elected, among other reasons, because he promised to end welfare as we know it. Well,

so far he has not submitted a welfare reform bill, and he has vetoed the only one that came across his desk.

I believe that the choice of the American farmers is still going to be American workers. Then they want welfare reform. But in the absence of that, support the Pombo-Chambliss amendment, because it is our only chance to assure an abundant food supply and having it picked today and on your plate fresh tonight at dinner time.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I simply would point out that in San Joaquin County, the home county of my friend from California, the author of the amendment, unemployment is 12.2 percent. In the counties of the gentleman from Georgia [Mr. KINGSTON], who just spoke, rural unemployment is 19.3 percent, 11.9 percent, 10.4 percent, and 10.3 percent.

Mr. Chairman, I yield one minute 45 seconds to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, this amendment must be rejected because it simply is ludicrous on its face.

The American public watching this debate must wonder if we have lost our minds. We spend a day-and-a-half trying to decrease illegal immigration into the country. We have spent months trying to reform the welfare system. The entire country is worried by wage anxiety and their jobs.

Now we have an amendment on the floor that allows you to drive down wages of American workers, allows you not to employ American workers who are desperately looking for jobs, and undermines the idea of taking able-bodied Americans and putting them to work and taking them off of welfare. That is what this Pombo amendment does.

For the employer, they self-certify. They say, "I cannot find anybody; bring my workers from Mexico or some other country." We know in a highly regulated program that those people overstay their visa six times what tourist or education visas overstay.

We are asking for illegal immigrants. The notion that somehow you are going to say to people, "Well, just go home," we have people now who risk their life, pay thousands of dollars to come here, with no job. Now we bring them here with a job for 10 months, we pay them, and we say, "By the way, would you mind going home?"

Have you lost your mind? Have you simply lost your mind with respect to what is a concern of the American public? Are you so deep into the agribusiness corporations of this country that you cannot see what bothers Americans when they see unemployment rates of 19 percent? Our Central Valley runs double digit unemployment rates around the year, and you want to bring in people to take away their jobs?

We have people in the gentleman's district and Mr. DOOLEY's district and my district and Mr. CONDIT's district sitting on the streets looking for work. Your answer is to say open the borders, to say, "Come here, we will pay your way, and we will hope you go home?"

"We hope you go home?" No, this is unacceptable.

Mr. POMBO. Mr. Chairman, I yield myself one minute to respond to my colleague from California.

Mr. Chairman, it is very interesting that the gentleman is so concerned about the unemployment in my districts, after he stole all the water from my farmers. It is very interesting that all of a sudden he is interested in the unemployment in my district, when he tries to shut down my farms through the Endangered Species Act or Clean Water Act. All of a sudden he is interested in the unemployment in my district.

I am sure that the gentleman misspoke when he said that we were going to hope that they go home. They are required to go home. And if he wants to know what the American people are really angry about, I think it is partly what has gone on on this floor today.

We have got half these guys down here who want to give them welfare, who want to give them anything that they want, but if they want to come in and work, oh, we do not want that. We do not want anybody to come in and work. But if they want welfare, if they want free education, if they want free medical care, all of that, hey, that is all right. That is fine. But if they want to work, oh, no, no, no, this program is crazy.

Now, we are talking about good, decent people who want a job and want to come in and work, and there is nothing wrong with that.

Mr. BERMAN. Mr. Chairman,. I yield 45 seconds to my friend, the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I thought the whole purpose of this bill was to cut down people coming into this country. I voted against NAFTA because I did not want to send American jobs to Mexico. Unfortunately, the majority voted to send American jobs to Mexico. But the only thing worse than NAFTA is bringing in a bunch of Mexicans to take American jobs.

Now, that is what this is all about. If you are for your folks, vote against it. If you are for those folks, vote for the Pombo amendment.

Mr. POMBO. Mr. Chairman, I yield 4 minutes to the coauthor of this amendment, the gentleman from Georgia [Mr. CHAMBLISS].

Mr. CHAMBLISS. Mr. Chairman, I rise today and urge my colleagues to support the Pombo-Chambliss amendment, which establishes a pilot program for temporary agricultural workers in this country. This amendment would allow farmers all over the country to harvest their crops using a workable program.

The farm labor shortage is not a California problem, it is not a Georgia problem, it is a nationwide problem. In the Southeast alone we have seen increased production of fruits and vegetables in the last 10 years. This has greatly impacted the farm labor situation in my State. These seasonal crops are handpicked crops: Peaches, tomatoes, other vegetables, tobacco.

In the past, the farm labor consisted of generations of family members living on the farm and working on the farm. Those family farms are disappearing. Therefore, the labor pools are disappearing. Farmers desperately need workers who are willing to work seasonally. But to use this program, this legislation requires that the farmer first look to the American people for those workers. If they can find American workers to do the work, they must hire Americans. But, unfortunately, that is not the case. They are simply not able to find those workers.

This amendment solves other problems, too. No. 1, it is temporary. They can work for no more than 10 months at a time. Second, it circumvents a crop disaster by allowing farmers to plant and harvest their crops in a timely manner. Third, and most importantly, it requires that the guest workers that are allowed in legally, that are now coming in illegally, to return home in order to get the 25 percent of their paycheck that is withheld. We do this with the understanding that those workers must go home.

Why is this amendment needed? The reason is very simple: The current system simply does not work, and that is why we need a new system put in place that will allow our farmers a strong supply of workers to harvest their crops.

Now, the gentleman from California [Mr. THOMAS] hit this on the head a little bit earlier. Folks, this is 1996. We have talked about old programs that do not work anymore or old programs that cause problems. This is 1996. If those folks who have gotten up here and have read these figures that some bureaucrat in Washington put together, and I am sure I am fixing to hear in my home county there is an unemployment in the rural areas of *x* percent, let me tell you, if those same folks that believe those figures will go home and talk to their farmers, like I do every weekend when I go to Colquitt County or Bacon County or Berrien County or Bleckley County, those farmers are the ones that I care about and they are the ones that tell me I cannot get my crops harvested without using these workers.

Now, if as the opponents of this bill suggest, that there is a large pool of

VOL
142
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workers out there to draw from, then the provisions of this bill will not take effect, and I do not understand why they oppose it on that basis. If there are American workers that want to go to work, the farmers must put them to work. But first of all, in my State the Georgia Department of Labor must certify that there is a shortage of workers in the rural areas where the application for the provisions of this bill are asked to take effect.

If there is a shortage declared, only then may this bill come into effect. And even then there must be a notice posted that this bill, there are workers coming in to perform this certain agricultural work. If there are farmers that come in and say hey, I see where in the case that the gentleman from Georgia [Mr. KINGSTON] referred to, that the farmer is willing to pay me $9 an hour to pick onions, that job must go to an American worker. But I can tell you, folks, you are sticking your head in the sand if you think that American workers are out there to do the work.

Please pass this bill. It is a good bill. It is going to make this program workable.

Mr. BERMAN. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California is recognized for 1 minute and 45 seconds.

Mr. BERMAN. Mr. Chairman, the arguments we just heard in this Chamber are the same arguments that were given to justify slavery before the Civil War. If we could find American, or in that case, free people, to do the work, we would not need to rely on slaves.

Let me tell you, this is the most audacious amendment I could imagine on this bill, because this is an amendment that in the name and in the context of trying to do something meaningful about illegal immigration, creates a program which is going to result in the most massive entry of guest workers who every economist in agriculture will tell you are one-way immigrants. The overstay rate, even in the highly, tightly regulated H–2A program is six times as high, six times as high, as the overstay rate for tourists, students or people here on other nonimmigrant visas.

You are opening up a blatant, massive loophole in a serious effort to try and do something about illegal immigration. And what for? Rather than figuring out the ways to the reform of the welfare system, through the utilization of the 1.1 million agricultural workers legalized in 1987, through the recruitment, the training, the effort, private and public, to help agriculture get more U.S. workers doing this particular work.

The unemployment rates in these counties are astoundingly high. There is a massive surplus. The Department of Labor says at any given time, 190,000 agricultural workers are unemployed, 12 percent unemployment rates at the peak season in agriculture.

Please defeat the Pombo amendment. Do not undermine this bill like that. Do not destroy American jobs like that.

Mr. POMBO. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California is recognized for 2 minutes.

Mr. POMBO. Mr. Chairman, I would just like to conclude by saying that this program that we are trying to adopt is needed. There is a shortage of legal labor in America today. But if my colleague is correct and there is no shortage of labor, then this program will never be used, because they would have to certify that there is a labor shortage, that there is no domestic workers who are able and willing to do the work.

□ 1745

They would have to certify that they could not find domestic workers to do the work. They would have to meet all Federal, State, and local labor laws in order to employ people under the guest worker program.

We have heard a lot about illegal immigration. This is not illegal immigration. This is a legal and controlled program. We have heard about the H–2A program. The H–2A program does not work, or else there would not be the need to install this type of a program.

The gentleman from Virginia [Mr. GOODLATTE] is going to bring up an amendment shortly here today to try and change the H–2A program to work, and, quite frankly, his effort fails miserably. It makes it worse than it currently is. It is not an alternative to our amendment. We have heard a lot about the 250,000 figure. That was not my amendment. That was the Goodlatte amendment that the gentleman put on in the Committee on Agriculture.

My effort was to try to develop some type of a formula that would ensure that we not have any more come in under the Guest Worker Program than was absolutely necessary.

In short, in closing, Mr. Chairman, I would just like to say we do have a problem in this country. We have a serious problem with immigration in this country. But what makes people angry, what makes people mad is those people who illegally come into the country or legally come into the country and take advantage of it, who have never provided anything and take advantage of that service.

What this program is saying is that we want to take care of our domestic issues and we want to reward those who work.

Mr. GOODLATTE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I believe the gentleman from California [Mr. BERMAN] is absolutely correct. This is an audacious amendment to this bill. Just an hour ago, we defeated the legal reforms in this legislation. We took them all out that would have had some modest reduction in legal immigration, and now what do we have? We are going to go the opposite direction and add 250,000 new workers in this country.

The gentleman is correct, the amendment that he offered in the Committee on Agriculture had no limit. I offered an amendment to put the 250,000 cap on it. Before that it had no limit. It could have had half a million new workers, as one of the people from California who testified in the committee indicated would occur. We would have a half a million new workers. We could have a million new workers. This undercuts the rights of the American people and we cannot accept an amendment like this.

We have a program right now, the H–2A program for agricultural workers. It allows no limit. It has 17,000 participants. The gentleman from California [Mr. POMBO] and others have complained that it is not an effective program. I have offered six modifications of that program, so many that I am sure the gentleman from California [Mr. BERMAN] thinks I have offered too many. Yet, the gentleman says my amendment makes it worse. It does not do that. It improves the program considerably.

There has been, unfortunately, material circulated that claims that we add to the burden of farmers with regard to the three-quarter rule. We do not do that. We improve the three-quarter rule to say that, if you bring workers into the country under the current program and they work less time than contracted because of weather conditions or pests, that they do not have to be paid for that portion of the time. My amendment improves the current law and makes it workable.

We do not need an amendment that increases the number of people authorized to work in this country by the enormous amount that this program or before it was modified to even higher amounts. We need to reform immigration, not open it wide open. We have very high unemployment in many, many rural areas in this country. We need to also take into account the fact that with welfare reform we are going to be asking millions of Americans to leave the welfare rolls and to take work.

Mr. Chairman, now is not the time to increase immigration. Now is the time to defeat this amendment.

Mr. HASTINGS of Washington. Mr. Chairman, I rise in strong support of the Pombo-Chambliss amendment to implement an effective guestworker program

Mr. Chairman, my constituents in central Washington State are no different from the great majority of Americans who support immigration reform. But my constituents realize that our biggest industry—agriculture—must be protected.

The fact of the matter is that agriculture is a seasonal business. Pruning, thinning, and harvesting all have their time throughout the year. These activities are labor intensive. And the labor required has historically been migrant labor. To not recognize this basic fact places a huge burden on the largest industry in Washington State.

The Pombo-Chambliss amendment addresses this concern and, at the same time transfers the enforcement burden to the Department of Labor to correct what was a shortcoming of the 1986 Immigration Reform and Control Act.

At the same time, in conjunction with a strengthened Border Patrol, the Pombo amendment would reduce illegal immigration by providing incentives for seasonal workers to comply with our immigration laws.

I strongly support this commonsense proposal, and encourage my colleagues to vote "yes" on the Pombo-Chambliss amendment.

Mr. CLAY. Mr. Chairman, I rise to oppose the Pombo-Chambliss amendment.

This amendment seeks to establish a new agricultural guestworker program, not in place of the existing temporary agricultural worker program, but in addition to it.

Recently, the bipartisan commission on immigration reform, chaired by our former colleague, the late Barbara Jordan, studied the issue of introducing a new agricultural guestworker program and reached an unambiguous conclusion.

> The Commission believes that an agricultural guestworker program, sometimes referred to as a revisiting of the "bracero agreement," is not in the national interest and unanimously and strongly agrees that such a program would be a grievous mistake.

The amendment before us would increase illegal immigration, reduce employment opportunities for U.S. citizens, and depress the wages and working conditions of U.S. farmworkers.

The current ·H–2A program includes preferences for and protections of U.S. workers. This amendment substantially weakens those protections by providing an alternative means of bringing in foreign workers, regardless of whether a true labor shortage exists.

Current law ensures that foreign workers are not brought into the United States for the purpose of undermining the wages and working standards of U.S. agricultural workers. The Pombo-Chambliss amendment would ensure that foreign workers will be brought in for just that purpose.

Current law requires employers to provide housing and transportation to agricultural workers, areas where the documented abuse of migrant workers has been greatest. This amendment effectively wipes out those protections.

It is hard to imagine a more nefarious proposal. I urge its defeat.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Pombo/Chambliss amendment modifying the agriculture guestworker program to allow more guestworkers to enter the country. It does not make sense that a bill which aims to limit immigration would endorse a program that loosens immigration restrictions.

There is no evidence of a shortage of agricultural workers in the United States. Almost half of the farmworkers in the U.S. currently cannot find work in agriculture. This amendment makes it easier to hire alien temporary workers than under current law, which would make that unemployment problem worse.

This amendment very clearly promotes the unemployment of American agricultural workers and the exploitation of foreign agricultural workers. It will result in denying jobs to U.S. farmworkers, decreasing wages and unsafe working conditions. The amendment provides weaker worker protection than the current H–2A program.

Under this amendment, employers would no longer be responsible for housing for guestworkers. Since affordable farmworker housing, especially in my home State of California, is in short supply, we would be ensuring an increase in homelessness.

The Pombo/Chambliss amendment is not fair to the American farmworker or the foreign worker. I urge my colleagues to vote against this amendment.

Mr. RICHARDSON. Mr. Chairman, this amendment is a big paradox.

The main purpose of the Immigration in the National Interest Act of 1995 is to reduce, specifically, illegal immigration and secure jobs for Americans. Yet, the Pombo/Chambliss amendment does exactly the opposite. It exacerbates the very problems that this bill is trying to correct.

This amendment would modify the current temporary agriculture worker program known as H–2A to make it easier for agricultural companies to bring in hundreds of thousands of new, exploitable workers to harvest the Nation's crops.

This will increase illegal immigration, will increase unemployment of American workers and will exploit guestworkers.

According to immigration experts, past guestworker programs, like the bracero program, led to today's illegal immigration problems since it permitted the so-called braceros to establish networks that allowed them to continue their employment after the termination of their contract.

Furthermore, this amendment does not protect American farmworkers from the stagnation and decline in prevailing wages caused by the presence of foreign workers.

In addition, this amendment does not ensure that American workers are recruited before employers seek foreign help. Instead, it removes the statutory regulation to locate qualified U.S. workers before employers are allowed to hire foreign workers.

The amendment would also hurt foreign farmworkers since it has no requirement for growers to provide transportation, housing, and written contracts to the guestworkers.

In short, there is absolutely no reason to support this amendment which would increase illegal immigration, deny jobs to U.S. farmworkers, degrade working conditions and allow abusive treatment of foreign workers.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from California [Mr. POMBO], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. POMBO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 242, not voting 9, as follows:

[Roll No. 85]

AYES—180

Armey
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bevill
Bilirakis
Bishop
Bliley
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Callahan
Calvert
Camp
Campbell
Canady
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Deutsch
Dickey
Dooley
Doolittle
Dreier
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Forbes
Fox
Funderburk
Gallegly
Gekas
Gillmor
Gilman
Goodling
Gordon
Graham
Greenwood
Gunderson
Gutknecht
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Houghton
Hutchinson
Inglis
Johnson (CT)
Jones
Kelly
Kim
Kingston
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Pickett
Pombo
Pryce
Quillen
Riggs
Roberts
Rose
Salmon
Sanford
Saxton
Schaefer
Seastrand
Shadegg
Shuster
Sisisky
Skelton
Smith (MI)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stump
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Walker
Walsh
Watts (OK)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—242

Abercrombie
Ackerman
Allard
Andrews
Archer
Bachus
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bilbray
Blute
Boehlert
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Burton
Buyer
Cardin
Castle
Chabot
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dornan
Doyle
Duncan
Durbin
Edwards
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)

VOL
142
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Filner
Flake
Flanagan
Foglietta
Foley
Ford
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gonzalez
Goodlatte
Goss
Green
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hefley
Hilliard
Hinchey
Hoke
Holden
Horn
Hostettler
Hoyer
Hunter
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
Klug
LaFalce
Lantos
Largent
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
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Molinari
Mollohan
Moran
Murtha
Nadler
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sawyer
Scarborough
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Skaggs
Skeen
Slaughter
Smith (NJ)
Smith (TX)
Stenholm
Stockman
Studds
Stupak
Talent
Tate
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Wamp
Ward
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Williams
Wilson
Wise
Woolsey
Wynn
Yates
Zimmer

NOT VOTING—9

Clay
Collins (IL)
Hayes
Johnston
Moakley
Radanovich
Stark
Stokes
Waters

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Messrs. PARKER, HEFNER, PICKETT, LAZIO of New York, and EWING changed their vote from "no" to "aye."

So the amendment, as amended, was rejected.

The result of the vote was announced as recorded.

The CHAIRMAN. It is now in order to consider amendment No. 24, printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. GOODLATTE

Mr. GOODLATTE. Mr. Chairman, I offer an amendment.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GOODLATTE: After section 810, insert the following new section (and conform the table of contents accordingly):

SEC. 811. CHANGES IN THE H-2A PROGRAM.

(a) PLACING RESPONSIBILITY FOR CERTIFICATION WITHIN THE INS.—Section 218 (8 U.S.C. 1188) is amended—

(1) by striking "Secretary of Labor" and "Secretary" each place either appears (other than in subsections (b)(2)(A), (c)(4), and (g)(2)) and inserting "Attorney General"; and

(2) by amending paragraph (3) of subsection (g) to read as follows:

"(3) There are authorized to be appropriated for each fiscal year such sums as may be necessary for the purpose of enabling the Attorney General and the Secretary of Labor to make determinations and certifications under this section and of enabling the Secretary of Labor to make determinations and certifications under section 212(a)(5)(A)(i).".

(b) REDUCTION IN TIME REQUIRED FOR POSITIVE RECRUITMENT.—Section 218 (8 U.S.C. 1188) is amended—

(1) in subsection (b)(4), by adding at the end the following: "The employer shall not be required to engage in positive recruitment for more than 20 days.", and

(2) in subsection (c)(1), by striking "60 days" and inserting "40 days".

(c) ELIMINATION OF 50 PERCENT RULE.—Section 218 (8 U.S.C. 1188(c)(3)) is amended by amending subparagraph (B) to read as follows:

"(B) An employer is not required, in order for its labor certification to remain effective, to provide employment to United States workers who apply for employment after the end of the required period of positive recruitment.".

(d) PERMITTING HOUSING ALLOWANCE.—Section 218(c)(4) (8 U.S.C. 1188(c)(4)) is amended by inserting "(A)" after ".—" and by adding at the end the following:

"(B) In lieu of offering housing under subparagraph (A), an employer may provide a reasonable housing allowance, but only if housing is reasonably available in the area of employment.".

(e) MODIFIED ¾ RULE.—Section 218(c)(3) (8 U.S.C. 1188(c)(3)) is amended by adding at the end the following new subparagraph:

"(C) An employer, in order for its labor certification to remain effective, shall guarantee to offer an H–2A worker at least 8 hours of employment in each of at least ¾ of the workdays in which the task (or tasks) for which the H–2A worker was hired to perform are being performed. The employer is not required to guarantee to offer an H–2A worker employment in any portion of the total periods during which the work contract and all extensions thereof are in effect.

(f) CAP.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended)

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) under section 101(a)(15)(H)(ii)(a) may not exceed 100,000, or".

(g) EFFECTIVE DATE.—The H–2A amendments made by this section shall apply to applications for certification filed on or after October 1, 1996, and to fiscal years beginning on or after such date.

The CHAIRMAN. Pursuant to the rule, the gentleman from Virginia [Mr. GOODLATTE] and a Member opposed each will be recognized for 15 minutes.

The Chair recognizes the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, many of the Members from agricultural areas noted problems with the H–2A agricultural worker program that currently exists.

□ 1815

Mr. Chairman, this amendment is an amendment to the current guest worker program, the H–2A program. My amendment will significantly improve it. I have listened to the concerns of the growers who have come to speak to me and have streamlined the guest worker program that now exists to make it more grower-friendly.

Unlike the changes proposed by the gentleman from California [Mr. POMBO] to the guest worker program, my amendment does not create a new program. It fixes the current one. In addition, it works within the spirit of the bill by fixing the number of aliens allowed into the country at 100,000. Why do we have a 100,000 cap? Because even though only 17,000 workers used this program last year, we are making significant improvements to the program, and want to make sure that we do not have an unreasonable number of people utilizing this program from outside of the country.

In recent years, about 17,000 farm workers have been granted visas each year under the H–2A guest worker program. The Goodlatte amendment provides for an increase to 100,000 workers. This will more than meet any needs of fruit and vegetable growers that are not being met by domestic farm workers.

Many fruit and vegetable growers assert that the big problem with the H–2A program is that the Department of Labor administers in bad faith, intending to make it unworkable and unattractive to growers. My amendment transfers the certification process from the Department of Labor to the Immigration and Naturalization Service. This move will ensure that the fundamentally sound H–2A program is administered fairly.

Growers also complain that it takes too long to get workers under the current H–2A program. They must file applications at least 60 days before the date of employment. My amendment slashes this period by 33 percent and creates a 40-day application period. it will ensure growers the workers they need when they need them.

The Goodlatte H–2A guest worker compromise amendment modifies the three-quarter guarantee to answer the concerns of growers. Under the current H–2A guest worker program, growers must pay guest workers for 75 percent of the agreed work contract period, and under 20 CFR section 655, they must pay an average of at least 8 hours of work a day for that 75 percent period, even if the harvest is cut short by weather or pests. A copy of this three-quarter guarantee regulation is available to those who would like to see it, because there has been a suggestion

that we make the three-quarter requirement more onerous. Actually, we make it better.

The Goodlatte amendment requires that the grower pay his guest workers for three-quarters of the time the harvest actually takes. This ensures that growers hit by setbacks are not further burdened. Under Goodlatte, they will still have to pay for 8-hour workdays, just as they do now, but for a fewer number of days if their harvest period is shortened.

The Goodlatte amendment will prevent growers from having to pay guest workers for days that they do not work if the contract period is cut short. My amendment repeals the unfair 50-percent rule. Fruit and vegetable growers have told me that the H–2A program's 50-percent rule is patently unfair. The rule requires a grower to hire any domestic farm workers who apply for work under the H–2A guest worker program, as long as they have completed half their work contract period, even if the grower already has all the workers needed. My amendment repeals this rule.

My amendment also allows growers to pay a housing allowance. Fruit and vegetable growers want to be allowed to pay actual housing. The Goodlatte amendment permits housing allowances. If housing is reasonably available in the area, guest workers will not be forced into homelessness.

Mr. Chairman, I urge Members to support this amendment. It addresses the concerns of the agriculture community, but does not allow our borders to open for one segment of the economy. The Goodlatte amendment controls illegal immigration while providing our fruit and vegetable growers with the labor they need to harvest their produce. I urge the adoption of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the Goodlatte amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] is recognized for 15 minutes.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, earlier today I expressed my vehement opposition to the Pombo amendment. I rise now to voice my strong opposition to the Goodlatte amendment.

The proponents of this amendment would have us believe that it addresses the problems contained in the Pombo amendment and therefore, it is a more moderate, more acceptable proposal. In short, it's being sold as Pombo "Lite."

Don't be fooled by the packaging. The Goodlatte amendment is just as bad as Pombo and maybe worse.

Mr. Goodlatte is seeking to make it easier for agribusiness to bring foreign workers into the United States. Simultaneously, the amendment would eliminate, I repeat, eliminate essential worker protections that exist under current law.

The Goodlatte amendment would eliminate the requirement for employers to seek qualified U.S. workers through State employment services.

The Goodlatte amendment would eliminate the requirement to provide housing for their foreign workers. Employers, who are now required to provide housing for their workers, would only be required to give a housing allowance. But only if housing is reasonably available in the area.

Don't you believe it.

I've worked in the labor camps that these guestworkers would be herded into. Yes, that was some years ago, but conditions have not changed. They don't have running water or indoor plumbing, they crowd dozens of workers into unheated hovels. In short, the growers literally enslave these workers to reduce their overhead and increase their profits. Just how long do you think these guestworkers will endure these squalid conditions before they escape to seek a better life? How long do you think it will take for these hardworking and industrious guestworkers to find that there are better paying jobs and better conditions under which to work?

It's time to treat agribusiness like the other industries—make it compete for labor and pay fair wages to U.S. farmworkers.

I urge my colleagues to vote no on this misguided amendment.

Mr. GOODLATTE. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. SMITH], chairman of the Subcommittee on Immigration and Claims of the Committee on the Judiciary.

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I urge my colleagues to support the Goodlatte amendment. We already have an agricultural guest worker program. It is called the H–2A program. The Goodlatte amendment makes needed changes. It ensures a program that works for farmers and yet one that retains the bedrock protections for American workers.

The Goodlatte amendment responds to the complaints from fruit and vegetable growers and the complaints that they have lodged against the H–2A program. There is a widespread belief among growers that the Department of Labor administers the program in bad faith, intending to make it so unworkable that it will not be used. The Goodlatte amendment transfers the upfront certification process from Labor to the INS. This move will ensure both that growers get the workers they need, and that program abuse will not go uncorrected.

Mr. Chairman, growers complain about the time it takes to get H–2A workers, that they must file applications at least 60 days before the date of need. The Goodlatte amendment cuts this period by 20 days. It ensures growers will get the workers they need when they need them.

Growers believe the current 50 percent rule is unfair. The rule requires a grower to hire any domestic farm workers who apply for work until the H–2A guest workers have completed half their work contract period, eve if the grower already has all the workers needed. The Goodlatte amendment repeals this rule.

Growers also complain about the H–2A program's three-quarters rule. This rule requires that they pay guest workers for 75 percent of the agreed work contract period, even if the harvest is cut short by weather or pests. The Goodlatte amendment requires that a grower pay his guest workers for three-quarters of the time the harvest actually takes. This assists growers hit by setbacks while protecting guest workers.

Fruit and vegetable growers want to be allowed to pay guest workers a housing allowance instead of having to build actual housing. The Goodlatte amendment permits housing allowances if housing is reasonably available in the area. This ensures that guest workers will not be forced into homelessness.

The Goodlatte amendment sets a ceiling of 100,000 guest workers per year. In recent years, about 17,000 to 19,000 aliens have been granted visas under the H–2A program. This ceiling is large enough to meet the needs of farmers who want to replace illegal workers with legal workers. By keeping the requirement of recruiting and hiring U.S. workers first, the Goodlatte amendment would meet the needs without undermining U.S. immigration policy and harming domestic workers.

Mr. Chairman, I urge my colleagues to vote yes on the Goodlatte amendment. It is good for guest workers and it is good for growers.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would ask the gentleman from California [Mr. TORRES] whether or not his vehement opposition to Pombo is stronger than his strong opposition to Goodlatte.

Mr. TORRES. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. TORRES. Mr. Chairman, I would say to the gentleman, a little bit.

Mr. CONYERS. I would ask the gentleman, a little bit what?

Mr. TORRES. A little bit more.

Mr. CONYERS. The gentleman objects to the Pombo amendment more

VOL 142 PT 5 MR 21 — 29 1996 UMI

than the Goodlatte amendment, or the Goodlatte amendment more than the Pombo amendment?

Mr. TORRES. Mr. Chairman, I object to both of them. I think it is an equal state. Goodlatte has new packaging. It is Pombo Lite.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. BERMAN], a member of the Committee on the Judiciary.

Mr. BERMAN. Mr. Chairman, I thank the ranking member of the Committee on the Judiciary for yielding me 3 minutes.

Mr. Chairman, I am glad the ranking member did not ask me that question, because the gentleman from Virginia [Mr. GOODLATTE], the sponsor of this amendment, was eloquent and effective in his opposition to the Pombo amendment, and I am very grateful for this.

Mr. Chairman, the problem with his amendment here, because I know it was well-intentioned, because I know how he wants to handle these issues, but the problem is that it fundamentally erodes and existing requirement in the H–2A program that U.S. workers have priority. We can debate whether that makes sense or not, but to me, when we get rid of the 50-percent rule, we get rid of the requirement that a U.S. worker who comes for a job gets priority over the guest worker coming from the foreign country.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, the difference between the current H–2A program and the Pombo amendment is that the H–2A program requires an independent third party to certify whether there is a need for the workers. That is the big objection to the earlier legislation that we just defeated.

The difference here is that we have to have an independent party, the U.S. Government, certify that workers are needed. If they certify they do not have them, what difference does it make whether or not there is a 50-percent rule? It is unfair, if an independent party says there are not sufficient workers available, to tell a grower that they cannot use more than 50 percent labor.

Mr. BERMAN. Reclaiming my time that I so generously yielded the gentleman, Mr. Chairman, the way the gentleman has written this amendment, first of all, Mr. Chairman, the gentleman is absolutely right; one major difference is that that was a self-attest anticipation. "Growers, say certain things, get workers." This requires an independent, no longer Department of Labor, if I recall correctly, but an independent Government certification.

But the gentleman cuts off the growers' obligation to recruit U.S. workers 20 days before the season even begins. When you are dealing with migrant workers, they know the patterns of labor in this area. They come into an area to get hired just as you get into the peak harvest season. By eliminating the obligation to hire U.S. workers 20 days before the start of the growing season, and we do not need to be doing that, we are wiping out, in effect, the priority for U.S. workers. That is the problem I have.

Under the existing situation, that priority still exists. The Department of Labor certifies whether or not there will be a need, but if U.S. workers show up, U.S. workers have priority. I think U.S. workers should have priority in these kinds of programs.

In addition, Mr. Chairman, the fundamental change the gentleman is making, right now they have to provide housing for farmworkers. By giving this allowance, the gentleman knocks out the housing requirement. He makes an assumption there will be housing available.

□ 1830

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume to respond to the gentleman from California.

Mr. Chairman, I agree with the gentleman 100 percent that U.S. workers should have the priority in every instance. But the fact of the matter is that while we still require them to actively recruit and we should require them to actively recruit U.S. workers, it has to be done in such a fashion that once that recruitment period is over, there is a reasonable amount of time to get the paperwork processed and get workers there when they have actively recruited and have not been able to get those workers.

My amendment simply requires that they have a little more time, 20 more days, to get that paperwork processed and get the workers there. We have had many instances, in fact some of the people on the other side of the last amendment spoke about the fact that they go through the process, by the time all the work is done they are halfway through the harvest season and they do not get the opportunity to get the workers when they need them.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I will be very quick. What do you do? All right, you have made a recruitment, you do not think you have workers available, it has been certified by the Government. As you are approaching your harvest season, 150 U.S. workers coming from the earlier crop show up. Are these people turned down because 10 days from now they will be getting some foreign guest workers? Do they turn these U.S. workers down and say, "No, no job available for you because I've already gotten approval to bring in 100 foreign guest workers?"

It is all how you want to balance this thing. When you are dealing with people who make on an average of $5,000 a year, they are our lowest paid workers, I think we have been tilting so heavily on the side of agribusiness that this is one little protection they have. Do not eviscerate that. That is my problem with your amendment.

Mr. GOODLATTE. Mr. Chairman, I respect that, but, reclaiming my time, let me say two things.

First of all, given the fact, as we have heard all day here, that there is a need for workers, those workers are going to find employment.

Second, if you have already entered into a contractual relation with somebody to have somebody come and do some work because you have established that you could not find a U.S. worker, what are you going to do when those people arrive?

That is the bottom line. You have got to have an arrangement in advance. You have got to give U.S. workers the maximum opportunity to have an opportunity to apply for the job. But then once they apply and you hire them, and you still have a need for additional workers and you enter into a contractual relationship, you have got to be able to enter into that contract and have a reasonable amount of time to get that processed before they come.

That is all we are asking with that amendment. It is eminently fair, both to the U.S. workers who can also enter into contracts and get the priority, but if they do not, then the farmer has the opportunity to get the work in a timely fashion, so that they get it and get the crop harvested. That is all we are asking for. It is eminently reasonable and I would think the gentleman would accept it.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, we have a guest worker program. It is now called the H–2A program, it used to be called the H–2 program. It has certain conditions. This year, 17,000 agricultural workers came in under those requirements.

The difference between 17,000 and it shooting up in the case of your amendment to the 100,000 cap is the balance and retention between the potential for domestic workers. The moment you cut off the requirement to hire 20 days before the season starts, in every situation what you will find is the department saying, "Since I can't promise them X number of workers when that season starts, I'm going to have to grant his petition.

The only thing that keeps this process honest is the requirement to continue to recruit, to prioritize and hire

U.S. workers if they show up, and to hire them at any point 50 percent through the season. Fifty percent through the season was done for the benefit of the growers. Once the guy had been there for 50 percent of the time, do not displace him because somebody now showed up. Let them finish the entire season.

You are taking what was done for the benefit of the growers and you are totally repealing it, and that is the big problem I have with your amendment.

Mr. CONYERS. Mr. Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the fact of the matter is, as the gentleman well knows, we put a cap on this program to make sure that there was a limitation because of the fact that with only 17,000 using it right now, we know that there are far more people than that out there who would utilize it, who are utilizing illegal immigrants right now. Therefore, we wanted to make sure that we had every encouragement on growers to have every effort made to recruit U.S. workers. And they are going to have to make every effort to recruit U.S. workers if, as they say, they use a half a million illegal immigrants right now.

So the 100,000 cap is, I think, a very, very stringent cap, but also we have to make the program usable within that cap. Obviously, with 17,000 legal workers and a half a million illegal workers, we do not have a reasonable program right now. So let us modify the program, make some improvements, and still protect U.S. workers.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the one problem with the amendment that my friend from Virginia has not discussed is that it eliminates the requirement to provide workers with free housing. The H–2A employers must provide or pay for housing for their workers. This amendment replaces the housing provision with a housing allowance but, quote, only if housing is reasonably available in the area of employment, end quote.

I find that restrictive, onerous and another sop to the growers, who probably would rejoice in having us revisit this measure as we did in 1986.

I think that we have got a problem here. It is tough enough to get Americans to do this kind of labor, and to make it harder for them to get under the program by the eliminations or restrictions around the recruiting process I think is not good. I will not say it is un-American, but it sure does not help the few Americans that want to work in this very onerous area.

Remember, the pay is bad, the conditions are horrible, the work is temporary. Maybe that is why we have to bring in people to work on it. So the few Americans that are willing to work in this field, I would encourage them to do so.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Virginia.

Mr. GOODLATTE. I thank the gentleman for yielding.

Mr. Chairman, the important thing to note here is that only in places where housing is widely available do we allow a grower to issue a housing allowance instead of to provide the housing itself. That is only a matter of flexibility, not only for the grower but also for the worker. Because if you are providing them with an allowance, they then have the opportunity to choose the housing they want rather than the place that the grower might choose for them and assign to them. I think it makes far more sense to give that kind of flexibility for the benefit of both the worker and the grower.

Mr. CONYERS. I appreciate that. I have heard this kind of argument that we know what is best for the workers. They do not want this. Their organizations that support them do not want it. But really if they need it, they would be happy to have it.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. BERMAN. Our real difference is you say 17,000 guest workers, half a million illegal immigrants working in our fields. Got to do something. I say we legalized 1.1 million agricultural workers in 1986. We have double-digit unemployment in almost every rural county in America, astronomical unemployment in the areas that most want this, Western agriculture, and what we need to do is the government working with agriculture, welfare reform, going back to the people who left the fields and who know how to pick.

This is honorable work. There are Americans who will do this work if they do not have alternatives, and if there is decent pay and good working conditions. This should be our focus, not trying to figure out how to do this guest worker thing where they really do not go back. I mean, huge numbers we lose. That is the problem. I think that should be our focus.

Mr. CONYERS. Mr. Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not disagree with anything the gentleman says. The fact of the matter is, though, the difference between 500,000 and 100,000 is 400,000 people. There is plenty of room there to work on welfare reform and improving opportunities for U.S. citizens, and we certainly want to do that.

The problem is, and you have acknowledged earlier that the current H–2A program does not work well and, as a result, reforms are needed. We disagree on exactly what those reforms should be, but if we have a program and it only utilizes 17,000 people but there are a half a million out there working illegally, it seems to me that some reform of that program is in order.

I would appreciate the gentleman working with us on making the program work a little better, and in return I am giving you something that I would hope that you would want, and that is a cap on the program. There is no cap on the H–2A program right now. If Government works with agriculture to make this program work better without these amendments, we would have a program that had no limit on it. Let us have a good compromise that puts a cap on it but makes it more workable.

Mr. BERMAN. Mr. Speaker, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, if we had a verification system in this bill that went into effect immediately, I think the gentleman's request would be incredibly reasonable.

We have the most voluntary and ephemeral verification system left in this bill now. Do we think tomorrow there are not going to be any more undocumented workers employed in agriculture? They are not vanishing. There is no system for them to vanish.

There is no meaningful verification in this bill. The gentleman tried to get it but he lost, and I voted with him. We both lost. So when you do that verification, come back to me and I will talk to you about a good transition guest worker program.

Mr. GOODLATTE. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Why am I suspicious? The gentleman from Virginia [Mr. GOODLATTE] is a wonderful human being with whom I have enjoyed a great relationship. But there are little problems. Housing eliminates the requirement to provide workers with free housing. Then he explains, "It's for the workers' benefit, JOHN," not to worry.

Reduces the required time to recruit domestic workers. "That will help Americans, so don't worry about that."

Eliminates the 50-percent rule. "No problem," he says.

Eliminates the three-fourths guarantee. Good explanation for it.

What I am beginning to think, this is a great solution in search of a problem. And I will tell the gentleman, there is another little nervous provision in here from my point of view. The certification of the workers goes from the Department of Labor to the Immigration and Naturalization Service.

□ 1845

Does that raise a red light with anybody in this body besides me? One other person, a few more.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Look, INS is particularly unqualified to make labor certifications. They are looking for people who do not belong here. So these things, I would say to the gentleman from Virginia [Mr. GOODLATTE], make me reluctant to be enthusiastic about this amendment. As a matter of fact, it does not lead me to the strong opposition of the gentleman from California [Mr. TORRES], or the vehement opposition that he had on Pombo, but I cannot support it. I think that the arguments presented by our resident expert on the Committee on the Judiciary, the gentleman from California [Mr. BERMAN], are overwhelming and persuasive.

Mr. Chairman, I urge defeat of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, may I ask the gentleman from Michigan if he has any other speakers?

Mr. CONYERS. No, sir, I do not.

Mr. GOODLATTE. Mr. Chairman, as the gentleman from Michigan has the right to close, I yield myself such time as I may consume to conclude.

Mr. Chairman, let me say to my good friend from Michigan that I am disappointed, because it seems to me that we have lost all opportunity here to find a middle ground, to try to work together to improve a program that we both agree is a bad program. We worked together to make sure that we did not have an out of control program that allowed 250,000 new workers in the country, but now here we have an opportunity to make the program work a little better so that growers have the opportunity to meet their needs when they truly can justify them, when they can have an independent certification by a Government agency that the need exists and in exchange we put a cap on the program of 100,000 workers.

It seems to me that is fair to everybody involved, and that is what I strove to do. In fact, my offering this amendment I think was very careful in making the case that the other amendment was not needed. So it disappoints me that the gentleman would attack these modest reforms we are making, including one that simply says for both the worker and the grower, hey, why have a specific grower tell the worker where they have got to live? That is crazy. If there is adequate housing in the area, allow the worker to choose their own housing by giving them a housing allowance. It does not eliminate the requirement to give them free housing. It simply says when it is done, they both can have a little flexibility in the process.

So I think these modifications are needed by our agricultural industry in this country. I think these modifications are very reasonable and workable, and I think that this is a vast improvement over the current program. I would urge the Members of the House to support it. Let us not both defeat the amendment and leave a failed nonworkable program out there. Let us do the reasonable thing in the middle, which is to take the current program, reform it, and make it better.

Mr. Chairman, I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Michigan is recognized for 1½ minutes.

Mr. CONYERS. Mr. Chairman, more sneaking reservations continue to crop up. Let me call the attention of the gentleman from Virginia [Mr. GOODLATTE] to the fact that the growers like this idea. If the gentleman had only contacted the National Council of Loraza that represents the workers, they would have come back to you, we would not have to do what I am going to propose now.

Because of his integrity and our close working relationship on the committee, why do we not work together, as the gentleman says, and he withdraw this amendment, and I promise him, with all the good faith I can muster, that I and the gentleman from California [Mr. BERMAN], will sit with him and try to work out the program?

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I would just say, we have had this conversation. I am for trying to streamline and deal with the problems and the impediments that exist in the existing H–2A program. The administration is committed to doing that. There would be ample opportunity in the conference committee to work out a program that would be good for agriculture and be good for workers and be supported bipartisanly.

In all fairness, the gentleman from Virginia [Mr. GOODLATTE], did not discuss with us his proposal. I asked my friend, the chairman of the subcommittee, if he would involve me in alternatives to the Pombo amendment, but he did not, so we were sort of left out in the cold.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I would be very anxious to work with the gentleman on making this amendment better, but I would encourage him to support the amendment, and then we can work together to improve it.

Mr. CONYERS. Mr. Chairman, reclaiming my time, I urge opposition to this amendment.

Mr. THOMAS. Mr. Chairman, hired labor is one of the most important and costly inputs in farming. U.S. farmers spent more than $15 billion on hired labor expenses in 1992—one out of every 8 dollars of farm production expenses. For the labor-intensive fruit, vegetable and horticultural section, labor accounts for 35 to 45 percent of production costs.

The labor-intensive fruit, vegetable and horticultural specialties sector accounted for more than $23 billion of agricultural sales in 1992, an increase of 32 percent for 5 years earlier. The competitiveness of U.S. agriculture depends upon the continued availability of hired labor at reasonable cost. U.S. farmers, including producers of labor-intensive perishable commodities, compete directly with producers in other countries for market share in both U.S. and foreign commodity markets.

U.S. farmers are producing for global markets and competing at world market prices. More than one-third of U.S. fruit and vegetable production is now exported. On the other hand, about one-quarter of our fruit and vegetable consumption is now imported. If the labor supply is restricted and production costs rise, U.S. growers will lose market share to overseas producers. This decline in production will cost thousands of U.S. workers their jobs. Based on relative shares of agricultural production, at least one-quarter of the job loss will be in California.

The availability of adequate seasonable labor has enable U.S. producers to expand production and exports of labor-intensive commodities. This has created tens of thousands of jobs for U.S. workers in "upstream" and "downstream" industries. Appropriately three off-farm jobs depend directly on each on-farm job.

In California, due to the nature of the crops and the vast geographical and seasonal range, this need for labor over a short period is particularly intense. California is about 900 miles long, north to south. If you transpose it to the east coast we are talking about a distance from approximately the north of Florida almost to Massachusetts. Obviously, you have a significant timeframe in terms of growing. In this regard, the existing H–2A program has failed to be a reliable source of temporary and seasonal agricultural workers. The regulatory burdens leave employers waiting with uncertainty and anxiety whether they will be certified by the Department of Labor to obtain workers in a timely manner.

What American farmers require is a temporary worker program which addresses these concerns. Recently the Agriculture Committee passed an amendment to H.R. 2202, sponsored by Congressman RICHARD POMBO of California, which would create a streamlined, temporary agricultural worker program. The Pombo amendment would create a 3-year pilot program with an annual cap of 250,000 workers admitted per year decreasing by 25,000 each year for the final 2 years of the program. Agricultural work generally is characterized by periods of peak demand for migratory workers that cannot be met by domestic labor sources. Under the Pombo language, employers would file attestations with the Department of Labor indicating the number of workers needed, as well as the specific terms of employment. Qualified U.S. workers would always receive first preference for these jobs. It is essential that such a proposal which protects agricultural labor needs to be included in the final language.

In contrast, the Goodlatte amendment is not adequate protection for the agricultural community. The Goodlatte language proposes to swap one bureaucracy for another by moving the H–2A certification process from the Department of Labor to the Department of Justice. Further, the Goodlatte amendment imposes an unrealistic cap of 100,000 annual admissions under the H–2A program. As an example of this inadequacy, raisin growers in Fresno County employ nearly 51,000 agricultural workers between late August and late September each year; under the Goodlatte amendment's cap, if any significant portion of these workers are found to be employment ineligible by a verification system, or are interdicted at the border or detected by border enforcement, it is an open question whether there will be sufficient slots under the cap to meet the raisin producer's needs at that point in the growing season.

The Goodlatte amendment also proposes a significantly tighter three-quarter guarantee than that currently applied to the H–2A program. The amendment would mandate an 8-hour workday, a requirement that would be impossible to meet on many days due to uncontrollable weather or crop conditions. Under the language of Goodlatte, if as few as one-quarter of the workdays were not full 8-hour workdays, the grower would be required to pay workers for periods of no work, regardless of how much work was provided on the remaining days, clearly unreasonable to the agriculture community.

Mr. Speaker, amending H.R. 2202 with a workable temporary and season agricultural worker program is essential to achieve true immigration reform. The end result of failure to provide a legal temporary alien worker program for U.S. agriculture will be to reduce U.S. farm production and agribusiness employment.

The following agricultural organizations urge your support for the Pombo/Chambliss amendment. We strongly oppose the Goodlatte amendment

National Council of Agricultural Employers;
Agri-labor Support Organization;
Agricultural Affiliates from Western New York;
Agricultural Producers;
American Association of Nurserymen;
American Farm Bureau Federation;
American Mushroom Institute;
California Farm Bureau;
California Floral Council;
California Grape & Tree Fruit League;
Colorado Sugarbeet Growers Association;
Florida Citrus Mutual;
Florida Citrus Packers;
Florida Farm Bureau;
Florida Fruit & Vegetable Association;
Florida Nurserymen & Growers Association;
Florida Strawberry Growers Association;
Frank B. Logoluso Farms;
Frederick County Fruit Growers;
Fresno County Farm Bureau (CA);
Fruit Growers League of Jackson County, Oregon;
Grower Shipper Vegetable Association of Central California;
Grower Shipper Vegetable Association of Santa Barbara and San Obispo Counties;
Hanes City Citrus Growers Association;
Hood River Grower-Shipper Association;
Illinois Specialty Growers Association;
International Apple Institute;
Michigan Asparagus Advisory Board;
Michigan Farm Bureau Federation;
Midwest Food Processors Association;
National Association of State Departments of Agriculture;
National Cattlemen's Association;
National Christmas Tree Association;
National Cotton Council;
National Council of Farmer Cooperatives;
National Peach Council;
National Watermelon Association; New England Apple Council; New York Apple Association, Inc.; Nisei Farmers League; North Carolina Apple Growers Clearinghouse; North Carolina Growers Association; North Carolina Sweet Potato Commission; Northern Christmas Trees & Nursery; Oregon Farm Bureau Federation, Patterson Firm (MA); Shoreham Cooperative Apple Producers, Association (VT); Snake River Farmers Association;
Society of American Florists; Sod Growers Association of Mid-America (IL); Sugar Cane Growers Co-op of Florida; Sun-Maid Growers of California; Texas Citrus & Vegetable Association; Texas and Southwestern Cattle Raisers Association; Texas Cotton Ginner's Association; Tobacco Growers Association of North Carolina, Inc.; United Agribusiness League; United Fresh Fruit & Vegetable Association; Valley Growers Cooperative (NY);
Ventura County Agricultural Association; Vidalia Onion Business Council; Virginia Agricultural Growers Association, Inc.; Virginia State Horticultural Society; WASCO County Fruit & Produce League; Washington Growers Clearing House Association; Washington Growers League; Washington State Horticultural Association; Western Growers Association; Wisconsin Christmas Tree Producers Association; and Wisconsin Nursery Association.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. GOODLATTE].

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Virginia Mr. GOODLATTE will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 28 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR BURR

Mr. BURR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BURR: At the end of subtitle B of title VIII insert the following new section:

SEC. 837. EXTENSION OF H–1A VISA PROGRAM FOR NON-IMMIGRANT NURSES.

Effective as if included in the enactment of the Immigration Nursing Relief Act of 1989 (Public Law 101–238), section 3(d) of such Act (103 Stat. 2103) is amended—

(1) by striking "To 5-YEAR PERIOD",

(2) by striking "5-year", and

(3) by inserting "and ending at the end of the 6-month period beginning on the date of the enactment of the Immigration in the National Interest Act of 1995" after "Act".

The CHAIRMAN. Pursuant to the rule, the gentleman from North Carolina [Mr. BURR] and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. BURR].

Mr. BURR. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I rise today to urge my colleagues to support this amendment to allow a 6 month extension of the H–1A nonimmigrant nurse program which expired in September. Our country's nursing homes and senior health care providers will face a dire situation unless we act now to temporarily reauthorize the program.

It allows health care facilities to bring foreign registered nurses into the country on a temporary basis. These nurses are not taking American jobs, because they fill needed positions in rural areas where there is a shortage of American nurses. These shortages continue, despite fiscal year 1995 and 1996 appropriations of $78 million each year for the National Health Service Corps Scholarship and Loan Program to recruit American nurses for these rural areas.

Mr. Chairman, we are asking for a six month extension. During this time the concerned committees will have the opportunity to examine the program and develop a long-term solution to the shortage of qualified nurses in rural America. I strongly urge my colleagues to vote for this amendment.

The CHAIRMAN. Does any Member seek time in opposition to the amendment?

Mr. CONYERS. Mr. Chairman, I seek time in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan is recognized for 5 minutes.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, briefly, this amendment would extend the temporary program and allow foreign nurses into the United States for another six months. Case closed. I mean, we need more foreign nurses coming into the United States for longer periods of time like Hershey needs candy bars. So that is not a good deal, because the current supply of nurses is adequate and may even increase in the coming years due to the downsizing of the American health industry. I hope my colleague will answer this before the debate is over.

Mr. BURR. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I strongly support this amendment. I think everybody needs to understand what it is. It is simply a period of time during which the committee, the subcommittee, in particular, on Immigration, can listen to all sides of this and make a reasoned decision.

VOL
142
PT
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There are a lot of folks in rural areas who have been telling us there is still a nurse shortage, they do need the foreign nurse program for that purpose. In some of the urban areas, the nursing organizations are very concerned, because they say they do not need it any more.

Maybe we can craft something that would be responsible for everybody. So the rural folks, if they really have a shortage, can have that relieved, and the urban areas can also be free of anything that might be impeding their having domestic homegrown nurses. I do not know the answer. I am not sure about it.

But I would like to have the time as a member of the subcommittee to consider this. We have not been having that time. I think we should leave the nurse program alone and create the period of time that is created in this amendment. I think the gentleman from North Carolina has produced a good one.

So I urge an "aye" vote to leave the opportunity there for the subcommittee over 6 months to consider the matter, have hearings, and so forth. I urge the adoption.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, the H–1A nurses program was established to deal with a nursing shortage that has now evaporated. I understand the claim is that this program is still necessary for rural communities. However, it is important to note that four-fifths of the nurses who entered under the H–1A program went to metropolitan areas. In fact, one-third of them went to New York City. For those rural areas that need nurses, they have the ability to petition for nurses under the H–1B Program, and they should certainly utilize that.

This extraordinary program that was useful for our country at one time expired in September, and it should stay dead. We had 6,000 nurses enter from Canada and Mexico under NAFTA in 1994 alone. Many nurses that came in through this program, and many more are still coming in through NAFTA.

We have a nursing surplus right now, and the New England Journal of Medicine is predicting a 54 percent decrease in hospital beds. We are going to be awash in nurses. I urge opposition to the amendment.

Mr. BURR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just wish the gentlewoman had an opportunity to go to rural North Carolina and see the shortages

Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois, [Mr. RUSH].

Mr. RUSH. Mr. Chairman, I rise today to support the amendment offered by my colleague, Mr. BURR from North Carolina, that will extend the H–1A non-immigrant nurse program for 6 months.

Mr. Chairman, the effect of the sunset of this program was brought to my attention by Sister Elizabeth Von Straten, who is my constituent and who serves as the President-CEO of Saint Bernard Hospital which is also in my district. Saint Bernard Hospital has employed nurses solely from the H–1A program since 1991 when it was determined that they could save over 3 million dollars a year in nursing salaries.

Without this program the hospital is forced to rely on registry nurses. Registry Nurses require a salary that is double that of the H–1A nurse or they will not work in the Englewood area. This program provides qualified foreign nurses at a cost saving that enables Saint Bernard to continue to serve as the only remaining hospital in an area designated both as one of Chicago's health professional shortages area and also as a medically undeserved area.

Mr. Chairman, the Englewood community needs to have this hospital. Of the patients that are served by Saint Bernard, 86 percent are below 150 percent of poverty. These is a 3,600 to 1 patient to physician ratio and all of the hospital patients are on Medicaid or Medicare.

The Hospital is also the largest employer in Englewood with 640 full time positions in an area that is one of the most economically depressed communities in the Chicago area.

Mr. Chairman, I want to give my colleagues a thumb-nail sketch of the role Saint Bernard Hospital plays in one of Chicago's most impoverished neighborhoods. It represents their only beacon of hope. The glow of that beacon dimmed last September 30.

That's when the H–1A visa program for nonimmigrant nurses was sunseted. If we do not extend this program in order to determine the impact that ending the program will have on Hospitals like Saint Bernard's and communities like Englewood then the beacon of hope will become pitch dark.

Mr. Chairman, Saint Bernard Hospital must have at least this temporary 6 month extension of the H–1A visa program to determine how to keep serving the residents of Englewood who depend on them for jobs and health care.

This is truly a matter of life and death.

Mr. Chairman, I urge my colleagues to support the Burr amendment to extend the H–1A visa program for 6 months.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I rise in opposition to the Burr amendment. The Burr amendment will allow an outdated program to continue, and it will do real harm to American nurses. We must protect American nurses and American workers.

The H–1A program, which passed in 1990, allowed an unlimited number of foreign nurses to enter the United States. However, the medical industry has changed radically in the last six years. Not only do we no longer need the foreign nurses, we actually have a potential glut of nurses in this country.

Simply put, we have more nurses than we have jobs. The hospital industry has gone through a massive restructuring. As hospitals have merged, closed or "scaled back" in order to become more competitive, the number of nursing positions has decreased. At the time, the pool of nurses is actually increasing.

We simply do not have a need or the jobs for the H–1A nurses. The H–1A visas sunsetted on September 1, 1995. We should allow the program to end. Think about the American nurses who have dedicated their lives to helping sick people. Let's face it, people do not become nurses to get rich or to become famous—they do it to help others. The least that we can do is to make sure that American nurses have jobs. I urge you to defeat the Burr amendment.

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Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey [Mr. FRELINGHUYSEN].

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to this amendment. The H–1A temporary visa program was created in 1990 as a result of a nursing crisis shortage of the 1980's. While I acknowledge the very real need for foreign nurses in those years, this program expired in September 1995, and I see no need to revive or perpetuate this program. Therefore, I oppose this amendment.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. BRYANT], ranking Democrat, who has led this immigration bill as well as he could under the circumstances.

Mr. BRYANT of Texas. Mr. Chairman, I just want to say that in the subcommittee we had hearings on parts of this bill. We had no hearings on this. No evidence was brought forth to tell us if there was a need to import nurses to take the jobs of American nurses that are working today. Without any evidence of that and with clear evidence having been brought forth in this debate that there is no need whatsoever for this program to be extended, I strongly urge Members to vote no.

The fact of the matter is that these American nurses deserve to be able to compete for jobs inside of our domestic economy without having to worry about imported workers working more cheaply.

Mr. BURR. Mr. Chairman, this is a health care issue, it is not a nursing issue. I do not think it is outdated to supply adequate care to Americans.

Mr. Chairman, I yield 20 seconds to the gentleman from Texas [Mr. SMITH] who has worked so hard on the immigration bill.

Mr. SMITH of Texas. Mr. Chairman, I want to thank the gentleman for offering this amendment.

The amendment will provide for a 6-month extension of H–1A nonimmigrant program for nurses as originally enacted by the Immigration Nursing Relief Act of 1989. I support this extension of the H–1A program which originally was effective for just 5 years. This will permit the Subcommittee on Immigration and Claims to conduct hearings and otherwise investigate the competing interests relevant to this program.

Mr. Chairman, I thank the gentleman from North Carolina [Mr. BURR] for taking the lead on this issue. I urge my colleagues to support this extension of the nurses program.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I urge a "no" vote on this amendment.

This is a classic case. I was very active in supporting the extension of the nurses program in the 1990 bill. The problem has been solved. A combination of recruitment, of this incorporation of many of the people who came here to work in nursing, all of these things have taken care of the shortage. I have heard from no hospital in the areas of greatest need that need this program.

I would suggest that this amendment be defeated. Organized labor opposes this. This is going to displace available U.S. workers. I urge it be defeated.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from California, Mr. XAVIER BECERRA.

Mr. BECERRA. Mr. Chairman, I thank the gentleman for saying my name so well.

I, too, stand in opposition to the amendment. We have no evidence that there is a need for this. We should preserve jobs in our hospitals and our clinics for the nurses that have gone through the programs in this country and are ready to serve the people that are in need of medical care.

Mr. Chairman, there is no need to reach out at this time. There was a perceived need back in the early 1990s. If there was a need, it has been met by those temporary or foreign nurses that came in. We do not need the program. It expired last year. There is no need to revive it. Let us get on with this and let us preserve jobs that are available for American nurses.

Mr. BURR. Mr. Chairman, let me say, as we started this debate, that the American Hospital Association has just called in support of this amendment, as well as the American Health Care Association.

Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, there is probably no one in this House that has more affection for American nurses. And I do not think this bill will hurt American nurses. My mother was a nurse and is retired now.

But folks, this is not unreasonable, what we are asking to do here. I saw an editorial, in the American Journal of Nursing, January 1996, that is a couple months ago, which said that the only true nursing shortage that currently exists exists in rural America, accounting for 92.4 percent of the remaining shortage areas.

There is truly a question in this country if there is a nursing shortage in rural America. And all we are asking to do here, this is not unreasonable, is simply extend this program for 6 months so that we, as an immigration subcommittee, as promised by our chairman, the gentleman from Texas [Mr. SMITH], can conduct hearings. We do not want to put American workers out of jobs, but if we truly have shortages in rural areas, which the American Journal of Nursing says we do, as in January 1996, then we need to find out. We need to have these hearings and extend this bill, if necessary.

I ask Members to vote for this, 6 months only.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. BURR] has expired.

The gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would remind the gentleman from Tennessee [Mr. BRYANT] that the nurses do not want this. I am glad the gentleman is reading the nurses' literature, but here is what the nurses union say.

> Recent restructuring and downsizing of hospitals and other health care facilities have caused the displacement of thousands of qualified nurses. They should be put back to work before still another program is instituted to import nurses from abroad.

Dated, March 21, 1996.

Mr. Chairman, I yield the balance of my time to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in opposition to the amendment.

The program which the gentleman seeks to restore was originally created to address a short-term shortage of qualified nurses. The shortage has been addressed and no longer exists.

In fact, changes in the structure and management of the Health Care System makes it likely that we will soon have a large pool of American nurses from which employers may recruit. In addition, the most recently available statistics indicate that the number of graduate nurses continues to increase.

Even if this should not be the case, nurses could still be recruited from Mexico and Canada under NAFTA: more than 6,000 nurses entered the United States under NAFTA in 1994. Nurses may also be recruited under H–1B Visa Program and the permanent employment-based Immigration Program.

I urge Members to join me in rejecting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. BURR].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. CONYERS Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from North Carolina [Mr. BURR] will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 24 offered by the gentleman from Virginia [Mr. GOODLATTE]; and amendment No. 28 offered by the gentleman from North Carolina [Mr. BURR].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. GOODLATTE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia [Mr. GOODLATTE] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 59, noes 357, not voting 15, as follows:

[Roll No. 86]

AYES—59

Allard
Andrews
Archer
Bartlett
Barton
Bateman
Bilbray
Bilirakis
Bliley
Boncher
Brownback
Bryant (TN)
Campbell
Clinger
Combest
Davis
Ehrlich
Ensign
Fields (TX)
Foley
Fowler
Frelinghuysen
Gekas
Geren
Goodlatte
Gunderson
Gntknecht
Hefley
Hostettler
Houghton
Hutchinson
Johnson, Sam
Kingston
Latham
Linder
McCollum
Moran
Myers
Myrick
Ney
Oxley
Parker
Quillen
Ramstad
Rogers
Roukema
Saxton
Schaefer
Shaw
Smith (MI)
Smith (TX)
Stearns
Stenholm
Tauzin
Taylor (NC)
Thomas
Wicker
Young (AK)
Young (FL)

VOL
142
PT
5
MR
21
—
29
1996
UMI

NOES—357

Abercrombie
Ackerman
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Nadler
Neal
Nethercutt
Neumann
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Rahall
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Scarborough
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stockman
Stump
Stupak
Talent
Tanner
Tate
Taylor (MS)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Zeliff
Zimmer

NOT VOTING—15

Barr
Bunn
Clay
Collins (IL)
DeLay
Dicks
Johnston
Moakley
Radanovich
Rose
Stark
Stokes
Studds
Waters
Wilson

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Messrs. WYNN, MOORHEAD, PACKARD, SHADEGG, WAMP, and DUNCAN changed their vote from "aye" to "no."

Mr. CAMPBELL changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DeLAY. Mr. Chairman, on rollcall No. 86, I was unavoidably detained due to my attendance at the funeral of a close friend. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. BURR

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina [Mr. BURR] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 154, noes 262, not voting 15, as follows:

[Roll No. 87]

AYES—154

Abercrombie
Allard
Archer
Armey
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bevill
Bilbray
Bliley
Boehner
Boucher
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Camp
Campbell
Canady
Chambliss
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Crane
Crapo
Cremeans
Cubin
de la Garza
Deal
Dickey
Doolittle
Dornan
Dreier
Durbin
Ewing
Fawell
Fields (TX)
Foley
Fowler
Funderburk
Gekas
Geren
Gilchrest
Goodlatte
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Jones
Kaptur
Kelly
Kim
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lincoln
Linder
Livingston
Lucas
McCollum
McCrery
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Mink
Moorhead
Myers
Myrick
Nethercutt
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Payne (VA)
Pickett
Pombo
Portman
Quillen
Riggs
Roberts
Rogers
Rush
Salmon
Sanford
Schaefer
Schiff
Seastrand
Shadegg
Shuster
Skeen
Smith (MI)
Smith (TX)
Solomon
Souder
Stenholm
Stockman
Stump
Tanner
Tauzin
Taylor (NC)
Tejeda
Thornberry
Torkildsen
Upton
Vucanovich
Walker
Wamp
Weldon (FL)
White
Wicker
Young (AK)
Zeliff

NOES—262

Ackerman
Andrews
Bachus
Baesler
Baldacci
Barcia
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilirakis
Bishop
Blute
Boehlert
Bonilla
Bonior
Bono
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Callahan
Calvert
Cardin
Castle
Chabot
Chapman
Chenoweth
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Cunningham
Danner
Davis
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Green
Greenwood
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Heineman
Hilliard
Hinchey
Hobson
Holden
Houghton
Hoyer
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
LaFalce
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lightfoot
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McHugh
McKinney

McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Miller (CA)
Minge
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Neumann
Ney
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Paxon
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Porter
Poshard
Pryce
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Sabo
Sanders
Sawyer
Saxton
Scarborough
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Spratt
Stearns
Stupak
Talent
Tate
Taylor (MS)
Thomas
Thompson
Thornton
Thurman
Tiahrt
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Walsh
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Whitfield
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—15

Beilenson
Clay
Collins (IL)
DeLay
Johnson (SD)
Johnston
Moakley
Radanovich
Rose
Spence
Stark
Stokes
Studds
Waters
Wilson

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The Clerk announced the following pair:

On this vote:

Mr. DeLay for, with Mr. Radanovich against.

Mrs. ROUKEMA and Messrs. PETERSON of Minnesota, COOLEY, HOBSON, SAXTON, LONGLEY, SHAW, and Ms. PRYCE changed their vote from "aye" to "no."

Mr. LaHOOD and Mr. PICKETT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mrs. MORELLA. Mr. Chairman, I rise in opposition to H.R. 2202.

In fairness, this bill is more acceptable now than it was when it first came to the floor on Tuesday. Several of my principal concerns have been addressed. In particular, adoption of the Chrysler-Berman amendment deleting unneeded reforms to our system of legal immigration has put this bill back on track to addressing the primary immigration problem which our constituents have identified—illegal immigration. In addition, the change under the manager's amendment allowing for the filing of asylum petitions within 180 days instead of the 30 days in the original bill recognizes the concern which I and others had expressed regarding the impossibility for most people of filing a complete claim in 30 days. Finally, adoption of the Schiff-Smith amendment removing caps on annual refugee admissions restores the humaneness of U.S. refugee policy and assures necessary flexibility to respond to global events.

I regret that the same humaneness and compassion is not reflected in the provisions in this bill dealing with children. To allow States the option to deny an illegal alien child, who cannot be held responsible for his or her presence in this country, the right to an education is not only unconstitutional, but also cruel to the child and counterproductive for our communities. What is the point of the Constitution if we are to decide that States may opt out of assuring its guarantees? The same can be said for the bill's provisions denying Medicaid, AFDC, and food stamps to U.S. citizen children whose parents are illegal aliens. Failure of the House to adopt the Velázquez amendment relegates these Americans to second class status. I hope these provisions will be removed in conference.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 2202, the Immigration in the National Interest Act. Let me state from the beginning that I strongly object to this legislation's failure to distinguish between legal and illegal immigration. Exploiting concerns about illegal immigration, H.R. 2202 unreasonably limits the number of immigrants who can be legally admitted to the United States. This restriction clearly violates the basic tenets of fairness and justice upon which our Nation, a nation of immigrants, was founded. I believe that America must honor its pledge of being a nation that will reunite families, provide asylum to a reasonable number of refugees, and protect the legitimate rights of both American workers and legal immigrants.

The Immigration in the National Interest Act would cut the number of immigrants who can be legally admitted to the United States annually by more than 200,000 persons. This draconian attack on America's immigrant population would be accomplished by dramatically limiting the number of family immigration visas, and by cutting in half the number of people granted asylum. Slashing legal immigration by 30 percent and refugee admission by 50 percent is unconscionable.

Mr. Speaker, it is also important to emphasize that most of the legal immigrants entering the United States are allowed for the purpose of family reunification. Our current policy requires that they are coming to this country to join an immediate relative who has been granted permanent residency status. It is incomprehensible that provisions in H.R. 2202 would attack our national policy of family reunification. This bill's drastic reductions in the number of legal family reunification through numerical caps and earnings tests will have only one result, families will be divided.

In addition to hurting American families, H.R. 2202 recklessly cuts the U.S. participation in humanitarian efforts by limiting the number of refugees who can enter the United States by 50 percent. This heartless exclusion of persons fleeing oppression and war is not only contrary to the interest of refugees, it also damages America's role as a world power. It would be an abdication of the U.S. humanitarian leadership worldwide to support this provision of H.R. 2202.

Another harmful element of this legislation is its requirement that both the sponsoring individual or family and the immigrant have an income of 200 percent of the poverty level. These unreasonably high family-sponsor caps will ultimately result in the disproportionate exclusion of the families of poor and minority immigrants. Such unreasonable and blatant discriminatory immigration policies should be actively resisted.

There are numerous other harmful provisions in this measure—including making illegal immigrants ineligible for most Federal benefits and establishing a telephone verification of citizenship policy—that compel me to oppose it. The unjustified hostility to legal immigration this bill fosters is simply un-American.

It is important to recognize that the history of the United States is largely one of immigration, and that this nation is rich because of its blend of cultures and ethnic backgrounds. America is a nation of immigrants that—without their creativity, intelligence, and vitality—would not have achieved the greatness with which it is recognized. This shortsighted legislation will impose an unbalanced and unfair set of priorities that will hurt America much more than it would help.

Mr. Speaker, the truth about H.R. 2202 is that it fails to not only distinguish between legal and illegal immigration, but that it reflects some of my colleagues' desires to sacrifice the interests and obligations of the American people in exchange for isolationism. I urge my colleagues to vote against this bill.

Mr. DIXON. Mr. Chairman, few areas of the Nation confront the challenges and suffer the impacts of illegal immigration as much as southern California. I strongly support provisions of H.R. 2202 which seek to control this problem through enhancements in our borders, increases in the numbers of border control agents, and increases in penalties for smuggling and document fraud. I will vote for passage of H.R. 2202, as amended, and continue to support the substantial increases in funding for the Immigration and Naturalization Service to stem the tide of illegal immigration.

However, I have reservations about several of the provisions of this legislation, and will carefully scrutinize the conference agreement on this legislation prior to giving that bill my support. I want to specifically highlight my strong objections to inclusion of the amendment which grants States the option to deny all public education to illegal aliens.

The amendment may be good politics. Clearly, it is appealing to many who are concerned about tight education budgets and the need to spend what moneys are available on American children, rather than educating those illegally in the country. However, the amendment is harsh in its treatment of children; is highly questionable as a disincentive to illegal immigration; and will create far more problems for schools and communities impacted by illegal immigration than it seeks to rectify.

I fail to understand how proponents of this measure believe that creating a situation where school officials will be forced to determine a student's legal immigration status will be beneficial to our educational systems. The costs of educating these children will merely be shifted to the administrative burden of determining immigrant status.

We will not be controlling illegal immigration by keeping some young people out of school. What we will be doing is putting those same young people on our streets, unattended and unsupervised. This is hardly the result that many in our communities are seeking as they look to Congress to address illegal immigration. Moreover, stigmatizing certain school

VOL
142
PT
5
MR
21
—
29
1996
UMI

children in this manner, can only lead to potential discrimination against those children who may merely look different.

Claiming the provision as a disincentive to illegal immigration is questionable, at best. I do not believe that a free education for their children is a primary incentive among individuals seeking to enter the United States illegally.

Yes, we have a problem with illegal immigration. But punishing children not legally in this country through no fault of their own, while placing the burdens of defining who is and who is not legal on our public educational system, is a misguided attempt at solving that problem.

With these reservations in mind, I support the legislation before us as we continue to enhance federal efforts to control our borders and ease the burdens of illegal immigration on our communities, cities, and States.

Mr. MARTIN. I rise today in support of the Immigration in the National Interest Act, H.R. 2202.

I am pleased that we are finally addressing one of the most important problems facing America today, I am of course referring to the issue of Immigration reform.

As I have traveled around my District over the last few weeks from senior centers to Main Street the one issue about which people have repeatedly expressed concern is our failed immigration policy. These visits with my constituents reinforce my belief that we must institute common sense immigration reforms.

The United States of America has always been known as a land of immigrants—the melting pot or in today's climate of political correctness, "the tossed salad" of the world.

Over the last 200 years, millions of families have traveled thousands of miles to embrace opportunities found only in America. In fact, my grandparents traveled from Italy to settle in North Jersey where they built a successful business, raised four children and truly fulfilled the American dream.

Unfortunately, we have gotten away from the brand of immigration represented by my grandparents and others of that proud generation. Today, illegal immigration and fraudulent legal immigration runs rampant through our system.

Mr. Speaker, nearly 20 percent of the legal immigrants in this country are on welfare. Furthermore, one-quarter of all federal prisoners are illegal aliens. Does this sound like an immigration policy that is operating at 100 percent efficiency, Mr. Speaker? I think not.

Neither did the bipartisan Commission on Immigration Reform headed by the late Barbara Jordan. The Commission concluded, "The United States must have a more credible immigration policy that deters unlawful immigration while supporting our national interest in immigration."

As a member of the Congressional Task Force on Immigration, I strongly support the commission's findings.

H.R. 2202 is a strong, but fair bill, Mr. Speaker. It establishes a positive framework to prevent illegal aliens from feeding at the public trough. I do not believe it is extreme to stop the flow of federal taxpayer dollars to illegal immigrants.

Mr. Speaker, enactment of H.R. 2202 would reduce illegal immigration by 50 percent over the next 5 years. By stemming the tide of illegal immigration now, we will preserve American jobs for Americans. In fact, this legislation may be the most pro-job and pro-family bill we consider in the 104th Congress.

Some of my colleagues in this body would like to separate legal immigration reform from illegal immigration reform. I, on the other hand, do not believe that we can address one problem without fixing the other.

H.R. 2202 is a family friendly bill that does not attempt to deprive members of the immediate family of legal residents from relocating to the United States. This legislation recognizes the importance and strength of family relationships by providing no annual limitation to the immigration of immediate family members to citizens of the United States.

In fact, H.R. 2202 will allow more legal immigrants into the United States on an annual basis than we have admitted 60 of the last 65 years.

In short, Mr. Speaker, H.R. 2202 places more emphasis on proactive measures that eliminate the incentives to illegally enter the country, while still providing ample room for immigrants who truly desire to pursue the American dream.

In closing, I urge my colleagues to support this much needed immigration reform.

Mr. YOUNG of Florida. Mr. Chairman, the problem of illegal immigration has reached historic proportions. Past attempts by Congress to reform immigration laws have provided nothing more than greater incentives and promised benefits for illegal aliens. The result is the present system which actually encourages immigrants to come to America illegally.

Today, I am proud to support an historic change in our Nation's immigration policy. Today, we are going to pass a reform bill with real teeth in it. A bill that cracks down on illegal immigrants already here, and one that secures our borders against future immigrants who would seek to enter illegally. Past legislation this House has considered, which I strongly opposed, did nothing to alleviate the problems of illegal immigration. At long last, I look forward to supporting a bill which acknowledges these problems and takes action to address them.

While past legislation sent the message you could come to the U.S. illegally and expect to receive welfare benefits, food stamps and free health care, this legislation finally puts an end to this outrage. As a Member from the State of Florida, I have seen first-hand the financial burden these ill-gotten attempts at reform have placed on States forced to bear the brunt of this failed immigration policy. Past Congresses refused to stop the excessive flow of illegal immigrants and to eliminate the enormous costs associated with this broken system. Today, we own-up to our responsibilities with a hard-nosed approach that substantially increases border control, provides the Immigration and Naturalization Service with the tools necessary to find and deport illegal aliens, and pays for the Federal Government's financial obligations to the States.

Mr. Chairman, my State of Florida has long been overburdened by the flood of illegal immigration. Since the Mariel boatlift in 1980, we have been the destination of a disproportionate number of immigrants, making us the third-largest recipient of immigrants among our 50 States. Although immigration policy is the sole jurisdiction of the United States Government, history has proven that States like Florida are typically left with the cost and responsibility of providing expensive social services to illegal aliens.

With the enactment of H.R. 2202, we have an opportunity to minimize the enormous expenses that we force upon our States by denying most public benefits to illegal aliens, removing public charges, and holding sponsors personally responsible for the financial well-being of an immigrant they bring into our country. Most importantly, this bill requires the Federal Government to reimburse States and localities for any expenses incurred from providing federally mandated services to illegal immigrants. Based upon various formulas, it is estimated that the State of Florida has spent an average of $651 million per year from 1989–1993, or a total of $3.25 billion for services provided to illegal immigrants. If the costs to local governments are included, the total burden rises to $15 billion for that same 5-year period.

Unlike past immigration reform bills, H.R. 2202 will actually discourage the illegal entry of immigrants by increasing our border control agents by 5,000 personnel, improving physical barriers along our borders, including a triple-layer fence, authorizing advanced border equipment to be used by the Immigration and Naturalization Service, and instituting an effective removal process to discharge illegal immigrants with no documentation. This bill provides the Department of Justice with 25 new U.S. Attorneys General and authorizes 350 new INS inspectors to investigate and prosecute aliens and alien smugglers.

This bill also strongly supports the American worker by cracking down on the use of fraudulent documents that illegal immigrants use to get American jobs and by enforcing strict penalties for employers who knowingly violate these laws. The Department of Labor is authorized 150 new investigators to enforce the bill's labor provisions barring the employment of illegal aliens.

Mr. Chairman, the American people demand that Congress take action to secure our borders against illegal immigrants. With the explosion in the amount of drugs and criminals coming across our borders, and with the flood of illegal immigrants, many of whom settle in Florida, it is eminently important that we do all we can to protect our national borders.

While past Congresses refused to address this national crisis, today we deliver, with a much needed and long overdue first step in this renewed effort. Today we will approve legislation with unprecedented prevention and enforcement mechanisms. The message to illegal aliens is no longer one of indifference. The new message is simple—try to enter the United States illegally and we will stop you, should you get in, we will find and deport you, and should you remain in hiding, don't expect much in the way of support.

Mr. GALLEGLY. Mr. Chairman, after having a conversation with Mr. GOODLING, the chairman of the opportunities committee, I wish to clarify, for the record, section 606 of H.R. 2202.

The Department of Education recently signed a computer matching agreement with

the Social Security Administration which is to go into effect for the 1996–1997 school year.

The purpose of the matching program is to ensure that the requirements of section 484(a) of the Higher Education Act of 1965 are met.

This matching program will enable the Department of Education to confirm that the social security number and the citizenship status of applicants for financial assistance under Title IV of the Higher Education Act are valid at the time of application.

I would further note that the details of the matching arrangement can be found in the Federal Register publications of March 23, 1995, September 21, 1995, and December 1, 1995.

The matching agreement addresses my concerns about the verification of a student's status and eligibility for student aid.

However, we all know that statutory language is a much better source of authority than regulations. So, I just want to make sure that the verification takes place, that's all. That's why I have included the statutory language. If the Attorney General and the Secretary of Education agree that the matching agreement adequately meets the verification requirements of section 606 of the bill, then that is fine with me.

Mr. SMITH of New Jersey. Mr. Chairman, I wish to call attention to the important action of the House in deleting the proposed "refugee cap" which would have made dramatic cuts in the number of refugees the United States accepts each year. In particular, the "refugee cap" would have necessitated the elimination of the in-country programs for Jews and Evangelical Christians in the former Soviet Union, and for pro-American political prisoners, religious dissidents and other people at risk of persecution by the Communist government of Viet Nam.

POLITICAL AND RELIGIOUS DISSIDENTS AROUND THE WORLD

Make no mistake: the proposals for refugee cuts do not reflect a decline in the worldwide level of political, racial, and religious persecution. The dictatorship in Nigeria recently staged a public hanging of eight members of the Ogoni ethnic minority, including highly respected novelist and environmental activist Ken Saro-Wiwa. Iran followed up by sentencing a member of its Baha'i religious minority to death for a crime it calls "national apostasy."

VIETNAMESE POLITICAL AND RELIGIOUS DISSIDENTS

Nor is the upsurge in persecution limited to so-called "pariah" regimes. A week after Warren Christopher raised the flag on the new United States Embassy in Viet Nam, the government of that country staged two show trials—apparently to disabuse its own people of the idea that economic and diplomatic relations with the West would lead to greater respect for human rights. Six of the nation's top Buddhist leaders were sentenced to long prison terms for persisting in their refusal to join the state church. Nine people were convicted of "using freedom and democracy to injure the national unity" because they had requested permission to hold a conference on the subject of democracy. So this is no time to think about shutting down the Orderly Departure Program for people who have suffered for their pro-American, pro-freedom beliefs and associations. Nor is it a time to think about dumping thousands more high-risk political and refugees, currently long-time residents of refugee camps in Hong Kong and Southeast Asia, back to persecution in the Workers' Paradise. Yet this is what the international refugee bureaucracy is about to do. The United States has traditionally stood against this sort of thing, even when our efforts were regarded as unhelpful by the governments of other nations and by officials of international organizations. We must recapture that proud American tradition of resistance to persecution and solace for the persecuted—and not just when it is convenient or popular.

PERSECUTION OF JEWS

The Subcommittee on International Operations and Human Rights, of which I have the honor of serving as Chairman, recently heard expert testimony on the persecution of Jews around the world. Our witnesses testified about the continued survival, as we face the turn of the Twenty-First Century and celebrate the fiftieth anniversary of the war that ended the Holocaust—of systematic and severe mistreatment of Jews, simply because they are Jews.

The recent firebombings in Jerusalem, which killed many innocent people, show that there is literally nowhere in the world where Jews are safe from hatred and violence. But the worst problems appear to be in places that have a history of anti-Semitism combined with an unstable present and an uncertain future.

The hearing on persecution of Jews was conducted with the active assistance of a number of organizations that have been instrumental in helping to keep the attention of Congress focussed on this issue, including the World Jewish Congress, the Anti-Defamation League of B'nai B'rith, the Union of Councils for Soviet Jews, the National Conference on Soviet Jewry, the National Jewish Coalition, the Hebrew Immigrant Aid Society, and the Council of Jewish Federations. Our witnesses—including academic experts, a former member of the Russian Duma, and several people who are themselves refugees from persecution—told us about the situation in the newly independent states of the former Soviet Union. We also heard accounts of persecution in Iran and Syria. These are certainly among the worst cases, but it is important to remember that anti-Semitism and the violence it brings in its wake are not confined to one or two regions of the world. The evidence is unfortunately all around us: the bombing of a synagogue in Argentina, the "skinhead" movement in Western Europe, resurgent ethnic politics in Central and Eastern Europe, even the desecration of a small Jewish cemetery by the dictatorship that rules Burma.

The situation of Jews in the former Soviet Union is particularly important, not only because the struggle for the freedom of Soviet Jewry was among the finest hours of the American people, but also because the story could still end badly. There has been a tendency in recent years, even among those of us who fought long and hard for the rescue of Soviet Jews, to feel that now we can relax. Unfortunately, the free world has a long history of relaxing too soon. In the case of Jews living in the former Soviet Union, what we must avoid is slamming the door too soon. It is true that the Twentieth Century totalitarian states based on ideologies that are anti-God and anti-human being, such as Nazism and Communism, may have had a capacity to do evil whose scope and degree was unique in all human history. Evil, however, takes many forms and respects no boundaries. The year in which Zhirinovsky begins his campaign for President is not the year in which we should decide that the coast is clear for ex-Soviet Jews.

This hearing also helped us to assess the performance of our government, and of international institutions such as the United Nations High Commissioner for Refugees, in responding to the pleas of the Jewish communities that are at risk around the world. Our government had to be prodded for years before it made freedom of emigration for persecuted Soviet Jews a foreign policy priority. More recently, our foreign policy establishment was also slow to recognize and react to the persecution of Jews in Iraq.

We must remind ourselves, and then we must remind our government, that refugee policy is not just an inconvenient branch of immigration policy. Human rights policy is not just a subset of trade policy. The protection of refugees, the fight for human rights around the world, are about recognizing that good and evil really exist in the world. They are also about recognizing that we are all brothers and sisters. If we recognize these truths, we can build a coalition to preserve and strengthen United States policies designed to protect our witnesses today—and to protect all others who are persecuted because of their religion, race, nationality, or political beliefs—and to restore these policies to the place they deserve as a top priority in American foreign policy.

Mr. Speaker, the former Soviet refugee program has already been reduced from 35,000 refugees in fiscal year 1995 to 30,000 in fiscal year 1996. Although the governments of the newly independent states do not endorse the persecution of these groups, in many cases have been unwilling or unable to prevent it. Instability and resurgent ultra-nationalism and anti-Semitism counsel against a premature closing of the door to members of these historically persecuted groups.

PERSECUTION OF CHRISTIANS

The Subcommittee on International Operations and Human Rights also recently heard expert testimony on the persecution of Christians around the world. To the best of my knowledge, it was the first hearing of its kind, ever. Our witnesses testified about the systematic and severe mistreatment—including but not limited to harassment, discrimination, imprisonment, beatings, torture, enslavement, and even violent death—meted out to believers simply because they are believers.

The subject of religious persecution is a familiar one for the Subcommittee on International Operations and Human Rights. This subcommittee and its members have held hearings, introduced resolutions, and otherwise helped to focus the attention of Congress and the nation on the persecution of Soviet Jews, of Bosnian Muslims, of Bahais in Iran, of Buddhists in Tibet and Viet Nam, and of others who have been oppressed for practicing their chosen faith. This, however, is the first hearing to focus specifically on persecuted Christians, and to do so in a way that

VOL
142
PT
5
MR
21
—
29
1996
UMI

makes clear this is not an isolated or occasional outrage, but one that is perpetrated every day upon millions of people around the world.

We held the hearing on worldwide persecution of Christians in order to advance several important goals. First, the very act of bearing witness is important in itself. Even if we could accomplish nothing else this afternoon, we would have an obligation to shed light on facts that need to be known, and to give a forum to voices that need to be heard.

We hope, however, to accomplish much more. In this age when human rights are always in danger of subordination to other objectives—whether the love of money, the feat of immigrants and refugees, or the desire to get along with governments that mistreat their own people—we need to be reminded that when people are persecuted in distant lands, it is often because they are like us. The victims we so often ignore, whether the issue is refugee protection or most-favored-nation status for China, are usually the very people who share our values. We need to see their faces, and to be reminded that they are our brothers and sisters.

It is also important that we assess the performance of our government, and of international institutions such as the United Nations High Commissioner for Refugees, in responding to the pleas of persecuted Christians. In the past we have heard that these institutions have been reluctant to acknowledge the plight of persecuted Christians. Most of us can remember the Pentecostals who sought refuge in the U.S. Embassy in Moscow during the 1980s, and who were finally rescued only after they had been pressured and cajoled for months to leave because they were cluttering up the courtyard. The so-called "Comprehensive Plan of Action" for Southeast Asian asylum seekers has returned thousands of Christians, including priests, nuns, ministers, and seminarians, to Viet Nam after they were callously labeled "economic migrants." And applications for asylum or refugee status from Christians who have managed to escape from Islamic extremist regimes have typically been rejected, despite the draconian punishments often administered against them.

Finally, and perhaps most important, the hearing afforded an opportunity for a broad coalition of respected voices, from Amnesty International to the Southern Baptist Convention and the Family Research Council, to bear witness to their own recognition of the plight of persecuted Christians. This is an issue that should unite liberals and conservatives, Republicans and Democrats, even internationalists and isolationists. Whatever our differences, we are Americans. There are such things as American values, and there are some things Americans will not tolerate. We can build a coalition to restore the protection of these oppressed believers—and of all others who are persecuted because of their religion, race, nationality, or political beliefs—as a top priority in American foreign policy. The continuing persecution of Christian religious demonstrates—and too often the turning of a deaf ear by U.S. officials and others charged with refugee protection—is yet another reason that this is a terrible time to talk about reducing the scope of U.S. refugee programs.

SLAVERY IN MAURITANIA AND SUDAN

The Subcommittee on International Operations and Human Rights also held a hearing on the practice of chattel slavery, which is still widespread in Mauritania and Sudan. Most of us had believed, until quite recently, that this horrible practice belonged only to the past. But several of our witnesses testified of having seen it first hand, having spoken with slaves and with slave masters.

According to accounts by anti-slavery activists, including some of our witnesses, chattel slavery in Mauritania and in the Sudan is substantially identical to slavery as it was practiced in other centuries. It represents the subjugation of one race by another, and often of members of one religious group by members of another. It frequently includes the grossest forms of degradation of women and children. Slavery is not to be confused with similar institutions, such as serfdom or indentured servitude: however wrong these institutions are, they involve only the ownership of one person's labor by another. In true slavery, the master owns the slave's body. He owns the right to decide whom the slave will marry. When babies are born, the master owns the babies, and can buy them and sell them. True slavery is about treating people as though they were not people, as though they were things without souls.

In the modern world, we often speak of "fundamental human rights." Sometimes we say these words without thinking about what they mean. I believe that the idea of human rights has meaning only if rights are God-given, inalienable, and indivisible. Slavery is the ultimate denial of all these ideas. Toleration of slavery, even when it is far away and in another country, is the ultimate statement of radical cultural relativism. We must do whatever it takes to abolish slavery, not only because its victims are our brothers and sisters, but also because as long as there is anyone in the world who is a slave, none of us is truly free.

VICTIMS OF FORCED ABORTION AND FORCED STERILIZATION

Finally, Mr. Chairman, I must point out that even at our current levels of refugee admission, the number of refugee spots we allocate for people fleeing the People's Republic of China—one of the most repressive regimes on Earth—is zero. This is particularly tragic in light of the continuing recurrence of one of the most gruesome human rights violations in the history of the world: forced abortion.

On Good Friday of last year, thirteen Chinese women in INS detention were moved to a deportation holding center in Bakersfield, California. Five of these women had fled China after being forced to have abortions. Others had been forcibly sterilized, or had escaped after being ordered to undergo abortion and/or sterilization. Their asylum claims were rejected. Some of them were deported to Ecuador. It appears that the deportation of the remaining women to the PRC is imminent.

These women and others like them may be forced back to China because of a novel and bizarre interpretation of U.S. asylum law, under which those who resist forced abortion or forced sterilization are regarded as common criminals rather than victims of persecution. After all, they did break the law—and never mind what kind of law they broke. Never mind fundamental human rights and broken lives. A law is a law, and people who break a forced-abortion law or any other law must be sent back to take their punishment. This is the kind of thinking we are up against. This is why we need section 522 of this bill, which would restore the humane policy of regarding victims of forced abortion and forced sterilization as refugees. It is also one of the reasons we need a resettlement program for Chinese refugees.

The anti-life, anti-woman interpretation of the refugee laws, which has resulted in denials of asylum to women fleeing forced abortion, was adopted by INS in August 1994. It reversed the long-standing policy of granting asylum to applicants who can prove a well-founded fear of forced abortion, forced sterilization, or other forms of persecution for resistance to the PRC coercive population control program.

Section 522 would restore the traditional interpretation and save these women. Such a provision should not be controversial. Almost all Americans, whatever their views on the moral and political questions surrounding abortion, regard forced abortion and forced sterilization as particularly gruesome violations of fundamental human rights.

Mr. Speaker, this provision is not about immigrants, it is about refugees. Contrary to some of the scare tactics that have been used from time to time against protecting victims of forced abortion and forced sterilization, such protection has been tried in the past, and has not brought billions of economic migrants from China or anywhere else. This provision will protect a tiny handful of genuine refugees—the 13 Bakersfield women and a few others every year—who face a gruesome fate if we send them back, or who have already suffered such a fate.

It is important that we put aside myths and consider the facts:

The number of people involved is very small. Section 522 of this bill has a track record. It simply restores the law as it was interpreted from 1987 through 1993. It also imposes a statutory cap of 1,000 refugees and asylees. This statutory cap is unfortunate and unnecessary, but it probably will not make any difference. The number of people granted asylum on the ground of persecution for resistance to the PRC population control policy was between 100 and 150 per year—not 1.2 billion.

Each applicant would be required to prove his or her case. Section 522 does not enact a special rule for people who resist the PRC population control program. It merely gives each applicant an opportunity to prove his or her case under exactly the same rules as every other applicant. The only change this provision would make from current law is to restore eligibility for an applicant who can prove that he or she individually had a well-founded fear of forced abortion, forced sterilization, or other persecution for resistance to the population control policy—or has actually been subjected to such measures.

It's the right thing to do. Forced abortion, forced sterilization, and other severe punishments inflicted on resisters to the PRC program are persecution on account of political opinion. PRC officials have repeatedly attacked resisters as political and ideological criminals. The infliction of extraordinarily harsh punishment is also generally regarded as evidence that those who inflict such punishment regard the offenders not as ordinary lawbreakers but as enemies of the state.

Forced abortions often take place in the very late stages of pregnancy. Sometimes the procedure is carried out during the process of birth itself, either by crushing the baby's skull with forceps as it emerges from the womb or by injecting formaldehyde into the soft spot of the head.

Especially harsh punishments have been inflicted on persons whose resistance is motivated by religion. According to a recent Amnesty International report, enforcement measures in two overwhelmingly Catholic villages in northern China have included torture, sexual abuse, and the detention of resisters' relatives as hostages to compel compliance. The campaign is reported to have been conducted under the slogan "better to have more graves than more than one child."

The dramatic and well-publicized arrival of a few vessels containing Chinese "boat people" has tended to obscure the fact that these people have never amounted to more than a tiny fraction of the undocumented immigrants to the United States. The total number of Chinese boat people who arrived during the years our more generous asylum policy was in force, or who were apprehended while attempting to do so, was fewer than 2000. This is the equivalent of a quiet evening on the border in San Diego.

Nor is there evidence that denying asylum to people whose claims are based on forced abortion or forced sterilization will be of any use in preventing false claims. People who are willing to lie in order to get asylum will simply switch to some other story. The only people who will be forced to return to China will be those who are telling the truth—who really do have a reasonable fear of being subjected to forced abortion or forced sterilization. The solution to credibility problems is careful case-by-case adjudication, not wholesale denial.

Finally, we should be extremely careful about forcibly repatriating asylum seekers to China in light of evidence that a number of those sent back by the United States since 1993 have been subjected to extended terms in "re-education camps," forced labor, beatings, and other harsh treatment.

Mr. Chairman, on the one hand we tell people not come here illegally to apply for asylum, not even if they are fleeing persecution. But then we fail to use the legal tools at our disposal, the programs specifically provided by law, to assist thee vulnerable people in escaping persecution in ways that do not violate immigration laws. It is a serious deficiency that should be addressed by the allocation of an adequate number of places for refugees from persecution at the hands of the totalitarian regime in Beijing.

Mr. LATOURETTE. Mr. Chairman, as the House of Representatives considered overhauling our nation's immigration policies, members had an opportunity to separate legal immigration from illegal immigration issues. I supported efforts to delete the legal immigration provisions from H.R. 2002, the "Immigration in the National Interest Act."

Some might question my motivation for doing this, however, it is my contention that just as the problems relating to legal and illegal immigration are different, so too are the solutions. You could argue that the work of a brain surgeon and a barber both involve the human head, yet no one would think of going to a barber for brain surgery or a brain surgeon for a haircut. This is precisely the type of ill-conceived logic we employ if we attempt to lump illegal and legal immigration into one reform package.

The two issues deserve separate consideration, and that is why I supported the measure to give each reform vehicle the attention it deserves. The U.S. Senate has already seen fit to separate legal from illegal immigration, again with the belief that our proposed reforms of legal immigration go too far. The legal immigration provisions contained in H.R. 2002 would drastically reduce legal immigration—up to 40 percent by some estimates. It also would reduce the potential for families to be reunited and would decimate the intake of refugees. History has not been kind to us as a nation when we have followed similar paths before.

During the 104th Congress, I have had the great pleasure of serving as a member of the Council for the U.S. Holocaust Memorial Museum in Washington. In my capacity on council, I have had been afforded the time and luxury to delve deeper into the history surrounding the Holocaust, and I have paid particular attention to the emigration of Jews from Germany in the 1930s. It strikes me that as we consider reforming our legal immigration policy, we should study this tragic period in history carefully, as there are many lessons to be learned.

In July 1938, delegates from 32 countries including the United States, France and Great Britain met at the Evian Hotel in Evian, France, for what has become known as the Evian Conference. The purpose of this conference was to determine what these countries should do in response to the thousands of Jewish refugees who were shunned both by their home country and abroad. Unfortunately, little was accomplished at the Evian Conference because no country was willing or had the fortitude to accept large numbers of Jews, including the U.S.

Since the early 1930s, Jews had been fleeing Germany for a variety of reasons. Initially, the German government encouraged those who could flee to do so, and to take whatever possessions they could with them. Eventually, however, the Nazis made this increasingly more difficult, slapping emigration taxes on Jews and making it impossible for them to survive elsewhere because their funds were tied up in German banks.

The anti-Jewish sentiment in Germany, as we all know, was oppressive. The Nazis wanted to make Germany a place devoid of Jews. As a result, Jews fled by the tens of thousands, often entire families at once. They sought refuge in Western Europe, the U.S., Central and South America, and even China. It is believed that as many as 90,000 Jews emigrated from Germany to the U.S. during this period in history, and many more would have come to our fair land had the U.S. been more willing to accept them. Unfortunately, we were not.

Our country's unwillingness to accept these Jewish refugees took a most tragic turn in May 1939, for it was at this time that the *S.S. St. Louis*, a German passenger ship, left Germany for Cuba. There were nearly 1,000 Jews on board the *St. Louis* as it headed toward Havana, yet when it finally reached its destination the ship was turned away by Cuban authorities. The *St. Louis* then pleaded with U.S. officials to let the nearly 1,000 refugees enter America, yet the U.S. denied the ship permission to land and denied entry visas to the refugees. In June 1939, the ship turned around and returned to Europe.

Fortunately for those on board the *St. Louis*, the countries of Great Britain, France, the Netherlands and Belgium agreed to accept the Jewish refugees, although this blessing would be brief and mixed. The following year, in 1940, German forces occupied the region. Many of the passengers aboard the *St. Louis*—those same passengers America turned away—were dealt the cruelest of fates. Many were subjected in their new homelands to the same horrors from which they had fled—the full wrath of the Holocaust—ghettos, concentration camps, deportations and death chambers.

Fear, prejudice and ignorance allowed America to turn its back on those who sought refuge here in May 1939, with the most tragic of outcomes. America is supposed to be a haven for those oppressed by other nations; it is supposed to be the land of hope and opportunity. Ours is a country that welcomes those who want to come here, contribute to society, and live the American dream.

It is regrettable that we as a nation have been unable to respond to the severe problems of illegal immigration in a sensible, meaningful way. It would be just as regrettable to gut a rich heritage of providing safe harbor for those who seek to come here legally because we cannot deal with a failed illegal immigration policy.

As a nation, we must take full responsibility for our generosity in welcoming others to our land, and full responsibility when that generosity backfires or fails. In separating legal from illegal immigration reform, we have our best chance to answer that call to responsibility. Just as we should not reward those who refuse to make a difference as Americans, we should not punish those who come here and strive to do so. Throughout history, legal immigrants have enriched our economy and the goodness of our country.

We will never know what kind of productive lives those aboard the *St. Louis* might have led on American soil because we did not give them the chance. It is a shame we will always bear. Legislative action or inaction in Europe and the United States contributed greatly to a tragedy we cannot repeat.

Ours is a country made up of immigrants, and the rich tapestry we enjoy is because so many people, including many of our own grandparents and great-grandparents, had the hear and the will to come here. More importantly, the United States had the heart and the will to welcome them, and it is not something to relinquish now.

Mr. SMITH of New Jersey. Mr. Chairman, the United States has always been a beacon of hope and opportunity for generations of

VOL
142
PT
5
MR
21
—
29
1996
UMI

people who come to our shores searching for what cannot be found in any other nation on Earth. Few of us here are not the heirs of immigrant determination to make a better life for families and loved ones—or to seek a safe haven from repression. Some of our colleagues in the House are themselves living proof that this Nation continues to be enriched by the strong immigrant community which is our heritage.

However, Mr. Chairman, today the people of the United States are faced with a new challenge from which we cannot back away—the challenge of illegal immigration.

Illegal immigration has reached epidemic proportions in the United States. Each year our borders are flooded with many thousands of people who enter the United States undocumented, usually unskilled, often without the resources to provide for their own needs.

Mr. Chairman, it is currently estimated that there are between 2 and 4 million illegal immigrants in the United States, with about 300,000 added to that number each year. I want to emphasize that these are estimates—the numbers could be even larger than the estimates. According to a study by the Rand Institute, one-half of all illegal immigrants enter the United States by crossing the land border. Many use fraudulent documents to derive benefits from social programs, thus depriving U.S. citizens, legal residents, and refugees who deserve these benefits and robbing taxpayers of millions of dollars.

Twice this House has attempted to right this wrong. Twice President Clinton vetoed those attempts. Thousands of people each year blatantly disregard U.S. laws but are rewarded once they arrive here. This magnet of benefits draws people from all over the world who simply abuse the system with no intent on ever contributing. This is wrong. And once again we have the opportunity to address the issue. We must remain firm in our commitment to provide for those who are in need, to offer assistance to those who experience temporary setbacks. But we cannot simply be a well from which all may draw without ever giving back, or with no intention of ever leaving the well.

But the welfare problem is only one symptom of the illegal immigration epidemic. Jobs of U.S. citizens and legal residents are affected by the number of illegal immigrants willing to work longer hours for lower wages. Illegal immigrants reduce the employment opportunities of low-skilled workers, and even of skilled workers in areas where the economy is already weak and opportunities less plentiful. According to a New York Times article by Roger Waldinger, a professor of sociology at U.C.L.A., says that the African-American community suffers the most from jobs lost to illegal immigration. Legal immigrants are also hurt by the growing influx of illegal immigrants, their opportunities decreased and the hopes they brought with them dimmed or extinguished. Many of these U.S. citizens and legal immigrants are then forced into dependency on social programs, increasing the cost that illegal immigration imposes on the American public.

Not only does illegal immigration cost jobs, it also costs wages. Statistics show that low-skilled workers may experience as much as a 50 percent decline in real wages and that the growing number of illegal immigrants is leading to an increased wage gap between skilled and unskilled workers.

I have in my office stacks of reports from the Immigration and Naturalization Service, documenting hundreds of illegal immigrants who are employed here illegally. The jobs they hold are jobs that rightfully belong to U.S. citizens and lawful residents.

But there are more symptoms of this epidemic. U.S. prisons are overflowing with criminal aliens—and the vast majority of these are illegal immigrants. In addition to the stacks of reports from the INS which document the employment of illegal aliens, there are pages of reports on the growing number of illegal immigrants who are involved in criminal activity. Many of them enter our judicial and prison systems where, again, millions of dollars are spent on dealing with their criminal activities.

Those who enter the United States illegally and who continue to violate our laws—especially those who by violence add to the growing problem of violent crime and fear in this country—do not deserve to stay here. Like other violent criminals, they have complete disregard for the values that U.S. citizens and legal immigrants hold dear and strive for each day.

It is no secret that I support the plight of refugees who seek relief from oppression in their homelands. This empathy for people who love freedom is a basic tenet of our American tradition. But such empathy should not be confused with support for those—regardless of nationality—who would instill fear and terror on the law-abiding citizens of our Nation.

I should also make clear that I do not mean to imply that most immigrants—or even most illegal immigrants—come here to commit violent crimes. Many undocumented immigrants are driven by the same economic and social factors that cause all of us to want to improve our situations in life. But the United States is first and foremost a nation of laws, and we have a right to insist on obedience to the law.

Mr. Chairman, earlier I quoted the Rand Institute's figure that 50 percent of all illegal immigrants come to the U.S. by crossing our land border. We owe a word of support and commendation to the men and women who make up our border patrols and stave off hundreds of people who otherwise would have gotten into the United States without documentation. They place their lives on the line each day to protect the integrity of our borders. They are our first and best line of defense against illegal immigration. They are overworked and in need of more support. We must do everything we can to strengthen our border patrol and improve this first line of defense.

The elimination of any epidemic calls for strong and decisive measures. This epidemic of illegal immigration demands the same. Eliminate the benefits that illegal immigrants receive when they arrive. Enforce and strengthen the laws which prohibit the hiring of illegal immigrants. Protect U.S. jobs for U.S. workers, especially for those who are most harmed when their jobs are given to illegal immigrants. Deal swiftly and decisively with criminal aliens through expedited deportation proceedings. These measures are only a start to address this epidemic. But we must start somewhere.

Mr. DEFAZIO. Mr. Chairman, our national policy regarding immigration is overdue for change. We need to balance our proud history of diversity with the economic reality of high national unemployment and over-burdened social services. We must consider reforms that address the needs of U.S. citizens first and recognize the fiscal reality of Federal and State government.

Congress is now considering a major proposal to dramatically change our Nation's immigration policy. I support the goal of ending illegal immigration. But I also believe we must reduce the number of people legally immigrating to our Nation. We simply cannot hold the door open for every one of the world's dissatisfied citizens. Continued high immigration hurts our environment, it hurts our low wage workers and it is increasingly hurting higher skill and higher wage workers, as well. High levels of immigration may have been a boon to our Nation at one time. They have ceased to make any sense today.

Representative BERMAN has proposed an amendment to strike the legal immigration provisions of the bill. I'm concerned that if we eliminate the attempt in this bill to reform the Nation's legal immigration policy—as flawed as this bill's legal immigration reforms may be—the impetus for reform will die. I, therefore, cannot support his amendment.

I'll continue to work for tighter borders and responsible immigration control, and press for strong protection for our Nations work force.

Mr. FRANKS of New Jersey. Mr. Speaker, I rise in support of H.R. 2202, the Immigration in the National Interest Act. I want to bring to my colleagues' attention to one particular provision of this measure that will strengthen America's asylum laws.

America's asylum laws are intended to provide refuge for aliens whose lives or freedom are threatened on account of their race, religion, nationality, membership in a particular social group or political opinion. But our current asylum system is riddled with abuse. For example, 31 percent of aliens who apply for asylum never show up for the INS interview that is scheduled to evaluate the legitimacy of their asylum claim. In addition, thousands of aliens who are in the process of being deported claim political asylum at the very last opportunity, thereby triggering a lengthy process of hearings and appeals which further delay deportation.

Last August I introduced legislation, H.R. 2182, that would prohibit an alien from seeking asylum in the United States if the alien had first traveled through a country that offers political asylum. These countries are called countries of safe haven. My legislation sought to restore the integrity of our asylum laws by requiring asylum seekers to remain in the first country that would offer them safe haven in an effort to seek better economic opportunities in the United States would be prohibited from entering our country with certain exceptions.

I am pleased that the gentleman from Texas [Mr. SMITH] has adopted many elements of my legislation in H.R. 2202.

Mr. Speaker, H.R. 2202 closes the loopholes in our current system, restores the original intent of our asylum laws and maintains generous asylum policies for those fleeing persecution and oppression. I strongly support passage of this bill.

Mr. VENTO. Mr. Chairman I rise today in support of an amendment I drafted to address a fundamental problem being experienced by legal U.S. residents, the Hmong. This measure would expedite the naturalization of Hmong people who served in Special Guerrilla Forces assisting the U.S. military during the Vietnam War.

My amendment corrects a serious problem affecting Hmong people in the United States today who served alongside United States soldiers in Southeast Asia. It expedites the naturalization of aliens who served in these units in Laos and their spouses or widows by waiving the language requirement and the residency requirement aliens normally must meet. These two significant barriers to citizenship today affect the Hmong in a unique manner.

From 1960 to 1975 Hmong people of all ages fought and died alongside United States soldiers in units recruited, trained, and funded by the CIA. During the war, between 10,000 and 20,000 Hmong tragically were killed in combat and as the conflict resulted in a bitter conclusion, 100,000 Hmong had to flee to refugee camps to survive the persecution and retribution that surely would have followed. The Hmong stood loyally by the United States during the long bitter course of the Vietnam War, but because the Hmong did not serve in regular United States military units, they are not eligible for expedited naturalization as other uniformed U.S. veterans and others may be. The Vento amendment would remedy this problem and inequity.

Current law permits aliens or noncitizen nationals who served honorably during World War I, World War II, the Korean conflict, and the Vietnam war to be naturalized regardless of age, period of residence or physical presence in the United States. In other words, there is established precedent for modifying naturalization requirements for U.S. military service by non-U.S. citizens. In fact, Congress included provisions expediting the naturalization of World War II Filipino Scouts during consideration of the 1990 immigration bill. My amendment would continue our long tradition of recognizing the service of those who come to the aid of the United States in times of war. Ironically, most past conflicts did not preclude the nonnational United States service persons from returning to their homeland, so their plight, in most cases, is not as desperate as the Hmong involvement in a conflict with a difficult result.

The percentage of Hmong who served in the Special Guerrilla Hmong units who have achieved United States citizenship is very low in great part today because the Hmong have found passing the citizenship test difficult. By waiving the language requirement my amendment would lift the greatest obstacle the Hmong face in becoming American citizens. The late arrival of some Hmong who have often served 10 to 15 years in the Hmong unit and then have spent another 10 or even 20 years in Asian refugee camps should not now have a 5-year residency requirement, hence the Vento amendment waives this proviso.

I want to emphasize that my amendment does not open new immigration channels nor does it confer veteran's status on Hmong patriots. Those who served in the Special Guerrilla units will not be made eligible for veteran's benefits under my amendment.

As I mentioned earlier in my statement, Congress has included provisions for other nonnationals, the Filipino Scouts, in omnibus immigration legislation as recently as 1990. Given the heavy legislative agenda we face for the remainder of the 104th Congress, this will almost certainly be our best opportunity to consider this necessary but modest effort to recognize the service of the Hmong veterans who fought so bravely and sacrificed so much for America.

The practical impact is the citizenship and privilege to participate in our U.S. democracy—to have the right of preference in immigration and family reunification—a significant and humanitarian impact. But, in my mind's eye, of equal value is the United States Congress' and the United States Government's recognition and the honor we bestow on the Hmong patriots who lost so many lives in Southeast Asia and saved many American lives. I urge my colleagues to support this Vento amendment which honors the Hmong and their outstanding service to our Nation.

Mr. Chairman, I'm including some personal examples of Minnesota Hmong, some from my neighborhood and close to my deceased grandparents' home. These examples of the personal history, the biographies of Hmong soldiers' experiences in Southeast Asia underline the importance and significance of their lives and service. The Hmong may not pass the language tests but they know inherently the cost of freedom and the price they have paid means that they have passed the test in a more important and special way. The following monographs illustrate that implicitly.

Mr. COLEMAN. Mr. Speaker, I rise today in strong support of the Chabot-Conyers amendment to the Immigration Act of 1995 (H.R. 2202). What we have before us today is a bill that is discriminatory and ill-conceived.

This bill proposes to create a national data system that must be used by all employers to verify the identity and employment eligibility of every person hired in the United States. The bill would establish a massive and costly data retrieval system to access information from existing Government databases at the Social Security Administration and the INS.

This 1–800–BIG BROTHER system would compel employers to have each new hire approved by the Federal Government. This is a costly, intrusive, and ineffective measure.

To begin with, the system would rely on highly flawed Government data. The INS database slated for use in this system has missing or incorrect information 28 percent of the time, while the Social Security Administration has faulty data 17 percent of the time. In previous pilot projects run by the INS and SSA, over 50 percent of the people who the systems could not verify were, in fact, legally authorized workers.

With tens of millions of Americans entering the job market each year, even an almost impossible low 1 percent error rate could still cause thousands of Americans to be wrongly denied work each year. Consequently, millions of American workers are at risk because of seriously flawed Government data.

I am proud to represent El Paso, whose 650,000 citizens, residents, and children of immigrants have successfully integrated bilingualism and biculturalism into their education system, health care facilities, and economy. El Paso's population is 70 percent Hispanic. If passed, this bill will have a devastating effect on my district by entering Big Brother into their daily lives.

Imagine how this Big Brother system would affect the citizens of El Paso. Hundreds of thousands of El Pasoans could be at the mercy of this faulty system.

People whose appearance, accent or family background make them seem foreign will be screened out of jobs as employers attempt to avoid the inevitable problems which the verification process will cause. The verification system will also be easily susceptible to abuse by merchants and business people who use the worker registry as a powerful tool to harass, and privately check up on whoever they choose, for other purposes.

In wake of the Proposition 187, merchants in California began requesting immigration documents from Latino and Asian customers in restaurants and banks.

I believe the recent xenophobic rhetoric being used by some in the Republican Party is a thinly veiled attempt to blame national problems on newcomers or those who are of a different ethnicity than the majority. These efforts contribute to an atmosphere of hostility. I find it dangerous and counterproductive to start a process which would lead only to spiraling harassment and discrimination in the workplace.

Further, the system is imperfect and has massive loopholes. False documents with accurate numbers will enable undocumented workers to avoid detection and employers who knowingly hire undocumented workers under the table will continue to do so despite the system.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in opposition to H.R. 2202 as amended. Although I have long been, and will continue to be, a supporter of many of the initiatives contained in the bill to fight illegal immigration, I must vote against the bill because of some of the more extreme provisions.

In my home State of Texas, illegal immigration is indeed a problem, and I support the strong border protection provisions of the legislation. I also want to acknowledge the Texan cosponsors of the bill. Mr. SMITH and Mr. BRYANT, for their hard work in crafting this legislation.

I was most gratified that the House adopted an amendment which removed the legal immigration provisions of the bill, which allows this distinct issue to be dealt with under separate legislation. The Senate has already moved to divide the legal and illegal provisions, and I believe this is the wisest course for this House to follow.

For just a moment, I would like to comment about legal immigration. I remain a strong supporter of legal immigration, which has a positive benefit on America. Not only does legal immigration assist our country culturally, it also helps our economy. Legal immigrants to the United States pay $25 billion a year more in taxes than they receive in services. Usually, immigrants are of working age, which explains their benefit to the overall economy. The

VOL
142
PT
5
MR
21
—
29
1996
UMI

United States admitted 7.5 million legal immigrants in the 1980's, yet in that decade the unemployment rate fell. Legal immigrants begin business in this country, which employ Americans. In sum, legal immigration is a tradition in America which improves our lives.

With respect to the provisions of H.R. 2202, I have objections to the bill, which I hope can be worked out in conference. The House adopted a provision which will give States the option to deny public education to illegal aliens. This provision, which will be challenged in court and is likely unconstitutional, is mean-spirited and does not advance the goals of the overall bill. These children that seek an education will now be turned away, while educators will be turned into Immigration and Naturalization Service workers, adding to their burden unnecessarily. And what will these children do? Does the House really expect something positive from turning children out of the school house and into the street? This is one reason I oppose the bill in its current form, and I hope this provision is deleted in conference.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. RIGGS) having assumed the chair, Mr. BONILLA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2202), to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, pursuant to House Resolution 384, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BRYANT OF TEXAS

Mr. BRYANT of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BRYANT of Texas. In its present form, I am, Mr. Speaker.

The SPEAKER pro temore. The Clerk will report the motion to recommit.

The Clerk read the motion, as follows:

Mr. BRYANT of Texas moves to recommit the bill, H.R. 2202, back to the Committee on the Judiciary with instructions to report the bill back forthwith with the following amendment:

Amend section 806 to read as follows:

SEC. 806. CHANGES RELATING TO H-1B NONIMMIGRANTS.

(a) ATTESTATIONS.—

(1) COMPENSATION LEVEL.—Section 212(n)(1)(A)(i) (8 U.S.C. 1182(n)(1)(A)(i)) is amended—

(A) in subclause (I), by inserting "100 percent of" before "the actual wage level",

(B) in subclause (II), by inserting "100 percent of" before "the prevailing wage level", and

(C) by adding at the end the following: "is offering and will offer during such period the same benefits and additional compensation provided to similarly-employed workers by the employer, and".

(2) DISPLACEMENT OF UNITED STATES WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following new subparagraph:

"(E)(i) The employer—

"(I) has not, within the six-month period prior to the filing of the application, laid off or otherwise displaced any United States worker (as defined in clause (ii)), including any worker obtained by contract, employee leasing, temporary help agreement, or other similar basis, in the occupational classification which is the subject of the application and in which the nonimmigrant is intended to be (or is) employed; and

"(II) within 90 days following the application, and within 90 days before and after the filing of a petition for any H-1B worker pursuant to that application, will not lay off or otherwise displace any United States worker in the occupational classification which is the subject of the application and in which the nonimmigrant is intended to be (or is) employed.

"(ii) For purposes of this subparagraph, the term 'United States worker' means—

"(I) a citizen or national of the United States;

"(II) an alien lawfully admitted to the United States for permanent residence; and

"(III) an alien authorized to be so employed by this Act or by the Attorney General.

"(iii) For purposes of this subparagraph, the term 'laid off', with respect to an employee, means the employee's loss of employment, other than a discharge for cause or a voluntary departure or voluntary retirement.".

(3) RECRUITMENT OF UNITED STATES WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraph (2), is further amended by inserting after subparagraph (E) the following new subparagraph:

"(F) The employer, prior to filing the application, attempted unsuccessfully and in good faith to recruit a United States worker for the employment that will be done by the alien whose services are being sought, using recruitment procedures that meet industry-wide standards and offering wages that are at least—

"(i) 100 percent of the actual wage level paid by the employer to other individuals with similar experience and qualifications for the specific employment in question, or

"(ii) 100 percent of the prevailing wage level for individuals in such employment in the area of employment,

whichever is greater, based on the best information available as of the date of filing the application, and offering the same benefits and additional compensation provided to similarly-employed workers by the employer.".

(4) DEPENDENCE ON H-1B WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraphs (2) and (3), is further amended by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) Whether the employer is dependent on H-1B workers, as defined in clause (ii) and in such regulations as the Secretary of Labor may develop and promulgate in accordance with this paragraph.

"(ii) For purposes of clause (i), an employer is 'dependent on H-1B workers' if the employer—

"(I) has fewer than 41 full-time equivalent employees who are employed in the United States and employs four or more nonimmigrants under section 101(a)(15)(H)(i)(b); or

"(II) has at least 41 full-time equivalent employees who are employed in the United States, and employs nonimmigrants described in section 101(a)(15)(H)(i)(b) in a number that is equal to at least ten percent of the number of such full-time equivalent employees.

"(iii) In applying this subparagraph, any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer under this subparagraph. Aliens with respect to whom the employer has filed such an application shall be treated as employees, and counted as nonimmigrants under section 101(a)(15)(H)(i)(b), under this paragraph.".

(5) JOB CONTRACTORS.—(A) Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraphs (2) through (4), is further amended by inserting after subparagraph (G) the following new subparagraph:

"(H) In the case of an employer that is a job contractor (within the meaning of regulations promulgated by the Secretary of Labor to carry out this subsection), the contractor will not place any H-1B employee with another employer unless such other employer has executed an attestation that the employer is complying and will continue to comply with the requirements of this paragraph in the same manner as they apply to the job contractor.".

(B) Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following new subparagraph:

"(E) The provisions of this paragraph shall apply to complaints respecting a failure of another employer to comply with an attestation described in paragraph (1), that has been made as the result of the requirement imposed on job contractors under paragraph (1)(H), in the same manner that they apply to complaints of a petitioner with respect to a failure to comply with a condition described in paragraph (1) by employers generally.".

(b) SPECIAL RULES FOR EMPLOYERS DEPENDENT ON H-1B WORKERS.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following new paragraph:

"(3)(A) No alien may be admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) if the employer who is seeking the services of such alien has attested under paragraph (1)(G) that the employer is dependent on H-1B workers unless the following conditions are met:

"(i) The Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that the employer who is seeking the services of such alien is taking steps described in subparagraph (C) (including having taken the step described in subparagraph (D)).

"(ii) The alien has demonstrated to the satisfaction of the Secretary of State and the Attorney General that the alien has a residence abroad which he has no intention of abandoning.

"(B)(i) It is unlawful for a petitioning employer to require, as a condition of employment by such employer, or otherwise, that the fee described in subparagraph (A)(i), or any part of it, be paid directly or indirectly by the alien whose services are being sought.

"(ii) Any person or entity which is determined, after notice and opportunity for an administrative hearing, to have violated clause (i) shall be subject to a civil penalty of $5,000 for each violation, to an administrative order requiring the payment of the fee described in subparagraph (A)(i), and to disqualification for 1 year from petitioning under section 204 or 214(c).

"(iii) Any amount determined to have been paid, directly or indirectly, to the fund by the alien whose services were sought, shall be repaid from the fund or by the employer, as appropriate, to such alien.

"(C)(i) An employer who attests under paragraph (1)(G) to dependence on H-1B workers shall take timely, significant, and effective steps (including the step described in subparagraph (D)) to recruit and retain sufficient United States workers in order to remove as quickly as reasonably possible the dependence of the employer on H-1B workers.

"(ii) For purposes of clause (i), steps under clause (i) (in addition to the step described in subparagraph (D)) may include the following:

"(I) Operating a program of training existing employees who are United States workers in the skills needed by the employer, or financing (or otherwise providing for) such employees' participation in such a training program elsewhere.

"(II) Providing career development programs and other methods of facilitating United States workers in related fields to acquire the skills needed by the employer.

"(III) Paying to employees who are United States workers compensation that is equal in value to more than 105 percent of what is paid to persons similarly employed in the geographic area.

The steps described in this clause shall not be considered to be an exhaustive list of the significant steps that may be taken to meet the requirements of clause (i).

"(iii) The steps described in clause (i) shall not be considered effective if the employer has failed to decrease by at least 10 percent in each of two consecutive years the percentage of the employer's total number of employees in the specific employment in which the H-1B workers are employed which is represented by the number of H-1B workers.

"(iv) The Attorney General shall not approve petitions filed under section 204 or 214(c) with respect to an employer that has not, in the prior two years, complied with the requirements of this subparagraph (including subparagraph (D)).

"(D)(i) The step described in this subparagraph is payment of an amount consistent with clause (ii) by the petitioning employer into a private fund which is certified by the Secretary of Labor as dedicated to reducing the dependence of employers in the industry of which the petitioning employer is a part on new foreign workers and which expends amounts received under this subclause consistent with clause (iii).

"(ii) An amount is consistent with this clause if it is a percent of the value of the annual compensation (including wages, benefits, and all other compensation) to be paid to the alien whose services are being sought, equal to 5 percent in the first year, 7.5 percent in the second year, and 10 percent in the third year.

"(iii) Amounts are expended consistent with this clause if they are expended as follows:

"(I) One-half of the aggregate amounts are expended for awarding scholarships and fellowships to students at colleges and universities in the United States who are citizens or lawful permanent residents of the United States majoring in, or engaging in graduate study of, subjects of direct relevance to the employers in the same industry as the petitioning employer.

"(II) One-half of the aggregate amounts are expended for enabling United States workers in the United States to obtain training in occupations required by employers in the same industry as the petitioning employer.

(c) INCREASED PENALTIES FOR MISREPRESENTATION.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended—

(1) in subparagraph (C) in the matter before clause (i), by striking "(1)(C) or (1)(D)" and inserting "(1)(C), (1)(D), (1)(E), or (1)(F) or to fulfill obligations imposed under subsection (b) for employers defined in subsection (a)(4)";

(2) in subparagraph (C)(i), by striking "$1,000" and inserting "$5,000";

(3) by amending subparagraph (C)(ii) to read as follows:

"(ii) the Attorney General shall not approve petitions filed with respect to that employer (or any employer who is a successor in interest) under section 204 or 214(c) for aliens to be employed by the employer—

"(I) during a period of at least 1 year in the case of the first determination of a violation or any subsequent determination of a violation occurring within 1 year of that first violation or any subsequent determination of a nonwillful violation occurring more than 1 year after the first violation;

"(II) during a period of at least 5 years in the case of a determination of a willful violation occurring more than 1 year after the first violation; and

"(III) at any time in the case of a determination of a willful violation occurring more than 5 years after a violation described in subclause (II)."; and

(3) in subparagraph (D), by adding at the end the following: "If a penalty under subparagraph (C) has been imposed in the case of a willful violation, the Secretary shall impose an additional civil monetary penalty on the employer in an amount equalling twice the amount of backpay.".

(d) LIMITATION ON PERIOD OF AUTHORIZED ADMISSION.—Section 214(g)(4) (8 U.S.C. 1184(g)(4)) is amended—

(1) by inserting "or section 101(a)(15)(H)(ii)(b)" after "section 101(a)(15)(H)(i)(b)"; and

(2) by striking "6 years" and inserting in lieu thereof "3 years".

(e) REQUIREMENT FOR RESIDENCE ABROAD.—Section 101(a)(15)(H)(i)(b) (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended by inserting "who has a residence in a foreign country which he has no intention of abandoning," after "212(j)(2),".

(f) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

(2) The amendments made by subsection (d) shall apply with respect to offenses occurring on or after the date of enactment of this Act.

Mr. BRYANT of Texas (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BRYANT] is recognized for 5 minutes in support of his motion to recommit.

Mr. BRYANT of Texas. Mr. Speaker, the motion to recommit incorporates an amendment which the Committee on Rules would not allow us to offer in the course of the debate on the immigration bill which would change the current law in a way that is beneficial and positive for American workers.

The current law allows people to enter this country on temporary work visas, up to 65,000 a year, and to be put to work in companies where often they take the jobs of American workers.

The fact of the matter is, that between 1992 and 1995 we had 234,000 foreign temporary workers enter the country and take the jobs of American workers. Mr. Speaker, the H-1B program that was created in 1990 was designed to alleviate some short-term needs with some temporary worker visas. It has now turned into a program in which companies have replaced, in some cases, entire departments with imported workers coming in on temporary visas, and they are allowed to stay as long as 6 years.

This motion to recommit would change that program, and would say that, U.S. workers can not be laid off and replaced with H-1B foreign workers, that the temporary visa will only be good for 3 years not 6. It would require that employers dependent on H-1B workers would have to take timely, significant, and effective steps to recruit and retain sufficient U.S. workers to remove that dependency.

It is an outrage that we have had situations in this country where companies have brought in large numbers of temporary H-1B workers. They have asked their domestic work force to train the imported workers. Then they have fired the domestic workers and put to work the newly trained foreign workers that were brought in under the H-1B program. It should not be permitted. This motion to recommit would forbid it forever in the future.

Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS.].

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Mr. CONYERS. Mr. Speaker, first of all, I congratulate my colleague on the Committee on the Judiciary, the gentleman from Texas, [Mr. BRYANT], for an incredibly diligent job.

The motion here to recommit with the amendment may be the most important vote we may consider this year from the perspective of the American worker, because it puts before us the identical immigration reform bill, with just one exception, and here it is: that American companies should attempt to recruit American workers for skilled jobs before trying to recruit foreign workers for these jobs.

□ 1945

That is what it is about, that is all it is about. The administration has produced a record of 8 million new jobs. Some of the Republican candidates, by contrast, or one in particular is still figuring out that jobs is a major issue with Americans. It translates here into the GOP leadership.

The Rules Committee blocked this amendment and so we are bringing it up now in a motion to recommit. Please support this motion to recommit whether you are a Republican or a Democrat.

Mr. BRYANT of Texas. I thank the gentleman for his comments.

Mr. Speaker, I would point out that under this motion to recommit employers who are dependent on H–1B orders would have to take effective steps to recruit and retain U.S. workers to remove that dependency, and that U.S. workers could not be laid off and replaced with H–1B workers.

Mr. Speaker, I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding. I strongly support his amendment. This amendment should have been allowed in the rules. We should have been able to debate this on the floor.

I just want to take 15 seconds of my time to indicate that in this bill, which is coming up for final passage, is what I believe to be an unconstitutional and just horrible on public policy amendment with respect to children and public schools. I am going to support this bill because it is so much better than it was through this House. If this amendment does not come out in conference committee, I will oppose the bill on the floor when it comes back from conference with every ounce of my energy.

Mr. BRYANT of Texas. Mr. Speaker, I would simply conclude by saying that this motion to recommit would put into the immigration bill a provision that ensures that U.S. workers cannot be laid off and replaced with foreign temporary workers. Every Member of this House ought to vote in the interest of the American work force for the motion to recommit.

Mr. SMITH of Texas. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman from Texas is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Speaker, the gentleman from Texas [Mr. BRYANT] and I have been through a lot on a year-long journey to implement immigration reform legislation. I feel like we are a little like the two characters in Lonesome Dove, Woodrow and Gus. While we may sometimes disagree, I am not going to take any shots at my partner in this endeavor. Instead, I do want to tell my colleagues why this is such a good bill and why it puts the interest of American families, workers, and taxpayers first.

This legislation will reduce illegal immigration and reform legal immigration. It will help secure our borders, reduce crime, and protect jobs for American citizens. It will encourage legal immigrants to be productive members of our communities and ease the burden on the hardworking taxpayers.

For only the fourth time this century, Congress now considers comprehensive immigration reform. I thank my colleagues for their patience, for their interest, and for their support. I urge my colleagues to vote "no" on the motion to recommit and "yes" on final passage.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BRYANT of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 188, noes 231, not voting 12, as follows:

[Roll No. 88]

AYES—188

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Ensign
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Miller (CA)
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Regula
Richardson
Rivers
Roemer
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stockman
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velázquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates
Zimmer

NOES—231

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder

Livingston
Lofgren
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—12

Clay
Collins (IL)
DeLay
Johnston
Moakley
Radanovich
Rose
Stark
Stokes
Studds
Waters
Wilson

□ 2005

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Radanovich against.

Mr. STOCKMAN changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER (Mr. RIGGS). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 333, noes 87, not voting 12, as follows:

[Roll No. 89]

AYES—333

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Deutsch
Dickey
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kildee
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Ramstad
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—87

Abercrombie
Becerra
Beilenson
Bonior
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Campbell
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
de la Garza
Dellums
Diaz-Balart
Dicks
Dingell
Doggett
Engel
Evans
Fattah
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
King
LaFalce
Lewis (GA)
Lofgren
Markey
Martinez
Matsui
McDermott
McKinney
Meehan
Meek
Mink
Mollohan
Morella
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pastor
Payne (NJ)
Pelosi
Rahall
Rangel
Richardson
Ros-Lehtinen
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Scott
Serrano
Skaggs
Thompson
Torres
Towns
Velazquez
Ward
Watt (NC)
Woolsey
Wynn
Yates

NOT VOTING—12

Clay
Collins (IL)
Dornan
Johnston
Moakley
Radanovich
Rose
Stark
Stokes
Studds
Waters
Wilson

□ 2013

The Clerk announced the following pair:

On this vote:

Mr. Radanovich for, with Mr. Stokes against.

Ms. ESHOO changed her vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DORNAN. Mr. Speaker, on rollcall number 89, the immigration bill, had I been present, I would have voted aye. This bill was so important to me and I worked so hard on it. I was on the Senate floor, and out of courtesy turned off my beeper. I thought it would be a 15-minute vote, not a 5-minute vote. That is a vigorous up, thumbs up, aye vote.

GENERAL LEAVE

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. HEFLEY). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2202, IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent

VOL 142 PT 5 MR 21 — 29 1996 UMI

that, in the engrossment of the bill, H.R. 2202, the Clerk be authorized to correct section numbers, cross-references, the table of contents, and punctuation, and to make such stylistic, clerical, technical, conforming, and other changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 125, GUN CRIME ENFORCEMENT AND SECOND AMENDMENT RESTORATION ACT OF 1996

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–490) on the resolution (H. Res. 388) providing for consideration of the bill (H.R. 125) to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON S. 4, LINE ITEM VETO ACT

Mr. CLINGER submitted the following conference report and statement on the Senate bill (S. 4) to grant the power to the President to reduce budget authority:

CONFERENCE REPORT (H. REPT. 104–491)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4), to grant the power to the President to reduce budget authority, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act".

SEC. 2. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by adding at the end the following new part:

"PART C—LINE ITEM VETO

"LINE ITEM VETO AUTHORITY

"SEC. 1021. (a) IN GENERAL.—Notwithstanding the provisions of parts A and B, and subject to the provisions of this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States, cancel in whole—

"(1) any dollar amount of discretionary budget authority;

"(2) any item of new direct spending; or

"(3) any limited tax benefit;

if the President—

"(A) determines that such cancellation will—

"(i) reduce the Federal budget deficit;

"(ii) not impair any essential Government functions; and

"(iii) not harm the national interest; and

"(B) notifies the Congress of such cancellation by transmitting a special message, in accordance with section 1022, within five calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled.

"(b) IDENTIFICATION OF CANCELLATIONS.—In identifying dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits for cancellation, the President shall—

"(1) consider the legislative history, construction, and purposes of the law which contains such dollar amounts, items, or benefits;

"(2) consider any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information; and

"(3) use the definitions contained in section 1026 in applying this part to the specific provisions of such law.

"(c) EXCEPTION FOR DISAPPROVAL BILLS.—The authority granted by subsection (a) shall not apply to any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any law that is a disapproval bill as defined in section 1026.

"SPECIAL MESSAGES

"SEC. 1022. (a) IN GENERAL.—For each law from which a cancellation has been made under this part, the President shall transmit a single special message to the Congress.

"(b) CONTENTS.—

"(1) The special message shall specify—

"(A) the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit which has been canceled, and provide a corresponding reference number for each cancellation;

"(B) the determinations required under section 1021(a), together with any supporting material;

"(C) the reasons for the cancellation;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the cancellation;

"(E) all facts, circumstances and considerations relating to or bearing upon the cancellation, and to the maximum extent practicable, the estimated effect of the cancellation upon the objects, purposes and programs for which the canceled authority was provided; and

"(F) include the adjustments that will be made pursuant to section 1024 to the discretionary spending limits under section 601 and an evaluation of the effects of those adjustments upon the sequestration procedures of section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(2) In the case of a cancellation of any dollar amount of discretionary budget authority or item of new direct spending, the special message shall also include, if applicable-

"(A) any account, department, or establishment of the Government for which such budget authority was to have been available for obligation and the specific project or governmental functions involved;

"(B) the specific States and congressional districts, if any, affected by the cancellation; and

"(C) the total number of cancellations imposed during the current session of Congress on States and congressional districts identified in subparagraph (B).

"(c) TRANSMISSION OF SPECIAL MESSAGES TO HOUSE AND SENATE.—

"(1) The President shall transmit to the Congress each special message under this part within five calendar days (excluding Sundays) after enactment of the law to which the cancellation applies. Each special message shall be transmitted to the House of Representatives and the Senate on the same calendar day. Such special message shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session.

"(2) Any special message transmitted under this part shall be printed in the first issue of the Federal Register published after such transmittal.

"CANCELLATION EFFECTIVE UNLESS DISAPPROVED

"SEC. 1023. (a) IN GENERAL.—The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation. If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null and void and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be effective as of the original date provided in the law to which the cancellation applied.

"(b) COMMENSURATE REDUCTIONS IN DISCRETIONARY BUDGET AUTHORITY.—Upon the cancellation of a dollar amount of discretionary budget authority under subsection (a), the total appropriation for each relevant account of which that dollar amount is a part shall be simultaneously reduced by the dollar amount of that cancellation.

"DEFICIT REDUCTION

"SEC. 1024. (a) IN GENERAL.—

"(1) DISCRETIONARY BUDGET AUTHORITY.—OMB shall, for each dollar amount of discretionary budget authority and for each item of new direct spending canceled from an appropriation law under section 1021(a)—

"(A) reflect the reduction that results from such cancellation in the estimates required by section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 in accordance with that Act, including an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear; and

"(B) include a reduction to the discretionary spending limits for budget authority and outlays in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 for each applicable fiscal year set forth in section 601(a)(2) by amounts equal to the amounts for each fiscal year estimated pursuant to subparagraph (A).

"(2) DIRECT SPENDING AND LIMITED TAX BENEFITS.—(A) OMB shall, for each item of new direct spending or limited tax benefit canceled from a law under section 1021(a), estimate the deficit decrease caused by the cancellation of such item or benefit in that law and include such estimate as a separate entry in the report prepared pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(B) OMB shall not include any change in the deficit resulting from a cancellation of any item of new direct spending or limited tax benefit, or the enactment of a disapproval bill for any such cancellation, under this part in the estimates and reports required by sections 252(b) and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(b) ADJUSTMENTS TO SPENDING LIMITS.—After ten calendar days (excluding Sundays) after the expiration of the time period in section 1025(b)(1) for expedited congressional consideration of a disapproval bill for a special message containing a cancellation of discretionary budget authority, OMB shall make the reduction included in subsection (a)(1)(B) as part of the next sequester report required by section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(c) EXCEPTION.—Subsection (b) shall not apply to a cancellation if a disapproval bill or other law that disapproves that cancellation is enacted into law prior to 10 calendar days (excluding Sundays) after the expiration of the time period set forth in section 1025(b)(1).

"(d) CONGRESSIONAL BUDGET OFFICE ESTIMATES.—As soon as practicable after the President makes a cancellation from a law under section 1021(a), the Director of the Congressional Budget Office shall provide the Committees on the Budget of the House of Representatives and the Senate with an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear.

"EXPEDITED CONGRESSIONAL CONSIDERATION OF DISAPPROVAL BILLS

"SEC. 1025. (a) RECEIPT AND REFERRAL OF SPECIAL MESSAGE.—Each special message transmitted under this part shall be referred to the Committee on the Budget and the appropriate committee or committees of the Senate and the Committee on the Budget and the appropriate committee or committees of the House of Representatives. Each such message shall be printed as a document of the House of Representatives.

"(b) TIME PERIOD FOR EXPEDITED PROCEDURES.—

"(1) There shall be a congressional review period of 30 calendar days of session, beginning on the first calendar day of session after the date on which the special message is received in the House of Representatives and the Senate, during which the procedures contained in this section shall apply to both Houses of Congress.

"(2) In the House of Representatives the procedures set forth in this section shall not apply after the end of the period described in paragraph (1).

"(3) If Congress adjourns at the end of a Congress prior to the expiration of the period described in paragraph (1) and a disapproval bill was then pending in either House of Congress or a committee thereof (including a conference committee of the two Houses of Congress), or was pending before the President, a disapproval bill for the same special message may be introduced within the first five calendar days of session of the next Congress and shall be treated as a disapproval bill under this part, and the time period described in paragraph (1) shall commence on the day of introduction of that disapproval bill.

"(c) INTRODUCTION OF DISAPPROVAL BILLS.—(1) In order for a disapproval bill to be considered under the procedures set forth in this section, the bill must meet the definition of a disapproval bill and must be introduced no later than the fifth calendar day of session following the beginning of the period described in subsection (b)(1).

"(2) In the case of a disapproval bill introduced in the House of Representatives, such bill shall include in the first blank space referred to in section 1026(6)(C) a list of the reference numbers for all cancellations made by the President in the special message to which such disapproval bill relates.

"(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) Any committee of the House of Representatives to which a disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction. If any committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill, except that such a motion may not be made after the committee has reported a disapproval bill with respect to the same special message. A motion to discharge may be made only by a Member favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

"(2) After a disapproval bill is reported or a committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. If reported and the report has been available for at least one calendar day, all points of order against the bill and against consideration of the bill are waived. If discharged, all points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed, shall be confined to the bill, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the bill. The bill shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except if offered by the manager. No amendment to the bill is in order, except any Member if supported by 49 other Members (a quorum being present) may offer an amendment striking the reference number or numbers of a cancellation or cancellations from the bill. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

"(3) Appeals from decisions of the Chair regarding application of the rules of the House of Representatives to the procedure relating to a disapproval bill shall be decided without debate.

"(4) It shall not be in order to consider under this subsection more than one disapproval bill for the same special message except for consideration of a similar Senate bill (unless the House has already rejected a disapproval bill for the same special message) or more than one motion to discharge described in paragraph (1) with respect to a disapproval bill for that special message.

"(e) CONSIDERATION IN THE SENATE.—

"(1) REFERRAL AND REPORTING.—Any disapproval bill introduced in the Senate shall be referred to the appropriate committee or committees. A committee to which a disapproval bill has been referred shall report the bill not later than the seventh day of session following the date of introduction of that bill. If any committee fails to report the bill within that period, that committee shall be automatically discharged from further consideration of the bill and the bill shall be placed on the Calendar.

"(2) DISAPPROVAL BILL FROM HOUSE.—When the Senate receives from the House of Representatives a disapproval bill, such bill shall not be referred to committee and shall be placed on the Calendar.

"(3) CONSIDERATION OF SINGLE DISAPPROVAL BILL.—After the Senate has proceeded to the consideration of a disapproval bill for a special message, then no other disapproval bill originating in that same House relating to that same message shall be subject to the procedures set forth in this subsection.

"(4) AMENDMENTS.—

"(A) AMENDMENTS IN ORDER.—The only amendments in order to a disapproval bill are—

"(i) an amendment that strikes the reference number of a cancellation from the disapproval bill; and

"(ii) an amendment that only inserts the reference number of a cancellation included in the special message to which the disapproval bill relates that is not already contained in such bill.

"(B) WAIVER OR APPEAL.—An affirmative vote of three-fifths of the Senators, duly chosen and sworn, shall be required in the Senate—

"(i) to waive or suspend this paragraph; or

"(ii) to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

"(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of a disapproval bill under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

"(6) LIMIT ON CONSIDERATION.— (A) After no more than 10 hours of consideration of a disapproval bill, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or to table.

"(B) A single motion to extend the time for consideration under subparagraph (A) for no more than an additional five hours is in order prior to the expiration of such time and shall be decided without debate.

"(C) The time for debate on the disapproval bill shall be equally divided between the Majority Leader and the Minority Leader or their designees.

"(7) DEBATE ON AMENDMENTS.—Debate on any amendment to a disapproval bill shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

"(8) NO MOTION TO RECOMMIT.—A motion to recommit a disapproval bill shall not be in order.

"(9) DISPOSITION OF SENATE DISAPPROVAL BILL.—If the Senate has read for the third time a disapproval bill that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a disapproval bill for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate disapproval bill, agree to the Senate amendment, and vote on final disposition of the House disapproval bill, all without any intervening action or debate.

"(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a disapproval bill shall be limited to not more than four hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the

VOL
142
PT
5
MR
21
—
29
1996
UMI

House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

"(f) CONSIDERATION IN CONFERENCE—

"(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to a disapproval bill passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

"(2) HOUSE CONSIDERATION.—(A) Notwithstanding any other rule of the House of Representatives, it shall be in order to consider the report of a committee of conference relating to a disapproval bill provided such report has been available for one calendar day (excluding Saturdays, Sundays, or legal holidays, unless the House is in session on such a day) and the accompanying statement shall have been filed in the House.

"(B) Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(3) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on a disapproval bill shall be limited to not more than four hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

"(4) LIMITS ON SCOPE.—(A) When a disagreement to an amendment in the nature of a substitute has been referred to a conference, the conferees shall report those cancellations that were included in both the bill and the amendment, and may report a cancellation included in either the bill or the amendment, but shall not include any other matter.

"(B) When a disagreement on an amendment or amendments of one House to the disapproval bill of the other House has been referred to a committee of conference, the conferees shall report those cancellations upon which both Houses agree and may report any or all of those cancellations upon which there is disagreement, but shall not include any other matter.

"DEFINITIONS

"SEC. 1026. As used in this part:

"(1) APPROPRIATION LAW.—The term 'appropriation law' means an Act referred to in section 105 of title 1, United States Code, including any general or special appropriation Act, or any Act making supplemental, deficiency, or continuing appropriations, that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States.

"(2) CALENDAR DAY.—The term 'calendar day' means a standard 24-hour period beginning at midnight.

"(3) CALENDAR DAYS OF SESSION.—The term 'calendar days of session' shall mean only those days on which both Houses of Congress are in session.

"(4) CANCEL.—The term 'cancel' or 'cancellation' means—

"(A) with respect to any dollar amount of discretionary budget authority, to rescind;

"(B) with respect to any item of new direct spending—

"(i) that is budget authority provided by law (other than an appropriation law), to prevent such budget authority from having legal force or effect;

"(ii) that is entitlement authority, to prevent the specific legal obligation of the United States from having legal force or effect; or

"(iii) through the food stamp program, to prevent the specific provision of law that results in an increase in budget authority or outlays for that program from having legal force or effect; and

"(C) with respect to a limited tax benefit, to prevent the specific provision of law that provides such benefit from having legal force or effect.

"(5) DIRECT SPENDING.—The term 'direct spending' means—

"(A) budget authority provided by law (other than an appropriation law);

"(B) entitlement authority; and

"(C) the food stamp program.

"(6) DISAPPROVAL BILL.—The term 'disapproval bill' means a bill or joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending, or limited tax benefits in a special message transmitted by the President under this part and—

"(A) the title of which is as follows: 'A bill disapproving the cancellations transmitted by the President on _______', the blank space being filled in with the date of transmission of the relevant special message and the public law number to which the message relates;

"(B) which does not have a preamble; and

"(C) which provides only the following after the enacting clause: 'That Congress disapproves of cancellations _______', the blank space being filled in with a list by reference number of one or more cancellations contained in the President's special message, 'as transmitted by the President in a special message on _______', the blank space being filled in with the appropriate date, 'regarding _______.', the blank space being filled in with the public law number to which the special message relates.

"(7) DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY.—(A) Except as provided in subparagraph (B), the term 'dollar amount of discretionary budget authority' means the entire dollar amount of budget authority—

"(i) specified in an appropriation law, or the entire dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

"(ii) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

"(iii) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law;

"(iv) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; and

"(v) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law.

"(B) The term 'dollar amount of discretionary budget authority' does not include—

"(i) direct spending;

"(ii) budget authority in an appropriation law which funds direct spending provided for in other law;

"(iii) any existing budget authority rescinded or canceled in an appropriation law; or

"(iv) any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or committee reports on the expenditure of budget authority for an account, program, project, or activity, or on activities involving such expenditure.

"(8) ITEM OF NEW DIRECT SPENDING.—The term 'item of new direct spending' means any specific provision of law that is estimated to result in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(9) LIMITED TAX BENEFIT.—(A) The term 'limited tax benefit' means—

"(i) any revenue-losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; and

"(ii) any Federal tax provision which provides temporary or permanent transitional relief for 10 or fewer beneficiaries in any fiscal year from a change to the Internal Revenue Code of 1986.

"(B) A provision shall not be treated as described in subparagraph (A)(i) if the effect of that provision is that—

"(i) all persons in the same industry or engaged in the same type of activity receive the same treatment;

"(ii) all persons owning the same type of property, or issuing the same type of investment, receive the same treatment; or

"(iii) any difference in the treatment of persons is based solely on—

"(I) in the case of businesses and associations, the size or form of the business or association involved;

"(II) in the case of individuals, general demographic conditions, such as income, marital status, number of dependents, or tax return filing status;

"(III) the amount involved; or

"(IV) a generally-available election under the Internal Revenue Code of 1986.

"(C) A provision shall not be treated as described in subparagraph (A)(ii) if—

"(i) it provides for the retention of prior law with respect to all binding contracts or other legally enforceable obligations in existence on a date contemporaneous with congressional action specifying such date; or

"(ii) it is a technical correction to previously enacted legislation that is estimated to have no revenue effect.

"(D) For purposes of subparagraph (A)—

"(i) all businesses and associations which are related within the meaning of sections 707(b) and 1563(a) of the Internal Revenue Code of 1986 shall be treated as a single beneficiary;

"(ii) all qualified plans of an employer shall be treated as a single beneficiary;

"(iii) all holders of the same bond issue shall be treated as a single beneficiary; and

"(iv) if a corporation, partnership, association, trust or estate is the beneficiary of a provision, the shareholders of the corporation, the partners of the partnership, the members of the association, or the beneficiaries of the trust or estate shall not also be treated as beneficiaries of such provision.

"(E) For purposes of this paragraph, the term 'revenue-losing provision' means any provision which results in a reduction in Federal tax revenues for any one of the two following periods—

"(i) the first fiscal year for which the provision is effective; or

"(ii) the period of the 5 fiscal years beginning with the first fiscal year for which the provision is effective.

"(F) The terms used in this paragraph shall have the same meaning as those terms have generally in the Internal Revenue Code of 1986, unless otherwise expressly provided.

"(10) OMB.—The term 'OMB' means the Director of the Office of Management and Budget.

"IDENTIFICATION OF LIMITED TAX BENEFITS

"SEC. 1027. (a) STATEMENT BY JOINT TAX COMMITTEE.—The Joint Committee on Taxation shall review any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 that is being prepared for filing by a committee of conference of the two Houses, and shall identify whether such bill or joint resolution contains any limited tax benefits. The Joint Committee on Taxation shall provide to the committee of conference a statement identifying any such limited tax benefits or declaring that the bill or joint resolution does not contain any limited tax benefits. Any such statement shall be made available to any Member of Congress by the Joint Committee on Taxation immediately upon request.

"(b) STATEMENT INCLUDED IN LEGISLATION.—(1) Notwithstanding any other rule of the House of Representatives or any rule or precedent of the Senate, any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 reported by a committee of conference of the two Houses may include, as a separate section of such bill or joint resolution, the information contained in the statement of the Joint Committee on Taxation, but only in the manner set forth in paragraph (2).

"(2) The separate section permitted under paragraph (1) shall read as follows: 'Section 1021(a)(3) of the Congressional Budget and Impoundment Control Act of 1974 shall _______ apply to __________.', with the blank spaces being filled in with—

"(A) in any case in which the Joint Committee on Taxation identifies limited tax benefits in the statement required under subsection (a), the word 'only' in the first blank space and a list of all of the specific provisions of the bill or joint resolution identified by the Joint Committee on Taxation in such statement in the second blank space; or

"(B) in any case in which the Joint Committee on Taxation declares that there are no limited tax benefits in the statement required under subsection (a), the word 'not' in the first blank space and the phrase 'any provision of this Act' in the second blank space.

"(c) PRESIDENT'S AUTHORITY.—If any revenue or reconciliation bill or joint resolution is signed into law pursuant to Article I, section 7, of the Constitution of the United States—

"(1) with a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) only to cancel any limited tax benefit in that law, if any, identified in such separate section; or

"(2) without a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) to cancel any limited tax benefit in that law that meets the definition in section 1026.

"(d) CONGRESSIONAL IDENTIFICATIONS OF LIMITED TAX BENEFITS.—There shall be no judicial review of the congressional identification under subsections (a) and (b) of a limited tax benefit in a conference report.".

SEC. 3. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress or any individual adversely affected by part C of title X of the Congressional Budget and Impoundment Control Act of 1974 may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this part violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

SEC. 4. CONFORMING AMENDMENTS.

(a) SHORT TITLES.—Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(1) striking "and" before "title X" and inserting a period;

(2) inserting "Parts A and B of" before "title X"; and

(3) inserting at the end the following new sentence: "Part C of title X may be cited as the 'Line Item Veto Act of 1996'.".

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following:

"PART C—LINE ITEM VETO

"Sec. 1021. Line item veto authority.
"Sec. 1022. Special messages.
"Sec. 1023. Cancellation effective unless disapproved.
"Sec. 1024. Deficit reduction.
"Sec. 1025. Expedited congressional consideration of disapproval bills.
"Sec. 1026. Definitions.
"Sec. 1027. Identification of limited tax benefits.".

(c) EXERCISE OF RULEMAKING POWERS.—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking "and 1017" and inserting ", 1017, 1025, and 1027".

SEC. 5. EFFECTIVE DATES.

This Act and the amendments made by it shall take effect and apply to measures enacted on the earlier of—

(1) the day after the enactment into law, pursuant to Article I, section 7, of the Constitution of the United States, of an Act entitled "An Act to provide for a seven-year plan for deficit reduction and achieve a balanced Federal budget."; or

(2) January 1, 1997;

and shall have no force or effect on or after January 1, 2005.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill, insert the following: "An Act to give the President line item veto authority with respect to appropriations, new direct spending, and limited tax benefits.".

And the House agree to the same.

BILL CLINGER,
GERALD SOLOMON,
JIM BUNNING,
PORTER GOSS,
PETER BLUTE,
Managers on the Part of the House.

TED STEVENS,
BILL ROTH,
FRED THOMPSON,
THAD COCHRAN,
JOHN MCCAIN,
PETE V. DOMENICI,
CHUCK GRASSLEY,
DON NICKLES,
PHIL GRAMM,
DAN COATS,
JIM EXON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4) to grant the power to the President to reduce budget authority, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

BACKGROUND AND NEED FOR THE LEGISLATION

The American people consistently cite runaway federal spending and a rising national debt as among the top issues of national concern. Over the past fifteen years alone, the national debt of the United States has quintupled. From 1789 through 1981, our total national debt amounted to $1 trillion. Yet today, just fifteen years later, that debt exceeds $5 trillion, and without significant reforms an additional $1 trillion will be added over the next four years. This astonishing growth in federal debt has fueled public support for measures to ensure greater fiscal accountability in Washington. This legislation, along with other measures to balance the federal budget considered in the 104th Congress, moves to meet that demand by enhancing the President's ability to eliminate wasteful federal spending and to cancel special tax breaks.

No one would contend that a line item veto on its own will be enough to restrain spending and bring the federal budget into balance. However, a January 1992 GAO report indicates that this type of fiscal discipline could have a significant impact upon federal spending, concluding that if Presidents had applied this authority to all matters objected to in Statements of Administration Policy on spending bills in the fiscal years 1984 through 1989, spending could have been reduced by a six-year total of about $70 billion.

The conference report on S.4, the Line Item Veto Act, delegates limited authority

VOL
142
PT
5
MR
21
—
29
1996
UMI

to the President to cancel new spending and limited tax benefits. This authority is in addition to the President's existing authority under the Impoundment Control Act of 1974 (title X of the Congressional Budget Act). The Impoundment Control Act permits the President to submit proposed rescissions of discretionary budget authority to Congress, but prohibits those rescissions from taking effect without congressional approval. In addition to applying solely to appropriation laws, the statutory provisions of the Impoundment Control Act have proven too restrictive. While Congress has initiated and passed rescissions on its own, Congress has agreed to only $23.7 billion of $74 billion in rescissions proposed by Presidents (both Democrat and Republican) since enactment of title X in 1974.

PURPOSE

The purpose of the conference report is to promote savings by placing the onus on Congress to overturn the President's cancellations of spending and limited tax benefits. In addition, recognizing that discretionary spending represents only about one-third of the entire federal budget, the conference report expands the President's current rescission authority to include both new direct spending and limited tax benefits.

Under the conference report, the President may cancel any dollar amount of discretionary budget authority in an appropriation law or its accompanying reports, or may cancel any item of new direct spending or limited tax benefit from an authorization or revenue act. After notifying Congress of his cancellations in a special message, the Congress is given a specified period for expedited review of the President's proposal.

If Congress fails to enact disapproving legislation within the period for expedited consideration, the savings are set aside for deficit reduction through a lockbox mechanism.

SUMMARY OF THE SENATE BILL

The Senate bill was introduced by Senator Dole on Wednesday, January 4, 1995. On March 20, 1995, the Senate began consideration. During consideration in the Senate, Senator Dole (for himself, and Senators McCain, Coats and Domenici) offered an amendment in the form of a substitute.

The Senate bill gives the President line item veto authority by dis-aggregating certain types of bills under a procedure known as "separate enrollment." Separate enrollment requires that the enrolling clerks of the House and Senate separately enroll each item of spending in an appropriation bill and each item of new direct spending or any targeted tax benefit contained in an authorizing bill. Each of these individual bills is presented to the President. The President may exercise his Article I power to veto any one, or all, of the individual bills. The Congress may exercise its Constitutional prerogative to override the President's veto(es).

According to the Senate bill, the House and Senate Appropriations Committees report appropriation measures following current procedure except that any appropriation bill reported by the Committee must contain the same level of detail as is provided in the Committee report that accompanies the bill. This requirement ensures that appropriation bills do not contain large dollar lump sums with the details directing how the money should be expended noted only in the committee report.

An authorization bill that contains an item of new direct spending or a targeted tax benefit that is brought to the floor must contain such provision in a separate section and must identify the item of new direct spending or the targeted tax benefit in the report that accompanies the bill.

Any appropriation or authorization bill that fails to comply with the above requirements is subject to a point of order that may only be waived by a three-fifths vote of the House or Senate.

Upon passage of an appropriation or authorization bill, the enrolling clerk of the originating House is required to enroll each item contained in the legislation separately. After all the items are enrolled as separate bills, both the House and Senate vote on all the bills en bloc prior to their submittal to the President.

The provisions of the bill become effective on the date of enactment and sunset in five years.

As defined in the bill, an item in an appropriation bill is:

(1) any numbered section;

(2) any unnumbered paragraph; or

(3) any allocation or suballocation contained in a numbered section or an unnumbered paragraph made to conform to the level of detail in the accompanying report.

The following items are not required to be separately enrolled:

(1) provisions that do not appropriate funds;

(2) provisions that do not direct the expenditures of funds for a specific project; and

(3) provisions that create an express or implied obligation to expend funds and

(a) rescind budget authority;

(b) limit, condition or otherwise restrict the expenditure of budget authority; or

(c) place a condition on the expenditure of budget authority by explicitly prohibiting the use of the funds.

By not separately enrolling the items just noted, language that places restrictions or conditions on the expenditure of funds, also known as fencing language, may not be separately vetoed apart from some dollar amount.

An item in an authorization bill is (1) any numbered section, or (2) any unnumbered paragraph that provides new direct spending or a new targeted tax benefit.

A targeted tax benefit is any provision that (1) the Joint Committee on Taxation estimates would lose revenue in the first fiscal year and over the five fiscal years covered by the budget resolution, and (2) provides more favorable treatment to a taxpayer or a targeted group of taxpayers when compared to a similarly situation taxpayer or group of taxpayers.

The Senate bill contains a "lockbox" provision, a prohibition on emergency spending bills containing non-emergency spending items, and a sunset of all tax provisions at least every 10 years.

Finally, the Senate bill contains provisions allowing a Member of Congress to challenge the constitutionality of the bill under expedited procedures and a severability clause stating that if any one provision of the Act is found to be unconstitutional, the remainder of the Act will be held harmless.

SUMMARY OF THE HOUSE AMENDMENT

The House amendment is based on the "enhanced rescission" format. It authorizes the President to rescind all or part of any discretionary budget authority or veto any targeted tax benefit if the President determines that such rescission; (1) will help reduce the federal budget deficit; (2) will not impair any essential government functions; and (3) will not harm the national interest.

The amendment requires the President to notify the Congress of such a rescission or veto by special message within 10 days (excluding Sundays) after enactment of an appropriation Act providing such budget authority or a revenue or reconciliation Act containing a targeted tax benefit.

The amendment allows the President in each special message to propose to reduce the appropriate discretionary spending limit by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message. It also requires the President to submit a separate special message for each appropriation Act and for each revenue or reconciliation Act. The President may only transmit one special message for each Act.

The House amendment makes such a rescission effective unless the Congress enacts a disapproval bill. Any budget authority rescinded is no longer available for obligation and a tax benefit is not effective unless the Congress passes a disapproval bill within 20 days, and assuming a veto, overrides that veto within 5 days.

The House amendment provides special procedures for consideration of a rescission disapproval bill in each House.

Upon receipt of the President's special message, if a disapproval bill is introduced, it is referred to the appropriate committee. The specific form of a disapproval bill is noted in the House amendment, and such disapproval bill must be introduced within 3 days in order to qualify for the special procedures in the House. The Senate committee is not required to report the bill and there is no provision mandating discharge.

The House committee to which the bill is referred shall report it without amendment, and with or without recommendation, no later than the eighth calendar day of session after the date of its introduction. If the Committee fails to report the bill, it is in order to move that the House discharge the bill from committee.

After a bill is discharged from Committee, it is in order to move that the House move to consideration of the bill. All points of order against the bill and its consideration are waived and the motion is highly privileged. Motions to reconsider the vote by which the motion is agreed to or disagreed to are not in order.

Consideration of the bill is limited to two hours equally divided between proponents and opponents of the bill. Amendments to the bill are not in order, except that a Member may make a motion to strike the disapproval of any rescission(s) of budget authority if such a motion is supported by at least 49 other Members. Motions to reconsider the vote on the disapproval bill are not in order. It is only in order in the House to consider one disapproval bill with respect to any specific Presidential rescission message.

If a rescission disapproval bill is considered by the Senate, debate is limited to 10 hours to be divided equally and controlled by the Majority and Minority leaders. Debate on any motions or appeals in connection with the bill are limited to one hour each, divided equally. Motions to further limit debate are not debatable. A motion to recommit is not in order unless such motion is to recommit the bill with instructions that it be reported back within one day.

Further, the House amendment mandates that it is not in order in the Senate to consider any rescission disapproval bill relating to any matter other than the items noted in the President's special message. Amendments to a rescission disapproval bill are not in order. The provisions noted in this paragraph may only be waived by an affirmative vote of three-fifths of the Senate.

The House amendment provides for annual General Accounting Office (GAO) reports on Presidential use of the line item veto authority. It also specifically prohibits the President from using the authority under the Act to change prohibitions or limitations (fencing language) in an appropriation Act.

The bill generally defines a targeted tax benefit as a provision in a revenue or reconciliation Act that provides a tax deduction, credit, exclusion, preference, or concession to 100 or fewer beneficiaries.

Finally, the bill provides a process for expedited judicial review of provisions of this Act.

CONFERENCE AGREEMENT

Section 1. Short title

This bill, when enacted, may be cited as the "Line Item Veto Act."

Sec. 2. Line item veto authority

Section 2 of the conference report amends title X of the Congressional Budget and Impoundment Control Act of 1974 to add a new part C comprising sections 1021 through 1027.

In general, part C grants the President the authority to cancel in whole any dollar amount of discretionary budget authority provided in an appropriation law or any item of new direct spending or limited tax benefit contained in any law. Congress has the authority to delegate to the President the ability to cancel specific budgetary obligations in any particular law in order to reduce the federal budget deficit.

The conferees note that while the conference report delegates new powers to the President, these powers are narrowly defined and provided within specific limits. The conference report includes specific definitions, carefully delineates the President's cancellation authority, and provides specific limits on this cancellation authority. The delegation of this cancellation authority is not separable from the President's duties to comply with these restrictions. To the extent the President broadly applies this new cancellation authority or reaches beyond these limits to expand the application of this new authority, the President will be reaching beyond the delegation of these authorities. Given the significance of this delegation, the conference report includes a sunset of this authority.

Sec. 1021. Line item veto authority

Section 1021(a) permits the President to cancel in whole any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States. The cancellation may be made only if the President determines such cancellation will reduce the federal budget deficit and will not impair any essential government function or harm the national interest. In addition the President must make any cancellations within five days of the date of enactment of the law from which the cancellations are made, and must notify the Congress by transmittal of a special message within that time.

The conferees specifically include the requirement that a bill or joint resolution must have been signed into law in order to clarify that the cancellation authority only becomes effective after the President has exercised the constitutional authority to enact legislation in its entirety. This requirement ensures that the President affirmatively demonstrates support for the underlying legislation from which specific cancellations are then permitted.

The term "cancel" was specifically chosen, and is carefully defined in section 1026. The conferees intend that the President may use the cancellation authority to surgically terminate federal budget obligations. The cancellation authority is specifically limited to any entire dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit. The cancellation authority does not permit the President to rewrite the underlying law, nor to change any provision of that law. The President may only terminate the obligation of the Federal Government to spend certain sums of money through a specific appropriation or mandatory payment, or the obligation to forego the collection of revenue otherwise due to the Federal Government in the absence of a limited tax benefit.

Likewise, the terms "dollar amount of discretionary budget authority," "item of new direct spending," and "limited tax benefit" have been carefully defined in order to make clear that the President may only cancel the entire dollar amount, the specific legal obligation to pay, or the specific tax benefit. "Fencing language" may not be canceled by the President under this authority. This means that the President cannot use this authority to modify or alter any aspect of the underlying law, including any restriction, limitation or condition on the expenditure of budget authority, or any other requirement of the law.

The conferees intend that, even once the federal obligation to expend a dollar amount or provide a benefit is canceled, all other operative provisions of the underlying law will remain in effect. If the President desires a broader result, then the President must either ask Congress to modify the law or exercise the President's constitutional power to veto the legislation in its entirety.

The lockbox provision of the conference report has also been included to maintain a system of checks and balances in the President's use of the cancellation authority. Any credit for money not spent, or for revenue foregone, is dedicated to deficit reduction through the operation of the lockbox mechanism. This ensures that the President does not simply cancel a particular dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit in order to increase spending in other areas.

Section 1021(b) requires the President to consider legislative history and information referenced in law in identifying cancellations. It also requires that the President use the definitions in section 1026, and provides that the President use any sources specified in the law or the best available information.

Section 1021(c) states that the President's cancellation authority shall not apply to a disapproval bill, as defined in section 1026. The provision is intended to prevent an endless loop of cancellations.

Sec. 1022. Special messages

Section 1022 provides that, if the President cancels provisions within a law, a special message must be submitted to Congress. A separate special message must be submitted for each law from which a cancellation is made.

Similar to the requirements in section 1012 of the Impoundment Control Act of 1974, the conference report requires that the President's special message include relevant supporting material about each cancellation and its budgetary impact. The conferees intend this requirement to ensure that the Congress and the public receive sufficient information with which to judge the President's action.

Specifically, the President's special message must include:

(1) the dollar amount of discretionary budget authority, items of new direct spending or limited tax benefits which have been canceled;

(2) corresponding reference numbers of each cancellation;

(3) the determinations required under section 1021 and any supporting material;

(4) the reasons for each cancellation;

(5) the estimated fiscal, economic and budgetary effect of each cancellation (to the maximum extent practicable);

(6) all facts, circumstances and considerations relating to each cancellation;

(7) the estimated effect of each cancellation upon the objects, purposes and programs for which the canceled authority was provided (to the maximum extent practicable); and

(8) the adjustments that will be made pursuant to section 1024 ("Deficit Reduction") to the discretionary spending limits under section 601 of the Budget Act and an evaluation of the effects of those adjustments upon sequestration procedures.

The President's special message must specify any account, department or establishment of the government and any specific project or governmental functions impacted by each cancellation.

The conference report requires that, if applicable, the special message include the specific states and congressional districts impacted and the total number of cancellations imposed during the current session of Congress on those states and congressional districts. This is to ensure that the Congress has information to determine if there is a disproportionate impact on a particular state or congressional district.

The President's special message must be transmitted to the House of Representatives and to the Senate within five calendar days (excluding Sundays) of enactment (by the President's signature) of the law to which any cancellations apply. It is the intention of the conferees that the President's cancellations be made as soon as possible after the enactment of the law. The maximum time of five calendar days is provided to ensure that all supporting material required for inclusion in the special message can be provided by the Administration. It is the view of the conferees that additional time (beyond five calendar days) would unnecessarily prolong the process.

The special message must be transmitted to both Houses of Congress on the same day, and must be received by the Clerk of the House and to the Secretary of the Senate if either House is not in session on that day.

Any special message must be printed in the first issue of the Federal Register published after the transmittal.

Sec. 1023. Cancellation effective unless disapproved

Upon receipt of the President's special message in both the House of Representatives and the Senate, each dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit identified in the special message is immediately canceled. The cancellation of a dollar amount of discretionary budget authority automatically rescinds the funds. With respect to an item of new direct spending or a limited tax benefit, the cancellation renders the provision void, such that the obligation of the United States has no legal force or effect.

The cancellation of a dollar amount of discretionary budget authority, an item of new

VOL
142
PT
5
MR
21
—
29
1996
UMI

direct spending, or a limited tax benefit is nullified only if a disapproval bill is enacted into law. The conferees intend that, if a disapproval bill is enacted, the President shall expend the funds or implement a provision as originally directed by Congress. The effective date for any cancellation disapproved in a disapproval bill is the original date provided in the law to which the cancellation applied.

Section 1023(b) provides that, when a dollar amount of discretionary budget authority canceled by the President is part of a larger sum in an appropriation law, such cancellation will result in the commensurate reduction of each relevant appropriation account by that dollar amount. These reductions are a necessary conforming change to ensure that all sums required to be spent by the appropriation law accurately reflect the cancellation contained in the President's message. This is a technical mechanism to maintain mathematical consistency and does not grant the President any additional authority.

To illustrate the mechanism for commensurate reductions in discretionary budget authority the conferees provide the following example:

The FY '96 Agriculture Appropriations Act (Public Law 104–37) appropriates a total of $421,929,000 for agricultural research and education, of which $49,846,000 is made available for special grants for agriculture research. The conference report accompanying this law contains a table that allocates the $49,846,000 total into lesser dollar amounts all of which correspond to individual research programs. This table includes, for example, a $3,758,000 allocation for: "Wood Utilization Research (OR, MS, NC, MN, ME, MI)".

Assuming the President exercised the authority to cancel this $3,758,000, this dollar amount would be automatically subtracted from the $421,929,000 total and from the $49,846,000 earmark. If the $3,758,000 was included in any other larger dollar amount in the appropriation law, then all such other dollar amounts would likewise be simultaneously reduced by $3,758,000.

Sec. 1024. Deficit reduction

Section 1024 establishes a deficit reduction, or "lockbox", procedure for the cancellations of discretionary budget authority, new direct spending, or limited tax benefits. The conference report's lockbox procedures are incorporated into existing procedures governing discretionary spending limits and pay-as-you-go requirements under the Balanced Budget and Emergency Deficit Control Act.

The conference report requires the Office of Management and Budget (OMB) to estimate the discretionary budget authority and outlay savings that result from cancellations from an appropriation law and include those calculations as part of the estimate OMB must submit to Congress under section 251 of the Balanced Budget and Emergency Deficit Control Act. The conference report also requires OMB to calculate a reduction to the spending caps that is equal to the budget authority reduction and related outlay savings that result from a cancellation.

After the expiration of the time period for congressional consideration of a disapproval bill plus 10 days, OMB is required to adjust the spending caps downward by the amount of budget authority and outlay savings in its next sequester report.

In the case of the cancellation of direct spending or limited tax benefits, OMB is required to estimate the deficit decrease as a separate entry in its pay-as-you-go report to Congress. In order to ensure that the savings from the cancellation of new direct spending or limited tax benefits are devoted to deficit reduction and are not available to offset a deficit increase in another law, the conference report provides that the savings from these cancellations shall not be included in the pay-as-you-go balances under the Balanced Budget and Emergency Deficit Control Act. Similarly, if a disapproval bill is enacted that overturns the cancellation of an item of direct spending or a limited tax benefit, OMB will not score this legislation as increasing the deficit under pay as you go.

Section 1024 also requires the Congressional Budget Office (CBO) to submit its estimate of the savings resulting from a cancellation to the Budget Committees of House and Senate. This is consistent with existing provisions in the Balanced Budget and Emergency Deficit Control Act which require CBO estimates and require OMB to make comparisons of its estimates with those made by CBO. The conferees expect CBO and the Budget Committees to carefully monitor OMB's estimates of cancellations.

The conferees intend that any savings from a cancellation be dedicated to deficit reduction and not used as an offset for future spending. The conference report is silent on congressional enforcement mechanisms because existing scoring conventions will have the effect of dedicating any savings from these cancellations to deficit reduction. Under existing congressional scoring conventions, CBO and the Budget Committees only score the budgetary impacts that directly result from legislation. The cancellation of an item will represent an administrative action and will not be scored as savings. Therefore, the savings from a cancellation will not be available as an offset for congressional scoring purposes. During the period for consideration of a disapproval bill CBO should not score the cost associated with a disapproval of a cancellation.

If there is an effort to include in legislation a cancellation already made by the President and claim the savings from such a cancellation as an offset for a provision that increases the deficit, the conferees expect the Budget Committees to ensure these savings are not used as an offset.

Sec. 1025. Expedited congressional consideration of disapproval bills

Section 1025 adopts the House provision with modifications providing for expedited procedures to consider disapproval bills. The conferees clearly intend this language to stand separate and apart from the language currently found in part B of title X of the Budget Act with regard to consideration of proposed rescissions, reservations, and deferrals of budget authority. The language of the conference report is directed solely at Congress' ability to respond to the cancellation authority of the Executive and is in no way intended to impact on or be defined by existing title X procedures.

The conference report provides Congress with 30 calendar days of session to consider a disapproval bill under expedited procedures. A "calendar day of session" is defined as only those days during which both Houses of Congress are in session. It is assumed Congress would want to act quickly on any disapproval bills. This time period is available to provide Congress with flexibility to schedule consideration of a disapproval bill during a busy legislative session.

During this time period, a disapproval bill may qualify for the expedited procedures in each House. However, upon the expiration of this period, a disapproval bill may no longer qualify for these expedited procedures in the House of Representatives. In the Senate, a disapproval bill which began consideration under these expedited procedures may continue within such procedures notwithstanding the expiration of the time period.

Upon final Congressional adjournment, if a disapproval bill relating to a special message was pending before either House of Congress or any committee thereof or was pending before the President (i.e. a pocket veto), and the time period has not expired, a new disapproval bill with respect to the same message may be introduced within the first five calendar days of session of the next Congress. This disapproval bill qualifies for the expedited procedures outlined above and the period for Congressional consideration begins anew.

A special Presidential message relating to a law could include a number of cancellations. In establishing expedited procedures for the consideration of a disapproval bill, the conference report seeks to find a balance between providing a procedure to guarantee that Congress can quickly disapprove the President's cancellations while giving Congress the flexibility to pick and choose among the cancellations to include in the disapproval bill. In both Houses of Congress, quick action is encouraged in that only one bill may ultimately be acted upon for each special message using these expedited procedures.

It should be noted that the expedited procedures provide strict time limitations at all stages of floor consideration of a disapproval bill. The conferees intend to provide both Houses of Congress with the means to expeditiously reach a resolution and to foreclose any and all delaying tactics (including, but clearly not limited to: extraneous amendments, repeated quorum calls, motions to recommit, or motions to instruct conferees). The conferees believe these expedited procedures provide ample time for Congress to consider the President's cancellations and work its will upon them.

Section 1025(a) provides for the receipt and referral of the special message in both Houses of Congress. Upon the cancellation of a dollar amount of discretionary budget authority, an item of direct spending or a limited tax benefit under section 1021(a), the President must transmit to Congress a special message outlining the cancellation as required by section 1022.

When Congress receives this special message it shall be referred to the Budget Committees and the appropriate committee or committees in each House. For example, the message pertaining to the cancellation of a dollar amount of discretionary budget authority from an appropriation law would be referred to the Committee on Appropriations of each House. A special message pertaining to the cancellation of an item of direct spending would be referred to the authorizing committee or committees of each House from which the original authorization law derived. Any special message relating to more than one committee's jurisdiction, i.e. a cancellation message from a large omnibus law such as a reconciliation law, shall be referred to the appropriate committees in each House. Each special message shall be printed as a document of the House of Representatives.

Procedures in the House of Representatives

In order for a disapproval bill to qualify for the expedited procedures in the House of Representatives as outlined in section 1025(b), it must meet two requirements.

First, a disapproval bill must meet the definition of a disapproval bill as set forth in section 1026. Second, the disapproval bill must be introduced no later than the fifth calendar day of session following the receipt of the President's special message. Any disapproval bill introduced after the fifth calendar day of session is subject to the regular rules of the House of Representatives regarding consideration of a bill.

Any disapproval bill introduced in the House of Representatives must disapprove all of the cancellations in the special message to which the disapproval bill relates. Each such disapproval bill must include in the first blank space referred to in section 1026(6)(C) a list of the reference numbers for all of the cancellations made by the President in that special message.

Any disapproval bill introduced pursuant to 1025(c) shall be referred to the appropriate committee or committees. It is not the intention of the conferees that a disapproval bill pursuant to a special message regarding a reconciliation law be referred to the Budget Committee. Any committee or committees of the House of Representatives to which such a disapproval bill has been referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction.

If any committee fails to report the disapproval bill within that period, it shall be in order for any Member of the House to move that the House discharge that committee from further consideration of the bill. However, such a motion is not in order after the committee has reported a disapproval bill with respect to the same special message. This motion shall only be made by a Member favoring the bill and shall be made one day after the calendar day on which the Member offering the motion has announced to the House that Member's intention to make such a motion and the form of that motion. Furthermore, this motion to discharge shall only be made at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member gives the House proper notice.

This motion to discharge shall be highly privileged. Debate on the motion shall be limited to not more than one hour and shall be equally divided between a proponent and an opponent. After completion of debate, the previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion was agreed to or not agreed to shall not be in order. It shall not be in order to consider more than one such motion to discharge a disapproval bill pertaining to a particular special message.

After a disapproval bill has been reported or a committee has been discharged from further consideration, it shall be in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the disapproval bill. If the bill has been reported, the report on the bill must be available for at least one calendar day prior to consideration of the bill. All points of order against the bill and its consideration, except a point of order pertaining to a one-day layover requirement, shall be waived. If the bill has been discharged, all points of order against the bill and its consideration shall be waived. The motion that the House resolve into the Committee of the Whole shall be highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate on the disapproval bill shall be confined to the bill and shall not exceed one hour equally divided between and controlled by a proponent and an opponent of the bill. After completion of the one hour of general debate, the bill shall be considered as read for amendment under the five minute rule. Only one motion that the Committee rise shall be in order unless that motion is offered by the manager of the bill.

No amendment shall be in order, except that any Member, if supported by forty-nine other Members (a quorum being present), may offer an amendment striking the reference number or reference numbers of a cancellation or cancellations from the disapproval bill. This process allows Members the opportunity to narrow the focus of the disapproval bill, striking references to cancellations they do not wish to disapprove, while retaining in the disapproval bill references to cancellations they wish to overturn. A vote in favor of the disapproval bill is a vote to spend the money the President sought to cancel. A vote against the disapproval bill is a vote to agree with the President to cancel the spending.

No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. At the conclusion of consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without any intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

All appeals of decisions of the Chair relating to the application of the rules of the House of Representatives to this procedure for consideration of the disapproval bill shall be decided without debate.

It shall be in order to consider only one disapproval bill pertaining to each special message under these expedited messages except for consideration of a similar Senate bill. However, if the House has already rejected a disapproval bill with respect to the same special message as that to which the Senate bill refers, it shall not be in order to consider that bill.

In the event of disagreement between the two Houses a conference should be promptly convened. It shall be in order to consider a conference report in the House of Representatives provided such report has been available to the House for one calendar day (excluding Saturdays, Sundays or legal holidays, unless the House is in session on such a day) and the accompanying statement has been filed in the House.

Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate shall not be debatable. A motion to recommit the conference report shall not be in order and it shall not be in order to reconsider the vote by which the conference report is agreed to or disagreed to.

Procedures in the Senate

Any member of the Senate may introduce a disapproval bill containing any combination of cancellations included in the President's special message. The disapproval bill shall be referred to the appropriate committee or committees. If necessary, referral to multiple committees is permissible to accommodate disapproval bills which relate to cancellations from omnibus bills (i.e. reconciliation bills). A committee shall report the bill with or without amendment within seven days during which the Senate is in session or be discharged. A disapproval bill received from the House of Representatives shall not be referred but shall be automatically placed on the Calendar. It is the intent of the conferees that only one disapproval bill for each special Presidential message be considered under the expedited procedures. This however, is not meant to limit the Senate's ability to choose between a Senate-originated and a House-originated disapproval bill, it is intended that there be only one legislative vehicle.

A motion to proceed to the consideration of a disapproval bill is not debatable. Section 1025(e)(6) provides a ten hour overall limitation for the floor consideration of a disapproval bill. Except as provided in section 1025(e)(9) (which addresses disposition of a Senate disapproval bill), this limit on consideration is intended to cover all floor action with regard to a disapproval bill. This section is specifically meant to preclude the offering of amendments or the making of dilatory motions after the expiration of the 10 hours. Consideration of a message from the House of Representatives with respect to a disapproval bill is limited to four hours, as is consideration of a conference report and any amendments reported in disagreement. Again the intent of the conferees is to preclude the offering of amendments or motions after the expiration of time so as to facilitate the adoption of any conference report or the disposition of any message from the House. In limiting the time for consideration the conferees do not intend to allow the process to be halted by the delay in the making of necessary and appropriate motions. Therefore motions to concur, disagree or disagree and request a new conference may be made at the expiration of time.

Amendments to a disapproval bill, whether offered in committee or from the floor of the Senate, are strictly limited to those amendments which either strike or add a cancellation that is included in the President's special message. The conferees note that these expedited procedures are reserved solely for disapproval bills which overturn one or more cancellations contained in a President's special message. No other matter may be included in such bills. To enforce this restriction in the Senate, a point of order (which may be waived by a three-fifths vote) would lie against any amendment that does anything other than strike or add a cancellation within the scope of the special message. To the extent that extraneous items are added to disapproval bills, and the Senate has not waived the point of order against such an item, the conferees intend that such legislation would no longer qualify for the expedited procedures.

The conference report also provides that any conferees on a disapproval bill must include any cancellations upon which the two Houses have agreed and may include any or all cancellations upon which the two Houses have disagreed, but may not include any cancellations not committed to the conference.

Sec. 1026. Definitions

(1) Appropriation Law. As used in this Act, the term "appropriation law" includes any Act which provides general, special, supplemental, deficiency, or continuing appropriations of federal funds, which has been presented to the President in accordance with

VOL
142
PT
5
MR
21
—
29
1996
UMI

Article I, section 7 of the Constitution of the United States, and which has been affirmatively signed into law by the President.

(2) Calendar Day. The term "calendar day" means a standard 24-hour period beginning at midnight.

(3) Calendar Day of Session. The term "calendar day of session" means only those days on which both Houses of Congress are in session. This definition excludes periods of recess and adjournment by either House.

(4) Cancel. In the case of discretionary budget authority, the term "cancel" means to rescind an entire dollar amount. The term rescind is clearly understood through long experience between the Executive and Legislative branches with respect to appropriated funds. The conferees do not intend that any new interpretation be applied to the term rescind, but rather intend to narrow the scope of cancellation authority as compared with the authority provided under section 1012 of the Budget Act.

For items of new direct spending, three definitions are provided to specifically tailor the cancellation authority to the type of direct spending involved. In the case of direct spending that is budget authority provided by law other than an appropriation law, the term cancel means to prevent that budget authority from having legal force or effect. For example, in the case of budget authority that provides authority to contract for a particular project, the effect of a cancellation by the President would be to foreclose the ability of the Federal Government to enter into an agreement to pay the amount of money provided in the law. The cancellation affects only the money that would otherwise be spent, and may not be used to alter or terminate any condition contained in the law.

For entitlement authority, the term cancel means that the President may prevent the specific provision that results in the deficit-increasing obligation of the Federal Government from having legal force or effect. The cancellation affects only the legal obligation to pay a benefit, and does not change or affect any other aspect of the law.

With respect to direct spending that is conducted through the food stamp program, the term cancel means that the President may prevent the specific provision of law that results in an increase in expenditures from having legal force or effect. Again, the authority is narrowly defined, and is limited only to eliminating the increase in food stamp obligations that would otherwise occur. No other aspect of the law could be altered, terminated or otherwise affected.

Finally, with respect to limited tax benefits, the term cancel means to prevent the specific provision of law that provides the benefit from having legal force or effect. Again, the authority granted the President is very narrow—only to collect the tax that would otherwise not be collected or to deny the credit that would otherwise be provided. The President may not change, alter, or modify any other aspect of the law.

(5) Direct Spending. The term "direct spending" is an existing term that is defined in section 250(8) of the Balanced Budget and Emergency Deficit Control Act of 1985. The conference report makes technical modifications to the definition to make it appropriate for use in part C of title X, but the conferees intend the term "direct spending" to have the same meaning as it does under the Balanced Budget and Emergency Deficit Control Act.

(6) Disapproval Bill. For the purposes of the conference report, the term "disapproval bill" is defined as a bill or a joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending or limited tax benefits in a special message transmitted by the President under section 1022.

The disapproval bill is defined to include a list by reference number of one or more of the cancellations in the President's special message, allowing the opportunity for amendments relating to specific cancellations. The structure of the disapproval bill is carefully defined and proscribed to ensure that only a list of reference numbers identifying cancellations from a particular special message, and nothing, more are included in a bill that is eligible for the expedited procedures that are provided under section 1025. Since it is the intent of the conferees to ensure that the expedited procedures are reserved for bills that only disapprove any or all of the President's cancellations, the definition is designed to ensure that matters beyond the scope of the President's special message are not permitted to be added to a disapproval bill. However, the conferees recognize the legitimate interest members may have in limiting the focus of a disapproval bill to include only a subset of the cancellations in a President's special message.

Specifically, a disapproval bill referencing the President's cancellations has the following title: "A bill disapproving the cancellations transmitted by the President on _______," with the blank space being filled with the date of transmission of the relevant special message and the number of the relevant public law.

The disapproval bill does not have a preamble and provides only the following: "That Congress disapproves of cancellations _______, as transmitted by the President in a special message on _______, regarding _______." The first blank space is to be filled in with a list by reference number of one or more of the cancellations contained in the President's special message. The second blank space is to be filled in with the date of transmission of the President's special message. The third blank space is to be filled in with the number of the public law in which the special message relates.

(7) Dollar Amount of Discretionary Budget Authority. The term "dollar amount of discretionary budget authority" is carefully defined in section 1026(7) in order to ensure that the President's authority to cancel discretionary spending in appropriation laws is clearly delineated. The conference report delegates the authority to the President to cancel in whole any dollar amount specified in an appropriation law.

In addition, to increase the President's discretion, the conference report allows the President to cancel a dollar amount of budget authority provided in an appropriation law by specific amounts identified by the Congress in the statement of managers, the governing committee report, or other law. By limiting the delegation of authority, the conferees intend to preclude arguments between the Executive and Legislative Branches and to ensure that the delegation is not overbroad or vague. As is described in further detail below, the conferees have sought to provide the President the ability to rescind entire dollar amounts, even if not specified as a dollar amount in the law itself, so long as the dollar amount can be clearly identified and is in an indivisible whole with which Congress has previously agreed.

The conferees note that the definition specifically excludes certain types of budget authority that are addressed by other provisions in part C of title X, as well as any restriction, condition, or limitation that Congress places on the expenditure of budget authority or activities involving such expenditure. The exclusion of restrictions, conditions, or limitations is included to make clear that the President may not use the authority delegated in section 1021(a) to cancel anything other than a specific dollar amount of budget authority.

The cancellation authority cannot be used to change, alter, modify, or terminate any policy included by Congress, other than by rescinding a dollar amount. Obviously, if the Congress has included a restriction in the law that prohibits the expenditure of budget authority for any activity, there is no dollar amount to be rescinded by the President, nor would any money be saved for use in reducing the federal budget deficit, which is a requirement for the use of the authority provided under section 1021(a).

As described in subparagraph (A)(i), the President may cancel the entire dollar amount of budget authority specified in an appropriation law. The term "entire" means just that; the President may rescind, or "line out" the dollar amount of budget authority specified in the law, so that the dollar amount provided in the law becomes zero after the cancellation. For example, in Public Law 104–37, the Agriculture Appropriations Act for Fiscal Year 1996, $49,486,000 was provided in the law for special grants for agriculture research. Using the authority granted under section 1021(a)(1), as defined under section 1026(7)(A)(i), the President could cancel only the entire $49,486,000.

Further, again under subparagraph (A)(i), if the appropriation law does not include a specific dollar amount, but does include a specific proviso that requires the allocation of a specific dollar amount, then the President may rescind the entire dollar amount that is required by the proviso. A fictitious example of what the conferees intend in this case follows:

> An appropriation law includes a provision that states "for the operation and maintenance of the Army, $1,400,000,000, provided Fort Fictitious is maintained at Fiscal Year 1995 levels,". In this instance, the President could ascertain what the operation of Fort Fictitious cost in FY 1995, and could rescind that entire amount from the $1.4 billion provided for Army O&M. The conferees note that the President would have to take the entire dollar amount required to operate Fort Fictitious in FY 1995, and could not simply take part of that amount. It is intended to be an all or nothing decision.

As a further specific illustration, the conferees note that the General Construction Account in Public Law 104–46, the Energy and Water Development Appropriations Act, 1996, states:

> "$804,573,000 to remain available until expended, of which such sums as necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri * * *"

In this example, the President could cancel the entire $804,573,000 or could cancel an amount equal to the entire dollar amount that would be required to fund the rehabilitation costs of the Lock and Dam 25 project, noting in his message all information as required by section 1022.

In subparagraph (A)(ii) the President is given the authority to rescind the entire dollar amount represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report that accompanies an appropriation law. The term "governing committee report" is included to address the fact that the current practice in preparing the statement of managers for a conference report on an appropriation law is to simply address changes that were made in the statutory language and the accompanying committee reports, thus leaving intact and incorporation by reference tables, charts, and explanatory text in one of the two committee reports that were not modified by the conference.

An example of the authority described in subparagraph (A)(ii) is found in the Conference Report accompanying the FY 1996 Military Construction Appropriations Act (Public Law 104–32). The statement of managers accompanying the conference report contains a chart denoting allocations of dollars to various installations and projects. On page 38 there is an allocation of $10,400,000 for a physical fitness center at the Bremerton Puget Sound Naval Shipyard. Except for this chart there is no other reference to the physical fitness center in either the statute or narrative explanation in the Conference Report. Under the authority provided by the definition in subparagraph (A)(ii), the President could cancel the entire $10,400,000 provided for the physical fitness center, but could not cancel only a part of that amount.

The inclusion of subparagraph (A)(ii) is not intended to give increased legal weight or authority to documents that accompany the law that is enacted. Rather, as an exercise of its authority to specify the terms of the delegation to the President, Congress is choosing to use those documents as a means of allowing the President increased discretion to reduce dollar amounts of discretionary budget authority provided in an appropriation law. In order to ensure that the delegated authority is clear, the conferees have limited that authority to dollar amounts identified by Congress in the appropriation law, the accompanying statement of managers, the governing committee report or other law. Since Congress often provides detailed identification of dollar amounts in the accompanying documents, they represent an agreed upon set of dollar amounts that the President may rescind in their entirety.

Subparagraph (A)(iii) has been included by the conferees to address a specific circumstance where neither the appropriation law nor the accompanying statement of managers or committee reports include any itemization of a dollar amount provided in that appropriation law. However, another law mandates that some portion of the dollar amount provided in the appropriation law be allocated to a specific program, project, or activity that can be quantified as a specific dollar amount. In this case, the President could rescind the entire dollar amount required to be allocated by the other law, since that dollar amount has been identified by Congress as a specific dollar amount that must be spent. As is the case with the earlier provisions, the President could not rescind part of the dollar amount mandated by the other law. It is an all or nothing decision. Likewise, the President could not use the cancellation authority to change, alter, or modify in any way the other law.

An example of the authority provided in subparagraph (A)(iii) is found in section 132 of Public Law 104–106, the National Defense Authorization Act for Fiscal Year 1996. Section 132 states that "Of the amounts appropriated for Fiscal Year 1996 in the National Defense Sealift Fund, $50,000,000 shall be available only for the Director of the Advanced Research Projects Agency for advanced submarine technology activities." In this example the President could "look through" the appropriation law to the authorization law that mandates that $50 million is available only for advanced submarine technology activities, and could cancel the entire $50 million.

However, had the appropriation law contained a provision that contradicted or otherwise made the mandate in the authorization law ineffective with respect to the allocation of the National Sealift Fund, then the President would not be able to use the amount in the authorization law as the basis for the cancellation of a dollar amount of discretionary budget authority. As with appropriation laws, the President cannot use the authority in subparagraph (A)(iii) to change, alter, or modify any provision of the authorization law.

Subparagraphs (A)(iv) and (A)(v) are variations on the authority granted in clauses (i) through (iii), and are intended to address the circumstance where Congress does not specify in the appropriation law, the accompanying documents, or other law a specific dollar amount, choosing instead to require the purchase of a particular quantity of goods. Subparagraphs (A)(iv) and (A)(v) allow the President to rescind the entire dollar amount of discretionary budget authority represented by the quantity specified in the law or documents. To determine the specific dollar amount, the President is required to multiply the estimated procurement cost by the total quantity of items specified in the law of documents. The President may then rescind the entire dollar amount represented by the product of those two figures. The conferees expect that the President will use the best available information, as represented by the President's budget submission or binding contract documents, to estimate the procurement cost.

The conferees have included the following examples in order to more clearly explain the definition of dollar amount of discretionary budget authority as defined by section 1026(7). These examples are used solely for illustrative purposes and the conferees are in no way commenting on the merit of any of these programs. The conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The FY 1996 Agriculture Appropriations Act (Public Law 104–37) appropriates $49,846,000 in special grants for agriculture research. The Conference Report accompanying this law contains a table that allocates the $49,846,000 total into lesser dollar amounts all of which correspond to individual research programs. This table, for example, contains a $3,758,000 allocation for "Wood Utilization Research (OR, MS, MN, ME, MI)".

Using the definition in section 1026(7)(A)(i) and (ii), the President could cancel either the entire $49,846,000 specified in the statute or the entire $3,758,000 described in the chart in the Conference Report. However, because the Congress did not break down the allocations for each state associated with this project the President would not have the authority to take a portion of the $3,758,000 allocated to wood utilization research.

The conferees intend that cancellation authority only applies to whole items. If an item (or project) occurs in more than one state, and the law or a report that accompanies an appropriation law lists an item (project) and then lists a series of states, it is the entire item that must be canceled.

In the example listed above, "Wood Utilization Research" appears in the report as: "Wood Utilization Research (OR, MS, NC, MN, ME, MI)."

The conferees believe it is important to note that this line in the report must be canceled in its entirety. The President's cancellation authority is strictly limited. The President has no authority in this example to cancel wood utilization research for Michigan only.

To further illustrate this example, the conferees submit the following example that corresponds to a chart contained in the same conference report: "Aflatoxin (IL), 133,000; Human Nutrition (AR), 425,000; Human Nutrition (IA), 473,000; Wool Research (TX, MT, WY) 212,000."

In this case, the President may cancel aflatoxin (IL), Human Nutrition (AR), Human Nutrition (IA), and/or Wool Research (TX, MT, WY). Although there are two human nutrition research projects listed in two different states, because of the manner in which they are listed, each project may be separately canceled. Again, the President may only cancel the entire wool research program and may not cancel only wool research in Texas.

Section 1026(7)(B) describes what is not included in the definition of "dollar amount of discretionary budget authority." Subparagraphs (B)(i) and (B)(ii) exclude items of new direct spending, for which cancellation authority is provided under other sections of part C of title X. Subparagraph (B)(iii) excludes from the definition any budget authority canceled or rescinded in an appropriation law in order to ensure that those cancellations or rescissions cannot be undone by the President using the cancellation authority.

As described earlier, subparagraph (B)(iv) excludes from the definition any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or governing committee report on the expenditure of budget authority or on activities involving such expenditure. The following two examples illustrate the conferees' intent that the President cannot use the cancellation authority to alter the Congressional policies included in these restrictions, conditions, or limitations.

The Labor, Health and Human Services and Education and Related Agencies Appropriations Act, H.R. 1217, as amended by the Senate Appropriations Committee contained the following section:

> "SEC. 103. No amount of funds appropriated in this Act for fiscal year 1996 may be used to implement, administer, or enforce any executive order, or other rule or order, that prohibits Federal contracts with, or requires that debarment of, or imposes other sanction on, a contractor on the basis that such contractor or organizational unit thereof has permanently replaced lawfully striking workers."

The President's cancellation authority only applies to entire dollar amounts. The above example of "fencing language" is a limitation and contains no dollar amount. Therefore, the President has no authority to alter or cancel this statement of Congressional policy.

If a limitation or condition on spending—"fencing language"—is not written as a separate numbered or unnumbered paragraph,

VOL
142
PT
5
MR
21
—
29
1996
UMI

but instead is written as a proviso to an appropriated amount, the President still has no power to cancel the proviso.

The Energy and Water Development Appropriations Act, 1996, (Public Law 104–46), Title II, Department of the Interior, General Administrative Expenses, states:

"For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $48,150,000, of which $1,400,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377); *Provided*, that no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

Using this example, the President may cancel $48,150,000 or the $1,400,000 noted, but may not cancel or alter in any way the proviso restricting the use of other appropriated funds contained in this Act.

The conference report also allows the President to cancel the entire amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included. The conferees recognize that from time to time, budget authority may be mandated to be spent on a specific program or project without a specific dollar amount being listed. However, in order to comply with the proviso, the President would have to expend appropriated funds.

(8) Item of New Direct Spending. The term "item of new direct spending" means a provision of law that results in an increase in budget authority or outlays relative to the baseline set forth pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

Under the Balanced Budget and Emergency Deficit Control Act of 1985, a reauthorization or an extension of a major entitlement program would not result in an increase in direct spending. As a consequence, such legislation would not constitute an item of new direct spending pursuant to the conference report. This does not mean that legislation must result in a net increase in spending in order to be subject to this cancellation authority. A provision of a future law that increases direct spending would be subject to the President's cancellation authority whether or not it is offset by another provision that reduces direct spending or increases revenues in the same law.

Unlike an appropriation law, which specifically designates a dollar amount for a specific program, direct spending can arise from a number of interactions among provisions in a new law, other provisions in that same new law, and underlying law. The conference report provides the President with the authority to cancel the legal obligation provided by the new law that results in new direct spending. The cancellation authority is limited to the specific provisions in the new law signed by the President that result in the legal obligation to expend funds and does not extend to other previously enacted laws.

The following are examples of direct spending increases that have been enacted. These examples are given to illustrate how cancellation authority could apply to similar items of new direct spending if included in a law to which part C of title X would apply. These examples are used solely for illustrative purposes and the conferees are in no way commenting on the merit of any of these programs. The conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The 1995 Balanced Budget Act included provisions that increased direct spending, but this Act was vetoed in its entirety by the President using his Constitutional authority and thus no provisions of that Act would be subject to the cancellation authority under part C. In the Omnibus Budget Reconciliation Act of 1993, the Congress enacted provisions that led to a net reduction in direct spending of $78.8 billion over five years. While this law led to a net reduction in direct spending, it included several provisions that increased direct spending. More specifically, the following are selected examples of provisions that increased direct spending that illustrate how the President's cancellation authority could be applied:

Section 13982 increased Forest Service payments and section 13983 increased Bureau of Land Management (BLM) payments to counties affected by the Northern Spotted Owl. These provisions were estimated to increase direct spending by $43 million in fiscal year 1994 and $215 million over the period of fiscal years, 1994–1998. The President could cancel the entire amount of the legal obligation created by section 13982 for the Forest Service to make payments or the entire amount of the legal obligation in section 13983 for BLM to make payments.

Sections 13811 through 13813 dealt with Customs overtime pay, additional benefits, and user fees. Section 13812(c) provided cash awards for foreign language proficiency to Customs Officers that was estimated to increase direct spending by $2 million in fiscal year 1994 and $10 million over the period of fiscal years 1994–98. The President could cancel that legal obligation for the entire amount of funding provided for cash awards to Customs Officers. However, the President could not reach to provisions that reduced direct spending, such as the extension of Customs fees and overtime reform or other provisions that did not directly deal with an increase in direct spending.

Sections 13901 through 13971 of the law made a number of changes to the food stamp program that were estimated to lead to a net increase indirect spending of $56 million in fiscal year 1994 and $2.7 billion over the period of fiscal years 1994–1998. More specifically, section 13923 increased direct spending by raising the asset test and indexed this asset test for inflation for determining eligibility for food stamps. The President would have the authority to cancel the entire specific legal obligation so that the increase in the asset test would have no legal force or effect. In addition, the President could cancel the entire legal obligation to make the inflation adjustment so that this asset test would not be indexed for inflation. However, the President's cancellation authority would not apply to provisions that did not affect direct spending or reduced direct spending, such as section 13951 that expedited claim collections and adjustments to error rate calculations.

(9) Limited Tax Benefit. In general, a "limited tax benefit" is any provision under the Internal Revenue Code that is either (1) a revenue-losing provision that provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries (unless the effect of the provision is that all similarly situated persons receive the same treatment); or (2) a provision that provides transitional relief to 10 or fewer beneficiaries.

The number of beneficiaries affected by a provision is determined by considering each fiscal year in which the provision will be in effect; if the number of beneficiaries falls below the requisite threshold for any one of those fiscal years, the provision could be identified as a limited tax benefit. For purposes of determining the number of beneficiaries, certain individuals and businesses would be aggregated: all businesses and associations which are related (within the meaning of Internal Revenue Code sections 707(b) and 1563(a)) would be treated as one beneficiary; all qualified plans of a single employer would be treated as one beneficiary; all holders of the same bond issue would be treated as one beneficiary. However, individual shareholders of a corporation, partners of a partnership, members of an association, or beneficiaries of a trust would not be counted as separate beneficiaries simply because a benefit is provided to the respective corporation, partnership, association, or trust.

Revenue-losing Provisions that Affect 100 or Fewer Beneficiaries. A provision is defined as "revenue-losing" if it results in a reduction in federal tax revenues for any one of the following two periods: (1) the first fiscal year for which the provision is effective; or (2) the period of the five fiscal years beginning with the first fiscal year for which the provisions is effective.

A revenue losing provision that affects 100 or fewer beneficiaries is not a limited tax benefit if one of the exceptions is met. First, if a provision has the effect of providing all persons in the same industry or engaged in the same activity with the same treatment, the item is not a limited tax benefit even if there are 100 or fewer persons in the affected industry. For example, a provision that sets forth the depreciation treatment for equipment that is used only by automobile manufacturers will not be treated as a limited tax benefit solely because there are fewer than 100 automakers located in the United States.

Similarly, a provision that provides the same treatment for all persons who engage in research and development activities, or all persons who adopt children, or all persons who engage in drug testing, would not be treated as a limited tax benefit simply because 100 or fewer persons are expected to engage in that activity in any of the fiscal years in which the provision is effective. In such circumstances, the benefit is provided as an incentive to anyone who chooses to engage in the activity rather than to a closed group of specific taxpayers.

A second exception applies to provisions that have the effect of extending all persons owning the same type of property, or issuing the same type of investment instrument, the same treatment. For example, a provision that sets forth the depreciation treatment for a highly-specialized type of computer equipment that is owned by fewer than 100 taxpayers (who are not necessarily in the same industry) would not be treated as a limited tax benefit as long as any person who purchases such equipment is entitled to the same treatment. Similarly, a provision that affects the deductibility of interest with respect to certain types of debt instruments would not be a limited tax benefit, as long as any person who issued that type of debt instrument receives the same treatment.

The conference report further clarifies that a provision is not a limited tax benefit if the only reason the provision affects different persons differently is because of (1) the size or form of the business or association involved (e.g., a provision that gives preferential treatment to small businesses); (2) general demographic conditions affecting individuals, such as their income level, marital status, number of dependents, or tax return filing status; (3) the amount involved (e.g., a cap based on the dollar amount of a taxpayer's investment or the number of units produced by a taxpayer); or (4) a generally-available election provided under the Internal Revenue Code (e.g., if taxpayers who engage in a certain activity are given a choice between two alternative treatments, and fewer than 100 taxpayers are expected to choose one of the alternatives).

Transition Rules

Any Federal tax provision that provides temporary or permanent transitional relief to 10 or fewer beneficiaries in any fiscal year would be a limited tax benefit except to the extent that the provision provides for the retention of prior law for all binding contracts (or other legally enforceable obligations) in existence on a date contemporaneous with Congressional action specifying such a date. For example, a provision in a chairman's mark which retains current law with respect to binding contracts in existence on the date the mark is released would not be a limited tax benefit. In addition, a technical correction to previously enacted law (if it is scored as having no revenue effect) would not be a limited tax benefit for this purpose.

This provision covering transition rules is intended to address the type of special rules used extensively in prior tax legislation. For example, in the Tax Reform Act of 1986 (the "1986 Act"), which included a number of revenue raising tax provisions, various specifically identified taxpayers were provided special rules that exempted them from treatment under the general revenue raising provisions. One provision in the 1986 Act changed the rules for how multinational corporations could allocate interest expenses for foreign tax credit purposes. The provision included a favorable rule for banks, and also included a special exception allowing "certain" non-banks to use the favorable bank rule. The special exception applied to any corporation if "(A) such corporation is a Delaware corporation incorporated on August 20, 1959, and (B) such corporation was primarily engaged in the financing of dealer inventory or consumer purchases on May 29, 1985, and at all times thereafter before the close of the taxable year." Public Law 99–514, 100 Stat. 2548, sec. 1215(c)(5). If 10 or fewer taxpayers were expected to benefit from the special exception, this provision would constitute a limited tax benefit under the conference agreement definition, and would be subject to the President's cancellation authority.

The conferees submit the following two examples for what may or may not be a limited tax benefit. All examples are used solely for illustrative purposes and the conferees are in no way commenting on their merit. Furthermore, the conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The Omnibus Reconciliation Act of 1993 included a provision that created an income tax credit for entities that make qualified cash contributions to one of 20 "community development corporations" to be selected by the Secretary of Housing and Urban Development using certain selection criteria.

Under the conference report, the Joint Committee on Taxation (JCT) would estimate how many contributions would be designated as eligible for the credit, based on the information available to the Committee at the time the legislation was being considered. If the JCT determined more than 100 contributors would benefit from the credit, then the provision could not be canceled. If fewer than 100 contributors were estimated to benefit from the provision, then the provision could be canceled.

If the conference report did not include the information from JCT in the required form, then the President would have the authority to make the determination.

H.R. 831 (enacted in the 104th Congress) included a provision to restore a prior-deduction for 25 percent of the amount paid for health insurance for self-employed individuals and the individuals' spouses. The 25 percent deduction had expired after December 31, 1993. H.R. 831 restored the 25-percent deduction for 1994 and increased the deduction to 30 percent for taxable years beginning after 1994.

Under the conference report, this provision would not be a limited tax benefit because it applies to all self-employed individuals who purchase their own health insurance, and thus this provision would benefit more than 100 individuals.

(10) OMB. The term "OMB" means the Director of the Office of Management and Budget.

Sec. 1027. Identification of limited tax benefits

The conferees intend to limit the authority delegated to the President by Congress under section 1021 with respect to the application of that authority to limited tax benefits. A limited tax benefit is a carefully delineated provision under the definition in section 1026(9). This section ensures the proper application of this definition, and hence the President's cancellation authority, to any tax provision. The conference report provides the conferees on any revenue or reconciliation measure with the opportunity to identify for the President what may constitute a limited tax benefit, under the procedures in this section, in each revenue or reconciliation law.

The conference report states that the JCT shall examine any revenue or reconciliation bill or joint resolution (that amends the Internal Revenue Code) prior to its filing by a committee of conference in order to determine whether or not that bill or joint resolution contains any limited tax benefits under the definition in section 1026(9). The statement from the JCT shall state that the bill either contains no limited tax benefits or contains limited tax benefits.

In the case of a revenue or reconciliation bill or joint resolution containing one or more limited tax benefits the statement shall list each of those provisions. In the case of a revenue or reconciliation bill or joint resolution containing no limited tax benefits, the statement shall state that determination. This statement shall be submitted to the conference committee on such a bill or joint resolution and shall be made available by the JCT to any Member of Congress upon request.

If the conference report includes the information from the JCT and that information identifies provisions in the conference report which quality as limited tax benefits under the definition in section 1026(9), then the President may cancel those, and only those, items as identified. On the other hand, if such a conference report contains a statement from the JCT stating that there are no provisions in the conference report qualifying under the definition in section 1026(9) as a limited tax benefit, then the President may not exercise the cancellation authority under section 1021(a)(3) because Congress has provided that no tax provisions are eligible for cancellation under this authority.

The conference report specifies how the information provided by JCT may be included in the bill. At the end of the bill, the permitted separate section should read as follows: "Section 1021(a) of the Congressional Budget and Impoundment Control Act of 1974 shall ______ apply to ______", with the blank spaces being filled in with the appropriate information. In the case in which the JCT identifies limited tax benefits in a conference report, the word "only" would appear in the first blank and a list of all of the provisions of the bill or joint resolution identified by the JCT in that Committee's statement shall appear in the second blank. In the case in which the JCT declares that there are no limited tax benefits in the conference report, the word "not" would appear in the first blank and the phrase "any provision of this Act" would appear in the second blank.

The conferees intend that the decision to include the information provided by JCT in the bill or joint resolution that amends the Internal Revenue Code shall be left to the discretion of the appropriate conferees. With respect to any potential violations or any rules relating to the scope of a conference, the conferees intend that the inclusion of such an identification shall not constitute a violation of any rules of the House of Representatives or the Senate, respectively.

In the event the legislation amending the Internal Revenue Code is signed into law that does not contain the information provided by JCT, any identification of what constitutes a limited tax benefit under the definition in section 1026(9) may be made by the President. If any provision qualifies as a limited tax benefit (within the confines of the definition of such a benefit in section 1026(9)) and the President identifies such a benefit, the President may exercise the cancellation authority under section 1021(a)(3).

Section 3. Judicial review

Any Member of Congress or other adversely affected individual is given standing to seek declaratory judgement and injunctive relief on the ground that any provision of this law violates the Constitution. Suit must be brought in the United States District Court for the District of Columbia. A copy of any complaint brought under this Act must be promptly filed with the Secretary of the Senate and Clerk of the House, and each House reserves the right to intervene in any action according to its own internal rules.

Appeals from the District Court must be filed within 10 calendar days after an order is entered and may be taken directly to the Supreme Court of the United States. A period of 30 calendar days is provided for filing a jurisdictional statement with the Supreme Court, and the conference report prohibits any single Justice from issuing a stay of the District Court's order. Both the District Court and the Supreme Court are directed to advance on the docket and expedite to the greatest extent possible any action brought with regard to the constitutionality of this law.

Section 4. Conforming amendments

Section 4 makes three conforming amendments. First, this section amends the short title of the Congressional Budget and Impoundment Control Act of 1974 to clarify that the short title of Impoundment Control Act shall refer to parts A and B of title X. The amendment further specifies that part C of title X shall be cited as the Line Item Veto Act of 1996.

Second, section 4 makes a conforming amendment to the table of contents in the

VOL
142
PT
5
MR
21
—
29
1996
UMI

Congressional Budget and Impoundment Control Act to include a listing of the contents of part C, referencing sections 1021 through 1027.

Third, section 4 amends section 940(a) of the Congressional Budget Act of 1974 to clarify that the provisions of sections 1025 and 1027, relating to Congressional consideration of a disapproval bill and identification of limited tax benefits, in an exercise of the rulemaking powers of the House of Representatives and the Senate. As a result, sections 1025 and 1027 are considered part of the rules of each House, respectively, and it supersedes other rules only to the extent that it is inconsistent with those rules. This is also a recognition of the constitutional right of both Houses to change these rules at any time, in any manner and to the same extent as in the case of any other rule of each House.

Section 5. Effective dates

Section 5 provides an effective date of the earlier of (1) the day after the enactment of an Act entitled "An Act to provide for a seven-year plan for deficit reduction and achieve a balanced Federal budget."; or (2) January 1, 1997. It provides that this part shall sunset January 1, 2005.

Bill Clinger,
Gerald Solomon,
Jim Bunning,
Porter Goss,
Peter Blute,
Managers on the Part of the House.

Ted Stevens,
Bill Roth,
Fred Thompson,
Thad Cochran,
John McCain,
Pete V. Domenici,
Chuck Grassley,
Don Nickles,
Phil Gramm,
Dan Coats,
Jim Exon,
Managers on the Part of the Senate.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.J. Res. 165. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956) "An Act to establish legal standards and procedures for product liability litigation, and for other purposes.".

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 148. Concurrent resolution expressing the sense of the Congress that the United States is committed to military stability in the Taiwan Strait and the United States should assist in defending the Republic of China (also known as Taiwan) in the event of invasion, missile attack, or blockade by the People's Republic of China.

APPOINTMENT OF CONFEREES ON H.R. 3019, BALANCED BUDGET DOWN PAYMENT ACT, II

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Obey moves that the managers on the part of the House at the conference of the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 3019, be instructed to:

(a) agree to the position in the Senate amendment increasing funding above the levels in the House bill for programs of the Department of Education;

(b) agree to the position in the Senate amendment increasing funding above the levels in the House bill for programs of the Environmental Protection Agency;

(c) agree to the position in the Senate amendment that provides a minimum of $975,000,000 from within the $1,903,000,000 provided for Local Law Enforcement Block Grants within the Department of Justice for the Public Safety and Community Policing grants pursuant to title I of the Violent Crime Control and Law Enforcement Act of 1994 (COPS on the beat program);

(d) agree to the position in the Senate amendment increasing funding above the levels in the House bill for job training and worker protection programs of the Department of Labor;

(e) agree to the position in the Senate amendment deleting Title V of the House bill placing onerous new red tape requirements on Federal grantees; and

(f) agree to the position in the Senate amendment specifying a maximum grant award of $2500 under the Pell Grant Program; and

(g) agree to the position in the Senate amendment providing fiscal year 1997 funding of $1,000,000,000 for the Low-Income Energy Assistance Program of the Department of Health and Human Services.

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. Obey] is recognized for 30 minutes.

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

I know Members want to get out of here, and I join in that sentiment. It was not my choice to deal with this issue tonight, but we are dealing with it. So I would like Members to know what it is that we are asking them to vote on.

What we have pending before the House is a motion to go to conference on the long term. The chairman of the committee has just moved that the House go to conference on the long-term continuing resolution. Earlier today, we passed another one of our week-to-week CRs.

Mr. Speaker, the problem we face is that with the five bills that still are not in law, the five appropriation bills for this fiscal year, those bills have come in at a rate of about $25 billion below the amount being asked for by the President of the United States. The President has indicated that if language differences can be eliminated so that we can remove some of the special interest language provisions that have been inserted in the bill, that he is willing to sign off on the bill if he can get roughly $8 billion back out of that $25 billion. So he is asking for about 30 cents on the dollar.

The Senate, rather than providing the 30 cents on the dollar, has added back about $3.8 billion, which represents about 14 cents out of every dollar that the President wanted. In my view, we are not going to be able to finish that conference by the end of next week unless we can cut through a lot of the fog and recognize that where we have to start in that conference is at the Senate level. So what I am trying to do here tonight is to bring us closer to that point.

What this motion would do is instruct the conferees to accept the Senate increases in education, which would mean increases in Goals 2000, an increase of $814 million in chapter 1. We are asking to put $814 million in for title I because we think that we should make it easier, not harder, for kids to learn how to read and to learn how to deal with math.

Mr. Speaker, we are asking to put back $200 million for safe and drug-free schools because we think that our communities are going to be safer and our kids healthier if they learn at an early age to stay away from drugs.

We are adding $8 million for charter schools, some additional money in the education area, including vocational and adult education. We are asking to add back $137 million for Head Start, which is what the Senate has added back. In the Labor Department, we are asking that funding be added back for school-to-work programs, for dislocated worker assistance, for one stop career shopping, for summer youth, $635 million for summer youth.

Mr. Speaker, we are asking in the Veterans, HUD and independent agencies bill that we add $115 million for operating programs to the EPA, including enforcement activities, $300 million for EPA, States and tribal assistance

grants, water and wastewater infrastructure financing. The Senate bill added $50 million or $150 million for EPA Superfund program. We are asking that we accept the Senate judgment on those programs.

We are also asking to accept the Senate level for the cops on the beat program rather than the House insisting on its block grant program as a substitute for the cops on the beat program. We think that program has been demonstrated to be successful. The President places a very high priority on that item and will not sign a bill, in my judgment, unless we do considerably better than the Senate has done on this program. We intend in conference to insist on a higher level for cops on the beat than the Senate has provided, but what we want to do is to try to begin the process at least recognizing as the Senate did that we have to restore at least 50 percent of that going in.

Mr. Speaker, we are also asking that Members delete the Istook amendment, which in essence creates a huge blizzard of paperwork on most of the groups who have the temerity to want to comment to their elected Representatives on the actions that we are taking. We think they have that right, and the Istook amendment gets in the way of that.

We are also asking that we restore $1 billion for the low-income heating assistance program and take the Pell grant program up to maximum grants of $2,500 rather than the amount in the House bill.

We believe that that is the very minimum that is necessary to get the conference off to a good start. It is my firm belief that in fact we will have to go further in those restorations before the President signs the bill.

The President is not going to settle for 15 cents on the dollar, as the Senate has provided. He is going to insist that we do a better job than that in protecting education, protecting environmental cleanup, protecting our efforts to fight crime.

I would ask for a yea vote on the motion.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. Livingston] is recognized for 30 minutes.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. Goodling], distinguished chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. Mr. Speaker, I would caution my colleagues to be very, very careful about this, what appears to be a very, very attractive package, particularly when talking about areas in education. I would not tie the conferees hands until we know exactly where these offsets are and how legitimate those offsets are.

Mr. Speaker, I would encourage Members not to fall victim to something that sounds awfully, awfully good, particularly for those of us who deal in the education field, because the offsets may end up eventually being Members' favorite programs, because at the present time they probably could be more smoke and mirrors than anything else.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank all of my colleagues for their indulgence. I shall not take much time.

We have here a motion to instruct conferees. We are in the process of appointing the conferees so that they can begin the conference. I am hopeful that this is the beginning of the end for the fiscal year 1996 bills.

The conferees will go into session and will deliberate and I expect we will report back toward the end of next week and that we will produce a bill that can pass both Houses and be sent to the President and will be signed into law and we can move on to fiscal year 1997.

Mr. Speaker, let me say that my friend from Wisconsin has raised a number of issues for additional spending. He wishes to spend a lot of money on a lot of different programs. He wishes us to conform with the Senate on some of the additional spending that they have had, and of course he is not satisfied with the bill as it left the House.

On education, I would only point out that the Federal Government, which has not traditionally throughout the history of this Nation been involved in education, has been since roughly 1970 or shortly before and now pays about 6 percent of the total education tab. Roughly $23–$25 billion is what we pay, the American taxpayer pays, through the Federal Treasury. The U.S. taxpayer pays roughly $23 billion for education in this country, to be dispensed through the United States Treasury, but the taxpayers also pay another $200 billion-plus in the States and localities on education.

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The fact is that education is primarily the province of the local and the State government, and while we can always look for more ways to spend more money, we are never going to make a dent with our involvement.

I have to point out the fact that since the Federal Government has become involved, grades for the scholastic aptitude tests for students at all levels of education have declined, not increased, so it is hard to make the argument that Federal payment for education bills has really accomplished much of anything.

That being the case, we are going to meet with the Senate, and we are going to have to come to a conclusion. I would only point out to my colleagues that, if we accept the gentleman's proposal to instruct conferees, we might as well not go to conference because the gentleman from Wisconsin [Mr. Obey] would have us agree to virtually all of the Senate's positions on a fistful of issues, practically all of which would indeed cost more money.

Now in the House passed bill, we are within our budget caps. If we spend more money, we have to pay for it or else we will be in excess of our budget that we have passed in this House and that passed in the Senate before. I am not sure that we can come up with additional pay-fors for additional spending. It is good to be a very excruciating debate between us, and Members of the Senate, and both parties, and then also to work out an agreement with the President where he feels comfortable enough to sign it. It is going to be a difficult negotiation.

I would urge my colleagues to vote "no" on the motion to instruct. Let us go to conference with some flexibility to negotiate. Do not give us a mandate to agree to their proposals. If we have a mandate that is given us by bipartisan Members of this House, the fact is that the conference will be over very quickly whether or not the President ultimately decides to sign the bill.

But I would urge my colleagues to stick with the committee, not weaken us before we go to conference. Vote "no" on the motion to instruct, and let us go home for the evening.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself just 30 seconds.

The Senate has offset all of the funding that they have provided so they do not add to spending levels for this fiscal year, and all of the items for fiscal year 1997 will be constrained by the caps, as everyone knows. So this is not an issue of how much spending there shall be. This is an issue of where that spending ought to be targeted.

Mr. Speaker, I yield back the balance of my time.

Mr. LIVINGSTON. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore (Mr. Hefley). The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. Obey).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 194, nays 207, not voting 30, as follows:

[Roll No. 90]

YEAS—194

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Ehlers
Engel
English
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Heineman
Hilliard
Hinchey
Holden
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McHugh
McKinney
McNulty
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Pastor
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Quinn
Rahall
Ramstad
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Weldon (PA)
Weller
Williams
Wise
Woolsey
Wynn

NAYS—207

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
McCollum
McCrery
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—30

Barton
Boehner
Clay
Collins (IL)
de la Garza
Dicks
Forbes
Gephardt
Gibbons
Hayes
Johnston
Kolbe
Lazio
Manton
McDade
Meehan
Moakley
Owens
Payne (NJ)
Radanovich
Rose
Roth
Stark
Stockman
Stokes
Studds
Waters
Waxman
Wilson
Yates

□ 2149

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Radanovich against.

Mr. ZELIFF changed his vote from "aye" to "no."

Mr. BERMAN changed his vote from "no" to "aye."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. HEFLEY). Without objection, the Chair appoints the following conferees:

For consideration of the House Bill (except for section 101(c)) and the Senate amendment (except for section 101(d)), and modifications committed to conference:

Messrs. LIVINGSTON, MYERS of Indiana, YOUNG of Florida, REGULA, LEWIS of California, PORTER, ROGERS, SKEEN, and WOLF, Mrs. VUCANOVICH, and Messrs. LIGHTFOOT, CALLAHAN, WALSH, OBEY, YATES, STOKES, BEVILL, MURTHA, WILSON, DIXON, HEFNER, and MOLLOHAN.

For consideration of section 101(c) of the House bill, and section 101(d) of the Senate amendment, and modifications committed to conference:

Messrs. PORTER, YOUNG of Florida, BONILLA, ISTOOK, MILLER of Florida, DICKEY, RIGGS, WICKER, LIVINGSTON, OBEY, STOKES, and HOYER, Ms. PELOSI, and Mrs. LOWEY.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

WOMEN IN PUBLIC SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut (Ms. DeLAURO) is recognized for 5 minutes.

GENERAL LEAVE

Ms. DeLAURO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Ms. DeLAURO. Mr. Speaker, I am honored to join Congresswoman LUCILLE ROYBAL-ALLARD tonight in kicking-off this series of special orders recognizing women from around the Nation for their accomplishments in public service. Congresswoman ROYBAL-ALLARD and myself organized this series of special orders this evening with the Women's Caucus in celebration of Women's History Month. Due to the overwhelming participation in this event, I will keep my remarks brief. I thank all of my colleagues who will be speaking this evening in recognition of the tremendous accomplishments and contributions of women in public service.

Mr. Speaker, I am proud to announce the names of two extraordinary women from the third Congressional District of Connecticut who have been selected for acknowledgement during Women's History Month 1996. These women were selected by a committee I organized, comprised of over 20 women leaders in my district. The committee included members of the business community, civic organizations, cultural, and religious groups. The Women of the Year for Women's History Month 1996 are Mrs. Anne Calabresi and State Senator Toni Harp.

Anne Calabresi is a cornerstone of community life in New Haven. She has been active in the organization of major city initiatives and events like the World of Difference Project. Sponsored by the Anti-Defamation League, the World of Difference Project has been working to end discrimination and forge community understanding in New Haven for the past 4 years. Anne works with the Special Olympics, which brought thousands of athletes and spectators to New Haven last year and also serves as the chairwomen of the Leadership Education and Athletics in Partnership [LEAP] program. Presently, she is serving as the vice-president of the International Festival of Arts and Ideas which will be held in New Haven this June. This festival attracts the best of international, national, regional, and local performers and artists. In addition to the educational and cultural benefits, the festival spurs tourism and economic development in New Haven. Whatever the endeavor, Anne's peers applaud her enormous energy, enthusiasm and love for the city of New Haven. She is indefatigable and is a source of information for all.

I am also proud to recognize State Senator Toni Harp tonight. State Senator Harp is a strong community leader and eloquent advocate for the needs of New Haven residents at our State Capitol. She is the ranking member on the Connecticut State Legislature's Public Health Committee. Toni is praised by her peers for her ability to balance out her professional duties at Hill Health Center in New Haven, her legislative duties in Hartford and her love and devotion for her family. On the State and Federal level, she has been a strong advocate for women, seniors and children, and working families. She is described as an excellent listener and someone who is not afraid to stand up and be heard on issues including affirmative action, child welfare and the advancement of women. Toni presently serves on the Board of Directors for the Connecticut Student Loan Foundation and as the treasure of the Legislative Black and Puerto Rico Caucus.

I thank Anne Calabresi and State Senator Harp for their tireless efforts and countless contributions to our community. I am proud to acknowledge them during Women's History Month. Both women are true rolemodels for young women and girls.

At this time, I am happy to yield the remainder of my time to the coordinator of this series of Special orders, Congresswoman ROYBAL-ALLARD.

□ 2100

Ms. ROYBAL-ALLARD. Mr. Speaker, I thank the gentlewoman for yielding.

Although I am going to be speaking later, I just wanted to take this opportunity to thank my colleague the gentlewoman from Connecticut [Ms. DELAURO] for joining me in sponsoring this event and for helping to make this tribute to women possible. She is to be commended for her deep commitment to helping to elevate the status of women in this country.

HONORING MRS. SENORINA RENDON AS WOMAN OF THE YEAR FOR CALIFORNIA'S 33D CONGRESSIONAL DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. ROYBAL-ALLARD] is recognized for 5 minutes.

Ms. ROYBAL-ALLARD. Mr. Speaker, I would like to thank my colleagues who have joined us to commemorate women's history month by recognizing outstanding women in our Nation.

Throughout the month of March, we in this country honor women from the past and present, who have, each in their own way, made a positive difference in their communities and toward the betterment of our Nation.

These women come from all walks of life, cultures and economic backgrounds.

They are the women who work in our fields and our factories, in Federal, State and local governments and in the armed services in defense of our country. They are the women who work hard at home to preserve the family, the very foundation of our country.

The struggles and pioneering efforts of the women who came before us, and the courage and determination of the women of today, have opened new opportunities for all of us.

It was not that long ago when women were thought of only as mothers, daughters, sisters, and men's wives.

The fact that I am here this evening celebrating Women's History Month with my colleagues, many of whom are women, is indicative of the changing role of women in our society.

We all know, however, that there is significant room for improvement.

Even today, working women still earn only 70 cents for every dollar paid to their male counterparts, the glass ceiling has still not been shattered, women are still victims of sexual harassment at both work and school, gender equity in education is not yet a reality, and women are still much more likely to live in poverty than men.

But because of women such as those we are honoring tonight, I am confident that we will not only continue to elevate the status of women, but strengthen our communities and our society as a whole.

This evening, I would like to recognize one of the many women in my district who embodies this spirit, Mrs. Senorina Rendon.

Mrs. Rendon, a resident of the city of South Gate CA, has always been an active force in her community.

She is a member of the South Gate PTA and formerly served as its president.

She combats the problem of gang violence in her community, through her work with police officers and local youth.

For the past 6 years, Mrs. Rendon has been the president of the South Gate High School parents group, where she works to motivate parents to get involved in their children's education.

Her ultimate goal is to give all the students in her community the opportunity to attend college.

Mrs. Rendon knows first hand the benefits of education.

While volunteering in her community, and raising six children, all of whom have graduated from high school and two from college thus far, Mrs. Rendon herself has gone back to school to continue her own education.

Mrs. Rendon exemplifies the utmost dedication to both family and community.

She is a shining example of an outstanding woman in public service and I am honored that she is the "woman of the year" for the 33d Congressional District.

Mr. Speaker, I yield the remainder of my time to the gentleman from Utah [Mr. ORTON].

TRIBUTE TO MARTHA HUGHES CANNON IN CONJUNCTION WITH WOMEN'S HISTORY MONTH

Mr. ORTON. I thank the gentlewoman for yielding.

Mr. Speaker, in conjunction with Women's History Month, I rise today to pay tribute to an extraordinary woman in the political history of our Nation: Martha Hughes Cannon.

Born on July 1, 1857, Martha Hughes Cannon led a distinguished life that included completing medical school at the age of 23, starting a medical practice in Utah, working tirelessly for the cause of women's suffrage, establishing Utah's first training school for nurses, and becoming the first woman in the history of our Nation to be elected to a State Senate.

Martha Hughes Cannon was elected to the Utah State Senate in 1896—her achievement all the more noteworthy since she ran in a field that pitted her against her husband, Angus M. Cannon. As a State senator, she introduced legislation to provide education for deaf and blind children, to create a State board of health, and to provide for rules and regulations in a number of sanitation and public health areas.

In 1898, she traveled to Washington to deliver a powerful speech to a Congressional Committee in favor of

VOL 142 PT 5 MR 21 — 29 1996 UMI

granting women the right to vote in the United States.

This year, Utah celebrates the 100th anniversary of its statehood. As part of statehood celebrations, a statue of Martha Hughes Cannon will be unveiled in the Utah State Capitol rotunda on July 24, 1996. It is a fitting tribute to her tremendous contribution to our State.

WOMEN'S HISTORY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Mrs. SEASTRAND] is recognized for 5 minutes.

Mrs. SEASTRAND. Mr. Speaker, it is a wonderful privilege to stand here to commemorate Women's History Month. I stand before you tonight to share my belief that the 104th Congress has done so much to further the cause of women, women and their rights, which is so important not only to me but to my mother and to my daughter Heidi.

I speak of women's rights in the broadest sense. I believe that the interests of women are inseparable from those of the rest of our Nation. Women, men, children all have a stake in the strength and prosperity of America. What is good for our country is good for all of us.

We in this Congress have taken great strides towards balancing the Federal budget, restraining an intrusive government, and limiting military interventionism. These are noble goals. Though yet to be fully attained, they are within the reach of this Congress and will benefit men and women alike.

The continuing struggle to balance the budget through the judicious restraint of Federal spending is fraught with implications for women's rights. Successfully balancing the budget will provide the following benefits for women and all Americans:

It is going to create 6.1 million new job opportunities in the early part of the 21st century. The best way to promote opportunities for women is to create an economy which can accommodate all those who wish to work.

A balanced budget would also bring a 2 percent decline in interest rates. Women would have easier access to home, business, and education loans, thereby increasing their economic and educational opportunities.

A balanced budget would definitely mean that we would have a future free of debt. We as mothers would bequeath to our children a future of greater opportunity and a government of increased virtue and vitality.

We in this Congress have labored mightily to scale back the size and scope of an overly intrusive government. With the restraint of government comes an increase in liberty and enterprise. Excessive regulation is the bane of the individual entrepreneur.

The Republican Party has vigorously championed the elimination of needless bureaucratic obstacles for private enterprise. In an increasingly competitive job market women can only benefit from an environment which encourages the creation of small business. Government must step out of the way of the women entrepreneur.

By opposing the overtly and overly interventionist policies of the Clinton Administration, we of this Congress have done our best to keep our troops home and their families together. The deployment of United States soldiers to Bosnia serves no American interest and needlessly puts the lives of our young men and women, in jeopardy. The women who have been sent to Bosnia have had to leave their families, their husbands, their children behind. The women whose husbands have been deployed are left with added financial and parenting responsibilities. Restraining foreign intervention is good for women and good for our country.

Mr. Speaker, as we take time to reflect upon the contributions of women throughout history, let us not diminish their legacy by concentrating narrowly upon the ideological agenda of a few. Those great women who came before us struggled for equality of opportunity, not the equality of result. They struggled for increased liberty, not the security bestowed by government.

We in the Republican Party are the rightful inheritors of this noble legacy. Our efforts to promote individual liberty mirror those wonderful women's struggles for freedom of opportunity. Let us act worthy of them by continuing to fight for a much brighter future, one in which the strength and dignity of women are allowed to flourish in an atmosphere of liberty and abundance.

HONORING OFELIA LOZANO AS WOMAN OF THE YEAR FOR CALIFORNIA'S 34TH CONGRESSIONAL DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. TORRES] is recognized for 5 minutes.

Mr. TORRES. Mr. Speaker, I thank the gentlewoman from Connecticut [Ms. DELAURO] and the gentlewoman from California [Ms. ROYBAL-ALLARD] for calling this special order tonight to honor women and the contribution of women to the Nation of America.

Mr. Speaker, today I have the distinct privilege and honor of naming longtime Pico Rivera resident and community activist Ofelia Lozano as the 34th Congressional District's Woman of the Year.

Since moving to Pico Rivera 39 years ago, Ofelia has unselfishly given of her time and energy to a myriad of causes which have made our city a better place to live and the future a better place to grow up.

She has been a member of the Pio Pico Women's Club for the past 25 years, serving as its president and vice president.

She has also been active with the Pico Rivera Christmas Basket Committee, an exemplary organization committed to distributing food to the needy, to seniors and to a number of youth athletic teams.

But perhaps her most noted contribution has been her untiring efforts on behalf of North Park Middle School and its nationally recognized and award-winning marching band. In the band's early years, it was Ofelia Lozano who raised much needed funds to permit the band to compete, and now that the band has been selected to play in next year's Rose Bowl game and the Rose Bowl parade, it is Ofelia Lozano who again has committed countless hours to helping the band meet its goal of raising the $10,000 that it needs to play in that parade.

Mr. Speaker, Ofelia Lozano is not only worthy of this recognition but most importantly deserving of it. She is a true friend and an ardent supporter of the youth of Pico Rivera. She indeed exemplifies the modern woman, the activist, the mother, who is out there struggling on behalf of all the duties that she has, yet she has time to give to her community, to her city, to the children of our city and to this Nation. Indeed, I congratulate her.

Mr. TORRES. Mr. Speaker, I yield to the gentlewoman from New York [Mrs. LOWEY].

HONORING AMY PAULIN AS WOMAN OF THE YEAR FOR NEW YORK'S 18TH CONGRESSIONAL DISTRICT

Mrs. LOWEY. Mr. Speaker, I thank my colleagues the gentlewoman from California [Ms. ROYBAL-ALLARD] and the gentlewoman from Connecticut [Ms. DELAURO] for organizing this tribute to women from around the country who have made extraordinary contributions to their communities.

I am here to honor an outstanding constituent, Amy Paulin of Scarsdale, NY. Amy, like myself, the mother of three children, has dedicated herself to the women and families of Westchester County. In fact, Amy was selected the 1995 Woman of the Year by a coalition of women in my district.

The list of Amy's community activities fills pages and in each role she has epitomized the concept of citizenship.

Amy was president of the League of Women Voters for 3 years. While Amy was president, the league registered 2,000 voters, and issued nonpartisan Voters Guides to 85 percent of the voters in Westchester County. In addition, the league sponsored debates for political candidates and was actively involved in shaping local legislation.

☐ 2115

One of the highlights of Amy's presidency was her success at urging the creation of the Westchester County

Board of Legislators Task Force on Families. When Amy realized that no board committees addressed women and children's issues, she brought it to the attention of the chair of the county board. Then, Amy led a successful lobbying effort that convinced the board that such a task force was indeed necessary. Amy is currently the only citizen-member of the task force, which just released a very important report on Westchester County's response to child abuse.

In addition to Amy's superb work with the league, she sits on the board of: The Westchester Children's Association, the Westchester Women's Agenda, the YWCA of White Plains, the Westchester Coalition for Legal Abortion, the UJA-Federation Scarsdale Women's Campaign, and the Scarsdale Middle School P.T.A.

As you can see, Amy's commitment to women and families is very serious. Westchester County has benefited from her tireless efforts on behalf of our families. I am honored to have the opportunity to honor Amy Parlin as Woman of the Year.

HONORING KATHARINE HOUGHTON HEPBURN DURING WOMEN'S HISTORY MONTH

The SPEAKER pro tempore (Mrs. SEASTRAND). Under a previous order of the House, the gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 5 minutes.

Mrs. JOHNSON of Connecticut. Madam Speaker, I first want to commend my colleagues for the attention they have brought to Women's History Month. Their hearings, seminars, and legislative measures have focused much needed attention on women—their health, their reproductive rights and the need for gender equity in class and on the courts. I am pleased to be a part of tonight's activity saluting extraordinary women from our districts and from around the world.

I rise today to salute Connecticut's Katharine Houghton Hepburn, one of the earliest advocates for gender equity in education and reproductive rights for women. Her name may sound familiar for other reasons as she was the mother of actress Katharine Hepburn. But not enough is known about her own achievements. Orphaned at 14, it's been said that her mother's dying words to her were "get an education"—and she did, entering Bryn Mawr's Class of 1899 at the age of 16.

She obtained degrees in chemistry and physics—precisely because those were the subjects she most dreaded, and later earned a master's degree in art history from Radcliffe.

After college, Katharine Houghton married a prominent Connecticut doctor and became a determined suffragist and an outspoken birth control advocate. Her opposition was formidable. Connecticut State obscenity laws at the time made it illegal to mail any information on birth control and it was even a crime for doctors to distribute birth control information or tell anyone where it might be obtained. In a 1941 interview, Houghton said that when she confronted Connecticut State Legislators with the birth control issue, they were embarrassed and terrified. "They nudged each other like schoolboys," she said, "but after ten years of it, they got used to us." And one can only imagine what her neighbors of upscale Fenwick, CT, thought of her views. Houghton once said that they were worried her campaign to make birth control available for all women would only lead to their corruption. She responded by saying:

> We are not trying to produce immorality * * * we are trying to explain the use of human intelligence to control human nature.

At the same time, her work on behalf of the suffragist movement continued. And in 1920, right after the 36th State gave women the right to vote, Connecticut Democrats approached Houghton and asked her to run for the U.S. Senate. Connecticut had not yet ratified the 19th amendment, though, so she continued with the task at hand. As her daughter's fame grew, so did her own and in 1933, she led a procession of women up to Capitol Hill to push for a bill that would have permitted physicians to distribute birth control information. Among the marchers—Margaret Sanger and Amelia Earhart. Houghton worried that her activities would harm her daughter's burgeoning acting career. But Katharine Hepburn strongly supported her mother's work. "I detest the newspaper's reference to her as Katharine Hepburn's mother," she said, "My mother is important. I am not." Let's all remember Katharine Houghton's importance today. She fought for women when the country, her State, and even her own neighborhood, were opposed to her causes. But she continued on for decades for most of her life—inspiring women and creating an America that would make good on her promise of equal opportunity and equal justice for all.

Madam Speaker, I would like to yield now to my friend and colleague from North Carolina [Mrs. EVA CLAYTON].

Mrs. CLAYTON. Madam Speaker, I thank the gentlewoman for yielding to me, and thank my colleagues who have arranged this special tribute to women.

Madam Speaker, as we celebrate Women's History Month, I think of the numerous contributions women have made to make this world a better place to live.

When I look at the First Congressional District of North Carolina, I find an extraordinary woman, a woman who is a fine example of womanhood who has dedicated her life to improving the lives of others. She has taken on many difficult task, oftentimes sacrifing herself and spending her own money to improve the lives of others.

She is a living legend in North Carolina. She is Mrs. Alice Ballance, a mother, a grandmother, and businesswoman.

Her commitment to her family and community has made her stand head and shoulders above the masses. She is many things to many people, but above all she is a champion of the disadvantaged and children.

"Miss Alice" as she is affectionately known around Bertie County in the First Congressional District of North Carolina, has proven again and again her commitment to being a model citizen. "Miss Alice" has maintained close ties to her community, church, and family, and has worked tirelessly to improve the lives of the poor and disadvataged citizens of her county. She organized and established child and adult care for the children and seniors of her county.

Her activism dates back to the civil rights era of the sixties. She has testified before the U.S. Senate on behalf of North Carolinians and founded the People's Program on Poverty to assist the needy citizens of Bertie County. She has been recognized by several national and regional organizations for her many community activities.

Mr. Speaker, today I salute a woman who is part of our rich and proud history in North Carolina. A woman whose contribution to our society has made North Carolina a better place to live.

She is the essence of leadership, the epitome of statesmanship, and the embodiment of selflessness and commitment.

More importantly, she is not afraid to fight for her principles and to stand up for her beliefs. Pride, achievement, and success are her watchwords. Alice Ballance has paved the road of opportunity for women like me and I am happy to name her North Carolina's First Congressional District, Woman of the Year.

HONORING HELEN RUDEE AND ELIZABETH TERWILLIGER DURING WOMEN'S HISTORY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, first of all I would like to thank my colleagues and good friends for organizing this Women of the Year special order as part of our Women's History Month celebration.

Madam Speaker, I come to the floor of the House this evening to honor two outstanding women, Helen Rudee and Elizabeth Terwilliger, from the Sixth Congressional District of California.

When talking about Helen Rudee, it is hard not to sound repetitive because

VOL
142
PT
5
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Helen Rudee was the first in just about everything she has done. Helen was the first woman president of the Santa Rosa Board of Education. She was the first woman on the Sonoma County Board of Supervisors. And she was the board's first chairwoman. In addition to her outstanding record in elected office, Helen raised four children and participated in just about every volunteer organization in Sonoma County.

This year, Helen is the recipient of the Konocti Girl Scout Council Jewel of a Woman Award for sharing her leadership skills with other young women in our community. It is truly fitting that we recognize Helen during Women's History Month. Helen Rudee is a woman who has made history, and she continues to make history.

I am also proud to honor Elizabeth Terwilliger, a real life trail blazer, who in 1991 was the recipient of President George Bush's Points of Light Award.

Long before environment became a household word, Elizabeth Terwilliger pioneered environmental education in Marin County. Now in her eighties, she continues to lead children, teachers, parents, and grandparents on hiking, canoeing, and bicycling adventures 6 days a week.

Mrs. Terwilliger's tireless commitment to our environment has inspired other volunteers to form the nonprofit Terwilliger Nature Education Center. Where every year, over 65,000 San Francisco Bay Area children enjoy the spectacular beauty of Marin County's trails, marshes, and beaches because of the Terwilliger Center.

Again, it is my great honor to recognize Helen Rudee and Elizabeth Terwilliger as 1996 Women of the Year. They have left an indelible mark on Sonoma and Marin Counties, and their legacy will inspire generations to come.

Madam Speaker, I yield now to the gentlewoman from New York, CAROLYN MALONEY.

Mrs. MALONEY. I thank the gentleman for yielding, and I likewise join her in thanking ROSA DELARUO and LUCILLE ROYBAL-ALLARD for organizing this special order in honor of women during Women's History Month.

Madam Speaker, I rise today to honor as my Woman of the Year a former Congressman, New York's tireless advocate for women, Bella Abzug. On behalf of women everywhere, I salute this remarkable woman, whose dedication and courage deserves recognition as we honor her and as we follow her lead.

Bella, who was born the same year that women won the right to vote, has spent her entire life fighting for women's rights. As a Member of Congress she wrote the first law banning discrimination against women in obtaining credit, and she initiated an organization which has become known as the Congressional Caucus on Women's Issues.

Today, Bella continues her advocacy for women with her Women's Environment and Development Organization, a group which will soon introduce its Contract with American Women.

Today, in a Congress far more hostile to women's rights than any I can remember, I will do what Bella would appreciate the most, honor her spirit by reminding our adversaries that we will refuse to lose. We will succeed in overcoming the anti-women actions of this Congress because we have millions of women with us across this country.

Madam Speaker, we will succeed, because brave women Like Bella Abzug have taught us how to succeed.

Madam Speaker, I rise today to honor, as my "woman of the year", former Congresswoman and tireless advocate for women's rights—Bella Abzug.

On behalf of women everywhere, I salute this remarkable woman, whose dedication and courage deserve recognition—as we honor her, and, as we follow her lead.

Bella, who was born the same year women won the right to vote, has spent her entire life fighting for women's rights.

As a member of Congress, she wrote the first law banning discrimination against women in obtaining credit; and, she initiated what became known as the Congressional Caucus on Women's Issues.

Today, Bella continues her advocacy for women with her Women's Environment & Development Organization [WEDO], a group which will soon introduce it's "Contract with American Women."

Today, in a Congress far more hostile to women's rights than any I remember, I will do what I think Bella would appreciate the most—honor her spirit by reminding our adversaries that we refuse to lose.

We will succeed in overcoming the anti-woman actions of this Congress because we have women like Bella with us.

Madam Speaker, We will succeed, because brave women like Bella Abzug have taught us how to succeed.

From every possible forum, Bella Abzug has spent her entire life fighting for women's rights.

In 1970, Bella became the first woman to run for and win a seat in Congress on a women's rights and peace platform.

Her term in office was far too short—only 6 years. But, her accomplishments however, were many.

She wrote the first law banning discrimination against women in obtaining credit, loans, and mortgages. She introduced precedent-setting bills on comprehensive child care, social security for homemakers, abortion rights, and Gay rights. One of the earliest votes Bella cast was to approve the Equal Rights Amendment, and, she introduced a resolution proclaiming August 26th Women's Equality Day. The resolution was approved and signed into law by President Nixon.

Bella's work in and outside of Congress led to her national and international renown as a forceful and tenacious organizer of women. She held the first planning sessions for the National Women's Political Caucus [NWPS] in her office, and, in 1971 became its first co-Chair. Since its inception, the NWPC has been a major force in recruiting women to run for office; in maintaining a database of women in politics; and in putting women's issues on the national and international agendas.

Today, Bella has turned her attentions to women's rights in the global arena. Bella is the Co-founder of the Women's Environment & Development Organization [WEDO]. WEDO is an international network which organizes women to help save the planet from worsening environmental threats, and from pollution and poverty.

As co-Chair of WEDO, Bella presided over the World Women's Congress for a Healthy Planet, held in Miami in 1991. The women's agenda which emerged from that Congress became the focus of activities used in connection with preparations for the Earth Summit in Rio de Janeiro in 1992, which Bella and WEDO leaders from around the world participated in.

Most recently, I am pleased to say that Bella was a key organizer at the extremely successful Fourth U.N. World Conference on Women in Beijing, China in September of 1995. I was proud to join Bella in Beijing, and I am proud to continue working with her to "Bring Beijing Home." Bella and the WEDO network continue to work at the United Nations, organizing women's caucus meetings at subsequent major international conferences of particular concern to women.

Bella's international work has been recognized as crucial to the inclusion of women's perspectives, demands, and participation in policy-making in U.N. platforms for action and resulting programs.

Madam Speaker, in honoring Bella Abzug here today, it is impossible to include all the contributions she has made to the advancement of women's rights. So, we must merely recognize and honor the enormity of her life's work. And, we must take up her baton to ensure continuation of her work—especially in this 104th Congress, the most hostile Congress to women's rights in my memory.

We face a great deal more than the 104th Congress' hostility toward women. We must also face the following facts: 96 percent of our country's top executives are males; the more a professional field is dominated by women, the lower the pay scale; women are the sole breadwinners in more than 25 percent of the world's families; and prostitution and pornography are the only industries in which women earn more than men.

Today, I rise to inform this Congress that in the honor and spirit of Bella Abzug, whom I put forward as my "Woman of the Year," that we refuse to lose.

We will succeed in enacting legislation which will counter the anti-woman actions of the extremists of the 104th Congress. We will succeed in enacting pro-woman legislation because women like Bella have blazed the way. We will succeed because over 150 years of women who faced greater obstacles than we do did not give up.

We will succeed because Bella succeeded before us. We will succeed because of those that fought before her. We will succeed because we have a perpetual and ever-forward looking movement of women righting relentlessly for equal rights.

We will follow Bella's lead, and remind ourselves that, "It's up to the women!"

Mr. FRAZER. Madam Speaker, I rise to address the House on this very important special order celebrating March as Women's History Month. First, I want to thank the distinguished Member from California, Ms. WOOLSEY, for holding this special order.

It gives me great pride to celebrate the accomplishments of an outstanding African-American educator from St. Croix, VI, Mrs. Eulalie Rohlsen Rivera. Mrs. Eulalie Rohlsen Rivera was born August 2, 1909, in Frederiksted, St. Croix. She earned her assistant-grade teachers license in 1932 and her principal license in 1934. Mrs. Rivera grew up in the Ebenezer Orphanage on St. Croix. During her teens she was assigned to teach the kindergarten class. This assignment launched her teaching career. She briefly taught at the Christiansted Kindergarten and later at the Diamond School from there she went on to teach at La Princesse School and the Claude Markoe School where she remained until her retirement in 1974.

Mrs. Rivera is truly a great civic leader. She gave of her time and talents to such organizations as the Women's League of St. Croix, Frederiksted Democratic Club, Frederiksted Hospital Auxiliary, Lutheran Church Sunday School, St. Croix Business and Professional Women's Club, League of Women Voters of St. Croix, Committee on Aging, and the Friends of Denmark.

In 1967 Mrs. Rivera was named "Woman of the Year" by the Frederiksted Business and Professional Women's Club and "Teacher of the Year" at the Claude O. Markoe School.

On February 19, 1974 the Legislature of the Virgin Islands renamed the Grove Place Elementary School, the Eulalie Rivera School. In 1980, still striving to make a difference in the lives of children and teachers in the Virgin Islands, Mrs. Rivera ran for Virgin Islands Board of Education in 1982 and won. She served two terms, one term as vice chairman of the board. She retired from the board in 1985 but returned to serve two additional terms.

Mrs. Rivera is a prime example of dedicated public service and civil leadership. It is this legacy which makes her an outstanding African-American female.

Madam Speaker, it gives me great pride to celebrate the accomplishments of another outstanding African-American educator from St. Thomas, Virgin Islands, Ms. Jane Eliza Tuitt.

Ms. Tuitt was born in Hanna's Rest, St. Croix on January 8, 1908. Her education started in the public school system of St. Croix, but at the age of 8 she was sent to Antigua, to attend the Thomas Oliver Robinson Memorial School, the cultural center of the West Indies. After graduation at the age of 10, she returned to St. Thomas to continue her secondary education. In 1931, she entered Hampton University and earned a bachelors degree, and later returned to receive a Masters Degree from Columbia University in New York. She continued her advanced studies at Cornell University and New York University.

Ms. Tuitt dedicated her entire adult life, to the education of the young people in the Virgin Islands. Her professional career in education started in 1923 as an elementary school teacher in St. Thomas. In 1935, she accepted the principalship of Christiansted Grammar School, but after three months she journeyed to St. Thomas where she joined the faculty of Charlotte Amalie High School as a science teacher. Climbing the educational ladder, she served as Supervisor of Elementary Education, from 1945–47, Assistant Superintendent of Education of St. Thomas 1947–55, Director of Elementary Schools 1955–56, Acting Commissioner of Education 1956–58, and Assistant Commissioner of Education 1958–63, and Commissioner of Education from 1963–66.

In 1966, she left the Department of Education to become Associate Dean at the University of the Virgin Islands, where she also served as chair of the Teacher Education Division and Professor of Education. She retired from the university in 1971.

Ms. Tuitt was an outstanding role model for teachers and students in the Virgin Islands. Here legacy and contributions to education have been noted by Hampton University, by awarding her outstanding Alumnae. She also, established Jane E. Tuitt Scholarship Fund, at the University of the Virgin Islands, which is awarded to students in teacher education, nursing, business, science mathematics, social science, and the humanities.

Ms. WATERS. Madam Speaker, I rise to thank Congresswoman ROYBAL-ALLARD and Congresswoman DELAURO for providing this opportunity for us to highlight women who have had an impact on our lives and on the lives of others in our communities and in our Nation. Today we are here to honor a Woman of the Year, someone who we know to be an exceptional person from our district, who we seek to recognize for her leadership in a particular issue or field.

I am so proud and delighted to honor Ms. Kai Parker from Gardena, CA, in my district. Ms. Parker is an advocate for children, an activist in the community, a member of several boards and commissions, and a political appointee—serving as the Gardena Human Resources Commissioner.

Kai Parker has devoted her life to helping people reach their highest potential, from young children to seniors. In her current position as executive office coordinator of the Special Projects Bureau of Operations within the Department of Children Services in the County of Los Angeles, she has worked tirelessly to serve the children of Gardena, specifically children who come from foster homes. She has developed numerous, highly successful programs to develop skills and instill pride in people who come from disadvantaged backgrounds. Kai, herself, was raised in public housing, overcoming many obstacles along the way to her success. So she knows how self-respect can empower people to work hard and take them as far as they can go.

I had the opportunity to visit one of Kai's programs in Gardena called the African-Centered Saturday School. This program aims to provide a safe, nurturing environment for children who have been directed into the child custody system. Many of these children have been placed in protective custody, in a foster home, or with relatives, to distance them from parents who harmed them or who could not properly care for them. These are not bad kids, they are just unsafe. Many have experienced severe physical and emotional abuse, neglect, abandonment, poverty, substance abuse, developmental disabilities, educational handicaps, and many other serious social disorders. Yet, oftentimes, they still love their parents and do not understand what is happening to them. Kai has worked to decrease their trauma by loving them and empowering them to help themselves and turn their lives around.

Let me tell you about this program which serves 35 children between the ages of 6 months and 13 years. Those who attend Saturday School every Saturday from 9 a.m. to 3 p.m. receive academic instruction and tutoring, nutritious meals, and health care. They participate in field trips, special community events, recreation, and cultural activities. And this program is almost totally privately funded (after a jump-start from the city of Gardena).

One of the most important features of Saturday School is that the children are exposed to and encouraged to learn more about the African culture. They are taught about their African ancestors and their traditions and food, they learn Swahili, and through that they develop a sense of nobility, which in turn highlights their self-esteem. This program enriches their knowledge of their culture and of themselves. It seeks to instill pride in them so that, throughout their lives, the children will have a strong sense of who they are, as well as a vision of where they may want to go in their future.

Kai Parker's program, in only 2 years, has visibly developed and empowered the inner-city children it is designed to assist, as well as the community. It has brought together the whole Los Angeles community, or village, to help create whole citizens of these wonderful kids. From the donated church space to the tutoring offered by members of the Los Angeles Board of Education, community members from all walks of life volunteer to protect children. Thank you so much, Kai Parker, for creating this exemplary, highly successful program, and for all your inspirational work on behalf of our community.

One more thing. I am proud to say that Kai and I both work together as members of the Black Women's Forum. She has too many credentials and awards to list, but I must say that her efforts in helping welfare children and troubled youth through her many successful programs, from Saturday School to Summer Youth Institute Camps, have changed many lives. I commend her efforts to improve people's lives and am honored to name her my "Woman of the Year" from the 35th district of California.

Mr. FROST. Madam Speaker, as part of Women's History Month, I am pleased to have the opportunity to select Mrs. Izean Davidson, of Fort Worth, TX, as Woman of the Year.

Mrs. Izean Davidson, a life long Texan, has spent 42 years as an educator in the Texas public school system, serving as a classroom teacher and reading specialist. A leader in her community, Mrs. Davidson is a strong advocate for teaching the highest social and academic values to young adults. As a member of the Baker Chapel African Methodist Episcopal Church, she has worked tirelessly to implement programs which build self esteem and inspire young Texans.

VOL
142
PT
5
MR
21
—
29
1996
UMI

In addition, Mrs. Davidson has participated in various organizations, boards and committees, including: the Fort Worth Mayor's Council, NAACP Board of Directors, Delegate to the National Democratic Convention for three successive terms, and Fort Worth Commission of the Status of Women.

It is an honor and a privilege to know Mrs. Izean Davidson. Clearly, her hard work and dedication to public service have improved the lives of many people in Fort Worth as well as in the State of Texas. I am proud to recognize Mrs. Davidson's contribution to women's history during this special month.

Mr. STOKES. Madam Speaker, I want to express my appreciation to our colleague, the gentle lady from the District of Columbia, Eleanor Holmes Norton, for leading this important special order. This evening, she has reserved time so that we can have meaningful dialogue on the issue of women, wages, and jobs. It is a topic of paramount importance to this Congress and the Nation.

As I join my colleagues this evening, I am reminded that many years ago, a widowed mother scrubbed floors to earn a living and to provide an education for her two sons. Trying to balance raising a family and working a low-paying job, I recall that the family endured many hardships and struggles. This woman was my mother, Louise Stokes. As I join you today, I would like to remind my colleagues that women continue to face these same types of obstacles.

I am disappointed that this Republican-controlled Congress which came to Capitol Hill armed with its "Contract with America" and "Personal Responsibility" initiatives has not only neglected women, but they have sought to destroy decades of progress. During this Congress, we have been forced to defend womens' rights. We have fought to protect the programs which impact the lives of women and their families, including school lunch and child care programs, tax incentives for working families, and the elimination of the glass ceiling so that women and minorities can advance in the workplace.

Mr. Speaker, the issue of women in the workplace is particularly significant. In greater numbers, in more occupations, and for more years of their lives than ever before, today's women constitute nearly half of our Nation's work force. Unfortunately, they are still earning considerably less than their male counterparts. Although the passage of the equal pay act in 1963 attempts to ensure equal wages for men and women, in today's market, a woman earns 71 cents for every dollar of her male counterpart. Further, despite increased access to higher education, women with a college education earn, on the average, only slightly more than men with a high school diploma, and they earn about $10,000 a year less than men with comparable education.

While we focus tonight's special order on the status of women, we are reminded of how their lives touch the lives of millions of America's children. If we look at statistics, never has the number of working women with young children been higher—67 percent of women with children under the age of 18 are working or seeking employment. As such, child care is of paramount concern to working women and to women interested in entering the work force.

As you may know, this issue greatly affects our Nation's low-income women. In fact, the Republican welfare reform proposal, H.R. 4, includes provisions which would cause major reductions in child care funding. This would have a devastating impact on the ability of single parents to become employed. If we are serious about ending welfare, then we must be willing to make the investment and provide the vehicle that is so necessary to achieving this goal. To do anything less is an injustice to our children.

Mr. Speaker, I join Congresswoman Norton and others gathered in the House Chamber as we reaffirm our commitment to addressing the needs of women throughout the Nation. Pay equity, child care, and equality in the job market, are goals that can be and must be achieved. We stand today challenging our colleagues to join in this important effort.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would like to take this opportunity to recognize my friend, and idol, the late Congresswoman Barbara Jordan as Woman of the Year. She was a renaissance woman, eloquent, fearless, and peerless in her pursuit of justice and equality.

Congresswoman Jordan began her public career as a Texas State senator. She served her country with great distinction as a Member of Congress and as a member of the House Judiciary Committee.

She exalted us all to strive for excellence, to stand fast for justice and fairness, and to yield to no one in the matter of defending and upholding the most sacred principles of Democratic Government.

Barbara Jordan was a lawyer, legislator, scholar, author, and Presidential adviser. She was immensely gifted, and used every bit of her talent and skill to address, improve, and dignify the conditions of human life.

In the tradition of Frederick Douglass, Martin Luther King Jr., and Thurgood Marshall, she challenged the Federal Government and the American people to uphold the principles set forth in the American Constitution.

She gained national prominence in the 1970's as a member of the House Judiciary Committee during the impeachment hearings of President Richard Nixon. Her eloquent statement regarding her faith in the Constitution helped the Nation to focus on the principle that all elected officials, including the President, must abide by the mandates of the Constitution. We know what it took for Barbara Jordan to say "yea" when the House Judiciary Committee roll was called on July 30, 1974, and we are still admiring her for it.

During her tenure in Congress, Congresswoman Barbara Jordan was a leader on issues relating to voting rights, consumer protection, energy, and the environment. She leaves the American people, particularly Members of Congress, a powerful legacy of commitment to freedom, integrity in government, and belief in human progress.

We realize that Barbara Jordan was a tremendous moral force and she was calling upon all of us to account for our conscience as a nation. Her untimely death leaves a great void in our national leadership, and she is sorely missed as we grapple with the great moral issues of the day.

Mr. WARD. Mr. Speaker, in recognition of Women's History Month, I rise today to honor one of the many admirable women in my district who will go down in history for who she is and what she has accomplished.

Dr. Judith Greenwell Green is a dentist and community activist, who lives a ministry of meeting human and community needs, particularly those of children.

Dr. Green has practiced dentistry since 1987, is an adjunct professor of dentistry and when no one else would, she signed on to be the Dental Director for the Jefferson County Corrections Department, serving the jail's population.

In 1988, Dr. Green said she accepted a call from God for her to help save homeless children. She and her husband, James, then adopted a sibling group of three. Two years later they adopted another sibling group of three. In 1992, a sibling group of two joined the Green family. In 1995, two baby boys were adopted bringing the total of special needs children in the Green family to 10, joining with two biological children.

Along with meeting the demands of her family life and her career, she is very active in her community. She serves on numerous boards and committees, including the Leadership Louisville Board of Directors, Presbyterian Community Center, Muhammad Ali Museum, Wednesday's Child, Metro United Way Allocation Committee, Adoptive Parents of Kentucky, Blended Families, Kentucky Foster Care Review Board, Head Start Policy Council, Kentucky One Church One Child Committee, and the PTA's of King Elementary, Meyzeek Middle, and Central High schools and Community Catholic School.

Dr. Green is a member of several professional, civic, and community organizations including the Louisville Coalition of 100 Black Women, Junior League, Alpha Kappa Alpha Sorority, Business and Professional Women, Rams Football Booster Club, Imani School of Martial Arts Booster Club, YMCA Black Achievers, Kentucky Association of Women Dentists, and the American Dental Societies.

Dr. Green's awards, honors, and recognitions include the Kentucky One Church One Child Parents of the Year plaque, Kentucky Foster Care Review Board Outstanding Commitment to Children, and Louisville, Coalition of 100 Black Women service award.

Dr. Green is a Master Adoptive Presenter who speaks often to various religious, civic, and social organizations, espousing that her foster children have brought into her home and her life. She is a frequent lecturer for the Kentucky Cabinet for Human Resources Adoption and Foster Care training programs.

I am very proud of Dr. Green and pleased that she graces my community with all that she does. She truly deserves to be called Woman of the Year and serves as a wonderful tribute to all women who dedicate their lives to family and community, during Women's History Month.

Mr. UNDERWOOD. Mr. Speaker, I join my colleagues today in celebrating Women's History Month and in honoring the countless number of women in public service to our communities and our Nation.

We pay special tribute to women pioneers who have opened doors to many professions previously occupied by men only. We say thanks to such special women such as:

Jeannette Rankin of Montana who was the first woman to be elected in her own right to the U.S. House of Representatives;

Frances Perkins who was the first woman to serve as Secretary of Labor;

Barbara Jordan who was the first African-American to win election to the House of Representatives since Reconstruction; and to

Patsy Mink of Hawaii, who is the first Asian-American woman in the U.S. Congress.

We are where we are today with respect to women in public service because of long-term struggles to overcome ingrained habits of discrimination against women. And today we have a better understanding of the abilities and contributions which women have, for centuries, demonstrated to their families, to their local communities, and to the world as a whole.

Over the last few decades, we have seen a reassessment of the principle of equality of opportunity and the principle of social values. This reevaluation has helped to catapult women into leadership roles.

Prior to the establishment of affirmative action policies and the enactment of equal employment opportunity laws, there were hundreds of professions which were exclusively, de facto, for males only. Take, for example, law enforcement professions, managers in the government sector, or careers in the military officer ranks. Women were considered not qualified for these jobs and, in fact, were discouraged from applying or considering these professions. But women did not accept the "women need not apply" warnings. Women fought for their rights and insisted that employers cease and desist from these discriminatory policies. By breaking down barriers to entry and advancement in these fields, we now have female midshipmen at the U.S. Naval Academy, female police officers, and many women at the middle- and upper-management levels at local, State, and Federal government offices across the country.

Although history does not always reflect women's contributions to the social order, we are experiencing an increase in the number of women who are role models in the community and leaders in public service. It makes common sense to practice the policy of inclusion and equal opportunity. It makes sense to utilize the talents of women who have been responsible for nurturing our young and keeping our families together. And it makes sense to acknowledge women's contributions to strengthening and enriching the values of our society.

I am pleased to join in this tribute to women in public service. I am also proud to note that the congressional district I represent, The Territory of Guam, has a tradition of providing numerous opportunities for women to be involved in public service. I am attaching, for the Record, a listing of women of Guam who are leaders in the executive, legislative, and judicial levels of the Government of Guam, as well as women leaders in the private sector and numerous boards and commissions. I salute all of these women and extend to them a warm Si Yu'os Ma'ase—thank you—for their dedication and service to the community. They are an inspiration to all of us who aspire to maintain a more just and compassionate society.

WOMEN IN PUBLIC SERVICE

EXECUTIVE BRANCH

Lt. Governor Madeleine Bordallo—highest position held by a woman in Guam.

First Lady Geraldine Gutierrez—serves as the overall chairperson of several community committees.

Female Heads of Agencies: Taling Taitano, Guam Housing and Urban Renewal Authority; Zeny Custodio, Bureau of Women's Affairs; Anna Marie Sablan, Kumision i Fino Chamorro; Michelle B. Santos, Government of Guam Retirement Fund; Deborah J. Bordallo, Guam Council on the Arts & Humanities; Ginger Underwood, Guam Educational & Telecommunications Corp. (KGTF); Helen Ripple, Guam Memorial Hospital Authority; Jeanette Sablan Tanos, Dept. of Mental Health and Substance Abuse; Christine Scott-Smith, Guam Public Library; Ann B. Gutierrez, Guam Finance Commission; Elfrieda Koshiba, Compact Impact Information Program; and Katherine B. Aguon, Political Status Education Coordinating Commission.

Deputy Directors: Rebecca Olsen-Quintanilla, Dept. of Administration; Frances J. Balajadia, Bureau of Budget; Aurora Cabanero, Dept. of Mental Health and Substance Abuse; Therese Cruz-Paulino, Guam Visitors Bureau; Jeanne M. B. Pangelinan, Guam Council on the Arts & Humanities; Elizabeth M. Blas, Guam Election Commission; Elizabeth Hamilton, Guam Public Library; Andrea Finona, Guam U. S. Passport Office; Stacy Cruz, Guam Occupational Information Coordinating Committee; and Lydia T. Cruz, Chamorro Land Trust Commission.

Lourdes T. Pangelinan is the only woman who has served as the permanent Chief of Staff for the Governor of Guam. Others have served in acting capacities.

Dr. Rosa Roberta Carter has been the only female President of the University of Guam.

LEGISLATIVE BRANCH

Since 1986, women represented nearly ⅓ of the membership of the Guam Legislature. 1990 was the peak year when seven women were elected to serve in the 22nd Guam Legislature.

The highest vote-getter for a legislative campaign was a woman in the following years: 1986—Marilyn D.A. Manibusan (R); 1988—Madeleine Z. Bordallo (D); and 1990—Doris Flores Brooks (R).

The highest offices that female legislators have assumed are: Vice Speaker—Katherine B. Aguon; Legislative Secretary—Pilar Lujan, Elizabeth Arriola, Judith Won Pat-Borja; and Rules Committee Chairperson—Herminia Dierking.

Current Members: Senator Judith Won Pat-Borja (D), Legislative Secretary Chairperson, Committee on Education; Senator Lou A. Leon Guerrero (D), Assistant Majority Leader Chairperson, Committee on Health; Senator Hope A. Cristobal (D) (member of Commission on Self-Determination), Chairperson, Committee on Federal and Foreign Affairs; Senator Carlotta Leon Guerrero (R); Senator Elizabeth Barrett-Anderson (former Guam Atty. General); and Senator Joanne M. S. Brown (R).

Past Members: Lagrimas Leon Guerrero Untalan (Territorial Party)*; Cynthia Johnston Torres (Territorial Party)*; Katherine B. Aguon (R); Carmen Artero Kasperbauer (R); Madeleine Z. Bordallo (D); Elizabeth P. Arriola (D); Pilar C. Lujan (D); Marilyn D.A. Manibusan (R); Herminia Duenas Dierking (D); Marcia K. Hartsock (D); Martha Cruz Ruth (R); Doris Flores Brooks (R); and Marilyn Won Pat (D).

Total Democratic Women: 9

Total Republican Women: 8

*Both women were the first to be elected in the Guam Legislature in 1954

The highest staff position held by a female in the Guam Legislature is that of the Deputy Director, currently being held by Dorothy Perez.

JUDICIAL BRANCH

3 of 7 judges in the Supreme Court are women: Judge Janet Healy-Weeks; Judge Frances Tydingco-Gatewood; and Judge Katherine A. Maraman.

2 of the 3 full-time Supreme Court Justice nominees are women: Judge-nominee Janet Healy-Weeks and Judge-nominee Monessa Lujan.

VILLAGE MAYORS

Current: Isabel Haggard (Mayor of Piti) also Vice President, Mayor's Council of Guam; Rossana D. San Miguel (Mayor of Chalan Pago); Doris Palacios (Vice Mayor of Dededo); and Teresita C. Borja (Vice Mayor Tamuning).

Some Past Members: Patricia Quinata (Mayor of Dededo) and Cecilia Quinata Morrison (Mayor of Umatac).

BOARDS OF COMMISSIONS

Guam law requires all Government of Guam boards and commissions to maintain at least two female members.

Several Key Boards have Female Chairs: Guam Airport Authority—Pilar Cruz Lujan and Chamorro Land Trust Commission - Carol Ibanez.

POLITICAL PARTIES

Republican Party: Marilyn D.A. Manibusan was the first and to date, the only female chairperson of the Republican Party. She held office in 1986 and Pilar Cruz is currently the Vice Chairperson of Guam's Republican Party.

Democratic Party: Priscilla Tenorio Tuncap was the first female chairperson for the Democratic Party—(1990-1992) and Pilar Cruz Lujan is the current party chairperson, having been elected this past year. Nationwide, Madeleine Z. Bordallo is the longest-serving national committee woman on the Democratic National Committee. She has served in this capacity since the Kennedy era.

BUSINESS COMMUNITY

Antoinette Duenas Sanford is the only woman to have served as the Chairperson of the Guam Chamber of Commerce

Eloise Baza has served as the first female President of the Guam Chamber of Commerce for the last several years.

HONORING ADA LOIS SIPUEL FISHER AND HELEN COLE DURING WOMEN'S HISTORY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. Watts] is recognized for 5 minutes.

Mr. WATTS of Oklahoma. Madam Speaker, there have been two special women throughout my life, my deceased mother, Helen Watts, and my gracious wife, Frankie Watts, and, of course, my four wonderful daughters.

During this month of March, dedicated as National Women's Month, tonight I would like to pay tribute to two very special women from the great State of Oklahoma that have influenced my political life, Ada Lois Sipuel Fisher and Helen Cole.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Madam Speaker, Ada Lois Sipuel Fisher was born in Chickasha, OK, to parents only one generation removed from slavery. She received her bachelor's degree from Langston University and then in 1946, applied to the all-white University of Oklahoma law school. Because Oklahoma had no separate law school for blacks, she contended, the State's official policy of separate but equal education was illusory. Her simple request for an equal education sparked controversy across the country.

Ada Lois Sipuel Fisher was a strong woman who endured many trying times and eventually triumphed. Her effort to enroll in the University of Oklahoma in January 1946, would take Thurgood Marshall and more than three years and two trips to the Supreme Court. Ms. Fisher carried herself with dignity throughout the entire ordeal. Her patience and courage eventually won the support of thousands of Oklahomans, including the university president, and it also won justice for her and thousands of others who would follow in her footsteps.

Ada Lois Sipuel Fisher graduated from law school in 1951, earned a masters in history in 1968, and then spent many years as a professor and chair of social sciences at Langston University. In 1992, in recognition of her lifetime of serving, she was appointed a member of the board of regents of the university of Oklahoma.

The Sipuel Case was a legal landmark which pointed the way to the elimination of segregation in all of American public education. This woman's strength and positive attitude made Oklahoma a better State, and it made the United States a better nation.

Another dynamic Oklahoman is State senator, Helen Cole. Helen Cole is a native Oklahoman who has spent her career dedicated to helping others through public service in Oklahoma. She served in a variety of political offices including the State Republican Committee, Cleveland County precinct judge, and the State House of Representatives.

Throughout her life as a public servant, Helen Cole has championed many cases. She is deeply concerned with the drug problem in America and works to educate people through Alcohol and Drug Centers. She is also involved in promoting ethics in government and belongs to the League of Women voters where she strives to encourage others to take an active role in government.

In addition to her public achievements, Senator Cole is a wife and a mother. She is as dedicated to her family as she is in her service to our great State. She has been a rock of Gibraltar in difficult times for many, she has been a friend to me, a consultant, and a prayer partner. She has truly been a shining star. Mr. Speaker, it gives me great honor to recognize Ada Lois Sipuel Fisher and Helen Cole today. They are women who represent great integrity and principle—women we Oklahomans are proud to call our own.

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CHANGE IN ORDER OF TAKING SPECIAL ORDER

The SPEAKER pro tempore (Mrs. SEASTRAND). The gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Mr. PALLONE. Madam Speaker, I ask unanimous consent to substitute for the gentlewoman from Texas.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ON ARMS TRANSFER TO PAKISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Madam Speaker, I rise to express my strong opposition to the impending shipment of United States arms to Pakistan. The administration proposes shipping 368 million dollar's worth of conventional arms to Pakistan, despite the recent revelations that Pakistan received nuclear technology from China last year. While I have often come to well of the House to defend this administration's foreign policy, in this case I must express my complete opposition to the direction that we are going by in providing sophisticated and de-stabilizing weapons to Pakistan, a country that has repeatedly broken their assurances to us about their nuclear weapons development and acquisition intentions.

A provision in the Foreign Operations appropriations legislation that finally became law earlier this year would authorize the transfer of $368 million in sophisticated conventional weaponry, including three Navy P-3C antisubmarine aircraft, 28 Harpoon missiles, 360 AIM-9L missiles, and other Army and Air Force equipment. This provision, known as the Brown amendment, after its Senate sponsor, passed the Senate last year. Although the provision was never debated in the House, it carried in conference. I drafted a letter to the conferees, which was signed by 40 other Members from both sides of the aisle urging that this provision not be included in the bill. But, owing in large part to the support of the administration and the influence of the pro-Pakistan lobby, the provision was included in the bill and became law.

As far back as last summer, many of us in Congress—Democrats and Republicans, Members of both bodies—argued that providing these weapons to Pakistan was a bad idea, giving Pakistan's ongoing determinations to develop nuclear weapons, it involvement in arming, training, and financing terrorist movements and its often open hostility to Western interests. Last summer, it was reported that Pakistan received Chinese M-11 missiles, in direct violation of the Missile Technology Control Regime. These missiles are capable of carrying nuclear warheads, and can strike cities within a 275-mile radius. It was reported last year that Pakistan developed its nuclear weapons from a blueprint provided by the People's Republic of China, and Pakistan then gave this blueprint to Iran. Pakistan remains an unstable nation, where the military does not seem to be under strong civilian control, a country which supports the embargo of Israel and does not recognize the State of Israel.

Then came the revelations early this year, based on intelligence information, that Pakistan purchased 5,000 ring magnets from the People's Republic of China in late 1994 and early 1995. These ring magnets are used to enrich uranium, a key component for making nuclear weapons. This transfer, which Pakistan has repeatedly denied to the administration and the Congress, is a direct violation of the Glenn-Symington Amendment and the 1994 amendment to the Non-Proliferation Act. When the Senate and the Foreign Ops Conferees considered the Brown amendment, this information was not known. I believe that this information would most certainly have swung a few votes—had it been available.

By way of a little history: during the last decade, Pakistan was the third largest recipient of United States foreign military assistance. Pakistan asked for the help of the United States in becoming conventionally strong militarily and in exchange promised—promised—not to develop or obtain nuclear weapons. By 1985, United States intelligence had strong evidence that Pakistan was receiving United States arms while going back on its word about developing nuclear capability. As a form of leverage, the Congress in 1985 enacted the Pressler amendment, named for its Senate sponsor, requiring an annual Presidential certification that Pakistan does not have a nuclear device. In 1990, with overwhelming evidence of Pakistan's nuclear program, President Bush invoked the Pressler amendment. The United States essentially said: Yes, Pakistan has the bomb. Thus, all U.S. military assistance was ended—including weapons already contracted for and paid for but not delivered. Pakistani officials could not have been surprised, knowing these ramifications when they officially agreed to the enactment of the Pressler amendment in 1985. The only surprises may have been that they got caught

and that the full penalty of the law was imposed.

It is important to recognize that Pakistan has not agreed to do anything in exchange for the release of the seized equipment. In 1993, President Clinton did offer to return all or some of the weapons in the pipeline if Pakistan would agree to cap its nuclear program. Pakistan rejected this offer. In fact, by receiving the ring magnets from China, Pakistan was continuing to act—in defiance of the United States—to further its nuclear ambitions.

Finally, the administration came up with a compromise: While 28 F-16 fighter jets would not be delivered to Pakistan—they already have 40 F-16's—the 368 million dollars' worth of equipment would be delivered with no strings attached.

What we are doing, Mr. Speaker, is ending the ban on providing weapons to Pakistan, and receiving nothing in return.

The delivery of these weapons comes just about a month before the general elections in India, Pakistan's neighbor. Tensions between these two South Asian nations remain high. Pakistan has fought three wars with India during the past 48 years.

Clearly, India will see the delivery of these weapons as a slap in the face. The opposition BJP party in India, which has already gained in strength, is running on a platform promising a much harder line in terms of relations with Pakistan, relations with the United States, and India's own nuclear weapons development program. While this story may be buried on the back pages of American newspapers, I can guarantee you that the delivery of the United States weapons to Pakistan will be page 1 news in India—to the benefit of those forces in Indian society that oppose the recent move toward closer commercial and strategic cooperation between India and the United States. The United States has in the past few years become India's largest trading partner. Why are we jeopardizing this important new economic relationship?

Mr. Speaker, I have nothing against improved relations with Pakistan, but I believe this goal should be achieved through economic means. The Government of Pakistan devotes much too large of a share of its scarce resources to the military, to the detriment of the people. If the administration wants to engage Pakistan, let's engage them with more trade and support for democracy building institutions.

Nuclear nonproliferation is and should be a top U.S. foreign policy goal in this post-cold-war world. The Pressler amendment has been a pillar of America's nonproliferation efforts. We should not weaken this law with waivers or loopholes.

Pakistan keeps giving us every reason to keep the Pressler amendment in force.

Mr. Speaker, I will be working with some of my colleagues to enact a resolution of disapproval for this weapons transfer, and I hope we can achieve broad, bipartisan support. Providing these weapons to Pakistan would be a grave error that would threaten the stability of South Asia, international nuclear nonproliferation and the interests and prestige of the United States.

HONORING EUNICE MERRILL, WOMAN OF THE YEAR FOR THE FIFTH DISTRICT OF ALABAMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. CRAMER] is recognized for 5 minutes.

Mr. CRAMER. Madam Speaker, it is an honor to come before the House tonight to pay tribute to a very special woman from the Fifth District of Alabama. She is Mrs. Eunice Merrill from Huntsville, AL.

Many years ago, at a time when there were very few women in Alabama running their own businesses, Miss Eunice opened Eunice's Country Kitchen.

It is a place where people of all ages and all stations in life gather together. It is truly a crossroads in our community, where everyone can share breakfast and a common table.

The food and the conversation are big attractions, but one of the main reasons people come from all around is Miss Eunice herself.

She treats everyone who walks through her door like they are family, whether they are long-time friends or first-time customers. No matter how early it is or how busy it is, Eunice always has a smile and a kind word for every person.

While she is beloved for her kindness and her hospitality, Miss Eunice is revered for her extraordinary work for charity, especially on behalf of the Arthritis Foundation.

But, last November, Mr. Speaker, tragedy struck Miss Eunice. She was leaving her house for work at 4 o'clock in the morning, as she did most every morning to begin fixing breakfast for her customers.

As she walked from her house to her car, Miss Eunice was brutally attacked and robbed. She was rushed to a hospital to undergo emergency surgery.

Not only did she survive the attack, but after a week's stay in the hospital, at the age of 78, Miss Eunice was back at work.

She didn't even postpone the fundraiser she had organized for the Arthritis Foundation, which she held, just as she planned, on the very first day she returned.

Mr. Speaker, Mrs. Eunice Merrill is a glowing testament to the heart and strength of the human spirit. While her story of survival is inspiring, it is simply one chapter in a life story of faith and perseverance.

I am proud, Mr. Speaker, to stand here tonight to honor the Woman of the Year for the Fifth District of Alabama, Mrs. Eunice Merrill.

MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of Florida. Madam Speaker, I rise today to talk about the Medicare program, because we are about to receive the 1996 report from the board of trustees of the Medicare program. It was just a year ago that we received the 1995 report, in April 1995, stating that Medicare was going bankrupt. The report from the board of trustees stated that it was going to be running out of money this year and all the reserves of the Medicare program would be totally exhausted in 7 more years. And the trustees of the Medicare program are basically appointees of the Clinton administration, the Secretary of HHS, Donna Shalala, Secretary of Treasury, Mr. Rubin, the Secretary of Labor, Mr. Reich and others. This is a bipartisan report.

The fact is Medicare is going bankrupt. And what I want to talk about today is what has happened since the last report, as we are about to receive the 1996 report.

From my area in Florida, I have a very large number of seniors. In fact I have more seniors in my congressional district than any other congressional district in the United States. It is very important for all the seniors in my district. It is important to me personally. I have an 87-year-old mother who is on Medicare. But it is also important for all the people in my district because of the jobs and the impact on the economy.

Sarasota Memorial Hospital is the second largest employer in Sarasota County in Florida. So it is a jobs issue that is important, to take care of the seniors in my district, and it is something that we need to fight for and save. It is not a political issue. Medicare is too important an issue to be played with as politics.

Well, what did Congress do during the past year about the Medicare program? First of all, we listened. I sent letters out and asked for advice from my constituents and received over 1,000 responses. Members in Congress held over 1,000 town hall meetings all over the United States asking for input and advice, what they should do about the Medicare program. We listened, and we listened well, and got ideas. We came up with a plan.

Two things we found out: One is, Medicare is in crisis; and the other item we learned is, it is full of waste, fraud and abuse. Those are the two things that kept getting repeated time

VOL
142
PT
5
MR
21
—
29
1996
UMI

and time again. We have a major problem with the Medicare program. We understand that. We need to do something about it. And it is the waste, fraud and abuse. So what did Congress do?

Congress passed the Medicare Preservation Act last year, and the Medicare Preservation Act had a tough waste, fraud and abuse program. It had stiff penalties for anybody that participated in fraud in the program. And it provided rewards for those that discovered fraud in the program.

I remember at one of my town meetings a mobile home park in Palmetto, FL, a lady standing up, saying about the illustration of fraud. She was admitted to the hospital and got a bill later for her own autopsy. That is the crazy things that were happening.

What we are offering were incentives. She could report this, and she would have a reward for finding out that problem and reporting it and getting a reward from the Medicare program.

So we focused on a waste, fraud and abuse program within the Medicare program. Our program saved Medicare from going bankrupt. But it continued to spend more money every year. In fact, right now the Medicare program spends $4,800 for every man and woman in the Medicare program. Over 7 years we were going to increase that to $7,100 per person in Medicare. That is a $2,300 increase over 7 years, more money every year. There are no cuts being proposed in Medicare. And it was a good program, giving seniors more choices.

So we did not just talk about Medicare. We acted.

The House passed a bill. The Senate passed a bill, and we jointly sent a plan to save the Medicare program to the President.

What happened? Well, sadly the President decided to play politics with it. He played politics by vetoing the Medicare plan that we proposed. He did not come up with any solutions or ideas. All he did was take political advantage saying, let us scare those seniors and scare them of Republicans. And that is too bad, because Medicare is too important to scare seniors over. It is too important to play politics with it.

Bill Clinton vetoed that plan. When he vetoed it, he knew secret information at that time that Medicare was in worse shape than the trustees reported last April. Because on February 5 of this year, in a New York Times article, we find out that Medicare is going bankrupt much faster than 7 years. It is in worse financial shape than we were told by the trustees in April of 1995. And when Bill Clinton vetoed that bill in December, he vetoed a plan that was in serious financial trouble. And yet he still has not offered any solution.

We need to face the Medicare problem. We have a good plan, and Bill Clinton needs to stop playing politics and give use the solution to Medicare, too.

DR. WENDE LOGAN-YOUNG, WOMAN OF THE YEAR FROM THE 28TH DISTRICT OF NEW YORK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Ms. SLAUGHTER] is recognized for 5 minutes.

Ms. SLAUGHTER. Madam Speaker, I rise tonight to pay tribute to Wende Logan-Young. The Woman of the Year from the 28th District of New York is a friend, a daughter, a sister, a mother, and a grandmother in addition to being a doctor, a radiologist, and a pioneer in mammography and breast care. She has received awards too numerous to detail here but the list dates back to 1966 when she was honored as Outstanding Young Woman of the Year.

In the years since, Dr. Wende Logan-Young has become renowned for her untiring dedication to improving women's health. In 1976, Dr. Logan-Young established this Nation's first free-standing mammography center devoted exclusively to breast cancer detection. The Elizabeth Wende Breast Cancer Clinic, named in honor of her mother, has the unique goal of providing quality mammography and breast care to women in a comfortable and timely manner. Caring for 1,000 patients a week, the clinic has served the needs of hundreds of thousands of women since its inception. Unlike the typical physician's office, the clinic has the familiar feel of home. In one visit, every patient has her mammogram, has it interpreted fully and has all needed additional testing. Knowing how traumatic and anxiety producing the experience of breast cancer screening can be, Dr. Wende Logan-Young has created a healing, comforting environment. This year, the clinic celebrated its 20th anniversary.

In addition to caring for her patients, Dr. Logan-Young has served on numerous academic and professional organizations, including the American Cancer Society, American College of Radiology, and the National Cancer Institute of Canada. The author of many medical journal articles, the doctor has just completed the first volume of a three volume set of textbooks for radiologists providing a practical guide to breast cancer diagnosis.

As chair of the women's health task force and a long-time advocate of increased funding for breast cancer research, I take great personal satisfaction in honoring a pioneer in the field of breast cancer research and service. Please join me in giving recognition to this outstanding Woman of the Year from the 28th District of New York, Dr. Wende Logan-Young.

WOMEN IN PUBLIC SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas, Ms. EDDIE BERNICE JOHNSON, is recognized for 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, in the United States the history of women in public service is both significant and meaningful. Unfortunately, our history does not always adequately recognize these women's contributions.

Historically, women have received limited space in the history books, and few have questioned their absence. However, today we are all faced with the challenge to eliminate the negative stereotypes, myths, lies, and distortions about women's role in the progress of time.

In celebration of Women's History Month, I would like to recognize DeMetris Sampson as the Woman of the Year from the 30th Congressional District of Texas.

Ms. Sampson's activities are multifaceted. For the past 1½ years, she has chaired the task force on liquor related businesses near schools. As chairwoman, she has successfully formulated and lobbied for State law changes as well as local ordinance and administrative changes to address the proliferation of alcohol establishments located near Dallas schools.

In addition, Ms. Sampson has served for the past 9 years on the domestic violence task force for the city of Dallas. She has been instrumental in formulating changes in the law for the city's legislative package which is designed to protect battered spouses from repeat offenders.

The task force has also worked to focus the attention of the municipal, family, and criminal judiciary on domestic violence issues and reforms.

In 1991, Ms. Sampson was appointed to the East Texas State University board of regents by Gov. Ann Richards. Currently, she serves as the vice chairperson of the board.

In recognition of her work in the city of Dallas, Ms. Sampson was recently named the recipient of the Dr. Martin Luther King Junior Justice Award.

She is a successful practicing attorney and prominent community activist, and it is an honor to recognize DeMetris Sampson as the Woman of the Year. Through her tireless work and dedication Ms. Sampson is truly one of this Nation's greatest public servants.

GEORGIA AYERS, WOMAN OF THE YEAR FROM FLORIDA'S 17TH DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. MEEK] is recognized for 5 minutes.

Mrs. MEEK of Florida. Madam Speaker, in our celebration of Women's History Month, we have chosen to honor exceptional women in public service. I rise here tonight to honor the Woman of the Year from my congressional district, Ms. Georgia Ayers, of Miami, FL.

Over the decade I have known Georgia Ayers, she has been a living example of the ideals of community service. She has dedicated her tremendous talents and energies—her life—to benefit others. She not only believes in helping those who have less in life—regardless of their race, creed, or gender, but she lives it. She started with few advantages herself, but chose to give her life to helping others get ahead.

Her awards and honors fill pages, and are a testimony to the respect she enjoys from Dade County's diverse communities. Just a few of the groups who have honored her include: the U.S. Coast Guard, the American

Cancer Society, the Southern Christian Leadership Conference, the National Conference of Christians and Jews, the Dade County Public Schools, the Dade County Community Action Agency, and Miami-Dade Community College, which is the largest community college in the entire Nation.

In a world where people's words don't always match their actions, Georgia Ayers stands out as direct, honest, and committed. Her actions match her words. With Ms. Ayers, you know where she stands on an issue and exactly what she wants to do about it, and her word is her bond. Yes, honest, plain-speaking and hardworking people can still make a difference in our society. Georgia Ayers is a shining example.

Of all the projects that Georgia Ayers has been involved in, perhaps the most important has been her work with young people in trouble with the law. Programs she has developed have turned around young people's lives and helped them find and establish their places as valued members of the community. In helping these youngsters, whose voices are often not heard in our society, she reminds me of the passage from the Bible "whatsoever you do to the least of these, you do to Me."

Georgia Ayers' leadership shows all of us what one dedicated woman can accomplish. In 1995, the Southern Christian Leadership Conference honored Ms. Ayers with the Dr. Martin Luther King, Jr. Award. She is well-deserving of this great honor, for her leadership reminds me of a paraphrase of Dr. King's remarks about the church. The role of a civic leader in our society is to be a thermostat—a changer of society, rather than a thermometer, which simply measures rather than molds popular thinking.

Georgia Ayers shows that one strong woman can be that thermostat, and can change society for the better. Her life inspires and challenges us all. Like Georgia Ayers, if more of us took it upon ourselves to become thermostats instead of thermometers, I have no doubt that the temperature of human compassion and dignity on the Earth could be raised to levels beyond what we can even imagine today.

Again, I thank Georgia Ayers for her exceptional leadership and service. She is truly deserving of being honored as the Woman of the Year.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLAY (at the request of Mr. GEPHARDT), after 4 p.m. today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. ROYBAL-ALLARD) to revise and extend their remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.

Ms. ROYBAL-ALLARD, for 5 minutes, today.

Mr. YATES, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. CRAMER, for 5 minutes, today.

Mr. ORTON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mrs. LOWEY, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. TORRES, for 5 minutes, today.

Mr. SAWYER, for 5 minutes, today.

Mr. WARD, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mrs. MEEK of Florida, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. SANDERS, for 5 minutes, today.

(The following Members (at the request of Mr. LAZIO of New York) to revise and extend their remarks and include extraneous material:)

Mr. WATTS of Oklahoma, for 5 minutes, today.

Mrs. KELLY, for 5 minutes, today.

Mr. MILLER of Florida, for 5 minutes, today.

Mr. HOEKSTRA, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes, on March 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. ROYBAL-ALLARD) and to include extraneous matter:)

Ms. DELAURO
Mrs. MALONEY.
Mr. SERRANO.
Mr. TOWNS.
Mr. TORRES in two instances.
Mr. KANJORSKI.
Mr. VENTO.
Mr. FAZIO.
Mr. CRAMER.
Mr. MENENDEZ.
Mr. MORAN.
Mr. EVANS.
Mr. HALL of Ohio.
Mr. GEPHARDT.
Mr. SABO.
Mr. STARK.
Mr. ACKERMAN.
Ms. WATERS.
Mr. SCHUMER.
Mr. HAMILTON.

(The following Members (at the request of Mr. MILLER of Florida) and to include extraneous matter:)

Mr. FRELINGHUYSEN.
Mrs. KELLY.
Mr. HAMILTON.
Mr. REED.
Mr. PAYNE of New Jersey.
Mr. CASTLE.

(The following Members (at the request of Mr. LAZIO) and to include extraneous matter:)

Mr. WALKER.
Mrs. ROUKEMA in two instances.
Ms. ROS-LEHTINEN.
Mr. WATTS of Oklahoma.
Mr. HUNTER.
Mr. CRANE.
Mr. GILMAN.
Mr. LIVINGSTON.
Mr. LAZIO.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 956. An act to establish a Commission on Structural Alternatives for the Federal Courts of Appeals; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1266. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

H.R. 1787. An act to amend the Federal Food, Drug and Cosmetic Act to repeal the saccharin notice requirement.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 1266. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

H.R. 1787. An act to amend the Federal Food, Drug and Cosmetic Act to repeal the saccharin notice requirement.

ADJOURNMENT

Mr. MILLER of Florida. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 41 minutes p.m.) the House adjourned until Friday, March 22, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2279. A letter from the Chair, Architectural and Transportation Barriers Compliance Board, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2280. A letter from the Secretary of Transportation, transmitting the Department's report entitled "Tanker Navigation Safety

VOL
142
PT
5
MR
21
—
29
1996
UMI

Standards, Crew Qualifications and Training," pursuant to Public Law 101–380, section 4111(c) (104 Stat. 516); to the Committee on Transportation and Infrastructure.

2281. A letter from the Secretary of Transportation, transmitting the Department's report entitled "Tanker Simulator Training," pursuant to Public Law 101–380, section 4111(c) (104 Stat. 516); to the Committee on Transportation and Infrastructure.

2282. A letter from the Secretary of Energy, transmitting the Department's report entitled "Beyond 2000: A Vision for the American Metal Casting Industry," pursuant to Public Law 101–425, section 10 (104 Stat. 919); to the Committee on Science.

2283. A letter from the Administrator, National Oceanic and Atmospheric Administration, transmitting the National Oceanic and Atmospheric Administration's [NOAA] deep seabed mining report, pursuant to 30 U.S.C. 1469; jointly, to the Committees on Resources and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROBERTS: Committee on Agriculture. Supplemental report on H.R. 2202. A bill to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes (Rept. 104–469, Pt. 4). Ordered to be printed.

Mr. SOLOMON: Committee on Rules. House Resolution 388. Resolution providing for consideration of the bill (H.R. 125) to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices (Rept. 104–490). Referred to the House Calendar.

Mr. CLINGER: Committee of Conference. Conference report on S. 4. An act to grant the power to the President to reduce budget authority (Rept. 104–491). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DEFAZIO (for himself, Ms. FURSE, Mr. BUNN of Oregon, and Mr. COOLEY):

H.R. 3134. A bill to designate the U.S. Courthouse under construction at 1030 Southwest 3d Avenue, Portland, OR, as the "Mark O. Hatfield United States Courthouse," and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ENGEL (for himself, Mr. ACKERMAN, Mr. MANTON, Mr. SERRANO, Mrs. LOWEY, and Mr. FLAKE):

H.R. 3135. A bill to amend the Elementary and Secondary Education Act of 1965 to allow certain counties flexibility in spending funds; to the Committee on Economic and Educational Opportunities.

By Mr. ARCHER:

H.R. 3136. A bill to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit; to the Committee on Ways and Means, and in addition to the Committees on the Budget, Rules, the Judiciary, Small Business, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BUNNING of Kentucky:

H.R. 3137. A bill to amend the Internal Revenue Code of 1986 to clarify the reasonable cause exception from the penalty for failures to file tax returns or pay taxes; to the Committee on Ways and Means.

By Mr. CANADY:

H.R. 3138. A bill to amend title XVIII of the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FORBES:

H.R. 3139. A bill to redesignate the U.S. Post Office building located at 245 Centereach Mall on Middle Country Road in Centereach, NY, as the "Rose Y. Caracappa United States Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. FOX:

H.R. 3140. A bill to prohibit gifts by lobbyists to Members of the House of Representatives, Senators, and officers and employees of the House of Representatives and the Senate; to the Committee on the Judiciary.

By Mr. HEFLEY (for himself and Mr. SCHAEFER):

H.R. 3141. A bill to amend title 49, United States Code, relating to scheduled passenger air service at reliever airports; to the Committee on Transportation and Infrastructure.

By Mr. HEFLEY.

H.R. 3142. A bill to establish a demonstration project to provide that the Department of Defense may receive Medicare reimbursement for health care services provided to certain Medicare-eligible covered military beneficiaries; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KENNEDY of Massachusetts (for himself, Mr. STARK, Mr. DEFAZIO, Mr. COSTELLO, and Mr. EVANS):

H.R. 3143. A bill to prohibit the use of funds for the construction or operation of the National Ignition Facility or any other facility that uses inertial confinement fusion at the Lawrence Livermore National Laboratory, California; to the Committee on National Security.

By Mr. LIVINGSTON (for himself, Mr. GINGRICH, Mr. ARMEY, Mr. SPENCE, Mr. GILMAN, Mr. KASICH, Mr. HYDE, Mr. YOUNG of Florida, Mr. HUNTER, and Mr. HOKE):

H.R. 3144. A bill to establish a U.S. policy for the deployment of a national missile defense system, and for other purposes; to the Committee on National Security, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MORELLA (for herself and Mr. SCHUMER):

H.R. 3145. A bill to amend the Public Health Service Act to prohibit health insurance discrimination with respect to victims of domestic violence; to the Committee on Commerce, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RADANOVICH:

H.R. 3146. A bill to provide for the exchange of certain Federal lands in the State of California for certain non-Federal lands, and for other purposes; to the Committee on Resources.

H.R. 3147. A bill to provide for the exchange of certain Federal lands in the State of California managed by the Bureau of Land Management of certain non-Federal lands, and for other purposes; to the Committee on Resources.

By Mr. SAXTON (for himself and Mr. SMITH of New Jersey):

H.R. 3148. A bill to direct the Secretary of Health and Human Services to make matching payments to the State of New Jersey for activities to determine the incidence of cancer among residents of the Toms River area; to the Committee on Commerce.

By Mr. SHAW (for himself, Mrs. JOHNSON of Connecticut, Mr. PAYNE of Virginia, Mr. JACOBS, Mr. BUNNING of Kentucky, Mr. CHRISTENSEN, Mr. BILBRAY, and Mr. BURR):

H.R. 3149. A bill to permit the approval and administration of drugs and devices to patients who are terminally ill; to the Committee on Commerce.

By Mr. VENTO:

H.R. 3150. A bill to expand and enhance the Federal Government commitment to eliminating crime in public housing and other federally assisted low-income housing projects, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. WATTS of Oklahoma:

H.R. 3151. A bill to require the Secretary of Defense and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Defense with reimbursement from the Medicare Program for health care services provided to Medicare-eligible beneficiaries under TRICARE; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOUCHER (for himself and Mr. QUILLEN):

H.J. Res. 166. Joint resolution granting the consent of Congress to the mutual aid agreement between the city of Bristol, VA, and the city of Bristol, TN; to the Committee on the Judiciary.

By Mr. TALENT:

H.J. Res. 167. Joint resolution proposing an amendment to the Constitution of the United States to limit the judicial power of the United States; to the Committee on the Judiciary.

By Mr. ARCHER:

H. Res. 387. Resolution returning to the Senate the bill S. 1518; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. VOLKMER and Mr. CHRISTENSEN.

H.R. 103: Mr. MASCARA and Mrs. FOWLER.

H.R. 125: Mr. TAYLOR of Mississippi.

H.R. 303: Mr. VOLKMER and Mr. CHRISTENSEN.

H.R. 789: Mr. SKELTON.

H.R. 911: Mr. MASCARA.

H.R. 922: Mr. TOWNS.

H.R. 1023; Mr. CLAY, Mr. TAUZIN, Mr. FALEOMAVAEGA, Mr. BUNNING of Kentucky, Mr. SPRATT, Mr. COBLE, Mr. BUNN of Oregon, Mr. BOUCHER, and Mr. MCCRERY.

H.R. 1044: Mr. LARGENT.

H.R. 1090: Mr. FARR.

H.R. 1131: Mr. CAMP and Mr. NEUMANN.

H.R. 1136: Mr. FAZIO of California, Mr. GENE GREEN of Texas, Mr. RAHALL, Mr. QUILLEN, Mr. DIXON, Mr. PASTOR, Mr. WILSON, Mr. STEARNS, Mr. FARR, Mr. BERMAN, and Mr. FLANAGAN.

H.R. 1314: Mr. PICKETT.

H.R. 1406: Mr. POSHARD, Mr. GIBBONS, Mr. LATOURETTE, Mr. OBERSTAR, Mr. ROSE, Mr. BREWSTER, Mr. VENTO, and Mr. MANTON.

H.R. 1484: Mr. LIPINSKI, Ms. LOFGREN Mr. LEWIS of Georgia, Mr. BEVILL, Mr. HILLIARD, and Mr. ENGLISH of Pennsylvania.

H.R. 1496: Mr. MENENDEZ.

H.R. 1619: Mr. COLEMAN.

H.R. 1711: Mr. HASTERT and Mr. SENSENBRENNER.

H.R. 1932: Mr. PETRI, Mr. BEREUTER, and Mr. HAYES.

H.R. 2011: Mr. LEVIN.

H.R. 2193: Mr. WILSON, Mr. STARK, Mr. RADANOVICH, Ms. ESHOO, Mr. SENSENBRENNER, Ms. JACKSON-LEE, and Mr. CHAPMAN.

H.R. 2214: Mr. ABERCROMBIE and Mr. OLVER.

H.R. 2270: Mr. ENSIGN.

H.R. 2450: Mr. PARKER, Mr. LARGENT, Mr. HOLDEN, and Mr. BLILEY.

H.R. 2497: Mr. BRYANT of Tennessee, Mr. BURR, Mr. PETRI, Ms. PRYCE, Mr. HANCOCK, and Mrs. VUCANOVICH.

H.R. 2697: Ms. WOOLSEY and Mr. TORRES.

H.R. 2777: Mr. VENTO.

H.R. 2779: Mr. SENSENBRENNER.

H.R. 2807: Mr. PETRI and Mr. WALSH.

H.R. 2811: Mrs. KELLY, Mr. SPENCE, Mr. JACOBS, Mr. FATTAH, Mr. MYERS of Indiana, and Mr. KING.

H.R. 2856: Mr. KLINK.

H.R. 2893: Mr. HORN, Mr. BACHUS, and Mr. VISCLOSKY.

H.R. 2900: Mr. LATHAM, Mr. HILLIARD, Mr. NORWOOD, Mr. CRAPO, Mr. ZELIFF, Mr. CLEMENT, Mr. BACHUS, Mr. KENNEDY of Rhode Island, Mr. TOWNS, and Mr. MONTGOMERY.

H.R. 2931: Mr. VENTO.

H.R. 2959: Mr. ENSIGN, Ms. MOLINARI, and Mr. UNDERWOOD.

H.R. 3002: Mr. EHRLICH and Mr. JOHNSON of South Dakota.

H.R. 3048: Mr. BARRETT of Wisconsin and Ms. PRYCE.

H.R. 3070: Mr. HASTERT, Mr. GILLMOR, Mr. STEARNS, Mr. KLUG, Mr. NORWOOD, and Mr. WELLER.

H.R. 3086: Mr. CALVERT, Mr. THOMAS, Mr. DUNCAN, and Mr. ENGLISH of Pennsylvania.

H.J. Res. 100: Mr. CHRISTENSEN.

H.J. Res. 159: Mr. SHUSTER, Mr. SMITH of New Jersey, Mr. POMBO, and Mr. CRAPO.

H. Con. Res. 10: Mr. ROEMER and Mr. COOLEY.

H. Con. Res. 47: Mr. JACOBS and Mr. RAHALL.

H. Con. Res. 51: Mr. BILIRAKIS.

H. Con. Res. 102: Mr. CLYBURN, Mr. TORRES, and Ms. ESHOO.

H. Con. Res. 127: Mr. LATHAM, Mr. CALVERT, and Mr. BARCIA of Michigan.

H. Res. 49: Mr. SANDERS.

H. Res. 345: Mr. ACKERMAN and Mr. FALEOMAVAEGA.

H. Res. 347: Mr. JACOBS, Mr. SCARBOROUGH, Mr. HINCHEY, Mr. ABERCROMBIE, and Mr. LEWIS of Georgia.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1972: Ms. FURSE.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3136

(Public Debt Limit)

OFFERED BY: MR. SMITH OF MICHIGAN

AMENDMENT NO. 1: At the end, add the following new sections:

SEC. 2. LIMITATION ON ISSUANCE OF PUBLIC DEBT OBLIGATIONS AFTER DECEMBER 31, 2001.

(a) IN GENERAL.—No obligation subject to the limitation under section 3101(b) of title 31, United States Code, may be issued to the public after December 31, 2001. The preceding sentence shall not apply to any obligation (or series of obligations) issued to refund an obligation issued before January 1, 2002.

(b) SPECIAL RULE.—Upon the enactment of a joint resolution declaring a national emergency, subsection (a) is suspended for the 6-month period beginning upon such date of enactment. Congress and the President may, by law, extend such 6-month period of such declaration of war or national emergency is still in effect.

SEC. 3. SHORT-TERM BORROWING AFTER FISCAL YEAR 2001.

(a) IN GENERAL.—In addition to any other authority provided by law, the Secretary of the Treasury may issue obligations of the United States in an amount not to exceed $50 billion. The maturity date of the obligations may not extend beyond 120 days after their issuance. In any event, obligations issued under this section shall mature at the end of the fiscal year in which they were issued.

(b) OBLIGATIONS EXEMPT FROM PUBLIC DEBT LIMIT.—Obligations issued under subsection (a) shall not be taken into account in applying the limitation in section 3101(b) of title 31, United States Code.

SEC. 4. LIMITATION ON AMOUNT OF PUBLIC DEBT LIMIT.

An increase in the limitation under section 3101(b) of title 31, United States Code, shall not be effective to the extent such limitation after such increase is greater than—

(1) $5,432,000,000,000 during the fiscal year ending on September 30, 1997,

(2) $5,682,000,000,000 during the fiscal year ending on September 30, 1998,

(3) $5,908,000,000,000 during the fiscal year ending on September 30, 1999, and

(4) $6,116,000,000,000 during any fiscal year ending on or after September 30, 2000.

The preceding sentence shall apply notwithstanding any other provision of law unless such other law actually amends or repeals the preceding sentence.

VOL
142
PT
5
MR
21
—
29
1996
UMI

EXTENSIONS OF REMARKS

ASSAULT WEAPONS BAN REPEAL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. CONYERS. Mr. Speaker, an UZI is one of the assault weapons considered a weapon of choice for drug traffickers, street gangs, and paramilitary extremist groups. The NRA and the Republican majority want to make this and other cop-killing guns readily available. To do that, they will have to repeal the assault weapons ban—a ban that over 70 percent of the American public favors because it makes the streets safer for our children.

UZI's have no purpose other than to kill people. They are not hunting weapons, they are not used for target practice, they are just used to kill people.

An UZI pistol was used on May 16, 1993, when a man who had been kicked out of a rural Fresno, CA, bar returned the next day with a friend and opened fire, killing seven people and wounding two others. This was the worst massacre in Fresno's history.

An UZI semiautomatic rifle was one of the guns used by James Oliver Huberty, an out-of-work security guard, when he walked into a San Ysidro, CA, McDonald's and killed 21 people.

If we want to avoid more massacres like these, we need to maintain the assault weapons ban.

It is America's children, not the National Rifle Association that this Congress should be protecting. But tomorrow, when many of my colleagues vote to repeal the assault weapons ban, they will be voting to give violent criminals everywhere greater access to deadly weapons that can be used to murder our children, our parents, our brothers and sisters, and our friends.

The Republican party is always claiming that it stands on principle. Now it can stand on the principle of more dead children.

WINNERS OF THE PHOENIXVILLE AREA CHAMBER OF COMMERCE PRESIDENT'S DAY ESSAY CONTEST

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today to pay tribute to Michelle Lin Byrd, Rosalind Newsholme, John Davison, Jenni Kirkhoff, and David Rourke, the winners of the Phoenixville Area Chamber of Commerce President's Day Essay Contest. I am submitting for the record each of their winning essays. Each of these students has composed a remarkable essay applauding a President who had to make a necessary, but unpopular decision, such as the decision made by President Lincoln to issue the Emancipation Proclamation. Other winning entries included Truman's decision to fire MacArthur, his decision to drop the atomic bomb on Japan, Ford's pardoning of Nixon, and Roosevelt's introduction of the New Deal. Each of these controversial decisions was, in retrospect, in the best interests of the American people despite being initially met with uncertainty and opposition.

The leaders of our time are met with the same difficult decisions, and we must continue to act in the best interest of the American people. One of the most important decisions that faces us today concerns education. However, the decision to cultivate the education of our children should not be met with controversy or skepticism. As a former teacher and the father of five, I believe the highest priority for our school system is teaching our students about the rich history of America. Learning about the history of the United States, including the mistakes of our Forefathers and their great triumphs, is the key to good citizenship and involvement in Government. George Santayana once said that "those who do not remember the past are condemned to repeat it." By understanding the actions and events of our ancestors, we can create a better future.

I hope that all of the entrants of the Phoenixville Area Chamber of Commerce President's Day Contest, not just the students recognized here, will gain a new appreciation for the importance of our history. Perhaps some insight gained through their research will influence some of these students to become involved in their government.

Mr. Speaker, I commend these students for their achievement and I know that my colleagues join me in honoring the success of these outstanding students. I would like to thank the Phoenixville Area Chamber of Commerce for offering this opportunity to the students of Phoenixville, and I would also like to thank The Phoenix for printing the winning essays and for promoting the contest.

HARRY S. TRUMAN

Harry S. Truman, our thirty-third president, was born on May 8, 1884 in Lamar, Missouri. He was a member of the democratic party and was in office from 1945 to 1953. Truman worked his way up in politics from judge to senator to vice president and finally to president of the United States. When Roosevelt died on April 12, 1945 Truman became president. He had a difficult task of learning to be effective in his office because Roosevelt had made no effort to train him for his future responsibilities. He learned simply by dealing with the problem that faced him.

Truman tried to carry out the politics that Roosevelt had begun to establish. This included the unconditional surrender of Germany on May 8th and the establishing of the United Nations. Truman then had to make a decision about the World War II. He had to make a decision that might end up being unpopular. Truman decided to use the atomic bomb against Japan. He believed that this would end the war quickly and save lives. He thought that it would put the United States in a position to help revolutionize Japanese life. When people look back at the situation now there seems to have been other ways to end the war, such as negotiated settlements, but these options were not as obvious back then. Truman made the decision he thought that would be the best decision.

Presidents of the past, the present and the future have and will make choices that will be unpopular but necessary. I believe that of the choices of the past have made the United States the great country that we are privileged to live in today.

FRANKLIN D. ROOSEVELT

Franklin D. Roosevelt was the 32nd President of the United States of America. As President, he had to make a lot of decisions. Some of them were popular and some were not. A very unpopular decision at the time was his New Deal. The New Deal was to have unemployment insurance, retirement programs, wage and hour laws, housing for the poor, and jobs for the needy all as the responsibility of the Federal Government. It is important to remember that this was the 1930's when nothing like this existed. However, many people didn't like this decision because it was very new and they didn't trust it. They also thought that the government was trying to interfere with their lives. Employers didn't like the minimum wage and hours because they had less power over their workers. Although the New Deal was unpopular at the time, people started getting used to it and began to accept it. It is now all a very necessary part of the American way of life. I think that in a way this decision was good because it shows how our government is for the people.

GERALD R. FORD

Gerald Ford, our 38th president, was the only president elected neither to the presidency nor to the vice presidency. He attempted during his term to restore the nation's confidence in a government tarnished by the Watergate scandal.

Ford became vice president when Richard Nixon's vice president Spiro T. Agnew resigned. Nine months later, on August 9, 1974, President Nixon resigned as president under threat of impeachment, and Gerald Ford was sworn in as our president.

One of his first and most debatable acts was to pardon Nixon for all federal crimes he might have committed in office. This made him extremely unpopular. I think this was a necessary decision, because, we couldn't let this drag on and on, like the O.J. Simpson trial. This country had a high inflation rate and the highest unemployment rate since the depression. These were more important problems to solve than Watergate. It was time for the nation to start healing and get on with the important issues facing the American people.

In his two and a half years as president Gerald Ford lowered the inflation rate from 11.2 to 5.3 percent, he also lowered the unemployment rate. Even after all this he could not win the presidential election in 1976, because, the public only remembered him as the man who pardoned Richard Nixon.

TRUMAN FIRES MACARTHUR

In 1951 this headline shook the U.S. and the world. On April 5 Harry Truman was furious at MacArthur and decided he must go. For five days he kept this secret until they could decide on a replacement. They decided on Lieut. General Matthew Ridgway.

The reporters were summoned at 1:00 a.m. The press got hand-out sheets from the press secretary: "With deep regret, I have concluded that General of the Army Douglas MacArthur is unable to give his wholehearted support to the policies and directives issued to them in the manner provided by our laws and the Constitution."

Why the 1:00 a.m. summons? The White House's lame explanation was timing for the general, since it was then midafternoon in Tokyo. But that wasn't the real reason at all; the news had been timed to make the morning newspapers and catch the Republicans in bed.

The man he fired was a military hero, idolized by many. MacArthur had done a superb job as Supreme Commander for the Allied Powers in the reconstruction of Japan. Truman himself admired MacArthur's soldiering.

But MacArthur was strong minded and had set himself firmly against the policy of Truman. Douglas MacArthur would not compromise his views of what was right and necessary. The clash between the two was slow in building, but the end was inevitable.

The Senate and Congress were divided over Truman's decision. The American public supported MacArthur. When MacArthur returned to the states he was a General of the Army, stripped of his commands and without assignment, yet the U.S. was waiting to sweep him up in a tremendous greeting all the way to Manhattan's tickertaped Broadway. His words had brought public dismissal and reprimand from his Commander in Chief, yet the Congress of the U.S. honored him by asking him to address them. When he did give his speech before Congress he was given a standing ovation.

In my opinion Truman firing MacArthur was the most unpopular decision ever made by an American president.

ABRAHAM LINCOLN

In 1861 Abraham Lincoln was elected 16th President of the United States. When he took office, and during the early stages of the Civil War, President Lincoln wanted to preserve the American Union of which slavery was a part. There was great pressure upon him to free the slaves but he refused. He had no wish to interfere with slavery where it already existed. Lincoln declared that he was fighting to save the Union, not to free the slaves. As the Civil War progressed, the Northerners demanded the end to slavery.

In 1863 President Lincoln issued the Emancipation Proclamation declaring that slaves be free. Lincoln repeatedly urged all states to free their slaves. In 1865 The Emancipation Proclamation cleared the way for Amendment 13 to the constitution ending slavery throughout the United States and declaring all men to be created equal.

President Lincoln's decision not to end slavery at the beginning of the Civil War appealed to some people but not to others. Lincoln made this choice not for popularity but because he thought it was the right decision for the Union's people. Despite the pressure to end slavery Lincoln made the decision to end slavery when he thought it was best for the Union.

The choices President Lincoln made helped to cause his assassination. A President makes decisions every day regarding our country. They make the best choices they can although they cannot please everyone. President Lincoln made what he thought was the best decision for the Union. John Wilkes Booth, his assassin, did not agree.

TRIBUTE TO RAY GILMARTIN

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mrs. ROUKEMA. Mr. Speaker, I rise today to offer my heartfelt congratulations to my friend Ray Gilmartin on being honored by West Bergen Mental Healthcare. On Sunday, March 24, Ray will be presented with the West Bergen's Distinguished Service Award.

I cannot think of a person who is more deserving of this honor. I have known Ray and Gladie Gilmartin for many years and have seen the seriousness of their commitment to their community.

Those across America who know Ray know him as a distinguished captain of industry. Since he earned his MBA from Harvard Business School just a few short years ago, he has had a meteoric rise in the business world. He now serves as chairman, president and chief executive officer of Merck & Co., the world's largest pharmaceutical concern. He previously served in the same capacity at another premier firm, Becton Dickinson & Co. of Franklin Lakes, NJ.

He is a national leader in health care. An active participant in health industry affairs, Ray is a member of the board of the Pharmaceutical Research & Manufacturers of America and Project HOPE, a nonprofit organization conducting educational programs in the health sciences. He is also chairman-elect of the Healthcare Leadership Council, a national coalition that promotes cutting-edge health care reform.

Closer to home, those who know Ray know him as a passionate supporter of a wide range of community activities. In addition to his chairmanship of the board of Valley hospital in Ridgewood, his public service activities also include serving as a board member at Union College in Schenectady, NY., the United Negro College Fund, the Associates of Harvard Business School, the New Jersey State Chamber of Commerce, and the Ethics Resource Center. He is also a member of the Business Roundtable and the Business Council and a trustee of the Conference Board and the Committee for Economic Development. He is also a member of the board of the Providian Corp. and PSE&G.

My husband, Dr. Richard Roukema, and I are proud of our longtime association with West Bergen Mental Healthcare. For years, West Bergen Mental Healthcare has served effectively northern New Jersey's population of the mentally ill, in effect, speaking for those who cannot speak for themselves. Further, West Bergen responds to crises in our community in a way that no other organization can. And now, this effective and caring organization is reaching out to children and youth in a way it has not ever before. Its Center for Children and Youth in Ramsey provides counseling and psychotherapy for youngsters aged 2 to 18 regardless of their ability to pay.

Mr. Speaker, America's communities could all use more dedicated community-minded organizations like this. But fundamentally, organizations like this could all use more dedicated supporters like Ray Gilmartin. He is a shining example of the volunteer community service that makes America strong.

TRIBUTE TO CAPT. MICHAEL W. KIGHT, MONTEBELLO POLICE DEPARTMENT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. TORRES. Mr. Speaker, I rise today to pay tribute to Montebello P.D. Capt. Michael W. Kight on the occasion of his retirement. Captain Kight spent more than 30 years protecting the interests and enhancing the safety of our community.

Captain Kight was born in Los Angeles, CA, and attended local schools, including east Los Angeles and Cerritos Colleges, where he earned his associate of arts degree in police science. He began his law enforcement career in 1964, serving as a patrol officer with the City of Bell Police Department. On July 30, 1972, Captain Kight was hired as a police officer with the Montebello Police Department, where he served for the past 24 years.

Captain Kight quickly proved himself to be a natural leader, providing direction, leadership, and expertise in law enforcement. He rapidly rose through the ranks, becoming senior officer in 1974; patrol sergeant in 1975; detective sergeant in 1980; lieutenant in 1987; and captain of field services in 1988. He was awarded exceptional performance pay in 1979, when he significantly exceeded performance standards for management of his employees. In 1983, he was awarded exceptional performance pay for reducing overtime hours and increasing the arrests and clearance in the detective bureau. Again in 1985, he was awarded exceptional performance pay for his outstanding handling of an internal affairs investigation. In 1994, he was awarded the prestigious Career Contribution Management Award in recognition of his high standards of excellence and dedication to superior service to the residents of Montebello.

Michael W. Kight has demonstrated a lifelong commitment to his chosen field of law enforcement, earning him the respect and admiration of his colleagues and community. On Saturday, March 23, 1996, his friends, family, and staff members will congratulate him on his retirement from the Montebello Police Department, and thank him for his years of exceptional service.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Michael W. Kight, one of our community's finest law enforcement officers and public servants.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL
142
PT
5
MR
21
—
29
1996
UMI

IN SUPPORT OF WOMEN'S HISTORY MONTH

HON. MARTIN OLAV SABO

OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 21, 1996

Mr. SABO. Mr. Speaker, I rise today to express my support for Women's History Month. Women make contributions to our society every day—all year long. But this month offers a special opportunity to acknowledge and to raise awareness about women's contributions in all aspects of our culture—including health, education, public service, and the arts. Minnesota has produced strong female civic leaders who have worked to enhance the lives of others through their endowments to the community. Today, I rise to recognize some Minnesota women in particular, who have enriched our community and advanced the women's movement on a national level.

In its earlier years, Minnesota was fortunate to have many women from diverse backgrounds who were committed to improving the lives of average Minnesotans. For instance, Nellie Griswold Francis (1874–1969) and Mattie Porter Jackson (1854–1946), two African-Americans, were instrumental in the early civil rights movement. Eleanore Harriet Bresky (1882–1952), a Russian-American, was a member of the National Woman's Party, as was Minneapolis-born, Agnes Myrtle-Cain (1894–1980), who also was a legislator and a union activist. Ruth Tokuka Nomura Tanbara (1907–), a Japanese-American, was an economist and an early YWCA social worker. I commend organizations like the Minnesota Women's History Month Project who increase awareness and bring attention to these women. Led by Judy Yaeger Jones, this group is one of only four State-based organizations in the country researching and promoting the history of women's lives within their communities.

Few people have fought as tirelessly and for a social cause as did Clara Ueland (1860–1927), working for the congressional passage and Minnesota legislature ratification of the nineteenth amendment in 1919. As a leader in the suffrage movement, she served as the last president of the Minnesota Women Suffrage Association and later, as the first president of the Minnesota League of Women Voters. An historic leader in Minnesota history, Clara Ueland truly embodied the character and ability needed to advance women's suffrage.

Too numerous to mention here, hundreds of other women in Minnesota have held prominent roles in the State's political, judicial, social and cultural history. I am proud to recognize my mother's second cousin, Congresswoman Coya Knutson, who was the first and, as yet, the only Minnesota woman to serve in the U.S. House of Representatives. She served in the State House of Representatives from 1951–54 and was elected from 1955–59 as a Democratic Member of Congress. Another pioneer, Minnesota Supreme Court Associate Justice Rosalie Wahl, was the first woman to sit on the State's highest court and a person who fought to erase racial and gender bias from the courts. Two other women have made a difference in Minnesota politics: Gladys Brooks, who served three terms on the Minneapolis City Council and was a candidate for mayor, and Judge Diana Murphy, who has served as a State judge, U.S. District Judge for the District of Minnesota, and is currently on the U.S. Court of Appeals for the Eighth Circuit and is a director of the Bush Foundation and the United Way of the Minneapolis Area.

Countless other Minnesota women have been outspoken social activists, particularly within the feminist movement. Among them, Gloria Jean Griffin was the coordinator and co-founder of the Minnesota Women's Consortium in 1980. She and Grace Harkness, the legislative director of the Women's Consortium (1980–present) worked at this association of 170 organizations dedicated to full equality for women and as a resource and referral center for women seeking help and support. Additionally, Arvonne Fraser served as President Clinton's U.S. Representative to the United Nations Commission on the Status of Women in 1993–94. She was also the National President of the Women's Equity Action League in the early 1970's and was named the International Citizen of the Year 1995 by the city of Minneapolis.

Representing education, children, health, and the arts, I would like to recognize four women who have excelled in these areas. Jean Keffeler is the immediate past Chair of the Board of Regents of the University of Minnesota and was recently reappointed to a second 6-year term on the board. Luanne Larsen Nyberg was the founder and executive director of the Children's Defense Fund-Minnesota (1985–95), an organization dedicated to increased state government and community commitment to meeting children's basic needs. Dr. Jane Hodgson defied the medical establishment in the 1930's, deciding to go to medical school when men were predominantly physicians. In 1992, she was recognized with the Elizabeth Blackwell Award from the American Medical Women's Association for her work in keeping abortion legal. Finally, in the last 20 years, Libby Larsen has become one of the most important and successful composers in the United States, winning a Grammy Award in 1994 and continuing the fine tradition of a strong cultural and arts community in the Twin Cities.

As I stated last month regarding Black History Month, I would like to recognize again Ethel Ray Nance (1899–1992), the first black woman hired by the Minnesota Legislature and the first black policewoman in Minnesota. Further, Mayor Sharon Sayles Belton, elected in 1993, is the first African-American and the first female mayor of Minneapolis and of course, Nellie Stone Johnson, has been one of the most outspoken and thoughtful leaders in Minnesota's African-American community.

I am proud to recognize and acknowledge the influence and contributions these and all women have made in Minnesotan's lives. I thank them for their service to the State, the women's movement, and the United States of America. Mr. Speaker, as we observe Women's History Month, I commend each of these women for their contributions to our society.

TRIBUTE TO JOHN CAPELLUPO

HON. RICHARD A. GEPHARDT

OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 21, 1996

Mr. GEPHARDT. Mr. Speaker, I rise to honor my friend and fellow St. Louisan John Capellupo, who is retiring as president of McDonnell Douglas Aerospace after a career that has spanned much of the last half of this century. It is fitting to recognize Cap for his work on behalf of his country, his company, and his community.

During his many years in the aerospace industry, Cap has built an impressive record of substantial and long-lasting contributions to our Nation through the technical development and management of some of our most important defense programs. He has shaped aircraft, missile, space, and technology programs that will provide for our national defense for decades to come.

Born in Minnesota and raised in Illinois, John began his aerospace career with McDonnell Aircraft Co. in 1957. He cut his teeth on programs like the F–101B fighter, the Super Talos missile, and other programs we now read about in aviation or military history books. Several years later, in the mid-1970's, a well-seasoned and experienced John Capellupo began working on a revolutionary new aircraft program, one that would eventually give birth to the F/A–18 *Hornet*, the world's first fighter designed to master both aerial dogfights and ground attack missions. Ultimately, he would lead the *Hornet* program into maturity and, to this day, throughout industry, Government, and the military, he is known as the father of the F/A–18.

In February 1989, John left the F/A–18 program to become president of McDonnell Douglas Missile Systems Co. In early 1990, he became deputy president of the company's commercial airliner operation, Douglas Aircraft Co., in Long Beach, CA. In May 1991, he returned to St. Louis to assume his current position as president of what is now McDonnell Douglas Aerospace.

Thousands of the hard-working people from my district are employed by McDonnell Douglas and work for John. These are the men and women who design, test, and build F–15s for the Air Force; AV–8Bs, F/A–18s, and T–45s for the Navy and Marines Corps; and Harpoon, SLAM, and JDAM munitions. They respect and admire the man they know simply as Cap, who has led them successfully through both the good times and the bad times over the years.

Personally, I have known Cap for almost 20 years. He and I have worked together on a broad range of issues, from those directly affecting our national security to ones that are vitally important to local St. Louis workers. Throughout this lengthy and productive association, I have developed the utmost respect for him as an individual and complete admiration for his professional achievements. I am honored to recognize him here today, and wish him a very happy retirement.

STEPHANIE WENDEROTH OF MADISON, A TRUE HOMETOWN HERO

HON. ROSA L. DeLAURO

OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 21, 1996

Ms. DELAURO. Mr. Speaker, I rise today to honor Stephanie Wenderoth, a teen from my district whose bravery and quick thinking saved three children from a fire that virtually destroyed their home last month.

Stephanie was babysitting for Hailey, Kendall, and Miller Carroll when a fire broke out in the living room of the Carroll's home in Madison, CT. Stephanie sent Hailey and Kendall running to the home of a neighbor, then dropped to her knees and crawled through thick smoke to find 3-year-old Miller. She found him after crawling through a thick cloud of smoke, then ran with him out of the house. Stephanie and Miller emerged from the fire covered with soot, but safe.

Mr. Speaker, the dictionary defines courage as: mental or moral strength to venture, persevere, and withstand danger, fear or dificultly. Stephanie Wenderoth has demonstrated exceptional courage that serves as an inspiration to citizens of all ages. As an asthmatic, crawling through the smoke was difficult, but Stephanie did not hesitate to take the risk and through her courage saved the lives of three children.

In this day and age when genuine heroes are all too rare in our society, Stephanie dismisses attention to her feat by calling it "just part of my job as a babysitter." Such modesty is yet another admirable trait of this extraordinary young woman. As her Representative in the U.S. House, I rise today to honor Stephanie Wenderoth as a true hometown hero.

TRIBUTE TO MARTIN BEGUN

HON. CAROLYN B. MALONEY

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 21, 1996

Mrs. MALONEY. Mr. Speaker, I rise tonight to bring to the attention of my colleagues the outstanding achievements of a community leader who is truly dedicated to public service.

Martin S. Begun serves as senior associate dean of the New York University School of Medicine and vice president of external affairs of New York University Medical Center. Dean Begun serves as liaison to government officials on the city, State and Federal level. In addition, Marty oversees the public affairs and alumni relations offices of NYU Medical Center and School of Medicine.

In July of 1995, in tribute to his years of activism and leadership in the Jewish community, Marty also assumed the presidency of the Jewish Community Relations Council of New York. JCRC is a representative organization encompassing over 60 major civic, communal, educational and religious groups within New York City's diverse Jewish community.

As long as I have known Marty, he has been deeply involved in community service. He is a man who lives by the Talmudic maxim: "If I am not for myself, who will be? and if I'm only for myself, what am I?"

Marty has worked tirelessly to raise the standards of the NYU Medical School. That is a critical task which affects Americans nationwide. Three medical schools in New York, NYU Medical School included, train approximately 15 percent of all doctors who practice medicine in the United States. What is good for NYU Medical School is good for the American people.

Marty is always up-to-date on public policy. A long-time advocate for compassionate care for the homeless mentally ill, Marty often advises prominent public figures on the subjects of health care, public health, community relations and Jewish affairs. He was an excellent resource for me when health care reform was at the top of the national agenda in the 103d Congress. He advised me on the viability of the Clinton health plan, taking into consideration how it would impact not just the hospital and the medical school, but my constituents and New York City in general.

While he sees the big picture, Marty never loses sight of the details. Throughout his tenure at NYU, Marty has seen to it that expansion of the NYU Medical Center complex has been carried out with great sensitivity to quality of life in the community.

Until 1994, Marty also served the city of New York for 18 years as chairman of the community services board of the city's department of mental health, mental retardation and alcoholism services. He continues to sit on the boards of the executive committee of the Associated Medical Schools of New York, and, by appointment of the Governor of New York State, on the Battery Park City Authority.

Mr. Speaker, for all of his good work; for his compassion; for his commitment to his community, his city and his country, Marty Begun has earned a reputation as mensch. I owe Marty a debt of gratitude for doing so much fine work in my district. And the city of New York owes him much, much more.

SUERJEE LEE WINS HIGH PRAISE FOR HELPING IMPROVE TWIN CITIES COMMUNITY

HON. BRUCE F. VENTO

OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 21, 1996

Mr. VENTO. Mr. Speaker, I rise today to congratulate a young Minnesotan, Ms. Suerjee Lee, for being recognized with the Prudential Spirit of Community Award. Ms. Lee is receiving the award for her volunteerism in the Twin Cities community, and is one of only two youths in my home State of Minnesota to be honored this year.

Her volunteer efforts span many segments of the community. She spends time with elderly residents of a nearby nursing home and serves as a mentor for special education students at her school. Ms. Lee is also involved in a project called Fresh Force, a volunteer organization which performs a variety of community service activities. One such activity included beautification of the Mississippi riverfront by removing trash from the area. Recently, she was selected to represent St. Paul's Battle Creek School Fresh Force Program at a regional meeting of Fresh Force program participants. It is for this hard work and her dedication to our community and its citizens that she is being honored.

In addition to her volunteer efforts, Ms. Lee, who is an eighth-grader at Battle Creek Middle School, still finds time to remain an excellent student and participate in student government.

Eight years ago she entered public school unable to speak English. Now, not only is she fluent in English, she is an "A" student and, therefore, a member of the National Honor Society. She also holds the position of vice president of Battle Creek Middle School's Student Council.

A selection committee will soon choose 10 individuals from the list of State winners of the Prudential Spirit of Community Award to be their national award winners. Regardless of that decision, the citizens of the Twin Cities community and Battle Creek Middle School have already received a higher honor and great benefit, Suerjee Lee's leadership and hard work on behalf of the future of our community. Her efforts not only serve to improve the lives of our citizens and improve the quality of life in the Twin Cities, she has demonstrated the importance of volunteerism and community activism to all who know her. I join the entire community in congratulating Ms. Lee for winning this prestigious award and in thanking her for her efforts on behalf of our community and its citizens.

TRIBUTE TO ROBERT T. ACKER

HON. DUNCAN HUNTER

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 21, 1996

Mr. HUNTER. Mr. Speaker, I rise today to recognize the extraordinary service and dedication of a constituent in my district, Mr. Robert T. Acker of El Cajon, CA. Robert is a devoted member of this community serving the city of El Cajon for the past 30 years, 14 of these as city manager. He is soon retiring and I would like to take a moment to commend his dedicated service in local government and community programs.

A Holtville native, Robert is a graduate of San Diego State University [SDSU] with a master's degree in economics. After service in the U.S. Army, he went to work as an appraiser for the San Diego County Assessor's Office and in 1966, was hired as an administrative analyst for the city of El Cajon where he was promoted to city manager in 1982.

During his tenure as city manager, Robert has enthusiastically participated in dedications of public buildings including the El Cajon Fire Headquarters, the El Cajon Community Center, and the El Cajon Library. He is spirited and has always strongly advocated city improvements and prosperity.

Robert's involvement and accomplishments extend well beyond serving as the city manager of El Cajon. Aside from working as an assistant professor in public administration at SDSU, he also served as a member of the San Diego Transit Corporation Board of Directors, the City/County Managers Association,

VOL
142
PT
5
MR
21
—
29
1996
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the Ducks Unlimited Steering Committee, the International City Management Association, the National Rifle Association, and the El Cajon Lions Club. This involvement in community service has assisted in raising funds for projects such as Canine Companions, El Cajon Boys and Girls Club, San Diego Service for the Blind, Home of Guiding Hands, Drug Awareness Resistance Education, Tijuana Orphanage Support, and Christmas Baskets for Needy Families.

Robert is a symbol of commitment and dedication to his fellow citizens and community. He has pledged a great share of his life to the service of others and he has surely made El Cajon a better place to live. Today, let us honor him for his unwavering contributions. I hope retirement can afford him the enjoyment of his hobbies hunting, fishing, gun collecting, and spending time with his wife and daughter, Susan and Kathryn. Mr. Robert Acker is well-deserving and I wish him great happiness in his future endeavors.

WHY WE NEED THE KASSEBAUM-KENNEDY GROUP-TO-INDIVIDUAL CONVERSION PROVISIONS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. STARK. Mr. Speaker, over the years, I've received many letters from around the Nation on the need for national health insurance reform.

Many of these writers would be helped by a provision in Kassebaum-Kennedy: the right to buy an individual policy after leaving a group policy, and not having one's pre-existing conditions excluded permanently. Many insurance companies oppose this provision but passing this law is the least we can do for our constituents.

The following letters make the case:

DEAR MR. CONGRESSMAN, I am a 50-year-old male who was recently laid off due to a corporate merger. I have continued Cobra health insurance program through my former employer, for myself and wife, at my own expense of $281 per month.

I have accepted a position with a small company and applied for the medical insurance offered by them with John Alden Life Ins. Co. This has been in process for several weeks, and I have now received this enclosed letter refusing us coverage due to my "condition".

I have had a seizure disorder since my late teens which is totally controlled by medication and has not incapacitated me at any time. I am periodically checked by the doctor and lead a perfectly normal and active life.

This is the first time during 30 plus years in the work force with previous employers that I have ever been refused medical coverage. It imposes an extreme financial burden on us, and the ultimate horror is that we could be wiped out should there be any medical crisis which can happen to anyone at anytime.

What, Mr. Congressman, can be done about something like this, and where do we turn when suddenly judged uninsurable?

A MAN FROM CALIFORNIA.

MR. STARK: As a retired employee of Southeast Banking Corporation, my medical coverage ceased on September 20.

First, I believe it is outrageous that retired employees be advised after the fact that coverage was terminated, and not given the opportunity to seek alternative coverage in a timely manner.

Further, since Southeast was self insured and Metropolitan was merely the administrator, there is no policy to which we can convert.

Furthermore, I am advised by Metropolitan that due to a pre-existing condition (Parkinson's) of my wife, they have no coverage available for her and that they doubt if any insuror in the country would write coverage. And the Florida Insurance Commissioners Office claims that they have no jurisdiction over self-insured groups, plus enrollment in the State assigned risk program has been closed.

So, the long and the short of it is, we are out on the street. What am I to do?

DEAR CONGRESSMAN STARK, I am sure that you would be interested and concerned about what has recently happened to me as an older, retired adult, in relation to an extreme inequity in the health care system. What happened to me is as follows.

I retired as a result of a heart problem in 1989, and in 1990, I had a bypass surgery. I was covered by Kaiser Permanente Health Plan at the time, and I have been covered by them for the past 32 years. I was still carried by the engineering company from which I retired, but without my knowledge, my company discontinued the Kaiser health plan as of June, 1992. Not having been notified by either my ex-employer nor Kaiser, I continued to use the medical services, and even had an elective hernia operation in June. On June 26th, Kaiser sent a letter notifying me that I was no longer covered. Upon contacting them by phone, I was told of the circumstances, and was advised to apply under an individual membership. I complied and immediately applied, but I was rejected quickly by the Medical Review Board at Kaiser citing the reason as "arteriosclerotic heart disease".

MAN FROM CALIFORNIA.

DEAR CONGRESSMAN PETE STARK, I'm 13 years old and, a resident of San Leandro, California. When I was 10 months old my pulmonary artery had to be opened. At that time I had Health insurance. Unfortunately, after I recovered from the open heart surgery, my families insurance dropped my coverage. Due to the fact that my parents are self-employed, I have been without Health insurance for roughly 12 years.

Thank you for your time.

DEBORAH FROM HAYWARD, CALIF.

DEAR REP. STARK: My husband and I have been what we would call middle class for all our married life. We both held down good paying jobs and worked hard all our life. Two and one-half years ago I had three heart attacks in one month. I could no longer work for quite some time, having spent many weeks in the hospital. My husband has been treated for hypertension for some years, and it became obvious he must sell our business because of this and his worry over me, plus the fact that I could no longer work with him at our business. This was an unprofitable sale, business was poor and we had to share the proceeds with a partner in our business. He applied for and was paid Unemployment Comp. for several months until he obtained work. Since he returned to the workplace at age 59, it was very difficult to secure a well paying position, but he is a hard worker and he can provide for our needs at this time, except for health insurance coverage. I have returned to work part time only, as my health does not permit me full time employment. After paying into Unemployment for the eight (8) years we were in business, he has now been notified he was not eligible to collect unemployment at all, because the Unemployment Board decided he did not have good cause to sell the business and therefore, demand a repayment of $3,000 he was paid. We are appealing this ruling, but I have gotten far afield of my subject I am afraid . . .

As we had group health coverage for both of us and our employees in our business, we have kept up that coverage until this month. We have been covered by Prudential Ins. for approximately 10 years. Each six (6) months the premium was raised 15 percent until this month it went to $576 per month. We have been paying this premium each month from our savings (from the sale of the business and it was intended to be for our retirement). But now it has been depleted and we no longer can pay for the coverage. We have been unsuccessful in locating other coverage because of the two year wait for "pre-existing" conditions, I for my heart problems, he for hypertension. Also, not being in a "group" the cost was as much as we were paying Prudential for a group coverage.

I am very apprehensive about the fact that if either of us becomes ill enough for hospitalization, we will be shunned aside because we have no insurance. My medication is very expensive, realizing a total expense of over $300 per month, and my husbands hypertension medication is $68 per month. We are struggling to make ends meet with these drug expenses and other obligations in this depressed economy.

There is no where to turn it seems. We have an "insurance pool" here in Fla. for people like us without insurance, but having looked into it, we would be paying far more for this coverage than we have been to Prudential, and we would be waiting for the 2 year waiting period for "pre-existing" conditions again.

A WOMAN FROM FLORIDA.

CONSUMERS FOR QUALITY CARE,
Los Angeles, CA, August 8, 1994.

DEAR MEMBER OF THE CALIFORNIA CONGRESSIONAL DELEGATION: Just last week, on August 2, the Ninth Circuit ruled that ERISA preempts one of California's most important consumer protections: the requirement that insurance companies continue to pay health insurance benefits to a sick or injured patient even if the patient's participation in a health insurance plan is terminated by an employer or insurance company.

If ever there was an example which illustrates why Congress should amend ERISA as part of health care reform, this case is it.

Vanessa Serrato was eighteen years old, a high school student with a promising future, when she was struck by a drunk driver. During subsequent surgery to amputate her leg, Vanessa went into cardiac arrest. She suffered profound and permanent brain damage, and lapsed into a coma.

At the time of the accident, Vanessa was in a position that one would assume to be enviable: she was covered by not one, but two health insurance policies. One was issued by Massachusetts Mutual Life, under a policy provided to her mother by her employer; the other by John Hancock Mutual Life, under a

policy issued to her father by his employer. The Mass Mutual policy provided $1 million in benefits; John Hancock's policy offered unlimited benefits. Both policies promised to cover the needs of a catastrophically injured patient like Vanessa.

Less than one year after the accident, however, Massachusetts Mutual Life terminated Vanessa's coverage when her mother's employer ceased operations in California. At the same time, John Hancock terminated her health care benefits when her father's employer substituted a different insurer for John Hancock. California's case law requires, as a matter of public policy, that patients who are injured or fall ill during the period when a policy is in force and reasonably expect that their policy will provide long term benefits are entitled to continue to receive the benefits. But both insurers refused to pay for the medical treatment and services Vanessa desperately required.

The young woman, who was entitled to coverage under two policies, instead was left with nothing. Her mother takes care of her at home; Vanessa's poor condition reflects the fact that she has not received the care she needs.

Vanessa Serrato's parents brought suit on her behalf against both health insurers and the employers through whom the insurance was provided. She argued that under California's vesting law, once she became disabled her right to the benefits vested, and the insurance companies could not terminate that right. She asked that her medical bills be paid, and that the companies pay her attorneys' fees for having to bring a lawsuit. But the federal district court dismissed the case, ruling that California's vesting rule is preempted by ERISA under the U.S. Supreme Court's 1987 decision in *Pilot Life* v. *Dedeaux.*

* * *

Sincerely yours,

JAMIE COURT,
Consumers For Quality Care.
MARIA FERRER,
Health Access.
HARVEY ROSENFIELD,
Consumer Advocate.
GERRI DALLECK,
Center For Health Care Rights.
TERRY MCBRIDE,
Consumers For Safe Medicine.

JEWISH WAR VETERANS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the Jewish War Veterans of the United States of America upon the celebration of the organization's 100th anniversary. On Saturday, March 23, the Wyoming Valley Chapter will commemorate this important anniversary at its annual banquet in Wilkes-Barre, PA. I am pleased to have been asked to participate in this event.

Since its founding in 1896, the Jewish War Veterans organization has been a patriotic voice of American Jews who proudly served in the U.S. military. Founded by men who wore the blue uniform of the victorious Union Army and Navy during the Civil War, its membership has subsequently included Jewish military personnel who have answered the call to colors since 1861, and continue the tradition of service in the peace-keeping force in Bosnia.

At its first roll call, held at the Lexington Opera House in New York City in 1896, 63 Jewish Civil War veterans were recorded present at what was then called a gathering of the Hebrew Union Veterans. From that time until World War I, the JWV merged with other organizations and promoted the recognition of Jewish veterans. One of its members, Ben Altheimer, was widely recognized for greatly influencing President Woodrow Wilson in designating June 14 as Flag Day.

During the years following World War I, the JWV became active in protesting the Jewish discrimination in Poland, Romania and Galicia. In 1924, the organization changed its name to Jewish War Veterans of the Wars of the Republic. The next year, the JWV published the first issue of its national magazine entitled "Jewish Veteran." For 75 years the publication has continued to be mailed to all JWV members. The JWV became increasingly more active in politics over the next several years, lobbying Congress for veterans' legislation on a regular basis. By 1939, 277 posts had formed and an organization for teenagers, the sons of JWV had been formed.

Meeting 10 days after the bombing of Pearl Harbor, the JWV's National Executive Committee promulgated its "Emergency Program for Victory" which called for a comprehensive civilian program to support the war effort. The program was successful in selling $250 million in war bonds to make a significant contribution to the war effort. The JWV continued to fight for veterans causes and provide support for veterans families through World War II.

Mr. Speaker, in the 50 years following World War II the membership of the JWV grew as did its political strength and social influence. Always an advocate for its members and never declining a challenge, the Jewish War Veterans has taken its place among the most respected veterans organizations in the world. In my congressional district, the Wyoming Valley Chapter of the Jewish War Veterans is extremely active. Its membership is comprised of some of the most decorated and distinguished veterans in the Commonwealth, including Samuel Greenberg of Kingston, who served as National Commander of the Jewish War Veterans in 1984 and 1985. Another Kingston resident, Attorney Joseph J. Savitz, served the Jewish War Veterans as the organization's National Judge Advocate in 1961 and 1962.

Mr. Speaker, during my tenure in the U.S. Congress, working closely with the veterans in my district has been one of my greatest pleasures. I am extremely proud of my friendship with these dedicated men and women. The members of the Wyoming Valley Chapter of the Jewish War Veterans are to be commended for their continued advocacy, leadership, and heartfelt concern for the well being of our Nation's veterans. I am proud to have their friendship and congratulate this organization on its 100th anniversary.

TRIBUTE TO MAYOR BERNARD KETTLER

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate Woodcliff Lake Mayor Bernard Kettler on being honored with the annual Lincoln Award by the Woodcliff Lake, NJ, Republican Club. I can think of no better example of the solid American values of service to community, participation in local government, civic pride, and concern for fellow citizens. This award is certainly well deserved.

Bernie Kettler served residents of Woodcliff Lake as a councilman for 9 years and as mayor for 14 years. During his quarter century of public service, he provided outstanding leadership in the development of the town during a critical period of major growth and change. He distinguished himself throughout Bergen County as a respected and innovative leader. He represented his community with dignity, integrity, and pride. He was always a strong Republican, providing the leadership and optimism which contributed greatly to Republican victories and many years of successful Republican government.

The Marine Corps veteran of World War II moved to Woodcliff Lake in 1963 and soon became involved in local issues. He was sworn in to his first term as councilman in January 1967 and rose to the position of council president. He began his career as mayor in 1981. His administration was responsible for a beautification program, sanitation improvements, establishment of a recycling program, and many other contributions. He spearheaded a proactive stance on the difficult affordable housing issue that allowed Woodcliff Lake to meet its legal obligations while maintaining the character of the town. His efforts contributed greatly to Woodcliff Lake's position as a first-class and desirable community.

Bernie also served as president of the Passaic Valley Mayors Association and participated in many regional initiatives such as the Joint Insurance Fund. He served on the Bergen County Solid Waste Advisory Committee and many other county-level panels.

Bernie has also had an extensive and successful business career in the food industry. He introduced and established distribution of three national food brands and managed more than $50 million in sales volume on the east coast for some of the largest manufacturers in the United States.

Speaking on a personal basis, Mayor Bernie Kettler has been one of my staunchest, most loyal, and truest supporters dating back to those first months when I first faced the formidable task of running for nomination as a candidate for Congress. We look back on them as the good old days but they were most challenging to all of us. Bernie became one of my most trusted advisors and supporters. I have always respected and valued his counsel.

He is a graduate of Gettysburg College, where he received a bachelor's degree in economics and political science. He and his wife, Marie, make their home in Woodcliff Lake.

VOL 142 PT 5 MR 21 — 29 1996 UMI

They have three children: Thomas, Sarah, and Mary Jean, and one granddaughter, Kate.

RECOGNITION OF ST. PAUL HIGH SCHOOL STUDENTS, SANTA FE SPRINGS, CA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. TORRES. Mr. Speaker, I rise to pay tribute to the young and aspiring students of St. Paul High School in Santa Fe Springs, CA. Each year I have the privilege of meeting a new group of seniors as they visit New York City and Washington, DC.

I am delighted that this fine group of young men and women had the opportunity to enjoy Broadway plays, the Statue of Liberty, and the excitement of the Big Apple. While in Washington, the St. Paul students took a whirlwind tour of its many famous sights: the White House, the Bureau of Engraving and Printing, the Supreme Court, the Library of Congress, and the Washington, Lincoln and Jefferson monuments by night. I was lucky enough to fit into their tight schedule when they visited me at the House of Representatives.

Mr. Robert McNeil, the school's trip leader and respected civics teacher, deserves much credit for organizing these annual trips and for motivating so many young students to reach beyond their natural talents. His academic and professional background make him a respected leader and a brilliant teacher. This year's group of advanced placement students included Jesahel Alarcon, Chris Arehart, Shonnyce Baker, Faby Barragan, Susie Benson, Laura Boersma, Elenor Burciaga, Andrea Burke, Monique Fuentes, Susan Mancia, Jill Ortega, and Edward Raco. Also joining the group were Jeanine Casas, Paul Contreras, Anna Garcia, and Mark Neria.

Although the students of St. Paul High School got the last bit of winter and some Washington snow on their visit, I trust their visit will remain a warm memory. I look forward to hearing from each of them in the future. I am certain much success lies ahead and, perhaps, one or two of these young men and women will come back to Washington to make their career.

Mr. Speaker, I ask my colleagues here assembled to join me in recognition of this fine group of students and Mr. Robert McNeil of St. Paul High School.

NANCY GRIGSBY NAMED WOMAN OF THE YEAR OF OHIO'S THIRD DISTRICT

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. HALL of Ohio. Mr. Speaker, I am pleased to select Nancy Grigsby as the Woman of the Year of Ohio's Third District. Nancy is my choice for Woman of the Year because of her exceptional and compassionate commitment to help victims of domestic violence in Dayton, OH. She is the executive director of Artemis Center for Alternatives to Domestic Violence.

Nancy has done outstanding work with battered women for 16 years. In 1980–81 she worked as a crisis counselor at the YWCA Battered Women's Project, where she was struck by the bleak predicament of battered women, and the gross inequities which they face in society. Her concern for these women motivated her to cofound Artemis in 1984. This nonresidential organization provides counseling, legal services, children's therapy, and a 24-hour crisis hotline to battered women, men, and children who have filed criminal charges against a family member who has assaulted them.

Victims of domestic violence often face stigmatization in our society, which makes it especially difficult for them to come forward and receive help. In addition, if a battered woman tries to leave home she faces a 75-percent higher risk of becoming a homicide victim. Because of this threat, only 1 out of 39 battered women will opt to move into a shelter. Nonresidential services like Artemis are therefore necessary to meet the needs of victims who cannot leave home.

In addition to her efforts at Artemis, Nancy was the legislative committee chair of the Ohio Domestic Violence Network from 1990 to 1994. She is a member of the Child Protection Task Force of Montgomery County, a member of the Domestic Violence Subcommittee of the Criminal Justice Policy Council of Montgomery County, and a member of the Endangering Children Subcommittee of the Criminal Justice Policy Council, Montgomery County. Through her work on all these fronts, Nancy has significantly contributed to the Dayton community by relieving emotional, physical, and mental suffering of victims who are not even safe from attack within their own homes.

LANDMINES—AN IMMEDIATE THREAT

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. EVANS. Mr. Speaker, the carnage wreaked on innocent civilians by antipersonnel landmines has become well-known. It is estimate that over 2,000 innocent men, women, and children are killed or maimed each year by these hideous and barbaric devices. Yet, nothing has brought the landmine crisis home to the American public until we contemplated sending our own young soldiers to the minefields of Bosnia.

According to the United Nations, there are over 8 million landmines in Bosnia alone. One of them recently killed a young sergeant. He was the first American killed in the former Yugoslavia. According to the experts, he might not be the last.

Landmines potentially pose the largest threat to our troops in Bosnia. However, the Department of Defense has been at odds with international efforts to eliminate them. For too long, we have only heard from the Pentagon of the benefits of these weapons to our forces. The cost of antipersonnel (AP) landmines to our fighting men and women has too often been ignored until we have to fight and face them. In Vietnam, a third of our casualties came from landmines. They will continue to take their awful toll in future conflicts on our soldiers and innocent men, women, and children, until the international community decides to do something about the problem.

Our Nation could be leading the charge to eliminate these weapons. Unfortunately, there has not been a serious effort to seek a ban on the use of these weapons. This has led to marginal results that forced the participants, out of embarrassment, to postpone the conclusion of the review conference until later this spring. Without our leadership, a ban on AP landmines will not happen.

This fall, Congress took a big step in asserting this leadership by passing a one-year moratorium on the use of AP landmines. And now the military is finally taking a hard look at the landmine crisis. According to an article in Sunday's New York Times, Chairman of the Joint Chiefs of Staff, General Shalikashvili has ordered a review of the Pentagon's longstanding opposition to a ban on the use of landmines.

I applaud General Shalikashvili for his review of this issue. He is obviously listening to the many American combat vets, both officer and enlisted, who know how much these weapons have cost us in American lives and limbs compared to their limited military value.

In a speech before the United Nations just over a year ago, President Clinton stated our Nation's goal of a ban on antipersonnel landmines. I hope that General Shalikashvili's review, along with the progress being made internationally, will bring this goal closer to realization. Twenty-two nations now support a ban on these weapons. U.S. leadership, in the form of a call for an immediate ban, could make this a reality.

The prestige of the President, along with the support of our Department of Defense, can move nations. This goal is achievable. Considering the terrible toll antipersonnel landmines are taking on civilians and soldiers, we must act now. .

CUTS IN EDUCATION

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. FAZIO of California. Mr. Speaker, I rise today to talk about the effects of the Republican cuts in education funding on my district in California.

We're all aware of the draconian reductions in funding for education programs across the country.

Children all over America will pay a heavy price for the majority party's insistence on slashing the Federal commitment to education.

School districts, too, will suffer as they try to budget and plan for the 1996–97 school year without knowing what to expect from the Federal Government.

For example, funding for title I was reduced by 17.1 percent in one of the continuing resolutions passed earlier this year.

This means a $122.8 million reduction for California. In Sacramento, the school district estimates that $2 million will have to be cut from the district budget, eliminating as much as $65,000 for some of the neediest schools.

Seven to eight schools and approximately 100 teachers and teacher's aides would be cut from the title I program effecting almost 3,300 students. Reading tutorial sites would be closed and educational technology programs would also be eliminated.

My colleagues, the cuts to title I alone are cause for outrage—but when they are added to the cuts to students loans, school lunch programs, job training programs, and Goals 2000—it is hard to fully grasp the impact of these cuts on our children.

Let's not lose sight of the commitment that brings us here today—let us put our children first and reject these mean—spirited cuts.

THANK YOU AND HAPPY ANNIVERSARY TO THE MEN AND WOMEN OF THE ELSMERE FIRE COMPANY

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. CASTLE. Mr. Speaker, I rise today to pay tribute to the Elsmere Fire Company on the occasion of its 75th anniversary of leadership and service to the community and the town of Elsmere in my home State of Delaware. For myself, and on behalf of the citizens of the First State, I would like to thank the Elsmere Fire Company for its many years of dedicated service.

As is typical of the fire departments in Delaware, the Elsmere Fire Company is comprised of dedicated men and women who volunteer their time and talents to help prevent or battle fires and perform emergency medical services for our citizens. In today's world, many fire departments find it difficult to recruit and retain volunteers. With the pressures of work and family, many find it had to complete the rigorous fire service training. Yet the Elsmere Fire Company has remained a vital and integral part of its community with strong support that has allowed it to grow with the needs of its community. I am particularly grateful and proud of this community's efforts.

At a recent fire company banquet for the volunteers, many were recognized for various areas of service with the department, and many others were honored for decades of service. It is important that the Elsmere Fire Company continue to be able to recruit and retain young men and women who are committed to this outstanding form of public service. The support for the Elsmere Fire Company is strong and the tradition of service is solid.

Although I have not listed all the members of the Elsmere Fire Company, I hope that they all realize how deeply their efforts are appreciated. This company can be proud of its 75 years of dedicated service. Your community tanks you for your commitment and concern.

INTRODUCTION OF DOLE-WATTS MEDICARE SUBVENTION BILL

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. WATTS of Oklahoma. Mr. Speaker, today I am pleased to join with Senator BOB DOLE in taking the first step toward reopening our Nation's military hospitals to Medicare eligible military retirees. I am introducing legislation today that will launch a demonstration project to underscore the cost-effectiveness of Medicare reimbursement to the Department of Defense for the treatment of military beneficiaries aged 65 and older at these facilities.

The Department of Defense's new managed health care program, Tricare, replaced the traditional military health care program CHAMPUS [Civilian Health and Medical Program of the Uniformed Services]. While medical treatment may be improved under Tricare for many members and retirees of the Nation's armed services, Medicare eligible military retirees are not so lucky because Tricare does not provide for their care at military hospitals except on a space available basis.

With the acceleration of military down-sizing and base closings, fewer and fewer military retirees will be eligible for treatment at military hospitals. This is unacceptable. When our Nation's servicemen and women made their commitment to serve our country, we guaranteed them lifetime health care at military facilities. Tricare undercuts that commitment for Medicare eligible beneficiaries and breaks the contract we made with America's retired military personnel.

The legislation that I have introduced today will allow for a Medicare subvention demonstration which permits the Health Care Financing Administration to repay the Department of Defense for medical services provided to these Medicare eligible retirees. The demonstration project I propose will not contribute to additional costs to the Medicare program and does not change the manner or process under which the Secretary of Defense currently budgets for health care services.

I believe that Medicare subvention will prove to be not only feasible and cost-effective, but more importantly, it is the continuation of our contract with America's service men and women. I invite my colleagues to join as cosponsors of this important legislation and maintain the commitment we have made with our Nation's military personnel.

TRIBUTE TO CF INDUSTRIES, INC.

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. CRANE. Mr. Speaker, I rise today along with my colleagues: Mr. GIBBONS and Mr. BILIRAKIS of Florida; Mr. POSHARD, Mr. LAHOOD and Mr. WELLER of Illinois; Mr. LATHAM of Iowa; Mr. MYERS, Mr. BURTON and Mr. HOSTETTLER of Indiana; Mr. TAUZIN of Louisiana; Mr. BARRETT of Nebraska; Mr. POMEROY of North Dakota; and Mr. CHABOT of Ohio, to pay tribute to CF Industries, Inc. CF Industries is an interregional fertilizer manufacturing cooperative, which this year is celebrating its fiftieth anniversary of providing service and agricultural products to the Nation's farmer cooperatives. Over 1 million farmers and ranchers in 46 States and two Canadian provinces depend on CF and its eleven regional member companies to distribute nitrogen, phosphate and potash fertilizers in a timely and cost effective manner. We congratulate CF on its high quality service and products over the past fifty years as well as its commitment to environmental, health, and safety practices.

CF began in 1946 as a broker of fertilizers for its farmer-owners. CF then branched out into manufacturing and by 1960 came closer to its goal of being the Nation's major fertilizer supplier for the agricultural cooperative community.

Today, CF manufacturing plants have the capacity to produce more than 8 million tons of fertilizer products annually. In 1995, CF sales totaled over $1.3 billion. CF manufacturing plants include nitrogen fertilizer complexes in Donaldsonville, LA and Medicine Hat, Alberta, Canada, as well as extensive phosphate mining and manufacturing facilities in Florida. CF's headquarters are located in Long Grove, IL.

The extensive distribution system operated by CF allows products to reach their regional member cooperatives and, ultimately, their farmer-owners. CF has ownership and lease positions in 63 regional terminals and warehouses. Total storage capacity of CF's distribution terminals and warehouses is in excess of 2.4 million tons of product.

We would like to close, Mr. Speaker, in expressing our best wishes to CF and its employees as they look forward to providing good quality products and services to their members for the next 50 years.

INTRODUCTION OF NATIONAL MISSILE DEFENSE ACT

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. LIVINGSTON. Mr. Speaker, I am introducing today the Defend America Act of 1996.

Just a few short weeks ago, during consideration of the National Defense Authorization Act, S. 1124, I stood in this Chamber with Chairman SPENCE and my colleagues on the Authorization Committee and said that Members of this Republican controlled House would not be party to one of the most irresponsible acts of negligence on the part of this or any administration. It is no secret to this body that I am speaking of the administration's decision to leave the American people defenseless against a ballistic missile attack.

On that day, Chairman FLOYD SPENCE and I vowed that Congress would initiate its own legislation to make certain that ballistic missile defense is one of our Nation's highest priorities. Today, along with Speaker GINGRICH, Chairman FLOYD SPENCE, and other leadership in the House, we are making good on

VOL 142 PT 5 MR 21 — 29 1996 UMI

that promise. Today, we are introducing the Defend America Act of 1996. This legislation stands in sharp contrast to the Clinton administration's philosophy. It is an unequivocal statement in favor of defending the United States from ballistic missile attack. Let me list some of the differences between the Congress and the administration as outlined in this legislation:

First, unlike the administration's weak, noncommittal approach, known as, 3 plus 3, this legislation calls for a firm deployment date of 2003 for a National Missile Defense [NMD] system. The administration claims it will develop an NMD capability within 3 years. But, a decision to deploy will not be made for 3 years, in 1999, and only if a threat emerges. My friends, there is no need to invent a threat. An article in the New York Times, January 23, 1996, records China's veiled threat to use a nuclear missile against Los Angeles. What more do we need?

Second, we call for an NMD system that can defend the United States and its territories. The administration's proposal leaves open the possibility that Alaska and Hawaii would be left defenseless. We know North Korea is already developing a long-range missile that is capable of hitting points in Alaska and Hawaii. Given these facts, it is hard to image the President of the United States proposing to defend only part of the Nation against missile attack. Yet, it seems that this is exactly what the administration is intent on doing.

Third, this legislation does not limit the ballistic missile architecture simply to comply with an outdated, obsolete treaty. Rather, it permits the Pentagon to develop an effective National Missile Defense system that will be able to counter emerging threats and defend the American people.

Ladies and gentlemen, this legislation will ensure that the next time China makes a veiled threat to use nuclear weapons against Los Angeles, the United States has a response that does not include a massive nuclear lay down and the destruction of thousands of lives.

TRIBUTE TO REV. JAMES R. GREEN, JR.

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. TOWNS. Mr. Speaker, there is no greater calling than service to God. I am honored to recognize Rev. James R. Green, Jr., the pastor of Universal Baptist Church on the occasion of 12th pastoral anniversary.

Reverend Green's pursuit of ministerial service was cultivated from the faith and actions of his grandfather, who was a devoted servant and preacher of the gospel. In keeping with his Christian faith, Reverend Green founded the Association of Brooklyn Clergy for Community Development [ABCCD] to be advocated on behalf of human services, housing, and economic development.

Reverend Green's activism and faith have been bolstered by his avid pursuit of education. He has received degrees from Long Island University, The Manhattan Bible Institute, the Trinity Theological Seminary, and is currently working on a D. Min. in pastoral care.

The vision, unselfishness, and dedication of Pastor Green is an example of spiritual empowerment. His efforts to educate young children through the creation of a God-centered school is truly commendable. It is my pleasure to introduce Reverend Green to my House colleagues.

CSIS AMERICAN-UKRAINIAN ADVISORY COMMITTEE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. GILMAN. Mr. Speaker, as cochairman of the Congressional Study Group on Ukraine, I applaud the American-Ukrainian Advisory Committee for the constructive policy recommendations contained in a communique issued at its third meeting, which was held in New York City on November 17 and 18. The committee is a high-level group of distinguished Americans and the Ukrainians, chaired by President Jimmy Carter's national security advisor, Zbigniew Brzezinski, and sponsored by the Center for Strategic and International Studies, a highly regarded policy research institute in the Nation's Capital.

The committee's communique, with 22 recommendations encompassing the areas of security policy, economic reform, and business investment, provides a strategic blueprint for enhancing American-Ukrainian relations on the grounds that an independent and secure Ukraine is good for Europe and its stability and is an important geopolitical interest of the United States. Its key recommendations, to which I invite my colleagues' attention, are:

A clear articulation by the United States of its vision of European security architecture and development of a consistent, long-term United States policy toward Ukraine that views and supports an independent, democratic, and economically successful Ukraine as a Central European state and a key factor of security and stability in Europe as a whole;

Creation of a ministerial-level United States-Ukrainian Joint Commission to deal with key issues such as energy supplies and security, environmental protection, and combating organized crime;

Extend eligibility to Ukraine under the NATO Participation Act of 1994 and encourage and support Ukraine's active participation in the Partnership for Peace Program;

Facilitate Ukraine's participation and integration into a variety if European multilateral institutions;

Acceleration and broadening of the Ukrainian Government's privitization program;

Renewed commitment by the Ukrainian Government, with international support, to implementing real macroeconomic stabilization;

Establishment by the Ukrainian Government of clear property and contract rights to protect and enforce foreign and domestic investors' rights; and

Creation of a joint American-Ukrainian Business Forum for business leaders to discuss business opportunities and obstacles in both countries.

After centuries under harsh imperial rule, Ukraine emerged from the wreckage of the Soviet Union as a New Independent State which wants to belong to an expanded European Community. As one who has long supported the struggle of the Ukrainian people to free themselves from Moscow's yoke, I strongly believe that Ukraine's continued independence and its development as a democracy based on a market economy are vitally important elements in promoting enduring peace in Europe.

TRIBUTE TO DR. MARY EDWARDS WALKER

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mrs. KELLY. Mr. Speaker, today I rise in honor of Women's History Month to acknowledge the formidable accomplishments of a fellow New Yorker, Dr. Mary Edwards Walker.

Disregarding the prejudices of the 1840's and 1850's which looked with scandalized disapproval on attempts by women to join professions, Mary Edwards Walker successfully struggled to pursue her ambition to study medicine. Graduating from Syracuse Medical College in 1855, she became one of the first women physicians in the country.

In 1865, Dr. Walker became the first and only women to receive the Congressional Medal of Honor for bravely serving as a surgeon in the Union Army during the Civil War. She held this title with distinction for 35 years until the Adverse Action Medal of Honor Board took it away from her, claiming her status with the Army had been ambiguous. It wasn't until 58 years after her death that she reclaimed the honor she rightfully deserved.

Dr. Walker stood alone as an activist for women in a time when women thought their role in society was unchangeable. She fought for what she believed instead of just accepting what she was told.

The efforts of trailblazers like Dr. Walker made it possible for me to be standing here in the well today. As a woman and a Member of Congress, I am grateful for Dr. Walker's legacy and will work to uphold it for future generations of young women.

A TRIBUTE TO DALE ANDERSON

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. FRELINGHUYSEN. Mr. Speaker, today I rise to pay tribute to Dale Anderson, in honor of his retirement after serving as the mayor of the Borough of Florham Park for the last dozen years. This Saturday, Dale will be honored by the Florham Park Jaycees and the borough's mayor and council as the 1995 recipient of the Distinguished Service Award for his dedication to making his community a better place to live.

Anyone who knows Dale Anderson can assure you of his love and dedication to Florham Park. He and his wife Carole have resided in the borough for the past 30 years where they have raised three children. Dale's first involvement in public service came as a member of the Florham Park Jaycees and he served as its president from 1970 to 1971. Dale's service with the Jaycees launched him into what would become a 20-year commitment to public service.

As a sales representative with International Business Machines [IBM], Dale Anderson used the lessons he learned in the business world and applied them to managing municipal affairs. Like any salesman worth his salt, Dale took a "hands on," personal approach to governing, whether it was managing the annual budget of Florham Park or welcoming a new Fortune 500 company in his community's highly skilled work force and ideal public facilities and services. During his tenure on the council and then as mayor from 1984 to 1995, Dale Anderson presided over a period of unparalleled economic growth in Florham Park. He also worked to provide recreational and other activities for children and adults in his home town.

Mr. Speaker, it is often said that a leader reflects the people he represents and Dale Anderson's service to his community confirms this. The Borough of Florham Park was established by an independent and concerned group of citizens almost a century ago and Dale Anderson and the people that he serves are committed to the same high standards as its founders. These qualities are what makes Florham Park a wonderful place to work and raise a family and it is what made Dale Anderson such an effective leader.

Mr. Speaker, I want to honor Dale Anderson for his commitment to one of the communities that makes New Jersey's 11th Congressional the envy of the Nation. And I congratulate him on receiving the 28th Annual Distinguished Service Award—he is certainly deserving.

IN MEMORY OF FRANK ACOSTA

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. MORAN. Mr. Speaker, I rise to recognize the passing of a constituent of mine, Mr. Frank Acosta. Frank dedicated his life to serving his country and his community. His lifetime of service to the United States, the city of Falls Church and to the greater community of which we are a part demonstrates the tremendous importance of every person who seeks to improve our community.

Frank served as a marine in World War II and later as a reporter, Federal employee, member of the school board, citizens' employee review board, and senior citizens' commission; but Frank will be remembered most for his long-term service on the Falls Church Electoral Board. Frank always looked for a way to give something back to his community, and he certainly succeeded.

It would be impossible to count the number of lives Frank touched with his tireless dedication to his community. If we could each share just a fraction of the vision that Frank dreamed for his community, the world would be a far better place. I ask my colleagues to take a moment to remember Frank Acosta, and all of the other public servants like Frank who work every day to improve their communities.

An article about Frank Acosta follows:

[From Falls Church News-Press, Feb. 29, 1996]

FALLS CHURCH PILLAR, FRANK ACOSTA DIES

(By Margaret Jones)

Frank Acosta's death at age 77 marked the end of a long, distinguished career as journalist and public servant. Native of New York City and graduate of the College of William and Mary, he moved to this area in 1938 and started his journalistic career here as a reporter for the Washington Daily News.

A former neighbor recalls that, while working for the Washington Star in 1948, Frank was sent to Donora, PA to cover the first air inversion disaster. For four days, a toxic fog settled over the town, resulting in 20 deaths and the hospitalization of thousands. His coordination of press relations and reportage of this early serious pollution event attracted the notice of the Department of Agriculture which hired him to work on communications in that Department.

While engaged in that capacity, Frank became interested in the deterioration of the Potomac River and was instrumental in the filming of a six-part documentary titled "Our Beautiful Potomac". This series, according to the same source, did not emphasize gloom and doom but rather put forward ideas on how restoration of the waters might be brought about. Sparked by Frank's vision, this documentatory was shown not only on WRC but also aired nationally.

During his long employment with the Department of Health, Education and Welfare in communications and public affairs, he worked to develop a public health system for American Indians and on legislation which resulted in the Emergency Medical Technicians Act of 1975.

At the core of Frank Acosta's persona was his thoughtfulness, consideration of others and feeling of responsibility to his fellow man. This started within his immediate and large family and found a natural extension in the community in which he lived. Appointed in December 1995 to the Senior Citizens Commission, he had previously served as a member of the School Board and is perhaps best remembered for his long-time service on the Electoral Board. In that capacity, he served four 3-year terms from 1982 until 1994 and was a member when Debbie Taylor was hired as City Registrar in 1985. From 1987 until 1990 he served as secretary of the Falls Church Citizens Employee Review Board.

His wife Elizabeth pre-deceased him in 1994. Because of her literary interests, a memorial fund in her name was established at the Mary Riley Styles Library. The family suggests that, in lieu of flowers, memorial remembrances to Frank Acosta also be sent to the Library to establish a fund in his name.

Surviving members of this large and tightly knit family include five children and their families: JoMarie Acosta; Francis T. (Happy) Acosta; Andrew Acosta and Ann Crane and their children Ariel, Marie and David; Elizabeth (Ibby) and Patrick McCauley and their children Hannah Marie Burke and Emily Mitchell; Philip and Jody Acosta and their children Caitlin, Claire and Jake. Also surviving are five sisters; Julie Wiatt, Helen Townsend, Celeste Cooper, Angie McCleskey and Anita Dolan.

At Monday's Falls Church City Council meeting, a number of statements in honor of Frank Acosta's memory were made. Ruth Chekov, chair of the Senior Citizens' Commission, said his death "is like the passing of an era." Acosta had served on the Senior Commission last year.

Long-time friend Lou Olom said, "Frank was a stalwart in devotion to the city." He was, Olom said, "as energetic and productive a citizen as this city has had. . . . This city did not just happen, but came about because of the activity of so many citizens like Frank."

Council member Jane Scully said, "Frank was an enormously special person," and cited his role in the passage of the George Mason school bond referendum.

City Manager David Lasso cited Acosta's "sense of humor, balance and perspective," and expressed gratitude for his words of assurance last fall.

State Delegate Bob Hull reported that the State Legislature was adjourned in the memory of Frank Acosta on Tuesday.

OPPOSITION TO THE DEATH PENALTY AND ANTITERRORISM ACT

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. SERRANO. Mr. Speaker, I rise in opposition to H.R. 2703, the so-called, Death Penalty and Anti-Terrorism Act. While I would support legislation to thwart domestic terrorism, I am troubled, deeply troubled, with the extreme and unconstitutional provisions in this legislation. Correct me if I am wrong, Mr. Speaker, but since when have we as a nation addressed an issue like terrorism—something that we can all agree on—by trampling the rights of the very people that we aim to protect? This is the United States of America, and as lawmakers we are sworn to implement legislation benefiting society within the parameters of the Constitution. Unfortunately, I do not see that happening today. I believe Congress can come up with a more palatable antiterrorism bill that will be tough on our enemies domestic and foreign, but fair to the innocent.

First, the legislation gives the President power to blacklist organizations as terrorist organizations without judicial review. It goes further by violating our first amendment right to support any legal activity or associate with any organization that we choose. I do not say this to encourage those who may support terrorist activities. On the contrary, what I am saying is that we have laws on the books that forbid supporting illegal terrorist activities, but this legislation takes it much further by limiting our constitutional right of association.

Second, the definition of support is too broad. If an organization abroad has branches in America, this measure would make it illegal to contribute to charitable operations remotely related to these groups.

Finally, the bill goes even further by allowing the FBI to investigate individuals with ties to terrorist organizations without proof that they

VOL 142 PT 5 MR 21 — 29 1996 UMI

knowingly supported terrorist activities or had any reasonable knowledge that an individual or organization could possibly be engaged in terrorist activities. Present law prohibits supporting terrorist activities. When they enacted the current law, Congress saw fit to maintain the first amendment protection of legal activities.

Numerous other flaws in the bill could impede on citizens' rights: the habeas corpus provisions; the good faith exemption from the exclusionary rule for wiretapping; as well as the secret evidence measures for deportation.

As I mentioned earlier, Mr. Speaker, I support taking a strong stand against terrorists. I think we should punish individuals for illegal activities. But, certainly we do not address heinous terrorist acts with the kind of heinous constitutional violations found in this bill.

DR. JOHN HENRIK CLARKE—MASTER TEACHER

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. PAYNE of New Jersey. Mr. Speaker, in the first century, Pliny the Elder noted that "There is always something new out of Africa." As we approach the 21st century, that statement is still extremely valid. There are many scholars who track this phenomenon, but there is no one more renowned than Dr. John Henrik Clarke.

Dr. Clarke, a master teacher, always avails himself of opportunities to share his knowledge. This weekend he will visit Newark, NJ to participate in a lecture series sponsored by the New Jersey Black Issues Convention.

In 1991, during the Congressional Black Caucus Legislative Conference, I had the honor and pleasure of convening a workshop in which Dr. Clarke participated. His presentation was simply spellbinding. Everyone sensed and appreciated his labor of love—teaching. I am sure my fellow New Jerseyans will come away from this lecture equally stimulated and satisfied.

John Henrik Clarke was born on January 1, 1915, in Union Springs, AL. He grew up in Georgia and moved to New York City in 1933 where he wanted to pursue a career as writer. After 4 years of military service, he attended New York University and majored in history and world literature. From his early years Professor Clarke studied the history of the world and the history of African people in particular.

As a writer of fiction he has published over 50 short stories. His articles and conference papers on African and African-American history, politics, and culture have been published in leading journals throughout the world. He has written or edited over 21 books.

Dr. Clarke has taught African history for 20 years and presently in professor emeritus of African world history in the Department of Africana and Puerto Rican Studies at Hunter College in New York City, and a former distinguished visiting professor of African history at the Africana Studies and Research Center at Cornell University. He has received over a dozen citations for excellence in teaching and has received several honorary doctor of letters degrees. He was accepted into the Alpha Beta Upsilon Chapter of the honor society of historians, Phi Alpha Theta.

Mr. Speaker, I encourage anyone who has an opportunity to learn from Dr. Clarke to seize it.

TRIBUTE TO BARBARA AUSTIN LUCAS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. TOWNS. Mr. Speaker, in the borough of Brooklyn there is an institution called Bridge Street A.M.E. Church which serves as a beacon of light and a source of spiritual sustenance for its parishioners. Assistant Pastor Barbara Austin Lucas contributes greatly to the positive activities and energies that flow from the church. Reverend Barbara has impeccable academic credentials. She graduated with honors from Tufts University, received masters degrees from Boston University and Colgate Rochester Divinity School, and earned her Ed.D at Union Theological Seminary and Teachers College, Columbia University.

Reverend Barbara has traveled throughout the Western Hemisphere as well as the continent of Africa in her quest to seek knowledge and spread goodwill. An organizer by nature, Barbara is responsible for the Sisters Sharing Convocation in Buffalo, a program that focused on African-American women addressing solutions to critical problems that beset the black community. She is also a member of the Missionary Society, the Brooklyn Historical Society, the NAACP, and Church Women United.

A devoted mother and wife, Reverend Lucas has three children, Kemba, Hakim, and Kareem. She also works with her husband, the Reverend Frederick A. Lucas, Jr., pastor of Bridge Street A.M.E. Church. Reverend Lucas has been the recipient of numerous awards, including the Outstanding Young Women of America, the Sister Sharing Award, and the Church Woman of the Year Award. I am pleased to recognize her unique achievements and contributions.

ONE HUNDREDTH ANNIVERSARY OF PARK SLOPE CIVIC COUNCIL

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. SCHUMER. Mr. Speaker, I am proud to call attention to a distinguished organization, the Park Slope Civic Council, serving the community of Park Slope, Brooklyn, for several generations, and hopefully many more to come. The tireless work and courageous leadership exhibited by the members of the council have helped make Park Slope the caring and close-knit community it is today. As a long-time resident of Park Slope, I have witnessed the positive contributions made by this group and feel grateful for their commitment to improving the quality of life for my neighbors and their families. I wish them continued success and prosperity as they unite in celebration of their 100th anniversary.

It is not too often that a small group of civic-minded leaders join hands in furthering the needs and interests of their community. Yet, this group is exemplary for making Park Slope a special place to live and grow up. For a number of years the residents of Park Slope have benefitted from a wide range of civic projects championed by the council. I am honored to have such a courageous and innovative organization working to unify the people of my neighborhood and district. I hope that the Park Slope Civic Council will continue serving its community for another 100 years as they are acknowledged for their remarkable leadership.

HONORING JOURNALIST CRISTINA SARALEGUI

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. MENENDEZ, Mr. Speaker, I rise today to pay tribute to Cristina Saralegui, a distinguished journalist and talk show host committed to making a difference in her community. Cristina will be honored during afternoon ceremonies on March 22 by the communities of Union City, West New York, and Jersey City.

Cristina's contributions to her family, profession and community are numerous. Born in Havana, Cuba, Cristina was destined to become a renowned public personality from an early age. She was raised in the image of her grandfather, Don Francisco Saralegui, known as "The Paper Czar" throughout Latin America for his prolific magazine publishing endeavors. In 1960 at the age of 12, Cristina left Cuba for Florida, where she later attended the University of Miami, majoring in mass communications and writing.

Cristina's involvements in the field of journalism are diverse. While still in college, she participated in an internship with Vanidades, the No. 1 ranked women's magazine in Latin America. In 1979, Cristina's exceptional ability as a journalist led to her being named editor-in-chief of Cosmopolitan En Espanol magazine, a position she held for 10 years. In 1989, Cristina launched her own television program "El Show de Cristina," which has become a No. 1 rated talk show viewed by over 100 million people worldwide in 18 countries. Cristina also utilizes her talents by hosting a daily show on the radio called "Cristina Opina". Rounding out her successful mastery of the media is a monthly magazine Cristina La Revista through which Cristina endeavors to improve the lives of Hispanic-Americans and assists them in becoming more productive members of their communities.

Cristina's legendary commitment to Hispanic-Americans has been long recognized. She was recognized by the Council on Women's issues as a "No-Nonsense American Woman" for being a premier role model. The stipend received from this award was donated to the American Foundation for AIDS Research, where Cristina serves as a member of

the National Council. Other citations received by our esteemed honoree include being named a "Legendary Woman of Miami," and a "Corporate Leader Award" from the National Network of Hispanic Women.

It is an honor to have such an outstanding and considerate individual visit my district. Cristina Saralegui exemplifies the tremendously positive influence one person can have on the lives of many. I am certain my colleagues will rise with me and honor this remarkable woman.

UNFUNDED MANDATES AND CBO ESTIMATES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. HAMILTON. Mr. Speaker, the Unfunded Mandates Reform Act of 1995 is intended to assist Congress in its consideration of proposed legislation by providing the development of information about the nature and size of mandates in proposed legislation. The Congressional Budget Office is directed by that statute to help in developing such information.

I am concerned that the Congressional Budget Office estimate received by the International Relations Committee on the conference report on H.R. 1561, the America Overseas Interest Act, was not helpful in meeting the purpose of the law.

My concerns are detailed in the exchange of letters that follows.

U.S. CONGRESS
CONGRESSIONAL BUDGET OFFICE
Washington, DC, March 12, 1996.

Hon. BENJAMIN A. GILMAN,
Chairman, Committee on International Relations, Washington, DC.

DEAR MR. CHAIRMAN: In response to the request of your staff, the Congressional Budget Office has reviewed the Conference Report to H.R. 1561, the Foreign Relations Authorization Act, Fiscal Years 1996 and 1997, as reported on March 8, 1996. The bill would consolidate various foreign affairs agencies, authorize appropriations for the Department of State and related agencies, and address other matters in foreign relations.

The bill would impose no intergovernmental or private sector mandates as defined by Public Law 104–4 and would have no direct budgetary impacts on state, local, or tribal governments.

We are preparing a separate federal cost estimate for later transmittal.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Pepper Santahicia, for effects on state, local, and tribal governments; and Eric Labs, for impacts on the private sector.

Sincerely,

JAMES L. BLUM,
(For June E. O'Neill, Director).

U.S. CONGRESS, COMMITTEE
ON INTERNATIONAL RELATIONS,
Washington, DC, March 20, 1996.

June E. O'Neill,
Director, Congressional Budget Office, Washington, DC.

DEAR MS. O'NEILL: I write to register my concern with your letter of March 12, in which you provided a partial Congressional Budget Office estimate on the conference report on H.R. 1561, the Foreign Relations Authorization Act for Fiscal Years 1996 and 1997. I also would like a copy of your complete cost estimate on the conference report.

I have two major concerns with your March 12 letter.

First, you addressed the letter only to the "unfunded mandates" estimate required by P.L. 104–4 (the "Unfunded Mandates Reform Act of 1995"). It would be more useful to Members to have the cost estimate for an entire bill or conference report submitted at once. Separating CBO estimates on different issues in the same bill and supplying such estimates at different times leaves CBO vulnerable to question about its procedures, and diminishes its helpfulness for Members.

Second, I also question the "unfunded mandates" estimate you provided. You state that H.R. 1561 "would impose no intergovernmental or private sector mandates as defined by Public Law 104–4 and would have no direct budgetary impacts on state, local, or tribal governments." In my view, this assertion is not supportable when applied to several specific provisions in the conference report. These four provisions are:

Section 1104: Requires the President to certify: (1) that either Thailand, Hong Kong, Malaysia, and Indonesia keep refugee camps open or that Vietnam will expand its refugee interview programs; and (2) that any Vietnamese, Cambodians, or Laotians who cite the Lautenberg provisions (automatically allowing in refugees from certain countries) will be allowed into the United States without having to provide any additional proof.

Section 1253: Prohibits use of Department of State funding (migration and refugee assistance) for the involuntary return of any person claiming a well founded fear of persecution.

Section 1255: Adds to the definition of a refugee anyone who claims he or she is a victim of or has good reason to believe he or she may become the victim of coercive population control practices.

Section 1256: Prohibits State Department funds (migration and refugee assistance) to be used to "effect the involuntary return" of any person to a country where there are substantial grounds to believe they are in danger of being subjected to torture.

These four provisions have the potential of greatly expanding the states' burden of caring for refugees. Today, states pay on average at least $3,000–4,000 to support one refugee for a year. These financial responsibilities apply to every new refugee introduced into a state's population. Even if states are able to step out of some existing responsibilities, they cannot do so immediately. Changing regulations, adopting new laws, negotiating with the federal government, takes time. And when the groups of people who qualify for state benefits is changed, litigation will almost always result.

It seems to me that all four provisions create a strong likelihood of increased costs to states that could easily reach the $50 million threshold set by the Unfunded Mandates Act of 1985. If states may be subject to increased costs as a result of these provisions, the provisions will have a "direct budgetary impact." And if the federal government is imposing new financial burdens for states, it is creating unfunded mandates.

Given the difficulty in analyzing precisely costs in areas with a large number of unknown factors, such as how many individuals might enter the United States if these provisions were to become law, I do not think it possible to conclude in absolute terms that these four provisions do not impose direct budgetary impacts on state governments and do not create unfunded mandates.

The recently enacted Unfunded Mandates Reform Act of 1995 is intended specifically "to assist Congress in its consideration of proposed legislation" by "providing for the development of information about the nature and size of mandates in proposed legislation." I did not find your March 12 letter helpful in meeting the purpose of this law.

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

INDIAN AMERICANS DOMINATE U.S. HOTEL INDUSTRY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. ACKERMAN. Mr. Speaker, I call to the attention of my colleagues an article entitled "Hospitality is Their Business, Indian-Americans' Rooms-to-Riches Success Story." This article appeared in the business section of today's New York Times.

Mr. Speaker, as this article correctly points out, Indian Americans are now the dominant force in the domestic hotel industry. Today, Indian Americans own 12,000 hotel and motel properties. This translates into 46 percent of America's economy hotels and 26 percent of the United States total lodging. This is truly an amazing and impressive accomplishment.

Mr. Speaker, Congress is in the midst of a long and protracted debate on how to reform our Nation's immigration laws. Many of my colleagues have endorsed the idea of sharply reducing the number of legal immigrants to this country as part of this overhaul of our immigration policies. I believe that any Member who reads this article will have to seriously question and ultimately reject that proposal. We are a nation of immigrants. Immigrants have built this country into the economic powerhouse of the Western World. Indian Americans are one of our country's most visible success stories. As Joel Kotkin, a senior fellow at Pepperdine University, stated in the article, "These Indians are modern Horatio Algers."

Mr. Speaker, I urge my colleagues to closely review this important article. I know my colleagues join me in saluting the Indian American community on its speculator success in the hotel industry. We need more entrepreneurs such as the Indian Americans described in this article who are willing to become self-sufficient, productive, and profitable members of our society.

[From the New York Times, Mar. 21, 1996]

HOSPITALITY IS THEIR BUSINESS

(By Edwin McDowell)

In the quarter-century that people of Indian ancestry have been emigrating to the United States in sizable numbers, they have carved out a steadily bigger share of the nation's hotel industry. Starting with no-name motels, they soon graduated to Days Inn, Econo Lodge, Rodeway and other economy franchises.

Today, with more than 12,000 properties, Indian-Americans own 46 percent of America's economy hotels and 26 percent of the nation's total 45,000 lodgings.

VOL 142 PT 5 MR 21 — 29 1996 UMI

"We used to be isolated in a few states in the South," said Ravi Patel, whose Charlotte, N.C., company, Sree Inc., owns 20 hotels. "Now we're almost everywhere."

They are also moving up. A new generation is buying properties like Sheratons, Radissons and Hiltons, adding an upscale chapter to an immigrant success story.

The first wave of motel ownership was propelled by the Indian-Americans' strong family ties, close-knit communities and a willingness to invest years of sweat. This latest wave represents a break with tradition and a willingness to tackle bigger, more complex challenges. But the original community still provides the backing, as today's entrepreneurs pool the resources of extended families and borrow from fellow Indian-Americans, for whom a handshake is often sufficient collateral.

"These Indians are modern Horatio Algers," said Joel Kotkin, a senior fellow at the Pepperdine University Institute for Public Policy in Malibu, Calif. "They're willing to start in marginal and sometimes risky areas that native-born Americans are not interested in going into, and working incredibly long hours."

Ramesh Gokal, who bought a 26-room hotel in North Carolina soon after coming to the United States in 1976, is now president of Knights Inn, a chain of about 180 franchised economy hotels. Children of the industry pioneers are establishing their own companies and using newly acquired knowledge of capital markets to build budding empires.

"My parents' generation did business by having x dollars, buying y goods and selling for z," said Karim Alibhai, the kinetic 32-year-old president and chief executive of Gencom American Hospitality, a family-owned hotel group in Houston. "At the roadside hotels they ran, the management philosophy was get guests in and out, and have the maids clean the rooms."

But these days, "you have to know administration, management and how to use Wall Street to invest and to grow," added Mr. Alibhai, who was born in Kenya and majored in economics at Rice University. (Many Indian-American hotelkeepers came to America by way of Africa, where their families had lived for several generations in many cases.)

In Mr. Alibhai's case, the big plans are not just talk. In September, he co-sponsored a $350 million initial public offering of a real estate investment trust, one of the largest in United States history. Paine Webber was the lead investment banker and Mr. Alibhai was initially the biggest individual shareholder.

Today Gencom affiliates, which began with a single Best Western that Mr. Alibhai's parents bought in 1979 after emigrating from Kenya, own all or part of 47 hotels in 13 states. Properties include the 759-room Radisson New Orleans, the 650-room Sheraton Astrodome in Houston as well as Marriotts, Hiltons and boutique hotels in Boston and San Antonio. Revenues are expected to exceed $200 million this year.

Like his parents, Mr. Alibhai said, he "worked the desk, drove the shuttle van to the airport and learned to fix the sewer plant." In the three years after finishing college in 1984, years in which the Houston hotel industry bled red ink, he still did odd jobs at the hotel, but spent most of his time learning the business.

"Operating during that recession was my M.B.A.," said Mr. Alibhai, a trim, tennis-playing executive whose office is in a sleek Houston high-rise. In 1987, with the economy looking up but hotel values still down, Mr. Alibhai began buying distressed properties, often jointly with other Indian-Americans.

"That's when the real learning process began," he said, "not just acquiring the properties but convincing lenders who had tightened their purse strings to finance me. I had to change their perception of Indians as being identified with low-end hotels."

In many ways, Mr. Alibhai's world of revenue streams, variable inflation rates for assessing potential purchases and structuring deals with investment bankers is alien to the generation of his 60-year-old father, Akber, who is in charge of purchasing for Gencom.

"The older generation is still very cautious about sharing information, like the cost of hotels," said Jay Patel of Colorado Springs, a 43-year-old native of Zimbabwe who is part owner of seven hotels in Colorado and California. "The younger generation is much more forthcoming."

There are other differences.

"When you come from India and Africa, your view of labor is very different," Mr. Alibhai said. "People are thankful just to have a job. That's their bonus. Here, employees also want to feel appreciated. I prefer this system." Most of Gencom's corporate employees are given stock or bonuses, he said.

In the early years, Indian-Americans had problems typical of many newcomers in trying to get financing and insurance. By their account, insurers in the early 1980's suddenly canceled property insurance to all Indian hotel owners, believing them to be part of an Indian conspiracy to buy properties and burn them down to collect insurance money.

"We were turned down by about 200 insurance companies, until we convinced underwriters that these immigrants were outstanding risks," said Ron Thomas, a vice president of United Insurance Agencies in Muncie, Ind., who is widely admired by Indian hotel owners for his early efforts on their behalf.

Discrimination also took other forms, including boasts by rivals that their properties were "American owned."

Much of the more blatant bias began to wane with the formation of an Indian hotel owners' association in 1989, vigorously supported by Henry R. Silverman, the chairman of HFS Inc., and Michael A. Leven, then president of Days Inn. Starting with about 100 members, the group now numbers more than 4,000 hotel-keepers.

"Indian franchisees have been the engine of growth for the entire economy-hotel sector," said Mr. Silverman, whose company's franchises include Days Inn, Knights Inn and Super 8. "They were willing to build with their own capital when no one else was willing to."

For all their success, though, Indian-Americans have stayed away from luxury hotels and five-star resorts, and often from full-service hotels, mainly because of their cost but also for cultural and religious reasons.

"Most Indian hotel owners here are Hindus from Gujarat state and don't do well with anything involving alcohol and meat," said Mr. Patel of Colorado Springs. (Most Hindus from the western state of Gujarat are vegetarians, according to the Indian Embassy in Washington, and most Gujarati women do not drink.)

But younger Indians feel differently. "They realize you can offer meat and alcohol to your guests, because it's all part of the hotel business," Mr. Patel added.

"Within the next five years you'll see a lot of us owning luxury properties, like Ritz-Carltons," said Tushar Patel, the 31-year-old president of Tarsadia Hotels in Costa Mesa, Calif. About half of Tarsadia's 13 properties—including the 440-room Clarion Hotel at the San Francisco airport—are full-service hotels, with restaurants and bars.

Tushar Patel, by the way, is not related to Jay Patel of Colorado Springs, unless distantly, or to most of the thousands of other Patels who own hotels in the United States. Almost all Patels, even those from Africa, trace their ancestry to Gujarat, where hospitality is highly regarded.

In the United States, many Indian immigrants turned to lodging because they could buy cheap motels, they could live rent free and the family could work the front desk, clean rooms, do laundry and make repairs.

When they stepped up to franchised properties, for as little as $20,000 plus 8 percent of revenues, the Indians acquired not only toll-free reservation systems and the benefit of bulk purchases, but an education about prices, payrolls and bookkeeping.

"We'll soon have eight hotels and we're looking to open a 200-room one soon, and it's no big deal," said S. Jay (you guessed it) Patel of Alpharetta, GA. "Now we're experienced enough to know we can handle it."

His father, J.K. Patel, left a 10-year career with Barclays Bank in Kenya to come to America in 1978, spending six months looking for a business before buying a hotel in South Carolina. The elder Mr. Patel attributes the Indians' success in this country to "the way we were brought up."

Parents instilled the need for education and trust between families and among their own ethnic group. "In January I did a deal with an Indian partner in Dallas for two hotels," said Mr. Alibhai of Gencom. "We shook hands, and before the contracts were signed I wired him several million dollars."

Arvind Patel, who with his wife, Bhavna, owns a 39-room Days Inn in West Point, Miss., cites another factor—the willingness of extended families and acquaintances to provide financial help.

"We work together as a team," said Arvind Patel, a native of Tanzania. "A lot of families give you $10,000, even $30,000, without charging you interest and without any collateral. They figure one day you may help them."

But like many Indians, these Patels are branching out and moving up, building an 81-room Wingate Inn and a 58-room Hampton Inn elsewhere in Mississippi. Meantime, both continue working a full shift each day behind the desk of their Days Inn, with their 12-year-old son and 10-year-old daughter pitching in on weekends.

"And if our help doesn't show up," Mrs. Patel said, "my husband and I still clean the rooms."

Many of the older Indian-Owned motels were long ago refurbished, if only to measure up as franchises—a method the Indians quickly saw as a route to financial independence. Some properties have been kept for the next generation, but most have been sold to a newer wave of Indian immigrants.

When Indian-Americans graduate from college, many have chosen to become doctors, engineers, lawyers and accountants. "But in most families at least one son or daughter will become hoteliers, because they realize it isn't the hard work it was for us," said J.K. Patel, the former Barclays banker. "The difference is, we used to man the desk ourselves. The new generation likes sitting in the office and delegating the work."

HOUSE OF REPRESENTATIVES—*Friday, March 22, 1996*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Through our experiences we are aware, O God, that the events of life contain all the emotions of the human spirit. There are moments of triumph and moments of loss; there are days of glory and days of remorse; there are times of laughter and times of tears; there is the reality of hatred and suspicion and there is the reality of love. In all these experiences, we pray, gracious God, that we will hold to Your forgiving and assuring word, trusting in Your grace and comforted by Your peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Illinois [Mr. GUTIERREZ] come forward and lead the House in the Pledge of Allegiance.

Mr. GUTIERREZ led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 10 Members on each side for 1-minute speeches.

TRIBUTE TO NYPD OFFICER KEVIN GILLESPIE

(Mr. KING asked and was given permission to address the House for 1 minute.)

Mr. KING. Mr. Speaker, in the current film, "City Hall," the fictional mayor of New York City portrayed by Al Pacino says, "There is one thing I will never get over. That is the murder of a police officer." As a Member of Congress, as an American, and as the son of a New York police lieutenant, I could not agree more emphatically with that statement.

Mr. Speaker, this past Monday in my home parish of St. William the Abbot Church in Seaford, I attended the funeral of a police officer, Kevin Gillespie, a New York City police officer that was gunned down in the line of duty last March 14, 1996. Police Officer Gillespie was a cop's cop.

Those who murdered him personified the very worst of the criminal elements in our society. They had been previously convicted of crimes, ranging from attempted murder to assault and armed robbery. The triggerman who fired the 9-millimeter slug into Kevin Gillespie's neck is a two-time violent offender. One of his accomplices was out on $25,000 bail for an armed robbery arrest in January, a crime committed while he was out on parole.

Mr. Speaker, our criminal justice system has lost touch with the American people and is failing in its job.

Mr. Speaker, I commend Governor Pataki for removing the Bronx district attorney for refusing to carry out the death penalty in this case, and I offer my condolences to Officer Gillespie and his family.

Mr. Speaker, in the current film, "City Hall," the fictional mayor of New York City portrayed by Al Pacino says, "as Mayor, there is one thing that I will never get over, that is the murder of a police officer." As a Member of Congress, as an American, and as the son of a New York City police lieutenant, I could not agree more emphatically with that statement.

This Monday in my parish of St. William the Abbot in Seaford, I attended the funeral of a murdered New York City police officer. Highly decorated NYPD Officer Kevin Gillespie was brutally gunned down on the night of March 14, 1996. Officer Gillespie leaves behind his wife Patty and two young sons, Danny, age 7, and Bobby, age 4. A Marine Corps veteran of the gulf war, Kevin Gillespie was recognized by his fellow officers and by the people he served as truly one of "New York's Finest."

Throughout his career, first with the New York City Housing Police and then with the NYPD, Officer Gillespie distinguished himself as a very special cop. Because of his spirit, dedication, and skill, he was selected for the elite street crime unit.

Working with this unit on the night of March 14, Officer Gillespie was killed, and his partner, Terence McAllister, wounded, while attempting to apprehend a gang of three suspected car-jackers traveling in a stolen BMW. The three felons were all on parole. Collectively they had been convicted of a series of crimes ranging from attempted murder to assault and armed robbery. The triggerman who fired a 9mm slug into Kevin Gillespie's neck, Angel Diaz, is a two-time violent offender and one of his accomplices, Jesus Mendez, was on $25,000 bail for an armed robbery arrest in January. Even though arrested for a clear violation of his parole, this career criminal was allowed to make bail, walk the streets, and ultimately, commit murder.

Mr. Speaker, in its current state, the criminal justice system represents a clear and present danger to American society. Liberal judges and juries set free vicious criminals to again prey on the innocent. Unless the absolute surety of severe punishment for serious crimes once again becomes the law of the land, we are all in jeopardy.

When a civil society's first line of defense against mayhem and chaos—our police—can be killed with impunity, none of us are safe. Those who would attack with deadly force a police officer must understand that they will pay the ultimate price. The murder of a police officer is a depraved act. It displays absolute contempt for society and total indifference to human life. There is only one fitting punishment for a cop killer.

I strongly support the imposition of the death penalty for certain heinous crimes. The death penalty should be applied without question or consideration for those found guilty of murdering a police officer. There may be some argument as to the deterrent effect of such a policy—I believe that the death penalty does serve as strong deterrent. There can be no disagreement, however, over the fact, that if dealt with properly, the despicable felon who gunned down Officer Gillespie will never again threaten society.

There is no question that the death penalty should be sought in the case of Angel Diaz and his accomplices, Jesus Mendez and Ricardo Morales. On this matter I am in complete agreement with New York Governor George Pataki, New York Attorney General Dennis Vacco, and New York City Mayor Rudy Giuliani. I commend each of these men for their stand, and completely support Governor Pataki's right to remove Bronx District Attorney Robert Johnson from the case for refusing to seek the death penalty.

Mr. Speaker, Kevin Gillespie died in the line of duty doing his job for his fellow citizens. Ten thousand police officers attended his funeral to demonstrate their support for him. We must honor Police Officer Gillespie's memory by carrying out our duty and standing with the men and women of law enforcement against the violent, vicious criminals who prey upon law-abiding citizens.

Mr. Speaker, Police Officer Kevin Gillespie died as he lived—with courage, with dignity, and with faith in God. And now I ask this House to pay its own tribute to this outstanding man. Please join me as I express my regret at the loss of Police Officer Kevin Gillespie and my profoundest condolences to his wife Patty, his sons Danny and Bobby, and to his entire family.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 142 PT 5 MR 21 — 29 1996 UMI

REIN IN IRS' UNCONSTITUTIONAL POWERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Republican Party's new bill makes great strides in protecting taxpayers' rights. I commend them for including one of my provisions that allows a taxpayer to sue the IRS up to $1 million for reckless collections. But this bill is not a great bill. It stops short.

The truth is the bill leaves out changing the burden of proof in a tax case. And after all the hype, ladies and gentlemen, a taxpayer in a civil tax case will still be considered guilty in the eyes of the law and must prove their innocence.

Once again the IRS reaches in, the IRS wins, the taxpayers lose. The IRS says it will cost too much money.

Mr. Speaker, if the IRS scored the Constitution, they would throw out the Bill of Rights.

I say it is time to tell these ratch-a-frachen, bric-a-bracken bunch of pantaloomases that the taxpayers run this show, not the IRS.

The Republican Party could do something the Democrats did not have the courage to do, and we have allowed the taxpayers to be treated as dogs, guilty before the law. Shame, Congress. Let us make it a great bill.

ENSURE DOMESTIC SUPPLY OF OIL

(Mr. COMBEST asked and was given permission to address the House for 1 minute.)

Mr. COMBEST. Mr. Speaker, 5 years ago today, the costs of depending on foreign oil came due with our first downpayment on the gulf war. The House voted $42 billion to pay the military costs of ejecting Saddam Hussein from his king-of-the-hill grab of Middle East oil supplies.

Let us not make another multibillion-dollar investment to protect foreign oil. Let's at least take a fraction of that amount to ensure a ready domestic supply.

America needs a floor price that investors can bank on, regulatory relief and tax incentives to get rigs and roughnecks back into the fields.

As Intelligence Committee chairman, I say that our national security is just as threatened by our dependence on the unpredictable lifeline of foreign oil—as if we were to depend on another country for our daily bread.

Today, America imports half of its crude oil—this is a national security threat that must not stand. Like our gulf war commanders, America must draw a line in the sand and say 50 percent dependence is enough—500,000 jobs lost is enough—and 5 years to focus on oil supplies here at home is more than enough.

SAVE THE ASSAULT WEAPONS BAN

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, in the extremist world of this Republican Congress, things just get stranger every day.

Today's outrage is the Republican concept of rights. What rights do the American people have?

Quality, affordable health care for our seniors? That's not a right.

Head Start and student loans and immunizations for our children? Those aren't rights.

How about job training, a decent minimum wage, and economic security for American workers? No rights there.

But owning an Uzi submachinegun that can fire over 100 rounds a minute and is designed to terrorize our communities? Now that is a right.

What my Republican friends have really forgotten is a sense of right and wrong.

What is absolutely right is for this Congress to take every step possible to protect our families, our children, and our neighborhoods from senseless gun violence.

What is absolutely wrong is to care more about a few thousand bucks from the NRA than keeping our kids and communities safe.

Today let's vote for our kids instead of for the cash. Vote to protect our families and save the assault weapons ban.

WHO TO TRUST, WASHINGTON OR THE AMERICAN PEOPLE

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, my good friend from Illinois, through overstatement and exaggeration, once again indulges in pure fantasy. The fact is that the rights of every American are best protected when we uphold this document, the Constitution of the United States. The fact is that the most publicized murder of this decade, indeed of this half century, involved a knife. The fact is that in other democracies where there is gun control, violence with guns has not been eliminated. Look at the recent tragedy in Scotland.

The fact is, Mr. Speaker, it comes down to this question: Who do you trust? Do you trust law-abiding American citizens, or do you trust a bloated bureaucracy, willing to strip Americans of their rights and privileges?

That is the question confronting this Congress. Who do you trust? Washington, or the American people.

PAID FOR BY THE NRA

(Mr. MEEHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEEHAN. Mr. Speaker, good morning and welcome to the U.S. House of Representatives. Today's debate has been bought and paid for by the National Rifle Association. And boy was it expensive. It cost:

Soft money contributions of $308,000 to the Republican National Party Committees.

Nearly $2 million in special interest PAC contributions, 78 percent or $1.4 million of it going to Republicans.

The NRA spent another $1.5 million in independent expenditures, $1.2 million of which went to support Republican candidates.

And how about those reformers—the Republican House freshmen. They want this vote today. And there is little wonder.

The NRA shelled out $235,000 in special interest PAC money to House freshmen in the 1993–94 election cycle, 44 percent of the NRA's total PAC contributions.

Mr. Speaker, from day one this Congress has been responsive only to the powerful special interests that funnel high dollar campaign donations to the GOP. Today is just another glaring example.

ADVENTURES IN FANTASYLAND

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, recently Bill Clinton submitted the details of his fiscal year 1997 budget. I think it is safe to call this new budget adventures in fantasyland.

The adventure begins with the illusion of serious Medicare reform. Not real Medicare reform, mind you, just empty rhetoric and fake concern. Then, we'll proceed to fictitious welfare reform where all we get are vetoes and a lot of hot air.

After that, we'll travel to the tax cut mirage where tax relief seems almost within grasp, then disappears the closer we get.

Mr. Speaker, the American people now the drill by now. They have a President unwilling to keep his promises, one who hides behind politics to avoid making the tough choices.

This new budget is not a serious attempt to end big government. Really, it is just an image, a fantasy, another broken promise.

ASSAULT WEAPONS

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, assault weapons. The narcotic of the NRA. The weapon of choice for lunatics bent on slaughtering large numbers of their fellow men, women, and children.

Congress banned these killing machines. The public is disgusted with gun violence. But now a radical wing of the Republican Party, which controls decisionmaking in the House of Representatives, has decided to legalize these crowd-killing devices again.

Why? Promises made, and promises kept. Promises made and promises kept. The NRA has come to town to redeem a promise, and the Republicans who made this deadly deal are about to keep it.

The whole world is watching. It is appalled that a Nation soaked in the blood of gun violence would legalize the more efficient massacre of innocents.

Let us stop this Congress before it hurts people across this country.

WELFARE

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, do you remember who said "I will change welfare as we know it"? The answer to this question is not a $64,000 question. In fact, we all know who said it: The same individual who said that the era of big government is over, except we want it to last a little longer.

I wonder what the President really meant, or was it just another one of his hollow promises?

I do not blame my friends on the other side of the aisle, because I know pretty much where many of you stand. You said where you stand. You have been honest and straightforward about it. Many of you want to spend more money. I understand that. Many of you are less concerned about the inefficiency and the nonproductiveness of some of these plans.

I simply want to know where the President stands, not what he says. Is it candidate Clinton who wants to change welfare as we know it, or is it the current President who has vetoed every major reform?

Then again, it is an election year.

REPUBLICAN CUTS TO EDUCATION NOT NECESSARY

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, the Republican cuts in education are not necessary to balance the budget. Today's newspapers across our country report that the Nation's deficit this year is $145.6 billion, down from $163.5 billion last year, and half the $292 billion of 4 years ago under a Republican administration.

We have made great strides in reducing the deficit without the outrageous cuts in education. But the Republicans continue to insist on attacking public education and continue to govern piecemeal. The uncertainty about Federal funding has caused chaos in our local schools as they wait for final word on future funding for levels of elementary and secondary education programs. Today as we continue on the GOP's road, school districts across our Nation may be forced to lay off 40,000 teachers because of the funding uncertainty, and increase class sizes and cause an additional decline in the quality of education.

The American people want our children to be educated, but the Republicans refuse to give up on their extreme course of deep cuts education funding.

The American people want a balanced budget without these education cuts.

□ 1015

THE TAX BURDEN

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, Reader's Digest recently did a poll that showed that Americans believed that the maximum tax burden a family of four should face is 25 percent. That is what Americans think is a fair tax burden.

But reality shows that, today, the total tax burden—State, local, Federal—is near 40 percent. Mr. Speaker, and if I may strike a moralistic tone, this is wrong. It is wrong that Americans have to suffer under a nearly 40-percent tax rate. It is a recipe for disaster for us here in Washington to pass bill after bill, year after year, just to make sure the Washington bureaucracy has enough money, and while the country goes further and further in debt.

How much is enough? Forty percent? Fifty percent? How long before our children start paying an 80-percent tax rate?

Mr. Speaker, Washington taxes too much because Washington spends too much. Bill Clinton's latest budget totally fails to address the reality that we need to cut Washington taxes and cut Washington spending.

THE ASSAULT WEAPONS BAN

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker I do not profess to be an expert on the issue of the assault weapons ban. But I have heard from two people I would consider experts on the issue: Samuel Scott, chief of police in Fontana, CA and Dennis Hegwood, chief of police in Rialto, CA—both cities in my district. They are both against any effort to repeal the assault weapons ban.

Even without the support of police chiefs and other national police organizations, recently released statistics prove why we should maintain the assault weapons ban.

During the late 1980's assault weapons accounted for about 8 to 10 percent of all guns traced by law enforcement, even though assault weapons accounted for only about 1 percent of the guns in private hands. However, the number of assault weapons traces initiated in the first 8 months of 1995, 1 year after the ban's enactment, fell for the first time in recent years from prior year's level. There were 510 fewer assault weapons traced to crime in the first 8 months of 1995 than were traced during the same period in 1994—an 18-percent reduction over a 1-year period.

I seem to recall that my Republican friends across the aisle want to base every judgment about Government programs and agencies on statistical data. Well, the statistical data proves that this is an effective law.

I also seem to recall that my Republican friends across the aisle like to think they are members of the law-and-order party. Well, law and order from coast to coast favors maintaining the assault weapons ban.

It is time that Republicans live by the standards they impose on themselves and maintain the assault weapons ban.

GOOD NEWS AND BAD NEWS ON THE BUDGET

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, I think we should sort of start with positive news, and the good news is that the President gave us a budget that balances in 7 years.

Mr. Speaker, I was trying to remember what was happening just 2 years ago, what the Democrats, what the liberals, what the tax and spend people were saying. I looked up in the Committee on the Budget records of what Leon Panetta said. He said that we are heading toward down as low as a $70 billion deficit, or overspending, by the year 2003, and that is where we should be.

The good news is that we have changed the debate in Washington. Now everybody is saying yes, we need a balanced budget. It is the right thing to do for the economy. It is the right thing to do as far as our kids and our grandkids. I think it is interesting to note in the President's budget that he

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has $234 billion more taxes than the Republican proposal. He has $357 billion more spending than the Republican proposal. It tends to be tax and spend. It is balanced. Although President Clinton often says there is not a government program for every problem, he has incorporated most government Washington solutions in his budget.

THE GUN DEBATE IS REALLY ABOUT MONEY

(Mr. ROEMER asked and was given permission to address the House for 1 minute.)

Mr. ROEMER. Mr. Speaker, we are going to have a debate today about banning or removing the ban on such dangerous weapons as streetsweepers and AK–47's. But I, sadly, think the debate is not about the substantive issues that we are going to hear about and the danger of these guns and the safety of the citizens, but it is going to be about one thing and one thing alone. It is going to be about this; money.

It is going to be about the old adage: bought lock, stock, and barrel. Locking up people's election, getting stocks and putting them back in this Chamber and stuffing money down the barrel of their guns.

Now, we can either have new politics and reform about the public interests or we can continue to have these same old debates about special interests. We can either clean up our campaign coffers and get political reform, or we can continue to see the same old politics and the same old thing.

THE WERNLE HOME

(Mr. MCINTOSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCINTOSH. Mr. Speaker, today I rise with a report from Indiana. Today's report lists the Wernle home in Richmond, IN, that Ruthie and I have visited. It was founded over 100 years ago by the Lutheran Church as an orphanage. Today Rev. Paul Knecht and Mike Wilson run the Wernle home as a home for young boys and girls, many of them from abused families, to give them a chance for a better life. For older children, they are prepared for independent living and GED testing, and children learn responsibility.

They have a chance to earn a $5 allowance each weeks by performing tasks around the Wernle home. They are also taught community skills as they play and work together in their daily lives. The Wernle home receives a lot of support from local businesses in Richmond, IN: the McDonald's, the local newspaper, the Palladium-item, Van's Meats, the symphony and many other business and community groups.

It is the children at Wernle home, children who come in all sizes, races, and religions who those men and women are working to give a better life. The good folks at the Wernle home are Hoosier heroes, and I raise them up today and commend their efforts. The magic of the Wernle home is a smile in the child who is loved.

REPEAL THE ASSAULT WEAPONS BAN? A POLITICAL DEATH WISH

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, the House votes today on a bill to repeal the assault weapons ban, a political death wish in the most literal sense possible.

Please think about what Dion, Ty, and Aaron would say about this.

One night in 1993, these three high school students from Westminster, CO, were driving home, minding their own business, when out of the dark, without any warning or cause, another young person in a car pulled up beside them and started firing.

Dion was hit five times, Ty twice, Aaron once. Luckily, none of them died. But they were all shot, and shot so many times, because the person shooting at them had a AK–47.

Mr. Speaker what in the world is a weapon like that doing on the streets of Colorado?

It was not there because any hunter needed it. It was there because the gangs and the criminals and the psychos want to use it to kill as many people as they can and to outgun the police.

In September 1993, one of them was used on these three young men. Please, for God's sake do not repeal the ban on these awful weapons.

WELCOME TO A NEW DEMOCRACY

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, the Chinese civilization is the world's oldest continuous one. The Chinese are rightfully proud of their civilization and culture. This weekend the Chinese people on Taiwan will undertake a historic event that has never occurred in 4,000 years of Chinese history. For the very first time, the Chinese on Taiwan will vote directly for its president. I heartily applaud this act of self-determination. This act of popularly electing a president is in accord with the very principle of democracy.

Mr. Speaker, I want to extend my most heartfelt congratulations from one of the world's oldest democratic republics to one of the youngest. To this end, I have submitted a House concurrent resolution extending our congratulations to the free noncommunist republic of China on Taiwan.

THE ASSAULT WEAPONS BAN

(Mr. ACKERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ACKERMAN. Mr. Speaker, I rise today in utter amazement that we are even going to consider repealing the assault weapons ban. Here are provisions of law designed to keep weapons of war off of our streets and to prevent citizens from being slaughtered and our law enforcement officials from being outgunned. Yet the majority party insists we would be better off without the ban. I find that difficult to believe.

Mr. Speaker, when President Bush banned the importation of assault weapons in 1989, the number of such rifles traced to crime dropped by 45 percent. In the year of the ban on domestic assault weapons, the effect of such attacks has dropped an additional 18 percent. Despite these encouraging results, assault weapons still pose a major danger to Americans, particularly to our law enforcement officers, and I for one cannot turn my back on the valiant police officers in my district in New York City and Long Island.

Mr. Speaker, I beg my colleagues, do not defile the memory of those who died in the massacre on the Long Island Railroad. Do not sell your vote for the blood money of the NRA. Listen to the painful and courageous cries of the victims, your constituents and our police officers, law enforcement officials, and not to the special interests and the blood money of the NRA.

EVERGLADES RESTORATION

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I do not want to yell today. I want to thank this Chamber. I want to thank the conferees of the Senate and the House who have agreed to put $200 million in the budget for the Everglades restoration in Florida. The administration proposed a tax to fund the Everglades restoration. We proposed a solution, an immediate infusion of $200 million, plus vital lands to protect the fragile Everglades in Florida, protecting water supplies, protecting our second largest national park, and doing so in a bipartisan fashion.

Mr. Speaker, I commend my colleagues, particularly Speaker GINGRICH, Senators DOLE and MACK, and the 299 Members of this House who supported the efforts of environmental protection. This Congress, when it wants to, can work together in a bipartisan spirit. I hope we do more bipartisan efforts in the future in order to bring this Nation to the point of pride that it once was where it can restore the pride in ourselves and our abilities

to govern, lower the rhetoric, lower the anxiety and allow us to proceed in an orderly fashion for democracy.

TITLE I EDUCATION FUNDING

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, 10 days from now, the State of Georgia could begin laying off teachers due to Republican cuts to title I education funding. According to the Republicans, these cuts are necessary to balance the budget. Mr. Speaker, I have a hard time believing that. Especially when those same Republicans increased military spending by $7 billion for pork-barrel projects the Pentagon didn't ask for.

Moreover, Mr. Speaker, today's budget impasse is a direct result of Republicans insisting on $177 billion in tax breaks skewed to the wealthy. It's no wonder Congress' approval raring is so low.

I suppose, Mr. Speaker, the GOP plans to deal with declining geography test-scores by reducing school funding, so we can buy the bombs necessary to eliminate the countries our children can't find on a map anyway.

I guess that's one way of boosting geography test scores.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1202

Mr. GENE GREEN of Texas. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1202.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Is there objection to the request of the gentleman from Texas?

There was no objection.

GUN BAN REPEAL ACT OF 1995

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 388, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 388

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 125) to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The bill, as amended, shall be debatable for one hour equally divided and controlled by Representative Chapman of Texas or Representative Barr of Georgia and Representative Conyers of Michigan or his designee. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except one motion to recommit. The motion to recommit may include instructions only if offered by the minority leader or his designee.

□ 1030

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. Mr. Speaker, during consideration of the resolution, all time yielded is for purposes of debate only.

Mr. Speaker, this rule provides for the consideration of the Gun Crime Enforcement and Second Amendment Restoration Act under a closed rule. The amendment in the nature of a substitute printed in the report accompanying the rule is considered as adopted.

Now, Mr. Speaker, ordinarily I would favor a more open process, but this particular bill presents issues which have been widely debated, which every Member of this body understands thoroughly. Most Members were familiar with the issues in this bill before they were even sworn in as Members of the House. While this particular bill was not reported by the Committee on the Judiciary, subcommittee hearings in the Committee on the Judiciary were held on the subject of this bill, extensive hearings.

This rule provides for 1 hour of general debate equally divided between the proponents and opponents. The proponents' time will be controlled by the gentleman from Georgia [Mr. BARR] and the gentleman from Texas [Mr. CHAPMAN] on a bipartisan basis, thus ensuring both parties will be fairly represented. The time of the opponents will be controlled by the gentleman from Michigan [Mr. CONYERS], the ranking member of the Committee on the Judiciary. In the Committee on Rules the gentleman from Michigan agreed that he would provide half of the time in opposition to the gentleman from Connecticut [Mr. SHAYS] and other Republicans, thus insuring an equal division of time among the parties on both sides of this issue so we can be sure that this is going to be a fair and open debate.

The rule also provides for a motion to recommit which, if containing instructions, may only be offered by the minority leader, or his designee. This means that the minority will have the opportunity to get a vote on their best alternative proposal, and that is as it should be, Mr. Speaker.

This is a fair rule which will allow the House to consider a highly contentious issue in a balanced way and still enable Members to have time to return to their districts in time to meet with their constituents this weekend, and it is an important weekend coming up.

It is no secret that I have long been a proponent of the right of law-abiding citizens to have firearms to protect themselves, which is especially important in rural areas such as the 10,000 square miles in rural New York that I represent. It has frequently been said that guns do not commit crimes, people commit those crimes, and when people commit crimes, no matter what the weapon, we should throw the book at them, and that is what this bill does.

This bill does two things. It increases the penalties on those lawbreakers who use guns in the course of violent Federal crime or Federal drug traffic offenses, and it also contains provisions repealing the ineffective ban on certain semiautomatic weapons.

Mr. Speaker, the ban on certain semiautomatic weapons has not been effective in stopping crime anywhere in this country. No one has been prosecuted under the 1½-year-old statute that banned magazines, and fewer than three people have been prosecuted for violating the States' semiautomatic firearms ban. Think about that. More than 85 percent of the semiautomatic firearms banned under the 1994 law are rifles, the type of firearms least likely to be used in the commission of any crime. According to FBI uniform crime reports, rifles of any description, including those the law defines as so-called assault weapons, are used in, listen to this, less than 3 percent of homicides every year, less than 3 percent. In other words it is totally irrelevant.

Banning guns does not reduce violent crime. Prosecuting violent criminals and putting them behind bars is the only proven method for controlling violent crime. Historically throughout the history of this country that is true. States with the highest increases in imprisonment rates are among the States with the greatest decreases in violent crime. That is a fact. And those jurisdictions with the most restrictive gun controls, like right here in Washington, DC, continue to register the highest per capita homicide rates, the most murders than anywhere else in the Nation.

Mr. Speaker, the inescapable conclusion is that the way to stop crime is to put the criminals in prison, not take away from law-abiding citizens the right to defend themselves from criminals. Therefore, I would ask for a yes vote on the previous question on this rule, a yes vote on adoption of the rule, so that the House may proceed expeditiously to consider the Gun Crime Enforcement and Second Amendment Restoration Act. That is what we are here to do today, we have a commitment to bring this bill to the floor, and, regardless how my colleagues feel about it, it lets them vote their own conscience.

That is what this bill is all about.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of March 21, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	59	60
Modified Closed [3]	49	47	24	25
Closed [4]	9	9	15	15
Total	104	100	98	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of March 21, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17 H.J. Res. 1	Social Security Balanced Budget Amdt	A: 255–172 (1/25/95).
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109 H.R. 2491	Social Security Earnings Reform Seven-Year Balanced Budget	PQ: 228–191 A: 235–185 (10/26/95).
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of March 21, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H.Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/19/96)
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96)
H. Res. 388 (3/21/96)	C	H.R. 125	Gun Crime Enforcement	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when the Committee on Rules met yesterday afternoon to consider this rule, I made two points I feel are worth repeating here for the benefit of all Members of the House.

The first point relates directly to the consideration of the ban on assault weapons. In the 103d Congress, I believe a serious error was made when the House was not given the opportunity to take a final up or down vote on this issue. Given the controversy surrounding issues relating to gun ownership, these issues should be addressed directly, not buried in other legislative proposals, as was the assault weapon ban in 1994. Consequently, the desire of a great many Members to have a direct vote on this issue is understandable.

However, it is how we are getting to this direct vote that I find peculiar and out of the ordinary. I noted yesterday afternoon that it is unusual, though not unheard of, for the Committee on Rules to take legislation away from a committee with jurisdiction and report it directly to the floor. Section 34.1 of chapter 17 of Deschler's specifically grants the Committee on Rules that authority and this procedure was indeed used when Democrats were in the majority. In fact, our tally shows that 15 percent of the rules reported during the 103d Congress governed the debate on bills which had not been reported from their committee of jurisdiction.

But, I am concerned that the Republican majority has adopted this practice for the consideration of nearly every legislative proposal that is brought to the full House. In this session, 75 percent of the bills we have voted on have not been reported from committee of jurisdiction. In other words, no votes have been taken in the committee or committees of jurisdiction on three-quarters of the bills considered by the House this session.

The Republican leadership would do well to read this small pamphlet entitled "How Our Laws Are Made." Every office has copies. They are used to send as educational materials for schools and citizens who are interested in the legislative process. The language is not hard to understand. Please let me read a pertinent passage:

> Perhaps the most important phase of the congressional process is the action by committees. That is where the most intensive consideration is given to the proposed measures . . .

This short book goes on to describe committee deliberation, committee voting, the preparation of committee reports, and how that committee action and those reports are used as part of the legislative history of bills which later become laws. This book neatly sums up the accountability directly attributable to the committee process.

But, Mr. Speaker, in the direction we are heading, it seems that the Rules Committee will be the only committee in the remainder of the 104th Congress. All other committees will be irrelevant. Mr. Speaker, if that is the intention of the Republican majority, it might be necessary for the House to reprint this small pamphlet to reflect the new Republican realities.

In closing, let me say that because there is no committee report to reflect the debate in the committee of jurisdiction, I believe it is vitally important that all sides of this issue be allowed an opportunity to speak. Consequently, it is my intention to yield time to Democrats who both support and oppose this rule and who both support and oppose this legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I rise in strong opposition to this rule. This is a shameful day in this House. This rule adds little glory. No hearings, no committee votes, only 1 hour of debate on one of the most important issues that will affect us. This assault weapons ban was brought to the floor faster than a Uzi's bullet.

Why? It was brought to the floor so quickly so the Nation will not see it coming.

Today Speaker GINGRICH is launching a sneak attack, and the American people are being ambushed. Seventy-five percent of all Americans do not want Uzis. They do not want AK-47's. They do not want any of these killing machines on American streets.

But we will not have a chance to debate that in full. One hour of debate on this, one of the most important issues we will grapple with? I have great respect for my colleague from New York, and I think he is a fair, fine gentleman, but this is not one of his finest hours.

No one in America is fooled by a few extra sections in the bill. As the gentleman from Texas [Mr. FROST] said, the Committee on Rules wrote this bill. We may as well not have committee hearings, and we did not have committee hearings.

Some say we had hearings. The two hearings that the opposition is pointing to were held before this bill or its predecessor bill was even introduced. There have been no hearings, none, not one, in this Congress on the assault weapon ban repeal, and the rule is more fitting of a dictatorship than a democracy.

Speaker GINGRICH is launching this sneak attack for one simple reason, because he knows the American people vehemently disagree with him, but he must kiss the ring of the NRA, and thus we have this shameful, shameful, shameful procedure.

Mr. SOLOMON. Mr. Speaker, I proudly yield 2 minutes to the gentleman from Georgia [Mr. BARR], a freshman Member of this body and one of the major sponsors of this legislation, along with the gentleman from Texas [Mr. CHAPMAN], a Democrat.

Mr. BARR of Georgia. I thank the gentleman for yielding this time to me.

Mr. Speaker, my esteemed colleague from New York talks about a sneak attack so that the people will not see it coming. People in this body know that the gentleman from New York [Mr. SCHUMER] sees these things coming even when they are not coming. He knows fully when they are coming up,

VOL
142
PT
5
MR
21
—
29
1996
UMI

how they are coming up, and he marshals his forces better than any Member of this Congress when these issues come up.

This is hardly a sneak attack. This is an issue, Mr. Speaker, that the American people know. This is an issue, Mr. Speaker, that every Member of this body, every one of the 435 Members of this body, every one of the 100 members of the other body, know backwards, and they know it forwards, they know it sideways. There is no single issue in this 104th Congress, or the 103d, or the 102d, Mr. Speaker, that is more well known, more fully debated than the issue of how to protect American citizens against crimes involving firearms.

The rule that the gentleman from New York [Mr. SOLOMON] has come forward with, Mr. Speaker, has itself been fully debated. The issue has been fully debated at hearings.

My colleague from New York expresses great surprise and dismay that the bill which we are considering here today may have been introduced after the hearings. Mr. Speaker, is that not the best time to introduce a bill, after there have been hearings on the issue so that the bill can be crafted, fine-tuned and honed so that it reflects the input from citizens and from interest groups and from other Members as this legislation does?

The procedures in which we are about to embark today, Mr. Speaker, have been fully aired, are being fully aired, in the hallways, in this Chamber, in committee rooms, and in homes all across America. It is high time that this body stood up unafraid, unabashed, undefensive and said there is a better way to protect American citizens, to make sure that those people who cry out for protection are indeed protected. It is this legislation.

□ 1045

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS] the ranking member on the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I would say to the gentleman from Georgia [Mr. BARR] the hearings the gentleman is talking about had nothing to do with the bill that is on the floor today. Maybe the gentleman remembers it or maybe he forget it, but to represent that we have had these hearings, that this has been considered in the manner that the gentleman suggests, is not quite accurate, sir. That is why I take this time to point that out. Sorry the gentleman was not paying attention.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER]

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The gentleman from Missouri [Mr. VOLKMER] is recognized for 3 minutes.

Mr. VOLKMER. Mr. Speaker, there are not many times, but there are some times when the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules, and I agree. This is one of these times that I strongly agree, and I think just as strongly as the gentleman from New York on this issue.

Mr. Speaker, I would like to address my remarks basically to those Members that were not here in August 1994 and September 1994, because those that were know how they voted and know why they voted, and basically it is the same vote. However, those who were not here in 1994 know that if they do not know much about guns, I think Members should educate themselves before they vote on this issue. I would like to help them just a little bit.

In the first place, these guns that were banned, the few semi-automatics that were banned are no different, are no different from the semi-automatic that I use every year that I go hunting for deer in Missouri in my district. They work the very same way. They just look different. They are no different, they are no different. They were in that same bill in 1994 that banned a few semi-automatics that they call assault weapons, that are not, Mr. Speaker, they are not. I can tell the Members why in a minute.

Look at that list. Those are the ones that the gentleman from New York [Mr. SCHUMER] and all the other ones say, "These are okay. These are fine." There are Uzis on there. Yes, there are Uzis on here. They are fine. There are all kinds of semi-automatics on here. Every one of them are semi-automatics. They are fine. The only difference is the way they look.

Mr. Speaker, I can take my deer rifle, and if I paint it black and if I put a metal folding stock on it, the gentleman from New York [Mr. SCHUMER] would say that it should be banned because of the way it looks. The ones that were banned, all these semi-automatics, look bad. They look like they might be a military weapon, but they are not a military weapon.

I would just like to tell those Members that have not voted on this, Mr. Speaker, have no fear. What was done in 1994 in the crime bill has necessitated some of us to be here to fight to try and save other programs. But one thing that was done in 1994 in that crime bill that has not stopped any crime was the ban on semi-automatic rifles. It has not stopped any crime. The FBI will tell you, less than 1 percent of the crimes are used with these weapons.

I would like to ask the Members, what is the difference between a ball bat that is red and one that is black and one that is just plain clear wood? Is there any difference? I do not know of any difference. They all hit the ball. If you have the right batter, they can do home runs. Another batter might just hit a single, but they are all the same.

If I take that ball bat, that black one, it looks ugly. I should not let a batter use it because it is ugly. That is what the ban is all about, no different. Ball bats are all the same. These semi-automatic rifles are all the same, but the ones that have been banned, they just do not look good. That is why the gun banners say they should be banned.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. CONYERS.]

Mr. CONYERS. Mr. Speaker, that is the kind of rhetoric Members are going to get all day. We are going to constantly get the baseball bat analogy and a lot of other silliness, when the fact of the matter is that this list was shortened because of the people that support the NRA that made us shorten the list. We wanted a longer line. Now that we do not have it, well, it should be a lot longer. Why is it not a lot longer?

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would ask the gentleman, who was in charge? He was not allowed, his Democrat leadership did not allow him?

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I just heard the most idiotic statement I have ever heard here. I really have. None of us had anything to do with this list. It was the proponents. There, the gentleman from New York [Mr. SCHUMER] and the gentlewoman in the Senate, the gentlewoman from California, made up this list, nobody else. They did not have to have a list. They could have had every semiautomatic and tried to ban it. They would not have succeeded.

Mr. FROST. Mr. Speaker, as I indicated in my opening remarks, I am yielding to Democrats on both sides of the issue. There are some Democrats who agree with this legislation and some who oppose it.

Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, this notion that we cannot make a difference because if we ban so many, we are not banning all of them, or if you cannot save all crime, you are not going to try to save any at all, is just bogus.

Our responsibility in this House is to do what we are able to do. That is our responsibility. If we are able to save anyone's life because we ban these weapons of war that spray bullets and kill people indiscriminately, then we should do so. I cannot believe in this House, a week after the kids were mowed down in Scotland, that you have the nerve to bring this bill up.

In the opening of this debate, you said we should have known about this bill before we were elected to the 104th Congress. I will tell you, we knew about this bill. Americans knew about this bill, my family knew about this bill. We did not have to read the NRA questionnaire to know about this bill. Families like mine all across this country know all too well what damage weapons can do, and you want to arm our people even more. You want to add more magazines to the assault weapons so they can spray and kill even more people.

Shame on you. What in the world are you thinking when you are opening up the debate on this issue? Mr. Chairman, this is nothing but a sham, to come on this floor and say you are going to have an open and fair debate about assault weapons. My God, all I have to say to you is, play with the devil, die with the devil.

There are families out there, Mr. Chairman, and the gentleman will never know what it is like, because they do not have someone in their family killed. It is not the person who is killed, it is the whole family that is affected.

Furthermore, people will say, and I have heard this argument already, this is not effective because it is not cutting crime, you are not cutting crime. That is the wrong question. It is not about cutting crime, it is about cutting the number of people who get killed by these assault weapons. You are asking the wrong question. It is not about crime, it is about the families and victims of crime. That is what we are advocating, in prosposing this ban. That is why we should keep this ban in place.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before the gentleman leaves the floor, and I have a great respect for he and his family, but I am going to tell him something, when he stands up and questions the integrity of those of us that have this bill on the floor, the gentleman ought to be a little more careful. Let me tell you why.

Mr. KENNEDY of Rhode Island. Tell me why.

Mr. SOLOMON. My wife lives alone 5 days a week in a rural area in upstate New York. She has a right to defend herself when I am not there, and don't you ever forget it.

Mr. KENNEDY of Rhode Island. You know the facts about this. You have guns in the home that are going to be used against your own family members. You know what the evidence is.

The SPEAKER pro tempore. (Mr. TAYLOR of North Carolina). The gentleman from New York has the time.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. VOLKMER. Following the previous speaker, the gentleman from Rhode Island [Mr. KENNEDY], who spoke so eloquently, I will agree, there was, I heard and I saw, because I turned and saw, there was applause and clapping in the galleries. We have rules in this House concerning that. I would like for the Chair to address the gallery and inform them of the rules of the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all persons in the gallery that they are here as guests of the House; that any manifestation of approval or disapproval of proceedings is in violation of the rules of the House.

Mr. SOLOMON. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia, Mr. BOB BARR, one of the sponsors of this legislation.

Mr. BARR of Georgia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the previous speaker on the other side speaks very loudly, if not eloquently, but some of his analogies, some of his terms are rather confusing. He talks about the devil. The devil is the person with a gun in his hand who murders anybody in this country. That is the devil. That is the person to which this legislation today is aimed. It is the devil in Scotland who murdered 16 children and their teacher in a country that bans virtually every type of weapon, every type of handgun. That is no guarantee of anything. We must have this legislation to protect against exactly what the gentleman from Massachusetts is talking about.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, why are we here? It is murderously irresponsible for this House to take up this action today. There are only two forces in this country that want us to consider this measure: The National Rifle Association, and the Republican leadership of this House.

When I go back to my district, I go through the grocery stores and I do not have anybody stopping me and saying, "Mr. BARRETT, Mr. BARRETT, we have to get those AK–47's back on the street." When I take my son to preschool, I do not have anybody saying, "Mr. BARRETT, Mr. BARRETT, we have to get those Uzis back on the playgrounds." When I go to church, I do not have anybody stop me and say, "We have to get those Tech–9's back in the hands of those criminals."

The gentleman from Georgia [Mr. BARR] talks about the devil, the devil does this. You can give the devil his due, but do not give the devil then an assault weapon. It is wrong to put those weapons into the arms of people who want to kill Americans.

Mr. Speaker, we have a chance today to do what is right. We have a chance today to say to the NRA, take your money, take your money. We do not want it in our campaigns. You want to buy us, lock, stock, and barrel? No. We do not want your blood money, because it is murderously irresponsible to put AK–47's on the streets of America. It is murderously irresponsible to put Uzis on playgrounds in this country. It is murderously irresponsible to put street sweepers on Long Island trains.

Mr. Speaker, let us end this carnage. Let us end what happened in San Francisco. Let us end what happened in Long Island. Let us make sure that we do not have a Scotland situation in this country.

Mr. Speaker, to do that, we only have to do one thing today. That is to say no to the NRA. It is something that 70 percent of the people in this country want us to do, and it is something that every single Member of this body should do today.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Albuquerque, NM, Mr. STEVE SCHIFF, one of the most qualified men to serve in this body because of his prior experience before he came, and a member of the Committee on the Judiciary.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the rule and in support of the bill.

During the period of time I have been in the U.S. Congress, I have voted both for and against gun control. I have found each vote to be inherently controversial, because this is a very difficult issue. I have, however, never seen an issue in which there was so much misinformation being cast about. I think there are two serious areas of information about the kinds of weapons we are talking about here.

To begin with, Mr. Speaker, they are not assault weapons. Assault weapons are automatic weapons; that means a machinegun or submachinegun; pull the trigger, and the gun continues to fire for as long as it has bullets. Indeed, I have seen national news programs where they are talking about this bill, and they are showing the public fully automatic weapons.

Not one of the weapons we are talking about in this bill is an assault weapon. Not one of the weapons we are talking about in this bill is an automatic weapon. They are not AK–47's and Uzis of the automatic type. But that is what the public has been told over and over again, and would like to believe.

The fact is that each of these firearms shoots one bullet with one pull of the trigger. There is no functional difference between any of the firearms that are mistakenly, I think deliberately, mistakenly called assault weapons in this bill, and weapons

VOL
142
PT
5
MR
21
—
29
1996
UMI

which are not called assault weapons. In fact, the way this bill describes assault weapons, or I should say, real assault weapons, real automatic weapons, machineguns, submachineguns, have been regulated for decades, and I think they ought to be.

□ 1100

I do not propose to change that. The weapons we are talking about here are called assault weapons mistakenly based upon their appearance.

For example, if a certain rifle has the ability to carry a bayonet, under this existing legislation that makes it an assault weapon. I invite the next speaker who is speaking against our bill and in favor of the current legislation to explain how if a weapon can carry a bayonet it is somehow more lethal as a firearm. But none of the speakers for the legislation are going to talk about that because they want to mislead the American people into believing we are talking about something different than bayonets. But that is exactly what we are talking about.

I was a career prosecutor before I had the privilege of being elected to the House of Representatives, and during all the years I was prosecuting criminals, none of them ever led a bayonet charge.

So I hope it can be explained rationally why saying that a bayonet on a weapon or the ability to carry a bayonet should make it illegal.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I agree 100 percent with the gentleman that it has been a misstatement all along that these are assault weapons.

I do not believe that even the opponents of the legislation, the proponents of the ban, would ever think about sending our troops into Bosnia and all around the world with this type of weapon.

In every place they go, even in Third-World countries, they are going to be outfought in any firefight because those people have real assault weapons. Those are the automatics. None of these are automatics.

Mr. SCHIFF. Reclaiming my time, the gentleman is exactly correct. The misimplication is being made that these are automatic weapons, that these are machineguns and submachine guns. It just is not true.

They are weapons that have certain visual characteristics like in being able to carry a bayonet which has no meaning as a firearm but that is what makes it illegal under the current legislation, which makes no sense to me.

Mr. Speaker, I want to bring up one other issue that I think has been confused, and, that is, statistics about how often these weapons as opposed to other firearms are used in the commission of a crime.

I asked Director Magaw that question in a letter several months ago. He is Director of the Bureau of Alcohol, Tobacco and Firearms. He responded that the U.S. Government does not keep official records of how many of the weapons they are calling assault weapons are used in crimes, so he could give me no information. Yet 2 days ago, I saw in USA Today the statement that the ATF says that 10 percent of all violent crimes use these weapons. Apparently that came from some group that supports the current legislation giving that information to a reporter.

The Bureau of Alcohol, Tobacco and Firearms denies that statement. They do not support it.

And so there is no credible information being kept about whether these firearms are used in crimes any more than any other kind of firearm. Of course since they all shoot the same, they are all going to function the same, anyway. But I think it is significant to note that an administration that says these firearms are more deadly than other firearms does not keep official records of are they used in crimes.

I think there is a place for gun control in crime fighting. The best law we have on the books is a law that has been on the books for many years. It is a Federal crime for a convicted felon to have possession of a firearm, any firearm. It does not matter what kind. But that law has not been strongly enforced by this administration or by the last two administrations.

As a member of the Committee on the Judiciary, I have tried to get the Clinton administration to agree to prosecute all convicted felons found in possession of a firearm. They refuse to do it.

As a member of Judiciary, I then tried to get the Clinton administration to set a minimum standard to say, for example, that if a convicted felon was released in the last year from a penitentiary for a violent crime, then if that person is caught with a firearm, guarantee to prosecute that person. They refuse to guarantee it.

We have two suspects for a horrendous series of five homicides. Every homicide is horrendous, but we have five homicides in which we have two suspects. Both of these suspects were recently released from the penitentiary. Both of these suspects were in the possession of firearms, and these are the kinds of people that the Federal Government will not prosecute until it is too late. They should be prosecuted when they are found with a firearm.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I rise in support of this rule and in support of repealing this ban.

There is a lot of emotion to this argument and justifiably and understandably so. I think there also need to be some facts and some statistics if you are going to write policy in the halls of this House.

There is a lot of reference to Scotland, a tragedy that is seared in the minds of all of us. Let us talk about Scotland for a second. Great Britain has some of the tightest and most restrictive gun control laws in the world. Great Britain requires a permit for any type of firearm. In Scotland, the person who committed those atrocities was apparently carrying four handguns, not the type of firearm at all at issue on the floor of this House. That person had been issued permits despite the fact that he had clear mental problems.

There are some times you cannot control it. That is what happened in Scotland. But that should not be an issue here on this floor.

The reason I support repealing this ban, I guess are the same reasons I made when I argued against the ban 2 years ago. This is not what you need to fight crime.

The statistics are quite clear on this. If you want to look at the FBI or the Bureau of Justice statistics, this type of firearm at most is used in 3 percent and most say around 1 percent of all crimes.

Does anyone really feel there has been a significant difference because these firearms are statistically or theoretically banned? I do not think so.

If this has been so effective, then there must have been a wave of prosecutions against those who manufacture or possess or transfer these firearms. How many prosecutions have there been since 1994, since this was passed? One. One prosecution pending today in this country. That is not in my State or in your State. For the entire country.

My concern with this legislation is it is cosmetic, that this ban on so-called assault weapons is cosmetic. Two firearms that shoot the same bullet at the same speed, the same velocity with the same impact. And they are semiautomatic. That means that they fire a bullet with each pull of the trigger.

They are not machineguns. They are not automatic. They are semiautomatic. Yet one is banned and one is not. That is cosmetic legislation and we do not need it here on the floor of the House.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. I thank my friend from Texas for yielding me this time.

Mr. Speaker, I have been listening to the different speakers all talk about different statistics, one saying one thing, another person saying another thing. That is why I am so disappointed that we have this rule on the floor and we are voting on the issue without having public hearings. We are not experts in law enforcement. The experts in law enforcement should have had an opportunity to come before this Congress and give us their best information as to how the assault weapon ban is working, so that we could vote intelligently on the subject so we could have that debate in our committees where we should have it.

What are we afraid of? Bringing the experts before us?

The assault weapon ban is a reasonable attempt at trying to get weapons out of the hands of people who want to cause harm and kill our citizens. It is a reasonable effort to have less guns on the street, less assault weapons on the street. It has saved lives and will continue to save lives.

It represents a minimal inconvenience to law-abiding citizens, a minimal inconvenience to save lives on the streets. It was a reasonable effort.

In my State of Maryland, we have statistics from our law enforcement people showing it has worked, that it has reduced the number of crimes in Baltimore. It has worked with State laws that we have passed working together to try to get guns out of the hands of criminals. That is what this is about.

It is beyond me that we want to in a couple of hours repeal the assault weapon ban without giving the public an opportunity to be heard on the subject as to the specific legislation that we have before us. That is not what this legislation is all about. That is not what this Congress is all about.

If we differ on the underlying facts, why do we not have the public hearings before this Congress in order to get the facts before us before we are called upon to vote?

I think we all understand the reason why we are not going to be afforded that opportunity. I urge my colleagues to reject this legislation.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

This bill before us does two things. Yes, it repeals a gun ban; but, yes, it increases penalties for those lawbreakers who use guns in the course of a violent Federal crime. The reason that language is in here is because of two Members, one named FRED HEINEMAN of North Carolina but primarily this gentleman I am going to introduce, JON CHRISTENSEN of Omaha, NE. His bill the Hard Time for Gun Crimes Act, contains this legislation. It is because of him that it is in here today. I commend him for it.

Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, I thank the gentleman from New York. It is with that that I rise today in strong support of this rule, this balanced rule that I believe will send a strong message to those criminals in America who continue to prey upon our citizens.

I believe that this debate will let us focus on the real answer, and, that is, that getting tougher on those that prey upon our society will not be tolerated any longer.

Just last week I introduced H.R. 3085, the Hard Time for Gun Crimes Act of 1996, which made it clear that anyone who commits a felony with a gun should plan on spending the next few decades behind bars, no exceptions.

While my bill provided for stiffer mandatory penalties than the measure which we will be debating shortly, it does include my language that takes it from a serious Federal violent crime to all Federal violent crimes and all drug-related crimes. By adding stiffer penalties, though, for the crimes committed with guns, we will be able to keep those who prey upon our society behind bars for a long, long time instead of being freed by the slick criminal trial lawyers who allow these slugs of society to walk our streets because of legal technicalities.

Mr. Speaker, I want to thank the chairman of the Rules Committee for allowing us to focus in on the real answer to crime, because I do not believe that gun control is crime control. But this rule today will allow us to really focus in on what I believe will be an answer to America's problems.

I urge the passage of both this rule and this very important piece of legislation.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, I have heard from nearly 100 police chiefs and sheriffs in California begging the Congress not to repeal the assault weapons ban. It occurs to me that the police chiefs and the sheriffs know a whole lot more about this than the politicians in this House who have received contributions from the NRA and who are doing the bidding of their funders.

The police do not want to face off against assault weapons on the street, but I think if we vote for this assault weapon ban repeal, we are saying it is OK for the police to face off against criminals with assault weapons in the course of their jobs.

Earlier in this Congress we passed the Congressional Accountability Act that said we would live by the same rules as those we passed for other Americans. So as we consider this bill, what is missing in this rule is an amendment to remove the metal detectors from the U.S. Capitol. Let us see how we like having citizens armed with assault weapons in our gallery. We should do that if we ask police officers to live with assault weapons.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I rise in strong opposition to the rule and H.R. 125 which would repeal the assault weapons ban. There is absolutely no good reason for Congress to repeal this ban. It is needed, it works, and the American people support it.

More than one-third of all police killed with guns from January 1994 to September 1995 were slain by illegal assault weapons. Although these assault weapons account for only 1 percent of privately owned firearms in the United States, they are 8 times more likely to be used in crime than other guns.

That is why police chiefs in my district, James Goulart of Belmont, CA; Lucy Carlton of Los Altos; Dennis Wick of Half Moon Bay; and Cliff Gerst of the San Carlos police department oppose this legislation. Poll after poll demonstrates broad support for the assault weapons ban by the American people.

Talk about a beltway mentality. You are not paying attention to the American people. This is a march to folly. Barbara Tuckman was right. Oppose the rule, oppose the legislation.

□ 1115

Mr. SOLOMON. Mr. Speaker, we have got a lot of new Members in this body, and they are all young and they are out there, and they are real fighters. One of those is this gentleman.

I yield 2 minutes to the gentleman from Indiana [Mr. HOSTETTLER].

Mr. HOSTETTLER. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules, for yielding me this time.

I listened to a very impassioned speech from my office from my fellow colleague freshman from Rhode Island, and I had to come down and speak to the fact that I totally agree with one of the points that he made, and that is that this Congress must do what it can do to end these violent crimes in America.

But that is just the point. What can this Congress do? Well, there are things that Congress can do, and there are things explicitly placed in our Constitution that speak of those things that Congress cannot do. Specifically, the second amendment to the Constitution, which says this, and I quote, "A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

What this, what a majority in this House, did in 1994 and what this Government did in 1994 is did what the Constitution said it cannot do. It infringed on the right of people to keep and bear arms.

Today I ask for my colleagues' support on this rule and on this bill so that we can undo what this Government did in 1994, what the Constitution said that it cannot do.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. LEWIS].

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. LEWIS of Georgia. Mr. Speaker, I thank my friend and colleague, the gentleman from Texas, for yielding time to me.

Mr. Speaker, I am appalled.

We knew that the extreme Republicans made promises to their special interest friends. We knew that the NRA has too much influence over this Republican Congress.

But I could not believe that it was this bad. I could not believe that that this body would endanger innocent lives.

Republicans say they want to fight crime. Instead, they fight to put military weapons into the hands of common thugs.

This bill means that more police officers will sacrifice their lives to defend our homes—our neighborhoods—our communities. This bill means that more innocent children will be gunned down in our Nation's streets.

Our families will give their lives to pay the debt Republicans owe their special interest friends. The NRA and their money cannot bring back the lives that will be lost—sacrificed to their extreme agenda.

Reject this radical, this dangerous, this sick, and obscene proposal.

These weapons are weapons and tools of death, violence, and destruction.

Reject this proposal.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON], one of the most respected members of this entire body.

Mr. EMERSON. I thank the distinguished chairman for yielding.

Mr. Speaker, I rise in support of the rule and in support of the measure before the House.

I rise today to voice my full and absolute support for the repeal of President Clinton's gun ban instituted in 1994. I have anxiously awaited this opportunity to restore the second amendment rights of all Americans, which were unjustifiably stripped away by one of the worst laws this country has ever seen. The Constitution deserves far more respect than it was afforded when the Clinton gun ban was signed into law, and today Congress can and must reaffirm one of the fundamental ideals which form the bedrock of our democracy.

Mr. Speaker, it's past time that we junked the laws that sully and undermine our second amendment liberties, which our forebears knew to be a fundamental part of a free society. Just as free speech, free religion, and other guarantees are essential to the future of a free people, so too is the freedom to keep and bear arms. All contribute to the protection of an individual's basic right to life and liberty.

The Clinton gun ban is another example of mistaking gun control with crime control. There is a problem with guns in this country, but that problem does not involve law-abiding citizens and sportsmen. The problem is with criminals who trample on our laws and continue to threaten our neighborhoods. These are the individuals who must pay for their offenses and their complete disregard for the laws of our society—not the good people in southern Missouri and throughout America. This legislation provides the much needed penalties to punish and deter criminal activity.

I would also like to take a minute to set the record straight on the so-called assault weapons targeted by the 1994 law. The firearms affected by this law are not at all the extra lethal, military-grade instruments that gun ban advocates would have you believe. They are not machineguns and they do not spray bullets. The term assault rifle is nothing more than misleading rhetoric generated by the anti-gun lobby and the liberal media. Fact is, there is no functional difference between the semi-automatic firearms prohibited by the Clinton law and those that are exempted. The reality is that the gun ban is a part of an effort to establish even more stringent controls on firearms that are appropriately and legitimately owned by Americans.

Mr. Speaker, I urge my colleagues to pass this important legislation in order to return to the people of this country the second amendment rights to which they are entitled. We need to hold true to the great legacy of our Founding Fathers, and make sure that constitutional principles are preserved.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VALÁZQUEZ. Mr. Speaker, I rise today to express my deep disgust with the extremist tactics of the Republican majority. Their drive-by method of bringing this repeal to the floor is the height of irresponsibility.

You should be ashamed of yourselves, letting the NRA pistol whip you again. Stop playing election year politics with people's lives.

Without the assault weapons ban our city streets will become killing fields. Police officers, like the two ambushed in New York City yesterday, will be cut down in the line of fire. Children's hopes and dreams will be dashed by a spray of bullets. Their blood will be on your hands.

Mr. Speaker, the truth of this vote is that the IRA is collecting its GOP IOU. But, today's sneak attack on the American people will not go unanswered. Rest assured, next November voters will make a very special payback to those who turned on them. I urge all of my colleagues to oppose this bill.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FROST asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. FROST. Mr. Speaker, every single rule the House has adopted this session has been a restrictive rule; you heard that correctly, the Republican House has so far adopted 100 percent restrictive rules in this session. And if it is adopted, the rule before us will leave that 100 percent purely restrictive rules record intact.

This is the 63d restrictive rule reported out of the Rules Committee this Congress.

In addition, 75 percent of the legislation considered this session has not been reported from committee—9 out of 12 measures brought up this session have been unreported.

I include the following material for the RECORD:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provide for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(l)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(l)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H.Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. *RULE AMENDED*.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

VOL
142
PT
5
MR
21
—
29
1996
UMI

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title.	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	1D.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res.	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1745	Utah Public Lands Management Act of 1995	H.Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min).	N/A.
H.Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dornan), H.Res. 302 (Buyer), and H.Res. 306 (Gephardt); 1 hour of debate on each.	1D; 2R
H.Res. 309	Revised Budget Resolution	H.Res. 309	Closed; provides 2 hours of general debate in the House	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H.Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.

PROCEDURE IN THE 104TH CONGRESS 2D SESSION

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered. ** NR.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131. ** NR.	N/A.
H. R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the house the motion printed in the Rules Committee report; 1 hr. of general debate; previous quesetion is considered as ordered. ** NR.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed; ** NR	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate; makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law; Chairman has en bloc authority for amends in report (20 min.) on each en bloc.	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H.Res 368	Open rule; makes in order the Hyde substitute printed in the Record as original text; waives cl 7 of rule XVI against the substitute; Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A.
H.R. 3021	To Guarantee the Continuing Full Investment of Social security and Other Federal Funds in Obligations of the United States.	H.Res 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H.Res. 372	Restrictive; self-executes CBO language regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report; Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which if contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	2D/2R.
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735. ** NR.	6D; 7R; 4 Bipartisan.
H.R. 2202	The Immigration and National Interest Act of 1995	H. Res. 384	Restrictive; waives all points of order against the bill and amendments in the report except for those arising under sec. 425(a) of the Budget Act (unfunded mandates); 2 hrs. of general debate on the bill; makes in order the committee substitute as base text; makes in order only the amends in the report; gives the Judiciary Chairman en bloc authority (20 min.) of debate on the en blocs; self-executes the Smith (TX) amendment re: employee verification program.	12D; 19R; 1 Bipartisan.
H.J. Res. 165	Making further continuing appropriations for FY 1996	H. Res. 386	Closed; provides for the consideration of the CR in the House and gives one motion to recommit which may contain instructions only if offered by the Minority Leader; the rule also waives cl 4(b) of rule XI against the following: an omnibus appropriations bill, another CR, a bill extending the debt limit. ** NR.	N/A.
H.R. 125	The Gun Crime Enforcement and Second Amendment Restoration Act of 1996.	H. Res. 388	Closed; self-executes an amendment; provides one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee. ** NR.	N/A

*Contract Bills, 67% restrictive; 33% open. ** All legislation 1st Session, 53% restrictive; 47% open. *** All legislation 2d Session, 92% restrictive; 8% open. **** All legislation 104th Congress 63% restrictive; 37% open. ***** NR indicates that the legislation being considered by the House for amendment has circumvented standard procedure and was never reported from any House committee. ****** Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

Mr. FROST. To date 9 out of 12 bills considered under rules in the 2d session of the 104th Congress, or 75 percent, have been considered under an irregular procedure which circumvents the standard committee procedure. They are as follows: H.R. 1643, to authorize the extension of nondiscriminatory treatment [MFN] to the products of Bulgaria; House Joint Resolution 134, making continuing appropriations for fiscal year 1996; H.R. 1358, conveyance of National Marine Fisheries Service Laboratory at Gloucester, MA; H.R. 2924, the Social Security Guarantee Act; H.R. 3021, to guarantee the continuing full investment of social security and other Federal funds in obligations of the United States; H.R. 3019, a further down payment toward a balanced budget; H.R. 2703, the Effective Death Penalty and Public Safety Act of 1996; House Joint Resolution 165, making further continuing appropriations for fiscal year 1996; and H.R. 125, the Crime Enforcement and Second Amendment Restoration Act of 1996.

Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, there are pictures now, there are 19 specific weapons that are restricted by the existing legislation. What I want people in this Chamber and I want people who are watching on TV to look at, which of these guns are used for hunting, maybe it is the Steyr Aug., which is one of the weapons. You can take a look at it for yourself. Is that a weapon used for hunting? Maybe it is the Fabrique Nationale, which is another one. Maybe that is a weapon used for hunting. Maybe it is the Tec-9 or the AK–47 or the Uzi or the Street Sweeper.

You know, sometimes, I mean, look for yourself, America, this is what we are talking about today. This is what we are talking about today. These are not weapons that people use for hunting. In fact, if you use one of these weapons for hunting, you could not eat the animal because the animal would not exist anymore.

Who uses these weapons? Drug dealers, terrorists, the scum of our society. That is who my Republican colleagues are protecting today.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, "Leave it alone." That is what the majority of Americans are saying. If we allow this issue to rise from the dead, it will kill people. There is one reason to prefer this ban: Criminals prefer assault weapons. That is their weapon of choice in killing cops, one-third of whom are killed by assault weapons. That is their weapon of choice. It is 8 times more likely to be used in a crime.

The difference between this ban and a pitiful substitute provision of the majority is interesting to note. The ban has brought an 18-percent decrease in the use of these weapons. The majority wants us to use mandatory prison terms, after killing a cop, after killing individuals, then put them in jail for as long as you can keep them.

The ban says, "Get the guns before they get us." Do not leave it until after-the-fact remedies. Get them now.

VOL
142
PT
5
MR
21
—
29
1996
UMI

They are trying to get us even as I speak.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

You know, everything we hear on that side of the aisle is you know, "Get the guns, take the guns away." Well, let me tell you something, if we taught some discipline to these children as they were growing up and as they become young adults, maybe we would not have these problems.

Let us get some family values back. Let us let these parents do their job. Do not take guns away from law-abiding citizens.

Mr. Speaker, I yield such time as he might consume to the gentleman from Georgia [Mr. BARR], one of the original sponsors of this legislation.

Mr. BARR of Georgia. Mr. Speaker, I thank by colleague from New York for yielding me this time.

I do find it somewhat ironic that in the middle of this debate we hear from the gentlewoman, whom I admire greatly, from Washington, DC, who represents a jurisdiction which has banned handguns for a generation yet continues to suffer under one of the highest murder rates, the highest assault rates in the country.

Mr. Speaker, the time has come to educate those watching this debate today. I have to my left a chart which contains two pictures unadulterated, nothing magical here, two guns, guns that are absolutely identical in terms of their firing power, their firing mechanism, absolutely identical. Whatever this one can do, this one can do likewise. Why? Because they are the same gun. What then makes this gun a good gun, according to the proponents of the Clinton gun ban and our opponents here today and this one a bad gun, according to the proponents of the Clinton-Schumer gun ban and the opponents of our legislation here today?

It is not anything that has to do with its lethalness. It is not anything to do with its firepower. It is not anything to do with its accuracy. It is not anything to do with how many times or how quickly somebody can squeeze off two rounds or more. It has to do with the Dianne Feinstein syndrome, and that is it looks mean. It looks different, and therefore it must be different; it must be more lethal, it must be more dangerous, it must be more deadly.

This illustrates, Mr. Speaker, probably more than any other words can, the ridiculousness of the arguments on the other side. If indeed the arguments on the other side and those making those arguments were truly consistent, were truly honest about their real agenda here, they would be trying to ban both guns because if this one is dangerous, then this one must be dangerous too because it is exactly the same gun. Of course, they are not saying that, or are they?

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to this political payoff to the gun lobby. At a time when hard-working families across America are struggling against the tougher odds, this Congress should be focusing on their interests and not on special interests.

Since NEWT GRINGRICH took over this Congress, he has been paying off political IOU's. They allowed the pollution lobbyists to rewrite our Nation's environmental laws, then they rammed through their Medicare cuts to pay off their political contributors, and now they want to put assault weapons back on the streets of this Nation because the gun lobby is calling in its chits.

My constituents and my police officers in Connecticut say to me in no uncertain terms, assault weapons do not belong in the hands of drug dealers and street thugs. Say "no" to the gun lobby, say "no" to the special interests, and say "no" to this political payoff. Support the ban on assault weapons.

Mr. SOLOMON. Mr. Speaker, I yield myself such time such time as I might consume.

I am not going to have the gentlewoman's words taken down. She came very close to it when she says the Speaker of this House is paying off. That means a political bribe. Let us be a little careful. Let us keep it up here. Otherwise I can stand up and say, why is President Clinton vetoing the product liability bill? Because of a payoff to the trail lawyers of this Nation? We do not need to get into those kinds of conversations. Let us stick to the subject here.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. Mr. Speaker, with all due respect, I think the record speaks for itself. Why else would we be here, because between January 1993 and November 1994, the NRA donated $308,000 in soft money contributions to the Republican National Committee.

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Now, these Republican freshmen that were going to shake up the place, well, they demanded this vote today. Guess what? The NRA donated $235,000 in special interest PAC money to House freshmen in the 1993–94 election cycle. That was 44 percent of the total NRA contributions from PAC's.

The NRA gave large PAC contributions to four of the five House freshmen appointed by Speaker GINGRICH to his firearms legislation task force.

In the 1993–94 election cycle, the NRA donated $1,853,000 in PAC contributions, 78 percent going to Republicans.

In the 1993–94 election cycle, the NRA spent $1.5 million on independent expenditures, $1.2 which went to support Republican candidates.

In the 1993–94 election cycle, the NRA spent $1.93 million in communications costs to support Republican candidates.

Mr. Speaker, that is why we are here.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, well, sometimes I wonder how much the gentleman that just spoke, how much he might get from the trial lawyers. I would ask him, does that affect his vote?

I do not think so. The man is a man of integrity.

Mr. MEEHAN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. Mr. Speaker, it is very, very obvious why we are here. These guys have taken millions and millions of dollars from special interest PAC's.

Mr. Speaker, the whole country is watching this debate. The whole country is watching it. Seventy percent of the American people are opposed to this.

Mr. SOLOMON. Mr. Speaker, reclaiming my time, the gentleman is not kidding anyone. The gentleman stands up and says that 73 percent of it went to Republicans. What happened to the 27 percent? Is he questioning the integrity of the other side of the aisle?

Mr. Speaker, let me get back on the subject. I would like to respond to a few comments that have been made about this rule. It is very important, since we are nearing the end of the debate. I would refer this to my good friend, the gentleman from Texas [Mr. FROST] because he and the gentleman from Michigan [Mr. CONYERS] and some others have brought up the subject.

First, this rule is similar to the rule provided in the last Congress for consideration of the bill that banned certain semiautomatic weapons. It is almost identical to the one when they were in power. That rule, House Resolution 416, I think sponsored by, I do not know if Mr. FROST carried it or Mr. BEILENSON, provided for consideration of an amendment in the nature of a substitute, and further provided, and I quote, because I want the gentleman to listen to this, "No amendment to the committee amendment in the nature of a substitute and no other amendment to the bill shall be in order."

Thas is exactly what we have here on the floor today. I do not say that the Democrats were right 2 years ago, and I do not say we are right today.

I would just like to respond further, like this rule, the rule in the last Congress provided for "one motion to recommit, with or without instructions." You have exactly the same opportunity that you gave us 2 years ago. So in both instances, opponents of the bill will be allowed the opportunity to offer one final amendment, or alternative, before the final passage vote.

Second, the gentleman from New York [Mr. SCHUMER] is he on the floor? Where is my good friend? There he is, over there. The gentleman testified before the Committee on Rules he would like to be able to offer a motion to strike, what was it, section 4? Section 4 from the bill, only if we allowed other amendments to be offered.

Now, to quote my good friend, "Otherwise he was satisfied with an up or down vote." That is exactly what we have given my good friend. I gave him exactly what he asked for.

I would just add that he will still have the right to offer the motion to strike under the motion to recommit with instructions permitted under this rule. You can still do this, you or anyone else.

Third, the gentleman from Michigan, where he is, my good friend over there, Mr. CONYERS, now the ranking member of the Committee on the Judiciary, complained this bill was not reported from any committee. That is true. We know that. But I would also observe for the RECORD that when the gentleman from Michigan was chairman, what was that committee you were chairman of before last year, oh, Committee on Government Operations, in the last Congress, he allowed, our good friend Mr. CONYERS allowed his committee to be discharged of a number of unreported bills that were considered by the House. The same situation here. No difference.

These included, and just in case you are writing up there, you know, these included a whole host of bills, H.R. 1578, H.R. 4600, both which provided for an expedited rescission process. Never reported from any committee. H.R. 3400, the Reinventing Government Act; H.R. 4604, to establish direct spending targets; H.R. 4092, the Violent Crime Control Act. Really? The Violent Crime Control Act; and H.R. 4907, the Full Budget Disclosure Act.

So the gentleman is well familiar with the practice of bringing unreported bills to the floor from his own committee when he was the chairman, and my good friend, the gentleman from Texas [Mr. FROST], who has been on the Committee on Rules as long as I have, if not longer, was there and voted to do just that.

As I indicated in the Committee on Rules yesterday, I fully expect that most of these bills we bring to this floor will be reported by a committee. You all know that I believe in the committee system, and I am going to do my best to make sure that they are. But there will be occasions in the future, as there have been in the past, under Democrat control and under Republican control, when unreported bills will be brought to the floor.

The House always has a right to determine whether or not we are going to pass this rule. If you do not like it, vote it down. But I am going to tell you something, and I have to say it from my heart, I served for 16 years in the minority. I was gaged. I could not get these product liability reform bills, medical malpractice, my flag amendment. I could not get any of these things on the floor. I was gagged.

So if we are in some kind of a rush now, I apologize, but we have got so much to do in such a short time. Maybe that is what this is all about.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 15 seconds to the gentleman from Massachusetts [Mr. MEEHAN] who wanted to correct the RECORD on one point.

Mr. MEEHAN. Mr. Speaker, just for the record, for my friend the gentleman from New York [Mr. SOLOMON] I have never taken any political action committee money. Maybe you should try it.

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield, why not take a poll of everybody on both sides of the aisle?

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, in response to the gentleman from New York [Mr. SOLOMON] only 15 percent of the rules in the last Congress involved bills that were taken away from committees, whereas we are talking about 75 percent in this session.

Second, when the assault weapons ban was brought to the floor last Congress, it was reported by the Committee on the Judiciary. It went through the committee process. This repeal has not gone through the committee process. That was the point I was making.

Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I do not question the motives on either side. Both sides make a point. The second amendment was not drafted to protect duck hunting. On the other hand, strapping a Stinger missile on your back and citing a second amendment right is a little extreme here, folks.

I think we need some balance, and the charges of politics are always amusing to me. This is not Kiwanis and Democrats; they gained the majority over these votes last year. Now, I support the limited ban. I am going to continue to support the limited ban.

But the problem in America today is we have the NRA on one side and the police on the other, and they are both good guys, they are separate and apart. And no matter what law you pass, nothing good can come from it until we bring both good guys together.

I am disappointed that my amendment, which would have created a commission to bring the NRA in, the police in, and the Congress in, to fashion out some understanding of a law we might all live with, that America can live with. I am hoping, Mr. Chairman, that you look at that in the future.

Mr. Speaker, let me say this: I am going to support a limited ban, but if we do not bring the NRA and the police together, you are whistling Dixie here.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Speaker, this is something we have tried to do, and the NRA has refused.

Mr. SOLOMON. Mr. Chairman, I yield 1 minute to the gentleman from West Palm Beach, FL [Mr. FOLEY], another outstanding new Member of this body, who represents part of my old hometown, Okeechobee.

Mr. FOLEY. Mr. Speaker, let me ask a question of the chairman of the Committee on Rules. Is it not a Democratic sponsor of the base bill, the gentleman from Texas [Mr. CHAPMAN]?

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield, the gentleman is a very honorable Member, too, the gentleman from Texas, Mr. JIM CHAPMAN.

Mr. FOLEY. Mr. Speaker, reclaiming my time, there is a lot of debate and the accusation is it is the Republicans selling out to the NRA. But it is a Democratic sponsor. The Republican leadership has allowed a Democratic bill on the floor for debate.

First of all, let us make a point, folks. Guns do not kill the people, it is who is behind the trigger that kills the person. We keep trying to blame inanimate objects for crime.

A serious problem in America, child abuse, physical and sexual abuse is going on; not created by a weapon; destruction of our children nonetheless.

Let us work together in this Chamber to stop crimes, get after the perpetrators, bring swift justice, quit death row appeals time and time again, Wayne Gacey, 20 years, $5 million of appeals, on death row, killed 33 young people. Not with a machine gun, not with a knife, he killed 30 young men. $5 million on death row appeals.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I rise in strong opposition to this legislation to repeal the current ban on the manufacture or sale of assault weapons.

This is truly a sad day for the House of Representatives. Traditionally, it has been the sole prerogative and duty of the Speaker to schedule legislation for consideration on the floor of the House. But today, our schedule is under the control of an outside interest—the National Rifle Association.

No hearings were held on this legislation, there was no committee markup and we were only given 1 day's notice that the bill was being brought to the floor. But we do not really need a hearing record or a committee report to accompany this bill because we are not here to serve in our constitutional role

VOL
142
PT
5
MR
21
—
29
1996
UMI

as Federal legislators. Today is nothing more than a payback to the powerful and PAC-rich NRA. The new majority promised them a vote. And today they get it.

Mr. Speaker, as a former New York City police officer, I know how extraordinarily dangerous these weapons are. And let's be very clear. Assault weapons are not used to hunt game or for normal recreational purposes. Quite simply, assault weapons are designed and used to kill human beings—all too often police officers. That is why every major police organization is strongly opposed to this legislation.

Proponents of this legislation who are hiding behind the second amendment should be ashamed. The second amendment protects the right of Americans to keep and bear arms. It does not guarantee every drug lord or street thug easy access to cop killing semiautomatic assault weapons.

Mr. Speaker, this is, indeed, the people's House. Let's return it to them by overwhelmingly rejecting this hideous legislation.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the so-called ban has been neither the Armageddon for gun owners that was predicted during last year's debate nor the panacea for the problem of violent crime in America predicted by the advocates. The truth is, it did not ban much of anything, not the sale, only the future manufacture of a few weapons, chosen for cosmetic reasons. And even if it was not a real ban, have we not learned that prohibition does not work well in America? That is it.

I did not support the ban, because I said it would have little or no effect, it was symbolic; nor will I support the repeal here today and trigger an endless series of debates on this issue, while this House avoids the real debate on the real issues that bring violent crime to the streets of America.

Where are the 100,000 new cops? The majority will not give us the 100,000 new police in America. They say we cannot afford it. Where are the prevention programs, so we do not have another generation of dangerous criminals in America? They have been eliminated by the new majority.

Those are the things we should be debating here today on the floor, and this debate distracts from that.

Mr. FROST. Mr. Speaker, I yield the balance of my time to the gentlewoman from California [Ms. PELOSI].

The SPEAKER pro tempore. The gentlewoman from California [Ms. PELOSI] is recognized for 1½ minutes.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong opposition to the repeal of the ban. Mr. Speaker, as you are well aware, 3 years ago at 101 California Street, a mad gunman using an assault weapon went in and, in a matter of seconds, snuffed out the lives and futures of many young people in a law firm there. And now the Republican leadership wants to repeal the ban that so many of the victims of that assault worked so hard for.

□ 1145

Mr. Speaker, the Republican leadership in this House talks a good act about caring about victims' rights. I do, too. We all talked about it a great deal in the course of the crime bill. Where are they when it comes to victims' rights when we are talking about the assault weapons? The victims of all of these assaults have called out, crusaded for this ban. I have here a long list, Mr. Speaker, not only of the victims but of the law enforcement agencies, the California State Sheriffs' Association, the California Police Chiefs' Association, lists and lists and lists of police departments and sheriffs' departments from across the State of California, the medical community, religious organizations, victims, and their families.

Mr. Speaker, in public opinion surveys, 72 percent of the people of California support the ban. So I say to these people, how do we explain to them why my colleagues are bringing this repeal to the floor, a repeal that the President has said he will veto? You tell me how I can explain to Michelle Scully, who lost her husband. Shall I just tell her that Members could not say no to the National Rifle Association?

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The gentleman from New York [Mr. SOLOMON] is recognized for 3 minutes and 15 seconds.

Mr. SOLOMON. Mr. Speaker, I thought I would come over here and just talk to my good friends on this side of the aisle. This bill, the rule here, brings a bill before us that does two things. It, first of all, repeals the ineffective ban on certain semiautomatic weapons, but more importantly, it increases the penalties on those lawbreakers who use guns in the course of a violent crime or Federal drug trafficking, which is even more important.

The ban, my friends, on these semiautomatic weapons has not been effective at all, and let me tell you why. No one has been prosecuted under this 1½-year-old statute. No one has been prosecuted. Fewer than three people have been prosecuted for violating the statute's semiautomatic firearms ban. Listen to this. More than 85 percent of the semiautomatic weapons firearms banned under this 1994 law are rifles, and yet the type of firearms that are least used in committing crimes are rifles. Think about that.

Mr. Speaker, according to the FBI Uniform Crime Reports, rifles of any description, including those this law defines as so-called assault weapons, which they are not, they are deer rifles, are used in less than 3 percent of the homicides, in the murders in this country. Less than 3 percent.

Banning guns does not reduce violent crime, you know it and I know it. Prosecuting violent criminals and putting them behind bars is the only proven method for controlling violent crime, and you know that and I know that, too. States with the highest crime imprisonment rates are among the States with the greatest decreases in violent crime. You think about that. The States you come from, if you have tough laws that put people in jail for committing crimes, you have less crime than the other States.

Mr. Speaker, the inescapable conclusion is that the way to stop crime is to put criminals in prison, not take away the rights of law-abiding citizens. I resent it. As I mentioned before, I am here in Washington 5 days a week. I live in rural New York up in the mountains, and my wife has the right to defend herself. She has the right to have weapons in her house. All these little feet in the door are attempts to take away those rights. That is why we need to repeal this ban and we need to stiffen the laws against these people, these inhumane, indecent people that would take other people's lives.

Come over here and vote for this rule, and then vote to repeal the ban and vote to stiffen the penalties on those people that commit crimes with guns.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 244, nays 166, not voting 21, as follows:

[Roll No. 91]

YEAS—244

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman

Bevill
Bilirakis
Bliley
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr

Burton
Buyer
Callahan
Camp
Campbell
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger

Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cramer
Crane
Crapo
Cremeans
Cubin
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Foley
Forbes
Fowler
Franks (CT)
Frisa
Frost
Funderburk
Gallegly
Gekas
Geren
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke

Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kanjorski
Kelly
Kim
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lazio
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Murtha
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Portman
Poshard
Quillen

Rahall
Regula
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Traficant
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Young (AK)
Zeliff

NAYS—166

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bilbray
Bishop
Blute
Boehlert
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Clayton
Coleman

Collins (MI)
Condit
Conyers
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake

Flanagan
Foglietta
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)

Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
LaFalce
Lantos
LaTourette
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Matsui
McCarthy

McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moran
Morella
Nadler
Neal
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Porter
Pryce
Quinn
Ramstad
Rangel
Reed
Rivers
Roemer
Roukema
Roybal-Allard

Rush
Sabo
Sanders
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Spratt
Studds
Thompson
Torkildsen
Torres
Torricelli
Towns
Upton
Velazquez
Vento
Visclosky
Ward
Watt (NC)
Waxman
Woolsey
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—21

Calvert
Clay
Clyburn
Collins (IL)
Cox
Cunningham
Dreier

Gibbons
Johnston
Lewis (CA)
McKeon
Moakley
Moorhead
Myers

Radanovich
Rose
Schroeder
Shaw
Stark
Stokes
Waters

□ 1206

The Clerk announced the following pairs:

On this vote:

Mr. Radanovich for, with Mrs. Collins of Illinois against.

Mr. Lewis of California for, with Mr. Moakley against.

Mr. Calvert for, with Mr. Johnston of Florida against.

Messrs. SAXTON, LEVIN, and LEACH changed their vote from "yea" to "nay."

Mr. GILLMOR changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BARR. Mr. Speaker, pursuant to House Resolution 388, I call up the bill (H.R. 125), to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. WALKER). Pursuant to House Resolution 388, the amendment printed in House Report 104-490 is adopted.

The text of H.R. 125, as amended, is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gun Crime Enforcement and Second Amendment Restoration Act of 1996".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) One of the primary duties of government is to protect its citizens from armed violent criminals. America's cherished liberty and the social and economic prosperity of its communities are dependent upon government's ability to maintain public safety.

(2) Criminals, by definition, operate outside the law and routinely acquire firearms when they so desire. Banning specific types of firearms has no effect on the moral behavior of those who choose to inflict harm on innocent citizens.

(3) the most effective way to protect the public from gun-wielding violent criminals is to arrest, convict, and incarcerate such predators, and to ensure that they serve sentences of sufficient length to prevent them from returning quickly to the streets.

SEC. 3 ARMED VIOLENT CRIMINAL APPREHENSION DIRECTIVE.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Attorney General of the United States shall establish an armed violent criminal apprehension program consistent with the following requirements:

(1) Each United States attorney shall designate at least 1, assistant United States attorney to prosecute armed violent criminals.

(2) Each United States attorney shall establish an armed violent criminal apprehension task force comprised of appropriate law enforcement representatives. The task force shall develop strategies for removing armed violent criminals from the streets, taking into consideration—

(A) the importance of severe punishment in deterring armed violent crime;

(B) the effectiveness of Federal and State laws pertaining to apprehension and prosecution of armed violent criminals;

(C) the resources available to each law enforcement agency participating in the task force;

(D) the nature and extent of the violent crime occurring in the district for which the United States attorney is appointed; and

(E) the principle of limited Federal involvement in the prosecution of crimes traditionally prosecuted in State and local jurisdictions.

(3) Not less frequently than monthly, the Attorney General shall require each United States attorney to report to the Department of Justice the number of defendants charged with, or convicted of, violating section 922(g) or 924 of title 18, United States Code, in the district for which the United States attorney is appointed.

(4) Not less frequently than twice annually, the Attorney General shall submit to the Congress a compilation of the information received by the Department of Justice pursuant to paragraph (3) and a report on all waivers granted under subsection (b).

(b) WAIVER AUTHORITY.—

(1) REQUEST FOR WAIVER.—A United States attorney may request the Attorney General to waiver the requirements of subsection (a) with respect to the United States attorney.

(2) PROVISION OF WAIVER.—The Attorney General may waive the requirements of subsection (a) pursuant to a request made under paragraph (1), in accordance with guidelines which shall be established by the Attorney General. In establishing the guidelines, the Attorney General shall take into consideration the number of assistant United States attorneys in the office of the United States attorney making the request and the level of violent crime committed in the district for which the United States attorney is appointed.

(c) ARMED VIOLENT CRIMINAL DEFINED.—As used in this section, the term "armed violent criminal" means a person who is accused of violating section 922(g)(1) of title 18, United States Code, having been previously convicted of a violent crime, or who is accused of violating section 924 of such title.

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(d) SUNSET.—This section shall have no force or effect after the 5-year period that begins 180 days after the date of the enactment of this Act.

SEC. 4. REPEAL OF THE PROHIBITIONS RELATING TO SEMIAUTOMATIC ASSAULT WEAPONS AND LARGE CAPACITY AMMUNITION FEEDING DEVICES.

(a) Section 922 of title 18, United States Code, is amended by striking subsections (v) and (w) and by striking the appendix.

(b) Section 921(a) of such title is amended by striking paragraph (30).

(c) Section 921(a)(31)(A) of such title is amended—

(1) by striking "manufactured after the date of enactment of the Violent Crime "Control and Law Enforcement Act of 1994"; and

(2) by striking "; or that can be readily restored or converted to accept,".

(d) Section 923(1) of such title is amended by striking the last 2 sentences.

(e) Section 924(a)(1)(B) of such title is amended by striking "(r), (v), or (w)" and inserting "or (r)".

(f) Section 110104 of the Violent Crime Control and Law Enforcement Act of 1994 (18 U.S.C 921 note) is repealed.

SEC. 5. MANDATORY PRISON TERMS FOR POSSESSING, BRANDISHING, OR DISCHARGING A FIREARM OR DESTRUCTIVE DEVICE DURING A FEDERAL CRIME THAT IS A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.

Section 924(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(2) by striking paragraph (1) and inserting the following:

"(1) A person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(A) possesses a firearm, shall, in addition to the sentence imposed for the crime of violence or drug trafficking crime, be sentenced to imprisonment for 5 years;

"(B) brandishes a firearm, shall, in addition to the sentence imposed for the crime of violence or drug trafficking crime, be sentenced to imprisonment for 10 years; or

"(C) discharges a firearm with the intent to injure another person, shall, in addition to the sentence imposed for the crime of violence or drug trafficking crime, be sentenced to imprisonment for 20 years;

except that if the firearm is a short-barreled rifle or short-barreled shotgun, or is equipped with a large capacity ammunition feeding device, such additional sentence shall be imprisonment for 10 years more than the term of imprisonment that would otherwise be imposed under this paragraph, and if the firearm is a machinegun or destructive device or is equipped with a firearm silencer or firearm muffler, such additional sentence shall be imprisonment for 30 years.

"(2) In the case of the second or subsequent conviction of a person under this subsection—

"(A) if the person possessed a firearm during and in relation to such second or subsequent crime of violence or drug trafficking crime, the person shall, in addition to the sentence imposed for such second or subsequent offense, be sentenced to imprisonment for not less than 20 years;

"(B) if the person brandished a firearm during and in relation to such second or subsequent crime of violence or drug trafficking crime, the person shall, in addition to the sentence imposed for such second or subsequent offense, be sentenced to imprisonment for not less than 25 years; or

"(C) if the person discharged a firearm with the intent to injure another person during and in relation to such second or subsequent crime of violence or drug trafficking crime, the person shall, in addition to the sentence imposed for such second or subsequent offense, be sentenced to imprisonment for not less than 30 years;

except that if the firearm is a machinegun or destructive device or is equipped with a firearm silencer or firearm muffler, the person shall, in addition to the sentence imposed for such second or subsequent offense, be sentenced to life imprisonment.

"(3)(A) Notwithstanding any other provision of law, the court shall not impose a probationary sentence on any person convicted of a violation of this subsection, nor shall a term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used.

"(B) No person sentenced under this subsection shall be released for any reason whatsoever during a term of imprisonment imposed under this subsection.".

Under the rule, gentleman from Georgia [Mr. BARR] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Speaker, I ask unanimous consent to yield half of the time allocated to me to the gentleman from Texas [Mr. CHAPMAN], an original sponsor of this legislation to whom this entire body owes a round of thanks, and I ask unanimous consent that he be allowed to control his time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to yield 15 minutes of my time to the distinguished gentleman from Connecticut [Mr. SHAYS], a leader on the Committee on Government Reform and Oversight, and I ask that he be given permission to yield time in blocks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, rarely would I use the Washington Post to illustrate a point, but today I must. As we begin debate today, Mr. Speaker, on this important self-defense anticriminal legislation, I must draw the attention of this body to the Washington Post, and a very unusual juxtaposition of articles therein, which really frame this debate.

The debate is a debate between Washington values and American values, Washington values as illustrated by the Washington Post's spin on this issue, quoting the title of this article here, "Assault Gun Ban's Ricochet," and it goes on with the usual Washington spin, the usual Washington pap, the inside-the-Beltway stuff, that talks about some hidden agenda here, these extremists, this NRA, and it goes on and on with its Washington values, its Washington spin.

Immediately below and to the left, Mr. Speaker, is an article that really tells us what this debate is about.

☐ 1315

It is about American values and a fear of the American people against criminals. It is about the American value that is enshrined in our Constitution that people like Suzonna Moore have the right to defend themselves because of rampant crime in our streets, not just our Nation's Capital, but especially in our Nation's Capital, and all across America.

According to the article, Mr. Speaker, this woman, an average American citizen, has felt the need to go out and buy a gun because she is not, her family is not, her house is not, her business is not being protected by the government, by the laws that we currently have on the books. We are here today to protect her and to protect millions of other American families against thugs and other criminals who would use firearms to blow away our friends, our husbands, our wives, our mothers, our parents, and our children.

Mr. Speaker, there are too many murders in America, far too many. What can we do in this body to alleviate that? Mr. Speaker, what can we do in this body to alleviate the pain that families, friends of men and women and children murdered by monsters on our streets and in our homes and in our businesses? Their pain, which we heard graphically about yesterday and read graphically about in the paper today, cannot and will not be alleviated by passing laws that say that our mothers and fathers, our husbands and wives, cannot defend themselves against heavily armed thugs.

Their pain cannot, will not, Mr. Speaker, be alleviated by laws that tell would-be murderers that "If you, the murderers of America attack our families and if you do so with guns that have larger capacity magazines, you will be guaranteed to outgun your victims." Rather, Mr. Speaker, the paid of these good, honest, hard-working American citizens who have lost loved ones to thugs, using guns of whatever sort, can be alleviated and can only be alleviated by the knowledge that their neighbors and themselves will, if this bill today is enacted, be able to fully defend themselves, and by the assurance that no longer would police officers such as Robert Perkins of Chicago, IL, be gunned down by a thug who has previously been convicted of shooting an Army officer in the face with a shotgun, and who was on parole at the time that he then murdered the police officer.

Mr. Speaker, these bereaved families would like to have this assurance and are entitled to the assurance, because this legislation would make it impossible for someone who shot a U.S. Army officer in the face to be paroled. He would be in jail for at least 30 years without parole. If he used a firearm with a large capacity magazine, Mr. Speaker, he would serve, under this legislation which President Clinton, if he is indeed interested in being tough on criminals, would sign; if a high capacity magazine was used in that crime, that person, in addition to the 30-year minimum mandatory sentence, would receive an additional 10-year minimum mandatory sentence.

Mr. Speaker, that is how we attack the problem illustrated in the paper today. That is how we go to those families who have been up here on the Hill with heart-rending legitimate stories of murder in their communities and in their homes, that is how we can give them some small measure of assurance that this will not continue to happen in America, by allowing our citizens and our families to fully protect themselves against thugs, and by the assurance that at least in our Federal system, at least in our Federal system, that what happens to other people, the same thing will happen to them, that they will be put away, and put away for a long, long time.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I would say to the dear gentleman from Georgia [Mr. BARR], if he would reread the Washington Post, which he does not like much anyway, it has nothing to do with assault weapons, the measure that is before us today.

Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SCHUMER], the one man in the House of Representatives that has worked consistently across the year when he was the chairman of the Subcommittee on Crime of the Committee on the Judiciary, and throughout his career on crime issues, the leader on the assault weapons ban.

Mr. SCHUMER. Mr. Speaker, I thank the gentleman for yielding time to me, and for his leadership and generosity on this issue.

Mr. Speaker, if there is a word that describes this House today, it is "shame." This is one of the most shameful days in the history of this House. Barely 18 months ago, we passed the assault weapons ban, a ban that saves lives every day. Who, who outside the sordid world of the Washington Beltway, could believe that we would repeal this law today? Yet, today, the Speaker, the gentleman from Georgia [Mr. GINGRICH] and the Republican majority opened fire on the ban. Who could believe that this Congress wants to put the Uzi's and the AK–47's, the MAC–10's and the TEC–9's and all the other killing machines, back on our streets? NEWT GINGRICH has bent his knee and is kissing the ring of the NRA, even though most of his own Republican colleagues know that this rash step is the wrong thing to do.

No matter how big a debt the Republican majority owes the NRA, the overwhelming majority——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WALKER). The gentleman from New York [Mr. SCHUMER] is reminded that the rules of the House do not allow personal attack on the House floor. The gentleman should confine his remarks to the subject matter at hand.

Mr. SCHUMER. I believe I am confining myself to the subject matter, Mr. Speaker. And the Republican majority will pay a price for ignoring the majority of American people in November. I wish every Member of this House could look into the face of the survivors of the assault weapons mayhem, as I have. I wish every Member would talk to the families that have lost sons and daughters and wives and husbands to the assault weapon madness, as I have. They would know that these guns do not just look bad, they are bad.

Ask the victims, the surviving wives and husbands and fathers and children and mothers, are they happy that the people who did these crimes are put in jail? They are. Maybe they would want a longer sentence. But what they would want most of all is that those criminals never had the guns to begin with so their loved ones would be alive today.

Assault weapons are disproportionately used in crime. They make up less than 1 percent of all the guns in the country, and yet they have accounted for 8 percent of the guns traced in crimes. The American gun owners throughout America are onto the NRA's lies that an automatic weapon ban would somehow take the guns away from law-abiding citizens. This law has been in effect for over a year, and the truth is not a single gun covered by it has been taken away from any law-abiding citizen.

Mr. Speaker, those who favor this repeal say that it is not the guns, it is the criminals we should go after. Fine. If they really believe that, then why do we not allow the visitors to walk into this Chamber and into the halls of this House with Uzi's and AK–47's and MAC–10's? Why do we not just junk our metal detectors? That, Mr. Speaker, is what we are asking every cop in America to do today if we repeal this ban.

This Congress, Mr. Speaker, has become more and more extreme. First, the Republican majority put the special interests above the pocketbooks of ordinary Americans. Now the Republican majority is putting the special interests of the Washington gun lobby above the lives of ordinary Americans. By bowing to the NRA and the extreme right, this House is putting the lives of American men, women, and children at risk. This is shameful, Mr. Speaker, shameful. The American people are scratching their heads in wonderment. This House should bow its head in shame.

Mr. CHAPMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me make sure that all Members of the House understand that this legislation is composed of three relatively simple elements. First is a repeal of she so-called assault rifle ban contained in the 1994 crime bill. Second, it contains a requirement that our Attorney General orders each U.S. attorney in America to designate, specify, and assign at least one assistant U.S. attorney to prosecute armed violent criminals, I think something needs to be done.

Third, this bill that we consider today will add enhanced minimum mandatory penalties on criminals who use firearms in the commission of a Federal crime. As trite as it may sound to some, it is the criminals who wreak the havoc on the families and the victims in this country. It is an outrage, and I do not think a single Member of this House would disagree when we see once- or twice-convicted criminals, criminals who have perhaps served time for a violent crime, who are paroled, and once again are put in a position where they are allowed and where circumstances allow that they can once again prey on the law-abiding in America.

As a former district attorney of 8 years, as is my colleague, the gentleman from Georgia [Mr. BARR], a prosecuting attorney, I can tell the Members that there are some, unfortunately, even some very young Americans, who by the time, I would suggest, they have gotten to the point that they can take a gun and point it in the face of a fellow person, a fellow citizen, when they have reached that point in their criminal career, then rehabilitation is probably beyond their reach.

When they have done that and been convicted and sent to jail, and they are out again and they do it again, it is time to lock up the violent criminals, it is time to throw away the key. It is time to punish those who wreak the kind of havoc on our families that we see as a result of gun violence.

It may sound trite, but I often wonder if we were here today debating how we could stop drunk driving, if someone would suggest the way that we stop the carnage on the highway, we stop the harm and the damage to families that are wreaked on those families by

VOL
142
PT
5
MR
21
—
29
1996
UMI

those that get drunk and drive, if someone came in here and said, "I have got the answer. Let's make driving Rolls Royces illegal. Let's ban Rolls Royces, to stop drunk driving and stop the crime they do," that makes about as much sense as what this Congress did in 1994.

It seems to me that we should understand, it is the driver of the vehicle who creates and causes the damage. It is the person bent on crime, bent on violence, bent on destruction, bent on thievery or robbery or whatever criminal mischief they have, that we in this Congress owe an obligation to our constituents and to this country to protect them by locking those people up. That is what this legislation will do.

That is why it is so important that today we pass this bill and tell our fellow constituents and our fellow Americans, "If you do this crime with a gun, you are gone. You are away. You will not be out there on parole, in society, where you can continue to wreak your havoc with the families and lives of innocent citizens."

Mr. Speaker, I think what we are about today is important legislation, not only protecting constitutional rights of all Americans, but doing so in a way that gives Americans the real protection they need from the violent criminals they may face in unknown circumstances. I urge a vote yes for this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield myself 10 seconds to express my appreciation to the chairman of the Committee on Rules for recommending to the primary holders of time that all sides within each party be given time, and specifically, to the gentleman from Michigan [Mr. CONYERS], for honoring that request and yielding time to the minority within the majority that strongly opposes repeal of the automatic weapons ban.

Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in strong opposition to this so-called Second Amendment Restoration Act.

This bill has precious little to do with our Constitution. It has everything to do with turning back the clock and repealing the assault weapons ban—a ban that is strongly supported by police officers everywhere—a ban that has been embraced by the American people.

Now, let us be clear, I have always supported the rights to legitimately owned weapons for sportsmen, hunters, and other law-abiding citizens. But this military-style assault weapons ban is, in the opinion of virtually every law enforcement authority in the country, an essential component of a comprehensive anticrime and anticriminal strategy.

This bill is necessary to give law enforcement the tools to attack the interstate gun running that goes on in these United States.

Let us be clear. This vote is a matter of conscience. The ban of military-style assault weapons was a rejection of "politics as usual" and an endorsement of "law and order."

My colleagues, the ban must stand.

We owe it to the law enforcement officers across this Nation—the men and women who put their lives on the line each and every day. They should not have to face Uzis and Streetsweepers and high-capacity clips as they work to protect our families.

And we owe it to the victims of gun violence, such as Amy Locicero Federici, of Hawthorne, NJ, who died in a hail of gunfire along the Long Island commuter railroad.

I would urge my colleagues to stand with law enforcement—to stand with the victims of violence—to stand with America's children—to defeat the repeal of this common-sense assault weapons ban.

Vote for the people, not the special interests.

□ 1230

Mr. BARR of Georgia. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the previous speaker spoke of the police and police officers, and the gentleman from New York [Mr. SCHUMER] did, of course, likewise.

Let us lay something before the American people. Some police officers, some police chiefs endorse the gun ban. Some do not.

The gentleman from New York [Mr. SCHUMER] speaks repeatedly of police chiefs supporting the Clinton-Schumer gun ban. And, as I said, some do. But that is not nearly the end of the story.

Other chiefs and thousands of line officers across this country, not only feel otherwise but know otherwise, such as the Police Benevolent Association. They know that the 1994 gun ban and any gun ban shifts the balance of power away from victims and toward the criminals.

These officers know that a responsible citizenry with the capability to defend itself against well-armed criminals and thugs who will always, I repeat, always have the ability to obtain whatever weapons they want, whenever they want, is a safer citizenry. There are very real examples which we will discuss.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I do not know where my friend the distinguished member of the Judiciary Committee [Mr. BARR] was yesterday, but the Fraternal Order of Police were here again to beg us not to repeal this ban. The International Association of Police Chiefs are unanimous in opposing this repeal of the weapons ban. The Sheriffs Association. The National Association of Police Officers. Every organization of police in the United States of America supports the assault weapons ban. Every one. All. 100 percent. No exceptions. And so the gentleman unfortunately is in error.

Mr. Speaker, I reserve the balance of my time.

Mr. CHAPMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, what was banned back in 1994? The weapons are not assault weapons.

Assault weapons are weapons that are used in time of war by our military. They are automatic weapons.

To educate those Members that do not know much about guns, all you have to do to fire 10, 15, 25 rounds with an automatic weapon, which is truly an assault weapon, which is only what our military have. They do not have any of these guns. Even Third World countries do not have these kind of guns.

All you have to do is you pull the trigger, and you keep pulling it and the gun keeps firing. That is an automatic weapon. That is an assault weapon.

These are not automatic weapons. Not a one of them we are talking about today.

They are semiautomatic rifles. They are the same thing as has been said before as the gentleman from New Mexico pointed out, the gentleman from Florida has pointed out. They are no different than what I use when I go hunting. The only difference is it is cosmetic. It is what they look like. And because they look like military-type weapons, they get banned. But they do not kill, they do not hurt, they do not maim any different than the same one that I use when I go deer hunting.

What is the purpose of banning these? It is to lead the people out there, the general public, to believe that this House, the Senate, and the President really did something about stopping crime, to make you feel good. It is a feel-better thing. Because it did not do that and it will not do that. Crime is going to continue, because crime is caused by the person who uses that gun, no matter what it is, or uses the knife or uses the ball bat or whatever they use to kill somebody or maim somebody.

Mr. Speaker, I want to address right now my words to the members of the media, especially Dan Rather who I heard last night say that these are rapid-fire assault weapons. The trouble with Peter Jennings, Dan Rather, Tom Brokaw, and people like that who come from the big cities, they do not know anything about guns.

These are not rapid-fire guns, gentlemen. When you talk about this bill this evening on the network news, please call it what it is. It is a semiautomatic. To fire it, you have to pull the trigger each time. That is what you have to do.

It is no different than the hunting rifles that people use all the time in this country to hunt with. No different. And why they are called assault weapons, well, that is just a misnomer that the proponents of gun control have come up with to lead the people to believe that we are really doing something about crime.

Vote to repeal this ban. Let us get really on to putting criminals behind bars and stopping crime.

Mr. SHAYS. Mr. Speaker, I yield myself 10 seconds to just say that strong crime control laws and assault weapon bans are not mutually exclusive. We need both.

Mr. Speaker, with that I yield 1 minute and 40 seconds to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, I rise in strong opposition to this legislation.

Mr. Speaker, I understand the NRA's position on the second amendment, that individuals have an absolute right to bear arms and any attempt to restrict that right is a direct violation of the Constitution. I understand that argument. I do not buy it.

Under the first amendment, a person cannot yell "fire" in a crowded theater. I do not understand people who think the second amendment should enable someone to fire into a crowded theater. If we can put responsible restrictions on free speech, our most fundamental right, why can we not do the same, put responsible restrictions on the right to bear arms?

It is the slippery slope, they will tell us: Once we ban one weapon, the next thing we know, the Government will be knocking on our door to take away all our guns.

Keep in mind, the slope goes both ways. As technology continues to advance, weapons are increasingly becoming capable of killing more and more people in one fell swoop.

Is there no weapon that supporters of this bill think should be prohibited in the public interest? Should we allow people to drive tanks down the street, or have biological or nuclear weapons in their possession? Of course not. That is unreasonable. And so is this proposal.

Why is it that most police organizations support the ban on these weapons? It is because our good neighbors who put their lives on the line to protect the public are increasingly being outgunned, and this is not just a feeling they have, an impression, it is a fact.

The rest of the world looks on in wonderment and fear a we go out of our way to facilitate this carnage.

I urge my colleagues to oppose this measure which does nothing to help law-abiding citizens but a great deal to help gang members and other criminals. I see no reason to bring back weapons no civilian needs but criminals prefer. It seems to me we are catering to the wrong crowd.

Mr. BARR of Georgia. Mr. Speaker, I yield 30 seconds to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Speaker, I want to thank the gentleman from Georgia for using my language of H.R. 698 as the basis of this good bill.

This legislation reaffirms our commitment to defend the Constitution and it also includes enhanced penalties for criminal use of a gun in Federal crimes. This legislation does what the original gun ban legislation could never have done: It fights crime.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. NADLER], a member of the committee who has worked on this subject matter for a considerable period of time.

Mr. NADLER. Mr. Speaker, we have had no hearings, very little time to debate, so let me give my colleagues a picture that is worth a thousand words.

This is Police Officer Richard Morrisey who was shot by a crazed gunman in East Chester, NY, yesterday. His partner Officer Michael Frey was killed before he could get out of his car. In all, more than 100 rounds were fired from inside the house. The crazed gunman killed a police officer, his own grandmother, his dog, and himself.

He did not have an assault weapon, but imagine the firepower and the additional carnage if he had.

Cops tell us that military style assault weapons present the greatest danger to officers and civilians alike.

These weapons turn murderous nuts like the one in East Chester yesterday or the Long Island Railroad into killing machines, able to fire multiple rounds quickly without reloading.

What is the message we are sending to the family of Officer Frey and to our constituents who want to live free from fear?

Is the NRA really more important than the lives of cops and law-abiding citizens?

My colleagues, just say no to this abomination.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. I thank the gentleman for yielding me the time.

Mr. Speaker, a little earlier a gentleman on the other side of the aisle made mention of an automobile not being banned because people are killed, but the automobiles do have standards set upon them to help prevent that: Brakes, seat belts, frame structure, a whole range of other things.

Also an earlier speaker on this side of the aisle talks about American values when talking about this issue, and I would say massive accumulation of high-tech weapons is not about American values.

At the time the Constitution was ratified, the only two choices of weapons you had was a smooth bore musket or a musket with rifling, not Uzi's, TEC–9's and a whole range of other things which, even though they are semiautomatic, you can get off about 100 to 120 rounds a minute and maybe even more.

The Constitution protects people's rights right now to hunt, target shoot, defend themselves, or collect.

The bill we passed a couple of years ago defends that right and statutorily protects 650 weapons that you can choose from. The American values and the Constitution allows for diversity of opinion, and it is my opinion that we should not repeal the assault weapons manufacturing ban.

Mr. BARR of Georgia. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM], the distinguished chairman of the Subcommittee on Crime and Criminal Justice.

Mr. McCOLLUM. I thank the gentleman for yielding me the time.

Mr. Speaker, I think the point here today can be best illustrated by this chart I have put up here.

This is a good gun. This is a bad gun. This gun is banned. This gun right down here is exactly the same weapon as that one up there, precisely the same weapon. The same company makes it, it has the same firepower, the same killing power, and yet we have banned one and we have not banned the other simply because of looks.

What we have got in the assault weapons ban is a sham. What we should be doing is what this bill does, and this bill does what needs to be done, it puts deterrence into the law and it says, "Hey. If you use a weapon, a gun, in any Federal crime, you're going to get 5 years for simply possessing it, 10 years for brandishing it and 15 years in jail for firing that gun and double that if you commit a second crime. And if you use a clip with 10 or more cartridges, you get not only that, you get the first crime, the first offense for possession 10 years, the second 20, and the third 30."

□ 1245

So that is what we should be doing. This particular assault weapon ban is ridiculous. We should not have passed it in the first place. Repealing it today is common sense. I urge a vote to repeal it.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from Florida [Mr. MCCOLLUM], is a Tec-9 a good gun or a bad gun?

Well, let us talk about, the gentleman from Missouri [Mr. VOLKMER], automatic and semiautomatic weapons. They tested, among, in the San

VOL
142
PT
5
MR
21
—
29
1996
UMI

Jose police department, they test-fired an Uzi, a 30-round magazine was emptied in slightly less than 2 seconds on full automatic, while the same magazine was emptied in just 5 seconds on semiautomatic. In other words, on semiautomatic assault weapons, you can fire 300 rounds a minute. The only reason it could not be done is the magazine will not hold that many. It can be done because here is a police test. It can be done. Oh, you do not like 300? How about 150 a minute?

Mr. CHAPMAN. Mr. Speaker, I yield 2¼ minutes to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Speaker, I do not know if the gentleman from Michigan [Mr. CONYERS] has ever had a gun in his hand.

Mr. CONYERS. If the gentleman will yield, you do not need to know that.

Mr. BREWSTER. Mr. Speaker, it is physically impossible. It cannot be done.

I rise this afternoon to support H.R. 125. It is about time we set the record straight on the gun ban debate. The misinformation campaign waged by antigun groups and echoed in the media has intentionally distorted the issue.

What is an assault weapon? Just as in the general public, I am sure there are Members in this House who cannot distinguish between a fully automatic weapon and a semiautomatic weapon. The firearms banned by last session's legislation are ugly, but I have run across some very nice people in the world who are not so pretty. What a firearm looks like has nothing to do with how a firearm functions. When the media talks about the need to ban semiautomatic firearms, they hold up and point to fully automatic weapons like the much-publicized Uzi and AK–47's and other automatic weapons, which have been illegal for more than 40 years.

As the bill's language states, banning specific types of firearms has no effect on the behavior of those who commit violent crimes with firearms. The only sure way to keep gun-wielding violent criminals off the streets is to put them away in prison for a long, long time.

This legislation provides a real solution. It gets tough on criminals who use a firearm in violent criminal acts. Under this bill, convicted armed criminals will be sentenced to a minimum of 5 years in prison and not less than 20 years for a second offense.

A person who discharges a firearm while committing a violent crime must be sentenced to a minimum of 20 years in prison and not less than 30 years for a second offense.

If we can put criminals away and keep them away, we will reduce crime. Law-abiding gunowners want these criminals off the streets. They do not care whether they are using a gun, a knife, or a baseball bat. We must have swift, sure justice. We cannot continue to ask law-abiding Americans to forgo their constitutional right to own a firearm.

I urge my colleagues on both sides of the aisle to protect rights of law-abiding gunowners. Let us be tough on criminals, for a change, by voting for H.R. 125.

Mr. SHAYS. Mr. Speaker, I yield 30 seconds to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding me this time.

Here is the American values and the Constitution, which allows for diversity of opinion. The difference between these two weapons, this has a collapsible stock. It can be hidden in a small big, easier to walk into McDonald's or a bank; it provides also a pistol grip which makes it a lot easier to hold the weapon down while shooting it fast, and an extended magazine gives you a much larger capacity for bullets, which means if you walk into McDonald's or some other place, if you have some crazy nut, he is going to be able to kill more people with this gun than with this gun.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding me this time.

Almost 2 years ago this House debated and passed the semiautomatic assault weapon ban. It made eminent sense to pass that legislation then to keep these weapons of war from falling into the hands of criminals. It makes even more sense to keep the ban now. The ban is working. It is fighting crime. It is helping our police officers, and it is protecting our law-abiding citizens.

Since its enactment, the number of assault weapons used in crime has dropped 18 percent, and that will increase as fewer and fewer are available. Assault weapons are harder for criminals to get. The price of these has tripled in that same period of time, and after many decades of rising crime in America, we have finally started to reduce our crime rate.

The assault weapon ban is strongly supported by law enforcement officials. It makes their job safer. Every major law enforcement organization supports the ban. The ban is supported by 80 percent of the American people, who strongly feel criminals should not have assault weapons.

This also is a public safety issue. It is an anticrime issue. We must vote to continue the ban.

Mr. BARR of Georgia. Mr. Speaker, I yield myself 10 seconds.

The gentleman from Delaware is very learned, but he must know there are major police organizations that do not support the gun ban, that do not support gun control, such as the Police Benevolent Association, representing thousands of police officers.

Mr. Speaker, I yield 1¼ minutes to the gentleman from North Carolina [Mr. HEINEMAN], a distinguished member of the firearms legislation task force committee.

Mr. HEINEMAN. Mr. Speaker, today I rise for two purposes: first, to inform my colleagues that H.R. 125 has been substantially changed through language that I was privileged to include in the bill yesterday; second, to explain why this language improves this legislation.

The 1994 weapons ban was simply misguided legislation and cosmetic. The 1994 bill penalizes those who lawfully own firearms and at the same time ignores those individuals who commit crimes with firearms.

My language corrects the 1994 bill by imposing severe sentences on individuals who carry, display, or use firearms during the commission of a crime. The language also incorporates a balance between public safety and the right to bear arms by law-abiding citizens.

With the language included in H.R. 125, this bill will rain thunder, not cosmetics, on those individuals who carry, display, or use firearms during the committing of a crime.

I ask my colleagues to vote for H.R. 125.

With the Heineman language included, H.R. 125 is now effective crime legislation, and I join my colleagues in stating that the Southern States PBA, comprised of 16,000 police officers, does not support the ban.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE], one of our very thoughtful members of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, you know, I wonder on today, March 22, 1996, why this legislation is on the floor of the House. We have just heard a confusing announcement of who is for it and who is against it.

Let me tell you why it is here: Because the victims are dead. That is why it is here. There are no victims to lobby and be able to say that we are not here because of these kinds of violent weapons. This was the bill yesterday, H.R. 125, 1 page, 1 page to ban the repeal of assault weapons.

We know what happened: Politics got into this, and so they caused the confusion that this is an anticrime piece of legislation.

Now it is some 10 pages long. It is a joke. All they are doing is saying, "We want to repeal the assault weapons ban, and we will cloud the issue with a ruling about violent crime. We can penalize criminals."

We are all against it. What are we going to do about dead police officers, what are we going to do about Steve Posado's wife, who was gunned down in

a San Francisco law firm with an automatic weapon?

Vote this legislation down. It is a masquerade.

It is a disgrace.

Mr. Speaker, I must rise in opposition to H.R. 125, the Gun Crime Enforcement and Second Amendment Restoration Act. The House leadership has brought this bill to floor without hearings or a markup in the Crime Subcommittee or the full Judiciary Committee. This process is an outrage. In fact, this bill is only being considered because of promises made to very influential special interest groups.

First of all, we must clear up the confusion over the ban on semiautomatic weapons in the 1994 crime law. Contrary to popular belief, provisions in the 1994 crime law only banned 19 semiautomatic weapons. Moreover, persons who already owned such weapons prior to the new law could still lawfully possess such weapons. Additionally, it is important to point out that approximately 650 rifles and shotguns were exempted from the new law. The ban on those 19 semiautomatic weapons has been a great success. Such weapons were used primarily by individuals who engage in criminal activity. The question that I raise is what law-abiding citizen has need for an Uzi or a gun commonly known as a "Street Sweeper"? This ban has had no effect on Americans who are hunters and sportsmen.

The ban on those 19 semiautomatic weapons is fully supported by all major law enforcement organizations, such as the National Sheriffs' Association and the International Association of Chiefs of Police. The membership of these organizations are on the front line in the war on crime and they know first-hand the importance of keeping these assault weapons off of the streets of America.

This bill is a bad bill because it also repeals the provisions of the 1994 crime law that makes the use of a semiautomatic weapon during a Federal crime or violence or drug trafficking punishable by 5 years in prison. Furthermore, it repeals the provision in current law that makes it a Federal offense to manufacture or sell these assault weapons.

Finally, let me add that the majority of the American people support this ban because it has made a difference in making their communities safe. In fact, statistics indicate that assault weapons make up 1 percent of all guns but are 18 times more likely than other guns to be used to kill police officers or to be traced to other criminal activity.

I urge my colleagues to defeat H.R. 125. It is a terrible bill. It is unnecessary and will contribute to greater criminal activity across the Nation.

Mr. CHAPMAN. Mr. Speaker, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I am for this repeal. I have for 18 years been against gun control because I think it is feel-good that does not work. So after 18 years, I have 100 percent voting record with the NRA.

Now let me say something about the NRA: The NRA, in my opinion, in the last few years, because of its hierarchy, has become an apparatus to elect right-wing politicians to State legislatures and to this Congress.

And the members of the NRA ought to understand the partisanship of that group, and if you do not believe it, think of this: President Reagan and President Bush both opposed major legislation that the NRA was for, and they were for major legislation that the NRA was against, and nobody in America knows it because of the partisanship of the NRA.

I vote on this issue on the policy of it. But I must say that the NRA has indeed become an apparatus to elect right-wingers.

Mr. SHAYS. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE], the distinguished chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, this is a very painful vote, because there are great arguments on both sides and there are great people on both sides. I do not see the point of polarizing this. This is across the lines of politics and party and geography.

But I, after much wrestling with this idea, this issue, come out opposed to H.R. 125. At the same time, I strongly support the second amendment. I believe every American has the right to keep and bear arms. But as the first amendment guaranteeing free speech has reasonable restrictions, copyright, trademarks, slander, libel, obscenity, fire in a crowded theater, it does not impair the rigor of the first amendment to have reasonable restrictions on it, so the second amendment can endure and flourish with reasonable restrictions.

I do not think the kid next door should have a flamethrower or a Howitzer or a 5-inch .38. And so where you draw the line? It seems to me hunters have a right to hunting rifles, hunting guns. A person has a right to a pump shotgun to protect his home, and I am told that is the weapon that will do it. Target shooters have a right to weapons.

But an Uzi, an AK–47, has no legitimate purpose in the civilian population. It may have a purpose during war because all they can do is kill a lot of people in a hurry. But it seems to me the promiscuous proliferation, forgive the alliteration, of these weapons among youth gangs in cities, who many times can outgun the police, is stupid.

It is not an impairment of the second amendment to say "no." Take your hunting rifle, take your shotgun, take your target pistol and your target rifle, but an AK–47, a Street Sweeper, belongs in the arsenal under lock and key.

Now, this bill is a statement. I know that. It does not do much. The definition of an assault weapon is kind of vague and fuzzy. But it is a statement that there are too many guns out there.

They are killing instrumentalities. They are too available to people unfit and unsuited physically and temperamentally and emotionally to use them, and there ought to be a limit. And if this cuts down the millions of guns that are available to people who are unsuited to use them, then it is worthwhile. It only lasts 10 years. We have used up 2. It sunsets, then it does not make them illegitimate, it just says no more importation and no more manufacture.

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Let us give it a chance, and maybe some lives. But I do not think this violates the second amendment. I think it is a reasonable restriction.

Mr. BARR of Georgia. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Mexico [Mr. SCHIFF], a Member of the Committee on the Judiciary.

Mr. SCHIFF. Mr. Speaker, this debate is not about firepower. True rapid fire automatic weapons, military assault weapons, have been banned for years, and they should be banned. What can make a weapon an assault weapon, and thereby illegal under the current legislation, is whether is carries a bayonet. The same rifle with a bayonet can be illegal as an assault weapon under this legislation. The same rifle without a bayonet can be a legal weapon. I invite any proponent of the current legislation to explain exactly how whether a weapon can carry a bayonet makes sense.

Second of all, Director Magaw of the Bureau of Alcohol, Tobacco and Firearms, has told me that the Federal Government does not keep records of when what they call assault weapons are used in crimes. If the chief Government enforcer of Federal firearms law says the Government does not keep records of when such weapons are used in crime, I think that makes any statistics being thrown out here about the use of these weapons in crime and how they have been affected, if at all, by the current legislation, very, very suspect.

Mr. CONYERS. Mr. Speaker, I yield myself 10 seconds for the attention of the gentleman from New Mexico [Mr. SCHIFF].

Now, STEVE, you know that there is a floating list of requirements, and that bayonet mount that you keep laying up here is 1 of 7 or 10 items. So, please stop taking advantage of the House. As a matter of fact, it is folding-telescoping stock, protruding pistol grip, bayonet mount that drives you furious, threaded muzzle or flash suppressor, or grenade launcher. All of those are stated.

Mr. Speaker, I yield 10 seconds to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SHAYS. Mr. Speaker, I yield 10 seconds to the gentleman from New Mexico.

VOL
142
PT
5
MR
21
—
29
1996
UMI

The SPEAKER pro tempore. The gentleman from New Mexico is recognized for 20 seconds.

Mr. SCHIFF. Mr. Speaker, I wonder if anyone in Michigan committed a crime recently with a grenade launcher?

Mr. CONYERS. I do not know, and you do not either. That is not the point.

Mr. SCHIFF. The gentleman gave me the time. Any two of those items, including a grenade launcher, can make a weapon illegal under the current legislation. None of that has anything to do with firepower. If any or all of the matters the gentleman listed had anything to do with firepower, do a demonstration. Put the two weapons next to each other and prove your point.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, in the last Congress we passed an historic crime bill that included a ban on assault weapons, and it was supported by 80 percent of the public. It is hard to believe that we are here today. So why are we here? Because the NRA donated a lot of money to Republican campaigns, and the NRA expects a return on its investment, and now it wants its money's worth. This is absolutely wrong. It is a wrong time for us to turn our back on our Nation.

Just yesterday in my district in Eastchester, NY, a lunatic killed a police officer in the line of duty with a high-powered rifle. The police do not need less protection from maniacs with guns; they need more.

Mr. SHAYS. Mr. Speaker, I yield one minute to our distinguished colleague, the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I thank my friend from Connecticut, who is also one of our bipartisan leaders on the issue of campaign finance reform. I mention that because I think this bill goes more to the need for campaign finance reform than it says about assault weapons. You know, the fact is that this bill is not going any place, it is going to be vetoed. There are far more important things we need to be doing.

But the three-quarters of the American people support the ban, because they know it is reasonable and is working, can only conclude this bill is coming up because the NRA convention is coming up, and our Members wanted to have some of that $2 million they are going to be parceling out.

So in the interest of restoring the individual reputation of the Members and the institutional credibility of this body, is it not time that Members, both Democrats and Republicans alike, when they precede their remarks in favor of this bill or who plan to vote for this bill, publicly disclose how much they in fact have taken from the NRA and whether they intend to continue taking money from the NRA? That is the kind of complete disclosure and real campaign finance reform. It is time to do the public's interest instead of PAC's.

Mr. ROHRABACHER. Mr. Speaker, is the gentleman questioning the motives of his colleagues?

The SPEAKER pro tempore. The gentleman from California has not been recognized. The gentleman from California is out of order.

Mr. BARR of Georgia. Mr. Speaker, I am proud to yield 30 seconds to the gentleman from Indiana [Mr. BUYER], a distinguished member of the Committee on the Judiciary.

Mr. BUYER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I just want to state that through this whole debate, gun control is not crime control. Here in Washington, where the possession of handguns are illegal, you can walk right out that Capitol Hill door and you see windows that have bars on them in homes and businesses, and, to me, it is highly reflective that the wrong people are behind bars.

People are living in fear in this town. What this is about is giving citizens the opportunity to defend themselves from the real thugs. It is the thugs, it is the criminals, who pull the trigger. We should have greater deterrence to go after them. That is what this bill does.

Mr. CONYERS. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, I would like the gentleman from California [Mr. ROHRABACHER] to know that, yes, motives were being raised by the gentleman from Virginia [Mr. MORAN].

Mr. Speaker, I yield 30 seconds to the gentlewoman from New York [Mrs. MALONEY], a distinguished member of the Committee on Government Operations.

Mrs. MALONEY. Mr. Speaker, this bill is extreme. Three out of four Americans support the assault weapons ban. Two out of three gun owners support the assault weapons ban.

This bill contradicts what the Republican majority claims they stand for. You cannot be anticrime and pro-Uzi. You cannot be pro-family and pro-AK-47.

This debate is not a question of hunting and self-defense. Assault weapons are not used for hunting purposes. Only drug dealers use Uzis for self-defense. The only real question is, is there anything the Republican majority will not do for the NRA?

Mr. CHAPMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, my commitment is to protect this Nation's law abiding citizens, or, more importantly, to allow them to protect themselves.

I am deeply concerned about the terrible toll that violent crime takes on our society. Decent people are being held hostage by a small but brutally violent segment of our population. Our response? Criminals serve increasingly smaller portions of already short sentences, while we take rights away from their victims.

The FBI statistics prove that banning guns does not address the growing crime rate. Less than 3 percent of murders in this country involve semiautomatic weapons. A person has a 95-percent greater chance of being killed by a blunt object than a rifle. Maybe we should ban knives and fists, which are responsible for 15 and 5 percent of homicides respectively.

The right to keep and bear arms is a basic guarantee of our Constitution, and, no, this right has not outlived its purpose in today's world. We must renew and strengthen this right for our law abiding citizens. The way to fight crime, Mr. Speaker, is to punish criminals for the crimes they commit by imposing harsh penalties and assuring that they are served. If you want to join me in encouraging States to do this, cosponsor my bill, House Concurrent Resolution 105.

Mr. Speaker, I urge my colleagues to remember who we are talking about in this debate. Taking guns from Americans does not make them safer because the criminals will still have them. We cannot solve our crime problem by limiting an honest citizen's right to own a firearm. Our commitment, Mr. Speaker, should be to allow our people to protect themselves.

Please support House Resolution 125 and please cosponsor House Concurrent Resolution 105.

Mr. SHAYS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Illinois [Mr. PORTER]

Mr. PORTER. Mr. Speaker, oh, nonsense. Strong law enforcement and stiff penalties and reasonable gun control measures are not alternatives. We can and we should do both of them.

The NRA began losing the American people when it failed to follow most law enforcement officers who support Brady and a ban on certain assault weapons. Many NRA members are not absolutists. They realize that the Supreme Court never interpreted the constitution to say that people may own and use any weapon they want in our country. They realize that with rights in our free society go responsibilities, responsibilities to the rest of society.

No one wants to take guns from law abiding citizens who use them for sport or hunting purposes or for protection. But it is time the NRA should respect and be responsible to the 75 to 80 percent of the American people who say that reasonable gun control laws are not too much to ask.

Mr. BARR of Georgia. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. CHRISTENSEN], whose hard time for hard criminals is included in this bill.

Mr. CHRISTENSEN. Mr. Speaker, I stand up for the fact that this has tough mandatory sentencing for those criminals.

Mr. Speaker, I rise today in strong support of the measure before us today. This legislation makes it clear that problem with guns in our society is not the guns but the felons who use them.

While the most contentious debate today will be over the unnecessary ban on certain semiautomatic firearms, I have worked hard to make sure that this legislation would include another important provision.

Section 5 of this bill will dramatically increase the penalties for possessing, brandishing, or discharging a firearm during the commission of a Federal felony.

This section, which is similar to the Hard Time for Gun Crimes Act which I introduced last week, provides stiff mandatory sentences for anyone who commits a crime with a gun, with even stiffer sentences for those who discharge a firearm while committing a crime.

This bill sends a clear message that we need to keep society's most violent felons behind bars. Americans have zero tolerance for violent crime, so our justice system should too. Our families and children should not be afraid to walk to school, go to the grocery store, and leave their windows open at night.

I believe firmly that gun control is not crime control. Why would someone willing to commit murder respect gun control laws?

Gun control, while often well-intentioned, has simply failed. We have over 22,000 gun control laws on the books today. Controlling those who use guns in a criminal way is far more effective than cracking down on the vast majority of law-abiding citizens who own firearms for hunting and their own protection.

We should work to keep those who would misuse guns in jail. No more slick criminal defense attorneys pushing criminals to freedom through legal loopholes. No more soft sentences after teary speeches before the bench. No more legal gymnastics setting criminals free after a fraction of their allotted time in jail.

I have worked hard to get language included in this bill which would keep violent criminals behind bars, and section 5 of this bill is going to do just that. I applaud and thank the leadership for including increased penalties for crimes committed with guns in this important legislation.

Mr. BARR of Georgia. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank my colleague from Georgia for yielding me time. Let me ask my colleagues, how many gun control laws are on the books? Twenty thousand? Twenty thousand are on the books. And where are most of those laws applying? Washington, DC.

You know, it is appropriate when my colleague from Georgia talked about the Washington Post. There was an article today that got my attention that showed crime has increased in Washington, DC, since 1995, 14 percent.

A Lieutenant Duckett there, president of the Black Police Caucus, said gun control has not worked in Washington, DC. The only people who have guns are the criminals.

Washington, DC, is often referred to as "the crime capital of the country." Guess what folks? DC has one of the strictest gun control laws in the entire country.

In fact, Lt. Lowell K. Duckett, president of the Black Police Caucus said citizens are right to arm themselves. He also said "Gun control has not worked in DC. The only people who have guns are the criminals."

Lieutenant Duckett further stated, "DC has one of the strictest gun laws in the Nation," it also has one of the highest murder rates.

And so, criminals are armed while good, law-abiding citizens are not. In the wild west at least both sides were armed.

Now, criminals are armed and dangerous—citizens are the one's living in a prison-like atmosphere.

Mr. CONYERS. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, the gentleman from Michigan [Mr. BARCIA] my dear friend and Democratic colleague, and I are going to continue our discussion at the annual Jefferson-Jackson Day dinner at Covell Hall in Detroit tomorrow. So stay tuned.

Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MARKEY] who has worked very hard on this matter.

Mr. MARKEY. Mr. Speaker, the second amendment does not allow Americans to own tanks or bazookas or grenade launchers or assault weapons. But the chief lobbyist of the NRA testified before Congress this year that anyone should be able to own them.

I cannot believe that we are actually debating on the floor of Congress whether the American people are safer with these guns on or off the streets. But we are debating it today. Why? Promises made and promises kept, ladies and gentlemen. Promises made and promises kept. The NRA has come to town to redeem a promise, and the Republican freshmen who made this deadly deal are about to keep it.

Do not insult our police officers, who are sick and tired of having their fellow officers gunned down by crackpots. Do not insult the mothers and fathers of elementary school children sprayed with 106 rounds in Stockton, CA. Do not insult the American people, who saw their own White House peppered with gunfire by a lunatic with an assault weapon.

Stop this Congress before it hurts somebody. Vote no.

Mr. CHAPMAN. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

□ 1315

Mr. WISE. Mr. Speaker, there is too much crime and too much violence in these crimes. That is why I support doing away with the gun ban because it is false advertising. It does not deal with these problems. This ban, the existing ban, deals with how a firearm looks. Does it have a bayonet mount or a flash suppressor? Then it is banned. But a gun, a firearm that shoots the same bullet at the same velocity with the same impact but looks different, that can be legal.

Mr. Speaker, the FBI and the Department of Justice statistics themselves show that one has a greater chance of being murdered tonight with a steak knife or by fish or feet than by one of these types of firearms. My experience is that criminals who want to commit a crime with a gun are going to get a gun, it does not matter what it is.

What we can do is what is in this bill, and that is make sure that they do the time. Let us make sure that there is a stiff mandatory sentence so that they are removed from society. Fighting crime requires more than simple feel-good-but-accomplish-little legislation.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, what did former Presidents Reagan and Bush, former Senator Barry Goldwater, a majority of law enforcement officials and a majority of the American public and many members of the NRA have in common? They all supported the ban on assault weapons that we passed in the 103d Congress, and they continue to do so.

We are not talking about hunting weapons. We are talking about firearms whose only purpose is to kill large numbers of people as quickly as possible. Hundreds of firearms are still available to sportsmen and to those who want it for self-defense. Assault weapons are disproportionately used for criminal purposes. I want my colleagues to know that that ban in the 103d Congress has made a difference because we have found that, with the ban in place, 18.4 percent fewer assault weapons were traced to crime in the first 8 months of 1995 than in the first 8 months of 1994, the first such decline in recent years.

I urge my colleagues very earnestly to vote against this repeal.

The SPEAKER pro tempore. The Chair would again announce the times. The gentleman from Georgia [Mr. BARR] has 4 minutes remaining, the gentleman from Michigan [Mr. CONYERS] has 4 minutes and 10 seconds remaining, the gentleman from Texas [Mr. CHAPMAN] has a minute and a quarter, the gentleman from Connecticut [Mr. SHAYS] has 3½ minutes remaining. The gentleman from Georgia [Mr. BARR] is entitled to close the debate.

Mr. BARR of Georgia. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Speaker, in the previous debate, one of our colleagues said the scum of the Earth uses these weapons. I say to my colleagues, let us get rid of the scum. But let me say something, the scum will use anything to kill with.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Let me tell my colleagues about a couple of them in Georgia. We had one who shot a police officer with a shotgun, let him bleed to death. We got rid of that scum, we executed him. I witnessed it. Let me tell about another scum who took a club and beat a woman's head to a pulp. We got rid of that scum. We executed him. We got over 100 scums waiting on death row with the same punishment. Let us get rid of the scum, not law abiding citizens.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentlewoman from Georgia [Ms. McKINNEY].

Ms. McKINNEY. Mr. Speaker, we knew it was coming, and now the payoff to the NRA has finally arrived. It is common knowledge that the NRA pumped $1.4 million into supporting extremist candidates. As a result, Speaker GINGRICH now has the votes to advance the NRA agenda.

Mr. Speaker, this vote is a shame for this House. This vote, Mr. Speaker, amounts to nothing more than a big payback. No wonder Congress' approval rating has sunk so low.

Mr. CHAPMAN. Mr. Speaker, I reserve the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield 1 minute and 10 seconds to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I want to share with my colleagues a letter addressed to the Members of the House of Representatives written in May 1994:

> We are writing to urge your support for a ban on the domestic manufacture of military-style assault weapons. This is a matter of vital importance to the public safety.

I will not read the rest of the letter, but those are the two opening sentences of a letter signed by former Republican President Gerald Ford, former Democratic President Jimmy Carter, former Republican President Ronald Reagan. This is not radical stuff. The letter goes on to refer to the 1989 import ban that resulted in an impressive 40-percent drop in the imported assault weapons, passed, administratively by President Bush, Republican President Bush. That import ban is mirrored in this ban on assault weapons.

All this does is to prevent the domestic manufacture of the very same weapons a Republican President prevented the import of. Logical, simple, fair. That is why the American people support it.

The second amendment was not drawn with modern weapons in mind. And as the development of modern communications technology has required us to modernize the communications law, so the development of modern weaponry available on our markets has required us to modernize first our import policy and then our domestic law.

Mr. BARR of Georgia. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, the ban means wasting the time and limited resources of our police and courts. The police will spend their time disarming potential victims instead of going after youth gangs who are terrorizing our inner cities. This mentality of the ban would send the authorities after religious eccentrics down in Waco.

Let us focus on the criminal. Let us not waste the time and resources of our police on disarming innocent people who just want to defend themselves but have never committed a crime. That is the mentality that burned those people out in Waco, and that is what my colleagues are fostering today.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, let me tell my colleagues what this shameful debate is all about. Rather than risk offending the NRA, Speaker GINGRICH would rather risk the lives of policemen and innocent people.

Today I received a letter from a Chicago policeman who puts his life on the line every day fighting gangs in that city. He sent me clippings of policemen killed in Chicago by these assault weapons and begged me to vote against this ban. The choice before this House is between the police and the gun lobby. The choice is between the safety of the men and women who put the badges on and put their lives on the line every day and the political power of the gun lobby. Vote no on this shameful bill.

Mr. CHAPMAN. Mr. Speaker, I reserve the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield 30 seconds to the gentleman from Kentucky [Mr. WARD], a former Peace Corps volunteer.

Mr. WARD. Mr. Speaker, I appreciate the nonpartisanship of getting the time from the Republican side because I want to remind the House of the tragedy that took place in Louisville, KY, at the Standard Gravure plant. People were working when a disgruntled former employee came in with one of these weapons and killed eight people. He wounded horribly my wife's first cousin.

I introduced a ban on these weapons in 1989 in Kentucky. I would be embarrassed to be a part of this body when it is repealed. I stand with our police, with our police chiefs, and with the American people and urge defeat of this repeal.

Mr. BARR of Georgia. Mr. Speaker, if I might inquire as to how much time is remaining on all sides.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. BARR] has 3 minutes remaining. The gentleman from Connecticut [Mr. SHAYS] has 1 minute and 50 seconds remaining. The gentleman from Michigan [Mr. CONYERS] has 3 minutes and 10 seconds remaining. The gentleman from Texas [Mr. CHAPMAN] has 1¼ minutes remaining.

Mr. BARR of Georgia. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. Mr. Speaker, how low can you go? This 104th Congress has hit a new low. The NRA, I mean the GOP leadership, showed me the old saying is true, he who has the gold makes the rule. Law enforcement officers from my district have told me how critical it is to keep the assault ban in place. No one needs an AK–47 to defend their home or to go hunting unless they are hunting people. We must think about the message Congress is sending to young people of America by saying assault weapons are OK.

Sometimes you just don't appreciate how good something is until it is gone. Today, I truly miss Speaker Foley for his fairness in allowing debate on the important issues. We used to sing a song, "How Low Can You Go?" This 104th Congress has hit a new low. The NRA, I mean the GOP leadership, shows me that the old saying is true, "He who has the gold, makes the rules."

Mr. Speaker, I rise today in the strongest opposition to repealing the ban on assault weapons. I voted in 1994 to put a ban on deadly assault weapons because they are responsible for the deaths of too many of my people. It is unconscionable for responsible legislators to repeal this important ban. Without hearings or committee action, and only 1 hour of floor debate, it seems the reason for today's vote is so the majority party can pay back the NRA. That's not good enough for me or the people in my district who want to keep this ban in place.

Law enforcement officials from all over my district have told me how critical it is to keep the assault ban in place. Police Chief Wayland Clifton, of Gainesville, FL, says:

> The incidence of violent crime, especially involving firearms, is on the rise in America. This fact is confirmed by numerous studies conducted by the Department of Justice. . . . Many times, instances of mass violence and multiple homicides are worse when assault weapons are used. The weapons, due to their nature, provide criminals with greater firepower, thus these weapons pose a greater risk to both police officers and potential victims.

Even though assault weapons make up less than 1 percent of all guns, they are 18 times more likely to be cop-killers. Police support this ban because outlawing assault weapons saves the lives of police and the general public.

There is already proof that the ban is working to lower rates of violent crime. The number of assault weapons traces initiated in the first 8 months of 1995 dropped from 1994 levels. According to tracing data collected by BATF, assault weapons, as a percentage of all gun traces, fell for the second year in a row, from

5 percent in 1994 to 4.3 percent in 1995. Despite these encouraging trends, assault weapons are still a major threat to Americans, and especially law enforcement officers.

Finally, I have talked with the families of too many victims of guns too easily obtained. No one needs an AK–47 to defend their home or to go hunting—unless you are hunting people. We must think about the message Congress sends to the young people of America. What kind of message do we send by saying assault weapons are OK? The ban on deadly assault weapons must stay in place.

GAINESVILLE POLICE DEPARTMENT,
Gainesville, FL, March 21, 1996.

Hon. CORRINE BROWN,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE CORRINE BROWN: I understand that a vote on H.R. 125 regarding a proposal to lift the ban on assault weapons is scheduled for March 22, 1996. The ban on assault weapons is very important to law enforcement, so I am seeking your assistance on this matter.

As you well know, the incidence of violent crime, especially involving firearms, is on the rise in America. This fact is confirmed by numerous studies conducted by the Department of Justice. In addition to these statistics regarding the degree of victimization, the newspapers provide anecdotal evidence about the severity of violent crime in America. Many times, instances of mass violence and multiple homicides are exacerbated when assault weapons are used. These weapons, due to their nature, provide criminals with greater firepower, thus these weapons pose a greater risk to both police officers and potential victims.

Therefore, to alleviate the potential threat that assault weapons pose to our citizens, I urge that you vote against H.R. 125 and not lift the ban on assault weapons.

Sincerely,

WAYLAND CLIFTON, Jr.,
Chief of Police.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CAMPBELL], our newest Member but also a former Member.

Mr. CAMPBELL. Mr. Speaker, you cannot deter somebody who, having shot weapons at innocent people, turns the weapon on himself and kills himself. No amount of enhanced penalties can deter that person, and that is exactly what happened in Kileen, TX; Louisville, KY; Stockton, CA; Jacksonville, CA; 101 California Street in San Francisco, and those are just since I first entered the Congress.

Mr. Speaker, the size of the clip, the ability to shoot rapidly, these are characteristics which give the power to kill to people who are insane in these instances, and increasing penalties does nothing to deter them.

Last, to those of my colleagues who care so much about the Constitution, the second amendment begins that, "A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed." It begins with the words, "A well-regulated militia." What the assault weapons ban does is well-regulate that militia. The militia constitute the armed citizenry. It is our duty to regulate them.

Mr. BARR of Georgia. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I thank the gentleman for yielding, and I find it interesting the gentleman from California who just spoke about the second amendment of the Constitution failed to emphasize the fact that it is not the militia's right to keep and bear arms. The Constitution clearly says that it is the people's right to keep and bear arms.

Mr. Speaker, I also want to make something very clear about the NRA. This is nothing but a smokescreen to divert the attention of the real debate here. I am here to tell Members, the NRA did not support me. They heavily supported my opponent, and yet the NRA is right on this issue and right on second amendment rights.

Mr. Speaker, this is not a political issue. This is an issue of citizens' rights, because the real issue is not guns. The real issue here is crime. We banned the so-called assault weapons and we still have crime. As a result, some will argue that we need to ban many more guns, and that argument, Mr. Speaker, is offensive. It is offensive to common sense, and it is offensive to the Constitution. We need to punish criminals, not inanimate objects. Mr. Speaker, we need to reserve the fundamental rights of the American people.

When we address the issue of violent crime, we must remember the second item of our Bill of Rights, the rights of the people to keep, the rights of the people, not the militia, the people, to keep and bear arms, shall not be infringed. Let us address the real problem of crime, Mr. Speaker, and let us undo the damage that has been done to the constitutional rights of law-abiding Americans.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Speaker, this vote boils down to one question: How much is a life worth? How large a campaign check from the gun lobby is big enough to convince you to put these guns back on the street, $1,000 from the NRA, $5,000? To put the life of a police officer in grave danger, to put a child in an early grave?

☐ 1330

Because of these guns, they mean combat, they mean assault, they mean killing. This vote shows that the Republicans never wanted a Contract With America; they wanted to combat within America.

How many children were able to avoid a drive-by shooting? How many police officers made it safely back home because of this ban? Let us keep the ban and keep our children and our communities safe.

Mr. CHAPMAN. Mr. Speaker, I yield myself the balance of the time.

The SPEAKER pro tempore (Mr. WALKER). The gentleman from Texas is recognized for 1¼ minutes.

Mr. CHAPMAN. Mr. Speaker, I will take these last few seconds to talk mainly to my Democratic colleagues about the circumstances we find ourselves in today. As a strong, strong proponent and always having been a strong proponent of second amendment rights, I know that this debate has been permeated, not just today, with innuendo about who may be influencing whose elections, but has been permeated by politics throughout the entire history of this debate. I know there have been references to 1994, when the gun ban became law as a part of the 1994 crime bill, and I look at my colleagues today on both sides of the aisle, and I see a lot of new Members that are here, Republican friends and Republican colleagues, and I see a lot of missing Democrats, Democrats that were here in the 103d Congress that are no longer with us.

Mr. Speaker, the dean of the Congress, Jack Brooks, my good friend from the Ninth District of Texas, is not here today. He at that time was chairman of the Committee on the Judiciary because Democrats were in a majority in the 103d Congress.

Yes, politics played in the debate as this became law, as my colleagues see, because we never got Congress to vote up or down on an assault rifle ban. We passed it in the House; we, those that were here at the time; but there were not the votes to pass it in the Senate.

Because of that, I say to the Members, we are fighting about Medicare, Medicaid, student loans and other issues today. We ought to repeal this nonsense. Let us support H.R. 125.

Mr. SHAYS. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, Americans have the constitutional right to bear arms and the Government has the constitutional responsibility to regulate that right. Repeal of the assault weapons ban was not and is not part of the Contract With America. It never got past the first cut. Our Contract With America is about balancing our Federal budget, getting our financial house in order, saving our trust funds from bankruptcy for future generations, and transforming our caretaking, social and corporate welfare society into a caring opportunity society.

Logical gun control legislation and strong crime control are not mutually exclusive. We need both. I urge my colleagues to reject this amendment, this bill.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. I thank the gentleman for yielding me the time.

Mr. Speaker, the gentleman from Georgia [Mr. BARR] opened this debate

VOL
142
PT
5
MR
21
—
29
1996
UMI

by saying that this was a choice between American values and Washington values. I agree, but not quite in the context in which he put it. It is a choice between American values, where 70 percent of the American public are saying keep these assault weapons banned, where the policemen of America are saying please keep these assault weapons banned. And Washington values, political payoffs to special interests, Republican payoffs to the NRA; that is what this is all about.

The Republican Party can no longer claim to be the party of law and order because they are saying if it is a choice between police and the NRA, they choose the NRA. This is a shame and a disgrace.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from Minnesota [Mr. LUTHER].

Mr. LUTHER. Mr. Speaker, I rise in opposition to this bill because Congress should not repeal a law which, based on the best information available to us, appears to be saving lives of Americans.

I come from a family of hunters in Minnesota, like many of my constituents, but this bill is not about weapons used to hunt animals. It is about allowing the proliferation of weapons which are today used to hunt human beings. I do not want my children and the other children in my district to live in that kind of a world.

Mr. CONYERS. Mr. Speaker, I yield 10 seconds to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Speaker, the message in America is we want less guns in our communities. Every child is listening to that. Less guns, not more guns. Keep the promise to our children, vote "no."

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. So they want to repeal the assault weapons ban?

Mr. Speaker, I just passed through the hall, and I saw Sarah and Jim Brady out there, decent people. So my colleagues want to repeal it? All they have to do is walk past them, and it should teach them a lesson.

Look, if only one person in America is saved by gun control, I want to see every gun controlled because some of these people do not even need to have a gun in their hands, they are already bad enough without that.

So all over this country, those gun barons, they should go tell the NRA I said—Mr. Speaker, my colleagues are cutting off my time.

The SPEAKER pro tempore (Mr. WALKER). The time of the gentlewoman has expired.

Mrs. MEEK of Florida. I appeal the ruling of the Chair, Mr. Speaker.

The SPEAKER pro tempore. That is not in order. The time that was yielded to the gentlewoman from Florida [Mrs. MEEK] has expired.

Mrs. MEEK of Florida. I appeal the ruling because I was not given 30 seconds.

The SPEAKER pro tempore. The time is controlled, and the time of the gentlewoman has expired.

Mrs. MEEK of Florida. Mr. Speaker, I am owed more time.

The SPEAKER pro tempore. The gentlewoman's time has expired.

Mr. CONYERS. Mr. Chairman, I yield 10 additional seconds to the gentlewoman from Florida.

Mrs. MEEK of Florida. Mr. Speaker, my colleagues will never shut up my mouth.

All I want to say is that I wish we could control these guns, and a ban on all these weapons is what America needs. So, if they want to repeal the assault weapons ban, they should go out in the hall and talk to Sarah and Jim Brady. My colleagues are behind the curve.

The SPEAKER pro tempore. The time of the gentlewoman from Florida has again expired.

Mr. BARR of Georgia. Mr. Speaker, I have no other speakers other than myself, and I reserve my time to close.

The SPEAKER pro tempore. The gentleman from Michigan has 30 seconds remaining.

Mr. CONYERS. I yield 15 seconds to the distinguished gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, let us talk about facts.

Mr. Speaker, let us talk about facts.

Mr. Speaker, let us talk about facts.

Of the 92 police officers that we have records of who were killed in the line of duty, 33 were killed by weapons that are covered in this bill, 33 of 92. Let me read their names: William Christian, Jr.——

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DEUTSCH. John J. Novabilski, April 26, 1995, John Norcross, April 20, 1995, John McLaughlin, April 20, 1995——

The SPEAKER pro tempore. The time of the gentleman from Florida has expired.

Mr. DEUTSCH. Timothy Howe, April 14, 1995, Daniel Doffyn, March 8, 1995——

The SPEAKER pro tempore. The House will be in order. The gentleman from Florida will be in order.

Mr. DEUTSCH. Henry J. Daly, Michael J. Miller, Martha Dixon-Martinez——

The SPEAKER pro tempore. The House will be in order. The gentleman from Florida is in violation of House rules.

Mr. SOLOMON. Mr. Speaker, the gentleman is violating House rules. He ought to be escorted off the floor.

The SPEAKER pro tempore. The gentleman from Florida [Mr. DEUTSCH] is reminded that he has a responsibility to obey the rules of the House, and that display beyond the time recognized was outside the bounds of good judgment.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, to close the debate on our side, I yield the balance of my time to the distinguished gentleman from New York [Mr. SCHUMER] who opened this debate.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. SCHUMER] for 15 seconds.

Mr. SCHUMER. Mr. Speaker, one of the few times the American people were proud of this body in the last few years is when we had the courage, the courage to override the special interests and pass the assault weapons ban. Let us not undo that. Let us stand tall, be proud, and do the right thing.

Mr. BARR. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker. I rise in vehement opposition to H.R. 125, which would repeal a major part of the 1994 crime bill. The assault weapon ban is law today, and there is no compelling evidence that it should be repealed.

In 1994, I was one of a group of Republicans to advocate for a compromise crime bill that included the assault weapons ban. Part of that compromise was the authorization of a critical study that will tell Congress exactly how well the ban is working. This bill on the floor today contains a provision to terminate this study—forcing us to stick our heads in the sand when it comes to fully understanding the issue. This tells me that sponsors of this repeal don't even want to know the facts.

I firmly support the right of law-abiding citizens to keep and bear arms, but this right is not unlimited.

Finally, Mr. Speaker, this misguided legislation is taking valuable time from our work on important issues. We still haven't finished last year's budget yet, and we have a lot of work to do on balancing the budget. We must pass real welfare reform, and address health care insurance reform which is needed to allow millions of Americans to obtain coverage.

I urge my colleagues to uphold this ban, and get back to our No. 1 proprity—balancing the budget.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, the regular order of the House should be to uphold the assault weapons ban.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in strong opposition to this bill.

Mr. Speaker, I rise in strong opposition to H.R. 125, a measure that is consistent with the Republican majority's theme for the 104th Congress: "Promises paid for, promises kept."

Today's consideration of the assault weapons ban repeal fulfills the Republican leadership's commitment to the National Rifle Association, but is nothing short of a betrayal to the safety of the American public. Indeed, as characterized by an editorial in today's edition of the Los Angeles Times, in view of the likely Senate filibuster and a certain Presidential veto, this House vote is little more than a blatant special interest payback that has become the hallmark of the NRA.

The American people know that the violence that is ripping apart our families, classrooms, and communities throughout the Nation is nothing short of a crisis. That is why the polls have consistently shown that between 77 and 80 percent of Americans support an assault weapons ban. The ban is also supported by law enforcement agencies, including every police chief in my district. Whenever a law enforcement officer is shot, it is 18 times more likely that an assault weapon was used.

The reason the Republicans and the NRA are trying to overturn this Democratic-passed law is because the law is working. Attorney General Janet Reno has estimated that the number of assault weapons traced to crime has dropped 18 percent since the law took effect. In the past 2 years, thousands of people with criminals records have been denied access to these weapons.

That is why I supported the original assault weapons ban. I will vote against its repeal. This law balances the legitimate concerns of law-abiding gunowners against the need to take affirmative steps to curb senseless violence in our communities. The assault weapons ban is a carefully crafted compromise measure. It targets 19 specific styles of semiautomatic weapons, while exempting approximately 650 rifles and shotguns and privately owned assault weapons purchased before the bill's date of enactment. The banned assault weapons are not firearms that can be used for hunting and sporting purposes—they are designed to kill people and are the weapons of choice for street gangs and drug traffickers because they intimidate as efficiently as they kill.

At a time when drive-by shootings and the murder of innocent bystanders is on the rise, we must not retreat from this Congress' obligation to make our streets safer. I urge my colleagues to join forces with the enforcement organizations, medical associations, the American Bar Association, the National League of Cities, the U.S. Conference of Mayors, and the National Association of Counties, among others, and defeat H.R. 125.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Oregon [Ms. FURSE]

Ms. FURSE. Mr. Speaker, I rise in strong opposition to this outrageous bill.

Mr. BARR. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, it is important for the American people, those here today and those listening to these proceedings, to recognize and to remember that protection of the American people, protection of our wives, our husbands, our children, our parents, our friends, and our associates is a bipartisan issue, and that is why the bill that we have here today is a bipartisan bill, a strong, a strong bipartisan bill because people on both sides of the aisle recognize that our Government is failing to perform.

Mr. Speaker, the protection of the American public is what this bill is all about. The people on the other side of the aisle think that they have a monopoly on people who have suffered, on people who continue to suffer, and on people who will suffer as a result of criminal activities against them, criminal actions against them.

Mr. Speaker, they do not have a monopoly. I would like them to hear about some people, as the gentleman from New York [Mr. SCHUMER] knows, because he was at the hearings, who have exhibited uncommon valor and a tremendous sense of courage when they came before our committee, when they came before the American people testified.

Were it not for, were it not for our ability to defend ourselves, Miss Sharon Ramboz of Maryland would be dead today, and her family. Mr. Charmaine Klaus from Waterford, MI, would be dead today, and his family. Mr. Phil Murphy from Tucson, AZ; and the list goes on and on. These are American people, husbands, wives, children, parents who need the protection afforded by our second amendment, and no Member of this body, Republican or Democrat, should belly up to the bar, should have to be defensive about standing up to our Constitution.

Support this bill.

Mr. OWENS. Mr. Speaker, I rise in vehement opposition to the Gun Crime Enforcement and Second Amendment Restoration Act, H.R. 125. This bill is an abominable action that is a Republican assault on sane gun control laws. It is disgustingly apparent that H.R. 125 is motivated by the Republican juggernaut bank-rolled by the NRA.

H.R. 125 would repeal current law which prohibits the possession, manufacture, and transfer of many of the most egregious man-hunting weapons that proliferate American communities—TEC–9, Colt AR–15, and TEC–22. In a country where there is one gun per adult already in circulation—or 210 million guns—this repeal would be deadly.

Only in America is the safety of children, women, men, and families sacrificed for political, as well as economic profit. Most other industrialized countries have a virtual ban on handgun sales, which account for the vast difference in homicide rates between the United States and other nations. In 1990, handguns killed only 22 people in Great Britain, 13 in Sweden, 91 in Switzerland, 87 in Japan, 10 in Australia, and 68 in Canada. The United States infamous handgun fatalities statistic totaled 10,567.

Facts and compassion do not drive this Republican Congress. We should not be surprised by yet another affront to human decency and protection. Ironically, under this bill, the hunters will have their way. They will now be able to hunt with Uzi's and street sweepers. As ridiculous as this sounds, it is ridiculous to vote for H.R. 125. I strongly encourage my colleagues in the other chamber of Congress to oppose this travesty.

Mr. UNDERWOOD. Mr. Speaker, I rise today in opposition to H.R. 125, which would repeal the ban on assault weapons. I take this position today in response to concerns raised by the Guam chief of police, Jack S. Shimizu, who recently contacted me in opposition to the repeal on the ban on assault weapons.

Most police officers on the front lines of law enforcement on Guam will tell you the same thing. One of the Guam Police Department's biggest challenges is with the influx and use of "ice." The violence and crime associated with the spread of "ice" is affecting our entire community and tearing families apart.

And any police officer will confirm the link between drugs and assault weapons. Assault weapons are the weapons of choice with these drug lords. They are not being used, nor necessary, for hunting. They are being used by drug lords simply to solidify their power to transport illegally "ice" into our island.

In order for the Guam Police Department to fight the island's war on "ice," they need every tool at their disposal. The ban on assault weapons is not a panacea. It will not stop crime or crack down on illegal drugs in and of itself. But it is helpful and an additional tool in the arsenal of the police department.

I would like to submit for my colleagues' consideration a copy of a letter I received from Mr. Jack S. Shimizu, the chief of police at the Guam Police Department, for the RECORD.

GOVERNMENT OF GUAM,
GUAM POLICE DEPARTMENT,
GMF, Guam.

DEAR CONGRESSMAN UNDERWOOD. On behalf of the Guam Police Department (GPD), I strongly urge you to relate GPD's opposition on the congressional bill for repealing the 1994 ban on assault weapons to the Committee on the Judiciary in the House of Representatives. As nearly every law enforcement agency and officer across the nation will tell you, such a repeal not only threatens any gains our department has made in the Territory's "War on Ice and Dangerous Drugs" but it heightens the danger our officers may face in confronting the criminal element engaged in drug trafficking who will be provided the opportunity to legitimately acquire such weapons if the ban is lifted.

Dangerous drugs and guns nearly always go hand in hand and the legitimate access to assault weapons by virtue of repealing such a ban does nothing more than provide the criminal element a legitimate way to outgun law enforcement. Therefore, I respectfully request that you make known GPD's opposition to the repeal attempt on the ban on assault weapons which serve no legitimate, practical or reasonable purpose.

Sincerely,

J.S. SHIMIZU.

Mr. LAZIO of New York. Mr. Speaker, after careful deliberation, I supported the ban when the House approved it in 1994. My decision to vote in favor of the ban was not one that I made lightly. I was aware then, as I am now,

VOL
142
PT
5
MR
21
—
29
1996
UMI

that this ban is not perfect. But I came away from the debate 2 years ago with the belief that despite any flaws, this limited ban is a reasonable attempt to prevent the use of weapons that are designed solely for the destruction of human life.

Many factors went into my decision then which still apply today. The most significant of these factors was the support of the ban by both national and local law enforcement organizations and officials. In New York, this includes the Suffolk County Policemen's Benevolent Association, the Deputy Sheriff's Benevolent Association, the Superior Officers Association of Suffolk, the Police Conference of New York, as well as New York City's police commissioner and the president of New York City's Patrolman's Benevolent Association. National groups include the Fraternal Order of Police, with over 230,000 members, the National Association of Police Organizations, the International Association of Chiefs of Police, and the Federal Law Enforcement Officer's Association. All are experts on crime, and as a former criminal prosecutor, I respect their collective judgment on public safety. In addition, all living former Presidents support the ban.

I have been, and I remain, a staunch supporter of a law-abiding citizens' second amendment right to own a firearm. But as one who firmly believes in the sanctity of our Constitution, I simply do not believe that the second amendment, or any amendment to the Constitution is an unlimited right, and neither did the drafters. The freedoms of religion, speech, and the press are not absolute, and neither is the right to bear arms. With each of these sacred rights, exceptions are made in the most extreme cases. An individual cannot display obscene material, and the press cannot defame an individual. Likewise with the right to bear arms, I believe that this exception should be made in the case of a semiautomatic assault weapon. It for this reason I urge a "no" vote on the repeal of this ban.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to oppose the repeal of the ban on assault weapons. It is my wish that a police officer never has to confront a suspect armed with a firearm fitted with a grenade launcher, which is outlawed as part of the ban. It is difficult to imagine a legitimate purpose in private ownership of a grenade launcher.

The weapons identified in the ban are not uncommon on the streets of Dallas. The Bureau of Alcohol, Tobacco and Firearms estimates that there are two million military-style assault weapons on the streets today. Dallas narcotics officers have often encountered Intratec-9 firearms when executing a raid or apprehending a suspect. These firearms, with clips containing 32 rounds, have been the gun of choice for drug dealers. The Dallas Police Department has seized 24 Intratec-9's, 66 AK–47's and 3 street sweeper shotguns during 1995. These firearms are explicitly named in the ban.

Mr. Speaker, more than three-fourths of the American public support this ban. Adding provisions to this bill that increases penalties for gun related crimes is simply a gimmick to divert attention from this legislative payoff to the NRA, and will do nothing to stop those crimes if assault weapons are legally available again on the streets. Current law bans only a short list of specified semiautomatic assault weapons—weapons used almost exclusively by organized crime, gangs, and drug cartels—while specifically exempting more than 650 sporting firearms from the ban.

Statistics show that even though these assault weapons make up less than 1 percent of all guns, they are 18 times more likely than other guns to be cop-killers, and 16 times more likely to be traced to crime than other firearms. Police support outlawing assault weapons in order to protect the lives of police, as well as the general public.

Mr. Speaker, I urge my colleagues to uphold the ban.

Mr. FOGLIETTA. Mr. Speaker, 2 years ago I came to the floor to fight for a ban on assault weapons. At that time, I told the story of Michelle Cutner, a 7-year-old from Philadelphia. It was the next to the last day of school and Michelle's mother picked her up at the Chester Elementary School. As she stopped at a corner store to buy chips, Jerome Whitaker, a 15-year-old who was quarreling with a friend, took out a TEC–9 and started shooting. One of the bullets hit Michelle and killed her. The carnage continues in Philadelphia. Four months ago, three young friends sitting in a minivan were riddled with 40 rounds of gunfire from a semiautomatic rifle while sitting in a van. One of the victims, Joseph Gill, was 16 years old.

Mr. Speaker, how many more little girls like Michelle have to die from the bullet of a TEC–9? How many more young men will die in a hail of bullets? How many more police officers will be gunned down because bulletproof vests cannot resist the spray of AK–47's or Uzi's? I urge my colleagues to join me on behalf of kids like Michelle and Joseph, and so many others like them, and vote against this assault on the assault weapons ban.

Mr. ROEMER. Mr. Speaker, I rise in strong opposition to H.R. 125, an attempt by the gun lobby to throw away proven legislation enacted by Congress to save the lives of U.S. citizens and police officers. If the gun lobby has its way, there will be no more assault weapons ban, but there will be a lot more bloodshed.

The survival of assault weapons is completely dependent on the campaign funds of the gun lobby—bought lock, stock, and barrel. This allusion is to the three main components of a gun which together comprise essentially the entire weapon. That is what comes to mind when I think of the gun lobby's partnership with assault weapons advocates.

The misleading statements about second amendment rights by the gun lobby should not obscure the fact that the majority of Americans, including gun owners, want assault weapons off our streets and out of our school yards.

Clearly, the assault weapons ban is working to reduce bloodshed and save lives. The city of Chicago, for instance, seized 127 assault weapons in the first 6 months of 1995—almost a 50-percent decline from the first 6 months of 1994.

Simply put, there is no justification for repealing the assault weapons ban. It is unthinkable that in our society, we would allow citizens to walk the streets armed with guns equipped with hand grenade launchers, flash suppressors, and bayonet mounts.

It is important to make clear that the assault weapons ban has not in any way taken guns out of the hands of any law abiding citizen because all it does is stop the manufacture and importation of these killing machines.

And while I support the use of assault weapons to arm certain law enforcement officials and military personnel in areas like Bosnia and other hostile areas, it is clear that no one needs an AK–47 assault rifle or a TEC–9 assault pistol to defend their home or go deer hunting. They are simply designed to kill large numbers of people quickly.

Mr. Chairman, I urge my colleagues to stand up to the gun lobby and oppose H.R. 125 to stop further bloodshed at the hands of violent criminals, and instead, to save the lives of our citizens and our brave police officers.

Mr. RICHARDSON. Mr. Speaker, the banning of certain types of guns is an infringement on the rights of citizens to protect their families.

Criminals who want to use such weapons can continue to obtain them illegally.

Military-style weapons are involved in less than a fraction of all serious crime, and the assault weapons ban does not keep crime off the streets.

Taking away the rights of law-abiding citizens to own firearms is not the answer to stopping crime.

The crime bill passed, because it contained many provisions to help small communities in fighting crime, but it went too far in criminalizing these weapons.

I have always opposed banning certain types of weapons, and this law must be repealed, because it criminalizes otherwise law-abiding citizens.

Mr. HORN. Mr. Speaker, why are we attempting to repeal a ban that is supported by an overwhelming majority of the American people—and is saving lives?

In the year following the ban's enactment there was an 18 percent drop in the number of assault weapons linked to crimes. Repealing this ban will ensure more bloodshed and more lives lost. Poll after poll has shown that 80 percent of the American public consistently supports this ban.

It is ludicrous for the House to vote against the wishes of 80 percent of the American people. It is a travesty to repeal a law that saves lives.

Attached is a letter from the chief of police of Downey, CA.

CITY OF DOWNEY,
December 7, 1995.

Congressman STEVE HORN,
4010 Watson Plaza Drive, #160,
Lakewood, CA.

DEAR STEVE: I have been told that Congressman Gingrich will be asking for a vote to repeal the assault weapons ban. I would strongly urge you not to support any type of vote that would weaken or repeal the current state of the law.

Enclosed is a letter of support I sent to Senator Feinstein earlier this year. It makes no difference whose name gets plugged in, as from my point of view it is absolutely irresponsible to consider support of H.R. 1488, the repeal of the assault weapons ban.

I trust you take the time to contact all the Los Angeles County Chiefs of Police. You will find total support of the current law.

Yours for professional law enforcement.

GREGORY C. CALDWELL,
Chief of Police.

CITY OF DOWNEY,
April 3, 1995.

Senator DIANNE FEINSTEIN,
U.S. Senate,
11111 Santa Monica Blvd., Ste. 915,
Los Angeles, CA.

DEAR SENATOR FEINSTEIN: I appreciate your asking for my input regarding Senator Dole's position on repealing the "ill conceived" gun ban passed as part of last year's crime bill.

As a 28-year law enforcement professional I feel I could speak volumes on gun control and the issues associated with gun control. However, I do not feel that is too important at this time. It seems that getting to the point is what is important.

If Senator Dole believes that any portion of the current gun ban is "ill conceived," I find it most difficult to find words to describe Senator Dole's thoughts to repeal. I must presume that Senator Dole has laid down his soul and good judgment to the National Rifle Association. That is truly unfortunate for a man of seemingly such good character and thought.

Again, recognizing all the present arguments, please allow an emotional argument or question. Knowing that military-style assault weapons fit the needs of sporting America, especially those urban hunters bent on human destruction,will Senator Dole help? Will Senator Dole come out and help our local cops clean up the mess of these urban hunters? Will the NRA help? Oh, excuse me, I forgot—guns don't kill, people kill.

Senator Feinstein, keep up the fight against allowing the manufacture, sale or transfer of military-style assault weapons, copycat models and the ammunition clip guidelines. If anything, the current controls should be just a baseline because they are not yet enough.

We have a tough job fighting off politicians who are willing to sell out to the NRA hiding behind the Constitution. As long as we have these sellouts, our urban hunters will continue to have great success.

If I can be of any other help regarding this issue or more responsible gun control issues, please feel free to call on me.

Yours for professional law enforcement.

GREGORY C. CALDWELL,
Chief of Police.

Mr. RADANOVICH. Mr. Speaker, I rise in support of the bill to repeal the ban on certain types of assault weapons.

This proposal carries great importance to my constituents in the 19th District of California. Many of the men and women I represent live in remote areas. "911" does not insure an instant emergency response for them. Lives are at stake here, Mr. Chairman, and it is essential that we move to protect those who legally try to protect themselves.

Althouth the framers of our Constitution hardly envisioned a society so besieged with violence as our current culture, they understood the constant need to be on guard, to defend our liberties.

If we were to infringe on the American public's right to bear arms, surely that would be to breach the spirit of our laws and the essence of our Constitution's second amendment. That provision of the Bill of Rights is explicit.

A vote to repeal the weapons ban is my vote of confidence in America's Constitution and America's people. In passing this legislation today, Congress demonstrates a respect for the integrity of those who penned the words of our country's most profound accomplishment.

Mr. COSTELLO. Mr. Speaker, I rise today in support of the legislation sponsored by Congressman JIM CHAPMAN which would repeal the assault weapons ban included in the comprehensive anti-crime package of 1994.

Voting on this issue is not difficult for me, because I strongly believe that my position on this legislation is correct. I opposed the assault weapons ban in 1994 when it came up as part of the crime bill, and I still oppose the ban.

The ban, one of the most controversial parts of the 1994 anticrime law, was ill-conceived and poorly drafted. The ban has burdened the rights of the American people to own guns, but has had no effect on crime.

This bill not only repeals the onerous ban, it also gets tougher on criminals. Instead of imposing more limits on law-abiding citizens, the bill goes in the other direction and slaps tougher penalties on criminals who use a firearm while committing a violent Federal crime.

The current ban arbitrarily restricts certain weapons, since it is virtually impossible to distinguish a semiautomatic assault weapon from other semiautomatic weapons that are used for sport and hunting. The features designated in the 1994 crime law that define which weapons are banned and merely cosmetic, and have no effect on the action of the firearm. Any firearm—banned or not—is equally capable of being abused by criminals or madmen, or used by law-abiding citizens for self protection or hunting. And, according to the FBI, all types of military-style weapons are involved in less than 1 percent of all murders and less than 1 percent of all serious crime.

No matter how much we all want to halt violent crimes committed with firearms, the fact is that banning certain firearms will do nothing to stop these tragic crimes. Studies overwhelmingly show that gun control laws—like those which ban all guns in Washington, DC, which has a very high gun-related crime rate—have no impact on stopping criminals from obtaining whatever firearm is necessary for perpetrating their crimes. The ban on semi-automatic assault weapons simply kept certain guns from law-abiding citizens, but has done nothing to disarm criminals.

Mr. Speaker, as a former police officer and the father of a police officer, I can testify that unlike the current ban, this bill will take steps to get violent criminals off the street. That is why I urge my colleagues to support the Chapman bill.

Mr. LEWIS of California. Mr. Speaker, I have long championed our second amendment right to bear arms. Time after time, I have voted against misguided attempts to limit or restrict our rights to buy and own guns or ammunition. As you may know, I have strongly opposed and voted against both the Brady bill and the assault weapons ban.

I have always been a strong supporter of law enforcement but I believe that we need to solve our crime problems directly and not by curbing the constitutionally protected rights of law abiding citizens. The ban on semi-automatic weapons will not stop criminals from procuring these firearms. The only people who will not have access to illegal weapons are law abiding citizens. Our Federal Government needs to protect law abiding citizens and not take away their means with which to protect themselves. It is for these reasons that I support efforts to repeal the assault weapons ban.

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to express my extreme disappointment with the majority leadership of this Congress for revisiting the assault weapons ban which passed the House in 1994. I think it fair to say that we are considering legislation to repeal the law today because the majority leaders "owe" the gun lobby. This is just one more example of how our agenda is being driven by interest groups with big pacs.

I am also shocked that the leadership has so thoroughly circumvented the committee process on this legislation. We should have had hearings. Before we consider repealing the law we should first know if it has been successful. What do our police officers think? Do they want to see the ban repealed? Has it helped save lives? Has it been effective? It is absolutely absured and outrageous that there has been no consideration or debate of this issue.

Mr. Speaker, I believe in self-defense. However, I do not believe one needs an AK–47 to defend himself. AK–47s can shoot 106 rounds in 2 minutes. They are high speed machine guns that have been used for shooting sprees. Patrick Purdy, using an AK–47, killed 5 small children and their teacher, while wounding 29 others on a playground in stockton, CA. What about the defense of these children? Whose concern is that? Those of use and who support the assault weapons ban are trying to make the would a little safer for our children.

Furthermore, every major national law enforcement organization in the country supports a ban on semi-automatic assault weapons. These are the cops on the beat in Miami and Ft. Lauderdale. They see no purpose for assault weapons, and I trust their judgment. I support the men and women who are fighting crime on our streets.

Mr. Speaker, with this vote we have to ask ourselves if we want a society that permits the sale of machine guns or we want a society that controls gratuitous weapons? A majority of Americans agree with me, Mr. Speaker. They believe in reducing bloodshed and saving lives. They support the ban on assault weapons and so should this Congress.

Mr. LEVIN. Mr. Speaker, we are here today as a gesture.

An extreme gesture, to be sure, but a gesture nonetheless.

It is not a gesture to the American people. Seventy percent of the American people support the assault weapons ban.

It is not a gesture to law enforcement. Every major law enforcement group in the country wants Uzi and Street Sweepers off the streets.

In fact, the Attorney General's office says that crimes involving assault weapons were down 18.4 percent during the first 8 months of the ban.

It is not even a legislative gesture, because this legislative proposal is going nowhere. The Senate won't go along with it. Everyone knows

VOL
142
PT
5
MR
21
—
29
1996
UMI

that. And even if it does, President Clinton will veto it to protect Americans from rapid fire weapons designed to kill.

So let's be very clear about the meaning of this gesture. It is a political gesture, because the people who currently control the House of Representatives are paying off an IOU to one interest group, the National Rifle Association.

I support the second amendment. I support the exercise of rights under that amendment. The assault weapons ban does not interfere with the rights of hunters and the right of self defense. But as a number of police chiefs have told me, assault weapons involved here are weapons of war. It is an extreme position to defend their general ownership in a civil society.

Mr. SMITH of Michigan. Mr. Speaker, the vote on repeal of assault weapons is not an easy vote. The reason is there are strong philosophical and practical arguments on both sides. On the one hand, we have the second amendment of the U.S. Constitution which protects the citizen's right to bear arms. This is an outgrowth of the fact that for centuries authoritarian governments maintained their power over the populace through the banning of weapons. We may look to Scotland, where in the early 14th century William Wallace led the Scottish freedom uprising against the British. The Scots were forced to use rocks, and homemade weapons because the English had banned Scots from having arms.

The other side of the issue can be looked at from the view of the proper role of government. As John Locke pointed out in 1689 in his "Second Treatise on Civil Government," a document that was the intellectual underpinning of our own Constitution, the reason we form governments is to protect life, liberty, and property. Anarchy leads to the strong coercing the weak. In order to reduce the total amount of coercion in society we give up the legal use of force to a government whose function is to protect each individual citizen from one another. The question then becomes, does the ban on assault weapons provide an efficient and reasonable means of protecting individuals from threat of force by other individuals? Again, we may look to Scotland, where just last week several children were killed before the police were able to intervene. Does the ban on assault weapons effectively reduce the chances that you will be coerced by another armed citizen?

The tradeoff is between our constitutional right to bear arms and the reason for government in the first place: protection of life, liberty, and property. Those of us who feel our right to bear arms is diminished greatly by the banning of these weapons and that the threat to our person from our fellow citizens is little reduced by the ban will vote for the bill. Those who feel these weapons add little to our freedom to protect ourselves from our government and that the existence of these weapons threatens our personal safety will vote against the bill. For many of us, the evidence is not clear on either side. On the whole, I believe there is strong evidence that crime will be reduced by getting tougher on the criminal that is committing the crime, rather then focusing on the weapon they use. This legislation does this by establishing strong minimum mandatory sentences for criminals who use firearms in the commission of Federal crimes and requiring the Attorney General to order each U.S. attorney to designate at least one assistant U.S. attorney to prosecute armed violent criminals, and makes sure the Department of Justice prosecutes armed violent criminals. Thus I will vote for the bill.

Mr. VENTO. Mr. Speaker, I rise in strong opposition to H.R. 125. Congress addressed this issue on a bipartisan basis and enacted the assault weapons ban in 1994. Today, just over 1 year later, we are back to square one—not because this law has caused some sort of hardship for the American people, but because of strictly partisan politics. The Republican leadership is repaying a political debt to the National Rifle Association [NRA].

Since the enactment of this law I have yet to hear of an incident of hardship on sportsmen or women—no hunters have missed deer season because they couldn't buy a TEC–DC9 or an AK–47. The simple fact is that the assault weapon ban works as intended—to keep military weapons off the streets of our communities and out of the hands of criminals.

Annually, 22 million households are affected by crime. Violent crime has increased 25 percent in the past 5 years. Today, criminals ironically are often better equipped with unregulated para-military weapons than our police officers who are trying to maintain law and order on our streets. Unfortunately, guns are appearing in our schools. Gang violence is spreading beyond the troubled city areas. Citizens are justifiably upset about the erosion of public safety and they are right in demanding that something be done about it.

The law which the Republican leadership is sacrificing at the alter of the NRA bans dangerous and destructive military-style weapons. It saves lives and bans semi-automatic weapons that can be easily converted into machine guns. There are the weapons of choice of naive and hardened law breakers. Human assault weapons—people-killing weapons—must be kept out of hands of the deranged, malevolent, and malcontent. Such weapons cause carnage on the streets of our Nation and they must be removed to stop the escalation and cycle of homicide that has tragically come to be the poster which too often today symbolizes life in the United States. Certainly the right to bear arms does not mean you should be able to run abound with a grenade launcher, street sweeper, or other military hardware. The primary purpose, perhaps the only purpose, of these assault type military weapons is the assault on another person, and there is no place on our streets for such a weapon.

The 1994 assault weapon ban is a positive element in an overall effort to reduce violence in our society. Congress in not obligated to the special interest groups such as the NRA and must respond to facts not fears—we must say no to the repeal and yes to the commonsense rules and laws of a civilized society. Congress is obligated to the people of this Nation and to our law enforcement officials, who overwhelmingly support the ban on assault weapons, to take these guns off the street and out of the hands of criminals.

This law works to save lives, to make our lives and that of those we represent safer. What kind of message will we send if today this House disregards the public's view and acts with disdain to symbolically strike down this commonsense law. This action, this process, this proposal is the type of action that causes the people we represent to hold this Congress in such disdain—special interest dominated and the public interest disregarded.

I urge my colleagues to vote "no" on this shortsighted and destructive legislation.

Mr. DEFAZIO. Mr. Speaker, the assault weapons ban was political theater by the Democrats. It was brought to the floor and passed because the President's pollster said it would be a hot issue for Democrats in the fall election. Repealing the ban is equally cynical political theater by the Republicans.

The fact is that the assault weapons ban has done nothing to stem violent crime. By the same token, it has caused little or no significant inconvenience for gun owners. I saw no reason to enact the ban in the first place and voted against it; I see no reason to continue this debate over symbolic measures here today. I'll oppose this repeal effort for the same reason I opposed the ban in the first place: it is symbol over substance. What we do here today will have little effect on violent crime and little effect on the rights of lawful gun owners.

After this meaningless debate is behind us, I'll continue to support the rights of law-abiding citizens to keep and bear arms. And I'll continue my staunch support for measures that will stop violent crime and put criminals who use guns behind bars for a very long time.

When the so-called assault weapons ban was first before the House, I voted against it. I said then and I'll say today that banning these weapons would do nothing to reduce violent crime in America. In fact, the ban didn't ban much of anything.

Consider this: the assault weapons ban specifically prohibits sale of the Colt AR–15, which is capable of firing up to 30 rounds of .223 caliber ammunition, each shot requiring a squeeze of the trigger. However, the bill specifically allows the continued sale of the Ruger Mini–14, which is capable of firing up to 30 rounds of .223 caliber ammunition, each shot requiring a squeeze of the trigger. The only difference between the two is that the Colt rifle looks more threatening. The ultimate irony, of course, is that the assault weapons ban didn't even make it illegal to sell AR–15's or any of the other weapons supposedly banned by the bill. It merely prohibited their future manufacture and made existing stocks more expensive.

In January of this year a man walked into an office building in Portland, OR, carrying a supposedly banned AK–47. He shot two people and took a number of others hostage before being apprehended by the police. Thankfully, no one was killed. The story is interesting for two reasons. First, he was using a supposedly banned assault rifle that he had legally purchased in 1995—after the assault weapons ban took effect. Second, he could just as easily have been using an equally dangerous rifle like the Ruger Mini–14, which was not banned by the so-called assault weapons ban.

If this repeal is adopted today, next year or the year after another ban will be offered that could be even more intrusive to legitimate gun owners. So let's quit kidding the American

people into thinking this charade means anything. The debate here today is about people's emotions, not about measures that will actually reduce violent crime.

First, our system of justice must provide stiff sentences for criminals who use guns and for multiple violent offenders. Our communities desperately need more police on the streets. Unfortunately, Republican leaders are doing everything they can to cut funding we passed to put 100,000 new cops on the street.

Equally important, however, is a commitment to early intervention and prevention for at-risk youth. Until we as a society can begin to undo the harm that has been done to the hopes of millions of Americans, violent crime will almost certainly continue to plague us.

Let's do the people's business here and quit playing these cynical political games. Let's stop the debate over symbol and move on to substance.

Mr. BEREUTER. Mr. Speaker, this Member supports certain provisions of H.R. 125 that increase the mandatory minimum sentences for committing crimes while possessing, brandishing, or discharging a firearm. Tough penalties are certainly needed. However, these provisions are not enough to change his support for the assault weapons ban. This Member previously voted for a ban on the manufacture and import of certain assault weapons because that was the rational, responsible, and constitutional thing to do. Furthermore, over 72 percent of the residents of the First Congressional District of Nebraska supported this vote.

Mr. FAZIO of California. Mr. Speaker, I rise today to offer my continued support for the assault weapons ban passed by the Congress in 1994. Passed with the overwhelming support of national law enforcement organizations, this new law is working to reduce bloodshed and save lives.

During the late 1980's, assault weapons accounted for about 8–10 percent of all guns traced to crimes by law enforcement, even though assault weapons accounted for only about 1 percent of the guns in private hands. The number of assault weapons traced to crime in the first months of 1995 fell for the first time in recent years from the prior year's level. These impressive statistics indicate that the use of assault weapons in crime is now declining. My colleagues, this law is working.

The attempt by the Republican leadership to derail the successes of the assault weapons ban is nothing more than poorly disguised political opportunism. This is a payback—pure and simple.

But this vote should not disguise the fact that the overwhelming majority of the American public, including gun owners, wants assault weapons off our streets and out of our school yards.

When we debated this bill 2 years ago, the legislation was narrowly drawn to protect the right of all law-abiding Americans to own firearms both for hunting and other sporting purposes, as well as for their own self-defense.

Assault weapons are the weapons of choice for terrorists, mass murderers, drug dealers, gang members, drive-by shooters, and cop killers. They also continue to be used against their well-armed opponents—police officers.

For the safety of our children and those who are sworn to protect them, vote against this bill and maintain the assault weapons ban.

Mr. NORWOOD. Mr. Speaker, in spite of what the liberal media would have us believe, the semiautomatic weapons outlawed by the 1994 assault weapons ban are seldom used in crimes. According to the Bureau of Alcohol, Tobacco, and Firearms, for every 4000 violent crimes reported in this country, there was only one of these weapons involved. In fact, we would accomplish more by banning kitchen knives.

What the bill we debate today accomplishes is real crime control—by cracking down on criminals who use guns, instead of law-abiding gunowners.

The sheriffs and district attorneys in my district tell me they don't need more gun control, they need the ability to take gun-carrying criminals off the street, and that's what H.R. 125 does.

For any criminal in possession of a gun while committing a crime, this bill provides for a mandatory minimum sentence of 5 years in prison. For pulling that gun during a crime, 10 years. For firing it, 20 years. And if the weapon used is a sawed-off rifle or shotgun, they automatically get an extra 10 years in prison added to these sentences.

Furthermore, subsequent violent or drug-related crimes are punished by 20 years for having a gun, 25 years for pulling it, and 30 years for firing it. And if the gun is a machinegun, or has a silencer or flash suppressor, the sentence is life in prison.

Compare this to the 1994 crime bill's 10-year sentence for crimes involving semiautomatic assault weapons, and it's easy for both sides of the aisle to determine that this bill does for gun-crime prevention what the assault-weapons ban will never do.

Mr. Speaker, I urge passage of H.R. 125 to put real teeth into gun control against criminals, instead of using the issue of crime as an excuse to attack the Bill of Rights.

Mr. MENENDEZ. Mr. Speaker, I rise in strong opposition to H.R. 125.

We are voting to repeal a ban on assault weapons and large capacity ammunition clips that is supported overwhelmingly by police who put their lives on the line for us. They call the weapons banned by the 1994 law cop killer guns.

In a recent study by Handgun Control, assault weapons accounted for 17.4 percent of fatal police shootings. In another study, 18.5 percent of the shootings, where the gun was identified, involved a gun with a large-capacity magazine of more than 10 rounds.

This ban has widespread support from the people who care for gunshot victims—doctors, nurses and medical personnel; religious leaders who are trying to end the violence in our communities; the teachers and administrators who are concerned about guns in our schools; responsible gunowners who want to end gun violence; and the children whose very future is put at risk.

The Bureau of Alcohol, Tobacco and Firearms data revealed that although semiautomatic assault weapons comprise less than one percent of the privately owned guns in America, they account for 8.4 percent of all firearms traced to crime from 1988 to 1991.

During 1986–1991, 20,526 assault weapons were traced to crime, and of those, 1,349 were specifically traced to murders in the United States and 4,031 were linked to drug traffickers. The congressional assault weapons ban did not take guns out of the hands of law abiding citizens who legally owned their weapons before the enactment of the assault weapons ban in 1994.

The Members who vote for the repeal of the assault weapons ban are voting for a bill that will resume manufacturing and importation of killing machines. After President Bush banned the importation of assault weapons in 1989, the number of imported assault weapons traced to crime dropped 45 percent the next year. If we vote against repealing the ban, we will be giving the assault weapons ban the time it deserves to reduce gun violence and save more lives.

I ask that my colleagues vote against this bill. We can save more lives by keeping assault weapons off our streets.

The SPEAKER pro tempore. All time has expired.

Pursuant to House Resolution 338, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. Yes, Mr. Speaker, I certainly am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS moves to recommit the bill to the Committee on the Judiciary.

□ 1345

The SPEAKER pro tempore (Mr. WALKER). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 239, noes 173, not voting 19, as follows:

[Roll No. 92]

AYES—239

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bevill
Bilirakis
Bishop
Bliley
Boehner
Bonilla
Bono

VOL
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PT
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MR
21
—
29
1996
UMI

Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cramer
Crane
Crapo
Cremeans
Cubin
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Frisa
Frost
Funderburk
Gallegly
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gunderson
Gutknecht
Hall (TX)

Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Inglis
Istook
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kelly
Kim
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Mascara
McCollum
McCrery
McHugh
McInnis
McIntosh
Metcalf
Mica
Mollohan
Montgomery
Murtha
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)

Peterson (MN)
Petri
Pickett
Pombo
Portman
Poshard
Quillen
Rahall
Regula
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Rose
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Young (AK)
Zeliff

NOES—173

Abercrombie
Ackerman
Andrews
Baesler
Barrett (WI)
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bilbray
Blute
Boehlert
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)

Campbell
Cardin
Castle
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle

Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Ganske

Gejdenson
Gephardt
Gilchrest
Gonzalez
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Horn
Houghton
Hoyer
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klug
LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren

Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Matsui
McCarthy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Moran
Morella
Nadler
Neal
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Porter
Pryce
Quinn
Ramstad

Rangel
Reed
Rivers
Roemer
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (NJ)
Spratt
Studds
Thompson
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Ward
Watt (NC)
Waxman
Woolsey
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—19

Calvert
Clay
Collins (IL)
Cox
Cunningham
Dreier
Gibbons

Johnston
Lewis (CA)
McKeon
Moakley
Moorhead
Myers
Radanovich

Schroeder
Shaw
Stark
Stokes
Waters

☐ 1401

The Clerk announced the following pairs:

On this vote:

Mr. Radanovich for, with Mrs. Collins of Illinois against.

Mr. Camp for, with Mr. Moakley against.

Mr. Cox for, with Mr. Johnston against.

Mr. WATT of North Carolina changed his vote from "aye" to "no."

Mr. TAUZIN changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXTENSION

Mr. McKEON. Mr. Speaker, on Friday, March 22, 1996, I was in California, and therefore, was absent for consideration of H.R. 125. If I had been present for recorded vote No. 92 on passage of H.R. 125, I would have voted "aye."

H.R. 125, the Gun Crime Enforcement and Second Amendment Restoration Act, repeals the misguided prohibition on the manufacture, transfer, and possession of semiautomatic assault weapons. I have consistently opposed any ban on these types of weapons.

The notion that assault weapons are disproportionately used in committing crimes is false. The Bureau of Alcohol, Tobacco and Firearms estimates that there is approximately one assault weapon traced for every 4,000 violent crimes reported to the police. Clearly, these are not the weapons of choice for criminals.

Furthermore, I believe that crime deterrence lies not in gun control but in the enforcement and strengthening of our laws. For example, H.R. 125 enhances our laws by creating mandatory minimum prison sentences for violent or drug-related crimes committed with a gun and establishing Federal task forces in each U.S. attorney's district to coordinate State and local law enforcement officers in Federal prosecution efforts.

Finally, despite predictions that the assault weapon ban would significantly reduce crime in America, it has become apparent that, in fact, the only effect the ban has had was to place more restrictions on honest law-abiding gunowners.

GENERAL LEAVE

Mr. BARR. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. WALKER). Is there objection to the request of the gentleman from Georgia?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, MONDAY, MARCH 25, 1996 TO FILE CONFERENCE REPORT ON H.R. 2854, FEDERAL AGRICULTURAL IMPROVEMENT AND REFORM ACT OF 1996

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Monday, March 25, 1996, to file the conference report on H.R. 2854, the Federal Agricultural Improvement and Reform Act of 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 1833, PARTIAL BIRTH ABORTION BAN ACT

Mrs. WALDHOLTZ, from the Committee on Rules, submitted a privileged report (Rept. No. 104–492) on the resolution (H. Res. 389) providing for consideration of the Senate amendments to the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I would inquire of the gentleman from Texas the schedule for this week and next week.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we have concluded our legislative business for the week and I am happy to announce that the Members are now free to return to their districts and families.

Next Monday, March 25, the House will meet in pro forma session at 2 p.m. There will be no legislative business that day.

On Tuesday, March 26, the House will meet at 12:30 p.m. for morning hour and 2 p.m. for business to consider a number of suspensions, as follows:

H. Con. Res. 146, 1996 Special Olympics Torch Relay;

H. Con. Res. 147, 1996 National Peace Officers' Memorial Service;

H. Res. 345, expressing concern about the deterioration of human rights in Cambodia;

H. Res. 379, expressing the Sense of the House concerning the anniversary of the massacre of Kurds by the Iraqi Government;

H. Con. Res. 102, concerning the emancipation of the Iranian Baha'i Community;

H.J. Res. 158, to recognize the Peace Corps on the occasion of the 35th anniversary and the Americans who have served as Peace Corps volunteers; and

H.R. 3121, to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions and to authorize the transfer of naval vessels to certain foreign countries.

If any recorded votes are ordered on Tuesday, they will be held until 5 p.m. on Wednesday, March 27.

On Wednesday, the House will meet at 2 p.m. for legislative business. We will dispose of the Senate amendments to H.R. 1833, the Partial Birth Abortion Ban Act.

On Thursday, March 28 the House will meet at 10 a.m. to take up the conference report to H.R. 2854, the Agricultural Market Transition Act, and also H.R. 3103, the Health Coverage Availability and Affordability Act of 1996.

On Friday, March 29, it is our hope that the House will consider an appropriations conference report for fiscal year 1996. We will also consider a bill to increase the debt ceiling.

Mr. BONIOR. I thank my colleague for his information.

Mr. Speaker, I just have two questions. Does the gentleman anticipate bringing up the product liability bill next week?

Mr. DELAY. If the gentleman will yield further, we do not know that, but the gentleman knows that a conference report can be brought up at any time.

Mr. BONIOR. Let me then ask the gentleman, your leadership has announced that the Passover/Easter recess would begin next Friday. Can you give assurances to the House that we will complete business by next Friday? Or is there still some thought that we may in fact have to go into the weekend or the following week?

Mr. DELAY. I think the gentleman knows that we are trying to put 1996 behind us as far as the spending and debt limit is concerned. Unless the President vetoes those two bills, we expect to be out by no later than 6 p.m. on Friday.

ADJOURNMENT TO MONDAY, MARCH 25, 1996

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the house adjourns today, it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, MARCH 26, 1996

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 25, 1996, it adjourn to meet at 12:30 p.m. on Tuesday, March 26 for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, MARCH 27, 1996

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, March 26, 1996, it adjourn to meet at 2 p.m. on Wednesday, March 27.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

WHO DO YOU TRUST—HAMAS OR THE USA?

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, there is a Member of this Congress, a Republican, who has told one of his colleagues that he "trusts Hamas more than he trusts our own Government." That is an outrageous and morally repugnant statement, Mr. Speaker.

Hamas is a terrorist organization that targets, maims, and kills innocent men, women, and children. Which Member of Congress thinks they can trust that sick and twisted group more than our own Government. Whoever believes this doesn't deserve the right and privilege to serve in this Congress.

Mr. Speaker, this anonymous Republican Member has disgraced him or herself and cast a cloud over the entire Congress. The Members and the American people deserve an explanation and an apology.

Who among you? Who among you believes such a thing? Step forward and explain yourself. The American people are watching and waiting. For shame, Mr. Speaker, for shame.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

GUN CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, in this often contentious debate about gun control, I wanted to talk for a bit about why I supported lifting the ban on so-called assault weapons, but I would like to move beyond that, as well, as to what can be done.

I supported lifting the ban because I do not think it has made much of a difference and I do not think it works. I also think that it is really false advertising.

The fact of the matter is that this type of firearm that is sought to be banned is responsible at best, according to the Department of Justice, for something like 3 percent of violent crimes and many suggest in those statistics that it could be as low as 1 percent of violent crimes. Yet this is where 100 percent of the debate has rested for 2 years.

I also oppose the ban on so-called assault weapons because I never have understood why it is that you can take two firearms and one looks a certain way, perhaps it has a bayonet mount on it or it has a flash suppressor or a folding stock, one firearm looks one way, another firearm looks another way but they both fire the same bullet at the same speed, at the same impact

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and they are both semiautomatic, yet one is banned and one is not. Once again , it seemed to me to be cosmetic.

Third is because if these are indeed the cause of a lot of violent crime, then why is it that since this ban was passed, well over a year ago, why is it that there has only been one—that is right—one prosecution in the entire country under this law?

So for those reasons, I have opposed this existing ban.

I did support the present bill to lift the ban because it did something else, as well. It created mandatory sentencing for crimes committed with firearms. It put people away. If you commit the crime with this kind of gun or any kind of gun, you are going to jail for a certain amount of time. That is what is needed. My experience is that people who intend to commit a crime with a firearm are not paying attention to laws.

We have laws already that it is illegal to carry a concealed weapon without a permit; any minor that is under 18, it is illegal for them to possess a handgun under existing law. Of course felons are not permitted to have firearms and on it goes. If they are going to commit a crime, they are going to get a gun.

□ 1415

Now, what I really propose, though, is to take the challenge that a newspaper issued to me recently. It is a fair challenge: If you do not believe in gun control, and I do not, then what is it that you would do? The first thing I would do is to make sure strict penalties are implemented so people understand if they commit a crime with a firearm, they are going to jail. At the Federal level this Government has been lax on that. It is time to toughen up. It is time to enforce existing laws that are on the books.

Second, though, is to lower the decibel level on this issue. There are well-meaning people on both sides of this issue. In fact, there is a lot of disagreement. So can we focus where we agree? Can we focus on a coordinated community campaign?

The fact of the matter is there is too much violence, there is too much crime. Yes, there is too much use of guns in this crime. But that is going to be dealt with by dealing with the heart, by dealing with the soul, by dealing with education, by dealing with the attitude. What is it that causes people in our society to become violent? What is it that makes people somehow think the first thing you do is pick up a gun instead of the absolutely last unthinkable thing you do? That is what needs to be dealt with.

This can be a call for all of us in our community, churches, business groups, our schools, our parents, our teachers, to become involved in dispute resolution processes, to look and study what it is that can be done in our community, how can we work together to make sure that young persons growing up do not think violence is the first resort, how is it newspapers, community journalism, resources at their disposal, how is it newspapers can be involved in surveying what can be done across our country and bringing that home so all of us in the community can understand, so newspapers can focus on successful efforts, role models and community organizing and dispute resolution and their teaching and their education? How is it that newspapers can help focus people's attention, the young person's attention, as to what happens in these types of crimes? What is it that can be done within the community?

Ladies and gentlemen, Mr. Speaker, we are not going to solve the problem of gun control on the floor of this House. What we can do, though, is to seek to bring this country together around fighting violence and make sure those who commit crimes with guns, yes, are put away, more importantly, guns are not to be used lightly, and taken lightly, and we can begin focusing on how we can work together instead of we can be split apart. Only by working together are we going to resolve the problems in the challenge of violence and crime and too much use of guns.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under a previous order of the House, the gentlewoman from Maryland [Mrs. MORELLA] is recognized for 5 minutes.

[Mrs. MORELLA addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

A SAD WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, some might say that this was the week that was. It is gone now. But we have to live by what we accomplished. We will have to go back to our constituents and be able to defend the legitimacy of the U.S. Congress in its legislative agenda, whether it helps or hurts. I do not know about anyone else, Mr. Speaker, but the Mac that is in front of us here kills. I know it kills because I sat in a committee on the Judiciary hearing, called by Congressman SCHUMER yesterday, and heard several victims speak about assault weapons killing. These witnesses told stories of a tragedy on a New York train. The victims of a son in a DC police station. They also talked about the loss of a wife and a mother in a San Francisco law firm. They did not talk from bitterness from the perspective of I do not love this country, but they lost their loved ones, and they were simply pleading for a reasonable ear to listen to their outcry and their outrage. And you know what? They said we could do something about it. And that was to maintain the ban on assault weapons.

I committed to them yesterday that I would listen to them. Tragically, today that outcry, that plea, that eloquent silence of their lost loved one fell on deaf ears because we did not listen.

Today we now have repealed the ban on assault weapons as it winds its way to the U.S. Senate. Yet as we do that, we found a colleague on the Republican side noting the words quoted in the CONGRESSIONAL RECORD, "I trust Hamas more, terrorists that provided several bombings in Israel, more than I trust my own Government." These are the words that have generated a weakened antiterrorist bill. The week that was.

These are the words that generated into the repeal of the assault weapons ban. "I trust the Hamas more than I trust my Government."

Ladies and gentlemen, we must stand up for what is right in this country, belief in the American flag. When I say to you that was the week that was, we now have an education policy that cuts $3.3 billion, so we have an attack on Goals 2000, several of our title programs that help children to learn, closing the door on education. That was the week that was.

Tomorrow I will join in with your people who will be spending the day trying to register to get a summer job, a mere opportunity to be exposed to a work experience. I had such a young person in my office. They called one day and said they could not come to work because they did not have the proper clothes to wear in an office. I said, "If you have got to wear a paper bag, come on, because it is about you having an experience." But right now, in the budget of the United States of America, we have no money for summer jobs for our youth. Some of those dollars could be utilized to help their parents during troubling times.

This was the week that was. The Hamas statement; $3.3 billion cut from education; now the assault weapons going forth in this Nation; and, yes, an indictment of what we believe in for our children; no summer jobs for young people across this Nation; young people who are trying every day to stand up for what is right, young people who are trying not to be in gangs.

I do not know about my colleagues, but this was a very sad week. But we have another next week, and I am going to try my hardest to work on behalf of the American people and the great people of the 18th Congressional District.

TRIBUTE TO THE ALL-AMERICAN JUNIOR GUILDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. HOUGHTON] is recognized for 5 minutes.

Mr. HOUGHTON. Mr. Speaker, this clearly has not been a happy day here. We have talked about issues that divide rather than bring us together. But I would like to talk about something that does bring us together. It is something that happened several weeks ago when a group from the district that I represent, in upstate New York, in Jamestown, NY, came down and entertained and gave joy and perspective to a whole group of us, those of us who were particularly interested in the Appalachian Regional Commission and the things that it did.

Frankly, I would like to talk about this in a way that is sort of unusual. I would like to talk about names, and if you would bear with me, Mr. Speaker, I would like to talk about the names involved, this the All-American Junior Guilders, great young group of people, happy, positive, the people who are going to be leading our country in the years ahead. They are associated with the Lucille Ball Threater. Lucille Ball incidentally, was born in upstate New York. And the driver and the life giver of this group is a lady called Helen Merrill. She has been involved with the theater for over 30 years and has been the spark of this thing, and you just feel better just seeing her and being around her.

They performed at lots of pretty significant places: the White House, Oprey Land, Disney World, Kennedy Center. These kids range in age from about 7 to 16. It is an all-volunteer organization. It really makes you proud to sort of be with them.

What I would like to do, if you would bear with me, is let me mention some of the names and it is going to be a long list, but I think it is important that each person as an individual is recognized here.

First of all, there is a lady called Mrs. Lucille Miller, who is the musical director. She has been a great help for Helen Merrill. Then there is Mary Jane Gerstel, choreographer; Jim Jones, technical director; Bob Servis, on drums; and Tiffany Wakeley, student assistant to the director. All people who keep this organization alive as kids go from grade to grade to grade.

What I would like to do is to mention the names of these children. They are all from upstate New York. I am very proud of the fact that they are, because I was born and brought up there and they are terrific people.

Let me just mention them:

Leah Gerstel, Chad Wakeley, Tiffany Gale Wakeley, Nichole Adams, Alycia Anderson, Ashley Arnone, Trisha Configlio, Jamielee Bonfiglio-Davis, Beth Ann Calzone, Laura Calzone, Erik Carlson-Coulter, Shane Comber, Lindsay Ann Coons, Jillian D'Angelo, Rachel D'Angelo, Carmaine Davis, Steve Davis, Kara DeAngelo, Mary Evelyn Demarco, Alexis Denn, Chelsea Denn, Melissa Rachelle Ferraro, Andrew Freeman, Kevin Fuller, Rachael Gerstel, Nicole Gullo, Alan Paul Gustafson, Jr., Scott Hannon, Shawn Hannon, Jessica Herron, Emily Huffman, Holly Louise Jones, Cory King, Chrystal Kota, Katie McMaster, Jennifer Lynn Murray, Ashley Muscarella, Jamin Scott Peace, Lynnsey Penna, Rachael Penna, Aubrey Perlee, Francis Peterson, Brenda Proestler, Anthony Sali, Lindsey Michelle Saullo, Crystal Swan, and Jessica Wheeler.

There is so much that we talk about in terms of the unhappiness of this world. These people give us happy memories. They are the light of our future, and I am very proud to mention their names and to be associated with them.

CANCER CLUSTER IN OCEAN COUNTY, NJ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

Mr. SAXTON. Mr. Speaker, I take out this special order this afternoon to bring to the attention of my colleagues a very, very important and a very, very unhappy circumstance that has occurred in my district. Many of you may have watched the CBS Evening News last night and observed an alarming segment of the news about a situation in Toms River, NJ. Toms River is in Dover Township in Ocean County.

Unfortunately, over the past several years, the rate of brain and central nervous system cancers in children has increased very dramatically. As a matter of fact, it has increased far beyond what would be expected if you looked at some kind of a national average or at a normal town. In Ocean County itself, as a matter of fact, 54 children have been diagnosed with brain or central nervous system cancer since between 1979 and 1991, just those several years. This is a rate which is far in excess of what we would expect to find.

In Toms River, there were eight children diagnosed with those types of cancers when you would expect an average of maybe two. So this is obviously many times higher than we would expect and has created a very difficult situation and, of course, has frightened many of us who live in that area.

Back in New Jersey, there are a number of efforts under way to try and do something about this, about this situation, and of course, before we can do anything about it, the situation has to be defined so that we can know what caused it.

There are citizens groups which have formed. For example, there is a citizens group which is very, very active which is know as Oceans of Love. Its leader, a lady by the name of Linda Gillick, who has been very active over the years, has done much good for families that have been affected. As a matter of fact, here 17-year-old son, Michael, is one of the children that is affected by this condition.

Also back in New Jersey, State Senator Andrew Ciesla and his two running mates in the State assembly, Assemblyman Holzapsef and Assemblyman Wolfe, have introduced legislation to provide $400,000 to go toward a definition of the problem, to try to study the situation, to find out what it is that may have caused the situation to occur.

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Here in the Congress, on a bipartisan basis, we are taking steps to try to do likewise. The administration has been brought into this, the Clinton administration has been brought into this, and I understand there is a good possibility that assets of the Federal Government will be made available through the administration.

Yesterday, I, together with a number of other concerned Members of Congress, introduced legislation here to match the State bill of $400,000, so we would have a total of $800,000 to look at this problem and provide a study and report so we can take corrective measures once we know what has happened.

Mr. Speaker, as this bill proceeds through the legislative channels here in Washington, I hope that we will have support, and I am sure we will have support, of Members from both sides of the aisle. This is obviously a situation which must be corrected. There are some suspected carcinogens in the area which need to be looked at, which need to be studied, which may be the root cause. Of course, this needs to be looked at more carefully in order to make sure that we know what it is that is happening.

Last night there was a meeting in the township, and 1,000 community members showed up to express their concern. If you could read the accounts of that or hear from the people who were there, you would understand just how difficult and frightening this situation is.

So, Mr. Speaker, I hope that we will be able to move with dispatch, either through the administration or through the Congress or both, to bring to bear the assets, the financial capabilities, and the personnel which are embodied in the Federal Government, in order to quickly and efficiently define this situation, define a solution to the situation, and get this episode behind us.

Mr. Speaker, I thank you for the opportunity to express these thoughts here this afternoon.

VOL
142
PT
5
MR
21
—
29
1996
UMI

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT MUST ITSELF BE ABOVE REPROACH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 minute.

Ms. SLAUGHTER. Mr. Speaker, I am very concerned today. I am very concerned about the ability of the House Committee on Standards of Official Conduct to conduct its business in a fair and impartial manner, because of press reports that we have seen throughout this Congress expressing doubts about the committee's failure to uphold the bipartisan standard of fairness for which it is well-know.

Just yesterday I read a press report about a new breach or possible breach of impartiality, where the committee was accused of communicating with a Member who was under review. Surely, Mr. Speaker, this must not happen. It is totally unacceptable.

The group in this House that is charged and given the privilege of maintaining the ethics and the decorum of this House must not itself come under reproach.

Mr. Speaker, I include for the RECORD an article by Larry Margasak on this issue.

ETHICS COMMITTEE REBUKES LAWMAKER, LETS HIM ANNOUNCE IT

(By Larry Margasak, Associated Press Writer)

WASHINGTON (AP)—In an unusual arrangement, the House ethics committee privately rebuked Rep. David M. McIntosh, R-Ind., but allowed him to announce the action in generally favorable terms.

Committee Chairman Nancy Johnson refused to publicly release the panel's letter sent to McIntosh on Tuesday. The letter criticized his distribution of materials at a hearing and religious comments made by an aide.

The letter found, however, that no rules were violated and two ethics complaints against McIntosh were dismissed.

Johnson's action broke with the usual practice of publicly releasing letters that complete ethics cases.

In this instance, the only hints of the letter's criticism came in a news release from McIntosh written with an assist from the committee.

The congressman's spokesman, Chris Jones, said, "The committee asked us to include certain things in the news release." Those items, in the last paragraph of McIntosh's seven-paragraph statement, made references to the ethics panel's concerns.

Congressional sources familiar with the letter, speaking on condition of anonymity, said it was far more critical than McIntosh suggested in his news release.

The complaints were based on McIntosh's actions at a Sept. 28 hearing of a House Government Reform subcommittee he chairs and improper remarks by a subcommittee staffer about a Jewish holiday.

McIntosh displayed a poster and distributed a letter resembling the stationery of the Alliance for Justice, a coalition of civil rights and public interest lobbying groups. The document purported to list amounts of federal grants received by the group's member organizations.

The documents included no disclaimer saying they had been prepared by McIntosh's staff, and listed grants for at least two groups that say they receive no federal money. The poster also was displayed on the House floor.

The improper remarks came in a conversation between a subcommittee staffer, John Praed, and Alliance for Justice counsel Deborah Lewis.

According to Lewis, she asked for more preparation time for the subcommittee hearing because of the Jewish Rosh Hashanah holiday.

She said she would be off that day and Praed asked, "Does that mean you have to work Christmas?"

McIntosh's version praised the Committee on Standards of Official Conduct the ethics committee for its "fair and nonpartisan consideration of the complaints" and for reaffirming "the soundness of the ethics process." It quoted a Democratic lawmaker supporting McIntosh.

But the final paragraph of the news release the portion the committee wanted to include changes the tone somewhat.

After noting the ethics panel accepted McIntosh's statement that he had no intention to mislead at the hearing, the lawmaker hinted at the committee's concerns.

"House members should not use anyone's letter or letterhead and add any extraneous comments because of the potential for confusion about who added the extraneous comments," the release said. McIntosh agreed to adopt the policy in the future.

"The committee also indicated concern about questions made by a former subcommittee staff member in preparing for a subcommittee hearing," McIntosh's news release acknowledged.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 5 minutes.

[Mr. RIGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THE WEEK THAT WAS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, this indeed was a week that was, but I hope this is no indication of what our future may be. This is the week where we cut $3.5 billion from education funds. Yes, this is the week where we denied aliens who are here on the soil access to free education. Yes, this is the week where we also gave, I think, a very poor example that we have to have assault weapons in order to feel protected in the sanctity of our home.

Mr. Speaker, this was the week that was. But I hope and pray this is no indication about the future that is to come.

Mr. Speaker, our Nation deserves a future that is worthy of its past.

In the past, we led the world in education. Today, we trail many nations in Europe and Asia.

In the past, we adequately invested in education, spending 10 percent of our funds. Today, we spend roughly 1 percent, and worse, our colleagues on the other side of the aisle want to cut another 25 percent of those funds.

It should, therefore, not surprise us, Mr. Speaker, that Japan, which now leads America in education, also leads America in the sale of many products and services.

It should not surprise us that we have a balance of trade deficit with Japan.

Education and our economic position are tied together.

We all know the old adage, "If you build a better mousetrap, the world will beat a path to your door."

We can not build better mousetraps without a solid foundation of education in this country.

We cannot compete globally, without education at home.

Yet, Members of this House have voted to further cripple education by making the largest cuts in America's history, with overall funding of the Department of Education likely to be reduced by 25 percent.

These cuts will affect basic reading, writing and math skills—skills that shape the workers and managers of tomorrow.

These cuts will mean fewer computers in the classroom, and worse, fewer teachers to educate and train our future work force.

These cuts could mean that some 45,000 teachers will get layoff notices in April, making classrooms more crowded and teaching more difficult.

We must restore these cuts, we must invest in education to provide greater educational opportunities for America's children, America's families and America's workers—so that they will be ready to meet the challenges of the changing global economy.

Japan and China recognize the value of education.

That is why they are using their resources and sending more and more of their young people to the United States for an education.

They know now what we knew before, that education is the key to the future. But, too many of our colleagues have closed their eyes to the past.

Instead of upholding our brilliant past, they want to push us deeper into a dark future.

But, there is a light at the end of the tunnel.

The Senate by a wide margin, Democrats and Republicans, have voted to restore education cuts.

The House should join the Senate.

In addition, the President has submitted a budget, indeed a balanced budget.

The President's budget continues investments in education.

While some would cut the education budget by 20 percent, the President proposes to increase the budget by 20 percent over its 1993 level.

While some would cut the education budget over 7 years, the President invests $61 billion more in that budget.

The President would invest $1 billion more in title I education funds for basic and advanced skills assistance.

The President's budget increases Pell Grants, Safe and Drug Free School Funds, Charter Schools, the School to Work Program and Goals 2000.

The President's budget invests $2 billion in Technology Literacy Challenge—bringing to the fingertips of every child in America access to computer training and learning.

And, the President's budget provides a $10,000 tuition tax deduction to help working families afford college.

I urge my colleagues to join the Senate and join the President.

Now is not the time to give up on our children.

America's future should be as bright as its past.

COMMENTS ON CORRESPONDENTS DINNER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I had no intention really of using this time today. It is more by circumstance that I take it.

Last night, after our long day's work here, I went home. I was having my dinner with my wife, and we turned on the TV and I was checking on C–SPAN to see if in fact we were having any further floor action on subjects that interested me. I got into the Correspondents Dinner downtown in Washington.

I believe that is a dinner traditionally where the correspondents and the top leaders of our country get together and, in a good natured and good humored way, poke fun at each other; they get together and have some time of friendship and fellowship, take time out from their schedules. It is usually an enjoyable circumstance.

I would say that I thought that President Clinton did an extremely good job of carrying the mood, making a fine presentation. I enjoyed what he had to say. I think everybody there did. I think Speaker GINGRICH did also. I thought his remarks were appropriate, on target, amusing, and it was a good thing going on.

Then, Mr. Speaker, we had a monologue from a gentleman, who I guess is a talk show host, named Don Imus, that I think went well beyond anything that should be tolerated on the public airways. I realize it is a free country, and I am in no way suggesting that people do not have a right to say or do what they want, to speak what they want. I would never take that right away from Mr. Imus.

But I certainly feel that what he had to say went beyond inappropriate. It was excruciating, it was embarrassing, it was certainly blood sport. It was far more mean than it was amusing. I consider it not washing dirty laundry, but reveling in dirty laundry. And I wonder why anybody would take joy or have any particular participation in something that certainly went beyond decency and went beyond respect, particularly when we are talking about the President of the United States and the Speaker of the House, of this institution.

I make these observations because I hope that the people who organize this dinner in the future will get principal speakers who will deal with the spirit of what this evening was supposed to apply itself to, which is in fact some good natured time of fellowship among people who have tremendously difficult decisions to make, tremendously difficult jobs here, who work long days at great personal sacrifice.

I think we are certainly all human beings and we all have our little failures, but to go and systematically try and demean people, which is what the purpose of the monologue was, seems to me to be immensely disrespectful, and, again, I hope those folks will not have a speaker like that again. I think it ruined the evening.

Fortunately, this is a free country. We are very happy that this is a free country. We just passed in this body something called the V chip, so we do not have to watch violence on TV. My TV set has a V chip already. It is called an off button, and, as a free citizen in a free country, I exercise my prerogative to turn off Mr. Imus. I hope others will do the same if they feel the same way I do about his performance last night.

GUN CONTROL AND CRIME CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BUYER] is recognized for 5 minutes.

Mr. BUYER. Mr. Speaker, I come to the floor today to talk about the vote that we just had here recently on the repeal of the assault weapons ban and measures to enforce statutes with regard to criminals who use a weapon in the commission of a crime. I want to talk about our judicial system at the Federal level and how it impacts at the local level.

During the debate, I only had about 30 seconds. It was a limited debate. This was a debate that could have gone on on this floor for a long time, so I understand why the Committee on Rules had to limit the debate.

But one thing really I believe is very clear, is that there are, and I do not question the sincerity from two different groups that we saw in this debate, you have got those people who believe with all their heart that if we just get all the guns off the streets, that there will be no crime in our society. Then there are those, of whom I am in the camp, that believes gun control is not crime control, and understands the right of free citizens to own and bear arms and the protections of the second amendment of the Constitution.

But, folks, I do recognize, and those of us who live in this town in Washington and have to work here, that when you go out in those streets and you see those homes and you see the businesses here in the city whereby it is illegal to possess a handgun, and in those homes and in those businesses are citizens who live in fear, it is clear that the wrong people are behind bars in this town, as the thugs continue to roam the streets. So as we live in a free society, if in fact you live in fear, you are not free.

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This bill was about giving law abiding citizens the opportunity to live in freedom and not in fear.

What did not get sufficient time in the debate, what I believe was the substance of the bill, was increasing the penalties for the use of a weapon in the commission of a crime. In the last session of Congress, there was a great debate about increasing the penalties on criminals that use a firearm, and it was knocked down in the 1994 crime act. I was very upset that that happened. Let me talk for a moment about that.

In this bill, what we have done is, if a thug walks into a 7-Eleven and he has got, stuck in his pants, he has a handgun right here, for the fact that he just walks in there and he has it and if his buddy pulls his gun, they both are arrested. For the fact that he had possession of a firearm in the commission of that crime, even though he never pulled it, it is a mandatory minimum of 5 years. I believe that deterrent is very important. If he pulls that weapon and he brandishes that weapon to incite fear in that individual, to rob them or hurt them or maim them, even to threaten to kill them, minimum 10 years. If in fact he discharges that firearm, 20 years.

You might say, my gosh, Congressman, that is very harsh. You are right. That is harsh. Because there are those of us that believe if you use a weapon in the commission of a crime, it better be a harsh penalty. And let us send that signal out there to the thugs, because to me the real assault weapon is the thug who pulls the trigger.

Let us talk about theories of punishment in our judicial system. The theories of punishment, as I serve on the Committee on the Judiciary, I talk about it so often with my colleagues.

VOL
142
PT
5
MR
21
—
29
1996
UMI

theories of punishment are prevention, education, rehabilitation, restitution, retribution, and deterrence. So in prevention, whether they are programs in our communities for youth activities in our cities and towns or multi-drug task forces, or take education, the DARE Program, in our schools, rehabilitation, whether it is by alcohol, drug or schooling within our prisons. How about restitution to the victim, retribution to the criminal and deterrence. We need a proper balance of all of these in our society. There is a great need, because of victims crying out that they are not being heard. And when they are not heard, it breeds individual vigilantism in our society.

So we need a proper balance. That is what we are trying to strike here in our society for the benefit of all mankind.

A BUSY WEEK

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we are concluding today's session, the session for the week, going home. And it has been a very busy week. I will not say it has been a very fruitful week but certainly we have been very busy.

I am looking forward to going home and talking to my constituents for 12 hours in an all night teach-in that I will be holding at the Borough of Manhattan Community College from 7 p.m. Saturday night to 7 a.m. Sunday morning. We are having this all night teach-in because there is just not enough time to talk about all of the things that need to be talked about in this very critical period in the life of our Nation. There are forces moving very rapidly and overnight they want to remake America.

The Speaker of the House has said that politics is war without blood and that he wants to remake America, and we are trying to remake America in a very short period of time. The fallout is hurting a lot of people.

In New York State and New York City it seems that the Governor and the mayor want to get ahead of the Republican majority here in Congress. They are have instituted certain cruel harassing programs that are worse than anything we have yet passed here in this House. So our people need to know a whole lot about what is going on. We need to talk about just exactly what is happening, and there is not enough time to do it in a regular day.

Mr. Speaker, also, if we want to get people together who are experts and can throw some light on this subject, they are too busy, they cannot stay long or, if we have an opportunity to talk, the amount of time available is too little. So I will have a marathon teach-in, all night long, 12 hours.

We are going to talk about the fiscal future of New York City, the fiscal future of New York City. The discussion begins with a discussion of what is happening here in Washington because the fiscal future of New York City is inextricably interwoven with the policies that are generated here in Washington, our Capital. I am going to start by talking about the fact that New York City is often discussed on the floor of the House of Representatives. People often talk about New York City and New York State. It is the favorite target of the Speaker of the House. Speaker GINGRICH often refers to New York State and New York City as a welfare State and a welfare city. For that reason, the people of New York need to understand the perspective of our relationship with Washington better.

We are called a welfare State, welfare city. We are often accused of draining, being a drain on the Nation, and yet New York City pays taxes to the tune of $9 billion more into the Federal Government than it received back in 1994. New York City, the city alone, paid taxes of $9 billion more to the Federal Government than it received back from the Federal Government in various forms of aid.

In that same year, 1994, New York State paid $18.9 billion more. The total of New York State, the city and all the other parts of New York State, paid $18.9 billion more to the Federal Government than we received back from the Federal Government. The year before that, in 1993, New York State paid $23 billion more to the Federal Government than we received back from the Federal Government. So New Yorkers need to know in this all-night teach-in we are going to start by talking about the fact that our city is not bankrupt. Our city is not broke. Our State is not bankrupt. Our State is not broke.

Mr. Speaker, it is baffling. We do not quite understand why Members on the floor of the House of Representatives like to single out New York City. New York City is often singled out, and New York State, for its high expenditures on Medicare and Medicaid. Well, after we take away our high expenditures for Medicare and Medicaid, which are the highest in the country, I admit that. I can think of no more noble way to expend public funds than by taking care of the sick, the infirm, the elderly in nursing homes. That is a noble way to expend funds.

Yes, if there is waste, we want to get rid of the waste. If there is corruption, we want to get rid of the corruption. We do not have any money to spend for anything except the intended purposes. But even if we take away the high expenditures for Medicare and Medicaid, New York City is still paying more and New York State is still paying more to the Federal Government than they are getting back from the Federal Government. Stop and seriously consider it.

According to the formulas in the way things are arranged here in Washington, New Yorkers, New York City people have to pay for 25 percent of their Medicare costs, and then again the State pays another 25 percent, which means that New York State pays 50 percent of its Medicare costs while Mississippi only pays a small fraction of its Medicare costs. Most of it is paid by the Federal Government, and other Southern States pay only a small fraction of their total Medicare and Medicaid costs. The rest is paid for by the Federal Government.

The result of all this is that in 1994, the Southern States combined—I mention the Southern States because often the Blue Dogs and the Republicans and various people are the ones who are criticizing New York. Certainly the Speaker of the House is from Georgia and he is a major critic of New York. The Southern States combined receive $625 billion more from the Federal Government in terms of aid than they pay in to the Federal Government.

Mr. Speaker, Mississippi gets the highest amount. In 1994, Mississippi got $6 billion more from the Federal Government than the people of Mississippi paid in taxes to the Federal Government. In Georgia, in 1994, the people got $2 billion more from the Federal Government than the people of Georgia paid to the Federal Government. The county in the country, in all of the United States of America, the one county which received the highest per capita in Federal aid, the highest amount of money in Federal aid was the county represented by the Speaker of the House.

Speaker GINGRICH's county received more money per person from the Federal Government than any other county in the United States of America. So why is New York City constantly being lambasted? Why is New York State constantly being lambasted? I suppose we should call upon some psychologists and students of human nature because not only was it the case in 1994, when New York paid $18.9 billion more to the Federal Government than it received in Federal aid, but in 1993, we paid $23 billion more to the Federal Government than we received in Federal aid. But this has been the case for the last 20 years.

The last 20 years, New York State has consistently paid more into the Federal Government than it has received from the Federal Government. Why do the States that are recipients of the money who always pay less to the Federal Government than they receive become the critics of New York? That is a challenging study of human nature. Why are we kicked in the pants and why are we spat upon because of our generosity?

If we were to have complete States' rights as some Members are proclaiming economic States' rights, and if everything was block granted and the State was left on its own, New York would have no budget problems. If we had the $18.9 billion from 1994, and probably 1995 will show a similar pattern, if we had the money that we pay into the Federal Government, which is so much greater than we get from the Federal Government, we could balance our budgets. We could take care of all our problems.

In my all-night teach-in, I want to let New Yorkers know this. I am going to let the people who live in my district know this, constituents know this, because they are assuming a posture of fatalism. Too many people, too many people, those who are using the day care centers and do not find that they are able to find places anymore, those who are being laid off in various city departments, those who are being denied public assistance, Aid to Families with Dependent Children, harassed, too many people have given up already, and they say that the city cannot do any better.

It is not a matter of an administration which is unduly harassing people who need Aid to Families with Dependent Children. It is a matter of the situation is such that the city cannot do any better. The city is almost broke. It is about to go bankrupt. It cannot do any better. The all-night teach-in is designed to let people know this is not true, that New York City is a wealthy State, New York State is a wealthy State, and there are many ways we can do better.

So I am looking forward to this all-night teach-in because it will give us a chance to have the kind of dialog necessary in this critical period when there are forces moving to remake America. They want to overnight change the way America is. They want a revolution. Revolutions are always dangerous because the people who are the strongest are sometimes the dumbest, and the people who are the strongest and the dumbest can do a lot of damage before you can get them back under control.

It has been a busy week, and we have seen some of this dumbness played out here in Washington. Some of the stupidest are here in Washington.

At this very moment, the 32,000 young people in New York City who got jobs last summer in the Summer Youth Employment Program do not know whether they are going to be able to get jobs this time because it is a federally funded program. Last year, 32,000 young people were employed in the Summer Youth Employment Program in New York City. Across the country, in other big cities, and in some suburban areas, youngsters were employed in summer youth employment programs who could not get jobs in any other way.

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That program has existed for the last 20 years. It has been steadily cut. When I was commissioner of the community development agency responsible for parts of the program in 1968, 90,000 young people in New York got jobs in the summer program. It went from 90,000 in 1968 to 32,000 in 1995. The reduction was so great that we went down to one-third the total amount of the original program. But it is still a very important program.

We do not want to go from 90,000 to zero, and right now there is zero in the budget for the Summer Youth Employment Program. There is no budget for the Summer Youth Employment Program. That kind of stupidity is still prevailing here in Washington.

I do not know why the Republican majority targets programs for young people. I do not know why they went after the School Lunch Program and reduced the School Lunch Program. I do not know why they went after the Title I Program. Title I has been reduced by one-seventh, $1.1 billion taken from tile I designed to help youngsters in elementary and secondary schools across the country. Ninety percent of the school districts in America get some part of title I funds. Why is the Republican Majority insisting on going after young people?

We are supposed to be a family-oriented Congress and we hear the words "family orientation," "family values" all the time, but the children are the target of the Republican majority in this Congress. They went after school lunch programs, they have gone after title I programs.

The only body in the history of Washington since the very beginning of the Head Start Program, the only body to cut the Head Start Program is this Republican-controlled majority here in the House of Representatives. We cut Head Start by $300 million. That cut is still hanging over the head of the Head Start Program.

Head Start cut back $300 million; title I cut by $1.1 billion; Summer Youth Program last year was about $650 million, that is cut, now zero at this point. All of those actions by the Republican-controlled Congress and House of Representatives add up to a war on children. The war to remake America is first a war on children, a war on education.

The President released his budget earlier in the week. As I said before, it has been a busy week. The President released his budget and in that budget he has less for a tax cut than the Republican-proposed budget. He is proposing, I think, $100 billion over a 7-year period in tax cuts.

Among the tax cuts that President Clinton proposes is a cut which would allow parents who are paying tuition for children to deduct tuition costs. Up to $10,000 in tuition costs can be deducted under President Clinton's tax cut plan. I think there is no more noble tax deduction that you could give than a tax deduction that relates to the education of young people.

I have three sons and all three of my sons are out of school already, but I assure you it was a very difficult period to put three sons through college. I was glad when the last one graduated and only a few years ago I paid off the last parent's loans.

It was a very difficult situation when it comes to putting young people through college. It gets more expensive all the time, and so President Clinton has moved in a direction which will help family. I do not think you can have more of a family orientation than that. At the same time it will help the economy of the country by providing the kind of high-skilled, highly trained individuals that we get only when people go to college. There is a certain kind of training needed now that requires that you go to college.

In addition to that, the President's tax cut includes the $500 per child tax deduction increase, an increase of $500 per child. Again, it is family-oriented, and I must say that the Republicans also have that in their proposed tax cuts. At least we are guaranteed that there will be agreement on a tax cut, a tax deduction for children, $500 per child increase in the coming budget because both groups agree.

But, in general, the President has stayed the course and kept in his budget the money which allows for increases in education. Not only does the President not accept the cuts of Head Start or the cuts of title I or the cut of the Summer Youth Employment Program, but the President puts additional money in there for education. The only basic increase in the President's budget is money for education and job training. Those are the two areas that are increased.

We know that Americans are suffering, families are suffering a great deal of anxiety now because of the fact that there is a great gap in the income of the 10-percent who make the most money in this country and those at the bottom whose wages have stagnated in the last 20 years.

There is a need to deal with that in many ways and one way, of course, to deal with that is to make sure we have the proper education and the proper training. We cannot emphasize too much the necessity to take the initiative on education and maintain the initiative on education.

During this busy week we also took up the immigration bill. The immigration bill is very important to me and to my district. I do not know of any other district in the country that probably has as many legal immigrants as my district has. I have not checked it, so I do not know, but I know that according to the last census 150,000 of the 581,000

VOL
142
PT
5
MR
21
—
29
1996
UMI

people in my district are not citizens; 150,000 of the 581,000 people in my district are not citizens, and I interpret that to mean that they are legal immigrants because the illegal immigrants do not allow themselves to be counted. Illegal immigrants do not come forward and do not get counted.

The people who have been counted and who have admitted that they are not citizens is a staggering number of 150,000 in my congressional district. The 11th Congressional District of Brooklyn has more than one-third of all the immigrants who are legal and who are counted in the census in New York City. New York City has between 400,000 and 500,000 legal immigrants and 150,000 of them are in my district.

The immigration bill is very important. These are people who are hoping to become citizens. We have an intense drive on telling everybody who can become a citizen, do become a citizen as rapidly as you can. You need to defend your own interests, your own rights.

We think that the attack on immigrants reflected in the immigration bill, that attack is unwarranted. We think that the attack on immigrants is un-American. Never before have the people of America attacked immigration. Immigration has always been the great source of new life and new blood in America. We are a country of immigrants.

Why all the sudden are immigrants considered bad people? Immigrants helped to build the country. Right now in the country we have fewer immigrants than any period in history. In New York City we have 400,000 to 500,000 immigrants, whereas 20 years ago 1.5 million people in New York City were immigrants.

Why are we attacking immigrants with such intensity and hostility now? Is it because the immigrants now are not white? Most of the immigrants are Asians or Hispanic, or they are people of African descent from the Caribbean area. Is the attack another form of racism? I think so. We have fewer immigrants.

According to a New York Times editorial, the immigrants in New York earn on average greater income than a lot of other people who have been there longer than they have been. The immigrants in New York put back into the economy a large amount of money because they serve as entrepreneurs or are very active in many different ways in the economy of the city. The immigrants of New York are a benefit to New York.

In fact, one of the things I am going to talk about in the all-night teach-in that I will be hosting at Lower Manhattan Community College will be diversity and the contribution of immigrants to New York City.

One of the great strengths of our city is that it is a diverse city. The population is one of the most diverse in the country, just as the population of the country as a whole is a diverse population, and that is one of the great strengths of America.

People of all kinds from all over the world live here. It is not a weakness; it is definitely a strength. We should not, through hostile immigration legislation, turn our backs on what is a self-evident truth. All of a sudden we have grown very stupid and very dumb.

We are blinded by racism which tells us that we do not want Hispanic immigrants or we do not want Asian immigrants or any black immigrants from the Caribbean area. We are blinded by the truth of the matter, and that is that immigrants have always contributed to our Nation through immigration and our diversity puts us in a position that is advantageous in the rest of the world.

As we move in this so-called global economy and the United States is competing for global markets with other nations, because of our diversity we will always have a salesman out there in that marketplace, no matter where the marketplace is, we can have a salesman that looks just like the people there, who talks like the people there, and who can share a cultural heritage of the people there, whether you are talking about the Pacific Rim countries or you are talking about China. China is now the third largest economy in the world. We have a lot of Chinese in this country. They are not in any way a liability. The Chinese are an asset.

There are a lot of Koreans. Korea is a bustling economy. I visited Korea a few years ago, the City of Seoul, where three of my relatives, a uncle and two brothers were in the Korean war. They were in Korea during the time of the war, and they know the City of Seoul as a city which was totally demolished by the communists.

The City of Seoul is one of the most beautiful cities in Asia now. The City of Seoul has probably more people than the City of New York right now. Not only did they rebuilt the city for the residents individually, tremendous rows and rows of apartment houses and stores and all kinds of buildings, but they have built into the city a park system which is second to none to take care of the open air needs of their citizens.

We have a lot of Koreans in New York. We have a lot of Koreans in the rest of the country. We will interchange with them in a very profitable way in the future. The diversity helps New York City. The diversity helps the Nation as a whole.

I would like to report good news. In the debate on the immigration bill somebody convinced somebody, because we had bipartisan support, for a separation of the legal immigrant issues from the illegal immigrant issues. Many have counseled that for some time and begged for it. We thank the President and the White House for coming out at the last minute, but they did come out in support of a separation of legal immigrant issues from the issues of how to take care of illegal immigrants.

Nobody is going to stand on this floor and countenance illegality of any kind. Illegal immigration is a representation of the inadequacy of our Government to take care of its basic business of guarding the borders and making certain that certain laws are enforced. Illegal immigration is a signal that there is a tremendous incompetence in the way that we handle certain matters. We should move to end that incompetence.

Maybe we are not allocating enough resources. We should move to do that. But we should not be preyed upon by illegal immigrants, just as we should not be subject to the ravages of any other kind of illegal activities. We did vote and I am happy to report to my constituents and to many others that basic issues of how to handle legal immigration, how to establish new numbers, how to deal with families being reunited, a number of issues were separated out, and this bill in the end finally dealt mostly with illegal immigration.

There were some bad moments, and there was a provision voted in that said that immigrants coming into this country must be proficient in English. That, I think, is a step in the wrong direction, and there were some other things that I consider steps in the wrong direction, but we did get the separation of the legal immigration issues from the illegal.

One other thing was voted down, and that was an attempt by the corporations to bring in selected personnel so that they could drive down the costs of doing business. The same people who argue that we should limit immigration in general, the same people who have made war on immigration in general suddenly want to make an exception. They want to bring in computer programmers. They want to bring in people from countries where salaries are much lower for technicians and professionals, and use them to undercut the wages of professionals and technicians in this country, including nurses.

In particular there was a specific vote on nurses. Now, at a time when we had a need for nurses, nurses came from other countries and filled that need and many or some have become citizens. I do not want to make war on any particular ethnic group or country that provided nurses when we needed nurses, but this Nation does not need to import nurses from abroad at this point. They are closing nursing schools in New York City and New York State. There are nurses who are being laid off in hospitals, large numbers of nurses experiencing great anxiety at the restructuring of hospitals in ways that utilize less nurses and endanger the welfare of patients.

Nurses are planning a big march here in Washington for May 10. Independent nurses are coming to Washington on May 10 because they are very upset and very concerned, not only about what is happening to their profession, but also concerned about the implications of what is happening to their profession to the health of their patients.

I applaud the independent nurses who will be coming here on May 10. I applaud the action taken by the Members of the House of Representatives yesterday to vote down the provision which would allow more foreign nurses to come in and undercut the salaries and the working conditions to nurses that are here already.

Finally, today, in this busy week we voted on the repeal of the ban on assault weapons. In my all-night teach-in which is focused on the fiscal year of New York City that will take place tomorrow, Saturday, from 7 p.m. to 7 a.m. Sunday morning, we will not focus a great deal on crime and violence and the ban on assault weapons but certainly it will be a part of the discussion.

☐ 1515

You cannot discuss New York City without discussing the need to lessen the amount of crime. You cannot discuss New York City without dealing with what guns have done to New York City and the surrounding area or what guns have done to the Nation as a whole. You cannot discuss New York City without understanding that the city cannot survive with its very strong gun control policies and laws unless we do something in the Nation's Capital to relieve New York City and all the other big cities of the burden of guns.

There are too many guns in America. Too many guns in America. We are the only industrialized nation, other than South Africa, which permits widespread ownership of guns, and as a result we have too many murders and too many deaths by gunshot wounds. It was 16,000 people 2 years ago. I do not know what the latest figures are because they are not compiled completely, but 16,000 people in 1 year died from gunshot wounds in America.

At the same time less than 100 people died as a result of gunshot wounds in Japan and the same thing was true in Britain and in Germany and in France. Very small numbers of people died as a result of gunshot wounds in countries which have policies which restrict the ownership of guns.

We voted in the last Congress to get rid of, to ban the manufacture of assault weapons in this country. Under Ronald Reagan we had already voted to ban the importation of assault weapons. So we didn't want to bring assault weapons from outside. Last Congress we decided we don't want to manufacture them in this country. That is all the ban on assault weapons did, it stopped the manufacture of assault weapons in this country. It specified the kind of weapons.

So why do we have it on the floor today to repeal it? Why did we have on the floor a law to get rid of a law which had gotten rid of assault weapons?

Across America the public pays a high toll. Yesterday, in the suburbs of New York City, a man with a rifle killed a policeman and held all the law enforcement officers at bay for 12 hours before they finally got into his house and found that he had killed himself. The pattern plays itself out over and over again. The large numbers of guns generate violence at a level that would not exist if the guns were not there.

Yes, people will be violent. Yes, people will get angry, but the more guns there are, the more deadly the violence; the more deadly the anger. Any civilized nation should be able to clearly see that if you lessen the number of guns, you will lessen the number of deaths due to gunshot. You will decrease the murder rate, you will decrease the serious crime rate.

We say we care about the public. We say we want to lower the dangers for crime. We say we want to make people feel safer, but we come to the floor, and we repeal in a law—and it was not a close vote. I do not think they have enough votes to override a veto, but it was not a close vote.

The repeal of the ban on assault weapons took place. That has great implications for New York City, and we will talk about it because the health and welfare of the city, the ability of the city to expand its major industry and the major industry in New York City is tourism.

People come from all over the world to see New York City. Every educated person who knows about cities in the world want to see New York City at some time in their lifetime. We are going to try to make it cheaper for people to come there. We also have to make certain people feel safe. And the safety of New York City is dependent on policies that take place in Washington.

We have very tough gun control laws. You cannot own a gun in New York City without a gun permit. You cannot own a gun in New York State without a gun permit, and the criteria for issuing guns in New York State and New York City are very, very strict. But people bring illegal guns in from Virginia, from Texas, from all over the country because we still have illegal guns being sold in many States. Guns being sold are not illegal in those States, but they are illegal in New York. But they are transported to New York.

We need to make guns illegal, the purchase of guns illegal anywhere in the country. But that is not our total major subject. It has a bearing and it is most unfortunate that we voted today, the majority voted today to repeal the ban on assault weapons.

Next week we will have another busy week. We are going to deal with a minimum health care bill. We have gone away from 2 years ago from a comprehensive bill offered by the Clinton administration, a comprehensive health care bill which wanted to move the country toward universal health care. We were moving in the right direction. We were moving in the direction to catch up with the rest of the industrialized nations.

All of the industrialized nations of the world, again except South Africa, all of the industrialized nations of the world except South Africa have universal health care programs except South Africa and the United States. In this country we still have 40 million people, many of them poor children, who are not covered by any kind of health care plan; 40 million.

So we were moving 2 years ago, a little more than 2 years ago toward a comprehensive health care plan which would deal with the provision of health care for all families and for all individuals.

Now, next week, we are going to have what I call a minimum, a bare minimum health care bill on the floor. We are going to be discussing a health care bill which is only going to make a few cosmetic changes in the way health care service is delivered. We are going to deal with portability, an ability to allow people to carry their health care plan from one company to another if they change jobs.

We are going to deal with people who retire and how they deal with the health care of those who have retired. We are going to deal with a few little issues affecting people who already have health care plans. We will do nothing next week, nothing, absolutely nothing, zero, to help people who have no health care plans whatsoever.

I think in this proposal next week there will be some Democratic proposals which will take the Kennedy-Kassebaum bill, and Democrats have agreed, generally, to support what Kennedy-Kassebaum are proposing and not to support what the Republican majority will put on the floor next week.

We will take the Kennedy-Kassebaum bill and try to add a provision for equal deductibility for entrepreneurs and some small businesses. In other words, we are going to try to have people who are on their own now, who have their own business be able to make the same kind of deductions on their taxes for health care that many corporations are allowed to take now. In other words, we call it the equal deductibility for entrepreneurs provision.

VOL
142
PT
5
MR
21
—
29
1996
UMI

That is a small change, again, but it is very important. The large amounts of people have been thrown out of their corporate jobs. They no longer are tied to a big health care plan. They are on their own, as entrepreneurs and small business people, and they need a health care plan which deals with their problems. If they were able to deduct more of their health care payments from their taxes, it would solve a big problem for a large number of Americans who have been caught in the middle. So we want to add that.

The other thing that is important about next week is that there is no discussion in next week's schedule for Medicaid. Medicaid is a health care plan that does cover poor people, very poor people. You have to meet a means test. You have to be eligible in order to get Medicaid.

Now, Medicaid is not being discussed next week, but a shadow, a deadly shadow, a deadly silence hangs over Medicaid. There have been proposals that Medicaid will be changed drastically. Not only will the budget for Medicaid be cut, but the eligibility requirements, the fact that in the law the Federal Government stands behind the payment for health care of any person who meets the means test, any person who is poor enough to qualify for Medicaid will receive Medicaid, that entitlement will be taken away. The entitlement is threatened.

Not only has the entitlement been threatened by the Republican majority here in this Congress, but the entitlement is also threatened by the Governors' Conference. Both Democratic and Republican Governors have agreed that they would like to take away the Federal entitlement. They want to take away the Federal entitlement and have the States totally in charge of the health care of the poorest people.

They want to run the Medicaid Program under a block grant arrangement. A block grant arrangement means the Federal Government will give the State a set amount of money, and when the State runs out of money the State is supposed to make up the difference or the State will cut off the service. It means that we have gone a long way in the 30 years since Medicaid started, but we will be going backward rapidly.

Medicaid is the one definite step toward universal health care coverage for everybody. Medicaid is the one step the Government has taken in that direction.

By the way, it is important to point out that Medicaid, two-thirds of the money spent for Medicaid goes to cover the cost of nursing homes for the elderly. Two-thirds of the Medicaid funds go to cover the cost of nursing homes for the elderly. Only one-third goes to poor families. So you are jeopardizing the ability of elderly people to have nursing home care when you deal with taking away the entitlement for Medicaid.

Many elderly people have Medicare, but if you are really ill for a certain period of time, even with Medicare, it costs you a certain amount of money. You have to pay some portion of the cost. And when people are ill for a long time and run out of money, they move from Medicare to Medicaid in order to qualify, in order to be able to pay the fees for a nursing home.

So nursing homes are filled with people who started out that they were middle class before they got so ill that they ran out of resources, and they are, in the end, paid for by Medicaid in nursing homes. So all of this is threatened.

There is a shadow hanging over the head of Medicaid, a deadly silence about Medicaid in this capital. The White House is too silent, the leadership of the Senate is too silent, the leadership of the House is too silent. When all this silence settles, past experience has shown us that the silence means that somebody is about to pull a fast one; that suddenly we will find Medicaid on our desk one day, a rapid movement to the passage of Medicaid legislation, and it will not be good legislation. There is going to be a rapid attempt to rush through a take away of the entitlement for Medicaid.

We must be vigilant. We must watch. At my all-night teach-in I intend to talk to my constituents about the need to watch and be vigilant about Medicaid, the need to make certain every elected official at the State, city, and Federal level is aware of the fact that there is a great threat to Medicaid, the entitlement.

There is a double need to put the pressure on the Congress. There are many Congressmen who say they do not want anything to happen to Medicaid, but they are sitting silent and nothing is happening while the deadly silence surrounding Medicaid moves in on us like a fog, that is the kind of fog that strangles people with asthma.

So next week will be a busy week as we consider health care. I hope that my colleagues who care about health care for poor people will be vigilant and watch for a possible last-minute trick on Medicaid.

Finally, let me just talk about the all-night teach-in in a little more detail. Why are we having an all-night teach-in? As I said before, there is so much that needs to be said until we have to set aside the time to say it.

We cannot have a town meeting which lasts for 2 hours and people are ready to run. There are experts who need to talk. We can't hear them at any other time because they are busy during the day on various jobs and there are people who have grievances and who are living in the middle of the results of this so-called revolution to remake America, people who have great anxiety about what is come.

Some people in New York City and New York State are already suffering because the Governor of New York State and the mayor of New York City have gotten ahead of the revolution here in Washington.

☐ 1530

They need to be heard. So we are going to have an alternating situation where we will spend part of the time listening to people who have a great deal to tell us about specifically what is happening in their lives and their agencies and their institutions, and the other time will be for experts who will explain to them the nature of what is happening politically, the nature of what is happening economically.

And then another part of the time will be used to talk about creative solutions to the problem. We do not want to have 12 hours of whining. We have people who are coming to make vision statements, to tell us how we can solve the problems that are afflicting our big cities in general and specifically how we can solve some of the problems that are afflicting New York City.

We are going to break it up into segments and there will be 1-hour segments. We will start off with vision statements. James Forbes, one of the leading ministers in New York City, will led off with a vision statement. We have the actor-activist Archie Davis who is going to make a vision statement about where he thinks New York City ought to be going.

Why do we have a person like Archie Davis? Because New York City's future is all tied up with the tourism industry. The one industry that is growing in New York City is tourism, the major industry.

Now, tourism strikes most people in America as a strange industry. We have been acclimated and educated not to understand how much money is generated by people traveling into a place and spending their money.

The average tourist coming to New York City spends $600 a visit. The $600 goes into the economy, it creates jobs, it creates revenue, it creates a whole atmosphere which allows other entrepreneurs to be able to develop their businesses and profits.

So tourism is a big industry. It is a big industry all across the country, by the way. Many big cities have had a great increase in tourism, other than New York City. In fact, New York City, the tourism rate of growth has slowed down because other cities are being visited by tourists in greater and greater numbers.

We have to deal with that and make certain that in the coming next 5 to 10 years, we take actions to encourage more people to come to New York City.

But tourism to the Members of the Congress who say they have vision, tourism to the Members of the Congress who want to go forward to the year 2000 and talk as if they are a member of the cyberspace generation

and they know everything and they are going to lead us into a great new future, tourism to them is not an industry.

The Congress criticized the President for spending money to promote tourism. We have just closed down in the Department of Commerce the office of tourist promotion. The office that is designated to promote tourism in the U.S. Government is gone. There is no agency in the U.S. Government promoting tourism in the Nation as a whole. We are the only nation in the world, the only industrialized nation that does not have at the national level an ongoing effort to promote tourism, to get people to come from all over the world into our Nation and its cities, countryside, whatever, and spend their money. We are the most backward people in the world on that issue. We do not see it. We had an effort going forward. The President even had a conference on tourism. The White House had a conference on tourism. I tried to get a report on the conference. They do not have the money to print up the report.

I congratulate the White House for its vision, I congratulate the Department of Commerce for its vision, but it came under attack from this Congress. The Neanderthals of this Congress have defended giving McDonald's Federal subsidies in order to promote hamburgers abroad. We give Federal subsidies to the fur industry to promote furs abroad. We give subsidies to a number of those industries to promote those industries abroad. The same Neanderthals cannot see that McDonald's does not need any help to promote hamburgers abroad but we should be promoting our own cities, our own wonders. The Grand Canyon is something that people all over the world want to see. It is not a city, but people all over the world are willing to spend money to come see the Grand Canyon.

The sea coasts, the gulf coast of Florida, the California coast, all kinds of great features we have in this Nation that people all over the world want to come and see. The exploding middle class throughout the world wants to travel.

One of the features of middle-class people is that they have disposable income. When the disposable income gets through taking care of the immediate normal luxuries, the immediate normal luxuries dealing with the TV set, refrigerator, a house, the next level of desire that takes over is the desire to travel.

This is a pattern of middle-class people all across the world. They want to travel once they reach a certain level.

Just consider for a moment what happens in an economy like the Chinese economy. The Chinese economy is now the third largest economy in the world. Overnight China has eclipsed a number of nations and become the third largest economy in the world. How did they do that? Because one of the features of economies is that economies are very much interrelated with people. If you have a billion people, automatically you have an advantage. If you can ever get yourself organized and have that society organized in a certain way, a billion people will automatically generate a lot of wealth.

Consider yourself out there selling shoestrings or pencils to a billion people. Just a shoestring or a pencil sold in China, you have got hundreds of millions of people who are going to buy it. Just the impact of the numbers is staggering.

This Nation has a little more than 250 million people. Two hundred fifty million people is one-quarter of the Chinese population. It is expected that in the next 4 or 5 years, China will have a middle class which is about one-quarter of its population. That means that 250 million Chinese will be in that middle class in the next 4 or 5 years. If one-tenth of those 250 million decide to travel to America, you have 25 million people coming into this country just from China in the next 4 or 5 years. There will be a great boom in tourism.

Then you have the other Asian countries. Japan already has the second largest number of tourists coming into this country. I think Germany has the largest number. Japan has the second largest number. But you will have a big boom, a big increase when the other Asian/Pacific rim countries increase their travel into this country. Then you have eastern Europe where people have not been able to travel and there is a new middle class in eastern Europe. Then you have South Africa. And we should not leave out the booming middle class in South America. So there will be a great increase in all the cities of tourism. And it would be greater if you had some kind of planning setup at the level of the Federal Government.

New York City needs a planning process. It could double the number of tourists. The number of tourists that came into New York City was 24 million last year. Twenty-four million tourists came into New York, most of them from other parts of the United States. About 5 million came from foreign countries.

If in 5 years we could double that amount of tourists coming into New York City, we could double the amount of money earned from tourism. How much money does tourism generate in the economy of New York City? Last year it generated $54 billion. Do you hear what I say? In various forms, $54 billion.

Of that amount, $13 billion was collected in revenue by the city, revenue collected in various ways: Revenue collected from the hotel tax, which has been lowered greatly now, revenue collected mainly from the income of those people who work in the tourism industry, and as a result of the tourist industry, they had an income and they paid taxes. Revenue collected as a result of the increase in the property values. Revenue collected in the restaurant tax. Everybody eats when they come to New York, or when they go anywhere else.

So just one industry, if we were to take a creative approach to increasing it. How do you increase the tourism industry in New York City? Any business traveler to New York knows right away our biggest problem. Our biggest problem is the high cost of hotels. The high cost of accommodations in New York is a barrier to more people coming. We now have 24 million a year and almost 25 million expected this year. Then if we remove the barrier of the high cost of hotels, we could have millions more.

In New York, most people who come stay in hotels. If you go to Paris or to Rome or to Berlin or anywhere in Europe, they have high-priced hotels, they have hostels for youth, they have dormitories for families, and they have camping grounds right in the city for people who want to just camp. They have all kinds of alternative accommodations so that the tourist does not have to spend all of their money on accommodations, on housing.

If they do not have to spend all their money on housing, then they put the money into the economy in restaurants, they go to visit museums, they go to plays and shows and other forms of entertainment. At the same time, all of them eat, of course, in a restaurant, and many of them buy large amounts of retail goods in the stores.

So a simple feat has to be performed in New York. But nobody has ever looked at the situation and said, "Let's do that." They have said instead, "New York is getting less and less money from taxes, we're going to go broke, so let's cut the services of the schools, let's keep cutting the schools." The schools in New York have become a joke almost because we keep cutting. "Let's cut the schools. Let's cut the day care. Let's cut the senior citizens' programs." And finally, "Let's cut health care. Let's sell hospitals." The mayor is proposing to sell hospitals, or lease hospitals.

A more creative approach is to improve the industries that are naturally growth industries in our city. Medical-related industry is also a natural growth industry. We should not be selling hospitals, we should be expanding hospitals.

Because a population of 8 million people, it is hard for most people to comprehend. Eight million people in one place, very compact, very dense, 8 million people is a population that not only needs health care services but they are diverse.

Any disease known to mankind, you are going to have it in New York City

VOL
142
PT
5
MR
21
—
29
1996
UMI

because of the diversity of the population. Which means that any cure, any regimen, any protocol that can be developed for a disease or for a condition can be developed in New York City. Medical research should not be leaving New York City as it is now. The medical research industry should be expanded in New York City. That is another source of income for the city.

The city has a million schoolchildren, a million kids in our public school system.

It has 200,000 college students in the City University of New York system. We have great private schools like New York University, Columbia University, Fordham University. You add up all the students in higher education and you are talking about 300,000 to 350,000 students in higher education within the borders of New York City.

So education byproducts, educational technology products, any computerized products, any products requiring imagination and creativity, the production of those kinds of products should be encouraged in New York City.

Those are the kinds of things we are going to talk about in the all-night teach-in. We want to answer the doomsayers. We want to answer the people who stand on the floor of the House and say that New York City is a drain on the Federal Government because it has too much welfare and too much of our Federal money goes to take care of Medicaid and Medicare and other problems in New York City. Not only is that a lie, it is a big lie.

Currently New York City is paying more money into the Federal Government than we are getting back. I cannot repeat the figure too often. In 1994 we paid $9 billion more in taxes to the Federal Government than we got back from the Federal Government. New York City alone.

New York State as a whole paid $18.9 billion more to the Federal Government than we got back from the Federal Government in 1994.

In 1993, the figure was $23 billion. New York State paid $23 billion more to the Federal Government than we got back in various forms of aid from the Federal Government. So New York City is not a basket case dependent on the Federal Government. On the contrary, there are many States in the country that get more from the Federal Government than they pay into the Federal Government, and they are the problem.

Mr. Speaker, in closing, I just want to remind you that we cannot talk too much about the present condition that we find ourselves in in the country in general. And in New York City on this Saturday night from 7 p.m. to 7 a.m., 7 p.m. Saturday night to 7 a.m. Sunday morning, we will have an all-night teach-in giving everybody an opportunity to deal with the problem that New York City has as a result of the attempt to remake America.

□ 1545

The Republicans in this House of Representatives have said that they want to remake America. The Republicans in this House of Representatives have said that politics is war and blood, they do not care if some people have casualties. We do not want New York City residents to be casualties. We do not think they have to be casualties. We think this city, our city, can defend itself, first by energizing its assets.

We do not think the mayor is correct when he says that the only way he can solve the city's problems is by cutting the budget for education, cutting the budget for schools, the only way to solve the problem is by cutting the hospitals, selling the hospitals, the only way to solve the problem is by harassing the people who need welfare, whose children are on aid to families with dependent children. We do not think we need to close our nursing homes. We think the seniors of New York can be taken care of in the future as they have in the past. We have some of the best senior citizens centers in the country. We want to keep it that way.

The city has the resources. We want to talk about what the city has to do in terms of changing Federal policies and changing State policies which strangle the city. We want to talk about certain policies the city itself promulgates. The city gives too much tax incentives to businesses to stay. The city allows the State to trick it into a formula where they give school aid on the basis of attendance rather than on the basis of enrollment. There are a number of policies that have to be changed. In addition to changing policies, and all New Yorkers have to fight to get these policies changed at the Federal, State, and city level. We have to take actions to get more creative efforts launched by the city to increase those industries in the city which are naturally compatible with industries for New York City, industries related to tourism, industries related to medical research, industries related to education and students and the talent of the faculty and students of our colleges and universities, and those things can happen and provide a positive answer to the problem of the remaking of America.

Yes, if America is to be remade, do not try to do it in 2 years. We do not need a revolution. We can have an evolution. Part of the evolution of cities like New York should call upon their citizens and get the best possible wisdom from those citizens to deal with the problem of remaking our cities into forms which allow them to be self-sufficient and self-supporting.

We can take care of our own problems. We need the Federal Government to get off our back in New York. Everybody needs to know they have to participate if we are to do this. I will see everyone at the all-night teach-in at Manhatten Community College, corner of Chamber Street and West Side Highway, from 7 p.m. to 7 a.m. I urge all interested persons to join us there, and we will have a dialog that is good for the city, good for the State, and good for the country.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. **MYERS** of Indiana (at the request of Mr. Armey), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hastings of Florida) to revise and extend their remarks and include extraneous material:)

Mr. Wise, for 5 minutes, today.

Ms. Jackson-Lee of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. Buyer) to revise and extend their remarks and include extraneous material:)

Mr. Houghton, for 5 minutes, today.

Mr. Saxton, for 5 minutes, today.

Mr. Riggs, for 5 minutes, today.

Mr. Goss, for 5 minutes, today.

Mr. Buyer, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. Slaughter, for 1 minute, today.

Mrs. Clayton, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Hastings of Florida) and to include extraneous matter:)

Mr. Durbin.

Mr. Filner.

Mr. Richardson.

Mrs. Maloney in two instances.

Mr. Torricelli.

Mr. Tejeda.

Mr. Ward.

Mr. Bonior.

Mr. Levin.

(The following Members (at the request of Mr. Buyer) and to include extraneous matter:)

Mr. Franks of New Jersey.

Mr. Radanovich.

Mr. Baker of California.

Mr. Hyde.

Mr. King in two instances.

Mr. Zimmer.

(The following Members (at the request of Mr. Owens) and to include extraneous matter:)

Mr. Gunderson.

Mr. Moran.

Mr. Menendez.

Ms. McCarthy.

Mr. Owens.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 942. An act to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes; to the Committee on the Judiciary. Also referred to the Committee on Small Business and the Committee on Rules.

ENROLLED BILL SIGNED

Mr. **THOMAS**, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 165. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

SENATE ENROLLED BILL SIGNED

The **SPEAKER** announced his signature to an enrolled bill of the Senate of the following title:

S.J. Res. 38. A joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

ADJOURNMENT

Mr. **OWENS**. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 48 minutes p.m.), under its previous order, the House adjourned until Monday, March 25, 1996, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2284. A letter from the Chairman, Federal Trade Commission, transmitting the 18th annual report to Congress on the administration of the Fair Debt Collection Practices Act, pursuant to 15 U.S.C. 1692m; to the Committee on Banking and Financial Services.

2285. A letter from the Executive Director, Thrift Depositor Protection Oversight Board, transmitting a supplement to the final report of the RTC as required by section 10 of the Coastal Barrier Improvement Act of 1990, pursuant to Public Law 101-591, section 10(a)(1) (104 Stat. 2939); to the Committee on Banking and Financial Services.

2286. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Korea (Transmittal No. 12-96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

2287. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Norway for defense articles and services (Transmittal No. 96-36), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2288. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b; to the Committee on Government Reform and Oversight.

2289. A letter from the Assistant Secretary (Legislative Affairs and Public Liaison), Department of the Treasury, transmitting a list of all the locations of all tobacco product vending machines located in Federal buildings over which the Treasury Department has jurisdiction, pursuant to Public Law 104-52, section 636(c) (109 Stat. 508); jointly, to the Committees on Government Reform and Oversight and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. **WALDHOLTZ**: Committee on Rules. House Resolution 389. Resolution providing for the consideration of the Senate amendments to the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions (Rept. 104-492). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. **BAKER** of California:

H.R. 3152. A bill to permit the Federal Government to provide funding for wetland creation and improvement through the construction of upland dredge material disposal facilities and funding for upland dredge material disposal, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. **DeLAY** (for himself, Mr. Condit, Mr. Dooley, Mr. Barr, Mr. Bishop, Mr. Bryant of Tennessee, Mr. Christensen, Mr. Clement, Mr. Coble, Mr. Combest, Mr. Cramer, Mr. Cunningham, Mr. Dornan, Mr. Emerson, Mr. English of Pennsylvania, Mr. Ewing, Mr. Foley, Mr. Hastings of Washington, Mr. Hayes, Mr. Kim, Mr. Largent, Mr. LaTourette, Mr. Lewis of Kentucky, Mr. Linder, Mr. Livingston, Mr. McIntosh, Mr. Ney, Mr. Norwood, Mr. Scarborough, Mr. Towns, Mr. Traficant, and Mr. Wamp):

H.R. 3153. A bill to amend title 49, United States Code, to exempt from regulation the transportation of certain hazardous materials by vehicles with a gross vehicle weight rating of 10,000 pounds or less; to the Committee on Transportation and Infrastructure.

By Mr. **BARRETT** of Wisconsin:

H.R. 3154. A bill to increase the penalty for trafficking in powdered cocaine to the same level as the penalty for trafficking in crack cocaine, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. **McCOLLUM** (for himself, Mr. Mica, and Ms. Brown of Florida):

H.R. 3155. A bill to amend the Wild and Scenic Rivers Act by designating the Wekiva River, Seminole Creek, and Rock Springs Run in the State of Florida for study and potential addition to the national wild and scenic rivers system; to the Committee on Resources.

By Mr. **TIAHRT** (for himself, Mr. Souder, Mr. Hostettler, Mr. Largent, Mrs. Myrick, Mr. Dornan, Mr. Hutchinson, Mr. Pete Geren of Texas, and Mr. English of Pennsylvania):

H.R. 3156. A bill to amend the Indian Child Welfare Act of 1978 to exempt voluntary child custody proceedings from coverage under that act, and for other purposes; to the Committee on Resources.

By Mr. **TORRICELLI**:

H.R. 3157. A bill to amend the Internal Revenue Code of 1986 to allow the establishment of individual training accounts; to the Committee on Ways and means.

By Mr. **HOYER** (for himself, Mrs. Morella, Mr. Wynn, Ms. Norton, Mr. Wolf, Mr. Moran, and Mr. Davis):

H. Con. Res. 153. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby; to the Committee on Transportation and Infrastructure.

By Mr. **HOKE**:

H. Res 390. Resolution concerning the prohibition on the use of United States passports for travel to Lebanon; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 392: Mr. English of Pennsylvania.

H.R. 739: Mr. Armey.

H.R. 1050: Mr. Jackson.

H.R. 1279: Mr. Istook, Mr. Thornberry, and Mr. Bateman.

H.R. 1386: Mr. Stockman, Mr. Norwood, Mr. Wilson, and Mr. Bilbray.

H.R. 1406: Mr. Dingell, Mr. Bentsen, Mr. Kennedy of Rhode Island, Mr. Hastings of Florida, Mr. Dreier, Mr. Solomon, Ms. Jackson-Lee, Mr. Taylor of Mississippi, Mr. Matsui, Mr. Pomeroy, Ms. Pelosi, and Mr. Serrano.

H.R. 1496: Mr. Tate.

H.R. 1619: Mr. Matsui.

H.R. 1684: Mr. Bachus, Mr. Bunning of Kentucky, Mr. Clinger, Mr. Crane, Mr. de la

VOL
142
PT
5
MR
21
—
29
1996
UMI

GARZA, Mr. DELAY, Mr. DREIER, Ms. ESHOO, Mr. FARR, Mrs. FOWLER, Mr. HEINEMAN, Mr. JEFFERSON, Mr. KOLBE, Mr. MCCRERY, Mr. MANTON, Mr. ROGERS, Mr. BARTLETT of Maryland, Mr. COLLINS of Georgia, Mr. DEFAZIO, Mr. DURBIN, Mr. ENGEL, Mr. GALLEGLY, Mr. KANJORSKI, Mr. LIGHTFOOT, Mr. MEEHAN, Mr. MENENDEZ, Mrs. MINK of Hawaii, Mr. MURTHA, Mr. VISCLOSKY, Mr. WILLIAMS, Mr. YOUNG of Alaska, Mr. LEACH, Mr. BAKER of Louisiana, Ms. BROWN of Florida, Mr. BROWN of California, Mr. BROWNBACK, Mr. CALVERT, Mr. CHRISTENSEN, Mrs. CLAYTON, Miss COLLINS of Michigan, Mr. DELLUMS, Mr. FIELDS of Louisiana, Mr. FOX, Mr. GOODLING, Mr. HYDE, Mr. LINDER, Ms. MCCARTHY, Mr. MCDERMOTT, Mr. MCKEON, Mr. MCNULTY, Mr. MOORHEAD, Mr. NEAL of Massachusetts, Mr. RICHARDSON, Mr. SANFORD, Mr. SHADEGG, Mr. STUDDS, Mr. TIAHRT, Mr. TORKILDSEN, Mr. WICKER, and Mr. ZIMMER.

H.R. 1776: Ms. MCKINNEY, Mr. LEWIS of Georgia, Mr. JACKSON, Mr. HILLIARD, Ms. KAPTUR, Ms. WATERS, Mr. GILCHREST, Mr. BONILLA, Mr. NORWOOD, Mr. STUMP, Mr. TATE, Mr. METCALF, Mr. TIAHRT, Mrs. CHENOWETH, and Mr. GUTKNECHT.

H.R. 2060: Mr. SANFORD, Mr. HEFLEY, Mr. ROTH, Mr. BOEHNER, Mr. NORWOOD, Mr. INGLIS of South Carolina, Mr. BURTON of Indiana, and Mr. BACHUS.

H.R. 2066: Mr. RIGGS, Mr. WELDON of Florida, Mr. GREENWOOD, Mr. MCINTOSH, Mr. SOUDER, Mr. CASTLE, Mr. BALLENGER, Mr. GRAHAM, Mr. LONGLEY, Mr. HUTCHINSON, Mr. STARK, and Mr. HOKE.

H.R. 2167: Mr. BORSKI.

H.R. 2214: Mr. BILBRAY and Mr. WATTS of Oklahoma.

H.R. 2241: Mr. GILCHREST.

H.R. 2247: Mr. CLYBURN, Mr. FROST, Mr. JACOBS, Ms. KAPTUR, Mr. LEWIS of Georgia, Mr. MATSUI, and Mr. VISCLOSKY.

H.R. 2270: Mr. WELDON of Florida.

H.R. 2275: Mr. BARR, Mr. ROGERS, and Mr. UNDERWOOD.

H.R. 2364: Mr. BONO.

H.R. 2450: Mr. ENGLISH of Pennsylvania, Mr. TORRES, and Mr. WYNN.

H.R. 2531: Mrs. LINCOLN.

H.R. 2536: Mr. COBLE, Mr. JACOBS, and Mr. MINGE.

H.R. 2566: Mr. BROWNBACK.

H.R. 2579: Mr. LONGLEY.

H.R. 2727: Mr. EMERSON.

H.R. 2757: Mr. ACKERMAN, Mrs. WALDHOLTZ, Mr. LIPINSKI, Mr. TATE, and Mr. LAHOOD.

H.R. 2764: Mr. DOYLE, Mr. DORNAN, and Mr. CALVERT.

H.R. 2798: Mr. FRANKS of Connecticut.

H.R. 2827: Mr. CLYBURN.

H.R. 2834: Ms. WOOLSEY.

H.R. 2893: Mr. LAHOOD and Mr. BARCIA of Michigan.

H.R. 2911: Mr. MCCOLLUM, Mr. ENGLISH of Pennsylvania, Mr. ZIMMER, and Mr. HERGER.

H.R. 2925: Mr. GUTKNECHT, Mr. MINGE, Mr. WELLER, Mr. STOCKMAN, Mr. WILSON, and Mr. EHRLICH.

H.R. 2931: Mr. KENNEDY of Massachusetts.

H.R. 2994: Mr. SMITH of New Jersey and Mr. ENGLISH of Pennsylvania.

H.R. 3010: Mr. HOKE and Mr. CONDIT.

H.R. 3043: Mr. CALVERT.

H.R. 3065: Mr. TAUZIN.

H.R. 3095: Mr. WICKER.

H.R. 3118: Mr. SMITH of New Jersey and Mr. BILIRAKIS.

H.R. 3123: Mr. CANADY.

H.R. 3130: Mr. FILNER, Ms. WOOLSEY, and Mr. LUTHER.

H.R. 3141: Mr. SKAGGS.

H.R. 3142: Mr. TEJEDA, Mr. BONILLA, Mr. FRAZER, Mr. SCARBOROUGH, Mr. ENGLISH of Pennsylvania, Mr. SMITH of New Jersey, and Mr. BREWSTER.

H.R. 3148: Mr. ZIMMER.

H. Con. Res. 100: Mr. SAM JOHNSON of Texas, Mr. EMERSON, Mr. HOLDEN, Mr. TAYLOR of Mississippi, Mr. DAVIS, Mr. SCARBOROUGH, Mr. MCKEON, Mr. MOORHEAD, Mr. PACKARD, Mr. BARRETT of Nebraska, Mr. PETRI, Mr. DOOLITTLE, Mr. FOLEY, Mr. CLEMENT, Mr. LEWIS of California, Mr. WELDON of Florida, Mr. HASTERT, and Mr. GOODLATTE.

H. Con. Res. 134: Mr. HASTINGS of Washington and Mr. SKEEN.

H. Res. 345: Mr. POMBO.

H. Res. 385: Mr. ENGLISH of Pennsylvania.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1202: Mr. GENE GREEN of Texas.

DISCHARGE PETITIONS

Under clause 3 of rule XXVII, the following discharge petitions were filed:

Petition 12, March 21, 1996, by Mrs. SMITH of Washington on House Resolution 373, has been signed by the following Members: Linda Smith, Tom A. Coburn, Lloyd Doggett, Peter G. Tokildsen, Marge Roukema, Martin T. Meehan, Charles E. Schumer, Christopher Shays, John J. Duncan, Jr., Stephen Horn, Peter Blute, and Sam Brownback. Folios: e-19-Date: 03-22-96 21:19-Subformat:

H.R. 3065: Mr. TAUZIN.

H.R. 3095: Mr. WICKER.

H.R. 3103: Mr. CASTLE.

H.R. 3118: Mr. SMITH of New Jersey and Mr. BILIRAKIS.

H.R. 3123: Mr. CANADY.

H.R. 3130: Mr. FILNER, Ms. WOOLSEY, and Mr. LUTHER.

H.R. 3141: Mr. SKAGGS.

H.R. 3142: Mr. TEJEDA, Mr. BONILLA, Mr. FRAZER, Mr. SCARBOROUGH, Mr. ENGLISH of Pennsylvania, Mr. SMITH of New Jersey, and Mr. BREWSTER.

H.R. 3148: Mr. ZIMMER.

H. Con. Res. 100: Mr. SAM JOHNSON of Texas, Mr. EMERSON, Mr. HOLDEN, Mr. TAYLOR of Mississippi, Mr. DAVIS, Mr. SCARBOROUGH, Mr. MCKEON, Mr. MOORHEAD, Mr. PACKARD, Mr. BARRETT of Nebraska, Mr. PETRI, Mr. DOOLITTLE, Mr. FOLEY, Mr. CLEMENT, Mr. LEWIS of California, Mr. WELDON of Florida, Mr. HASTERT, and Mr. GOODLATTE.

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EXTENSIONS OF REMARKS

TRIBUTE TO STUDENTS PARTICIPATING IN OPERATION VALENTINE

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. TEJEDA. Mr. Speaker, I rise to pay tribute to the students of R. T. Barrera Elementary School, Pearsall Intermediate School, and La Vernia High School for writing valentines to our Armed Forces stationed in Bosnia. These valentines were sent to our troops through the Operation Valentine program, a nationwide valentine writing campaign designed to boost the morale of our men and women serving in the U.S. military in Bosnia. Through the pens and pencils of these children, more than 150 valentines of love and support were sent to uplift our troops.

A 1st grade student from R. T. Berrera Elementary School wrote, "I am a first grade student in Roma, Texas. Thank you for being so proud of our country. We miss you and we want you to come home."

A student from Pearsall Intermediate School wrote his valentine addressed to "Dear soldier." He went to say, "I am from Pearsall, TX. I am 9 years old. I like football. My favorite team is Dallas Cowboys. They are champions. We miss you. We are proud because you are peacekeepers. * * *"

La Vernia High School also expressed support. Members of the La Vernia High School Student Council wrote 50 valentines to both mobile forces and land forces stationed in Bosnia. One of these valentines, written by an 11th grade student council member, stated: "Happy Valentine Day * * * you are admired and appreciated for everything you have accomplished and sacrificed for our country, you are respected and supported (no matter what you might do). Never forget that you are a leader and looked-up to by me and the rest of our Nation. Stay safe * * * and always remember that you are in our prayers."

These wishes are just a few of the scores of valentines that young people across my district wrote to our soldiers involved in the Bosnian peacekeeping mission. I commend all the schools for supporting our Armed Forces, and I am honored to share their remarks with my colleagues today. I speak from experience—letters from home, expressing love and support for a soldier while stationed overseas, uplifts morale and keeps spirits high. I trust these valentines will do just that.

SALUTE TO ALL ISLAND HANDICAPPED SPORTS, INC. SLED HOCKEY TEAM

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. KING. Mr. Speaker, I rise today to salute a very special group of athletes, the All Island Handicapped Sports, Inc. sled hockey team. This outstanding collection of sportsmen has done themselves, and all of Long Island, proud, representing New York at the Wendy's International Sled Hockey Tournament in Hamilton, Ontario, Canada.

The team defeated Hamilton, 3 to 2, on a goal by Tony Fitzgerald, assisted by Larry Northorn, and two goals by Vic Calise with assists from Larry Northorn, Rich Northorn III, James Abatino, and Tony Fitzgerald.

Downing Kitchener/Elmvale, 3 to 1, the team was led by scorers Fitzgerald, Larry Northorn, Calise, and William Schwarz. Defeating a determined Chicago squad 4 to 2, the team reached the gold medal round against a very tough Kingston, Canada team.

Although downed 7 to 0 by Kingston, the New York team earned the tournament's silver medal. Throughout the tournament, the New York team got stellar goal tending from Ryan Bora, hard-hitting defense from Dr. Stephen Mordecai, William Schwarz, Chuck Albert, and Donald Saracen, and excellent line play from Joey Messing, Vito Giambruno, Zachary Lynn, Gregory Nelson, Anthony Donaroma, Jonathan Rotkin, and Mark Turan.

Every member of the team can be proud of earning the tourney's silver medal. As a fan of the Brooklyn Dodgers, I would like to offer the All Island Handicapped Sports team the following encouragement: wait 'til next year—I know you can bring home the gold.

NEW YORK SLED HOCKEY ROSTER

James Abatino #62, Chuck Albert #8, Ryan Borja #20, Victor Calise #9, Anthony Donaroma #3, Anthony Fitzgerald #22, Vito Giambruno #83, Zachary Lynn #1, and Dr. Stephen Martucci #2

Joseph Messina #52, Gregory Nelson #13, Lawrence Northorn #60, Richard Northorn III #14, Jonathan Rotkin #5, William Schwarz #16, Donald Sorokin #32, and Mark Turan #99.

IN RECOGNITION OF DOROTHY BARNES

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. HALL of Texas. Mr. Speaker, one of the privileges that I have most enjoyed as a Member of the House of Representatives is the opportunity to offer assistance to the hundreds of veterans who reside in the Fourth District of Texas, and today I would like to recognize and pay tribute to someone who has devoted countless hours in this cause—Dorothy Bateman Barnes, whose exemplary service as the Van Zandt County Veterans Service Officer has earned her the respect and gratitude of those veterans who have called on her for help.

"Dottie" Barnes was appointed to the veterans post in August, 1984. A native of Wills Point in Van Zandt County, she contributed to the war effort in the 1940's while working in the accounting office of North American Aviation. Years of Federal Government service followed, the last 7 with the Department of Defense. Her late husband, Maj. (Ret.) Matthew J. Barnes, was a veteran of World War II and the Korean war, and was wounded in the Korean war and left for dead but managed to escape. This ordeal gave Mrs. Barnes a heightened awareness of veterans' needs and an empathy for their plight.

Known for her dedication, professionalism, and long hours of service, Mrs. Barnes was presented the Outstanding Veterans Service Officer of the Year award for the Dallas Region in 1991, having been selected from 200 officers for the annual award. Commenting on the award, she stated, "My main purpose in life is serving the veterans of this county and anybody else who walks through my door." In addition, she was given a Distinguished Service Ward by the United States Marine Corps League and has received frequent commendations from the Van Zandt County Judges and Commissioners. The county's consultant on the Americans With Disabilities Act stated that Mrs. Barnes "may be one of the best veterans services officers in the country."

Veterans Service Officers routinely provide an array of assistance to veterans—including compensation and pension matters, hospitalization, insurance, transportation, education, G.I. home and farm loans, disability retirement, military records, and others. Mrs. Barnes provides all these services—and more. She works long hours and takes paperwork home with her at night in an effort to provide efficient service to those in need. She organized the first veterans' health screening clinic in the area, which continues to be an overwhelming success.

In addition to the long hours that she devotes to veterans, Mrs. Barnes somehow finds time for a number of other worthy causes. She is a member of both the Canton and Wills Point Chambers of Commerce, a member of the Business and Professional Women's Club, holds lifetime memberships in the Wills Point Historical Society, the Van Zandt County Genealogical Society, and the Van Zandt County Friends of the Library. She served as chairman of the Van Zandt County Historical Commission for a number of years, is the current vice-chairman, and was chairman of the

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL
142
PT
5
MR
21
—
29
1996
UMI

county's Sesquicentennial Committee. She is also a certified nursing home ombudsman and is chairman of the Selective Service Board for the East Texas area.

In recognition of her outstanding service to the county, Mrs. Barnes was named Van Zandt County Citizens of the Year in 1987. She also received an Award of Achievement and Appreciation from the Wills Point Chamber of Commerce and was given an Award of Merit for Outstanding Achievements from the Genealogical Society.

Mr. Speaker, Van Zandt County is truly fortunate to have a veterans service officer with the depth of experience, compassion, and integrity that Mrs. Barness brings to her job—and a citizen so devoted to community service. Dorothy Barnes embodies the highest ideals of both government service and civic responsibility, and she deserves our profound gratitude and respect. I ask my colleagues to join me today in paying tribute to this outstanding American.

TRIBUTE TO TEXAN WHO WILL OFFICIATE AT OLYMPICS

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I ask my colleagues to join me today in a tribute to a great citizen of Texas, Mr. Herbert Allen, Sr., who has been selected as one of the track officials for the Summer Olympics Games in Atlanta, this coming summer.

Mr. Allen is very deserving of this opportunity and responsibility. He has officiated the Texas State High School Track and Field Championships and the Texas Relays at the University of Texas at Austin for the past 6 years and served as referee of the State High School Track and Field Championships. He also officiated the Olympic Trials in 1992, the NCAA Track and Field Championships in 1992 and 1993, the Mobil Track and Field Championships from 1989 through 1995, the Youth National Track and Field Championships from 1992 through 1995, and the Junior Olympics Track and Field Championships last year.

Mr. Allen also coached at Klein High School, taking the Bearkats to the State final-four baseball tournament in Austin in 1983. He was the first African-American baseball coach to take a team to the Class 5A Final Four and was named the Houston Post High School Baseball Coach of the Year in 1983. Later that same year, Mr. Allen coached the North All-Stars to a 5–3 victory in the Astrodome in the Texas High School All-Star Baseball Game. In 1986, Mr. Allen was honored with induction into the Texas High School Coaches Hall of Honor.

Mr. Allen's job this summer will be on the field officiating the long jump and triple jump events, during the Olympic Games, July 22 through August 4. He will also work the Olympic Trials in June.

Congratulations to a great Texan, Herbert Allen, Sr.

ST. PATRICK'S DAY 1996: A DAY OF CELEBRATION AND DEDICATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mrs. MALONEY. Mr. Speaker, we are all looking forward to St. Patrick's Day festivities back home.

For me, the upcoming celebrations bring back memories of the wonderful friends I made in Ireland last year when I accompanied President Clinton on his historic visit to that beautiful country—and of the message they conveyed in their words and actions: We want peace.

For those of us involved with Irish issues, the recent setbacks brought true heartache. But that's why now, more than ever, the United States must stand firm in its commitment to help the Irish people win a lasting peace.

Perhaps our best opportunity to do this is by promoting opportunities for economic growth in Northern Ireland and the Republic. This will be mutually beneficial, since one-third of all foreign business in the Republic is United States-owned.

We've already taken several steps toward that goal. President Clinton has appointed a Special Envoy for Economic Initiatives on Ireland, and the White House convened a conference on trade and investment in Ireland. This week I was proud to vote to continue funding for the International Fund for Ireland.

But I firmly believe we must do more. Along with my New York colleagues PETER KING and TOM MANTON, I have introduced H.R. 2844, the Ireland Economic Development Act. My bill would authorize the issuance of loan guarantees for economic development and job creation activities in the Republic of Ireland and Northern Ireland.

I think Dan O'Kennedy said it best: "Prosperity and peace go hand in hand—that's why the Irish American Unity Conference strongly supports H.R. 2844, the Ireland Economic Development Act."

I urge all my colleagues who are friends of Ireland to cosponsor H.R. 2844 before going home this St. Patrick's Day.

And every Member of this Congress should support the MacBride Principles, which I and 226 other Members of Congress cast our vote for earlier this week.

I authored the New York City MacBride Principles Contract Compliance Law, which made it illegal for the city of New York to award contracts to companies which discriminate against Catholic workers in Northern Ireland.

We should have a zero tolerance policy for discrimination: That's the statement we make when we vote for the MacBride Principles.

Last, but by no means least, my heart goes out to all the families still threatened with cruel separation by deportation proceedings. I am committed to continuing my work on this issue with members of the Ad Hoc Committee for Irish Affairs, and I urge my colleagues to get involved.

We all love taking part in the fun of St. Patrick's Day celebrations. But this year, as we put on our green shirts, we must all resolve to roll up our sleeves and do the hard work to help realize a bright and promising future for Ireland and her people.

LEGISLATION TO AMEND FOREIGN ASSISTANCE INTRODUCED

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. GILMAN. Mr. Speaker, I am pleased to introduce legislation which amends the Foreign Assistance Act [FAA] and the Arms Export Control Act [AECA] to make improvements to certain defense and security assistance provisions under those acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes.

There are two titles to this bill. The first title—Defense and Security Assistance—is nearly identical to the text of title 31 of H.R. 1561, the American Overseas Interests Act, which the Committee on International Relations marked up and reported out during the first session of the 104th Congress.

Title I amends authorities under the FAA and the AECA to revise and consolidate security assistance authorities, in particular by eliminating outdated policy and statutory language. In addition, this title moves provisions which have been carried on annual appropriations measures into permanent authorization law where they belong. In other words, title I of this bill fulfills the committee's responsibilities as an authorizing committee.

Title II of this bill—Transfer of Naval Vessels to Certain Foreign Countries—authorizes the transfer of 10 ships to the following countries: Egypt, 1; Mexico 2; New Zealand, 2; Portugal, 1; Taiwan, 4; and Thailand 1. Eight of these ships are being sold, one is being leased, and one is a grant transfer (Portugal).

Legislation authorizing the transfer of these naval vessels is required by section 7307(a) of title X (U.S.C.) which provides in part that "a naval vessel that is in excess of 3,000 tons or that is less than 20 years of age may not be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) unless the disposition of that vessel is approved by law * * *" Each naval vessel proposed for transfer in this legislation displaces in excess of 3,000 tons and/or is less than 20 years of age.

The United States will incur no costs for the transfer of the naval vessels under this legislation. In addition to the revenue generated by the sale of eight of these ships, which amounts to over $70 million, title II of this bill will also generate over $500 million in revenue to the public treasury and private firms for repair, reactivation, services, and future ammunition sales.

I commend this bill to the Members of the House of Representatives and, in particular, to the Committee on International Relations.

NATUROPATHY ADVANCES IN PUERTO RICO

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. RICHARDSON. Mr. Speaker, I am pleased to be able to advise my colleagues in the House that the Legislation and Governor of the Commonwealth of Puerto Rico have committed themselves to provide legislation which would license and regulate the practice of naturopathy in Puerto Rico, and at the same time, assure to the citizens of Puerto Rico the freedom to be able to continue to select health-care practitioners of their choice. I commend the Legislature and the Governor of the Commonwealth for this commitment.

As Members of the House may already know, modern naturopathy was introduced into Puerto Rico in the 1950's. Subsequent thereto, traditional naturopathy began to be promoted earnestly in the 1960's. However, it was not until the 1970's that naturopathy began to flourish in the island paradise, largely as a result of the efforts of Dr. Carmen Martinez, Dr. Ivan Martinez, and Dr. Norman Gonzalez.

In the 1980's, the profession of naturopathy began to organize with the establishment in 1981, of the Puerto Rico Association of Naturopaths [PRAN]. In 1983, PRAN established a Self-Examining Board and Continued Education, and called for legislation to regulate the practice of naturopathy. The legislation was opposed by certain groups wishing to limit economic competition and the legislation ultimately died. Another legislation effort was launched in 1985, but once again, the legislation died. Other aborted legislative efforts followed but each were unsuccessful. The current legislative effort, unfortunately, is facing strong opposition from the leadership of certain medical doctors in spite of 90-percent support from the citizens, including health-care practitioners, as reflected in a February, 1996, poll.

Late in 1995, the Puerto Rico Supreme Court, in a four-to-three decision, confirmed a lower court decision that held that naturopathy was a part of medicine and consequently, only a licensed medical doctor could practice naturopathy. This decision led to such an uproar throughout the Commonwealth that the legislature and Governor enacted a law which established a 1-year moratorium delaying the implementation of the decision of the Puerto Rico Supreme Court while enabling the legislature and Governor the opportunity to present and enact legislation to license and regulate the practice of naturopathy. This moratorium, which recognized and established the naturopathic profession as a different science, separate from conventional Naturopathic Associations which is composed of PRAN, the Puerto Rico Association of Naturologists, the Christian Federation of Naturopaths, and other supporting organizations.

In February of this year, Senate bill 1329 was introduced and hearings were expected shortly in both the Senate and House. The bill is a comprehensive bill designed to recognize and regulate the naturopathic profession in Puerto Rico who practice traditional naturopathy. The bill includes provisions to certify the competency of, and license, the existing naturopaths in Puerto Rico, which approximates 200 doctors. It also establishes a mechanism to examine and license future naturopaths who have successfully completed a comprehensive educational curriculum in naturopathy.

Unfortunately, legislation to extend, and possibly alter the existing moratorium, is now being considered by the Senate majority party leadership in response to lobbying from the leadership of certain medical doctors.

During the next several weeks, other colleagues and I will report further in the House regarding the progress of naturopathic legislation in Puerto Rico. We will also report on further developments in the naturopathic profession in Puerto Rico. Each of us warmly applauds those members of the Puerto Rico Legislature and the Governor who hold steadfast to their original commitment to the people of Puerto Rico to regulate the naturopathic profession.

TRIBUTE TO R. HUGH "PAT" UHLMANN

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Ms. McCARTHY. Mr. Speaker, I rise today to pay tribute to a distinguished business and civic leader, R. Hugh "Pat" Uhlmann, who would have celebrated his 80th birthday Sunday, March 17. Born on St. Patrick's Day 1916, Mr. Uhlmann died February 7, 1996 having contributed his generosity and kindness to our community throughout those years. Mr. Uhlmann always will be remembered as a renaissance man with a bright mind and warm heart. His principal in life defined his every action: what is hateful to you, do not do unto others.

A talented and highly successful businessman, Mr. Uhlmann spent 50 years as a member of the Kansas City Board of Trade, where he began his career as a grain trader in 1938. He was president in 1960–61. After serving our Nation during World War II, Mr. Uhlmann rejoined Uhlmann Grain Co. Later, he was vice-president of Midland Flour Milling Co. before buying control of Standard Milling Co. with his father and brother, Paul, in 1951. The name was changed to the Uhlmann Co. in 1981. He served as president, chairman, and chairman emeritus.

Mr. Uhlmann was a trail blazer for Jewish Kansas Citians. He was often the first Jewish person appointed to boards or accepted into business and social clubs in Kansas City, opening the door for others who would follow. Mr. Uhlmann encouraged many Kansas City businesses to hire their first Jewish employee. Mr. Uhlmann was also committed to opening doors for other minorities. He was a voice for tolerance who spoke quietly, but effectively. Many families and individuals of all backgrounds have been touched by Mr. Uhlmann's sincere interest in helping others. One son recalls a winter day when he watched from a window as his father gave a stranger outside the coat he was wearing. When queried, Mr. Uhlmann explained that the man had just lost his job, was down on his luck, and needed the coat far more than he did.

Mr. Uhlmann's energy and generosity will have a lasting effect on our community. He was a founding member of Friends of the Zoo, president of the Friends of Art, a trustee of Children's Mercy Hospital, Rockhurst College and a contributing member of many other civic, religious, cultural and educational institutions.

His unique blend of humor and intellect led to opportunities as a radio commentator and columnist. His love of life was displayed through numerous hobbies; reading, gardening, cooking, golfing, fishing, and horseback riding. Longtime friend Henry Bloch of H&R Block said that Mr. Uhlmann often served lunches in his office and that it was an honor to be invited. These lunches were an opportunity for lively exchange of ideas and commentary on key issues and a chance to experience Mr. Uhlmann's culinary talent. Mr. Uhlmann took up painting at age 74 and won awards for his work. Mr. Uhlmann left this world with a lifetime of exhilarating experiences unmatched by most people.

His most lasting legacy is his family. Mr. Uhlmann said he knew when he met his wife, Helen Jane, 57 years ago that they would marry. Theirs was a marriage of unconditional love, loyalty, and fun that makes most enviable. In the written memorial Mr. Uhlmann wrote of Helen Jane: "I sit here with tears in my eyes thinking how close we have been and what a beautiful life we have had . . . When I found out about my cancer, her love, concern, encouragement and high spirits that she put on for my benefit have made it possible for me to go on." Pat and Helen Jane's three children, Patricia Rich, John and Robert, are the pride of his life. While Pat also adored his seven grandchildren he loved all children. He enjoyed telling wonderful stories and he had a way of bringing out the child in all of us.

Pat Uhlmann has been an inspiration in my life and has enriched the people of Kansas City in ways few individuals have ever achieved. He will indeed be missed.

REOPENING OF THE SAN DIEGO SYMPHONY

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. FILNER. Mr. Speaker, I rise today to mark the revival of the San Diego Symphony Orchestra on March 15, 1996. Two months ago, the orchestra was silenced—and there appeared to be little hope for its restoration.

The orchestra's reawakening was the result of generous gifts from the Price Charities and the Jacobs Family Trust, an outburst of support from the community as a whole, and most of all from the musicians of the San Diego Symphony. Not only did each musician forgo more than $2,700 in lost salary, but their work and dedication to their institution inspired community support.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Although not all of my constituents attend the San Diego Symphony, even those who stay at home made very clear their belief that San Diego needs a great professional orchestra. Every major metropolitan area in this country has such an institution at the heart of its musical life. San Diego Symphony Orchestra musicians teach our children how to play musical instruments and provide our children's first exposure to serious music. Symphony musicians play for other artistic institutions in the community, such as opera and ballet companies, and perform in our schools, churches, and synagogues, making all of them shine with their professionalism. And the symphony brings our downtown to life at night providing lifeblood to many businesses.

The San Diego Symphony Orchestra is as important to our community's health as are the Chargers, the Padres, first-rate hospitals, and our major institutions of learning. The San Diego Symphony has not only provided San Diego with great music, but has brought great musicians to live in our community and, through its internationally recognized recordings, has let the world know that San Diego is not only a great place to visit, but is one of America's great cities.

That is why I have consistently fought for support of the arts. The arts are a vital part of the American adventure and a major American industry. Support for the arts not only enriches us spiritually; it is a wonderful investment in our economy and in our children. In this era of global competition, in no area do we compete more effectively than in the arts.

Let us hope that the generosity of the Jacobs Family Trust and the Price Charities and the dedication, generosity, and solidarity of the musicians will allow the San Diego Symphony to serve all the residents of the San Diego area for many more decades of excellence.

RESOLUTION ON TAIWAN ILL-CONCEIVED AND ILL-TIMED

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. SKAGGS. Mr. Speaker, when the House voted on House Concurrent Resolution 148 concerning the defense of Taiwan I voted "present." This was the first time since I came to Congress that I voted this way on final passage of a piece of legislation. I want to explain why I did so.

This measure should never have been brought to the floor of the House of Representatives for a vote in the first place. Both the timing and the content of the resolution could only create new doubts in the minds of people on both sides of the Taiwan Straits about a crucial aspect of American foreign policy. And creating new doubts inherently creates new dangers. That, at a time when our objective ought to be to defuse a situation that's already complicated and dangerous.

What do I mean? Well, a vote in favor sends a dangerous and confusing message about the extent of the American commitment to defend Taiwan. It would encourage those in Taiwan who want to push for independence, leading them to believe the United States would intervene if China reacted militarily. A vote against, however, sends the wrong message to China, giving the Beijing Government the mistaken impression that the Congress is not united in its condemnation of China's recent aggressive attitude and behavior.

Either a "yes" or a "no" was contrary to the interests of my country, so I voted "present."

The distinguished chairman of the International Relations Committee, Mr. GILMAN, has said that the resolution is meant to be a reaffirmation of current policy concerning United States relations with China and Taiwan as set forth in the Taiwan Relations Act [TRA]. Unfortunately, the resolution includes a commitment that does not appear in the TRA. Paragraph 7 states that the United States should "assist in defending them (Taiwan) against invasion, missile attack, or blockade by the People's Republic of China." This language could confuse China and Taiwan by giving the appearance that the United States has ratcheted up our commitment to the defense of Taiwan.

What is our policy toward Taiwan?

For 24 years under six Presidents we have followed a one-China policy. This policy was set out in three communiques and was enacted into law as the TRA. It has been and continues to be the policy of the United States that any effort to determine the future of Taiwan by other than peaceful means is of grave concern to the United States. The TRA specifies that the United States "will make available to Taiwan such defense articles and defense services as may be necessary to enable Taiwan to maintain a sufficient defense capability."

This Congress and the American people are united in their opposition to attempts by the Government of China to bully and coerce the people of Taiwan. The President has said that the United States will promptly meet our obligation under the TRA to respond to any threat to Taiwan's security.

A resolution reiterating our commitment to a peaceful resolution of differences across the Taiwan Straits would have been a helpful measure. But this resolution is different, and potentially seriously destabilizing. It can be read to imply a very significant change in policy, a change with extremely problematic consequences. It can be read to give the impression of a division between the President and the Congress. It is an irresponsible piece of legislation that should never have come up.

RECOGNIZING THE 240th BIRTHDAY OF AARON BURR

HON. RICHARD BURR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. BURR. Mr. Speaker, February 6 marked the 240th birthday of Aaron Burr, who was born in 1756. Aaron Burr had no direct descendants, but many of us in the Burr family are collaterally related. And during this year marking Aaron Burr's 240th birthday, I would like to take this opportunity to share with my colleagues some of the positive contributions Aaron Burr made to our great Nation.

Aaron Burr was a colonel in the Revolutionary War and was the third Vice President of the United States. He was born in Newark, NJ, and graduated from Princeton with the highest academic record yet achieved. His father, Rev. Aaron Burr, Sr., and grandfather, Rev. Jonathan Edwards, were the second and third presidents of Princeton. Aaron Burr participated in the 600 mile winter march on the fort at Quebec as an aide to General Montgomery. During the assault, Montgomery was mortally wounded and Burr attempted to carry the man to safety. Burr also served on Gen. George Washington's staff and spent the winter of 1778 at Valley Forge. Assignment took him to the Hudson Valley and several skirmishes with the enemy. He distinguished himself in New Jersey at the Battle of Monmouth on June 28, 1778.

Following the Revolutionary War, Aaron Burr practiced law in New York City and pursued an interest in politics. After serving in the New York State Legislature and the U.S. Senate, he ran on the Republican ticket for the Presidency with Thomas Jefferson. While it was intended that Jefferson would be President and Burr Vice President, the Electoral College's initial vote resulted in a tie vote between the two men. The election was then thrown into the House of Representatives, which eventually elected Jefferson as President and Burr as his Vice President.

Aaron Burr's finest accomplishment during his tenure as Vice President occurred during the impeachment trial of Supreme Court Associate Justice Samuel Chase. In 1804, Jefferson was incensed at the Federalist-dominated judiciary. He feared that it would nullify an act of Congress by declaring the act unconstitutional and thereby subverting the will of the people. As Vice President, Aaron Burr presided over the impeachment trial that began on February 4, 1805, with the Jeffersonians hoping that Burr would lean their way. Aaron Burr, however, acted impartially and Chase was acquitted on all counts. The newspapers of both parties agreed that although the trial began as a political inquest, it ended as a memorable example of judicial procedure at its best. One of the papers reported that Burr conducted the trial "with the dignity and impartiality of an angel, but with the rigor of the devil."

I would like to thank the Aaron Burr Association, which is dedicated to presenting a more balanced view of our third Vice President, for their assistance in providing research for this account of Aaron Burr's contributions to our young Nation.

SALUTE TO ALEXANDER MELESHKA

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. KING. Mr. Speaker, I rise today to salute Alexander Meleshka, one of my constituents from Farmingdale, NY, and a proud veteran of our "Crusade in Europe." Serving with the U.S. Army's 3rd Infantry Division, Mr. Meleshka saw combat in France. His unit, the 3rd Battalion of the 15th Infantry Regiment, became involved in a particularly fierce battle in October 1944, while seizing a bridge over the Mortagne River.

In the fight to take the bridge before the enemy could demolish it, Mr. Meleshka distinguished himself under fire. The first man in his unit across the bridge, Mr. Meleshka was taken prisoner by the Germans and transported to Stalag 7.

At Stalag 7, Mr. Meleshka, who spoke Russian and several other languages, was moved by the plight of the camp's 150 or so Russian prisoners. Abandoned by their own nation's brutal Communist dictator and subject to inhumane treatment dictated by the racist policies of their Nazi captors, the Russian prisoners faced slow death.

Throughout his captivity, Mr. Meleshka regularly risked severe punishment and even death to assist the Russians. By smuggling small portions of food to our captive allies, Mr. Meleshka certainly saved lives. His behavior exemplified the American ideas of doing the right thing, standing up for the underdog, and coming to the aid of a friend in need. His actions demonstrated what the war was all about.

Some 50 years after the end of World War II, Mr. Meleshka was recognized for his bravery and humanity by Russian President Boris Yeltsin when he was awarded the Gold Commemorative Medal of the 50th Anniversary of Victory in the Great Patriotic War. Mr. Speaker, I believe that our Nation should also recognize Mr. Meleshka for his deeds. He is truly an American hero.

TRIBUTE TO LILLIAN MAE BRECKEL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a loyal Democrat and community volunteer, Lillian Mae Breckel of Tyler, TX, who died recently at the age of 92. She devoted a lifetime of service to the causes she embraced—particularly the Smith County Democratic Party and her church—and she leaves behind a legacy of accomplishment and a loving family.

Mrs. Breckel was an active member of the Smith County Democrats. She served on the party's membership committee, was an alternate delegate to State conventions, and was a member of the Women's Democratic Organization. She believed so completely in the democratic process that she was willing to place her name on the ballot, running for State representative from District IV and as a candidate for the Tyler City Council and mayor. It is testimony to her devotion that officers of the Smith County Democratic Party served as honorary pallbearers at her funeral.

She also was devoted to her church. She helped organize Trinity Baptist Church, York Baptist Church, and Dill City First Baptist Church. She was church pianist for each of these churches, taught Sunday School, and also served as chairman of the finance committee of the Smith County Baptist Association.

Her community involvement extended to other worthwhile causes. She served on the volunteer council for Denton State School and served as past-president of the American Businesswomen's Association, past oracle of Royal Neighbors of America, and past noble grand of Tyler Rebekah Lodge 142.

Wherever she volunteered her talents, Mrs. Breckel's presence was felt—and will be missed. Most of all, her pride and happiness came from her family—some of whom visited with me and Mary Ellen in our Rockwall home. She is survived by her son, Henry Austin Breckel of Dallas; daughter and son-in-law, Kathlea and Richard Florey of Tyler; three grandchildren and three great-grandchildren. Mr. Speaker, on behalf of her family and many friends who loved her, I ask my colleagues to join me today in paying our last respects to this outstanding citizen—Lillian Mae Breckel.

TRIBUTE TO A GREAT TEXAS WOMAN

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I ask my colleagues to join me today in a tribute to a woman who has made a career out of championing women's issues. At age 76, Ms. Louise Raggio, who still practices law full-time at her firm, Raggio & Raggio in Dallas, is known as the Lone Star State's First Lady of women's legal rights.

In the 1950s, attorney Raggio fought to allow women to serve on juries. In the 1960s she led a group of legal experts in crafting the Texas Marital Property Act of 1967 that gave married women equal rights to control property and conduct business. With the success of that law, Mrs. Raggio helped pave the way for passage of the Equal Rights Amendment and other national women's rights legislation. A decade later, she helped write the Texas Family Code of 1979, the world's first fully codified set of family laws.

Mrs. Raggio has also achieved many firsts in her 40-year career, including being the first woman prosecutor for Dallas County, first women director of the State Bar of Texas, first woman trustee and chair of the Texas Bar Foundation and first recipient of the Dallas Bar Association's Outstanding Trial Lawyer Award. In 1995, she received the American Bar Association's Margaret Brent Women Lawyers of Achievement Award, placing her among other outstanding recipients Attorney General Janet Reno, Supreme Court Justice Ruth Bader Ginsberg, and former U.S. Representative Barbara Jordan.

For all of these reasons and more, I submit this tribute here today, for a great Texas lady.

IN HONOR OF CYPRUS FREEDOM FIGHTERS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the historic achievements of brave Greek-Cypriot freedom fighters. They are being honored by Justice for Cyprus and the Cyprus Federation of America, two philanthropic organizations that trace their roots back to Cyprus.

On April 1st, we will celebrate the 41st anniversary of Ethniki Organosis Kyprion Agoniston [EOKA]. This organization is a group of dynamic Cypriot freedom fighters who struck the first blow for independence for Cyprus. More than four decades ago, their acts of courage led to a 4-year struggle against British colonization and occupation.

EOKA's struggle for independence is joined with the American colonists who struggled against the British colonization and occupation in America over 200 years ago. These Greek-Cypriot lovers of democracy and freedom not only fought for Cyprus' independence, but they also fought on the battlefield against tyranny during world War II.

Today we commemorate all the heroes of Cyprus including Gregorious Afxentiou, Kyriakos Matsis, Evaghoras Pallikarides, and Michael Karaolis, who gave their lives for freedom. By their sacrifice, they join America's Revolutionary War hero Patrick Henry, who freely gave of his life and summed up his commitment to freedom with the statement, "Give me liberty or give me death."

Cyprus became independent in 1960. Unfortunately, liberation was short lived; Turkey invaded Cyprus in 1974. Today, one third of Cyprus remains occupied by Turkey. Once again, these heroes have been called upon to fight for the liberty and independence of their country.

On this day, we celebrate freedom. When migrating to the United States, the Greek-Cypriots brought with them their love of Cyprus, culture and democracy. The Cyprus Federation of America, Justice for Cyprus, and EOKA serve as important links with Cyprus' past, but also act as a springboard for its future. These organizations remain committed to the campaign for freedom and human rights in Cyprus today. They also help young Greek-Cypriot Americans who will play an important role in the growth and success of the United States.

So Mr. Speaker, I ask that my colleagues join me in the commemoration of Cypriot freedom fighters and in wishing the people of Cyprus long-lasting peace and liberty.

TRIBUTE TO LOIS VELLIQUETTE ON HER RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to an outstanding public servant in

VOL
142
PT
5
MR
21
—
29
1996
UMI

northwest Ohio. On March 31 of this year, Lois Velliquette, a Federal employee for over 36 years, will retire.

Lois can look back on her career with great pride. During the course of her service, she has held clerical, technical, and claims representative positions. Because of her extensive experience, she has become a recognized expert in many areas with the office and has received numerous performance awards for her work. Through her caring and dedicated efforts, she has literally improved the lives of a tremendous number of Sandusky residents.

Americans would not be able to enjoy the blessings of our country without the tireless dedication of those who have the talent and willingness to work for the community. It is for this reason we owe a special debt of gratitude to people like Lois, who have done an outstanding job first with the Department of the Army and for the last 31 years with the Social Security Administration.

Mr. Speaker, we have often heard that America works because of the unselfish contributions of her citizens. I know that Ohio is a much better place to live because of the dedication and countless hours of effort given by Lois Velliquette. While she may be leaving her official capacity, I know she will continue to be actively involved in those causes dear to her.

I ask my colleagues to join me in paying a special tribute to Lois, and wishing her all the best in the years ahead.

HONORING GREEK INDEPENDENCE DAY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. BONIOR. Mr. Speaker, I am pleased to join the Greek community to celebrate the 175th anniversary of Greek independence.

On March 25, 1821, the Archbishop of Patras blessed the Greek flag at the Aghia Lavra Monastery near Kalavrita, marking the beginning of the Greek war of independence in which nearly 400 years of Ottoman rule were turned aside.

Ancient Greece was the birthplace of democratic values. It brought forth the notion that the ultimate power to govern belongs in the hands of the people. It inspired a system of checks and balances to ensure that one branch of government does not dominate any other branch.

These ideals inspired our Founding Fathers as they wrote the Constitution. In the words of Thomas Jefferson, "to the ancient Greeks * * * we are all indebted for the light which led ourselves out of Gothic darkness."

Together we face many challenges today, including the territorial integrity of Imia in the Aegean Sea and the demilitarization of Cyprus. If freedom and democracy, which were born in Greece, can tear down the Berlin Wall and break apart the Soviet Union, then I know that we can work together to bring those ideals once again to Cyprus.

Today, the United States is enriched not only by Greek principles but also by its sons and daughters. Greek-Americans have made major contributions to American society, including our arts, sports, medicine, religion, and politics.

My home State of Michigan has been enhanced by the Greek community. In Macomb and St. Clair Counties, we are served by St. John's Greek Orthodox Church and Assumption Greek Orthodox Church. These institutions provide a multitude of community services and add to the rich diversity of the area.

Mr. Speaker, I join the people of Greece and those of Greek ancestry around the world in celebrating Greek Independence Day. I salute all of them for the tremendous contributions to freedom and human dignity which they have made.

HAZARDOUS MATERIALS TRANSPORTATION BILL

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. DELAY. Mr. Speaker, I rise on behalf of small business owners who find themselves caught up in an expensive regulatory maze left by amendments to the Hazardous Materials Transportation Act passed in 1990. This act greatly broadened the Secretary of Transportation's authority to regulate the transportation of hazardous materials. Though it was intended for large carriers of toxic materials which can pose a risk to public health or safety, it has spilled over and poisoned the small business man instead.

One study, which focused on the pest control industry, found that compliance of these rules and regulations cost the industry $135 million annually. These costs arise from truly burdensome Federal regulations which require pest control operators and employees to keep complex documents and markings for shipping and containers on a daily basis. And all of this is for small quantities of relatively benign materials, most of which are nearly identical to pest control products which we can all buy in home supply and garden stores—like Raid, for example.

The legislation I have developed will relieve these burdens while maintaining the same high standards for safety. My bill simply amends the Hazardous Materials Transportation Act by providing an exemption for small commercial vehicles which are transporting common "Raid" like materials which do not pose a risk to public health or safety.

Specifically, a vehicle with a gross weight of 10,000 pounds or less will be exempted unless it is transporting a material, such as a fumigant, which the Secretary of Transportation deems to require placarding.

Let us keep small business healthy. With this bill we can stop poisoning the small business man with unneeded regulations that hurt both him and us. I hope you will join myself and my colleagues who have cosponsored this important legislation.

IN HONOR OF J.C. COLLINS

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. DURBIN. Mr. Speaker, I rise to congratulate Mr. J.C. Collins of Bethalto, IL. Mr. Collins has been chosen as the 1995 Inductee of the National Mens' Ministries Christian Hall of Excellence, by the national Assemblies of God denominational headquarters in Springfield, MO. This honor is equivalent to a national layman of the year award for the Assemblies of God.

Mr. Collins was chosen for this award from among the 50 State inductees of the State Assemblies of God. He had earlier been named the Illinois State Inductee by the State Assemblies of God denominational headquarters in Carlinville, IL.

He has faithfully served his church, the First Assembly of God in Cottage Hills, IL, as a deacon, assistant Sunday school superintendent, and youth leader. He has been a Sunday school teacher for 30 years. He has supervised almost all of the church's construction projects, including the church itself, the houses, and all the buildings that belong to the church.

He has been active for decades with Gideons International, spreading the Gospel and passing out Bibles in schools, hospitals, hotels, and colleges.

When Mr. Collins retired in 1988 from his work as a construction supervisor, after 41 years at Laclede Steel Co. in Alton, IL, he prayed for the opportunity to make 10 trips overseas to help build churches. Since then he has made 11 trips, including Belgium, the former Czechoslovakia, Lesotho, Mexico, Germany, and the former East Germany when the Berlin Wall was coming down. He is now planning trips to Belgium and El Salvador.

J.C. Collins was born in Marshall County, KY, on February 8, 1926. He entered the U.S. Armed Forces when he was 17 years old, and he was promoted to staff sergeant by the time he was 18. During his military service he worked on researching German V–2 rockets on the White Sands Proving Ground.

Mr. Collins married his lovely wife, Ruby Scott, on December 9, 1944, in Mineral Wells, TX. They are blessed with two daughters, Wanda Collins Burgund and Patricia Collins Moran, and four grandchildren, Brian Hendricks, Stephanie Burgund Krienitz, Rachel Moran, and Alicia Moran. Following their father's and grandfather's strong and positive spiritual influence, all of Mr. Collins' children and grandchildren are active in their local churches.

I congratulate Mr. J.C. Collins and wish him and his family the very best in the future.

HONORING JAMES R. NUNES

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. BAKER of California. Mr. Speaker, in an era when crime is all too frequently a part of

our daily lives, it is good to know there are brave, capable men and women who each day protect and serve the American people.

James R. Nunes is one of these persons. His 33 years of service as a law enforcement officer have been exemplary to his colleagues and rewarding to those he has served. For the past 26 years, he has been a member of the Pleasant Hill, CA police force; the past 17 of these years, he has been Chief of the Pleasant Hill force.

During his tenure, Chief Nunes has played an active role in putting police on the beat, developing effective youth, crime prevention and DARE programs, and other meaningful anti-crime and community-building efforts. His understanding of the needs of future law enforcement led to the construction of an outstanding new police facility. And his role in the California Peace Officers Association, his study at the FBI National Academy, and his ongoing commitment to professional development in a variety of positions and organizations have enabled him to stay on the cutting edge of leadership.

It is a pleasure for me to recognize Chief Nunes, and to wish him every success in all his future endeavors.

IN HONOR OF FOOD & FRIENDS

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. MORAN. Mr. Speaker, I rise today to salute a group of people that have done so much for the people of the Washington Metropolitan area. Food & Friends, an organization dedicated to feeding nutritious meals to homebound people with AIDS, is preparing to celebrate Thanks A Million Day. One week from today, Food & Friends will deliver its one millionth meal.

The number of HIV positive and AIDS cases in the Washington area has increased exponentially in just a few years, ranking Washington fifth for the highest number of AIDS cases in the Nation. Fortunately, also on the exponential rise is the determination and capability of the people at Food & Friends. When the group was founded in 1988 it served 30 clients per day. Today 450 area homebound people with AIDS receive 1,350 nutritious meals every day at no cost to Food & Friends clients.

Providing physical sustenance is vital to HIV positive people, and people with AIDS. Volunteer visits for their spiritual sustenance are equally important. Food & Friends works alongside other AIDS service programs, including those which offer support groups and legal advice. In addition they provide nutrition, education and counseling services to the HIV community by a trained and licensed dietitian. Food & Friends provides companionship and life sustaining nutrition enhancing their clients quality of life.

Mr. Speaker, I am proud to see my constituents, along with the constituents of my metropolitan area colleagues, working side by side to serve this group of people so in need. Whether by volunteering to deliver meals, dedicating professional services, or contributing to the United Way Combined Federal Campaign, our friends have helped to make the lives of Food & Friends clients a little easier. I applaud their work to help the people in their own community, and as I join my metropolitan area colleagues at Thanks A Million Day, I urge you to join us in thanking this wonderful organization for the invaluable service it provides; in essence, food and friends.

SECOND ANNIVERSARY OF DURHAM WOODS EXPLOSION

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. FRANKS of New Jersey. Mr. Speaker, tomorrow is the second anniversary of the Durham Woods natural gas pipeline explosion.

On that fateful night, the residents of Edison, NJ were startled out of their sleep by the tremendous explosion that ripped through the Durham Woods apartment complex.

A 36-inch natural gas pipeline had ruptured, sending men, women, and children fleeing from their homes in a race for their lives against a roaring wall of fire.

Miraculously, only one person died. Twenty-nine others escaped with only minor injuries.

Although the physical rebuilding of Durham Woods is complete, this horrendous explosion has left lingering fears about the hidden dangers of natural gas pipelines.

Unfortunately, Congress has been slow to act to pass pipeline safety legislation. Although the House Transportation and Infrastructure Committee, of which I am a member, quickly passed a pipeline safety bill in the opening months of the 104th Congress, this bill still has not been voted on by the full House.

This delay is precluding some important new safety measures from becoming law that could help prevent another Durham Woods-type disaster.

For example, although it may never be precisely determined what caused the Durham Woods blast, authorities strongly suspect that a gouge, found in the pipeline after the explosion, had weakened the pipeline and precipitated the blast.

Nationally, the single largest cause of pipeline accidents is excavating crews or other workers accidently damaging pipelines. But in far too many instances, the damage is never reported to the pipeline operator. After the incident, the weakened pipe begins to deteriorate and the risk of an explosion increases.

A proposal I drafted that was included in the House pipeline safety bill addressed this problem. My proposal would establish a tough new Federal crime that would punish anyone who damages a pipeline and does not promptly report the damage to the authorities. Violators would not only be hit with a hefty fine of $25,000, but would face a jail term of 5 years.

Another provision in the pipeline safety bill of particular importance to any constituents concerns the one-call system. All States currently have some form of one-call system which requires construction crews to contact a central office before beginning any excavation work near a pipeline. But the success of these programs is often hindered by a lack of knowledge about the program or how it works. An important feature of the pipeline safety bill encourages pipeline companies and the States to launch public education programs aimed at all businesses which conduct excavating activities. This education program would increase compliance with one-call systems, which play an essential role in keeping pipelines safe.

Mr. Speaker, while I am working to get Congress to pass a pipeline safety bill, I believe that improving pipeline safety is not solely the responsibility of the Government. The pipeline companies that own and operate natural gas pipelines should be improving their own safety programs. Improving the safety of their pipelines and increasing the public's confidence not only makes good business sense, it is the right thing to do.

Therefore, today I am calling on Texas Eastern, who owns the pipeline that immolated Durham Woods 2 years ago, to voluntarily make a commitment to upgrade their safety procedures. Specifically, I request that Texas Eastern take immediate steps to install a remote control valve system on its pipelines in New Jersey. A remote control valve system would allow the flow of natural gas to be shut off by a human operator in case of a leak or a fissure in the pipeline. If a remote control valve was in place near the rupture that caused the Durham Woods explosion, this disaster may have been avoided.

Mr. Speaker, Texas Eastern shouldn't wait for a law that would require it to make its pipelines safer. Moreover, this Congress shouldn't have to wait for the next pipeline disaster before it is prodded into passing a pipeline safety bill. My constituents have been waiting 2 years for a response from their Government, and for Texas Eastern to install remote control valves. They should be required to wait no longer.

THE ROLE OF EMPLOYERS

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. WALKER. Mr. Speaker, we are engaged in a great economic debate in this country. As information technologies transform our economy, and economic competition becomes increasingly globalized, we must decide how to address the challenges before us.

Companies, along with their owners and managers, have been called insensitive to worker concerns and uninterested in anything but the bottom line. An eloquent defense of the role of employers in our culture has been made this past week. In a speech before the Economic Club of Detroit, the chairman and chief executive officer of the Chrysler Corp., Robert J. Eaton, makes clear why the economic survival and success of the Nation's employers is positive for their workers and for the communities where they are located.

Therefore, Mr. Speaker, I am pleased to include in the RECORD at this point excerpts of the text of the Eaton speech.

VOL
142
PT
5
MR
21
—
29
1996
UMI

EXCERPTS BY ROBERT J. EATON, CHAIRMAN AND CEO, CHRYSLER CORPORATION

It's open season on big business and CEOs. Party, that's because it's an election year and beating up on Wall Street and Corporate America is a cheap way to get votes or sell papers. This is old-fashioned, empty-headed, tub-thumping populism.

The Democrats lost Congress because people got mad at Washington. Now the plan is to get the voters mad at somebody else. And on the right you have Pat Buchanan. He's mad at big government, big business, the United Nations, the Chinese, the Japanese and the Mexicans (Mexicans on both sides of the border, by the way). Pat's mad at just about everybody.

So all this current fear and loathing directed at American corporations should not be surprising. It's being orchestrated to move political and economic agendas.

But that's not to say that Americans today don't have some very legitimate fears. They do. And they are rational fears about holding onto a good job if they have one, and getting one if they don't.

A New York Times reporter went into a big department store in the Ginza recently and found 14 clerks in the jewelry department ready to wait on him. He then gushed about how enlightened Japan's full-employment policy is, and condemned the U.S. business community (and I'm quoting), "where executives get bonuses for massacring their employees."

We can copy the Japanese. We can have 14 clerks to sell you a watch. We only need to do three things:

We have to close our borders to foreign competition.

We have to convince American consumers to pay $50 for a melon.

And we have to stop giving the owners of American companies a fair return on their investment.

That's all. That's how the Japanese have done it.

I don't think Americans are going to shut out foreign goods. I don't think Americans will pay $50 for a melon. And I don't think the owners of America's companies are going to stop demanding a fair return.

In Japan, the owners of a company happen to be large banks and other members of that company's keiretsu. They're more like partners than owners. It's different here, and one of the key elements of the current national debate we're having is who owns our corporations, who runs them, and for whose benefit.

Well, there have been some changes over the years.

Large institutional investors like mutual funds and pension funds now own more than half the stock in American companies today—maybe as much as 60 percent. In 1980 it was 40 percent. In 1970 it was 19 percent. Go back much further than that and these institutions were inconsequential.

In 1980, they managed about $1.9 trillion. In 1990, the figure was $6.3 trillion. Last year they managed more than $10 trillion.

They are big, and they have enormous clout, and in the past decade they have decided to use that clout.

Let me give you a list of companies that all of you will recognize: American Express, IBM, Westinghouse, Apple Computer, Eli Lilly, Eastman Kodak, Scott Paper, Borden. In just one year—1993—the CEOs of those eight companies were bounced, in no small measure due to pressure from institutional investors.

Most of the institutions don't follow the old Wall Street rule that says if you don't like the company, sell the stock. Some are so big and own such large chucks of individual companies that selling the stock simply isn't practical. So today, if they don't like a company, they may try to change it.

They have a right to. They are the owners. Or at least they've been empowered to act for the real owners—their shareholders.

Now here's the rub.

These institutions have one central goal, and that's to get consistent, year-in and year-out returns from the companies in their portfolios. They need these returns because their individual shareholders do follow the old Wall Street rule—if they're not satisfied, they sell!

At the same time, people like me and others who run companies like to think of ourselves as builders. We think five and ten years ahead. We like to invest in the future. We also like to have a few shekels in the bank for hard times.

And in spite of what the public hears and reads, we do care about protecting jobs, and we are concerned about our communities, and we do understand our social obligations.

So there's some natural tension between the need to provide returns and the need to build the company.

Most of us in this room work for large corporations. We want those companies to be successful ten years from now as well as today, so we take a long view at work.

But most of us have also turned over a substantial part of our personal net worth to the managers of these funds. And what do we look at in evaluating their performance?

Returns!

So if we don't like the kind of pressure these funds put on our companies, we can't point fingers. "Them" is "us."

The power of these institutions is simply a reality that we have to deal with. And there is no doubt that they have changed the way companies are run today.

Professor John Pound of Harvard, in fact, says that big corporations are no longer "managed" they are "governed." The new owners of Corporate America are not content to hire a management team and then passively judge the results; they want a say in the plans and policies of the company as well.

Pound also believes—and I'm quoting now—that "politics will replace takeovers as the defining tool for corporate governance challenges, and the marketplace of ideas will replace the frenzied activity that dominated the financial marketplace in the 1980s."

I happen to agree with him. And frankly, I think that's healthy. Not comfortable necessarily, but probably healthy.

He's talking about "politics" with a small "P," of course. He's talking about open, public discourse on corporate issues that up to now have generally been settled in the board room. That's not a clean way to make decisions. Management would rather do it the old way. Public debate often lends itself to all the low-rent machinations of politics with the big "P"—from news media leaks, to hidden agendas, to the use of pressure groups.

So, it isn't comfortable, but I think it's a big step up from the back alley intrigues of the '80s when companies were bought or sold and broken up or consolidated without any debate at all.

Chrysler, as you all know, was caught up in a public debate like this for ten months. We came to a resolution in which everyone was a winner and nobody was a loser. And by everyone, I mean shareholder, employees, suppliers and everyone else with a stake in the company.

Communication was the key. Fortunately, we'd always maintained open communication with the institutional investors who own most of the company. We stepped it up. I personally visited a large number of them. So did other members of our management team. We did something quite unusual. We took outside board members with us. On a number of occasions, I would leave and let the board member and the fund manager talk one on one.

We had a simple story that combined solid performance over the past few years with a compelling strategy for the future.

None of our institutional owners asked us to change direction. Not one of them told us to compromise the future for the sake of today.

If there's a lesson for other companies, large and small, it's that maintaining open lines of communication with these institutional investors is no longer a courtesy, as it was a few years ago. It is now a critical part of a company's strategic planning.

Today, though, these new owners are under some scrutiny themselves. The concentration of economic power that they represent is new, and therefore it's a bit frightening. Their short-term focus is a concern. Their activism is a challenge for management.

And yet, I'm hard pressed to find many examples of these institutions acting irresponsibly toward successful, well managed companies. The list of corporations I read a few minutes ago was a list of companies that had problems. They were companies where changes needed to be made.

These large institutional investors must accept the responsibilities of ownership. I think, for the most part, they do. That includes stepping in when a company seems to have lost direction. But it also includes allowing a company to meet its responsibilities to other stakeholders besides the shareholders.

There's raging debate all over the world today about where a company's first allegiance should be, to the shareholders or the stakeholders. Is a company in business only to make money for its owners, or is it there to provide jobs? Is it right to focus on the bottom line, or are there social responsibilities that should come first? And what about the customers?

The Economist magazine last month did a long piece on this issue. They compared the recent performance of the traditional "stakeholder" economies of Japan and most of Western Europe with the "shareholder" economies of the United States and the United Kingdom.

They make a strong case that over the past 10 or 15 years the "shareholder" companies of the U.S. and U.K. have been doing a better job of taking care of "stakeholders" than the stakeholder companies of Japan and Germany have been doing.

Companies that focus on making money become more competitive, and that in turn means more economic growth, and more jobs, and all the other results that "stakeholders" care about.

In both Japan and Germany, the false promise of lifetime employment is ending. They should have known better. A boss who can guarantee a job for life is like a doctor who promises that you'll never get sick or a preacher who promises you a place in heaven. It's too good to be true, so it isn't.

We don't have the keiretsu like the Japanese that help insulate managers. We don't have a large bank ownership of major corporations like both Japan and Germany that helps guarantee "patient" capital. All that

would be illegal here. And we don't have codetermination and other social legislation like they do in Europe that sometimes gives employees as much say in major decisions as managers and owners.

Instead, we have owners who raise hell when they don't get the returns they expect. And companies have to listen. And companies change. And they provide those owners with their returns. And in the process, they usually get stronger.

Chrysler has added more than 15,000 hourly workers in the past five years. Those are not replacements, those are new jobs. We're in the process of building components in this country that we used to have to buy from Japan, because we've gotten more productive and it's cheaper to build here now.

Our goal was not to increase employment. Our goal was to get more competitive. New jobs and more security for the existing ones are simply results of being more competitive.

Chrysler is about to announce grants totaling $5 million for the arts in Southeastern Michigan. But nowhere in our strategic planning did we say "take care of the arts." We're able to do it only because we focused on a different priority—financial success.

Chrysler, Ford and General Motors have been generous to this community for decades. We are major participants in the new Greater Downtown Partnership that is just being announced. But our real contribution has simply been staying in business. That's our role, and when we're successful, the whole community benefits.

Some people, like Senator Kennedy and Secretary Reich, wants to create the stakeholder economies of Germany and Japan here. They want to force companies to become a Big Brother. Washington has failed at it, so now let Corporate America do it. But they've discovered the allure of "stakeholder" politics at just the time it's losing its luster overseas.

The Japanese aren't building auto plants in Japan. They are closing them. They are building plants here, in America. So are the Germans—Mercedes in Alabama and BMW in South Carolina.

Has anybody else noticed that all the recent stories about ugly American corporations firing people left and right are butting up against other stories about the low unemployment rate in the country? Unemployment in Germany is almost 11 percent, and in this country it's 5.5 percent? I can pretty much guarantee you that saddling American companies with the same burdens that German companies have will get our unemployment numbers up too, if that's the idea.

America is the model for economic growth for most of the rest of the world. Some countries flirted with the Japanese model for a while, but now they've realized that it wasn't all it was cracked up to be.

Our securities markets are particularly important. There is nothing like them anywhere in the world. They are big. They are broad. They are unparalleled in their ability to raise capital.

But they are also messy. They punish inefficiency, sometime brutally. They can be capricious. They can be unfair. They can be perverse. It's almost expected these days that the markets rise on bad news and dive on good news. There is no human feeling to the markets, and sometimes no discernible evidence of human intelligence, either.

But they work. That's all they have going for them—over time, they work. And they work better than markets anywhere else.

The critics and the fear-mongers are missing an important point about those markets, by the way: They've become eqalitarian. Through 401(k)s, IRAs, pension funds, and easy-to-access mutual funds, more than a third of all adult Americans are in the market.

The market used to be just for plutocrats. Today the ownership of American business is spread throughout the population.

The "new ownership" of Corporate America is rapidly becoming most of America.

That's healthy. It also helps to burst the bluster of the redistribution of wealth crowd. At least it would if more people understood that fact.

Corporate America has always had a PR problem. We haven't found a way to dress up certain economic realities so we can take them out in public. Making money is still considered tacky in some circles. Creating wealth for society doesn't carry much cache. Focusing on the bottom line is simply greed.

We haven't made the case that our end goal is not "making money," it's perpetuating ourselves so we can serve all our constituencies.

We can't even seem to cut through all the propaganda about American workers going backward. Real per capita income has risen steadily. So has median family income. Secretary Reich never uses those figures. He uses other measures which are less relevant.

And he never mentions the obvious fact that people do move up from one economic quintile to another. They don't all just stay put. They work hard, get better jobs, and make more money. Low income people become middle class, and middle class people become well-off. That's the American way, and it still happens.

There's no question, however, that some new dynamics are at work. The concentration of power within the large institutional investors is one. It's not necessarily good, and it's not necessarily bad. It's not something to resolve; it's just something else to manage.

Downsizing and layoffs are part of the price of becoming more competitive. The price for not doing it, however, is much higher in both economic and human terms.

The good part about globalization is that it allows American workers to participate more fully in the world economy. The bad part about globalization is that it forces American workers to participate more fully in the world economy.

The torrent of gloom today is mindless, however. The economy is strong. It's growing at a sustainable rate. Inflation is low and stable. Employment numbers are excellent. It looks like Mr. Greenspan is pulling off his soft landing. The stock market is going bananas.

American companies are leaner and meaner than they've been in years. American productivity is once again the envy of the world.

And American executives are not the ogres portrayed by the press in recent weeks. Big business has become an election-year straw man for those who like to pit American against American by promoting the politics of fear and envy.

There are some real problems to solve. We need to keep the economy strong, to improve our schools, to cut the budget deficit, to pay for health care, to keep Social Security solvent, and that's just the top of the list.

We need to stand together to do these things.

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Downsizing and layoffs are part of the price of becoming more competitive. The price for not doing it, however, is much higher in both economic and human terms.

The good part about globalization is that it allows American workers to participate more fully in the world economy. The bad part about globalization is that it forces American workers to participate more fully in the world economy.

The torrent of gloom today is mindless, however. The economy is strong. It's growing at a sustainable rate. Inflation is low and stable. Employment numbers are excellent. It look like Mr. Greenspan is pulling off his soft landing. The stock market is going bananas.

American companies are leaner and meaner than they've been in years. American productivity is once again the envy of the world.

And American executives are not the ogres portrayed by the press in recent weeks. Big business has become an election-year straw man for those who like to pit American against American by promoting the politics of fear and envy.

There are some real problems to solve. We need to keep the economy strong, to improve our schools, to cut the budget deficit, to pay for health care, to keep Social Security solvent, and that's just the top of the list.

We need to stand together to do these things. We need to have some confidence that we, as a nation, are all moving in the same direction.

But it's a sure thing that we'll never accomplish any of these if we let a bunch of demagogues herd us down the past to class warfare.

THE AMERICA WE SEEK

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. HYDE. Mr. Speaker, there is no more troubling issue confronting Americans than that of abortion. The highly respected publication, National Review, March 25, 1996, has performed a signal service by publishing a very thoughtful article on this question signed by 45 of America's finest scholars, all of whom have thought long and hard about this volatile subject. I commend this article to my colleagues' careful attention.

THE AMERICA WE SEEK; A STATEMENT OF PRO-LIFE PRINCIPLE AND CONCERN

Americans are conducting the sixth presidential election campaign since the Supreme Court decreed a virtually unlimited "right" to abortion in Roe v. Wade and its companion case, Doe v. Bolton. Over the past 23 years, the abortion debate has been about abortion, of course; but it has also been a debate about the kind of society America is and seeks to be. Throughout our national history, few issues have so sharply focused

VOL
142
PT
5
MR
21
—
29
1996
UMI

attention on the fundamental purposes of the American democratic experiment. For, in the abortion debate, we are required to confront an urgent moral issue: Who is to be included in the community of the commonly protected?

The following statement of principle, endorsed by a broad spectrum of pro-life organizational leaders and scholars, is the result of consultations held over the past several months at the Ethics and Public Policy Center in Washington, D.C. The statement aims to clarify the principles on which the pro-life movement stands, to articulate a pro-life vision of the American future, and to suggest a set of political, legal, and cultural strategies that are capable of translating that vision into reality. The signatories, who join the statement as individuals, offer this statement to the pubic in the hope that it will raise the level of public discourse on this highly controversial issue, and thus strengthen American democracy. The signatories are deeply grateful to NATIONAL REVIEW for opening its pages to their ideas and concerns.

Twenty-three years after the Supreme Court's Roe v. Wade and Doe v. Bolton decisions, the conscience of the American people remains deeply troubled by the practice of abortion on demand. Because of these two decisions, abortion is legal at any time in pregnancy, for virtually any reason, in every state. This constitutes an almost completely unrestricted private license to judge who will live and who will die.

That America has the most permissive abortion regime among the world's democracies is a betrayal of the American promise of justice for all. That is why a new sense of moral concern is stirring throughout our country in this election year. That is why millions of Americans have refused to accept the Court's 1992 admonition in Planned Parenthood v. Casey to stop debating the issue.

2. To those weary of this argument, it may seem that there is nothing more to be said on this matter of abortion. We disagree.

Survey research tells us that the American people do not want a legal regime of abortion on demand for any reason, at any time during a pregnancy. We believe we have an obligation to employ the arts of democratic persuasion to help reinstitute legal protection for all unborn children.

The extent of the abortion license and its reach into other areas of law and public policy is widely underestimated. We believe that, as citizens of the United States, we have the responsibility to discuss with our fellow citizens the facts of the abortion license and its impact on our common life.

Many women in crisis earnestly seek alternatives to abortion. We believe we ought to encourage those alternatives and help to provide them.

3. Pro-life service to women in crisis and pro-life advocacy on behalf of legal reform are expressions of our highest ideals as citizens of the United States. We affirm the nobility of the American democratic experiment in ordered liberty. We affirm the rule of law and the principle of equal protection under the law, even as we work to reform constitutional and statutory law so that the American legal system is, once again, congruent with the Founders' claim that the inalienable right to life is one of the great moral truths on which American democracy rests. We want an America that is open, hospitable, and caring—a community of civic friendship in which neighbors reach out to assist neighbors in distress.

4. The abortion license has helped to erode the moral foundations of the American civic community. Right now we are not the country we ought to be. That distress is, to us, a sign of moral vitality. We speak now because we seek to defend the America we love. We speak to promote the cause of an America in which women and men, together, rebuilding the fabric of civil society by acknowledging our common responsibility to serve and protect the weakest and most vulnerable among us. We speak for a rebirth of freedom in these United States: a freedom that finds its fulfillment in goodness.

VICTIMS OF THE LICENSE

5. Americans of every race, economic condition, religion, and political persuasion share a common concern today for what some have called a national "virtue deficit." As a country, we have not paid sufficient attention to nurturing those habits of heart and mind that make democratic self-government possible and that undergird what the Framers of the Constitution called "civic virtue." We believe that the abortion license is a critical factor in America's virtue deficit.

6. Abortion kills 1.5 million innocent human beings in America every year. There is no longer any serious scientific dispute that the unborn child is a human creature who dies violently in the act of abortion. This brute fact is the root of our national distress over the abortion license. Abortion kills: few would now deny that. But in order to defend the private "right" to lethal violence that is the essence of abortion, proponents of the license frequently resort to euphemisms like "products of conception" and "the termination of pregnancy."

The public dialogue is not coarsened by depictions of the reality of abortion. But a coarsening of our common life has taken place; it is evident in the lack of moral revulsion that follows one newspaper's accurate description of an abortion procedure that "breaks . . . apart" the "fetus" before "it" is "suctioned out of the uterus" or "extracted."

7. The abortion license hurts women. Some (including the narrow Supreme Court majority in the 1992 *Casey* decision) contend that the license is necessary to ensure social and economic gains for women. It is ever more clear, though, that women pay a huge price for abortion. By providing an alleged technological "fix" for unintended pregnancy, the license has encouraged widespread male irresponsibility and predatory male sexual behavior. Abortion-on-demand has given an excuse to a man who shirks his responsibilities, claiming that the child he helped conceive ought to have been aborted, or that the woman who declined to abort may not impose on him any responsibility for her "lifestyle choice."

Fathers have also been harmed and dehumanized by the abortion license. Some watch their children killed against their will; others learn to their distress only much later that a child they would have raised is dead. Even when agreeing to support the abortion decision, fathers, like mothers, suppress their grief deny heir protective instincts, and otherwise damage themselves when they allow the killing of their own children. Abortion contributes to the marginalization of fatherhood in America, which many agree is a primary cause of the alarming breakdown of American family life.

The license has thus poisoned relationships between women and men, even as it has done serious harm to the thousands of women who now suffer from the effects of post-abortion grief. The women of America do not need abortion to be full participants in our society. To suggest otherwise is to demean women, to further distort relationships between women and men, and to aggravate the difficulties of re-creating in America a community of virtue and mutual responsibility.

THE PUBLIC DIMENSION

8. Abortion is not simply a matter of private "choice." Rather, the abortion license cuts to the heart of America's claim to being a law-governed democracy, in which equality before the law is a fundamental principle of justice. The abortion license also threatens the cultural foundations of our democratic political community. For if it becomes a settled matter in American law and in American public morality that there is, in fact, a private "right" to use lethal violence to "solve" personal, family, or social problems, then the claim of American democracy to be an expression of the people's commitment to "establish justice" will be undermined, just as it was when the law claimed the "right" to exclude certain Americans from its full protection on the basis of race. Thus the abortion issue is the crucial civil-rights issue of our time.

9. A sweeping abortion license was defined unilaterally by the Supreme Court without recourse to the normal procedures of democratic debate and legislation. This in itself wounded American democracy. And the Court's persistent refusal to permit the American people to debate the basic issue of an alleged "right to abortion" in their legislatures continues to damage our democracy by alienating tens of millions of Americans from their institutions of government.

10. The Court's definition of a "right to abortion"—first enunciated as a "privacy right," then as a "liberty right" under the Fourteenth Amendment—has had other damaging effects. The language of "rights" puts the dilemma of unwanted pregnancy into a legal-adversarial context, pitting mother against child, and even father against mother. But as the common experience of humanity—and, increasingly, the findings of science—demonstrates, what hurts one party in this most intimate of human relationships hurts both parties. The America we seek is an America in which both mother and child are the subjects of our concern and our community's protection. To abuse the language of "rights" in this matter further advances the demeaning practice of reducing all human relationships in America to matters of adversarial adjudication. This is a prescription for democratic decay. For democracy rests on the foundations of civil society, and in a truly civil society, relationships between people have a far richer moral texture than that suggested by adversarial procedure.

11. The Court's vain attempt to justify the abortion license in terms of an all-encompassing right of personal autonomy has begun to infect other areas of the law. Thus the "autonomy" logic of the Court's 1992 Casey decision is now invoked as a warrant for a constitutional "right" to euthanasia. And if it were followed to its conclusion, this logic would require us to consider such profound human relationships as the bond between husband and wife, or the bond between parents and children, to be nothing more than matters of contract, with the claims of the autonomous individual trumping all other claims. Enshrined by the Court to legalize abortion on demand, this autonomy logic threatens to give us an America in which the only actors of consequence are the individual and the state; no other community, including the community of husband and wife, or the community of parents and children, will have effective constitutional standing.

12. The Supreme Court's insistence on a "right" to abortion has had other disturbing effects on our public life. This "right" has been used to justify the abridgment of First Amendment freespeech rights, as when sidewalk counselors are threatened with legal penalties for proposing protection and care to women in crisis at the crucial moment of decision outside an abortion clinic. This "right" has been used by the Federal Government to coerce state governments into providing abortions, even when state legislatures or popular referenda have clearly registered the people's unwillingness to use public funds for elective abortions. The abortion "right" has distorted our national healthcare debate, as well as the debate over welfare reform. It has even had an impact on U.S. foreign policy. American attempts to impose the "right" on the rest of the world at the 1994 Cairo world conference on population and the 1995 Beijing world conference on women have been deeply resented by other countries, as have U.S. attempts to promote abortion overseas through foreign aid.

13. The Court's attempt to define a "right" to abortion has polarized institutions and professions that were once among the bulwarks of American civil society. Professional associations of lawyers, academics, teachers, and civil servants have been divided by attempts to enlist their resources and prestige in support of abortion on demand, and in opposition to any effort to regulate abortion even in ways held constitutional by the Supreme Court. The medical profession has been deeply divided over its relationship to the abortion license. That the practice of abortion on demand is now widely recognized within the medical community as contradictory to the most deeply held values of the profession of healing is, we believe, a sign of hope. Yet some medical groups now threaten to reverse this trend by coercion—for example, by requiring medical residency programs to teach and perform abortion techniques. There are also disturbing signs of the corrupting influence of the abortion license in other professions. History has been rewritten to provide specious justification for *Roe* v. *Wade*. The teaching of law has been similarly distorted, as have political theory and political science. Such extremism underlines the unavoidable public character of the abortion license. The abortion license has a perverse Midas quality—it corrupts whatever it touches.

THE WAY AHEAD

14. Our goal is simply stated: we seek an America in which every unborn child is protected in law and welcomed in life. Legal reform and cultural renewal must both take place if America is to experience a new birth of the freedom that is ordered to goodness. We have just described, in this statement, the nature, sources, and dimension of our concern. Now, as pro-life leaders and scholars, we want to propose a program of action which we believe will appeal to Americans with open minds and hearts on this issue.

15. Means are always available to enable women to overcome the burdens that can accompany pregnancy and child-rearing. There are always alternatives to abortion. To legacy of *Roe* v. *Wade* involves a massive denial of this truth and deformation of social attitudes and practices so pervasive that women are actually encouraged to have abortions as the "easier" road to the goals that an unexpected pregnancy appears to threaten. As individuals and as a society, we bear a common responsibility to make sure that all women know that their own physical and spiritual resources, joined to those of a society that truly affirms and welcomes life, are sufficient to overcome whatever obstacles pregnancy and child-rearing may appear to present. Women instinctively know, and we should never deny, that this path will involve sacrifice. But this sacrifice must no longer remain a one-way street. In particular men must also assume their proper share of the responsibilities that family life—indeed, civilization itself—requires.

16. The pro-life movement must redouble its efforts to provide alternatives to abortion for women in crisis. There are now over 3,000 pregnancy-care centers in the United States, providing medical, educational, financial, and spiritual assistance to women who, facing the dilemma of a crisis pregnancy, bravely choose to carry their unborn children to term. We support an expansion of this service to our neighbors, so that by the turn of the century what we believe to be true today has become unmistakably clear to every American woman: No one in the United States has to have an abortion.

17. The overwhelming majority of Americans believe that adoption is preferable to abortion. We must streamline and simplify the legal procedures involved in adoption, while providing effective support to those married couples who choose to adopt.

18. the abortion license is inextricably bound up with the mores of the sexual revolution. Promotion of the pro-life cause also requires us to support and work with those who are seeking to re-establish the moral linkage between sexual expression and marriage, and between marriage and procreation. We believe that a renewal of American democracy as a virtuous society requires us to honor and promote an ethic of self-command and mutual responsibility, and to resist the siren song of the false ethic of unbridled self-expression.

19. Service to women in crisis, the promotion of adoption, and the restoration of sound sexual morality are essential if we are to experience a national cultural renewal that will help to sustain legal reform of the abortion license. The way in which we pursue the latter is also crucial, both to cultural renewal and legal reform.

We pledge ourselves to exercise the arts of democratic persuasion in advancing our legal agenda. We urge Congress and the courts to reconsider their ill-advised restriction on the rights of pro-life activists.

We unequivocally reject the use of violence in the pro-life cause as contrary to the central moral principles of our movement. For more than 23 years, we have worked within the democratic process to advance the protection of all innocent human life, and we will continue to do so.

20. The unborn child in America today enjoys less legal protection than an endangered species of bird in a national forest. In this situation, we believe a broad-based legal and political strategy is essential. There are many steps to be taken on the road to an America in which every unborn child is protected in law and welcomed in life. Thus we find no contradiction between a rigorous adherence to our ultimate goal and the pursuit of reforms that advance us toward that goal. Legal reforms that fall short of our goal, but that help move us toward it, save lives and aid in the process of moral and cultural renewal.

21. In its 1992 Casey decision, the Supreme Court agreed that the State of Pennsylvania could regulate the abortion industry in a number of ways. These regulations do not afford any direct legal protection to the unborn child. Yet experience has shown that such regulations—genuine informed consent, waiting periods, parental notification—reduce abortions in a locality, especially when coupled with positive efforts to promote alternatives to abortion and service to women in crisis. A national effort to enact Pennsyvlania-type regulations in all fifty states would be a modest but important step toward the America we seek.

22. Congress also has the opportunity to contribute to legal reform of the abortion license. A number of proposals are now being debated in the Congress, including bans on certain methods of abortion and restrictions on federal funding of abortions. We believe that Congress should adopt these measures and that the President should sign them into law. Any criminal sanctions considered in such legislation should fall upon abortionists, not upon women in crisis. We further urge the discussion of means by which Congress could recognize the unborn child as a human person entitled to the protection of the Constitution.

23. The right to life of the unborn will not be secured until it is secure under the Constitution of the United States. As it did in *Brown* v. *Board of Education* (when it rejected the *Plessy* v. *Ferguson* doctrine of "separate but equal" as an adequate expression of rights secured under the Fourteenth Amendment), the Supreme Court could reject the "central finding" of *Roe* v. *Wade*, that abortion on demand is required by an unenumerated "right to privacy" protected in part by the Fourteenth Amendment. The claim that such a correction of error would damage the Court's authority is belied by the experience of *Brown* v. *Board of Education*, and by the fact that the Court has corrected its own erroneous interpretations of the Constitution on scores of other occasions.

A more enduring means of constitutional reform is a constitutional amendment both reversing the doctrines of *Roe* v. *Wade* and *Casey*, and establishing that the right to life protected by the Fifth and Fourteenth Amendments extends to the unborn child. Such an amendment would have to be ratified by three-fourths of the states: a requirement that underlines the importance of establishing a track record of progressive legal change on behalf of the unborn child at the state and local levels.

Even with a constitutional amendment, every path to the protection and welcome we seek for unborn children requires the re-empowerment of the people of the United States and their elected representatives to debate and resolve the specific statutory enactments that will govern the question of abortion. A constitutional amendment, in other words, is not a self-executing instrument that will end the debate on abortion. It will, rather, correct a gross misinterpretation of the Constitution (as was required to reverse the grievous errors of the *Dred Scott* decision) and require states to debate and adopt policies that do not violate the unborn child's right to life.

Such a process does not, we emphasize, amount to the determination of moral truth by majority rule. Rather, it requires conforming fundamental constitutional principle to a fundamental moral truth—that abortion is the unwarranted taking of an innocent human life. Such a process also respects the role of representative government in fashioning policies that will ultimately secure that principle in practice. The project

VOL 142 PT 5 MR 21 — 29 1996 UMI

of constitutional reform on this issue, as on the precedent issues of slavery and segregation, is to bring our legal system into congruence with basic moral truths about the human person.

AN APPEAL TO OUR NEIGHBORS

24. We believe the pro-life cause is an expression of the premise and promise of American democracy. The premise is that we are all created equal; the promise is that there is justice for all. For all the reasons cited above, the abortion license has done grave damage to America: it has killed tens of millions of unborn children, caused untold anguish to their mothers, and marginalized fathers in our society. The renewal of American democracy according to the highest ideals of the Founders requires us to stand for the inalienable right to life of the unborn, to stand with women in crisis, and to stand against the abortion license.

25. Few Americans celebrate the abortion license today. For many who are troubled by the license and its impact on our society, to be "reluctantly pro-choice" is now thought to be the responsible position. We respectfully urge those of our neighbors who hold that position to reconsider. We ask them to ponder the relationship between the abortion license and the crisis of family life in America. We ask them to reconsider whether radical autonomy is a sufficient understanding of freedom. We ask them to reflect, again, on the morality of abortion itself. We ask them to think about the social impact of a legally defined private "right" to lethal violence.

We ask them to ask themselves: "Is American society, today, more hospitable, caring, and responsible than it was before *Roe* v. *Wade?*" We believe the answer is "No." Problems that the proponents of abortion claimed the license would help alleviate—such as childhood poverty, illegitimacy, and child abuse—have in fact gotten worse, throughout every level of our society, since *Roe* v. *Wade*. Thus we respectfully ask our neighbors to consider the possibility of a connection—cultural as well as legal—between the virtue deficit in contemporary American life and the abortion license.

26. The pro-life movement is about affirmation. Thus we ask our neighbors, of whatever political persuasion or current conviction on the matter of abortion, to engage in a great national debate about the America we seek, and the relationship of the abortion license to that future. We ask all Americans to join with us in providing effective, compassionate service to women in crisis. Work on alternatives to abortion and on the reform of adoption laws and procedures can create the conditions for a new dialogue on the future of abortion law and practice in America. We are ready for that new conversation. We invite all our neighbors to join us.

Mary Cunningham Agee, The Nurturing Network; Don Argue, National Association of Evangelicals; Hadley Arkes, Amherst College; Gary Bauer, Family Research Council; Robert P. Casey, Fund for the American Family, Campaign for the American Family; Samuel B. Casey, The Center for Law and Religious Freedom, Christian Legal Society; Charles W. Colson, Prison Fellowship; Guy M. Condon, Care Net; Marjorie Dannenfelser, Susan B. Anthony List; Midge Decter, Author; John J. DiIulio, Jr., Princeton University; Bernard Dobranski, The Catholic University of America, School of Law;
James C. Dobson, Focus on the Family;
Jean Bethke Elshtain, University of Chicago;
Clarke D. Forsythe, Americans United for Life;
Elizabeth Fox-Genovese, Emory University;
Wanda Franz, National Right to Life Committee;
Edward McGlynn Gaffney, Valparaiso University, School of Law;
Robert P. George, Princeton University;
Mary Ann Glendon, Harvard University;
David P. Gushee, Southern Baptist Theological Seminary;
Russell Hittinger, Catholic University of America;
Kay C. James, Robertson School of Government, Regent University;
Phillip E. Johnson, University of California at Berkeley, School of Law;
William Kristol, Project for the Republican Future;
Beverly LaHaye, Concerned Women for America;
Richard Land, Christian Life Commission; Southern Baptist Convention;
Glenn C. Loury, Boston University;
Frederica Mathewes-Green, National Women's Coalition for Life;
Michael W. McConnell, University of Chicago, School of Law;
Gilbert Meilaender, Oberlin College;
Bernard N. Nathanson, MD, Center of Clinical and Research Ethics, Vanderbilt University;
Richard John Neuhaus, Institute on Religion and Public Life;
David Novak, University of Virginia;
Michael Novak, American Enterprise Institute;
Marvin Olasky, University of Texas at Austin,
Frank A. Pavone, Priests for Life;
Ralph Reed, Christian Coalition;
Victor G. Rosenblum, Northwestern University;
Ronald J. Sider, Evangelicals for Social Action;
David M. Smolin, Cumberland Law School, Samford University;
David Stevens, MD, Christian Medical and Dental Society;
Jim Wallis, Sojourners;
George Weigel, Ethics and Public Policy Center; and
Jack C. Willke, MD, Life Issues Institute.

BLANCA SANDOVAL, A DEVOTED MOTHER AND EXEMPLARY INDIVIDUAL

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. MENENDEZ. Mr. Speaker, I rise today to honor a very distinguished and outstanding individual from my district. Blanca Sandoval has been a devoted mother and someone who has inspired many of her fellow community members. In recognition of her gracious work and outstanding accomplishments, Mrs. Sandoval will have her 90th birthday celebration at Las Palmas Restaurant in west New York.

Mrs. Sandoval was born on March 20, 1906, in Trinidad, Cuba. She grew up in the province of Las Villas and was living in Havana before arriving in this country. She married a decorated naval lieutenant, Laudelino Gronnig, and had three children. Asnaldo, Miriana, and Blancy were raised during a difficult period in Cuban history. The family constantly dealt with the harassment and intimidation of a brutal dictatorship.

In search of liberty and freedom, Mrs. Sandoval and her husband sought to emigrate from the island of Cuba so they could be reunited with their children. Unfortunately, Mr. Gronnig never got to see his children in the United States because he was repeatedly denied departure. He died in Cuba before he could be reunited.

Miriana and Blancy arrived in the United States in 1971, and their brother subsequently joined them. It was 11 years later that Mrs. Sandoval was reunited with her family. She quickly learned to love her adopted homeland and is now looking forward to becoming a citizen. She is well respected by her friends and neighbors and is known to them as Mima.

Blanca Sandoval is adored by her children, grandchildren, and great-grandchildren. I am proud to have such a loving and caring individual residing in my district.

CHRISTINE McMULLAN, PULASKI ASSOCIATION'S WOMAN OF THE YEAR

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mrs. MALONEY. Mr. Speaker, I rise today to pay tribute to Christine McMullan, honored by the Pulaski Association as Woman of the Year. I ask my colleagues to join me and the Pulaski Association in recognizing Mrs. McMullan's contributions to community and civic groups in the 14th Congressional District of New York.

Christine McMullan is to be commended for years of dedicated involvement in her community through several fraternal organizations. She currently serves as the president and chief executive officer of the Polish National Alliance, a fraternal insurance company. In the past, Mrs. McMullan has served as president of the New York, New Jersey & New England Fraternal Congresses and president of the State section of the National Fraternal Congress of America, which serves 10 million members. Her many years of dedicated participation in these organizations, all of which require community involvement for membership, show her to be a committed servant in the public interest.

As a leader in several fraternal organizations, Mrs. McMullan must be recognized for the individual groups she is involved with. Currently, Mrs. McMullan serves on the boards of the Greenpoint Y.M.C.A., the Brooklyn Chamber of Commerce, the Kosciuszko Foundation, and the Polish American Organizations and Endeavors. In the past, she has served on the parish council and other committees of St. Stanislaus Kostka Church, and as president of the Krakowianki & Gorale Children's Polish Folk Dance & Song Ensemble. She has been involved with the Greenpoint Civic Council and the Polish Slavic Center.

Christine McMullan is a native of the Greenpoint section of Brooklyn, NY. She graduated with honors from St. Stanislaus Kostka School in 1956. She was equally as successful at All Saints High School where she was on the dean's honor list each year. She later attended the Drake Institute School of Business Administration, and took courses in insurance at New York University and Purdue University.

Mr. Speaker, I am pleased to pay tribute today, with the Pulaski Association and my colleagues in this body, to Mrs. Christine McMullan for her continuing contributions to the Polish community and to civic groups in the 14th Congressional District of New York.

VOL
142
PT
5
MR
21
—
29
1996
UMI

HOUSE OF REPRESENTATIVES—*Monday, March 25, 1996*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mr. UPTON].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 25, 1996.

I hereby designate the Honorable FRED UPTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

When our spirits are strong, O God, You invite us to do good works of service to others and when our spirits are low, You forgive us and make us whole. In all the moments of life, we are inspired to the works of righteousness and justice by becoming Your hands and feet in our world and so being reliable stewards of Your many mercies. Strengthen us this day, O God, and make us whole so we will serve You and our neighbor in all we do. In Your name we pray. Amen.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Mississippi [Mr. MONTGOMERY] come forward and lead the House in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 735) "An act to prevent and punish acts of terrorism, and for other purposes," agrees to a conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATCH, Mr. THURMOND, Mr. SIMPSON, Mr. BIDEN, and Mr. KENNEDY, to be the conferees on the part of the Senate.

MISSISSIPPI STATE UNIVERSITY IS GOING TO THE BIG DANCE

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, my school, Mississippi State University, is going to the big dance. By beating the University of Cincinnati last night, Mississippi State has earned the right to be one of the final four playing in Meadowlands this weekend. State will play Syracuse; and Kentucky will play the University of Massachusetts. The winners will play each other next Monday night for the title of best college basketball team in the Nation.

Mississippi State has beaten Virginia Commonwealth University, Princeton, University of Connecticut, and Cincinnati to make it to the final four.

State is truly a Cinderella team. They were not expected to make it this far. In fact, in the history of the NCAA tournaments, no Mississippi university or college team has ever made it to the final eight, much less the final four.

Win or lose at the big dance, the State of Mississippi and its people are very proud of this wonderful group of coaches and athletes who have brought nationwide recognition to Mississippi State University in Starkville, MS, a part of my congressional district.

The SPEAKER pro tempore. The Chair would ask the gentleman from Mississippi if he has a further statement about the Michigan Wolverines making the final four in the hockey playoffs?

Mr. MONTGOMERY. Mr. Speaker, I am sorry. I am not quite familiar with that, but I will be next time.

NATIONAL EMERGENCY WITH RESPECT TO ANGOLA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–189)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations, and ordered to be printed:

To the Congress of the United States:

I hereby report to the Congress on the developments since September 26, 1995, concerning the national emergency with respect to Angola that was declared in Executive Order No. 12865 of September 26, 1993. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

On September 26, 1993, I declared a national emergency with respect to Angola, invoking the authority, inter alia, of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) and the United Nations Participation Act of 1945 (22 U.S.C. 287c). Consistent with United Nations Security Council Resolution 864, dated September 15, 1993, the order prohibited the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to the territory of Angola other than through designated points of entry. The order also prohibited such sale or supply to the National Union for the Total Independence of Angola ("UNITA"). United States persons are prohibited from activities that promote or are calculated to promote such sales or supplies, or from attempted violations, or from evasion or avoidance or transactions that have the purpose of evasion or avoidance, of the stated prohibitions. The order authorized the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as might be necessary to carry out the purposes of the order.

1. On December 10, 1993, the Treasury Department's Office of Foreign Assets Control ("FAC") issued the UNITA (Angola) Sanctions Regulations (the "Regulations") (58 Fed. Reg. 64904) to implement the President's declaration of a national emergency and imposition of sanctions against Angola (UNITA). There have been no amendments to the Regulations since my report of September 18, 1995.

The Regulations prohibit the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to UNITA or to the territory of Angola other than through designated points. United States persons are also prohibited from activities that promote or are calculated to promote such sales or supplies to UNITA or Angola, or from any transaction by any United States persons that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive order. Also prohibited are transactions by United States persons, or involving the use of U.S.-registered vessels or aircraft, relating to transportation to Angola or UNITA of goods the exportation of which is prohibited.

The Government of Angola has designated the following points of entry as points in Angola to which the articles otherwise prohibited by the Regulations may be shipped: *Airports:* Luanda and Katumbela, Benguela Province; *Ports:* Luanda and Lobito, Benguela Province; and Namibe, Namibe Province; and *Entry Points:* Malongo, Cabinda Province. Although no specific license is required by the Department of the Treasury for shipments to these designated points of entry (unless the item is destined for UNITA), any such exports remain subject to the licensing requirements of the Departments of State and/or Commerce.

2. The FAC has worked closely with the U.S. financial community to assure a heightened awareness of the sanctions against UNITA—through the dissemination of publications, seminars, and notices to electronic bulletin boards. This educational effort has resulted in frequent calls from banks to assure that they are not routing funds in violation of these prohibitions. United States exporters have also been notified of the sanctions through a variety of media, including special fliers and computer bulletin board information initiated by FAC and posted through the U.S. Department of Commerce and the U.S. Government Printing Office. There have been no license applications under the program.

3. The expenses incurred by the Federal Government in the 6-month period from September 18, 1995, through March 25, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Angola (UNITA) are reported to be about $226,000, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel) and the Department of State (particularly the Office of Southern African Affairs).

I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 25, 1996.*

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 7 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 1530

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. UPTON) at 3 o'clock and 49 minutes p.m.

CONFERENCE REPORT ON H.R. 2854

Mr. ROBERTS submitted the following conference report and statement on the bill (H.R. 2854), to modify the operation of certain agricultural programs:

CONFERENCE REPORT (H. REPT. 104–494)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2854), to modify the operation of certain agricultural programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Agriculture Improvement and Reform Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AGRICULTURAL MARKET TRANSITION ACT

Subtitle A—Short Title, Purpose, and Definitions

Sec. 101. Short title and purpose.
Sec. 102. Definitions.

Subtitle B—Production Flexibility Contracts

Sec. 111. Authorization for use of production flexibility contracts.
Sec. 112. Elements of contracts.
Sec. 113. Amounts available for contract payments.
Sec. 114. Determination of contract payments under contracts.
Sec. 115. Payment limitations.
Sec. 116. Violations of contract.
Sec. 117. Transfer or change of interest in lands subject to contract.
Sec. 118. Planting flexibility.

Subtitle C—Nonrecourse Marketing Assistance Loans and Loan Deficiency Payments

Sec. 131. Availability of nonrecourse marketing assistance loans.
Sec. 132. Loan rates for marketing assistance loans.
Sec. 133. Term of loans.
Sec. 134. Repayment of loans.
Sec. 135. Loan deficiency payments.
Sec. 136. Special marketing loan provisions for upland cotton.
Sec. 137. Availability of recourse loans for high moisture feed grains and seed cotton.

Subtitle D—Other Commodities

CHAPTER 1—DAIRY

Sec. 141. Milk price support program.
Sec. 142. Recourse loan program for commercial processors of dairy products.
Sec. 143. Consolidation and reform of Federal milk marketing orders.
Sec. 144. Effect on fluid milk standards in State of California.
Sec. 145. Milk manufacturing marketing adjustment.
Sec. 146. Promotion.
Sec. 147. Northeast Interstate Dairy Compact.
Sec. 148. Dairy export incentive program.
Sec. 149. Authority to assist in establishment and maintenance of one or more export trading companies.
Sec. 150. Standby authority to indicate entity best suited to provide international market development and export services.
Sec. 151. Study and report regarding potential impact of Uruguay Round on prices, income, and Government purchases.
Sec. 152. Promotion of United States dairy products in international markets through dairy promotion program.

CHAPTER 2—PEANUTS AND SUGAR

Sec. 155. Peanut program.
Sec. 156. Sugar program.

Subtitle E—Administration

Sec. 161. Administration.
Sec. 162. Adjustments of loans.
Sec. 163. Commodity Credit Corporation interest rate.
Sec. 164. Personal liability of producers for deficiencies.
Sec. 165. Commodity Credit Corporation sales price restrictions.

Subtitle F—Permanent Price Support Authority

Sec. 171. Suspension and repeal of permanent price support authority.
Sec. 172. Effect of amendments.

Subtitle G—Commission on 21st Century Production Agriculture

Sec. 181. Establishment.
Sec. 182. Composition.
Sec. 183. Comprehensive review of past and future of production agriculture.
Sec. 184. Reports.
Sec. 185. Powers.
Sec. 186. Commission procedures.
Sec. 187. Personnel matters.
Sec. 188. Termination of Commission.

Subtitle H—Miscellaneous Commodity Provisions

Sec. 191. Options pilot program.
Sec. 192. Risk management education.
Sec. 193. Crop insurance.
Sec. 194. Establishment of Office of Risk Management.
Sec. 195. Revenue insurance.
Sec. 196. Administration and operation of noninsured crop assistance program.

TITLE II—AGRICULTURAL TRADE

Subtitle A—Amendments to Agricultural Trade Development and Assistance Act of 1954 and Related Statutes

Sec. 201. Food aid to developing countries.
Sec. 202. Trade and development assistance.
Sec. 203. Agreements regarding eligible countries and private entities.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Sec. 204. Terms and conditions of sales.
Sec. 205. Use of local currency payment.
Sec. 206. Value-added foods.
Sec. 207. Eligible organizations.
Sec. 208. Generation and use of foreign currencies.
Sec. 209. General levels of assistance under Public Law 480.
Sec. 210. Food Aid Consultative Group.
Sec. 211. Support of nongovernmental organizations.
Sec. 212. Commodity determinations.
Sec. 213. General provisions.
Sec. 214. Agreements.
Sec. 215. Use of Commodity Credit Corporation.
Sec. 216. Administrative provisions.
Sec. 217. Expiration date.
Sec. 218. Regulations.
Sec. 219. Independent evaluation of programs.
Sec. 220. Authorization of appropriations.
Sec. 221. Coordination of foreign assistance programs.
Sec. 222. Micronutrient fortification pilot program.
Sec. 223. Use of certain local currency.
Sec. 224. Farmer-to-farmer program.
Sec. 225. Food security commodity reserve.
Sec. 226. Protein byproducts derived from alcohol fuel production.
Sec. 227. Food for progress program.
Sec. 228. Use of foreign currency proceeds from export sales financing.
Sec. 229. Stimulation of foreign production.

Subtitle B—Amendments to Agricultural Trade Act of 1978

Sec. 241. Agricultural export promotion strategy.
Sec. 242. Implementation of commitments under Uruguay Round Agreements.
Sec. 243. Export credits.
Sec. 244. Market access program.
Sec. 245. Export enhancement program.
Sec. 246. Arrival certification.
Sec. 247. Compliance.
Sec. 248. Regulations.
Sec. 249. Trade compensation and assistance programs.
Sec. 250. Foreign Agricultural Service.
Sec. 251. Reports.
Sec. 252. Foreign market development cooperator program.

Subtitle C—Miscellaneous Agricultural Trade Provisions

Sec. 261. Edward R. Madigan United States Agricultural Export Excellence Award.
Sec. 262. Reporting requirements relating to tobacco.
Sec. 263. Triggered export enhancement.
Sec. 264. Disposition of commodities to prevent waste.
Sec. 265. Debt-for-health-and-protection swap.
Sec. 266. Policy on expansion of international markets.
Sec. 267. Policy on maintenance and development of export markets.
Sec. 268. Policy on trade liberalization.
Sec. 269. Agricultural trade negotiations.
Sec. 270. Policy on unfair trade practices.
Sec. 271. Agricultural aid and trade missions.
Sec. 272. Annual reports by agricultural attaches.
Sec. 273. World livestock market price information.
Sec. 274. Orderly liquidation of stocks.
Sec. 275. Sales of extra long staple cotton.
Sec. 276. Regulations.
Sec. 277. Emerging markets.
Sec. 278. Reimbursement for overhead expenses.
Sec. 279. Labeling of domestic and imported lamb and mutton.
Sec. 280. Import assistance for CBI beneficiary countries and the Philippines.
Sec. 281. Studies, reports, and other provisions.
Sec. 282. Sense of Congress concerning multilateral disciplines on credit guarantees.
Sec. 283. International Cotton Advisory Committee.

TITLE III—CONSERVATION

Subtitle A—Definitions

Sec. 301. Definitions applicable to highly erodible cropland conservation.

Subtitle B—Highly Erodible Land Conservation

Sec. 311. Program ineligibility.
Sec. 312. Conservation reserve lands.
Sec. 313. Good faith exemption.
Sec. 314. Expedited procedures for granting variances from conservation plans.
Sec. 315. Development and implementation of conservation plans and conservation systems.
Sec. 316. Investigation of possible compliance deficiencies.
Sec. 317. Wind erosion estimation pilot project.

Subtitle C—Wetland Conservation

Sec. 321. Program ineligibility.
Sec. 322. Delineation of wetlands; exemptions to program ineligibility.
Sec. 323. Consultation and cooperation requirements.
Sec. 324. Application of program ineligibility to affiliated persons.
Sec. 325. Clarification of definition of agricultural lands in memorandum of agreement.
Sec. 326. Effective date.

Subtitle D—Environmental Conservation Acreage Reserve Program

Sec. 331. Environmental conservation acreage reserve program.
Sec. 332. Conservation reserve program.
Sec. 333. Wetlands reserve program.
Sec. 334. Environmental quality incentives program.
Sec. 335. Conservation farm option.
Sec. 336. Repeal of superseded authorities.

Subtitle E—Conservation Funding and Administration

Sec. 341. Conservation funding and administration.
Sec. 342. State technical committees.
Sec. 343. Public notice and comment for revisions to certain State technical guides.

Subtitle F—National Natural Resources Conservation Foundation

Sec. 351. Short title.
Sec. 352. Definitions.
Sec. 353. National Natural Resources Conservation Foundation.
Sec. 354. Composition and operation.
Sec. 355. Officers and employees.
Sec. 356. Corporate powers and obligations of the Foundation.
Sec. 357. Administrative services and support.
Sec. 358. Audits and petition of Attorney General for equitable relief.
Sec. 359. Release from liability.
Sec. 360. Authorization of appropriations.

Subtitle G—Forestry

Sec. 371. Office of International Forestry.
Sec. 372. Cooperative work for protection, management, and improvement of National Forest System.
Sec. 373. Forestry incentives program.
Sec. 374. Optional State grants for forest legacy program.

Subtitle H—Miscellaneous Conservation Provisions

Sec. 381. Conservation activities of Commodity Credit Corporation.
Sec. 382. Floodplain easements.
Sec. 383. Resource conservation and development program.
Sec. 384. Repeal of report requirement.
Sec. 385. Flood risk reduction.
Sec. 386. Conservation of private grazing land.
Sec. 387. Wildlife habitat incentives program.
Sec. 388. Farmland protection program.
Sec. 389. Interim moratorium on bypass flows.
Sec. 390. Everglades ecosystem restoration.
Sec. 391. Agricultural air quality research oversight.

TITLE IV—NUTRITION ASSISTANCE

Sec. 401. Food stamp program.
Sec. 402. Commodity distribution program; commodity supplemental food program.
Sec. 403. Emergency food assistance program.
Sec. 404. Soup kitchen and food bank program.
Sec. 405. National commodity processing.

TITLE V—AGRICULTURAL PROMOTION

Subtitle A—Commodity Promotion and Evaluation

Sec. 501. Commodity promotion and evaluation.

Subtitle B—Issuance of Orders for Promotion, Research, and Information Activities Regarding Agricultural Commodities

Sec. 511. Short title.
Sec. 512. Findings and purpose.
Sec. 513. Definitions.
Sec. 514. Issuance of orders.
Sec. 515. Required terms in orders.
Sec. 516. Permissive terms in orders.
Sec. 517. Assessments.
Sec. 518. Referenda.
Sec. 519. Petition and review of orders.
Sec. 520. Enforcement.
Sec. 521. Investigations and power to subpoena.
Sec. 522. Suspension or termination.
Sec. 523. Amendments to orders.
Sec. 524. Effect on other laws.
Sec. 525. Regulations.
Sec. 526. Authorization of appropriations.

Subtitle C—Canola and Rapeseed

Sec. 531. Short title.
Sec. 532. Findings and declaration of policy.
Sec. 533. Definitions.
Sec. 534. Issuance and amendment of orders.
Sec. 535. Required terms in orders.
Sec. 536. Assessments.
Sec. 537. Referenda.
Sec. 538. Petition and review.
Sec. 539. Enforcement.
Sec. 540. Investigations and power to subpoena.
Sec. 541. Suspension or termination.
Sec. 542. Regulations.
Sec. 543. Authorization of appropriations.

Subtitle D—Kiwifruit

Sec. 551. Short title.
Sec. 552. Findings and purposes.
Sec. 553. Definitions.
Sec. 554. Issuance of orders.
Sec. 555. National Kiwifruit Board.
Sec. 556. Required terms in order.
Sec. 557. Permissive terms in order.
Sec. 558. Petition and review.
Sec. 559. Enforcement.
Sec. 560. Investigations and power to subpoena.
Sec. 561. Referenda.
Sec. 562. Suspension or termination.
Sec. 563. Regulations.
Sec. 564. Authorization of appropriations.

Subtitle E—Popcorn

Sec. 571. Short title.
Sec. 572. Findings and declaration of policy.
Sec. 573. Definitions.
Sec. 574. Issuance of orders.
Sec. 575. Required terms in orders.
Sec. 576. Referenda.
Sec. 577. Petition and review.
Sec. 578. Enforcement.

Sec. 579. Investigations and power to subpoena.
Sec. 580. Relation to other programs.
Sec. 581. Regulations.
Sec. 582. Authorization of appropriations.

Subtitle F—Miscellaneous

Sec. 591. Maintenance of records for honey promotion program.

TITLE VI—CREDIT

Subtitle A—Farm Ownership Loans

Sec. 601. Limitation on direct farm ownership loans.
Sec. 602. Purposes of loans.
Sec. 603. Soil and water conservation and protection.
Sec. 604. Interest rate requirements.
Sec. 605. Insurance of loans.
Sec. 606. Loans guaranteed.

Subtitle B—Operating Loans

Sec. 611. Limitation on direct operating loans.
Sec. 612. Purposes of operating loans.
Sec. 613. Participation in loans.
Sec. 614. Line-of-credit loans.
Sec. 615. Insurance of operating loans.
Sec. 616. Special assistance for beginning farmers and ranchers.
Sec. 617. Limitation on period for which borrowers are eligible for guaranteed assistance.

Subtitle C—Emergency Loans

Sec. 621. Hazard insurance requirement.
Sec. 622. Narrowing of authority to waive application of the credit elsewhere test.
Sec. 623. Linking of emergency loans for crop or livestock changes to natural disasters.
Sec. 624. Maximum emergency loan indebtedness.
Sec. 625. Establishment of date for emergency loan asset valuation.
Sec. 626. Insurance of emergency loans.

Subtitle D—Administrative Provisions

Sec. 631. Temporary authority to enter into contracts.
Sec. 632. Use of collection agencies.
Sec. 633. Notice of loan service programs.
Sec. 634. Clarification of written statement required of borrowers.
Sec. 635. Annual review of the credit history, business operation, and continued eligibility of a borrower.
Sec. 636. Extension of veterans preference.
Sec. 637. Verification of the credit elsewhere test.
Sec. 638. Sale of property.
Sec. 639. Easements on inventoried property.
Sec. 640. Definitions.
Sec. 641. Authorization for loans.
Sec. 642. Contracts on loan security properties.
Sec. 643. List of certified lenders and inventory property demonstration project.
Sec. 644. Homestead property.
Sec. 645. Restructuring.
Sec. 646. Transfer of inventory land for conservation purposes.
Sec. 647. Implementation of target participation rates.
Sec. 648. Delinquent borrowers.
Sec. 649. Short form certification of farm program borrower compliance.
Sec. 650. Credit study.

Subtitle E—General Provisions

Sec. 661. Conforming amendments.
Sec. 662. Electronic filing of effective financing statements under the clear title provisions of the Food Security Act of 1985.
Sec. 663. Effective date.

TITLE VII—RURAL DEVELOPMENT

Subtitle A—Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990

CHAPTER 1—GENERAL PROVISIONS

Sec. 701. Rural investment partnerships.
Sec. 702. Water and waste facility financing.
Sec. 703. Rural wastewater circuit rider program.
Sec. 704. Telemedicine and distance learning services in rural areas.
Sec. 705. Limitation on authorization of appropriations for rural technology grants.
Sec. 706. Demonstration projects.
Sec. 707. Monitoring the economic progress of rural America.
Sec. 708. Analysis by Office of Technology Assessment.
Sec. 709. Rural health infrastructure improvement.
Sec. 710. Census of agriculture.
Sec. 711. Study of the transportation of fertilizer and agricultural chemicals to farmers.

CHAPTER 2—ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION

Sec. 721. Definitions.
Sec. 722. Alternative Agricultural Research and Commercialization Corporation.
Sec. 723. Board of directors, employees, and facilities.
Sec. 724. Research and development grants, contracts, and agreements.
Sec. 725. Commercialization assistance.
Sec. 726. General rules regarding the provision of assistance.
Sec. 727. Regional centers.
Sec. 728. Alternative Agricultural Research and Commercialization Revolving Fund.
Sec. 729. Procurement preferences for products receiving Corporation assistance.
Sec. 730. Business plan and feasibility study and report.

Subtitle B—Amendments to the Consolidated Farm and Rural Development Act

CHAPTER 1—GENERAL PROVISIONS

Sec. 741. Water and waste facility loans and grants.
Sec. 742. Emergency community water assistance grant program for small communities.
Sec. 743. Emergency community water assistance grant program for smallest communities.
Sec. 744. Agricultural Credit Insurance Fund.
Sec. 745. Rural Development Insurance Fund.
Sec. 746. Insured watershed and resource conservation and development loans.
Sec. 747. Rural industrialization assistance.
Sec. 748. Administration.
Sec. 749. Authorization of appropriations.
Sec. 750. Testimony before congressional committees.
Sec. 751. Prohibition on use of loans for certain purposes.
Sec. 752. Rural development certified lenders program.
Sec. 753. System for delivery of certain rural development programs.
Sec. 754. State rural economic development review panel.
Sec. 755. Limited transfer authority of loan amounts.
Sec. 756. Allocation and transfer of loan guarantee authority.
Sec. 757. Water systems for rural and Native villages in Alaska.
Sec. 758. Application requirements relating to water and waste disposal loan and grant programs.
Sec. 759. National Sheep Industry Improvement Center.
Sec. 759A. Cooperative agreements.
Sec. 759B. Eligibility for grants to broadcasting systems.

CHAPTER 2—RURAL COMMUNITY ADVANCEMENT PROGRAM

Sec. 761. Rural community advancement program.
Sec. 762. Simplified, uniform application for assistance from all Federal rural development programs.
Sec. 763. Community facilities grant program.

Subtitle C—Amendments to the Rural Electrification Act of 1936

Sec. 771. Purposes; investigations and reports.
Sec. 772. Authorization of appropriations.
Sec. 773. Loans for electrical plants and transmission lines.
Sec. 774. Loans for electrical and plumbing equipment.
Sec. 775. Testimony on budget requests.
Sec. 776. Transfer of functions of administration created by Executive order.
Sec. 777. Annual report.
Sec. 778. Prohibition on restricting water and waste facility services to electric customers.
Sec. 779. Telephone loan terms and conditions.
Sec. 780. Privatization program.
Sec. 781. Rural Business Incubator Fund.

Subtitle D—Miscellaneous Rural Development Provisions

Sec. 791. Interest rate formula.
Sec. 792. Grants for financially stressed farmers, dislocated farmers, and rural families.
Sec. 793. Fund for Rural America.
Sec. 794. Under Secretary of Agriculture for Rural Economic and Community Development renamed the Under Secretary of Agriculture for Rural Development.

TITLE VIII—RESEARCH, EXTENSION, AND EDUCATION

Subtitle A—Modification and Extension of Activities Under 1977 Act

Sec. 801. Purposes of agricultural research, extension, and education.
Sec. 802. National Agricultural Research, Extension, Education, and Economics Advisory Board.
Sec. 803. Federal Advisory Committee Act exemption for Federal-State cooperative programs.
Sec. 804. Coordination and planning of agricultural research, extension, and education.
Sec. 805. Grants and fellowships for food and agricultural sciences education.
Sec. 806. Grants for research on the production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products.
Sec. 807. Policy research centers.
Sec. 808. Human nutrition intervention and health promotion research program.
Sec. 809. Food and nutrition education program.
Sec. 810. Purposes and findings relating to animal health and disease research.
Sec. 811. Animal health and disease continuing research.
Sec. 812. Animal health and disease national or regional research.
Sec. 813. Grant program to upgrade agricultural and food sciences facilities at 1890 land-grant colleges.
Sec. 814. National research and training centennial centers.
Sec. 815. Programs for Hispanic-serving institutions.
Sec. 816. International agricultural research and extension.
Sec. 817. Authorization of appropriations for agricultural research programs.
Sec. 818. Authorization of appropriations for extension education.
Sec. 819. Supplemental and alternative crops research.

VOL
142
PT
5
MR
21
–
29
1996
UMI

Sec. 820. Aquaculture assistance programs.
Sec. 821. Authorization of appropriations for rangeland research.

Subtitle B—Modification and Extension of Activities Under 1990 Act

Sec. 831. Water quality research, education, and coordination.
Sec. 832. National genetics resources program.
Sec. 833. National agricultural weather information system.
Sec. 834. Livestock product safety and inspection program.
Sec. 835. Plant genome mapping program.
Sec. 836. Certain specialized research programs.
Sec. 837. Agricultural telecommunications program.
Sec. 838. National centers for agricultural product quality research.
Sec. 839. Red meat safety research center.
Sec. 840. Indian reservation extension agent program.
Sec. 841. Assistive technology program for farmers with disabilities.
Sec. 842. National rural information center clearinghouse.
Sec. 843. Global climate change.

Subtitle C—Repeal of Certain Activities and Authorities

Sec. 851. Subcommittee on Food, Agricultural, and Forestry Research.
Sec. 852. Joint Council on Food and Agricultural Sciences.
Sec. 853. Agricultural Science and Technology Review Board.
Sec. 854. Animal Health Science Research Advisory Board.
Sec. 855. Resident instruction program at 1890 land-grant colleges.
Sec. 856. Grants to States for international trade development centers.
Sec. 857. Rangeland research.
Sec. 858. Composting research and extension program.
Sec. 859. Education program regarding handling of agricultural chemicals and agricultural chemical containers.
Sec. 860. Program administration regarding sustainable agriculture research and education.
Sec. 861. Research regarding production, preparation, processing, handling, and storage of agricultural products.
Sec. 862. Plant and animal pest and disease control program.
Sec. 863. Certain specialized research programs.
Sec. 864. Commission on agricultural research facilities.
Sec. 865. Special grant to study constraints on agricultural trade.
Sec. 866. Pilot project to coordinate food and nutrition education programs.
Sec. 867. Demonstration areas for rural economic development.
Sec. 868. Technical advisory committee regarding global climate change.
Sec. 869. Committee of nine under Hatch Act of 1887.
Sec. 870. Cotton crop reports.
Sec. 871. Rural economic and business development and additional research grants under title V of Rural Development Act of 1972.
Sec. 872. Human nutrition research.
Sec. 873. Grants to upgrade 1890 land-grant college extension facilities.
Sec. 874. Indian subsistence farming demonstration grant program.

Subtitle D—Miscellaneous Research Provisions

Sec. 881. Critical agricultural materials research.
Sec. 882. Memorandum of agreement regarding 1994 Institutions.
Sec. 883. Smith-Lever Act funding for 1890 land-grant colleges, including Tuskegee University.
Sec. 884. Agricultural research facilities.
Sec. 885. National competitive research initiative.
Sec. 886. Rural development research and education.
Sec. 887. Dairy goat research program.
Sec. 888. Competitive grants for research to eradicate and control brown citrus aphid and citrus tristeza virus.
Sec. 889. Stuttgart National Aquaculture Research Center.
Sec. 890. Expansion of authorities related to National Arboretum.
Sec. 891. Transfer of aquacultural research center.
Sec. 892. Use of remote sensing data and other data to anticipate potential food, feed, and fiber shortages or excesses and to provide timely information to assist farmers with planting decisions.
Sec. 893. Sense of Senate regarding methyl bromide alternative research and extension activities.

Subtitle E—Research Authority After Fiscal Year 1997

Sec. 897. Authorization of appropriations.
Sec. 898. Activities subject to availability of appropriations.

TITLE IX—MISCELLANEOUS

Subtitle A—Commercial Transportation of Equine for Slaughter

Sec. 901. Findings.
Sec. 902. Definitions.
Sec. 903. Regulation of commercial transportation of equine for slaughter.
Sec. 904. Limitation of authority to equine for slaughter.
Sec. 905. Effective date.

Subtitle B—General Provisions

Sec. 911. Interstate quarantine.
Sec. 912. Cotton classification services.
Sec. 913. Plant variety protection for certain tuber propagated plant varieties.
Sec. 914. Swine health protection.
Sec. 915. Designation of Mount Pleasant National Scenic Area.
Sec. 916. Pseudorabies eradication program.
Sec. 917. Collection and use of agricultural quarantine and inspection fees.
Sec. 918. Meat and poultry inspection.
Sec. 919. Reimbursable agreements.
Sec. 920. Overseas tort claims.
Sec. 921. Operation of Graduate School of Department of Agriculture as nonappropriated fund instrumentality.
Sec. 922. Student internship programs.
Sec. 923. Conveyance of excess Federal personal property.
Sec. 924. Conveyance of land to White Oak Cemetery.
Sec. 925. Sale of land by the University of Arkansas.
Sec. 926. Designation of Dale Bumpers Small Farms Research Center.
Sec. 927. Department of Agriculture Washington Area Strategic Space Plan.
Sec. 928. Severability.

TITLE I—AGRICULTURAL MARKET TRANSITION ACT

Subtitle A—Short Title, Purpose, and Definitions

SEC. 101. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Market Transition Act".

(b) PURPOSE.—It is the purpose of this title—

(1) to authorize the use of binding production flexibility contracts between the United States and agricultural producers to support farming certainty and flexibility while ensuring continued compliance with farm conservation and wetland protection requirements;

(2) to make nonrecourse marketing assistance loans and loan deficiency payments available for certain crops;

(3) to improve the operation of farm programs for milk, peanuts, and sugar; and

(4) to establish a commission to undertake a comprehensive review of past and future production agriculture in the United States.

SEC. 102. DEFINITIONS.

In this title:

(1) AGRICULTURAL ACT OF 1949.—Except in section 171, the term "Agricultural Act of 1949" means the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), as in effect prior to the suspensions under section 171(b)(1).

(2) CONSIDERED PLANTED.—The term "considered planted" means acreage that is considered planted under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) and such other acreage as the Secretary considers fair and equitable.

(3) CONTRACT.—The terms "contract" and "production flexibility contract" mean a production flexibility contract entered into under section 111.

(4) CONTRACT ACREAGE.—The term "contract acreage" means 1 or more crop acreage bases established for contract commodities under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) that would have been in effect for the 1996 crop (but for suspension under section 171(b)(1)).

(5) CONTRACT COMMODITY.—The term "contract commodity" means wheat, corn, grain sorghum, barley, oats, upland cotton, and rice.

(6) CONTRACT PAYMENT.—The term "contract payment" means a payment made under this subtitle pursuant to a contract.

(7) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(8) EXTRA LONG STAPLE COTTON.—The term "extra long staple cotton" means cotton that—

(A) is produced from pure strain varieties of the Barbadense species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(9) FARM PROGRAM PAYMENT YIELD.—The term "farm program payment yield" means the farm program payment yield established for the 1995 crop of a contract commodity under section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465). The Secretary shall adjust the farm program payment yield for the 1995 crop of a contract commodity to account for any additional yield payments made with respect to that crop under subsection (b)(2) of the section.

(10) LOAN COMMODITY.—The term "loan commodity" means each contract commodity, extra long staple cotton, and oilseed.

(11) OILSEED.—The term "oilseed" means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

(12) PRODUCER.—The term "producer" means an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.

(13) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(14) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(15) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

Subtitle B—Production Flexibility Contracts

SEC. 111. AUTHORIZATION FOR USE OF PRODUCTION FLEXIBILITY CONTRACTS.

(a) OFFER AND TERMS.—The Secretary shall offer to enter into a production flexibility contract with an eligible owner or producer described in subsection (b) on a farm containing eligible cropland. Under the terms of a contract, the owner or producer shall agree, in exchange for annual contract payments, to—

(1) comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(2) comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

(3) comply with the planting flexibility requirements of section 118; and

(4) use the land subject to the contract for an agricultural or related activity, but not for a nonagricultural commercial or industrial use, as determined by the Secretary.

(b) ELIGIBLE OWNERS AND PRODUCERS DESCRIBED.—The following producers and owners shall be eligible to enter into a contract:

(1) An owner of eligible cropland who assumes all or a part of the risk of producing a crop.

(2) A producer (other than an owner) on eligible cropland with a share-rent lease of the eligible cropland, regardless of the length of the lease, if the owner enters into the same contract.

(3) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring on or after September 30, 2002, in which case the owner is not required to enter into the contract.

(4) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring before September 30, 2002. The owner of the eligible cropland may also enter into the same contract. If the producer elects to enroll less than 100 percent of the eligible cropland in the contract, the consent of the owner is required.

(5) An owner of eligible cropland who cash rents the eligible cropland and the lease term expires before September 30, 2002, if the tenant declines to enter into a contract. In the case of an owner covered by this paragraph, contract payments shall not begin under a contract until the lease held by the tenant ends.

(6) An owner or producer described in any preceding paragraph regardless of whether the owner or producer purchased catastrophic risk protection for a 1996 crop under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)).

(c) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(d) ELIGIBLE CROPLAND DESCRIBED.—Land shall be considered to be cropland eligible for coverage under a contract only if the land has contract acreage attributable to the land and—

(1) for at least 1 of the 1991 through 1995 crops, at least a portion of the land was enrolled in the acreage reduction program authorized for a crop of a contract commodity under section 101B, 103B, 105B, or 107B of the Agricultural Act of 1949 or was considered planted;

(2) was subject to a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) whose term expired, or was voluntarily terminated, on or after January 1, 1995; or

(3) is released from coverage under a conservation reserve contract by the Secretary during the period beginning on January 1, 1995, and ending on the date specified in section 112(a)(2).

(e) QUANTITY OF ELIGIBLE CROPLAND COVERED BY CONTRACT.—Subject to subsection (b)(4), an owner or producer may enroll as contract acreage all or a portion of the eligible cropland on the farm.

(f) VOLUNTARY REDUCTION IN CONTRACT ACREAGE.—Subject to subsection (b)(4), an owner or producer who enters into a contract may subsequently reduce the quantity of contract acreage covered by the contract.

SEC. 112. ELEMENTS OF CONTRACTS.

(a) TIME FOR CONTRACTING.—

(1) COMMENCEMENT.—To the extent practicable, the Secretary shall commence entering into contracts not later than 45 days after the date of enactment of this title.

(2) DEADLINE.—Except as provided in paragraph (3), the Secretary may not enter into a contract after August 1, 1996.

(3) CONSERVATION RESERVE LANDS.—

(A) IN GENERAL.—At the beginning of each fiscal year, the Secretary shall allow an eligible owner or producer on a farm covered by a conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) that terminates after the date specified in paragraph (2) to enter into or expand a production flexibility contract to cover the contract acreage of the farm that was subject to the former conservation reserve contract.

(B) AMOUNT.—Contract payments made for contract acreage under this paragraph shall be made at the rate and amount applicable to the annual contract payment level for the applicable crop. For the fiscal year in which the conservation reserve contract is terminated, the owner or producer subject to the production flexibility contract may elect to receive either contract payments or a prorated payment under the conservation reserve contract, but not both.

(b) DURATION OF CONTRACT.—

(1) BEGINNING DATE.—The term of a contract shall begin with—

(A) the 1996 crop of a contract commodity; or

(B) in the case of acreage that was subject to a conservation reserve contract described in subsection (a)(3), the date the production flexibility contract was entered into or expanded to cover the acreage.

(2) ENDING DATE.—The term of a contract shall extend through the 2002 crop, unless earlier terminated by the owner or producer.

(c) ESTIMATION OF CONTRACT PAYMENTS.—At the time the Secretary enters into a contract, the Secretary shall provide an estimate of the minimum contract payments anticipated to be made during at least the first fiscal year for which contract payments will be made.

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—An annual contract payment shall be made not later than September 30 of each of fiscal years 1996 through 2002.

(2) ADVANCE PAYMENTS.—

(A) FISCAL YEAR 1996.—At the option of the owner or producer, 50 percent of the contract payment for fiscal year 1996 shall be made not later than 30 days after the date on which the contract is entered into and approved by the Secretary and the owner or producer.

(B) SUBSEQUENT FISCAL YEARS.—At the option of the owner or producer for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be made on December 15 or January 15 of the fiscal year. The owner or producer may change the date selected under this subparagraph for a subsequent fiscal year by providing advance notice to the Secretary.

SEC. 113. AMOUNTS AVAILABLE FOR CONTRACT PAYMENTS.

(a) FISCAL YEAR AMOUNTS.—The Secretary shall, to the maximum extent practicable, expend the following amounts to satisfy the obligations of the Secretary under all contracts:

(1) For fiscal year 1996, $5,570,000,000.
(2) For fiscal year 1997, $5,385,000,000.
(3) For fiscal year 1998, $5,800,000,000.
(4) For fiscal year 1999, $5,603,000,000.
(5) For fiscal year 2000, $5,130,000,000.
(6) For fiscal year 2001, $4,130,000,000.
(7) For fiscal year 2002, $4,008,000,000.

(b) ALLOCATION.—The amount made available for a fiscal year under subsection (a) shall be allocated as follows:

(1) For wheat, 26.26 percent.
(2) For corn, 46.22 percent.
(3) For grain sorghum, 5.11 percent.
(4) For barley, 2.16 percent.
(5) For oats, 0.15 percent.
(6) For upland cotton, 11.63 percent.
(7) For rice, 8.47 percent.

(c) ADJUSTMENT.—The Secretary shall adjust the amounts allocated for each contract commodity under subsection (b) for a particular fiscal year by—

(1) adding an amount equal to the sum of all repayments of deficiency payments required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) for the commodity;

(2) adding an amount equal to the sum of all refunds of contract payments received during the preceding fiscal year under section 116 for the commodity; and

(3) subtracting an amount equal to the amount, if any, necessary during that fiscal year to satisfy payment requirements for the commodity under sections 103B, 105B, or 107B of the Agricultural Act of 1949 for the 1994 and 1995 crop years.

(d) ADDITIONAL RICE ALLOCATION.—In addition to the adjustments required under subsection (c), the amount allocated under subsection (b) for rice contract payments shall be increased by $8,500,000 for each of fiscal years 1997 through 2002.

(e) EXCLUSION OF CERTAIN AMOUNTS FROM CONTRACT PAYMENTS.—Any amount added pursuant to paragraphs (1) and (2) of subsection (c) to the amount available under subsection (a) for a fiscal year and paid to owners and producers under a contract shall not be treated as a contract payment for purposes of section 115(a) of this title or section 1001(1) of the Food Security Act of 1985 (7 U.S.C. 1308(1)). However, the amount of a payment covered by this subsection may not exceed $50,000 per person.

(f) EFFECT OF PAYMENT LIMITATION.—The amount available under subsection (a) for a fiscal year shall be reduced by an amount equal to the total amount of contract payments for the fiscal year that owners and producers forgo as a result of operation of the payment limitation under section 1001(1) of the Food Security Act of 1985 (7 U.S.C. 1308(1)).

SEC. 114. DETERMINATION OF CONTRACT PAYMENTS UNDER CONTRACTS.

(a) INDIVIDUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—For each contract, the payment quantity of a contract commodity for each fiscal year shall be equal to the product of—

(1) 85 percent of the contract acreage; and

(2) the farm program payment yield.

(b) ANNUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—The payment quantity of each contract commodity covered by all contracts for each fiscal year shall be equal to the sum of the amounts calculated under subsection (a) for each individual contract.

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(c) ANNUAL PAYMENT RATE.—The payment rate for a contract commodity for each fiscal year shall be equal to—

(1) the amount made available under section 113 for the contract commodity for the fiscal year; divided by

(2) the amount determined under subsection (b) for the fiscal year.

(d) ANNUAL PAYMENT AMOUNT.—The amount to be paid under a contract in effect for each fiscal year with respect to all contract commodities covered by the contract shall be equal to the sum of the products of—

(1) the payment quantity determined under subsection (a) for each of the contract commodities covered by the contract; and

(2) the corresponding payment rate for the contract commodity in effect under subsection (c).

(e) REDUCTION IN PAYMENT AMOUNT.—The contract payment determined under subsection (d) for an owner or producer for a fiscal year shall be immediately reduced by the amount of any repayment of deficiency payments that is required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) and is not repaid as of the date the contract payment is determined. The Secretary shall be required to collect the required repayment, or any claim based on the required repayment, as soon as the contract payment is determined.

(f) ASSIGNMENT OF CONTRACT PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to contract payments under this section. The owner or producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the contract, of any assignment made under this subsection.

(g) SHARING OF CONTRACT PAYMENTS.—The Secretary shall provide for the sharing of contract payments among the owners and producers subject to the contract on a fair and equitable basis.

SEC. 115. PAYMENT LIMITATIONS.

(a) APPLICABILITY OF PAYMENT LIMITATIONS.—Sections 1001 through 1001C of the Food Security Act of 1985 (7 U.S.C. 1308 through 1308–3), as amended by this section, shall be applicable to contract payments made under this subtitle.

(b) PAYMENT LIMITATIONS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) LIMITATION ON PAYMENTS UNDER PRODUCTION FLEXIBILITY CONTRACTS.—The total amount of contract payments made under the Agricultural Market Transition Act to a person under 1 or more production flexibility contracts during any fiscal year may not exceed $40,000.

"(2) LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.—The total amount of the payments specified in paragraph (3) that a person shall be entitled to receive under the Agricultural Market Transition Act for 1 or more contract commodities and oilseeds during any crop year may not exceed $75,000.

"(3) DESCRIPTION OF PAYMENTS SUBJECT TO LIMITATION.—The payments referred to in paragraph (2) are the following:

"(A) Any gain realized by a producer from repaying a marketing assistance loan under section 131 of the Agricultural Market Transition Act for a crop of any loan commodity at a lower level than the original loan rate established for the loan commodity under section 132 of the Act.

"(B) Any loan deficiency payment received for a loan commodity under section 135 of the Act.

"(4) DEFINITIONS.—In this title, the terms 'contract commodity', 'contract payment', 'loan commodity', 'oilseed', and 'production flexibility contract' have the meaning given those terms in section 102 of the Agricultural Market Transition Act.".

(c) CONFORMING AMENDMENTS.—

(1) Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended—

(A) in subsection (a)(1), by striking "under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)"; and

(B) in subsection (b)(1), by striking "under the Agricultural Act of 1949".

(2) Section 1001C(a) of the Act (7 U.S.C. 1308–3(a)) is amended—

(A) by striking "For each of the 1991 through 1997 crops, any" and inserting "Any";

(B) by striking "production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)," and inserting "loans or payments made available under the Agricultural Market Transition Act,"; and

(C) by striking "during the 1989 through 1997 crop years".

SEC. 116. VIOLATIONS OF CONTRACT.

(a) TERMINATION OF CONTRACT FOR VIOLATION.—Except as provided in subsection (b), if an owner or producer subject to a contract violates a requirement of the contract specified in section 111(a), the Secretary shall terminate the contract with respect to the owner or producer on each farm in which the owner or producer has an interest. On the termination, the owner or producer shall forfeit all rights to receive future contract payments on each farm in which the owner or producer has an interest and shall refund to the Secretary all contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary.

(b) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation does not warrant termination of the contract under subsection (a), the Secretary may require the owner or producer subject to the contract—

(1) to refund to the Secretary that part of the contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary; or

(2) to accept a reduction in the amount of future contract payments that is proportionate to the severity of the violation, as determined by the Secretary.

(c) FORECLOSURE.—

(1) EFFECT OF FORECLOSURE.—An owner or producer subject to a contract may not be required to make repayments to the Secretary of amounts received under the contract if the contract acreage has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate to provide fair and equitable treatment.

(2) RESUMPTION OF OPERATION.—This subsection shall not void the responsibilities of the owner or producer under the contract if the owner or producer continues or resumes operation, or control, of the contract acreage. On the resumption of operation or control over the contract acreage by the owner or producer, the provisions of the contract in effect on the date of the foreclosure shall apply.

(d) REVIEW.—A determination of the Secretary under this section shall be considered to be an adverse decision for purposes of the availability of administrative review of the determination.

SEC. 117. TRANSFER OR CHANGE OF INTEREST IN LANDS SUBJECT TO CONTRACT.

(a) TERMINATION.—Except as provided in subsection (c), a transfer of (or change in) the interest of an owner or producer subject to a contract in the contract acreage covered by the contract shall result in the termination of the contract with respect to the acreage, unless the transferee or owner of the acreage agrees to assume all obligations under the contract. The termination shall be effective on the date of the transfer or change.

(b) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the contract if the modifications are consistent with the objectives of this subtitle, as determined by the Secretary.

(c) EXCEPTION.—If an owner or producer who is entitled to a contract payment dies, becomes incompetent, or is otherwise unable to receive the contract payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

SEC. 118. PLANTING FLEXIBILITY.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on contract acreage on a farm.

(b) LIMITATIONS AND EXCEPTIONS REGARDING FRUITS AND VEGETABLES.—

(1) LIMITATIONS.—The planting of fruits and vegetables (other than lentils, mung beans, and dry peas) shall be prohibited on contract acreage.

(2) EXCEPTIONS.—Paragraph (1) shall not limit the planting of a fruit or vegetable—

(A) in any region in which there is a history of double-cropping of contract commodities with fruits or vegetables, as determined by the Secretary, in which case the double-cropping shall be permitted;

(B) on a farm that the Secretary determines has a history of planting fruits or vegetables on contract acreage, except that a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable; or

(C) by a producer who the Secretary determines has an established planting history of a specific fruit or vegetable, except that—

(i) the quantity planted may not exceed the producer's average annual planting history of the fruit or vegetable in the 1991 through 1995 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(ii) a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable.

Subtitle C—Nonrecourse Marketing Assistance Loans and Loan Deficiency Payments

SEC. 131. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS.

(a) NONRECOURSE LOANS AVAILABLE.—For each of the 1996 through 2002 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 132 for the loan commodity.

(b) ELIGIBLE PRODUCTION.—The following production shall be eligible for a marketing assistance loan under subsection (a):

(1) In the case of a marketing assistance loan for a contract commodity, any production by a producer on a farm containing eligible cropland covered by a production flexibility contract.

(2) In the case of a marketing assistance loan for extra long staple cotton and oilseeds, any production.

(c) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(d) ADDITIONAL OUTLAYS PROHIBITED.—The Secretary shall carry out this subtitle in such a manner that there are no additional outlays under this subtitle as a result of the reconstitution of a farm that occurs as a result of the combination of another farm that does not contain eligible cropland covered by a production flexibility contract.

SEC. 132. LOAN RATES FOR MARKETING ASSISTANCE LOANS.

(a) WHEAT.—

(1) LOAN RATE.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 131 for wheat shall be—

(A) not less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $2.58 per bushel.

(2) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

(A) equal to or greater than 30 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 15 percent, the Secretary may not reduce the loan rate for wheat for the corresponding crop.

(b) FEED GRAINS.—

(1) LOAN RATE FOR CORN.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 131 for corn shall be—

(A) not less than 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $1.89 per bushel.

(2) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of corn to total use for the marketing year will be—

(A) equal to or greater than 25 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 25 percent but not less than 12.5 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 12.5 percent, the Secretary may not reduce the loan rate for corn for the corresponding crop.

(3) OTHER FEED GRAINS.—The loan rate for a marketing assistance loan under section 131 for grain sorghum, barley, and oats, respectively, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

(c) UPLAND COTTON.—

(1) LOAN RATE.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 131 for upland cotton shall be established by the Secretary at such loan rate, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average locations in the United States a rate that is not less than the smaller of—

(A) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

(B) 90 percent of the average, for the 15-week period beginning July 1 of the year preceding the year in which the crop is planted, of the 5 lowest-priced growths of the growths quoted for Middling 1$\frac{3}{32}$-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year preceding the year in which the crop is planted between the average Northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

(2) LIMITATIONS.—The loan rate for a marketing assistance loan for upland cotton shall not be less than $0.50 per pound or more than $0.5192 per pound.

(d) EXTRA LONG STAPLE COTTON.—The loan rate for a marketing assistance loan under section 131 for extra long staple cotton shall be—

(1) not less than 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(2) not more than $0.7965 per pound.

(e) RICE.—The loan rate for a marketing assistance loan under section 131 for rice shall be $6.50 per hundredweight.

(f) OILSEEDS.—

(1) SOYBEANS.—The loan rate for a marketing assistance loan under section 131 for soybeans shall be—

(A) not less than 85 percent of the simple average price received by producers of soybeans, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not less than $4.92 or more than $5.26 per bushel.

(2) SUNFLOWER SEED, CANOLA, RAPESEED, SAFFLOWER, MUSTARD SEED, AND FLAXSEED.—The loan rate for a marketing assistance loan under section 131 for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be—

(A) not less than 85 percent of the simple average price received by producers of sunflower seed, individually, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of sunflower seed, individually, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not less than $0.087 or more than $0.093 per pound.

(3) OTHER OILSEEDS.—The loan rates for a marketing assistance loan under section 131 for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.

SEC. 133. TERM OF LOANS.

(a) TERM OF LOAN.—In the case of each loan commodity (other than upland cotton or extra long staple cotton), a marketing assistance loan under section 131 shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(b) SPECIAL RULE FOR COTTON.—A marketing assistance loan for upland cotton or extra long staple cotton shall have a term of 10 months beginning on the first day of the month in which the loan is made.

(c) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

SEC. 134. REPAYMENT OF LOANS.

(a) REPAYMENT RATES FOR WHEAT, FEED GRAINS, AND OILSEEDS.—The Secretary shall permit a producer to repay a marketing assistance loan under section 131 for wheat, corn, grain sorghum, barley, oats, and oilseeds at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 132, plus interest (as determined by the Secretary); or

(2) a rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity; and

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally.

(b) REPAYMENT RATES FOR UPLAND COTTON AND RICE.—The Secretary shall permit producers to repay a marketing assistance loan under section 131 for upland cotton and rice at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 132, plus interest (as determined by the Secretary); or

(2) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.

(c) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under section 132, plus interest (as determined by the Secretary).

(d) PREVAILING WORLD MARKET PRICE.—For purposes of this section and section 136, the Secretary shall prescribe by regulation—

(1) a formula to determine the prevailing world market price for each loan commodity, adjusted to United States quality and location; and

(2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for each loan commodity.

(e) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON.—

(1) IN GENERAL.—During the period ending July 31, 2003, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under subsection (d) shall be further adjusted if—

(A) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under section 132, as determined by the Secretary; and

(B) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M) 1$\frac{3}{32}$-inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling (M) 1$\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe (referred to in this section as the "Northern Europe price").

(2) FURTHER ADJUSTMENT.—Except as provided in paragraph (3), the adjusted prevailing world market price for upland cotton shall be further adjusted on the basis of some or all of the following data, as available:

(A) The United States share of world exports.

VOL 142 PT 5 MR 21—29 1996 UMI

(B) The current level of cotton export sales and cotton export shipments.

(C) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

(3) LIMITATION ON FURTHER ADJUSTMENT.—The adjustment under paragraph (2) may not exceed the difference between—

(A) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling 1$\frac{3}{32}$-inch cotton delivered C.I.F. Northern Europe; and

(B) the Northern Europe price.

SEC. 135. LOAN DEFICIENCY PAYMENTS.

(a) AVAILABILITY OF LOAN DEFICIENCY PAYMENTS.—Except as provided in subsection (d), the Secretary may make loan deficiency payments available to producers who, although eligible to obtain a marketing assistance loan under section 131 with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for payments under this section.

(b) COMPUTATION.—A loan deficiency payment under this section shall be computed by multiplying—

(1) the loan payment rate determined under subsection (c) for the loan commodity; by

(2) the quantity of the loan commodity that the producers on a farm are eligible to place under loan but for which the producers forgo obtaining the loan in return for payments under this section.

(c) LOAN PAYMENT RATE.—For purposes of this section, the loan payment rate shall be the amount by which—

(1) the loan rate established under section 132 for the loan commodity; exceeds

(2) the rate at which a loan for the commodity may be repaid under section 134.

(d) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This section shall not apply with respect to extra long staple cotton.

SEC. 136. SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.

(a) COTTON USER MARKETING CERTIFICATES.—

(1) ISSUANCE.—Subject to paragraph (4), during the period ending July 31, 2003, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

(A) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1$\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

(B) the prevailing world market price for upland cotton (adjusted to United States quality and location) does not exceed 130 percent of the loan rate for upland cotton established under section 132.

(2) VALUE OF CERTIFICATES OR PAYMENTS.—The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in the prices during the 4th week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

(3) ADMINISTRATION OF MARKETING CERTIFICATES.—

(A) REDEMPTION, MARKETING, OR EXCHANGE.—The Secretary shall establish procedures for redeeming marketing certificates for cash or marketing or exchange of the certificates for agricultural commodities owned by the Commodity Credit Corporation in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates. Any price restrictions that would otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subsection.

(B) DESIGNATION OF COMMODITIES AND PRODUCTS.—To the extent practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.

(C) TRANSFERS.—Marketing certificates issued to domestic users and exporters of upland cotton may be transferred to other persons in accordance with regulations issued by the Secretary.

(4) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under paragraph (1) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) 1$\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subsection, exceeds the Northern Europe price by more than 1.25 cents per pound.

(5) LIMITATION ON EXPENDITURES.—Total expenditures under this subsection shall not exceed $701,000,000 during fiscal years 1996 through 2002.

(b) SPECIAL IMPORT QUOTA.—

(1) ESTABLISHMENT.—The President shall carry out an import quota program that provides that, during the period ending July 31, 2003, whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1$\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under subsection (a), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

(2) QUANTITY.—The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(3) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (1) and entered into the United States not later than 180 days after the date.

(4) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by paragraph (1), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (c).

(5) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(B) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(C) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(6) DEFINITION.—In this subsection, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(c) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.—

(1) IN GENERAL.—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) DEFINITIONS.—In this subsection:

(i) SUPPLY.—The term "supply" means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(II) production of the current crop; and

(III) imports to the latest date available during the marketing year.

(ii) DEMAND.—The term "demand" means—

(I) the average seasonally adjusted annual rate of domestic mill consumption during the most recent 3 months for which data are available; and

(II) the larger of—

(aa) average exports of upland cotton during the preceding 6 marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) LIMITED GLOBAL IMPORT QUOTA.—The term "limited global import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(E) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) NO OVERLAP.—Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (b).

SEC. 137. AVAILABILITY OF RECOURSE LOANS FOR HIGH MOISTURE FEED GRAINS AND SEED COTTON.

(a) HIGH MOISTURE FEED GRAINS.—

(1) RECOURSE LOANS AVAILABLE.—For each of the 1996 through 2002 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to

producers on a farm containing eligible cropland covered by a production flexibility contract who—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

(2) ELIGIBILITY OF ACQUIRED FEED GRAINS.—A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

(3) HIGH MOISTURE STATE DEFINED.—In this subsection, the term "high moisture state" means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 131.

(b) RECOURSE LOANS AVAILABLE FOR SEED COTTON.—

(1) UPLAND COTTON.—For each of the 1996 through 2002 crops of upland cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, to producers on a farm containing eligible cropland covered by a production flexibility contract.

(2) EXTRA LONG STAPLE COTTON.—For each of the 1996 through 2002 crops of extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) REPAYMENT RATES.—Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (as determined by the Secretary).

Subtitle D—Other Commodities

CHAPTER 1—DAIRY

SEC. 141. MILK PRICE SUPPORT PROGRAM.

(a) SUPPORT ACTIVITIES.—The Secretary of Agriculture shall support the price of milk produced in the 48 contiguous States through the purchase of cheese, butter, and nonfat dry milk produced from the milk.

(b) RATE.—The price of milk shall be supported at the following rates per hundredweight for milk containing 3.67 percent butterfat:

(1) During calendar year 1996, $10.35.

(2) During calendar year 1997, $10.20.

(3) During calendar year 1998, $10.05.

(4) During calendar year 1999, $9.90.

(c) PURCHASE PRICES.—The support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Secretary shall be the same for all of that product sold by persons offering to sell the product to the Secretary. The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price that is not less than the rate of price support for milk in effect under subsection (b).

(d) SPECIAL RULE FOR BUTTER AND NONFAT DRY MILK PURCHASE PRICES.—

(1) ALLOCATION OF PURCHASE PRICES.—The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. Not later than 10 days after making or changing an allocation, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation. Section 553 of title 5, United States Code, shall not apply with respect to the implementation of this section.

(2) TIMING OF PURCHASE PRICE ADJUSTMENTS.—The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

(e) REFUNDS OF 1995 AND 1996 ASSESSMENTS.—

(1) REFUND REQUIRED.—The Secretary shall provide for a refund of the entire reduction required under section 204(h)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446e(h)(2)), as in effect on the day before the amendment made by subsection (g), in the price of milk received by a producer during calendar year 1995 or 1996, if the producer provides evidence that the producer did not increase marketings in calendar year 1995 or 1996 when compared to calendar year 1994 or 1995, respectively.

(2) EXCEPTION.—This subsection shall not apply with respect to a producer for a particular calendar year if the producer has already received a refund under section 204(h) of the Agricultural Act of 1949 for the same fiscal year before the effective date of this section.

(3) TREATMENT OF REFUND.—A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 1211 and 1221 of the Food Security Act of 1985 (16 U.S.C. 3811 and 3821).

(f) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(g) CONFORMING REPEAL.—Effective on the first day of the first month beginning after the date of enactment of this title, section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is repealed.

(h) PERIOD OF EFFECTIVENESS.—This section (other than subsection (g)) shall be effective only during the period beginning on the first day of the first month beginning after the date of enactment of this title and ending on December 31, 1999. The program authorized by this section shall terminate on December 31, 1999, and shall be considered to have expired notwithstanding section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907).

SEC. 142. RECOURSE LOAN PROGRAM FOR COMMERCIAL PROCESSORS OF DAIRY PRODUCTS.

(a) RECOURSE LOANS AVAILABLE.—Under such reasonable terms and conditions as the Secretary may prescribe, the Secretary shall make recourse loans available to commercial processors of eligible dairy products to assist the processors to manage inventories of eligible dairy products and assure a greater degree of price stability for the dairy industry during the year. The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(b) AMOUNT OF LOAN.—The Secretary shall establish the amount of a loan for eligible dairy products, which shall reflect a milk equivalent value of $9.90 per hundredweight of milk containing 3.67 percent butterfat. The rate of interest charged participants under this section shall not be less than the rate of interest charged the Commodity Credit Corporation by the United States Treasury.

(c) PERIOD OF LOAN.—The original term of a recourse loan made under this section may not extend beyond the end of the fiscal year in which the loan is made. At the end of the fiscal year, the Secretary may extend the loan for an additional period not to exceed the end of the next fiscal year.

(d) DEFINITION OF ELIGIBLE DAIRY PRODUCTS.—In this section, the term "eligible dairy products" means cheddar cheese, butter, and nonfat dry milk.

(e) EFFECTIVE DATE.—This section shall be effective beginning January 1, 2000.

SEC. 143. CONSOLIDATION AND REFORM OF FEDERAL MILK MARKETING ORDERS.

(a) AMENDMENT OF ORDERS.—

(1) REQUIRED CONSOLIDATION.—The Secretary shall amend Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to limit the number of Federal milk marketing orders to not less than 10 and not more than 14 orders.

(2) INCLUSION OF CALIFORNIA AS SEPARATE ORDER.—Upon the petition and approval of California dairy producers in the manner provided in section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, the Secretary shall designate the State of California as a separate Federal milk marketing order. The order covering California shall have the right to reblend and distribute order receipts to recognize quota value.

(3) RELATED ISSUES ADDRESSED IN CONSOLIDATION.—Among the issues the Secretary is authorized to implement as part of the consolidation of Federal milk marketing orders are the following:

(A) The use of utilization rates and multiple basing points for the pricing of fluid milk.

(B) The use of uniform multiple component pricing when developing 1 or more basic formula prices for manufacturing milk.

(4) EFFECT OF EXISTING LAW.—In implementing the consolidation of Federal milk marketing orders and related reforms under this subsection, the Secretary may not consider, or base any decision on, the table contained in section 8c(5)(A) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(A)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, as added by section 131 of the Food Security Act of 1985.

(b) EXPEDITED PROCESS.—

(1) USE OF INFORMAL RULEMAKING.—To implement the consolidation of Federal milk marketing orders and related reforms under subsection (a), the Secretary shall use the notice and comment procedures provided in section 553 of title 5, United States Code.

(2) TIME LIMITATIONS.—

(A) PROPOSED AMENDMENTS.—The Secretary shall announce the proposed amendments to be made under subsection (a) not later than 2 years after the date of enactment of this title.

(B) FINAL AMENDMENTS.—The Secretary shall implement the amendments not later than 3 years after the date of enactment of this title.

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(3) EFFECT OF COURT ORDER.—The actions authorized by this subsection are intended to ensure the timely publication and implementation of new and amended Federal milk marketing orders. In the event that the Secretary is enjoined or otherwise restrained by a court order from publishing or implementing the consolidation and related reforms under subsection (a), the length of time for which that injunction or other restraining order is effective shall be added to the time limitations specified in paragraph (2) thereby extending those time limitations by a period of time equal to the period of time for which the injunction or other restraining order is effective.

(c) FAILURE TO TIMELY CONSOLIDATE ORDERS.—If the Secretary fails to implement the consolidation required under subsection (a)(1) within the time period required under subsection (b)(2)(B) (plus any additional period provided under subsection (b)(3)), the Secretary may not assess or collect assessments from milk producers or handlers under such section 8c for marketing order administration and services provided under such section after the end of that period until the consolidation is completed. The Secretary may not reduce the level of services provided under the section on account of the prohibition against assessments, but shall rather cover the cost of marketing order administration and services through funds available for the Agricultural Marketing Service of the Department.

(d) REPORT REGARDING FURTHER REFORMS.—

(1) REPORT REQUIRED.—Not later than April 1, 1997, the Secretary shall submit to Congress a report—

(A) reviewing the Federal milk marketing order system established pursuant to section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in light of the reforms required by subsection (a);

(B) describing the efforts underway and the progress made in implementing the reforms required by subsection (a); and

(C) containing such recommendations as the Secretary considers appropriate for further improvements and reforms to the Federal milk marketing order system.

(2) EFFECT OF OTHER LAWS.—Any limitation imposed by Act of Congress on the conduct or completion of reports to Congress shall not apply to the report required under this section, unless the limitation specifically refers to this section.

SEC. 144. EFFECT ON FLUID MILK STANDARDS IN STATE OF CALIFORNIA.

Nothing in this Act or any other provision of law shall be construed to preempt, prohibit, or otherwise limit the authority of the State of California, directly or indirectly, to establish or continue to effect any law, regulation, or requirement regarding—

(1) the percentage of milk solids or solids not fat in fluid milk products sold at retail or marketed in the State of California; or

(2) the labeling of such fluid milk products with regard to milk solids or solids not fat.

SEC. 145. MILK MANUFACTURING MARKETING ADJUSTMENT.

(a) MAXIMUM ALLOWANCES ESTABLISHED.—No State shall provide for a manufacturing allowance for the processing of milk in excess of—

(1) $1.65 per hundredweight of milk for milk manufactured into butter and nonfat dry milk; and

(2) $1.80 per hundredweight of milk for milk manufactured into cheese.

(b) MANUFACTURING ALLOWANCE DEFINED.—In this section, the term "manufacturing allowance" means—

(1) the amount by which the product price value of butter and nonfat dry milk manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State's yield and product price formulas exceeds the class price for the milk used to produce those products; or

(2) the amount by which the product price value of cheese manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State's yield and product price formulas exceeds the class price for the milk used to produce cheese.

(c) EFFECT OF VIOLATION.—If the Secretary determines following a hearing that a State has in effect a manufacturing allowance that exceeds the manufacturing allowance authorized in subsection (a), the Secretary shall suspend purchases of cheddar cheese, butter, and nonfat dry milk produced in that State until such time as the State complies with such subsection.

(d) EFFECTIVE DATE; IMPLEMENTATION.—This section (other than subsection (e)) shall be effective during the period beginning on the first day of the first month beginning after the date of enactment of this title and ending on December 31, 1999. During that period, the Secretary may exercise the authority provided to the Secretary under this section without regard to the issuance of regulations intended to carry out this section.

(e) CONFORMING REPEAL.—Effective on the first day of the first month beginning after the date of enactment of this title, section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e–1) is repealed.

SEC. 146. PROMOTION.

(a) CONGRESSIONAL PURPOSE.—Section 1999B(a) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401(a)) is amended—

(1) by redesignating paragraphs (6), (7) and (8) as paragraphs (7), (8) and (9), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) the congressional purpose underlying this subtitle is to maintain and expand markets for fluid milk products, not to maintain or expand any processor's share of those markets and that the subtitle does not prohibit or restrict individual advertising or promotion of fluid milk products since the programs created and funded by this subtitle are not extended to replace individual advertising and promotion efforts;".

(b) CONGRESSIONAL POLICY.—Section 1999B(b) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401(b)) is amended to read as follows:

"(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of powers provided in this subtitle, of an orderly procedure for developing, financing, through adequate assessments on fluid milk products produced in the United States and carrying out an effective, continuous, and coordinated program of promotion, research, and consumer information designed to strengthen the position of the dairy industry in the marketplace and maintain and expand domestic and foreign markets and uses for fluid milk products, the purpose of which is not to compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name fluid milk products, but rather to maintain and expand the markets for all fluid milk products, with the goal and purpose of this subtitle being a national governmental goal that authorizes and funds programs that result in government speech promoting government objectives.".

(c) RESEARCH.—Section 1999C(6) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402(6)) is amended to read as follows:

"(6) RESEARCH.—The term 'research' means market research to support advertising and promotion efforts, including educational activities, research directed to product characteristics, product development, including new products or improved technology in production, manufacturing or processing of milk and the products of milk.".

(d) VOTING.—

(1) INITIAL REFERENDA.—Section 1999N(b)(2) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6413(b)(2)) is amended by striking "all processors" and inserting "fluid milk processors voting in the referendum".

(2) SUSPENSION OR TERMINATION.—Section 1999O(c) of such Act (7 U.S.C. 6414(c)) is amended—

(A) in paragraph (1), by striking "all processors" and inserting "fluid milk processors voting in the preceding referendum"; and

(B) in paragraph (2)(B), by striking "all processors" and inserting "fluid milk processors voting in the referendum".

(e) DURATION.—Section 1999O(a) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6414(a)) is amended by striking "1996" and inserting "2002".

SEC. 147. NORTHEAST INTERSTATE DAIRY COMPACT.

Congress hereby consents to the Northeast Interstate Dairy Compact entered into among the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont as specified in section 1(b) Senate Joint Resolution 28 of the 104th Congress, as placed on the calendar of the Senate, subject to the following conditions:

(1) FINDING OF COMPELLING PUBLIC INTEREST.—Based upon a finding by the Secretary of a compelling public interest in the Compact region, the Secretary may grant the States that have ratified the Northeast Interstate Dairy Compact, as of the date of enactment of this title, the authority to implement the Northeast Interstate Dairy Compact.

(2) LIMITATION ON MANUFACTURING PRICE.—The Northeast Interstate Dairy Compact Commission shall not regulate Class II, Class III, or Class III–A milk used for manufacturing purposes or any other milk, other than Class I (fluid) milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c) reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(3) DURATION.—Consent for the Northeast Interstate Dairy Compact shall terminate concurrent with the Secretary's implementation of the dairy pricing and Federal milk marketing order consolidation and reforms under section 143.

(4) ADDITIONAL STATES.—Delaware, New Jersey, New York, Pennsylvania, Maryland, and Virginia are the only additional States that may join the Northeast Interstate Dairy Compact, individually or otherwise, if upon entry the State is contiguous to a participating State and if Congress consents to the entry of the State into the Compact after the date of enactment of this title.

(5) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year that a Compact price regulation is in effect, the Northeast Interstate Dairy Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the projected rate of increase in milk production for the fiscal year within the Compact region in excess of the projected national average rate of the increase in milk production, as determined by the Secretary.

(6) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Northeast Interstate Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order issued under section 8(c)5 of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted

with amendments by the Agricultural Marketing Agreement Act of 1937, shall provide technical assistance to the Compact Commission and be compensated for that assistance.

(7) FURTHER CONDITIONS.—The Northeast Interstate Dairy Compact Commission shall not prohibit or in any way limit the marketing in the Compact region of any milk or milk product produced in any other production area in the United States. The Compact Commission shall respect and abide by the ongoing procedures between Federal milk marketing orders with respect to the sharing of proceeds from sales within the Compact region of bulk milk, packaged milk, or producer milk originating from outside of the Compact region. The Compact Commission shall not use compensatory payments under section 10(6) of the Compact as a barrier to the entry of milk into the Compact region or for any other purpose. Establishment of a Compact over-order price, in itself, shall not be considered a compensatory payment or a limitation or prohibition on the marketing of milk.

SEC. 148. DAIRY EXPORT INCENTIVE PROGRAM.

(a) DURATION.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a–14(a)) is amended by striking "2001" and inserting "2002".

(b) SOLE DISCRETION.—Section 153(b) of the Food Security Act of 1985 (15 U.S.C. 713a–14(b)) is amended by inserting "sole" before "discretion".

(c) ELEMENTS OF PROGRAM.—Section 153(c) of the Food Security Act of 1985 (15 U.S.C. 713a–14(c)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(3) by adding at the end the following:

"(3) the maximum volume of dairy product exports allowable consistent with the obligations of the United States as a member of the World Trade Organization is exported under the program each year (minus the volume sold under section 1163 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1731 note) during that year), except to the extent that the export of such a volume under the program would, in the judgment of the Secretary, exceed the limitations on the value set forth in subsection (f); and

"(4) payments may be made under the program for exports to any destination in the world for the purpose of market development, except a destination in a country with respect to which shipments from the United States are otherwise restricted by law.".

(d) MARKET DEVELOPMENT.—Section 153(e)(1) of the Food Security Act of 1985 (15 U.S.C. 713a–14(e)(1)) is amended—

(1) by striking "and" and inserting "the"; and

(2) by inserting before the period the following: ", and any additional amount that may be required to assist in the development of world markets for United States dairy products".

(e) MAXIMUM ALLOWABLE AMOUNTS.—Section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14) is amended by adding at the end the following:

"(f) REQUIRED FUNDING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Commodity Credit Corporation shall in each year use money and commodities for the program under this section in the maximum amount consistent with the obligations of the United States as a member of the World Trade Organization, minus the amount expended under section 1163 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1731 note) during that year.

"(2) VOLUME LIMITATIONS.—The Commodity Credit Corporation may not exceed the limitations specified in subsection (c)(3) on the volume of allowable dairy product exports.".

SEC. 149. AUTHORITY TO ASSIST IN ESTABLISHMENT AND MAINTENANCE OF ONE OR MORE EXPORT TRADING COMPANIES.

The Secretary of Agriculture shall, consistent with the obligations of the United States as a member of the World Trade Organization, provide such advice and assistance to the United States dairy industry as may be necessary to enable that industry to establish and maintain one or more export trading companies under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for and exportation of dairy products produced in the United States.

SEC. 150. STANDBY AUTHORITY TO INDICATE ENTITY BEST SUITED TO PROVIDE INTERNATIONAL MARKET DEVELOPMENT AND EXPORT SERVICES.

(a) INDICATION OF ENTITY BEST SUITED TO ASSIST INTERNATIONAL MARKET DEVELOPMENT FOR AND EXPORT OF UNITED STATES DAIRY PRODUCTS.—The Secretary of Agriculture shall indicate which entity or entities autonomous of the Government of the United States, which seeks such a designation, is best suited to facilitate the international market development for and exportation of United States dairy products, if the Secretary determines that—

(1) the United States dairy industry has not established an export trading company under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for an exportation of dairy products produced in the United States on or before June 30, 1997; or

(2) the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1998 does not exceed the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1997 by 1.5 billion pounds (milk equivalent, total solids basis).

(b) FUNDING OF EXPORT ACTIVITIES.—The Secretary shall assist the entity or entities identified under subsection (a) in identifying sources of funding for the activities specified in subsection (a) from within the dairy industry and elsewhere.

(c) APPLICATION OF SECTION.—This section shall apply only during the period beginning on July 1, 1997 and ending on September 30, 2000.

SEC. 151. STUDY AND REPORT REGARDING POTENTIAL IMPACT OF URUGUAY ROUND ON PRICES, INCOME, AND GOVERNMENT PURCHASES.

(a) STUDY.—The Secretary of Agriculture shall conduct a study, on a variety by variety of cheese basis, to determine the potential impact on milk prices in the United States, dairy producer income, and Federal dairy program costs, of the allocation of additional cheese granted access to the United States as a result of the obligations of the United States as a member of the world Trade Organization.

(b) REPORT.—Not later than June 30, 1997, the Secretary shall report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives the results of the study conducted under this section.

(c) RULE OF CONSTRUCTION.—Any limitation imposed by Act of Congress on the conduct or completion of studies or reports to Congress shall not apply to the study and report required under this section, unless the limitation specifically refers to this section.

SEC. 152. PROMOTION OF UNITED STATES DAIRY PRODUCTS IN INTERNATIONAL MARKETS THROUGH DAIRY PROMOTION PROGRAM.

Section 113(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)) is amended by adding at the end the following new sentence: "For each of fiscal years 1997 through 2001, the Board's budget may provide for the expenditure of revenues available to the Board to develop international markets for, and to promote within such markets, the consumption of dairy products produced in the United States from milk produced in the United States.".

CHAPTER 2—PEANUTS AND SUGAR

SEC. 155. PEANUT PROGRAM.

(a) QUOTA PEANUTS.—

(1) AVAILABILITY OF LOANS.—The Secretary shall make nonrecourse loans available to producers of quota peanuts.

(2) LOAN RATE.—The national average quota loan rate for quota peanuts shall be $610 per ton.

(3) INSPECTION, HANDLING, OR STORAGE.—The loan amount may not be reduced by the Secretary by any deductions for inspection, handling, or storage.

(4) LOCATION AND OTHER FACTORS.—The Secretary may make adjustments in the loan rate for quota peanuts for location of peanuts and such other factors as are authorized by section 162.

(5) OFFERS FROM HANDLERS.—If a producer markets a quota peanut crop, meeting quality requirements for domestic edible use, through the marketing association loan for two consecutive marketing years and the Secretary determines that a handler provided the producer with a written offer, upon delivery, for the purchase of the quota peanut crops at a price equal to or in excess of the quota support price, the producer shall be ineligible for quota price support for the next marketing year. The Secretary shall establish the method by which a producer may appeal a determination under this paragraph regarding ineligibility for quota price support.

(b) ADDITIONAL PEANUTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make nonrecourse loans available to producers of additional peanuts at such rates as the Secretary finds appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

(2) LIMITATION.—The Secretary shall establish the support rate on additional peanuts at a level estimated by the Secretary to ensure that there are no losses to the Commodity Credit Corporation on the sale or disposal of the peanuts.

(3) ANNOUNCEMENT.—The Secretary shall announce the loan rate for additional peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the loan rate is being determined.

(c) AREA MARKETING ASSOCIATIONS.—

(1) WAREHOUSE STORAGE LOANS.—

(A) IN GENERAL.—In carrying out subsections (a) and (b), the Secretary shall make warehouse storage loans available in each of the producing areas (described in section 1446.95 of title 7 of the Code of Federal Regulations (January 1, 1989)) to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting the loan activities. The Secretary may not make warehouse storage loans available to any cooperative that is engaged in operations or activities concerning peanuts other than those operations and activities specified in this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(B) ADMINISTRATIVE AND SUPERVISORY ACTIVITIES.—An area marketing association shall be used in administrative and supervisory activities relating to loans and marketing activities under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

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(C) ASSOCIATION COSTS.—Loans made to the association under this paragraph shall include such costs as the area marketing association reasonably may incur in carrying out the responsibilities, operations, and activities of the association under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(2) POOLS FOR QUOTA AND ADDITIONAL PEANUTS.—

(A) IN GENERAL.—The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico.

(B) ELIGIBILITY TO PARTICIPATE IN NEW MEXICO POOLS.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of the 1996 and subsequent crops, Valencia peanuts not physically produced in the State of New Mexico shall not be eligible to participate in the pools of the State.

(ii) EXCEPTION.—A producer of Valencia peanuts may enter Valencia peanuts that are produced in Texas into the pools of New Mexico in a quantity not greater than the average annual quantity of the peanuts that the producer entered into the New Mexico pools for the 1990 through 1995 crops.

(C) TYPES OF PEANUTS.—Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.

(D) NET GAINS.—Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

(i) QUOTA PEANUTS.—For quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool.

(ii) ADDITIONAL PEANUTS.—For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts.

(d) LOSSES.—Losses in quota area pools shall be covered using the following sources in the following order of priority:

(1) TRANSFERS FROM ADDITIONAL LOAN POOLS.—The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by the producer under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)).

(2) PRODUCERS IN SAME POOL.—Further losses in an area quota pool shall be offset by reducing the gain of any producer in the pool by the amount of pool gains attributed to the same producer from the sale of additional peanuts for domestic and edible export use.

(3) OFFSET WITHIN AREA.—Further losses in an area quota pool shall be offset by any gains or profits from additional peanuts (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) owned or controlled by the Commodity Credit Corporation in that area and sold for domestic edible use, in accordance with regulations issued by the Secretary. This paragraph shall not apply to profits or gains from a farm with 1 acre or less of peanut production.

(4) FIRST USE OF MARKETING ASSESSMENTS.—The Secretary shall use funds collected under subsection (g) (except funds attributable to handlers) to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g) and available for use under this paragraph that the Secretary determines are not required to cover losses in area quota pools.

(5) CROSS COMPLIANCE.—Further losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)), shall be offset by any gains or profits from quota pools in other production areas (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

(6) OFFSET GENERALLY.—If losses in an area quota pool have not been entirely offset under the preceding paragraphs, further losses shall be offset by any gains or profits from additional peanuts (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) owned or controlled by the Commodity Credit Corporation and sold for domestic edible use, in accordance with regulations issued by the Secretary. This paragraph shall not apply to profits or gains from a farm with 1 acre or less of peanut production.

(7) SECOND USE OF MARKETING ASSESSMENTS.—The Secretary shall use funds collected under subsection (g) and attributable to handlers to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g) and available for use under this paragraph that the Secretary determines are not required to cover losses in area quota pools.

(8) INCREASED ASSESSMENTS.—If use of the authorities provided in the preceding paragraphs is not sufficient to cover losses in an area quota pool, the Secretary shall increase the marketing assessment for producers established under subsection (g) by such an amount as the Secretary considers necessary to cover the losses. The increased assessment shall apply only to quota peanuts in the production area covered by the pool. Amounts collected under subsection (g) as a result of the increased assessment shall be retained by the Secretary to cover losses in that pool.

(e) DISAPPROVAL OF QUOTAS.—Notwithstanding any other provision of law, no loan for quota peanuts may be made available by the Secretary for any crop of peanuts with respect to which poundage quotas have been disapproved by producers, as provided for in section 358–1(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(d)).

(f) QUALITY IMPROVEMENT.—

(1) IN GENERAL.—With respect to peanuts under loan, the Secretary shall—

(A) promote the crushing of peanuts at a greater risk of deterioration before peanuts of a lesser risk of deterioration;

(B) ensure that all Commodity Credit Corporation inventories of peanuts sold for domestic edible use must be shown to have been officially inspected by licensed Department inspectors both as farmer stock and shelled or cleaned in-shell peanuts;

(C) continue to endeavor to operate the peanut program so as to improve the quality of domestic peanuts and ensure the coordination of activities under the Peanut Administrative Committee established under Marketing Agreement No. 146, regulating the quality of domestically produced peanuts (under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937); and

(D) ensure that any changes made in the peanut program as a result of this subsection requiring additional production or handling at the farm level shall be reflected as an upward adjustment in the Department loan schedule.

(2) EXPORTS AND OTHER PEANUTS.—The Secretary shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146.

(g) MARKETING ASSESSMENT.—

(1) IN GENERAL.—The Secretary shall provide for a nonrefundable marketing assessment. The assessment shall be made on a per pound basis in an amount equal to 1.1 percent for each of the 1994 and 1995 crops, 1.15 percent for the 1996 crop, and 1.2 percent for each of the 1997 through 2002 crops, of the national average quota or additional peanut loan rate for the applicable crop.

(2) FIRST PURCHASERS.—

(A) IN GENERAL.—Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

(i) collect from the producer a marketing assessment equal to the quantity of peanuts acquired multiplied by—

(I) in the case of each of the 1994 and 1995 crops, .55 percent of the applicable national average loan rate;

(II) in the case of the 1996 crop, .6 percent of the applicable national average loan rate; and

(III) in the case of each of the 1997 through 2002 crops, .65 percent of the applicable national average loan rate;

(ii) pay, in addition to the amount collected under clause (i), a marketing assessment in an amount equal to the quantity of peanuts acquired multiplied by .55 percent of the applicable national average loan rate; and

(iii) remit the amounts required under clauses (i) and (ii) to the Commodity Credit Corporation in a manner specified by the Secretary.

(B) DEFINITION OF FIRST PURCHASER.—In this subsection, the term "first purchaser" means a person acquiring peanuts from a producer except that in the case of peanuts forfeited by a producer to the Commodity Credit Corporation, the term means the person acquiring the peanuts from the Commodity Credit Corporation.

(3) OTHER PRIVATE MARKETINGS.—In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the assessment and shall remit the assessment by such time as is specified by the Secretary.

(4) LOAN PEANUTS.—In the case of peanuts that are pledged as collateral for a loan made under this section, the producer portion of the assessment shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts. For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds shall be treated as having been paid to the producer.

(5) PENALTIES.—If any person fails to collect or remit the reduction required by this subsection or fails to comply with the requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of peanuts involved in the violation; by

(B) the national average quota peanut rate for the applicable crop year.

(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

(h) CROPS.—Subsections (a) through (g) shall be effective only for the 1996 through 2002 crops of peanuts.

(i) POUNDAGE QUOTAS.—

(1) IN GENERAL.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358–1 (7 U.S.C. 1358–1)—

(i) in the section heading, by striking "**1991 THROUGH 1997 CROPS OF**";

(ii) in subsections (a)(1), (b)(1)(B), (b)(2)(A), (b)(2)(C), and (b)(3)(A), by striking "of the 1991 through 1997 marketing years" each place it appears and inserting "marketing year";

(iii) in subsection (a)(3), by striking "1990" and inserting "1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years";

(iv) in subsection (b)(1)(A)—

(I) by striking "each of the 1991 through 1997 marketing years" and inserting "each marketing year"; and

(II) in clause (i), by inserting before the semicolon the following: ", in the case of the 1991 through 1995 marketing years, and the 1995 marketing year, in the case of the 1996 through 2002 marketing years";

(v) in subsection (b)(1), by adding at the end the following:

"(D) CERTAIN FARMS INELIGIBLE FOR QUOTA.—Effective beginning with the 1998 crop, the Secretary shall not establish a farm poundage quota under subparagraph (A) for a farm owned or controlled by—

"(i) a municipality, airport authority, school, college, refuge, or other public entity (other than a university used for research purposes); or

"(ii) a person who is not a producer and resides in another State.";

(vi) in subsection (b)(2), by adding at the end the following:

"(E) TRANSFER OF QUOTA FROM INELIGIBLE FARMS.—Any farm poundage quota held at the end of the 1996 marketing year by a farm described in paragraph (1)(D) shall be allocated to other farms in the same State on such basis as the Secretary may by regulation prescribe."; and

(vii) in subsection (f), by striking "1997" and inserting "2002";

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking "**1991 THROUGH 1995 CROPS OF**"; and

(ii) in subsection (c), by striking "1995" and inserting "2002";

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking "**FOR 1991 THROUGH 1997 CROPS OF PEANUTS**"; and

(ii) in subsection (i), by striking "1997" and inserting "2002".

(2) ELIMINATION OF QUOTA FLOOR.—Section 358–1(a)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(a)(1)) is amended by striking the second sentence.

(3) TEMPORARY QUOTA ALLOCATION.—Section 358–1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1) is amended—

(A) in subsection (a)(1), by striking "domestic edible, seed," and inserting "domestic edible use (except seed)"; and

(B) in subsection (b)(2)—

(i) in subparagraph (A), by striking "subparagraph (B) and subject to"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) TEMPORARY QUOTA ALLOCATION.—

"(i) ALLOCATION RELATED TO SEED PEANUTS.—Temporary allocation of quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph.

"(ii) QUANTITY.—The temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted and determined under regulations prescribed by the Secretary.

"(iii) ADDITIONAL QUOTA.—The temporary allocation of quota pounds under this paragraph shall be in addition to the farm poundage quota otherwise established under this subsection and shall be credited, for the applicable marketing year only, in total, to the producer of the peanuts on the farm in a manner prescribed by the Secretary.

"(iv) EFFECT OF OTHER REQUIREMENTS.—Nothing in this section alters or changes the requirements regarding the use of quota and additional peanuts established by section 358e(b).".

(4) UNDERMARKETINGS.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358–1(b) (7 U.S.C. 1358–1(b))—

(i) in paragraph (1)(B), by striking "including—" and clauses (i) and (ii) and inserting "including any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).";

(ii) in paragraph (3)(B), by striking "include—" and clauses (i) and (ii) and inserting "include any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7)."; and

(iii) by striking paragraphs (8) and (9); and

(B) in section 358b(a) (7 U.S.C. 1358b(a))—

(i) in paragraph (2), by striking "(including any applicable under marketings)"; and

(ii) in paragraph (3), by striking "(including any applicable undermarketings)".

(5) DISASTER TRANSFERS.—Section 358–1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)), as amended by paragraph (4)(A)(iii), is amended by adding at the end the following:

"(8) DISASTER TRANSFERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), additional peanuts produced on a farm from which the quota poundage was not harvested and marketed because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, may be transferred to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation provide.

"(B) LIMITATION.—The poundage of peanuts transferred under subparagraph (A) shall not exceed the difference between—

"(i) the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm; and

"(ii) the total farm poundage quota, excluding quota pounds transferred to the farm in the fall.

"(C) SUPPORT RATE.—Peanuts transferred under this paragraph shall be supported at 70 percent of the quota support rate for the marketing years in which the transfers occur. The transfers for a farm shall not exceed 25 percent of the total farm quota pounds, excluding pounds transferred in the fall.".

(6) SALE OR LEASE.—Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended—

(A) by striking paragraph (1) and inserting the following:

"(1) SALE AND LEASE AUTHORITY.—

"(A) SALE OR LEASE WITHIN SAME STATE.—Subject to subparagraph (B) and such terms and conditions as the Secretary may prescribe, the owner, or operator with the permission of the owner, of a farm in a State for which a farm poundage quota has been established may sell or lease all or any part of the poundage quota to any other owner or operator of a farm within the same State for transfer to the farm. However, any such lease of poundage quota may be entered into in the fall or after the normal planting season—

"(i) if not less than 90 percent of the basic quota (the farm quota and temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased; and

"(ii) under such terms and conditions as the Secretary may by regulation prescribe.

"In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or a transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.

"(B) PERCENTAGE LIMITATIONS ON SPRING TRANSFERS.—Spring transfers under subparagraph (A) by sale or lease of a quota for farms in a county to any owner or operator of a farm outside the county within the same State shall not exceed the applicable percentage specified in this subparagraph of the quotas of all farms in the originating county (as of January 1, 1996) for the crop year in which the transfer is made, plus the total amount of quotas eligible for transfer from the originating county in the preceding crop year that were not transferred in that year or that were transferred through an expired lease. However, not more than an aggregate of 40 percent of the total poundage quota within a county (as of January 1, 1996) may be transferred outside of the county. Cumulative unexpired transfers outside of a county may not exceed for a crop year the following:

"(i) For the 1996 crop, 15 percent.

"(ii) For the 1997 crop, 25 percent.

"(iii) For the 1998 crop, 30 percent.

"(iv) For the 1999 crop, 35 percent.

"(v) For the 2000 and subsequent crops, not more than an aggregate of 40 percent of the total poundage quota within the county as of January 1, 1996.

"(C) CLARIFICATION REGARDING FALL TRANSFERS.—The limitation in subparagraph (B) does not apply to 1-year fall transfers, which in all cases may be made to any farm in the same State.

"(D) EFFECT OF TRANSFER.—Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if the transferred quota is produced or considered produced on the receiving farm."; and

(B) by adding at the end the following:

"(4) TRANSFERS IN COUNTIES WITH SMALL QUOTAS.—Notwithstanding paragraphs (1) and (2), in the case of any county in a State for which the poundage quota allocated to the county was less than 100,000 pounds for the preceding year's crop, all or any part of a farm poundage quota may be transferred by sale or lease or otherwise from a farm in the county to a farm in another county in the same State.".

SEC. 156. SUGAR PROGRAM.

(a) SUGARCANE.—The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to 18 cents per pound for raw cane sugar.

(b) SUGAR BEETS.—The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to 22.9 cents per pound for refined beet sugar.

(c) REDUCTION IN LOAN RATES.—

(1) REDUCTION REQUIRED.—The Secretary shall reduce the loan rate specified in subsection (a) for domestically grown sugarcane and subsection (b) for domestically grown sugar beets if the Secretary determines that negotiated reductions in export subsidies and domestic subsidies provided for sugar of other major sugar growing, producing, and exporting countries in the aggregate exceed the commitments made as part of the Agreement on Agriculture.

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(2) EXTENT OF REDUCTION.—The Secretary shall not reduce the loan rate under subsection (a) or (b) below a rate that provides an equal measure of support to that provided by other major sugar growing, producing, and exporting countries, based on an examination of both domestic and export subsidies subject to reduction in the Agreement on Agriculture.

(3) ANNOUNCEMENT OF REDUCTION.—The Secretary shall announce any loan rate reduction to be made under this subsection as far in advance as is practicable.

(4) DEFINITIONS.—In this subsection:

(A) AGREEMENT ON AGRICULTURE.—The term "Agreement on Agriculture" means the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(B) MAJOR SUGAR COUNTRIES.—The term "major sugar growing, producing, and exporting countries" means—

(i) the countries of the European Union; and

(ii) the 10 foreign countries not covered by subparagraph (A) that the Secretary determines produce the greatest quantity of sugar.

(d) TERM OF LOANS.—

(1) IN GENERAL.—A loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

(A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or

(B) the end of the fiscal year in which the loan is made.

(2) SUPPLEMENTAL LOANS.—In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

(A) be made at the loan rate in effect at the time the second loan is made; and

(B) mature in 9 months less the quantity of time that the first loan was in effect.

(e) LOAN TYPE; PROCESSOR ASSURANCES.—

(1) RECOURSE LOANS.—Subject to paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

(2) NONRECOURSE LOANS.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level in excess of 1,500,000 short tons raw value, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during the fiscal year shall be changed by the Secretary into a nonrecourse loan.

(3) PROCESSOR ASSURANCES.—If the Secretary is required under paragraph (2) to make nonrecourse loans available during a fiscal year or to change recourse loans into nonrecourse loans, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for sugar beets and sugarcane delivered by producers served by the processor. The Secretary may establish appropriate minimum payments for purposes of this paragraph.

(f) MARKETING ASSESSMENT.—

(1) SUGARCANE.—Effective for marketings of raw cane sugar during the 1996 through 2003 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.375 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

(2) SUGAR BEETS.—Effective for marketings of beet sugar during the 1996 through 2003 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1794 percent of the loan rate established under subsection (a) per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.47425 percent of the loan rate established under subsection (a) per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

(3) COLLECTION.—

(A) TIMING.—A marketing assessment required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation not later than 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of the year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

(4) PENALTIES.—If any person fails to remit the assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of cane sugar or beet sugar involved in the violation; by

(B) the loan rate for the applicable crop of sugarcane or sugar beets.

(5) ENFORCEMENT.—The Secretary may enforce this subsection in a court of the United States.

(g) FORFEITURE PENALTY.—

(1) IN GENERAL.—A penalty shall be assessed on the forfeiture of any sugar pledged as collateral for a nonrecourse loan under this section.

(2) CANE SUGAR.—The penalty for cane sugar shall be 1 cent per pound.

(3) BEET SUGAR.—The penalty for beet sugar shall bear the same relation to the penalty for cane sugar as the marketing assessment for sugar beets bears to the marketing assessment for sugarcane.

(4) EFFECT OF FORFEITURE.—Any payments owed producers by a processor that forfeits any sugar pledged as collateral for a nonrecourse loan shall be reduced in proportion to the loan forfeiture penalty incurred by the processor.

(h) INFORMATION REPORTING.—

(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

(2) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

(3) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

(i) CROPS.—This section (other than subsection (f)) shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.

Subtitle E—Administration

SEC. 161. ADMINISTRATION.

(a) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall carry out this title through the Commodity Credit Corporation.

(b) LIMITATION ON EXPENDITURE OF COMMODITY CREDIT CORPORATION FUNDS.—

(1) GENERAL POWERS AND RESPONSIBILITIES.—Section 4 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b) is amended—

(A) in the first sentence of subsection (g), by inserting before the period the following: ", except that obligations under all such contracts or agreements (other than reimbursable agreements under section 11) for equipment or services relating to automated data processing, information technologies, or related items (including telecommunications equipment and computer hardware and software) may not exceed $170,000,000 in fiscal year 1996 and not more than $275,000,000 in the 6-fiscal year period beginning on October 1, 1996, unless additional amounts for such contracts and agreements are provided in advance in appropriation Acts"; and

(B) in subsection (h), by striking "shall have power to acquire personal property necessary to the conduct of its business but".

(2) REIMBURSABLE AGREEMENTS.—Section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i) is amended by adding at the end the following: "After September 30, 1996, the total amount of all allotments and fund transfers from the Corporation under this section (including allotments and transfers for automated data processing or information resource management activities) for a fiscal year may not exceed the total amount of the allotments and transfers made under this section in fiscal year 1995.".

(3) REPORTING REQUIREMENTS.—Section 13 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714k) is amended by adding at the end the following: "In addition to the annual report, the Corporation shall submit to Congress on a quarterly basis an itemized report of all expenditures over $10,000 made under section 5 or 11 during the period covered by the report, including expenditures in the form of allotments or fund transfers to other agencies and departments of the Federal Government.".

(c) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this title shall be final and conclusive.

(d) REGULATIONS.—Not later than 90 days after the date of enactment of this title, the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement this title. The issuance of the regulations shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly know as the "Paperwork Reduction Act").

SEC. 162. ADJUSTMENTS OF LOANS.

(a) ADJUSTMENT AUTHORITY.—The Secretary may make appropriate adjustments in the loan rates for any commodity for differences in grade, type, quality, location, and other factors.

(b) MANNER OF ADJUSTMENT.—The adjustments under the authority of this section shall, to the maximum extent practicable, be made in such manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined as provided in this title.

(c) ADJUSTMENT ON COUNTY BASIS.—The Secretary may establish loan rates for a crop for producers in individual counties in a manner that results in the lowest such rate being 95 percent of the national average loan rate, except that such action shall not result in an increase in outlays. Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

SEC. 163. COMMODITY CREDIT CORPORATION INTEREST RATE.

Notwithstanding any other provision of law, the monthly Commodity Credit Corporation interest rate applicable to loans provided for agricultural commodities by the Corporation shall be 100 basis points greater than the rate determined under the applicable interest rate formula in effect on October 1, 1995.

SEC. 164. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.

(a) IN GENERAL.—Except as provided in subsection (b), no producer shall be personally liable for any deficiency arising from the sale of the collateral securing any nonrecourse loan made under this title unless the loan was obtained through a fraudulent representation by the producer.

(b) LIMITATIONS.—Subsection (a) shall not prevent the Commodity Credit Corporation or the Secretary from requiring a producer to assume liability for—

(1) a deficiency in the grade, quality, or quantity of a commodity stored on a farm or delivered by the producer;

(2) a failure to properly care for and preserve a commodity; or

(3) a failure or refusal to deliver a commodity in accordance with a program established under this title.

(c) ACQUISITION OF COLLATERAL.—In the case of a nonrecourse loan made under this title or the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), if the Commodity Credit Corporation acquires title to the unredeemed collateral, the Corporation shall be under no obligation to pay for any market value that the collateral may have in excess of the loan indebtedness.

(d) SUGARCANE AND SUGAR BEETS.—A security interest obtained by the Commodity Credit Corporation as a result of the execution of a security agreement by the processor of sugarcane or sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived.

SEC. 165. COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS.

(a) GENERAL SALES AUTHORITY.—The Commodity Credit Corporation may sell any commodity owned or controlled by the Corporation at any price that the Secretary determines will maximize returns to the Corporation.

(b) NONAPPLICATION OF SALES PRICE RESTRICTIONS.—Subsection (a) shall not apply to—

(1) a sale for a new or byproduct use;

(2) a sale of peanuts or oilseeds for the extraction of oil;

(3) a sale for seed or feed if the sale will not substantially impair any loan program;

(4) a sale of a commodity that has substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage;

(5) a sale for the purpose of establishing a claim arising out of a contract or against a person who has committed fraud, misrepresentation, or other wrongful act with respect to the commodity;

(6) a sale for export, as determined by the Corporation; and

(7) a sale for other than a primary use.

(c) PRESIDENTIAL DISASTER AREAS.—

(1) IN GENERAL.—Notwithstanding subsection (a), on such terms and conditions as the Secretary may consider in the public interest, the Corporation may make available any commodity or product owned or controlled by the Corporation for use in relieving distress—

(A) in any area in the United States (including the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic cause, if the President finds that the use will not displace or interfere with normal marketing of agricultural commodities; and

(B) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) COSTS.—Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making a commodity available under paragraph (1) beyond the cost of the commodity to the Corporation incurred in—

(A) the storage of the commodity; and

(B) the handling and transportation costs in making delivery of the commodity to designated agencies at 1 or more central locations in each State or other area.

(d) EFFICIENT OPERATIONS.—Subsection (a) shall not apply to the sale of a commodity the disposition of which is desirable in the interest of the effective and efficient conduct of the operations of the Corporation because of the small quantity of the commodity involved, or because of the age, location, or questionable continued storability of the commodity.

Subtitle F—Permanent Price Support Authority

SEC. 171. SUSPENSION AND REPEAL OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—

(1) SUSPENSIONS.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1996 through 2002 crops of loan commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this title and ending on December 31, 2002:

(A) Parts II through V of subtitle B of title III (7 U.S.C. 1326–1351).

(B) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(C) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(D) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(E) Part VII of subtitle B of title III (7 U.S.C. 1359aa–1359jj).

(F) In the case of peanuts, part I of subtitle C of title III (7 U.S.C. 1361–1368).

(G) In the case of upland cotton, section 377 (7 U.S.C. 1377).

(H) Subtitle D of title III (7 U.S.C. 1379a–1379j).

(I) Title IV (7 U.S.C. 1401–1407).

(2) REPORTS AND RECORDS.—Effective only for the 1996 through 2002 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before "all brokers and dealers in peanuts" the following: "all producers engaged in the production of peanuts,".

(b) AGRICULTURAL ACT OF 1949.—

(1) SUSPENSIONS.—The following provisions of the Agricultural Act of 1949 shall not be applicable to the 1996 through 2002 crops of loan commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this title and ending on December 31, 2002:

(A) Section 101 (7 U.S.C. 1441).

(B) Section 103(a) (7 U.S.C. 1444(a)).

(C) Section 105 (7 U.S.C. 1444b).

(D) Section 107 (7 U.S.C. 1445a).

(E) Section 110 (7 U.S.C. 1445e).

(F) Section 112 (7 U.S.C. 1445g).

(G) Section 115 (7 U.S.C. 1445k).

(H) Section 201 (7 U.S.C. 1446).

(I) Title III (7 U.S.C. 1447–1449).

(J) Title IV (7 U.S.C. 1421–1433d), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).

(K) Title V (7 U.S.C. 1461–1469).

(L) Title VI (7 U.S.C. 1471–1471j).

(2) REPEALS.—The following provisions of the Agricultural Act of

(A) Section 101B (7 U.S.C. 1441–2).

(B) Section 103B (7 U.S.C. 1444–2).

(C) Section 105B (7 U.S.C. 1444f).

(D) Section 107B (7 U.S.C. 1445–3a).

(E) Section 108B (7 U.S.C. 1445c–3).

(F) Section 113 (7 U.S.C. 1445h).

(G) Subsections (b) and (c) of section 114 (7 U.S.C. 1445j).

(H) Sections 205, 206, and 207 (7 U.S.C. 1446f, 1446g, and 1446h).

(I) Sections 406 and 427 (7 U.S.C. 1426 and 1433f).

(3) POTENTIAL PRICE SUPPORT FOR RICE.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441), as suspended by paragraph (1), is amended by adding after subsection (d) the following:

"(e) RICE.—The Secretary shall make available to producers of each crop of rice on a farm price support at a level that is not less than 50 percent, or more than 90 percent of the parity price for rice as the Secretary determines will not result in increasing stocks of rice to the Commodity Credit Corporation.".

(c) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

SEC. 172. EFFECT OF AMENDMENTS.

(a) EFFECT ON PRIOR CROPS.—Except as otherwise specifically provided in this title and notwithstanding any other provision of law, this title and the amendments made by this title shall not affect the authority of the Secretary to carry out a price support or production adjustment program for any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law in effect immediately before the date of enactment of this title.

(b) LIABILITY.—A provision of this title or an amendment made by this title shall not affect the liability of any person under any provision of law as in effect before the date of enactment of this title.

Subtitle G—Commission on 21st Century Production Agriculture

SEC. 181. ESTABLISHMENT.

There is established a commission to be known as the "Commission on 21st Century Production Agriculture" (in this subtitle referred to as the "Commission").

SEC. 182. COMPOSITION.

(a) MEMBERSHIP AND APPOINTMENT.—The Commission shall be composed of 11 members, appointed as follows:

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(1) Three members shall be appointed by the President.

(2) Four members shall be appointed by the Chairman of the Committee on Agriculture of the House of Representatives in consultation with the ranking minority member of the Committee.

(3) Four members shall be appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate in consultation with the ranking minority member of the Committee.

(b) QUALIFICATIONS.—At least 1 of the members appointed under each of paragraphs (1), (2), and (3) of subsection (a) shall be an individual who is primarily involved in production agriculture. All other members of the Commission shall be appointed from among individuals having knowledge and experience in agricultural production, marketing, finance, or trade.

(c) TERM OF MEMBERS; VACANCIES.—A member of the Commission shall be appointed for the life of the Commission. A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) TIME FOR APPOINTMENT; FIRST MEETING.—The members of the Commission shall be appointed not later than October 1, 1997. The Commission shall convene its first meeting to carry out its duties under this subtitle 30 days after 6 members of the Commission have been appointed.

(e) CHAIRPERSON.—The chairperson of the Commission shall be designated jointly by the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate from among the members of the Commission.

SEC. 183. COMPREHENSIVE REVIEW OF PAST AND FUTURE OF PRODUCTION AGRICULTURE.

(a) INITIAL REVIEW.—The Commission shall conduct a comprehensive review of changes in the condition of production agriculture in the United States since the date of enactment of this title and the extent to which the changes are the result of this title and the amendments made by this title. The review shall include the following:

(1) An assessment of the initial success of production flexibility contracts in supporting the economic viability of farming in the United States.

(2) An assessment of economic risks to farms delineated by size of farm operation (such as small, medium, or large farms) and region of production.

(3) An assessment of the food security situation in the United States in the areas of trade, consumer prices, international competitiveness of United States production agriculture, food supplies, and humanitarian relief.

(4) An assessment of the changes in farmland values and agricultural producer incomes since the date of enactment of this title.

(5) An assessment of the extent to which regulatory relief for agricultural producers has been enacted and implemented, including the application of cost/benefit principles in the issuance of agricultural regulations.

(6) An assessment of the extent to which tax relief for agricultural producers has been enacted in the form of capital gains tax reductions, estate tax exemptions, and mechanisms to average tax loads over high- and low-income years.

(7) An assessment of the effect of any Federal Government interference in agricultural export markets, such as the imposition of trade embargoes, and the degree of implementation and success of international trade agreements and United States export programs.

(8) An assessment of the likely affect of the sale, lease, or transfer of farm poundage quota for peanuts across State lines.

(b) SUBSEQUENT REVIEW.—The Commission shall conduct a comprehensive review of the future of production agriculture in the United States and the appropriate role of the Federal Government in support of production agriculture. The review shall include the following:

(1) An assessment of changes in the condition of production agriculture in the United States since the initial review conducted under subsection (a).

(2) Identification of the appropriate future relationship of the Federal Government with production agriculture after 2002.

(3) An assessment of the personnel and infrastructure requirements of the Department of Agriculture necessary to support the future relationship of the Federal Government with production agriculture.

(4) An assessment of economic risks to farms delineated by size of farm operation (such as small, medium, or large farms) and region of production.

(c) RECOMMENDATIONS.—In carrying out the subsequent review under subsection (b), the Commission shall develop specific recommendations for legislation to achieve the appropriate future relationship of the Federal Government with production agriculture identified under subsection (a)(2).

SEC. 184. REPORTS.

(a) REPORT ON INITIAL REVIEW.—Not later than June 1, 1998, the Commission shall submit to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the initial review conducted under section 183(a).

(b) REPORT ON SUBSEQUENT REVIEW.—Not later than January 1, 2001, the Commission shall submit to the President and the congressional committees specified in subsection (a) a report containing the results of the subsequent review conducted under section 183(b).

SEC. 185. POWERS.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this subtitle, conduct such hearings, sit and act at such times, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) ASSISTANCE FROM OTHER AGENCIES.—The Commission may secure directly from any department or agency of the Federal Government such information as may be necessary for the Commission to carry out its duties under this subtitle. On the request of the chairperson of the Commission, the head of the department or agency shall, to the extent permitted by law, furnish such information to the Commission.

(c) MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(d) ASSISTANCE FROM SECRETARY.—The Secretary shall provide to the Commission appropriate office space and such reasonable administrative and support services as the Commission may request.

SEC. 186. COMMISSION PROCEDURES.

(a) MEETINGS.—The Commission shall meet on a regular basis (as determined by the chairperson) and at the call of the chairperson or a majority of its members.

(b) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

SEC. 187. PERSONNEL MATTERS.

(a) COMPENSATION.—Each member of the Commission shall serve without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, when engaged in the performance of Commission duties.

(b) STAFF.—

(1) APPOINTMENT.—The Commission shall appoint a staff director, who shall be paid at a rate not to exceed the maximum rate of basic pay under section 5376 of title 5, United States Code, and such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its duties under this subtitle without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or any other provision of law, relating to the number, classification, and General Schedule rates.

(2) LIMITATION ON COMPENSATION.—No employee appointed under this subsection (other than the staff director) may be compensated at a rate to exceed the maximum rate applicable to level GS–15 of the General Schedule.

(c) DETAILED PERSONNEL.—On the request of the chairperson of the Commission, the head of any department or agency of the Federal Government is authorized to detail, without reimbursement, any personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this section. The detail of any individual may not result in the interruption or loss of civil service status or other privilege of the individual.

SEC. 188. TERMINATION OF COMMISSION.

The Commission shall terminate on submission of the final report required by section 184.

Subtitle H—Miscellaneous Commodity Provisions

SEC. 191. OPTIONS PILOT PROGRAM.

(a) PILOT PROGRAMS AUTHORIZED.—Until December 31, 2002, the Secretary of Agriculture may conduct a pilot program for 1 or more agricultural commodities supported under this title to ascertain whether futures and options contracts can provide producers with reasonable protection from the financial risks of fluctuations in price, yield, and income inherent in the production and marketing of the commodities. The pilot program shall be an alternative to other related programs of the Department of Agriculture.

(b) DISTRIBUTION OF PILOT PROGRAM.—For each agricultural commodity included in the pilot program, the Secretary may operate the pilot program in not more than 100 counties, except that not more than 6 of the counties may be located in any 1 State. The pilot program for a commodity shall not be operated in any county for more than 3 of the 1996 through 2002 calendar years.

(c) ELIGIBLE PARTICIPANTS.—In operating the pilot program, the Secretary may enter into contract with a producer who—

(1) is eligible for a production flexibility contract, a marketing assistance loan, or other assistance under this title;

(2) volunteers to participate in the pilot program;

(3) operates a farm located in a county selected for the pilot program; and

(4) meets such other eligibility requirements as the Secretary may establish.

(d) NOTICE TO PRODUCERS.—The Secretary shall provide notice to each producer participating in the pilot program that—

(1) the participation of the producer is voluntary; and

(2) neither the United States, the Commodity Credit Corporation, the Federal Crop Insurance Corporation, the Department of Agriculture, nor any other Federal agency is authorized to guarantee that participants in the pilot program will be better or worse off financially as a result of participation in the pilot program than the producer would have been if the producer had not participated in the pilot program.

(e) CONTRACTS.—The Secretary shall set forth in each contract under the pilot program the

terms and conditions for participation in the pilot program and the notice required by subsection (d).

(f) ELIGIBLE MARKETS.—Trades for futures and options contracts under the pilot program shall be carried out on commodity futures and options markets designated as contract markets under the Commodity Exchange Act (7 U.S.C. 1 et seq.)

(g) RECORDKEEPING.—A producer participating in the pilot program shall compile, maintain, and submit (or authorize the compilation, maintenance, and submission) of such documentation as the regulations governing the pilot program require.

(h) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall fund and operate the pilot program through the Commodity Credit Corporation. To the maximum extent practicable, the Secretary shall operate the pilot program in a budget neutral manner.

(i) CONFORMING REPEAL.—The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101–624; 7 U.S.C. 1421 note) is repealed.

SEC. 192. RISK MANAGEMENT EDUCATION.

In consultation with the Commodity Futures Trading Commission, the Secretary shall provide such education in management of the financial risks inherent in the production and marketing of agricultural commodities as the Secretary considers appropriate. As part of such educational activities, the Secretary may develop and implement programs to facilitate the participation of agricultural producers in commodity futures trading programs, forward contracting options, and insurance protection programs by assisting and training producers in the usage of such programs. In implementing this authority, the Secretary may use existing research and extension authorities and resources of the Department of Agriculture.

SEC. 193. CROP INSURANCE.

(a) CATASTROPHIC RISK PROTECTION.—

(1) SINGLE DELIVERY.—Section 508(b)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(4)) is amended by adding at the end the following:

"(C) DELIVERY OF COVERAGE.—

"(i) IN GENERAL.—In full consultation with approved insurance providers, the Secretary may continue to offer catastrophic risk protection in a State (or a portion of a State) through local offices of the Department if the Secretary determines that there is an insufficient number of approved insurance providers operating in the State or portion of the State to adequately provide catastrophic risk protection coverage to producers.

"(ii) COVERAGE BY APPROVED INSURANCE PROVIDERS.—To the extent that catastrophic risk protection coverage by approved insurance providers is sufficiently available in a State (or a portion of a State) as determined by the Secretary, only approved insurance providers may provide the coverage in the State or portion of the State.

"(iii) TIMING OF DETERMINATIONS.—Not later than 90 days after the date of enactment of this subparagraph, the Secretary shall announce the results of the determinations under clause (i) for policies for the 1997 crop year. For subsequent crop years, the Secretary shall make the announcement not later than April 30 of the year preceding the year in which the crop will be produced, or at such other times during the year as the Secretary finds practicable in consultation with affected crop insurance providers for those States (or portions of States) in which catastrophic coverage remains available through local offices of the Department.

"(iv) CURRENT POLICIES.—This clause shall take effect beginning with the 1997 crop year. Subject to clause (ii) all catastrophic risk protection policies written by local offices of the Department shall be transferred to the approved insurance provider for performance of all sales, service, and loss adjustment functions. Any fees in connection with such policies that are not yet collected at the time of the transfer shall be payable to the approved insurance providers assuming the policies. The transfer process for policies for the 1997 crop year with sales closing dates before January 1, 1997, shall begin at the time of the Secretary's announcement under clause (iii) and be completed by the sales closing date for the crop and county. The transfer process for all subsequent policies (including policies for the 1998 and subsequent crop years) shall begin at a date that permits the process to be completed not later than 45 days before the sales closing date.".

(2) WAIVER OF MANDATORY LINKAGE.—Section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)) is amended by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Effective for the spring-planted 1996 and subsequent crops (and fall-planted 1996 crops at the option of the Secretary), to be eligible for any payment or loan under the Agricultural Market Transition Act, for the conservation reserve program, or for any benefit described in section 371 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008f), a person shall—

"(i) obtain at least the catastrophic level of insurance for each crop of economic significance in which the person has an interest; or

"(ii) provide a written waiver to the Secretary that waives any eligibility for emergency crop loss assistance in connection with the crop.".

(3) SPECIAL RULE FOR 1996.—

(A) EFFECTIVE PERIOD.—This paragraph shall apply only to the 1996 crop year.

(B) AVAILABILITY.—During a period of not less than 2 weeks, but not more than 4 weeks, beginning on the date of enactment of this title, the Secretary shall provide producers with an opportunity to obtain catastrophic risk protection insurance under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) for a spring-planted crop, and limited additional coverage for malting barley under the Malting Barley Price and Quality Endorsement. The Federal Crop Insurance Corporation may attach such limitations and restrictions on obtaining insurance during this period as the Corporation considers necessary to maintain the actuarial soundness of the crop insurance program.

(C) ATTACHMENT.—Insurance coverage under any policy obtained under this paragraph during the extended sales period shall not attach until 10 days after the application.

(D) CANCELLATION.—During the extended period, a producer may cancel a catastrophic risk protection policy if—

(i) the policy is a continuation of a policy that was obtained for a previous crop year; and

(ii) the cancellation request is made before the acreage reporting date for the policy for the 1996 crop year.

(b) CROP INSURANCE PILOT PROJECT.—

(1) COVERAGE.—The Secretary of Agriculture shall develop and administer a pilot project for crop insurance coverage that indemnifies crop losses due to a natural disaster such as insect infestation or disease.

(2) ACTUARIAL SOUNDNESS.—A pilot project under this paragraph shall be actuarially sound, as determined by the Secretary and administered at no net cost.

(3) DURATION.—A pilot project under this paragraph shall be of two years' duration.

(c) CROP INSURANCE FOR NURSERY CROPS.—Section 508(a)(6) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(6)) is amended by adding at the end the following:

"(D) ADDITION OF NURSERY CROPS.—Not later than 2 years after the date of enactment of this subparagraph, the Corporation shall conduct a study and limited pilot program on the feasibility of insuring nursery crops.".

(d) MARKETING WINDOWS.—Section 508(j) of the Federal Crop Insurance Act (7 U.S.C. 1508(j)) is amended by adding at the end the following:

"(4) MARKETING WINDOWS.—The Corporation shall consider marketing windows in determining whether it is feasible to require planting during a crop year.".

(e) FUNDING.—

(1) MANDATORY EXPENSES.—Section 516(a)(2) of the Federal Crop Insurance Act (7 U.S.C. 1516(a)(2)) is amended—

(A) by inserting "and" at the end of subparagraph (A);

(B) by striking "; and" at the end of subparagraph (B) and inserting a period; and

(C) by striking subparagraph (C).

(2) FUNDING OF SALES COMMISSIONS.—Section 516(b) of the Federal Crop Insurance Act (7 U.S.C. 1516(b)) is amended—

(A) in paragraph (1)—

(i) by striking "(A) IN GENERAL" and all that follows through "subparagraph (B), in" and inserting "In"; and

(ii) by striking subparagraph (B); and

(B) in paragraph (2)(B), by striking "subject to paragraph (1)(B),".

(3) OTHER EXPENSES.—Section 516(b)(2)(A) of the Federal Crop Insurance Act (7 U.S.C. 1516(b)(2)(A)) is amended by striking ", noninsured assistance benefits,".

(f) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended by adding at the end the following:

"(n) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—If a producer who is eligible to receive benefits under catastrophic risk protection under subsection (b) is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this title or under the other program, but not both. A producer who purchases additional coverage under subsection (c) may also receive assistance for the same loss under other programs administered by the Secretary, except that the amount received for the loss under the additional coverage together with the amount received under the other programs may not exceed the amount of the actual loss of the producer.".

SEC. 194. ESTABLISHMENT OF OFFICE OF RISK MANAGEMENT.

(a) ESTABLISHMENT.—The Department of Agriculture Reorganization Act of 1994 is amended by inserting after section 226 (7 U.S.C. 6932) the following new section:

"SEC. 226A. OFFICE OF RISK MANAGEMENT.

"(a) ESTABLISHMENT.—Subject to subsection (e), the Secretary shall establish and maintain in the Department an independent Office of Risk Management.

"(b) FUNCTIONS OF THE OFFICE OF RISK MANAGEMENT.—The Office of Risk Management shall have jurisdiction over the following functions:

"(1) Supervision of the Federal Crop Insurance Corporation.

"(2) Administration and oversight of all aspects, including delivery through local offices of the Department, of all programs authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

"(3) Any pilot or other programs involving revenue insurance, risk management savings accounts, or the use of the futures market to manage risk and support farm income that may be established under the Federal Crop Insurance Act or other law.

"(4) Such other functions as the Secretary considers appropriate.

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(c) ADMINISTRATOR.—

"(1) APPOINTMENT.—The Office of Risk Management shall be headed by an Administrator who shall be appointed by the Secretary.

"(2) MANAGER.—The Administrator of the Office of Risk Management shall also serve as Manager of the Federal Crop Insurance Corporation.

"(d) RESOURCES.—

"(1) FUNCTIONAL COORDINATION.—Certain functions of the Office of Risk Management, such as human resources, public affairs, and legislative affairs, may be provided by a consolidation of such functions under the Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

"(2) MINIMUM PROVISIONS.—Notwithstanding paragraph (1) or any other provision of law or order of the Secretary, the Secretary shall provide the Office of Risk Management with human and capital resources sufficient for the Office to carry out its functions in a timely and efficient manner.".

(b) FISCAL YEAR 1996 FUNDING.—From funds appropriated for the salaries and expenses of the Consolidated Farm Service Agency in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 (Public Law 104–37), the Secretary of Agriculture may use such sums as necessary for the salaries and expenses of the Office of Risk Management established under subsection (a).

(c) CONFORMING AMENDMENT.—Section 226(b) of the Act (7 U.S.C. 6932(b)) is amended by striking paragraph (2).

SEC. 195. REVENUE INSURANCE.

Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended by adding at the end the following:

"(9) REVENUE INSURANCE PILOT PROGRAM.—

"(A) IN GENERAL.—Not later than December 31, 1996, the Secretary shall carry out a pilot program in a limited number of counties, as determined by the Secretary, for crop years 1997, 1998, 1999, and 2000, under which a producer of wheat, feed grains, soybeans, or such other commodity as the Secretary considers appropriate may elect to receive insurance against loss of revenue, as determined by the Secretary.

"(B) ADMINISTRATION.—Revenue insurance under this paragraph shall—

"(i) be offered through reinsurance arrangements with private insurance companies;

"(ii) offer at least a minimum level of coverage that is an alternative to catastrophic crop insurance;

"(iii) be actuarially sound; and

"(iv) require the payment of premiums and administrative fees by an insured producer.".

SEC. 196. ADMINISTRATION AND OPERATION OF NONINSURED CROP ASSISTANCE PROGRAM.

(a) OPERATION AND ADMINISTRATION OF PROGRAM.—

(1) IN GENERAL.—In the case of an eligible crop described in paragraph (2), the Secretary of Agriculture shall operate a noninsured crop disaster assistance program to provide coverage equivalent to the catastrophic risk protection otherwise available under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)). The Secretary shall carry out this section through the Consolidated Farm Service Agency (in this section referred to as the "Agency").

(2) ELIGIBLE CROPS.—

(A) IN GENERAL.—In this section, the term "eligible crop" means each commercial crop or other agricultural commodity (except livestock)—

(i) for which catastrophic risk protection under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) is not available; and

(ii) that is produced for food or fiber.

(B) CROPS SPECIFICALLY INCLUDED.—The term "eligible crop" shall include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, seed crops, aquaculture (including ornamental fish), and industrial crops.

(3) CAUSE OF LOSS.—To qualify for assistance under this section, the losses of the noninsured commodity shall be due to drought, flood, or other natural disaster, as determined by the Secretary.

(b) APPLICATION FOR NONINSURED CROP DISASTER ASSISTANCE.—

(1) TIMELY APPLICATION.—To be eligible for assistance under this section, a producer shall submit an application for noninsured crop disaster assistance at a local office of the Department. The application shall be in such form, contain such information, and be submitted at such time as the Secretary may require.

(2) RECORDS.—A producer shall provide records, as required by the Secretary, of crop acreage, acreage yields, and production.

(3) ACREAGE REPORTS.—A producer shall provide reports on acreage planted or prevented from being planted, as required by the Secretary, by the designated acreage reporting date for the crop and location as established by the Secretary.

(c) LOSS REQUIREMENTS.—

(1) REQUIRED AREA LOSS.—A producer of an eligible crop shall not receive noninsured crop disaster assistance unless the average yield for that crop, or an equivalent measure in the event yield data are not available, in an area falls below 65 percent of the expected area yield, as established by the Secretary.

(2) PREVENTED PLANTING.—Subject to paragraph (1), the Secretary shall make a prevented planting noninsured crop disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.

(3) REDUCED YIELDS.—Subject to paragraph (1), the Secretary shall make a reduced yield noninsured crop disaster assistance payment to a producer if the total quantity of the eligible crop that the producer is able to harvest on any farm is, because of drought, flood, or other natural disaster as determined by the Secretary, less than 50 percent of the expected individual yield for the crop, as determined by the Secretary, factored for the interest of the producer for the crop.

(d) PAYMENT.—The Secretary shall make available to a producer eligible for noninsured assistance under this section a payment computed by multiplying—

(1) the quantity that is less than 50 percent of the established yield for the crop; by

(2)(A) in the case of each of the 1996 through 1998 crop years, 60 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); or

(B) in the case of each of the 1999 and subsequent crop years, 55 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); by

(3) a payment rate for the type of crop (as determined by the Secretary) that—

(A) in the case of a crop that is produced with a significant and variable harvesting expense, reflects the decreasing cost incurred in the production cycle for the crop that is—

(i) harvested;

(ii) planted but not harvested; and

(iii) prevented from being planted because of drought, flood, or other natural disaster (as determined by the Secretary); and

(B) in the case of a crop that is not produced with a significant and variable harvesting expense, is determined by the Secretary.

(e) YIELD DETERMINATIONS.—

(1) ESTABLISHMENT.—The Secretary shall establish farm yields for purposes of providing noninsured crop disaster assistance under this section.

(2) ACTUAL PRODUCTION HISTORY.—The Secretary shall determine yield coverage using the actual production history of the producer over a period of not less than the 4 previous consecutive crop years and not more than 10 consecutive crop years. Subject to paragraph (3), the yield for the year in which noninsured crop disaster assistance is sought shall be equal to the average of the actual production history of the producer during the period considered.

(3) ASSIGNMENT OF YIELD.—If a producer does not submit adequate documentation of production history to determine a crop yield under paragraph (2), the Secretary shall assign to the producer a yield equal to not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Secretary for continuous years), as specified in regulations issued by the Secretary based on production history requirements.

(4) PROHIBITION ON ASSIGNED YIELDS IN CERTAIN COUNTIES.—

(A) IN GENERAL.—

(i) DOCUMENTATION.—If sufficient data are available to demonstrate that the acreage of a crop in a county for the crop year has increased by more than 100 percent over any year in the preceding 7 crop years or, if data are not available, if the acreage of the crop in the county has increased significantly from the previous crop years, a producer must provide such detailed documentation of production costs, acres planted, and yield for the crop year for which benefits are being claimed as is required by the Secretary. If the Secretary determines that the documentation provided is not sufficient, the Secretary may require documenting proof that the crop, had the crop been harvested, could have been marketed at a reasonable price.

(ii) PROHIBITION.—Except as provided in subparagraph (B), a producer who produces a crop on a farm located in a county described in clause (i) may not obtain an assigned yield.

(B) EXCEPTION.—A crop or a producer shall not be subject to this subsection if—

(i) the planted acreage of the producer for the crop has been inspected by a third party acceptable to the Secretary; or

(ii)(I) the County Executive Director and the State Executive Director recommend an exemption from the requirement to the Administrator of the Agency; and

(II) the Administrator approves the recommendation.

(5) LIMITATION ON RECEIPT OF SUBSEQUENT ASSIGNED YIELD.—A producer who receives an assigned yield for the current year of a natural disaster because required production records were not submitted to the local office of the Department shall not be eligible for an assigned yield for the year of the next natural disaster unless the required production records of the previous 1 or more years (as applicable) are provided to the local office.

(6) YIELD VARIATIONS DUE TO DIFFERENT FARMING PRACTICES.—The Secretary shall ensure that noninsured crop disaster assistance accurately reflects significant yield variations due to different farming practices, such as between irrigated and nonirrigated acreage.

(f) CONTRACT PAYMENTS.—A producer who has received a guaranteed payment for production, as opposed to delivery, of a crop pursuant to a contract shall have the production of the producer adjusted upward by the amount of the production equal to the amount of the contract payment received.

(g) USE OF COMMODITY CREDIT CORPORATION.—The Secretary may use the funds of the

Commodity Credit Corporation to carry out this section.

(h) EXCLUSIONS.—Noninsured crop disaster assistance under this section shall not cover losses due to—

(1) the neglect or malfeasance of the producer;

(2) the failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed; or

(3) the failure of the producer to follow good farming practices, as determined by the Secretary.

(i) PAYMENT AND INCOME LIMITATIONS.—

(1) DEFINITIONS.—In this subsection:

(A) PERSON.—The term "person" has the meaning provided the term in regulations issued by the Secretary. The regulations shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308).

(B) QUALIFYING GROSS REVENUES.—The term "qualifying gross revenues" means—

(i) if a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue from the farming, ranching, and forestry operations of the person; and

(ii) if less than a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue of the person from all sources.

(2) PAYMENT LIMITATION.—The total amount of payments that a person shall be entitled to receive annually under this section may not exceed $100,000.

(3) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—If a producer who is eligible to receive benefits under this section is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this section or under the other program, but not both.

(4) INCOME LIMITATION.—A person who has qualifying gross revenues in excess of the amount specified in section 2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) (as in effect on November 28, 1990) during the taxable year (as determined by the Secretary) shall not be eligible to receive any noninsured assistance payment under this section.

(5) REGULATIONS.—The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and equitable application of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), the general payment limitation regulations of the Secretary, and the limitations established under this subsection.

(j) CONFORMING REPEAL.—Section 519 of the Federal Crop Insurance Act (7 U.S.C. 1519) is repealed.

TITLE II—AGRICULTURAL TRADE

Subtitle A—Amendments to Agricultural Trade Development and Assistance Act of 1954 and Related Statutes

SEC. 201. FOOD AID TO DEVELOPING COUNTRIES.

(a) IN GENERAL.—Section 3 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691a) is amended to read as follows:

"SEC. 3. FOOD AID TO DEVELOPING COUNTRIES.

"(a) POLICY.—In light of the Uruguay Round Agreement on Agriculture and the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net-Food Importing Developing Countries, the United States reaffirms the commitment of the United States to providing food aid to developing countries.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the President should initiate consultations with other donor nations to consider appropriate levels of food aid commitments to meet the legitimate needs of developing countries; and

"(2) the United States should increase its contribution of bona fide food assistance to developing countries consistent with the Agreement on Agriculture.".

(b) CONFORMING AMENDMENT.—Section 411 of the Uruguay Round Agreements Act is amended by striking subsection (e) (19 U.S.C. 3611).

SEC. 202. TRADE AND DEVELOPMENT ASSISTANCE.

Section 101 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701) is amended—

(1) by striking "developing countries" each place it appears and inserting "developing countries and private entities"; and

(2) in subsection (b), by inserting "and entities" before the period at the end.

SEC. 203. AGREEMENTS REGARDING ELIGIBLE COUNTRIES AND PRIVATE ENTITIES.

Section 102 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1702) is amended to read as follows:

"SEC. 102. AGREEMENTS REGARDING ELIGIBLE COUNTRIES AND PRIVATE ENTITIES.

"(a) PRIORITY.—In selecting agreements to be entered into under this title, the Secretary shall give priority to agreements providing for the export of agricultural commodities to developing countries that—

"(1) have the demonstrated potential to become commercial markets for competitively priced United States agricultural commodities;

"(2) are undertaking measures for economic development purposes to improve food security and agricultural development, alleviate poverty, and promote broad-based equitable and sustainable development; and

"(3) demonstrate the greatest need for food.

"(b) PRIVATE ENTITIES.—An agreement entered into under this title with a private entity shall require such security, or such other provisions as the Secretary determines necessary, to provide reasonable and adequate assurance of repayment of the financing extended to the private entity.

"(c) AGRICULTURAL MARKET DEVELOPMENT PLAN.—

"(1) DEFINITION OF AGRICULTURAL TRADE ORGANIZATION.—In this subsection, the term 'agricultural trade organization' means a United States agricultural trade organization that promotes the export and sale of a United States agricultural commodity and that does not stand to profit directly from the specific sale of the commodity.

"(2) PLAN.—The Secretary shall consider a developing country for which an agricultural market development plan has been approved under this subsection to have the demonstrated potential to become a commercial market for competitively priced United States agricultural commodities for the purpose of granting a priority under subsection (a).

"(3) REQUIREMENTS.—

'(A) IN GENERAL.—To be approved by the Secretary, an agricultural market development plan shall—

"(i) be submitted by a developing country or private entity, in conjunction with an agricultural trade organization;

"(ii) describe a project or program for the development and expansion of a commercial market for a United States agricultural commodity in a developing country, and the economic development of the country, using funds derived from the sale of agricultural commodities received under an agreement described in section 101;

"(iii) provide for any matching funds that are required by the Secretary for the project or program;

"(iv) provide for a results-oriented means of measuring the success of the project or program; and

"(v) provide for graduation to the use of non-Federal funds to carry out the project or program, consistent with requirements established by the Secretary.

"(B) AGRICULTURAL TRADE ORGANIZATION.—The project or program shall be designed and carried out by the agricultural trade organization.

"(C) ADDITIONAL REQUIREMENTS.—An agricultural market development plan shall contain such additional requirements as are determined necessary by the Secretary.

"(4) ADMINISTRATIVE COSTS.—

"(A) IN GENERAL.—The Secretary may make funds made available to carry out this title available for the reimbursement of administrative expenses incurred by agricultural trade organizations in developing, implementing, and administering agricultural market development plans, subject to such requirements and in such amounts as the Secretary considers appropriate.

"(B) DURATION.—The funds may be made available to agricultural trade organizations for the duration of the applicable agricultural market development plan.

"(C) TERMINATION.—The Secretary may terminate assistance made available under this subsection if the agricultural trade organization is not carrying out the approved agricultural market development plan.".

SEC. 204. TERMS AND CONDITIONS OF SALES.

Section 103 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1703) is amended—

(1) in subsection (a)(2)(A)—

(A) by striking "a recipient country to make"; and

(B) by striking "such country" and inserting "the appropriate country";

(2) in subsection (c), by striking "less than 10 nor"; and

(3) in subsection (d)—

(A) by striking "recipient country" and inserting "developing country or private entity"; and

(B) by striking "7" and inserting "5".

SEC. 205. USE OF LOCAL CURRENCY PAYMENT.

Section 104 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704) is amended—

(1) in subsection (a), by striking "recipient country" and inserting "developing country or private entity"; and

(2) in subsection (c)—

(A) by striking "recipient country" each place it appears and inserting "appropriate developing country"; and

(B) in paragraph (3), by striking "recipient countries" and inserting "appropriate developing countries".

SEC. 206. VALUE-ADDED FOODS.

Section 105 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1705) is repealed.

SEC. 207. ELIGIBLE ORGANIZATIONS.

(a) IN GENERAL.—Section 202 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) NONEMERGENCY ASSISTANCE.—

"(1) IN GENERAL.—The Administrator may provide agricultural commodities for nonemergency assistance under this title through eligible organizations (as described in subsection (d)) that have entered into an agreement with the Administrator to use the commodities in accordance with this title.

"(2) LIMITATION.—The Administrator may not deny a request for funds submitted under this

VOL
142
PT
5
MR
21
—
29
1996
UMI

subsection because the program for which the funds are requested—

"(A) would be carried out by the eligible organization in a foreign country in which the Agency for International Development does not have a mission, office, or other presence; or

"(B) is not part of a development plan for the country prepared by the Agency."; and

(2) in subsection (e)—

(A) in the subsection heading, by striking "PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES" and inserting "ELIGIBLE ORGANIZATIONS";

(B) in paragraph (1)—

(i) by striking "$13,500,000" and inserting "$28,000,000"; and

(ii) by striking "private voluntary organizations and cooperatives to assist such organizations and cooperatives" and inserting "eligible organizations described in subsection (d), to assist the organizations";

(C) by striking paragraph (2) and inserting the following:

"(2) REQUEST FOR FUNDS.—To receive funds made available under paragraph (1), an eligible organization described in subsection (d) shall submit a request for the funds that is subject to approval by the Administrator."; and

(D) in paragraph (3), by striking "a private voluntary organization or cooperative, the Administrator may provide assistance to that organization or cooperative" and inserting "an eligible organization, the Administrator may provide assistance to the eligible organization".

(b) CONFORMING AMENDMENTS.—Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726a) is amended—

(1) in subsection (a)(1), by striking "a private voluntary organization or cooperative" each place it appears and inserting "an eligible organization"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "private voluntary organizations and cooperatives" and inserting "eligible organizations"; and

(B) in paragraph (2), by striking "organizations, cooperatives," and inserting "eligible organizations".

SEC. 208. GENERATION AND USE OF FOREIGN CURRENCIES.

Section 203 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1723) is amended—

(1) in subsection (a), by inserting ", or in a country in the same region," after "in the recipient country";

(2) in subsection (b)—

(A) by inserting "or in countries in the same region," after "in recipient countries,"; and

(B) by striking "10 percent" and inserting "15 percent";

(3) in subsection (c), by inserting "or in a country in the same region," after "in the recipient country,"; and

(4) in subsection (d)(2), by inserting "or within a country in the same region" after "within the recipient country".

SEC. 209. GENERAL LEVELS OF ASSISTANCE UNDER PUBLIC LAW 480.

Section 204 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "amount that" and all that follows through the period at the end and inserting "amount that for each of fiscal years 1996 through 2002 is not less than 2,025,000 metric tons.";

(B) in paragraph (2), by striking "amount that" and all that follows through the period at the end and inserting "amount that for each of fiscal years 1996 through 2002 is not less than 1,550,000 metric tons."; and

(C) in paragraph (3), by adding at the end the following: "No waiver shall be made before the beginning of the applicable fiscal year."; and

(2) in subsection (b)(1), by inserting before the period at the end the following: "and that not less than 50 percent of the quantity of the bagged commodities that are whole grain commodities be bagged in the United States".

SEC. 210. FOOD AID CONSULTATIVE GROUP.

Section 205 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1725) is amended—

(1) in subsection (a), by striking "private voluntary organizations, cooperatives and indigenous non-governmental organizations" and inserting "eligible organizations described in section 202(d)(1)";

(2) in subsection (b)—

(A) in paragraph (2), by striking "for International Affairs and Commodity Programs" and inserting "of Agriculture for Farm and Foreign Agricultural Services";

(B) in paragraph (4), by striking "and" at the end;

(C) in paragraph (5), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(6) representatives from agricultural producer groups in the United States.";

(3) in the second sentence of subsection (d), by inserting "(but at least twice per year)" after "when appropriate"; and

(4) in subsection (f), by striking "1995" and inserting "2002".

SEC. 211. SUPPORT OF NONGOVERNMENTAL ORGANIZATIONS.

(a) IN GENERAL.—Section 306(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1727e(b)) is amended—

(1) in the subsection heading, by striking "INDIGENOUS NON-GOVERNMENTAL" and inserting "NONGOVERNMENTAL"; and

(2) by striking "utilization of indigenous" and inserting "utilization of".

(b) CONFORMING AMENDMENT.—Section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732) is amended by striking paragraph (6) and inserting the following:

"(6) NONGOVERNMENTAL ORGANIZATION.—The term 'nongovernmental organization' means an organization that works at the local level to solve development problems in a foreign country in which the organization is located, except that the term does not include an organization that is primarily an agency or instrumentality of the government of the foreign country.".

SEC. 212. COMMODITY DETERMINATIONS.

Section 401 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731) is amended—

(1) by striking subsections (a) through (d) and inserting the following:

"(a) AVAILABILITY OF COMMODITIES.—No agricultural commodity shall be available for disposition under this Act if the Secretary determines that the disposition would reduce the domestic supply of the commodity below the supply needed to meet domestic requirements and provide adequate carryover (as determined by the Secretary), unless the Secretary determines that some part of the supply should be used to carry out urgent humanitarian purposes under this Act.";

(2) by redesignating subsections (e) and (f) as subsections (b) and (c), respectively; and

(3) in subsection (c) (as so redesignated), by striking "(e)(1)" and inserting "(b)(1)".

SEC. 213. GENERAL PROVISIONS.

Section 403 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by striking "CONSULTATIONS" and inserting "IMPACT ON LOCAL FARMERS AND ECONOMY"; and

(B) by striking "consult with" and all that follows through "other donor organizations to";

(2) in subsection (c)—

(A) by striking "from countries"; and

(B) by striking "for use" and inserting "or use";

(3) in subsection (f)—

(A) by inserting "or private entities, as appropriate," after "from countries"; and

(B) by inserting "or private entities" after "such countries"; and

(4) in subsection (i)(2), by striking subparagraph (C).

SEC. 214. AGREEMENTS.

Section 404 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1734) is amended—

(1) in subsection (a), by inserting "with foreign countries" after "Before entering into agreements";

(2) in subsection (b)(2)—

(A) by inserting "with foreign countries" after "with respect to agreements entered into"; and

(B) by inserting before the semicolon at the end the following: "and broad-based economic growth"; and

(3) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Agreements to provide assistance on a multi-year basis to recipient countries or to eligible organizations—

"(A) may be made available under titles I and III; and

"(B) shall be made available under title II.".

SEC. 215. USE OF COMMODITY CREDIT CORPORATION.

Section 406 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736) is amended—

(1) in subsection (a), by striking "shall" and inserting "may";

(2) in subsection (b)—

(A) by striking "this Act" and inserting "titles II and III"; and

(B) by striking paragraph (4) and inserting the following:

"(4) the vessel freight charges from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;"; and

(3) by striking subsection (d).

SEC. 216. ADMINISTRATIVE PROVISIONS.

Section 407 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "or private entity that enters into an agreement under title I" after "importing country"; and

(B) in paragraph (2), by adding at the end the following: "Resulting contracts may contain such terms and conditions as the Secretary determines are necessary and appropriate.";

(2) in subsection (c)—

(A) in paragraph (1)(A), by inserting "importer or" before "importing country"; and

(B) in paragraph (2)(A), by inserting "importer or" before "importing country";

(3) in subsection (d)—

(A) by striking paragraph (2) and inserting the following:

"(2) FREIGHT PROCUREMENT.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or other similar provisions of law relating to the making or performance of Federal Government contracts, ocean transportation under titles II and III may be procured on the basis of full and open competitive procedures. Resulting contracts may contain such terms and conditions as the Administrator determines are necessary and appropriate."; and

(B) by striking paragraph (4);

(4) in subsection (g)(2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(D) an assessment of the progress towards achieving food security in each country receiving food assistance from the United States Government, with special emphasis on the nutritional status of the poorest populations in each country."; and

(5) by striking subsection (h).

SEC. 217. EXPIRATION DATE.

Section 408 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736b) is amended by striking "1995" and inserting "2002".

SEC. 218. REGULATIONS.

Section 409 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c) is repealed.

SEC. 219. INDEPENDENT EVALUATION OF PROGRAMS.

Section 410 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736d) is repealed.

SEC. 220. AUTHORIZATION OF APPROPRIATIONS.

Section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f) is amended—

(1) by striking subsections (b) and (c) and inserting the following:

"(b) TRANSFER OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the President may direct that up to 15 percent of the funds available for any fiscal year for carrying out any title of this Act be used to carry out any other title of this Act.

"(2) TITLE III FUNDS.—The President may direct that up to 50 percent of the funds available for any fiscal year for carrying out title III be used to carry out title II."; and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 221. COORDINATION OF FOREIGN ASSISTANCE PROGRAMS.

Section 413 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736g) is amended by striking "this Act" each place it appears and inserting "title III".

SEC. 222. MICRONUTRIENT FORTIFICATION PILOT PROGRAM.

Title IV of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731 et seq.) is amended by adding at the end the following:

"SEC. 415. MICRONUTRIENT FORTIFICATION PILOT PROGRAM.

"(a) IN GENERAL.—Subject to the availability of practical technology and to cost effectiveness, not later than September 30, 1997, the Secretary, in consultation with the Administrator, shall establish a micronutrient fortification pilot program under this Act. The purpose of the program shall be to—

"(1) assist developing countries in correcting micronutrient dietary deficiencies among segments of the populations of the countries; and

"(2) encourage the development of technologies for the fortification of whole grains and other commodities that are readily transferable to developing countries.

"(b) SELECTION OF PARTICIPATING COUNTRIES.—From among the countries eligible for assistance under this Act, the Secretary may select not more than 5 developing countries to participate in the pilot program.

"(c) FORTIFICATION.—Under the pilot program, whole grains and other commodities made available to a developing country selected to participate in the pilot program may be fortified with 1 or more micronutrients (including vitamin A, iron, and iodine) with respect to which a substantial portion of the population in the country is deficient. The commodity may be fortified in the United States or in the developing country.

"(d) TERMINATION OF AUTHORITY.—The authority to carry out the pilot program established under this section shall terminate on September 30, 2002.".

SEC. 223. USE OF CERTAIN LOCAL CURRENCY.

Title IV of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731 et seq.) (as amended by section 222) is amended by adding at the end the following:

"SEC. 416. USE OF CERTAIN LOCAL CURRENCY.

"Local currency payments received by the United States pursuant to agreements entered into under title I (as in effect on November 27, 1990) may be utilized by the Secretary in accordance with section 108 (as in effect on November 27, 1990).".

SEC. 224. FARMER-TO-FARMER PROGRAM.

Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

"(6) to the extent that local currencies can be used to meet the costs of a program established under this section, augment funds of the United States that are available for such a program through the use of foreign currencies that accrue from the sale of agricultural commodities under this Act, and local currencies generated from other types of foreign assistance activities, within the country where the program is being conducted."; and

(2) in subsection (c)—

(A) by striking "0.2" and inserting "0.4";

(B) by striking "1991 through 1995" and inserting "1996 through 2002"; and

(C) by striking "0.1" and inserting "0.2".

SEC. 225. FOOD SECURITY COMMODITY RESERVE.

(a) IN GENERAL.—Title III of the Agricultural Act of 1980 (7 U.S.C. 1736f–1 et seq.) is amended to read as follows:

"TITLE III—FOOD SECURITY COMMODITY RESERVE

"SEC. 301. SHORT TITLE.

"This title may be cited as the 'Food Security Commodity Reserve Act of 1996'.

"SEC. 302. ESTABLISHMENT OF COMMODITY RESERVE.

"(a) IN GENERAL.—To provide for a reserve solely to meet emergency humanitarian food needs in developing countries, the Secretary of Agriculture (referred to in this title as the 'Secretary') shall establish a reserve stock of wheat, rice, corn, or sorghum, or any combination of the commodities, totalling not more than 4,000,000 metric tons for use as described in subsection (c).

"(b) COMMODITIES IN RESERVE.—

"(1) IN GENERAL.—The reserve established under this section shall consist of—

"(A) wheat in the reserve established under the Food Security Wheat Reserve Act of 1980 as of the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996;

"(B) wheat, rice, corn, and sorghum (referred to in this section as 'eligible commodities') acquired in accordance with paragraph (2) to replenish eligible commodities released from the reserve, including wheat to replenish wheat released from the reserve established under the Food Security Wheat Reserve Act of 1980 but not replenished as of the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996; and

"(C) such rice, corn, and sorghum as the Secretary may, at such time and in such manner as the Secretary determines appropriate, acquire as a result of exchanging an equivalent value of wheat in the reserve established under this section.

"(2) REPLENISHMENT OF RESERVE.—

"(A) IN GENERAL.—Subject to subsection (h), commodities of equivalent value to eligible commodities in the reserve established under this section may be acquired—

"(i) through purchases—

"(I) from producers; or

"(II) in the market, if the Secretary determines that the purchases will not unduly disrupt the market; or

"(ii) by designation by the Secretary of stocks of eligible commodities of the Commodity Credit Corporation.

"(B) FUNDS.—Any use of funds to acquire eligible commodities through purchases from producers or in the market to replenish the reserve must be authorized in an appropriations Act.

"(c) RELEASE OF ELIGIBLE COMMODITIES.—

"(1) EMERGENCY ASSISTANCE.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), to meet unanticipated need, the Secretary may release eligible commodities in any fiscal year, without regard to the availability of domestic supply of the commodities, to provide emergency assistance to developing countries under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

"(B) RELEASE FOR EMERGENCY ASSISTANCE.—If the eligible commodities needed to meet unanticipated need cannot be made available in a timely manner under normal means for obtaining eligible commodities for food assistance because of unanticipated need for emergency assistance as provided under section 202(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722(a)), the Secretary may in any fiscal year release from the reserve—

"(i) up to 500,000 metric tons of wheat or the equivalent value of eligible commodities other than wheat; and

"(ii) up to 500,000 metric tons of any eligible commodities under this paragraph that could have been released but were not released in prior fiscal years.

"(C) WAIVER OF MINIMUM TONNAGE REQUIREMENTS.—Nothing in this paragraph shall require a waiver under section 204(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724(a)(3)) as a prerequisite for the release of eligible commodities under this paragraph.

"(2) EMERGENCY FOOD ASSISTANCE.—Notwithstanding any other provision of law, eligible commodities designated or acquired for the reserve established under this section may be released by the Secretary to provide, on a donation or sale basis, emergency food assistance to developing countries at such time as the domestic supply of the eligible commodities is so limited that quantities of the eligible commodities cannot be made available for disposition under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) (other than disposition for urgent humanitarian purposes under section 401 of the Act (7 U.S.C. 1731)).

"(3) PROCESSING OF ELIGIBLE COMMODITIES.—Eligible commodities that are released from the reserve established under this section may be processed in the United States and shipped to a developing country when conditions in the recipient country require processing.

"(4) EXCHANGE.—The Secretary may exchange an eligible commodity for another United States commodity of equal value, including powdered milk, pulses, and vegetable oil.

"(5) USE OF NORMAL COMMERCIAL PRACTICES.—To the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall use the usual and customary channels, facilities, arrangements, and practices of trade and commerce to carry out this subsection.

VOL
142
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"(d) MANAGEMENT OF ELIGIBLE COMMODITIES.—The Secretary shall provide—

"(1) for the management of eligible commodities in the reserve established under this section as to location and quality of eligible commodities needed to meet emergency situations; and

"(2) for the periodic rotation or replacement of stocks of eligible commodities in the reserve to avoid spoilage and deterioration of the commodities.

"(e) TREATMENT OF RESERVE UNDER OTHER LAW.—Eligible commodities in the reserve established under this section shall not be—

"(1) considered a part of the total domestic supply (including carryover) for the purpose of subsection (c) or for the purpose of administering the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.); and

"(2) subject to any quantitative limitation on exports that may be imposed under section 7 of the Export Administration Act of 1979 (50 U.S.C. App. 2406).

"(f) USE OF COMMODITY CREDIT CORPORATION.—

"(1) IN GENERAL.—Subject to the limitations provided in this section, the funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of eligible commodities owned or controlled by the Commodity Credit Corporation shall not apply.

"(2) REIMBURSEMENT.—

"(A) IN GENERAL.—The Commodity Credit Corporation shall be reimbursed for the release of eligible commodities from funds made available to carry out the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.).

"(B) BASIS FOR REIMBURSEMENT.—The reimbursement shall be made on the basis of the lesser of—

"(i) the actual costs incurred by the Commodity Credit Corporation with respect to the eligible commodity; or

"(ii) the export market price of the eligible commodity (as determined by the Secretary) as of the time the eligible commodity is released from the reserve.

"(C) SOURCE OF FUNDS.—The reimbursement may be made from funds appropriated for subsequent fiscal years.

"(g) FINALITY OF DETERMINATION.—Any determination by the Secretary under this section shall be final.

"(h) TERMINATION OF AUTHORITY.—

"(1) IN GENERAL.—The authority to replenish stocks of eligible commodities to maintain the reserve established under this section shall terminate on September 30, 2002.

"(2) DISPOSAL OF ELIGIBLE COMMODITIES.—Eligible commodities remaining in the reserve after September 30, 2002, shall be disposed of by release for use in providing for emergency humanitarian food needs in developing countries as provided in this section.".

(b) CONFORMING AMENDMENT.—Section 208(d) of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4001(d)) is amended by striking paragraph (2) and inserting the following:

"(2) APPLICABILITY OF CERTAIN PROVISIONS.—Subsections (c), (d), (e), and (f)(2) of section 302 of the Food Security Commodity Reserve Act of 1996 shall apply to commodities in any reserve established under paragraph (1), except that the references to 'eligible commodities' in the subsections shall be deemed to be references to 'agricultural commodities'.".

SEC. 226. PROTEIN BYPRODUCTS DERIVED FROM ALCOHOL FUEL PRODUCTION.

Section 1208 of the Agriculture and Food Act of 1981 (7 U.S.C. 1736n) is repealed.

SEC. 227. FOOD FOR PROGRESS PROGRAM.

The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "(b)(1)" and inserting "(b)"; and

(ii) in the first sentence, by inserting "intergovernmental organizations," after "cooperatives,"; and

(B) by striking paragraph (2);

(2) in subsection (e)(4), by striking "203" and inserting "406";

(3) in subsection (f)—

(A) in paragraph (1)(B), by striking "in the case of the independent states of the former Soviet Union,";

(B) by striking paragraph (2);

(C) in paragraph (4), by inserting "for each of fiscal years 1996 through 2002" after "may be used"; and

(D) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(4) in subsection (g), by striking "1995" and inserting "2002";

(5) in subsection (j), by striking "shall" and inserting "may";

(6) in subsection (k), by striking "1995" and inserting "2002";

(7) in subsection (l)(1)—

(A) by striking "1991 through 1995" and inserting "1996 through 2002"; and

(B) by inserting ", and to provide technical assistance for monetization programs," after "monitoring of food assistance programs"; and

(8) in subsection (m)—

(A) by striking "with respect to the independent states of the former Soviet Union";

(B) by striking "private voluntary organizations and cooperatives" each place it appears and inserting "agricultural trade organizations, intergovernmental organizations, private voluntary organizations, and cooperatives"; and

(C) in paragraph (2), by striking "in the independent states".

SEC. 228. USE OF FOREIGN CURRENCY PROCEEDS FROM EXPORT SALES FINANCING.

Section 402 of the Mutual Security Act of 1954 (22 U.S.C. 1922) is repealed.

SEC. 229. STIMULATION OF FOREIGN PRODUCTION.

Section 7 of the Act of December 30, 1947 (61 Stat. 947, chapter 526; 50 U.S.C. App. 1917), is repealed.

Subtitle B—Amendments to Agricultural Trade Act of 1978

SEC. 241. AGRICULTURAL EXPORT PROMOTION STRATEGY.

(a) IN GENERAL.—Section 103 of the Agricultural Trade Act of 1978 (7 U.S.C. 5603) is amended to read as follows:

"SEC. 103. AGRICULTURAL EXPORT PROMOTION STRATEGY.

"(a) IN GENERAL.—The Secretary shall develop a strategy for implementing Federal agricultural export promotion programs that takes into account the new market opportunities for agricultural products, including opportunities that result from—

"(1) the North American Free Trade Agreement and the Uruguay Round Agreements;

"(2) any accession to membership in the World Trade Organization;

"(3) the continued economic growth in the Pacific Rim; and

"(4) other developments.

"(b) PURPOSE OF STRATEGY.—The strategy developed under subsection (a) shall encourage the maintenance, development, and expansion of export markets for United States agricultural commodities and related products, including high-value and value-added products.

"(c) GOALS OF STRATEGY.—The strategy developed under subsection (a) shall have the following goals:

"(1) Increase the value of United States agricultural exports each year.

"(2) Increase the value of United States agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in agricultural products.

"(3) Increase the value of United States high-value and value-added agricultural exports each year.

"(4) Increase the value of United States high-value and value-added agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in high-value and value-added agricultural products.

"(5) Ensure that to the extent practicable—

"(A) all obligations undertaken in the Uruguay Round Agreement on Agriculture that significantly increase access for United States agricultural commodities are implemented to the extent required by the Uruguay Round Agreements; or

"(B) applicable United States laws are used to secure United States rights under the Uruguay Round Agreement on Agriculture.

"(d) PRIORITY MARKETS.—

"(1) IDENTIFICATION OF MARKETS.—In developing the strategy required under subsection (a), the Secretary shall annually identify as priority markets—

"(A) those markets in which imports of agricultural products show the greatest potential for increase; and

"(B) those markets in which, with the assistance of Federal export promotion programs, exports of United States agricultural products show the greatest potential for increase.

"(2) IDENTIFICATION OF SUPPORTING OFFICES.—The President shall identify annually in the budget of the United States Government submitted under section 1105 of title 31, United States Code, each overseas office of the Foreign Agricultural Service that provides assistance to United States exporters in each of the priority markets identified under paragraph (1).".

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate should conduct a thorough review of agricultural export and food aid programs not later than December 31, 1998; and

(2) the review should examine what changes, if any, need to be made in the programs as a result of the effects of the Agricultural Market Transition Act, the Uruguay Round agreements, changing world market conditions, and such other factors as the Committees consider appropriate.

(c) ELIMINATION OF REPORT.—

(1) IN GENERAL.—Section 601 of the Agricultural Trade Act of 1978 (7 U.S.C. 5711) is repealed.

(2) CONFORMING AMENDMENT.—The last sentence of section 603 of the Agricultural Trade Act of 1978 (7 U.S.C. 5713) is amended by striking ", in a consolidated report," and all that follows through "section 601" and inserting "or in a consolidated report".

SEC. 242. IMPLEMENTATION OF COMMITMENTS UNDER URUGUAY ROUND AGREEMENTS.

(a) IN GENERAL.—Title I of the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

"SEC. 106. IMPLEMENTATION OF COMMITMENTS UNDER URUGUAY ROUND AGREEMENTS.

"Not later than September 30 of each year, the Secretary shall evaluate whether the obligations undertaken by foreign countries under the Uruguay Round Agreement on Agriculture are being fully implemented. If the Secretary has reason to believe (based on the evaluation) that any

foreign country, by not implementing the obligations of the country, may be significantly constraining an opportunity for United States agricultural exports, the Secretary shall—

"(1) submit the evaluation to the United States Trade Representative; and

"(2) transmit a copy of the evaluation to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate.".

(b) MONITORING COMPLIANCE WITH SANITARY AND PHYTOSANITARY MEASURES.—Section 414 of the Agricultural Trade Act of 1978 (7 U.S.C. 5674) is amended by adding at the end the following:

"(c) MONITORING COMPLIANCE WITH SANITARY AND PHYTOSANITARY MEASURES.—The Secretary shall monitor the compliance of World Trade Organization member countries with the sanitary and phytosanitary measures of the Agreement on Agriculture of the Uruguay Round of Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade. If the Secretary has reason to believe that any country may have failed to meet the commitment on sanitary and phytosanitary measures under the Agreement in a manner that adversely impacts the exports of a United States agricultural commodity, the Secretary shall—

"(1) provide such information to the United States Trade Representative of the circumstances surrounding the matter arising under this subsection; and

"(2) with respect to any such circumstances that the Secretary considers to have a continuing adverse effect on United States agricultural exports, report to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate—

"(A) that a country may have failed to meet the sanitary and phytosanitary commitments; and

"(B) any notice given by the Secretary to the United States Trade Representative.".

SEC. 243. EXPORT CREDITS.

(a) EXPORT CREDIT GUARANTEE PROGRAM.—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended—

(1) in subsection (a)—

(A) by striking "GUARANTEES.—The" and inserting the following: "GUARANTEES.—

"(1) IN GENERAL.—The"; and

(B) by adding at the end the following:

"(2) SUPPLIER CREDITS.—In carrying out this section, the Commodity Credit Corporation may issue guarantees for the repayment of credit made available for a period of not more than 180 days by a United States exporter to a buyer in a foreign country.";

(2) in subsection (f)—

(A) by striking "(f) RESTRICTIONS.—The" and inserting the following:

"(f) RESTRICTIONS.—

"(1) IN GENERAL.—The"; and

(B) by adding at the end the following:

"(2) CRITERIA FOR DETERMINATION.—In making the determination required under paragraph (1) with respect to credit guarantees under subsection (b) for a country, the Secretary may consider, in addition to financial, macroeconomic, and monetary indicators—

"(A) whether an International Monetary Fund standby agreement, Paris Club rescheduling plan, or other economic restructuring plan is in place with respect to the country;

"(B) whether the country is addressing issues such as—

"(i) the convertibility of the currency of the country;

"(ii) adequate legal protection for foreign investments;

"(iii) the viability of the financial markets of the country; and

"(iv) adequate legal protection for the private property rights of citizens of the country; or

"(C) any other factors that are relevant to the ability of the country to service the debt of the country.";

(3) by striking subsection (h) and inserting the following:

"(h) UNITED STATES AGRICULTURAL COMMODITIES.—The Commodity Credit Corporation shall finance or guarantee under this section only United States agricultural commodities.";

(4) in subsection (i)—

(A) by striking paragraph (1);

(B) by striking "INSTITUTIONS.—A financial" and inserting the following: "INSTITUTIONS.—

"(1) IN GENERAL.—A financial";

(C) by striking "(2) is" and inserting the following:

"(A) is";

(D) by striking "(3) is" and inserting the following:

"(B) is"; and

(E) by adding at the end the following:

"(2) THIRD COUNTRY BANKS.—The Commodity Credit Corporation may guarantee under subsections (a) and (b) the repayment of credit made available to finance an export sale irrespective of whether the obligor is located in the country to which the export sale is destined."; and

(5) by striking subsection (k) and inserting the following:

"(k) PROCESSED AND HIGH-VALUE PRODUCTS.—

"(1) IN GENERAL.—In issuing export credit guarantees under this section, the Commodity Credit Corporation shall, subject to paragraph (2), ensure that not less than 25 percent for each of fiscal years 1996 and 1997, 30 percent for each of fiscal years 1998 and 1999, and 35 percent for each of fiscal years 2000, 2001, and 2002, of the total amount of credit guarantees issued for a fiscal year is issued to promote the export of processed or high-value agricultural products and that the balance is issued to promote the export of bulk or raw agricultural commodities.

"(2) LIMITATION.—The percentage requirement of paragraph (1) shall apply for a fiscal year to the extent that a reduction in the total amount of credit guarantees issued for the fiscal year is not required to meet the percentage requirement.".

(b) FUNDING LEVELS.—Section 211 of the Agricultural Trade Act of 1978 (7 U.S.C. 5641) is amended by striking subsection (b) and inserting the following:

"(b) EXPORT CREDIT GUARANTEE PROGRAMS.—

"(1) EXPORT CREDIT GUARANTEES.—The Commodity Credit Corporation shall make available for each of fiscal years 1996 through 2002 not less than $5,500,000,000 in credit guarantees under subsections (a) and (b) of section 202.

"(2) LIMITATION ON ORIGINATION FEE.—Notwithstanding any other provision of law, the Secretary may not charge an origination fee with respect to any credit guarantee transaction under section 202(a) in excess of an amount equal to 1 percent of the amount of credit to be guaranteed under the transaction, except with respect to an export credit guarantee transaction pursuant to section 1542(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note).".

(c) DEFINITION OF UNITED STATES AGRICULTURAL COMMODITY.—Section 102(7) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(7)) is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) an agricultural commodity or product entirely produced in the United States; or

"(B) a product of an agricultural commodity—

"(i) 90 percent or more of the agricultural components of which by weight, excluding packaging and added water, is entirely produced in the United States; and

"(ii) that the Secretary determines to be a high value agricultural product.".

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out the amendments made by this section.

SEC. 244. MARKET ACCESS PROGRAM.

(a) CHANGE OF NAME.—

(1) IN GENERAL.—Section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) is amended—

(A) in the section heading, by striking "**MARKET PROMOTION PROGRAM**" and inserting "**MARKET ACCESS PROGRAM**"; and

(B) by striking "marketing promotion program" each place it appears and inserting "market access program".

(2) CONFORMING AMENDMENTS.—

(A) Section 1302 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 7 U.S.C. 5623) is amended—

(i) in the section heading, by striking "**MARKET PROMOTION PROGRAM**" and inserting "**MARKET ACCESS PROGRAM**"; and

(ii) in subsection (b), by striking "market promotion program" each place it appears and inserting "market access program".

(B) Section 211(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)) is amended—

(i) in the subsection heading, by striking "MARKETING PROMOTION PROGRAMS" and inserting "MARKET ACCESS PROGRAMS";

(ii) by striking "market promotion activities" and inserting "market access activities";

(iii) in paragraph (1), by striking "market development program" and inserting "market access program"; and

(iv) in paragraph (2), by striking "marketing promotion program" and inserting "market access program".

(b) USE OF FUNDS.—Section 203(f) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(f)) is amended by adding at the end the following:

"(4) USE OF FUNDS.—Funds made available to carry out this section—

"(A) shall not be used to provide direct assistance to any foreign for-profit corporation for the corporation's use in promoting foreign-produced products;

"(B) shall not be used to provide direct assistance to any for-profit corporation that is not recognized as a small-business concern described in section 3(a) of the Small Business Act (15 U.S.C. 632(a)), excluding—

"(i) a cooperative;

"(ii) an association described in the first section of the Act entitled 'An Act To authorize association of producers of agricultural products', approved February 18, 1922 (7 U.S.C. 291); and

"(iii) a nonprofit trade association; and

"(C) may be used by a United States trade association, cooperative, or small business for individual branded promotional activity related to a United States branded product, if the beneficiaries of the activity have provided funds for the activity in an amount that is at least equivalent to the amount of assistance provided under this section.".

(c) FUNDING.—Effective October 1, 1995, section 211(c)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)) is amended—

(1) by striking "and" after "1991 through 1993,"; and

(2) by striking "through 1997," and inserting "through 1995, and not more than $90,000,000 for each of fiscal years 1996 through 2002,".

SEC. 245. EXPORT ENHANCEMENT PROGRAM.

(a) IN GENERAL.—Effective October 1, 1995, section 301(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)) is amended by striking paragraph (1) and inserting the following:

VOL
142
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"(1) IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than—

"(A) $350,000,000 for fiscal year 1996;

"(B) $250,000,000 for fiscal year 1997;

"(C) $500,000,000 for fiscal year 1998;

"(D) $550,000,000 for fiscal year 1999;

"(E) $579,000,000 for fiscal year 2000;

"(F) $478,000,000 for fiscal year 2001; and

"(G) $478,000,000 for fiscal year 2002.".

(b) PRIORITY FUNDING FOR INTERMEDIATE PRODUCTS.—Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended by adding at the end the following:

"(h) PRIORITY FUNDING FOR INTERMEDIATE PRODUCTS.—

"(1) IN GENERAL.—Effective beginning in fiscal year 1996, and consistent, as determined by the Secretary, with the obligations and reduction commitments undertaken by the United States under the Uruguay Round Agreements, the Secretary may make available not more than $100,000,000 for each fiscal year under this section for the sale of intermediate agricultural products in sufficient quantities to attain the volume of export sales consistent with the volume of intermediate agricultural products exported by the United States during the Uruguay Round base period years of 1986 through 1990.

"(2) ADDITIONAL ASSISTANCE.—Notwithstanding paragraph (1), if the export sale of any intermediate agricultural product attains the volume of export sales consistent with the volume of the intermediate agricultural product exported by the United States during the Uruguay Round base period years of 1986 through 1990, the Secretary may make available additional amounts under this section for the encouragement of export sales of the intermediate agricultural product.".

SEC. 246. ARRIVAL CERTIFICATION.

Section 401 of the Agricultural Trade Act of 1978 (7 U.S.C. 5661) is amended by striking subsection (a) and inserting the following:

"(a) ARRIVAL CERTIFICATION.—With respect to a commodity provided, or for which financing or a credit guarantee or other assistance is made available, under a program authorized in section 201, 202, or 301, the Commodity Credit Corporation shall require the exporter of the commodity to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and shall allow representatives of the Commodity Credit Corporation access to the records or documents as needed, to verify the arrival of the commodity in the country that is the intended destination of the commodity.".

SEC. 247. COMPLIANCE.

Section 402(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5662(a)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SEC. 248. REGULATIONS.

Section 404 of the Agricultural Trade Act of 1978 (7 U.S.C. 5664) is repealed.

SEC. 249. TRADE COMPENSATION AND ASSISTANCE PROGRAMS.

Subtitle B of title IV of the Agricultural Trade Act of 1978 (7 U.S.C. 5671 et seq.) is amended by adding at the end the following:

"SEC. 417. TRADE COMPENSATION AND ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—Except as provided in subsection (f), notwithstanding any other provision of law, if, after the date of enactment of this section, the President or any other member of the executive branch causes exports from the United States to any country to be unilaterally suspended for reasons of national security or foreign policy, and if within 90 days after the date on which the suspension is imposed on United States exports no other country with an agricultural economic interest agrees to participate in the suspension, the Secretary shall carry out a trade compensation assistance program in accordance with this section (referred to in this section as a 'program').

"(b) COMPENSATION OR PROVISION OF FUNDS.—Under a program, the Secretary shall, based on an evaluation by the Secretary of the method most likely to produce the greatest compensatory benefit for producers of the commodity involved in the suspension—

"(1) compensate producers of the commodity by making payments available to producers, as provided by subsection (c)(1); or

"(2) make available an amount of funds calculated under subsection (c)(2), to promote agricultural exports or provide agricultural commodities to developing countries under any authorities available to the Secretary.

"(c) DETERMINATION OF AMOUNT OF COMPENSATION OR FUNDS.—

"(1) COMPENSATION.—If the Secretary makes payments available to producers under subsection (b)(1), the amount of the payment shall be determined by the Secretary based on the Secretary's estimate of the loss suffered by producers of the commodity involved due to any decrease in the price of the commodity as a result of the suspension.

"(2) DETERMINATION OF AMOUNT OF FUNDS.—For each fiscal year of a program, the amount of funds made available under subsection (b)(2) shall be equal to 90 percent of the average annual value of United States agricultural exports to the country with respect to which exports are suspended during the most recent 3 years prior to the suspension for which data are available.

"(d) DURATION OF PROGRAM.—For each suspension of exports for which a program is implemented under this section, funds shall be made available under subsection (b) for each fiscal year or part of a fiscal year for which the suspension is in effect, but not to exceed 3 fiscal years.

"(e) COMMODITY CREDIT CORPORATION.—The Secretary shall use funds of the Commodity Credit Corporation to carry out this section.

"(f) EXCEPTION TO CARRYING OUT A PROGRAM.—This section shall not apply to any suspension of trade due to a war or armed hostility.

"(g) PARTIAL YEAR EMBARGOES.—If the Secretary makes funds available under subsection (b)(2), regardless of whether an embargo is in effect for only part of a fiscal year, the full amount of funds as calculated under subsection (c)(2) shall be made available under a program for the fiscal year. If the Secretary determines that making the required amount of funds available in a partial fiscal year is impracticable, the Secretary may make all or part of the funds required to be made available in the following fiscal year (in addition to any funds otherwise required under a program to be made available in the following fiscal year).

"(h) SHORT SUPPLY EMBARGOES.—If the President or any other member of the executive branch causes exports to be suspended based on a determination of short supply, the Secretary shall carry out section 1002 of the Food and Agriculture Act of 1977 (7 U.S.C. 1310).".

SEC. 250. FOREIGN AGRICULTURAL SERVICE.

Section 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5693) is amended to read as follows:

"SEC. 503. DUTIES OF FOREIGN AGRICULTURAL SERVICE.

"The Service shall assist the Secretary in carrying out the agricultural trade policy and international cooperation policy of the United States by—

"(1) acquiring information pertaining to agricultural trade;

"(2) carrying out market promotion and development activities;

"(3) providing agricultural technical assistance and training; and

"(4) carrying out the programs authorized under this Act, the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), and other Acts.".

SEC. 251. REPORTS.

The first sentence of section 603 of the Agricultural Trade Act of 1978 (7 U.S.C. 5713) is amended by striking "The" and inserting "Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), the".

SEC. 252. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

The Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

"TITLE VII—FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM

"SEC. 701. DEFINITION OF ELIGIBLE TRADE ORGANIZATION.

"In this title, the term 'eligible trade organization' means a United States trade organization that—

"(1) promotes the export of 1 or more United States agricultural commodities or products; and

"(2) does not have a business interest in or receive remuneration from specific sales of agricultural commodities or products.

"SEC. 702. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish and, in cooperation with eligible trade organizations, carry out a foreign market development cooperator program to maintain and develop foreign markets for United States agricultural commodities and products.

"(b) ADMINISTRATION.—Funds made available to carry out this title shall be used only to provide—

"(1) cost-share assistance to an eligible trade organization under a contract or agreement with the organization; and

"(2) assistance for other costs that are necessary or appropriate to carry out the foreign market development cooperator program, including contingent liabilities that are not otherwise funded.

"SEC. 703. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title such sums as may be necessary for each of fiscal years 1996 through 2002.".

Subtitle C—Miscellaneous Agricultural Trade Provisions

SEC. 261. EDWARD R. MADIGAN UNITED STATES AGRICULTURAL EXPORT EXCELLENCE AWARD.

(a) FINDINGS.—Congress finds that—

(1) United States producers of agricultural products are some of the most productive and efficient producers of agricultural products in the world;

(2) continued growth and expansion of markets for United States agricultural exports is crucial to the continued development and economic well-being of rural areas of the United States and the agricultural sector of the United States economy;

(3) in recent years, United States agricultural exports have steadily increased, surpassing $54,000,000,000 in value in 1995;

(4) as United States agricultural producers move toward a market-oriented system in which planting and other decisions by producers are driven by national and international market signals, developing new and expanding agricultural export markets is vital to maintaining a vibrant and healthy agricultural sector and rural economy; and

(5) a United States agricultural export excellence award will increase United States agricultural exports by—

(A) identifying efforts of United States entities to develop and expand markets for United States agricultural exports through the development of new products and services and through the use of innovative marketing techniques;

(B) recognizing achievements of those who have exhibited or supported entrepreneurial efforts to expand and create new markets for United States agricultural exports or increase the volume or value of United States agricultural exports; and

(C) disseminating information on successful methods used to develop and expand markets for United States agricultural exports.

(b) ESTABLISHMENT.—There is established the Edward R. Madigan United States Agricultural Export Excellence Award, which shall be evidenced by a medal bearing the inscription "Edward R. Madigan United States Agricultural Export Excellence Award". The medal shall be of such design and materials and bear such additional inscriptions as the Secretary of Agriculture (referred to in this section as the "Secretary") may prescribe.

(c) SELECTION OF RECIPIENT.—The President or the Secretary (on the basis of recommendations received from the board established under subsection (h)) shall periodically provide the award to companies and other entities that in the judgment of the President or the Secretary substantially encourage entrepreneurial efforts in the food and agriculture sector for advancing United States agricultural exports.

(d) PRESENTATION OF AWARD.—The presentation of the award shall be made by the President or the Secretary with such ceremonies as the President or the Secretary considers proper.

(e) PUBLICATION OF AWARD.—An entity to which an award is made under this section may publicize the receipt of the award by the entity and use the award in advertising of the entity.

(f) CATEGORIES FOR WHICH AWARD MAY BE GIVEN.—Separate awards shall be made to qualifying entities in each of the following categories:

(1) Development of new products or services for agricultural export markets.

(2) Development of new agricultural export markets.

(3) Creative marketing of products or services in agricultural export markets.

(g) CRITERIA FOR QUALIFICATION.—An entity may qualify for an award under this section only if the entity—

(1)(A) applies to the board established under subsection (h) in writing for the award; or

(B) is recommended for the award by a Governor of a State;

(2)(A) has exhibited significant entrepreneurial effort to create new markets for United States agricultural exports or increase United States agricultural exports; or

(B) has provided significant assistance to others in an effort to create new markets for United States agricultural exports or increase United States agricultural exports;

(3) has not received another award in the same category under subsection (f) during the preceding 5-year period; and

(4) meets such other requirements and specifications as the Secretary determines are appropriate to achieve the objectives of this section.

(h) BOARD.—

(1) SELECTION.—The Secretary shall appoint a board of evaluators, consisting of at least 5 individuals from the private sector selected for their knowledge and experience in exporting United States agricultural products.

(2) MEETINGS.—The board shall meet at least once annually to review and evaluate all applicants and entities recommended by States under subsection (g)(1).

(3) RECOMMENDATIONS OF BOARD.—The board shall report its recommendations concerning the making of the award to the Secretary.

(4) TERM.—Each member of the board may serve a term of not to exceed 3 years.

(i) FUNDING.—The Secretary may seek and accept gifts from public and private sources to carry out this section.

SEC. 262. REPORTING REQUIREMENTS RELATING TO TOBACCO.

Section 214 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 509) is repealed.

SEC. 263. TRIGGERED EXPORT ENHANCEMENT.

(a) READJUSTMENT OF SUPPORT LEVELS.—Section 1302 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 7 U.S.C. 1421 note) is repealed.

(b) TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT.—Section 4301 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418; 7 U.S.C. 1446 note) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective beginning with the 1996 crops of wheat, feed grains, upland cotton, and rice.

SEC. 264. DISPOSITION OF COMMODITIES TO PREVENT WASTE.

Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended—

(1) in subsection (b)—

(A) in paragraph (7)—

(i) in subparagraph (D)(iv), by striking "one year of acquisition" and all that follows through the period at the end and inserting the following: "a reasonable length of time, as determined by the Secretary, except that the Secretary may permit the use of proceeds in a country other than the country of origin—

"(I) as necessary to expedite the transportation of commodities and products furnished under this subsection; or

"(II) if the proceeds are generated in a currency generally accepted in the other country."; and

(ii) by striking the sentence following subparagraph (F) and inserting the following: "The Secretary may approve the use of proceeds or services realized from the sale or barter of a commodity furnished under this subsection by a nonprofit voluntary agency, cooperative, or intergovernmental agency or organization to meet administrative expenses incurred in connection with activities undertaken under this subsection.";

(B) in paragraph (8), by striking subparagraph (C); and

(C) by striking paragraphs (10), (11), and (12); and

(2) by striking subsection (c).

SEC. 265. DEBT-FOR-HEALTH-AND-PROTECTION SWAP.

(a) IN GENERAL.—Section 1517 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1706) is repealed.

(b) TECHNICAL AMENDMENT.—Subsection (e)(3) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(e)(3)) is amended by striking "section 106" and inserting "section 103".

SEC. 266. POLICY ON EXPANSION OF INTERNATIONAL MARKETS.

Section 1207 of the Agriculture and Food Act of 1981 (7 U.S.C. 1736m) is repealed.

SEC. 267. POLICY ON MAINTENANCE AND DEVELOPMENT OF EXPORT MARKETS.

Section 1121 of the Food Security Act of 1985 (7 U.S.C. 1736p) is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by striking "(b)"; and

(B) by striking paragraphs (1) through (4) and inserting the following:

"(1) be the premier supplier of agricultural and food products to world markets and expand exports of high value products;

"(2) support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

"(3) cooperate fully in all efforts to negotiate with foreign countries further reductions in tariff and nontariff barriers to trade, including sanitary and phytosanitary measures and trade-distorting subsidies;

"(4) aggressively counter unfair foreign trade practices as a means of encouraging fairer trade;".

SEC. 268. POLICY ON TRADE LIBERALIZATION.

Section 1122 of the Food Security Act of 1985 (7 U.S.C. 1736q) is repealed.

SEC. 269. AGRICULTURAL TRADE NEGOTIATIONS.

Section 1123 of the Food Security Act of 1985 (7 U.S.C. 1736r) is amended to read as follows:

"SEC. 1123. TRADE NEGOTIATIONS POLICY.

"(a) FINDINGS.—Congress finds that—

"(1) on a level playing field, United States producers are the most competitive suppliers of agricultural products in the world;

"(2) exports of United States agricultural products accounted for $54,000,000,000 in 1995, contributing a net $24,000,000,000 to the merchandise trade balance of the United States and supporting approximately 1,000,000 jobs;

"(3) increased agricultural exports are critical to the future of the farm, rural, and overall United States economy, but the opportunities for increased agricultural exports are limited by the unfair subsidies of the competitors of the United States, and a variety of tariff and nontariff barriers to highly competitive United States agricultural products;

"(4) international negotiations can play a key role in breaking down barriers to United States agricultural exports;

"(5) the Uruguay Round Agreement on Agriculture made significant progress in the attainment of increased market access opportunities for United States exports of agricultural products, for the first time—

"(A) restraining foreign trade-distorting domestic support and export subsidy programs; and

"(B) developing common rules for the application of sanitary and phytosanitary restrictions; that should result in increased exports of United States agricultural products, jobs, and income growth in the United States;

"(6) the Uruguay Round Agreement on Agriculture did not succeed in completely eliminating trade distorting domestic support and export subsidies by—

"(A) allowing the European Union to continue unreasonable levels of spending on export subsidies; and

"(B) failing to discipline monopolistic state trading entities, such as the Canadian Wheat Board, that use nontransparent and discriminatory pricing as a hidden de facto export subsidy;

"(7) during the period 1996 through 2002, there will be several opportunities for the United States to negotiate fairer trade in agricultural products, including further negotiations under the World Trade Organization, and steps toward possible free trade agreements of the Americas and Asian-Pacific Economic Cooperation (APEC); and

"(8) the United States should aggressively use these opportunities to achieve more open and fair opportunities for trade in agricultural products.

"(b) GOALS OF THE UNITED STATES IN AGRICULTURAL TRADE NEGOTIATIONS.—The objectives of the United States with respect to future negotiations on agricultural trade include—

"(1) increasing opportunities for United States exports of agricultural products by eliminating tariff and nontariff barriers to trade;

"(2) leveling the playing field for United States producers of agricultural products by limiting per unit domestic production supports to

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142
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levels that are no greater than those available in the United States;

"(3) ending the practice of export dumping by eliminating all trade distorting export subsidies and disciplining state trading entities so that they do not (except in cases of bona fide food aid) sell in foreign markets at prices below domestic market prices or prices below their full costs of acquiring and delivering agricultural products to the foreign markets; and

"(4) encouraging government policies that avoid price-depressing surpluses.".

SEC. 270. POLICY ON UNFAIR TRADE PRACTICES.

Section 1164 of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1499) is repealed.

SEC. 271. AGRICULTURAL AID AND TRADE MISSIONS.

(a) IN GENERAL.—The Agricultural Aid and Trade Missions Act (7 U.S.C. 1736bb et seq.) is repealed.

(b) CONFORMING AMENDMENT.—Section 7 of Public Law 100–277 (7 U.S.C. 1736bb note) is repealed.

SEC. 272. ANNUAL REPORTS BY AGRICULTURAL ATTACHES.

Section 108(b)(1)(B) of the Agricultural Act of 1954 (7 U.S.C. 1748(b)(1)(B)) is amended by striking "including fruits, vegetables, legumes, popcorn and ducks".

SEC. 273. WORLD LIVESTOCK MARKET PRICE INFORMATION.

Section 1545 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 1761 note) is repealed.

SEC. 274. ORDERLY LIQUIDATION OF STOCKS.

Sections 201 and 207 of the Agricultural Act of 1956 (7 U.S.C. 1851 and 1857) are repealed.

SEC. 275. SALES OF EXTRA LONG STAPLE COTTON.

Section 202 of the Agricultural Act of 1956 (7 U.S.C. 1852) is repealed.

SEC. 276. REGULATIONS.

Section 707 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 7 U.S.C. 5621 note) is amended by striking subsection (d).

SEC. 277. EMERGING MARKETS.

(a) PROMOTION OF AGRICULTURAL EXPORTS TO EMERGING MARKETS.—

(1) EMERGING MARKETS.—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note) is amended—

(A) in the section heading, by striking "**EMERGING DEMOCRACIES**" and inserting "**EMERGING MARKETS**";

(B) by striking "emerging democracies" each place it appears in subsections (b), (d), and (e) and inserting "emerging markets";

(C) in subsection (c), by striking "emerging democracy" each place it appears and inserting "emerging market"; and

(D) by striking subsection (f) and inserting the following:

"(f) EMERGING MARKET.—In this section and section 1543, the term 'emerging market' means any country that the Secretary determines—

"(1) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

"(2) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.".

(2) FUNDING.—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking subsection (a) and inserting the following:

"(a) FUNDING.—The Commodity Credit Corporation shall make available for fiscal years 1996 through 2002 not less than $1,000,000,000 of direct credits or export credit guarantees for exports to emerging markets under section 201 or 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621 and 5622), in addition to the amounts acquired or authorized under section 211 of the Act (7 U.S.C. 5641) for the program.".

(3) AGRICULTURAL FELLOWSHIP PROGRAM.—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended—

(A) in subsection (b), by striking the last sentence and inserting the following: "The Commodity Credit Corporation shall give priority under this subsection to—

"(A) projects that encourage the privatization of the agricultural sector or that benefit private farms or cooperatives in emerging markets; and

"(B) projects for which nongovernmental persons agree to assume a relatively larger share of the costs."; and

(B) in subsection (d)—

(i) in the matter preceding paragraph (1), by striking "the Soviet Union" and inserting "emerging markets";

(ii) in paragraph (1)—

(I) in subparagraph (A)(i)—

(aa) by striking "1995" and inserting "2002"; and

(bb) by striking "those systems, and identify" and inserting "the systems, including potential reductions in trade barriers, and identify and carry out";

(II) in subparagraph (B), by striking "shall" and inserting "may";

(III) in subparagraph (D), by inserting "(including the establishment of extension services)" after "technical assistance";

(IV) by striking subparagraph (F); and

(V) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (F), (G), and (H), respectively;

(iii) in paragraph (2)—

(I) by striking "the Soviet Union" each place it appears and inserting "emerging markets";

(II) in subparagraph (A), by striking "a free market food production and distribution system" and inserting "free market food production and distribution systems";

(III) in subparagraph (B)—

(aa) in clause (i), by striking "Government" and inserting "governments";

(bb) in clause (iii)(II), by striking "and" at the end;

(cc) in clause (iii)(III), by striking the period at the end and inserting "; and"; and

(dd) by adding at the end of clause (iii) the following:

"(IV) to provide for the exchange of administrators and faculty members from agricultural and other institutions to strengthen and revise educational programs in agricultural economics, agribusiness, and agrarian law, to support change towards a free market economy in emerging markets.";

(IV) by striking subparagraph (D); and

(V) by redesignating subparagraph (E) as subparagraph (D); and

(iv) by striking paragraph (3).

(4) UNITED STATES AGRICULTURAL COMMODITY.—Subsections (b) and (c) of section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 are amended by striking "section 101(6)" each place it appears and inserting "section 102(7)".

(5) REPORT.—The first sentence of section 1542(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "Not" and inserting "Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), not".

(b) AGRICULTURAL FELLOWSHIP PROGRAM FOR MIDDLE INCOME COUNTRIES, EMERGING DEMOCRACIES, AND EMERGING MARKETS.—Section 1543 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293) is amended—

(1) in the section heading, by striking "**MIDDLE INCOME COUNTRIES AND EMERGING DEMOCRACIES**" and inserting "**MIDDLE INCOME COUNTRIES, EMERGING DEMOCRACIES, AND EMERGING MARKETS**";

(2) in subsection (b), by adding at the end the following:

"(5) EMERGING MARKET.—Any emerging market, as defined in section 1542(f)."; and

(3) in subsection (c)(1), by striking "food needs" and inserting "food and fiber needs".

(c) CONFORMING AMENDMENTS.—

(1) Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended—

(A) in subsection (a), by striking "emerging democracies" and inserting "emerging markets"; and

(B) in subsection (b), by striking paragraph (1) and inserting the following:

"(1) EMERGING MARKET.—The term 'emerging market' means any country that the Secretary determines—

"(A) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

"(B) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.".

(2) Section 201(d)(1)(C)(ii) of the Agricultural Trade Act of 1978 (7 U.S.C. 5621(d)(1)(C)(ii)) is amended by striking "emerging democracies" and inserting "emerging markets".

(3) Section 202(d)(3)(B) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(d)(3)(B)) is amended by striking "emerging democracies" and inserting "emerging markets".

SEC. 278. REIMBURSEMENT FOR OVERHEAD EXPENSES.

Section 1542(d)(1)(D) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note) is amended by adding at the end the following: "Notwithstanding any other provision of law, the assistance shall include assistance for administrative and overhead expenses of the International Cooperation and Development Program Area of the Foreign Agriculture Service, to the extent that the expenses were incurred pursuant to reimbursable agreements entered into prior to September 30, 1993, the expenses do not exceed $2,000,000 per year, and the expenses are not incurred for information technology systems.".

SEC. 279. LABELING OF DOMESTIC AND IMPORTED LAMB AND MUTTON.

Section 7 of the Federal Meat Inspection Act (21 U.S.C. 607) is amended by adding at the end the following:

"(f) LAMB AND MUTTON.—The Secretary, consistent with United States international obligations, shall establish standards for the labeling of sheep carcasses, parts of sheep carcasses, sheepmeat, and sheepmeat food products.".

SEC. 280. IMPORT ASSISTANCE FOR CBI BENEFICIARY COUNTRIES AND THE PHILIPPINES.

Section 583 of Public Law 100–202 (101 Stat. 1329–182) is repealed.

SEC. 281. STUDIES, REPORTS, AND OTHER PROVISIONS.

(a) IN GENERAL.—Sections 1551 through 1555, section 1558, and section 1559 of subtitle E of title XV of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3696) (as redesignated by section 1011(d) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 109 Stat. 709)) are repealed.

(b) LANGUAGE PROFICIENCY.—Section 1556 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5694 note) is amended by striking subsection (c).

SEC. 282. SENSE OF CONGRESS CONCERNING MULTILATERAL DISCIPLINES ON CREDIT GUARANTEES.

It is the sense of Congress that—

(1) in negotiations to establish multilateral disciplines on agricultural export credits and credit guarantees, the United States should not agree to any arrangement that is incompatible with the provisions of United States law that authorize agricultural export credits and credit guarantees;

(2) in the negotiations (which are held under the auspices of the Organization for Economic Cooperation and Development), the United States should not reach any agreement that fails to impose disciplines on the practices of foreign government trading entities such as the Australian Wheat Board, the Canadian Wheat Board, the New Zealand Dairy Board, and the Australian Dairy Board; and

(3) the disciplines should include greater openness in the operations of the entities as long as the entities are subsidized by the foreign government or have monopolies for exports of a commodity that are sanctioned by the foreign government.

SEC. 283. INTERNATIONAL COTTON ADVISORY COMMITTEE.

(a) IN GENERAL.—The President shall ensure that the Government of the United States participates as a full member of the International Cotton Advisory Committee.

(b) REPRESENTATION BY THE SECRETARY.—The Secretary of Agriculture shall represent the Government of the United States as a member of the International Cotton Advisory Committee and shall delegate the primary responsibility to represent the Government of the United States to appropriately qualified individuals.

TITLE III—CONSERVATION

Subtitle A—Definitions

SEC. 301. DEFINITIONS APPLICABLE TO HIGHLY ERODIBLE CROPLAND CONSERVATION.

(a) CONSERVATION PLAN AND CONSERVATION SYSTEM.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended—

(1) by redesignating paragraphs (2) through (16) as paragraphs (4) through (18), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) CONSERVATION PLAN.—The term 'conservation plan' means the document that—

"(A) applies to highly erodible cropland;

"(B) describes the conservation system applicable to the highly erodible cropland and describes the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedule; and

"(C) is approved by the local soil conservation district, in consultation with the local committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) and the Secretary, or by the Secretary.

"(3) CONSERVATION SYSTEM.—The term 'conservation system' means a combination of 1 or more conservation measures or management practices that—

"(A) are based on local resource conditions, available conservation technology, and the standards and guidelines contained in the Natural Resources Conservation Service field office technical guides; and

"(B) are designed to achieve, in a cost effective and technically practicable manner, a substantial reduction in soil erosion or a substantial improvement in soil conditions on a field or group of fields containing highly erodible cropland when compared to the level of erosion or soil conditions that existed before the application of the conservation measures and management practices.".

(b) FIELD.—Section 1201(a) of the Food Security Act of 1985 is amended by striking paragraph (7) (as redesignated by subsection (a)(1)) and inserting the following:

"(7) FIELD.—The term 'field' means a part of a farm that is separated from the balance of the farm by permanent boundaries such as fences, roads, permanent waterways, or other similar features. At the option of the owner or operator of the farm, croplines may also be used to delineate a field if farming practices make it probable that the croplines are not subject to change. Any highly erodible land on which an agricultural commodity is produced after December 23, 1985, and that is not exempt under section 1212, shall be considered as part of the field in which the land was included on December 23, 1985, unless the owner and Secretary agree to modification of the boundaries of the field to carry out this title.".

(c) HIGHLY ERODIBLE LAND.—Section 1201(a)(9) of the Food Security Act of 1985 (as redesignated by subsection (a)(1)) is amended by adding at the end the following:

"(C) EQUATIONS.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall publish in the Federal Register the universal soil loss equation and wind erosion equation used by the Department of Agriculture as of that date. The Secretary may not change the equations after that date except following notice and comment in a manner consistent with section 553 of title 5, United States Code.".

(d) CONFORMING AMENDMENTS.—Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) is amended—

(1) in the first sentence of subsection (a)(2), by striking "that documents" and all that follows through "by the Secretary";

(2) in subsection (c)(3), by striking "based on" and all that follows through "and the Secretary," and inserting ", in which case,";

(3) in subsection (e)(1)(A), by striking "conservation compliance plan" and inserting "conservation plan"; and

(4) in subsection (f)—

(A) in paragraph (1), by striking "that documents" and all that follows through "under subsection (a)";

(B) in paragraph (3), by striking "prepared under subsection (a)"; and

(C) in paragraph (4), by striking "that documents" and all that follows through "subsection (a)".

Subtitle B—Highly Erodible Land Conservation

SEC. 311. PROGRAM INELIGIBILITY.

Effective 90 days after the date of enactment of this Act, section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811) is amended—

(1) in the matter preceding paragraph (1), by striking "following the date of enactment of this Act,";

(2) in paragraph (1)—

(A) by striking subparagraph (A) and inserting the following:

"(A) contract payments under a production flexibility contract, marketing assistance loans, and any type of price support or payment made available under the Agricultural Market Transition Act, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;";

(B) by striking subparagraph (C);

(C) in subparagraph (D), by striking "made under" and all that follows through "August 14, 1989";

(D) in subparagraph (E), by striking "Farmers Home Administration" and inserting "Consolidated Farm Service Agency"; and

(E) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(3) by striking paragraph (3) and inserting the following:

"(3) during the crop year—

"(A) a payment made pursuant to a contract entered into under the environmental quality incentives program under chapter 4 of subtitle D;

"(B) a payment under any other provision of subtitle D;

"(C) a payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202); or

"(D) a payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).".

SEC. 312. CONSERVATION RESERVE LANDS.

Section 1212(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3812(a)(3)) is amended by striking "shall, if the conservation plan established under this subtitle for such land requires structures to be constructed," and inserting "shall only be required to apply a conservation plan established under this subtitle. The person shall not be required to meet a higher conservation standard than the standard applied to other highly erodible cropland located within the same area. If the person's conservation plan requires structures to be constructed, the person shall".

SEC. 313. GOOD FAITH EXEMPTION.

(a) GRACE PERIOD TO RESUME CONSERVATION COMPLIANCE.—Section 1212(f)(1) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(1)) is amended—

(1) by striking "Except to the extent provided in paragraph (2), no" and inserting "No"; and

(2) by striking "such person has—" and all that follows through the period at the end of subparagraph (B) and inserting the following: "the person has acted in good faith and without an intent to violate this subtitle. A person who meets the requirements of this paragraph shall be allowed a reasonable period of time, as determined by the Secretary, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively applying the person's conservation plan.".

(b) SPECIAL PENALTIES REGARDING CERTAIN HIGHLY ERODIBLE CROPLAND.—Section 1212(f)(2) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(2)) is amended by striking "meets the requirements of paragraph (1)" and inserting "with respect to highly erodible cropland that was not in production prior to December 23, 1985, and has acted in good faith and without an intent to violate the provisions".

(c) CONFORMING AMENDMENT.—Section 1212(f)(4) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(4)) is amended by striking the last sentence.

SEC. 314. EXPEDITED PROCEDURES FOR GRANTING VARIANCES FROM CONSERVATION PLANS.

Section 1212(f) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(4)) is amended—

(1) in paragraph (4)(C), by striking "problem" and inserting "problem, including weather, pest, and disease problems"; and

(2) by adding at the end the following:

"(5) EXPEDITED PROCEDURES FOR TEMPORARY VARIANCES.—After consultation with local conservation districts, the Secretary shall establish expedited procedures for the consideration and granting of temporary variances under paragraph (4)(C). If the request for a temporary variance under paragraph (4)(C) involves the use of practices or measures to address weather, pest, or disease problems, the Secretary shall make a decision on whether to grant the variance during the 30-day period beginning on the date of receipt of the request. If the Secretary fails to render a decision during the period, the

VOL
142
PT
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temporary variance shall be considered granted.".

SEC. 315. DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS AND CONSERVATION SYSTEMS.

(a) DEVELOPMENT AND IMPLEMENTATION.—The Food Security Act of 1985 is amended—

(1) by redesignating section 1213 (16 U.S.C. 3813) as section 1214; and

(2) by inserting after section 1212 (16 U.S.C. 3812) the following:

"SEC. 1213. DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS AND CONSERVATION SYSTEMS.

"(a) TECHNICAL REQUIREMENTS.—In connection with the standards and guidelines contained in Natural Resources Conservation Service field office technical guides applicable to the development and use of conservation measures and management practices as part of a conservation system, the Secretary shall ensure that the standards and guidelines permit a person to use a conservation system that—

"(1) is technically and economically feasible;

"(2) is based on local resource conditions and available conservation technology;

"(3) is cost-effective; and

"(4) does not cause undue economic hardship on the person applying the conservation system under the person's conservation plan.

"(b) MEASUREMENT OF EROSION REDUCTION.—For the purpose of determining whether there is a substantial reduction in soil erosion on a field containing highly erodible cropland, the measurement of erosion reduction achieved by the application of a conservation system under a person's conservation plan shall be based on the estimated annual level of erosion at the time of the measurement compared to the estimated annual level of erosion that existed before the implementation of the conservation measures and management practices provided for in the conservation system.

"(c) RESIDUE MEASUREMENT.—

"(1) RESPONSIBILITIES OF THE SECRETARY.—For the purpose of measuring the level of residue on a field, the Secretary shall—

"(A) take into account any residue incorporated into the top 2 inches of soil, as well as the growing crop, in the measurement;

"(B) provide technical guidelines for acceptable residue measurement methods;

"(C) provide a certification system for third parties to perform residue measurements; and

"(D) provide for the acceptance and use of information and data voluntarily provided by the producer regarding the field.

"(2) ACCEPTANCE OF PRODUCER MEASUREMENTS.—Annual residue measurements supplied by a producer (including measurements performed by a certified third party) shall be used by the Secretary if the Secretary determines that the measurements indicate that the residue level for the field meets the level required under the conservation plan.

"(d) CERTIFICATION OF COMPLIANCE.—

"(1) IN GENERAL.—For the purpose of determining the eligibility of a person for program benefits specified in section 1211 at the time application is made for the benefits, the Secretary shall permit the person to certify that the person is complying with the person's conservation plan.

"(2) STATUS REVIEWS.—If a person makes a certification under paragraph (1), the Secretary shall not be required to carry out a review of the status of compliance of the person with the conservation plan under which the conservation system is being applied.

"(3) REVISIONS AND MODIFICATIONS.—The Secretary shall permit a person who makes a certification under paragraph (1) with respect to a conservation plan to revise the conservation plan in any manner, if the same level of conservation treatment provided for by the conservation system under the person's conservation plan is maintained. The Secretary may not revise the person's conservation plan without the concurrence of the person.

"(e) TECHNICAL ASSISTANCE.—The Secretary shall, using available resources and consistent with the Secretary's other conservation responsibilities and objectives, provide technical assistance to a person throughout the development, revision, and application of the conservation plan and any conservation system of the person. At the request of the person, the Secretary may provide technical assistance regarding conservation measures and management practices for other lands of the person that do not contain highly erodible cropland.

"(f) ENCOURAGEMENT OF ON-FARM RESEARCH.—To encourage on-farm conservation research, the Secretary may allow a person to include in the person's conservation plan or a conservation system under the plan, on a field trial basis, practices that are not currently approved but that the Secretary considers have a reasonable likelihood of success.".

(b) TREATMENT OF TECHNICAL DETERMINATIONS.—Section 226(d)(2) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6932(d)(2)) is amended—

(1) by striking "DETERMINATION.—With" and inserting "DETERMINATION.—

"(A) IN GENERAL.—With"; and

(2) by adding at the end the following:

"(B) ECONOMIC HARDSHIP.—After a technical determination has been made, on a producer's request, if a county or area committee determines that the application of the producer's conservation system would impose an undue economic hardship on the producer, the committee shall provide the producer with relief to avoid the hardship.".

SEC. 316. INVESTIGATION OF POSSIBLE COMPLIANCE DEFICIENCIES.

Subtitle B of title XII of the Food Security Act of 1985 (as amended by section 315(a)(1)) is amended by adding at the end the following:

"SEC. 1215. NOTICE AND INVESTIGATION OF POSSIBLE COMPLIANCE DEFICIENCIES.

"(a) IN GENERAL.—An employee of the Department of Agriculture who observes a possible compliance deficiency or other potential violation of a conservation plan or this subtitle while providing on-site technical assistance shall provide to the responsible persons, not later than 45 days after observing the possible violation, information regarding actions needed to comply with the plan and this subtitle. The employee shall provide the information in lieu of reporting the observation as a compliance violation.

"(b) CORRECTIVE ACTION.—The responsible persons shall attempt to correct the deficiencies as soon as practicable after receiving the information.

"(c) REVIEW.—If the corrective action is not fully implemented not later than 1 year after the responsible persons receive the information, the Secretary may conduct a review of the status of compliance of the persons with the conservation plan and this subtitle.".

SEC. 317. WIND EROSION ESTIMATION PILOT PROJECT.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a pilot project to review, and modify as appropriate, the use of wind erosion factors under the highly erodible conservation requirements of subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.)

(b) SELECTION OF COUNTIES AND PRODUCERS.—The pilot project shall be conducted for producers in those counties that—

(1) have approximately 100 percent of their cropland determined to be highly erodible under title XII of the Act;

(2) have a reasonable likelihood that the use of wind erosion factors under title XII of the Act have resulted in an inequitable application of the highly erodible land requirements of title XII of the Act; and

(3) if the use of the land classification system under section 1201(a)(9)(A) of the Act (as redesignated by section 301(a)(1)) may result in a more accurate delineation of the cropland.

(c) ERRORS IN DELINEATION.—If the Secretary determines that a significant error has occurred in delineating cropland under the pilot project, the Secretary shall, at the request of the owners or operators of the cropland, conduct a new delineation of the cropland using the most accurate available delineation process, as determined by the Secretary.

Subtitle C—Wetland Conservation

SEC. 321. PROGRAM INELIGIBILITY.

(a) PROGRAM INELIGIBILITY.—Section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by striking the section heading and all that follows through the end of subsection (a) and inserting the following:

"SEC. 1221. PROGRAM INELIGIBILITY.

"(a) PRODUCTION ON CONVERTED WETLAND.—Except as provided in this subtitle and notwithstanding any other provision of law, any person who in any crop year produces an agricultural commodity on converted wetland, as determined by the Secretary, shall be—

"(1) in violation of this section; and

"(2) ineligible for loans or payments in an amount determined by the Secretary to be proportionate to the severity of the violation.

"(b) INELIGIBILITY FOR CERTAIN LOANS AND PAYMENTS.—If a person is determined to have committed a violation under subsection (a) during a crop year, the Secretary shall determine which of, and the amount of, the following loans and payments for which the person shall be ineligible:

"(1) Contract payments under a production flexibility contract, marketing assistance loans, and any type of price support or payment made available under the Agricultural Market Transition Act, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act.

"(2) A loan made or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Consolidated Farm Service Agency, if the Secretary determines that the proceeds of the loan will be used for a purpose that will contribute to conversion of a wetland (other than as provided in this subtitle) to produce an agricultural commodity.

"(3) During the crop year:

"(A) A payment made pursuant to a contract entered into under the environmental quality incentives program under chapter 4 of subtitle D.

"(B) A payment under any other provision of subtitle D.

"(C) A payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202).

"(D) A payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1221(c) of the Food Security Act of 1985 (as redesignated by subsection (a)(1)) is amended—

(A) by striking "Except" and inserting "WETLAND CONVERSION.—Except";

(B) by striking "subsequent to the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990" and inserting "beginning after November 28, 1990,"; and

(C) by striking "subsections (a) (1) through (3)" and inserting "subsection (b)".

(2) Section 1221 of the Food Security Act of 1985 (as amended by subsection (a)) is amended by adding at the end the following:

"(d) PRIOR LOANS.—This section shall not apply to a loan described in subsection (b) made before December 23, 1985.".

SEC. 322. DELINEATION OF WETLANDS; EXEMPTIONS TO PROGRAM INELIGIBILITY.

(a) DELINEATION OF WETLANDS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (a) and inserting the following:

"(a) DELINEATION BY THE SECRETARY.—

"(1) IN GENERAL.—Subject to subsection (b) and paragraph (6), the Secretary shall delineate, determine, and certify all wetlands located on subject land on a farm.

"(2) WETLAND DELINEATION MAPS.—The Secretary shall delineate wetlands on wetland delineation maps. On the request of a person, the Secretary shall make a reasonable effort to make an on-site wetland determination prior to delineation.

"(3) CERTIFICATION.—On providing notice to affected persons, the Secretary shall—

"(A) certify whether a map is sufficient for the purpose of making a determination of ineligibility for program benefits under section 1221; and

"(B) provide an opportunity to appeal the certification prior to the certification becoming final.

"(4) DURATION OF CERTIFICATION.—A final certification made under paragraph (3) shall remain valid and in effect as long as the area is devoted to an agricultural use or until such time as the person affected by the certification requests review of the certification by the Secretary.

"(5) REVIEW OF MAPPING ON APPEAL.—In the case of an appeal of the Secretary's certification, the Secretary shall review and certify the accuracy of the mapping of all land subject to the appeal to ensure that the subject land has been accurately delineated. Prior to rendering a decision on the appeal, the Secretary shall conduct an on-site inspection of the subject land on a farm.

"(6) RELIANCE ON PRIOR CERTIFIED DELINEATION.—No person shall be adversely affected because of having taken an action based on a previous certified wetland delineation by the Secretary. The delineation shall not be subject to a subsequent wetland certification or delineation by the Secretary, unless requested by the person under paragraph (4).".

(b) EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (b) and inserting the following:

"(b) EXEMPTIONS.—No person shall become ineligible under section 1221 for program loans or payments under the following circumstances:

"(1) As the result of the production of an agricultural commodity on the following lands:

"(A) A converted wetland if the conversion of the wetland was commenced before December 23, 1985.

"(B) Land that is a nontidal drainage or irrigation ditch excavated in upland.

"(C) A wet area created by a water delivery system, irrigation, irrigation system, or application of water for irrigation.

"(D) A wetland on which the owner or operator of a farm or ranch uses normal cropping or ranching practices to produce an agricultural commodity in a manner that is consistent for the area where the production is possible as a result of a natural condition, such as drought, and is without action by the producer that destroys a natural wetland characteristic.

"(E) Land that is an artificial lake or pond created by excavating or diking land (that is not a wetland) to collect and retain water and that is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, or rice production, or as a settling pond.

"(F) A wetland that is temporarily or incidentally created as a result of adjacent development activity.

"(G) A converted wetland if the original conversion of the wetland was commenced before December 23, 1985, and the Secretary determines the wetland characteristics returned after that date as a result of—

"(i) the lack of maintenance of drainage, dikes, levees, or similar structures;

"(ii) a lack of management of the lands containing the wetland; or

"(iii) circumstances beyond the control of the person.

"(H) A converted wetland, if—

"(i) the converted wetland was determined by the Natural Resources Conservation Service to have been manipulated for the production of an agricultural commodity or forage prior to December 23, 1985, and was returned to wetland conditions through a voluntary restoration, enhancement, or creation action subsequent to that determination;

"(ii) technical determinations regarding the prior site conditions and the restoration, enhancement, or creation action have been adequately documented by the Natural Resources Conservation Service;

"(iii) the proposed conversion action is approved by the Natural Resources Conservation Service prior to implementation; and

"(iv) the extent of the proposed conversion is limited so that the conditions will be at least equivalent to the wetland functions and values that existed prior to implementation of the voluntary wetland restoration, enhancement, or creation action.

"(2) For the conversion of the following:

"(A) An artificial lake or pond created by excavating or diking land that is not a wetland to collect and retain water and that is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, rice production, or as a settling pond.

"(B) A wetland that is temporarily or incidentally created as a result of adjacent development activity.

"(C) A wetland on which the owner or operator of a farm or ranch uses normal cropping or ranching practices to produce an agricultural commodity in a manner that is consistent for the area where the production is possible as a result of a natural condition, such as drought, and is without action by the producer that destroys a natural wetland characteristic.

"(D) A wetland previously identified as a converted wetland (if the original conversion of the wetland was commenced before December 23, 1985), but that the Secretary determines returned to wetland status after that date as a result of—

"(i) the lack of maintenance of drainage, dikes, levees, or similar structures;

"(ii) a lack of management of the lands containing the wetland; or

"(iii) circumstances beyond the control of the person.

"(E) A wetland, if—

"(i) the wetland was determined by the Natural Resources Conservation Service to have been manipulated for the production of an agricultural commodity or forage prior to December 23, 1985, and was returned to wetland conditions through a voluntary restoration, enhancement, or creation action subsequent to that determination;

"(ii) technical determinations regarding the prior site conditions and the restoration, enhancement, or creation action have been adequately documented by the Natural Resources Conservation Service;,

"(iii) the proposed conversion action is approved by the Natural Resources Conservation Service prior to implementation; and

"(iv) the extent of the proposed conversion is limited so that the conditions will be at least equivalent to the wetland functions and values that existed prior to implementation of the voluntary wetland restoration, enhancement, or creation action.".

(c) IDENTIFICATION OF MINIMAL EFFECT EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (d) and inserting the following:

"(d) IDENTIFICATION OF MINIMAL EFFECT EXEMPTIONS.—For purposes of applying the minimal effect exemption under subsection (f)(1), the Secretary shall identify by regulation categorical minimal effect exemptions on a regional basis to assist persons in avoiding a violation of the ineligibility provisions of section 1221. The Secretary shall ensure that employees of the Department of Agriculture who administer this subtitle receive appropriate training to properly apply the minimal effect exemptions determined by the Secretary.".

(d) MINIMAL EFFECT AND MITIGATION EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (f) and inserting the following:

"(f) MINIMAL EFFECT; MITIGATION.—The Secretary shall exempt a person from the ineligibility provisions of section 1221 for any action associated with the production of an agricultural commodity on a converted wetland, or the conversion of a wetland, if 1 or more of the following conditions apply, as determined by the Secretary:

"(1) The action, individually and in connection with all other similar actions authorized by the Secretary in the area, will have a minimal effect on the functional hydrological and biological value of the wetlands in the area, including the value to waterfowl and wildlife.

"(2) The wetland and the wetland values, acreage, and functions are mitigated by the person through the restoration of a converted wetland, the enhancement of an existing wetland, or the creation of a new wetland, and the restoration, enhancement, or creation is—

"(A) in accordance with a wetland conservation plan;

"(B) in advance of, or concurrent with, the action;

"(C) not at the expense of the Federal Government;

"(D) in the case of enhancement or restoration of wetlands, on not greater than a 1-for-1 acreage basis unless more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion to be mitigated;

"(E) in the case of creation of wetlands, on greater than a 1-for-1 acreage basis if more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion that is mitigated;

"(F) on lands in the same general area of the local watershed as the converted wetland; and

"(G) with respect to the restored, enhanced, or created wetland, made subject to an easement that—

"(i) is recorded on public land records;

"(ii) remains in force for as long as the converted wetland for which the restoration, enhancement, or creation to be mitigated remains in agricultural use or is not returned to its original wetland classification with equivalent functions and values; and

"(iii) prohibits making alterations to the restored, enhanced, or created wetland that lower the wetland's functions and values.

"(3) The wetland was converted after December 23, 1985, but before November 28, 1990, and

VOL
142
PT
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MR
21
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29
1996
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the wetland values, acreage, and functions are mitigated by the producer through the requirements of subparagraphs (A), (B), (C), (D), (F), and (G) of paragraph (2).

"(4) The action was authorized by a permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) and the wetland values, acreage, and functions of the converted wetland were adequately mitigated for the purposes of this subtitle.".

(e) REFERENCES TO PRODUCER.—Section 1222(g) of the Food Security Act of 1985 (16 U.S.C. 3822(g)) is amended by striking "producer" and inserting "person".

(f) GOOD FAITH EXEMPTION.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (h) and inserting the following:

"(h) GOOD FAITH EXEMPTION.—

"(1) EXEMPTION DESCRIBED.—The Secretary may waive a person's ineligibility under section 1221 for program loans, payments, and benefits as the result of the conversion of a wetland subsequent to November 28, 1990, or the production of an agricultural commodity on a converted wetland, if the Secretary determines that the person has acted in good faith and without intent to violate this subtitle.

"(2) PERIOD FOR COMPLIANCE.—The Secretary shall provide a person who the Secretary determines has acted in good faith and without intent to violate this subtitle with a reasonable period, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to actively restoring the subject wetland.".

(g) RESTORATION.—Section 1222(i) of the Food Security Act of 1985 (16 U.S.C. 3822(i)) is amended by inserting before the period at the end the following: "or has otherwise mitigated for the loss of wetland values, as determined by the Secretary, through the restoration, enhancement, or creation of wetland values in the same general area of the local watershed as the converted wetland".

(h) DETERMINATIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (j) and inserting the following:

"(j) DETERMINATIONS; RESTORATION AND MITIGATION PLANS; MONITORING ACTIVITIES.—Technical determinations, the development of restoration and mitigation plans, and monitoring activities under this section shall be made by the National Resources Conservation Service.".

(i) MITIGATION BANKING.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by adding at the end the following:

"(k) MITIGATION BANKING PROGRAM.—Using authorities available to the Secretary, the Secretary may operate a pilot program for mitigation banking of wetlands to assist persons to increase the efficiency of agricultural operations while protecting wetland functions and values. Subsection (f)(2)(C) shall not apply to this subsection.".

SEC. 323. CONSULTATION AND COOPERATION REQUIREMENTS.

Section 1223 of the Food Security Act of 1985 (16 U.S.C. 3823) is repealed.

SEC. 324. APPLICATION OF PROGRAM INELIGIBILITY TO AFFILIATED PERSONS.

The Food Security Act of 1985 (as amended by section 323) is amended by inserting after section 1222 (16 U.S.C. 3822) the following:

"SEC. 1223. AFFILIATED PERSONS.

"If a person is affected by a reduction in benefits under section 1221 and the affected person is affiliated with other persons for the purpose of receiving the benefits, the benefits of each affiliated person shall be reduced under section 1221 in proportion to the interest held by the affiliated person.".

SEC. 325. CLARIFICATION OF DEFINITION OF AGRICULTURAL LANDS IN MEMORANDUM OF AGREEMENT.

(a) AGRICULTURAL LANDS.—For purposes of implementing the memorandum of agreement entered into between the Department of Agriculture, the Environmental Protection Agency, the Department of the Interior, and the Department of the Army on January 6, 1994, relating to the delineation of wetlands, the term "agricultural lands" shall include—

(1) native pasture, rangelands, and other lands used to produce or support the production of livestock; and

(2) tree farms.

(b) WETLAND CONSERVATION.—Subsection (a) shall not apply with respect to the delineation of wetlands under subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) or to the enforcement of the subtitle.

(c) SUCCESSOR MEMORANDUM.—Subsection (a) shall apply to any amendment to or successor of the memorandum of agreement described in subsection (a).

SEC. 326. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall become effective 90 days after the date of enactment of this Act.

Subtitle D—Environmental Conservation Acreage Reserve Program

SEC. 331. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

Section 1230 of the Food Security Act of 1985 (16 U.S.C. 3830) is amended to read as follows:

"SEC. 1230. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2002 calendar years, the Secretary shall establish an environmental conservation acreage reserve program (referred to in this section as 'ECARP') to be implemented through contracts and the acquisition of easements to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources, including grazing land, wetland, and wildlife habitat.

"(2) MEANS.—The Secretary shall carry out the ECARP by—

"(A) providing for the long-term protection of environmentally sensitive land; and

"(B) providing technical and financial assistance to farmers and ranchers to—

"(i) improve the management and operation of the farms and ranches; and

"(ii) reconcile productivity and profitability with protection and enhancement of the environment.

"(3) PROGRAMS.—The ECARP shall consist of—

"(A) the conservation reserve program established under subchapter B;

"(B) the wetlands reserve program established under subchapter C; and

"(C) the environmental quality incentives program established under chapter 4.

"(b) ADMINISTRATION.—

"(1) IN GENERAL.—In carrying out the ECARP, the Secretary shall enter into contracts with owners and operators and acquire interests in land through easements from owners, as provided in this chapter and chapter 4.

"(2) PRIOR ENROLLMENTS.—Acreage enrolled in the conservation reserve or wetlands reserve program prior to the date of enactment of this paragraph shall be considered to be placed into the ECARP.

"(c) CONSERVATION PRIORITY AREAS.—

"(1) DESIGNATION.—The Secretary may designate watersheds, multistate areas, or regions of special environmental sensitivity as conservation priority areas that are eligible for enhanced assistance under this chapter and chapter 4.

"(2) ASSISTANCE.—The Secretary may designate areas as conservation priority areas to assist, to the maximum extent practicable, agricultural producers within the conservation priority areas to comply with nonpoint source pollution requirements under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and other Federal and State environmental laws and to meet other conservation needs.

"(3) PRODUCERS.—The Secretary may provide technical assistance, cost-share payments, and incentive payments to producers in a conservation priority area under this chapter and chapter 4 based on—

"(A) the significance of the soil, water, wildlife habitat, and related natural resource problems in a watershed, multistate area, or region; and

"(B) the structural practices or land management practices that best address the problems, and that maximize environmental benefits for each dollar expended, as determined by the Secretary.".

SEC. 332. CONSERVATION RESERVE PROGRAM.

(a) PROGRAM EXTENSIONS.—

(1) CONSERVATION RESERVE PROGRAM.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by striking "1995" each place it appears and inserting "2002".

(2) DUTIES OF OWNERS AND OPERATORS.—Section 1232(c) of the Food Security Act of 1985 (16 U.S.C. 3832(c)) is amended by striking "1995" and inserting "2002".

(b) MAXIMUM ENROLLMENT.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by striking subsection (d) and inserting the following:

"(d) MAXIMUM ENROLLMENT.—The Secretary may maintain up to 36,400,000 acres in the conservation reserve at any one time during the 1986 through 2002 calendar years (including contracts extended by the Secretary pursuant to section 1437(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note)).".

(c) OPTIONAL CONTRACT TERMINATION BY PRODUCERS.—Section 1235 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "3-year" and inserting "1-year"; and

(B) in paragraph (2)(B)(i), by striking "3 years" and inserting "1 year"; and

(2) by adding at the end the following:

"(e) TERMINATION BY OWNER OR OPERATOR.—

"(1) EARLY TERMINATION AUTHORIZED.—Subject to the other provisions of this subsection, the Secretary shall allow a participant who entered into a contract before January 1, 1995, to terminate the contract at any time if the contract has been in effect for at least 5 years. The termination shall not relieve the participant of liability for a contract violation occurring before the date of the termination. The participant shall provide the Secretary with reasonable notice of the participant's desire to terminate the contract.

"(2) CERTAIN LANDS EXCEPTED.—The following lands shall not be subject to an early termination of contract under this subsection:

"(A) Filterstrips, waterways, strips adjacent to riparian areas, windbreaks, and shelterbelts.

"(B) Land with an erodibility index of more than 15.

"(C) Other lands of high environmental value (including wetlands), as determined by the Secretary.

"(3) EFFECTIVE DATE.—The contract termination shall become effective 60 days after the date on which the owner or operator submits the notice required under paragraph (1).

"(4) PRORATED RENTAL PAYMENT.—If a contract entered into under this subchapter is terminated under this subsection before the end of the fiscal year for which a rental payment is due, the Secretary shall provide a prorated rental payment covering the portion of the fiscal year during which the contract was in effect.

"(5) RENEWED ENROLLMENT.—The termination of a contract entered into under this subchapter shall not affect the ability of the owner or operator who requested the termination to submit a subsequent bid to enroll the land that was subject to the contract into the conservation reserve.

"(6) CONSERVATION REQUIREMENTS.—If land that was subject to a contract is returned to production of an agricultural commodity, the conservation requirements under subtitles B and C shall apply to the use of the land to the extent that the requirements are similar to those requirements imposed on other similar lands in the area, except than the requirements may not be more onerous than the requirements imposed on other lands.".

(d) ENROLLMENTS IN 1997.—Section 725 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 (Public Law 104–37; 109 Stat. 332), is amended by striking ": Provided," and all that follows through "1997".

SEC. 333. WETLANDS RESERVE PROGRAM.

(a) ENROLLMENT.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended by striking subsection (b) and inserting the following:

"(b) ENROLLMENT CONDITIONS.—

"(1) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the wetlands reserve program shall not exceed 975,000 acres.

"(2) METHODS OF ENROLLMENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), effective beginning October 1, 1996, to the maximum extent practicable, the Secretary shall enroll into the wetlands reserve program—

"(i) ⅓ of the acres through the use of permanent easements;

"(ii) ⅓ of the acres through the use of 30-year easements; and

"(iii) ⅓ of the acres through the use of restoration cost-share agreements.

"(B) TEMPORARY EASEMENTS.—Effective beginning October 1, 1996, the Secretary shall not enroll acres in the wetlands reserve program through the use of new permanent easements until the Secretary has enrolled at least 75,000 acres in the program through the use of temporary easements.".

(b) ELIGIBILITY.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended—

(1) by striking "2000" and inserting "2002";

(2) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(3) by inserting after "determines that—" the following:

"(1) such land maximizes wildlife benefits and wetland values and functions;".

(c) OTHER ELIGIBLE LANDS.—Section 1237(d) of the Food Security Act of 1985 (16 U.S.C. 3837(d)) is amended—

(1) by inserting after "subsection (c)" the following ", land that maximizes wildlife benefits and that is"; and

(2) in paragraph (2), by striking "and" at the end and inserting "or".

(d) EASEMENTS.—Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended—

(1) in the section heading, by inserting before the period at the end the following: "**AND AGREEMENTS**";

(2) by striking subsection (c) and inserting the following:

"(c) RESTORATION PLANS.—The development of a restoration plan, including any compatible use, under this section shall be made through the local Natural Resources Conservation Service representative, in consultation with the State technical committee.";

(3) in subsection (f), by striking the third sentence and inserting the following: "Compensation may be provided in not less than 5, nor more than 30, annual payments of equal or unequal size, as agreed to by the owner and the Secretary."; and

(4) by adding at the end the following:

"(h) RESTORATION COST-SHARE AGREEMENTS.—The Secretary may enroll land into the wetlands reserve program through an agreement that requires the landowner to restore wetlands on the land, if the agreement does not provide the Secretary with an easement.".

(e) COST-SHARE AND TECHNICAL ASSISTANCE.—Section 1237C of the Food Security Act of 1985 (16 U.S.C. 3837c) is amended by striking subsection (b) and inserting the following:

"(b) COST-SHARE AND TECHNICAL ASSISTANCE.—

"(1) EASEMENTS.—Effective beginning October 1, 1996, in making cost-share payments under subsection (a)(1), the Secretary shall—

"(A) in the case of a permanent easement, pay the owner an amount that is not less than 75 percent, but not more than 100 percent, of the eligible costs; and

"(B) in the case of a 30-year easement, pay the owner an amount that is not less than 50 percent, but not more than 75 percent, of the eligible costs.

"(2) RESTORATION COST-SHARE AGREEMENTS.—In making cost-share payments in connection with a restoration cost-share agreement entered into under section 1237A(h), the Secretary shall pay the owner an amount that is not less than 50 percent, but not more than 75 percent, of the eligible costs.

"(3) TECHNICAL ASSISTANCE.—The Secretary shall provide owners with technical assistance to assist owners in complying with the terms of easements and restoration cost-share agreements.".

(f) EFFECT ON EXISTING AGREEMENTS.—The amendments made by this section shall not affect the validity or terms of any agreements entered into by the Secretary of Agriculture under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.) before the date of enactment of this Act or any payments required to be made in connection with the agreements.

SEC. 334. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by adding at the end the following:

"CHAPTER 4—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

"SEC. 1240. PURPOSES.

"The purposes of the environmental quality incentives program established by this chapter are to—

"(1) combine into a single program the functions of—

"(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h) (as in effect before the amendments made by section 336(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996);

"(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) (as in effect before the amendment made by section 336(b)(1) of the Federal Agriculture Improvement and Reform Act of 1996);

"(C) the water quality incentives program established under chapter 2 (as in effect before the amendment made by section 336(h) of the Federal Agriculture Improvement and Reform Act of 1996); and

"(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)) (as in effect before the amendment made by section 336(c)(1) of the Federal Agriculture Improvement and Reform Act of 1996); and

"(2) carry out the single program in a manner that maximizes environmental benefits per dollar expended, and that provides—

"(A) flexible technical and financial assistance to farmers and ranchers that face the most serious threats to soil, water, and related natural resources, including grazing lands, wetlands, and wildlife habitat;

"(B) assistance to farmers and ranchers in complying with this title and Federal and State environmental laws, and encourages environmental enhancement;

"(C) assistance to farmers and ranchers in making beneficial, cost-effective changes to cropping systems, grazing management, manure, nutrient, pest, or irrigation management, land uses, or other measures needed to conserve and improve soil, water, and related natural resources; and

"(D) for the consolidation and simplification of the conservation planning process to reduce administrative burdens on producers.

"SEC. 1240A. DEFINITIONS.

"In this chapter:

"(1) ELIGIBLE LAND.—The term 'eligible land' means agricultural land (including cropland, rangeland, pasture, and other land on which crops or livestock are produced), including agricultural land that the Secretary determines poses a serious threat to soil, water, or related resources by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.

"(2) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means a site-specific nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or other land management practice carried out on eligible land that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation.

"(3) LIVESTOCK.—The term 'livestock' means dairy cattle, beef cattle, laying hens, broilers, turkeys, swine, sheep, and such other animals as determined by the Secretary.

"(4) PRODUCER.—The term 'producer' means a person who is engaged in livestock or agricultural production (as defined by the Secretary).

"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means—

"(A) the establishment on eligible land of a site-specific animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, tailwater pit, permanent wildlife habitat, or other structural practice that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation; and

"(B) the capping of abandoned wells on eligible land.

"SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2002 fiscal years, the Secretary shall provide technical assistance, cost-share payments, incentive payments, and education to producers, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

"(2) ELIGIBLE PRACTICES.—

"(A) STRUCTURAL PRACTICES.—A producer who implements a structural practice shall be eligible for any combination of technical assistance, cost-share payments, and education.

"(B) LAND MANAGEMENT PRACTICES.—A producer who performs a land management practice shall be eligible for any combination of technical assistance, incentive payments, and education.

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(b) APPLICATION AND TERM.—A contract between a producer and the Secretary under this chapter may—

"(1) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(2) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(c) STRUCTURAL PRACTICES.—

"(1) OFFER SELECTION PROCESS.—The Secretary shall, to the maximum extent practicable, establish a process for selecting applications for financial assistance if there are numerous applications for assistance for structural practices that would provide substantially the same level of environmental benefits. The process shall be based on—

"(A) a reasonable estimate of the projected cost of the proposals and other factors identified by the Secretary for determining which applications will result in the least cost to the program authorized by this chapter; and

"(B) the priorities established under this subtitle and such other factors determined by the Secretary that maximize environmental benefits per dollar expended.

"(2) CONCURRENCE OF OWNER.—If the producer making an offer to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the producer shall obtain the concurrence of the owner of the land with respect to the offer.

"(d) LAND MANAGEMENT PRACTICES.—The Secretary shall establish an application and evaluation process for awarding technical assistance or incentive payments, or both, to a producer in exchange for the performance of 1 or more land management practices by the producer.

"(e) COST-SHARE PAYMENTS, INCENTIVE PAYMENTS, AND TECHNICAL ASSISTANCE.—

"(1) COST-SHARE PAYMENTS.—

"(A) IN GENERAL.—The Federal share of cost-share payments to a producer proposing to implement 1 or more structural practices shall be not more than 75 percent of the projected cost of the practice, as determined by the Secretary, taking into consideration any payment received by the producer from a State or local government.

"(B) LIMITATION.—A producer who owns or operates a large confined livestock operation (as defined by the Secretary) shall not be eligible for cost-share payments to construct an animal waste management facility.

"(C) OTHER PAYMENTS.—A producer shall not be eligible for cost-share payments for structural practices on eligible land under this chapter if the producer receives cost-share payments or other benefits for the same land under chapter 1 or 3.

"(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform 1 or more land management practices.

"(3) TECHNICAL ASSISTANCE.—

"(A) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year. The allocated amount may vary according to the type of expertise required, quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year.

"(B) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the producer to receive technical assistance under other authorities of law available to the Secretary.

"(C) PRIVATE SOURCES.—The Secretary shall ensure that the processes of writing and developing proposals and plans for contracts under this chapter, and of assisting in the implementation of structural practices and land management practices covered by the contracts, are open to individuals in agribusiness, including agricultural producers, representatives from agricultural cooperatives, agricultural input retail dealers, and certified crop advisers. The requirements of this subparagraph shall also apply to any other conservation program of the Department of Agriculture that provides incentive payments, technical assistance, or cost-share payments.

"(f) MODIFICATION OR TERMINATION OF CONTRACTS.—

"(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under this chapter if—

"(A) the producer agrees to the modification or termination; and

"(B) the Secretary determines that the modification or termination is in the public interest.

"(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this chapter if the Secretary determines that the producer violated the contract.

"(g) NON-FEDERAL ASSISTANCE.—The Secretary may request the services of a State water quality agency, State fish and wildlife agency, State forestry agency, or any other governmental or private resource considered appropriate to assist in providing the technical assistance necessary for the development and implementation of a structural practice or land management practice.

"SEC. 1240C. EVALUATION OF OFFERS AND PAYMENTS.

"In providing technical assistance, cost-share payments, and incentive payments to producers, the Secretary shall accord a higher priority to assistance and payments that—

"(1) are provided in conservation priority areas established under section 1230(c);

"(2) maximize environmental benefits per dollar expended; or

"(3) are provided in watersheds, regions, or conservation priority areas in which State or local governments have provided, or will provide, financial or technical assistance to producers for the same conservation or environmental purposes.

"SEC. 1240D. DUTIES OF PRODUCERS.

"To receive technical assistance, cost-share payments, or incentive payments under this chapter, a producer shall agree—

"(1) to implement an environmental quality incentives program plan that describes conservation and environmental goals to be achieved through a structural practice or land management practice, or both, that is approved by the Secretary;

"(2) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of this chapter;

"(3) on the violation of a term or condition of the contract at any time the producer has control of the land, to refund any cost-share or incentive payment received with interest, and forfeit any future payments under this chapter, as determined by the Secretary;

"(4) on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all cost-share payments and incentive payments received under this chapter, as determined by the Secretary;

"(5) to supply information as required by the Secretary to determine compliance with the environmental quality incentives program plan and requirements of the program; and

"(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the environmental quality incentives program plan.

"SEC. 1240E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

"(a) IN GENERAL.—To be eligible to enter into a contract under the environmental quality incentives program, an owner or producer of a livestock or agricultural operation must submit to the Secretary for approval a plan of operations that incorporates such conservation practices, and is based on such principles, as the Secretary considers necessary to carry out the program, including a description of structural practices and land management practices to be implemented and the objectives to be met by the plan's implementation.

"(b) AVOIDANCE OF DUPLICATION.—The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the environmental quality incentives program and comparable conservation programs.

"SEC. 1240F. DUTIES OF THE SECRETARY.

"To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of an environmental quality incentives program plan by—

"(1) providing an eligibility assessment of the farming or ranching operation of the producer as a basis for developing the plan;

"(2) providing technical assistance in developing and implementing the plan;

"(3) providing technical assistance, cost-share payments, or incentive payments for developing and implementing 1 or more structural practices or 1 or more land management practices, as appropriate;

"(4) providing the producer with information, education, and training to aid in implementation of the plan; and

"(5) encouraging the producer to obtain technical assistance, cost-share payments, or grants from other Federal, State, local, or private sources.

"SEC. 1240G. LIMITATION ON PAYMENTS.

"(a) IN GENERAL.—The total amount of cost-share and incentive payments paid to a producer under this chapter may not exceed—

"(1) $10,000 for any fiscal year; or

"(2) $50,000 for any multiyear contract.

"(b) EXCEPTION TO ANNUAL LIMIT.—The Secretary may exceed the limitation on the annual amount of a payment under subsection (a)(1) on a case-by-case basis if the Secretary determines that a larger payment is—

"(1) essential to accomplish the land management practice or structural practice for which the payment is made; and

"(2) consistent with the maximization of environmental benefits per dollar expended and the purposes of this chapter specified in section 1240.

"(c) TIMING OF EXPENDITURES.—Expenditures under a contract entered into under this chapter during a fiscal year may not be made by the Secretary until the subsequent fiscal year.

"SEC. 1240H. TEMPORARY ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) INTERIM ADMINISTRATION.—

"(1) IN GENERAL.—During the period beginning on the date of enactment of this section and ending on the termination date provided under paragraph (2), to ensure that technical assistance, cost-share payments, and incentive payments continue to be administered in an orderly manner until such time as assistance can be provided through final regulations issued to implement the environmental quality incentives program established under this chapter, the Secretary shall continue to—

"(A) provide technical assistance, cost-share payments, and incentive payments under the terms and conditions of the agricultural conservation program, the Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program, to the extent the terms and conditions of the program are consistent with the environmental quality incentives program; and

"(B) use for those purposes—

"(i) any funds remaining available for the agricultural conservation program, the Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program; and

"(ii) as the Secretary determines to be necessary, any funds authorized to be used to carry out the environmental quality incentives program.

"(2) TERMINATION OF AUTHORITY.—The authority of the Secretary to carry out paragraph (1) shall terminate on the date that is 180 days after the date of enactment of this section.

"(b) PERMANENT ADMINISTRATION.—Effective beginning on the termination date provided under subsection (a)(2), the Secretary shall provide technical assistance, cost-share payments, and incentive payments for structural practices and land management practices related to crop and livestock production in accordance with final regulations issued to carry out the environmental quality incentives program.".

SEC. 335. CONSERVATION FARM OPTION.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) (as amended by section 334) is amended by adding at the end the following:

"CHAPTER 5—CONSERVATION FARM OPTION

"SEC. 1240M. CONSERVATION FARM OPTION.

"(a) IN GENERAL.—The Secretary shall establish conservation farm option pilot programs for producers of wheat, feed grains, cotton, and rice.

"(b) ELIGIBLE OWNERS AND PRODUCERS.—An owner or producer with a farm that has contract acreage enrolled in the agricultural market transition program established under the Agricultural Market Transition Act shall be eligible to participate in the conservation farm option offered under a pilot program under subsection (a) if the owner or producer meets the conditions established under section (e).

"(c) PURPOSES.—The purposes of the conservation farm option pilot programs shall include—

"(1) conservation of soil, water, and related resources;

"(2) water quality protection or improvement;

"(3) wetland restoration, protection, and creation;

"(4) wildlife habitat development and protection; or

"(5) other similar conservation purposes.

"(d) CONSERVATION FARM PLAN.—

"(1) IN GENERAL.—To be eligible to enter into a conservation farm option contract, an owner or producer must prepare and submit to the Secretary, for approval, a conservation farm plan that shall become a part of the conservation farm option contract.

"(2) REQUIREMENTS.—A conservation farm plan shall—

"(A) describe the resource-conserving crop rotations, and all other conservation practices, to be implemented and maintained on the acreage that is subject to contract during the contract period;

"(B) contain a schedule for the implementation and maintenance of the practices described in the conservation farm plan;

"(C) comply with highly erodible land and wetland conservation requirements of this title; and

"(D) contain such other terms as the Secretary may require.

"(e) CONTRACTS.—

"(1) IN GENERAL.—On approval of a conservation farm plan, the Secretary may enter into a contract with the owner or producer that specifies the acres being enrolled and the practices being adopted.

"(2) DURATION OF CONTRACT.—The contract shall be for a period of 10 years. The contract may be renewed for a period of not to exceed 5 years on mutual agreement of the Secretary and the owner or producer.

"(3) CONSIDERATION.—In exchange for payments under this subsection, the owner or producer shall not participate in and shall forgo payments under—

"(A) the conservation reserve program established under subchapter B of chapter 1;

"(B) the wetlands reserve program established under subchapter C of chapter 1; and

"(C) the environmental quality incentives program established under chapter 4.

"(4) OWNER OR PRODUCER RESPONSIBILITIES UNDER THE AGREEMENT.—Under the terms of the contract entered into under this section, an owner or producer shall agree to—

"(A) actively comply with the terms and conditions of the approved conservation farm plan;

"(B) keep such records as the Secretary may reasonably require for purposes of evaluation of the implementation of the conservation farm plan; and

"(C) not engage in any activity that would defeat the purposes of the conservation farm option pilot program.

"(5) PAYMENTS.—The Secretary shall offer an owner or producer annual payments under the contract that are equivalent to the payments the owner or producer would have received under the conservation reserve program, the wetlands reserve program, and the environmental quality incentives program.

"(6) BALANCE OF BENEFITS.—The Secretary shall not permit an owner or producer to terminate a conservation reserve program contract and enter a conservation farm option contract if the Secretary determines that such action will reduce net environmental benefits.

"(f) SECRETARIAL DETERMINATIONS.—

"(1) ACREAGE ESTIMATES.—Prior to each year during which the Secretary intends to offer conservation reserve program contracts, the Secretary shall estimate the number of acres that—

"(A) will be retired under the conservation farm option under the terms and conditions the Secretary intends to offer for that program; and

"(B) would be retired under the conservation reserve program if the conservation farm option were not available.

"(2) TOTAL LAND RETIREMENT.—The Secretary shall announce a number of acres to be enrolled in the conservation reserve program that will result in a total number of acres retired under the conservation reserve program and the conservation farm option that does not exceed the amount estimated under paragraph (1)(B) for the current or future years.

"(3) LIMITATION.—The Secretary shall not enroll additional conservation reserve program contracts to offset the land retired under the conservation farm option.

"(g) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, authorities, and facilities of the Commodity Credit Corporation to carry out this subsection.

"(h) FUNDING.—Of the funds of the Commodity Credit Corporation, the Corporation shall make available to carry out this section—

"(1) $7,500,000 for fiscal year 1997;

"(2) $15,000,000 for fiscal year 1998;

"(3) $25,000,000 for fiscal year 1999;

"(4) $37,500,000 for fiscal year 2000;

"(5) $50,000,000 for fiscal year 2001; and

"(6) $62,500,000 for fiscal year 2002.".

SEC. 336. REPEAL OF SUPERSEDED AUTHORITIES.

(a) AGRICULTURAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—

(A) Section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h) is amended—

(i) in subsection (b)—

(I) by striking paragraphs (1) through (4) and inserting the following:

"(1) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—The Secretary shall provide technical assistance, cost-share payments, and incentive payments to operators through the environmental quality incentives program in accordance with chapter 4 of subtitle D of title XII of the Food Security Act of 1985."; and

(II) by striking paragraphs (6) through (8); and

(ii) by striking subsections (d), (e), and (f).

(B) The first sentence of section 11 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590k) is amended by striking "performance: Provided further," and all that follows through "or other law" and inserting "performance".

(C) Section 14 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590n) is amended—

(i) in the first sentence, by striking "or 8"; and

(ii) by striking the second sentence.

(D) Section 15 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590o) is amended—

(i) in the first undesignated paragraph—

(I) in the first sentence, by striking "sections 7 and 8" and inserting "section 7"; and

(II) by striking the third sentence; and

(ii) by striking the second undesignated paragraph.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of the last proviso of the matter under the heading "CONSERVATION RESERVE PROGRAM" under the heading "SOIL BANK PROGRAMS" of title I of the Department of Agriculture and Farm Credit Administration Appropriation Act, 1959 (72 Stat. 195; 7 U.S.C. 1831a), is amended by striking "Agricultural Conservation Program" and inserting "environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".

(B) Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is amended by striking "as added by the Agriculture and Consumer Protection Act of 1973" each place it appears in subsections (d) and (i) and inserting "as in effect before the amendment made by section 336(d)(1) of the Federal Agriculture Improvement and Reform Act of 1996".

(C) Section 226(b)(4) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6932(b)(4)) is amended by striking "and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)".

(D) Section 246(b)(8) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(8)) is amended by striking "and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)".

(E) Section 1271(c)(3)(C) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 2106a(c)(3)(C)) is amended by striking "Agricultural Conservation Program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590l, or 590p)" and inserting "environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".

(F) Section 304(a) of the Lake Champlain Special Designation Act of 1990 (Public Law 101-596; 33 U.S.C. 1270 note) is amended—

VOL
142
PT
5
MR
21
—
29
1996
UMI

(i) in the subsection heading, by striking "SPECIAL PROJECT AREA UNDER THE AGRICULTURAL CONSERVATION PROGRAM" and inserting "PRIORITY AREA UNDER THE ENVIRONMENTAL QUALITY INCENTIVES PROGRAM"; and

(ii) in paragraph (1), by striking "special project area under the Agricultural Conservation Program established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b))" and inserting "priority area under the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".

(G) Section 6 of the Department of Agriculture Organic Act of 1956 (70 Stat. 1033) is amended by striking subsection (b).

(b) GREAT PLAINS CONSERVATION PROGRAM.—

(1) ELIMINATION.—Section 16 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) The Agricultural Adjustment Act of 1938 is amended by striking "Great Plains program" each place it appears in sections 344(f)(8) and 377 (7 U.S.C. 1344(f)(8) and 1377) and inserting "environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".

(B) Section 246(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)) is amended by striking paragraph (2).

(c) COLORADO RIVER BASIN SALINITY CONTROL PROGRAM.—

(1) IN GENERAL.—Section 202 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592) is amended by striking subsection (c) and inserting the following:

"(c) SALINITY CONTROL MEASURES.—The Secretary of Agriculture shall carry out salinity control measures (including watershed enhancement and cost-share measures with livestock and crop producers) in the Colorado River Basin as part of the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985.".

(2) FUNDS.—Section 205 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1595) is amended—

(A) in subsection (a), by striking "pursuant to section 202(c)(2)(C)"; and

(B) by adding at the end the following:

"(f) FUNDS.—The Secretary may expend funds available in the Basin Funds referred to in this section to carry out cost-share salinity measures in a manner that is consistent with the cost allocations required under this section.".

(3) CONFORMING AMENDMENT.—Section 246(b)(6) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(6)) is amended by striking "program" and inserting "measures".

(d) RURAL ENVIRONMENTAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—Title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.) is repealed.

(2) CONFORMING AMENDMENTS.—Section 246 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962) (as amended by subsection (b)(2)(B))) is amended—

(A) in subsection (b)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (3) through (8) as paragraphs (1) through (6), respectively; and

(B) in subsection (c), by striking "(2), (3), (4), and (6)" and inserting "(1), (2), and (4)".

(e) OTHER CONSERVATION PROVISIONS.—Subtitle F of title XII of the Food Security Act of 1985 (16 U.S.C. 2005a and 2101 note) is repealed.

(f) RESOURCE CONSERVATION.—

(1) ELIMINATION.—Subtitles A, B, D, E, and F of title XV of the Agriculture and Food Act of 1981 (95 Stat. 1328; 16 U.S.C. 3401 et seq.) are repealed.

(2) CONFORMING AMENDMENT.—Section 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992 (7 U.S.C. 2272a), is repealed.

(g) TECHNICAL AMENDMENT.—The first sentence of the matter under the heading "COMMODITY CREDIT CORPORATION" of Public Law 99–263 (100 Stat. 59; 16 U.S.C. 3841 note) is amended by striking "prices: Provided further," and all that follows through "Acts." and inserting "prices.".

(h) AGRICULTURAL WATER QUALITY INCENTIVES PROGRAM.—Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is repealed.

Subtitle E—Conservation Funding and Administration

SEC. 341. CONSERVATION FUNDING AND ADMINISTRATION.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended to read as follows:

"Subtitle E—Funding and Administration

"SEC. 1241. FUNDING.

"(a) MANDATORY EXPENSES.—For each of fiscal years 1996 through 2002, the Secretary shall use the funds of the Commodity Credit Corporation to carry out the programs authorized by—

"(1) subchapter B of chapter 1 of subtitle D (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note));

"(2) subchapter C of chapter 1 of subtitle D; and

"(3) chapter 4 of subtitle D.

"(b) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available $130,000,000 for fiscal year 1996, and $200,000,000 for each of fiscal years 1997 through 2002, for providing technical assistance, cost-share payments, incentive payments, and education under the environmental quality incentives program under chapter 4 of subtitle D.

"(2) LIVESTOCK PRODUCTION.—For each of fiscal years 1996 through 2002, 50 percent of the funding available for technical assistance, cost-share payments, incentive payments, and education under the environmental quality incentives program shall be targeted at practices relating to livestock production.

"SEC. 1242. USE OF OTHER AGENCIES.

"(a) COMMITTEES.—In carrying out subtitles B, C, and D, the Secretary shall use the services of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

"(b) OTHER AGENCIES.—

"(1) USE.—In carrying out subtitles C and D, the Secretary may utilize the services of the Natural Resources Conservation Service and the Forest Service, the Fish and Wildlife Service, State forestry agencies, State fish and game agencies, land-grant colleges, local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h), soil and water conservation districts, and other appropriate agencies.

"(2) CONSULTATION.—In carrying out subtitle D at the State and county levels, the Secretary shall consult with, to the extent practicable, the Fish and Wildlife Service, State forestry agencies, State fish and game agencies, land-grant colleges, soil-conservation districts, and other appropriate agencies.

"SEC. 1243. ADMINISTRATION.

"(a) PLANS.—The Secretary shall, to the extent practicable, avoid duplication in—

"(1) the conservation plans required for—

"(A) highly erodible land conservation under subtitle B;

"(B) the conservation reserve program established under subchapter B of chapter 1 of subtitle D; and

"(C) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D; and

"(2) the environmental quality incentives program established under chapter 4 of subtitle D.

"(b) ACREAGE LIMITATION.—

"(1) IN GENERAL.—The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under the conservation reserve and wetlands reserve programs established under subchapters B and C, respectively, of chapter 1 of subtitle D. Not more than 10 percent of the cropland in a county may be subject to an easement acquired under the subchapters.

"(2) EXCEPTION.—The Secretary may exceed the limitations in paragraph (1) if the Secretary determines that—

"(A) the action would not adversely affect the local economy of a county; and

"(B) operators in the county are having difficulties complying with conservation plans implemented under section 1212.

"(3) SHELTERBELTS AND WINDBREAKS.—The limitations established under this subsection shall not apply to cropland that is subject to an easement under chapter 1 or 3 of subtitle D that is used for the establishment of shelterbelts and windbreaks.

"(c) TENANT PROTECTION.—Except for a person who is a tenant on land that is subject to a conservation reserve contract that has been extended by the Secretary, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the programs established under subtitles B through D.

"(d) PROVISION OF TECHNICAL ASSISTANCE BY OTHER SOURCES.—In the preparation and application of a conservation compliance plan under subtitle B or similar plan required as a condition for assistance from the Department of Agriculture, the Secretary shall permit persons to secure technical assistance from approved sources, as determined by the Secretary, other than the Natural Resources Conservation Service. If the Secretary rejects a technical determination made by such a source, the basis of the Secretary's determination must be supported by documented evidence.

"(e) REGULATIONS.—Not later than 90 days after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall issue regulations to implement the conservation reserve and wetlands reserve programs established under chapter 1 of subtitle D.".

SEC. 342. STATE TECHNICAL COMMITTEES.

(a) COMPOSITION.—Section 1261(c) of the Food Security Act of 1985 (16 U.S.C. 3861(c))—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(9) agricultural producers with demonstrable conservation expertise;

"(10) nonprofit organizations with demonstrable conservation expertise;

"(11) persons knowledgeable about conservation techniques; and

"(12) agribusiness.".

(b) RESPONSIBILITIES.—Section 1262 of the Food Security Act of 1985 (16 U.S.C. 3862) is amended—

(1) in subsection (a), by adding at the end the following: "Each State technical committee shall provide public notice of, and permit public

attendance at meetings considering, issues of concern related to carrying out this title.";

(2) in subsection (b)(1), by adding at the end the following: "Each State technical committee shall establish criteria and guidelines for evaluating petitions by agricultural producers regarding new conservation practices and systems not already described in field office technical guides."; and

(3) in subsection (c)—

(A) in paragraph (7), by striking "and" at the end;

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following:

"(8) establishing criteria and priorities for State initiatives under the environmental quality incentives program under chapter 4 of subtitle D; and".

SEC. 343. PUBLIC NOTICE AND COMMENT FOR REVISIONS TO CERTAIN STATE TECHNICAL GUIDES.

After the date of enactment of this Act, the Secretary of Agriculture shall provide for public notice and comment under section 553 of title 5, United States Code, with regard to any future revisions to those provisions of the Natural Resources Conservation Service State technical guides that are used to carry out subtitles A, B, and C of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

Subtitle F—National Natural Resources Conservation Foundation

SEC. 351. SHORT TITLE.

This subtitle may be cited as the "National Natural Resources Conservation Foundation Act".

SEC. 352. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term "Board" means the Board of Trustees established under section 354.

(2) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(3) FOUNDATION.—The term "Foundation" means the National Natural Resources Conservation Foundation established by section 353(a).

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 353. NATIONAL NATURAL RESOURCES CONSERVATION FOUNDATION.

(a) ESTABLISHMENT.—A National Natural Resources Conservation Foundation is established as a charitable and nonprofit corporation for charitable, scientific, and educational purposes specified in subsection (b). The Foundation is not an agency or instrumentality of the United States.

(b) DUTIES.—The Foundation shall—

(1) promote innovative solutions to the problems associated with the conservation of natural resources on private lands, particularly with respect to agriculture and soil and water conservation;

(2) promote voluntary partnerships between government and private interests in the conservation of natural resources;

(3) conduct research and undertake educational activities, conduct and support demonstration projects, and make grants to State and local agencies and nonprofit organizations;

(4) provide such other leadership and support as may be necessary to address conservation challenges, such as the prevention of excessive soil erosion, the enhancement of soil and water quality, and the protection of wetlands, wildlife habitat, and strategically important farmland subject to urban conversion and fragmentation;

(5) encourage, accept, and administer private gifts of money and real and personal property for the benefit of, or in connection with, the conservation and related activities and services of the Department, particularly the Natural Resources Conservation Service;

(6) undertake, conduct, and encourage educational, technical, and other assistance, and other activities, that support the conservation and related programs administered by the Department (other than activities carried out on National Forest System lands), particularly the Natural Resources Conservation Service, except that the Foundation may not enforce or administer a regulation of the Department; and

(7) raise private funds to promote the purposes of the Foundation.

(c) LIMITATIONS AND CONFLICTS OF INTEREST.—

(1) POLITICAL ACTIVITIES.—The Foundation shall not participate or intervene in a political campaign on behalf of any candidate for public office.

(2) CONFLICTS OF INTEREST.—No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting—

(A) the financial interests of the director, officer, or employee; or

(B) the interests of any corporation, partnership, entity, organization, or other person in which the director, officer, or employee—

(i) is an officer, director, or trustee; or

(ii) has any direct or indirect financial interest.

(3) LEGISLATION OR GOVERNMENT ACTION OR POLICY.—No funds of the Foundation may be used in any manner for the purpose of influencing legislation or government action or policy.

(4) LITIGATION.—No funds of the Foundation may be used to bring or join an action against the United States.

SEC. 354. COMPOSITION AND OPERATION.

(a) COMPOSITION.—The Foundation shall be administered by a Board of Trustees that shall consist of 9 voting members, each of whom shall be a United States citizen and not a Federal officer. The Board shall be composed of—

(1) individuals with expertise in agricultural conservation policy matters;

(2) a representative of private sector organizations with a demonstrable interest in natural resources conservation;

(3) a representative of statewide conservation organizations;

(4) a representative of soil and water conservation districts;

(5) a representative of organizations outside the Federal Government that are dedicated to natural resources conservation education; and

(6) a farmer or rancher.

(b) NONGOVERNMENTAL EMPLOYEES.—Service as a member of the Board shall not constitute employment by, or the holding of, an office of the United States for the purposes of any Federal law.

(c) MEMBERSHIP.—

(1) INITIAL MEMBERS.—The Secretary shall appoint 9 persons who meet the criteria established under subsection (a) as the initial members of the Board and designate 1 of the members as the initial chairperson for a 2-year term.

(2) TERMS OF OFFICE.—

(A) IN GENERAL.—A member of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) LIMITATION ON TERMS.—No individual may serve more than 2 consecutive 3-year terms as a member of the Board.

(3) SUBSEQUENT MEMBERS.—The initial members of the Board shall adopt procedures in the constitution of the Foundation for the nomination and selection of subsequent members of the Board. The procedures shall require that each member, at a minimum, meets the criteria established under subsection (a) and shall provide for the selection of an individual, who is not a Federal officer or a member of the Board.

(d) CHAIRPERSON.—After the appointment of an initial chairperson under subsection (c)(1), each succeeding chairperson of the Board shall be elected by the members of the Board for a 2-year term.

(e) VACANCIES.—A vacancy on the Board shall be filled by the Board not later than 60 days after the occurrence of the vacancy.

(f) COMPENSATION.—A member of the Board shall receive no compensation from the Foundation for the service of the member on the Board.

(g) TRAVEL EXPENSES.—While away from the home or regular place of business of a member of the Board in the performance of services for the Board, the member shall be allowed travel expenses paid by the Foundation, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the Government service is allowed under section 5703 of title 5, United States Code.

SEC. 355. OFFICERS AND EMPLOYEES.

(a) IN GENERAL.—The Board may—

(1) appoint, hire, and discharge the officers and employees of the Foundation, other than appoint the initial Executive Director of the Foundation;

(2) adopt a constitution and bylaws for the Foundation that are consistent with the purposes of this subtitle; and

(3) undertake any other activities that may be necessary to carry out this subtitle.

(b) OFFICERS AND EMPLOYEES.—

(1) APPOINTMENT AND HIRING.—An officer or employee of the Foundation—

(A) shall not, by virtue of the appointment or employment of the officer or employee, be considered a Federal employee for any purpose, including the provisions of title 5, United States Code, governing appointments in the competitive service, except that such an individual may participate in the Federal employee retirement system as if the individual were a Federal employee; and

(B) may not be paid by the Foundation a salary in excess of $125,000 per year.

(2) EXECUTIVE DIRECTOR.—

(A) INITIAL DIRECTOR.—The Secretary shall appoint an individual to serve as the initial Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(B) SUBSEQUENT DIRECTORS.—The Board shall appoint each subsequent Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(C) QUALIFICATIONS.—The Executive Director shall be knowledgeable and experienced in matters relating to natural resources conservation.

SEC. 356. CORPORATE POWERS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) may conduct business throughout the United States and the territories and possessions of the United States; and

(2) shall at all times maintain a designated agent who is authorized to accept service of process for the Foundation, so that the serving of notice to, or service of process on, the agent, or mailed to the business address of the agent, shall be considered as service on or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board that shall be judicially noticed.

(c) POWERS.—To carry out the purposes of the Foundation under section 353(b), the Foundation shall have, in addition to the powers otherwise provided under this subtitle, the usual powers of a corporation, including the power—

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(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income from, or other interest in, the gift, devise, or bequest;

(2) to acquire by purchase or exchange any real or personal property or interest in property, except that funds provided under section 360 may not be used to purchase an interest in real property;

(3) unless otherwise required by instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income from property;

(4) to borrow money from private sources and issue bonds, debentures, or other debt instruments, subject to section 359, except that the aggregate amount of the borrowing and debt instruments outstanding at any time may not exceed $1,000,000;

(5) to sue and be sued, and complain and defend itself, in any court of competent jurisdiction, except that a member of the Board shall not be personally liable for an action in the performance of services for the Board, except for gross negligence;

(6) to enter into a contract or other agreement with an agency of State or local government, educational institution, or other private organization or person and to make such payments as may be necessary to carry out the functions of the Foundation; and

(7) to do any and all acts that are necessary to carry out the purposes of the Foundation.

(d) INTERESTS IN PROPERTY.—

(1) INTERESTS IN REAL PROPERTY.—The Foundation may acquire, hold, and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase, or exchange. An interest in real property shall be treated, among other things, as including an easement or other right for the preservation, conservation, protection, or enhancement of agricultural, natural, scenic, historic, scientific, educational, inspirational, or recreational resources.

(2) GIFTS.—A gift, devise, or bequest may be accepted by the Foundation even though the gift, devise, or bequest is encumbered, restricted, or subject to a beneficial interest of a private person if any current or future interest in the gift, devise, or bequest is for the benefit of the Foundation.

SEC. 357. ADMINISTRATIVE SERVICES AND SUPPORT.

For each of fiscal years 1996 through 1998, the Secretary may provide, without reimbursement, personnel, facilities, and other administrative services of the Department to the Foundation.

SEC. 358. AUDITS AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—

(1) IN GENERAL.—The accounts of the Foundation shall be audited in accordance with Public Law 88–504 (36 U.S.C. 1101 et seq.), including an audit of lobbying and litigation activities carried out by the Foundation.

(2) CONFORMING AMENDMENT.—The first section of Public Law 88–504 (36 U.S.C. 1101) is amended by adding at the end the following:

"(77) The National Natural Resources Conservation Foundation.".

(b) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—The Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate, if the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with this subtitle; or

(2) refuses, fails, neglects, or threatens to refuse, fail, or neglect, to discharge the obligations of the Foundation under this subtitle.

SEC. 359. RELEASE FROM LIABILITY.

(a) IN GENERAL.—The United States shall not be liable for any debt, default, act, or omission of the Foundation. The full faith and credit of the United States shall not extend to the Foundation.

(b) STATEMENT.—An obligation issued by the Foundation, and a document offering an obligation, shall include a prominent statement that the obligation is not directly or indirectly guaranteed, in whole or in part, by the United States (or an agency or instrumentality of the United States).

SEC. 360. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department to be made available to the Foundation $1,000,000 for each of fiscal years 1997 through 1999 to initially establish and carry out activities of the Foundation.

Subtitle G—Forestry

SEC. 371. OFFICE OF INTERNATIONAL FORESTRY.

Section 2405 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6704) is amended by adding at the end the following:

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1996 through 2002 such sums as are necessary to carry out this section.".

SEC. 372. COOPERATIVE WORK FOR PROTECTION, MANAGEMENT, AND IMPROVEMENT OF NATIONAL FOREST SYSTEM.

The penultimate paragraph of the matter under the heading "FOREST SERVICE." of the first section of the Act of June 30, 1914 (38 Stat. 430, chapter 131; 16 U.S.C. 498), is amended—

(1) by inserting ", management," after "the protection";

(2) by striking "national forests," and inserting "National Forest System,";

(3) by inserting "management," after "protection," both places it appears; and

(4) by adding at the end the following: "Payment for work undertaken pursuant to this paragraph may be made from any appropriation of the Forest Service that is available for similar work if a written agreement so provides and reimbursement will be provided by a cooperator in the same fiscal year as the expenditure by the Forest Service. A reimbursement received from a cooperator that covers the proportionate share of the cooperator of the cost of the work shall be deposited to the credit of the appropriation of the Forest Service from which the payment was initially made or, if the appropriation is no longer available, to the credit of an appropriation of the Forest Service that is available for similar work. The Secretary of Agriculture shall establish written rules that establish criteria to be used to determine whether the acceptance of contributions of money under this paragraph would adversely affect the ability of an officer or employee of the Department of Agriculture to carry out a duty or program of the officer or employee in a fair and objective manner or would compromise, or appear to compromise, the integrity of the program, officer, or employee. The Secretary of Agriculture shall establish written rules that protect the interests of the Forest Service in cooperative work agreements.".

SEC. 373. FORESTRY INCENTIVES PROGRAM.

Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is amended—

(1) in subsection (j), by striking "annually" and inserting "for each of fiscal years 1996 through 2002"; and

(2) by striking subsection (k).

SEC. 374. OPTIONAL STATE GRANTS FOR FOREST LEGACY PROGRAM.

Section 7 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c) is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following:

"(l) OPTIONAL STATE GRANTS.—

"(1) IN GENERAL.—The Secretary shall, at the request of a participating State, provide a grant to the State to carry out the Forest Legacy Program in the State.

"(2) ADMINISTRATION.—If a State elects to receive a grant under this subsection—

"(A) the Secretary shall use a portion of the funds made available under subsection (m), as determined by the Secretary, to provide a grant to the State; and

"(B) the State shall use the grant to carry out the Forest Legacy Program in the State, including the acquisition by the State of lands and interests in lands.".

Subtitle H—Miscellaneous Conservation Provisions

SEC. 381. CONSERVATION ACTIVITIES OF COMMODITY CREDIT CORPORATION.

(a) IN GENERAL.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) Carry out conservation or environmental programs authorized by law.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1997.

SEC. 382. FLOODPLAIN EASEMENTS.

Section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) is amended by inserting ", including the purchase of floodplain easements," after "emergency measures".

SEC. 383. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

Section 1538 of the Agriculture and Food Act of 1981 (16 U.S.C. 3461) is amended by striking "1991 through 1995" and inserting "1996 through 2002".

SEC. 384. REPEAL OF REPORT REQUIREMENT.

Section 1342 of title 44, United States Code, is repealed.

SEC. 385. FLOOD RISK REDUCTION.

(a) IN GENERAL.—During fiscal years 1996 through 2002, the Secretary of Agriculture (referred to in this section as the "Secretary") may enter into a contract with a producer on a farm who has contract acreage under the Agricultural Market Transition Act that is frequently flooded.

(b) DUTIES OF PRODUCERS.—Under the terms of the contract, with respect to acres that are subject to the contract, the producer must agree to—

(1) the termination of any contract acreage and production flexibility contract under the Agricultural Market Transition Act;

(2) forgo loans for contract commodities, oilseeds, and extra long staple cotton;

(3) not apply for crop insurance issued or reinsured by the Secretary;

(4) comply with applicable highly erodible land and wetlands conservation compliance requirements established under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.);

(5) not apply for any conservation program payments from the Secretary;

(6) not apply for disaster program benefits provided by the Secretary; and

(7) refund the payments, with interest, issued under the flood risk reduction contract to the Secretary, if the producer violates the terms of the contract or if the producer transfers the property to another person who violates the contract.

(c) DUTIES OF THE SECRETARY.—In return for a contract entered into by a producer under this section, the Secretary shall pay the producer an amount that is not more than 95 percent of projected contract payments under the Agricultural Market Transition Act that the Secretary estimates the producer would otherwise have received during the period beginning at the time

the contract is entered into under this section and ending September 30, 2002.

(d) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section (other than subsection (e)) through the Commodity Credit Corporation.

(e) ADDITIONAL PAYMENTS.—

(1) IN GENERAL.—Subject to the availability of advanced appropriations, the Secretary may make payments to a producer described in subsection (a), in addition to the payments provided under subsection (c), to offset other estimated Federal Government outlays on frequently flooded land.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out paragraph (1).

(f) LIMITATION ON PAYMENTS.—Amounts made available for production flexibility contracts under section 113 shall be reduced by an amount that is equal to the contract payments that producers forgo under subsection (b)(1) of this section.

SEC. 386. CONSERVATION OF PRIVATE GRAZING LAND.

(a) FINDINGS.—Congress finds that—

(1) private grazing land constitutes nearly ½ of the non-Federal land of the United States and is basic to the environmental, social, and economic stability of rural communities;

(2) private grazing land contains a complex set of interactions among soil, water, air, plants, and animals;

(3) grazing land constitutes the single largest watershed cover type in the United States and contributes significantly to the quality and quantity of water available for all of the many uses of the land;

(4) private grazing land constitutes the most extensive wildlife habitat in the United States;

(5) private grazing land can provide opportunities for improved nutrient management from land application of animal manures and other by-product nutrient resources;

(6) owners and managers of private grazing land need to continue to recognize conservation problems when the problems arise and receive sound technical assistance to improve or conserve grazing land resources to meet ecological and economic demands;

(7) new science and technology must continually be made available in a practical manner so owners and managers of private grazing land may make informed decisions concerning vital grazing land resources;

(8) agencies of the Department with private grazing land responsibilities are the agencies that have the expertise and experience to provide technical assistance, education, and research to owners and managers of private grazing land for the long-term productivity and ecological health of grazing land;

(9) although competing demands on private grazing land resources are greater than ever before, assistance to private owners and managers of private grazing land is currently limited and does not meet the demand and basic need for adequately sustaining or enhancing the private grazing land resources; and

(10) private grazing land can be enhanced to provide many benefits to all citizens of the United States through voluntary cooperation among owners and managers of the land, local conservation districts, and the agencies of the Department responsible for providing assistance to owners and managers of land and to conservation districts.

(b) PURPOSE.—It is the purpose of this section to authorize the Secretary to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing land resources and provide related benefits to all citizens of the United States by—

(1) establishing a coordinated and cooperative Federal, State, and local grazing conservation program for management of private grazing land;

(2) strengthening technical, educational, and related assistance programs that provide assistance to owners and managers of private grazing land;

(3) conserving and improving wildlife habitat on private grazing land;

(4) conserving and improving fish habitat and aquatic systems through grazing land conservation treatment;

(5) protecting and improving water quality;

(6) improving the dependability and consistency of water supplies;

(7) identifying and managing weed, noxious weed, and brush encroachment problems on private grazing land; and

(8) integrating conservation planning and management decisions by owners and managers of private grazing land, on a voluntary basis.

(c) DEFINITIONS.—In this section:

(1) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(2) PRIVATE GRAZING LAND.—The term "private grazing land" means private, State-owned, tribally-owned, and any other non-federally owned rangeland, pastureland, grazed forest land, and hay land.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(d) PRIVATE GRAZING LAND CONSERVATION ASSISTANCE.—

(1) ASSISTANCE TO GRAZING LANDOWNERS AND OTHERS.—Subject to the availability of appropriations for this section, the Secretary shall establish a voluntary program to provide technical, educational, and related assistance to owners and managers of private grazing land and public agencies, through local conservation districts, to enable the landowners, managers, and public agencies to voluntarily carry out activities that are consistent with this section, including—

(A) maintaining and improving private grazing land and the multiple values and uses that depend on private grazing land;

(B) implementing grazing land management technologies;

(C) managing resources on private grazing land, including—

(i) planning, managing, and treating private grazing land resources;

(ii) ensuring the long-term sustainability of private grazing land resources;

(iii) harvesting, processing, and marketing private grazing land resources; and

(iv) identifying and managing weed, noxious weed, and brush encroachment problems;

(D) protecting and improving the quality and quantity of water yields from private grazing land;

(E) maintaining and improving wildlife and fish habitat on private grazing land;

(F) enhancing recreational opportunities on private grazing land;

(G) maintaining and improving the aesthetic character of private grazing lands; and

(H) identifying the opportunities and encouraging the diversification of private grazing land enterprises.

(2) PROGRAM ELEMENTS.—

(A) FUNDING.—If funding is provided to carry out this section, it shall be provided through a specific line-item in the annual appropriations for the Natural Resources Conservation Service.

(B) TECHNICAL ASSISTANCE AND EDUCATION.—Personnel of the Department trained in pasture and range management shall be made available under the program to deliver and coordinate technical assistance and education to owners and managers of private grazing land, at the request of the owners and managers.

(e) GRAZING TECHNICAL ASSISTANCE SELF-HELP.—

(1) FINDINGS.—Congress finds that—

(A) there is a severe lack of technical assistance for farmers and ranchers who graze livestock;

(B) Federal budgetary constraints preclude any significant expansion, and may force a reduction of, current levels of technical support; and

(C) farmers and ranchers have a history of cooperatively working together to address common needs in the promotion of their products and in the drainage of wet areas through drainage districts.

(2) ESTABLISHMENT OF GRAZING DEMONSTRATION.—In accordance with paragraph (3), the Secretary may establish 2 grazing management demonstration districts at the recommendation of the grazing lands conservation initiative steering committee.

(3) PROCEDURE.—

(A) PROPOSAL.—Within a reasonable time after the submission of a request of an organization of farmers or ranchers engaged in grazing, the Secretary shall propose that a grazing management district be established.

(B) FUNDING.—The terms and conditions of the funding and operation of the grazing management district shall be proposed by the producers.

(C) APPROVAL.—The Secretary shall approve the proposal if the Secretary determines that the proposal—

(i) is reasonable;

(ii) will promote sound grazing practices; and

(iii) contains provisions similar to the provisions contained in the beef promotion and research order issued under section 4 of the Beef Research and Information Act (7 U.S.C. 2903) in effect on the date of enactment of this Act.

(D) AREA INCLUDED.—The area proposed to be included in a grazing management district shall be determined by the Secretary on the basis of a petition by farmers or ranchers.

(E) AUTHORIZATION.—The Secretary may use authority under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to operate, on a demonstration basis, a grazing management district.

(F) ACTIVITIES.—The activities of a grazing management district shall be scientifically sound activities, as determined by the Secretary in consultation with a technical advisory committee composed of ranchers, farmers, and technical experts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $20,000,000 for fiscal year 1996;

(2) $40,000,000 for fiscal year 1997; and

(3) $60,000,000 for fiscal year 1998 and each subsequent fiscal year.

SEC. 387. WILDLIFE HABITAT INCENTIVES PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the State technical committees established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), shall establish a program under the Natural Resources Conservation Service to be known as the "Wildlife Habitat Incentive Program".

(b) COST-SHARE PAYMENTS.—Under the program, the Secretary shall make cost-share payments to landowners to develop upland wildlife, wetland wildlife, threatened and endangered species, fish, and other types of wildlife habitat approved by the Secretary.

(c) FUNDING.—To carry out this section, a total of $50,000,000 shall be made available for fiscal years 1996 through 2002 from funds made available to carry out subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

VOL
142
PT
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1996
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SEC. 388. FARMLAND PROTECTION PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture shall establish and carry out a farmland protection program under which the Secretary shall purchase conservation easements or other interests in not less than 170,000, nor more than 340,000, acres of land with prime, unique, or other productive soil that is subject to a pending offer from a State or local government for the purpose of protecting topsoil by limiting nonagricultural uses of the land.

(b) CONSERVATION PLAN.—Any highly erodible cropland for which a conservation easement or other interest is purchased under this section shall be subject to the requirements of a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

(c) FUNDING.—The Secretary shall use not more than $35,000,000 of the funds of the Commodity Credit Corporation to carry out this section.

SEC. 389. INTERIM MORATORIUM ON BYPASS FLOWS.

(a) MORATORIUM.—There shall be an 18-month moratorium on any Forest Service decision to require bypass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use authorization permit.

(b) LIMITATIONS.—Subsection (a) shall not affect—

(1) obligations or authority of the Secretary of Agriculture to protect public health and safety; and

(2) obligations or authority under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or applicable State law.

(c) RULES OF CONSTRUCTION.—

(1) EXISTING NON-FEDERAL WATER RIGHTS.—Nothing in this section prevents or inhibits the exercise of the use and operation of existing non-Federal water rights on or above the National Forest land that require land use authorization permits from the Forest Service to access water supply facilities.

(2) RENEWAL OR REISSUANCE OF EXPIRING LAND USE AUTHORIZATION FOR DECREED WATER RIGHTS.—Nothing in this section prevents or inhibits the renewal or reissuance of expiring land use authorizations for decreed water rights. The Forest Service may extend, as needed, any expiring land use authorization for such time as is necessary to incorporate the results of the study authorized by subsection (d).

(d) STUDY OF WATER RIGHTS ACROSS FEDERAL LANDS.—

(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, there shall be established a Water Rights Task Force to study the subjects described in paragraph (3).

(2) MEMBERSHIP.—The Task Force shall be composed of 7 members appointed as follows:

(A) 1 member shall be appointed by the Secretary of Agriculture.

(B) 2 members shall be appointed by the Speaker of the House of Representatives and 1 member shall be appointed by the Minority Leader of the House of Representatives.

(C) 2 members shall be appointed by the Majority Leader of the Senate and 1 member shall be appointed by the Minority Leader of the Senate.

(3) SUBJECTS TO BE STUDIED.—The Task Force shall study and make recommendations on—

(A) whether Federal water rights should be acquired for environmental protection on National Forest land;

(B) measures necessary to protect the free exercise of non-Federal water rights requiring easements and permits from the Forest Service;

(C) the protection of minimum instream flows for environmental and watershed management purposes on National Forest land through purchases or exchanges from willing sellers in accordance with State law;

(D) the effects of any of the recommendations made under this paragraph on existing State laws, regulations, and customs of water usage; and

(E) measures that would be useful in avoiding or resolving conflicts between the Forest Service's responsibilities for natural resource and environmental protection, the public interest, and the property rights and interests of water holders with special use permits for water facilities, including the study of the Federal acquisition of water rights, dispute resolution, mitigation, and compensation.

(4) FINAL REPORT.—As soon as practicable, but not later than 1 year, after the date of enactment of this Act, the Task Force shall provide the final report of the Task Force to—

(A) the Secretary of Agriculture;

(B) the Speaker of the House of Representatives;

(C) the President pro tempore of the Senate;

(D) the Chairman of the Committee on Agriculture of the House of Representatives;

(E) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(F) the Chairman of the Committee on Resources of the House of Representatives; and

(G) the Chairman of the Committee on Energy and Natural Resources of the Senate.

(5) AUTHORIZATION OF FUNDS.—The Secretary of Agriculture shall use funds made available for salaries and administrative expenses of the Department of Agriculture to carry out this subsection.

SEC. 390. EVERGLADES ECOSYSTEM RESTORATION.

(a) IN GENERAL.—On July 1, 1996, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide $200,000,000 to the Secretary of the Interior to carry out this section.

(b) ENTITLEMENT.—The Secretary of the Interior (referred to in this section as the "Secretary")—

(1) shall be entitled to receive the funds made available under subsection (a);

(2) shall accept the funds; and

(3) shall use the funds to—

(A) conduct restoration activities in the Everglades ecosystem in South Florida, which shall include the acquisition of real property and interests in real property located within the Everglades ecosystem; and

(B) fund resource protection and resource maintenance activities in the Everglades ecosystem.

(c) SAVINGS PROVISION.—Nothing in this subsection precludes the Secretary from transferring funds to the Army Corps of Engineers, the State of Florida, or the South Florida Water Management District to carry out subsection (b)(3).

(d) DEADLINE.—The Secretary shall use the funds made available under subsection (a) for restoration activities referred to in subsection (b)(3) not later than December 31, 1999.

(e) REPORT TO CONGRESS.—For each of calendar years 1996 through 1999, the Secretary shall submit an annual report to Congress describing all activities carried out under subsection (b)(3).

(f) SEPARATE AND ADDITIONAL EVERGLADES RESTORATION ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury a special account (to be known as the "Everglades Restoration Account"), which shall consist of such funds as may be deposited in the account under paragraph (2). The account shall be separate, and in addition to, funds deposited in the Treasury under subsection (a).

(2) SOURCE OF FUNDS FOR ACCOUNT.—

(A) PROCEEDS FROM SURPLUS PROPERTY.—

(i) IN GENERAL.—Subject to subparagraph (B), the Administrator shall deposit in the special account all funds received by the Administrator, on or after the date of enactment of this Act, from the disposal pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) of surplus real property located in the State of Florida.

(ii) AVAILABILITY AND DISPOSITION OF FEDERAL LAND.—

(I) IDENTIFICATION.—Any Federal real property located in the State of Florida (excluding lands under the administrative jurisdiction of the Secretary that are set aside for conservation purposes) shall be identified for disposal or exchange under this subsection and shall be presumed available for purposes of this subsection unless the head of the agency controlling the property determines that there is a compelling program need for any property identified by the Secretary.

(II) AVAILABILITY.—Property identified by the Secretary for which there is no demonstrated compelling program need shall, not later than 90 days after a request by the Secretary, be reported to the Administrator and shall be made available to the Administrator who shall consider the property to be surplus property for purposes of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 471 et. seq.).

(III) PRIORITIZATION OF DISPOSITION.—The Administrator may prioritize the disposition of property made available under this subparagraph to permit the property to be sold as quickly as practicable in a manner that is consistent with the best interests of the Federal Government.

(B) LIMIT ON TOTAL AMOUNT OF DEPOSITS.—The total amount of funds deposited in the special account under subparagraph (A) shall not exceed $100,000,000.

(C) EFFECT ON CLOSURE OF MILITARY INSTALLATIONS.—Nothing in this section alters the disposition of any proceeds arising from the disposal of real property pursuant to a base closure law.

(3) USE OF SPECIAL ACCOUNT.—Funds in the special account shall be available to the Secretary until expended under this paragraph. The Secretary shall use funds in the special account to assist in the restoration of the Everglades ecosystem in South Florida through—

(A) subject to paragraph (4), the acquisition of real property and interests in real property located within the Everglades ecosystem; and

(B) the funding of resource protection and resource maintenance activities in the Everglades ecosystem.

(4) STATE CONTRIBUTION.—The Secretary may not expend any funds from the special account to acquire a parcel of real property, or an interest in a parcel of real property, under paragraph (3)(A) unless the Secretary obtains, or has previously obtained, a contribution from the State of Florida in an amount equal to not less than 50 percent of the appraised value of the parcel or interest to be acquired, as determined by the Secretary.

(5) DEFINITIONS.—In this subsection:

(A) ADMINISTRATOR.—The term "Administrator" means the Administrator of General Services.

(B) BASE CLOSURE LAW.—The term "base closure law" means each of the following:

(i) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(ii) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(iii) Section 2687 of title 10, United States Code.

(iv) Any other similar law enacted after the date of enactment of this Act.

(C) EVERGLADES ECOSYSTEM.—The term "Everglades ecosystem" means the Florida Everglades Restoration area that extends from the Kissimmee River basin to Florida Bay.

(D) EXCESS PROPERTY.—The term "excess property" has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(E) EXECUTIVE AGENCY.—The term "executive agency" has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(F) SPECIAL ACCOUNT.—The term "special account" means the Everglades Restoration Account established under paragraph (1).

(G) SURPLUS PROPERTY.—The term "surplus property" has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(g) REPORT TO DETERMINE THE FEASIBILITY OF ADDITIONAL LAND ACQUISITION AND RESTORATION ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall conduct an investigation to determine what, if any, unreserved and unappropriated Federal lands (or mineral interests in any such lands) under the administrative jurisdiction of the Secretary are suitable for disposal or exchange for the purpose of conducting restoration activities in the Everglades region.

(2) CONSERVATION LANDS.—No lands under the administrative jurisdiction of the Secretary that are set aside for conservation purposes shall be identified for disposal or exchange under this subsection.

(3) FLORIDA.—In carrying out this subsection, the Secretary shall, to the maximum extent practicable, determine which lands and mineral interests located within the State of Florida are suitable for disposal or exchange before making the determination for eligible lands or interests in other States.

(4) PUBLIC ACCESS.—In carrying out this subsection, the Secretary shall consider that in disposing of lands, the Secretary shall retain such interest in the lands as may be necessary to ensure that the general public is not precluded from reasonable access to the lands for purposes of fishing, hunting, or other recreational uses.

(5) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate describing the results of the investigation conducted under this subsection. The report shall describe the specific parcels identified under this subsection, establish the priorities for disposal or exchange among the parcels, and estimate the values of the parcels.

SEC. 391. AGRICULTURAL AIR QUALITY RESEARCH OVERSIGHT.

(a) FINDINGS.—Congress finds that—

(1) various studies have alleged that agriculture is a source of PM-10 emissions;

(2) many of these studies have often been based on erroneous data;

(3) Federal research activities are currently being conducted by the Department of Agriculture to determine the true extent to which agricultural activities contribute to air pollution and to determine cost-effective ways in which the agricultural industry can reduce any pollution that exists; and

(4) any Federal policy recommendations that may be issued by any Federal agency to address air pollution problems related to agriculture or any other industrial activity should be based on sound scientific findings that are subject to adequate peer review and should take into account economic feasibility.

(b) PURPOSE.—The purpose of this section is to encourage the Secretary of Agriculture to continue to strengthen vital research efforts related to agricultural air quality.

(c) OVERSIGHT COORDINATION.—

(1) INTERGOVERNMENTAL COOPERATION.—The Secretary shall, to the maximum extent practicable with respect to the Department of Agriculture and other Federal departments and agencies, ensure intergovernmental cooperation in research activities related to agricultural air quality and avoid duplication of the activities.

(2) CORRECT DATA.—The Secretary shall, to the maximum extent practicable, ensure that the results of any research related to agricultural air quality conducted by Federal agencies not report erroneous data with respect to agricultural air quality.

(d) TASK FORCE.—

(1) ESTABLISHMENT.—The Chief of the National Resources Conservation Service shall establish a task force to address agricultural air quality issues.

(2) COMPOSITION.—The task force shall be comprised of employees of the Department of Agriculture, industry representatives, and other experts in the fields of agriculture and air quality.

(3) DUTIES.—The task force shall advise the Secretary with respect to the role of the Secretary for providing oversight and coordination related to agricultural air quality.

TITLE IV—NUTRITION ASSISTANCE

SEC. 401. FOOD STAMP PROGRAM.

(a) DISQUALIFICATION OF A STORE OR CONCERN.—Section 12(b)(3)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2021(b)(3)(B)) is amended—

(1) by striking the second parenthetical; and

(2) by striking "; or" and inserting the following: ", including evidence that—

"(i) the ownership of the store or food concern was not aware of, did not approve of, did not benefit from, and was not involved in the conduct of the violation; and

"(ii)(I) the management of the store or food concern was not aware of, did not approve of, did not benefit from, and was not involved in the conduct of the violation; or

"(II) the management was aware of, approved of, benefited from, or was involved in the conduct of no more than 1 previous violation by the store or food concern; or".

(b) EMPLOYMENT AND TRAINING.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended by striking "1995" each place it appears and inserting "2002".

(c) AUTHORIZATION OF PILOT PROJECTS.—The last sentence of section 17(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(A)) is amended by striking "1995" and inserting "2002".

(d) OUTREACH DEMONSTRATION PROJECTS.—The first sentence of section 17(j)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(j)(1)(A)) is amended by striking "1995" and inserting "2002".

(e) AUTHORIZATION FOR APPROPRIATIONS.—The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking "1995" and inserting "1997".

(f) REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM.—The first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking "$974,000,000" and all that follows through "fiscal year 1995" and inserting "$1,143,000,000 for fiscal year 1996, $1,174,000,000 for fiscal year 1997, $1,204,000,000 for fiscal year 1998, $1,236,000,000 for fiscal year 1999, $1,268,000,000 for fiscal year 2000, $1,301,000,000 for fiscal year 2001, and $1,335,000,000 for fiscal year 2002".

(g) AMERICAN SAMOA.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 24. TERRITORY OF AMERICAN SAMOA.

"Effective October 1, 1995, from amounts made available to carry out this Act, the Secretary shall pay to the Territory of American Samoa not more than $5,300,000 for each of fiscal years 1996 through 2002 to finance 100 percent of the expenditures for the fiscal year for a nutrition assistance program extended under section 601(c) of Public Law 96–597 (48 U.S.C. 1469d(c)).".

(h) ASSISTANCE FOR COMMUNITY FOOD PROJECTS.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) (as amended by subsection (g)) is amended by adding at the end the following:

"SEC. 25. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

"(a) DEFINITION OF COMMUNITY FOOD PROJECTS.—In this section, the term 'community food project' means a community-based project that requires a 1-time infusion of Federal assistance to become self-sustaining and that is designed to—

"(1) meet the food needs of low-income people;

"(2) increase the self-reliance of communities in providing for their own food needs; and

"(3) promote comprehensive responses to local food, farm, and nutrition issues.

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—From amounts made available to carry out this Act, the Secretary may make grants to assist eligible private nonprofit entities to establish and carry out community food projects.

"(2) LIMITATION ON GRANTS.—The total amount of funds provided as grants under this section may not exceed—

"(A) $1,000,000 for fiscal year 1996; and

"(B) $2,500,000 for each of fiscal years 1997 through 2002.

"(c) ELIGIBLE ENTITIES.—To be eligible for a grant under subsection (b), a private nonprofit entity must—

"(1) have experience in the area of—

"(A) community food work, particularly concerning small and medium-sized farms, including the provision of food to people in low-income communities and the development of new markets in low-income communities for agricultural producers; or

"(B) job training and business development activities for food-related activities in low-income communities;

"(2) demonstrate competency to implement a project, provide fiscal accountability, collect data, and prepare reports and other necessary documentation; and

"(3) demonstrate a willingness to share information with researchers, practitioners, and other interested parties.

"(d) PREFERENCE FOR CERTAIN PROJECTS.—In selecting community food projects to receive assistance under subsection (b), the Secretary shall give a preference to projects designed to—

"(1) develop linkages between 2 or more sectors of the food system;

"(2) support the development of entrepreneurial projects;

"(3) develop innovative linkages between the for-profit and nonprofit food sectors; or

"(4) encourage long-term planning activities and multi-system, interagency approaches.

"(e) MATCHING FUNDS REQUIREMENTS.—

"(1) REQUIREMENTS.—The Federal share of the cost of establishing or carrying out a community food project that receives assistance under subsection (b) may not exceed 50 percent of the cost of the project during the term of the grant.

"(2) CALCULATION.—In providing for the non-Federal share of the cost of carrying out a community food project, the entity receiving the grant shall provide for the share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services.

"(3) SOURCES.—An entity may provide for the non-Federal share through State government, local government, or private sources.

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(f) TERM OF GRANT.—

"(1) SINGLE GRANT.—A community food project may be supported by only a single grant under subsection (b).

"(2) TERM.—The term of a grant under subsection (b) may not exceed 3 years.

"(g) TECHNICAL ASSISTANCE AND RELATED INFORMATION.—

"(1) TECHNICAL ASSISTANCE.—In carrying out this section, the Secretary may provide technical assistance regarding community food projects, processes, and development to an entity seeking the assistance.

"(2) SHARING INFORMATION.—

"(A) IN GENERAL.—The Secretary may provide for the sharing of information concerning community food projects and issues among and between government, private for-profit and nonprofit groups, and the public through publications, conferences, and other appropriate forums.

"(B) OTHER INTERESTED PARTIES.—The Secretary may share information concerning community food projects with researchers, practitioners, and other interested parties.

"(h) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide for the evaluation of the success of community food projects supported using funds under this section.

"(2) REPORT.—Not later than January 30, 2002, the Secretary shall submit a report to Congress regarding the results of the evaluation.".

SEC. 402. COMMODITY DISTRIBUTION PROGRAM; COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) REAUTHORIZATION.—The first sentence of section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(b) FUNDING.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note) is amended—

(1) in subsection (a)(2), by striking "1995" and inserting "2002";

(2) in subsection (d)(2), by striking "1995" and inserting "2002"; and

(3) by adding at the end the following:

"(l) CARRIED-OVER FUNDS.—Not more than 20 percent of any commodity supplemental food program food funds carried over under this section shall be available for administrative expenses of the program.".

SEC. 403. EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) REAUTHORIZATION.—The first sentence of section 204(a)(1) of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(b) PROGRAM TERMINATION.—Section 212 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(c) REQUIRED PURCHASES OF COMMODITIES.—Section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "2002"; and

(2) in subsection (e), by striking "1995" each place it appears and inserting "2002".

SEC. 404. SOUP KITCHEN AND FOOD BANK PROGRAM.

Section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "2002"; and

(2) in subsection (c)(2)—

(A) in the paragraph heading, by striking "1992 THROUGH 1995" and inserting "SUBSEQUENT"; and

(B) by striking "1995" each place it appears and inserting "2002".

SEC. 405. NATIONAL COMMODITY PROCESSING.

The first sentence of section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking "1995" and inserting "2002".

TITLE V—AGRICULTURAL PROMOTION

Subtitle A—Commodity Promotion and Evaluation

SEC. 501. COMMODITY PROMOTION AND EVALUATION.

(a) COMMODITY PROMOTION LAW DEFINED.—In this section, the term "commodity promotion law" means a Federal law that provides for the establishment and operation of a promotion program regarding an agricultural commodity that includes a combination of promotion, research, industry information, or consumer information activities, is funded by mandatory assessments on producers or processors, and is designed to maintain or expand markets and uses for the commodity (as determined by the Secretary). The term includes—

(1) the marketing promotion provisions under section 8c(6)(I) of the Agricultural Adjustment Act (7 U.S.C. 608c(6)(I)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937;

(2) Public Law 89–502 (7 U.S.C. 2101 et seq.);

(3) title III of Public Law 91–670 (7 U.S.C. 2611 et seq.);

(4) Public Law 93–428 (7 U.S.C. 2701 et seq.);

(5) Public Law 94–294 (7 U.S.C. 2901 et seq.);

(6) subtitle B of title I of Public Law 98–180 (7 U.S.C. 4501 et seq.);

(7) Public Law 98–590 (7 U.S.C. 4601 et seq.);

(8) subtitle B of title XVI of Public Law 99–198 (7 U.S.C. 4801 et seq.);

(9) subtitle C of title XVI of Public Law 99–198 (7 U.S.C. 4901 et seq.);

(10) subtitle B of title XIX of Public Law 101–624 (7 U.S.C. 6101 et seq.);

(11) subtitle E of title XIX of Public Law 101–624 (7 U.S.C. 6301 et seq.);

(12) subtitle H of title XIX of Public Law 101–624 (7 U.S.C. 6401 et seq.);

(13) Public Law 103–190 (7 U.S.C. 6801 et seq.);

(14) Public Law 103–407 (7 U.S.C. 7101 et seq.);

(15) subtitle B;

(16) subtitle C;

(17) subtitle D; or

(18) subtitle E.

(b) FINDINGS.—Congress finds the following:

(1) It is in the national public interest and vital to the welfare of the agricultural economy of the United States to maintain and expand existing markets and develop new markets and uses for agricultural commodities through industry-funded, Government-supervised, generic commodity promotion programs established under commodity promotion laws.

(2) These generic commodity promotion programs, funded by the agricultural producers or processors who most directly reap the benefits of the programs and supervised by the Secretary of Agriculture, provide a unique opportunity for producers and processors to inform consumers about their products.

(3) The central congressional purpose underlying each commodity promotion law has always been to maintain and expand markets for the agricultural commodity covered by the law, rather than to maintain or expand the share of those markets held by any individual producer or processor.

(4) The commodity promotion laws were neither designed nor intended to prohibit or restrict, and the promotion programs established and funded pursuant to these laws do not prohibit or restrict, individual advertising or promotion of the covered commodities by any producer, processor, or group of producers or processors.

(5) It has never been the intent of Congress for the generic commodity promotion programs established and funded by the commodity promotion laws to replace the individual advertising and promotion efforts of producers or processors.

(6) An individual producer's or processor's own advertising initiatives are typically designed to increase the share of the market held by that producer or processor rather than to increase or expand the overall size of the market.

(7) In contrast, a generic commodity promotion program is intended and designed to maintain or increase the overall demand for the agricultural commodity covered by the program and increase the size of the market for that commodity, often by utilizing promotion methods and techniques that individual producers and processors typically are unable, or have no incentive, to employ.

(8) The commodity promotion laws establish promotion programs that operate as "self-help" mechanisms for producers and processors to fund generic promotions for covered commodities which, under the required supervision and oversight of the Secretary of Agriculture—

(A) further specific national governmental goals, as established by Congress; and

(B) produce nonideological and commercial communication the purpose of which is to further the governmental policy and objective of maintaining and expanding the markets for the covered commodities.

(9) While some commodity promotion laws grant a producer or processor the option of crediting individual advertising conducted by the producer or processor for all or a portion of the producer's or processor's marketing promotion assessments, all promotion programs established under the commodity promotion laws, both those programs that permit credit for individual advertising and those programs that do not contain such provisions, are very narrowly tailored to fulfill the congressional purposes of the commodity promotion laws without impairing or infringing the legal or constitutional rights of any individual producer or processor.

(10) These generic commodity promotion programs are of particular benefit to small producers who often lack the resources or market power to advertise on their own and who are otherwise often unable to benefit from the economies of scale available in promotion and advertising.

(11) Periodic independent evaluation of the effectiveness of these generic commodity promotion programs will assist Congress and the Secretary of Agriculture in ensuring that the objectives of the programs are met.

(c) INDEPENDENT EVALUATION OF PROMOTION PROGRAM EFFECTIVENESS.—Except as otherwise provided by law, each commodity board established under the supervision and oversight of the Secretary of Agriculture pursuant to a commodity promotion law shall, not less often than every 5 years, authorize and fund, from funds otherwise available to the board, an independent evaluation of the effectiveness of the generic commodity promotion programs and other programs conducted by the board pursuant to a commodity promotion law. The board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this subsection.

(d) ADMINISTRATIVE COSTS.—The Secretary shall annually provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information on administrative expenses on programs established under commodity promotion laws.

Subtitle B—Issuance of Orders for Promotion, Research, and Information Activities Regarding Agricultural Commodities

SEC. 511. SHORT TITLE.

This subtitle may be cited as the "Commodity Promotion, Research, and Information Act of 1996".

SEC. 512. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The production of agricultural commodities plays a significant role in the economy of the United States. Thousands of producers in the United States are involved in the production of agricultural commodities, and such commodities are consumed by millions of people throughout the United States and foreign countries.

(2) Agricultural commodities must be of high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply.

(3) The maintenance and expansion of existing markets and the development of new markets for agricultural commodities through generic commodity promotion, research, and information programs are vital to the welfare of persons engaged in the production, marketing, and consumption of such commodities, as well as to the general economy of the United States.

(4) Generic promotion, research, and information activities for agricultural commodities play a unique role in advancing the demand for such commodities, since such activities increase the total market for a product to the benefit of consumers and all producers. These generic activities complement branded advertising initiatives, which are aimed at increasing the market share of individual competitors, and are of particular benefit to small producers who lack the resources or market power to advertise on their own. These generic activities do not impede the branded advertising efforts of individual firms, but instead increase general market demand for an agricultural commodity using methods that individual companies do not have the incentive to employ.

(5) Generic promotion, research, and information activities for agricultural commodities, paid by the producers and others in the industry who reap the benefits of such activities, provide a unique opportunity for producers to inform consumers about a particular agricultural commodity.

(6) It is important to ensure that generic promotion, research, and information activities for agricultural commodities be carried out in an effective and coordinated manner designed to strengthen the position of the commodities in the marketplace and to maintain and expand their markets and uses. Independent evaluation of the effectiveness of the generic promotion activities of these programs will assist the Secretary of Agriculture and Congress in ensuring that these objectives are met.

(7) The cooperative development, financing, and implementation of a coordinated national program of research, promotion, and information regarding agricultural commodities are necessary to maintain and expand existing markets and to develop new markets for these commodities.

(8) Agricultural commodities move in interstate and foreign commerce, and agricultural commodities and their products that do not move in such channels of commerce directly burden or affect interstate commerce in agricultural commodities and their products.

(9) Commodity promotion programs have the ability to provide significant conservation benefits to producers and the public.

(b) PURPOSE.—The purpose of this subtitle is to authorize the establishment, through the exercise by the Secretary of Agriculture of the authority provided in this subtitle, of an orderly program for developing, financing, and carrying out an effective, continuous, and coordinated program of generic promotion, research, and information regarding agricultural commodities designed to—

(1) strengthen the position of agricultural commodity industries in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for agricultural commodities;

(3) develop new markets and uses for agricultural commodities; or

(4) assist producers in meeting their conservation objectives.

(c) RULE OF CONSTRUCTION.—Nothing in this subtitle provides for the control of production or otherwise limits the right of any person to produce, handle, or import an agricultural commodity.

SEC. 513. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) AGRICULTURAL COMMODITY.—The term "agricultural commodity" means—

(A) agricultural, horticultural, viticultural, and dairy products;

(B) livestock and the products of livestock;

(C) the products of poultry and bee raising;

(D) the products of forestry;

(E) other commodities raised or produced on farms, as determined appropriate by the Secretary; and

(F) products processed or manufactured from products specified in the preceding subparagraphs, as determined appropriate by the Secretary.

(2) BOARD.—The term "board" means a board established under an order issued under section 514.

(3) CONFLICT OF INTEREST.—The term "conflict of interest" means a situation in which a member or employee of a board has a direct or indirect financial interest in a person that performs a service for, or enters into a contract with, a board for anything of economic value.

(4) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(5) FIRST HANDLER.—The term "first handler" means the first person who buys or takes possession of an agricultural commodity from a producer for marketing. If a producer markets the agricultural commodity directly to consumers, the producer shall be considered to be the first handler with respect to the agricultural commodity produced by the producer.

(6) IMPORTER.—The term "importer" means any person who imports an agricultural commodity from outside the United States for sale in the United States as a principal or as an agent, broker, or consignee of any person.

(7) INFORMATION.—The term "information" means information and programs that are designed to increase—

(A) efficiency in processing; and

(B) the development of new markets, marketing strategies, increased marketing efficiency, and activities to enhance the image of agricultural commodities on a national or international basis.

(8) MARKET.—The term "market" means to sell or to otherwise dispose of an agricultural commodity in interstate, foreign, or intrastate commerce.

(9) ORDER.—The term "order" means an order issued by the Secretary under section 514 that provides for a program of generic promotion, research, and information regarding agricultural commodities designed to—

(A) strengthen the position of agricultural commodity industries in the marketplace;

(B) maintain and expand existing domestic and foreign markets and uses for agricultural commodities;

(C) develop new markets and uses for agricultural commodities; or

(D) assist producers in meeting their conservation objectives.

(10) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(11) PRODUCER.—The term "producer" means any person who is engaged in the production and sale of an agricultural commodity in the United States and who owns, or shares the ownership and risk of loss of, the agricultural commodity.

(12) PROMOTION.—The term "promotion" means any action taken by a board under an order, including paid advertising, to present a favorable image of an agricultural commodity to the public to improve the competitive position of the agricultural commodity in the marketplace and to stimulate sales of the agricultural commodity.

(13) RESEARCH.—The term "research" means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of an agricultural commodity.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE.—The term "State" means any of the States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(16) SUSPEND.—The term "suspend" means to issue a rule under section 553 of title 5, United States Code, to temporarily prevent the operation of an order during a particular period of time specified in the rule.

(17) TERMINATE.—The term "terminate" means to issue a rule under section 553 of title 5, United States Code, to cancel permanently the operation of an order beginning on a date certain specified in the rule.

(18) UNITED STATES.—The term "United States" means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States.

SEC. 514. ISSUANCE OF ORDERS.

(a) ISSUANCE AUTHORIZED.—

(1) IN GENERAL.—To effectuate the purpose of this subtitle, the Secretary may issue, and amend from time to time, orders applicable to—

(A) the producers of an agricultural commodity;

(B) the first handlers of the agricultural commodity and other persons in the marketing chain as appropriate; and

(C) the importers of the agricultural commodity, if imports of the agricultural commodity are subject to assessment under section 516(f).

(2) NATIONAL SCOPE.—Each order issued under this section shall be national in scope.

(b) PROCEDURE FOR ISSUANCE.—

(1) DEVELOPMENT OR RECEIPT OF PROPOSED ORDER.—A proposed order with respect to an agricultural commodity may be—

(A) prepared by the Secretary at any time; or

(B) submitted to the Secretary by—

(i) an association of producers of the agricultural commodity; or

(ii) any other person that may be affected by the issuance of an order with respect to the agricultural commodity.

(2) CONSIDERATION OF PROPOSED ORDER.—If the Secretary determines that a proposed order is consistent with and will effectuate the purpose of this subtitle, the Secretary shall publish the proposed order in the Federal Register and give due notice and opportunity for public comment on the proposed order.

(3) EXISTENCE OF OTHER ORDERS.—In deciding whether a proposal for an order is consistent with and will effectuate the purpose of this subtitle, the Secretary may consider the existence of other Federal promotion, research, and information programs or orders issued or developed pursuant to any other law.

VOL
142
PT
5
MR
21
—
29
1996
UMI

(4) PREPARATION OF FINAL ORDER.—After notice and opportunity for public comment under paragraph (2) regarding a proposed order, the Secretary shall take into consideration the comments received in preparing a final order. The Secretary shall ensure that the final order is in conformity with the terms, conditions, and requirements of this subtitle.

(c) ISSUANCE AND EFFECTIVE DATE.—If the Secretary determines that the final order developed with respect to an agricultural commodity is consistent with and will effectuate the purpose of this subtitle, the Secretary shall issue the final order. Except in the case of an order for which an initial referendum is conducted under section 518(a), the final order shall be issued and become effective not later than 270 days after the date of publication of the proposed order that was the basis for the final order.

(d) AMENDMENTS.—From time to time the Secretary may amend any order, consistent with the requirements of section 523.

SEC. 515. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Each order shall contain the terms and conditions specified in this section.

(b) BOARD.—

(1) ESTABLISHMENT.—Each order shall establish a board to carry out a program of generic promotion, research, and information regarding the agricultural commodity covered by the order and intended to effectuate the purpose of this subtitle.

(2) BOARD MEMBERSHIP.—

(A) NUMBER OF MEMBERS.—Each board shall consist of the number of members considered by the Secretary, in consultation with the agricultural commodity industry involved, to be appropriate to administer the order. In addition to members, the Secretary may also provide for alternates on the board.

(B) APPOINTMENT.—The Secretary shall appoint the members and any alternates of a board from among producers of the agricultural commodity and first handlers and others in the marketing chain as appropriate. If imports of the agricultural commodity covered by an order are subject to assessment under section 516(f), the Secretary shall also appoint importers as members of the board and as alternates if alternates are included on the board. The Secretary may appoint 1 or more members of the general public to each board.

(C) NOMINATIONS.—The Secretary may make appointments from nominations made pursuant to the method set forth in the order.

(D) GEOGRAPHICAL REPRESENTATION.—To ensure fair and equitable representation of the agricultural commodity industry covered by an order, the composition of each board shall reflect the geographical distribution of the production of the agricultural commodity involved in the United States and the quantity or value of the agricultural commodity imported into the United States.

(3) REAPPORTIONMENT OF BOARD MEMBERSHIP.—In accordance with rules issued by the Secretary, at least once in each 5-year period, but not more frequently than once in each 3-year period, each board shall—

(A) review the geographical distribution in the United States of the production of the agricultural commodity covered by the order involved and the quantity or value of the agricultural commodity imported into the United States; and

(B) if warranted, recommend to the Secretary the reapportionment of the board membership to reflect changes in the geographical distribution of the production of the agricultural commodity and the quantity or value of the imported agricultural commodity.

(4) NOTICE.—

(A) VACANCIES.—Each order shall provide for notice of board vacancies to the agricultural commodity industry involved.

(B) MEETINGS.—Each board shall provide the Secretary with prior notice of meetings of the board to permit the Secretary, or a designated representative of the Secretary, to attend the meetings.

(5) TERM OF OFFICE.—

(A) IN GENERAL.—The members and any alternates of a board shall each serve for a term of 3 years, except that the members and any alternates initially appointed to a board shall serve for terms of not more than 2, 3, and 4 years, as specified by the order.

(B) LIMITATION ON CONSECUTIVE TERMS.—A member or alternate may serve not more than 2 consecutive terms.

(C) CONTINUATION OF TERM.—Notwithstanding subparagraph (B), each member or alternate shall continue to serve until a successor is appointed by the Secretary.

(D) VACANCIES.—A vacancy arising before the expiration of a term of office of an incumbent member or alternate of a board shall be filled in a manner provided for in the order.

(6) COMPENSATION.—

(A) IN GENERAL.—Members and any alternates of a board shall serve without compensation.

(B) TRAVEL EXPENSES.—If approved by a board, members or alternates shall be reimbursed for reasonable travel expenses, which may include a per diem allowance or actual subsistence incurred while away from their homes or regular places of business in the performance of services for the board.

(c) POWERS AND DUTIES OF A BOARD.—Each order shall specify the powers and duties of the board established under the order, which shall include the power and duty—

(1) to administer the order in accordance with its terms and conditions and to collect assessments;

(2) to develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the board and such rules as may be necessary to administer the order, including activities authorized to be carried out under the order;

(3) to meet, organize, and select from among the members of the board a chairperson, other officers, and committees and subcommittees, as the board determines to be appropriate;

(4) to employ persons, other than the members, as the board considers necessary to assist the board in carrying out its duties, and to determine the compensation and specify the duties of the persons;

(5) subject to subsection (e), to develop and carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order;

(6) to prepare and submit for the approval of the Secretary, before the beginning of each fiscal year, rates of assessment under section 517 and an annual budget of the anticipated expenses to be incurred in the administration of the order, including the probable cost of each promotion, research, and information activity proposed to be developed or carried out by the board;

(7) to borrow funds necessary for the startup expenses of the order;

(8) subject to subsection (f), to enter into contracts or agreements to develop and carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order;

(9) to pay the cost of the activities with assessments collected under section 517, earnings from invested assessments, and other funds;

(10) to keep records that accurately reflect the actions and transactions of the board, to keep and report minutes of each meeting of the board to the Secretary, and to furnish the Secretary with any information or records the Secretary requests;

(11) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(12) to recommend to the Secretary such amendments to the order as the board considers appropriate.

(d) PROHIBITED ACTIVITIES.—A board may not engage in, and shall prohibit the employees and agents of the board from engaging in—

(1) any action that would be a conflict of interest;

(2) using funds collected by the board under the order, any action undertaken for the purpose of influencing any legislation or governmental action or policy other than recommending to the Secretary amendments to the order; and

(3) any advertising, including promotion, research, and information activities authorized to be carried out under the order, that may be false or misleading or disparaging to another agricultural commodity.

(e) ACTIVITIES AND BUDGETS.—

(1) ACTIVITIES.—Each order shall require the board established under the order to submit to the Secretary for approval plans and projects for promotion, research, or information relating to the agricultural commodity covered by the order.

(2) BUDGETS.—

(A) SUBMISSION TO SECRETARY.—Each order shall require the board established under the order to submit to the Secretary for approval a budget of its anticipated annual expenses and disbursements to be paid to administer the order. The budget shall be submitted before the beginning of a fiscal year and as frequently as may be necessary after the beginning of the fiscal year.

(B) REIMBURSEMENT OF SECRETARY.—Each order shall require that the Secretary be reimbursed for all expenses incurred by the Secretary in the implementation, administration, and supervision of the order, including all referenda costs incurred in connection with the order.

(3) INCURRING EXPENSES.—A board may incur the expenses described in paragraph (2) and other expenses for the administration, maintenance, and functioning of the board as authorized by the Secretary.

(4) PAYMENT OF EXPENSES.—Expenses incurred under paragraph (3) shall be paid by a board using assessments collected under section 517, earnings obtained from assessments, and other income of the board. Any funds borrowed by the board shall be expended only for startup costs and capital outlays.

(5) LIMITATION ON SPENDING.—For fiscal years beginning 3 or more years after the date of the establishment of a board, the board may not expend for administration (except for reimbursements to the Secretary required under paragraph (2)(B)), maintenance, and functioning of the board in a fiscal year an amount that exceeds 15 percent of the assessment and other income received by the board for the fiscal year.

(f) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—Each order shall provide that, with the approval of the Secretary, the board established under the order may—

(A) enter into contracts and agreements to carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order, including contracts and agreements with producer associations or other entities as considered appropriate by the Secretary; and

(B) pay the cost of approved generic promotion, research, and information activities using assessments collected under section 517, earnings obtained from assessments, and other income of the board.

(2) REQUIREMENTS.—Each contract or agreement shall provide that any person who enters into the contract or agreement with the board shall—

(A) develop and submit to the board a proposed activity together with a budget that specifies the cost to be incurred to carry out the activity;

(B) keep accurate records of all of its transactions relating to the contract or agreement;

(C) account for funds received and expended in connection with the contract or agreement;

(D) make periodic reports to the board of activities conducted under the contract or agreement; and

(E) make such other reports as the board or the Secretary considers relevant.

(g) RECORDS OF BOARD.—

(1) IN GENERAL.—Each order shall require the board established under the order—

(A) to maintain such records as the Secretary may require and to make the records available to the Secretary for inspection and audit;

(B) to collect and submit to the Secretary, at any time the Secretary may specify, any information the Secretary may request; and

(C) to account for the receipt and disbursement of all funds in the possession, or under the control, of the board.

(2) AUDITS.—Each order shall require the board established under the order to have—

(A) its records audited by an independent auditor at the end of each fiscal year; and

(B) a report of the audit submitted directly to the Secretary.

(h) PERIODIC EVALUATION.—In accordance with section 501(c), each order shall require the board established under the order to provide for the independent evaluation of all generic promotion, research, and information activities undertaken under the order.

(i) BOOKS AND RECORDS OF PERSONS COVERED BY ORDER.—

(1) IN GENERAL.—Each order shall require that producers, first handlers and other persons in the marketing chain as appropriate, and importers covered by the order shall—

(A) maintain records sufficient to ensure compliance with the order and regulations;

(B) submit to the board established under the order any information required by the board to carry out its responsibilities under the order; and

(C) make the records described in subparagraph (A) available, during normal business hours, for inspection by employees or agents of the board or the Department, including any records necessary to verify information required under subparagraph (B).

(2) TIME REQUIREMENT.—Any record required to be maintained under paragraph (1) shall be maintained for such time period as the Secretary may prescribe.

(3) OTHER INFORMATION.—The Secretary may use, and may authorize the board to use under this subtitle, information regarding persons subject to an order that is collected by the Department under any other law.

(4) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subtitle, all information obtained under paragraph (1) or as part of a referendum under section 518 shall be kept confidential by all officers, employees, and agents of the Department and of the board.

(B) DISCLOSURE.—Information referred to in subparagraph (A) may be disclosed only if—

(i) the Secretary considers the information relevant; and

(ii) the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party.

(C) OTHER EXCEPTIONS.—This paragraph shall not prohibit—

(i) the issuance of general statements based on reports or on information relating to a number of persons subject to an order if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order and a statement of the particular provisions of the order violated by the person.

(D) PENALTY.—Any person who willfully violates this subsection shall be subject, on conviction, to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both.

(5) WITHHOLDING INFORMATION.—This subsection shall not authorize the withholding of information from Congress.

SEC. 516. PERMISSIVE TERMS IN ORDERS.

(a) EXEMPTIONS.—An order issued under this subtitle may contain—

(1) authority for the Secretary to exempt from the order any de minimis quantity of an agricultural commodity otherwise covered by the order; and

(2) authority for the board established under the order to require satisfactory safeguards against improper use of the exemption.

(b) DIFFERENT PAYMENT AND REPORTING SCHEDULES.—An order issued under this subtitle may contain authority for the board established under the order to designate different payment and reporting schedules to recognize differences in agricultural commodity industry marketing practices and procedures used in different production and importing areas.

(c) ACTIVITIES.—An order issued under this subtitle may contain authority to develop and carry out research, promotion, and information activities designed to expand, improve, or make more efficient the marketing or use of the agricultural commodity covered by the order in domestic and foreign markets. Section 515(e) shall apply with respect to activities authorized under this subsection.

(d) RESERVE FUNDS.—An order issued under this subtitle may contain authority to reserve funds from assessments collected under section 517 to permit an effective and continuous coordinated program of research, promotion, and information in years when the yield from assessments may be reduced, except that the amount of funds reserved may not exceed the greatest aggregate amount of the anticipated disbursements specified in budgets approved under section 515(e) by the Secretary for any 2 fiscal years.

(e) CREDITS.—

(1) GENERIC ACTIVITIES.—An order issued under this subtitle may contain authority to provide credits of assessments for those individuals who contribute to other similar generic research, promotion, and information programs at the State, regional, or local level.

(2) BRANDED ACTIVITIES.—

(A) IN GENERAL.—The Secretary may permit a farmer cooperative that engages in branded activities relating to the marketing of the products of members of the cooperative to receive an annual credit for the activities and related expenditures in the form of a deduction of the total cost of the activities and related expenditures from the amount of any assessment that would otherwise be required to be paid by the producer members of the cooperative under an order issued under this subtitle.

(B) ELECTION BY COOPERATIVE.—A farmer cooperative may elect to voluntarily waive the application of subparagraph (A) to the cooperative.

(f) ASSESSMENT OF IMPORTS.—An order issued under this subtitle may contain authority for the board established under the order to assess under section 517 an imported agricultural commodity, or products of such an agricultural commodity, at a rate comparable to the rate determined by the appropriate board for the domestic agricultural commodity covered by the order.

(g) OTHER AUTHORITY.—An order issued under this subtitle may contain authority to take any other action that—

(1) is not inconsistent with the purpose of this subtitle, any term or condition specified in section 515, or any rule issued to carry out this subtitle; and

(2) is necessary to administer the order.

SEC. 517. ASSESSMENTS.

(a) ASSESSMENTS AUTHORIZED.—While an order issued under this subtitle is in effect with respect to an agricultural commodity, assessments shall be—

(1) paid by first handlers with respect to the agricultural commodity produced and marketed in the United States; and

(2) paid by importers with respect to the agricultural commodity imported into the United States, if the imported agricultural commodity is covered by the order pursuant to section 516(f).

(b) COLLECTION.—Assessments required under an order shall be remitted to the board established under the order at the time and in the manner prescribed by the order.

(c) LIMITATION ON ASSESSMENTS.—Not more than 1 assessment may be levied on a first handler or importer under subsection (a) with respect to any agricultural commodity.

(d) ASSESSMENT RATES.—The board shall recommend to the Secretary 1 or more rates of assessment to be levied under subsection (a). If approved by the Secretary, the rates shall take effect. An order may provide that an assessment rate may not be increased unless approved by a referendum conducted pursuant to section 518.

(e) LATE-PAYMENT AND INTEREST CHARGES.—

(1) IN GENERAL.—Late-payment and interest charges may be levied on each person subject to an order who fails to remit an assessment in accordance with subsection (b).

(2) RATE.—The rate for the charges shall be specified by the Secretary.

(f) INVESTMENT OF ASSESSMENTS.—Pending disbursement of assessments under a budget approved by the Secretary, a board may invest assessments collected under this section in—

(1) obligations of the United States or any agency of the United States;

(2) general obligations of any State or any political subdivision of a State;

(3) interest-bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System; or

(4) obligations fully guaranteed as to principal and interest by the United States.

(g) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) ESCROW ACCOUNT.—During the period beginning on the effective date of an order and ending on the date the Secretary announces the results of a referendum that is conducted under section 518(b)(1) with respect to the order, the board established under the order shall—

(A) establish and maintain an escrow account of the kind described in subsection (f)(3) to be used to refund assessments; and

(B) deposit funds in the account in accordance with paragraph (2).

(2) AMOUNT TO BE DEPOSITED.—The board shall deposit in the account an amount equal to 10 percent of the assessments collected during the period referred to in paragraph (1).

(3) RIGHT TO RECEIVE REFUND.—Subject to paragraphs (4), (5), and (6), persons subject to an order shall be eligible to demand a refund of assessments collected during the period referred to in paragraph (1) if—

(A) the assessments were remitted on behalf of the person; and

(B) the order is not approved in the referendum.

(4) FORM OF DEMAND.—The demand for a refund shall be made at such time and in such form as specified by the order.

VOL
142
PT
5
MR
21
—
29
1996
UMI

(5) PAYMENT OF REFUND.—A person entitled to a refund shall be paid promptly after the board receives satisfactory proof that the assessment for which the refund is demanded was paid on behalf of the person who makes the demand.

(6) PRORATION.—If the funds in the escrow account required by paragraph (1) are insufficient to pay the amount of all refunds that persons subject to an order otherwise would have a right to receive under this subsection, the board shall prorate the amount of the funds among all the persons.

(7) CLOSING OF ESCROW ACCOUNT.—If the order is approved in a referendum conducted under section 518(b)(1)—

(A) the escrow account shall be closed; and

(B) the funds shall be available to the board for disbursement as authorized in the order.

SEC. 518. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) OPTIONAL REFERENDUM.—For the purpose of ascertaining whether the persons to be covered by an order favor the order going into effect, the order may provide for the Secretary to conduct an initial referendum among persons to be subject to an assessment under section 517 who, during a representative period determined by the Secretary, engaged in—

(A) the production or handling of the agricultural commodity covered by the order; or

(B) the importation of the agricultural commodity.

(2) PROCEDURE.—The results of the referendum shall be determined in accordance with subsection (e). The Secretary may require that the agricultural commodity industry involved post a bond or other collateral to cover the cost of the referendum.

(b) REQUIRED REFERENDA.—

(1) IN GENERAL.—For the purpose of ascertaining whether the persons covered by an order favor the continuation, suspension, or termination of the order, the Secretary shall conduct a referendum among persons subject to assessments under section 517 who, during a representative period determined by the Secretary, have engaged in—

(A) the production or handling of the agricultural commodity covered by the order; or

(B) the importation of the agricultural commodity.

(2) TIME FOR REFERENDUM.—The referendum shall be conducted not later than 3 years after assessments first begin under the order.

(3) EXCEPTION.—This subsection shall not apply if an initial referendum was conducted under subsection (a).

(c) SUBSEQUENT REFERENDA.—The Secretary shall conduct a subsequent referendum—

(1) not later than 7 years after assessments first begin under the order;

(2) at the request of the board established under the order; or

(3) at the request of 10 percent or more of the number of persons eligible to vote under subsection (b)(1);

to determine if the persons favor the continuation, suspension or termination of the order.

(d) OTHER REFERENDA.—The Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the order or a provision of the order is favored by persons eligible to vote under subsection (b)(1).

(e) APPROVAL OF ORDER.—An order may provide for its approval in a referendum—

(1) by a majority of those persons voting;

(2) by persons voting for approval who represent a majority of the volume of the agricultural commodity; or

(3) by a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity.

(f) COSTS OF REFERENDA.—The board established under an order with respect to which a referendum is conducted under this section shall reimburse the Secretary for any expenses incurred by the Secretary to conduct the referendum.

(g) MANNER OF CONDUCTING REFERENDA.—

(1) IN GENERAL.—A referendum conducted under this section shall be conducted in the manner determined by the Secretary to be appropriate.

(2) ADVANCE REGISTRATION.—If the Secretary determines that an advance registration of eligible voters in a referendum is necessary before the voting period in order to facilitate the conduct of the referendum, the Secretary may institute the advance registration procedures by mail, or in person through the use of national and local offices of the Department.

(3) VOTING.—Eligible voters may vote by mail ballot in the referendum or in person if so prescribed by the Secretary.

(4) NOTICE.—Not later than 30 days before a referendum is conducted under this section with respect to an order, the Secretary shall notify the agricultural commodity industry involved, in such manner as determined by the Secretary, of the period during which voting in the referendum will occur. The notice shall explain any registration and voting procedures established under this subsection.

SEC. 519. PETITION AND REVIEW OF ORDERS.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARING.—The Secretary shall give the petitioner an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition. The ruling shall be final, subject to review as set forth in subsection (b).

(4) LIMITATION ON PETITION.—Any petition filed under this subsection challenging an order, any provision of the order, or any obligation imposed in connection with the order, shall be filed within 2 years after the effective date of the order, provision, or obligation subject to challenge in the petition.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review the final ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of the final ruling by the Secretary under subsection (a)(3).

(2) PROCESS.—Service of process in a proceeding may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court determines to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(c) EFFECT ON ENFORCEMENT PROCEEDINGS.—The pendency of a petition filed under subsection (a) or an action commenced under subsection (b) shall not operate as a stay of any action authorized by section 520 to be taken to enforce this subtitle, including any rule, order, or penalty in effect under this subtitle.

SEC. 520. ENFORCEMENT.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by providing a suitable written notice or warning to the person who committed the violation or by an administrative action under this section.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—A person who willfully violates an order or regulation issued by the Secretary under this Act may be assessed by the Secretary a civil penalty of not less than $1,000 and not more than $10,000 for each violation.

(2) SEPARATE OFFENSE.—Each violation and each day during which there is a failure to comply with an order or regulation issued by the Secretary shall be considered to be a separate offense.

(3) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, a civil penalty, the Secretary may issue an order requiring a person to cease and desist from violating the order or regulation.

(4) NOTICE AND HEARING.—No order assessing a penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary provides notice and an opportunity for a hearing on the record with respect to the violation.

(5) FINALITY.—An order assessing a penalty or a cease-and-desist order issued under this subsection by the Secretary shall be final and conclusive unless the person against whom the order is issued files an appeal from the order with the United States court of appeals, as provided in subsection (d).

(d) REVIEW BY COURT OF APPEALS.—

(1) IN GENERAL.—A person against whom an order is issued under subsection (c) may obtain review of the order by—

(A) filing, not later than 30 days after the person receives notice of the order, a notice of appeal in—

(i) the United States court of appeals for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice of appeal by certified mail to the Secretary.

(2) RECORD.—The Secretary shall file with the court a certified copy of the record on which the Secretary has determined that the person has committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence on the record.

(e) FAILURE TO OBEY CEASE-AND-DESIST ORDERS.—A person who fails to obey a valid cease-and-desist order issued by the Secretary under this section, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not less than $1,000 and not more than $10,000 for each offense. Each day during which the failure continues shall be considered to be a separate violation of the cease-and-desist order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay a civil penalty imposed under this section by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In the action, the validity and appropriateness of the order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 521. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; or

(2) to determine whether any person subject to this subtitle has engaged, or is about engage, in any action that constitutes or will constitute a violation of this subtitle or any order or regulation issued under this subtitle.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—For the purpose of any investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records or documents that are relevant to the inquiry. The attendance of witnesses and the production of records or documents may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to require the attendance and testimony of the person or the production of records or documents. The court may issue an order requiring the person to appear before the Secretary to produce records or documents or to give testimony regarding the matter under investigation.

(d) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) PROCESS.—Process in any case under this section may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

SEC. 522. SUSPENSION OR TERMINATION.

(a) MANDATORY SUSPENSION OR TERMINATION.—The Secretary shall suspend or terminate an order or a provision of an order if the Secretary finds that an order or a provision of an order obstructs or does not tend to effectuate the purpose of this subtitle, or if the Secretary determines that the order or a provision of an order is not favored by persons voting in a referendum conducted under section 518.

(b) IMPLEMENTATION OF SUSPENSION OR TERMINATION.—If, as a result of a referendum conducted under section 518, the Secretary determines that an order is not approved, the Secretary shall—

(1) not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under the order; and

(2) as soon as practicable, suspend or terminate, as the case may be, activities under the order in an orderly manner.

SEC. 523. AMENDMENTS TO ORDERS.

The provisions of this subtitle applicable to an order shall be applicable to any amendment to an order, except that section 518 shall not apply to an amendment.

SEC. 524. EFFECT ON OTHER LAWS.

This subtitle shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

SEC. 525. REGULATIONS.

The Secretary may issue such regulations as may be necessary to carry out this subtitle and the power vested in the Secretary under this subtitle.

SEC. 526. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

(b) LIMITATION ON EXPENDITURES FOR ADMINISTRATIVE EXPENSES.—Funds appropriated to carry out this subtitle may not be expended for the payment of expenses incurred by a board to administer an order.

Subtitle C—Canola and Rapeseed

SEC. 531. SHORT TITLE.

This subtitle may be cited as the "Canola and Rapeseed Research, Promotion, and Consumer Information Act".

SEC. 532. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) canola and rapeseed products are an important and nutritious part of the human diet;

(2) the production of canola and rapeseed products plays a significant role in the economy of the United States in that—

(A) canola and rapeseed products are produced by thousands of canola and rapeseed producers and processed by numerous processing entities; and

(B) canola and rapeseed products produced in the United States are consumed by people throughout the United States and foreign countries;

(3) canola, rapeseed, and canola and rapeseed products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of canola and rapeseed products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for canola, rapeseed, and canola and rapeseed products are vital to the welfare of canola and rapeseed producers and processors and those persons concerned with marketing canola, rapeseed, and canola and rapeseed products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of canola, rapeseed, and canola and rapeseed products;

(5) there exist established State and national organizations conducting canola and rapeseed research, promotion, and consumer education programs that are valuable to the efforts of promoting the consumption of canola, rapeseed, and canola and rapeseed products;

(6) the cooperative development, financing, and implementation of a coordinated national program of canola and rapeseed research, promotion, consumer information, and industry information is necessary to maintain and expand existing markets and develop new markets for canola, rapeseed, and canola and rapeseed products; and

(7) canola, rapeseed, and canola and rapeseed products move in interstate and foreign commerce, and canola, rapeseed, and canola and rapeseed products that do not move in interstate or foreign commerce directly burden or affect interstate commerce in canola, rapeseed, and canola and rapeseed products.

(b) POLICY.—It is the policy of this subtitle to establish an orderly procedure for developing, financing through assessments on domestically produced canola and rapeseed, and implementing a program of research, promotion, consumer information, and industry information designed to strengthen the position in the marketplace of the canola and rapeseed industry, to maintain and expand existing domestic and foreign markets and uses for canola, rapeseed, and canola and rapeseed products, and to develop new markets and uses for canola, rapeseed, and canola and rapeseed products.

(c) CONSTRUCTION.—Nothing in this subtitle provides for the control of production or otherwise limits the right of individual producers to produce canola, rapeseed, or canola or rapeseed products.

SEC. 533. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term "Board" means the National Canola and Rapeseed Board established under section 535(b).

(2) CANOLA; RAPESEED.—The terms "canola" and "rapeseed" mean any brassica plant grown in the United States for the production of an oilseed, the oil of which is used for a food or nonfood use.

(3) CANOLA OR RAPESEED PRODUCT.—The term "canola or rapeseed product" means a product produced, in whole or in part, from canola or rapeseed.

(4) COMMERCE.—The term "commerce" includes interstate, foreign, and intrastate commerce.

(5) CONFLICT OF INTEREST.—The term "conflict of interest" means a situation in which a member of the Board has a direct or indirect financial interest in a corporation, partnership, sole proprietorship, joint venture, or other business entity dealing directly or indirectly with the Board.

(6) CONSUMER INFORMATION.—The term "consumer information" means information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of canola, rapeseed, or canola or rapeseed products.

(7) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(8) FIRST PURCHASER.—The term "first purchaser" means—

(A) except as provided in subparagraph (B), a person who buys or otherwise acquires canola, rapeseed, or canola or rapeseed products produced by a producer; or

(B) the Commodity Credit Corporation, in a case in which canola or rapeseed is forfeited to the Commodity Credit Corporation as collateral for a loan issued under a price support loan program administered by the Commodity Credit Corporation.

(9) INDUSTRY INFORMATION.—The term "industry information" means information or a program that will lead to the development of new markets, new marketing strategies, or increased efficiency for the canola and rapeseed industry, or an activity to enhance the image of the canola or rapeseed industry.

(10) INDUSTRY MEMBER.—The term "industry member" means a member of the canola and rapeseed industry who represents—

(A) manufacturers of canola or rapeseed products; or

(B) persons who commercially buy or sell canola or rapeseed.

(11) MARKETING.—The term "marketing" means the sale or other disposition of canola, rapeseed, or canola or rapeseed products in a channel of commerce.

(12) ORDER.—The term "order" means an order issued under section 534.

(13) PERSON.—The term "person" means an individual, partnership, corporation, association, cooperative, or any other legal entity.

(14) PRODUCER.—The term "producer" means a person engaged in the growing of canola or rapeseed in the United States who owns, or who shares the ownership and risk of loss of, the canola or rapeseed.

(15) PROMOTION.—The term "promotion" means an action, including paid advertising, technical assistance, or a trade servicing activity, to enhance the image or desirability of canola, rapeseed, or canola or rapeseed products in domestic and foreign markets, or an activity designed to communicate to consumers, processors, wholesalers, retailers, government officials, or other persons information relating to

VOL
142
PT
5
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the positive attributes of canola, rapeseed, or canola or rapeseed products or the benefits of use or distribution of canola, rapeseed, or canola or rapeseed products.

(16) Research.—The term "research" means any type of test, study, or analysis to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of canola, rapeseed, or canola or rapeseed products, including research activity designed to identify and analyze barriers to export sales of canola or rapeseed produced in the United States.

(17) Secretary.—The term "Secretary" means the Secretary of Agriculture.

(18) State.—The term "State" means any of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico.

(19) United States.—The term "United States" means collectively the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 534. ISSUANCE AND AMENDMENT OF ORDERS.

(a) In General.—Subject to subsection (b), the Secretary shall issue 1 or more orders under this subtitle applicable to producers and first purchasers of canola, rapeseed, or canola or rapeseed products. The order shall be national in scope. Not more than 1 order shall be in effect under this subtitle at any 1 time.

(b) Procedure.—

(1) Proposal or request for issuance.—The Secretary may propose the issuance of an order under this subtitle, or an association of canola and rapeseed producers or any other person that would be affected by an order issued pursuant to this subtitle may request the issuance of, and submit a proposal for, an order.

(2) Notice and comment concerning proposed order.—Not later than 60 days after the receipt of a request and proposal for an order pursuant to paragraph (1), or whenever the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) Issuance of order.—After notice and opportunity for public comment are given as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this subtitle. The order shall be issued and become effective not later than 180 days following publication of the proposed order.

(c) Amendments.—The Secretary may amend an order issued under this section.

SEC. 535. REQUIRED TERMS IN ORDERS.

(a) In General.—An order issued under this subtitle shall contain the terms and conditions specified in this section.

(b) Establishment and Membership of the National Canola and Rapeseed Board.—

(1) In general.—The order shall provide for the establishment of, and appointment of members to, a National Canola and Rapeseed Board to administer the order.

(2) Service to entire industry.—The Board shall carry out programs and projects that will provide maximum benefit to the canola and rapeseed industry in all parts of the United States and only promote canola, rapeseed, or canola or rapeseed products.

(3) Board membership.—The Board shall consist of 15 members, including—

(A) 11 members who are producers, including—

(i) 1 member from each of the 6 geographic regions comprised of States where canola or rapeseed is produced, as determined by the Secretary; and

(ii) 5 members from the geographic regions referred to in clause (i), allocated according to the production in each region; and

(B) 4 members who are industry members, including at least—

(i) 1 member who represents manufacturers of canola or rapeseed end products; and

(ii) 1 member who represents persons who commercially buy or sell canola or rapeseed.

(4) Limitation on State residence.—There shall be no more than 4 producer members of the Board from any 1 State.

(5) Modifying board membership.—In accordance with regulations approved by the Secretary, at least once each 3 years and not more than once each 2 years, the Board shall review the geographic distribution of canola and rapeseed production throughout the United States and, if warranted, recommend to the Secretary that the Secretary—

(A) reapportion regions in order to reflect the geographic distribution of canola and rapeseed production; and

(B) reapportion the seats on the Board to reflect the production in each region.

(6) Certification of organizations.—

(A) In general.—For the purposes of section 536, the eligibility of any State organization to represent producers shall be certified by the Secretary.

(B) Criteria.—The Secretary shall certify any State organization that the Secretary determines has a history of stability and permanency and meets at least 1 of the following criteria:

(i) Majority representation.—The total paid membership of the organization—

(I) is comprised of at least a majority of canola or rapeseed producers; or

(II) represents at least a majority of the canola or rapeseed producers in the State.

(ii) Substantial number of producers represented.—The organization represents a substantial number of producers that produce a substantial quantity of canola or rapeseed in the State.

(iii) Purpose.—The organization is a general farm or agricultural organization that has as a stated objective the promotion and development of the United States canola or rapeseed industry and the economic welfare of United States canola or rapeseed producers.

(C) Report.—The Secretary shall make a certification under this paragraph on the basis of a factual report submitted by the State organization.

(7) Terms of office.—

(A) In general.—A member of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) Limitation on terms.—No individual may serve more than 2 consecutive 3-year terms as a member.

(C) Termination of terms.—Notwithstanding subparagraph (B), each member shall continue to serve until a successor is appointed by the Secretary.

(8) Compensation.—A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for and approved by the Board.

(c) Powers and Duties of the Board.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and conditions of the order;

(2) to issue regulations to effectuate the terms and conditions of the order;

(3) to meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) to establish working committees of persons other than Board members;

(5) to employ such persons, other than Board members, as the Board considers necessary, and to determine the compensation and define the duties of the persons;

(6) to prepare and submit for the approval of the Secretary, when appropriate or necessary, a recommended rate of assessment under section 536, and a fiscal period budget of the anticipated expenses in the administration of the order, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d);

(8) to enter into contracts or agreements, subject to subsection (e), to develop and carry out programs or projects of research, promotion, industry information, and consumer information;

(9) to carry out research, promotion, industry information, and consumer information projects, and to pay the costs of the projects with assessments collected under section 536;

(10) to keep minutes, books, and records that reflect the actions and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to appoint and convene, from time to time, working committees comprised of producers, industry members, and the public to assist in the development of research, promotion, industry information, and consumer information programs for canola, rapeseed, and canola and rapeseed products;

(12) to invest, pending disbursement under a program or project, funds collected through assessments authorized under section 536, or funds earned from investments, only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

(13) to receive, investigate, and report to the Secretary complaints of violations of the order;

(14) to furnish the Secretary with such information as the Secretary may request;

(15) to recommend to the Secretary amendments to the order;

(16) to develop and recommend to the Secretary for approval such regulations as may be necessary for the development and execution of programs or projects, or as may otherwise be necessary, to carry out the order; and

(17) to provide the Secretary with advance notice of meetings.

(d) Programs and Budgets.—

(1) Submission to Secretary.—The order shall provide that the Board shall submit to the Secretary for approval any program or project of research, promotion, consumer information, or industry information. No program or project shall be implemented prior to approval by the Secretary.

(2) Budgets.—The order shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of a fiscal year, to submit to the Secretary for approval budgets of anticipated expenses and disbursements in the implementation of the order, including projected costs of research, promotion, consumer information, and industry information programs and projects.

(3) Incurring expenses.—The Board may incur such expenses for programs or projects of research, promotion, consumer information, or industry information, and other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any implementation, administrative, and referendum costs incurred by the Department.

(4) Paying expenses.—The funds to cover the expenses referred to in paragraph (3) shall be paid by the Board from assessments collected under section 536 or funds borrowed pursuant to paragraph (5).

(5) Authority to borrow.—To meet the expenses referred to in paragraph (3), the Board shall have the authority to borrow funds, as approved by the Secretary, for capital outlays and startup costs.

(e) Contracts and Agreements.—

(1) In general.—To ensure efficient use of funds, the order shall provide that the Board may enter into a contract or agreement for the implementation and carrying out of a program or project of canola, rapeseed, or canola or rapeseed products research, promotion, consumer information, or industry information, including a contract with a producer organization, and for the payment of the costs with funds received by the Board under the order.

(2) Requirements.—A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a program or project together with a budget that shall show the estimated costs to be incurred for the program or project;

(B) the program or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) Producer organizations.—The order shall provide that the Board may contract with a producer organization for any services required in addition to the services described in paragraph (1). The contract shall include provisions comparable to the provisions required by paragraph (2).

(f) Books and Records of the Board.—

(1) In general.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) Audits.—The Board shall cause the books and records of the Board to be audited by an independent auditor at the end of each fiscal year, and a report of the audit to be submitted to the Secretary.

(g) Prohibition.—

(1) In general.—Subject to paragraph (2), the Board shall not engage in any action to, nor shall any funds received by the Board under this subtitle be used to—

(A) influence legislation or governmental action;

(B) engage in an action that would be a conflict of interest;

(C) engage in advertising that is false or misleading; or

(D) engage in promotion that would disparage other commodities.

(2) Action permitted.—Paragraph (1) does not preclude—

(A) the development and recommendation of amendments to the order;

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, or industry information activities under the order; or

(C) any action designed to market canola or rapeseed products directly to a foreign government or political subdivision of a foreign government.

(h) Books and Records.—

(1) In general.—The order shall require that each producer, first purchaser, or industry member shall—

(A) maintain and submit to the Board any reports considered necessary by the Secretary to ensure compliance with this subtitle; and

(B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this subtitle, including such records as are necessary to verify any required reports.

(2) Confidentiality.—

(A) In general.—Except as otherwise provided in this subtitle, all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) Disclosure.—Information referred to in subparagraph (A) may be disclosed to the public if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this subtitle.

(C) Misconduct.—A knowing disclosure of confidential information in violation of subparagraph (A) by an officer or employee of the Board or Department, except as required by other law or allowed under subparagraph (B) or (D), shall be considered a violation of this subtitle.

(D) General statements.—Nothing in this paragraph prohibits—

(i) the issuance of general statements based on the reports of a number of persons subject to an order or statistical data collected from the reports, if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating the order, together with a statement of the particular provisions of the order violated by the person.

(3) Availability of information for law enforcement.—Information obtained under this subtitle may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(4) Penalty.—Any person knowingly violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(5) Withholding of information.—Nothing in this subtitle authorizes the withholding of information from Congress.

(i) Use of Assessments.—The order shall provide that the assessments collected under section 536 shall be used for payment of the expenses in implementing and administering this subtitle, with provision for a reasonable reserve, and to cover administrative costs incurred by the Secretary in implementing and administering this subtitle.

(j) Other Terms and Conditions.—The order shall contain such other terms and conditions, not inconsistent with this subtitle, as are determined necessary by the Secretary to effectuate this subtitle.

SEC. 536. ASSESSMENTS.

(a) In General.—

(1) First purchasers.—During the effective period of an order issued pursuant to this subtitle, assessments shall be—

(A) levied on all canola or rapeseed produced in the United States and marketed; and

(B) deducted from the payment made to a producer for all canola or rapeseed sold to a first purchaser.

(2) Direct processing.—The order shall provide that any person processing canola or rapeseed of that person's own production and marketing the canola or rapeseed, or canola or rapeseed products, shall remit to the Board or a State organization certified to represent producers under section 535(b)(6), in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for under subsection (d).

(b) Limitation on Assessments.—No more than 1 assessment may be assessed under subsection (a) on any canola or rapeseed produced (as remitted by a first purchaser).

(c) Remitting of Assessments.—

(1) In general.—Assessments required under subsection (a) shall be remitted to the Board by a first purchaser. The Board shall use State organizations certified to represent producers under section 535(b)(6) to collect the assessments. If an appropriate certified State organization does not exist to collect an assessment, the assessment shall be collected by the Board. There shall be only 1 certified State organization in each State.

(2) Times to remit assessment.—Each first purchaser shall remit the assessment to the Board as provided for in the order.

(d) Assessment Rate.—

(1) Initial rate.—The initial assessment rate shall be 4 cents per hundredweight of canola or rapeseed produced and marketed.

(2) Increase.—The assessment rate may be increased on recommendation by the Board to a rate not exceeding 10 cents per hundredweight of canola or rapeseed produced and marketed in a State, unless—

(A) after the initial referendum is held under section 537(a), the Board recommends an increase above 10 cents per hundredweight; and

(B) the increase is approved in a referendum under section 537(b).

(3) Credit.—A producer who demonstrates to the Board that the producer is participating in a program of a State organization certified to represent producers under section 535(b)(6) shall receive credit, in determining the assessment due from the producer, for contributions to the program of up to 2 cents per hundredweight of canola or rapeseed marketed.

(e) Late Payment Charge.—

(1) In general.—There shall be a late payment charge imposed on any person who fails to remit, on or before the date provided for in the order, to the Board the total amount for which the person is liable.

(2) Amount of charge.—The amount of the late payment charge imposed under paragraph (1) shall be prescribed by the Board with the approval of the Secretary.

(f) Refund of Assessments From Escrow Account.—

(1) Establishment of escrow account.—During the period beginning on the date on which an order is first issued under section 534(b)(3) and ending on the date on which a referendum is conducted under section 537(a), the Board shall—

(A) establish and maintain an escrow account to be used for assessment refunds; and

(B) place funds in the account in accordance with paragraph (2).

(2) Placement of funds in account.—The Board shall place in the account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product

VOL
142
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obtained by multiplying the total amount of assessments collected during the period by 10 percent.

(3) RIGHT TO RECEIVE REFUND.—The Board shall refund to a producer the assessments paid by or on behalf of the producer if—

(A) the producer is required to pay the assessment;

(B) the producer does not support the program established under this subtitle; and

(C) the producer demands the refund prior to the conduct of the referendum under section 537(a).

(4) FORM OF DEMAND.—The demand shall be made in accordance with such regulations, in such form, and within such time period as prescribed by the Board.

(5) MAKING OF REFUND.—The refund shall be made on submission of proof satisfactory to the Board that the producer paid the assessment for which the refund is demanded.

(6) PRORATION.—If—

(A) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by eligible producers; and

(B) the order is not approved pursuant to the referendum conducted under section 537(a);

the Board shall prorate the amount of the refunds among all eligible producers who demand a refund.

(7) PROGRAM APPROVED.—If the plan is approved pursuant to the referendum conducted under section 537(a), all funds in the escrow account shall be returned to the Board for use by the Board in accordance with this subtitle.

SEC. 537. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) REQUIREMENT.—During the period ending 30 months after the date on which an order is first issued under section 534(b)(3), the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed for the purpose of ascertaining whether the order then in effect shall be continued.

(2) ADVANCE NOTICE.—The Secretary shall, to the extent practicable, provide broad public notice in advance of any referendum. The notice shall be provided, without advertising expenses, by means of newspapers, county newsletters, the electronic media, and press releases, through the use of notices posted in State and county Cooperative State Research, Education, and Extension Service offices and county Consolidated Farm Service Agency offices, and by other appropriate means specified in the order. The notice shall contain information on when the referendum will be held, registration and voting requirements, rules regarding absentee voting, and other pertinent information.

(3) APPROVAL OF ORDER.—The order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum.

(4) DISAPPROVAL OF ORDER.—If continuation of the order is not approved by a majority of the producers voting in the referendum, the Secretary shall terminate collection of assessments under the order within 180 days after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—

(A) REQUIREMENT.—After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) REPRESENTATIVE GROUP OF PRODUCERS.—An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed.

(C) ELIGIBLE PRODUCERS.—Each additional referendum shall be conducted among all producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed to determine whether the producers favor the termination or suspension of the order.

(2) DISAPPROVAL OF ORDER.—If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate, as appropriate, collection of assessments under the order within 180 days after the determination, and shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the determination.

(3) OPPORTUNITY TO REQUEST ADDITIONAL REFERENDA.—

(A) IN GENERAL.—Beginning on the date that is 5 years after the conduct of a referendum under this subtitle, and every 5 years thereafter, the Secretary shall provide canola and rapeseed producers an opportunity to request an additional referendum.

(B) METHOD OF MAKING REQUEST.—

(i) IN-PERSON REQUESTS.—To carry out subparagraph (A), the Secretary shall establish a procedure under which a producer may make a request for a reconfirmation referendum in person at a county Cooperative State Research, Education, and Extension Service office or a county Consolidated Farm Service Agency office during a period established by the Secretary, or as provided in clause (ii).

(ii) MAIL-IN REQUESTS.—In lieu of making a request in person, a producer may make a request by mail. To facilitate the submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) NOTIFICATIONS.—The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the end of the period established under subparagraph (B)(i) for an in-person request, of the opportunity of producers to request an additional referendum. The notification shall explain the right of producers to an additional referendum, the procedure for a referendum, the purpose of a referendum, and the date and method by which producers may act to request an additional referendum under this paragraph. The Secretary shall take such other action as the Secretary determines is necessary to ensure that producers are made aware of the opportunity to request an additional referendum.

(D) ACTION BY SECRETARY.—As soon as practicable following the submission of a request for an additional referendum, the Secretary shall determine whether a sufficient number of producers have requested the referendum, and take such steps as are necessary to conduct the referendum, as required under paragraph (1).

(E) TIME LIMIT.—An additional referendum requested under the procedures provided in this paragraph shall be conducted not later than 1 year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of the referendum.

(c) PROCEDURES.—

(1) REIMBURSEMENT OF SECRETARY.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of an activity required under this section.

(2) DATE.—Each referendum shall be conducted for a reasonable period of time not to exceed 3 days, established by the Secretary, under a procedure under which producers intending to vote in the referendum shall certify that the producers were engaged in the production of canola, rapeseed, or canola or rapeseed products during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

(3) PLACE.—Referenda under this section shall be conducted at locations determined by the Secretary. On request, absentee mail ballots shall be furnished by the Secretary in a manner prescribed by the Secretary.

SEC. 538. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(3) RULING.—After a hearing under paragraph (2), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

(4) LIMITATION ON PETITION.—Any petition filed under this subtitle challenging an order, or any obligation imposed in connection with an order, shall be filed not later than 2 years after the effective date of the order or imposition of the obligation.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which the person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review a ruling on the petition, if a complaint is filed by the person not later than 20 days after the date of the entry of a ruling by the Secretary under subsection (a)(3).

(2) PROCESS.—Service of process in a proceeding under paragraph (1) shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines, under paragraph (1), that a ruling issued under subsection (a)(3) is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 539.

SEC. 539. ENFORCEMENT.

(a) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation made or issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be commenced under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by providing a suitable written notice or warning to the person committing the violation or by administrative action under subsection (c).

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person who willfully violates any provision of an order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit an assessment or fee required of the person under an order or regulation, may be assessed—

(i) a civil penalty by the Secretary of not more than $1,000 for each violation; and

(ii) in the case of a willful failure to pay, collect, or remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(B) SEPARATE OFFENSE.—Each violation under subparagraph (A) shall be a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed, or cease-and-desist order issued, by the Secretary under this subsection unless the person against whom the penalty is assessed or the cease-and-desist order is issued is given notice and opportunity for a hearing before the Secretary with respect to the violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order under this subsection shall be final and conclusive unless the affected person files an appeal of the order in the appropriate district court of the United States in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person who has been determined to be in violation of this subtitle, or against whom a civil penalty has been assessed or a cease-and-desist order issued under subsection (c), may obtain review of the penalty or cease-and-desist order by—

(A) filing, within the 30-day period beginning on the date the penalty is assessed or cease-and-desist order issued, a notice of appeal in—

(i) the district court of the United States for the district in which the person resides or carries on business; or

(ii) the United States District Court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall file promptly, in the appropriate court referred to in paragraph (1), a certified copy of the record on which the Secretary determined that the person committed the violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY CEASE-AND-DESIST ORDERS.—Any person who fails to obey a cease-and-desist order issued under this section after the cease-and-desist order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $5,000 for each offense. Each day during which the failure continues shall be considered as a separate violation of the cease-and-desist order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay an assessment of a civil penalty under this section after the assessment has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In an action for recovery, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this subtitle shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 540. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; and

(2) to determine whether any person has engaged or is engaging in an act that constitutes a violation of this subtitle, or an order, rule, or regulation issued under this subtitle.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) IN GENERAL.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, take evidence, and issue subpoenas to require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 538 or 539, the presiding officer is authorized to administer oaths and affirmations, subpoena and compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring the person to comply with the subpoena.

(d) CONTEMPT.—A failure to obey an order of the court under this section may be punished by the court as contempt of the court.

(e) PROCESS.—Process may be served on a person in the judicial district in which the person resides or carries on business or wherever the person may be found.

(f) HEARING SITE.—The site of a hearing held under section 538 or 539 shall be in the judicial district where the person affected by the hearing resides or has a principal place of business.

SEC. 541. SUSPENSION OR TERMINATION.

The Secretary shall, whenever the Secretary finds that an order or a provision of an order obstructs or does not tend to effectuate the declared policy of this subtitle, suspend or terminate the operation of the order or provision. The suspension or termination of an order shall not be considered an order within the meaning of this subtitle.

SEC. 542. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 543. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—Funds appropriated under subsection (a) shall not be available for payment of the expenses or expenditures of the Board in administering a provision of an order issued under this subtitle.

Subtitle D—Kiwifruit

SEC. 551. SHORT TITLE.

This subtitle may be cited as the "National Kiwifruit Research, Promotion, and Consumer Information Act".

SEC. 552. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) domestically produced kiwifruit are grown by many individual producers;

(2) virtually all domestically produced kiwifruit are grown in the State of California, although there is potential for production in many other areas of the United States;

(3) kiwifruit move in interstate and foreign commerce, and kiwifruit that do not move in channels of commerce directly burden or affect interstate commerce;

(4) in recent years, large quantities of kiwifruit have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for kiwifruit, and the development of additional and improved markets for kiwifruit, are vital to the welfare of kiwifruit producers and other persons concerned with producing, marketing, and processing kiwifruit;

(6) a coordinated program of research, promotion, and consumer information regarding kiwifruit is necessary for the maintenance and development of the markets; and

(7) kiwifruit producers, handlers, and importers are unable to implement and finance such a program without cooperative action.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to authorize the establishment of an orderly procedure for the development and financing (through an assessment) of an effective and coordinated program of research, promotion, and consumer information regarding kiwifruit;

(2) to use the program to strengthen the position of the kiwifruit industry in domestic and foreign markets and maintain, develop, and expand markets for kiwifruit; and

(3) to treat domestically produced kiwifruit and imported kiwifruit equitably.

SEC. 553. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term "Board" means the National Kiwifruit Board established under section 555.

(2) CONSUMER INFORMATION.—The term "consumer information" means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, nutritional attributes, and care of kiwifruit.

(3) EXPORTER.—The term "exporter" means any person from outside the United States who exports kiwifruit into the United States.

(4) HANDLER.—The term "handler" means any person, excluding a common carrier, engaged in the business of buying and selling, packing, marketing, or distributing kiwifruit as specified in the order.

(5) IMPORTER.—The term "importer" means any person who imports kiwifruit into the United States.

(6) KIWIFRUIT.—The term "kiwifruit" means all varieties of fresh kiwifruit grown in or imported into the United States.

(7) MARKETING.—The term "marketing" means the sale or other disposition of kiwifruit into interstate, foreign, or intrastate commerce by buying, marketing, distribution, or otherwise placing kiwifruit into commerce.

(8) ORDER.—The term "order" means a kiwifruit research, promotion, and consumer information order issued by the Secretary under section 554.

(9) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or other legal entity.

(10) PROCESSING.—The term "processing" means canning, fermenting, distilling, extracting, preserving, grinding, crushing, or in any

VOL 142 PT 5 MR 21—29 1996 UMI

manner changing the form of kiwifruit for the purpose of preparing the kiwifruit for market or marketing the kiwifruit.

(11) PRODUCER.—The term "producer" means any person who grows kiwifruit in the United States for sale in commerce.

(12) PROMOTION.—The term "promotion" means any action taken under this subtitle (including paid advertising) to present a favorable image of kiwifruit to the general public for the purpose of improving the competitive position of kiwifruit and stimulating the sale of kiwifruit.

(13) RESEARCH.—The term "research" means any type of research relating to the use, nutritional value, and marketing of kiwifruit conducted for the purpose of advancing the image, desirability, marketability, or quality of kiwifruit.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) UNITED STATES.—The term "United States" means the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 554. ISSUANCE OF ORDERS.

(a) ISSUANCE.—To effectuate the purposes of this subtitle specified in section 552(b), the Secretary shall issue an order applicable to producers, handlers, and importers of kiwifruit. Any such order shall be national in scope. Not more than 1 order shall be in effect under this subtitle at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL FOR ISSUANCE OF ORDER.—Any person that will be affected by this subtitle may request the issuance of, and submit a proposal for, an order under this subtitle.

(2) PROPOSED ORDER.—Not later than 90 days after the receipt of a request and proposal for an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are provided under paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with this subtitle.

(c) AMENDMENTS.—The Secretary may amend any order issued under this section. The provisions of this subtitle applicable to an order shall be applicable to an amendment to an order.

SEC. 555. NATIONAL KIWIFRUIT BOARD.

(a) MEMBERSHIP.—An order issued by the Secretary under section 554 shall provide for the establishment of a National Kiwifruit Board that consists of the following 11 members:

(1) 6 members who are producers (or representatives of producers) and who are not exempt from an assessment under section 556(b).

(2) 4 members who are importers (or representatives of importers) and who are not exempt from an assessment under section 556(b) or are exporters (or representatives of exporters).

(3) 1 member appointed from the general public.

(b) ADJUSTMENT OF MEMBERSHIP.—

(1) IN GENERAL.—Subject to the 11-member limit and to paragraph (2), the Secretary may adjust membership on the Board to accommodate changes in production and import levels of kiwifruit.

(2) NUMBER OF PRODUCER MEMBERS.—Producers shall comprise not less than 51 percent of the membership of the Board.

(c) APPOINTMENT AND NOMINATION.—

(1) APPOINTMENT.—The Secretary shall appoint the members of the Board from nominations submitted in accordance with this subsection.

(2) PRODUCERS.—The members referred to in subsection (a)(1) shall be appointed from individuals nominated by producers.

(3) IMPORTERS AND EXPORTERS.—The members referred to in subsection (a)(2) shall be appointed from individuals nominated by importers or exporters.

(4) PUBLIC REPRESENTATIVE.—The public representative shall be appointed from nominations submitted by other members of the Board.

(5) FAILURE TO NOMINATE.—If producers, importers, and exporters fail to nominate individuals for appointment, the Secretary may appoint members and alternates on a basis provided for in the order. If the Board fails to nominate a public representative, the member may be appointed by the Secretary without a nomination.

(d) ALTERNATES.—The Secretary shall appoint an alternate for each member of the Board. An alternate shall—

(1) be appointed in the same manner as the member for whom the individual is an alternate; and

(2) serve on the Board if the member is absent from a meeting or is disqualified under subsection (f).

(e) TERMS.—A member of the Board shall be appointed for a term of 3 years. No member may serve more than 2 consecutive 3-year terms, except that of the members first appointed—

(1) 5 members shall be appointed for a term of 2 years; and

(2) 6 members shall be appointed for a term of 3 years.

(f) DISQUALIFICATION.—If a member or alternate of the Board who was appointed as a producer, importer, exporter, or public representative member ceases to belong to the group for which the member was appointed, the member or alternate shall be disqualified from serving on the Board.

(g) COMPENSATION.—A member or alternate of the Board shall serve without pay.

(h) GENERAL POWERS AND DUTIES.—The Board shall—

(1) administer an order issued by the Secretary under section 554, and an amendment to the order, in accordance with the order and amendment and this subtitle;

(2) prescribe rules and regulations to carry out the order;

(3) meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) receive, investigate, and report to the Secretary accounts of violations of the order;

(5) make recommendations to the Secretary with respect to an amendment that should be made to the order; and

(6) employ or contract with a manager and staff to assist in administering the order, except that, to reduce administrative costs and increase efficiency, the Board shall seek, to the extent practicable, to employ or contract with personnel who are already associated with organizations involved in promoting kiwifruit that are chartered by a State, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 556. REQUIRED TERMS IN ORDER.

(a) BUDGETS AND PLANS.—

(1) IN GENERAL.—An order issued under section 554 shall provide for periodic budgets and plans in accordance with this subsection.

(2) BUDGETS.—The Board shall prepare and submit to the Secretary a budget prior to the beginning of the fiscal year of the anticipated expenses and disbursements of the Board in the administration of the order, including probable costs of research, promotion, and consumer information. A budget shall become effective on a ⅔-vote of a quorum of the Board and approval by the Secretary.

(3) PLANS.—Each budget shall include a plan for research, promotion, and consumer information regarding kiwifruit. A plan under this paragraph shall become effective on approval by the Secretary. The Board may enter into contracts and agreements, on approval by the Secretary, for—

(A) the development and carrying out of the plan; and

(B) the payment of the cost of the plan, with funds collected pursuant to this subtitle.

(b) ASSESSMENTS.—

(1) IN GENERAL.—The order shall provide for the imposition and collection of assessments with regard to the production and importation of kiwifruit in accordance with this subsection.

(2) RATE.—The assessment rate shall be the rate that is recommended by a ⅔-vote of a quorum of the Board and approved by the Secretary, except that the rate shall not exceed $0.10 per 7-pound tray of kiwifruit or an equivalent rate.

(3) COLLECTION BY FIRST HANDLERS.—Except as provided in paragraph (5), the first handler of kiwifruit shall—

(A) be responsible for the collection from the producer, and payment to the Board, of assessments required under this subsection; and

(B) maintain a separate record of the kiwifruit of each producer whose kiwifruit are so handled, including the kiwifruit owned by the handler.

(4) IMPORTERS.—The assessment on imported kiwifruit shall be paid by the importer to the United States Customs Service at the time of entry into the United States and shall be remitted to the Board.

(5) EXEMPTION FROM ASSESSMENT.—The following persons or activities are exempt from an assessment under this subsection:

(A) A producer who produces less than 500 pounds of kiwifruit per year.

(B) An importer who imports less than 10,000 pounds of kiwifruit per year.

(C) A sale of kiwifruit made directly from the producer to a consumer for a purpose other than resale.

(D) The production or importation of kiwifruit for processing.

(6) CLAIM OF EXEMPTION.—To claim an exemption under paragraph (5) for a particular year, a person shall—

(A) submit an application to the Board stating the basis for the exemption and certifying that the quantity of kiwifruit produced, imported, or sold by the person will not exceed any poundage limitation required for the exemption in the year; or

(B) be on a list of approved processors developed by the Board.

(c) USE OF ASSESSMENTS.—

(1) AUTHORIZED USES.—The order shall provide that funds paid to the Board as assessments under subsection (b) may be used by the Board—

(A) to pay for research, promotion, and consumer information described in the budget of the Board under subsection (a) and for other expenses incurred by the Board in the administration of an order;

(B) to pay such other expenses for the administration, maintenance, and functioning of the Board (including any enforcement efforts for the collection of assessments) as may be authorized by the Secretary, including interest and penalties for late payments; and

(C) to fund a reserve established under section 557(d).

(2) REQUIRED USES.—The order shall provide that funds paid to the Board as assessments under subsection (b) shall be used by the Board—

(A) to pay the expenses incurred by the Secretary, including salaries and expenses of Federal Government employees, in implementing and administering the order; and

(B) to reimburse the Secretary for any expenses incurred by the Secretary in conducting referenda under this subtitle.

(3) LIMITATION ON USE OF ASSESSMENTS.—Except for the first year of operation of the Board, expenses for the administration, maintenance, and functioning of the Board may not exceed 30 percent of the budget for a year.

(d) FALSE CLAIMS.—The order shall provide that any promotion funded with assessments collected under subsection (b) may not make—

(1) any false claims on behalf of kiwifruit; and

(2) any false statements with respect to the attributes or use of any product that competes with kiwifruit for sale in commerce.

(e) PROHIBITION ON USE OF FUNDS.—The order shall provide that funds collected by the Board under this subtitle through assessments may not, in any manner, be used for the purpose of influencing legislation or governmental policy or action, except for making recommendations to the Secretary as provided for under this subtitle.

(f) BOOKS, RECORDS, AND REPORTS.—

(1) BOARD.—The order shall require the Board—

(A) to maintain books and records with respect to the receipt and disbursement of funds received by the Board;

(B) to submit to the Secretary from time to time such reports as the Secretary may require for appropriate accounting; and

(C) to submit to the Secretary at the end of each fiscal year a complete audit report by an independent auditor regarding the activities of the Board during the fiscal year.

(2) OTHERS.—To make information and data available to the Board and the Secretary that is appropriate or necessary for the effectuation, administration, or enforcement of this subtitle (or any order or regulation issued under this subtitle), the order shall require handlers and importers who are responsible for the collection, payment, or remittance of assessments under subsection (b)—

(A) to maintain and make available for inspection by the employees and agents of the Board and the Secretary such books and records as may be required by the order; and

(B) to file, at the times and in the manner and content prescribed by the order, reports regarding the collection, payment, or remittance of the assessments.

(g) CONFIDENTIALITY.—

(1) IN GENERAL.—The order shall require that all information obtained pursuant to subsection (f)(2) be kept confidential by all officers, employees, and agents of the Department of Agriculture and of the Board. Only such information as the Secretary considers relevant shall be disclosed to the public and only in a suit or administrative hearing, brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party, involving the order with respect to which the information was furnished or acquired.

(2) LIMITATIONS.—Nothing in this subsection prohibits—

(A) the issuance of general statements based on the reports of a number of handlers and importers subject to an order, if the statements do not identify the information furnished by any person; or

(B) the publication, by direction of the Secretary, of the name of any person violating an order issued under section 554(a), together with a statement of the particular provisions of the order violated by the person.

(3) PENALTY.—Any person who willfully violates this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and, if the person is a member, officer, or agent of the board or an employee of the Department of Agriculture, shall be removed from office.

(h) WITHHOLDING OF INFORMATION.—Nothing in this subtitle authorizes the withholding of information from Congress.

SEC. 557. PERMISSIVE TERMS IN ORDER.

(a) PERMISSIVE TERMS.—On the recommendation of the Board and with the approval of the Secretary, an order issued under section 554 may include the terms and conditions specified in this section and such additional terms and conditions as the Secretary considers necessary to effectuate the other provisions of the order and are incidental to, and not inconsistent with, this subtitle.

(b) ALTERNATIVE PAYMENT AND REPORTING SCHEDULES.—The order may authorize the Board to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures.

(c) WORKING GROUPS.—The order may authorize the Board to convene working groups drawn from producers, handlers, importers, exporters, or the general public and utilize the expertise of the groups to assist in the development of research and marketing programs for kiwifruit.

(d) RESERVE FUNDS.—The order may authorize the Board to accumulate reserve funds from assessments collected pursuant to section 556(b) to permit an effective and continuous coordinated program of research, promotion, and consumer information in years in which production and assessment income may be reduced, except that any reserve fund may not exceed the amount budgeted for operation of this subtitle for 1 year.

(e) PROMOTION ACTIVITIES OUTSIDE UNITED STATES.—The order may authorize the Board to use, with the approval of the Secretary, funds collected under section 556(b) and funds from other sources for the development and expansion of sales in foreign markets of kiwifruit produced in the United States.

SEC. 558. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—A person submitting a petition under paragraph (1) shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall issue a ruling on the petition which shall be final if the petition is in accordance with law.

(4) LIMITATION ON PETITION.—Any petition filed under this subtitle challenging an order, or any obligation imposed in connection with an order, shall be filed not later than 2 years after the effective date of the order or imposition of the obligation.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which the person who is a petitioner under subsection (a) resides or carries on business is vested with jurisdiction to review the ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of a ruling by the Secretary under subsection (a).

(2) PROCESS.—Service of process in the proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of a proceeding instituted pursuant to subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 559.

SEC. 559. ENFORCEMENT.

(a) JURISDICTION.—A district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this subtitle, or any order or regulation issued under this subtitle, if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who willfully violates any provision of any order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to or in lieu of the civil penalty, the Secretary may issue an order requiring the person to cease and desist from continuing the violation.

(3) NOTICE AND HEARING.—No order assessing a civil penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary gives the person against whom the order is issued notice and opportunity for a hearing on the record before the Secretary with respect to the violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the person against whom the order is issued files an appeal of the order in the appropriate district court of the United States, in accordance with subsection (d).

(d) REVIEW BY UNITED STATES DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or cease-and-desist order in the district court of the United States for the district in which the person resides or carries on business, or the United States District Court for the District of Columbia, by—

(A) filing a notice of appeal in the court not later than 30 days after the date on which the penalty is assessed or cease-and-desist order issued; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court a certified copy of the record on which the Secretary found that the person committed the violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY CEASE-AND-DESIST ORDERS.—Any person who fails to obey a cease-and-desist order issued by the Secretary after the cease-and-desist order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary,

VOL
142
PT
5
MR
21
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29
1996
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after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $500 for each offense. Each day during which the failure continues shall be considered a separate violation of the cease-and-desist order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay an assessment of a civil penalty after the assessment has become a final and unappealable order issued by the Secretary, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In an action for recovery, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 560. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) IN GENERAL.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this subtitle; or

(2) to determine whether a person subject to this subtitle has engaged or is engaging in any act that constitutes a violation of this subtitle, or any order, rule, or regulation issued under this subtitle.

(b) POWER TO SUBPOENA.—

(1) INVESTIGATIONS.—For the purpose of an investigation made under subsection (a), the Secretary may administer oaths and affirmations and may issue subpoenas to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 558 or 559, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring the person to comply with the subpoena.

(d) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) PROCESS.—Process in any such case may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

(f) HEARING SITE.—The site of any hearing held under section 558 or 559 shall be in the judicial district where the person affected by the hearing resides or has a principal place of business.

SEC. 561. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) REFERENDUM REQUIRED.—During the 60-day period immediately preceding the proposed effective date of an order issued under section 554, the Secretary shall conduct a referendum among kiwifruit producers and importers who will be subject to assessments under the order, to ascertain whether producers and importers approve the implementation of the order.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 554, if the Secretary determines that—

(A) the order has been approved by a majority of the producers and importers voting in the referendum; and

(B) the producers and importers favoring approval produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

(b) SUBSEQUENT REFERENDA.—The Secretary may periodically conduct a referendum to determine if kiwifruit producers and importers favor the continuation, termination, or suspension of any order issued under section 554 that is in effect at the time of the referendum.

(c) REQUIRED REFERENDA.—The Secretary shall hold a referendum under subsection (b)—

(1) at the end of the 6-year period beginning on the effective date of the order and at the end of each subsequent 6-year period;

(2) at the request of the Board; or

(3) if not less than 30 percent of the kiwifruit producers and importers subject to assessments under the order submit a petition requesting the referendum.

(d) VOTE.—On completion of a referendum under subsection (b), the Secretary shall suspend or terminate the order that was subject to the referendum at the end of the marketing year if—

(1) the suspension or termination of the order is favored by not less than a majority of the producers and importers voting in the referendum; and

(2) the producers and importers produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

(e) CONFIDENTIALITY.—The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this subtitle and the voting list shall be held strictly confidential and shall not be disclosed.

SEC. 562. SUSPENSION OR TERMINATION.

(a) IN GENERAL.—If the Secretary finds that an order issued under section 554, or a provision of the order, obstructs or does not tend to effectuate the purposes of this subtitle, the Secretary shall suspend or terminate the operation of the order or provision.

(b) LIMITATION.—The suspension or termination of any order, or any provision of an order, shall not be considered an order under this subtitle.

SEC. 563. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 564. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subtitle.

Subtitle E—Popcorn

SEC. 571. SHORT TITLE.

This subtitle may be cited as the "Popcorn Promotion, Research, and Consumer Information Act".

SEC. 572. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) popcorn is an important food that is a valuable part of the human diet;

(2) the production and processing of popcorn plays a significant role in the economy of the United States in that popcorn is processed by several popcorn processors, distributed through wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) popcorn must be of high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of popcorn are available to the people of the United States;

(4) the maintenance and expansion of existing markets and uses and the development of new markets and uses for popcorn are vital to the welfare of processors and persons concerned with marketing, using, and producing popcorn for the market, as well as to the agricultural economy of the United States;

(5) the cooperative development, financing, and implementation of a coordinated program of popcorn promotion, research, consumer information, and industry information is necessary to maintain and expand markets for popcorn; and

(6) popcorn moves in interstate and foreign commerce, and popcorn that does not move in those channels of commerce directly burdens or affects interstate commerce in popcorn.

(b) POLICY.—It is the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for developing, financing (through adequate assessments on unpopped popcorn processed domestically), and carrying out an effective, continuous, and coordinated program of promotion, research, consumer information, and industry information designed to—

(1) strengthen the position of the popcorn industry in the marketplace; and

(2) maintain and expand domestic and foreign markets and uses for popcorn.

(c) PURPOSES.—The purposes of this subtitle are to—

(1) maintain and expand the markets for all popcorn products in a manner that—

(A) is not designed to maintain or expand any individual share of a producer or processor of the market;

(B) does not compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name popcorn products; and

(C) authorizes and funds programs that result in government speech promoting government objectives; and

(2) establish a nationally coordinated program for popcorn promotion, research, consumer information, and industry information.

(d) STATUTORY CONSTRUCTION.—This subtitle treats processors equitably. Nothing in this subtitle—

(1) provides for the imposition of a trade barrier to the entry into the United States of imported popcorn for the domestic market; or

(2) provides for the control of production or otherwise limits the right of any individual processor to produce popcorn.

SEC. 573. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term "Board" means the Popcorn Board established under section 575(b).

(2) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(3) CONSUMER INFORMATION.—The term "consumer information" means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of popcorn.

(4) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(5) INDUSTRY INFORMATION.—The term "industry information" means information or a program that will lead to the development of—

(A) new markets, new marketing strategies, or increased efficiency for the popcorn industry; or

(B) activities to enhance the image of the popcorn industry.

(6) MARKETING.—The term "marketing" means the sale or other disposition of unpopped popcorn for human consumption in a channel of commerce, but does not include a sale or disposition to or between processors.

(7) ORDER.—The term "order" means an order issued under section 574.

(8) PERSON.—The term "person" means an individual, group of individuals, partnership, corporation, association, or cooperative, or any other legal entity.

(9) POPCORN.—The term "popcorn" means unpopped popcorn (Zea Mays L) that is—

(A) commercially grown;

(B) processed in the United States by shelling, cleaning, or drying; and

(C) introduced into a channel of commerce.

(10) PROCESS.—The term "process" means to shell, clean, dry, and prepare popcorn for the market, but does not include packaging popcorn for the market without also engaging in another activity described in this paragraph.

(11) PROCESSOR.—The term "processor" means a person engaged in the preparation of unpopped popcorn for the market who owns or shares the ownership and risk of loss of the popcorn and who processes and distributes over 4,000,000 pounds of popcorn in the market per year.

(12) PROMOTION.—The term "promotion" means an action, including paid advertising, to enhance the image or desirability of popcorn.

(13) RESEARCH.—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of popcorn.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE.—The term "State" means each of the 50 States and the District of Columbia.

(16) UNITED STATES.—The term "United States" means all of the States.

SEC. 574. ISSUANCE OF ORDERS.

(a) IN GENERAL.—To effectuate the policy described in section 572(b), the Secretary, subject to subsection (b), shall issue 1 or more orders applicable to processors. An order shall be applicable to all popcorn production and marketing areas in the United States. Not more than 1 order shall be in effect under this subtitle at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL OR REQUEST FOR ISSUANCE.—The Secretary may propose the issuance of an order, or an association of processors or any other person that would be affected by an order may request the issuance of, and submit a proposal for, an order.

(2) NOTICE AND COMMENT CONCERNING PROPOSED ORDER.—Not later than 60 days after the receipt of a request and proposal for an order under paragraph (1), or at such time as the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment under paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order conforms to this subtitle. The order shall be issued and become effective not later than 150 days after the date of publication of the proposed order.

(c) AMENDMENTS.—The Secretary, as appropriate, may amend an order. The provisions of this subtitle applicable to an order shall be applicable to any amendment to an order, except that an amendment to an order may not require a referendum to become effective.

SEC. 575. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF POPCORN BOARD.—

(1) IN GENERAL.—The order shall provide for the establishment of, and appointment of members to, a Popcorn Board that shall consist of not fewer than 4 members and not more than 9 members.

(2) NOMINATIONS.—The members of the Board shall be processors appointed by the Secretary from nominations submitted by processors in a manner authorized by the Secretary, subject to paragraph (3). Not more than 1 member may be appointed to the Board from nominations submitted by any 1 processor.

(3) GEOGRAPHICAL DIVERSITY.—In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of popcorn production throughout the United States.

(4) TERMS.—The term of appointment of each member of the Board shall be 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 2, 3, and 4 years, as determined by the Secretary.

(5) COMPENSATION AND EXPENSES.—A member of the Board shall serve without compensation, but shall be reimbursed for the expenses of the member incurred in the performance of duties for the Board.

(c) POWERS AND DUTIES OF BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to issue regulations to effectuate the terms and provisions of the order;

(3) to appoint members of the Board to serve on an executive committee;

(4) to propose, receive, evaluate, and approve budgets, plans, and projects of promotion, research, consumer information, and industry information, and to contract with appropriate persons to implement the plans or projects;

(5) to accept and receive voluntary contributions, gifts, and market promotion or similar funds;

(6) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under subsection (f), only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(8) to recommend to the Secretary amendments to the order.

(d) PLANS AND BUDGETS.—

(1) IN GENERAL.—The order shall provide that the Board shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Board to submit to the Secretary for approval budgets on a fiscal year basis of the anticipated expenses and disbursements of the Board in the implementation of the order, including projected costs of plans and projects of promotion, research, consumer information, and industry information.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—The order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects of promotion, research, consumer information, or industry information, including contracts with a processor organization, and for the payment of the cost of the plans or projects with funds collected by the Board under the order.

(2) REQUIREMENTS.—A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project, together with a budget that shows the estimated costs to be incurred for the plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of each transaction of the party, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) PROCESSOR ORGANIZATIONS.—The order shall provide that the Board may contract with processor organizations for any services required in addition to the services described in paragraph (1). The contract shall include provisions comparable to the provisions required by paragraph (2).

(f) ASSESSMENTS.—

(1) PROCESSORS.—The order shall provide that each processor marketing popcorn in the United States or for export shall, in the manner prescribed in the order, pay assessments and remit the assessments to the Board.

(2) DIRECT MARKETERS.—A processor that markets popcorn produced by the processor directly to consumers shall pay and remit the assessments on the popcorn directly to the Board in the manner prescribed in the order.

(3) RATE.—

(A) IN GENERAL.—The rate of assessment prescribed in the order shall be a rate established by the Board but not more than $.08 per hundredweight of popcorn.

(B) ADJUSTMENT OF RATE.—The order shall provide that the Board, with the approval of the Secretary, may raise or lower the rate of assessment annually up to a maximum of $.08 per hundredweight of popcorn.

(4) USE OF ASSESSMENTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and subsection (c)(5), the order shall provide that the assessments collected shall be used by the Board—

(i) to pay expenses incurred in implementing and administering the order, with provision for a reasonable reserve; and

(ii) to cover such administrative costs as are incurred by the Secretary, except that the administrative costs incurred by the Secretary (other than any legal expenses incurred to defend and enforce the order) that may be reimbursed by the Board may not exceed 15 percent of the projected annual revenues of the Board.

(B) EXPENDITURES BASED ON SOURCE OF ASSESSMENTS.—In implementing plans and projects of promotion, research, consumer information, and industry information, the Board shall expend funds on—

(i) plans and projects for popcorn marketed in the United States or Canada in proportion to the amount of assessments collected on domestically marketed popcorn; and

(ii) plans and projects for exported popcorn in proportion to the amount of assessments collected on exported popcorn.

(C) NOTIFICATION.—If the administrative costs incurred by the Secretary that are reimbursed by the Board exceed 10 percent of the projected annual revenues of the Board, the Secretary shall notify as soon as practicable the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(g) PROHIBITION ON USE OF FUNDS.—The order shall prohibit any funds collected by the Board under the order from being used to influence government action or policy, other than the use of funds by the Board for the development and recommendation to the Secretary of amendments to the order.

(h) BOOKS AND RECORDS OF THE BOARD.—The order shall require the Board to—

(1) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

VOL
142
PT
5
MR
21
—
29
1996
UMI

(3) account for the receipt and disbursement of all funds entrusted to the Board.

(i) BOOKS AND RECORDS OF PROCESSORS.—

(1) MAINTENANCE AND REPORTING OF INFORMATION.—The order shall require that each processor of popcorn for the market shall—

(A) maintain, and make available for inspection, such books and records as are required by the order; and

(B) file reports at such time, in such manner, and having such content as is prescribed in the order.

(2) USE OF INFORMATION.—The Secretary shall authorize the use of information regarding processors that may be accumulated under a law or regulation other than this subtitle or a regulation issued under this subtitle. The information shall be made available to the Secretary as appropriate for the administration or enforcement of this subtitle, the order, or any regulation issued under this subtitle.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), all information obtained by the Secretary under paragraphs (1) and (2) shall be kept confidential by all officers, employees, and agents of the Board and the Department.

(B) DISCLOSURE BY SECRETARY.—Information referred to in subparagraph (A) may be disclosed if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party; and

(iii) the information relates to the order.

(C) DISCLOSURE TO OTHER AGENCY OF FEDERAL GOVERNMENT.—

(i) IN GENERAL.—No information obtained under the authority of this subtitle may be made available to another agency or officer of the Federal Government for any purpose other than the implementation of this subtitle and any investigatory or enforcement activity necessary for the implementation of this subtitle.

(ii) PENALTY.—A person who knowingly violates this subparagraph shall, on conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer, employee, or agent of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(D) GENERAL STATEMENTS.—Nothing in this paragraph prohibits—

(i) the issuance of general statements based on the reports of a number of persons subject to an order or statistical data collected from the reports, if the statements do not identify the information provided by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating the order, together with a statement of the particular provisions of the order violated by the person.

(j) OTHER TERMS AND CONDITIONS.—The order shall contain such other terms and conditions, consistent with this subtitle, as are necessary to effectuate this subtitle, including regulations relating to the assessment of late payment charges.

SEC. 576. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) IN GENERAL.—Within the 60-day period immediately preceding the effective date of an order, as provided in section 574(b)(3), the Secretary shall conduct a referendum among processors who, during a representative period as determined by the Secretary, have been engaged in processing, for the purpose of ascertaining whether the order shall go into effect.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 574(b), only if the Secretary determines that the order has been approved by not less than a majority of the processors voting in the referendum and if the majority processed more than 50 percent of the popcorn certified as having been processed, during the representative period, by the processors voting.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—Not earlier than 3 years after the effective date of an order approved under subsection (a), on the request of the Board or a representative group of processors, as described in paragraph (2), the Secretary may conduct additional referenda to determine whether processors favor the suspension or termination of the order.

(2) REPRESENTATIVE GROUP OF PROCESSORS.—An additional referendum on an order shall be conducted if the referendum is requested by 30 percent or more of the number of processors who, during a representative period as determined by the Secretary, have been engaged in processing.

(3) DISAPPROVAL OF ORDER.—If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by at least ⅔ of the processors voting in the referendum, the Secretary shall—

(A) suspend or terminate, as appropriate, collection of assessments under the order not later than 180 days after the date of determination; and

(B) suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the date of determination.

(c) COSTS OF REFERENDUM.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any referendum under this section.

(d) METHOD OF CONDUCTING REFERENDUM.—Subject to this section, a referendum conducted under this section shall be conducted in such manner as is determined by the Secretary.

(e) CONFIDENTIALITY OF BALLOTS AND OTHER INFORMATION.—

(1) IN GENERAL.—The ballots and other information or reports that reveal or tend to reveal the vote of any processor, or any business operation of a processor, shall be considered to be strictly confidential and shall not be disclosed.

(2) PENALTY FOR VIOLATIONS.—An officer or employee of the Department who knowingly violates paragraph (1) shall be subject to the penalties described in section 575(i)(3)(C)(ii).

SEC. 577. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or obligation or an exemption from the order or obligation.

(2) STATUTE OF LIMITATIONS.—A petition under paragraph (1) concerning an obligation may be filed not later than 2 years after the date of imposition of the obligation.

(3) HEARINGS.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(4) RULING.—After a hearing under paragraph (3), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review a ruling on the petition, if the person files a complaint not later than 20 days after the date of issuance of the ruling under subsection (a)(4).

(2) PROCESS.—Service of process in a proceeding under paragraph (1) may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) REMANDS.—If the court determines, under paragraph (1), that a ruling issued under subsection (a)(4) is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(c) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) may not impede, hinder, or delay the Secretary or the Attorney General from taking action under section 578.

SEC. 578. ENFORCEMENT.

(a) IN GENERAL.—The Secretary may issue an enforcement order to restrain or prevent any person from violating an order or regulation issued under this subtitle and may assess a civil penalty of not more than $1,000 for each violation of the enforcement order, after an opportunity for an administrative hearing, if the Secretary determines that the administration and enforcement of the order and this subtitle would be adequately served by such a procedure.

(b) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation issued under this subtitle.

(c) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action.

SEC. 579. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; and

(2) to determine whether any person subject to this subtitle has engaged, or is about to engage, in an act that constitutes or will constitute a violation of this subtitle or of an order or regulation issued under this subtitle.

(b) OATHS, AFFIRMATIONS, AND SUBPOENAS.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(c) AID OF COURTS.—

(1) REQUEST.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in requiring the attendance and testimony of the person and the production of records.

(2) ENFORCEMENT ORDER OF THE COURT.—The court may issue an enforcement order requiring the person to appear before the Secretary to produce records or to give testimony concerning the matter under investigation.

(3) CONTEMPT.—A failure to obey an enforcement order of the court under paragraph (2) may be punished by the court as a contempt of the court.

(4) PROCESS.—Process in a case under this subsection may be served in the judicial district

in which the person resides or carries on business or wherever the person may be found.

SEC. 580. RELATION TO OTHER PROGRAMS.

Nothing in this subtitle preempts or supersedes any other program relating to popcorn promotion organized and operated under the laws of the United States or any State.

SEC. 581. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 582. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle. Amounts made available under this section or otherwise made available to the Department, and amounts made available under any other marketing or promotion order, may not be used to pay any administrative expense of the Board.

Subtitle F—Miscellaneous

SEC. 591. MAINTENANCE OF RECORDS FOR HONEY PROMOTION PROGRAM.

Section 9(f) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608(f)) is amended by inserting "producers," after "importers,".

TITLE VI—CREDIT

Subtitle A—Farm Ownership Loans

SEC. 601. LIMITATION ON DIRECT FARM OWNERSHIP LOANS.

Section 302 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922) is amended by striking subsection (b) and inserting the following:

"(b) DIRECT LOANS.—

"(1) IN GENERAL.—Subject to paragraph (3), the Secretary may make a direct loan under this subtitle only to a farmer or rancher who has operated a farm or ranch for not less than 3 years and—

"(A) is a qualified beginning farmer or rancher;

"(B) has not received a previous direct farm ownership loan made under this subtitle; or

"(C) has not received a direct farm ownership loan under this subtitle more than 10 years before the date the new loan would be made.

"(2) YOUTH LOANS.—The operation of an enterprise by a youth under section 311(b) shall not be considered the operation of a farm or ranch for purposes of paragraph (1).

"(3) TRANSITION RULE.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary may make a direct loan under this subtitle to a farmer or rancher who has a direct loan outstanding under this subtitle on the date of enactment of this paragraph.

"(B) LESS THAN 5 YEARS.—If, as of the date of enactment of this paragraph, a farmer or rancher has had a direct loan outstanding under this subtitle for less than 5 years, the Secretary shall not make a loan to the farmer or rancher under subparagraph (A) after the date that is 10 years after the date of enactment of this paragraph.

"(C) 5 YEARS OR MORE.—If, as of the date of enactment of this paragraph, a farmer or rancher has had a direct loan outstanding under this subtitle for 5 years or more, the Secretary shall not make a loan to the farmer or rancher under subparagraph (A) after the date that is 5 years after the date of enactment of this paragraph.".

SEC. 602. PURPOSES OF LOANS.

(a) IN GENERAL.—Section 303 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1923) is amended to read as follows:

"SEC. 303. PURPOSES OF LOANS.

"(a) ALLOWED PURPOSES.—

"(1) DIRECT LOANS.—A farmer or rancher may use a direct loan made under this subtitle only for—

"(A) acquiring or enlarging a farm or ranch;

"(B) making capital improvements to a farm or ranch;

"(C) paying loan closing costs related to acquiring, enlarging, or improving a farm or ranch; or

"(D) paying for activities to promote soil and water conservation and protection described in section 304 on a farm or ranch.

"(2) GUARANTEED LOANS.—A farmer or rancher may use a loan guaranteed under this subtitle only for—

"(A) acquiring or enlarging a farm or ranch;

"(B) making capital improvements to a farm or ranch;

"(C) paying loan closing costs related to acquiring, enlarging, or improving a farm or ranch;

"(D) paying for activities to promote soil and water conservation and protection described in section 304 on a farm or ranch; or

"(E) refinancing indebtedness.

"(b) PREFERENCES.—In making or guaranteeing a loan under this subtitle for purchase of a farm or ranch, the Secretary shall give preference to a person who—

"(1) has a dependent family;

"(2) to the extent practicable, is able to make an initial down payment on the farm or ranch; or

"(3) is an owner of livestock or farm or ranch equipment that is necessary to successfully carry out farming or ranching operations.

"(c) HAZARD INSURANCE REQUIREMENT.—

"(1) IN GENERAL.—After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subtitle unless the farmer or rancher has, or agrees to obtain, hazard insurance on any real property to be acquired or improved with the loan.

"(2) DETERMINATION.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall determine the appropriate level of insurance to be required under paragraph (1).".

(b) TRANSITIONAL PROVISION.—Section 303(c)(1) of the Consolidated Farm and Rural Development Act shall not apply until the Secretary of Agriculture makes the determination required by section 303(c)(2) of the Act.

SEC. 603. SOIL AND WATER CONSERVATION AND PROTECTION.

Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended—

(1) by striking subsections (b) and (c);

(2) by striking "SEC. 304. (a)(1) Loans" and inserting the following:

"SEC. 304. SOIL AND WATER CONSERVATION AND PROTECTION.

"(a) IN GENERAL.—Loans";

(3) by striking "(2) In making or insuring" and inserting the following:

"(b) PRIORITY.—In making or guaranteeing";

(4) by striking "(3) The Secretary" and inserting the following:

"(c) LOAN MAXIMUM.—The Secretary";

(5) by redesignating subparagraphs (A) through (F) of subsection (a) (as amended by paragraph (2)) as paragraphs (1) through (6), respectively; and

(6) by redesignating subparagraphs (A) and (B) of subsection (c) (as amended by paragraph (4)) as paragraphs (1) and (2), respectively.

SEC. 604. INTEREST RATE REQUIREMENTS.

Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) is amended—

(1) in subparagraph (B), by inserting "subparagraph (D) and in" after "Except as provided in"; and

(2) by adding at the end the following:

"(D) JOINT FINANCING ARRANGEMENT.—If a direct farm ownership loan is made under this subtitle as part of a joint financing arrangement and the amount of the direct farm ownership loan does not exceed 50 percent of the total principal amount financed under the arrangement, the interest rate on the direct farm ownership loan shall be at least 4 percent annually.".

SEC. 605. INSURANCE OF LOANS.

Section 308 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1928) is amended to read as follows:

"SEC. 308. FULL FAITH AND CREDIT.

"(a) IN GENERAL.—A contract of insurance or guarantee executed by the Secretary under this title shall be an obligation supported by the full faith and credit of the United States.

"(b) CONTESTABILITY.—A contract of insurance or guarantee executed by the Secretary under this title shall be incontestable except for fraud or misrepresentation that the lender or any holder—

"(1) has actual knowledge of at the time the contract or guarantee is executed; or

"(2) participates in or condones.".

SEC. 606. LOANS GUARANTEED.

Section 309(h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(h)) is amended by adding at the end the following:

"(4) MAXIMUM GUARANTEE OF 90 PERCENT.—Except as provided in paragraphs (5) and (6), a loan guarantee under this title shall be for not more than 90 percent of the principal and interest due on the loan.

"(5) REFINANCED LOANS GUARANTEED AT 95 PERCENT.—The Secretary shall guarantee 95 percent of—

"(A) in the case of a loan that solely refinances a direct loan made under this title, the principal and interest due on the loan on the date of the refinancing; or

"(B) in the case of a loan that is used for multiple purposes, the portion of the loan that refinances the principal and interest due on a direct loan made under this title that is outstanding on the date the loan is guaranteed.

"(6) BEGINNING FARMER LOANS GUARANTEED UP TO 95 PERCENT.—The Secretary may guarantee not more than 95 percent of—

"(A) a farm ownership loan for acquiring a farm or ranch to a borrower who is participating in the down payment loan program under section 310E; or

"(B) an operating loan to a borrower who is participating in the down payment loan program under section 310E that is made during the period that the borrower has a direct loan outstanding under this subtitle for acquiring a farm or ranch.".

Subtitle B—Operating Loans

SEC. 611. LIMITATION ON DIRECT OPERATING LOANS.

(a) IN GENERAL.—Section 311 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941) is amended by striking subsection (c) and inserting the following:

"(c) DIRECT LOANS.—

"(1) IN GENERAL.—Subject to paragraph (3), the Secretary may make a direct loan under this subtitle only to a farmer or rancher who—

"(A) is a qualified beginning farmer or rancher who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 5 years;

"(B) has not received a previous direct operating loan made under this subtitle; or

"(C) has received a previous direct operating loan made under this subtitle during 6 or fewer years.

"(2) YOUTH LOANS.—In this subsection, the term 'direct operating loan' shall not include a loan made to a youth under subsection (b).

"(3) TRANSITION RULE.—If, as of the date of enactment of this paragraph, a farmer or rancher has received a direct operating loan under this subtitle during each of 4 or more previous years, the borrower shall be eligible to receive a

VOL 142 PT 5 MR 21 — 29 1996 UMI

direct operating loan under this subtitle during 3 additional years after the date of enactment of this paragraph.".

(b) YOUTH ENTERPRISES NOT FARMING OR RANCHING.—Section 311(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(b)) is amended by adding at the end the following:

"(4) YOUTH ENTERPRISES NOT FARMING OR RANCHING.—The operation of an enterprise by a youth under this subsection shall not be considered the operation of a farm or ranch under this title.".

SEC. 612. PURPOSES OF OPERATING LOANS.

(a) IN GENERAL.—Section 312 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1942) is amended to read as follows:

"SEC. 312. PURPOSES OF LOANS.

"(a) IN GENERAL.—A direct loan may be made under this subtitle only for—

"(1) paying the costs incident to reorganizing a farm or ranch for more profitable operation;

"(2) purchasing livestock, poultry, or farm or ranch equipment;

"(3) purchasing feed, seed, fertilizer, insecticide, or farm or ranch supplies, or to meet other essential farm or ranch operating expenses, including cash rent;

"(4) financing land or water development, use, or conservation;

"(5) paying loan closing costs;

"(6) assisting a farmer or rancher in changing the equipment, facilities, or methods of operation of a farm or ranch to comply with a standard promulgated under section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) or a standard adopted by a State under a plan approved under section 18 of the Act (29 U.S.C. 667), if the Secretary determines that without assistance under this paragraph the farmer or rancher is likely to suffer substantial economic injury in complying with the standard;

"(7) training a limited-resource borrower receiving a loan under section 310D in maintaining records of farming and ranching operations;

"(8) training a borrower under section 359;

"(9) refinancing the indebtedness of a borrower, if the borrower—

"(A) has refinanced a loan under this subtitle not more than 4 times previously; and

"(B)(i) is a direct loan borrower under this title at the time of the refinancing and has suffered a qualifying loss because of a natural disaster declared by the Secretary under this title or a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

"(ii) is refinancing a debt obtained from a creditor other than the Secretary; or

"(10) providing other farm, ranch, or home needs, including family subsistence.

"(b) GUARANTEED LOANS.—A loan may be guaranteed under this subtitle only for—

"(1) paying the costs incident to reorganizing a farm or ranch for more profitable operation;

"(2) purchasing livestock, poultry, or farm or ranch equipment;

"(3) purchasing feed, seed, fertilizer, insecticide, or farm or ranch supplies, or to meet other essential farm or ranch operating expenses, including cash rent;

"(4) financing land or water development, use, or conservation;

"(5) refinancing indebtedness;

"(6) paying loan closing costs;

"(7) assisting a farmer or rancher in changing the equipment, facilities, or methods of operation of a farm or ranch to comply with a standard promulgated under section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) or a standard adopted by a State under a plan approved under section 18 of the Act (29 U.S.C. 667), if the Secretary determines that without assistance under this paragraph the farmer or rancher is likely to suffer substantial economic injury due to compliance with the standard;

"(8) training a borrower under section 359; or

"(9) providing other farm, ranch, or home needs, including family subsistence.

"(c) HAZARD INSURANCE REQUIREMENT.—

"(1) IN GENERAL.—After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subtitle unless the farmer or rancher has, or agrees to obtain, hazard insurance on the property to be acquired with the loan.

"(2) DETERMINATION.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall determine the appropriate level of insurance to be required by paragraph (1).

"(d) PRIVATE RESERVE.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may reserve a portion of any loan made under this subtitle to be placed in an unsupervised bank account that may be used at the discretion of the borrower for the basic family needs of the borrower and the immediate family of the borrower.

"(2) LIMIT ON SIZE OF THE RESERVE.—The size of the reserve shall not exceed the least of—

"(A) 10 percent of the loan;

"(B) $5,000; or

"(C) the amount needed to provide for the basic family needs of the borrower and the borrower's immediate family for 3 calendar months.".

(b) TRANSITIONAL PROVISION.—Section 312(c)(1) of the Consolidated Farm and Rural Development Act shall not apply until the Secretary of Agriculture makes the determination required by section 312(c)(2) of the Act.

SEC. 613. PARTICIPATION IN LOANS.

Section 315 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1945) is repealed.

SEC. 614. LINE-OF-CREDIT LOANS.

Section 316 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946) is amended by adding at the end the following:

"(c) LINE-OF-CREDIT LOANS.—

"(1) IN GENERAL.—A loan made or guaranteed by the Secretary under this subtitle may be in the form of a line-of-credit loan.

"(2) TERM.—A line-of-credit loan under paragraph (1) shall terminate not later than 5 years after the date that the loan is made or guaranteed.

"(3) ELIGIBILITY.—For purposes of determining eligibility for a farm operating loan under this subtitle, each year during which a farmer or rancher takes an advance or draws on a line-of-credit loan the farmer or rancher shall be considered to have received an operating loan for 1 year.

"(4) TERMINATION OF DELINQUENT LOANS.—If a borrower does not pay an installment on a line-of-credit loan on schedule, the borrower may not take an advance or draw on the line-of-credit, unless the Secretary determines that—

"(A) the borrower's failure to pay on schedule was due to unusual conditions that the borrower could not control; and

"(B) the borrower will reduce the line-of-credit balance to the scheduled level at the end of—

"(i) the production cycle; or

"(ii) the marketing of the borrower's agricultural products.

"(5) AGRICULTURAL COMMODITIES.—A line-of-credit loan may be used to finance the production or marketing of an agricultural commodity that—

"(A) is eligible for a price support program of the Department of Agriculture; or

"(B) was eligible for a price support program of the Department of Agriculture on the day before the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996.".

SEC. 615. INSURANCE OF OPERATING LOANS.

Section 317 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1947) is repealed.

SEC. 616. SPECIAL ASSISTANCE FOR BEGINNING FARMERS AND RANCHERS.

(a) IN GENERAL.—Section 318 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1948) is repealed.

(b) CONFORMING AMENDMENT.—Section 310F of the Consolidated Farm and Rural Development Act (7 U.S.C. 1936) is repealed.

SEC. 617. LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.

Section 319 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949) is amended by striking subsection (b) and inserting the following:

"(b) LIMITATION ON PERIOD BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.—

"(1) GENERAL RULE.—Subject to paragraph (2), the Secretary shall not guarantee a loan under this subtitle for a borrower for any year after the 15th year that a loan is made to, or a guarantee is provided with respect to, the borrower under this subtitle.

"(2) TRANSITION RULE.—If, as of October 28, 1992, a farmer or rancher has received a direct or guaranteed operating loan under this subtitle during each of 10 or more previous years, the borrower shall be eligible to receive a guaranteed operating loan under this subtitle during 5 additional years after October 28, 1992.".

Subtitle C—Emergency Loans

SEC. 621. HAZARD INSURANCE REQUIREMENT.

(a) IN GENERAL.—Section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) is amended by striking subsection (b) and inserting the following:

"(b) HAZARD INSURANCE REQUIREMENT.—

"(1) IN GENERAL.—After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subtitle to cover a property loss unless the farmer or rancher had hazard insurance that insured the property at the time of the loss.

"(2) DETERMINATION.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall determine the appropriate level of insurance to be required under paragraph (1).".

(b) TRANSITIONAL PROVISION.—Section 321(b)(1) of the Consolidated Farm and Rural Development Act shall not apply until the Secretary of Agriculture makes the determination required by section 321(b)(2) of the Act.

SEC. 622. NARROWING OF AUTHORITY TO WAIVE APPLICATION OF THE CREDIT ELSEWHERE TEST.

The second proviso of section 322(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1962(b)) is amended by striking "$300,000 or less" and inserting "$100,000 or less".

SEC. 623. LINKING OF EMERGENCY LOANS FOR CROP OR LIVESTOCK CHANGES TO NATURAL DISASTERS.

Section 323 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1963) is amended by inserting "that are necessitated by a natural disaster, major disaster, or emergency and that are" after "livestock changes".

SEC. 624. MAXIMUM EMERGENCY LOAN INDEBTEDNESS.

Section 324 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964) is amended by striking "SEC. 324. (a) No loan" and all

that follows through the end of subsection (a) and inserting the following:

"SEC. 324. TERMS OF LOANS.

"(a) MAXIMUM AMOUNT OF LOAN.—The Secretary may not make a loan under this subtitle to a borrower who has suffered a loss in an amount that—

"(1) exceeds the actual loss caused by a disaster; or

"(2) would cause the total indebtedness of the borrower under this subtitle to exceed $500,000.".

SEC. 625. ESTABLISHMENT OF DATE FOR EMERGENCY LOAN ASSET VALUATION.

The last sentence of section 324(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(d)) is amended by striking "value the assets" and all that follows through the period and inserting "establish the value of the assets as of the day before the occurrence of the natural disaster, major disaster, or emergency that is the basis for a request for assistance under this subtitle or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).".

SEC. 626. INSURANCE OF EMERGENCY LOANS.

Section 328 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1968) is repealed.

Subtitle D—Administrative Provisions

SEC. 631. TEMPORARY AUTHORITY TO ENTER INTO CONTRACTS.

Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended by adding at the end the following:

"(d) TEMPORARY AUTHORITY TO ENTER INTO CONTRACTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE FINANCIAL INSTITUTION.—The term 'eligible financial institution' means a financial institution with substantial experience in farm, ranch, or aquaculture lending that is regulated by the Comptroller of the Currency, the Farm Credit Administration, or a similar regulatory body.

"(B) PILOT PROJECT.—The term 'pilot project' includes services related to borrower loan documentation, financial information, credit history, and appraisals of real estate and chattel.

"(2) AUTHORITY.—The Secretary may enter into a contract with an eligible financial institution for servicing a farmer program loan under this title, including 1 or more pilot projects.

"(3) REPORT.—Not later than September 30, 1997, and September 30 of each year thereafter, the Secretary shall report to Congress on—

"(A) the Secretary's experience in using contracts under paragraph (2); and

"(B) recommendations for legislation related to this subsection, if any.

"(4) SAVINGS CLAUSE.—Nothing in this subsection shall limit the authority of the Secretary or an eligible financial institution to contract for any services under this Act or any other law.

"(5) SUNSET PROVISION.—This subsection shall be effective until September 30, 2002.".

SEC. 632. USE OF COLLECTION AGENCIES.

Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) (as amended by section 631) is amended by adding at the end the following:

"(e) PRIVATE COLLECTION AGENCY.—The Secretary may use a private collection agency to collect a claim or obligation described in subsection (b)(5).".

SEC. 633. NOTICE OF LOAN SERVICE PROGRAMS.

Section 331D(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981d(a)) is amended by striking "180 days delinquent in" and inserting "90 days past due on".

SEC. 634. CLARIFICATION OF WRITTEN STATEMENT REQUIRED OF BORROWERS.

Section 333(1)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(1)(B)) is amended bu striking "a written statement showing the applicant's net worth" and inserting "an appropriate written financial statement".

SEC. 635. ANNUAL REVIEW OF THE CREDIT HISTORY, BUSINESS OPERATION, AND CONTINUED ELIGIBILITY OF A BORROWER.

(a) IN GENERAL.—Section 333 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) except with respect to a loan under section 306, 310B, or 314, the county or area committee established under section 8(b)(5)(B) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)(B)) to certify in writing—

"(A) that an annual review of the credit history and business operation of the borrower has been conducted; and

"(B) that a review of the continued eligibility of the borrower for the loan has been conducted;".

(b) CONFORMING AMENDMENT.—The third sentence of section 310B(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)) is amended by striking "(3) of" and inserting "(4) of".

SEC. 636. EXTENSION OF VETERANS PREFERENCE.

Section 333 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983) (as amended by section 635(a)) is amended by striking paragraph (5) and inserting the following:

"(5) the application of a person who is a veteran of any war, as defined in section 101(12) of title 38, United States Code, for a loan under subtitle A or B to be given preference over a similar application from a person who is not a veteran of any war, if the applications are on file in a county or area office at the same time.".

SEC. 637. VERIFICATION OF THE CREDIT ELSEWHERE TEST.

Section 333A(f)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(f)(4)) is amended—

(1) by striking "(4) With" and all that follows through "seasoned" and inserting the following:

"(4) VERIFICATION.—

"(A) IN GENERAL.—The Secretary shall provide a prospectus of a seasoned"; and

(2) by striking "If the Secretary" and inserting the following:

"(B) NOTIFICATION.—The Secretary shall notify each borrower of a loan that a prospectus has been provided to a lender under subparagraph (A).

"(C) CREDIT EXTENDED.—If the Secretary".

SEC. 638. SALE OF PROPERTY.

Section 335 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985) is amended—

(1) in subsection (b), by striking "subsection (e)" and inserting "subsections (c) and (e)";

(2) by striking subsection (c) and inserting the following:

"(c) SALE OF PROPERTY.—

"(1) IN GENERAL.—Subject to this subsection and subsection (e)(1)(A), the Secretary shall offer to sell real property that is acquired by the Secretary under this title using the following order and method of sale:

"(A) ADVERTISEMENT.—Not later than 15 days after acquiring real property, the Secretary shall publicly advertise the property for sale.

"(B) BEGINNING FARMER OR RANCHER.—

"(i) IN GENERAL.—Not later than 75 days after acquiring real property, the Secretary shall offer to sell the property to a qualified beginning farmer or rancher at current market value based on a current appraisal.

"(ii) RANDOM SELECTION.—If more than 1 qualified beginning farmer or rancher offers to purchase the property, the Secretary shall select between the qualified applicants on a random basis.

"(iii) APPEAL OF RANDOM SELECTION.—A random selection or denial by the Secretary of a beginning farmer or rancher for farm inventory property under this subparagraph shall be final and not administratively appealable.

"(C) PUBLIC SALE.—If no acceptable offer is received from a qualified beginning farmer or rancher under subparagraph (B) not later than 75 days after acquiring the real property, the Secretary shall, not later than 30 days after the 75-day period, sell the property after public notice at a public sale, and, if no acceptable bid is received, by negotiated sale, at the best price obtainable.

"(2) TRANSITIONAL RULES.—

"(A) PREVIOUS LEASE.—In the case of real property acquired prior to the date of enactment of this subparagraph that the Secretary leased prior to the date of enactment of this subparagraph, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1).

"(B) PREVIOUSLY IN INVENTORY.—In the case of real property acquired prior to the date of enactment of this subparagraph that the Secretary has not leased, not later than 60 days after the date of enactment of this subparagraph, the Secretary shall offer to sell the property in accordance with paragraph (1).

"(3) INTEREST.—

"(A) IN GENERAL.—Subject to subparagraph (B), any conveyance of real property under this subsection shall include all of the interest of the United States in the property, including mineral rights.

"(B) CONSERVATION.—The Secretary may for conservation purposes grant or sell an easement, restriction, development right, or similar legal right to real property to a State, a political subdivision of a State, or a private nonprofit organization separately from the underlying fee or other rights to the property owned by the United States.

"(4) OTHER LAW.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) shall not apply to any exercise of authority under this title.

"(5) LEASE OF PROPERTY.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may not lease any real property acquired under this title.

"(B) EXCEPTION.—

"(i) BEGINNING FARMER OR RANCHER.—The Secretary may lease or contract to sell to a beginning farmer or rancher a farm or ranch acquired by the Secretary under this title if the beginning farmer or rancher qualifies for a credit sale or direct farm ownership loan under subtitle A but credit sale authority for loans or direct farm ownership loan funds, respectively, are not available.

"(ii) TERM.—The term of a lease or contract to sell to a beginning farmer or rancher under clause (i) shall be until the earlier of—

"(I) the date that is 18 months after the date of the lease or sale; or

"(II) the date that direct farm ownership loan funds or credit sale authority for loans becomes available to the beginning farmer or rancher.

"(iii) INCOME-PRODUCING CAPABILITY.—In determining the rental rate on real property leased under this subparagraph, the Secretary shall consider the income-producing capability of the property during the term that the property is leased.

"(6) EXPEDITED DETERMINATION.—

VOL 142 PT 5 MR 21 — 29 1996 UMI

"(A) IN GENERAL.—On the request of an applicant, not later than 30 days after denial of the applicant's application, the appropriate State director shall provide an expedited review and determination of whether the applicant is a beginning farmer or rancher for the purpose of acquiring farm inventory property.

"(B) APPEAL.—The determination of a State Director under subparagraph (A) shall be final and not administratively appealable.

"(C) EFFECTS OF DETERMINATIONS.—

"(i) IN GENERAL.—The Secretary shall maintain statistical data on the number and results of determinations made under subparagraph (A) and the effect of the determinations on—

"(I) selling farm inventory property to beginning farmers and ranchers; and

"(II) disposing of real property in inventory.

"(ii) NOTIFICATION.—The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate if the Secretary determines that the review process under subparagraph (A) is adversely affecting the selling of farm inventory property to beginning farmers or ranchers or the disposing of real property in inventory."; and

(3) in subsection (e)—

(A) in paragraph (1)—

(i) by striking subparagraphs (A) through (C);

(ii) by redesignating subparagraphs (D) through (G) as subparagraphs (A) through (D), respectively;

(iii) in subparagraph (A) (as redesignated by clause (ii))—

(I) in clause (i)—

(aa) in the matter preceding subclause (I), by striking "(G)" and inserting "(D)";

(bb) by striking subclause (I) and inserting the following:

"(I) the Secretary acquires property under this title that is located within an Indian reservation; and";

(cc) in subclause (II), by striking ", and" at the end and inserting a semicolon; and

(dd) by striking subclause (III); and

(II) in clause (iii), by striking "The Secretary shall" and all that follows through "of subparagraph (A)," and inserting "Not later than 90 days after acquiring the property, the Secretary shall"; and

(iv) in subparagraph (D) (as redesignated by clause (ii))—

(I) in clause (i), by striking "(D)" in the matter following subclause (IV) and inserting "(A)";

(II) in clause (iii)(I), by striking "subparagraphs (C)(i), (C)(ii), and (D)" and inserting "subparagraph (A)"; and

(III) by striking clause (v) and inserting the following:

"(v) FORECLOSURE PROCEDURES.—

"(I) NOTICE TO BORROWER.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide the Indian borrower-owner with the option of—

"(aa) requiring the Secretary to assign the loan and security instruments to the Secretary of the Interior, if the Secretary of the Interior agrees to an assignment releasing the Secretary of Agriculture from all further responsibility for collection of any amounts with regard to the loan secured by the real property; or

"(bb) requiring the Secretary to assign the loan and security instruments to the tribe having jurisdiction over the reservation in which the real property is located, if the tribe agrees to the assignment.

"(II) NOTICE TO TRIBE.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

"(aa) the sale;

"(bb) the fair market value of the property; and

"(cc) the requirements of this subparagraph.

"(III) ASSUMED LOANS.—If an Indian tribe assumes a loan under subclause (I)—

"(aa) the Secretary shall not foreclose the loan because of any default that occurred prior to the date of the assumption;

"(bb) the loan shall be for the lesser of the outstanding principal and interest of the loan or the fair market value of the property; and

"(cc) the loan shall be treated as though the loan was made under Public Law 91–229 (25 U.S.C. 488 et seq.).";

(B) by striking paragraph (3);

(C) in paragraph (4)—

(i) by striking subparagraph (B);

(ii) in subparagraph (A)—

(I) in clause (i), by striking "(i)"; and

(II) by redesignating clause (ii) as subparagraph (B); and

(iii) in subparagraph (B) (as redesignated by clause (ii)(II)), by striking "clause (i)" and inserting "subparagraph (A)";

(D) by striking paragraphs (5), (6), and (9); and

(E) by redesignating paragraphs (4), (7), (8), and (10) as paragraphs (3), (4), (5), and (6), respectively.

SEC. 639. EASEMENTS ON INVENTORIED PROPERTY.

Section 335(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(g)) is amended—

(1) in paragraph (1)—

(A) by striking "(g)(1) Subject to paragraphs (2) through (5)" and inserting the following:

"(g) EASEMENTS ON INVENTORIED PROPERTY.—

"(1) IN GENERAL.—Subject to paragraph (2)"; and

(B) by striking ", as determined" and all that follows through "3801 et seq.)";

(2) by striking paragraph (2) and inserting the following:

"(2) LIMITATION.—The Secretary shall not establish a wetland conservation easement on an inventoried property that—

"(A) was cropland on the date the property entered the inventory of the Secretary; or

"(B) was used for farming at any time during the period beginning on the date 5 years before the property entered the inventory of the Secretary and ending on the date the property entered the inventory of the Secretary.";

(3) by striking paragraphs (3), (4), (5), and (8);

(4) by striking "(6) The Secretary" and inserting the following:

"(3) NOTIFICATION.—The Secretary"; and

(5) by striking "(7) The appraised" and inserting the following:

"(4) APPRAISED VALUE.—The appraised".

SEC. 640. DEFINITIONS.

Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) is amended—

(1) in paragraph (11)—

(A) in the text preceding subparagraph (A), by striking "applicant—" and inserting "applicant, regardless of whether the applicant is participating in a program under section 310E—"; and

(B) in subparagraph (F)—

(i) by striking "15 percent" and inserting "25 percent"; and

(ii) by inserting before the semicolon at the end the following: ", except that this subparagraph shall not apply to a loan made or guaranteed under subtitle B"; and

(2) by adding at the end the following:

"(12) DEBT FORGIVENESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'debt forgiveness' means reducing or terminating a farmer program loan made or guaranteed under this title, in a manner that results in a loss to the Secretary, through—

"(i) writing down or writing off a loan under section 353;

"(ii) compromising, adjusting, reducing, or charging-off a debt or claim under section 331;

"(iii) paying a loss on a guaranteed loan under section 357; or

"(iv) discharging a debt as a result of bankruptcy.

"(B) LOAN RESTRUCTURING.—The term 'debt forgiveness' does not include consolidation, rescheduling, reamortization, or deferral.".

SEC. 641. AUTHORIZATION FOR LOANS.

Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended—

(1) in the second sentence of subsection (a), by striking "with or without" and all that follows through "administration"; and

(2) by striking subsection (b) and inserting the following:

"(b) AUTHORIZATION FOR LOANS.—

"(1) IN GENERAL.—The Secretary may make or guarantee loans under subtitles A and B from the Agricultural Credit Insurance Fund provided for in section 309 in not more than the following amounts:

"(A) FISCAL YEAR 1996.—For fiscal year 1996, $3,085,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,500,000,000 shall be for guaranteed loans, of which—

"(I) $600,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $1,900,000,000 shall be for guarantees of operating loans under subtitle B.

"(B) FISCAL YEAR 1997.—For fiscal year 1997, $3,165,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,580,000,000 shall be for guaranteed loans, of which—

"(I) $630,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $1,950,000,000 shall be for guarantees of operating loans under subtitle B.

"(C) FISCAL YEAR 1998.—For fiscal year 1998, $3,245,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,660,000,000 shall be for guaranteed loans, of which—

"(I) $660,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,000,000,000 shall be for guarantees of operating loans under subtitle B.

"(D) FISCAL YEAR 1999.—For fiscal year 1999, $3,325,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,740,000,000 shall be for guaranteed loans, of which—

"(I) $690,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,050,000,000 shall be for guarantees of operating loans under subtitle B.

"(E) FISCAL YEAR 2000.—For fiscal year 2000, $3,435,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,850,000,000 shall be for guaranteed loans, of which—

"(I) $750,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,100,000,000 shall be for guarantees of operating loans under subtitle B.

"(F) FISCAL YEAR 2001.—For fiscal year 2001, $3,435,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,850,000,000 shall be for guaranteed loans, of which—

"(I) $750,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,100,000,000 shall be for guarantees of operating loans under subtitle B.

"(G) FISCAL YEAR 2002.—For fiscal year 2002, $3,435,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,850,000,000 shall be for guaranteed loans, of which—

"(I) $750,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,100,000,000 shall be for guarantees of operating loans under subtitle B.

"(2) BEGINNING FARMERS AND RANCHERS.—

"(A) DIRECT LOANS.—

"(i) FARM OWNERSHIP LOANS.—

"(I) IN GENERAL.—Of the amounts made available under paragraph (1) for direct farm ownership loans, the Secretary shall reserve 70 percent for qualified beginning farmers and ranchers.

"(II) DOWN PAYMENT LOANS.—Of the amounts reserved for a fiscal year under subclause (I), the Secretary shall reserve 60 percent for the down payment loan program under section 310E until April 1 of the fiscal year.

"(ii) OPERATING LOANS.—Of the amounts made available under paragraph (1) for direct operating loans, the Secretary shall reserve for qualified beginning farmers and ranchers—

"(I) for each of fiscal years 1996 through 1998, 25 percent;

"(II) for fiscal year 1999, 30 percent; and

"(III) for each of fiscal years 2000 through 2002, 35 percent.

"(iii) FUNDS RESERVED UNTIL SEPTEMBER 1.—Except as provided in clause (i)(II), funds reserved for qualified beginning farmers or ranchers under this subparagraph for a fiscal year shall be reserved only until September 1 of the fiscal year.

"(B) GUARANTEED LOANS.—

"(i) FARM OWNERSHIP LOANS.—Of the amounts made available under paragraph (1) for guarantees of farm ownership loans, the Secretary shall reserve 25 percent for qualified beginning farmers and ranchers.

"(ii) OPERATING LOANS.—Of the amounts made available under paragraph (1) for guarantees of operating loans, the Secretary shall reserve 40 percent for qualified beginning farmers and ranchers.

"(iii) FUNDS RESERVED UNTIL APRIL 1.—Funds reserved for qualified beginning farmers or ranchers under this subparagraph for a fiscal year shall be reserved only until April 1 of the fiscal year.

"(C) RESERVED FUNDS FOR ALL QUALIFIED BEGINNING FARMERS AND RANCHERS.—If a qualified beginning farmer or rancher meets the eligibility criteria for receiving a direct or guaranteed loan under section 302, 310E, or 311, the Secretary shall make or guarantee the loan if sufficient funds reserved under this paragraph are available to make or guarantee the loan.

"(3) TRANSFER FOR DOWN PAYMENT LOANS.—

"(A) IN GENERAL.—Notwithstanding subsection (a), subject to subparagraph (B)—

"(i) beginning on August 1 of each fiscal year, the Secretary shall use available unsubsidized guaranteed farm operating loan funds to provide direct farm ownership loans approved by the Secretary to qualified beginning farmers and ranchers under the down payment loan program established under section 310E, if sufficient direct farm ownership loan funds are not otherwise available; and

"(ii) beginning on September 1 of each fiscal year, the Secretary shall use available unsubsidized guaranteed farm operating loan funds to provide direct farm ownership loans approved by the Secretary to qualified beginning farmers and ranchers, if sufficient direct farm ownership loan funds are not otherwise available.

"(B) LIMITATION.—The Secretary shall limit the transfer of funds under subparagraph (A) so that all guaranteed farm operating loans that have been approved, or will be approved, by the Secretary during the fiscal year will be made to the extent of available amounts.

"(4) TRANSFER FOR CREDIT SALES OF FARM INVENTORY PROPERTY.—

"(A) IN GENERAL.—Notwithstanding subsection (a), subject to subparagraphs (B) and (C), beginning on September 1 of each fiscal year, the Secretary may use available funds made available under subtitle C for the fiscal year to fund the credit sale of farm real estate in the inventory of the Secretary.

"(B) SUPPLEMENTAL APPROPRIATIONS.—The transfer authority provided under subparagraph (A) shall not apply to any funds made available to the Secretary for any fiscal year under an Act making supplemental appropriations.

"(C) LIMITATION.—The Secretary shall limit the transfer of funds under subparagraph (A) so that all emergency disaster loans that have been approved, or will be approved, by the Secretary during the fiscal year will be made to the extent of available amounts.".

SEC. 642. CONTRACTS ON LOAN SECURITY PROPERTIES.

Section 349 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1997) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) CONTRACTS ON LOAN SECURITY PROPERTIES.—Subject to subsection (c), the Secretary may enter into a contract related to real property for conservation, recreation, or wildlife purposes.";

(2) in subsection (c)—

(A) by striking "(c) Such easement" and all that follows through "if—" and inserting the following:

"(c) LIMITATIONS.—The Secretary may enter into a contract under subsection (b) if—";

(B) in paragraph (2), by adding "and" at the end;

(C) in paragraph (3)—

(i) by striking subparagraph (B);

(ii) by striking "(3)(A)(i)" and inserting "(3)(A)";

(iii) by striking "Farmers Home Administration" and inserting "Secretary";

(iv) by striking "(ii) such easement" and inserting "(B) such contract"; and

(v) by striking "; or" and inserting a period; and

(D) by striking paragraph (4);

(3) in subsection (d), by striking "easement" each place it appears and inserting "contract";

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "purchase any such easement from the borrower—" and inserting "reduce or forgive the outstanding debt of a borrower—";

(ii) by striking "easement" each place it appears and inserting "contract"; and

(iii) by striking "Farmers Home Administration" each place it appears and inserting "Secretary"; and

(B) in paragraph (2)(A), by striking "easement is acquired" and inserting "contract is entered into";

(5) in subsection (f)—

(A) in paragraph (1), by striking "acquire easements" and inserting "enter into contracts"; and

(B) in paragraphs (2) and (3), by striking "easements" each place it appears and inserting "contracts"; and

(6) in subsection (g), by striking "an easement acquired" and inserting "a contract entered into".

SEC. 643. LIST OF CERTIFIED LENDERS AND INVENTORY PROPERTY DEMONSTRATION PROJECT.

(a) IN GENERAL.—Section 351 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999) is amended—

(1) in subsection (f)—

(A) by striking "Each Farmers Home Administration county supervisor" and inserting "The Secretary";

(B) by striking "approved lenders" and inserting "lenders"; and

(C) by striking "the Farmers Home Administration"; and

(2) by striking subsection (h).

(b) TECHNICAL AMENDMENT.—Section 1320 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1999 note) is amended by striking "Effective only" and all that follows through "1995, the" and inserting "The".

SEC. 644. HOMESTEAD PROPERTY.

Section 352(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(c)) is amended—

(1) in paragraph (1)(A), by striking "90" each place it appears and inserting "30"; and

(2) in paragraph (6)—

(A) in the first sentence, by striking "Within 30" and all that follows through "title," and insert "Not later than the date of acquisition of the property securing a loan made under this title (or, in the case of real property in inventory on the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, not later than 5 days after the date of enactment of the Act),"; and

(B) by striking the second sentence.

SEC. 645. RESTRUCTURING.

Section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001) is amended—

(1) in subsection (c)—

(A) in paragraph (3), by striking subparagraph (C) and inserting the following:

"(C) CASH FLOW MARGIN.—For the purpose of assessing under subparagraph (A) the ability of a borrower to meet debt obligations and continue farming operations, the Secretary shall assume that the borrower needs up to 110 percent of the amount indicated for payment of farm operating expenses, debt service obligations, and family living expenses."; and

(B) by striking paragraph (6) and inserting the following:

VOL
142
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"(6) TERMINATION OF LOAN OBLIGATIONS.—The obligations of a borrower to the Secretary under a loan shall terminate if—

"(A) the borrower satisfies the requirements of paragraphs (1) and (2) of subsection (b);

"(B) the value of the restructured loan is less than the recovery value; and

"(C) not later than 90 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the current market value.";

(2) by striking subsection (k); and

(3) by redesignating subsections (l) through (p) as subsections (k) through (o), respectively.

SEC. 646. TRANSFER OF INVENTORY LAND FOR CONSERVATION PURPOSES.

Section 354 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2002) is amended—

(1) in the matter preceding paragraph (1), by striking "The Secretary, without reimbursement," and inserting the following:

"(a) IN GENERAL.—Subject to subsection (b), the Secretary";

(2) by striking paragraph (2) and inserting the following:

"(2) that is eligible to be disposed of in accordance with section 335; and"; and

(3) by adding at the end the following:

"(b) CONDITIONS.—The Secretary may not transfer any property or interest in property under subsection (a) unless—

"(1) at least 2 public notices are given of the transfer;

"(2) if requested, at least 1 public meeting is held prior to the transfer; and

"(3) the Governor and at least 1 elected county official of the State and county where the property is located are consulted prior to the transfer.".

SEC. 647. IMPLEMENTATION OF TARGET PARTICIPATION RATES.

Section 355 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003) is amended by adding at the end the following:

"(f) IMPLEMENTATION CONSISTENT WITH SUPREME COURT HOLDING.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall ensure that the implementation of this section is consistent with the holding of the Supreme Court in Adarand Constructors, Inc. v. Federico Pena, Secretary of Transportation, 115 S. Ct. 2097 (1995).".

SEC. 648. DELINQUENT BORROWERS.

(a) PAYMENT OF INTEREST AS A CONDITION OF LOAN SERVICING FOR BORROWERS.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

"SEC. 372. PAYMENT OF INTEREST AS A CONDITION OF LOAN SERVICING FOR BORROWERS.

"The Secretary may not reschedule or reamortize a loan for a borrower under this title who has not requested consideration under section 331D(e) unless the borrower pays a portion, as determined by the Secretary, of the interest due on the loan.".

(b) LOAN AND LOAN SERVICING LIMITATIONS.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) (as amended by subsection (a)) is amended by adding at the end the following:

"SEC. 373. LOAN AND LOAN SERVICING LIMITATIONS.

"(a) DELINQUENT BORROWERS PROHIBITED FROM OBTAINING DIRECT OPERATING LOANS.—The Secretary may not make a direct operating loan under subtitle B to a borrower who is delinquent on any loan made or guaranteed under this title.

"(b) LOANS PROHIBITED FOR BORROWERS THAT HAVE RECEIVED DEBT FORGIVENESS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may not make or guarantee a loan under this title to a borrower who received debt forgiveness on a loan made or guaranteed under this title.

"(2) EXCEPTION.—The Secretary may make a direct or guaranteed farm operating loan for paying annual farm or ranch operating expenses of a borrower who was restructured with a write-down under section 353.

"(c) NO MORE THAN 1 DEBT FORGIVENESS FOR A BORROWER ON A DIRECT LOAN.—The Secretary may not provide to a borrower debt forgiveness on a direct loan made under this title if the borrower has received debt forgiveness on another direct loan made under this title.".

SEC. 649. SHORT FORM CERTIFICATION OF FARM PROGRAM BORROWER COMPLIANCE.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) (as amended by section 648) is amended by adding at the end the following:

"SEC. 374. SHORT FORM CERTIFICATION OF FARM PROGRAM BORROWER COMPLIANCE.

"The Secretary shall develop and utilize a consolidated short form for farm program borrowers to use in certifying compliance with any applicable provision of law (including a regulation) that serves as an eligibility prerequisite for a loan made under this title.".

SEC. 650. CREDIT STUDY.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the demand for and availability of credit in rural areas for agriculture, housing, and rural development.

(b) PURPOSE.—The purpose of the study shall be to ensure that Congress has current and comprehensive information to consider as Congress deliberates on rural credit needs and the availability of credit to satisfy the needs of rural areas of the United States.

(c) ITEMS IN STUDY.—In conducting the study, the Secretary shall base the study on the most current available data and analyze—

(1) rural demand for credit from the Farm Credit System, the ability of the Farm Credit System to meet the demand, and the extent to which the Farm Credit System provides loans to satisfy the demand;

(2) rural demand for credit from the United States banking system, the ability of banks to meet the demand, and the extent to which banks provide loans to satisfy the demand;

(3) rural demand for credit from the Secretary, the ability of the Secretary to meet the demand, and the extent to which the Secretary provides loans to satisfy the demand;

(4) rural demand for credit from other Federal agencies, the ability of the agencies to meet the demand, and the extent to which the agencies provide loans to satisfy the demand;

(5) what measure or measures exist to gauge the overall demand for rural credit, the extent to which rural demand for credit is satisfied, and what the measures have demonstrated;

(6) a comparison of the interest rates and terms charged by the Farm Credit System Farm Credit Banks, production credit associations, and banks for cooperatives with the rates and terms charged by the banks of the United States for credit of comparable risk and maturity;

(7) the advantages and disadvantages of the modernization and expansion proposals of the Farm Credit System on the Farm Credit System, the United States banking system, rural users of credit, local rural communities, and the Federal Government, including—

(A) any added risk to the safety and soundness of the Farm Credit System that may result from approval of a proposal; and

(B) any positive or adverse impacts on competition between the Farm Credit System and the banks of the United States in providing credit to rural users;

(8) the nature and extent of the unsatisfied rural credit need that the Farm Credit System proposals are supposed to address and what aspects of the present Farm Credit System prevent the Farm Credit System from meeting the need;

(9) the advantages and disadvantages of the proposal by commercial bankers to allow banks access to the Farm Credit System as a funding source on the Farm Credit System, the United States banking system, rural users of credit, local rural communities, and the Federal Government, including—

(A) any added risk to the safety and soundness of the Farm Credit System that may result from approval of the proposal; and

(B) any positive or adverse impacts on competition between the Farm Credit System and the banks of the United States in providing credit to rural users; and

(10) problems that commercial banks have in obtaining capital for lending in rural areas, how access to Farm Credit System funds would improve the availability of capital in rural areas in ways that cannot be achieved in the system in existence on the date of enactment of this Act, and the possible effects on the viability of the Farm Credit System of granting banks access to Farm Credit System funds.

(d) INTERAGENCY TASK FORCE.—In completing the study, the Secretary shall use, among other things, data and information obtained by the interagency task force on rural credit.

Subtitle E—General Provisions

SEC. 661. CONFORMING AMENDMENTS.

(a) Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended—

(1) in paragraph (4), by striking "304(b), 306(a)(1), and 310B" and inserting "306(a)(1) and 310B"; and

(2) in paragraph (6)(B)—

(A) by striking clauses (i), (ii), (iv), and (vii);

(B) in clause (v), by adding "and" at the end;

(C) in clause (vi), by striking ", and" at the end and inserting a period; and

(D) by redesignating clauses (iii), (v), and (vi) as clauses (i), (ii), and (iii), respectively.

(b) The second sentence of section 309(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(g)(1)) is amended by striking "section 308,".

(c) Section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) is amended—

(1) in the second sentence of subsection (a), by striking "304(b), 306(a)(1), 306(a)(14), 310B, and 312(b)" and inserting "306(a)(1), 306(a)(14), and 310B"; and

(2) in the first sentence of subsection (b), by striking "and section 308".

(d) Section 310B(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(d)) is amended—

(1) by striking "sections 304(b), 310B, and 312(b)" each place it appears in paragraphs (2), (3), and (4) and inserting "this section"; and

(2) in paragraph (6), by striking "this section, section 304, or section 312" and inserting "this section".

(e) The first sentence of section 310D(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1934(a)) is amended by striking "paragraphs (1) through (5) of section 303(a), or subparagraphs (A) through (E) of section 304(a)(1)" and inserting "section 303(a), or paragraphs (1) through (5) of section 304(a)".

(f) Section 311(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(b)(1)) is amended by striking "and for the purposes specified in section 312".

(g) Section 316(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)) is amended by striking paragraph (3).

(h) Section 343 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991) is amended—

(1) in subsection (a)(10), by striking "recreation loan (RL) under section 304,"; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "351(h),"; and

(B) by striking paragraph (4) and inserting the following:

"(4) PRESERVATION LOAN SERVICE PROGRAM.—The term "preservation loan service program" means homestead retention as authorized under section 352.".

(i) The first sentence of section 344 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1992) is amended by striking "304(b), 306(a)(1), 310B, 312(b), or 312(c)" and inserting "306(a)(1), 310B, or 312(c)".

(j) Section 353(l) of the Consolidated Farm and Rural Development Act (as redesignated by section 645(3)) is amended by striking "and subparagraphs (A)(i) and (C)(i) of section 335(e)(1),".

SEC. 662. ELECTRONIC FILING OF EFFECTIVE FINANCING STATEMENTS UNDER THE CLEAR TITLE PROVISIONS OF THE FOOD SECURITY ACT OF 1985.

Section 1324(c)(4) of the Food Security Act of 1985 (7 U.S.C. 1631(c)(4)) is amended—

(1) in subparagraph (A), by striking "thereof" and inserting "of the statement, or, in the case of a State which (under the applicable State law provisions of the Uniform Commercial Code) allows the electronic filing of financing statements without the signature of the debtor, is an electronically reproduced copy of the statement"; and

(2) in each of subparagraphs (B) and (C), by inserting "other than in the case of an electronically reproduced copy of the statement," before "is".

SEC. 663. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall become effective on the date of enactment of this Act.

(b) DELAYED EFFECTIVE DATES.—The amendments made by sections 601, 606, 611, 612, 622, 623, 625, 633, 640(1), 642, 645(1), 648(a), and 649 shall become effective 90 days after the date of enactment of this Act.

(c) TRANSITION PROVISION.—The amendments made by sections 638 and 644 shall not apply with respect to a complete application to acquire inventory property submitted prior to the date of enactment of this Act.

(d) REGULATIONS.—Notwithstanding any other provision of law, regulations to implement the amendments made by this title shall be published as interim final rules with request for comments and may be made effective immediately on publication.

TITLE VII—RURAL DEVELOPMENT

Subtitle A—Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990

CHAPTER 1—GENERAL PROVISIONS

SEC. 701. RURAL INVESTMENT PARTNERSHIPS.

Subtitle B of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2007 et seq.) is repealed.

SEC. 702. WATER AND WASTE FACILITY FINANCING.

Section 2322 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926–1) is repealed.

SEC. 703. RURAL WASTEWATER CIRCUIT RIDER PROGRAM.

Section 2324 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 1926 note) is repealed.

SEC. 704. TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS.

Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) is amended to read as follows:

"CHAPTER 1—TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS

"SEC. 2331. PURPOSE.

"The purpose of this chapter is to encourage and improve telemedicine services and distance learning services in rural areas through the use of telecommunications, computer networks, and related advanced technologies by students, teachers, medical professionals, and rural residents.

"SEC. 2332. DEFINITIONS.

"In this chapter:

"(1) CONSTRUCT.—The term 'construct' means to construct, acquire, install, improve, or extend a facility or system.

"(2) COST OF MONEY LOAN.—The term 'cost of money loan' means a loan made under this chapter bearing interest at a rate equal to the then current cost to the Federal Government of loans of similar maturity.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"SEC. 2333. TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS.

"(a) SERVICES TO RURAL AREAS.—The Secretary may provide financial assistance for the purpose of financing the construction of facilities and systems to provide telemedicine services and distance learning services in rural areas.

"(b) FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—Financial assistance shall consist of grants or cost of money loans, or both.

"(2) FORM.—The Secretary shall determine the portion of the financial assistance provided to a recipient that consists of grants and the portion that consists of cost of money loans so as to result in the maximum feasible repayment to the Federal Government of the financial assistance, based on the ability to repay of the recipient and full utilization of funds made available to carry out this chapter.

"(c) RECIPIENTS.—

"(1) IN GENERAL.—The Secretary may provide financial assistance under this chapter to—

"(A) entities using telemedicine services or distance learning services; and

"(B) entities providing or proposing to provide telemedicine service or distance learning service to other persons at rates calculated to ensure that the benefit of the financial assistance is passed through to the other persons.

"(2) ELECTRIC OR TELECOMMUNICATIONS BORROWERS.—

"(A) LOANS TO BORROWERS.—Subject to subparagraph (B), the Secretary may provide a cost of money loan under this chapter to a borrower of an electric or telecommunications loan under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.). A borrower receiving a cost of money loan under this paragraph shall—

"(i) make the funds provided available to entities that qualify under paragraph (1) for projects satisfying the requirements of this chapter;

"(ii) use the funds provided to acquire, install, improve, or extend a system referred to in subsection (a); or

"(iii) use the funds provided to install, improve, or extend a facility referred to in subsection (a).

"(B) LIMITATIONS.—A borrower of an electric or telecommunications loan under the Rural Electrification Act of 1936 shall—

"(i) make a system or facility funded under subparagraph (A) available to entities that qualify under paragraph (1); and

"(ii) neither retain from the proceeds of a loan provided under subparagraph (A), nor assess a qualifying entity under paragraph (1), any amount except as may be required to pay the actual costs incurred in administering the loan or making the system or facility available.

"(3) APPEAL.—If the Secretary rejects the application of a borrower who applies for a cost of money loan or grant under this section, the borrower may appeal the decision to the Secretary not later than 10 days after the borrower is notified of the rejection.

"(4) ASSISTANCE TO PROVIDE OR IMPROVE SERVICES.—Financial assistance may be provided under this chapter for a facility regardless of the location of the facility if the Secretary determines that the assistance is necessary to provide or improve telemedicine services or distance learning services in a rural area.

"(d) PRIORITY.—The Secretary shall establish procedures to prioritize financial assistance under this chapter considering—

"(1) the need for the assistance in the affected rural area;

"(2) the financial need of the applicant;

"(3) the population sparsity of the affected rural area;

"(4) the local involvement in the project serving the affected rural area;

"(5) geographic diversity among the recipients of financial assistance;

"(6) the utilization of the telecommunications facilities of any telecommunications provider serving the affected rural area;

"(7) the portion of total project financing provided by the applicant from the funds of the applicant;

"(8) the portion of project financing provided by the applicant with funds obtained from non-Federal sources;

"(9) the joint utilization of facilities financed by other financial assistance;

"(10) the coordination of the proposed project with regional projects or networks;

"(11) service to the greatest practical number of persons within the general geographic area covered by the financial assistance;

"(12) conformity with the State strategic plan as prepared under section 381D of the Consolidated Farm and Rural Development Act; and

"(13) other factors determined appropriate by the Secretary.

"(e) MAXIMUM AMOUNT OF ASSISTANCE TO INDIVIDUAL RECIPIENTS.—The Secretary may establish the maximum amount of financial assistance to be made available to an individual recipient for each fiscal year under this chapter, by publishing notice of the maximum amount in the Federal Register not more than 45 days after funds are made available for the fiscal year to carry out this chapter.

"(f) USE OF FUNDS.—Financial assistance provided under this chapter shall be used for—

"(1) the development and acquisition of instructional programming;

"(2) the development and acquisition, through lease or purchase, of computer hardware and software, audio and visual equipment, computer network components, telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, or interactive video equipment, or other facilities that would further telemedicine services or distance learning services;

"(3) providing technical assistance and instruction for the development or use of the programming, equipment, or facilities referred to in paragraphs (1) and (2); or

"(4) other uses that are consistent with this chapter, as determined by the Secretary.

"(g) SALARIES AND EXPENSES.—Notwithstanding subsection (f), financial assistance provided under this chapter shall not be used for paying salaries or administrative expenses.

VOL
142
PT
5
MR
21
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29
1996
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"(h) EXPEDITING COORDINATED TELEPHONE LOANS.—

"(1) IN GENERAL.—The Secretary may establish and carry out procedures to ensure that expedited consideration and determination is given to applications for loans and advances of funds submitted by local exchange carriers under this chapter and the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) to enable the exchange carriers to provide advanced telecommunications services in rural areas in conjunction with any other projects carried out under this chapter.

"(2) DEADLINE IMPOSED ON SECRETARY.—Not later than 45 days after the receipt of a completed application for an expedited telephone loan under paragraph (1), the Secretary shall notify the applicant in writing of the decision of the Secretary regarding the application.

"(i) NOTIFICATION OF LOCAL EXCHANGE CARRIER.—

"(1) APPLICANTS.—Each applicant for a grant for a telemedicine or distance learning project established under this chapter shall notify the appropriate local telephone exchange carrier regarding the application filed with the Secretary for the grant.

"(2) SECRETARY.—The Secretary shall—

"(A) publish notice of applications received for grants under this chapter for telemedicine or distance learning projects; and

"(B) make the applications available for inspection.

"SEC. 2334. ADMINISTRATION.

"(a) NONDUPLICATION.—The Secretary shall ensure that facilities constructed using financial assistance provided under this chapter do not duplicate adequate established telemedicine services or distance learning services.

"(b) LOAN MATURITY.—The maturities of cost of money loans shall be determined by the Secretary, based on the useful life of the facility being financed, except that the loan shall not be for a period of more than 10 years.

"(c) LOAN SECURITY AND FEASIBILITY.—The Secretary shall make a cost of money loan only if the Secretary determines that the security for the loan is reasonably adequate and that the loan will be repaid within the period of the loan.

"(d) ENCOURAGING CONSORTIA.—The Secretary shall encourage the development of consortia to provide telemedicine services or distance learning services through telecommunications in rural areas served by a telecommunications provider.

"(e) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate, to the extent practicable, with other Federal and State agencies with similar grant or loan programs to pool resources for funding meritorious proposals in rural areas.

"(f) INFORMATIONAL EFFORTS.—The Secretary shall establish and implement procedures to carry out informational efforts to advise potential end users located in rural areas of each State about the program authorized by this chapter.

"SEC. 2335. REGULATIONS.

"Not later than 180 days after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall issue regulations to carry out this chapter.

"SEC. 2335A. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this chapter $100,000,000 for each of fiscal years 1996 through 2002.".

SEC. 705. LIMITATION ON AUTHORIZATION OF APPROPRIATIONS FOR RURAL TECHNOLOGY GRANTS.

Section 2347 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 4034) is amended—

(1) by striking "(a) IN GENERAL.—"; and

(2) by striking subsection (b).

SEC. 706. DEMONSTRATION PROJECTS.

Section 2348 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2662a) is repealed.

SEC. 707. MONITORING THE ECONOMIC PROGRESS OF RURAL AMERICA.

Section 2382 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 13 U.S.C. 141 note) is repealed.

SEC. 708. ANALYSIS BY OFFICE OF TECHNOLOGY ASSESSMENT.

Section 2385 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 950aaa–4 note) is repealed.

SEC. 709. RURAL HEALTH INFRASTRUCTURE IMPROVEMENT.

Section 2391 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 2662 note) is repealed.

SEC. 710. CENSUS OF AGRICULTURE.

Section 2392 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 4057) is repealed.

SEC. 711. STUDY OF THE TRANSPORTATION OF FERTILIZER AND AGRICULTURAL CHEMICALS TO FARMERS.

Section 2517 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 4077) is repealed.

CHAPTER 2—ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION

SEC. 721. DEFINITIONS.

Section 1657(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901(c)) is amended—

(1) by striking paragraphs (3) and (4);

(2) by redesignating paragraph (5) as paragraph (3);

(3) by redesignating paragraphs (6) through (12) as paragraphs (7) through (13), respectively; and

(4) by inserting after paragraph (3) (as redesignated by paragraph (2)) the following:

"(4) CORPORATE BOARD.—The term 'Corporate Board' means the Board of Directors of the Corporation described in section 1659.

"(5) CORPORATION.—The term 'Corporation' means the Alternative Agricultural Research and Commercialization Corporation established under section 1658.

"(6) EXECUTIVE DIRECTOR.—The term 'Executive Director' means the Executive Director of the Corporation appointed under section 1659(e).".

SEC. 722. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CORPORATION.

(a) IN GENERAL.—Section 1658 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5902) is amended to read as follows:

"SEC. 1658. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CORPORATION.

"(a) ESTABLISHMENT.—To carry out this subtitle, there is created a body corporate to be known as the Alternative Agricultural Research and Commercialization Corporation, which shall be an agency of the United States, within the Department of Agriculture, subject to the general supervision and direction of the Secretary, except as specifically provided for in this subtitle.

"(b) PURPOSE.—The purpose of the Corporation is to—

"(1) expedite the development and market penetration of industrial, nonfood, nonfeed products from agricultural and forestry materials; and

"(2) assist the private sector in bridging the gap between the results of research into nonfood, nonfeed products and the commercialization of the research.

"(c) PLACE OF INCORPORATION.—The Corporation shall be incorporated in the District of Columbia.

"(d) CENTRAL OFFICE.—The Secretary shall provide facilities for the principal office of the Corporation within the Washington, D.C., metropolitan area.

"(e) WHOLLY-OWNED GOVERNMENT CORPORATION.—The Corporation shall be considered a wholly-owned government corporation in accordance with chapter 91 of title 31, United States Code.

"(f) GENERAL POWERS.—In addition to any other powers granted to the Corporation under this subtitle, the Corporation—

"(1) shall have succession in its corporate name;

"(2) may adopt, alter, and rescind any bylaw and adopt and alter a corporate seal, which shall be judicially noticed;

"(3) may enter into any agreement or contract with a person or private or governmental agency, except that the Corporation shall not provide any financial assistance unless specifically authorized by this subtitle;

"(4) may lease, purchase, accept a gift or donation of, or otherwise acquire, use, own, hold, improve, or otherwise deal in or with, and sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property or interest in property, as the Corporation considers necessary in the transaction of the business of the Corporation, except that this paragraph shall not provide authority for carrying out a program of real estate investment;

"(5) may sue and be sued in the corporate name of the Corporation, except that—

"(A) no attachment, injunction, garnishment, or similar process shall be issued against the Corporation or property of the Corporation; and

"(B) exclusive original jurisdiction shall reside in the district courts of the United States, but the Corporation may intervene in any court in any suit, action, or proceeding in which the Corporation has an interest;

"(6) may independently retain legal representation;

"(7) may provide for and designate such committees, and the functions of the committees, as the Corporate Board considers necessary or desirable,

"(8) may indemnify the Executive Director and other officers of the Corporation, as the Corporate Board considers necessary and desirable, except that the Executive Director and officers shall not be indemnified for an act outside the scope of employment;

"(9) may, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service, use information, services, facilities, officials, and employees in carrying out this subtitle, and pay for the use, which payments shall be transferred to the applicable appropriation account that incurred the expense;

"(10) may obtain the services and fix the compensation of any consultant and otherwise procure temporary and intermittent services under section 3109(b) of title 5, United States Code;

"(11) may use the United States mails on the same terms and conditions as the Executive agencies of the Federal Government;

"(12) shall have the rights, privileges, and immunities of the United States with respect to the right to priority of payment with respect to debts due from bankrupt, insolvent, or deceased creditors;

"(13) may collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;

"(14) shall determine the character of, and necessity for, obligations and expenditures of the Corporation and the manner in which the obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

"(15) may make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation;

"(16) may sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Corporation; and

"(17) may exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation to carry out this subtitle and the powers, purposes, functions, duties, and authorized activities of the Corporation.

"(g) SPECIFIC POWERS.—To carry out this subtitle, the Corporation may—

"(1) make grants to, and enter into cooperative agreements and contracts with, eligible applicants for research, development, and demonstration projects in accordance with section 1660;

"(2) make loans and interest subsidy payments and invest venture capital in accordance with section 1661;

"(3) collect and disseminate information concerning State, regional, and local commercialization projects;

"(4) search for new nonfood, nonfeed products that may be produced from agricultural commodities and for processes to produce the products;

"(5) administer, maintain, and dispense funds from the Fund to facilitate the conduct of activities under this subtitle; and

"(6) engage in other activities incident to carrying out the functions of the Corporation.".

(b) WHOLLY-OWNED GOVERNMENT CORPORATION.—Section 9101(3) of title 31, United States Code, is amended—

(1) by redesignating subparagraph (N) (relating to the Uranium Enrichment Corporation) as subparagraph (O); and

(2) by adding at the end the following:

"(Q) the Alternative Agricultural Research and Commercialization Corporation.".

(c) CONFORMING AMENDMENT.—Section 211(b)(5) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6911(b)(5)) is amended by striking "Alternative Agricultural Research and Commercialization Board" and inserting "Corporate Board of the Alternative Agricultural Research and Commercialization Corporation".

SEC. 723. BOARD OF DIRECTORS, EMPLOYEES, AND FACILITIES.

(a) IN GENERAL.—Section 1659 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5903) is amended to read as follows:

"SEC. 1659. BOARD OF DIRECTORS, EMPLOYEES, AND FACILITIES.

"(a) IN GENERAL.—The powers of the Corporation shall be vested in a Corporate Board.

"(b) MEMBERS OF THE CORPORATE BOARD.—The Corporate Board shall consist of 11 members as follows:

"(1) The Under Secretary of Agriculture for Rural Development.

"(2) The Under Secretary of Agriculture for Research, Education, and Economics.

"(3) 5 members appointed by the Secretary, of whom—

"(A) at least 1 member shall be a representative of the leading scientific disciplines relevant to the activities of the Corporation;

"(B) at least 1 member shall be a producer or processor of agricultural commodities;

"(C) at least 1 member shall be a person who is privately engaged in the commercialization of new nonfood, nonfeed products from agricultural commodities; and

"(D) at least 1 member shall have expertise in financial management.

A different member shall be appointed pursuant to each subparagraph of this paragraph.

"(4) 2 members appointed by the Secretary who—

"(A) have expertise in areas of applied research relating to the development or commercialization of new nonfood, nonfeed products; and

"(B) shall be appointed from a group of at least 4 individuals nominated by the Director of the National Science Foundation if the nominations are made not later than 60 days after the date a vacancy occurs.

"(5) 2 members appointed by the Secretary who—

"(A) have expertise in financial and managerial matters; and

"(B) shall be appointed from a group of at least 4 individuals nominated by the Secretary of Commerce if the nominations are made not later than 60 days after the date a vacancy occurs.

"(c) RESPONSIBILITIES OF THE CORPORATE BOARD.—

"(1) IN GENERAL.—The Corporate Board shall—

"(A) be responsible for the general supervision of the Corporation and Regional Centers established under section 1663;

"(B) determine (in consultation with Regional Centers) high priority commercialization areas to receive assistance under section 1663;

"(C) review any grant, contract, or cooperative agreement to be made or entered into by the Corporation under section 1660 and any financial assistance to be provided under section 1661;

"(D) make the final decision, by majority vote, on whether and how to provide assistance to an applicant; and

"(E) develop and establish a budget plan and a long-term operating plan to carry out this subtitle.

"(2) AUTHORITY OF THE SECRETARY.—

"(A) IN GENERAL.—The Secretary shall vacate and remand to the Corporate Board for reconsideration any decision made pursuant to paragraph (1)(D) if the Secretary determines that there has been a violation of subsection (j), or any conflict of interest provisions of the bylaws of the Corporate Board, with respect to the decision.

"(B) REASONS.—In the case of any violation and referral of a funding decision to the Corporate Board, the Secretary shall inform the Corporate Board of the reasons for any remand pursuant to subparagraph (A).

"(d) CHAIRPERSON.—The members of the Corporate Board shall select a Chairperson from among the members of the Corporate Board. The term of office of the Chairperson shall be 2 years. The members referred to in paragraphs (1) and (2) of subsection (b) may not serve as Chairperson.

"(e) EXECUTIVE DIRECTOR.—

"(1) APPOINTMENT.—The Corporate Board shall appoint an Executive Director, subject to the approval of the Secretary.

"(2) DUTIES.—The Executive Director shall be the chief executive officer of the Corporation, with such power and authority as may be conferred by the Corporate Board.

"(3) COMPENSATION.—The Executive Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(f) OFFICERS.—The Corporate Board shall establish the offices and appoint the officers of the Corporation, including a Secretary, and define the duties of the officers in a manner consistent with this subtitle.

"(g) MEETINGS.—The Corporate Board shall meet at least 3 times each fiscal year at the call of the Chairperson or at the request of the Executive Director. The location of the meetings shall be subject to approval of the Executive Director. A quorum of the Corporate Board shall consist of a majority of the members. The decisions of the Corporate Board shall be made by majority vote.

"(h) TERM; VACANCIES.—

"(1) IN GENERAL.—The term of office of a member of the Corporate Board shall be 4 years, except that the members initially appointed shall be appointed to serve staggered terms. A member appointed to fill a vacancy for an unexpired term may be appointed only for the remainder of the term. A vacancy on the Corporate Board shall be filled in the same manner as the original appointment. The Secretary may remove a member of the Corporate Board only for cause.

"(2) TRANSITION MEASURE.—The Secretary may appoint to the Corporate Board an individual who, on the day before the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, was serving on the former Alternative Agricultural Research and Commercialization Board, for a term that does not exceed the term for which the individual was appointed to the former Board.

"(i) COMPENSATION.—A member of the Corporate Board who is an officer or employee of the United States shall not receive any additional compensation by reason of service on the Corporate Board. Any other member shall receive, for each day (including travel time) the member is engaged in the performance of the functions of the Corporate Board, compensation at a rate not to exceed the daily equivalent of the annual rate in effect for Level IV of the Executive Schedule. A member of the Corporate Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of the duties of the member.

"(j) CONFLICT OF INTEREST; FINANCIAL DISCLOSURE.—

"(1) CONFLICT OF INTEREST.—Except as provided in paragraph (3), no member of the Corporate Board shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, the member, spouse, or child of the member, partner, or organization in which the member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

"(2) VIOLATIONS.—Violation of paragraph (1) by a member of the Corporate Board shall be cause for removal of the member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the member participated.

"(3) EXCEPTIONS.—The prohibitions contained in paragraph (1) shall not apply if a member of the Corporate Board advises the Corporate Board of the nature of the particular matter in which the member proposes to participate, and if the member makes a full disclosure of the financial interest, prior to any participation, and the Corporate Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of the member's services to the Corporation in that matter. The member involved shall not vote on the determination.

"(4) FINANCIAL DISCLOSURE.—A Board member shall be subject to the financial disclosure requirements set forth in subchapter B of chapter XVI of title 5, Code of Federal Regulations (or

VOL
142
PT
5
MR
21
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29
1996
UMI

any corresponding or similar regulation or ruling), applicable to a special Government employee (as defined in section 202(a) of title 18, United States Code).

"(k) DELEGATION OF AUTHORITY.—

"(1) IN GENERAL.—The Corporate Board may, by resolution, delegate to the Chairperson, the Executive Director, or any other officer or employee any function, power, or duty assigned to the Corporation under this subtitle, other than a function, power, or duty expressly vested in the Corporate Board by subsections (c) through (n).

"(2) PROHIBITION ON DELEGATION.—Notwithstanding any other law, the Secretary and any other officer or employee of the United States shall not make any delegation to the Corporate Board, the Chairperson, the Executive Director, or the Corporation of any power, function, or authority not expressly authorized by this subtitle, unless the delegation is made pursuant to an authority in law that expressly makes reference to this section.

"(3) REORGANIZATION ACT.—Notwithstanding any other law, the President (through authorities provided under chapter 9 of title 5, United States Code) may not authorize the transfer to the Corporation of any power, function, or authority in addition to powers, functions, and authorities provided by law.

"(l) BYLAWS.—Notwithstanding section 1658(f)(2), the Corporate Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Corporation. The Corporate Board shall not adopt any bylaw that has not been reviewed and approved by the Secretary.

"(m) ORGANIZATION.—The Corporate Board shall provide a system of organization to fix responsibility and promote efficiency.

"(n) PERSONNEL AND FACILITIES OF CORPORATION.—

"(1) APPOINTMENT AND COMPENSATION OF PERSONNEL.—The Corporation may select and appoint officers, attorneys, employees, and agents, who shall be vested with such powers and duties as the Corporation may determine.

"(2) USE OF FACILITIES AND SERVICES OF THE DEPARTMENT OF AGRICULTURE.—Notwithstanding any other provision of law, to perform the responsibilities of the Corporation under this subtitle, the Corporation may partially or jointly utilize the facilities of and the services of employees of the Department of Agriculture, without cost to the Corporation.

"(3) GOVERNMENT EMPLOYMENT LAWS.—An officer or employee of the Corporation shall be subject to all laws of the United States relating to governmental employment.".

(b) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Executive Director of the Alternative Agricultural Research and Commercialization Corporation.".

SEC. 724. RESEARCH AND DEVELOPMENT GRANTS, CONTRACTS, AND AGREEMENTS.

Section 1660 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5904) is amended—

(1) by striking "Center" each place it appears and inserting "Corporation";

(2) in subsection (c), by striking "Board" and inserting "Corporate Board"; and

(3) in subsection (f), by striking "non-Center" and inserting "non-Corporation".

SEC. 725. COMMERCIALIZATION ASSISTANCE.

Section 1661 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5905) is amended—

(1) by striking "Center" each place it appears and inserting "Corporation";

(2) by striking "Board" each place it appears and inserting "Corporate Board";

(3) by striking subsection (c);

(4) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively; and

(5) in subsection (c) (as so redesignated)—

(A) in the subsection heading of paragraph (1), by striking "DIRECTOR" and inserting "EXECUTIVE DIRECTOR"; and

(B) by striking "Director" each place it appears and inserting "Executive Director".

SEC. 726. GENERAL RULES REGARDING THE PROVISION OF ASSISTANCE.

Section 1662 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5906) is amended—

(1) by striking "Center" each place it appears (except in subsection (b)) and inserting "Corporation";

(2) by striking "Board" each place it appears and inserting "Corporate Board"; and

(3) in subsection (b)—

(A) in the second sentence, by striking "Board, a Regional Center, or the Advisory Council" and inserting "Board or a Regional Center"; and

(B) by striking the third sentence.

SEC. 727. REGIONAL CENTERS.

Section 1663 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5907) is amended—

(1) by striking "Board" each place it appears and inserting "Corporate Board";

(2) in subsection (e)(8), by striking "Center" and inserting "Corporation"; and

(3) in subsection (f)—

(A) in paragraph (2), by striking "in consultation with the Advisory Council appointed under section 1661(c)"; and

(B) by striking paragraphs (3) and (4) and inserting the following:

"(3) RECOMMENDATION.—The Regional Director, based on the comments of the reviewers, shall make and submit a recommendation to the Board, which shall not be binding on the Board.".

SEC. 728. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION REVOLVING FUND.

Section 1664 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5908) is amended to read as follows:

"SEC. 1664. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION REVOLVING FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the Alternative Agricultural Research and Commercialization Revolving Fund. The Fund shall be available to the Corporation, without fiscal year limitation, to carry out this subtitle.

"(b) CONTENTS OF FUND.—There shall be deposited in the Fund—

"(1) such amounts as may be appropriated or transferred to support programs and activities of the Corporation;

"(2) payments received from any source for products, services, or property furnished in connection with the activities of the Corporation;

"(3) fees and royalties collected by the Corporation from licensing or other arrangements relating to commercialization of products developed through projects funded in whole or part by grants, contracts, or cooperative agreements executed by the Corporation;

"(4) proceeds from the sale of assets, loans, and equity interests made in furtherance of the purposes of the Corporation;

"(5) donations or contributions accepted by the Corporation to support authorized programs and activities; and

"(6) any other funds acquired by the Corporation.

"(c) FUNDING ALLOCATIONS.—Funding of projects and activities under this subtitle shall be subject to the following restrictions:

"(1) Of the total amount of funds made available for a fiscal year under this subtitle—

"(A) not more than the lesser of 15 percent or $3,000,000 may be set aside to be used for authorized administrative expenses of the Corporation;

"(B) not more than 1 percent may be set aside to be used for generic studies and specific reviews of individual proposals for financial assistance; and

"(C) except as provided in subsection (e), not less than 84 percent shall be set aside to be awarded to qualified applicants who file project applications with, or respond to requests for proposals from, the Corporation under sections 1660 and 1661.

"(2) Any funds remaining uncommitted at the end of a fiscal year shall be credited to the Fund and added to the total program funds available to the Corporation for the next fiscal year.

"(d) AUTHORIZED ADMINISTRATIVE EXPENSES.—For the purposes of this section, authorized administrative expenses shall include all ordinary and necessary expenses, including all compensation for personnel and consultants, expenses for computer usage, or space needs of the Corporation and similar expenses. Funds authorized for administrative expenses shall not be available for the acquisition of real property.

"(e) PROJECT MONITORING.—The Corporate Board may establish, in the bylaws of the Corporate Board, that a percentage (which shall not exceed 1 percent) of the funds provided under subsection (c) for any commercialization project shall be expended to ensure that project funds are being utilized in accordance with the project agreement.

"(f) TERMINATION OF THE FUND.—On expiration of the authority provided by this subtitle, all assets (after payment of all outstanding obligations) of the Fund shall revert to the general fund of the Treasury.

"(g) AUTHORIZATION OF APPROPRIATIONS; CAPITALIZATION.—

"(1) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to the Fund $75,000,000 for each of fiscal years 1996 through 2002.

"(2) CAPITALIZATION.—The Executive Director may pay in as capital of the Corporation, out of dollar receipts made available through annual appropriations, $75,000,000 for each of fiscal years 1996 through 2002. On the payment of an amount of capital by the Executive Director, the Corporation shall issue an equivalent amount of capital stock to the Secretary of the Treasury.

"(3) TRANSFER.—All obligations, assets, and related rights and responsibilities of the former Alternative Agricultural Research and Commercialization Center established under former section 1658 of this Act (as in effect on the day before the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996) are transferred to the Corporation.".

SEC. 729. PROCUREMENT PREFERENCES FOR PRODUCTS RECEIVING CORPORATION ASSISTANCE.

Subtitle G of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901 et seq.) is amended by adding at the end the following:

"SEC. 1665. PROCUREMENT OF ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION PRODUCTS.

"(a) DEFINITION OF EXECUTIVE AGENCY.—In this section, the term 'executive agency' has the meaning provided the term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

"(b) PROCUREMENT.—To further the achievement of the purposes specified in section 1657(b), an executive agency may, for any procurement involving the acquisition of property, establish set-asides and preferences for property that has been commercialized with assistance provided under this subtitle.

"(c) SET-ASIDES.—Procurements solely for property may be set-aside exclusively for products developed with commercialization assistance provided under section 1661.

"(d) PREFERENCES.—Preferences for property developed with assistance provided under this subtitle in procurements involving the acquisition of property may be—

"(1) a price preference, if the procurement is solely for property, of not greater than a percentage to be determined within the sole discretion of the head of the procuring agency; or

"(2) a technical evaluation preference included as an award factor or subfactor as determined within the sole discretion of the head of the procuring agency.

"(e) NOTICE.—Each competitive solicitation or invitation for bids selected by an executive agency for a set-aside or preference under this section shall contain a provision notifying offerors where a list of products eligible for the set aside or preference may be obtained.

"(f) ELIGIBILITY.—Offerors shall receive the set aside or preference required under this section if, in the case of products developed with financial assistance under—

"(1) section 1660, less than 10 years have elapsed since the expiration of the grant, cooperative agreement, or contract;

"(2) paragraph (1) or (2) of section 1661(a), less than 5 years have elapsed since the date the loan was made or insured;

"(3) section 1661(a)(3), less than 5 years have elapsed since the date of sale of any remaining government equity interest in the company; or

"(4) section 1661(a)(4), less than 5 years have elapsed since the date of the final payment on the repayable grant.".

SEC. 730. BUSINESS PLAN AND FEASIBILITY STUDY AND REPORT.

(a) BUSINESS PLAN.—Not later than 180 days after the date of enactment of this Act, the Alternative Agricultural Research and Commercialization Corporation established by section 1658 of the Food, Agriculture, Conservation, and Trade Act of 1990 shall—

(1) develop a 5-year business plan pursuant to section 1659(c)(1)(E) of the Act; and

(2) submit the plan to the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(b) FEASIBILITY STUDY AND REPORT.—

(1) STUDY.—The Secretary of Agriculture shall conduct a study of, and prepare a report on, the continued feasibility of the Alternative Agricultural Research and Commercialization Corporation. In conducting the study, the Secretary shall examine options for privatizing the Corporation and converting the Corporation to a Government-sponsored enterprise.

(2) REPORT.—Not later than December 31, 2001, the Secretary shall transmit the report required by paragraph (1) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subtitle B—Amendments to the Consolidated Farm and Rural Development Act

CHAPTER 1—GENERAL PROVISIONS

SEC. 741. WATER AND WASTE FACILITY LOANS AND GRANTS.

(a) IN GENERAL.—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended—

(1) in the first sentence of paragraph (2), by striking "$500,000,000" and inserting "$590,000,000";

(2) by striking paragraph (7) and inserting the following:

"(7) DEFINITION OF RURAL AND RURAL AREAS.—For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1) and (2), the terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.";

(3) by striking paragraphs (9), (10), and (11) and inserting the following:

"(9) CONFORMITY WITH STATE DRINKING WATER STANDARDS.—No Federal funds shall be made available under this section for a water system unless the Secretary determines that the water system will make significant progress toward meeting the standards established under title XIV of the Public Health Service Act (commonly known as the 'Safe Drinking Water Act') (42 U.S.C. 300f et seq.).

"(10) CONFORMITY WITH FEDERAL AND STATE WATER POLLUTION CONTROL STANDARDS.—No Federal funds shall be made available under this section for a water treatment discharge or waste disposal system unless the Secretary determines that the effluent from the system conforms with applicable Federal and State water pollution control standards.

"(11) RURAL BUSINESS OPPORTUNITY GRANTS.—

"(A) IN GENERAL.—The Secretary may make grants, not to exceed $1,500,000 annually, to public bodies, private nonprofit community development corporations or entities, or such other agencies as the Secretary may select to enable the recipients—

"(i) to identify and analyze business opportunities, including opportunities in export markets, that will use local rural economic and human resources;

"(ii) to identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers;

"(iii) to establish business support centers and otherwise assist in the creation of new rural businesses, the development of methods of financing local businesses, and the enhancement of the capacity of local individuals and entities to engage in sound economic activities;

"(iv) to conduct regional, community, and local economic development planning and coordination, and leadership development; and

"(v) to establish centers for training, technology, and trade that will provide training to rural businesses in the utilization of interactive communications technologies to develop international trade opportunities and markets.

"(B) CRITERIA.—In awarding the grants, the Secretary shall consider, among other criteria to be established by the Secretary—

"(i) the extent to which the applicant provides development services in the rural service area of the applicant; and

"(ii) the capability of the applicant to accomplish the activities described in the relevant clauses of subparagraph (A).

"(C) COORDINATION.—The Secretary shall ensure, to the maximum extent practicable, that assistance provided under this paragraph is coordinated with and delivered in cooperation with similar services or assistance provided to rural residents by the Cooperative State Research, Education, and Extension Service or other Federal agencies.

"(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $7,500,000 for each of fiscal years 1996 through 2002.";

(4) by striking paragraphs (14) and (15);

(5) by redesignating paragraphs (16) through (20) as paragraphs (14) through (18), respectively; and

(6) in paragraph (14) (as so redesignated)—

(A) by striking "(14)(A) The" and inserting the following:

"(14) RURAL WATER AND WASTEWATER TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.—

"(A) IN GENERAL.—The";

(B) in subparagraph (A)—

(i) by striking "(i) identify" and inserting the following:

"(i) identify";

(ii) by striking "(ii) prepare" and inserting the following:

"(ii) prepare"; and

(iii) by striking "(iii) improve" and inserting the following:

"(iii) improve";

(C) in subparagraph (B), by striking "(B) In" and inserting the following:

"(B) SELECTION PRIORITY.—In"; and

(D) in subparagraph (C)—

(i) by striking "(C) Not" and inserting the following:

"(C) FUNDING.—Not"; and

(ii) by striking "2 per centum of any funds provided in Appropriations Acts" and inserting "3 percent of any funds appropriated".

(b) CONFORMING AMENDMENT.—The second sentence of section 309A(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(a)) (as amended by section 661(c)(1)) is amended by striking ", 306(a)(14),".

SEC. 742. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM FOR SMALL COMMUNITIES.

Section 306A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926a) is amended—

(1) in subsection (e)—

(A) in paragraph (1)(A), by striking "15,000" and inserting "10,000"; and

(B) in paragraph (2), by striking "5,000" and inserting "3,000"; and

(2) by striking subsection (i) and inserting the following:

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $35,000,000 for each of fiscal years 1996 through 2002.".

SEC. 743. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM FOR SMALLEST COMMUNITIES.

Section 306B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926b) is repealed.

SEC. 744. AGRICULTURAL CREDIT INSURANCE FUND.

Section 309(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(f)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

SEC. 745. RURAL DEVELOPMENT INSURANCE FUND.

Section 309A(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(g)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively.

SEC. 746. INSURED WATERSHED AND RESOURCE CONSERVATION AND DEVELOPMENT LOANS.

Section 310A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1931) is repealed.

SEC. 747. RURAL INDUSTRIALIZATION ASSISTANCE.

(a) IN GENERAL.—Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "and" at the end of clause (2); and

(B) by inserting before the period the following: ", and (4) to facilitate economic opportunity for industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade";

(2) in subsection (b), by striking "(b)(1)" and all that follows through "(2) The" and inserting the following:

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"(b) SOLID WASTE MANAGEMENT GRANTS.—The";

(3) in subsection (c)—

(A) by striking "(c)(1) The" and inserting the following:

"(c) RURAL BUSINESS ENTERPRISE GRANTS.—

"(1) IN GENERAL.—The";

(B) in paragraph (1), by inserting "(including nonprofit entities)" after "private business enterprises";

(C) in paragraph (2)—

(i) by striking "(2) The" and inserting the following:

"(2) PASSENGER TRANSPORTATION SERVICES OR FACILITIES.—The"; and

(ii) by striking "make grants" and inserting "award grants on a competitive basis"; and

(D) by adding at the end the following:

"(3) GRANTS TO AID INDUSTRIES IN ADJUSTING TO TERMINATED FEDERAL AGRICULTURAL PROGRAMS OR INCREASED FOREIGN COMPETITION.—The Secretary may make grants under this section to facilitate economic opportunity for industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade.";

(4) by striking subsection (e) and inserting the following:

"(e) RURAL COOPERATIVE DEVELOPMENT GRANTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) NONPROFIT INSTITUTION.—The term 'nonprofit institution' means any organization or institution, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(B) UNITED STATES.—The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the other territories and possessions of the United States.

"(2) GRANTS.—The Secretary shall make grants under this subsection to nonprofit institutions for the purpose of enabling the institutions to establish and operate centers for rural cooperative development.

"(3) GOALS.—The goals of a center funded under this subsection shall be to facilitate the creation of jobs in rural areas through the development of new rural cooperatives, value added processing, and rural businesses.

"(4) APPLICATION.—Any nonprofit institution seeking a grant under paragraph (2) shall submit to the Secretary an application containing a plan for the establishment and operation by the institution of a center or centers for cooperative development. The Secretary may approve the application if the plan contains the following:

"(A) A provision that substantiates that the center will effectively serve rural areas in the United States.

"(B) A provision that the primary objective of the center will be to improve the economic condition of rural areas through cooperative development.

"(C) A description of the activities that the center will carry out to accomplish the objective. The activities may include the following:

"(i) Programs for applied research and feasibility studies that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(ii) Programs for the collection, interpretation, and dissemination of information that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(iii) Programs providing training and instruction for individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(iv) Programs providing loans and grants to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(v) Programs providing technical assistance, research services, and advisory services to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(vi) Programs providing for the coordination of services and sharing of information among the center.

"(D) A description of the contributions that the activities are likely to make to the improvement of the economic conditions of the rural areas for which the center will provide services.

"(E) Provisions that the center, in carrying out the activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.

"(F) Provisions that the center will take all practicable steps to develop continuing sources of financial support for the center, particularly from sources in the private sector.

"(G) Provisions for—

"(i) monitoring and evaluating the activities by the nonprofit institution operating the center; and

"(ii) accounting for money received by the institution under this section.

"(5) AWARDING GRANTS.—Grants made under paragraph (2) shall be made on a competitive basis. In making grants under paragraph (2), the Secretary shall give preference to grant applications providing for the establishment of centers for rural cooperative development that—

"(A) demonstrate a proven track record in administering a nationally coordinated, regionally or State-wide operated project;

"(B) demonstrate previous expertise in providing technical assistance in rural areas;

"(C) demonstrate the ability to assist in the retention of businesses, facilitate the establishment of cooperatives and new cooperative approaches, and generate employment opportunities that will improve the economic conditions of rural areas;

"(D) demonstrate the ability to create horizontal linkages among businesses within and among various sectors in rural areas of the United States and vertical linkages to domestic and international markets;

"(E) commit to providing technical assistance and other services to underserved and economically distressed areas in rural areas of the United States; and

"(F) commit to providing greater than a 25 percent matching contribution with private funds and in-kind contributions.

"(6) 1-YEAR GRANTS; AUTHORITY TO APPROVE GRANT FOR 1 ADDITIONAL YEAR WITHOUT APPLICATION.—The Secretary shall make grants under this subsection for a period of 1 year. The Secretary shall evaluate programs receiving assistance under this subsection. If the Secretary determines it to be in the best interest of the program, the Secretary may award an additional grant to the program for the immediately succeeding year without application for the grant.

"(7) TECHNICAL ASSISTANCE TO PREVENT EXCESSIVE UNEMPLOYMENT OR UNDEREMPLOYMENT.—In carrying out this subsection, the Secretary may provide technical assistance to alleviate or prevent conditions of excessive unemployment, underemployment, outmigration, or low employment growth in economically distressed rural areas that the Secretary determines have a substantial need for the assistance. The assistance may include planning and feasibility studies, management and operational assistance, and studies evaluating the need for development potential of projects that increase employment and improve economic growth in the areas.

"(8) GRANTS TO DEFRAY ADMINISTRATIVE COSTS.—The Secretary may make grants to defray not to exceed 75 percent of the costs incurred by organizations and public bodies to carry out projects for which grants or loans are made under this subsection. For purposes of determining the non-Federal share of the costs, the Secretary shall consider contributions in cash and in kind, fairly evaluated, including premises, equipment, and services.

"(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $50,000,000 for each of fiscal years 1996 through 2002.";

(5) by striking subsections (f), (g), (h), and (i);

(6) by redesignating subsection (j) as subsection (f); and

(7) by adding at the end the following:

"(g) LOAN GUARANTEES FOR THE PURCHASE OF COOPERATIVE STOCK.—

"(1) DEFINITION OF FARMER.—In this subsection, the term 'farmer' means any farmer that the Secretary determines is a family farmer.

"(2) LOAN GUARANTEES.—The Secretary may guarantee loans under this section to individual farmers for the purpose of purchasing start-up capital stock of a farmer cooperative established for the purpose of processing an agricultural commodity.

"(3) ELIGIBILITY.—To be eligible for a loan guarantee under this subsection, a farmer must produce the agricultural commodity that will be processed by the cooperative.".

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(6)(B)) (as redesignated by section 661(a)(2)) is amended by striking "subsections (d) and (e) of section 310B" and inserting "section 310B(d)".

(2) Section 232(c)(2) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6942(c)(2)) is amended—

(A) by striking "310B(b)(2)" and inserting "310B(b)"; and

(B) by striking "1932(b)(2)" and inserting "1932(b)".

(3) Section 233(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6943(b)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

SEC. 748. ADMINISTRATION.

Section 331(b)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)(4)) is amended—

(1) by inserting after "claims" the following: "(including debts and claims arising from loan guarantees)";

(2) by striking "Farmers Home Administration or" and inserting "Consolidated Farm Service Agency, Rural Utilities Service, Rural Housing Service, Rural Business-Cooperative Service, or a successor agency, or"; and

(3) by inserting after "activities under the Housing Act of 1949." the following: "In the case of a security instrument entered into under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), the Secretary shall notify the Attorney General of the intent of the Secretary to exercise the authority of the Secretary under this paragraph.".

SEC. 749. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 338 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988) is amended—

(1) by striking subsections (b), (c), (d), and (e); and

(2) by redesignating subsection (f) as subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of section 309(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(g)(1)) is amended by inserting after "section 338(c)" the following: "(before the amendment made by section 749(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996)".

(2) Section 343(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(b)) is amended by striking "338(f)," and inserting "338(b),".

SEC. 750. TESTIMONY BEFORE CONGRESSIONAL COMMITTEES.

Section 345 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1993) is repealed.

SEC. 751. PROHIBITION ON USE OF LOANS FOR CERTAIN PURPOSES.

Section 363 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006e) is amended by adding at the end the following: "This section shall not apply to a loan made or guaranteed under this title for a utility line.".

SEC. 752. RURAL DEVELOPMENT CERTIFIED LENDERS PROGRAM.

The Consolidated Farm and Rural Development Act is amended by inserting after section 363 (7 U.S.C. 2006e) the following:

"SEC. 364. RURAL DEVELOPMENT CERTIFIED LENDERS PROGRAM.

"(a) CERTIFIED LENDERS PROGRAM.—

"(1) IN GENERAL.—The Secretary may establish a program under which the Secretary may guarantee a loan for any rural development program that is made by a lender certified by the Secretary.

"(2) CERTIFICATION REQUIREMENTS.—The Secretary may certify a lender if the lender meets such criteria as the Secretary may prescribe in regulations, including the ability of the lender to properly make, service, and liquidate the guaranteed loans of the lender.

"(3) CONDITION OF CERTIFICATION.—As a condition of certification, the Secretary may require the lender to undertake to service the guaranteed loan using standards that are not less stringent than generally accepted banking standards concerning loan servicing that are used by prudent commercial or cooperative lenders.

"(4) GUARANTEE.—Notwithstanding any other provision of law, the Secretary may guarantee not more than 80 percent of a loan made by a certified lender described in paragraph (1), if the borrower of the loan meets the eligibility requirements and such other criteria for the loan guarantee that are established by the Secretary.

"(5) CERTIFICATIONS.—With respect to loans to be guaranteed, the Secretary may permit a certified lender to make appropriate certifications (as provided in regulations issued by the Secretary)—

"(A) relating to issues such as creditworthiness, repayment ability, adequacy of collateral, and feasibility of the operation; and

"(B) that the borrower is in compliance with all requirements of law, including regulations issued by the Secretary.

"(6) RELATIONSHIP TO OTHER REQUIREMENTS.—This subsection shall not affect the responsibility of the Secretary to determine eligibility, review financial information, and otherwise assess an application.

"(b) PREFERRED CERTIFIED LENDERS PROGRAM.—

"(1) IN GENERAL.—The Secretary may establish a preferred certified lenders program for lenders who establish their—

"(A) knowledge of, and experience under, the program established under subsection (a);

"(B) knowledge of the regulations concerning the particular guaranteed loan program; and

"(C) proficiency related to the certified lender program requirements.

"(2) ADDITIONAL LENDING INSTITUTIONS.—The Secretary may certify any lending institution as a preferred certified lender if the institution meets such additional criteria as the Secretary may prescribe by regulation.

"(3) REVOCATION OF DESIGNATION.—The designation of a lender as a preferred certified lender shall be revoked if the Secretary determines that the lender is not adhering to the rules and regulations applicable to the program or if the loss experiences of the preferred certified lender are greater than other preferred certified lenders, except that the suspension or revocation shall not affect any outstanding guarantee.

"(4) CONDITION OF CERTIFICATION.—As a condition of the preferred certification, the Secretary shall require the lender to undertake to service the loan guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each preferred certified lender to ensure that the conditions of the certification are being met.

"(5) EFFECT OF PREFERRED LENDER CERTIFICATION.—Notwithstanding any other provision of law, the Secretary may—

"(A) guarantee not more than 80 percent of any approved loan made by a preferred certified lender as described in this subsection, if the borrower meets the eligibility requirements and such other criteria as may be applicable to loans guaranteed by the Secretary; and

"(B) permit preferred certified lenders to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection relating to creditworthiness, the closing, monitoring, collection, and liquidation of loans, and to accept appropriate certifications, as provided in regulations issued by the Secretary, that the borrower is in compliance with all requirements of law and regulations issued by the Secretary.".

SEC. 752. SYSTEM FOR DELIVERY OF CERTAIN RURAL DEVELOPMENT PROGRAMS.

(a) IN GENERAL.—Section 365 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 2375 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6613) is amended—

(A) in subsection (e), by striking ", as defined in section 365(b)(2) of the Consolidated Farm and Rural Development Act,"; and

(B) by adding at the end the following:

"(g) DEFINITION OF DESIGNATED RURAL DEVELOPMENT PROGRAM.—In this section, the term 'designated rural development program' means a program carried out under section 304(b), 306(a), or 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926(a), and 1932(e)) for which funds are available at any time during the fiscal year.".

(2) Paragraph (2) of section 233(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6943(b)) (as redesignated by section 747(b)(3)(B)) is amended by striking "sections 365 through 369 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008–2008d)" and inserting "section 369 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008d)".

SEC. 754. STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.

Section 366 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008a) is repealed.

SEC. 755. LIMITED TRANSFER AUTHORITY OF LOAN AMOUNTS.

Section 367 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008b) is repealed.

SEC. 756. ALLOCATION AND TRANSFER OF LOAN GUARANTEE AUTHORITY.

Section 368 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008c) is repealed.

SEC. 757. WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.

The Consolidated Farm and Rural Development Act is amended by inserting after section 306C (7 U.S.C. 1926c) the following:

"SEC. 306D. WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.

"(a) IN GENERAL.—The Secretary may make grants to the State of Alaska for the benefit of rural or Native villages in Alaska to provide for the development and construction of water and wastewater systems to improve the health and sanitation conditions in those villages.

"(b) MATCHING FUNDS.—To be eligible to receive a grant under subsection (a), the State of Alaska shall provide equal matching funds from non-Federal sources.

"(c) CONSULTATION WITH THE STATE OF ALASKA.—The Secretary shall consult with the State of Alaska on a method of prioritizing the allocation of grants under subsection (a) according to the needs of, and relative health and sanitation conditions in, each village.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 1996 through 2002.".

SEC. 758. APPLICATION REQUIREMENTS RELATING TO WATER AND WASTE DISPOSAL LOAN AND GRANT PROGRAMS.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 926(a)) is amended by inserting after paragraph (4) the following:

"(5) APPLICATION REQUIREMENTS.—Not earlier than 60 days before a preliminary application is filed for a loan under paragraph (1) or a grant under paragraph (2) for a water or waste disposal purpose, a notice of the intent of the applicant to apply for the loan or grant shall be published in a general circulation newspaper. The selection of engineers for a project design shall be done by a request for proposals by the applicant.".

SEC. 759. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.

The Consolidated Farm and Rural Development Act (as amended by section 649) is amended by adding at the end the following:

"SEC. 375. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.

"(a) DEFINITIONS.—In this section:

"(1) BOARD.—The term 'Board' means the Board of Directors established under subsection (f).

"(2) CENTER.—The term 'Center' means the National Sheep Industry Improvement Center established under subsection (b).

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that promotes the betterment of the United States sheep or goat industries and that is—

"(A) a public, private, or cooperative organization;

"(B) an association, including a corporation not operated for profit;

"(C) a federally recognized Indian Tribe; or

"(D) a public or quasi-public agency.

"(4) FUND.—The term 'Fund' means the National Sheep Industry Improvement Center Revolving Fund established under subsection (e).

"(b) ESTABLISHMENT OF CENTER.—The Secretary shall establish a National Sheep Industry Improvement Center.

"(c) PURPOSES.—The purposes of the Center shall be to—

"(1) promote strategic development activities and collaborative efforts by private and State

VOL 142 PT 5 MR 21 — 29 1996 UMI

entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States;

"(2) optimize the use of available human capital and resources within the sheep or goat industries;

"(3) provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research;

"(4) advance activities that empower and build the capacity of the United States sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and

"(5) adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

"(d) STRATEGIC PLAN.—

"(1) IN GENERAL.—The Center shall submit to the Secretary an annual strategic plan for the delivery of financial assistance provided by the Center.

"(2) REQUIREMENTS.—A strategic plan shall identify—

"(A) goals, methods, and a benchmark for measuring the success of carrying out the plan and how the plan relates to the national and regional goals of the Center;

"(B) the amount and sources of Federal and non-Federal funds that are available for carrying out the plan;

"(C) funding priorities;

"(D) selection criteria for funding; and

"(E) a method of distributing funding.

"(e) REVOLVING FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury the National Sheep Industry Improvement Center Revolving Fund. The Fund shall be available to the Center, without fiscal year limitation, to carry out the authorized programs and activities of the Center under this section.

"(2) CONTENTS OF FUND.—There shall be deposited in the Fund—

"(A) such amounts as may be appropriated, transferred, or otherwise made available to support programs and activities of the Center;

"(B) payments received from any source for products, services, or property furnished in connection with the activities of the Center;

"(C) fees and royalties collected by the Center from licensing or other arrangements relating to commercialization of products developed through projects funded, in whole or part, by grants, contracts, or cooperative agreements executed by the Center;

"(D) proceeds from the sale of assets, loans, and equity interests made in furtherance of the purposes of the Center;

"(E) donations or contributions accepted by the Center to support authorized programs and activities; and

"(F) any other funds acquired by the Center.

"(3) USE OF FUND.—

"(A) IN GENERAL.—The Center may use amounts in the Fund to make grants and loans to eligible entities in accordance with a strategic plan submitted under subsection (d).

"(B) CONTINUED EXISTENCE.—The Center shall manage the Fund in a manner that ensures that sufficient amounts are available in the Fund to carry out subsection (c).

"(C) DIVERSE AREA.—The Center shall, to the maximum extent practicable, use the Fund to serve broad geographic areas and regions of diverse production.

"(D) VARIETY OF LOANS AND GRANTS.—The Center shall, to the maximum extent practicable, use the Fund to provide a variety of grants and intermediate- and long-term loans.

"(E) ADMINISTRATION.—The Center may not use more than 3 percent of the amounts in the Fund for a fiscal year for the administration of the Center.

"(F) INFLUENCING LEGISLATION.—None of the amounts in the Fund may be used to influence legislation.

"(G) ACCOUNTING.—To be eligible to receive amounts from the Fund, an entity must agree to account for the amounts using generally accepted accounting principles.

"(H) USES OF FUND.—The Center may use amounts in the Fund to—

"(i) participate with Federal and State agencies in financing activities that are in accordance with a strategic plan submitted under subsection (d), including participation with several States in a regional effort;

"(ii) participate with other public and private funding sources in financing activities that are in accordance with the strategic plan, including participation in a regional effort;

"(iii) provide security for, or make principal or interest payments on, revenue or general obligation bonds issued by a State, if the proceeds from the sale of the bonds are deposited in the Fund;

"(iv) accrue interest;

"(v) guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates for a project that is in accordance with the strategic plan; or

"(vi) sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Center.

"(4) LOANS.—

"(A) RATE.—A loan from the Fund may be made at an interest rate that is below the market rate or may be interest free.

"(B) TERM.—The term of a loan may not exceed the shorter of—

"(i) the useful life of the activity financed; or

"(ii) 40 years.

"(C) SOURCE OF REPAYMENT.—The Center may not make a loan from the Fund unless the recipient establishes an assured source of repayment.

"(D) PROCEEDS.—All payments of principal and interest on a loan made from the Fund shall be deposited into the Fund.

"(5) MAINTENANCE OF EFFORT.—The Center shall use the Fund only to supplement and not to supplant Federal, State, and private funds expended for rural development.

"(6) FUNDING.—

"(A) DEPOSIT OF FUNDS.—All Federal and non-Federal amounts received by the Center to carry out this section shall be deposited in the Fund.

"(B) MANDATORY FUNDS.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Center not to exceed $20,000,000 to carry out this section.

"(C) ADDITIONAL FUNDS.—In addition to any funds provided under subparagraph (B), there is authorized to be appropriated $30,000,000 to carry out this section.

"(D) PRIVATIZATION.—No additional Federal funds shall be used to carry out this section beginning on the earlier of—

"(i) the date that is 10 years after the date of enactment of this section; or

"(ii) the day after a total of $50,000,000 has been made available under subparagraphs (B) and (C) to carry out this section.

"(f) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—The management of the Center shall be vested in a Board of Directors.

"(2) POWERS.—The Board shall—

"(A) be responsible for the general supervision of the Center;

"(B) review any grant, loan, contract, or cooperative agreement to be made or entered into by the Center and any financial assistance provided to the Center;

"(C) make the final decision, by majority vote, on whether and how to provide assistance to an applicant; and

"(D) develop and establish a budget plan and a long-term operating plan to carry out the goals of the Center.

"(3) COMPOSITION.—The Board shall be composed of—

"(A) 7 voting members, of whom—

"(i) 4 members shall be active producers of sheep or goats in the United States;

"(ii) 2 members shall have expertise in finance and management; and

"(iii) 1 member shall have expertise in lamb, wool, goat, or goat product marketing; and

"(B) 2 nonvoting members, of whom—

"(i) 1 member shall be the Under Secretary of Agriculture for Rural Development; and

"(ii) 1 member shall be the Under Secretary of Agriculture for Research, Education, and Economics.

"(4) NOMINATION.—

"(A) NOMINATING BODY.—The Secretary shall appoint the voting members of the Board from nominations submitted by organizations described in subparagraph (B).

"(B) NATIONAL ORGANIZATIONS.—A national organization is described in this subparagraph if the organization—

"(i) consists primarily of active sheep or goat producers in the United States; and

"(ii) has as the primary interest of the organization the production of sheep or goats in the United States.

"(5) TERM OF OFFICE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term of office of a voting member of the Board shall be 3 years.

"(B) STAGGERED INITIAL TERMS.—The initial voting members of the Board (other than the chairperson of the initially established Board) shall serve for staggered terms of 1, 2, and 3 years, as determined by the Secretary.

"(C) REELECTION.—A voting member may be reelected for not more than 1 additional term.

"(6) VACANCY.—

"(A) IN GENERAL.—A vacancy on the Board shall be filled in the same manner as the original Board.

"(B) REELECTION.—A member elected to fill a vacancy for an unexpired term may be reelected for 1 full term.

"(7) CHAIRPERSON.—

"(A) IN GENERAL.—The Board shall select a chairperson from among the voting members of the Board.

"(B) TERM.—The term of office of the chairperson shall be 2 years.

"(8) ANNUAL MEETING.—

"(A) IN GENERAL.—The Board shall meet not less than once each fiscal year at the call of the chairperson or at the request of the executive director appointed under subsection (g)(1).

"(B) LOCATION.—The location of a meeting of the Board shall be established by the Board.

"(9) VOTING.—

"(A) QUORUM.—A quorum of the Board shall consist of a majority of the voting members.

"(B) MAJORITY VOTE.—A decision of the Board shall be made by a majority of the voting members of the Board.

"(10) CONFLICTS OF INTEREST.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), a member of the Board shall not vote on any matter respecting any application, contract, claim, or other particular matter pending before the Board in which, to the knowledge of the member, an interest is held by—

"(i) the member;

"(ii) any spouse of the member;

"(iii) any child of the member;

"(iv) any partner of the member;

"(v) any organization in which the member is serving as an officer, director, trustee, partner, or employee; or

"(vi) any person with whom the member is negotiating or has any arrangement concerning prospective employment or with whom the member has a financial interest.

"(B) REMOVAL.—Any action by a member of the Board that violates subparagraph (A) shall be cause for removal from the Board.

"(C) VALIDITY OF ACTION.—An action by a member of the Board that violates subparagraph (A) shall not impair or otherwise affect the validity of any otherwise lawful action by the Board.

"(D) DISCLOSURE.—

"(i) IN GENERAL.—If a member of the Board makes a full disclosure of an interest and, prior to any participation by the member, the Board determines, by majority vote, that the interest is too remote or too inconsequential to affect the integrity of any participation by the member, the member may participate in the matter relating to the interest, except as provided in subparagraph (E)(iii).

"(ii) VOTE.—A member that discloses an interest under clause (i) shall not vote on a determination of whether the member may participate in the matter relating to the interest.

"(E) REMANDS.—

"(i) IN GENERAL.—The Secretary may vacate and remand to the Board for reconsideration any decision made pursuant to subsection (e)(3)(H) if the Secretary determines that there has been a violation of this paragraph or any conflict of interest provision of the bylaws of the Board with respect to the decision.

"(ii) REASONS.—In the case of any violation and remand of a funding decision to the Board under clause (i), the Secretary shall inform the Board of the reasons for the remand.

"(iii) CONFLICTED MEMBERS NOT TO VOTE ON REMANDED DECISIONS.—If a decision with respect to a matter is remanded to the Board by reason of a conflict of interest faced by a Board member, the member may not participate in any subsequent decision with respect to the matter.

"(11) COMPENSATION.—

"(A) IN GENERAL.—A member of the Board shall not receive any compensation by reason of service on the Board.

"(B) EXPENSES.—A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of a duty of the member.

"(12) BYLAWS.—The Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Center.

"(13) PUBLIC HEARINGS.—Not later than 1 year after the date of enactment of this section, the Board shall hold public hearings on policy objectives of the program established under this section.

"(14) ORGANIZATIONAL SYSTEM.—The Board shall provide a system of organization to fix responsibility and promote efficiency in carrying out the functions of the Board.

"(15) USE OF DEPARTMENT OF AGRICULTURE.—The Board may, with the consent of the Secretary, utilize the facilities of and the services of employees of the Department of Agriculture, without cost to the Center.

"(g) OFFICERS AND EMPLOYEES.—

"(1) EXECUTIVE DIRECTOR.—

"(A) IN GENERAL.—The Board shall appoint an executive director to be the chief executive officer of the Center.

"(B) TENURE.—The executive director shall serve at the pleasure of the Board.

"(C) COMPENSATION.—Compensation for the executive director shall be established by the Board.

"(2) OTHER OFFICERS AND EMPLOYEES.—The Board may select and appoint officers, attorneys, employees, and agents who shall be vested with such powers and duties as the Board may determine.

"(3) DELEGATION.—The Board may, by resolution, delegate to the chairperson, the executive director, or any other officer or employee any function, power, or duty of the Board other than voting on a grant, loan, contract, agreement, budget, or annual strategic plan.

"(h) CONSULTATION.—To carry out this section, the Board may consult with—

"(1) State departments of agriculture;

"(2) Federal departments and agencies;

"(3) nonprofit development corporations;

"(4) colleges and universities;

"(5) banking and other credit-related agencies;

"(6) agriculture and agribusiness organizations; and

"(7) regional planning and development organizations.

"(i) OVERSIGHT.—

"(1) IN GENERAL.—The Secretary shall review and monitor compliance by the Board and the Center with this section.

"(2) SANCTIONS.—If, following notice and opportunity for a hearing, the Secretary finds that the Board or the Center is not in compliance with this section, the Secretary may—

"(A) cease making deposits to the Fund;

"(B) suspend the authority of the Center to withdraw funds from the Fund; or

"(C) impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this Act and disqualification from receipt of financial assistance under this section.

"(3) RESCISSION OF SANCTIONS.—The Secretary shall rescind sanctions imposed under paragraph (2) on a finding by the Secretary that there is no longer any failure by the Board or the Center to comply with this section or that the noncompliance will be promptly corrected.".

SEC. 759A. COOPERATIVE AGREEMENTS.

Section 607(b) of the Rural Development Act of 1972 (7 U.S.C. 2204b(b)) is amended by striking paragraph (4) and inserting the following:

"(4) COOPERATIVE AGREEMENTS.—

"(A) IN GENERAL.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into cooperative agreements with other Federal agencies, State and local governments, and any other organization or individual to improve the coordination and effectiveness of Federal programs, services, and actions affecting rural areas, including the establishment and financing of interagency groups, if the Secretary determines that the objectives of the agreement will serve the mutual interest of the parties in rural development activities.

"(B) COOPERATORS.—Each cooperator, including each Federal agency, to the extent that funds are otherwise available, may participate in any cooperative agreement or working group established pursuant to this paragraph by contributing funds or other resources to the Secretary to carry out the agreement or functions of the group.".

SEC. 759B. ELIGIBILITY FOR GRANTS TO BROADCASTING SYSTEMS.

Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)) (as redesignated by section 747(a)(6))) is amended by striking "SYSTEMS.—The" and inserting "SYSTEMS.—

"(1) DEFINITION OF STATEWIDE.—In this subsection, the term 'statewide' means having a coverage area of not less than 90 percent of the population of a State and not less than 80 percent of the rural land area of the State (as determined by the Secretary).

"(2) GRANTS.—The".

CHAPTER 2—RURAL COMMUNITY ADVANCEMENT PROGRAM

SEC. 761. RURAL COMMUNITY ADVANCEMENT PROGRAM.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

"Subtitle E—Rural Community Advancement Program

"SEC. 381A. DEFINITIONS.

"In this subtitle:

"(1) RURAL AND RURAL AREA.—The terms 'rural' and 'rural area' mean, subject to section 306(a)(7), a city, town, or unincorporated area that has a population of 50,000 inhabitants or less, other than an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population in excess of 50,000 inhabitants.

"(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Federated States of Micronesia.

"(3) STATE DIRECTOR.—The term 'State director' means, with respect to a State, the Director of the Rural Economic and Community Development State Office.

"SEC. 381B. ESTABLISHMENT.

"The Secretary shall establish a rural community advancement program to provide grants, loans, loan guarantees, and other assistance to meet the rural development needs of local communities in States and federally recognized Indian tribes.

"SEC. 381C. NATIONAL OBJECTIVES.

"The national objectives of the program established under this subtitle shall be to—

"(1) promote strategic development activities and collaborative efforts by State and local communities, and federally recognized Indian tribes, to maximize the impact of Federal assistance;

"(2) optimize the use of resources;

"(3) provide assistance in a manner that reflects the complexity of rural needs, including the needs for business development, health care, education, infrastructure, cultural resources, the environment, and housing;

"(4) advance activities that empower, and build the capacity of, State and local communities to design unique responses to the special needs of the State and local communities, and federally recognized Indian tribes, for rural development assistance; and

"(5) adopt flexible and innovative approaches to solving rural development problems.

"SEC. 381D. STRATEGIC PLANS.

"(a) IN GENERAL.—The Secretary shall direct each of the Directors of Rural Economic and Community Development State Offices to prepare a strategic plan—

"(1) for each State for the delivery of assistance under this subtitle in the State; and

"(2) for each federally recognized Indian tribe for the delivery of assistance under this subtitle to the Indian tribe.

"(b) ASSISTANCE.—

"(1) IN GENERAL.—Financial assistance for rural development provided under this subtitle for a State or a federally recognized Indian tribe shall be used only for orderly community development that is consistent with the strategic plan of the State or Indian tribe.

"(2) RURAL AREA.—Assistance under this subtitle may only be provided in a rural area.

"(3) SMALL COMMUNITIES.—In carrying out this subtitle in a State, the Secretary shall give priority to communities with the smallest populations and lowest per capita income.

"(c) REVIEW.—The Secretary shall review the strategic plan of each State and federally recognized Indian tribe not later than 60 days after receiving the plan, and at least once every 5 years thereafter.

"(d) CONTENTS.—A strategic plan of a State or federally recognized Indian tribe under this section shall be a plan that—

"(1) coordinates economic, human, and community development plans and related activities proposed for an affected area;

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(2) provides that the State or federally recognized Indian tribe, as appropriate, and an affected community (including local institutions and organizations that have contributed to the planning process) shall act as full partners in the process of developing and implementing the plan;

"(3) identifies goals, methods, and benchmarks for measuring the success of carrying out the plan and how the plan relates to local or regional ecosystems;

"(4) in the case of a State, provides for the involvement, in the preparation of the plan, of State, local, private, and public persons, State rural development councils, federally recognized Indian tribes in the State, and community-based organizations;

"(5) identifies the amount and source of Federal and non-Federal resources that are available for carrying out the plan; and

"(6) includes such other information as may be required by the Secretary.

"SEC. 381E. RURAL DEVELOPMENT TRUST FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund which shall be known as the Rural Development Trust Fund (in this subtitle referred to as the 'Trust Fund').

"(b) ACCOUNTS.—There are established in the Trust Fund the following accounts:

"(1) The rural community facilities account.

"(2) The rural utilities account.

"(3) The rural business and cooperative development account.

"(4) The national reserve account.

"(5) The federally recognized Indian tribe account.

"(c) DEPOSITS INTO ACCOUNTS.—Notwithstanding any other provision of law, each fiscal year—

"(1) all amounts made available to carry out the authorities described in subsection (d)(1) for the fiscal year shall be deposited into the rural community facilities account of the Trust Fund;

"(2) all amounts made available to carry out the authorities described in subsection (d)(2) for the fiscal year shall be deposited into the rural utilities account of the Trust Fund; and

"(3) all amounts made available to carry out the authorities described in subsection (d)(3) for the fiscal year shall be deposited into the rural business and cooperative development account of the Trust Fund.

"(d) FUNCTION CATEGORIES.—The function categories described in this subsection are the following:

"(1) RURAL COMMUNITY FACILITIES.—The rural community development category consists of all amounts made available for—

"(A) community facility direct and guaranteed loans under section 306(a)(1); or

"(B) community facility grants under section 306(a)(19).

"(2) RURAL UTILITIES.—The rural utilities category consists of all amounts made available for—

"(A) water or waste disposal grants or direct or guaranteed loans under paragraph (1) or (2) of section 306(a);

"(B) rural water or wastewater technical assistance and training grants under section 306(a)(14);

"(C) emergency community water assistance grants under section 306A; or

"(D) solid waste management grants under section 310B(b).

"(3) RURAL BUSINESS AND COOPERATIVE DEVELOPMENT.—The rural business and cooperative development category consists of all amounts made available for—

"(A) rural business opportunity grants under section 306(a)(11)(A);

"(B) business and industry guaranteed loans under section 310B(a)(1); or

"(C) rural business enterprise grants or rural educational network grants under section 310B(c).

"(e) NATIONAL RESERVE ACCOUNT.—

"(1) TRANSFERS INTO ACCOUNT.—

"(A) INITIAL TRANSFER.—Each fiscal year, the Secretary shall transfer to the national reserve account of the Trust Fund from each account specified in subsection (c) not more than the applicable percentage of the amount deposited in each such account for the fiscal year under subsection (c).

"(B) REPOOLING OF UNOBLIGATED FUNDS ALLOCATED AMONG THE STATES.—Not earlier than July 15 of each fiscal year, the Secretary shall transfer to the national reserve account from each account specified in subsection (c) any amount in the account that is allocated for any State, and has not been obligated by the State director or obligated for specific approved projects in the State.

"(2) USE.—The Secretary may use amounts in the national reserve account of the Trust Fund, pursuant to any authority described in subsection (d)—

"(A) in the case of a fiscal year other than fiscal year 2001 or 2002—

"(i) to meet situations of exceptional need;

"(ii) to meet emergency situations; or

"(iii) to provide funds to entities whose applications for funds provided under this subtitle have been approved and who have not received funds sufficient to meet the needs of the projects described in the applications; or

"(B) in the case of fiscal years 2001 and 2002—

"(i) to meet situations of exceptional need; or

"(ii) to meet emergency situations.

"(3) APPLICABLE PERCENTAGE DEFINED.—In paragraph (1), the term 'applicable percentage' means, with respect to a fiscal year—

"(A) 15 percent for fiscal year 1997;

"(B) 12.5 percent for fiscal year 1998;

"(C) 10 percent for fiscal year 1999;

"(D) 7.5 percent for fiscal year 2000;

"(E) 5 percent for fiscal year 2001; and

"(F) 5 percent for fiscal year 2002.

"(f) FEDERALLY RECOGNIZED INDIAN TRIBE ACCOUNT.—

"(1) TRANSFERS INTO ACCOUNT.—Each fiscal year, the Secretary shall transfer to the federally recognized Indian tribe account of the Trust Fund 3 percent of the amount deposited into the Trust Fund for the fiscal year under subsection (d).

"(2) USE OF FUNDS.—The Secretary shall make available to federally recognized Indian tribes the amounts in the federally recognized Indian tribe account for use pursuant to any authority described in subsection (d).

"(g) ALLOCATION AMONG STATES.—The Secretary shall allocate the amounts in each account specified in subsection (c) among the States in a fair, reasonable, and appropriate manner that takes into consideration rural population, levels of income, unemployment, and other relevant factors, as determined by the Secretary.

"(h) AVAILABILITY OF FUNDS ALLOCATED FOR STATES.—The Secretary shall make available to each State the total amount allocated for the State under subsection (g) of this section that remains after applying section 381G.

"SEC. 381F. TRANSFERS OF FUNDS.

"(a) GENERAL AUTHORITY.—Subject to subsection (b) of this section, the State Director of any State may, during any fiscal year, transfer from each account specified in section 381E(c) a total of not more than 25 percent of the amount in the account that is allocated for the State for the fiscal year to any other account in which amounts are allocated for the State for the fiscal year.

"(b) LIMITATION.—Except as provided in subsection (c) of this section, a transfer otherwise authorized by subsection (a) of this section to be made during a fiscal year may not be made to the extent that the sum of the amount to be transferred and all amounts so transferred by State directors under subsection (a) of this section during the fiscal year exceeds 10 percent of the total amount made available to carry out the authorities described in section 381E(d) for the fiscal year.

"(c) EXCEPTIONS.—Subsections (a) and (b) shall not apply to a transfer of funds by a State director if the State director certifies to the Secretary that—

"(1) there is an approved application for a project in the function category to which the funds are to be transferred but funds are not available for the project in the function category; and

"(2)(A) there is no such approved application in the function category from which the funds are to be transferred; or

"(B) the community that would benefit from the project has a smaller population and a lesser per capita income than any community that would benefit from a project in the function category from which the funds are to be transferred.

"SEC. 381G. GRANTS TO STATES.

"(a) SIMPLE GRANTS.—

"(1) MANDATORY GRANT.—The Secretary shall make a grant to any eligible State for any fiscal year for which the State requests a grant under this section in an amount equal to 5 percent of the total amount allocated for the State under section 381E(g)

"(2) PERMISSIVE GRANT.—Before July 15 of each fiscal year, the Secretary may make a grant to any State to defray the cost of any subsidy associated with a guarantee provided by an eligible public entity of the State under section 381H in an amount that does not exceed 5 percent of the total amount allocated for the State under section 381E(g).

"(3) SOURCE OF FUNDS.—The Secretary shall make grants to a State under paragraphs (1) and (2) from amounts allocated for the State in the accounts specified in section 381E(c), by reducing each such allocated amount by the same percentage.

"(b) MATCHING GRANTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make a grant to any eligible State for any fiscal year for which the State requests a grant under this section in an amount equal to 5 percent of the amount allocated for the State for the fiscal year under section 381E(h).

"(2) ELIGIBILITY.—A State shall be eligible for a grant under paragraph (1) if the State makes commitments to the Secretary to—

"(A) expend from non-Federal sources in accordance with subsection (c) an amount that is not less than 200 percent of the amount of the grant; and

"(B) maintain the amounts paid to the State under this subsection and the amount referred to in subparagraph (A) in an account separate from all other State funds until expended in accordance with subsection (c).

"(3) SOURCE OF FUNDS.—If the Secretary makes a grant under paragraph (1) before July 15 of the fiscal year, the grant shall be made from amounts allocated for the State in the accounts specified in section 381E(c) for the fiscal year, by reducing each allocated amount by the same percentage.

"(c) USE OF FUNDS.—A State to which funds are provided under this section shall use the funds in rural areas for any activity authorized under the authorities described in section 381E(d) in accordance with the State strategic plan referred to in section 381D.

"(d) MAINTENANCE OF EFFORT.—The State shall provide assurances to the Secretary that funds provided to the State under this section will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for rural development assistance in the State.

"(e) APPEALS.—The Secretary shall provide to a State an opportunity to appeal any action taken with respect to the State under this section.

"(f) ADMINISTRATIVE COSTS.—Federal funds shall not be used for any administrative costs incurred by a State in carrying out this subtitle.

"(g) EXPENDITURE OF FUNDS BY STATE.—

"(1) IN GENERAL.—Payments to a State from a grant under this section for a fiscal year shall be obligated by the State in the fiscal year or in the succeeding fiscal year. A State shall obligate funds under this section to provide assistance to rural areas.

"(2) FAILURE TO OBLIGATE.—If a State fails to obligate payments in accordance with paragraph (1), the Secretary shall make an equal reduction in the amount of payments provided to the State under this section for the immediately succeeding fiscal year.

"(3) NONCOMPLIANCE.—

"(A) REVIEW.—The Secretary shall review and monitor State compliance with this section.

"(B) PENALTY.—If the Secretary finds that there has been misuse of grant funds provided under this section, or noncompliance with any of the terms and conditions of a grant, after reasonable notice and opportunity for a hearing—

"(i) the Secretary shall notify the State of the finding; and

"(ii) no further payments to the State shall be made with respect to the programs funded under this section until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

"(C) OTHER SANCTIONS.—In the case of a finding of noncompliance made pursuant to subparagraph (B), the Secretary may, in addition to, or in lieu of, imposing the sanctions described in subparagraph (B), impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

"(h) NO ENTITLEMENT TO CONTRACT, GRANT, OR ASSISTANCE.—Nothing in this subtitle—

"(1) entitles any person to assistance or a contract or grant; or

"(2) limits the right of a State to impose additional limitations or conditions on assistance or a contract or grant under this section.

"SEC. 381H. GUARANTEE AND COMMITMENT TO GUARANTEE LOANS.

"(a) DEFINITION OF ELIGIBLE PUBLIC ENTITY.—In this section, the term 'eligible public entity' means any unit of general local government.

"(b) GUARANTEE AND COMMITMENT.—The Secretary, on such terms and conditions as the Secretary may prescribe, may guarantee and make commitments to guarantee notes or other obligations issued by eligible public entities, or by public agencies designated by the eligible public entities, for the purposes of financing rural development activities authorized and funded under section 381G.

"(c) LIMITATION.—The Secretary may not make a guarantee or commitment to guarantee with respect to a note or other obligation if the total amount of outstanding notes or obligations guaranteed under this section (excluding any amount repaid under the contract entered into under subsection (e)(1)(A)) for issuers in the State would exceed an amount equal to 5 times the sum of the total amount of grants made to the State under section 381G.

"(d) PAYMENT OF PRINCIPAL, INTEREST, AND COSTS.—Notwithstanding any other provision of this subtitle, a State to which a grant is made under section 381G may use the grant (including program income derived from the grant) to pay principal and interest due (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) on any note or other obligation guaranteed under this section.

"(e) REPAYMENT CONTRACT; SECURITY.—

"(1) IN GENERAL.—To ensure the repayment of notes or other obligations and charges incurred under this section and as a condition for receiving the guarantees, the Secretary shall require the issuer to—

"(A) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this section;

"(B) pledge any grant for which the issuer may become eligible under this subtitle; and

"(C) furnish, at the discretion of the Secretary, such other security as may be considered appropriate by the Secretary in making the guarantees.

"(2) SECURITY.—To assist in ensuring the repayment of notes or other obligations and charges incurred under this section, a State shall pledge any grant for which the State may become eligible under this subtitle as security for notes or other obligations and charges issued under this section by any eligible public entity in the State.

"(f) PLEDGED GRANTS FOR REPAYMENTS.—Notwithstanding any other provision of this subtitle, the Secretary may apply grants pledged pursuant to paragraphs (1)(B) and (2) of subsection (e) to any repayments due the United States as a result of the guarantees.

"(g) OUTSTANDING OBLIGATIONS.—The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to subsection (b) shall not at any time exceed such amount as may be authorized to be appropriated for such purpose for any fiscal year.

"(h) PURCHASE OF GUARANTEED OBLIGATIONS BY FEDERAL FINANCING BANK.—Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.

"(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed obligations.

"SEC. 381I. LOCAL INVOLVEMENT.

"An application for assistance under this subtitle shall include evidence of significant community support for the project for which the assistance is requested. In the case of assistance for a community facilities or infrastructure project, the evidence shall be in the form of a certification of support for the project from each affected general purpose local government.

"SEC. 381J. INTERSTATE COLLABORATION.

"The Secretary shall permit the establishment of voluntary pooling arrangements among States, and regional fund-sharing agreements, to carry out projects receiving assistance under this subtitle.

"SEC. 381K. ANNUAL REPORT.

"(a) IN GENERAL.—The Secretary, in collaboration with State, local, public, and private entities, State rural development councils, and community-based organizations, shall prepare an annual report that contains evaluations, assessments, and performance outcomes concerning the rural community advancement programs carried out under this subtitle.

"(b) SUBMISSION.—Not later than March 1 of each year, the Secretary shall—

"(1) submit the report required by subsection (a) to Congress and the chief executives of the States participating in the program established under this subtitle; and

"(2) make the report available to State and local participants.

"SEC. 381L. RURAL DEVELOPMENT INTERAGENCY WORKING GROUP.

"(a) IN GENERAL.—The Secretary shall provide leadership within the Executive branch for, and assume responsibility for, establishing an interagency working group chaired by the Secretary.

"(b) DUTIES.—The working group shall establish policy for, coordinate, make recommendations with respect to, and evaluate the performance of, all Federal rural development efforts.

"SEC. 381M. DUTIES OF RURAL ECONOMIC AND COMMUNITY DEVELOPMENT STATE OFFICES.

"In carrying out this subtitle, the Director of a Rural Economic and Community Development State Office shall—

"(1) to the maximum extent practicable, ensure that the State strategic plan referred to in section 381D is implemented;

"(2) coordinate community development objectives within the State;

"(3) establish links between local, State, and field office program administrators of the Department of Agriculture;

"(4) ensure that recipient communities comply with applicable Federal and State laws and requirements; and

"(5) integrate State development programs with assistance under this subtitle.

"SEC. 381N. ELECTRONIC TRANSFER.

"The Secretary shall transfer funds in accordance with this subtitle through electronic transfer as soon as practicable after the date of enactment of this subtitle.

"SEC. 381O. RURAL VENTURE CAPITAL DEMONSTRATION PROGRAM.

"(a) IN GENERAL.—The Secretary may designate for each fiscal year up to 10 community development venture capital organizations to demonstrate the utility of guarantees to attract increased private investment in rural private business enterprises.

"(b) RURAL BUSINESS INVESTMENT POOL.—

"(1) ESTABLISHMENT.—To be eligible to participate in the demonstration program, an organization referred to in subsection (a) shall establish a rural business private investment pool (referred to in this subsection as a 'pool') for the purpose of making equity investments in rural private business enterprises.

"(2) GUARANTEE.—From amounts in the national reserve account of the Trust Fund, the Secretary shall guarantee the funds in a pool against loss, except that the guarantee shall not exceed an amount equal to 30 percent of the total funds in the pool.

"(3) AMOUNT.—The Secretary shall issue guarantees covering not more than $15,000,000 of contingent liabilities for each of fiscal years 1996 through 2002.

"(4) TERM.—The term of a guarantee provided under this subsection shall not exceed 10 years.

"(5) SUBMISSION OF PLAN.—To be eligible to participate in the demonstration program, an organization referred to in subsection (a) shall submit a plan that describes—

"(A) potential sources and uses of the pool to be established by the organization;

"(B) the utility of the guarantee authority in attracting capital for the pool; and

"(C) on selection, mechanisms for notifying State, local, and private nonprofit business development organizations and businesses of the existence of the pool.

"(6) COMPETITION.—

"(A) IN GENERAL.—The Secretary shall conduct a competition for the designation and establishment of pools.

"(B) PRIORITY.—In conducting the competition, the Secretary shall give priority to organizations that—

VOL
142
PT
5
MR
21
—
29
1996
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"(i) have a demonstrated record of performance, or have a board and executive director with experience, in venture capital, small business equity investment, or community development finance;

"(ii) propose to serve low-income communities;

"(iii) propose to maintain an average investment of not more than $500,000 from the pool of the organization;

"(iv) invest funds statewide or in a multicounty region; and

"(v) propose to target job opportunities resulting from the investments primarily to economically disadvantaged individuals, as determined by the Secretary.

"(C) GEOGRAPHIC DIVERSITY.—To the extent practicable, the Secretary shall designate organizations in diverse geographic areas.".

SEC. 762. SIMPLIFIED, UNIFORM APPLICATION FOR ASSISTANCE FROM ALL FEDERAL RURAL DEVELOPMENT PROGRAMS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall develop a streamlined, simplified, and uniform application which shall be used in applying for assistance under all of the following:

(1) Sections 304(b), 306, 306A, 306C, 306D, 310B, and 375 and subtitle E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926, 1926a, 1926c, 1926d, and 1932).

(2) Subtitle G of title XVI and sections 2281, 2333, and 2381 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901–5908, 5177a, 950aaa–2, and 3125b).

(3) Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237: 7 U.S.C. 5930 note).

(4) Section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

(5) Title V and section 603(c) of the Rural Development Act of 1972 (7 U.S.C. 26661–2669 and 2204a(c)).

(6) Sections 5 and 311 and title IV of the Rural Electrification Act of 1936 (7 U.S.C. 905, 940a, and 941–950b).

SEC. 763. COMMUNITY FACILITIES GRANT PROGRAM.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) (as amended by section 741(a)(5)) is amended by adding at the end the following:

"(19) COMMUNITY FACILITIES GRANT PROGRAM.—

"(A) IN GENERAL.—The Secretary may make grants, in a total amount not to exceed $10,000,000 for any fiscal year, to associations, units of general local government, nonprofit corporations, and federally recognized Indian tribes to provide the Federal share of the cost of developing specific essential community facilities in rural areas.

"(B) FEDERAL SHARE.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Secretary shall, by regulation, establish the amount of the Federal share of the cost of the facility under this paragraph.

"(ii) MAXIMUM AMOUNT.—The amount of a grant provided under this paragraph for a facility shall not exceed 75 percent of the cost of developing the facility.

"(iii) GRADUATED SCALE.—The Secretary shall provide for a graduated scale for the amount of the Federal share provided under this paragraph, with higher Federal shares for facilities in communities that have lower community population and income levels, as determined by the Secretary.".

Subtitle C—Amendments to the Rural Electrification Act of 1936

SEC. 771. PURPOSES; INVESTIGATIONS AND REPORTS.

Section 2 of the Rural Electrification Act of 1936 (7 U.S.C. 902) is amended—

(1) by striking "SEC. 2. (a) The Secretary of Agriculture is" and inserting the following:

"SEC. 2. GENERAL AUTHORITY OF THE SECRETARY OF AGRICULTURE.

"(a) LOANS.—The Secretary of Agriculture (referred to in this Act as the 'Secretary') is";

(2) in subsection (a)—

(A) by striking "and the furnishing" the first place it appears and all that follows through "central station service"; and

(B) by striking "systems; to make" and all that follows and inserting "systems."; and

(3) by striking subsection (b) and inserting the following:

"(b) INVESTIGATIONS AND REPORTS.—The Secretary may make, or cause to be made, studies, investigations, and reports regarding matters, including financial, technological, and regulatory matters, affecting the condition and progress of electric, telecommunications, and economic development in rural areas, and publish and disseminate information with respect to the matters.".

SEC. 772. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 of the Rural Electrification Act of 1936 (7 U.S.C. 903) is amended to read as follows:

"SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as are necessary to carry out this Act.".

(b) CONFORMING AMENDMENTS.—

(1) Section 301(a) of the Rural Electrification Act of 1936 (7 U.S.C. 931(a)) is amended—

(A) by striking "(a)" the first place the term appears; and

(B) in paragraph (3), by striking "notwithstanding section 3(a) of title I,".

(2) Section 302(b)(2) of the Rural Electrification Act of 1936 (7 U.S.C. 932(b)(2)) is amended by striking "pursuant to section 3(a) of this Act".

(3) The last sentence of section 406(a) of the Rural Electrification Act of 1936 (7 U.S.C. 946(a)) is amended by striking "pursuant to section 3(a) of this Act".

SEC. 773. LOANS FOR ELECTRICAL PLANTS AND TRANSMISSION LINES.

Section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904) is amended—

(1) in the first sentence—

(A) by striking "for the furnishing of" and all that follows through "central station service and"; and

(B) by striking "the provisions of sections 3(d) and 3(e) but without regard to the 25 per centum limitation therein contained," and inserting "section 3,";

(2) in the second sentence, by striking ": Provided further, That all" and all that follows through "loan: And provided further, That" and inserting ", except that"; and

(3) in the third sentence, by striking "and section 5".

SEC. 774. LOANS FOR ELECTRICAL AND PLUMBING EQUIPMENT.

(a) IN GENERAL.—Section 5 of the Rural Electrification Act of 1936 (7 U.S.C. 905) is repealed.

(b) CONFORMING AMENDMENTS.—Section 12(a) of the Rural Electrification Act of 1936 (7 U.S.C. 912(a)) is amended—

(1) by striking ": Provided, however, That" and inserting ", except that,"; and

(2) by striking ", and with respect to any loan made under section 5," and all that follows through "section 3".

SEC. 775. TESTIMONY ON BUDGET REQUESTS.

Section 6 of the Rural Electrification Act of 1936 (7 U.S.C. 906) is amended by striking the second sentence.

SEC. 776. TRANSFER OF FUNCTIONS OF ADMINISTRATION CREATED BY EXECUTIVE ORDER.

Section 8 of the Rural Electrification Act of 1936 (7 U.S.C. 908) is repealed.

SEC. 777. ANNUAL REPORT.

Section 10 of the Rural Electrification Act of 1936 (7 U.S.C. 910) is repealed.

SEC. 778. PROHIBITION ON RESTRICTING WATER AND WASTE FACILITY SERVICES TO ELECTRIC CUSTOMERS.

The Rural Electrification Act of 1936 is amended by inserting after section 16 (7 U.S.C. 916) the following:

"SEC. 17. PROHIBITION ON RESTRICTING WATER AND WASTE FACILITY SERVICES TO ELECTRIC CUSTOMERS.

"(a) PROHIBITION.—Assistance under any rural development program administered by the Secretary or any agency of the Department of Agriculture shall not be conditioned on any requirement that the recipient of the assistance accept or receive electric service from any particular utility, supplier, or cooperative.

"(b) ENSURING COMPLIANCE.—The Secretary shall establish, by regulation, adequate safeguards to ensure that assistance under any rural development program is not subject to such a condition. The safeguards shall include periodic certifications and audits, and appropriate measures and sanctions against any person violating, or attempting to violate subsection (a).

"(c) DEFINITION OF RURAL DEVELOPMENT PROGRAMS.—In this section, the term 'rural development program' means the following:

"(1) Sections 304(b), 306, 306A, 306C, 306D, 310B, and 375 and subtitle E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926, 1926a, 1926c, 1926d, and 1932).

"(2) Subtitle G of title XVI and sections 2281, 2333, and 2381 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901–5908, 5177a, 950aaa–2, and 3125b).

"(3) Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237: 7 U.S.C. 5930 note).

"(4) Section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

"(5) Title V and section 603(c) of the Rural Development Act of 1972 (7 U.S.C. 26661–2669 and 2204a(c)).

"(6) Sections 5 and 311 and title IV of this Act (7 U.S.C. 905, 940a, and 941–950b).

"(d) REGULATIONS.—Not later than 60 days after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall issue final regulations to ensure compliance with subsection (a)."

SEC. 779. TELEPHONE LOAN TERMS AND CONDITIONS.

Section 309 of the Rural Electrification Act of 1936 (7 U.S.C. 939) is amended—

(1) in subsection (a), by striking "(a) IN GENERAL.—"; and

(2) by striking subsection (b).

SEC. 780. PRIVATIZATION PROGRAM.

Section 311 of the Rural Electrification Act of 1936 (7 U.S.C. 940a) is repealed.

SEC. 781. RURAL BUSINESS INCUBATOR FUND.

(a) IN GENERAL.—Section 502 of the Rural Electrification Act of 1936 (7 U.S.C. 950aa–1) is repealed.

(b) CONFORMING AMENDMENTS.—Section 501 of the Rural Electrification Act of 1936 (7 U.S.C. 950aa) is amended—

(1) in paragraph (5), by inserting "and" at the end;

(2) in paragraph (6), by striking "; and" at the end and inserting a period; and

(3) by striking paragraph (7).

Subtitle D—Miscellaneous Rural Development Provisions

SEC. 791. INTEREST RATE FORMULA.

(a) BANKHEAD-JONES FARM TENANT ACT.—Section 32(e) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011) is amended by striking

the fifth sentence and inserting the following: "A loan under this subsection shall be made under a contract that provides, under such terms and conditions as the Secretary considers appropriate, for the repayment of the loan in not more than 30 years, with interest at a rate not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for the loan, adjusted to the nearest 1/8 of 1 percent.".

(b) WATERSHED PROTECTION AND FLOOD PREVENTION ACT.—Section 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1006a) is amended by striking the second sentence and inserting the following: "A loan or advance under this section shall be made under a contract or agreement that provides, under such terms and conditions as the Secretary considers appropriate, for the repayment of the loan or advance in not more than 50 years from the date when the principal benefits of the works of improvement first become available, with interest at a rate not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for the loan, adjusted to the nearest 1/8 of 1 percent.".

SEC. 792. GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.

(a) IN GENERAL.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by striking subsection (f).

(b) CONFORMING AMENDMENTS.—

(1) Section 2389 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 2662 note) is amended by striking subsection (d).

(2) Section 503(c) of the Rural Development Act of 1972 (7 U.S.C. 2663(c)) is amended—

(A) in paragraph (1)—

(i) by striking "(1)";

(ii) by striking "section 502(e)" and all that follows through "shall be distributed" and inserting "subsections (e), (h), and (i) of section 502 shall be distributed"; and

(iii) by striking "objectives of" and all that follows through "title" and inserting "objectives of subsections (e), (h), and (i) of section 502"; and

(B) by striking paragraph (2).

SEC. 793. FUND FOR RURAL AMERICA.

(a) IN GENERAL.—There is established in the Treasury of the United States an account to be known as the Fund for Rural America (referred to in this section as the "Account") to provide funds for activities described in subsection (c).

(b) FUNDING.—

(1) IN GENERAL.—On January 1, 1997, October 1, 1998, and October 1, 1999, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer $100,000,000 to the Account.

(2) ENTITLEMENT.— The Secretary of Agriculture (referred to in this section as the "Secretary")—

(A) shall be entitled to receive the funds transferred to the Account under paragraph (1);

(B) shall accept the funds; and

(C) shall use the funds to carry out this section.

(3) PURPOSES.—Subject to subsection (d), of the amounts transferred to the Account for a fiscal year, the Secretary shall make available—

(A) for activities described in subsection (c)(1), not less than 1/3 and not more than 2/3 of the funds in the Account; and

(B) for activities described in subsection (c)(2), all funds in the Account not made available by the Secretary for activities described in subsection (c)(1).

(c) ACTIVITIES.—

(1) RURAL DEVELOPMENT.—

(A) IN GENERAL.—The Secretary may use the funds in the Account for a rural development activity—

(i) authorized under the Housing Act of 1949 for—

(I) direct loans to low-income borrowers under section 502 (42 U.S.C. 1472);

(II) loans for financial assistance for housing for domestic farm laborers under section 514 (42 U.S.C. 1484);

(III) financial assistance for housing for domestic farm laborers under section 516 (42 U.S.C. 1486);

(IV) payments for elderly who are not now receiving rental assistance under section 521 (42 U.S.C. 1490a);

(V) grants and contracts for mutual and self-help housing under section 523(b)(1)(A) (42 U.S.C. 1490c(b)(1)(A)); or

(VI) grants for rural housing preservation under section 533 (42 U.S.C. 1490m); or

(ii) conducted under any rural development program, including a program authorized under—

(I) the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.);

(II) subtitle G of title XVI and title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990;

(III) title V of the Rural Development Act of 1971 (7 U.S.C. 2661 et seq.); or

(IV) section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

(B) LIMITATION ON PROGRAMS FUNDED.—The Secretary may not expend funds made available to carry out activities described in subparagraph (A) for any activity that did not receive appropriations for fiscal year 1995. Funds expended under this section for any program purpose shall be spent in accordance with and subject to the applicable program limitations, restrictions, and priorities found in the underlying program authority and this Act.

(C) LIMITATION ON HOUSING ASSISTANCE.—Not more than 20 percent of the funds made available to carry out activities described in subparagraph (A) shall be made available to carry out activities described in subparagraph (A)(i).

(D) DISCLOSURE OF ALLOCATION.—For any fiscal year, the Secretary shall not disclose the allocation of funds under this section for any activity described in subparagraph (A) until the date that is 1 day after the date of enactment of legislation authorizing appropriations for the Department of Agriculture for any period in the fiscal year.

(2) RESEARCH.—

(A) IN GENERAL.—The Secretary may use the funds in the Account for research, extension, and education grants to—

(i) increase international competitiveness, efficiency, and farm profitability;

(ii) reduce economic and health risks;

(iii) conserve and enhance natural resources;

(iv) develop new crops, new crop uses, and new agricultural applications of biotechnology;

(v) enhance animal agricultural resources;

(vi) preserve plant and animal germplasm;

(vii) increase economic opportunities in farming and rural communities; and

(viii) expand locally-owned value-added processing.

(B) ELIGIBLE GRANTEE.—The Secretary may make a grant under this paragraph to—

(i) a Federal research agency;

(ii) a national laboratory;

(iii) a college or university or a research foundation maintained by a college or university; or

(iv) a private research organization with an established and demonstrated capacity to perform research or technology transfer.

(C) USE OF GRANT.—

(i) IN GENERAL.—A grant made under this paragraph may be used by a grantee for 1 or more of the following uses:

(I) Outcome-oriented research at the discovery end of the spectrum to provide breakthrough results.

(II) Exploratory and advanced development and technology with well-identified outcomes.

(III) A national, regional, or multi-State program oriented primarily toward extension programs and education programs demonstrating and supporting the competitiveness of United States agriculture.

(ii) SMALLER INSTITUTIONS.—Of the amounts made available for activities described in this paragraph, not less than 15 percent shall be awarded to colleges, universities, or research foundations eligible for a grant under subparagraph (B)(iii) that rank in the lowest 1/3 of such colleges, universities, and foundations on the basis of Federal research funds received under a provision of law other than this section.

(D) ADMINISTRATION.—

(i) PRIORITY.—In administering this paragraph, the Secretary shall—

(I) establish criteria for allocating grants based on the priorities in subparagraph (A) and in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123);

(II) seek and accept proposals for grants;

(III) determine the relevance and merit of proposals through a system of peer review and review by the National Agricultural Research, Extension, Education, and Economics Advisory Board; and

(IV) award grants on the basis of merit, quality, and relevance to advancing the purposes of federally supported agricultural research, extension, and education provided in section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101).

(ii) COMPETITIVE BASIS.—A grant under this paragraph shall be awarded on a competitive basis.

(iii) TERMS.—A grant under this paragraph shall have a term that does not exceed 5 years.

(iv) MATCHING FUNDS.—As a condition of making a grant under this paragraph, the Secretary shall require the funding of the grant with equal matching funds from a non-Federal source if the grant is—

(I) for applied research that is commodity-specific; and

(II) not of national scope.

(v) DELEGATION.—The Secretary shall administer this section through the Cooperative State Research, Education, and Extension Service of the Department of Agriculture.

(vi) AVAILABILITY OF FUNDS.—Funds shall be available for obligation under this paragraph for a 2-year period.

(vii) ADMINISTRATIVE COSTS.—The Secretary may use not more than 4 percent of the funds made available for activities described in this paragraph for administrative costs incurred by the Secretary in carrying out this paragraph.

(viii) BUILDINGS.—Funds made available for activities described in this paragraph shall not be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

(d) LIMITATIONS.—Amounts in the Account may not be used for an activity described in subsection (c) for a fiscal year if the program funding level for the fiscal year for the activity is less than 90 percent of the amount appropriated for the activity for fiscal year 1996, adjusted for inflation.

VOL 142 PT 5 MR 21 — 29 1996 UMI

SEC. 794. UNDER SECRETARY OF AGRICULTURE FOR RURAL ECONOMIC AND COMMUNITY DEVELOPMENT RENAMED THE UNDER SECRETARY OF AGRICULTURE FOR RURAL DEVELOPMENT.

(a) IN GENERAL.—Section 231 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6941) is amended—

(1) in the section heading, by striking "ECONOMIC AND COMMUNITY"; and

(2) by striking "Economic and Community" each place such term appears in subsections (a), (b), and (c).

(b) CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking "Economic and Community".

TITLE VIII—RESEARCH, EXTENSION, AND EDUCATION

Subtitle A—Modification and Extension of Activities Under 1977 Act

SEC. 801. PURPOSES OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

Section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101) is amended to read as follows:

"SEC. 1402. PURPOSES OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

"The purposes of federally supported agricultural research, extension, and education are to—

"(1) enhance the competitiveness of the United States agriculture and food industry in an increasingly competitive world environment;

"(2) increase the long-term productivity of the United States agriculture and food industry while maintaining and enhancing the natural resource base on which rural America and the United States agricultural economy depend;

"(3) develop new uses and new products for agricultural commodities, such as alternative fuels, and develop new crops;

"(4) support agricultural research and extension to promote economic opportunity in rural communities and to meet the increasing demand for information and technology transfer throughout the United States agriculture industry;

"(5) improve risk management in the United States agriculture industry;

"(6) improve the safe production and processing of, and adding of value to, United States food and fiber resources using methods that maintain the balance between yield and environmental soundness;

"(7) support higher education in agriculture to give the next generation of Americans the knowledge, technology, and applications necessary to enhance the competitiveness of United States agriculture; and

"(8) maintain an adequate, nutritious, and safe supply of food to meet human nutritional needs and requirements.".

SEC. 802. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.

(a) IN GENERAL.—Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended to read as follows:

"SEC. 1408. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.

"(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Agriculture a board to be known as the 'National Agricultural Research, Extension, Education, and Economics Advisory Board'.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Advisory Board shall consist of 30 members, appointed by the Secretary.

"(2) SELECTION OF MEMBERS.—The Secretary shall appoint members of the Advisory Board from nominations submitted by organizations, associations, societies, councils, federations, groups, and companies fitting the criteria specified in paragraph (3).

"(3) MEMBERSHIP CATEGORIES.—The Advisory Board shall consist of members from each of the following categories:

"(A) 1 member representing a national farm organization.

"(B) 1 member representing farm cooperatives.

"(C) 1 member actively engaged in the production of a food animal commodity.

"(D) 1 member actively engaged in the production of a plant commodity.

"(E) 1 member representing a national animal commodity organization.

"(F) 1 member representing a national crop commodity organization.

"(G) 1 member representing a national aquaculture association.

"(H) 1 member representing a national food animal science society.

"(I) 1 member representing a national crop, soil, agronomy, horticulture, or weed science society.

"(J) 1 member representing a national food science organization.

"(K) 1 member representing a national human health association.

"(L) 1 member representing a national nutritional science society.

"(M) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.).

"(N) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University.

"(O) 1 member representing the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note)).

"(P) 1 member representing Hispanic-serving institutions.

"(Q) 1 member representing the American Colleges of Veterinary Medicine.

"(R) 1 member representing that portion of the scientific community not closely associated with agriculture.

"(S) 1 member engaged in the transportation of food and agricultural products to domestic and foreign markets.

"(T) 1 member representing food retailing and marketing interests.

"(U) 1 member representing food and fiber processors.

"(V) 1 member actively engaged in rural economic development.

"(W) 1 member representing a national consumer interest group.

"(X) 1 member representing a national forestry group.

"(Y) 1 member representing a national conservation or natural resource group.

"(Z) 1 member representing private sector organizations involved in international development.

"(AA) 1 member representing an agency within the Department of Agriculture that lacks research capabilities.

"(BB) 1 member representing a research agency of the Federal Government (other than the Department of Agriculture).

"(CC) 1 member representing a national social science association.

"(DD) 1 member representing national organizations directly concerned with agricultural research, education, and extension.

"(4) EX OFFICIO MEMBERS.—The Secretary, the Under Secretary of Agriculture for Research, Education, and Economics, the Administrator of the Agricultural Research Service, the Administrator of the Cooperative State Research, Education, and Extension Service, the Administrator of the Economic Research Service, and the Administrator of the National Agricultural Statistics Service shall serve as ex officio members of the Advisory Board.

"(5) OFFICERS.—At the first meeting of the Advisory Board each year, the members shall elect from among the members of the Advisory Board a chairperson, vice chairperson, and 7 additional members to serve on the executive committee established under paragraph (6).

"(6) EXECUTIVE COMMITTEE.—The Advisory Board shall establish an executive committee charged with the responsibility of working with the Secretary and officers and employees of the Department of Agriculture to summarize and disseminate the recommendations of the Advisory Board.

"(c) DUTIES.—The Advisory Board shall—

"(1) review and provide consultation to the Secretary and land-grant colleges and universities on long-term and short-term national policies and priorities, as set forth in section 1402, relating to agricultural research, extension, education, and economics;

"(2) evaluate the results and effectiveness of agricultural research, extension, education, and economics with respect to the policies and priorities;

"(3) review and make recommendations to the Under Secretary of Agriculture for Research, Education, and Economics on the research, extension, education, and economics portion of the draft strategic plan required under section 306 of title 5, United States Code; and

"(4) review the mechanisms of the Department of Agriculture for technology assessment (which should be conducted by qualified professionals) for the purposes of—

"(A) performance measurement and evaluation of the implementation by the Secretary of the strategic plan required under section 306 of title 5, United States Code;

"(B) implementation of the national research policies and priorities set forth in section 1402; and

"(C) the development of mechanisms for the assessment of emerging public and private agricultural research and technology transfer initiatives.

"(d) CONSULTATION.—In carrying out this section, the Advisory Board shall solicit opinions and recommendations from persons who will benefit from and use federally funded agricultural research, extension, education, and economics.

"(e) APPOINTMENT.—A member of the Advisory Board shall be appointed by the Secretary for a term of up to 3 years. The members of the Advisory Board shall be appointed to serve staggered terms.

"(f) FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Board shall be deemed to have filed a charter for the purpose of section 9(c) of the Federal Advisory Committee Act (5 U.S.C. App.).

"(g) TERMINATION.—The Advisory Board shall remain in existence until September 30, 2002.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1404(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(1)) is amended by striking "National Agricultural Research and Extension Users Advisory Board" and inserting "National Agricultural Research, Extension, Education, and Economics Advisory Board".

(2) Section 1410(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125(2)) is amended by striking "the recommendations of the Advisory Board developed under section 1408(g)," and inserting "any recommendations of the Advisory Board".

(3) The last sentence of section 4(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1673(a)) is amended by striking "National Agricultural Research and Extension Users Advisory Board" and inserting "National Agricultural Research, Extension, Education, and Economics Advisory Board".

SEC. 803. FEDERAL ADVISORY COMMITTEE ACT EXEMPTION FOR FEDERAL-STATE COOPERATIVE PROGRAMS.

Section 1409A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3124a) is amended by adding at the end the following:

"(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

"(1) PUBLIC MEETINGS.—All meetings of any entity described in paragraph (3) shall be publicly announced in advance and shall be open to the public. Detailed minutes of meetings and other appropriate records of the activities of such an entity shall be kept and made available to the public on request.

"(2) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act shall not apply to any entity described in paragraph (3).

"(3) ENTITIES DESCRIBED.—This subsection shall apply to any committee, board, commission, panel, or task force, or similar entity that—

"(A) is created for the purpose of cooperative efforts in agricultural research, extension, or teaching; and

"(B) consists entirely of—

"(i) full-time Federal employees; and

"(ii) one or more individuals who are employed by, or are officials of—

"(I) a State cooperative institution or State cooperative agency; or

"(II) a public college or university or other postsecondary institution.".

SEC. 804. COORDINATION AND PLANNING OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1413 (7 U.S.C. 3128) the following:

"SEC. 1413A. ACCOUNTABILITY.

"(a) REVIEW OF INFORMATION TECHNOLOGY SYSTEMS.—The Secretary shall conduct a comprehensive review of state-of-the-art information technology systems that are available for use in developing the system required by subsection (b).

"(b) MONITORING AND EVALUATION SYSTEM.—The Secretary shall develop and carry out a system to monitor and evaluate agricultural research and extension activities conducted or supported by the Department of Agriculture that will enable the Secretary to measure the impact and effectiveness of research, extension, and education programs according to priorities, goals, and mandates established by law. In developing the system, the Secretary shall incorporate information transfer technologies to optimize public access to research information.

"(c) CONSISTENCY WITH OTHER REQUIREMENTS.—The Secretary shall develop and implement the system in a manner consistent with the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285) and amendments made by the Act.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

"SEC. 1413B. FEDERAL ADVISORY COMMITTEE ACT EXEMPTION FOR COMPETITIVE RESEARCH, EXTENSION, AND EDUCATION PROGRAMS.

"The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act shall not apply to any committee, board, commission, panel, or task force, or similar entity, created solely for the purpose of reviewing applications or proposals requesting funding under any competitive research, extension, or education program carried out by the Secretary.".

SEC. 805. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

(a) PURPOSE OF GRANTS.—Section 1417(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)) is amended by striking paragraph (4) and inserting the following:

"(4) to design and implement food and agricultural programs to build teaching and research capacity at colleges and universities having significant minority enrollments;".

(b) RESEARCH FOUNDATIONS.—Section 1417(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(c)) is amended by adding at the end the following:

"(3) RESEARCH FOUNDATIONS.—An eligible college or university under subsection (b) includes a research foundation maintained by the college or university.".

(c) EXTENSION OF PROGRAM.—Section 1417(i) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(i)) is amended by striking "1995" and inserting "1997".

(d) SECONDARY EDUCATION AND 2-YEAR POSTSECONDARY EDUCATION TEACHING PROGRAMS.—Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following:

"(h) SECONDARY EDUCATION AND 2-YEAR POSTSECONDARY EDUCATION TEACHING PROGRAMS.—

"(1) DEFINITIONS.—In this subsection:

"(A) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(B) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given the term in section 14101(25) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(25)).

"(2) AGRISCIENCE AND AGRIBUSINESS EDUCATION.—The Secretary shall—

"(A) promote and strengthen secondary education and 2-year postsecondary education in agriscience and agribusiness in order to help ensure the existence in the United States of a qualified workforce to serve the food and agricultural sciences system; and

"(B) promote complementary and synergistic linkages among secondary, 2-year postsecondary, and higher education programs in the food and agricultural sciences in order to promote excellence in education and encourage more young Americans to pursue and complete a baccalaureate or higher degree in the food and agricultural sciences.

"(3) GRANTS.—The Secretary may make competitive or noncompetitive grants, for grant periods not to exceed 5 years, to public secondary schools, and institutions of higher education that award an associate's degree, that the Secretary determines have made a commitment to teaching agriscience and agribusiness—

"(A) to enhance curricula in agricultural education;

"(B) to increase faculty teaching competencies;

"(C) to interest young people in pursuing higher education in order to prepare for scientific and professional careers in the food and agricultural sciences;

"(D) to promote the incorporation of agriscience and agribusiness subject matter into other instructional programs, particularly classes in science, business, and consumer education;

"(E) to facilitate joint initiatives by the grant recipient with other secondary schools, institutions of higher education that award an associate's degree, and institutions of higher education that award a bachelor's degree to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve agriscience and agribusiness education; and

"(F) to support other initiatives designed to meet local, State, regional, or national needs related to promoting excellence in agriscience and agribusiness education.".

SEC. 806. GRANTS FOR RESEARCH ON THE PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.

Section 1419(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154(d)) is amended by striking "1995" and inserting "1997".

SEC. 807. POLICY RESEARCH CENTERS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1419 (7 U.S.C. 3154) the following:

"SEC. 1419A. POLICY RESEARCH CENTERS.

"(a) IN GENERAL.—Consistent with this section, the Secretary may make grants, competitive grants, and special research grants to, and enter into cooperative agreements and other contracting instruments with, policy research centers described in subsection (b) to conduct research and education programs that are objective, operationally independent, and external to the Federal Government and that concern the effect of public policies on—

"(1) the farm and agricultural sectors;

"(2) the environment;

"(3) rural families, households, and economies; and

"(4) consumers, food, and nutrition.

"(b) ELIGIBLE RECIPIENTS.—State agricultural experiment stations, colleges and universities, other research institutions and organizations, private organizations, corporations, and individuals shall be eligible to apply for funding under subsection (a).

"(c) ACTIVITIES.—Under this section, funding may be provided for disciplinary and interdisciplinary research and education concerning policy research activities consistent with this section, including activities that—

"(1) quantify the implications of public policies and regulations;

"(2) develop theoretical and research methods;

"(3) collect and analyze data for policymakers, analysts, and individuals; and

"(4) develop programs to train analysts.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal years 1996 and 1997.".

SEC. 808. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by striking section 1424 (7 U.S C. 3174) and inserting the following:

"SEC. 1424. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.

"(a) AUTHORITY OF SECRETARY.—The Secretary may establish, and award grants for projects for, a multi-year research initiative on human nutrition intervention and health promotion.

"(b) EMPHASIS OF INITIATIVE.—In administering human nutrition research projects under

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142
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this section, the Secretary shall give specific emphasis to—

"(1) coordinated longitudinal research assessments of nutritional status; and

"(2) the implementation of unified, innovative intervention strategies,

to identify and solve problems of nutritional inadequacy and contribute to the maintenance of health, well-being, performance, and productivity of individuals, thereby reducing the need of the individuals to use the health care system and social programs of the United States.

"(c) ADMINISTRATION OF FUNDS.—The Administrator of the Agricultural Research Service shall administer funds made available to carry out this section to ensure a coordinated approach to health and nutrition research efforts.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal years 1996 and 1997.

"SEC. 1424A. PILOT RESEARCH PROGRAM TO COMBINE MEDICAL AND AGRICULTURAL RESEARCH.

"(a) FINDINGS.—Congress finds the following:

"(1) Although medical researchers in recent years have demonstrated that there are several naturally occurring compounds in many vegetables and fruits that can aid in the prevention of certain forms of cancer, coronary heart disease, stroke, and atherosclerosis, there has been almost no research conducted to enhance these compounds in food plants by modern breeding and molecular genetic methods.

"(2) By linking the appropriate medical and agricultural research scientists in a highly-focused, targeted research program, it should be possible to develop new varieties of vegetables and fruits that would provide greater prevention of diet-related diseases that are a major cause of death in the United States.

"(b) PILOT RESEARCH PROGRAM.—The Secretary shall conduct, through the Cooperative State Research, Education, and Extension Service, a pilot research program to link major cancer and heart and other circulatory disease research efforts with agricultural research efforts to identify compounds in vegetables and fruits that prevent these diseases. Using information derived from such combined research efforts, the Secretary shall assist in the development of new varieties of vegetables and fruits having enhanced therapeutic properties for disease prevention.

"(c) AGREEMENTS.—The Secretary shall carry out the pilot program through agreements entered into with land-grant colleges or universities, other universities, State agricultural experiment stations, the State cooperative extension services, nonprofit organizations with demonstrable expertise, or Federal or State governmental entities. The Secretary shall enter into the agreements on a competitive basis.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1997 to carry out the pilot program.".

SEC. 809. FOOD AND NUTRITION EDUCATION PROGRAM.

Section 1425(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(c)(3)) is amended by striking "$63,000,000" and all that follows through "fiscal year 1995" and inserting ", $83,000,000 for each of fiscal years 1996 and 1997".

SEC. 810. PURPOSES AND FINDINGS RELATING TO ANIMAL HEALTH AND DISEASE RESEARCH.

Section 1429 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3191) is amended to read as follows:

"SEC. 1429. PURPOSES AND FINDINGS RELATING TO ANIMAL HEALTH AND DISEASE RESEARCH.

"(a) PURPOSES.—The purposes of this subtitle are to—

"(1) promote the general welfare through the improved health and productivity of domestic livestock, poultry, aquatic animals, and other income-producing animals that are essential to the food supply of the United States and the welfare of producers and consumers of animal products;

"(2) improve the health of horses;

"(3) facilitate the effective treatment of, and, to the extent possible, prevent animal and poultry diseases in both domesticated and wild animals that, if not controlled, would be disastrous to the United States livestock and poultry industries and endanger the food supply of the United States;

"(4) improve methods for the control of organisms and residues in food products of animal origin that could endanger the human food supply;

"(5) improve the housing and management of animals to improve the well-being of livestock production species;

"(6) minimize livestock and poultry losses due to transportation and handling;

"(7) protect human health through control of animal diseases transmissible to humans;

"(8) improve methods of controlling the births of predators and other animals; and

"(9) otherwise promote the general welfare through expanded programs of research and extension to improve animal health.

"(b) FINDINGS.—Congress finds that—

"(1) the total animal health and disease research and extension efforts of State colleges and universities and of the Federal Government would be more effective if there were close coordination between the efforts; and

"(2) colleges and universities having accredited schools or colleges of veterinary medicine and State agricultural experiment stations that conduct animal health and disease research are especially vital in training research workers in animal health and related disciplines.".

SEC. 811. ANIMAL HEALTH AND DISEASE CONTINUING RESEARCH.

Section 1433 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "1997";

(2) in subsection (b)(2)—

(A) by striking "domestic livestock and poultry" each place it appears and inserting "domestic livestock, poultry, and commercial aquaculture species"; and

(B) in the second sentence, by striking "horses, and poultry" and inserting "horses, poultry, and commercial aquaculture species";

(3) in subsection (d), by striking "domestic livestock and poultry" and inserting "domestic livestock, poultry, and commercial aquaculture species"; and

(4) in subsection (f), by striking "domestic livestock and poultry" and inserting "domestic livestock, poultry, and commercial aquaculture species".

SEC. 812. ANIMAL HEALTH AND DISEASE NATIONAL OR REGIONAL RESEARCH.

Section 1434 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196) is amended—

(1) in subsection (a)—

(A) by inserting "or national or regional problems relating to pre-harvest, on-farm food safety, or animal well-being," after "problems,"; and

(B) by striking "1995" and inserting "1997";

(2) in subsection (b), by striking "eligible institutions" and inserting "State agricultural experiment stations, colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals";

(3) in subsection (c)—

(A) in the first sentence, by inserting ", food safety, and animal well-being" after "animal health and disease"; and

(B) in the fourth sentence—

(i) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(ii) by inserting after paragraph (1) the following:

"(2) any food safety problem that has a significant pre-harvest (on-farm) component and is recognized as posing a significant health hazard to the consuming public;

"(3) issues of animal well-being related to production methods that will improve the housing and management of animals to improve the well-being of livestock production species;";

(4) in the first sentence of subsection (d), by striking "to eligible institutions"; and

(5) by adding at the end the following:

"(f) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act shall not apply to a panel or board created solely for the purpose of reviewing applications or proposals submitted under this subtitle.".

SEC. 813. GRANT PROGRAM TO UPGRADE AGRICULTURAL AND FOOD SCIENCES FACILITIES AT 1890 LAND-GRANT COLLEGES.

Section 1447(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b(b)) is amended by striking "$8,000,000 for each of the fiscal years 1991 through 1995" and inserting ", $15,000,000 for each of fiscal years 1996 and 1997".

SEC. 814. NATIONAL RESEARCH AND TRAINING CENTENNIAL CENTERS.

Section 1448 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended—

(1) in subsection (a)(1), by inserting ", or fiscal years 1996 and 1997," after "1995"; and

(2) in subsection (f), by striking "1995" and inserting "1997".

SEC. 815. PROGRAMS FOR HISPANIC-SERVING INSTITUTIONS.

(a) IN GENERAL.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1448 (7 U.S.C. 3222c) the following:

"Subtitle H—Programs for Hispanic-Serving Institutions

"SEC. 1455. EDUCATION GRANTS PROGRAMS FOR HISPANIC-SERVING INSTITUTIONS.

"(a) GRANT AUTHORITY.—The Secretary may make competitive grants (or grants without regard to any requirement for competition) to Hispanic-serving institutions for the purpose of promoting and strengthening the ability of Hispanic-serving institutions to carry out education, applied research, and related community development programs.

"(b) USE OF GRANT FUNDS.—Grants made under this section shall be used—

"(1) to support the activities of consortia of Hispanic-serving institutions to enhance educational equity for underrepresented students;

"(2) to strengthen institutional educational capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international educational needs in the food and agricultural sciences;

"(3) to attract and support undergraduate and graduate students from underrepresented groups in order to prepare them for careers related to the food, agricultural, and natural resource systems of the United States, beginning

with the mentoring of students at the high school level and continuing with the provision of financial support for students through their attainment of a doctoral degree; and

"(4) to facilitate cooperative initiatives between 2 or more Hispanic-serving institutions, or between Hispanic-serving institutions and units of State government or the private sector, to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve food and agricultural sciences teaching programs.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section $20,000,000 for fiscal year 1997.".

(b) HISPANIC-SERVING INSTITUTION DEFINED.—Paragraph (9) of section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended to read as follows:

"(9) the term 'Hispanic-serving institution' has the meaning given the term by section 316(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)(1));".

SEC. 816. INTERNATIONAL AGRICULTURAL RESEARCH AND EXTENSION.

Section 1458(a)(8) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)(8)) is amended—

(1) by striking "establish" and inserting "continue"; and

(2) by striking "to be".

SEC. 817. AUTHORIZATION OF APPROPRIATIONS FOR AGRICULTURAL RESEARCH PROGRAMS.

Section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311) is amended by striking "1995" both places it appears and inserting "1997".

SEC. 818. AUTHORIZATION OF APPROPRIATIONS FOR EXTENSION EDUCATION.

Section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 1997".

SEC. 819. SUPPLEMENTAL AND ALTERNATIVE CROPS RESEARCH.

(a) EXTENSION OF PROGRAM.—Section 1473D(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(a)) is amended by striking "1995" and inserting "1997".

(b) ELIMINATION OF PILOT NATURE OF PROGRAM.—Section 1473D of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d) is amended—

(1) in subsection (a), by striking "and pilot";

(2) in subsection (c)(2)(B), by striking "at pilot sites" and all that follows through "the area";

(3) in subsection (c)(2)(C), by striking "from pilot sites";

(4) in subsection (c)(2)(D)—

(A) by striking "near such pilot sites"; and

(B) by striking "successful pilot program" and inserting "successful program"; and

(5) in paragraph (3), by striking "pilot".

(c) ADDITIONAL AUTHORITY.—Section 1473D(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(c)(3)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(E) to conduct fundamental and applied research related to the development of new commercial products derived from natural plant material for industrial, medical, and agricultural applications; and

"(F) to participate with colleges and universities, other Federal agencies, and private sector entities in conducting research described in subparagraph (E)."

SEC. 820. AQUACULTURE ASSISTANCE PROGRAMS.

(a) DEFINITION.—Section 1404(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(3)) is amended by inserting "ornamental fish," after "reptile,".

(b) REPORTS.—Section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322) is amended—

(1) by striking subsection (e); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(c) AUTHORIZATION OF APPROPRIATIONS FOR AQUACULTURE RESEARCH FACILITIES.—Section 1476(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3323(b)) is amended by striking "1995" and inserting "1997".

(d) AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND EXTENSION.—Section 1477 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3324) is amended by striking "1995" and inserting "1997".

SEC. 821. AUTHORIZATION OF APPROPRIATIONS FOR RANGELAND RESEARCH.

Section 1483(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(a)) is amended by striking "1995" and inserting "1997"

Subtitle B—Modification and Extension of Activities Under 1990 Act

SEC. 831. WATER QUALITY RESEARCH, EDUCATION, AND COORDINATION.

Section 1481(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5501(d)) is amended by striking "1995" and inserting "1997".

SEC. 832. NATIONAL GENETICS RESOURCES PROGRAM.

(a) FUNCTIONS.—Section 1632(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5841(d)) is amended by striking paragraph (4) and inserting the following:

"(4) unless otherwise prohibited by law, have the right to make available on request, without charge and without regard to the country from which the request originates, the genetic material that the program assembles;".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1635(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5844(b)) is amended by striking "1995" and inserting "1997".

SEC. 833. NATIONAL AGRICULTURAL WEATHER INFORMATION SYSTEM.

Section 1641(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5855(c)) is amended by striking "1995" and inserting "1997".

SEC. 834. LIVESTOCK PRODUCT SAFETY AND INSPECTION PROGRAM.

Section 1670(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5923(e)) is amended by striking "1995" and inserting "1997".

SEC. 835. PLANT GENOME MAPPING PROGRAM.

Section 1671(g) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924(g)) is amended by inserting "for fiscal years 1996 and 1997" after "appropriated".

SEC. 836. CERTAIN SPECIALIZED RESEARCH PROGRAMS.

Subsections (d)(4), (e)(4), and (i) of section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) are each amended by striking "1995" and inserting "1997".

SEC. 837. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.

Section 1673(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926(h)) is amended by striking "1995" and inserting "1997".

SEC. 838. NATIONAL CENTERS FOR AGRICULTURAL PRODUCT QUALITY RESEARCH.

(a) PURPOSES OF NATIONAL CENTERS.—Section 1675(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(a)) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) enhance agricultural competitiveness through product quality research and technology implementation;".

(b) REGIONAL BASIS OF CENTERS.—Section 1675(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(b)) is amended by striking paragraph (1) and inserting the following:

"(1) REGIONAL BASIS.—The centers shall be regionally based units that conduct a broad spectrum of research, development, and education programs to enhance the competitiveness, quality, safety and wholesomeness of agricultural products.".

(c) PROGRAM PLAN AND REVIEW.—Section 1675(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(b)) is amended—

(1) in paragraph (1), by striking the second sentence; and

(2) in paragraph (2), by striking ", but not less" and all that follows through "the Secretary".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1675(g)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(g)(1)) is amended by striking "1995" and inserting "1997".

SEC. 839. RED MEAT SAFETY RESEARCH CENTER.

Section 1676 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5929) is amended to read as follows:

"SEC. 1676. RED MEAT SAFETY RESEARCH CENTER.

"(a) ESTABLISHMENT OF CENTER.—The Secretary of Agriculture shall award a grant, on a competitive basis, to a research facility described in subsection (b) to establish a red meat safety research center.

"(b) ELIGIBLE RESEARCH FACILITY DESCRIBED.—A research facility eligible for a grant under subsection (a) is a research facility that—

"(1) is part of a land-grant college or university, or other federally supported agricultural research facility, located in close proximity to a livestock slaughter and processing facility; and

"(2) is staffed by professionals with a wide diversity of scientific expertise covering all aspects of meat science.

"(c) RESEARCH CONDUCTED.—The red meat safety research center established under subsection (a) shall carry out research related to general food safety, including—

"(1) the development of intervention strategies that reduce microbiological contamination of carcass surfaces;

"(2) research regarding microbiological mapping of carcass surfaces; and

"(3) the development of model hazard analysis and critical control point plans.

"(d) ADMINISTRATION OF FUNDS.—The Secretary of Agriculture shall administer funds appropriated to carry out this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for fiscal year 1997 to carry out this section.".

VOL
142
PT
5
MR
21
—
29
1996
UMI

SEC. 840. INDIAN RESERVATION EXTENSION AGENT PROGRAM.

Section 1677 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5930) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) REDUCED REGULATORY BURDEN.—On a determination by the Secretary of Agriculture that a program carried out under this section has been satisfactorily administered for not less than 2 years, the Secretary shall implement a reduced reapplication process for the continued operation of the program in order to reduce regulatory burdens on participating university and tribal entities.".

SEC. 841. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.

Section 1680 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933) is amended—

(1) in subsection (a)(6)(B), by striking "1996" and inserting "1997"; and

(2) in subsection (b)(2), by striking "1996" and inserting "1997".

SEC. 842. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.

Section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(e)) is amended by striking "1995" and inserting "1997".

SEC. 843. GLOBAL CLIMATE CHANGE.

Section 2412 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6710) is amended by striking "1996" and inserting "1997".

Subtitle C—Repeal of Certain Activities and Authorities

SEC. 851. SUBCOMMITTEE ON FOOD, AGRICULTURAL, AND FORESTRY RESEARCH.

Section 401(h) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651(h)) is amended by striking the second through fifth sentences.

SEC. 852. JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES.

(a) REPEAL.—Section 1407 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3122) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 1405 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121) is amended—

(A) in paragraph (5), by striking "Joint Council, Advisory Board," and inserting "Advisory Board"; and

(B) in paragraph (11), by striking "the Joint Council,".

(2) Section 1410(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125(2)) is amended by striking "the recommendations of the Joint Council developed under section 1407(f),".

(3) Section 1412 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127) is amended—

*(A) in the section heading, by striking "**THE JOINT COUNCIL, ADVISORY BOARD,**" and inserting "**ADVISORY BOARD**";*

(B) in subsection (a)—

(i) by striking "Joint Council, the Advisory Board," and inserting "Advisory Board";

(ii) by striking "the cochairpersons of the Joint Council and" each place it appears; and

(iii) in paragraph (2), by striking "one shall serve as the executive secretary to the Joint Council, one shall serve as the executive secretary to the Advisory Board," and inserting "one shall serve as the executive secretary to the Advisory Board"; and

(C) in subsections (b) and (c), by striking "Joint Council, Advisory Board," each place it appears and inserting "Advisory Board".

(4) Section 1413 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128) is amended—

(A) in subsection (a), by striking "Joint Council, the Advisory Board," and inserting "Advisory Board"; and

(B) in subsection (b), by striking "Joint Council, Advisory Board," and inserting "Advisory Board".

(5) Section 1434(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(c)) is amended—

(A) in the second sentence, by striking "Joint Council, the Advisory Board," and inserting "Advisory Board"; and

(B) in the fourth sentence, by striking "the Joint Council,".

SEC. 853. AGRICULTURAL SCIENCE AND TECHNOLOGY REVIEW BOARD.

(a) REPEAL.—Section 1408A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123a) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended—

(A) in paragraph (16)(F), by adding "and" at the end;

(B) in paragraph (17), by striking "; and" at the end and inserting a period; and

(C) by striking paragraph (18).

(2) Section 1405(12) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121(12)) is amended by striking ", after coordination with the Technology Board,".

(3) Section 1410(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125(2)) (as amended by section 802(b)(2)) is amended by striking "and the recommendations of the Technology Board developed under section 1408A(d)".

(4) Section 1412 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127) (as amended by section 852(b)(3)) is amended—

*(A) in the section heading, by striking "**AND TECHNOLOGY BOARD**";*

(B) in subsection (a)—

(i) by striking "and the Technology Board" each place it appears; and

(ii) in paragraph (2), by striking "and one shall serve as the executive secretary to the Technology Board"; and

(C) in subsections (b) and (c), by striking "and Technology Board" each place it appears.

(5) Section 1413 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128) (as amended by section 852(b)(4)) is amended—

(A) in subsection (a), by striking "or the Technology Board"; and

(B) in subsection (b), by striking "and the Technology Board".

SEC. 854. ANIMAL HEALTH SCIENCE RESEARCH ADVISORY BOARD.

Section 1432 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3194) is repealed.

SEC. 855. RESIDENT INSTRUCTION PROGRAM AT 1890 LAND-GRANT COLLEGES.

Section 1446 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222a) is repealed.

SEC. 856. GRANTS TO STATES FOR INTERNATIONAL TRADE DEVELOPMENT CENTERS.

Section 1458A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292) is repealed.

SEC. 857. RANGELAND RESEARCH.

(a) REPORTS.—Section 1481 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3334) is repealed.

(b) ADVISORY BOARD.—Section 1482 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3335) is repealed.

SEC. 858. COMPOSTING RESEARCH AND EXTENSION PROGRAM.

Section 1456 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3130) is repealed.

SEC. 859. EDUCATION PROGRAM REGARDING HANDLING OF AGRICULTURAL CHEMICALS AND AGRICULTURAL CHEMICAL CONTAINERS.

(a) REPEAL.—Section 1499A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125c) is repealed.

(b) CONFORMING AMENDMENT.—Section 1499(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5506(b)) is amended by striking "and section 1499A".

SEC. 860. PROGRAM ADMINISTRATION REGARDING SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION.

(a) REPORTING REQUIREMENT.—Section 1622 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5812) is amended by striking subsection (b).

(b) ADVISORY COUNCIL.—Section 1622 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5812) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) in paragraph (3), by striking "subsection (e)" and inserting "subsection (b)"; and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(2) by striking subsections (c) and (d);

(3) by redesignating subsection (e) as subsection (b); and

(4) in subsection (b)(2) (as so redesignated)—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively.

(c) CONFORMING AMENDMENTS.—

(1) Section 1619(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5801(b)) is amended—

(A) by striking paragraph (7); and

(B) by redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively.

(2) Section 1621(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5811(c)) is amended—

(A) in paragraph (1)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively; and

(B) in paragraph (2)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively.

(3) Section 1628(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5831(b)) is amended by striking "Advisory Council, the Soil Conservation Service," and inserting "Natural Resources Conservation Service".

SEC. 861. RESEARCH REGARDING PRODUCTION, PREPARATION, PROCESSING, HANDLING, AND STORAGE OF AGRICULTURAL PRODUCTS.

Subtitle E of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5871 et seq.) is repealed.

SEC. 862. PLANT AND ANIMAL PEST AND DISEASE CONTROL PROGRAM.

(a) REPEAL.—Subtitle F of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5881 et seq.) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 28(b)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–3(b)(2)(A)) is amended by striking "and the information required by section 1651 of the Food, Agriculture, Conservation, and Trade Act of 1990".

(2) Section 1627(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5821(a)(3)) is amended by striking "and section 1650".

(3) Section 1628 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5831) is amended by striking "section 1650," each place it appears in subsections (a) and (d).

(4) Section 1629 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5832) is amended by striking "section 1650," each place it appears in subsections (f) and (g)(11).

SEC. 863. CERTAIN SPECIALIZED RESEARCH PROGRAMS.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) by striking subsections (a), (f), (g), (h), and (j); and

(2) by redesignating subsections (i) and (k) as subsections (f) and (g), respectively.

SEC. 864. COMMISSION ON AGRICULTURAL RESEARCH FACILITIES.

Section 1674 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5927) is repealed.

SEC. 865. SPECIAL GRANT TO STUDY CONSTRAINTS ON AGRICULTURAL TRADE.

Section 1678 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5931) is repealed.

SEC. 866. PILOT PROJECT TO COORDINATE FOOD AND NUTRITION EDUCATION PROGRAMS.

Section 1679 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5932) is repealed.

SEC. 867. DEMONSTRATION AREAS FOR RURAL ECONOMIC DEVELOPMENT.

Section 2348 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2662a) is repealed.

SEC. 868. TECHNICAL ADVISORY COMMITTEE REGARDING GLOBAL CLIMATE CHANGE.

Section 2404 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6703) is repealed.

SEC. 869. COMMITTEE OF NINE UNDER HATCH ACT OF 1887.

Section 3(c)3 of the Act of March 2, 1887 (commonly known as the "Hatch Act of 1887"; 7 U.S.C. 361c(c)3) is amended by striking ", and shall be used" and all that follows through "by this paragraph".

SEC. 870. COTTON CROP REPORTS.

The Act of May 3, 1924 (43 Stat. 115, chapter 149; 7 U.S.C. 475), is repealed.

SEC. 871. RURAL ECONOMIC AND BUSINESS DEVELOPMENT AND ADDITIONAL RESEARCH GRANTS UNDER TITLE V OF RURAL DEVELOPMENT ACT OF 1972.

Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by striking subsections (g) and (j).

SEC. 872. HUMAN NUTRITION RESEARCH.

Section 1452 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 7 U.S.C. 3173 note) is repealed.

SEC. 873. GRANTS TO UPGRADE 1890 LAND-GRANT COLLEGE EXTENSION FACILITIES.

Section 1416 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (7 U.S.C. 3224) is repealed.

SEC. 874. INDIAN SUBSISTENCE FARMING DEMONSTRATION GRANT PROGRAM.

Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 7 U.S.C. 5930 note) is repealed.

Subtitle D—Miscellaneous Research Provisions

SEC. 881. CRITICAL AGRICULTURAL MATERIALS RESEARCH.

(a) REPORTS.—Section 4 of the Critical Agricultural Materials Act (7 U.S.C. 178b) is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) is amended by striking "1995" and inserting "1997".

SEC. 882. MEMORANDUM OF AGREEMENT REGARDING 1994 INSTITUTIONS.

Section 533 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note) is amended by adding at the end the following:

"(d) MEMORANDUM OF AGREEMENT.—Not later than January 6, 1997, the Secretary shall develop and implement a formal memorandum of agreement with the 1994 Institutions to establish programs to ensure that tribally controlled colleges and Native American communities equitably participate in Department of Agriculture employment, programs, services, and resources.".

SEC. 883. SMITH-LEVER ACT FUNDING FOR 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.

(a) ELIGIBILITY FOR FUNDS.—Section 3(d) of the Act of May 8, 1914 (commonly known as the "Smith-Lever Act"; 7 U.S.C. 343(d)), is amended by adding at the end the following: "A college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, may apply for and receive directly from the Secretary of Agriculture—

"(1) amounts made available under this subsection after September 30, 1995, to carry out programs or initiatives for which no funds were made available under this subsection for fiscal year 1995, or any previous fiscal year, as determined by the Secretary; and

"(2) amounts made available after September 30, 1995, to carry out programs or initiatives funded under this subsection prior to that date that are in excess of the highest amount made available for the programs or initiatives under this subsection for fiscal year 1995, or any previous fiscal year, as determined by the Secretary.".

(b) CONFORMING AMENDMENT.—The third sentence of section 1444(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)) is amended by inserting before the period at the end the following: ", except that for the purpose of this calculation, the total appropriations shall not include amounts made available after September 30, 1995, under section 3(d) of that Act (7 U.S.C. 343(d)), to carry out programs or initiatives for which no funds were made available under section 3(d) of that Act for fiscal year 1995, or any previous fiscal year, as determined by the Secretary, and shall not include amounts made available after September 30, 1995, to carry out programs or initiatives funded under section 3(d) of that Act prior to that date that are in excess of the highest amount made available for the programs or initiatives for fiscal year 1995, or any previous fiscal year, as determined by the Secretary".

SEC. 884. AGRICULTURAL RESEARCH FACILITIES.

(a) RESEARCH FACILITIES.—The Research Facilities Act (7 U.S.C. 390 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Research Facilities Act'.

"SEC. 2. DEFINITIONS.

"In this Act:

"(1) AGRICULTURAL RESEARCH FACILITY.—The term 'agricultural research facility' means a proposed facility for research in food and agricultural sciences for which Federal funds are requested by a college, university, or nonprofit institution to assist in the construction, alteration, acquisition, modernization, renovation, or remodeling of the facility.

"(2) CONGRESSIONAL AGRICULTURE COMMITTEES.—The term 'congressional agriculture committees' means the Committee on Appropriations and the Committee on Agriculture of the House of Representatives and the Committee on Appropriations and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(3) FOOD AND AGRICULTURAL SCIENCES.—The term 'food and agricultural sciences' means—

"(A) agriculture, including soil and water conservation and use, the use of organic materials to improve soil tilth and fertility, plant and animal production and protection, and plant and animal health;

"(B) the processing, distribution, marketing, and utilization of food and agricultural products;

"(C) forestry, including range management, production of forest and range products, multiple use of forests and rangelands, and urban forestry;

"(D) aquaculture (as defined in section 1404(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(3));

"(E) human nutrition;

"(F) production inputs, such as energy, to improve productivity; and

"(G) germ plasm collection and preservation.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(5) TASK FORCE.—The term 'task force' means the Strategic Planning Task Force established under section 4.

"SEC. 3. REVIEW PROCESS.

"(a) SUBMISSION TO SECRETARY.—Each proposal for an agricultural research facility shall be submitted to the Secretary for review. The Secretary shall review the proposals in the order in which the proposals are received.

"(b) APPLICATION PROCESS.—In consultation with the congressional agriculture committees, the Secretary shall establish an application process for the submission of proposals for agricultural research facilities.

"(c) CRITERIA FOR APPROVAL.—

"(1) DETERMINATION BY SECRETARY.—With respect to each proposal for an agricultural research facility submitted under subsection (a), the Secretary shall determine whether the proposal meets the criteria set forth in paragraph (2).

"(2) CRITERIA.—A proposal for an agricultural research facility shall meet the following criteria:

"(A) NON-FEDERAL SHARE.—The proposal shall certify the availability of at least a 50 percent non-Federal share of the cost of the facility. The non-Federal share shall be paid in cash and may include funding from private sources or from units of State or local government.

"(B) NONDUPLICATION OF FACILITIES.—The proposal shall demonstrate how the agricultural research facility would be complementary to, and not duplicative of, facilities of colleges, universities, and nonprofit institutions, and facilities of the Agricultural Research Service, within the State and region.

"(C) NATIONAL RESEARCH PRIORITIES.—The proposal shall demonstrate how the agricultural research facility would serve—

"(i) 1 or more of the national research policies and priorities set forth in section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101); and

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(ii) regional needs.

"(D) LONG-TERM SUPPORT.—The proposal shall demonstrate that the recipient college, university, or nonprofit institution has the ability and commitment to support the long-term, ongoing operating costs of—

"(i) the agricultural research facility after the facility is completed; and

"(ii) each program to be based at the facility.

"(d) EVALUATION OF PROPOSALS.—Not later than 90 days after receiving a proposal under subsection (a), the Secretary shall—

"(1) evaluate and assess the merits of the proposal, including the extent to which the proposal meets the criteria set forth in subsection (c); and

"(2) report to the congressional agriculture committees on the results of the evaluation and assessment.

"SEC. 4. TASK FORCE ON 10-YEAR STRATEGIC PLAN FOR AGRICULTURAL RESEARCH FACILITIES.

"(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall establish a task force, to be known as the 'Strategic Planning Task Force'. The task force shall be comprised of 15 members.

"(b) COMPOSITION.—The Secretary shall select the members of the task force from a list of individuals recommended by the Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123). In submitting the list to the Secretary, the board may recommend for selection individuals (including members of the Advisory Board) who have expertise in facilities development, modernization, construction, consolidation, and closure.

"(c) DUTIES.—The task force shall review all currently operating agricultural research facilities constructed in whole or in part with Federal funds, and all planned agricultural research facilities proposed to be constructed with Federal funds, pursuant to criteria established by the Secretary, to ensure that a comprehensive research capacity is maintained.

"(d) 10-YEAR STRATEGIC PLAN.—Not later than 2 years after the task force is established, the task force shall prepare and submit to the Secretary and the congressional agriculture committees a 10-year strategic plan, reflecting both national and regional perspectives, for development, modernization, construction, consolidation, and closure of Federal agricultural research facilities and agricultural research facilities proposed to be constructed with Federal funds.

"(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

"(1) PUBLIC MEETINGS.—All meetings of the task force shall be publicly announced in advance and shall be open to the public. Detailed minutes of meetings and other appropriate records of the activities of the task force shall be kept and made available to the public on request.

"(2) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to the task force.

"(f) DEFINITION OF AGRICULTURAL RESEARCH FACILITY.—Notwithstanding section 2(1), in this section the term 'agricultural research facility' means a facility for research in food and agricultural sciences.

"SEC. 5. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

"The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created solely for the purpose of reviewing applications or proposals submitted under this Act.

"SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated such sums as are necessary for fiscal years 1996 and 1997 for the study, plan, design, structure, and related costs of agricultural research facilities under this Act.

"(b) ALLOWABLE ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds made available for any project for an agricultural research facility shall be available for administration of the project.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a), other than section 4 of the Research Facilities Act (as amended by subsection (a)), shall not apply to any project for an agricultural research facility for which funds have been made available for a feasibility study or for any phase of the project prior to October 1, 1995.

(c) AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL FACILITIES.—Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1556) is amended—

(1) in subsection (a)—

(A) by striking "(a)"; and

(B) by striking "1995" and inserting "1997"; and

(2) by striking subsection (b).

(d) CONFORMING AMENDMENT.—Section 1463(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a)) is amended by striking "1416,".

SEC. 885. NATIONAL COMPETITIVE RESEARCH INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS FOR COMPETITIVE GRANTS.—Subsection (b)(10) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(10)) is amended—

(1) by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 1997"; and

(2) in subparagraph (B), by striking "20 percent" and inserting "40 percent".

(b) AVAILABILITY OF FUNDS.—Subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) is amended by adding at the end the following:

"(11) AVAILABILITY OF FUNDS.—Funds made available under paragraph (10) shall be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are made available.".

SEC. 886. RURAL DEVELOPMENT RESEARCH AND EDUCATION.

Section 502(a) of the Rural Development Act of 1972 (7 U.S.C. 2662(a)) is amended by inserting after the first sentence the following: "The rural development extension programs shall also promote coordinated and integrated rural community initiatives that advance and empower capacity building through leadership development, entrepreneurship, business development and management training, and strategic planning to increase jobs, income, and quality of life in rural communities.".

SEC. 887. DAIRY GOAT RESEARCH PROGRAM.

Section 1432(b)(5) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (Public Law 97–98; 7 U.S.C. 3222 note) is amended by striking "1995" and inserting "1997".

SEC. 888. COMPETITIVE GRANTS FOR RESEARCH TO ERADICATE AND CONTROL BROWN CITRUS APHID AND CITRUS TRISTEZA VIRUS.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) (as amended by section 863) is amended by inserting before subsection (b) the following:

"(a) BROWN CITRUS APHID AND CITRUS TRISTEZA VIRUS.—

"(1) RESEARCH GRANTS AUTHORIZED.—The Secretary of Agriculture may make competitive grants available to support research for the purpose of—

"(A) developing methods to eradicate the brown citrus aphid and the citrus tristeza virus from citrus crops grown in the United States; or

"(B) adapting citrus crops grown in the United States to the brown citrus aphid and the citrus tristeza virus.

"(2) METHOD OF PROVIDING GRANTS.—Grants authorized under this subsection shall be made in the same manner, and shall be subject to the same conditions, as provided for competitive grants under the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i).

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $3,000,000 for fiscal year 1997.".

SEC. 889. STUTTGART NATIONAL AQUACULTURE RESEARCH CENTER.

(a) TRANSFER OF FUNCTIONS TO SECRETARY OF AGRICULTURE.—

(1) PURPOSE.—The first section of Public Law 85–342 (16 U.S.C. 778) is amended—

(A) by striking "Secretary of the Interior" and all that follows through "directed to" and inserting "Secretary of Agriculture shall";

(B) by striking "an experiment station or stations" and inserting "1 or more centers"; and

(C) in paragraph (5), by striking "Department of Agriculture" and inserting "Secretary of the Interior".

(2) AUTHORITY.—Section 2 of Public Law 85–342 (16 U.S.C. 778a) is amended by striking ", the Secretary" and all that follows through "authorized" and inserting ", the Secretary of Agriculture is authorized".

(3) ASSISTANCE.—Section 3 of Public Law 85–342 (16 U.S.C. 778b) is amended—

(A) by striking "Secretary of the Interior" and inserting "Secretary of Agriculture"; and

(B) by striking "Department of Agriculture" and inserting "Secretary of the Interior".

(b) TRANSFER OF FISH FARMING EXPERIMENTAL LABORATORY TO DEPARTMENT OF AGRICULTURE.—

(1) DESIGNATION OF STUTTGART NATIONAL AQUACULTURE RESEARCH CENTER.—

(A) IN GENERAL.—The Fish Farming Experimental Laboratory in Stuttgart, Arkansas (including the facilities in Kelso, Arkansas), shall be known and designated as the "Stuttgart National Aquaculture Research Center".

(B) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory referred to in subparagraph (A) shall be deemed to be a reference to the "Stuttgart National Aquaculture Research Center".

(2) TRANSFER OF LABORATORY TO DEPARTMENT OF AGRICULTURE.—Subject to section 1531 of title 31, United States Code, not later than 90 days after the date of enactment of this Act, there are transferred to the Department of Agriculture—

(A) the personnel employed in connection with the laboratory referred to in paragraph (1)(A);

(B) the assets, liabilities, contracts, and real and personal property of the laboratory;

(C) the records of the laboratory; and

(D) the unexpended balance of appropriations, authorizations, allocations, and other funds employed in connection with, held in connection with, arising from, available to, or to be made available in connection with the laboratory.

(3) NONDUPLICATION OF FACILITIES.—The research center referred to in paragraph (1)(A) shall be complementary to, and not duplicative of, facilities of colleges, universities, and nonprofit institutions, and facilities of the Agricultural Research Service, within the State and region, as determined by the Administrator of the Service.

SEC. 890. EXPANSION OF AUTHORITIES RELATED TO NATIONAL ARBORETUM.

(a) SOLICITATION OF GIFTS, BENEFITS, AND DEVISES.—The first sentence of section 5 of the

Act of March 4, 1927 (20 U.S.C. 195), is amended by inserting "solicit," after "authorized to".

(b) CONCESSIONS, FEES, AND VOLUNTARY SERVICES.—The Act of March 4, 1927 (20 U.S.C. 191 et seq.), is amended by adding at the end the following:

"SEC. 6. CONCESSIONS, FEES, AND VOLUNTARY SERVICES.

"(a) IN GENERAL.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the Secretary of Agriculture, in furtherance of the mission of the National Arboretum, may—

"(1) negotiate agreements granting concessions at the National Arboretum to nonprofit scientific or educational organizations the interests of which are complementary to the mission of the National Arboretum, except that the net proceeds of the organizations from the concessions shall be used exclusively for research and educational work for the benefit of the National Arboretum;

"(2) provide by concession, on such terms as the Secretary of Agriculture considers appropriate and necessary, for commercial services for food, drink, and nursery sales, if an agreement for a permanent concession under this paragraph is negotiated with a qualified person submitting a proposal after due consideration of all proposals received after the Secretary of Agriculture provides reasonable public notice of the intent of the Secretary to enter into such an agreement;

"(3) dispose of excess property, including excess plants and fish, in a manner designed to maximize revenue from any sale of the property, including by way of public auction, except that this paragraph shall not apply to the free dissemination of new varieties of seeds and germ plasm in accordance with section 520 of the Revised Statutes (commonly known as the 'Department of Agriculture Organic Act of 1862') (7 U.S.C. 2201);

"(4) charge such fees as the Secretary of Agriculture considers reasonable for temporary use by individuals or groups of National Arboretum facilities and grounds for any purpose consistent with the mission of the National Arboretum;

"(5) charge such fees as the Secretary of Agriculture considers reasonable for the use of the National Arboretum for commercial photography or cinematography;

"(6) publish, in print and electronically and without regard to laws relating to printing by the Federal Government, informational brochures, books, and other publications concerning the National Arboretum or the collections of the Arboretum; and

"(7) license use of the National Arboretum name and logo for public service or commercial uses.

"(b) USE OF FUNDS.—Any funds received or collected by the Secretary of Agriculture as a result of activities described in subsection (a) shall be retained in a special fund in the Treasury for the use and benefit of the National Arboretum as the Secretary of Agriculture considers appropriate.

"(c) ACCEPTANCE OF VOLUNTARY SERVICES.—The Secretary of Agriculture may accept the voluntary services of organizations described in subsection (a)(1), and the voluntary services of individuals (including employees of the National Arboretum), for the benefit of the National Arboretum.".

SEC. 891. TRANSFER OF AQUACULTURAL RESEARCH CENTER.

(a) TRANSFER OF FISH CULTURE LABORATORY TO DEPARTMENT OF AGRICULTURE.—

(1) DESIGNATION OF CLAUDE HARRIS NATIONAL AQUACULTURAL RESEARCH CENTER.—

(A) IN GENERAL.—The Southeastern Fish Culture Laboratory in Marion, Alabama, shall be known and designated as the "Claude Harris National Aquacultural Research Center".

(B) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory referred to in subparagraph (A) shall be deemed to be a reference to the "Claude Harris National Aquacultural Research Center".

(2) TRANSFER OF LABORATORY TO DEPARTMENT OF AGRICULTURE.—Subject to section 1531 of title 31, United States Code, not later than 90 days after the date of enactment of this Act, the Secretary of the Interior may transfer, in whole or in part, to the Department of Agriculture, with the consent of the Secretary of Agriculture—

(A) the personnel employed in connection with the laboratory referred to in paragraph (1);

(B) the assets, liabilities, contracts, and real and personal property of the laboratory;

(C) the records of the laboratory; and

(D) the unexpended balance of appropriations, authorizations, allocations, and other funds employed in connection with, held in connection with, arising from, available to, or to be made available in connection with the laboratory.

(b) NONDUPLICATION OF FACILITIES.—The research center designated by subsection (a) shall be complementary to, and not duplicative of, facilities of colleges, universities, and nonprofit institutions, and facilities of the Agricultural Research Service, within the State and region, as determined by the Secretary of Agriculture.

SEC. 892. USE OF REMOTE SENSING DATA AND OTHER DATA TO ANTICIPATE POTENTIAL FOOD, FEED, AND FIBER SHORTAGES OR EXCESSES AND TO PROVIDE TIMELY INFORMATION TO ASSIST FARMERS WITH PLANTING DECISIONS.

(a) FINDINGS.—Congress finds that—

(1) remote sensing data can be useful to predict impending famine problems and forest infestations in time to allow remedial action;

(2) remote sensing data can inform the agricultural community as to the condition of crops and the land that sustains those crops; and

(3) remote sensing data and other data can be valuable, when received on a timely basis, in determining the need for additional plantings of a particular crop or a substitute crop.

(b) INFORMATION DEVELOPMENT.—The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration, maximizing private funding and involvement, shall provide farmers and other interested persons with timely information, through remote sensing, on crop conditions, fertilization and irrigation needs, pest infiltration, soil conditions, projected food, feed, and fiber production, and any other information available through remote sensing.

(c) COORDINATION.—The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration shall jointly develop a proposal to provide farmers and other prospective users with supply and demand information for food and fibers.

(d) SUNSET.—The authorities provided by this section shall expire 5 years after the date of enactment of this Act.

SEC. 893. SENSE OF SENATE REGARDING METHYL BROMIDE ALTERNATIVE RESEARCH AND EXTENSION ACTIVITIES.

It is the sense of the Senate that—

(1) the Department of Agriculture should continue to make methyl bromide alternative research and extension activities a high priority of the Department; and

(2) the Department of Agriculture, the Environmental Protection Agency, producer and processor organizations, environmental organizations, and State agencies should continue their dialogue on the risks and benefits of extending the 2001 phaseout deadline.

Subtitle E—Research Authority After Fiscal Year 1997

SEC. 897. AUTHORIZATION OF APPROPRIATIONS.

Subject to section 898, there are authorized to be appropriated for fiscal years 1998 through 2002 such sums as are necessary to carry out the agricultural research, extension, and education activities and initiatives of the Department of Agriculture.

SEC. 898. ACTIVITIES SUBJECT TO AVAILABILITY OF APPROPRIATIONS.

During each of fiscal years 1998 through 2002, the Secretary of Agriculture shall conduct only those agricultural research, extension, and education activities and initiatives of the Department of Agriculture for which funds are specifically provided for the fiscal year in an appropriation Act.

TITLE IX—MISCELLANEOUS

Subtitle A—Commercial Transportation of Equine for Slaughter

SEC. 901. FINDINGS.

Because of the unique and special needs of equine being transported to slaughter, Congress finds that it is appropriate for the Secretary of Agriculture to issue guidelines for the regulation of the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States.

SEC. 902. DEFINITIONS.

In this subtitle:

(1) COMMERCIAL TRANSPORTATION.—The term "commercial transportation" means the regular operation for profit of a transport business that uses trucks, tractors, trailers, or semitrailers, or any combination thereof, propelled or drawn by mechanical power on any highway or public road.

(2) EQUINE FOR SLAUGHTER.—The term "equine for slaughter" means any member of the Equidae family being transferred to a slaughter facility, including an assembly point, feedlot, or stockyard.

(3) PERSON.—The term "person"—

(A) means any individual, partnership, corporation, or cooperative association that regularly engages in the commercial transportation of equine for slaughter; but

(B) does not include any individual or other entity referred to in subparagraph (A) that occasionally transports equine for slaughter incidental to the principal activity of the individual or other entity in production agriculture.

SEC. 903. REGULATION OF COMMERCIAL TRANSPORTATION OF EQUINE FOR SLAUGHTER.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Agriculture may issue guidelines for the regulation of the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States.

(b) ISSUES FOR REVIEW.—In carrying out this section, the Secretary of Agriculture shall review the food, water, and rest provided to equine for slaughter in transit, the segregation of stallions from other equine during transit, and such other issues as the Secretary considers appropriate.

(c) ADDITIONAL AUTHORITY.—In carrying out this section, the Secretary of Agriculture may—

(1) require any person to maintain such records and reports as the Secretary considers necessary;

(2) conduct such investigations and inspections as the Secretary considers necessary; and

(3) establish and enforce appropriate and effective civil penalties.

SEC. 904. LIMITATION OF AUTHORITY TO EQUINE FOR SLAUGHTER.

Nothing in this subtitle authorizes the Secretary of Agriculture to regulate the routine or regular transportation, to slaughter or elsewhere, of—

VOL
142
PT
5
MR
21
—
29
1996
UMI

(1) livestock other than equine; or

(2) poultry.

SEC. 905. EFFECTIVE DATE.

This subtitle shall become effective on the first day of the first month that begins 30 days or more after the date of enactment of this Act.

Subtitle B—General Provisions

SEC. 911. INTERSTATE QUARANTINE.

The fourth sentence of section 8 of the Act of August 20, 1912 (7 U.S.C. 161), is amended by inserting after "Provided, That" the following: "if the Secretary of Agriculture determines under this section that it is necessary to quarantine a State entirely comprised of islands, the Secretary of Agriculture, in implementing the restrictions authorized under this section, shall give consideration to enhancing passenger movement and commerce on and between islands in the State: Provided further, That".

SEC. 912. COTTON CLASSIFICATION SERVICES.

(a) EXTENSION OF AUTHORIZATION.—The first sentence of section 3a of the Act of March 3, 1927 (commonly known as the "Cotton Statistics and Estimates Act") (7 U.S.C. 473a), is amended by striking "1996" and inserting "2002".

(b) COTTON CLASSING OFFICE LOCATIONS.—Section 4 of the Act of March 3, 1927 (commonly known as the "Cotton Statistics and Estimates Act") (7 U.S.C. 474), is amended by adding at the end the following: "The Secretary of Agriculture shall maintain until at least January 1, 1999, all cotton classing office locations in the State of Missouri that existed on January 1, 1996.".

SEC. 913. PLANT VARIETY PROTECTION FOR CERTAIN TUBER PROPAGATED PLANT VARIETIES.

(a) IN GENERAL.—Section 42(a)(1)(B)(i) of the Plant Variety Protection Act (7 U.S.C. 2402(a)(1)(B)(i)) is amended by inserting after "filing" the following: ", except that in the case of a tuber propagated plant variety the Secretary may waive the 4-year limitation for a period ending 1 year after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996".

(b) TERM OF PROTECTION.—Section 83(b) of the Plant Variety Protection Act (7 U.S.C. 2483(b)) is amended—

(1) by striking "(b) The term" and inserting the following:

"(b) TERM.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term";

(2) in the second sentence, by striking "If the certificate" and inserting the following:

"(2) EXCEPTIONS.—If the certificate"; and

(3) in paragraph (2) (as so designated), by striking "except that, in the case" and inserting the following: "except that—

"(A) in the case of a tuber propagated plant variety subject to a waiver granted under section 42(a)(1)(B)(i), the term of the plant variety protection shall expire 20 years after the date of the original grant of the plant breeder's rights to the variety outside the United States; and

"(B) in the case".

SEC. 914. SWINE HEALTH PROTECTION.

(a) TERMINATION OF STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—Section 10 of the Swine Health Protection Act (7 U.S.C. 3809) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) REQUEST OF STATE OFFICIAL.—

"(1) IN GENERAL.—On request of the Governor or other appropriate official of a State, the Secretary may terminate, effective as soon as the Secretary determines is practicable, the primary enforcement responsibility of a State under subsection (a). In terminating the primary enforcement responsibility under this subsection, the Secretary shall work with the appropriate State official to determine the level of support to be provided to the Secretary by the State under this Act.

"(2) REASSUMPTION.—Nothing in this subsection shall prevent a State from reassuming primary enforcement responsibility if the Secretary determines that the State meets the requirements of subsection (a).".

(b) ADVISORY COMMITTEE.—The Swine Health Protection Act is amended—

(1) by striking section 11 (7 U.S.C. 3810); and

(2) by redesignating sections 12, 13, and 14 (7 U.S.C. 3811, 3812, and 3813) as sections 11, 12, and 13, respectively.

SEC. 915. DESIGNATION OF MOUNT PLEASANT NATIONAL SCENIC AREA.

Sections 1, 2, and 3(a)(1) of the George Washington National Forest Mount Pleasant Scenic Area Act (Public Law 103–314; 16 U.S.C. 545 note) are each amended by striking "George Washington National Forest Mount Pleasant Scenic Area" and inserting "Mount Pleasant National Scenic Area".

SEC. 916. PSEUDORABIES ERADICATION PROGRAM.

Section 2506(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 114i(d)) is amended by striking "1995" and inserting "2002".

SEC. 917. COLLECTION AND USE OF AGRICULTURAL QUARANTINE AND INSPECTION FEES.

Section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a) is amended by striking subsection (a) and inserting the following:

"(a) QUARANTINE AND INSPECTION FEES.—

"(1) FEES AUTHORIZED.—The Secretary of Agriculture may prescribe and collect fees sufficient—

"(A) to cover the cost of providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of an international passenger, commercial vessel, commercial aircraft, commercial truck, or railroad car;

"(B) to cover the cost of administering this subsection; and

"(C) through fiscal year 2002, to maintain a reasonable balance in the Agricultural Quarantine Inspection User Fee Account established under paragraph (5).

"(2) LIMITATION.—In setting the fees under paragraph (1), the Secretary shall ensure that the amount of the fees is commensurate with the costs of agricultural quarantine and inspection services with respect to the class of persons or entities paying the fees. The costs of the services with respect to passengers as a class includes the costs of related inspections of the aircraft or other vehicle.

"(3) STATUS OF FEES.—Fees collected under this subsection by any person on behalf of the Secretary are held in trust for the United States and shall be remitted to the Secretary in such manner and at such times as the Secretary may prescribe.

"(4) LATE PAYMENT PENALTIES.—If a person subject to a fee under this subsection fails to pay the fee when due, the Secretary shall assess a late payment penalty, and the overdue fees shall accrue interest, as required by section 3717 of title 31, United States Code.

"(5) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT.—

"(A) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the 'Agricultural Quarantine Inspection User Fee Account', which shall contain all of the fees collected under this subsection and late payment penalties and interest charges collected under paragraph (4) through fiscal year 2002.

"(B) USE OF ACCOUNT.—For each of fiscal years 1996 through 2002, funds in the Agricultural Quarantine Inspection User Fee Account shall be available, in such amounts as are provided in advance in appropriations Acts, to cover the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. Amounts made available under this subparagraph shall be available until expended.

"(C) EXCESS FEES.—Fees and other amounts collected under this subsection in any of fiscal years 1996 through 2002 in excess of $100,000,000 shall be available for the purposes specified in subparagraph (B) until expended, without further appropriation.

"(6) USE OF AMOUNTS COLLECTED AFTER FISCAL YEAR 2002.—After September 30, 2002, the unobligated balance in the Agricultural Quarantine Inspection User Fee Account and fees and other amounts collected under this subsection shall be credited to the Department of Agriculture accounts that incur the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. The fees and other amounts shall remain available to the Secretary until expended without fiscal year limitation.

"(7) STAFF YEARS.—The number of full-time equivalent positions in the Department of Agriculture attributable to the provision of agricultural quarantine and inspection services and the administration of this subsection shall not be counted toward the limitation on the total number of full-time equivalent positions in all agencies specified in section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 5 U.S.C. 3101 note) or other limitation on the total number of full-time equivalent positions.".

SEC. 918. MEAT AND POULTRY INSPECTION.

(a) ESTABLISHMENT OF SAFE MEAT AND POULTRY INSPECTION PANEL.—

(1) IN GENERAL.—The Federal Meat Inspection Act is amended—

(A) by redesignating section 410 (21 U.S.C. 680) as section 411; and

(B) by inserting after section 409 (21 U.S.C. 679) the following:

"SEC. 4'0. SAFE MEAT AND POULTRY INSPECTION PANEL.

"(a) ESTABLISHMENT.—There is established in the Department of Agriculture a permanent advisory panel to be known as the 'Safe Meat and Poultry Inspection Panel' (referred to in this section as the 'panel').

"(b) DUTIES.—

"(1) REVIEW AND EVALUATION.—The panel shall review and evaluate, as the panel considers necessary, the adequacy, necessity, safety, cost-effectiveness, and scientific merit of—

"(A) inspection procedures of, and work rules and worker relations involving Federal employees employed in, plants inspected under this Act;

"(B) informal petitions or proposals for changes in inspection procedures, processes, and techniques of plants inspected under this Act;

"(C) formal changes in meat inspection regulations promulgated under this Act, whether in notice, proposed, or final form; and

"(D) such other matters as may be referred to the panel by the Secretary regarding the quality or effectiveness of a safe and cost-effective meat inspection system under this Act.

"(2) REPORTS.—

"(A) IN GENERAL.—The panel shall submit to the Secretary a report on the results of each review and evaluation carried out under paragraph (1), including such recommendations as the panel considers appropriate.

"(B) REPORTS ON FORMAL CHANGES.—In the case of a report concerning a formal change in meat inspection regulations, the report shall be made within the time limits prescribed for formal comments on such changes.

"(C) PUBLICATION IN FEDERAL REGISTER.—Each report of the panel to the Secretary shall be published in the Federal Register.

"(c) SECRETARIAL RESPONSE.—Not later than 90 days after the publication of a panel report under subsection (b)(2)(C), the Secretary shall publish in the Federal Register any response required of the Secretary to the report.

"(d) COMPOSITION OF PANEL.—The panel shall be composed of 7 members, not fewer than 5 of whom shall be from the food science, meat science, or poultry science profession, appointed to staggered terms not to exceed 3 years by the Secretary from nominations received from the National Institutes of Health and the Federation of American Societies of Food Animal Science and based on the professional qualifications of the nominees.

"(e) NOMINATIONS.—

"(1) INITIAL PANEL.—In constituting the initial panel, the Secretary shall solicit 6 nominees from the National Institutes of Health and 6 nominees from the Federation of American Societies of Food Animal Science for membership on the panel.

"(2) VACANCIES.—Any subsequent vacancy on the panel shall be filled by the Secretary after soliciting 2 nominees from the National Institutes of Health and 2 nominees from the Federation of American Societies of Food Animal Science.

"(3) REQUIREMENTS FOR NOMINEES.—

"(A) IN GENERAL.—Each nominee provided under paragraph (1) or (2) shall have a background in public health issues and a scientific expertise in food, meat, or poultry science or in veterinary science.

"(B) SUBMISSION OF INFORMATION.—The Secretary may require nominees to submit such information as the Secretary considers necessary prior to completing the selection process.

"(4) ADDITIONAL NOMINEES.—If any list of nominees provided under paragraph (1) or (2) is unsatisfactory to the Secretary, the Secretary may request the nominating entities to submit an additional list of nominees.

"(f) TRAVEL EXPENSES.—While away from the home or regular place of business of a member of the panel in the performance of services for the panel, the member shall be allowed travel expenses, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the Government service would be allowed under section 5703 of title 5, United States Code.

"(g) CONFLICTS OF INTEREST.—The Secretary shall promulgate regulations regarding conflicts of interest with respect to the members of the panel.

"(h) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to the panel.

"(i) FUNDING.—From funds available to the Secretary to carry out this Act and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), the Secretary shall allocate such sums as may be necessary to carry out this section.".

(2) CROSS REFERENCE IN POULTRY PRODUCTS INSPECTION ACT.—The Poultry Products Inspection Act (21 U.S.C. 451 et seq.) is amended by adding at the end the following:

"SEC. 30. SAFE MEAT AND POULTRY INSPECTION PANEL.

"(a) REVIEW AND EVALUATION.—The advisory panel known as the 'Safe Meat and Poultry Inspection Panel' established by section 410 of the Federal Meat Inspection Act shall review and evaluate, as the panel considers necessary, the adequacy, necessity, safety, cost-effectiveness, and scientific merit of—

"(1) inspection procedures of, and work rules and worker relations involving Federal employees employed in, plants inspected under this Act;

"(2) informal petitions or proposals for changes in inspection procedures, processes, and techniques of plants inspected under this Act;

"(3) formal changes in poultry inspection regulations promulgated under this Act, whether in notice, proposed, or final form; and

"(4) such other matters as may be referred to the panel by the Secretary regarding the quality or effectiveness of a safe and cost-effective poultry inspection system under this Act.

"(b) REPORTS.—

"(1) IN GENERAL.—The Safe Meat and Poultry Inspection Panel shall submit to the Secretary a report on the results of each review and evaluation carried out under paragraph (1), including such recommendations as the panel considers appropriate.

"(2) REPORTS ON FORMAL CHANGES.—In the case of a report concerning a formal change in poultry inspection regulations, the report shall be made within the time limits prescribed for formal comments on such changes.".

(b) INTERSTATE SHIPMENT OF STATE-INSPECTED MEAT AND POULTRY.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress recommendations concerning the steps necessary to achieve interstate shipment of—

(1) meat inspected under a State meat inspection program developed and administered under section 301 of the Federal Meat Inspection Act (21 U.S.C. 661); and

(2) poultry inspected under a State poultry product inspection program developed and administered under section 5 of the Poultry Products Inspection Act (21 U.S.C. 454).

SEC. 919. REIMBURSABLE AGREEMENTS.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the "Secretary") may enter into reimbursable fee agreements with persons for preclearance at locations outside the United States of plants, plant products, animals, and articles for movement into the United States.

(b) OVERTIME, NIGHT, AND HOLIDAY WORK.—Notwithstanding any other provision of law, the Secretary may pay an employee of the Department of Agriculture performing services relating to imports into and exports from the United States for overtime, night, and holiday work performed by the employee at a rate of pay established by the Secretary.

(c) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary may require persons for whom preclearance services are performed to reimburse the Secretary for any amounts paid by the Secretary for performance of the services.

(2) CREDITING OF FUNDS.—All funds collected under paragraph (1) shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

(3) LATE PAYMENT PENALTY.—

(A) IN GENERAL.—On failure of a person to reimburse the Secretary for the costs of performance of preclearance services—

(i) the Secretary may assess a late payment penalty; and

(ii) the overdue funds shall accrue interest in accordance with section 3717 of title 31, United States Code.

(B) CREDITING OF FUNDS.—Any late payment penalty and any accrued interest collected under this paragraph shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

SEC. 920. OVERSEAS TORT CLAIMS.

(a) IN GENERAL.—The Secretary of Agriculture may pay a tort claim in the manner authorized by section 2672 of title 28, United States Code, if the claim arises outside the United States in connection with activities of individuals who are performing services for the Secretary.

(b) PERIOD FOR PRESENTATION OF CLAIM.—A claim may not be allowed under this section unless the claim is presented in writing to the Secretary of Agriculture within 2 years after the date on which the claim accrues.

(c) FINALITY.—Notwithstanding any other provision of law, an award or denial of a claim by the Secretary of Agriculture under this section is final.

SEC. 921. OPERATION OF GRADUATE SCHOOL OF DEPARTMENT OF AGRICULTURE AS NONAPPROPRIATED FUND INSTRUMENTALITY.

(a) DEFINITIONS.—In this section:

(1) GRADUATE SCHOOL.—The term "Graduate School" means the Graduate School of the Department of Agriculture.

(2) BOARD.—The term "Board" means the General Administration Board of the Graduate School.

(3) DIRECTOR.—The term "Director" means the Director of the Graduate School.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITY.—On and after the date of enactment of this Act, the Graduate School of the Department of Agriculture shall continue to operate as a nonappropriated fund instrumentality of the United States under the jurisdiction of the Department of Agriculture.

(c) ACTIVITIES OF GRADUATE SCHOOL.—Under the general supervision of the Secretary, the Graduate School shall develop, administer, and provide educational, training, and professional development activities, including educational activities for Federal agencies, Federal employees, nonprofit organizations, other entities, and members of the general public.

(d) FEES AND DONATIONS.—

(1) COLLECTION OF FEES.—The Graduate School may charge and retain fair and reasonable fees for the activities provided by the Graduate School. The amount of the fees shall be based on the cost of the activities to the Graduate School.

(2) ACCEPTANCE OF DONATIONS.—

(A) ACCEPTANCE AND USE AUTHORIZED.—The Graduate School may accept, use, hold, dispose, and administer gifts, bequests, and devises of money, securities, and other real or personal property made for the benefit of, or in connection with, the Graduate School.

(B) EXCEPTION.—The Graduate School shall not accept a donation from a person that is actively engaged in a procurement activity with the Graduate School or has an interest that may be substantially affected by the performance or nonperformance of an official duty of a member of the Board or an employee of the Graduate School.

(3) NOT FEDERAL FUNDS.—Fees collected under paragraph (1) and amounts received under paragraph (2) shall not be considered to be Federal funds and shall not be required to be deposited in the Treasury of the United States.

(e) GENERAL ADMINISTRATION BOARD AND DIRECTOR.—

(1) APPOINTMENT AS GOVERNING BOARD.—The Secretary shall appoint a General Administration Board to serve as a governing board for the Graduate School and to supervise and direct the activities of the Graduate School. The Board shall be subject to regulation by the Secretary.

(2) DUTIES OF BOARD.—The Board shall—

(A) formulate broad policies in accordance with which the Graduate School shall be administered;

VOL
142
PT
5
MR
21
—
29
1996
UMI

(B) take all steps necessary to ensure that the highest possible educational standards are maintained by the Graduate School;

(C) exercise general supervision over the administration of the Graduate School; and

(D) establish such bylaws, rules, and procedures as may be necessary for the fulfillment of the duties described in subparagraphs (A), (B), and (C).

(3) APPOINTMENT OF DIRECTOR AND OTHER OFFICERS.—The Board shall select a Director and such other officers as the Board considers necessary to administer the Graduate School. The Director and other officers shall serve on such terms and perform such duties as the Board may prescribe.

(4) DUTIES OF DIRECTOR.—The Director shall be responsible, subject to the supervision and direction of the Board, for carrying out the functions of the Graduate School.

(5) BORROWING AND INVESTMENT AUTHORITY.—The Board may authorize the Director—

(A) to borrow money on the credit of the Graduate School; and

(B) to invest funds held in excess of the current operating requirements of the Graduate School for purposes of maintaining a reasonable reserve.

(6) LIABILITY.—The Director and the members of the Board shall not be held personally liable for any loss or damage that may accrue to the funds of the Graduate School as the result of any act or exercise of discretion performed in carrying out their duties under this section.

(f) EMPLOYEES.—Employees of the Graduate School are employees of a nonappropriated fund instrumentality and shall not be considered to be Federal employees.

(g) NOT A FEDERAL AGENCY.—The Graduate School shall not be considered to be a Federal agency for purposes of—

(1) the Federal Advisory Committee Act (5 U.S.C. App.);

(2) section 552 or 552a of title 5, United States Code; or

(3) chapter 171 of title 28, United States Code;

(h) ACQUISITION AND DISPOSAL OF PROPERTY.—In order to carry out the activities of the Graduate School, the Graduate School may—

(1) acquire real property in the District of Columbia and in other places by lease, purchase, or otherwise;

(2) maintain, enlarge, or remodel any such property;

(3) have sole control of any such property; and

(4) dispose of real and personal property without regard to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(i) CONTRACT AUTHORITY.—The Graduate School may enter into contracts without regard to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or any other law that prescribes procedures for the procurement of property or services by an executive agency.

(j) USE OF DEPARTMENT FACILITIES AND RESOURCES.—The Graduate School may use the facilities and resources of the Department of Agriculture, on the condition that any costs incurred by the Department that are attributable solely to Graduate School operations and all costs incurred by the Graduate School arising out of such operations shall be paid using funds of the Graduate School. Federal funds may not be used to pay the costs.

SEC. 922. STUDENT INTERNSHIP PROGRAMS.

(a) STUDENT INTERN SUBSISTENCE PROGRAM.—

(1) DEFINITION OF STUDENT INTERN.—In this subsection, the term "student intern" means a person who—

(A) is employed by the Department of Agriculture (referred to in this section as the "Department") to assist scientific, professional, administrative, or technical employees of the Department; and

(B) is a student in good standing at an institution of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)) pursuing a course of study related to the field in which the person is employed by the Department.

(2) PAYMENT OF CERTAIN EXPENSES BY THE SECRETARY.—The Secretary of Agriculture (referred to in this section as the "Secretary") may, out of user fee funds or funds appropriated to any agency of the Department, pay for lodging expenses, subsistence expenses, and transportation expenses of a student intern at the agency (including expenses of transportation to and from the student intern's residence at or near the institution of higher education attended by the student intern and the official duty station at which the student intern is employed).

(b) COOPERATION WITH ASSOCIATIONS OF COLLEGES AND UNIVERSITIES.—

(1) AUTHORITY TO COOPERATE.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into cooperative agreements on an annual basis with 1 or more associations of institutions of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)) for the purpose of providing for Department participation in internship programs for graduate and undergraduate students who are selected by the associations from students attending member institutions of the associations and other institutions of higher education.

(2) INTERNSHIP PROGRAM.—An internship program supported under this subsection (referred to in this subsection as an "internship program") shall provide work assignments for students within the Department and such other activities as the association that enters into the cooperative agreement under paragraph (1) with respect to the internship program (referred to in this subsection as the "cooperating association") and the Secretary shall determine. The nature of Department participation in an internship program shall be developed jointly by the Secretary and the cooperating association.

(3) PROGRAM COORDINATION.—The cooperating association shall coordinate an internship program, including—

(A) the recruitment of students;

(B) arrangements for travel of the students to Washington, District of Columbia, and to agency field locations;

(C) the provision of housing for students, if required; and

(D) all activities for the students that take place outside the Department work assignments of the students.

(4) NUMBER AND SELECTION OF STUDENTS.—

(A) NUMBER.—A cooperative agreement entered into under paragraph (1) shall specify the number of students that the Department will host each year and a list of work assignments to be provided for the students.

(B) SELECTION.—The cooperating association shall provide the Department with a pool of student candidates meeting the requirements for each work assignment identified by the Secretary. Final selection of the students for Department internship positions shall be made by the Secretary.

(5) COST REIMBURSEMENT.—From such amounts as the Secretary determines are available each fiscal year for internship programs, and subject to such regulations as the Secretary may issue, the Secretary may reimburse a cooperating association for the Department share of all direct and indirect costs of an internship program, including student stipends, transportation costs to the internship site, and other costs of an internship program.

(6) LEAD AGENCY.—The Secretary may designate a lead agency within the Department to carry out this subsection.

(7) INTERAGENCY AGREEMENTS.—Agencies and offices within the Department other than the lead agency—

(A) may enter into interagency agreements with the lead agency to provide work assignments for students participating in an internship program; and

(B) shall reimburse the lead agency for the direct and indirect costs of each student assigned to the agency under an internship program.

(8) FEDERAL EMPLOYEE STATUS.—A student who participates in an internship program shall not be considered a Federal employee, except for purposes of chapter 81 of title 5, and chapter 171 of title 28, United States Code.

SEC. 923. CONVEYANCE OF EXCESS FEDERAL PERSONAL PROPERTY.

Notwithstanding any other provision of law, the Secretary of Agriculture may—

(1) convey title to excess Federal personal property owned by the Department of Agriculture, with or without monetary compensation and for such purposes as are determined by the Secretary, to—

(A) any of the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note));

(B) any Hispanic-serving institution (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))); and

(C) any college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University; and

(2) acquire from, exchange with, or dispose of personal property to other Federal departments and agencies without monetary compensation in furtherance of the purposes of this section.

SEC. 924. CONVEYANCE OF LAND TO WHITE OAK CEMETERY.

(a) IN GENERAL.—

(1) RELEASE OF INTEREST.—After execution of the agreement described in subsection (b), the Secretary of Agriculture shall release the condition stated in the deed on the land described in subsection (c) that the land be used for public purposes, and that if the land is not so used, that the land revert to the United States. The release shall be on the condition that the land be used exclusively for cemetery purposes, and that if the land is not so used, that the land revert to the United States.

(2) BANKHEAD-JONES FARM TENANT ACT.—Section 32(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)) shall not apply to the release under paragraph (1).

(b) AGREEMENT.—The Secretary of Agriculture shall make the release under subsection (a) on execution by the Board of Trustees of the University of Arkansas, in consideration of the release, of an agreement, satisfactory to the Secretary of Agriculture, that—

(1) the Board of Trustees will not sell, lease, exchange, or otherwise dispose of the land described in subsection (c) except to the White Oak Cemetery Association of Washington County, Arkansas, or a successor organization, for exclusive use for an expansion of the cemetery maintained by the Association or successor organization; and

(2) the proceeds of such a disposition of the land will be deposited and held in an account open to inspection by the Secretary of Agriculture, and used, if withdrawn from the account, for public purposes.

(c) LAND DESCRIPTION.—The land described in this subsection is the land conveyed to the Board of Trustees of the University of Arkansas, with certain other land, by deed dated November 18, 1953, comprising approximately 2.2 acres located within property of the University of Arkansas in Washington County, Arkansas, commonly known as the "Savor property" and described as follows:

The part of Section 20, Township 17 north, range 31 west, beginning at the north corner of the White Oak Cemetery and the University of Arkansas Agricultural Experiment Station farm at Washington County road #874, running west approximately 330 feet, thence south approximately 135 feet, thence southeast approximately 384 feet, thence north approximately 330 feet to the point of beginning.

SEC. 925. SALE OF LAND BY THE UNIVERSITY OF ARKANSAS.

The Act of March 2, 1887 (commonly known as the "Hatch Act of 1887") (7 U.S.C. 361a et seq.) shall not apply to the sale by the University of Arkansas of the approximately 103.52 acres of land in Washington County, Arkansas, owned by the University and commonly known as the "Walker Tract", if the sale is made on the condition that all of the proceeds of the sale are used for agricultural research facilities and programs of the University of Arkansas.

SEC. 926. DESIGNATION OF DALE BUMPERS SMALL FARMS RESEARCH CENTER.

(a) IN GENERAL.—The small farms research facility of the Agricultural Research Service located near Booneville, Arkansas, shall be known and designated as the "Dale Bumpers Small Farms Research Center".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the research facility referred to in subsection (a) shall be deemed to be a reference to the "Dale Bumpers Small Farms Research Center".

SEC. 927. DEPARTMENT OF AGRICULTURE WASHINGTON AREA STRATEGIC SPACE PLAN.

The Secretary of Agriculture may obligate not more than $5,000,000, from funds appropriated for agriculture buildings and facilities and rental payments, for the improvement of State and local roads relating to the construction of an office complex at the Beltsville Agriculture Research Center, Maryland, as part of the implementation of the Department of Agriculture Washington Area Strategic Space Plan.

SEC. 928. SEVERABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act that can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.

And the Senate agree to the same.

PAT ROBERTS,
BILL EMERSON,
STEVE GUNDERSON,
THOMAS W. EWING,
BILL BARRETT,
WAYNE ALLARD,
JOHN BOEHNER,
RICHARD POMBO,
E DE LA GARZA,
CHARLIE ROSE,
CHARLIE STENHOLM,
GARY CONDIT,
Managers on the Part of the House.

RICHARD G. LUGAR,
BOB DOLE,
JESSE HELMS,
THAD COCHRAN,
MITCH MCCONNELL,
LARRY E. CRAIG,
PATRICK LEAHY,
HOWELL HEFLIN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2854) to modify the operation of certain agricultural programs, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—AGRICULTURAL MARKET TRANSITION PROGRAM

(1) Short title

The House bill names title 1 the "Agriculture Market Transition Program." (Section 1)

The Senate amendment names the bill the "Agriculture, Reform and Improvement Act" and title 1 "The Agriculture Market Transition Act." (Section 101)

The Conference substitute adopts the Senate provision with an amendment naming the bill the Federal Agriculture Improvement and Reform Act (Section 1) and title I the Agriculture Market Transition Act. (Section 101)

SUBTITLE A—PURPOSE AND DEFINITIONS

(2) Purpose

The House bill states that it is the purpose of this title to authorize the use of binding production flexibility contracts between the United States and producers; to make nonrecourse marketing assistance loans; to improve the operation of the peanut and sugar programs and; to terminate price support authority under the Agriculture Act of 1949. (Section 101)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment deleting the reference to the Agriculture Act of 1949 and adding a reference to the establishment of the Commission on 21st Century Production Agriculture. (Section 101)

(3) Definitions

The House bill, in Section 102 contains definitions of terms used throughout Title I. "Contract commodity" includes wheat, corn, grain sorghum, barley, oats, upland cotton, and rice; "contract acreage" means one or more crop acreage bases established under title V of the Agricultural Act of 1949 that would have been in effect for the 1996 crop; and "loan commodity" means each contract commodity, plus extra long staple cotton and oilseeds.

The Senate amendment, in Section 102, achieves the same purpose but for technical differences.

The Conference substitute adopts the House provision with technical amendments. (Section 102)

SUBTITLE B—PRODUCTION FLEXIBILITY CONTRACTS

(4) Offers and terms

The House bill, in Section 103(a), in paragraph (1), authorizes the Secretary to enter into 7-year production flexibility contracts between 1996 and 2002 with eligible owners and operators on a farm containing eligible farmland. In exchange for annual payments under the contract, the owner or operator must agree to comply with the applicable conservation plan for the farm, the wetland protection requirements of title XII of the Food Security Act of 1985, and the planting flexibility requirements of subsection (j). The land under a contract must be maintained in an agricultural or related activity; conversion to a non-agricultural commercial or industrial use.

The Senate amendment, in Section 103, is similar but does not restrict land subject to a contract to an agricultural use.

The Conference substitute adopts the House provision with technical amendments removing references to the "conservation plan" and instead requiring compliance with highly erodible land and wetlands restrictions from the Food Security Act of 1985. (Section 111(a))

(5) Eligible owners and operators described

The House bill, in Section 103(a), in paragraph (2), describes eligible owners and operators, that include:

(A) an owner who assumes all risk of producing a crop;

(B) an owner who shares in the risk of producing a crop;

(C) an operator with a share-rent lease regardless of the length of such lease if the owner also enters into the contract;

(D) an operator with a cash rent lease that expires on or after September 30, 2002, in which case the consent of the owner is not required;

(E) an operator with a cash rent lease that expires before September 30, 2002, and the owner consents to the contract;

(F) an owner with a cash rent lease, but only if the operator declines to enter into a contract, in which case payments under the contract will not begin until the fiscal year following the year in which the lease expires; and

(G) an owner or operator regardless of whether the owner or operator purchased catastrophic risk protection for a fall-planted 1996 crop.

The Senate amendment, in Section 103(a)(2), is identical but for technical differences.

The Conference substitute adopts the House provision with technical amendments that replaced references to "operator" with "producers" and that further clarify contract eligibility.

The Managers do not intend that there be any substantial change in the existing landlord-tenant policy at USDA, which has functioned successfully for several decades. State law on tenancy should continue to govern the relationship between landlords and tenants. Cash-rent landlords are allowed to be signatories of the contract, and if the producer does not enroll all the eligible cropland of a farm into a contract, the consent of the owner is required. However, this is to facilitate orderly transfer and any potential succession situation relating to the contract and creates no additional liability or obligation for the cash-rent landlord. The purchase of catastrophic risk protection for 1996 crops is not a factor for determining contract eligibility. (Section 111(b))

(6) Tenants and sharecroppers

The House bill, in Section 103(a), in paragraph(3), instructs the Secretary to provide adequate safeguards to protect the interests of tenants and sharecroppers.

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The Senate amendment is identical but for technical differences.

The Conference substitute adopts the House provision with technical amendments. (Section 111(c))

(7) Eligible cropland described

The House bill, in Section 103(c) describes eligible farmland, which is land that contains a crop acreage base, at least of a portion of which was enrolled in the acreage reduction programs authorized for a crop of rice, upland cotton, feed grains, or wheat and which has served as the basis for deficiency payments in at least one of the 1991 through 1995 crop years. With respect to contracts for acreage enrolled in the CRP, such acreage must have crop acreage base attributable to it.

The Senate amendment, in Section 103 is similar but also provides authority for the Secretary to establish a fair and equitable crop acreage base for beginning farmers.

The Conference substitute adopts the House provision. The Managers note that producers who have certified planted acreage under the 1990 farm bill shall be eligible to participate in the market transition program. (Section 111(d)).

The Managers recognize that USDA has been establishing crop acreage bases (CAB) and program payment yields for each contract commodity that participated in the Acreage Reduction Programs and also any contract commodity that was reported to the county FSA offices as planted, or was reported as conserving use acres, or zero acreage planting protection either to maintain or build CAB's. These CAB's and yields were established in accordance with provisions of Title V of the Agricultural Act of 1949. The Managers intend that these CAB's become known as "contract acreage" and any farm having contract acreage for at least one crop would be eligible to enroll to receive benefits under a Production Flexibility Contract. It is the intent of the Managers that any farm for which a 1996 CAB would have been established under Title V of the Agricultural Act of 1949 would be eligible to enter into a Production Flexibility Contract. A one-time sign-up period would allow producers to decide whether to enroll all or a portion of the contract acreage for each crop. Except for CRP contracts that expire after the fiscal year 1996 sign-up period, producers should not have a later opportunity to participate in the program. The Managers also adopted an amendment allowing an owner or producer to enroll all or a portion of the eligible cropland of a farm and to subsequently reduce the size of the contract acreage. (Section 111(e) and(f))

(8) Elements of contracting

The House bill, in Section 103(b), in paragraph (1), provides that the deadline for entering into a contract is April 15, 1996, except that owners and operators on farms which contain acreage enrolled in the Conservation Reserve Program ("CRP") may enter into a contract upon the expiration of the CRP contract.

The Senate amendment is identical

The Conference substitute adopts the House provision with a technical amendment directing the Secretary to commence sign-up, to the maximum extent practicable, no later than 45 days after enactment and shall end sign-up not later than August 1, 1996. (Section 112(a))

It is the intent of the Managers that lands subject to a CRP contract that expires or is voluntarily terminated after August 1, 1996, and that has an eligible farm program base history, should be eligible to enter into an Agriculture Market Transition contract after that date. A producer who voluntarily terminates a CRP contract should have the option to receive either a prorated CRP payment or a contract payment.

(9) Duration of contract

The House bill, in Section 103(b), in paragraph (2), provides that the contracts shall begin with the 1996 crop year and extend through the 2002 crop year.

The Senate amendment is identical.

The Conference substitute adopts the Senate provision with an amendment allowing a contract to be terminated earlier by a producer or owner. (Section 112(b))

(10) Estimation of contract payments

The House bill, in Section 103(b), in paragraph (3), provides that, at the time a contract is signed, the Secretary shall estimate the anticipated payments that will be made under the contract for at least the first fiscal year.

The Senate amendment is identical.

The Conference substitute adopts the House provision. (Section 112(c))

(11) Time for payment; in general

The House bill, in Section 103(d) establishes the payment dates under the contracts as September 30 of each of the fiscal years 1996 through 2002.

The Senate amendment is identical.

The Conference substitute adopts the Senate provision. (Section 112(d))

(12) Advance payments

The House bill provides that an owner or operator may opt to receive half of each annual payment on December 15 of each year. For the 1996 fiscal year, an owner or operator may elect to receive half of the payment not later than June 15.

The Senate amendment is identical.

The Conference substitute adopts the House provision with an amendment allowing a producer, in fiscal year 1996, to opt to receive a 50 percent advance payment 30 days after the contract is entered into and approved. For the remaining fiscal years, a producer can opt to receive a 50 percent advance payment on December 15 or January 15. The date of this election can be modified in subsequent fiscal years at the option of the producer. (Section 112(d))

(13) Fiscal year amounts

The House bill, in Section 103(e), in paragraph (1), establishes spending limits of:

(A) $5,570,000,000 for FY 1996;
(B) $5,385,000,000 for FY 1997;
(C) $5,800,000,000 for FY 1998;
(D) $5,603,000,000 for FY 1999;
(E) $5,130,000,000 for FY 2000;
(F) $4,130,000,000 for FY 2001; and
(G) $4,008,000,000 for FY 2002.

The Senate amendment is identical.

The Conference substitute adopts the Senate provision. (Section 113(a))

The Managers intend that USDA, to the maximum extent practicable, expend the amounts specified by this section in each fiscal year. Final payment rates for each crop should be calculated based on the amount of all contract production enrolled by all producers for that crop for the fiscal year. Any unexpended amounts in a fiscal year should be added to the amount available for contract payments in the next succeeding fiscal year as specified under section 113(a), except unexpended funds attributable to the application of the payment limitation provisions.

(14) Allocation (commodity)

The House bill, in Section 103(e), in paragraph (2), allocates the yearly amounts among the contract commodities as follows:

(A) wheat, 26.26 percent;
(B) corn, 46.22 percent;
(C) grain sorghum, 5.11 percent;
(D) barley, 2.16 percent;
(E) oats, 0.15 percent;
(F) upland cotton, 11.63 percent; and
(G) rice, 8.47 percent.

The Senate amendment is identical.

The Conference substitute adopts the Senate provision. (Section 112(b))

(15) Adjustment

The House bill, in Section 103(e), in paragraph (3), directs the Secretary to adjust the amounts allocated in paragraph (2), if necessary, by:

(A) adding producer repayments of deficiency payments received during that fiscal year under section 114(a)(2) of the Agricultural Act of 1949;

(B) adding contract payments withheld at the request of producers, during the preceding fiscal year as an offset against repayments of deficiency payments otherwise required under section 114(a)(2) of the Agricultural Act of 1949; and

(C) adding contract payments which are refunded during the preceding fiscal year under section 103(h) for the commodity; and

(D) subtracting payments required under sections 103B, 105B, and 107B of the Agricultural Act of 1949 for the 1994 and 1995 crop years.

The Senate amendment, in Section 103(e), in paragraph (3), directs the Secretary to adjust the amounts allocated in paragraph (2), if necessary, by:

(A) subtracting payments (final deficiency payments) required under sections 103B, 105B, and 107B of the Agricultural Act of 1949 for the 1994 and 1995 crop years;

(B) adding any required producer repayments of deficiency payments received during that fiscal year under section 114(a)(2) of the Agricultural Act of 1949;

(C) adding contract payments withheld at the request of producers, during the preceding fiscal year as an offset against repayments of deficiency payments otherwise required under section 114(a)(2) of the Agricultural Act of 1949; and

(D) adding contract payments which are refunded during the preceding fiscal year under section 103(h) for the commodity.

The Conference substitute adopts the House provision with an amendment directing the Secretary to adjust the amounts allocated for each contract commodity under subsection (b) in a particular fiscal year by:

(1) adding all repayment of deficiency payments required under section 114(a)(2) of the Agriculture Act of 1949;

(2) adding all contract payment refunds received the previous year under section 116; and

(3) subtracting payments made during that fiscal year under sections 103B, 105B, or 107B of the Agricultural Act of 1949 for the 1994 and 1995 crop years. (Section 113(c))

(16) Additional rice allocation

The House bill, in Section 103(e), in paragraph (4), requires the Secretary to determine the amount necessary to make the remaining payments under section 101B of the Agriculture Act of 1949 for the 1994 and 1995 crops of rice. The Secretary is directed to subtract this amount, in equal installments, from the amount in paragraph (2)(G) available for rice.

The Senate amendment, in Section 103(e), in paragraph (3), directs the Secretary to increase the amount available for rice in paragraphs (1), (2) and (3), by $17,000,000 for each of fiscal years 1997 through 2002.

The Conference substitute adopts the Senate provision with an amendment reducing the amount to $8,500,000 for each of fiscal years 1997 through 2002. (Section 113(d))

The Managers adopted an amendment to ensure that the total amounts available for contract payments shall be reduced by the total amount of payments foregone due to payment limitations, and that the portion of a contract payment that is attributed to repayment of advance deficiency payments for the 1994 and 1995 crop years does not apply to the payment limitation for subsequent years. However, such payment should not exceed $50,000. (Section 113 (e) and (f))

(17) Determination of contract payments

The House bill, in Section 103(f) provides the method for determining payments under a particular contract:

Paragraph (1) establishes the process for determining the payment quantity of a contract commodity, which is the product of 85 percent of the contract acreage and the farm program payment yield for the commodity.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 114 (a))

(18) Annual Payment quantity of contract commodities

The House bill, in Paragraph (2) provides that the payment quantity of each contract commodity covered by all contracts for each fiscal year shall equal the sum of all the payment quantities under paragraph (1).

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision. (Section 114(b))

(19) Annual payment rate

The House bill, in Paragraph (3) provides that the annual payment rate for a contract commodity shall be the amount made available under 103(e) for the commodity divided by the total payment quantity under paragraph (2).

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 114(c))

(20) Annual payment amount

The House bill, in Paragraph (4) provides that the payment amount to be paid under a contract shall be equal to the product of the payment quantity determined under paragraph (1) and the payment rate determined under paragraph (3).

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision with an amendment that the annual payment amount is the sum of payments for all contract commodities and that contract payments shall be reduced by an amount equal to any required repayment of advance deficiency payments under section 114(a)(2) of the Agriculture Act of 1949.

The Managers adopted an amendment to direct the Secretary to collect repayments as soon as contract payments are determined. (Section 114(d) and (e))

(21) Assignment of contract payments

The House bill, in Paragraph (5) provides that the provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act relating to assignment of payments shall apply to contract payments, and requires that the owner, operator, or assignee to notify the Secretary of such assignment.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision with a technical amendment. (Section 114(f))

(22) Sharing of contract payments

The House bill, in Paragraph (6) directs the Secretary to allow for the sharing of payments among owners and operators in a fair and equitable manner.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision with a technical amendment.

The Managers intend that the Production Flexibility Contracts ensure a fixed payment based on section 113 and 114 for seven years. The contracts are farm specific and apply to that farm for the seven-year term of the contract. However, it is the intent of the Managers that the division of payments and the producers on a contract could change each year to reflect the producers on the farm for that year. Changes in producers on a farm could result from changes in rental agreements, ownership, or other changes to a farming operation. The purpose of this program is to transition producers who have been earning deficiency payments from government-driven planting decisions to market-driven planting decisions. The Managers intend that USDA administer this program to generally ensure consistency with current regulations relating to the division of payments and fair treatment of tenants and landowners. Past payment history on a farm should also be considered when determining eligible producers and payment divisions. Owners who follow State tenancy laws and timely notify tenants should have the ability to change renters and rental arrangements and change Production Flexibility Contracts to reflect those changes. (Section 114(g))

(23) Payment limitation, applicability

The House bill, in Section 103(g) provides that the total amount of payments under a contract during any fiscal year may not exceed the payment limitation established under sections 1001 through 1001C of the Food Security Act of 1985.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 115)

(24) Payment limitation

The House bill, in Section 105(a) amends section 1001 of the Food Security Act of 1985 to provide that the total amount of contract payments to a person under section 103 of this Act may not exceed $40,000 during any fiscal year, and that the total amount of marketing loan gains or loan deficiency payments to a person under section 104 of this Act may not exceed $75,000.

Section 105(b) makes necessary conforming changes to the Food Security Act of 1985 and the Agricultural Reconciliation Act of 1987.

The Senate amendment, in Section 105, contains a similar provision but for technical differences.

The Conference substitute adopts the House provision with a technical amendment. (Section 115(b))

(25) Violations of contract

The House bill, in Section 103(h), in paragraph (1), authorizes the Secretary to terminate a contract if an owner or operator violates the farm's conservation compliance plan, wetland protection requirements, planting flexibility provisions, or agricultural use restrictions. Upon termination, the owner or operator forfeits future payments and must refund payments received during the period of the violation, with interest as determined by the Secretary.

Section 103(h), in paragraph (2), provides that, if the Secretary determines that the nature of the violation does not warrant termination of the contract as provided in paragraph (1), the Secretary may—

(A) require a partial refund with interest; or

(B) adjust future contract payments.

The Senate amendment, in Section 103(h), contains an identical provision but for technical differences.

The Conference substitute adopts the House provision. (Section 116)

(26) Foreclosure (effect of violation)

The House bill, in Section 103(h), in paragraph (3), prohibits the Secretary from requiring repayments from an owner or operator if farmland which is subject to the contract is foreclosed upon and the Secretary determines that forgiving such repayments is appropriate in order to provide fair and equitable treatment. This authority does not void the responsibilities of such owner or operator if the owner or operator continues or resumes control or operation of the property subject to the contract, and in effect reinstate the contract.

Section 103(h), in paragraph (4), provides that a determination by the Secretary under this subsection shall be considered as an adverse decision for purposes of administrative review.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision. (Section 116(c))

(27) Transfer of interest in lands subject to contract

The House bill, in Section 103(i), in paragraph (1), provides for transfers of land subject to a contract. The Secretary is to carry out this paragraph in such a manner to ensure that the reconstitution of a farm in association with a transfer results in no additional outlays. Upon a transfer, a contract is automatically terminated unless the transferee agrees to assume all obligations under the contract. A transferee may request modifications to a contract before assuming it, if the modifications are consistent with the objectives of this section as determined by the Secretary.

Section 103(i), in paragraph (2), authorizes the Secretary to issue regulations regarding contract payments in instances in which an owner or operator dies, becomes incompetent, or is otherwise unable to receive a contract payment.

The Senate amendment contains a similar provision.

The Conference substitute adopts the House provision with a technical amendment. (Section 117)

(28) Planting flexibility; permitted crops

The House bill, in Section 103(j), in paragraph (1) provides that, subject to the restrictions in paragraph (2)(A), any commodity or crop may be planted on contract acreage.

The Senate amendment, in Section 103(j), contains a similar provision.

The Conference substitute adopts the Senate provision. (Section 118)

(29) Haying and grazing

In the House bill, Subparagraph (A) allows unlimited haying and grazing on 15% of contract acreage, and unlimited haying and grazing of contract acreage planted to a contract commodity during the crop year.

Subparagraph (A) also provides that haying and grazing of contract acreage shall be permitted, except during the 5-month period designated by the State Committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act between April 1 and October 31st of each year.

VOL
142
PT
5
MR
21
—
29
1996
UMI

The Secretary may permit unlimited haying and grazing on eligible farmland in cases of a natural disaster.

The Senate amendment contains a similar provision but for technical differences.

The Conference substitute adopts the House provision with an amendment to strike the provision. It is the intent of the Managers that the haying and grazing of any commodity or crop should be allowed on contract acreage without restriction, and without a reduction in contract payments.

(30) Alfalfa

The House bill, in subparagraph (B) provides that the planting and harvesting of alfalfa on contract acreage shall be unlimited, except that the quantity of acreage eligible for a contract payment shall be reduced proportionately for each acre beyond 15 percent on which alfalfa is planted and harvested.

The Senate amendment contains a similar provision but for technical differences.

The Conference substitute adopts the Senate provision with an amendment to strike the provision.

(31) Fruits and vegetables

In the House bill, Paragraph (2) prohibits the planting of fruits and vegetables on contract acreage, except in any region with a history of double cropping, as determined by the Secretary. This restriction does not apply to contract commodities, lentils, mung beans, and dry peas.

The Senate amendment, contains a similar provision except that the planting of fruits and vegetables is allowed only on a farm with a history of double cropping.

The Conference substitute adopts the House provision with an amendment:

Subparagraph (A): the double-cropping of fruits or vegetables in association with a contract commodity on contract acres is allowed in any region with a history of such practice, as determined by the Secretary, regardless of the planting history of an individual farm;

Subparagraph (B): a fruit or vegetable can be grown without limitation on any farm with a history of fruit or vegetable production on contract acres, except that a contract payment shall be reduced by one acre for each contract acre planted to a fruit or vegetable in that year; and,

Subparagraph (C): a producer with a history of production of a specific fruit or vegetable, as determined by the Secretary, is allowed to rent or lease contract acres to grow that fruit or vegetable, on any farm, without respect to the planting history of the individual farm. The number of acres so leased or rented cannot exceed the average acres rented or leased by that producer in crop years 1991–1995. Years of no production are not included in the average, and for each contract acre so rented or leased, the contract payment shall be reduced by one acre. (Section 118)

The Managers intend for the Secretary to administer the exceptions to the fruits and vegetable planting prohibitions as three distinctly separate situations. With respect to subparagraphs (A), (B), and (C), any perceived limitation in one subparagraph should not limit flexibility in any other subparagraph. (Section 118)

SUBTITLE C—NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS

(32) Nonrecourse marketing assistance loans and loan deficiency payments

The House bill, in Section 104(a), in paragraph (1), directs the Secretary to make nonrecourse marketing assistance loans available to eligible producers of loan commodities for each of the 1996 through 2002 crops of such commodities under terms and conditions prescribed by the Secretary at rates established under section 104(b).

Section 104(a), in paragraph (2), provides that the amount of production eligible for a marketing assistance loan includes all production of a loan commodity produced by a producer who has entered into a contract, and any production of extra long staple cotton or oilseeds.

Section 104(a), in paragraph (3), establishes recourse loans for high moisture feed grains. Eligibility shall be limited to the product of the harvested acreage of high moisture feed grains and the lower of the payment yield or actual yield on a field.

Section 104(b), in paragraph (1), provides that the loan rate for wheat is not less than 85 percent of the 5-year Olympic average, with a maximum of $2.58 per bushel, and the Secretary has authority to further decrease the loan rate in a particular year based on stocks-to-use ratios.

Section 104(b), in paragraph (2), provides that the loan rate for corn is not less than 85 percent of the 5-year Olympic average, with a maximum of $1.89 per bushel, and the Secretary has authority to further reduce the loan rate in a particular year based on stocks-to-use ratios. Loan rates for other feed grains are to be set at rates which are fair and reasonable in relation to the rate for corn.

Section 104(b), in paragraph (3), provides that the loan rate for upland cotton shall be not less than the smaller of:

(i) 85 percent of the average U.S. spot market price during the preceding 5 marketing years, excluding the highest and lowest-price years, or

(ii) 90 percent of the average price of the 5 lowest priced growths quoted for Northern Europe during a specified period, adjusted downward to account for differences between the Northern Europe and U.S. spot market prices.

However, in any case, the loan rate shall not be less than $0.50 per pound nor more than $0.5192 per pound.

Section 104(b), in paragraph (4), provides that the loan rate for extra long staple cotton shall be not less than 85 percent of the 5-year Olympic average, with a maximum of $0.7965 per pound.

Section 104(b), in paragraph (5), provides that the loan rate for rice shall be $6.50 per hundredweight.

Section 104(c) provides that the term of a loan shall be nine months, except that a loan for upland or extra long staple cotton shall be ten months, starting on the first day of the first month after the month in which the loan is made. The Secretary may not extend loans.

The Senate amendment contains an identical provision, but did not establish non-recourse loans for high-moisture feedgrains.

The Conference substitute adopts the House position with a technical amendment to the reference period used to establish cotton loan levels. The Managers intend that no change in cotton loan rates shall result from this technical change. The Managers adopted a technical amendment limiting upland cotton loans to a ten month period and specifying that only contract commodities produced on a contract farm are eligible for a marketing or non-recourse loan. The Managers adopted an amendment directing the Secretary to carry out this subtitle in a manner to ensure that no additional outlays result from the reconstitution of farms. (Section 131, 132 and 133)

The Managers also agreed to establish a recourse loan program for high-moisture feedgrains and seed cotton. (Section 137)

The Managers understand that the Secretary currently has authority to make a recourse loan available to producer on seed cotton (cotton which has been harvested but not ginned). This provision simply extends current law. The regulations governing the recourse seed cotton loan establish very strict repayment requirements. Since the loan must be repaid in a timely manner and repayment virtually always, with the exception of cotton harvested in the early production areas of the Lower Rio Grande Valley, occurs in the same fiscal year there should be minimal if any cost associated with extending this authority.

(33) Oilseeds

The House bill, in Section 104(b), in paragraph (6), provides that the loan rate for oilseeds: soybeans are $4.92 per bushel, sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed are $0.087 per pound; and other oilseeds are set a level that is fair and reasonable in relation to the loan rate available for soybeans (not to exceed other oilseeds).

The Senate amendment, in Section 104(b), in paragraph (6), provides that the loan rate for oilseeds shall be not less than 85 percent of the 5-year Olympic average market price. The soybean minimum loan is $4.92 per bushel and the maximum is $5.26 per bushel; the minimum loan for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed is $0.087 per pound and the maximum is $0.93 per pound; and other oilseeds are set a level that is fair and reasonable in relation to the loan rate available for soybeans (not to exceed other oilseeds).

The Conference substitute adopts the Senate provision. (Section 132 (f))

(34) Repayment of loans

The House bill, in Section 104(d) establishes repayment provisions for loan commodities at the lesser of:

(A) the loan rate; or

(B) the prevailing world market price (adjusted to U.S. quality and location).

Paragraph (2) sets additional repayment rates for wheat, feedgrains and oilseeds at the level that will:

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodities by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodities; and

(D) allow the commodities produced in the United States to be marketed freely and competitively, both domestically and internationally.

Paragraph (3) sets the repayment rate for extra long staple cotton at the loan rate plus interest.

Paragraph (4) instructs the Secretary to prescribe by regulation a formula to determine the prevailing world market price and a mechanism to periodically announce the prevailing world market price.

Paragraph (5) provides upland cotton prevailing world market price adjustment authority based on the Northern Europe price differential, with further adjustment authority based on the U.S. export share, current cotton exports and sales, and other data determined by the Secretary to be relevant. Such adjustments may not exceed the difference between the average U.S. price and the Northern Europe price.

Section 104(e) directs the Secretary to make loan deficiency payments to producers who forgo obtaining a loan under subsection (a) in an amount equal to the difference between the loan rate for a commodity and the level at which it may be repaid. However, there is no authority for loan deficiency payments for extra long staple cotton.

Section 104(f) provides special marketing loan provisions for upland cotton.

Paragraph (1) extends the first handler marketing certificate provisions through July 31, 2003, under which certificates (which may be redeemed for CCC-owned commodities) or cash payments must be made available to first handlers of cotton whenever the prevailing market price (adjusted for U.S. quality and location) is below the current loan repayment rate. The values of the certificates (or the amount of the payment) is based on the difference between the adjusted world price and the loan repayment level.

The Senate amendment contains a similar provision but for technical differences.

The Conference substitute adopts the House position with an amendment directing the Secretary to set the repayment rate for wheat, feedgrains and oilseeds at the lesser of the loan rate plus interest or the rate that the Secretary determines will minimize forfeitures, accumulation of stocks, cost to the government and that will allow the commodity to marketed freely and competitively, both domestically and internationally. The repayment rate for cotton and rice shall be the lesser of the loan rate plus interest or the prevailing world market price and the repayment rate for extra-long staple cotton shall be the loan rate plus interest. (Sections 134 and 135)

To continue to achieve the objectives of minimizing forfeitures, the accumulation of stocks, and government costs while promoting competitive marketing in domestic and international markets, the Managers expect the Secretary to extend the provisions of current regulations governing entry into the marketing assistance loan and establishment of the repayment rate for the marketing assistance loan. The Managers recognize that the regulations vary by commodity and expect the Secretary to continue to establish regulations which reflect differences in normal commercial practices for the affected commodity. In particular, the Managers expect the Secretary to continue to establish the prevailing world price for upland cotton in the same manner utilized for the 1991 through 1995 crops.

(35) Step 2

The House bill, in Paragraph (1) extends the cotton user marketing certificate provisions (commonly known as "Step 2" provisions), which requires the Secretary to make payments, either in cash or marketing certificates, to domestic users and exporters for documented purchases whenever (i) the weekly U.S. Northern Europe price exceeds the Northern Europe price by more than 1.25 cents per pound for a consecutive four-week period; and (ii) the adjusted world market price does not exceed 130 percent of the loan rate. However, no payments will be issued if, for the preceding consecutive 10-week period, the weekly U.S. Northern Europe price, adjusted for the value of any certificates or payments issued, exceeds the Northern Europe price by more than 1.25 cents per pound. The value of the certificates (or the amount of the payments) is the difference between the two prices, minus 1.25 cents, per pound. Payments under this paragraph may not exceed $701,000,000 between fiscal years 1996 through 2002.

Paragraph (2) extends special import quota provisions (commonly known as "Step 3") which requires that a special import quota be opened if, for a consecutive 10-week period, the U.S. Northern Europe price, adjusted for the value of any payments issued under Step 2, exceeds the Northern Europe price by more than 1.25 cents per pound. The amount of the quota is equal to 1 week's domestic mill consumption. Importers have 90 days to purchase and 180 days to enter the cotton into the U.S. after the quota is announced, and quota periods can overlap.

Section 104(g) extends the limited global import quota provisions, which direct the President to carry out an upland cotton import quota program whenever the Secretary determines and announces that the average price in designated U.S. spot markets for a month, as determined by the Secretary, exceeded 130 percent of such average price for the last 36 months. The quantity of this import quota is equal to 21 days of domestic mill consumption, but this quota cannot overlap with any quota announced under section 104(f).

The Senate amendment is identical but for technical differences.

The Conference substitute adopts the Senate provision with technical amendments. (Section 136)

The Managers are aware that while the cotton marketing certificates have contributed to the goal of maintaining the competitive position of U.S. cotton in domestic and international markets, there has been concern about the adverse implications associated with the so-called "bunching" of export sales registrations. The Managers expect and urge the Secretary to issue a regulation which will eliminate, to the extent practicable, the so-called "bunching" of export sales registrations without significantly disrupting the normal marketing process for upland cotton in domestic and export markets.

The Managers intend that Secretary should carefully consider issuing regulations such that if the spending limitation on cotton marketing certificates is reached the special import quota provided in paragraph (3) would be established following a consecutive four-week period in which the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound.

SUBTITLE D—OTHER COMMODITIES

Chapter 1—Dairy

(36) Milk price support program; recourse loan program for commercial processors of dairy products

The House bill reauthorizes the milk price support program for five years with several major changes. It requires the Secretary of Agriculture to support the price of milk through the purchase of butter, nonfat dry milk, and cheese in the 48 contiguous States from the date of enactment through December 31, 2000. (Section 201(a))

The House bill requires that milk containing 3.67 percent butterfat is supported at $10.15 per hundredweight during calendar year 1996; $10.05 during 1997; $9.95 during 1998; $9.85 during 1999; and $9.75 during 2000. (Section 201(b))

The House bill continues the current law requirement that dairy product purchase prices (butter, cheese, and nonfat dry milk) announced by the Secretary of Agriculture be the same for all persons offering to sell product to the Secretary. Purchase prices must be sufficient to enable plants of average efficiency to pay producers on average a price that is not less than the rate of support for milk in effect under Section 201(b). (Section 201(c))

The House bill allows the Secretary of Agriculture to allocate the rate of support between the purchase prices for nonfat dry milk and butter in a manner that will minimize Commodity Credit Corporation expenditures or achieve other objectives as the Secretary considers appropriate. The Secretary is required to notify the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry of the allocation within ten days after it is announced, but the Secretary may not make such adjustments more than twice each calendar year. (Section 201(d))

The House bill requires the Secretary of Agriculture to refund assessments on milk marketings which occurred prior to enactment under Section 204(h)(2) of the Agricultural Act of 1949 during calendar year 1995 or 1996, if the producer provides evidence that the producer did not increase marketings in 1995 or 1996 compared to 1994 or 1995, respectively. This subsection shall not apply for a particular calendar year if a producer has already received a refund under Section 204(h) of the Agricultural Act of 1949 for the same fiscal year before the date of enactment of this Act. Refunds under this section shall not be considered as price support or payment for purposes of producer violations of conservation compliance or wetlands conservation. (Section 201(e))

The House bill authorizes the Secretary to carry out this program through the Commodity Credit Corporation. (Section 201(f))

The House bill also terminates authority for the price support program on December 31, 2000, notwithstanding Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985. (Section 201(g))

The Senate amendment retains the current law milk price support program without change. The price support program is authorized through the end of calendar year 1996. Section 201(c) of the Agricultural Act of 1949, which requires the Secretary to support the price of milk at not less than 75 percent of parity, is applicable thereafter.

The Conference substitute adopts the House position with two amendments. The first amendment continues a milk price support program through December 31, 1999 at a price support level of $10.35/cwt in 1996, $10.20/cwt in 1997, $10.05/cwt in 1998, and $9.90/cwt in 1999 and exempts the Secretary's actions with respect to changing the allocation for the purchase prices of butter and nonfat dry milk from informal rulemaking procedures. It is also the managers' intent that among the 'other objectives' the Secretary should pursue when adjusting the support price between butter and nonfat dry milk is the maximization of exports of butter and nonfat dry milk. (Section 141)

The second amendment provides for a recourse loan program for butter, nonfat dry milk, and cheese on January 1, 2000 at the 1999 price support level of $9.90/cwt. The Congressional Budget Office estimates that the recourse loan program will cost approximately $10 million in each of fiscal years 2000–2002 thereby maintaining a baseline for dairy program expenditures during these fiscal years. It is the intent of the managers that a budget baseline be maintained for dairy commodity program outlays in addition to the Dairy Export Incentive Program (DEIP) outlays. (Section 142)

(37) Consolidation and reform of Federal milk marketing orders

The House bill requires the Secretary to amend federal milk marketing orders by

VOL
142
PT
5
MR
21
—
29
1996
UMI

consolidating the number of federal orders to between 10 and 14 and to provide for multiple basing points in the pricing of milk (Section 202(a)).

The House bill requires the required consolidation of milk marketing orders to be announced not later than December 31, 1998, and implemented not later than December 31, 2000. The Secretary is also required to use informal rulemaking when consolidating orders (Section 202(b)).

The House bill precludes the Secretary from the use of any funds to administer more than 14 federal milk marketing orders beginning January 1, 2001 (Section 202(c)).

The House bill requires the Secretary to submit to Congress a report that reviews the federal milk marketing order system, in light of the reforms required by subsection (a), and provide recommendations for further improvements and reforms to the federal milk marketing order system. The report must be submitted not later than January 1, 1998. (Section 202(d))

The Senate amendment retains current law.

The Conference substitute adopts the House provision with the following amendments. It requires that the Secretary consolidate the number federal milk marketing orders to not less than 10 and not more than 14 orders. In the process of consolidating orders, the Secretary is authorized to use multiple basing points and utilization rates in pricing fluid milk and to use uniform multiple component pricing when developing a new basic formula price(s) for manufacturing milk. There is no limitation on the number of issues the Secretary may consider when consolidating orders. The Conference substitute requires the Secretary to propose consolidation and pricing reform of milk marketing orders within two years of enactment of this Act, and to implement consolidation and pricing reform within 3 years of enactment of this Act. The Secretary is authorized to use informal rulemaking to address order consolidation and pricing reform, and any issues peripheral to the consolidation process.

The Conference substitute also provides that Section 131 of the Food Security Act of 1985 shall not be considered to affect the consolidation and pricing reform that will occur under this Act. The mere fact that the minimum price for Class I (fluid) milk in an order consolidated under this section is the same or substantially similar to a minimum Class I milk price for a predecessor order(s) listed in the table from Section 131 of the Food Security Act of 1985 shall neither raise a presumption, nor be conclusive, on the issue of whether the Secretary considered, or made the basis of his decision, the table in Section 131 of the Food Security Act of 1985.

The Conference substitute further provides that the Federal milk marketing orders shall, upon the petition and approval by California dairy producers, cover the State of California, in which case that order shall have the right to re-blend and distribute order receipts to recognize quota value. The Managers do not intend in any way to amend, or create an exception for California from the requirements of, federal law (for federal milk marketing orders) regarding producer-handlers.

The Substitute provides that if USDA does not complete consolidation of orders by the end of three years after enactment of this Act, the Department of Agriculture loses authority to assess producers and handlers for market order services and order administration until such consolidation is completed. However, the length of time during which any injunction is applicable against the Department with respect to the consolidation shall be added to the time in which the Department has to complete the consolidation under Subsection (a) paragraph (1). (Section 143)

(38) Effect on fluid milk standards in the State of California

The House bill provides that nothing in this Act or any other provision of law shall preempt, prohibit, or otherwise limit the authority of the State of California from establishing or continuing any law, regulation, or requirement regarding (1) the percentage of milk solids or solids not fat in fluid milk products sold at retail or marketed in the State of California; or (2) the labeling of such fluid milk products with regard to milk solids or solids not fat. (Section 204)

The Senate amendment has no provision.

The Conference substitute adopts the House provision. The conference-adopted bill provides the State of California an exemption from the preemption provisions of any Federal law respecting standards of identity and labeling for fluid milk.

The State of California has had a system for requiring fortified fluid milk since the early 1960's. These fluid milk standards were adopted by the State legislature and any revision of these standards must be approved by the state legislature. These standards apply to all fluid milk sold at retail or marketed in the State of California.

The Managers intend for the State of California to be able to fully enforce and apply its fluid milk standards and their attendant labeling requirements to all fluid milk sold at retail or marketed in the State of California. For purposes of this section, the managers intend "fluid milk" means milk in final packaged form for beverage use. (Section 144)

(39) Milk manufacturing marketing adjustment

The House bill repeals Section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990, which forbids any State from allowing a manufacturing allowance greater than the amount allowed under federal law. (Section 205)

The Senate amendment retains current law.

The Conference substitute adopts the House provision with an amendment that repeals Section 102 and sets interim ceilings for state make allowances of $1.80 for cheese and $1.65 for butter/powder through December 31, 1999. (Section 145)

(40) Promotion; Northeast Interstate Dairy Compact

The House bill states that an additional purpose of the fluid milk promotion program is to promote and expand markets for fluid milk, and not to restrict or otherwise discourage individual promotion or advertising of fluid milk products. (Section 206(a))

The House bill states that the purpose stated in section 206(a) is Congressional policy (Section 206(b)).

The House bill expands the activities considered to be research under the Act. (Section 206(c))

The House bill alters the minimum percentage adoption requirements in any referendum making changes in or terminating the fluid milk promotion order to reflect only those processors actually voting in the referendum. (Section 206(d))

The House bill reauthorizes the fluid milk promotion program through calendar 2002. (Section 206(e))

The Senate amendment has no provision.

The Conference substitute adopts the House provision with two amendments. The first amendment makes technical changes in the Fluid Milk Promotion Program. (Section 146)

The second amendment provides Congressional consent to the Northeast Interstate Dairy Compact as specified in Section 1(b) of Senate Joint Resolution 28 of the 104th Congress subject to certain conditions. The Secretary is authorized to grant the New England region the authority to implement the compact, based upon a finding of a compelling public interest in the region. Such authority shall terminate concurrently with the Administration's implementation of the dairy pricing and Federal milk marketing order reform established under section 143 of this Act. (Section 147)

(41) Dairy export incentive program

The House bill extends authority for the Dairy Export Incentive Program (DEIP) from December 31, 2001 to December 31, 2002. (Section 203(a))

The House bill gives the Secretary sole discretion to accept or reject bids under such criteria as the Secretary deems appropriate. (Section 203(b))

The House bill requires the Secretary to maximize the volume of dairy product exports under DEIP consistent with the obligations of the United States as a member of the World Trade Organization (minus the volume sold under Section 1163 of the Food Security Act of 1985 during that year), except to the extent that such an export volume exceeds the value limitations on DEIP set forth in Subsection (f). It also authorizes DEIP exports anywhere in the world, except to a destination in a country to which exports from the United States are restricted by law. (Section 203(c))

The House bill authorizes the Secretary to increase bonus payments by an amount required to assist in the development of world markets. (Section 203(d))

The House bill requires Commodity Credit Corporation funding for DEIP at the maximum amount consistent with obligations of the United States as a member of the World Trade Organization (minus the amount expended under Section 1163 of the Food Security Act of 1985 during that year). However, DEIP funding may not exceed the dairy product export volume limitations specified in Section 203(c). (Section 203(e))

The Senate amendment retains current law for the Dairy Export Incentive Program.

The Conference substitute adopts the House provision. The Managers intend that only that portion of sales under Section 1163 which are subsidized sales should impact, and therefore decrease, the maximum volume and value limitations noted in this section.

By affording the Secretary of Agriculture the sole discretion to make decisions concerning sales under the DEIP, it is the intent of the Managers to put to rest any interagency disputes over the program. It is the Managers' understanding that the DEIP will use only about 50,000 to 60,000 tons of the total nonfat dry milk tonnage of the 103,000 tons authorized under the Uruguay Round agreement during this year. It is also the Managers' understanding that during the second through fifth years of implementation of the Uruguay Round agreement, that the United States will be allowed to carry over from year to year unused DEIP tonnage under the cumulation rules set out in Article 9, section 2(b) of the WTO Agreement on Agriculture. The Managers recognize that there is a strong desire upon the part of many that

the dairy title have a strong export orientation.

The Managers instruct the Department along with the Office of the U.S. Trade Representative to carry over all unused DEIP tonnage in the first and all subsequent years of the Uruguay Round agreement in accordance with WTO cumulation rules. (Section 148)

(42) Authority to assist in establishment and maintenance of one or more export trading companies

The House bill requires the Secretary to provide the dairy industry assistance to establish and maintain an export trading company or companies. (Section 492)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with a technical amendment. (Section 149)

(43) Standby authority to indicate entity best suited to provide international market development and export services

The House bill directs the Secretary to indicate which entity or entities are best suited to facilitate the international market development for U.S. dairy products. (Section 493)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with a technical amendment. (Section 150)

(44) Study and report regarding potential impact of Uruguay Round on prices, income and government purchases

The House bill directs the Secretary to determine the impact on milk prices of additional imports of cheese as a result of the Uruguay Round Agricultural Agreement. (Section 494)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment that any limitation imposed by Congress regarding studies or reports shall not apply with respect to this section. (Section 151)

(45) Promotion of United States dairy products in international markets through dairy promotion program

The House bill requires that no less than 10 percent of the funds available for the Dairy Promotion Program shall be available for development of international markets. (Section 495)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment that makes expenditures on international market development discretionary. (Section 152)

(46) Quota Peanuts

The House bill, in Section 106(a) provides nonrecourse loans to quota peanut producers at $610 per ton, and directs the Secretary to reduce the loan rate by 5 percent to any producer in the current marketing year who had an offer from a handler to purchase quota peanuts at quota support rate or higher but opted to place their peanuts under loan instead.

The Senate amendment is identical except that it contains no provision directing the Secretary to reduce the loan rate by 5 percent.

The Conference substitute adopts the House provision, with an amendment in lieu of the 5 percent loan reduction provision, providing that an individual producer who markets his quota peanut crop, meeting quality requirements for domestic edible use, through the marketing association loan for two consecutive marketing years at a time when the Secretary determines a handler provided the producer with a written offer, upon delivery, for at least quota support price, shall become ineligible for quota price support for the next marketing year. The Secretary shall establish the means by which any decision regarding ineligibility for quota price support may be appealed. (Section 155(a))

(47) Additional peanuts

The House bill, in Section 106(b) provides nonrecourse loans to producers of additional peanuts at such rates as the Secretary finds appropriate.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision with a technical amendment. (155(b))

(48) Area marketing Associations

The House bill, in Section 106(c) directs the Secretary to make price support loans available through area marketing associations via warehouse storage loans, where appropriate, and provides that administrative costs by an area marketing association shall be included in such loans. The Secretary is directed to require area marketing associations to establish and maintain pools for quota peanuts, with separate pools for New Mexico Valencia peanuts, and that net gains from each pool shall be distributed only to producers in the pool.

The Senate amendment contains a similar provision except that only peanuts physically produced in New Mexico may participate in the New Mexico pool. A New Mexico resident may enter an amount of Valencia peanuts into the New Mexico pool that does not exceed the out-of-state quantity entered in 1995.

The Conference substitute adopts the Senate position with amendment that allows producers who participated in the New Mexico pool with Valencia peanuts grown in Texas during the 1990 through 1995 crop years to continue to participate in that pool. However, the quantity of Valencia peanuts grown outside of New Mexico that can be placed in the New Mexico pool is limited to the 1990 through 1995 average of Texas grown Valencia peanuts that a producer placed in the pool. The quantity of Texas produced Valencia peanuts allowed to enter the New Mexico pools, as provided in this subsection, is not transferable. (Section 155(c))

(49) Losses

The House bill, in Section 106(d) provides that losses in quota pools shall be covered using the following sources in the following order of priority:

(1) gains on transfers of peanuts from additional loan pools;

(2) individual producer gains from domestic and export edible use sales of additional peanuts from additional pools;

(3) gains from the sale of additional peanuts in an area pursuant to Section 358e (g)(1)(A) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a(g)(1)(A));

(4) marketing assessment funds collected from growers under subsection (g) (except funds attributable to handlers) with any unused assessment funds being transferred to the Treasury;

(5) gains or profits from quota pools in other production areas (not including separate type pools established for Valencia peanuts produced in New Mexico); and

(6) an increase in the marketing assessment for such quota pool.

The Senate amendment contains a similar provision except that in (3) any profits from additional peanuts sold for domestic edible use shall be used to offset quota losses in that area. In (6), the Senate amendment would assess all quota peanuts in the production area.

The Conference substitute adopts the Senate provision to use profits from additional peanuts sold for domestic edible use with an amendment that loan redemption profits from farms with one acre or less are exempt. Assessments are to be increased on all quota peanuts, by production area, including those commercially marketed. The Managers intend that the Secretary shall review and consider the marketability of the various types of peanuts prior to announcing differentials for the 1997 and subsequent peanut crops, and to make appropriate adjustments. The sheller budget deficit assessment funds shall be used to offset losses after national cross compliance. (Section 155(d))

(50) Disapproval of quotas

The House bill, in Section 106(e) provides that the Secretary may not make loans available for quota peanuts for any crop of quota peanuts for which producers have disapproved the poundage quota.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 155(e))

(51) Quality improvement

The House bill, in Section 106(f) directs the Secretary to continue to promote quality improvement of peanuts.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 155(f))

(52) Marketing assessment

The House bill, in Section 106(g) provides that first handlers (initial purchasers of peanuts) and producers pay a marketing assessment to CCC on all peanuts sold equal to 1.2 percent of the national average loan rate. Producers shall pay .60 percent in 1996 and .65 percent in 1997 through 2002 and first handlers shall pay .55 percent.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 155(g))

(53) Crops

The House bill, in Section 106(h) provides that subsections (a) through (f) are applicable to the 1996 through 2002 crops of peanuts.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 155(h))

(54) Poundage quotas

The House bill, in Section 106(i), in paragraph (1), amends the peanut quota provisions contained in part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (the "1938 Act") by extending such provisions through the 2002 marketing year.

Section 106(i), in paragraph (2), amends section 358–1(b)(1) of the Act (7 U.S.C. 1358–1(b)(1)) to provide that effective beginning January 1, 1997 the Secretary shall no longer establish farm poundage quota for farms owned or controlled by municipalities, airport authorities, schools, colleges, refuges, and other public entities (not including universities for research purposes); or for farms for which the quota holder is not a producer and resides in another State.

Section 106(i), in paragraph (3), amends section 358–1(a)(1) of the 1938 Act by eliminating the 1,350,000 ton minimum national poundage quota.

VOL 142 PT 5 MR 21 — 29 1996 UMI

Section 106(i), in paragraph (4), amends section 358-1(b)(2) of the 1938 Act by deleting the current subparagraph (B) relating to allocation of increased quota in Texas and inserting a new subparagraph (B) authorizing temporary increases in quota based on seed use. Amended section 358-1(b)(2), in subparagraph (B), provides that, for the 1996 through 2002 marketing years, a temporary quota allocation for the marketing year only in which the crop is planted, equal to the number of pounds of seed peanuts planted for the farm that shall be made to the producers for the 1996 through 2002 marketing years, in addition to the normal farm poundage quota established under section 358-1. Subparagraph (B) also provides that there is no change in the requirement regarding the use of quota and additional peanuts established by section 359a(b) of the 1938 Act. Also, subsection (a)(1) of such section no longer includes "seed" in the estimate of domestic edible use by the Secretary.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision with a technical amendment "to change the effective date of quota eligibility effective beginning with the 1998 crop." (Section 155(i))

(55) Spring and fall transfers of quota

Section 106(i), in paragraph (5), amends section 358b(a)(1) of the 1938 Act relating to farm poundage quota transfer. Amended section 358b(a)(1) allows farm poundage quota to be sold or leased, either before or after the normal planting season, to any other owner or operator of a farm in the same State. Current provisions requiring 90 percent of a farm's basic quota to be planted or considered planted before a fall (or after the normal planting season) transfer is allowed are maintained.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment allowing a maximum of 40 percent transfer of quota across county lines, but within a state. Cumulative unexpired transfers outside of a county may not exceed 15 percent for the 1996 crop, 25 percent for the 1997 crop, 30 percent for the 1998 crop, 35 percent for the 1999 crop and 40 percent for the 2000 and subsequent crops. The Conference substitute also allows full lease and sale in fall or spring for counties with less than 100,000 lbs. (50 tons) of quota, and allows unrestricted fall leasing of peanut quota across county lines within a state. (Section 155(i))

(56) Undermarketings

Section 106(i), in paragraph (6), eliminates undermarketings by deleting paragraphs (8) and (9) of section 358-1(b) of the 1938 Act, with necessary conforming changes to other sections.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision with a technical amendment. (155(i))

(57) Disaster transfer

Section 106(i), in paragraph (7), adds a new paragraph (8) to amended section 358-1(b) of the 1938 Act which authorizes the transfer of additional peanuts to a quota loan pool in cases in which quota poundage was not harvested and marketed because of drought, flood, or any other natural disaster, except that the such peanuts shall be supported at 70 percent of the quota support rate, and such transfers shall not exceed 25 percent of the total farm quota pounds.

The Senate amendment contains a similar provision that such peanuts shall be supported at not more than 70 percent of the quota support rate.

The Conference substitute adopts the House provision. (Section 155(i))

(58) Sugar program; sugar cane

The House bill, in Section 107(a) sets the loan rate for domestically grown sugarcane at 18 cents per pound for raw cane sugar.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 156(a))

(59) Sugar beets

Section 107(b) sets the loan rate for domestically grown sugar beets at 22.9 cents per pound for refined beet sugar.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision. (Section 156(b))

(60) Reduction in loan rates

The House bill, in Section 107(c) requires the Secretary to reduce the loan rate specified in subsections (a) and (b) if the Secretary determines that negotiated reductions in export subsidies provided for sugar of the European Union and other major sugar exporting countries in the aggregate exceed the commitments made as part of the Agreement on Agriculture. It also provides that the Secretary shall not reduce the loan rate under subsections (a) and (b) below a rate that provides domestic sugar an equal measure of support to that provided by the European Union and other sugar exporting countries based on the provisions of Agreement on Agriculture, section 101(d)(2) of the Uruguay Round Agreements Act.

The Senate amendment contains no similar provision.

The Conference substitute adopts the House provision. (Section 156(c))

(61) Term of loan; loan type; processor assurances

Section 107(d) provides that loan terms are the earlier of 9 months, or the end of a fiscal year, with supplemental loan authority (up to a total on nine months) for loans maturing at the end of a fiscal year.

The House bill, in Section 107(e) provides for the Secretary to carry out the section through the use of recourse loans for sugar. However, it also provides that during any fiscal year in which the tariff rate quota (TRQ) for imports of sugar into the U.S. is set, or increased to, a level that exceeds 1,500,000 short tons raw value, the Secretary is directed to carry out this section by making nonrecourse loans (previously made recourse loans are to be modified by the Secretary into nonrecourse loans). If the Secretary is required to make nonrecourse loans (or modify recourse loans) under this subsection during a fiscal year, the Secretary is to obtain from processors adequate assurances that such processors will provide appropriate minimum payments to producers as set by the Secretary.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision with technical amendments. (Section 156 (d) and (e))

(62) Marketing assessment

The House bill, in Section 107(f) requires first processors of raw cane sugar to remit to CCC nonrefundable marketing assessment for each pound of raw cane sugar equal to 1.1 percent of the loan rate for fiscal year 1996 (1.375 percent for 1997 through 2003) while first processors of sugar beets are to remit to CCC a marketing assessment of 1.1794 percent for fiscal year 1996 (1.47425 percent for 1997 through 2003), on all marketings. Assessments are to be collected on a monthly basis, except that any inventory which has not been marketed by September 30 of a fiscal year shall be assessed at that point, except that the latter sugar shall not be assessed later when it is marketed. Any person who fails to remit the assessment is liable for a penalty based on the quantity of the sugar involved in the violation times the applicable loan rate at the time of violation.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision with technical amendments. (Section 155(f))

(63) Forfeiture penalty

The House bill, in Section 107(g) provides for an additional penalty (1 cent per pound on cane sugar, pro rata on beet sugar) to be assessed on the forfeiture of any sugar pledged as collateral for a loan.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision with technical amendments. (Section 155(g))

(64) Information reporting

The House bill, in Section 107(h) requires processors and refiners to report such information to the Secretary as is required in order to administer the program. A penalty applies for failure to report, and the Secretary is required to make monthly reports on pertinent sugar production, imports, distribution, and stock levels.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision with technical amendments. (Section 155(h))

(65) Crops

The House bill in Section 107(j) states that this subsection shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision with a technical amendment. (Section 155(i))

(66) Marketing allotments

The House bill, in Section 107(l) repeals marketing allotments for sugar, contained in Part VII of subtitle B of title III of the 1938 Act.

The Senate amendment, in Section 109(1) suspends marketing allotment authority.

The Conference substitute adopts the Senate provision with an amendment to strike the provision.

SUBTITLE E—ADMINISTRATION

(67) Administration

The House bill, in Section 108 directs the Secretary to use CCC to carry out this title, and prohibits the Secretary from using any CCC funds for the salaries or expenses of any officer or employee of USDA. It also provides authority to issue necessary regulations, and provides that determinations made by the Secretary under this title are final.

The Senate amendment is similar but prohibits the use of CCC funds for salaries and expenses of any officer or employee.

The Conference adopts an amendment to the CCC Charter Act that specifies: (1) CCC no longer has inherent authority to purchase personal property; (2) for fiscal year 1996, CCC spending for equipment or services relating to automated data processing, information technologies, or related items (including telecommunications equipment and computer hardware or software) be limited to not more than $170 million; (3) for fiscal years 1997 through 2002, CCC spending on such items be limited to not more than $275 million; (4) starting in fiscal year 1997, the use of reimbursable agreements with other Federal or State agencies, including agreements for automated data processing or information resource management activities, be limited to an aggregate amount not to exceed the total amount of reimbursable agreements in fiscal year 1995; and (5) after date of enactment, CCC submit to Congress on a quarterly basis an itemized report of all expenditures of over $10,000.

REPORTING REQUIREMENTS

After date of enactment, the Managers expect the Assistant Secretary for Administration, or the USDA Chief Information Officer (if one has been placed in that position pursuant to the Information Technology Reform Act of 1996) to provide the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry with quarterly reports on the expenditure of CCC funds under the Charter Act including all expenditures under reimbursable agreements, for administrative, automated data processing, information technology, and telecommunication products, including contracts with vendors for such products or support services. The Managers expect the reports to itemize expenditures in excess of $10,000, including any expenditures for similar products or services that, when aggregated, exceed $10,000. The first quarterly reports should also itemize all expenditures for fiscal year 1996, and each subsequent report should include aggregated expenditures for each category of product or service from the previous report. The Managers direct the Secretary to ensure that all reports are audited by the USDA Chief Financial Officer pursuant to the Financial Managers Integrity Act, the Government Performance and Results Act, and according to CFO Standards and Conventions.

REIMBURSABLE AGREEMENTS

The Managers expect the Secretary to incorporate funding for reimbursable agreements within the annual budget proposal beginning in fiscal year 1997. The Secretary should use every means at his disposal to establish line items for reimbursable agreements in future budgets. (Section 161)

(68) Adjustment of loans

The House bill, in Section 104(h) provides general authority for the Secretary to use the Commodity Credit Corporation ("CCC") and other means available to carry out the loans authorized by this section, and directs the Secretary to get adequate processor assurances that producers will get loan program benefits whenever a loan program includes payments to processors.

Section 104(i) gives the Secretary general authority to make appropriate adjustments in loan levels based on grade, type, quality, location, and other factors.

Section 104(j) provides that, in general, a producer is not personally liable for any deficiency arising from the sale of collateral securing a nonrecourse loan. However, exceptions are provided for quality or quantity deficiencies, failure to properly care or maintain collateral, or a failure to deliver a commodity. This section also provides that any security interest obtained by CCC in sugarcane or sugarbeets as a result of a security agreement by a processor shall be superior to all common law and statutory liens in favor of producers.

Section 104(k) provides authority for CCC to sell any inventory commodities at any price that the Secretary determines will maximize returns to CCC, except that this authority does not apply to sales:

(A) for new or byproduct uses;

(B) of peanuts or oilseeds (if used for oil);

(C) for seed if the sale will not impair a loan program;

(D) of deteriorated-quality commodities that are in danger of spoiling;

(E) for the purpose of establishing a claim arising out of a fraudulent or other wrongful act pursuant to a contract;

(F) for export; or

(G) for other than a primary use.

The Secretary is also authorized to make CCC-owned commodities available in any Presidential disaster area.

The Senate amendment contains a similar provision but for technical differences.

The Conference substitute adopts the House position.

The Managers agreed to include an amendment that allows the Secretary to establish county loan rates so that the lowest county rate is 95 percent of the national average loan rate. This shall be done only if such action results in no additional outlays. (Section 162, 164, and 165)

The Managers are concerned that the procedures used by USDA to establish county wheat and feed grain loan rates and posted-county-prices (PCP) may be outdated. The Managers expect USDA to evaluate whether improvements are warranted and to implement such changes before establishing 1997-crop county loan rates.

(69) Commodity Credit Corporation interest rate

The House bill, in Section 403 provides that the interest rate charged by CCC on loans for agricultural commodities shall be 100 basis points greater than the rate established by the formula in effect on October 1, 1995.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision. (Section 163)

SUBTITLE F—SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY

(70) Suspension and repeal of permanent authorities

The House bill, in Section 109 repeals the Agricultural Act of 1949 (certain necessary sections are transferred to the 1938 Act), and makes required conforming amendments.

The Senate amendment, in Paragraph (1) of Section 109(a) suspends the following provisions of the Agricultural Adjustment Act of 1938 for crop years 1996 through 2002:

(A) acreage allotments for corn, marketing quotas for wheat, marketing quotas for cotton and marketing quotas for rice;

(B) marketing quotas for peanuts;

(C) sale, lease and transfer of peanut acreage allotments;

(D) marketing penalties for peanuts;

(E) marketing quotas for sugar and crystalline fructose;

(F) publication and review of peanut quotas;

(G) preservation of unused cotton allotments;

(H) wheat marketing allocation; and

(I) omitted cotton marketing certificates.

Paragraph (1) of Section 109(b) suspends the following provisions of the Agricultural Act of 1949 for crop years 1996 through 2002:

(A) parity price support for basic agriculture commodities;

(B) parity price support for cotton;

(C) parity price support for corn;

(D) parity price support for wheat;

(E) Farmer Owned Reserve;

(F) Agriculture commodities utilization program;

(G) commodity certificates;

(H) parity price support for nonbasic agriculture commodities;

(I) price support provisions not consistent with the Agriculture Market Transition Program;

(J) acreage base and yield system; and

(K) Emergency Livestock Feed Assistance Act of 1988.

Paragraph (2) of Section 109(b) repeals the following provisions of the Agricultural Act of 1949:

(A) loans, payments and acreage reduction programs;

(B) peanut price support;

(C) supplemental set-aside authority;

(D) deficiency and land diversion payments;

(E) oilseed loans and payments, sugar price support and honey price support; and

(F) advance announcement of price support levels.

Section 109(c) suspends certain quota provisions for wheat and corn.

The Conference substitute adopts the Senate provision with technical amendments and an amendment that dairy price support under the 1938 Agriculture Adjustment Act shall be suspended through December 31, 2002. The Managers intend for USDA to provide for an orderly termination of the Emergency Livestock Feed Program so that livestock producers within a county are treated consistently. For a period not to exceed thirty days after enactment of this bill, USDA should accept livestock producers' applications for assistance under this program in counties where producers have already been approved for 1996 Livestock Feed Program assistance prior to the date of enactment. (Section 171)

(71) Effect of amendments

The House bill, in Section 110 provides that the amendments made by this Act shall not affect the authority of the Secretary to carry out the 1991 through 1995 production adjustment programs in effect before this Act.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision. (Section 172)

The Managers intend that the Secretary shall seek to reduce paperwork and regulatory burdens of producers. Therefore, the Managers intend that in conducting year-end reviews the Secretary shall take into consideration information and recommendations provided by state and local Farm Service Agency Committees in order to reduce the number of unnecessary year-end reviews.

SUBTITLE G—COMMISSION ON 21ST CENTURY PRODUCTION AGRICULTURE

(72) Commission on 21st century production agriculture

The House bill, in title VI, establishes a commission to be known as the "Commission on 21st Century Production Agriculture."

Section 502—Composition

Subsection (a). Membership and appointment.

Subsection (a) of this section requires that the Commission be composed of eleven members: three members appointed by the President; four members appointed by the Chairman of the Committee on Agriculture of the House of Representatives (in consultation with the ranking minority member); and four members appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate (in consultation with the ranking minority member).

Subsection (b). Qualifications.

VOL 142 PT 5 MR 21 — 29 1996 UMI

Subsection (b) establishes the qualifications required of the persons appointed to the Commission. At least one member appointed by each the President, the Chairman of Committee on Agriculture of the House of Representatives, and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate shall be an individual who is primarily involved in production agriculture. All other members appointed to the Commission must have knowledge and experience in agriculture production, marketing, finance, or trade.

Subsection (c). Term of members; vacancies.

Subsection (c) requires that the appointment to the Commission be for the life of the Commission. It also directs that a vacancy on the Commission shall not affect the Commission's power and shall be filled in the same manner as the original appointment.

Subsection (d). Time for appointment; first meeting.

Subsection (d) requires that the members of the Commission be appointed no later than October 1, 1997 and that the Commission convene its first meeting 30 days after six members of the Commission have been appointed.

Subsection (e). Chairman.

Subsection (e) requires that the chairman of the Commission be designated jointly by the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate from among the members of the Commission.

Section 503—Comprehensive review of past and future of production agriculture

Subsection (a). Initial review.

Subsection (a) of this section requires the Commission to conduct a comprehensive review of changes in the condition of production agriculture in the United States subsequent to the date of enactment of this Act and the extent to which such changes are the result of the changes made by this Act. This review shall include: (1) the assessment of the initial success of market transition contracts in supporting the economic viability of farming in the United States; (2) the assessment of the food security situation in the United States in the areas of trade, consumer prices, international competitiveness of United States production agriculture, food supplies, and humanitarian relief; (3) an assessment of the changes in farm land values and agricultural producer incomes; (4) an assessment of the regulatory relief for agricultural producers that has been enacted and implemented, including the application of cost/benefit principles in the issuance of agricultural regulations; (5) an assessment of the tax relief for agricultural producers that has been enacted in the form of capital gains tax reductions, estate tax exemptions, and mechanisms to average tax loads over high and low-income years; (6) an assessment of the effect of any Government interference in agricultural export markets, such as the imposition of trade embargoes, and the degree of implementation and success of international trade agreements; and (7) the assessment of the likely effect of the sale, lease, or transfer of farm poundage quota for peanuts across State lines.

Subsection (b). Subsequent review.

Subsection (b) requires the Commission to conduct a comprehensive review of the future of production agriculture in the United States and the appropriate role of the Federal Government in support of production agriculture. This review shall include: (1) an assessment of changes in the condition of production agriculture in the United States since the initial review under subsection (a); (2) an identification of the appropriate future relationship of the Federal Government with production agriculture after 2002; and (3) an assessment of the manpower and infrastructure requirements of the Department of Agriculture necessary to support the future relationship of the Federal Government with production agriculture.

Subsection (c). Recommendations.

Subsection (c) requires that the Commission develop specific recommendations for legislation to achieve the appropriate future relationship of the Federal Government with production agriculture identified under subsection (a)(2).

Section 504—Reports

Subsection (a). Report on initial review.

Subsection (a) of this section requires that by June 1, 1998, the Commission submit a report containing the results of the initial review to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subsection (b). Report on subsequent review.

Subsection (b) requires that not later than January 1, 2001, the Commission submit a report containing the results of the subsequent review conducted under section 1503(b) to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Section 506—Powers

Subsection (a). Hearings.

Subsection (a) of this section authorizes the Commission to conduct hearings, take testimony, receive evidence, and act in a manner the Commission considers appropriate to carry out the purposes of this Act.

Subsection (b). Assistance from other agencies.

Subsection (b) authorizes the Commission to secure directly from any department or agency of the Federal Government any information necessary to carry out its duties under this title. The head of such department or agency shall furnish information requested by the chairman of the Commission, to the extent permitted by law.

Subsection (c). Mail.

Subsection (c) authorizes the Commission to use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

Subsection (d). Assistance from Secretary.

Subsection (d) requires that the Secretary of Agriculture shall provide appropriate office space and reasonable administrative and support services available to the Commission.

Section 506—Commission procedures

Subsection (a). Meetings.

Subsection (a) of this section requires that the Commission meet on a regular basis. The frequency of such meeting shall be determined by the chairman or a majority of its members. Additionally, the Commission must meet upon the call of the chairman or a majority of the members.

Subsection (b). Quorum.

Subsection (b) provides that a majority of the members of the Commission must be present to produce a quorum for transacting the business of the Commission.

Section 507—Personnel matters

Subsection (a). Compensation.

Subsection (a) of this section provides that members of the Commission serve without compensation, but are allowed travel expenses when engaged in the performance of Commission duties, including a per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

Subsection (b). Staff.

Subsection (b) provides that the Commission shall appoint a staff director. The staff director's basic rate of pay shall not exceed that rate provided for under section 5376 of title 5, United States Code. The Commission may appoint such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its duties without regard to the provisions governing appointments in the competitive service, title 5, United States Code, and provisions relating to the number, classification, and General Schedule rates in chapter 51 and subchapter III of chapter 53 of title 5 or any other provision of law. No employee appointed by the Commission (other than the staff director) may be compensated at a rate exceeding the maximum rate applicable to level 15 of the General Schedule.

Subsection (c). Detailed personnel.

Subsection (c) authorizes the head of any department or agency of the Federal Government to detail, without reimbursement, any personnel of such department or agency to the Commission to assist the Commission in carrying out its duties. The detail of any such personnel may not result in the interruption or loss of civil service status or privilege of such personnel.

Section 508—Termination of Commission

This section provides that the Commission shall terminate upon the issuance of its final report required by section 1504.

The Senate amendment contains no similar provision.

The Conference substitute adopts the House provision with an amendment directing the Commission to make an assessment of economic risk to producers. (Subtitle G)

SUBTITLE H—MISCELLANEOUS COMMODITY PROVISIONS

(73) Options Pilot Program

The House bill extends the Options Pilot Program Act of 1990 through crop year 2002. (Section 506)

The Senate amendment establishes an Options Pilot Program and Risk Management Education program. The purpose is to authorize the Secretary to conduct research through pilot programs for one or more program commodities to ascertain whether futures and options contracts can provide producers with reasonable protection from the financial risks of fluctuations in price, yield, and income inherent in the production and marketing of agricultural commodities; and provide education in the management of the financial risks inherent in the production and marketing of agricultural commodities. (Subtitle B)

The Conference substitute adopts the Senate amendment with an amendment requiring consultation with the CFTC in risk management education. The Managers intend that the Options Pilot Program should be administered by the Office of Risk Management. (Section 191 and 192)

(74) Single delivery of catastrophic crop insurance

The House bill, amends section 508(b)(4) of the Federal Crop Insurance Act to provide that the Secretary may only continue to offer catastrophic risk protection through local USDA offices if the Secretary determines that the number of approved insurance providers operating in a State (or a portion of a State) is insufficient to adequately

provide catastrophic risk protection coverage to producers. If coverage availability in a State is adequate, only approved insurance providers may provide coverage. (Section 501(a))

The Senate amendment contains an identical provision. (Section 502(a))

The Conference substitute adopts the House provision with an amendment requiring USDA to phase in single delivery of catastrophic coverage unless the Secretary determines that the number of private insurers in a State is insufficient. The Secretary must announce the results of such determinations within 90 days following enactment of this section for 1997 crops. The Secretary shall announce the determinations for subsequent crop years by each April 30 of the year previous to the year in which the crop is produced, or at such other times during the year as the Secretary finds practicable in consultation with the affected insurance industry, for those states or areas of states where catastrophic coverage remains available through local offices of the Department.

In considering the number of approved insurance providers operating in a State (or portion thereof) the Secretary may consider only those private agents who are actively providing catastrophic coverage and are reasonably accessible to producers. The Secretary shall also consider agents who are going to begin offering catastrophic coverage in the crop year in response to this legislation.

In making such determinations, the Secretary may also consider the willingness of reinsured companies to accept the responsibility for providing and servicing catastrophic coverage on an increased scale in an economical manner without added levels of subsidy or federal government, and to assure that agents will be made available in a convenient manner to all producers who desire service. (Section 193(a))

(75) Ending mandatory purchase of catastrophic crop insurance

The House bill provides that, effective with spring-planted 1996 crops, catastrophic coverage is not required for federal farm program benefits if producers sign a written waiver with the Secretary that waives any eligibility for emergency crop loss assistance. (Section 501(a))

The Senate amendment contains an identical provision. (Section 502(a))

The Conference substitute adopts the House provision with an amendment. The amendment authorizes the Secretary to have discretion to apply the provision for a written waiver to all other 1996 crops. The amendment also provides that, for the 1996 crop year only, producers shall be able to obtain catastrophic risk protection insurance for any spring planted crop, and limited or additional coverage for malting barley under the Malting Barley Price and Quality Endorsement, for a period of at least two but less than four weeks after the date of enactment of this Act. Waivers: A waiver under this provision may be provided by the producer at any time up until the time that the producer applies for the respective farm program, or other benefit, or the acreage reporting date. The Secretary may permit that waivers may be generic in nature, so that a producer can sign a single waiver applying to all crops which he or she produces and for which Federal crop insurance has not been obtained or may not be obtained in the future. A waiver under this provision shall not waive a farmer's eligibility to receive an emergency loan. (Section 193(a))

(76) Transfer

The House bill transfers all catastrophic policies written by USDA to private insurance companies for the performance of all sales, service, and loss adjustment functions to the extent that the Secretary determines that catastrophic risk protection by approved insurance providers is sufficiently available in a State. Any fees in connection with such policies that are not yet collected at time of transfer shall be payable to the private insurance providers. (Section 501(a))

The Senate amendment contains a similar transfer provision. (Section 502(a))

The Conference substitute adopts the House provision with an amendment delaying transfers of all catastrophic policies written by USDA to private insurance companies until the 1997 crop year. The transfer process for 1997 crops with sales closing dates before January 1, 1997 shall begin at the time of the Secretary's announcement under subsection (a) and be completed by a sales closing date for the crop and county. The transfer process for all subsequent policies including crop years after 1997 shall begin at a date that permits the process to be completed not later than 30 days prior to the applicable sales closing date. After 1997, the transfer must be completed not later than 45 days prior to the sales closing date.

This provision requires that, beginning with crop year 1997, in those States (or portions thereof) where the Secretary has determined not to continue to provide catastrophic coverage through local offices of the Farm Service Agency, the Secretary is expected to transfer all existing catastrophic policies written by USDA offices to private insurance providers. This transfer is expected to occur in an orderly manner under procedures determined by the Secretary and developed in consultation with private insurance providers. These procedures should be designed to assure fairness among insurance providers and will take into consideration the needs and preferences of affected producers. (Section 193(a))

(77) Seed crops

The House bill amends section 519(a)(2)(B) of the Federal Crop Insurance Act to specify that seed crops are eligible for coverage under the Noninsured Assistance Program. (Section 501(b))

The Senate amendment, contains an identical provision. (Section 502(b))

The Conference substitute adopts the Senate amendment (Section 193(b)).

(78) Aquaculture

The Senate amendment amends section 508(a)(6) of the Federal Crop Insurance Act to extend crop insurance coverage to aquaculture. (Section 502(d))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to include ornamental fish as aquaculture in the Noninsured Assistance Program (Section 193(c))

(79) Pilot projects on insect infestation or disease and feasibility for nursery crops

The Senate amendment requires the Secretary of Agriculture to develop and administer a two year pilot project for crop insurance coverage that indemnifies crop losses due to insect infestation or disease. The Secretary is required to administer the pilot project so that it is actuarially sound and results in no net cost to the U.S. Treasury. The Senate amendment also requires a limited pilot program on the feasibility of insuring nursery crops within two years of enactment. (Section 502(c) and 502(d))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment. The Managers agree to inclusion of Senate provisions directing the Secretary to develop and administer pilot projects: (1) for crop insurance coverage that indemnifies crop losses due to natural disasters such as insect infestation or disease and (2) on the feasibility of insuring nursery crops. The conferees intend that to the maximum extent practicable the pilot projects be operated to cover diverse geographic areas so that the full impact of such coverage can be adequately evaluated. (Section 193(d) and 193(e))

(80) Planting requirement

The Senate amendment amends section 508(j) of the Federal Crop Insurance Act to require the Corporation to consider marketing windows in determining whether it is feasible to require planting during a crop year. (Section 502 (e))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment (Section 193(f)) and 3 amendments. The first amendment provides mandatory funding in fiscal year 1997 for the sales commissions of crop insurance agents (Section 193(g)). The second amendment transfers mandatory funding for the Noninsured Assistance Program (NAP) from the Federal Crop Insurance Corporation Fund to the Commodity Credit Corporation (Section 193(g)). The third amendment changes the Noninsured Assistance Program (NAP) by providing the Commodity Credit Corporation with more flexibility in determining the requirements for producers to provide records of crop acreage, yields, and production (Section 193(h)).

(81) Section 504. Establishment of Office of Risk Management

The House provision amends Department of Agriculture Reorganization Act of 1994 by establishing an independent Office of Risk Management (ORM). This office shall have jurisdiction over FCIC, and any pilot or other program involving revenue insurance, risk management savings accounts or use of future markets to manage risk. The salaries and expense account of the FSA shall be available to fund operation of this office in fiscal year 1996. (Section 504)

The Senate contains no comparable provision.

The Conference substitute adopts the House provision (Section 194).

(82) Revenue insurance

The Senate amendment amends section 508(h) of the Federal Crop Insurance Act to establish a revenue insurance pilot program in a limited number of counties for producers of corn, wheat, or soybeans for the 1997–2000 crop years. Revenue insurance policies are to be offered through reinsurance arrangements with private insurance companies in a manner that is actuarially sound with premiums and administrative fees to be paid by insured producers. The minimum level of revenue coverage must be an alternative to catastrophic crop insurance. (Section 503)

The House bill requires the Secretary to establish a business interruption insurance program. Under this program, the producer of a contract commodity could obtain revenue insurance. (Section 505)

The Conference substitute adopts the Senate provision with 2 amendments. The first amendment allows the revenue insurance pilot program to be established for feedgrains, wheat, soybeans, or such other

VOL
142
PT
5
MR
21
—
29
1996
UMI

commodities as determined by the Secretary (Section 195). The second amendment moves Noninsured Assistance Program(NAP) out of the Federal Crop Insurance Act. The Managers intend that the NAP continue to be administered by USDA's Farm Service Agency. Because many NAP crops will over time be covered by the insurance program, it is expected that the Under Secretary for Farm and Foreign Agricultural Services, who will have supervision over both ORM and FSA, should assure that coordination exists between these two agencies in the administration of the NAP. The Managers intend that the Secretary in administering the NAP through the FSA will coordinate, to the maximum extent practicable, various terms and conditions used in administering both the NAP and the Federal Crop Insurance Program. The Managers expect, to the extent practicable, that the Department will build upon information obtained from the NAP in extending coverage to non-insured crops. (Section 196)

TITLE II—AGRICULTURAL TRADE

SUBTITLE A—AMENDMENTS TO AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954 AND RELATED STATUTES

(1) Food aid to developing countries

The House bill relocates a Sense of Congress resolution on the importance of food aid from section 411 of the Uruguay Round Agreements Act to section 3 of the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480) to replace an obsolete sense of Congress. (Section 411)

The Senate amendment has a similar provision with a technical difference. (Section 201)

The Conference substitute adopts the House provision. (Section 201)

(2) Trade and development assistance

The House bill amends section 101 of P.L. 480 to authorize the Secretary to enter into Title I concessional credit agreements with private entities as well as foreign governments. Such private entities may be U.S.-based or indigenous non-profit or for-profit concerns. (Section 412)

The Senate amendment is identical. (Section 202)

The Conference substitute adopts the Senate amendment. (Section 202)

(3) Agreements regarding eligible countries and private entities

The House bill amends section 102 of P.L. 480 by deleting subsection (a), which defines developing countries in terms of foreign exchange earnings, and reordering the priorities for providing food assistance to increase the emphasis on market development.

The House bill provides that Section 102 of P.L. 480 is amended to allow agricultural trade organizations (ATOs) to carry out market development plans in connection with Title I agreements. The Secretary is directed to give priority to those agreements with developing countries and agricultural trade organizations that include a market and economic development component. (Section 413)

The Senate amendment contains a similar provision, except for a technical difference in section 102(c)(2). (Section 203)

The Conference substitute adopts the House provision with an amendment that gives the Secretary the discretion to reimburse agricultural trade organizations for administrative expenses incurred in carrying out market development plans under Title I. (Section 203)

(4) Terms and Conditions of Sales

The House bill amends Section 103 of P.L. 480:

(1) to include references to private entities;

(2) to allow for a repayment period with respect to Title I agreements of less than ten years in Title I agreements; and

(3) to reduce to five years the maximum "grace" period during which the Secretary is allowed to defer repayments. (Section 414)

The Senate amendment is identical. (Section 103)

The Conference substitute adopts the Senate amendment. (Section 204)

(5) *Use of local currency payment*

The House bill amends Section 104 of P.L. 480 to include private entities as eligible to use local currencies. (Section 415)

The Senate amendment is identical. (Section 104)

The Conference substitute adopts the House provision. (Section 205)

(6) Value-added foods

The Senate amendment repeals an unused provision that allows for a partial waiver of repayment under title I(section 105 of P.L. 480). (Section 206)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 206)

(7) Eligible organizations

The House bill amends Section 202(b) of P.L. 480 to prohibit the Administrator of the Agency for International Development (AID) from denying a request for commodities under Title II by PVOs or other eligible organizations to carry out a program merely because AID does not maintain a mission in the country in which the program will be carried out.

The House bill also amends Section 202(e) of P.L. 480:

(1) by increasing from $13.5 million to $28 million the portion of Title II appropriations that may be used to pay transportation, distribution and other costs of eligible organizations;

(2) by making intergovernmental organizations (e.g., the World Food Program) eligible for such funds.

The Senate amendment is similar except that it requires private voluntary organizations and cooperatives to submit requests for funds. (Section 207)

The Conference adopts the Senate amendment with a technical change requiring that eligible organizations submit requests for funds. (Section 207)

(8) Generation and use of foreign currencies

The House bill amends Section 203 of P.L. 480 to allow local-currency proceeds from Title II commodity sales to be used in a country different from the one in which the commodities were sold, as long as it is in the same geographic region where sales in the targeted country would be impracticable. The section also increases from ten percent to fifteen percent the minimum amount of non-emergency Title II commodities that the Administrator must allow to be sold for local currencies. (Section 417)

The Senate amendment is identical. (Section 208)

The Conference substitute adopts the House provision. (Section 208)

(9) General levels of assistance under P.L. 480

The House bill amends Section 204(a) of P.L. 480 to extend through 2002 the 1995 minimum tonnage levels for both overall assistance and non-emergency assistance under Title II. The House bill also provides that AID is prohibited from waiving the non-emergency minimum tonnage requirement before the beginning of a fiscal year. (Section 418)

The Senate amendment is identical. (Section 209)

The Conference substitute adopts the House provision with an amendment requiring that at least 50 percent of bagged commodities programmed under Title II be bagged in the U.S. (Section 209)

(10) Food aid consultative group

The House bill amends section 205 of P.L. 480 to extend an existing consultative group on food aid through 2002; to require that the group meet at least twice per year; and to require that an agricultural producer be a member of the group. Agricultural trade organizations are also made eligible for participation. (Section 419)

The Senate amendment is identical. (Section 210)

The Conference substitute adopts the Senate amendment. (Section 210)

(11) Support of nongovernmental organizations

The House bill amends Section 306(b) of P.L. 480 to allow the ten percent of local currency proceeds set aside for use in the recipient country for rural development, education and other purposes to be used for the same purposes by nongovernmental organizations that are not indigenous. A conforming amendment is made in the definition of nongovernmental organization in Section 402(6) of P.L. 480. (Section 420)

The Senate amendment is identical. (Section 211)

The Conference substitute adopts the House provision. (Section 211)

(12) Commodity determinations

The House bill amends Section 401 of P.L. 480 to simplify the process by which the Secretary determines which commodities are eligible for P.L. 480 (the docket authority), while retaining the same basic standards for commodity eligibility as at present. The formal requirements for a determination of commodity availability are eliminated. (Section 421)

The Senate amendment is identical. (Section 212)

The Conference substitute adopts the Senate amendment. (Section 212)

(13) General provisions

The House bill amends Section 403 of P.L. 480 to delete requirements for the U.S. to consult with several specific international organizations. (Section 422)

The Senate amendment is identical. (Section 213)

The Conference substitute adopts the House provision. (Section 213)

(14) Agreements

The House bill amends Section 404 of P.L. 480 to make several conforming changes and to clarify that an existing authority for multi-year agreements under Titles I and III is discretionary, but mandatory for Title II. (Section 423)

The Senate amendment is identical. (Section 214)

The Conference substitute adopts the Senate amendment. (Section 214)

(15) Use of Commodity Credit Corporation

The Senate amendment amends Section 406 of P.L. 480 to make technical changes to administrative provisions of P.L. 480 and to make conforming changes. (Section 215)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 215)

(16) Administrative provisions

The House bill makes technical changes to Section 407 of P.L. 480. The Secretary and

the Administrator are also given discretion in setting the terms for freight contracts under Title I and Titles II and III, respectively, as under current practice. Additional conforming changes are made and two required annual reports are combined. (Section 424)

The Senate amendment is identical. (Section 216)

The Conference substitute adopts the House provision with a grammatical correction. (Section 216)

(17) Expiration date

The House bill amends Section 408 of P.L. 480 to extend authority to enter into agreements for P.L. 480 programs through 2002. (Section 425)

The Senate amendment is identical. (Section 217)

The Conference substitute adopts the Senate amendment. (Section 217)

(18) Regulations

The House bill repeals Section 409 of P.L. 480, which required regulations to be issued following enactment of the 1990 farm bill. (Section 426)

The Senate amendment is identical. (Section 218)

The Conference substitute adopts the House provision. (Section 218)

(19) Independent evaluation of programs

The House bill repeals Section 410 of P.L. 480, which required General Accounting Office evaluations of P.L. 480 that have been completed. (Section 427)

The Senate amendment is identical. (Section 219)

The Conference substitute adopts the Senate amendment. (Section 219)

(20) Authorization of appropriations

The House bill deletes Section 412(b) of P.L. 480 and eliminates a requirement that each of Titles I and III funds be at least forty percent of the combined funding for Titles I and III. Subsection (c) is amended to allow up to fifteen percent of the funds available in any fiscal year for any title of P.L. 480 to be used for any other title and to allow unlimited transfers of funds from Title III to Title II. The House bill provides that all of Title I transfer authority must be exhausted before use of the waiver authority is allowed. (Section 428)

The Senate amendment is similar. (Section 220)

The Conference substitute adopts the Senate provision with an amendment that limits transfers from P.L. 480 Title III funding to fifty percent. The Managers intend that USAID will not routinely waive Title II non-emergency minimum tonnage levels, but will operate this waiver authority only in exceptional circumstances. The responsible Congressional committees should be consulted prior to USAID exercising waiver authority. (Section 220)

(21) Coordination of foreign assistance programs

The House bill amends Section 413 of P.L. 480 to clarify that a requirement for coordination with U.S. development assistance policies applies only to Title III. (Section 429)

The Senate amendment is identical. (Section 413)

The Conference substitute adopts the House provision. (Section 221)

(22) Micronutrient Fortification Pilot Program

The Senate amendment requires the establishment of a pilot program by the end of 1997 to fortify grains made available under P.L. 480 with micronutrients such as Vitamin A or iron. The purpose of the pilot program is to assist developing countries in correcting micronutrient deficiencies and to encourage development of technologies for fortification of grains and other commodities. The Secretary is directed to select not more than 5 developing countries to participate in the program. The authority for the pilot program expires in 2002. (Section 222)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that the program be carried out if practical technology exists and it is cost effective. (Section 222)

(23) Use of certain local currency

The House bill adds a new section to Title IV of P.L. 480 to expressly permit the Secretary to use local currency proceeds collected under agreements entered into prior to the Food, Agriculture Conservation Act of 1990 consistent with the law as in effect at the time the agreements were entered into. (Section 430)

The Senate amendment is identical. (Section 416)

The Conference substitute adopts the House provision. (Section 223)

(24) Farmer-to-Farmer Program

The House bill amends Section 501 of P.L. 480 to increase the minimum percentage of the P.L. 480 funding available for the Farmer-to-Farmer program from .2 percent to .4 percent and extends Farmer-to-Farmer to emerging markets. The authorization for the program is extended through fiscal year 2002. (Section 431)

The Senate amendment allows for the travel of foreign farmers and other professionals to the United States. (Section 224)

The Conference substitute adopts the House provision with an amendment allowing for the use of local currencies generated through P.L. 480, Section 416 and Food for Progress to meet the costs of the Farmer-to-Farmer program. (Section 224)

(25) Food Security Commodity Reserve

The House bill amends title III of the Agricultural Act of 1980 by:

(1) converting the Food Security Wheat Reserve to the Food Security Commodity Reserve;

(2) changing the short title to "Food Security Commodity Reserve Act of 1996";

(3) making corn, sorghum, and rice eligible commodities for the reserve;

(4) establishing a four million metric ton cap on the reserve;

(5) making the reserve consist of: (a) wheat in the reserve as of the date of enactment of the Act; (b) wheat, rice, corn, and sorghum acquired through the exchange of an equivalent value of wheat in the reserve for those commodities;

(6) providing that the reserve may be replenished through purchases or by designation of commodities owned by the Commodity Credit Corporation

(7) providing for the release of up to 500,000 metric tons per year if the Secretary determines that inadequate amounts of commodities are available for emergency assistance under Title II of P.L. 480 (plus, any commodities that could have been released but were not released in prior fiscal years);

(8) providing that the authority to replenish the reserve expires at the end of fiscal year 2002. (Section 432)

The Senate amendment is similar to the House bill on the establishment and replenishment of the reserve. The Senate amendment provides that the Secretary may release eligible commodities from the reserve for emergency food assistance to developing countries when quantities of eligible commodities are so limited that eligible commodities cannot be made available for disposition. Additionally up to one million metric tons may be released annually from the reserve for urgent humanitarian relief under Title II of P.L. 480, if the Secretary certifies than funds made available to carry out P.L. 480 are not reduced from the prior year. The term "cannot be made available under the normal means" does not require the waiver of the sub-minimum requirements under Title II of P.L. 480 before the commodities can be released from the reserve in any fiscal year.

The Conference substitute adopts the Senate provision with an amendment providing that in order to meet unanticipated need for emergency assistance under section 202(a) of P.L. 480, the Secretary may release up to 500,000 metric tons of commodities and up to 500,000 metric tons of eligible commodities that could have been released but were not released in prior fiscal years.

Although the conference report contains the language from the Senate bill permitting release of commodities from the reserve in the case of limited domestic supply, the primary purpose of the reserve is to supply commodities for urgent humanitarian needs in addition to assistance made available under Titles I, II and III of P.L. 480. The intent is for the commodities in the reserve to be available when the 475,000 metric tons of commodities in the Title II unallocated reserve is not adequate to meet emergency needs and in the case of limited domestic supply of commodities. (Section 225)

(26) Protein byproducts derived from alcohol fuel production

The Senate amendment repeals an obsolete provision (section 1208 of the Agriculture and Food Act of 1981) requiring an investigation and report on the use of protein byproducts in aid programs. (Section 226)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 226)

(27) Food for Progress Program

The House bill amends The Food for Progress Act of 1985:

(1) to eliminate an obsolete provision exempting commodities furnished to the former Soviet Union from the annual tonnage limitation during 1993;

(2) to make intergovernmental organizations eligible for the program;

(3) to allow the Commodity Credit Corporation to make sales on credit terms under this program to countries other than the former Soviet Union;

(4) to extend authority for the Food for Progress program through fiscal year 2002;

(5) to make multi-year agreements discretionary rather than mandatory;

(6) to permit technical assistance to be provided to agricultural trade organizations, private voluntary organizations, and intergovernmental organizations for monetization programs; and

(7) to make several conforming amendments. (Section 433)

The Senate amendment is identical. (Section 226)

The Conference substitute adopts the Senate amendment. (Section 227)

(28) Use of foreign currency proceeds from export sales financing

The Senate amendment repeals an obsolete provision (section 402 of the Mutual Security

VOL
142
PT
5
MR
21
—
29
1996
UMI

Act of 1954) dealing with appropriations during 1961. (Section 228)

The House bill has no comparable provision.

The Conference adopts the Senate amendment. (Section 228)

(29) Stimulation of foreign production

The Senate amendment repeals an unused provision of law (section 7 of the Act of December 30, 1947) providing authority to stimulate foreign production through donations and similar actions. (Section 229)

The House has no similar provision.

The Conference substitute adopts the Senate amendment. (Section 229)

SUBTITLE B—AMENDMENTS TO THE AGRICULTURAL TRADE ACT OF 1978

(30) Agricultural export promotion strategy

The House bill amends Section 103 of the Agricultural Trade Act of 1978 as follows:

Subsection (a) requires the Secretary to develop a strategy for implementing agricultural export programs.

Subsection (b) states that the strategy shall encourage the maintenance, development, and expansion of export markets, and places emphasis on high-value and value-added products.

Subsection (c) establishes the following goals: (1) increasing to $60 billion annual agricultural exports by 2002; (2) raising U.S. world market share in 2002 significantly above the 1993–95 share; (3) increasing the U.S. share of world high-value agricultural trade to twenty percent; (4) increasing U.S. agricultural exports at a faster rate than the rate of growth in world agricultural trade; (5) increasing U.S. exports of high-value products at a faster rate than the rate of growth in world exports; and (6) ensuring the implementation of Uruguay Round obligations that offer increased market opportunities for U.S. agriculture.

Subsection (d) requires the Secretary to identify priority markets with respect to the export strategy and to identify the overseas offices of the Foreign Agricultural Service that provide assistance in those markets.

Subsection (e) requires a report to Congress by December 31, 2001 assessing progress in meeting the goals established.

Subsection (f) prohibits the Secretary from carrying out export promotion programs under the Agricultural Trade Act of 1978 if the Secretary determines that three or more of the preceding goals are not met.

The Secretary is required to promote exports under authorities of the CCC Charter Act if the other authority is ended.

The prior requirement for the Long-term Agricultural Trade Strategy Report is repealed. (Section 451)

The Senate amendment is identical. (Section 241)

The Conference substitute adopts the House provision with an amendment revising the strategy's goals and striking the sunset of export program authority if goals are unmet, while adding a Sense of Congress resolution calling on the House and Senate agriculture committees to conduct a thorough review of export promotion and food aid programs not later than 1998. (Section 241)

(31) Implementation of commitments under Uruguay Round agreements

The House bill amends the Agricultural Trade Act of 1978 to require the Secretary to monitor other countries' compliance with the Uruguay Round Agreements. If the Secretary determines an instance of non-compliance will significantly constrain U.S. exports, the Secretary is directed to recommend to the U.S. Trade Representative any appropriate action under U.S. laws and to notify relevant Congressional committees of the recommendation. (Section 271)

The Senate amendment is identical. (Section 271)

The Conference substitute adopts the Senate provision by amending the Agricultural Trade Act of 1978 and adds a provision to require the Secretary to evaluate compliance, monitor, take action and report on violations of sanitary and phytosanitary commitments. The managers intend that nothing in this section diminishes or alters the responsibilities of the Secretary of Agriculture under current law to assist exporters of U.S. agriculture products in the event of sanitary or phytosanitary disputes or to fulfill the responsibilities assigned to the Secretary regarding sanitary and phytosanitary measures. (Section 242)

(32) Export credits

The House bill amends Section 202 of the Agricultural Trade Act of 1978:

(1) to authorize credit guarantees under GSM–102 in connection with a sale to a buyer in a foreign country (supplier credits) on terms of not more than 180 days;

(2) to list criteria that may be used by the Secretary in deciding whether a country is creditworthy for GSM–103 intermediate credit guarantees;

(3) to allow credit guarantees to be used where the bank issuing the underlying letter of credit is located in a country other than the importing country;

(4) to require that minimum amounts of credit guarantees be available for processed and high-value products: 25% in 1996 and 1997, 30% in 1998 and 1999, and 35% thereafter, except that the minimum requirements are not applicable if they would compel a reduction in total commodity sales under the programs;

(5) to extend current cumulative funding levels for GSM–102 and GSM–103 but allow flexibility in how much is made available for each program; and

(6) to allow credit guarantees for high-value products with at least 90% U.S. content by weight, allowing for spices and other components that are sometimes of foreign origin. (Section 452)

The Senate amendment is identical. (Section 242)

The Conference substitute adopts the Senate provision with an amendment on origination fees for the facilities financing program, technical changes in definitions and technical modifications to the criteria for determinations under intermediate export credit guarantees. (Section 243)

(33) Market Promotion Program

The House bill authorizes the Market Promotion Program expenditures at $100 million during fiscal years 1996–2002. (Section 401)

The Senate amendment authorizes the Market Promotion Program expenditures at $70 million per year during FY 1996–2002 and targets the program exclusively toward small businesses, farmer owned cooperatives and agricultural groups. (Section 243)

The Conference substitute adopts the Senate provision with an amendment providing for annual funding of $90 million, adopting reform language patterned after the 1996 appropriation act, and changing the name to the Market Access Program.

The amendment to the Market Access Program provides that funds may not be provided to foreign for-profit corporations not including U.S. subsidiaries, to fund their own campaigns to promote their foreign-produced products. The restriction on providing Market Access Program assistance under this section is not intended to prevent Market Access Program participants from carrying out normal business activities (including contracting for services) with respect to the conduct of overseas promotional activities for U.S. agricultural commodities and products of those commodities or from directly conducting promotional campaigns for U.S. agricultural commodities and products of those commodities. (Section 244)

(34) Export Enhancement Program

The House bill caps Export Enhancement Program expenditures at $350 million in each of 1996 and 1997; $500 million in 1998; $550 million in 1999; $579 million in 2000 and $478 million for each of 2001 and 2002. The House bill also requires priority funding from the Export Enhancement Program for wheat flour exports, consistent with the obligations required by the Uruguay Round agreement on agriculture, and in amounts sufficient to maintain the share of the world wheat flour market achieved by the U.S. during the 1986 to 1990 period. (Section 402)

The Senate amendment is identical on funding and authorization of the program, but does not contain a provision on priority funding for wheat flour. (Section 244)

The Conference substitute adopts the House provision with an amendment to reduce funding for the Export Enhancement Program to $250 million in 1997 and by providing the Secretary with authority to make available not more than $100 million annually for the sale of intermediate products, so that the volume of export sales under this section is consistent with the volume of sales of intermediate agriculture products achieved by the United States in the 1986 to 1990 period.

This section was made discretionary due to budgetary concerns arising from the provision in the House bill requiring Export Enhancement Program priority funding for wheat flour. Nevertheless, the Managers remain concerned that the Administration has not utilized its existing Export Enhancement Program assistance authorities appropriately. The Export Enhancement Program has not been used in fiscal year 1996 to export wheat flour similar to previous years, although the U.S. share of the world flour market has declined. The most recent wheat flour exports under the Export Enhancement Program were last made in August 1995. The Managers encourage the Administration to resume exporting customary quantities of flour through the Export Enhancement Program as soon as possible. Intermediate products are principally semi-processed products in the intermediate stage of the food chain such as wheat flour and vegetable oil.

The Managers note that because of the current tight U.S. supplies of milling quality durum wheat and the importance of maintaining adequate supplies of durum available to the U.S. milling and pasta manufacturing industries, the Secretary is expected to continue to consider the stocks-to-use ratio before approving federal export subsidies for No. 1 and No. 2 Hard Amber Durum wheat. (Section 245)

(35) Export program and food assistance transfer authority

The House bill allows funds for export subsidy programs that cannot be fully or effectively utilized to be used for other agricultural export or food assistance programs. (Section . . .)

The Senate amendment has no comparable provision.

The Conference substitute adopts the Senate amendment which deletes the House provision.

(36) Arrival certification

The House bill amends Section 401 of the Agricultural Trade Act of 1978 to eliminate an unnecessary requirement for the Secretary to obtain certification from the exporter that there were no corrupt payments or similar practices. Such practices are already illegal under other laws. (Section 453)

The Senate amendment is identical. (Section 245)

The Conference substitute adopts the Senate amendment. (Section 246)

(37) Compliance

The Senate provision amends Section 402 of the Agricultural Trade Act of 1978 to eliminate an existing authority for USDA to demand private firms' records that are unrelated to federal export program transactions. USDA's ability to examine program-related records is maintained. (Section 246)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 247)

(38) Regulations

The House bill repeals an obsolete requirement (section 404 of the Agricultural Trade Act of 1978) for the issuance of regulations. (Section 455)

The Senate amendment is identical. (Section 247)

The Conference substitute adopts the House provision. (Section 248)

(39) Trade Compensation and Assistance Program

The Senate amendment requires that if a unilateral export embargo is imposed on any country in the future, and if no other country joins the U.S. sanctions within six months, the Secretary must increase Commodity Credit Corporation funding for food assistance and export promotion programs by an amount equal to ninety percent of the most recent three years' average agricultural exports to the embargoed country. The expanded assistance would be provided for the shorter of two years or the duration of the embargo. (Section 248)

The House bill has no similar provision.

The Conference substitute adopts the Senate amendment with an amendment to extend the length of embargo protection to three years. The amendment allows for either increased funding for food assistance and export promotion programs or direct payments to farmers in an amount equal to embargo caused price declines. The amendment also states that compensation will not be provided if a country with an "agricultural economic interest" joins the U.S. sanctions within ninety days, and makes an exception to the application of this section in case of war or armed hostilities. If the Secretary determines that increased funding for export or food assistance programs will provide the greatest compensatory benefit in cases of agricultural export embargoes, the Managers expect the Secretary to target such relief so that farmers affected by the embargo will receive relief.

The Managers intend that for purposes of this section, "agricultural products" shall have the same meaning as for purposes of the GSM–102 export credit guarantee program and similar authorities. (Section 249)

(40) Foreign Agricultural Service

The House bill amends Section 503 of the Agricultural Trade Act of 1978 to change the basic mission areas of the Foreign Agricultural Service to reflect the 1993 merger of FAS with the Office of International Cooperation and Development. (Section 456)

The Senate amendment is identical. (Section 249)

The Conference substitute adopts the Senate amendment. (Section 250)

(41) Reports

The House bill amends Section 603 of the Agricultural Trade Act of 1978 to state that the requirement for quarterly reports on U.S. export assistance is subject to existing authority for the Secretary to set priorities in deciding which reports to prepare. (Section 457)

The Senate amendment is identical. (Section 250)

The Conference substitute adopts the House provision. (Section 251)

(42) Foreign Market Development Cooperator Program

The House bill authorizes the Foreign Market Development (FMD) cooperator program through 2002, provided that appropriated funds be used to assist in the carrying out of approved market development plans by the cooperators. (Section 489)

The Senate amendment is identical. (Section 273)

The Conference substitute adopts the Senate amendment. The Conferees note that these provisions add to the more generally expressed authority for the Foreign Market Development cooperator program currently found in the Agricultural Act of 1954 and related provisions of law, and more importantly spell out that the Foreign Market Development cooperator program is to be carried out by the U.S. Department of Agriculture, in cooperation with eligible trade organizations, through multi-year contracts or agreements under which cost-share assistance is provided to such organizations. (Section 252)

SUBTITLE C—MISCELLANEOUS

(43) Reporting requirements relating to tobacco

The House bill repeals an existing reporting requirement for tobacco exports (Section 214 of the Tobacco Adjustment Act of 1983). (Section 471)

The Senate amendment is identical. (Section 251)

The Conference substitute adopts the Senate amendment. (Section 262)

(44) Triggered export enhancement

The House bill repeals obsolete provisions for marketing loans and other export and farm program provisions that were conditioned on failure to achieve a Uruguay Round agreement by specified dates. The provisions expired with the 1995 crops. (Section 472)

The Senate amendment is identical. (Section 252)

The Conference substitute adopts the House provision. (Section 263)

(45) Disposition of commodities to prevent waste

The House bill amends Section 416 of the Agricultural Act of 1949:

(1) to allow Commodity Credit Corporation funds to be used to cover administrative expenses of section 416(b) overseas donation programs;

(2) to allow more flexibility in the length of time within which monetized proceeds must be expended;

(3) to eliminate a requirement for the Agency for International Development to respond to a proposal by a nonprofit or voluntary agency or cooperative within certain deadlines;

(4) to eliminate obsolete requirements for the minimum amount of commodities to be made available in 1988, 1989, and 1990;

(5) to eliminate redundant statement of authority for the Secretary to dispose of surplus commodities under 416(b) through title I of P.L. 480 or export bonus or promotion programs; and

(6) to eliminate an obsolete provision concerning the Philippines. (Section 473)

The Senate amendment is identical. (Section 253)

The Conference substitute adopts the House provision with an amendment striking the authority to use CCC funds for administrative expenses but allowing private voluntary organizations and intergovernmental organizations to use monetized local currencies for administrative expenses. (Section 264)

(46) Direct sales of dairy products

The Senate amendment repeals an unused provision for direct export sales of CCC-owned dairy products (Section 106 of the Food and Agriculture Act of 1981). Authority remains for such sales under the CCC Charter Act. (Section 254)

The House bill has no similar provision.

The Conference substitute adopts the House provision which deletes the Senate amendment.

(47) Export sales of dairy products

The Senate amendment repeals unused provisions similar to those repealed by Section 304 above (section 1163 of the Food Security Act of 1985). (Section 255)

The House bill has no similar provision.

The Conference substitute adopts the House provision which deletes the Senate amendment.

(48) Debt-for-health-and-protection swap

The House bill repeals authority for "debt-for-health-and-protection swaps" that has never been funded by appropriations (section 1517 of the Food, Agriculture, Conservation, and Trade Act of 1990). (Section 474)

The Senate amendment is identical. (Section 257)

The Conference substitute adopts the House provision. (Section 265)

(49) Policy on expansion of international markets

The House bill repeals an outdated statement of the sense of Congress concerning several trade policy issues that were current at the time of the 1981 farm bill (Section 1207 of the Food Act of 1981). (Section 475)

The Senate amendment is identical. (Section 257)

The Conference substitute adopts the House provision. (Section 266)

(50) Policy on maintenance and development of export markets

The House bill amends an existing statement of U.S. agricultural trade policies (Section 1121 of the Food Security Act of 1985). The agricultural trade policy of the United States is declared: (1) to be the premier world supplier of agricultural products, (2) to support free and fair trade, (3) to negotiate further reductions in trade barriers, including sanitary and phytosanitary barriers, and (4) to aggressively counter unfair foreign trade practices. (Section 476)

The Senate amendment is identical. (Section 258)

The Conference substitute adopts the House provision. The Managers intend for the terms "agriculture" and "food and fiber" to include, but not be limited to, fiber and fiber products, and perennial turfgrass sod.(Section 267)

The Managers also accepted an amendment establishing an agricultural export excellence award to be named the Edward R. Madigan United States Agricultural Export Excellence Award. The purpose of the award is

VOL 142 PT 5 MR 21 — 29 1996 UMI

to identify and reward efforts to develop and expand markets for United States agriculture exports throughout the development of new products and through the use of innovative marketing techniques. The categories for which awards are given are (1) development of new products or services; (2) development of new markets for agriculture; and (3) creative marketing of products or services in agriculture export markets.

This section sets forth qualification criteria; establishes a selection board to make recommendations to the Secretary; and authorizes the Secretary to seek and accept gifts from public and private sources to carry out the award program established under this section.

The award is named in honor of the late Edward R. Madigan, the former Secretary of Agriculture and Member of Congress who served on the Committee on Agriculture, in recognition of his service to United States agriculture and the promotion of U.S. agricultural export trade. The Managers believe that the award is a fitting tribute to the memory and legacy of a man whose dedication to the future of U.S. agriculture continues to inspire. (Section 261)

(51) Policy on trade liberalization

The House bill repeals a statement of the sense of Congress from the 1985 farm bill that called for a new round of GATT negotiations (Section 1122 of the Food Security Act of 1985). (Section 477)

The Senate amendment is identical. (Section 259)

The Conference substitute adopts the Senate amendment. The Managers note the importance of strong participation in international agricultural organizations particularly with regard to monitoring use of sanitary and phytosanitary barriers and technical barriers to trade. (Section 268)

(52) Agricultural trade negotiations

The House bill amends Section 1123 of the Food Security Act of 1985 to establish goals for future agricultural trade negotiations, including further reductions in trade barriers, limitations on foreign production supports and the elimination of export subsidies, and disciplines on export monopolies. (Section 478)

The Senate amendment is identical but for a technical difference. (Section 260)

The Conference substitute adopts the House provision. (Section 269)

(53) Policy on unfair trade practices

The House bill repeals a resolution from the 1985 farm bill that dealt with several U.S.-European disputes of the time (Section 1164 of the Food Security Act of 1985). (Section 479)

The Senate amendment is identical. (Section 261)

The Conference substitute adopts the Senate amendment. (Section 270)

(54) Agricultural aid and trade missions

The House bill repeals a requirement for "aid and trade missions" which were concluded several years ago. (Section 480)

The Senate amendment is identical. (Section 262)

The Conference substitute adopts the House provision. (Section 271)

(55) Annual reports by agricultural attaches

The House bill deletes a requirement for reporting by agricultural attaches on fruits, vegetables, legumes, popcorn, and ducks (Section 108(b)(1)(B)). (Section 481)

The Senate amendment is identical. (Section 263)

The Conference substitute adopts the Senate amendment. (Section 272)

(56) World livestock market price information

The House bill repeals a requirement for the development of international livestock price information that duplicates existing reporting by the Foreign Agricultural Service (Section 1545 of the Food, Agriculture, Conservation, and Trade Act of 1990). (Section 482)

The Senate amendment is identical. (Section 264)

The Conference substitute adopts the House provision. (Section 273)

(57) Orderly liquidation of stocks

The House bill repeals an obsolete provision requiring the liquidation of stocks held by the Commodity Credit Corporation (Sections 201 and 207 of the Agricultural Act of 1956). (Section 483)

The Senate amendment is identical. (Section 265)

The Conference substitute adopts the Senate amendment. (Section 274)

(58) Sales of extra-long staple cotton

The House bill repeals an obsolete provision concerning the sale of stocks of extra-long staple cotton owned by the Commodity Credit Corporation in 1956 (Section 202 of the Agricultural Act of 1956). (Section 484)

The Senate bill is identical. (Section 266)

The Conference substitute adopts the House provision. (Section 275)

(59) Regulations

The House bill eliminates an obsolete provision requiring the issuance of regulations (Section 707(d) of P.L. 102-511) for a direct credit sales program for the Former Soviet Union. (Section 485)

The Senate amendment is identical. (Section 267)

The Conference substitute adopts the Senate amendment. (Section 276)

(60) Emerging markets

The House bill amends Section 1542 of the Food, Agriculture, Conservation and Trade Act of 1990 in Subsection (a) by:

(1) revising an existing program of technical assistance for emerging democracies, by re-targeting it to "emerging markets;"

(2) amending subsection (f) to define "emerging market" as a country that the Secretary determines is taking steps toward a market-oriented economy and that has the potential to provide a viable and significant market for U.S. agricultural commodities;

(3) amending subsection (a) to extend the program through 2002 and during 1996–2002, requiring CCC to make available at least $1 billion for credit guarantees to emerging markets;

(4) amending subsection (d) to add identification of trade barriers to the list of activities that technical experts should undertake under the program, to give the Secretary more discretion in the use of experts from the United States, to clarify that funds that may be used to assist in the establishment of extension services, to delete a requirement for an annual report to Congress, to increase from $10 million to $20 million the amount of CCC funds available for the program, to provide for faculty exchanges, and to eliminate unused authority for the establishment of an agricultural fellowship program for students from countries that are parties to the North American Free Trade Agreement; and

(5) amending subsection (e) to state that a requirement for a report on foreign debt burdens is subject to a limitation of the number of reports required from the Department of Agriculture.

The bill also amends Section 1543 of the Food, Agriculture, Conservation, and Trade Act of 1990 in Subsection (b), which establishes the Cochran Fellowship Program by adding emerging markets to the list of types of countries that are eligible for the program. (Section 486)

The Senate amendment is identical except for a technical difference. (Section 268)

The Conference substitute adopts the House with an amendment striking the $10 million annual increase in funding.

The Managers find that without a stable food supply, emerging markets are subject to economic instability. Further, the development of agriculture infrastructure and technologies, and agricultural training are critical needs in emerging markets to further growth in the agricultural sector.

The Managers believe that the President may, where appropriate, utilize existing authorities to transfer agricultural technologies to, and conduct agricultural training for farmers and other agricultural professionals. In using these authorities, the President may consider applications by land-grant colleges that have a demonstrated ability to perform an educational program in emerging democracies. The Managers are further aware of an ongoing attempt to achieve these goals in Latvia, Estonia, and Lithuania by the University of Wisconsin-River Falls, and believe that this institution should be considered for such programs.

The International Cooperation and Development (ICD) program area has a strong, positive role to play in the achievement of the Foreign Agriculture Service mission. Its contribution is illustrated in its work together with the Emerging Democracies program (renamed emerging markets). The program is ideally suited to design and implement the development, training and technical assistance programs funded by the Emerging Democracies programs. In carrying out these Emerging Democracies programs, ICD draws on and coordinates with the extensive expertise of other U.S. Department of Agriculture agencies, the state and land grant university system, and private agricultural enterprises. This relationship between ICD and others has helped develop a number of outstanding programs that are resulting in many short and long term benefits to the Emerging Democracies Office and the Foreign Agriculture Service.

The Managers believe that the cooperation of ICD with the Emerging Democracies program should continue, and that the Foreign Agriculture Service and ICD should continue to seek other opportunities to fully draw on the expertise of ICD in achieving the Agency's broadened mission. (Section 277)

(61) ICD reimbursement for overhead expenses

The Senate provision amends Section 1542(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 and allows the International Cooperation and Development (ICD) program to continue to administer the emerging democracies (now emerging markets) program as it did when it was OICD. Since the ICD merger with the Foreign Agriculture Service, emerging democracy funds cannot be used to pay the salaries of emerging democracy program employees (i.e., Cochran program). The provision allows the Foreign Agriculture Service to transfer not more than $2 million per fiscal year for salaries and expenses for program employees and no funds may be used for the purchase of computers or information technology systems.

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 278)

The Managers also accepted an amendment requiring the President to continue U.S. membership and participation in the International Cotton Advisory Committee. The Managers have determined that participation in that body by the United States is crucial and should be continued. The President shall ensure that U.S. participation in ICAC is carried out through the Secretary of Agriculture and shall direct the U.S. Department of State to pay the annual dues of the United States to ICAC from its appropriated accounts. The Presidents shall direct the U.S. Department of State to pay the 1996 dues in a prompt manner in order to ensure continuity of U.S. participation. (Section 283)

(62) Labeling of domestic and imported lamb and mutton

The Senate amendment requires the Secretary, consistent with U.S. international obligations, to establish standards for the labeling of lamb and mutton and be applied equally to domestic and imported product. The standard to be used is based on the break or spool joint method to differentiate lamb from mutton by the degree of calcification of bone to reflect maturity. (Section 876)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment requiring the Secretary to establish standards for the labeling of sheep carcasses, parts of carcasses, meat, and meat food products as 'lamb' or 'mutton'.

The Managers intend that consistency between domestic and imported lamb will result. To accomplish this the Secretary is expected to assess the extent to which imported sheepmeat meets the U.S. standard for lamb. Since U.S. and imported lamb maturity determination methods differ, this report should include any recommended changes in lamb labeling regulations. It is expected that this report will include quantitative analysis of the maturity of both domestic and imported sheepmeat in relation to the total amount of sheepmeat sold in the U.S. (Section 279)

(63) Import assistance for CBI beneficiary countries and the Philippines

The Senate amendment repeals an obsolete provision for a sugar reexport program for Caribbean countries and the Philippines that was in force only for 1988. (Section 269)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 280)

(64) Studies, reports, and other provisions

The Senate amendment repeals requirements from the Food Agriculture, Conservation and Trade Act of 1990 for several reports. (Section 270)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 281)

(65) Sense of Congress concerning multilateral disciplines on credit guarantees

The House bill expresses the sense of Congress that, in ongoing negotiations under the auspices of the Organization for Economic Cooperation and Development on credit guarantees, the United States should not agree to changes in U.S. laws authorizing credit guarantees, and should insist on disciplines on the operations of foreign export monopolies. (Section 488)

The Senate amendment is identical. (Section 272)

The Conference substitute adopts the House provision with an amendment specifying state trading entities referenced in the resolution. (Section 282)

TITLE III—CONSERVATION

(1) Definitions

The Senate amendment defines conservation system as the conservation measures and practices that are approved for application by a producer to a highly erodible field and that provide for cost effective and practical erosion reduction on the field based on local resource conditions and standards contained in the Natural Resources Conservation Service field office technical guide. (Section 301)

The House bill has no such provision.

The Conference substitute adopts the Senate position with amendments that: 1) delete the Senate provisions; 2) provide definitions for conservation plans, conservation systems and fields; 3) require the Secretary of Agriculture publish in the Federal Register the current universal soil loss equation and wind erosion equation and publish in the Federal Register any subsequent changes to these equations; 4) require that highly-erodible lands exiting the Conservation Reserve Program not be held to a higher conservation compliance standard than similar cropland in the same area; 5) provide that an individual who violates conservation compliance provisions have a reasonable period, not to exceed one year, to come into compliance; 6) provide for expedited variances for weather, pest, and disease problems and establish a time period for granting those variances; 7) provide for technical requirements in USDA's Field Office Technical Guides with respect to conservation plans and conservation systems; 8) require a measurement of erosion on the field prior to implementation of a conservation system, based on estimated annual erosion rates; 9) provide for residue measurement taking into account residue in the top two inches of soil, technical guidelines for erosion measurement, certification of third party residue measurement, and acceptance and use of residue measurements provided by a producer; 10) provide for a producer's certification of compliance and the Secretary's option for a status review if a producer certifies compliance, and revision or modification of a conservation plan by a producer if the same level of treatment is maintained. The Secretary may not change a producer's conservation plan without concurrence by the producer; 11) provide for technical assistance on all portions of a producer's farm for other conservation objectives outside of the scope of conservation compliance; 12) permit the producer to use practices other than those currently approved if the Secretary determines they have a reasonable likelihood of success; 13) provide for a review, and relief to a producer, by the local county committee if a conservation system would cause undue economic hardship; 14) mandate that an employee of USDA who notices a compliance deficiency on a producer's farm while providing technical assistance on other land inform the producer of the deficiency and actions necessary to come into compliance (The producer must come into compliance within one year); 15) provide that a producer who is violating conservation compliance will not be denied crop insurance benefits, and; 16) make conforming amendments. (Sections 301, 311–316)

It is the intent of the Managers that the Secretary use the best science available in determining the degree to which the amount of residue in the top two inches of soil is to be considered when estimating average annual soil erosion levels.

The Managers intend that USDA employees may, at the request of the producer, provide technical assistance on all parts of a producer's operation for soil, water, and related natural resource concerns identified by the producer.

The Managers intend that the Secretary will establish one standard for conservation systems offered by USDA on all cropland subject to conservation compliance.

It is not the intent of the Managers that county committees make determinations on the accuracy of a technical determination by NRCS. The scope of the county committees' decision will be whether the technical determination causes undue economic hardship.

To accomplish NRCS's stated objectives of providing farmers additional conservation alternatives based on local conditions that combine economic and environmental considerations, the Committee urges the Secretary to encourage NRCS to continue and expand, as appropriate, the Wind Erosion Pilot Project, which evaluates the use of primary tillage to create soil roughness conditions for compliance purposes. This includes evaluating the appropriateness of substituting tillage as an alternative to vegetative cover management.

The Managers expect the Secretary to make it possible for residue measurements to be supplied by producers who self-certify. At the same time, the Managers do not intend that the Secretary be required to use producer (or certified third party) supplied residue measurements that the Secretary determines are incorrect or inappropriate for the purpose identified in this paragraph. Rather, it is the intent of the Managers that the Secretary shall use these measurements to the extent the Secretary determines is appropriate.

The Managers believe that the Secretary should examine and revise, as appropriate, the Department's procedures for providing notice of, and conducting investigations of, possible conservation compliance deficiencies. The Managers understand that existing law requires that, when accepting written allegations of compliance violations, the Secretary must keep the identity of the person filing the allegation confidential if so requested by the person. However, it is critical that the Secretary have the discretion to determine whether to investigate such allegations, recognizing the high degree of sensitivity among farmers and others concerning the propriety of relying on anonymous allegations. The Secretary may initiate or expand any investigation based on such allegations, and should promptly notify the subject of the investigation of the existence and nature of the alleged violation. The Secretary should provide information to the subject of the investigation on the status of the investigation when requested or within 180 days of the initial notification of the investigation. In this notice, the Secretary should also inform the person whether a formal complaint will be issued, when the investigation will be terminated, or whether the investigation will continue or be expanded. In cases where the Secretary determines that a violation has occurred, the subject of the investigation should be notified by registered or certified mail of the violation and be given the appropriate information on the determination and on appeal rights.

The Managers intend, by using the term "group of fields" as part of the definition of a conservation system, that appropriate erosion control conservation practices be applied to highly erodible lands that might

VOL
142
PT
5
MR
21
—
29
1996
UMI

constitute a subset of all the land within such a group.

The Managers expect that the Secretary pay particular attention to areas near weather stations used to establish climatic factors used in making wind erosion predictions. In cases where the Secretary concludes that existing highly-erodible land determinations unfairly penalize producers, the Secretary should, to the extent practicable and appropriate, use updated wind erosion data to revise the conservation compliance plan for the affected land of producers who request such relief. The Secretary should caution producers that a voluntary request for a conservation compliance review in an affected county may impact the producer's future eligibility for the Conservation Reserve Program.

(2) Wetland conservation exemption

The Senate amendment amends Section 1222(b)(1) of the Food Security Act of 1985 by adding a new exemption from swampbuster penalties for converted wetlands if the extent of the conversion is limited to the reversion to conditions that will be at least equivalent to the wetland functions and values that existed prior to implementation of a voluntary wetland restoration, enhancement, or creation action. (Section 358)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment. (Section 322)

The Managers intend that the Secretary permit a person to cease to use "farmed wetlands" or "farmed wetlands pasture" for agricultural purposes, allow them to return to wetland conditions and subsequently bring these lands back into agricultural production after any length of time without violating swampbuster, if: 1) the person first notifies the Secretary of the intent to allow improved wetland conditions to return to the "farmed wetland" or "farmed wetland pasture"; 2) the Secretary documents the specific site conditions prior to the initiation of the wetland improvement; 3) the Secretary approves the subsequent proposed conversion action prior to implementation, and; 4) the subsequent conversion action returns the site to wetland conditions at least equivalent to the functions and values that existed prior to the time the wetland was restored or enhanced. The Managers do not intend for this provision to supersede the wetlands protection authorities and responsibilities of the Environmental Protection Agency or of the Corps of Engineers under Section 404 of the Clean Water Act.

(3) Abandonment of converted wetlands

The Senate amendment amends Section 1222 of the Food Security Act of 1985 to require that the Secretary not determine that a prior converted or cropped wetland is abandoned, and therefore that the wetland is subject to swampbuster penalties, on the basis that a producer has not planted an agricultural crop on the prior converted or cropped wetland after the date of enactment of this subsection, so long as any use of the wetland thereafter is limited to agricultural purposes. (Section 364)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision with amendments that: 1) provide the Secretary with the discretion to determine which programs a person who violates swampbuster will become ineligible for; 2) assure producers have the right to request a review of, and to appeal, a certified wetland delineation; 3) provide that a certified wetland delineation will remain in effect until the producer requests a new delineation and certification; 4) ensure that wetlands which were certified as prior converted cropland will continue to be considered prior converted wetlands even if wetland characteristics return as a result of lack of maintenance of the land or other circumstances beyond the person's control as long as the prior converted cropland continues to be used for agricultural purposes; 5) require USDA to identify which categories of actions constitute a minimal effect on a regional basis; 6) provide producers who inadvertently convert a wetland greater flexibility to mitigate that loss through restoration, enhancement, or creation of wetlands; 7) allow the Secretary to waive penalties against a producer if the Secretary believes the producer was acting in good faith and did not intentionally violate swampbuster; 8) provide for a pilot program on mitigation banking; 9) repeal the requirement for consultation with the Fish and Wildlife Service; 10) provide that persons affiliated with a person who violates swampbuster will not be penalized if such affiliated persons are not responsible for the violation, and; 11) defines "agricultural lands" for purpose of implementing the interagency memorandum of agreement on federal wetland delineations. (Section 321–326)

The Managers intend that the Secretary should, in determining ineligibility for benefits under swampbuster, take away those program benefits that would not defeat the purposes of encouraging good conservation of our soil and water resources or endanger the ability of a borrower to continue to repay a USDA farm loan. The Managers intend that the amendments to abandonment provisions under swampbuster should not supersede the wetland protection authorities and responsibilities of the Environmental Protection Agency or the Corps of Engineers under Section 404 of the Clean Water Act. The minimal effect amendments are intended by the Managers to assist persons in avoiding a violation of the ineligibility provisions of Section 1221 by identifying types of minor wetland alterations and farming practices that are routinely determined by the Secretary in a given state or region to have minimal impact on wetlands functions and values. The Managers intend, in general, that categorical minimal effects exemptions be developed on a statewide, regional or local basis for categories of specific, normal agricultural practices conducted in specified wetland systems.

The Managers intend the mitigation banking pilot to determine the usefulness of such mitigation banking in assisting landowners in complying with the mitigation requirements of the Swampbuster provisions. In carrying out such a pilot, the Managers support permitting wetland acres to be entered into the Conservation Reserve Program (CRP) for the purpose of demonstrating the feasibility of agricultural wetlands mitigation. The Managers also support permitting producers to convert the frequently cropped wetlands mitigated under this pilot mitigation banking authority, and to produce an agricultural commodity on the converted acres. To ensure that the mitigation pilot does not diminish wetland resources, the Mangers expect that wetlands that producers may convert under this pilot program should be wetlands which are frequently cropped, and significantly degraded. Further, to offset the loss of wetland functions and values that may result from such conversion, the Committee expects that the Secretary will require producers who are permitted to harvest a crop on a converted wetland mitigated under this pilot program to assign the related CRP payments to a wetland mitigation bank approved by the Secretary.

The Managers intend the Secretary to determine under what circumstances the Fish and Wildlife Service should be utilized in the implementation of Swampbuster. The Managers intend that the Secretary define "affiliated person" so that persons with an insignificant interest will not be considered affiliated.

For the purposes of the section relating to the Secretary of Agriculture's role under the interagency memorandum of agreement on wetland delineation, "tree farms" means farms devoted to the raising of trees designed to be sold whole, such as nurseries, Christmas tree farms and other small tree farms, and does not include large tree farms that are commercially planted, cultivated, and actively managed for the production of wood and wood fiber.

(4) Environmental Conservation Acreage Reserve Program

The House bill extends the authorization for ECARP through 2002. Protection of wildlife habitat is added as a purpose of ECARP. (Section 304)

The Senate amendment contains similar provisions including a farmland protection program under which the Secretary is directed to purchase conservation easements or other interests in 170,000 to 340,000 acres of land with prime, unique or other productive soil that is subject to a pending offer from a state or local government to limit non-agricultural uses of the land. Funding for the program, from the Commodity Credit Corporation, shall not exceed $35 million. (Section 301)

The Conference substitute adopts the Senate provisions with an amendment to add protection of wildlife habitat as a purpose of ECARP. (Section 331)

It is the intent of the Managers that the Secretary of Agriculture should, to the fullest extent practicable, recognize the responsibilities and utilize the authorities of state and local governments, including local conservation districts, in achieving the purposes of this section. In particular, Congress intends for the Secretary to acknowledge and maintain the historic role of conservation districts in assessing natural resource priorities, approving site-specific conservation plans, and coordinating the delivery of federal conservation programs at the local level.

(5) Conservation priority areas

The Senate amendment continues the concept of conservation priority areas within which producers are eligible for enhanced assistance through the Conservation Reserve Program, the Wetlands Reserve Program, and a new Environmental Quality Incentives Program. It adds the Rainwater Basin Region, the Lake Champlain Basin and the Prairie Pothole Region as specific conservation priority areas. (Section 311)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment deleting all mentions of specific regions as conservation priority areas. (Section 331)

Although the Managers removed the Chesapeake Bay Region, the Great Lakes Region and the Long Island Sound Region from the conservation priority area designation legislation and opted not to include the Rainwater Basin Region, the Lake Champlain Basin and the Prairie Pothole Region, the Managers intend no prejudice against these regions being designated by the Secretary as conservation priority areas in the future.

In the priority setting process the Managers expect the Secretary to take into consideration any recommendations from State Governors, State agencies, and other Federal Departments or agencies in selecting and designating conservation priority areas.

(6) Applicability and termination

The Senate amendment restates current law regarding applicability and termination of conservation priority areas. (Section 311)

The House bill has no comparable provision

The Conference substitute adopts the Senate provision. (Section 331)

(7) Conservation reserve program

The House bill reauthorizes the CRP through 2002, limits enrollments to 36.4 million acres and provides that CRP funds not spent because of an early contract termination may be spent as rental payments to enroll other eligible land into the CRP. (Section 305)

The Senate amendment reauthorizes the CRP through 2002, limits enrollments to 36.52 million acres and permits the Secretary to enroll new acreage into the CRP in an amount equal to the acreage covered by those CRP contracts that expire after the date of enactment. (Section 312)

The Conference substitute adopts the House provisions with an amendment that provides that the Secretary may maintain up to 36.4 million acres in the CRP at any time during the 1986–2002 calendar years, including acreage in contracts extended by the Secretary. (Section 332)

The Managers stress their intent that the 36.4 million acre maximum is a rolling maximum, rather than a program lifetime limit. The Secretary may enroll additional land to replace land leaving the program through early terminations or contract expirations so long as, at any one time, there is not more than 36.4 million acres enrolled.

The Managers urge the Secretary, when considering the appropriateness of utilizing the Conservation Reserve Program and other voluntary incentive and technical assistance initiatives on an individual farm or ranch, to employ the most cost-effective option or options necessary to address the natural resource challenges posed by the farm or ranch. In many cases, entering entire fields into the CRP will be the most efficacious. However, idling partial fields through the CRP will frequently provide equivalent environmental benefits at a lower cost to the government. Similarly, financial incentives for the employment of land management or structural practices—alone or in combination with land idling—will return substantial environmental dividends economically while allowing agricultural production to continue. By adopting such a balanced approach, the Secretary will maximize the environmental benefits of the various programs per dollar expended.

It is the intent of the Managers that the Secretary permit flexible widths for vegetative strips beside ditches or waterways, and in sodded waterways and filterstrips, placed in the CRP. The Managers intend for the Secretary, to the extent practicable, to consider local conditions when determining minimum required widths for vegetative strips in the CRP.

In carrying out the Conservation Reserve Program, the Managers recommend that the Secretary consider allowing biomass production as an acceptable cover crop practice during the period of a contract, provided that no harvesting is allowed until after the contract is completed or terminated.

(8) Conservation Reserve Program new acreage

The Senate amendment permits the Secretary to enroll new acreage into the CRP in an amount equal to the acreage covered by those CRP contracts that expire after the date of enactment.

The House bill contains no comparable provision.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(9) Optional contract termination by producers

The House bill permits persons to unilaterally terminate CRP contracts with reasonable notice to the Secretary, if the contracts were entered into at least 5 years prior to the date of enactment. Filterstrips, waterways, strips adjacent to riparian areas, windbreaks, shelterbelts, land with an erodibility index greater than 15 and other lands of high environmental value are not eligible for early termination. The early termination may become effective 60 days after the person submits notice to the Secretary and the rental payment for the Fiscal Year in which the termination takes place shall be prorated. An owner or operator who opts for a unilateral termination may at a later time be eligible to enroll the land in the CRP. (Section 305)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provisions with amendments to include wetlands among those lands the Secretary may determine are not eligible for an early termination and to limit the unilateral termination option to contracts entered into before January 1, 1995. (Section 332)

(10) Fair market value rental rates

The House bill provides that rental payments for land entered into the CRP after the date of enactment may not exceed the average fair market rental rate for comparable lands in the county. The provision is not applicable to existing contracts that have been extended. (Section 305)

The Senate amendment has no comparable provision.

The Conference substitute adopts the Senate provision, which deletes the House provision. (Section 332)

The Managers note the provision in the House bill that required rental rates for new enrollments not to exceed the average fair market rental rate for comparable lands in the county in which the CRP lands are located. The Conference substitute did not include this provision. The Managers agree with the Secretary's action for the 13th CRP signup which allowed local review of CRP rental rates prior to the signup period, including authority for limited adjustments. However, the Managers are concerned that in some regions, Farm Service Agency offices did not clearly understand that in areas where share leases predominate, rental rates were to be determined on a cash equivalent basis. Therefore, the Managers expect that, in future CRP enrollments and extensions of CRP contracts, the Secretary will ensure that all county offices are notified that CRP rental rates shall be determined on a cash or cash equivalent basis.

(11) Enrollments in 1997

The House bill repeals a requirement in the Fiscal 1996 Agricultural Appropriations Act regarding CRP enrollments. (Section 305)

The Senate amendment contains a similar provision. (Section 312)

The Conference substitute adopts the House provision. (Section 332)

(12) Wetlands Reserve Program—Enrollment

The House bill reauthorizes the WRP through 2002 and limits enrollments to no more than 975,000 acres. Total acreage enrolled shall be divided equally between permanent easements, long-term easements (30 years or shorter if required by state law), and cost-share agreements. (Section 302)

The Senate amendment contains similar provisions with the exception that, beginning October 1, 1996, acreage enrolled shall be divided equally between permanent easements, 30-year easements and restoration cost-share agreements. (Section 313)

The Conference substitute adopts the Senate provisions with an amendment prohibiting the Secretary from entering into any new permanent easements until non-permanent easements are obtained on at least 75,000 acres. (Section 333)

The Managers do not intend for the restriction on additional permanent easements to prohibit the Secretary from finalizing any agreements that have been entered into with producers through previous WRP signups.

(13) Eligibility

The House bill extends the period for eligible lands to be enrolled through 2002. (Section 302)

The Senate amendment contains similar provisions and a requirement that eligible lands must also maximize wildlife benefits. (Section 313)

The Conference substitute adopts the Senate provisions. (Section 333)

(14) Other eligible lands

The Senate amendment states that other eligible lands must also maximize wildlife benefits. (Section 313)

The House bill has no similar provision.

The Conference substitute adopts the Senate provision. (Section 333)

(15) Easements

The House bill states that payments may be provided in between 5 and 30 annual installments of equal or unequal size (but may not be in a lump sum). Cost-share payments for permanent easements shall be for 75–100% of eligible costs and those for 30-year easements or cost-share agreements shall be for 50–75% of eligible costs. (Section 302)

The Senate amendment contains similar provisions and a requirement that restoration plans be made through the local Natural Resources Conservation Service representative in consultation with the State Technical Committee. (Section 313)

The Conference substitute adopts the Senate provisions. (Section 333)

(16) Cost share and technical assistance

The House bill states that restoration cost-share agreements may cover 50–75% of eligible costs and specifies that the limitations are not applicable to easements that existed prior to the date of enactment. (Section 302)

The Senate amendment has similar provisions with the exception of the proviso regarding easements that existed prior to the date of enactment. (Section 313)

The Conference substitute adopts the Senate provisions. (Section 333)

(17) Wetlands Reserve Program—Purposes

The House bill makes no change to the current purpose of the WRP, which is to assist owners of eligible lands in restoring and protecting wetlands.

The Senate amendment states that the purpose of the WRP is to protect wetlands so

VOL
142
PT
5
MR
21
—
29
1996
UMI

as to enhance water quality and provide wildlife benefits while recognizing landowner rights. (Section 313)

The Conference substitute adopts the House position, which deletes the Senate amendment.

(18) Environmental Quality Incentives Program—Purpose

The Senate amendment states that the purpose of the new Environmental Quality Incentives Program is to combine into a single program the functions of the Agricultural Conservation Program, the Great Plains Conservation Program, the Colorado River Basin Salinity Control Program and the Water Quality Incentives Program. (Section 314)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 334)

(19) Findings

The Senate amendment states several findings relevant to the establishment of the EQIP program. (Section 314)

The House bill has no comparable provision.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(20) Eligible lands

The House bill states that land on which EQIP contracts may be entered into includes land used for livestock or agricultural production that the Secretary determines poses a serious threat to soil, water or related resources. (Section 301)

The Senate amendment states that land on which EQIP contracts may be entered into include: agricultural land (including cropland, rangeland, pasture and other land on which crops or livestock are produced) that the Secretary determines poses a serious threat to soil, water or related resources; critical agricultural land as identified in a state plan required under nonpoint source provisions of the Clean Water Act; an area recommended by a state lead agency for protection of soil, water and related resources, and; other land that, if left untreated, could defeat the purposes of EQIP. (Section 314)

The Conference substitute adopts the Senate provisions with an amendment striking references to critical agricultural land as identified in a state plan required under nonpoint source provisions of the Clean Water Act. (Section 334)

(21) Definitions—land management practice

The House bill defines "land management practice" as a site-specific nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, cr other land management practice that the Secretary determines is needed to protect, in the most cost effective manner, water, soil, or related resources from degradation. (Section 314)

The Senate amendment is similar, except that it has no reference to "site-specific." (Section 301)

The Conference substitute adopts the House provision with a technical amendment. (Section 334)

(22) Large confined livestock operation

The Senate amendment defines "large confined livestock operation" as an operation that is a confined animal feeding operation and has more than:

700 mature dairy cattle;
1,000 beef cattle;
100,000 laying hens or broilers;
55,000 turkeys;
2,500 swine; or
10,000 sheep or lambs. (Section 314)

The House bill has no similar provision.

The Conference substitute adopts the House provision, which deletes the Senate amendment.

(23) Livestock

The House bill defines "livestock" as mature livestock, dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, lambs and such other animals as determined by the Secretary. (Section 301)

The Senate amendment has a similar definition with the exception of the term "mature livestock" and the provision allowing for a Secretarial determination. (Section 314)

The Conference substitute adopts the House provisions with amendments striking the word "mature" and substituting the word "cattle" in place of "cows." (Section 334)

(24) Producer

The House bill utilizes the term "producer" as a person who is engaged in livestock production, as defined by the Secretary. (Section 301)

The Senate amendment utilizes the term "operator." (Section 314)

The Conference substitute adopts the House provision. (Section 334)

(25) Structural practice

The House bill defines "structural practice" as an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, tailwater pit, or other structural practice that the Secretary determines is needed to protect water, soil, or related resources in the most cost-effective manner, and the capping of abandoned wells. (Section 301)

The Senate amendment has a similar definition, except that it includes "permanent wildlife habitat" and excludes "tailwater pit" and "capping of abandoned wells." (Section 314)

The Conference substitute adopts the House provision with an amendment adding "permanent wildlife habitat" and the term "site-specific." (Section 334)

(26) Establishment and administration of EQIP—Establishment

The House bill requires that, during the 1996 through 2002 fiscal years, the Secretary provide technical assistance, cost-sharing payments, and incentive payments to producers who enter into contracts with the Secretary, through EQIP. (Section 301)

The Senate amendment contains a similar provision. (Section 314)

The Conference substitute adopts the Senate provision. (Section 334)

(27) Eligible practices

The House bill provides that a producer who implements a structural practice shall be eligible for technical assistance, cost-sharing payments, or both. In addition, a producer who performs a land management practice shall be eligible for technical assistance, incentive payments, or both. (Section 301)

The Senate amendment contains a similar provision except that it also provides for "education." (Section 314)

The Conference substitute adopts the Senate provision. (Section 334)

(28) Application and term

The House bill provides that a contract between a producer and the Secretary under EQIP may apply to 1 or more structural practices or 1 or more land management practices, or both; and have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract. (Section 301)

The Senate amendment contains a similar provision. (Section 314)

The Conference substitute adopts the Senate provision. (Section 334)

(29) Structural practices

The House bill requires the Secretary to administer a competitive offer system for producers proposing to receive cost-sharing payments in exchange for the implementation of 1 or more structural practices. The competitive offer system shall consist of the submission of a competitive offer by the producer in such manner as the Secretary may prescribe and evaluation of the offer in light of the selection criteria established in section 1238C and the projected cost of the proposal. In addition, if the producer who offers to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the producer shall obtain the concurrence of the owner of the land with respect to the offer. (Section 301)

The Senate amendment contains a similar provision with technical differences. (Section 314)

The Conference substitute adopts the House provision with an amendment requiring the Secretary, to the extent practicable, to provide a process for selecting applications for financial assistance where there are numerous applications for such assistance that present substantially the same level of environmental benefits. The process shall provide for the consideration of a reasonable estimate of the projected cost of the proposal and other factors identified by the Secretary for determining which applications will present the least cost, and the consideration of the priorities established under EQIP and other such factors identified by the Secretary to maximize environmental benefits per dollar expended. (Section 334)

The Managers intend that, when cost-share assistance is provided, the Secretary encourages open and fair competition by vendors for services and products.

(30) Land management practices

The House bill requires the Secretary to establish an application and evaluation process for awarding technical assistance or incentive payments, or both, to a producer in exchange for the performance of 1 or more land management practices by the producer. (Section 301)

The Senate amendment contains a similar provision. (Section 314)

The Conference substitute adopts the Senate provision with an amendment using the term "producer" rather than "operator." (Section 334)

The Managers urge the Secretary, in carrying out EQIP, to be particularly cognizant of the needs of producers whose lands are exiting the Conservation Reserve Program (CRP). Such consideration will ensure that these lands are eligible to receive EQIP assistance for practices such as conservation tillage in an effort to maximize the conservation and environmental benefits that have accrued under the CRP.

(31) Cost-sharing, incentive payments, and other payments

The House bill requires that the Federal share of cost-sharing payments to a producer proposing to implement 1 or more structural practices shall not be more than 75 percent

of the projected cost of each practice, as determined by the Secretary, taking into consideration any payment received by the producer from a State or local government. A producer shall not be eligible for cost-sharing payments for structural practices on eligible land if the producer receives cost-sharing payments or other benefits for the same land under CRP, WRP or the Environmental Easement Program. The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform 1 or more land management practices. (Section 301)

The Senate amendment contains similar provisions. (Section 314)

The Conference substitute adopts the Senate provisions with amendments using the term "producer" rather than "operator." (Section 334)

(32) Size limitation

The Senate amendment states that an operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility. (Section 314)

The House bill contains no similar provision.

The Conference substitute adopts the Senate provision with an amendment stating that a "large confined livestock operation" shall be determined by the Secretary. (Section 334)

The Managers expect that in determining whether an operation is a large confined livestock operation within the meaning of this provision, the Secretary will consider various resource and environmental factors, including regulations promulgated pursuant to the Clean Water Act. The Secretary is expected to specify clearly the factors and considerations involved in developing the requirements for program eligibility and should follow notice and comment procedures. However, the Managers understand that the need to begin implementing the program quickly may initially require the use of interim procedures. In defining large confined livestock operations, the Managers expect the Secretary to take into account needs for maximizing environmental benefits in targeted watersheds affected by animal agriculture, the ability of operations to pay for the cost of animal waste management facilities, the obligations of operations under other environmental authorities, and the particular characteristics of modern livestock operations.

(33) Technical assistance

The House bill requires the Secretary to allocate funding under EQIP for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year. The allocated amount may vary according to the type of expertise required, quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year. In addition, the Secretary shall ensure that the process of writing, developing and assisting in the implementation of EQIP plans be open to individuals in agribusiness including but not limited to agricultural producers, representatives from agricultural cooperatives, agricultural input retail dealers and certified crop advisers. The process shall be included in but not limited to programs and plans established under EQIP and any other USDA programs using incentive payments, technical assistance, or cost-share payments. The receipt of technical assistance under EQIP shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary. (Section 301)

The Senate amendment contains similar provisions. (Section 314)

The Conference substitute adopts the House provisions with an amendment to specify that the provision requiring that non-USDA individuals be allowed to prepare plans for programs other than EQIP applies specifically to USDA conservation programs. (Section 334)

(34) Modification or termination of contracts

The House bill permits the Secretary to establish terms of an EQIP contract. (Section 301)

The Senate amendment permits the Secretary to modify or terminate a contract entered into with an operator if the operator agrees and if the Secretary determines the modification or termination is in the public interest. The Secretary may also terminate a contract if the Secretary determines that the operator violated the contract. (Section 314)

The Conference substitute adopts the Senate provisions with an amendment to use the term "producer" rather than "operator." (Section 334)

(35) Non-federal assistance

The Senate amendment permits the Secretary to request the services of a state agency dealing with water quality, fish and wildlife, or forestry, or any other governmental or private resource considered appropriate to assist in providing the technical assistance necessary for the development and implementation of a structural practice or land management practice. No person shall be permitted to bring or pursue any claim or action against any official or entity based on or resulting from any technical assistance provided to an operator under EQIP to assist in complying with a federal or state environmental law. (Section 314)

The House bill contains no similar provision.

The Conference substitute adopts the Senate provisions with amendments striking the prohibition against claims or action resulting from technical assistance and using the term "producer" rather than "operator." (Section 334)

(36) Evaluation of offers and payments—Regional priorities

The House bill requires the Secretary, in determining eligibility for land for EQIP, to consider the significance of the water, soil and related natural resource problems and the maximization of environmental benefits per dollar expended. (Section 301)

The Senate amendment requires the Secretary to provide assistance to operators in a region, watershed or conservation priority area based on the significance of the soil, water and related natural resource problems and the practices that best address the problems. (Section 314)

The Conference substitute adopts the House provisions. (Section 334)

(37) Maximization of environmental benefits

The House bill requires the Secretary, in providing assistance to producers, to consider the significance of the water, soil and related natural resource problems and the maximization of environmental benefits per dollar expended. (Section 301)

The Senate amendment requires the Secretary to accord a higher priority to assistance and payments that maximize environmental benefits per dollar expended. Prioritization shall be done nationally as well as within specific conservation priority areas, regions or watersheds. The Secretary shall establish criteria for implementation of practices that best achieve relevant conservation goals. (Section 314)

The Conference substitute adopts the Senate provisions. (Section 334)

(38) State or local contributions

The Senate amendment requires the Secretary to accord a higher priority to operators located within areas that state or local governments have provided, or will provide, financial or technical assistance to operators for the same conservation or environmental purposes. (Section 314)

The House bill has no similar provisions.

The Conference substitute adopts the Senate provision. (Section 334)

(39) Priority lands

The Senate amendment requires the Secretary to accord higher priority to lands on which agricultural production contributes to the potential for failure to meet applicable water quality standards or other federal or state environmental objectives. (Section 314)

The House bill contains no similar provisions.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(40) Duties of operators

The House bill requires producers to comply with terms required by the Secretary. (Section 301)

The Senate amendment stipulates that, to receive assistance under EQIP, operators shall agree: to implement an EQIP plan describing conservation and environmental goals; not to conduct practices that would defeat the purposes of EQIP; to refund any payment and forfeit future payments if in violation of the EQIP contract or upon transferring interest in the land (unless the transferee assumes the obligations of the contract), and; to supply information necessary to determine compliance with the EQIP plan. (Section 314)

The Conference substitute adopts the Senate provisions with an amendment using the term "producer" rather than "operator". (Section 334)

(41) EQIP plan

The Senate amendment states that an individual EQIP plan shall include (as determined by the Secretary): a description of the farming or ranching operation; a description of the relevant farm or ranch resources related to the conservation and environmental objectives of the plan; a description of the structural or land management practices to be implemented; the timing and sequence for implementing the practices, and; information to enable evaluation of the effectiveness of the plan. (Section 314)

The House bill contains no similar provisions.

The Conference substitute adopts the Senate position with an amendment providing general requirements for a plan of operations that shall, to the extent practicable, avoid duplication in the plans required for other similar conservation programs and requirements. (Section 334)

It is the Managers' intent that the process used to develop EQIP plans be a simplified and flexible approach to assist producers to work toward better resource management. EQIP are not intended to be whole-farm plans.

VOL
142
PT
5
MR
21
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29
1996
UMI

The producer should voluntarily submit a conservation plan to the Secretary for approval in order to be eligible for participation in EQIP. The plan may contain an implementation schedule, a description of the structural and management practices, cropping patterns, farm or ranch resources, and other information, as the Secretary determines is necessary, to facilitate the objectives of this provision.

Producers, on their own initiative, may use any conservation plan developed and required for participation in any other program within the jurisdiction of the Secretary provided the plan is approved by the Secretary for the purpose of EQIP. This is intended to avoid a duplication of planning and to relieve the paperwork burden on producers.

Since EQIP is a voluntary program, the producers may begin the plan development process, on their own initiative, by analyzing their needs for long-term farm or ranch operations. The producers should assess the areas of their operations that face the most serious problems associated with soil, water and related resources, including grazing lands, wetlands, and wildlife habitat. The producers should identify alternative conservation practices and select the best management practices to meet their needs and the conservation incentives of EQIP. The plan should be designed, to the extent practicable, to help producers comply with local, state, and federal laws.

In determining the practice or combination of practices appropriate for a particular farm or ranch, the Managers emphasize that the Secretary should use the lowest-cost option or options available. By doing so, the Secretary will be able to assist the greatest number of producers possible and maximize the positive impacts on the environment.

The legislation does not specifically mention all structural or land management practices that are eligible for funding under EQIP because of the broad gamut of measures that may be appropriate depending on the type of operation, its location and other factors. In addition, it is impossible to predict the evolution of new technologies. Accordingly, the Managers strongly urge the Secretary to make new practices eligible for funding under EQIP as soon as reasonable testing indicates their efficacy. The managers also intend that the term "site-specific" refer not only to entire farms or ranches but to discrete locations within an operation.

(42) Duties of the Secretary

The Senate amendment requires the Secretary to assist an operator in achieving the goals of an EQIP plan by providing an eligibility assessment of the farming or ranching operation; providing technical assistance in developing and implementing the plan; providing technical assistance, cost-sharing payments or incentive payments for practices; providing information, education and training; and by encouraging the operator to obtain assistance from other federal, state, local or private sources. (Section 314)

The House bill includes no similar provisions.

The Conference substitute adopts the Senate provisions with an amendment using the term "producer" rather than "operator." (Section 334)

(43) Limitations on payments

The House bill states that the total amount of cost-sharing and incentive payments paid to a person may not exceed $10,000 for any fiscal year or $50,000 for any multiyear contract, except that the Secretary may exceed the limitation on the annual limit on a case-by-case basis if the Secretary determines that a larger payment is essential. The Secretary shall issue regulations that are consistent with those for receiving market transition payments for the purpose of defining the term 'person' and prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the EQIP limitations. (Section 301)

The Senate amendment contains similar provisions but does not include the exception permitting a waiver of the annual limit. (Section 314)

The Conference substitute adopts the House provisions with amendments requiring the maximization of environmental benefits per dollar expended and providing for interim administration of EQIP pending promulgation of final regulations, to the extent the existing regulations do not conflict with the provisions of the Conference substitute establishing EQIP, and requiring that payments under an EQIP contract entered into during a fiscal year not be made until the subsequent fiscal year. (Section 334)

(44) Conservation farm option

The Senate amendment requires the Secretary to offer eligible owners and operators with contract acreage under Title I who also have entered into a CRP contract the option of entering into a Conservation Farm Option contract for a period of ten years as an alternative to the market transition contract payment. In return, eligible owners and operators shall receive payments that reflect the Secretary's estimate of the payments they would receive over the ten-year period under conservation cost-share programs, the CRP, market transition payments, and loan programs for contract commodities, oilseeds and ELS cotton. CFO contract holders shall agree to forego eligibility to participate in the above programs and comply with a conservation plan consistent with a state plan designed to protect wildlife, improve water quality and reduce soil erosion. (Section 103)

The House bill contains no similar provisions.

The Conference substitute adopts the Senate provisions with amendments that reduce estimated outlays under the CFO to $120 million during the seven-year period and delete market transition payments from the payments a producer will receive under a CFO contract. (Section 335)

(45) Conforming amendments

The Senate amendment repeals authorizations for the Agricultural Conservation Program, the Great Plains Conservation Program, the Colorado River Basin Salinity Control Program (Section 202(c) of the Colorado River Basin Salinity Control Act), the Rural Environmental Conservation Program, the Agricultural Water Quality Incentives Program, and technical assistance for water resources (Subtitle F of Title XII of the Food Security Act of 1985) are repealed. Various technical amendments are made to reflect the fact that EQIP replaces the functions of many of the repealed programs. (Section 355)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provisions with an amendment that maintains some provisions of the Colorado River Basin Salinity Control Act. (Section 336)

(46) Mandatory expenses

The House bill requires that, for each of fiscal years 1996 through 2002, the Secretary shall use the funds of the Commodity Credit Corporation to carry out the Conservation Reserve Program, Wetlands Reserve Program, and the Environmental Quality Incentives Program. (Section 301)

The Senate amendment contains similar provisions. (Section 341)

The Conference substitute adopts the House provisions. (Section 341)

(47) EQIP funding

The House bill requires that, for each of fiscal years 1996 through 2002, $200 million of the funds of the Commodity Credit Corporation shall be available for providing technical assistance, cost-sharing payments, and incentive payments. In each year, at least 50% of the EQIP funding shall be targeted to practices relating to livestock production. (Section 301)

The Senate amendment contains similar provisions with the exception of a proviso that 50% of the EQIP funding shall go for practices relating to livestock production. (Section 314)

The Conference substitute adopts the Senate provisions with an amendment limiting funding to $130 million in fiscal 1996 and $200 million in each of fiscal years 1997–2002. (Section 341)

(48) Administration—Plans

The Senate amendment requires the Secretary, to the extent practicable, to avoid duplication in conservation plans required for highly erodible land conservation under subtitle B, CRP, WRP and EQIP. (Section 314)

The House bill contains no similar provision.

The Conference substitute adopts the Senate provision. (Section 341)

(49) Acreage limitation

The Senate amendment prohibits the Secretary from enrolling more than 25% of the cropland in any county in CRP or WRP. Not more than 10% of the cropland in a county may be subject to an easement acquired under the subchapters. The Secretary may exceed the limitations if the Secretary determines that the action would not adversely affect the local economy of a county and that operators in the county are having difficulties complying with conservation plans implemented under section 1212. The limitations established under this subsection shall not apply to cropland that is subject to an easement under CRP, WRP or the Environmental Easement Program that is used for the establishment of shelterbelts and windbreaks. (Section 314)

The House bill contains no similar provision.

The Conference substitute adopts the Senate provision with an amendment deleting the reference to the Environmental Easement Program. (Section 341)

(50) Tenant protection

The Senate amendment states that, except for a person who is a tenant on land that is subject to a CRP contract that has been extended by the Secretary, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under commodity programs (as modified by too highly erodible land and wetland conservation provisions), CRP or WRP. (Section 314)

The House bill contains no similar provision.

The Conference substitute adopts the Senate provision. (Section 341)

(51) Regulations

The Senate amendment requires that, not later than 90 days after the effective date of this subsection, the Secretary shall issue regulations to implement the changes to CRP and WRP. (Section 314)

The House bill contains no similar provision.

The Conference substitute adopts the Senate provision. (Section 341)

(52) Advance appropriations to CCC

The Senate amendment permits the Secretary to use the funds of the Commodity Credit Corporation to carry out the Environmental Easement Program, subject to prior appropriations. (Section 314)

The House bill contains no similar provision.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(53) Authority to use outside agencies

The House bill eliminates authority for the Secretary to use the Fish and Wildlife Service, land grant institutions, county and state committees and other governmental entities in carrying out conservation programs. (Section 303)

The Senate amendment contains no similar provision.

The Conference substitute adopts the Senate position, which deletes the provisions of the House bill.

(54) State Technical Committees

The Senate amendment amends Section 1261(c) of the Food Security Act of 1985 to add representatives of the following groups to the existing State Technical Committees: agricultural producers, other nonprofit organizations with demonstrable expertise, persons knowledgeable about the economic and environmental impact of conservation techniques and programs, and agribusiness.

The House bill contains no similar provisions.

The Conference substitute adopts the Senate position with an amendment that provides for representation on state technical committees of producers, representatives of nonprofit organizations with demonstrable expertise, persons knowledgeable about conservation techniques, and agribusiness, and provides for public notice of, and attendance at, meetings. (Section 342)

(55) National Natural Resources Conservation Foundation

The Senate amendment establishes a National Natural Resources Conservation Foundation as a charitable and nonprofit corporation for charitable, scientific, and educational purposes, including:

(1) promotion of innovative solutions to the problems associated with the conservation of natural resources on private lands, particularly with respect to agriculture and soil and water conservation;

(2) promotion of voluntary partnerships between government and private interests in the conservation of natural resources;

(3) to conduct research and undertake educational activities, conduct and support demonstration projects, and make grants to State and local agencies and nonprofit organizations;

(4) to provide such other leadership and support as may be necessary to address conservation challenges, such as the prevention of excessive soil erosion, enhancement of soil and water quality, and the protection of wetlands, wildlife habitat, and strategically important farmland subject to urban conversion and fragmentation;

(5) to encourage, accept, and administer private gifts of money and real and personal property for the benefit of, or in connection with, the conservation and related activities and services of the Department, particularly the Natural Resources Conservation Service;

(6) to undertake, conduct, and encourage educational, technical, and other assistance, and other activities, that support the conservation and related programs administered by the Department (other than activities carried out on National Forest System lands), particularly the Natural Resources Conservation Service, except that the Foundation may not enforce or administer a regulation of the Department; and

(7) to raise private funds to promote the purposes of the Foundation.

The amendment authorizes an appropriation to the Department, to be made available to the Foundation, $1,000,000 for each of fiscal years 1997 through 1999 to initially establish and carry out activities of the Foundation. (Sections 331–340)

The House bill contains no similar provisions.

The Conference substitute adopts the Senate provisions. (Sections 351–360)

(56) Forestry

The Senate amendment amends Section 4 of the Cooperative Forestry Assistance Act of 1978 is amended by striking the provision that terminates the Forestry Incentives Program December 31, 1995. It also amends Section 2405 of the Food, Agriculture, Conservation, and Trade Act of 1990 by an authorization for appropriation of such sums as are necessary to carry out the activities of the Office of International Forestry. (Section 352)

The House bill contains no similar provisions.

The Conference substitute adopts the Senate provisions with amendments to limit the authorizations for the Forestry Incentives Program and the Office of International Forestry to 2002, to make the authorization for the Office of International Forestry subject to appropriations, and to provide authority for the Secretary to make grants to states under the Forest Legacy Program. (Sections 371, 373, 374)

(57) Cooperative work for protection, management, and improvement of National Forest System

The Senate amendment authorizes cooperative work for the protection, management, and improvement of the National Forest System and permits payments for such work to be made from any appropriation of the Forest Service that is available for similar work if reimbursement is made by the cooperator in the same fiscal year. (Section 545)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provisions. (Section 372)

(58) CCC Charter Act

The Senate amendment amends the CCC Charter Act to include conservation functions and programs among the purposes for which the Secretary may utilize the CCC. (Section 355)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provisions with an amendment permitting the use, after January 1, 1997, of CCC funding for conservation and environmental programs authorized by law. (Section 381)

The Managers stress that this provision is not intended to preclude the Secretary from utilizing the CCC to fund conservation and environmental programs appropriately authorized by law on or before January 1, 1997.

(59) Floodplain easements

The Senate amendment amends Section 403 of the Agricultural Credit Act of 1978 to permit the Secretary to purchase floodplain easements. (Section 359)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 382)

(60) Resource Conservation and Development Program reauthorization

The Senate amendment reauthorizes the Resource Conservation and Development Program through 2002. (Section 360)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 383)

(61) Repeal of report requirement

The Senate amendment rescinds the requirement for the printing of multiple copies of USDA soil surveys. (Section 362)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 384)

(62) Flood risk reduction

The Senate amendment establishes a flood risk reduction program for fiscal years 1996 through 2002, under which the Secretary may enter into a contract with a producer with contract acreage under title I on a farm with land that is frequently flooded. Under the terms of the contract, with respect to acres that are subject to the contract, the producer must agree to: the termination of any contract acreage; forgo loans for contract commodities, oilseeds and extra long staple cotton; not apply for crop insurance issued or reinsured by the Secretary; comply with applicable wetlands and highly erodible land conservation compliance requirements; not apply for any conservation program payments from the Secretary; not apply for disaster program benefits provided by the Secretary; and refund the payments, with interest, issued under the contract to the Secretary if the producer violates the terms of the contract or if the producer transfers the property to another person who violates the contract. In return, the Secretary shall agree to pay the producer for the 1996 through 2002 crops not more than the projected contract payments under title I, and other savings from appropriated programs. The Secretary shall carry out the program through the CCC. (Section 351)

The House bill contains no similar provision.

The Conference substitute adopts the Senate provisions with a technical amendment. (Section 385)

(63) Conservation of private grazing land

The Senate amendment authorizes the Secretary of Agriculture to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing land resources. Subject to the availability of appropriations, the Secretary will establish a voluntary program to provide technical, educational, and related assistance to owners and managers of private grazing land and public agencies, through local conservation districts, to enable the landowners, managers, and public agencies to voluntarily carry out activities including: maintaining and improving private grazing land and the multiple values and uses that depend on private grazing land; implementing grazing land management technologies; managing resources on private grazing land, including planning, managing, and treating

VOL
142
PT
5
MR
21
—
29
1996
UMI

private grazing land resources, ensuring the long-term sustainability of private grazing land resources, harvesting, processing, and marketing private grazing land resources and identifying and managing weed, noxious weed, and brush encroachment problems; protecting and improving the quality and quantity of water yields from private grazing land; maintaining and improving wildlife and fish habitat on private grazing land; enhancing recreational opportunities on private grazing land; maintaining and improving the aesthetic character of private grazing lands; and identifying the opportunities and encouraging the diversification of private grazing land enterprises. There are authorized to be appropriated to carry out this section $20 million for fiscal 1996, $40 million for fiscal 1997 and $60 million for fiscal 1998 and each subsequent fiscal year. (Section 354)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provisions with an amendment deleting a specific reference to the Natural Resources Conservation Service in the description of the program. (Section 386)

(64) Wildlife Habitat Incentives Program

The Senate amendment authorizes a Wildlife Habitat Incentives Program to promote implementation of various management practices to improve wildlife habitat. The program would receive $10 million in funding annually from the Conservation Reserve Program, with total expenditures of $60 million over seven years. (Section 554)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provisions with an amendment reducing the total funding to $50 million over seven years. (Section 387)

The Managers intend that the cost-share payments made under WHIP not exceed 75 percent of the total cost to an eligible landowner for developing a wildlife management plan and implementing eligible activities under the plan.

The Managers intend that the Secretary, in developing a list of approved activities and practices, shall attempt to achieve landowner and public purposes including: 1) upland wildlife management measures; 2) wetland wildlife management measures; 3) threatened and endangered species management measures; 4) fisheries management measures, and; 5) other activities approved by the Secretary.

(65) Clarification of effect of resource planning on allocation and use of water

The Senate amendment amends Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 to stipulate that nothing in the section shall limit any right of authority of a state to allocate water flows. The Secretary of Agriculture is prohibited from requiring a restriction of the operation, use, repair or replacement of an existing water supply facility as a condition of the renewal of a right-of-way granted under Section 501 of the Federal Land Policy and Management Act of 1976. (Section 557).

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate position with an amendment striking the provisions of the Senate amendment and providing for an 18-month moratorium on any Forest Service decision to require bypass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use permit. The moratorium shall not affect the obligations or the authority of the Secretary to protect public health and safety or to comply with the Endangered Species Act or applicable state law. A task force shall also be appointed to study several issues regarding water rights as they apply to Forest Service activities and report to the Secretary, the Speaker of the House of Representatives and the chairmen of relevant Senate committees within one year. (Section 389)

The Managers believe that these provisions are required because the Forest Service has recently imposed, or attempted to impose, by-pass flows to achieve the secondary purposes of the National Forests. This contradicts former USDA policy and has raised questions about their statutory authority in this area. Nothing in this section changes current law regarding the allocation of water or rights to the use of water, and the expiration of the moratorium is not intended to be a recognition or grant of authority to the Forest Service for imposition of by-pass flows. Further, the moratorium imposed by this section is not intended to interfere with the ability of the Forest Service to negotiate or comply with requirements of voluntary agreements concerning the use of National Forest lands for water supply facilities. It is also not the intent of this language to interfere with the duties of the Secretary under the Endangered Species Act.

It is also the intent of the Managers that the Board established in this section will carry out its duties in a professional, nonpartisan manner, and that membership on the Board will consist of individuals with expertise in Western water law and public land law.

(66) Everglades Agricultural Area

The House bill provides $210 million to the Secretary of the Interior to conduct restoration activities in the Everglades ecosystem, "which may include acquiring private acreage in the Everglades Agricultural Area including" the "Talisman tract" by December 31, 1999. (Section 507)

The Senate amendment contains similar provisions except that $200 million is provided to the Secretary of the Interior. (Section 506)

The Conference substitute adopts the Senate provision with an amendment to provide an additional $100 million, contingent upon land acquisition within the State of Florida. (Section 390)

(67) Advisory Board on Agricultural Air Quality

The Senate amendment establishes a board to advise the Secretary of Agriculture on scientific questions relating to airborne particulate matter and gases that may be issues under the Clean Air Act. The board would be comprised of 17 members, including the Chief of the Natural Resources Conservation Service, agricultural producers, other representatives of the 6 NRCS regions, and an atmospheric scientist. (Section 551)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provisions with amendments clarifying that interagency oversight coordination required by the Secretary shall be made to the extent practicable. (Section 391)

(68) Environmental Easement Program

The Senate amendment reauthorizes the Environmental Easement Program through 2002. (Section 355)

The House bill contains no comparable provision.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(69) Water Bank Program

The Senate amendment amends Section 1230 of the Food Security Act of 1985 by adding a provision that acreage currently enrolled in the Water Bank Program authorized by the Water Bank Act shall be considered to have been enrolled in the CRP on the date the acreage was enrolled in the Water Bank program. Payments shall continue at the existing water bank rates. (Section 356)

The House bill contains no comparable provision.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(70) Flood water retention pilot projects

The Senate amendment permits the Secretary to establish pilot projects for 2 years in duration to restore natural water retention areas to control storm water and snow melt runoff within closed drainage systems. Such projects shall provide cost-sharing and technical assistance for the establishment of nonstructural landscape management practices, including agricultural tillage practices and restoration, enhancement, and creation of wetland characteristics. Funding provided by the Secretary shall not exceed $10,000,000 per project and shall be carried out through the CCC. (Section 357)

The House bill contains no comparable provision.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(71) Watershed Protection and Flood Prevention Act amendments

The Senate amendment amends the Watershed Protection and Flood Prevention Act to include several new priorities for funding, make nonprofit organizations eligible for funding, and authorize the Secretary of Agriculture to accept transfers of funds from other federal departments and agencies to carry out the act. (Section 363)

The House bill contains no comparable provisions.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(72) Fund for dairy producers to pay for nutrient management

The Senate amendment amends the Agricultural Marketing Agreements Act of 1937 by allowing each milk marketing order to be amended to allow not more than 10 cents per hundredweight to be added to the minimum milk price for the purpose of environmental nutrient management. (Section 501)

The House bill contains no comparable provision.

The Conference substitute adopts the House position, which deletes the Senate amendment.

Title IV—Nutrition Assistance

(1) Disqualification of a store or concern from the Food Stamp Program

The Senate amendment adds new language to the Food Stamp Act to disqualify food stores from participation in the food stamp program if the stores employ a person found, within the last 3 years, to have traded coupons for firearms, ammunition, explosives or drugs or to have trafficked coupons. The Senate amendment also changes existing disqualification laws to require permanent disqualification of a store for a trafficking offense only if the ownership, but not the management, of the store was aware of the disqualifying conduct. (Section 401(a))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendments that 1) delete the Senate provision disqualifying a store which has employed a person found, within the last 3 years, to have traded coupons for firearms, ammunition, explosives or drugs or to have trafficked coupons, and 2) add a provision permitting a civil money penalty in lieu of disqualification of a store or concern if there has been no more than one prior trafficking violation by store management. (Section 401(a))

(2) Employment and training in the Food Stamp Program

The Senate amendment continues the requirement that the Secretary allocate $75 million annually to carry out the employment and training program through fiscal year 2002. (Section 401(b))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 401(b))

(3) Authorization of pilot projects in the Food Stamp Program

The Senate amendment reauthorizes the seven pilot projects, begun in 1981, that pay cash, in lieu of coupons, to households composed entirely of elderly or SSI recipients through fiscal year 2002. (Section 401(c))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 401(c))

(4) Outreach demonstration projects in the Food Stamp Program

The Senate amendment extends the authorization for appropriations through fiscal year 2002 for outreach demonstration projects. (Section 401(d))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 401(d))

(5) Authorization for appropriations of the Food Stamp Program

The Senate amendment extends the authorization for appropriations for the food stamp program through fiscal year 2002. (Section 401(e))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize appropriations for the program through September 30, 1997. (Section 401(e))

(6) Authorization of Puerto Rico Nutrition Assistance Program

The Senate amendment requires the payment for the Puerto Rico Nutrition Program block grant of $1.143 billion for FY96, $1.174 billion for FY97, $1.204 billion for FY98, $1.236 billion for FY99, $1.268 billion for FY00, $1.301 billion for FY01, $1.335 billion for FY02. (Section 401(f))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 401(f))

(7) Funding for American Samoa Nutrition Assistance Program

The Senate amendment adds a provision to provide that the Secretary may pay to American Samoa not more than $5.3 million, each fiscal year, of funds appropriated to carry out the food stamp program to fund a nutrition assistance program through fiscal year 2002. (Section 401(g))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment requiring the Secretary to fund the American Samoa Nutrition Assistance program at up to $5.3 million annually, beginning October 1, 1995. The amendment also allows the Secretary of Agriculture to provide grants not to exceed $1 million in fiscal year 1996 and $2.5 million in each of fiscal years 1997 to 2002, to establish and carry out community food security projects to better meet the food needs of low-income individuals. (Section 401(g)–(h))

The Managers note that although the projects must be community-based, applicants with a national or regional scope should be considered for grant awards if they seek to fund appropriate community-based projects in several locations. In addition, applications for projects designed to provide training and technical assistance to entities developing appropriate community food security projects should be considered for grant funding.

Applicants must be non-profit organizations, but may use all available resources, including those of for-profit entities. Grants are authorized for up to three year periods, acknowledging that new projects or expanding projects may need a planning phase prior to actual implementation of the project.

Because the projects funded by this grant authority will be community-based and funded substantially by non-federal sources, it is not expected that any one grant should command a significant portion of the total grant authority. The Managers believe there will be many worthy projects applying for grant awards in each of the next 7 years, and expect the Secretary to make many awards each year to the most worthwhile of the grant applicants.

(8) Commodity Distribution Program; Commodity Supplemental Food Program—Reauthorization

The Senate amendment amends the Agriculture and Consumer Protection Act of 1973 to authorize the commodity distribution program and the Commodity Supplemental Food Program through fiscal year 2002. (Section 402(a))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 402(a))

(9) Commodity Distribution Program; Commodity Supplemental Food Program—Funding

The Senate amendment authorizes administrative funding for CSFP through fiscal year 2002 and reauthorizes a provision requiring certain amounts of CCC surplus dairy products be transferred to CSFP. (Section 402(b))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 402(b))

(10) Commodity Distribution Program; Commodity Supplemental Food Program—Carried-Over Funds

The Senate amendment requires that 20 percent of any carried over CSFP funds for food be available for program administration. (Up to 20% of the annually appropriated CSFP funds may be used for administration). (Section 402(c))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 402(c))

(11) Emergency Food Assistance Program

The Senate amendment amends the Emergency Food Assistance Act of 1983 to reauthorize the Emergency Food Assistance Program (TEFAP) through fiscal year 2002. (Section 403)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 403)

(12) Soup Kitchen and Food Bank Program

The Senate amendment amends the Hunger Prevention Act of 1988 to reauthorize the Soup Kitchen and Food Bank Program through fiscal year 2002. (Section 404)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 404)

(13) National commodity processing

The Senate amendment amends the Agriculture and Food Act of 1981 to reauthorize the National Commodity Processing Program through fiscal year 2002. (Section 405)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 405)

The Managers declined to adopt a provision that would convert the Model Good Samaritan Food Donation Act (Pub. L. 101-610) to federal law, eliminating differences in various state laws and attempting to develop greater opportunity for partnerships between private and non-profit entities involved in feeding programs. While the Managers commend the philanthropic intent of such legislation, the Managers understand possible implications of preempting state laws and acknowledge jurisdictional complications. It was agreed that this subject has ample merit for full Congressional hearings.

Title V—Agricultural Promotion

SUBTITLE A—COMMODITY PROMOTION AND EVALUATION

The Senate amendment requires that not more than every three years, or three years after enactment of a program, the Secretary shall require that each industry-funded generic promotion program for agricultural commodities shall provide for an independent evaluation of the effectiveness of the program, which may include an analysis of benefits, costs and the efficacy of promotional and research efforts undertaken by the program and is to be funded from industry assessments and to be made available to the public. The amendment also requires that the Secretary shall provide annually information to the House and Senate Agriculture Committees about the administrative expenses of industry-funded promotion programs. (Section 961)

The House has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment defining commodity promotion law, containing congressional findings with respect to generic promotion programs, and requiring an independent evaluation of promotion program effectiveness not less than every five years. (Section 501)

The Managers also accepted an amendment authorizing the Secretary to issue nationwide promotion, research and information orders applicable to agricultural commodity producers, first handlers and others in the marketing chain if appropriate, and importers if assessed under the order. The Secretary is required to publish the proposal for notice and comment, and to issue the proposed order (if agreed to do so) not later than 270 days after publication of the proposed order. Amendments on promotion program evaluations and promotion board funds for conservation purposes were adopted. The Managers also agreed to an amendment requiring the maintenance of records for the Honey Promotion Program by producers. (Section 591)

VOL
142
PT
5
MR
21
—
29
1996
UMI

In authorizing the establishment of an industry financed generic promotion, research and information program, the Managers adopted provisions to allow the Secretary to grant an annual credit for branded activities to farmer owned cooperatives which engage in such activities. The Managers recognize the important role of farmer-owned cooperatives in carrying-out industry financed generic promotion, research and information activities for and on behalf of their members. The Managers also recognize that in many cases, such cooperative marketing efforts have involved the successful establishment of specific brands for many agricultural products. Further, that producers through their cooperatives have invested and continue to invest significant resources related to market research, promotion and advertising to enhance the sale of the products and improve their income.

Accordingly, the Managers agree that the Secretary may provide an annual credit for such expenditures which would be deducted from any assessment that would otherwise be required for conducting a generic program authorized under this title. Such contributions and expenditures would be fully documented in order to be eligible for such credit. This would ensure that producers would be able to engage in such cooperative marketing activities without adding to their cost relative to other industry members. (Sections 511–526)

SUBTITLE C—CANOLA AND RAPESEED

The Senate amendment authorizes the Secretary to issue an order for a canola and rapeseed promotion program upon request of the industry. A Board of fifteen members is established with not more than four producer members of the Board from any one state. The Board may assess producers four cents per hundredweight of canola or rapeseed produced and marketed in a state. In order to achieve industry consensus for a national canola check-off program, states with an existing canola check-off requested and received, a credit of up to two cents per hundredweight. The Secretary shall conduct a referendum among producers during the period ending thirty months after the date the order was issued to determine whether the order was issued to determine whether the order should be continued. (Sections 921–933)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Sections 531–543)

SUBTITLE D—KIWIFRUIT

The Senate amendment authorizes the Secretary to issue an order for a kiwifruit promotion program upon request of the industry. The order should be national in scope and not more than one order shall be in effect at any one time. An eleven member kiwifruit board is established composed of six producers, four importers, and one member of the general public. Implementation of the order and rate of assessment is to be set by a two-third vote of a quorum of the Board. The Secretary shall conduct a referendum of kiwifruit producers and importers sixty days prior to effective date of the order and may conduct a periodic referendum at the end of a six-year period, at the request of the Board, or if not less than thirty percent of the kiwifruit producers and importers subject to assessment request a referendum. Any change in the order will be determined by a majority vote and will take effect at the end of the marketing year. (Sections 941–954)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment requiring that producers comprise not less than fifty-one percent of the membership of the board. (Sections 551–564)

SUBTITLE E—POPCORN

The Senate amendment authorizes the Secretary to issue an order for a popcorn promotion program upon request of the industry. A Popcorn Board is established that consists of between four and nine members that are selected by the Secretary and have terms of three years. The Board may raise or lower the rate of assessment annually up to a maximum of eight cents per hundredweight of popcorn. These assessments will be used to pay expenses incurred and to cover administrative costs incurred by the Secretary, but may not exceed fifteen percent of the annual revenues of the Board. If the administrative costs incurred by the Secretary exceed ten percent of the annual revenues of the Board, the Secretary will notify the House and Senate Agriculture Committees.

Sixty days prior to the effective date of the program, the Secretary will conduct a referendum among popcorn processors. The order only becomes effective if approved by a majority of the processors voting, who processed at least fifty-one percent of the popcorn certified. No sooner than three years after the effective date of the order, the Secretary may conduct a referendum on the request of thirty percent or more of the popcorn processors for continuation of the program. (Sections 901–912)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Sections 571–582)

TITLE VI—CREDIT

SUBTITLE A—FARM OWNERSHIP LOANS

(1) Limitation on direct farm ownership loans

The Senate amendment provides that U.S. Department of Agriculture (USDA) direct farm ownership loans are available for farmers and ranchers who have operated a farm or ranch for at least 3 years and who—

are qualified beginning farmers or ranchers with less than 10 years farming experience, or

have not received a previous direct farm ownership loan, or

have not received a previous direct farm ownership loan more than 10 years before the date that a new direct farm ownership loan would be made.

The Senate amendment specifies that the time that a borrower has a youth loan under the farm operating loan program does not count toward the number of years of experience for farm ownership loans. A transition rule provides that existing borrowers who have had direct farm ownership loans for less than 5 years can obtain additional direct farm ownership loans for 10 years from the date of enactment of this Title; those existing borrowers who have had direct farm ownership loans for 5 or more years can obtain additional direct farm ownership loans for 5 years from the date of enactment. The Senate amendment also repeals an obsolete provision that farm ownership loans cannot be restricted solely to borrowers who had loans in 1985. (Section 601)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 601)

(2) Purposes of loans

The Senate amendment specifies that direct farm ownership loans can be used for (a) buying farm real estate, (b) making capital improvements, (c) paying related loan closing costs, and (d) paying for soil and water conservation and protection on such property. It also specifies that guaranteed farm ownership loans can be used for the same purposes and for refinancing existing debt. The Senate amendment repeals provisions that allowed farm ownership loans to be used for funding recreational uses and facilities and for funding enterprises to supplement farm income. It also repeals the stipulation that farm ownership loans for improvements include non-fossil energy systems.

The Senate amendment restates preferences in the Consolidated Farm and Rural Development Act, as amended (Con Act).

The Senate amendment requires that borrowers have, or agree to obtain, hazard insurance on real property acquired or improved with farm ownership loan funds. It also requires the Secretary of Agriculture to determine within 180 days of enactment the appropriate insurance level, including what property should be insured. (Section 602)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that directs that a new farm ownership loan is not to be made after the date that is 180 days after enactment unless the borrower meets the hazard insurance requirement. (Section 602)

While the bill requires hazard insurance on property acquired by borrowers with USDA farm ownership loan funds, it does not specify the level of insurance that borrowers should obtain. Rather, it is the intent of the Managers that the Secretary of Agriculture should determine the appropriate insurance level and should consider factors such as the nature of the property that is pledged as security for the loan, the value of the security property and the loan amount, the location of a borrower's farming operation, and the costs and availability of hazard insurance. Also, the Secretary should determine what property should be subject to an insurance requirement.

(3) Soil and water conservation and protection

The Senate amendment repeals allowing farm ownership loans to be used for funding residents of rural areas to operate small business enterprises and for paying for waste pollution abatement and control projects. (Section 603)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 603)

The Managers note that while the bill is ending the use of farm ownership loan funds for various nonfarming purposes, such as funding residents of rural areas to operate small business enterprises and for paying for waste pollution abatement and control projects, there are other federal programs available to support such usage, such as those of the Small Business Administration to fund small business activities and USDA's rural development and conservation programs to fund waste pollution projects.

(4) Interest rate requirements

The Senate amendment allows a 4 percent interest rate on a direct farm ownership loan that is being made in conjunction with other credit. (Section 604)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that specifies that the interest rate should be not less than 4 percent. (Section 604)

(5) Insurance of loans

The Senate amendment clarifies that a loan guaranteed by the Secretary is supported by the full faith and credit of the government. (Section 605)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 605)

(6) Loan guaranteed

The Senate amendment states that a loan can be guaranteed for up to 90 percent. It requires a 95-percent guarantee on a loan or that portion of a loan that is for refinancing USDA direct loans. It also allows a 95-percent guarantee on farm ownership loans and farm operating loans made to borrowers who participate in the down payment loan program for beginning farmers and ranchers. (Section 606)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 606)

SUBTITLE B—OPERATING LOANS

(7) Limitation on direct operating loans

The Senate amendment provides that USDA direct farm operating loans are available for farmers and ranchers who

are qualified beginning farmers or ranchers with less than 5 years farming experience, or

have not received previous direct farm operating loans, or

have received a previous direct farm operating loan in 6 or fewer years.

The Senate amendment specifies that direct farm operating loans are available to borrowers without regard to the number of years they received youth loans. A transition rule provides that existing borrowers who have had direct farm operating loans in 4 or more years can obtain additional direct farm operating loans in 3 additional years. The Senate amendment also repeals the provision that farm operating loans cannot be restricted solely to borrowers who had loans in 1985. (Section 611)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 611)

It is the intent of the Managers that direct farm operating loans be made available to farmers and ranchers for a maximum of 7 years. These years may be consecutive, nonconsecutive, or a combination of consecutive and nonconsecutive.

(8) Purposes of operating loans

The Senate amendment specifies that direct farm operating loans can be made for (a) paying the costs to reorganize the farming or ranching operation; (b) purchasing livestock, poultry, and farm or ranch equipment; (c) paying farm or ranch operating expenses; (d) financing land and water development, use, and conservation; (e) paying loan closing costs; (f) paying to make additions or alterations to comply with occupational safety and health standards; (g) training limited resource borrowers in recordkeeping; (h) farm management training; (i) refinancing the debt of direct loan borrowers who experience losses caused by a natural disaster or the debt of other borrowers who obtained credit from a source other than the Secretary; and (j) paying family living expenses, and other farm, ranch, or home needs. It also specifies that guaranteed farm operating loans can be used for the same purposes, except for training limited resource borrowers in record keeping, and also for refinancing existing debt.

The Senate amendment repeals allowing farm operating loans to be used for financing recreational enterprises; financing other enterprises to supplement farm income; paying for developing, constructing, or modifying solar energy systems; funding residents of rural areas to operate small business enterprises; and paying for pollution abatement and control projects.

The Senate amendment requires that borrowers have, or agree to obtain, hazard insurance on any property acquired with farm operating loan funds. It also requires the Secretary of Agriculture to determine the appropriate insurance level, including what property should be insured. Furthermore, the Senate amendment allows the Secretary discretion in placing funds in a nonsupervised bank account that a borrower can use for farm operating and family living expenses. (Section 612)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendments on the hazard insurance requirement to direct that a new farm operating loan is not to be made after the date that is 180 days after enactment unless the borrower meets the hazard insurance requirement and on nonsupervised bank accounts to provide discretion in placing funds in such accounts, restrict the use of loan funds in such accounts for the basic family needs of the borrower and the borrower's immediate family, and to restrict the size of such an account to an amount that is the lesser of 10 percent of the loan, $5,000, or the amount needed to provide for basic family needs for three calendar months. (Section 612)

As with farm ownership loan funds, the Managers note that while the bill ends the use of farm operating loan funds for various nonfarming purposes, such as funding residents of rural areas to operate small business enterprises and for paying for pollution abatement and control projects, other federal programs are available to support such usage.

Additionally, while the bill requires hazard insurance on property acquired by borrowers with USDA farm operating loan funds, it does not specify the level of insurance. It is the intent of the Managers that the Secretary should determine the appropriate insurance level and should consider factors such as the nature of the property that is pledged as security for the loan, the value of the security property and the loan amount, the location of a borrower's farming operation, and the costs and availability of hazard insurance. Also, the Secretary should determine what property should be subject to an insurance requirement.

(9) Participation in loans

The Senate amendment repeals the authority to participate in farm operating loans with other lenders. (Section 613)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 613)

(10) Line-of-credit loans

The Senate amendment authorizes direct or guaranteed line-of-credit operating loans for up to 5 years. It also states that each year in which a borrower takes an advance or draws on the line-of-credit counts as one year of eligibility for farm operating loans. (Section 614)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that specifies that the line-of-credit is to terminate if a borrower does not repay an advance on schedule, unless the Secretary determines that the borrower's failure to pay was due to unusual conditions that the borrower could not control and the borrower will reduce the line-of-credit outstanding balance to the scheduled level at the end of the production cycle, including the marketing of the borrower's agricultural products. The Conference substitute also provides that the line-of-credit loan may be used to finance the production or marketing of an agricultural commodity that is or formerly was eligible for USDA's price and income support programs. (Section 614)

The line-of-credit authority is being provided as a means to assist farmers and ranchers by allowing operating plans to be established with a set level of funding assured over a set period of years. Thus, the need for borrowers to go through an annual loan application, review, and approval process in multiple years can be avoided. For budget scoring purposes, the Managers intend that the approved amount of a line-of-credit loan made under this authority should be treated as 1 loan and not as multiple separate loans. The Managers want to emphasize that there is an important point regarding loan eligibility with this provision. Specifically, the maximum number of years a borrower can receive direct farm operating loans is set at 7 in section 611 of this Title. The Managers do not intend for the term of a line-of-credit operating loan to apply to a borrower's 7 years of eligibility. Rather, it is the intent of the Managers that each year that a borrower takes an advance or draws on a line-of-credit loan is to count as 1 year of loan eligibility. For example, if a 5-year line-of-credit direct operating loan is approved and a borrower draws against this line-of-credit in 4 years, then the borrower has used 4 years of direct farm operating loan eligibility. Thus, in this example, the borrower would still be eligible to obtain direct farm operating loans in 3 additional years. Furthermore, section 617 of this Title, which is amending section 319 of the Con Act, has limits on the number of years in which a borrower can obtain guaranteed farm operating loans.

Furthermore, the Managers recognize that unusual circumstances could result in a borrower not repaying an advance or draw on schedule and, as such, do not intend for the line-of-credit to end in the event of those circumstances. For example, a borrower may have a crop that is ready to be harvested but he or she is delayed in harvesting due to wet weather conditions. Also, the borrower may have been able to enter into a contract to sell his or her agricultural products for a higher price if delivery of the products occurs at a date that is after the payment due date. The Managers want to emphasize to the Secretary that this exception authority should be used only in unusual circumstances and should not become the standard mode of operation, and that USDA needs to closely monitor borrowers who are granted an exception to ensure that they meet their debt obligations.

(11) Insurance of operating loans

The Senate amendment repeals the authority to insure farm operating loans. (Section 615)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 615)

VOL
142
PT
5
MR
21
—
29
1996
UMI

(12) Special assistance for beginning farmers and ranchers

The Senate amendment repeals the special assistance program for beginning farmers and ranchers. (Section 616)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 616)

(13) Limitation on period for which borrowers are eligible for guaranteed assistance

The Senate amendment restates the Con Act limitation on receiving guaranteed farm operating loans after 15 years of direct or guaranteed loans. It also modifies the transition rule to provide that borrowers who, as of October 28, 1992, had a direct or guaranteed loan in 10 or more years can obtain guaranteed farm operating loans in 5 additional years after October 28, 1992. (Section 617)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 617)

SUBTITLE C—EMERGENCY LOANS

(14) Hazard insurance requirement, credit elsewhere test, and linking emergency loans to natural disasters

The Senate amendment requires that borrowers needed to have had hazard insurance on the property damaged or destroyed by a natural disaster as a condition for getting USDA emergency disaster loan assistance. It also requires the Secretary of Agriculture to determine the appropriate insurance level including what property should have been insured. (Section 621)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendments that (1) direct that an emergency loan is not to be made after the date that is 180 days after enactment unless the applicant met the insurance requirement, (2) revise a current provision to allow the Secretary to waive the credit elsewhere test for emergency loans of $100,000 or less, and (3) modify another current provision to specifically tie emergency loans for changes in crop or livestock operations to natural disasters. (Sections 621–623)

As a measure of protection for the farm loan portfolio, individuals must have had hazard insurance on property damaged or destroyed as a condition for getting emergency disaster loan assistance. The Managers intend that the Secretary determine what property should have had insurance coverage. The Managers expect that property subject to this requirement would include, but not be limited to, farmland, buildings and other structures, equipment, livestock, crops, and other farm items.

(15) Maximum emergency loan indebtedness and date for emergency loan security valuation

The Senate amendment establishes a maximum emergency disaster loan indebtedness at $500,000. (Section 622)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that revises a current provision to require assets used as collateral for an emergency loan to be valued as of the day prior to the disaster. (Sections 624 and 625)

(16) Insurance of emergency loans

The Senate amendment repeals the authority to insure emergency disaster loans. (Section 623)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 626)

SUBTITLE D—ADMINISTRATIVE PROVISIONS

(17) Temporary authority to enter into contracts and use of collection agencies

The Senate amendment authorizes the Secretary of Agriculture to use private collection agencies to attempt collections on delinquent accounts when agency officials determine such usage to be appropriate. (Section 631)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that allows the Secretary of Agriculture to contract through September 30, 2002, with an eligible lending institution for the purpose of servicing the farm loan portfolio, including entering into a pilot project or projects for such servicing, and requires the Secretary to report annually to the Congress on the results of such contracting. (Sections 631 and 632)

The Secretary is being authorized to use private collection agencies to attempt collections on delinquent accounts, when USDA officials determine such usage to be appropriate, because of concerns that the Department is not making the fullest effort to recover on all such accounts. The General Accounting Office (GAO) has reported a series of deficiencies in this area. Also, while the Congress passed a bill in 1994 authorizing USDA to use private attorneys to help resolve delinquent accounts, USDA officials have made little use of such attorneys even though the agency continues to have thousands of delinquent borrowers who owe billion of dollars on their delinquent loans.

Additionally, the Managers understand that the Secretary currently has available and uses discretionary authority to contract for certain loan servicing activities, such as appraisals of farm property. The Managers encourage the Secretary to continue to use the current authority and also to use the new authority that is being provided to contract for additional loan servicing activities. One or more pilot projects involving servicing of the farm loan portfolio may prove of considerable benefit to the Department; in addition to having the farm loan accounts of more than 100,000 borrowers to service, USDA also has to process and approve new farm loan applications and to manage and dispose of farm inventory properties.

(18) Notice of Loan Service Programs, Borrower Statements, Borrower Reviews, Veterans Preference, and Verification of Credit Elsewhere Test

The Senate amendment reduces the mandated time frame for notifying delinquent borrowers of available loan servicing options to 90 days after a loan payment is due. (Section 632)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendments that (1) require statements submitted by borrowers should be appropriate written financial statements; (2) require the appropriate USDA county or area committee to certify in writing that an annual review of the credit history and business operation of a borrower has been performed and that a review has been made of the continued eligibility of the borrower for the loan; (3) extend veterans preference for loans to cover veterans of any war involving the United States; and (4) allow the Secretary of Agriculture to submit to lenders, without borrower approval, a prospectus of a borrower to verify that the borrower cannot receive credit elsewhere and require the Secretary to notify a borrower when a prospectus is provided to lenders. (Sections 633–637)

(19) Sale of property and easements on inventoried properties

The Senate amendment modifies guidance on disposing of farm inventory properties. It requires the Secretary to offer to sell farm inventory property, except for any located on an Indian reservation, as follows:

to qualified beginning farmers and ranchers at current market value within 75 days of taking farm property into inventory and

if an acceptable offer is not received by the 75th day, within 30 days to the highest bidder, and if no acceptable bid is received, by negotiated sale for the best price obtainable.

The Senate amendment provides that if more than one qualified beginning farmer or rancher offers to purchase a property, the Secretary is required to select between the qualified applicants on a random basis. It stipulates that the results of the Secretary's random selection is not appealable.

The Senate amendment also provides that farm properties in inventory that are leased are to be offered for sale according to this pattern within 60 days after the current lease expires. Farm properties in inventory that are not leased are to be offered for sale according to this pattern within 60 days of enactment.

The Senate amendment provides that farm properties are not to be leased. An exception provides that the Secretary may lease or contract to sell a farm property to a beginning farmer or rancher if the person qualifies for a credit sale or a direct farm ownership loan but credit sale authority for loans or direct farm ownership loan funds are not available. In determining the rental rate to be charged to a beginning farmer or rancher, the Senate amendment requires the Secretary to take into consideration the income producing capability of the property during the term that the property is leased.

The Senate amendment requires the Secretary to provide for an expedited, higher-level review of a local decision that denies an applicant's eligibility as a beginning farmer or rancher for acquiring a farm inventory property if the person requests a review. It stipulates that the results of such a review shall not be appealable by the applicant. The Senate amendment also requires that the Secretary accumulate statistics on the extent of such review requests, including the results of such reviews, and if those reviews adversely impact on selling farm inventory property to beginning farmers and ranchers and disposing of properties from inventory.

Furthermore, the Senate amendment provides that real property located on an Indian reservation and pledged as security for a farm loan can be transferred to the Department of the Interior or to the tribe that has jurisdiction over the reservation rather than USDA foreclosing and taking the property into inventory if a borrower defaults. (Section 633).

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendment that specifies that the transfer of loan security property to Interior or to an Indian tribe applies to property pledged as collateral by an Indian borrower-owner. The Conference substitute also modifies current guidance on the placing of wetland conservation easements on USDA's farm inventory property to prohibit the Secretary of Agriculture from establishing perpetual conservation easements on land that

was cropland at the time it entered the inventory or that was used for farming within five years of the date that it entered inventory. (Sections 638 and 639)

Changes are being made to the real property disposal provisions in the Con Act in order to provide beginning farmers and ranchers with the first opportunity to acquire the properties and to expedite the disposal of farm inventory properties from USDA's inventory, which will in turn reduce the substantial expense that the Department incurs in managing these properties. Also, competitive sales could result in increased revenues, which would offset prior loan losses. While the bill requires the Secretary to expedite the sale of farm inventory property, the Managers recognize that the Secretary may be delayed in offering property for sale if such property has been or is suspected of having been contaminated by a hazardous material as defined in appropriate federal environmental legislation. Such delay in offering farm properties for sale shall be limited to the time absolutely necessary to identify and resolve any contamination issues in accordance with applicable federal law. The Managers also recognize that the Secretary may be delayed in offering farm inventory property for sale in order to determine whether to place an easement on such property or to transfer such property in accordance with section 354 of the Con Act. It is the position of the Managers that such delays should generally be limited to not more than 60 days. Also, if USDA acquires a farm property that has an existing easement for conservation or other purposes, the easement should remain on the property when it is sold.

(20) Definitions 3

The Senate amendment changes one part of the definition of a qualified beginning farmer or rancher for farm ownership loan eligibility by increasing to 25 percent the amount of land that a person may own. It also provides that the owned-acreage provision does not apply to farm operating loan eligibility.

The Senate amendment defines "debt forgiveness" as reducing or terminating a farm loan in a manner that results in a loss through (a) write-downs or write-offs under the restructuring process, (b) write-offs under the debt settlement process, (c) loss payments on guaranteed loans, and (d) discharges of debt as a result of bankruptcy. (Section 634)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 640)

(21) Authorization for loans and contracts on loan security properties

The Senate amendment provides loan authorization levels for the fiscal year 1996–2002 period. It specifies the portion of the direct farm ownership and operating loans that are reserved during each year for qualified beginning farmers and ranchers. It also provides that these funds are reserved until September 1st of each fiscal year.

The Senate amendment modifies a current provision in the Con Act by reserving a portion of the available guaranteed farm ownership and operating loans during each year for beginning farmers and ranchers. It stipulates that these funds are reserved until April 1st of each fiscal year.

Additionally, the Senate amendment modifies a current requirement concerning the transfer of unobligated loan funds to provide that available unsubsidized guaranteed operating loan funds shall be transferred on and after August 1 of any fiscal year to the direct farm ownership loan program for funding approved down payment loans. It provides that funds are to be transferred on and after September 1 for funding approved farm ownership loans to beginning farmers and ranchers. Furthermore, the Senate amendment provides that available emergency disaster loan funds may be transferred on and after September 1 to fund the credit sale of farm inventory property. The Senate amendment is specifying that any transfer of funds under this authority is to be limited so that all guaranteed farm operating loans and emergency disaster loans that have been approved, or will be approved, during a fiscal year will be made to the extent of appropriated amounts. (Section 635)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that targets 60 percent of the direct farm ownership loan funds reserved for beginning farmers and ranchers to those who participate in the down payment loan program. The Conference substitute also modifies current guidance covering easements on loan security property to provide that rather than placing easements on such properties, the Secretary is authorized to enter into contracts with borrowers for conservation, recreation, and wildlife purposes. (Sections 641 and 642)

The bill is targeting USDA's farm loan funds to beginning farmers and ranchers and requiring that if a qualified beginning farmer or rancher applies for direct farm ownership loan funding through the regular or the section 310E down payment loan program, then the Secretary is to fund the person through the program under which the person applies for funding, providing that he or she meets the eligibility criteria and funds are available. Thus, if a qualified beginning farmer or rancher seeks assistance under the down payment program and if funds are available, the Secretary is to fund the person under that program. It is the intent of the Managers that the applicant decide whether or not to participate in the down payment program.

(22) List of certified lenders and inventory property demonstration project

The Senate amendment replaces outdated references to the Farmers Home Administration and updates a requirement concerning maintaining a listing of commercial lenders who participate in the guaranteed farm loan program. It also deletes an expired demonstration project covering inventory property of the Farm Credit System.

The Senate amendment also extends the authority to make guaranteed farm loans at subsidized interest rates under the interest rate reduction program through fiscal year 2002. (Section 636)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision but deletes the interest rate reduction change since the extension of this program was enacted with the passage of P.L. 104–105 on February 10, 1996. (Section 643)

(23) Homestead property

The Senate amendment reduces the time period for borrowers to apply for homestead property to within 30 days from acquisition by the Secretary of Agriculture, or to within 30 days of enactment for property in inventory. It also changes the time period for notifying borrowers of homestead rights to the date the Secretary acquires the property, or to within 5 days of enactment for property in inventory. (Section 637)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 644)

The Managers want to emphasize that these changes do not preclude former owners from reacquiring homestead property; rather, the changes reduce the time frame for USDA to notify former owners of their homestead rights and for the former owners to apply for the property. These revisions are being made to conform to the changes being made in the disposal of farm inventory properties including the targeting of such properties to beginning farmers and ranchers. The shortened timeframes for notification and for former owners to apply for the homestead portion of the properties will facilitate the disposal of farm properties from inventory. In addition, in advertising real property for sale under section 335 of the Con Act, as revised by this Title, the Managers expect the Secretary to provide notice that a portion of a property may be subject to the homestead preservation rights of the former owner.

(24) Restructuring

The Senate amendment revises the restructuring calculation to provide a restructured borrower with a cash flow margin of up to 10 percent. It provides that the obligations of a borrower who does not qualify to be restructured shall terminate if the person makes a payment equal to the current market value of loan security property. It also repeals requiring recapture agreements with borrowers who buy out their debt obligations at current market value and deletes an exception that allows certain borrowers who acted in "bad faith" to be eligible to obtain buy-outs.

The Senate amendment also repeals the provision that calls for the creditworthiness of a borrower whose loan obligations have been restructured to be determined without regard to the restructuring. (Section 638)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 645)

The mandated restructuring process is being revised to increase the cash flow margin (income to expenses) of restructured borrowers so as to place them in a more financially viable position following the completion of restructuring and, thus, to increase their chances for success. Prior to the 1990 Farm Bill, a borrower qualified for restructuring when projected income met projected expenses. Because many of the borrowers who were restructured were financially weak following the restructuring, with low cash flows and high debt-to-asset ratios, the 1990 Farm Bill provided for additional relief through a 5-percent debt service margin. However, it is now apparent that this adjustment was not sufficient to put restructured borrowers in a financially viable position. This is reflected in the fact that thousands of borrowers have defaulted again after being restructured; some have then had additional restructuring, others bought out at the net recovery value, and others went through debt settlement.

The guidance on the termination of loan obligations for borrowers who do not qualify for restructuring is also being changed to provide that the person should make a payment to the Secretary that equals the current market value of loan security property and to end the requirement that such borrowers enter into recapture agreements covering any subsequent disposal of property.

VOL 142 PT 5 MR 21 — 29 1996 UMI

These changes were proposed by the Administration in its Farm Bill proposals as a way to receive a higher portion of the unpaid debt and to reduce its administrative costs by not having to monitor recapture agreements. In addition, the Managers believe that borrowers who did not act in good faith with the terms and conditions of their loan agreements with USDA should not benefit from USDA's servicing of their delinquent debts. Thus, a "bad faith" exception in the Con Act is being ended.

Furthermore, another current provision that provides that a borrower's future creditworthiness is to be determined without regard to restructuring is being stricken. It is the intent of the Managers that future credit decisions should take into consideration, among things such as cash flow and loan security, a borrower's credit history, including the results of a debt servicing action that causes farm loans to be written down, written off, or discharged through bankruptcy.

(25) Transfer of inventory land for conservation purposes

The Senate amendment removes a provision that prohibits the Secretary of Agriculture from requiring reimbursement when transferring real property for conservation purposes to other federal or State agencies. It also provides for public notices and a public meeting prior to a real property transfer, and consultation with state and local officials. (Section 639)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 646)

The Managers note that the Secretary is not being required to be reimbursed when transferring properties to other agencies. The phrase "without reimbursement" is being deleted because it is not necessary.

(26) Implementation of target participation rates

The Senate amendment requires that the Secretary ensure that targeting loan funds to members of socially disadvantaged groups complies with the Supreme Court's June 12, 1995, ruling in Adarand Constructors v. Pena. (Section 640)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 647)

(27) Delinquent borrowers, short form certification requirement, and credit study

The Senate amendment requires that a borrower pay a portion of the interest that is due as a condition of rescheduling or reamortizing loans that are not serviced under a mandated servicing process; the Secretary is to determine the required payment level.

The Senate amendment prohibits direct operating loans to borrowers who are delinquent on existing farmer program loans. It also prohibits direct and guaranteed loans to borrowers whose defaults on farmer program loans resulted in debt forgiveness. An exception provides that direct or guaranteed farm operating loans for paying annual farm or ranch operating expenses may be made to a borrower who was restructured with debt write-down.

The Senate amendment limits a borrower to not more than one instance of debt forgiveness under any delinquent debt servicing mechanism that results in USDA incurring direct loan losses.

Furthermore, the Senate amendment requires that the Secretary perform a study on the demand for and availability of credit in rural areas for agriculture, rural housing, and rural development. (Section 641)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that requires the Secretary of Agriculture to develop a short form for borrowers to use for certifying compliance with loan making statutes and regulations. (Sections 648–650)

The Managers are concerned that USDA is rewriting loans several times without having borrowers make any payments. GAO has reported that borrowers who are having difficulties or are unable to make their loan payments, but who have not been subjected to the mandated servicing provisions of the Con Act, are having their farm loans rewritten with revised interest rates, payment terms, and the combining of unpaid interest with outstanding principal. Also, the loans that are rewritten in this manner are not subject to the Con Act's total indebtedness limits. While such rewriting may appear to be a benefit to borrowers, in the long-run it is not because the capitalizing of unpaid interest erodes the equity that the borrowers have in their farm operations. It is the position of the Managers that USDA should use its loan-servicing tools to assist borrowers who are having difficulty in making their loan payments. However, limits are needed on the extent of that assistance to ensure that borrowers do not become so weak that they end up in an insolvent position and to ensure that the taxpayers' investment in these loans is better protected. Therefore, the bill requires that a borrower who has not requested servicing consideration in response to the formal notification under section 331D of the Con Act has to pay a portion of the interest that is due as a condition of having his or her loans rescheduled or reamortized. The Secretary is to determine the level of payment required from such borrowers.

The Managers are also concerned about the fiscal soundness of making farm operating loans to delinquent borrowers. According to GAO, a total of $130 million in direct farm operating loans was made to delinquent borrowers from fiscal year 1989 through the first half of fiscal year 1995. GAO has recommended that such loans be prohibited, and the Administration in its Farm Bill proposals also called for deleting this requirement. The Managers concur.

The bill is also generally prohibiting direct and guaranteed loans to borrowers whose prior defaults on farmer program loans resulted in debt forgiveness. GAO has recommended that borrowers whose prior loan defaults resulted in losses should be prohibited from receiving additional loans. The Administration in its Farm Bill proposals also called for prohibiting loans to borrowers who received debt write-offs through buy-outs and debt settlements. However, the Administration's proposal called for continuing to make loans to borrowers who received write-down, and it did not address lending to borrowers who defaulted on guaranteed loans. Subsequently, USDA officials agreed that borrowers who default on guaranteed loans that result in losses should also be prohibited from additional government-supported farm loans.

The Managers want to emphasize that the prohibition on new loans applies to borrowers who caused USDA to incur losses at any time prior to enactment of this Title as well as those who cause USDA to incur losses on or after enactment.

The Managers, however, recognize that borrowers who are restructured with debt write-down under section 353 of the Con Act and, as such, who remain USDA clients may have difficulty in obtaining credit from sources other than USDA since much, and possibly all, of their farm assets may be pledged as security for the restructured loans. Thus, borrowers whose debt is restructured with write-down will be able to obtain farm operating loans to pay their annual farm or ranch operating expenses. Specifically, the Managers intend that funding is to be allowed only for purchasing seed, feed, fertilizer, insecticide, and farm or ranch supplies and to meet other essential farm or ranch operating expenses, including cash rent.

The bill is also limiting a borrower to no more than one instance of debt forgiveness under any delinquent debt servicing mechanism that results in USDA incurring direct loan losses. A 1990 Farm Bill amendment to the Con Act limits borrowers whose delinquent debts are resolved through the restructuring process to either one write-down when restructured or one write-off when buying out. The one-time limitation added by the 1990 Farm Bill applies to new applications for restructuring that were submitted after the enactment date of that act. The 1990 Farm Bill limitation does not apply to borrowers whose accounts are resolved through the debt settlement process. Information from GAO indicates that some borrowers who have had debt relief when their delinquent debts were resolved through the restructuring process subsequently had additional debt relief when they went through the debt settlement process. There are also other ways in which borrowers can have multiple instances of debt relief. For example, borrowers who go through debt settlement and who received subsequent loans can receive additional debt relief if they default on the new loans and their accounts are restructured with debt write-down or bought out with write-off. Also, borrowers can receive more than one debt settlement, each with write-off.

To ensure that all delinquent borrowers are treated equally and to provide for better protection of the taxpayers' investment in the farm loans, the bill is limiting borrowers whose accounts are resolved through any of the three mechanisms to one instance of debt relief. The Managers want to emphasize that the limitation on debt forgiveness applies to borrowers who had debt forgiveness at any time prior to enactment of this Title as well as those who had debt forgiveness on or after enactment.

The Secretary of Agriculture is being required to perform a study on the demand for and availability of credit in rural areas for agriculture, rural housing, and rural development and to report on the results of this study to the Senate and House Agriculture Committees. The purpose of the study and report is to ensure that Congress has current and comprehensive information as it continues to deliberate on the credit heeds of rural America and the availability of credit to satisfy those needs. In completing this study, the Managers expect the Secretary to use, among other things, data and information obtained by the President's 1995 interagency task force on rural credit. The Managers also expect the Secretary to complete this study and provide this report by July 1996.

SUBTITLE E—GENERAL PROVISIONS

(28) Conforming Amendments

The Senate amendment contains conforming amendments of a technical nature to the Con Act concerning USDA's farm loan programs. (Section 651)

The House bill has no comparable provisions.

The Conference substitute adopts the Senate amendment regarding the Con Act technical changes. (Section 661)

(29) Electronic filing of financial statements and effective dates

The Senate amendment contains amendments to the Farm Credit Act of 1971 regarding the Agricultural Mortgage Secondary Market, commonly known as Farmer Mac, and the Farm Credit System. (Sections 661 through 699A)

The House bill has no comparable provisions.

The Conference substitute adopts the House provision deleting the Senate amendments regarding Farmer Mac and the Farm Credit System. Public Law 104–105, which was signed by the President on February 10, 1996, enacted the same Farmer Mac and Farm Credit System provisions. The Conference substitute also amends the Senate provision to allow the electronic filing of financial statements without the signature of the debtor providing State law authorizes such a filing and to provide guidance on the effective dates for the amendments made by this Title, including directing that regulations issued in response to these amendments are to be published as interim final rule. (Sections 662 and 663)

The Managers expect USDA in promulgating the rules to carry out the filing provisions for electronic financing statements to address the concerns of those States that have central filing, but have not yet implemented electronic filing, and will continue to utilize paper transactions. Commercial lenders have expressed a great deal of concern and confusion due to the vagueness of the continuation provisions that are related to the financing statements included in the Food Security Act of 1985 and its inconsistency with Article IX of the Uniform Commercial Code.

TITLE VII—RURAL DEVELOPMENT

SUBTITLE A—AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION AND TRADE ACT OF 1990

Chapter 1—General Provisions

(1) Rural investment partnerships

The Senate amendment extends the authorization for Rural Investment Partnerships and provides an authorization for appropriations of $4.7 million for each of fiscal years 1996–2002. (Section 701)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to repeal the authorization for Rural Investment Partnerships. (Section 701)

(2) Water and waste facility financing

The Senate amendment strikes duplicate authority (section 2322 of the FACT Act) for water and waste facility financing for Rural Utility Service borrowers that exists in Section 306(a) of the Con Act. (Section 702)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 702)

(3) Rural Circuit Rider Wastewater Program

The Senate amendment repeals authority for the Circuit Rider Water and Waste Technical Assistance Program. The authority is consolidated with all authorized rural water and wastewater technical assistance and training programs in Section 306(a)(16) of the Con Act. (Section 703)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 703)

(4) Telemedicine and distance learning services in rural areas

The Senate amendment reauthorizes and streamlines the Distance Learning and Telemedicine Program. A Treasury-rate loan program is created to assist rural borrowers in making telecommunications and data linkages available. The Senate bill authorizes appropriations of $100,000,000 for each of fiscal years 1996–2002. (Section 704)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment giving borrowers the right to appeal funding decisions. If the Secretary rejects the application of a borrower who applies for assistance, the borrower may appeal the decision to the Secretary not more than 10 days after the borrower is notified of the funding decision. (Section 704)

The Managers are concerned that past application, evaluation and approval procedures of the distance learning and telemedicine program have resulted in questions about the equity and validity of the application evaluation process. The conference amendment to the loan program is intended to provide a more rational and timely appeal procedure. Although the Managers understand that the Rural Utilities Service (RUS) provides information to applicants whose applications have been disapproved, the Managers intend for RUS to provide with each disapproval notice the raw scores for each proposal and a list by rank of each application that was approved and each that was disapproved.

The Managers also are concerned that the application appraisers may not have sufficient practical expertise in rural areas, and indeed, may lack sufficient technical understanding of some aspects of applications. The managers would encourage RUS to make certain the reviewers have technical and/or managerial expertise in the fields of telecommunications, telemedicine, distance learning and project management and are able to evaluate sufficiently each application fully on its merits.

To ensure that each applicant's submission is clearly understood by the RUS staff, the Managers believe that a formal presentation opportunity should be afforded each applicant that requests one, arranged as part of the formal application review process. The Managers recognize that while not every applicant may desire to give such a staff presentation, interested applicants need an opportunity to appear briefly before the reviewing staff, to pose and answer questions about their application. To the extent practicable, this may be accomplished through meetings in the field so that no applicant is unduly burdened financially.

The Managers intend for this approach to assist both applicants and RUS staff in finding and funding the best applications, ensuring a fair and equitable procedure so that questions are clarified. The Managers believe such a procedure would minimize misinformation from entering the application evaluation process.

Finally, the Managers believe that applications must be considered both on the part of reviewers and RUS staff without regard to how the service is delivered. Technology bias on the part of RUS staff has been a constant criticism and should be avoided whenever possible. The Managers intend that successful applications will be those considered entirely on their merits, and that applications for start-up programs should not receive greater weight than proven programs needing upgrades, improvements or expansion.

(5) Limitations on authorization of appropriations for Rural Cooperative Development Grant Program

The Senate amendment eliminates the authorization for appropriations for the Rural Technology and Cooperative Development Grant Program. The authorization for the program is maintained in section 310B of the Con Act. (Section 705)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 705)

(6) Monitoring the progress of rural America; demonstration grants

The Senate amendment repeals an obsolete provision for the collection of statistics on the economic progress of rural America in the 1992 Census. (Section 706)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to repeal authority which provides for rural economic development competitive grants. (Sections 706 and 707)

(7) Analysis by Office of Technology Assessment

The Senate amendment repeals obsolete authority for the Office of Technology Assessment to study the effects of information technology on rural America. (Section 707)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 708)

(8) Rural Health Infrastructure Improvement Program

The Senate amendment repeals unfunded authority for a demonstration project for rural health infrastructure improvement. (Section 708)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 709)

(9) Census of agriculture; study of transportation of fertilizer

The Senate amendment repeals an obsolete requirement for a 1992 Census question on agricultural accidents and farm safety. (Section 709)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to repeal authority for a study of the transportation of fertilizer and agricultural chemicals to farmers. (Sections 710 and 711)

Chapter 2—Alternative Agricultural Research and Commercialization

(10) Alternative Agricultural Research and Commercialization Corporation

The Senate amendment contains definitions for "Corporate Board" and "Corporation." (Section 721)

It converts the Alternative Agricultural Research and Commercialization Center to the Alternative Agricultural Research and Commercialization Corporation, a wholly-owned government corporation within the Department of Agriculture. The purpose of the Corporation is identical to the purpose for the Center—to expedite the development and market penetration of industrial (non-food, non-feed) products from agricultural and forestry materials and to assist the private sector in bridging the gap between research results and the commercialization of that research. (Section 722)

The general powers of the Corporate Board are expanded to allow the Corporation to sell

VOL 142 PT 5 MR 21—29 1996 UMI

assets, loans, and equity interests held by the Corporation. (Section 723)

The membership of the Corporate Board is increased from 9 members under current law to 10 members: the Under Secretary of Agriculture for Rural Economic and Community Development; the Under Secretary of Agriculture for Research, Education and Economics; four members appointed by the Secretary—one scientist, one producer or processor of agricultural commodities, one member engaged in the commercialization of new non-food, non-feed products; two members appointed by the Secretary who have expertise in applied research and who are nominated by the National Science Foundation; and two members who have experience in financial management and who are nominated by the Secretary of Commerce. (Section 723)

The Secretary is given authority to vacate and remand to the Board for reconsideration any funding decision for cause. The Secretary is required to inform the Board of the reasons for any remand. Board members serving at the time the Center is converted to the Corporation may be reappointed for the remainder of their term by the Secretary. The Senate amendment prohibits Board members from voting on applications if they have a conflict of interest and the Board of Directors is required to establish bylaws for the Corporation and requires the Secretary to review and approve the bylaws prior to adoption by the Board. The authority for the Corporation to establish advisory councils is eliminated. (Section 723)

It makes conforming changes reflecting the Center's new status as a Corporation. (Sections 724–727)

Contents of the Alternative Agricultural Research and Commercialization Revolving Fund may now include proceeds from the sale of assets, loans, and equity interests made in association with the goals of the Corporation. Funding allocation restrictions are established: (1) limits administrative expenses of the Corporation to the lesser of $3 million or 15 percent of appropriated funds in each fiscal year; (2) allows 1 percent of appropriated funds to be used for studies and reviews of individual proposals for assistance; (3) establishes that not less than 84 percent of funds appropriated shall be set aside to fund individual projects; and retains current law which provides that uncommitted funds in each fiscal year are to be credited to the Fund and authorizes the roll-over of funds for succeeding fiscal year funding of projects. The Board is given discretion to establish in the bylaws of the Board a policy for individual project monitoring and evaluation—the cost of which is not to exceed 1 percent of assistance per project award. (Section 728)

The Senate amendment further provides for the transfer of assets of the Revolving Fund to the Treasury upon expiration of the Corporation's authority. It provides an authorization for an appropriation of $75 million for each of fiscal year 1996–2002. (Section 728)

An executive agency is given authority to give a price or technical evaluation preference in procurement practices to products successfully commercialized with assistance provided by the Corporation. (Section 729)

Lastly, the Senate amendment requires the Corporate Board to develop a five-year business plan not later than 180 days after the date of enactment and submit the plan to the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition and Forestry of the Senate. In addition, the Secretary is required to conduct a study and prepare a report by December 31, 2001 on the feasibility of privatizing the Corporation and converting it to a government-sponsored enterprise. (Section 730)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to give the Secretary authority to appoint an additional Corporate Board member with financial management expertise, resulting in an 11-member Corporate Board. (Sections 721–730)

The Managers note that the move to establish the Alternative Agricultural Research and Commercialization Center as an independent agency within USDA was the result of concerns that the Center was being "co-opted" into the programming of other USDA business-related agencies. Despite departmental reorganization legislation (P.L. 103–354, subtitle A—General Reorganization Authorities, section 211(m)) which specifically exempted the Center from the reorganization and thus maintained the Center's independence, USDA continued its efforts to turn the Center into an adjunct program of the Rural Business-Cooperative Service. Measures have been taken to ensure the Corporation's independence.

As a new program, the Center has experienced "growing pains" over the last 2 years. In March 1995, the Department's Office of the Inspector General (OIG) reported that the Board members had not adequately disclosed their financial interests in projects; have operated under policies and procedures contained only in a draft manual, not in regulations; and have not required audited financial statements from applicants before approving projects. In addition, the Center exercised due diligence sporadically. The Managers recognize that steps are now being taken to approve management controls and oversight to remedy these problems.

In converting the Center to the Corporation, the Committee is imposing a number of controls on the activities of the Corporation and the Board. The Board is required to establish bylaws, which have to be reviewed and approved by the Secretary. As an agency of the Department of Agriculture, the Corporation is subject to oversight by the Secretary and can be audited and investigated by the OIG. In addition, the Corporation will be subject to the auditing and budgeting requirements of the Government Corporations Act. Strict conflict-of-interest restrictions are imposed, and the Secretary is given the authority to remand funding decisions made by the Board if the restrictions are violated. The Secretary is also directed to establish financial disclosure requirements for the Board.

In developing bylaws, the Managers expect the Board to establish clear criteria to be used in evaluating applications for commercialization projects. The criteria should ensure that the entity receiving assistance is in sound financial condition, has the financial, technical, and managerial capability to undertake the project, and has a reasonable expectation of success.

The Board's decision of funding projects should be based on the feasibility of the project, its marketability, the ability of the applicant to be successful in commercializing the product, and the ability of the applicant to repay the financial assistance it receives or provide a return on the Corporation's investment. Other considerations are the availability of matching funds, private-sector participation, potential market size, potential for jobs creation, state and local government participation, likelihood of reducing federal commodity support payments, likely impact on resource conservation, and likely impact on the environment. The Managers intend for the Corporation's continued independence to prevent political pressure from influencing the funding decisions of the Board of Directors.

The Managers also recognize the need to improve procurement procedures and regulations to allow the Corporation to function efficiently. The Corporation is part owner of many of the companies it supports. The Corporation should divest itself of that ownership as soon as practicable so that invested funds are returned to the revolving fund to be reinvested.

A new section is added to authorize an executive agency to give a price or technical evaluation preference in procurement practices to products successfully commercialized with assistance provided by the Corporation. The Managers believe that the Federal government should be allowed to procure new-use products that meet the unique needs of individual agencies. This change makes it easier for federal managers to purchase Corporation-supported products for use by the federal government. However, the Committee intends that government procurement should not, under any circumstance, establish the validity and sustain the viability of any given Corporation project.

Further, the Managers believe that with adequate funding of the revolving fund, the Corporation should eventually become self-sufficient. Authorized appropriations for the Center from 1991 through 1995 were $185 million, while actual appropriations were only $25.75 million, including a $1.5 million rescission.

The Managers regret the lack of funding available to establish regional centers. However, it is the Managers' view that the establishment and utilization of these centers under current budget restraints is not feasible.

Finally, the Secretary is required to prepare and transmit a report by December 31, 2001, to the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Agriculture on the feasibility of privatizing the Corporation or converting it to a government-sponsored enterprise. The Managers agree that the Corporation should investigate all means by which to increase its self-sufficiency through funding approaches that increase the level of assets in the revolving fund.

SUBTITLE B—AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

Chapter 1—General Provisions

(11) Water and waste facility loans and grants; rural business opportunity grants; and Technical Assistance and Training Program

The Senate amendment reauthorizes and increases the appropriation for water and waste treatment grants from $500,000,000 to $590,000,000. It maintains the 10,000 population limitation for water and waste disposal grants and direct and guaranteed loans only.

The amendment requires that sewer, waste, and water treatment projects funded under this section conform to State standards established under the Safe Drinking Water Act and the Clean Water Act.

It authorizes grants not to exceed $1.5 million annually—to establish centers for training, technology, and trade that provide assistance to rural businesses in the utilization of interactive communications technologies used to develop export markets. An appropriation of $7,500,000 for each of fiscal years 1996–2002 is authorized for this purpose.

The amendment eliminates unused authority for grants to volunteer fire departments for training and fire fighting equipment. It eliminates duplicate authority for loans for construction, acquisition, and operation of electric facilities receiving power from Power Marketing Administrations.

The amendment combines the authority for the wastewater technical assistance and training programs contained in section 2324 of the FACT Act with the rural water technical assistance program in the Con Act, and increases the funding level to account for consolidation of the two programs. (Section 741)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 741)

The Managers recognizes the strong performance and success of the National Rural Water Association's water and wastewater Circuit Rider technical assistance program and encourages continued support for the program. With diminishing levels of discretionary funding on the horizon, the Managers believe it paramount to maintain the Department's role in technical assistance to ensure that economically distressed rural communities conform to standards set forth in the Clean Water Act and the Safe Drinking Water Act.

(12) Emergency Community Water Assistance Grant Program for small communities

The Senate amendment combines the emergency assistance program for communities of 15,000 or less with the program for communities of 5,000 or less established by section 306B. Not less than 50 percent of available funds is required to be allocated to communities with populations of less than 3,000. The reauthorization of appropriation of $35 million is extended from 1996–2002. (Section 742)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to cap the population eligibility criteria at no more than 10,000 population. (Section 742)

(13) Emergency Community Water Assistance Grant Program for smallest communities

The Senate amendment repeals authority for the program. (Section 743)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 743)

(14) Agricultural Credit Insurance Fund

The Senate amendment eliminates obsolete authority in to insure loans with funds made available through a revolving fund of the Agricultural Credit Insurance Fund. (Section 744)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 744)

(15) Rural Development Insurance Fund

The Senate amendment eliminates obsolete authority to insure loans with funds made available through the Rural Development Insurance. (Section 745)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 745)

(16) Insured watershed and resource conservation loans

The Senate amendment eliminates obsolete authority for insured watershed and resource conservation and development loans. (Section 746)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 746)

(17) Rural industrialization assistance programs

The Senate amendment eliminates unused authority for pollution abatement grants, eliminates unused authority for insuring and guaranteeing loans for constructing or improving subterminal facilities, eliminates authority for loans to fund facilities for sharing telecommunications terminal equipment, computers and software with approval of State Rural Economic Development Review Panels, and makes competitive the awarding of passenger transportation services or facilities grants.

The Senate amendment amends the Rural Cooperative and Technology Development grant program by: 1) narrowing the focus and renaming the program the "Rural Cooperative Development Grant program; 2) emphasizing job creation in rural areas through the development of rural cooperatives, value-added processing, and rural businesses; 3) refocusing the efforts of the regional centers on technology research, feasibility studies, training, technology transfer, and technical assistance; 4) targeting the activities of the rural technology centers to build the capacity of rural industries, cooperatives, and agribusinesses; 5) establishing criteria for preferences in the awarding of grants, including a requirement to award grants on a competitive basis; 6) allowing the Secretary to make grants to defray up to 75 percent of the costs incurred by organizations and public bodies to carry out projects under this program; and 7) authorizes an appropriation of $50,000,000 million for each of fiscal years 1996–2002.

The Senate amendment authorizes the Secretary to make loan guarantees for the purchase of start up stock in a cooperative. To qualify for participation, the farmer must produce the agricultural commodity that will be processed by the cooperative. (Section 747)

The House bill has no comparable provisions.

The Conference substitute adopts the Senate provision with an amendment that extends eligibility for loans and grants for rural industrialization to industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade. (Section 747)

The Managers intend to target the limited funds available for the Rural Cooperative Development Grant program on cooperative development centers that operate on a regional or statewide basis. By focusing this grant program on regional centers rather than on small, local projects, the Committee hopes to link cooperatives from different communities and different sectors of the economy to strengthen the cooperative movement as a whole. Recipients of the grants may include a wide range of nonprofit organizations and educational institutions.

The Managers are aware of the pressing financing needs of new cooperatives. The Managers are also aware of changes being considered by the Rural Business-Cooperative Development Service (RBCS) to the Business and Industry (B&I) guaranteed program to address those needs. The Committee encourages RBCS to consider proceeding with changes to the B&I guaranteed loan program regulations to provide for more flexibility in equity requirements while maintaining due diligence requirements for overall credit quality analysis.

The Managers are also aware of interest in changing the current regulations of the Business and Industry guaranteed program. The regulations effectively preclude construction and start-up costs from inclusion under the guarantee. The Managers encourage RBCS to consider amending the B&I guaranteed loan regulations, as necessary, to provide for guarantees that are effective during the construction and start-up phase of projects. Changes to the regulations could include providing an alternative procedure without the current requirement that property acquisition and construction must be completed before the guarantee is effective, with guidelines for when the alternative procedure will be used.

The Managers strongly urge the Department to use the Business and Industry loan guarantee program in the development of value-added agricultural processing cooperatives and other value-added small businesses. These new businesses have the potential for raising farm income for producers, creating new wealth, and revitalizing local communities. Furthermore, the Managers believe that the B&I program can be effectively targeted to producers without the liquid assets to readily invest, to guarantee up to 30 percent of an individual's purchase stock in value-added agriculture processing businesses, including cooperatives, up to a maximum of $10,000 per eligible investor, and still protect the integrity of the loan guarantee. No more than 30 percent of a project's equity investment shall be guaranteed in this manner, assuming a satisfactory business plan. The Department which is permitted under current law to use the B&I loan guarantee in this manner, should take the necessary steps to implement this recommendation within 90 days of enactment of this bill.

(18) Administration-Debt reduction by secretary

The Senate amendment gives the Secretary authority to reduce debt for loan programs administered by the Rural Utilities Service, the Rural Housing Service, and the Rural Business-Cooperative Service. The Attorney General must be notified of the Secretary's intent to exercise any debt reductions. (Section 748)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 748)

(19) Authorization for appropriation

The Senate amendment eliminates obsolete direct loan authority. (Section 749)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 749)

(20) Testimony before congressional committees

The Senate amendment eliminates the requirement for the Secretary to testify before both House and Senate Agriculture Committees by February 15th of each year. (Section 750)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 750)

(21) Prohibition on use of loans for certain purposes

The Senate amendment gives the Secretary the authority to approve loans for utilities that cross wetlands. (Section 751)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 751)

VOL
142
PT
5
MR
21
—
29
1996
UMI

(22) Rural Development Certified Lenders Program

The Senate amendment creates a certified lenders program for the Business and Industry guaranteed loan program and other rural development loan programs under title III of the Con Act. (Section 752)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 752)

(23) System for delivery of certain rural development programs

The Senate amendment repeals the system of State Rural Economic Review Panels for rural development program delivery. (Section 753)

The House bill has no comparable provision

The Conference substitute adopts the Senate provision. (Section 753)

(24) State Rural Economic Development Review Panel

The Senate amendment repeals the duties and structure of State Rural Economic Review Panels. (Section 754)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 754)

(25) Limited transfer authority of loan amounts

The Senate amendment repeals the transfer of appropriated funds for water and waste facility direct loan programs to loan programs administered by the State Rural Economic Review Panels. (Section 755)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 755)

(26) Allocation and transfer of loan guarantee authority

The Senate amendment repeals State Rural Economic Review Panels authority to administer water and waste facility guaranteed loan programs. (Section 756)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 756)

(27) Water systems for rural and native villages in Alaska; water and waste disposal application requirements

The Senate amendment provides the Secretary with the authority to make grants to the State of Alaska for the benefit of rural and Native villages to develop and construct water and wastewater systems to improve sanitation conditions. To be eligible to receive a grant, the State of Alaska will provide equal matching funds from non-Federal sources. There are authorized to be appropriated $15 million for each of fiscal years 1996 through 2002. (Section 552)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require that not later than 60 days before a preliminary loan is filed for a loan or grant for water and waste disposal assistance, a notice of the intent of the applicant to apply for the loan shall be published in a general circulation newspaper. In addition, the selection of engineers for a project shall be done by a request for proposals by the applicant. (Sections 757 and 758)

The Managers encourage the Secretary to consider cost-effectiveness and viability of other drinking water delivery options prior to making decisions regarding the funding of new or expanded community water facilities which should include, but not limited to, community water systems, cluster well systems and individual privately-owned wells.

(28) National Sheep Industry Improvement Center

The Senate amendment establishes the National Sheep Industry Improvement Center. The purposes of the Center shall be to: (1) promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance the production and marketing of lamb and wool products in the United States; (2) optimize the use of available human capital and resources within the lamb industry; (3) provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, resource development and market and environmental research; (4) build the capacity of the U.S. sheep industry to design responses to the special needs of the lamb and wool industries on both a regional and national basis; and (5) adopt flexible and innovative approaches to solving the long-term needs of the U.S. sheep industry.

Funding for the Center's activities shall derive from the establishment of a revolving fund. This fund shall be capped at $50 million—$20 million of the fund shall be mandatory monies deposited by the Treasury into the fund from any other moneys in the Treasury not otherwise appropriated. In addition, authorization is provided for $30 million. After 10 years or upon receipt of $50 million to the revolving fund, the Center and its activities shall be privatized and no additional federal funds shall be used to carry out the activities of the Center.

The Center shall be managed by a nine member, non-compensated seven voting members and two non-voting members. The seven voting members shall be chosen in an election of the members of a national organization selected by the Secretary of Agriculture that is comprised of primarily U.S. sheep producers. The Board of Directors may use the monies in the fund to make grants and loans to eligible entities in accordance with a required annual strategic plan submitted to the Secretary of Agriculture. An eligible entity under the section is an entity that promotes the betterment of the U.S. sheep industry that is a public, private or cooperative organization. In addition, federally recognized Indian tribes, non-profit organizations, and public or quasi-public agencies are also eligible for assistance from the Center. (Section 757)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to include the goat and goat product industry. (Section 759)

The Managers intend the National Sheep Industry Improvement Center and revolving fund to assist and strengthen the U.S. sheep and goat industries which have experienced dramatic losses of infrastructure since 1993. The Center's activities should focus on the production and marketing of meat, fiber and hair. The Managers are concerned that over 16,000 of the nation's sheep producers have left the business in the last three years and the U.S. breeding herd has dropped 21 percent. Likewise, over 30 percent of the goat producers left the goat industry during that same time period. The Managers are also concerned with the severe loss of the industry's infrastructure—one-third of the major lamb packing plants in the United States have closed down operations.

It is the intent of the Managers that prior to submitting the list of nominations of the voting members for the Board of Directors to the Secretary, the national organizations shall consult with state associations that represent producers of sheep or goats. It is also the Managers position that the final composition of the Board reflect the comparative production of the industries.

The Managers expect that the Secretary will balance the equities between all segments of the sheep and goat industries in order to ensure participation by all facets of the industries in appointing members to the Board.

(29) Cooperative agreements

The Senate amendment gives the Secretary the authority to enter into cooperative agreements with other Federal agencies and State and local governments without being subject to the funding limitations imposed by the Federal Grant and Cooperative Agreement Act of 1977. (Section 793)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 759A)

(30) Eligibility for grants for broadcasting systems

The Senate amendment provides a definition for "statewide" coverage for the Television Demonstration Grant program. The term "statewide" means having a coverage area of not less than 90 percent of the population of a State and not less than 80 percent of the rural land area of the State. (Section 553)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 759B)

Chapter 2—Rural Community Advancement Program

(31) Rural Community Advancement Program

The Senate amendment establishes the Rural Community Advancement Program (RCAP), a new rural development program delivery mechanism.

The Senate amendment in Section 381A establishes that the terms "rural," "rural area," and "State" under the RCAP are subject to section 306(a)(7) of the Con Act which restricts water and wastewater program participation to towns with population of no more than 10,000 inhabitants. Eligibility for numerous programs are consolidated into one definition: a city, town, or unincorporated area that has a population of 50,000 inhabitants or less, other than an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population in excess of 50,000 inhabitants. In section 381B, The RCAP is established to provide grants, direct and guaranteed loans and other assistance to meet the unique rural development needs of local communities and federally recognized Indian tribes.

National objectives are established in section 381C of the Senate amendment to promote strategic development and collaborative efforts by the State and local communities to maximize the impact of Federal assistance; to optimize the use of local and State resources; and when providing assistance, to consider the complexity of rural needs for business development, health care, education, infrastructure, the environment, housing, and cultural resources.

The Senate amendment in section 381D requires the Secretary to direct each of the Directors of Rural Economic and Community Development State Offices to prepare a strategic plan for each state. Financial assistance for rural development projects within

each State under RCAP must be consistent with the plan.

Further, assistance under the RCAP may only be provided to an entity that is located in a rural area as defined under the RCAP. The Secretary is required to give priority to communities with the smallest populations and lowest per capita income.

The Senate amendment requires the Secretary to review the plan every 5 years. A strategic plan must: (1) coordinate plans and activities proposed for the area; (2) require the State and local communities to act as full partners in the process of developing and implementing the plan; (3) identify goals, methods, and benchmarks for measuring the success of the strategic plan; (4) be prepared in consultation with State, local, public and private entities, State rural development councils, federally-recognized Indian tribes, and community-based organizations; (5) identify federal and non-Federal resources available for implementation of the plan; and (6) include any other information required by the Secretary.

In section 381E, the Senate amendment consolidates over a dozen programs included in the RCAP into three function category accounts: (1) Rural Housing and Community Development includes direct loans, loan guarantees and grants for community facilities, and new construction funds for rural rental housing grants; (2) Rural Utilities includes grants, direct and guaranteed loans for rural water and wastewater disposal; grants for solid waste management; rural water and wastewater technical assistance and training grants; and emergency community water assistance; (3) Rural Business and Cooperative Development includes local technical assistance grants; rural business opportunity grants; guaranteed business and industry assistance loans; and grants for rural business enterprises. The Secretary will allocate the amounts in the three accounts among the States. The Secretary is given the authority to determine the allocation taking into consideration rural population, levels of income, unemployment, and other relevant factors, as determined by the Secretary.

The Secretary is also given authority in section 381E of the Senate amendment to transfer amounts allocated to the States for any of the three function categories for a fiscal year to a fourth function category: 1) mutual and self-help housing grants pursuant to section 523 of the Housing Act of 1949; 2) rural rental housing loans for existing housing pursuant to section 515 of the Housing Act of 1949; 3) rural cooperative development grants provided under section 310B(E); and 4) grants to broadcasting systems provided under section 310B(f). The funding for programs in the fourth function category may not be transferred out of these program accounts for funding other programs. Funds can only flow into these program accounts.

The Senate amendment permits the Secretary to transfer up to 25 percent from the amount allocated for a State under each function category in each fiscal year to any other function category within that State. However, not more than 10 percent of the total appropriations to the RCAP at the national level may be transferred among the three function categories.

The Senate amendment provides that the Secretary shall make available not more than 5 percent of appropriated funds for the RCAP to defray the cost of any subsidy associated with the state loan guarantee program provided for under the RCAP.

In section 381F, the Secretary shall reserve not more than 10 percent of the total funds appropriated for the RCAP to establish a national office reserve for rural development purposes. The national reserve may be used for emergencies, for incentive awards, or for performance-oriented demonstration projects. A three percent reserve shall be established for Federally-recognized Indian tribes to carry out rural development programs included in the RCAP. The reserve is to be administered through the appropriate Rural Economic and Community Development State Office Director.

The Senate amendment establishes the criteria for making allocations for the States. In making allocations for fiscal years 1997–2002, the Secretary shall ensure that the percentage allocation for each State is no less than the percentage of the average of the total funds obligated for the programs in each State in fiscal years 1993 and 1994. The minimum allocation constitutes a "hold harmless" provision. Funds allocated under this section are for Federal rural development programs within a State, and are not granted directly to the State.

The Senate amendment establishes a State RCAP grant in section 381G. It allows a State to request a grant of not more than 5 percent of the sums allocated for the State in any fiscal year. A state may request an additional 5 percent from the State allocation if the State provides non-Federal matching funds equal to 200 percent of the grant amount. The state is required to maintain the grant funds and any non-Federal matching funds in a separate account. State RCAP grant funds shall be used in rural areas for the same purposes as the funds appropriated for the programs included in the three function categories. The grant funds also must be used in accordance with the strategic plan for the State.

The Senate amendment requires participating states to provide assurances that the grant funds will be used to supplement, not supplant, the amount of Federal, State, and local funds committed to rural development. States are prohibited from using grant funds for administrative purposes.

The Senate amendment establishes a guaranteed loan program in section 381H to give States the ability to leverage RCAP State grant funds with loan guarantees. The Secretary is authorized to guarantee loans made by States or other eligible public entities for financing rural development projects with the RCAP State grant funds. The amount of the loan guarantee is limited to 5 times the amount of the RCAP State grant. The cumulative total of outstanding obligations guaranteed by the Secretary cannot at any time exceed amounts authorized to be appropriated in any fiscal year for all RCAP rural development programs.

In section 381I, the Senate amendment requires that applications for assistance demonstrate evidence of significant community support.

The Senate amendment in section 381J permits the establishment of voluntary pooling arrangements among States, and regional fund-sharing.

The Senate amendment directs the Secretary in section 381M to assume responsibility for establishing an interagency working group chaired by the Secretary. The working group shall establish policy, provide coordination, make recommendations, and evaluate the performance of all Federal rural development efforts.

In section 381N, the Senate amendment requires Rural Development State Directors to: ensure that the State strategic plan is implemented; coordinate community development objectives; establish links between State, local, and USDA field office program administrators; ensure recipient communities comply with applicable State and Federal laws and requirements; and integrate state development programs with assistance under the RCAP.

The Senate amendment requires the Secretary to use electronic transfer in section 381O for RCAP funds as soon as practicable. (Section 761)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require the Secretary to review the strategic plan within 60 days of submission in section 381D and maintain the present formula allocation established in regulation for rural development programs in section 381E.

Further, the House amendment in section 381E prohibits the transfer of funds from Rural Community Advancement Program activities into any housing programs, the rural cooperative development grants program, or the grants to broadcasting systems program. With the elimination of the fourth function category and housing programs, three function categories for rural development programs are established in the Rural Development Trust Fund : Rural Community Facilities, Rural Utilities, and Rural Business and Cooperative Development.

The House amendment in section 381E requires the Secretary to maintain a national reserve account. The reserve account may not exceed 15 percent of rural development funds available for fiscal year 1997, 12.5 percent in fiscal year 1998, 10 percent in fiscal year 1999, 7.5 percent in fiscal year 2000, 5 percent in fiscal year 2001, and 5 percent in fiscal year 2002. In fiscal years 1997 through 2000, reserve account funds may be used to meet situations of exceptional need, emergency situations, and to provide funds to entities whose applications have been approved and who have not received funds sufficient to meet the needs of projects described in the applications. In fiscal years 2001 and 2002, reserve account funds may be used only for situations of exceptional need or emergency situations.

The House amendment requires that not before July 15 of any fiscal year, the Secretary transfer to the national reserve account any amounts allocated to a State which have not been obligated by the State Director to fund specific approved projects within the State in section 381E.

In section 381F, the House amendment authorizes an automatic waiver of the national or state caps on the transfer of funds from one function category to another. Specifically, if there is an approved application for a project in a function category, but there are no funds available for projects in that function category, there is an automatic waiver excusing the Rural Economic and Community Development Director from compliance with the national or state caps if there is no approved application in the function category from which the funds are to be transferred, or the community that would benefit from the transfer has a smaller population and a lesser per capita income than any community that would benefit from a project in the function category from which the funds are to be transferred.

The House amendment in section 381I further requires that any community facilities or infrastructure project receive a certification of support from each affected general purpose local government.

In adopting the Rural Community Advancement Program (RCAP), the Managers

VOL
142
PT
5
MR
21
—
29
1996
UMI

agree that federal rural development programs are uncoordinated and require a greater degree of integration and local involvement. As a result, the U.S. Department of Agriculture's rural development programs have had a limited impact on stemming small rural communities' declining economic prosperity and social well-being. Coordinating goals, objectives and funding from federal programs, combined with empowering state and local leaders through direct involvement in providing federal assistance is key to any successful rural community initiative. In order to improve the effectiveness of federal rural development programs, an innovative state—and local community-oriented delivery system is necessary. The RCAP is based on three fundamental concepts: (A) People at the state and local level are in the best position to know and to respond to the needs of local communities and governments. Constructive solutions are generated by local leaders who are most informed about problems and can appropriately tailor problem-solving initiatives. More focus must be placed on the effectiveness of program funding rather than on the process of obtaining federal assistance; (B) "one size fits all" rural development programs are not likely to be effective because different areas need different solutions to their problems; and (C) the top-down federal-to-local approach to rural development erodes local incentives for leadership-building and community cohesion. Local communities must play a leading role in identifying local needs. Likewise, states are often bypassed, or only peripherally involved in federal programs, and they, too, need to be involved. States should coordinate and combine federal initiatives with their own rural development programs.

With respect to a State's strategic plan, the Managers specifically intend that State and local government officials act as full partners in creating a plan for the delivery of rural development assistance. The Managers are concerned that the role of these State and local government officials does not become merely procedural or consultative in nature. Rather, the Managers intend that State and local government officials play an integral and necessary role in the creation of each State's strategic plan to, among other things, identify the goals, priorities, and methods for the delivery of rural development assistance. In sum, the Managers intend the strategic plan to meaningfully reflect the input of State and local government. Strategic plans which are prepared consistent with the input of State and local governments as contained in official hearing records may provide evidence to satisfy the Managers' intent.

The Managers intend that the national reserve account funds be limited only by the priorities or preferences explicitly contained in Title VII of the Act and that no further priorities or preferences be established or otherwise adhered to. Specifically, the national reserve account is expected to be used for fiscal years 1997 through 2000 to meet situations of exceptional need, emergency situations, and to provide funds to entities whose applications for funds have been approved and who have not received funds to satisfy project needs described in the applications. In fiscal years 2001 and 2002, the purposes are limited to meet situations of exceptional need and emergencies. In section 381F, the Managers intend that there be an automatic waiver excusing State Rural Economic and Community Development Directors from compliance with limitations described in Subsections (a) and (b). If the conditions under Subsection (c) are certified by the State Rural Economic and Community Development Director as being met, the waiver is expected to be granted. The Managers intend that State Rural Economic and Community Development Directors have maximum flexibility in meeting the rural development needs of States. Further, the Managers intend that a State Rural Economic and Community Development Director exercise the flexibility granted under this Subsection in a manner that amounts allocated are effectively used to address the State's rural development needs.

The Managers intend that any application for funds under this title include documented evidence of significant community support. To accomplish this end, the Managers intend for the State Rural Economic and Community Development Director to consider evidence of significant community support contained in the application and any extraneous evidence confirming or denying such support to ensure that scarce Federal dollars finance only recognized rural development needs.

The Managers further intend that any application for funds under this title for community facilities or infrastructure projects must be certified by the affected general purpose local government or governments. The Managers intend that the applications subject to this requirement include, but are not limited to, those made under the water and waste disposal loan and grants programs, the community facilities loan and grant programs, the solid waste management grant program, the water and waste technical assistance and training program, and the emergency community water assistance program.

The Managers intend for the funding for federally recognized Indian tribes to be targeted to communities or reservations in Indian country in economic distress or with significant percentages of residents living in poverty. Indian tribes are expected to comply with the requirement of preparing a strategic plan.

The Managers agree that a wide range of factors should be considered in setting allocations to reflect the diverse needs of rural America. The Managers suggest that the Department consider outmigration, cost of living, housing affordability, and financial need in developing the funding formula for allocation to the states under the RCAP.

The Managers encourage the States to use their state grant funds to accomplish state and local rural development objectives. Suggested uses for grant funds include, but are not limited to, revolving loan funds, matching grants, and guaranteed loans. The Managers believe the State RCAP guaranteed loan program will enable local governments receiving RCAP state grant funds to obtain loan guarantees by pledging current and future RCAP funds as security for the loan. In order to obtain the guarantee, borrowers will be required to provide additional security, such as pledges of existing grant balances and program income, liens on assets financed with the guaranteed loan funds, or the establishment of loan reserves. In all cases, USDA will structure additional security requirements to ensure that each guaranteed loan is adequately collateralized with existing assets and credit enhancements.

The Managers expect the National Rural Development Partnership to be the foundation upon which the Interagency Working Group is established. In 1990, the National Rural Development Partnership (the Partnership), a nonpartisan interagency working group whose mission is to "contribute to the vitality of the Nation by strengthening the ability of all rural Americans to participate in determining their futures," was launched by Executive order. The Partnership consists of senior program managers representing over 40 federal agencies, as well as national representatives of public interest, community-based, and private-sector organizations.

The Managers expect the Interagency Working Group, like the Partnership, to act as an information resource and facilitator of effective rural development initiatives. It will serve as the bellwether of rural development activities in the United States, monitoring activities and initiatives and reporting to Congress on what advances and what fails to advance local improvements. In this regard, the Managers believe that the Partnership should continue its role in monitoring and reporting on policies and programs that work, as well those that fail, to address the needs of rural America.

In addition, State Rural Development Councils (RDC) should continue to act as the conduit to the Partnership. RDC participation is driven not by access to new program dollars but by a goal to increase the effective use of existing rural development assistance.

The State Councils are expected to play a role in the formulation of local needs assessments and in the development of state criteria for the distribution of RCAP funds. RDCs will continue to play the role of monitor and trouble-shooter for each state and work with the Partnership and Interagency Working Group to advance the goals of RCAP.

The Managers expect the Department, in implementing its rural development activities, to give priority to those areas at greatest risk because of health concerns. Areas such as the "Colonias" lack not only the basic necessities of water and waste facilities, but also all other basic infrastructure development. The Department, through its various rural development programs, should look at the "totality of circumstances" in such areas and develop strategies that will address all the needs in order to ensure total development of these areas.

Rural Venture Capital Demonstration Program

The Senate amendment establishes in section 381K a Rural Venture Capital Demonstration Program to demonstrate the utility of guarantees to attract increased private investment in rural business enterprises. The Secretary may in each fiscal year designate up to 10 community development venture capital organizations to participate. Each organization will establish an investment pool for the purpose of making equity investments in rural businesses. The Secretary is required to guarantee not more than 30 percent of the total funds in a pool against loss. The Secretary is authorized to issue guarantees covering not more than $15 million for any fiscal year. The term of a guarantee may not exceed 10 years.

The Managers intend that the demonstration project be implemented in a manner which ensures geographic diversity. The Managers are concerned that the program's merit cannot be accurately tested if the only participating organizations are concentrated in a single State, region, or area. The Managers believe that the demonstration project must be implemented in various States, regions, and areas in order to demonstrate viability in a diverse national economy.

The Managers agree that the availability of loan programs alone do not meet all the needs of rural areas for financing. In order to develop the diverse economic base crucial for survival in the modern economy, rural communities need access to equity capital to finance business start-up and expansion. The private-sector venture capital markets that fuel economic growth often do not reach into small communities. The intent of this demonstration program is to channel venture capital to business ventures that would not otherwise be targeted by traditional venture capital firms.

The Managers intend this program to demonstrate the utility of using a limited investment guarantee to draw private investment capital to distressed rural communities. The organizations selected to participate in the demonstration will use the guarantee as a tool to attract investments from philanthropic organizations, individual and corporate investors, and other sources of private sector capital to finance business development activities. Investments from private investors will be pooled by the participating organization into a Rural Business Investment Pool, and USDA will guarantee up to 30 percent of the pool's value against loss. The Committee expects that most if not all of the pools will earn money over the term of the investments. Any pool losses on the guarantee shall be paid out of the national office reserve fund.

An organization wishing to participate in this program must submit a plan that describes how the funds will be raised and merged in the pool and how the guarantee will help it raise money. Each applicant will be asked to describe the need for venture capital in its area, the types of business ventures that will be targeted for investments, the process by which investments will be chosen, and the likely forms of investment. The Secretary is also expected to ensure that organizations have procedures in place to avoid conflicts of interest, mismanagement, and fraud.

The Secretary will choose the organizations on the basis of a competition, in which priority will go to organizations that can demonstrate their experience—or the experience of their top officials—in venture capital and small business equity investments or in community development finance. Priority will also be based on an organization's ability to serve low-income communities, generate local wealth, and target jobs to low-income individuals.

Applicant organizations should demonstrate strong business relationships with established banks and other financial institutions or with community-based organizations. Since diversification of risk will help reduce the likelihood that the pool loses money, and thus will reduce the cost to the government, the Secretary shall also give priority to organizations that propose to maintain an investment portfolio averaging $500,000 or less per business.

(32) Community Facilities Grant Program; simplified applications

The Senate amendment authorizes grants under the Community Facilities program. Grants can not exceed $10 million in any fiscal year to any entity. A grant may not exceed 75 percent of the development cost of the facility. The Secretary is directed to provide a graduated scale for the amount of the Federal share of the grant, establishing greater levels of grant funding for facilities in communities that have lower population and income levels. (Section 762)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that requires the Secretary to develop a streamlined, simplified, and uniform application for specified rural development programs within one year of enactment. (Section 762 and 763)

The Managers are concerned about the costly, complex, and onerous paperwork involved in making an application for assistance under Federal rural development programs. Managers intend for the Secretary of Agriculture to create within one year of the date of enactment one streamlined, simplified, and uniform application for all rural development programs eligible for funding under this title

SUBTITLE C—AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936

(33) Purposes investigations and reports

The Senate amendment authorizes the Secretary to make or commission studies, investigations, and reports regarding financial, technological, and regulatory matters affecting the condition and progress of electric and telecommunications service and economic development in rural areas. An obsolete provision requiring the issuance of regulations is deleted. (Section 771)

The House bill no comparable provision.

The Conference substitute adopts the Senate provision. (Section 771)

(34) Authorization of appropriation; Reconstruction Finance Corporation

The Senate amendment eliminates references to the Reconstruction Finance Corporation, an obsolete funding mechanism for RE Act programs, and annual state allotments of funds based on farms not receiving central station electric service. The authorization of appropriations is retained. (Section 772)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 772)

(35) Loans for electrical plants and transmission lines

The Senate amendment eliminates authority for 2 percent loans for electrical plants and transmission lines. (Section 773)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 773)

(36) Loans for electrical and plumbing equipment

The Senate amendment repeals authority for loans for wiring and plumbing which has not been funded since 1969. (Section 774)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 774)

(37) Testimony on budget requests

The Senate amendment eliminates a requirement that the Secretary testify before the House and Senate Agriculture Committees to justify the budget request. (Section 775)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 775)

(38) Transfer of functions of administration

The Senate amendment repeals an obsolete provision that allowed the President to transfer the responsibilities of the ERA to the Secretary in 1935. (Section 776)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 776)

(39) Annual report

The Senate amendment repeals the requirement for the Secretary to submit an annual report to Congress summarizing RUS activities. (Section 777)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 777)

(40) Prohibition on restricting water and waste facility services to electric customers

The Senate amendment prohibits the "tying" of water and waster facility financing to the purchase of electric service from RUS borrowers, duplicating a provision that governs water and waste programs under the Consolidated Farm and Rural Development Act. (Section 778)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendment maintaining the provisions of the Consolidated Farm and Rural Development Act and requiring the Secretary to publish implementing regulations within 60 days of enactment. (Section 778)

(41) Telephone loans terms and conditions

The Senate amendment eliminates a provision that allows telephone borrowers to determine the term of a telephone loan. (Section 779)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 779)

(42) Privatization program

The Senate amendment repeals an obsolete provision for an electric loan prepayment plan for an Alaskan electric cooperative. (Section 780)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 780)

(43) Rural business incubator fund

The Senate amendment repeals authority for the Rural Business Incubator Fund. (Section 781)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 781)

SUBTITLE D—MISCELLANEOUS RURAL DEVELOPMENT PROVISIONS

(44) Interest rate formula

The Senate amendment authorizes the Secretary to reestablish the interest rate for the Resource Conservation and Development loan program and the Watershed loan program. (Section 791)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 791)

(45) Grants for financially stressed farmers, dislocated farmers, and rural families

The Senate amendment eliminates unfunded authority for a grant program that targets financially stressed farmers, dislocated farmers and rural families. (Section 792)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 792)

(46) Fund for rural america

The Senate amendment creates an account called the Fund for Rural America. The Secretary is given authority to transfer from the Commodity Credit Corporation into the account $50 million in fiscal year 1996, $100 million in fiscal year 1997, and $150 million in fiscal year 1998.

The Secretary may use funds for the following rural development program activities authorized in:

VOL 142 PT 5 MR 21—29 1996 UMI

The Housing Act of 1949: direct loans to low-income borrowers pursuant to section 502; loans for financial assistance for housing for domestic farm laborers pursuant to section 514; financial assistance for housing domestic farm labor pursuant to section 516; grants and contracts for mutual self-help housing pursuant to section 523(b)(1)(A); grant for Rural Housing Preservation pursuant to section 533.

Funds may also be used for Intermediary Relending Program loans, Consolidated Farm and Rural Development Act section 310B Rural Business Enterprises grants, grants, direct and guaranteed loans for water and wastewater projects pursuant to section 306 of the Consolidated Farm and Rural Development Act, Consolidated Farm and Rural Development Act section 310E downpayment program assistance for beginning farmers, grants for outreach to socially disadvantaged farmers and ranchers pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990, and grants pursuant to section 204(6) of the Agricultural Marketing Act of 1946.

Up to one-third of the funds from the account may be used to fund competitive research grants. Grants may be used for research, extension, and education. Grants shall not be made for projects eligible for funding under research and commodity promotion programs. Matching funds are required if the grant is for applied research that is commodity-specific and not of national scope. Not more than 4 percent of the funds made available for research can be used for administrative costs. Research funds in the account shall not be used for the construction of new buildings or the acquisition, expansion, remodeling, or alteration of an existing building, or in excess of 10 percent of the annual allocation for commodity-specific projects not of national scope.

The Senate amendment provides that no monies from the Fund may be used for an activity if the current level of appropriation for the activity is less than 90 percent of the 1996 fiscal year appropriation for the specific activity adjusted for inflation. (Section 507)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change the name of the Under Secretary for Rural and Economic Development to the Under Secretary for Rural Development and an amendment to make available beginning on January 1, 1997, out of any funds in the Treasury not otherwise appropriated $100,000,000 for fiscal year 1997, $100,000,000 for fiscal year 1998, and $100,000,000 for fiscal year 1999. The Secretary shall use one-third of the funds made available to the Fund for a fiscal year for rural development activities and one-third of the funds made available to the Account for a fiscal year for competitive research activities. The remaining one-third may be used for either rural development or research at the discretion of the Secretary.

Rural development activities include the following programs under the Housing Act of 1949: direct loans to low income borrowers pursuant to section 502; loans for financial assistance for housing for domestic farm laborers pursuant to section 514; financial assistance for housing of domestic farm labor pursuant to section 516; grants and contracts for mutual and self help housing pursuant to section 523(b)(1)(A); grants for Rural Housing Preservation pursuant to section 533; and Rural Rental Housing Assistance pursuant to section 521. In addition, all rural development programs including those authorized under the Consolidated Farm and Rural Development Act; specified sections of the FACT Act of 1990; Title V of the Rural Development Act of 1972 and specified sections of the Human Services Reauthorization Act of 1986 and the Food Security Act of 1985.

The Secretary shall conduct the specified rural development programs in accordance with and subject to current program authorities. Funds shall only be expended on programs that received appropriations in fiscal year 1995. Not more than 20 percent of funds dedicated to all rural development activities shall be expended on housing grant and loan activities.

Further, in any fiscal year, the Secretary shall not announce the fiscal year's allocation for any program pursuant to this section until one business day following the day the appropriations bill for the fiscal year becomes law.

The Secretary may use the funds in the account for grants for research, extension and education to increase international competitiveness, efficiency, and farm profitability; reduce economic and health risks; conserve and enhance natural resources; develop new crops, new crop uses, and new agricultural applications of biotechnology; enhance animal agricultural resources; preserve plant and animal germplasm; increase economic opportunities in farming and rural communities; and expand locally owned value added processing.

The Secretary may make a grant to colleges and universities, including land grant colleges and universities with established programs of research, extension, or higher education, Federal research agencies and national laboratories, and private research organizations with established and demonstrated capacity to perform research or technology transfer.

A grant made under this paragraph may be used by a grantee for one or more of the following uses: outcome-oriented research at the discovery end of the spectrum to provide breakthrough results, exploratory and advanced development and technology with well identified outcomes, national, regional, or multi-State programs oriented primarily towards extension programs and education programs demonstrating and supporting the competitiveness of United States agriculture.

Not less than 15 percent of the amounts made available under this section for a fiscal year shall be awarded to entities ranking in the lower one-third on the basis of Federal research funds received from sources other than this section.

The Secretary shall establish criteria for allocating grants based on the priorities for uses of funds in consultation with the Advisory Board. The Secretary shall seek and accept proposals for grants; determine the relevance and merit of proposals through a system of peer and advisory board review; and award grants on the basis of merit, quality, and relevance to advancing the national research and extension purposes.

Research grants shall be awarded on a competitive basis. A grant shall have a term that does not exceed 5 years.

The Secretary shall require the funding of the grant with equal matching funds from a non-Federal source if the grant is for applied research that is commodity specific, and is not of national scope.

The Secretary shall administer this section through the Cooperative State Research, Education, and Extension Service of the Department of Agriculture.

Funds shall be available for obligation for a 2 year period, except the Secretary may use not more than 4 percent of the funds made available under this paragraph for administrative costs incurred by the Secretary. Furthermore, funds made available for research grants shall not be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees). (Sections 793 and 794)

Rural development component

The Managers intend, under Subsection (c)(1)(B), that established rural development programs with current authority under the Consolidated Farm and Rural Development Act, specified sections of the FACT Act of 1990, Title V of the Rural Development Act of 1972, and specified sections of the Food Security Act and the Human Services Reauthorization Act of 1986 regarding intermediary lending, be eligible for funds made available under the Fund for Rural America. These programs include the water and waste disposal loan and grant programs, the community facilities loan and grant programs, the solid waste management grant program, the rural water and waste technical assistance and training program, the distance learning and telemedicine program, the rural cooperative development grant program, the rural business opportunity grant program, the business and industry guarantee program, the rural business enterprise grant program, activities of the Alternative Agricultural Research and Commercialization Corporation, the intermediary relending program, the downpayment program for beginning farmers, rural cooperative development grant program, and grants for outreach and technical assistance for socially disadvantaged farmers and ranchers program.

The Managers are concerned about the backlog of water and wastewater program applications which, according to USDA reports, is as high as $3 billion. The Managers expect that the Secretary make satisfying these outstanding needs a priority with respect to the Fund for Rural America.

A continuing resolution that provides appropriations in a fiscal year for the Department of Agriculture meets the same conditions of allowing the Secretary to announce program allocations from the Fund. The Managers intend the Secretary to make such allocations in a manner to provide additional funding to appropriation acts.

Research Component

It is the intent of the Managers that the uses of the fund could include consideration of genome mapping projects which may lead to increases in international competitiveness.

The Managers support high-quality, peer reviewed biotechnology research with practical applications carried out by consortia of public and private universities and companies and selected through a competitive process. The Managers intend that such a consortia be considered eligible grantees for assistance under the research component of the Fund for Rural America.

The managers intend that the eligibility for National Laboratories to compete for grants under the Fund for Rural America is an outgrowth of the Memorandum of Understanding (MOU) signed between the Department of Agriculture (USDA) and the Department of Energy (DOE) in November, 1995. The managers encourage the National Laboratories to continue their efforts in a cooperative manner with the agricultural community. It is the intent of the managers that the USDA and DOE continue their efforts to meet the objectives outlined in the recent MOU.

Further, it is the intent of the Managers that the independent review by the advisory board should facilitate better communication between the scientific community and the end user of their products. Therefore, the decision to fund proposed projects under the research component of the Fund for Rural America will be determined by the program administrator based on recommendations of the peer review panel and the advisory board. The peer review panel will review the scientific merit of the proposal. The advisory board will review the proposal based on the purposes and objectives established in the request for proposal. The advisory board shall have flexibility to establish their procedures.

TITLE VIII—AGRICULTURAL RESEARCH, EXTENSION AND EDUCATION TITLE

SUBTITLE A—MODIFICATION AND EXTENSION OF ACTIVITIES UNDER THE 1977 ACT

(1) Purposes of agricultural research, extension and education.

The Senate amendment revises the list of purposes of federally supported agricultural research, extension, and education in Section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act (NARETPA) of 1977. (Section 801)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment making technical changes. (Section 801)

The Managers encourage the Secretary to consider the benefits of conservation tillage and agricultural biotechnology as significant components of USDA's agricultural research, extension and education programs to conserve natural resources.

(2) National Agricultural Research, Extension, Education and Economics Advisory Board.

The Senate amendment amends Section 1408 of NARETPA of 1977 to establish the National Agricultural Research, Extension, Education, and Economics Advisory Board (Board) and to eliminate the authority for the National Agricultural Research and Extension Users Advisory Board. The Board shall consist of 25 members appointed by the Secretary and selected from national farm, commodity, agribusiness, environmental, consumer, and other organizations. The Secretary shall ensure that full-time farmers and ranchers are included on the Board. The duties of the Board are to advise the Secretary and land grant colleges and universities regarding policies and priorities and their effectiveness, the implementation of the Government Performance Review Act, and the technology review process. The Board is required to consult with persons that will benefit from Federally-funded research, extension, education, and economics. The term for Board members is 3 years. The Board is deemed to have filed a charter for purposes of the Federal Advisory Committee Act. Authority for the Board expires on September 30, 2002. (Section 804)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to increase the number of members from 25 to 30 and list the types of organizations from which members would be selected. (Section 802)

The Managers strongly encourage the Secretary to ensure that the advisory board has at least five farmers or ranchers as representatives. The Managers intend that the members of the board described in this section as actively engaged in the production of a plant or food animal commodity be full-time farmers or ranchers.

The National Agricultural Research, Extension, Education and Economics Board is intended to review and provide consultation regarding priorities to both the Secretary and land-grant colleges and universities. The Board is encouraged to solicit opinions and recommendations from those who will benefit from and use federally funded agricultural research, extension, education and economics in an effort to ensure that viewpoints of citizens and appropriate organizations are taken into account when setting priorities. The Managers intend that technology assessments should be conducted by a group of qualified professionals. This new Advisory Board may also review and provide input on the capacity and coordination of research carried out on a regional basis, particularly as it relates to strategic planning for the Department.

(3) Federal Advisory Committee Act Exemption for Federal-State Cooperative Programs

The Senate amendment amends Section 1409A of NARETPA of 1977 to exempt groups composed of state cooperative institution officials and employees and full-time federal employees from FACA coverage. Meetings of such groups shall be open to the public. Records of meetings, including minutes, are required to be kept and made available to the public upon request. (Section 806)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to add public universities and postsecondary institutions. (Section 803)

The managers intend that employees of Hispanic-Serving Institutions can participate in cooperative efforts concerning agricultural research, extension or education which are exempt from FACA.

(4) Coordination and Planning of Agricultural Research, Extension and Education

The Senate amendment requires the Secretary to develop a system to monitor and evaluate agricultural research and extension conducted or supported by the Federal government.

For the activities of the Department that relate to food safety, animal or plant health, research, education, or technology transfer, the Secretary may transfer up to 5 percent of funds to an agency reporting to the Under Secretary for Research, Education and Economics to address imminent or emerging threats to food safety and animal and plant health.

Any committee, board, commission, panel, or task force established solely to review proposals for funding under any competitive research, extension, or education program is exempted from Federal Advisory Committee Act requirements. (Section 807)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require an analysis of state of the art information technology systems, require that the system be developed to permit public access, and provide an authorization for appropriations. The Conference substitute also strikes the proposed 5% transfer authority. (Section 804)

It is the intent of Congress that the Current Research Information System (CRIS) and other program information tracking systems used by Research, Extension and Education be integrated into a Management Information System (MIS) that tracks all research, extension and education programs that receive funding from the USDA. This system will include information about the goals, objectives, scope and current status of these programs in a format that can be used to report to Congress and that is consistent with the requirements of the Government Performance Review Act. Moreover, this MIS must be structured so that the Secretary is able to report to Congress on the extent of activities being funded for each of the purposes identified in Section 1402 of NARETPA of 1977. One component of this MIS shall be designed so that the findings and accomplishments of USDA-funded research and extension programs are fully accessible by the general public through online access, with full search and retrieval capacities. Another component of this MIS shall be designed so that researchers, extension agents and specialists will be able to search and retrieve detailed information on all USDA-funded research and extension activities across the country, with the capacity to search for projects and findings that are pertinent to their agronomic, natural resource, and climatic parameters, as well as the economic and social conditions of their state or county.

To develop a "cutting edge" MIS quickly and expeditiously, it is understood that the Department will need immediate access to highly qualified computer systems specialists, theorists and technicians. The Congress expects the Secretary to contract out the development of this MIS or some subset of the project, with a university, a consortium of universities, or the private sector. It is the expectation of Congress that the USDA will set a goal that the MIS be designed, implemented and fully functional within three years of passage of this legislation.

This section also provides an exemption from the Federal Advisory Committee Act (FACA) for entities created solely to review proposals for applications submitted for funding under any competitive research, extension, or education program carried out by the Secretary of Agriculture. The managers understand that in addition to reviewing proposals and applications for the purpose of evaluating them and making award recommendations, entities that are exempted from FACA, pursuant to this section also may render to the Secretary program advice derived from such review process.

(5) Grants and fellowships for food and agricultural sciences education

The Senate amendment amends Section 1417 of NARETPA of 1977 to permit the Secretary to provide higher education funds to research foundations maintained by colleges and universities. The Secretary may make capacity building grants to 1890 institutions for both teaching and research. The authorization of appropriations is extended at the level of $60 million through fiscal year 2002.

Section 1417 of NAREPTA is further amended to require the Secretary to promote and strengthen secondary education in agriscience and agribusiness and to allow the Secretary to make grants to public secondary education institutions, 2-year community colleges, and junior colleges to promote and support agriscience and agribusiness education. The functions and duties of the Secretary of Education regarding FFA are transferred to the Secretary of Agriculture. (Section 808)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997 and strike the FFA transfer from the Secretary of Education to the Secretary of Agriculture. (Section 805)

VOL
142
PT
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MR
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29
1996
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(6) Grants for research on the production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products

The Senate amendment extends the authorization of appropriation of $20 million for this research through 2002. (Section 809)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 806)

(7) Policy research centers

The Senate amendment authorizes the Secretary to make grants, competitive grants, and special research grants to policy research centers for research and education programs regarding the implications of public policies on the farm and agricultural sectors; the environment; rural families and economies; and consumers, food and nutrition. State agricultural experiment stations, colleges and universities, and other institutions and organizations are eligible to receive grants. Funds may be used for research and education. There are authorized to be appropriated such sums as are necessary for fiscal years 1996 through 2002. (Section 810)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 807)

In authorizing grants for policy analysis under this section, the Managers acknowledge the valuable work of several analytical institutes associated with universities. At the same time, the Managers do not intend to confine the universe of potential grantees to these institutions, or indeed to universities generally.

The Managers also note that policy analysis must be clear about what it does and does not demonstrate. For example, an analysis which describes the effect of a proposed policy change on the incomes of agricultural producers, but does not attempt to estimate the same policy change's effect on input suppliers, processors, rural employment or total rural economic activity, cannot give a complete picture of how the policy change in question might affect rural America. The analysis might be quite useful, but it is important that its limitations be made clear. The principle here is that policy analysis is helpful to the extent that policymakers—and the public—understand both its uses and its limits.

In identifying these possible weaknesses of current analyses, the Managers do not intend to be critical of the dedicated professionals who perform a valuable service in analyzing a host of alternative policies. Rather, the Managers intend to contribute to a healthy discussion of whether current analytical conventions are adequate and whether refinements and improvements might be made.

(8) Human Nutrition Intervention and Health Promotion Research Program

The Senate amendment amends Section 1424 of NARETPA of 1977 to eliminate the unfunded authority for the Food Science and Nutrition Research Center and replace it with authority for the Secretary to award grants for a research initiative on human nutrition intervention and health promotion. There are authorized to be appropriated such sums as are necessary for fiscal years 1996 through 2002. (Section 811)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997 and to authorize research to combine medical and agricultural research. (Section 808)

This section authorizes a multi-year research initiative on human nutrition intervention and health promotion. In carrying out research projects under this section, the Secretary may take into account the unique opportunity outlined in the Lower Mississippi Delta Development Commission report which is currently being addressed by the Department of Agriculture through the Agricultural Research Service and Pennington Biomedical Research Institute at Louisiana State University, Southern University at Baton Rouge, Alcorn State University, the University of Southern Mississippi, the University of Arkansas at Pine Bluff and the Arkansas Children's Hospital Research Institute, all operating as equal partners. In carrying out research projects under this section, the Secretary may consider the special nutritional needs of the rural elderly and take into account the research being coordinated by Geisinger Medical Center in Danville, Pennsylvania. In carrying out research projects under this section, the Secretary may consider designing and developing new foods to improve food production and processing and to improve the nutritional quality of the food supply.

(9) Food and Nutrition Education Program

The Senate amendment extends the authorization for appropriation of $83 million for the Expanded Food and Nutrition Education Program (EFNEP) through 2002. (Section 812)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 809)

(10) Purposes and findings relating to animal health and disease research

The Senate amendment amends Section 1429 of NARETPA of 1977 to add food safety and animal well-being to the list of purposes of animal health and disease research. (Section 813)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 810)

Society periodically amends how it acts and reacts to particular considerations. New terminology emerges over time attempting to capture new trends, new thoughts, and new considerations when describing a social condition. With respect to interactions between humans and animals, the term of art "animal well-being" has emerged replacing "animal welfare" to various degrees in literature and language of the day.

The Managers recognize that the term "animal well-being" can have slightly different interpretations. Therefore the term "animal well-being" for the purposes of this Act shall represent the basic efforts to assure proper care, treatment and shelter of animals, and the elimination of unnecessary cruel or painful treatment. However, the defining criteria shall include efforts to include more specific clinical criteria such as the evaluation of appetite, growth rate, reproduction and production levels. In other words, utilize tangible physical indicators or measurable endpoints to interpret how the animal can "communicate" a status of well-being to their human stewards.

(11) Animal health and disease continuing research

The Senate amendment extends the authorization of appropriation of $25 million through 2002. The formula for allocating funds among the States is amended to include the value of and income from aquaculture. (Section 815)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 811)

(12) Animal health and disease national or regional research

The Senate amendment clarifies that research under section 1434 of NARETPA of 1977 may include pre-harvest and on-farm food safety and animal well-being. The authorization for appropriation is extended through 2002 at a level of $35 million. State agricultural experiment stations, colleges and universities, and other organizations and institutions are eligible for grants. Pre-harvest and on-farm food safety and animal well-being are added to the list of problems that the Secretary is required to prioritize annually. Any panel or board created solely for reviewing applications under this section is exempt from the Federal Advisory Committee Act. (Section 816)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 812)

This section also provides an exemption from the Federal Advisory Committee Act (FACA) for entities created solely to review proposals for applications submitted for funding. The managers understand that in addition to reviewing proposals and applications for the purpose of evaluating them and making award recommendations, entities that are exempted from FACA, pursuant to this section also may render to the Secretary program advice derived from such review process.

(13) Grant program to upgrade agricultural and food sciences facilities at 1890 land-grant colleges

The Senate amendment provides an authorization of appropriation of $15 million through 2002 for the acquisition and improvement of facilities, equipment, and libraries used for agricultural and food sciences at 1890 institutions. (Section 818)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision to change 2002 to 1997. (Section 813)

(14) National Research and Training Centennial Centers Programs, programs for Hispanic-serving institutions, and international agricultural research and extension

The Senate amendment extends the authorization for appropriation of $2 million for competitive grants for five national research and training centers located at 1890 colleges including Tuskegee University through 2002. (Section 819)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997 and to define Hispanic-serving institutions and to authorize education grants for Hispanic-serving institutions and a technical amendment to Section 1458(a)(8) of NARETPA of 1977. (Section 814, 815, and 816)

(15) Authorization of Appropriations for Agricultural Research Programs

The Senate amendment extends authorization for appropriation of $850 million for agricultural research (Agricultural Research

Service, animal health and disease, and supplemental and alternative crops) through 2002. The authorization for appropriation of $310 million for formula funds (Hatch Act funds) for state agricultural experiment stations is extended through 2002. (Section 821)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 817)

(16) Authorization of appropriations for extension education

The Senate amendment extends authorization for appropriation of $460 million for Extension Service funding through 2002. (Section 822)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 818)

(17) Supplemental and alternative crops research

The Senate amendment extends authorization for appropriation of such sums as are necessary for research to develop supplemental and alternative crops through 2002. Subsections (b) and (c) of section 1473D of NARETPA of 1977 are amended to include in the research program under this section the development of new commercial products derived from natural plant materials for industrial, medical and agricultural applications. References to the pilot project are deleted since the program is no longer a pilot project. (Section 823)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 819)

(18) Aquaculture Assistance Programs

The Senate amendment repeals the requirement for an annual aquaculture report by the Secretary to Congress. The authorization for appropriation of $7.5 million for aquaculture assistance programs, including research and regional centers, is extended through 2002. The authorization for appropriation of $500,000 for each of two specific institutions for research on intensive water recirculating aquaculture systems is extended through 2002. (Section 824)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997 and to add ornamental fish to the definition of aquaculture in Section 1404(3) of NARETPA of 1977. (Section 820)

(19) Authorization of appropriations for rangeland research

The Senate amendment extends the authorization for appropriation of $10 million for rangeland research through 2002. (Section 825)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 821)

SUBTITLE B—MODIFICATION AND EXTENSION OF ACTIVITIES UNDER THE 1990 ACT

(20) Water quality research, education, and coordination

The Senate amendment repeals Subtitle G of title XIV of the Food, Agriculture, Conservation and Trade Act of 1990. This subtitle of the Conservation title authorized funds for the development and implementation of a coordinated, integrated, and comprehensive intra-agency program to protect waters from contamination from agricultural chemical and production practices, but was never funded. (Section 831)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 1997. (Section 831)

(21) National Genetics Resources Program

The Senate amendment extends the authorization for appropriation of such sums as necessary for the National Genetics Resources Program through 2002 and allows the Secretary to make genetic material available to other countries. (Section 834)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 832)

(22) National agricultural weather information system

The Senate amendment extends the authorization for appropriation of $5 million for the National Agricultural Weather Information System through 2002. (Section 835)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 833)

(23) Livestock Product Safety and Inspection Program

The Senate amendment extends the authorization for appropriation of such funds as necessary for the livestock product safety and inspection program through 2002. (Section 838)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 834)

(24) Plant Genome Mapping Program

The Senate amendment repeals unused authority for a plant genome mapping program. (Section 839)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to retain authority for the program. (Section 835)

(25) Certain Specialized Research Programs

The Senate amendment repeals authority for specialized research projects. The projects authorized under this section were not funded under this authority. (Section 840)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to retain authority for ethanol and aflatoxin research, and to extend authorization for mesquite, prickly pear, and deer tick ecology and related research to 1997. (Section 836)

(26) Agricultural Telecommunications Program

The Senate amendment extends the authorization for appropriation of $12 million to encourage the development of an agricultural communications network to facilitate and strengthen education, extension, research and domestic and international marketing through 2002. (Section 841)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 837)

(27) National centers for agricultural product quality research

The Senate amendment extends the authorization for appropriation of such sums as necessary for grants to centers for research, development and education programs on food safety and wholesomeness through 2002. (Section 842)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997 and to modify purposes and delete requirement for submission of plan to Congress. (Section 838)

It is the intention of Managers that this section be broadly interpreted to establish a competitive, applied research grants program, facilitating industry partnerships and supporting a broad spectrum of research, development, and education programs to enhance global competitiveness through improvements in product quality and competitiveness.

Through this program, the Managers seek to stimulate public and private investment in productive and competitive segments of agriculture and to maximize the cost effectiveness of that research.

(28) Red meat safety research center authorization and turkey research center

The Senate amendment repeals authority for a turkey research center which has not been funded. (Section 843)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to add an authorization for a red meat safety research center. (Section 839)

The United States has the safest food supply in the world. However, the managers recognize the need for red meat safety research. Currently the Department of Agriculture supports several high quality research centers. It is the intent of the Managers that a facility, dedicated to red meat safety research, be competitively established at an existing facility or a new facility and that it augment, not duplicate, current research already being done on red meat safety.

The Managers are also particularly interested that this facility have the ability to interact with national organizations and private livestock packing plants in carrying out their research.

(29) Indian Reservation Extension Agent Program

The Senate amendment reauthorizes the Reservation Extension Agent Program, established under Section 1677 of the Food, Agriculture, Conservation and Trade Act of 1990 through 2002. On a determination by the Secretary that a program has been satisfactorily administered for two years, the Secretary shall implement a reduced application process in order to reduce regulatory burdens on participating university and tribal entities. (Section 555 of Title V)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to strike the 2002 authorization date since the program is permanently authorized. (Section 840)

(30) Assistive Technology Program for farmers with disabilities

The Senate amendment extends the authorization for appropriation of not less than $5 million for grants to support programs providing on-farm agricultural education and assistance to individuals with disabilities who are engaged in farming through 2002. The authorization for appropriation of $1 million for competitive national grants for technical assistance, training and information dissemination is extended through 2002. (Section 846)

VOL
142
PT
5
MR
21
—
29
1996
UMI

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 841)

(31) National rural information center clearinghouse

The Senate amendment extends the authorization for appropriation of $500,000 for the National Rural Information Center Clearinghouse within the National Agricultural Library through 2002. (Section 848)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 842)

(32) Global climate change

The Senate amendment extends the authorization for appropriation of such sums as necessary for a global climate change program is extended through 2002. (Section 849)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 843)

SUBTITLE C—REPEAL OF CERTAIN ACTIVITIES AND AUTHORITIES

(33) Subcommittee on Food, Agricultural, and Forestry Research

The Senate amendment repeals authority for the Subcommittee on Food, Agricultural, and Forestry Research of the Federal Coordinating Council For Science, Engineering, and Technology. (Section 802)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 851)

(34) Joint Council on Food and Agricultural Sciences

Authority for the Joint Council on Food and Agricultural Sciences is repealed. (Section 803)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 852)

(35) Agricultural Science and Technology Review Board

The Senate amendment repeals authority for the Agricultural Science and Technology Review Board. (Section 805)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 853)

(36) Animal Health Science Research Advisory Board

The Senate amendment repeals authority for the Animal Health Science Research Advisory Board. (Section 814)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 854)

(37) Resident Instruction Program at 1890 Land-Grant Colleges

The Senate amendment repeals Section 1446 of NARETPA of 1977 which provides for grants for teaching programs at 1890 institutions. This section was never funded. (Section 817)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 855)

(38) Grants to States for international trade development centers

The Senate amendment repeals Section 1458A of NARETPA of 1977. This section authorizes the Secretary to make grants for the establishment of International Trade Development Centers, but was not funded. (Section 820)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 856)

(39) Rangeland Research and Composting Research and Extension Program

The Senate amendment repeals the requirement for an annual rangeland research report. The authority for the Rangeland Research Advisory Board is repealed. (Section 825)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to repeal the composting research and extension program. (Sections 857 and 858)

(40) Education program regarding handling of agricultural chemicals and agricultural chemical containers

The Senate amendment repeals authority for an unfunded program to catalogue the federal, state, and local laws and regulations for handling unused or unwanted agricultural chemical containers. (Section 832)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 859)

(41) Program administration regarding sustainable agriculture research and education

The Senate amendment repeals authority for the National Sustainable Agriculture Advisory Council and a requirement for an annual report. (Section 833)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 860)

(42) Research regarding production, preparation, processing, handling, and storage of agricultural products

The Senate amendment repeals Subtitle E of title XVI of the Food, Agriculture, Conservation and Trade Act of 1990. The food safety research and grant program authorized by this subtitle has not been funded. (Section 836)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 861)

(43) Plant and animal pest and disease control program, specialized research programs, and commission on agricultural research facilities

The Senate amendment repeals Subtitle F of title XVI of the Food, Agriculture, Conservation and Trade Act of 1990. Integrated pest management (IPM) research authorized under this subtitle has been funded under other authorities. (Section 837)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to repeal animal lean content research, immunoassay research, niche market development research, scrapie research, and new commercial products from natural plant materials research and to repeal Commission on Agricultural Research Facilities from Section 1674 of the FACT Act. (Section 862, 863, and 864)

(44) Special grant to study constraints on agricultural trade

The Senate amendment repeals the authority for at least two grants to study the impacts of technical barriers, quality factors and end-use characteristics in agricultural trade, which has not been funded. (Section 865)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 865)

(45) Pilot project to coordinate food and nutrition education programs

The Senate amendment repeals authority for a pilot project for grants to not less than two states for food and nutrition education programs, which has not been funded. (Section 845)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 866)

(46) Demonstration areas for rural economic development

The Senate amendment repeals authority for grants to rural areas to serve as demonstration areas for rural economic development, which has not been funded. (Section 847)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 867)

(47) Technical advisory committee regarding global climate change

The Senate amendment repeals authority for a technical advisory committee, which has not been funded. (Section 849)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 868)

(48) Committee of Nine under Hatch Act of 1887

The Senate amendment deletes authority for the Committee of Nine from the Hatch Act. (Section 864)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 869)

(49) Cotton crop reports

The Senate amendment repeals the requirement that cotton crop production reports be issued at 3:00 p.m. (Section 867)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 870)

(50) Rural Economic and Business Development and Additional Research Grants Under Title V of Rural Development Act of 1972

The Senate amendment amends Section 502 of the Rural Development Act of 1972 to repeal authority for an Extension Service rural economic and business development program to enable states or counties to employ specialists, which has not been funded (section 502(g)). Authority for a competitive grant program for rural development research, which has not been funded, is repealed (section 502(j)). (Section 868)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 871)

(51) Human nutrition research

The Senate amendment repeals a requirement for an annual report on human nutrition research activities. (Section 869)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 872)

(52) Grants to upgrade 1890 land-grant college extension facilities and indian subsistence farming demonstration grant program

The Senate amendment repeals obsolete authority for a program to upgrade 1890 land-grant college extension facilities. (Section 871)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to repeal the Indian Subsistence Farming Demonstration Grant Program. (Section 873 and 874)

SUBTITLE D—MISCELLANEOUS RESEARCH PROVISIONS

(53) Critical agricultural materials research

The Senate amendment extends the authorization of appropriation for the Critical Agricultural Materials Act through 2002. The requirement for an annual report is eliminated. (Section 861)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 881)

(54) 1994 institutions

The Senate amendment extends the authorization of appropriation of $4.6 million for providing land grant status to 29 tribal colleges (referred to as 1994 institutions) through 2002. The authorization of appropriation of $1.7 million for institutional capacity building grants for 1994 institutions is extended through 2002. (Section 862)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision, striking the Senate provision.

(55) Memorandum of agreement regarding 1994 institutions

The Senate amendment states that by January 6, 1997, the Secretary shall develop and implement a Memorandum of Agreement with the 29 tribally controlled colleges to ensure that tribally-controlled colleges and Native American communities equitably participate in Department of Agriculture employment programs, services and resources. (Section 555 of Title V)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 882)

(56) Smith-Lever Act Funding for 1890 Land-Grant Colleges, Including Tuskegee University

The Senate amendment amends Section 3(d) of the Smith-Lever Act to make colleges or universities eligible to receive funding under the Act of August 30, 1890, including Tuskegee University, or Section 208 of the District of Columbia Public Postsecondary Education Reorganization Act, eligible for Extension funding under Smith-Lever 3(d) programs. This change applies after FY95 to any increases in funding for existing Smith-Lever 3(d) programs and to all new Smith-Lever 3(d) programs. A conforming amendment is made to section 1444(a) of NARETPA of 1977 and to the District of Columbia Public Postsecondary Education Reorganization Act to clarify that this change would not result in a reduction of other Extension Service funding to these colleges and universities. (Section 863)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to remove the reference to Section 208 of the District of Columbia Public Postsecondary Education Reorganization Act. (Section 883)

(57) Agricultural Research Facilities

The Senate amendment amends the Research Facilities Act.

Section 1 is the short title.

Section 2 contains new definitions for "Agricultural Research Facility" and "Food and Agricultural Sciences".

Section 3 establishes the process for reviewing proposals for agricultural research facilities. Subsection (a) requires proposals to be submitted to the Secretary and the Secretary is required to review proposals in the order in which they are received. Subsection (b) requires the Secretary to establish the application procedure in consultation with the Senate and House Appropriations Committees. Subsection (c) requires all proposals for new funding for agricultural research facilities at colleges, universities or non-profit institutions to be reviewed by USDA to determine whether they meet the following criteria:

the availability of at least a 50% non-Federal match in cash;

the facility must not be duplicative of existing facilities;

the facility must serve the national research priorities established in section 1402 of NARETPA of 1977 and regional needs;

the college, university, or non-profit institution supporting the facility must demonstrate the commitment to long-term support for operating the facility and conducting research; and

the facility must reflect the strategic plan for federally supported research facilities established in section 4. Subsection (d) requires the Secretary to review proposals within 90 days and report the results of the evaluation and assessment to the Senate and House Appropriations Committees.

Section 4 requires the Secretary to develop a ten-year strategic plan for the development, construction, modernization, consolidation, and closure of federally supported research facilities. The plan should reflect the need to increase the productivity of and to enhance the competitiveness of the U.S. agricultural and food industry. It should also reflect the findings of the National Academy of Sciences with respect to programmatic and scientific priorities relating to agriculture.

Section 5 exempts panels or board created solely to review proposals from the Federal Advisory Committee Act.

Section 6 authorizes the appropriation of such sums as necessary for fiscal years 1996 through 2002 for the study, plan, design, structure and related costs of such facilities. Administrative costs are limited to 3 percent of the cost of the project.

The new review process would not apply to projects for which funds were appropriated for a feasibility study or for any phase of the project prior to October 1, 1995, but such projects would be included in the strategic plan. The strategic plan required by Section 4 shall apply to all federally supported agricultural research facilities, including those funded prior to the effective date of this title.

Subsection (b) amends section 1431 of NARETPA of 1985 to extend the authorization for appropriation for Federal research facilities to 2002 and to delete the requirement for an annual report on Federal research facilities. (Section 865)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997; to require consultation with the House and Senate Agriculture Committees; and to delete the requirement for the Secretary to develop a 10-year strategic plan for the development, construction, modernization, consolidation and closure of federally supported research facilities and instead to require the formation of a task force to be appointed from the Advisory Board membership (established by Section 802 of this Act) as well as others demonstrating appropriate expertise to prepare the strategic plan within two years for the development, modernization, construction, consolidation, and closure of federal agricultural research facilities and agricultural research facilities proposed to be constructed with federal funds. (Section 884)

This section requires that all proposals for new funding for agricultural research facilities at colleges, universities or non-profit institutions be reviewed by USDA to determine whether they meet specified criteria. The Managers intend that feasibility studies completed more than two fiscal years prior to enactment but not provided further funding should go through this new review process if federal funding is still being sought. While an exemption from FACA is provided for a panel formed to review the proposals under section 5 of the Research Facilities Act, the Managers are not requiring that such a panel be formed. This section provides an exemption from the Federal Advisory Committee Act (FACA) for entities created solely to review proposals for applications submitted for funding. The Managers understand that in addition to reviewing proposals and applications for the purpose of evaluating them and making award recommendations, entities that are exempted from FACA, pursuant to this section also may render to the Secretary program advice derived from such review process.

(58) National competitive research initiative

The Senate amendment extends the authorization for appropriation of $500 million for a competitive grant program for basic and applied research open to all researchers through 2002. The requirement that not less than 20% of appropriated funds shall be available to make grants for mission-linked systems research is increased to 40%. Funds will be available for a two-year period to allow for the award of grants in a more orderly manner. (Section 866)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 885)

The Secretary is encouraged to consider grants to mission-linked research which contribute to the development of applied technologies and information which increase the profitability of farms and ranches and increase economic opportunities for rural communities.

(59) Rural development research and education

The Senate amendment amends Section 502 of the Rural Development Act of 1972 to clarify that rural development Extension programs shall also promote coordinated and integrated rural community initiatives that advance and empower capacity building. (Section 868)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 886)

This section makes clear that the Secretary can establish a national rural development program supported by the Cooperative State Research, Education, and Extension Service that provides national focus and

VOL
142
PT
5
MR
21
—
29
1996
UMI

local implementation for an efficient and effective delivery of training, technical assistance, and applied research. Such programs may address rural challenges in the areas of leadership development, entrepreneurship, business development and management training which stimulate small and rural communities to increase jobs, income and quality of life.

(59) Dairy goat research program and research to eradicate and control brown citrus aphid and citrus tristeza virus

The Senate amendment repeals authority for a grant to one 1890 land grant institution for dairy goat research, which has not been funded. (Section 870)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to retain authority for dairy goat research through 1997 and with an amendment to add an authorization for competitive grants for research to eradicate and control brown citrus aphid and citrus tristeza virus. (Sections 887 and 888)

(60) Stuttgart National Aquaculture Research Center

The Senate amendment amends Public Law 85–132 of March 15, 1958 to transfer the Fish Farming Experimental Laboratory in Stuttgart, Arkansas from the Department of the Interior to the Department of Agriculture and to rename it the Stuttgart National Aquaculture Research Center. All personnel, assets, liabilities, contracts, real and personal property, records, and the unexpended balance of appropriations, authorizations, allocations, and other funds are transferred. This research center shall be complementary to, and not duplicative of, facilities of colleges, universities, nonprofit institutions, and ARS facilities. (Section 872)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, (Section 889)

(61) National aquaculture policy, planning, and development

The Senate amendment amends the National Aquaculture Act of 1980.

Subsection (a) amends the definition of aquaculture and adds a definition of private aquaculture.

Subsections (b) and (c) designate USDA as the lead agency for aquaculture.

Subsection (e) establishes a national policy for private aquaculture and requires the Secretary to develop and implement a Department of Agriculture Aquaculture Plan for coordinating and implementing aquaculture activities and programs within the Department and supporting the development of private aquaculture. The Secretary is also authorized to maintain and support a National Aquaculture Information Center at the National Agricultural Library. The Secretary is directed to treat private aquaculture as agriculture and is directed to coordinate interdepartmental functions and activities relating to private aquaculture.

Subsection (f) authorizing appropriations of $1 million for each of the Departments of Agriculture, Commerce and Interior is extended through 2002. (Section 873)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision, striking the Senate provision.

(62) Expansion of authorities related to the National Arboretum, Transfer of Aquacultural Research Center, and use of remote sensing data

The Senate amendment expands the authorities of the National Arboretum to allow it to benefit from proceeds resulting from concession fees, disposition of excess properties, fees from the commercial use of facilities and grounds, and license use of the National Arboretum name and logo. Any funds received from these activities are to be held in a special account for the use of the National Arboretum as the Secretary considers appropriate. (Section 874)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to permit the transfer of the Southeastern Fish Culture Laboratory in Marion, Alabama to USDA; and to direct the Secretary and the Administrator of NASA to work together to provide farmers with timely information through remote sensing. (Sections 890, 891, and 892)

In addition to NASA, the managers encourage the Secretary to continue cooperative efforts with the Department of Energy (DOE). The managers support the Memorandum of Understanding that was signed between the Department of Agriculture (USDA) and the DOE in November 1995. It is the intent of the managers that the cooperative efforts of the DOE and USDA continue.

(63) Study of Agricultural Research Service

The Senate amendment directs the Secretary to request the National Academy of Sciences to conduct a study on the role and mission of the Agricultural Research Service. The study is to review the mission of federal research conducted by ARS, evaluate the strength of ARS science and its relevance to national priorities, and examine how the agency's work relates to the capacity of the U.S. agricultural research, education and extension system overall. The report is to be completed within 18 months of the date of enactment. The Secretary is directed to make not more than $500,000 of ARS funds available for the report. (Section 875)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision, deleting the Senate provision.

(64) Sense of the Senate regarding methyl bromide and general funding authority for research, extension and education

The Senate amendment states it is the sense of the Senate that the Department of Agriculture should continue to make methyl bromide alternative research and extension activities a high priority of the Department and that the Department of Agriculture, the Environmental Protection Agency, producer and processor organizations, environmental organizations and state agencies should continue their dialogue on the risks and benefits of extending the 2001 phaseout deadline. (Section 877)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide general funding authority for research, extension and education activities and initiatives for fiscal years 1998 through 2002. (Sections 893, 897 and 898)

The conference agreement includes provisions that, for fiscal years 1998 through 2002, would direct the Secretary to conduct such research, education, and extension activities as are specifically funded in appropriations acts, and that would authorize the appropriations of such sums as are necessary to carry out such activities and initiatives. As indicated elsewhere, the Managers also have agreed that each of the authorizations of appropriations for agricultural research, extension or education programs or activities contained in this title shall be extended only through fiscal year 1997. The Managers intend that these combined actions will provide Congress and the Executive branch a fresh opportunity to conduct a thorough and comprehensive review of the federal agricultural research, extension and education programs and authorities. Our purpose is to revise these programs and authorities as necessary to ensure that the needs of the nation, and in particular the agriculture sector, are met as we transition into a new era. The Managers intend that this review be completed and that comprehensive legislation be enacted by the end of fiscal year 1997.

(65) Miscellaneous research concerns

The Managers recognize the importance of continuing research to find alternatives to grass burning used by the grass seed industry.

The Managers believe that research and education to enhance soil quality and thus human and animal health are important. These research and education efforts should begin to address our understanding of the interrelationship between soil quality, food quality and overall health.

In recognizing that our nation's soil resources affect multiple priorities including farm productivity, water and air pollution, food quality and natural resource enhancement as well as human and animal health, the Managers encourage continuing efforts to develop standardized field and laboratory methods to measure and interpret changes observed in soil quality indicators across fields, farms and watersheds.

The Managers recognize that there have been exciting and promising advances made in agricultural areas including perennial grain polyculture ecosystems; high seed yield; management of insects injurious to plants, plant pathogens and weeds; nitrogen fertility provided by legumes; minimizing soil erosion, use of fossil fuels and synthetic chemicals; and enhancement of soil quality. The Managers believe that research in these areas would be eligible to compete for competitive research funding.

(66) Agriculture weather service centers

The collection, quality, and reporting of agricultural weather data should remain a federal responsibility. Without federal responsibility to collect and distribute weather data, the specialized forecasts and private sector agricultural weather services may not remain viable.

Furthermore, it is the belief of the Managers that it has not been properly demonstrated that the private sector is ready to assume responsibility of agricultural weather data collection and dissemination. The managers encourage the National Weather Service (NWS) to recognize the value of the Agriculture Weather Service Centers.

The Department of Agriculture is familiar with farming and the collection and dissemination of weather data. Therefore the managers believe that the Department of Agriculture is the most suitable agency for this service. The Department has an ongoing relationship with the land-grant colleges and universities, and via the extension service, can ensure that this information is made

available to all producers. Therefore, the Managers encourage the NWS to work cooperatively with the Department to explore ways to continue to provide agricultural weather data and transfer this responsibility to the Department of Agriculture. The Managers request the NWS and the Department of Agriculture to report on the status of Agriculture Weather Service Centers to the Congressional Committees on Agriculture not later than 30 days after enactment of this Act.

Until such time that action can be taken on the transfer of the Agriculture Weather Service to the Department of Agriculture, the Managers request that this important and essential service be continued through the Commerce Department, and the Department of Agriculture contract for this service. Additionally, the Managers request that the funding for this service continue through Commerce, State, Justice appropriations.

TITLE IX—MISCELLANEOUS

SUBTITLE A—COMMERCIAL TRANSPORTATION OF EQUINE FOR SLAUGHTER

The Senate amendment establishes requirements for the commercial transportation of equine for slaughter.

Section 521 sets forth findings. Congress finds that, to ensure that equine sold for slaughter are provided humane treatment and care, it is essential to regulate the transportation, care, handling, and treatment of equine by any person engaged in the commercial transportation of equine for slaughter.

Section 522 defines commerce, Department, equine, equine for slaughter, foal, intermediate handler, person, Secretary, vehicle, and stallion.

Section 523 directs the Secretary, subject to the availability of appropriations, not later than 1 year after the date of enactment of this subtitle, to issue, by regulation, standards for the humane commercial transportation by vehicle of equine for slaughter.

A person engaged in the regular business of transporting equine by vehicle for slaughter as part of a commercial enterprise, is prohibited, from transporting horses to slaughter except in accordance with the standards and this subtitle.

This section establishes minimum requirements for the humane handling, care, treatment, and equipment necessary to ensure the safe and humane transportation of equine for slaughter, including period of time in transport and vehicle requirements. All equine for slaughter must be fit to travel as defined by an accredited veterinarian who shall prepare a certificate of inspection. No equine for slaughter shall be accepted by a slaughter facility unless the equine is inspected on arrival and is accompanied by a certificate of inspection.

Section 524 outlines the record keeping procedures required for transportation of equine to slaughter.

Section 525 states that an act or omission of an employee of a person engaged in the business of transporting equine for slaughter shall be considered an act or omission of the employer as well as the employee. This section also requires that if an equine suffers a substantial injury or illness while being transported for slaughter on a vehicle, the driver of the vehicle shall seek prompt assistance from a licensed veterinarian.

Section 526 authorizes the Secretary to cooperate with States, political subdivisions of States, State agencies (including State departments of agriculture and State law enforcement agencies), and foreign governments to carry out and enforce this subtitle (including regulations issued under this subtitle).

Section 527 authorizes the Secretary to conduct such investigations or inspections as the Secretary considers necessary to enforce this subtitle (including any regulation issued under this subtitle), establishes guidelines for the investigations, and permits employees or agents of the Department to provide assistance to or destroy any equine found suffering.

Section 528 establishes penalties for interfering with enforcement of the act.

Section 529 establishes judicial jurisdiction for cases arising from this act.

Section 530 establishes civil and criminal penalties for violations of this Act or regulations.

Section 531 states that, from sums received as penalties, fines, or forfeitures of property for any violation of this subtitle (including a regulation issued under this subtitle), the Secretary shall pay the reasonable and necessary costs incurred by any person in providing temporary care or medical assistance for any equine that needs the care or assistance due to a violation.

Section 532 states that nothing in this subtitle prevents a State from enacting or enforcing any law (including a regulation) that is not inconsistent with this subtitle or that is more restrictive than this subtitle.

Section 533 authorizes appropriations to carry out the act. No provision of this subtitle shall be effective or enforced during a fiscal year unless funds have been appropriated. (Subtitle C of Title V)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment authorizing the Secretary of Agriculture because of the unique and special needs of equine being transported to slaughter, subject to the availability of appropriations, to issue guidelines for the regulation of persons regularly engaged in the commercial transportation of equine for slaughter within the U.S. Among the issues the Secretary shall review are the food, water and rest provided to equine in transit and the segregation of stallions from other equine during transit. (Sections 901–905)

It is the intent of the Managers that the object of any prospective regulation on this matter will be the individual or company which regularly engages in the commercial transport of equine to slaughter, and will not extend to individuals or others who periodically transport equine for slaughter outside of their regular activity.

It is the intent of the Managers that the Secretary of Agriculture to the maximum extent possible employ performance based standards rather than engineering based standards when establishing guidelines for the regulation of commercial transportation of equine species to slaughter.

The Managers intend that the Secretary of Agriculture's authority to issue guidelines for regulation is restricted solely to the commercial transportation of equine to a slaughter facility. Also, it is not the intention of the Managers for the Secretary to inhibit the commercially viable transport of equine to slaughter facilities.

It is the clear intent of the Managers that no authorization of authority under this section may be construed to give the Secretary authority to regulate the routine or regular transportation of non-slaughter equine. Further, it is the clear intent of the Managers that no authorization of authority under this section may be construed to give the Secretary authority to regulate the routine or regular transportation of any other livestock, including poultry, to a slaughter facility or any other destination or by any conveyance.

SUBTITLE B—GENERAL PROVISIONS

(1) Livestock Dealer Trust, Interstate Quarantine, Cotton Classification Services, and Plant Variety Protection Act

The Senate amendment amends Title III of the Packers and Stockyards Act of 1921 and establishes a statutory trust for the benefit of livestock sellers who sell to livestock dealers and market agencies which buy on commission. To ensure prompt payment of livestock sellers, all livestock purchased in cash sales by a dealer or market agency buying livestock on commission shall have all related property (i.e., livestock, receivables or proceeds) held in a "floating" trust until the unpaid seller receives full payment.

Unpaid sellers lose benefit of the trust if payment has not been received within 30 days of the final date for payment, or within 15 business days after the seller learns that the payment instrument presented has been dishonored. To preserve the trust, written notice on non-payment must be given to the dealer or market agency and a notice filed with the Secretary. Dealers or market agencies buying on commission with average annual purchases not exceeding $250,000 are exempt from the trust provisions.

The section also states the trust will not include livestock sold to bona fide third-party purchasers. (Section 541)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment striking the Senate provision and adding an amendment directing the Secretary of Agriculture to consider enhancing passenger movement and commerce on and between islands when imposing a quarantine on a state entirely comprised of islands; extending cotton classification services; and amending the Plant Variety Protection Act to allow varieties of potatoes that have been marketed for more than four years in another country to apply for and receive protection in the U.S. during a one-year period after enactment. Protection would be limited to a total of 20 years, including the time protected in another country. (Sections 911, 912, and 913)

The Managers are concerned about the burden borne by the State of Hawaii as a result of the agriculture quarantine covering that entire state for the benefit of agricultural production within the mainland United States. The Managers expect that the Agriculture Committees will give further consideration to this matter and that the Department of Agriculture will do the same. The Managers fully expect that the provisions in this bill relating to the agricultural quarantine inspection user fees will help address international, as well as domestic preclearance, staffing and equipment needs in Hawaii.

(2) Swine health protection, Mount Pleasant National Scenic Area, and pseudorabies eradication program

The Senate amendment authorizes the Secretary, upon request of the Governor or other appropriate official of a State, to terminate the State's primary enforcement responsibility under the Swine Health Protection Act. This section also deletes the requirement that an advisory committee be appointed to evaluate state programs regulating the treatment of garbage to be fed to swine. (Section 544)

VOL
142
PT
5
MR
21
—
29
1996
UMI

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment regarding the designation of the Mount Pleasant National Scenic Area and extending the Pseudorabies eradication program through 2002. (Section 914, 915, and 916)

(3) Agricultural quarantine and inspection and meat and poultry inspection

The House bill amends the agricultural quarantine and inspection fees provisions in section 2509 of the Food, Agriculture, Conservation and Trade Act of 1990 to provide that, for the fiscal years 1996–2002, funds in the user fee account in excess of appropriated amounts shall be available until expended. Beginning with fiscal year 2003, funds in the user fee account shall be available without fiscal year limitation. This section also provides an exemption from the limitation on total number of full-time equivalent positions for positions attributable to the provision of agricultural quarantine and inspection services. (Section 502)

The Senate amendment contains an identical provision. (Section 504)

The Conference substitute adopts the House provision with an amendment requiring the Secretary to report to Congress within 90 days indicating the steps necessary to allow interstate shipment of state-inspected meat and poultry and requiring the establishment of a Safe Meat and Poultry Inspection Panel. (Section 917 and 918)

The Managers are concerned that because of escalating budget pressures and consistent annual increases in passenger and commercial air travel, the Agriculture Quarantine Inspection (AQI) services are negatively impacted. The Managers have thus provided that the amount necessary from the appropriations process will be frozen at $100 million between fiscal years 1996 and 2002. Furthermore, the Managers have provided the funding necessary to make all funds collected by APHIS in excess of $100 million available to the Secretary for the purpose of AQI without further appropriation. As provided in this legislation, the Managers expect that the Agriculture Quarantine Inspection user fee fund be no longer subject to appropriation starting in fiscal year 2003. The Managers further expect that all funds collected after fiscal year 2002 be deposited in a dedicated account at the U.S. Treasury for the express purpose of covering the costs of Agriculture Quarantine Inspection. The managers expect the Secretary to have sole discretion over the disbursement and use of these funds for the purpose of AQI.

The Managers have observed that virtually every debate regarding the current operation and future modernization of the federal meat and poultry inspection system concludes with a call for an increase in the role of sound science in the decision-making process. For this reason, the Managers have mandated the creation of the Safe Meat and Poultry Inspection Panel. The panel shall consist of experts in medical science demonstrating knowledge in areas of microbiology, epidemiology, and veterinary medicine, and scientific experts with knowledge in animal sciences, poultry science, meat science, and food technology.

It is the intent of the Managers that the Secretary act swiftly to appoint members of the panel so that it may begin offering its valuable input at the earliest possible opportunity. The Managers expect that this panel will address matters within its scope that are significant in the development of food safety policy. Also, it is the intent of the Managers that the panel be operated in a thrifty manner.

The urgency of implementing this provision is reflected in the simple design of this panel. This independent panel of scientists is expected to operate unencumbered by the traditional political and bureaucratic structure of the U.S. Department of Agriculture to advise the Secretary on all manners of inspection policy proposals. It is the intent of the Managers that the panel will not be limited to initiatives within the Department but will consider both its own ideas and those from the scientific community at large.

Further, it is the intent of the Managers that no funds for the purpose of in plant inspections be used for the Safe Meat and Poultry Inspection Panel. The Managers advise the Secretary to examine the Food Safety Inspection Service funding currently used for non-inspection related travel, funding that is transferred outside of the agency and the resources devoted to the Administrator's staff, which has expanded significantly in recent years.

The United States presently allows foreign-inspected meat and poultry products to engage in interstate commerce as long as the foreign system has been certified by the United States Department of Agriculture as "equivalent" to the U.S. system. At the same time, meat and poultry products from state inspection systems which are required to be "at least equal" to the federal inspection system are prohibited in statute from engaging in interstate commerce. It is the intent of the Managers to seek a resolution to the apparent inequities in this current regulatory situation.

Since the President included the interstate shipment of state inspected product in the Guidance of the Administration for the 1995 Farm Bill, the Managers expect that the Secretary will report on the reasons for the evolution of differences between state and federal inspection programs, and any and all legal prohibitions to interstate shipment of state inspected product. Moreover, the Managers expect the report to expand beyond the legal history and an explanation of prohibitions to interstate shipment and sale of state inspected product, but engage constructively by making recommendations on challenges, such as, appropriate food safety, administrative, and funding, that may be necessary to effect an efficient transition.

(4) Reimbursable agreements

The Senate amendment authorizes the Secretary to enter into reimbursable fee agreements for the pre-clearance at locations outside the U.S. of plants, plant products, animals and articles for movement into the U.S. Funds collected for pre-clearance shall be credited to accounts established by the Secretary and shall remain available until expended for pre-clearance activities. This section authorizes the Secretary to require persons for whom the services are performed to reimburse the Secretary for the services. (Section 543)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 919)

(5) Overseas tort claims

The Senate amendment authorizes the Secretary to pay tort claims when claims arise outside the U.S. for persons who are performing services for the Secretary. A claim must be presented to the Secretary within two years after the claim accrues. (Section 547)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 920)

(6) Graduate School of the U.S. Department of Agriculture

The Senate amendment states the purpose of this section is to authorize continued operation of the Graduate School as a non-appropriated fund instrumentality of the Department.

Subsection (b) defines board, department, director, graduate school, and secretary.

Subsection (c) sets forth the functions and authority of the Graduate School. The Graduate School is authorized to develop and administer education, training and professional development activities. The Graduate School may provide educational activities to federal agencies, employees, nonprofit organizations, other entities, and members of the public. The Graduate School may charge reasonable fees for its activities based upon the cost of providing the service and may retain those fees rather than depositing them in the United States Treasury. The Graduate School is authorized to operate under its current name or may adopt another name.

Subsection (d) provides that the General Administration Board appointed by the Secretary would govern the activities of the Graduate School in accordance with the Secretary's regulations. The Board would be responsible for determining the policies by which the School is administered and for taking steps necessary to assure that the responsibilities are carried out, including the selection of a Director and other officers. The Board may authorize the Director to borrow money on the credit of the Graduate School.

Subsection (e) authorizes the Director to carry out the activities of the School, subject to the direction and oversight of the Board. The Board may authorize the Director to invest funds held in excess of the current operating requirements as a reasonable reserve.

Subsection (f) states that the director and Board members shall not be held personally liable for any loss or damage that may accrue to the funds of the Graduate School as a result of a discretionary act in carrying out their duties.

Subsection (g) states that Graduate School employees shall not be considered federal employees.

Subsection (h) states that the Graduate School shall not be considered a federal agency for purposes of the Federal Tort Claims Act, the Federal Advisory Committee Act, the Freedom of Information Act or the Privacy Act.

Subsection (i) prohibits the Graduate School from accepting gifts from interested parties.

Subsection (j) authorizes the Graduate School to accept gifts of money and property made for the benefit of the Graduate School. This subsection authorizes the Graduate School to acquire, maintain, and control real property. It also authorizes the Graduate School to enter into contracts without regard to any law prescribing procedures for the procurement of property or services and to dispose of real or personal property without regard to the Federal Property and Administrative Services Act. The subsection also authorizes the Graduate School to continue to use the facilities and resources of the Department in carrying out its functions if the costs are reimbursed out of the fees collected or other income earned by the Graduate School. (Section 548)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 921)

(7) Student internship program and conveyance of excess Federal personal property

The Senate amendment authorizes use of appropriated or user fee funds to pay for transportation, subsistence, and lodging expenses of student interns. Student interns are defined as employees who assist scientific, professional, administrative, or technical employees of the Department and who are bona fide students of accredited colleges or universities pursuing courses related to the field in which the person is employed by the Department. (Section 549)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize the Secretary to enter into cooperative agreements on an annual basis with one or more associations of colleges and universities for the purpose of providing for USDA participation in internship programs for graduate and undergraduate students who are selected by such associations from students attending member institutions of such associations and other colleges and universities and an amendment authorizing the Secretary of Agriculture to convey title to excess personal property to any 1994 Institution, Hispanic-Serving Institution or 1890 institutions for research purposes with or without monetary compensation. (Section 922 and 923)

(8) Conveyance of land, sale of land, designation of research center, and Washington area strategic space plan

The Senate amendment provides for conveyance of land to the Board of Trustees of the University of Arkansas to be used in the White Oak Cemetery. The land would revert to the United States if not used in the cemetery. (Section 550)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment authorizing the sale of land known as the "Walker Tract"; renaming the Agricultural Research Service Small Farms research facility located near Booneville, Arkansas as the Dale Bumpers Small Farms Research Center; and authorizing funding for improvement of roads at Beltsville as part of the USDA Washington Area Strategic Space Plan. (Sections 924, 925, 926 and 927)

The Managers expect USDA to continue to evaluate the Washington Area Strategic Plan in light of Department streamlining and workforce reduction. Furthermore, the Managers expect the Secretary to work closely with the House and Senate Agriculture Committees in identifying the most cost-effective option for renovating the South Building. It is important that USDA brief the Agriculture Committees on a regular basis about progress in this regard.

(9) Sense of the Congress regarding purchase of American-made equipment and products

The House bill states that it is the intent of Congress that recipients of assistance under this Act shall purchase only American-made equipment and products. (Section 508)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the Senate provision, striking the House provision.

(10) Amendment of the Virus-Serum Toxin Act of 1913

The Senate amendment amends the Virus Serum Toxin Act of 1913 to increase the criminal penalty from a maximum of $1,000 to a maximum of $10,000, upon conviction, for each violation. This section also authorizes the assessment of civil penalties of up to $5,000 for each violation of the Act or regulations. A person must "knowingly" violate the Act or regulations to be subject to a criminal or civil penalty. Knowingly forging, counterfeiting, or without permission of the Secretary of Agriculture, using, altering, defacing, or destroying any certificate, permit, license, or other document will be considered a violation of the Act. The Secretary is required to provide notice and an opportunity for an agency hearing before issuing an order for a civil penalty. The total amount of civil penalties assessed against a violator shall not exceed $300,000 for all such violations adjudicated in a single proceeding. In the course of an investigation of a suspected violation, the Secretary may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation. (Section 546)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision, striking the Senate provision.

(11) Equine piroplasmosis

It is the intention of the Congress that the Secretary of Agriculture be directed to protect the United States and its domestic horse population from equine piroplasmosis by taking all actions necessary to ensure that the disease does not become established in the United States or spread to the domestic horse population.

Congress finds that the U.S. Department of Agriculture and the Georgia Department of Agriculture plan to grant a conditional waiver from Federal and State health requirements for a limited number of foreign horses testing positive for equine piroplasmosis to enter the U.S. and compete in the 1996 Centennial Olympic Games.

Although careful conditions have been imposed on such admissions, there is a minimum risk that this disease could become established in the U.S. Therefore, the twenty point plan that has been agreed to by the European Union, the Georgia Department of Agriculture, and the U.S. Department of Agriculture must not be relaxed and the conditions must be followed and administratively enforced.

Pat Roberts,
Bill Emerson,
Steve Gunderson,
Thomas W. Ewing,
Bill Barrett,
Wayne Allard,
John Boehner,
Richard Pombo,
E de la Garza,
Charlie Rose,
Charlie Stenholm,
Gary Condit,
Managers on the Part of the House.

Richard G. Lugar,
Bob Dole,
Jesse Helms,
Thad Cochran,
Mitch McConnell,
Larry E. Craig,
Patrick Leahy,
Howell Heflin,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Montgomery) to revise and extend his remarks and include extraneous material:)

Mr. Jones, for 5 minutes, on March 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Montgomery) and to include extraneous matter:)

Mrs. Maloney.

Mrs. Meek of Florida.

Mr. Lantos.

(The following Members (at the request of Mr. Montgomery) and to include extraneous matter:)

Mr. Crane.

Mr. Lightfoot.

ADJOURNMENT

Mr. MONTGOMERY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 50 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, March 26, 1996, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2290. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Spain for defense articles and services (Transmittal No. 96–22), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2291. A communication from the President of the United States, Transmitting the fourth report on the continuing deployment of United States Armed Forces to Haiti (H. Doc. No. 104–190); to the Committee on International Relations and ordered to be printed.

2292. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

REPORT OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska Committee on Resources. H.R. 2824. A bill to authorize an exchange of lands in the State of Utah at Snowbasin Ski Area (Rept. 104–493). Referred to the Committee of the Whole House on the State of the Union.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. ROBERTS: Committee of Conference. Conference report on H.R. 2854. A bill to modify the operation of certain agricultural programs (Rept. 104–494). Ordered to be printed.

Mr. ARCHER: Committee on Ways and Means. H.R. 3074. A bill to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone (Rept. 104–495). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Ways and Means. H.R. 3103. A bill to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes; with an amendment (Rept. 104–496, Pt. 1). Ordered to be printed.

Mr. BLILEY: Committee on Commerce. H.R. 3070. A bill to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, and to simplify the administration of health insurance; with an amendment (Rept. 104–497, Pt. 1). Ordered to be printed.

Mr. GOODLING: Committee on Economic and Educational Opportunities. H.R. 995. A bill to amend the Employee Retirement Income Security Act of 1974 to provide new portability, participation, solvency, claims, and other consumer protections and freedoms for workers in a mobile workforce; to increase purchasing power for employers and employees by removing barriers to the voluntary formation of multiple employer health plans and fully-insured multiple employer arrangements; to increase health plan competition providing more affordable choice of coverage by removing restrictive State laws relating to provider health networks, employer health coalitions, and insured plans and the offering of medisave plans; to expand access to fully-insured coverage for employees of small employers through fair rating standards and open markets; and for other purposes; with amendments (Rept. 104–498, Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker

H.R. 995. Referral to the Committee on Commerce extended for a period ending not later than March 29, 1996.

H.R. 3070. Referral to the Committees on Economic and Educational Opportunities, the Judiciary, and Ways and Means for a period ending not later than March 29, 1996.

H.R. 3103. Referral to the Committees on Economic and Educational Opportunities, Commerce, and the Judiciary for a period ending not later than March 29, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII,

Mrs. MEYERS of Kansas (for herself, Mr. POSHARD, Mr. TORKILDSEN, and Mr. LAFALCE) introduced a bill (H.R. 3158) to amend the Small Business Act to extend the pilot Small Business Technology Transfer Program, and for other purposes; to the Committee on Small Business.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 324: Mr. MILLER of California and Mr. MINGE.

H.R. 833: Ms. HARMAN.

H.R. 2959: Mr. MCCRERY.

H.R. 3032: Mr. FATTAH.

H.R. 3060: Mr. GUTKNECHT.

H.R. 3067: Mr. HERGER and Mr. MARKEY.

H.R. 3142: Mr. MATSUI, Mr. HALL of Ohio, and Mr. HALL of Texas.

H. Con. Res. 145: Mr. ZIMMER.

SENATE— *Monday, March 25, 1996*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we praise You for this new day in which we can glorify You in the crucial work You have called us to do. Through Your goodness we can say with enthusiasm, "Good morning, Lord," rather than with exasperation, "Good Lord, what a morning."

Thank You for giving us expectation and excitement for what You have planned for us today. Help us to sense Your presence in the magnificent but also in the mundane. Give us a deep sense of self-esteem rooted in Your love so that we may exude confidence and courage as we grasp the opportunities and grapple with the problems we will confront. Make us sensitive to the needs of the people around us. May they feel Your love and acceptance flowing through us to them. Guide our thinking so we may be creative in our decisions. We humbly acknowledge that all that we have and are is a gift of Your grace. Now we commit ourselves to You to serve our beloved Nation. Dear God, bless America through our leadership today. In the name of our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, this morning the Senate will immediately begin consideration of calendar No. 300, H.R. 1296, regarding certain Presidio properties. Senator MURKOWSKI will offer his substitute amendment today. However, no rollcall votes will occur during today's session of the Senate. If other Senators have amendments to this legislation, they are encouraged to come forward and offer those amendments today with the understanding that any votes ordered will occur during Tuesday's session. Also, it may be necessary to file a motion to invoke cloture today on H.R. 1296, therefore, a cloture vote may occur on Wednesday on the Presidio legislation.

Other items possible for consideration, in fact, necessary, probably, as the week goes by, are the omnibus appropriations conference report, the debt limit extension, the farm bill conference report, and the line-item veto conference report.

Mr. President, I yield the floor.

PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1995

The PRESIDING OFFICER (Mr. BROWN). Under the previous order, the Senate will now proceed to the consideration of H.R. 1296, an act to provide for the administration of certain Presidio properties, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1296) to provide for the administration of certain Presidio properties at a minimal cost to the Federal taxpayer.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. FINDINGS.

The Congress finds that—

(1) the Presidio, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

(2) the Presidio is the oldest continuously operated military post in the Nation dating from 1776, and was designated a National Historic Landmark in 1962;

(3) preservation of the cultural and historic integrity of the Presidio for public use recognizes its significant role in the history of the United States;

(4) the Presidio, in its entirety, is part of the Golden Gate National Recreation Area, in accordance with Public Law 92–589;

(5) as part of the Golden Gate National Recreation Area, the Presidio's significant natural, historic, scenic, cultural, and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protects the Presidio from development and uses which would destroy the scenic beauty and historic and natural character of the area and cultural and recreational resources;

(6) removal and/or replacement of some structures within the Presidio must be considered as a management option in the administration of the Presidio; and

(7) the Presidio will be managed through an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources.

SEC. 2. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF THE INTERIOR.

(a) INTERIM AUTHORITY.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to manage leases in existence on the date of this Act for properties under the administrative jurisdiction of the Secretary and located at the Presidio. Upon the expiration of any such lease, the Secretary may extend such lease for a period terminating not later than 6 months after the first meeting of the Presidio Trust. The Secretary may not enter into any new leases for property at the Presidio to be transferred to the Presidio Trust under this Act. Prior to the transfer of administrative jurisdiction over any property to the Presidio Trust, and notwithstanding section 1341 of title 31 of the United States Code, the proceeds from any such lease shall be retained by the Secretary and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. The Secretary may adjust the rental charge on any such lease for any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to properties and infrastructure within the Presidio.

(b) PUBLIC INFORMATION AND INTERPRETATION.—The Secretary shall be responsible, in cooperation with the Presidio Trust, for providing public interpretive services, visitor orientation and educational programs on all lands within the Presidio.

(c) OTHER.—Those lands and facilities within the Presidio that are not transferred to the administrative jurisdiction of the Presidio Trust shall continue to be managed by the Secretary. The Secretary and the Presidio Trust shall cooperate to ensure adequate public access to all portions of the Presidio. Any infrastructure and building improvement projects that were funded prior to the enactment of this Act shall be completed by the National Park Service.

(d) PARK SERVICE EMPLOYEES.—Any career employee of the National Park Service, employed at the Presidio at the time of the transfer of lands and facilities to the Presidio Trust, shall not be separated from the Service by reason of such transfer, unless such employee is employed by the Trust, other than on detail. The Trust shall have sole discretion over whether to hire any such employee or request a detail of such employee.

SEC. 3. ESTABLISHMENT OF THE PRESIDIO TRUST.

(a) ESTABLISHMENT.—There is established a wholly owned government corporation to be known as the Presidio Trust (hereinafter in this Act referred to as the "Trust").

(b) TRANSFER.—(1) Within 60 days after receipt of a request from the Trust for the transfer of any parcel within the area depicted as Area B on the map entitled "Presidio Trust Number 1," dated December 7, 1995, the Secretary shall transfer such parcel to the administrative jurisdiction of the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Secretary shall transfer to the Trust administrative jurisdiction over all remaining parcels within Area B. Such map shall be on file and available for public inspection in the offices of the Trust and in the offices of the National Park Service, Department of the Interior. The Trust and the Secretary may jointly make technical and clerical revisions in the boundary depicted on such map. The Secretary shall retain jurisdiction over those portions of the building identified as number 102 as the Secretary deems essential for use as a visitor center. The Building shall be named the "William Penn Mott Visitor Center". Any parcel of land, the jurisdiction over which is transferred pursuant to this subsection, shall remain within the boundary of the Golden Gate National Recreation Area.

(2) Within 60 days after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively

VOL
142
PT
5
MR
21
—
29
1996
UMI

which records, equipment, and other personal property are deemed to be necessary for the immediate administration of the properties to be transferred, and the Secretary shall immediately transfer such personal property to the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively what, if any, additional records, equipment, and other personal property used by the Secretary in the administration of the properties to be transferred should be transferred to the Trust.

(3) The Secretary shall transfer, with the transfer of administrative jurisdiction over any property, the unobligated balance of all funds appropriated to the Secretary, all leases, concessions, licenses, permits, and other agreements affecting such property.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers and management of the Trust shall be vested in a Board of Directors (hereinafter referred to as the "Board") consisting of the following 7 members:

(A) the Secretary of the Interior or the Secretary's designee; and

(B) six individuals, who are not employees of the Federal Government, appointed by the President, who shall possess extensive knowledge and experience in one or more of the fields of city planning, finance, real estate development, and resource conservation. At least one of these individuals shall be a veteran of the Armed Services. At least 3 of these individuals shall reside in the San Francisco Bay Area. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act and shall ensure that the fields of city planning, finance, real estate development, and resource conservation are adequately represented. Upon establishment of the Trust, the Chairman of the Board of Directors of the Trust shall meet with the Chairman of the Energy and Natural Resources Committee of the United States Senate and the Chairman of the Resources Committee of the United States House of Representatives.

(2) TERMS.—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 3 shall serve for a term of 2 years. Any vacancy in the Board shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of the term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms.

(3) QUORUM.—Four members of the Board shall constitute a quorum for the conduct of business by the Board.

(4) ORGANIZATION AND COMPENSATION.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

(5) LIABILITY OF DIRECTORS.—Members of the Board of Directors shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

(6) MEETINGS.—The Board shall meet at least three times per year in San Francisco and at least two of those meetings shall be open to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues through the Golden Gate National Recreation Area Advisory Commission.

(7) STAFF.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates, except that no officer or employee may receive a salary which exceeds the salary payable to officers or employees of the United States classified at level IV of the Executive Schedule.

(8) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(9) TAXES.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of California, and its political subdivisions, including the city and county of San Francisco.

(10) GOVERNMENT CORPORATION.—(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(B) At the end of each calendar year, the Trust shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes in general terms the Trust's goals for the current fiscal year.

SEC. 4. DUTIES AND AUTHORITIES OF THE TRUST.

(a) OVERALL REQUIREMENTS OF THE TRUST.—The Trust shall manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with the purposes set forth in section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes," approved October 27, 1972 (Public Law 92-589; 86 Stat. 1299; 16 U.S.C. 460bb), and in accordance with the general objectives of the General Management Plan (hereinafter referred to as the "management plan") approved for the Presidio.

(b) The Trust may participate in the development of programs and activities at the properties transferred to the Trust. The Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of Federal, State, and local governments as are necessary and appropriate to finance and carry out its authorized activities. Any such agreement may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b). The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Presidio facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition. The Trust may not dispose of or convey fee title to any real property transferred to it under this Act. Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust except that the Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust's procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition.

(c) The Trust shall develop a comprehensive program for management of those lands and facilities within the Presidio which are transferred to the administrative jurisdiction of the Trust. Such program shall be designed to reduce expenditures by the National Park Service and increase revenues to the Federal Government to the maximum extent possible. In carrying out this program, the Trust shall be treated as a successor in interest to the National Park Service with respect to compliance with the National Environmental Policy Act and other environmental compliance statutes. Such program shall consist of—

(1) demolition of structures which in the opinion of the Trust, cannot be cost-effectively rehabilitated, and which are identified in the management plan for demolition,

(2) evaluation for possible demolition or replacement those buildings identified as categories 2 through 5 in the Presidio of San Francisco Historic Landmark District Historic American Buildings Survey Report, dated 1985,

(3) new construction limited to replacement of existing structures of similar size in existing areas of development, and

(4) examination of a full range of reasonable options for carrying out routine administrative and facility management programs.

The Trust shall consult with the Secretary in the preparation of this program.

(d) To augment or encourage the use of non-Federal funds to finance capital improvements on Presidio properties transferred to its jurisdiction, the Trust, in addition to its other authorities, shall have the following authorities subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.):

(1) The authority to guarantee any lender against loss of principal or interest on any loan, provided that (A) the terms of the guarantee are approved by the Secretary of the Treasury, (B) adequate subsidy budget authority is provided in advance in appropriations acts, and (C) such guarantees are structured so as to minimize potential cost to the Federal Government. No loan guarantee under this Act shall cover more than 75 percent of the unpaid balance of the loan. The Trust may collect a fee sufficient to cover its costs in connection with each loan guaranteed under this Act. The authority to enter into any such loan guarantee agreement shall expire at the end of 15 years after the date of the enactment of this Act.

(2) The authority, subject to appropriations, to make loans to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(3) The authority to issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy and that a repayment schedule is established and only to the extent authorized in advance in appropriations acts. The Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes or obligations acquired by the Secretary of the Treasury under this subsection. Obligations issued under this subparagraph shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(4) The aggregate amount of obligations issued under this subsection which are outstanding at any one time may not exceed $50,000,000.

(e) The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purpose of carrying out its duties. The Trust shall maintain a liaison with the Golden Gate National Park Association.

(f) Notwithstanding section 1341 of title 31 of the United States Code, all proceeds received by the Trust shall be retained by the Trust, and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties under its administrative jurisdiction. Upon the Request of the Trust, the Secretary of the Treasury shall invest excess moneys of the Trust in public debt securities with maturities suitable to the needs of the Trust.

(g) The Trust may sue and be sued in its own name to the same extent as the Federal Government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Northern District of California shall have exclusive jurisdiction over any suit filed against the Trust.

(h) The Trust shall enter into a Memorandum of Agreement with the Secretary, acting through the Chief of the United States Park Police, for the conduct of law enforcement activities and services within those portions of the Presidio transferred to the administrative jurisdiction of the Trust.

(i) The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities under this Act. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

(j) For the purpose of compliance with applicable laws and regulations concerning properties transferred to the Trust by the Secretary, the Trust shall negotiate directly with regulatory authorities.

(k) INSURANCE.—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

(l) BUILDING CODE COMPLIANCE.—The Trust shall bring all properties under its administrative jurisdiction into compliance with Federal building codes and regulations appropriate to use and occupancy within 10 years after the enactment of this Act to the extent practicable.

(m) LEASING.—In managing and leasing the properties transferred to it, the Trust consider the extent to which prospective tenants contribute to the implementation of the General Management Plan for the Presidio and to the maximum generation of revenues to the Federal Government. The Trust shall give priority to the following categories of tenants: tenants that enhance the financial viability of the Presidio; tenants that maximize the amount of revenues to the Federal Government; and tenants that facilitate the cost-effective preservation of historic buildings through their reuse of such buildings.

(n) REVERSION.—If, at the expiration of 15 years, the Trust has not accomplished the goals and objectives of the plan required in section (5)(b) of this Act, then all property under the administrative jurisdiction of the Trust pursuant to section (3)(b) of this Act shall be transferred to the Administrator of the General Services Administration to be disposed of in accordance with the procedures outlined in the Defense Authorization Act of 1990 (104 Stat. 1809), and any real property so transferred shall be deleted from the boundary of the Golden Gate National Recreation Area.

SEC. 5. LIMITATIONS ON FUNDING.

(a)(1) From amounts made available to the Secretary for the operation of areas within the Golden Gate National Recreation Area, not more than $25,000,000 shall be available to carry out this Act in each fiscal year after the enactment of this Act until the plan is submitted under subsection (b). Such sums shall remain available until expended.

(2) After the plan required in subsection (b) is submitted, and for each of the 14 fiscal years thereafter, there are authorized to be appropriated to the Trust not more than the amounts specified in such plan. Such sums shall remain available until expended. Of such sums, not more than $3 million annually shall be available through the Trust for law enforcement activities and services to be provided by the United States Park Police at the Presidio in accordance with section 4(h) of this Act.

(b) Within one year after the first meeting of the Board of Directors of the Trust, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funding that will achieve, at a minimum, self-sufficiency for the Trust within 15 complete fiscal years after such meeting of the Trust.

(c) The Administrator of the General Services Administration shall provide necessary assistance to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Presidio.

SEC. 6. GENERAL ACCOUNTING OFFICE STUDY.

(a) Three years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this Act.

(b) In consultation with the Trust, the General Accounting Office shall develop an interim schedule and plan to reduce and replace the Federal appropriations to the extent practicable for interpretive services conducted by the National Park Service, and law enforcement activities and services, fire and public safety programs conducted by the Trust.

(c) Seven years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct a comprehensive study of the activities of the Trust, including the Trust's progress in meeting its obligations under this Act, taking into consideration the results of the study described in subsection (a) and the implementation of plan and schedule required in subsection (b). The General Accounting Office shall report the results of the study, including any adjustments to the plan and schedule, to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

PRIVILEGE OF THE FLOOR

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Aaron Watkins, a congressional fellow employed by the Department of the Interior, and assigned to the staff of the Committee on Energy and Natural Resources, be granted privilege of the floor for the duration of the consideration of H.R. 1296, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayers.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BENNETT addressed the Chair.

Mr. JOHNSTON. Mr. President, I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent that A. J. Martinez, a fellow from the Department of the Interior, be granted privilege of the floor during consideration of H.R. 1296, and all votes taken thereon.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, in the absence of Senator MURKOWSKI, his staff indicated that it would be appropriate for me to go ahead and make my statement at this point, so I would like to do so.

Mr. President, I want to make a few initial observations about where we are with respect to this bill and where I hope we will end up. Almost every park and public land bill reported from the Energy and Natural Resources Committee in this Congress is included in the Murkowski substitute to be introduced this morning. Most of these bills are noncontroversial and were reported by the committee unanimously; some have passed the Senate already but are held up in the House; some have passed the House and could go to the President, but for the fact that they are included in this package; others have had no action in either body.

While packaging these bills in this manner is not unprecedented, this particular package is unusual in at least two respects. First, for almost 1½ years we have been unable to move any of these bills through the Senate. This gridlock which has prevented our ability to legislate in this area is unprecedented. This is not the way we should do our business.

Whatever happens to this bill, I hope we will not find ourselves in this situation again. For as long as I have been

VOL
142
PT
5
MR
21
—
29
1996
UMI

in the Senate we have, until this Congress, been able to move these noncontroversial but important bills back and forth between the House and Senate in a spirit of bipartisanship and comity. I deeply regret that we appear to have lost the will and/or the ability to do that in this instance.

Second, the addition of the Utah wilderness bill to this package has transformed an effort to end procedural gridlock and enact a number of essential noncontroversial bills into a major battle over a very contentious wilderness proposal. The inclusion of the Utah wilderness bill in this package of otherwise relatively noncontroversial bills has brought on a filibuster here in the Senate and a veto threat from the administration.

I have indicated to my colleagues from Utah that I plan to support them in their efforts to get a Utah wilderness bill enacted. At the same time, I do not want to see the committee's efforts of the last year and a half wasted by passing a bill that does not pass or cannot pass the House and will almost certainly be vetoed.

Since the Utah wilderness bill was introduced, the delegation from Utah has agreed to modify it significantly. Wilderness acreage has been added and a number of significant changes in the management and land exchange provisions have been made. While I know that the changes do not go far enough for some of my colleagues, I think it is clear that the Utah delegation is serious about crafting a bill that can pass the Senate.

For example, with respect to one of the most contentious provisions of the bill, the so-called release language, the substitute before the Senate today contains language very similar to an amendment which I offered in the committee on this subject and which, though it failed on a 10 to 10 vote, had bipartisan support and, as I recall, the Democrats of the committee were united on that subject. So, in effect, Senators BENNETT and HATCH have agreed to the Democratic position in the committee on that subject.

The substitute no longer contains language requiring that release lands, that is, lands not designated as wilderness, be managed for nonwilderness multiple uses. Likewise, the substitute does not prohibit the BLM from managing these release lands in a manner that protects their wilderness character. Thus, this new language now satisfies the primary objective that my amendment in the committee addressed.

Under the language as introduced, the BLM would have been unable for any reason to manage released lands, that is, those lands not designated as wilderness, for anything but nonwilderness purposes. In addition, the BLM would have been precluded from adopting any management option that had the effect of protecting the wilderness character of these released lands. I was concerned that such restrictive language would preclude management for many legitimate purposes, such as dispersed recreation, protection of wildlife habitat or watersheds, the protection of scenic, scientific, or historical values or similar purposes.

Like the language offered, which was supported by virtually all the Senators on my side, the substitute now clearly permits these management options and only prohibits the BLM from managing these lands as wilderness study areas for the expressed purpose of protecting their suitability for future inclusion in the National Wilderness Preservation System.

While I recognize that there is still a serious limitation in the view of some of my colleagues, this current formulation is significantly narrower in scope than the bill introduced and illustrates the willingness of the Utah delegation to compromise on some of these very difficult issues. I hope that both sides will make the very serious effort over the next several days to reach an accommodation on this bill.

I might say, Mr. President, Senator BENNETT, a former member of our committee, has shown time and time again in this Senate his willingness to be reasonable, not to be extreme in any way, and try to work to a bipartisan solution. I do not know the details of all the land in Utah. In fact, I count myself as being unlucky because I have only been to Utah once and that was to the Salt Lake City airport. I am advised that it is a magnificent State with very beautiful lands. I cannot tell you about which lands are which in Utah. However, I support the position of my colleagues from Utah, frankly, as an indication of my confidence in their fairness and their reasonableness in picking these lands and because I think the two Senators from the State ought to, in all but very extreme circumstances, have the ability to deal with wilderness matters in their State.

Now, having said that, I can tell my colleagues from Utah that they are up against very strong and persuasive opposition. The most persuasive opposition you can get is a veto threat from the President. I offer to them and to my colleagues on this side of the aisle whatever services I can give in trying to find a common solution so that we can work out a bill that not only passes the Senate, gets past the filibuster, but can avoid the veto threat of the President.

They have shown already, as I just indicated, on the release language, their willingness to work to this kind of purpose. I hope we can find a way to do that here on this floor so we can do more than just pass a bill in the Senate or get a majority of the votes in the Senate for a bill that does not become law; rather, that we pass a law that does become law and settles this very contentious issue in a good way for the people of this country, as well as the people of the State of Utah.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska [Mr. MURKOWSKI] is recognized to offer a substitute amendment.

AMENDMENT NO. 3564

(Purpose: To offer an amendment in the nature of a substitute to H.R. 1296, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, and for other purposes)

Mr. MURKOWSKI. Mr. President, I send to the desk a substitute amendment and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 3564.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MURKOWSKI. Let me acknowledge my friend from Louisiana, the ranking member of the Energy and Natural Resources Committee, for his statement of support on the Utah wilderness. As we both know, serving on the committee, this particular phase of this package of legislation has been worked long and hard. We will hear from the representatives from Utah with regard to the specifics, but I think we have a good package here.

I want to remind my colleagues, of the 56 or so titles of this bill, there is virtually something in it for almost every Member of this body in the sense of it affecting his or her individual State. I encourage my colleagues to recognize the importance of staying together on this package, because once we start to take it apart by motions to strike, it will lose its base of support in the House of Representatives. I can assure all of the Members of that fact.

PRIVILEGE OF THE FLOOR

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that Michael Menge be permitted privilege of the floor for the duration of the debate of H.R. 1296, the Presidio legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I ask unanimous consent that John Piltzecker be granted privilege of the floor during consideration of H.R. 1296.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, the legislation under consideration today is probably the largest and, in my opinion, one of the most balanced environmental packages we have addressed in the Senate, at least in this Congress. This major legislative effort does, really, a number of things. It is

proenvironment, it is profuture. I think it is fair to say that basically everybody wins. The bill represents a balance between protection of our parks and our public lands and the welfare of families and the economic well-being of the Nation and many local communities.

Furthermore, Mr. President, it is a very reasonable attempt to fulfill a multiple-use concept and add to the wilderness some 2 million acres. Now, acreage, in the eyes of many, does not relate to anything, and perhaps I can put it in perspective. The State of Delaware is about 1 million acres. We are proposing to add 2 million acres in Utah. It is fair to say 2 million acres is about three times the size of the State of Rhode Island; 2 million acres of wilderness is about half the size of the State of New Jersey.

Let me put this in a further perspective, Mr. President, as we address wilderness and what it means. In the State of New Jersey, there are 10,341 acres of wilderness. With this bill, we would be adding to Utah's 800,000 acres of wilderness another 2 million, making it 2.8 million, approximately.

Another State that comes to mind in comparison is Arkansas. There are 127,000 acres of wilderness in the State of Arkansas. By this legislation, we would be adding 2 million in the State of Utah, again making it 2.8 million.

My friend from Louisiana has 17,046 acres of wilderness in his state of Louisiana. I am not going to talk too much about my State of Alaska but will just mention in passing, we have 57 million acres of wilderness in the State of Alaska. We are proud of that wilderness. I think it is important in this debate that we keep this in a proportional comparison, because with New Jersey at 10,341, one wonders why there is not a little more wilderness in New Jersey. I will leave that to the Senator from New Jersey to explain.

Mr. President, this bill contains over 50 measures affecting our parks, our national forests, and public lands. It is really a bipartisan endeavor. It addresses legislation introduced by Members on both sides of the aisle and represents a broad spectrum of interests from legislation dealing with everything from the Olympic games in Utah to the Sterling Forest in New York, to land exchanges in California, to boundary adjustments in the Commonwealth of Virginia.

The legislation contains expanded authorities for the National Park Service which will contribute to more cost-effective management and add additional parklands for the protection and enjoyment of all Americans now and in the future.

There are several land exchange proposals that will add environmentally sensitive lands to the Nation's public land inventory, as well as having the effect of rearranging scattered Federal land areas into manageable units that will be protected well into the future.

The amendment starts with the Presidio, San Francisco. The title is a result of long hours of negotiation, long hours of bargaining and compromise. I made a visit to this military post on the San Francisco peninsula. The committee has been presented with a major challenge, and I am pleased to report to you that we, I think, have a realistic method to save this valuable historic asset. Let me recognize Representatives from the House, as well as those Members from the California delegation of the Senate, DIANNE FEINSTEIN and BARBARA BOXER. I know how much this particular legislation means, and we have been working with them to try and reach an accord.

Mr. President, under this legislation, and over a period of time, the Federal appropriated dollars that made this park the most expensive operation in the National Park System, I am pleased, will be reduced over a period of time to basically zero. Federal dollars will be replaced with money and expertise from the private sector, and the private sector is willing and able to accomplish that.

Mr. President, following the provisions affecting the Presidio, we have some 32 additional titles covering 53 separate measures, and now there have been three more for a total of 56. I trust that the staffs are responding this morning because I am going to go through the various titles and identify the States because, again, I want to emphasize that there is virtually an interest by each State in this package of titles.

Here is the list of titles:

Yucca House National Monument boundary adjustment (Colorado);

Zion National Park boundary adjustment (Utah);

Pictured Rocks National lakeshore boundary adjustment (Michigan);

Independence National Historic Park boundary adjustment (Pennsylvania);

Craters of the Moon National Monument boundary adjustment (Idaho);

Hagerman Fossil Beds National Monument boundary adjustment (Idaho);

Wupatki National Monument boundary adjustment (Arizona);

New River Gorge National River (West Virginia);

Gauley River National recreation area (West Virginia);

Bluestone National Scenic River (West Virginia);

Kaloko-Honokohau National Historical Park (Hawaii);

Women's Rights National Historical Park (New York);

Boston National Historical Park (Massachusetts);

Cumberland Gap National Historic Park (Kentucky, Virginia, Tennessee);

William O. Douglas outdoor classroom (California);

Limitation on park buildings (National Park service-wide);

Appropriations for transportation of children (National Park service-wide);

Federal burros and horses (National Park service-wide);

Authorities of the Secretary relating to museums (National Park service-wide);

Volunteers in the parks increase (National Park service-wide);

Cooperative agreements for research purposes (National Park service-wide);

Carl Garner Federal lands cleanup day (Federal lands-wide);

Fort Pulaski National Monument (Georgia);

Laura C. Hudson visitor center (Louisiana);

United States Civil War Center (Louisiana);

Title III—Robert J. Lagomarsino Visitor Center (California);

Title IV—Rocky Mountain National Park Visitor Center (Colorado);

Title V—Corinth, Mississippi Battlefield Act (Mississippi);

Title VI—Walnut Canyon National Monument Boundary Modification (Arizona);

Title VII—Delaware Water Gap (Pennsylvania, New Jersey);

Title VIII—Targhee National Forest Land Exchange (Idaho, Wyoming);

Title IX—Dayton Aviation (Ohio);

Title X—Cache La Pondre (Colorado);

Title XI—Gilpin County, Colorado Land Exchange (Colorado);

Title XII—Butte County, CA. Land Conveyance (California);

Title XIII—Carl Garner Federal Lands Cleanup Day (Federal lands-wide);

Title XIV—Anaktuvuk Pass Land Exchange (Alaska);

Title XV—Alaska Peninsula Subsurface Consolidation (Alaska);

Title XVI—Sterling Forest (New York, New Jersey);

Title XVII—Taos Pueblo Land Transfer (New Mexico);

Title XVIII—Ski Fees (National Forest System-wide);

Title XIX—Selma to Montgomery National Historic Trail (Alabama);

Title XX—Utah Wilderness (Utah);

Title XXI—Fort Carson-Pinon Canyon (Colorado);

Title XXII—Snowbasin Land Exchange Act (Utah);

Title XXIII—Colonial National Historical Park (Virginia);

Title XXIV—Women's Rights National Historical Park (New York);

Title XXV—Franklin D. Roosevelt Family Lands (New York);

Title XXVI—Great Falls Historic District (New Jersey);

Title XXVII—Rio Puerco Watershed (New Mexico);

Title XXVIII—Columbia Basin (Washington);

Title XXIX—Grand Lake Cemetery (Colorado);

Title XXX—Old Spanish Trail (New Mexico, Colorado, Utah, California);

Title XXXI—Blackstone River Valley (Massachusetts, Rhode Island);

Title XXXII—Cuprum, Idaho Relief (Idaho); and

Title XXXIII—Arkansas and Oklahoma Land Transfer (Arkansas, Oklahoma).

So, you see, Mr. President, this has far-reaching effects, and I urge my colleagues to recognize and assess keeping this package together to ensure that it will be passed when it reaches the House.

Mr. President, within the noncontroversial issues, as I have indicated, there are a host of minor boundary adjustments and small operational

VOL
142
PT
5
MR
21
—
29
1996
UMI

change authorizations requested by the Department of Interior. There are authorizations for historic trail studies, building and naming national park visitor centers, expansion of historical parks, and equal value land exchanges for the Department of Agriculture. We have also addressed survey problems, and we authorize the citizens of Grand Lake, CO, to maintain their own town cemetery. It just happens to lie inside the boundaries of the Rocky Mountain National Park. There are other noncontroversial measures, each benefiting one or more segments of our society.

Mr. President, by far, the most controversial component of the package that we are considering is the title dealing with the Utah wilderness. Mr. President, it is suggested that if Winston Churchill were a Member of this body, he would have said, "Never have so few done so much to confuse so many." It is our collective responsibility, I think, to look past the smoke screen that has been framed by extreme elitist types on the Utah wilderness issue.

Under the provisions of this bill, the Nation gains some 2 million acres of new wilderness. The lands under consideration meet the legislatively mandated definition of what wilderness should be. These are truly land masses that retain their primeval character and their influence, without permanent improvements or human habitation, with the imprint of man's work substantially unnoticeable, just as the act tells us the requirements must be. We have the benefit of extensive studies and efforts poured into defining exactly what lands should and should not be included in the wilderness system for Utah.

This whole issue was initiated by an act of Congress under the terms and conditions contained within the Federal Land Planning and Management Act. The effort was carried out by professional subject matter experts working for the Federal Government, not political appointees. In other words, Mr. President, this was done by professionals working for the Federal Government, but independent of the political influences associated with political appointees. That is not the case on the current recommendations that are coming from the other side to increase this wilderness in the area of 5 million acres.

Mr. President, the Bureau of Land Management study and final report cost the taxpayers of this country in excess of $10 million. It took more than 15 years to complete. This process, which was carried out in the full light of the public land planning process, included input from some 16,000 written comments, and there were over 75 formal public hearings on this question of Utah wilderness. The study processed was open to every citizen of the United States. It was well-defined criteria, and well documented. Appeals and protests rights were well publicized and used by groups of people on both sides of the issue. At the culmination of this process, those independent professionals recommended the inclusion of 1.9 million acres. This legislation recommends 2 million acres on the nose.

Those Federal employees in that open process spoke basically for every citizen in this country who participated in the Utah wilderness process. The process followed the rules that, I remind my colleagues, are extensively articulated in both the Wilderness Act of 1964 and the Federal Land Planning and Management Act.

Mr. President, unfortunately, the Secretary of the Interior, Secretary Babbitt, seems to want to ignore the advice of his own professional managers.

Here is the record of decision, Mr. President, the Utah Statewide Wilderness Study Report that substantiates the recommendations that it be 2 million acres. So the Secretary has decided to ignore that.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Bureau of Land Management, Oct. 1991]

UTAH STATEWIDE WILDERNESS STUDY REPORT, VOLUME I—STATEWIDE OVERVIEW

THE SECRETARY OF THE INTERIOR,
Washington, DC, October 18, 1991.

RECORD OF DECISION

The following are the wilderness recommendations for 95 wilderness study areas (WSAs) in the State of Utah. These recommendations were developed from the findings of a 15-year wilderness study process by the Department of the Interior and Bureau of Land Management. The wilderness studies considered each area's resource values, present and projected future uses of the areas, public input, the manageability of the areas as wilderness, the environmental consequences of designating or not designating the areas as wilderness, and mineral surveys prepared by the U.S. Geological Survey and Bureau of Mines.

Based on our review of those studies, I have concluded that 1,958,339 acres within 69 study areas should be designated as part of the National Wilderness Preservation System and that 1,299,911 acres within 63 study areas should be released from wilderness study for uses other than wilderness. The acreage recommendations for each WSA, with which I concur, are listed in the following table. The Wilderness Study Report accompanying this decision includes a detailed discussion of the recommendations and maps showing the boundaries of each area.

MANUEL LUJAN, Jr.,
Secretary of the Interior.

UTAH WILDERNESS RECOMMENDATION

[Utah Statewide EIS WSAs/ISAs]

UTAH WILDERNESS RECOMMENDATION—Continued

[Utah Statewide EIS WSAs/ISAs]

WSA/ISA name	Study	WSA number	Acres recommended for wilderness	Acres recommended for nonwilderness
North Stansbury Mountains	Statewide	UT–020–089	10,480	0
Cedar Mountains	Statewide	UT–020–094	0	50,500
Deep Creek Mountains	Statewide	UT–050–020/ UT–020–060	57,384	11,526
Fish Springs	Statewide	UT–050–127	33,840	18,660
Rockwell	Statewide	UT–050–186	0	9,150
Swasey Mountain	Statewide	UT–050–061	34,376	15,124
Howell Peak	Statewide	UT–050–077	14,800	10,000
Conger Mountain	Statewide	UT–050–035	0	20,400
Notch Peak	Statewide	UT–050–078	28,000	23,130
King Top	Statewide	UT–050–070	0	84,770
Wah Wah Mountains	Statewide	UT–050–073/ UT–040–205	36,382	5,758
Cougar Canyon	Statewide	UT–040–123/ NV–050–166	4,228	6,340
Red Mountain/Red Mountain 202	Statewide	UT–040–132/132A	12,842	5,448
Cottonwood Canyon	Statewide	UT–040–046	9,853	1,477
LaVerkin Creek Canyon [a]	Statewide	UT–040–153 (202)	567	0
Deep Creek [a]	Statewide	UT–040–146 (202)	3,320	0
North Fork Virgin River [a]	Statewide	UT–040–150 (202)	1,040	0
Orderville Canyon [a]	Statewide	UT–040–145 (202)	1,750	0
Parunuweap Canyon	Statewide	UT–040–230	17,888	12,912
Canaan Mountain	Statewide	UT–040–143	33,800	13,370
Moquith Mountain	Statewide	UT–040–217	0	14,830
The Blues	Statewide	UT–040–268	0	19,030
Mud Spring Canyon	Statewide	UT–040–077	0	38,075
Paria-Hackberry/Paria-Hackberry 202	Statewide	UT–040–247/247A	95,042	41,180
The Cockscomb	Statewide	UT–040–275	5,100	4,980
Wahweap	Statewide	UT–040–248	0	134,400
Burning Hills	Statewide	UT–040–079	0	61,550
Death Ridge	Statewide	UT–040–078	0	62,870
Phipps-Death Hollow	Statewide	UT–ISA–006	39,256	3,475
Steep Creek	Statewide	UT–040–061	20,806	1,090
North Escalante Canyons/The Gulch	Statewide	UT–ISA–004	91,558	28,194
Carcass Canyon	Statewide	UT–040–076	0	46,711
Scorpion	Statewide	UT–040–082	14,978	20,906
Escalante Canyons Tract 5	Statewide	UT–ISA–005	760	0
Fiftymile Mountain	Statewide	UT–040–080	91,361	54,782
Mt. Ellen-Blue Hills	Statewide	UT–050–238	65,804	15,922
Bull Mountain	Statewide	UT–050–242	11,800	1,820
Dirty Devil	Statewide	UT–050–236A	61,000	0
Horseshoe Canyon (South)	Statewide	UT–050–237	36,000	2,800
French Spring-Happy Canyon	Statewide	UT–050–236B	11,110	13,890
Fiddler Butte	Statewide	UT–050–241	32,700	40,400
Mt. Pennell	Statewide	UT–050–248	25,800	48,500
Mt. Hillers	Statewide	UT–050–249	16,360	3,640
Little Rockies	Statewide	UT–050–247	38,700	0
Mancos Mesa	Statewide	UT–060–181	51,440	0
Grand Gulch ISA Complex	Statewide	UT–ISA–001	105,520	0
Pine Canyon WSA		UT–060–188		
Bullet Canyon WSA		UT–060–196		
Sheiks Flat WSA		UT–060–224		
Slickhorn Canyon WSA		UT–060–197/198		
Road Canyon	Statewide	UT–060–201	52,420	0
Fish Creek Canyon	Statewide	UT–060–204	40,160	6,280
Mule Canyon	Statewide	UT–060–205B	5,990	0
Cheesebox Canyon	Statewide	UT–060–191	0	15,410
Dark Canyon ISA Complex	Statewide	UT–ISA–002	68,030	0
Middle Point WSA		UT–060–175		
Butler Wash	Statewide	UT–060–169	24,190	0
Bridger Jack Mesa	Statewide	UT–060–167	5,290	0
Indian Creek	Statewide	UT–060–164	6,870	0
Behind The Rocks	Statewide	UT–060–140A	12,635	0
Mill Creek Canyon	Statewide	UT–060–139A	9,780	0
Negro Bill Canyon	Statewide	UT–060–138	7,620	0
Horsehoe Canyon (North)	Statewide	UT–060–045	20,500	0
San Rafael Reef	Statewide	UT–060–029A	59,170	0
Crack Canyon	Statewide	UT–060–028A	25,335	0
Muddy Creek	Statewide	UT–060–007	31,400	0
Devils Canyon	Statewide	UT–060–025	0	9,610
Sids Mountain/Sids Cabin 202	Statewide	UT–060–023/023A	80,084	886
Mexican Mountain	Statewide	UT–060–054	46,750	12,850
Jack Canyon	Statewide	UT–060–068C	0	7,500
Desolation Canyon	Statewide	UT–060–068A	224,850	65,995
Turtle Canyon	Statewide	UT–060–067	0	33,690
Floy Canyon	Statewide	UT–060–068B	23,140	49,465
Coal Canyon	Statewide	UT–060–100C	20,774	40,656
Spruce Canyon	Statewide	UT–060–100C	14,736	5,614
Flume Canyon	Statewide	UT–060–100B	16,495	34,305
Westwater Canyon	Statewide	UT–060–118	26,000	5,160
Winter Ridge	Statewide	UT–080–730	0	42,462
Red Butte [a]	Statewide	UT–040–147 (202)	804	0
Spring Creek Canyon [a]	Statewide	UT–040–148 (202)	1,607	2,826
The Watchman [a]	Statewide	UT–040–149 (202)	600	0
Taylor Creek Canyon [a]	Statewide	UT–040–154 (202)	35	0
Goose Creek Canyon [a]	Statewide	UT–040–176 (202)	89	0
Beartrap Canyon [a]	Statewide	UT–040–177 (202)	40	0
Fremont Gorge [a]	Statewide	UT–050–221 (202)	0	2,540
Lost Spring Canyon [a]	Statewide	UT–060–131B (202)	3,880	0
Daniels Canyon [a]	Statewide	UT–080–414 (202)	0	2,496
South Needles [a]	Statewide	UT–060–169A	160	0
Statewide EIS totals			1,945,079	1,285,355

[a] Recommended in conjunction with adjacent National Parks.

UTAH WILDERNESS RECOMMENDATION

[Utah ISAs not in Statewide EIS]

WSA/ISA Name	Study	WSA number	Acres recommended for wilderness	Acres recommended for nonwilderness
Book Cliffs Mountain Browse N.A.[1]	Unit	UT–ISA–007	0	400
Devils Garden N.A.[1]	Unit	UT–ISA–009	0	640
Joshua Tree N.A.[1]	Unit	UT–ISA–010	0	1,040
Escalante Canyons (Tract 1) N.A.[1]	Unit	UT–ISA–003	0	360
Link Flats N.A.[1]	Unit	UT–ISA–008	0	912
Unit ISA totals			0	3,352

[1] N.A.=Natural area.

[Utah WSAs studied by other States]

WSA/ISA Name	Study	WSA number	Acres recommended for wilderness	Acres recommended for nonwilderness
West Cold Spring	District	UT–080–103/ CO–010–208	0	3,200
Diamond Breaks	District	UT–080–113/ CO–010–214	3,620	280
Bull Canyon	District	UT–080–419/ CO–010–001	620	40
Wrigley Mesa/Jones Canyon/Black Ridge Canyon West	Resource Area	UT–060–116/117/ CO–070–113A	5,200	0
Squaw/Papoose Canyon	Resource Area	UT–060–227/ CO–030–265A	0	6,676
Cross Canyon	Resource Area	UT–060–229/ CO–030–265	0	1,008
White Rock Range	Resource Area	UT–040–216/ NV–040–202	3,820	0

VOL 142 PT 5 MR 21 — 29 1996 UMI

[Utah WSAs studied by other States]

WSA/ISA Name	Study	WSA number	Acres recommended for wilderness	Acres recommended for nonwilderness
Total Utah WSAs studies by other States			13,260	11,204
Utah study totals			1,958,339	1,299,911

Mr. MURKOWSKI. I thank the Chair.

Mr. President, it is important to note that throughout the committee deliberations on this issue the Secretary did not offer one constructive comment—not one single comment—nor did he direct his legions to put forth an alternative. He was silent except for his exchanges with the media.

So here we have a Secretary that objects to this even after some $10 million and 15 years, and comes up with no suggested alternative.

That brings me to the point which I find very, very disturbing. I personally received from the Secretary, not directly but through the news media, a letter. This letter contains the passage that if the Utah wilderness provision contained in this bill prevails he would recommend that the President veto the entire bill. This did not come in the mail, Mr. President. Again, the Secretary offered no other constructive alternative to the wilderness proposal. I do not know. Maybe he wanted to save stamps and figured that the media would deliver his message. Well, they did deliver his message. I put a copy that we finally received into the RECORD. I ask unanimous consent that it be printed. I add that this did not come in the mail.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF THE INTERIOR,
Washington, DC, March 15, 1996.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to convey the Administration's position on the Omnibus Parks Bill, due before the full Senate shortly. If the Utah Public Lands Management Act is part of an omnibus bill sent to the President, I would recommend that he veto the entire package.

The Administration is prepared to support the omnibus park bill if the Utah wilderness provision is deleted and with the qualifications mentioned below.

With regard to the Presidio, we have continued to work with the Committee to arrive at acceptable language. I am prepared to recommend that the President support this provision, assuming the Senate includes language authorizing the Trust to transfer properties surplus to its needs and open space areas to the Secretary (as provided for in the House-passed bill), deletes the Davis-Bacon waiver (again as in the House bill), deletes the exemption from the Anti-Deficiency Act, and clarifies that the National Park Service may continue short-term use and occupancy agreements until the Trust is established.

As to the remaining titles, we are, in general, favorably disposed to their enactment. However, the Alaska Peninsula Subsurface Consolidation title is problematic. It would establish a new appraisal methodology that would likely result in the overvaluation of Koniag subsurface rights, at the expense of the taxpayer. In addition, the National Park Service does not believe that Koniag subsurface rights, at the expense of the taxpayer. In addition, the National Park Service does not believe that Koniag has a valid claim on some lands the Secretary would be directed to acquire, and these interests are of very low priority when evaluated on an objective basis.

It is my understanding that certain procedural obstacles to the consideration of the individual titles have recently been overcome. We would also be pleased to encourage swift passage and adoption of the vast majority of the bill's titles were they to be considered separately. I have directed my staff to work with the Committee to convey other technical concerns of the Department and assist in improving the legislation where we have expressed concerns, and hope this has been helpful to those seeking to assess prospects for this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report and that enactment of this legislation in its current form would not be in accord with the program of the Administration.

Sincerely,

BRUCE BABBITT.

Mr. MURKOWSKI. Mr. President, I still have not received the original letter from the Secretary. I find these events indicative of some of the attitudes that this administration—or some in this administration—seems to have for the Congress and the people who will benefit by the passage of this legislation. Playing in the media is only self-serving. It does not serve the public. Unfortunately, some of the media seemed to not have the intestinal fortitude to get up and find out just what the facts are. I hope they will search them out with regard to this package that is so important to the lands in the United States.

It is true that some of these lands in the State of Utah that they are going to receive in the exchange authorized under this legislation may be developed, but very little. It will not be developed irresponsibly. I think we can trust the people of Utah in that regard. The moneys generated from some of these lands go to Utah schools and institutions. Some opponents of the legislation suggest that the land will be ruined and developed beyond recognition. I know that my colleagues are aware of all of the safeguards that are still in place under both Federal and State laws, and they are almost too numerous to mention, Mr. President. But I think it is important that we recognize just what the significance of these checks and balances are because they are numerous.

To suggest that somehow Utah will have the flexibility to irresponsibly develop this land defies logic, Mr. President. I am going to submit for the RECORD legislative authorities involving the Bureau of Land Management, the General Public Lands Management Act, the general environmental laws. They consist of the Federal Land Policy Management Act, Classification of Multiple Use Act, Federal Advisory Committee Act, Coastal Zone Management Act, National Environmental Policy Act, Clean Air Act, Federal Water Pollution Control Act, Safe Drinking Water Act, Noise Control Act, Solid Waste Disposal Act, Environmental Quality Improvement Act, Hazardous Materials Transportation Act, Comprehensive Environmental Response, Oil Pollution Act, National Environmental Education Act, on and on and on.

I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEGISLATIVE AUTHORITIES INVOLVING BLM

I. GENERAL PUBLIC LANDS MANAGEMENT

1. Federal Land Policy and Management Act of 1976, as amended, 43 U.S.C. 1701, et seq.
2. Classification and Multiple Use Act of 1964, as amended, 433 U.S.C. 1411 et seq. (Expired. However, segregative effects of classifications are valid until modified or terminated.)
3. Federal Advisory Committee Act, as amended, 5 U.S.C. Appendix I
4. Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 et seq.

II. GENERAL ENVIRONMENTAL LAWS

1. National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4347
2. Clean Air Act, as amended, 42 U.S.C. 7401 et seq.
3. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. (Includes Clean Water Act of 1977 and Water Quality Act of 1987)
4. Safe Drinking Water Act, as amended, 42 U.S.C. 42 U.S.C. 300f et seq.
5. Noise Control Act of 1972, as amended, 42 U.S.C. 4901 et seq.
6. Solid Waste Disposal Act of 1965, as amended, 42 U.S.C. 6901 et seq. (Includes Resource Conservation and Recovery Act of 1976)
7. Environmental Quality Improvement Act, as amended, 42 U.S.C. 4371–4374
8. Hazardous Materials Transportation Act, as amended, 49 U.S.C. 1801–1813
9. Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA) "Superfund," 42 U.S.C. 9601 (Includes Superfund Amendments and Reauthorization Act of 1986 (SARA))
10. Oil Pollution Act of 1990, as amended, 104 Stat. 484–575; 33 U.S.C. 2701/2719; 33 U.S.C. 2731–2737; 33 U.S.C. 1319, 1321; 43 U.S.C. 1642, 1651 et seq. (Includes Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990)
11. National Environmental Education Act, 104 Stat. 3325–3329; 20 U.S.C. 5501–5510
12. Antarctica Protection Act, 104 Stat. 2975–2978; 16 U.S.C. 2461–2466
13. Arctic Research and Policy Act of 1984, as amended, 15 U.S.C. 4101–4111; 30 U.S.C. 1801–1811 (Includes National Critical Materials Act of 1984)
14. Global Change Research Act of 1990, 15 U.S.C. 2921 et seq. (Includes International Cooperation in Global Change Research Act of 1990)
15. The Emergency Planning and Community Right-to-Know Act of 1986
16. The Community Environmental Response Facilities Act of 1992

III. LANDS AND REALTY MANAGEMENT

1. Alaska Native Claims Settlement Act, as amended, 43 U.S.C. 1601 et seq.
2. Reservations and Grants to States for Public Purposes, 43 U.S.C. 851 et seq.
3. Carey Act of August 18, 1894, as amended, 43 U.S.C. 641 et seq.
4. Desert Land Act of March 3, 1877, as amended, 43 U.S.C. 321 et seq
5. Color of Title Act, as amended, 43 U.S.C. 1068
6. Recreation and Public Purposes Act, as amended, 43 U.S.C. 869
7. Act of July 26, 1955, 69 Stat. 374 (Timber Access Roads)
8. Act of February 28, 1958, 43 U.S.C. 155–158 (Withdrawal for Defense Purposes "Engle Act")
9. Act of July 7, 1958, 72 Stat. 339, 48 U.S.C. Chapter 2 (Alaska Statehood)
10. Alaska Omnibus Act, as amended, 73 Stat. 141, 48 U.S.C. Chapter 2
11. Act of September 21, 1922, 43 U.S.C. 992 (Erroneously Meandered Lands, Arkansas)
12. Act of February 19, 1925, 43 U.S.C. 993 (Erroneously Meandered Lands, Louisiana)
13. Act of February 27, 1925, 43 U.S.C. 994 (Erroneously Meandered Lands, Wisconsin)
14. Act of August 24, 1954, 43 U.S.C. 1221 (Erroneously Meandered Lands/Wisconsin River and Lake Land Titles)
15. Act of May 31, 1962, 76 Stat. 89 (Snake River, Idaho—Omitted Lands)
16. Federal-Aid Highway Act, as amended, 23 U.S.C. 101 et seq.
17. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601 et seq.
18. Act of September 28, 1850, as amended, 43 U.S.C. 982 et seq, (Grants of Swamp and Overflowed Lands)
19. Submerged Lands Act, as amended, 43 U.S.C. 1301 et seq.
20. Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719
21. Act of February 26, 1931, as amended, 40 U.S.C. 258a–258e (Popularly Known as the Declaration of Taking Act)
22. Various Acts authorizing creation of units within the National Park System which provided for exchanges involving public land—
    a. Act of September 13, 1962, 16 U.S.C. 459c–459c–7 (Point Reyes National Seashore)
    b. Act of September 11, 1964, as amended, 16 U.S.C. 459e–459e–9 (Fire Island National Seashore, NY)
    c. Act of October 8, 1964, as amended, 16 U.S.C. 460n–460n–9 (Lake Mead National Recreation Area, AZ & NV)
    d. Act of October 15, 1966, 16 U.S.C. 460t (Bighorn Canyon National Recreation Area, WY & MT)
    e. Act of July 15, 1968, as amended, 16 U.S.C. 4601–11 (Conveyances in National Park System and Miscellaneous Areas—Freehold and Leasehold Interests; Competitive bidding; Exchanges)
    f. Act of October 2, 1968, 16 U.S.C. 90 (North Cascades National Park, WA)
    g. Act of October 2, 1968, 16 U.S.C. 79a–79j (Redwood National Park, WA)
    h. Act of June 28, 1980, 16 U.S.C. 410gg–2(b) (Biscayne National Park, FL)
23. Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 et seq. (Section 601—Energy and Impact Area Development Assistance)
24. Act of October 21, 1970, as amended, 16 U.S.C. 460y–460y–9 (King Range National Conservation Area)
25. Federal Land Exchange Facilitation Act of 1988, 43 U.S.C. 751; 1716–1723
26. Rail Safety and Service Improvement Act of 1982, 96 Stat. 2543; 45 U.S.C. 1201–1214; 43 U.S.C. 1611, 1615, 1621, 1635 (Includes the Alaska Railroad Transfer Act of 1982)
27. Alaska National Interest Lands Conservation Act, as amended, 43 U.S.C. 1631 et seq.
28. Coastal Barrier Resources Act, as amended, 16 U.S.C. 3501–3510
29. Federal Lands Cleanup Act of 1985, 36 U.S.C. 169
30. Act of November 4, 1986, 28 U.S.C. 2409a (Real Property Quiet Title Actions)
31. Wildfire Suppression Assistance Act, 42 U.S.C. 1856
32. Utah School Lands Improvement Act, 107 Stat. 995
33. Airport and Airway Improvement Act of 1982
34. The Engle Act of February 28, 1958
35. The Burton-Sensitive Act, Public Law 96–586
36. The Zuni Act, Public Law 98–408
37. The Federal Power Act of 1920, as amended

IV. ENERGY AND MINERALS MANAGEMENT

1. Act of May 10, 1872, as amended, 30 U.S.C. 21 et seq. (General Mining Law)
2. Mineral Leasing Act, as amended, 30 U.S.C. 1818 et seq. Includes:
    a. Act of November 16, 1973, 87 Stat. 576 (Trans-Alaska Pipeline Authorization Act)
    b. Federal Coal Leasing Amendments of 1976, 90 Stat. 1083
    c. Combined Hydrocarbon Leasing Act of 1981, 95 Stat. 1070 (Tar Sand)
    d. Federal Onshore Oil and Gas Leasing Reform Act of 1987, 101 Stat. 1330–256–1330–263
3. Mineral Leasing Act for Acquired Lands, as amended, 30 U.S.C. 351–359
4. Geothermal Steam Act of 1970, as amended, 30 U.S.C. 1001 et seq.
5. Outer Continental Shelf Lands Act, as amended, 43 U.S.C. 1331 et seq.
6. Naval Petroleum Reserves Production Act of 1976, as amended, 42 U.S.C. 6501 et seq. (Includes Barrow Gas Field Transfer Act of 1984)
7. Surface Mining Control and Reclamation Act of 1977, as amended, 30 U.S.C. 1201 et seq.
8. Act of February 7, 1927, 30 U.S.C. 281 et seq. (Potash Mineral Leasing)
9. Multiple Mineral Development Act, as amended, 30 U.S.C. 521-531.
10. Act of August 12, 1953, 30 U.S.C. 501–505 (Mining Claims on Lands Subject to Mineral Leasing Laws)
11. Act of August 11, 1955, 30 U.S.C. 541–541i (Mining Location on Coal Lands)
12. Stock-Raising Homestead Act of 1916, as amended (Section 9), 43 U.S.C. 299. (Includes Act of April 16, 1993, regarding mining claims)
13. Mining Claims Rights Restoration Act of 1955, as amended, 30 U.S.C. 621–625
14. Act of April 17, 1926, 30 U.S.C. 271–276 (Sulphur Mineral Leasing)
15. Act of May 9, 1942, 30 U.S.C. 181, et seq. (Silica Leasing on Withdrawn Lands)
16. Act of June 8, 1926, 30 U.S.C. 291–293 (Lease of gold, silver, or quicksilver on private land claims)
17. Act of March 18, 1960, 30 U.S.C. 42 (Mill sites)
18. Act of July 31, 1947, as amended, 30 U.S.C. 601 et seq. (Popularly known as the Materials Act of 1947) (Includes the Multiple Use Mining Act of 1955)
19. Barrow Gas Field Transfer Act of 1984, 42 U.S.C. 6504
20. Arctic Research and Policy Act of 1984, 15 U.S.C. 4101 et seq; 30 U.S.C. 1801 et seq.
21. Act of August 29, 1984, 30 U.S.C. 1221 et seq. (State Mining and Mineral Resources Research Institute Program)
22. National Critical Materials Act of 1984, as amended, 30 U.S.C. 1801–1811.
23. Federal Oil and Gas Royalty Management Act of 1982, as amended, 30 U.S.C. 1701–1757; 30 U.S.C. 188
24. Energy Policy and Conservation Act, as amended, 42 U.S.C. 6201 et seq.
25. Federal Power Act, as amended, 16 U.S.C. 791a; 818
26. Deep Seabed Hard Mineral Resources Act, 30 U.S.C. 1413
27. Uranium Mill Tailings Radiation Control Act of 1978, as amended, 42 U.S.C. 7901 et seq. (Includes the Uranium Mill Tailings Remedial Action Amendments Act of 1988, Section 7916)
28. Energy Policy Act of 1992, 106 Stat. 2782; 42 U.S.C. 13201 et seq.
29. Waste Isolation Pilot Plant Land Withdrawal Act, 106 Stat. 4777

V. RENEWABLE RESOURCES MANAGEMENT

1. Public Rangelands Improvement Act of 1978, 43 U.S.C. 1901 et seq.
2. Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 et seq.
3. Act of August 28, 1937, as amended, 43 U.S.C. 1181a et seq. (Oregon and California Railroad and Coos Bay Wagon Road Grant Lands)
4. Act of June 28, 1934, as amended, 43 U.S.C. 315–315r (Popularly known as the Taylor Grazing Act)
5. Act of December 15, 1971, as amended, 16 U.S.C. 1331 et seq. (Popularly known as the Wild and Free-Roaming Horses and Burro Act)
6. Act of September 15, 1960, as amended, 16 U.S.C. 670g (Popularly known as the Sikes Act)
7. Act of June 8, 1940, as amended, 16 U.S.C. 668 et seq. (Protection of Bald and Golden Eagles)
8. Act of March 4, 1927, as amended, 43 U.S.C. 316 et seq. (Alaska Grazing)
9. Anadromous Fish Conservation Act, as amended, 16 U.S.C. 757a et seq.
10. Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1010–1012
11. Fish and Wildlife Coordination Act, as amended, 16 U.S.C. 661 et seq.
12. Act of March 29, 1944 16 U.S.C. 583–583i (Sustained-Yield Forest Management)
13. Halogeton Glomeratus Control Act, 7 U.S.C. 1651–1656
14. Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq.
15. Act of August 14, 1976, 16 U.S.C. 673d et seq. (Tule Elk)
16. Resources Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.
17. Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1361–1362, 1371–1384, 1401–1407
18. Act of October 17, 1968, 43 U.S.C. 1241–1243 (Control of Noxious Plants)
19. Federal Noxious Weed Act of 1974, as amended, 7 U.S.C. 2801–2813

VOL
142
PT
5
MR
21
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29
1996
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20. Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801–1802, 1811–1813, 1821–1825, 1851–1861, 1882
21. Migratory Bird Conservation Act, as amended, 16 U.S.C. 715 (Includes the Wetlands Loan Extension Act of 1976)
22. Act of April 27, 1935, as amended, 16 U.S.C. 590a et seq. (Soil Conservation)
23. Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. 136–136y (Includes the Federal Environmental Pesticide Control Act of 1972)
24. Act of September 2, 1937, as amended, 16 U.S.C. 669–669i (Popularly known as the Federal Aid in Wildlife Restoration Act or the Pittman-Robertson Wildlife Restoration Act)
25. Fur Seal Act of 1966, as amended, 16 U.S.C. 1151 et seq.
26. North American Wetlands Conservation Act, as amended, 16 U.S.C. 4401–4413
27. Federal Timber Contract Payment Modification Act, 16 U.S.C. 618–619, 539f
28. Food Security Act of 1985 (Farm Bill), 7 U.S.C. 148f (Control of grasshoppers & mormon crickets on Federal lands)
29. Controlled Substances Act, 21 U.S.C. 841 et seq.
30. Pacific Yew Act, 16 U.S.C. 4801 et seq.
31. Snake River Birds of Prey Act, 107 Stat. 302

VI. WATER RESOURCES AND RELATED PROBLEMS

1. Water Resources Planning Act, as amended, 42 U.S.C. 1962–1962a (Includes the Water Resources Development Act of 1974)
2. Rivers and Harbors Appropriation Act of 1899, as amended, 33 U.S.C. 401 et seq.
3. Act of August 3, 1968, 16 U.S.C. 1221 et seq. (Estuary Protection)
4. Marine Protection, Research and Sanctuary Act, as amended, 33 U.S.C. 1401–1445, 16 U.S.C. 1431–1439
5. Watershed Protection and Flood Prevention Act, as amended, 16 U.S.C. 1001–1009
6. Colorado River Basin Salinity Control Act, as amended, 43 U.S.C. 620d, 1543, 1571–1578
7. Water Resources Research Act of 1984, 42 U.S.C. 10301 et seq.
8. Water Resources Development Act of 1986, as amended, 33 U.S.C. 2201 et seq.
9. Federal Water Project Recreation Act, 16 U.S.C. 4601–12—4601–21
10. The Clean Water Act, as amended by the Water Quality Act of 1987
11. The Safe Drinking Water Act Amendments of 1977
12. The National Dam Inspection Act of 1977
13. The Soil and Water Resources Conservation Act of 1977

VII. RECREATION, HERITAGE AND WILDERNESS PROGRAMS

1. National Historic Preservation Act, as amended, 16 U.S.C. 470 et seq.
2. Wild and Scenic Rivers Act, as amended, 16 U.S.C. 1271 et seq.
3. Act of June 8, 1966, 16 U.S.C. 431–433 (Preservation of Antiquities)
4. National Trail System Act, as amended, 16 U.S.C. 1241 et seq.
5. Wilderness Act, as amended, 16 U.S.C. 1131 et seq.
6. Act of August 11, 1978, 42 U.S.C. 1996 (Popularly known as the American Indian Religious Freedom Act)
7. Historic Sites Buildings and Antiquities Act or Historic Sites Act, 16 U.S.C. 461–467
8. Federal Cave Resources Protection Act of 1988, 16 U.S.C. 4301 et seq.
9. Archaeological Resources Protection Act of 1979, as amended, 16 U.S.C. 470aa et seq.
10. Federal Water Project Recreation Act, 16 U.S.C. 4601–12—4601–21
11. Native American Programs Act of 1974, as amended, 42 U.S.C. 2991–2992, (Includes the Indian Environmental Regulatory Enhancement Act of 1990)
12. Act of December 19, 1980, 16 U.S.C. 410ii–410ii-7 (Chaco Culture National Historical Park)
13. Act of September 27, 1988, 16 U.S.C. 273b (Capitol Reef National Park, Grazing Privileges)
14. Arizona-Idaho Conservation Act of 1988, as amended, 16 U.S.C. 460xx–1—460xx–6; 460yy–1
15. Act of December 31, 1987, 16 U.S.C. 460uu et seq. (El Malpais National Conservation Area)
16. Red Rock Canyon National Conservation Area Establishment Act of 1990, 16 U.S.C. 460ccc et seq.
17. Arizona Desert Wilderness Act of 1990, 16 U.S.C. 460ddd (Includes Gila Box Riparian National Conservation Area and Take Pride in America Act, 16 U.S.C. 4601–4608)
18. Intermodal Surface Transportation Efficiency Act of 1991, 105 Stat. 1914 (Includes Federal Lands Highway Program/BLM Country Byways Program, 23 U.S.C. 101 Note, and Symms National Recreation Trails Act of 1991, 16 U.S.C. 1261–1262)
19. The Nature American Graves Protection and Repatriation Act of 1990

VIII. FINANCE

1. Land and Water Conservation Fund Act of 1965, as amended, 16 U.S.C. 4601–4—4601–11
2. Act of September 13, 1982, as amended, 31 U.S.C. 6901–6907, (Payment-in-Lieu of Taxes (PILT))
3. Act of June 17, 1902, as amended, 13 U.S.C. 371 et seq. (Popularly known as the Reclamation Act or the National Irrigation Act of 1902)
4. Forest Wildfire Emergency Pay Equity Act of 1988, 5 U.S.C. 5547

IX. TECHNICAL SERVICES

1. Cadastral Survey
   a. Act of May 18, 1976, as amended, 43 U.S.C. 751 et seq. (R.S. 2395—Survey of Public Lands)
   b. Act of April 8, 1864, as amended, 25 U.S.C. 176 (Survey of Indian Reservations)
2. Law Enforcement and Fire Protection
   a. Act of September 20, 1922, 16 U.S.C. 594 (Protection of Timber of U.S.)
   b. Act of May 27, 1955, 42 U.S.C. 1856 (Reciprocal Fire Protection)
   c. Act of February 25, 1885, as amended, 43 U.S.C. 1061 et seq. (Popularly known as the Unlawful Inclosures of Public Lands Act or the Unlawful Occupancy of Public Lands Act)
   d. Federal Timber Contract Payment Modification Act, 16 U.S.C. 618–619, 539f
   e. Wildfire Disaster Recovery Act of 1989, 16 U.S.C. 551b–551c
   f. Forest Wildfire Emergency Pay Equity Act, 5 U.S.C. 5547
3. Act of August 13, 1970, as amended, 16 U.S.C. 1701–1706 (Youth Conservation Corps)
4. Volunteers in the Parks Act of 1969, as amended, 16 U.S.C. 18g–18j
5. The Federal Uniform Crime Reporting Act 1988

X. ADMINISTRATIVE

1. Administrative Procedures Act, as amended, 5 U.S.C. 500–576. Includes:
   a. Freedom on Information Act, as amended, 5 U.S.C. 552 et seq.
   b. Privacy Act of 1974, as amended, 5 U.S.C. 552a et seq.
2. Regulatory Flexibility Act, 5 U.S.C. 601 et seq.
3. Whistleblower Protection Act, 5 U.S.C. 1201–1222
4. Federal Employees' Leave Transfer Act of 1988, 5 U.S.C. 6331–6339
5. Awards for Cost Savings Disclosures Act, 5 U.S.C. 4511–4514
6. Performance Management and Recognition System Reauthorization Act of 1989, as amended, 5 U.S.C. 5401 et seq.; 5 U.S.C. 4302a
7. Family and Medical Leave Act of 1993, 107 Stat. 6; 5 U.S.C. 6381 et seq. (Title II—Federal Employees)
8. Government Printing Office Electronic Information Access Enhancement Act of 1993, 107 Stat. 112
9. The Paperwork Reduction Act of 1980
10. The Computer Security Act of 1987
11. The Civil Service Reform Act of 1978
12. The Civil Rights Act of 1964, as amended

MAJOR ENVIRONMENTAL LAWS ENFORCED BY THE BUREAU OF LAND MANAGEMENT ON FEDERAL LANDS

Federal Land Policy and Management Act of 1976
National Environmental Act of 1969
Federal Water Pollution Control Act
Clean Air Act
Resource Conservation and Recovery Act
Oil Pollution Act of 1990
Safe Drinking Water Act
Mineral Leasing Act
Surface Mining Control and Reclamation Act
Public Rangelands Improvement Act
Taylor Grazing Act
Wild Horse and Burro Act
Endangered Species Act
Federal Noxious Weed Act
National Historic Preservation Act
Wilderness Act
American Indian Religious Freedom Act
Comprehensive Environmental Response, Compensation, and Liability Act of 1980

MAJOR ENVIRONMENTAL LAWS ENFORCED BY THE STATE OF UTAH ON STATE AND PRIVATE LANDS

The State of Utah, through State Law has the authority to enforce the following Federal Laws on State and private lands:

Surface Mining Control and Reclamation Act
Federal Water Pollution Control Act
Clean Air Act
Endangered Species Act
Surface Mining Control and Reclamation Act
National Historic Preservation Act
Resource Conservation and Recovery Act
Safe Drinking Water Act
Fish and Wildlife Management Laws

In addition, the Counties have zoning ordinances to ensure lands within the counties are managed in a responsible fashion.

Mr. MURKOWSKI. Mr. President, my point is an obvious one—that there are plenty of safeguards to ensure that that land will be developed in a responsible manner.

The citizens of Utah have proven that they are responsible and good stewards of their land. Irresponsible development does not support, obviously, the school system, and the future of the State of Utah, as is any other State, is the children. They obviously need the benefits of a good educational system and some development. Some of this land will be utilized for that purpose.

But to suggest somehow that it is an irresponsible act, the development of the land will be done irresponsibly, defies logic. This bill benefits the local

communities in Utah. It provides them with access to resources promised to them when they were first granted the school section concept.

I need only to remind my colleagues that those who oppose this addition to the wilderness system are, in my opinion, those who have absolutely no consideration for maintaining a vibrant economy. Look at some areas of the United States where we had difficulties—poverty, lack of jobs. Appalachia comes to mind. We can look to Afghanistan and certain areas of South America, economically depressed portions of the planet, and there is an easy connection to be drawn. It is a reality that people do not have a future. They do not have the opportunity for jobs. There is no tax base. As a consequence, a situation like that needs to be recognized and corrected.

That is why in this legislation, the State of Utah has the flexibility to make the determinations on their own as to what is best for their own people and their own State.

So, Mr. President, we simply must not divorce the concept of environmental protection from the economic health of our citizens and the communities within which they live. Economic well-being enhances the environment. It certainly does not destroy it. I think you have to have good schools, well-educated young Americans, and good job opportunities. Then we can truly have the means and the knowledge to meet our environmental responsibilities. You do not do it in a vacuum.

Again, Mr. President, the Nation gains some 2 million acres of pristine national treasure; the residents of Utah gain schools, education, and a protected environment. In my opinion, there is no better quid pro quo.

We are going to have an extended debate here, Mr. President. But there are a couple of other things that I would like to add to the opening statement that I think make reference to the realities that we are faced with.

There has been a suggestion by some in the media and some of my colleagues on the other side of the aisle that there have been delays in putting this legislation together and that somehow the responsibility should rest with those of us on this side of the aisle.

Mr. President, I would like to remind my colleagues that the bills in this package have been held in limbo for several months. The end result of this inaction has produced a logjam of legislative proposals that have been collecting sawdust around here. But the reality of this logjam is the fact that Senate passage of one bill will not occur until there is an action on another and then another and so on down the line.

The bottom line is everyone gets something or everyone gets nothing. That is where we are with this package today. As I have indicated, there are some 56 areas that are affected here. If we can take this package together and move it, it will pass and be accepted in the House of Representatives and move on to the President. But if we start unwinding, I can assure you that set of facts is not going to prevail.

The bottom line is that you cannot send the Presidio to the House minus the provisions concerning Utah. I guess we could sit around here today and tomorrow rearranging the deck chairs all we want, but if the Titanic leaves port without that deck chair the results are predictable. Presidio will die and all of the other titles of the bill will die, too.

I am going to be specific because I think it is appropriate relative to the concerns that are going to be expressed today in the extended debate.

I wish to talk specifics about the Utah wilderness bill. I know my colleagues from Utah will go on at great length, but my good friend from New Jersey has made a point of indicating his dissatisfaction with the proposed resolve of 2 million acres being added to the wilderness of Utah, and he has made the point in his press releases that our public lands belong to all Americans. I certainly agree with that. But he goes on to say that they should never be given away to a few special interests.

Mr. President, I do not consider the people of Utah "a few special interests." While I am a Senator from Alaska, I happen to have a little spot in Utah where occasionally I go skiing, so you might say I have my own vested interest in Utah. I am a taxpayer there. I do not pretend to have the expertise of my colleagues who are going to speak later, but by the same token I think I have equal expertise to that of my friend from Utah.

I do not consider the people of Utah a special interest. The residents of Utah are represented by their elected officials. I have a letter which shows that 26 of the 29 State senators support the provisions of this bill. The letter from the house chamber of the Utah State Legislature shows that 64 out of 75 house members support the designation of wilderness in this bill.

Finally, I have a letter which shows that all of the elected county officials, all of the officials in 26 out of the 29 counties support the legislation as written. It is interesting to note that in the 27th county, five out of seven commissioners support the bill. The letter contains over 310 signatures of county elected officials.

Mr. President, I ask unanimous consent that the letters to which I just referred be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UTAH STATE LEGISLATURE,
Salt Lake City, UT, February 14, 1996.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: As legislative leaders, we want to reaffirm the position taken by the Fifty-first Legislature of the State of Utah as it relates to the amount of BLM land designated as wilderness in Utah.

HCR 12, RESOLUTION SUPPORTING WILDERNESS DESIGNATION, by Representative Bradley Johnson, states very clearly the process by which wilderness was to be identified and quantified. That process was followed, and the local political entities acted very responsibly when they recommended that a little more than 1 million acres receive wilderness status.

The addition of acreage bringing the total amount to be added to the wilderness proposal to 1.8 million was an unsettling surprise. Yet, in a spirit of compromise, this total amount would be acceptable. We believe the addition of any more acreage, however, would be an affront to the citizens of this state and the process put in place that made the original recommendation. Furthermore, we believe the addition of more land would be tantamount to surrendering to rhetoric which is without a rational or factual basis.

The Fifty-first Legislature has spoken clearly on BLM wilderness designation. To lock up more land to an uncertain future in a state where 80 percent of the land area is subject to some form of government restriction and control is a policy which lacks sensitivity and foresight. This policy blind spot is simply inappropriate. To shackle future generations in this state with the unbendable restrictions wilderness designation imposes is nothing more than a "takings" of the hopes and dreams of Utahns whose heritage and economic roots are tied to these lands. These lands are not threatened and wilderness designation will not provide any additional protection that is already provided for by law governing the management of these lands.

For more than 100 years, there has been a harmony between the land and the land user. A dependence on the part of both has grown up with a healthy mutual respect. Questionable science has been injected into the wilderness decision-making process by those who are disjointed and removed from the land they claim to befriend.

We reaffirm our position on wilderness designation articulated in the last legislative session and as that you consider it to be the position of the State of Utah. If we can be helpful and answer your questions in addressing your concerns relative to this issue, we would be most amenable to doing what is necessary so that your decision is made with the very best, accurate information.

Sincerely,

MELVIN R. BROWN,
Speaker.
R. LANE BEATTIE,
President.

THE TRUTH ABOUT UTAH WILDERNESS

MARCH 22, 1996.

DEAR SENATOR: You recently received a letter dated March 15, 1996 from a group of twenty calling themselves "The Coalition of Utah Elected Officials," asking the "Utah Congressional Delegation to withdraw S. 884 and reconsider the direction they have taken on wilderness." The letter states that "most Utahns oppose S. 884." It further states that "most local people consider this to be stridently anti-environmental legislation, not

VOL
142
PT
5
MR
21
—
29
1996
UMI

the carefully balanced package the Utah Congressional Delegation has been claiming it to be."

These statements are not only preposterous, but blatantly untrue. The facts are that most Utahns do not want large amounts of acreage designated as wilderness in Utah. We the undersigned Democrats and Republicans strongly support Senator's Hatch and Bennett in their balanced approach to Utah wilderness.

In reality, the Utah State Senate endorsed the provisions contained in the Hatch-Bennett proposal unanimously (27–0), while the Utah State House voted 62–6, or 92% in favor. Across the state, elected commissioners in 27 of 29 counties support this bill. As this letter indicates, over 90% of Utah's elected county leaders support the Utah wilderness proposal now before the Senate.

Early in 1995, the Governor of Utah and all members of the Utah Congressional Delegation specifically tasked the elected county officials in each county where wilderness was being proposed, to hold public hearings and from those public hearings, develop a proposal for wilderness designation on Bureau of Land Management (BLM) Lands in the affected counties. Numerous public hearings were held in every county where lands were proposed for wilderness designation. The country officials then developed their proposals for designating lands as wilderness from the public hearings. In every county where lands were proposed for wilderness designation, the county officials made their recommendations based on what they heard at the hearings. Many county officials recommended more acreage than they knew their citizens wanted, but they knew they had to do so in order to make a bill acceptable to Congress. Some of those county officials have paid a dear political price for their recommendations.

After the county officials made their recommendations, the Governor and Congressional Delegation, held five regional hearings around the state. The environmental community, both in and outside of Utah was well organized and paid its partisans to testify. They even rented busses and vans to transport these people from location to location. The testimony they gave was based on emotion and not the requirements of the Wilderness Act itself. Their testimony ignored the professional recommendations of the BLM which based its proposals on the criteria of the 1964 Wilderness Act.

The Governor and Congressional Delegation then developed what is now Title XX of omnibus package, S. 884. Many in Utah believe it contains too much acreage. It represents more than was recommended by the elected county officials who held the local public hearings. It represents more than the State Legislature has recommended at least twice in the last four years by nearly unanimous votes.

The people of Utah live in a state with approximately 67% federal land ownership and another 13% state ownership, but managed under the federally enacted State Enabling Act. Utah already has millions of acres in Five National Parks, two National Recreation Areas, four National Monuments, thirteen Forest Service wilderness areas, and BLM Areas of Critical Environmental Concern (ACEC). The unelected State Director of the BLM manages more of Utah than does its elected Governor.

The BLM wilderness debate in Utah has dragged on for more than 15 years at a cost to taxpayers of over $10 million. We believe it is time to end the debate, pass the balanced Hatch-Bennett proposal and bring some peace and stability to the people of Utah who must live daily with results of this debate. We the undersigned are a few of the elected officials in Utah who support Title XX of this omnibus bill. We want it passed and enacted into law.

Sincerely,

John Hansen, Millard County Auditor; Linda Carter, Millard County Recorder; Ed Phillips, Millard County Sheriff; LeRay Jackson, Millard County Attorney; John Henrie, Millard County Commissioner; Donovan Dafoe, Mayor, Delta Utah; Merrill Nielson, Mayor, Lynndyl, Utah; Phil Lovell, Mayor, Leamington, Utah; B. DeLyle Carling, Mayor, Meadow, Utah; Terry Higgs, Mayor, Kanosh, Utah; Mont Kimball, Councilman, Konosh, Utah; Roger Phillips, Councilman, Kanosh, Utah; Robert Decker, Councilman Delta, Utah; Gary Sullivan, Beaver County Commissioner; Ross Marshall, Beaver County Commissioner.

Chad Johnson, Beaver County Commissioner; Howard Pryor, Mayor, Minersville Town; Louise Liston, Garfield County Commissioner; Clare Ramsay, Garfield County Commissioner; Guy Thompson, Mayor, Henrieville Town; Shannon Allen, Mayor, Antimony Town; John Mathews, Mayor, Cannonville Town; Julee Lyman, Mayor, Boulder Town; Robert Gardner, Iron County Commissioner; Thomas Cardon, Iron County Commissioner; Worth Grimshaw, Mayor, Enoch City; Dennis Stowell, Mayor, Parowan City; Norm Carroll, Kane County Commissioner; Stephen Crosby, Kane County Commissioner; Viv Adams, Mayor, Kanab City.

Scot Goulding, Mayor, Orderville Town; Gayle Aldred, Washington County Commissioner; Russell Gallian, Washington County Commissioner; Gene Van Wagoner, Mayor, Hurricane City; Chris Blake, Mayor, Ivins Town; Rick Hafen, Mayor, Santa Clara City; Paul Beatty, Mayor, New Harmony Town; Terrill Clove, Mayor, Washington City; David Zitting, Mayor, Hildale City; Ike Lunt, Juab County Commissioner; Martin Jensen, Piute County Commissioner; Joseph Bernini, Juab County Commissioner; J. Keller Christensen, Sanpete County Commissioner; Eddie Cox, Sanpete County Commissioner; Ralph Okerlund, Sevier County Commissioner; Meeks Morrell, Wayne County Commissioner; Stanley Alvey, Wayne County Commissioner; Kevin Young, Mayor, Mona, Utah.

Steve Buchanan, Mayor, Gunnison, Utah; Roger Cook, Mayor, Moroni, Utah; Mary Day, Millard County Treasurer; James Talbot, Millard County Assessor; Marlene Whicker, Millard County Clerk; Lana Moon, Millard County Commissioner; Tony Dearden, Millard County Commissioner; Ken Talbot, Mayor, Hinkley, Utah; Elzo Porter, Mayor, Oak City, Utah; Keith Gillins, Mayor, Fillmore, Utah; Barry Monroe, Mayor, Scipio, Utah; C.R. Charlesworth, Mayor, Holden, Utah; Vicky McKee, Daggett Clerk Treasurer; Bob Nafus, Councilman, Konosh, Utah; Roger Phillips, Councilman, Konosh, Utah.

Chad Johnson, Beaver County Commissioner; James Robinson, Mayor, Beaver City; Mary Wiseman, Mayor, Milford City; Maloy Dodds, Garfield County Commissioner; Jean Seiler, Mayor, Tropic Town; Laval Sawyer, Mayor, Hatch Town; Wade Barney, Mayor, Escalante, Utah; Elaine Baldwin, Mayor, Panguitch, Utah; Roy Urie, Iron County Commissioner; Bill Weymouth, Mayor, Kanarraville Town; Harold Shirley, Mayor, Cedar City; Constance Robinson, Mayor, Pro-Tem, Paragonah; Joe Judd, Kane County Commissioner; Garaldine Rankin, Mayor, Big Water; Eric Brinkerhoff, Mayor, Glendale Town; Orval Palmer, Mayor, Alton Town; Jerry Lewis, Washington County Commissioner.

Daniel McArther, Mayor, City of St. George; A. Morley Wilson, Mayor, Enterprise City; Raymond Jack Eves, Mayor, LaVerkin City; David Everett, Mayor, Toquerville Town; Brent DeMille, Mayor, Leeds Town; Joy Henderlider, Mayor, Virgin Town; Gordon Young, Juab County Commissioner; Paul Morgan, Piute County Commissioner; Don Julander, Piute County Commissioner; Robert Bessey, Sanpete County Commissioner; Tex Olsen, Sevier County Commissioner; Peggy Mason, Sevier County Commissioner; Bliss Brinkerhoff, Wayne County Commissioner; Bob Steele, Mayor, Nephi, Utah; Connie Dubinsky, Mayor, Utah; Kent Larsen, Mayor, Utah; Chesley Christensen, Mayor, Mt. Pleasant, Utah.

Lawrence Mason, Mayor, Aurora, Utah; Eugene Honeycutt, Mayor, Redmond, Utah; James Freeby, Mayor, Sigurd, Utah; Orlin Howes, Mayor, Junction, Utah; Sherwood Albrecht, Mayor, Bicknell, Utah; Dick Davis, Mayor, Lyman, Utah; Mike Milovich, Carbon County Commissioner; Pay Pene, Grand Count Council; Bart Leavitt, Grand County Council; Lou Colisimo, Mayor, Price City; Roy Nikas, Councilman, Price City; Paul Childs, Mayor, Wellington, Utah; Bill McDougald, Councilman, City of Moab; Terry Warner, Councilman, City of Moab; Richard Seeley, Councilman, Green River City; Karen Nielsen, Councilwoman, Cleveland Town; Gery Petty, Mayor, Emery Town; Dennis Worwood, Councilman, Ferron City.

Brenda Bingham, Treasurer, Ferron City; Ramon Martinez, Mayor, Huntington City; Ross Gordon, Councilman, Huntington City; Lenna Romine, Piute County Assessor; Tom Balser, Councilman, Orangeville, City; Richard Stilson, Councilman, Orangeville City; Murene Bean, Recorder, Orangeville City; Carolyn Jorgensen, Treasurer, Castle Dale City; Bevan Wilson, Emery County Commissioner; Donald McCourt, Councilman, East Carbon City; Murray D. Anderson, Councilman East Carbon City; Mark McDonald, Councilman, Sunnyside City; Ryan Hepworth, Councilman, Sunnyside City; Dale Black, Mayor, Monticello City; John Black, Councilman, Monticello City.

Grant Warner, Mayor, Glenwood, Utah; Grant Stubbs, Mayor, Salina, Utah; Afton Morgan, Mayor, Circleville, Utah; Ronald Bushman, Mayor, Marysvale, Utah; Eugen Blackburn, Mayor, Loa, Utah; Robert Allred, Mayor, Spring City, Utah; Neil Breinholt, Carbon County Commissioner; Bill Krompel, Carbon County Commissioner; Dale Mosher, Grand County Councilman; Den Ballentyne, Grand County Councilman; Frank Nelson, Grand County Councilman; Steve Bringhurst, Price City Councilman; Joe Piccolo, Price City Councilman; Tom Stocks, Mayor, City of Moab; Judy Ann Scott Mayor, Green River City; Art Hughes, former Councilman, Green River.

Gary Price, Mayor, Clawson Town; Marvin Thayne, Councilman Elmo Town; Dale Roper, Mayor, Town of Ferron; Garth Larsen, Ferron Town Council; Paul Kunze, Recorder, Ferron Town; Don Gordon, Huntington City Councilman; Jackie Wilson, Huntington City Council; Howard Tuttle, Councilman, Orangeville City; Dixon Peacock, Councilman, Orangeville City; Roger Warner, Mayor Castle Dale City; Kent Peterson, Grand County Commissioner; Randy Johnson, Grand County Commissioner; L. Paul Clark, Mayor, East Carbon City; Darlene Fivecoat, Councilwoman, East Carbon City; Barbara Fisher, Councilwoman, East Carbon City.

Grant McDonald, Mayor, Sunnyside City; Nick DeGiulio, Councilman, Sunnyside City; Bernie Christensen, Councilwoman, Monticello City; Mike Dalpiaz, Helper City; Lee Allen, Box Elder County Commissioner; Royal K. Norman, Box Elder County Commissioner; Jay E. Hardy, Box Elder County Commissioner; Darrel L. Gibbons, Cache County Councilman; C. Larry Anhder, Cache County Councilman; Guy Ray Pulsipher, Cashe County Councilman; James Briggs, Daggett County Commissioner; Sharon Walters, Daggett County Commissioner; Chad L. Reed, Daggett County Commissioner; Curtiss Dastrup, Duchesne County Commissioner.

Larry Ross, Duchesne County Commissioner; John Swasey; Duchesne County Commissioner; Dale C. Wilson, Morgan County Commissioner; Jan K. Turner, Morgan County Commissioner; Jeff D. London, Morgan County Commissioner; Kenneth R. Brown, Rich County Commissioner; Blair R. Francis, Rich County Commissioner; Keith D. Johnson, Rich County Commissioner; Ty Lewis, San Juan County Commissioner; Bill Redd, San Juan County Commissioner; Mark Maryboy, San Juan County Commissioner; Sheldon Richins, Summit County Commissioner; Thomas Flinders, Summit County Commissioner; Jim Soter, Summit County Commissioner; Teryl Hunsaker, Tooele County Commissioner; Gary Griffith, Tooele County Commissioner; Lois McArther, Tooele County Commissioner; Odell Russell, Mayor, Rush Valley, Utah; Cosetta Castagno, Mayor, Vernon, Utah; Frank Sharman, Tooele County Sheriff.

Glen Caldwell, Tooele County Auditor; Donna McHendrix, Tooele County Recorder; Gerri Paystrup, Tooele County Assessor; Valerie B. Lee, Tooele County Treasurer; H. Glen McKee, Uintah County Commissioner; Lorin Merrill, Uintah County Commissioner; Lewis G. Vincent, Uintah County Commissioner; Laren Provost, Wasatch County Commissioner; Keith D. Jacobson, Wasatch County Commissioner; Sharron J. Winterton, Wasatch County Commissioner; David J. Gardner, Utah County Commissioner; Jerry D. Grover, Utah County Commissioner; Gary Herbert, Utah County Commissioner; Gayle A. Stevenson, Davis County Commissioner; Dannie R. McConkie, Davis County Commissioner.

Carol R. Page, Davis County Commissioner; Leo G. Kanel, Beaver County Attorney; Monte Munns, Box Elder County Assessor; Gaylen Jarvie, Daggett County Sheriff; Camille Moore, Garfield County Clerk/Auditor; Brian Bremner, Garfield County Engineer; Karla Johnson, Kane County Clerk/Auditor; Richard M. Baily, Director, Administrative Services; Lamar Guymon, Emery County Sheriff; Eli H. Anderson, District 1, Utah State Representative; Peter C. Knudson, District 2, Utah State Representative; Fred Hunsaker, District 4, Utah State Representative; Evan Olsen, District 5, Utah State Representative; Martin Stephens, District 6, Utah State Representative; Joseph Murray, District 8, Utah State Representative; John B. Arrington, District 9, Utah State Representative.

Douglas S. Peterson, District 11, Utah State Representative; Gerry A. Adair, District 12, Utah State Representative; Nora B. Stephens, District 13, Utah State Representative; Don E. Bush, District 14, Utah State Representative; Blake D. Chard, District 15, Utah State Representative; Kevin S. Garn, District 16, Utah State Representative; Marda Dillree, District 17, Utah State Representative; Karen B. Smith, District 18, Utah State Representative; Sheryl L. Allen, District 19, Utah State Representative; Charles E. Bradford, District 20, Utah State Representative; James R. Gowans, District 21, Utah State Representative; Steven Barth, District 26, Utah State Representative; Ron Bigelow, District 32, Utah State Representative; Orville D. Carnahan, District 34, Utah State Representative; Lamont Tyler, District 36, Utah State Representative; Ray Short, District 37, Utah State Representative; Sue Lockman, District 38, Utah State Representative; Michael G. Waddoups, District 39, Utah State Representative.

J. Reese Hunter, District 40, Utah State Representative; Darlene Gubler, District 41, Utah State Representative; David Bresnahan, District 42, Utah State Representative; Robert H. Killpack, District 44, Utah State Representative; Melvin R. Brown, District 45, Utah State Representative; Brian R. Allen, District 46, Utah State Representative; Bryan D. Holladay, District 47, Utah State Representative; Greg. J. Curtis, District 49, Utah State Representative; Lloyd Frandsen, District 50, Utah State Representative; Shirley V. Jensen, District 51, Utah State Representative; R. Mont Evans, District 52, Utah State Representative; David Ure, District 53, Utah State Representative; Jack A. Seitz, District 55, Utah State Representative; Christine Fox, District 56, Utah State Representative; Lowell A. Nelson, District 57, Utah State Representative; John L. Valentine, District 58, Utah State Representative.

Doyle Mortimer, District 59, Utah State Representative; Norm Nielsen, District 60, Utah State Representative; R. Lee Ellertson, District 61, Utah State Representative; Jeff Alexander, District 62, Utah State Representative; Jordan Tanner, District 63, Utah State Representative; Byron L. Harward, District 64, Utah State Representative; J. Brent Hammond, District 65, Utah State Representative; Tim Moran, District 66, Utah State Representative; Bill Wright, District 67, Utah State Representative; Michael Styler, District 68, Utah State Representative; Tom Mathews, District 69, Utah State Representative; Bradley T. Johnson, District 69, Utah State Representative; Keele Johnson, District 71, Utah State Representative; Demar "Bud" Bowman, District 72, Utah State Representative; Tom Hatch, District 73, Utah State Representative.

Bill Hickman, District 75, Utah State Representative; Wilford Black, District 2, Utah State Senator; Blaze D. Wharton, District 3, Utah State Senator; Howard Stephenson, District 4, Utah State Senator; Brent Richard, District 5, Utah State Senator; Stephen J. Rees, District 6, Utah State Senator; David L. Buhler, District 7, Utah State Senator; Steve Poulton, District 9, Utah State Senator; L. Alma Mansell, District 10, Utah State Senator; Eddie P. Mayne, District 11, Utah State Senator; George Mantes, District 13, Utah State Senator; Craig A. Peterson, District 14, Utah State Senator; LeRay McAllister, District 15, Utah State Senator; Eldon Money, District 17, Utah State Senator; Nathan Tanner, District 18, Utah State Senator; Robert F. Montgomery, District 19, Utah State Senator; Joseph H. Steel, District 21, Utah State Senator; Craig L. Taylor, District 22, Utah State Senator; Lane Beattie, District 23, Utah State Senator; John P. Holmgren, District 24, Utah State Senator; Lyle W. Hillyard, District 25, Utah State Senator; Alarik Myrin, District 26, Utah State Senator; Mike Dmitrich, District 27, Utah State Senator; Leonard M. Blackham, District 28, Utah State Senator; David L. Watson, District 29, Utah State Senator.

LAWS OF UTAH—1995

H.C.R. 12

Whereas the Bureau of Land Management (BLM) has issued its final Environmental Impact Statement and recommended designating approximately 1.9 million acres of land in Utah as wilderness;

Whereas the State is willing to cooperate with the United States government in the designation process and in protecting Utah's environment;

Whereas designating lands as wilderness affects many communities and residents of the state by permanently prohibiting certain kinds of economic development;

Whereas a federal reservation of water could seriously affect the potential for development in growing areas of the state;

Whereas the designation of wilderness would depreciate the value of state inholdings and adjacent state lands, reducing an important source of revenue for the education of Utah's schoolchildren;

Whereas it is the state's position that there should be no net loss of state or private lands and no increase in federal ownership as a result of wilderness designation;

Whereas lands that may be designated as wilderness are subject to existing rights and uses under current law, such as mining, timber harvesting, and grazing.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Whereas the BLM has extensively studied public lands in Utah for the purpose of determining simtability for wilderness designation;

Whereas it is vitally important for Utah to maintain the ability to develop its mineral resources, such as the Kaparowits Coal Field, for the economic and financial well being of the state, its trust lands, and counties;

Whereas much of Utah's municipal, industrial, and agricultural wear supply comes from public lands, requiring continued management and maintenance of vegetation, reservoirs, and pipelines, and

Whereas the definition of wilderness lands established by Congress in the 1964 Wilderness Act should be used to determine the designation of wilderness lands.

Now, therefore, be it *resolved* that the Legislature of the state of Utah, the Governor concurring therein, encourage the Congress to enact at the earliest possible opportunity a fair and equitable Utah wilderness bill regarding BLM lands, with the Legislature's and Governor's support of the bill contingent upon its containing the following provisions:

(1) that any BLM lands designated as wilderness must meet the legal definition of wilderness lands as contained in the 1964 Wilderness Act;

(2) that all lands not designated as wilderness be released from Wilderness Study Area status and that the BLM be directed to manage those released lands under multiple use sustained yield principles and be prohibited from making or managing further study area designations in Utah without express authorization from Congress;

(3) that no reserve water right be granted or implied in any BLM wilderness bill for Utah inasmuch as federal agencies are able to apply for water through the state appropriations system in keeping with the 1988 opinion of Solicitor Ralph W. Tarr of the United States Department of the Interior.

(4) that federal agencies be required to cooperate with the state in exchanging state lands that are surrounded by or adjacent to or adversely affected by wilderness designation for federal lands of equivalent value; and additionally, because designation of wilderness lands is a federal action, that federal funds be appropriated to pay for appraisals of state lands and federal lands to be exchanged;

(5) that every effort be made to ensure that there be no net loss of state or private lands and no increase in federal ownship as a result of wilderness designation in Utah;

(6) that the designation of wilderness not result in the creation, either formally or informally, of buffer zones and management zones around, contiguous, or on lands affected by wilderness designation;

(7) that all valid existing rights and historical uses be allowed to be fully exercised without undue restriction or economic hardship on lands designated as wilderness as provided in the Wilderness Act of 1964; and

(8) that management of vegetation, reservoirs, and similar facilities on watershed lands designated as wilderness be continued by state or private means.

Be it further *Resolved* that the Legislature and the Governor conclude that elected country officials, after extensive public input, should develop the wilderness proposals and the conditions for acceptable designation of wilderness lands within their respective counties, with the aggregate of those respective county recommendations constituting the basis of the state proposal for BLM wilderness designation in Utah. The county officials should be consulted regarding any changes to their respective county recommendations.

Be it further *Resolved* that copies of this resolution be sent to President Clinton, the President of the United States Senate, the Speaker of the House of Representatives the Secretary of the Interior, the directors of both the state and federal offices of the Bureau of Land Management, and Utah' congressional delegation.

Mr. MURKOWSKI. Mr. President, over 93 percent of the State legislators and county elected officials in Utah did not misread public opinion at home. If we were talking about New Jersey, the Senator's State, and Federal elected Representatives took the identical stance in support of their constituency, my good friend from New Jersey would occupy the Senate floor for the next month defending their rights, and I would admire that, against the intervention of a Senator from another State who represents only a few special interests.

So let us keep this in perspective, Mr. President. New Jersey has 10,341 acres of wilderness, Arkansas has 127,000, and Utah, with this provision, will have 2.8 million acres of wilderness.

Further, reference has been made by the Senator from New Jersey in a press statement dated March 22 saying that "20 million acres of Utah lands can never be designated as wilderness in the future."

He then goes on to say: "If it becomes law, it would permit the transformation of these lands from wilderness to strip mines, roads and commercial development."

Come on, Mr. President. These statements are scare tactics. They are untrue. They are unrealistic. Congress, as the Senator from New Jersey knows, can at any time revisit this issue and designate additional wilderness. The field professionals after 15 years of study, review and court cases, found that 20 million acres do not meet the strict definition of wilderness. Under the act, these lands are not wilderness but many do qualify under other designations. The BLM is already using other management schemes on much of this acreage, including designated areas of critical environmental concerns, outstanding natural areas, natural landmarks, research, national areas, wild and scenic rivers, national trails, primitive areas, visual resources, management class 1 areas, and each of these designations offer a host of protected measures.

To suggest that the residents of and visitors to Utah will desecrate these lands or to imply that the Federal managers will turn their eyes when this destruction descends upon us is simply a gross exaggeration of facts. One only has to visit Utah, view the lands, look at the national parks and the forests and the State lands that have been set aside to know that they care about their resources. They were protecting these lands long before the elitists arrived on the scene. For those lands which might be developed, and there will be some, there are additional protections.

To suggest the enactment of this bill would destroy 20 million acres contributes little fact to this debate and only brings it up to a hysteric level. The list of Federal laws and State laws I previously submitted for the RECORD still must be complied with. If these lands will not afford protection, why do we have them?

Further, much has been made of the holds on this legislation and the consequences associated therewith. I have worked with my good friend from New Jersey from time to time, and we have reached accords from time to time, not necessarily all the time by any means. But I noticed a "Dear Colleague" the Senator from New Jersey sent around was joined by some 17 Members of this body, and it stated:

> Many of us have provisions important to our respective States within the omnibus parks legislation.

The letter goes on to say:

> They need to be uncoupled from the Utah wilderness provision.

The majority of these bills were placed on the calendar of the Senate on April 7, 1995, almost a year ago. They have been on the calendar almost a year. The Senator from New Jersey could have let these environmental bills, land bills, make their way to the House and to the President months ago. Unfortunately, for reasons of his own, he chose not to do so. The direct result of those actions is this package. The Senator from New Jersey, by his own actions, is the ghost writer of this bill that we are considering. So as we look at where to finger the delay and why there is a package, I think we should ask the Senator from New Jersey to explain why he would put a hold on virtually every bill of this nature coming through the process starting back to when it was introduced and placed on the calendar in 1995.

I have accommodated many times the Senator from New Jersey on interests of his, certainly on the Sterling Forest, a bill, I might add, that is not totally without some controversy, and, in my opinion, there is reason that he should attempt to accommodate others. When this bill passes, Mr. President, Americans will get 2 million acres of new wilderness, and there is nothing in this legislation that will prevent another Congress from adding additional lands in Utah to the wilderness inventory.

I think it is appropriate that we take this discussion a little further and find out just who and what and why this onslaught of well-financed propaganda by a small group of elitists in opposition to this bill. This has come up in the forms of expensive full-page ads, calls from telephone banks, multicolored brochures, posters, a raft of letter writing campaigns.

There was an editorial from the San Francisco Examiner, one example, suggesting that I am the guy who caused the Presidio bill to be held hostage and added on the riders.

I am not the guy, Mr. President. It suggested that this bill is a Christmas tree of special goodies, including, the inference was, opening up ANWR, the Alaska Arctic oil reserve. This bill does not have anything to do with Alaskan oil. It is not even mentioned in the bill and the San Francisco Examiner should know that. But they chose to make an issue and draw a parallel, when none existed. I think that is irresponsible reporting.

I am attempting to get these bills moving in the direction of the White House. Without this effort, the Presidio will not pass Congress. It needs to be passed, as do other titles, and they are all important to our colleagues. That is just the hard, cold fact existing on the other side, the House side.

There is a small group of elitists, self-anointed saviors of the West, perhaps the Senator from New Jersey is among them, who would prefer to see the entire package of noncontroversial, needed measures simply choked together, because they do not want to see 2 million acres added to the Nation's wilderness inventory. They want 5 million acres, 6 million acres, or nothing.

Environmentalism is big business. I am going to show some charts here, to show just how big it is. The campaigns of this big business enterprise, the environmental lobby, are well financed, well staffed. They attach themselves rapidly to any issue that expands more membership, will raise more money for their coffers. They almost consume their causes. I am not suggesting the causes are not meritorious in many cases. But, by the same token, I do want to point out the significance of just how large these organizations have become and why they would dwell on an issue such as Utah wilderness.

Here we have environmental organizations, their revenues, their expenses, their assets, and the fund balances. These are the 12 major environmental organizations in the United States. There are more. I am not suggesting this is the entire list. We have the Nature Conservancy—these figures are as of fiscal 1993. I suspect they are higher now. These are the last figures we were able to generate. If you look at the revenue generated—$278 million; expenses, $219 million; assets, basically what they own, $915 million; and fund balances, $855 million.

Then you go to the National Wildlife Federation. Let us just look at the fund balances: $13 million; World Wildlife Fund, $39 million; Greenpeace, $23 million; Sierra Club, $14 million; the Sierra Club Legal Defense Fund, $5.9 million; National Audubon Society, $61 million; Environmental Defense Fund, $5 million; Natural Resources Defense Council, $11 million; Wilderness Society, $4 million; National Parks and Conservation Association, $769,000; Friends of the Earth, they are not doing too well looks like; Izaak Walton League of America, $414,000.

If we just look these up we will get an idea of the significance of these groups, in their totality. The revenue, $633 million; expenses, they expend about $556 million. Their assets, what they own, $1.2 billion. That would be among the Fortune 500. Fund balances, over $1 billion.

Let us look at some of the salaries paid, because I think, here again, this reflects on the significance that these groups are big business. The Nature Conservancy, John Sawhill, this is, I believe, as of 1994, $185,000. I think the President's salary is somewhere in the area of a little over $200,000. So here we have salaries, the National Wildlife Federation, Jay Hair, $242,000, more than the President of the United States; World Wildlife Fund, $185,000; Sierra Club Legal Defense Fund, $106,000; Environmental Defense Fund, $193,000; National Resources Defense Council, $145,000; National Parks and Conservation Association, $185,000.

I think these show, in detail, the significance of just how big the environmental communities' efforts and organizations have become.

Mr. President, I have another chart here. While staff is getting it, I want to amplify, again, the fact that these organizations need legitimate causes. The question of how extreme, how far is there room for compromise, is a legitimate question here. The State of Utah has proposed adding 2 million acres. But that is not enough, environmentalists want 5 or 6 million. They generate extreme reasons, in my opinion, inflammatory suggestions, suggesting that the residents of the State cannot be trusted, are irresponsible. I just do not buy that. I think we have to recognize their legitimate contribution, and when they are off line and unrealistic, take them to task.

It is interesting to note the investments of these organizations. I wish I had a third chart to show, but I am going to have it printed in the RECORD of investment summaries, the market value of these organizations as they invest in stocks, bonds. And I am also going to have printed in the RECORD the benefits associated with the officers, directors, the salaries and wages, the pension plans and the other employee benefits which clearly substantiate my claim that this is now big business.

I am also going to have printed in the RECORD the major corporate contributors to these organizations. In some cases that is rather amusing, because we find a direct contrast between the objectives and efforts of some of the organizations and some of the donors who, you would think, would have conflicting points of view. But I will leave that up to them to explain.

So, I ask unanimous consent that a list of the major corporate contributors, the officers' income, staff, wages and benefits, executive compensation, environmental organization incomes, and a list of the top 12 organizations, be printed in the RECORD from the report of the Center for the Defense of Free Enterprise entitled, "Getting Rich, the Environmental Movement's Income, Salary, Contributor, and Investment Patterns, With an Analysis of Land Trust Transfers of Private Land to Government Ownership."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Center for the Defense of Free Enterprise]

Getting Rich—The Environmental Movement's Income, Salary, Contributor, and Investment Patterns, With an Analysis of Land Trust Transfers of Private Land to Government Ownership

INTRODUCTION

The environmental movement is arguably the richest power and pressure center in America. This report examines the question, "What is the public paying for with its money for the environment?" It profiles the twelve richest and best-known environmental organizations in the United States, including two subgroups, one within Greenpeace, one related to the Sierra Club. It focuses on their internal finances, how they spend the money the public gives them—usually a well-guarded secret even though the law requires non-profit organizations to make full public disclosure.

Simply put, where does the money go?

Certainly environmental group money goes to programs that "protect the environment from the ravages of humanity." None of the twelve major groups and their subgroups examined here fail to expend substantial funds on their publicly announced programs.

However, none of the groups examined here announce the fat salaries of their executives, the huge amounts paid for staff wages and pensions, or the donations spent playing Wall Street in professionally managed investment portfolios. And few loudly advertise their gifts from large corporations.

In addition, many environmental groups have fallen under control of the nation's richest private foundations. Private foundations have forced their own social-change agendas on many environmental organizations through "grant driven projects," with ominous implications for the unwitting public.

This report also focuses on the most troublesome aspects of a citizen movement grown powerful: the ability of wealthy land trusts to funnel private property into the federal government at prices above the approved appraised value, to "lowball" prices paid to private owners based on inside information provided by federal agencies, and to persuade congressional allies to put their properties at the top of the list for federal payments.

ACKNOWLEDGMENTS

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VOL
142
PT
5
MR
21
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29
1996
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editor. Fact checking, Janet Arnold. Data gathering and compilation were performed by numerous organizations and individuals in the Wise Use Movement, including American Land Rights Association, Charles S. Cushman, Executive Director, Putting People First, Kathleen Marquardt, Executive Director, William Wewer; Erich Veyhl; Motherlode Research; Henry Batsel.

All raw data used in this report were obtained from public records, including IRS Form 990 reports, and annual financial filings required by the States of New York, Virginia, and California. Statistical and political analyses were performed by the Center for the Defense of Free Enterprise.

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THE TWELVE TOP ORGANIZATIONS

1: The Nature Conservancy (Founded 1951).

Annual budget: $278,497,634 (1993).

Staff: 1,150 total.

Members: 708,000 individuals; 405 corporations.

Tax Status: (501)(c)(3).

Headquarters: 1815 North Lynn Street, Arlington, Virginia 22209, Phone: (703) 841–5300 Fax: (703) 841–1283.

2: National Wildlife Federation (Founded 1936).

Annual budget: $82,816,824 (1993).

Staff: 608 total.

Members: 4 million members.

Tax Status: (501)(c)(3).

Headquarters: 1400 16th Street, NW, Washington, D.C. 20036, Phone: (202) 797–6800 Fax: (202) 797–6646.

3: World Wildlife Fund (Founded 1961: predecessor in 1948).

Annual budget: $60,791,945 (1993).

Staff: 244 total—172 professional: 72 support.

Members: 1 million members.

Tax Status: (501)(c)(3).

Headquarters: 1250 24th Street, NW, Washington, D.C. 20037, Phone: (202) 293–4800 Fax: (202) 293–9211.

4: Greenpeace Fund, Inc. (Founded 1971, formerly Greenpeace USA).

Annual budget: $48,777,308 (Combined 1993 with Greenpeace, Inc.), $157 million internationally (1991).

Staff: 250 staff members plus 20 interns (reorganized in 1992), Offices in 30 countries.

Members: 1.7 million members and supporters U.S. (1993), 4.5 million worldwide.

Tax Status: (501)(c)(3) [Greenpeace, Inc. is a (501)(c)(4)].

Headquarters: 1436 U Street, NW, Washington, D.C. 20009, Phone: (202) 462–1177 Fax: (202) 462–4507.

5: Sierra Club (Founded 1892).

Annual budget: $41,716,044 (1992).

Staff: 325 total—180 professional, 145 support, plus volunteers.

Members: 550,000 individuals.

Tax Status: (501)(c)(4); Sierra Club Legal Defense Fund is 501(c)(3).

Headquarters: 730 Polk Street, San Francisco, California 94109, Phone: (415) 776–2211, Fax: (415) 776–0350, and 408 C Street, NE, Washington, D.C. 20002, Phone: (202) 797–6800, Fax: (202) 797–6646.

6: National Audubon Society (Founded 1905, precursors in 1886 and 1896).

Annual budget: $40,081,591 (1992).

Staff: 315 total.

Members: 542,000 individuals (1993).

Tax Status: (501)(c)(3).

Headquarters: 950 Third Avenue, New York, New York 10022, Phone: (212) 832–3200, Fax: (212) 593–6254, and 801 Pennsylvania Avenue SE, Washington, D.C. 20003, Phone: (202) 547–9009, Fax: (202) 547–9022.

7: Natural Resources Defense Council (Founded 1970).

Annual budget: $20,496,829 (1993).

Staff: 128 total—83 professional; 45 support.

Members: 170,000 individuals.

Tax Status: (501)(c)(3).

Headquarters: 40 West 20th Street, New York, New York 10011, Phone: (212) 727–2700, Fax: (212) 727–1773, and 1350 New York Ave., NW, Suite 300, Washington, D.C. 20005, Phone: (202) 783–7800, Fax: (202) 783–5917.

8: Environmental Defense Fund (Founded 1967).

Annual budget: $17,394,230 (1993).

Staff: 110 total—80 professional, 30 support.

Members: 250,000 individuals (1994) [source: telephone inquiry].

Tax Status: (501)(c)(3).

Headquarters: 257 Park Avenue South, New York, New York 10010, Phone: (212) 505–2100, Fax: (212) 505–2375, and 1616 P Street, NW, Washington, D.C. 20036, Phone: (202) 387–3500, Fax: (202) 234–6049.

9: The Wilderness Society (Founded 1935).

Annual budget: $16,093,764 (1993).

Staff: 136 total.

Members: 293,000 individuals.

Tax Status: (501)(c)(3).

Headquarters: 900 17th Street, NW, Washington, D.C. 20006, Phone: (202) 833–2300 Fax: (202) 429–3959.

10: National Parks and Conservation Association (Founded 1919).

Annual budget: $11,285,639 (1993).

Staff: 43 total.

Members: 400,000 individuals.

Tax Status: 501(c)(3).

Headquarters: 1015 31st Street, NW, Washington, D.C. 20007, Phone: (202) 223–6722 Fax: (202) 944–8535.

11: Friends of the Earth (Founded 1969, reconstituted 1990).

Annual budget: $2,467,775 (1993).

Staff: 45 total—38 professional, 7 support.

Members: 50,000 individuals.

Tax Status: 501(c)(3).

Headquarters: 218 D Street, SE, Washington, D.C. 20003, Phone: (202) 544–2600 Fax: (202) 543–4710.

12: Izaak Walton League of America (Founded 1922).

Annual budget: $2,074,694 (1992).

Staff: 23 total—14 professional, 9 support.

Members: 52,700 individuals.

Tax Status: 501(c)(3).

Headquarters: 1401 Wilson Boulevard, Level B, Arlington, Virginia 22209, Phone: (703) 528–1818 Fax: (202) 528–1836.

ENVIRONMENTAL ORGANIZATION INCOMES

Organization	Revenue	Expenses	Assets	Fund balances
The Nature Conservancy (fiscal 1993)	$278,497,634	$219,284,534	$915,664,531	$855,115,125
National Wilflife Federation (1993)*	82,816,324	83,574,187	52,891,144	13,223,554
World Wildlife Fund (fiscal 1993)*	60,791,945	54,663,771	52,496,808	39,460,024
Greenpeace Fund, Inc. (1992)	11,411,050	7,912,459	25,047,761	23,947,953
(Combined different years)	48,777,308			
Greenpeace Inc. (1993)	37,366,258	38,586,239	5,847,221	5,696,375
Sierra Club (1992)	41,716,044	39,801,921	22,674,244	14,891,959
Sierra Club Legal Defense Fund (1993)	9,539,684	9,646,214	9,561,782	5,901,690
National Audubon Society (fiscal 1992)	40,081,591	36,022,327	92,723,132	61,281,006
Environmental Defense Fund (fiscal 1992)	17,394,230	16,712,134	11,935,950	5,279,329
Natural Resources Defense Council (fiscal 1993)	20,496,829	17,683,883	30,061,269	11,718,666
Wilderness Society (fiscal 1993)	16,093,764	16,480,668	10,332,183	4,191,419
National Parks and Conservation Association (1993)	12,304,124	11,534,183	3,530,881	769,941
Friends of the Earth (1993)	23,467,775	2,382,772	694,386	120,759
Izaak Walton League of America (1992)	2,036,838	2,074,694	1,362,975	414,309
Total	633,014,090	556,359,986	1,234,824,267	1,030,377,841

NOTES: All figures most recent reporting year available. Some organizations had not filed reports for either calendar or fiscal 1993 as of September 1, 1994. Calendar year used unless noted. The Nature Conservancy obtained $76,318,014 of this amount from sale of private land to the government and $20,402,672 from government grants. National Wildlife Federation fiscal year 1993 ended August 31, 1993. World Wildlife Fund fiscal year 1993 ended June 30, 1993. Greenpeace Fund (a 501(c)(3)) and Greenpeace, Inc. (a 501(c)(4)) have substantial financial interactions annually. Most recent Form 990 year avalable for Greenpeace Fund, Inc., is 1992. Greenpeace, Inc. figures are from 1993 financial staement. National Audubon Society icome includes $93,623 in mineral royalties from natural gas wells on its Rainey Wildlife Sanctuary and $505,850 from government grants.

EXECUTIVE COMPENSATION

Organization	Executive	Title	Salary	Benefits	Expense account
The Nature Conservancy	John Sawhill	President and Chief Executive	$185,000	$17,118	None
National Wildlife Federation	Jay Hair	Executive Director	242,060	34,155	$23,661
World Wildlife Fund	Kathryn Fuller	Executive Director	185,000	16,650	None
Greenpeace Fund	Barbara Dudley	Executive Director Acting*	65,000	None	None
Greenpeace Inc	Stephen D'Esposito	Executive Director	82,882	None	None
Sierra Club	Carl Pope	Executive Director	77,142	None	None
Sierra Club Lebal Defense Fund	Vawter Parker	Executive Director	106,507	10,650	None
National Audubon Society	Peter A.A. Berle	President	178,000	21,285	None
Environmental Defense Fund	Fred Krupp	Executive Director	193,558	17,216	None
Natural Resources Defense Council	John H. Adams	Executive Director	145,526	13,214	None
Wilderness Society	Karin Sheldon	Acting President	90,896	22,724	None
National Parks and Conservation Association	Paul C. Pritchard	President	185,531	26,123	None

EXECUTIVE COMPENSATION—Continued

Organization	Executive	Title	Salary	Benefits	Expense account
Friends of the Earth	Jane Perkins	President	74,104	2,812	None
Izaak Walton League of America	Maitland Sharpe	Executive Director	76,052	5,617	None
Total			1,887,258	187,564	23,661

Greenpeace: Stephen D'Esposito subsequently took the position of head of Greenpeace International in Belgium, leaving Barbara Dudley as executive director of both Greenpeace Fund, Inc. and Greenpeace, Inc., according to the Washington office.

OFFICER INCOMES, STAFF WAGES AND BENEFITS

Organization	Officer and director compensation	Other salaries and wages	Pension plan contributions	Other employee benefits
The Nature Conservancy	$1,786,432	$45,824,545	$1,913,453	$3,832,110
National Wildlife Federation	475,512	23,607,589	80,000	640,291
World Wildlife Fund	663,531	11,515,186	None	934,687
Greenpeace Fund (1991)	148,900	5,928,454	None	300,318
Greenpeace Inc. (1991)	35,600	9,904,344	None	545,985
Sierra Club	272,381	8,234,250	73,275	1,011,847
Sierra Club Legal Defense Fund	384,502	3,612,083	447,700	461,607
National Audubon Society	1,010,723	10,382,800	913,397	1,265,623
Environmental Defense Fund	0	6,163,645	220,769	422,141
Natural Resources Defense Council	421,730	8,258,420	None	None
Wilderness Society	757,541	4,470,572	403,581	569,163
National Parks and Conservation Association	185,531	1,864,451	56,195	142,122
Friends of the Earth	74,104	958,580	28,797	123,762
Izaak Walton League of America	0	659,365	31,985	173,958
Total	62,164,487	141,384,284	4,169,152	10,423,614

MAJOR CORPORATE CONTRIBUTORS

Organization	Donor corporation or corporate funded foundation
The Nature Conservancy	Allied-Signal, Inc.; ARCO; Boeing; BP Oil; Chevron; Dow Chemical; DuPont; Enron; Exxon; Newmont Gold Company; Times-Mirror Corporation; others.
National Wildlife Federation	Amoco; ARCO; Coca-Cola; Dow Chemical; DuPont; Exxon; General Electric; General Motors; IBM; Miller Brewing; Mobil Oil; Monsanto; Pennzoil; others.
World Wildlife Fund	ARCO; AT&T; Ford Motor Company; General Electric; H.J. Heinz; Mobil Oil; New York Times Company; Procter & Gamble; Shell Oil; Weyerhaeseser; others.
Greenpeace Fund	Greenpeace, Inc. is a lobbying group not eligible for tax deductible donations.
Greenpeace Inc	Greenpeace, Inc. is a lobbying group not eligible for tax deductible donations.
Sierra Club	The Sierra Club is a lobbying group not eligible for tax deductible donations.
Sierra Club Legal Defense Fund	New York Times Company.
National Audubon Society	Alcoa; Bank of Boston Corporation; Ford Motor Company; General Electric; H.J. Heinz; Monsanto; New York Times Company; Procter & Gamble; others.
Environmental Defense Fund	Times Mirror Company.
Natural Resources Defense Council	Ametek; Corning Glass Works; Dakin Corporation; Mayfair Supermarkets; Morgan Bank; New England Biolabs; New York Times Company; Dean Witter.
Wilderness Society	Archer Daniels Midland; Guardsmark, Inc.; Morgan Guaranty Trust Co.; New York Times Company; Timberland Co.; Waste Management, Inc.; others.
National Parks and Conservation Association	First National Bank of Boston.
Friends of the Earth	American Railroad Association; Recreational Equipment, Inc.
Izaak Walton League of America	Amoco; Anhaeuser-Busch; ARCO; Chevron USA; DuPont; Exxon; FMC Corp.; Pennzoil; Phillips Petroleum; Procter & Gamble; Tenneco; 3M; Unocal.

INVESTMENT SUMMARIES, MARKET VALUE

Organization	U.S. Government obligations	Common stocks	Bonds, all types	Other	Total investments
The Nature Conservancy	$49,017,000	$138,508,000	$27,262,000	$65,597,600	$245,322,000
National Wildlife Federation	6,739,754	4,592,752	1,426,093	See analysis	12,758,599
World Wildlife Fund	2,704,914	*27,262,802	*6,216,714	*6,760,934	42,945,391
Greenpeace Fund	2,470,393	None	None	1,112,134	3,582,527
Greenpeace Inc	Note 1	—	—	—	—
Sierra Club	—	—	—	—	8,886,605
Sierra Club Legal Defense Fund	Note 1	—	—	—	4,870,716
National Audubon Society	12,366,647	34,237,474	9,640,927	830,425	57,075,473
Environment Defense Fund	—	—	—	—	2,744,086
Natural Resources Defense Council	2,139,751	155,245	*1,461,277	5,335,167	9,091,440
Wilderness Society	1,808,092	*3,913,949	None	180,000	5,950,957
National Parks and Conservation Association	1,227,342	*728,255	511,889	369,137	2,836,623
Friends of the Earth	Note 1	—	—	—	—
Izaak Walton League of America	None	None	72,756	None	72,756
Total	78,473,983	209,398,477	46,591,656	80,563,456	396,137,173

World Wildlife Fund: Common stock entry is listed on Form 990 as "Equities," Bonds entry as "Corporate obligations," and Other entry as "Cash and cash equivalents." Greenpeace Inc. Note 1: Greenpeace Inc. claims to have no investments in securities. Sierra Club Legal Defense Fund Note 1: See Investment Analysis on page 14 for details. *Natural Resources Defense Council-owned corporate obligations may include instruments other than bonds. *Wilderness Society: $3,913,949 is entered as cash equivalents on the balance sheet. The Wilderness Society also maintains a financial reserve called The Wilderness Fund with a 1993 market value of $3,890,898. National Parks and Conservation Association: Stocks: Includes preferred and common stock; Bonds: Includes corporate notes and bonds; Other: See analysis. Friends of the Earth Note 1: FOE claims to have no investments in securities. Izaak Walton League of America owns only these investments in bonds according to their Form 990.

INVESTMENT ANALYSIS

THE NATURE CONSERVANCY

[Fiscal 1993 Form 990, Part IV—Investments Securities, Statement 7]

Description	Beginning of year	End of year
U.S. Obligations	—	$49,017,000
Bonds	—	27,017,000
Endowment Investments	$138,228,753	—
Planned Giving Investments	26,890,767	—
Current & Land Acquisition	102,941,039	—
Common Stock	—	138,508,000
Preferred Stock	—	976,000
Mutual Funds	—	29,559,000
Total	268,060,559	245,322,000

(Note: The classification of beginning-of-year figures is different from end-of-year figures in order to reflect groupings previously reported). The Nature Conservancy refused to release its list of investments in corporate stocks.

VOL
142
PT
5
MR
21
—
29
1996
UMI

NATIONAL WILDLIFE FEDERATION

[Taxable Year Ended July 31, 1993—Form 990, Part IV—Invements—Securities, Schedule 9]

Description	Book value	
	FY 1993	FY 1992
U.S. Government and Agency Securities	$6,739,754	$8,216,943
Corporate Stock	4,592,752	4,423,380
Corporate Bonds	1,426,093	3,343,893
Total	12,758,599	15,984,216
Investments-Other Schedule 10		
Investments-Mutual Funds		
Merrill Lynch Investment Portfolio Government Plus	0	206,9999
Merrill Lynch Cash Management Account	378,059	554,666
Total	378,059	761,665

Note: The National Wildlife Federation refused to release its list of investments in corporate stock and corporate bonds.

World wildlife fund

1993 Form 990, Part IV, Line 54-Investments:

Cash and cash equivalents	$6,760,934
Government Securities	2,704,914
Corporate obligations	6,216,714
Equities	27,262,802
Total	42,945,391

Notes to Financial Statements as of June 30, 1993.

Note 1: Summary of Significant Accounting Policies.

Cash and Investment: Investments are recorded in the financial statements at the lower of cost or market value. Investments received as contributions are recorded at their fair market value at the date of donation. Market value of cash and investments at June 30, 1993 and June 30, 1992 were approximately $47,972,000 (1993) and $40,671,000 (1992). The World Wildlife Fund refused to release its list of investments in corporate obligations and equities.

GREENPEACE FUND

[Financial Statement—Note 4—Investments]

	Amortized cost	Market value
At December 31, 1991, investments consist of:		
Current investments:		
Certificates of deposit	$680,000	$680,000
U.S. Government securities	1,134,451	1,152,051
Other	101,765	105,154
Total current investments	1,916,216	1,937,205
Long-term investments:		
Certificates of deposit	90,000	90,000
U.S. Government securities	1,279,703	1,318,342
Municipal Bonds	99,139	95,213
Other	137,965	141,767
Total long-term investments	1,916,216	1,937,205
Total investments	3,523,023	3,582,527

SIERRA CLUB

[1992 Form 990, Page 3, Part IV, Line 54—Investments—Beginning of Year: $7,979,267; End of Year: $8,886,605; Analysis of 1992 Not Available; Most Recent Analysis Available, Year Ended: 09/30/90—Statement 9]

Interest rate	Description	Balance 09/30/89	Balance 09/30/90
15.75	Stripped Coupon Treasury Bonds	$470,867	$470,867
	Cash Held for Investment	384,966	657,718
	Bond Amortization	740,079	1,030,083
	Investment in Subsidiary	250,000	250,000
11.25	Stripped Coupon Treasury Bonds	65,128	65,128
	U.S. Strip Bond	330,278	330,278
	FNMA	175,000	0
6.5	U.S. Treasury Note	229,973	0
8.75	U.S. Treasury Note	201,187	201,187
8.625	U.S. Treasury Note	200,879	0
	U.S. Strip Bond	294,122	294,122
	U.S. Strip Bond	207,493	207,493
	U.S. Strip Bond	181,791	181,791
8.125	U.S. Treasury Note	244,765	244,765
8.25	U.S. Treasury Note	243,125	243,125
8.875	U.S. Treasury Note	246,679	246,679
8.6	U.S. Treasury Note	241,211	241,211
8.25	U.S. Treasury Note	244,414	244,414
8.875	U.S. Treasury Note	295,875	295,875
	U.S. Strip Bond	154,754	154,754
7.15	FHLB	0	246,563
8.05	FHLB	0	329,794
8.913	Resolution Fund	0	169,999
8.7	U.S. Strip Bond	0	369,504
	Total	5,402,586	6,475,328
	Less: Investments held by Affiliate S.C.C.O.P.E.	(237,311)	(83,674)
	Net Investment for Balance Sheet	5,165,275	6,391,654

Note: S.C.C.O.P.E. is the Sierra Club Committee on Political Education, a Political Action Committee.

SIERRA CLUB LEGAL DEFENSE FUND, INC.

[Taxable Year Ended July 31, 1993—Form 990, Part IV—Investments]

Description	Fair market value	
	1993	1992
Bonds		
Mutual Beacon Fund, Inc	$14,150	$12,975
Mutual Qualified Fund	97,753	78,530
Brown Brothers Harriman	51,190	42,329
Meritor Mortgage Corp—GNMA	3,374,107	3,181,536
U.S. Trust Company	19,564	29,731
U.S. Trust Company	90,648	n/a
Franklin Trust Company	901,078	626,353
	322,586	166,799
Total	4,870,716	4,138,253

NATIONAL AUDUBON SOCIETY

[Form 990, Part IV, Line 54—Investment Securities—6/30/92

Description	Cost	Market
U.S. Government and Agency obligations	$11,789,173	$12,366,647
Money Market Funds	830,425	830,425
Corporate Bonds	9,267,238	9,640,927
Corporate Stock	28,811,560	34,237,474
Total	50,698,396	57,075,473

The National Audubon Society breaks down these funds into two investment pools, general investment and life income trusts. Values of these components were: Current Funds, Cost: $12,716,026, Market, $14,273,514; Endowment and Similar Funds, Cost, $34,147,894, Market, $38,598,119; Life Income Trusts, Cost, $1,689,572, Market, $1,846,105; Non-Pooled Investments, Cost, $2,144,904, Market, $2,357,735. The National Audubon Society refused to release its list of investments in corporate bonds and common stocks.

Environmental defense fund

[Fiscal 1992 Form 990, Part IV—Investments—Securities, Line 54]

Total investments, End of Fiscal Year at September 30, 1992: $2,744,086.

Investments include the following:

Morgan Fixed Fund, Endowment	$8,658
Morgan Fixed Fund, Board Designated Endowments	40,558
Vanguard Fund—GNMA	820,493
Short Term, Vanguard Fund—GNMA	823,773
Vanguard GNMA—Endowment	65,923

Other Investments—Line 56—Form 990.

EDF has invested a portion of its endowment funds in a limited partnership. During the fiscal year ended September 30, 1992, the market value of the partnership investment decreased from $527,882 to $480,454. The assets reported in the financial statements reflect the September 30, 1992 market value.

NATURAL RESOURCES DEFENSE COUNCIL

[Fiscal 1993 Form 990, Part IV—Investments—Securities, Statement 7]

Description	Beginning of year	End of year
Money Market Funds	2,601,982	4,255,984
U.S. Government and Agency Obligations	2,031,624	2,139,751
Corporate Obligations	1,005,222	1,461,277
Common Trust Funds	951,016	1,079,183
Common Stocks	None	155,245
Total	6,589,844	9,091,440

The Natural Resources Defense Council refused to release its list of investments in corporate obligations and common stocks.

WILDERNESS SOCIETY

[Investment in Securities (Most recent year available)]

	Cost	Market value
Investment at September 30, 1988 are as follows:		
Cash Equivalents:		
General Motors Acceptance Corp.—repurchase agreements	385,000	385,000
Kidder, Peabody—premium account	597,030	597,030
Total	982,030	982,030
Principal Cash; Fiduciary Trust Co	4,202	4,202
Securities of U.S. Government and Agencies:		
U.S. Treasury notes, due 5/31/89 8%	200,000	199,688
Federal Home Loan Bank, due 9/25/89, 6.75%	150,541	147,375
Federal Home Loan Bank, due 7/25/91, 7.5%	99,719	96,719
Federal National Mortgage Association, due 12/10/93, 7.375%	149,625	140,156
Federal National Mortgage Association, due 7/10/96, 8%	200,500	187,000
Government National Mortgage Association Guaranteed Mortgage Pool #167158 due 6/15/01, 8%	176,948	173,185
Federal Home Loan Mortgage Corp. Participation Certificate Group #20–0043, due 7/01/01, 9%	153,169	151,153
Total	1,130,502	1,095,276
Debentures:		
General Motors Acceptance Corp., due 3/01/95, 7.25%	46,058	44,375
Pacific Gas & Electric, due 7/1/95, 8.375%	49,688	47,008
Total	95,746	91,383
Convertible Debentures:		
Circle K Corp., due 11/01, 7.25%	18,700	19,600

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WILDERNESS SOCIETY—Continued

[Investment in Securities (Most recent year available)]

	Cost	Market value
Dreyers Grand Ice Cream, due 6/01/11 6.5%	18,775	15,800
General Dynamics, due 7/15/11 5.75%	32,887	27,150
Masco Industries, Inc., due 12/15/11, 6%	37,163	30,450
Sci Systems, Inc., Due 3/01/12, 5.625%	30,000	23,400
Total	137,525	116,400
Convertible Preferred Issues:		
Baxter International, Inc	41,560	30,438
Warner Communications, Inc	26,431	25,850
Total	67,991	56,288
Equity Securities:		
Preferred Stocks (Shares and Security):		
1,395 Keland Holding Co., preferred 6%	1,395	87,815
366 Keland Holding Co., 2nd preferred 6.25%	366	23,424
Total	1,761	111,239
Common Stocks (Shares and Security):		
600 AMP, Inc	26,092	25,200
800 AMR Corp	37,546	38,000
640 Abbott Labs	27,415	30,880
600 American International Group	37,169	39,675
800 Apple Computer, Inc	31,800	34,600
900 Baltimore Gas & Electric Co	29,219	28,463
600 Banc One Corp	15,372	15,228
440 Bell Atlantic Corp	29,180	31,680
400 Caterpillar, Inc	25,732	23,000
500 Consolidated Edison Co. of New York	21,313	22,313
1,000 Consolidated Rail Corp	29,370	33,125
1,000 Compania Telefonica Nacional de Espana	20,875	22,625
400 Corestates Financial Corp	15,550	16,400
700 Deere & Co., Inc	25,256	31,063
700 Cummins Engine Co., Inc	37,446	34,037
500 Digital Equipment Corp	51,324	46,938
750 Eaton Corp	39,196	39,094
1,800 Emerson Electric Co	55,110	54,000
1,200 FPI Group, Inc	35,327	37,500
700 Gannett, Inc	24,672	22,925
1,102 General Electric, Inc	44,869	47,799
300 IBM Corp	34,307	34,613
1,000 Illinois Tool Works	20,706	35,125
1,050 Intel Corp	26,089	28,875
400 J. P. Morgan & Co., Inc	24,128	15,050
400 Johnson & Johnson	27,511	34,350
700 Loral Corp	24,584	24,063
750 McDonalds Corp	34,460	35,625
402 Merck & Co., Inc	7,883	23,216
624 Midsouth Corp	4,160	7,020
400 Minnesota Mining & Manufacturing Co	23,424	25,750
600 Nynex Corp	39,272	39,600
1,000 Pacific Telesis Group	23,176	30,750
700 Pepsico, Inc	21,784	27,475
1,000 Policy Management System Corp	21,625	22,375
800 Prime Motor Inns	29,196	27,900
4,166 Prospect Group, Inc	44,998	34,370
800 Reuters Holdings, PLC	18,725	20,700
600 Ryder Systems, Inc	14,832	14,178
700 Sara Lee Corp	23,972	30,188
1,000 Southern California Edison Co	34,183	32,750
800 Tambrands, Inc	49,909	44,000
600 U.S. Bancorp	14,925	14,478
600 Walt Disney Co	25,747	38,925
600 Wells Fargo & Co	27,132	40,500
1,000 Yellow Freight Systems, Inc	36,313	31,500
Total	1,312,874	1,387,921
Other Interests—at nominal value	103	2,770
Total Investment at September 30, 1988	3,732,734	3,847,509
Total investments in securities as displayed on the balance sheet, Exhibit A:		
1988:		
Unrestricted	3,334,858	3,449,633
Endowment Fund	397,876	397,876
Total	3,732,734	3,847,509
1987:		
Unrestricted	3,889,814	4,376,821
Endowment Fund	397,876	397,876
Total	4,287,690	4,774,697
1993 Financial Statements, Note 3: Investment in Securities Investments at September 30, 1993 are as follows:		
Cash equivalents	3,913,949	3,913,949
Certificates of Deposit	180,000	180,000
Securities of U.S. Government and agencies	1,808,092	1,843,776
Total investments at September 30, 1993	5,902,041	5,937,725
Permanent financial reserve, The Wilderness Fund, assets at September 30, 1993, consist of the following:		
Mutual Funds	2,144,923	2,614,602
Charitable remainder unitrusts	858,379	1,232,176
Cash value of life insurance	44,118	44,118
Total	3,047,420	3,890,898

The Wilderness Society has not filed for public inspection a list of investments in securities as displayed above since 1989 in any state jurisdiction investigated (New York, California, Virginia) nor with the IRS.

NATIONAL PARKS AND CONSERVATION ASSOCIATION

[Fiscal 1993 Form 990, Part IV—Investments—Securities—Statement 7]

Description	Beginning of year	End of year
Common and preferred stock	340,048	728,255
U.S. Government securities	737,467	1,227,342
Corporate notes and bonds	684,814	511,889
Short term securities	None	369,137
Total	1,762,329	2,836,623

See next pages for NPCA's Capital Gains and Losses.

NATIONAL PARKS AND CONSERVATION ASSOCIATION

[Form 990, Page 1, Part 1, Line 7—Capital Gains and Losses]

Shares	Security	Date acquired	Date sold	Cost basis	Proceeds	Gain (loss)
6	General Electric	—	03/30/93	154.50	513.73	359.23
49	New York Times	—	03/30/93	1,000.00	1,467.83	467.83
27	AT&T	—	03/30/93	1,000.00	1,519.03	519.03
100	Amerada Hess	—	03/31/93	5,000.00	5,124.82	124.82
100	Toys R Us	—	03/29/93	4,266.00	4,346.85	80.85
25	Paramount Comm	—	03/29/93	1,162.50	1,192.26	29.76
180	FMP International	—	03/31/93	3,638.10	3,638.10	0.00
18	FMP International	—	05/21/93	406.50	406.50	0.00
1	Rockwell International	—	—	29.63	29.63	0.00
1	Philip Morris	—	—	47.00	47.00	0.00
3	General Electric	—	05/05/93	256.49	256.49	0.00
35,000	Fed Farm Cr Bks Con	02/15/90	09/01/92	35,380.00	35,000.00	(380.00)
300	Citicorp	12/20/91	10/02/92	3,091.00	4,585.00	1,494.00
100	Chem Bank Corp	12/20/91	10/02/92	2,103.00	3,035.00	932.00
35,000	New York Tele Co	06/26/90	10/15/92	35,743.00	30,000.00	(743.00)
100,000	Associates Corp No. Amer	09/12/91	11/16/92	105,619.00	100,000.00	(5,619.00)
300	CSMTX	01/22/92	12/01/92	13,340.00	11,795.00	(1,545.00)
30,000	Federal Home Ln Bks Cons	01/06/91	12/28/92	30,658.00	30,000.00	(658.00)
200	ANR Corps Cel Con	01/22/92	02/10/93	14,240.00	12,425.00	(1,815.00)
200	General Electric	12/20/91	02/10/93	13,615.00	17,276.00	3,650.00
300	Hong Kong Telecommunication	03/04/92	02/10/93	9,750.00	11,174.00	1,424.00
50,000	Sears Med Term Nts	11/27/91	02/16/93	50,102.00	50,490.00	388.00
35,000	United States Treasury	02/13/90	02/16/93	35,792.00	35,000.00	(792.00)
100,000	General Motors Acceptance	11/26/91	03/15/93	103,819.00	100,000.00	(3,819.00)
300	ASTA Research Inc	12/20/91	03/19/93	5,555.00	4,080.00	(1,475.00)
1,000	ASTA Research Inc	12/07/92	03/19/93	20,481.00	13,601.00	(6,880.00)
200	ALZE Corp CL	12/20/91	03/19/93	17,815.00	6,691.00	(11,124.00)
300	ALZE Corp CL	12/07/92	03/19/93	12,206.00	10,037.00	(2,169.00)
300	Glaxo Holdings	03/11/92	03/19/93	8,578.00	5,366.00	(3,212.00)
200	IBM	12/20/91	03/19/93	17,690.00	10,700.00	(6,990.00)
300	Merck & Co Inc	03/11/92	03/19/93	15,446.00	10,732.00	(4,714.00)
100	Merck & Co Inc	12/21/92	03/19/93	4,787.00	3,577.00	(1,210.00)
500	National Health Labs	01/21/92	03/19/93	14,535.00	7,351.00	(7,184.00)
200	National Health Labs	12/21/92	03/19/93	4,710.00	2,940.00	(1,770.00)
300	Price Co	06/15/92	03/19/93	10,165.00	9,809.00	(356.00)
300	Price Co	12/21/92	03/19/93	12,055.00	9,809.00	(2,246.00)
500	Time Warner Inc	03/11/92	03/29/93	25,167.00	25,850.00	683.00
100,000	United States Treasury	08/26/91	03/29/93	100,711.00	103,984.00	3,273.00
35,000	United States Treasury	02/07/90	03/29/93	35,299.00	37,209.00	1,910.00
100,000	United States Treasury	09/18/91	03/29/93	105,802.00	106,312.00	510.00
100,000	Chrysler Corp	02/14/92	04/05/93	93,384.00	104,375.00	10,991.00
20,000	Conner Peripherals	12/03/91	04/05/93	16,172.00	17,850.00	1,678.00
300	Bombay Co	11/19/92	05/25/93	8,220.00	13,057.00	4,837.00
300	Bombay Co	12/21/92	05/25/93	9,561.00	13,054.00	3,493.00
300	Movell Inc	12/01/92	05/25/93	9,026.00	8,903.00	(123.00)
50,000	Citicorp Sr Nt	11/14/92	06/14/93	50,209.00	52,547.00	2,338.00
500	Bank of Boston Corp	03/11/92	06/29/93	18,188.00	22,802.00	4,614.00
200	Ford Motor Co	11/29/91	06/29/93	10,268.00	17,699.00	7,431.00
200	Aerco Inc	03/11/92	10/02/92	5,927.00	4,738.00	(1,189.00)
300	Bio Magnetic Technologies	03/12/92	10/02/92	4,715.00	2,797.00	(1,918.00)
500	WWC Financial Corp	03/12/92	10/02/92	4,133.00	5,224.00	1,091.00
400	Abbott Labs	03/11/92	02/10/93	12,665.00	10,983.00	(1,682.00)
300	Hechinger Company	11/19/92	03/19/93	3,318.00	2,611.00	(707.00)
400	ICF International	11/19/92	03/19/93	2,857.00	2,494.00	(363.00)
1,000	Naviator Intl	02/26/92	03/19/93	3,841.00	2,547.00	(1,294.00)
100	National Health Labs	12/21/92	03/19/93	2,377.00	1,460.00	(917.00)
25,000	US Treas Secs Stripped	02/15/90	03/29/93	18,878.00	24,640.00	5,762.00
200	Bombay Company	12/17/92	05/25/93	6,708.00	8,687.00	1,979.00
25,000	Citicorp Sr Nt	11/14/91	06/14/93	25,105.00	26,274.00	1,169.00
	Total	—	—	1,186,766.72	1,181,801.24	(4,963.48)

FUNDRAISING AND LOBBYING EXPENDITURES

Organization	Four year direct lobbying	Four year grassroots lobbying	Total 4 year lobbying expenditures	Fundraising [1]
The Nature Conservancy	$3,352,135	$12,508	$1,913,453	$24,791,449
National Wildlife Federation	2,334,138	486,947	3,115,866	3,994,986
World Wildlife Fund	7,069	76,792	83,861	4,447,034
Greenpeace Fund	111,992	None	111,992	9,050,944
Greenpeace Inc	(2)	(2)	12,617,895	3,896,596
Sierra Club	(2)	(2)	8,793,421	5,098,599
Sierra Club Legal Defense Fund	165,864	107,027	272,891	1,813,426
National Audubon Society	1,732,047	549,012	2,281,059	4,338,227
Environmental Defense Fund	624,030	None	624,030	3,168,754
Natural Resources Defense Council	246,526	182,821	429,347	2,158,637
Wilderness Society	1,155,264	207,198	1,362,462	2,485,395
National Parks and Conservation Association	192,192	189,235	381,427	988,806
Friends of the Earth	116,378	0	116,378	266,948
Izaak Walton League of America	54,773	2,929	57,702	159,023
Total	10,092,408	1,814,469	32,161,784	66,658,824

[1] Fundraising: amounts shown appear in Line 15, Form 990, "Fundraising."

[2] Greenpeace, Inc. and the Sierra Club are 501(c)(4) lobbying organizations that do not report under Section 501(h) of the U.S. Tax Code. The amounts shown are from Form 990, Part III, under Program Services and may include educational expenses as well as actual lobbying expenses to influence public policy.

VOL 142 PT 5 MR 21—29 1996 UMI

MAJOR FOUNDATION DONORS

Organization	Donor foundation
The Nature Conservancy	Mildred Andrews Fund ($10 million in 1989); W. Alton Jones Foundation; MacArthur Foundation; C.S. Mott Foundation; R. K. Mellon Foundation.
National Wildlife Federation	American Conservation Association (Rockefeller); Beldon Fund; W. Alton Jones Foundation; Joyce Foundation; C.S. Mott Foundation; Pew Charitable Trusts.
World Wildlife Fund	Champlin Foundations; Geraldine R. Dodge Foundation; Ford Foundation; W. Alton Jones Foundation; MacArthur Foundation; R.K. Mellon Foundation.
Greenpeace Fund	Bydale Foundation; Cheeryble Foundation; William H. Donner Foundation; Dreyfus Foundation; Fanwood Foundation; Town Creek Foundation.
Greenpeace Inc	Greenpeace. Inc. is a lobbying group not eligible for tax deductible donations.
Sierra Club	The Sierra Club is a lobbying group not eligible for tax deductible donations.
Sierra Club Legal Defense Fund	Compton Foundation; Gerbode Foundation; C.S. Mott Foundation; Mary Flagler Cary Charitable Trust; W. Alton Jones Foundation.
National Audubon Society	Compton Foundation; Ford Foundation; W. Alton Jones Foundation; Joyce Foundation; MacArthur Foundation; C.S. Mott Foundation; Rockefeller Family Fund.
Environmental Defense Fund	Foundation grants 1993, $6,133,625. Ford Foundation, Richard King Mellon Foundation, Rockefeller Family Fund.
Natural Resources Defense Council	Foundation grants 1993, MacArthur Foundation $1,576,403; Beineke Foundation $1,450,000. W. Alton Jones Foundation; Rockefeller Foundation.
Wilderness Society	Foundation grants 1993, $2,285,111. Goldman Foundation; George Gund Foundation; MacArthur Foundation; R.K. Mellon Foundation.
National Parks and Conservation Association	Foundation grants 1993, $196,268. Mary Flagler Cary Charitable Trust; Andrew W. Mellon Foundation.
Friends of the Earth	Foundation grants 1993, $1,573,996. Beldon Fund; C.S. Mott Foundation; Rockefeller Brothers Fund; Rockefeller Family Fund.
Izaak Walton League of America	Foundation grants 1993, $498,309. Beldon Fund; R.K. Mellon Foundation; George Gund Foundation; Joyc.: Foundation.

FOUNDATION CONTROL OF ENVIRONMENTAL GROUPS

The Surdna Instance

Surdna Foundation, Inc. (a member of Environmental Grantmakers Association), 1155 Avenue of the Americas, 16th Floor) New York, New York 10036, Tel: 212-730-0030 Fax: 212-391-4384.

Contacts: Edward Skloot, Executive Director; Hooper Brooks, Program Officer for the Environment.

The Surdna Foundation, Inc., is a family foundation established in 1917 by John E. Andrus (d. 1934., whose businesses included gold, oil, timber, and real estate. Surdna is Andrus spelled backward. About half of its annual grants go to two programs: Community Revitalization and the Environment.

Documents show that Surdna Foundation, as part of an investment portfolio of $338,074,279 in assets, owns and operates approximately 75,000 acres of timberlands in Northern California. Andrus timber partners also own and operate approximately 90,000 acres of timberlands in Northern California. Frederick F. Moon III is a director of both Surdna Foundation and Andrus timber partners. According to federal tax forms, Surdna Foundation realized $2.7 million income from timber in 1992–93.

Documents show that Surdna Foundation made contributions of $35,000 to Environment Now, an environmental organization that held training seminars teaching activists group leaders how to file appeals to stop federal timber harvest plans. Surdna Foundation grant recipients known to have filed Timber Harvest Plan appeals include Sierra Club ($90,000), Oregon Natural Resources Council, Wilderness Society ($325,000), Western Ancient Forest Campaign ($175,000), Audubon Society ($100,000), and Natural Resources Defense Council ($557,000), stopping timber harvests and log supplies to mills in the Sierra Nevada market area. Thirty-six sawmills in Northern California have shut down because of log shortages since 1990, rendering 8,000 unemployed. As a result, timber prices on Surdna Foundation's private lands have increased dramatically. Some of the Timber Harvest Plans that were appealed lie in the same watershed as the timberlands owned by Surdna Foundation and Andrus timber partners, yet no appeals were filed on the State Timber Harvest Plans submitted by Surdna Foundation under California law.

The sequence of events of Surdna Foundation's grantmaking history shows that they made no grants to groups involved in restricting federal timber supplies in Northern California during 1987–88; during 1988–89 they made a grant to The Nature Conservancy; in 1989–90, grants went to Conservation Law Foundation, 1000 Friends of Oregon. Natural Resources Defense Council, Project LightHawk, Sierra Club, Wilderness Society and Western Ancient Forest Campaign; during 1991–92, grants went to Americans for the Ancient Forest, National Audubon Society, Environment Now, Conservation Law Foundation, Natural Resources Defense Council, Oregon Natural Resources Council, Eco Trust, 1000 Friends of Oregon, Western Ancient Forest Campaign, and the Wilderness Society.

Two Northern California residents filed numerous Timber Harvest Plan appeals on behalf of several groups, and also occupied leadership positions: Linda Blum, leader positions: Western Ancient Forest Campaign; Tulare Audubon Society; Friends of Plumas; Sierra Nevada Alliance; and Wilderness Society. Erin Noel, leader positions; Western Ancient Forest Campaign; Friends of Plumas; Sierra Nevada Issues Group.

During 1992–93 Surdna Foundation realized $2.7 million income from its Northern California timberlands.

A substantial effort to control major nonprofit environmental organizations through the power of the purse was discussed in the 1992 annual retreat of the:

Environmental Grantmakers Association (Founded 1985).

Budget: $40,000.

Staff: 1, operated by Rockefeller Family fund dba EGA, 1290 Avenue of the Americas, New York, New York 10104. Phone: 212–373–4260 FAX: 212–315–0996.

Pam Maurath, Assistant Coordinator.

The Environmental Grantmakers Association is a coalition of 160 private foundations that provide most of the $340 million in environmental grants each year. The annual retreats are strategy planning sessions during which grantmakers lay their plans for the coming year. The following dialog was transcribed verbatim from tapes of a session titled "Environmental Legislation." Ed Skloot and Hooper Brooks of Surdna Foundation spoke during this panel.

Anne Fitzgerald: Do you detect, though, a resistance in the larger organizations to becoming grant driven?

Donald Ross [Rockefeller Family Fund]: Yeah. I think a lot of them resist.

Chuck Clusen [American Conservation Association]: A number of us have been involved in this, Anne. Yeah. There's definitely a feeling on the part of the not-for-profit organizations that in cases of some of the campaigns like the Ancient Forests Campaign that they resent funders, not just picking the issues, but also being directive in the sense of the kind of campaign, the strategy, the style, and so on. I guess, coming out of the advocacy world, and having spent most of my career doing it, I look at it as, if they're not going to do it on their own, thank God funders are forcing them to start doing it. . . .

Donald Ross: I think that there are things that could be done. I think funders have a major role to play. And I know there are resentments in the community towards funders doing that. And, too bad. We're players, they're players.

But I think we touched on a lot of problems, the internal problems within these big groups, the warring factions within them who are all trying to get resources, and there's too many groups and too few resources, and all that. I think the fundamental effort that has to be made is a reorganization of the movement, whether you're talking—I don't think it's realistic to think that groups like Sierra Club or NRDC are going to disappear and reform into something new. They'll stay, and they'll still send out those newsletters. I think we have to begin to look much more at a task force approach on major issues that is able to pool. And the funders can drive that. And part of the reason these groups have been resistant to work with each other is precisely because they want the credit, they want the name, so they can get more funding, either from us—from foundations—or from members.

And I think there isn't one of them, even the biggest, National Wildlife, or Audubon or Sierra Club, that has the capacity to wage full scale battles on major issues by themselves. They don't have the media, lobbying, grass roots organizing, Washington base, etc., litigation, all wrapped in one organization.

And so the trick, I think, is to figure out how we can duplicate some of the early successes like the Alaska lands fight that you were involved in, Chuck, back in—or this transportation one. I think it can be, where funders can play a real role is helping, is using the money to drive, to create ad hoc efforts in many cases that will have a litigation component coming from one group, a lobbying component coming from another group, a grass roots organizing component coming from yet a third group with a structure that enables them to function well.

Individual audio tapes of all 1992 EGA retreat sessions can be purchased for $11.00 each from Conference Recording Service, 1308 Gilman Street, Berkeley, California 94706, Phone: (510) 527–3600, Fax: (510) 527–8404. The complete conference audio set is available in a vinyl binder for $150 including shipping. If EGA attempts to block release of these tapes by Conference Recording Service, the Center for the Defense of free Enterprise will provide copies to legitimate members of the media. Verbatim transcriptions of major sessions are available from the Center for the Defense of Free Enterprise.

NON-PROFIT LAND TRUSTS SELLING PRIVATE LAND TO GOVERNMENTS

There are presently more than 900 nonprofit land trusts in the United States. These land trusts commonly buy property from individual private owners with the understanding that the land will be kept in trust for environmental purposes by the non-profit purchaser. Many non-profit land trusts, in addition to keeping these private purchases in private trusts, also sell purchased private land to government agencies.

Many individual private land owners have complained about non-profit land trust practices and cite numerous abuses that should receive congressional scrutiny and wide public attention. The most commonly cited abuses are:

Failure to advise the individual private seller that his or her land will in turn be sold to a government agency.

Individual land owners are underpaid by non-profit trusts.

Individual land owners are not advised that they may sell directly to the government.

Non-profit land trusts receive inside information from government agencies about "approved appraised value" of individual privately owned parcels in advance of purchase, promoting underpayment.

Government agencies secretly request nonprofit land trusts to buy desired properties and hold them until congressional appropriations are available to pay for government purchase.

Government agencies pay non-profit land trusts prices "above approved appraised value."

Government agencies pay non-profit land trusts additional "carrying costs" including interest, travel, telephone, postage, appraisal and survey costs, title premiums, closing costs, property taxes owed, and overhead.

Non-profit land trusts commonly retain all mineral rights and gas and oil rights to properties they sell to the government.

Government agency employees who have arranged favorable purchases for non-profit land trusts for years then accept employment by those non-profit land trusts often takes the property off the tax rolls, harming local and country government revenues.

Sales of non-profit land trust property to government centralizes power and feeds an insatiable appetite for more private property to be nationalized.

Non-profit land trusts keep their government sales quiet and refuse to release details of individual transactions in progress or completed.

Government agencies refuse to release details of land transactions in progress or completed with nonprofit land trusts, claiming private sales to government are exempt from the Freedom of Information Act.

Non-profit land trusts justify their secret complicity with government agencies by pointing out that it is not illegal, setting a standard of behavior of merely avoiding prosecution.

Non-profit land trusts use their reputations to purchase private property for conservation purposes and then convert it to "trade lands" which are sold to developers at high profits, using the justification that the funds will eventually be plowed back into purchases of actual conservation lands.

Non-profit land trusts advertise only their private land activities, and do not provide the public with remedial advertising openly describing their extensive land sales to the government, thus leaving the public with a false impression of their real operations.

Government agencies commonly whitewash their abuses in reports written by government appointees formerly employed by environmental organizations and still loyal to those private non-profit organizations.

BAIT AND SWITCH

The Bait: This charming Nature Conservancy ad with its appealing tag line, "Conservation Through Private Action".

"We Get a Good Return on Our Investment.

"The Nature Conservancy takes a business approach to protecting our natural world. Each day in the U.S. we invest in over 1,000 additional acres of critical habitat for the survival of rare and endangered species. "Through creative techniques like debt-for-nature swaps, we are also saving millions of acres of tropical rainforest throughout Latin America and the Caribbean. "On these protected acres, migratory waterfowl return each year. Trout return to the streams. Antelope return to the grasslands. And in many areas plant and animal species previously driven to the brink of extinction are returning to their native habitats. "Join us, and make an investment in our natural heritage. Future return, isn't that what investment is all about?

"Conservation Through Private Action."

The Switch: The Nature Conservancy sells private purchases to the federal government—

Without the prior knowledge of the private land seller;

Often at secret government request;

Using privileged appraisal information supplied by agents of the federal government;

Above "approved appraised value";

Paying "lowball" prices below "approved appraisal value" by offering tax breaks to the seller because of TNC's non-profit tax status;

Keeping the mineral and oil and gas rights;

Taking land off the tax rolls;

Obtaining influence within federal agencies for Congressional appropriations to pay for TNC purchases;

$76,318,014 income from government sales in fiscal 1993;

All at taxpayer expense.

Conservation Through Private Action?

OTHER NON-PROFIT LAND TRUSTS SELLING PRIVATE LAND TO GOVERNMENTS

The Conservation Fund

Staff: 19 professionals on contractual basis.

Non-membership.

Tax Status: 501(c)(3).

1800 N. Kent Street, Suite 1120, Arlington, Virginia 22209, Phone: (703) 522–8008 Fax: (703) 525–4610.

Total revenue, 1993, $13,886,902.

President: Patrick Noonan. Salary, $148,500, Benefits $16,542.

Vice President: David Sutherland, $64,000 salary, $6,426 benefits.

Chief Operating Officer: John Turner, $68,000 salary, $3,743 benefits.

Secretary: Kiku Hoagland Hanes, $55,000 salary, $9,800 benefits.

Assistant Treasurer: Joann Porter, $64,500 salary, $10,000 benefits.

Board Member: Charles Hordan, $14,000 compensation.

Compensation of Officers and Directors, $400,000.

Other Salaries and Wages, $1,084,714.

Pension Plan Contributions, $64,160.

Other Employee Benefits, $86,318.

American Farm and Trust

Total revenue, 1993, $22,744,704.

Total expenses $21,263,591.

Fund balances at end of year, $27,539,148.

Compensation of officers, $1,621,300.

Other salaries and wages, $4,057,727.

Pension plan contributions, $237,343.

Other employee benefits, $1,518,784.

Investments—securities, $15,182,446.

Total assets, $58,840,830.

Grants and conveyances of properties to government and private groups, $4,544,270.

Legal fees, $402,389.

Telephone, $328,335.

Travel and meetings expenses, $726,702.

[Letter from the Deputy Regional Director of the U.S. Fish and Wildlife Service to the Nature Conservancy dated August 30, 1985, showing systematic government request for TNC to buy private land. The government clearly agrees to pay TNC "your overhead, financing, and handling charges in excess of the approved appraisal value." The information in this letter was not made known to private owners who sold to TNC. The practice continues]

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Newton Corner, MA, August 30, 1985.

LA—Connecticut; Connecticut Coastal NWR.

DENNIS WOLKOFF,
The Nature Conservancy, Eastern Regional Office, Boston, MA.

DEAR DENNIS: We are appreciative of The Nature Conservancy's continuing effort to assist the Service in the acquisition of lands for the Connecticut Coastal National Wildlife Refuge. As a result of your assistance and cooperation approximately 90% of the acreage identified in the enabling legislation has received long term protection.

Our appraisal of the tract on Sheffield Island has been completed and we are currently awaiting funding prior to making an offer on the property. We understand that the proceeds from the eventual sale of this parcel to the Service will in turn, be used to purchase the 8-acre Milford Point tract.

Since the availability of additional funding is not currently known, we request that The Nature Conservancy continue their preservation efforts and acquire the Milford Point tract. We will make every effort to purchase the property when funds become available.

It is understood that our purchase price will be based on the Service approved value plus an amount, to be agreed upon, which will cover your overhead, financing, and handling charges in excess of the approved appraisal value. If we are not able to purchase this property within a reasonable period of time, it is further understood that The Nature Conservancy may recover its investment by a sale on the open market.

Your effort to purchase property on Milford Point and to hold for subsequent conveyance to the Service are greatly appreciated.

Sincerely yours,

—— ——,
Deputy Regional Director.

[Letter from TNC legal counsel Philip Tabas to Robert Miller of the U.S. Fish and Wildlife Service showing the elastic payment policy of taxpayer money to a private nonprofit organization. Tabas boasts in a footnote that The Nature Conservancy is the "Agency with The Most Complete File" on Milford Point, indicating access to insider information. Miller was later hired by The Nature Conservancy at a high salary.]

THE NATURE CONSERVANCY,
EASTERN REGIONAL BLDG.,
Boston, MA, November 7, 1986.

ROBERT MILLER,
Chief, Realty Division, Fish and Wildlife Service, Newton Corner, MA.

DEAR BOB: Attached please find the so-called letter of intent for Milford Point. It gives you pretty broad authority to pay what we both agree to for the property, even ". . . in excess of the approved appraisal value." Let's talk after you have had a chance to review your files.

VOL
142
PT
5
MR
21
—
29
1996
UMI

I look forward to receiving the FWS appraisal on Milford Point which was done in January 1986 and any revisions thereof.

Best regards.

Sincerely,

PHILIP TABAS,
Legal Counsel, Eastern Region.

P.S. I guess TNC wins the "Agency with The Most Complete File" award on this one!

[Letter from TNC Director of Protection Camilla M. Herlevich to Al Bonsack of the U.S. Fish and Wildlife Service showing TNC billing the federal government for numerous expenses involved in a land sale. TNC states that, "as is customary, the oil and gas rights will not go with the property."]

THE NATURE CONSERVANCY,
SOUTHEAST REGIONAL OFFICE,
Chapel Hill, NC, December 23, 1988.

A. BONSACK,
U.S. Department of the Interior, Fish and Wildlife Service, Atlanta, GA.

RE: Big Pine Key (Granada Continuing Presbyterian Church), FL—TNC to USFWS.

DEAR MR. BONSACK: The Nature Conservancy acquired the above-referred tract at Big Pine Key on November 15, 1988. We would like to transfer the property to the United States Fish and Wildlife Service by January 31, 1989. Our costs through January 31, 1989 are $78,322.00. Costs would increase in an amount equal to prime plus one percent (1%) per annum times the purchase price for any period of holding after January 31, 1989. Current per diem cost is $23.00. Our costs for this transaction are, itemized as follows:

Purchase price	$73,000.00
Coop interest @ 11.5% 2.5 mos	1,748.00
Travel	50.00
Telephone	50.00
Postage	0.00
Appraisals/surveys	0.00
Title premium	310.00
Closing costs	127.00
Property taxes	846.00
Overhead @ 3% 73,000=	2,190.00
Total	78,322.00

As is customary, the oil and gas rights will not go with the property, although the Conservancy will restrict its mineral activity to subsurface methods.

If you would please indicate the acceptance of The Nature Conservancy's offer by having the appropriate person sign for the United States Fish and Wildlife Service in the space provided below and return to me. A copy is provided for your records.

Best regards,

CAMILLA M. HERLEVICH,
Director of Protection.

[Letter from TNC legal counsel Philip Tabas to Robert Miller of the U.S. Fish and Wildlife Service showing the solicitation of Miller's superiors in the national office to place one of TNC's properties higher on a government purchase priority list to avoid the oversight of a Congressman and "make the job of securing Congressional funds for this project that much easier."]

THE NATURE CONSERVANCY,
EASTERN REGIONAL OFFICE
Boston, MA. January 24, 1990.

ROBERT MILLER,
Chief, Reality Division, Fish and Wildlife Service, Newton Corner, MA.

DEAR BOB: * * *

Third, we recently saw the regional LAPS list and, as you may know, the James River Eagle project was ranked #78, I know, that there are logical inconsistencies in the LAPS list process, but this ranking of the James River project is likely to make it difficult for us to secure the support we need in Congress to get the money to fund this project. As you know, Congressman Sisitsky pointed to the LAPS list in the last round as the reason for his failure to support the project and we would like to avoid having to fight with him on that issue again this year. If there is anything you can do with the powers that be in your national office to revise the James River project to a higher ranking, it would make the job of securing Congressional funds for this project that much easier.

Thanks very much for your help on these matters. I look forward to catching up with you when you return from your travels. Best regards.

Sincerely yours,

PHILIP TABAS,
Attorney, Eastern Region.

STATE GOVERNMENT-NON-PROFIT LAND TRUSTS

Scenic Hudson, Inc.

Total revenue, 1993, $1,112,787.

Total expenses, $1,013,288.

Fund balances, $2,398,803.

Salaries and wages, $561,878.

Employee benefits, $51,115.

Investments—securities, $1,667,771.

Total assets, $3,799,224.

Executive Director, Klara Sauer, $72,000 salary, $3,600 benefits.

Land Preservation Director, Steven Rosenberg, $51,500 salary, $2,575 benefits.

Associate Director, Carol Sonderheimer, $49,000 salary, $2,450 benefits.

Environmental Director, Cara Lee Box, $33,897 salary, $1,695 benefits.

Waterfront Specialist, John J. Anzevino, $32,569 salary, $571 benefits.

Deferred grants and contributions $10,000 and over:

Lila Acheson and DeWitt Wallace Fund for the Hudson Highlands, $345,500.

Hudson River Foundation, $14,800.

Surdna Foundation, $26,762.

Compton Foundation, $20,000.

The Cohen Charitable Trust, $10,000.

Total deferred grants and contributions, $428,480.

Investments:

U.S. Treasury Notes, $462,259.

Bonds, $326,107.

Common stock, $644,339.

Preferred stock, $235,066.

Total, $1,667,771.

Scenic Hudson Land Trust Inc.

Land buying affiliate of Scenic Hudson, Inc.

Total revenue, 1993, $4,794,870.

Total expenses, $345,380.

Fund balances, $13,298,300.

Salaries and wages, $13,716.

Employee benefits, $1,001.

Total assets, $17,964,088.

Executive Director Klara Sauer of Scenic Hudson, Inc., is a director of Scenic Hudson Land Trust, Inc.

Foundation and trust grants received, $4,756,694.

Support and revenue designated for future periods: Lila Acheson and DeWitt Wallace Fund for the Hudson Highlands $3,228,095.

STATE GOVERNMENT-PRIVATE LAND TRUSTS

Scenic Hudson, Inc. and Scenic Hudson Land Trust, Inc., based in Poughkeepsie, New York, are operating a secretive land buying operation along the 148-mile Hudson River Valley corridor from New York City to Albany. Some operations are carried out in cooperation with Open Space Institute in Ossining, New York. The organizations are carrying out the plan of "Conserving Open Space in New York State," approved by Governor Mario Cuomo in 1993, a document available only upon special request from the state and not of general knowledge. These organizations are beneficiaries of over $40 million from the Lila Acheson and DeWitt Wallace Fund (the Readers Digest fortune) for the Hudson Highlands.

Once Scenic Hudson holds title to local real estate, its officers and executives demand that municipalities take their "non-profit" purchase off the tax rolls—or face devastating lawsuits. The non-profits' financial clout and backing by New York elites gives them leverage against beleaguered municipalities that cannot afford extensive lawsuits.

Scenic Hudson, Inc. enjoys corporate support and invests in corporate stocks. Chevron awarded Scenic Hudson a $2,000 grant in May, 1994. A gift of 400 shares of Chevron common stock to Scenic Hudson on May 25, 1989, netted the non-profit $6,133.07 when sold on May 12, 1992. Scenic Hudson owns substantial oil stock: On August 16, 1990, SH purchased 400 shares of Texaco valued at more than $25,000; two weeks later they bought another 300 shares worth nearly $19,000; in June, 1993, they still owned the 700 shares of Texaco. On May 12, 1992, they bought 400 shares of Exxon ($24,014); on August 7, 1992, 400 shares of Royal Dutch Petroleum (Shell Oil) worth $35,498; on March 10, 1993, 800 shares of Sun America.

Scenic Hudson also acquired 700 shares of Phillip Morris on May 4, 1989, sold 100 of the shares October 13, 1992 at a $5,004.15 profit, and sold the remaining 600 shares in February and April, 1993, reaping $16,987.34. A gift of 600 shares of DuPont stock was reduced by sale of 200 shares on October 5, 1992 for a $5,322.09 profit; Scenic Hudson retained the 400 shares of DuPont at the 1993 tax reporting period. Scenic Hudson held Georgia-Pacific common stock for 15 months before selling it.

Wealthy donors enjoy tax breaks by giving appreciated stock to Scenic Hudson. On April 2, 1989, SH received 500 shares of British Petroleum worth $28,747.50 and sold it 16 months later at a capital gain of $41,563.11.

New York State has targeted for acquisition 157 private properties comprising hundreds of thousands of acres in Westchester, Putnam, Rockland, Orange, Sullivan and Ulster Counties. These properties, combined with the already vast state, county and federally-owned lands in the region, would create a tax free park stretching from the Hudson Highlands through the Adirondacks to the Canadian border, further impoverishing local communities.

DOCUMENTATION

All factual information in this report was taken from public information or published reports readily available to the journalist.

Most financial data were found in U.S. Internal Revenue Service Form 990 annual reports filed by the respective organizations under examination. Other sources include financial statements prepared by the environmental organizations and provided to the Secretary of State of New York, the Division of Consumer Affairs of the Commonwealth of Virginia and the Attorney General's Office of the State of California. Lists of investments were obtained from both of these sources, or from California Attorney General's Office filings on Form CT-2. Many organizations do not file their list of investments with any

public agency. In such cases, the authors of this report requested such lists by telephone directly from the environmental organization in question. All organizations thus solicited for investment information refused to divulge it.

Information on Foundation Control of Environmental Groups came from tape recorded discussions among foundation staff and officers at the Environmental Grantmakers Association 1992 Annual Retreat at Rosario Resort in Washington State. Documentation of the Surdna Instance came from U.S. Forest Service timber harvest plans, Form 990 filings, California state filings, and internal documents discovered in public filings.

Major documentation of Non-Profit Land Trust abuses was obtained from the U.S. Fish and Wildlife Service through the Freedom Of Information Act. Additional documentation was obtained from individual land owners in personal interviews or through third-party correspondents.

The Center for the Defense of Free Enterprise is the sole author of this report, and is solely responsible for the accuracy of the data here presented.

Mr. MURKOWSKI. Mr. President, as I indicated, out of necessity, these organizations have to consume their causes, and Utah wilderness currently is one of their causes. We have seen their efforts in mining reform, just last week in grazing reform, and the week before the forest issue. Now they have turned their efforts to Utah wilderness.

I do not mind constructive input. It is invaluable in the development of quality legislation. It is good for everyone, but this type of big business, well-financed campaigns that they establish are really not constructive. It is a case of "We're going to protect you from yourselves whether it is good for you or not, but we're going to do it at your own expense."

Mr. President, I think it is time to get real.

I would like to chat a little bit about Sterling Forest, because while I support the proposal of my friend from New Jersey, it is not without some exceptions. The purpose of title XVI is to authorize the Secretary of the Interior to provide funding to the Palisades Interstate Park Commission in order to facilitate the acquisition of the Sterling Forest in New York. I am not sure what the status is, but I am sure my friend from New Jersey will tell us, if this bill goes through, in what status that land will be held.

The 17.5 million dollars authorized by this legislation states that funds may be transferred to the commission only to the extent that they are matched with funds contributed by non-Federal sources. So the State of New York and the State of New Jersey are going to have to, obviously, contribute funds.

The funds may only be used for the procurement of conservation easements along—this is where it gets interesting, Mr. President—along the Appalachian Trail. That is National Park Service administered but privately owned which runs through the Sterling Forest but not in the same watershed that they are currently trying to protect.

So, it is interesting to pick up that difference. In actuality, scarce Federal appropriated funds are being used to trigger the flow of appropriated funds from New York and New Jersey. While the protection of the States' watershed may be meritorious, there are higher priorities currently within the National Park Service that need to be addressed.

Notwithstanding my concerns, the Senator from New Jersey was accommodated, and I support his efforts in this regard because I recognize that he is from that State, he is held responsible by his constituents, and he ought to know what is best for his State and, as a consequence, I am going to support the Sterling Forest, as I have indicated to him. But it is technically not just a home run or a couple of free throws. The Federal funds may only be used for the procurement of conservation easements along the Appalachian Trail, which is Park Service administered but privately owned, which runs through the Sterling Forest but not in the same watershed that they are trying to protect.

So, Mr. President, we have a situation before us where this is really not a debate about the merit of adding 2 million acres of new wilderness to the national inventory. This is really a battle between some of the well-financed elitists and the people who live in the State of Utah.

Would the world be better off with 2 million acres of wilderness? I believe it would. Would we be better off with an additional 3 million acres that did not meet the definition of wilderness? I think not.

Unfortunately, the playing field does not happen to be level. We find ourselves being tied up by a group of elitists. This debate is really a difference of opinion between the well-financed elitist lobby who wants all or nothing and the rest of us who are looking for resource protection and balance and trying to represent the people of the affected States.

As I have indicated and the chart shows, this is a well-financed lobby. Environmentalism is big business, as the chart shows, and, as a consequence, it does show that environmental money does go for the purpose of protecting the environment, while at the same time it shows that little goes to achieve balance, compromise or resolution.

As I have indicated, the environmental community does need a cause for additional membership, for added dollars. As I have indicated, this week it is Utah wilderness, last week it was grazing, before that timber.

Let me reflect, finally, on how the people of Utah, as they look to the future of their State—a relatively large Western State, 52 million acres of land—proposes to increase the wilderness by some 2 million acres, increasing that to a special classification of wilderness which would be BLM wilderness of 2 million acres and Forest Service wilderness of 800,000 acres.

The overwhelming base of support, as evidenced by the statements from those in Utah, and the realization that here we are with a package that can meet its objective in adding wilderness to Utah, that can meet its objective with regard to the concerns of my friend from New Jersey, who, at least to this Senator, has established himself as perhaps the self-anointed savior of the West, but, again, I ask, who does he really represent with regard to this issue? Is it the big environmental groups that have no compassion, no understanding, no willingness to negotiate a reasonable settlement that has been identified time and time again as being in the interest of the people? And is this a continued attack on resource development on public land, whether it be grazing, timber, or mining? Is it going to be concessions next? Is this the attitude prevailing from this administration?

As we look at resource development in this country, we recognize that we are exporting dollars, we are exporting jobs overseas, and as we depend more and more on imports, our current balance-of-payment deficit is half of the cost of imported oil. Fifty-four percent of our oil is now imported. We are increasing our timber and wood fiber imports. We are losing high-paying, blue-collar jobs. Can we not, through science and technology, continue to develop our resources in a responsible manner? That is what the people of Utah are talking about, relative to the additional acreage that they want to use for their school system, for the education of their children.

It seems to me that we should listen to the people of Utah today, Mr. President. They are not extreme. They are not elitists. They are realists. They know what they need for their State. They have recommended 2 million acres of wilderness. It is a responsible compromise.

So, Mr. President, as we go through this debate throughout the day, and perhaps a portion tomorrow, I encourage all Members to look at this package, recognize it for what it is, an attempt to accommodate some 17 or 18, close to 20 States, with individual recommendations on land within their States, recognizing the significance of including the Presidio in this package and the realization that the trust that has been formed to manage the Presidio under the scope of this legislation is realistic, it will work, it will take the burden off of the Federal Government. Last, this legislation will meet the needs of the people of Utah.

VOL
142
PT
5
MR
21
—
29
1996
UMI

MODIFICATIONS TO AMENDMENT NO. 3564

Mr. MURKOWSKI. Mr. President, I send a modification of my amendment to the desk. I ask that each of the measures be added at the appropriate place, and the titles and section numbers be renumbered accordingly.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. MURKOWSKI. Mr. President, it would add provisions for the Big Thicket in Texas, the Big Horn County school district in Wyoming, a right-of-way in Wyoming, the Tallgrass provisions in Kansas. I think that takes it up to nearly 60, Mr. President. I do not think further reading is required.

The PRESIDING OFFICER. The amendment is so modified.

The modifications follow:

At the appropriate place, insert:

TITLE —

SECTION 1. FINDINGS.

The Congress finds that—

(1) under the Big Thicket National Preserve Addition Act of 1993 (Public Law 103-46), Congress increased the size of the Big Thicket National Preserve through authorized land exchanges;

(2) such land exchanges were not consummated by July 1, 1995, as required by Public Law 103-46; and

(3) failure to consummate such land exchanges by the end of the three-year extension provided by this Act will necessitate further intervention and direction from Congress concerning such land exchanges.

SEC. 2. TIME PERIOD FOR LAND EXCHANGE.

(a) Extension.—The last sentence of subsection (d) of the first section of the Act entitled "An Act to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes", approved October 11, 1974 (16 U.S.C. 698(d)), is amended by striking out "two years after date of enactment" and inserting "five years after the date of enactment".

(b) Independent Appraisal.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)) is further amended by adding at the end the following: "The Secretary, in considering the values of the private lands to be exchanged under this subsection, shall consider independent appraisals submitted by the owners of the private lands.".

(c) Limitation.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)), as amended by subsection (b), is further amended by adding at the end the following: "The authority to exchange lands under this subsection shall expire on July 1, 1998.".

SEC. 3. REPORTING REQUIREMENT.

Not later than six months after the date of the enactment of this Act and every six months thereafter until the earlier of the consummation of the exchange or July 1, 1998, the Secretary of the Interior and the Secretary of Agriculture shall each submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate concerning the progress in consummating the land exchange authorized by the amendments made by Big Thicket National Preserve Addition Act of 1993 (Public Law 103-46).

SEC. 4. LAND EXCHANGE IN LIBERTY COUNTY, TEXAS.

If, within one year after the date of the enactment of this Act—

(1) the owners of the private lands described in subsection (b)(1) offer to transfer all their right, title, and interest in and to such lands to the Secretary of the Interior, and

(2) Liberty County, Texas, agrees to accept the transfer of the Federal lands described in subsection (b)(2),

the Secretary shall accept such offer of private lands and, in exchange and without additional consideration, transfer to Liberty County, Texas, all right, title, and interest of the United States in and to the Federal lands described in subsection (b)(2).

(b) Lands Described.—

(1) Private lands.—The private lands described in this paragraph are approximately 3.76 acres of lands located in Liberty County, Texas, as generally depicted on the map entitled "Big Thicket Lake Estates Access—Proposed".

(2) Federal lands.—The Federal lands described in this paragraph are approximately 2.38 acres of lands located in Menard Creek Corridor Unit of the Big Thicket National Preserve, as generally depicted on the map referred to in paragraph (1).

(c) Administration of Lands Acquired by the United States.—The lands acquired by the Secretary under this section shall be added to and administered as part of the Menard Creek Corridor Unit of the Big Thicket National Preserve.

At the end of the amendment, add the following:

SEC. ___01. CONVEYANCE OF CERTAIN PROPERTY TO THE BIG HORN COUNTY SCHOOL DISTRICT NUMBER 1, WYOMING.

The Secretary of the Interior shall convey, by quit claim deed, to the Big Horn County School District Number 1, Wyoming, all right, title, and interest of the United States in and to the following described lands in Big Horn County, Wyoming: Lots 19–24 of Block 22, all within the town of Frannie, Wyoming, in the S½NW¼NW¼ and N½SW¼NW¼ of section 31 of T. 58N., R. 97 W., Big Horn County.

At the appropriate place, insert:

SECTION 1. RELINQUISHMENT OF INTEREST.

(a) In General.—The United States relinquishes all right, title, and interest that the United States may have in land that—

(1) was subject to a right-of-way that was granted to the predecessor of the Chicago and Northwestern Transportation Company under the Act entitled "An Act granting to railroads the right of way through the public lands of the United States", approved March 3, 1875 (43 U.S.C. 934 et seq.), which right of way the Company has conveyed to the city of Douglas, Wyoming; and

(2) is located within the boundaries of the city limits of the city of Douglas, Wyoming, or between the right-of-way of Interstate 25 and the city limits of the city of Douglas, Wyoming,

as determined by the Secretary of the Interior in consultation with the appropriate officials of the city of Douglas, Wyoming.

(b) Conveyance.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall file for recordation in the real property records of Converse County, Wyoming, a deed or other appropriate form of instrument conveying to the city of Douglas, Wyoming, all right, title, and interest in the land described in subsection (a).

At the appropriate place in the amendment, insert the following:

TITLE ___—TALLGRASS PRAIRIE NATIONAL PRESERVE

SEC. ___01. SHORT TITLE.

This title may be cited as the "Tallgrass Prairie National Preserve Act of 1996".

SEC. ___02. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) of the 400,000 square miles of tallgrass prairie that once covered the North American Continent, less than 1 percent remains, primarily in the Flint Hills of Kansas;

(2) in 1991, the National Park Service conducted a special resource study of the Spring Hill Ranch, located in the Flint Hills of Kansas;

(3) the study concludes that the Spring Hill Ranch—

(A) is a nationally significant example of the once vast tallgrass ecosystem, and includes buildings listed on the National Register of Historic Places pursuant to section 101 of the National Historic Preservation Act (16 U.S.C. 470a) that represent outstanding examples of Second Empire and other 19th Century architectural styles; and

(B) is suitable and feasible as a potential addition to the National Park System; and

(4) the National Park Trust, which owns the Spring Hill Ranch, has agreed to permit the National Park Service—

(A) to purchase a portion of the ranch, as specified in this title; and

(B) to manage the ranch in order to—

(i) conserve the scenery, natural and historic objects, and wildlife of the ranch; and

(ii) provide for the enjoyment of the ranch in such a manner and by such means as will leave the scenery, natural and historic objects, and wildlife unimpaired for the enjoyment of future generations.

(b) Purposes.—The purposes of this title are—

(1) to preserve, protect, and interpret for the public an example of a tallgrass prairie ecosystem on the Spring Hill Ranch, located in the Flint Hills of Kansas; and

(2) to preserve and interpret for the public the historic and cultural values represented on the Spring Hill Ranch.

SEC. ___03. DEFINITIONS.

In this title:

(1) Advisory committee.—The term "Advisory Committee" means the Advisory Committee established under section ___07.

(2) Preserve.—The term "Preserve" means the Tallgrass Prairie National Preserve established by section ___04.

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

(4) Trust.—The term "Trust" means the National Park Trust, Inc., a District of Columbia nonprofit corporation, or any successor-in-interest.

SEC. ___04. ESTABLISHMENT OF TALLGRASS PRAIRIE NATIONAL PRESERVE.

(a) In General.—In order to provide for the preservation, restoration, and interpretation of the Spring Hill Ranch area of the Flint Hills of Kansas, for the benefit and enjoyment of present and future generations, there is established the Tallgrass Prairie National Preserve.

(b) Description.—The Preserve shall consist of the lands and interests in land, including approximately 10,894 acres, generally depicted on the map entitled "Boundary Map, Flint Hills Prairie National Monument" numbered NM-TGP 80,000 and dated June 1994, more particularly described in the deed filed at 8:22 a.m. of June 3, 1994, with the Office of the Register of Deeds in Chase County, Kansas, and recorded in Book L-106 at pages 328 through 339, inclusive. In the

case of any difference between the map and the legal description, the legal description shall govern, except that if, as a result of a survey, the Secretary determines that there is a discrepancy with respect to the boundary of the Preserve that may be corrected by making minor changes to the map, the Secretary shall make changes to the map as appropriate, and the boundaries of the Preserve shall be adjusted accordingly. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service of the Department of the Interior.

SEC. ___05. ADMINISTRATION OF NATIONAL PRESERVE.

(a) In General.—The Secretary shall administer the Preserve in accordance with this title, the cooperative agreements described in subsection (f)(1), and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2 through 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) Application of Regulations.—With the consent of a private owner of land within the boundaries of the Preserve, the regulations issued by the Secretary concerning the National Park Service that provide for the proper use, management, and protection of persons, property, and natural and cultural resources shall apply to the private land.

(c) Facilities.—For purposes of carrying out the duties of the Secretary under this title relating to the Preserve, the Secretary may, with the consent of a landowner, directly or by contract, construct, reconstruct, rehabilitate, or develop essential buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property that is not owned by the Federal Government and is located within the Preserve.

(d) Liability of Landowners.—Notwithstanding any other provision of law, no person that owns any land or interest in land within the Preserve shall be liable for injury to, or damages suffered by, any other person that is injured or damaged while on the land within the Preserve if—

(1) the injury or damages result from any act or omission of the Secretary or any officer, employee, or agent of the Secretary or of a person other than the owner, a guest of the owner, or a person having business with the owner; or

(2) the injury or damages are suffered by a visitor to the Preserve, and the injury or damages are not proximately caused by the wanton or willful misconduct of, or a negligent act (as distinguished from a failure to act) of, the person that owns the land.

(e) Unit of the National Park System.—The Preserve shall be a unit of the National Park System for all purposes, including the purpose of exercising authority to charge entrance and admission fees under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a).

(f) Agreements and Donations.—

(1) Agreements.—The Secretary may expend Federal funds for the cooperative management of private property within the Preserve for research, resource management (including pest control and noxious weed control, fire protection, and the restoration of buildings), and visitor protection and use.

(2) Donations.—The Secretary may accept, retain, and expend donations of funds, property (other than real property), or services from individuals, foundations, corporations, or public entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of this title.

(g) General Management Plan.—

(1) In general.—Not later than the end of the third full fiscal year beginning after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a general management plan for the Preserve.

(2) Consultation.—In preparing the general management plan, the Secretary, acting through the Director of the National Park Service, shall consult with—

(A)(i) appropriate officials of the Trust; and

(ii) the Advisory Committee; and

(B) adjacent landowners, appropriate officials of nearby communities, the Kansas Department of Wildlife and Parks, and the Kansas Historical Society, and other interested parties.

(3) Content of plan.—The general management plan shall provide for the following:

(A) Maintaining and enhancing the tallgrass prairie within the boundaries of the Preserve.

(B) Public access and enjoyment of the property that is consistent with the conservation and proper management of the historical, cultural, and natural resources of the ranch.

(C) Interpretive and educational programs covering the natural history of the prairie, the cultural history of Native Americans, and the legacy of ranching in the Flint Hills region.

(D) Provisions requiring the application of applicable State law concerning the maintenance of adequate fences within the boundaries of the Preserve. In any case in which an activity of the National Park Service requires fences that exceed the legal fence standard otherwise applicable to the Preserve, the National Park Service shall pay the additional cost of constructing and maintaining the fences to meet the applicable requirements for that activity.

(E) Provisions requiring the Secretary to comply with applicable State noxious weed, pesticide, and animal health laws.

(F) Provisions requiring compliance with applicable State water laws and Federal and State waste disposal laws (including regulations) and any other applicable law.

(G) Provisions requiring the Secretary to honor each valid existing oil and gas lease for lands within the boundaries of the Preserve (as described in section ___04(b)) that is in effect on the date of enactment of this Act.

(H) Provisions requiring the Secretary to offer to enter into an agreement with each individual who, as of the date of enactment of this Act, holds rights for cattle grazing within the boundaries of the Preserve (as described in section ___04(b)).

(4) Hunting and Fishing.—The Secretary may allow hunting and fishing on Federal lands within the Preserve.

(5) Financial analysis.—As part of the development of the general management plan, the Secretary shall prepare a financial analysis indicating how the management of the Preserve may be fully supported through fees, private donations, and other forms of non-Federal funding.

SEC. ___06. LIMITED AUTHORITY TO ACQUIRE.

(a) In General.—The Secretary shall acquire, by donation, not more than 180 acres of real property within the boundaries of the Preserve (as described in section ___04(b)) and the improvements on the real property.

(b) Payments in Lieu of Taxes.—For the purposes of payments made under chapter 69 of title 31, United States Code, the real property described in subsection (a)(1) shall be deemed to have been acquired for the purposes specified in section 6904(a) of that title.

(c) Prohibitions.—No property may be acquired under this section without the consent of the owner of the property. The United States may not acquire fee ownership of any lands within the Preserve other than lands described in this section.

SEC. ___07. ADVISORY COMMITTEE.

(a) Establishment.—There is established an advisory committee to be known as the "Tallgrass Prairie National Preserve Advisory Committee".

(b) Duties.—The Advisory Committee shall advise the Secretary and the Director of the National Park Service concerning the development, management, and interpretation of the Preserve. In carrying out those duties, the Advisory Committee shall provide timely advice to the Secretary and the Director during the preparation of the general management plan under section ___05(g).

(c) Membership.—The Advisory Committee shall consist of 13 members, who shall be appointed by the Secretary as follows:

(1) Three members shall be representatives of the Trust.

(2) Three members shall be representatives of local landowners, cattle ranchers, or other agricultural interests.

(3) Three members shall be representatives of conservation or historic preservation interests.

(4)(A) One member shall be selected from a list of persons recommended by the Chase County Commission in the State of Kansas.

(B) One member shall be selected from a list of persons recommended by appropriate officials of Strong City, Kansas, and Cottonwood Falls, Kansas.

(C) One member shall be selected from a list of persons recommended by the Governor of the State of Kansas.

(5) One member shall be a range management specialist representing institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) in the State of Kansas.

(d) Terms.—

(1) In general.—Each member of the Advisory Committee shall be appointed to serve for a term of 3 years, except that the initial members shall be appointed as follows:

(A) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 3 years.

(B) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 4 years.

(C) Five members shall be appointed, one each from paragraphs (1) through (5) of subsection (c), to serve for a term of 5 years.

(2) Reappointment.—Each member may be reappointed to serve a subsequent term.

(3) Expiration.—Each member shall continue to serve after the expiration of the term of the member until a successor is appointed.

(4) Vacancies.—A vacancy on the Advisory Committee shall be filled in the same manner as an original appointment is made. The member appointed to fill the vacancy shall serve until the expiration of the term in which the vacancy occurred.

(e) Chairperson.—The members of the Advisory Committee shall select 1 of the members to serve as Chairperson.

(f) Meetings.—Meetings of the Advisory Committee shall be held at the call of the

VOL 142 PT 5 MR 21 — 29 1996 UMI

Chairperson or the majority of the Advisory Committee. Meetings shall be held at such locations and in such a manner as to ensure adequate opportunity for public involvement. In compliance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee shall choose an appropriate means of providing interested members of the public advance notice of scheduled meetings.

(g) QUORUM.—A majority of the members of the Advisory Committee shall constitute a quorum.

(h) COMPENSATION.—Each member of the Advisory Committee shall serve without compensation, except that while engaged in official business of the Advisory Committee, the member shall be entitled to travel expenses, including per diem in lieu of subsistence in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(i) CHARTER.—The rechartering provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee.

SEC. ___08. RESTRICTION ON AUTHORITY.

Nothing in this title shall give the Secretary authority to regulate lands outside the land area acquired by the Secretary under section 6(a).

SEC. ___09. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this title.

Mr. MURKOWSKI. Mr. President, I have concluded my remarks. I think the Senator from New Jersey may want to be heard from. If not, there are a couple more of us.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I thank the distinguished Senator from Alaska for his statement, and I thank the distinguished Senators from Utah for their strong advocacy of one of the provisions in this bill. I know how much they care about this legislation. I know how long they have worked on it. We have a basic disagreement, which I will try to explore in as much depth as I can for the next—I do not know how long it will take, but I want to do it with comprehensive explanations so they can then respond to what I have said.

I would only make one point with regard to this bill as a package. As one Senator, I am prepared to have virtually every one of the 33 titles, maybe with 2 or 3 exceptions, moved through the Senate right now. I do not oppose those sections. What I have a problem with is the Utah wilderness bill, which I will get to, to explain. So I want the Senate to know that all of the other provisions in this bill I have no objection to passing today on voice vote with the exception of two or three, maybe four maximum, of the titles in the underlying bill.

It is clearly the chairman's prerogative to put these together in a package. I am not sure, if I were someone who was interested in a particular provision—I might say that this bill has several provisions that I want for my State—that it would be the wisest course if the President actually does veto this package. We could get down several months only to find that the President has vetoed not only Utah land, the wilderness bill, but he has vetoed all of the other smaller provisions that are totally noncontroversial that could move through the Senate today and, in some cases, through the House easily.

I think that ought to be established. I think the wiser course here would be to detach from this package the Utah wilderness bill and to have some more time to talk about that, and then move the other elements of this bill. I know there are a number of Senators who are interested in their particular provisions. I have no objection to moving them.

What I would like to do if I could this morning is take my time to really talk a little bit about the history of public lands. I would like to focus on Federal lands in the United States and in Utah. I would like to focus on the economic development pressures in Utah. I would like to talk about sustainable development. I would like to put this bill in the context of how we got here, and how the bill does in relation to the concept of sustainable development. Then I would like to talk about the effect on the rest of the country, and why I think that the Utah wilderness bill is clearly a national bill in a very, very deep sense. I say that with great respect for the knowledge and the commitment of the Senators from Utah, whom I know care as deeply about their State as any Senator in this body cares about his or her own State. So I make these comments with respect for them and at the same time with a very profound disagreement.

Mr. President, the idea that America has public land, public patrimony that belongs to all of us, really began in 1778, when the small State of Maryland led a protest against those States that had made vast claims of territory west of the Appalachian Mountains, our original frontier.

Under their royal charters, Virginia had laid claim to territory reaching to the Mississippi and up to what is now Michigan, and Massachusetts claimed much of what remained in the then United States. The Senators, Congressmen, the statesmen from Maryland had a different idea. They said that the land, which was the defining feature of the new Nation, should be owned and used in common. And Maryland refused to sign the Articles of Confederation until this idea of common land won respect.

By 1802, the young Nation had taken 233 million acres for the public good between the Thirteen Colonies and the Mississippi River, and with the Louisiana Purchase, and over the next 51 years, the common domain grew to more than 1.4 billion acres of public land. While the Nation came together around Maryland's idea of public land, the question of what to do with it remained.

The fundamental conflict between divisions expressed by Thomas Jefferson and Alexander Hamilton dominated this debate, as it did so many others. Jefferson believed that land should be put in the hands of small farmers even if it meant giving it away, while Hamilton believed that land sales could be the steadiest source of income for the Nation.

With the oppressive debt from the Revolutionary War, the Hamilton view prevailed. And the principle for most of the first half of the 19th century was that "lands were to be sold, and the proceeds appropriated toward shrinking or discharging the debts." That was a quote. But the land being what it is, Jefferson was also correct in his prediction that Americans looking for open space "would settle the lands in spite of everybody."

Land sales never made up more than 10 percent of the Federal revenue because people simply laid claim to the lands, moved onto the lands. With the passage of the Preemption Act of 1841, the Jeffersonian view prevailed, giving the land away, in hope that it would extend across the continent a nation of small farmers.

The Homestead Act followed in the 1860's with its promise of 160 acres for a family, a blessing in the fertile ground of the Great Plains—160 acres. Beyond the 100th meridian, the north-south line running roughly from Minot, ND, to Laredo, TX, the 160 acres was almost useless. As Senator William Borah said of the Homestead Act, "The Government bets 160 acres against the filing fee that the settlers cannot live on the land for 5 years without starving to death." Indeed, only 35 percent of the claims ever lived up to full ownership, with the rest left to be assembled in very large parcels.

Just as selling the land did not fulfill Hamilton's vision, giving it away did not live up to Jefferson's vision of a country of independent, self-sufficient young farmers passing their modest legacy of land from generation to generation, renewing themselves by tilling the land. Neither vision, the sale of the land nor giving it away, really lived up to either of the Founders' idea.

Instead, mining interests laid the first claim to the land. Every single major mining strike in the history of the West—gold in California, Colorado, and Montana, silver in Idaho, Nevada—was made on public land. Then ranchers who had quickly exhausted the capacity of the public land of the high plains, moved West, taking vast acreage of thin, fragile grassland in the

northern range and fencing it in to keep homesteaders out.

Mr. President, about this time Americans finally began to really look at their land. The reports of the great surveyors, Ferdinand V. Hayden, George M. Wheeler, and John Wesley Powell, these reports came East, along with the photographs of William Henry Jackson and the paintings of Thomas Moran. Tales of great geysers and Powell's vivid descriptions of a canyon opening like a beautiful portal to a region of glory led to a popular campaign to protect something of this legacy.

The creation of Yellowstone National Park, the first national park, in 1872, was a moment of great national pride. The truer reflection of our view toward our national lands, our public lands, in that same year was the passage of the General Mining Act of 1872, setting fees of $2.50 an acre for a permanent mining claim, an error at the time and an outdated disgrace today.

As the new century approached, the parks movement accelerated and the country finally escaped the old question, "Should we sell it or should we give it away?" In 1891, the National Forest System was created. By 1907, nearly 10 percent of the Nation's land had been rescued from the cycle of transfer and destruction. The great barbecue, as the historian C. Vernon Parrington called the abuse of the land in the 19th century, had come to an end, but the struggle had really only begun.

Miners, ranchers, farmers, and timber interests began a long fight to reclaim the unlimited gold, silver, copper, grasslands, water, and tall trees which had been given away for so long that they had convinced themselves that they had earned them. In Charles Wilkinson's phrase, the "Lords of Yesterday," the interests and ideas that pull us back toward the 19th century, grew and grew in Washington, especially after Theodore Roosevelt left the White House and Gifford Pinchot left the Interior Department.

In 1920, the Mineral Leasing Act gave oil companies access to petroleum reserves on public lands, even national forests. But the Teapot Dome scandal led President Hoover to ban the oil reserves from exploitation. And the dust storms of the 1930's, which blackened the skies from New Mexico to the Dakotas as a result of overgrazing and overfarming, led to the passage of the Taylor Grazing Act of 1934 which closed 142 million acres of public land and was called "the Magna Carta of conservation." The New Deal economist Rexford Tugwell declared "the day on which the President signed the Taylor Act * * * laid in its grave a land policy which had long since been dead and which walked abroad only as a troublesome ghost within a living world."

Tugwell's analysis was seriously premature. The land policy of the 19th century has not yet been buried. Indeed, it lives on in this bill, in the grazing bill, and in several others before this Congress in this year.

The advocates of a return to the free-for-all of the past used their power in Congress and the appealing image of the brave, solitary westerner—an image at odds with reality then and now—to lead the assault on this protective impulse to protect the land.

Senator Patrick McCarran of Nevada accused the Grazing Service of seeking "to legislate the trailblazers of the West out of existence," and launched what one historian called "the lengthiest, most concerted, and in some respects, the most successful attempt made in the 20th century by one person to force a reinterpretation of land policy more in accordance with the wishes of the using interests." I repeat, "the using interests."

McCarran succeeded in turning the bureaucracy in favor of the using interests. He abolished the Grazing Service and merged it with another large agency, creating the Bureau of Land Management. The Bureau of Land Management was given so many responsibilities—leasing of oil, gas, coal, oil, shale, and geothermal sites. Management of hard rock mining claims on its own land, plus on the lands of the national forests, management of 8 million acres of commercial forests, wetlands and fishable streams, thousands of archaeological sites as well as grazing, all of these responsibilities, so much given that McCarran and his backers reasonably assumed that the agency would become "Unconvincing Goliath," in the words of Prof. Sally Fairfax.

By 1973, the BLM had plainly abandoned the task of protecting grazing lands from the next Dust Bowl. Only 16 percent of its rangeland was in good condition. The 341 million acres managed by the BLM are often called the leftover lands or the lands nobody wanted. They are what remains of the 2.1 billion acres that had not been sold, given away, or set aside as national park or national forest.

The BLM does not have the clear sense of mission of the Forest Service or the Park Service. Indeed, in the 1950's, its nickname was the "Bureau of Livestock and Mining." It gives a sense of what the Agency thought its lands were most valuable for in those days. Yet, those lands include some of the most breathtaking and fragile places in the Nation: The Potosi Mountains of Nevada; Glacier Peak in Washington; Mount Lester in Wyoming; California's Lake Ediza; and in Utah, the Valley of Dirty Devil, the Kaiparowits Plateau, Grand Staircase, Escalante Canyon, the Henry Mountains, and many others in the State of Utah. These are lands that if we sacrifice their quiet peace for a short-term economic gain, it will be to the lasting regret—the lasting regret—of many Americans.

Let me just frame that by focusing on one of these areas. The Kaiparowits Plateau in southern Utah, an extraordinary place, is one of the most remote places in the United States. I would like to quote from what one person said about that. His name is Charles Wilkinson, a professor at the University of Colorado. He says:

> Kaiparowits, the interior of the Colorado Plateau, itself the interior of the nation, is not just for coal. Few people come to this southern Utah plateau because modern conveniences are so distant, traditional beauty so scarce, normal recreational opportunities so limited. Precipitation measures ten to twelve inches a year. There are just two or three perennial streams, and they carry little water. One dirt road, usable by passenger cars, runs up to Escalante. Otherwise, it is all jeep trails. Piñon-juniper stands offer almost no cover from the sun. Cross-country backpacking is for experts only. You have to scour the topographic maps, plan your trip with care (being sure to hit the springs), and stock to your plan. Even a short hike is a challenge. From a distance, Kaiparowits looks flat on top but in fact it is up-and-down, chipped-up, confusing. You can get lost, snakebit, or otherwise injured. There's no one to call.
>
> Kaiparowits is, in a word, wild—"wilderness," as Raymond Wheeler put it, "right down to its burning core." Eagles, hawks, and peregrines are in here, especially in the wind currents near the cliffs, and so are bighorn sheep, trophy elk, and deer. Archaelologists have recorded some 400 sites but there are many more—there has been little surveying, except near some of the mine sites. From Kaiparowits you are given startling Plateau vistas in all directions, vivid views more than 200 miles if the winds have cleared out the haze, views as encompassing as those from the southern tip of Cedar Mesa, the east flank of Boulder Mountain, the high LeSals, DeadHorse Point, long, stretching expanses of sacred country. If you climb the rocky promontories on top of Kaiparowits, you can see off to Boulder Mountain, the Henrys, Black Mesa, Navajo Mountain, the Kaibab Plateau, the Vermilion Cliffs.
>
> The languid stillness of Kaiparowits turns your mind gently and slowly to wondering about time, to trying to comprehend the long, deep time all of this took, from Cretaceous, from back before Cretaceous, and to comprehend, since Lake Powell and the seventy-story stacks of Navajo Generating Station also now play part of the vista, how it is that our culture has so much might and how it is that we choose to exert it so frantically, with so little regard of the time that you can see, actually see, from here. Perhaps somehow by taking some moments now, here, here in this stark piñon-juniper rockland place, here in this farthest-away place, a person can nurture some of the fibers of constancy and constraint that our people possess in addition to the might. The silence is stunning, the solitude deep and textured.
>
> Kaiparowits makes you decide on the value of wildness and remoteness. Kaiparowits is where the dreams for the West collide. Coal, jobs growth. Long vistas, places to get lost in, places to find yourself in.
>
> The BLM wild lands teach us, also, about the people who once lived and worked and loved and worshipped for such a long time in what has been called BLM land for such a short time.
>
> Last year, my son Seth, then twenty, and I took a long, home-from-college trip to the

VOL
142
PT
5
5
MR
21
—
29
1996
UMI

> canyon country. We hiked most of one day up to our calves in a creek that over the course of some seven million years has cut a thousand feet down through the fiery, aeolian Wingate Sandstone and the layers of rock above it.
>
> In a rare wide spot in the canyon, behind a cluster of junipers, we found a panel of pictographs on the Wingate. The artisan painted this row of red and white images—supernatural and life-size—two thousand years ago, perhaps more. The three stolid figures had wide shoulders, narrow waists. We could see straight through the round staring eyes, and the eyes could see through us. We called it "Dream Panel."
>
> It would be so contemptuous of time to deal away Kaiparowits and Dream Panel. Perhaps the states would protect these and other wild places of national worth as well as they are protected now. But do we want to risk it?

Mr. President, until the 1960's, none of the public lands were fully protected for mining, automobiles, construction, and other uses. The concept of wilderness did not exist, not only on the BLM lands, but even in the national parks and forests.

As a way of preserving public land, the idea of wilderness really owes its origin to Arthur Carhart, a landscape architect hired by the Forest Service in 1919 and sent to design a road encircling Trappers Lake in Colorado's San Isabel National Forest. Instead of laying out the road, he bombarded his bureaucratic supervisors with memos urging that they abandon the project and retain some area "to which the lover of the outdoors can return without being confronted by a settlement, a country store, telephone pole, or other sights of civilization." After Carhart built a friendship and alliance with Aldo Leopold, the great naturalist and author of "A Sand County Almanac," the Forest Service accepted his idea and made Trappers Lake the first development project it had ever denied because of the threat to the natural integrity of the land.

The legacy of Carhart and Leopold fell to Robert Marshall, a slightly eccentric man, who during college decided to walk 30 miles in every State of the Union, covering that distance in a single day in each State. Once he covered 62 miles in a day. Well, Marshall joined the Forest Service in 1930 and advocated not just protection of some land as wilderness, but the importance of sheer size—vast tracts of wilderness rather than small parks in every State. He compared wilderness to the "Mona Lisa" and he said, "If you cut up the 'Mona Lisa' into little pieces one inch square and distribute them among the art galleries of the world so millions might see it, where hundreds now see it, neither the millions nor the hundreds would get any genuine value."

The point here is that wilderness has a size factor that is itself valuable. Although Marshall rose to a high position in the Forest Service, his greatest legacy came when he left to found the Wilderness Society in 1935. The society came into its own with the successful fight against a plan to build two major dams on the grounds of Dinosaur National Monument in Utah. Instead of moving from fight to fight against this development or that, the society developed the idea of permanently classifying some portion of the public lands to be protected from development. When Senator Hubert Humphrey introduced such a bill in 1957, not only the commercial interests and the western Senators and Congressmen, but even the Park Service and Forest Service were flatly opposed. Above all, they were offended by the idea that citizens from the areas affected should participate in the decisions about what should be protected.

Senator Arthur Watkins of Utah argued that a permanent wilderness designation would "hamstring economic development," but at the same time, like opponents of the Yellowstone in the 1870's, he insisted that "Millions of acres are already preserved in the wilderness state and probably always will be."

The bill which finally passed in 1964 contained the following definition of wilderness:

> A wilderness, in contrast to those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and the community of life are untrammeled by man, where man himself is a visitor who does not remain.

That is the definition of wilderness in the 1964 act. It ordered the agencies that manage Federal land to review their own holdings and recommend those that qualify for wilderness designation—wilderness, a "community of life untrammeled by man, where man himself is a visitor who does not remain."

But this review omitted the over 300 million acres managed by the BLM. Those lands came under the purview of the Wilderness Act only in 1976. At that time BLM was given 15 years to review its own holdings and recommend those to be protected. However, Mr. President, that was in 1976. It was not long before James Watt took the reins of the Department of the Interior and in the long tradition of deliberately crippling the bureaucracy at BLM moved the deadline up from 1991 to 1984—one would assume not in an effort to protect the land quickly but to overwhelm the agency and destroy the review process. In other words, what was supposed to take 15 years of careful, painstaking, accurate analysis of public land under the control of BLM with designation of specific wilderness was now contrasted into a very short time. And it is the legacy of that action that brings us to where we are today in consideration of the Utah lands bill.

The Wilderness Act, if it is allowed to work as intended, can be the final step in our escape from the lords of yesterday—the compulsion to transfer lands and to let their soil and mineral resources, their trees and their vistas to be exploited for short-term gain rather than preserved for future generations. Bernard DeVoto urged us to "maintain portions of the wilderness untouched, so that a tree will rot where it falls, a waterfall will pour its curves without generating electricity, a trumpeter swan may float on uncontaminated water—and moderns may at least see what their ancestors knew in their nerves and in their blood."

That is what is possible, if the Wilderness Act is allowed to work.

Mr. President, what about the Federal lands generally in the United States and in Utah? The Federal Government currently owns approximately 650 million acres, or nearly 30 percent of the 2.3 billion acre land area of the United States. However, this is far less than the Government has owned in the past. Since 1775 the Federal Government has acquired through purchase and war over 1.8 billion acres, and at various times in U.S. history has held title to nearly 80 percent of the Nation's total area. Nearly two-thirds of the land once owned by the Federal Government has been transferred to the States, or to private interests.

Where did the land come from? Well, the original 13 and the move over to the Mississippi is about 236 million acres. If you add the Louisiana Purchase, you add 529 million acres. If you take the Oregon compromise, you add 183 million acres. If you take the secession from Mexico at the end of the Mexican-United States war, you add 338 million acres. If you take the Alaska purchase, you add 378 million acres. Those are the main places that the land came from.

How were the Federal lands disposed of? During the 19th century a number of Federal laws encouraged transfer of Federal lands to homesteaders; as I said, earlier, the Homestead Act of 1862 to miners, the Mining Act of 1872, and to railroads and to others. In general, the purpose of the act was to encourage development and settlement of the West. Lands were also sold to raise money and granted to States for specific purposes—funding for education, for example.

As a result of the land acts, over 1.1 billion acres have been transferred out of Federal ownership in the following ways. Homesteaders got 287 million acres. Railroad companies got 94 million acres. As a frame of reference, that is the equivalent of all of the land of Washington and Oregon given to railroad companies. Military bounties got 61 million acres, and grants to States were around 328 million acres. Those were the largest chunks of who got the land—the homesteaders, the railroad companies, military, and States.

Altogether, private interests have acquired title to 69 million acres of Federal lands through patents associated

with either extraction of minerals or fossil fuels.

So that is where the Federal lands went.

Who manages these public lands? Four agencies administer 96 percent of the Federal land. For conservation, preservation, or development they are the National Forest Service, the Bureau of Land Management, the Fish and Wildlife Service, and the National Park Service. The majority of lands managed by these agencies are in the West, which is ironically the most urbanized part of the country in terms of per capita.

In 1891, as I pointed out, Congress granted the President the authority—now repealed—to establish forest reserves from the public domain.

In 1906 and 1907, President Theodore Roosevelt more than doubled the acreage of the forest reserves which resulted in Congress limiting the authority of the President to add to the forest system.

Here is one of the more interesting images that I have ever come across. Teddy Roosevelt came to office, and he kept a big chunk of national forest claiming it for national protection. He did that essentially by his Executive power. And then Congress passed an amendment saying that no further Presidential reservations would be permitted unless they were approved by Congress. There was a date by which that was to go into effect. And the story is that the night, or two, before the law was supposed to go into effect, Teddy Roosevelt was in the White House with Gifford Pinchot, his great national forester. They had the maps of all of the West laid out, and by Executive order he cut out of the maps prior to the law going into effect vast acreages that he had then preserved.

At present, the National Forest System includes 155 national forests covering 187 million acres, 20 national grasslands with 4 million acres, and 103 other units such as land utilization projects and research and experimental areas with less than 500,000 acres.

So that is the National Forest System.

The BLM, Bureau of Land Management, again as I said earlier, was created in 1946 as a result of the merger of the General Land Office and the Grazing Service, and the BLM currently manages about 268 million acres, about a third of which is in Alaska. Its lands are used for multiple purposes including grazing and wilderness.

So in addition to the National Forest Service and the Bureau of Land Management is the National Wildlife Refuge System. Following Pelican Island in 1903, the number of refuges continued to grow, and in 1966 the National Wildlife Refuge System was established under the management of the Fish and Wildlife Service of the Department of the Interior, and the Fish and Wildlife Service manages 494 refuges covering 91 million acres.

The National Park Service. The National Park Service manages 368 million units including 55 national parks. The basic mission of the National Park Service is to conserve, preserve, protect, and interpret the natural, cultural, and historic resources of the Nation for the public. To a considerable extent, the Service also contributes to meeting the public demand for certain types of outdoor recreation opportunities. Scientific research is another activity encouraged by the Service in units in the National Park System.

Then the final body is the National Wilderness Preservation System which was established by the Wilderness Act of 1964 and today contains nearly 104 million acres in 44 States.

So these are the four principal land management agencies of the United States. They administer a total of 621 million acres of which 104 million acres or 17 percent is wilderness.

So what about the State of Utah, the public lands of Utah? Of the land that makes up Utah, frankly, along with Nevada, California, and parts of New Mexico, Arizona, Colorado, and South Dakota, totaling 334 million acres, approximately 52 million acres came into Federal ownership when it was ceded to the United States by Mexico in 1848 at a cost of $16 million, roughly.

In 1896, having agreed forever to abandon polygamy, Utah was granted statehood. At that time, in exchange for giving up plural marriage, and because Utah did not receive internal improvement and swampland grants, the Federal Government granted 14 percent of Utah territory's land area to the State. That was substantially more than the 6 to 7 percent that the omnibus States of North Dakota, South Dakota, Montana, and Washington received just 5 years earlier. These land grants were allocated to specific activities, and I ask unanimous consent that this chart be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Purpose	*Acreage*
School	5,844,196
Public buildings	64,000
University	156,080
Agricultural college	200,000
Irrigation	500,000
Insane Asylum	100,000
School of Mines	100,000
Deaf and dumb institution	100,000
Reform school	100,000
Institution for the blind	100,000
Miners' hospital (Act Feb. 20, 1929)	50,000
Normal School	100,000

Mr. BRADLEY. Remaining Federal lands currently constitute approximately 32 million acres in Utah or 62 percent of the State. That is what most people in United States do not understand, and that is why when the Senator from an eastern State, particularly one as densely populated as New Jersey, stands up to speak about this subject, they frequently say, "Well, you don't understand what it means to have 60 percent of your State owned by the Federal Government."

Indeed, New York State has only 1 percent, Michigan has 9 percent, Nevada has 90 percent, and Utah has 62 percent. Four Federal agencies dominate, and very little land in Utah has been designated as wilderness. In fact, out of the 32 million acres, about 800,000 of those acres have been currently designated as wilderness. The bulk of the land, 22 million acres, is managed by the BLM. Next highest is the Forest Service with about 8 million acres, and the National Park Service about 2 million acres. However, approximately 3.2 million acres in Utah which have not received wilderness designation are currently managed as wilderness. Official wilderness, 800,000 but 3.2 million acres now being managed as wilderness.

What about economic development, the pressures in Utah on economic development? The issue before us is not just what to do with the public lands in Utah, the lands owned by all the taxpayers, but also what is the best path for Utah's future. Utah's economy is being transformed. I am sure the Senators from Utah can speak to this with much more knowledge and probably much more direct interest, so my comments are in the way of observation.

The State is rapidly urbanizing and policies which reflect the old patterns of agriculture and extractive industries have little or nothing to do with the current economic realities. For example, from 1979 to 1993, Utah jobs in mining and agriculture declined by 5,000 while jobs outside these sectors increased by 360,000. In 1993, less than 1 job out of 100 was associated with mineral extraction during a period of rapid expansion in the State economy. The entire spectrum of extractive industries from minerals and agriculture to forestry and wood products has been in relative decline since the 1960's and contributes just one-eighth as much income as do service industries to the State income. Even worse, many extractive industries such as mining are subject to boom and bust conditions and resulting economic instability.

A study by Prof. Thomas Power, chairman of the department of economics at the University of Montana, found that extractive industries such as agriculture and mining are playing a decreasing role in Utah's economy and that "wilderness protection does not in any significant way threaten the ongoing development of the Utah economy."

Wilderness protection is not a threat to the Utah economy. In fact, Power finds that the most likely economic effect of additional wilderness protection will be positive, not negative. While alternative economic uses of wilderness

VOL 142 PT 5 MR 21 — 29 1996 UMI

are marginal and primarily the product of speculative mineral activities, additional wilderness designation is linked with more predictable economic activity, the kinds associated with a high quality natural environment which is increasing in demand across America.

Utah's population has also undergone rapid expansion in the last 25 years. While the population as a whole in the United States increased by 29 percent, Utah enjoyed an 80-percent jump. Much of this was directly attributable to the attraction of the State's largely unspoiled environment. For example, St. George grew by 35 percent just in the last 5 years largely due to retirees moving in from California, and I can understand why. It is a beautiful, beautiful place—not so far from the Zion National Park.

Utah's greatest asset is its unique natural beauty, a beauty which draws tourists from around the world. According to Power,

> Lands with wilderness qualities are a relatively scarce resource that has significant alternative uses that satisfy important human needs and desires . . . Wildlands provide a broad range of benefits that make the lives of Utah residents more satisfying and fulfilling in at least the same way that most of their purchases in commercial markets do.

In the competition to attract new businesses and residents, the quality of natural and social environments will be particularly important. Power views wilderness designations themselves as a sort of advertisement that the natural beauty of the State will remain available for future generations.

Preservation of public lands also has direct and measurable economic benefits. Tourism has grown to be Utah's most important industry. Spending by travelers in Utah accounts for roughly 69,000 jobs and the $3.35 billion they spend generates some $247 million in direct tax impact for State and local governments in Utah. The Governor's Office of Planning and Budget expects the State's tourism industry to continue to be one of the fastest growing segments of Utah's economy.

Utah's special attractions lured about 15 million tourists including 1 million foreigners to the State in 1994. Visitation to the State's dozen national parks has increased more than 20 percent in the past 5 years; there has been a corresponding increase in visitation to the surrounding BLM lands, most of which would not be protected under S. 884. In some of the counties with lands under consideration for inclusion in the wilderness system, tourism provides over 60 percent of total jobs.

Wilderness designation has little of the claimed negative effects cited by its most vigorous opponents. When 3.2 million acres were set aside in the wilderness study areas through the BLM's inventory process, agriculture accounted for 1.3 percent of the income earned in Utah. Ten years later the figure was virtually the same. The protection afforded by wilderness management in the study areas had made no change in Utah's agricultural economy.

The same neutral or beneficial effect is also true for grazing. According to a University of Arizona study published in the Journal of Range Management, in designated wilderness in Arizona, forage allocation for grazing has actually increased. And wilderness designation allows the continuation of existing grazing uses.

But even if designation had a significant impact on grazing, the Federal grazing lands in Utah currently contribute just eight hundredths of 1 percent of the total State income.

With mining, too, the impact of wilderness designations is less than might be assumed. Since lands currently being mined are not suitable for wilderness, designation will not result in any losses of existing mining jobs.

Oil and gas drilling are also declining contributors to the State's economy. Utah has the second highest drilling cost per barrel for any State containing significant oil and gas reserves, as a result of difficult access and complex geology. Small decreases in global oil prices have phased-out exploration and production in many parts of Utah.

Utah's demonstrated coal base is significantly smaller than Montana, Wyoming's, Colorado's, and even North Dakota's. Significant advances in longwall mining technologies has increased productivity in Utah's underground coal mines, thereby decreasing the size of coal mining work forces. Thus, while productivity is at its highest in history, coal industry employment has decreased steadily.

Then there is uranium. Huge deposits of uranium ore have been opened in Australia and Canada and Russian uranium may also be coming on to the United States market. U.S. production is more likely to come from the lowest-cost uranium reserves in Wyoming, New Mexico, and northern Arizona, not from wilderness deposits in Utah.

As these figures show, extractive industries are not going to provide, I think, a stable future for the State, that is, simply looking at the data, looking at the materials, looking at where the economic growth has come, looking at where the employment has come. One might conclude, simply looking at the data, that extractive industries are not going to provide a stable future for the State of Utah.

Statistics for Washington County, which is Utah's fastest growing, total and per capita personal income are rising in the region as a direct result of growth in the service sector.

The conservation of 3.2 million acres by the BLM as wilderness study areas in 1980 did not devastate the affected county economies. Growth that occurred in each of these counties through the 1960's and 1970's continued through the 1980's and 1990's despite the negative economic effects caused by the drop in energy prices.

Yet even with the decline in extractive industries and their decreasing impact on job creation, S. 884 was put together to reflect the old economic thinking and old economic patterns with boundaries set to accommodate a series of new extractive developments which threaten currently pristine areas. These include a proposal for a large tar sands mining development on the edge of Glen Canyon National Recreation Area and in the Book Cliffs; a 3,000 megawatt coal-burning power plant in the heart of the Kaiparowits Plateau—as I said earlier, one of the three or four largest undeveloped areas in the lower 48 States—coal strip mining south and west of Bryce Canyon National Park; a petroleum and carbon dioxide gas extraction field in the headwaters of the Escalante River, involving as many as 97 production wells and 11 four-story compressor plants; chaining of thousands of areas of forests, some of which would be visible from Bryce Canyon National Park; and, even construction of a railroad. One tar sands project alone, in the Dirty Devil area, would entail the drilling of 35,000 injection and recovery wells, the construction of at least 100 miles of associated roads, 30,000 acres of soil disturbed, 14,000 acres of vegetation stripped away, and 2,000 archaeological sites disturbed or destroyed. In order to support these projects, hundreds of miles of new roads to gain access and new facilities to feed and house workers would be needed.

The bill itself includes damaging language which allows unprecedented incompatible uses even in supposedly protected areas. These include allowing jeeps, motorcycles, and other off-road vehicles on remote dirt tracks, low-level military overflights which disturb wilderness solitude and even future dams, pipelines, and communications antennas in some areas. Accommodating these proposed uses, no matter how speculative or damaging, was the principal reason many important areas were dropped from consideration for wilderness designation under S. 884. Boundaries seemed to be altered and entire regions omitted in order to permit new, large damaging projects which would fuel yet another cycle of economic boom and bust.

Unfortunately, these projects proposed for the Colorado Plateau look familiar. They are the same types that have failed in the past because of unfavorable world commodity prices, lack of demand, or simply the high cost of doing business in a remote and forbidding area. While it is unlikely that most of them would ever be completed or be economically viable, even preliminary site work, such as road-building, would destroy their wilderness qualities forever.

So, that is what I see is the economic circumstance in Utah. The extractive industries declining both as a percent of the State economic product and the numbers in employment, and this bill going in the direction of trying to keep that future available, to the great detriment of the fastest growing areas, the service sector, and in particular tourism, that is growing every year as more people want to come and see and experience these remarkable lands on the Colorado plateau and in the Basin Range.

The way to look at Utah's future, from my own view, and this is just my view, and the role that this bill will play in that future, is not from an absolutist perspective, however, not from an absolutist perspective that elevates environmental values above economic growth. Development is not wrong, and it has a place in both the publicly held and private lands of Utah. The principle that it must apply, in my view, is that of sustainable development.

(Mr. DEWINE assumed the chair.)

Mr. BRADLEY. Sustainable development is not pure abstraction, but a real plan for action with a specific definition. The definition endorsed by the President's Council on Sustainable Development, in a report issued last month, is as follows:

Sustainable development means:

> To meet the needs of the present without compromising the ability of future generations to meet their own needs.

It is a concept with an imperative behind it that is much like the imperative to balance the Federal budget, only much broader. It brings together the idea of a growing economy in which every adult has the opportunity to earn a living and support a family with the promise of a healthy life and a high quality of life for this and future generations.

What does sustainable development mean in the American West? Charles Wilkinson, a law professor and historian of Western lands, puts it well. He says:

> Good science, good laws, good economics, and good communities come together in the idea of sustainability. At its core are the responsibilities lodged in the idea of intergenerational equity which [has been described] as the principle that "every generation receives a natural and cultural legacy in trust from its ancestors and holds it in trust for its descendants." Development cannot wear the land and waters down but rather must maintain their vigor. A working policy of sustainability encompasses a practical and phased-in, but still rigorous and comprehensive, program of conservation so that consumption can be reduced. But the obligation to provide for the next generations also includes the duty to maintain a vital economy. Sustainability, then, affirmatively recognizes the need for development . . .
>
> The first step in approaching sustainability is to identify exactly what must be sustained—the "natural and cultural legacy" that we have received and must pass on. Traditional extractive development in the West has focused only on the specific resources being extracted. Water projects, for example, were designed to meet only the demand for water, by which was meant water as a commodity—for mining, farming and ranching, energy development, and industrial, municipal, and domestic use. Any other benefits, such as the blue-ribbon trout stream on the Navajo Dam on the San Juan River, were purely secondary and often accidental. Avoidance of negative effects, such as loss of the salmon runs, was largely a matter of luck, as when the Army Corps of Engineers' fish ladder at Bonneville Dam on the Columbia actually turned out to be workable. The overriding goal was to create commodity benefits, which were viewed as being nearly infinitely sustainable in those simpler times . . .
>
> But our thinking has evolved. In many national forests, a broader view of sustainability is not being achieved. Only the specific resources being extracted—commercial timber —is being renewed. Other parts of the forest, which must be taken into account to achieve true sustainability, are in jeopardy. The health of certain fish and wildlife populations. Soil on steep slopes. The recreation economy. Species diversity. The ancient forests. Views. Beauty. Glory. Awe. Sustainability is measured not by board feet but by the whole forest.

Unless you disagree with the concept of sustainable development, that we owe our descendants the legacy we have received from our ancestors, it is imperative to compare the Utah wilderness bill with this idea. Before I go into great detail about the specifics of the bill, I want to briefly consider the question, Does the bill live up to the idea of sustainable development?

First, the bill elevates one set of resources above all others, both within and without the areas designated wilderness. Grazing, mining, timber sales and commercial development are protected. The wilderness designation boundaries creep carefully around the sites of planned development. The wilderness value is secondary and incidental to the other aims, and appears to be almost accidental. All evidence suggests, as I will show later, that the "using interests" of Utah, and their friends at the BLM, seem to have asked the question: "What areas don't we want for mining and development?" before they asked "What areas do we want protected for the future?"

Second, the uses that are given priority are not those which will lead Utah to a sustainable, prosperous future. Minerals, timber, water, and grasses are not infinite resources, and cannot be sustained without limits. Mining and agriculture add up to about $800 million of the total income of the State. That is down from $1.1 billion in 1980 and steadily declining. The rest of the Utah's economy, all that earned from other sources, has grown from $20 to $30 billion in the same time. So mining and agriculture, from $1.1 billion to $800 million, the rest of the economy growing from $20 billion to $30 billion at the same time. In extractive industries, it costs more and more to bring fewer and fewer returns as resources are exhausted. The economic values of tourism, quality of life, nonextractive industries, such as software development, high technology, grow and grow as more is invested in them.

Third, the bill not only fails to protect the natural legacy for future generations, it affirmatively denies them the right to protect it for themselves, and that is the section on managing it for suitability for wilderness.

Fourth, there is yet another component which Wilkinson describes as part of sustainable development in the West: the idea that a community can best determine for itself how to preserve its legacy for its children. He writes:

> After identifying all economic, environmental, cultural and abstract (or spiritual) elements that need to be sustained, [I envision] a community coming together; identifying problems; setting goals—a vision—for a time period such as twenty or forty years; adopting a program to fulfill those goals; and modifying the program as conditions change.

The process that led to this bill was the opposite of this idea. Instead, an agency in Washington, crippled by politics and captive of interests, decided on its own which elements needed to be sustained. It ignored, denounced, and shouted down the county commissioners and citizens who had other thoughts. Finally, the process brought us a plan that cannot be altered if conditions change.

So now, Mr. President, I want to put the bill in some context. I have already spent some time this morning talking about the history of public lands in our country and how the Federal Government's stewardship of our Nation's environmental heritage has evolved over the years. I think this history provides the context within which to address the situation that faces us today: how do we achieve a balanced, reasonable plan for conserving America's natural heritage while providing opportunity for economic growth and development across our public lands? This is the challenge we face today as we consider the Utah Public Lands Management Act.

This bill—I have not seen all of the changes in the modification that was sent to the desk, so I would add a couple other hundred thousand acres here or there—but this bill would designate between 1.8 and 2 million acres of wilderness in Utah. It would release approximately 20 million BLM acres of land that are not designated as wilderness areas. It would allow the State to exchange land with the Federal Government. It would deny Federal reserved water rights on lands designated as wilderness. It would provide new management directions for the designated wilderness areas, some of which are exceptions to the standards established in the Wilderness Act of 1964 that would allow military overflights and allow motorized access. It

VOL
142
PT
5
MR
21
—
29
1996
UMI

will allow motor boat access in designated areas. The legislation, in my view, fails to strike the balance between using our natural resources, which is the right of all U.S. citizens as stakeholders in a common heritage, and abusing natural resources which are the shared heritage of the entire people of the country.

This legislation designates too little of Utah's spectacular landscape as wilderness. Of the almost 22 million acres of BLM land in Utah, only about 1.8 to 2 million, less than 10 percent, would be designated as wilderness. Vast tracts of America's most magnificent public lands would be left open to development; the wilderness that is designated by the act would be managed in a manner contrary to the protections afforded by the Wilderness Act, and the unprecedented inclusion, now modified somewhat, of hard release language would attempt to bar the rest from forever being protected by the shield of wilderness designation.

Before I begin to talk about the specific shortcomings of the bill—and there are several serious flaws that I want to call to the attention of the Senate—I would like to take a moment to sketch the history of public lands management in Utah since the adoption of the Wilderness Act in 1964, because I think that history paints a clear picture of how we arrived at our present dilemma.

In 1964, Congress enacted what Charles Wilkinson called one of our Nation's noblest, most future-looking innovations. The Wilderness Act of 1964 established the National Wilderness Preservation System and marked the first time any government had ever legislated in favor of wild lands. Today more than 125 other nations protecting more than half a billion acres have followed the lead of the United States in establishing protection for their wilderness acres.

However, the 1964 act did not include, as I said earlier, Bureau of Land Management lands; only national forest, parks, wildlife refuges were covered under the protective umbrella of the act. However, in 1976, in response to concerns raised by citizens in southwestern Utah, Congress finally called for a wilderness study of all BLM lands nationwide. Each BLM State office was directed to inventory all roadless areas with wilderness characteristics. Following on the heels of the inventory, each State office was directed to study, hold hearings, and recommend—after giving full weight to all issues, including economic concerns—which areas in the inventory should be defined as wilderness areas. Every State complied with this directive with the exception of Utah.

BLM officials in Utah failed to produce an initial comprehensive inventory of roadless areas with wilderness characteristics in their State. Instead, they embarked on a course that I think mirrors the debate we have here today. In 1980, after only a 1-year period of study, the Utah BLM eliminated nearly 20 million acres from wilderness consideration. In one fell swoop, the BLM removed an area of land that was five times the size of my own State of New Jersey from wilderness consideration. This move left just 2.6 million acres protected, which was later increased to 3.2 million acres after appeals by Utah conservationists. Finally, in 1991, the Utah BLM delivered its final recommendation of lands to be designated wilderness areas—and that figure was a mere 1.9 million acres. This low-ball figure was derived as a result of the BLM inventory process that was, I think, much too sensitive to the developmental interests.

The history of the BLM inventory is crucial, and it is a crucial part of the story of public lands in Utah. We need to understand that Utah's BLM wilderness inventory was not an unbiased, scientific study, but it was the result of a highly politicized process. The inventory work done in the 1970's and 1980's was politically driven, and the results were seriously flawed. The flawed product, with its recommendations of 1.9 million acres to be designated as wilderness is replicated in the bill S. 884 we are considering today.

Criticism of the BLM inventory process has come from all corners, with the most striking group being BLM employees involved in conducting the inventory.

In response to these criticisms, in August 1980, just prior to the BLM's final inventory decision, Terry Sopher, the national director of the BLM wilderness program, traveled to Utah to investigate charges that the inventory had been misdirected for some reason or another. Sopher reported that, "Based on what we had seen, there was an egregious violation of policies." Sopher returned to the District of Columbia to recommend that the inventory be redone. However, that recommendation and that effort was halted after the 1980 election.

A decade and a half later—go forward a decade and a half; that was 1980—1995, BLM employees were still voicing strong criticisms of the way the inventory process was conducted. On July 7, 1995, Janet Ross, who worked as a BLM employee on the BLM official inventory work in Utah, held a press conference with the former BLM national director, Jim Baca, and coordinator, Keith Corrigan. All three told the press that BLM's wilderness inventory excluded wilderness for reasons that were not exactly clear.

Ms. Ross, now director of the Four Corners School of Outdoor Education located in southern Utah, said,

> It is my experience and professional judgment that we did not perform and were not allowed to perform a competent wilderness inventory. The result was that substantial wilderness-quality acreage was arbitrarily excluded from further study and proper consideration."

Utah newspapers following the inventory process were also extremely critical of the inventory process. Following the inventory work, in August 1982, the Salt Lake City Desert News editorialized against the BLM's work. It wrote, "* * * there was much Utah land that should have been considered for possible designation as wilderness, but the BLM 'just' did not study it."

Additionally, in the 1980's, Utah citizens filed a series of legal challenges with the Interior Board of Land Appeals against the BLM's inventory, appeals which covered 925,000 acres in 29 roadless areas. In 1983, the administrative court responded with a stunning indictment of the BLM's work in the largest appeal of its kind in the history of the court. The Utah BLM had been in error, the board ruled, on 90 percent of the lands in question. Citizens were unable to challenge all of the wilderness areas the BLM dropped during the inventory because they faced a 30-day deadline, and a single one of the appeals often required filings that were 2,000 pages, several hundred photographs, and over 100 affidavits.

The belief that the BLM inventory process was seriously flawed was shared by congressional committees that held oversight hearings on the process. In 1984 and 1985, House Public Lands Subcommittee Chairman John Seiberling held a series of oversight hearings to investigate charges that the Utah BLM's inventory was flawed. After the investigation, Seiberling told reporters, "They've left out areas that obviously qualify for wilderness * * * their position is absolutely absurd."

Spurred on by the realization that the Utah BLM's erroneous work would result in millions of acres of wild lands being subject to the possibility of development, Utah citizens conducted their own inventory. The citizens' work took years, requiring thousands of hours of field work. Unlike the BLM, these citizens walked every one of the roadless areas on foot and determined that there were actually 5.7 million acres of remaining wilderness. Their work was published in a 400-page book entitled "Wilderness at the Edge." There was a bill that their proposal recommended that was introduced in 1989 by Congressman Wayne Owens. When he left the House, Representative MAURICE HINCHEY reintroduced H.R. 1500.

Now, Mr. President, now that I have had the opportunity to chronicle the controversy that has surrounded the development of this legislation, I want now to discuss the specific flaws in the bill. S. 884 suffers from several major flaws, each of which merits serious consideration.

First, and most alarming, is the hard release language. Not only the 4 million acres which Utahans seek immediate designation, but also the additional 16 million acres of Utah BLM lands. As I heard the modification, the bill has been modified, and it has been improved. The change is helpful, but I will argue later why that change is not sufficient, and how it is in its present structure, a back-door way for doing the exact thing that the original bill had intended to do, while at the same time doing it a little more skillfully.

Second, the bill leaves nearly 4 million acres of America's Red Rock Wilderness open for development. These 4 million acres, some of our most magnificent national treasures, landscapes that would no longer be protected for our future generations, include Fish and Owl Creek Canyons on the east side of Cedar Mesa, that is the home to 1,500-year-old Anasazi cliff dwellings; the wild country of the Kaiparowits Plateau that I talked about earlier; the heart of the Dirty Devil canyon system; the slopes of the Beaver Dam Mountains; the White Canyon, with its important habitat for desert bighorn sheep and lands adjacent to Zion National Park; and countless others in the basin range region. I will save for another day the discussion of the basin range region.

Third, the bill transfers a large chunk of the Kaiparowits Plateau Wilderness out of Federal ownership to the State of Utah for the development of a coal mine, with no regard for its outstanding actual quality or value.

The Kaiparowits, as I described earlier, is inhabited by a wide variety of wildlife species, including mule deer, mountain lions, coyotes, foxes, and over 210 species of birds. Several areas on the Kaiparowits contain examples of the marine and terrestrial fossils found nowhere else in the world. If the Kaiparowits were to become State land, the national public would have no voice in how the land is managed.

Mr. President, S. 884 would designate no wilderness in the half-million-acre Kaiparowits region of south central Utah between a slice of Fifty Mile Mountain on the east and a sliver of Paria River on the west. Instead, more than 50,000 acres in the heart of this omitted region would be turned over to the State of Utah to facilitate coal development.

Fourth, the bill expressly denies a water right to wilderness areas designated by this act. In the two most recent BLM wilderness bills enacted—for California and Arizona, and I think also in Nevada—Congress reserved a quantity of water sufficient to fulfill the purposes of the act, which is protecting lands designated as wilderness areas. This bill would deny the right to water for lands that are protected under this act, thereby preventing protected lands from having the right to the very water which gives it life. Ironically, one of the reasons for granting wilderness protection to desert wild lands in Utah is to shelter relatively rare riparian ecosystems. Protecting the lands which contain the habitat of species that live on the banks of rivers and lakes without protecting the water which sustains these same systems is shortsighted, to say the least.

Fifth, the bill includes provisions permitting the State of Utah to exchange State land within or adjacent to wilderness areas for Federal lands in other locations, so long as the lands exchanged are of approximate equal value. Taken at face value this would benefit both parties. However, Sylvia Baca, Deputy Assistant Secretary, Land and Minerals Management, at the Department of Interior has testified that "equal value":

> * * * is clearly not the case when the specific tracts shown on the map are reviewed. The tracts proposed to be obtained by the State have high economic value for mineral, residential, or industrial development. The fair market value of the lands may be 5 to 10 times more than the value of the lands that would be transferred to the Federal Government.

Mr. President, S. 884 also permits partial exchanges that would allow the State to acquire desirable Federal land in exchange for whatever land the State wants to give up. The State gets to arrange, in other words, both sides of the transaction. It identifies both the lands it wants to dispose of and the lands it wants to acquire. The Federal Government must approve the transaction, once again, provided the lands are of approximate equal value.

Sixth, this bill makes broad exceptions to the Wilderness Act of 1964, dangerous precedents, which the act affords protections that preserve the unique and spectacular wilderness qualities of public lands. These exemptions would allow and in some circumstances even encourage new nonwilderness activities in designated wilderness areas.

For example, passage of this bill would restrict the Secretary of Interior's authority to control motorized vehicles in wilderness, even on new routes; allow new dams to be constructed under the guise of modifying existing small spring catchments; allow new water users to dry up wilderness streams; allow the construction of permanent buildings and roads and wilderness under the guise of interpreting cultural resources; allow the military to construct new communication sites in wilderness; and include special unnecessary overbroad language permitting low-level military flights and the establishment of new special-use airspace over wilderness; and provide livestock permittees an argument for special treatment on allotments in wilderness.

Mr. President, those are what I consider to be the major flaws in this bill.

I know that some of my colleagues will argue that preservation of Utah's unique national heritage is a matter best left to the State's own delegation with its considerable wisdom and considerable talent. In this case, I have to disagree. Wilderness is a gift we give to our children and grandchildren, a gift that once destroyed can never be reconstructed. The children of New Jersey deserve it, as much as the children of California or Colorado.

As a Southwestern poet, Ann Weilern Walka, has written of southern Utah, this beautiful, vast, unique area of the world:

> Why not acknowledge that there is something here more important to our beleaguered society than a marginal mine, an overgrazed permit? A great American myth is embodied in wild lands, and it is myth, ultimately, that holds people together.
>
> The bits of this continent, too formidable to penetrate by road the last of what drew our ancestors to North America, be it ten or ten thousand years ago, an opportunity to breathe deep and re-imagine their lives. The scraps of Eden still afford us awe in an age of cynicism, steady us when human affairs are dizzyingly complicated, reaffirm our eroding sense of American innocence and courage.
>
> Places like these, places to get lost, to become grounded, to meet our Maker, to rediscover our forebears' resourcefulness and grit, to take heart, are promised in our most abiding stories.

I might close my opening statement with a quote from the Oakland Tribune that reminds us that "The battle over public lands in the West is a battle between two philosophies: one that says untouched land is inherently valuable to all Americans, from those who use it for solitude and recreation to those who simply enjoy knowing that there are still pockets of nature left on the continent; and one that says all lands, including those owned by the public, should be put to work in one way or the other." These public lands belong, I believe, to the former group, and so do I.

I yield the floor.

Mr. HATCH. Mr. President, I have been intrigued by the comments and remarks of my colleague from New Jersey. But I have to say that during the course of this debate, we are going to show a number of those remarks to be in error. Let me mention a couple of things right off the top of my head. He mentioned the beauties of the Kaiparowits Plateau, which I have tramped on and been around.

I might add that, in this bill, if you include just Fifty Mile Mountain in that area and the Paria-Hackberry area, you are talking about 220,628 acres out of that area that are going into wilderness. The implication is that we are not doing anything about wilderness. My gosh, almost 221,000 acres. With the Dirty Devil area, which was mentioned, we are designating more than 75,000 acres. We are talking about 2 million acres here. Since the

VOL 142 PT 5 MR 21 — 29 1996 UMI

BLM began studying this issue almost 18 years ago, more than than $10 million has been spent, countless hearings held, town meetings scheduled—many efforts to bring people together. The affected county people are upset, many not wanting any acres at all in wilderness. Then, there is the other extreme wanting 5.7 million acres.

The BLM, looking at it all, said that the only acres that even came close to qualifying for true wilderness are 3.2 million. That is the study area. Nobody in their right mind expected that whole study area to become wilderness. Everybody knows that once it is designated wilderness, it is used only basically for backpacking. You can walk on it, and that is about it.

The people of Utah and everybody else would be basically frozen out from using any mechanization, including a bicycle, on the property. So even if you assume that the whole 3.2 million acres might qualify for wilderness and that the entire amount should be taken, that still is all there would be. These people who are so extreme want 5.7 million acres.

Keep in mind, the definition of wilderness is this. Section 2 of the Wilderness Act of 1964 says: "A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the Earth and its community of life are untrammeled by man and where man himself is a visitor who does not remain."

Further, it is defined as:

> An area of undeveloped Federal land retaining its primeval character and influence without permanent improvements or human habitation, which is protected by man so as to preserve natural conditions and one, which generally appears to have been affected primarily by the forces of nature with the implants of man where it is substantially unnoticeable; two, has outstanding opportunities for solitude or primitive and unconfined type of recreation; three, has at least 5,000 acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; four, may also contain ecological, geological, or other features of scientific, scenic, or historical value.

Furthermore, it said that you cannot put mechanization on this land. We in Utah understand wilderness. I was one of the pivotal people in getting it passed a number of years ago, along with Senator Garn and Congressman HANSEN. We passed 800,000 acres of Forest Service. There was a lot of screaming and shouting then. Today, virtually everybody admits that was a wonderful bill. It has worked well. We are proud of it. We are proud of our wilderness in Utah. We do not want people from other States coming in and accusing us of raping the land or robbing the people of the country as a whole, or taking away their rights, when we understand our land and we know it. We have been there and we have walked over it and we have driven many of these areas.

Frankly, it does make sense to me for those who come into our State demanding 5.7 million acres when the total study area was only 3.2 million. They should listen to a leading BLM figure, Mr. James Parker, the former Associate and Assistant Director of BLM, former BLM State director for Utah, who stated in testimony before the Senate Subcommittee on Forest and Public Land Management on S. 884, the following:

> Based on my personal experience with, and review of, the detailed reports and analysis prepared by the professional staff of BLM and other entities of the Department of Interior, I believe that S. 884 is appropriate and that it includes most of the areas that truly deserve to be designated as wilderness in Utah. I believe the acreage figure is both credible and in line with what meets the criteria for wilderness designation. I also believe that it meets both the spirit and intent of the Wilderness Act of 1964, and the proposed designations fit well into the overall management scheme provided for by FLPMA for management of the public lands.

This is the first time I have heard these indications, except from the most extreme people, that the BLM is an organization that is not tremendously concerned about the environment. It has always been environmentally oriented in our State. With regard to the BLM Utah State process, Mr. Parker said:

> The process was open to every citizen of the United States, it was well defined, the criteria well-documented, appeals and protest rights were all publicized and used by groups and individuals on both sides of the issue, and extensive documentation was completed for all aspects of the process. Undoubtedly, this is one of the longest running, most expensive, and most intensive public involvement efforts in the history of Utah.

On the factual aspect of public involvement of this process, Mr. Parker provided the following information:

> During the 15 years it took to complete this wilderness process in Utah, more than 16,000 written comments were received, analyzed, and incorporated into the decision process. More than 75 formal public meetings and hearings were held by BLM, and hundreds of face-to-face discussions and workshops were conducted. Thousands of pages of documentation were prepared, printed, and distributed for public review and comment, and countless briefings were held and questions responded to. For the draft environmental impact statement alone, 16 separate hearings were conducted, over 700 people testified, and over 6,000 people commented in writing. The resulting EIS fills 10 large books and consists of 7 volumes, plus analysis of public input and agency response.

Let me make the point that the people arguing against us, have produced a beautiful book that contains their recommendation. It is done in this book here. That is their work. I give them credit for it. It is a beautiful book and there is a lot of good information. But this is just part of the study of the Federal Government and the BLM. Here are some more parts of the study, from the Geological Survey on through. That is what we have gone through, not just the study in the interests of a few, but the interests of everybody.

I am glad that we have done that. The fact is there has been a lot of study there. There has been some suggestion here that the BLM development process was flawed. Let us see what Mr. Parker had to say. We are not quoting some liberal, environmentally-oriented professor from Colorado who does not even live in Utah. We are talking about the head of the Utah State BLM Office.

> I came to the conclusion that, while it was not a perfect process, it was carried out in a very open, professional, and orderly manner. The criteria had been adhered to and procedures had been followed.

Just look at it right here.

> There was extensive documentation of the decision process.

Just look at it. It is enough to blow your mind.

> There had also been a great deal of oversight in testing the decisions by higher levels of the organization, the Department of the Interior, and by special interest groups on both sides of the issue through the appeals and judicial challenges. I believe that the professional staff of BLM and the other agencies involved—

It was not just BLM; there are a number of Federal agencies involved in all these studies.

> involved in both Utah and in the headquarters level in Washington . . .

Let us get with it. People here in Washington are not going to let us make mistakes here. The people out there are not going to let us make mistakes. Both areas are environmentally oriented, almost to the extreme in some areas. But Mr. Parker says:

> I believe that the professional staff of BLM and the other agencies involved in both Utah and at the headquarters level in Washington and elsewhere did a very credible job in carrying out the mandate of the law.

In the process pursued by the Utah congressional delegation to develop S. 884—remember, this is the head of BLM in Utah, former Associate and Assistant Director of BLM and former BLM State Director for Utah on this process pursued by our Utah congressional delegation—Mr. Parker stated,

> I believe the recent process used by the delegation and the Governor was not only appropriate but was a rather gracious gesture—

I have to tell you it was. But let me continue.

> given the extent of previous public involvement in the numerous opportunities that have existed over the past 17 years for individuals and groups to become involved in and to impact the process.

Regarding the future use of lands that are not designated in our wilderness bill, S. 884, Mr. Parker continues:

> All of the public lands in Utah are covered by land use plans. Some of the plans are not as current as they might be but they do provide protection for the resources. These plans, along with other laws and regulations,

> provide many options for land managers to use to protect the land and their resources. While allowing for appropriate authorized use and enjoyment of the public lands, no lands in Utah would be unprotected, nor will they be open to uncontrolled development if they are not designated as wilderness.

That says it all. These lands are not going to be ripped off. These lands are not just automatically developed. There are not going to be shopping centers everywhere. The fact is they will be subject to the environmental rules and laws in existence today. Mr. Parker also has written the following in a recent newspaper article about H.R. 1500, the bill which apparently our colleague from New Jersey supports as well as people who have never stepped foot in Utah, who have never looked at it, and who do not understand our State. I might add they include many environmental organizations that are very sincere in what they are doing, but on this issue they are sincerely wrong:

> This ill-conceived proposal—

Mr. Parker is talking about H.R. 1500, the environmental bill that would have 5.7 million acres—

> This ill-conceived proposal includes in its boundaries private homes and buildings, cultivated fields, chained areas, thousands of acres of private and school trust lands, and other areas that cannot be designated as wilderness. It also includes hundreds of miles of roads.

In this study book of theirs we have placed a tab demonstrating where there exist many miles of roads. They try to say these roads are abandoned or not used, and so forth—some of them may be. The fact of the matter is that hundreds of miles of roads have been included in their proposed wilderness areas. We have gone over many of those areas. A lot of it is low-lying sagebrush land along highways. That is how ridiculous this is. Mr. Parker goes on to say:

> Also included are—

Mr. Parker criticizing H.R. 1500, the environmental bill or I should say the environmentally extreme bill.

> Also included are oil and gas wells, hundreds of mineral leases and mining claims, rights of ways, et cetera, all of which would conflict with wilderness designation. Many of the areas in the proposal lack the 5,000-acre minimum specified by the Wilderness Act and are "cherry stemmed" in the extreme leaving narrow necks of land that would make them totally unmanageable as wilderness.

That is what a lot of this stuff is. I would prefer to go with these things. I do not always agree with what the Federal Government has done in all of these wilderness studies, but we have spent millions getting to the point where we brought people together from all over the State of Utah and, frankly, from all over the country, to achieve what we have been trying to do.

So you have a study area of 3.2 million acres that is well studied, well documented. It is misleading to indicate that the BLM did not do its job here. In fact, we thought that it did too good of a job. Many people in Utah did.

After reviewing the 3.2 million acres, the BLM in its final recommendation, after all of this work, concluded that we should have 1.9 million acres. That would be the right figure. This bill as originally filed proposed 1.8 million acres, 100,000 acres less than the 1.9 million that the BLM called for. To accommodate our colleagues here in the Senate, because we know that our colleagues are sincere in wanting more wilderness acres, we have gone from 1.8 to 2 million.

Let us take a look at what 2 million acres equals, just so people realize how vast this amount is, and why we are so upset that certain groups are coming into our State and telling us what we can and cannot do in our own State. And, all this after Senator BENNETT, I, and the Members of Congress in the House have worked on this issue for, in my case, 20 years, to get to this point where we can resolve this matter. I should point out that both sides on this issue are mad at us most of the time—those who do not want any acreage and those who want everything, like our friend from New Jersey. The affected counties wanted just over 1 million acres, that is all. They did not want any more, and in some area they did not want that, to be honest with you. They really want zero, especially in the mainly affected counties. But, at the most, we finally got them to agree to 1 million acres.

To those who never have budged from 5.7 million acres, not one acre, we propose an amount of 2 million acres, which is 100,000 above that recommended by the BLM. Look at what it means. Just so you get the idea of how vast this is. Two million acres is equal to 100 percent of the whole State of Delaware—they only have 1.2 million acres in Delaware; 63 percent of the whole State of Connecticut, which is only 3 million acres; 41 percent of Senator BRADLEY's New Jersey—in other words, our 2 million acres is almost half of his State—he has 4.8 million acres in New Jersey; 41 percent of the whole State of Massachusetts; 35 percent of the whole State of New Hampshire; and 34 percent of the whole State of Vermont.

I think people ought to stop and look at this. We live in Utah. We believe it is the most beautiful State in the Union. We do not think there is any question about it. We think many people will confirm that. We think all States have much beauty in them. But the fact of the matter is that after all these years of study, all of these years of conflict, and all these years of having both sides mad at the congressional delegation, with some wanting none and always the environmentalists wanting at least 5.7 million, if not more, since Wayne Owens originally filed the bill in 1988, it is time to settle this matter. Representative Owens' bill totaled 5.2 million, by the way, as I recall. The New York Congressman, who at the time he filed his bill had never stepped foot inside of Utah, introduced a measure to designate 5.7 million acres, and that becomes the battle cry for these people. It is an extreme battle cry.

At the outset, my colleagues should understand one very important fact. We in Utah love our State. We love and cherish our land, which is comprised of some of the most beautiful and picturesque scenery in the world. I am going to get into it in just a few minutes as to what we are doing.

When we talk about the Kaiparowits Plateau, we have 220,000 acres in there, and of the other areas cited by my friend from New Jersey, there are 75,000 acres of the Dirty Devil, and 16,000 acres of the Fish and Owl Creek. Even this proposal is being criticized as well.

Mr. President, I really cannot say how disappointed I am that some of the Members of this body have chosen not only to oppose the Utah wilderness provisions of this bill but also to engage in such questionable debate about it.

My friend from New Jersey, Senator BRADLEY, issued a press release on Friday announcing that he would try to block the Utah wilderness legislation from passing. He has a right to do that if he wants to. Actually, for those of us involved, this is not big news. The Senator from New Jersey has done a pretty good job of blocking it so far, as well as most of the rest of the bills in this amendment, since last April. It is because he has that Chairman MURKOWSKI has included our wilderness bill in this overall package, knowing that it is the just thing to do. It just seems to me that this press release is a public way of throwing down the gauntlet and, believe me, I am sincerely sorry for that. The Senator from New Jersey has announced that he intends to take down legislation that is critical to our State. What am I supposed to do? What would any Member of this body do if he or she found himself or herself in our shoes? If anyone here does not know the answer to that question, he or she does not belong in the Senate.

I have heard all the rhetoric about Utah land belonging to the Nation as a whole. And it may surprise some of my colleagues to hear that to a certain degree I agree with that. I believe certain problems and concerns affecting some States must be shared nationally. But let us get one thing straight. The impact of this legislation, and in fact the adverse impact of failing to pass this bill, is going to fall on Utahns only—not on New Jerseyites, but on Utahns. It will not matter to a citizen of New Jersey or Florida or Wisconsin that a small town in rural Utah like Kanab, UT, dies a slow death because its land

VOL
142
PT
5
MR
21
—
29
1996
UMI

has been locked up, unjustly locked up. It will not matter to the average Illinoisan that the town of Summit, UT, faces a water crisis because existing water rights have not been respected in the second driest State in the Union.

Just who do my colleagues think is going to bear the heaviest consequences of our decision with respect to the Utah wilderness issue? In all honesty, this press release sounds like it could have been written by the lobbyists for the National Resources Defense Council. I simply cannot believe Senator BRADLEY would have personally approved its content. It says that "The current Senate Utah wilderness legislation would direct that 20 million acres of Utah lands can never be designated as wilderness in the future."

Now, where on Earth did this come from? Neither the original bill that Senator BENNETT and I filed nor the substitute says any such thing. Moreover, the BLM has never even identified 20 million acres of land as wilderness worthy, as I have pointed out earlier. This figure represents 91 percent of the BLM's total landownership in Utah.

(Mr. KYL assumed the chair.)

Mr. HATCH. My friend from New Jersey, Senator BRADLEY, knows the difference between the BLM inventory and the study areas, which is why I really do not believe he really approved of this press release. He goes on to say that "If the bill becomes law, it would permit the transformation of these lands from pristine wilderness to strip mines, roads and commercial development."

Now, Mr. President, these statements are patently untrue. Someone in the Senator's office has been grossly misled, and unfortunately these untruths are being distributed to the press as though they are truths. In essence, these are the facts. First, the upper number of acreage involved in this debate is over 5 million, not 20 million. Second, nowhere in our bill does it say that no more wilderness can ever be designated in the future.

Third, the land not designated as wilderness is still managed and controlled by the Federal Government in accordance with Federal land policy laws and regulations. I feel very safe in saying that there will be no environmentally irresponsible activity taking place on these lands now or in the future.

Fourth, there has not been a new strip mine in Utah in many years, even decades, and there will not be even after this bill passes. Yet the opponents of this bill know that using the term "strip mine" conjures up all sorts of horrible images. Its use in this debate is simply not justified.

In the same press release from Senator BRADLEY's office, he states that he will continue fighting for legislation to protect 17,500 acres along the New Jersey-New York border, the so-called Sterling Forest bill. The Senator from New Jersey is quite correct that the Sterling Forest bill passed the Senate without an objection. As public lands policy, I do not think the Sterling Forest bill was perfect, but I did not stand in the way of its passage. The Senators from New Jersey, New York, and surrounding areas wanted it. They represent their States. This legislation, the Sterling Forest legislation primarily affects New Jersey. If both Senators from New Jersey believe this legislation is in the best interest of their State and the country, I am going to defer to their judgment. Ditto the legislation for the Presidio and the Taos Pueble land exchange and the Arkansas-Oklahoma land exchange, et cetera, et cetera.

So I am a little annoyed, when Senator BENNETT and I propose legislation that has the support of our Governor, our legislature, our Utah association of counties, our educators throughout the State, and thousands of individual Utahns, that we are being second-guessed by Senators who do not represent this State.

Keep in mind, look at how much acreage we are putting in and how it relates to the States in the northeast where a lot of the complaints are coming from. The fact is that we are being sandbagged not so much by our colleagues but by a well-orchestrated and well-financed campaign staged by huge, huge national environmental lobbies who are pursuing their own national agenda.

Guess what. Their agenda is too much for the rural areas of my State. It would overwhelm them. We cannot support their agenda. And guess what else. The citizens of rural Utah and their local representatives cannot even afford to fight back. The National Resources Defense Council ran a half-page ad in the Washington Post that cost I believe $54,000. Good grief. For that amount Kane County School District could pay three schoolteachers. And that is only one of dozens of full-page ads in newspapers in this area and I guess other areas as well.

Actor Robert Redford has been a spokesperson for the environmentalists. I admire Bob Redford's convictions, but let us face it; what TV station would not want an interview with Robert Redford? The deck is surely stacked against rural Utah. It is an area small in population and small in financial resources and big in tourism, and they have to provide the tax base to provide for all the emergency services—the helicopter services, the hospital services, the law enforcement services, et cetera—in some areas where they just do not have the moneys to do it.

I urge my colleagues not to let these Utahns become victims of election-year politics, and I hope the President is not trying to show how committed he is to the environment on the backs of rural Utahns. I suggest to my friends in these other States that you are going to have peculiar problems in your States that you are going to have to deal with and you are going to have to have good-faith help from other Senators here to be able to resolve them. And we will try to help you resolve them as we Utah Senators always have.

If we allow our rural States to be abused in this manner, if we allow this to happen, then the integrity of this body will have been brought to a new low. We will have allowed the Senate to become a blatant instrument for electioneering. While I am not so naive as to think that political speeches will not be given or that politics does not play a part, I cannot remember a time when the interests of a specific State on a parochial issue were sacrificed in that way. So I really urge my colleagues to support the Utah wilderness provisions in the substitute amendment offered by Senator MURKOWSKI.

Let me, at this point, have printed the press release, so people can read it for themselves. I ask unanimous consent that the press release from Senator BRADLEY's office be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> [For immediate release: Mar. 22, 1996]
>
> BRADLEY PREPARING TO BLOCK ENVIRONMENTALLY DESTRUCTIVE UTAH WILDERNESS BILL
>
> WASHINGTON, DC.—Senator Bill Bradley (D-NJ) said today he's ready to take the floor on Monday and point out all of the problems with the Utah Wilderness Bill, if it is offered as part of an omnibus lands package.
>
> "The battle to preserve America's wilderness legacy has been joined. The Utah Wilderness bill is so bad for the environment that I will pursue any possible way of stopping it. It contains unprecedented anti-environmental language that must be debated at length," Bradley said.
>
> Bradley pointed out that the current Senate Utah Wilderness legislation would direct that 20 million acres of Utah lands can never be designated as wilderness in the future. If it becomes law, it would permit the transformation of these lands from pristine wilderness to strip mines, roads and commercial development.
>
> "It is unfortunate that this bad Utah wilderness provision is being folded into a package with less controversial and much needed legislation such as the already-passed Sterling Forest measure and a bill for the Presidio in the San Francisco Bay area. If passed with the Utah wilderness legislation, the package would set a horrible precedent by making drastic changes to our precious lands policies."
>
> "It isn't right to swallow a pill that would be poison to so much of America's great western lands just because it is sugar-coated with some good smaller preservation bills. Our public lands belong to all Americans, whether they live in Utah or New Jersey. They should never be given away to a few special interests," Bradley stated.
>
> As for Sterling Forest, the Senator was firm in his refusal to give up on the measure that would protect 17,500 acres along the New York-New Jersey border. He pointed out that Sterling Forest has already passed the Senate without a single objection, and is awaiting action in the House of Representatives.
>
> "If Sterling Forest is included in a bill along with this destructive Utah Wilderness measure, I believe President Clinton will veto it. If we are to save Sterling Forest, we must stop the packaging of these bills, which is no more than an attempt to get us to accept a bad public lands bill by wrapping it up in shiny paper." Senator Bradley said.

Mr. HATCH. Mr. President, much has been made about Utahns and how they feel about these issues. But my colleagues might say they do not know what Secretary Babbitt has to say about our proposal. That makes 100 of us, because, frankly, I do not know. I do not know what specific problems the Secretary has with our bill. I do not know what his specific thinking is on the water language, the military overflight section, the section dealing with cultural and archeological sites found within designated areas on the State's school trust land exchange, proposed in the bill. I do not know how he might modify them. Honestly, I do not know.

I have used the term AWOL, absent without leadership, on this floor in recent months to describe the administration's efforts in addressing our drug problem. This strategy of criticizing without putting anything positive on the table was also evident during consideration of the budget. It seems to be typical of the Clinton administration across the board.

To date, the Interior Department has not even sent us the letter in which Secretary Babbitt says he will recommend a veto of the omnibus package if the Utah wilderness bill is included. I suppose the Secretary assumed that we would have the privilege of reading his letter in the newspaper, which of course we have. I do not know why the Secretary has not tried to work with us in order to come to an agreement on the many critical issues contained in this measure. We have been working on it, just this measure alone, for the last 20 years; but, in particular, writing it for the last 15 months. The Secretary has not attempted to contact me or to have his staff contact my staff to discuss how certain boundaries for designated areas might pose management problems for his agency, the application of wilderness criteria, the special management directives, or any other concerns he has with this legislation.

It is true that last July, during the Energy Committee's hearing on our bill, Sylvia Baca, the Deputy Assistant Secretary for Land and Minerals Management for the Department of Interior, presented testimony on behalf of the Department and the Secretary on the bill as it was introduced. She included the following statement in her written testimony: "If the bill were presented to the President in its current form, Secretary Babbitt would recommend that he veto it." What is even more amazing to me is that Ms. Baca's explanation for this position is based on the Interior Department's noninvolvement in the wilderness issue. The Department admitted that it has been AWOL on this issue, which is so important to our State.

When Senator CRAIG asked her why the Department did not agree with the 1991 BLM recommendation for wilderness and why there was no attempt by the current administration to modify it, here was her response:

> Mr. Chairman, first of all I would like to point out that the Interior Department did not think that wilderness legislation was going to come forward. We did not come here today with a specific wilderness acreage number. I explained earlier that is because we have not been involved in the wilderness issue.

The Secretary has done nothing but criticize. He has offered nothing in the way of constructive suggestions for improving the bill. This can only mean he intended to recommend a veto without regard to what the bill was going to say. This strikes me very much as a knee jerk approach to protecting the environment, and it is as bad as those who say we should have no environmental protection at all—and there are plenty in my State who would like that position.

But we have had to be responsible here. We are the people who have had to handle this issue. We have been blasted by both sides, both extremes on this issue, for the last 20 years—but certainly the last few years in particular.

Fortunately, my colleagues in the Senate have been more helpful and more sincerely interested in resolving this matter. They have offered constructive suggestions for changes, many of which we have incorporated in this bill, many of which have changed some of the areas criticized by the distinguished Senator from New Jersey. Apparently he has not read the bill yet, at least the substitute, but I hope he will.

The bill before us today is not the same bill that was discussed last July. The bill we are debating today is a much changed bill. I am not sure it is better, but for those on the other side of this issue, on the environmental side, it is a better bill. It is fair. It is reasonable. And, above all, it is balanced. And we are trying to bring together everybody in Utah, not just one side of the equation.

The Secretary now thinks this issue of such import that he is threatening a veto of this entire package of public land legislation. This does not square with Ms. Baca's testimony that the Department has just been too busy to focus on wilderness. We in Utah have been focusing on it for 2 decades. We have forged ahead in the 104th Congress, to attempt to resolve this issue once and for all. I would like to have the Secretary with us, I really would. I would have been pleased to work with him every step of the way. I really would.

I know Senator BENNETT feels the same way. But, even as other Senators have offered amendments in the Energy Committee and during informal discussions, Secretary Babbitt is content to be silent except for a veto threat. His position today is the same as it was in July, when Ms. Baca testified for the Clinton administration. This is a little like a country threatening the use of nuclear weapons without bothering to tell the world why it is attacking.

It is time to move ahead with this legislation. The question of wilderness in Utah has gone on long enough. It has been studied to death. We are tired of it. It is time to designate new wilderness in Utah and to remove millions of acres from the regulatory limbo that they have been in. Let us give them legal status as wilderness, or responsibly manage them for other uses. I hope the Secretary will determine this is an important objective, because it is.

Let me answer the question many of my colleagues have posed to me over the past few years and certainly in recent months and that is: Where are the citizens of Utah on this issue? Over the last several days we have seen advertisements in the Washington Post, Washington Times, Rollcall and the Hill magazine, claiming several things. First, there is the claim that 3 out of 4 Utahns support the so-called citizens proposal, that would designate 5.7 million acres of land as wilderness.

Second, it is claimed that Americans are opposed to our program by a margin of 9 to 1.

This first statement refers to the process the Utah congressional delegation and Governor Leavitt followed last year to obtain input from our local citizens. During our statewide regional hearings we requested that any further comments and proposals on the wilderness issue be submitted in writing or by telephone to Governor Leavitt's office. The Governor's office made a tally of these letters and phone calls. The inaccurate claims made in these newspaper advertisements by the opponents of this bill stem from the summary report developed by Governor Leavitt's office on these additional calls and letters. Rather than explain this discrepancy to my colleagues, I have asked Governor Leavitt to tell us in his own words the truth about the comments and calls in his office. His letter says this:

> DEAR SENATOR HATCH: As you know, there has been substantial confusion about the public sentiment in Utah concerning the BLM wilderness issue. Please accept this letter as an explanation of the public response which my office received with respect to this issue. Personnel in the Governor's Office of Planning and Budget read, recorded, and responded to each of the 3,031 individual letters

VOL 142 PT 5 MR 21 — 29 1996 UMI

> which were received last year and also categorized the 551 individual public testimonies received at the public hearings held in Utah last spring and summer.
>
> In examining this information, 51% of these letters and testimonies were in favor of no wilderness designation whatsoever or something less than the 5.7 million acre proposal.
>
> Certain groups throughout the state have publicly stated that support for 5.7 million acres of wilderness has ranged from 70% at a minimum, to upwards of 75%. In Utah and throughout the country, these numbers have been quoted in numerous newspaper stories and in various correspondence, yet no one has ever contacted my office for verification of the numbers. As is evident by the above numbers, this is most definitely a misrepresentation of actual public sentiment.
>
> In addition, there have been numerous surveys conducted on the wilderness issue over the last year. These surveys show that those respondents supporting 5.7 million acres have ranged from 19% to 36% depending on how the survey was structured and the way in which questions were asked. In these same surveys, 29% to 60% favored 2 million acres or less, also depending on survey structure and format of questions.
>
> It is important that lawmakers in Washington have factual information when making decisions as important as this. The information supporting the numbers I have offered is all on file in the Governor's Office of Planning and Budget and available for anyone with questions or concerns. Thank you for your commitment to this issue and for the work you have done in the pursuit of the resolution of the wilderness debate.

Mr. President, this letter is clear enough. The figure utilized by the opponents of our measure misconstrues the information tallied by the Governor's office. It is interesting to note, this figure has mysteriously risen during this debate. First I saw a report that indicated the figure was 68 percent. Then it went to 70 percent. These recent adds have it at 73 percent, and one ad indicated it was 3 out of 4 Utahns, or 75 percent. Where are they getting these numbers?

The second statement that Americans oppose the Utah wilderness bill by a ratio of 9 to 1 comes from a straw vote conducted by USA Weekend. This feature in many of the weekend's Sunday papers asked me to present my position on wilderness opposite Robert Redford, the well-known Utahn who owns the Sundance ski resort, which is located by the way, among some of the most beautiful acres in the world.

At the conclusion of the article, the editors asked readers to write, phone or e-mail their votes for which position they supported.

Similar to the barrage of advertisements, letters and phone calls and mailers my colleagues are receiving, the USA Weekend was bombarded with responses. In fact, the responses were 9 to 1 against the wilderness proposal.

But USA Weekend was careful to point out that this is not a scientific poll. It was self-selected, which is a nice way of saying that people could vote early and often. The results of this call-in were, of course, skewed by those who responded to the urgings of national environmental organizations that they call in. In fact, just one of these groups, the Wilderness Society, has almost four times as many members as I have constituents. Think about that, four times as many members as Senator BENNETT and I have constituents in our whole State. To their credit, they can mobilize these members at a moment's notice, which is what they have been doing on this matter for months—for years now—but certainly over the past few weeks and certainly during that particular USA Weekend article.

Let us talk about real polls.

Dan Jones & Associates, Utah's most prominent and well-respected pollster, who has a tremendous record for accuracy, has conducted several surveys on this matter. Last April, he conducted a poll for Representative WALDHOLTZ, which revealed the following: Survey for Representative WALDHOLTZ, April 26, 1995—Dan Jones & Associates: 36 percent were for 1.2 million acres; 24 percent for 2.0 million acres. We are a little over 2 million acres in the substitute bill that is in the substitute amendment. 23 percent of those polled wanted 5.7 million acres. In other words, a lot more people were for 1.2 million acres or 2.0 million acres than there were for the 5.7 million acres, which received only 23 percent; 17 percent of those polled were not reported.

Later in the year, in May 1995, Dan Jones conducted a poll for the Wilderness Education Project, and the results were generally the same: 21 percent preferred 1 million acres; 16 percent for 1.2 million acres; 20 percent for 1.9 million acres; 15 percent for 2.8 million acres; 19 percent for 5.7 million acres. It actually had gone down; 8 percent did not know.

In June of last year, Dan conducted a poll for the Deseret News, which had the following results: 4 percent for zero acres, which means 4 percent did not want any wilderness at all in Utah; 18 percent were for 1 million acres; 26 percent for 1.8 million acres; 36 percent for 5.7 million acres; 7 percent for other, and 8 percent did not know. The highest percentage it has ever been for 5.7 million acres has been 36 percent, and then only after a massive publicity and advertising campaign done by these environmental organizations who have more money than anybody in Utah, certainly more than anybody on our side, and certainly more than the poor little people in these rural areas. The rural people, for the most part, do not want any or at least want very little acreage, but they have agreed to 1 million acres. And, now reluctantly they have gone along with the delegation—some of them have gone along with the delegation—for the 2 million acres but are very upset about it.

In addition to these polls, KUTV Channel 2 and the Coalition for Utah's Future conducted a poll in May. Their results were similar to the Dan Jones polls. This survey was conducted from May 5 to 17, 1995, by Valley Research: 5 percent for zero acres; 12 percent for 1 million acres; 12 percent for 1.9 million acres; 10 percent for 2.9 million acres; 23 for 3.2 million acres; and 31 percent for 5.7 million acres; 8 percent do not agree with any.

The summary of these polls is twofold. First, a majority of respondents in almost every poll, except for the respondents in the KUTV/Coalition poll, favored a designation of 2 million or fewer acres. In the Waldholtz poll, it was 60 percent; Deseret News, 48 percent; wilderness education was 57 percent.

Second, the 5.7 million acre proposal was not supported by a majority of respondents in any poll: Waldholtz, 23 percent; KUTV, 31 percent; Deseret News, 36 percent; wilderness education, 19 percent.

So, if my colleagues are looking for a definitive answer on how the majority of Utahns feel when it comes to a final acreage figure on BLM designation, these are the more reliable numbers. They are from reputable sources, polling organizations that use scientific methods, from both the left and the right.

I think a far more accurate assessment of where Utahns stand on this issue should be a letter that we recently received, Senator BENNETT and I, dated March 22, last Friday. This letter is on behalf of 300 of Utah's top officials—Democrats, Republicans, moderates, liberals, conservatives—300 of the elected officials in Utah, the vast majority of them:

> DEAR SENATOR: You recently received a letter dated March 15, 1996 from a group of twenty calling themselves "The Coalition of Utah Elected Officials," asking the "Utah Congressional Delegation to withdraw S. 884 and reconsider the direction they have taken on wilderness." The letter states, "most Utahns oppose S. 884." It further states that "most local people consider this to be stridently anti-environmental legislation, not the carefully balanced package the Utah Congressional Delegation has been claiming it to be.

The letter goes on to say this:

> These statements are not only preposterous—but blatantly untrue. The facts are that most Utahns do not want large amounts of acreage designated as wilderness in Utah. We the undersigned Democrats and Republicans strongly support Senators Hatch and Bennett in their balanced approach to Utah wilderness.
>
> In reality, the Utah State Senate endorsed the provisions contained in the Hatch-Bennett proposal unanimously (27 to 0)—I might add that the leader of the AFL–CIO in Utah, a member of the Utah State Senate, voted in support of this resolution . . .

While the Utah State house voted 62 to 6, or 92 percent in favor. Across the State, elected commissioners in 27 of 29 counties support this bill. As this letter indicates, over 90 percent of Utah's elected county leaders support the Utah wilderness proposal now before the Senate.

> Early in 1995, the Governor of Utah and all members of the Utah Congressional Delegation specifically tasked the elected county officials in each county where wilderness is being proposed, to hold public hearings and from those public hearings, develop a proposal for wilderness designation on the Bureau of Land Management lands in the affected counties. Numerous public hearings were held in every county where lands were proposed for wilderness designation. The county officials then designated their proposals for designating lands as wilderness from the public hearings. In every county where lands were proposed for wilderness designation, the county officials made their recommendations based on what they heard at the hearings. Many county officials recommended more acreage than they knew their citizens wanted, but they knew they had to do so in order to make a bill acceptable to Congress. Some of those county officials have paid a dear political price for their recommendations.

I can certainly affirm that.

> After the county officials made their recommendations, the Governor and Congressional Delegation held five regional hearings around the State. The environmental community, both in and outside Utah, was well organized and paid its partisans to testify. They even rented buses and vans to transport these people from location to location.

And I can testify to that. We had almost the same people at every location, demanding to testify, saying the same things each time, and making it look like they had more numbers than they really did.

> The testimony they gave was based on emotion and not the requirements of the Wilderness Act itself. Their testimony ignored the professional recommendations of the BLM which based its proposals on the criteria of the 1964 Wilderness Act.
>
> The Governor and Congressional Delegation then developed what is now title XX of omnibus package S. 884. Many in Utah believe it contains too much acreage. It represents more than was recommended by the elected county officials who held the local public hearings. It represents more than the State legislature has recommended at least twice in the last 4 years by nearly unanimous votes.
>
> The people of Utah live in a State with approximately 67 percent Federal land ownership and another 13 percent State ownership, but managed under the Federally enacted State Enabling Act. Utah already has millions of acres in five National Parks, two National Recreation Areas, four National Monuments, 13 Forest Service wilderness areas, and BLM areas of Critical Environmental Concern. The unelected State Director of the BLM manages more of Utah than does its elected Governor.
>
> The BLM wilderness debate in Utah has dragged on for more than 15 years at a cost to taxpayers of over $10 million. We believe it is time to end the debate, pass the balanced Hatch-Bennett proposal and bring some peace and stability to people of Utah who must live daily with results of this debate. We the undersigned are a few of the elected officials in Utah who support Title XX of this bill. We want it passed and enacted into law.

As I said, there are 300-some Democrat and Republican elected officials who have endorsed this letter. I ask unanimous consent that this letter and the attachments thereto be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE TRUTH ABOUT UTAH WILDERNESS

MARCH 22, 1996

DEAR SENATOR: You recently received a letter dated March 15, 1996 from a group of twenty calling themselves "The Coalition of Utah Elected Officials," asking the "Utah Congressional Delegation to withdraw S. 884 and reconsider the direction they have taken on wilderness." The letter states that "most Utahns oppose S. 884." It further states that "most local people consider this to be stridently anti-environmental legislation, not the carefully balanced package the Utah Congressional Delegation has been claiming it to be."

These statements are not only preposterous, but blatantly untrue. The facts are that most Utahns do not want large amounts of acreage designated as wilderness in Utah. We the undersigned Democrats and Republicans strongly support Senators Hatch and Bennett in their balanced approach to Utah wilderness.

In reality, the Utah State Senate endorsed the provisions contained in the Hatch-Bennett proposal unanimously (27–0), while the Utah State House voted 62–6, or 92% in favor. Across the state, elected commissioners in 27 of 29 counties support this bill. As this letter indicates, over 90% of Utah's elected county leaders support the Utah wilderness proposal now before the Senate.

Early in 1995, the Governor of Utah and all members of the Utah Congressional Delegation specifically tasked the elected county officials in each county where wilderness was being proposed, to hold public hearings and from those public hearings, develop a proposal for wilderness designation on Bureau of Land Management (BLM) Lands in the affected counties. Numerous public hearings were held in every county where lands were proposed for wilderness designation. The county officials then developed their proposals for designating lands as wilderness from the public hearings. In every county where lands were proposed for wilderness designation, the county officials made their recommendations based on what they heard at the hearings. Many county officials recommended more acreage than they knew their citizens wanted, but they knew they had to do so in order to make a bill acceptable to Congress. Some of those county officials have paid a dear political price for their recommendations.

After the county officials made their recommendations, the Governor and Congressional Delegation held five regional hearings around the state. The environmental community, both in and outside of Utah was well organized and paid its partisans to testify. They even rented busses and vans to transport these people from location to location. The testimony they gave was based on emotion and not the requirements of the Wilderness Act itself. Their testimony ignored the professional recommendations of the BLM which based its proposals on the criteria of the 1964 Wilderness Act.

The Governor and Congressional Delegation then developed what is now Title XX of omnibus package, S. 884. Many in Utah believe it contains too much acreage. It represents more than was recommended by the elected county officials who held the local public hearings. It represents more than the State Legislature has recommended at least twice in the last four years by nearly unanimous votes.

The people of Utah live in a state with approximately 67% federal land ownership and another 13% state ownership, but managed under the federally enacted State Enabling Act. Utah already has millions of acres in five National Parks, two National Recreation Areas, four National Monuments, thirteen Forest Service wilderness areas, and BLM Areas of Critical Environmental Concern (ACEC). The unelected State Director of the BLM manages more of Utah than does its elected Governor.

The BLM wilderness debate in Utah has dragged on for more than 15 years at a cost to taxpayers of over $10 million. We believe it is time to end the debate, pass the balanced Hatch-Bennett proposal and bring some peace and stability to the people of Utah who must live daily with results of this debate. We the undersigned are a few of the elected officials in Utah who support Title XX of this omnibus bill. We want it passed and enacted into law.

Sincerely,

John Hansen, Millard County Auditor; Linda Carter, Millard County Recorder; Ed Philips, Millard County Sheriff; LeRay Jackson, Millard County Attorney; John Henrie, Millard County Commissioner; Donovan Dafoe, Mayor, Delta Utah; Merrill Nielson, Mayor, Lynndyl, Utah; Phil Lovell, Mayor, Leamington, Utah; B. DeLyle Carling, Mayor, Meadow, Utah; Terry Higgs, Mayor, Kanosh, Utah; Mont Kimball, Councilman, Konosh, Utah; Roger Phillips, Councilman, Konosh, Utah; Robert Decker, Councilman, Delta, Utah; Gary Sullivan, Beaver County Commissioner; Ross Marshall, Beaver County Commissioner.

Chad Johnson, Beaver County Commissioner; Howard Pryor, Mayor, Minversville Town; Louise Liston, Garfield County Commissioner; Clare Ramsay; Garfield County Commissioner; Guy Thompson, Mayor, Henrieville Town; Shannon Allen, Mayor, Antimony Town; John Matthews, Mayor, Cannonville Town; Julee Lyman, Mayor, Boulder Town; Robert Gardner, Iron County Commissioner; Thomas Cardon, Iron County Commissioner; Worth Grimshaw, Mayor, Enoch City; Dennis Stowell, Mayor, Parowan City; Norm Carroll, Kane County Commissioner; Stephen Crosby, Kane County Commissioner; Viv Adams, Mayor, Kanab City; Scot Goulding, Mayor, Orderville Town.

Gayle Aldred, Washington County Commissioner; Russell Gallian, Washington County Commissioner; Gene Van Wagoner, Mayor, Hurricane City; Chris Blake, Mayor, Ivins Town; Rick Hafen, Mayor, Santa Clara City; Paul Beatty, Mayor, New Harmony Town; Terrill Clove, Mayor, Washington City; David Zitting, Mayor, Hildale City; Ike Lunt, Juab County Commissioner; Martin Jensen, Piute County Commissioner; Joseph Bernini, Juab County Commissioner; J. Keller Christensen, Sanpete County Commisssioner; Eddie Cox, Sanpete County Commissioner; Ralph Okerlund, Sevier County Commissioner; Meeks Morrell, Wayne County Commissioner; Stanley Alvey, Wayne County Commissioner; Kevin Young, Mayor, Mona, Utah.

VOL 142 PT 5 MR 21 — 29 1996 UMI

Steve Buchanan, Mayor, Gunnsion, Utah; Roger Cook, Mayor, Moroni, Utah; Mary Day, Millard County Treasurer; James Talbot, Millard County Assessor; Marlene Whicker, Millard County Clerk; Lana Moon, Millard County Commissioner; Tony Dearden, Millard County Commissioner; Ken Talbot, Mayor, Hinkley, Utah; Elzo Porter, Mayor, Oak City, Utah; Keith Gillins, Mayor, Fillmore, Utah; Barry Monroe, Mayor, Scipio, Utah; C. R. Charlesworth, Mayor, Holden, Utah; Vicky McKee, Daggett Clerk Treasurer; Bob Nafus, Councilman, Konosh, Utah; Roger Phillips, Councilman, Konosh, Utah.

Chad Johnson, Beaver County Commissioner; James Robinson, Mayor, Beavuer City; Mary Wiseman, Mayor, Milford City; Maloy Dodds, Garfield County Commissioner; Jean Seiler, Mayor, Tropic Town; Laval Sawyer, Mayor, Hatch Town; Wade Barney, Mayor, Escalante, Utah; Elaine Baldwin, Mayor, Panguitch, Utah; Roy Urie, Iron County Commissioner; Bili Weymouth, Mayor, Kanarraville Town; Harold Shirley, Mayor, Cedar City; Constance Robinson, Mayor Pro-Tem, Paragonah; Joe Judd, Kane County Commissioner; Garaldine Rankin, Mayor, Big Water.

Eric Brinkerhoff, Mayor, Glendale Town; Orval Palmer, Mayor, Alton Town; Jerry Lewis, Washington County Commissioner; Daniel McArther, Mayor, City of St. George; A. Morley Wilson, Mayor, Enterprise City; Raymond Jack Eves, Mayor, LaVerkin City; David Everett, Mayor, Toquerville Town; Brent DeMille, Mayor, Leeds Town; Joy Henderlider, Mayor, Virgin Town; Gordon Young, Juab County Commissioner; Paul Morgan, Piute County Commissioner; Don Julander, Piute County Commissioner; Robert Bessey, Sanpete County Commissioner; Tex Olsen, Sevier County Commissioner; Peggy Mason, Sevier County Commissioner; Bliss Brinkerhoff, Wayne County Commissioner; Bob Steele, Mayor, Nephi, Utah; Connie Dubinsky, Mayor, Levan, Utah; Kent Larsen, Mayor, Manti, Utah; Chesley Christensen, Mayor, Mt. Pleasant, Utah.

Lawrence Mason, Mayor, Aurora, Utah; Eugene Honeycutt, Mayor, Redmond, Utah; James Freeby, Mayor, Sigurd, Utah; Orlin Howes, Mayor, Junction, Utah; Sherwood Albrecht, Mayor, Bicknell, Utah; Dick Davis, Mayor, Lyman, Utah; Mike Milovich, Carbon County Commissioner; Pay Pene, Grand County Council; Bart Leavitt, Grand County Council; Lou Colisimo, Mayor, Price City; Roy Nikas, Councilman, Price City; Paul Childs, Mayor, Wellington, Utah; Bill McDougald, Councilman, City of Moab; Terry Warner, Councilman, City of Moab; Richard Seeley, Councilman, Green River City; Karen Nielsen, Councilwoman, Cleveland Town.

Gary Petty, Mayor Emery Town; Dennis Worwood, Councilman, Ferron City; Brenda Bingham, Treasurer, Ferron City; Ramon Martinez, Mayor, Huntington City; Ross Gordon, Councilman, Huntington City; Lenna Romine, Piute County Assessor; Tom Balser, Councilman, Orangeville City; Richard Stilson, Councilman, Orangeville City; Murene Bean, Recorder, Orangeville City; Carolyn Jorgensen, Treasurer, Castle Dale City; Bevan Wilson, Emery County Commissioner; Donald McCourt, Councilman, East Carbon City; Murray D. Anderson, Councilman, East Carbon City; Mark McDonald, Councilman, Sunnyside City; Ryan Hepworth, Councilman, Sunnyside City; Dale Black, Mayor, Monticello City.

John Black, Councilman, Monticello City; Grant Warner, Mayor, Glenwood, Utah; Grant Stubbs, Mayor, Salina, Utah; Afton Morgan, Mayor, Circleville, Utah; Ronald Bushman, Mayor, Marysvale, Utah; Eugen Blackburn, Mayor, Loa, Utah; Robert Allred, Mayor, Spring City, Utah; Neil Breinholt, Carbon County Commissioner; Bill Krompel, Carbon County Commissioner; Dale Mosher, Grand County Councilman; Den Ballentyne, Grand County Councilman; Frank Nelson, Grant County Councilman; Steve Bainghurst, Price City Councilman; Joe Piccolo, Price City Councilman; Tom Stocks, Mayor, City of Moab; Judy Ann Scott, Mayor, Green River City; Art Hughes, former Councilman, Green River.

Gary Price, Mayor, Clawson Town; Marvin Thayne, Councilman Elmo Town; Dale Roper, Mayor, Town of Ferron; Garth Larsen, Ferron Town Council; Paul Kunze, Recorder, Ferron Town; Don Gordon, Huntington City Councilman; Jackie Wilson, Huntington City Council; Howard Tuttle, Councilman, Orangeville City; Dixon Peacock, Councilman, Orangeville City; Roger Warner, Mayor, Castle Dale City; Kent Peterson, Grand County Commissioner; Randy Johnson, Grand County Commissioner; L. Paul Clark, Mayor, East Carbon City; Darlene Fivecoat, Councilwoman, East Carbon City; Barbara Fisher, Councilwoman, East Carbon City; Grant McDonald, Mayor, Sunnyside City.

Nick DeGiulio, Councilman, Sunnyside City; Bernie Christensen, Councilwoman, Monticello City; Mike Dalpiaz, Helper City; Lee Allen, Box Elder County Commissioner; Royal K. Norman, Box Elder County Commissioner; Jay E. Hardy, Box Elder County Commissioner; Darrel L. Gibbons, Cache County Councilman; C. Larry Anhder, Cache County Councilman; Guy Ray Pulsipher, Cache County Councilman; James Briggs, Daggett County Commissioner; Sharon Walters, Daggett County Commissioner; Chad L. Reed, Daggett County Commissioner; Curtiss Dastrup, Duchesne County Commissioner; Larry Ross, Duchesne County Commissioner; John Swasey, Duchesne County Commissioner; Dale C. Wilson, Morgan County Commissioner.

Jan K. Turner, Morgan County Commissioner; Jeff D. London, Morgan County Commissioner; Kenneth R. Brown, Rich County Commissioner; Blair R. Francis, Rich County Commissioner; Keith D. Johnson, Rich County Commissioner; Ty Lewis, San Juan County Commissioner; Bill Redd, San Juan County Commissioner; Mark Maryboy, San Juan County Commissioner; Sheldon Richins, Summit County Commissioner; Thomas Flinders, Summit County Commissioner; Jim Soter, Summit County Commissioner; Teryl Hunsaker, Tooele County Commissioner; Gary Griffith, Tooele County Commissioner; Lois McArther, Tooele County Commissioner; Odell Russell, Mayor, Rush Valley, Utah; Cosetta Castagno, Mayor, Vernon, Utah; Frank Sharman, Tooele County Sheriff.

Glen Caldwell, Tooele County Auditor; Donna McHendrix, Tooele County Recorder; Gerri Paystrup, Tooele County Assessor; Valerie B. Lee, Tooele County Treasurer; H. Glen McKee, Uintah County Commissioner; Lorin Merill, Uintah County Commissioner; Lewis G. Vincent, Uintah County Commissioner; Laren Provost, Wasatch County Commissioner; Keith D. Jacobson, Wasatch County Commissioner; Sharron J. Winterton, Wasatch County Commissioner; David J. Gardner, Utah County Commissioner; Jerry D. Grover, Utah County Commissioner; Gary Herbert, Uintah County Commissioner; Gayle A. Stevenson, Davis County Commissioner; Dannie R. McConkie, Davis County Commissioner; Carol R. Page, Davis County Commissioner.

Leo G. Kanel, Beaver County Attorney; Monte Munns, Box Elder County Assessor; Gaylen Jarvie, Daggett County Sheriff; Camille Moore, Garfield County Clerk/Auditor; Brian Bremner, Garfield County Engineer; Karla Johnson, Kane County Clerk/Auditor; Richard M. Baily, Director, Administrative Services; Lamar Guymon, Emery County Sheriff; Eli H. Anderson, District 1, Utah State Representative; Peter C. Knudson, District 2, Utah State Representative; Fred Hunsaker, District 4, Utah State Representative; Evan Olsen, District 5, Utah State Representative; Martin Stephens, District 6, Utah State Representative; Joseph Murray, District 8, Utah State Representative; John B. Arrington, District 9, Utah State Representative; Douglas S. Peterson, District 11, Utah State Representative.

Gerry A. Adair, District 12, Utah State Representative; Nora B. Stephens, District 13, Utah State Representative; Don E. Bush, District 14, Utah State Representative; Blake D. Chard, District 15, Utah State Representative; Kevin S. Garn, District 16, Utah State Representative; Marda Dillree, District 17, Utah State Representative; Karen B. Smith, District 18, Utah State Representative; Sheryl L. Allen, District 19, Utah State Representative; Charles E. Bradford, District 20, Utah State Representative; James R. Gowans, District 21, Utah State Representative; Steven Barth, District 26, Utah State Representative; Ron Bigelow, District 32, Utah State Representative; Orville D. Carnahan, District 34, Utah State Representative; Lamont Tyler, District 36, Utah State Representative; Ray Short, District 37, Utah State Representative; Sue Lockman, District 38, Utah State Representative; Michael G. Waddoups, District 39, Utah State Representative.

J. Reese Hunter, District 40, Utah State Representative; Darlene Gubler, District 41, Utah State Representative; David Bresnahan, District 42, Utah State Representative; Robert H. Killpack, District 44, Utah State Representative; Melvin R. Brown, District 45, Utah State Representative; Brian R. Allen, District 46, Utah State Representative; Bryan D. Holladay, District 47, Utah State Representative;

Greg. J. Curtis, District 49, Utah State Representative; Lloyd Frandsen, District 50, Utah State Representative; Shirley V. Jensen, District 51, Utah State Representative; R. Mont Evans, District 52, Utah State Representative; David Ure, District 53, Utah State Representative; Jack A. Seitz, District 55, Utah State Representative; Christine Fox, District 56, Utah State Representative; Lowell A. Nelson, District 57, Utah State Representative; John L. Valentine, District 58, Utah State Representative.

Doyle Mortimer, District 59, Utah State Representative; Norm Nielsen, District 60, Utah State Representative; R. Lee Ellertson, District 61, Utah State Representative; Jeff Alexander, District 62, Utah State Representative; Jordan Tanner, District 63, Utah State Representative; Byron L. Harward, District 64, Utah State Representative; J. Brent Hammond, District 65, Utah State Representative; Tim Moran, District 66, Utah State Representative; Bill Wright, District 67, Utah State Representative; Michael Styler, District 68, Utah State Representative; Tom Mathews, District 69, Utah State Representative; Bradley T. Johnson, District 69, Utah State Representative; Keele Johnson, District 71, Utah State Representative; Demar "Bud" Bowman, District 72, Utah State Representative; Tom Hatch, District 73, Utah State Representative.

Bill Hickman, District 75, Utah State Representative; Wilford Black, District 2, Utah State Senator; Blaze D. Wharton, District 3, Utah State Senator; Howard Stephenson, District 4, Utah State Senator; Brent Richard, District 5, Utah State Senator; Stephen J. Rees, District 6, Utah State Senator; David L. Buhler, District 7, Utah State Senator; Steve Poulton, District 9, Utah State Senator; L. Alma Mansell, District 10, Utah State Senator; Eddie P. Mayne, District 11, Utah State Senator; George Mantes, District 13, Utah State Senator; Craig A. Peterson, District 14, Utah State Senator; LeRay McAllister, District 15, Utah State Senator.

Eldon Money, District 17, Utah State Senator; Nathan Tanner, District 18, Utah State Senator; Robert F. Montgomery, District 19, Utah State Senator; Joseph H. Steel, District 21, Utah State Senator; Craig L. Taylor, District 22, Utah State Senator; Lane Beattie, District 23, Utah State Senator; John P. Holmgren, District 24, Utah State Senator; Lyle W. Hillyard, District 25, Utah State Senator; Alarik Myrin, District 26, Utah State Senator; Mike Dmitrich, District 27, Utah State Senator; Leonard M. Blackham, District 28, Utah State Senator; David L. Watson, District 29, Utah State Senator.

Mr. HATCH. Just last Sunday we read comments that one large newspaper in the State has editorialized against this. That is true. There is no doubt that they are very sincere in what they are doing. We have respect for them. But the other large newspaper, the other large major newspaper in Utah—we have five that are quite large—but the other major large paper in Utah that has written on this said, "Let's get off dead center on the Utah wilderness debate." This is the Deseret News editorial. I will just read a little bit of it and then put it in the RECORD as well.

Politics is supposed to involve the art of compromise. But that sensible notion seems to be lost on some members of Congress when it comes to deciding how much public land in Utah should be designated as wilderness.

Consequently, unless some key figures in Washington can be persuaded to change their minds, more federal foot-dragging seems likely even though this controversy has persisted for two decades without a final decision.

The latest development centers on Senator Bill Bradley of New Jersey. Bradley so strongly opposes the 1.8-million-acre proposal drafted by Utah's Republican-dominated congressional delegation that he may seek to scuttle an omnibus parks bill containing it even though such a move would thwart a pet project of his to protect the Sterling Forest along the New York-New Jersey border.

If the Utah proposal survives that challenge, Interior Secretary Bruce Babbitt is threatening to recommend that President Clinton veto it.

But then there's nothing particularly new about the extent and intensity of the emotions aroused by the Utah proposal and the opposing plan offered by environmentalist groups, which insist that 5.7 million acres be designated as wilderness.

Washington is supposed to resolve such controversies, not let them fester. For that to happen, more flexibility is in order—which is exactly what the Utah congressional delegation has been doing. Last year it backed off from some provisions objectionable to the environmentalists involving roads, motorboats, and industries. Now there are indications some members of the delegation may be willing to designate more land as wilderness beyond the additional previously agreed to [which we have].

More than the whole State of Delaware; 63 percent of Connecticut; 41 percent of my friend's State of New Jersey; 41 percent of Massachusetts; 35 percent of New Hampshire; 34 percent of Vermont. That is what our proposal amounts to as compared with other States.

But what flexibility, if any, is there on the part of the environmentalists? Though continuing to speak about the need for compromise, they doggedly insist that their 5.7 million proposal is a compromise.

In sorting through the tangled and overheated controversy, Congress needs to keep a few points firmly in mind.

First, there is no such thing as a Utah wilderness bill that will not antagonize some major segments of the population.

Second, claims that most Utahns want more wilderness are based on self-serving interpretations of polls whose results are at best mixed and somewhat confusing.

Third, the wilderness proposal being pushed by Utah's congressional delegation is an attempt to reach a reasonable middle ground between the 5.7 million acres demanded by the environmentalists and the little or no new wilderness acreage demanded by many officials and citizens alike in rural Utah.

Fourth, the 1.8-million-acre proposal—with its various modifications and additions—is in line with the original recommendation from the Bureau of Land Management. Only years later did the BLM start waffling, opting for what it thought the Clinton administration wanted rather than for what the agency really thought was best.

Fifth, as long as Congress declines to act, the BLM will continue to manage 3.2 million acres of Utah as if it were wilderness—but for no better reason than that this is the amount of land the agency studied for possible wilderness designation. That is more acreage than many Utahns want as wilderness.

To let the dispute over Utah wilderness drag on year after emotion-filled year without a formal and final decision is a sorry reflection on some of this Nation's key figures. They were sent to Washington to act, not temporize. A decision in the direction of the proposal of the Utah delegation would be better than one in the direction of the environmentalists. But whichever way the vote goes, let us bring this long debate to an end and get on to other matters.

Mr. President, I ask unanimous consent that the full editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Deseret News, Mar. 23, 1995]

LET'S GET OFF DEAD CENTER ON UTAH WILDERNESS DEBATE

Politics is supposed to involve the art of compromise. But that sensible notion seems to be lost on some members of Congress when it comes to deciding how much public land in Utah should be designated as wilderness.

Consequently, unless some key figures in Washington can be persuaded to change their minds, more federal foot-dragging seems likely even though this controversy has persisted for two decades without a final decision.

The latest development centers on Sen. Bill Bradley of New Jersey. Bradley so strongly opposes the 1.8-million-acre proposal drafted by Utah's Republican-dominated congressional delegation that he may seek to scuttle an omnibus parks bill containing it even though such a move would thwart a pet project of his to protect the Sterling Forest along the New York-New Jersey border.

If the Utah proposal survives that challenge, Interior Secretary Bruce Babbitt is threatening to recommend that President Clinton veto it.

But then there's nothing particularly new about the extent and intensity of the emotions aroused by the Utah proposal and the opposing plan offered by environmentalist groups, which insist that 5.7 million acres be designated as wilderness.

Washington is supposed to resolve such controversies, not let them fester. For that to happen, more flexibility is in order—which is exactly what the Utah congressional delegation has been doing. Last year it backed off from some provisions objectionable to the environmentalists involving roads, motorboats and industries. Now there are indications some members of the delegation may be willing to designate more land as wilderness beyond the additions previously agreed to.

But what flexibility, if any, is there on the part of the environmentalists? Though continuing to speak of the need for compromise, they doggedly insist that their 5.7-million-acre proposal is a compromise.

VOL
142
PT
5
MR
21
—
29
1996
UMI

In sorting through this tangled and overheated controversy, Congress needs to keep a few points firmly in mind.

First, there is no such thing as a Utah wilderness bill that won't antagonize some major segments of the population.

Second, claims that most Utahns want more wilderness are based on self-serving interpretations of polls whose results are at best mixed and somewhat confusing.

Third, the wilderness proposal being pushed by Utah's congressional delegation is an attempt to reach a reasonable middle ground between the 5.7 million acres demanded by the environmentalists and the little or no new wilderness acreage demanded by many officials and citizens alike in rural Utah.

Fourth, the 1.8-million-acre proposal—with its various modifications and additions—is in line with the original recommendation from the Bureau of Land Management. Only years later did the BLM start waffling, opting for what it thought the Clinton administration wanted rather than for what the agency really thought was best.

Fifth, as long as Congress declines to act, the BLM will continue to manage 3.2 million acres of Utah as if it were wilderness—but for no better reason than that this is the amount of land the agency studied for possible wilderness designation. That is more acreage than many Utahns want as wilderness.

To let the dispute over Utah wilderness drag on year after emotion-filled year without a formal and final decision is a sorry reflection on some of this nation's key figures. They were sent to Washington to act, not temporize. A decision in the direction of the proposal of the Utah delegation would be better than one in the direction of the environmentalists. But whichever way the vote goes, let's bring this long debate to an end and get on to other matters.

Mr. HATCH. Mr. President, I am going to ask unanimous consent that the following also be inserted: a letter from the Governor, Mike Leavitt; a letter from the speaker of the Utah House of Representatives and the president of the Utah State Senate, along with a resolution adopted last year by the Utah State Legislature. I also put in the RECORD a letter signed by over 300 elected officials we received just this morning; a letter from the Utah Parent Teacher Association; a letter from the Utah State Board of Education; a letter from the Utah Farm Bureau; and a resolution from the board of trustees of the School and Institutional Trust Lands Administration.

Mr. President, I ask unanimous consent that all of those be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF UTAH,
OFFICE OF THE GOVERNOR,
Salt Lake City, UT, March 14, 1996.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: Utah is a beautiful and unique state. It comprises 55 million acres of diverse landscapes ranging from high alpine ranges of the Rocky Mountains, red rock wonderlands of the Colorado Plateau, deserts of the Great Basin and rich river valleys. We Utahns feel blessed with what we have been entrusted to care for.

These beautiful lands are attracting millions of visitors and tens of thousands of new residents annually. Due partly to this attraction, Utah is also experiencing an era of robust economic growth. During this time of growth and prosperity it is more evident than ever before that it is our responsibility to preserve and carefully manage these diverse landscapes and eco-systems for current and future generations of Utahns and all Americans.

Of Utah's 55 million acres, some 37 million acres, or over 67%, is owned or controlled by the Federal Government. Most of these federal lands are managed by the Forest Service, National Park Service and Bureau of Land Management. Much of this public land is already preserved for future generations. Two million acres have been set aside as National Parks, Monuments and Recreation Areas. Another one million acres have been set aside as National Forest Wilderness or as wildlife refuges. However, we do believe that an additional 2 million acres should be protected for America's future.

Wilderness is certainly one important way in which we can and should protect land for the future. However, it is not the only way. Other means of protection include designation as: Areas of Critical Environmental Concern, Wild and Scenic Rivers, Natural Areas, Primitive Areas or withdrawals for specific purposes. Also, the State of Utah has cooperated with organizations such as the Nature Conservancy, the Rocky Mountain Elk Foundation and private land trusts to preserve state and private lands for wildlife habitat and watershed. We believe that land preservation and management must utilize all available tools and be a cooperative process among all federal, local and state agencies as well as involving the general public.

I believe we can all agree that Wilderness is one important tool for protecting public land. How much land should be protected as Wilderness is more difficult. The process of determining how much BLM land in Utah should be preserved as Wilderness has taken more than 17 years, at a total cost of more than $10 million in federal dollars. Many more millions, yet unquantified, have been spent by state and local governments, businesses and the general public. Literally hundreds of hearings have been held and thousands upon thousands of comments written, read and heard.

During the last year along more than 50 public meetings were held in Utah. Seven public meetings were attended by me and members of Utah's Congressional Delegation. Also, two field hearings were held in Utah by the House Subcommittee on National Parks, Forests and Lands. I have received more than 22,000 comments on the issue in my office alone.

What is evident from the discussion over the last year and the last 17 years is that all Utahans care deeply about the land. Yet, there is and will always be a great divisiveness in the eyes of the public on how much Wilderness should be designated. Most citizens of rural Utah, where these lands are located, are strongly opposed to any Wilderness. Yet some citizens of Utah's urban areas would like to protect an additional 5.7 million acres.

Over the last year, Utah's Congressional Delegation and I have attempted to develop a Wilderness proposed which balances these differing points of view. The result is S 884, "Utah Public Lands Management Act of 1995," which has been introduced by Senators Orrin Hatch and Robert Bennett. Senators Hatch and Bennett have worked long and hard with me and many Utahns of diverse opinions to develop this proposal. They deserve a great deal of credit for their diligence.

S 884 is an honest approach to resolving this issue and proposes over 50 Wilderness areas. The bill includes Utah's "Crown Jewels," which are such well known areas as Grand Gulch, Desolation Canyon, San Rafael Swell, Escalante Canyons, Westwater Canyon and Parunuweap Canyon. S 884 includes areas which represent numerous "eco-systems" including: high mountain ranges, river canyons, red rock desert and unique areas in Utah's West Desert.

The Utah Congressional Delegation and I have committed considerable time and resources to this process. This bill reflects our commitment to the importance of what is fair, balanced and good for the citizens of Utah and the United States. It will not please either extreme but presents the best solution for Utah and the nation and has the support of the mainstream citizens of our state. As the Governor of the great State of Utah, I fully support S 884 which designates two million acres of BLM land in Utah as Wilderness, an area larger than the State of Delaware. With these lands protected as Wilderness, we as a state will move forward to properly managed and protect all of Utah's diverse public lands in cooperation with federal land agencies. I respectfully encourage you to support S 884.

Sincerely,

MICHAEL O. LEAVITT,
Governor.

UTAH STATE LEGISLATURE,
Salt Lake City, Utah, February 14, 1996.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: As legislative leaders, we want to reaffirm the position taken by the Fifty-first Legislature of the State of Utah as it relates to the amount of BLM land designated as wilderness in Utah.

HCR 12, Resolution Supporting Wilderness Designation, by Representative Bradley Johnson, states very clearly the process by which wilderness was to be identified and quantified. That process was followed, and the local political entities acted very responsibly when they recommended that a little more than 1 million acres receive wilderness status.

The addition of acreage bringing the total amount to be added to the wilderness proposal to 1.8 million was an unsettling surprise. Yet, in a spirit of compromise, this total amount would be acceptable. We believe the addition of any more acreage, however, would be an affront to the citizens of this state and the process put in place that made the original recommendation. Furthermore, we believe the addition of more land would be tantamount to rhetoric which is without a rational or factual basis.

The Fifty-first Legislature has spoken clearly on BLM wilderness designation. To lock up more land to an uncertain future in a state where 80 percent of the land area is subject to some form of government restriction and control is a policy which lacks sensitivity and foresight. This policy blind spot is simply inappropriate. To shackle future generations in this state with the unbendable restrictions wilderness designation imposes is nothing more than a "takings" of the hopes and dreams of Utahns whose heritage and economic roots are tied

to these lands. These lands are not threatened and wilderness designation will not provide any additional protection that is already provided for by law governing the management of these lands.

For more than 100 years, there has been a harmony between the land and the land user. A dependence on the part of both has grown up with a healthy mutual respect. Questionable science has been injected into the wilderness decision-making process by those who are disjointed and removed from the land they claim to befriend.

We reaffirm our position on wilderness designation articulated in the last legislative session and as that you consider it to be the position of the State of Utah. If we can be helpful and answer your questions in addressing your concerns relative to this issue, we would be most amenable to doing what is necessary so that your decision is made with the very best, accurate information.

Sincerely,

MELVIN R. BROWN,
Speaker.
R. LANE BEATTIE,
President.

LAWS OF UTAH—1995

H.C.R. 12

Whereas the Bureau of Land Management (BLM) has issued its final Environmental Impact Statement and recommended designating approximately 1.9 million acres of land in Utah as wilderness;

Whereas the state is willing to cooperate with the United States government in the designation process and in protecting Utah's environment;

Whereas designating lands as wilderness affects many communities and residents of the state by permanently prohibiting certain kinds of economic development;

Whereas a federal reservation of water could serious affect the potential for development in growing areas of the state;

Whereas the designation of wilderness would depreciate the value of state inholdings and adjacent state lands, reducing an important source of revenue for the education of Utah's schoolchildren;

Whereas it is the state's position that there should be no net loss of state or private lands and no increase in federal ownership as a result of wilderness designation;

Whereas lands that may be designated as wilderness are subject to existing rights and uses under current law, such as mining, timber harvesting, and grazing;

Whereas the BLM has extensively studied public lands in Utah for the purpose of determining suitability for wilderness designation;

Whereas it is vitally important for Utah to maintain the ability to develop its mineral resources, such as the Kaiparowits Coal Field, for the economic and financial well being of the state, its trust lands, and counties;

Whereas much of Utah's municipal, industrial, and agricultural water supply comes from public lands, requiring continued management and maintenance of vegetation, reservoirs, and pipelines, and

Whereas the definition of wilderness lands established by Congress in 1964 Wilderness Act should be used to determine the designation of wilderness lands:

Now, therefore, be it *RESOLVED* that the Legislature of the state of Utah, the Governor concurring therein, encourage the Congress to enact at the earliest possible opportunity a fair and equitable Utah wilderness bill regarding BLM lands, with the Legislature's and Governor's support of the bill contingent upon its containing the following provisions:

(1) that any BLM lands designated as wilderness must meet the legal definition of wilderness lands as contained in the 1964 Wilderness Act;

(2) that all lands not designated as wilderness be released from Wilderness Study Area status and that the BLM be directed to manage those released lands under multiple use sustained yield principles and be prohibited from making or managing further study area designations in Utah without express authorization from Congress;

(3) that no reserve water right be granted or implied in any BLM wilderness bill for Utah inasmuch as federal agencies are able to apply for water through the state appropriations system in keeping with the 1988 opinion of Solicitor Ralph W. Tarr of the United States Department of the Interior;

(4) that federal agencies be required to cooperate with the state in exchanging state lands that are surrounded by or adjacent to or adversely affected by wilderness designation for federal lands of equivalent value; and additionally, because designation of wilderness lands is a federal action, that federal funds be appropriated to pay for appraisals of state lands and federal lands to be exchanged;

(5) that every effort be made to ensure that there be no net loss of state or private lands and no increase in federal ownership as a result of wilderness designation in Utah;

(6) that the designation of wilderness not result in the creation, either formally or informally, of buffer zones and management zones around, contiguous, or on lands affected by wilderness designation;

(7) that all valid existing rights and historical uses be allowed to be fully exercised without undue restriction or economic hardship on lands designated as wilderness as provided in the Wilderness Act of 1964; and

(8) that management of vegetation, reservoirs, and similar facilities on watershed lands designated as wilderness be continued by state or private means.

Be it further *RESOLVED* that the Legislature and the Governor conclude that elected county officials, after extensive public input, should develop the wilderness proposals and the conditions for acceptable designation of wilderness lands within their respective counties, with the aggregate of these respective county recommendations constituting the basis of the state proposal for BLM wilderness designation in Utah. The county officials should be consulted regarding any changes to their respective county recommendations.

Be it further *RESOLVED* that copies of this resolution be sent to President Clinton, the President of the United States Senate, the Speaker of the House of Representatives, the Secretary of the Interior, the directors of both the state and federal offices of the Bureau of Land Management, and Utah's congressional delegation.

UTAH CONGRESS OF
PARENTS AND TEACHERS, INC.
Salt Lake City, UT, March 20, 1996.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: Utah PTA encourages your support of S. 884, Utah Public Lands Management Act of 1995. This bill impacts the school of our state. Federal land designations capture school trust lands which were set aside at statehood to support Utah schools because 69% of our state is untaxed. Historically, promises to trade the captured land for land outside those designations have not been honored. We support S. 884 because the bill:

provides a responsible wilderness designation;

provides a process of equitable compensation to the school children;

provides for responsible water development under existing state laws.

We strongly oppose H.R. 1500, America's Redrock Wilderness Act of 1995 because the bill:

captures over a million acres of the school children's land without any provision for exchange;

designates wilderness lands that do not meet the Congressional definition of wilderness;

is not supported by the Utah Congressional delegation.

We rely on your commitment to the future generations of the school children of Utah by supporting S. 884.

Sincerely,

LINDA M. PARKINSON,
President.
PAULA M. PLANT,
Legislative Vice President.

UTAH STATE OFFICE OF EDUCATION,
Salt Lake City, UT, March 20, 1996.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: I strive to be an advocate for children, as I am sure you do also. I am concerned that Utah's school children stand to lose critical resources which would fund their education under H.R. 1500.

Therefore, I urge your support of S. 884. This legislation includes provisions to protect the school trust lands within Utah. It is vital that these lands be capable of producing income which in turn supports the public education of Utah's children.

Utah receives minimal federal dollars for education when compared to other states. At the same time, we have more children per taxpayer to educate than any other state.

Please align your position on the side of the children. Vote in favor of S. 884.

Sincerely,

JANET A. CANNON,
Member, Utah State Board of Education.

UTAH FARM BUREAU FEDERATION,
Salt Lake City, UT, October 27, 1995.

Re S. 884.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: This letter is to reaffirm the support of the Utah Farm Bureau Federation for Senate Bill 884, the Utah Wilderness bill introduced by you and Senator Bennett, with a companion bill in the House. The Utah Farm Bureau Federation has nearly 22,000 member families, spread across the entire state with members in every single county of the state. It is responsibly estimated that there are about 93,000 citizens of Utah in these 22,000 families. A large majority of the farms and ranchers in Utah are members of Farm Bureau. Also, we have members who are not currently farming or ranching, but who may be absentee owners of farms or ranches or who are sons and daughters or grandsons and granddaughters of active farmers.

The basic provisions of this bill have been the subject of widespread discussion among

VOL
142
PT
5
MR
21
—
29
1996
UMI

our members. Some would have liked an even smaller total acreage than the 1.8 million in the bill. But we recognize this is a good compromise between the radical 5.7 million acre bill proposed by some groups, and the "zero wilderness" position of some.

We are particularly pleased with the release language, the effort to protect vitally important water rights, the protection against de-facto buffer zones, and the overall attempt in the bill to comply with the original intent of Congress in the 1964 Wilderness Act. Above all, it is critically important that we end this long, divisive and very costly debate over what is and what is not formally designated wilderness in Utah. Public lands are absolutely essential to the economic viability of rural Utah. We need to get this issue settled.

We compliment you and other sponsors of this legislation. We assure you of our support and urge every effort to obtain passage of the bill.

Sincerely,

C. BOOTH WALLENTINE,
Executive Vice President and
Chief Administrative Officer.

RESOLUTION No. 95-05

Whereas, legislation currently pending in Congress, H.R. 1745 and S. 884, would designate wilderness areas on Bureau of Land Management lands in the State of Utah; and

Whereas, the designated wilderness areas would encompass school and institutional trust lands; and

Whereas, said legislation provides for the exchange of the included school and institutional trust lands for other lands owned by the federal government outside of the designated wilderness areas; and

Whereas, the federally-owned lands are currently subject to leasing under the federal Mineral Leasing Act (30 U.S.C. §§180 et seq.); and

Whereas, the federal Mineral Leasing Act provides that the State of Utah shall receive fifty per cent (50%) of the revenues from the leasing or production of minerals on those lands; and

Whereas, the valuation which the School and Institutional Trust Lands Administration has placed upon the lands to be exchanged has taken into account the rights of the state of Utah under the Mineral Leasing Act; and

Whereas, federal and state laws do not currently allow the School and Institutional Trust Lands Administration to sell the mineral estate; and

Whereas, the proposed language in the federal bills would make the obligation to share revenue a valid existing right applicable to all subsequent owners, should the School and Institutional Trust Lands Administration no longer own the mineral estate; and

Whereas, the trust is seeking to acquire the targeted federal lands listed in the federal bills because of the potential for development; and

Whereas, the Board of Trustees desires to ensure that, based upon the valuation provided by the School and Institutional Trust Lands Administration and accepted by this Board as of the date of this resolution, the State of Utah receives revenues from the production of minerals on the lands which become school trust lands as result of the exchange provided for in H.R. 1745 and S. 884.

Therefore, be it *Resolved*, That, subject to the condition that the lands to be exchanged with the federal government as part of the directed exchange currently included in H.R. 1745 and S. 884 are of approximately equal value, as approved by this Board, such valuation taking into account the right of the State of Utah to receive fifty per cent (50%) of the revenue from the production of minerals that are leased pursuant to the federal Mineral Leasing Act (30 U.S.C. §§180 et seq.), the Board of Trustees of the School and Institutional Trust Lands Administration supports the inclusion of language in H.R. 1745 and S. 884 which provides for the distribution of fifty per cent (50%) of the proceeds resulting from the production of leased minerals on the lands acquired by the state, which minerals would have been covered by the federal Mineral Leasing Act (as amended through the date of enactment of H.R. 1745 and S. 884) if the lands had been retained in federal ownership. The Board also supports language in H.R. 1745 and S. 884 which provides that;

1. the proceeds shall be collected by the Administration and distributed, after deduction of a pro rata share of administrative costs, to the state of Utah;
2. disputes concerning the collection and distribution of the revenue shall be resolved pursuant to Utah state law;
3. that such obligation to collect and distribute proceeds shall end if the trust no longer owns the mineral estate; and
4. the collection and sharing of the proceeds from timber production shall also be shared in accordance with current applicable law.

The language supported by the Board is attached hereto and incorporated herein by this reference, consisting of the Committee Draft of H.R. 1745 and amendments proposed by this Board.

Adopted this 20th day of November, 1996.

Ruland J. Gill, Jr., Chair, Board of Trustees of the School and Institutional Trust Lands Administration.

Mr. HATCH. Mr. President, I have taken a long time here, but, frankly, this needed to be said. I realize that many people on the other side of the issue are very sincere people. I happen to believe in the environment myself. But I also know if we do not worry about human beings, there will not be an environment in the end, because sooner or later someone is going to rise up and an extremist on the other side is going to take control if we act like you cannot have balance on these matters.

All the sincerity in the world does not make it right. I think we have done a very good job of crafting a bill here that brings the vast majority of all people together, while leaving the extremists still screaming at us; but even they will die down once the bill is passed, just like the two ends of the extremist spectrum who moaned and groaned about the Utah Forest Service wilderness proposal.

We went through this with that bill, too, when we came up with 800,000 acres. Once it was passed, the screaming basically went away. Everybody understood that it was a good bill. Today, people are bragging about it all over Utah. The elected leaders and environmentalists are because we did a good job. I was here. I worked on it. I worked on it with Senator GARN and Congressman HANSEN, and others. The fact is, we worked hard to get it done. That is what we have done here. I hope our colleagues will give some credibility to that.

Perhaps the most misunderstood aspect of this bill has been the so-called release language. Let me take a moment to explain this in greater detail. The release language in the bill would release those public lands not designated wilderness by this legislation from any further wilderness study or review by the BLM. In other words, they would fall back into the pool of lands the BLM manages for various purposes but without the official status of wilderness. It would still be managed by the BLM. We would still be subject to the environmental rules and regulations. It just would not be wilderness, which means that it would not be land that only backpackers could walk on. There would be some reasonable use of the land, but very, very stringently controlled by the BLM.

This is an important point. The land is still managed by the BLM. It does not go into private hands. Some would have you believe we are going to build a shopping center on every acre of that land.

Under section 603 of the Federal Land Policy and Management Act of 1976, the Secretary of the Interior studies those roadless areas of 5,000 acres or more and roadless islands of public lands for their wilderness characteristics and reports to the President on the suitability or nonsuitability for each designation of wilderness. The President submits a recommendation to the Congress, and a designation of wilderness shall become effective only if as approved by an Act of Congress.

There was supposed to be a beginning of the study process—initiated by the BLM—and an end. The Wilderness Act of 1964, together with FLPMA, provides the recipe for designating wilderness. This was not a process designed to go on in perpetuity, causing the BLM or the Forest Service to manage lands as if they were wilderness forever, which is what we have been living with in Utah.

Our bill follows the plan for designations set out under these laws. It is a plan that allows lands to be protected for their wilderness values and character and at the same time brings closure and finality to the process.

The conception of releasing lands not chosen for wilderness designation has never been controversial. The Congress has made it through countless bills to designate wilderness in the time I have been a Senator. Each time a bill is passed into law, the lands not designated were released. That is the normal process. Why is release in this bill such a lightning rod issue? I suspect it is because the lands in the study areas have been managed as wilderness for almost 20 years. In addition, the lands included in H.R. 1500, the so-called environmentalist bill—or at least, the environmentalist extreme bill—have been

managed as de facto wilderness in recent years.

All it takes for all of this land to be de facto wilderness is to let this process go on forever. Face it, it is hard to let something go once you have it. Environmentalists are loath to pass legislation designating less land in the wilderness than what is already basically wilderness now or de facto wilderness. I am not unsympathetic to their motives, but I disagree with the result. It holds millions of acres in legal limbo, some think illegal limbo; our people in Utah feel illegal limbo.

Our bill contains release language that would have prevented BLM land managers, the on-the-ground professionals, from being able to manage nondesignated lands for their wilderness value and character.

Our concern was the Federal managers would continue to manage land as wilderness even though Congress has made a conscious decision that certain land did not have the wilderness characteristics and values meriting formal designation. We included the term "nonwilderness" multiple use in our bill which we believed would accomplish this goal.

As my colleagues know, that phrase in and of itself caused more concerned to be expressed about our bill than possibly any other section in our bill. In fact, it led to a lively debate last December during the full committee markup on our bill.

That was then. This is now.

In today's proposal before this body that term has been eliminated. Our release provision has been modified substantially. The new release language which is contained in the substitute amendment is simple and straightforward. It simply states that the BLM lands located in Utah have been properly studied for their wilderness characteristics, and that those not designated as wilderness by our bill need not be studied or pursued any further by the Secretary.

In addition, these lands will be managed for the full range of multiple use as defined in section 103(C) of FLPMA in accordance with land management plans adopted by the BLM pursuant to section 202 of the Federal Land Policy and Management Act of 1976.

What this says to the Federal managers is that, now that wilderness has been designated, assuming this bill passes, the balance of the land should be managed under existing laws and regulations where appropriate. It is not a signal to the mythical lineup of bulldozers to start their engines, as some might say, because it simply does not leave these lands unprotected.

I repeat, it will not leave nondesignated lands open for unrestrained and uncontrolled development. There are other designations available to the BLM other than wilderness to protect our natural resources from this occurring. These designations are proposed, examined and eventually undertaken through the land use planning process outlined in section 202 of FLPMA.

To give comfort to those who remain convinced that our language will not afford these lands the protection they deserve, let me recount the criteria to be reviewed by the Secretary when developing and revising land use plans. In subsection (c) of section 202, the Secretary shall:

(1) use and observe the principles of multiple use and sustained yield;

(2) achieve integrated consideration of physical, biological, economic, and other sciences;

(3) give priority to the designation and protection of areas of critical and environmental concern;

(4) rely on the inventory of the public lands, their resources and other values;

(5) consider present and potential use of the public lands;

(6) consider the relative scarcity of the values involved and the availability of alternative means and sites for realization of those values;

(7) weigh long-term benefits to the public against short-term benefits;

(8) provide for compliance with applicable pollution control laws, including State and Federal air, water, noise or other pollution standards or implementation plans; and

(9) coordinate the land use inventory, planning, and management activities for such lands with other Federal departments and agencies and of the States and local government within which the lands are located.

Just look at these Bureau of Land Management special designations to which we will be subject to. It is not that the lands are going to be just opened up for any kind of use. Look at the list of these various things they will be subject to.

Subsection (f) directs the Secretary to provide an opportunity for Federal, State, and local governments and the general public to comment upon and participate in the formulation of plans and programs relating to the management of public lands.

Certainly my colleagues would agree that there is no better way to manage these nondesignated lands than by the book and in accordance with FLPMA. There is not any better way. That is what our release language does. It provides they be managed the way FLPMA says they will be managed.

In Utah, all of the public lands are covered by land use plans developed pursuant to section 202 of FLPMA. I understand some of the plans in Utah are not as current as they might be; but, nevertheless, they provide protection for the resources, particularly those not designated as wilderness. Within each plan, the BLM will consider the resources present in an area and what protection they need.

Last week, I asked the Utah State BLM director to provide me with a summary of those special designations that can be developed through the land use planning process for Federal managers to protect specific resources.

I have produced these two charts that list those special designations and a brief summary of what each designation is for. These designations include:

Areas of critical environmental concern—for those areas that have special unique or rare values;

Outstanding natural areas—to protect unusual natural characteristics for education and recreational purposes;

Visual resources management designations—that are utilized to maintain a landscape that appears unaltered, to retain the existing character of a landscape, and to manage activities that may lead to modifications in that landscape;

Coal management designations—indicating where coal leasing and development can occur and the types of methods that can be used. I might mention in that regard, Utah is the Saudi Arabia of coal. By the way, it is environmentally sound, high-moisture content, low-sulfur content coal that will be necessary to keep the rest of the country environmentally clean.

Continuing with the designations:

Designations for locatable energy and nonenergy leaseable minerals—indicating in what areas the mining laws are open or closed;

Off-highway vehicle designations—I am only listing a few—indicating where such use is open and closed.

These are just a few of the special management designations available to the local BLM manager that can be used to protect this country's resources and our State's resources.

If a designation is made and a particular activity is inconsistent with this designation, it will not occur. The only "golden arches" dotting the protected Utah landscape will be the ones covered by the elements over centuries.

While I may not always agree with them, I have faith that our local BLM managers will use these designations in the proper way after establishing their merit through the proper public process.

Again, the substitute bill does not exempt nondesignated wilderness lands from being designated in any of these categories. There are also designations that can be made by Congress or the Secretary of the Interior to establish systems of national importance and to include components within these national systems. The Utah State BLM office provided a list of these authorities, which I have produced on another chart.

These designations include: national wild and scenic rivers, national conservation areas, national outstanding natural areas, critical habitat areas, national historic landmarks, and national scenic areas, just to mention a few. There are others, as well, on the list. There is a wide latitude available

VOL
142
PT
5
MR
21
—
29
1996
UMI

to Congress and the Secretary to utilize these designations in a manner befitting the resources and the management scheme they mandate to protect them in their true character.

In addition to all of these designations, there is a plethora of environmental laws and regulations to which the management of our public lands must adhere.

Again, I asked the Utah State BLM Director to provide me with a list of those Federal laws—and I am only talking about Federal laws, not State laws; we have a lot of State laws, too. These are Federal laws that involve BLM activities, to which the BLM managers, as they manage the Federal lands, must adhere. Look at these. We have discussed many of these authorities so far. But, my colleagues need to consider all of these legislative authorities that involve BLM.

An abbreviated list of these laws is located on the two charts I have produced here. I emphasize that these lists are not full lists. I have listed these legislative authorities which I thought were more pertinent to this debate than others. I have not prioritized them in any particular fashion, other than to place them in groups according to their particular management emphasis. I will mention a few that are on this list for the benefit of my colleagues. I understand Senator MURKOWSKI has submitted this list for the RECORD in his remarks, but I will mention a few. These include:

FLPMA; National Environmental Policy Act, or NEPA; Clean Air Act; Federal Water Pollution Control Act, or Clean Water Act; Safe Drinking Water Act; Solid Waste Disposal Act; Resource Conservation and Recovery Act; Superfund; Mining Law; Mineral Leasing Act; Federal Coal Leasing Amendments; Surface Mining Control and Reclamation Act, or SMCRA; Energy Policy Act of 1992;

Public Rangelands Improvement Act; Endangered Species Act; Wild and Free-Roaming Burro Act; Act for protecting Bald and Golden Eagles; Toxic Substances Control Act; Migratory Bird Conservation Act; Federal Insecticide, Fungicide, an Rodenticide Act; Water Resources Development Act; Soil and Water Resources Conservation Act; National Historic Preservation Act; Wild and Scenic Rivers Act; Wilderness Act; Archaeological Resource Protection Act; and Antiquities Act.

This is just to mention a few. It is mind boggling. I am sure my colleagues will agree that this is a "Who's Who" list of environmental laws, and the activities that occur on public lands not designated wilderness by our proposal will be subject to each and every one.

I will repeat what I said a moment ago in relation to this list of environmental laws. Our bill does not exempt nondesignated wilderness lands—any of those lands released for regulated multiple use under the bill—from any provision, contained in any of these laws and their corresponding regulations.

Our release language does contain a sentence that has raised questions. This sentence says: "Such lands shall not be managed for the purpose of protecting their suitability for wilderness designation." What does this mean? This means that Federal managers will not manage a tract of land for the purpose of its possible inclusion by Congress within the National Wilderness Preservation System.

As my colleagues will note from the chart listing the special designations available for BLM managers, "Future wilderness designation" is not listed because it does not exist. There is no designation or direction from Congress to the agency, outside of section 603(c) of FLPMA, that says you should manage land for the purpose of its future designation as wilderness. There is no such rule or law.

But we have told the agency that we want lands protected for their unique geographical and geological traits, for their special and rare topographical values and qualities, historical values, and so forth.

The way to do this is through the existing authorities and designations available to the BLM.

This sentence in the substitute does not foreclose a Federal manager from managing an area of land to protect its wilderness character. This sentence does not prohibit a BLM district manager from managing an area of land for its wilderness values. Statements to the contrary are false.

And, more importantly, it does not foreclose a future Congress from revisiting this issue and designating additional lands as wilderness. We cannot bind a future Congress, and we do not in our bill.

During last year's markup on our bill, there was lively discussion regarding our release language. On two separate votes, the committee voted to keep our release language in the bill.

However, it was clear from the statements made at the markup, and shortly thereafter to me and Senator BENNETT, that committee members hoped we would address the issues that they raised during the markup.

We have done that with this language. As I said, the term "nonwilderness" multiple use has been removed, and there is no language preventing the agency from managing lands to protect their wilderness character.

I want to thank all the members of the Senate Energy Committee, particularly Senators JOHNSTON and BUMPERS and MURKOWSKI, for their constructive criticism of our original language and for their suggestions for ways to amend it. The amendment offered by Senator JOHNSTON at the December markup of the committee provided the impetus for this change.

I must say I agree wholeheartedly with the comment Senator JOHNSTON made prior to the vote on his amendment. He said that the effect of his amendment would be to "do away with what is a present practice, which is also offending, which is managing for the purpose of some future designation as wilderness."

That also is the effect of our language. We think it is a worthwhile effect.

Now, I know I have taken enough time. But this is an important issue—one of the most important issues in my whole time in the U.S. Senate. I am hopeful that our colleagues will help Senator BENNETT and myself to get this through. Should it be that they do not, it is going to come back and come back and come back again because we have to get this problem solved in our State.

Frankly, I do not mean to disparage anybody who feels otherwise about this, as there are very sincere people on both extremes of this issue. We have tried to achieve a compromise in the middle, where the vast majority of people can agree. I think people of good will who realize what we are trying to do will agree. I think we have given reason for every one of our colleagues here to consider the hard work we have done and the pain we have been through, and the efforts that we have made to get this done.

In that regard, I want to pay particular tribute to my colleague and my friend from Utah, Senator BENNETT. When he was on this committee, he did yeoman work with other members to apprise them of this matter. Since he has not been on the Energy Committee, he has worked very close with his former colleagues on that committee to help get this done. We have worked side by side, and we are going to continue working side by side. We both have tried to be reasonable in every way in this Congress as we serve here in the Senate. We are going to continue to try and be reasonable.

I want to pay tribute to him because he has been a voice of reason on this issue—an intelligent voice of reason. I personally believe that, when this passes, he will deserve a great deal of the credit, as will our dear friend and colleague, Congressman HANSEN, in the House, who has carried this proposal very strongly over there. Some in the media have said that this cannot pass the House. That is not true. If we pass it, it will pass the House whenever the vote comes.

I hope our colleagues will give some consideration to the efforts we have made, the good faith that we have shown, and the fact that we believe we are representing our State and the Nation in the very best way on this very critical issue to us. This is a very, very important Utah wilderness bill.

I yield the floor.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I would like to start by saying how much I admire Senators HATCH and BENNETT for working on this bill—particularly Senator HATCH, who has worked on some form of this bill for almost two decades. Having worked 10 years on the Colorado wilderness bill, I know of the difficulty of doing it, because they are all highly charged, emotional debates.

I think the American public may not quite know what they want with a balanced budget amendment or with health care, but, believe me, they all know what they want when it comes to their land. All of them own the public lands, the areas in or without wilderness, either one. But some want to hunt on it, or run their off-road vehicles on it, and some want to graze on it, and some want to fish or take pictures, or dig for gold and use timber. And they would like everybody else off of it.

Coming from a western State, the Presiding Officer certainly knows the difficulty we get between the special interest groups, who understand that it belongs to everybody, but would prefer that their particular interest gets a priority in using that public land. But it does not happen that way.

For 3½ hours, we have been talking about one section of this bill, really—the title of the Presidio omnibus bill, not the Utah wilderness bill. Utah Wilderness is just 1 title of 33. There are 33 titles in this bill, and all of them are very important. In just title II alone, in fact, there are 16 different areas that probably will not get too much debate because they are not as controversial as the Utah wilderness bill, which is just 1 title. Certainly, when we are something like 30 years behind on finding the money to purchase land that we have already authorized to go into the Park Service and over 20 years behind on the appropriations for building the buildings in the parks, those are all just as important as any other section.

Mr. President, I rise today to call attention to several bills within the Omnibus package that are of particular interest to me and my home State of Colorado. Each of these bills deserves distinction in its own right, being crafted with years of collaborative hard work and dedication. I would like to make brief comments on each of them, and urge my colleagues to support these noncontroversial bills in final passage.

One little section under section 224, "Volunteers in Parks Increase." I do not think anyone has a doubt that in this day of fiscal responsibility that we are supposed to be trying to save some money. But the importance of volunteers throughout America is going up. That probably will not get into the debate today and tomorrow. But there are many others.

Over 50 Senators, it is my understanding, either have sponsored or cosponsored some of these titles, and many of them are extremely important.

The Corinth, MS, Battlefield Act, the Walnut Canyon National Monument Boundary Modification, Greens Creek Land Exchange, Butte County Land Exchange, on and on. Title XXIII, Colonial National Historical Park—all extremely important. And yet, because the Utah wilderness bill, which is just one section, is so controversial, it seems to be getting all of the debate so far.

Let me just talk a little bit about the things that we have worked so hard for in Colorado that are also part of this bill.

Title IV, Rocky Mountain National Park Visitor Center is one of the largest and most visited in America. This bill provides the authority for the National Park Service to use appropriated and donated funds to operate a visitor center outside of the boundary of Rocky Mountain National Park.

We worked on this a number of years. And it is a good bill. But it is only one part of the bigger omnibus bill.

The Park Service has been in need of a visitor's center at the eastern entrance to Rocky for many years now, but due to fiscal constraints, they have been unable to get adequate appropriations. Thanks to a generous private-public partnership proposal, the Park Service has an opportunity to provide a visitor service outside the park boundaries. This legislation would simply make this type of partnership possible for the Park Service. This type of private-public opportunity is exactly what the Federal Government should be taking advantage of these days, and I am encouraged by the proposal for the Fall River visitor center that has been put forth. This center would help the thousands of visitors that flock to the park each year, and would save the Government millions in taxpayer dollars.

TITLE X: CACHE LA POUDRE

This bill would designate approximately 35,000 acres between the cities of Fort Collins and Greeley, CO, as the Cache La Poudre River National Water Heritage Area.

Senator BROWN, my colleague from Colorado, has worked almost 20 years since he has been in the House and on the Senate side to get that bill passed. It is just one section of this larger omnibus bill.

The headwaters of the streams that flow into this river tell the story of water development and river basin management in the westward expansion of the United States. This historical area holds a special meaning for Coloradans, and we feel that it deserves national recognition as a heritage area. In addition to the designation, this title will help establish a local commission to develop and implement a long term management plan for the area.

This bill holds great distinction for me, for I have been working on it for many years with my good friend and colleague, the senior Senator from Colorado. The good Senator has been trying to get this bill enacted into law for over 20 years now, and each revision of the bill has been a more worthy product than the last. There are always a couple of bills that hold special meaning for us personally, and the Cache La Poudre is a good example of one that the senior Senator from Colorado has a particular interest in. I urge my colleagues to support this worthy bill, and see to it that it is enacted into law before the senior Senator from Colorado retires from our Chamber.

TITLE XI: GILPIN COUNTY, COLORADO LAND EXCHANGE

This bill is a simple, straightforward land exchange bill that will convey 300 acres of Bureau of Land Management lands in Gilpin County, CO, for the acquisition of 8,733 acres of equal value within the State.

I do not think there is any doubt that the Federal Government and the taxpayers of this country get the best of that trade. They are going to get 8,733 acres for just 300 acres of BLM land.

The bill seeks to address a site-specific land management problem that is a result of the scattered mining claims of the 1800's. The Federal selected lands for conveyance are contained within 133 scattered parcels near the communities of Black Hawk and Central City, most of which are less than 1 acre in size. These lands would be exchanged to the cities of Black Hawk and Central City to help alleviate a shortage residential lots.

In return for these selected lands, the Federal Government will receive approximately 8,773 acres of offered lands, which are anticipated to be of approximately equal dollar value to the selected lands. These lands are in three separate locations, described as follows:

Circle C Church Camp: This 40-acre parcel is located within Rocky Mountain National Park along its eastern boundaries, and lies approximately 5 miles south of the well known community of Estes Park. This acquisition can provide additional public camping sites and address a current shortage of employee housing in the popular national park.

Quilan Ranches tract: This 3,993-acre parcel is located in Conejos County, in southern Colorado. This land has excellent elk winter range and other wildlife habitat, and borders State lands, which are managed for wildlife protection.

Bonham Ranch—Cucharas Canyon: This 4,700-acre ranch will augment existing BLM land holdings in the beautiful Cucharas Canyon, identified as an area of critical environmental concern

VOL 142 PT 5 MR 21 — 29 1996 UMI

[ACEC]. This ranch has superb wildlife habitat, winter range, riparian areas, raptor nesting, and fledgling areas, as well as numerous riparian areas, raptor nesting, and fledgling areas.

Any equalization funds remaining from this exchange will be dedicated to the purchase of land and water rights—pursuant to Colorado water law—for the Blanca Wetlands Management Area, near Alamosa, CO.

It is clear that the merits of this bill are numerous. Moreover, the bill is noncontroversial, and while it may not have dramatic consequence for people outside of the State of Colorado, it represents a tremendous opportunity for citizens within my State. Due to the time-sensitive and fragile nature of the various components of this bill, I would urge my colleagues to act expeditiously and support this legislation.

TITLE XVIII: SKI FEES

For years a number of us in the west have supported legislation that tries to find some common sense and reason for the administration of Forest Service ski area permits. This title will take the most convoluted, subjective, and bizarre formula for calculating ski fees, developed by the Forest Service, and replace it with a simple, user friendly formula in which the ski areas will be able to figure out their fees with very little effort. We think this is important.

The current formula utilized by the Forest Service is encompassed in 40 pages and contains hundreds of definitions, rulings, and policies. It is simply government bureaucracy at its worst. For the ski industry, this formula is a monstrous burden, and with the expansion and diversification of many ski resorts, this burden grows increasingly more complex each year.

Mr. President, in the 5 years that I have worked on this issue I have heard virtually no opposition to this bill. It enjoys broad bipartisan support, and I hope that my fellow Senators will act swiftly and resoundingly in supporting it.

TITLE XXIX: GRAND LAKE CEMETERY

Mr. President, this title simply directs the Secretary of the Interior to authorize a permit for the town of Grand Lake, CO, to permanently maintain their 5-acre cemetery, which happens to fall within the boundaries of Rocky Mountain National Park. This cemetery has been in use by the town since 1892, and continues to carry strong emotion and sentimental attachments for the residents. This is a little, tiny cemetery near Grand Lake that started over 100 years ago—104 years ago. For 104 years that little cemetery has been in effect. And this cemetery has been used by the town. This portion of the omnibus bill will give the town a long-term permit to maintain that little cemetery.

Currently, the cemetery is operated under a temporary special use permit, which is set to expire this year. By granting permanent maintenance authority to the town, this title creates lasting stability to this longstanding issue. It is completely noncontroversial, and widely supported by both the community and the Park Service.

TITLE XXXI: OLD SPANISH TRAIL

This bill was just introduced a year ago. So it has not been worked as some others have been nearly so long. But we think it is important in this day and age when everybody is trying to preserve the cultural parts of America which is fast declining and going under concrete.

Mr. President, the last bill in this package that I would like to speak on today is another bill that holds special meaning for me. I have been working on this legislation for many years now, and I am pleased to see that this title has seven different cosponsors from both sides of the aisle.

This title would designate the Old Spanish Trail and the northern branch of the Old Spanish Trail for study for potential addition to the National Trails System as a national historic trail.

The Old Spanish Trail has rightly been called "the longest, crookedest, most arduous pack mule route in the history of America." It is that, and more. The Old Spanish Trail tells a dramatic story that spans two centuries of recorded history and originated in prehistoric times. This trail witnessed use by Utes and Navajos, Spaniards, Mexicans, and American trappers, explorers, and settlers, including the Mormons. Its heyday spans the development of the West, from the native on foot to the mounted Spaniard to the coming of the transcontinental railroad. Few routes, if any, pass through as much relatively pristine country. It is time to recognize and celebrate our common heritage, and I would request that my colleagues support this title.

These bills are all noncontroversial and somewhat parochial. They may not mean a whole lot to many Members in this Chamber, but they mean a great deal to me and my constituents. I am not sure what course this debate will take, or even what role I will have in the next few days. But I would like to say for the RECORD, Mr. President, these bills that I have highlighted in my speech today are worthy of passage and are worthy to be enacted into law. Let us not forget the elements of this debate that may not be as star-studded, but are equally important.

Mr. President, I wanted to take a moment to try to add a little bit of perspective to what this bill is all about. It is very complicated. It is tremendously difficult. But the vast majority of the 33 titles have been worked out and have no opposition at all. Very few of them have any opposition. To spend all of the time on one on which I think the majority of the disagreements have been worked out already—which is the Utah wilderness bill—I think is going to be time consuming and not very productive.

So I wanted to add my voice to those who are saying there is more to this bill than just Utah wilderness. Utah wilderness is extremely important. But through the work that Senator HATCH and Senator BENNETT have done I think they have gotten a pretty good compromise. I know from the years that we worked on the Colorado bill that it does not make any difference how much land you put into a wilderness bill. There will be people who say that it is not nearly enough, and that it should be twice the size, or three times the size, or four times the size.

That is what we have gone through in virtually every wilderness bill that we have dealt with here.

I want to compliment Senator BENNETT and Senator HATCH for the work that they have already done on it, and to tell my other colleagues that hopefully we will keep this in perspective and recognize there is an awful lot of other extremely important parts of this omnibus bill.

Thank you, Mr. President. I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Utah.

Mr. BENNETT. Mr. President, I want to thank my colleague from Colorado for giving us that perspective which I think perhaps we needed.

If any of our colleagues are watching in their offices, they may think that the Utah wilderness bill is the only issue and that we are involved in overkill, perhaps. However, there are some things that I think appropriately should be said in this circumstance. And I will do my best not to repeat what has been said by my colleagues, Senator MURKOWSKI, and Senator HATCH.

I would also like to take the opportunity to thank Senator JOHNSTON, my colleague from Louisiana, for his kind words at the beginning of this debate. He provided a tremendous amount of help on this issue when it was before the committee. And, as he said accurately, it was his proposal backed unanimously by all of the Democrats on the committee that became the basis for the final wording of the bill in terms of the release language.

I agree with Senator HATCH—that many of those who are now attacking the bill in newspaper advertisements and elsewhere have not read that language and need to understand that they are attacking a bill that no longer exists. I know that does not meet their needs because their political needs require them to attack the very worst possible bill. I do not happen to think our first proposal was the worst possible bill. But they do, and they can

keep the emotion up, if they continue to attack that which we have long since abandoned.

Mr. President, I have a different view perhaps of this issue. And I apologize if this is unduly personal. But this is the only way I can really describe how I come to this issue.

I am a city slicker. That is a term used perhaps in some places. But I grew up in a city, went to school in a city, and raised my family in a city. I knew little or nothing about these issues until I decided to run for the Senate. I came with the perspective of somebody for whom wilderness meant a drive in the country on a Sunday afternoon.

My opponent for the Senate was the author of H.R. 1500, the bill that called for at that point 5.4 million acres of wilderness in Utah, and he was lionized by all of the same groups that are now buying the full-page ads in national publications to attack the bill that we are debating here today.

It was interesting to me to follow him around the State of Utah and see him back away from his original proposal the more exposure he had to real voters.

It is also interesting that now that the voters of Utah decided to retire him from public life that he has become the chairman of the Southern Utah Wilderness Alliance, the group that has been paying for these advertisements around the country. I do not know how much they spent. I would guess it would be millions of dollars, knowing what I do know about the cost of advertisement—perhaps even in the tens of millions of dollars. We will never know. The group will never tell us. The group does not tell us where their financial support comes from. The group does not tell us who is behind their efforts. But they have mounted this effort and run these ads in attack of this bill.

As I say, I am a city slicker. I came to this issue really with no preconceptions one way or the other. I was forced into it by virtue of the fact that my campaign was against Wayne Owens who was the primary mover of this effort, and who continues, as I say, today as one of the primary forces behind it. I decided I had better learn something about the issue. I know that strikes some people as a little strange in politics. But I decided that I was not going to be able to run on discussion of this if I did not know anything about it.

So this is what I did to try to find out about it. The first thing I did was talk to the people who lived on the land.

I went out to the land, and I sat down with the people who live there, and I asked them to tell me about it. I will not bore you with all the things they told me, but one conversation sticks in my mind. A woman down in southeastern Utah walked out with me. We had been in an area where we had been having dinner with a group of people. We walked out into the open air, and she said, "BOB, look around. What do you see?" Well, I did not know what I was supposed to see, so I had to make up some kind of comment. I did not know what I was looking for. But she said, "Look around at this land. What do you see?"

I shrugged my shoulders a little, and I said, "It's pretty." She said, "It's pristine." I said, "Yes, that's right. It's pristine. That's wonderful." She said, "BOB, my family and I have been making our living off this land for five generations. Tell me we don't love it and we can't take care of it properly."

So that was the first experience I had as I went out and talked to people who live there and have their feeling of stewardship for the land. It is very real. I submit to the Senator from New Jersey that it is as real as his sense of stewardship or that of anybody else who sends in their subscriptions to the various environmental groups but who has never had the experience of living on the land from generation to generation.

These people are not despoilers. These people are not exploiters. These people are stewards, and they are good stewards, of the land. The reason the land is in the condition it is in that we can be talking about it as needing to be preserved for our children is that these people have preserved it in that condition for five generations and more.

All right. That is the first thing I did. I talked to those who live on the land. Then I decided, well, I better talk to the professional managers, the people who make their living managing this land for the Federal Government. As Governor Leavitt pointed out in his letter that Senator HATCH quoted, the professional managers run more of the State of Utah than the elected Governor does. The head of the BLM in Utah geographically has wider sway than the Governor and the State legislature put together.

So I went and talked to these professional managers, and I asked them to tell me about this wilderness thing, help me understand it. They looked at me. They had to take my measure for a little while. They had to decide whether I was really serious about trying to get their view. When they finally decided that I was serious about wanting to know without any preconception, they said, "Senator"—by this time I had been elected so they used that term. They said, "Senator, we can't manage 5.7 million acres of wilderness. You give us 5.7 million acres as wilderness, and we are going to have all kinds of incursion into that land because we don't have enough police force to keep people off land that they have been traditionally entering for many, many years. We are finding it already in the study areas; the 3.2 million acres that are being studied cannot in perpetuity be managed as wilderness. We are already seeing incursions that we can't control."

They said, "One of the reasons the BLM came up with 1.8 million acres of wilderness is that we decided that was the maximum amount we could effectively protect as wilderness. The rest of it simply could not be managed."

They gave me this example of why some acreage is not appropriate for wilderness. They said the 5.7 proposal talks about land that comes right up to the highway. They said, "Senator, we cannot stop people out there along the highway from parking their cars on the side of the highway and picnicking on that land."

Now, the land has no wilderness characteristics in the terms of the bill as Senator HATCH has described; that is, the original Wilderness Act. The reason it is included in the 5.7 is that these people want it as buffer land for wilderness area that is maybe 5, 6, 10, 20 miles away. So they have taken the wilderness area that is 20 miles away from the highway and decided that in order to protect it, in their view, they are going to put the wilderness designation right up to the highway itself.

They said, "Now, Senator, stop and think about it. Are you getting the wilderness experience in an area untrammeled by man when you are standing 50 feet away from an interstate highway?"

That is not the kind of solitude that the Senator from New Jersey waxed so lyrical about earlier this morning. That land does not qualify in any sense for a wilderness designation, and yet, according to these professional managers, it is included in some of the proposals that we have.

So I thought, well, OK, I have talked to the people who live there. I have talked to the managers. Maybe I ought to go see the land myself. So I went out to see the land, and I discovered something that as a city slicker I would never ever have known, something that I think is being ignored in this debate, something that has been ignored in this Chamber, and something that I would like to talk about as being crucial to this issue, and that is this. I discovered that human beings do not automatically degrade the quality of the environment. Indeed, I discovered that in some circumstances human beings improve the quality of the environment.

Is that not a radical notion? Everything we have been hearing about preserving wilderness is that we have to preserve this in its pristine, magnificent quality, or something really worthwhile will be lost and we will get in place of it something terrible that comes from human beings.

Let me show you some pictures, Mr. President, some that we have brought together and some that I saw for the first time as I was presiding the other

VOL
142
PT
5
MR
21
—
29
1996
UMI

night when the Senator from Wyoming was talking about grazing. Let us take first some of the pictures from the Senator from Wyoming because I think there is a significant point to make. I will not go through all of them as he did.

It so happens that in 1870 a photographer got loose in Wyoming, and he went around and took some pictures of areas that he thought were particularly significant. The picture on the top is in Jackson. It was taken on August 12, 1870. In 1976, a little over 100 years later, modern photographers going over these magnificent old photographs decided they wanted to go back to the same place and take a picture of exactly the same scene. So they did.

What do you see between 1870 on the top and 1976 on the bottom? You see a lusher environment. You see more trees, more vegetation, healthier grass than you saw 100 years ago. What is the difference? The difference is that for the succeeding 100 years wise stewardship by human beings has been practiced on that land, and environmentally it has gotten better and not worse.

We have another one by the same process, same photographers. This is also in Wyoming. I wish I had some pictures like this of Utah. I have one that I will get to.

Again, Jackson, August 20, 1870, on the top. You see the kinds of things that we hear on this floor about overgrazing and the range in terrible condition and the grasses having been destroyed, and so on. Now you look at it 100 years later with wise management and you see trees in the riparian area; you see lusher grass; you see healthier plants because human beings have exercised wise stewardship.

Now let us go to the one in Utah. The Senator from Wyoming had a whole series of these and built his whole presentation around them. I was tremendously impressed.

This one is not 100 years. This one is only about 50. I picked this one because the Escalante River is one of the areas of high controversy in this wilderness debate. The top photograph was taken in 1949. It shows the Escalante River. The bottom photograph was taken in 1992. What do you see in the bottom photograph? You see lush vegetation through the riparian area, so lush you cannot even see the river because there is so much foliage there. And where did that come from? That came from human intervention into the area. That came, primarily, from cattle.

We have heard so much about how terrible cattle are for the environment. We heard from the Senator from New Jersey the basic assumption that when cattle get into an area, there is automatic overgrazing. As I said, I walked the land myself. This city slicker went out and went over some land and discovered a fascinating thing that I would never have learned, growing up in Salt Lake City, UT. I had a guide who took me through it and he showed me two tracts of land, side by side. We walked over both. The one tract of land had cattle grazing on it on a regular basis. The vegetation was healthy. The watershed was good. The grasses were healthy and strong and lush.

We then went to another area, which, ironically, was BLM land where cattle permits had been denied. The first piece of land was private land, right next to it a piece of BLM land where permits had been denied. Here the land was beginning to turn to desert. There were no grasses. Such vegetation as was there was scrawny and drying up, showing, if you will, something very similar to the contrast in those two photographs.

I said to the man who was guiding me through, "All right, now tell me why this is?"

He says, "It is very simple." He said, "Out here in Utah and Arizona"—actually, this particular tract of land was in Arizona, right on the Utah border—"it is so dry that the land cakes, and when the water finally comes in the infrequent rainstorms, it hits this caked-over land, this dried-over land, and it runs off and does not get in below the surface to nurture anything, unless something comes along to break through the surface of that land." He said, "The something that most often comes along that can do the land most good is a cow."

When a cow comes along, every time it steps, before a rainstorm, afterward there is a little puddle of water in every one of those steps where the cow goes by. And then the seeds are coming through the air as the wind blows along. And where do those seeds get caught? They get caught in those little indentations made by the places where the cattle have stepped. And if there is water there and seeds there, and then fertilization—the cow carries that process with it and drops it along the way—you begin to get what you see in this patch of land, strong plants and lush grass, rather than the desert effect that you get in this patch of land where the cattle have been kept away.

That is exactly what has happened in the Escalante River. Yet, in the name of protecting the environment and doing what is best for the environment, there are people who would say the top photograph is better than the bottom photograph. The top photograph represents something we must preserve for our children and our grandchildren, and the bottom photograph represents exploitation and despoilation of our natural resources.

That is a moral judgment that I cannot make. I do not find any moral superiority in deserts over vegetation. Some people might be able to make that moral judgment. I cannot.

So I came away from that experience, talking to the people who lived on the land and finding them to be good stewards who loved the land every bit as much as anybody who ever sent off his card to the Sierra Club, talking to the managers who run the process and finding them to be conscientious and intelligent people who want to do the right thing for the land, and then finally walking the land myself and going through this process, I came away with the conviction that there is no single magic bullet for us to solve our environmental problems, such as slapping a wilderness designation on a map and then saying nature will take care of this and human beings, stay away forever and ever.

Let me give another example of why it is the people of Utah are so concerned about this question. Why do we care? Why do we care whether land is designated as wilderness or left in BLM inventory? What big difference does it make? Let me give one example in Juab County, UT, where there is a little town called Mona.

I have driven through Mona. I would like to say for the sake of this debate I have stayed there and talked with some folks, but I have not. I must be honest. I just kept right on driving, and you get through Mona pretty quick when you are driving. It does not slow you down very much. Mona's secondary source of culinary water is a spring located on Forest Service land. Unfortunately for the people of Mona, this spring extends into the Mt. Nebo Wilderness Area, which was designated in 1984. It is a small spring. It has a flow of only 5 to 20 cubic feet a second, depending on the time of year. The pipeline is operated by the tiny little Mona Irrigation Company.

For the last 2 years, Mona has been prevented by the Forest Service from accessing and maintaining the spring, even though the first historic use of the spring began in 1870.

Under the terms of the Wilderness Act, prior activities are grandfathered in and allowed to go on. If you had a grazing permit, according to the act, you can continue to graze. If you had a mining permit, according to the act, you can continue to mine. In fact, we know that once something is designated as wilderness, all that goes out the window, it is walled off, no human activity whatsoever regardless of what may have been going on there before. The historic use of this spring began in the 1870's. There has been over 120 years of use of this water.

The Forest Service, now, will not give permission for the tiny town of Mona to access and maintain its source of drinking water until an environmental assessment is completed.

I will say the Forest Service has not been obstructionist about this, in any kind of confrontational way. They have simply said this is what the regulations are and we are going to enforce

them. We are sorry about it. They have not been particularly cooperative. They have just enforced the rules.

So, for 2 years now, Mona cannot deal with maintaining this source of water that they have been using for 120 years.

I would be a little more sympathetic with the wilderness advocates if this spring were, say, 3 miles inside the wilderness boundary. Mr. President, it is 900 feet from the wilderness boundary. But they are forbidden from crossing that boundary to go provide maintenance on a source of water that they have been using for 120 years. That is the kind of thing that scares the living daylights out of the people in Utah, who live next to these wilderness designations and are saying, "What is going to happen to us when we start facing the bureaucracy that surrounds the enforcement of a wilderness designation?"

Much has been said about the process. I will not revisit that except to give my version quickly of what happened, and some of the things that we have gone through here.

As Senator HATCH pointed out, the BLM started the study here. I should point out for the sake of partisan clarity that the decision as to what would be studied and what would not was not made by Jim Watt. It was made during the Carter administration by those environmentally friendly folks who President Carter appointed to the Department of the Interior.

They did their study, they came up with their conclusion, and then they opened it up for standard appeals, comments and so on. The Utah Wilderness Association, a group not to be confused with the Southern Utah Wilderness Alliance, protested that the Department of the Interior and the BLM had missed some very significant areas. Their protest was not only heard; it was upheld. Some 800,000 acres were added to the study area in response to the protests of the Utah Wilderness Association. I happen to believe that that protest was wise and that the decision that was made to add those additional acres to the study area was the correct decision.

There were other protests that were made that were defeated in court. I made that point at the press conference where we all got together to announce our intention to try to resolve this issue, and some folks came up to me after the press conference and said, "Oh, no, no, Senator, we've never lost any of our appeals, we've never lost any of our challenges."

I said, "Well, then, my staff is misleading me and the folks at the BLM are misleading me. They said every time you have challenged this original designation you've lost."

"Well," he said, "we did have to withdraw some of our appeals, but it was withdrawn because we didn't have enough money. We couldn't afford to proceed."

I find that a very interesting statement in the light of what we have heard on this floor today from the chairman of the committee of roughly $1 billion of liquid assets in the hands of those who are fighting this bill. If they have enough money to buy a full-page ad in the New York Times, they have enough money to pursue their effort in behalf of some of these court challenges.

No, I do not think they withdrew the challenges because they did not have enough money; they withdrew the challenges because they knew they were without merit and they were going to lose and they did not want the embarrassment of having that loss on the record.

We decided—that is, the members of the delegation—in concert with the Governor that we were going to start this whole thing from scratch again. Senator HATCH has described the hearings that were held at the county level, the hearings that were held statewide and all of the rest of that. We are being told now that 75 percent of the people who responded to those hearings were in favor of 5.7 million acres. I can only agree with Senator HATCH that that is an incorrect figure, incorrect statement.

What was very clear to me as we went from place to place was that the caravan of protesters went with us. It became kind of a ballet. As the delegation would move into a new area, then all the protesters would move and they would have the same buttons on. They would come in and demand the places and then tell us the same thing they told us in the previous location. Then we would get in our cars and drive to this location and they would get in their buses and come, and we would go through the same charade.

For them to say 73 percent of the people who testified were all in favor of this other proposal, I would say it is the old story used when you turn down somebody for a job and he said, "But I've had 10 years experience," and the answer is, "No, you haven't, you've had 1 year experience repeated 10 times."

We had this same group of people repeating the same arguments over and over and over again. On one occasion, the Governor turned to say something to a member of his staff and the witness stopped and said, "Governor, I'm speaking to you." The Governor turned back and apologized, listened, and then said to me, "The reason I felt I didn't have to listen to her is because I had heard the same testimony from her four times and I thought I knew what it was she was going to say."

It was interesting to me that when we were through with this process, we came up with roughly the same result that the BLM had produced in their 15 years of activity. We did not try to do that. We did not deliberately set out to validate what they had done, but we found it fascinating that when we were through, we had the same result.

This is what we were told at those hearings, and we have heard some of it on the floor today. I would like to respond to it. We were told: "Wilderness will make money." We heard that from the Senator from New Jersey. "Tourists come to Utah, tourism is Utah's No. 1 industry. If we just add wilderness to the mix, we will make money."

Mr. President, I have a map of the State of Utah, and you will see that it is filled with bright colors. What are all these bright colors? The yellow is BLM land. You will see if you get close to it that there are a bunch of little tiny squares of purple all the way through there. Those purple squares belong to the State of Utah. Those are the school trust lands that came in the enabling act when the State was created. But all of the yellow you see here is BLM land. This happens to be a military reservation, the Utah Testing and Training Range. I do not recommend you go out there on your vacation; they are likely to drop bombs on you. That is what they do when they take off from the airfield.

The dark blue is water, Utah Lake and Great Salt Lake.

The green is Forest Service land. When we talk about the Federal Government owning 67 percent of the State of Utah, it is the combination of Forest Service land and BLM land.

The salmon color lands are Indian reservations. Interestingly, this area where it shows a great deal of white land is, in fact, an Indian reservation. I will tell you what the white is in just a moment.

This land is national recreation area, also not available for any kind of private development.

The white land that you see left over, that is private land. That is the amount of land that the citizens of Utah own. The Senator from New Jersey says Utah is one of the most urbanized States in the Union. Maybe when you see the land pattern you can understand. There is not any private land available except in the urban areas. That is a bit of an overstatement, but I think it comes closer than some may realize.

You may ask, "What is all this private land on what is supposed to be an Indian reservation?" That is land the Indian tribes handed out to their members, so it is still an Indian reservation but it is held by title by the members of the Indian tribe.

So if we are going to talk about exploitation of private landowners, you are going to see that the amount of land that the private owners can exploit is very, very minimal, compared to all of the other land uses.

But I came to the chart for this purpose, because we are talking about the issue of making money off wilderness.

VOL
142
PT
5
MR
21
—
29
1996
UMI

You see this dark green place inside the green Forest Service land. This is wilderness, and that is not obscure wilderness. This is wilderness so popular that the Forest Service has to issue permits to people to go in. They do not want anybody in there in any higher levels of visitation than they are getting right now.

This is wilderness that for its tourist potential has reached the saturation point. The Forest Service will not let anybody else in, and it happens to be in the two poorest counties in the State of Utah. Wilderness has not made them wealthy, the way some of the proponents of this proposal would have you believe.

The other green that you see here in the yellow area is the wilderness that is included in our bill. This is the 2 million acres that we have been talking about, and the various places where it will be, including—yes, including—the Kaiparowits Plateau that we heard so much about earlier in the debate.

Mr. President, I put that out because, again, I am a city slicker. I did not know this until I came to the Senate. I had no understanding of the way the land in Utah is allocated and owned until I came to the Senate and got into this debate. I love to go out into the wilds. I love to go out and commune with nature and have the kinds of experiences that Senator BRADLEY quoted the professor from Colorado was having. "The silence is stunning," he said.

I have had that kind of experience in Utah. I have gone off by myself and had that kind of tremendously uplifting experience. I did not know at the time I had the experience where I was in terms of who owned the land. I have gone back and checked. I was on BLM land. I was on land exploited. Why? Because some cattle had been through there. I did not know that. I had my experience without knowing that.

I guess I am deficient somehow in that I do not require the knowledge that nobody else has ever set foot on the land for me to have that kind of experience on the land. The vast majority of the people who come to Utah to have that kind of experience have it in the green areas, that is, the national forest. We have 8 million acres of national forest in the State of Utah.

The only difference, from my perspective, between the national forest and the other lands that we are talking about setting aside as wilderness is that you can get to the national forest. I can go to the national forest in my automobile. There is no way in the world I am going to be able to go to these areas we have designated as wilderness in an automobile. That is fine. So 2 million acres; it meets the criteria of the Wilderness Act. I agree that that ought to be set aside, primarily for ecological reasons.

But most people who are talking about wanting more wilderness have the mistaken impression that what they are talking about is pretty country. They are saying we want to keep the country pretty and keep away the strip malls and the hamburger stands and so on. There are 8 million acres where there will never be a strip mall or a hamburger stand or any other kind of commercial exploitation in the State of Utah. There are 8 million acres right now in national forests. You add to that the 2 million acres that we have of national parks,—I am surprised at how many of my constituents think wilderness means national parks—add the 2 million acres that we are proposing in wilderness, taken off the BLM land, and you will have 12 million acres of Utah set aside that can never ever be used for any kind of commercial exploitation, plus 20 million acres left to be managed in the way that we saw in the first photograph I showed of Escalante Canyon.

There are 20 million acres left to be exploited, the way that picture on the bottom indicates it is exploited, plus 12 million acres where there will never be any commercial activity of any kind. That comes to 32 million acres. I think that is enough. That all meets the standard of what the law has said that gives us all the legacy that we need to pass on to our children.

Mr. President, I have two other things I want to say that I found as I went around on my odyssey to talk with the people who lived there, talk with the managers, and to look at the land myself.

The first one has to do with the issue that Senator BRADLEY raised with respect to Kaiparowits. As Senator HATCH very appropriately pointed out, our bill protects hundreds of thousands of acres in Kaiparowits. The real issue in Kaiparowits, however—we must be honest about it, Mr. President—is not the number of acres; the real issue of Kaiparowits is called, "Will we allow any exploitation of the coal reserves that are under the surface in the Kaiparowits Plateau?"

You see the full page ads that talk about ripping out all of this magnificent scenery so that coal can be ripped from the Earth, flung around the world, and as the final statement in the advertisement says, "A foreign corporation gets all of the profits, and Utah is left with a hole in the ground."

In the first place, the particular foreign corporation that they are talking about happens to be a very good corporate citizen of the State of Utah and has been mining coal in the State of Utah for close to 100 years.

But, quite aside from that, let us talk about it from the environmental impact standpoint. The Senator from New Jersey talked about long-wall technology in coal mining. I have been down in a coal mine in Utah. I have seen long-wall technology. I say to anybody who has not had that experience, it is one of the most fascinating experiences you are going to have in your life because you cannot conceive, or at least I could not conceive, how any engineer would ever be bright enough to sit down and figure out how that whole thing works. It is just absolutely stunning.

With the long-wall technology that now occurs in coal, it will be possible for the mining company to go into the coal seam at Kaiparowits and take out virtually all of the available coal through a single mine opening. We are not talking about strip mining here. We are not talking about tearing the top off of the Kaiparowits Plateau. We are talking about a hole on the side of a mountain roughly the size from that door to that door in this Chamber and maybe 16 to 20 feet high. That is about all the bigger the hole has to be.

How much coal are we talking about? You figure you have a good seam of coal if it runs anywhere from 6 to 8 feet in height. The seam under Kaiparowits is about 16 to 18 feet in height, more than twice the size of the coal seam that you would consider very good. There is enough coal under Kaiparowits to provide the power needs of several Western States for the next 100 years.

As Senator HATCH pointed out, it is environmentally friendly coal. It has the right kind of chemical makeup and is the kind of coal you want to burn instead of the kind of coal from other parts of the country, parts that are very well represented in this body, I might add.

How do we get to this opening where this coal can be taken out? In order to get to the opening where the coal can be taken out, you have to go down into a circular canyon. That is good from an environmental standpoint because it means if you are not standing closer than about 100 feet from the edge of the canyon, you cannot see it. How many acres are we talking about? How big a platform? How big a footprint is going to be placed on the land when this thing is fully operative? Forty acres, Mr. President.

At the bottom of this circular canyon, virtually hidden by the nature of the way the canyon was formed, 40 acres at the bottom of this canyon will be admittedly despoiled and exploited, 40 acres will be filled with buildings that are not particularly pretty to look at, 40 acres will be filled with sheds and equipment. And for that 40 acres which cannot be seen anywhere on the Kaiparowits Plateau—I stood on the Kaiparowits Plateau and looked at it directly myself—for that 40 acres that cannot be seen anywhere on the Kaiparowits Plateau, we could produce enough coal to furnish the energy for several Western States for over 100 years.

Now, in this book, "Wilderness at the Edge," where we see the whole 5.7 million acres laid out in all their glory—

and it is glory—they tell us all of the places we ought to designate as wilderness that we do not have as wilderness. There is an interesting little suggestion. One of the places they designate as wilderness happens to have a railroad tunnel running underneath it. The railroad tunnel is already in. The trains are already going back and forth. They say it should still be designated wilderness because the activity beneath the surface does not detract from the glorious wilderness experience on top of it.

I say to those who wrote this book, what is the difference between coal mining that is going on underneath the surface, hundreds if not thousands of feet below the magnificent scenery up above, and railroad cars going back and forth? If you can live with railroad cars, saying that does not detract from the experience on the surface, I tell you, you should be able to live with coal mining, particularly with the long wall technology to which the Senator from New Jersey referred.

Now, Mr. President, in conclusion, I know those are very welcome words, and for most of the people who are listening, I go back to the comment made by the Senator from New Jersey in his conclusion. He quoted an editorial from a newspaper, the editors of which, I would guess, have little or no personal experience with any of these issues we have been talking about. The editorial says there are two philosophies, and we have a clash between the two philosophies: Whether we want to support solitude and recreation, one philosophy; or whether all things on the Earth should be exploited for human development, the other philosophy. Of course, they came down on the side of the first, as does the Senator from New Jersey, which is his right. I respect him for it. I respect the thoughtful, intelligent way in which he proposed his arguments.

I suggest, however, based on what I now know about this, that these are not the two philosophies at stake here at all. I suggest, Mr. President, that, yes, this is an argument between two philosophies, but these two philosophies have nothing to do with the question of, are you in favor of solitude and recreation, or are you in favor of human development?

The two philosophies are these, Mr. President: Do you believe that nature is perfect and benign and must be left alone to achieve the highest moral goal; or do you believe that nature is constantly changing, moving from one moral circumstance to the other with such rapidity that there is no moral judgment that can be found, and therefore nature can be managed without any moral implications. Based on what we have seen here, based on what I have seen as I have gone throughout the western lands, I believe that there is moral justification for managing nature, for planting trees where they did not exist before, for running cattle on areas that will produce greater vegetation than was there before. That is my philosophy. I do not run from it nor apologize for it.

I close with this real-life example that illustrates what I am talking about. There is in Utah—there was in Utah; I must put it in the past tense, unfortunately—there was in Utah in Garfield County, one of the counties that would be most affected by this legislation, a magnificent field—beyond field; a magnificent area—filled with buttercups. I did not ever see it myself, but I am told, and I am quoting from those who did see it. It was one of the most awe-inspiring sights anyone could experience, going out and seeing this huge field, lush and gorgeous, at the proper time with buttercups blooming. Cattle grazed in that field, and people who belonged to the organizations listed by the Senator from Alaska decided that field of buttercups was so magnificent that it must be preserved; it must be protected from the degradation of human beings.

Since there was no legislative way to do it, they raised the money—the money presumably they could not find to bring the lawsuits to protect their position elsewhere—they raised the money, purchased this piece of land, and then fenced it off so that the beauties of nature as manifested in these buttercups would be protected forever and ever.

That was just a few years ago, Mr. President. If you were to go to Garfield County today and ask the residents of Garfield County, "Where are your buttercups," they would tell you there are no buttercups. They would take you out to the piece of land that had been fenced off and preserved from any human management. You can see that. What it is filled with is dead grass. Why? Because no longer were human beings allowed to run their cattle through that area, so that the grasses that choked out the buttercups were able to grow up, unmolested and uneaten. The manure that the cattle normally brought with them into the area disappeared, and now the heavy grasses have grown up, choked out all the buttercups, and then, unfertilized themselves, have died, and you have one of the most sterile, uninspiring pieces of real estate on the planet to which somebody paid a fairly pretty penny in order to preserve the buttercups.

Mr. President, human involvement in the environment is not automatically bad for the environment. Human involvement in the environment, if properly managed, can produce good results for the environment. Saying that we are not going to allow someone that does not have any personal stake in this issue to lock up huge chunks of the environment in the name of the environment does not mean we are opposed to the environment.

In my view, Mr. President, sound stewardship by intelligent human beings who love the environment can be good for the environment. Locking humans out arbitrarily by legislative fiat is not automatically the proper environmental thing to do.

I close as I began, Mr. President, by taking you back with me to that moment when I first began my odyssey in understanding this issue, as I stood with this woman in southeastern Utah, looking out over absolutely pristine territory, and having her say to me, "Look at the land. What do you see? It is pristine. My family and I have been making our livings off of this land for five generations. Tell me we do not love the land and that we cannot be trusted to manage the land." I could not tell her that. I cannot tell this Senate that. I cannot tell the President of the United States that.

The bill we have crafted is not only the right bill for the people of Utah, it is, Mr. President, the right bill for the environment and the environmentalists. If they will simply come out of their carports and come away from their mailing lists and come with us, to go through the land and talk with the people who live there and spend time with the land managers, the true lovers of the environment will come to agree with us that our bill for wilderness in the State of Utah is the proper environmental response.

The PRESIDING OFFICER (Mr. BROWN). The distinguished senior Senator from Utah.

Mr. HATCH. Mr. President, I want to compliment my colleague for his very good remarks and his ability to put into prosaic and also simple terms just what is involved here.

In fact, both of us have been fighting for this for a long time. It is a moderate, reasonable approach. We really appreciate our colleagues who cooperated to help us on this, because it is not going to go away for us or for anybody else here until we get it resolved. It is a reasoned, moderate, decent approach.

Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDICIAL SELECTION

Mr. HATCH. Mr. President, I rise to address an issue that I have discussed recently before the Senate: judicial selection. As I have said before, differences in judicial philosophy can have real and profound consequences for the safety of Americans in their neighborhoods homes and workplaces. Judges are every bit as much a part of the Federal anticrime effort as are U.S. attorneys and FBI and DEA agents.

In my last speech, I drew attention to two Federal district judges appointed by President Clinton—Judges

VOL
142
PT
5
MR
21
—
29
1996
UMI

Harold Baer, Jr. and James Beaty. These two judges rendered decisions favorable to criminal defendants based on legal technicalities that had nothing to do with their guilt.

Judge Baer sparked outrage throughout the Nation when he suppressed evidence seized during the stop of an automobile by police who had witnessed four men drop off two bags in the trunk at 5 a.m., without speaking to the driver, and who then rapidly left the scene when they saw a police officer looking at them. The bags turned out to contain about 80 pounds of drugs. Judge Beaty has received similar criticism for releasing a man who murdered his parents in their own bed because a juror had gone to look at a tree where the murder weapon was found.

I was pleased to learn that President Clinton is upset about Judge Baer's outrageous decision. He even momentarily suggested, through his press secretary, that the judge should resign if he does not reverse himself. But President Clinton concern is too little, too late. He should have been more concerned when he nominated this individual to lifetime tenure as a Federal judge. A mistake here lasts a lifetime, not just 4 years. Judge Baer is one of President Clinton's lasting legacies.

And the President's concern comes only after I and many others have criticized the decision literally for weeks.

The President talks about putting cops on the beat, yet he appoints judges who are putting criminals back on the street.

Now that the American people are suffering from the consequences of this administration's judicial nominations, President Clinton's initial solution was to call upon Judge Baer to resign. This was a meaningless gesture that has no practical effect because the only way to remove a judge is to impeach him. President Clinton is now left to hoping Judge Baer will reverse himself. The true check on these solf-on-crime judicial activists is to never appoint them in the first place.

Let me be clear, I did not call for Judge Baer's resignation. I simply pointed out that there is no substitute for the sound exercise of the President's power to appoint judges to lifetime positions.

Let me assure my colleagues, Judge Baer is not the only judge appointed since January, 1993 that, in my view, President Clinton should feel misgivings about.

Will the President chastise Judge Beaty, or does he agree with his decision to release a convicted double murderer on a technicality? I am not alone in my criticism of Judge Beaty—the Wall Street Journal has said that Judge Beaty and his Carter-appointed colleague took "a view of defendants' rights that is so expansive that they are willing to put a murderer back out on the streets because a juror took a look at a tree." The entire fourth circuit has voted to grant en banc review of the case, and I fully expect the court to do the right thing and reverse Judge Beaty's misguided opinion.

But President Clinton has not called upon Judge Beaty to resign. Instead, he is rewarding Judge Beaty by promoting him. He has nominated Judge Beaty to the fourth circuit. While the President cannot force activist, soft-on-crime judges to resign, he can choose to keep them where they are instead of promoting them to the appellate courts, where they can do even more damage to the law and to our communities. Will President Clinton regret Judge Beaty's soft-on-crime decisions if they start to issue from the fourth circuit? Will he then suggest that Judge Beaty resign? Perhaps he ought to withdraw that nomination—it is in is power to do so, removing Judge Baer is not.

To be sure, Republican appointed judges can make erroneous rulings. And, I understand the Clinton administration is on a desperate damage control mission to mention such rulings. That is fine by me, because the more information about the track records of Republican and Democratic appointed judges, the better.

I hardly agree with every decision of a Republican appointed judge. Nor do I disagree with every decision of a Democratic appointed judge.

Nevertheless, there can be little doubt that judges appointed by Republican Presidents will be generally tougher on crime than Democratic appointees. As I will explain in this and subsequent speeches, on the whole judges appointed by Democrat Presidents are invariably more activist and more sympathetic to criminal rights than the great majority of judges appointed by Republican Presidents.

I does little good to ask these judges to resign or to chastise them after they have inflicted harm upon the law and upon the rights of our communities to protect themselves from crime, violence, and drugs. President Clinton's momentary resignation gesture is only the latest example of this administration's eagerness to flip-flop wherever it meets a stiff breeze of public disapproval of its actions.

And what excuse, Mr. President, does President Clinton have for the nomination of Judge J. Lee Sarokin of the U.S. Court of Appeals for the Third Circuit, and Judge Rosemary Barkett of the U.S. Court of Appeals for the Eleventh Circuit? These are two of the most activist friends of criminal rights on our Federal courts of appeals. Their judicial track records were crystal clear at the time President Clinton appointed them. The President nominated Judges Sarokin and Barkett with full knowledge of their records.

I will have more to say about these two judges in the future, but let me remind the Senate and the American people that I led the opposition to these two nominees because of their activist, soft-on-crime approach. The Clinton administration fought hard to get these nominees through the Judiciary Committee and through the Senate, which confirmed both Judge Sarokin and Judge Barkett in 1994.

I regret to say that my predictions about these two judges have been proven correct. Judge Sarokin has repeatedly come down on the side of criminals and prisoners in a series of cases, and he recently voted to overturn the death sentences of two Delaware men who, in separate cases, killed several elderly people. Not to be outdone by her New Jersey colleague, Judge Barkett has continued her tolerant attitude toward drugs in our society and her suspicion of the police. Just last month she argued in an opinion that police could not conduct random roadblocks to prevent traffic violations and to search for drugs—in her words the searches were "intolerable and unreasonable."

Luckily, in both of the cases that I have just mentioned, Reagan and Bush appointees formed a majority of the court and ensured that Judges Sarokin and Barkett's views were made known as dissents. But if Judges Sarokin and Barkett and other Clinton nominees had formed a majority on those courts, they would have put the criminals back on the street. If President Clinton should win a second term, he will appoint a majority of the judges on the Federal courts of appeals. Judges Barkett and Sarokin provide a clear example of what we can expect from the Federal courts should President Clinton appoint judges for 4 more years.

Can the administration name any Reagan or Bush appellate judges who have argued so often and so vigorously in favor of elevating criminal rights above the right of the community to protect itself? I don't think they can. In fact, the record indicates that the current administration has nominated several judges who have ruled in favor of criminals or prisoners clearly and consistently. When they are right, that is fine. In most of these cases they are wrong.

For example, let me tell the American people about the case of *United States* v. *Hamrick*, [43 F.3d 877 (CA4 1995) (en banc)]. While serving time in Federal prison for threatening to kill President Reagan, defendant Rodney Hamrick built several improvised bombs, threatened to destroy a Federal building, shot other inmates with improvised guns, and threatened to kill Federal judges. While serving his various sentences, Hamrick built a letter bomb of materials available in prison that, in the words of Judge Michael Luttig's opinion for the fourth circuit, if fully effective could have produced a

1,000-degree fireball up to 3 feet in diameter. This fireball would have burned the skin and eyes of anyone exposed to it. If those exposed were inhaling when the bomb detonated, the fireball could have seared their lungs, possibly resulting in death.

Hamrick sent the bomb to William Kolibash, the U.S. attorney for the Northern District of West Virginia, whose office was responsible for Hamrick's prosecution. Kolibash opened the package, but the bomb was faulty and only scorched the package instead of detonating. Hamrick put his own return address on the envelope, making his arrest an easy matter since he was in prison. Hamrick confessed and stated that he intended the bomb to go off in retaliation for his prosecution.

Hamrick was convicted by a jury of assault of a U.S. attorney with a deadly or dangerous weapon under 18 U.S. §111(b). Relying upon applicable Supreme Court precedent, Judge Luttig affirmed the conviction for the en banc fourth circuit. He was joined by Judges Russell, Widener, Wilkinson, Wilkins, Niemeyer, and Williams. Judge Hamilton wrote a concurring opinion. All of these judges were appointed by Republican Presidents.

Judge Ervin, then chief judge and an appointee of President Carter, wrote the dissent. He was joined by every Democratic appointed judge on the circuit in arguing that because the bomb was made badly, it could not constitute a deadly or dangerous weapon under the statute. Judge Blane Michael, President Clinton's appointment to the fourth circuit, joined this illogical, unreasonable decision. He joined Chief Judge Ervin's conclusion that because the bomb lacked an igniter, it could not be called a dysfunctional bomb, as the majority concluded, but instead was, in the dissent's phrase, an "incomplete bomb," and hence could not be a dangerous weapon under the statute. Goodness gracious. What if it had been a real bomb?

Mr. President, I imagine that Judge Ervin and Judge Michael also would think that if a defendant pointed a gun at you or me and pulled the trigger, but the gun is defective and doesn't fire, the defendant would not be guilty of attempted murder because he used an incomplete gun. Such sophistic word games demonstrate the eagerness of Judge Michael and his dissenting colleagues to protect criminals at the expense of law enforcement.

Even once the criminals are convicted and sent to prison, the judges nominated by President Clinton continue to adopt a tolerant attitude. These judges are determined to defend prisoners against the rights of society to defend itself from violent crime. These judges should be more concerned about the rights of society to incarcerate convicted criminals and to run orderly prisons before they start wringing their hands about how unfair a punishment it is to be in jail.

On this score, let me just identify one decision out of many that exemplifies the willingness of some activist Clinton judges to protect those who have harmed and attacked our society. Let me tell the American people about Giano versus Senkowski, a case in which an inmate brought a Federal civil right suit against a prison that refused to allow inmates to possess sexually explicit photographs of spouses or girlfriends. The plaintiff somehow felt that his first amendment rights were violated. It is a demonstration of how far activist judges have already expanded the laws that a prisoner can even bring a lawsuit on such a frivolous claim.

The majority, Judges Joseph McLauglin and Dennis Jacobs, both Bush appointees, properly rejected the prisoner's amazing claim that this policy violated his first amendment rights. Under Supreme Court precedent, courts are to uphold prison regulations if they are reasonably related to a legitimate penological interest. This was the case here, especially in light of the duty of the Federal courts to grant prison administrators discretion to run their prisons in a safe, efficient, and orderly way. Convicted criminals are in prison for a reason: punishment. Sometimes, activist judges forget this simple fact.

Unfortunately, Judge Guido Calabresi, a former dean of the Yale Law School who President Clinton appointed to the second circuit, disagreed. He dissented from the majority and asserted that the first amendment provides prisoners with the right to possess such sexually explicit photographs. Judge Calabresi even went so far as to compare his position with the position of the Supreme Court in the Pentagon Papers case, as examples of instances in which the courts courageously resisted scare tactics in the absence of proof.

What the first amendment's plain words—"Congress shall make no law abridging the freedom of speech, or of the press"—has to do with convicted prisoners prossessing sexually explicit pictures is beyond me.

Judge Calabresi argued that the case should be sent back for factfinding—what this factfinding would be I do not want to know—because he thought it possible that these pictures might diminish violence by mollifying prisoners. Gee. What reasoning. Judge Calabresi also saw fit to suggest several alternative policies, such as allowing inmates to be sent photographs but providing that the pictures may be seen only at appointed places, or allowing photographs to be received and seen for a brief time before they must be returned.

It is exactly this intrusiveness that demonstrates the activist stance of the Clinton judiciary. Here we have a Federal judge of the Second Circuit Court of Appeals deciding what policies a prison ought to have regarding sexually explicit photographs. The judge wants factfinding conducted to produce evidence about the link between such photographs and violence. He has ideas about how the pictures are to be provided and used. I am sorry, but this seems like a job for prison administrators, who are expert at these issues and who are accountable to the people. It is the people, after all, who must pay for the costs of incarceration and who ultimately must fund the fanciful policies Judge Calabresi would impose.

Why is this so important? As a practical matter, we in the Senate give the President deference in confirming judicial candidates nominated by the President.

No one can say that I have not been at the forefront to giving deference to this President. I like him personally. I want to help him. I certainly believe he was elected and I believe he has a right to nominate these judges. I might say though that a Republican President would not nominate the same judges that a Democrat would and vice versa.

Indicia of judicial activism or a soft-on-crime outlook are not always present in a nominee's record. But in the cases of Judge Sarokin and Barkett, they were, and we Republicans in the Senate attempted to defeat them on those grounds.

We also now can view the products of the President's choices. We do not just have two trial judges, Judges Baer and Beaty, who have trouble understanding the role of the Federal courts in law enforcement and in the war on crime. President Clinton has sent judicial activists to Federal appellate courts as well, and the effects of his approach to judicial selection are felt even at a court as high as the Supreme Court. This is not good for the Nation, which must live under the permissive rules set by these liberal judges when they attempt to rid our streets of crime and drugs.

The judicial philosophy of nominees to the Federal bench generally reflects the judicial philosophy of the person occupying the Oval Office. We in Congress have sought to restore and strengthen our Nation's war on crime and on drugs and to guarantee the safety of Americans in their streets, homes, and workplaces. For all of the President's tough-on-crime rhetoric, his judicial nominations too often undermine the fight against crime and drugs.

This is an important issue. It may be the single most important issue in the next Presidential campaign. Frankly, I hope everybody in America will give some thought to it because I for one am tired of having these soft-on-crime judges on the bench. I for one am tired of having people who, as activists, do

VOL
142
PT
5
MR
21
—
29
1996
UMI

not understand the nature and role of judging, which is that judges are to interpret the laws that are made by those who are elected to make them. Judges are not elected to anything. They are nominated and confirmed for life. Hopefully, they will be removed from the pressures of politics and will be able to do what is right. I have to say that many of these judges are very sincere. They are kind-hearted, decent, honorable people who are so soft-hearted that they just do not see why we have to punish people because of the crimes they commit, or why we have to be as tough as we have to be. But those of us who really study these areas know that if a person is put in jail—a violent criminal—until they are 50 years of age there is a very high propensity that they will never commit violence after 50. But if we have them going in and out of the doors in those early years when they are violent criminals, they just go from one violent crime to the next, and society is the loser. We understand that here in the District of Columbia, which is sometimes known as "Murder Capital U.S.A." and "Drug Capital U.S.A." That needs to be cleaned up.

That is why I put $20 million in a recent bill to give directly to the chief of police here so that they can acquire the necessary cars and weapons and ammunition and other facilities that they need to be able to run a better police force. Consider that it was the best police force in the Nation 20 years ago; today it is the worst in the Nation. So we put our money where our mouth is, at least as far as the Senate is concerned. I hope that money stays in in the House.

We have to pay attention where judges are concerned, too. We have to get people who really are going to make a difference against the criminal conduct in our society. I am fed up with our streets not being safe. I am fed up with our homes not even being safe. We are becoming a people who have to lock the doors every time we turn around, and I for one think it is time to stop it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. MURKOWSKI. Mr. President, this morning my friend from New Jersey reflected a little history of public lands. I listened intently, and while I appreciate his point of view, I suggest there are two points of view relative to the history of public lands and the transition that has occurred in this country.

Under the Northwest Ordinance, which, as a matter of fact, predated the Constitution, the prevailing philosophy was simply to dispose of lands either to the States or the territories or to private individuals. And as the several States obtained their inheritance, they for obvious reasons began to lose interest in further Federal transfers. In other words, they had achieved what they wanted.

Mr. President, this goes back to the period of about 1788 when this Northwest Ordinance prevailed. So they lost the incentive once they received their land and further Federal transfers simply were not necessary. The State of Arkansas obtained over 11 million acres from the Federal Government, over one-third of its total acreage. Only about 3 percent of New Jersey currently is in Federal ownership.

So the history of public lands is a history of those States, mainly the Eastern States, that have already obtained the lands needed for their schools, their roads, their economy, and other purposes. Then we have the Western States and territories that basically remain captive to the Federal Government and the interests of those Eastern States. The definition of "West," as we all know, steadily moved west. It moved from what was West, in 1790, Ohio, to Utah and my State of Alaska in 1990.

According to the 1984 BLM public lands statistics, Florida obtained over 24 million acres from 1803 to 1984 out of a total of 34 million acres in that entire State. Arkansas, as I mentioned, obtained over one-third of its entire acreage. Now, there was a time when the State of New Jersey looked at the western lands as a source of raising money for needs in New Jersey—roads and docks, the harbors, other public works in New Jersey—and there was a time when New Jersey wanted the western lands basically to feed its industry.

It was a concept that is not unknown to us, Mr. President. The Eastern States had the capital base, and where did they look? They looked to the West to put that capital to work in investments that could generate a handsome return because the money centers at that time were in the East, as they are today for the most part. So the eastern at that time, I think it is fair to say, elitists chose to invest in the West and generate a return, and they could continue to live in the more luxurious lifestyle that existed in the East because the West was considered pretty much a frontier. So States like New Jersey and New York invested in western lands to feed, if you will, the fruits associated with the productivity of the West.

Now we have seen a change in that, a rather remarkable change. Let us be realistic and recognize New Jersey and other States now want western lands not necessarily as a return on the investment that was initially generated there, although some of it is fourth and fifth generation wealth, but they look at the West as a playground, a recreation area for themselves and others of that elitist group.

If the State of Utah is unable to use its school lands to fund education, that is even better, because then Utah will become even more dependent on the Federal Government and the preferred social agenda of Washington, DC. Make no mistake about it. This is not unique to the State of Utah.

Those of us who are westerners question when is enough enough. There has been no change in the policy of some of these eastern seaboard States and many of the other original States from 1790 until now. What has changed is what they want western lands for. There would be a considerable difference if New Jersey as a State were 63 percent owned by the Federal Government, like Utah, but it is not. The State of New Jersey is only 3 percent owned by the Federal Government, so it has the luxury to assume that two-thirds of Utah is, one might interpret, for the private pleasure of the residents of New Jersey.

We can get into a long discussion over the various conservation measures mentioned by the Senator from New Jersey, but I think the Senate should remember that the primary purpose of the national forests—a lot of us seem to have forgotten this—the primary purpose of the national forests, when they were withdrawn from public domain, was simply to ensure a steady supply, a renewable supply, of timber. That is almost seen as a joke today, but that was the concept; the forests were to be conserved, used, and managed to provide a steady supply of timber.

The Wilderness Act, speaking of history, was originally intended to set aside pristine areas, untrammeled areas where mankind was not evident. Now, in our zealous efforts, we seem to be ready to put almost anything into wilderness—roads, structures. Whatever the objective, a wilderness designation is not to preserve pristine areas but to prevent other uses that some organization or group wants to prevent.

So, I hope, as we reflect on history, we do reflect on this dichotomy associated with the traditions of the influence of the Eastern States, which have virtually no public land in those States, which have virtually no wilderness in those States, setting the precedent for the rest of the Nation.

I am going to try to leave us with a little understanding of what this business of public land and wilderness land is all about, reflecting on how some States, like mine, enjoy a significant amount of wilderness. My State of Alaska has 365 million total acres. We are 2½ times the size of the State of Texas. I am glad my friends from Texas are not here to be reminded of that. Out of that 365 million acres, we have 57.4 million acres of wilderness. That is quite a bit of wilderness. We are proud of that wilderness. We take good care of that wilderness. But we think enough is enough.

If you took the State of Arkansas with 33 million acres of wilderness, you add the State of New Jersey with 4.8 million acres, West Virginia with 15 million acres, Vermont with 5 million acres, you come up with about 57 million acres—equal to what is in my State of Alaska. So there are four States. The difference here is we are not talking about wilderness in Arkansas, New Jersey, West Virginia, or Vermont. We are talking about their total acreage. So I do not want to mislead the Presiding Officer when I say Alaska has 57 million acres of wilderness out of 365 million acres. If you take the entire landmass of the State of Arkansas at 33 million, New Jersey 4.8, West Virginia 15, and Vermont 5, you come up with a combined area of 57.8 million acres for those four States. That equates to what is in my State alone as wilderness.

Let us go one step further. Let us look at some of these States and recognize that Arkansas has 33 million acres in its entire State, 120,378 acres in wilderness—not very much. New Jersey has 4.8 million acres in the entire State, 10,341 acres of wilderness.

Let us compare that with Utah. Utah has 52 million acres in the State, 890,858 acres of wilderness, and we are proposing to add 2 million to that, that would be 2.9 million acres of wilderness in the State, 891,000 managed by the Forest Service and 2 million under BLM wilderness.

I think it is important that we reflect on those comparisons. The States in question with large wilderness acreage, outside of the State of Alaska, include Arizona at 4.5 million acres, California at 5.9 million acres, Colorado at 2.6 million acres, Florida at 1.4 million acres, Idaho at 4 million acres, Minnesota at 805,000, Montana at 3.4 million acres, New Mexico at 1.6 million acres, Oregon at a little over 2 million acres, Washington at 4.2 million acres, and Wyoming at 3 million acres. So, by this action we would be creating in Utah wilderness equal to that existing in Wyoming today.

What about some of the other States? Interestingly enough—and I hope my colleagues from Connecticut, Delaware, Iowa, Kansas, Maryland, and Rhode Island are listening, because these six States that have no wilderness. There is no wilderness in Connecticut, no wilderness in Delaware, no wilderness in Iowa, no wilderness in Kansas, no wilderness in Maryland, and no wilderness in Rhode Island.

How do you suppose that came about? It came about, as I indicated in my opening remarks, when those States that have been around a long time—when the Northwest Ordinance philosophy prevailed, back in 1788—acquired their land. That is where it ended. Now these States are saying we do not want any wilderness in our State. We want the wilderness out West.

I think everybody ought to have a little wilderness. I think, before I get out of this body, I am going to propose some legislation that every State have a little wilderness. They can designate where it is. Maybe Sterling Forest should be a wilderness. Perhaps the States of New York and New Jersey could designate this transfer of land into a wilderness. It is going to be used as a watershed. Why not make it a wilderness?

Another curious consideration is, who owns the States? Alabama is 3 percent owned by the Federal Government, Alaska 68 percent owned by the Federal Government; Arizona, 47 percent; Arkansas, 8 percent; California, 44 percent; Colorado, 36; Connecticut, 1 percent; Delaware, 2 percent; District of Columbia, 26 percent. I am surprised it is not higher. Florida, 9 percent; Georgia, 4 percent owned by the Federal Government; Hawaii, 16 percent. You get to Idaho, 62 percent of Idaho's landmass is owned by the Federal Government; Illinois, 3 percent; Indiana, 2; Iowa, 1; Kansas, 1; Kentucky, 4; Louisiana, 3 percent; Maine, 1 percent; Maryland, 3; Massachusetts, 1; Michigan, 13; Minnesota, 10; Mississippi, 4.

These are extraordinary comparisons with the prevalence of Federal ownership being out West. Missouri is 5 percent owned by the Federal Government; Montana, 28; Nebraska, 1; Nevada, 83 percent owned by the Federal Government; New Hampshire, 13; New Jersey, 2 percent; New Mexico, 33; New York, 1—New York 1—North Carolina, 6; North Dakota, 4; Ohio, 1 percent; Oklahoma, 2 percent; Oregon, 52 percent owned by the Federal Government; Pennsylvania, 2 percent; Rhode Island, 1 percent; South Carolina, 5 percent; South Dakota, 6 percent, Tennessee, 4 percent; Texas, the second largest State in the Union, Mr. President, has only 1 percent of its landmass owned by the Federal Government.

Clearly, when they came into the Union, they made certain conditions prevail relative to ownership, and the Federal Government today owns 1 percent of the land mass of Texas, compared with Utah, which is 64 percent; Vermont, 6 percent; Virginia, 6 percent; Washington, 29 percent owned; West Virginia, 7; Wisconsin, 10; Wyoming, 49.

So there you have it, Mr. President, a comparison of the States. Now we look at the merits of adding 2 million acres to Utah wilderness, as recommended by the delegation from Utah and a vast majority of the Utah Legislature, both the house and senate and the Governor.

I think it is also interesting to note that the process that occurred in Utah did not happen by accident. It happened as a result of a number of meetings that were held and the consensus that was developed there over an extended period of time. As the record indicates, some $10 million was spent reaching the point we are at today, evaluating just what would be appropriate for the State of Utah; 15 years went into that study; 16,000 written comments were processed; 75 formal public hearings were held. This was a process that was open to the public throughout the United States, professionals were hired to make the recommendation of 1.9 million, and today we have a proposal of 2 million acres in the Utah wilderness.

As I indicated to my friend from New Jersey this morning, the matter of Sterling Forest is also somewhat contentious, as evidenced by the consideration of some of the specifics, which I will share with my colleagues. But nevertheless, I support the Senator from New Jersey in his efforts, because I believe he has to answer to his constituents, and I believe it is fair to say that both the Senators from New Jersey support the Sterling Forest. I respect that process. But I think the Record should note who owns the Sterling Forest.

Sterling Forest is currently owned by the Swiss Insurance Group of Zurich. They signed a purchase agreement with the Swiss company for the property in June 1995. What is it valued at? I am told it is valued somewhere between $55 and $65 million. How much would it cost if we were to buy it? The request in the legislation of the Senator from New Jersey is for Federal participation of about $17.5 million. This will be the Federal figure regardless of the total purchase price. The balance of the purchase price is going to be paid by the States of New York and New Jersey and the private sector. I understand about 2,400 acres of Sterling Forest rests in New Jersey. The balance is in New York.

There are those who might think Sterling Forest is just that, an ancient growth forest, but Sterling Forest has been logged. What you have there today is second growth. Hardwood logging has taken place. I thought I would ask the question, When was it last logged? The answer was, it is currently being logged, Mr. President, by the Sterling Forest Corp., a subsidiary of the Swiss Insurance Group of Zurich.

VOL
142
PT
5
MR
21
—
29
1996
UMI

If the Sterling Forest is acquired, of course, logging is not continued, and that is really the business of the delegation from New Jersey. The primary reason for purchasing Sterling Forest, as I understand, appreciate and support, is to protect the watershed. Hunting would be allowed.

So if anybody wants further information with regard to the situation in Sterling Forest, why, I am sure the Senator from New Jersey will be happy to provide it. If not, we have the address and phone number of the Zurich Reinsurance Center in New York, the principals to contact.

I do not put this out as a criticism; I simply put it out as a reality that here we have an acquisition taking place in the best interest of clearly the State of New York and the State of New Jersey. There are about 30 square miles, 19,200 acres are in New York and about 2,400, as I have mentioned, in New Jersey.

It is also my understanding that what we are purchasing here are certain easements owned and managed by the U.S. Park Service that are in the Appalachian trail area but that triggers, if you will, a process whereby New York and New Jersey will come up with the additional funding, and that would be somewhere in the area of $40 or $45 million to acquire the land.

It is also interesting to note Sterling Forest has roads through it and other access, so it is pretty hard to suggest, perhaps, that it be made a wilderness. Nevertheless, I think it is important that as this watershed is addressed, relative to its use as a watershed, that as much of the wilderness characteristics as possible be retained for the benefit of the citizens of New York, as well as the citizens of New Jersey.

A lot of people do not really appreciate what 1 million acres equates to in size. We are talking about adding 2 million acres of wilderness in Utah. One million acres is equal to the size of the State of Delaware. If we are talking about 2 million acres, we are looking at three times the size of the State of Rhode Island. Two million acres is about half the size of the State of New Jersey, so it is a big chunk of real estate. Unless you have some idea of acreage or the vastness of wilderness, you have no idea as to the significance of what that large a piece of real estate is.

As I indicated in my remarks, for those who come from States that have little or virtually no wilderness or States with little, if any, Federal ownership of their land, it is difficult for those Members to have an appreciation of what it means to designate an additional area the size of 2 million acres. While many of us support adding 2 million acres to wilderness, that is not enough for the advocates here who want 5 to 6 million acres of wilderness.

They do not seem to care about the ability of the State of Utah to support its schools, support its economy. All they see is a vision out there that tells them somehow this is not enough. As I have indicated, Mr. President, as you look at the comparisons, what is enough? What is reasonable? What is balanced? The people of Utah, in their own good judgment, after $10 million and 15 years, have indicated, 1.9 million acres. The legislation proposes 2 million acres.

Mr. President, as we look at the history of Western public lands, little is said about the economy of the region. What happens to the jobs? We cannot all be employed by the Federal Government. Who pays the taxes? We have resources in the West that have fueled the economy of this Nation for a long time.

Where we are lax, Mr. President, is in not recognizing that science and technology has given us the opportunity to develop our resources better, more efficiently, with more compatibility with the environment, the ecology. As we address new and better ways to develop those resources, we seem reluctant to go back and review those of our laws that protect these areas. We did not update our environmental laws. We did not seem eager to look at cost-benefit risk analysis to determine, indeed, if it is practical to develop one resource or another.

So what we have here, Mr. President, is a fast-developing technology. The minute you attempt to look at more efficient ways of cutting timber, of mining, grazing, oil and gas development, it is suggested that you are irresponsibly unwinding the advancements that have been made in the environment.

Mr. President, the water is cleaner, the air is cleaner, we can do a better job. But we still need to maintain a balance. That balance dictates a healthy economy. Only with a healthy economy can we meet our environmental obligations.

So, when I see my good friend, who I know is very dedicated and believes diligently in his point of view, become a self-anointed savior of the West, I have to ask, who is he saving the West from? From other westerners? Or is it really the elitist group, the big business?

Let me refer to the charts back here just very briefly with the realization that these well-meaning groups somehow get a little overly ambitious, in the opinion of the Senator from Alaska—let us recognize them for what they are. They are big businesses, just like a lot of other big businesses. As I indicated earlier, the environmental organization incomes, the 12 major organizations in this country have assets of $1.2 billion. They have fund balances—that means immediate access to cash—of $1.03 billion. There you have it. The revenues, $633 million; their expenses, $556 million; their assets $1.2 billion —the fund balances at $1 billion.

There is nothing wrong with that, but let us keep it in perspective. They have to have a cause. They resolve one issue and they move on to the next so they can generate membership, generate dollars. Let us be honest. They accomplish a lot. But there has to be a balance. That is what is lacking, because if they had their way, the extreme would prevail.

They pay, as big business does, compensation. Several of the individuals who represent these organizations—the National Wildlife Federation, the World Wildlife Fund, the Environmental Defense Fund, the National Parks and Conservation Association—they pay their chief executive officers more than the President of the United States makes. That is neither here nor there, but it points out my contention that it is simply big business. It is just a different type of business. It is worthwhile business, just as are job-developing business is in mining, oil and gas, timber, and grazing.

Some of these people are extremists, though, Mr. President. They have to have a cause. The cause here is not wilderness, because 2 million acres of wilderness has been offered. It is more wilderness. It is 5 or 6 million acres of wilderness.

Where is the balance? They are generating dollars and membership, using scare tactics that suggest that the people of Utah are irresponsible, that they will go out and haphazardly develop their land or overdevelop it, overgraze it, overmine it. That will not happen, Mr. President. It will not happen in any State of the Union. But those are the scare tactics that they use. They say, "We must save the West from itself."

There have been abuses in the West, just like there have in the East, but I defy the membership of these organizations to take a look at the east coast. Go up in the train. Look at the aging of America. Take the train from Washington and look through New Jersey, look through Delaware, look out the window, look at New York, go on to Boston. Just look at the mess that you see in the backyards of America.

Where is the energy of these organizations to correct that? It is not there. They want to move out to an area where most people cannot visit, cannot see for themselves, see what the people in these Western States are responsible for. They are doing a good job. They are sensitive. No, they do not want to start near home. They seem to have no concern about the economy, the jobs, the taxes. I find that perplexing, Mr. President. They want to get on their white charger and save the world, but they will not start right in their own backyard.

What we are looking at, Mr. President, is trying to balance this process. As I said, there is nothing wrong with Sterling Forest. I support it. I support the process that is underway here as far as reaching a compromise.

But we have to recognize reality, Mr. President. We have a trade deficit in this country. Over half of it is the price of imported oil. We have the reserves in this country. We have substantial reserves in my State. We have the technology to do it safely. But the environmental elitists need a cause. They say, "No, you can't do it. You don't have the science. You don't have the technology." So what we are doing is importing it. Fifty-four percent of our oil is imported now. We are bringing it in in foreign tankers.

If you ever have an accident, good luck in trying to find a deep pocket like occurred with the *Exxon Valdez* where you had responsible parties. While the ship was operated irresponsibly, at least the deep pocket was there.

Where are the payrolls going to come from? Are we going to ship our dollars overseas? The interesting thing, Mr. President, is that other countries are not quite so sensitive as ours. Their logging practices, their mining practices do not have the same sensitivity.

So are we not hastening, if you will, by being hellbent to reduce our own resource development the onset of the very problems that we are trying to avoid. Recognizing that we have the science and technology and experience to offset the imports from countries who allow exploitation without responsible resource development technology, without a response to renewable resources? So, are we really accomplishing a meaningful compromise? In many cases, I think not. We have many issues relative to development, private land issues, endangered species, wetland, Superfund.

We talk about cost-benefit risk analysis, the need to review our environmental laws as we look at new technological advances, to better protect our renewable resources. How do we get to a balance, Mr. President? I think we have that balance today in the proposal of 2 million acres of wilderness in the State of Utah.

As we wind up this debate, as least probably for today, I urge my colleagues from the following States to recognize the reality of where we are in this legislation. If this package does not stay together, Colorado, Michigan, Pennsylvania, Utah, Idaho, Arizona, West Virginia, Hawaii, New York, Massachusetts, Kentucky, Virginia, Tennessee, and California will be affected because there are titles for public lands and changes in those States, as well as Georgia, Louisiana, Mississippi, Idaho, Wyoming, Ohio, my State of Alaska, New Mexico—some 56 titles or changes, Mr. President, a pretty significant number.

Now, the Senator from New Jersey said in a dear colleague letter that he had joined with 17 of his colleagues. There are many provisions important to our respective States within this omnibus park legislation. Well, we have plenty of them, Mr. President. As I said earlier today, the majority of these bills were placed on the calendar of the Senate April 7, 1995—almost a year ago. The Senator from New Jersey could have let these environmental bills make their way to the House and go on to the President months ago. Unfortunately, he chose not to do so. Mr. President, the direct result of these actions is this package. The Senator from New Jersey, by his own actions, is in reality the ghost writer of this bill that we are considering today.

As I said earlier, I accommodated the Senator from New Jersey on Sterling Forest because I think it is in the best interest of his State and his constituents. Unfortunately, the Senator from New Jersey and others do not seem to extend the same degree of confidence and respect to the citizens of Utah. I guess that is where we part.

Now, if this bill stays together, Americans are going to get 2 million acres of new wilderness. There is nothing in this legislation that will prevent another Congress, another day, from adding additional wilderness lands in Utah or my State of Alaska. The will of Congress prevails.

The reality is this cannot go piecemeal. One bill cannot go without the other. I guess, to quote the three musketeers, one for all and all for one, or none. I urge my colleagues to support this package as it has been presented, because an awful lot of hard work and an awful lot of benefits to an awful lot of States is at jeopardy here. To suggest it is irresponsible and to threaten the State of Utah because this legislation does not propose enough wilderness, in the opinion of the Senator from Alaska is not only unrealistic and impractical, it is simply absurd.

Mr. President, I encourage my colleagues to recognize while we have had an extended debate here about a lot of titles that are covered under the bill, the success or failure of this bill is related tremendously to the Utah wilderness. I implore my colleagues who have titles and interest in this bill to recognize that this does represent a compromise, a 2-million acre compromise. As we have seen, the intensive lobbying by a relatively small segment of motivated extremists who say 2 million acres is not enough, does not represent the prevailing attitude in Utah by a long shot, nor the prevailing attitude in the West by a long shot. It represents, perhaps some of the elitist Eastern States who simply have their land and do not have a dog in this fight.

This is far too important, Mr. President, to let slide for another Congress—15 years, $10 million expended. We have a solid recommendation and a solid base of support.

Mr. President, as we look forward to another day on this matter, we have attempted to accommodate each State that had an interest in public lands legislation. Now we are down to the point of determining whether or not those Members who have an interest will stick together to keep this legislation in its package form. I have been assured that it will pass in the House if it is kept that way. If it is broken up, if Utah wilderness is stricken from the body, the legislation and the packages as we know it today will fail.

I urge my colleagues, in conclusion, to reflect on the significance of that reality.

CLOTURE MOTION

Mr. MURKOWSKI. Mr. President, I think it is appropriate now, I send a cloture motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Murkowski substitute amendment to Calendar No. 300, H.R. 1296, providing for the administration of certain Presidio properties at minimal cost to the Federal taxpayer:

Bob Dole, Frank H. Murkowski, Rick Santorum, Slade Gorton, Trent Lott, Jim Inhofe, Hank Brown, Ted Stevens, Ben Nighthorse Campbell, Conrad Burns, Don Nickles, Larry E. Craig, Jim Jeffords, Judd Gregg, R.F. Bennett, Orrin G. Hatch.

Mr. MURKOWSKI. For the information of all Senators, under the provisions of rule XXII, this cloture vote will occur at Wednesday at a time to be determined by the two leaders, according to rule XXII—whichever.

I believe the Chair understands that.

The PRESIDING OFFICER. The chair understands that the provisions under rule XXII will prevail.

Mr. MURKOWSKI. I see no other Senator wishing to be recognized.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair wishes to advise all Members who use time to expedite the debate. In the event Members are not here to debate the issue, we will proceed to the question.

The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as if in morning business for 10 minutes.

The PRESIDING OFFICER. Is there objection?

VOL
142
PT
5
MR
21
—
29
1996
UMI

Without objection, it is so ordered.

THE VOID IN MORAL LEADERSHIP—PART III

Mr. GRASSLEY. Mr. President, President Clinton has once again failed to demonstrate leadership to the American people in the budget crisis.

The newspaper stories last week, reporting on the President's budget submission, missed the point. Like a straight man, the media dutifully reported on the budget using the standard White House spin—and with a straight face.

They reported that the budget would balance by 2002, just as the White House claims. Instead, they should have challenged its integrity. The balance part is all smoke and mirrors. Underneath, it is a brandnew box of steroids for big Government.

The media should have cried, "Stop the presses. Extra, extra, the era of big Government has returned. You see, the President pronounced in his State of the Union Address that the era of big Government is over.

That was 2 months ago. In other words, 2 short months after big Government was pronounced dead, it has miraculously resurrected.

Just look at this budget, Mr. President. Not a single government program terminated. They are all worthwhile—every last one of them, according to the President. Meanwhile, the Federal debt rises from $4.9 to $6.5 trillion in 6 years. Spending rises from $1.6 to $1.9 trillion.

How is it that the era of big Government can be pronounced over with this kind of a budget?

We have all heard the saying, "Put your money where your mouth is." We have also all heard the quote of former Attorney General John Mitchell: "You will be better advised to watch what we do instead of what we say." The budget is the fundamental statement of policy of any administration. In it, an administration puts its money where its mouth is. Except this administration. Its mouth is in shrinking Government; but, its money is in big Government.

With a discrepancy like this, which do we believe? The money or the mouth? Most insiders in this town, like John Mitchell did, know the answer. They know you will be better advised to watch what we do instead of what we say. I would submit, Mr. President, that that is why the presses did not stop when the President submitted his budget. The return of big Government was not big news.

The media must have been pretty skeptical 2 months ago of the President's pronouncement of the end of big government. They did not fall for the old soft shoe routine. They know well enough that, in this town, you watch what we do, not what we say. I have to hand it to fourth estate. They really know politicians.

Of course, they did have some clues about what to expect from the President. On June 4, 1992, Candidate Clinton told the country he would end deficit spending as we know it. He said "I would present a 5-year plan to balance the budget." Since then, he submitted three no-year balanced budgets. Each one had rising deficits as far as the eye could see, usually around the figure of $200 billion.

Even this budget—balanced in name only—will never balance in the real world. It lacks the integrity of true deficit reduction decisionmaking. It is the mañana budget. It puts everything off until mañana. A chimpanzee, banging away at a typewriter, would type out the entire Encyclopedia Britannica before the Clinton budget balances.

There are other clues of the old soft shoe routine. In September 1992, the President wrote, in "Putting People First," the following:

> Middle class taxpayers will have a choice between a children's tax credit or a significant reduction in their income tax rate.

Yet, he just vetoed a children's tax credit. He did not even propose one until Republicans took control of the Congress.

Instead, he increased taxes more than any other President in the history of the Nation. He raised taxes too much. But do not take my word for it. Here is what the President himself said. At a fundraiser in Houston on October 17, 1995, Mr. Clinton said,

> Probably there are people in this room still mad at me at that budget because you think I raised your taxes too much. It might surprise you that I think I raised them too much, too.

Mr. President, saying one thing and doing the opposite undermines one's moral authority to lead. That is the case with this President. There is a void in moral leadership in this White House. A good example for the Nation cannot be set when the President—any President—says one thing and does the opposite so consistently.

It is significant that such leadership has fallen to Congress which, as a body, is generally unsuited for moral leadership. Usually, it is the individual of the President who can hear the discordant voices of the Congress and the country, and unite them into harmony, into a single melody.

But in the absence of moral leadership in this White House, it was Congress—this Congress—that passed a balanced budget. The first balanced budget to be passed by any Congress in 27 years.

It was Congress that passed a children's tax credit. It was Congress that passed welfare reform. It was Congress that passed Medicare and Medicaid reform. It was Congress that passed a budget to end the era of big Government. These are all the items that the President pledged to do, but he did not do them. We did them.

Yet, what did he do in reality? He vetoed them. Balanced budget? Vetoed. Welfare reform? Vetoed. Medicare reform? Vetoed. Medicaid reform? Vetoed. Children's tax credits? Vetoed. This is the "Veto President." His policy is "Just Say No." This is the "Do-Nothing Presidency." The reason is simple—there is no moral leadership coming from the White House.

Some of us have tried to work with the President. I have found that, when he does what he says, we can work together. An example of that is the President's national service program, AmeriCorps. I have been warning the administration for 2 years that AmeriCorps needed to be reinvented. Arrogance appeared to be in the way. For 2 years, the administration resisted the obvious need for reform.

But any program that pays close to $30,000 for a volunteer is in bad need of reinvention. AmeriCorps was giving boondoggles at the Pentagon a run for their money.

Under the new leadership of Harris Wofford—a former colleague of ours in the Senate—AmeriCorps is finally being reinvented. Two weeks ago, we held a joint press conference to announce the reinvention, and I pledged my support for their budget this year. We have heard lots about reinventing Government from this administration. They have done some good things. But they are just tinkering around the edges.

The Balanced Budget Act, passed last fall by this Congress, was a blueprint to reinvent the whole Federal Government. It did not have to be done our way. We would have worked with the White House on an alternative. But the White House refused to work for a real, credible balanced budget. There was a battle royale in the White House over the mind and soul of the President. The budget wonks lost out to the political operators.

The politicos argued that doing nothing would allow them to fund their special interests and maintain their voting base. Forget what is good for the country. They simply put reelection over reform. So the President followed the advice of the political operatives. The bloated ship of state steams along, on a rising tide of debt. Special interests are at the helm.

One of our colleagues in this body, Mr. President, understood this leadership problem in the White House last year. On October 21 of last year, he is quoted in the New York Times saying of President Clinton,

> What troubles me is that after three years as president, he doesn't appear to know where he wants to lead America.

That quote is from a member of our President's own party, Mr. President. It is a quote from Senator BOB KERREY of Nebraska. I agree with him.

Even more to the point is the inability of the President to lead. And every time says one thing and does the opposite, he further erodes it.

It should have come as no surprise that politics would win out over fiscal sanity with this administration. Many of us had hoped a balanced budget was possible. We could have saved ourselves the trouble if we were not quite so optimistic. We should have done what the fourth estate did. We should have watched the President's actions, not his words.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

MORNING BUSINESS

Mr. GRAMS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Minnesota has the floor.

Mr. GRAMS. Mr. President, I thank you very much. On the heels of that request, I also ask unanimous consent I be allowed to speak in morning business for up to 20 minutes to give two statements for the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

FARM BILL CONFERENCE REPORT

Mr. GRAMS. Mr. President, as farmers in Minnesota and across the Nation enter this year's planting season, I rise today in support of the farm bill conference report Congress will consider later this week.

In the coming days, the Senate and the House, and ultimately the President, will have to make a choice: we will either revolutionize Federal agriculture policies as outlined in this conference report, or we will continue the failed, Washington-knows-best policies of the past 60 years. But that choice should be very clear, Mr. President.

After considerable delay, this much-needed legislation will give our agriculture communities a reasonable and responsible policy roadmap for the future.

In the short term, decisions about planting, equipment purchases, fertilizer and seed sales, and credit will no longer hang in the balance. In the long term, farmers will have less Government interference from Washington, giving them the flexibility to plant for what the marketplace demands—not what traditional Government crop payments have dictated.

I am also proud to note that this legislation is comprehensive and balanced when it comes to protecting our environmentally sensitive lands.

Foremost among these environmental provisions is the Conservation Reserve Program, more commonly known as the CRP. I have heard from many of my Minnesota constituents, including farmers and sportsmen and women, who are pleased to see that the CRP and Wetlands Reserve Program were recognized, maintained, and strengthened because of their high success rates. In Minnesota, these programs will further protect our highly erodible lands while expanding hunting and fishing opportunities.

Mr. President, overall this bill offers tremendous benefits to Minnesota's agriculture community, which already ranks among the Nation's most productive in many of the traditional raw and processed commodities.

For individual Minnesota farmers, this legislation will help meet the needs of the growing number of value-added cooperatives and their customers who benefit from products such as ethanol. This in turn will help Minnesota's rural communities, which depend on high-output agriculture and value-added products for a large portion of income and jobs.

Farmers and others dedicated to protecting the environment will not be the only individuals helped by this legislation. The American taxpayers will also benefit from the $2 billion in total budget savings that will go toward balancing the Federal budget.

No longer will this portion of the agricultural budget serve as a potential runaway entitlement, as we saw happen after the 1985 farm bill. Instead, taxpayers and farmers will now know well in advance the specific amount of Federal dollars involved in food production.

But while I enthusiastically support much of this bill because it works on behalf of both Minnesota's farm community and the American taxpayers, I must raise my strong concerns about its potential harm to Minnesota's dairy industry.

For years, dairy producers and processors in the Upper Midwest have struggled against the harmful impact of the archaic Federal milk marketing order scheme. This complex set of regulations has played a key role in the loss of over 10,000 dairy farms in Minnesota over the last decade—an average of nearly three farms every day.

I am pleased to see that this legislation pays some attention to reform of those archaic Federal dairy policies, specifically with the proposed consolidation of milk marketing orders and the elimination of costly budget assessments on producers. However, I must state for the record that continuation of milk marketing orders makes little sense, particularly when most other commodities in the bill are subject to declining Federal payments over a 7-year period.

Continuing the milk marketing orders is disappointing, but the bill's inclusion of the Northeast Dairy Compact provokes even greater concern among the members of Minnesota's dairy industry.

It should trouble my colleagues and their respective dairy industries when Congress authorizes more regulatory burdens and interstate trade barriers.

Unfortunately, that is exactly what happened during conference negotiations on the farm bill with the mysterious resurrection of the Northeast Dairy Compact.

Mr. President, many of my colleagues rightly thought the compact idea to be effectively defeated after we voted 50 to 46 to strike it out of the Senate's farm bill.

However, despite the clear message sent by the Senate, the compact has reappeared in the conference report.

Many of the compact's supporters will say that this is a compromise. After all, the Secretary of Agriculture will now have to decide whether to allow the New England States to create a compact.

If authorized by the Secretary, the compact would only exist until the implementation of milk marketing orders takes place, which is 3 years from now.

Perhaps they are right. But we are still creating a bad precedent by making it easier for any region to set up its own monopoly. The Senate previously voted against the compact because it would ultimately result in a proliferation of antitrade barriers between the States and regions. At a time when we are trying to open up global markets for our Nation's farmers, it makes no sense to encourage protectionism within our own borders. Yet, that is exactly what the dairy compact would do.

In response to the compact, other regions will work to get similar regional monopolies enacted. For far too long, regional politics have made many farm programs the way they are today—archaic, unfair, unwise, and unworkable.

The purpose of this farm bill is to remove Government interference in the agricultural decisionmaking process and reduce the regional conflicts that have plagued our farm policy for years.

Creation of the Northeast Dairy Compact would accomplish just the opposite—it would expand the role of government across America at the expense of free-trade opportunities.

I will not stand for that and neither should any other Senator who voted against the compact last month. I urge my colleagues to join me in standing up for small dairy farmers across the country by cosponsoring a bill which I am introducing today to repeal the Northeast Dairy Compact.

Instead of compromising on free-market principles and retreating into the past, my bill will move America's dairy industry forward.

Mr. President, let me conclude by saying that the farm bill before us is obviously not a perfect piece of legislation. It does indeed have weaknesses,

VOL
142
PT
5
MR
21
—
29
1996
UMI

but I believe those weaknesses are outweighed by those provisions which move us in a more market-oriented direction.

For this reason, I urge my colleagues to support the conference report on behalf of rural America, and on behalf of the taxpayers.

THE DEPARTMENT OF ENERGY AND THE PRESIDENT'S BUDGET

Mr. GRAMS. Mr. President, they are going to be handing out the Oscars tonight in Hollywood, honoring the film industry's best efforts at creating fantasy and make-believe. Well, we create a lot of that in Washington, too, and if it were a movie, the latest Clinton budget would be taking home the award for "Best Special Effects."

After all, it is a document that makes the impossible appear possible. It disguises reality with the smoke and mirrors that are staples of any good special effects team.

It is such a creative effort, in fact, that you have to wonder whether Steven Spielberg and George Lucas somehow had a hand in it.

Yes, the President's budget would be right at home amongst the glitzy phoniness of Tinseltown. And at a cost to the taxpayers of more than $1.6 billion this year, it is a big-budget production that makes the $175 million lavished on "Waterworld" look like a drop in a water bucket.

But like any movie, the more often you see it, the more you start noticing the special effects and the more time you spend trying to figure out how they did. And suddenly it is not all so magical anymore.

Unfortunately for President Clinton, the American taxpayers have had almost a week to study his proposed budget for fiscal year 1997, and I think they have begun to figure it out.

After eight earlier tries by the President over the last 13 months, the taxpayers were hoping this budget would reflect the changes they called for in 1994: They want a workable balanced budget, real tax relief for middle-class Americans, an end to welfare as we know it, and the reforms needed to save entitlement programs from bankruptcy.

But after carefully reviewing the President's recommendations, I have to report that this budget does not deliver. In fact, as hard as it is to believe, President Clinton's budget takes the status quo and makes it even worse.

He requests over $61 billion more in nonentitlement spending than he proposed in his own minibudget last month. He pays for that increased spending by raising taxes and fees by more than $60 billion. Furthermore, he delays nearly 60 percent of his promised spending reductions until the last 2 years of his plan, making this a paper budget only, with no hope of ever being implemented.

By perpetuating bigger government, more spending, and higher taxes, this document is an affront to the American taxpayers.

One area of this budget I find particularly frustrating is the funding for the Cabinet-level Department of Energy. If we have indeed entered a time in which "the era of Big Government is over," as President Clinton proclaimed in his State of the Union Address, there should be no place in the budget for this $16 billion relic.

At a time when taxpayers are demanding that Congress be accountable for each and every dollar we spend, Secretary O'Leary and the President have submitted a budget plan that ensures the continuation of DOE's bloated bureaucracy at the expense of responsible, accountable Government.

Perhaps they believe that spending enormous amounts of tax dollars on DOE will mask the fact that the Energy Department no longer has an energy mission of its own. Since the oil crisis that led to its creation in the 1970's evaporated, DOE has expended its resources in a perpetual attempt to expand its reach and justify its existence. Today, in fact, 85 percent of DOE's annual budget is spent on activities entirely unrelated to national energy policy.

That trend would continue under the President's budget, beginning with the administration's proposal to increase DOE's overhead costs by more than 38 percent next year. At the same time, DOE is boasting of personnel decreases of nearly 20 percent. But if you examine the budget carefully, looking beyond the summary pages delivered to Congress which list nearly 19,000 full-time personnel, the actual decrease is only about 6 percent from this year.

Of course, those 19,000 individuals represent just full-time workers. DOE employs another 150,000 contract employees at its labs and cleanup sites across the country.

If you are looking for a more in-depth breakdown of Energy Department personnel, you will not find it within the pages of the President's budget. The agency does not even rate an individual listing in the historical tables for the executive branch—instead, it's lumped into the "other" category. One can only assume that the White House doesn't want the taxpayers to realize just how large the DOE bureaucracy really is.

There are numerous other examples of how this latest budget symbolizes the wasteful spending that has plagued DOE throughout its search to re-invent itself.

DOE's research, which includes the development of alternative sources of energy such as solar power, has cost the taxpayers more than $70 billion since the agency's creation in 1977.

But during testimony before Congress last year, Jerry Taylor of the Cato Institute said:

> Virtually all economists who have looked at those programs agree that federal energy R&D investments have proven to be a spectacular failure.

The taxpayers have financed a great deal of pork with their $70 billion investment, but few meaningful scientific breakthroughs. That reckless spending on renewable energy sources is slated to continue. For example, by DOE's own accounts, the fiscal year 1997 request includes an increase of 157 percent in subsidies to the solar building technology industry. Contrary to what this administration would have us believe, however, the solar industry is already competitive, and as a former solar-home builder myself, I can tell you that such an overwhelming increase in a single year is not necessary.

The Department of Energy has proven to be more of a hindrance than a help in making technologies self-sustaining and independent of taxpayer assistance. It is time for the Federal Government to get out of the business of directing market forces in the renewable area.

Rather than spending billions of taxpayer dollars to promote particular industries within the private sector, DOE should be funding basic research which actually breaks our growing dependence upon foreign oil. Minnesotans recognize that conservation and renewables alone will not heat a home in the winter—it is time this administration owns up to that fact as well.

The President is also requesting $651 million—a 9-percent increase over 1996—to fund DOE's nondefense environmental management programs. It is all part of the agency's environmental and nuclear waste cleanup efforts. Yet the budget increase comes on the heels of a report issued just last month by the National Research Council which criticized DOE's waste disposal program as being too bureaucratic with too many layers.

Beyond the bloated bureaucracy and questionable spending, the President's budget plan reflects policies which are inconsistent with current law, pending legislation, or at times, even common sense.

For example, the President proposes to delay until 2002 the sale of the Naval Petroleum Reserve oil located at Elk Hills. This is in direct contradiction to legislation enacted last year as part of the President's fiscal year 1996 budget which called for the sale to take place this year. In an effort to continue to milk the NPR for money to pay for additional DOE spending, this administration is rejecting current law, ignoring the fact that there is gross mismanagement at the facility.

And what about the back-loaded savings from the sale of the United States Enrichment Corporation? Under the President's budget, a portion of the proceeds were shifted to 2002. Obviously, he was not watching floor consideration of the most recent omnibus

spending bill when this body used those same proceeds to pay for the additional education funding President Clinton demanded. Again, they are trying to spend the same dollars once, twice, three, four, five times.

Then there are the policies which defy common sense. We have all heard about the environmental hazards resulting from leaking oil at the Weeks Island facility. The Energy Department is currently removing over 70 million barrels from there and transferring them to other strategic petroleum reserve facilities —only to be sold in 2002. But again, a portion of the proceeds from the sale have already been spent, targeted to offset the additional spending requested by the President in the omnibus appropriations bill. Again, trying to spend the same dollars more than once, it is smoke and mirrors, trying to balance the budget at the taxpayer's expense.

Furthermore, why does DOE not prioritize the Weeks Island reserve for immediate sale, rather than moving it to another facility, storing it, and then selling it? If the Secretary of Energy believes we will not need this oil in 2002, I am certain we don't need it now.

Mr. President, under this budget, the potential for even further abuses would continue, because it does nothing to rein in DOE's ever-present search for something to do, someplace to spend the taxpayers' hard-earned dollars. There would be nothing to stop the extravagant, taxpayer-funded foreign excursions, or the use of tax dollars to investigate reporters and their stories, or the other wasteful spending that has become all too common at the Energy Department.

The Department would be left to operate mostly as it has in the past—free to pursue its own supposed manifest destiny through expansion, reinvention, and constantly redefining its missions. That kind of freedom has allowed DOE's budget to grow 235 percent since 1977, even in the absence of another energy crisis like the one that led to its creation.

At a time when the people are demanding a balanced budget and justification for every dollar spent by the Federal Government, can any of us in good conscience claim that business as usual at the Department of Energy is how the taxpayers ought to be served?

Mr. President, in presenting its budget to Congress, DOE's chief financial officer testified last week that the document demonstrates a new commitment to streamlining its operations. "More than ever," he said, "American citizens are holding us accountable for superior results with increasingly limited resources. The Department of Energy is meeting these expectations. We are improving our process efficiency and effectiveness."

Mr. President, whether or not DOE is meeting these expectations is a question clearly open to debate. I believe they are falling short, way short. And I am afraid that improving process efficiency and effectiveness will not ensure accountability or solve the fundamental problems that rack the Department of Energy.

President Clinton's budget feeds DOE's problems through more spending. But when will the big spenders here realize that the time-honored Washington tradition of throwing money at a problem does not make the problem go away—that it only perpetuates the status quo and aggravates the damage?

Mr. President, I believe the solution lies in less spending and ultimately, elimination of the Department of Energy. Without a specific and defined mission to guide it, the agency will remain a taxpayers boondoggle for years to come, a burden the taxpayers are no longer willing to bear.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SITUATION IN BURUNDI

Mr. PELL. Mr. President, I bring to the attention of my colleagues Burundi, a small Central African country. There are 6 million people who live in Burundi. Each week, a civil insurgency tightens its grip on this poor African nation, causing the deaths of hundreds of people. The killing frenzy in Burundi has barely touched international headlines, as it has been dwarfed by the calamities striking Israel and Bosnia. But consider the situation if it were to occur in the United States. The United States has a population of about 260 million. Sliding the scale to the figures of the United States, we would see 30,000 Americans dying a week; 1,560,000 a year. Burundi, my colleagues, is on the brink of national suicide.

The hostilities in Burundi are between the Tutsi-controlled army and Hutu rebels. The current turmoil is the fallout of the explosion of tensions between Tutsi's and Hutu's in 1993. That year, the country's first popularly elected President, a Hutu, was assassinated. In the chaotic aftermath of his death, tens of thousands of Burundians were killed, hundreds of thousands were displaced. Today, Burundi is ruled by a coalition of moderate Hutus and Tutsis who agreed to share power through the mediation of U.N. Secretary General's former special representative, Ambassador Ahmedou Abdallah. The moderates who lead this Government have tried to contain the violence. Their efforts, however, continue to be threatened by extremists on both sides.

A breakdown in Burundi could have catastrophic effects in the country, the region, and in the international community. The world witnessed at great length the tragedy that wrecked Rwanda 2 years ago. Rwanda shares the ethnic makeup of Burundi and is just barely coming to grips with the horror it endured. A collapse in Burundi could crack the fragile peace now established in Rwanda and even worse, could trigger a regional genocide. The international community cannot afford to sit back and watch another egregious slaughter.

The international community, with leadership from the United States, can help. First, we should support last Saturday's meeting of African leaders in Tunis. This meeting was brokered by former President Jimmy Carter. Second, there must be diplomatic efforts to persuade the extremists on both sides that violence is not a credible option. If violence resumes, the United States, in conjunction with its European allies, should be prepared to impose an arms embargo, block international financial transactions by Burundi's extremists and stop all trade with Burundi with the exception of humanitarian relief. And third, we, the Congress, should stand behind the State Department, the U.S. Agency for International Development, and private American voluntary and relief projects whose programs promote peace and national reconciliation.

Burundi represents a great opportunity for the world community to exercise preventative diplomacy. The United States should do its share of constructive engagement and assist in heading off a regional genocide before it is too late.

TRIBUTE TO DIANE KASEMAN

Mr. HEFLIN. Mr. President, I am proud to pay tribute today to a dear friend to me and my wife, Elizabeth Ann, Diane Kaseman. Diane is a longtime employee of the Senate Service Department, where her friendliness, dedication, and charming personality have become familiar to many Members of this body and our staffs. Unfortunately for us, she will be retiring from her position in the Service Department after an incredible 43 years of service to the U.S. Congress.

Diane Kaseman is one of those individuals who takes extreme pride in her work and who truly loves the Senate as an institution. She and her loyal canine pets have become welcome sights to the many hundreds of staff members who routinely seek assistance from the Service Department. She never fails to express genuine concern when one of us, our spouses, or our staff members is under the weather. Her kind words and

VOL
142
PT
5
MR
21
—
29
1996
UMI

thoughtful notes never fail to improve our spirits.

Diane is a Rochester, NY native, and began her Capitol Hill career as a receptionist for the late Congressman and Senator Kenneth Keating of New York. She began work on March 27, 1953. Eventually, she moved over to the Senate, where she served on the staff of former Kentucky Senator John Sherman Cooper. Since then, she has served under 11 Senate Sergeants-at-Arms, working with the service and computer facilities.

Not surprisingly, Diane has devoted much of her time over the years to volunteer and community service activities. Early on in her career, she helped establish the Senate Staff Club. Since its founding in 1954, it has sponsored a wide variety of social, civic, and philanthropic projects. She served as the organization's first treasurer. Today, it has over 3,000 members.

One of the Staff Club's major activities has been its blood donor drives, begun in 1978. Diane has been a driving force behind this campaign and has dedicated many hours of hard work and energy to see that the Senate meets its goals. My wife has worked with Diane on many of these blood drives.

In 1981, she received the Sid Yudain Award, which recognized "her dedication to the well-being of her coworkers and for the generous expenditure of her time, talent, and personal resources in the service of the congressional community." These few words are perhaps the best that can be offered to summarize her outstanding career and selfless service.

Diane Kaseman is truly a Senate institution who will be sorely missed after she leaves the Senate at the end of this month. I join my colleagues in thanking her, commending her, and wishing her all the best as she embarks upon a well-earned retirement.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, March 22, 1996, the Federal debt stood at $5,062,405,341,134.69.

On a per capita basis, every man, woman, and child in America owes $19,139.65 as his or her share of that debt.

EVENTS IN ASIA

Mr. THOMAS. Mr. President, I rise today as the chairman of the Subcommittee on East Asian and Pacific Affairs to briefly address two events which transpired in Asia over the weekend, one which bodes well for the continued growth and vitality of democracy in Asia and one which, unfortunately, does not.

First, as I'm sure my colleagues are by now aware, despite unprecedented military threats and vituperative media pressure from the People's Republic of China, the people of Taiwan have elected Lee Teng-hui as their President. The election, aside from its practical result, was important for several reasons. First, for the first time in its almost 5,000 year history, China—or, more precisely, a portion thereof—has elected its paramount leader in a free, fair, and open democratic election. With the election, the ideals of human rights and representative democracy—which some in Asia, especially authoritarian regimes, have argued are peculiarly Western inventions with little or no applicability in their region—have taken a dramatic step toward universality.

Second, Taiwan's electorate clearly demonstrated to Beijing that its bellicose campaign of threats and intimidation was ill-conceived and ineffectual. Rather than diminishing support for President Lee, as Beijing and the PLA had hoped, the People's Republic of China's recent round of missile tests and live-fire military exercises seems only to have served to solidify his support; President Lee won with some 54 percent of the vote. In other words, the People's Republic of China's plans backfired, much as I and others of my colleagues predicted. I would hope that they come away from the past month having learned that the best course is not one of brazen threats, but open bilateral dialog across the Taiwan Strait.

I wish to convey my personal congratulations to the Government and people of Taiwan, and hope to do so in person to President Lee when I travel to the People's Republic of China and then on to Taipei next week.

Mr. President, in contrast the second issue I'd like to discuss today is not so encouraging. On Sunday at its second plenary session, China's Hong Kong Preparatory Committee—the body charged by Beijing with overseeing the transition of the British Colony to a Special Administrative Region of the People's Republic of China in 1997—voted by a margin of 148 to 1 to scrap the elected Legislative Council and install in its place an appointed body.

Members of Hong Kong's Legislative Council, or Legco, have traditionally been elected not by universal suffrage but by a narrow group of functional constituencies. In other words, the trade unions had a certain number of votes, the civil service had a certain number of votes, lawyers had a certain number of votes, et cetera. Last year, in a move to increase the representation of the average citizen on the Council, a number of changes were made by the colonial government in the way elections are conducted.

Beijing objected to the changes in the election process, ostensibly because they were made unilaterally by the British; of course, Beijing overlooked the fact that they themselves had refused to seriously negotiate on the issue. However, most observers—correctly I believe—felt that the real reason for Beijing's opposition was that the changes made the Legco even more democratic, a status that they would then be forced to acquiesce to after 1997.

The reason that increased democracy is a problem for the People's Republic of China is fairly obvious; the government presently installed in Beijing is antithetical to democracy. Despite lip service to its promises that it would ensure the continuation of Hong Kong's rights and civil liberties after 1997, the People's Republic of China has taken a number of steps over the last 2 years to call that commitment to democratic norms into serious question. It's opposition to the reconstituted Legco is one of the more visible.

Another is the fate of the lone dissenting vote, by Mr. Frederick Fung, in the 148 to 1 vote tally on the Legco question. As a result of his dissenting vote, the head of the Preparatory Committee—Lu Ping—announced that because of his vote Mr. Fung should be disqualified from the transitional bodies planning Hong Kong's post-1997 government and from any governing role after the British withdraw. What does this petty and vindictive statement say about the People's Republic of China's commitment to democracy; that instead of tolerating dissent the Chinese will seek to punish those who express their opinions and fail to follow the party line.

Actions and statements such as this are not, sadly, surprising. The People's Republic of China has made several moves in the past year to exclude pro-democracy figures from the transition process; it even prevented one pro-democracy legislator from entering China to attend a conference, solely on the basis of his being a critic of the Government in Beijing. I believe that moves like these call into question the People's Republic of China's commitment to the Basic Law, and its commitment to safeguard the rights of Hong Kong's citizens after retrocession. It would behoove them to remember that each move they make is under very close scrutiny by Hong Kong's—and the world's—commercial community. How Beijing acts will be directly reflected in that community's confidence, or lack thereof, and its willingness to maintain its investments there.

This is the People's Republic of China's reaction.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO ANGOLA—MESSAGE FROM THE PRESIDENT—PM 134

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on the developments since September 26, 1995, concerning the national emergency with respect to Angola that was declared in Executive Order No. 12865 of September 26, 1993. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

On September 26, 1993, I declared a national emergency with respect to Angola, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and the United Nations Participation Act of 1945 (22 U.S.C. 287c). Consistent with United Nations Security Council Resolution 864, dated September 15, 1993, the order prohibited the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to the territory of Angola other than through designated points of entry. The order also prohibited such sale or supply to the National Union for the Total Independence of Angola ("UNITA"). United States persons are prohibited from activities that promote or are calculated to promote such sales or supplies, or from attempted violations, or from evasion or avoidance or transactions that have the purpose of evasion or avoidance, of the stated prohibitions. The order authorized the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as might be necessary to carry out the purposes of the order.

1. On December 10, 1993, the Treasury Department's Office of Foreign Assets Control ("FAC") issued the UNITA (Angola) Sanctions Regulations (the "Regulations") (58 *Fed. Reg.* 64904) to implement the President's declaration of a national emergency and imposition of sanctions against Angola (UNITA). There have been no amendments to the Regulations since my report of September 18, 1995.

The Regulations prohibit the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to UNITA or to the territory of Angola other than through designated points. United States persons are also prohibited from activities that promote or are calculated to promote such sales or supplies to UNITA or Angola, or from any transaction by any United States persons that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive order. Also prohibited are transactions by United States persons, or involving the use of U.S.-registered vessels or aircraft, relating to transportation to Angola or UNITA of goods the exportation of which is prohibited.

The Government of Angola has designated the following points of entry as points in Angola to which the articles otherwise prohibited by the Regulations may be shipped: *Airports:* Luanda and Katumbela, Benguela Province; *Ports:* Luanda and Lobito, Benguela Province; and Namibe, Namibe Province; and *Entry Points:* Malongo, Cabinda Province. Although no specific license is required by the Department of the Treasury for shipments to these designated points of entry (unless the item is destined for UNITA), any such exports remain subject to the licensing requirements of the Departments of State and/or Commerce.

2. The FAC has worked closely with the U.S. financial community to assure a heightened awareness of the sanctions against UNITA—through the dissemination of publications, seminars, and notices to electronic bulletin boards. This educational effort has resulted in frequent calls from banks to assure that they are not routing funds in violation of these prohibitions. United States exporters have also been notified of the sanctions through a variety of media, including special fliers and computer bulletin board information initiated by FAC and posted through the U.S. Department of Commerce and the U.S. Government Printing Office. There have been no license applications under the program.

3. The expenses incurred by the Federal Government in the 6-month period from September 18, 1995, through March 25, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Angola (UNITA) are reported to be about $226,000, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel) and the Department of State (particularly the Office of Southern African Affairs).

I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 25, 1996.*

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the order of the Senate of January 4, 1995, the Secretary of the Senate, on March 22, 1996, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House disagrees to the amendment of the Senate to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

For consideration of the House bill (except for section 101(c)) and the Senate amendment (except for section 101(d)), and modifications committed to conference: Mr. LIVINGSTON, Mr. MYERS of Indiana, Mr. YOUNG of Florida, Mr. REGULA, Mr. LEWIS of California, Mr. PORTER, Mr. ROGERS, Mr. SKEEN, Mr. WOLF, Mrs. VUCANOVICH, Mr. LIGHTFOOT, Mr. CALLAHAN, Mr. WALSH, Mr. OBEY, Mr. YATES, Mr. STOKES, Mr. BEVILL, Mr. MURTHA, Mr. WILSON, Mr. DIXON, Mr. HEFNER, and Mr. MOLLOHAN.

For consideration of section 101(c) of the House bill, and section 101(d) of the Senate amendment, and modifications committed to conference: Mr. PORTER, Mr. YOUNG of Florida, Mr. BONILLA, Mr. ISTOOK, Mr. MILLER of Florida, Mr. DICKEY, Mr. RIGGS, Mr. WICKER, Mr. LIVINGSTON, Mr. OBEY, Mr. STOKES, Mr. HOYER, Ms. PELOSI, and Mrs. LOWEY.

ENROLLED JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolutions:

H.J. Res. 165. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

S.J. Res. 38. Joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

Under the authority of the order of the Senate of January 4, 1995, the enrolled joint resolutions were signed

VOL
142
PT
5
MR
21
—
29
1996
UMI

subsequently on March 22, 1996, during the adjournment of the Senate, by the President pro tempore [Mr. THURMOND].

MESSAGES FROM THE HOUSE

At 10:02 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the House:

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

The message also announced that the House agrees to the resolution (H. Res. 387) returning to the Senate the bill (S. 1518) to eliminate the Board of Tea Experts by prohibiting funding for the Board and by repealing the Tea Importation Act of 1987, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate.

At 1:46 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 125. An act to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 125. An act to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices; to the Committee on the Judiciary.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1996" (Rept. No. 104–243).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BRADLEY: S. 1640. A bill to prohibit the possession and transfer of non-sporting handguns, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAMS (for himself and Mr. PRESSLER): S. 1641. A bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BRADLEY:

S. 1640. A bill to prohibit the possession and transfer of nonsporting handguns, and for other purposes; to the Committee on the Judiciary.

THE DOMESTIC SATURDAY NIGHT SPECIAL ACT OF 1996

Mr. BRADLEY. Mr. President, I rise today to introduce a measure designed to ban the sale and possession of domestic Saturday night specials, which are inexpensive, short-barreled—4" or shorter, easily concealed handguns that are made from inferior materials and lack any sporting purpose. These handguns have flooded the black market and are disproportionately used in violent criminal activity. These weapons are poorly made, unreliable and, in some cases, unsafe. They are cheap to build, cheap to purchase, and are roughly 3.4 times more likely to be involved in violent crimes than are handguns from other major manufacturers. Their destructive impact on the lives of American citizens must be stopped.

Mr. President, in the aftermath of the assassinations of Robert F. Kennedy and Martin Luther King, Jr., Congress passed the Gun Control Act of 1968, which targeted small caliber, easily concealable, and poorly made imported handguns named Saturday night specials. It was Congress' intent to eliminate imported guns which were believed to be disproportionately involved in crime. Specifically, the legislation banned the importation of handguns not particularly suitable for or readily adaptable to sporting purposes. Congress, however, exempted domestic manufacturers from the legislation, resulting in the creation of a protected domestic industry that produces and markets small, poorly made, easily concealable handguns.

Today, Mr. President, six handgun manufacturers in southern California dominate the production of Saturday night specials. In 1992, they made over 80 percent of the .25 ACP, .32 ACP, and .380 ACP pistols manufactured in this country. Indeed, in 1992 these companies manufactured 685,934 handguns, or 34 percent of all handguns made in the United States. According to 1993 figures, one of the Saturday night special manufacturers, Lorcin Engineering Inc., is the leading pistol manufacturer in America.

In 1968, "the American Rifleman"—a publication of the National Rifle Association, in arguing in favor of a ban on Saturday night special imports, noted that such weapons were "miserably made, potentially defective arms that contribute so much to rising violence." This statement is equally applicable today to domestically manufactured Saturday night specials.

The carnage and killing that occur in our Nation's towns and cities are directly related to the proliferation of these weapons of destruction on the streets of America. According to a Wall Street Journal investigation, these pistols are purchased in bulk at retail by illegal dealers and smuggled by bus or train to urban centers for resale on the street.

Once they reach the streets, domestic Saturday night specials, which sell for as low as $35, are the starter guns of choice for criminals and the very young. For example, in 1990, a 5-year-old from the Bronx, NY, carried in his pocket a loaded domestic Saturday night special to kindergarten. In 1992, a 15-year-old aimed a domestic Saturday night special from the roof of a New York apartment building and shot a policeman in the ankle.

Mr. President, these guns are disproportionately used in robberies and murders. From 1990 to 1992, the Bureau of Alcohol, Tobacco and Firearms [ATF] traced approximately 24,000 handguns sold after 1986 and used in murders and other crimes. Saturday night specials produced by three southern California companies accounted for 27 percent of the traces, as compared to 11 percent for the much larger Smith and Wesson Company. According to the Wall Street Journal, police in Houston confiscated nearly 1,000 guns used in crimes in 1991. Three Saturday night specials produced by southern California companies—the Raven .25 ACP, the Davis .380 ACP, and the Davis .32 ACP—ranked as the top three guns confiscated. The same year in Cleveland, police confiscated more than 2,000 handguns; the Raven .25 ACP ranked second.

The Washington Post reported in June 1994 that of all 21,744 guns seized at crime scenes and traced by ATF during 1991 through 1993, an astounding 62 percent—or 13,559 handguns—were produced by a southern California manufacturer of Saturday night specials. ABC television's "Day One" reported that in 1994, the Lorcin .380 ACP was the single firearm most frequently submitted to ATF for tracing. Thus, there is no question that these weapons are the weapons of choice of criminals.

Of significant concern is also the threat that these guns pose to law enforcement. The single gun with the greatest number of police homicides per number of guns in circulation is the .32 caliber pistol. As of 1992, nearly 90 percent of these guns were manufactured by the southern California gun makers. Mr. President, for the sake of the American public and the law enforcement community, it is time that Congress take action to get these killing machines off the streets of America.

Mr. President, under the 1968 Gun Control Act, ATF has developed an elaborate scheme to determine whether foreign firearms should be classified as Saturday night specials. To gain entry into the U.S. market, imported guns must meet minimum size and safety specifications and pass a battery of individual design, performance, and materials standards. The ATF classification scheme considers the quality of the metal used to construct the weapon, as well as the combined height and length, weight, caliber, safety features, and accessory features of the weapon. By the mid-1970's, ATF estimated that over half of all of the handguns produced domestically could not legally have been imported.

Domestic Saturday night specials are cheaply made and unreliable. Large domestic handgun manufacturers—such as Smith and Wesson—produce small quantities of guns because their production process is labor intensive. On average, these guns retail for $600. By contrast, the Saturday night specials are assembled in mere minutes using cheap materials, yielding high volumes that sell for as little as $35 per gun. The results are predictable. For example, the zinc alloy used in many of the Saturday night specials is so soft that it can be shaved with a knife. Moreover, the alloy begins to distort at 700 degrees Fahrenheit, compared to 2,400 degrees for the stainless steel in quality guns.

In addition, while the Saturday night specials typically have minimal safety devices that block the trigger from being pulled, they lack safety equipment found on higher quality guns, such as firing pin blocks that help prevent accidental discharge. Indeed, officials at ATF have indicated that the Raven .25 ACP pistol produced by one of the southern California companies can discharge if it is loaded and dropped to the floor, thereby failing ATF's drop test. The quality and reliability of domestic Saturday night specials is so atrocious that Edward Owen, Jr., Chief of the Firearms Technology Branch at ATF, has stated: "If someone gave me one as a gift, I would throw it away."

The unreliability of these guns, Mr. President, highlights the fact that they have no sporting purpose and cannot be depended on for self-defense. This fact was illustrated in a May 1994 segment of ABC television's "Day One". A Colorado Springs gun shop owner is firing one of the domestic Saturday night specials when it jams. As she attempts to clear the weapon, the correspondent asks her what would happen at that moment if she was relying on the gun for protection. She answers, "Well, I just got killed."

In independent tests of domestic Saturday night specials by "Gun Tests", Lorcin's .22 caliber pistol, the L–22, was found unacceptable. In test firing, evaluators "experienced 20 misfires due to light firing-pin strikes and 36 failures to completely lock into battery, and—the gun—failed to feed truncated-nose ammunition about 25 percent of the time." Indeed, according to the Wall Street Journal, many gun-store owners have decided not to sell domestic Saturday night specials because "the quality is too poor, replacement parts are too hard to obtain, and the dollar profit per gun is too small."

Mr. President, since these weapons are useless for self-defense and have no sporting purpose, the present legislation would apply the Gun Control Act of 1968 to domestic Saturday night specials, thereby banning the possession and sale of these weapons shipped or transported in interstate or foreign commerce. Specifically, the present ATF import classification scheme—which considers the quality of the metal used to construct the weapon, as well as the combined height and length, weight, caliber, safety features and accessory features of the weapon—would be applicable to domestic Saturday night Specials.

Mr. President, the focus of this bill is to ban inexpensive, short-barreled, easily concealed handguns that are made from inferior materials and lack any sporting purpose. Thus, this legislation would not ban high quality, domestic snub-nosed revolvers and derringers containing adequate safety features that would otherwise be banned because of their size. Moreover, this legislation would exempt from coverage those high quality, domestic handguns that meet the overall ATF size requirement, but would otherwise fail the ATF test because of their light weight and low caliber.

Mr. President, the Justice Department recently released a report concluding that 86 percent of all firearm-related crimes occurring in 1993 were carried out with a handgun. This represents an 18 percent increase from 1992. Also, of the more than 24,500 murders in 1993, 16,189—(70 percent)—were committed with firearms, and four out of every five firearm murders involved the use of a handgun. The evidence is clear that domestic Saturday night specials—inexpensive, poorly made handguns that lack any sporting purpose—are disproportionately involved in criminal activity and pose a significant threat to the safety of American citizens. Mr. President, it is time to stop the carnage in our Nation's streets caused by these killing machines.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Saturday Night Special Act of 1996".

SEC. 2. PROHIBITION AGAINST POSSESSION OR TRANSFER OF NON-SPORTING HANDGUNS.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(y)(1) It shall be unlawful for any person to possess or transfer a non-sporting handgun that has been shipped or transported in interstate or foreign commerce.

"(2) Paragraph (1) shall not apply to the possession of a sporting handgun, or the continuous and otherwise lawful possession of a non-sporting handgun by a person during any period that began before the effective date of this subsection.

"(3) Paragraph (1) shall not prohibit the sale and transfer if—

"(A) a revolver with a barrel length of not less than 2 inches, if such revolver could otherwise be imported into the United States on the basis of a determination by the Secretary under section 925(d)(3); or

"(B) a handgun which, if designed to use a larger caliber ammunition, could otherwise be imported into the United States on the basis of a determination by the Secretary under section 925(d)(3).".

"(b) NON-SPORTING HANDGUN DEFINED.—Section 921(a) of such title is amended by adding at the end the following:

"(33)(A) The term 'non-sporting handgun' means—

"(i) a firearm that—

"(I) is designed to be fired by the use of a single hand; and

"(II) is not a sporting handgun; and

"(ii) any combination of parts from which a firearm described in clause (i) can be assembled.

"(B) The term 'sporting handgun' means a firearm that—

"(i) is designed to be fired by the use of a single hand; and

"(ii) the Secretary has determined, using the criteria applied in making determinations under section 925(d)(3), to be of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes.".

(c) PENALTY.—Section 924(a)(1)(B) of such title is amended by striking "or (w)" and inserting "(w), or (y)".

AMENDMENTS SUBMITTED

THE PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1996

MURKOWSKI AMENDMENT NO. 3564

Mr. MURKOWSKI proposed an amendment to the bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer; as follows:

In lieu of the matter proposed, to be inserted, insert the following:

TITLE I—THE PRESIDIO OF SAN FRANCISCO

SECTION 101. FINDINGS.

The Congress finds that—

(1) the Presidio, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

VOL
142
PT
5
MR
21
—
29
1996
UMI

(2) the Presidio is the oldest continuously operated military post in the Nation dating from 1776, and was designated a National historic Landmark in 1962;

(3) preservation of the cultural and historic integrity of the Presidio for public use recognizes its significant role in the history of the United States;

(4) the Presidio, in its entirety, is a part of the Golden Gate National Recreation Area, in accordance with Public Law 92–589;

(5) as part of the Golden Gate National Recreation Area, the Presidio's significant natural, historic, scenic, cultural, and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protects the Presidio from development and uses which would destroy the scenic beauty and historic and natural character of the area and cultural and recreational resources;

(6) removal and/or replacement of some structures within the Presidio must be considered as a management option in the administration of the Presidio; and

(7) the Presidio will be managed through an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources.

SEC. 102. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF THE INTERIOR.

(a) Interim Authority.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to manage leases in existence on the date of this Act for properties under the administrative jurisdiction of the Secretary and located at the Presidio. Upon the expiration of any such lease, the Secretary may extend such lease for a period terminating not later than 6 months after the first meeting of the Presidio Trust. The Secretary may not enter into any new leases for property at the Presidio to be transferred to the Presidio Trust under this Title, however, the Secretary is authorized to enter into agreements for use and occupancy of the Presidio properties which are assignable to the Trust and are terminable within 30 days notice by the Trust. Prior to the transfer of administrative jurisdiction over any property to the Presidio Trust, and notwithstanding section 1341 of title 31 of the United States Code, the proceeds from any such lease shall be retained by the Secretary and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. The Secretary may adjust the rental charge on any such lease for any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to properties and infrastructure within the Presidio.

(b) Public Information and Interpretation.—The Secretary shall be responsible, in cooperation with the Presidio Trust, for providing public interpretive services, visitors orientation and educational programs on all lands within the Presidio.

(c) Other.—The lands and facilities within the Presidio that are not transferred to the administrative jurisdiction of the Presidio Trust shall continue to be managed by the Secretary. The Secretary and the Presidio Trust shall cooperate to ensure adequate public access to all portions of the Presidio. Any infrastructure and building improvement projects that were funded prior to the enactment of this Act shall be completed by the National Park Service.

(d) Park Service Employees.—(1) Any career employee of the National Park Service, employed at the Presidio at the time of the transfer of lands and facilities to the Presidio Trust, shall not be separated from the Service by reason of such transfer, unless such employee is employed by the Trust, other than on detail. The Trust shall have sole discretion over whether to hire any such employee or request a detail of such employee.

(2) Any career employee of the National Park Service employed at the Presidio on the date of enactment of this Title shall be given priority placement for any available position within the National Park System notwithstanding any priority reemployment lists, directive, rules, regulations or other orders from the Department of the Interior, the Office of Management and Budget, or other federal agencies.

SEC. 103. ESTABLISHMENT OF THE PRESIDIO TRUST.

(a) Establishment.—There is established a wholly owned government corporation to be known as the Presidio Trust (hereinafter in this Title referred to as the "Trust").

(b) Transfer.—(1) Within 60 days after receipt of a request from the Trust for the transfer of any parcel within the area depicted as Area B on the map entitled "Presidio Trust Number 1," dated December 7, 1995, the Secretary shall transfer such parcel to the administrative jurisdiction of the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Secretary shall transfer to the Trust administrative jurisdiction over all remaining parcels within Area B. Such map shall be on file and available for public inspection in the offices of the Trust and in the offices of the National Park Service, Department of the Interior. The Trust and the Secretary may jointly make technical and clerical revisions in the boundary depicted on such map. The Secretary shall retain jurisdiction over those portions of the building identified as number 102 as the Secretary deems essential for use as a visitor center. The Building shall be named the "William Penn Mott Visitor Center". Any parcel of land, the jurisdiction over which is transferred pursuant to this subsection, shall remain within boundary of the Golden Gate National Recreation Area. With the consent of the Secretary, the Trust may at any time transfer to the administrative jurisdiction of the Secretary any other properties within the Presidio which are surplus to the needs of the Trust and which serve essential purposes of the Golden Gate National Recreation Area. The Trust is encouraged to transfer to the administrative jurisdiction of the Secretary open space areas which have high public use potential and are contiguous to other lands administered by the Secretary.

(2) Within 60 days after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively which records, equipment, and other personal property are deemed to be necessary for the immediate administration of the properties to be transferred, and the Secretary shall immediately transfer such personal property to the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively what, if any, additional records, equipment, and other personal property used by the Secretary in the administration of the properties to be transferred should be transferred to the Trust.

(3) The Secretary shall transfer, with the transfer of administrative jurisdiction over any property, the unobligated balance of all funds appropriated to the Secretary, all leases, concessions, licenses, permits, and other agreements affecting such property.

(4) At the request of the Trust, the Secretary shall provide funds to the Trust for preparation of such plan, hiring of initial staff and other activities deemed by the Trust as essential to the establishment of the Trust prior to the transfer of properties to the Trust.

(c) Board of Directors.—

(1) In general.—The powers and management of the Trust shall be vested in a Board of Directors (hereinafter referred to as the "Board") consisting of the following 7 members:

(A) the Secretary of the Interior or the Secretary's designee; and

(B) six individuals, who are not employees of the Federal Government, appointed by the President, who shall possess extensive knowledge and experience in one or more of the fields of city planning, finance, real estate development, and resource conservation. At least one of these individuals shall be a veteran of the Armed Services. At least 3 of these individuals shall reside in the San Francisco Bay Area. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act and shall ensure that the fields of city planning, finance, real estate development, and resource conservation are adequately represented. Upon establishment of the Trust, the Chairman of the Board of Directors of the Trust shall meet with the Chairman of the Energy and Natural Resources Committee of the United States Senate and the Chairman of the Resources Committee of the United States House of Representatives.

(2) Terms.—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 3 shall serve for a term of 2 years. Any vacancy on the Board shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of the term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms.

(3) Quorum.—Four members of the Board shall constitute a quorum for the conduct of business by the Board.

(4) Organization and compensation.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

(5) Liability of directors.—Members of the Board of Directors shall not be considered federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

(6) Meetings.—The Board shall meet at least three times per year in San Francisco and at least two of those meetings shall be open to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues through the Golden Gate National Recreation Area Advisory Commission.

(7) Staff.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(8) Necessary powers.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(9) Taxes.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of California, and its political subdivisions, including the City and County of San Francisco.

(10) Government corporation.—(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(B) At the end of each calender year, the Trust shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes in general terms and Trust's goals for the current fiscal year.

SEC. 104. DUTIES AND AUTHORITIES OF THE TRUST.

(a) Overall Requirements of the Trust.—The Trust shall manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with the purposes set forth in section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes," approved October 27, 1972 (Public Law 92–589; 86 Stat. 1299; 16 U.S.C. 460bb), and in accordance with the general objectives of the General Management Plan (hereinafter referred to as the "management plan") approved for the Presidio.

(b) The Trust may participate in the development of programs and activities at the properties transferred to the Trust. The Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of federal, state and local governments as are necessary and appropriate to finance and carry out its authorized activities. Any such agreement may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b). The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Presidio facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition. The Trust may not dispose of or convey fee title to any real property transferred to it under this Title. Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust. The Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust's procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition. Such procedures shall conform to laws and regulations related to federal government contracts governing working conditions and wage scales, including the provisions of 40 U.S.C. Sec. 276a–276a6 (Davis-Bacon Act).

(c) The Trust shall develop a comprehensive program for management of those lands and facilities within the Presidio which are transferred to the administrative jurisdiction of the Trust. Such program shall be designed to reduce expenditures by the National Park Service and increase revenues to the federal government to the maximum extent possible. In carrying out this program, the Trust shall be treated as a successor in interest to the National Park Service with respect to compliance with the National Environmental Policy Act and other environmental compliance statutes. Such program shall consist of—

(1) demolition of structures which in the opinion of the Trust, cannot be cost-effectively rehabilitated, and which are identified in the management plan for demolition,

(2) evaluation for possible demolition or replacement those buildings identified as categories 2 through 5 in the Presidio of San Francisco Historic Landmark District Historic American Buildings Survey Report, dated 1985,

(3) new construction limited to replacement of existing structures of similar size in existing areas of development, and

(4) examination of a full range of reasonable options for carrying out routine administrative and facility management programs.

The Trust shall consult with the Secretary in the preparation of this program.

(d) To augment or encourage the use of non-federal funds to finance capital improvements on Presidio properties transferred to its jurisdiction, the Trust, in addition to its other authorities, shall have the following authorities subject to its other authorities, shall have the following authorities subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.):

(1) The authority to guarantee any lender against loss of principal or interest on any loan, provided that (A) the terms of the guarantee are approved by the Secretary of the Treasury, (B) adequate subsidy budget authority is provided in advance in appropriations acts, and (C) such guarantees are structured so as to minimize potential cost to the federal Government. No loan guarantee under this Title shall cover more than 75 percent of the unpaid balance of the loan. The Trust may collect a fee sufficient to cover its costs in connection with each loan guaranteed under this Act. The authority to enter into any such loan guarantee agreement shall expire at the end of 15 years after the date of enactment of this title.

(2) The authority, subject to appropriations, to make loan to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(3) The authority to issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy and that a repayment schedule is established and only to the extent authorized in advance in appropriations acts. The Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes or obligations acquired by the Secretary of the Treasury under this subsection. Obligations issued under this subparagraph shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(4) The aggregate amount of obligations issued under this subsection which are outstanding at any one time may not exceed $50,000,000.

(e) The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purpose of carrying out its duties. The Trust shall maintain a liaison with the Golden Gate National Park Association.

(f) Notwithstanding section 1341 of title 31 of the United States Code, all proceeds received by the Trust shall be retained by the Trust, and such proceeds shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties under its administrative jurisdiction. Upon the Request of the Trust, the Secretary of the Treasury shall invest excess moneys of the Trust in public debt securities with maturities suitable to the needs of the Trust.

(g) The Trust may sue and be sued in its own name to the same extent as the federal government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Northern District of California shall have exclusive jurisdiction over any suit filed against the Trust.

(h) The Trust shall enter into a Memorandum of Agreement with the Secretary, acting through the Chief of the United States Park Police, for the conduct of law enforcement activities and services within those portions of the Presidio transferred to the administrative jurisdiction of the Trust.

(i) The Trust may adopt, amend, repeal and enforce bylaws, rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised. The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities under this Title. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

(j) For the purpose of compliance with applicable laws and regulations concerning properties transferred to the Trust by the Secretary, the Trust shall negotiate directly with regulatory authorities.

VOL 142 PT 5 MR 21 — 29 1996 UMI

(k) Insurance.—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

(l) Building Code Compliance.—The Trust shall bring all properties under its administrative jurisdiction into compliance with federal building codes and regulations appropriate to use and occupancy within 10 years after the enactment of this Title to the extent practicable.

(m) Leasing.—In managing and leasing the properties transferred to it, the Trust consider the extent to which prospective tenants contribute to the implementation of the General Management Plan for the Presidio and to the reduction of cost to the Federal Government. The Trust shall give priority to the following categories of tenants: tenants that enhance the financial viability of the Presidio and tenants that facilitate the cost-effective preservation of historic buildings through their reuse of such buildings.

(n) Reversion.—If, at the expiration of 15 years, the Trust has not accomplished the goals and objectives of the plan required in section (105)(b) of this Title, then all property under the administrative jurisdiction of the Trust pursuant to section (103)(b) of this Title shall be transferred to the Administrator of the General Services Administration to the Administrator of the General Services Administration to be disposed of in accordance with the procedures outlined in the Defense Authorization Act of 1990 (104 Stat. 1809), and any real property so transferred shall be deleted from the boundary of the Golden Gate National Recreation Area. In the event of such transfer, the terms and conditions of all agreements and loans regarding such lands and facilities entered into by the Trust shall be binding on any successor in interest.

SEC. 105. LIMITATIONS ON FUNDING.

(a)(1) From amounts made available to the Secretary for the operation of areas within the Golden Gate National Recreation Area, not more than $25,000,000 shall be available to carry out this Title in each fiscal year after the enactment of this Title until the plan is submitted under subsection (b). Such sums shall remain available until expended.

(2) After the plan required in subsection (b) is submitted, and for each of the 14 fiscal years thereafter, there are authorized to be appropriated to the Trust not more than the amounts specified in such plan. Such sums shall remain available until expended. Of such sums, not more than $3 million annually shall be available through the Trust for law enforcement activities and services to be provided by the United States Park Police at the Presidio in accordance with section 104(h) of this Title.

(b) Within one year after the first meeting of the Board of Directors of the Trust, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funding that will achieve, at a minimum, self-sufficiency for the Trust within 15 complete fiscal years after such meeting of the Trust.

(c) The Administrator of the General Services Administration shall provide necessary assistance to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Presidio.

SEC. 106. GENERAL ACCOUNTING OFFICE STUDY.

(a) Three years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this Title.

(b) In consultation with the Trust, the General Accounting Office shall develop an interim schedule and plan to reduce and replace the federal appropriations to the extent practicable for interpretive services conducted by the National Park Service, and law enforcement activities and services, fire and public safety programs conducted by the Trust.

(c) Seven years after the first meeting of the Board of Directors of the Trust, the General Accounting office shall conduct a comprehensive study of the activities of the Trust, including the Trust's progress in meeting its obligations under this Title, taking into consideration the results of the study described in subsection (a) and the implementation of plan and schedule required in subsection (b). The General Accounting Office shall report the results of the study, including any adjustments to the plan and schedule, to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives.

TITLE II—MINOR BOUNDARY ADJUSTMENTS AND MISCELLANEOUS PARK AMENDMENTS

SEC. 201. YUCCA HOUSE NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) In General.—The boundaries of Yucca House National Monument are revised to include the approximately 24.27 acres of land generally depicted on the map entitled "Boundary—Yucca House National Monument, Colorado", numbered 318/80,001-B, and dated February 1990.

(b) Map.—The map referred to in subsection (a) shall be on file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

(c) Acquisition.—

(1) In general.—Within the lands described in subsection (a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(2) The Secretary of the Interior may pay administrative costs arising out of any donation described in paragraph (1) with appropriated funds.

SEC. 202. ZION NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) Acquisition and Boundary Change.—The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW¼ of Section 28, township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is authorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary of Zion National Park to add the 5.48 acres in section 28 to the park and to exclude the 5.51 acres in section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) Expiration.—The authority granted by this section shall expire two years after the date of the enactment of this Title.

SEC. 203. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY ADJUSTMENT.

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on the map entitled "Area Proposed for Addition to Pictured Rocks National Lakeshore," numbered 625–80, 043A, and dated July 1992.

SEC. 204. INDEPENDENCE NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled "Exhibit 1, Independence National Historical Park, Boundary Adjustment", and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

SEC. 205. CRATERS OF THE MOON NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) Boundary Revision.—The boundary of Craters of the National Monument, Idaho, is revised to add approximately 210 acres and to delete approximately 315 acres as generally depicted on the map entitled "Craters of the Moon National Monument, Idaho, Proposed 1987 Boundary Adjustments", numbered 131–80,008, and dated October 1987, which map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(b) Administration and Acquisition.—Federal lands and interests therein deleted from the boundary of the national monument by this section shall be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Federal lands and interests therein added to the national monument by this section shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto. The Secretary is authorized to acquire private lands and interests therein within the boundary of the national monument by donation, purchase with donated or appropriated funds, or exchange, and when acquired they shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto.

SECTION 206. HAGERMAN FOSSIL BEDS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 302 of the Arizona-Idaho Conservation Act of 1988 (102 Stat. 4576) is amended by adding the following new subsection:

"(d) To further the purposes of the monument, the Secretary is also authorized to acquire from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange not to exceed 65 acres outside the boundary depicted on the map referred to in section 301 and develop and operate thereon research, information, interpretive, and administrative facilities. Lands acquired and facilities developed pursuant to this subsection shall be administered by the Secretary as part of the monument. The boundary of the monument shall be modified to include the lands added under this subsection as a noncontiguous parcel.".

SEC. 207. WUPATKI NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

The boundary of the Wupatki National Monument, Arizona, is hereby revised to include the lands and interests in lands within the area generally depicted as "Proposed Addition 168.89 Acres" on the map entitled "Boundary—Wupatki and Sunset Crater National Monuments, Arizona", numbered 322–80,021, and dated April 1989. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Subject to valid existing rights, Federal lands and interests therein within the area added to the monument by this section are hereby transferred without monetary consideration or reimbursement to the administrative jurisdiction of the National Park Service, to be administered as part of the monument in accordance with the laws and regulations applicable thereto.

SEC. 208. NEW RIVER GORGE NATIONAL RIVER.

Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15) is amended by striking out "NERI–80,023, dated January 1987" and inserting "NERI–80,028, dated January 1993".

SEC. 209. GAULEY RIVER NATIONAL RECREATION AREA.

(a) Section 201(b) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww(b)) is amended by striking out "NRA–GR/20,000A and dated July 1987" and inserting "GARI–80,001 and dated January 1993".

(b) Section 205(c) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–4(c)) is amended by adding the following at the end thereof: "If project construction is not commenced within the time required in such license, or if such license is surrendered at any time, such boundary modification shall cease to have any force and effect.".

SEC. 210. BLUESTONE NATIONAL SCENIC RIVER.

Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65) is amended by striking out "WSR–BLU/20,000, and dated January 1987" and inserting "BLUE–80,004, and dated January 1993".

SEC. 211. ADVISORY COMMISSIONS.

(a) Kaloko-Honokohau National Historical Park.—(1) This subsection under this Title may be cited as the "Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1995".

(2) Notwithstanding section 505 (f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), the Na Hoa Pili O Kaloho-Honokohau, the Advisory Commission for Kaloko-Honokohau National Historical Park, is hereby re-established in accordance with section 505 (f), as amended by paragraph (3) of this section.

(3) Section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), is amended by striking "this Act" and inserting in lieu thereof, "the NA Hoa Pili Kaloko-Honokohau Re-establishment Act of 1995".

(b) Women's Rights National Historical Park.—(1) This subsection under this Title may be cited as the "Women's Rights National Historical Park Advisory Commission Re-establishment Act of 1995".

(2) Notwithstanding section 1601 (h)(5) of Public Law 96-607 (16 U.S.C. 41011(h)(5)), the advisory commission for Women's Rights National Historical Park is hereby re-established in accordance with section 1601(h), as amended by paragraph (3) of this section.

(3) Section 1601(h)(5) of Public Law 96–607 (16 U.S.C. 41011(h)(5)), is amended by striking "this section" and inserting in lieu thereof, "the Women's Rights National Historical Park Advisory Commission Re-establishment Act of 1995".

SEC. 212. AMENDMENT TO BOSTON NATIONAL HISTORIC PARK ACT.

Section 3(b) of the Boston National Historical Park Act of 1974 (16 U.S.C. 410z-1(b)) is amended by inserting "(1)" before the first sentence thereof and by adding the following at the end thereof:

"(2) The Secretary of the Interior is authorized to enter into a cooperative agreement with the Boston Public Library to provide for the distribution of information and interpretive material relating to the park and to the Freedom Trail.".

SEC. 213. CUMBERLAND GAP NATIONAL HISTORICAL PARK.

(a) Removal of Restrictions.—The first section of the Act of June 11, 1940, entitled "An Act to provide for the establishment of the Cumberland Gap National Historical Park in Tennessee, Kentucky, and Virginia; (54 Stat. 262, 16 U.S.C. 261 et seq.) is amended by striking out everything after the words "Cumberland Gap National Historical Park" and inserting a period.

(b) Use of Appropriated Funds.—Section 3 of such Act (16 U.S.C. 263) is amended by inserting "or with funds that may be from time to time appropriated for the purpose," after "funds".

SEC. 214. WILLIAM O. DOUGLAS OUTDOOR CLASSROOM.

(a) In General.—The Secretary of the Interior, acting through the Director of the National Park Service, is authorized to enter into cooperative agreements, as specified as subsection (b), relating to Santa Monica Mountains National Recreation Area (hereafter in this Title referred to as "recreation area") in accordance with this section.

(b) Cooperative Agreements.—The cooperative agreements referred to in subsection (a) are as follows:

(1) A cooperative agreement with appropriate organizations or groups in order to promote education concerning the natural and cultural resources of the recreation area and lands adjacent thereto. Any agreement entered into pursuant to this paragraph—

(A) may provide for Federal matching grants of not more than 50 percent of the total cost of providing a program of such education;

(B) shall provide for visits by students or other beneficiaries to federally owned lands within the recreation area;

(C) shall limit the responsibility of the Secretary to providing interpretation services concerning the natural and cultural resources of the recreation area; and

(D) shall provide that the non-Federal party shall be responsible for any cost of carrying out the agreement other than the cost of providing interpretation services under subparagraph (C).

(2) A cooperative agreement under which—

(A) the Secretary agrees to maintain the facilities at 2600 Franklin Canyon Drive in Beverly Hills, California, for a period of 8 fiscal years beginning with the first fiscal year for which funds are appropriated pursuant to this section, and to provide funding for programs of the William O. Douglas Outdoor Classroom or its successors in interest that utilize those facilities during such period; and in return; or

(B) the William O. Douglas Outdoor Classroom, for itself and any successors in interest with respect to such facilities, agrees that at the end of the term of such agreement all right, title, and interest in and to such facilities will be donated to the United States for addition and operation as part of the recreation area.

(c) Expenditure of Funds.—Federal funds may be expended on non-Federal property located within the recreation area pursuant to the cooperative agreement described in subsection (b)(2).

(d) Limitations.—(1) The Secretary may not enter into the cooperative agreement described in subsection (b)(2) unless and until the Secretary determines that acquisition of the facilities described in such subsection would further the purposes of the recreation area.

(2) This section shall not be construed as authorizing an agreement by the Secretary for reimbursement of expenses incurred by the William O. Douglas Outdoor Classroom or any successor in interest that is not directly related to the use of such facilities for environmental education and interpretation of the resources and values of the recreation area and associated lands and resources.

(e) Authorization of Appropriations.—There is authorized to be appropriated for the 8-year period beginning October 1, 1995, not to exceed $2,000,000 to carry out this section.

SEC. 215. MISCELLANEOUS PROVISIONS.

(a) New River Conforming Amendments.—Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m—15et seq.) is amended by adding the following new section at the end thereof:

"SEC. 1117. APPLICABLE PROVISIONS OF OTHER LAW.

"(a) Cooperative Agreements.—The provisions of section 202(e)(1) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-1(e)(1)) shall apply to the New River Gorge National River in the same manner and to the same extent as such provisions apply to the Gauley River National Recreation Area.

"(b) Remnants of Lands.—The provisions of the second sentence of section 203(a) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–2(a)) shall apply to tracts of land partially within the boundaries of the New River Gorge National River in the same manner and to the same extent as such provisions apply to the tracts of land only partially within the Gauley River National Recreation Area.".

(b) Bluestone River Conforming Amendments.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking "leases" in the fifth sentence and inserting in lieu thereof "the lease" and in the seventh sentence by striking "such management may be continued pursuant to renewal of such lease agreement. If requested to do so by the State of West Virginia, the Secretary may not terminate such leases and assume administrative authority over the areas concerned." and inserting in lieu thereof the following' "if the State of West Virginia so requests, the Secretary shall renew such lease agreement with the same terms and conditions as contained in such lease agreement on the date of enactment of this paragraph under which the State management shall be continued pursuant to such renewal. If requested to do so by the State of West Virginia, or as provided in such lease agreement, the Secretary may terminate or modify the lease and assume administrative authority over all or part of the areas concerned.".

SEC. 216. GAULEY ACCESS.

Section 202(e) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–1(e) is amended by adding the following new paragraph at the end thereof:

"(4) Access to the River.—Within 90 days after the date of enactment of this subsection, the Secretary shall submit a report

VOL
142
PT
5
MR
21
—
29
1996
UMI

to the Committee on Energy and Natural Resources of the Senate setting forth a plan to provide river access for non-commercial recreational users within the Gauley River National Recreational Area. The plan shall provide that such access shall utilize existing public roads and rights-of-way to the maximum extent feasible and shall be limited to providing access for such non-commercial users.".

SEC. 217. VISITOR CENTER.

The Secretary of the Interior is authorized to construct a visitor center and such other related facilities as may be deemed necessary to facilitate visitor understanding and enjoyment of the New River Gorge National River and the Gauley River National Recreation Area in the vicinity of the confluence of the New and Gauley Rivers. Such center and related facilities are authorized to be constructed at a site outside of the boundary of the New River Gorge National River or Gauley River National Recreation Area unless a suitable site is available within the boundaries of either unit.

SEC. 218. EXTENSION.

For a 5-year period following the date of enactment of this Act, the provisions of the Wild and Scenic Rivers Act applicable to river segments designated for study for potential addition to the wild and scenic rivers system under subsection 5(b) of that Act shall apply to those segments of the Bluestone and Meadow Rivers which were found eligible in the studies completed by the National Park Service in August 1983 but which were not designated by the West Virginia National Interest River Conservation Act of 1987 as part of the Bluestone National Scenic River or as part of the Gauley National Recreational Area, as the case may be.

SEC. 219. BLUESTONE RIVER PUBLIC ACCESS.

Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1271 and following) is amended by adding the following at the end thereof: "In order to provide reasonable public access and vehicle parking for public use and enjoyment of the river designated by this paragraph, consistent with the preservation and enhancement of the natural and scenic values of such river, the Secretary may, with the consent of the owner thereof, negotiate a memorandum of understanding or cooperative agreement, or acquire lands or interests in such lands, or both, as may be necessary to allow public access to the Bluestone River and to provide, outside the boundary of the scenic river, parking and related facilities in the vicinity of the area known as Eads Mill.".

SEC. 220. LIMITATION ON PARK BUILDINGS.

The 10th undesignated paragraph (relating to a limitation on the expenditure of funds for park buildings) under the heading "**MISCELLANEOUS OBJECTS, DEPARTMENT OF THE INTERIOR**", which appears under the heading "**UNDER THE DEPARTMENT OF THE INTERIOR**", as contained in the first section of the Act of August 24, 1912 (37 Stat. 460), as amended (16 U.S.C. 451), is hereby repealed.

SEC. 221. APPROPRIATIONS FOR TRANSPORTATION OF CHILDREN.

The first section of the Act of August 7, 1946 (16 U.S.C. 17j–2), is amended by adding at the end the following:

"(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.".

SEC. 222. FERAL BURROS AND HORSES.

Section 9 of the Act of December 15, 1971 (16 U.S.C. 1338a), is amended by adding at the end thereof the following: "Nothing in this Title shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this Title, or the provisions of section 47(a) of title 18, United States Code, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18, United States Code, shall be applicable to such use.".

SEC. 223. AUTHORITIES OF THE SECRETARY OF THE INTERIOR RELATING TO MUSEUMS.

(a) FUNCTIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), is amended—

(1) in paragraph (b) of the first section, by striking out "from such donations and bequests of money"; and

(2) by adding at the end thereof the following:

"SEC. 2. ADDITIONAL FUNCTIONS.

"(a) In addition to the functions specified in the first section of this Act, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

"(1) Transfer museum objects and museum collections that the Secretary determines are no longer needed for museum purposes to qualified Federal agencies that have programs to preserve and interpret cultural or natural heritage, and accept the transfer of museum objects and museum collections for the purposes of this Act from any other Federal agency, without reimbursement. The head of any other Federal agency may transfer, without reimbursement, museum objects and museum collections directly to the administrative jurisdiction of the Secretary of the Interior for the purposes of this Act.

"(2) Convey museum objects and museum collections that the Secretary determines are no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpretation of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

"(3) Destroy or cause to be destroyed museum objects and museum collections that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

"(b) The Secretary shall ensure that museum collections are treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a), the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the higher standards of the museum profession for all actions taken under this section.".

(b) APPLICATION AND DEFINITIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), as amended by subsection (a), is further amended by adding the following:

"SEC. 3. APPLICATION AND DEFINITIONS.

"(a) APPLICATION.—Authorities in this Act shall be available to the Secretary of the Interior with regard to museum objects and museum collections that were under the administrative jurisdiction of the Secretary for the purposes of the National Park System before the date of enactment of this section as well as those museum objects and museum collections that may be acquired on or after such date.

"(b) DEFINITIONS.—For the purposes of this Act, the terms 'museum objects' and 'museum collections' mean objects that are eligible to be or are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.".

SEC. 224. VOLUNTEERS IN PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j.) is amended by striking out "1,000,000" and inserting in lieu thereof "$1,750,000".

SEC. 225. COOPERATIVE AGREEMENTS FOR RESEARCH PURPOSES.

Section 3 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (16 U.S.C. 1a–2), is amended—

(1) in paragraph (i), by striking the period at the end and thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(j) enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, or private conservation organizations for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to any such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.".

SEC. 226. CARL GARNER FEDERAL LANDS CLEANUP DAY.

The Federal Lands Cleanup Act of 1985 (Public Law 99–402; U.S.C. 169i–169i–1) is amended by striking the terms "Federal Lands Cleanup Day" or "Federal Lands National Cleanup Day" each place they occur and inserting in lieu thereof, "Carl Garner Federal Lands Cleanup Day."

SEC. 227. PORT PULASKI NATIONAL MONUMENT, GA.

Section 4 of the Act of June 26, 1936 (ch. 844; Stat. 1979), is amended by striking ": Provided, That" and all that follows and inserting a period.

SEC. 228. LAURA C. HUDSON VISITOR CENTER.

(a) DESIGNATION.—The visitor center at Jean Lafitte National Historical Park, located at 419 Rue Decatur in New Orleans, Louisiana, is hereby designated as the "Laura C. Hudson Visitor Center."

(b) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "Laura C. Hudson Visitor Center".

SEC. 229. UNITED STATES CIVIL WAR CENTER.

(a) FINDINGS.—The Congress finds that—

(1) the sesquicentennial of the beginning of the Civil War will occur in the year 2011;

(2) the sesquicentennial will be the last significant opportunity for most Americans alive in the year 2011 to recall and commemorate the Civil War;

(3) the Civil War Center in Louisiana State University in Baton Rouge, Louisiana, has as its principal missions to create a comprehensive database that contains all Civil War materials and to facilitate the study of the Civil War from the perspectives of all ethnic cultures and all professions; academic disciplines, and occupation;

(4) the two principal missions of the Civil War Center are consistent with commemoration of the sesquicentennial;

(5) the missions of the Civil War Institute at Gettysburg College parallel those of the Civil War Center; and

(6) advance planning to facilitate the four-year commemoration of the sesquicentennial is required.

(b) DESIGNATION.—The Civil War Center, located on Raphael Semmes Drive at Louisiana State University in Baton Rouge, Louisiana, (hereinafter in this section referred to as the "center") shall be known and designated as the "United States Civil War Center".

(c) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the center referred to in subsection (b) shall be deemed to be a reference to the "United States Civil War Center".

(d) FLAGSHIP INSTITUTIONS.—The center and the Civil War Institute of Gettysburg College, located at 233 North Washington Street in Gettysburg, Pennsylvania, shall be the flagship institutions for planning and sesquicentennial commemoration of the Civil War.

TITLE III—ROBERT J. LAGOMARSINO VISITOR CENTER

SEC. 301. DESIGNATION.

The visitor center at the Channel Islands National Park, California, is designated as the "Robert J. Lagomarsino Visitor Center".

SEC. 302. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the visitor center referred to in section 301 is deemed to be a reference to the "Robert J. Lagomarsino Visitor Center".

TITLE IV—ROCKY MOUNTAIN NATIONAL PARK VISITOR CENTER

SEC. 401. VISITOR CENTER.

The Secretary of the Interior is authorized to collect and expend donated funds and expend appropriated funds for the operation and maintenance of a visitor center to be constructed for visitors to and administration of Rocky Mountain National Park with private funds on lands located outside the boundary of the park.

TITLE V—CORINTH, MISSISSIPPI, BATTLEFIELD ACT

SEC. 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the sites located in the vicinity of Corinth, Mississippi, that were Designated as a National Historic Landmark by the Secretary of the Interior in 1991 represent nationally significant events in the Siege and Battle of Corinth during the Civil War; and

(2) the landmark sites should be preserved and interpreted for the benefit, inspiration, and education of the people of the United States.

(b) PURPOSE.—The purpose of this Title is to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the Region and to enhance public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

SEC. 502. ACQUISITION OF PROPERTY AT CORINTH, MISSISSIPPI.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Title as the "Secretary") shall acquire by donation, purchase with donated or appropriated funds,or exchange, such land and interests in land in the vicinity of the Corinth Battlefield, in the State of Mississippi, as the Secretary determines to be necessary for the construction of an interpretive center to commemorate and interpret the 1862 Civil War Siege and Battle of Corinth.

(b) PUBLICLY OWNED LAND.—Land and interests in land owned by the State of Mississippi or a political subdivision of the State of Mississippi may be acquired only by donation.

SEC. 503. INTERPRETIVE CENTER AND MARKING.

(a) INTERPRETIVE CENTER.—

(1) CONSTRUCTION OF CENTER.—The Secretary shall construct, operate, and maintain on the property acquired under section 502 a center for the interpretation of the Siege and Battle of Corinth and associated historical events for the benefit of the public.

(2) DESCRIPTION.—The center shall contain approximately 5,300 square feet, and include interpretive exhibits, an auditorium, a parking area, and other features appropriate to public appreciation and understanding of the site.

(b) MARKING.—The Secretary may mark sites associated with the Siege and Battle of Corinth National Historic Landmark, as designated on May 6, 1991, if the sites are determined by the Secretary to be protected by State or local governmental agencies.

(c) ADMINISTRATION.—The land and interests in land acquired, and the facilities constructed and maintained pursuant to this Title, shall be administered by the Secretary as a part of Shiloh National Military Park, subject to the appropriate laws (including regulations) applicable to the Park, the Act entitled "An Act to establish a National Park Service, and for other purposes," approved August 25, 1916 (16 U.S.C. 1 et Seq.), and the Act entitled "An Act to provide for the preservation of historic american sites, buildings, objects, and antiquities of national significance, and for other purposes," approved August 21, 1935 (16 U.S.C. 461 et seq.).

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated such sums as are necessary to carry out this Title.

(b) CONSTRUCTION.—Of the amounts made available to carry out this Title, not More than $6,000,000 may be used to carry out section 503(a).

TITLE VI—WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION

SEC. 601. FINDINGS AND PURPOSE.

(A) FINDINGS.—The Congress finds that:

(1) Walnut Canyon National Monument was established for the preservation and interpretation of certain settlements and land use patterns associated with the prehistoric Sinaguan culture of northern Arizona.

(2) Major cultural resources associated with the purposes of Walnut Canyon National Monument are near the boundary and are currently managed under multiple-use objectives of the adjacent national forest. These concentrations of cultural resources, often referred to as "forts", would be more effectively managed as part of the National Park System.

(b) PURPOSE.—The purpose of this Title is to modify the boundaries of the Walnut Canyon National Monument (hereafter in this Title referred to as the "national monument") to improve management of the national monument and associated resources.

SEC. 602. BOUNDARY MODIFICATION.

Effective on the date of enactment of this Act, the boundaries of the national monument shall be modified as depicted on the map entitled "Boundary Proposal—Walnut Canyon National Monument, Coconino County, Arizona", numbered 360/80,010, and dated September 1994. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior. The Secretary of the Interior, in consultation with the Secretary of Agriculture, is authorized to make technical and clerical corrections to such map.

SEC. 603. ACQUISITION AND TRANSFER OF PROPERTY.

The Secretary of the Interior is authorized to acquire lands and interest in lands within the national monument, by donation, purchase with donated or appropriated funds, or exchange. Federal property within the boundaries of the national monument (as modified by this Title) is hereby transferred to the administrative jurisdiction of the Secretary of the Interior for management as part of the national monument. Federal property excluded from the monument pursuant to the boundary modification under section 603 is hereby transferred to the administrative jurisdiction of the Secretary of Agriculture to be managed as a part of the Coconino National Forest.

SEC. 604. ADMINISTRATION.

The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national monument in accordance with this Title and the provisions of law generally applicable to units of the National Park Service, including An Act to establish a National Park Service, and for other purposes approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4).

SEC. 605 AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out this Title.

TITLE VII—DELAWARE WATER GAP

SEC. 701. PROHIBITION OF COMMERCIAL VEHICLES.

(a) IN GENERAL.—Effective at noon on September 30, 2005, the use of Highway 209 within Delaware Water Gap National Recreation Area by commercial vehicles, when such use is not connected with the operation of the recreation area, is prohibited, except as provided in subsection (b).

(b) LOCAL BUSINESS USE PROTECTED.—Subsection (a) does not apply with respect to the use of commercial vehicles to serve businesses located or in the vicinity of the recreation area, as determined by the Secretary.

(c) CONFORMING PROVISIONS.—

VOL
142
PT
5
MR
21
—
29
1996
UMI

(1) Paragraph (1) through (3) of the third undersigned paragraph under the heading "administrative provisions" in chapter VII of title I of Public Law 98-63 (97 Stat. 329) are repealed, effective September 30, 2005.

(2) Prior to noon on September 30, 2005, the Secretary shall collect and utilize a commercial use fee from commercial vehicles in accordance with paragraphs (1) through (3) of such third undesignated paragraph. Such fee shall not exceed $25 per trip.

TITLE VIII—TARGHEE NATIONAL FOREST LAND EXCHANGE

SEC. 801. AUTHORIZATION OF EXCHANGE.

(a) Conveyance.—Notwithstanding the requirements in the Act entitled "An Act to Consolidate National Forest Lands", approved March 20, 1922 (16 U.S.C. 485), and section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) that Federal and non-Federal lands exchanged for each other must be located within the same state, the Secretary of Agriculture may convey the Federal lands described in section 802(a) in exchange for the non-Federal lands described in section 802(b) in accordance with the provisions of this Title.

(b) Applicability of Other Provisions of Law.—Except as otherwise provided in this title, the land exchange authorized by this section shall be made under the existing authorities of the Secretary.

(c) Acceptability of Title and Manner of Conveyance.—The Secretary shall not carry out the exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

SEC. 802. DESCRIPTION OF LANDS TO BE EXCHANGED.

(a) Federal Lands.—The Federal lands referred to in this Title are located in the Targhee National Forest in Idaho, are generally depicted on the map entitled "Targhee Exchange, Idaho-Wyoming—Proposed, Federal Land", dated September 1994, and are known as the North Fork Tract.

(b) Non-Federal Lands.—The non-Federal lands referred to in this Title are located in the Targhee National Forest in Wyoming, are generally depicted on the map entitled "Non-Federal Land, Targhee Exchange, Idaho-Wyoming—Proposed", dated September 1994, and are known as the Squirrel Meadows Tract.

(c) Maps.—The maps referred to in subsections (a) and (b) shall be on file and available for inspection in the office of the Targhee National Forest in Idaho and in the office of the Chief of the Forest Service.

SEC. 803. EQUALIZATION OF VALUES.

Prior to the exchange authorized by section 801, the values of the Federal and non-Federal lands to be so exchanged shall be established by appraisals of fair market value that shall be subject to approval by the Secretary. The values either shall be equal or shall be equalized using the following methods:

(1) Adjustment of lands.—

(A) Portion of Federal lands.—If the Federal lands are greater in value than the non-Federal lands, the Secretary shall reduce the acreage of the Federal lands until the values of the Federal lands closely approximate the values of the non-Federal lands.

(B) Additional Federally-Owned Lands.—If the non-Federal lands are greater in value than the Federal lands, the Secretary may convey additional federally owned lands within the Targhee National Forest up to an amount necessary to equalize the values of the non-Federal lands and the lands to be, transferred out of Federal ownership. However, such additional federally owned lands shall be limited to those meeting the criteria for land exchanges specified in the Targhee National Forest Land and Resource Management Plan.

(2) Payment of Money.—The values may be equalized by the payment of money as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

SEC. 804. DEFINITIONS.

For purposes of this Title:

(1) The term "Federal lands" means the Federal lands described in section 802(a).

(2) The term "non-Federal lands" means the non-Federal lands described in section 802(b).

(3) The term "Secretary" means the Secretary of Agriculture.

TITLE IX—DAYTON AVIATION

Section 201(b) of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102-419, approved October 16, 1992), is amended as follows:

(1) In paragraph (2), by striking "from recommendations" and inserting "after consideration of recommendations".

(2) In paragraph (4), by striking "from recommendations" and inserting "after consideration of recommendations".

(3) In paragraph (5), by striking "from recommendations" and inserting "after consideration of recommendations".

(4) In paragraph (6), by striking "from recommendations" and inserting "after consideration of recommendations".

(5) In paragraph (7), by striking "from recommendations" and inserting "after consideration of recommendations".

TITLE X—CACHE LA POUDRE

SEC. 1001. PURPOSE.

The purpose of this Title is to designate the Cache La Poudre River National Water Heritage Area within the Cache La Poudre River Basin and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Area.

SEC. 1002. DEFINITIONS.

As used in this Title:

(1) Area.—The term "Area" means the Cache La Poudre River National Water Heritage Area established by section 1003(a).

(2) Commission.—The term "Commission" means the Cache La Poudre River National Water Heritage Area Commission established by section 1004(a).

(3) Governor.—The term "Governor" means the Governor of the State of Colorado.

(4) Plan.—The term "Plan" means the water heritage area interpretation plan prepared by the Commission pursuant to section 1008(a).

(5) Political subdivision of the state.—The term "political subdivision of the State" means a political subdivision of the State of Colorado, any part of which is located in or adjacent to the Area, including a county, city, town, water conservancy district, or special district.

(6) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 1003. ESTABLISHMENT OF THE CACHE LA POUDRE RIVER NATIONAL WATER HERITAGE AREA.

(a) Establishment.—There is established in the State of Colorado the Cache La Poudre River National Water Heritage Area.

(b) Boundaries.—The boundaries of this Area shall include those lands within the 100-year flood plain of the Cache La Poudre River Basin, beginning at a point where the Cache La Poudre River flows out of the Roosevelt National Forest and continuing east along said floodplan to a point one quarter of one mile west of the confluence of the Cache La Poudre River and the South Platte Rivers in Weld County, Colorado, comprising less than 35,000 acres, and generally depicted as the 100-year flood boundary on the Federal Flood Insurance maps listed below:

(1) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080101 0146B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(2) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080101 0147B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(3) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080101 0162B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(4) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080101 0163C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(5) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080101 0178C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(6) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080102 0002B, February 15, 1984. Federal Emergency Management Agency, Federal Insurance Administration.

(7) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080101 0179C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(8) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080101 0193D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(9) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080101 0194D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(10) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080101 0208C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(11) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080101 0221C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(12) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080266 0605D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(13) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080264 0005A, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(14) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080266 0608D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(15) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080266

0609C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(16) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080266 0628C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(17) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080184 0002B, July 16, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(18) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080266 0636C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(19) Flood insurance rate map, Larimer county, co.—Community-Panel No. 080266 0637C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

As soon as practicable after the date of enactment of this Title, the Secretary shall publish in the Federal Register a detailed description and map of the boundaries of the Area.

(c) Public Access to Maps.—The maps shall be on file and available for public inspection in—

(1) the offices of the Department of the Interior in Washington, District of Columbia, and Denver, Colorado; and

(2) local offices of the city of Fort Collins, Larimer County, the city of Greeley, and Weld County.

SEC. 1004. ESTABLISHMENT OF THE CACHE LA POUDRE RIVER NATIONAL WATER HERITAGE AREA COMMISSION.

(a) Establishment.—

(1) In general.—There is established the Cache La Poudre River National Water Heritage Area Commission.

(2) Function.—The Commission, in consultation with appropriate Federal, State, and local authorities, shall develop and implement an integrated plan to interpret elements of the history of water development within the Area.

(b) Membership.—

(1) Composition.—The Commission shall be composed of 15 members appointed not later than 6 months after the date of enactment of this Title. Of these 15 members—

(A) 1 member shall be a representative of the Secretary of the Interior which member shall be an ex officio member;

(B) 1 member shall be a representative of the Forest Service, appointed by the Secretary of Agriculture, which member shall be a ex officio member;

(C) 3 members shall be recommended by the Governor and appointed by the Secretary, of whom—

(i) 1 member shall represent the State;

(ii) 1 member shall represent Colorado State University in Fort Collins; and

(iii) 1 member shall represent the Northern Colorado Water Conservancy District;

(D) 6 members shall be representatives of local governments who are recommended by the Governor and appointed by the Secretary, of whom—

(i) 1 member shall represent the city of Fort Collins:

(ii) 2 members shall represent Larimer County, 1 of which shall represent agriculture or irrigated water interests;

(iii) 1 member shall represent the city of Greeley;

(iv) 2 members shall represent Weld County, 1 of which shall represent agricultural or irrigated water interests; and

(v) 1 member shall represent the city of Loveland; and

(E) 3 members shall be recommended by the Governor and appointed by the Secretary, and shall—

(i) represent the general public;

(ii) be citizens of the State; and

(iii) reside within the Area.

(2) Chairperson.—The chairperson of the Commission shall be elected by the members of the Commission from among members appointed under subparagraph (C), (D), or (E) of paragraph (1). The chairperson shall be elected for a 2-year term.

(3) Vacancies.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(c) Terms of Service.—

(1) In general.—Except as provided in paragraphs (2) and (3), each member of the Commission shall be appointed for a term of 3 years and may be reappointed.

(2) Initial members.—The initial members of the Commission first appointed under subsection (b)(1) shall be appointed as follows:

(A) 3-Year terms.—The following initial members shall serve for a 3-year term:

(i) The representative of the Secretary of the Interior.

(ii) 1 representative of Weld County.

(iii) 1 representative of Larimer County.

(iv) 1 representative of the city of Loveland.

(v) 1 representative of the general public.

(B) 2-Year terms.—The following initial members shall serve for a 2-year term.

(i) The representative of the Forest Service.

(ii) The representative of the State.

(iii) The representative of Colorado State University.

(iv) The representative of the Northern Colorado Water Conservancy District.

(C) 1-Year terms.—The following initial members shall serve for a 1-year term.

(i) 1 representative of the city of Fort Collins.

(ii) 1 representative of Larimer County.

(iii) 1 representative of the city of Greeley.

(iv) 1 representative of Weld County.

(v) 1 representative of the general public.

(3) Partial terms.—

(A) Filling vacancies.—A member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of their term.

(B) Extended service.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

(d) Compensation.—Members of the Commission shall receive no compensation for their service on the Commission.

(e) Travel Expenses.—While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

SEC. 1005. STAFF OF THE COMMISSION.

(a) Staff.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out the duties of the Commission.

(1) Appointment and compensation.—Staff appointed by the Commission—

(A) shall be appointed without regard to the city service laws and regulations; and

(B) shall be compensated without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(b) Experts and Consultants.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(c) Staff of Other Agencies.—

(1) Federal.—Upon request of the Commission, the head of a Federal agency may detail, on a reimbursement basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the Commission's duties. The detail shall be without interruption or loss of civil service status or privilege.

(2) Administrative support services.—The Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(3) State.—The Commission may—

(A) accept the service of personnel detailed from the State, State agencies, and political subdivisions of the State; and

(B) reimburse the State, State agency, or political subdivision of the State for such services.

SEC. 1006. POWERS OF THE COMMISSION.

(a) Hearings.—

(1) In general.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out this Title.

(2) Subpoenas.—The Commission may not issue subpoenas or exercise any subpoena authority.

(b) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(c) Matching Funds.—The Commission may use its funds to obtain money from any source under a program or law requiring the recipient of the money to make a contribution in order to receive the money.

(d) Gifts.—

(1) In general.—Except as provided in subsection (e)(3), the Commission may, for the purpose of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services received from any source.

(2) Charitable contributions.—For the purpose of section 170(c) of the Internal Revenue Code of 1986, a gift to the Commission shall be deemed to be a gift to the United States.

(e) Real Property.—

(1) In general.—Except as provided in paragraph (2) and except with respect to a leasing of facilities under section 6(c)(2), the Commission may not acquire real property or an interest in real property.

(2) Exception.—Subject to paragraph (3), the Commission may acquire real property in the Area, and interests in real property in the Area—

(A) by gift or devise;

(B) by purchase from a willing seller with money that was given or bequeathed to the Commission; or

(C) by exchange.

(3) Conveyance to public agencies.—Any real property or interest in real property acquired by the Commission under paragraph

VOL
142
PT
5
MR
21
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29
1996
UMI

(2) shall be conveyed by the Commission to an appropriate non-Federal public agency, as determined by the Commission. The conveyance shall be made—

(A) As soon as practicable after acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used in furtherance of the purpose for which the Area is established.

(f) COOPERATIVE AGREEMENTS.—For the purpose of carrying out the Plan, the Commission may enter into cooperative agreements with Federal agencies, State agencies, political subdivisions of the State, and persons. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action that may affect the implementation of the Plan.

(g) ADVISORY GROUPS.—The Commission may establish such advisory groups as it considers necessary to ensure open communication with, and assistance from Federal agencies, State agencies, political subdivisions of the State, and interested persons.

(h) MODIFICATION OF PLANS.—

(1) IN GENERAL.—The Commission may modify the Plan if the Commission determines that such modification is necessary to carry out this Title.

(2) NOTICE.—No modification shall take effect until—

(A) any Federal agency, State agency, or political subdivision of the State that may be affected by the modification receives adequate notice of, and an opportunity to comment on, the modification;

(B) if the modification is significant, as determined by the Commission, the Commission has—

(i) provided adequate notice of the modification by publication in the area of the Area; and

(ii) conducted a public hearing with respect to the modification; and

(C) the Governor has approved the modification.

SEC. 1007. DUTIES OF THE COMMISSION.

(a) PLAN.—The Commission shall prepare, obtain approval for, implement, and support the Plan in accordance with section 9.

(b) MEETINGS.—

(1) TIMING.—

(A) INITIAL MEETING.—The Commission shall hold its first meeting not later than 90 days after the date on which its last initial member is appointed.

(B) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the chairperson or 7 of its members, except that the commission shall meet at least quarterly.

(2) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(3) BUDGET.—The affirmative vote of not less than 10 members of the Commission shall be required to approve the budget of the Commission.

(c) ANNUAL REPORTS.—Not later than May 15 of the year, following the year in which the members of the Commission have been appointed, the Commission shall publish and submit, to the Secretary and to the Governor, an annual report concerning the Commission's activities.

SEC. 1008. PREPARATION, REVIEW, AND IMPLEMENTATION OF THE PLAN.

(a) PREPARATION OF PLAN.—

(1) IN GENERAL.—Not later than 2 years after the Commission conducts its first meeting, the Commission shall submit to the Governor a Water Heritage Area Interpretation Plan.

(2) DEVELOPMENT.—In developing the Plan, the Commission shall—

(A) consult on a regular basis with appropriate officials of any Federal or State agency, political subdivision of the State, and local government that has jurisdiction over or an ownership interest in land, water, or water rights within the Area; and

(B) conduct public hearings within the Area for the purpose of providing interested persons the opportunity to testify about matters to be addressed by the Plan.

(3) RELATIONSHIP TO EXISTING PLANS.—The Plan—

(A) shall recognize any existing Federal, State, and local plans;

(B) shall not interfere with the implementation, administration, or amendment of such plan; and

(C) to the extent feasible, shall seek to coordinate the plans and present a unified interpretation plan for the Area.

(b) REVIEW OF PLAN.—

(1) IN GENERAL.—The Commission shall submit the Plan to the Governor for his review.

(2) GOVERNOR.—The Governor may review the Plan and if he concurs in the Plan, may submit the Plan to the Secretary, together with any recommendations.

(3) SECRETARY.—The Secretary shall approve or disapprove the Plan within 90 days. In reviewing the Plan, the Secretary shall consider the adequacy of—

(A) public participation; and

(B) the Plan in interpreting, for the educational and inspirational benefit of present and future generations, the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Area.

(c) DISAPPROVAL OF PLAN.—

(1) NOTIFICATION BY SECRETARY.—If the Secretary disapproves the Plan, the Secretary shall, not later than 60 days after the date of disapproval, advise the Governor and the Commission of the reasons for disapproval, together with recommendations for revision.

(2) REVISION AND RESUBMISSION TO GOVERNOR.—Not later than 90 days after receipt of the notice of disapproval, the Commission shall revise and resubmit the Plan to the Governor for review.

(3) RESUBMISSION TO SECRETARY.—If the Governor concurs in the revised Plan, he may submit the revised Plan to the Secretary who shall approve or disapprove the revision within 60 days. If the Governor does not concur in the revised Plan, he may resubmit it to the Commission together with his recommendations for further consideration and modification.

(d) IMPLEMENTATION OF PLAN.—After approval by the Secretary, the Commission shall implement and support the Plan as follows:

(1) CULTURAL RESOURCES.—

(A) IN GENERAL.—The Commission shall assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the conservation and interpretation of cultural resources within the Area.

(B) EXCEPTION.—In providing the assistance, the Commission shall in no way infringe upon the authorities and policies of a Federal agency, State agency, or political subdivision of the State concerning the administration and management of property, water, or water rights held by such agency, political subdivision, or private persons or entities, or affect the jurisdiction of the State of Colorado over any property, water, or water rights within the Area.

(2) PUBLIC AWARENESS.—The Commission shall assist in the enhancement of public awareness of, and appreciation for, the historical, recreational, architectural, and engineering structures in the Area, and the archaeological, geological, and cultural resources and sites in the Area—

(A) by encouraging private owners of identified structures, sites, and resources to adopt voluntary measures for the preservation of the identified structure, site, or resource; and

(B) by cooperating with Federal agencies, State agencies, and political subdivisions of the State in acquiring, on a willing seller basis, any identified structure, site, or resource which the Commission, with the concurrence of the Governor, determines should be acquired and held by an agency of the State.

(3) RESTORATION.—The Commission may assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the restoration of any identified structure or site in the Area with consent of the owner. The assistance may include providing technical assistance for historic preservation, revitalization, and enhancement efforts.

(4) INTERPRETATION.—The Commission shall assist in the interpretation of the historical, present, and future uses of the Area—

(A) by consulting with the Secretary with respect to the implementation of the Secretary's duties under section 1010;

(B) by assisting the State and political subdivisions of the State in establishing and maintaining visitor orientation centers and other interpretive exhibits within the Area;

(C) by encouraging voluntary cooperation and coordination, with respect to ongoing interpretive services in the Area, among Federal agencies, State agencies, political subdivisions of the State, nonprofit organizations, and private citizens, and

(D) by encouraging Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations to undertake new interpretive initiatives with respect to the Area.

(5) RECOGNITION.—The Commission shall assist in establishing recognition for the Area by actively promoting the cultural, historical, natural, and recreational resources of the Area on a community, regional, statewide, national, and international basis.

(6) LAND EXCHANGES.—The Commission shall assist in identifying and implementing land exchanges within the State of Colorado by Federal and State agencies that will expand open space and recreational opportunities within the flood plain of the Area.

SEC. 1009. TERMINATION OF TRAVEL EXPENSES PROVISION.

Effective on the date that is 5 years after the date on which the Secretary approves the Plan, section 5 is amended by striking subsection (e).

SEC. 1010. DUTIES OF THE SECRETARY.

(a) ACQUISITION OF LAND.—The Secretary may acquire land and interests in land within the Area that have been specifically identified by the Commission for acquisition by the Federal government and that have been approved for such acquisition by the Governor and the political subdivision of the State where the land is located by donation, purchase with donated or appropriated funds, or exchange. Acquisition authority may only be used if such lands cannot be acquired by

donation or exchange. No land or interest in land may be acquired without the consent of the owner.

(b) TECHNICAL ASSISTANCE.—The Secretary shall, upon the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the Plan pursuant to section 1008.

(c) DEAIL.—Each fiscal year during the existence of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under section 1007.

SEC. 1011. OTHER FEDERAL ENTITIES.

(a) DUTIES.—Subject to section 1001, a Federal entity conducting or supporting activities directly affecting the flow of the Cache La Poudre River through the Area, or the natural resources of the Area shall consult with the Commission with respect to such activities;

(b) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary or Administrator of a Federal agency may acquire land in the flood plain of the Area by exchange for other lands within such agency's jurisdiction within the State of Colorado, based on fair market value: *Provided*, That such lands have been identified by the Commission for acquisition by a Federal agency and the Governor and the political subdivision of the State or the owner where the lands are located concur in the exchange. Land so acquired shall be used to fulfill the purpose for which the Area is established.

(2) AUTHORIZATION TO CONVEY PROPERTY.—The first sentence of section 203(k)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(3)) is amended by striking "historic monument, for the benefit of the public" and inserting "historic monument or any such property within the State of Colorado for the Cache La Poudre River National Water Heritage Area, for the benefit of the public".

SEC. 1012. EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS, RESTRICTIONS, AND SAVINGS PROVISIONS.

(a) EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS.—

(1) VOLUNTARY COOPERATION.—In carrying out this Title, the Commission and Secretary shall emphasize voluntary cooperation.

(2) RULES, REGULATIONS, STANDARDS, AND PERMIT PROCESSES.—Nothing in this Title shall be considered to impose or form the basis for imposition of any environmental, occupational, safety, or other rule, regulation, standard, or permit process that is different from those that would be applicable had the Area not been established..

(3) ENVIRONMENTAL QUALITY STANDARDS.—Nothing in this Title shall be considered to impose the application or administration of any Federal or State environmental quality standard that is different from those that will be applicable had the Area not been established.

(4) WATER STANDARDS.—Nothing in this Title shall be considered to impose any Federal or State water use designation or water quality standard upon uses of, or discharges to, waters of the State or waters of the United States, within or adjacent to the Area, that is more restrictive than those that would be applicable had the Area not been established.

(5) PERMITTING OF FACILITIES.—Nothing in the establishment of the Area shall abridge, restrict, or alter any applicable rule, regulation, standard, or review procedure for permitting of facilities within or adjacent to the Area.

(6) WATER FACILITIES.—Nothing in the establishment of the Area shall affect the continuing use and operation, repair, rehabilitation, expansion, or new construction of water supply facilities, water and wastewater treatment facilities, stormwater facilities, public utilities, and common carriers.

(7) WATER AND WATER RIGHTS.—Nothing in the establishment of the Area shall be considered to authorize or imply the reservation or appropriation of water or water rights for any purpose.

(b) RESTRICTIONS ON COMMISSION AND SECRETARY.—Nothing in this Title shall be construed to vest in the Commission or the Secretary the authority to—

(1) require a Federal agency, State agency, political subdivision of the State, or private person (including an owner of private property) to participate in a project or program carried out by the Commission or the Secretary under the Title;

(2) intervene as a party in an administrative or judicial proceeding concerning the application or enforcement of a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including, but not limiting to, authority relating to—

(A) land use regulation;

(B) environmental quality;

(C) licensing;

(D) permitting;

(E) easement;

(F) private land development; or

(G) other occupational or access issue;

(3) establish or modify a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including authority relating to—

(A) land use regulation;

(B) environmental quality; or

(C) pipeline or utility crossings;

(4) modify a policy of a Federal agency, State agency, or political subdivision of the State;

(5) attest in any manner the authority and justification of the State with respect to the acquisition of lands or water, or interest in lands or water;

(6) vast authority to reserve or appropriate water or water rights in any entity for any purpose;

(7) deny, condition, or restrict the construction, repair, rehabilitation, or expansion of water facilities, including stormwater, water, and wastewater treatment facilities; or

(8) deny, condition, or restrict the exercise of water rights in accordance with the substantive and procedural requirements of the laws of the State.

(c) SAVINGS PROVISION.—Nothing in this Title shall diminish, enlarge, or modify a right of a Federal agency, State agency, or political subdivision of the State—

(1) to exercise civil and criminal jurisdiction within the Area; or

(2) no tax persons, corporations, franchises, or property, including minerals and other interests in or on lands or waters within the urban river corridor portions of the Area.

(d) ACCESS TO PRIVATE PROPERTY.—Nothing in this Title requires an owner of private property to allow access to the property by the public.

SEC. 1013. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated not to exceed $50,000 to the Commission to carry out this Act.

(b) MATCHING FUNDS.—Funds may be made available pursuant to this section only to the extent they are matched by equivalent funds or in-kind contributions of services or materials from non-Federal sources.

TITLE XI—GILPIN COUNTY, COLORADO LAND EXCHANGE

SEC. 1101. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds and declares that—

(1) certain scattered parcels of Federal land located within Gilpin County, Colorado, are currently administered by the Secretary of the Interior as part of the Royal Gorge Resource Area, Canon City District, United States Bureau of Land Management;

(2) these land parcels, which comprises approximately 133 separate tracts of land, and range in size from approximately 38 acres to much less than an acre have been identified as suitable for disposal by the Bureau of Land Management through its resource management planning process and are appropriate for disposal; and

(3) even though the Federal land parcels in Gilpin County, Colorado, are scattered and small in size, they nevertheless by virtue of their proximity to existing communities appear to have a fair market value which may be used by the Federal Government to exchange for lands which will better lend themselves to Federal management and have higher value for future public access, use and enjoyment, recreation, the protection and enhancement of fish and wildlife and fish and wildlife habitat, and the protection of riparian lands, wetlands, scenic beauty and other public values.

(b) PURPOSE.—It is the purpose of this Title to authorize, direct, facilitate and expedite the land exchange set forth herein in order to further the public interest by disposing of Federal lands with limited public utility and acquire in exchange therefor lands with important values for permanent public management and protection.

SEC. 1102. LAND EXCHANGE.

(A) IN GENERAL.—The exchange directed by this Title shall be consummated if within 90 days after enactment of this Act, Lake Gulch, Inc., a Colorado Corporation (as defined in section 1104 of this Title) offers to transfer to the United States pursuant to the provisions of this Title the offered lands or interests in land described herein.

(b) CONVEYANCE BY LAKE GULCH.—Subject to the provisions of section 1103 of this Title, Lake Gulch shall convey to the Secretary of the Interior all right, title, and interest in and to the following offered lands—

(1) certain lands comprising approximately 40 acres with improvements thereon located in Larimer County, Colorado, and lying within the boundaries of Rocky Mountain National Park as generally depicted on a map entitled "Circle C Church Camp", dated August 1994, which shall upon their acquisition by the United States and without further action by the Secretary of the Interior be incorporated into Rocky Mountain National Park and thereafter be administered in accordance with the laws, rules and regulations generally applicable to the National Park System and Rocky Mountain National Park;

(2) certain lands located within and adjacent to the United States Bureau of Land Management San Luis Resource Area in Conejos County, Colorado, which comprise approximately 3,993 acres and are generally depicted on a map entitled "Quinlan Ranches Tract", dated August 1994; and

(3) certain lands located within the United States Bureau of Land Management Royal Gorge Resource Area in Huerfano County, Colorado, which comprise approximately

VOL
142
PT
5
MR
21
—
29
1996
UMI

4,700 acres and are generally depicted on a map entitled "Bonham Ranch—Cucharas Canyon", dated June 1995: Provided, however, That it is the intention of Congress that such lands may remain available for the grazing of livestock as determined appropriate by the Secretary in accordance with applicable laws, rules, and regulations: Provided further, That if the Secretary determines that certain of the lands acquired adjacent to Cucharas Canyon hereunder are not needed for public purposes they may be sold in accordance with the provisions of section 302 of the Federal Land Policy and Management Act of 1976 and other applicable law.

(c) SUBSTITUTION OF LANDS.—If one or more of the precise offered land parcels identified above is unable to be conveyed to the United States due to appraisal or other problems, Lake Gulch and the Secretary may mutually agree to substitute therefore alternative offered lands acceptable to the Secretary.

(d) CONVEYANCE BY THE UNITED STATES.—(1) Upon receipt of title to the lands identified in subsection (a) the Secretary shall simultaneously convey to Lake Gulch all right, title, and interest of the United States, subject to valid existing rights, in and to the following selected lands—

(A) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 18, Lots 110-220, which comprise approximately 195 acres and are intended to include all federally owned lands in section 18, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994;

(B) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 17, Lots 37, 38, 39, 40, 52, 53, and 54, which comprise approximately 96 acres, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994; and

(C) certain unsurveyed lands located in Gilpin County Colorado, Township 3 South, Range 73 West, Sixth Principal Meridian, Section 13, which comprise approximately 11 acres, and are generally depicted as parcels 302-304, 306 and 308-326 on a map entitled "Lake Gulch Selected Lands", dated July 1994; Provided, however, That a parcel or parcels of land in section 13 shall not be transferred to Lake Gulch if at the time of the proposed transfer the parcel or parcels are under formal application for transfer to a qualified unit of local government. Due to a small and unsurveyed nature of such parcels proposed for transfer to Lake Gulch in section 13, and the high cost of surveying such small parcels, the Secretary is authorized to transfer such section 13 lands to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate to carry out the basic intent of the map cited in this subparagraph.

(2) If the Secretary and Lake Gulch mutually agree, and the Secretary determines it is in the public interest, the Secretary may utilize the authority and direction of this Title to transfer to Lake Gulch lands in sections 17 and 13 that are in addition to those precise selected lands shown on the map cited herein, and which are not under formal application for transfer to a qualified unit of local government, upon transfer to the Secretary of additional offered lands acceptable to the Secretary or upon payment to the Secretary by Lake Gulch of cash equalization money amounting to the full appraised fair market value of any such additional lands. If any such additional lands are located in section 13 they may be transferred to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate as long as the Secretary determines that the boundaries of any adjacent lands not owned by Lake Gulch can be property identified so as to avoid possible future boundary conflicts or disputes. If the Secretary determines surveys are necessary to convey any such additional lands to Lake Gulch, the costs of such surveys shall be paid by Lake Gulch but shall not be eligible for any adjustment in the value of such additional lands pursuant to section 206(*f*)(2) of the Federal Land Policy and Management Act of 1976 (as amended by the Federal Land Exchange Facilitation Act of 1988) (43 U.S.C. 1716(*f*)(2)).

(3) Prior to transferring out of public ownership pursuant to this Title or other authority of law any lands which are contiguous to North Clear Creek southeast of the City of Black Hawk, Colorado in the County of Gilpin, Colorado, the Secretary shall notify and consult with the County and City and afford such units of local government an opportunity to acquire or reserve pursuant to the Federal Land Policy and Management Act of 1976 or other applicable law, such easements or rights-of-way parallel to North Clear Creek as may be necessary to serve public utility line or recreation path needs: Provided, however, that any survey or other costs associated with the acquisition or reservation of such easements or rights-of-way shall be paid for by the unit or units of local government concerned.

SEC. 1103. TERMS AND CONDITIONS OF EXCHANGE.

(a) EQUALIZATION OF VALUES.—

(1) The values of the lands to be exchanged pursuant to this Title shall be equal as determined by the Secretary of the Interior utilizing comparable sales of surface and subsurface property and nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(2) In the event any cash equalization or land sale moneys are received by the United States pursuant to this Act, any such moneys shall be retained by the Secretary of the Interior and may be utilized by the Secretary until fully expended to purchase from willing sellers land or water rights, or a combination thereof, to augment wildlife habitat and protect and restore wetlands in the Bureau of Land Management's Blanca Wetlands, Alamosa County, Colorado.

(3) Any water rights acquired by the United States pursuant to this section shall be obtained by the Secretary of the Interior in accordance with all applicable provisions of Colorado law, including the requirement to change the time, place, and type of use of said water rights through the appropriate State legal proceedings and to comply with any terms, conditions, or other provisions contained in an applicable decree of the Colorado Water Court. The use of any water rights acquired pursuant to this section shall be limited to water that can be used or exchanged for water that can be used on the Blanca Wetlands. Any requirement or proposal to utilize facilities of the San Luis Valley Project, Closed Basin Diversion, in order to effectuate the use of any such water rights shall be subject to prior approval of the Rio Grande Water Conservation District.

(b) RESTRICTIONS ON SELECTED LANDS.—(1) Conveyance of the selected lands to Lake Gulch pursuant to this Title shall be contingent upon Lake Gulch executing an agreement with the United States prior to such conveyance, the terms of which are acceptable to the Secretary of the Interior, and which—

(A) grant the United States a covenant that none of the selected lands (which currently lie outside the legally approved gaming area) shall ever be used for purposes of gaming should the current legal gaming area ever be expanded by the State of Colorado; and

(B) permanently hold the United States harmless for liability and indemnify the United States against all costs arising from any activities, operations (including the storing, handling, and dumping of hazardous materials or substances) or other acts conducted by Lake Gulch or its employees, agents, successors or assigns on the selected lands after their transfer to Lake Gulch: *Provided, however*, That nothing in this Title shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of the selected lands prior to or on the date of their transfer to Lake Gulch.

(2) Conveyance of the selected lands to Lake Gulch pursuant to this Title shall be subject to the existing easement for Gilpin County Road 6.

(3) The above terms and restrictions of this subsection shall not be considered in determining, or result in any diminution in, the fair market value of the selected land for purposes of the appraisals of the selected land required pursuant to section 1102 of this Title.

(c) REVOCATION OF WITHDRAWAL.—The Public Water Reserve established by Executive order dated April 17, 1926 (Public Water Reserve 107), Serial Number Colorado 17321, is hereby revoked insofar as it affects the NW ¼ SW ¼ of Section 17, Township 3 South, Range 72 West, Sixth Principal Meridian, which covers a portion of the selected lands identified in this Title.

SEC. 1104. MISCELLANEOUS PROVISIONS.

(a) DEFINITIONS.—As used in this Title:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Lake Gulch" means Lake Gulch, Inc., a Colorado corporation, or its successors, heirs or assigns.

(3) The term "offered land" means lands to be conveyed to the United States pursuant to this Title.

(4) The term "selected land" means lands to be transferred to Lake Gulch, Inc., or its successors, heirs or assigns pursuant to this Title.

(5) The term "Blanca Wetlands" means an area of land comprising approximately 9,290 acres, as generally depicted on a map entitled "Blanca Wetlands", dated August 1994, or such land as the Secretary may add thereto by purchase from willing sellers after the date of enactment of this Act utilizing funds provided by this Title or such other moneys as Congress may appropriate.

(b) TIME REQUIREMENT FOR COMPLETING TRANSFER.—It is the intent of Congress that unless the Secretary and Lake Gulch mutually agree otherwise the exchange of lands authorized and directed by this Title shall be completed not later than 6 months after the date of enactment of this Act. In the event the exchange cannot be consummated within such 6-month-time period, the Secretary, upon application by Lake Gulch, is directed to sell to Lake Gulch at appraised fair market value any or all of the parcels (comprising a total of approximately 11 acres) identified in section 1102(d)(1)(C) of this Title as

long as the parcel or parcels applied for are not under formal application for transfer to a qualified unit of local government.

(c) ADMINISTRATION OF LANDS ACQUIRED BY UNITED STATES.—In accordance with the provisions of section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)), all lands acquired by the United States pursuant to this Title shall upon acceptance of title by the United States and without further action by the Secretary concerned become part of and be managed as part of the administrative unit or area within which they are located.

TITLE XII—BUTTE COUNTY, CALIFORNIA LAND CONVEYANCE

SEC. 1201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) certain landowners in Butte County, California who own property adjacent to the Plumas National Forest have been adversely affected by certain erroneous surveys;

(2) these landowners have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that they believed were accurate; and

(3) the 1992 Bureau of Land Management dependent resurvey of the Plumas National Forest will correctly establish accurate boundaries between such forest and private lands.

(b) PURPOSE.—It is the purpose of this Title to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Butte County, California, to persons claiming to have been deprived of title to such lands.

SEC. 1202. DEFINITIONS.

For the purpose of this Title—

(1) the term "affected lands" means those Federal lands located in the Plumas National Forest in Butte County, California, in sections 11, 12, 13, and 14, township 21 north, range 5 East, Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1992, and subsequent Forest Service land line location surveys, including all adjoining parcels where the property line as identified by the 1992 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident;

(2) the term "claimant" means an owner of real property in Butte County, California, whose real property adjoins Plumas National Forest lands described in subsection (a), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys; and

(3) the term "Secretary" means the Secretary of Agriculture.

SEC. 1203. CONVEYANCE OF LANDS.

Notwithstanding any other provisions of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in section 1202(1), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in section 1204.

SEC. 1204. TERMS AND CONDITIONS OF CONVEYANCE.

(A) NOTIFICATION.—Not later than 2 years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Plumas National Forest, in writing of their claim to affected lands. Such claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(b) ISSUANCE OF DEED.—(1) Upon a determination by the Secretary that issuance of a deed for affected lands is consistent with the purpose and requirements of this Title, the Secretary shall issue a quitclaim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989;

(B) all new property lines established by such surveys have been monumented and marked; and

(C) all terms and conditions necessary to protect third party and Government Rights-of-Way or other interests are included in the deed.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(c) NOTIFICATION TO BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this Title no later than 30 days after the date such deed is issued.

SEC. 1205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out the purposes of this Title.

TITLE XIII—CARL GARNER FEDERAL LANDS CLEANUP DAY

SEC.1301.—

The Federal Lands Cleanup Act of 1985 (36 U.S.C. 169i–169i-1) is amended by striking the terms "Federal Lands Cleanup Day" each place it appears and inserting "Carl Garner Federal Lands Cleanup Day".

TITLE XIV—ANAKTUVUK PASS LAND EXCHANGE

SEC. 1401. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The village of Anaktuvuk Pass, located in the highlands of the central Brooks Range, is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

(2) Unlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk Pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access to pursue caribou and other subsistence resources.

(3) In a 1983 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

SEC. 1402. RATIFICATION OF AGREEMENT.

(a) RATIFICATION.—

(1) IN GENERAL.—The terms, conditions, procedures, covenants, reservations and other provisions set forth in the document entitled "Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America" (hereinafter referred to in this Title as "the Agreement"), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this Title, are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

(2) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

(b) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled "Land Exchange Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

SEC. 1403. NATIONAL PARK SYSTEM WILDERNESS.

(a) GATES OF THE ARCTIC WILDERNESS.—

(1) REDESIGNATION.—Section 710(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2417) establishing the Gates of the Arctic Wilderness is hereby amended with the addition of approximately 56,825 acres as wilderness and the rescission of approximately 73,993 acres as wilderness, thus revising the Gates of the Arctic Wilderness to approximately 7,034,832 acres.

(2) MAP.—The lands redesignated by paragraph (1) are depicted on a map entitled "Wilderness Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,040, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the office of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(b) NOATAK NATIONAL PRESERVE.—Section 201(8)(a) of the Alaska National Interest Land Conservation Act (94 Stat. 2380) is amended by—

(1) striking "approximately six million four hundred and sixty thousand acres" and inserting in lieu thereof "approximately 6,477,168 acres"; and

VOL
142
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(2) inserting "and the map entitled "Noatak National Preserve and Noatak Wilderness Addition" dated September 1994" after "July 1980".

(c) NOATAK WILDERNESS.—Section 701(7) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417) is amended by striking "approximately five million eight hundred thousand acres" and inserting in lieu thereof "approximately 5,817,168 acres".

SEC. 1404. CONFORMANCE WITH OTHER LAW.

(a) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid exiting rights.

(b) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this Title or the Agreement, nothing in this Title or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

TITLE XV—ALASKA PENINSULA SUBSURFACE CONSOLIDATION

SECTION 1501. DEFINITIONS.

As used in this Title.

(1) AGENCY.—The term agency—

(A) means—

(i) any instrumentality of the United States; and

(ii) any Government corporation (as defined in section 9101(1) of title 31, United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term "Alaska Native Corporation" has the same meaning as is provided for "Native Corporation" in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTEREST THEREIN.—The term "Federal lands or interests therein" means any lands or properties owned by the United States (i) which are administered by the Secretary, or (ii) which are subject to a lease to third parties, or (iii) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties; provided, however, excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term "Koniag" means Koniag, Incorporated, which is a regional Corporation.

(5) REGIONAL CORPORATION.—The term "Regional Corporation" has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term "selection rights" means those rights granted to Koniag pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as "Koniag Selections" on the map entitled "Koniag Interest Lands, Alaska Peninusula", dated May 1989.

SEC. 1502. VALUATION OF KONIAG SELECTION RIGHTS.

(a) Pursuant to subsection (b) hereof, the Secretary shall value the Selection Rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(b) VALUE.—

(1) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(A) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(B) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Title the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to clause (ii), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(ii) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in clause (i), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meetings, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(B) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of The Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(C) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(c), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(B) ALTERNATIVE DETERMINATION OF VALUE.—

(i) IN GENERAL.—Subject to clause (ii), if Koniag does not agree with the value determined by the Secretary under subparagraph (A), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 (d)) shall be used to establish the value.

(ii) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

SEC. 1502. KONIAG ACCOUNT.

(a) IN GENERAL.—

(1) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the Selection Rights.

(2) If the value of the federal property to be exchanged is less than the value of the Selection Rights established in section 1501, and if such federal property to be exchanged is not generating receipts to the federal government in excess of one million dollars per year, then the Secretary may exchange the federal property for that portion of the Selection Rights having a value equal to that of the federal property. The remaining selection rights shall remain available for additional exchanges.

(3) For the purposes of any exchange to be consummated under this Title II, if less than all the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined pursuant to Section 202 hereof and the denominator of which is the total number of acres of selection rights.

(B) ADDITIONAL EXCHANGES.—If, after ten years from the date of the enactment of this Title, the Secretary has been unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts to the federal government in excess of one million dollars per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for the purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (i) declining to proceed with the exchange and identifying other property or (ii) paying the difference in value between the property rights.

(c) REVENUES.—Any property received by Koniag in an exchange entered into pursuant to subsection (a) or (b) of this section shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) provided, however, should Koniag make a payment to equalize the value in any such exchange, then Koniag will be deemed to hold an undivided interest in the property equal in value to such payment which interest shall not be subject to the provisions of section 9(j).

SEC. 1504. CERTAIN CONVEYANCES.

(a) INTERESTS IN LAND.—For the purposes of section 21 (c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620 (e)), the receipt of consideration, including, but not limited to, lands, cash or other property, by a Native Corporation for the relinquishment to the United States of land selection rights granted to any Native Corporation under such Act shall be deemed to be an interest in land.

(b) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under such section 39 of such Act (43 U.S.C. 1629c), Koniag may delegate, in whole or in part, the authority granted by Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

TITLE XVI—STERLING FOREST

SEC. 1601. FINDINGS.

The Congress finds that—

(1) the Palisades Interstate Park Commission was established pursuant to a joint resolution of the 75th Congress approved in 1937 (Public Resolution No. 65; ch. 706; 50 Stat. 710), and chapter 170 of the Laws of 1937 of the State of New York and chapter 148 of the Laws of 1937 of the State of New Jersey;

(2) the Palisades Interstate Park Commission is responsible for the management of 23 parks and historic sites in New York and New Jersey, comprising over 82,000 acres.

(3) over 8,000,000 visitors annually seek outdoor recreational opportunities within the Palisades Park System;

(4) Sterling Forest is a biologically diverse open space on the New Jersey border comprising approximately 17,500 acres, and is a highly significant watershed area for the State of New Jersey, providing the source for clean drinking water for 25 percent of the State;

(5) Sterling Forest is an important outdoor recreational asset in the northeastern United States, within the most densely populated metropolitan region in the Nation;

(6) Sterling Forest supports a mixture of hardwood forests, wetlands, lakes, glaciated valleys, is strategically located on a wildlife migratory route, and provides important habitat for 27 rare or endangered species;

(7) the protection of Sterling Forest would greatly enhance the Appalachian National Scenic Trail, a portion of which passes through Sterling Forest, and would provide for enhanced recreational opportunities through the protection of lands which are an integral element of the trail and which would protect important trail viewsheds;

(8) stewardship and management costs for units of the Palisades Park System are paid for by the States of New York and New Jersey; thus, the protection of Sterling Forest through the Palisades Interstate Park Commission will involve a minimum of Federal funds;

(9) given the nationally significant watershed, outdoor recreational, and wildlife qualities of Sterling forest, the demand for open space in the northeastern United States, and the lack of open space in the densely populated tri-state region, there is a clear Federal interest in acquiring the Sterling Forest for permanent protection of the watershed, outdoor recreational resources, flora and fauna, and open space; and

(10) such an acquisition would represent a cost effective investment, as compared with the costs that would be incurred to protect drinking water for the region should the Sterling Forest be developed.

SEC. 1602. PURPOSES.

The purposes of this title are—

(1) to establish the Sterling Forest Reserve in the State of New York to protect the significant watershed, wildlife, and recreational resources within the New York-New Jersey highlands region;

(2) to authorize Federal funding, through the Department of the Interior, for a portion of the acquisition costs for the Sterling Forest Reserve;

(3) to direct the Palisades Interstate Park Commission to convey to the Secretary of the Interior certain interests in lands acquired within the Reserve; and

(4) to provide for the management of the Sterling Forest Reserve by the Palisades Interstate Park Commission.

SEC. 1603 DEFINITIONS.

In this title:

(1) COMMISSION.—The term "Commission" means the Palisades Interstate park commission established pursuant to Public Resolution No. 65 approved August 19, 1937 (ch. 707; 50 State 719).

(2) RESERVE.—The term "Reserve" means the Sterling Forest Reserve.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 1604. ESTABLISHMENT OF THE STERLING FOREST RESERVE.

(a) ESTABLISHMENT.—Upon the certification by the Commission to the Secretary that the Commission has acquired sufficient lands or interests therein to constitute a manageable unit, there is established the Sterling Forest Reserve in the State of New York.

(b) MAP.—

(1) COMPOSITION.—the Reserve shall consist of lands and interests therein acquired by the Commission within the approximately 17,500 acres of lands as generally depicted on the map entitled "Boundary Map. Sterling Forest Reserve", numbered SFR-60,001 and dated July 1, 1994.

(2) AVAILABILITY FOR PUBLIC INSPECTION.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Commission and the appropriate offices of the National Park Service.

(c) TRANSFER OF FUNDS.—Subject to subject in (d), the Secretary shall transfer to the Commission such funds as are appropriated for the acquisition of lands and interests therein within the Reserve.

(d) CONDITIONS OF FUNDING.—

(1) AGREEMENT BY THE COMMISSION.—Prior to the receipt of any Federal funds authorized by this Title, the Commission shall agree to the following:

(A) CONVEYANCE OF LANDS IN EVENT OF FAILURE TO MANAGE.—If the Commission fails to manage the lands acquired within the Reserve in a manner that is consistent with this Title, the Commission shall convey fee title to such lands to the United States, and the agreement stated in this subparagraph shall be recorded at the time of purchase of all lands acquired within the Reserve.

(B) CONSENT OF OWNERS.—No lands or interest in land may be acquired with any Federal funds authorized or transferred pursuant to this title except with the consent of the owner of the land or interest in land.

(C) INABILITY TO ACQUIRE LANDS.—If the Commission is unable to acquire all of the lands within the Reserve, to the extent Federal funds are utilized pursuant to this title, the Commission shall acquire all or a portion of the lands identified as "National Park Service Wilderness Easement Lands" and "National Park Service Conservation Easement Lands" on the map described in section 1604(b) before proceeding with the acquisition of any other lands within the Reserve.

(D) CONVEYANCE OF EASEMENT.—Within 30 days after acquiring any of the lands identified as "National Park Service Wilderness Easement Lands" and "National Park Service Conservation Easement Lands" on the map described in section 1604(b), the Commission shall convey to the United States:

(i) conservation easements on the lands described as "National Park Service Wilderness Easement Lands" on the map described in section 1604(b), which easements shall provide that the lands shall be managed to protect their wilderness character; and

(ii) conservation easements on the lands described as "National Park Service Conservation Easement Lands" on the map described in section 1604(b), which easements shall restrict and limit development and use of the property to that development and use that is—

(I) compatible with the protection of the Appalachian National Scenic Trail; and

(II) consistent with the general management plan prepared pursuant to section 1605(b).

(2) MATCHING FUNDS.—Funds may be transferred to the Commission only to the extent that they are matched from funds contributed by non-Federal sources.

SEC. 1605. MANAGEMENT OF THE RESERVE.

(a) IN GENERAL.—The Commission shall manage the lands acquired within the Reserve in a manner that is consistent with the Commission's authorities and with the purposes of this title.

(b) GENERAL MANAGEMENT PLAN.—Within 3 years after the date of enactment of this title, the Commission shall prepare a general management plan for the Reserve and submit the plan to the Secretary for approval.

SEC. 1606. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

(b) LAND ACQUISITION.—Of amounts appropriated pursuant to subsection (a), the Secretary may transfer to the Commission not more than $17,500,000 for the acquisition of lands and interests in land within the Reserve.

TITLE XVII—TAOS PUEBLO LAND TRANSFER

SEC. 1701. LAND TRANSFER.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 31, 1933 (48 Stat. 108) (as amended, including as amended by Public Law 91–550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled "Lands transferred to the Pueblo of Taos—proposed" and dated September 1994, comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) RESOLUTION OF OUTSTANDING CLAIMS.—The Congress finds and declares that, as a result of the enactment of this Act, the Taos Pueblo has no unresolved equitable or legal claims against the United States on the lands to be held in trust and to become part of the Pueblo de Taos Reservation under this Title.

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TITLE XVIII—SKI FEES

SEC. 1801.—SKI AREA PERMIT RENTAL CHARGE.

(a) The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs under the heading "SURVEYING THE PUBLIC LANDS" under the heading "UNDER THE DEPARTMENT OF THE INTERIOR" in the Act of June 4, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. Permit rental charges for permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be calculated as set forth in subsection (b). Permit rental charges for existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, shall be calculated in accordance with those existing permits: *Provided*, That a permittee may, at the permittee's option, use the calculation method set forth in subsection (b).

(b)(1) The ski area permit rental charge (SAPRC) shall be calculated by adding the permittee's gross revenues from lift ticket/year-round ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. That amount shall be increased by the gross year-round revenue from ancillary facilities (GRAF) physically located on national forest land, including all permittee or subpermittee lodging, food service, rental shops, parking and other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit rental charge. The final rental charge shall be calculated by multiplying the AGR by the following percentages for each revenue bracket and adding the total for each revenue bracket:

(A) 1.5 percent of all adjusted gross revenue below $3,000,000;

(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000;

(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000; and

(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

Utilizing the abbreviations indicated in this subsection the ski area permit fee (SAPR) formula can be simply illustrated as:

SAPF=((LT+SS)STFP)+GRAF=AGR;
AGR% BRACKETS

(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in subsection (b) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from Nordic ski operations shall be included or excluded from the rental charge calculation according to the percentage of trails physically located on national forest land.

(3) In order to ensure that the rental charge remains fair and equitable to both the United States and ski area permittees, the adjusted gross revenue figure for each revenue bracket in paragraph (1) shall be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year. No later than 5 years after the date of enactment of this Act and every 10 years thereafter the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives a report analyzing whether the ski area permit rental charge legislated by this Act is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications of the system.

(c) The rental charge set forth in subsection (b) shall be due on June 1 of each year and shall be paid or pre-paid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to enactment of this Act. To reduce costs to the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual rental charge calculation brackets and rates) to be used for rental charge calculation and submitted with the rental charge payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, U.S. Forest Service.

(b) The ski area permit rental charge set forth in this section shall become effective on June 1, 1996 and cover receipts retroactive to June 1, 1995: *Provided, however*, That if a permittee has paid rental charges for the period June 1, 1995, to June 1, 1996, under the graduated rate rental charge system formula in effect prior to the date of enactment of this Act, such rental charges shall be credited toward the new rental charge due on June 1, 1996. In order to ensure increasing rental charge receipt levels to the United States during transition from the graduated rate rental charge system formula to the formula of this Act, the rental charge paid by any individual permittee shall be—

(1) for the 1995–1996 permit year, either the rental charge paid for the preceding 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(2) for the 1996–1997 permit year, either the rental charge paid for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(3) for the 1997–1998 permit year, either the rental charge for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher.

If an individual permittee's adjusted gross revenue for the 1995–1996, 1996–1997, or 1997–1998 permit years falls more than 10 percent below the 1994–1995 base year, the rental charge paid shall be the rental charge calculated pursuant to this Act.

(e) Under no circumstances shall revenue, or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.

(f) To reduce administrative costs of ski area permittees and the Forest Service the terms "revenue" and "sales", as used in this section, shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets) for which the permittee does not receive money.

(g) In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental charge payment pursuant to subsection (a), the permittee shall pay an annual minimum rental charge of $2 for each national forest acre under permit or a percentage of appraised land value, as determined appropriate by the Secretary.

(h) Where the new rental charge provided for in subsection (b)(1) results in an increase in permit rental charge greater than one half of one percent of the permittee's adjusted gross revenue as determined under subsection (b)(1), the new rental charge shall be phased in over a five year period in a manner providing for increases of approximately equal increments.

(i) To reduce federal costs in administering the provisions of this Act, the reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit shall not constitute a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

SEC. 1802. WITHDRAWALS.

Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on or after the date of enactment of this Act pursuant to authority of the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), and the Act of June 4, 1897, or the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal thereof. Unless the Secretary requests otherwise of the Secretary of the Interior, such withdrawal shall be canceled automatically upon expiration or other termination of the permit and the land automatically restored to all appropriation not otherwise restricted under the public land laws.

TITLE XIX—THE SELMA TO MONTGOMERY NATIONAL HISTORIC TRAIL

SEC. 1901. That section 5(b) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end thereof the following new paragraph.

"(20) The Selma to Montgomery National Historic Trail, consisting of 54 miles of city streets and United States Highway 80 from Brown Chapel A.M.E. Church in Selma to the State Capitol Building in Montgomery, Alabama, traveled by voting rights advocates during March 1965 to dramatize the need for voting rights legislation, as generally described in the report of the Secretary of the Interior prepared pursuant to subsection (b) of this section entitled "Selma to Montgomery" and dated April 1993. Maps depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered in accordance with this Act, including section 7(h). The Secretary of the Interior, acting through the National Park Service, which shall be the lead Federal agency, shall cooperate with other Federal, State and local authorities to preserve historic sites along the route, including (but not limited to) the Edmund Pettus Bridge and the Brown Chapel A.M.E. Church."

TITLE XX. UTAH PUBLIC LANDS MANAGEMENT ACT.

SEC. 2001. DESIGNATION OF WILDERNESS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following lands in the State of Utah are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Certain lands in the Desolation Canyon Wilderness Study Area comprised of approximately 291,130 acres, as generally depicted on a map entitled "Desolation Canyon Proposed Wilderness" and dated December 3, 1995, and which shall be known as the Desolation Canyon Wilderness.

(2) Certain lands in the San Rafael Reef Wilderness Study Area comprised of approximately 57,982 acres, as generally depicted on a map entitled "San Rafael Reef Proposed Wilderness" and dated December 12, 1995, and which shall be known as the San Rafael Reef Wilderness.

(3) Certain lands in the Horseshoe Canyon Wilderness Study Area (North) comprised of approximately 26,118 acres, as generally depicted on a map entitled "Horseshoe Labyrinth Canyon Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Horseshoe Labyrinth Canyon Wilderness.

(4) Certain lands in the Crack Canyon Wilderness Study Area comprised of approximately 20,293 acres, as generally depicted on a map entitled "Crack Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Crack Canyon Wilderness.

(5) Certain lands in the Muddy Creek Wilderness Study Area comprised of approximately 37,245 acres, as generally depicted on a map entitled "Muddy Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Muddy Creek Wilderness.

(6) Certain lands in the Sids Mountain Wilderness Study Area comprised of approximately 44,308 acres, as generally depicted on a map entitled "Sids Mountain Proposed Wilderness" and dated December 12, 1995, and which shall be known as the Sids Mountain Wilderness.

(7) Certain lands in the Mexican Mountain Wilderness Study Area comprised of approximately 33,558 acres, as generally depicted on a map entitled "Mexican Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mexican Mountain Wilderness.

(8) Certain lands in the Phipps-Death Hollow Wilderness Study Area comprised of approximately 41,445 acres, as generally depicted on a map entitled "Phipps-Death Hollow Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Phipps-Death Hollow Wilderness.

(9) Certain lands in the Steep Creek Wilderness Study Area comprised of approximately 21,277 acres, as generally depicted on a map entitled "Steep Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Steep Creek Wilderness.

(10) Certain lands in the North Escalante Canyons/The Gulch Wilderness Study Area comprised of approximately 101,896 acres, as generally depicted on a map entitled "North Escalante Canyons/The Gulch Proposed Wilderness" and dated October 3, 1995, and which shall be known as the North Escalante Canyons/The Gulch Creek Wilderness.

(11) Certain lands in the Scorpion Wilderness Study Area comprised of approximately 16,693 acres, as generally depicted on a map entitled "Scorpion Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Scorpion Wilderness.

(12) Certain lands in the Mt. Ellen-Blue Hills Wilderness Study Area comprised of approximately 65,355 acres, as generally depicted on a map entitled "Mt. Ellen-Blue Hills Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mt. Ellen-Blue Hills Wilderness.

(13) Certain lands in the Bull Mountain Wilderness Study Area comprised of approximately 11,424 acres, as generally depicted on a map entitled "Bull Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Bull Mountain Wilderness.

(14) Certain lands in the Fiddler Butte Wilderness Study Area comprised of approximately 22,180 acres, as generally depicted on a map entitled "Fiddler Butte Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Fiddler Butte Mountain Wilderness.

(15) Certain lands in the Mt. Pennell Wilderness Study Area comprised of approximately 18,619 acres, as generally depicted on a map entitled "Mt. Pennell Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mt. Pennell Wilderness.

(16) Certain lands in the Mt. Hillers Wilderness Study Area comprised of approximately 14,746 acres, as generally depicted on a map entitled "Mt. Hillers Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mt. Hillers Wilderness.

(17) Certain lands in the Little Rockies Wilderness Study Area comprised of approximately 49,001 acres, as generally depicted on a map entitled "Little Rockies Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Little Rockies Wilderness.

(18) Certain lands in the Mill Creek Canyon Wilderness Study Area comprised of approximately 7,846 acres, as generally depicted on a map entitled "Mill Creek Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mill Creek Canyon Wilderness.

(19) Certain lands in the Negro Bill Canyon Wilderness Study Area comprised of approximately 8,321 acres, as generally depicted on a map entitled "Negro Bill Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Negro Bill Canyon Wilderness.

(20) Certain lands in the Floy Canyon Wilderness Study Area comprised of approximately 28,794 acres, as generally depicted on a map entitled "Floy Canyon Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Floy Canyon Wilderness.

(21) Certain lands in the Coal Canyon Wilderness Study Area and the Spruce Canyon Wilderness Study Area comprised of approximately 56,673 acres, as generally depicted on a map entitled "Coal/Spruce Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Coal/Spruce Canyon Wilderness.

(22) Certain lands in the Flume Canyon Wilderness Study Area comprised of approximately 47,247 acres, as generally depicted on a map entitled "Flume Canyon Proposed Wilderness" and dated December 12, 1995, and which shall be known as the Flume Canyon Wilderness.

(23) Certain lands in the Westwater Canyon Wilderness Study Area comprised of approximately 26,657 acres, as generally depicted on a map entitled "Westwater Canyon Proposed Wilderness" and dated December 12, 1995, and which shall be known as the Westwater Canyon Wilderness.

(24) Certain lands in the Beaver Creek Wilderness Study Area comprised of approximately 24,620 acres, as generally depicted on a map entitled "Beaver Creek Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Beaver Creek Wilderness.

(25) Certain lands in the Fish Springs Wilderness Study Area comprised of approximately 36,142 acres, as generally depicted on a map entitled "Fish Springs Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Fish Springs Wilderness.

(26) Certain lands in the Swasey Mountain Wilderness Study Area comprised of approximately 34,803 acres, as generally depicted on a map entitled "Swasey Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Swasey Mountain Wilderness.

(27) Certain lands in the Parunuweap Canyon Wilderness Study Area comprised of approximately 19,107 acres, as generally depicted on a map entitled "Parunuweap Canyon Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Parunuweap Wilderness.

(28) Certain lands in the Canaan Mountain Wilderness Study Area comprised of approximately 32,395 acres, as generally depicted on a map entitled "Canaan Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Canaan Mountain Wilderness.

(29) Certain lands in the Paria-Hackberry Wilderness Study Area comprised of approximately 94,805 acres, as generally depicted on a map entitled "Paria-Hackberry Proposed Wilderness" and dated December 3, 1995, and which shall be known as the Paria-Hackberry Wilderness.

(30) Certain lands in the Escalante Canyon Tract 5 Wilderness Study Area comprised of approximately 756 acres, as generally depicted on a map entitled "Escalante Canyon Tract 5 Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Escalante Canyon Tract 5 Wilderness.

(31) Certain lands in the Fifty Mile Mountain Wilderness Study Area comprised of approximately 125,823 acres, as generally depicted on a map entitled "Fifty Mile Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Fifty Mile Mountain Wilderness.

(32) Certain lands in the Howell Peak Wilderness comprised of approximately 14,518 acres, as generally depicted on a map entitled "Howell Peak Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Howell Peak Wilderness.

(33) Certain lands in the Notch Peak Wilderness Study Area comprised of approximately 17,678 acres, as generally depicted on a map entitled "Notch Peak Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Notch Peak Wilderness.

(34) Certain lands in the Wah Wah Mountains Wilderness Study Area comprised of approximately 41,311 acres, as generally depicted on a map entitled "Wah Wah Mountains Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Wah Wah Wilderness.

(35) Certain lands in the Mancos Mesa Wilderness Study Area comprised of approximately 48,269 acres, as generally depicted on a map entitled "Mancos Mesa Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mancos Mesa Wilderness.

(36) Certain lands in the Grand Gulch Wilderness Study Area comprised of approximately 52,821 acres, as generally depicted on a map entitled "Grand Gulch Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Grand Gulch Wilderness.

(37) Certain lands in the Dark Canyon Wilderness Study Area comprised of approximately 67,099 acres, as generally depicted on

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a map entitled "Dark Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Dark Canyon Wilderness.

(38) Certain lands in the Butler Wash Wilderness Study Area comprised of approximately 24,888 acres, as generally depicted on a map entitled "Butler Wash Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Butler Wash Wilderness.

(39) Certain lands in the Indian Creek Wilderness Study Area comprised of approximately 6,742 acres, as generally depicted on a map entitled "Indian Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Indian Creek Wilderness.

(40) Certain lands in the Behind the Rocks Wilderness Study Area comprised of approximately 14,169 acres, as generally depicted on a map entitled "Behind the Rocks Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Behind the Rocks Wilderness.

(41) Certain lands in the Cedar Mountains Wilderness Study Area comprised of approximately 25,647 acres, as generally depicted on a map entitled "Cedar Mountains Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Cedar Mountains Wilderness.

(42) Certain lands in the Deep Creek Mountains Wilderness Study Area comprised of approximately 70,735 acres, as generally depicted on a map entitled "Deep Creek Mountains Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Deep Creek Mountains Wilderness.

(43) Certain lands in the Nutters Hole Wilderness Study Area comprised of approximately 3,688 acres, as generally depicted on a map entitled "Nutters Hole Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Nutters Hole Wilderness.

(44) Certain lands in the Cougar Canyon Wilderness Study Area comprised of approximately 4,370 acres, including those lands located in the State of Nevada, as generally depicted on a map entitled "Cougar Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Cougar Canyon Wilderness.

(45) Certain lands in the Red Mountain Wilderness Study Area comprised of approximately 9,216 acres, as generally depicted on a map entitled "Red Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Red Mountains Wilderness.

(46) Certain lands in the Deep Creek Wilderness Study Area comprised of approximately 3,063 acres, as generally depicted on a map entitled "Deep Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Deep Creek Wilderness.

(47) Certain lands within the Dirty Devil Wilderness Study Area comprised of approximately 75,301 acres, as generally depicted on a map entitled "Dirty Devil Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Dirty Devil Wilderness.

(48) Certain lands within the Horseshoe Canyon South Wilderness Study Area comprised of approximately 11,393 acres, as generally depicted on a map entitled "Horseshoe Canyon South Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Horseshoe Canyon South Wilderness.

(49) Certain lands in the French Spring-Happy Canyon Wilderness Study Area comprised of approximately 13,766 acres, as generally depicted on a map entitled "French Spring-Happy Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the French Spring-Happy Canyon Wilderness.

(50) Certain lands in the Road Canyon Wilderness Study Area comprised of approximately 33,783 acres, as generally depicted on a map entitled "Grand Gulch Proposed Wilderness" and dated December 8, 1995, and which shall be known as the Road Canyon Wilderness.

(51) Certain lands in the Fish & Owl Creek Wilderness Study Area comprised of approximately 16,562 acres, as generally depicted on a map entitled "Grand Gulch Proposed Wilderness" and dated December 8, 1995, and which shall be known as the Fish & Owl Creek Wilderness.

(52) Certain lands in the Turtle Canyon Wilderness Study Area comprised of approximately 27,480 acres, as generally depicted on a map entitled "Desolation Canyon Proposed Wilderness" and dated December 3, 1995, and which shall be known as the Turtle Canyon Wilderness.

(53) Certain lands in the The Watchman Wilderness Study Area comprised of approximately 664 acres, as generally depicted on a map entitled "The Watchman Proposed Wilderness" and dated December 8, 1995, and which shall be known as The Watchman Wilderness.

(b) Map and Description.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior (hereinafter in this Title referred to as the "Secretary") shall file a map and a legal description of each area designated as wilderness by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each such map and description shall have the same force and effect as if included in this Title, except that corrections of clerical and typographical errors in each such map and legal description may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, and the office of the State Director of the Bureau of Land Management in the State of Utah, Department of the Interior.

SEC. 2002. ADMINISTRATION OF WILDERNESS AREAS.

(a) In General.—Subject to valid existing rights, each area designated by this Title as wilderness shall be administered by the Secretary in accordance with this Title, the Wilderness Act (16 U.S.C. 1131 et seq.), and section 603 of the Federal Land Policy and Management Act of 1976. Any valid existing rights recognized by this Title shall be determined under applicable laws, including the land use planning process under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712). Any lands or interest in lands within the boundaries of an area designated as wilderness by this Title that is acquired by the United States after the date of enactment of this Act shall be added to and administered as part of the wilderness area within which such lands or interests in lands are located.

(b) Management Plans.—The Secretary shall, within five years after the date of the enactment of this Act, prepare plans to manage the areas designated by this Title as wilderness.

(c) Livestock.—(1) Grazing of livestock in areas designated as wilderness by this Title, where established prior to the date of the enactment of this Act, shall—

(A) continue and not be curtailed or phased out due to wilderness designation or management; and

(B) be administered in accordance with section 4(d) (4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in House Report 9601126.

(2) Wilderness shall not be used as a suitability criteria for managing any grazing allotment that is subject to paragraph (1).

(d) State Fish and Wildlife.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1131(D)(7)), nothing in this Title shall be construed as affecting the jurisdiction or responsibilities of the State of Utah with respect to fish and wildlife management activities, including water development for fish and wildlife purposes, predator control, transplanting animals, stocking fish, hunting, fishing and trapping.

(e) Prohibition of Buffer Zones.—The Congress does not intend that designation of an area as wilderness by this Title lead to the creation of protective perimeters or buffer zones around the area. The fact that nonwilderness activities or uses can be seen, heard, or smelled from areas within a wilderness shall not preclude such activities or uses up to the boundary of the wildnerness area.

(f) Oil Shale Reserve Number Two.—The area known as "Oil Shale Reserve Number Two" within Desolation Canyon Wilderness (as designated by section 2001(a)(1)), located in Carbon County and Unitah County, Utah, shall not be reserved for oil shale purposes after the date of the enactment of this Title and shall be under the sole jurisdiction of and managed by the Bureau of Land Management.

(g) Roads and Rights-of-Way as Boundaries.—Unless depicted otherwise on a map referred to by this Title, where roads form the boundaries of the areas designated as wilderness by this Title, the wilderness boundary shall be set back from the center line of the road as follows:

(1) 300 feet for high standard roads such as paved highways.

(2) 100 feet for roads equivalent to high standard logging roads.

(3) 30 feet for all unimproved roads not referred to in paragraphs (1) or (2).

(h) Cherry-Stemmed Roads.—(1) The Secretary may not close or limit access to any non-Federal road that is bounded on one or both sides by an area designated as wilderness by this Title, as generally depicted on a map referred to in section 2002, without first obtaining written consent from the State of Utah or the political subdivision thereof with general jurisdiction over roads in the area.

(2) Any road described in paragraph (1) may continue to be maintained and repaired by any such entity.

(I) Access.—Reasonable access, including the use of motorized equipment were necessary or customarily or historically employed, shall be allowed on routes within the areas designated wilderness by this Title in existence as of the date of enactment of this Act for the exercise of valid-existing rights, including, but not limited to, access to existing water diversion, carriage, storage and ancillary facilities and livestock grazing improvements and structures. Existing routes as of such date may be maintained and repaired as necessary to maintain their customary and historic uses.

(j) Land Acquisition by Exchange or Purchase.—The Secretary may offer to acquire nongovernmental entities lands and interests in lands within or adjacent to areas designated as wilderness by this Title. Lands

may be acquired under this subsection only by exchange, donation, or purchase from willing sellers.

(k) Motorboats.—As provided in section 4(d)(1)—of the Wilderness Act, within areas designated as wilderness by this Title, the use of motorboats, where such use was established as of the date of enactment of this Act, may be permitted to continue subject to such restrictions as the Secretary deems desirable.

(1) Disclaimer.—Nothing in this Title shall be construed as establishing a precedent with regard to any future wilderness designation, nor shall it constitute an interpretation of any other Act or any wilderness designation made pursuant thereto.

SEC. 2003. WATER RIGHTS.

(a) No Federal Reservation.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising from the designation of areas as wilderness by this Title.

(b) Acquisition and Exercise of Water Rights Under Utah Law.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities on any lands designated as wilderness by this Title pursuant to the substantive and procedural requirements of the State of Utah. Nothing in this Title shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands. Within areas designated as wilderness by this Title, all rights to water granted under the laws of the State of Utah may be exercised in accordance with the substantive and procedural requirements of the State of Utah.

(c) Exercise of Water Rights Generally Under Utah Laws.—Nothing in this Title shall be construed to limit the exercise of water rights as provided under Utah State laws.

(d) Certain Facilities Not Affected.—Nothing in this Title shall affect the capacity, operation, maintenance, repair, modification, or replacement of municipal, agricultural, livestock, or wildlife water facilities in existence as of the date of enactment of this Act within the boundaries of areas designated as wilderness by this Title.

(e) Water Resource Projects.—Nothing in this Title or the Wilderness Act shall be construed to limit or to be a consideration in Federal approvals or denials for access to or use of the Federal lands outside areas designated wilderness by this Title for development and operation of water resource projects, including (but not limited to) reservoir projects. Nothing in this subsection shall create a right of access through a wilderness area designated pursuant to this Title for the purposes of such projects.

SEC. 2004. CULTURAL, ARCHAEOLOGICAL, AND PALEONTOLOGICAL RESOURCES.

The Secretary is responsible for the protection (including through the use of mechanical means) and interpretation (including through the use of permanent improvements) of cultural, archaeological, and paleontological resources located within areas designated as wilderness by this Title.

SEC. 2005. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.

In recognition of the past use of portions of the areas designated as wilderness by this Title by Native Americans for traditional cultural and religious purposes, the Secretary shall assure nonexclusive access from time to time to those sites by Native Americans for such purposes, including (but not limited to) wood gathering for personal use or collecting plants or herbs for religious or medicinal purposes. Such access shall be consistent with the purpose and intent of the Act of August 11, 1978 (42 U.S.C. 1996; commonly referred to as the "American Indian Religious Freedom Act").

SEC. 2006. MILITARY OVERFLIGHTS.

(a) Overflights Not Precluded.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to the new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title, shall restrict or preclude overflights of military aircraft over such areas, including military overflights that can be seen or heard within such units.

(b) Special Use Airspace.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to the new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title, shall restrict or preclude the designation of new units of special use airspace or the use or establishment of military flight training rules over such areas.

(c) Communications or Tracking Systems.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title shall be construed to require the removal of existing communication or electronic tracking systems within such new wilderness areas, or to prevent the installation of portable electronic communication or tracking systems in support of military operations so long as installation, maintenance, and removal of such systems does not require construction of temporary or permanent roads.

SEC. 2007. AIR QUALITY.

(a) In General.—The Congress does not intend that designation of wilderness areas in the State of Utah by this Title lead to reclassification of any airshed to a more stringent Prevention of Significant Deterioration (PSD) classification.

(b) Role of State.—Air quality reclassification for the wilderness areas established by this Title shall be the prerogative of the State of Utah. All areas designated as wilderness by this Title are and shall continue to be managed as PSD Class II under the Clean Air Act unless they are reclassified by the State of Utah in accordance with the Clean Air Act.

(c) Industrial Facilities.—Nothing in this Title shall be construed to restrict or preclude construction, operation, or expansion of industrial facilities outside of the areas designated as wilderness by this Title, including the Hunter Power Facilities, the Huntington Power Facilities, the Intermountain Power Facilities, the Bonanza Power Facilities, the Continental Lime Facilities, and the Brush Wellman Facilities. The permitting and operation of such projects and facilities shall be subject to applicable laws and regulations.

SEC. 2008. WILDERNESS RELEASE.

(a) Finding.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712 and 1782).

(b) Release.—Except as provided in subsection (c), any public lands administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712). Such lands shall not be managed for the purpose of protecting their suitability for wilderness designation.

(c) Continuing Wilderness Study Areas Status.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)):

(1) Bull Canyon; UT00800419/CO00100001.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West; UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon; UT00600227/CO00300265A.

(4) Cross Canyon; UT00600229/CO00300265.

SEC. 2009. EXCHANGE RELATING TO SCHOOL AND INSTITUTIONAL TRUST LANDS.

(a) Findings.—The Congress finds that—

(1) approximately 242,000 acres of school and institutional trust lands are located within or adjacent to areas designated as wilderness by this Title, including 15,000 acres of mineral estate;

(2) such lands were originally granted to the State of Utah for the purpose of generating support for the public schools through the development of natural resources and other methods; and

(3) it is in the interest of the State of Utah and the United States for such lands to be exchanged for interests in Federal lands located outside of wilderness areas to accomplish this purpose.

(b) Exchange.—The Secretary is authorized to accept on behalf of the United States title to all school and institutional trust lands owned by the State of Utah described in subsection (c)(1) that may be exchanged for lands or interests therein owned by the United States described in subsection (c)(2) as provided in this section. The exchange of lands under this section shall be subject to valid existing rights, including (but not limited to) the right of the State of Utah to receive, and distribute pursuant to State law, 50 percent of the revenue, less a reasonable administrative fee, from the production of minerals that are leased or would have been subject to leasing pursuant to the Mineral Leasing Act (30 U.S.C. 191 et seq.).

(c) State and Federal Exchange Lands Described.—(1) School and institutional trust lands.—The school and institutional trust lands referred to in this section are those lands generally depicted as "Surface and Mineral Offering" on the map entitled "Proposed Land Exchange Utah (H.R. 1745)" and dated December 6, 1995, which—

(A) are located within or adjacent to areas designated by this Title as wilderness; and

(B) were granted by the United States in the Utah Enabling Act to the State of Utah in trust and other lands which under State law must be managed for the benefit of the public school system or the institutions of the State which are designated by the Utah Enabling Act.

(2) Federal Lands.—The Federal lands referred to in this section are the lands located in the State of Utah which are generally depicted as "Federal Exchange Lands" on the map referred to in paragraph (1).

(d)(1) Land exchange for equal value.—The lands exchanged pursuant to this section

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shall be of approximate equal value as determined by nationally recognized appraisal standards.

(2) PARTIAL EXCHANGES.—If the State of Utah so desires, it may identify from time to time by notice to the Secretary portions of the lands described in subsection (c)(1) which it is prepared to exchange together with a list of the portion of lands in subsection (c)(2) which it intends to acquire in return. In making its selections, the State shall work with the Secretary to minimize or eliminate the retention of Federal inholdings or other unmanageable Federal parcels as a consequence of the transfer of Federal lands, or interests therein, to the State. Upon receipt of such notice, the Secretary shall immediately proceed to conduct the necessary valuations. The valuations shall be completed no later than six months following the State's notice. the Secretary shall then enter into good faith negotiations with the state concerning the value of the lands, or interests therein, involved in each proposed partial exchange. If the value of the lands or interests therein are not approximately equal, the Secretary and the State of Utah shall either agree to modify the lands to be exchanged within the partial exchange or shall provide for a cash equalization payment to equalize the value. Any cash equalization payment shall not exceed 25 percent of the value of the land to be conveyed. The State shall submit all notices of exchange within four years of the date of enactment of this Act.

(3)(i) DEADLINE AND DISPUTE RESOLUTION.—If, after one year from the date of enactment of this Act, the Secretary and the State of Utah have not agreed upon the final terms of some or all of the individual exchanges initiated by the state pursuant to subsection (d)(2), including the value of the lands involved, notwithstanding any other provisions of law, the United States District Court for the District of Utah, Central Division, shall have jurisdiction to hear, determine, and render judgment on the value of any and all lands, or interests therein, involved in the exchange.

(ii) No action provided for in this subsection may be filed with the court sooner than one year and later than five years after the date of enactment of this Act. Any decision of the District Court under this section may be appealed in accordance with the applicable laws and rules.

(4) TRANSFER OF TITLE.—The transfer of lands or cash equalizations shall take place within sixty days following agreement on an individual partial exchange by the Secretary and the Governor of the State of Utah, or acceptance by the Governor of the terms of an appropriate order of judgment entered by the district court affecting that partial exchange. The Secretary and the State shall each convey, subject to valid existing rights, all right, title and interest to the lands or interests therein involved in each partial exchange.

(e) DUTIES OF THE PARTIES AND OTHER PROVISIONS RELATING TO THE EXCHANGE.—

(1) MAP AND LEGAL DESCRIPTION.—The State of Utah and the Secretary shall each provide to the other legal descriptions of the lands under their respective jurisdictions which are to be exchanged under this section. The map referred to in subsection (c)(1) of the legal descriptions provided under this subsection shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, and the office of the State Director of the Bureau of Land Management in the State of Utah, Department of the Interior.

(2) HAZARDOUS MATERIALS.—The Secretary and the State of Utah shall inspect all pertinent records and shall conduct a physical inspection of the lands to be exchanged pursuant to this Title for the presence of any hazardous materials as presently defined by applicable law. The results of those inspections shall be made available to the parties. The responsibility for costs of remedial action related to such materials shall be borne by those entities responsible under existing law.

(3) PROVISIONS RELATING TO FEDERAL LANDS.—(A) The enactment of this Act shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

(B) The transfer of lands and related activities required of the Secretary under this section shall not be subject to National Environmental Policy Act of 1969.

(C) The value of Federal lands transferred to the State under this section shall be adjusted to reflect the right of the State of Utah under Federal law to share the revenues from such Federal lands, and the conveyances under this section to the State of Utah shall be subject to such revenue sharing obligations as a valid existing right.

(D) Subject to valid existing rights, the Federal lands described in subsection (c)(2) are hereby withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following). The Secretary shall have the authority to extend any existing leases on such Federal lands prior to consummation of the exchange.

(4) PROCEEDS FROM LEASE AND PRODUCTION OF MINERALS AND SALES AND HARVESTS OF TIMBER.—

(A) COLLECTION AND DISTRIBUTION.—The State of Utah, in connection with the management of the school and institutional trust lands described in subsections (c)(2) and (d), shall upon conveyance of such lands, collect and distribute all proceeds from the lease and production of minerals and the sale and harvest of timber on such lands as required by law until the State, as trustee, no longer owns the estate from which the proceeds are produced.

(B) DISPUTES.—A dispute concerning the collection and distribution of proceeds under subparagraph (A) shall be resolved in accordance with State law.

(f) ADMINISTRATION OF LANDS ACQUIRED BY THE UNITED STATES.—The lands and interests in lands acquired by the United States under this section shall be added to and administered as part of areas of the public lands, as indicated on the maps referred to in this section or in section 2002, as applicable.

SEC. 2010. LAND APPRAISAL.

Lands and interests in lands acquired pursuant to this Title shall be appraised without regard to the presence of a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 2011. SAND HOLLOW LAND EXCHANGE.

(a) DEFINITIONS.—As used in this section:

(1) DISTRICT.—The term "District" means the Water Conservancy District of Washington, County, Utah.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) BULLOCH SITE.—The term "Bulloch Site" means the lands located in Kane County, Utah, adjacent to Zion National Park, comprised of approximately 1,380 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(4) SAND HOLLOW SITE.—The term "Sand Hollow Site" means the lands located in Washington County, Utah, comprised of approximately 3,000 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(5) QUAIL CREEK PIPELINE.—The term "Quail Creek Pipeline" means the lands located in Washington County, Utah, comprised of approximately 40 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(6) QUAIL CREEK RESERVOIR.—The term "Quail Creek Reservoir" means the lands located in Washington County, Utah, comprised of approximately 480.5 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(7) SMITH PROPERTY.—The term "Smith Property" means the lands located in Washington County, Utah, comprised of approximately 1,550 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(b) EXCHANGE.—

(1) IN GENERAL.—Subject to the provisions of this Title, if within 18 months after the date of the enactment of this Act, the Water Conservancy District of Washington County, Utah, offers to transfer to the United States all right, title, and interest of the District in and to the Bulloch Site, and Secretary of the Interior shall, in exchange, transfer to the District all right, title, and interest of the United States in and to the Sand Hollow Site, the Quail Creek Pipeline and Quail Creek Reservoir, subject to valid existing rights.

(2) WATER RIGHTS ASSOCIATED WITH THE BULLOCH SITE.—The water rights associated with the Bulloch Site shall not be included in the transfer under paragraph (1) but shall be subject to an agreement between the District and the Secretary that the water remain in the Virgin River as an instream flow from the Bulloch Site through Zion National Park to the diversion point of the District at the Quail Creek Reservoir.

(3) WITHDRAWAL OF MINERAL INTERESTS.—Subject to valid existing rights, the mineral interests underlying the Sand Hollow Site, the Quail Creek Reservoir, and the Quail Creek Pipeline are hereby withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from the operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the "Materials Act of 1947" (30 U.S.C. 601 et seq.).

(4) GRAZING.—The exchange of lands under paragraph (1) shall be subject to agreement by the District to continue to permit the grazing of domestic livestock on the Sand Hollow Site under the terms and conditions of existing Federal grazing leases or permits, except that the District, upon terminating any such lease or permit, shall fully compensate the holder of the terminated lease or permit.

(c) EQUALIZATION OF VALUES.—The value of the lands transferred out of Federal ownership under subsection (b) either shall be

equal to the value of the lands received by the Secretary under subsection (c) or, if not, shall be equalized by—

(1) to the extent possible, transfer of all right, title, and interest of the District in and to lands in Washington County, Utah, and water rights of the District associated thereto, which are within the area providing habitat for the desert tortoise, as determined by the Director of the Bureau of Land Management;

(2) transfer of all right, title, and interest of the District in and to lands in the Smith Site and water rights of the District associated thereto; and

(3) the payment of money to the Secretary, to the extent that lands and rights transferred under paragraphs (1) and (2) are not sufficient to equalize the values of the lands exchanged under subsection (b).

(d) MANAGEMENT OF LANDS ACQUIRED BY UNITED STATES.—Lands acquired by the Secretary under this section shall be administered by the Secretary, acting through the Director of the Bureau of Land Management, in accordance with the provisions of law generally applicable to the public lands, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(e) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The exchange of lands under this section is not subject to section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

TITLE XXI—FORT CARSON—PINON CANYON MILITARY LANDS WITHDRAWAL

SEC. 2101. WITHDRAWAL AND RESERVATION OF LANDS AT FORT CARSON MILITARY RESERVATION.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this Title, the lands at the Fort Carson Military Reservation that are described in subsection (c) are hereby withdrawn from all forms of appropriations under the public lands laws, including the mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws.

(B) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering, training, and weapons firing; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(C) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise approximately 3,133.02 acres of public land and approximately 11,415.16 acres of federally-owned minerals in El Paso, Pueblo, and Fremont Counties, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Base", dated March 2, 1992, and filed in accordance with section 2003.

SEC. 2102. WITHDRAWAL AND RESERVATION OF LANDS AT PINON CANYON MANEUVER SITE.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this Title, the lands at the Pinon Canyon Maneuver Site that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering and training; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise approximately 2,517.12 acres of public lands and approximately 130,139 acres of federally-owned minerals in Los Animas County, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Maneuver Area—Pinon Canyon Site", dated March 2, 1992, and filed in accordance with section 2003.

SEC. 2103. MAPS AND LEGAL DESCRIPTIONS.

(a) PREPARATION.—As soon as practicable after the date of enactment of this Title, the Secretary of the Interior shall publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this Act.

(b) LEGAL EFFECT.—Such maps and legal descriptions shall have the same force and effect as if they were included in this Title, except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) LOCATION OF MAPS.—Copies of such maps and legal descriptions shall be available for public inspection in the offices of the Colorado State Director and the Canon City District Manager of the Bureau of Land Management, and the Commander, Fort Carson, Colorado.

(d) COSTS.—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

SEC. 2104. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT GUIDELINES.—(1) Except as provided in section 2005, during the period of withdrawal the Secretary of the Army shall manage for military purposes the lands covered by this Title and may authorize use of such lands covered by the other military departments and agencies of the Department of Defense, and the National Guard, as appropriate.

(2) When military operations, public safety, or national security, as determined by the Secretary of the Army, require the closure of roads or trails on the lands withdrawn by this Title commonly in public use, the Secretary of the Army is authorized to take such action, except that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. Appropriate warning notices shall be kept posted during closures.

(3) The Secretary of the Army shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands as a result of military activities and may seek assistance from the Bureau of Land Management in suppressing such fires. The memorandum of understanding required by this subsection (c) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for the, (a) transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) MANAGEMENT PLAN.—Not later than 5 years after the date of enactment of this Act, the Secretary of the Army, with the concurrence of the Secretary of the Interior, shall develop a plan for the management of acquired lands and lands withdrawn under sections 2001 and 2002 of this Title for the period of the withdrawal. Such plan shall—

(1) be consistent with applicable law;

(2) include such provisions as may be necessary for proper resource management and protection of the natural, cultural, and other resources and values of such lands; and

(3) identify those withdrawn and acquired lands, if any, which are to be open to mining, or mineral or geothermal leasing, including mineral materials disposal.

(c) IMPLEMENTATION OF MANAGEMENT PLAN.—(1) The Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding to implement the management plan described in subsection (b).

(2) The duration of any such memorandum of understanding shall be the same as the period of withdrawal under section 2007.

(3) The memorandum of understanding may be amended by agreement of both Secretaries.

(d) USE OF CERTAIN RESOURCES.—Subject to valid existing rights, the Secretary of the Army is authorized to utilize sand, gravel, or similar mineral or mineral material resources from lands withdrawn by this Title, when the use of such resources is required for construction needs of the Fort Carson Military Reservation of Pinon Canyon Maneuver Site.

SEC. 2105. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

Except as provided in section 2004(d) of this title, the Secretary of the Interior shall manage all withdrawn and acquired mineral resources within the boundaries of the Fort Carson Military Reservation and Pinon Canyon Maneuver Site in accordance wit section 12 of the Military Lands Withdrawl Act of 1986 (Public Law 99-606; 100 Stat. 3466), as applicable.

SEC. 2106. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing and trapping on the lands withdrawn and reserved by this title shall be conducted in accordance with section 2671 of title 10, United States Code.

SEC. 2107. TERMINATION OF WITHDRAWAL AND RESERVATION AND EFFECT OF CONTAMINATION.

(a) TERMINATION DATE.—The withdrawal and reservation established by this Title shall terminate 15 years after the date of the enactment of this Act.

(b) DETERMINATION OF CONTINUING MILITARY NEED.—(1) At least three years prior to the termination under subsection (a) of the withdrawal and reservation established by this Title, the Secretary of the Army shall advise the Secretary of the Interior as to whether or not the Department of the Army will have a continuing military need for any of the lands after the termination date.

(2) If the Secretary of the Army concludes under paragraph (1) that there will be a continuing military need for any of the lands after the termination date established by subsection (a), the Secretary of the Army, in accordance with applicable law, shall evaluate the environmental effects of renewal of such withdrawal and reservation, shall hold at least one public hearing in Colorado concerning such evaluation, and shall thereafter file an application for extension of the withdrawal and reservation of such lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals for military uses. The Secretary of the Interior shall notify the Congress concerning such filing.

(3) If the Secretary of the Army concludes under paragraph (1) that prior to the termination date established by subsection (a), there will be no military need for all or any of the lands withdrawn and reserved by this Act, or if, during the period of withdrawal the Secretary of the Army shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) DETERMINATION OF CONTAMINATION.—Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(3), the Secretary of the Army shall prepare a written determination as to whether and to what

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extent the lands are contaminated with explosive, toxic, or other hazardous materials. A copy of the determination made by the Secretary of the Army shall be supplied with the notice of intention to relinquish. Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the interior.

(d) EFFECT OF CONTAMINATION.—(1) If any land which is the subject of a notice of intention to relinquish under subsection (b)(3) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Army, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination, the land could be opened to the operation of some or all of the public land laws, including the mining laws, the Secretary of the Army shall decontaminate the land to the extent that funds are appropriated for such purpose.

(2) If the Secretaries of the Army and the Interior conclude either that the contamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws, or if Congress declined to appropriate funds for decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment.

(3) If, because of their contaminated state, the Secretary of the Interior declines under paragraph (2) to accept jurisdiction of the lands proposed for relinquishment, or if at the expiration of the withdrawal made by the Title the Secretary of the Interior determines that some of the lands withdrawn by this Title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(A) the Secretary of the Army shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(B) after the expiration of the withdrawal, the Secretary of the Army shall undertake no activities on such lands except in connection with decontamination of such lands; and

(C) the Secretary of the Army shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of the subsection.

(4) If the lands are subsequently decontaminated, upon certification by the Secretary of the Army that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(5) Nothing in this Title shall affect, or be construed to affect, the Secretary's obligations, if any, to decontaminate such lands pursuant to applicable law, including but not limited to the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601 et seq.), and the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.).

(e) PROGRAM OF DECONTAMINATION.—Throughout the duration of the withdrawal and reservation made by this Title, the Secretary of the Army, to the extent funds are made available, shall maintain a program of decontamination of the lands withdrawn by this Title at least at the level of effort carried out during fiscal year 1992.

(f) ACCEPTANCE OF LANDS PROPOSED FOR RELINQUISHMENT.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over that lands proposed for relinquishment, is authorized to revoke the withdrawal and reservation established by this Title as it applies to the lands proposed for relinquishment. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws if appropriate.

SEC. 2108. DELEGATION.

The function of the Secretary of the Army under this Act may be delegated. The functions of the Secretary of the Interior under this Title may be delegated, except that the order referred to in section 2007(f) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 2109. HOLD HARMLESS PROVISION.

(a) IN GENERAL.—The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any mining, mineral activity, or geothermal leasing activity conducted on lands comprising the Fort Carson Military Reservation or Pinon Canyon Maneuver Site, including liabilities to non-Federal entities under sections 107 or 113 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9607 and 9613, or section 7003 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6973.

(b) INDEMNIFICATION.—Any party conducting any mining, mineral or geothermal leasing activity on such lands shall indemnify the United States and its departments or agencies thereof against any costs, fees, damages, or other liabilities, including costs of litigation, arising from or related to such mining activities, including costs of minerals disposal, whether arising under the Comprehensive Environmental Resource Compensation and Liability Act, the Resource Conservation and Recovery Act, or otherwise.

SEC. 2110. AMENDMENTS TO MILITARY LANDS WITHDRAWAL ACT OF 1986.

(a) USE OF CERTAIN RESOURCES.—Section 3(f) of the Military Lands Withdrawal Act of 1986 (Public Law 99–606; 100 Stat. 3461) is amended by adding at the end a new paragraph (2) as follows:

"(2) Subject to valid existing rights, the Secretary of the military department concerned may utilize sand, gravel, or similar mineral or material resources from lands withdrawn for the purposes of this Act when the use of such resources is required for construction needs on the respective lands withdrawn by this Act.".

(b) TECHNICAL CORRECTION.—Section 9(b) of the Military Lands Withdrawal Act of 1986 (Public Law 99–606; 100 Stat. 3466) is amended by striking "7(f)" and inserting in lieu thereof, "8(f)".

SEC. 2111. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out this Title.

TITLE XXII—SNOWBASIN LAND EXCHANGE ACT

SEC. 2201. FINDINGS AND DETERMINATION.

(a) FINDINGS.—The Congress finds that —

(1) in June 1995, Salt Lake City Utah, was selected to host the 2002 Winter Olympic Games, and the Snowbasin Ski Resort, which is owned by the Sun Valley Company, was identified as the site of six Olympic events: the men's and women's downhills, men's and women's Super-Gs, and men's and women's combined downhills;

(2) in order to adequately accommodate these events, which are traditionally among the most popular and heavily attended at the Winter Olympic Games, major new skiing, visitor, and support facilities will have to be constructed at the Snowbasin Ski Resort on land currently administered by the United States Forest Service;

(3) while certain of these new facilities can be accommodated on National Forest land under traditional Forest Service permitting authorities, the base area facilities necessary to host visitors to the ski area and the Winter Olympics are of such a nature that they should logically be located on private land;

(4) land exchanges have been routinely utilized by the Forest Service to transfer base area lands to many other ski areas, and the Forest Service and the Sun Valley Company have concluded that a land exchange to transfer base area lands at the Snowbasin Ski Resort to the Sun Valley Company is both logical and advisable;

(5) an environmental impact statement and numerous resource studies have been completed by the Forest Service and the Sun Valley Company for the lands proposed to be transferred to the Sun Valley Company by this Title;

(6) the Sun Valley Company has assembled lands with outstanding environmental, recreational, and other values to convey to the Forest Service in return for the lands it will receive in the exchange, and the Forest Service has identified such lands as desirable for acquisition by the United States; and

(7) completion of a land exchange and approval of a development plan for Olympic related facilities at the Snowbasin Ski Resort is essential to ensure that all necessary facilities can be constructed, tested for safety and other purposes, and become fully operational in advance of the 2002 Winter Olympics and earlier pre-Olympic events.

(b) DETERMINATION.—The Congress has reviewed the previous analyses and studies of the lands to be exchanged and developed pursuant to this Title, and has made its own review of these lands and issues involved, and on the basis of those reviews hereby finds and determines that a legislated land exchange and development plan approval with respect to certain National Forest System Lands is necessary to meet Olympic goals and timetables.

SEC. 2202. PURPOSE AND INTENT.

The purpose of this Title is to authorize and direct the Secretary to exchange 1,320 acres of federally-owned land within the Cache National Forest in the State of Utah for lands of approximately equal value owned by the Sun Valley Company. It is the intent of Congress that this exchange be completed without delay within the period specified by section 2104.

SEC. 2203. DEFINITIONS.

As used in this Title—

(1) the term "Sun Valley Company" means the Sun Valley Company, a division of Sinclair Oil Corporation, a Wyoming Corporation, or its successors or assigns; and

(2) the term "Secretary" means the Secretary of Agriculture.

SEC. 2204. EXCHANGE.

(a) FEDERAL SELECTED LANDS.—(1) Not later than 45 days after the final determination of value of the Federal selected lands, the Secretary shall, subject to this Title, transfer all right, title, and interest of the United States in and to the lands referred to in paragraph (2) to the Sun Valley Company.

(2) The lands referred to in paragraph (1) are certain lands within the Cache National Forest in the State of Utah comprising 1,320 acres, more or less, as generally depicted on the map entitled "Snowbasin Land Exchange—Proposed" and dated October 1995.

(b) NON-FEDERAL OFFERED LANDS.—Upon transfer of the Federal selected lands under subsection (a), and in exchange for those lands, the Sun Valley Company shall simultaneously convey to the Secretary all right, title and interest of the Sun Valley Company in and to so much of the following offered lands which have been previously identified by the United States Forest Service as desirable by the United States, or which are identified pursuant to paragraph (5) prior to the transfer of lands under subsection (a), as are of approximate equal value to the Federal selected lands:

(1) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 640 acres and are generally depicted on a map entitled "Lightning Ridge Offered Lands", dated October 1995.

(2) Certain lands located within the Cache National Forest in Weber County, Utah, which comprise approximately 635 acres and are generally depicted on a map entitled "Wheeler Creek Watershed Offered Lands—Section 2" dated October 1995.

(3) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, and lying immediately adjacent to the outskirts of the City of Ogden, Utah, which comprise approximately 800 acres and are generally depicted on a map entitled "Taylor Canyon Offered Lands", dated October 1995.

(4) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 2,040 acres and are generally depicted on a map entitled "North Fork Ogden River-Devil's Gate Valley", dated October 1995.

(5) Such additional offered lands in the State of Utah as may be necessary to make the values of the lands exchanged pursuant to this Title approximately equal, and which are acceptable to the Secretary.

(c) SUBSTITUTION OF OFFERED LANDS.—If one or more of the precise offered land parcels identified in paragraphs (1) through (4) of subsection (b) is unable to be conveyed to the United States due to appraisal or other reasons, or if the Secretary and the Sun Valley Company mutually agree and the Secretary determines that an alternative offered land package would better serve long term public needs and objectives, the Sun Valley Company may simultaneously convey to the United States alternative offered lands in the State of Utah acceptable to the Secretary in lieu of any or all of the lands identified in paragraphs (1) through (4) of subsection (b).

(d) VALUATION AND APPRAISALS.—(1) Values of the lands to be exchanged pursuant to this Title shall be equal as determined by the Secretary utilizing nationally recognized appraisal standards and in accordance with section 206 of the Federal Land Policy and Management Act of 1976. The appraisal reports shall be written to Federal standards as defined in the Uniform Appraisal Standards for Federal Land Acquisitions. If, due to size, location, or use of lands exchanged under this Title, the values are not exactly equal, they shall be equalized by the payment of cash equalization money to the Secretary of the Sun Valley Company as appropriate in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)). In order to expedite the consummation of the exchange directed by this Title, the Sun Valley Company shall arrange and pay for appraisals of the offered and selected lands by a qualified appraiser with experience in appraising similar properties and who is mutually acceptable to the Sun Valley Company and the Secretary. The appraisal of the Federal selected lands shall be completed and submitted to the Secretary for technical review and approval no later than 120 days after the date of enactment of this Act, and the Secretary shall make a determination of value not later than 30 days after receipt of the appraisal. In the event the Secretary and the Sun Valley Company are unable to agree to the appraised value of a certain tract or tracts of land, the appraisal, appraisals, or appraisal issues in dispute and a final determination of value shall be resolved through a process of bargaining or submission to arbitration in accordance with section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(2) In order to expedite the appraisal of the Federal selected lands, such appraisal shall—

(A) value the land in its unimproved state, as a single entity for its highest and best use as if in private ownership and as of the date of enactment of this Act;

(B) consider the Federal lands as an independent property as through in the private marketplace and suitable for development to its highest and best use;

(C) consider in the appraisal any encumbrance on the title anticipated to be in the conveyance to Sun Valley Company and reflect its effect on the fair market value of the property; and

(D) not reflect any enhancement in value to the Federal selected lands based on the existence of private lands owned by the Sun Valley Company in the vicinity of the Snowbasin Ski Resort, and shall assume that private lands owned by the Sun Valley Company are not available for use in conjunction with the Federal selected lands.

SEC. 2205. GENERAL PROVISIONS RELATING TO THE EXCHANGE.

(a) IN GENERAL.—The exchange authorized by this Title shall be subject to the following terms and conditions:

(1) RESERVED RIGHTS-OF-WAY.—In any deed issued pursuant to section 5(a), the Secretary shall reserve in the United States a right of reasonable access across the conveyed property for public access and for administrative purposes of the United States necessary to manage adjacent federally-owned lands. The terms of such reservation shall be prescribed by the Secretary within 30 days after the date of the enactment of this Act.

(2) RIGHT OF RESCISSION.—This Title shall not be binding on either the United States or the Sun Valley Company if, within 30 days after the final determination of value of the Federal selected lands, the Sun Valley Company submits to the Secretary a duly authorized and executed resolution of the Company stating its intention not to enter into the exchange authorized by this Title.

(b) WITHDRAWAL.—Subject to valid existing rights, effective on the date of enactment of this Act, the Federal selected lands described in section 5(a)(2) and all National Forest System lands currently under special use permit to the Sun Valley Company at the Snowbasin Ski Resort are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws) and from disposition under all laws pertaining to mineral and geothermal leasing.

(c) DEED.—The conveyance of the offered lands to the United States under this Title shall be by general warranty or other deed acceptable to the Secretary and in conformity with applicable title standards of the Attorney General of the United States.

(d) STATUS OF LANDS.—Upon acceptance of title by the Secretary, the land conveyed to the United States pursuant to this Title shall become part of the Wasatch or Cache National Forests as appropriate, and the boundaries of such National Forests shall be adjusted to encompass such lands. Once conveyed, such lands shall be managed in accordance with the Act of March 1, 1911, as amended (commonly known as the "Weeks Act"), and in accordance with the other laws, rules and regulations applicable to National Forest System lands. This subsection does not limit the Secretary's authority to adjust the boundaries pursuant to section 11 of the Act of March 1, 1911 ("Weeks Act"). For the purposes of section 7 of the land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Wasatch and Cache National Forests, as adjusted by this Title, shall be considered to be boundaries of the forests as of January 1, 1965.

SEC. 2206. PHASE I FACILITY CONSTRUCTION AND OPERATION.

(a) PHASE I FACILITY FINDING AND REVIEW.—(1) The Congress has reviewed the Snowbasin Ski Area Master Development Plan dated October 1995 (hereinafter in this section referred to as the "Master Plan"). On the basis of such review, and review of previously completed environmental and other resource studies for the Snowbasin Ski Area, Congress hereby finds that the "Phase I" facilities referred to in the Master Plan to be located on National Forest System land after consummation of the land exchange directed by this Title are limited in size and scope, are reasonable and necessary to accommodate the 2002 Olympics, and in some cases are required to provide for the safety of skiing competitors and spectators.

(2) Within 60 days after the date of enactment of this Act, the Secretary and the Sun Valley Company shall review the Master Plan insofar as such plan pertains to Phase I facilities which are to be constructed and operated wholly or partially on National Forest System lands retained by the Secretary after consummation of the land exchange directed by this Title. The Secretary may modify such Phase I facilities upon mutual agreement with the Sun Valley Company or by imposing conditions pursuant to subsection (b) of this section.

(3) Within 90 days after the date of enactment of this Act, the Secretary shall submit the reviewed Master Plan on the Phase I facilities, including any modifications made thereto pursuant to paragraph (2), to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives for a 30-day review period. At the end of the 30-day period, unless otherwise directed by Act of Congress, the Secretary may issue all necessary authorizations for construction and operation of such

VOL
142
PT
5
MR
21
—
29
1996
UMI

facilities or modifications thereof in accordance with the procedures and provisions of subsection (b) of this section.

(b) Phase I Facility Approval, Conditions, and Timetable.—Within 120 days of receipt of an application by the Sun Valley Company to authorize construction and operation of any particular Phase I facility, facilities, or group of facilities, the Secretary, in consultation with the Sun Valley Company, shall authorize construction and operation of such facility, facilities, or group of facilities, subject to the general policies of the Forest Service pertaining to the construction and operation of ski area facilities on National Forest System lands and subject to reasonable conditions to protect National Forest System resources. In providing authorization to construct and operate a facility, facilities, or group of facilities, the Secretary may not impose any condition that would significantly change the location, size, or scope of the applied for Phase I facility unless—

(1) the modification is mutually agreed to by the Secretary and the Sun Valley Company; or

(2) the modification is necessary to protect health and safety.

Nothing in this section shall be construed to affect the Secretary's responsibility to monitor and assure compliance with the conditions set forth in the construction and operation authorization.

(c) Congressional Directions.—Notwithstanding any other provision of law, Congress finds that consummation of the land exchange directed by this Title and all determinations, authorizations, and actions taken by the Secretary pursuant to this Title pertaining to Phase I facilities on National Forest System lands, or any modifications thereof, to be nondiscretionary actions authorized and directed by Congress and hence to comply with all procedural and other requirements of the laws of the United States. Such determinations, authorizations and actions shall not be subject to administrative or judicial review.

SEC. 2307. NO PRECEDENT.

Nothing in section 2104(d)(2) of this Title relating to conditions or limitations on the appraisal of the Federal lands, or any provision of section 2106 relating to the approval by the Congress or the Forest Service of facilities on National Forest System lands, shall be construed as a precedent for subsequent legislation.

TITLE XXIII—COLONIAL NATIONAL HISTORICAL PARK.

SEC. 2301. COLONIAL NATIONAL HISTORICAL PARK.

(a) Transfer and Rights-of-Way.—The Secretary of the Interior (hereinafter in this Title referred to as the "Secretary") is authorized to transfer, without reimbursement, to York County, Virginia, that portion of the existing sewage disposal system, including related improvements and structures, owned by the United States and located within the Colonial National Historical Park, together with such rights-of-way as are determined by the Secretary to be necessary to maintain and operate such system.

(b) Repair and Rehabilitation of System.—The Secretary is authorized to enter into a cooperative agreement with York County, Virginia, under which the Secretary will pay a portion, not to exceed $110,000, of the costs of repair and rehabilitation of the sewage disposal system referred to in subsection (a).

(c) Fees and Charges.—In consideration for the rights-of-way granted under subsection (a), and in recognition of the National Park Service's contribution authorized under subsection (b), the cooperative agreement under subsection (b) shall provide for a reduction in, or the elimination of, the amounts charged to the National Park Service for its sewage disposal. The cooperative agreement shall also provide for minimizing the impact of the sewage disposal system on the park and its resources. Such system may not be enlarged or substantially altered without National Park Service concurrence.

SEC. 2302. INCLUSION OF LAND IN COLONIAL NATIONAL HISTORICAL PARK.

Notwithstanding the provisions of the Act of June 28, 1938 (52 Stat. 1208; 16 U.S.C. 81b et seq.), limiting the average width of the Colonial Parkway, the Secretary of the Interior is authorized to include within the boundaries of Colonial National Historical Park and acquire by donation, exchange, or purchase with donated or appropriated funds—

(1) the lands or interests in lands described as lots 30 to 48, inclusive;

(2) the portion of lot 49 that is 200 feet in width from the existing boundary of Colonial National Historical Park;

(3) a 3.2-acre archaeological site, as shown on the plats titled "Page Landing At Jamestown being a subdivision of property of Neck O Land Limited Partnership" dated June 21, 1989, sheets 2 and 3 of 3 sheets and bearing National Park Service Drawing Number 333.80031; and

(4) all or a portion of the adjoining lot number 11 of the Neck O Land Hundred Subdivision, with or without improvements.

SEC. 2303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Title.

TITLE XXIV—WOMEN'S RIGHTS NATIONAL HISTORICAL PARK

SEC. 2401. INCLUSION OF OTHER PROPERTIES.

Section 1601(c) of Public Law 96-607 (16 U.S.C. 41011) is amended to read as follows: "To carry out the purposes of this section there is hereby established the Women's Rights National Historical Park (hereinafter in this section referred to as the "park"). The park shall consist of the following designated sites in Seneca Falls and Waterloo, New York:

"(1) Stanton House, 32 Washington Street, Seneca Falls;

"(2) dwelling, 30 Washington Street, Seneca Falls;

"(3) dwelling, 34 Washington Street, Seneca Falls;

"(4) lot, 26–28 Washington Street, Seneca Falls;

"(5) former Wesleyan Chapel, 126 Fall Street, Seneca Falls;

"(6) theater, 128 Fall Street, Seneca Falls;

"(7) McClintock House, 16 East Williams Street, Waterloo;

"(8) Hunt House, 401 East Williams Street, Waterloo;

"(9) not to exceed 1 acre, plus improvements, as determined by the Secretary, in Seneca Falls for development of a maintenance facility;

"(10) dwelling, 1 Seneca Street, Seneca Falls;

"(11) dwelling, 10 Seneca Street, Seneca Falls;

"(12) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Street, Seneca Falls; and

"(13) dwelling, 12 East Williams Street, Waterloo.".

SEC. 2402. MISCELLANEOUS AMENDMENTS.

Section 1601 of Public Law 96-607 (16 U.S.C. 41011) is amended by redesignating subsection (i) as "(i)(1)" and inserting at the end thereof the following new paragraph:

"(2) In addition to those sums appropriated prior to the date of enactment of this paragraph for land acquisition and development, there is hereby authorized to be appropriated an additional $2,000,000.".

TITLE XXV—FRANKLIN D. ROOSEVELT FAMILY LANDS

SEC. 2501. ACQUISITION OF LANDS.

(a) In General.—(1) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire, by purchase with donated or appropriated funds, donation, or otherwise, lands and interests therein in the following properties located at Hyde Park, New York identified as lands critical for protection as depicted on the map entitled "Roosevelt Family Estate" and dated September 1994—

(A) the "Open Park Hodhome Tract", consisting of approximately 40 acres, which shall be the highest priority for acquisition;

(B) the "Top Cottage Tract", consisting of approximately 30 acres; and

(C) the "Poughkeepsie Shopping Center, Inc. Tract", consisting of approximately 55 acres.

(b) Administration.—Lands and interests therein acquired by the Secretary pursuant to this Title shall be added to, and administered by the Secretary as part of the Franklin Delano Roosevelt National Historic Site or the Eleanor Roosevelt National Historic Site, as appropriate.

(c) Authorization of Appropriations.—There is hereby authorized to be appropriated not to exceed $3,000,000 to carry out this Title.

TITLE XXVI—GREAT FALLS HISTORIC DISTRICT, NEW JERSEY

SEC. 2601. FINDINGS.

Congress finds that—

(1) the Great Falls Historic District in the State of New Jersey is an area of historical significance as an early site of planned industrial development, and has remained largely intact, including architecturally significant structures;

(2) the Great Falls Historic District is listed on the National Register of Historic Places and has been designated a National Historic Landmark;

(3) the Great Falls Historic District is situated within a one-half hour's drive from New York City and a 2 hour's drive from Philadelphia, Hartford, New Haven, and Wilmington;

(4) the District was developed by the Society of Useful Manufactures, an organization whose leaders included a number of historically renowned individuals, including Alexander Hamilton; and

(5) the Great Falls Historic District has been the subject of a number of studies that have shown that the District possesses a combination of historic significance and natural beauty worthy of and uniquely situated for preservation and redevelopment.

SEC. 2602. PURPOSES.

The purposes of this Title are—

(1) to preserve and interpret, for the educational and inspirational benefit of the public, the contribution to our national heritage of certain historic and cultural lands and edifices of the Great Falls Historic District, with emphasis on harnessing this unique urban environment for its educational and recreational value; and

(2) to enhance economic and cultural redevelopment within the District.

SEC. 2603. DEFINITIONS.

In this Act:

(1) District.—The term "District" means the Great Falls Historic District established by section 5.

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 2604. GREAT FALLS HISTORIC DISTRICT.

(a) Establishment.—There is established the Great Falls Historic District in the city of Paterson, in Passaic County, New Jersey.

(b) Boundaries.—The boundaries of the District shall be the boundaries specified for the Great Falls Historic District listed on the National Register of Historic Places.

SEC. 2605. DEVELOPMENT PLAN.

(a) Grants and Cooperative Agreements.—The Secretary may make grants and enter into cooperative agreements with the State of New Jersey, local governments, and private nonprofit entities under which the Secretary agrees to pay not more than 50 percent of the costs of—

(1) preparation of a plan for the development of historic, architectural, natural, cultural, and interpretive resources within the District; and

(2) implementation of projects approved by the Secretary under the development plan.

(b) Contents of Plan.—The development plan shall include—

(1) an evaluation of—

(A) the physical condition of historic and architectural resources; and

(B) the environmental and flood hazard conditions within the District; and

(2) recommendations for—

(A) rehabilitating, reconstructing, and adaptively reusing the historic and architectural resources;

(B) preserving viewsheds, focal points, and streetscapes;

(C) establishing gateways to the District;

(D) establishing and maintaining parks and public spaces;

(E) developing public parking areas;

(F) improving pedestrian and vehicular circulation within the District;

(G) improving security within the District, with an emphasis on preserving historically significant structures from arson; and

(H) establishing a visitors' center.

SEC. 2606. RESTORATION, PRESERVATION, AND INTERPRETATION OF PROPERTIES.

(a) Cooperative Agreements.—The Secretary may enter into cooperative agreements with the owners of properties within the District that the Secretary determines to be of historical or cultural significance, under which the Secretary may—

(1) pay not more than 50 percent of the cost of restoring and improving the properties;

(2) provide technical assistance with respect to the preservation and interpretation of the properties; and

(3) mark and provide interpretation of the properties.

(b) Provisions.—A cooperative agreement under subsection (a) shall provide that—

(1) the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes;

(2) no change or alteration may be made in the property except with the agreement of the property owner, the Secretary, and any Federal agency that may have regulatory jurisdiction over the property; and

(3) if at any time the property is converted, used, or disposed of in a manner that is contrary to the purposes of this Act, as determined by the Secretary, the property owner shall be liable to the Secretary for the greater of—

(A) the amount of assistance provided by the Secretary for the property; or

(B) the portion of the increased value of the property that is attributable to that assistance, determined as of the date of the conversion, use, or disposal.

(c) Applications.—

(1) In General.—A property owner that desires to enter into a cooperative agreement under subsection (a) shall submit to the Secretary an application describing how the project proposed to be funded will further the purposes of the District.

(2) Consideration.—In making such funds available under this section, the Secretary shall give consideration to projects that provide a greater leverage of Federal funds.

SEC. 2607. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this Title—

(1) $250,000 for grants and cooperative agreements for the development plan under section 6; and

(2) $50,000 for the provision of technical assistance and $3,000,000 for the provision of other assistance under cooperative agreements under section 7.

TITLE XXVII—RIO PUERCO WATERSHED

SECTION 2701. FINDINGS.

Congress finds that—

(1) over time, extensive ecological changes have occurred in the Rio Puerco watershed, including—

(A) erosion of agricultural and range lands;

(B) impairment of waters due to heavy sedimentation;

(C) reduced productivity of renewable resources;

(D) loss of biological diversity;

(E) loss of functioning riparian areas; and

(F) loss of available surface water;

(2) damage to the watershed has seriously affected the economic and cultural well-being of its inhabitants, including—

(A) loss of communities that were based on the land and were self-sustaining; and

(B) adverse effects on the traditions, customs, and cultures of the affected communities;

(3) a healthy and sustainable ecosystem is essential to the long-term economic and cultural viability of the region;

(4) the impairment of the Rio Puerco watershed has caused damage to the ecological and economic well-being of the area below the junction of the Rio Puerco with the Rio Grande, including—

(A) disruption of ecological processes;

(B) water quality impairment;

(C) significant reduction in the water storage capacity and life expectancy of the Elephant Butte Dam and Reservoir system due to sedimentation;

(D) chronic problems of irrigation system channel maintenance; and

(E) increased risk of flooding caused by sediment accumulation;

(5) the Rio Puerco is a major tributary of the Rio Grande, and the coordinated implementation of ecosystem-based best management practices for the Rio Puerco system could benefit the larger Rio Grande system;

(6) the Rio Puerco watershed has been stressed from the loss of native vegetation, introduction of exotic species, and alteration of riparian habitat which have disrupted the original dynamics of the river and disrupted natural ecological processes;

(7) the Rio Puerco watershed is a mosaic of private, Federal, tribal trust, and State land ownership with diverse, sometimes differing management objectives;

(8) development, implementation, and monitoring of an effective watershed management program for the Rio Puerco watershed is best achieved through cooperation among affected Federal, State, local, and tribal entities;

(9) the Secretary of the Interior, acting through the Director of the Bureau of Land Management, in consultation with Federal, State, local, and tribal entities and in cooperation with the Rio Puerco Watershed Committee, is best suited to coordinate management efforts in the Rio Puerco watershed; and

(10) accelerating the pace of improvement in the Rio Puerco watershed on a coordinated, cooperative basis will benefit persons living in the watershed as well as downstream users on the Rio Grande.

SEC. 2702. MANAGEMENT, PROGRAM.

(a) In General.— The Secretary of the Interior, acting through the Director of the Bureau of Land Management shall—

(1) in consultation with the Rio Puerco Management Committee established by section 4—

(A) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin, as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994, including—

(i) current and historical natural resource conditions; and

(ii) data concerning the extent and causes of watershed impairment; and

(B) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project, as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994; and

(2) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices.

(b) Rio Puerco Management Report.—

(1) In general.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall prepare a report for the improvement of watershed conditions in the Rio Puerco Drainage Basin described in subsection (a)(1).

(2) Contents.—The report under paragraph (1) shall—

(A) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco watershed;

(B) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(C) recommend voluntary implementation of appropriate best management practices on public and private lands;

(D) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on public and private lands;

(E) provide for the development of public participation and community outreach programs that would include proposals for—

(i) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(ii) involvement of private citizens in restoring the watershed;

(F) provide for the development of proposals for voluntary cooperative programs among the members of the Rio Puerco Management Committee to implement best management practices in a coordinated, consistent, and cost-effective manner;

(G) provide for the encouragement of, and support implementation of, best management practices on private lands; and

VOL
142
PT
5
MR
21
—
29
1996
UMI

(H) provide for the development of proposals for a monitoring system that—

(i) builds on existing data available from private, Federal, and State sources;

(ii) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(iii) will provide information to—

(I) assess existing resource and socioeconomic conditions;

(II) identify priority implementation actions; and

(III) assess the effectiveness of actions taken.

SEC. 2703. RIO PUERCO MANAGEMENT COMMITTEE.

(a) ESTABLISHMENT.—There is established the Rio Puerco Management Committee (referred to in this section as the "Committee").

(b) MEMBERSHIP.—The Committee shall be convened by a representative of the Bureau of Land Management and shall include representatives from—

(1) the Rio Puerco Watershed Committee;

(2) affected tribes and pueblos;

(3) the National Forest Service of the Department of Agriculture;

(4) the Bureau of Reclamation;

(5) the United States Geological Survey;

(6) the Bureau of Indian Affairs;

(7) the United States Fish and Wildlife Service;

(8) the Army Corps of Engineers;

(9) the Natural Resources Conservation Service of the Department of Agriculture;

(10) the State of New Mexico, including the New Mexico Environment Department and the State Engineer;

(11) affected local soil and water conservation districts;

(12) the Elephant Butte Irrigation District;

(13) private landowners; and

(14) other interested citizens.

(c) DUTIES.—The Rio Puerco Management Committee shall—

(1) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in section 3; and

(2) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in section 3.

(d) TERMINATION.—The Committee shall terminate on the date that is 10 years after the date of enactment of this Act.

SEC. 2704. REPORT.

Not later than the date that is 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives a report containing—

(1) a summary of activities of the management program under section 3; and

(2) proposals for joint implementation efforts, including funding recommendations.

SEC. 2705. LOWER RIO GRANDE HABITAT STUDY.

(a) IN GENERAL.—The Secretary of the Interior, in cooperation with appropriate State agencies, shall conduct a study of the Rio Grande that—

(1) shall cover the distance from Caballo Lake to Sunland Park, New Mexico; and

(2) may cover a greater distance.

(b) CONTENTS.—The study under subsection (a) shall include—

(1) a survey of the current habitat conditions of the river and its riparian environment;

(2) identification of the changes in vegetation and habitat over the past 400 years and the affect of the changes on the river and riparian area; and

(3) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and to restore habitat through reintroduction or establishment of appropriate native plant species.

(c) TRANSMITTAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary of the Interior shall transmit the study under subsection (a) to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives.

SEC. 2706. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out sections 1, 2, 3, 4, and 5 a total of $7,500,000 for the 10 fiscal years beginning after the date of enactment of this Act.

TITLE XXVIII—COLUMBIA BASIN

SEC. 2801. LAND EXCHANGE.

The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to convey to the Boise Cascade Corporation (hereinafter referred to as the "Corporation"), a corporation formed under the statutes of the State of Delaware, with its principal place of business at Boise, Idaho, title to approximately seven acres of land, more or less, located in sections 14 and 23, township 36 north, range 37 east, Willamette Meridian, Stevens County, Washington, further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC–19860, and to accept from the Corporation in exchange therefor, title to approximately one hundred and thirty-six acres of land located in section 19, township 37 north, range 38 east and section 33, township 38 north, range 37 east, Willamette Meridian, Stevens County, Washington, and further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC–19858 and Tract No. GC–19859, respectively.

SEC. 2802. APPRAISAL.

The properties so exchanged either shall be approximately equal in fair market value or if they are not approximately equal, shall be equalized by the payment of cash to the Corporation or to the Secretary as required or in the event the value of the Corporation's lands is greater, the acreage may be reduced so that the fair market value is approximately equal: *Provided*, that the Secretary shall order appraisals made of the fair market value of each tract of land included in the exchange without consideration for improvements thereon: *Provided further*, that any cash payment received by the Secretary shall be covered in the Reclamation Fund and credited to the Columbia Basin project.

SEC. 2803. ADMINISTRATIVE COSTS.

Costs of conducting the necessary land surveys, preparing the legal descriptions of the lands to be conveyed, performing the appraisals, and administrative costs incurred in completing the exchange shall be borne by the Corporation.

SEC. 2804. LIABILITY FOR HAZARDOUS SUBSTANCES.

(a) The Secretary shall not acquire any lands under this Title if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(b) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this Title after their transfer to the ownership of any party, but nothing in this Act shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party. The Corporation shall indemnify the United States for liabilities arising under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601), and the Resource Conservation Recovery Act (42 U.S.C. 6901 et seq.).

SEC. 2805. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Title.

TITLE XXIX—GRAND LAKE CEMETERY

SECTION 2901. MAINTENANCE OF CEMETERY IN ROCKY MOUNTAIN NATIONAL PARK.

(a) AGREEMENT.—Notwithstanding any other law, not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall enter into an appropriate form of agreement with the town of Grand Lake, Colorado, authorizing the town to maintain permanently, under appropriate terms and conditions, a cemetery within the boundaries of the Rocky Mountain National Park.

(b) CEMETERY BOUNDARIES.—The cemetery shall be comprised of approximately 5 acres of land, as generally depicted on the map entitled "Grand Lake Cemetery" and dated February 1995.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—The Secretary of the Interior shall place the map described in subsection (b) on the file, and make the map available for public inspection, in the headquarters office of the Rocky Mountain National Park.

(d) LIMITATION.—The cemetery shall not be extended beyond the boundaries of the cemetery shown on the map described in subsection (b).

TITLE XXX—OLD SPANISH TRAIL

SEC. 3001. DESIGNATION

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"(36) The Old Spanish Trail, beginning in Santa Fe, New Mexico, proceeding through Colorado and Utah, and ending in Los Angeles, California, and the Northern Branch of the Old Spanish Trail, beginning near Espanola, New Mexico, proceeding through Colorado, and ending near Crescent Junction, Utah."

TITLE XXXI—BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR

SEC. 3101. BOUNDARY CHANGES.

Section 2 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by striking the first sentence and inserting the following new sentence: "The boundaries shall include the lands and water generally depicted on the map entitled Blackstone River Valley National Heritage Corridor Boundary Map, numbered BRV–80–80,011, and dated May 2, 1993.".

SEC. 3102. TERMS.

Section 3(c) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by inserting immediately before

the period at the end the following: ", but may continue to serve after the expiration of this term until a successor has been appointed".

SEC. 3103. REVISION OF PLAN.

Section 6 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

"(d) REVISION OF PLAN.—(1) Not later than 1 year after the date of enactment of this subsection, the Commission, with the approval of the Secretary, shall revise the Cultural Heritage and Land Management Plan. The revision shall address the boundary change and shall include a natural resource inventory of areas or features that should be protected, restored, managed, or acquired because of their contribution to the understanding of national cultural landscape values.

"(2) No changes other than minor revisions may be made in the approved plan as amended without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the plan, except minor revisions, in accordance with subsection (b).".

SEC. 3104. EXTENSION OF COMMISSION

Section 7 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended to read as follows:

"TERMINATION OF COMMISSION

"SEC. 7 (a). TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the date that is 10 years after the date of enactment of the Blackstone River Valley National Heritage Corridor Amendments Act of 1995.

"(b) EXTENSION.—The Commission may be extended for an additional term of 10 years if—

"(1) not later than 180 days before the termination of the Commission, the Commission determines that an extension is necessary to carry out this Title;

"(2) the Commission submits a proposed extension to the appropriate committees of the Senate and the House of Representatives; and

"(3) the Secretary, the Governor of Massachusetts, and the Governor of Rhode Island each approve the extension.

"(c) DETERMINATION OF APPROVAL.—The Secretary shall approve the extension if the Secretary finds that—

"(1) the Governor of Massachusetts and the Governor of Rhode Island provide adequate assurances of continued tangible contribution and effective policy support toward achieving the purposes of this Title; and

"(2) the Commission is effectively assisting Federal, State, and local authorities to retain, enhance, and interpret the distinctive character and nationally significant resources of the Corridor.".

SEC. 3105. IMPLEMENTATION OF THE PLAN.

Subsection (c) of section 8 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended to read as follows:

"(c) IMPLEMENTATION.—To assist in the implementation of the Cultural Heritage and Land Management Plan in a manner consistent with purposes of this Title, the Secretary is authorized to undertake a limited program of financial assistance for the purpose of providing funds for the preservation and restoration of structures on or eligible for inclusion on the National Register of Historic Places within the Corridor which exhibit national significance or provide a wide spectrum of historic, recreational, or environmental education opportunities to the general public.

"(2) To be eligible for funds under this section, the Commission shall submit an application to the Secretary that includes—

"(A) a 10-year development plan includes those resource protection needs and projects critical to maintaining or interpreting the distinctive character of the Corridor; and

"(B) specific description of annual work programs that have been assembled, the participating parties, roles, cost estimates, cost-sharing, or cooperative agreements necessary to carry out the development plan.

"(3) Funds made available pursuant to this subsection shall not exceed 50 percent of the total cost of the work programs.

"(4) In making the funds available, the Secretary shall give priority to projects that attract greater non-Federal funding sources.

"(5) Any payment made for the purposes of conservation or restoration of real property or structures shall be subject to an agreement either—

"(A) to convey a conservation or preservation easement to the Department of Environmental Management or to the Historic Preservation Commission, as appropriate, of the State in which the real property or structure is located; or

"(B) that conversion, use, or disposal of the resources so assisted for purposes contrary to the purposes of this Title, as determined by the Secretary, shall result in a right of the United States for reimbursement of all funds expended upon such resources or the proportion of the increased value of the resources attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

"(6) The authority to determine that a conversion, use, or disposal of resources has been carried out contrary to the purposes of this Title in violation of an agreement entered into under paragraph (5) (A) shall be solely at the discretion of the Secretary.".

SEC. 3106. LOCAL AUTHORITY.

Section 5 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by adding at the end of the following new subsection:

"(j) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this Title shall be construed to affect or to authorize the Commission to interfere with—

"(1) the rights of any person with respect to private property; or

"(2) any local zoning ordinance or land use plan of the Commonwealth of Massachusetts or a political subdivision of such Commonwealth.".

SEC. 3107. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647); 16 U.S.C. 461 note), as amended, is further amended—

(1) in subsection (a), by striking "$350,000" and inserting "$650,000"; and

(2) by amending subsection (b) to read as follows:

"(b) DEVELOPMENT FUNDS.—For fiscal years 1996, 1997, and 1998, there is authorized to be appropriated to carry out section 8(c), $5,000,000 in the aggregate.".

TITLE XXXII—CUPRUM, IDAHO RELIEF

SECTION 3201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that:

(1) In 1899, the citizens of Cuprum, Idaho, commissioned E.S. Hesse to conduct a survey describing these lands occupied by their community. The purpose of this survey was to provide a basis for the application for a townsite patent.

(2) In 1909, the Cuprum Townsite patent (Number 52817) was granted, based on an aliquot parts description which was intended to circumscribe the Hesse survey.

(3) Since the day of the patent, the Hesse survey has been used continuously by the community of Cuprum and by Adams County, Idaho, as the official townsite plant and basis for conveyance of title within the townsite.

(4) Recent boundary surveys conducted by the United States Department of Agriculture, Forest Service, and the United States Department of the Interior, Bureau of Land Management, discovered inconsistencies between the official aliquot parts description of the patented Cuprum Townsite and the Hesse survey. Many lots along the south and east boundaries of the townsite are now known to extend onto National Forest System lands outside the townsite.

(5) It is the determination of Congress that the original intent of the Cuprum Townsite application was to include all the lands described by the Hesse survey.

(b) PURPOSE.—It is the purpose of this Title to amend the 1909 Cuprum Townsite patent to include those additional lands described by the Hesse survey in addition to other lands necessary to provide an administratively acceptable boundary to the National Forest System.

SEC. 3202. AMENDMENT OF PATENT.

(a) The 1909 Cuprum Townsite patent is hereby amended to include parcels 1 and 2, identified on the plat, marked as "Township 20 North, Range 3 West, Boise Meridian, Idaho, Section 10: Proposed Patent Adjustment Cuprum Townsite, Idaho" prepared by Payette N.F.—Land Survey Unit, drawn and approved by Tom Betzold, Forest Land Surveyor, on April 25, 1995. Such additional lands are hereby conveyed to the original patentee, Pitts Ellis, trustee, and Probate Judge of Washington County, Idaho, or any successors or assigns in interest in accordance with State law. The Secretary of Agriculture may correct clerical and typographical errors in such plat.

(b) The Federal Government shall survey the Federal property lines and mark and post the boundaries necessary to implement this section.

SEC. 3203. RELEASE.

Notwithstanding section 120 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9620), the United States shall not be liable and shall be held harmless from any and all claims resulting from substances or petroleum products or any other hazardous materials on the conveyed land.

TITLE XXXIII—ARKANSAS AND OKLAHOMA LAND EXCHANGE.

SEC. 3301. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that:

(1) the Weyerhaeuser Company has offered to the United States Government an exchange of lands under which Weyerhaeuser

VOL 142 PT 5 MR 21 — 29 1996 UMI

would receive approximately 48,000 acres of Federal land in Arkansas and Oklahoma and all mineral interests and oil and gas interests pertaining to these exchanged lands in which the United States Government has an interest in return for conveying to the United States lands owned by Weyerhaeuser consisting of approximately 180,000 acres of forested wetlands and other forest land of public interest in Arkansas and Oklahoma and all mineral interests and all oil and gas interests pertaining to 48,000 acres of these 180,000 acres of exchanged lands in which Weyerhaeuser has an interest, consisting of:

(A) certain lands in Arkansas (Arkansas Ouachita lands) located near Poteau Mountain, Caney Creek Wilderness, Lake Ouachita, Little Missouri Wild and Scenic River, Flatside Wilderness and the Ouachita National Forest;

(B) certain lands in Oklahoma (Oklahoma lands) located near the McCurtain County Wilderness, the Broken Bow Reservoir, the Glover River, and the Ouachita National Forest; and

(C) certain lands in Arkansas (Arkansas Cossatot lands) located on the Little and Cossatot Rivers and identified as the "Pond Creek Bottoms" in the Lower Mississippi River Delta section of the North American Waterfowl Management Plan;

(2) acquisition of the Arkansas Cossatot lands by the United States will remove the lands in the heart of a critical wetland ecosystem from sustained timber production and other development;

(3) the acquisition of the Arkansas Ouachita lands and the Oklahoma lands by the United States for administration by the Forest Service will provide an opportunity for enhancement of ecosystem management of the National Forest System lands and resources;

(4) the Arkansas Ouachita lands and the Oklahoma lands have outstanding wildlife habitat and important recreational values and should continue to be made available for activities such as public hunting, fishing, trapping, nature observation, enjoyment, education, and timber management whenever these activities are consistent with applicable Federal laws and land and resource management plans; these lands, especially in the riparian zones, also harbor endangered, threatened and sensitive plants and animals and the conservation and restoration of these areas are important to the recreational and educational public uses and will represent a valuable ecological resource which should be conserved;

(5) the private use of the lands the United States will convey to Weyerhaeuser will not conflict with established management objectives on adjacent Federal lands;

(6) the lands the United States will convey to Weyerhaeuser as part of the exchange described in paragraph (1) do not contain comparable fish, wildlife, or wetland values;

(7) the values of all lands, mineral interests, and oil and gas interests to be exchanged between the United States and Weyerhaeuser are approximately equal in value; and

(8) the exchange of lands, mineral interests, and oil and gas interests between Weyerhaeuser and the United States is in the public interest.

(b) Purpose.—The purpose of this Title is to authorize and direct the Secretary of the Interior and the Secretary of Agriculture, subject to the terms of this Title, to complete, as expeditiously as possible, an exchange of lands, mineral interests, and oil and gas interests with Weyerhaeuser that will provide environmental, land management, recreational, and economic benefits to the States of Arkansas and Oklahoma and to the United States.

SEC. 3302. DEFINITIONS.

As used in this Title:

(a) Land.—The terms "land" or "lands" mean the surface estate and any other interests therein except for mineral interests and oil and gas interests.

(b) Mineral Interests.—The term "mineral interests" means goethermal steam and heat and all metals, ores, and minerals of any nature whatsoever, except oil and gas interests, in or upon lands subject to this Title including, but not limited to, coal, lignite, peat, rock, sand, gravel, and quartz.

(c) Oil and Gas Interests.—The term "oil and gas interests" means all oil and gas of any nature, including carbon dioxide, helium, and gas taken from coal seams (collectively "oil and gas").

(d) Secretaries.—The term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture.

(e) Weyerhaeuser.—The term "Weyerhaeuser" means Weyerhaeuser Company, a company incorporated in the State of Washington.

SEC. 3303. EXCHANGE.

(a) Exchange of Lands and Mineral Interests.—

(1) In general.—Subject to paragraph (a)(2) and notwithstanding any other provision of law, within 90 days after the date of the enactment of this Title, the Secretary of Agriculture shall convey to Weyerhaeuser, subject to any valid existing rights, approximately 20,000 acres of Federal lands and mineral interests in the State of Arkansas and approximately 28,000 acres of Federal lands and mineral interests in the State of Oklahoma as depicted on maps entitled "Arkansas-Oklahoma Land Exchange—Federal Arkansas and Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(2) Offer and acceptance of lands.—The Secretary of Agriculture shall make the conveyance to Weyerhaeuser if Weyerhaeuser conveys deeds of title to the United States, subject to limitations and the reservation described in subsection (b) and which are acceptable to and approved by the Secretary of Agriculture to the following:

(A) approximately 120,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Oklahoma, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries;

(B) approximately 35,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Ouachita Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries; and

(C) approximately 25,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Cossatot Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries;

(b) Exchange of Oil and Gas Interests.—

(1) In general.—Subject to paragraph (b)(2) and notwithstanding any other provision of law, at the same time as the exchange for land and mineral interests is carried out pursuant to this section, the Secretary of Agriculture shall exchange all Federal oil and gas interests, including existing leases and other agreements, in the lands described in paragraph (a)(1) for equivalent oil and gas interests, including existing leases and other agreements, owned by Weyerhaeuser in the lands described in paragraph (a)(2).

(2) Reservation.—In addition to the exchange of oil and gas interests pursuant to paragraph (b)(1), Weyerhaeuser shall reserve oil and gas interests in and under the lands depicted for reservation upon a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oil and Gas Interest Reservation Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries. Such reservation shall be subject to the provisions of this Title and a Memorandum of Understanding jointly agreed to by the Forest Service and Weyerhaeuser. Such Memorandum of Understanding shall be completed no later than 60 days after date of enactment of this Title and shall be transmitted to the Committee on Energy and Natural Resource of the United States Senate and the Committee on Resources of the United States House of Representatives. The Memorandum of Understanding shall not become effective until 30 days after it is received by the Committee.

(c) General Provisions.—

(1) Maps controlling.—The acreage cited in this Title is approximate. In the case of a discrepancy between the description of lands, mineral interests, or oil and gas interests to be exchanged pursuant to subsection (a) and the lands, mineral interests, or oil and gas interests as depicted on a map referred to in such subsection, the map shall control. Subject to the notification required by paragraph (3), the maps referenced in this Title shall be subject to such minor corrections as may be agreed upon by the Secretaries and Weyerhaeuser.

(2) Final maps.—Not later than 180 days after the conclusion of the exchange required by subsections (a) and (b), the Secretaries shall transmit maps accurately depicting the lands and mineral interests conveyed and transferred pursuant to this Title and the acreage and boundary descriptions of such lands and mineral interests to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(3) Cancellation.—If, before the exchange has been carried out pursuant to subsections (a) and (b), Weyerhaeuser provides written notification to the Secretaries that Weyerhaeuser no longer intends to complete the exchange, with respect to the lands, mineral interests, and oil and gas interests that would otherwise be subject to the exchange, the status of such lands, mineral interests, and oil and gas interests shall revert to the status of such lands, mineral interests, and oil and gas interests as of the day before the date of enactment of this Title and shall be managed in accordance with applicable law and management plans.

(4) Withdrawal.—Subject to valid existing rights, the lands and interests therein depicted for conveyance to Weyerhaeuser on the maps referenced in subsections (a) and (b) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from the operation of mineral leasing and geothermal steam leasing laws effective upon the date of the enactment of this Title. Such withdrawal shall terminate 45 days after completion of the exchange provided for in subsections (a) and (b) or on the date of notification by Weyerhaeuser of a decision not to complete the exchange.

SEC. 3304. DESIGNATION AND USE OF LANDS ACQUIRED BY THE UNITED STATES.

(a) National Forest System.—

(1) Addition to the system.—Upon approval and acceptance of title by the Secretary of Agriculture, the 155,000 acres of land conveyed to the United States pursuant to Section 3303(a)(2)(A) and (B) of this Act shall be subject to the Act of March 1, 1911 (commonly known as the "Weeks Law") (36 Stat. 961, as amended), and shall be administered by the Secretary of Agriculture in accordance with the laws and regulations pertaining to the National Forest system.

(2) Plan amendments.—No later than 12 months after the completion of the exchange required by this Title, the Secretary of Agriculture shall begin the process to amend applicable land and resource management plans with public involvement pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1604).

(b) Other.—

(1) Addition to the national wildlife refuge system.—Once acquired by the United States, the 25,000 acres of land identified in section 3303(a)(2)(C), the Arkansas Cossatot lands, shall be managed by the Secretary of the Interior as a component of the Cossatot National Wildlife Refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

(2) Plan preparation.—Within 24 months after the completion of the exchange required by this Title, the Secretary of the Interior shall prepare and implement a single refuge management plan for the Cossatot National Wildlife Refuge, as expanded by this Title. Such plans shall recognize the important public purposes served by the nonconsumptive activities, other recreational activities, and wildlife-related public use, including hunting, fishing, and trapping. The plan shall permit, to the maximum extent practicable, compatible uses to the extent that they are consistent with sound wildlife management and in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws. Any regulations promulgated by the Secretary of the Interior with respect to hunting, fishing, and trapping on those lands shall, to the extent practicable, be consistent with State fish and wildlife laws and regulations. In preparing the management plan and regulations, the Secretary of the Interior shall consult with the Arkansas Game and Fish Commission.

(3) Interim use of lands.—

(A) In general.—Except as provided in paragraph (2), during the period beginning on the date of the completion of the exchange of lands required by this Title and ending on the first date of the implementation of the plan prepared under paragraph (2), the Secretary of the Interior shall administer all lands added to the Cossatot National Wildlife Refuge pursuant to this Title in accordane with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws.

(B) Hunting seasons.—During the period described in subparagraph (A), the duration of any hunting season on the lands described in subsection (1) shall comport with the applicable State law.

SEC. 3305. OUACHITA NATIONAL FOREST BOUNDARY ADJUSTMENT.

(a) In General.—Upon acceptance of title by the Secretary of Agriculture of the lands conveyed to the United States pursuant to Section 3303(a)(2)(A) and (B), the boundaries of the Ouachita National Forest shall be adjusted to encompass those lands conveyed to the United States generally depicted on the appropriate maps referred to in section 3303(a). Nothing in this section shall limit the authority of the Secretary of Agriculture to adjust the boundary pursuant to section 11 of the Weeks Law of March 1, 1911. For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Ouachita National Forest, as adjusted by this Title, shall be considered to be the boundaries of the Forest as of January 1, 1965.

(b) Maps and Boundary Descriptions.—Not later than 180 days after the date of enactment of this Title, the Secretary of Agriculture shall prepare a boundary description of the lands depicted on the map(s) referred to in section 3303(a)(2)(A) and (B). Such map(s) and boundary description shall have the same force and effect as if included in this Title, except that the Secretary of Agriculture may correct clerical and typographical errors.

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. Faircloth, his name was added as a cosponsor of S. 3, a bill to control crime, and for other purposes.

S. 968

At the request of Mr. McConnell, the name of the Senator from Pennsylvania [Mr. Specter] was added as a cosponsor of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 1217

At the request of Mr. Coats, the name of the Senator from Kansas [Mrs. Kassebaum] was added as a cosponsor of S. 1217, a bill to encourage the provision of medical services in medically undeserved communities by extending Federal liability coverage to medical volunteers, and for other purposes.

S. 1245

At the request of Mr. Ashcroft, the name of the Senator from Virginia [Mr. Warner] was added as a cosponsor of S. 1245, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to identify violent and hard-core juvenile offenders and treat them as adults, and for other purposes.

S. 1271

At the request of Mr. Craig, the name of the Senator from Minnesota [Mr. Grams] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1344

At the request of Mr. Heflin, the name of the Senator from Florida [Mr. Mack] was added as a cosponsor of S. 1344, a bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes.

S. 1419

At the request of Mrs. Kassebaum, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of S. 1419, a bill to impose sanctions against Nigeria.

S. 1470

At the request of Mr. McCain, the name of the Senator from Minnesota [Mr. Grams] was added as a cosponsor of S. 1470, a bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes.

S. 1506

At the request of Mr. Levin, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 1506, a bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes.

S. 1623

At the request of Mr. Warner, the names of the Senator from New Mexico [Mr. Bingaman] and the Senator from Pennsylvania [Mr. Santorum] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

S. 1624

At the request of Mr. Hatch, the names of the Senator from New York [Mr. Moynihan], the Senator from Illinois [Ms. Moseley-Braun], the Senator from Florida [Mr. Graham], and the Senator from Oregon [Mr. Hatfield] were added as cosponsors of S. 1624, a bill to reauthorize the Hate Crime Statistics Act, and for other purposes.

S. 1628

At the request of Mr. Brown, the names of the Senator from Arizona [Mr. Kyl] and the Senator from Oklahoma [Mr. Inhofe] were added as cosponsors of S. 1628, a bill to amend title 17, United States Code, relating to the copyright interests of certain musical performances, and for other purposes.

SENATE CONCURRENT RESOLUTION 42

At the request of Mrs. Kassebaum, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of Senate Concurrent Resolution 42, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE RESOLUTION 217

At the request of Mrs. Kassebaum, the names of the Senator from Maine [Mr. Cohen], the Senator from Ohio [Mr. Glenn], the Senator from Alabama [Mr. Heflin], the Senator from Louisiana [Mr. Johnston], the Senator from Maryland [Ms. Mikulski], the

VOL 142 PT 5 MR 21—29 1996 UMI

Senator from Delaware [Mr. ROTH], the Senator from Wisconsin [Mr. FEINGOLD], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of Senate Resolution 217, a resolution to designate the first Friday in May 1996, as "American Foreign Service Day" in recognition of the men and women who have served or are presently serving in the American Foreign Service, and to honor those in the American Foreign Service who have given their lives in the line of duty.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that the hearing scheduled before the full Committee on Energy and Natural Resources, Wednesday, March 27, 1996, will receive testimony regarding S. 186, the Emergency Petroleum Supply Act, in addition to the legislation previously announced.

The hearing will begin at 9:30 a.m., and will take place in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Karen Hunsicker or Betty Nevitt at (202) 224–0765.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building on Wednesday, March 27, 1996, at 9:30 a.m., to hold a hearing on campaign finance reform.

For further information concerning this hearing, please contract Bruce Kasold of the committee staff on 224–3448.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the oversight hearing scheduled before the full Committee on Energy and Natural Resources regarding competitive change in the electric power industry for Thursday, March 28 at 9:30 a.m. will be held in room SH–216, instead of room SR–325, as previously scheduled.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask Unanimous Consent on behalf of the Governmental Affairs Committee to meet on Monday, March 25, at 2:30 p.m. for a nomination hearing on Robert E. Morin, to be associate judge, Superior Court for the District of Columbia.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SOCIAL AND SECURITY AND FAMILY POLICY

Mr. LOTT. Mr. President, the Finance Committee requests unanimous consent for the Subcommittee on Social Security and Family Policy to hold a hearing on the Social Security Advisory Council report on Monday, March 25, 1996, beginning at 10 a.m. in room SD–215.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT

• Mr. BENNETT. Mr. President, I am pleased to join the efforts of my colleagues on the Senate Small Business Committee to advance regulatory reform. As the CEO of a small business during the eighties, I witnessed first hand how a business, when left unencumbered by intrusive government regulations, can push the envelope of innovation, maximize on ingenuity, and create jobs. When I left Franklin Quest before running for the Senate, our firm, which did not even exist 10 years ago, provided over 700 people with jobs.

Unfortunately, as the decade progressed and the Congress accelerated its approval of unfunded mandates to State and local governments and businesses, the regulatory machine burgeoned while the job creation engine slowed. Americans now are suffering the unintended consequences of the Federal Government's good intentions. Over-regulating causes prices to go up and wages to go down. It is responsible for increased unemployment and a drain on our international competitiveness. And because regulation increases uncertainty, it impairs innovation.

For these reasons, I am excited to help enact laws which will help our country's businesses, particularly our small businesses, function with less government intrusion. Although I would like to go much further in limiting excess regulation of business, this bill is a step in the right direction, and I look forward to seeing President Clinton support it.

In a report to Congress issued in October 1995, the Small Business Administration noted that small businesses bear a disproportionate share of the regulatory burden. It was estimated that small businesses pay 63 percent of the total private-sector bill for complying with Federal regulations, while employing 53 percent of the work force. Dr. Thomas Hopkins, a leading researcher in the field of regulatory costs, estimated that small businesses pay 80-percent more per employee in regulatory paperwork costs than do larger companies. Meanwhile, small business is acknowledged to be the creator of most new jobs in this country. For these reasons, it is imperative that we listen and respond to the concerns of small business.

This bill, the Small Business Regulatory Enforcement Fairness Act of 1996, S. 942, was developed using recommendations from the small business community. During the 1995 White House Conference on Small Business, representatives from small business came together and prioritized the top ways the Federal Government could help them be more successful. Several of the top priorities named during that conference are included in this bill.

The Small Business Regulatory Enforcement Fairness Act of 1996 permits small businesses to take Federal agencies to court if the agencies do not comply with a reg flex analysis, a requirement under the Regulatory Flexibility Act of 1980 that requires agencies to review the impact of new regulations on small businesses. S. 942 also requires Federal agencies to simplify forms and publish a plain English guide to help small businesses comply with regulations. Additionally, agencies are directed to waive certain fines for first-time, nonserious violations by small businesses if the violations were corrected within a certain time period. The bill also allows small firms to recoup attorneys' fees if they win a challenge against excessive enforcement of existing regulations. Finally, the bill provides a 45-day congressional review mechanism for Congress to reject new rules with expedited procedures, subject to constitutional presentment to the President.

I appreciate the efforts of Senators BOND, BUMPERS, DOMENICI, and NICKLES to pass this legislation which offers at least some degree of relief to the American worker. As one leader in the small business community put it, "if Government continues to load regulations on our backs, all it will get in return are broken backs." I am happy to be a cosponsor and supporter of this effort to get Government off small businesses' backs, and help them get back to work.•

HEROES IN A FLORIDA TRAGEDY

• Mr. HOLLINGS. Mr. President, I rise today to remember a South Carolina family and the heroes who struggled to rescue them. On one side, we have a tragedy that boggles the mind. On the other, there are dozens of quiet heroes whose courage is a blessing and reminder of what makes our people strong.

On March 17, a small plane crashed off Key West, FL. Five people—the pilot and four members of the Blackburn family—died. A son, 10-year-old Matthew Blackburn, miraculously survived. Our prayers are with both families. We mourn their deaths and

pray for a speedy recovery for young Matthew.

At the same time, we should all feel a deep sense of gratitude for Americans who risk their lives everyday for others. In this tragedy, trained rescue workers, lifeguards, police officers, and paramedics put their lives in danger to save the pilot and family. Even more noteworthy are other volunteers, such as a boat captain and diver, who went out of their way to help as much as possible.

Mr. President, I ask to have printed in the RECORD the March 24 article from the Miami Herald to pay tribute to these heroes and to leave a lasting memorial to those who perished.

The article follows:

[From the Miami Herald, Mar. 24, 1996]

HEROES IN THE MOMENT

(By Susana Bellido and Ozzie Osborne)

KEY WEST.—In one sickening moment, a seaplane bound for the Dry Tortugas crashed into five feet of water off Key West's busiest road last Sunday, trapping a family of five and the pilot under water.

In the seconds and minutes that followed: One by one, tourists and Key West residents, police officers and paramedics, students and workers jumped into the water.

Despite the horrid scene, the sting of fuel in the eyes, the despair of seeing children die in their hands, they did what they could.

In an unsynchronized maneuver, they cleared the way for each other, they yielded to the most experienced, they fetched equipment, they formed a human chain to get the victims to shore, they did what had to be done.

They did all they could.

When it was all over, five people were dead: Lynn and Pamela Blackburn, a couple from Charleston, S.C., who had arrived in Key West the night before on vacation; their 6-year-old son Jonathan and 3-year-old daughter Martha; and the pilot, Keith Bellow of Gretna, La., father of three.

The only survivor was Matthew Blackburn, a 10-year-old who defied the odds and is recovering from broken bones and other injuries.

With him are the hopes of the everyday people who reacted to an extraordinary situation with selfless courage.

With him is their sympathy, for he was the only one they could save.

They are the heroes. Here are some of their stories.

ANDY MATROCI—BOAT CAPTAIN WAS ONE OF THE FIRST IN MURKY WATER.

Andy Matroci heard it hit. Something big, in the water.

A boat captain and diver who searches for Spanish galleons, Matroci had been riding his bike along North Roosevelt Boulevard. He looked back. The wreckage was just 60 feet away.

Instantly, it seemed, people were wading toward the wreckage. He took off his shoes and joined them.

The water was still murky from the crash. He put his hand into the plane and felt Pamela Blackburn's leg. He couldn't reach her seat belt. He yelled to a guy on the other side to try to get her out.

"I got one here," another man yelled. He asked for a knife to cut loose a child.

Somebody brought a mask out. Somebody asked for a pair of shears. Someone was walking from shore with a pair. Matroci fetched them.

He carried one of the children to shore. He thought of administering CPR, but water poured from the child's mouth. He handed the wilted body up the sea wall.

We're not working fast enough, he thought. The seat belts were slowing them down.

After the last body was out, he retreated, climbed on his bike and headed home.

"I keep thinking about that kid, Matthew, what he's got to go through.

RUSTY WAYNE—DIVE MASTER USED KNIFE TO FREE VICTIMS

Rusty Wayne, a dive master with Holiday Cat, left a boatload of tourists and zipped to the crash on a water bike.

"You could see them inside, and they weren't moving." They were belted in. He got his diving knife to cut them free.

He helped free Pamela Blackburn and one of the children. When two paramedics arrived, he went back to shore for diving equipment.

Returning, he saw about 15 people helping. A human chain had formed; strangers were passing victims to shore and rescue gear to the plane.

"I was a little afraid it was going to get congested, but I could even hear people onshore calling, 'Clear the way!' Everybody did a small part, and it all worked out."

SHANE CHAPMAN—LIFEGUARD YELLED: I GOT ONE! I GOT ONE!

Shane Chapman, a lifeguard from Anaheim Hills, Calif., was poolside across the street at the Comfort Inn. He dashed across the street and into the water.

"I swam underwater to see if I could find anyone . . . I felt what I thought was a handbag. I went back up for air and suddenly realized: It was a boy.

"I yelled that I need a knife. Some guy handed me one.

"I went back down, cut the seat belt and hollered: 'I got one! I got one!' Steve Hubler helped me drag him ashore, and we realized he was alive when we turned him on his side and saw he was breathing.

"I rushed back to the plane and swam back in the hole. This time the water had settled and was cleared. I saw this boy with yellow hair and a T-shirt, undid his seat belt and pulled him up and someone helped us ashore."

STEVE HUBLER—EX-FIREFIGHTER HAS NIGHTMARES ABOUT PILOT

Steve Hubler, a former volunteer firefighter from New Jersey, was by the pool of the Econo Lodge. He ran over with his scuba gear.

He helped carry the three children to shore. Matthew, the survivor, showed no signs of life at first. His arm was shattered into the shape of an S.

"The part I'll never forget was the pilot, the last one. We had a hell of a time getting him out. It was so dingy and dark in there. He was trapped in there good. His face was so frightening. I knew he was dead."

Hubler shivers when he remembers the rescues. He has nightmares about it.

"It's going to stick with me for the rest of my life. I wish to God we could have saved six lives, but at least we saved the boy's life. If I know that Matthew has a chance to live, I'm happy."

KRISTY KREIDLER—LIFEGUARD ON BREAK STRUGGLED TO FREE MOM

Kristy Kreidler, a spring breaker from Ohio State University and a lifeguard, was having lunch across the street at Denny's. She dashed across North Roosevelt Boulevard and jumped in.

As precious seconds ticked away, she struggled to free those trapped within.

"We got the door open, pulled on this woman's leg. Then we found her seat belt, unbuckled it and pulled her out."

MICHAEL KURANT—DISAPPOINTED THAT WE COULDN'T SAVE ANYONE ELSE

Michael Kurant, a hardware delivery driver and volunteer Monroe County firefighter, was on his way out of town. He pulled his Jeep up on the sea wall. Half a dozen people were around the plane.

"The first thing I thought was everybody was dead," he said. "I didn't expect to get anybody out of the plane alive."

He helped pull Pamela Blackburn out. She took a breath that surprised them all. They found her pulse. They held her head out of the water. They put her on a backboard lifted her up the seawall and gave her first aid.

When it was all over, he was disappointed and angry.

"I was madder than hell. We had done so much, and it didn't do any good. With everything the people in the street did, and the police and fire and paramedics * * * we couldn't save anyone else."

AL RODRIGUEZ—OFFICER MADE CALL: COME FAST, LIGHTS AND SIRENS

Al Rodriguez, first police officer on the scene, pulled up at 12:34 p.m. He keyed his microphone: "10–18," he told his dispatcher, the code for come fast, lights and sirens.

He took off his gun belt and jumped in, shoes and all. Rodriguez held on to a paramedic trying to free the victims.

The children in the accident gave everyone involved an increased sense of urgency, Rodriguez said.

"You think about your own, and you put more effort into saving them."

GARY ARMSTRONG, DAVID LARIZ, ED STRESS—GAVE MOUTH-TO-MOUTH TO ONE CHILD, THEN ANOTHER

Key West Police Lt. Gary Armstrong pulled up. The crowd was growing. He yelled for everybody to get back. They did, making room for the victims.

Paramedics were busy trying to revive Jonathan and Martha at the sea wall or pulling bodies out of the wreckage. With the help of Deputy Chief David Lariz and officer Ed Stress, Armstrong gave mouth-to-mouth resuscitation to one child and then the other.

"Everybody was working at top speed," Armstrong said. "It was chaotic, but everybody jumped in and worked and worked and worked and worked. It just seemed like everybody clicked in and set aside very difficult feelings. It was impressive."

KUNKO CELCER—MEDICAL TECH FOUGHT TO GET AIR TO BOY

Kunko Celcer, emergency medical technician, was working at her second job at a car rental company when she heard the commotion.

She hurried over to help her fellow paramedics. The first thing she noticed was that someone was trying to put a mask on Matthew. She helped work on him.

"He was looking at me," she said. "He was trying to breathe on his own."

On the way to the hospital, the boy fought back efforts to insert a tube in his airway.

"I've got to get this kid some air," she kept thinking. "It was scary, but you don't really think of that until it's over."

ALVAH RAYMOND SR.—THIS WAS THE WORST THING I'D EVER SEEN

Alvah Raymond Sr., a member of the Coast Guard, was riding with an ambulance as part of his training for emergency medical technician. Eight other classmates at Florida

VOL
142
PT
5
MR
21
—
29
1996
UMI

Keys Community College participated in the rescue.

Raymond helped perform first aid on Matthew. As a volunteer firefighter, Raymond had seen plenty of tragedies, but nothing quite like this. "This was the worst thing I'd ever seen."

PAUL SCOTT, CARL CLEARY—PARAMEDICS HELP GASPING BOY

Pamela and Matthew Blackburn were out of the water when Paul Scott, an Atlantic Key West Ambulance paramedic, arrived. While his partner, Carl Cleary, got equipment ready, he handed his radio to a bystander and jumped in the water.

Scott helped with Jonathan. Another paramedic worked on Martha.

At the ambulance, Matthew was gasping. Cleary gave him oxygen and tried to clear his airway. Scott tried to keep Jonathan alive.

"You don't really think about other things but whatever you're doing. You want to do so much," Cleary said.

"There wasn't a whole lot of time to be thinking," Scott said. "It was all on autopilot."

PABLO RODRIGUEZ—PARAMEDIC COULDN'T SEE FOR "BLOOD, SILT, GASOLINE"

Pablo Rodriguez, another paramedic and the crew's supervisor for the day, grabbed his fins, mask and snorkel and jumped in the water. He found a small cramped opening in the plane's fuselage and started to pull people out.

He took Jonathan to the sea wall, swam back to help untangle others.

"You couldn't really see because there was blood and silt and gasoline."

In all, he helped to free four, including the pilot who was strapped in.

"It was one of the saddest things I've ever experienced. The only thing that I can gain is the importance of teamwork and how grateful I am that we have such an experienced crew.

"It truly has devastated everyone, everybody that was involved."

PAUL HANSEN, JIM KAVANAUGH—PARAMEDICS HOPSCOTCH FROM VICTIM TO VICTIM

Paul Hansen and Jim Kavanaugh, also paramedics, were at the emergency room when they got the call. They got some Coast Guard trainees at the hospital to join them.

"When we got there it was pretty chaotic," Kavanaugh said.

Several bodies were out of the plane. Two groups of people were giving first aid to two of the victims. A kid was coming out of the water.

"It was like nothing I'd ever seen before," Hansen said. "There is nothing that prepares you for anything like that. You can read the book till you're blue in the face."

Kavanaugh made sure every patient was cared for, and then carried backboards out to the plane.

Hansen worked on Martha, then her father, then her mother, then back to the little girl. He took her to the hospital, where everyone was busy, so he stayed and helped out.

Kavanaugh radioed the hospital: three children and a woman on the way, more to come.

He asked firefighters and police officers to drive ambulances so paramedics could tend to patients.

Within 15 minutes of transporting the victims to the hospital, the paramedics had four other emergency calls. It wasn't until that night that they had time to reflect.

Throughout the ordeal, the paramedics said, they kept their thoughts focused on the job.

"If you sit there and start to flip out about it, you're really not going to help anybody," Hansen said.

HAROLD GORDON—MAINTENANCE MAN HELPED WITH CPR

Harold Gordon, a Stock Island maintenance man, was taking his wife to bingo when he saw the crowd. He pulled over. Two boys were in the ambulance. A paramedic asked for help with Jonathan.

"Push down on his chest! Harder! Do it again, harder," Gordon remembers. "I said to myself, 'This little kid is too small.' I had a feeling he was dead already."

He rode to the hospital with the brothers, then went home.

"There was nothing else I could do. I just felt terrible.

"Grown people are bad enough, but little children really hurt."●

PROPOSALS TO INCREASE THE GRAZING FEE

● Mr. McCAIN. Mr. President, I would like to address the amendment that was offered by my colleague, Senator BUMPERS, to S. 1549. Senator BUMPERS' amendment would have substituted a two-tiered grazing fee for the new grazing fee formula in the bill. After serious consideration, I supported the motion to table the Bumpers amendment, and thereby preserve the new increased grazing fee formula in S. 1459.

The Bumpers amendment would create two grazing fee formulas. The first would apply to permittee who "control livestock less than 2,000 animal unit months [AUM]" on public lands during a grazing year. This fee is intended to apply to small ranching operations, and would increase each year for the next 3 years. The second fee created by this amendment is targeted to larger ranching operations, which are comprised of more than 2,000 AUM's. This fee would be set according to higher amount of either the average grazing fee charged by the respective State, or, by increasing the aforementioned small ranch fee by 25 percent.

The Bumpers amendment would increase the grazing fee each year for the next 3 years for smaller ranchers, and implement a substantial increase for larger ranchers. While the Bumpers amendment attempts to require larger—and therefore presumably better off ranching operations to pay more, I ultimately decided that the Bumpers proposal would have too injurious an impact on modest, family-run ranching operations in Arizona.

I strongly believe in the longstanding principle of managing Federal lands for the multiple use of the public. This means that the many legitimate uses of public lands—recreation, wildlife preservation, grazing, hunting, and economic purposes—must be carefully balanced with each other. Our precious Federal lands must be properly managed so that they can be enjoyed by Americans both today, and in the future.

When public lands are used for economic purposes, such as timber, mining, and cattle grazing, there clearly should be a fair return to taxpayers for the economic benefits gained from the land, and for the cost of administering these uses. In light of the massive Federal debt our Nation has piled up, the Congress must be especially vigilant in ensuring that fees imposed on individuals who are using public lands for commercial purposes, must be equitably set. With an astounding $5 trillion debt growing larger every day, I think it is appropriate for grazing fees and mining fees to be adjusted.

I strongly oppose, however, drastic hikes in such fees that would bankrupt hard-working ranching families. Nationwide, ranchers who graze cattle on public lands have an annual income of only $30,000 a year. These families do not have a huge profit margin that is being gained at the expense of the public. Indeed, the taxes they pay and the economic benefits they generate are extremely important to small towns in Arizona and throughout the West.

The grazing reform bill I am supporting, S. 1459—Public Rangelands Management Act—would increase the existing grazing fee by 37 percent. In my view, that is a pretty reasonable attempt to address legitimate concerns of the public about what return the Treasury is getting from the lease of Federal rangelands. If we could reform Federal fees or reduce Federal spending pertaining to corporate entities which are similarly subsidized by taxpayers, our budget problems would be in a lot better shape. Ranchers will pay their fair share under S. 1459.

The new, higher grazing fee in S. 1459 will afford greater stability to ranchers in my State who need to plan ahead for their family business. The fee in S. 1459 is based upon a 3-year rolling average of the gross value of beef production in the United States, along with interest rates from Treasury bills. This new formula will fluctuate according to market conditions, which I think is appropriate.

While the sponsors of the Bumpers amendment state that it is targeted at large, corporate-owned ranching operations, I am deeply concerned that its higher, corporate fee hike could come down squarely on many family ranchers in the Southwest. It would have potentially crippling effects on family ranchers in States such as Arizona and New Mexico, especially.

The reason the Bumpers amendment would hurt many Southwestern ranchers is that its formula would significantly impact ranchers whose grazing permits are comprised primarily of Federal lands, and on ranchers who graze cattle year round. Both of these factors apply to southwestern ranchers, due to large amount of land that is owned by the Federal Government. The Bumpers amendment's formula would

apply its higher fee to ranching operations with more than 176 head of cattle, which is not a large, corporate operation by the standards of my State.

Furthermore, the Bumpers amendment's higher fee was partly based on higher State land standards, which are not always readily comparable to Federal lands. Federal rangelands do not offer the same exclusivity of use to permittees as do State lands, and ranchers on Federal lands also bear higher costs for range improvements than do holders of private grazing permits.

I find no evidence that that new fee will not cover the Federal cost of the program.

Due to these factors, I opposed the Bumpers amendment, and voted to preserve the reasonable fee increase which is in the underlying bill. I commend Senator BUMPERS for his objectives, however, and share his concerns that taxpayers must be fairly compensated for the economic use of public lands. I will continue my efforts to vigorously weed out unfair and unsustainable corporate subsidies. If S. 1459 becomes law, the Congress should continue to evaluate the grazing revenues it produces. I will be open at that time to considering whether further adjustments for corporate ranching operations are warranted.●

TRIBUTE TO COL. FRED E. KISHLER, JR.

● Mr. GLENN. Mr. President, I rise to pay tribute to Col. Fred E. Kishler, Jr., who died this past January. From August 1994 until his death, Colonel Kishler served as the Director of the General Defense Intelligence Program [GDIP] Staff where he served with great distinction.

Colonel Kishler was a fellow Buckeye—born in Tiffin, OH, and receiving his undergraduate degree at Heidelberg College in Tiffin. In his lengthy and distinguished Air Force career, Colonel Kishler flew dangerous, sensitive missions in the U–2 spy plane and other aircraft, and was responsible for fielding numerous tactical and strategic intelligence systems. His greatest love as a pilot was flying the U–2, spending approximately 15 years in the U–2 program. Colonel Kishler accumulated over 4,800 flying hours—over 2,000 of those hours were spent in the cockpit of a U–2, and he flew 106 combat missions in Southeast Asia. During the Vietnam War, he demonstrated his courage as a flight leader for search and rescue missions, and he supported the Son Tay POW raid.

In 1991, Colonel Kishler came to work for the Defense Intelligence Agency, first serving as the Chief of the Reconnaissance Division for Functional Management. His hard work and effectiveness led to other positions as the Associate Deputy Director of the Programs and Evaluation Division of the National Military Intelligence Collection Center, and ultimately as the Director of the General Defense Intelligence Program Staff—particularly challenging assignments in a period of declining resources where we have had to do more with less. Colonel Kishler's honesty, integrity, and professionalism gained the respect of Congress as well as the Department of Defense.

Among Fred's many decorations and awards were the Distinguished Flying Cross, a Meritorious Service Medal, the Air Medal with thirteen oak leaf clusters, and the Air Force Commendation medal.

Mr. President, I join all of my colleagues on the Senate Select Committee on Intelligence in paying tribute to the memory of Col. Fred E. Kishler, Jr., and pass along our deepest sympathies to Colonel Kishler's mother and father—Fred and Marjorie Kishler; his wife, Susan; and their sons, Mark and Fred. Fred Kishler was a credit to the Air Force and the United States of America, and he will be sorely missed.●

NATIONAL MISSILE DEFENSE ACT OF 1996

● Mr. ABRAHAM. Mr. President, I rise today to join the distinguished majority leader, and my colleagues, in cosponsoring the National Missile Defense Act of 1996. This legislation builds on the Missile Defense Act of 1995. The 1995 act made significant progress toward securing the funding necessary for the eventual deployment of a missile defense system capable of protecting the United States. Unfortunately, that act fell short by not explicitly directing that we deploy the missile defense system as soon as possible.

The majority leader, in close cooperation with Congress' National defense leadership, has crafted a proposal that achieves our nation's missile defense through prudent, incremental development of policies and force structures. To begin with, we would produce the system necessary to protect the United States from limited, unauthorized or accidental ballistic missile attacks. We then would augment that capability to defend our Nation against larger and more sophisticated ballistic missile threats. I am especially heartened that this bill allows for the development of the most promising anti-ballistic missile technologies, including sea-based systems such as Navy Upper Tier.

This bill assigns the Secretary of Defense the considerable task of reporting a missile defense development and deployment plan by March 15, 1997. However, I feel confident that Congress will be more than willing to assist him in the formulation of that plan. This can, and should, be a joint endeavor, Congress will fulfil its constitutional responsibility to raise and support our armed forces, while the Executive determines how best to deploy these forces.

At this time, Mr. President, I would like to expand upon section 5 of the act—that section regarding the ABM Treaty. Congress, through the Missile Defense Acts of 1991, 1994, and 1995 has repeatedly stated that the ABM Treaty does not, in any way, hinder the development of theater ballistic missile defenses. It has also called for a renegotiation of the ABM Treaty so as to allow the development of more robust national missile defense systems.

Unfortunately, this country has abandoned the initiatives of the previous administration to cooperatively develop with the Russians a protective global missile defense systems. An insistence on keeping America vulnerable to attack, and a dogmatic faith in the deterrence of nuclear war through mutual assured destruction will no longer prevent missile attacks upon the United States.

Mr. President, the times have changed since the ratification of the ABM Treaty. Our primary threats no longer come from a general nuclear attack by thousands of Soviet weapons—an attack that would probably overwhelm a ballistic missile defense system. Today our immediate threats come from rogue, unintentional, or unauthorized attacks of limited size and duration. The limitations of the ABM Treaty fail to address these new threats, and I believe, are incapable of being modified so as to address them. The administration has steadfastly stood by the antiquated strategies of the ABM Treaty, and I am afraid it is unwilling to address the threats posed to America by continued reliance on that treaty.

Nonetheless, Mr. President, this Congress continues to be willing to work with the administration to address our missile defense needs. I believe the urging contained in section 5 represent our last, best hope of adequately modifying the ABM Treaty, and protecting America from ballistic missile attack. The Treaty may be fundamentally unable to address the threats we face today. It may be best to renounce it in its totality. Such a clear break with previous policy may not be feasible in this Congress. But it must be clear that this Congress worries that its urging and calls have fallen on deaf ears in the Executive, and that we believe the United States cannot afford to wait much longer. Therefore, I particularly support the provision in this bill that calls for withdrawal from the ABM Treaty if amendments allowing adequate national missile defenses are not agreed to within 1 year. I hope this is sufficient warning as to the extent of congressional frustration.

VOL
142
PT
5
MR
21
—
29
1996
UMI

The majority leader has displayed the foresight and perceptiveness critical for developing effective national security strategies. There can be no doubt that a fully operational and technologically capable ballistic missile defense system is crucial to that strategy. Nor can there be any doubt that antiquated treaties which fail to adapt to vastly different national security threats must be either changed or discarded.

The majority leader's bill constitutes a reasonable and moderate attempt to bridge the broad philosophical gap that exists between Congress and the administration. We should not let this opportunity be lost. If concerns with the ABM Treaty prevent this bill from becoming law, then I believe it may be time to nullify that treaty.•

TRIBUTE TO CARL SIMPSON WHILLOCK

• Mr. PRYOR. Mr. President, I rise today to pay tribute to a true statesman. Carl Simpson Whillock was born on May 7, 1926, in the small town of Scotland, AR. In the nearly 70 years since, he has excelled in the realms of politics, academia, and private business.

Carl's desire to serve the people of Arkansas surfaced at an early age. Just 2 years after receiving both his undergraduate and master's degrees from the University of Arkansas in Fayetteville, Carl began a distinguished career of public service as a member of the Arkansas House of Representatives. He came to Washington in 1955 to serve as the executive assistant to the Honorable J.W. Trimble, U.S. Congressman from the third district of Arkansas.

While working in Representative Trimble's office, Carl Whillock earned a law degree from George Washington University in 1960. After a 3-year stint in private law practice, he served as prosecuting attorney for the 14th Judicial District of Arkansas before beginning his career in academia at the University of Arkansas.

Carl Whillock was the director for university relations and an assistant to the president during his 7½ years at Arkansas. He also taught part-time in the political science department.

In 1964, Carl Whillock left academics to run my campaign for Governor of Arkansas, and I am happy to say he worked with me in the Governor's office for a short time after my election. But Carl soon returned to his beloved University of Arkansas as the vice president for governmental relations and public affairs.

Carl's many years of work in the academic community were rewarded in 1978 when he was asked to become the president of Arkansas State University in Jonesboro.

For the past 16 years, Carl has been the president of Arkansas Electric Cooperative and Arkansas Electric Cooperatives Inc. As he prepares to retire on the 1st of April, his colleagues remember him as a trusted friend, a revered mentor, and a gentle, gracious boss.

Carl Whillock's management style has been praised throughout his many years in various positions of authority. He believes in hiring good people, and then giving them the space to do their jobs. His employees operate effectively and efficiently because Carl makes them feel comfortable and encourages them to bring their own style to the workplace.

By all accounts, Carl Simpson Whillock is a success. The very mention of his name brings a smile to the faces of those who know him, and the words gentleman and good guy flow from their lips.

After retirement, I am sure Carl will remain active as a member of the University of Arkansas' Board of Trustees. He has never been one to sit still for very long. He is always there to lend a hand. As Dennis Robertson, a longtime friend and employee says, "Carl approaches life in a simple way. He does not get mad. He is warm, caring and above all sincere. We can all learn a lot from him."

Carl Simpson Whillock—a true asset to the State of Arkansas. On behalf of all the people you have touched over these many years, congratulations on your retirement.•

GREEK INDEPENDENCE DAY

Ms. SNOWE. Mr. President, I would like to join with my colleagues, and with so many Americans—both of Greek and non-Greek descent—in celebrating March 25, Greek Independence Day. I am pleased to have been an original cosponsor of Senate Resolution 219, a bipartisan resolution that designated today "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." That resolution was submitted by our distinguished colleague from Pennsylvania, Senator SPECTER, and it was agreed to by the Senate unanimously on March 6.

Today commemorates the 175th anniversary of the beginning of Greece's struggle for independence from the Ottoman Turkish Empire. After 400 years of foreign domination, and after 11 years of struggle against the despotic rule of the Ottoman Turks, Greece's independence was a cataclysmic event in European Affairs. At that time, outside of Britain and France, Europe was composed mainly of autocratic empires and states whose borders had little relation to their composite nationalities.

The astounding accomplishment of the Greek people in achieving their independence from the vast Ottoman Empire acted as a catalyst in transforming the aspirations of Europeans across the continent. Greece's independence from the Turks was, in many ways, even a greater feat than the other great struggle for national independence 45 years earlier: the American Revolutionary War. Although the Greek people received support from many other countries, particularly from the United States, they enjoyed no advantage similar to a protective ocean or the active assistance of an ally such as France.

During the last 175 years, the ideals of national independence and democracy, which were first expounded by the ancient Greeks, have spread widely throughout Europe and so much of the rest of the world. Greece's achievement of independence helped to spread not only the belief in the inherent right of national independence, but the belief that it is possible for a nation to assert its rights, despite seemingly impossible odds.

Mr. President, it is appropriate to remember the meaning of March 25, which remains a powerful symbol of the ideals that America holds dear and upon which our own Nation was founded. But this is a symbol not only for the Greek and American people to celebrate. It should also be a day of commemoration for the many young, struggling democracies around the globe, as well as for the numerous nations and peoples still yearning to be free.•

PRODUCT LIABILITY FAIRNESS ACT

• Mr. KYL. Mr. President, I support the conference report of the Product Liability Fairness Act.

This is a historic day in the effort to enact meaningful civil justice reform. For the first time in more than two decades, the Senate and the House of Representatives have debated and passed product liability reform.

Product liability reform was part of the Contract With America. According to the Luntz Research Co. survey released in March 1995, "83 percent of Americans believe that our liability lawsuit system has major problems and needs serious improvements."

Now, all that remains is for the President to do his part to make product liability reform a reality.

I commend the efforts of my colleagues from Washington and West Virginia, Senators GORTON and ROCKEFELLER, for their 15-year effort to bring needed reform to the Nation's product liability laws.

Historically, America's economic strength has been in manufacturing, where much of our wealth has been created. It is essential that the Congress move to protect our Nation's manufacturing base from unreasonable litigation. Although product liability law is a small area of tort law, it is also a

critical area in which America is losing its competitive edge.

Mr. President, the conference report contains many important provisions which were contained in the original Gorton-Rockefeller bill. The alcohol and drug defense would create a complete defense created if the claimant was more than 50-percent responsible for his or her injury. The bill also provides for a reduction in damages by the percentage of the harm resulting from claimant's misuse or alteration of a product.

The bill provides for a punitive damages cap that limits recovery to $250,000 or 2 times compensatory damages, whichever is greater. Exceptions are established for small business—under 25 employees—and individuals with a net worth of less than $500,000. With these two exceptions, the limit is $250,000 or 2 times compensatory, which ever is lesser.

The bill's statute of limitations requires that suits be filed within 2 years after the harm and the cause of the harm was discovered, or should have been discovered.

The bill provides for joint and several liability for all economic damages, but several liability only for noneconomic damages.

The bill provides that biomaterial suppliers who furnish raw materials, but are not manufacturers or sellers, are protected from liability when the supplier is not negligent. Further, a product seller can be held strictly liable as a manufacturer only in two circumstances: where the claimant can't get service of process on the manufacturer, or where the judgment is unenforceable against the manufacturer, as is the case when the manufacturer is judgment-proof.

During the product liability floor debate, I offered three amendments. Amendment 1, which passed by a vote of 60 to 39, struck out provisions in the original Senate bill that penalized, with attorney fees and court costs, only defendants, but not plaintiffs who refused to enter into ADR. Under State law, ADR provisions are equally applicable to plaintiffs and defendants, and we should keep it that way.

Amendment 2, which was tabled by a vote of 56 to 44, would have limited non-economic damages to $500,000 in medical malpractice cases. Amendment 3—which was tabled by a vote of 65 to 35—would have limited attorneys' contingency fees to 25 percent of the first $250,000. The amendment also provided that 25 percent of a punitive damage award is rebuttably presumed to be ethical and reasonable.

Although the House bill had both a non-economic damages cap of $250,000 in medical malpractice cases and an attorney-fees limitation provision, neither of these two provisions were included in the conference report. I will continue to work to see that these provisions are enacted into law. However, one important provision from the House version that was included by the conferees shortens the statute of repose from 20 to 15 years, thus reducing the time period during which a claimant may bring a product-liability action after taking delivery of a durable good.

The conferees also limited the "additur" provision contained in the original Senate bill. Thus, in a case of egregious conduct, a judge may raise the claimant's punitive damage recovery no higher than the amount proposed by the jury, unless State law provides otherwise.

I want to note some other important provisions contained in the House bill that unfortunately were dropped by the Senate-House conferees. The "loser pays" provision, which would discourage frivolous lawsuits, was dropped. The "FDA defense," which would prohibit the imposition of punitive damages upon a manufacturer of a product that has received FDA approval, was also eliminated. And, as I mentioned earlier, the conferees also dropped the $250,000 cap on non-economic damages in medical malpractice actions. Moreover, the conferees dropped provisions that would have extended the punitive damage cap and joint and several liability reform to all civil cases. I regret that these provisions are not in our bill.

In spite of the narrow scope of the conference report, President Clinton has indicated that he will veto this bill. And this is despite the fact that back in August 1991, Governor Clinton was leader of the National Governor's Association when it approved—unanimously—Federal product-liability reform. Also as Governor, Mr. Clinton twice supported NGA resolutions calling for product-liability reform.

The President's track record on this issue caused the Washington Post, in a March 14 editorial, to predict that the bill should be "accepted by both houses and signed by the President." The veto decision prompted another Post editorial 5 days later, this one entitled, "Trial Lawyers Triumph."

Mr. President, I could not agree more, and it is a real shame.

The limited reform in this bill will be an important first step, but only a first step. Ultimately, the Congress and a more responsive President must go beyond product-liability reform and must comprehensively overhaul the entire civil justice system. We must repeal the regressive "tort tax" that depletes our economy, raises prices, destroys jobs, stifles innovation, and reduces exports. The "tort tax" created a capricious legal lottery that divides neighbor from neighbor, and causes doctors to add billions to our national healthcare costs each year by practicing defensive medicine.

In Arizona, for instance, medical malpractice premiums have increased by nearly 200 percent since 1982. Attorneys' fees and transaction costs are an increasingly large part of this increase in litigation expenses.

The U.S. Department of Commerce has estimated that only 40 cents of each dollar expended in product-liability suits ultimately reaches the victims. A Rand Corp. study showed that 50 cents of each liability dollar does not go to victims, but to attorneys fees and other transaction costs. It is clear that the Product Liability Fairness Act is a small but critical step toward the goal of national legal reform.

It is my understanding that this body will consider more comprehensive legal reform legislation later this year, including Senator HATCH'S Civil Justice Reform Act of 1995, and Senator MCCONNELL's, Lawsuit Reform Act of 1995. I am also hopeful that the Senate Judiciary Committee will hold hearings on S. 11, the Medical Care Injury Compensation Act of 1995, a bill I introduced on the first day of the 104th Congress. This legislation caps non-economic damages such as pain and suffering at $250,000; imposes a limit on attorneys' fees of 25 percent of the first $150,000 recovered and 15 percent of any amount in excess of $150,000; provides for periodic payments where damages for future economic loss exceed $100,000; provides for mandatory offsets for damages paid by a "collateral source"; and reforms "joint and several" liability.

Mr. President, I would like to close by addressing one of the arguments used by the President in his veto message. this argument asserts the unconsitutionality of the preemption of State liability laws under the commerce clause of the U.S. Constitution.

It is clear that no individual State can solve the problems created by abusive litigation. This is particularly true in the case of product-liability litigation: a product is frequently manufactured in one State, sold in a different State, and causes injury in a third State. In fact, Government figures establish that, on average, over 70 percent of the goods manufactured in one State are shipped out of State for sale and use.

It is clearer that a national solution is justified by the fundamentally interstate character of product commerce. The threat of disproportionate, unpredictable, punitive damage awards exerts an economic impact far beyond the borders of any individual State. This threat reduces investments, dampens job creation, and prevents new products from reaching the marketplace. In an increasingly integrated national and international economy, the confusing, inconsistent patchwork of State liability awards has cut deeply into America's economic strength.

Unfortunately, since the signing of the Constitution, the commerce clause

VOL
142
PT
5
MR
21
—
29
1996
UMI

has been stretched and contorted to authorize virtually every activity Congress chooses to regulate—except interstate commerce. Opponents of legal reform profess concern about the preemption of State law and interference with States' rights. And yet it was many of the same interests that favored intrusive Federal regulations imposed on the States by OSHA, FDA, EPA, and other Federal regulators.

In truth, States' rights is not what is being defended here, but rather, the status quo. Otherwise, why is the litigation industry the only segment of the economy that opponents of legal reform believe should remain beyond the reach of Federal law?

Mr. President, legal reform will not cause the creation of a single new Federal program or the expenditure of a single new appropriation; Legal reform will not impose new taxes or regulations on our citizens. Legal reform will simply create clear, consistent legal standards covering civil actions brought in State and Federal courts.

Mr. President, legal reform will enhance the essential principle of due process. As the U.S. Supreme Court has said many times, due process, criminal and civil, is fundamental to our concept or ordered liberty.•

SALUTE TO MEDINA LIONS CLUB

• Mr. FRIST. Mr. President, I rise today in support and appreciation of the Medina Lions Club, which will celebrate its 50th anniversary this Thursday. These club members from Gibson County, TN have devoted countless hours of their time and energy over the years to helping their community of Medina, and I would like to take a moment to recognize some of their many achievements.

Since its inception, more than 210 different members have joined the Medina Lions Club. Today, there are 33 active members, including 2 who helped found the club in 1946. Over the years, the club has raised enough money to provide college scholarships to 38 deserving local students and furnish local schools with cafeteria equipment, library books and furniture, and athletic and playground equipment. Many of the club's successful fund raising drives have become yearly favorites among the residents of Gibson County, including a horse show, a minstrel show, and a "haunted" farm.

In addition to education projects, the club has used the money it raises to provide glasses and surgery for local residents, remodel and redecorate a civic center, erect a park pavilion, purchase equipment for the local fire department, erect a community war memorial, purchase hospital equipment, and sponsor Little League baseball in Medina. As Little League sponsors, the club members helped furnish lighting, fencing, and concessions equipment for the Little League ballpark. It is also saving money to help build a new city park, which will include a walking track, football field, baseball field, fence lighting, and paved parking.

Mr. President, the members of the Medina Lions Club have a long history of giving back to their community. Their commitment has won the Medina club the Top Club in the State award twice, and the members have received numerous other individual awards. Mr. President, I would like to commend and thank every member—past and present—of the Medina Lions Club for their commitment and their dedication. They have established a long record of service for others to follow, and I wish them all the best as they celebrate the club's 50th anniversary.•

CLETIS WAGAHOFF

• Mr. JOHNSTON. Mr. President, I rise today to pay tribute to an outstanding public servant and my friend, Cletis Wagahoff. On March 31, 1996, Cletis will retire from the U.S. Army Corps of Engineers after serving selflessly for nearly 27 years and after a total of 35 years of Government service.

Cletis Wagahoff has served as the deputy district engineer for Project Management in the corps' New Orleans District Office since 1988. If the daily challenges of managing several of our Nation's largest civil works projects were not enough to ask of someone Mr. President, the job of deputy district engineer also requires that Cletis be the liaison for all congressional inquiries from the Louisiana Congressional Delegation. For this alone, he deserves our deepest gratitude, not to mention a medal. In fact, Cletis was recently awarded the Meritorious Civilian Service Award for his performance as a highly skilled engineer and proven leader in his field.

I have had the pleasure of working with Cletis on many of Louisiana's navigation, hurricane, and flood protection projects and have often sought his counsel and advice on critical problems like coastal erosion and protecting our valuable wetlands. His reputation as a consensus builder and a man of unwavering integrity is well known by Louisiana's elected officials and our community and business leaders.

Mr. President, Cletis Wagahoff and his wife, Betty, have given much to Louisiana and our great Nation during their many years of service, and for this we are eternally grateful. On behalf of the Louisiana congressional Delegation and all Louisianians, we wish them every success, good health, and much happiness as they turn the pages of life to begin a new chapter.•

IN HONOR OF JOHN E. CHRISTENSEN

• Mr. BROWN. Mr. President, I rise at this time to recognize an outstanding citizen for the achievements and contributions he has made to the people of the State of Colorado. After a 30-year career in education, John Christensen is retiring as principal of Greeley Central High School.

John Christensen, or "JC" as he is known, began his teaching career in 1964 at Carbondale Junior High School in Carbondale, CO. Over the next three decades, he became one of the driving forces in Weld County education. He taught mathematics, physical education, and biology. He coached basketball, football, track, and baseball, and served as an athletic director and assistant principal before becoming principal of Greeley Central.

As a resident of Greeley, CO, I am aware of the contributions JC has made to students and to the community. In addition to his classroom and administrative responsibilities, his enthusiasm and dedication to students' extra-curricular programs led him to speech contests, musical concerts, theater performances, athletic events and countless other student activities in the evenings and on weekends. During some of those athletic events he was a fan; other times he was the coach. In 1975, he coached Greeley West's AAA State Baseball Championship Team, a demonstration of his commitment to hard work and excellence.

John Christensen's selfless dedication brought him richly deserved recognition. In 1989, he was presented the International Thespian Award by International Thespian Society Troupe 657 for his support of theater arts at Greeley Central. In 1990, he received the Administrator Award from the Colorado Music Educators' Association. He served as president of the Colorado High School Football Coaches Association and was inducted into the District 6 Coaches' Hall of Fame for his years of service to youth as a football and baseball coach. He is past president of the Northern League Principals Association and continues to consult and speak at various leadership conferences across the country.

Greeley Central's Class of 1994 so greatly admired and respected John Christensen, their own principal, they chose him as their commencement speaker. His leadership and integrity has affected students, parents, teachers, and fellow administrators. In 1995, he received the prestigious Governor's Award for Excellence in Education. Most impressive of all is the new scholarship created in JC's name by Greeley Central's faculty. The John Christensen "Pride, Class and Dignity Award" is to be given to a Greeley Central High School senior who is active in student life, displays a distinguished academic record, and exemplifies outstanding leadership.

I have worked with numerous public officials and business leaders from across the country. There are few of

the same high caliber as John Christensen. His integrity, enthusiasm, and dedication are unequaled. For this, I thank him for his service and wish him and his family, Jonna, JJ and Jill, the very best.•

A NEW INTERNATIONAL PARTNERSHIP

• Mr. GRAMS. Mr. President, this week an historic agreement will be signed here in Washington that I believe embodies the enduring spirit of international commerce and what could be the promoting future of the Baltic States.

On March 28, 1996, government officials from the Baltic country of Estonia will sit down with representatives from one of my constituents, NRG Energy, Inc., and pen a memorandum of understanding [MOU] that could lead to NRG jointly owning, as well as managing and operating, the major electric generation assets in Estonia.

The agreement is a further step forward for Estonia, which is rapidly progressing into the global village. At the beginning of this decade, Estonia was one of the first nations to break from the old Soviet sphere of influence. Movement toward the West has been constant ever since. In 1991, Estonia became a member of the United Nations and it was welcomed into the World Bank in 1992. Today, the nation envisions itself as a member of the European Union and has submitted a formal application for inclusion.

Estonia's coalition government, led by Prime Minister Tiit Vahi and Foreign Minister Siim Kallas, has forged swiftly ahead in developing the open markets necessary to bring the nation into the global economy. These leaders should be commended for their foresight and resolve in making free trade a cornerstone of the country's impressive economic maturity.

Mr. President, the Estonians should be praised for their steady progress away from a command and control economy and toward free market principles. They share with a majority of Americans a strong belief that most often the private sector can better conduct business than the government.

Already the Estonian Government has privatized more than 377 of its enterprises. This includes the remarkable undertaking of privatizing and modernizing its entire telecommunications sector which was jointly accomplished with contributions from Swedish and Finnish interests.

Under the guidance of Arvo Niitenberg, former energy minister and current Estonian Ambassador to the International Atomic Energy Agency, the most ambitious investment initiative to date is occurring in the electricity sector. For this endeavor, the Estonians looked to American expertise and know-how, and found these qualities in abundance with NRG. As a subsidiary of Northern States Power Company [NSP], a Minneapolis-based, multistate, investor-owned electric and gas utility, NRG has successfully brought the Minnesota penchant for hard work and a no-nonsense approach to international power projects in Australia and the former East Germany.

No doubt, NRG's success around the globe will once again evidence itself in Estonia. The project entails an investment of up to $250 million by NRG for environmental upgrades and plant life extension in the Estonian electric company and NRG's management and operation of three powerplants totaling more than 3,000 megawatts through a stock company jointly owned with the Estonians. This represents almost the entirety of Estonia's power production in what is sure to be a win-win partnership in which NRG will apply its extensive and renowned expertise in emission reductions and operation of world class powerplants for the growing Estonian economy.

Mr. President, the MOU to be signed this week is the consummation of an important partnership not only between NRG and the Estonians, but also between Estonia and the United States. I welcome the partnership being established March 28 at the State Department as not only the teaming of a nation with a company, but also the commencement of a lasting relationship between two nations.•

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through March 21, 1996. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1996 concurrent resolution on the budget (H. Con. Res. 67), show that current level spending is above the budget resolution by $15.7 billion in budget authority and by $16.9 billion in outlays. Current level is $81 million below the revenue floor in 1996 and $5.5 billion above the revenue floor over the 5 years 1996–2000. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $262.6 billion, $17.0 billion above the maximum deficit amount for 1996 of $245.6 billion.

Since my last report, dated March 12, 1996, Congress has cleared and the President has signed the 11th short-term continuing resolution (Public Law 104–116). In addition, the President signed an act providing tax benefits for members of the Armed Forces performing peacekeeping services in Bosnia and Herzegovina, Croatia, and Macedonia (Public Law 104–117). These actions did not change the current level of budget authority, outlays or revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 25, 1996.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1996 shows the effects of Congressional action on the 1996 budget and is current through March 21, 1996. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1996 Concurrent Resolution on the Budget (H. Con. Res. 67). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report dated March 11, 1996, Congress has cleared, and the President has signed the eleventh short-term continuing resolution (P.L. 104–116). In addition, the President signed an act providing Tax Benefits for Members of the Armed Forces Performing Peacekeeping Services in Bosnia and Herzegovina, Croatia and Macedonia (P.L. 104–117). These actions did not change the current level of budget authority, outlays or revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1996, 104TH CONGRESS, 2ND SESSION, AS OF CLOSE OF BUSINESS MAR. 21, 1996 [In billions of dollars]

	Budget resolution (H. Con. Res. 67)	Current Level[1]	Current level over/under resolution
ON-BUDGET			
Budget Authority	1,285.5	1,301.2	15.7
Outlays	1,288.1	1,305.0	16.9
Revenues:			
1996	1,042.5	1,042.4	−0.1
1996–2000	5,691.5	5,697.0	5.5
Deficit	245.6	262.6	17.0
Debt subject to Limit	5,210.7	4,897.2	−313.5
OFF-BUDGET			
Social Security Outlays:			
1996	299.4	299.4	0.0
1996–2000	1,626.5	1,626.5	0.0
Social Security Revenues:			
1996	374.7	374.7	0.0
1996–2000	2,061.0	2,061.0	0.0

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON–BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2ND SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996 AS OF CLOSE OF BUSINESS MAR. 21, 1996

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			1,042,557
Permanents and other spending legislation	830,272	798,924	

VOL
142
PT
5
MR
21
—
29
1996
UMI

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2ND SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996 AS OF CLOSE OF BUSINESS MAR. 21, 1996—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriation legislation		242,052	
Offsetting receipts	−200,017	−200,017	
Total previously enacted	630,254	840,958	1,042,557
ENACTED IN FIRST SESSION			
Appropriation bills:			
1995 Rescissions and Department of Defense Emergency Supplementals Act (P.L. 104–6)	−100	−885	
1995 Rescissions and Emergency Supplementals for Disaster Assistance Act (P.L. 104–19)	22	−3,149	
Agriculture (P.L. 104–37)	62,602	45,620	
Defense (P.L. 104–61)	243,301	163,223	
Energy and Water (P.L. 104–46)	19,336	11,502	
Legislative Branch (P.L. 104–53)	2,125	1,977	
Military Construction (P.L. 104–32)	11,177	3,110	
Transportation (P.L. 104–50)	12,682	11,899	
Treasury, Postal Service (P.L. 104–52)	23,026	20,530	
Offsetting receipts	−7,946	−7,946	
Authorization bills:			
Self-Employed Health Insurance Act (P.L. 104–7)	−18	−18	−101
Alaska Native Claims Settlement Act (P.L. 104–42)	1	1	
Fishermen's Protective Act Amendments of 1995 (P.L. 104–43)		(6)	
Perishable Agricultural Commodities Act Amendments of 1995 (P.L. 104–48)	1	(6)	1
Alaska Power Administration Sale Act (P.L. 104–58)	−20	−20	
ICC Termination Act (P.L. 104–88)			(6)
Total enacted first session	366,191	245,845	−100
ENACTED IN SECOND SESSION			
Appropriation bills:			
Seventh Continuing Resolution (P.L. 104–92) [1]	13,165	11,037	
Ninth Continuing Resolution (P.L. 104–99) [1]	792	−825	
Foreign Operations (P.L. 104–107)	12,104	5,936	
Offsetting receipts	−44	−44	
Authorization bills:			
Gloucester Marine Fisheries Act (P.L. 104–91) [2]	30,502	19,151	
Smithsonian Institution Commemorative Coin Act (P.L. 104–96)	3	3	
Saddleback Mountain—Arizona Settlement Act of 1995 (P.L. 104–102)		−7	
Telecommunications Act of 1996 (P.L. 104–104) [3]			
Farm Credit System Regulatory Relief Act (P.L. 104–105)	−1	−1	
National Defense Authorization Act of 1996 (P.L. 104–106)	369	367	
Extension of Certain Expiring Authorities of the Department of Veterans Affairs (P.L. 104–110)	−5	−5	
To award Congressional Gold Medal to Ruth and Billy Graham (P.L. 104–111)	(6)	(6)	
An Act Providing for Tax Benefits for Armed Forces in Bosnia, Herzegovina, Croatia and Macedonia (H.R. 2778)			−38
Total enacted second session	56,884	35,613	
CONTINUING RESOLUTION AUTHORITY			
Eleventh Continuing Resolution (P.L. 104–116) [4]	116,863	54,882	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	131,056	127,749	
Total Current Level [5]	1,301,247	1,305,048	1,042,419
Total Budget Resolution	1,285,500	1,288,100	1,042,500
Amount remaining:			
Under Budget Resolution			81
Over Budget Resolution	15,747	16,948	

[1] P.L. 104–92 and P.L. 104–99 provides funding for specific appropriated accounts until September 30, 1996.

[2] This bill, also referred to as the sixth continuing resolution for 1996, provides funding until September 30, 1996 for specific appropriated accounts.

[3] The effects of this Act on budget authority, outlays and revenues begin in fiscal year 1997.

[4] This is an annualized estimate of discretionary funding that expires March 22, 1996, for the following appropriation bills: Commerce-Justice, Interior, Labor-HHS-Education and Veterans-HUD.

[5] In accordance with the Budget Enforcement Act, the total does not include $3,417 million in budget authority and $1,590 million in outlays for funding of emergencies that have been designated as such by the President and the Congress.

[6] Less than $500,000.

Notes: Detail may not add due to rounding.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 449;

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, that any statements relating to the nomination appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed, as follows:

DEPARTMENT OF STATE

Rita Derrick Hayes, of Maryland, for the rank of Ambassador during her tenure of service as Chief Textile Negotiator.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

FEDERAL TEA TASTERS REPEAL ACT OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2969, the Federal Tea Tasters Repeal Act of 1996, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2969) to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. If there is no objection, the bill is deemed to be read the third time and passed.

So the bill (H.R. 2969) was deemed read the third time and passed.

Mr. LOTT. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TUESDAY, MARCH 26, 1996

Mr. LOTT. Mr. President, I now ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Tuesday, March 26, 1996; further, that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day.

I further ask unanimous consent that there then be a period of morning business until the hour of 10:30, with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator REID, 15 minutes; and Senator DORGAN, 15 minutes.

I further ask that at 10:30 the Senate resume consideration of H.R. 1296.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I ask unanimous consent that the Senate recess from the hours of 12:30 p.m. until 2:15 for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. For the information of all Senators, the Senate will resume the Presidio legislation tomorrow morning with the understanding that Senator DASCHLE or his designee will be prepared to offer an amendment at 10:30. Senators should also be aware that a cloture motion was filed today on the Murkowski substitute, and under the provisions of rule XXII that cloture vote will occur on Wednesday.

There is also hope that during tomorrow's session the Senate will be able to reach an agreement on consideration of the farm bill conference report. Senators should be aware that other possible items for consideration during this week include the State Department reorganization conference report, the debt limit extension, the omnibus appropriations conference report, and the line-item veto conference report. All Senators can expect busy sessions this week in order to complete action on these very important items.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:17 p.m., adjourned until Tuesday, March 26, 1996 at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 25, 1996:

NATIONAL TRANSPORTATION SAFETY BOARD

JAMES E. HALL, OF TENNESSEE, TO BE CHAIRMAN OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM OF TWO YEARS. (REAPPOINTMENT)

DEPARTMENT OF THE TREASURY

RAYMOND W. KELLY, OF NEW YORK, TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT, VICE RONALD K. NOBLE, RESIGNED.

DEPARTMENT OF STATE

CHARLES O. CECIL, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREION SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NIGER.

WENDY JEAN CHAMBERLIN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE LAO PEOPLE'S DEMOCRATIC REPUBLIC.

JAMES FRANCIS CREAGAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HONDURAS.

LINO GUTIERREZ, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NICARAGUA.

DAVID C. HALSTED, OF VERMONT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHAD.

DENNIS K. HAYS, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SURINAME.

DENNIS C. JETT, OF NEW MEXICO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PERU.

TIBOR P. NAGY, JR., OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUINEA.

DONALD J. PLANTY, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF OUATEMALA.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

MEDICAL CORPS

To be major

WESLEY S. ASHTON, 070-52-1684
JUDITH C. BLAISE, 438-17-7466
MARK A. BONEY, 159-46-5024
STEVEN P. COHEN, 054-60-1747
THOMAS W. GIBSON, 176-58-4738

DENTAL CORPS

To be major

VALERIE E. HOLMES, 570-06-8902

CONFIRMATION

Executive nomination confirmed by the Senate March 25, 1996:

DEPARTMENT OF STATE

RITA DERRICK HAYES, OF MARYLAND, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS CHIEF TEXTILE NEGOTIATOR.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

VOL
142
PT
5
MR
21
—
29
1996
UMI

EXTENSIONS OF REMARKS

TRIBUTE TO THE NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 25, 1996

Mrs. MALONEY. Mr. Speaker, today I am pleased to rise to pay tribute to the National Association of Retired Federal Employees. We are happy to celebrate the 75th anniversary of this vital national organization which has been so integral to the rights of this Nation's retired Federal employees.

The National Association of Retired Federal Employees [NARFE] was formed on February 19, 1921, with 14 founding members. It now boasts a membership of nearly half a million with 1,740 chapters in every State as well as overseas. Their mission is to protect the earned benefits of retired Federal workers and their families. I am proud to say that they have continually accomplished this noble mission, with remarkable success, for over 75 years.

On this date, I am also proud to celebrate the 14th anniversary of Chapter 1871 of the National Association of Retired Federal Employees. Chapter 1871 serves retired Federal workers in the 14th Congressional District of New York. This local chapter of NARFE has been a tremendous help and an influential voice to countless retired Federal employees in that district. In this Chamber today, I am very pleased to give Chapter 1871 special recognition for all their dedicated work.

NARFE remains as important today as it was 75 years ago. It is the only national organization that is solely dedicated to protecting the interests of Federal retirees and their dependents. There is an ongoing need to educate the Government, the media, and the public on the true needs of Federal workers and their benefits. NARFE has successfully accomplished each and every one of these essential tasks.

Today, Mr. Speaker, in the year of its 75th anniversary and on the date of the 14th anniversary of Chapter 1871, I am very pleased to recognize the National Association of Retired Federal Employees for its many contributions to retired Federal workers and thereby to the Nation. I ask that my colleagues join with me in this celebration by paying tribute to its many years of accomplishments and dedication to serving retired Federal employees.

HONORING NORTH MIAMI CLEAN CITY WEEK

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 25, 1996

Mrs. MEEK of Florida. Mr. Speaker, from April 27 to May 3, 1996, the city of North Miami, under the leadership of Councilwoman Jeanette Carr, will observe its sixth annual Clean City Week. Clean City Week offers the opportunity for community organizations to join forces to clean neighborhood eyesores while reinforcing community pride. Groups participating include the police department and its Explorers unit, area Boy Scouts, school leaders, and several charitable organizations.

This year's planned projects include collecting trash along a bayside shoreline, painting the houses of elderly residents, cleaning alleys, and painting over graffiti.

Clean City Week is an example of neighbors working together toward a positive end. All participants are to be commended for their efforts. I am proud that so many in my district care so deeply about their environment. My thanks to everyone working to make North Miami sparkle and shine.

HUMAN RIGHTS ABUSES IN SIKH NATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 25, 1996

Mr. CRANE. Mr. Speaker, I rise today to recommend to my colleagues the video "Disappearances in Punjab," which was provided to my office by Dr. Gurmit Singh Aulakh, president of the Council of Khalistan. Produced by Hindu human rights activist Ram Narayan Kumar and ethnologist Lorenz Skerjanz, "Disappearances in Punjab" tells the story of Jaswant Singh Khalra, general secretary of the human rights wing, who has disappeared and has apparently been abducted by the Indian Government.

Khalra reported the abduction, torture, and murder of as many as 25,000 young Sikh men whose bodies were then cremated and listed as unidentified. Other human rights activists have claimed that as many as 100,000 Sikhs have been designated as "disappeared" by the Indian regime. The Indian Government has faced many similar charges before—including a February 25 article in the New York Times which described the Government as "rotten, corrupt, repressive, an anti-people"—but this video provides documented evidence of the brutal violence that Sikhs must face every day.

I hope my colleagues will take the time to review the video, and I am inserting a transcript for the RECORD. The Sikhs have struggled for independence and have been repressed by a central government. I support independence for Khalistan, and I believe that after reviewing this video, my colleagues will as well.

INTRODUCTION

On 31 August 1995, Punjab's Chief Minister Beant Singh was assassinated in a suicide mission of bombing carried out by a Sikh militant organization at the State government's Secretariat in Chandigarh. Beant Singh of the Congress party has taken office in early 1992 after winning the elections to the State Legislative Assembly, which the main Sikh political groups had boycotted to pursue their decade long agitation for a radical measure of autonomy for Punjab. As the Sikh electorate, constituting the majority of Punjab's population stayed away from the polling, the Congress party won the elections, without a real contest. But the government formed by the Congress party under Beant Singh's leadership projected the election results as the democratic mandate to stamp out the Sikh agitation, promising to implement the mandate by all possible means. Reports of human rights violations became widespread.

The leaders of Hindu public opinion in Punjab argued that the due process of law was a luxury, which India could not afford while fighting the secessionist terrorism:

[Interview with Vijay Chopra, publisher and editor of Hind Samachar group of newspapers, who brings out the three most popular language dailies in northern India.]

Only the human rights groups and the individuals, with little influence on the working of the government, expressed indignation against the reports of police atrocities.

[Interview with Satish Jain, Professor of Economics at Jawarharlal Nehru University, New Delhi.]

Many inside observers of Indian politics, including the former President of India Zail Singh, admitted that the highhanded methods of the security forces, instigated the separatist terrorism.

[Interview with Zail Singh.]

HISTORICAL BACKGROUND OF THE SIKH SEPARATIST UNREST

Approximately twenty million Sikhs of India form less than 2 percent of the country's population, but constitute majority in the agriculturally prosperous Northwestern province of Punjab, which had been divided between India and Pakistan in 1947. Prosperous Jat Sikh farmers dominated the Akali Dal, the main political party of the orthodox Sikhs, that launched the agitation for the radical measure of autonomy for the State in early 1982. Jarnail Singh Bhindranwale, a charismatic religious preacher, who had already emerged on the scene as the messiah of "true Sikhs", rallied the discontented sections of the Sikhs, particularly the unemployed youth, to the Akali agitation. The Union government projected the agitation as a secessionist movement, and refused to negotiate decentralization of political power. The next two years of virulent violence, which also witnessed the rise of Sikh terrorism in the real sense, came to a head in June 1984 when Prime Minister Indira Gandhi ordered the military to flush out Bhindranwale and his armed followers from the Golden Temple of Amritsar in which they had taken shelter. When the operation was over, hundreds of Sikh militants, including Bhindranwale, and a larger number of Sikh pilgrims, were dead. The Akal Takht, an important shrine inside the temple complex regarded as the seat of political authority within the Sikh historical tradition, was rubble. For devout Sikhs, Bhindranwale and his followers, who had died fighting the Indian military, became the martyrs of the faith. A section of Bhindranwale's followers now began to talk of an independent Sikh state.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The Parliamentary elections held at the end of 1989, returned many extremist candidates under the leadership of Simranjit Singh Mann, former police officer turned separatist politician. The results showed that the separatist cause now possessed a measure of popular support. Alienation of the Sikhs of Punjab from India's political system again became manifest when the overwhelming majority of them stayed away from the polling in early 1992, keeping with the call given by the main Akali groups to boycott the elections. The boycott helped the Congress party, under Beant Singh, to form its government in the State, and to embark on a highhanded policy to suppress the Sikh agitation without caring for the limits of the law. Many officials involved in the security operations privately admit that excesses, including custodial killings, do take place. But they argue that they have no other way to demoralize a secessionist movement, which enjoys a measure of sympathy in Punjab's countryside.

EVIDENCE OF STATE ATROCITIES

Interviews with Inderjit Singh Jaijee, Chairman, Movement Against State Repression, and Jaspal Singh Dhillon, Chairman, Shiromani Akali Dal's Human Rights Wing. [Photographic evidence of custodial torture and killings.]

[Interview with Ranjan Lakhanpal, a lawyer who fights generally losing legal battles to enforce the rule of law, against the working of the Punjab police.—Lakhanpal introduces two women victims of custodial rape.]

Our own investigations in the Amritsar region reveal that the dealings of the security forces with the relatives of separatist militants, themselves unconnected with crime, are not only routinely illegal but also brutal. Apparently, the idea is to set an example of harshness that would discourage the rural folk from sympathizing with the extremist cause.

[Interview with Arjun Singh, grandfather of a known militant Paramjit Singh Panjwad, tortured in the police custody. Panjwad's mother was killed in custody.]

Many Sikh officers of the Punjab police privately corroborate these reports of police atrocities.

[Interview with one woman police officer, on the condition of anonymity: She told us about her experience of custodial torture, rape and murders at an interrogation center she was attached to.—Photographic evidence of custodial torture and murders.]

Champions of human rights in Punjab are themselves vulnerable to persecution. Many have suffered long periods of illegal detention, torture in custody and even elimination. Sometimes their relatives become victims of police wrath. On 29 March 1995, lawyer Ranjan Lakhanpal's ten year old son Ashish was run over by a police vehicle. The vehicle belonged to an officer whom Ranjan has accused of murdering a detainee in custody.

THE CASE OF JASWANT SINGH KHALRA

The more recent example comes from the case of Jaswant Singh Khalra, General Secretary of the Shiromani Akali Dal's Human Rights Wing, who got picked up by uniformed commandos of Punjab police from the porch of his house in Amritsar on 6 September 1995, six days after Beant Singh's assassination. Human Rights Wing has been focussing attention on unravelling the mystery of what happens to the large number of people the security forces illegally pick-up for interrogation. Jaswant Singh Khalra was associated with the investigations that led to the discovery that Punjab police have been cremating thousands of dead Sikhs illegally, by mentioning them in the registers at the cremation grounds as "unclaimed" and "unidentified." The investigations also established that these "cremated" Sikhs were largely those who had earlier been picked up for interrogation.

[Interview with the attendant of the cremation ground at Patti, a subdivisional town in Amritsar district.]

Equally incriminating evidence against the police comes from the hospitals where the police sent some bodies so cremated for postmorten.

[Interview with the Chief Medical Officer of the hospital at Patti: This doctor told us that Sarabjit Singh was still alive when the police first brought him for the postmortem. On being discovered alive, Sarabjit Singh was taken away by the police and brought back to the hospital the second time when he was actually dead. The hospital gave the postmortem report the police wanted. The Chief Medical Officer of the hospital at Patti also offered us some astonishing information on how he helped the police to get the postmortem reports they legally needed in all circumstances before cremating the dead bodies.]

Investigation carried out by the Human Rights Wing forms the basis of a petition that the Committee for Information and Initiative on Punjab has filed before the Supreme Court of India. The issue of illegal cremations by the Punjab police is now being investigated by the Central Bureau of Investigation, on the orders from the Supreme Court. However, the order of the probe did not come before Jaswant Singh Khalra himself "disappeared."

[Interview with Jaspal Singh Dhillon: "Khalra was quite clearly told that he can also become an unidentified body. And today Khalra is not there."]

The guilty officials of Punjab police knew that, without Khalra's investigative resourcefulness in the Amritsar district, the Human Rights Wing could not have so conclusively exposed their ways of handling the Sikh unrest in Punjab. Khalra had also been providing legal counselling to victims of police atrocities, particularly the relatives of the "diasppeared", which encouraged them to approach the courts to redress their grievances.

Khalra's whereabouts remains unknown. The chief of the Punjab police has categorically denied Khalra's abduction by the officers of his force. The Supreme Court of India has ordered the Central Bureau of Investigation to probe the "disappearance" along with the issue of illegal cremations by the Punjab police. In ordering the probe, the court has neither extended protection to witness who might lead to evidence to establish the truth, nor has asked the CBI to associate the human rights groups, directly involved in exposing the police atrocities, with the inquiry. It is evident that the Central Bureau of Investigation, as an investigating agency under the Union Home Ministry, lacks the necessary power and independence to determine the truth of allegations of serious human rights crimes, made against India's security forces.

Human right groups worldwide are seriously concerned about the disappearance of Jaswant Singh Khalra, which is seen as a warning to all those who are engaged in exposing police atrocities in the State. The Sikh groups in Punjab are agitating the Khalra's release. Many leaders of the Western countries, including the President of the United States of America, have conveyed their concern about the case to the government of India. However, the information percolating from the police sources suggests that Khalra might already have been eliminated. Despair dominates the mood of the Sikh leaders in Punjab.

[Interview with Sukhjinder Singh, former Akali Minister: "All Sikhs cannot get one constable or one police officer transferred from one place. That is the situation."]

[Interview with Jaspal Singh Dhillon: "There is no way any Sikh today can look for justice from any organ of the Indian state."]

[Interview with Professor Satish Jain: "There is a large section of this country which approves of State atrocities. And, I think, the weakness of the Indian nation, the weakness of the Indian society, really lies in this attitude."]

Will India society rectify this weakness? Will State atrocities in Punjab cease? These are the mute questions before the people of India, even as they prepare themselves for the next elections.

CONGRATULATIONS TO PRESIDENT LEE TENG-HUI AND THE PEOPLE OF TAIWAN ON THE FIRST DEMOCRATIC ELECTIONS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 25, 1996

Mr. LANTOS. Mr. Speaker, I wish to extend my heartiest congratulations to President Lee Teng-hui who was chosen the first popularly elected President of Taiwan in direct, democratic elections, which were held over the past weekend. President Lee received 54 percent of the vote in a field of four candidates. The results of this election are a tribute to President Lee, who has played the leading role in completing the democratic transformation of Taiwan, a transformation which led to these first-ever democratic elections. I also wish to extend congratulations to Lien Chan, the democratically elected Vice President.

Mr. Speaker, President Lee has served as the President of the Republic of China on Taiwan since 1988. He has long and close ties with the United States and with the American people. It is highly significant, Mr. Speaker, that President Lee was born on Taiwan in 1923. He attended Kyoto Imperial University, and received a bachelors degree from National Taiwan University in 1949. His studies in the United States include an M.A. from Iowa State University and a Ph.D. from Cornell University. Between 1949 and 1965 he was a

VOL
142
PT
5
MR
21
—
29
1996
UMI

member of the faculty of National Taiwan University, and he served many years as a professor there. His political experience includes service as the mayor of Taipei City, Governor of Taiwan Province, and Vice President of the Republic of China on Taiwan.

Mr. Speaker, just 1 year ago, President Lee was invited by his alma mater, Cornell University, to visit the campus as a distinguished alumnus. The administration opposed granting him a visa for that visit. As my colleagues know, legislation that I introduced and which passed the House unanimously, put the Congress on record favoring granting him a visa. I am delighted that he was able to visit Cornell as President of Taiwan, and it is my sincere hope that he will have the opportunity to visit the United States as its democratically elected President.

The real winners in Saturday's Taiwanese elections, Mr. Speaker, are not the candidates who won reelection—though I do not want to diminish the great victory which this election is for President Lee and Vice President Lien. The real winners in the elections are the people of Taiwan. They have made a democratic choice, they have conducted an exemplary campaign, and they have participated in the elections in numbers that are a tribute to the people of Taiwan. Despite appalling efforts at intimidation by the Government of the People's Republic of China, two-thirds of the eligible voters of Taiwan participated in the elections. That is a participation rate that exceeds ours here in the United States, Mr. Speaker. Their obvious desire for democracy and their responsible and thoughtful exercise of the franchise merit our most profound respect an praise. They are the real winners in the election.

The second big winner in this election has been the friendship between the people of the United States and people of Taiwan. Mr. Speaker, I welcome the action of this House last week in strongly affirming the commitment of the American People to Taiwan in the face of the threats and intimidation they faced from the bullies of Beijing. We have made clear our commitment to the democratic process in Taiwan, and it is extremely important that this be known both by the People of Taiwan and by the Government of the mainland.

The big losers in this election, Mr. Speaker, are the bullies of Beijing—the leaders of the People's Republic of China who attempted with military maneuvers, missile firings, amphibious landings, and other similarly ruthless efforts at intimidation to affect the outcome of this election and to undermine the evolution of democracy in Taiwan. The bullies of Beijing miscalculated. They were proven wrong, and the people of Taiwan have demonstrated just how wrong they are. Democracy is stronger and more stable and more acceptable than the totalitarian and authoritarian rule of despots.

The success of democratic elections in Taiwan will have a profound impact upon the mainland. As the generational change in the leadership of the Chinese Communist Party continues in Beijing, it is clear that the free and open and democratic elections in Taiwan have dealt the party dictatorship a great blow. The example of Taiwan will continue to affect what happens on the mainland.

Mr. Speaker, I invite my colleagues in this house to join me in paying tribute to President Lee Teng-hui and Vice President Lien Chan, and, in particular, in paying tribute to the people of Taiwan.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 26, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 27

9:00 a.m.
Environment and Public Works
To hold hearings on proposals to improve prevention of, and response to, oil spills in light of the recent North Cape spill.
SD–406

Labor and Human Resources
Business meeting, to mark up S. 1477, to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, S. 969, to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and proposed legislation authorizing funds for the Older Americans Act.
SD–106

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine Spectrum's use and management.
SR–253

Energy and Natural Resources
To hold hearings on S. 1605, to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and S. 186, to amend the Energy Policy Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States.
SD–366

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine global proliferation of weapons of mass destruction.
SD–342

Rules and Administration
To resume hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns.
SR–301

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of World War I, AMVETS, the American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Order of the Purple Heart.
345 Cannon Building

Select on Intelligence
To resume hearings on the future of United States intelligence.
SH–216

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Navy and Marine Corps programs.
SD–192

Armed Services
Acquisition and Technology Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on proliferation of weapons of mass destruction and the impact of export controls on national security.
SR–222

Banking, Housing, and Urban Affairs
Business meeting, to consider pending nominations.
SD–538

Foreign Relations
Business meeting, to consider pending treaties and nominations.
SD–419

1:30 p.m.
Armed Services
SeaPower Subcommittee
To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on the Department of the Navy's Submarine Development and Procurement programs.
SR–232A

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD–226

Select on Intelligence
To hold a closed briefing on intelligence matters.
SH–219

4:00 p.m.
Conferees on S. 641, to reauthorize the Ryan White CARE Act of 1990.
S–207, Capitol

MARCH 28

9:00 a.m.
Indian Affairs
To hold oversight hearings on the recent settlement and accommodation agreements concerning the Navajo and Hopi land dispute.
SR–485

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR–253

Energy and Natural Resources
To resume oversight hearings on issues relating to competitive change in the electric power industry.
SH–216

Special on Aging
To hold hearings to examine adverse drug reactions in the elderly.
SD–562

10:00 a.m.
Armed Services
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on the military strategies and operational requirements of the unified commands.
SR–222

Foreign Relations
To resume hearings on the Convention on Chemical Weapons (Treaty Doc. 103-21).
SD–419

Judiciary
To resume markup of proposed legislation relating to legal immigration (incorporating provisions of S. 1394).
Room to be announced

10:30 a.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Justice.
S–146, Capitol

2:00 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Commerce.
S–146, Capitol

Foreign Relations
African Affairs Subcommittee
To hold hearings to examine the role of radio in Africa.
SD–419

Select on Intelligence
Closed briefing on intelligence matters.
SH–219

2:30 p.m.
Armed Services
SeaPower Subcommittee
To hold hearings on the multiyear procurement proposal for the C- 17 strategic airlifter.
SR–222

MARCH 29

9:30 a.m.
Armed Services
Airland Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on Army modernization programs.
SR–222

11:00 a.m.
Armed Services
Strategic Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on cooperative threat reduction program, arms control, and chemical demilitarization.
SR–232A

APRIL 15

10:00 a.m.
Judiciary
Constitution, Federalism, and Property Rights Subcommittee
To hold hearings on S.J.Res. 49, proposed constitutional amendment to require a two-thirds vote on tax increases.
SD–226

APRIL 16

9:30 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for Air Force and defense agencies' military construction programs.
SD–116

Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.
SR–253

APRIL 17

9:30 a.m.
Rules and Administration
To resume hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns.
SR–301

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Air Force programs.
SD–192

1:30 p.m.
Indian Affairs
To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR–485

2:00 p.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
Business meeting, to mark up S. 984, to protect the fundamental right of a parent to direct the upbringing of a child.
SD–226

APRIL 18

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings to examine Spectrum's use and management.
SR–253

1:30 p.m.
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR–485

APRIL 19

1:30 p.m.
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR–485

APRIL 23

9:30 a.m.
Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings on proposed legislation authorizing funds for the Consumer Product Safety Commission.
SR–253

APRIL 24

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Army programs.
SD–192

APRIL 25

9:00 a.m.
Indian Affairs
To hold hearings on S. 1264, to provide for certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe.
SR–485

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.
SR–253

MAY 1

9:30 a.m.
Rules and Administration
To resume hearings on issues with regard to the Government Printing Office.
SR–301

VOL
142
PT
5
MR
21
—
29
1996
UMI

SEPTEMBER 17

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.
335 Cannon Building

CANCELLATIONS

MARCH 26

2:00 p.m.
Judiciary
Business meeting, to mark up proposed legislation relating to legal immigration (incorporating provisions of S. 1394).
Room to be announced

POSTPONEMENTS

MARCH 26

10:00 a.m.
Judiciary
To hold hearings on S. 1284, to adapt the copyright law to the digital, networked environment of the National Information Infrastructure.
SD–106

HOUSE OF REPRESENTATIVES—*Tuesday, March 26, 1996*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. UPTON].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 26, 1996.

I hereby designate the Honorable FRED UPTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested.

S. 1459. An act to provide for uniform management of livestock grazing on Federal land, and for other purposes.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentlewoman from Colorado [Mrs. SCHROEDER] for 5 minutes.

RECOGNIZING HISTORICAL ACCOMPLISHMENTS OF WOMEN

Mrs. SCHROEDER. Mr. Speaker, I am continuing to talk a bit about women in history since this is Women's History Month.

One of the things I have been doing this month as I talked to people is I carry around a little shoe. It is no bigger than that, and it is a shoe that someone gave to me that they bought in an antique store in China that was used to go on a woman's foot. When you think about it, China was one of the few countries where you were not even better off being rich if you were female, and maybe many of you remember the story of the three swans written about the three Chinese women who kept praying that when they came back they would not come back as a female.

But when you think about the binding of the foot, and I have not seen anyone that could look at that shoe and not shudder to think of the pain of what it felt like to have that foot bound, and then when you think about the fact that that practice did not stop until halfway through the century and there are still women who are older hobbling around that had had this done to them, you realize how far the world is behind on dealing with women and women's issues.

Mr. Speaker, when I talk about the binding of the foot, I think we bind something in this society, too. We have bound women's minds. Women's minds have been bound by our not knowing our real history, not knowing what really we contributed to this country, and therefore I think we have made women feel that they have no right to ask for anything or to ask to be treated equally in this country because the image is they did not do anything, why should they get anything? They came over here on cruise ships, sat around eating bonbons, getting their hair done, and have not done anything except waiting for people to win the battles for them.

Some of the exciting things that have happened while I am in office that have gone on to try to correct that image has been the Women in the Military Memorial that many, many women have come forward to put out there, and whether you look at the Revolutionary War, which had women serving in it, Molly Corbit being one that is buried at West Point and was the first woman to ever have gotten a full pension just like men did because George Washington insisted that was the only fair thing, and there were other women who were in the Revolutionary Army, too, that got the same thing, or whether you go right on through all the wars until the current Bosnian crisis, where we have women in the field in Bosnia; you see pictures of them coming across the screen today as the First Lady is over there talking to them with the troops.

You know, women have been like the lioness, I guess, in nature. They are perfectly willing to protect their country, to do whatever it takes, and any time, whether it was in winning the West, whether it was World War II, whether it is today in Bosnia, or whether it was way, way back in the Revolutionary War, they did that.

Mr. Speaker, how sad that we do not know their names and we do not know so many of the stories of their bravery. I cannot wait until the Women's Military Memorial is done because the stories they are collecting are unbelievable. They kind of fell off the table when the history books were written, stories of nurses that were downed in World War II in Albania and how long it took them to walk to the coast in the middle of winter to finally get out, I mean, very brave things that would make great movies, and let us hope some day we do make movies about women in some role other than what we usually see them in.

But we are not going to see movies about women in history in those roles until we recognize that women played those roles in history, and I think that is why this month is so critical.

So I hope more and more schoolchildren and more people everywhere dig into history, find the real story and let us get it out. That is never to diminish what men did. Of course, men did wonderful, wonderful things in help building this Republic, but to tell only half the story is really not fair.

So we have had his story, and this is the month to do her story, and I hope we get more people actively involved in looking at that and realizing the value of it.

When we tried too hard to get this front and center in 1976 during the Bicentennial, even one of my own newspapers would attack me for wasting the House's time for talking about brave American foremothers and what they have contributed. In fact, they even attacked me on the very front page. I hope we now have much more sense about that and that we could move forward and get the record set straight.

KEEP HEALTH CARE PROMISES TO VETERANS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Colorado [Mr. HEFLEY] is recognized during morning business for 5 minutes.

Mr. HEFLEY. Mr. Speaker, today I rise to announce the introduction of H.R. 3142, a bill known as the Uniform

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Services Medicare Subvention Demonstration Project Act. This bill is intended to be a companion to Senator PHIL GRAMM's bill, S. 1487.

Mr. Speaker, when we ask men and women to serve in our Nation's Armed Forces, we make them certain promises. One of the most important is the promise that, upon the retirement of those who serve 20 years or more, a grateful Nation will make health care available to them for the rest of their lives. Unfortunately, for many 65-and-over military retirees, this promise is being broken.

When the military's Civilian Health and Medical Program of the United States [CHAMPUS] was established in 1966, just 1 year after Medicare, 65-and-over military retirees were excluded from CHAMPUS because it was felt they could receive care on a space-available basis from local military hospitals and they would not require health care services from the private medical community. For many years, there were few problems and plenty of available space, but as military bases and their hospitals have closed, more and more retirees are finding it increasingly difficult to receive the care they were promised.

Mr. Speaker, on January 19, 1995, I introduced, along with Congressmen GEREN, BARTON, CONDIT, and SAM JOHNSON, H.R. 580, which is a bill to allow the reimbursement to the Department of Defense by the Department of Health and Human Services for care rendered to Medicare eligible retirees and their families in military treatment facilities. This is better known as Medicare subvention.

Over the course of the past year, H.R. 580 has received broad, bipartisan support and currently has 248 cosponsors. But despite the overwhelming support for this bill it does not look likely to be able to move it out of the Ways and Means Committee or the Commerce Committee. If this bill did not make it to the floor, the cost of $1–2 billion that CBO has attached to this bill will hurt its chances of passage in the House and the Senate.

As many of my colleagues who have cosponsored this bill realize, H.R. 580 shouldn't increase cost to the Federal Government at all. In fact, it may even save money. It would allow the same military retirees with the same health problems to use the same doctors, so it should cost no more to the Federal Treasury regardless of whether DOD or Medicare pays the bill. But, because it is a shift from discretionary spending to entitlement spending, the budget numbers reflect an increase in spending.

Mr. Speaker, the bill I introduced on Thursday, March 21, 1996, takes care of this problem. This bill will create a demonstration project of Medicare subvention to DOD to prove the budget neutral stance I, and the 248 cosponsors, have taken on H.R. 580. This new bill, H.R. 3142 attempts to correct the shortcoming of H.R. 580 while at the same time building upon its strengths. This bill should solve the problem we have had in the past with the large CBO pricetag by requiring that DOD maintains the current level of support that it is currently providing military retirees, and having Medicare pick up coverage of additional Medicare-eligible military retirees once DOD has reached its obligated level.

This demonstration will not increase cost to the taxpayer because it will ensure that DOD cannot shift costs to HCFA, and that the total Medicare cost to HCFA will not increase. In fact, this too should actually save money. The Retired Officers Association, in a letter of December 15, 1995, reports that:

> Using 1995 as a baseline, the eligible Medicare population will grow by 1.6 million beneficiaries by 2000. This will increase Medicare's cost by $7.7 billion if new beneficiaries rely on Medicare as their sole source of care. But, with subvention and DOD's 7 percent discount to the Health Care Financing Administration (HCFA), the aggregate cost increase can be reduced by $361 million over that same time frame. Because health care will be managed, further savings could be realized which could be passed on by DOD to Medicare through reduced discounts.

Mr. Speaker, this new legislation makes a good attempt to solve the problems brought on by the CBO cost estimate of Medicare subvention. As DOD's managed health care program, TRICARE, is implemented throughout the country, many military retirees within many of my colleagues' districts will be affected, so I urge my colleagues to support this bill and to become cosponsors.

GENETIC DISCOVERIES AND OUR HEALTH PRIVACY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. STEARNS] is recognized during morning business for 5 minutes.

Mr. STEARNS. Mr. Speaker, should an insurance company be able to deny children medical coverage because their mother died of an inherited heart defect that her children may or may not carry? That is the dilemma facing a California father who cannot get family medical coverage under his group plan as a result of his wife's death. And that is a dilemma crying out for congressional intervention.

Scientific knowledge of the secrets hidden deep inside our genes is advancing at an unbelievable rate. It seems that we learn of a new genetic discovery on a weekly basis. But, as researchers find the genetic mutations that cause specific diseases or that appear to cause a genetic predisposition to specific diseases, a host of ethical, legal, and social complications arise that will take our greatest efforts to resolve.

The human genome project is a 15-year, multinational research effort to read and understand the chemical formula that creates each of the 80,000 to 100,000 human genes. If spelled out using the first 4 letters of the 4 chemicals that make up DNA, that formula would fill one-thousand 1,000 page telephone books, representing 3 billion bits of information. Often, just a single letter out of place is enough to cause disease.

We cannot read this entire genetic script yet, but advances in science indicate that we will be able to soon. In fact, although the project is scheduled for completion in 2005, at its current pace, many experts believe it will be done before then. That means that we need to begin making some very difficult public-policy decisions, now, before those decisions are made by self-interested parties.

Senators MACK and HATFIELD introduced legislation in the Senate on this issue and I have submitted the companion bill, H.R. 2690, the Genetic Privacy and Nondiscrimination Act, in the House. This measure will establish guidelines concerning the disclosure and use of genetic information and protect the health privacy of the American people. Genetic information must not be used—misused—to deny access to health insurance.

This bill will not only safeguard health privacy and help preserve insurance coverage, it will also remove potential barriers to genetic testing. Eliminating the concern about reprisals by insurance companies will facilitate more effective use of genetic tests as they are developed and, therefore, promote cures and treatments. This will sustain the global leadership of the biomedical research industry in the United States.

However, if you can lose your health insurance because your genes show that some day you might require that insurance, clinical trials will become impossible to conduct and new treatments and cures may not be developed. Consequently, it is important to have this protection, which will ultimately lead to improved health care for all Americans.

Congress is moving rapidly now on legislation to reform the American health insurance system. It is likely that a bill could pass the House this month and the Senate next month. A conference agreement between the House and Senate could put the bill on the President's desk well before this Congress adjourns. The House bill is H.R. 3070, the Health Coverage Availability and Affordability Act of 1996. Sponsored by Congressman MICHAEL BILIRAKIS, this measure is a well-thought-out piece of legislation, and I am proud to be a cosponsor.

The bill prohibits denying insurance coverage to an employee or beneficiary

on the basis of health status, which is defined as an individual's "medical condition, claims experience, receipt of health care, medical history, evidence of insurability, or disability." Fortunately, I was able to add two simple words to this list under health status—"genetic information." As medical science discovers what secrets our genes carry, the potential misuse of that information, whether through insurance or some other venue, becomes an ever-increasing possibility.

It is imperative that the strongest possible statutory protections exist against applying this information toward genetic discrimination. In the future, these discoveries of genetic information could lead to employment discrimination. That is why we need to conduct hearings on my bill and to pass the rest of this important legislation. Discoveries of genetic information could be the civil rights battle of the next century.

These two words make a good piece of legislation better, and I hope this language remains in the final health care bill. It is vital to ensure that all Americans, like those two little boys in California, do not have to go without health insurance because of a misspelling in a genetic script that they could not control and did not choose.

Mr. Speaker, I might point out that similar efforts have been made in some 20 States, including Florida, and they have either enacted or are studying laws that would limit the use of genetic information by insurance companies. According to the Council for Responsible Genetics, a nonprofit group that monitors social issues in biotechnology, a genetic underclass is being created by employers and insurers who use genetic tests to deny coverage or jobs.

THE 78TH INCREASE IN NATIONAL DEBT CEILING

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. SMITH] is recognized during morning business for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, day after tomorrow, on Thursday, this Congress is expected to pass its 78th increase in the debt ceiling of this country. Seventy-seven times, so far, we have increased the debt ceiling since the 1940's. We are now at $4.9 trillion of debt. A lot of people in this country, Mr. Speaker, do not really think that they are responsible for this excessive debt. What has happened in the last 40 years is Congress has lost control of spending.

Under section 1 of the Constitution, Congress is responsible for the purse strings. Congress is also responsible for how deep this country goes in debt. We have not only lost control of spending, but we have also lost control of how deep we go in debt, because in the last 7 months we have seen Secretary Rubin and the President of the United States find a new way to drive us deeper in debt without the consent of Congress. That way, of course, was raiding the trust funds that we have in this country.

Day after tomorrow, we are considering tying yet another diminishing of congressional power and tying that to the debt ceiling increase. That is the Presidential line-item veto, and I just want to mention that before I talk about this chart, the Presidential line-item veto.

I served under three Governors in the State of Michigan. In Michigan we have a line-item veto. In every case with every Governor, they traded what they wanted because they had the power of vetoing out what the legislature wanted in particular spending. You know, philosophically, when you have got a liberal Congress and a conservative President, then a line item veto might make sense in terms of trying to reduce spending. But actually what is going to happen with a conservative Congress that is trying to get to a balanced budget and reduce spending and a President that has found it to his political advantage to continue helping people with taxpayers' money; in other words, not reducing spending, not achieving a balanced budget; is that we end up spending more. We end up giving additional congressional authority away to the President.

Let me note, Mr. Speaker, this pie chart that represents the roughly $1.6 trillion expenditure of the Federal Government. If we start with the red triangle on this pie chart that represents about 18 percent of total Federal spending, that represents the 12 appropriation bills where Congress has control of the spending. In other words, if there is no bill passed by Congress, or if it is not signed by the President, then that reduced spending or no spending is what is going to happen.

Where the President has power is in the blue part of this pie chart that represents the welfare program spending and the other entitlement spending of this country. That represents now 50 percent of total Federal Government spending. So that there were some of us that thought it was reasonable to tie changes in the entitlement spending that is going to help us achieve a balanced budget, to tie that to yet another increase in the debt ceiling.

That now is not the plan in the bill that is going to be put before this body day after tomorrow, and I would suggest to you, Mr. Speaker, and through you to the American people, that we cannot balance the budget just by reducing the expenditures in the 12 appropriation bills where Congress now has full control. It just cannot be done.

I have studied this over the past several years. You cannot reduce that expenditure below about $200 billion this next year. It cannot possibly be done and still have a viable operation and system within this country.

That means that, if we are going to balance the budget, we have got to move into the welfare changes in the welfare program and entitlement programs. They are called entitlement programs, Mr. Speaker, because if you are at a certain level of poverty, you are eligible for food stamps. If you are a certain level of income and you have children, you are eligible for AFDC. If you are a certain age, you are entitled to other taxpayer helps in paying your medical costs. There is no money appropriated. It is in the law.

The only way that a majority in Congress can change that law is the consent of the President. I would ask my colleagues, Mr. Speaker, to study the proposal that we are being asked to pass day after tomorrow very carefully. It continues to move us in a direction where we are not going to be able to balance the budget.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12 of rule I, the House will stand in recess until 2 p.m.

Accordingly (at 12 o'clock and 53 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. UPTON] at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

How can we praise You, our God and our King,
How can we serve You with hands that we bring,
How can we love You with hearts that grow weak,
How can we cherish the gifts that we seek.
Yes we can praise You, for You lived us first,
Yes we can serve You, with faith be immersed,
Yes, we can love You, be deeds of good will,
Yes we can cherish Your peace to fulfill. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

VOL 142 PT 5 MR 21—29 1996 UMI

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Maryland [Mr. GILCHREST] come forward and lead the House in the Pledge of Allegiance.

Mr. GILCHREST led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RANK AND FILE OF AFL–CIO WILL CONTINUE TO REJECT THE OLD-STYLE LIBERAL POLICIES OF CLINTON ADMINISTRATION AND LIBERAL UNION BOSSES

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I want to share with my colleagues news of the AFL–CIO's recent convention where the highest officials of the AFL–CIO, under newly elected union president John Sweeney, levied a $35 million tax increase on the rank and file men and women of our Nation's unions. This $35 million tax is being used to support an orchestrated, and highly political campaign to divide our Nation along class and income lines.

Needless to say, Mr. Speaker, the American people, especially the rank and file of our Nation's labor unions, will not allow Mr. Sweeney and the other liberal union bosses to turn back the clock on this Congress' pledge of fundamental change. We will continue our efforts to respond to the people of this great country. We will make the Federal Government smaller, more efficient and more user friendly. We will fight the bureaucrats here in Washington who refuse to let parents and families decide what should be taught in schools. And we will cut wasteful Federal spending so we can put more money back in to the pockets of working families.

Despite the rhetoric of the liberal, elite union leaders, I believe the working men and women of the AFL–CIO, will continue to reject the old-style liberal policies of Mr. Sweeney and the Clinton administration, and support of vision of a stronger, more prosperous America.

GOVERNMENT AND PRIVATE STUDIES, A LITTLE GOOFY?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I thought the Federal Government was a little goofy when they studied bovine flatulence, but there have been a couple of private studies that got my attention. One was the dynamics of peeling adhesive tape. The private study found out that it is very difficult to peel off tape in just one piece.

The second one was the pigeon discrimination of paintings by Monet and Picasso. They determined that, really, pigeons do not discriminate. They may defecate, but no discrimination is involved.

Then there is the big one: the impact of wet underwear on thermoregulatory responses and thermal comfort in cold. What they determined was if you wear wet underwear in frigid weather, you freeze your buns off.

If we think this is a waste of money, check this out, Congress: The FDA has spent $200,000 for tea tasters, $200,000 for a tea-tasting commission.

Mr. Speaker, beam me up. I yield back the balance of all of this money, both private and public.

MAKING HEALTH CARE AFFORDABLE AND ACCESSIBLE

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, last Congress I introduced the only health reform legislation that truly had bipartisan support. The Rowland-Bilirakis bill focused on areas where there was widespread agreement about the need for reform. Unfortunately, this legislation never made it to the House floor.

I recently introduced the Health Coverage Availability and Affordability Act. This bill allows portability, thus permitting people to move from job to job without losing their health coverage.

The bill eliminates prohibitions on preexisting conditions so that individuals can change jobs and still have access to affordable health care. This simple change will dramatically improve the lives of millions of American families. Right now, 25 million Americans are denied health insurance coverage because of a preexisting condition.

Mr. Speaker, we have the best health care system in the world—but there is room for improvement. Our plan improves health care in this country by making it both accessible and, just as important, affordable. I would encourage my colleagues to join me in eliminating job-lock by supporting the Health Coverage Availability and Affordability Act.

TRIBUTE TO THE LATE HONORABLE EDMUND S. MUSKIE

(Mr. LONGLEY asked and was given permission to address the House for 1 minute.)

Mr. LONGLEY. Mr. Speaker, it is my sad duty this afternoon to inform the House of the passing of Senator Edmund Muskie of Maine this morning at about 4 a.m.

Senator Muskie was 81 years of age, a graduate of Bates College and Cornell University Law School, a very distinguished public servant of the citizens of Maine and of the United States. He served three terms in the Maine House of Representatives in 1946 and 1948 and 1950, including a final term as the Democratic floor leader. In 1955, he was elected Governor, he served a second term, and he followed that with a career in the U.S. Senate that began in 1958.

In 1968, he was Democratic candidate for Vice President of the United States and built and earned a tremendous national reputation for his decency, his compassion and his moderation during that difficult time during the end of the Vietnam war. He also served as Secretary of State in the Cabinet of President Jimmy Carter from 1980 to 1981.

While there are many distinctions that we can discuss, not the least among them is the Senator's accomplishment in creating a second party, making Maine a two-party State, which is in the best interest of all of our citizens, but certainly as his legislative accomplishments on the national level are beyond peer, particularly in the area of environmental protection.

Senator Muskie was the author of many of the first pieces of legislation that this body passed back in the early 1960's dealing with the need to protect the quality of our air and our water. There are other issues that I could mention, but I think none more important than the fact that Senator Muskie was a kind and decent man who exercised and practiced respect for all of his constituents and all those with whom he had dealings. His demeanor is going to be missed. Certainly his integrity and his honesty are universally respected.

So we mourn his passing and we also express to his wife, Jane, and his five children, Steven, Ellen, Melinda, Martha, and Edmund, Jr., our deep and sincere regret at his passing.

ON SENATOR EDMUND MUSKIE

(Mr. MORAN asked and was given permission to address the House for 1 minute.)

Mr. MORAN. Mr. Speaker, on behalf of the Democratic minority, it is appropriate to take note of a distinguished Governor, U.S. Senator, Secretary of State, and Vice Presidential candidate. It is on Ed Muskie's shoulders that much of the intellectual foundation of our foreign policy rests in terms of the primary of human rights and the sustainable progress of economic development throughout the world. It was on Senator Muskie's

watch and on his shoulders that these priorities were defined and promoted.

It is also appropriate to say that it was on his giant shoulders, that were so strong with integrity, that many of us lesser public servants have attempted to stand. Senator Muskie always stood tall and made us all proud to be public servants, and we deeply mourn his passing.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, March 27, 1996.

AUTHORIZING RUNNING OF 1996 SPECIAL OLYMPICS TORCH RELAY THROUGH CAPITOL GROUNDS

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 146) authorizing the 1996 Special Olympics Torch Relay to be run through the Capitol Grounds.

The Clerk read as follows:

H. CON. RES. 146

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF RUNNING OF SPECIAL OLYMPICS TORCH RELAY THROUGH CAPITOL GROUNDS.

On May 24, 1996, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate, the 1996 Special Olympics Torch Relay may be run through the Capitol Grounds, as part of the journey of the Special Olympics torch to the District of Columbia Special Olympics summer games at Gallaudet University in the District of Columbia.

SEC. 2. RESPONSIBILITY OF CAPITOL POLICE BOARD.

The Capitol Police Board shall take such actions as may be necessary to carry out section 1.

SEC. 3. CONDITIONS RELATING TO PHYSICAL PREPARATIONS.

The Architect of the Capitol may prescribe conditions for physical preparations for the event authorized by section 1.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 146 would authorize the Special Olympics torch to be run on the Capitol Grounds on May 24, 1996, as part of the journey of this torch to the Special Olympics summer games at Gallaudet University here in the District of Columbia.

This is an annual event and one which this committee has supported several times through resolutions authorizing the use of the Capitol Grounds for this purpose. This year approximately 3,000 members of 60 local and Federal law enforcement agencies throughout the region will participate in this 26-mile relay run through the city in support of the Special Olympics.

This program gives handicapped children and adults the opportunity to participate in sporting events.

Because of laws prohibiting open flames on Capitol Grounds, and because of safety concerns about activities taking place thereon, this resolution is necessary to permit the relay to occur. The resolution authorizes the Capitol Police Board to take necessary action to insure the safety of the Capitol, and the Architect of the Capitol may set forth conditions on the participation of this event.

This is a very worthwhile endeavor and I strongly encourage my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Maryland [Mr. GILCHREST] for the fine job he has done with our subcommittee, and I wholeheartedly support House Concurrent Resolution 146 to authorize the use of the Capitol Grounds for this special event, the Special Olympics Torch Relay. This relay event is traditionally part of the opening ceremonies for the Special Olympics, which takes place at Gallaudet University here in the District. It is a fine annual event.

The games provide athletic competitive opportunities for over 2,200 Special Olympians in 17 respective events. The goal of the games is to help bring all mentally handicapped individuals into the large society under conditions whereby they are accepted and respected. Today more than 1 million children and adults with mental retardation participate in Special Olympics programs worldwide.

I want to thank the gentleman from Maryland [Mr. GILCHREST] for bringing the resolution to the floor and for the fine job he and his staff have done with our subcommittee, and I urge support on this very worthwhile cause.

Mr. Speaker, I reserve the balance of my time.

Mr. GILCHREST. Mr. speaker, I yield myself such time as I may consume in order to thank the gentleman from Ohio [Mr. TRAFICANT] and the gentlewoman from the District of Columbia [Ms. NORTON] for their participation in this worthy event, and for this worthy resolution.

Mr. TRAFICANT. Mr. Speaker, I want to echo those remarks by the gentleman from Maryland.

Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from the District of Columbia [Ms. NORTON], who has done an outstanding job in our Congress.

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding time to me, and for his kind remarks.

Mr. Speaker, I want to thank the chairman of the committee, the gentleman from Maryland, Mr. GILCHREST, as well as the ranking member, the gentleman from Ohio, JIM TRAFICANT, for their leadership on House Concurrent Resolution 146, the Special Olympics torch relay bill.

This body rarely authorizes the use of the Capitol Grounds for staging special events. The 11th annual torch relay for the D.C. Special Olympics is a worthy exception. This event, organized by more than 650 Federal and local law enforcement agencies in the District, is a special part of the opening ceremony for the D.C. Special Olympics at Gallaudet University. This year I am pleased that Coolidge High School in my district is also providing playing fields for some of the events.

The law enforcement torch relay raises both funds and awareness for D.C. Special Olympics. More than 2,400 officers follow the lighted torch through the District. This outpouring is a fitting tribute to the D.C. Special Olympics, and to the 2,200 local Special Olympians in 17 events. I applaud the Downtown Jaycees who started the Special Olympics in 1969, Eunice Shriver, the founder, the law enforcement officers who will participate, and especially, this year's Special Olympians.

Mr. OBERSTAR. Mr. Speaker, I strongly support this resolution to allow the Special Olympics Torch Relay to be run through the Capitol Grounds. The District of Columbia Special Olympics will be held May 13–23, 1996. The Special Olympics torch will be run across Capitol Grounds as part of the opening ceremonies which take place at Gallaudet University. As in the past, local law enforcement officials will participate in carrying the torch to the opening ceremony.

The DC Special Olympics provides opportunity for approximately 2,200 local Special Olympians in 17 events. Worldwide, over 1 million mentally challenged adults and children participate in the Special Olympics program. Through successful experiences and athletic competition, Special Olympians gain confidence, build a positive self image, and greatly enhance their ability to contribute to society.

I thank Mr. GILCHREST for introducing House Concurrent Resolution 146, and I commend him and Mr. TRAFICANT for their leadership on this issue. I wholeheartedly support this resolution and urge its adoption.

Mr. TRAFICANT. Mr. Speaker, I again join forces with the gentleman

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from Maryland [Mr. GILCHREST] to urge an "aye" vote, and I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 146.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING USE OF CAPITOL GROUNDS FOR 1996 NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 147) authorizing the use of the Capitol Grounds for the 15th annual National Peace Officers' Memorial Service.

The Clerk read as follows:

H. CON. RES. 147

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE.

The National Fraternal Order of Police and its auxiliary shall be permitted to sponsor a public event, the fifteenth annual National Peace Officers' Memorial Service, on the Capitol grounds on May 15, 1996, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate, in order to honor the 155 law enforcement officers who died in the line of duty during 1995.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—The event authorized to be conducted on the Capitol grounds under section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board.

(b) EXPENSES AND LIABILITIES.—The National Fraternal Order of Police and its auxiliary shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, the National Fraternal Order of Police and its auxiliary are authorized to erect upon the Capitol grounds such stage, sound amplification devices, and other related structures and equipment, as may be required for the event authorized to be conducted on the Capitol grounds under section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements as may be required to carry out the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 147 would authorize the use of the Capitol Grounds for the 15th Annual Peace Officers' Memorial Service to be held on May 15, 1996. This year, as in past years, the U.S. Capitol Police will be the sponsoring law enforcement agency for this event. During the past year, 155 peace officers have lost their lives in the line of duty. This figure includes many of the dedicated Federal employees who lost their lives in the tragic bombing in Oklahoma City last April.

This year, it is expected that over 2,000 friends and family members of those who lost their lives last year will attend this event, and 15,000 peace officers will also participate.

This is a worthwhile endeavor, and I urge my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge all to join me in supporting House Concurrent Resolution 147 which, as the gentleman from Maryland [Mr. GILCHREST] has stated, will authorize the use of the Capitol Grounds for the National Peace Officer's Memorial Service.

On May 15 of this year the Capitol Police will host law enforcement officials from around the Nation who will gather here to honor their fallen police officers. I would like to take this time to commend our Capitol Police. Many times they go unnoticed, and perhaps it is the lack of those headlines we do not read that are, maybe, the greatest testament to our own Capitol Police. I am proud of the Capitol Police's hosting this event. We should all support it.

In addition to the 155 officers killed in the line of duty in 1995, approximately, Mr. Speaker, 65,000 police officers are assaulted each year, with over 23,000 of our police officers sustaining injuries of some sort.

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Everybody is tragically aware, as pointed out by the gentleman from Maryland [Mr. GILCHREST], of the unfortunate terrorist act in Oklahoma, but very few people realize that the target of those terrorists was our law enforcement personnel, as well as making a statement. It was a direct attack and assault on our law enforcement personnel.

I think it is absolutely fitting and proper that we join here and we allow the use of the Capitol Grounds, by an extension of the authority of Congress that vests that right within us and power within us, to our National Law Enforcement Officers Memorial Service. I believe that that purpose is most fitting.

I want to thank the gentleman from Maryland [Mr. GILCHREST] for the way he has dispatched his duties on this bill and others.

Mr. Speaker, with that, I have no further speakers, I urge an "aye" vote, and I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also want to thank the gentleman from Ohio [Mr. TRAFICANT] for his work on this resolution, for his work on the subcommittee. We have a truly bipartisan subcommittee that endeavors to do the work of the Nation, no matter how corny that might sound.

Mr. Speaker, as I mentioned in my opening statement, there will be over 15,000 police officers attending this memorial service. It is in dedication to the quiet courage of those law enforcement officers that have dedicated their lives to this great country. In that endeavor we pass this resolution.

Mr. OBERSTAR. Mr. Speaker, I join Mr. TRAFICANT and Mr. GILCHREST in supporting use of the Capitol Grounds for the 15th anniversary of the National Peace Officers' Memorial Service. May 15 is the day designated by President Kennedy as the day to honor all men and women who have dedicated and sacrificed their lives in order to protect our lives.

I commend Mr. TRAFICANT for introducing House Concurrent Resolution 147, and for being a staunch supporter of this program. As we all know, the Capitol Plaza is used for the candlelight memorial service, which is the culmination of a series of events honoring peace officers who have been killed in the line of duty. The 1996 service will be hosted by the Capitol Hill Police Department.

Tragically, during 1995, 155 law enforcement officers were killed while on duty. The average age of those officers was 37 years old and they had served the public for 9 years. Four of them were women. It is fitting and commendable that we support the efforts of the Capitol Police and the 675,000 law enforcement officials now serving in the United States.

Mr. Speaker, I strongly support House Concurrent Resolution 147, and I urge my colleagues to join me.

Mr. GILCHREST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 147.

The question was taken; and (two-thirds having voted in favor thereof)

the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

THE 35TH ANNIVERSARY OF THE PEACE CORPS

Mr. BEREUTER. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 158) to recognize the Peace Corps on the occasion of its 35th anniversary and the Americans who have served as Peace Corps volunteers.

The Clerk read as follows:

H.J. RES. 158

Whereas the Peace Corps has become a powerful symbol of America's commitment to expand hope, create opportunity, and encourage development at the grass roots level in the developing world;

Whereas more than 140,000 Americans have served as Peace Corps volunteers in more than 125 countries in Africa, Asia and the Pacific, Central Asia, Eastern and Central Europe, and the Western Hemisphere since 1961, and have strengthened the ties of friendship and understanding between the people of the United States and those of other countries;

Whereas Peace Corps volunteers have made significant and lasting contributions around the world in agriculture, business development, education, the environment, health, and youth development, and have improved the lives of individuals and communities around the world;

Whereas Peace Corps volunteers, enriched by their experiences overseas, have brought to their communities throughout the United States a deeper understanding of other cultures and traditions;

Whereas Peace Corps volunteers embody and represent many of America's most enduring values, such as service, commitment to the poor, and friendship among nations;

Whereas the Peace Corps continues to receive broad, bipartisan support in Congress and from the American people; and

Whereas March 1, 1996 will mark the 35th anniversary of the founding of the Peace Corps: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the achievements and contributions of the Peace Corps over the past 35 years be celebrated; that the dedication and sacrifice of Peace Corps volunteers be recognized and their continued contributions be acknowledged not only for their service in other countries but in their own communities; and that the President is requested to honor Peace Corps volunteers and reaffirm our Nation's commitment to international peace and understanding.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska [Mr. BEREUTER] and the gentleman from Virginia [Mr. MORAN] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 158 recognizes the Peace Corps and its volunteers on its 35th anniversary year. Mr. FARR and the five other original cosponsors of this resolution are all former Peace Corps volunteers now serving their country here in the Congress. Their resolution recognizes the sacrifice and dedication of Peace Corps volunteers, both in their assigned countries and here at home after they return on the occasion of the Corps's 35th anniversary.

I will note that since the first volunteer stepped off the plane in 1961 at a little airport in Ghana, over 140,000 Americans have become Peace Corps veterans in the service of peace, understanding and development. Today, Peace Corps volunteers are older, more experienced and specialized but their mission is still the same: development and basic American values in the developing world at the grassroots level.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the distinguished chairman of the full committee.

Mr. GILMAN. I thank the gentleman for yielding me the time.

Mr. Speaker, we all can agree on the bipartisan strength of the Peace Corps in the 104th Congress. Founded under President Kennedy and its first Director, Sargent Shriver, the Peace Corps grew through the 1960's and 1970's but really came to the crossroads in the 1980's. I want to make a special note for the longest serving Peace Corps Director, Ms. Loret Ruppe, whose energy, drive, and dedication set the Peace Corps' goal that we still support today: 10,000 volunteers by the year 2000. Loret is now struggling with cancer but her mission and her impact on the Corps is still felt today. As Loret used to say, "Peace Corps volunteers are working today to help the African farmer and her husband * * *."

Last month, we debated a highly controversial State Department bill on the House floor. I think that one provision of that bill we could all support was the funding levels for the Peace Corps. The House conferees and especially former Peace Corps Director, Senator PAUL COVERDELL of Georgia, joined together to ensure funding for the Peace Corps, even in these tough budgetary times. Under its new Director, Mark Geran, I think this Congress is expecting a lot from the Peace Corps in its next 35 years.

I recommend this resolution to the House and urge its support.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Nebraska [Mr. BEREUTER], the subcommittee chairman, and the gentleman from New York [Mr. GILMAN], the full committee chairman, for bringing this resolution before the House. It is actually cosponsored by six Members of the House who are former Peace Corps volunteers: MIKE WARD, JIM WALSH, TONY HALL, CHRIS SHAYS, TOM PETRI, and SAM FARR.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FARR] who has come all the way from his district to speak on this.

Mr. FARR of California. Mr. Speaker, I rise today as one of the six returned Peace Corps volunteers now serving in the House, and I rise in support of House Resolution 158, recognizing the Peace Corps' 35th anniversary.

Let me first take a minute to thank Chairman GILMAN and the Ranking Minority Member HAMILTON for bringing this measure to the floor. I also want to thank Mark Geran, who is the Director of the Peace Corps, who has been instrumental in the continuing success of the agency, as well as the other returned Peace Corps volunteers now serving in this country and serving in this Congress, my colleagues Representative TONY HALL of Ohio, Representative TOM PETRI, Representative MIKE WARD, Representative JIM WALSH, and Representative CHRIS SHAYS.

President Kennedy created this international service organization 35 years ago to promote international goodwill. During his powerful inaugural address, he challenged Americans with, "Ask not what your country can do for you, ask what you can do for your country," and many of them, including myself at that time, responded to that call and joined the Peace Corps in the early 1960's. The creation of the Peace Corps was part of this vision of his.

Today, there are currently 7,000 Americans working as Peace Corps volunteers. The average age in 1961, when President Kennedy made his call, was 22 years of age. Today, in 1996, the average age is 29 years old. Over 500 volunteers are over the age of 50. The educational experience of volunteers has grown; more volunteers with graduate degrees than ever before.

Over 140,000 returned volunteers have served in the Peace Corps in more than 125 countries, in Africa, Asia, Eastern and Central Europe. They have also served in the South Pacific and in Latin America.

The Peace Corps was formally established by Executive order on March 1, 1961. Volunteers were sent to Ghana, Colombia, and Tanzania, and over 850 volunteers were in the field by the end of the first year.

Soon volunteers teaching in schools were joined by those working in agriculture, health and nutrition, forestry, and fisheries. In the 1980's, the Peace Corps was refined and developed new initiatives in response to the special needs of the developing world.

In Lesotho, in Mali, and Niger, Peace Corps began the Africa Food Systems Initiative to assist farmers in need of innovative ways to increase food production. In the Caribbean, the Peace Corps has developed initiatives to stimulate job-creating small enterprises.

The Peace Corps has undertaken a lot of new initiatives. The Peace Corps

VOL
142
PT
5
MR
21
—
29
1996
UMI

has plans to send volunteers to South Africa in response to a request for assistance from President Nelson Mandela. The Peace Corps has also resumed its presence in Haiti following the successful Presidential elections. Currently the Peace Corps is investigating the feasibility of sending volunteers to the Middle East and to Cambodia.

The agency plans on development of a crisis corps to respond to natural disasters in developing countries. The story about that reached our office when volunteers were calling about the situation in Rwanda, saying that they had been there and served and spoke the language and knew the customs and the culture. They knew the history and the politics and they wanted to be able to go back. We did not have a facility in law to allow that, so we had to ask the State Department to make a special process for that, and that is what is now being developed into this Crisis Corps, so that indeed when we do have people that have the skills that are needed in countries with disasters, we can immediately get them there.

The purpose of the Peace Corps' mission is to promote world peace. Peace Corps volunteers have made significant and lasting contributions around the world in agriculture, business development, education, environmental health, and youth development, and they have improved the lives of thousands all over the world. The Peace Corps has become a powerful symbol of international humanitarianism.

The Peace Corps teaches volunteers the value of service and the value of commitment. The agency is an example of America's commitment to expanding hope, to creating opportunity and offering the volunteers an experience that they will remember for a lifetime.

At a time when funding for foreign assistance programs is under severe constraints, it is notable that the Peace Corps continues to enjoy strong support in this Congress and among the American people.

The agency is facing a strong future. In Friday's Washington Post it was quoted that the Peace Corps is the employer with the most job openings for graduates of the class of 1996. In fact, the demand for Peace Corps volunteers overseas far exceeds our ability to supply that demand, and I hope that in Congress we will appreciate that as we look at its budget next year and realize this is one area that is extremely cost effective. If we want to get a good bang for the buck, the Peace Corps is there and the countries want us to come.

The annual survey by Black Collegian magazine stated that the agency plans to recruit over 3,000 graduates. That is the third highest employer in the country. So while the Peace Corps is promoting international good will, it is key in benefiting our domestic economy as well.

Please join me and my colleagues in supporting this resolution to recognize the Peace Corps on the occasion of its 35th anniversary, and the contributions and achievements that its volunteers have brought home to America and are now achieving in countries all over the world.

Mr. PORTER. Mr. Speaker, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Illinois.

Mr. PORTER. Mr. Speaker, I would say to the gentleman I have been on the Foreign Operations Subcommittee for 14 of the last 16 years, and the Peace Corps is one of the best things that we do in foreign relations, without any question. Even in the tough budgetary times in which we find ourselves, we have to maintain that commitment and increase it if we possibly can, and make certain that this good program, which after all is people-to-people, not government-to-government, people-to-people, continues and is strongly supported by the Congress.

Mr. FARR of California. Mr. Speaker, I appreciate the support on both sides of the aisle. I think this program is one that we can all be proud of, and in a time when people think that there is debate and rancor among the parties in Congress, I can tell that this is one area where we all agree that America has created a fantastic opportunity for its youth, for its people of all ages to be able to experience overseas living as minorities in another land.

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As a return volunteer, I reflect on my experience every day, and I appreciate the support Congress is giving it.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is amazing that there have only been 140,000 volunteers over the last 35 years, when you consider the profound impact that the Peace Corps has had in the lives of individuals and in fact in the progress of nations around the world. But the impact has also been felt in terms of the volunteers. We just heard from one. There are several others in this body.

The fact is that the leaders in government and in industry in America today in many ways share that common experience of having been Peace Corps volunteers. I hope that will continue to be the case, because not only do we share our national know-how and good will, but we benefit a great deal with that broadened experience.

I just want to say that we in the minority, as well as the gentleman from New York, Chairman GILMAN, expressed for the majority, applaud President Clinton's selection of Mark Gearan to be Director of the Peace Corps. We could not have had a better choice. We appreciate the fact that again we have a broad bipartisan support for this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. FARR of California. Mr. Speaker, I rise today in support of House Joint Resolution 158 recognizing the Peace Corps on its 35th anniversary.

President John Kennedy created this international service organization 35 years ago to promote international good will. During his powerful inaugural speech the young President challenged Americans with, "Ask not what your country can do for you, ask what you can do for your country." The Peace Corps was part of this vision for how Americans could play a positive role in the developing world. In its 35 years, the Peace Corps has come to represent what is best about our country and our character as a people: our ability to forge a spirit of idealism with a commonsense approach to what works for people who need and want our help.

My other returned Peace Corps volunteer colleagues and I know the value of volunteer service and the significance of this fine agency. I had the benefit of serving in the Peace Corps in Colombia in the early 1960's. That experience has led me to serve my community in local, State, and Federal Government. Peace Corps taught me the value of service, responsibility, and commitment.

Currently, there are nearly 7,000 Americans working as Peace Corps volunteers. They work at the grassroots level in places far from their homes and families. Some volunteers do not see other Americans for months at a time. They are completely entrenched in their countries of service. They speak the language, eat their food, and share their culture. They put a face on America and its values around the world.

Volunteers serve in many different programs ranging from the traditional education and health programs to promoting new sustainable programs to benefit agriculture, the environment, and economic development.

Education remains Peace Corps' largest program. Over 40 percent of all volunteers teach English, mathematics, science, and business studies. They work in special education, vocational educations, and nonformal education activities for adults and at-risk youth. In addition to classroom teaching, volunteers work closely with local educators to share methodology, integrate relevant content and resource centers and teaching materials. In Cameroon, volunteers have helped develop a manual on teaching HIV/AIDS prevention in English-language classes. The manual has since been adopted for public use by the Ministry of Education.

Teaching and prevention of HIV/AIDS to citizens in high-risk groups has played a major part in the health services provided by volunteers. In Thailand, volunteers have conducted surveys to help the country update its HIV/AIDS education materials. Other health services performed by volunteers include providing primary health care services to many of the world's women and children including maternal and child health activities, nutrition, community health education, and water and sanitation projects.

Peace Corps is the leader in protecting the global environment. The focus of the environmental strategy is on community work, teaching conservation of national resources, and

sustainable resource management. Much of the environmental work is in forestry management, reforestation, and watershed management. The fastest growing new project activity is environmental educations. Volunteers in Tanzania, home of the largest wildlife refuge, are involved in projects ranging from codifying Tanzanian environmental law to ensure protection of exported birds to preparing a management plan for Ileje Forestry Reserve and teaching environmental education in the schools.

Food production remains to be a priority for many nations in Africa, Asia, Latin America, and the former Soviet Union. Rapidly expanding populations, changes in climate, and a series of natural and man-made disasters have created serious food shortages. With most people in developing nations still practicing subsistence farming, there is a critical need to introduce and apply sustainable agricultural techniques to village farmers. In Guatemala, volunteers are teaching farmers how to increase their family incomes and produce animal protein for dietary intake through the integration of fish and small animal production.

The fastest growing program for volunteers is economic development especially in Eastern Europe. Volunteers promote local economic development through self-sustaining income and employment producing practices. Working with local community leaders, businesses, and trade associations, volunteers teach business management, commercial banking and related skills assisting local efforts to establish free market economies. In Poland, a volunteer has been instrumental in establishing 46 small businesses with no-interest loans from the local government with only a 6-percent default rate.

The Peace Corps has become a powerful symbol of international humanitarianism. It is a goal which hundreds of people strive toward each year. Not just young college graduates, but people of all ages. In fact, 9 percent of Peace Corps volunteers are over 50 years old.

The Peace Corps remains a popular calling; there is not one State in the country which has not sent a Peace Corps volunteer. In my State of California, over 20,000 people have volunteered to serve around the world.

The Peace Corps has become a powerful symbol of America's commitment to expand hope, create opportunity, and encourage development at the grassroots level in the developing world.

Volunteers embody and represent many of America's most enduring values, such as service, commitment to the poor, and friendship among nations. Returned volunteers, enriched by their experiences overseas, have brought to their communities throughout the United States a deeper understanding of other cultures and traditions.

At a time when funding for foreign assistance programs is under severe constraints, it is notable that the Peace Corps continues to enjoy strong support in the Congress and among the American people. That is a tribute to the thousands of Americans—young and old—who have served over the past 35 years, often under very difficult conditions. And it is a tribute to the visionary but simple idea behind the Peace Corps: that the world will be a more peaceful place if we understand one another better and if we can help those in need improve their own lives and that of their families and communities.

Join me in supporting House Joint Resolution 158, recognizing and honoring the Peace Corps' achievements and contributions and its volunteers over the past 35 years.

Mr. HALL of Ohio. Mr. Speaker, let me begin by thanking my colleague from California, Mr. FARR, for his work on this resolution, and his consistent efforts in the past to recognize and support the Peace Corps.

Since 1961, when President John F. Kennedy signed an Executive order establishing the Peace Corps, 140,000 men and women have represented America by volunteering in 125 countries around the world. I am proud to say that I am among that number.

For me, the Peace Corps represents the best that this Government has to offer. When we bring together dedicated, energetic people and arm them with tools to work in foreign communities as ambassadors of peace, things happen—people's lives improve—and we all benefit. Today, nearly 7,000 such dedicated individuals are serving as Peace Corps volunteers in 94 different countries. They are improving the environmental, agricultural, and business infrastructures in those nations. They are educating the children, caring for the sick, and teaching the poorest of the poor how to help themselves. But, most importantly, these volunteers are the face of America for people across the globe. They are people-to-people diplomats building a peaceful world from the ground up.

But, it's not easy. I know first-hand the challenges and difficulties that these Peace Corps volunteers face. I also know the tremendous rewards. My Peace Corps experience changed my life. When I graduated from college in 1964, I had dreams of playing pro football, making big money, and driving fast cars. Instead, I ended up teaching English and riding a bicycle through the jungles of Thailand.

During my first night in Thailand, I sat in a restaurant and watched a cat chase a rat across the floor and devour it. I thought, "What am I doing here." But, as I got to know the people in the village, my whole outlook changed. I came home from Thailand with a better understanding of the world, with my priorities in order, and prepared for a life of public service.

No other institution does what the Peace Corps does. It serves the needy of the world in concrete, practical ways. It promotes world peace. And, every year, it brings 3,000 experienced, multicultural, and compassionate volunteers back home to America. During its long and distinguished history, the Peace Corps has enjoyed wide public approval and bipartisan support here in Congress. I certainly hope that that support continues as the 1997 appropriation process goes forward.

Today, as it celebrates its 35th anniversary, the Peace Corps deserves our highest recognition and I commend all of its past and current volunteers for 35 years of success.

Mr. QUINN. Mr. Speaker, 35 years ago President John F. Kennedy had a dream. He wanted to share America's idealism and know-how with other nations, not just through impersonal foreign aid loans or grants, but more importantly through direct people-to-people contact. He wanted American citizens to work directly in foreign nations, helping those in need to learn how to develop the basic skills necessary to promote their own well-being and advancement. As a result of his dream turned into reality, whole societies have gained insight and experience in improving their lives, from learning how to drill wells and improve their agricultural output to developing the social, educational, and medical skills necessary for their well-being.

This program, established through the Peace Corps Act of 1961, now provides programs in over 90 different countries. Its purpose, to promote world peace and friendship, to help other countries in meeting their needs for trained men and women, and to promote understanding between the American people and other peoples served by the Corps has had an unprecedented record of success.

Volunteers from throughout the Nation, including many from my own northwestern New York, have selflessly given of themselves through 2-year commitments in foreign countries where they lived and worked as integral parts of the communities in which they served.

Peace Corps volunteers today work in six basic program areas: Education, agriculture, health, small business development, urban development, and the environment. Community-level projects are designed to incorporate the skills of volunteers with the resources of host country agencies and other International assistance organizations to help solve specific development problems, often in conjunction with private volunteer organizations.

In the United States, the Peace Corps also serves an important purpose in promoting a better understanding of the people and cultures of other countries. Through the Peace Corps World Wise Schools Program, volunteers are matched with elementary and junior high schools throughout our Nation to encourage an exchange of letters, pictures, music, and artifacts. Participating students increase their knowledge of geography, languages, and different cultures, as well as learning the value of volunteering, whether in their own communities or in faraway nations.

The Peace Corps is a dream that fortunately became a reality. It is a program for which every American can be proud, both for what it has accomplished and for what it is now doing. To the Peace Corps and its thousands of volunteers, I offer a sincere congratulations and thank you on this, its 35th anniversary.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from Nebraska [Mr. BEREUTER] that the House suspend the rules and pass the joint resolution, House Joint Resolution 158.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

VOL
142
PT
5
MR
21
—
29
1996
UMI

DETERIORATION OF HUMAN RIGHTS IN CAMBODIA

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 345), expressing concern about the deterioration of human rights in Cambodia, as amended.

The Clerk read as follows:

H. RES. 345

Whereas the Paris Peace Accords of 1991 and the successful national elections of 1993 ended two decades of civil war and genocide in Cambodia, demonstrated the commitment of the Cambodian people to democracy and stability, and established a national constitution guaranteeing fundamental human rights;

Whereas since 1991 the international community has contributed more than $3,000,000,000 to peacekeeping and national reconstruction in Cambodia and currently provides over 40 percent of the budget of the Cambodian Government;

Whereas recent events in Cambodia, including the arrest and exile of former Foreign Minister Prince Sirivudh, the expulsion of the former Finance Minister Sam Rainsy from the government coalition FUNCINPEC Party and the National Assembly, a grenade attack against the independent Buddhist Liberal Democratic Party of Cambodia, and mob attacks against pro-opposition newspapers, suggest that Cambodia is sliding back into a pattern of violence and repression;

Whereas rampant official corruption in the Cambodian Government has emerged as a major cause of public dissatisfaction, which in turn has resulted in the government crackdown against these outspoken opposition politicians and the press;

Whereas heroin traffic in and through Cambodia has become so widespread that Cambodia has been added to the Department of State's list of major narcotics trafficking countries;

Whereas the desire to cite Cambodia as a success story for United Nations peacekeeping and international cooperation has stifled the expression of concern about deteriorating human rights conditions in Cambodia; and

Whereas conditions in Cambodia have deteriorated since the House of Representatives passed House Bill 1642 on July 11, 1995, which grants Cambodia unconditional most favored trading status: Now, therefore, be it

Resolved, That the House of Representatives—

(1) urges the Secretary of State to make human rights concerns among the primary objectives in bilateral relations with Cambodia;

(2) urges the Secretary of State to closely monitor preparations for upcoming Cambodian elections in 1997 and 1998 and attempt to secure the agreement of the Cambodian Government to full and unhindered participation of international observers for these elections;

(3) urges the Secretary of State to support the continuation of human rights monitoring in Cambodia by the United Nations, including monitoring through the office of the United Nations Center for Human Rights in Phnom Penh and monitoring by the Special Representative of the United Nations Secretary General for Human Rights in Cambodia;

(4) urges the Secretary of State to encourage Cambodia's other donors and trading partners to raise human rights concerns with Cambodia;

(5) supports efforts by the United States to provide assistance to Cambodia to broaden democratic civil society, to strengthen the rule of law and to ensure that future elections in Cambodia are free and fair; and

(6) urges that the United States raise human rights concerns at the June 1996 meeting of the Donor's Consultative Meeting for Cambodia and during consideration of projects in Cambodia to be financed by international financial institutions.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Virginia [Mr. MORAN] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it has been 2 years since Cambodia had its first democratic election that brought to power the current coalition government.

Over the past 4 years, the United States donated some $700 million to the efforts to help Cambodia rebuild its economy and become a democracy.

But some very serious problems remain.

Last year the Cambodian National Assembly passed a provision to the press law that will allow the Government under the vague rubric of national security and political stability virtually unfettered power to confiscate and close down newspapers and charge journalists with criminal offenses.

The government has requested prosecution and closure of several Cambodian newspapers, as well as the highly regarded English language weekly, the Phnom Penh Post.

In addition to these problems, there are the serious questions surrounding the unsolved killings of three journalists, and the expulsion and threatened expulsion of members of parliament who expressed views critical of the ruling coalition.

One trial ended with the conviction of Thun Bun Ly, the editor of Khmer Ideal on charges of disinformation for critical and satirical essays that the paper published.

The newspaper has been closed and Thun Bun Ly has been fined 10 million riel—$4,000—and sentenced to 2 years of imprisonment should he fail to pay in 2 months.

The Congress needs to closely watch the situation in Cambodia. The leaders of that nation need to permit the development of an independent judiciary, to allow for complete freedom of the press and independent political participation.

Another important issue is the drug trade. there are many reports coming out of the region pointing out that Cambodia's army and security apparatus is providing transportation and protection for the heroin trade.

I want to thank the chairman of the subcommittee, Mr. BEREUTER, and the ranking minority member, for their work on House Resolution 345.

House Resolution 345 expresses important American concerns and I wholeheartedly support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Democratic minority is going to support this resolution as amended. We do wish it was a little bit more balanced. It is true certainly that the human rights situation in Cambodia has deteriorated over the past year, but the resolution does not adequately recognize the difficulties that Cambodia faces.

Cambodia is not a police state. It is far more open and free than many of its neighbors. Unlike many of its neighbors, it has an active opposition press that does not hesitate to criticize the government and, in many ways, in an inflammatory language that we would be shocked at in this country.

While it is true that government troops have committed human rights violations, it is also true that the Cambodian Government and military have stepped up their efforts to ensure that these abuses are not repeated. The U.S. Government is in fact funding those efforts.

So I would urge my colleagues not to give up on Cambodia, given that country's tragic history over the past quarter century in which we played a significant role. We should not be surprised if it fails to fully live up to our ideals on human rights. Progress is being made.

Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER], the distinguished chairman of our Subcommittee on Asia and the Pacific.

Mr. BEREUTER. Mr. Speaker, I want to thank the chairman of the committee for yielding me this time and for his support.

Mr. Speaker, this Member introduced House Resolution 345 to put the Cambodian Government on notice that the House is increasingly concerned about the deterioration of democracy and human rights in that country. The resolution at the desk includes two minor technical corrections. the first corrects the date of upcoming elections; the second notes the fact that Cambodia has been added to the State Department's list of narcotics trafficking countries.

Mr. Speaker, Cambodia has made tremendous strides toward democracy since the killing fields of Pol Pot and the Vietnamese occupation; but serious problems remain. House Resolution 345, while commending the Cambodian people for their commitment to democracy and stability, expresses serious

concern about human rights problems in that country. This Member is concerned that the desire by the administration and the international community to cite Cambodia as a success story for U.N. peacekeeping has stifled the expression of concern about the deterioration of democracy and human rights conditions in Cambodia.

On September 21, 1995, the Subcommittee on Asia and the Pacific held hearings on internal stability, democracy, and economic development in Cambodia. At this hearing, several well-informed private witnesses, including the International Republican Institute, described a serious deterioration of democracy and human rights in Cambodia during the last 12 months.

Few people have experienced as much suffering the last 30 years as the people of Cambodia. Cambodia was drawn into the Vietnam war. The country endured 3 years of tyrannical rule by the Khmer Rouge [KR], under which more than 1 million Cambodians perished. Cambodia was invaded by Vietnam in 1979 and then suffered another 12 years of civil war.

Cambodia's road back from this horror began with the October 1991 Paris Peace Accords, under the auspices of the United Nations. These accords led to remarkably successful national elections in May 1993, during which 90 percent of Cambodia's eligible voters braved threats from Pol Pot and his henchmen and voted to install a democratic parliamentary system of government. Cambodia's national unity coalition government, which resulted from these elections, demonstrates the desire of the Cambodian people for representative government and stability.

The 1993 elections, however, were only the first step toward democracy in Cambodia. The impediments remain formidable: the Khmer Rouge continues to fight a low intensity war against the Government; the former ruling party—the ex-communist Cambodian People's Party—has found it difficult to share power; the royalist party which won the elections has been charged with corruption; and, the Government seems to be drifting toward authoritarianism.

Not only are there questions about the depth and staying-power of the current democratic system in Cambodia, but the Government of Cambodia has taken some troubling actions. As a parliamentarian, and Member of Congress, I am very troubled by what appears to be an increasing tendency toward intolerance of dissent in the Cambodian National Assembly. The expulsion from the National Assembly of the outspoken Sam Rainsy, the arrest and exile of former Foreign Minister Prince Sirivudh, and the threatened expulsion of other legislators is of particular concern. Moreover, the arrest of some journalists and the enactment of a restrictive press law raise questions about the Cambodian Government's commitment to free speech and a free press.

Mr. Speaker, since the House acted to approve most-favored-nation trading status for Cambodia earlier this year, we certainly now need to balance that action with a straightforward message to Phnom Penh on human rights violations. That is exactly what House Resolution 345, as amended, does.

One positive sign, which could make a long-term contribution to democracy and human rights in Cambodia, is the strong network of local and international nongovernment organizations. This Member commends the Government for its continued welcoming of NGO's in that country and hopes this positive attitude will continue.

The resolution urges the administration to bring a larger effort to making democracy and human rights concerns among our primary objectives in bilateral relations with Cambodia, calls for close monitoring of important upcoming elections, supports democratization efforts of United States assistance programs, and urges that the United States and other donors raise democracy and human rights at the June 1996 meeting of the Donor's Consultative Meeting for Cambodia.

Mr. Speaker, House Resolution 345 represents a balanced and constructive effort to advance democracy and human rights in Cambodia. This Member wants to thank the distinguished gentleman from New York and chairman of the House International Relations Committee, [Mr. GILMAN] and the distinguished Member from California and ranking member of the Subcommittee on Asia and the Pacific, [Mr. BERMAN] for their assistance and support for this resolution. This Member urges all his colleagues in this body to support House Resolution 345, as amended.

Mr. GILMAN. Mr. Speaker, I thank the distinguished chairman of our subcommittee, the gentleman from Nebraska [Mr. BEREUTER] for his supportive comments.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HORN. Mr. Speaker, the recent appalling murder of Haing S. Ngor has refocused the world's attention on the horrors suffered by the Cambodian people at the hands of the Khmer Rouge. Mr. Ngor worked tirelessly to remind us that human rights tragedies were still occurring in his native country. We must continue his work.

I strongly support House Resolution 345 expressing concern about the deterioration of human rights in Cambodia. Our Government must support efforts to establish a strong, free society there—and rally other nations to join us. Anything less would dishonor Mr. Ngor and the 1 million Cambodians who have died at the hands of tyranny over the last two decades.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, House Resolution 345, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

□ 1445

ANNIVERSARY OF MASSACRE OF KURDS BY IRAQI GOVERNMENT

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 379) expressing the sense of the House of Representatives concerning the eighth anniversary of the massacre of over 5,000 Kurds as a result of a gas bomb attack by the Iraqi Government.

The Clerk read as follows:

H. RES. 379

Whereas over four million Kurds live in Iraq, composing 20 percent of the population;

Whereas the Iraqi Government has continually taken violent actions against Kurds living in Iraq;

Whereas, on March 17, 1988, the Iraqi Government, by its own admission, used chemical weapons against Iraqi Kurd civilians in the Kurdish frontier village of Halabja, resulting in the death of over 5,000 innocent persons;

Whereas this terrible, inhumane act by the repressive Iraqi Government provoked international outrage;

Whereas the Iraqi Government continued its use of chemical weapons against a defenseless Kurdish population throughout 1988;

Whereas over 182,000 Iraqi Kurds were killed by the Iraqi Government during the Anfal campaigns in 1988;

Whereas it was not until the international response to Iraq's invasion of Kuwait in 1990 that the international community instituted measures to destroy Iraq's arsenal of weapons of mass destruction;

Whereas the Iraqi Government has laid over 20 million mines throughout the Kurdish countryside which continue to hamper efforts of rehabilitation of the displaced population;

Whereas United Nations Security Council Resolution 688 of April 1, 1991, demanded that Iraq cease repression of its citizens and called for an international relief program for the Iraqi civilian population and, in particular the Kurdish population;

Whereas, since the spring of 1991, the United States, Britain, and France have enforced by daily overflights a no-fly zone over Iraq north of the 36th parallel;

Whereas, in addition to the allied air umbrella, the United Nations carries out relief and security operations in Iraq, with emphasis on the Kurdish region;

Whereas, since 1991, the United States has provided approximately $1.2 billion to support humanitarian and protective activities, known as Operation Provide Comfort, on behalf of the Iraqi Kurds; and

Whereas there will never truly be peace for the Iraqi Kurds without justice being carried out against their Iraqi perpetrators: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the United States Administration should—

VOL 142 PT 5 MR 21—29 1996 UMI

(1) mark the eighth anniversary of the death of over 5,000 Iraqi Kurds in the 1988 chemical attack by the Iraqi Government on Halabja by commemorating all those innocent men, women, and children who lost their lives;

(2) reaffirm the United States' commitment to protect and help the Kurdish people in Iraq, thus ensuring that the tragedy of Halabja will never be repeated;

(3) support efforts to promote a democratic alternative to the present regime in Iraq which will assure the Kurdish people the right to self-government through a federal system; and

(4) renew efforts to establish an international war crime tribunal to prosecute Iraqi leaders involved in crimes against humanity and war crimes.

The SPEAKER pro tempore (Mr. UPTON). Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Virginia [Mr. MORAN] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Resolution 379, legislation introduced by our distinguished colleague the gentleman from Illinois [Mr. PORTER], which expresses the sense of Congress regarding the eighth anniversary on March 17, 1996, of the massacre of 5,000 Iraqi Kurds as a result of a gas bomb attack by the Iraqi Government.

The United States is well aware of the brutal actions of Saddam Hussein's regime against Iraqi minorities, particularly Iraqi Kurds, who are now protected in northern Iraq by Operation Provide Comfort. United States support for Operation Provide Comfort is substantial, through our participation in monitoring the no-fly zone over Iraq north of the 36th parallel, and through our approximately $1.2 billion in humanitarian and protective activities there to assist the Kurds in the north, in which we are also able to deter Saddam's aggression.

House Resolution 379 recalls the events of March 17, 1988, and calls upon the administration to: Commemorate the memories of those innocents who lost their lives in that tragic attack; reaffirm the United States commitment to protect and assist the Kurdish minority in Iraq, to ensure that the Halabja massacre does not happen again; support efforts to promote a democratic alternative to the present regime in Iraq which will assure the Kurds the right to self-government through a federal system; and renew efforts to establish an international war crimes tribunal to prosecute Iraqi leaders involved in crimes against humanity.

Mr. Speaker, the gentleman from Illinois [Mr. PORTER] is to be commended for his sponsorship of this resolution, and for his consistent leadership in fighting for human rights. Accordingly, I support the gentleman's resolution, and urge my colleagues to support it as well.

Mr. Speaker, I reserve the balance of my time.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

The minority applauds this resolution introduced by the gentleman from Illinois [Mr. PORTER] and appreciates the gentleman from New York [Mr. GILMAN], the chairman, bringing it to the floor. It is appropriate that we express our sense of outrage over the massacre of 5,000 Kurds by gas bomb attack. It is a timely reminder that we have to continue our vigilance and pressure against Iraq with and on behalf of the international community.

This resolution reaffirms our commitment to protect and to help the Kurdish people in Iraq. It supports efforts to promote a democratic alternative to the present regime in Iraq which will assure the Kurdish people the right to self-government through a federal system, and it calls on the administration to renew efforts to establish an international war crimes tribunal to prosecute Iraqi leaders involved in crimes against humanity and war crimes and their principal leader, in particular, Saddam Hussein.

So this is a good resolution, and we would urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. PORTER], distinguished co-chairman of our human rights caucus, who has been a leader in our battle for human rights and has brought this Kurdish problem to our attention for a number of years.

Mr. PORTER. Mr. Speaker, I thank the distinguished chairman for yielding time to me. I particularly thank him for his tremendous leadership in fighting for the rights of minorities all across the world.

He has been steadfast in his support for the Kurdish people, the largest ethnic group in the world not to have a country of their own, 25 million people divided between Turkey, Iraq, Iran, and Syria. The gentleman from New York has been absolutely outstanding in his leadership, to draw our attention to their plight in several of these countries and to fight for their basic human rights.

Mr. Speaker, 8 years ago on March 17, 1988, Saddam Hussein's regime attacked the Kurdish town of Halabja using poison gas and nerve gas. Over 5,000 civilians, including women and children, perished in this attack. Following the attack, the Iraqi Government demonstrated just how terrible and inhumane it is by continuing its reign of terror against the Kurds.

Throughout 1988, over 182,000 Iraqi Kurds were killed by the Iraqi Government in vicious gas attacks. It was not until Iraq's invasion of Kuwait in 1990 that the international community stepped forward and took measures to destroy Iraq's arsenal of weapons of mass destruction.

Today the United States and the international community support efforts to protect the Iraqi Kurds. The United States has been instrumental in ensuring that humanitarian assistance reaches Kurds in Iraq and that they are protected from Iraqi Government attacks.

The plight of the Iraqi Kurds, however, remains precarious at best. Saddam Hussein continues to terrorize the Kurdish region through acts of sabotage and economic embargo. Additionally, over 20 million land mines laid by the Iraqi Government throughout the Kurdish countryside continually hamper relief efforts. Today there are posed on the edge of the Kurdish area 100,000 Iraqi troops threatening those areas.

Mr. Speaker, the Iraqi Government refuses to guarantee its citizens basic human rights and the right to live under the rule of law. The United Nations imposed sanctions as a result of Iraq's 1990 invasion of Kuwait. Saddam Hussein continuously refuses to comply with the U.N. Security Council resolutions.

As a result, the economy continues to deteriorate, but it is not Saddam Hussein who suffers the terrible cost of a debilitating economy, Mr. Speaker. Instead, those who bear the burden of a dictator's cruel and senseless policy are the innocent citizens who are refused the right to change their government and whose freedoms of expression and association are denied. Basic human rights only exist in the Kurdish-controlled areas in the north because of the protection of international forces.

Iraq must continue to be ostracized from the community of nations, Mr. Speaker, until its conduct begins to approach a respect for basic rights of each human being to live, to worship and to speak according to the dictates of his or her own conscience.

We must never ever forget those Iraqi Kurds who lost their lives as the result of the terrible, despicable acts of a repressive dictator. Mr. Speaker, the responsibility falls to us to ensure that their memory forever remains alive.

Mr. Speaker, past events make crystal clear that Saddam Hussein would attack the Kurds tomorrow if the United States did not protect them. Since 1991, Operation Provide Comfort has provided humanitarian assistance and protective activities on behalf of the Iraqi Kurds.

Without the support both morally and economically of the United States, I believe without the slightest doubt that many more innocent Kurdish men, women, and children would have lost their lives. The United States must continue to stand with those like the

Iraqi Kurds who refuse to surrender their basic human rights to the present repressive and monstrous ways of dictators like Saddam Hussein.

Mr. Speaker, with the passage of this resolution today, Congress will go on record as commemorating the March 17, 1988 attack on the Iraqi Kurds and reaffirming strong United States support for the Kurdish people of Iraq. I strongly urge the adoption of this resolution.

Mr. Speaker, let me also comment upon a related matter. Recently our ally, Turkey, has chosen a new prime minister, Mesut Yilmaz. He has recently called for a new dialog with Greece that would intend to resolve many ongoing disputes and to bring Turkey and Greece into the kind of relation, or allies with one another, that would reflect well upon both countries and would lead to a lessening of tensions in the geographic region.

As part of that announcement, Prime Minister Yilmaz also said that he would like to open a border gate with Armenia, if he saw clear signs of progress toward a peace settlement between Armenia and Azerbaijan in their 5-year war over Nagorno-Karabakh.

He also said, Mr. Speaker, that regarding the repression of the Kurds in southern Turkey by the Turkish Government, that he would put upon the table a plan that would include granting the Kurds in Turkey cultural liberties such as the Kurdish language education that moderate Kurdish groups have long sought.

Mr. Speaker, he said also that the state of emergency would gradually be lifted in the southeast region and that measures would be taken to stimulate its economy which has suffered during the long conflict.

Mr. Speaker, he said that, and I quote, "after having witnessed such terrible events in the past, after losing 15,000 people. I believe we have come to a common understanding that this problem can be solved only by peaceful means and not by military means."

Mr. Speaker, this is extremely good news. This is what the United States and those of us in Congress concerned with the plight of the Kurds in Turkey have long sought. If the Turkish Government can follow through and the Turkish people can support their new prime minister in this endeavor, I believe that the lives of thousands and thousands of innocent people, part of the Kurdish minority as well as the lives of Turkish citizens will be spared.

I commend the new prime minister, Mr. Yilmaz, on taking this initiative. I know that it takes great political courage in Turkey to do so. We will promise that we will work together with the Turkish Government to achieve the settlement of differences with Greece, the opening of a positive relationship with Armenia and on the resolution of the terrible conflict in southeast Turkey that has claimed so many lives, made so many people homeless and refugees in their own country and had plagued the entire country for such a long, long time.

□ 1500

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

I want to commend the gentleman from Illinois [Mr. PORTER] first and foremost for this fine resolution and for his leadership on these issues. He has been tenacious over the years in raising the issue of the such maligned and troubled Kurds who have suffered so much, and I want to thank him for remembering, through this resolution, that horrible day when some 5,000 people were killed by poison gas.

I will never forget the picture of that mother clutching her young child, with the child's mouth gaping open. As a result of the gas, the impact of the gas, there was a look of absolute fright on both mother and baby; just one of the Kurds killed by Saddam Hussein, one of the many.

I also want to remind everyone that the regime of Saddam Hussein continues to kill, torture and illegally imprison members of the Kurdish minority in Iraq, as well as anyone else who displeases the regime. Relief workers who have gone in to help the Kurdish refugees have also been the victims of extrajudicial executions as well as disappearances.

Mr. Speaker, back in the early 1990's I was part of the Speaker's mission that went to the refugee camps on the border of Turkey and Iraq and met with many of the Kurds who were fleeing the repression. It was right in the aftermath of the Persian Gulf war, and the Republican Guard were in hot pursuit of this Kurdish minority. It was very compelling and encouraging for me to see how our military carried on "Operation Provide Comfort." They came in, they organized, and they were able to provide the logistical support for medicines and food to be dispersed, and thousands of Kurds were spared because of the humanitarian efforts of the United States military as part of "Operation Provide Comfort". After several months, the situation was stabilized, and the baton was passed to the nongovernmental organizations that then carried on the good work of providing this important relief.

Mr. Speaker, as my good friend and colleague, the gentleman from Illinois [Mr. PORTER], pointed out, the Kurds do suffer much in Turkey as well. We have had hearings, on the subject including one just this morning. The gentleman from Virginia [Mr. MORAN] was there, the gentleman from New York [Mr. GILMAN], the gentleman from Illinois [Mr. HYDE] and other members of our committee and subcommittee, and we focused on one of these areas, the proposed sale of Cobras to Turkey. As the chair of the Subcommittee on International Operations & Human Rights I believe that it would be outrageous to send Cobras to Turkey after the military might of the Turkish regime has been used in an ethnic cleansing effort against the Kurds, again another sad chapter in the kind of cruelty that these people have had to endure.

What is pointed out in this resolution, the massacre of the 5,000, is but one rather large and very terrible event in a series of tragedies that have been visited upon the suffering Kurdish minorities. So this is an important resolution, and I urge its passage.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of the time.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say I am encouraged by what the gentleman from Illinois [Mr. PORTER] shared with us in terms of the new leadership in Turkey. That is major progress, to consider opening up the supply lines, economic and humanitarian supply lines, to Armenia if we can make progress in terms of the conflict with Azerbaijan. Certainly, starting to hear the relationship with Greece is a step in the right direction. Some of us would like to see a recognition of the Armenian genocide, which has been a problem in terms of improved relations with Turkey. But perhaps with new leadership we will continue to move forward.

This resolution, however, is entirely in order, and we strongly support it.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, House Resolution 379.

The question was taken.

Mr. PORTER. Mr. Speaker, on that demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

EMANCIPATION OF IRANIAN BAHA'I COMMUNITY

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 102), concerning the emancipation of the Iranian Baha'i community.

The Clerk read as follows:

H. CON. RES. 102

Whereas in 1982, 1984, 1988, 1990, 1992, and 1994 the Congress, by concurrent resolution, declared that it holds the Government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i Faith, Iran's largest religious minority;

VOL
142
PT
5
MR
21
—
29
1996
UMI

Whereas the Congress has deplored the Government of Iran's religious persecution of the Baha'i community in such resolutions and in numerous other appeals, and has condemned Iran's execution of more than 200 Baha'is and the imprisonment of thousands of others solely on account of their religious beliefs;

Whereas the Government of Iran continues to deny individual Baha'is access to higher education and government employment and denies recognition and religious rights to the Baha'i community, according to the policy set forth in a confidential Iranian Government document which has revealed by the United Nations Commission on Human Rights in 1993;

Whereas all Baha'i community properties in Iran have been confiscated by the government and Iranian Baha'is are not permitted to elect their leaders, organize as a community, operate religious schools or conduct other religious community activities guaranteed by the Universal Declaration of Human Rights; and

Whereas on February 22, 1993, the United Nations Commission on Human Rights published a formerly confidential Iranian Government document that constitutes a blueprint for the destruction of the Baha'i community and reveals that these repressive actions are the result of a deliberate policy designed and approved by the highest officials of the Government of Iran: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) continues to hold the Government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i community, in a manner consistent with Iran's obligations under the Universal Declaration of Human Rights and other international agreements guaranteeing the civil and political rights of its citizens;

(2) condemns the repressive anti-Baha'i policies and actions of the Government of Iran, including the denial of legal recognition to the Baha'i community and the basic rights to organize, elect its leaders, educate its youth, and conduct the normal activities of a law-abiding religious community;

(3) expresses concern that individual Baha'is continue to suffer from severely repressive and discriminatory government actions, solely on account of their religion;

(4) urges the Government of Iran to extend to the Baha'i community the rights guaranteed by the Universal Declaration of Human Rights and the international covenants of human rights, including the freedom of thought, conscience, and religion, and equal protection of the law; and

(5) calls upon the President to continue—

(A) to assert the United States Government's concern regarding Iran's violations of the rights of its citizens, including members of the Baha'i community, along with expressions of its concern regarding the Iranian Government's support for international terrorism and its efforts to acquire weapons of mass destruction;

(B) to emphasize that the United States regards the human rights practices of the Government of Iran, particularly its treatment of the Baha'i community and other religious minorities, as a significant factor in the development of the United States Government's relations with the Government of Iran;

(C) to urge the Government of Iran to emancipate the Baha'i community by granting those rights guaranteed by the Universal Declaration of Human Rights and the international covenants on human rights; and

(D) to encourage other governments to continue to appeal to the Government of Iran, and to cooperate with other governments and international organizations, including the United Nations and its agencies, in efforts to protect the religious rights of the Baha'is and other minorities through joint appeals to the Government of Iran and through other appropriate actions.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Virginia [Mr. MORAN] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of House Concurrent Resolution 102, concerning the emancipation of the Iranian Baha'i community and would like to urge all house Members to support this timely, important measure. I congratulate the Gentleman from Illinois [Mr. PORTER] for again championing this important cause by introducing this measure. This resolution is the latest in a series of resolutions concerning the continuing repression of the Baha'i community, and other religious minorities in Iran that have been adopted by the Congress since 1982.

It is truly a sad irony that since its founding the Baha'i religion, which itself poses no threat to secular authority anywhere, has been singled out for such harsh repression in Iran and other parts of the Middle East. I salute those who have courageously maintained their faith in the face of repression and who have too often paid the supreme price for their belief.

The closing years of this century have been marred by a resurgence of the brutality and horrors that have shaped much of its history. What we witness today in such places as Iran serves as a stark reminder that the struggle for human rights is constant. While we can learn from our unfortunate history and our past mistakes, we can never desist from our defense of international human rights standards. Men and governments always seem to have the tragic capability of repeating the barbarisms of the past in new and unforeseen ways despite all of the institutions created in the course of this bloody century to prevent mankind from tearing itself apart.

This resolution allows us to once again express our outrage and revulsion with regard to the brutal and systematic denial of one of the most basic of human freedoms—freedom of conscience—which has been denied by the Mullahs of Iran.

Each time we consider these resolutions it seems that there has been a new twist added to the outrages Iranian authorities have perpetrated against their own citizens. Last month, we received distressing reports from Iran about the conviction and sentencing to death of an Iranian Baha'i for apostasy. Not only does this have sinister implications for the long-suffering Baha'i community of Iran, but for other religious minorities in that country as well.

Iran's brutal treatment of the Baha'i and other religious minorities has also been the subject of concern within the United Nations Commission on Human Rights. The Commission's Special Rapporteur on Religious Intolerance has singled out the case of the Baha'i in Iran as an egregious example of interference with the right to freedom of conscience and of worship. The UN's Special Rapporteur calls upon the Iranian authorities to ease restrictions upon adherents to the Baha'i faith.

The United States has spoken out consistently and repeatedly on Iran's continued brutal repression of the Baha'i. In its latest Human Rights Report, the State Department includes Iran among the few countries that are the very worst abusers of the rights of their own citizens in the world. The treatment of the Iranian Baha'i community epitomizes the character of the Iranian regime—its intolerance and its brutality.

We owe it to the victims of this repressive regime to continue to raise this issue in international human rights forums, and to press those governments that conduct commerce and diplomatic relations with the Government of Iran to use their influence and speak out against these outrages. Resolutions of the Congress, such as the one we now consider, representing the clear voice of the American people, are invaluable tools for our diplomats in bodies such as the U.N. Human Rights Commission, which is now meeting in Geneva. I hope my colleagues will join with me in supporting House Concurrent Resolution 102.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution makes an important statement, that the Congress continues to hold the Government of Iran responsible for upholding the rights of all of its nationals, including members of the Baha'i community.

Concern about Iran continues to rise to the surface of our foreign policy horizon. Much of the focus has been on trade, on Iran's role in terrorism, its efforts to subvert governments in the Middle East, in North Africa, and its nuclear dealings with Russia and China.

This resolution helps in keeping our focus on Iran's dismal record on human rights. Among the many other issues we have with that Government, Iran's denial of religious rights, the abuse of its citizens and violations of internationally recognized human rights are of deepest concern to this Congress. We make that message clear by passing this resolution.

Our last resolution, which was adopted unanimously 2 years ago, was reiterated by the United Nations and the German Bundestag and the European Parliament condemning Iran's persecution of Baha'is. In some limited instances, Iran has responded to this pressure. There in some evidence that the persecution of individual Baha'is in Iran is less severe today than it was several years ago. But let there be no doubt. The Baha'i community is still an oppressed minority and is denied rights to organize, elect leaders, conduct religious schools and other religious activities.

Their religion is really all about achieving a peaceful world brotherhood. It is not something we would consider to be threatening in this country, but it is a reflection of Iran's intent that it is threatening to them.

We must continue to work to end this discrimination against the Baha'is and all who are denied basic civil rights, and so we would urge adoption of this resolution as one more appropriate step toward that goal..

Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I again thank the chairman for yielding this time to me and would again commend him for his strong support of Baha'is. Throughout his service in the Congress he has made the protection of the minorities one of his highest priorities, and he has continuously strongly supported the Baha'i minority in Iran, not only with votes, but by speaking out repeatedly on the floor of the House and wherever he has gone about the plight of the Baha'is at the hands of the revolutionary government of Iran, and I commend him for his leadership.

Mr. Speaker, House Concurrent Resolution 102, the Baha'i Community Emancipation Resolution, condemns the Government of Iran for denying the 300,000 people of the Baha'i Iranian community their basic human rights. Since the fundamentalist Islamic regime took power in 1979, hundreds of Baha'is the largest religious minority in Iran, have been executed, and thousands have been imprisoned solely because of their religion. Because the regime does not recognize the Baha'i faith, calling it a conspiracy and a heresy, tens of thousands of Baha'is are today deprived of jobs, housing, schools, and other social services. Furthermore, it is common practice for Baha'is to be denied pensions and food ration cards purely because of their religious affiliation.

Mr. Speaker, the Baha'i religion is founded upon the nine dominant religions of the world, including, of course, Islam, and draws on the teachings of all of them as the basis of its faith. There are organized Baha'i assemblies in more than 100,000 localities in over 342 countries and territories.

☐ 1515

Intolerance, Mr. Speaker, is the trail of the backward, the ignorant, and the insecure. In Iran, intolerance of Baha'is, people who threaten no one and who accede to legitimate, civil authority wherever they reside, defines not the Baha'is, but the Iranian fundamentalists.

In 1993, an official Government document obtained in Iran confirmed for the first time that the ongoing persecution of the Baha'i community has been a calculated policy written and approved by Iran's highest ranking officials. This document reveals that the Iranian policy is to repress Baha'is at every opportunity while maintaining official deniability for such actions. While the document states that Baha'is is will not be expelled or arrested without reason, it makes evident that the Iranian Government's intent is to isolate, persecute, and ultimately destroy the Baha'is.

In the mid 1980's, diplomatic pressure and negative publicity forced the Iranian leadership to lessen the severity of their grievous official campaign against Baha'is. There is strong evidence that congressional resolutions, together with appeals by other nations and the United Nations, helped to persuade Iranian officials to moderate their actions against the Baha'i community.

There are disturbing signals, however, that the repression of Baha'is has increased during this past year. We cannot be sure how many Baha'is are jailed at any moment. Apparently, there is a new trend by the Iranian authorities to carry out an increasing number of short-term arrests in various parts of the country. Baha'is are rotated through the prison system for varying lengths of confinement making it impossible to know who will be incarcerated when and for how long. Tragically, the situation has very recently taken a turn for the worse. Mr. Speaker, just last month a Baha'i was found guilty of apostasy by the Revolutionary Court of Yazd and was sentenced to death. His crime? He was accused of changing his religion from Islam to the Baha'i faith. The Iranian Supreme Court, in an unusual move, set aside the verdict and sent the case back to a lower court for review. If this man is executed, he will be the first Baha'i executed since 1992.

Mr. Speaker, Iran must continue to be ostracized from the community of nations until its conduct can begin to approach a respect for the basic rights of each human being to live, worship, and speak according to the dictates of his or her own conscience. Since 1982, the Congress has adopted six resolutions expressing its concern for persecuted Baha'is in Iran, and condemning the repressive anti-Baha'i policies and actions of the Iranian Government. In 1994, the resolution was adopted by a recorded voted of 414 to 0. Mr. Speaker, with the passage of this resolution today, Congress will once again go on record in support of the basic rights of Baha'is and other religious minorities in Iran. I strongly urge the adoption of this resolution.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his supportive remarks.

Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH], the distinguished chairman of our Subcommittee on International Operations and Human Rights of the Committee on International Relations.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 102. I think it is a very good resolution and I want to commend the gentleman from Illinois [Mr. PORTER] for his leadership on behalf of the Baha'is and on behalf of human rights.

Mr. Speaker, the issue of persecution of the Baha'is is unfortunately not a new one in the House. Congress has passed a half-dozen resolutions condemning the vicious persecution of the Baha'is at the hands of the regime in Tehran, but the persecution continues.

Mr. Speaker, there is little I can add to the resolution and to the excellent comments that have been made so far. The Baha'is clearly are a peace-loving community, members of a religion that had its origin in Iran but that has adherents all over the world, including here in the United States. The extremist regime in Iran considers the Baha'i religion to be a heresy, a group apostasy, so it persecutes them with even more severity than it does Christians, Jews, or other Muslims.

Mr. Speaker, I particularly want to call to the Congress' attention the fact that there are at least four members of the Baha'i faith that now are at risk of death in Iran. The gentleman from Illinois [Mr. PORTER] mentioned one whose sentence has been remanded back to a lower court for review, and we hope this resolution sends a clear, unmistakable message that religious intolerance will not be tolerated by civilized countries, and that it will bring more scrutiny and more condemnation on the regime run by Rafsanjani.

I think it is very important that we speak, as we have, as Democrats, Republicans, as conservatives, moderates, and liberals, that we believe that the Baha'is have a right not just to exist, but to express themselves, to practice their religion as they see fit.

We support the United Nations Universal Declaration on Human Rights, the religious intolerance acts that have

VOL
142
PT
5
MR
21
—
29
1996
UMI

been passed by the United Nations. Every year the Human Rights Convention in Geneva looks at religious persecution and speaks out on it. My hope is that they will say to Tehran, "No more," that cooler heads will prevail, and those who are being persecuted simply because they want to practice their faith as they see fit will no longer find themselves being tortured, incarcerated, and, even worse, put to death. I commend the gentleman from Illinois [Mr. PORTER] for his excellent resolution.

Mr. GILMAN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Ohio [Mr. NEY].

Mr. NEY. Mr. Speaker, I just wanted to make a couple of statements on this resolution. First, I commend the gentleman from Illinois [Mr. PORTER] for bringing this forth to the floor of this House, and also commend the House for continuing to keep the pressure on this issue. I think the previous speakers have pointed out why we need to do that.

Also, Mr. Speaker, I just wanted to state that I myself lived in Iran, in a southern city called Shiraz. I was there during the revolution in 1978 of the Shaw of Iran. People would talk over the years about prejudice. Prejudice can exist in any country toward a people or toward a religion. There may have been some internal prejudice in 1978 and prior toward the Baha'i religion, but I want to tell the Members, Baha'is were not pulled out into the street and executed.

This regime, let us make no bones about it, goes beyond the thoughts of prejudice toward the Baha'i, and they have executed people, they have forced families to purchase the bullets that their loved ones were executed with.

This is a brutal regime in Iran that has carried out assassinations toward members of the resistance in Europe recently. This is a regime that promotes terrorism around the world. As we know, even in Bosnia, as we speak this year they were active there and around the world to persecute people. I believe that the world needs to be constantly made aware and to promote and push the point of what is being done to the peaceful Baha'i people.

I just want to again stress that if we do not keep up this type of pressure, it will be forgotten. This has helped in the past, and I want to commend the Members for what they are doing today, on behalf of the Baha'i people.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Ohio for his supportive remarks.

Mr. MORAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 102.

The question was taken.

Mr. PORTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of the four measures just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS OF TWO BILLS OF THE 104TH CONGRESS

Mr. NEY. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the joint resolution (H.J. Res. 168) waiving certain enrollment requirements with respect to two bills of the 104th Congress, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 168

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of H.R. 3019 and the enrollment of H.R. 3136, each of the One Hundred Fourth Congress. The enrollment of either such bill shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. UPTON). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

RECOGNIZING THE HEROISM OF LT. JOSEPH P. TADE AND HIS FELLOW OFFICERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, we live in a world where crime rates are rising daily, and where acts of violence against innocent people are escalating, at an alarming rate. It is rare when we hear of citizens who go above and beyond the call of duty to help their fellow man.

Mr. Speaker, at this time, I would like to give special recognition to one of those individuals, Lt. Joseph P. Tade, of the Elizabeth City, NC Police Department.

Lieutenant Tade embodies the qualities of honor, tenacity, and dedication. He has recently received three national awards for acts of courage and valor in the line of duty. The American Police Hall of Fame, has awarded Lieutenant Tade two separate Silver Stars for Bravery and the Legion of Honor Medal.

The Incidents, for which Lieutenant Tade earned his medals say much about his bravery and character.

On October 12, 1980, then-Patrolman Tade and his partner, intervened when an armed man attempted to flee the scene of a robbery, at a local grocery store. The suspect, opened fire on an innocent bystander and on the officers. After unsuccessfully attempting to convince the gunman to surrender, the officers pursued the suspect as he fled in his car. The chase ended when the officers cut off the suspect's car and the suspect took his own life.

Lieutenant Tade earned his second Silver Star when a routine traffic stop in 1984 turned into a high speed chase that reached 95 miles per hour. When the chase appeared to have stopped, one of the three suspects aimed his gun at Tade and his partner, and then opened fire. Fearing for he and his partner's lives, Tade returned fire, striking the gunman twice. The suspects were apprehended a short time later and the gunman survived his wounds.

Lieutenant Tade's actions, in April of 1995, earned him The Legion of Honor Medal. While attempting to separate a local male and female involved in a violent altercation, Tade was severely cut by the female who had suddenly produced a razor blade. Although bleeding profusely—from a two inch long wound—he was still able to disarm the youth and take her into custody. Despite the many stitches required, Lieutenant Tade recovered and suffered no permanent damage.

Mr. Speaker, Lieutenant Tade is by no means alone in deserving our recognition. Every day and night, in this country and abroad, hundreds of thousands of Federal, State, and local law

enforcement officers, risk their lives to maintain peace, uphold justice, rid our neighborhoods of violent criminals, and keep our children and families safe. Words alone seem inadequate, but I would like to express to Lieutenant Tade, and his fellow officers throughout America, a sincere "Thank you", for your dedication to your fellow citizens.

Mr. Speaker, I ask unanimous consent that the entire summary of Lieutenant Tade's courage, be included in the RECORD.

Mr. Speaker, in a world where crime rates are rising daily, where acts of violence against innocent people are escalating at an alarming rate, it is rare when we hear of citizens who go above and beyond the call of duty to help their fellow man. Mr. Speaker, at this time I would like to give special recognition to one of those individuals, Lt. Joseph P. Tade, of the Elizabeth City Police Department in Elizabeth City, NC.

Lieutenant Tade embodies the qualities of honor, tenacity, and dedication. He has recently received three national awards for acts of bravery and heroism in the line of duty. The American Police Hall of Fame has awarded Lieutenant Tade two separate Silver Stars for bravery and the Legion of Honor Medal.

The incidents for which Lieutenant Tade earned his medals say much about his bravery and character. On October 12, 1980, then-Patrolman Tade and his partner intervened when an armed man attempted to flee the scene of a robbery of a local grocery store. The suspect fired multiple shots at a bystander and the officers. Fearing for the lives of everyone in the area, the officers returned fire, including two warning shots in the air and shots by Tade aimed at the suspect's tires. After attempting to convince the gunman to surrender, the officers pursued the suspect as he fled in his car. The chase ended when the officers cut off the suspect's car and the suspect took his own life.

Lieutenant Tade earned his second Silver Star when a routine traffic stop in 1984 turned into a high speed chase that reached speeds of 95 miles per hour. At night and on patrol with a police cadet, Tade once again demonstrated bravery and courage in the face of danger. When the truck they were chasing appeared to have stopped, and the officers had exited their vehicle, one of the three suspects fired multiple shots at Tade and his partner from the truck. Once again, fearing for he and his partner's lives, Tade returned fire, striking the gunman twice. The driver of the vehicle suddenly pulled away and another chase ensued. After evading several road blocks, the suspects were apprehended and the gunman survived his wounds.

Lieutenant Tade's actions in April 1995 earned him the Legion of Honor Medal. While he and his partner, Capt. W.O. Leary, were attempting to separate a local male and female involved in a violent altercation, Tade was severely cut by the female who had suddenly produced a razor blade. Bleeding profusely from a 2-inch cut on the hand, he was still able to disarm the youth and take her into custody. Lieutenant Tade required 10 stitches and luckily suffered no permanent damage.

These are certainly not Tade's only awards. In 1980, he was named Outstanding Young Law Enforcement Officer of the Year by the Elizabeth City Jaycees. Throughout his career, Tade has received commendations from the Drug Enforcement Administration, the North Carolina State Bureau of Investigations, the North Carolina Division of Alcohol Law Enforcement, the U.S. Attorney's Office, the Currituck County Sheriff's Office, the Edenton Police Department, in addition to countless interdepartmental commendations.

Lieutenant Tade, a 20-year veteran, has a long and distinguished career with the Elizabeth City Police Department. He joined the department in 1976 and served as a cadet until 1978, when he was sworn-in full time. He immediately became involved in criminal investigations, as the department had no full-time investigators. In 1987, Tade was promoted to the rank of sergeant and became one of the department's first two full-time investigators. In 1989, Tade was promoted to the rank of lieutenant. In 1992, Tade was appointed as commander of the newly formed northeast regional drug task force. In 1995, Tade was appointed supervisor of a new division within the department. The neighborhood interdiction team, where he continues to serve today. This team is a community policing and street drug enforcement group working mainly in high crime areas of the city.

Over the course of his highly successful career, Lieutenant Tade has been involved in over 2,500 local, State and Federal drug arrests alone, reaching to such places as New York City, NY, and Allentown, PA. These arrests have resulted in record seizures of illicit drugs and currency, well in excess of $1.5 million. In addition, Tade has completed over 1300 hours of advanced law enforcement training.

Lieutenant Tade, a resident of Elizabeth City since the age of 10, currently lives with his wife Janet and their 3 daughters, Summer, Jessica, and Jordan.

Mr. Speaker, Lieutenant Tade is by no means alone in deserving our recognition. Every day and night, in this country and abroad, hundreds of thousands of Federal, State, and local law enforcement officers risk their lives to maintain peace, uphold justice, rid our streets, our neighborhoods and our businesses of violent criminals, and keep our children and families safe. To Lieutenant Tade and his fellow officers, I say "thank you."

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INADVISABILITY OF REQUIRING TWO-THIRDS MAJORITY TO PASS TAX LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 60 minutes as the designee of the minority leader.

Mr. SKAGGS. Mr. Speaker, I appreciate having the opportunity to address the House this afternoon. The topic of this special order is the proposed amendment to the Constitution to require two-thirds majorities in the House and the Senate to adopt any legislation concerning increases in tax rates or tax base.

As the Speaker may be aware, the leadership of the majority party has announced its intention to bring this matter up for debate and vote in the House on April 15, the Monday that the House is scheduled to return from 2 weeks of spring recess. In my opinion, scheduling the debate on this matter at that time, preceded as it will have been by no effective committee consideration or markup, constitutes an act of relatively modest political theater but relatively irresponsible constitutional legislation. But it is merely the last chapter in an ongoing novel of regrettable proportions during this, the 104th Congress, in which the majority party consistently has seen fit to treat the Constitution as if it were really just a rough draft.

Mr. Speaker, let me give my colleagues some idea of the recent history of the consideration of amendments to the Constitution. In the last 20 years preceding this, the 104th Congress, the House voted on constitutional amendments a total of nine times in 20 years. The average per Congress was one constitutional amendment, the maximum was two, frequently there were none. This amendment that will be coming up on April 15 will be the 4th time in this 104th Congress that the leadership has brought forth an amendment to the Constitution, and thus my characterization, I think appropriately, that this Congress is really treating the Constitution of the United States as if it were just a working document in draft form which we can toy with at our whimsy.

Mr. Speaker, we have already had amendments debated and voted on in the House concerning the flag of the United States, concerning term limits, concerning a balanced budget, and now this two-thirds tax proposal, and I think most Members are aware we will probably have even a fifth proposed amendment to the Constitution offered up some time later this year having to do with the first amendment's protection against the establishment of religion and protecting the free exercise thereof.

Mr. Speaker, this particular amendment that will be coming before us a couple of weeks has not only serious, serious, and I believe absolutely unworkable practical problems attached to it, but the process by which it will come to the floor of the House for debate is absolutely extraordinary. We would suppose, Mr. Speaker, that when we undertake the most serious legislative responsibility that we can have as Members of this great body, that is, considering an amendment to the Constitution, that we would go to some pains to make sure that a proposed amendment had been fully and carefully examined by those institutions within the House structure that are

VOL 142 PT 5 MR 21 — 29 1996 UMI

designated as having the expertise and the responsibility to conduct such an examination and vet it. In our case, that is the House Judiciary Committee, and in particular, the Subcommittee on Constitutional Law.

Unfortunately, in this instance, I presume because the chairmen of both that subcommittee and full committee actually have very grave reservations about this particular proposal and are disinclined to mark it up and report it to the House, the leadership is co-opting them, preempting that very, very important responsibility that the Judiciary Committee has to really go over proposed amendments to the Constitution as carefully as we possibly can to consider both the intended and unintended consequences.

Mr. Speaker, we are giving the back of our hand, as it were, to that normal order and process in the House for considering an amendment to the Constitution and just bringing this to the floor in an essentially unexamined and unreflected-upon state.

Interestingly, I think in part because of that cavalier approach to a very, very serious responsibility, it has been reported that the chairman of the House Ways and Means Committee, the tax-writing committee of the Congress, has also very serious misgivings about this proposal because of one of its many impractical consequences, namely if we were to adopt this two-thirds vote requirement for any tax bills in the Constitution, we would basically be embracing—for all practical purposes—the current state of the tax law for an indefinite period of time.

Mr. Speaker, if you look over recent history in enacting tax laws, almost all of which, if they are at all comprehensive, involves some increases as well as decreases and changes, very, very few will have be seen to have been passed by the two-thirds majority of both the House and the Senate that would be required under this proposed amendment to the Constitution. Since the chairman of the House Ways and Means Committee is reported to be a strong proponent of major tax reform, a fan of one of many alternatives that have been offered up for wholesale change in the Tax Code, he well realizes if this were in the Constitution, or ability to make that kind of change would be greatly constrained, if not made almost impossible.

One of the things that we, I think, should keep first in mind in considering this is not just the failure of the leadership here to follow regular order and process, as ought to apply to a proposal of this seriousness, but the content of the proposal, as well. It follows obviously that any time we require a super majority to enact legislation, in this case tax legislation, the corollary of that is to give a minority within the body, the House or the Senate, effective control of the issue. That contradicts head on the fundamental principle of majority rule that Madison identified during the debate in the Constitutional Convention as the first principle of this democracy of ours.

Now, it may seem a trivial observation to suggest that a super-majority requirement necessarily cedes control of the issue to a minority. Here in the House, that minority would represent something just over one-third of the people of the country, certainly a significant number. But under this constitutional amendment, effective control of the tax-writing responsibilities of the Congress would be given over to one-third plus 1 of the other body, the U.S. Senate, and it surprised me.

Mr. Speaker, I sat down a few minutes ago and just calculated that percentage of the population of the United States represented by the one-third plus 1 of the Senate that comes from the smallest States in the Union. Under this proposal, to give control over tax legislation to one-third plus 1 of the Senate, that is the same thing as saying that we would give power over this issue to less than 10 percent of the people of this country, because 34 Senators represent, combined from the smallest States, less than 10 percent of our entire population.

Now, it seems to me we should think long and hard about a proposal that would have that kind of incredibly distorting effect on who is in a position to determine the future course of this country in an area as critical as tax legislation.

Mr. Speaker, I have several other points to make with regard to the merits and the substance of this proposal, but I wanted at this time to recognize and yield some time to the distinguished gentleman from Virginia [Mr. MORAN], who has been very active in this Congress and in earlier Congresses in these areas having to do with the fundamental constitutional arrangements of the Republic, and I yield at this time such time as he may wish to consume.

Mr. MORAN. Mr. Speaker, I thank my distinguished colleague and good friend from Colorado for yielding me time.

Mr. Speaker, this amendment that we are discussing, House Joint Resolution 159, that would require a two-thirds vote to raise Federal taxes, may seem to be a simple, reasonable idea, but it invites dangerous consequences for our democracy that will weaken the power of the Federal Government to respond to national problems. Since the resolution includes any changes that would broaden the tax base, it will also effectively block passage of any fundamental overhaul of our entire tax system, be it the majority leader's call for a new flat tax or the interest of the chairman of the Ways and Means Committee in the national sales tax, or anything in between, including the most moderate and responsible alterations. Finally, this resolution will prove unworkable, as the House leadership has already discovered with its celebrated—but now ignored—rule change requiring a three-fifths vote on tax legislation.

This resolution, as my colleague from Colorado has explained, violates the spirit of majority rule and will take us back to the problems our Founding Fathers experienced under the Articles of Confederation. Article 9 of the Articles of Confederation required the vote of 9 of the 13 States to ascertain the sums and expenses necessary for the States to raise revenue. In 1787, at the Constitutional Convention, our Founding Fathers recognized that this was an insurmountable defect and sought to establish a national government that can impose and enforce laws and collect revenues through a simple majority rule.

Mr. Speaker, my distinguished colleague has discussed the constitutional aspects of this resolution, but I would like to focus on how unworkable this resolution will prove to be based on our experience with the much-celebrated change in the House rules that requires a three-fifths vote for any tax increase. That was enacted on the first day of Republican control of the House in January 1995. As specified in that modified clause 5(c) of rule 21 of our congressional code, the House of Representatives' code, no bill, joint resolution, amendment, or conference report carrying a Federal income tax rate increase shall be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting.

This rule was broken just as soon as we voted on the Contract With America, introduced and approved by the Republican majority of the Congress, but to approve it, we had to violate the rule. On April 5, I came to this well and raised a point of order on a provision in the Contract With America tax relief act that repealed section 1(h) of the Internal Revenue Code affecting the maximum rate for long-term capital gains. While the intent of the provision was to lower the capital gains rate, it actually increased the tax rate on the sale of small business stocks from 14 percent under current law to 19.8 percent.

At the time, the Speaker's chair ruled that this tax increase was not subject to the three-fifths rule, but in a June 12 letter from House Parliamentarian Charles Johnson, it appears that this ruling was made in error and the original point of order should have in fact been sustained. Since the Parliamentarian has confirmed my original challenge, the House leadership has found it necessary to waive the three-fifths vote requirement in at least two instances, the Balanced Budget Act of 1995 and the Medicare Preservation Act, in order to pass its legislative agenda and to raise taxes.

Mr. Speaker, neither measure received a three-fifths majority vote. Neither of those pieces of legislation could have passed this body if we had been good to the rule that was passed on the first day of the session of this congressional term. Back in January, we passed a law and we have had to ignore that law in order to pass the legislation that was in the Contract With America.

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Under the original House version of the Balanced Budget Act, the House leadership found it necessary to waive the three-fifths rule. The Committee on Rules had to do that by a simple majority vote in order to impose this tax increase, a 50-percent tax penalty on Medicare plus medical savings accounts withdrawals for any purpose other than Medicare and the part B income contingent premium. Also the repeal of the 5-year income averaging rule on lump sum pension distributions, the increase in the phaseout rate for the earned income tax credit, the new rates that are applied to expatriates, and the new tax imposed on gambling income of Indian tribes. All of these tax increases should have triggered the three-fifths vote required for approval.

Now we want to increase this three-fifths vote to two-thirds? In other words, increase the hypocrisy of this body to pass one law, and then ignore it when we want to pass another? If the new majority has problems honoring its pledge not to increase the tax rate and abide by its own rules, they make even more problematic if we were to do a proposed constitutional amendment as is proposed by this joint resolution.

Under this expanded requirement, Congress could not have passed last year's expansion of the health deduction for the self-employed. In that legislation we closed some tax loopholes dealing with minority broadcasting benefits to pay for the bill's revenue lost.

When you are in a pay-as-you-go basis, you have to increase taxes in some order to reduce them in others. So when we eliminated the tax loopholes, increasing taxes on minority broadcasters, again, that violated the rule, because closing the loophole is also broadening the tax base.

According to the material submitted into the CONGRESSIONAL RECORD by Congressman JOE BARTON on January 4, 1995, there have been five major tax increases enacted into law since 1980. The Tax Equity and Fiscal Responsibility Act of 1982, the House vote was 226 to 207; the Omnibus Budget Reconciliation Act of 1987, the vote was 237 to 181; the Omnibus Budget Reconciliation Act of 1989, the vote was 272 to 182; the Omnibus Budget Reconciliation Act of 1990, the vote was 228 to 200; and Omnibus Budget Reconciliation Act of 1993, that vote was only 218 to 216.

Only one of these measures, the Budget Reconciliation Act of 1989, could have passed the House with a two-thirds margin. In reality, the five measures that were brought up by Congressman BARTON included both tax increases and spending cuts. Had these measures not been passed with bipartisan support and signed into law by President Reagan and President Bush, the deficit would be far, far worse than it is today.

The one exception to deficit reduction that passed on a party line vote, the Landmark Omnibus Budget Reconciliation Act of 1993, has been credited with reducing the deficit 3 years in a row, and possibly an unprecedented fourth year if current economic trends continue.

I find it a little ironic for all the objections the Republicans have expressed for the tax increases, and the Clinton tax increase in particular in 1993, they have yet to repeal a single one of those tax increases in 1993. Not one of the so-called notorious 1993 tax increases has been repealed in any measure sent by this Congress to the White House.

What Representative BARTON does not mention in the CONGRESSIONAL RECORD is that Ronald Reagan would have encountered problems enacting most of his agenda if there was a constitutional amendment requiring a two-thirds vote.

Mr. Speaker, I have many other points I want to raise to buttress the argument that this does not make any sense to propose a two-thirds constitutional requirement, but at this point let me pass the baton on to my colleague from Colorado for a while to further buttress our argument.

Mr. SKAGGS. I would just like to engage the gentleman for a moment in a further discussion of the short history that we have—I was going to say enjoyed, but at least experienced under the so-called three-fifths rule which was adopted at the start of this Congress as a rule of the House governing the required majority; that is, three-fifths, whenever, we are considering anything that is construed as having a tax increase.

Now, first the proponents said it would apply to any increase, and then they said only to income tax increases, and then only to certain types of income tax increases. My sense is that the correct interpretation of this rule of the House remains the subject of a great deal of debate and confusion and inquiry. The saving grace, if you will, is that the majority has showed that it is quite willing to waive the application of that rule as a matter of course whenever it is inconvenient to have to deal with the new rule that they adopted.

Mr. MORAN. I guess that is what they mean by regulatory flexibility.

Mr. SKAGGS. Well, whatever it may be, now we can waive a House rule, as the gentleman pointed out, by simple majority vote when we bring a matter to the full House for debate. But if we have got this in the Constitution, what then?

Mr. MORAN. Well, you ask a very good question, Mr. SKAGGS. I do not know why we are here trying to save them from themselves, which is what we are doing, but the reality is that virtually no tax reform measures could have been enacted if we had not hypocritically ignored, overruled, that three-fifths requirement. But as you say, if it is a constitutional amendment, we do not have that flexibility. The Committee on Rules just decides, well, this is an inconvenient law and so let us just ignore it. If it is part of the Constitution, it cannot be ignored. That means that we could never again reform our Tax Code, because to do so you have to raise revenue in order to cut it in other places. So we would be putting ourselves into an untenable position.

Mr. SKAGGS. I think we need to expound on this point a little bit more. Nobody here is interested in raising taxes per se. This is not about taxes, it is about the Constitution of the United States and having a workable system of government. The examples which you cited, which I think it is important for us to be mindful of, have to do with all manner of different reform proposals. Certainly any of the tax simplification or tax reform proposals that this Congress has adopted in the last 20 years or that are pending before us in various forms now, have almost invariably involved some change in the tax base or change in the rate in order to effect reductions or reforms somewhere else, have they not?

Mr. MORAN. Not only have they this year, that is absolutely true, and that is why the Committee on Rules acknowledged that when it waived the three-fifths rule. So it would not apply to any of the tax legislation that has come before us this year. But also if you look back, it applied to all of President Reagan's and President Bush's proposals. None of them would have been enacted if this constitutional amendment were in effect.

So President Reagan could not have accomplished the 1981 tax cut, the 1986 tax cut, or any of the others in between. President Bush could not have accomplished the 1990 tax cut. We never could have come close to the reduction in deficit that we have experienced as a result of the 1993 Omnibus Budget Reconciliation Act. So it is hard to imagine where we would be if this constitutional amendment had been put into place, say, back in the 1970's or 1980's.

Mr. SKAGGS. Well, as I mentioned a few minutes ago, and it may be worth

VOL
142
PT
5
MR
21
—
29
1996
UMI

just going through the list of those States whose Senators, if they happen to decide to coalesce in opposition because small States might be affected in some way or other, States that could effectively block any future tax legislation if this were in the Constitution, because if you add up the Senators from Vermont, Delaware, Montana, Wyoming, North Dakota, South Dakota, Alaska, Rhode Island, New Hampshire, Nevada, Maine, Hawaii, Idaho, Utah, Nebraska, New Mexico, and West Virginia, that is more than one-third of the Senate, represents about 9 percent of the population of the country, and that group of Senators would be in a position to call the shots.

Now, I do not know whether that comports with the gentleman's sense of adherence to the fundamental principles of this democratic, small "r," republican, but it certainly offends mine.

Mr. MORAN. I agree it would offend mine, too. We would hasten to add all of those States are very ably served by their Senators. Here we are not talking about personalities, we are talking about the Constitution. We are trying to go back to the original tenets of that Constitution. They tried something that was not majority rule in the Articles of Confederation. You needed 9 out of the 13 States to pass any revenue-raising provision. They found it was unworkable. The country was not functioning. So they had to go back and correct it and install majority rule.

Now, when you think about it, as you so ably explain, 10 percent of America's population could prevent any kind of tax increase. No matter how needed it is to keep this Government functioning, whether we are in a war, whether we are in a depression, whatever the situation, 10 percent of America's population can block any attempt to put our country on a sound fiscal footing.

I think that is the most compelling argument, and then in addition to the experience we have already had with the violation of the three-fifths rule. But the other point that you so well made, Mr. SKAGGS, is that the Constitution is not a rough draft. The Constitution has served this country very well for two centuries. To go mucking around with it with a piece of legislation that we know is going to be violated the first time that we have to act responsibly as a body, I cannot imagine that we would have any cosponsors of such legislation, never mind a long list of cosponsors.

So I would hope they would all reconsider, look at both recent and long-term history of this country, check out our Constitution, give it a little more respect, and recognize that this is not in the national interest.

Mr. SKAGGS. I thank the gentleman for his comments. One of the things that is most odd about this particular proposal, and I mentioned a few minutes ago, is not just the substance and the, I think, unexamined consequences of the substance, but the manner by which it is going to be brought to the House on April 15.

We have been joined by our distinguished colleague from Massachusetts, a member of the Committee on the Judiciary. I wonder if he might enlighten us a bit more about what the process that has been followed or not followed in this case looks like?

Mr. FRANK of Massachusetts. Well, I thank the gentleman from Colorado for taking the initiative on this special order and for yielding to me. But "enlightenment" is hardly the right word, because the Republican leadership is determined that this will not be the product of an enlightenment, but rather of the dark ages, because one of the things they do not want is for anyone to really have a chance to think about this proposal.

I am the senior minority member on the Subcommittee on the Constitution of the Committee on the Judiciary. We had a hearing on this a couple of weeks ago. The amendment was presented and the sponsors of the amendment were there, and in the course of their presentation they mentioned that this would be on the floor on April 15.

Now, I guess, showing my inability to adapt to the new majority, I was a little puzzled, because, this was a week or so ago, no committee vote was scheduled, no subcommittee vote was scheduled. Ordinarily with legislation, we find that the process of first debating it in subcommittee and making some changes, and then going to full committee and making some changes, that is how you refine legislation. That is how you answer questions. None of us in my experience is bright enough to simply sit down and have a piece of legislation spring from our forehead like, was it Athena from the forehead of Zeus, or whoever sprang from whatever. Ordinarily you want some questions and conversation. I was a little surprised that this bill was going to go right from hearing to the floor of the House. I asked why, and I realize what the answer is.

This legislation, this constitutional proposal, is so flawed, it does not command a majority within the subcommittee in the Judiciary that has jurisdiction, because there are significant, influential, respected Republicans who do not want to vote for it. It does not have a majority in the committee, so they plan to bypass the subcommittee and bypass the committee and bring it to the floor.

But then a glitch developed, because as we discussed this, even at the hearing, it became clear that, for instance, you could not under this constitutional amendment raise a tariff. I know Pat Buchanan has not been getting much respect from the Republicans, and as the poor man's totals fall in the primaries they whack him again. But to pass a constitutional amendment to make it virtually impossible to raise tariffs, that seems to me one more indignity they would heap upon Mr. Buchanan, but apparently that is what this amendment would do, because under this amendment you could not raise tariffs. He talked about raising tariffs. Indeed, we have legislatively ceded to the President the right to raise tariffs, as we all know, in particular cases. You can raise a tariff in the case of dumping. It is a countervailing tariff. You might raise a tariff in a particular case by denying somebody most-favored-nation treatment, et cetera.

Well, we cannot delegate to the President by more than we have ourselves. If it takes us two-thirds to raise a tariff, it would obviously take two-thirds to pass a bill that would delegate to the President the right to raise a tariff. So our ability to defend ourselves in trade by higher tariffs, that would also take two-thirds.

In addition, it was pointed out and conceded by the sponsors of the amendment, that going to a flat tax would take two-thirds. So now they are not only going after Buchanan, they are going after Steve Forbes. This amendment is the revenge of the congressional Republicans and their upstart candidates.

□ 1600

Because going to a flat tax means you increase the base. And the language of the amendment clearly says, if you increase the tax base, if you tax more items, if you take away an exemption for mortgage interest, if you take away an exemption for charitable deductions, that requires two-thirds. In fact, one of the sponsors, our former colleague, the junior Senator from Arizona, said, well, do not pass this constitutional amendment until we get to a flat tax. Another one said, no, we do not agree with that. So there was a certain amount of confusion about this.

This is the vehicle they are talking about taking right from this intellectual chaos to the floor of the House. Then apparently another noncommittee intervened because it is going to be a nonjudiciary bill. But the chairman of the Committee on Ways and Means, who is a thoughtful individual, the gentleman from Texas, apparently looked at this and said, wait a minute, you cannot require us to take two-thirds to go to a flat tax. He wants to go to a consumption tax. I think there is a lot to be said for the approach of the gentleman from Texas, but it would take two-thirds to do that. He says, you cannot do this to tariffs.

So apparently we are now having a conference between the Committee on Ways and Means and the Committee on

the Judiciary except not with the committees. We are going from a nonmarkup in the Committee on the Judiciary to a nonmarkup in the Committee on Ways and Means, on as significant a piece of legislation as we can have, an amendment to the Constitution, something which has happened 27, 28 times in our 200-plus years. That is being now privately discussed by some very able people, but they are privately discussing it. It is a shambles of a way to legislate.

It will come to the floor without any committee consideration, with uncertainty. Does this affect the flat tax; does it affect the tariff? What it shows is this is a search for a political gimmick. No one could think we would seriously legislate in this way.

Let me add one other flaw that occurs to me on this. That is, the amendment would, of course, allow you to reduce taxes by a majority, but it would take two-thirds to raise them. But I think in effect this would also make it harder for future Congresses to cut taxes. Because if you are in a situation where you say, you know, things are looking very good now, and we are in a sort of a surplus situation, we can afford to cut taxes now because we can always raise them back again if later on we need them, people will be reluctant to do that. Because if it takes two-thirds to raise the taxes later on, then it may not be prudent to reduce them temporarily.

The whole notion which we may reach of a temporary tax reduction, you will have to say, wait a minute, if we temporarily reduce them, we will need two-thirds to put them back up again. That seems to me to be a grave error. This is not only substantially a grave mistake, procedurally it is a complete and total botch.

Mr. SKAGGS. I appreciate the gentleman's insights into the way we will be confronted with this on April 15, assuming the leadership sticks to its intentions.

Mr. FRANK of Massachusetts. Sticking to their guns, they are very good at that. They stuck to their assault weapons last Friday. So I assume they will stick to their guns. They are very good at sticking to their gun owners.

Mr. SKAGGS. The gentleman has served on the Committee on the Judiciary how many terms?

Mr. FRANK of Massachusetts. This is my eighth term.

Mr. SKAGGS. Has there ever been a case before this Congress when the Committee on the Judiciary completely failed to mark up a constitutional amendment?

Mr. FRANK of Massachusetts. I do not remember one. I was told that when the equal rights amendment came before us, I do remember it came before us under a suspension of the rules. It was my impression that it had gone through the committee. It had certainly gone through the amendment previously.

I do not remember a constitutional amendment coming up that never went through the committee. You have to say, in defense of the Republican leadership, the bill to combat terrorism went through the Judiciary Committee, but after it went through the committee because the right wing in this Congress did not like it, it got totally changed before it came to the floor anyway. Similarly with the immigration bill, the Committee on the Judiciary voted out the immigration bill, but some people in the right wing did not like it so they changed it around. You people on judiciary, we are just being considerate. What is the point of you wasting your time engaging in a model U.N. here, having all these debates. We are going to do whatever we want on the floor anyhow.

But we are going to suffer in this case because with regard to tariffs, with regard to a flat tax, there are serious questions here. Apparently these serious questions are going to be resolved not through some open debate in committee with the press involved but through private conversations between Members of the Committee on the Judiciary, sponsors of the bill and members of the Committee on Ways and Means, a totally undemocratic procedure.

Mr. SKAGGS. Let me ask either the gentleman from Massachusetts or Virginia, one of the things that has been a regular topic of debate around here the last few months has been questions of corporate welfare, closing corporate tax loopholes. Will we be able to deal with that kind of proposal?

Mr. FRANK of Massachusetts. The gentleman has a perfectly appropriate question. Let me say, I do want to say to my friend from Colorado, it just struck me, when he mentioned we are from Virginia and Massachusetts, we represented the people who voted on the original Constitution. Colorado was not around to get involved in the original one, so the Republicans are being very generous by letting you in. But I think the Philadelphia convention had a little better set of procedures than the current group.

Any effort to close loopholes, any effort to diminish tax preferences that wealthy people now have, any effort to say, for instance, that the tax code encourages people to go overseas more than they should, the effort we had earlier to close the tax loophole on people who want to renounce their citizenship but retain their money, all of those would require two-thirds. As hard as it has been to deal with any of that loophole closing or excessive corporate luxury that we have done so far, going from a majority to two-thirds would make it infinitely harder.

Mr. SKAGGS. Does the gentleman from Virginia have thoughts on that topic?

Mr. MORAN. Just to underscore the point that the gentleman from Massachusetts [Mr. FRANK] made, we have had so many proposals that would have required an offset in the revenue code to do the right thing. In most cases people recommend ways to reduce taxes because that is what the public seems to prefer, obviously. But there have been several other measures that have been suggested by the Republican majority, such as phasing out much of the benefits of the earned income tax credit.

That was about $32 billion, a major component of the tax reduction and budget resolution proposal that the majority suggested. Yet that never could have even been on the table because it in effect is an income tax increase and in fact would have required a two-thirds vote, which never would have passed.

Mr. Speaker, obviously the situation where people renounce their citizenship so they can avoid taxes due, that would have amounted to $3.6 billion. That would never be on the table because obviously that is an income tax increase and obviously in conflict with this legislation. But we can go through virtually every significant tax proposal that has been made by both sides of this aisle and in some way violates the two-thirds income tax increase restrictions. What the measures that we mentioned earlier, the five major tax bills that have been enacted since 1980, every single one of them but one—actually one of them passed with two-thirds of the vote, but none of the others would have passed—every single one of them would have been in violation of this two-thirds requirement.

Mr. Speaker, I mentioned to Mr. FRANK and Mr. SKAGGS earlier, sometimes we wonder why we need save them from themselves, but the point of this is that we all have an obligation to protect the Constitution.

We all have really an obligation to do some reading on the history of the Constitution to understand that this very issue was debated at length by the Founding Fathers when they realized that the requirement to have 9 out of the 13 original States, at that time they were not all States, they were commonwealths and the like, but to have 9 of the 13 States proved totally unworkable. The U.S. Government was not functioning, and so they went back to majority rule. They had their turn at that time to put in a constitutional provision making it more difficult to raise taxes. They deliberately chose after extensive debate not to do that. And for us now to treat the Constitution, as the gentleman from Colorado [Mr. SKAGGS] described as some kind of rough working draft, I think does a great disservice to the American people and to the future of this Nation.

Mr. Speaker, I know we have the most compelling arguments on our

VOL 142 PT 5 MR 21 — 29 1996 UMI

side. I cannot imagine why they would bring up this kind of legislation without debate. We are going to go on vacation for the next 2 weeks. That is why the gentleman from Colorado is bringing this up because we are not even going to have time to debate it. Yet they would bring it up and attempt to pass a constitutional amendment creating a totally unworkable situation.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for his participation.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will continue to yield, we ought to emphasize, he may have already done this, when the gentleman from Virginia talks about the prior tax bills, many of those tax bills were listed as tax reductions and in gross they were. That is, several of them meant that the Government collected less taxes when we were through than when we started. Despite the fact that they were, several of them, listed as tax reductions, none of them would have been allowed without a two-thirds vote because tax reductions never in my experience are bills that only reduce. They reduce overall, but they offset the reductions by increasing in some areas.

Unless we believe that we have as equitable a Tax Code as we are ever going to get and that the balance of taxes should never be changed, then we should be against this amendment. This amendment means that any effort to shift the balance, any effort to say that there are some elements that are not doing a fair amount and there are others that are, we would have to take two-thirds to deal with that.

Mr. Speaker, what it shows is also a fundamental understanding, I believe, on the part of many in the majority that their ideological agenda is unpopular with the American people. That is what is at stake here. Increasingly we are being given proposals that limit what the majority can do. If we are in fact confident that the majority is on our side, then we do not try to limit them. But what we have are people who have found out, I think, that, while the general public disagreed with a lot of what the Government was doing, there is on the part of the public an unwillingness to dismantle the Federal Government as much as people on the other side think.

They were, as we know, surprised that, when they shut down the Government as a deliberate tactic on several occasions earlier this year, the public was upset. Many Republicans said nobody will care. Well, they were wrong. The American people cared deeply about their Government because their Government is doing things that on the whole they have asked it to do. They understand, therefore, that they are not going to win this increasingly on a majority situation. So what they are trying to do is fix the game, require two-thirds so that on those occasions when a majority disagrees with them and wants to do more in health care and environmental protection and in law enforcement than they want to do, they will not have to appeal to a majority. They will have this minority veto that they can inflict. That is what is at stake.

Mr. MORAN. Mr. Speaker, I would just like to make a point, too. When we look at the historical record and what is forcing this issue, I cannot really find anything other than purely appeasing those in our economy who simply do not like to pay taxes and that some Members would pander to and put their interests ahead of the national interest.

But the reality is that, if we look back at taxes as a percent of gross domestic product, in 1981, during the Reagan administration, they were 20.2 percent. In 1982, they were 19.8 percent, almost 20 percent, but they have stayed under 20 percent now since for the last 26 years. It is remarkable how consistent they have been.

Mr. Speaker, what needs to be done, it would seem to me, is to make that level of tax revenue fair, to make it such that it will stimulate our economy, to make it such that its priorities are representative of the American people's priorities. But to take away our ability to make those tough decisions, to exercise the judgment that we were elected to make just does not seem to be in the national interest or the interest of this body.

Mr. SKAGGS. Mr. Speaker, let me just say in concluding, I think there are a couple of things we can be sure of or at least we ought to allow to humble us. One is our inability to predict the future. Why in the world we would want to deprive our successors in the body of their ability to deal in the future with one of the most complicated and nuanced subjects that we ever face around here, namely the Tax Code, deprive them of their ability or make them basically the captive of 34 Senators and their inability to deal with that subject is beyond me.

In effect, we are saying to those that are going to come after us in this Congress, we do not care what the particular circumstances may be that you are going to face in 10 to 20 years. We simply do not trust the majority of you to exercise your judgment to carry out the will of the then-majority of American citizens. Our expectation is that you are going to be incompetent to do that, that you have got to have two-thirds.

□ 1615

Mr. Speaker, that seems to me to be a very arrogant and presumptuous act for us to take. It also, as the gentleman from Virginia has pointed out, ignores our history, and one of the things that is for me most profound about the honor of serving here is our job as carrying the legacy of the brilliant people who drafted the Constitution and set up our system of Government and who did so because the supermajority requirements of the Articles of Confederation were wholly dysfunctional. They recognized that, for this Republic to survive, the fundamental principle of free Government absolutely had to be majority rule and that to cede that responsibility to the minority was a prescription for failure, which we ought to keep in mind as we deal with this amendment.

The gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Yes, I think that is exactly what is at stake here, but I think we have to give it some specific content.

The current Republican majority in Congress won the 1994 election, and they won it, they got more votes than we got. I think they won in part because of dissatisfaction with what the Government was doing. Many of them misunderstood that to mean opposition to the Government in general. It is possible to be critical of waste and excess and sloppiness and not believe the Government should get of the business.

And they have increasingly learned that now the public is far more supportive of environmental policies than many of the Republicans, not all, but many of the Republicans, understand. The public likes the notion of the Federal Government helping with college educations, helping with law enforcement, helping with medical care, and they have a dilemma. They have the dilemma of having a very ideological agenda which says, in the words of the majority leader, the Government is dumb and the markets are smart, and at a time when people are not so sure that the markets are fair, how do you prevent the public from having the Government play a more active role than they want ideologically?

That is their dilemma because the public is getting away from them and not supporting these cutbacks, and it reminds me of my favorite musical, the musical "Fiorello," and when he wins, and he was not supposed to win, the bosses are walking around very grumpily, and there is one set of lines in the song where they say, "How did we know the people would go to the polls and elect a fanatic?" And the other one says, "The people can do what they want to, but I got a feeling it ain't democratic."

Mr. Speaker, I think that is a dilemma that our friends have over there. They are afraid that what the people want to do to them "ain't" democratic and, therefore, they are going to restrict the ability of a majority of the American people, acting through their legislators, to decide 5 years from now, 10 years from now, 20 years from now that they would like the Government to play more of a role in this or that area, or that they would

like the Tax Code to be fairer. They would like wealthier people to pay a higher percentage.

If we were to decide, for instance, that the Social Security payroll tax, which is a very regressive tax, unfairly burdens a lot of working people, and we want to alleviate that by changing the mix, we could not do that. If we wanted to say that wealthy people ought to pay more of their income toward the Social Security tax instead of having it cut off, we would need two-thirds, and what we have are people who, I would give them credit for perception, they understand that their very right-wing, ideological agenda is increasingly unpopular with a lot of people, and, therefore, while they still have something of a majority, they are going to try and change the rules so that that majority will not be able to work its will.

Mr. MORAN. Two words might be applicable here, and that is hypocrisy and cynicism. Certainly it is the height of hypocrisy to pass a rule at the beginning of a game, as we did on the very first legislative day of this session of Congress back in January 1995, when we passed a rule saying that three-fifths' vote would be required any time you raise taxes, and then every time that we have had a tax bill, the Committee on Rules has had to waive that exemption. Talk about hypocrisy; to get credit for passing a law, and then every time that it would apply, to waive it.

But then cynicism, and I think the term cynicism applies here because we do not have that ability to waive it if it becomes a constitutional amendment. But the Members on the other side have got to be thoughtful enough to know that this would be unworkable if it became a constitutional amendment. And so what is driving it?

Well, one would have to believe that it is a certain element of cynicism, knowing perhaps that they are not likely to be in office when it applies to subsequent Congresses or believing that better minds will prevail, that the Senate will kill it or that the American people in their State constitutional conventions will kill it, but somebody else will do the responsible thing, allowing them to do the cynical thing to get votes by voting for this constitutional amendment, believing and hoping that it will never become law.

Mr. FRANK of Massachusetts. Mr. Speaker, that is very reassuring because that gives us two chances to kill it: one with better minds; and, two, with the Senate as apparently an alternative line of defense there.

Mr. SKAGGS. Let me suggest that we take the words of James Madison as a benediction to this particular discussion, and just quoting from the last part of Federalist Paper No. 58, Madison on this very point wrote as follows:

"It has been said," this is referring to the debates in the Constitutional Convention about wanting more than a simple majority for certain kinds of legislation, quote, "it has been said that more than a majority ought to have been required in particular cases for a decision." That some advantages might have resulted from such a precaution cannot be denied. It might have been an additional shield to some particular interests and another obstacle, generally, to hasty and partial measures. But these considerations are outweighed by the inconveniences in the opposite scale. In all cases where justice or the general good might require new laws to be passed or active measures to be pushed, the fundamental principle of free government would be reversed. It would no longer be the majority that would rule. The power would be transferred to the minority.

I do not think we should do that.

PROTECTING OUR ENVIRONMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Georgia [Mr. NORWOOD] is recognized for 60 minutes as the designee of the majority leader.

Mr. NORWOOD. Mr. Speaker, the Federal Government has a vital role to play in protecting our environment. If we are to preserve and build on the tremendous gains we have made in the last two decades in cleaning up our land, air, and water, we must have Federal guidelines enforced by an active and revitalized Environmental Protection Agency working in close cooperation with our States and local governments.

Now that I have shattered your opinion of conservative Republican views on the environment, we can get down to nuts and bolts of how we accomplish the goals on which I think we all agree—for we are all environmentalists.

Thirty years ago many of our rivers were horribly polluted, our air quality in parts of the country was so bad that people with even minor health problems were confined to their homes, and soil and building contamination was to an extent that our children showed elevated levels of lead poisoning in nationwide blood tests. These problems led Republican President Richard Nixon to create the Environmental Protection Agency to clean up the country.

We have done a good job in getting started—but we still have a long way to go, and we can do better. That's what this new Congress should be about.

In the three decades since the creation of our environmental laws, we have seen what began as strong measures to protect our natural resources turn into a tidal wave of regulations and lawsuits that stifle our economy, usurp local and State autonomy, and infringe on the constitutional rights of property owners, while accomplishing very little in the way of real protection or cleanup.

This is generally what happens with every Federal agency or endeavor, given enough time. Because when we create laws and agencies to address a nationwide problem, we at the same time create a new industry comprised of Government bureaucrats; private sector consultants, experts, and contractors; specialized trial attorneys; and consumer activist groups.

All these groups have a powerful vested interest in seeing that the original nationwide problem is not only not solved, but continues to be an ever-growing problem, expanding their industry, careers, and incomes into perpetuity.

With groups like Ralph Nader's Citizen Action, the Energy Research Foundation, Greenpeace, and the like, we have created a cottage industry raising millions of dollars a year, that would be put out of business if we ever really solved our environmental problems.

The trial attorneys that have become emeshed in our cleanup efforts are costing us $900 million a year—money that could be used on actually cleaning up waste sites, but is instead siphoned away without a single shovelful of waste being touched in return.

The principles behind environmental legislation are good—the problem is how they are enforced and carried out. But to even suggest reform or change in the status quo is to invite the wrath of these special interests, and that is where we find ourselves today in searching for better ways to clean up our environment.

There is probably no better example of this than the ongoing effort to reform the Superfund Clean-Up Program. This program came into existence in 1980 with the noble goal of identifying and cleaning up the worse cases of site pollution and contamination in the country, called National Priorities List Sites, or NPL's. In addition, secondary pollution sites were identified as "brownfield sites" that also badly needed cleaning up, but were not as critical to overall public health as the NPL sites.

A small amount of the funds to accomplish this mammoth task come from the taxpayer, and most comes from a special tax on industries and products that tend to create pollution. We take in around $1.5 billion a year from this combination of taxes on oil and chemicals, and the overall corporate environmental tax. In addition, individual companies that played an original role in creating one of these NPL sites pay as large a portion of the total clean-up costs as can be extracted. There are 1,300 NPL sites in the country, and another 450,000 brownfield sites.

How are we doing in achieving this mission? Ninety-one sites have been

VOL
142
PT
5
MR
21
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29
1996
UMI

cleaned up in the 16 years the Superfund has been in existence; 91 out of 1,300.

The average cleanup has taken 12 to 15 years to complete, and cost more than $30 million a site.

Of those 12 to 15 years spent on each site, 10 years are spent in the courts, in negotiations, and on bureaucratic studies and redtape. It takes only 2 years to actually get the job done.

Of the $30 million spent on each site, half of the money goes to trial lawyers and Federal bureaucrats. Of the $25 billion spent since 1980, that's nearly $12 billion going to trial attorneys, salaries at the EPA, and studies on how to clean up instead of just getting the job done—for that we were only left around $13 billion.

So while we spend our Superfund money and time on courts, bureaucrats, studies, and lawyers, 10 million children under the age of 12 continue to live within 4 miles of a waste site—breathing the air, and drinking the water. At today's pace, these children will be in their midtwenties before the sites are cleaned.

That's why we introduced the Reform of Superfund Act, or H.R. 2500 this past year to reform the way we clean up these sites. So far, we have held 17 congressional hearings, heard testimony from 159 witnesses on ways to improve and speed up the process, and have conducted over 50 bipartisan meetings on the effort.

In return for these efforts, we are attacked by the special interests whose cash-flow would be cut if we succeed. The Ralph Nader faction under the guise of Citizen Action has mounted an all-out campaign to stop the efforts. Why? One of their main backers is the Trial Lawyers Association, which would stand to lose millions if the Superfund were used to clean up pollution instead of paying lawyers.

There is no better example of this than in my own district. The area surrounding the now-closed Southern Wood Piedmont Plant in Augusta has been under study and court action for years now. Yet the Hyde Park neighborhood most affected by the arsenic contamination remains just as it was before the efforts began. The children in the neighborhood continue to play on their public school playgrounds next to arsenic-contaminated drainage ditches. But the court costs have run in the millions in the on-going litigation, and EPA experts and consultants have justified their salaried positions at taxpayer expense by the dozens of studies undertaken as the project drags on, year after year. We don't need to talk about it any longer, we need to clean it up.

Our need to revitalize our efforts to protect the environment are certainly not limited to just Superfund. Should Washington bureaucrats be allowed to tell you the same water treatment regulations that apply to Anchorage, AK, should also apply to Augusta, GA? What works most effectively to return clean water to our waterways in one geographic location may not be as effective from an environmental or cost standpoint in another, yet we continue with the Federal concept of one size fits all, to the detriment of our environment.

Do we follow the latest special-interest fad to pass new restrictions on chlorine levels in municipal water supplies based on suspect findings by EPA researchers? This is exactly the direction we are heading, and that is not good science.

We cannot base massive expenditures of Federal money based on a researcher's "best guess" about a possibility of a risk—we have too many real environmental threats that we have put off dealing with for years. And if we do allow environmental scare tactics push us into "bad science" decisions on chlorine reductions, we greatly increase the risk of fecal coliform bacterial infections in both humans and wildlife as a result. That is a known factor, and a guaranteed result.

There are a pair of bald eagles that nest on an island in the Savannah River across from my house. I love those eagles, am very personally protective of them, and feel that our laws need to do the same.

But what about the cotton farmer that has a pair of nesting eagles on his farm? The farmer has lived on his land all his life. He feeds his family by growing cotton. But then the bureaucrats tell him that he can keep his land, but he can't grow cotton because the pesticides to keep away the boll weevil may interfere with the eagles' nesting.

That farmer knows his land. He knows about the nesting eagles. His neighbor that grows cotton was just put out of business because he too had nesting eagles. The farmer kills the eagles so the bureaucrats can't stop him from growing cotton and feeding his family. He buries the eagles, no one ever knows, and we all lose a valuable and irreplaceable natural resource. Shouldn't we have regulations that protect the eagles and the homo sapiens—the man and his family?

We all want environmental policy where Americans will be healthier, safer, and cleaner. We all want to protect our natural resources and wildlife. But we must start doing it better, with an eye on concrete results.

That means cleaning up every one of the Superfund sites in the country, saving as much money as we can based on good science.

The regulators must be accountable and responsible for their actions. The regulations must be changed to embrace State and local control, and take into effect not just the letter of the law, but the intent.

My friend Sam Booher in Augusta, one of the most knowledgeable and dedicated environmentalists in the country, knows far more about what is needed to protect our natural resources in East Central Georgia than any bureaucrat in Washington, and we need to start letting people like Sam have a larger voice in this fight.

What we attempt to do by cutting funding for the EPA is get the Washington bureaucrats' attention. We want fewer Federal agents that, in the words of Thomas Jefferson, "swarm across our land to eat our sustenance." We want our tax dollars used to cleanup our environment, not pay the 1,000 lawyers that work for the EPA, not pay the bureaucrats to do one redundant study after another. We want our environment cleaned up now.

And what do we get for trying to add common sense to our environmental laws, for trying to use our fewer and fewer Federal dollars more wisely? We are attacked by the President and his liberal allies in Congress for their political gain. We are attacked by the trial lawyers for their monetary gain. We are attacked by the bureaucrats to save their jobs. And we are attacked by Ralph Nader for if we succeed he loses most of his funding.

We need to increase our Federal efforts to preserve and protect our environment, but it must be done more wisely and effectively. Our enemy is not industry, farmers, the EPA, or even regulations themselves—it is the Washington bureaucracy that continues to expand from our efforts to save our natural resources, while our children continue to live with pollution, and real protection takes a back seat to funding special interests.

☐ 1630

Mr. Speaker, I have never run for political office before, and I am a freshman and new to this field. As most people who are willing to come to Washington and serve, each of us have priorities. I was very interested and am interested and will stay interested in us balancing our budget. It is not hard to understand why. I would like for my children and my grandchildren to live the American dream, and move into the 21st century, have a decent job, and be able to keep enough of their own income so they can be responsible for themselves, and so they can live in an America that is better than my America when I grew up. That is our responsibility. I am very interested in that.

I want to make sure my children and grandchildren do not have to go to war. There is only one way to keep that from happening, and that is to have a very, very strong defense. That is our best bet to keep our children out of war.

Following that, it only makes sense, one could only conclude that if you are interested in the 21st century for your children economically, so they can have a good job, have a good standard of living, you could not possibly not be interested in them having clean water. You could not possibly not be interested in them having clean air. What good will it do for them to have a good job and pay only reasonable taxes if they cannot drink their water or breathe their air?

Mr. Speaker, I know that there is a lot that has been said about this Republican Congress in terms of the environment, but I believe that if we can get past those who wish to reach political gain, those who wish to make money out of this argument, we can in this Congress pass environmental laws that will clean up this country and keep it cleaned up, as opposed to continuing to sink millions and millions and millions of dollars into bureaucratic redtape and into the pockets of our trial lawyers.

Mr. Speaker, I appreciate having the opportunity this afternoon to get this off my chest.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. JONES) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, on March 28.

Mr. SHADEGG, for 5 minutes each day, on March 27, 28, and 29.

Mr. BURTON of Indiana, for 5 minutes each day, on March 27, 28, and 29.

Mr. MICA, for 5 minutes each day, on March 27 and 28.

Mr. CANADY of Florida, for 5 minutes, on March 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SKAGGS) and to include extraneous matter:)

Mr. OBEY.
Mr. KILDEE.
Mr. KENNEDY of Massachusetts.
Mrs. MEEK of Florida.
Mr. HALL of Ohio.
Mr. MANTON.
Mr. FAZIO of California.

(The following Members (at the request of Mr. JONES) and to include extraneous matter:)

Mrs. MYRICK.
Mr. MANZULLO.
Mr. COMBEST.
Mr. GILMAN.
Mrs. JOHNSON of Connecticut.
Mr. GALLEGLY.

(The following Members (at the request of Mr. NORWOOD) and to include extraneous matter:)

Ms. WATERS.
Mrs. MINK of Hawaii.
Mr. GALLEGLY.
Ms. SLAUGHTER.
Mr. LIGHTFOOT.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1459. An act to provide for uniform management of livestock grazing on Federal land, and for other purposes; to the Committee on Natural Resources and the Committee on Agriculture.

ADJOURNMENT

Mr. NORWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, March 27, 1996, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2293. A letter from the Chairperson, National Council on Disability, transmitting the Council's annual report volume 16, fiscal year 1995, pursuant to 29 U.S.C. 781(a)(8); to the Committee on Economic and Educational Opportunities.

2294. A letter from the Administrator, General Services Administration, transmitting GSA's investigation of the costs of operating privately owned vehicles based on calendar year 1995 data, pursuant to 5 U.S.C. 5707(b)(1); to the Committee on Government Reform and Oversight.

2295. A letter from the Chairman, National Endowment for the Humanities, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2296. A letter from the Director, Office of Management and Budget, transmitting a report entitled "Agency Compliance with Title II of the Unfunded Mandates Reform Act of 1995," pursuant to 2 U.S.C. 1538; to the Committee on Government Reform and Oversight.

2297. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting notice on leasing systems for the Central Gulf of Mexico, sale 157, scheduled to be held in April 1996, pursuant to 43 U.S.C. 1337(a)(8); to the Committee on Resources.

2298. A letter from the Secretary of Transportation, transmitting the Department's evaluation of oil tanker routing, pursuant to Public Law 101-380, section 4111(c) (104 Stat. 516); to the Committee on Transportation and Infrastructure.

2299. A letter from the Administrator, Environmental Protection Agency, transmitting the 1994 national water quality inventory report, pursuant to 33 U.S.C. 1315(b)(2); to the Committee on Transportation and Infrastructure.

2300. A letter from the Assistant Attorney General of the United States, transmitting a report entitled "Child Victimizers: Violent Offenders and Their Victims," pursuant to Public Law 103-322, section 320928(h) (108 Stat. 2133); jointly, to the Committees on the Judiciary and Economic and Educational Opportunities.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. DUNCAN, MR. LIPINSKI, Ms. MOLINARI, and Mr. WISE):

H.R. 3159. A bill to amend title 49, United States Code, to authorize appropriations for fiscal years 1997, 1998, and 1999 for the National Transportation Safety Board, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ARCHER (for himself, Mr. BLILEY, Mr. GOODLING, Mr. HYDE, Mr. THOMAS, Mr. BILIRAKIS, Mr. FAWELL, Mr. MCCOLLUM, and Mr. HASTERT):

H.R. 3160. A bill to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, to reform medical liability, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Commerce, Economic and Educational Opportunities, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CRANE (for himself, Mr. GIBBONS, and Mrs. KENNELLY):

H.R. 3161. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Romania; to the Committee on Ways and Means.

By Ms. DELAURO:

H.R. 3162. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Banking and Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Washington (for himself and Mrs. SMITH of Washington):

H.R. 3163. A bill to provide that Oregon may not tax compensation paid to a resident of Washington for services as a Federal employee at a Federal hydroelectric facility located on the Columbia River; to the Committee on the Judiciary.

By Mr. HASTINGS of Washington:

H.R. 3164. A bill to exempt defense nuclear facilities from the Metric System Conversion Act of 1975; to the Committee on Science.

By Mrs. JOHNSON of Connecticut:

H.R. 3165. A bill to amend title 23, United States Code, to make funds available for surface transportation projects on roads functionally classified as local or rural minor

VOL
142
PT
5
MR
21
—
29
1996
UMI

collectors, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. NEY:

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the 104th Congress; to the Committee on House Oversight.

By Mr. FUNDERBURK (for himself, Mr. Smith of New Jersey, Mr. Scarborough, Mr. Graham, Mr. Hilleary, Mr. Jones, Mr. Cox, Mr. Foley, Mr. Gutknecht, Mrs. Chenoweth, Mr. Underwood, Mr. Salmon, Ms. Pelosi, Mr. Bono, Mr. Burton of Indiana, Mr. Solomon, Ms. Brown of Florida, Mr. Hastings of Washington, Mr. Baker of California, Mr. Pombo, Mr. Cooley, Mr. Ehrlich, Mr. Coble, Mrs. Cubin, Mr. Istook, Mr. Brewster, Mr. Buyer, and Mr. Rohrabacher):

H. Con. Res. 154. Concurrent resolution to congratulate the Republic of China on Taiwan on the occasion of its first Presidential democratic election; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 218: Mr. Zimmer and Mr. Rose.

H.R. 1073: Mr. Torres, Mr. Petri, and Mr. Ensign.

H.R. 1074: Mr. Torres, Mr. Petri, and Mr. Ensign.

H.R. 1202: Mr. Shaw.

H.R. 1713: Mr. Barr.

H.R. 1916: Mr. Bryant of Texas and Mr. Bliley.

H.R. 2086: Mr. Blute.

H.R. 2270: Mr. Hyde.

H.R. 2400: Mr. Davis, Mr. Duncan, Mr. Wilson, Mr. Livingston, and Mr. Cramer.

H.R. 2510: Mr. McHale.

H.R. 2578: Mr. McHale.

H.R. 2579: Mr. Skaggs, Mr. Gunderson, Mr. Montgomery, and Mr. Hefley.

H.R. 2585: Mr. Miller of California and Ms. Jackson-Lee.

H.R. 2636: Mr. King.

H.R. 2856: Mr. Volkmer.

H.R. 2919: Mr. Houghton and Mr. Doyle.

H.R. 2925: Mr. Stearns, Mrs. Myrick, and Mr. Ney.

H.R. 3002: Mr. Brewster, Mr. King, and Mr. Barrett of Nebraska.

H.R. 3103: Mr. Forbes, Mr. Horn, Ms. Molinari, Mr. Portman, Mr. Ney, Mr. Hobson, Mr. Shays, Mr. Hoke, Mrs. Kelly, Mr. Longley, Mr. McHugh, Mr. Boehlert, Mr. English of Pennsylvania, Mr. Greenwood, Mr. Gilchrest, and Mrs. Fowler.

H.R. 3106: Mr. Frost, Ms. Eddie Bernice Johnson of Texas, Mr. Gene Green of Texas, and Ms. Norton.

H.R. 3119: Mr. Gene Green of Texas and Mr. Kildee.

H.R. 3148: Mr. Torricelli.

H.J. Res. 158: Mr. Sabo.

PETITIONS ETC.

Under clause 1 of rule XXII,

68. The SPEAKER presented a petition of the Council of the District of Columbia, relative to Council Resolution 11-235, "Transfer of Jurisdiction over a Portion of Parcel 174/15 and Lot 802 in Square 4325, S.O. 85–182, Resolution of 1996"; which was referred to the Committee on Government Reform and Oversight.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3103

Offered by: Mr. Gunderson

Amendment No. 1. At the end of the bill add the following new title (and conform the table of contents accordingly):

TITLE V—PROMOTING ACCESS AND AVAILABILITY OF HEALTH COVERAGE IN RURAL AREAS

Subtitle A—Medicare Program

SECTION 501. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) Medicare Rural Hospital Flexibility Program.—Section 1820 of the Social Security Act (42 U.S.C. 1395i–4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"Sec. 1820. (a) Establishment.—Any State that submits an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program described in subsection (c).

"(b) Application.—A State may establish a medicare rural hospital flexibility program described in subsection (c) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (d)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(c) Medicare Rural Hospital Flexibility Program Described.—

"(1) In general.—A State that has submitted an application in accordance with subsection (b), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (d)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) State designation of facilities.—

"(A) In general.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) Criteria for designation as critical access hospital.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area;

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 6 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 72 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 72-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(d) Rural Health Network Defined.—

"(1) In general.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at-least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) Agreements.—

"(A) In general.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) Items described.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) Credentialing and quality assurance.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(e) Certification by the Secretary.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(f) Permitting Maintenance of Swing Beds.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed 12 beds (minus the number of inpatient beds used for providing inpatient care in the facility pursuant to subsection (c)(2)(B)(iii)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital.

"(g) Waiver of Conflicting Part A Provisions.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.".

(b) Part A Amendments Relating to Rural Primary Care Hospitals and Critical Access Hospitals.—

(1) Definitions.—Section 1861(mm) of such Act (42 U.S.C. 1395x(mm)) is amended to read as follows:

"Critical Access Hospital; Critical Access Hospital Services

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(e).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) Coverage and payment.—(A) Section 1812(a)(1) of such Act (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Sections 1813(a) and section 1813(b)(3)(A) of such Act (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient rural primary care hospital services" each place it appears, and inserting "inpatient critical access hospital services".

(C) Section 1813(b)(3)(B) of such Act (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services".

(D) Section 1814 of such Act (42 U.S.C. 1395f) is amended—

(i) in subsection (a)(8) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and

(iii) by amending subsection (l) to read as follows:

"(l) Payment for Inpatient Critical Access Hospital Services.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(3) Treatment of critical access hospitals as providers of services.—(A) Section 1861(u) of such Act (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".

(4) Conforming amendments.—(A) Section 1128A(b)(1) of such Act (42 U.S.C. 1320a–7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(B) Section 1128B(c) of such Act (42 U.S.C. 1320a–7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(C) Section 1134 of such Act (42 U.S.C. 1320b–4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(D) Section 1138(a)(1) of such Act (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

(E) Section 1816(c)(2)(C) of such Act (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(F) Section 1833 of such Act (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";

(iv) in subsection (l)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(v) in subsection (l)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(G) Section 1835(c) of such Act (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(H) Section 1842(b)(6)(A)(ii) of such Act (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(I) Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services"; and

(II) in paragraph (2), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";

(iv) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(v) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(J) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(K) Section 1866(a)(1) of such Act (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";

(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals" and "critical access hospital services", respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "rural primary care hospitals" and inserting "critical access hospitals", and

(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".

(L) Section 1866(a)(3) of such Act (42 U.S.C. 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(M) Section 1867(e)(5) of such Act (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(c) Payment Continued to Designated EACHs.—Section 1886(d)(5)(D) of such Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting "as in effect on September 30, 1995" before the period at the end; and

(2) in clause (v)—

(A) by inserting "as in effect on September 30, 1995" after "1820 (i)(1)"; and

(B) by striking "1820(g)" and inserting "1820(e)".

(d) Part B Amendments Relating to Critical Access Hospitals.—

(1) Coverage.—(A) Section 1861(mm) of such Act (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(B) Section 1832(a)(2)(H) of such Act (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

(2) PAYMENT.—(A) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access hospital services".

(B) Section 1834(g) of such Act (42 U.S.C. 1395m(g)) is amended to read as follows:

"(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1996.

SEC. 502. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".

(b) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIREMENTS.—Section 1867(e)(5) of such Act (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

(c) COVERAGE AND PAYMENT FOR SERVICES.—

(1) COVERAGE.—Section 1832(a)(2) of such Act (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (I);

(B) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(2) PAYMENT BASED ON PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—

(A) IN GENERAL.—Section 1833(a)(6) of such Act (42 U.S.C. 13951(a)(6)), as amended by section 501(f)(2), is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(B) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) of such Act (42 U.S.C. 1395m(g)), as amended by section 501(f)(2)(B), is amended—

(i) in the heading, by striking "SERVICES" and inserting "SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES"; and

(ii) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1996.

SEC. 503. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) PROHIBITING DENIAL OF REQUEST FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.—

(1) IN GENERAL.—Section 1886(d)(10)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) of such Act (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii) of such Act.

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1997 and each subsequent fiscal year.

Subtitle B—Small Rural Hospital Antitrust Fairness

SEC. 511. ANTITRUST EXEMPTION.

The antitrust laws shall not apply with respect to—

(1) the merger of, or the attempt to merge, 2 or more hospitals,

(2) a contract entered into solely by 2 or more hospitals to allocate hospital services, or

(3) the attempt by only 2 or more hospitals to enter into a contract to allocate hospital services,

if each of such hospitals satisfies all of the requirements of section 512 at the time such hospitals engage in the conduct described in paragraph (1), (2), or (3), as the case may be.

SEC. 512. REQUIREMENTS.

The requirements referred to in section 511 are as follows:

(1) The hospital is located outside of a city, or in a city that has less than 150,000 inhabitants, as determined in accordance with the most recent data available from the Bureau of the Census.

(2) In the most recently concluded calendar year, the hospital received more than 40 percent of its gross revenue from payments made under Federal programs.

(3) There is in effect with respect to the hospital a certificate issued by the Health Care Financing Administration specifying that such Administration has determined that Federal expenditures would be reduced, consumer costs would not increase, and access to health care services would not be reduced, if the hospital and the other hospitals that requested such certificate merge, or allocate the hospital services specified in such request, as the case may be.

SEC. 513. DEFINITION.

For purposes of this title, the term "antitrust laws" has the meaning given such term in subsection (a) of the first section of the

Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies with respect to unfair methods of competition.

Subtitle C—Miscellaneous Provisions

SEC. 521. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS.

"(a) GENERAL RULE.—Gross income shall not include any qualified loan repayment.

"(b) QUALIFIED LOAN REPAYMENT.—For purposes of this section, the term 'qualified loan repayment' means any payment made on behalf of the taxpayer by the National Health Service Corps Loan Repayment Program under section 338B(g) of the Public Health Service Act.".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 338B(g) of the Public Health Service Act is amended by striking "Federal, State, or local" and inserting "State or local".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. National Health Service Corps loan repayments.
"Sec. 138. Cross references to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made under section 338B(g) of the Public Health Service Act after the date of the enactment of this Act.

SEC. 522. TELEMEDICINE SERVICES.

The Secretary of Health and Human Services shall establish a methodology for making payments under part B of the medicare program for telemedicine services furnished on an emergency basis to individuals residing in an area designated as a health professional shortage area (under section 332(a) of the Public Health Service Act).

H.R. 3136

OFFERED BY: MR. HYDE

AMENDMENT No. 2. Strike title III and insert the following:

TITLE III—SMALL BUSINESS REGULATORY FAIRNESS

SEC. 301. SHORT TITLE.

This title may be cited as the "Small Business Regulatory Enforcement Fairness Act of 1996".

SEC. 302. FINDINGS.

Congress finds that—

(1) a vibrant and growing small business sector is critical to creating jobs in a dynamic economy;

(2) small businesses bear a disproportionate share of regulatory costs and burdens;

(3) fundamental changes that are needed in the regulatory and enforcement culture of Federal agencies to make agencies more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) three of the top recommendations of the 1995 White House Conference on Small Business involve reforms to the way government regulations are developed and enforced, and reductions in government paperwork requirements;

(5) the requirements of chapter 6 of title 5, United States Code, have too often been ignored by government agencies, resulting in greater regulatory burdens on small entities than necessitated by statute; and

(6) small entities should be given the opportunity to seek judicial review of agency actions required by chapter 6 of title 5, United States Code.

SEC. 303. PURPOSES.

The purposes of this title are—

(1) to implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations;

(2) to provide for judicial review of chapter 6 of title 5, United States Code;

(3) to encourage the effective participation of small businesses in the Federal regulatory process;

(4) to simplify the language of Federal regulations affecting small businesses;

(5) to develop more accessible sources of information on regulatory and reporting requirements for small businesses;

(6) to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented; and

(7) to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities.

Subtitle A—Regulatory Compliance Simplification

SECTION 311. DEFINITIONS.

For purposes of this subtitle—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 312. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides". The guides shall explain the actions a small entity is required to take to comply with a rule or group of rules. The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides.

(b) COMPREHENSIVE SOURCE OF INFORMATION.—Agencies shall cooperate to make available to small entities through comprehensive sources of information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

(c) LIMITATION ON JUDICIAL REVIEW.—An agency's small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of this section, the content of the small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.

SEC. 313. INFORMAL SMALL ENTITY GUIDANCE.

(a) GENERAL.—Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency which regulates small entities, it shall be the practice of the agency to answer inquiries by small entities concerning information on, and advice about, compliance with such statutes and regulations, interpreting and applying the law to specific sets of facts supplied by the small entity. In any civil or administrative action against a small entity, guidance given by an agency applying the law to facts provided by the small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages sought against such small entity.

(b) PROGRAM.—Each agency regulating the activities of small entities shall establish a program for responding to such inquiries no later than 1 year after enactment of this section, utilizing existing functions and personnel of the agency to the extent practicable.

(c) REPORTING.—Each agency regulating the activities of small business shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on the Judiciary of the House of Representatives no later than 2 years after the date of the enactment of this section on the scope of the agency's program, the number of small entities using the program, and the achievements of the program to assist small entity compliance with agency regulations.

SEC. 314. SERVICES OF SMALL BUSINESS DEVELOPMENT CENTERS.

(a) Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (O), by striking "and" at the end;

(2) in subparagraph (P), by striking the period at the end and inserting a semicolon; and

(3) by inserting after subparagraph (P) the following new subparagraphs:

"(Q) providing information to small business concerns regarding compliance with regulatory requirements; and

"(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 312(a) of the Small Business Regulatory Enforcement Fairness Act of 1996.".

(b) Nothing in this Act in any way affects or limits the ability of other technical assistance or extension programs to perform or continue to perform services related to compliance assistance.

SEC. 315. COOPERATION ON GUIDANCE.

Agencies may, to the extent resources are available and where appropriate, in cooperation with the states, develop guides that fully integrate requirements of both Federal and state regulations where regulations within an agency's area of interest at the Federal and state levels impact small entities. Where regulations vary among the states, separate guides may be created for separate states in cooperation with State agencies.

SEC. 316. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

VOL
142
PT
5
MR
21
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29
1996
UMI

Subtitle B—Regulatory Enforcement Reforms

SECTION 321. DEFINITIONS.

For purposes of this subtitle—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 322. SMALL BUSINESS AND AGRICULTURE ENFORCEMENT OMBUDSMAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

"(a) DEFINITIONS.—For purposes of this section, the term—

"(1) "Board" means a Regional Small Business Regulatory Fairness Board established under subsection (c); and

"(2) "Ombudsman" means the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under subsection (b).

"(b) SBA ENFORCEMENT OMBUDSMAN.—

"(1) Not later than 180 days after the date of enactment of this section, the Administrator shall designate a Small Business and Agriculture Regulatory Enforcement Ombudsman, who shall report directly to the Administrator, utilizing personnel of the Small Business Administration to the extent practicable. Other agencies shall assist the Ombudsman and take actions as necessary to ensure compliance with the requirements of this section. Nothing in this section is intended to replace or diminish the activities of any Ombudsman or similar office in any other agency.

"(2) The Ombudsman shall—

"(A) work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel;

"(B) establish means to receive comments from small business concerns regarding actions by agency employees conducting compliance or enforcement activities with respect to the small business concern, means to refer comments to the Inspector General of the affected agency in the appropriate circumstances, and otherwise seek to maintain the identity of the person and small business concern making such comments on a confidential basis to the same extent as employee identities are protected under section 7 of the Inspector General Act of 1978 (5 U.S.C.App.);

"(C) based on substantiated comments received from small business concerns and the Boards, annually report to Congress and affected agencies evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency;

"(D) coordinate and report annually on the activities, findings and recommendations of the Boards to the Administrator and to the heads of affected agencies; and

"(E) provide the affected agency with an opportunity to comment on draft reports prepared under subparagraph (C), and include a section of the final report in which the affected agency may make such comments as are not addressed by the Ombudsman in revisions to the draft.

"(c) REGIONAL SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

"(1) Not later than 180 days after the date of enactment of this section, the Administrator shall establish a Small Business Regulatory Fairness Board in each regional office of the Small Business Administration.

"(2) Each Board established under paragraph (1) shall—

"(A) meet at least annually to advise the Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies;

"(B) report to the Ombudsman on substantiated instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the Board as to agency enforcement policy or practice; and

"(C) prior to publication, provide comment on the annual report of the Ombudsman prepared under subsection (b).

"(3) Each Board shall consist of five members, who are owners, operators, or officers of small business concerns, appointed by the Administrator, after receiving the recommendations of the chair and ranking minority member of the Committees on Small Business of the House of Representatives and the Senate. Not more than three of the Board members shall be of the same political party. No member shall be an officer or employee of the Federal Government, in either the executive branch or the Congress.

"(4) Members of the Board shall serve at the pleasure of the Administrator for terms of three years or less.

"(5) The Administrator shall select a chair from among the members of the Board who shall serve at the pleasure of the Administrator for not more than 1 year as chair.

"(6) A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

"(d) POWERS OF THE BOARDS.

"(1) The Board may hold such hearings and collect such information as appropriate for carrying out this section.

"(2) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(3) The Board may accept donations of services necessary to conduct its business, provided that the donations and their sources are disclosed by the Board.

"(4) Members of the Board shall serve without compensation, provided that, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

SEC. 323. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS.

(a) IN GENERAL.—Each agency regulating the activities of small entities shall establish a policy or program within 1 year of enactment of this section to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining penalty assessments on small entities.

(b) CONDITIONS AND EXCLUSIONS.—Subject to the requirements or limitations of other statutes, policies or programs established under this section shall contain conditions or exclusions which may include, but shall not be limited to—

(1) requiring the small entity to correct the violation within a reasonable correction period;

(2) limiting the applicability to violations discovered through participation by the small entity in a compliance assistance or audit program operated or supported by the agency or a state;

(3) excluding small entities that have been subject to multiple enforcement actions by the agency;

(4) excluding violations involving willful or criminal conduct;

(5) excluding violations that pose serious health, safety or environmental threats; and

(6) requiring a good faith effort to comply with the law.

(c) REPORTING.—Agencies shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on Judiciary of the House of Representatives no later than 2 years after the date of enactment of this section on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.

SEC. 324. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

Subtitle C—Equal Access to Justice Act Amendments

SECTION 331. ADMINISTRATIVE PROCEEDINGS.

(a) Section 504(a) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(4) If, in an adversary adjudication brought by an agency, the demand by the agency is substantially in excess of the decision of the adjudicative officer and is unreasonable when compared with such decision, under the facts and circumstances of the case, the adjudicative officer shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust.".

(b) Section 504(b) of title 5, United States Code, is amended—

(1) in paragraph (1)(A), by striking "$75" and inserting "$125";

(2) at the end of paragraph (1)(B), by inserting before the semicolon "or for purposes of subsection (a)(4), a small entity as defined in section 601";

(3) at the end of paragraph (1)(D), by striking "and";

(4) at the end of paragraph (1)(E), by striking the period and inserting "; and"; and

(5) at the end of paragraph (1), by adding the following new subparagraph:

"(F) 'demand' means the express demand of the agency which led to the adversary adjudication, but does not include a recitation by the agency of the maximum statutory penalty (i) in the administrative complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.".

SEC. 332. JUDICIAL PROCEEDINGS.

(a) Section 2412(d)(1) of title 28, United States Code, is amended by adding at the end the following new subparagraph:

"(D) If, in a civil action brought by the United States, the demand by the United States is substantially in excess of the judgment finally obtained by the United States and is unreasonable when compared with such judgment, under the facts and circumstances of the case, the court shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust.".

(b) Section 2412(d) of title 28, United States Code, is amended—

(1) in paragraph (2)(A), by striking "$75" and inserting "$125";

(2) at the end of paragraph (2)(B), by inserting before the semicolon "or for purposes of subsection (d)(1)(D), a small entity as defined in section 601 of title 5";

(3) at the end of paragraph (2)(G), by striking "and";

(4) at the end of paragraph (2)(H), by striking the period and inserting "; and"; and

(5) at the end of paragraph (2), by adding the following new subparagraph:

"(I) 'demand' means the express demand of the United States which led to the adversary adjudication, but shall not include a recitation of the maximum statutory penalty (i) in the complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.".

SEC. 333. EFFECTIVE DATE.

The amendments made by sections 331 and 332 shall apply to civil actions and adversary adjudications commenced on or after the date of the enactment of this subtitle.

Subtitle D—Regulatory Flexibility Act Amendments

SEC. 341. REGULATORY FLEXIBILITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) SECTION 603.—Section 603(a) of title 5, United States Code, is amended—

(A) by inserting after "proposed rule", the phrase ", or publishes a notice of proposed rulemaking for an interpretative rule of general applicability involving the internal revenue laws of the United States"; and

(B) by inserting at the end of the subsection, the following new sentence: "In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules published in the Federal Register for codification in the Code of Federal Regulations, but only to the extent that such interpretative rules impose on small entities a collection of information requirement.".

(2) SECTION 601.—Section 601 of title 5, United States Code, is amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting "; and", and by adding at the end the following:

"(7) the term 'collection of information'—

"(A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

"(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the United States; or

"(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

"(B) shall not include a collection of information described under section 3518(c)(1) of title 44, United States Code.

"(8) RECORDKEEPING REQUIREMENT.—The term 'recordkeeping requirement' means a requirement imposed by an agency on persons to maintain specified records.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended—

(1) in subsection (a) to read as follows:

"(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States as described in section 603(a), the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

"(1) a succinct statement of the need for, and objectives of, the rule;

"(2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

"(3) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

"(4) a description of the projected reporting, record keeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

"(5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."; and

(2) in subsection (b), by striking "at the time" and all that follows and inserting "such analysis or a summary thereof.".

SEC. 342. JUDICIAL REVIEW.

Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) For any rule subject to this chapter, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

"(2) Each court having jurisdiction to review such rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

"(3)(A) A small entity may seek such review during the period beginning on the date of final agency action and ending one year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of one year, such lesser period shall apply to an action for judicial review under this section.

"(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this chapter, an action for judicial review under this section shall be filed not later than—

"(i) one year after the date the analysis is made available to the public, or

"(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.

"(4) In granting any relief in an action under this section, the court shall order the agency to take corrective action consistent with this chapter and chapter 7, including, but not limited to—

"(A) remanding the rule to the agency, and

"(B) deferring the enforcement of the rule against small entities unless the court finds that continued enforcement of the rule is in the public interest.

"(5) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this section.

"(b) In an action for the judicial review of a rule, the regulatory flexibility analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (a)(4), shall constitute part of the entire record of agency action in connection with such review.

"(c) Compliance or noncompliance by an agency with the provisions of this chapter shall be subject to judicial review only in accordance with this section.

"(d) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law.".

SEC. 343. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 605(b) of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual basis for such certification. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

(b) Section 612 of title 5, United States Code is amended—

(1) in subsection (a), by striking "the committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives".

(2) in subsection (b), by striking "his views with respect to the" and inserting in lieu thereof, "his or her views with respect to

VOL
142
PT
5
MR
21
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29
1996
UMI

compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the".

SEC. 344. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) SMALL BUSINESS OUTREACH AND INTERAGENCY COORDINATION.— Section 609 of title 5, United States Code is amended—

(1) before "techniques," by inserting "the reasonable use of";

(2) in paragraph (4), after "entities" by inserting "including soliciting and receiving comments over computer networks";

(3) by designating the current text as subsection (a); and

(4) by adding the following:

"(b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter—

"(1) a covered agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;

"(2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule;

"(3) the agency shall convene a review panel for such rule consisting wholly of full time Federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;

"(4) the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of each individual small entity representative identified by the agency after consultation with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c);

"(5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c), provided that such report shall be made public as part of the rulemaking record; and

"(6) where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.

"(c) An agency may in its discretion apply subsection (b) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.

"(d) For purposes of this section, the term covered agency means the Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor.

"(e) The Chief Counsel for Advocacy, in consultation with the individuals identified in subsection (b)(2), and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of subsections (b)(3), (b)(4), and (b)(5) by including in the rulemaking record a written finding, with reasons therefor, that those requirements would not advance the effective participation of small entities in the rulemaking process. For purposes of this subsection, the factors to be considered in making such a finding are as follows:

"(1) In developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration; or in developing a final rule, the extent to which the covered agency took into consideration the comments filed by the individuals identified in subsection (b)(2).

"(2) Special circumstances requiring prompt issuance of the rule.

"(3) Whether the requirements of subsection (b) would provide the individuals identified in subsection (b)(2) with a competitive advantage relative to other small entities.".

(b) SMALL BUSINESS ADVOCACY CHAIRPERSONS.—Not later than 30 days after the date of enactment of this Act, the head of each covered agency that has conducted a final regulatory flexibility analysis shall designate a small business advocacy chairperson using existing personnel to the extent possible, to be responsible for implementing this section and to act as permanent chair of the agency's review panels established pursuant to this section.

SEC. 345. EFFECTIVE DATE.

This subtitle shall become effective on the expiration of 90 days after the date of enactment of this subtitle, except that such amendments shall not apply to interpretative rules for which a notice of proposed rulemaking was published prior to the date of enactment.

Subtitle E—Congressional Review

SEC. 351. CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.

Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"Sec.
"801. Congressional review.
"802. Congressional disapproval procedure.
"803. Special rule on statutory, regulatory, and judicial deadlines.
"804. Definitions.
"805. Judicial review.
"806. Applicability; severability.
"807. Exemption for monetary policy.
"808. Effective date of certain rules.

"§801. Congressional review

"(a)(1)(A) Before a rule can take effect, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

"(i) a copy of the rule;

"(ii) a concise general statement relating to the rule, including whether it is a major rule; and

"(iii) the proposed effective date of the rule.

"(B) On the date of the submission of the report under subparagraph (A), the Federal agency promulgating the rule shall submit to the Comptroller General and make available to each House of Congress—

"(i) a complete copy of the cost-benefit analysis of the rule, if any;

"(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

"(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

"(iv) any other relevant information or requirements under any other Act and any relevant Executive Orders.

"(C) Upon receipt of a report submitted under subparagraph (A), each House shall provide copies of the report to the Chairman and Ranking Member of each standing committee with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

"(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction in each House of the Congress by the end of 15 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

"(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

"(3) A major rule relating to a report submitted under paragraph (1) shall take effect on the latest of—

"(A) the later of the date occurring 60 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register, if so published;

"(B) if the Congress passes a joint resolution of disapproval described in section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

"(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

"(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

"(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

"(b)(1) A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule.

"(2) A rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule.

"(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of subsection (a)(3) may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive Order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws;

"(C) necessary for national security; or

"(D) issued pursuant to any statute implementing an international trade agreement.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

"(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule for which a report was submitted in accordance with subsection (a)(1)(A) during the period beginning on the date occurring—

"(A) in the case of the Senate, 60 session days, or

"(B) in the case of the House of Representatives, 60 legislative days,

before the date the Congress adjourns a session of Congress through the date on which the same or succeeding Congress first convenes its next session, section 802 shall apply to such rule in the succeeding session of Congress.

"(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

"(i) such rule were published in the Federal Register (as a rule that shall take effect) on—

"(I) in the case of the Senate, the 15th session day, or

"(II) in the case of the House of Representatives, the 15th legislative day,

after the succeeding session of Congress first convenes; and

"(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a rule can take effect.

"(3) A rule described under paragraph (1) shall take effect as otherwise provided by law (including other subsections of this section).

"(e)(1) For purposes of this subsection, section 802 shall also apply to any major rule promulgated between March 1, 1996, and the date of the enactment of this chapter.

"(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

"(A) such rule were published in the Federal Register on the date of enactment of this chapter; and

"(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

"(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under section 802 respecting a rule, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"§802. Congressional disapproval procedure

"(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced in the period beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ___ relating to ___, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in).

"(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

"(2) For purposes of this section, the term 'submission or publication date' means the later of the date on which—

"(A) the Congress receives the report submitted under section 801(a)(1); or

"(B) the rule is published in the Federal Register, if so published.

"(c) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

"(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

"(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

"(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

"(e) In the Senate the procedure specified in subsection (c) or (d) shall not apply to the consideration of a joint resolution respecting a rule—

"(1) after the expiration of the 60 session days beginning with the applicable submission or publication date, or

"(2) if the report under section 801(a)(1)(A) was submitted during the period referred to in section 801(d)(1), after the expiration of the 60 session days beginning on the 15th session day after the succeeding session of Congress first convenes.

"(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

"(1) The joint resolution of the other House shall not be referred to a committee.

"(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(g) This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"§803. Special rule on statutory, regulatory, and judicial deadlines

"(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of enactment of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

"(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

"§804. Definitions

"For purposes of this chapter—

"(1) The term 'Federal agency' means any agency as that term is defined in section 551(1).

"(2) The term 'major rule' means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

"(A) an annual effect on the economy of $100,000,000 or more;

"(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

"(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

VOL
142
PT
5
MR
21
—
29
1996
UMI

The term does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.

"(3) The term 'rule' has the meaning given such term in section 551, except that such term does not include—

"(A) any rule of particular applicability, including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing;

"(B) any rule relating to agency management or personnel; or

"(C) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

"§805. Judicial review

"No determination, finding, action, or omission under this chapter shall be subject to judicial review.

"§806. Applicability; severability

"(a) This chapter shall apply notwithstanding any other provision of law.

"(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

"§807. Exemption for monetary policy

"Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

"§808. Effective date of certain rules

"Notwithstanding section 801—

"(1) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping, or

"(2) any rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest,

shall take effect at such time as the Federal agency promulgating the rule determines.".

SEC. 352. EFFECTIVE DATE.

The amendment made by section 351 shall take effect on the date of enactment of this Act.

SEC. 353. TECHNICAL AMENDMENT.

The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking .... **801".**

SENATE—*Tuesday, March 26, 1996*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. We have a guest chaplain this morning, Father Lavin from St. Joseph's Catholic Church.

PRAYER

The guest chaplain, the Reverend Paul E. Lavin, pastor, St. Joseph's on Capitol Hill, Washington, DC, offered the following prayer:

Let us listen to the word of the Lord from the book of Tobit.—Tobit 12:6–8:

"Raphael called the two men aside privately and said to them: 'Thank God! Give him the praise and glory.'

"Before all the living, acknowledge the many good things he has done for you, by blessing and extolling his name in song.

"Before all men, honor, and proclaim God's deeds, and do not be slack in praise being Him.

"A king's secret it is prudent to keep, but the works of God are to be declared and made known.

"Praise them with due honor.

"Do good, and evil will not find its way to you.

"Prayer and fasting are good, but better than either is almsgiving accompanied by righteousness."

Let us pray:

Good and gracious God, it is by Your light, the light of Your spirit, that You inspired us to understand Your goodness and called us to be faithful.

In that same spirit, help us to relish what is right and always to rejoice in the consolation that You give us.

Grant eternal rest to our colleague, Senator Edmund Muskie, and grant consolation to his family.

Strengthen us with Your grace and Your wisdom, for You are God forever and ever. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, today, there will be a period for morning business until the hour of 10:30 a.m. with Senators permitted to speak therein for up to 5 minutes each, except for the following: Senator DORGAN for 15 minutes and Senator REID for 15 minutes.

At 10:30, we will be scheduled to resume consideration of Calendar No. 300, H.R. 1296, the Presidio legislation, with the Murkowski substitute pending. A cloture motion was filed on the Murkowski amendment last night. Therefore, a cloture vote will occur tomorrow morning under the provisions of rule XXII. There are expected to be amendments offered during the day. Therefore, rollcall votes will occur today, but not prior to 2:15 this afternoon.

The Senate will recess from 12:30 p.m. to 2:15 p.m. today for the weekly policy conferences to meet.

Other very important items to be considered this week include the farm bill conference report, hopefully under a time agreement; the line-item veto conference report; the omnibus appropriations conference report; the debt limit extension; and the State Department authorization conference report. Senators can expect busy sessions throughout the week in order to complete action on a number of these important issues.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. KYL). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a period for the transaction of morning business until 10:30 a.m., with Senators permitted to speak for 5 minutes each, with the following exception: Senator REID will be recognized for up to 15 minutes and Senator DORGAN will be recognized for up to 15 minutes.

The Senator from North Dakota is recognized.

THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, let me claim my 15 minutes, and I ask the Chair to notify me when I have consumed 10 of the minutes.

Mr. President, I came to the floor today with Senator REID from Nevada to discuss a preliminary report that has been completed, after some 2 years of work, by the General Accounting Office. This report takes an extensive look into the activities and operations of the Federal Reserve Board and its regional banks. The Federal Reserve was created in 1913. It is kind of a dinosaur in our Government in an age of openness, an institution shrouded in great secrecy. But in 1913, the Congress created the Federal Reserve Board. That was the year in which Henry Ford built the first assembly line for the Model-T and paid people $5 a day to work to construct automobiles.

That was a long time ago, but some things do not change very much. The Federal Reserve still exists. It still sits as a house on a hill with a large fence around it and invites no one to peer in to see what they are doing. They make a substantial amount of money. They make their own spending decisions, and they are accountable only to themselves.

Senator REID and I asked the GAO to do an investigation and evaluation of how the Fed works: What does it spend its money on? How well does it spend its money? How accountable is it?

We have some 200 pages in a report that represents the work of nearly 2 years by the GAO. This is not a final report. It is a preliminary report that is now awaiting comment by the Federal Reserve Board.

The Senator from Nevada and I decided to release it now only because last week it was made available to us, and this week the Senate scheduled a hearing on Chairman Greenspan's renomination. We felt that the Senate Banking Committee at least ought to have the benefit of what is in this report prior to the hearing.

Let me discuss a couple of points in this report and ask Senator REID to discuss a couple of other points, because I think this will provide a substantial amount of information that the American public will be interested in.

You talk about the Federal Reserve Board and people's eyes start glazing over, and there starts to develop a large fog around the subject. This is largely because it is a central bank, accountable largely only to itself. It conducts monetary policy by itself and does so behind closed doors, with great secrecy.

Now, what did the GAO find? A couple of things. First of all, let me discuss the surplus account that exists at the Federal Reserve Board. The Federal Reserve Board has a surplus account of about $3.7 billion. In fact, the surplus account has increased well over 70 percent in the last 6 years. They have increased their surplus, which they set aside to absorb potential losses, by 79 percent over this period. So they have a cash stash of $3.7 billion in a surplus account.

This account presumably is to cover their losses. But the Federal Reserve Board has not lost money in 79 consecutive years and is not going to lose money in the future. Last year, it had

VOL
142
PT
5
MR
21
—
29
1996
UMI

a $20 billion-plus profit, it had expenses of about $2 to $3 billion, and it turns the rest back to the Treasury. But it still keeps a small surplus—small by their definition, large by my definition. I come from a town of only 300 people, and there billions mean something.

What does the GAO say about that? The GAO talks about this surplus account by suggesting that the downward adjustment to the size of the surplus account, or perhaps its elimination, would result in a positive budgetary impact, and so on and so forth. Then they point out that when they asked the Federal Reserve Board why they had this and how they determined what they needed, they said it is arbitrary. There is really no criteria used by the Fed to how much they need in the surplus account. They just squirrel away as much as they want.

This is the taxpayers' money, $3.7 billion squirreled away in a concrete edifice that houses the Fed. The GAO recommends, and I recommend—and we will introduce legislation—that this money be returned to American taxpayers and not stashed as a surplus in an institution that has not had a loss in 79 years and is not going to have a loss in the next 79 years.

There are other areas in this GAO report that also describe the operation of the overall Federal Reserve system. The Federal Reserve Board largely conducts monetary policy. While I disagree with its monetary policies these days, I do not think that the monetary policy ought to exist here in the well of the Congress. I think it ought to be separate and apart.

But I do not agree with the Fed when it believes its mission in life is to be a set of human brake pads designed to slow down the American economy. They happen to believe the American economy should not grow more than 2.5 percent. If it grows more than that, somehow we are going to produce more inflation they think.

They are dead wrong. In the global economy, inflation is going down, not up; wages are going down, not up. So I think their monetary policy is wrong, and they are inhibiting growth in this country and slowing down the American economy.

However, that is not what the GAO looked at. The GAO evaluated the other functions of the Fed. What does it spend its money on? Less than 10 percent of the activities of the Federal Reserve System are spent on monetary policy activities. The rest of it is bank supervision, check clearing, and a whole range of other things.

The Fed has counseled this country to cut its expenditures, slim down, downsize, and streamline. What has the Fed done? The Fed has counseled that America go on a diet and it has decided to over-eat. Here you have a circumstance where this shows what has happened between 1988 and 1994 according to the GAO: Personnel compensation up 53 percent. Benefits, that is, benefits per employee, increased about 90 percent during the same period; equipment and software up; buildings up.

In fact, they built one building, and they estimated when they decided to build the building they would need a 7,000-square-foot lobby. That is a pretty good-sized lobby. When they finished the building, they had a 27,000-square-foot lobby. You ought to see a picture of this lobby with no chairs—27,000 square foot. And that also is in the GAO report.

If you take a look at the expenditures of the Fed, you will see this line, which is the blue line, and from 1988 to 1994, the Fed, which writes its own checks and decides how much it wants to spend—nobody is suggesting that it ought to do this or ought not to do this. It decides how much of its money it wants to keep—had a 48 percent increase in expenditures, according to the GAO. During the same period, the Consumer Price Index increased 25 percent—almost double the Consumer Price Index in terms of the increase in costs down at the Fed.

I just indicated a couple of those items, but the cost per employee of the increases in benefits, employee benefits of the Fed increased 90 percent during the 6-year term.

So again, the suggestion by the Fed that the rest of the Government tighten its belt is apparently advice lost on the Fed itself. If you take a look at a whole range of these issues, the amount of money spent on personnel, on buildings, on benefits, and a whole series of issues like that, what you will find is a Federal Reserve Board that has not had a previous audit but a board for which an audit would discover that it seems to be growing while the rest of the Government is shrinking.

Maybe we ought to bring the Federal Reserve Board into the same realm. I am not talking about bringing monetary policy functions into this realm, but maybe the non-monetary policy functions of the Federal Reserve ought to be subject to annual appropriations just as are all of the other functions of Government.

Certainly, we ought to now proceed, based on what we will find in this report, to decide there should be every year, each and every year, an independent audit of the Federal Reserve Board. We ought to, based on what we have discovered in this report, decide that we should have this $3.7 billion taken out of the surplus account that has been squirreled away by the Fed itself and brought back into the stream of income that is available to the American taxpayers. Those are the things that we ought to do together. There are a whole series of recommendations that Senator REID and I will jointly employ in the decision on future legislation as a result of this GAO report.

Let me conclude my portion of this where I began. The Federal Reserve Board is a dinosaur; in the rest of Government, we are now discussing openness. In the Federal Reserve Board, we still have the shroud of secrecy. In the rest of the Government, we have the requirement for financial accountability. At the Federal Reserve Board, it is: We will spend what we need to spend, and we will make that judgment.

While the rest of the Federal Government is shrinking with fewer employees, fewer now than at any time during the Government's history going back to John F. Kennedy, the Federal Reserve Board system is growing. That is why I think this GAO audit suggests it is out of step and does need some correction.

Mr. President, let me yield the floor. My colleague, Senator REID, from Nevada, will discuss some of the other results of this GAO evaluation.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, will the Chair advise me when I have used 12 minutes of my time.

Mr. President, this report that was released yesterday has taken about 2 years for the General Accounting Office to conduct. The findings of this report, if centered on a Member of Congress or an agency of the Federal Government, would be, for lack of a better word, scandalous.

It is interesting to note the apologists that are around this country for the Federal Reserve Board. Take, for example, the Wall Street Journal. They wrote an article on the release of this report today, but it was an apology for the Federal Reserve Board. The Wall Street Journal looks at the Members of Congress and Federal agencies and anything they do, they do not dot an "i" on the right place on the page, do not cross the "t," they not only report it, but they write an editorial about it.

This $3.7 billion? The huge cost overruns? Not a word said in today's Wall Street Journal, but it is very typical for that newspaper.

This report raises legitimate questions about fiscal management within the Federal Reserve System. Some important questions should be answered as we proceed, Senator DORGAN and I, with our legislative agenda as it relates to this General Accounting Office report. And I think there should be some questions asked during the confirmation proceedings relating to Alan Greenspan.

We have been told by the General Accounting Office that this is the most in-depth study they have ever done of the Federal Reserve Board. In all the time I have been in Congress, certainly it is the most in-depth study by far

that has ever been done of the Federal Reserve Board.

I agree the Federal Reserve should be independent, and I think that I will do what I can to make sure it is independent, but that does not mean the Federal Reserve Board and system does not need accountability. It needs accountability, as indicated in this 200-page report that has taken 2 years to prepare by the General Accounting Office.

Mr. President, I think what the Federal Reserve Board has been saying is, "Do not do as I do, do as I say," because they say that Government has to cut back. What do they do? They significantly increase their spending in all areas. Take, for example, the operating costs of the Federal Reserve System. Supervision and regulation, from 1988 to 1994, increased 102 percent—102 percent. An annual audit certainly is the least we should get out of this. We should know what is happening in the Federal Reserve System. A ray of sunlight should begin shining on the Federal Reserve System. It may not need to be part of our sunshine laws that were so popular a decade or two ago, but it needs a ray of sunshine shining on it. It would instill greater public confidence in our banking system. It is important.

I have talked only a little bit about the increased operating costs, but the costs certainly have skyrocketed. And we are talking about big money. From 1988 to 1994, the costs have gone up from $1.3 billion to $2 billion. That is a lot of money. Operating costs for the Federal Reserve have grown at twice the rate of inflation. Fed operating costs jumped 50 percent between 1988 and 1994.

Mr. President, I have behind me here a visual aid, and I think it is pretty clear, if we look at what has happened with travel within the Federal Reserve System, it has gone up 66 percent. We see what has happened to the Federal Government. It has gone up 4 percent; staffing levels of the Federal Government, minus 2 percent. We see what has happened with the Federal Reserve System. It is incredible.

These costs are a story in and of themselves. From 1988 to 1994, the Fed salary costs increased by 44 percent. Interestingly, also, salaries of reserve bank presidents are significantly greater than the Chairman. They vary. Somebody in San Francisco makes more than somebody in St. Louis. It is interesting; there is no conformity as to how much they make. They can kind of pay themselves, I guess, what they want. And 120 top Fed officials earn more than the Chairman of the Federal Reserve System, Alan Greenspan. Within the Federal Reserve System, their benefits increased by 89 percent. Whereas in the rest of the Federal Government, we have been reining in the costs, theirs have gone up almost 90 percent.

I might say, when we talk about the travel expenses increasing by 66 percent—but they travel in style. In 1994, the Fed's travel expenditures were over $42 million. They are permitted to be reimbursed however they feel they should be reimbursed: They can be reimbursed per diem, they can be reimbursed actual costs. How would this institution work if, in fact, every Member of Congress could be reimbursed for travel costs, whatever they felt was appropriate? There needs to be some uniformity. Because the policy varied from bank to bank, these costs could easily be contained by a uniform, more taxpayer-friendly policy.

Senator DORGAN has talked about the double standard, and certainly there is a double standard. When we also understand that 93.25 percent of all of the work that the Fed does has nothing to do with monetary policy—only a little over 6.5 percent of what they do relates to monetary policy—that is why I agree wholeheartedly with my friend, the junior Senator from North Dakota, that in fact they should be subject to the appropriation process. They should be.

I am a member of the Appropriations Committee. We spend most of our time trying to figure out a way to downsize, to cut budgets, to eliminate programs. At the same time the Fed is telling us that we need to do this, their costs are spiraling. The rest of the Government underwent necessary belt tightening. The Fed enjoyed a smorgasbord of growth; they picked whatever they wanted. While the Federal Government's overall staffing level declined by 2 percent, the Fed's staffing level increased 6 percent over that.

So we know there needs to be better internal management. The General Accounting Office found this. I have gone around the State of Nevada. People ask questions about the Fed. I have introduced legislation in the past to have an annual audit of the Federal Reserve System. It has gotten nowhere. It has gotten from being introduced to the garbage can. But now there are facts to indicate that what I have been talking about is absolutely necessary; that we do need to have an annual report, we do need better management control within the Fed.

We do not know how costs have gone up in the last year and a half or so, but between 1988 and 1994, personnel compensation increased 54 percent, equipment and software expenditures increased 85 percent, building expenditures increased 34 percent, and, as I already talked about, travel expenditures increased by 66 percent. There is very little in the Fed to keep these under control. The Fed is not subject to the same cost reduction pressures that have affected both public and private agencies.

The $3.7 billion slush fund that they have, that they keep around for losses that may occur—we have not had any that occurred in 79 years. I am on the Appropriations Committee. We are now in conference, trying to work out the disputes we have. We badly need a few more dollars to allow this omnibus bill to be signed, these five appropriations bills. It could be done if we had the Fed's money that is sitting there, gathering dust. We would solve the problem. The Federal Government would be financed. We would not need any more continuing resolutions.

So we know, as the Senator from North Dakota has indicated, that we need to do something legislatively. We first must have the $3.7 billion returned to the Treasury. We need to require an annual audit, an independent audit. We need to institute uniform procurement and contracting practices. We need to institute executive branch policies relating to travel, benefits and security. We certainly need to do that, at a minimum.

I think it would be well that we tied the salaries of Fed executives to similarly situated Government personnel, and we need to subject the Fed's non-monetary policy operations to the appropriations process. That is the least we can do.

I think it also says a lot when we realize that the Federal Reserve, as described by my friend from North Dakota, has had this beautiful home. We can just see the top of that home. We cannot see it all because there is a huge fence around it. We know we have responsibilities for the structure, the landscaping in there, but we cannot see it.

All we are asking is let us find out what is going on. It is important. They conduct important functions of this Government, and we should know more about what they do. We have to do away with the shroud of secrecy. We have to peel back this cloak that they covered themselves with since 1913. This rainy-day fund they have set up is not a rainy-day fund, it is for a hurricane. They have this spending free-for-all attitude. That has to stop. They have a blank check mentality. I would like to know who is minding the shop, because 1913 accounting practices must be put to a stop.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Dakota has 4½ minutes remaining.

Mr. REID. And the Senator from Nevada?

The PRESIDING OFFICER. The Senator from Nevada has 2½.

Mr. DORGAN. Mr. President, let me use a couple of these minutes by trying to put this in perspective.

There is the policy issue with respect to the Federal Reserve Board, how it

VOL
142
PT
5
MR
21
—
29
1996
UMI

behaves, what it does, how it impacts this country's economy. Then there is the issue that we raised with respect to the GAO evaluation of the Fed. That is what we are discussing before the Senate today.

This 200-page evaluation of the Federal Reserve Board and its operations is the most significant look inside the Fed in 70 or 80 years. What it shows, as we have indicated, is they have stashed away $3.7 billion for a surplus, despite the fact they have not had a loss in 79 consecutive years. They are spending more and more during times when others in the Federal Government are being told they ought to tighten their belts. Those issues are issues the Congress ought to deal with. The Federal Reserve Board ought to be subjected to an annual independent audit. We ought to have information and knowledge about what is going on behind that fence. That is the reason we want to make sure our colleagues, the relevant committees, and others will be able to evaluate the wealth of information that exists in this draft GAO report.

Let me, finally, say a word about the policies of the Federal Reserve Board itself, which are different, separate and apart from the issues we have been discussing. I have very serious reservations about the monetary policies pursued by the Fed. As I have indicated, the Federal Reserve Board has seemed to feel, now, for some long while, that this country cannot have economic growth rates above 2.5 percent. If they fancied themselves as a set of human brake pads whose mission in life is to slow down the American economy, I say they have succeeded. Give them a trophy.

That is not what this country needs. The global economy means wages are falling, not rising. It means inflation is going down, not up. And it means this country can have a higher rate of growth. There are Democrats and Republicans who believe very strongly that a 2.5 percent growth rate for our economy is anemic and cannot provide the kind of opportunity and expansion that we need in this country.

I hope, in addition to the discussion we will have about what the Fed is doing, how it runs its operations, how it spends its money—in addition to that, and we should have that discussion as a result of this report, I hope we will also have a discussion about the Fed's monetary policies, and whether they are appropriate to try to produce the kind of economic future that we want in this country. In my judgment, they are not.

Two years ago, we saw the Federal Reserve Board increase interest rates seven times. Why? Because they were heading off the fires of inflation, they suggested. But inflation was not going up, inflation was going down, and it continues to go down.

What they managed to do with those interest rate increases was to slow down the American economy. That is not such a significant talent. My Uncle Joe can slow down the American economy. Just bring Uncle Joe to town, and I am sure he can figure out how to throw a wrench in the crank case. It does not take a special talent to slow down the economy.

The question is, how do we get the economy moving again, a vigorous economy with new jobs and new opportunities for all Americans, without raising the specter of additional inflation? That is the task for all of us.

The Federal Reserve Board sees itself on a singular mission: Keep economic growth somewhere in the range of 2.5 percent. That is not enough growth for this country. No one ought to be satisfied with that. It does not produce the jobs or the opportunities this country needs.

Mr. President, I hope that even as we discuss the report about what the Fed does and how it spends its money, we will alternatively discuss Federal policies, especially in the area of monetary policy.

Mr. President, I yield the floor.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that morning business be extended until the hour of 11 a.m., with Senators to speak for 5 minutes in the case of Senator BOXER; 12 minutes for Senator GRAMS; 10 minutes for Senator GRASSLEY; 5 minutes for Senator BRADLEY; and 5 minutes for Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I yield the floor.

PRESIDENT CLINTON'S BUDGET FOR FISCAL YEAR 1997

Mr. GRAMS. Mr. President, tucked into the 2,000-page, 9-pound-11-ounce stack of documents that make up President Clinton's latest budget was a small booklet that many people might have overlooked. That booklet is called "A Citizens Guide to the Federal Budget." I would like to read to you a couple of the paragraphs from chapter 2, and that chapter deals with where money comes from and where it goes.

It says:

> In a typical American household, a father and mother might sit around the kitchen table to review the family budget. They might discuss how much they expect to earn each year, how much they can spend on food, shelter, clothing, transportation, and perhaps a vacation, and how much they might be able to save for future needs.
>
> If they do not have enough money to make ends meet, they might discuss how they can spend less, such as cutting back on restaurants, movies or other entertainment. They also might consider whether to try to earn more by working more hours or taking another job. If they expect their shortfall to be temporary, they might try to borrow.

This is from the "Small Citizens Guide to the Federal Budget." I agree with every word of that—the situation it describes is precisely what American families are facing today. But then the booklet continues and says:

> Generally speaking, the Federal Government plans its budget much like families do.

Generally speaking Mr. President, the Federal Government plans its budget nothing at all like a family across the country has to do.

A family does not have unlimited access to a credit card access that has allowed the Federal Government to amass a national debt of more than $5 trillion.

A family would not be allowed to spend beyond its means forever—it would reach its credit limit and the family would eventually have to tighten its belt and begin paying back its debt. The Federal Government, on the other hand, just continues to steal from our children.

A family does not have the resources of foreign investors they can turn to when the bill come due. The Federal Government does, and expects the taxpayers to foot the bills and the massive interest payments those bills generate.

And finally, a family could not impose hundreds of millions of dollars worth of new taxes and fees on its friends and neighbors to help offset its own extravagant spending. But the Federal Government can, and it does.

For years, I have used the story of the family sitting around the kitchen table as an example of how middle-class Americans understand budgeting in a way Washington never will.

The methodical, commonsense approach to reconciling expenses against revenues represents everything that Washington is not.

So to suggest that the Federal Government's free-spending, unaccountable ways have anything in common with the way the working-class people of this Nation plan their budgets is ludicrous.

Librarians take notice: The Government will recommend that "A Citizen's Guide to the Federal Budget" be filed in the bookshelves along with the rest of the official Federal publications.

I say it ought to go up alongside Louis L'Amour and the Harlequin Romances, because it is pure fiction.

Mr. President, there is no question that families are facing tough times.

Money is tight, and there is not much left at the end of the day to put away for savings.

They are cutting back in order to make ends meet—skimping not just on entertainment, as the authors of "A Citizen's Guide to the Federal Budget" would have us believe, but too often on necessities like new clothes, insurance, or even groceries.

Their credit card bills are straining under the load, They are working two or three jobs and taking on overtime hours just to make ends meet.

But why are things so tight for American families? A close look at the President's latest budget offers some answers.

In his State of the Union Address delivered just 2 months ago, President Clinton boldly declared that "the era of big government is over."

Big government presumably meant the high taxes that have squeezed the middle class, the gigantic bureaucracy that has made redtape a synonym for Washington inefficiency, and the wasteful spending that has drained the taxpayers of their precious dollars.

But maybe big government means something different to the President. Under the budget he outlined Tuesday, big government is far from dead. In fact, it is off the respirator, breathing on its own and taking nourishment.

The Clinton budget—the ninth budget he has sent to Congress in the last 12 months—is nothing more than the status quo his administration continues to deliver, because it calls for increasing Federal spending every year over the course of the 7-year plan, until we're spending nearly $1.9 trillion just after the turn of the century.

The President claims he will pay for all that new spending with unspecified cuts in domestic programs sometime in the future. Most of the cuts would not come until after the year 2000, meaning Bill Clinton will never have to make any of those tough choices.

As the President's budget grows, so does the Nation's debt, again, rising every year of the President's plan. By the time we have reached the year 2002, the national debt will have ballooned from $4.9 trillion this year to almost $6.5 trillion. That is an increase of nearly 27 percent in just 7 years.

And where are the tax cuts the President has repeatedly promised American families? It is practically nonexistent. The President claims he is cutting, but in reality, most of his tax reductions are offset by new tax increases. This is unacceptable.

It is nothing but token tax relief, and his child tax credit is a sham. It begins at $300 per child, is slowly ratcheted up to $500, and then eliminated just 2 years later. By the way, teenagers are too old to qualify.

The President pays for all this big government not by controlling Washington's appetite for spending, but by spending the savings Americans have sacrificed over the last year toward a balanced budget.

Other areas of the budget that demand the President's immediate attention are virtually ignored.

He does practically nothing to save the failing Medicare system and bring it into the 21st century.

Under the Clinton plan, Medicare remains a relic from 1960's that does not work in the 1990's, and will not survive much beyond it.

His budget does not reform Medicaid, either.

At a time when a bipartisan coalition of Governors is calling on Washington to entrust the States with managing this vital program, the President says Washington has all the answers.

He does not make fundamental changes in welfare to control spending. The President would not "end welfare as we know it"—he would extend welfare as we know it.

The President's budget plan is just a bandage on a wound that's demanding emergency surgery.

President Clinton is asking the American family to pay for his campaign and he needs to pay off Washington bureaucrats and special interest groups.

His demand for billions of additional taxpayer dollars to finance bigger government, again, is consistent with his support for big Washington government.

And President Clinton funds his new spending, again, through increased taxes, increased user fees, and one-time sales of assets financed directly by the taxpayers.

Mr. President, I am a firm believer that privatization is crucial to reaching a balanced budget and protecting taxpayer dollars. But what is the point in selling off assets if we are just going to spend it on a bigger government?

Asset sales should be dedicated to deficit reduction—if they are not, and are simply redirected by Congress into another Federal program, how are the taxpayers any better off than they were before the sale happened?

Unfortunately, this budget will do nothing to help working Americans devastated by the Clinton crunch that has trapped them somewhere between the falling wages and the President's economy has generated, and the rising taxes the President's budgets have demanded.

That is why families are having trouble making ends meet—the middle-class squeeze is squeezing them dry. A balanced budget would help, and the people deserve one, but the President's budget is not the answer.

We have to inject a dose of reality into the proceedings: President Clinton can claim to support all of these goals, but every time he has had the opportunity to prove it, he has let us down.

Congress passed a budget that balances in 7 years, protecting our children and grandchildren by freeing them from a legacy of debt and tax increases.

Our budget lets taxpayers keep more of their own dollars, for spending on things important to families, not on things Washington thinks are important.

Our budget says a life on welfare is not much of a life at all, and we offer encouragement to get people off the welfare rolls and into society.

Our budget says seniors ought to have a Medicare system they can rely on, so we save it from bankruptcy and offer Medicare patients the same kind of health care choices that are now available to everybody except seniors.

Our budget does all of that and more, and yet despite his claims that he endorses each of those goals, as we all know, the President vetoed every single one of those measures.

So you can see why it is hard to get excited about the President's professed interest in a balanced budget, tax relief, and welfare and Medicare reform, when his commitment to them seems to go no deeper than the tip of his veto pen.

The President met with the distinguished majority leader and Speaker GINGRICH last week, and they will meet again. I wish them well, because negotiating with the President is like boxing with a jellyfish—it is hard to score any points when your opponent seems to have no backbone or any firm principles of his own.

But if there is any hope of reaching an agreement on a budget this year, we will need to see some encouraging signs soon.

So, Mr. President, on a closing note, if the Nation were to continue along the path outlined by the President and the congressional majorities which came before him, a pathway dominated by high taxes and big government, I am afraid we might begin to parallel the experiences of Sweden.

There is this article from the Associated Press that appeared in the Minneapolis Star Tribune on March 15.

In this article it describes what happens when a nation guided by the belief that as long as it was collecting plenty of taxes and building plenty of government, it could provide a good life for everyone. But that has met the realities of the 1990's.

With a top income tax rate of 49.9 percent, Sweden ranks as one of the two highest-taxing countries in the world. "But today," says this article, "Swedes are deep in debt, taxed to the limit, edgy about unemployment, and cynical about the model in which they once took pride."

Even Soviet leaders once praised Sweden's welfare state. But now, continues the story, "the welfare dream is in crisis, along with the Social Democratic Party that built it."

While Bill Clinton and the liberal establishment try to push America toward the kind of high-taxing, big-spending government Sweden has tried

VOL 142 PT 5 MR 21 — 29 1996 UMI

and is now rejecting, Sweden's Social Democrats are pushing for a balanced budget, tighter welfare rules, and entrepreneurship.

"There is a growing insight that you can't tax a society into equality." Let me say that again. "There is a growing insight that you can't tax a society into equality." That is from a speechwriter for Sweden's retiring prime minister.

Somehow, Mr. President, we have moved perilously close to following in Sweden's footsteps, but it is not too late to take a step back.

If we are serious about giving our children a better future, the best thing we can do is to cut taxes, end the current spending frenzy, balance the budget, and begin paying off the national debt.

"Americans want a government that uses common sense when it makes decisions that affect their lives," concludes the administration's little budget primer.

I agree, as long as we're talking about the common sense of a family crafting its budget around the kitchen table, and not the nonsense we too often craft around the conference tables here in Washington.

NAVAL PROMOTIONS

Mr. GRASSLEY. Mr. President, 2 weeks ago I spoke in support of the Senate Armed Services Committee not granting promotion to Comdr. Robert Stumpf. Last Thursday night I had an opportunity to listen to Senator COATS, Senator BYRD, and Senator NUNN speak on the same subject. I agree with everything they said. I will speak, once again, on that same subject but put it in a little broader context.

Before I do that, there was, last Thursday, in the Washington Post this article about Commander Stumpf and the Navy, pushing for his promotion to be granted again. I suppose that means it will come back to the Senate Armed Services Committee sometime in the future.

If people wonder why this might not be granted, I read a paragraph from this article. It talks about the Tailhook conference 4 years ago in Nevada. It talks about the behavior at the Tailhook convention in September 1991. It drew scrutiny on at least two accounts about the behavior of Commander Stumpf. It says he was present in a hotel room hosted by his squadron where two strippers performed, although he left the room before one of the women engaged in a sex act with another airman. Now, he avoids all responsibility for that. I assume that is the moral of the story, why it should not be considered in whether or not he gets a promotion.

It would be similar if I had a Christmas party for my staff and I hired a couple of strippers, and before they did their act, before other things would happen, I leave the party and claim no responsibility for that. Commander Stumpf was the commander. It was his group that was involved. He thinks he can avoid responsibility for what goes on there. I think not.

But also for the entire Navy, I point out that when you have that sort of convention, it is under the auspice of the U.S. military, and we have two strippers hired and a sex act performed with an airman, I remind the Navy—and I say this because farming is my background and my son operates our family farm—that is the way animals operate. Animals operate that way. Human beings, in their interaction with people of opposite sex, do it with love and with concern and of course with the goals that every act of love has. That is what separates human beings from animals. I suggest to the Navy that they act like human beings and not like animals.

I want to put this whole thing in a different context because the latest tremors concern the future career of this Navy Commander, Robert Stumpf. Commander Stumpf's promotion to the rank of captain has been blocked, and properly so. The committee remains opposed to the promotion because Commander Stumpf is suspected of inappropriate behavior, as I described at this Tailhook convention.

Last week, under intense pressure and lobbying, the committee reexamined the promotion one more time, and the outcome was sustained. Commander Stumpf is off the promotion list and will stay off. I said 2 weeks ago that I support the committee's action, and I support their reconsideration by taking no action.

Unfortunately, Mr. President, I do not think we have heard the last from Commander Stumpf. A recent report in the Washington Times suggests that Commander Stumpf's name will be on the 1997 captain's promotion list. Now the good commander is suing Secretary of the Navy Dalton for helping the Senate to improperly block his promotion.

Commander Stumpf's predicament is a sign of a much bigger problem. It is the "problem of naval leadership," as one naval aviator put it recently. The Navy's leadership problem neither begins nor ends with Commander Stumpf. The root cause of the problem may be much higher up in the chain of command. I believe the Navy's leadership problem may lie at the very top, with people like Secretary Dalton and the Chief of Naval Operations, Admiral Jeremy Boorda.

Mr. Dalton and Admiral Boorda should have been flagged—just like Commander Stumpf was—when their promotions came up here to be at these highest ranks. Unresolved issues in their past raise questions about their integrity and their ability to lead the Navy. The adverse information in their background should have been exposed to public scrutiny and debated, but that did not happen.

Surely these troublesome facts lay buried in Government files somewhere during the confirmation process. We were sleeping at the switch when they were slipped quietly through the Senate confirmation net. Mr. President, we had no reason to ask questions about Mr. Dalton. Mr. Dalton was presented to the Senate as a financial wizard with extensive business and managerial experience. He got a green light instead of a red warning flag that his wizardry deserved.

Mr. Dalton was confirmed on July 21, 1993. Exactly 1 year later, the damaging information in Mr. Dalton's background began leaking into the public domain. The New York Times ran a front-page story on July 22nd, 1994. It was written by Mr. Jeff Gerth. This is how it began:

> When President Clinton announced that he had picked John H. Dalton to be Secretary of the Navy, he praised the nominee's true leadership ability as a Texas businessman.

As Mr. Gerth pointed out, "There was a part of Mr. Dalton's background that most Senators were unaware of."

His leadership was not advertised. We did not know he was deeply involved in the management of at least two failed savings and loan institutions. Mr. Dalton's S&L's were bailed out at the cost to the taxpayers of $100 million.

As president of one S&L institution, Mr. Dalton was threatened with a suit by the Federal Deposit Insurance Corporation for violating State and Federal laws and for gross negligence. The institution's insurance companies had to pay $3.8 million to settle a civil suit.

Now, Mr. President, this is very damaging information, I believe. It raises questions about the Secretary's integrity and his ability to lead the Navy. How did he skate right through confirmation without red warning flags? Commander Stumpf got the flag treatment for the big question marks in his file, and rightly so. Why did Mr. Dalton not get flagged and confronted?

We had an identical experience with Admiral Boorda's nomination. He, too, slipped right through the confirmation net. Admiral Boorda should have been flagged. Admiral Boorda was confirmed on April 1, 1994. About 2 months later I picked up a newspaper and saw this headline, "Court Says Navy Brass Shielded Official's Son: Lenient Treatment is the Latest Plight in the System." That is a headline. This report appeared in the Washington Post June 15, 1994. It was written by Mr. Barton Gellman.

Mr. Gellman's report went on to say, "Some of those criticized by the court in the case remain in important posts. Among them is Admiral Boorda." That really bothered me, so I got the court document and read it. I was truly dismayed by what I saw—a bunch of senior naval officers behaving in dishonest ways. So I came to the floor of this body, and on June 28, 1994, spoke on this subject. If the people are wondering what I spoke about a year ago on this subject, they can find it in the CONGRESSIONAL RECORD S7744 to S7745. Those are the pages.

My concern about Admiral Boorda's character comes directly from that military court document. Specifically, an opinion by the United States Navy-Marine Corps Court of Military Review in the case of the United States versus Chad E. Kelly, U.S. Navy. The document is dated June 13, 1994.

This was a clear-cut case of command influence and abuse of command authority.

The court document clearly indicates that Admiral Boorda may have interfered with a criminal investigation. Now, Admiral Boorda claims he was unaware of the suspect's criminal activities when he had him transferred to his own headquarters. That may be. The suspect was a low-ranking enlisted man who happened to be Navy Secretary Garrett's son. He was suspected of drug use, larceny, credit card fraud, receipt of stolen property, and lying under oath. That is very heavy stuff.

Once Admiral Boorda realized criminal behavior was involved, Garrett should have been ordered back to the scene of the crime—consistent with common Navy practice. But that did not happen. Why not?

Now, Mr. President, this brings me back to Commander Stumpf. We should not be surprised, when Commander Stumpf sets a bad example. A follower likes to imitate a leader's behavior. He is not blind. He sees the big boys abusing the system, doing bad things, and getting rewarded for it. So he figures it should be OK for him to do it as well.

No aspect of leadership is more powerful than setting a good example. If the Secretary and Chief of Naval Operations expect integrity, discipline, courage, and competence from their followers, then they must demonstrate those very same qualities themselves. Herein lies the crux of the Navy leadership problem.

Mr. Dalton and Admiral Boorda demand excellence from Commander Stumpf, but failed to deliver it themselves. "Flagging" is good for junior officers, but somehow not for admirals and above. That attitude does not sit well with junior officers. The big boys are asking their troops to do something they are unwilling to do themselves, and that just does not work.

So we cannot begin to address shortcomings in the leadership at Commander Stumpf's level until those at the top, like Mr. Dalton and Admiral Boorda, set an example of excellence in their personal behavior.

I suggest, once again, that as far as what went on at the Tailhook scandal, I want to remind the Navy that those things are things that are done in the animal kingdom, and human beings should not be involved in that sort of sexual behavior.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair recognizes the Senator from California.

PRESIDIO PROPERTIES ADMINISTRATION ACT

Mrs. BOXER. Mr. President, I just want to express some conflicting feelings here this morning about the bill we are about to go to. I know the Senator from Alaska understands this because we have been talking and working together on the Presidio for quite some time.

The Presidio legislation that is about to be before us—if it simply was the Presidio and other environmental issues that were not controversial, this would be one of my happiest days since I came to the Senate, because, for me, the Presidio bill is so close to my heart. Mr. President, I represented, for many years, the congressional district in which the Presidio sits. Years ago, Congressman Phil Burton, looking at the Presidio, said, "If the gates ever close, we would not want to lose this extraordinary resource." Back in the early 1980's—actually, I stand corrected, in 1972, Congressman Burton's legislation creating the Golden Gate Recreation Area and the Presidio was passed. The law provided that the Presidio would become a national park when it was no longer needed by the Army.

In 1988, when the Base Closure Commission recommended the closure, the law kicked in and triggered this incredible new park called the Presidio for the people of this country.

So why do I say that I am faced with such a terrible conflict here? It is because, rather than just voting this Presidio legislation up or down—which, by the way, we can do in 10 seconds because everybody agrees it is so important; it sets up a trust, and that would enable us to use the buildings on the park to create revenue to keep the park in good shape and to keep it safe and beautiful—we have this tangled up in the Utah wilderness conflict.

I suppose there are those who say, well, that is just the way it is done. Well, I simply do not buy that. If we really want to make progress here, if we really want to cut through the gridlock, what better chance do we have than to pull out this Utah wilderness bill—which is so controversial that it deserves its own separate attention—and pass these other environmental measures that are so important to the people of the country? We could do that in a minute.

I want to give you my feelings as to how much work has gone into this Presidio legislation. I already told you that the vision was established in the 1970's, and in the 1980's when the Presidio was closed, we all realized at that moment that it would become a glorious park. We also knew that funds were not there to keep it in the pristine condition. We figured out a way, with Congresswoman PELOSI's leadership, and Senator FEINSTEIN and I working with many others, we introduced the bill that would set up a trust. Everyone agrees that it is a wonderful idea.

I want to compliment Senator MURKOWSKI for coming out to the Presidio on more than one occasion to meet with the people. Senator CAMPBELL has been a key person working on this. Senator CHAFEE went out to visit the Presidio. Perhaps, for me, the most rewarding thing happened when Senator DOLE went out and, in fact, agreed this was the way to go.

So we did something here that we did not think was possible. We reached across party lines and we agreed on an approach for the Presidio that both Democrats and Republicans could support. Did it have everything that this Senator wanted? No. Did it have everything that the Senator from Alaska wanted? No. Clearly, we would have written it a little bit differently. But we worked together and we got a wonderful bill.

It is hard for me to imagine why it now has to get caught up in this tangle with the Utah wilderness bill, other than the fact that there are those who are pushing that bill and feel the only way they can pass it is to get it on the Presidio train.

The PRESIDING OFFICER. The Chair advises the Senator from California that the 5-minute limit has been exceeded.

Mrs. BOXER. I ask unanimous consent for another 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. So we have a national historic landmark. Five hundred buildings are on the National Register of Historic Buildings. We need to make sure that these buildings do not deteriorate and make sure we get the revenues to support the Presidio. Today, what are we faced with? The best of bills and the worst of bills—in one bill. It is like the Dr. Jekyll/Mr. Hyde approach here. We take a wonderful piece of legislation, the Presidio trust bill, and everyone supports it from both parties, the whole spectrum, and it gets hooked to this Utah wilderness.

I hope, Mr. President, a couple of things will occur today in the time that we have. No. 1, I hope we take the Utah wilderness bill out of this omnibus bill. It deserves its own debate. Right now, 3.3 million acres of that Utah wilderness are basically under protection. If this bill passes, half of those acres are going to lose protection. How can we even call it a Utah

VOL
142
PT
5
MR
21
—
29
1996
UMI

wilderness bill? Clearly, it puts the Senators from California in a very, very difficult position.

So I hope we can move this Presidio on its own. Senator DOLE and Senator DASCHLE both agree—they both cosponsor this bill—that it could be moved in a moment by a unanimous-consent request. Let us not load it down with a bill that has serious, serious problems.

I hope we can get to the point where this is truly a celebration for the people of California, that we can have our bill, have it stand alone, and take up the controversial matters independently.

I thank you very much, Mr. President. I yield the floor at this time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

ORDER OF PROCEDURE

Mr. KENNEDY. I think there was a unanimous-consent request that was made by the Republican leader on how we are going to use morning business. Am I correct?

The PRESIDING OFFICER. That is correct. Each Senator is allowed to speak up to 5 minutes with the exception of Senator REID of Nevada and Senator DORGAN of North Dakota, who each have 15 minutes reserved.

Mr. KENNEDY. I am asking whether the consent request went after 11 o'clock. I think the Senator from Mississippi requested it for some of us.

The PRESIDING OFFICER. Senator BRADLEY of New Jersey and Senator KENNEDY of Massachusetts are authorized to speak up to 5 minutes at this point.

Mr. KENNEDY. I thank the Chair.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

Mr. BRADLEY. I ask unanimous consent that I be allowed to complete this. I do not think it will be longer than 5 minutes, but if it is, it will be a minute or two, and I prefer not to be interrupted.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDIO PROPERTIES ADMINISTRATION ACT

Mr. BRADLEY. Mr. President, I wish to address a few of the points that were made yesterday by the distinguished Senators from Utah on the underlying wilderness bill. First, there is the assertion that S. 884, that we are now dealing with, had been fixed, particularly that the release language had been fixed, been modified.

It has been modified somewhat, I think, to reflect the debate in the Energy Committee but despite all the changes the amended version just drops the requirement that the released lands shall be managed for "nonwilderness multiple purposes" and substitutes a full range of uses—not much difference. However, the amendment still says that the lands released "shall not be managed for the purpose of protecting their suitability for wilderness designation."

The previous version of the bill as reported out was a kind of belt and suspenders approach to release. It had two protections against further wilderness designation. The revised version still leaves the belt even though the suspenders have been removed. It still remains an unprecedented provision in wilderness bills.

Next, the protected areas. Is it fair to say that almost 20 million acres have been released and can now be exploited? The distinguished Senator from Utah questioned whether you could say that, but both versions of the bill as reported and as amended find that all public lands in the State of Utah administered by the BLM have been adequately studied for wilderness designation. This eliminates further consideration of approximately 20 million acres.

There are other problems which I will not get into at this stage, but I would like to just focus on the acreage where the distinguished Senators from Utah have asserted that plenty of land in the Kaiparowits Plateau and other areas, plenty of land has already been protected—125,000 acres in Kaiparowits and 110,000 in Dirty Devil Canyon—but the point is what is not protected. There are about 525,000 acres in Kaiparowits that were in the House bill and 152,000 acres in the Dirty Devil area. So the question is not what is protected but what is not protected, particularly on the Kaiparowits Plateau.

The proponents of the bill have basically constantly referred to the House bill which is 5.7 million acres. I am not pushing 5.7 million acres. I have not introduced a bill that advocates 5.7 million acres, nor has any such bill been introduced. I am simply concerned that 2 million acres is far too little to protect out of 22 million acres of BLM land. I am concerned that all the remaining land would be permanently released from consideration as wilderness. But once again I am not saying that 5.7 is the right number. Keep in mind that it is 3.2 million acres that are currently protected as wilderness.

Also, the Senators from Utah should recognize that if the Utah wilderness bill does not pass or is vetoed, the result will not be that 5.7 million acres are protected. Instead, for the time being, the 3.2 million will remain protected for study and a new recommendation will have to be developed.

Third, there is the assertion that acreage is an issue for Utah to resolve. I would argue that acreage is far from the only issue here. In fact, there are many other issues that should be of great concern to other Senators and to other taxpayers.

As to the hard release language, as I said, the belt is still there even though the suspenders have been removed. The land exchange provision should be of concern to taxpayers since the State is going to likely give up land of little value in exchange for very valuable Federal land on which they will want to mine coal, according to the Assistant Secretary. The exceptions to traditional wilderness rules for motor vehicle, also to water rights language, all are very ominous precedents.

And finally there is the assertion that there was nothing wrong with the BLM inventory process. The distinguished Senator from Utah basically said that this was not the case, and he quoted Jim Parker, a former Utah BLM State director, to support the assertion that the BLM's inventory was not seriously flawed. Mr. Parker has made statements supporting the BLM wilderness inventory and has been cited as an expert. However, Mr. Parker did not work on the BLM in Utah during the inventory but was living in Washington, DC, at the time.

I think it should be clear what the BLM's position is on this bill. Yesterday, I received a letter from Bob Armstrong, the Assistant Secretary of Lands, Minerals and Management, that supports the view that the BLM officials recognize the Utah BLM process was in fact flawed. Mr. Armstrong says:

> I am told by professional career staff at all levels of the organization that the Utah wilderness process was the most controversial, and perhaps the most political, in the entire BLM wilderness process.

The letter goes on to state:

> It is the position of the BLM that far too little land is protected under this bill and too much land is released for development. In short, no one should be claiming the support of the Bureau of Land Management and its professional staff—

No one should be claiming BLM support—

> for S. 884.

I ask unanimous consent that the letter from Mr. Armstrong be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 25, 1996.

Hon. BILL BRADLEY
U.S. Senate, Washington, DC.

DEAR SENATOR BRADLEY: I understand you will shortly be considering whether to include S. 884, the "Utah Public Lands Management Act of 1995," in an omnibus package of parks legislation. I would like to clarify the record with respect to the position of the Bureau of Land Management and the Department of the Interior on the subject of the acreage covered in this bill.

In 1991, President Bush forwarded his recommendation that 1.9 million acres of Utah lands be immediately protected as wilderness. The Congress did not act on that recommendation and President Clinton did not adopt it when he came into office. Interestingly, President Bush did not support the "hard release" of the rest of Utah's lands, as is proposed in this bill, and neither does the Clinton Administration.

Last July, Deputy Assistant Secretary Sylvia Baca testified before the Senate regarding the numerous problems with this legislation. She testified that the Bush proposal of 1.9 million acres is "inadequate to protect Utah's great wilderness resources." In fact, S. 884 would remove protections for some 300,000 acres recommended for wilderness by President Bush.

Nevertheless, some supporters of the legislation have repeatedly sought to portray the position of the previous Administration as that held by the Bureau of Land Management, or to claim that "field professionals" independently and objectively formulated the previous Administration's position. This is not the case. I am told by professional career staff at all levels of the organization that the Utah wilderness process was the most controversial, and perhaps the most political, in the entire BLM wilderness process.

It is the position of the Bureau of Land Management that far too little land is protected under this bill and too much land is released for development. In short, no one should be claiming the support of the Bureau and its professional staff for S. 884.

We have reviewed the most recent changes proposed by the bill sponsors and find that the same basic problems exist: too little designated, too much opened to development, unprecedented "hard release" language, reduced protections inside wilderness, and unprecedented land exchange language. The Secretary has indicated—most recently in a March 15, 1996, letter to Senator Murkowski—that he would recommend the President veto legislation carrying the text of S. 884. It continues to be my hope that the core problems of this bill can be fixed so the President receives legislation he can sign.

Sincerely,

BOB ARMSTRONG,
Assistant Secretary,
Land and Minerals Management.

Mr. BRADLEY. I remind my colleagues that there are 33 titles to this bill. I personally would have no objection to moving almost all 33, and we already have a veto threat in the form of a letter from the Secretary, and yesterday also we have a statement of administration policy from the Executive Office of the President also being very clear on that issue.

I hope we will be able to recognize that this Utah wilderness bill is far from complete and that there are many things that need to be done before it could be thought to be a true wilderness bill.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1995—UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that the committee-reported substitute be agreed to and considered original text for the purpose of further amendment. I further ask unanimous consent Senators have until the hour of 5 p.m. today in order to file first-degree amendments, in accordance with rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. For the information of my colleagues, this now allows the pending substitute amendment offered by Senator MURKOWSKI to be amendable in two degrees. Also, as a reminder, a cloture vote will occur on that substitute tomorrow morning under the provisions of rule XXII.

Senators have until the hour of 5 today in order to file first-degree amendments to the substitute. I thank my colleagues. We have worked with the Democratic leadership in getting this agreement.

EXTENSION OF MORNING BUSINESS

Mr. LOTT. I now ask there be a period for morning business until the hour of 12:30, with the time between now and 12:30 equally divided between the two leaders or their designees.

Mr. BRADLEY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

Mr. BRADLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I renew my unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Massachusetts.

THE MINIMUM WAGE

Mr. KENNEDY. Mr. President, just as a matter of a point of information, on yesterday when there was the announcement of the Republican leader, which is on page S. 2839, in the Program, Mr. LOTT said, "For the information of all Senators, the Senate will resume the Presidio legislation tomorrow morning with the understanding that Senator DASCHLE or his designee will be prepared to offer an amendment at 10:30."

I am his designee, and I was prepared to offer the amendment at 10:30. The amendment I was going to offer was the increase in the minimum wage. I was offering it for myself, my colleague from Massachusetts, Mr. KERRY, Senator WELLSTONE, and others.

This was not in order, I want to make it very clear. So it was not consent, but it was an understanding about the way we were going to proceed. Now, as a result of our indication to try to get a debate on the increase on the minimum wage, and hopefully some action on the minimum wage, we have been put into this holding pattern to effectively deny us that opportunity for debate and discussion about increasing the wages for working families, some 13 million working families in this country.

What we are being faced with is another procedural effort by our Republican friends to deny the Senate taking action on this issue. This is a similar kind of avoidance by the Senate that we saw on July 31, when we voted 48 to 49 on a sense-of-the-Senate resolution; again on October 27, 1995, 51–48 to override a budget point of order on the issue on the minimum wage, raised by my colleague, Senator KERRY.

We had a hearing on this issue on December 14, 1995. We have not had the markup. We have not reported anything out. We were prepared to debate this issue, which is of such fundamental importance and fairness to working families in this country. Now we are caught up in a procedural situation where we are, at least at this time, foreclosed from being able to offer it.

I can even foresee the possibilities where that will continue in the afternoon, as we are coming down to the line for a cloture motion to be voted on tomorrow, where those, under the current situation, under the right of recognition, will be able to offer an amendment and then offer another amendment right on top of that and virtually foreclose our opportunity to speak for working families, the 13 million working families who have not experienced any increase since 1991 and have seen the real value of that minimum wage deteriorate by some 40 percent.

So we are seeing the commitment of our Republican friends, and Republican leadership, which cannot be separated from the Republican who is on the ballot out in the State of California, Senator DOLE, as well as the Republican leadership, saying on the issue of worker fairness, we are not even going to permit you to vote on that or address that on the floor of the U.S. Senate. We are going to use all the parliamentary means of denying working families the chance to get any kind of increase in that minimum wage.

At a time when CEO salaries have gone up 23 percent and we are having record profits in 1995; again, 1991, of 23 percent—we are refusing to permit the Senate of the United States to even address this issue, to vote on this issue—an issue which will mean some $1,800 for working families. This is an issue which will affect 13 million working families. It will be the equivalent of a

VOL
142
PT
5
MR
21
—
29
1996
UMI

year's tuition in a 2-year college; 9 months of groceries, 8 months of utilities for working families. We are seeing, at a time when the disparity between the wealthiest workers and families and poorest families has been growing and growing and growing, the small, modest step to try to do something for working families, families that work 40 hours a week, 52 weeks of the year, trying to make it—we are seeing we are effectively being closed out. You cannot interpret the kinds of actions we have heard here this morning to be anything else.

Mr. President, I want to point out, because I am on limited time on this morning hour—hopefully we will have additional time during the debate going before the break—this has not been a partisan issue, historically. There have only been two Presidents, Presidents Reagan and Ford—they are the only two Republican Presidents who have not supported an increase in the minimum wage. President Eisenhower supported it, President Nixon supported it, President Bush supported it. The last time we had an increase, Republicans supported it. BOB DOLE supported it. NEWT GINGRICH supported it.

At that time, we had a Democratic Congress and a Republican President. Now we have Republican Congress and a Democratic President. And we ask: Why? Why is it that we cannot, at least, debate this issue? And why is it that we cannot afford to provide working families with a livable wage?

Mr. President, I hope we are not going to hear our Republican friends talk about their concern for working families in this country when something that we can do, here on the floor of the U.S. Senate today, and the House of Representatives can do in a matter of hours, that can make a difference to the lives and well-being of those—that we are being denied the opportunity to face this issue, to debate the issue, to talk about the issue, to take on the issues which have been raised against the increase —the questions of inflation, the question of job loss.

All of those issues which we have debated and discussed at other times, we are prepared today, with our colleagues, to debate those here. But we are back at a situation where those who lay the agenda out for the American people in the U.S. Senate, absolutely refuse to give the American working families the opportunity to be heard on the floor of the U.S. Senate.

Mr. President, as we have said before, Senator KERRY, Senator WELLSTONE and others have said before, this issue is not going away. This issue is not going away. We have seen the parliamentary maneuvers to deny us an opportunity to take action. We have seen that before. We know it is out there again today.

I do not understand what it is. Yes, I could understand. It is, again, the power of special financial interests, the special interests that just refuse to let working families in this country be treated fairly, equitably, and decently. Finally, this is an issue about women, since 70 percent of all of those who get the minimum wage are women, and it is an issue about children, whether they are going to grow up in households that are going to be decently fed and clothed, and in a setting which is humane and decent. This is not just an issue about men. It is an issue about women and it is an issue about children. It is an issue about families. We will not be silenced and we will not be denied. We are going to continue to press this. I am absolutely convinced that the working families in this country will be heard and we will have a successful vote.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank my colleague from Massachusetts, Senator KENNEDY, for his leadership in this effort, and Senator WELLSTONE and others who believe that the moment has really come for us to confront the reality of the rhetoric in Washington that talks about worker anxiety, that pays lip service to addressing the problem of downsizing and to the problem of the transformation in the American workplace.

Countless Senators, on both sides of the aisle, have come to the floor on many different occasions and talked about the difficulties that the American worker faces today.

In the Republican primaries, it became a major issue as Pat Buchanan focused on the anger that is coming out of those workers who work harder and harder and harder, play by the rules, pay their taxes, try to make ends meet, teach their kids, and yet they cannot get ahead.

We have an opportunity in the U.S. Senate to ratify what the Senate has already expressed. Fifty-one U.S. Senators already voted last year, saying they want to vote on a proposal to increase the minimum wage. The minimum wage is worth less now than it was when those 51 Senators who voted said we need to raise it.

The Republican majority has the opportunity to set the agenda of the Senate and, to some degree, thereby, the agenda of the country. As my colleague from Massachusetts said, this is their statement about their agenda. Their agenda is to not even let the U.S. Senate debate this and have an up-or-down vote on whether or not a majority of the U.S. Senate thinks it is time to raise the minimum wage.

Increasing the minimum wage is not a great breaking of new ground in this country. In 1938, we passed a minimum wage and set it at 25 cents. In 1938, we came to a consensus in America that we ought to pay people a minimum base standard of living by which they ought to be able to work and achieve the American dream. Every year since 1938, when that wage dipped below because of inflation and changes in the marketplace, we raised the minimum wage. Democrat and Republican alike joined together to raise the minimum wage. The last time we raised it was 1989, and I think there were something like 86 or 89 votes in the U.S. Senate to raise it to the current level of $4.25.

Mr. WELLSTONE. Will the Senator yield for a question?

Mr. KERRY. Yes.

Mr. WELLSTONE. I wonder, given the bipartisan support since 1938, can the Senator answer the question for me, what would be the basis now for the opposition of the majority leader, Senator DOLE, and others in preventing us from even having this amendment out on the floor and having an up-or-down vote? Does the Senator have any idea, given this bipartisan support, given how important it is to working families, given the fact we have heard the majority leader campaign around the country about the importance of working families and fairness, what would be the basis of opposition to our having this amendment on the floor and having this debate? Does the Senator have any idea?

Mr. KERRY. I must confess to the Senator from Minnesota, I do not understand that. I cannot understand why Senator DOLE, who previously voted to raise the minimum wage, would not want to raise the minimum wage above what soon will be a 40-year low in purchasing power. The minimum wage in this country soon will be at a 40-year low. The poverty level in America is $12,500 for a family of three. It is $15,150 for a family of four. On a minimum wage, you can earn $8,500, three-quarters the level of poverty for a family of three, and only about half the poverty level for a family of four.

I honestly do not know why the Senator from Kansas, the majority leader, the nominee-to-be of the Republican Party, would not want to see the minimum wage raised, particularly since he has previously joined in the bipartisan effort to try to do that. I do not have an answer. Maybe my colleague has an answer.

Mr. WELLSTONE. If I can ask one other question, because I am trying to understand the disconnect between politics in Washington today where at least for the moment you have a Presidential candidate, the majority leader, who does not seem to want us to have a debate on this versus what we hear back in our States.

In Massachusetts, as you visit with families and spend time in communities, do you find that people talk a lot about the importance of jobs, of decent wages and raising the minimum wage? Is this an issue that you hear about all the time from people you represent?

Mr. KERRY. Let me say to my friend from Minnesota, when you talk to working people in Massachusetts and when you talk to almost anybody—white-collar workers, people who have good jobs in our high-technology economy, people who are part of our financial services industry, which is one of the strongest in the Nation—I would say 80 percent of the people believe that workers at the bottom rung of the economic ladder ought to be able to secure income from their work that is at least equal to the poverty level. That is all we are asking for here.

As an example, to answer your question specifically, a fellow named Neil Donovan, who runs something called Project Impact, which is a Massachusetts organization that puts homeless people into jobs, has said that a job placement at the minimum wage is, in fact, a recipe for failure. That is the experience of someone who runs a homeless shelter and wants to help those in the shelter to move toward self-sufficiency.

Why is that? I can tell you, using as examples people who live in homeless shelters. There is a fellow about whom I have talked recently who lost his job. He is now in a homeless shelter. Four months ago, he found a new job. He is working as a stock clerk, doing errands in a small operation. He is working at the minimum wage, and at the end of the week, he brings home $132.50. He proudly brings this $132.50 back to the homeless shelter in which he still lives, because even the full $132.50 is too little to be able to pay for the smallest, cheapest studio apartment in the city of Boston.

That amount does not begin to pay for health care. If you are a parent of a young child, it does not pay for day care. It does not pay the food bills for the month, after you have paid for the rent. We are talking about fundamental subsistence here.

Corporations have seen their revenues increase 12 percent or more, but the total personal income of the country as a whole, taking all incomes into account, has only gone up 2 percent. And we know that even this increase was not evenly distributed across the income spectrum. The incomes that increased were mostly at the upper level.

Here in the Congress we have a lot of people earning 10 times the poverty level. Ten times the poverty level we earn in the U.S. Congress, and the Republican leadership of the U.S. Senate is unwilling to raise the income level for those who are working at three-quarters of the poverty level and one-tenth of the salary of Senators.

Mr. WELLSTONE. Might I ask the Senator two more questions?

Mr. KERRY. Yes.

Mr. WELLSTONE. So what the Senator is saying is that right now, $4.25 an hour, what happens is that with a family, you have somebody working 40 hours a week, 52 weeks a year and still not making poverty wages.

If we were to raise this minimum wage in the amendment we want to offer, I think the senior Senator from Massachusetts said this would be an additional $1,800. I know what this means to a family in Minnesota, but for a working family in Massachusetts, what does that mean? What does $1,800 mean?

Let us talk in real people terms so that people understand this is not some party strategy, this is about people's lives, and we think this is critically important to do. As of the moment, we cannot even get our colleagues on the other side to debate. What does this mean to people in Massachusetts?

Mr. KERRY. To a family in Massachusetts, say a single parent with two kids, that spends about 60 bucks a week on groceries, this means a difference of 7 months groceries. What we are talking about is 7 months of food for the adult who is the combination breadwinner and parent and the two children. Obviously, if you can buy the 7 months of groceries, you then may also be able to move some of the money you had been spending on food to pay the heating bill, pay the rent, pay the utilities, or, if you are lucky enough to own a home, pay the mortgage. But, of course, you are very unlikely to own a home if the family's income depends on a minimum-wage job.

But there are many Americans who are hampered in what jobs they can get because they do not have transportation. Often that is the difference—being able to travel by some means from home to a job. An increase in the minimum wage easily could enable a worker to afford transportation, maybe a $3,000 used car, so you can travel beyond the confines of an area where there are not a lot of jobs, and find a better job.

There are many people with whom I talk in Massachusetts who are limited in their ability to get a decent job by their inability to be able to get to the job. As we are seeing more and more reductions in transit subsidies, bus routes are being cut, the fares are going up. People are actually written out of jobs because they cannot get to them.

But let me just make one further point to my colleague, and then I will yield the floor to him. All of this is not really that complicated. You hear the same arguments every time. Oh, if you raise the minimum wage, all those kids in the work force or who want to come into the work force are going to be denied jobs. But the truth is, we are not talking about kids. We are talking about adults. More than 70 percent of the people working on minimum wage are adults. More than two-thirds of them are women. These are working families that are affected here.

The argument is made that, oh, we are going to lose jobs if we raise that minimum wage. Well, there are at least 12 studies, several of them in the last couple of years, that refute that argument. A couple of these studies were done in New Jersey because New Jersey raised its minimum wage. You heard all the same arguments about New Jersey. And New Jersey experienced an increase in jobs.

Can anyone look around America in any year in which we have raised the minimum wage and say that doing so held us back—that it hurt our economy or cost us jobs? Can you look around this country and suggest that we have not created more jobs and raised people's incomes while we provided that income floor which guaranteed that American workers are not going to be exploited?

Mr. President, let us be honest about the history of what happened in our Nation. Go back and read the "Grapes of Wrath." Go back through the history of the labor movement. Are we going to pretend that the gains for America's workers came spontaneously? Did they come out of the goodness of the hearts of managers or owners of the coal mines or the steel mills or the railroads of this Nation? No.

Everybody knows the sacrifices that the labor movement had to make, and that people lost their lives. People were shut out, people were starved, people were hit over the head, knees were broken. People were killed because workers had to fight for the right to be able to get a decent wage. There was even a time, believe it or not—how amazing—when people had to strike because they thought that they should not work more than 8 hours a day. Remember the exploitation of child labor? Remember the various diseases, the inhumane working conditions?

So through the years we have reached a point in America where we thought we had a fundamental understanding about what was fair. Now you have people working at the minimum wage who are earning only three-quarters or half the level of poverty for their families. And we have a party that believes that those of us elected to try to make these choices in Washington should not have the right on the floor of the Senate to have an up-or-down vote on a proposal to increase that minimum wage. It is very simple. In this body, 51 votes is the measure of what we do. In this case, 51 votes is the measure of whether Americans working at the minimum wage will receive a raise.

The chief executive officers of this country have not had a hard time getting raises. When 40,000 people are laid off at AT&T, the stock goes up and the chief executive can walk away with millions of dollars in additional compensation. What happens to those workers who were the victims of the

VOL
142
PT
5
MR
21
—
29
1996
UMI

downsizing? Well, maybe they have a skill level where they will break into another job. But for those people at the very bottom rung of the ladder, they are not going to have a chance to reach the next rung, or even to stay on the bottom rung, unless we lift their living standard and give them a raise.

When one examines the ratio of salaries of chief executive officers to salaries of their companies' wage earners, the ratio has moved from 50 to 1, where it remained for decades in this country, to over several hundred to one today. It just seems incomprehensible to me, Mr. President, that we should be even debating whether we should give the workers on the bottom rung of the ladder a raise, especially when the purchasing power of their current wage is at a 40-year low. That is what this is all about. I hope that our colleagues will join with us in our traditional bipartisan approach on this issue and raise the minimum wage in this country.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that privilege of the floor be granted to Paul Mazur during the duration of the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Thank you, Mr. President.

I would like to thank both my colleagues from Massachusetts. Let me just get back to basics. This amendment that I thought we were going to lay down this morning is simple and straightforward. It would increase the minimum wage, the Federal minimum wage from the current $4.25 an hour to $5.15 an hour over the next 2 years. That is all. Mr. President, 90 cents over 2 years, no indexing to adjust for the cost of living, no other things to complicate the debate.

A straightforward proposition—raise the Federal minimum wage from $4.25 an hour for working families in our country, to $5.15 an hour over 2 years, and 90 cents over 2 years. For some reason my colleagues on the other side of the aisle, at least as of this morning, do not want us to be able to lay this amendment out on the floor of the Senate and have the debate and vote for it up or down.

I would just say to my colleagues, that this is simple, this is straightforward. My colleague from Massachusetts, Senator KERRY, talked about CEO salaries. Let me just be blunt. The U.S. House of Representatives and the U.S. Senate sure as heck voted themselves a huge raise, an increase from about $100,000 a few years ago to $130,000 a year. I heard my colleagues tell me that, you know, you have kids in college and there is additional expenses and all of the rest.

Fair enough. But if the U.S. Senate can vote for a salary increase from $100,000 to $130,000 a year—and the House took the action earlier—do you not think it is about time we are willing to raise the minimum wage from $4.25 an hour to $5.15 an hour over 2 years? Do you not think it is about time that we would be willing to raise the minimum wage by 90 cents over 2 years?

Mr. President, I do not know what the majority leader plans on doing. But it does seem to me that we have now reached the point where regardless of the strategies and regardless of whatever parliamentary ruling there might be, it is going to be very difficult for Senators to essentially finesse this issue. Because while we are putting off the debate, at least for the moment, there are many Americans who have to live with this minimum wage. We are putting the debate off on the minimum wage this morning, while many Americans have to live with it. For 200,000 working people and their families in Minnesota, this is an extremely important issue.

Later on, Mr. President, when we get to the debate, I will talk about people. I do not want it to be abstract. But let me just tell you, whether it is a single parent working or whether it is two parents working, this debate about the minimum wage, this effort to raise the minimum wage, is absolutely key toward providing people with a ladder to get into the middle class. This is a fundamental economic justice question. I will just say one more time, I came to the floor about 10:30. I thought we had an understanding that we would go forward with this amendment.

My hope is that after the caucuses meet at lunch we will be able to do so, that we will be able to lay down our amendment, that we will have debate on this amendment, and that Senators will be accountable, Democrats and Republicans alike. Because I will tell you; in Minnesota, the cafe discussion is whether or not your children are going to be able to find jobs at a decent wage. The cafe discussion is whether or not you can pay your mortgage payment or whether you can pay your rent. The cafe discussion is whether you can afford to send your kids to college. The cafe discussion is on the economic squeeze that families feel.

The vast majority of people in Minnesota and the vast majority of people all across this country want to see us take action on this.

I say one more time, the U.S. Senate and the U.S. House of Representatives did not seem to have any problem in voting ourselves a huge pay increase. Do you not think it is about time we vote for a pay increase for working families in this country, and set some kind of decent, humane, compassionate minimum wage floor for working men and women and their children?

That is what this is about. I do not think anybody is going to be able to hide from this debate. I do not think there is going to be any way of maneuvering around this debate. I am just speaking for myself. I am not even speaking for my two colleagues from Massachusetts. But I intend to be a part of this effort to introduce this amendment over and over and over again.

You cannot duck. You cannot hide. It is an important economic issue. It is an important economic opportunity issue. It is all about working men and women and their children. It is all about economic justice. It is all about fairness. And it is time we get serious about these kinds of issues in the U.S. Senate. I hope this afternoon after lunch we will have the opportunity to lay down our amendment and then we will have this debate. Then we will have a positive, affirmative vote for working men, women, and children in the State of Minnesota. Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I know the time is divided. I am just wondering—I want to have a few more moments for a statement I want to make between now and 12:30.

The PRESIDING OFFICER. The Senator from Massachusetts, his side has 4 minutes remaining.

Mr. KENNEDY. Mr. President, I will yield myself 3½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, why we wanted to have the opportunity to address this issue is because, as this chart shows, between 1979 and 1993, this shows what has happened to real family income during this period of time.

This body is familiar with what happened before 1979 from the postwar period from 1949 up to 1979. Virtually each of these columns all moved up together up to about 100 percent improvement in the family income growth. Virtually at every level of the economy everyone moved up together. We have gone through that in other debates on the minimum wage and we may have a chance, if there is a challenge to this, to go into that in some greater detail.

But what we have now seen is 1979–93, the bottom fifth of the population has seen a real loss of 17 percent. I am always interested in how we evaluate what has happened in the median, where the median is. If you take the median as for the highest wages and the highest profits and the highest growth of the wealthiest families and the least you come out somewhere in the middle.

But the fact of the matter is that is not a good indication of what is happening to those on the bottom rung of the ladder. They are the ones that have fallen furthest behind from 1990 to 1993. This is the group which would be most affected and most helped and assisted with the increase in the minimum wage. It would be modest. It amounts to about $3.4 billion that would go to that particular group.

We will hear a lot about this is very inflationary. That is $3.4 billion in a $5 trillion economy. That is $3.4 billion in a $5 trillion economy. And they are going to talk about, well, it is inflation and it is going to set off all of the economy? This demonstrates what is out there in terms of our colleagues who are working in America.

The ones that are being affected by the minimum wage, as has been pointed out, are the ones that are working full time, 40 hours a week, 52 weeks of the year. This chart shows what the real minimum wage is. That is in the purchasing power. This continues to go. It will be the lowest it was since 1989.

In 1989, as has been pointed out in this debate, at that level, of Republicans and Democrats, there were only nine Members of the U.S. Senate in 1989 that voted against it. And 32 Members of the Republican Party voted for this increase. George Bush voted for that increase. Effectively we are right back down to—BOB DOLE voted for the increase. We are right back to that level now. Plus, I think most would understand that the economy is stronger today than it was at that particular time.

Mr. President, this chart shows what is happening. The Dow-Jones average, inflation adjusted, goes right up through the roof. Here it is. It breaks through the roof. This is what is happening with the stock market, the Dow-Jones average, right up through the roof. The real minimum wage, inflation adjusted, the small increase here with the 90-cent increase, right back down again. And what we are talking about with this amendment would be a 90-cent increase over the next 2 years.

Mr. President, as has been pointed out, these are the individuals who are affected—16 to 19 years is 31 percent; over 20 years of age, 70 percent. We are talking about adults; 70 percent of the individuals are over 20 years of age.

Mr. President, this is an indication, again, as I mentioned briefly, about who in our society is going to be impacted. Men represent 40 percent of the wage earners from $4.25 to $5.14. These are the wage earners that would be impacted by this increase. Again, 60 percent would be women. Many of them are single women. Many of them have children. That is why I believe that this is not just——

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. KENNEDY. Mr. President, I yield myself the final 30 seconds.

Is not just a workers' issue; it is a women's issue and a child's issue.

Mr. President, we will have the opportunity to go on and show about what the impact has been on inflation and employment since the end of World War II. We are glad to debate this issue, to take on issues and go through them and let the Senate vote its will.

So, Mr. President, I hope that we will have that opportunity when the legislation is going to come up under what was agreed to last evening to be recognized. We will offer this amendment. We hope that we will be able to work out an agreeable format so that we can have a real debate on the issue and then have a final vote, find out who is on the side of working families in this country.

My time has expired. I understand the remaining time will be available to the Members of the other party and we will be back here at 2:15 to continue this debate.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. GORTON. Mr. President, I did not come to the floor for the purpose of discussing this issue, but having listened to this discussion, I do want to remark on the bizarre nature of an argument which emphasized so strongly the outrage of the last three Senators in not being permitted to debate an issue which they were, of course, debating, on which they will place an amendment, when each of those three Senators has been visibly engaged in the last 4 weeks in preventing the Senate from voting on an appropriations bill for the District of Columbia with all of the positive impact that has on poor people, law enforcement, and education in the District, and by foolishly engaging at the same time in filibustering an attempt to bring to conclusion—to extend and bring to conclusion—the Whitewater investigation. We have not been permitted to debate these issues on their merits or to vote on their merits. For the life of me, I do not understand how that differs from the objection they are making today, particularly since they will, of course, be able to bring up such an amendment and have a debate on it.

I also point out, they neglected to state that all of their examples relate to some 10 or 15 percent, a very small percentage, of minimum-wage people who are the primary supporters for their families, and that a proposal that would obviously benefit that small handful of people will have a terribly damaging effect on first jobs for teenager and welfare recipients attempting to build new lives and living for themselves.

The compassion for those people, at the beginning of their careers, seem to be remarkably absent in the debate we have heard so far.

RAISING THE MINIMUM WAGE IS A BAD IDEA

Mr. NICKLES. Mr. President, I rise in opposition to some of the statements that were made by our colleagues from Massachusetts, who said we should increase the minimum wage. I will make a couple of editorial comments because I do not know that we need to debate it at this time, but I feel a need to respond to some of the statements made on the floor of the Senate.

The implication was that if we do not increase the minimum wage, we do not care about low-income people. I find that to be offensive. That attempts to show that maybe those of us who oppose raising the minimum wage are not only insensitive, but we do not care about poor people or something. I disagree with that. Maybe we should turn that argument around. Maybe those of us who care more about poor people should increase the minimum wage to $10, $15, or $20 an hour. I would like for everybody in America to make $20 an hour. But is the proper way to do it to pass a law that says it is against the law for you to have a job if you do not make that? That is what our colleagues from Massachusetts are doing. They want to offer an amendment that says it is against the law for you to have a job unless it pays $5.15 an hour. They do not care if the job is in rural Missouri or Oklahoma. Maybe every job in Massachusetts pays that much. I do not care if the State of Massachusetts passes a minimum wage law for any figure. That is their prerogative. But to pass a law that makes it effective in my State and all across the country and says it is against the Federal law to have a job that pays less than $5.15, I think is a serious mistake.

Who does it hurt? I think it would hurt the very people they propose to help. It would be telling a lot of people who are low income, who have a job that maybe does not pay much, it pays minimum wage—by definition, that is not much, but at least they have a job—and we are going to say, unless that job pays at least $5.15 an hour, we do not think you should have that job. As a matter of fact, it is against the law, against the Federal law for you to have a job unless it pays that amount. I totally disagree with that.

I just have to say that I do not understand the effort made to have this amendment on this bill. We have a lands bill up. We have a bill that deals with Presidio, deals with the land exchange in Oklahoma and Arkansas, and we have a bill dealing with Utah wilderness. It is a complicated bill. I compliment my colleague from Alaska, Senator MURKOWSKI, for his leadership on this bill.

What does the minimum wage amendment have to do with this bill? Nothing—except for politics. I will say it has something to do with politics. My colleagues said that we have not

VOL
142
PT
5
MR
21
—
29
1996
UMI

had an increase in the minimum wage since 1989—7 years. Wait a minute. The Democrats were in control of the Senate and the House and the White House in the years 1993 and 1994. Why did they not have the bill on the floor then? The majority leader, Senator MITCHELL, at that time could have brought it up. But he did not. Why? Well, they were trying to have a big increase in the minimum wage because they wanted to mandate a very expensive health care plan on America. Maybe they figured they could not do both. They controlled the agenda. The Senator from Massachusetts could have offered that amendment, and he did not do it. We did not have a vote in 1993 and 1994 when President Clinton and the Democrats were in control. But we are having one today.

I noticed a coincidence in today's paper, the Washington Post. The headline is, "AFL-CIO Endorses Clinton, Approves $35 Million Political Program." They want to enact their agenda. This is on their agenda. My colleagues talked about special interests. I would say this is a pretty big special interest. I would say that all of their members make more than minimum wage. Maybe all of them do. There are a lot of people in rural Missouri or rural Oklahoma making minimum wage, and if you increase the minimum wage by a certain amount, you are going to be putting some people out of work. I do not know who, but I know there are some. I have been in rural areas that have grocery stores that are striving to stay alive because they had a big company come in, like Wal-Mart or somebody, a big competitor.

Yes, they were paying $4.50 an hour or whatever the amount would be, and they are not making any money. But if we mandate that they increase their minimum wage or whatever they are paying by 21 percent as proposed, you are going to be putting some of those jobs out, maybe put the business out.

And what are these jobs? A lot of them are starting level jobs. I worked for minimum wage 27½ years ago. It was when my wife and I were first married. I worked for it before then as well. But I remember that was the best job we could get. We both worked. At that time I think the minimum wage was $1.60 an hour, and was it enough? No. Did I want more? Yes. Did I learn part of the trade? And that trade at the time was a janitor service. Yes. And I started my own.

So the minimum wage was not so much a minimum wage as it was a starting wage. It helped me learn a craft or business, and I was able to start a business. I employed more people and they made more than the minimum wage. But what we are doing, if we increase the minimum wage significantly, what we are going to be doing is telling all people if your job does not pay at least this amount, it is against the law for you to have a job, we are going to pull up the economic ladder. The Federal Government is determined if your job does not pay that amount, you should not have it; it is against the Federal law.

I think that is wrong. That is the heavy hand of the Federal Government coming in and saying we know best. We know you should be making more. Now, what is right in Boston, MA, may not be what is right in my hometown of Ponca City, OK.

So I just really disagree with this idea of big Government knows best; we are going to mandate, we are going to tell everybody what to do and act like there are no economic consequences whatsoever.

Sure, there are economic consequences. You are going to be pricing some jobs—maybe the job is pumping gas—out of the market. That is one of the first jobs that a lot of my group growing up were working at. You do not see that anymore. Most of the gas stations are self-serve. That may not be the greatest job in the world, but I would rather have that young person coming in and getting a start and maybe learning the fact this is not good enough; I cannot make enough money, so maybe I need to go back and complete high school or maybe I need to go into vo-tech or maybe I need to go get some additional training. That is all part of the educational process.

We say, "Oh, no. If the job doesn't pay over $5.15 an hour, you can't have it; it is wrong." Or maybe the job is sacking groceries. You do not see many jobs like that. We used to have those jobs. The Federal Government is going to put people out of business and back on the streets, people who need that job training.

A lot of people in Boston, a lot of people in different parts of the country need that first job. That first job teaches them a lot more than just the dollar amount. And we should give them that opportunity. We should not be pulling the economic ladder up and saying, no, if it does not pay that much, it is not worth it; you go ahead and stay home. And, yes, so what if you are 16 years old and you do not have anything else to do, just stay home. And then what happens? A lot of those idle people say, well, I need some money. How can I make money? Maybe I can make money running drugs, maybe I can make money stealing things, whatever. A lot of people get into trouble because they have time on their hands.

That is a mistake. We should not price them out of the marketplace, and that is what is being proposed.

And then some of our colleagues say, well, there are no economic consequences whatsoever. This is not going to mean an increase in unemployment. I think it just defies the law of supply and demand. If there are no negative economic consequences by a 21-percent increase in the minimum wage, why not increase it 50 percent? Why not increase it 100 percent? Maybe we should have a perfecting amendment that says the minimum wage will be $10 an hour?

That is all right. If you work 2,080 hours a year, that is $20,000 a year. I think that would be nice. I would like for everybody to make $20,000 a year. So maybe we should perfect this amendment. If you are not going to have any negative consequences by a 21-percent increase in the minimum wage, let us make it 100 percent, make it $10 an hour. I just think that argument makes no sense whatsoever. Common sense would say, hey, this is going to cause some problems for some people and those some people are going to be the people on the lowest end of the economic scale that maybe are trying to crawl that ladder and we are going to pull the ladder up. We should not do that.

I wish to make a couple of comments. Yes, there are negative economic consequences. CBO said that this is an unfunded mandate on cities and counties and States and tribes of about $1 billion over the next few years. They said it is an unfunded mandate on the private sector to the tune of over $12 billion for the next few years.

The real problem is that this is going to be telling a lot of young people we are sorry; if you cannot find a job that pays this much, we do not want you to have a job; it is against the law for you to have a job. That is a mistake. I think that is a serious mistake. We should not do that.

So I will urge my colleague at the appropriate time to oppose this amendment if and when it is offered. It does not belong in this bill. Some people are kind of frustrated Congress does not get its business done, and on occasion I may join that frustration. But this amendment is for politics because the leaders of organized labor are in town, because the leaders of organized labor are endorsing Clinton and promising record amounts, record amounts, $35 million in political campaign contributions. This is special interest legislation and the real problem is the real people it will hurt will be low-income people who need jobs.

So I will urge my colleagues at the appropriate time to defeat this amendment.

Mr. President, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I join with my friend from Oklahoma relative to his concern over what the minimum wage will do if there is an increase. And I believe the increase proposed by the Senator from Massachusetts is from $4.25 to $5.15. That is

about 45 cents I believe over a 2-year period.

FEDERAL REGULATIONS

Mr. GORTON. Mr. President, I have today a bizarre example of the unthinking impact of conflicting Federal regulations on other conflicting Federal regulations and the fact that so often our bureaucracy simply does not think out the consequences of what it does.

Recently, I was in the Tri City area of east central Washington and was discussing his business with the manager of a Unocal fertilizer plant in the city of Kennewick. He brought to my attention a fairly recent message that he had received from the U.S. Coast Guard. The Coast Guard has written to everyone with various kinds of facilities in ports from California through the State of Washington, warning them about potential terrorism, pointing out that the base of the explosive at the Oklahoma City courthouse disaster was fertilizer, and telling the manager of this fertilizer plant how important it was to guard against terrorism, to guard against outsiders getting into the facility and engaging in terroristic acts.

Well, it was oratory in nature and did not suggest any particular things to do. I do not think it suggested anything that the plant was not already doing. But at the same time, Mr. President, the Unocal plant was informed by the Environmental Protection Agency of a truly bizarre proposal on its part.

As a fertilizer plant, and because fertilizers do, under some circumstances, raise certain health risks and also certain explosive risks, this business is subject to widespread regulation on the part of the Occupational Safety and Health Administration and the Environmental Protection Agency. In fact, those regulations are so detailed in nature that 23 people out of 150 employees in the plant are devoted almost solely to abiding by various governmental regulations.

In any event, the Environmental Protection Agency announced a new regulation to apply to some 122,000 facilities across the country. That regulation would require each of these 122,000 facilities to make public the worst-case scenario, the worst thing that could possibly happen if any of the materials handled by or stored in the facility were released.

So, in other words, Mr. President, we have a Federal Government warning against terrorism with one hand and instructing companies to publicize the worst thing a terrorist could possibly do with their materials on the other hand—in detail.

The Environmental Protection Agency, when it was asked how many deaths had resulted off of the site of one of these 122,000 plants from the release of such material, came up with the answer "zero." No such deaths. But they have a regulation which will tell the terrorists exactly how to cause those deaths in very, very large numbers.

Mr. President, there is no question but that safety regulations are vitally important and environmental protection regulations are important. This Unocal plant, I may say, had 1 injury that caused one day of lost time in the last several years in its plant, and that was from heavy lifting, not the use of hazardous material. It runs an extremely safe plant.

But, Mr. President, could we possibly come up with a better illustration of the proposition that we need to look over our old regulations after a certain period of time and determine whether or not they are still relevant or still working; that before we impose new regulations, we ought to figure out what the cost and the downside is against whatever the purported gain is before we impose them? Are we going to simply publicize ways in which to engage in terrorism, when we have not had any serious problems from the very condition that the regulation is designed to control?

Mr. President, should we not have some kind of coordination among various Federal agencies as to whether or not the regulation of one is not going to undercut the very purpose for which another exists? Well, Mr. President, I think the answer to these questions is quite obvious. Here is another example of the use of the so-called safety regulation or environmental regulation in a way which is destructive of the very goals it seeks in the first place.

Mr. President, I ask unanimous consent that the Coast Guard missive and the letter from Mr. Powell of Unocal be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Alameda, CA, January 14, 1996.

DEAR WATERFRONT FACILITY OPERATOR/MARITIME TRANSPORTATION COMPANY: As a result of a series of recent U.S. judicial proceedings, I have received an advisory indicating possible retaliatory acts against U.S. interests. The sentencing of Sheikh Omar Abdel Rahman and nine others for their involvement in the bombing of the World Trade Center and other New York landmarks may prompt sympathizers to possible retaliate. Similar responses could also follow if the U.S. extradites Musa Abu Marzuq, a member of the "Islamic Resistance Movement (HAMAS)" to Israel for his involvement in terrorist activities there. In addition, Salman Rushdie, the target of an Iranian death order, is currently on a multi-city U.S. book tour. Finally, the trial of alleged bomb maker and terrorist Ramei Ahmed Youssef is expected in the first half of 1996. He and his accomplices are charged with conspiring to bomb a U.S. commercial airlines in the Asia Pacific region.

The possible retaliatory acts to these judicial proceedings may include attacks against the U.S. transportation infrastructure. It should be emphasized that no specific threats against any form of transportation have been identified to date. However, the Secretary of Transportation believes it is prudent and appropriate to ensure deterrence and prevention of these activities. Therefore, I am advising all waterfront facility operators and companies involved in maritime transportation in Northern California to take appropriate and immediate actions to ensure that adequate measures are in place to prevent or deter terrorist actions against facilities and port personnel. These actions should begin with a review of your security measures already in place and an assessment of whether or not additional security measures are necessary.

To facilitate information sharing and response actions during a security-related emergency, the Department of Transportation has established a hotline for reporting incidents. The number for the hotline is 1-800-424-0201. Should you receive any threats or notice any unusual activities which may compromise your security, I urge you to contact this hotline and appropriate law enforcement agencies. You may also contact the Marine Safety Office's watch office at (510) 437-3073 to report these incidents.

Your cooperation in ensuring the safety of the port is greatly appreciated. Should you have any questions regarding this matter, please contact Lieutenant Lee of my staff at (510) 437-5873.

Sincerely,

D.P. MONTORO,
Captain, U.S. Coast Guard.

UNOCAL PETROLEUM PRODUCTS &
CHEMICALS DIVISION,
Kennewick, WA, June 26, 1995.

Hon. RICHARD "DOC" HASTINGS,
House of Representatives, Longworth Office Building, Washington, DC.

DEAR REPRESENTATIVE HASTINGS: Thank you for the time you afforded my entire family when we were in Washington, D.C. last week. Meeting a congressman in his office was a big event for us.

During our brief talk I told you that I was in town for a meeting of the Fertilizer Institute where EPA's proposed risk management (RM) regulations were discussed in depth. These regulations which focus on community safety are explicitly called for by the 1990 Clean Air Act Section 112(r)(7). In addition to our internal discussion, an EPA spokeswoman, Dr. Lyse Helsing of EPA's Chemical Emergency Preparedness and Prevention Office, provided us with an update of the status of their proposed regulations. EPA's proposed RM regulations will substantially overlap with existing regulations also called for by the Clean Air Act and already implemented by OSHA to protect worker safety. These are OSHA's Process Safety Management (PSM) regulations which went into effect in 1992. Unfortunately, the overlapping portions of the regulations are not quite identical. The Fertilizer Institute and Unocal feel this problem can be easily solved and that the solution would be in line with President Clinton's recent directive to eliminate or modify regulations that are obsolete or unnecessary.

The attached letter explaining the problem with these overlapping regulations was drafted by the Fertilizer Institute. It briefly explains the problem and offers a solution. I hope you will consider sending this or a similar letter to the EPA.

One element in the RM regulations called for by the Clean Air Act is not dealt with by

VOL
142
PT
5
MR
21
—
29
1996
UMI

OSHA in its PSM regulations. That is a requirement that industries storing certain hazardous materials above threshold quantities make public the "worst case" scenario for the release of this material including its impact on the surrounding community. RM regulations will effect 122,000 facilities in this country according to EPA's spokeswoman Dr. Lyse Helsing. When asked how many such worst case releases had ever resulted in an injury to a person offsite from the affected facility. Dr. Helsing stated that EPA's records showed zero deaths. She did not comment on injuries, but I suspect there is scant evidence of a problem. However, the requirement to publicize worst case information will be costly and we will in the process of releasing such information make it known to potential terrorists as well as to average citizens. In the wake of Oklahoma City, the Trade Tower incident in New York and subway incidents in Japan, I doubt that public safety will be enhanced by making worse case information public. This is especially true in this instance where EPA acknowledges no history of problem in this country.

The clock is ticking on EPA's court ordered deadline of March 1996 to issue RM regulations with a requirement for publication of worst case scenarios. I urge you to take action to avoid implementation of this aspect of the Clean Air Act.

Thank you for your time, your consideration and your constant efforts at improving the workings of our government.

Sincerely,

MARK R. POWELL.

Mr. GORTON. Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I compliment my colleague from Washington for that statement. That may be the most vivid example of bureaucracies running amok, actually endangering the lives of some of our constituents. That is unfortunate. I appreciate the Senator for bringing that to our attention. I hope we will be able to take some corrective action.

PRESIDIO PROPERTIES ADMINISTRATION ACT

Mr. MURKOWSKI. Mr. President, I wish to continue our earlier discussion a little bit more. I remind this body of the pending business that is before the Senate, and that is a package of parks bills, some 56 titles, and a couple of them are contentious—Utah wilderness and Presidio. And as we look at getting things done around here, it is inconceivable to me that we would not finish what we started. We started yesterday with this parks package. It was scheduled to come up throughout the day. We had about 7½ hours of debate, good debate yesterday. Today, we were going to take amendments, and the first thing out of the box is the minimum wage. Putting aside the merits of the minimum wage, the question is, Why not finish what we started?

The Utah wilderness debate is a legitimate issue for the State of Utah. The Presidio trust establishment is a legitimate issue for the State of California. The concern relative to Utah wilderness is whether or not 2 million acres of additional wilderness is adequate or, as some from the elitist group suggest, it should be 5 to 6 million acres. Currently, Utah has a pretty good chunk of wilderness. They have approximately 800,000 acres that is Forest Service wilderness. The proposed bill that we presented would increase that BLM wilderness classification to 2 million acres, making a total of 2.8 million.

That is pretty significant, Mr. President, when you consider just how big a million acres of wilderness actually is. Few people recognize as they wander around in the great outdoors what a million acres of wilderness equates to. A million acres equates to a State the size of Delaware. Two million acres, what we are talking about, is about three times the size of the State of Rhode Island. Two million acres is about half the size of the State of New Jersey.

With reference to the Utah wilderness, why they are somewhat reluctant to put in even more acreage is that there has been an extended study done as to what would be adequate in the minds of Utahns, the legislature, the Governor, and so forth. And I think some 15 years have been spent in the study, some $10 million expended to come up with the recommendation of 1.9 million. As I said before, the proposal here is 2 million acres.

Now, Utah needs for its economy, for its infrastructure, funds coming from resource development. Some of these areas would be used for the production of resources to support the needs of Utah—the schools and various other long-term commitments to better the residents of that State. Some might wonder why I am speaking coming from the State of Alaska, but we, too, are affected by wilderness designations. We have 56 million acres of wilderness in our State of Alaska, so I know something about the topic.

But, as we reflect on what is behind the issue, on one hand, of trying to reach an accord to get the 56 titles through that represent the parks in some 26 States, I encourage all my colleagues to remember the importance of standing behind this package. Because, if the Senate votes out this package, it will be accepted by the House. If the Utah wilderness is stricken, if the Presidio is stricken, why, the House has assured us, they are not even going to take it up.

But the significance here is what the Utahns are trying to do to develop their economy and meet their school obligations by utilizing the resources in that State, the resources that, if additional wilderness is set aside beyond the 2 million acres, they are simply not going to be able to achieve their needs.

Who are these folks who are proposing it should be 5 to 6 million acres? They are not residents of the State of Utah. They are some of the eastern elitists, who have moved their focus, if you will, from the West as being an area where there is great productivity and return for their investments, as they reside in the East, to easterners who look at the West as a great place to recreate.

What we are talking about here is balance. We are trying to get a balance between preserving the wilderness and developing our resources and trying to address our jobs. As I hear my colleagues this morning talk about the minimum wage, I ask them where in the world are the jobs that we formerly had in resource development in this country? We have lost 600,000 jobs since 1980 in the oil and gas industry; 600,000 jobs. These are not minimum-wage jobs. These are high-paying union jobs, blue-collar jobs of the highest skills necessary to produce oil and gas. What have we done? We have relied on imports. We are bringing in, now, 54 percent of our crude oil. Mr. President, 54 percent of our crude oil consumption is imported. So, what we are doing is we are exporting our dollars, we are exporting our jobs, and we have lost 600,000 jobs since 1980.

I do not see my colleagues on the other side of the aisle saying what can we do to stimulate domestic jobs in oil and gas production, where we have huge reservoirs simply ready to be tapped, we have the technology, we have the expertise to do it safely. They do not want to stand up and be counted, because some of the elitist groups might suggest we should not be developing oil and gas on public lands, we should not be generating revenue and taxes for the communities. They move over to the minimum wage, on a parks bill, and suggest that this is the issue for the Senate. This is not the business of the Senate. The business of the Senate is the 56 titles of the parks bill.

Look at the timber industry. Timber is a renewable resource. Do you know why the U.S. Forest Service was established? It was established so we could have an ongoing supply of timber. It is up to us to determine whether the management is adequate or inadequate. We have lost 30,000 timber jobs in 10 years. How many communities did that affect? Lots and lots.

As a consequence, I just am bewildered at my colleague's immediate jump to a minimum-wage increase with no consideration for the lost jobs in timber, mining, oil, gas, ranching—virtually every resource from public lands that has traditionally employed Americans in high-paying jobs. Where have the jobs gone to in the United States? They have gone to the service industry. They have gone to McDonald's. They have gone to the low pay, as we import the things we need, like

our wood fiber. Some of the extreme elitists suggest we do not have to develop that in the United States, we can import it. But many of those countries do not have the same environmental sensitivity that we do in the United States. They are not developing their renewable resources with the same sensitivity that we are.

So, I think it is a little inconsistent, as we listen to this debate today, particularly in view of the statement from my friend from Oklahoma that it is a bit coincidental, with the AFL–CIO in town, endorsing the current administration, committing $35 million out of the union members in this country for a political action effort. Where are those people when it comes to the basic, hard-core resource jobs of this country? They are not on this floor. They are not defending the right to use our science and technology to keep this job base that we have had in this country, that has made this country self-sufficient.

Mr. President, 54 percent of our crude oil is imported. As I said, the dollars and jobs are going overseas. Over one-half the trade deficit is the cost of imported oil. There is absolutely no excuse for that. We are importing over 8 million barrels a day. The total cost to import that is $1 billion per week. We could have those jobs in the United States if we would recognize, as we look at our regulatory requirements, that they really do not keep pace with the technological advancements. To suggest we cannot open up oil and gas deposits safely with the technology that we have been developing is really selling American engineering and ingenuity short.

I see the hour of 12:30 is almost upon us, Mr. President. I again remind my colleagues of the inappropriateness of trying to move a minimum-wage action on a parks bill, a parks bill that addresses some 25 States, 56 titles, and has been worked on for many, many years by many Members here and addresses the needs of many, many States.

So, I urge my colleagues to refrain from the debate on the minimum wage to simply take advantage of the political opportunity associated with the presence of the AFL–CIO and their convention in town and their pledge of $35 million to the current administration and get back to the business of the Senate, which is this parks package, debate it, pass it, and move on. I am sure there will be a time and place for the minimum wage, but it is not on this parks bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, was leader's time reserved?

The PRESIDING OFFICER. It was.

EDMUND S. MUSKIE

Mr. DOLE. Mr. President, during a speech in the 1968 Presidential campaign, Senator Edmund Muskie, who was the Democrat nominee for Vice President, told his audience, "you have the God-given right to kick the Government around—don't hesitate to do so."

That remark was pure Ed Muskie. Blunt. To the point. And leaving no doubt that Americans should expect the best of their public officials.

And the best is just what the people of Maine and America received from Ed Muskie during a public service career that spanned five decades.

Along with all Senators, I join today in mourning the death of Ed Muskie, who passed away here in Washington early this morning.

The son of a Polish immigrant, Ed Muskie grew up knowing about the blessings of freedom and democracy, and he spent a life time standing up for those blessings, beginning with serving for 3 years in the Atlantic and Asiatic-Pacific Theaters in World War II.

After the war, he returned to his beloved Maine, and soon began his political career as a Democrat in a State that for over a century had rarely elected anybody but Republicans.

Ed Muskie changed all that. During his 6 years in the State house of representatives, his 4 years as Governor, and his 21 years in the U.S. Senate, Ed Muskie's intelligence and integrity changed the voting habits of Maine—many of whom called themselves Muskie Republicans.

Ed's years in the Senate were highlighted by his service as the first chairman of the Senate Budget Committee. I was proud to be on that committee with him at that time. In that role, Ed took some criticism from those of his party who believed he was too tough in his opposition to increased spending.

He handled this criticism by saying that America would not get its fiscal house in order if we continued to have public servants who—and I quote—"talked like Scrooge on the campaign trail, and voted like Santa Clause in the Senate."

Ed Muskie was a patriot who always answered the call of his Nation. He resigned from the Senate when President Carter asked him to serve as Secretary of State. And when Ronald Reagan—the man who defeated President Carter—asked him to serve on the Tower Commission, Ed was there, as well.

Mr. President, the State of Maine and America are better because of Ed Muskie's life and career.

I know all Senators join with me in extending our condolences to his family and friends.

Mr. KENNEDY. Mr. President, I want to thank and commend the majority leader for these comments. I join in the feeling which he has spoken so very eloquently about.

I wanted to speak very briefly on Senator Muskie. I do not know whether others wanted to speak on this matter, but I have some remarks.

I ask unanimous consent that we extend our recess time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I thank the leader very much.

Mr. DORGAN. Mr. President, I simply wanted to commend the majority leader for his comments about the late Senator Muskie. I did not know him well. I had met him a number of times. This was an era when there is often a caricature created about those involved in public service. He represented, I think, what is the best of public service. He was smart, tough, strong. He served not only the State of Maine but this country with great distinction.

All of us who had met him, or those of us who had crossed paths with him over the years will miss him. We extend our sympathies to the Muskie family. I yield the floor.

Mr. KENNEDY. Mr. President, I join in thanking the majority leader for his comments about Senator Muskie, and I would like to express my appreciation to others for their comments.

Ed Muskie was a fellow New Englander, and over his long and distinguished career, his friendship for the members of our family and for my brothers was very real, ongoing, and based upon our very high regard and great respect for Senator Muskie.

As has been pointed out here in the Senate, he was a Senator's Senator. I like to think of him as being the foremost authority on preserving the environment. Senator Muskie inherited this extraordinary commitment because he represented one of the most beautiful States in our country, the State of Maine. He spent a good deal of time on that issue as Governor and gave it very special attention in the Senate, where he championed the Clean Water Act and other environmental reforms. We made great progress in preserving the environment in those years, and Ed Muskie deserves the commendation and the gratitude of a nation.

He also took on challenging responsibilities as the first chairman of the Budget Committee, in trying to ensure that the Nation acts responsibly in its financial affairs. With his extraordinarily gifted mind and his ability to analyze and understand complex issues, he was able to get at the heart of the problem and master the details of a

VOL
142
PT
5
MR
21
—
29
1996
UMI

budget in a way which all of us admired and respected. He played an enormously important role in trying to put this country on a path toward a more sensible and responsible fiscal policy.

His work as Secretary of State was outstanding as well. His key role in the release of the American hostages in Iran was an extraordinary diplomatic initiative and achievement. It was when he served as Secretary of State that this Nation achieved new heights in the preservation of human rights around the world, a cause which he championed.

Many commentators have described Ed Muskie as Lincolnesque. He was Lincolnesque in stature and character—a tall, lean man, a towering figure, with those piercing eyes and strong features that characterized an enormously gifted mind and a backbone of steel and courage.

He was a great public servant for our time. The people of Maine were well served, the Senate was well served, and the country was well served in a range of different responsibilities that he undertook.

Mr. President, I join with those expressing our sense of sorrow and loss to his wife Jane and the other members of the Muskie family. We will be saying our prayers for Ed Muskie and for his family. I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:49 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DEWINE].

Mr. DOLE. Mr. President, I need to have a brief discussion with the Democratic leader. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:39 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the House:

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2178. A communication from the Assistant Secretary of the Treasury (Legislative Affairs and Public Liaison), transmitting, pursuant to law, a report relative to the tobacco product vending machines; to the Committee on Appropriations.

EC–2179. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, a report relative to the Foreign Comparative Testing Program for fiscal year 1995; to the Committee on Armed Services.

EC–2180. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the report on the Laboratory Revitalization Demonstration Program for fiscal year 1996; to the Committee on Armed Services.

EC–2181. A communication from the Assistant Deputy Under Secretary of Defense (Environmental Security), Department of Defense, transmitting, pursuant to law, the report on the defense environmental restoration program (volume 1 of 2) for fiscal year 1995; to the Committee on Environment and Public Works.

EC–2182. A communication from the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence), transmitting, pursuant to law, the interim report on the Department of Defense actions relative to section 381 of the National Defense Authorization Act for fiscal year 1995; to the Committee on Armed Services.

EC–2183. A communication from the Secretary of Defense, transmitting, pursuant to law, 1995–1996 Joint Military Assessment; to the Committee on Armed Services.

EC–2184. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to Cooperative Threat Reduction (CTR) funding; to the Committee on Armed Services.

EC–2185. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the annual report relative to the Commission's administrative and enforcement actions under the Fair Debt Collections Practices Act; to the Committee on Banking, Housing and Urban Affairs.

EC–2186. A communication from the Under Secretary for Oceans and Atmosphere, Department of Commerce, transmitting, pursuant to law, the National Oceanic and Atmospheric Administration's (NOAA) Deep Seabed Mining Report; to the Committee on Commerce, Science, and Transportation.

EC–2187. A communication from the Secretary of Energy, transmitting, pursuant to law, notice of intent to submit a report required under the Energy Policy Act of 1992; to the Committee on Energy and Natural Resources.

EC–2188. A communication from Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, the report of a notice on leasing systems; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–517. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"ASSEMBLY JOINT RESOLUTION NO. 45

"Whereas, Jimmy Tran valiantly fought for the freedom of his country of seven years as a member of the Army of the Republic of Vietnam; and

"Whereas, after the fall of Saigon, Jimmy Tran escaped from a reeducation camp and continued to fight the totalitarian regime as a member of the democratic movement; and

"Whereas, Jimmy Tran escaped Vietnam in 1978 and came to the United States to start a new life in a free nation; and

"Whereas, Jimmy Tran became a citizen of the United States and continued to work for freedom and democracy through patriotic organizations in his adopted country; and

"Whereas, Jimmy Tran returned to Vietnam in January 1993 to promote the cause of freedom in Vietnam; and

"Whereas, Jimmy Tran was arrested on February 15, 1993, and charged with planning to denigrate symbols of the Hanoi regime; and

"Whereas, Jimmy Tran was denied a lawyer of his choice, tried in secret with a predetermined verdict, and sentenced to 20 years in one of Vietnam's most notorious prisons; and

"Whereas, Jimmy Tran now suffers in prison from severe malnutrition and, at the age of 44, has become nearly blind; and

"Whereas, the United States has formally recognized the communist government of Vietnam in hopes of bringing democratic reforms to that nation; and

"Whereas, Jimmy Tran should be enabled to return home to his wife and four young children: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorialize the President of the United States to use our new diplomatic relations with Vietnam to secure the release of Jimmy Tran and his return to his wife and children in the United States; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretary of State, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–518. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"ASSEMBLY JOINT RESOLUTION NO. 34

"Whereas, the memory of those Americans who died in the Korean War to defend liberty and freedom, demands that Americans make every effort to reclaim, identify, and appropriately enshrine their remains; and

"Whereas, the accounting of Americans who were taken as prisoners of war or who were missing in action during the Korean War is incomplete; and

"Whereas, the Government of the United States should demand that the government of North Korea provide the fullest possible accounting of each and every American P.O.W. or M.I.A.; and

"Whereas, the use of current DNA biotechnology can assist greatly in the identification of the remains of American personnel in the hands of North Korea: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to demand that the government of North Korea provide the fullest possible accounting of each and every American P.O.W. or M.I.A.; and be it further

"*Resolved*, That the President and the Congress of the United States ensure that the latest DNA biotechnology is used to its fullest potential to identify the remains, and that arrangements be made for the remains to be properly enshrined in a suitable place of honor; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–519. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION NO. 37

"Whereas, the government of the Socialist Republic of Vietnam (SRV) is continuing to violate all fundamental and civil rights of its own citizens through arbitrary arrests, detentions without trial, and the censorship of peaceful expression of political or religious beliefs; and

"Whereas, in 1991 and 1992, Amnesty International had reported that there were still thousands of political prisoners detained in hundreds of government-operated reeducation camps, and Amnesty International estimates that at least one reeducation camp exists in each of Vietnam's 40 provinces and continues to receive "persistent reports of torture and ill-treatment of people" within those camps; and

"Whereas, the Asia Watch has raised the issue of political detainees in the SRV having to perform hard labor under conditions of malnutrition, abuse, and lack of medical care, and the periods of detention are indefinitely renewable; and

"Whereas, as a part of the Campaign for the Release of Political Prisoners in Vietnam, the National United Front of the Liberation of Vietnam released a list of political prisoners, including writers, journalists, religious leaders, intellectuals, civil servants, and politicians; this list provides the names of prisoners, their prison location, and the penalty under which they are serving; and there are currently 1,005 prisoners on this list; and

"Whereas, for decades hundreds of religious leaders and followers have been imprisoned and scores of religious leaders have been killed and since summer of 1993, there has been a brutal crackdown on religion by the government of Vietnam; and

"Whereas, in the SRV, the Vietnamese people are constantly subjected to police surveillance and restricted social and political activities; in other words, the Vietnamese people are being denied normal civil rights and entitlements; and

"Whereas, political oppression and human rights violations in Vietnam continue to increase at an alarming rate in contrast to the government's recent publicity maneuvers, such as "economic reforms," a "revised Constitution," or an "open door policy"; and

"Whereas, after two decades, the government of the SRV is still committing the inhumane act of warehousing the remains of American soldiers to be used as bargaining chips; and

"Whereas, for two decades, the government of the SRV has been and is still less than forthright about the fate of American POWs and MIAs; and

"Whereas, the Government of the United States should require specific improvements of human rights and civil rights by the Vietnamese government as conditions in all business, investment, aid, and diplomatic discussions with Vietnam; and

"Whereas, the government of Vietnam has reacted to the United States decision to normalize diplomatic relations with a refusal to institute democratic reforms and a rejection of calls for an end to human rights violations; and

"Whereas, April 30, 1995, marked the 20th anniversary of the fall of Saigon to the Communist government of North Vietnam: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature hereby declares its support for the struggle of the Vietnamese people for freedom and democracy, calls for an end to political oppression and for respect of human and civil rights in Vietnam, and urges the Government of the United States to use its new diplomatic relations with Vietnam to insist on democratic political reforms, an end to human rights violations, and a full accounting of American POWs and MIAs and to make the extension of Most Favored Nation status, contingent upon (1) the unconditional release of all political and religious prisoners in Vietnam, (2) the immediate cessation of punishment of critics through detention without trial, (3) the abolition of all political prisons and reeducation camps throughout the country, (4) the elimination of all regulations, codes, and constitutional provisions prohibiting organized opposition activity that are commonly used to repress peaceful expression of dissent, (5) a formal commitment by the leaders of the Communist Party of Vietnam to create a pluralistic and democratic environment, with free and open national elections under international supervision, so that the citizens of Vietnam may determine the future leadership and orientation of their government, (6) the immediate and unconditional return of the remains of all United States soldiers still in the possession of the government of the SRV, and (7) full and forthright cooperation in resolving the fate of all American POWs and MIAs in Southeast Asia; and be it further

"*Resolved*, That corporations doing business with Vietnam are encouraged to seek improvement in labor practices, as well as human rights and civil rights in all business negotiations and transactions; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–520. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Foreign Relations.

H.P. 1273

"Whereas, the United States of America has had a long and friendly relationship with the Government of the Republic of China on Taiwan; and

"Whereas, in recent years the Republic of China on Taiwan has established a multiparty, democratic political system dedicated to human rights and the pursuit of freedom; and

"Whereas, commercial interaction with the Republic of China on Taiwan has grown substantially in recent years; and

"Whereas, the Republic of China on Taiwan is a major trading partner of the United States and has a strong, free-market economy with the largest foreign reserves of any nation in the world; and

"Whereas, the role of the Republic of China on Taiwan in international development programs and humanitarian relief operations has significantly expanded during the past decade; and

"Whereas, the return of the Republic of China on Taiwan to the family of nations through membership in the United Nations will help to strengthen mutual cooperation and the bonds of friendship between our nations: Now, therefore be it

"*Resolved*, That We, your Memorialists, respectfully request the President and the Congress of the United States to encourage and support full participation by the Republic of China on Taiwan in the United Nations; and be it further

"*Resolved*, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

POM–521. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Governmental Affairs.

LEGISLATIVE RESOLVE NO. 31

"Whereas there is continuing controversy concerning Americans who were listed as prisoners of war (POW) or missing in action (MIA) while serving in the Southeast Asian nations of Vietnam, Laos, Kampuchea (formerly Cambodia); and

"Whereas the United States government has stated that all of our POW's have been returned; and

"Whereas a top secret Vietnamese report dating from 1972 by General Tran Von Kwang, Deputy Chief of Staff for the North Vietnamese Army, reported that in September of 1972 Hanoi held 1,205 American prisoners; and

"Whereas only 591 American POWs have been released under the 1973 Peace Settlement, which means that, based on General Kwang's own report, at least 614 POWs were not returned or accounted for; and

"Whereas Vietnamese nationals who have moved to the United States have reported the appearance of American prisoners still being held in Southeast Asia; and intelligence agencies, and the governments of

VOL
142
PT
5
MR
21
—
29
1996
UMI

Vietnam, Laos, Kampuchea, Russia, North Korea, and China be ordered to turn over all documents concerning Americans listed as POWs or MIAs as a result of the Vietnam War; and be it further

"*Resolved*, That the lawsuit is not intended to solicit a ruling or an opinion definitively declaring the POW/MIA issue moot, but rather it is intended to seek a mandate that all documents and other information concerning POWs and MIAs be released to the public so that the fate or location of all members of the service who were POWs or MIAs may be proven beyond a reasonable doubt; and be it futher

"*Resolved*, That the Alaska State Legislature respectfully requests the other 49 states of the United States to join in this action on behalf of their citizens being held in captivity as a result of the war in Southeast Asia."

POM–522. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Indian Affairs.

"SENATE JOINT MEMORIAL NO. 8028

"Whereas, the Indian Gaming Regulatory Act of 1988 was passed by Congress to protect tribal and state interests as they pertain to gambling; and

"Whereas, the primary intent of Congress was to allow for tribal economic development and self-sufficiency consistent with the state's public policy as it pertains to gambling; and

"Whereas, the conduct of Class III gaming within the state's boundaries is subject to the completion of a tribal-state compact; and

"Whereas, only the gambling activities authorized for any person, organization, or entity for any purpose in accordance with state law, should be the subject matter of any negotiation; and

"Whereas, some courts recognize states' interests in limiting the scope of gambling; other courts have failed to give adequate weight to state limitations on gambling within a state's borders; and

"Whereas, the public policy of the state of Washington, as expressed by the Legislature in 1994, is to limit the nature and scope of gambling activities through strict regulation and control; and

"Whereas, Washington state has been unable to carry out its public policy on gambling due to some courts' decisions not allowing the state to set reasonable limitations on gambling; and

"Whereas, because Washington has been limited by court decisions to fulfill its public policy goal an unfair situation and an economic hardship has occurred for operators of non-Indian gambling establishments, which are licensed and regulated by the state;

"Whereas, nationally there has been much disagreement between tribes and states as to the scope of gaming subject to negotiation under the Indian Gaming Regulatory Act of 1988: Now, therefore, Your Memorialists respectfully request:

"(1) Congress implement sufficient clarification of the Indian Gaming Regulatory Act of 1988 to ensure that only those specific gambling activities currently authorized under the laws of a particular state are subject to negotiation between a tribal government and a state government and that the clarification ensure that no state is required to negotiate on any specific type of gambling activity that is not either authorized, or played, or both, within a state's particular boundaries;

"(2) Congress additionally clarify the Indian Gaming Act to recognize that non-Indian gambling is important to the economic well-being of states and that a balance needs to be achieved between Indian and non-Indian gambling activities, be it

"*Resolved*, That copies of this Memorial be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DORGAN:

S. 1642. A bill to amend the Social Security Act to deny cash benefits to drug addicts and alcoholics, and for other purposes; to the Committee on Finance.

By Mr. GREGG (for himself and Mrs. KASSEBAUM):

S. 1643. A bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1997 through 2001, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BROWN (for himself, Mr. SIMON, Mr. GRASSLEY, and Mr. BAUCUS):

S. 1644. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation) to the products of Romania; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. HOLLINGS):

S. 1645. A bill to regulate United States scientific and tourist activities in Antarctica, to conserve Antarctic resources, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN:

S. 1642. A bill to amend the Social Security Act to deny cash benefits to drug addicts and alcoholics, and for other purposes; to the Committee on Finance.

THE SOCIAL SECURITY ACT AMENDMENT ACT OF 1996

• Mr. DORGAN. Madam President, today, I introduce legislation for which there is broad bipartisan support. Many of my colleagues share my concern about monthly cash payments provided through the Supplemental Security Income [SSI] and Social Security Disability Insurance [SSDI] programs to people who are considered disabled solely because they are drug addicts and alcoholics. My bill would terminate cash benefits for these recipients of SSI and SSDI, and would instead provide treatment for their addictions.

SSI was established in 1972 to provide cash benefits to needy disabled persons with limited resources. Most Americans would be surprised to learn that drug addiction and alcoholism can qualify a person to receive monthly cash benefits under this program.

In fact, 135,000 people receive monthly SSI payments because they are alcoholics or drug addicts—148 of them in my own State of North Dakota. And this number is growing at a shocking pace.

The number of addicts receiving monthly SSI benefits quadrupled in the last 4 years. Over 10 years, the percentage of SSI recipients who receive payments because of an addiction to drugs or alcohol increased from 0.3 percent of the caseload to more than 2 percent of the total caseload today—for an annual cost to taxpayers of about $630 million.

To most Americans, this policy is wrong-headed. Substance abusers need treatment, not cash handouts from the Federal Government. The bill I am introducing today would address this problem by ending SSI and SSDI cash benefits for those for whom substance abuse is a material factor in their disability. Instead, drug addicts and alcoholics would be provided with access to quality treatment for their diseases.

There is broad consensus that we must end cash benefits for substance abusers. The House and Senate voted to terminate SSI and SSDI for drug addicts and alcoholics when welfare reform legislation was considered. These provisions have now been attached to legislation to raise the Social Security earnings limit, which will soon be considered by the Senate.

My bill is different from these proposals, however, because my bill would retain Medicaid eligibility and provide access to treatment for drug addicts and alcoholics.

Under the current system, recipients are required to participate in treatment programs if they are available. However, quality programs often are not available or are not easily accessible to SSI and SSDI recipients. To make matters worse, the inspector general at the Department of Health and Human Services recently reported that the Social Security Administration does not know the treatment status of most SSI recipients and does not provide monitoring of the program.

Access to quality treatment for drug addiction is not only an effective way to truly help chemically dependent Americans—it is also cost-effective. Experts testifying before the House Ways and Means Subcommittee on Human Resources recently pointed out that every dollar invested in treatment produced between $3 and $76 in health- and criminal justice related savings.

These provisions of my bill ensure that people whose primary disability is alcoholism or drug addiction will receive treatment instead of cash benefits to address their disability. In addition, my bill helps to ensure that people who have other disabilities but who also have a chemical addiction will use cash benefits in a way that is beneficial for their well-being.

Under current law, SSI and SSDI cash payments to recipients whose principal disability is a chemical addiction are distributed through a representative payee, rather than directly to the recipient. This is intended to ensure that payments are used for the benefit of the recipient, rather than to further his or her disability. My bill extends that safeguard to any SSI or SSDI recipient who is chemically dependent if the recipient is incapable of managing his or her own benefits.

I hope my colleagues will join me in cosponsoring this legislation so that we can underscore the importance of this issue. Cash assistance will not help alcoholics and drug addicts overcome their diseases, but quality treatment and medical care will.

I ask unanimous consent that the entire text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DENIAL OF CASH BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.

(a) AMENDMENTS RELATING TO TITLE II DISABILITY BENEFITS.—

(1) IN GENERAL.—Section 225(c) of the Social Security Act (42 U.S.C. 425(c)) is amended—

(A) by striking "(c)(1)(A)" and inserting "(2)(A)";

(B) by striking paragraph (7) and by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively; and

(C) by inserting before paragraph (2) as redesignated by subparagraph (A) the following new paragraph:

"(c)(1) No cash benefits shall be payable under this title to any individual who is otherwise entitled to benefits under this title based on disability, if such individual's alcoholism or drug addiction is a contributing factor material to the Commissioner's determination that such individual is disabled.".

(2) TREATMENT REQUIREMENTS.—

(A) Section 225(c)(2)(A) of such Act (42 U.S.C. 425(c)(2)(A)), as redesignated by paragraph (1), is amended to read as follows:

"(2)(A)(i) Any individual who would be entitled to cash benefits under this title but for the application of paragraph (1) may elect to comply with the provisions of this subsection.

"(ii) Any individual who is entitled to cash benefits under this title by reason of disability (or whose entitlement to such benefits is suspended), and who was entitled to such benefits by reason of disability, for which such individual's alcoholism or drug addiction was a contributing factor material to the Commissioner's determination that such individual was disabled, for the month preceding the month in which this paragraph takes effect, shall be required to comply with the provisions of this subsection."

(B) Section 225(c)(2)(B) of such Act (42 U.S.C. 425(c)(2)(B)), as so redesignated, is amended—

(i) by striking "who is required under subparagraph (A)" and inserting "described in clause (ii) of subparagraph (A) who is required"; and

(ii) by striking "paragraph (3)" and inserting "paragraph (4)".

(C) Section 225(c)(3)(A) of such Act (42 U.S.C. 425(c)(3)(A)), as so redesignated, is amended—

(i) by striking "paragraph (1)" and inserting "paragraph (2)(A)"; and

(ii) by striking "paragraph (5)" and inserting "paragraph (6)".

(D) Section 225(c)(3)(B) of such Act (42 U.S.C. 425(c)(3)(B)), as so redesignated, is amended by striking "paragraph (1)" and inserting "paragraph (2)(A)".

(E) Section 225(c)(5) of such Act (42 U.S.C. 425(c)(5)), as so redesignated, is amended by striking "paragraph (2)" and inserting "paragraph (3)".

(F) Section 225(c)(6)(A) of such Act (42 U.S.C. 425(c)(6)(A), as so redesignated, is amended—

(i) by striking "who are receiving benefits under this title and who as a condition of payment of such benefits" and inserting "described in paragraph (2)(A)(i) who elect to undergo treatment; and the monitoring and testing of all individuals described in paragraph (2)(A)(ii) who";

(ii) by striking "under paragraph (1)"; and

(iii) by striking "paragraph (2)(A)" and inserting "paragraph (3)(A)".

(G) Section 225(c)(6)(C)(ii)(I) of such Act (42 U.S.C. 425(c)(6)(C)(ii)(I)), as so redesignated, is amended—

(i) by striking "residing in the State" and all that follows through "they are disabled" and inserting "described in paragraph (2)(A) residing in the State"; and

(ii) by striking "paragraph (2)(A)" and inserting "paragraph (3)(A)".

(H) Section 225(c)(6)(C)(ii)(III) of such Act (42 U.S.C. 425(c)(6)(C)(ii)(III)), as so redesignated, is amended by striking "paragraph (2)(A)" and inserting "paragraph (3)(A)".

(I) Section 225(c)(6)(C) of such Act (42 U.S.C. 425(c)(6)(C)), as so redesignated, is amended by adding at the end the following:

"(iii) The monitoring requirements of clause (ii) shall not apply in the case of any individual described in paragraph (2)(A)(i) who fails to comply with the requirements of paragraph (2).".

(J) Section 225(c)(7) of such Act (42 U.S.C. 425(c)(7)), as so redesignated, is amended—

(i) in subparagraph (A), by striking "who is entitled" and all that follows through "is under a disability" and inserting "described in paragraph (2)(A)"; and

(ii) in subparagraph (D), by striking "(4) or (7)" and inserting "(5)".

(K) Section 225(c)(8) of such Act (42 U.S.C. 425(c)(8)) is amended by striking "(1), (4) or (7)" and inserting "(2) or (5)".

(L) Section 225(c) of such Act (42 U.S.C. 425(c)) is amended by adding at the end the following new paragraphs:

"(10) The Commissioner shall provide appropriate notification to each individual subject to the limitation on cash benefits contained in paragraph (1) and the treatment provisions contained in paragraph (2).

"(11) The requirements of paragraph (2) shall cease to apply to any individual if the Commissioner determines that such individual no longer needs treatment.".

(3) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 205(j)(1)(B) of such Act (42 U.S.C. 405(j)(1)(B)) is amended to read as follows:

"(B) In the case of an individual entitled to benefits based on disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.".

(B) Section 205(j)(2)(C)(v) of such Act (42 U.S.C. 405(j)(2)(C)(v)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(C) Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 405(j)(2)(D)(ii)(II)) is amended by striking all that follows "15 years, or" and inserting "described in paragraph (1)(B).".

(D) Section 205(j)(4)(A)(i)(II) of such Act (42 U.S.C. 405(j)(4)(A)(ii)(II)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(b) AMENDMENTS RELATING TO SSI BENEFITS.—

(1) IN GENERAL.—Section 1611(e)(3) of the Social Security Act (42 U.S.C. 1382(e)(3)) is amended—

(A) by striking "(B)" and inserting "(C)";

(B) by striking "(3)(A) and inserting "(B)"; and

(C) by inserting before subparagraph (B) as redesignated by paragraph (2) the following new subparagraph:

"(3)(A) No cash benefits shall be payable under this title to any individual who is otherwise eligible for benefits under this title by reason of disability, if such individual's alcoholism or drug addiction is a contributing factor material to the Commissioner's determination that such individual is disabled.".

(2) TREATMENT REQUIREMENTS.—

(A) Section 1611(e)(3)(B)(i)(I) of such Act (42 U.S.C. 1382(e)(3)(B)(i)(I)), as redesignated by paragraph (1), is amended to read as follows:

"(B)(i)(I)(aa) Any individual who would be eligible for cash benefits under this title but for the application of subparagraph (A) may elect to comply with the provisions of this subparagraph.

"(bb) Any individual who is eligible for cash benefits under this title by reason of disability (or whose eligibility for such benefits is suspended) or is eligible for benefits pursuant to section 1619(b), and who was eligible for such benefits by reason of disability, for which such individual's alcoholism or drug addiction was a contributing factor material to the Commissioner's determination that such individual was disabled, for the month preceding the month in which this subparagraph takes effect, shall be required to comply with the provisions of this subparagraph.".

(B) Section 1611(e)(3)(B)(i)(II) of such Act (42 U.S.C. 1382(e)(3)(B)(i)(II)), as so redesignated, is amended by striking "who is required under subclause (I)" and inserting "described in division (bb) of subclause (I) who is required".

(C) Subclauses (I) and (II) of section 1611(e)(3)(B)(ii) of such Act (42 U.S.C. 1382(e)(3)(B)(ii)), as so redesignated, are each amended by striking "clause (i)" and inserting "clause (i)(I)".

(D) Section 1611(e)(3)(B) of such Act (42 U.S.C. 1382(e)(3)(B)), as so redesignated, is amended by striking clause (v) and by redesignating clause (vi) as clause (v).

(E) Section 1611(e)(3)(B)(v) of such Act (42 U.S.C. 1382(e)(3)(B)(v)), as redesignated by subparagraph (D), is amended—

(i) in subclause (I), by striking "who is eligible" and all that follows through "is disabled" and inserting "described in clause (i)(I)"; and

(ii) in subclause (V), by striking "or (v)".

(F) Section 1611(e)(3)(C)(i) of such Act (42 U.S.C. 1382(e)(3)(C)(i)), as redesignated by

VOL
142
PT
5
MR
21
—
29
1996
UMI

paragraph (1), is amended by striking "who are receiving benefits under this title and who as a condition of such benefits" and inserting "described in subparagraph (B)(i)(I)(aa) who elect to undergo treatment; and the monitoring and testing of all individuals described in subparagraph (B)(i)(I)(bb) who".

(G) Section 1611(e)(3)(C)(iii)(II)(aa) of such Act (42 U.S.C. 1382(e)(3)(C)(iii)(II)(aa)), as so redesignated, is amended by striking "residing in the State" and all that follows through "they are disabled" and inserting "described in subparagraph (B)(i)(I) residing in the State".

(H) Section 1611(e)(3)(C)(iii) of such Act (42 U.S.C. 1382(e)(3)(C)(iii)), as so redesignated, is amended by adding at the end the following:

"(III) The monitoring requirements of subclause (II) shall not apply in the case of any individual described in subparagraph (B)(i)(I)(aa) who fails to comply with the requirements of subparagraph (B).".

(I) Section 1611(e)(3) of such Act (42 U.S.C. 1382(e)(3)), as amended by paragraph (1), is amended by adding at the end the following new subparagraphs:

"(D) The Commissioner shall provide appropriate notification to each individual subject to the limitation on cash benefits contained in subparagraph (A) and the treatment provisions contained in subparagraph (B).

"(E) The requirements of subparagraph (B) shall cease to apply to any individual if the Commissioner determines that such individual no longer needs treatment.".

(3) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 1631(a)(2)(A)(ii)(II) of such Act (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

"(II) In the case of an individual eligible for benefits under this title by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.".

(B) Section 1631(a)(2)(B)(vii) of such Act (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(C) Section 1631(a)(2)(B)(ix)(II) of such Act (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows "15 years, or" and inserting "described in subparagraph (A)(ii)(II).".

(D) Section 1631(a)(2)(D)(i)(II) of such Act (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(4) PRESERVATION OF MEDICAID ELIGIBILITY.—Section 1634(e) of such Act (42 U.S.C. 1382(e)) is amended—

(A) by striking "clause (i) or (v) of section 1611(e)(3)(A)" and inserting "subparagraph (A) or subparagraph (B)(i)(II) of section 1611(e)(3)"; and

(B) by adding at the end the following: "This subsection shall cease to apply to any such person if the Commissioner determines that such person no longer needs treatment.".

(5) CONFORMING AMENDMENT.—Section 201(c) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is repealed.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to applicants for benefits under title II or title XVI of the Social Security Act for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) APPLICATION TO CURRENT RECIPIENTS.—Notwithstanding any other provision of law, in the case of an individual who is receiving benefits under title II of the Social Security Act or supplemental security income benefits under title XVI of such Act as of the date of the enactment of this Act and whose entitlement or eligibility for such benefits would terminate by reason of the amendments made by this section, such amendments shall apply with respect to the benefits of such individual for months beginning on or after January 1, 1997, and the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.

(3) BENEFITS UNDER TITLE XVI.—For purposes of this subsection, the term "benefits under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act, and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.●

By Mr. GREGG (for himself and Mrs. KASSEBAUM):

S. 1643. A bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1997 through 2001, and for other purposes; to the Committee on Labor and Human Resources.

THE OLDER AMERICANS ACT AMENDMENTS OF 1996

Mr. GREGG. Mr. President, I rise today to introduce the Older Americans Act Amendments of 1996. This important law recently saw its 30th anniversary, and I believe it is the type of legislation that we should have more of in this country; it is a bill that is designed to help our senior citizens help themselves. This is a bill that focuses on meeting the needs of senior citizens in ways that will promote their well-being and independence. Through a variety of supportive programs—from providing meals that are both home-delivered and served in congregate settings, to subsidizing seniors' income through an employment and training program, to facilitating information, case management, and referral services so that all available services to seniors can be coordinated and maximized—this bill works to ensure the system works for our older Americans.

This bill essentially takes what has become an overly complicated, prescriptive law and streamlines it, turns significant amounts of authority over to the States, encourages a bottoms-up planning process, and allows programs and services to be tailored to meet actual—rather than perceived—social and economic needs. This legislation will provide maximum authority and flexibility to States and localities in the design and operation of their services for seniors, while protecting the integrity of a number of priority programs—including outreach and counseling programs, the long-term care ombudsman, preventive health efforts, elder abuse prevention, and legal assistance services.

The bill drives more money into the delivery of those services most needed in States and local communities through sound economic principles. Throughout this bill, a "bottoms-up" planning process is facilitated; this means actual needs will be met on the local level, rather than what we perceive the needs to be from our distant vantage point here in Washington. It is clear from a myriad of other programs that we fund and that have failed that Washington does not always know best. We must ensure that we don't drag this program down under a father-knows-best mentality.

This is not a welfare bill. It is not legislation that is designed to only meet the needs of specific populations or address specific problems. Instead, the Older Americans Act is a continuum of programs which have been structured to respond to everything from economic needs, to physical and transportation problems, to answering individuals' social requirements. All of our seniors should have the opportunity for a nutritious meal, or to get other assistance when they need it; this bill facilitates their access to these kinds of services.

This has never been considered a partisan piece of legislation, and Senator KASSEBAUM and I have worked hard, along with Senator MIKULSKI who is the ranking member on the Aging Subcommittee, to ensure that it remains bipartisan. That is not to say that concerns on both sides of the aisle were not fully explored. The goal has been to achieve the strongest policy possible, and in doing so, meet the concerns of all of our colleagues.

A concerted effort has been made to maintain an atmosphere of collegiality and consensus. For the Republican members of the Labor Committee, this has meant a willingness to recognize the value of a particular policy in cases where we would have made other decisions based on our general philosophy. In addition, we have taken a great deal of time and effort to listen to and consult with interested groups who are part of the aging network. We have extended an open-door policy to anyone who expressed an interest in sharing their views and exchanging ideas in a constructive environment. We responded to what we heard; for example, we have retained the Eldercare Locator Service, a program which allows family members to find services for their loved ones, even if they are in a different part of the country. We retained a separate line-item of funding for the long-term-care ombudsman program,

after hearing repeatedly of its significance in States across the Nation.

The bill I am introducing here today, along with my colleague from Kansas and the Chairman of our Committee, Senator KASSEBAUM, is a result of that process over the last year. It contains policy that was structured in response to excellent witnesses who testified both before our subcommittee and the House. These individuals brought their unique, grassroots perspective from the trenches to us here in Washington. Their comments had a tremendous value in this process, as their issues are real, not perceived. One provision we adopted on their advice was, for example, to permit States to institute cost-sharing provisions; however, we have ensured that these provisions will not prevent any senior from receiving services due to an inability to pay.

This bill responds to concerns and questions that were posed after we circulated a legislative proposal last December. It also incorporates a number of items raised by the administration and the Democratic members of the Labor Committee, both technical and substantive. These include: Retaining authority for the Assistant Secretary to make grants for preventive health activities, with priority given to medically underserved areas and locations with the greatest economic need; definition of low income at 150 percent of the Federal poverty line; and mandated State planning requirements for legal assistance and insurance-public benefit counseling.

The overall structure of this bill has also been changed. Like a house that had numerous additions over the years, the Older Americans Act had become disjointed. We have corrected that, restructuring the act so that it is logically based on service and oversight responsibilities, as opposed to program by program, fractionalized by seven titles. The four titles of this bill include one for Federal functions, one for State responsibilities, one for Area Agency on Aging authorities, and one title for native American programs.

This bill maximizes flexibility for service delivery at the State and local level, while still retaining protections over priority services, such as outreach and counseling, long-term care ombudsmen, and case management. The bill also rationalizes the funding formulas for both nutrition and supportive services as well as SCSEP, the Senior Community Service Employment Program. This is important because we must direct our limited Federal resources to where a real need exists. We must also be planning now for the future, and ensure that legislation that we pass today will be structured to respond to the needs of tomorrow and the 21st century.

In addition, we have directed funds to the administration, States, and localities as required for the purpose of administering these programs. While important functions are carried out with administrative dollars, when faced with a choice between administration and service, we have opted to meet the needs of our seniors wherever we can. To further promote quality service delivery, we have eliminated the artificial funding wall between home-delivered and congregate meals programs. We have also increased the transfer authority between nutrition programs and supportive services, which funds items such as transportation, in-home assistance, health screening and education, health insurance benefit options, crime prevention, and work on multipurpose senior center facilities.

This bill retains the authority and authorizes funding of research and demonstration grants in order to encourage innovative approaches to the delivery of the critical services provided for under this act. While, again, there is a limit on the number of dollars that can be provided for such activities, we also have seen some excellent programs emerge from these projects, and have attempted to find a way to continue them.

We maintained a number of provisions to protect the quality of the long-term-care ombudsman offices in each State by clarifying the minimal criteria for eligibility and providing conflict-of-interest safeguards. This bill ensures that particular attention continues to be paid to the needs of the minority elderly population. In addition, the legislation permits States to institute cost-sharing requirements as they see necessary under a self-declaration-of-income standard. Confidentiality standards are provided, and there is language which ensures that no one will be denied services due to an inability to pay.

It is time to reexamine the status quo for all Federal programs and make improvements where necessary. And I think we have made an excellent start with this bill, the Older Americans Act. Again, I would like to thank Senators KASSEBAUM and MIKULSKI for their efforts on this bill. I believe the bill will allow seniors across the country to remain healthy, living in their own homes in their community, and supported in their endeavors to stay independent. And this bill does all of this by striving to maximize public-private partnership to supplement the limited Federal funds available—encouraging the Federal dollars to be used to leverage private funding, and by allowing priorities to be set at the grassroots level whenever possible.

Mrs. KASSEBAUM. Mr. President, I rise today as an original cosponsor of legislation to reauthorize the Older Americans Act of 1965. I am pleased that Senator GREGG has taken the lead in drafting a bill that grants States and local communities the authority and flexibility to tailor programs to best fit the needs of their aging citizens.

The original Older Americans Act was passed in 1965 with the intention of using joint Federal and State funds to provide a range of services for elder Americans. Since that time, the act has evolved into a comprehensive list of programs and services—ranging from legal and counseling services to transportation and employment services to, perhaps most importantly, nutrition services.

Every day thousands of seniors gather at congregate meal sites to obtain nutrition services, as well as enjoy the companionship these sites offer. Often, a nutrition site will serve as the point of entry for seniors to gain knowledge of other services available to them through their local communities or their area agency on aging. The congregate meal sites serve as a valuable socialization tool, as well as often providing the only nutritious meal of the day for many seniors.

Through changes in the Older Americans Act, this legislation will provide maximum authority and flexibility to States and localities in the design and operation of their services for seniors, while protecting the integrity of certain priority programs including: outreach and counseling programs, case management, the long-term-care ombudsman, preventive health efforts, and elder abuse prevention programs. Mr. President, each State has very different needs. This bill allows each State to craft programs to fit their individual communities.

In addition, this proposal strives to maximize public-private partnership, recognizing that the Federal Government is not able to meet all the needs that exist among this growing population, but that Federal funds can form a basis of support for leveraging private dollars. Also important, I believe, is the retention of the authority and funding for research and demonstration projects which encourage the development of innovative approaches to the delivery of critical services for seniors.

As the population continues to age and as needs change, more pressure will be placed on providers to make sure that essential needs of the elderly are met. I am hopeful that our efforts will lead to a system of senior services that are not only more consumer driven but are also better designed to offer support to seniors in their endeavors to remain healthy and independent.

By Mr. BROWN (for himself, Mr. SIMON, Mr. GRASSLEY, and Mr. BAUCUS):

S. 1644. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation) to the products of Romania; to the Committee on Finance.

VOL
142
PT
5
MR
21
—
29
1996
UMI

ROMANIA MOST-FAVORED-NATION STATUS LEGISLATION

Mr. BROWN. Mr. President, I rise today with several of my distinguished colleagues, including Senator Paul Simon, Senator Chuck Grassley, and Senator Max Baucus, to introduce a historic measure, a bill to permanently restore nondiscriminatory treatment to the products of Romania. We are joined by Representatives Phil Crane, Sam Gibbons, and Barbara Kennelly in the House who are also introducing this same bill in that body today.

On December 22, 1989, Romania emerged from years of brutal Communist dictatorship and began its careful journey toward democracy and free markets. By 1991, Romania had approved a new Constitution and elected a Parliament, laying a foundation for a modern parliamentary democracy. This year will mark the second nationwide Romanian Presidential election under the new Constitution.

Romania's economic legacy of extreme centralization, an oppressive Communist government, and a stifling bureaucracy gave it one of the longest paths to reach a functioning market economy of any of the emerging democracies of Central Europe. Nonetheless, according to the U.S. Department of Commerce, after many years of difficult work, much of the necessary legislative framework for a market economy is in place. Romania's economic reforms include the establishment of a two-tier banking system, the introduction of a modern tax system, the freeing of most prices and elimination of most subsidies, the adoption of a tariff-based trade regime, and the privatization of nearly all Romanian agriculture and rapidly developing enterprises.

As I witnessed on my recent visit to Romania, the economic changes are remarkable. Romania's private sector currently accounts for 45 percent of gross domestic product, including more than 80 percent of agricultural property with 5 million new landowners, more than half a million private firms, and 46,000 joint ventures with foreign capital.

American investment in Romania doubled from 1993 to 1994 and doubled again in 1995, with total foreign investment of $1.6 billion as of December 31, 1995. Romanian exports to the United States are growing rapidly, increasing by 27 percent through the third quarter of 1995 over the same period in 1994.

All in all, Romania's progress in instituting democratic reforms and a free market economy has earned it a permanent extension of most-favored-nation treatment. In addition, Romania has been found by President Clinton to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974. As I found during my recent visit, Romania is clearly making significant progress in rejoining the West. I urge the support of my colleagues for the earliest consideration of this important measure.

By Mr. KERRY (for himself and Mr. Hollings):

S. 1645. A bill to regulate United States scientific and tourist in Antarctica, to conserve Antarctic resources, and for other purposes; to the Committee on Commerce.

THE ANTARCTIC SCIENCE, TOURISM, AND CONSERVATION ACT OF 1996

• Mr. KERRY. Mr. President, today I am introducing the Antarctic Science, Tourism, and Conservation Act of 1996. The purpose of this legislation is to enable the United States to implement the Protocol on Environmental Protection to the Antarctic Treaty. The Protocol was negotiated by the parties of the Antarctic Treaty System and signed in October, 1991. The Senate gave its advice and consent to the Protocol on October 7, 1992. In August, 1993, I introduced the precursor to this bill and the Senate Commerce Committee reported it to the full Senate in early 1994. Unfortunately, continuing disagreements among scientists, conservation groups, and the administration about the legislative changes needed for the United States to carry out its responsibilities under the Protocol prevented further action on that bill.

Today, I am pleased to announce that the legislative impasse has come to an end. The bill Senator Hollings and I are introducing is supported by all the parties engaged in this somewhat lengthy but ultimately successful consensus-building process.

Why are we concerned about implementing this particular international agreement? The protocol recognizes that Antarctica is a unique and fragile ecosystem that must be monitored and protected and it reaffirms the designation of Antarctica as a special conservation area. At the same time, the protocol encourages and supports the unparalleled research opportunities Antarctica offers for scientific study of both global and regional environmental processes. Finally, the protocol acknowledges and addresses the impact of the growing number of tourists who travel to the Antarctic to witness its wild beauty and bountiful marine life, but whose presence is responsible for increasing environmental stress.

The bill before us builds on the existing U.S. regulatory framework provided in the Antarctic Conservation Act to implement the protocol and to balance two important goals. The first goal is to conserve and protect the Antarctic environment and resources. The second is to minimize interference with scientific research. The bill amends the Antarctic Conservation Act to make existing provisions governing U.S. research activities consistent with the requirements of the protocol. As under current law, the Director of the National Science Foundation [NSF] would remain the lead agency in managing the Antarctic science program and in issuing regulations and research permits. In addition, the bill calls for comprehensive assessment and monitoring of the effects of both governmental and nongovernmental activities on the fragile Antarctic ecosystem. It also would continue indefinitely a ban on Antarctic mineral resource activities. Finally, the bill amends the act to prevent pollution from ships and to implement provisions of the protocol relating to protection of marine resources.

Before closing, I would like to thank Senator Hollings, ranking Democrat on the Commerce Committee; the Department of State, especially Under Secretary for Global Affairs Tim Wirth and Tucker Scully of the Bureau of Oceans and International Environmental and Scientific Affairs; Dr. Neil Sullivan, Director of Polar Programs, and Larry Rudolph of the National Science Foundation; and other interested parties including Greenpeace, World Wildlife Fund, and especially the Antarctica Project and its director Beth Marks for their hard work and assistance in developing this bill.

As one of the founders of the Antarctic Treaty System, the United States has an obligation to enact strong implementing legislation, and our action to complete ratification of the protocol is long overdue. I urge my colleagues' support, and prompt action to enact the Antarctic Science, Tourism, and Conservation Act of 1996.

I ask unanimous consent that the text of the bill be printed in the Record immediately following my statement.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antarctic Science, Tourism, and Conservation Act of 1996".

TITLE I—AMENDMENTS TO THE ANTARCTIC CONSERVATION ACT OF 1978

SEC. 101. FINDINGS AND PURPOSE.

(a) Findings.—Section 2(a) of the Antarctic Conservation Act of 1978 (16 U.S.C. 2401(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (4) and (5) respectively, and inserting before paragraph (4), as redesignated, the following:

"(1) for well over a quarter of a century, scientific investigation has been the principal activity of the Federal Government and United States nationals in Antarctica;

"(2) more recently, interest of American tourists in Antarctica has increased;

"(3) as the lead civilian agency in Antarctica, the National Science Foundation has long had responsibility for ensuring that United States scientific activities and tourism, and their supporting logistics operations, are conducted with an eye to preserving the unique values of the Antarctic region;";

(2) by striking "the Agreed Measures for the Conservation of Antarctic Fauna and Flora, adopted at the Third Antarctic Treaty Consultative Meeting, have established a firm foundation" in paragraph (4), as redesignated, and inserting "the Protocol establish a firm foundation for the conservation of Antarctic resources,";

(3) by striking paragraph (5), as redesignated, and inserting the following:

"(5) the Antarctic Treaty and the Protocol establish international mechanisms and create legal obligations necessary for the maintenance of Antarctica as a natural reserve devoted to peace and science.".

(b) Purpose.—Section 2(b) of such Act (16 U.S.C. 2401(b)) is amended by striking "Treaty, the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and Recommendation VII–3 of the Eighth Antarctic Treaty Consultative Meeting" and inserting "Treaty and the Protocol".

SEC. 102. DEFINITIONS.

Section 3 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2492) is amended to read as follows:

"SEC. 3. DEFINITIONS.

"For purposes of this Act—

"(1) the term 'Administrator' means the Administrator of the Environmental Protection Agency;

"(2) the term 'Antarctica' means the area south of 60 degrees south latitude;

"(3) the term 'Antarctic Specially Protected Area' means an area identified as such pursuant to Annex V to the Protocol;

"(4) the term 'Director' means the Director of the National Science Foundation;

"(5) the term 'harmful interference' means—

"(A) flying or landing helicopters or other aircraft in a manner that disturbs concentrations of birds or seals;

"(B) using vehicles or vessels, including hovercraft and small boats, in a manner that disturbs concentrations of birds or seals;

"(C) using explosives or firearms in a manner that disturbs concentrations of birds or seals;

"(D) willfully disturbing breeding or molting birds or concentrations of birds or seals by persons on foot;

"(E) significantly damaging concentrations of native terrestrial plants by landing aircraft, driving vehicles, or walking on them, or by other means; and

"(F) any activity that results in the significant adverse modification of habitats of any species or population of native mammal, native bird, native plant, or native invertebrate;

"(6) the term 'historic site or monument' means any site or monument listed as an historic site or monument pursuant to Annex V to the Protocol;

"(7) the term 'impact' means impact on the Antarctic environment and dependent and associated ecosystems;

"(8) the term 'import' means to land on, bring into, or introduce into, or attempt to land on, bring into or introduce into, any place subject to the jurisdiction of the United States, including the 12-mile territorial sea of the United States, whether or not such act constitutes an importation within the meaning of the customs laws of the United States;

"(9) the term 'native bird' means any member, at any stage of its life cycle (including eggs), of any species of the class Aves which is indigenous to Antarctica or occurs there seasonally through natural migrations, and includes any part of such member;

"(10) the term 'native invertebrate' means any terrestial or freshwater invertebrate, at any stage of its life cycle, which is indigenous to Antarctica, and includes any part of such invertebrate;

"(11) the term 'native mammal' means any member, at any stage of its life cycle, of any species of the class Mammalia, which is indigenous to Antarctica or occurs there seasonally through natural migrations, and includes any part of such member;

"(12) the term 'native plant' means any terrestrial or freshwater vegetation, including bryophytes, lichens, fungi, and algae, at any stage of its life cycle (including seeds and other propagules), which is indigenous to Antarctica, and includes any part of such vegetation;

"(13) the term 'non-native species' means any species of animal or plant which is not indigenous to Antarctica and does not occur there seasonally through natural migrations;

"(14) the term 'person' has the meaning given that term in section 1 of title 1, United States Code, and includes any person subject to the jurisdiction of the United States and any department, agency, or other instrumentality of the Federal Government or of any State or local government;

"(15) the term 'prohibited product' means any substance banned from introduction onto land or ice shelves or into water in Antarctica pursuant to Annex III to the Protocol;

"(16) the term 'prohibited waste' means any substance which must be removed from Antarctica pursuant to Annex III to the Protocol, but does not include materials used for balloon envelopes required for scientific research and weather forecasting;

"(17) the term 'Protocol' means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, including any future amendments thereto to which the United States is a party;

"(18) the term 'Secretary' means the Secretary of Commerce;

"(19) the term 'Specially Protected Species' means any native species designated as a Specially Protected Species pursuant to Annex II to the Protocol;

"(20) the term 'take' means to kill, injure, capture, handle, or molest a native mammal or bird, or to remove or damage such quantities of native plants that their local distribution or abundance would be significantly affected;

"(21) the term 'Treaty' means the Antarctic Treaty signed in Washington, DC, on December 1, 1959;

"(22) the term 'United States' means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

"(23) the term 'vessel subject to the jurisdiction of the United States' includes any 'vessel of the United States' and any 'vessel subject to the jurisdiction of the United States' as those terms are defined in section 303 of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2432).".

SEC. 103. PROHIBITED ACTS.

Section 4 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2403) is amended to read as follows:

"SEC. 4. PROHIBITED ACTS.

"(a) In General.—It is unlawful for any person—

"(1) to introduce any prohibited product onto land or ice shelves or into water in Antarctica;

"(2) to dispose of any waste onto ice-free land areas or into fresh water systems in Antarctica;

"(3) to dispose of any prohibited waste in Antarctica;

"(4) to engage in open burning of waste;

"(5) to transport passengers to, from, or within Antarctica by any seagoing vessel not required to comply with the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), unless the person has an agreement with the vessel owner or operator under which the owner or operator is required to comply with Annex IV to the Protocol;

"(6) who organizes, sponsors, operates, or promotes a nongovernmental expedition to Antarctica, and who does business in the United States, to fail to notify all members of the expedition of the environmental protection obligations of this Act, and of actions which members must take, or not take, in order to comply with those obligations;

"(7) to damage, remove, or destroy a historic site or monument;

"(8) to refuse permission to any authorized officer or employee of the United States to board a vessel, vehicle, or aircraft of the United States, or subject to the jurisdiction of the United States, for the purpose of conducting any search or inspection in connection with the enforcement of this Act or any regulation promulgated or permit issued under this Act;

"(9) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or employee of the United States in the conduct of any search or inspection described in paragraph (8);

"(10) to resist a lawful arrest or detention for any act prohibited by this section;

"(11) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such other person has committed any act prohibited by this section;

"(12) to violate any regulation issued under this Act, or any term or condition of any permit issued to that person under this Act; or

"(13) to attempt to commit or cause to be committed any act prohibited by this section.

"(b) Acts Prohibited Unless Authorized by Permit.—It is unlawful for any person, unless authorized by a permit issued under this Act—

"(1) to dispose of any waste in Antarctica (except as otherwise authorized by the Act to Prevent Pollution from Ships) including—

"(A) disposing of any waste from land into the sea in Antarctica; and

"(B) incinerating any waste on land or ice shelves in Antarctica, or on board vessels at points of embarcation or debarcation, other than through the use at remote field sites of incinerator toilets for human waste;

"(2) to introduce into Antarctica any member of a nonnative species;

"(3) to enter or engage in activities within any Antarctic Specially Protected Area;

"(4) to engage in any taking or harmful interference in Antarctica; or

"(5) to receive, acquire, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any native bird, native mammal, or native plant which the person knows, or in the exercise of due care should have known, was taken in violation of this Act.

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(c) Exception for Emergencies.—No act described in subsection (a) (1), (2), (3), (4), (5), (7), (12), or (13) or in subsection (b) shall be unlawful if the person committing the act reasonably believed that the act was committed under emergency circumstances involving the safety of human life or of ships, aircraft, or equipment or facilities of high value, or the protection of the environment.".

SEC. 104. ENVIRONMENTAL IMPACT ASSESSMENT.

The Antarctic Conservation Act of 1978 is amended by inserting after section 4 the following new section:

"SEC. 4A. ENVIRONMENTAL IMPACT ASSESSMENT.

"(a) Federal Activities.—(1)(A) the obligations of the United States under Article 8 of and Annex I to the Protocol shall be implemented by applying the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to proposals for Federal agency activities in Antarctica, as specified in this section.

"(B) The obligations contained in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall apply to all proposals for Federal agency activities occurring in Antarctica and affecting the quality of the human environment in Antarctica or dependent or associated ecosystems, only as specified in this section. For purposes of the application of such section 102(2)(C) under this subsection, the term "significantly affecting the quality of the human environment" shall have the same meaning as the term "more than a minor or transitory impact".

"(2)(A) Unless an agency which proposes to conduct a Federal activity in Antarctica determines that the activity will have less than a minor or transitory impact, or unless a comprehensive environmental evaluation is being prepared in accordance with subparagraph (C), the agency shall prepare an initial environmental evaluation in accordance with Article 2 of Annex I to the Protocol.

"(B) If the agency determines, through the preparation of the initial environmental evaluation, that the proposed Federal activity is likely to have no more than a minor or transitory impact, the activity may proceed if appropriate procedures are put in place to assess and verify the impact of the activity.

"(C) If the agency determines, through the preparation of the initial environmental evaluation or otherwise, that a proposed Federal activity is likely to have more than a minor or transitory impact, the agency shall prepare and circulate a comprehensive environmental evaluation in accordance with Article 3 of Annex I to the Protocol, and shall make such comprehensive environmental evaluation publicly available for comment.

"(3) Any agency decision under this section on whether a proposed Federal activity, to which paragraph (2)(C) applies, should proceed, and, if so, whether in its original or in a modified form, shall be based on the comprehensive environmental evaluation as well as other considerations which the agency, in the exercise of its discretion, considers relevant.

"(4) For the purposes of this section, the term 'Federal activity' includes all activities conducted under a Federal agency research program in Antarctica, whether or not conducted by a Federal agency.

"(b) Federal Activities Carried Out Jointly With Foreign Governments.—(1) For the purposes of this subsection, the term 'Antarctic joint activity' means any Federal activity in Antarctica which is proposed to be conducted, or which is conducted, jointly or in cooperation with one or more foreign governments. Such term shall be defined in regulations promulgated by such agencies as the President may designate.

"(2) Where the Secretary of State, in cooperation with the lead United States agency planning an Antarctic joint activity, determines that—

"(A) the major part of the joint activity is being contributed by a government or governments other than the United States;

(B) one such government is coordinating the implementation of environmental impact assessment procedures for that activity; and

(C) such government has signed, ratified, or acceded to the Protocol,

the requirements of subsection (a) of this section shall not apply with respect to that activity.

"(3) In all cases of Antarctic joint activity other than those described in paragraph (2), the requirements of subsection (a) of this section shall apply with respect to that activity, except as provided in paragraph (4).

"(4) Determinations described in paragraph (2), and agency actions and decisions in connection with assessments of impacts of Antarctic joint activities, shall not be subject to judicial review.

"(c) Nongovernmental Activities.—(1)The Administrator shall, within 2 years after the date of the enactment of the Antarctic Science, Tourism, and Conservation Act of 1996, promulgate regulations to provide for—

"(A) the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Treaty; and

"(B) coordination of the review of information regarding environmental impact assessment received from other Parties under the Protocol.

"(2) Such regulations shall be consistent with Annex I to the Protocol.

"(d) Decision To Proceed.—(1) No decision shall be taken to proceed with an activity for which a comprehensive environmental evaluation is prepared under this section unless there has been an opportunity for consideration of the draft comprehensive environmental evaluation at an Antarctic Treaty Consultative Meeting, except that no decision to proceed with a proposed activity shall be delayed through the operation of this paragraph for more than 15 months from the date of circulation of the draft comprehensive environmental evaluation pursuant to Article 3(3) of Annex I to the Protocol.

"(2) The Secretary of State shall circulate the final comprehensive environmental evaluation, in accordance with Article 3(6) of Annex I to the Protocol, at least 60 days before the commencement of the activity in Antarctica.

"(e) Cases of Emergency.—The requirements of this section, and of regulations promulgated under this section, shall not apply in cases of emergency relating to the safety of human life or of ships, aircraft, or equipment and facilities of high value, or the protection of the environment, which require an activity to be undertaken without fulfilling those requirements.

"(f) Exclusive Mechanism.—Notwithstanding any other provision of law, the requirements of this section shall constitute the sole and exclusive statutory obligations of the Federal agencies with regard to assessing the environmental impacts of proposed Federal activities occurring in Antarctica.

"(g) Decisions on Permit Applications.—The provisions of this section requiring environmental impact assessments (including initial environmental evaluations and comprehensive environmental evaluations) shall not apply to Federal actions with respect to issuing permits under section 5.

"(h) Publication of Notices.—Whenever the Secretary of State makes a determination under paragraph (2) of subsection (b) of this section, or receives a draft comprehensive environmental evaluation in accordance with Annex I, Article 3(3) to the Protocol, the Secretary of State shall cause timely notice thereof to be published in the Federal Register.".

SEC. 105. PERMITS.

Section 5 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2404) is amended—

(1) in subsection (a) by striking "section 4(a)" and inserting in lieu thereof "section 4(b)";

(2) in subsection (c)(1)(B) by striking "Special" and inserting in lieu thereof "Species"; and

(3) in subsection (e)—

(A) by striking "or native plants to which the permit applies," in paragraph (1)(A)(i) and inserting in lieu thereof "native plants, or native invertebrates to which the permit applies, and";

(B) by striking paragraph (1)(A) (ii) and (iii) and inserting in lieu thereof the following new clause:

"(ii) the manner in which the taking or harmful interference shall be conducted (which manner shall be determined by the Director to be humane) and the area in which it will be conducted;";

(C) by striking "within Antarctica (other than within any specially protected area)" in paragraph (2)(A) and inserting in lieu thereof "or harmful interference within Antarctica";

(D) by striking "specially protected species" in paragraph (2) (A) and (B) and inserting in lieu thereof "Specially Protected Species";

(E) by striking "; and" at the end of paragraph (2)(A)(i)(II) and inserting in lieu thereof ", or";

(F) by adding after paragraph (2)(A)(i)(II) the following new subclause:

"(III) for unavoidable consequences of scientific activities or the construction and operation of scientific support facilities; and";

(G) by striking "with Antarctica and" in paragraph (2)(A)(ii)(II) and inserting in lieu thereof "within Antarctica are"; and

(H) by striking subparagraphs (C) and (D) of paragraph (2) and inserting in lieu thereof the following new subparagraph:

"(C) A permit authorizing the entry into an Antarctic Specially Protected Area shall be issued only—

"(i) if the entry is consistent with an approved management plan, or

"(ii) if a management plan relating to the area has not been approved but—

"(I) there is a compelling purpose for such entry which cannot be served elsewhere, and

"(II) the actions allowed under the permit will not jeopardize the natural ecological system existing in such area.".

SEC. 106. REGULATIONS.

Section 6 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2405) is amended to read as follows:

"SEC. 6. REGULATIONS.

"(a) Regulations To Be Issued by the Director.—(1) The Director shall issue such regulations as are necessary and appropriate to implement Annex II and Annex V to the Protocol and the provisions of this Act which implement those annexes, including 4(b)(2), (3), (4), and (5) of this Act. The Director shall designate as native species—

"(A) each species of the class Aves;

"(B) each species of the class Mammalia; and

"(C) each species of plant,

which is indigenous to Antarctica or which occurs there seasonally through natural migrations.

"(2) The Director, with the concurrence of the Administrator, shall issue such regulations as are necessary and appropriate to implement Annex III to the Protocol and the provisions of this Act which implement that Annex, including section 4(a) (1), (2), (3), and (4), and section 4(b)(1) of this Act.

"(3) The Director shall issue such regulations as are necessary and appropriate to implement Article 15 of the Protocol with respect to land areas and ice shelves in Antarctica.

"(4) The Director shall issue such additional regulations as are necessary and appropriate to implement the Protocol and this Act, except as provided in subsection (b).

"(b) Regulations To Be Issued by the Secretary of the Department in Which the Coast Guard Is Operating.—The Secretary of the Department in which the Coast Guard is operating shall issue such regulations as are necessary and appropriate, in addition to regulations issued under the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), to implement Annex IV to the Protocol and the provisions of this Act which implement that Annex, and, with the concurrence of the Director, such regulations as are necessary and appropriate to implement Article 15 of the Protocol with respect to vessels.

"(c) Time Period for Regulations.—The regulations to be issued under subsection (a)(1) and (2) of this section shall be issued within 2 years after the date of the enactment of the Antarctic Science, Tourism, and Conservation Act of 1996. The regulations to be issued under subsection (a)(3) of this section shall be issued within 3 years after the date of the enactment of the Antarctic Science, Tourism, and Conservation Act of 1996.".

SEC. 107. SAVING PROVISIONS.

Section 14 of the Antarctic Conservation Act of 1978 is amended to read as follows:

"SEC. 14. SAVING PROVISIONS.

"(a) Regulations.—All regulations promulgated under this Act prior to the date of the enactment of the Antarctic Science, Tourism, and Conservation Act of 1996 shall remain in effect until superseding regulations are promulgated under section 6.

"(b) Permits.—All permits issued under this Act shall remain in effect until they expire in accordance with the terms of those permits.".

TITLE II—CONFORMING AMENDMENTS TO OTHER LAWS

SEC. 201. AMENDMENTS TO ACT TO PREVENT POLLUTION FROM SHIPS.

(a) Definitions.—Section 2 of the Act to Prevent Pollution from Ships (33 U.S.C. 1901) is amended—

(1) by redesignating paragraphs (1) through (9) of subsection (a) as paragraphs (3) through (11), respectively;

(2) by inserting before paragraph (3), as so redesignated by paragraph (1) of this subsection, the following new paragraphs:

"(1) 'Antarctica' means the area south of 60 degrees south latitude;

"(2) 'Antarctic Protocol' means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, and includes any future amendments thereto which have entered into force;"; and

(3) by adding at the end the following new subsection:

"(c) For the purposes of this Act, the requirements of Annex IV to the Antarctic Protocol shall apply in Antarctica to all vessels over which the United States has jurisdiction.".

(b) Application of Act.—Section 3(b)(1)(B) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902(b)(1)(B)) is amended by inserting "or the Antarctic Protocol" after "MARPOL Protocol".

(c) Administration.—Section 4 of the Act to Prevent Pollution from Ships (33 U.S.C. 1903) is amended—

(1) by inserting ", Annex IV to the Antarctic Protocol," after "the MARPOL Protocol" in the first sentence of subsection (a);

(2) in subsection (b)(1) by inserting ", Annex IV to the Antarctic Protocol," after "the MARPOL Protocol";

(3) in subsection (b)(2)(A) by striking "within 1 year after the effective date of this paragraph,"; and

(4) in subsection (b)(2)(A)(i) by inserting "and of Annex IV to the Antarctic Protocol" after "the Convention".

(d) Pollution Reception Facilities.—Section 6 of the Act to Prevent Pollution from Ships (33 U.S.C. 1905) is amended—

(1) in subsection (b) by inserting "or the Antarctic Protocol" after "the MARPOL Protocol";

(2) in subsection (e)(1) by inserting "or the Antarctic Protocol" after "the Convention";

(3) in subsection (e)(1)(A) by inserting "or Article 9 of Annex IV to the Antarctic Protocol" after "the Convention"; and

(4) in subsection (f) by inserting "or the Antarctic Protocol" after "the MARPOL Protocol".

(e) Violations.—Section 8 of the Act to Prevent Pollution from Ships (33 U.S.C. 1907) is amended—

(1) in the first sentence of subsection (a) by inserting "Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(2) in the second sentence of subsection (a)—

(A) by inserting "or to the Antarctic Protocol" after "to the MARPOL Protocol"; and

(B) by inserting "and Annex IV to the Antarctic Protocol" after "of the MARPOL Protocol";

(3) in subsection (b) by inserting "or the Antarctic Protocol" after "MARPOL Protocol" both places it appears;

(4) in subsection (c)(1) by inserting ", of Article 3 or Article 4 of Annex IV to the Antarctic Protocol." after "to the Convention";

(5) in subsection (c)(2) by inserting "or the Antarctic Protocol" after "which the MARPOL Protocol";

(6) in subsection (c)(2)(A) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol";

(7) in subsection (c)(2)(B)—

(A) by inserting "or the Antarctic Protocol" after "to the MARPOL Protocol"; and

(B) by inserting "or Annex IV to the Antarctic Protocol" after "of the MARPOL Protocol";

(8) in subsection (d)(1) by inserting ", Article 5 of Annex IV to the Antarctic Protocol," after "Convention";

(9) in subsection (e)(1)—

(A) by inserting "or the Antarctic Protocol" after "MARPOL Protocol"; and

(B) by striking "that Protocol" and inserting in lieu thereof "those Protocols"; and

(10) in subsection (e)(2) by inserting ", of Annex IV to the Antarctic Protocol," after "MARPOL Protocol".

(f) Penalties.—Section 9 of the Act to Prevent Pollution from Ships (33 U.S.C. 1908) is amended—

(1) in subsection (a) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(2) in subsection (b)(1) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(3) in subsection (b)(2) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(4) in subsection (d) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(5) in subsection (e) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol"; and

(6) in subsection (f) by inserting "or the Antarctic Protocol" after "MARPOL Protocol" both places it appears.

SEC. 202. PROHIBITION OF CERTAIN ANTARCTIC RESOURCE ACTIVITIES.

(a) Agreement or Legislation Required.—Section 4 of the Antarctic Protection Act of 1990 (16 U.S.C. 2463) is amended by striking "Pending a new agreement among the Antarctic Treaty Consultative Parties in force for the United States, to which the Senate has given advice and consent or which is authorized by further legislation by the Congress, which provides an indefinite ban on Antarctic mineral resource activities, it" and inserting in lieu thereof "It".

(b) Repeals.—Sections 5 and 7 of such Act (16 U.S.C. 2464 and 2466) are repealed.

(c) Redesignation.—Section 6 of such Act (16 U.S.C. 2465) is redesignated as section 5.●

● Mr. HOLLINGS. Mr. President, today I join with Senator Kerry in introducing the Antarctic Science, Tourism, and Conservation Act of 1996, which will implement the Protocol on Environmental Protection to the Antarctic Treaty. The protocol was signed by the United States 5 years ago and approved by the Senate in the 102d Congress; yet implementing legislation remains to be completed. In the 103d Congress, the Senate Commerce Committee reported implementing legislation, but differences among key agencies and interests prevented further action. Now that those differences have been reconciled, it is timely to complete the implementation effort.

I had the opportunity to visit Antarctica in 1988, and can attest both to its pristine beauty and to the unique scientific activities being conducted there. As many of my colleagues know, the activities of U.S. citizens and interests in Antarctica are almost exclusively those of federally sponsored scientific expeditions, together with their Federal logistics support. These activities are concentrated at the edge of the ice shelf and are based at the three U.S. research stations: McMurdo, South Pole, and Palmer. The peak of activity occurs at the height of the Antarctic summer, when there are about 1,200 personnel at McMurdo, 140 at South Pole, and 40 at Palmer. Occasional U.S. tourists visit as well, under the overall responsibility of the National Science Foundation [NSF]. NSF and the National Oceanic and Atmospheric Administration [NOAA] are the

VOL
142
PT
5
MR
21
—
29
1996
UMI

main scientific agencies, and the logistics and icebreaking support is provided by the Navy and Coast Guard.

The Antarctic provides scientists with a truly unique laboratory to conduct research that cannot be carried out anywhere else. During my visit I was impressed by a number of dedicated scientists operating under difficult circumstances to help us to understand better our global environment. I witnessed NOAA's ozone hole research at the South Pole, the sampling of ice cores at the Newell Glacier along the coast, and marine biology investigations at McMurdo. Much of this research has implications for the long-term survival of human beings.

We must recognize, however, that such scientific endeavors need to be carried out with great care in an environment as fragile as Antarctica's. This is essential if Antarctica is to remain a natural reserve that is of great scientific value for generations to come. While much has been done in recent years to improve the environmental soundness of U.S. operations there, the Antarctic Science, Tourism, and Conservation Act of 1996 will help to ensure that present and future U.S. activities comply with the highest environmental standards. Implementation of the protocol is long overdue, and I am hopeful that we can enact this bill very soon.●

ADDITIONAL COSPONSORS

S. 186

At the request of Mr. AKAKA, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 186, a bill to amend the Energy Policy and Conservation Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States, and for other purposes.

S. 358

At the request of Mr. HEFLIN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 358, a bill to amend the Internal Revenue Code of 1986 to provide for an excise tax exemption for certain emergency medical transportation by air ambulance.

S. 413

At the request of Mr. DASCHLE, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 413, a bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under such act, and for other purposes.

S. 1386

At the request of Mr. BURNS, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1386, a bill to provide for soft-metric conversion, and for other purposes.

S. 1448

At the request of Mr. KERRY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1448, a bill to establish the National Commission on Gay and Lesbian Youth Suicide Prevention, and for other purposes.

S. 1491

At the request of Mr. GRAMS, the names of the Senator from Missouri [Mr. ASHCROFT], the Senator from Oklahoma [Mr. NICKLES], the Senator from South Carolina [Mr. THURMOND], the Senator from California [Mrs. FEINSTEIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from North Dakota [Mr. DORGAN], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 1491, a bill to reform antimicrobial pesticide registration, and for other purposes.

S. 1568

At the request of Mr. HATCH, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1568, a bill to amend the Internal Revenue Code of 1986 to provide for the extension of certain expiring provisions.

S. 1610

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. HELMS, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1618

At the request of Mr. HATCH, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1618, a bill to provide uniform standards for the award of punitive damages for volunteer services.

S. 1641

At the request of Mr. GRAMS, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 1641, a bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes.

SENATE CONCURRENT RESOLUTION 42

At the request of Mrs. KASSEBAUM, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Concurrent Resolution 42, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

AMENDMENTS SUBMITTED

THE PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1996

GORTON (AND MURRAY) AMENDMENT NO. 3565

(Ordered to lie on the table.)

Mr. GORTON (for himself and Mrs. MURRAY) submitted an amendment intended to be proposed by them to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer; as follows:

SEC. 01. VANCOUVER NATIONAL HISTORIC RESERVE.

(a) ESTABLISHMENT.—There is established the Vancouver National Historic Reserve in the State of Washington (referred to in this section as the "Reserve", consisting of the area described in the report entitled "Vancouver National Historic Reserve Feasibility Study and Environmental Assessment" published by the Vancouver Historical Study Commission and dated April 1993 as authorized by Public Law 101–523 (referred to in this section as the Vancouver Historic Reserve Report").

(b) ADMINISTRATION.—The Reserve shall be administered in accordance with;

(1) the Vancouver Historic Reserve Report (including the specific findings and recommendations contained in the report); and

(2) the Memorandum of Agreement between the Secretary of Interior, acting through the Director of the National Park Service, and the City of Vancouver, Washington, dated November 14, 1994.

(c) NO LIMITATION ON FAA AUTHORITY.—The establishment of the Reserve shall not limit;

(1) the authority of the Federal Aviation Administration over air traffic control, or aviation activities at Pearson Airpark; or

(2) limit operations and airspace in the vicinity of Portland International Airport.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

STEVENS AMENDMENT NO. 3566

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

On page , line , of the amendment, insert the following new section:

SEC. . PAYMENT IN LIEU OF TAXES.

(a) Section 6901(2) of title 31, United States Code, is amended to read as follows:

"(2) 'unit of general local government' means—

"(A) a county (or parish), township, borough, or city (where the city is independent of any other unit of general local government), that—

"(i) is within the class or classes of such political subdivisions in a State that the Secretary of the Interior determines to be the principal provider or providers of governmental services within the State; and

"(ii) is a unit of general government, as determined by the Secretary of the Interior on the basis of the same principles as were used by the Secretary of Commerce on January 1, 1983, for general statistical purposes. The term 'governmental services' includes, but is not limited to, those services that relate to public safety, the environment, housing, social services, transportation, and governmental administration;

"(B) the State of Alaska, for any land within that State which is not within the boundaries of a governmental entity under subparagraph (A);

"(C) the District of Columbia;

"(D) the Commonwealth of Puerto Rico;

"(E) Guam; and

"(F) the Virgin Islands.".

(b) Section 6902(a) of title 31, United States Code, is amended to read as follows:

"(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located, as set forth in this chapter. Except for the State of Alaska for entitlement land described in section 6901(2)(B), a unit of general local government may use the payment for any governmental purpose. The State of Alaska shall distribute any payment received for entitlement land described in section 6901(2)(B) to home rule and general law cities within Alaska (as such cities are defined by the State).".

BRYAN AMENDMENT NO. 3567

(Ordered to lie on the table.)

Mr. BRYAN submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

At the end of the amendment, add the following:

TITLE —RELIEF OF PERSONS IN CLARK COUNTY, NEVADA

SEC. 1. FINDINGS.

Congress finds that—

(1) certain landowners in the north Decatur Boulevard area of Las Vegas and North Las Vegas, Clark County, Nevada, who own property adjacent to property of the Bureau of Land Management have been adversely affected by certain erroneous private surveys;

(2) the landowners have occupied or improved their property in good faith and in reliance on erroneous surveys of the property that the landowners believed were accurate;

(3) the landowners presumed that their occupancy was codified through a judgment and decree of the Eighth Judicial District Court of Nevada that was filed on October 26, 1989, as a friendly lawsuit affecting numerous landowners in the north Decatur Boulevard area; and

(4) the dependent resurvey and section subdivision of sections 6, 7, 18, and 19, Township 19 South, Range 61 East, Mount Diablo Meridian, Nevada, performed in 1990 by the Bureau of Land Management correctly established accurate boundaries between the public lands and the private lands.

SEC. 2. DEFINITIONS.

In this title:

(1) AFFECTED LANDS.—The term "affected lands" means—

(A) the Federal lands located in the Las Vegas District of the Bureau of Land Management, Clark County, Nevada, in sections 18 and 19, Township 19 South, Range 61 East, Mount Diablo Meridian, as described in the dependent resurvey by the Bureau of Land Management accepted on May 4, 1990, under Group No. 683, Nevada; and

(B) the Federal lands comprising the subsequent supplemental plats of sections 18 and 19, Township 19 South, Range 61 East, Mount Diablo Meridian, as contained on plats accepted on November 17, 1992;

which lands are described as government lots 22, 23, 26, and 27 in section 18 and government lots 20, 21, and 24 in section 19, containing approximately 29.36 acres.

(2) CLAIMANT.—The term "claimant" means an owner of real property in the city of Las Vegas, Clark County, Nevada, located adjacent to the affected lands, who claims to have been deprived by the United States of title to a portion of the affected lands as a result of an erroneous private survey performed prior to the date of enactment of this Act.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. CONVEYANCE OF LANDS.

(a) PROVISION OF INFORMATION TO SECRETARY.—Not later than 1 year after the date of enactment of this Act, the city of Las Vegas shall notify the Secretary, through the State Director of the Nevada Bureau of Land Management, in writing of the claim of each claimant to the affected lands. The claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of the affected lands; and

(3) such other information as the Secretary may require.

(b) CONVEYANCE BY THE SECRETARY.—Not later than 180 days after receipt of the notification described in subsection (a), notwithstanding any other law, the Secretary shall convey the affected lands to the city of Las Vegas, Clark County, Nevada, on the condition that the city convey the affected lands to the claimants in accordance with the resurvey and plats described in section 2(1).

WARNER (AND ROBB) AMENDMENTS NOS. 3568–3569

(Ordered to lie on the table.)

Mr. WARNER (for himself and Mr. ROBB) submitted two amendments to be proposed by them to the amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

AMENDMENT NO. 3568

On page 196, beginning on line 2 strike all through page 198, line 3 and insert the following:

SEC. 2301. COLONIAL NATIONAL HISTORICAL PARK.

(a) IN GENERAL.—The Secretary of the Interior (hereinafter in the Title referred to as the "Secretary") is authorized to transfer, without reimbursement (except as provided in subsection (c), to York County, Virginia, any portion of the existing sewage disposal system, including related improvements and structures, that is owned by the United States and located within the Colonial National Historical Park, together with such rights-of-way as the Secretary determines to be necessary to maintain and operate such system.

(b) REPAIR AND REHABILITATION OF SYSTEM.—The Secretary is authorized to enter into a cooperative agreement with York County, Virginia, under which the Secretary will pay a portion, not to exceed $110,000, of the costs of repair and rehabilitation of the sewage disposal system referred to in subsection (a).

(c) EFFECT OF AGREEMENT ON CHARGES, IMPACT, AND ALTERATIONS.—In consideration for the rights-of-way granted under subsection (a), in recognition of the contribution authorized under subsection (b), and as a condition of the transfer authorized by subsection (a), the cooperative agreement under subsection (b) shall provide for a reduction in, or the elimination of, the amounts charged to the National Park Service for its sewage disposal with respect to the Colonial National Historical Park, shall provide for minimizing the impact of the park's sewage disposal system on the park and its resources, and shall provide that such system may not be enlarged or substantially altered without the concurrence of the National Park Service.

SEC. 2302. INCLUSION OF LAND IN COLONIAL NATIONAL HISTORICAL PARK.

Notwithstanding the provisions of the Act of June 28, 1938 (52 Stat. 1208; 16 U.S.C. 81b, et seq.), limiting the average width of the Colonial Parkway, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized to include within the Colonial National Historical Park, and to acquire by purchase with donated or appropriated funds, donation or exchange, lands and interests in lands (with or without improvements) within the areas depicted on the map dated August 1993, numbered 333/80031A, and entitled "Page Landing Addition to Colonial National Historical Park". Such map shall be on file and available for inspection in the offices of the National Park Service at Colonial National Historical Park and in Washington, District of Columbia.

AMENDMENT NO. 3569

At the appropriate place in the amendment, insert the following:

TITLE ____—NATIONAL PARK SYSTEM IN THE COMMONWEALTH OF VIRGINIA

Subtitle A—Richmond National Battlefield Park

SEC. ___01. MODIFICATION OF BOUNDARY.

The first section of the Act of March 2, 1936 (49 Stat. 1155, chapter 113; 16 U.S.C. 423j), is amended to read as follows:

"SECTION 1. ESTABLISHMENT OF PARK.

"(a) IN GENERAL.—In order to preserve the site of the 1862 Peninsula Campaign and the 1864–65 battle of Richmond, in the vicinity of Richmond, Virginia, as a national battlefield park for the benefit and inspiration of the people of the United States, there is established, subject to existing rights, the Richmond National Battlefield Park (referred to in this Act as the 'Park').

"(b) BOUNDARIES.—The Park shall consist of—

"(1) lands, waters, and interests therein within the area generally depicted on the map entitled 'Richmond National Battlefield Park, Land Status Map', numbered 367/92,000, and dated September 1993; and

"(2) on donation of title acceptable to the Secretary of the Interior (and acceptance by the Secretary), the following tracts: a tract of 750 acres at Malvern Hill, a tract of 15 acres at Beaver Dam Creek, a tract of 100 acres at Cold Harbor, and a tract of 42 acres at Bethesda Church.

"(c) MAPS.—

"(1) NEW MAP.—The Secretary of the Interior (referred to in this Act as the "Secretary") shall complete a boundary map (including tracts referred to in subsection (b)(2)) for the Park.

"(2) PUBLIC AVAILABILITY.—The map required by this subsection and the map described in subsection (b)(1) shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(d) NEW MARKET HEIGHTS BATTLEFIELD.—

"(1) DECLARATION.—Congress recognizes the national significance of the Battle of New Market Heights and declares it to be in the public interest to ensure the preservation of the New Market Heights Battlefield so that an important aspect of American history can be interpreted to the public.

"(2) DEVELOPMENT OF ALTERNATIVES.—The Secretary shall work cooperatively with the Commonwealth of Virginia, the county of Henrico, Virginia, and owners of property that is within, and property that is affected by, the battlefield area to develop alternatives to ensure implementation of the goals of paragraph (1).

"(3) REPORT.—Not later than June 1, 1996, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate report outlining the alternatives developed under paragraph (2).

"(e) REVISED BOUNDARY.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall complete and submit to Congress a general management plan that—

"(1) identifies lands that would be appropriate for inclusion in the Park and lands that would make essential improvements to the management of the Park; and

"(2) includes recommendations for a revised boundary for the Park."

SEC. ___02. REPEAL OF PROVISION REGARDING PROPERTY ACQUISITION.

Section 2 of the Act of March 2, 1936 (49 Stat. 1156, chapter 113; 16 U.S.C. 423k), is amended to read as follows:

"SEC. 2. LAND ACQUISITION.

"The Secretary may acquire for inclusion in the Park land and interests in land by donation, purchase with donated funds, or exchange, but no land or interest in land may be acquired under this section without the consent of the owner."

SEC. ___03. ADMINISTRATION.

Section 3 of the Act of March 2, 1936 (49 Stat. 1156, chapter 113; 16 U.S.C. 423*l*), is amended by striking the period and inserting ", and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).".

Subtitle B—Shenandoah National Park

SEC. ___11. MODIFICATION OF BOUNDARY.

(a) IN GENERAL.—The boundary of Shenandoah National Park is modified to include only those lands and interests in land that, on the day before the date of the enactment of this Act, were in Federal ownership and were administered by the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") as part of the park. So much of the Act of May 22, 1926 (Chapter 363; 44 Stat. 616) as is inconsistent herewith is hereby repealed.

(b) BOUNDARY ADJUSTMENTS AND LAND ACQUISITION.—

(1) MINOR BOUNDARY ADJUSTMENTS.—The Secretary may make minor adjustments to the boundary of Shenandoah National Park, as modified by this subtitle to allow to accept a donation of adjacent land.

(2) LIMITATIONS ON LAND ACQUISITION.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary may acquire lands and interests therein under this subsection only by donation or exchange.

(B) ADDITIONAL RESTRICTIONS.—When acting under this subsection—

(i) the Secretary may add to the Shenandoah National Park only lands and interests therein that are contiguous with Federal lands administered by the Secretary as part of the park;

(ii) prior to accepting title to any lands or interests therein, the Secretary shall hold a public meeting in the county in which such lands and interests are located;

(iii) the Secretary shall not alter the primary means of access of any private landowner to the lands owned by such landowner; and

(iv) the Secretary shall not cause any property owned by a private individual, or any group of adjacent properties owned by private individuals, to be surrounded on all sides by land administered by the Secretary as part of the park.

(c) MITIGATION OF IMPACTS AT ACCESS POINTS.—The Secretary shall take all reasonable actions to mitigate the impacts associated with visitor use at trailheads and other visitor access points around the perimeter of Shenandoah National Park. The Secretary shall enlist the cooperation of the State and local jurisdictions, as appropriate, in carrying out this subsection.

Subtitle C—Shenandoah Valley Battlefields

SEC. ___21. SHORT TITLE.

This subtitle may be cited as the "Shenandoah Valley Battlefields Partnership Act of 1996".

SEC. ___22. FINDINGS.

Congress finds that—

(1) there are situated in the Shenandoah Valley in the Commonwealth of Virginia the sites of several key Civil War battles;

(2) certain sites, battlefields, structures, and districts in the Shenandoah Valley are collectively of national significance in the history of the Civil War;

(3) in 1990, the Congress enacted legislation directing the Secretary of the Interior to prepare a comprehensive study of significant sites and structures associated with Civil War battles in the Shenandoah Valley;

(4) the study, which was completed in 1992, found that many of the sites within the Shenandoah Valley possess national significance and retain a high degree of historical integrity;

(5) the preservation of Civil War sites within a regional framework requires cooperation among local property owners and Federal, State, and local government entities; and

(6) partnerships between Federal, State, and local governments, the regional entities of such governments, and the private sector offer the most effective opportunities for the enhancement and management of the Civil War battlefields and related sites in the Shenandoah Valley.

SEC. ___23. PURPOSE.

The purposes of this subtitle are—

(1) to preserve, conserve, and interpret the legacy of the Civil War in the Shenandoah Valley;

(2) to recognize and interpret important events and geographic locations representing key Civil War battles in the Shenandoah Valley, including those battlefields associated with the Thomas J. "Stonewall" Jackson campaign of 1862 and the decisive campaigns of 1864;

(3) to recognize and interpret the effect of the Civil War on the civilian population of the Shenandoah Valley during the war and postwar reconstruction period; and

(4) to create partnerships among Federal, State, and local governments, the regional entities of such governments, and the private sector to preserve, conserve, enhance, and interpret the nationally significant battlefields and related sites associated with the Civil War in the Shenandoah Valley.

SEC. ___24. DEFINITIONS.

In this subtitle:

(1) BATTLEFIELD.—The term "battlefield" means 1 of 15 battlefields in the Shenandoah Valley, as identified in the report.

(2) BATTLEFIELDS PARK.—The term "battlefields park" means the Shenandoah Valley National Battlefields Park established under section _____ 25.

(3) COMMISSION.—The term "Commission" means the Shenandoah Valley Battlefields Commission established by section _____29.

(4) HISTORIC CORE.—The term "historic core" means the area that is so defined in the report, encompasses important components of a battle, and provides a strategic context and geographic setting for understanding the battle.

(5) PLAN.—The term "plan" means the Shenandoah Valley Battlefields plan approved by the Secretary under section ___26.

(6) REPORT.—The term "report" means the report prepared by the Secretary pursuant to the Civil War Sites Study Act of 1990 (Public Law 101–628; 16 U.S.C. 1a–5 note).

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(8) SHENANDOAH VALLEY.—The term "Shenandoah Valley" means the Shenandoah Valley in the Commonwealth of Virginia.

SEC. ___25. SHENANDOAH VALLEY NATIONAL BATTLEFIELDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—To carry out the purposes of this title, there is established in the Commonwealth of Virginia the Shenandoah Valley National Battlefields Park, consisting of the land and interests in land generally depicted on the map entitled "Shenandoah Valley National Battlefields", numbered SHVA/80,000, and dated April 1994, comprising units at Cedar Creek, Cross Keys, Fisher's Hill, McDowell, New Market, Opequan, Port Republic, Second Kernstown, Second Winchester, and Tom's Brook.

(2) AVAILABILITY OF MAP.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Commission and in the appropriate offices of the National Park Service.

(3) MINOR REVISIONS.—The Secretary may, with the advice of the Commission and following an opportunity for public comment, make minor revisions to the boundaries of the battlefields.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall administer the battlefields in accordance with this title and with the law generally applicable to the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(2) PURPOSE.—The Secretary shall protect, manage, and administer the battlefields for the purposes of preserving and interpreting their national, cultural, and historic resources and of providing for public understanding and appreciation of the battlefields in such a manner as to perpetuate those qualities and values for future generations.

(c) LAND ACQUISITION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary may acquire, with the consent of the owner, land or an interest in land within the boundaries of the battlefields by donation, purchase with donated or appropriated funds, or exchange.

(2) PUBLIC LAND.—Land or an interest in land located within the boundaries of the battlefields or a historic core area that is owned by the Commonwealth of Virginia or a political subdivision of the Commonwealth may be acquired by the Secretary under this title only by donation or exchange.

(3) NO CONDEMNATION.—The Secretary may not accept under this title a donation of land or an interest in land that was acquired through condemnation.

(d) LIVING HISTORY DEMONSTRATIONS AND BATTLEFIELD ENACTMENTS.—

(1) DEMONSTRATIONS AND ENACTMENTS REQUIRED TO BE PERMITTED.—The Secretary shall permit to be conducted, at any location in the battlefields, any living history demonstration or battlefield reenactment that is the same as or substantially similar to a demonstration or reenactment that occurred at that location at any time during the 12-month period ending on the date of the enactment of this Act.

(2) OTHER DEMONSTRATIONS AND REENACTMENTS.—The Secretary may allow, at any location in the battlefields, any living history demonstration or battlefield reenactment not described in paragraph (1) that the Secretary determines to be appropriate.

SEC. ___26. SHENANDOAH VALLEY BATTLEFIELDS PLAN.

(a) IN GENERAL.—The battlefields park shall be managed by the Secretary pursuant to this title and the Shenandoah Valley Battlefields plan developed by the Commission and approved by the Secretary, as provided in this section.

(b) SPECIFIC PROVISIONS.—The plan shall include—

(1) provisions for the management, protection, and interpretation of the natural, cultural, and historical resources of the battlefields, consistent with the purposes of this title;

(2) identification of the historic cores that are appropriate for administration by the Secretary;

(3) a determination of the level of protection that is adequate to ensure the long-term preservation of each of the historic cores that is identified under paragraph (2) and measures recommended to accomplish such protection, which may include (but need not be limited to) conservation easements, local zoning, transfer of development rights, or ownership by an entity dedicated to preservation of the historic resources of the battlefields;

(4) recommendations to the Commonwealth of Virginia (and political subdivisions thereof) regarding the management, protection, and interpretation of the natural, cultural, and historical resources of the battlefields;

(5) the information described in section 12(b) of Public Law 91–383 (16 U.S.C. 1a–7(b)) (pertaining to the preparation of general management plans);

(6) identification of appropriate partnerships between the Secretary, Federal, State, and local governments and regional entities, and the private sector, in furtherance of the purposes of this title;

(7) proposed locations for visitor contact and major interpretive facilities;

(8) provisions for implementing a continuing program of interpretation and visitor education concerning the resources and values of the battlefields and historic core areas;

(9) provisions for a uniform valley-wide historical marker and wayside exhibit program, including a provision for marking, with the consent of the owner, historic structures and properties that are contained within and contribute to the understanding of the battlefields; and

(10) recommendations for means of ensuring continued local involvement and participation in the management, protection, and development of the battlefields.

(c) PREPARATION OF DRAFT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a draft plan that meets the requirements of subsection (b).

(2) ADDITIONAL REQUIREMENTS.—Prior to submitting the draft plan to the Secretary, the Commission shall ensure that—

(A) the Commonwealth of Virginia, and any political subdivision thereof that would be affected by the plan, receives a copy of the draft plan;

(B) adequate notice of the availability of the draft plan is provided through publication in appropriate local newspapers in the area of the battlefields; and

(C) at least one public hearing in the vicinity of the battlefields in the upper Shenandoah Valley and one public hearing in the vicinity of the battlefields in the lower Shenandoah Valley is conducted by the Commission with respect to the draft plan.

(d) REVIEW OF PLAN BY THE SECRETARY.—The Secretary shall review the draft plan submitted under subsection (c) and, not later than 90 days after the date on which the draft plan is submitted, shall either—

(1) approve the draft plan as the plan; or

(2) reject the draft plan and recommend to the Commission modifications that would make the draft plan acceptable.

SEC. ___27. COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—In furtherance of the purposes of this title, the Secretary may establish partnerships and enter into cooperative agreements concerning lands, and interests therein, within the battlefields with other Federal, State, or local agencies and private persons or organizations.

(b) HISTORIC MONUMENTS.—The Secretary may enter into an agreement with the owner of property that is located in the battlefields and on which an historic monument or tablet commemorating a relevant battle has been erected prior to the date of the enactment of this Act. The Secretary may make funds available for the maintenance, protection, and interpretation of the monument or tablet, as the case may be, pursuant to the agreement.

(c) AGREEMENTS AND PARTNERSHIPS NOT DEPENDENT ON INCLUSION IN BATTLEFIELDS PARK.—The Secretary may establish a partnership or enter into an agreement under this section with respect to a battlefield regardless of whether or not the historic core area of the battlefield is included in the battlefields park.

SEC. ___28. GRANT AND TECHNICAL ASSISTANCE PROGRAM.

(a) TECHNICAL ASSISTANCE TO PROPERTY OWNERS.—The Secretary may provide technical assistance to owners of property located within the battlefields to provide for the preservation and interpretation of the natural, cultural, and historical resources within the battlefields.

(b) TECHNICAL ASSISTANCE TO GOVERNMENTAL ENTITIES.—

(1) IN GENERAL.—The Secretary, after consultation with the Commission, may award grants and provide technical assistance to governmental entities to assist with the planning, development, and implementation of comprehensive plans, land use guidelines, regulations, ordinances, and other appropriate documents that are consistent with and are designed to protect the historic character of the battlefields and historic core areas.

(2) REGULAR REVIEW.—

(A) IN GENERAL.—The Commission shall conduct a regular review of plans, guidelines, regulations, ordinances, and documents with respect to which the Secretary has awarded a grant under this subsection.

(B) RECOMMENDATION.—If the Commission finds that a plan, guideline, regulation, ordinance, or document, or the implementation of a plan, guideline, regulation, ordinance, or document is no longer consistent with the protection of the historic character of the battlefields and historic core areas, the Commission may recommend, after consultation with the affected governmental entity, that the Secretary suspend any grant awarded under this subsection with respect to the plan, guideline, regulation, ordinance, or document.

(3) SUSPENSION OF GRANT.—The Secretary, after consultation with the Commission, shall suspend a grant under this subsection if the Secretary determines that the plan, guideline, regulation, ordinance, or document with respect to which the grant is awarded has been modified in a manner that is inconsistent with the protection of the historic character of the battlefields and historic core areas.

(c) ASSISTANCE NOT DEPENDENT ON INCLUSION IN PARK.—The Secretary may provide assistance under this section with respect to a battlefield or historic core area regardless of whether or not the battlefield or historic core area is included in the Park.

SEC. ___29. SHENANDOAH VALLEY BATTLEFIELDS COMMISSION.

(a) ESTABLISHMENT.—There is established the Shenandoah Valley Battlefields Commission.

(b) MEMBERSHIP.—The Commission shall be composed of 19 members, to be appointed by the Secretary as follows:

(1) 5 members representing local governments of communities in the vicinity of the battlefields, appointed after the Secretary considers recommendations made by appropriate local governing bodies.

(2) 10 members representing property owners within the battlefields (1 member within each unit of the battlefields).

(3) 1 member with demonstrated expertise in historic preservation.

(4) 1 member who is a recognized historian with expertise in Civil War history.

(5) 1 member from a list of recommendations made by the Governor of Virginia.

(6) 1 member representing the interests of the National Park Service.

(c) APPOINTMENTS.—Members shall be appointed for the life of the Commission.

(d) ELECTION OF OFFICERS.—The Commission shall elect one of its members as Chairperson and one as Vice Chairperson. The terms of office of the Chairperson and Vice Chairperson shall be 2 years. The Vice Chairperson shall serve as Chairperson in the absence of the Chairperson.

(e) VACANCY.—Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made, except that the Secretary shall fill any vacancy within 30 days after the vacancy occurs.

(f) QUORUM.—A majority of the Commission shall constitute a quorum.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members of the Commission, but not less than quarterly. Notice of Commission meetings and agendas for the meetings shall be published in local newspapers that have a distribution throughout the Shenandoah Valley. Commission meetings shall be held at various locations throughout the Shenandoah Valley and in a manner that ensures adequate public participation.

(h) STAFF OF THE COMMISSION.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

VOL
142
PT
5
MR
21
—
29
1996
UMI

(i) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(j) FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency may detail to the Commission, on a reimbursable basis, personnel of the agency to assist the Commission in carrying out its duties.

(k) SUBPOENAS.—The Commission may not issue subpoenas or exercise any subpoena authority.

(l) EXPENSES.—Members of the Commission shall serve without compensation, but the Secretary may reimburse members for expenses reasonably incurred in carrying out the responsibilities of the Commission under this title.

(m) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(n) GIFTS.—The Commission may, for purposes of carrying out the duties of the Commission, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(o) TERMINATION.—The Commission shall terminate upon the expiration of the 45-day period beginning on the date on which the Secretary approves the plan under section ___26(d).

SEC. ___30. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) develop the plan and draft plan referred to in section ___26, in consultation with the Secretary;

(2) advise the Secretary with respect to the battlefields;

(3) assist the Commonwealth of Virginia, and any political subdivision thereof, in the management, protection, and interpretation of the natural, cultural, and historical resources within the battlefields, except that the Commission shall in no way infringe upon the authorities and policies of the Commonwealth of Virginia or any political subdivision thereof; and

(4) take appropriate action to encourage protection of the natural, cultural, and historic resources within the battlefields by landowners, local governments, organizations, and businesses.

(b) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—The Commission may assist any nonprofit organization in the management, protection, and interpretation of the natural, cultural, and historical resources within the historic core areas.

SEC. ___31. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated not more than $5,000,000 for development of the battlefields park, not more than $2,000,000 for land acquisition pursuant to this title, not more than $5,000,000 to carry out the purposes of sections ___27 and ___28, and not more than $250,000 for any fiscal year for the operation of the Commission.

(b) AVAILABILITY OF FUNDS.—Funds made available under subsection (a) shall remain available until expended.

Subtitle D—Cumberland Gap National Historical Park

SEC. ___41. ADDITION OF LANDS.

(a) AUTHORITY.—Notwithstanding the Act of June 11, 1940 (16 U.S.C. 261 et seq.), the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange not to exceed 10 acres of land or interests in land, which shall consist of those necessary lands for the establishment of trailheads to be located at White Rocks and Chadwell Gap.

(b) ADMINISTRATION.—Lands and interests in lands acquired pursuant to subsection (a) shall be added to and administered as part of Cumberland Gap National Historical Park.

ABRAHAM AMENDMENT NO. 3570

(Ordered to lie on the table.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him to the amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

SEC. . SLEEPING BEAR DUNES NATIONAL LAKESHORE.

(a) Section 2(a) of the Act entitled "An Act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes," (16 U.S.C. 460X–x14) is amended:

By deleting the period following the words "Department of the Interior"; and,

By adding the following at the end thereof: "except that—

"(1) certain land shall be taken out of the land area now comprising the Sleeping Bear Dunes National Lakeshore which land is a parcel of land in part of Government Lots 2 and 3, the East ½ of the Southeast ¼ of Section 11, also part of East ½ of Section 14, T29N, R14W, Glen Arbor Township, Leelanau County, Michigan, more fully described as follows:

"The North 982 feet of the Northeast ¼ of the Southeast ¼ of said section 14, and the East ½ of the Northwest ¼ of the Northeast ¼ of said section 14, (being part of Government lot 1), and that part of the East ½ of the Northeast ¼ of said section 14, lying West of the centerline for Thoreson Road. Also the South 1759 feet of that part of Government lots 2 and 3, and the East ½ of the Southeast ¼ of said Section 11, all being part of T29N, R14W, Glen Arbor Township Leelanau County, Michigan.

"Subject to all applicable building, use restrictions and easements, if any, affecting the premises.

"Also subject to final survey of the above in accordance with Michigan Act 132, P.A. of 1970, as amended.

"Further subject to rights of the public over and across Thoreson Road.

"(2) certain land shall be added to the land area now comprising the Sleeping Bear Dunes National Lakeshore which land is a parcel of land in part of the West ½ of Section 23, also part of the SE¼ of Section 22, all in T29N, R14W, Glen Arbor Township, Leelanau County, Michigan, more fully described as:

"Beginning at the Southeast corner of said Section 22; thence N88°55′30″W 1320.48 feet along the South line of said Section 22 to East ⅛ line of said Section 22; thence along William B. Batzer Jr., R.L.S., Surveys 8325 and 83025-B by the following (7) courses; thence NOO°40′45″E 33.00 feet along said East ⅛ line, N80°34′20″E 115.50 feet; N70°51′20″E 172.09 feet; N61°51′20″E 181.87 feet; N41°25′20″E 230.80 feet; N63°02′45″E 514.60 feet; N28°57′25″W 600.62 feet to the South bank of the North part of the Crystal River; thence along said river bank by the following (6) courses; N42°18′19″E 102.13 feet (recorded as N40°03′30″E 102.07 feet; N58°07′35″E 219.82 feet; N42°09′40″E 215.48 feet; N54°20′35″E 121.36 feet; N46°10′10″E 107.67 feet; N34°05′25″E 46.08 feet to the East line of said Section 22; thence leaving said South bank S01°19′55″W 347.84 feet along said East line to the South bank of the South part of said Crystal River; thence along said river bank by the following (4) courses; N48°48′30″E 168.46 feet, N40°56′15″E 168.77 feet; N55°24′10″E 99.10 feet; N43°30′00″E 154.21 feet; thence leaving said South river bank S56°45′50″E 350.00 feet; thence N41°49′50″E 400 feet; thence S56°44′25″E 412.99 feet to the West ⅛ line of said Section 23; thence leaving said William B. Batzer, Jr. Survey Northerly along said West ⅛ line to the East-West ¼ line of said Section 23; thence Westerly along said East-West ¼ line and County Road No. 675 to a point where the most Easterly channel of the Crystal River passes under County Road No. 675; thence along a Nicholas M. O'non R.L.S. Survey of December 5, 1986, Job No. 8668–23 GA 2914 by the following (3) courses along the center thread of said river N41°13′48″E 273.78 feet; N17°09′18″E 405.85 feet; thence leaving said center thread N89°43′02″W 253.56 feet to a point on the old centerline of State Highway M–22; thence Northerly along the centerline of State Highway M–22, by the following (5) courses; thence N35°02′58″E, along said old centerline, a distance of 12.66 feet to the existing centerline of State Highway M–22 and a point on a 516.00 foot radius curve to the right; thence Northeasterly along said centerline and curve, an arc distance of 109.88 feet (chord bearing and distance of N53°19′13″E, 109.67 feet) to the point of tangency of said curve; thence N59°25′16″E, along said centerline, a distance of 156.38 feet to the point of curvature of a 400.00 foot radius curve to the left; thence Northeasterly along said centerline and curve, an arc distance of 219.55 feet (Delta of N31°26′55″, long chord bearing and distance of N43°41′48″E, 216.81 feet) to the point of tangency; thence N27°58′11″E, (Also recorded as N27°19′23″E) along said centerline, a distance of 528.10 feet to an extension of the South line of Chamberlain's unrecorded plat of Glen Arbor Beach Subdivision; and the South boundary line of South Beach Condominium recorded in Liber 243, Pages 63–74, thence Easterly approximately 38.39 feet along said South boundary line extended to the Easterly right-of-way line of State Highway M–22 and the Southwest corner of a survey by Gosling Czubak Associates, Inc., Job No. 87025.12; thence N27°19′23″E 633.21 feet along said right-of-way; thence along said right-of-way 79.72 feet on the arc of a curve to the right (Rad=110.24 feet, 1=N41°26′00″, Chord=N48°02′23″E 77.99 feet); thence N68°45′23″E 106.17 feet along said right-of-way; thence S00°42′53″E 174.11 feet; thence N89°17′07″E 217.57; thence S41°18′01″E 122.39 feet, thence S01°31′50E 370.00 feet; thence N88°28′10″E (previously recorded as N88°34′00″E 220.3 feet more or less to a point on the North-South ¼ line of Section 23; thence Southerly along said North-South ¼ line to the South ⅛ line of said Section 23; thence Westerly along said South ⅛ line to the West ⅛ line of said Section 23; thence Southerly along said West ⅛ line to the Point of Beginning.

"Subject to the correlative rights of the owners along the Crystal River.

"Together with riparian rights between the shore courses and the center thread of Crystal River.

"Subject to all applicable building, use restrictions and easements, if any, affecting the premises.

"Also subject to final survey of the above in accordance with Michigan Act 132, P.A. of 1970, as amended."

Section 8(a) of the Act is amended to read as follows:

(1) By deleting the period following the word "Act" at the end of the first sentence; and,

(2) By adding the following at the end thereof: "except that the land to be taken out of and added to the land area now comprising the lakeshore shall, within 120 days after the date hereof, be conveyed by an exchange of deeds. The Secretary is instructed to and shall have the authority to effect this exchange but shall not have the authority to otherwise dispose of the land to be taken out of or to acquire the land to be added to the lakeshore pursuant to the amendments hereinabove."

Section 8(e) of the Act is amended to read as follows:

(1) By deleting the period following the word "encumbrances" at the end of the section; and

(2) By adding the following at the end thereof: "except condemnation may not be used to acquire the land to be added, pursuant to the amendment hereinabove, to the land area now comprising the lakeshore."

BURNS AMENDMENT NO. 3571

Mr. DOLE (for Mr. BURNS) proposed an amendment to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

At the end of the amendment, add the following:

TITLE —MISCELLANEOUS

SEC. 01. LOST CREEK LAND EXCHANGE.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (referred to in this Act as the "Secretary") shall acquire by exchange certain land and interests in lands owned by R–Y Timber, Inc., its successors and assigns or affiliates (referred to in this Act as "R–Y"), located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

(2) OFFER AND ACCEPTANCE OF LAND.—

(A) NON-FEDERAL LAND.—If R–Y offers fee title that is acceptable to the United States to approximately 17,567 acres of land owned by R–Y and available for exchange, the Secretary shall accept a warranty deed to the land.

(B) FEDERAL LAND.—

(i) CONVEYANCE.—On acceptance of title to R–Y's land under paragraph (1), the Secretary shall convey to R–Y, subject to reservations and valid existing rights, by patent, fee title to lands and timber deeds of a value that is approximately equal to the value of the land described in subsection (a).

(ii) TIMBER HARVEST PROVISIONS.—

(I) PRACTICES.—Timber harvest practices used on the national forest land conveyed under clause (i) shall be conducted in accordance with Montana Forestry Best Management Practices, the Montana Streamside Zone Management Law (Mont. Code Ann. sec. 77–5–301 et seq.), and all other applicable laws of the State of Montana.

(II) RELATION TO PLANNED SALES.—Timber harvest volumes on land conveyed under clause (i) shall be in addition to, and not treated in any way as an offset against, the present or future planned timber sale quantities for the National Forest where the harvesting occurs.

(III) TIMBER DESIGNATIONS.—

(aa) CONTRACT.—To ensure the expeditious and efficient designation of timber on land conveyed under clause (i), the Forest Service shall contract with a qualified private person agreed on by the Secretary and R–Y to perform the field work associated with the designations.

(bb) MINIMUM ANNUAL DESIGNATIONS.—Not less than 20 percent nor more than 30 percent of the timber on land conveyed under clause (i) shall be made available by the end of each fiscal year over a 5-year period beginning with the first fiscal year that begins after the date of enactment of this Act, and R–Y shall be allowed at least 5 years after the end of each fiscal year in which to complete the harvest of timber designated in that fiscal year.

(3) TITLE.—

(A) REVIEW OF TITLE.—Not later than 30 days after receipt of title documents from R–Y, the Secretary shall review the title for the non-Federal land described in paragraph (2) and determine whether—

(i) the applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(ii) all draft conveyance and closing documents have been received and approved; and

(iii) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary.

(B) UNACCEPTABLE QUALITY OF TITLE.—If the quality of title does not meet Federal standards and is not otherwise acceptable to the Secretary, the Secertary shall advise R–Y regarding corrective actions necessary to make an affirmative determination.

(C) CONVEYANCE OF TITLE.—The Secretary shall effect the conveyance of land described in paragraph (2) not later than 60 days after the Secretary has made an affirmative determination of quality of title.

(b) GENERAL PROVISIONS.—

(1) MAPS AND DOCUMENTS.—

(A) IN GENERAL.—Maps pertaining to the land described in subsection (a) are subject to such minor corrections as may be agreed upon by the Secretary and R–Y.

(B) NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives of any corrections made pursuant to this subsection.

(C) PUBLIC AVAILABILITY.—The maps and documents described in subsection (a)(2) (A) and (B) shall be on file and available for public inspection in the office of the Chief of the Forest Service.

(2) NATIONAL FOREST SYSTEM LAND.—All land conveyed to the United States under this section shall be added to and administered as part of the Deerlodge National Forest in accordance with the laws pertaining to the National Forest System.

(3) VALUATION.—The values of the lands and interests in land to be exchanged under this section are deemed to be of equal value.

(4) HAZARDOUS MATERIAL LIABILITY.—The United States (including its departments, agencies, and employees) shall not be liable under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.), the Clean Water Act (33 U.S.C. 1251 et seq.), or any other Federal, State, or local law, solely as a result of the acquisition of an interest in the Lost Creek Tract or due to cricumstances or events occurring before acquisition, including any release or threat of release of a hazardous substance.

BURNS AMENDMENT NO. 3572

Mr. DOLE (for Mr. BURNS) proposed an amendment to amendment No. 3571 proposed by Mr. BURNS to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed to be added, insert the following:

TITLE —MISCELLANEOUS

SEC. 01. LOST CREEK LAND EXCHANGE.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (referred to in this Act as the "Secretary") shall acquire by exchange certain land and interests in land owned by R–Y Timber, Inc., its successors and assigns or affiliates (referred to in this Act as "R–Y"), located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

(2) OFFER AND ACCEPTANCE OF LAND.—

(A) NON-FEDERAL LAND.—If R–Y offers fee title that is acceptable to the United States to approximately 17,567 acres of land owned by R–Y and available for exchange, the Secretary shall accept a warranty deed to the land.

(B) FEDERAL LAND.—

(i) CONVEYANCE.—On acceptance of title to R–Y's land under paragraph (1), the Secretary shall convey to R–Y, subject to reservations and valid existing rights, by patent, fee title to lands and timber deeds of a value that is approximately equal to the value of the land described in subsection (a).

(ii) TIMBER HARVEST PROVISIONS.—

(I) PRACTICES.—Timber harvest practices used on the national forest land conveyed under clause (i) shall be conducted in accordance with Montana Forestry Best Management Practices, the Montana Streamside Zone Management Law (Mont. Code Ann. sec. 77–5–301 et seq.), and all other applicable laws of the State of Montana.

(II) RELATION TO PLANNED SALES.—Timber harvest volumes on land conveyed under clause (i) shall be in addition to, and not treated in any way as an offset against, the present or future planned timber sale quantities for the National Forest where the harvesting occurs.

(III) TIMBER DESIGNATIONS.—

(aa) CONTRACT.—To ensure the expeditious and efficient designation of timber on land conveyed under clause (i), the Forest Service shall contract with a qualified private person agreed on by the Secretary and R–Y to perform the field work associated with the designations.

(bb) MINIMUM ANNUAL DESIGNATIONS.—Not less than 20 percent nor more than 30 percent of the timber on land conveyed under clause (i) shall be made available by the end of each fiscal year over a 5-year period beginning with the first fiscal year that begins after the date of enactment of this Act, and R–Y shall be allowed at least 5 years after the end of each fiscal year in which to complete the harvest of timber designated in that fiscal year.

(3) TITLE.—

(A) REVIEW OF TITLE.—Not later than 30 days after receipt of title documents from R–Y, the Secretary shall review the title for the non-Federal land described in paragraph (2) and determine whether—

(i) the applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(ii) all draft conveyances and closing documents have been received and approved; and

(iii) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary.

(B) UNACCEPTABLE QUALITY OF TITLE.—If the quality of title does not meet Federal

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standards and is not otherwise acceptable to the Secretary, the Secretary shall advise R-Y regarding corrective actions necessary to make an affirmative determination.

(c) CONVEYANCE OF TITLE.—The Secretary shall effect the conveyance of land described in paragraph (2) not later than 60 days after the Secretary has made an affirmative determination of quality of title.

(b) GENERAL PROVISIONS.—

(1) MAPS AND DOCUMENTS.—

(A) IN GENERAL.—Maps pertaining to the land described in subsection (a) are subject to such minor corrections as may be agreed upon by the Secretary and R-Y.

(B) NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives of any corrections made pursuant to this subsection.

(C) PUBLIC AVAILABILITY—The maps and documents described in subsection (a)(2) (A) and (B) shall be on file and available for public inspection in the office of the Chief of the Forest Service.

(2) NATIONAL FOREST SYSTEM LAND.—All land conveyed to the United States under this section shall be added to and administered as part of the Deerlodge National Forest in accordance with the laws pertaining to the National Forest System.

(3) VALUATION.—The values of the lands and interests in land to be exchanged under this section are deemed to be of approximately equal value.

(4) HAZARDOUS MATERIAL LIABILITY.—The United States (including its departments, agencies, and employees) shall not be liable under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.), the Clean Water Act (33 U.S.C. 1251 et seq.), or any other Federal, State, or local law, solely as a result of the acquisition of an interest in the Lost Creek Tract or due to circumstances or events occurring before acquisition, including any release or threat of release of a hazardous substance.

TITLE —VANCOUVER NATIONAL HISTORIC RESERVE

SEC. 01. VANCOUVER NATIONAL HISTORIC RESERVE.

(A) ESTABLISHMENT.—There is established the Vancouver National Historic Reserve in the State of Washington (referred to in this section as the "Reserve", consisting of the area described in the report entitled "Vancouver National Historic Reserve Feasibility Study and Environmental Assessment" published by the Vancouver Historical Study Commission and dated April 1993 as authorized by Public Law 101-523 (referred to in this section as the Vancouver Historic Reserve Report").

(b) ADMINISTRATION.—The Reserve shall be administered in accordance with;

(1) the Vancouver Historic Reserve Report (including the specific findings and recommendations contained in the report); and

(2) the Memorandum of Agreement between the Secretary of Interior, acting through the Director of the National Park Service, and the City of Vancouver, Washington, dated November 14, 1994.

(c) NO LIMITATION ON FAA AUTHORITY.—The establishment of the Reserve shall not limit;

(1) the authority of the Federal Aviation Administration over air traffic control, or aviation activities at Pearson Airpark; or

(2) limit operations and airspace in the vicinity of Portland International Airport.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

KENNEDY (AND OTHERS) AMENDMENT NO. 3573

Mr. KENNEDY (Mr. KERRY, Mr. WELLSTONE, Mr. DODD, Mr. SIMON, Ms. MIKULSKI, Mr. LEVIN, Mr. HARKIN, Mrs. BOXER, Mrs. MURRAY, Mr. PELL, Mr. LEAHY, Mr. LAUTENBERG, Mr. SARBANES, Mr. BRADLEY, and Mr. DASCHLE) proposed an amendment to the bill H.R. 1296, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . INCREASE IN THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 3, 1996, not less than $4.70 an hour during the year beginning July 4, 1996, and not less than $5.15 an hour after July 3, 1997;".

KERRY AMENDMENT NO. 3574

Mr. KERRY proposed an amendment to amendment No. 3573 proposed by Mr. KENNEDY to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . INCREASE IN THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 3, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;".

KENNEDY AMENDMENTS NOS. 3575–3576

(Ordered to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

AMENDMENT NO. 3575

At the end of the amendment proposed by Mr. Murkowski, add the following title:

TITLE—

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the New Bedford National Historic Landmark District and associated historic sites as described in section 3(b) of this Act, including the Schooner Ernestina, are National Historic Landmarks and are listed on the National Register of Historic Places as historic sites associated with the history of whaling in the United States;

(2) the city of New Bedford was the 19th century capital of the world's whaling industry and retains significant architectural features, archival materials, and museum collections illustrative of this period;

(3) New Bedford's historic resources provide unique opportunities for illustrating and interpreting the whaling industry's contribution to the economic, social, and environmental history of the United States and provide opportunities for public use and enjoyment; and

(4) the National Park System presently contains no sites commemorating whaling and its contribution to American history.

(b) PURPOSES.—The purposes of this Act are—

(1) to help preserve, protect, and interpret the resources within the areas described in section 3(b) of this Act, including architecture, setting, and associated archival and museum collections;

(2) to collaborate with the city of New Bedford and with local historical, cultural, and preservation organizations to further the purposes of the park established under this Act; and

(3) to provide opportunities for the inspirational benefit and education of the American people.

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "park" means the New Bedford Whaling National Historical Park established by section 3.

(2) The term "Secretary" means the Secretary of the Interior.

SEC. 3. NEW BEDFORD WHALING NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain districts structures, and relics located in New Bedford, Massachusetts, and associated with the history of whaling and related social and economic themes in America, there is established the New Bedford Whaling National Historical Park.

(b) BOUNDARIES.—(1) The boundaries of the park shall be those generally depicted on the map numbered NAR-P49-80000-4 and dated June 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. In case of any conflict between the descriptions set forth in subparagraphs (A) through (D) and such map, such map shall govern. The park shall include the following:

(A) The area included within the New Bedford National Historic Landmark District, known as the Bedford Landing Waterfront Historic District, as listed within the National Register of Historic Places and in the Massachusetts State Register of Historic Places.

(B) The National Historic Landmark Schooner Ernestina, with its home port in New Bedford.

(C) The land along the eastern boundary of the New Bedford National Historic Landmark District over to the east side of MacArthur Drive from the Route 6 overpass on the north to an extension of School Street on the south.

(D) The land north of Elm Street in New Bedford, bounded by Acushnet Avenue on the west, Route 6 (ramps) on the north, MacArthur Drive on the east, and Elm Street on the south.

(2) In addition to the sites, areas and relics referred to in paragraph (1), the Secretary may assist in the interpretation and preservation of each of the following:

(A) The southwest corner of the State Pier.

(B) Waterfront Park, immediately south of land adjacent to the State Pier.

(C) The Rotch-Jones-Duff House and Garden Museum, located at 396 County Street.

(D) The Wharfinger Building, located on Piers 3 and 4.

(E) The Bourne Counting House, located on Merrill's Wharf.

SEC. 4. ADMINISTRATION OF PARK.

(a) IN GENERAL.—The park shall be administered by the Secretary in accordance with this Act and the provisions of law generally

applicable to units of the national park system, including the Act entitle "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

Any payment made by the Secretary pursuant to a cooperative agreement under this subsection shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(c) NON-FEDERAL MATCHING REQUIREMENTS.—(1) Funds authorized to be appropriated to the Secretary for the purposes of—

(A) cooperative agreements under subsection (b) shall be expended in the ratio of one dollar of Federal funds for each four dollars of funds contributed by non-Federal sources; and

(B) construction, restoration, and rehabilitation of visitor and interpretive facilities (other than annual operation and maintenance costs) shall be expended in the ratio of one dollar of Federal funds for each one dollar of funds contributed by non-Federal sources.

(2) For the purposes of this subsection, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this Act, any money so contributed. With the approval of the Secretary, any donation of property, services, or goods from a non-Federal source may be considered as a contribution of funds from a non-Federal source for the purposes of this subsection.

(d) ACQUISITION OF REAL PROPERTY.—For the purposes of the park, the Secretary may acquire only by donation lands, interests in lands, and improvements thereon within the park.

(e) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary may accept donated funds, property, and services to carry out this Act.

SEC. 5. GENERAL MANAGEMENT PLAN.

Not later than the end of the second fiscal year beginning after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the park and shall implement such plan as soon as practically possible. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a-7(b)) and other applicable law.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), there are authorized to be appropriated such sums as may be necessary to carry out annual operations and maintenance with respect to the park.

(b) EXCEPTIONS.—In carrying out this Act—

(1) not more than $2,000,000 may be appropriated for construction, restoration, and rehabilitation of visitor and interpretive facilities, and directional and visitor orientation signage;

(2) none of the funds authorized to be appropriated by this Act may be used for the operation or maintenance of the Schooner Ernestina; and

(3) not more than $50,000 annually of Federal funds may be used for interpretive and educational programs for the Schooner Ernestina pursuant to cooperative grants under section 4(b).

AMENDMENT NO. 3576

At the end of the amendment proposed by Mr. MURKOWSKI, add the following title:

TITLE —

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the New Bedford National Historic Landmark District and associated historic sites as described in section 3(b) of this Act, including the Schooner Ernestina, are National Historic Landmarks and are listed on the National Register of Historic Places as historic sites associated with the history of whaling in the United States;

(2) the city of New Bedford was the 19th century capital of the world's whaling industry and retains significant architectural features, archival materials, and museum collections illustrative of this period;

(3) New Bedford's historic resources provide unique opportunities for illustrating and interpreting the whaling industry's contribution to the economic, social, and environmental history of the United States and provide opportunities for public use and enjoyment; and

(4) the National Park System presently contains no sites commemorating whaling and its contribution to American history.

(b) PURPOSES.—The purposes of this Act are—

(1) to help preserve, protect, and interpret the resources within the areas described in section 3(b) of this Act, including architecture, setting, and associated archival and museum collections;

(2) to collaborate with the city of New Bedford and with local historical, cultural, and preservation organizations to further the purposes of the park established under this Act; and

(3) to provide opportunities for the inspirational benefit and education of the American people.

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "park" means the New Bedford Whaling National Historical Park established by section 3.

(2) The term "Secretary" means the Secretary of the Interior.

SEC. 3. NEW BEDFORD WHALING NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain districts structures, and relics located in New Bedford, Massachusetts, and associated with the history of whaling and related social and economic themes in America, there is established the New Bedford Whaling National Historical Park.

(b) BOUNDARIES.—(1) The boundaries of the park shall be those generally depicted on the map numbered NAR-P49-80000-4 and dated June 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. In case of any conflict between the descriptions set forth in subparagraphs (A) through (D) and such map, such map shall govern. The park shall include the following:

(A) The area included within the New Bedford National Historic Landmark District, known as the Bedford Landing Waterfront Historic District, as listed within the National Register of Historic Places and in the Massachusetts State Register of Historic Places.

(B) The National Historic Landmark Schooner Ernestina, with its home port in New Bedford.

(C) The land along the eastern boundary of the New Bedford National Historic Landmark District over to the east side of MacArthur Drive from the Route 6 overpass on the north to an extension of School Street on the south.

(D) The land north of Elm Street in New Bedford, bounded by Acushnet Avenue on the west, Route 6 (ramps) on the north, MacArthur Drive on the east, and Elm Street on the south.

(2) In addition to the sites, areas and relics referred to in paragraph (1), the Secretary may assist in the interpretation and preservation of each of the following:

(A) The southwest corner of the State Pier.

(B) Waterfront park, immediately south of land adjacent to the State Pier.

(C) The Roth-Jones-Duff House and Garden Museum, located at 396 County Street.

(D) The Wharfinger Building, located on Piers 3 and 4.

(E) The Bourne Counting House, located on Merrill's Wharf.

SEC. 4. ADMINISTRATION OF PARK.

(a) IN GENERAL.—The park shall be administered by the Secretary in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

(2) Any payment made by the Secretary pursuant to a cooperative agreement under this subsection shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(c) NON-FEDERAL MATCHING REQUIREMENTS.—(1) Funds authorized to be appropriated to the Secretary for the purposes of—

(A) cooperative agreements under subsection (b) shall be expended in the ratio of one dollar of Federal funds for each four dollars of funds contributed by non-Federal sources; and

(B) construction, restoration, and rehabilitation of visitor and interpretive facilities (other than annual operation and maintenance costs) shall be expended in the ratio of one dollar of Federal funds for each one dollar of funds contributed by non-Federal sources.

(2) For the purposes of this subsection, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this Act, any money so contributed. With the approval of the Secretary, any donation of property, services, or goods from a non-Federal source may be considered as a contribution of funds from a non-Federal source for the purposes of this subsection.

VOL
142
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(d) Acquisition of Real Property.—For the purposes of the park, the Secretary may acquire only by donation lands, interests in lands, and improvements thereon within the park.

(e) Other Property, Funds, and Services.—The Secretary may accept donated funds, property, and services to carry out this Act.

SEC. 5. GENERAL MANAGEMENT PLAN.

Not later than the end of the second fiscal year beginning after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the park and shall implement such plan as soon as practically possible. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a-7(b)) and other applicable law.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—Except as provided in subsection (b), there are authorized to be appropriated such sums as may be necessary to carry out annual operations and maintenance with respect to the park.

(b) Exceptions.—In carrying out this Act—

(1) not more than $2,000,000 may be appropriated for construction, restoration, and rehabilitation of visitor and interpretive facilities, and directional and visitor orientation signage;

(2) none of the funds authorized to be appropriated by this Act may be used for the operation or maintenance of the Schooner Ernestina; and

(3) not more than $50,000 annually of Federal funds may be used for interpretive and educational programs for the Schooner Ernestina pursuant to cooperative grants under section 4(b).

ABRAHAM AMENDMENT NO. 3577

(Ordered to lie on the table.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . SLEEPING BEAR DUNES NATIONAL LAKESHORE.

(a) Section 2(a) of the Act entitled "An Act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes," (16 U.S.C. 460X-x14) is amended:

By deleting the period following the words "Department of the Interior"; and

By adding the following at the end thereof: "except that—

"(1) certain land shall be taken out of the land area now comprising the Sleeping Bear Dunes National Lakeshore which land is a parcel of land in part of Government Lots 2 and 3, the East ½ of the Southeast ¼ of Section 11, also part of East ½ of Section 14, T29N, R14W, Glen Arbor Township, Leelanau County, Michigan, more fully described as follows:

"The North 982 feet of the Northeast ¼ of the Southeast ¼ of said section 14, and the East ½ of the Northwest ¼ of the Northeast ¼ of said section 14, (being part of Government lot 1), and that part of the East ½ of the Northeast ¼ of said section 14, lying West of the centerline for Thoreson Road, Also the South 1759 feet of that part of Government lots 2 and 3, and the East ½ of the Southeast ¼ of said Section 11, all being part of T29N, R14W, Glen Arbor Township, Leelanau County, Michigan.

"Subject to all applicable building, use restrictions and easements, if any, affecting the premises.

"Also subject to final survey of the above in accordance with Michigan Act 132, P.A. of 1970, as amended.

"Further subject to rights of the public over and across Thoreson Road.

"(2) certain land shall be added to the land area now comprising the Sleeping Bear Dunes National Lakeshore which land is a parcel of land in part of the West ½ of Section 23, also part of the SE¼ of Section 22, all in T29N, R14W, Glen Arbor Township, Leelanau County, Michigan, more fully described as:

"Beginning at the Southeast corner of said Section 22; thence N88°55′30″W 1320.48 feet along the South line of said Section 22 to East ⅛ line of said Section 22; thence along William B. Batzer Jr., R.L.S., Surveys 8325 and 83025-B by the following (7) courses; thence N00°40′45″E 33.00 feet along said East ⅛ line, N80°34′20″E 115.50 feet; N70°51′20″E 172.09 feet; N61°51′20″E 181.87 feet; N41°25′20″E 230.80 feet; N63°02′45″E 514.60 feet; N28°57′25″W 600.62 feet to the South bank of the North part of the Crystal River; thence along said river bank by the following (6) courses; N42°18′19″E 102.13 feet (recorded as N40°03′30″E 102.07 feet; N58°07′35″E 219.82 feet; N42°09′40″E 215.48 feet; N54°20′35″E 121.36 feet; N46°10′10″E 107.67 feet; N34°05′25″E 46.08 feet to the East line of said Section 22; thence leaving said South bank S01°19′55″W 347.84 feet along said East line to the South bank of the South part of said Crystal River; thence along said river bank by the following (4) courses; N48°48′30″E 168.46 feet, N40°56′15″E 168.77 feet; N55°24′10″E 99.10 feet; N43°30′00″E 154.21 feet; thence leaving said South river bank S56°45′50″E 350.00 feet; thence N41°49′50″E 400.00 feet; thence S56°44′25″E 412.99 feet to the West ⅛ line of said Section 23; thence leaving said William B. Batzer, Jr. Survey Northerly along said West ⅛ line to the East-West ¼ line of said Section 23; thence Westerly along said East-West ¼ line and County Road No. 675 to a point where the most Easterly channel of the Crystal River passes under County Road No. 675; thence along a Nicholas M. O'non R.L.S. Survey of December 5, 1986, Job No. 8668-23 GA 2914 by the following (3) courses along the center thread of said river N41°13′48″E 273.78 feet; N17°09′18″E 405.85 feet; thence leaving said center thread N89°43′02″W 253.56 feet to a point on the old centerline of State Highway M-22; thence Northerly along the centerline of State Highway M-22, by the following (5) courses; thence N35°02′58″E, along said old centerline, a distance of 12.66 feet to the existing centerline of State Highway M-22 and a point on a 516.00 foot radius curve to the right; thence Northeasterly along said centerline and curve, an arc distance of 109.88 feet (chord bearing and distance of N53°19′13″E, 109.67 feet) to the point of tangency of said curve; thence N59°25′16″E, along said centerline, a distance of 156.38 feet to the point of curvature of a 400.00 foot radius curve to the left; thence Northeasterly along said centerline and curve, an arc distance of 215.55 feet (Delta of 31°26′55″, along chord bearing and distance of N43°41′48″E, 216.81 feet) to the point of tangency; thence N27°58′11″E, (Also, recorded as N27°19′23″E) along said centerline, a distance of 528.10 feet to an extension of the South line of Chamberlain's unrecorded plat of Glen Arbor Beach Subdivision; and the South boundary live of South Beach Condominium recorded in Liber 243, Pages 63-74; thence Easterly approximately 38.39 feet along said South boundary line extended to the Easterly right-of-way line of State Highway M-22 and the Southwest corner of a survey by Gosling Czubak Associates, Inc., Job No. 87025.12; thence N27°19′23″E 633.21 feet along said right-of-way; thence along said right-of-way 79.72 feet on the arc of a curve to the right (Rad.=110.24 feet, I=40°26′00″, Chord=N48°02′23″E 77.99 feet); thence N68°45′23″E 106.17 feet along said right-of-way; thence S00°42′53″E 174.11 feet; thence N89°17′07″E 217,57; thence S41°18′01″E 122.39 feet; thence S01°31′50″E 370.00 feet; thence N88°28′10″E (previously recorded as N88°34′00″E 220.3 feet more or less to a point on the North-South ¼ line of Section 23; thence Southerly along said North-South ¼ line to the South ⅛ line of said Section 23; thence Westerly along said South ⅛ line to the West ⅛ line of said Section 23; thence Southerly along said West ⅛ line to the Point of Beginning.

"Subject to the correlative rights of the owners along the Crystal River..

"Together with riparian rights between the shore courses and the center thread of Crystal River.

"Subject to all applicable building, use restrictions and easements, if any, affecting the premises..

"Also subject to final survey of the above in accordance with Michigan Act 132, P.A. of 1970, as amended."

Section 8(a) of the Act is amended to read as follows:

(1) By deleting the period following the word "Act" at the end of the first sentence; and

(2) By adding the following at the end thereof: "except that the land to be taken out of and added to the land area now comprising the lakeshore shall, within 120 days after the date hereof, be conveyed by an exchange of deeds. The Secretary is instructed to and shall have the authority to effect this exchange but shall not have the authority to otherwise dispose of the land to be taken out of or to acquire the land to be added to the lakeshore pursuant to the amendments hereinabove."

Section 8(e) of the Act is amended to read as follows:

(1) By deleting the period following the word "encumbrances" at the end of the section; and

(2) By adding the following at the end thereof: "except condemnation may not be used to acquire the land to be added, pursuant to the amendment hereinabove, to the land area now comprising the lakeshore."

THOMAS AMENDMENT NO. 3578

(Ordered to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

At the end of the amendment, add the following:

SEC. 02. CONVEYANCE OF CERTAIN PROPERTY TO THE STATE OF WYOMING.

(a) Conveyance.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey to the State of Wyoming without reimbursement, all right, title, and interest of the United States in and to the property described in subsection (b) for use by the State for the

purposes described in subsection (c). The property shall be conveyed as is.

(b) Description of Property.—The property referred to in subsection (a) is the property commonly known as "Ranch A" in Crook County, Wyoming, consisting of approximately 680 acres of land including all real property, buildings, and all other improvements to real property, and all personal property including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture.

(c) Use and Reversionary Interest.—

(1) Use.—The property conveyed to the State of Wyoming under this section shall be used by the State for the purposes of—

(A) fish and wildlife management or education, or both; or

(B) maintaining and using through State or local agreements, or both, the historical interests and significance of facilities on the property consistent with applicable Federal and State laws.

(2) Reversion.—If the property is used for a purpose not described in paragraph (1), all right, title, and interest in and to the property shall revert to the United States.

STEVENS AMENDMENT NO. 3579

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

On page , line , of the amendment, insert the following new section:

SEC. . PAYMENT IN LIEU OF TAXES.

(a) Section 6901(2) of title 31, United States Code, is amended to read as follows:

"(2) 'unit of general local government' means—

"(A) a county (or parish), township, borough, or city (where the city is independent of any other unit of general local government), that—

"(i) is within the class or classes of such political subdivisions in a State that the Secretary of the Interior determines to be the principal provider or providers of governmental services within the State; and

"(ii) is a unit of general government, as determined by the Secretary of the Interior on the basis of the same principles as were used by the Secretary of Commerce on January 1, 1983, for general statistical purposes. The term 'governmental services' includes, but is not limited to, those services that relate to public safety, the environment, housing, social services, transportation, and governmental administration;

"(B) the State of Alaska, for any land within that State which is not within the boundaries of a governmental entity under subparagraph (A);

"(C) the District of Columbia;

"(D) the Commonwealth of Puerto Rico;

"(E) Guam; and

"(F) the Virgin Islands.".

(b) Section 6902(a) of title 31, United States Code, is amended to read as follows:

"(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located, as set forth in this chapter. Except for the State of Alaska for entitlement land described in section 6901(2)(B), a unit of general local government may use the payment for any governmental purpose. The State of Alaska shall distribute any payment received for entitlement land described in section 6901(2)(B) to home rule and general law cities within Alaska (as such cities are defined by the State).".

BUMPERS AMENDMENTS NOS. 3580–3583

(Ordered to lie on the table.)

Mr. BUMPERS submitted four amendments intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

Amendment No. 3580

Strike subsection 2008(a) of the substitute and insert the following:

"(a) Release.—Except for the areas retained in wilderness study status pursuant to subsection (b), the Congress hereby finds and directs that all public lands in Utah administered by the Bureau of Land Management pursuant to the Federal Land Policy and Management Act of 1976 which have not been designated as wilderness by this title or previous Acts of Congress, have been adequately studied for wilderness designation pursuant to section 603 of such Act and are no longer subject to the requirements of section 603(c) of such Act pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness."

Amendment No. 3581

Strike subsection 2002(i) of the substitute and insert the following:

"(i) Access.—Reasonable access, including the use of motorized equipment where necessary and customarily or historically employed, shall be allowed on routes within the areas designated wilderness by this title in existence as of the date of enactment of this Act for the exercise of valid existing rights. Such routes may be maintained, repaired, and replaced to the extent necessary to maintain their present function, design, and serviceable operation, so long as such activities have no increased adverse impacts on the resources and values of the wilderness areas than existed as of the date of enactment of this title."

Amendment No. 3582

On page 152, line 12 of the substitute, delete "Title." and insert in lieu thereof, "title, so long as such activities have no increased adverse impacts on the resources and values of the wilderness areas than existed as of the date of enactment of this title.".

Amendment No. 3583

Strike Section 2008 of the Murkowski substitute and insert the following:

"SECTION 2008. WILDERNESS RELEASE.

"(a) Release.—Except for the areas identified in subsection (b), the Congress hereby finds and directs that all public lands in Utah, administered by the Bureau of Land Management pursuant to the Federal Land Policy and Management Act of 1976 (FLPMA), which have not been designated as wilderness by this Act or previous Acts of Congress, have been adequately studied for wilderness designation pursuant to section 603 of FLPMA (43 U.S.C. 1782) and are no longer subject to the requirement of section 603(c) of FLPMA pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness. Such lands shall be managed in accordance with FLPMA and land management plans prepared pursuant thereto.

"(b) Continuing Wilderness Study Areas.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to the provisions of section 603(c) of FLPMA (43 U.S.C. 1782(c)):

(1) Bull Canyon (UT-080-419/CO-010-001);

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West (UT-060-116/UT-060-117/CO-070-113A);

(3) Squaw/Papoose Canyon (UT-060-227/CO-030-265A); and

(4) Cross Canyon (UT-060-229/CO-030-265).

"(c) Further Designations.—Public lands in the State of Utah which are not designated as wilderness by this or previous Acts of Congress or retained in wilderness study status by this Act shall not be managed solely for the purpose of protecting their status for potential inclusion in the National Wilderness Preservation System: *Provided, however*, That this subsection shall not be construed to preclude the Secretary from managing public lands in the State of Utah (in accordance with FLPMA and applicable land use plans) for the purpose of protecting their natural, scenic, wildlife, riparian, primitive or recreational values, even if such management would protect an area's wilderness characteristics."

FAIRCLOTH AMENDMENT NO. 3584

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

At the end of the substitute amendment add the following:

TITLE —LABOR

SEC. 1. NULLIFICATION OF ORDER.

An executive order, or other rule or order, that—

(1) prohibits Federal contracts between the United States and a contractor;

(2) requires the debarment of a contractor from an award of a Federal contract; or

(3) imposes other sanction on a contractor, on the basis that such contractor or organization unit thereof has permanently replaced lawfully striking employees of such contractor shall have no force or effect.

FEINGOLD AMENDMENTS NOS. 3585–3587

(Ordered to lie on the table.)

Mr. FEINGOLD submitted three amendments intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

Amendment No. 3585

On page 147, strike lines 2 through 14 and insert the following:

(a) Management.—Subject to valid existing rights, the wilderness areas designated by this title shall be administered by the Secretary in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in those provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act.

Amendment No. 3586

Beginning on page 153, strike line 18, and all that follows through page 155, line 2.

VOL
142
PT
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MR
21
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29
1996
UMI

Amendment No. 3587

Beginning on page 156, strike line 1 and all that follows through page 157, line 4, and insert the following:

SEC. 2006. WILDERNESS STUDY AREA STATUS.

Wilderness study areas administered by the Bureau of Land Management in the State of Utah shall be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

DOLE (AND OTHERS) AMENDMENT NO. 3588

(Ordered to lie on the table.)

Mr. DOLE (for himself, Mr. Coverdell, and Mr. Ford) submitted an amendment intended to be proposed by them to amendment No. 3564 proposed by Mr. Murkowski to the bill H.R. 1296, supra; as follows:

At the appropriate place in the amendment, insert the following:

TITLE —NICODEMUS NATIONAL HISTORIC SITE

SEC. 01. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) the town of Nicodemus, in Kansas, has national significance as the only remaining western town established by African-Americans during the Reconstruction period following the Civil War;

(2) the town of Nicodemus is symbolic of the pioneer spirit of African-Americans who dared to leave the only region they had been familiar with to seek personal freedom and the opportunity to develop their talents and capabilities; and

(3) the town of Nicodemus continues to be a viable African-American community.

(b) Purposes.—The purposes of this title are—

(1) to preserve, protect, and interpret for the benefit and enjoyment of present and future generations, the remaining structures and locations that represent the history (including the settlement and growth) of the town of Nicodemus, Kansas; and

(2) to interpret the historical role of the town of Nicodemus in the Reconstruction period in the context of the experience of westward expansion in the United States.

SEC. 02. DEFINITIONS.

In this title:

(1) Historic site.—The term "historic site" means the Nicodemus National Historic Site established by section 03.

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 03. ESTABLISHMENT OF NICODEMUS NATIONAL HISTORIC SITE.

(a) Establishment.—There is established the Nicodemus National Historic Site in Nicodemus, Kansas.

(b) Description.—

(1) In general.—The historic site shall consist of the First Baptist Church, the St. Francis Hotel, the Nicodemus School District Number 1, the African Methodist Episcopal Church, and the Township Hall located within the approximately 161.35 acres designated as the Nicodemus National Landmark in the Township of Nicodemus, Graham County, Kansas, as registered on the National Register of Historic Places pursuant to section 101 of the National Historic Preservation Act (16 U.S.C. 470a), and depicted on a map entitled "Nicodemus National Historic Site", numbered 80,000 and dated August 1994.

(2) Map and boundary description.—The map referred to in paragraph (1) and an accompanying boundary description shall be on file and available for public inspection in the office of the Director of the National Park Service and any other office of the National Park Service that the Secretary determines to be an appropriate location for filing the map and boundary description.

SEC. 04. ADMINISTRATION OF THE HISTORIC SITE.

(a) In General.—The Secretary shall administer the historic site in accordance with—

(1) this title; and

(2) the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666, chapter 593; 16 U.S.C. 461 et seq.).

(b) Cooperative Agreements.—To further the purposes specified in section 01(b), the Secretary may enter into a cooperative agreement with any interested individual, public or private agency, organization, or institution.

(c) Technical and Preservation Assistance.—

(1) In general.—The Secretary may provide to any eligible person described in paragraph (2) technical assistance for the preservation of historic structures of, the maintenance of the cultural landscape of, and local preservation planning for, the historic site.

(2) Eligible persons.—The eligible persons described in this paragraph are—

(A) an owner of real property within the boundary of the historic site, as described in section_____103(b); and

(B) any interested individual, agency, organization, or institution that has entered into an agreement with the Secretary pursuant to subsection (b).

SEC. 05. ACQUISITION OF REAL PROPERTY.

(a) In General.—Subject to subsection (b), the Secretary may acquire by donation, exchange, or purchase with funds made available by donation or appropriation, such lands or interests in land as may be necessary to allow for the interpretation, preservation, or restoration of the First Baptist Church, the St. Francis Hotel, the Nicodemus School District Number 1, the African Methodist Episcopal Church, or the Township Hall, as described in section _____03(b)(1), or any combination thereof.

(b) Limitations.—

(1) Acquisition of property owned by the State of Kansas.—Real property that is owned by the State of Kansas or a political subdivision of the State of Kansas that is acquired pursuant to subsection (a) may only be acquired by donation.

(2) Consent of owner required.—No real property may be acquired under this section without the consent of the owner of the real property.

SEC. 06. GENERAL MANAGEMENT PLAN.

(a) In General.—Not later than the last day of the third full fiscal year beginning after the date of enactment of this Act, the Secretary shall, in consultation with the officials described in subsection (b), prepare a general management plan for the historic site.

(b) Consultation.—In preparing the general management plan, the Secretary shall consult with an appropriate official of each of the following:

(1) The Nicodemus Historical Society.

(2) The Kansas Historical Society.

(3) Appropriate political subdivisions of the State of Kansas that have jurisdiction over all or a portion of the historic site.

(c) Submission of Plan to Congress.—Upon the completion of the general management plan, the Secretary shall submit a copy of the plan to—

(1) the Committee on Energy and Natural Resources of the Senate; and

(2) the Committee on Resources of the House of Representatives.

SEC. 07. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this title.

COCHRAN AMENDMENT NO. 3589

(Ordered to lie on the table.)

Mr. COCHRAN submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. Murkowski to the bill H.R. 1296, supra; as follows:

At the appropriate place in the amendment, insert the following:

TITLE —NATCHEZ NATIONAL HISTORICAL PARK

SEC. 01. NATCHEZ NATIONAL HISTORICAL PARK.

Section 3 of the Act of October 8, 1988, entitled "An Act to create a national park at Natchez, Mississippi" (16 U.S.C. 410oo et seq.), is amended—

(1) by inserting "(a) In General.—" after "Sec. 3."; and

(2) by adding at the end the following:

"(b) Building for Joint Use by the Secretary and the City of Natchez.—

"(1) Contribution toward construction.—The Secretary may enter into an agreement with the city of Natchez under which the Secretary agrees to pay not to exceed $3,000,000 toward the planning and construction by the city of Natchez of a structure to be used—

"(A) by the Secretary as an administrative headquarters, administrative site, and visitors' center for Natchez National Historical Park; and

"(B) by the city as an intermodal transportation center.

"(2) Use for satisfaction of matching requirements.—The amount of payment under paragraph (1) may be available for matching Federal grants authorized under any other law notwithstanding any limitations in any such law.

"(3) Agreement.—Prior to the execution of an agreement under paragraph (1), the Secretary shall enter into a contract, lease, cooperative agreement, or other appropriate form of agreement with the city of Natchez providing for the use and occupancy of a portion of the structure constructed under paragraph (1) (including appropriate use of the land on which it is situated), at no cost to the Secretary (except maintenance, utility, and other operational costs), for a period of 50 years, with an option for renewal by the Secretary for an additional 50 years.

"(4) Authorization of appropriations.—There is authorized to be appropriated $3,000,000 to carry out this subsection.".

BRADLEY AMENDMENTS NOS. 3590-3649

(Ordered to lie on the table.)

Mr. BRADLEY submitted 60 amendments intended to be proposed by him to amendment No. 3564 proposed by Mr. Murkowski to the bill H.R. 1296, supra; as follows:

Amendment No. 3590

On page 147, strike lines 2 through 14 and insert the following:

(a) Management.—Subject to valid existing rights, the wilderness areas designated by this title shall be administered by the Secretary in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in those provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act.

Amendment No. 3591

On page 156, strike lines 2 through 16 and insert the following:

(a) Finding.—Congress finds that all public lands in Utah administered by the Bureau of Land Management under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) not designated as wilderness by this title, or a previous Act of Congress, have been studied for wilderness designation under section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(b) Release.—The lands described in subsection (a) shall not be subject to the requirement of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)) that wilderness study areas be managed in a manner that does not impair the suitability of the areas for preservation as wilderness.

Amendment No. 3592

On page 152, between lines 21 and 22, insert the following:

(f) Beneficial Uses.—Notwithstanding any provision of the laws of the State of Utah otherwise applicable to the granting and exercise of water rights, the purposes for which wilderness areas in Utah are designated under this title, as set forth in this title and the Wilderness Act (16 U.S.C. 1131 et seq.), shall be considered to be beneficial uses.

Amendment No. 3593

On page 148, strike lines 7 through 13 and insert the following:

(d) Fish and Wildlife.—As provided in section 4(d)(7) of the Wilderness Act, nothing in this title or in the Wilderness Act shall be construed as affecting the jurisdiction or responsibilities of the State of Utah with respect to wildlife and fish on the public lands located in that State.

Amendment No. 3594

Beginning on page 159, strike line 2 and all that follows through page 160, line 11, and insert the following:

(2) Federal lands.—The Federal lands referred to in this section are lands in Utah that are identified for disposal or exchange by the Secretary under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(d) Equal Value.—

(1) Appraisals.—Prior to the exchange of the lands identified in subsection (c), the Secretary shall ensure that appraisals of the lands are prepared.

(2) Requirement of equal value.—To the extent practicable, any lands exchanged under this section shall be exchanged for lands of equal value. If the lands exchanged between the United States and the State of Utah, as authorized by this section, are not of equal value, the values shall be equalized in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

Amendment No. 3595

On page 150, at the end of line 14, insert the following: "The United States shall not be liable for the condition of, or the operation, maintenance, repair, or replacement of, any access route allowed under this subsection.".

Amendment No. 3596

On page 152, between lines 21 and 22, insert the following:

(f) Requirement on Secretary.—The Secretary shall protect watersheds within wilderness areas designated by this title that are located upstream of communities to maintain safe drinking water standards.

Amendment No. 3597

Beginning on page 163, strike line 21 and all that follows through page 164, line 12.

Amendment No. 3598

On page 163, strike lines 3 through 8.

Amendment No. 3599

Beginning on page 147, strike line 18 and all that follows through line 6 on page 148 and insert the following:

(c) Livestock Grazing.—

(1) In general.—Grazing of livestock in areas designated as wilderness by this title, where established prior to the date of enactment of this Act, shall be administered in accordance with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in H.R. Rep. No. 617 (96th Cong., Sess. 19).

(2) Review of policies, practices, and regulations.—The Secretary shall review all policies, practices, and regulations of the Bureau of Land Management regarding livestock grazing in wilderness areas administered by the Bureau of Land Management in the State of Utah ensure that the policies, practices, and regulations fully conform with the implement the intent of Congress regarding grazing in those areas, as that intent is expressed in this title.

Amendment No. 3600

On page 158, line 3, strike "The exchange" and all that follows through line 9.

Amendment No. 3601

Beginning on page 159, strike line 6 and all that follows through page 160, line 11, and insert the following:

(d) Land Exchanges for Equal Value.—

(1) Requirement.—The lands exchanged pursuant to this section shall be of approximately equal value, as determined by the Secretary utilizing nationally recognized appraisal standards. If the values are not approximately equal, the Secretary and the State of Utah shall either agree to modify the lands to be exchanged or shall provide for a cash equalization payment to equalize the values. Any cash equalization payment shall not exceed 25 percent of the value of the lands to be conveyed.

(2) Dispute resolution.—If the Secretary and the State of Utah are unable to agree to the appraised value of a certain tract or tracts of land, the appraisal, appraisals, or appraisal issues in dispute and a final determination of value shall be resolved through a process of bargaining or submission to arbitration in accordance with section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

Amendment No. 3602

On page 148, strike lines 14 through 20 and insert the following:

(e) Prohibition of Buffer Zones.—Congress does not intend that designation of an area as wilderness by this title will lead to the creation of protective perimeters or buffer zones around the area. That nonwilderness activities or uses can be seen or heard from areas within a wilderness area shall not preclude such activities or uses up to the boundary of the wilderness area.

Amendment No. 3603

On page 149, strike lines 6 through 16.

Amendment No. 3604

Beginning on page 149, strike line 17 and all that follows through line 14 on page 150.

Amendment No. 3605

On page 150, line 6, strike "or customarily or" and insert ", customary, and".

Amendment No. 3606

On page 152, strike lines 13 through 21.

Amendment No. 3607

Beginning on page 151, strike line 9 and all that follows through page 152, line 21, and insert the following:

SEC. 4. STATE WATER ALLOCATION AUTHORITY.

Nothing in this title constitutes an express or implied claim or denial on the part of the Federal Government of any exemption from the water laws of the State of Utah.

Amendment No. 3608

Beginning on page 151, strike line 9 and all that follows through page 152, line 21, and insert the following:

SEC. 4. WATER RIGHTS.

(a) Reservation.—

(1) In General.—With respect to each wilderness area designated by this title, Congress reserves a quantity of water sufficient to fulfill the purposes of this title.

(2) Priority date.—The priority date of the water rights reserved under paragraph (1) shall be the date of enactment of this Act.

(b) Protection of Rights.—

(1) In general.—The Secretary and all other officers of the United States shall take such steps as are necessary to protect the rights reserved by subsection (a).

(2) Filing of claim.—The requirement imposed by paragraph (1) shall include the filing by the Secretary of a claim for the quantification of the water rights reserved by subsection (a) in any present or future appropriate stream adjudication in the courts of the State of Utah—

(A) in which the United States is or may be joined; and

(B) that is conducted in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 560, chapter 651; 43 U.S.C. 666) (commonly known as the "McCarran Amendment").

(c) No Relinquishment or Reduction.—Nothing in this title relinquishes or reduces any water rights reserved or appropriated by the United States in the State of Utah on or before the date of enactment of this Act.

(d) No Precedent.—

(1) Specific to state of utah.—The Federal water rights reserved by this title are specific to the wilderness areas located in the State of Utah designated by this title.

(2) No effect on other law.—Nothing in this title relating to reserved federal water rights—

(A) establishes a precedent with regard to any future designation of wilderness; or

(B) constitutes an interpretation of any other Act or any designation of wilderness made under any other Act.

VOL 142 PT 5 MR 21 — 29 1996 UMI

AMENDMENT NO. 3609

On page 153, strike lines 7 through 17 and insert the following:

SEC. 2005. CULTURAL, ARCHAEOLOGICAL, AND PALEONTOLOGICAL RESOURCES.

The Secretary shall provide for the protection and interpretation of cultural, archaeological, and paleontological resources located within areas designated as wilderness by this title.

AMENDMENT NO. 3610

Beginning on page 153, strike line 18 and all that follows through page 155, line 2, and insert the following:

SEC. 2006. MILITARY ACTIVITIES.

Nothing in this title precludes low-level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this title.

AMENDMENT NO. 3611

Beginning on page 162, strike line 16 and all that follows through page 163, line 3, and insert the following:

"(3) PROVISIONS RELATING TO FEDERAL LANDS.—

"(A) ADJUSTMENT OF VALUE TO REFLECT REVENUE SHARING RIGHTS.—The value of Federal lands transferred to the".

AMENDMENT NO. 3612

On page 168, strike lines 6 through 22 and insert the following:

(c) EQUAL VALUE.—Prior to the exchange of lands identified in subsection (b), appraisals of the lands shall be prepared. Any exchange of lands shall be for lands of equal value. If the lands exchanged between the United States and the State of Utah, as authorized by this section, are not of equal value, the values shall be equalized in accordance with section 206((b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

AMENDMENT NO. 3613

Beginning on page 153, strike line 18, and all that follows through page 155, line 2.

AMENDMENT NO. 3614

Strike title 1.

AMENDMENT NO. 3615

Strike title 2.

AMENDMENT NO. 3616

Strike title 3.

AMENDMENT NO. 3617

Strike title 4.

AMENDMENT NO. 3618

Strike title 5.

AMENDMENT NO. 3619

Strike title 6.

AMENDMENT NO. 3620

Strike title 7.

AMENDMENT NO. 3621

Strike title 8.

AMENDMENT NO. 3622

Strike title 9.

AMENDMENT NO. 3623

Strike title 10.

AMENDMENT NO. 3624

Strike title 11.

AMENDMENT NO. 3625

Strike title 12.

AMENDMENT NO. 3626

Strike title 13.

AMENDMENT NO. 3627

Strike title 14.

AMENDMENT NO. 3628

Strike title 15.

AMENDMENT NO. 3629

Strike title 16.

AMENDMENT NO. 3630

Strike title 17.

AMENDMENT NO. 3631

Strike title 18.

AMENDMENT NO. 3632

Strike title 19.

AMENDMENT NO. 3633

Strike title 20.

AMENDMENT NO. 3634

Strike title 21.

AMENDMENT NO. 3635

Strike title 22.

AMENDMENT NO. 3636

Strike title 23.

AMENDMENT NO. 3637

Strike title 24.

AMENDMENT NO. 3638

Strike title 25.

AMENDMENT NO. 3639

Strike title 26.

AMENDMENT NO. 3640

Strike title 27.

AMENDMENT NO. 3641

Strike title 28.

AMENDMENT NO. 3642

Strike title 29.

AMENDMENT NO. 3643

Strike title 30.

AMENDMENT NO. 3644

Strike title 31.

AMENDMENT NO. 3645

Strike title 32.

AMENDMENT NO. 3646

Strike title 33.

AMENDMENT NO. 3647

Beginning on page 156, strike line 1 and all that follows through page 157, line 4, and insert the following:

SEC. 2008. WILDERNESS STUDY AREA STATUS.

Wilderness study areas administered by the Bureau of Land Management in the State of Utah shall be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

AMENDMENT NO. 3648

On page 156, line 9, strike "by this Title".

AMENDMENT NO. 3649

On page 166, line 22, strike "the Sand Hollow" and all that follows through page 167, line 1, and insert "lands identified for disposal or exchange by the Secretary pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.),".

NUNN AMENDMENT NO. 3650

(Ordered to lie on the table.)

Mr. NUNN submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

At the end of the amendment, add the following:

TITLE —MISCELLANEOUS

SEC. . ASSISTANCE FOR HIGHWAY RELOCATION IN GEORGIA.

Section 1(c) of the Act entitled "An Act to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia", approved December 24, 1987 (Public Law 100–211; 101 Stat. 1442), is amended by striking "$30,000,000" and inserting "$51,900,000".

HUTCHISON AMENDMENT NO. 3651

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

Add at the end the following:

TITLE XXXIV—LOS CAMINOS DEL RIO NATIONAL HERITAGE AREA

SEC. 3401. SHORT TITLE.

This title may be cited as the "Los Caminos del Rio National Heritage Area Act of 1996".

SEC. 3402. FINDINGS.

Congress finds that—

(1) along the Lower Rio Grande on the border between Texas and Mexico, from Laredo, Texas, to the Gulf of Mexico, a distinctive heritage is exhibited through resources of immense economic, natural, scenic, historical, cultural, and recreational value to the citizens of the United States and the United Mexican States;

(2) significant historical themes and resources of local, State, national, and international importance characterize the river communities and counties along the Lower Rio Grande, representing—

(A) early 16th- and 17th-century Spanish and French explorations;

(B) 18th-century river settlements founded by José de Escandón under the Spanish Crown;

(C) 18th-century ranches that gave birth to the American cowboy;

(D) Texas independence and establishment of the Republic of the Rio Grande in 1840;

(E) the first battle of the Mexican-American War at Palo Alto in 1846;

(F) the last land battle of the American Civil War, fought near the mouth of the Rio Grande in 1865;

(G) a thriving steamboat trade in the late 19th century; and

(H) the development of the Rio Grande Valley as an agricultural empire;

(3) the Lower Rio Grande is 1 of the most complex ecological systems in the United States, with 10 habitat types that host a remarkable variety of species, including 600 species of vertebrates and 11,000 species of plants;

(4) many local and regional governments, Federal and State agencies, businesses, private organizations, and citizens in the United States and Mexico have expressed a desire to work cooperatively to preserve and enhance the most significant components of the natural and cultural heritage throughout the region, while providing for sustainable growth and development; and

(5) it is in the best interest of the citizens of the United States that the Federal Government lend aid and assistance to the State of Texas and its political subdivisions, Los Caminos del Rio of Texas, Incorporated, and other agencies and organizations in developing a management plan to ensure the development, preservation, and restoration of the historical, cultural, natural, scenic, and recreational resources of the Lower Rio Grande region of Texas.

SEC. 3403. PURPOSES.

The purposes of this title are—

(1) to recognize the special importance of the Lower Rio Grande region as a living historical legacy of the United States and Mexico containing a wealth of cultural, historical, and heritage resources important to the development of both countries; and

(2) to provide a new conceptual framework and administrative structure for assisting the State of Texas and its political subdivisions, Federal agencies, and other organizations, and private property owners, within the United States and Mexico, in the development and implementation of integrated heritage and economic resource policies and programs that will—

(A) establish stronger, clearer connections between Federal, State, and local agencies with programs for cultural conservation, international relations, transportation, economic development, and natural systems;

(B) provide technical assistance to heritage area communities, organizations, and private property owners for historic preservation, heritage education, interpretation, tourism development, environmental restoration and community development;

(C) cultivate a consensus vision for the heritage area, based on public dialogue, that advocates intergenerational responsibility and sustainable growth in a manner that is consistent with the other purposes of the heritage area;

(D) promote international understanding and cooperation between Mexico and the United States;

(E) enhance the economic base of heritage area communities through heritage tourism, conservation, and development actions as a means of creating an entrepreneurial climate by expanding job opportunities, supporting businesses, creating capital, and increasing local tax bases;

(F) elevate cultural pride and local understanding for heritage resources through the development and management of regional interpretation and educational programs that connect people with resources, activities, and organizations; and

(G) create partnerships between public and private entities and private property owners to finance projects and initiatives throughout the Lower Rio Grande through which limited Federal, State, and local capital contributions for planning and infrastructure investments will stimulate private sector contributions.

SEC. 3404. DEFINITIONS.

In this title:

(1) HERITAGE AREA.—The term "heritage area" means the Los Caminos del Rio National Heritage Area, as determined eligible for designation under section 3405 and established by section 3406.

(2) HERITAGE PARTNERSHIP.—The term "heritage partnership" means the public-private administrative entity established for the heritage area under section 3407.

(3) HERITAGE STUDY.—The term "heritage study" means the report entitled "Los Caminos del Rio Heritage Area Study", prepared by the task force, which contains—

(A) an inventory of natural, historical, cultural, and recreational resources along the heritage area and their relative value and significance;

(B) recommendations for the creation of a partnership that will coordinate activities within the heritage area; and

(C) strategies and proposed actions to protect and enhance the most significant and meaningful components of the natural and cultural heritage of the heritage area while providing for sustainable growth and development and protection of the rights of owners of private property in the heritage area.

(4) MANAGEMENT PLAN.—The term "management plan" means the management plan for the heritage area developed under section 3408.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) TASK FORCE.—The term "task force" means the State task force for the Los Caminos del Rio Heritage Project appointed by the Governor of the State of Texas, which is—

(A) composed of representatives of the Texas Department of Commerce, the Texas Department of Transportation, the Texas Historical Commission, and the Texas Parks and Wildlife Department; and

(B) charged with working in coordination with public- and private-sector efforts to determine efficient methods to accomplish the development of the Los Caminos del Rio Heritage Project.

SEC. 3405. CRITERIA FOR DESIGNATION.

An area shall be eligible for designation as a heritage area under this title only if the area meets each of the following criteria:

(1) ASSEMBLAGE OF RESOURCES.—The area is a cohesive assemblage of natural, historic, cultural, or recreational resources that—

(A) together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use; and

(B) are best managed through partnerships between public and private entities.

(2) TRADITIONS, CUSTOMS, BELIEFS, OR FOLKLIFE.—The area reflects traditions, customs, beliefs, or folklife, or any combination thereof, that are a valuable part of the story of the United States.

(3) CONSERVATION OF NATURAL, CULTURAL, OR HISTORIC FEATURES.—The area provides outstanding opportunities to conserve natural, cultural, or historic features, or any combination thereof.

(4) RECREATIONAL AND EDUCATIONAL OPPORTUNITIES.—The area provides outstanding recreational and educational opportunities.

(5) THEMES AND INTEGRITY OF RESOURCES.—The area has an identifiable theme, and resources important to the theme retain integrity capable of supporting interpretation.

(6) SUPPORT.—Residents, owners of private property included in the proposed area, nonprofit organizations, other private entities, and governments throughout the proposed area—

(A) demonstrate support for designation of the area and for management of the area appropriate to the designation; and

(B) are willing to commit to the implementation of the compact for the area as described in section 3407(e).

SEC. 3406. ESTABLISHMENT OF LOS CAMINOS DEL RIO NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—Subject to section 3405, the Secretary shall establish in the State of Texas the Los Caminos del Rio National Heritage Area.

(b) BOUNDARY.—Subject to the agreement of owners of private property included in the proposed area, the heritage area shall only be comprised of Cameron County, Hildalgo County, Starr County, Webb County, and Zapata County, Texas, as depicted on the map entitled "Los Caminos del Rio National Heritage Area", which shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, District of Columbia, and the Texas Historical Commission in Austin, Texas.

(c) PUBLICATION OF LEGAL DESCRIPTION AND MAP.—As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register a legal description and map of the proposed boundaries of the heritage area and the date on which the boundaries will become final.

(d) AGREEMENT OF PRIVATE PROPERTY OWNERS.—

(1) NOTIFICATION.—As soon as practicable after the date of enactment of this Act, the Secretary shall provide the owner of any private property included in the proposed boundaries of the heritage area—

(A) notification that the property is proposed for inclusion in the heritage area; and

(B) information about the heritage area that will allow the owner to make an informed decision as to whether to include the owner's property in the heritage area.

(2) WRITTEN AGREEMENT.—The Secretary shall attempt to obtain a written agreement from the owner of any private property included in the proposed boundaries of the heritage area that the property may be included in the heritage area.

(3) FINALIZATION DATE.—Not later than the date published under subsection (c) as the date on which the boundaries will become final, the Secretary shall declare the boundaries of the heritage area final.

(4) FINAL BOUNDARIES.—The final boundaries of the heritage area may not include any private property for which the Secretary did not obtain agreement from the owner of the property under paragraph (2).

SEC. 3407. HERITAGE PARTNERSHIP.

(a) PARTICIPATION BY THE SECRETARY.—The Secretary shall participate in an administrative entity to be known as the "heritage partnership" (which shall not constitute a partnership in a legal sense) that includes representatives of—

(1) Los Caminos del Rio of Texas, Incorporated;

(2) the Texas Department of Commerce, the Texas Department of Transportation, the Texas Historical Commission, and the Texas Parks and Wildlife Department;

(3) residents of the heritage area and owners of private property included in the area;

(4) public and private organizations dedicated to cultural conservation, community development, tourism, education, private property rights, business, interpretation, or the environment;

VOL
142
PT
5
MR
21
—
29
1996
UMI

(5) the National Park Service and United States Fish and Wildlife Service; and

(6) pertinent entities in Mexico as ex officio members.

(b) PURPOSE.—The heritage partnership shall unite the task force, participating Federal agencies, Los Caminos del Rio of Texas, Incorporated, and other heritage partners in a single organization to effectively blend government technical expertise with private sector resourcefulness and understanding of local issues and values and provide essential coordination and leadership for the heritage area.

(c) ESTABLISHMENT.—The executive committee of the board of directors for Los Caminos del Rio of Texas, Incorporated, and the executive directors representing the task force, including the Texas Department of Commerce, the Texas Department of Transportation, the Texas Historical Commission, and the Texas Parks and Wildlife Department, or their designees, shall facilitate the establishment of the heritage partnership.

(d) ACTIVITIES.—

(1) COORDINATION.—The heritage partnership shall provide overall coordination of the various entities and funding sources relevant to the purposes of the heritage area.

(2) MISSION.—The primary mission of the heritage partnership shall be to—

(A) facilitate development and implementation of a management plan;

(B) provide technical assistance and leverage financial assistance for heritage area communities and resource areas;

(C) coordinate existing and potential activities and programs that encourage positive development of the region; and

(D) become a self-sustaining entity.

(e) COMPACT.—

(1) DEVELOPMENT.—The members of the heritage partnership shall develop a compact that identifies the initial partners to be involved in developing and implementing the management plan and a statement of the financial commitment of the partners.

(2) PROHIBITION ON LAND USE RESTRICTIONS.—The compact may not require the enactment or modification of land use restrictions.

(f) PUBLIC MEETINGS.—The heritage partnership shall conduct public meetings at least quarterly regarding the implementation of the management plan for the heritage area.

(g) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—The heritage partnership may not use Federal funds received under this title to acquire real property or an interest in real property.

(h) DURATION OF ELIGIBILITY FOR ASSISTANCE.—The heritage partnership shall be eligible to receive assistance from funds appropriated under this title for a 13-year period beginning on the date on which the Secretary approves a compact under this section.

SEC. 3408. HERITAGE AREA MANAGEMENT PLAN.

(a) PREPARATION.—Subject to sections 3412 and 3414, the heritage partnership, in conjunction with private landowners within the heritage area, local governments, Federal and State agencies, and the public, shall develop a management plan to ensure proper management of significant cultural and heritage resources within the heritage area in a manner that is compatible with, and supportive of, natural, cultural, scenic, educational, recreational, and economic values of the resources and takes into account the existing uses of land within the area and any development already planned or in progress.

(b) COMPONENTS.—Subject to sections 3412 and 3414, the management plan shall include—

(1) recommended policies and techniques for resource management, including development of intergovernmental cooperative agreements to protect historical, cultural, recreational, scenic, and heritage resources of the heritage area in a manner that is consistent with, and supportive of, compatible economic revitalization efforts;

(2) goals, criteria, and standards applicable to the preservation and use of important cultural and heritage resources of the heritage area;

(3) a regional heritage education and interpretive plan to address the cultural and natural history of the heritage area, including actions to enhance visitor use and understanding and promote protection and awareness of the heritage area resources in schools located in the heritage area;

(4) an inventory that identifies properties in the heritage area that should be preserved, restored, managed, developed, or maintained, because of their natural, cultural, historical, or scenic significance, with recognition of the rights of private landowners and traditional land users;

(5) an implementation program for the plan that includes actions and responsibilities of the heritage partnership, local governments, and Federal and State agencies, as agreed on by the parties and private landowners within the heritage area; and

(6) a coordination and consistency component that describes the ways in which private, local, State, and Federal programs will be coordinated to promote the purposes of this title and protect the interests of private landowners within the heritage area.

(c) PRIVATE PROPERTY OWNERS NOT INCLUDED IN THE HERITAGE AREA.—The inventory under subsection (b)(4) may not include any reference to private property that was not included in the final boundaries of the heritage area under section 3406(d)(4).

SEC. 3409. WITHDRAWAL OF DESIGNATION.

(a) IN GENERAL.—The heritage area designation of an area under this title shall continue unless—

(1) the Secretary determines that—

(A) the heritage area no longer meets the criteria referred to in section 3405;

(B) the use, condition, or development of the area is inconsistent with the criteria referred to in section 3405, the compact for the area, or the management plan for the area; or

(C) as demonstrated by a request from the Governor of the State of Texas or a petition reflecting the interest of residents or owners of land in the area, the heritage area is no longer supported by the residents or owners of land in the area; and

(2) after making a determination referred to in paragraph (1), the Secretary submits to Congress notification that the heritage area designation of the area should be withdrawn.

(b) PUBLIC HEARING.—Before the Secretary makes a determination referred to in subsection (a)(1) regarding a heritage area, the Secretary or a designee shall hold a public hearing within the area.

(c) TIME OF WITHDRAWAL OF DESIGNATION.—The withdrawal of the heritage area designation of an area shall become final 90 legislative days after the Secretary submits to Congress the notification referred to in subsection (a)(2) regarding the area.

(d) RESTRICTIONS ON REDESIGNATION.—If the heritage area designation of any area under this title is withdrawn, the area may not be redesignated as a heritage area before the expiration of the 10-year period beginning on the date of the withdrawal. In the case of any heritage area that is redesignated, the length of time the area shall be eligible for Federal funds under this title shall be the excess (if any) of 15 years over the amount of time for which the area was previously eligible for Federal funds under this title.

SEC. 3410. DUTIES OF THE SECRETARY OF THE INTERIOR.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of the heritage partnership, the Secretary shall provide technical and financial assistance to the heritage partnership in the preparation and implementation of any plan or research recommended in the heritage study or management plan.

(2) LAND USE RESTRICTIONS.—The Secretary shall not, as a condition to the award of technical and financial assistance under paragraph (1), require any recipient of assistance to enact or modify any land use restriction.

(b) COORDINATION WITH MEXICO.—The Secretary may work in cooperation with the government of Mexico (including providing technical assistance) to coordinate planning, interpretation, and implementation activities as recommended in the heritage study or management plan.

SEC. 3411. DUTIES OF OTHER FEDERAL ENTITIES.

To avoid any decision or action by any department, agency, or instrumentality of the United States that could unfavorably affect or alter any significant resource of the heritage area having substantial natural, scenic, historical, cultural, or recreational value, the head of the department, agency, or instrumentality shall—

(1) notify the Secretary, and before taking final action with respect to implementing any such decision or action, allow the Secretary 30 days in which to present the Secretary's views on the matter;

(2) cooperate with the Secretary and the heritage partnership in carrying out their duties under this title and, to the maximum extent practicable, coordinate activities of the department, agency, or instrumentality that affect the heritage area with the carrying out of those duties; and

(3) cooperate with the heritage partnership, to the greatest extent practicable, in supporting the purposes of the heritage area.

SEC. 3412. NO EFFECT ON LAND USE REGULATION.

(a) NO EFFECT ON AUTHORITY OF GOVERNMENTS.—Nothing in this title modifies, enlarges, or diminishes any authority of Federal, State, or local government to regulate any use of land as provided for by law.

(b) NO ZONING OR LAND USE POWERS IN THE HERITAGE PARTNERSHIP.—Nothing in this title grants powers of zoning or land use to the heritage partnership.

SEC. 3413. FISHING AND HUNTING SAVINGS CLAUSE.

(a) NO DIMINISHMENT OF STATE AUTHORITY.—Establishment of the heritage area does not diminish the authority of the State of Texas to manage fish and wildlife inside or outside the heritage area.

(b) NO CONDITIONING OF APPROVAL AND ASSISTANCE.—Neither the Secretary nor any other Federal agency may—

(1) make any limitation on agriculture, hunting, fishing, or trapping a condition for the approval of a compact or the determination of eligibility for assistance under this title; or

(2) make any such limitation a condition for the receipt, in connection with the heritage area, of any other form of assistance.

SEC. 3414. PUBLIC PROPERTY PROTECTION.

(a) LIMITATION ON INCLUSION OF PUBLIC PROPERTY IN HERITAGE AREAS.—

(1) IN GENERAL.—No property owned by a unit of local government shall be included in the heritage area unless the local government agrees that the property may be included and notifies the Secretary of the agreement in writing.

(2) REMOVAL.—If at any time after inclusion of property in the heritage area owned by a unit of local government the local government that submitted a notification under paragraph (1) requests to be removed from the heritage area, the members of the heritage partnership shall revise the compact to exclude the property from the heritage area.

(b) PROHIBITION OF ASSISTANCE IF HERITAGE PARTNERSHIP EXERCISES ZONING OR LAND USE POWERS.—The Secretary may not provide grants or technical assistance under this title with respect to any heritage area if the heritage partnership for such area possesses or exercises any zoning or land use regulation powers.

(c) PRIVATE PROPERTY.—

(1) IN GENERAL.—Nothing in this title—

(A) requires an owner of private property to participate in or be associated with the heritage area or to permit public access to the private property; or

(B) modifies any provision of State law with regard to public access to or use of private land.

(2) LIMITATION ON INCLUSION IN HERITAGE AREAS.—No privately owned property shall be included in the heritage area unless the owner of the property agrees to include the property under section 3406(d).

(3) CONSENT OF OWNERS.—A Federal employee may not enter or otherwise take an action on private property to carry out this title without the written consent of the owner of the property.

(4) ACQUISITION OF PROPERTY.—A heritage partnership for the heritage area may not acquire real or personal property, or any interest in the property, without the written consent of the owner of the property.

(5) PROPERTY VALUES.—A Federal agency or employee may not take an action under this title that would diminish the value of private property.

(6) REMOVAL.—

(A) IN GENERAL.—If at any time after inclusion of privately owned property in the heritage area the owner of the property requests to be removed from the heritage area, the members of the heritage partnership shall revise the compact to exclude the property from the heritage area.

(B) FINALIZATION.—Exclusion of private property under subparagraph (A) shall be final on the mailing to the Secretary of a written request by the owner to be removed from the heritage area.

(d) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—No provision of this title shall be construed to modify any authority of Federal, State, or local government to regulate land use.

(e) NOTIFICATION ON MAPS.—All maps and brochures prepared under this title shall specify any lands within the heritage areas that are private lands.

SEC. 3415. EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS.

This title does not—

(1) require the imposition of any environmental, occupational, safety, or other regulation, standard, or permit process that is different from those that would be applicable had the heritage area not been established;

(2) require the imposition of any Federal or State water use designation or water quality standard on uses of, or discharges to, waters of a State or waters of the United States, within or adjacent to a heritage area, that is different from those that would be applicable had the heritage area not been established;

(3) affect the continuing use and operation, repair, rehabilitation, expansion, or new construction of water supply facilities, water and wastewater treatment facilities, stormwater facilities, public utilities, and common carriers;

(4) authorize or imply the reservation or appropriation of water or water rights; or

(5) abridge, restrict, or alter any applicable rule, regulation, standard, or review procedure for the permitting of facilities within or adjacent to the heritage area.

SEC. 3416. MULTIPLE USE SAVINGS CLAUSE.

(a) NO DIMINISHMENT OF STATE AUTHORITY.—This title does not diminish the authority of the State of Texas to manage fish and wildlife, including the regulation of fishing and hunting within the heritage area.

(b) NO CONDITIONING OF COMPACT AND ASSISTANCE.—The Secretary may not require limitations on any multiple use on Federal land (including oil and gas, exploration and production, timbering, grazing, mining, irrigation, recreation, fishing, hunting, or trapping) as a condition for approval of a compact under section 3407 or the provision of technical or financial assistance under section 3410.

SEC. 3417. REPORT.

On or before the last day of the 5th fiscal year beginning after the date of enactment of this Act and of each 5th year thereafter, the Secretary shall submit to Congress a report on the status and accomplishments of the heritage area.

SEC. 3418. AUTHORIZATION OF APPROPRIATIONS.

(a) HERITAGE PARTNERSHIP.—There are authorized to be appropriated to the heritage partnership to carry out its duties under this title such sums as are necessary for each fiscal year.

(b) LIMITATION.—Assistance under this title for a management plan may not exceed 75 percent of the cost for such plan.

(c) SECRETARY.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this title.

SEC. 3419. EXPIRATION OF AUTHORITIES.

The authorities contained in this title shall expire on September 30 of the 15th fiscal year beginning after the date of enactment of this Act.

BINGAMAN AMENDMENT NO. 3652

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

Purpose: To modify the boundaries of the White Sands National Monument and the White Sands Missile Range, New Mexico, to modify the boundary of the Bandelier National Monument, New Mexico, and for other purposes.

At the appropriate place, add the following:

TITLE —

SECTION 1. MODIFICATION OF BOUNDARIES OF WHITE SANDS NATIONAL MONUMENT AND WHITE SANDS MISSILE RANGE.

(a) PURPOSE.—The purpose of this section is to effect an exchange between the Secretary of the Interior and the Secretary of the Army of administrative jurisdiction over the lands described in subsection (c) in order to facilitate administration of the White Sands National Monument and the White sands Missile Range.

(b) DEFINITION.—In this section:

(1) MISSILE RANGE.—The term "missile range" means the White Sands Missile Range, New Mexico, administered by the Secretary of the Army.

(2) MONUMENT.—The term "monument" means the White Sands National Monument, New Mexico, established by Proclamation No. 2025 (16 U.S.C. 431 note) and administered by the Secretary of the Interior.

(c) EXCHANGE OF JURISDICTION.—The lands exchanged under this Act are the lands generally depicted on the map entitled "White Sands National Monument, Boundary Proposal", numbered 142/80,061 and dated January 1994, comprising—

(1) approximately 2,524 acres of land within the monument that is under the jurisdiction of the Secretary of the Army, which are transferred to the Secretary of the Interior;

(2) approximately 5,758 acres of land within the missile range abutting the monument, which are transferred to the Secretary of the Interior; and

(3) approximately 4,277 acres of land within the monument abutting the missile range, which are transferred to the Secretary of the Army.

(d) BOUNDARY MODIFICATION.—The boundary of the monument is modified to include the land transferred to the Secretary of the Interior and exclude the land transferred to the Secretary of the Army by subsection (c). The boundary of the missile range is modified accordingly.

(e) ADMINISTRATION.—

(1) MONUMENT.—The Secretary of the Interior shall administer the lands transferred to the Secretary of the Interior by subsection (c) in accordance with laws (including regulations) applicable to the monument.

(2) MISSILE RANGE.—The Secretary of the Army shall administer the lands transferred to the Secretary of the Army by subsection (c) as part of the missile range.

(3) AIRSPACE.—The Secretary of the Army shall maintain control of the airspace above the lands transferred to the Secretary of the Army by subsection (c) as part of the missile range.

(f) PUBLIC AVAILABILITY OF MAP.—The Secretary of the Interior and the Secretary of the Army shall prepare, and the Secretary of the Interior shall keep on file for public inspection in the headquarters of the monument, a map showing the boundary of the monument as modified by this Act.

(g) WAIVER OF LIMITATION UNDER PRIOR LAW.—Notwithstanding section 303(b)(1) of the National Parks and Recreation Act of 1978 (92 Stat. 3476), land or an interest in land that was deleted from the monument by section 301(19) of the Act (92 Stat. 3475) may be exchanged for any non-Federal land within the boundaries of any unit of the National Park System in the State of New Mexico, may be transferred to the jurisdiction of any other Federal agency or to the State or a political subdivision of the State, without monetary consideration, or may be administered as public land, as the Secretary considers appropriate.

SEC. 2. BANDELIER NATIONAL MONUMENT.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) under the provisions of a special use permit, sewage lagoons for Bandelier National Monument, established by Proclamation No. 1322 (16 U.S.C. 431 note) (referred to in this section as the "monument") are located on land administered by the Secretary

VOL
142
PT
5
MR
21
—
29
1996
UMI

of Energy that is adjacent to the monument; and for public inspection in the headquarters of the monument, a map showing the boundary of the monument as modified by this Act.

(g) WAIVER OF LIMITATION UNDER PRIOR LAW.—Notwithstanding section 303(b)(1) of the National Parks and Recreation Act of 1978 (92 Stat. 3476), land or an interest in land that was deleted from the monument by section 301(19) of the Act (92 Stat. 3475) may be exchanged for any non-Federal land within the boundaries of any unit of the National Park System in the State of New Mexico, may be transferred to the jurisdiction of any other Federal agency or to the State or a political subdivision of the State, without monetary consideration, or may be administered as public land, as the Secretary considers appropriate.

SEC. 2. BANDELIER NATIONAL MONUMENT.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress find that—

(A) under the provisions of a special use permit, sewage lagoons for Bandelier National Monument, established by Proclamation No. 1322 (16 U.S.C. 431 note) (referred to in this section as the "monument") are located on land administered by the Secretary of Energy that is adjacent to the monument; and

(B) modification of the boundary of the monument to include the land on which the sewage lagoons are situated—

(i) would facilitate administration of both the monument and the adjacent land that would remain under the administrative jurisdiction of the Secretary of Energy; and

(ii) can be accomplished at no cost.

(2) PURPOSE.—The purpose of this section is to modify the boundary between the monument and adjacent Department of Energy land to facilitate management of the monument and Department of Energy land.

(b) BOUNDARY MODIFICATION.—

(1) TRANSFER OF ADMINISTRATIVE JURISDICTION.—There is transferred from the Secretary of Energy to the Secretary of the Interior administrative jurisdiction over the land comprising approximately 4.47 acres depicted on the map entitled "Boundary Map, Bandelier National Monument", No. 315/80,051, dated March 1995.

(2) BOUNDARY MODIFICATION.—The boundary of the monument is modified to include the land transferred by paragraph (1).

(3) PUBLIC AVAILABILITY OF MAP.—The map described in paragraph (1) shall be on file and available for public inspection in the Lands Office at the Southwest System Support Office of the National Park Service, Santa Fe, New Mexico, and in the Superintendent's Office of Bandelier National Monument.

DOLE AMENDMENT NO. 3653

Mr. DOLE proposed an amendment to the motion to commit to the Committee on Finance the bill H.R. 1296, supra; as follows:

Strike the instructions in the pending motion and insert in lieu thereof "To report back by April 21, 1996 amendments to reform welfare and Medicaid effective 1 day after the effective date of the bill."

DOLE AMENDMENT NO. 3654

Mr. DOLE proposed an amendment to amendment No. 3653 proposed by him to the motion to Commit to the committee on Finance the bill H.R. 1296, supra; as follows:

Strike all after the first word in the amendment to the instructions to the pending motion and insert in lieu thereof "Report back by April 21, 1996 amendments to reform welfare and Medicaid effective 2 days after the effective date of the bill."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 11 a.m. on Tuesday, March 26, 1996, in open session, to receive testimony on atomic energy defense activities under the purview of the Acting Under Secretary, Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, March 26, 1996, to conduct a nominations hearing on the following nominees: the Honorable Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System; the Honorable Alice Rivlin, of Pennsylvania, to be a Governor and serve as Vice Chairman of the Board of Governors of the Federal Reserve System; and Laurence Meyer, of Missouri, to be a Governor of the Board of Governors of the Federal Reserve System. Witnesses will include Ralph Nader, consumer advocate.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, March 26, 1996 session of the Senate for the purpose of conducting a hearing on the fiscal year 1997 NASA budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 26, 1996, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, March 26, 1996, at 9:30 a.m. for a hearing on the IRS oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, March 26, 1996, at 2 p.m. in SH–219 to hold a closed briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Children and Families of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate at 9:30 a.m., Tuesday, March 26, 1996, for a hearing on "Filling the Gap: Can Private Institutions Do It?".

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet on Tuesday, March 26, 1996, at 2:30 p.m., in open session, to receive testimony on the Department of the Navy's Marine Corps programs in review of the Defense authorization request for fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING THE AMERICAN LEGION POST NO. 88 IN LOUDON, NH ON THEIR 50TH ANNIVERSARY

Mr. SMITH. Mr. President, I rise today to pay tribute to the American Legion Post No. 88 in Loudon, NH on their 50th anniversary.

On January 18, 1946, the American Legion Post No. 88 applied for their first charter. Exactly a month later, the members of Post No. 88 held their first meeting and began planning activities for the community. The original Post No. 88 application had 15 names including H.L. Annis, C.H. Derby, C.B. Hall, S.B. Hall, W.G. Harrison, Laura A. Hayward, R.C. Lovering, W.L. Manchester, G.P. Marcotte, H. McCoy, P.E. Morrill, P.W. Ordway, L.C. Palmer, D.P. Reardon and D.B. Stuart. W.L. Manchester was first the Commander of Post No. 88. This milestone of 50 years is a significant accomplishment for all the post members.

The members of Post No. 88 have become an integral part of the Loudon community and donate hundreds of hours of service to their community each year. So many veterans, children and needy families have been touched by the assistance these legionnaires provide through their volunteer work. They visit fellow veterans in local hospitals, coordinate youth programs and are involved with numerous Boy Scout and 4-H groups who use the post headquarters for meetings. Post No. 88 also

participates in the nationwide legion efforts which include: sponsoring students for both Boys and Girls State, sponsoring poster contests that focus on patriotism in local schools, writing and mailing letters to American troops in Bosnia, recycling, collecting eyeglasses for the needy, helping the elderly with housing, and making quilts for at-risk children. All the members of Post No. 88 deserve a special word of appreciation for serving the Loudon and Concord communities so diligently. Many people have greatly benefited from their goodwill and charity.

Fifty years ago, Post No. 88 opened its doors to the town of Loudon. Just last month, exactly 50 years later, a special anniversary program for Post No. 88 was held in the original building on South Village Road. In fact, one of charter members of the auxiliary unit, Marion Stuart, attended the ceremony.

We are truly fortunate to have such a caring group of individuals at the American Legion Post No. 88. For half a century, these members have exemplified goodwill and concern for their needy neighbors and their efforts will no doubt continue for the next 50 years. As a veteran, I congratulate Post No. 88 on their steadfast service to Loudon and Concord. New Hampshire is truly indebted to the Loudon American Legion Post No. 88.

NATIONAL DOMESTIC VIOLENCE HOTLINE

• Mr. WELLSTONE. Mr. President, 2 weeks ago, I came to the floor to announce the realization of another component of our initiative to prevent violence against women—the national domestic violence hotline. At that time, I indicated that I would come to the floor every day for 2 weeks, whenever my colleagues would be kind enough to give me about 30 seconds of time, to read off the 800 number of the hotline.

The toll-free number, 1–800–799–SAFE, will provide immediate crisis counseling, and local shelter referrals to women across the country, 24 hours a day. There is also a TDD number for the hearing impaired, 1–800–787–3224.

Mr. President, roughly 1 million women are victims of domestic violence each year and battering may be the single most common cause of injury to women—more common than auto accidents, muggings, or rapes by a stranger. According to the FBI, one of every two women in America will be beaten at least once in the course of an intimate relationship. The FBI also speculates that battering is the most under-reported crime in the country. It is estimated that the new hotline will receive close to 10,000 calls a day.

I hope that the new national domestic violence hotline will help women and families find the support, assistance, and services they need to get out of homes where there is violence and abuse.

Mr. President, once again, the toll-free number is 1–800–787–3224, for the hearing impaired.•

COMMEMORATING GREEK INDEPENDENCE DAY

• Mr. BRADLEY. Mr. President, I rise today to commemorate Greek Independence Day—a national day of celebration of Greek and American democracy. Yesterday marked the 175th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire.

A historic bond exists between Greece and America, forged by our shared democratic heritage. America is truly indebted to the ancient Greeks for giving the world the first example of direct democracy. The philosophical and democratic influences of the ancient Greeks provides the inspiration for our democratic Government to flourish. It is therefore fitting that Members of this Chamber join in paying tribute to the long struggle for freedom that Greece endured.

On March 25, 1821, when Germanos, the archbishop of Patros, proclaimed Greek independence, another link between Greece and the United States was forged. The American revolution served as a model for the Greek struggle for freedom and when the Declaration of Independence, translated into Greek, served as the declaration of the end of the Greek struggle, a circle was completed.

The interconnection between Greek and American democracies lies not only in the philosophical underpinnings of our Government, but in many areas of American life. Percy Bysshe Shelley once said, "We are all Greeks! Our laws, our literature, our religion, our art, have their roots in Greece." The tremendous influence that Greece has had on American life continues today through the activities of the vibrant Greek community in America. In every field—politics, entertainment, business and education—Greek-Americans continue to contribute to American life.

In particular, I wish to pay tribute to the Greek-American community in New Jersey. Groups that are leaders in the New Jersey Greek Community include: the Greek American Chamber of Commerce of New Jersey, the Greek American Voters League of New Jersey, the Hellenic American Bar Association of New Jersey, the Pan Gregorian Enterprises & Foundation, P.G.E.I. of America Charitables Foundation, Inc., the Council Generals of Greek Cypriot, the Order of AHEPA and the Joint Public Policy Committee of Hellenic American Women. On behalf of these organizations, the Greek community in New Jersey and all Americans of Greek descent, I am honored to pay tribute, on behalf of the Nation, to the Greek community during the celebration of their independence day.•

CONGRATULATING THE LONDONDERRY HIGH SCHOOL MARCHING BAND FOR BEING SELECTED TO PARTICIPATE IN THE ROSE PARADE

• Mr. SMITH. Mr. President, I rise today to congratulate the students of the Londonderry High School Marching Band and Colorguard who will be representing the State of New Hampshire in the 1997 Rose Parade next January. All the band members including Andrew Soucy, the band's director, deserve special commendation for their hard work and achievement.

Being selected for the Tournament of Roses Parade is quite an honor for a high school band. The Lancer Marching Band has a proud tradition of representing the Granite State in parades across the country. They have also performed in Washington, DC, for the St. Patrick's Day Parade, at Foxboro Stadium for the New England Patriots football team, and this will be the second time the Londonderry Lancers will appear in the Pasadena Tournament of Roses Parade. The Lancers should be very proud of their efforts because only the very best bands in the country are asked to participate in this nationally recognized New Years Day parade.

The young men and women of the Lancer Band and Colorguard demonstrate the hard work and dedication that is characteristic of the Granite State students. As special participants in the Tournament of Roses Parade, these students have proven that determination and teamwork are the hallmark of success both as musicians and students. We are honored to have the Lancer Band and Colorguard representing New Hampshire with their outstanding musical performances.

Mr. President, I want to express my thanks to both the students and faculty at Londonderry High School for their commitment to excellence. Congratulations again on such a magnificent accomplishment.•

SHERMAN JUNIOR HIGH SCHOOL, A 1996 NATIONAL BLUE RIBBON SCHOOL OF EXCELLENCE

• Mr. ROCKEFELLER Mr. President, I want to take this opportunity to recognize Sherman Junior High School of Seth, WV. This institution was recently selected as a 1996 National Blue Ribbon School of Excellence by the U.S. Department of Education. It was 1 of 6 secondary schools in my State to garner this prestigious award, and 1 of only 216 public schools from throughout the United States to get this recognition.

Sherman Junior High School's motto is "We believe, we achieve, we succeed." It is thoughtful, provocative and

VOL
142
PT
5
MR
21
—
29
1996
UMI

obviously works. For if believing in yourself defines your ability to succeed, let me share with everyone a little taste of the tremendous feats this school has accomplished.

Sherman Junior High School is nestled in a remote southern portion of my State in Boone County, a rural Appalachia county in our legendary coal fields. The geography of this region is challenging. The coal industry dominates the local economy and has a history of sporadic employment which affects the families and the community greatly, including school enrollment and student attendance.

There are more than 200 students enrolled in Sherman Junior High School and most of them have to be bused over narrow, rough roads within a 20-mile radius of the school. Many ride these buses for almost an hour each way, and more than half of the students qualify for free or reduced lunches. Because these students live in a rural, isolated area, the school is their primary center for most activities ranging from cultural events to sports which are crucial activities to help young people make the transition into adulthood.

Under the leadership and support of Principal John Hudson, the creative staff of Sherman Junior High shared their facilities with the local high school, but maintained their autonomy with a separate administration and faculty. This gives the students a sense of community, while also having access to more facilities and high school programs for students ready to accept more challenging programs. For example, many junior high students have an opportunity to learn basic computer and word processing skills. They can also take advanced academic classes, like a foreign language. Having enhanced opportunities obviously makes a difference in the lives of these young people, because almost 70 percent of the students of Sherman Junior High School score above the 50 percentile on their annual CTBS tests.

This is a time when public education faces many challenges—dwindling resources, intense public debates over the proper role of public education, and integrating new technologies into schoolrooms and teaching. Sherman Junior High is a school that is facing such challenges. The enthusiastic and caring teachers and administrators are committed to providing our students with the quality education. As a National Blue Ribbon School, Sherman Junior High is a role model on how teachers, administrators, parents, and students can come together and create an educational environment that helps young people excel. Every member of Sherman Junior High School should be proud of the accomplishments achieved. It is my pleasure to publicly congratulate this school for its community spirit and academic success. I know this school will keep up the good work, and continue to represent West Virginia proudly.●

MINIMUM WAGE

Mr. BIDEN. Mr. President, I come to this debate on the minimum wage from a different perspective than some of my colleagues here today. In January of this year, my State of Delaware decided to raise the minimum wage, after a debate a lot like the one we are hearing today.

We like to think that Delaware is a special place, Mr. President, and in many ways it is. But it is also a lot like the rest of the country. We have big businesses and small, we have world-class high-technology businesses in chemicals and pharmaceuticals, a cutting-edge financial service sector and—a lot of my colleagues are surprised when I tell them this—a major agricultural sector.

With that kind of diversity, I think Delaware has something to teach the rest of the country. We are, after all, the first State to ratify the Constitution, so we think our example is worth following.

The proposal we adopted in Delaware is much like the one before the Senate today. The proposal before us today would call for a two-step increase in the minimum wage, from the current $4.25 an hour to $5.15. In Delaware, we also chose a two-step increase, from $4.25 to $5.00.

In my State, that increase will directly affect over 30,000 Delawareans and their families, 9.5 percent of the work force, just a little below the national average of 11.5 percent who currently work for the minimum wage.

So Delaware is like the rest of the country, Mr. President, just a little bit ahead of everybody else when it comes to addressing the problem of stagnant family incomes in general and the shrinking value of the minimum wage in particular.

And that is what I would like to talk about today, Mr. President—the puzzle of why, in a growing economy, with rising productivity and rising profits, a full-time job for hard-working adults has failed to provide a rising standard of living.

The minimum wage itself provides one important illustration of this disturbing trend. Since 1991, the last time we raised the minimum wage—with a bipartisan majority, Mr. President, and signed into law by President Bush—the real spending power of the minimum wage has dropped nearly 50 cents.

If we fail to raise the minimum wage, it will drop to a 40-year low when this year is over. Right now, you can put in a full 40-hour workweek, 52 weeks a year, and take home just $8,840, just three-quarters of the poverty level for a family of three.

For those families, with a full-time worker, the current minimum wage is not even the minimum they need to stay out of poverty. That is something we cannot forget as we search for ways to convince more people to stay off of welfare and to turn away from crime.

There are, unfortunately, other examples of the declining rewards of hard work for so many American families.

It is not just those wage earners who are working to keep themselves and their families out of poverty who have seen their incomes stuck, who are running as fast as they can just to keep from falling further behind.

Mr. President, the median wage—the real middle income statistically speaking—is actually 5 percent less this year than it was in 1979. This is happening in an economy that has been growing at about 2.5 percent over the same time.

Where has all that growth been going? Who has gained from the growth in the economy? Between 1977 and 1992, the lowest 20 percent of American families saw their incomes drop 17 percent. But the top 20 percent enjoyed a 28-percent increase, and the top 1 percent saw their incomes shoot up 91 percent—virtually doubling.

So there has been growth, Mr. President, but the distribution of that growth among working families has been increasingly unequal.

Now, I for one do not think that human nature has changed all that much in the last 20 to 25 years. I do not think the richest 1 percent are suddenly twice as smart as they used to be, or that workers at the other end of the scale decided to become less productive.

Something else is going on, Mr. President, something more fundamental and far reaching than a simple business cycle, perhaps something we have seen only a couple of times before in our Nation's economic history. There is a lot of evidence that the economy no longer functions the way it used to, that it no longer provides the stable, middle-income jobs that built America's middle class after World War II.

As someone who has put his faith in the free enterprise system, Mr. President, I am inclined to see these changes as part of the way this system works—changing markets, changing products, changing skills have always been a key feature of the American economy.

But while Americans have a strong tolerance—even an appetite—for the dynamic shifts that characterize our economic system, they have an equally strong sense of fairness. Americans expect that hard work will be rewarded—not with riches, maybe, but certainly with a little security and a little comfort.

For far too many Americans, Mr. President, our system is providing far too much of those dynamic changes and far too little fairness.

I don't want my colleagues to forget that the absolute, bedrock requirement of our democratic system is the belief by the majority of our people that they are being treated fairly. Because this is not just a free enterprise economy, Mr. President, that we have here in America. We are blessed to have a system of popular government that provides and protects the property rights that are the foundation of our economy.

Take away that sense of fairness, take away the sense that at the end of the day, there is some justice in the way our capitalist democracy works, and people can start looking at other systems, other answers. The unhappy history of this century provides too many examples for us to blithely dismiss this problem.

It is not too much to say that the real bottom line that we have to keep our eyes on is on the balance sheet of fairness. No amount of national wealth can buy that sense of fairness, no list of statistics can substitute for it.

As an optimist, Mr. President, I do not believe we are facing an insurmountable crisis. In fact, by my reading, a large part of our history has been a pretty successful search for ways to balance the changing demands of a dynamic economy with the unchanging demand for some basic fairness, for some simple justice, in the way we reward work.

We can make work pay, and make work a realistic alternative to the wasteful choices of welfare or crime, that will surely cost us more than the modest minimum wage bill before us today.

So I urge my colleagues to follow the lead of my State of Delaware. Restore some of the historical value of the minimum wage, some of the justice that is the real bottom line in America.

EDMUND SIXTUS MUSKIE

Mr. PELL. Mr. President, I join my colleagues in paying respect to the memory of former Senator Edmund Muskie. He was a very productive Member of this body and he made great contributions to its deliberations and to the welfare of our Nation. I admired him very much.

I first came to know Ed Muskie when he was Governor of Maine and a delegate to our party's national conventions. I always found him to be a person of great common sense and practicality, traits that reflected his years of experience in the Maine State Legislature and before that as a city official in Waterville.

He was always a highly effective advocate for the interests of New England, and in that role as in other aspects of his wide ranging Senate career, he was capable of displaying his sense of righteous indignation in the interests of producing results.

Perhaps his greatest and most lasting contribution was his work in securing enactment of the Congressional Budget Act of 1974, and his subsequent service as the first chairman of the Senate Budget Committee. Here his practical vision saw the need for a consolidated legislative budget that coordinated and reconciled legislative appropriations with executive spending.

Ed Muskie's Senate career came to a sudden and surprising conclusion with his elevation to the office of Secretary of State in the Carter administration at the height of the Iraq crisis in 1980. It was a measure of Senator Muskie's statute in the Senate and in the Nation that President Carter turned to him at a time when circumstances called for a steady and authoritative hand.

It was a fitting climax to a career of exceptionally distinguished public service.

I join my colleagues in honoring the memory of Edmund Muskie and I extend my sympathy to his wife Jane, family and many associates in Maine and across the country.

ED MUSKIE: A TRIBUTE

Mr. HOLLINGS. Mr. President, I would like to take a moment to pay tribute to a colleague and friend of mine who has just recently passed away. To those of us who were here during the sixties and seventies, Edmund Muskie was more than a fellow legislator, he was a model of what a Senator should be. He was well liked and respected by all, and he listened to his constituents closely, and he effected change on their behalf.

To put it simply, Ed Muskie was the best. Today, with all the talk about the Government being too big, and all the public scorn for the establishment, it is easy to lose sight of the optimism that used to be a driving force of politics. Senator Muskie embodied that optimism; He looked upon government as an opportunity, as a solution to problems. Characteristically, he acted on these beliefs to get things done. He led the demand for fiscal responsibility. As the first chairman of the Senate Budget Committee in 1974, he virtually created the budget process. He will also be remembered as a great environmental legislator. The Clean Water Act, the Clean Air Act: these were not a part of Muskie's political agenda due to pressure from lobbyists or special interest groups. They were things that he believed were necessary, and so he made them happen.

I knew Ed Muskie long before I came to the Senate, and he always felt things keenly. I used to joke with him about what I called his righteous indignation, but I always respected the moral conviction and strength that lay behind it. Senator Muskie detested the influence of lobbies and partisanship, and what they were doing to politics. He was in government to do a good job, not to play games. He was—and in this city, this is a great compliment—a man who got things done. The principles that he lived by came through in his work, whether as a Senator, a Secretary of State or as a lawyer and statesman. He knew the importance of character and of listening to the voter.

In 1970, Senator Muskie gave a memorable speech in which he said: "There are only two kinds of politics. They are not radical and reactionary, or conservative and liberal, or even Democratic and Republican. They are only the politics of fear and the politics of trust." As we head into another election year and another century, these are words to remember. Ed Muskie was a champion of the politics of trust. We will remember him fondly.

EDMUND SIXTUS MUSKIE

Mr. BIDEN. Mr. President, few who ever served in this body have been as universally mourned as those of us from both sides of the aisle who knew him will mourn our former colleague, Ed Muskie, who died here in Washington early this morning.

The reports already circulating on the news wire services and the obituaries that will appear in tomorrow's newspapers, all will make much, and rightly so, out of his long and distinguished service as a public man.

Few men or women in our history have contributed so much to the Nation as Ed Muskie did as a U.S. Senator for 21 years and as Secretary of State; few have contributed as much to their native State as Ed Muskie did as a member of the Maine House of Representatives and as Governor of the State he loved so much; and few have contributed as much to one of the major political parties as Ed Muskie did to the Democratic Party, which he served as a Vice Presidential candidate in 1968 and as chairman of the Democratic Senatorial Campaign Committee.

It is fitting that, upon his death just 2 days before his 82d birthday, Americans should be reminded of his long and faithful public service and leadership—but those of us who knew and served with Ed Muskie will remember him more familiarly as a man of principle, as a powerful personality, and, most of all, as our good friend.

One thing that I learned very quickly, serving with him on the Budget Committee and the Foreign Relations Committee, was that while he exhibited the gravitas—the character and substance—that might be expected of a man whose full given name was Edmund Sixtus Muskie, he was a very human, very good-humored man—most of the time—who was most comfortable simply as Ed Muskie, and who if he was your friend was your friend for life.

It is true that his good humor would sometimes momentarily desert him—he had a temper that verged on the volcanic, and he was capable of weeping

VOL
142
PT
5
MR
21
—
29
1996
UMI

public tears over an insult to the wife whom he loved—but those moments occurred, for the most part, because Ed Muskie never believed that a career in politics obliged his head to divorce his heart; despite a powerful intellect that won him a law degree, a Phi Beta Kappa key and a long, successful career both in law and in politics, he never believed that political feelings must somehow be set aside.

He was passionate about his politics—he believed the work we do here is important to improving the lives of Americans—and he believed that what he felt was as important to achieving that end as what he thought.

But though Ed Muskie sometimes wore his heart unashamedly on his sleeve, he was also very much a Yankee, very much a man of Maine, who put great stock in getting things done, and getting them done at the right price.

By that I am not referring so much to his chairmanship of the Budget Committee—although he certainly exerted a strong hand at that helm, often to the dismay of bureaucrats throughout the land and not infrequently to Senate colleagues who failed to make a strong enough case for their favorite program—no, for him, getting things done at the right price meant achieving that meld of idealism and realism which we often say a democratic system of Government requires but which few of us ever achieve with the grace and consistency of an Ed Muskie.

The people of Maine understood that as well as we did here in the Senate, and he understood and loved them, as well.

I remember him saying one time, "in Maine, we tend not to speak unless we think we can improve upon the silence."

Out of his wisdom, out of his passion, out of his drive to get things done, Ed Muskie often spoke up for Maine and for America—and we need only feel the silence of his passing gather about us now to know how much he improved upon it during a long and accomplished life.

In the words of William Shakespeare, "he was a man, take him for all in all, [we] shall not look upon his like again."

TRIBUTE TO SENATOR MUSKIE

Mr. BAUCUS. Mr. President, this morning we were sad to learn of the passing of one of our most distinguished former colleagues, Senator Edmund Muskie of Maine.

Ed Muskie served our Nation in many ways. He was a soldier. A Governor. The first chairman of the Budget Committee. The Secretary of State. The Democratic Party's candidate for Vice President.

He also was responsible, in large part, for one of the most positive and profound legislative achievements of postwar America: the passage of the environmental laws of the 1970's, to clean up our Nation's air, water, and waste.

Remember what things were like 25 years ago. We had experienced decades of industrial growth without environmental protection. Lead in the air caused brain damage in children. Toxic waste dumps all across the country caused cancer. The Cuyahoga River even caught fire.

Something had to be done. And, as chairman of the Environmental Protection Subcommittee of the Environment and Public Works Committee, Ed Muskie saw that it was. He worked tirelessly to create bipartisan support for landmark environmental laws.

The Clean Water Act, requiring rivers and streams to be fishable and swimmable; the Clean Air Act, cutting emissions from cars and factories; the Safe Drinking Water Act; the Endangered Species Act.

These laws are not perfect. But, on the whole, they have been remarkably successful. Our air is cleaner. Lead emissions fell nearly 90 percent. To put it another way, we took nearly five ounces of lead out of the sky for every American man, woman, and child. Emissions of sulfur dioxide, carbon monoxide, and particulates are way down, and half as many Americans live in cities with unhealthy air as in 1970.

Our water is cleaner. You can swim without getting sick and eat the fish you catch in twice as many rivers and streams. Even the Cuyahoga River has revived, to become a center for tourism in downtown Cleveland. The bald eagle is back from the brink of extinction.

Overall, because of the work of Ed Muskie and his colleagues, our children are growing up in a more healthy and beautiful America.

Mr. President, I am reminded of the Latin epitaph on the tomb of Sir Christopher Wren, the architect of St. Paul's Cathedral. It's inside the cathedral, and it says, "If you would see his memorial, look around."

So it is with Ed Muskie. If you wish to see his memorial, look around you: at the air in our cities; at the Potomac River, or the Cuyahoga; at a cleaner environment from Maine to Montana; at a nation that is more healthy and more beautiful because of his work.

He was a great environmental statesman, and his passing diminishes us.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, as of the close of business yesterday, March 25, 1996, the Federal debt stood—down-to-the-penny—at $5,063,054,197,564.33. On a per capita basis, every man, woman and child in America owes $19,141.70 as his or her share of that debt.

PUBLIC RANGELANDS MANAGEMENT ACT

The text of the bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes, as passed by the Senate on March 21, 1996, is as follows:

S. 1459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the "Public Rangelands Management Act of 1996".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments and repeals made by this Act shall become effective on the date of enactment.

(b) APPLICABLE REGULATIONS.—

(1) Except as provided in paragraph (2), grazing of domestic livestock on lands administered by the Chief of the Forest Service and the Director of the Bureau of Land Management, as defined in section 104(11) of this Act, shall be administered in accordance with the applicable regulations in effect for each agency as of February 1, 1995, until such time as the Secretary of Agriculture and the Secretary of the Interior promulgate new regulations in accordance with this Act.

(2) Resource Advisory Councils established by the Secretary of the Interior after August 21, 1995, may continue to operate in accordance with their charters for a period not to extend beyond February 28, 1997, and shall be subject to the provisions of this Act.

(c) NEW REGULATIONS.—With respect to title I of this Act—

(1) the Secretary of Agriculture and the Secretary of the Interior shall provide, to the maximum extent practicable, for consistent and coordinated administration of livestock grazing and management of rangelands administered by the Chief of the Forest Service and the Director of the Bureau of Land Management, as defined in section 104(11) of this Act, consistent with the laws governing the public lands and the National Forest System;

(2) the Secretary of Agriculture and the Secretary of the Interior shall, to the maximum extent practicable, coordinate the promulgation of new regulations and shall publish such regulations simultaneously.

TITLE I—MANAGEMENT OF GRAZING ON FEDERAL LAND

Subtitle A—General Provisions

SEC. 101. FINDINGS.

(a) FINDINGS.—Congress finds that—

(1) multiple use, as set forth in current law, has been and continues to be a guiding principle in the management of public lands and national forests;

(2) through the cooperative and concerted efforts of the Federal rangeland livestock industry, Federal and State land management agencies, and the general public, the Federal rangelands are in the best condition they have been in during this century, and their condition continues to improve;

(3) as a further consequence of those efforts, populations of wildlife are increasing and stabilizing across vast areas of the West;

(4) grazing preferences must continue to be adequately safeguarded in order to promote the economic stability of the western livestock industry;

(5) it is in the public interest to charge a fee for livestock grazing permits and leases on Federal land that is based on a formula that—

(A) reflects a fair return to the Federal Government and the true costs to the permittee or lessee; and

(B) promotes continuing cooperative stewardship efforts;

(6) opportunities exist for improving efficiency in the administration of the range programs on Federal land by—

(A) reducing planning and analysis costs and their associated paperwork, procedural, and clerical burdens; and

(B) refocusing efforts to the direct management of the resources themselves;

(7) in order to provide meaningful review and oversight of the management of the public rangelands and the grazing allotment on those rangelands, refinement of the reporting of costs of various components of the land management program is needed;

(8) greater local input into the management of the public rangelands is in the best interests of the United States;

(9) the western livestock industry that relies on Federal land plays an important role in preserving the social, economic, and cultural base of rural communities in the Western States and further plays an integral role in the economies of the 16 contiguous Western States with Federal rangelands;

(10) maintaining the economic viability of the western livestock industry is in the best interest of the United States in order to maintain open space and fish and wildlife habitat;

(11) since the enactment of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and the amendment of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) by the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.), the Secretary of the Interior and the Secretary of Agriculture have been charged with coordinating land use inventory, planning and management programs on Bureau of Land Management and National Forest System lands with each other, other Federal departments and agencies, Indian tribes, and State and local governments within which the lands are located, but to date such coordination has not existed to the extent allowed by law; and

(12) it shall not be the policy of the United States to increase or reduce total livestock numbers on Federal land except as is necessary to provide for proper management of resources, based on local conditions, and as provided by existing law related to the management of Federal land and this title.

(b) REPEAL OF EARLIER FINDINGS.—Section 2(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901(a)) is amended—

(1) by striking paragraphs (1), (2), (3), and (4);

(2) by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively;

(3) in paragraph (1) (as so redesignated), by adding "and" at the end; and

(4) in paragraph (2) (as so redesignated)—

(A) by striking "harrassment" and inserting "harassment"; and

(B) by striking the semicolon at the end and inserting a period.

SEC. 102. APPLICATION OF ACT.

(a) This Act applies to—

(1) the management of grazing on Federal land by the Secretary of the Interior under—

(A) the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1269, chapter 865; 43 U.S.C. 315 et seq.);

(B) the Act of August 28, 1937 (commonly known as the "Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act of 1937") (50 Stat. 874, chapter 876; 43 U.S.C. 1181a et seq.);

(C) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(D) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);

(2) the management of grazing on Federal land by the Secretary of Agriculture under—

(A) the 12th undesignated paragraph under the heading "SURVEYING THE PUBLIC LANDS." under the heading "UNDER THE DEPARTMENT OF THE INTERIOR." in the first section of the Act of June 4, 1897 (commonly known as the "Organic Administration Act of 1897") (30 Stat. 11, 35, chapter 2; 16 U.S.C. 551);

(B) the Act of April 24, 1950 (commonly known as the "Granger-Thye Act of 1950") (64 Stat. 85, 88, chapter 97; 16 U.S.C. 580g, 580h, 580l);

(C) the Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 528 et seq.);

(D) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(E) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

(F) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(G) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and

(3) management of grazing by the Secretary on behalf of the head of another department or agency under a memorandum of understanding.

(b) Nothing in this title shall affect grazing in any unit of the National Park System, National Wildlife Refuge System or on any lands that are not Federal lands as defined in this title.

(c) Nothing in this title shall limit or preclude the use of and access to Federal land for hunting, fishing, recreational, watershed management or other appropriate multiple use activities in accordance with applicable Federal and State laws and the principles of multiple use.

(d) Nothing in this title shall affect valid existing rights. Section 1323(a) and 1323(b) of Public Law 96–487 shall continue to apply to nonfederally owned lands.

SEC. 103. OBJECTIVE.

The objective of this title is to—

(1) promote healthy, sustained rangeland;

(2) provide direction for the administration of livestock grazing on Federal land;

(3) enhance productivity of Federal land by conservation of forage resources, reduction of soil erosion, and proper management of other resources such as control of noxious species invasion;

(4) provide stability to the livestock industry that utilizes the public rangeland;

(5) emphasize scientific monitoring of trends and condition to support sound rangeland management;

(6) maintain and improve the condition of riparian areas which are critical to wildlife habitat and water quality; and

(7) maintain and improve the condition of Federal land for multiple-use purposes, including but not limited to wildlife and habitat, consistent with land use plans and other objectives of this section.

SEC. 104. DEFINITIONS.

IN GENERAL.—In this title:

(1) ACTIVE USE.—The term "active use" means the amount of authorized livestock grazing use made at any time.

(2) ACTUAL USE.—The term "actual use" means the number and kinds or classes of livestock, and the length of time that livestock graze on, an allotment.

(3) AFFECTED INTEREST.—The term "affected interest" means an individual or organization that has expressed in writing to the Secretary concern for the management of livestock grazing on a specific allotment, for the purpose of receiving notice of and the opportunity for comment and informal consultation on proposed decisions of the Secretary affecting the allotment.

(4) ALLOTMENT.—The term "allotment" means an area of designated Federal land that includes management for grazing of livestock.

(5) ALLOTMENT MANAGEMENT PLAN.—The term "allotment management plan" has the same meaning as defined in section 103(k) of Public Law 94–579 (43 U.S.C. 1702(k)).

(6) AUTHORIZED OFFICER.—The term "authorized officer" means a person authorized by the Secretary to administer this title, the Acts cited in section 102, and regulations issued under this title and those Acts.

(7) BASE PROPERTY.—The term "base property" means—

(A) private land that has the capability of producing crops or forage that can be used to support authorized livestock for a specified period of the year; or

(B) water that is suitable for consumption by livestock and is available to and accessible by authorized livestock when the land is used for livestock grazing.

(8) CANCEL; CANCELLATION.—The terms "cancel" and "cancellation" refer to a permanent termination, in whole or in part, of—

(A) a grazing permit or lease and grazing preference; or

(B) other grazing authorization.

(9) CONSULTATION, COOPERATION, AND COORDINATION.—The term "consultation, cooperation, and coordination" means, for the purposes of this title and section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)), engagement in good faith efforts to reach consensus.

(10) COORDINATED RESOURCE MANAGEMENT.—The term "coordinated resource management"—

(A) means the planning and implementation of management activities in a specified geographic area that require the coordination and cooperation of the Bureau of Land Management or the Forest Service with affected State agencies, private land owners, and Federal land users; and

(B) may include, but is not limited to practices that provide for conservation, resource protection, resource enhancement or integrated management of multiple-use resources.

(11) FEDERAL LAND.—The term "Federal land"—

(A) means land outside the State of Alaska that is owned by the United States and administered by—

(i) the Secretary of the Interior, acting through the Director of the Bureau of Land Management; or

(ii) the Secretary of Agriculture, acting through the Chief of the Forest Service in the 16 contiguous Western States; but

(B) does not include—

(i) land held in trust for the benefit of Indians; or

(ii) the National Grasslands as defined in section 203.

(12) GRAZING PERMIT OR LEASE.—The term "grazing permit or lease" means a document authorizing use of the Federal land—

(A) within a grazing district under section 3 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315b), for the purpose of grazing livestock;

(B) outside grazing districts under section 15 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48

VOL
142
PT
5
MR
21
—
29
1996
UMI

Stat. 1275, chapter 865; 43 U.S.C. 315m), for the purpose of grazing livestock; or

(C) in a national forest under section 19 of the Act of April 24, 1950 (commonly known as the "Granger-Thye Act of 1950") (64 Stat. 88, chapter 97; 16 U.S.C. 5801), for the purposes of grazing livestock.

(13) GRAZING PREFERENCE.—The term "grazing preference" means the number of animal unit months of livestock grazing on Federal land as adjudicated or apportioned and attached to base property owned or controlled by a permittee or lessee.

(14) LAND BASE PROPERTY.—The term "land base property" means base property described in paragraph (7)(A).

(15) LAND USE PLAN.—The term "land use plan" means—

(A) with respect to Federal land administered by the Bureau of Land Management, one of the following developed in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)—

(i) a resource management plan; or

(ii) a management framework plan that is in effect pending completion of a resource management plan; and

(B) with respect to Federal land administered by the Forest Service, a land and resource management plan developed in accordance with section 6 of the Forest and Rangeland Resources Planning Act of 1974 (16 U.S.C. 1604).

(16) LIVESTOCK CARRYING CAPACITY.—The term "livestock carrying capacity" means the maximum sustainable stocking rate that is possible without inducing long-term damage to vegetation or related resources.

(17) MONITORING.—The term "monitoring" means the orderly collection of data using scientifically-based techniques to determine trend and condition of rangeland resources. Data may include historical information, but must be sufficiently reliable to evaluate—

(A) effects of ecological changes and management actions; and

(B) effectiveness of actions in meeting management objectives.

(18) RANGE IMPROVEMENT.—The term "range improvement"—

(A) means an authorized activity or program on or relating to rangeland that is designed to—

(i) improve production of forage;

(ii) change vegetative composition;

(iii) control patterns of use;

(iv) provide water;

(v) stabilize soil and water conditions; or

(vi) provide habitat for livestock, wild horses and burros, and wildlife; and

(B) includes structures, treatment projects, and use of mechanical means to accomplish the goals described in subparagraph (A).

(19) RANGELAND STUDY.—The term "rangeland study" means a documented study or analysis of data obtained on actual use, utilization, climatic conditions, other special events, production trend, and resource condition and trend to determine whether management objectives are being met, that—

(A) relies on the examination of physical measurements of range attributes and not on cursory visual scanning of land, unless the condition to be assessed is patently obvious and requires no physical measurements;

(B) utilizes a scientifically based and verifiable methodology; and

(C) is accepted by an authorized officer.

(20) SECRETARY; SECRETARIES.—The terms "Secretary" or "Secretaries" mean—

(A) the Secretary of the Interior, in reference to livestock grazing on Federal land administered by the Director of the Bureau of Land Management; and

(B) the Secretary of Agriculture, in reference to livestock grazing on Federal land administered by the Chief of the Forest Service or the National Grasslands referred to in title II.

(21) SUBLEASE.—The term "sublease" means an agreement by a permittee or lessee that—

(A) allows a person other than the permittee or lessee to graze livestock on Federal land without controlling the base property supporting the grazing permit or lease; or

(B) allows grazing on Federal land by livestock not owned or controlled by the permittee or lessee.

(22) SUSPEND; SUSPENSION.—The terms "suspend" and "suspension" refer to a temporary withholding, in whole or in part, of a grazing preference from active use, ordered by the Secretary or done voluntarily by a permittee or lessee.

(23) UTILIZATION.—The term "utilization" means the percentage of a year's forage production consumed or destroyed by herbivores.

(24) WATER BASE PROPERTY.—The term "water base property" means base property described in paragraph (7)(B).

SEC. 105. FUNDAMENTALS OF RANGELAND HEALTH.

(a) STANDARDS AND GUIDELINES.—The Secretary shall establish standards and guidelines for addressing resource condition and trend on a State or regional level in consultation with the Resource Advisory Councils established in section 161, State departments of agriculture and other appropriate State agencies, and academic institutions in each interested State. Standards and guidelines developed pursuant to this subsection shall be consistent with the objectives provided in section 103 and incorporated, by operation of law, into the applicable land use plan to provide guidance and direction for Federal land managers in the performance of their assigned duties.

(b) COORDINATED RESOURCE MANAGEMENT.—The Secretary shall, where appropriate, authorize and encourage the use of coordinated resource management practices. Coordinated resource management practices shall be—

(1) scientifically based;

(2) consistent with goals and management objectives of the applicable land use plan;

(3) for the purposes of promoting good stewardship and conservation of multiple-use rangeland resources; and

(4) authorized under a cooperative agreement with a permittee or lessee, or an organized group of permittees or lessees in a specified geographic area. Notwithstanding the mandatory qualifications required to obtain a grazing permit or lease by this or any other Act, such agreement may include other individuals, organizations, or Federal land users.

(c) COORDINATION OF FEDERAL AGENCIES.—Where coordinated resource management involves private land, State land, and Federal land managed by the Bureau of Land Management or the Forest Service, the Secretaries are hereby authorized and directed to enter into cooperative agreements to coordinate the associated activities of—

(1) the Bureau of Land Management;

(2) the Forest Service;

(3) the Natural Resources Conservation Service; and

(4) State Grazing Districts established under State law.

(d) RULE OF CONSTRUCTION.—Nothing in this title or any other law implies that a minimum national standard or guideline is necessary.

SEC. 106. LAND USE PLANS.

(a) PRINCIPLE OF MULTIPLE USE AND SUSTAINED YIELD.—An authorized officer shall manage livestock grazing on Federal land under the principles of multiple use and sustained yield and in accordance with applicable land use plans.

(b) CONTENTS OF LAND USE PLAN.—With respect to grazing administration, a land use plan shall—

(1) consider the impacts of all multiple uses, including livestock and wildlife grazing, on the environment and condition of public rangelands, and the contributions of these uses to the management, maintenance and improvement of such rangelands;

(2) establish available animal unit months for grazing use, related levels of allowable grazing use, resource condition goals, and management objectives for the Federal land covered by the plan; and

(3) set forth programs and general management practices needed to achieve the purposes of this title.

(c) APPLICATION OF NEPA.—Land use plans and amendments thereto shall be developed in conformance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) CONFORMANCE WITH LAND USE PLAN.—Livestock grazing activities, management actions and decisions approved by the authorized officer, including the issuance, renewal, or transfer of grazing permits or leases, shall not constitute major Federal actions requiring consideration under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in addition to that which is necessary to support the land use plan, and amendments thereto.

(e) Nothing in this section is intended to override the planning and public involvement processes of any other Federal law pertaining to Federal lands.

SEC. 107. REVIEW OF RESOURCE CONDITION.

(a) Upon the issuance, renewal, or transfer of a grazing permit or lease, and at least once every six (6) years, the Secretary shall review all available monitoring data for the affected allotment. If the Secretary's review indicates that the resource condition is not meeting management objectives, then the Secretary shall prepare a brief summary report which—

(1) evaluates the monitoring data;

(2) identifies the unsatisfactory resource conditions and the use or management activities contributing to such conditions; and

(3) makes recommendations for any modifications to management activities, or permit or lease terms and conditions necessary to meet management objectives.

(b) The Secretary shall make copies of the summary report available to the permittee or lessee, and affected interests, and shall allow for a 30-day comment period to coincide with the 30-day time period provided in section 155. At the end of such comment period, the Secretary shall review all comments, and as the Secretary deems necessary, modify management activities, and pursuant to section 134, the permit or lease terms and conditions.

(c) If the Secretary determines that available monitoring data are insufficient to make recommendations pursuant to subsection (a)(3), the Secretary shall establish a reasonable schedule to gather sufficient data pursuant to section 123. Insufficient monitoring data shall not be grounds for the Secretary to refuse to issue, renew or transfer a grazing permit or lease, or to terminate or modify the terms and conditions of an existing grazing permit or lease.

Subtitle B—Qualifications and Grazing Preferences

SEC. 111. SPECIFYING GRAZING PREFERENCE.

(a) IN GENERAL.—A grazing permit or lease shall specify—

(1) a historical grazing preference;

(2) active use, based on the amount of forage available for livestock grazing established in the land use plan;

(3) suspended use; and

(4) voluntary and temporary nonuse.

(b) ATTACHMENT OF GRAZING PREFERENCE.—A grazing preference identified in a grazing permit or lease shall attach to the base property supporting the grazing permit or lease.

(c) ATTACHMENT OF ANIMAL UNIT MONTHS.—The animal unit months of a grazing preference shall attach to—

(1) the acreage of land base property on a pro rata basis; or

(2) water base property on the basis of livestock forage production within the service area of the water.

Subtitle C—Grazing Management

SEC. 121. ALLOTMENT MANAGEMENT PLANS.

If the Secretary elects to develop or revise an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation, and coordination with the lessees, permittees, and landowners involved, the grazing advisory councils established pursuant to section 162, and any State or States having lands within the area to be covered by such allotment management plan. The Secretary shall provide for public participation in the development or revision of an allotment management plan as provided in section 155.

SEC. 122. RANGE IMPROVEMENTS.

(a) RANGE IMPROVEMENT COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may enter into a cooperative agreement with a permittee or lessee for the construction, installation, modification, removal, or use of a permanent range improvement or development of a rangeland to achieve a management or resource condition objective.

(2) COST-SHARING.—A range improvement cooperative agreement shall specify how the costs or labor, or both, shall be shared between the United States and the other parties to the agreement.

(3) TITLE.—

(A) IN GENERAL.—Subject to valid existing rights, title to an authorized structural range improvement under a range improvement cooperative agreement shall be shared by the cooperator(s) and the United States in proportion to the value of the contributions (funding, material, and labor) toward the initial cost of construction.

(B) VALUE OF FEDERAL LAND.—For the purpose of subparagraph (A), only a contribution to the construction, installation, or modification of a permanent rangeland improvement itself, and not the value of Federal land on which the improvement is placed, shall be taken into account.

(4) NONSTRUCTURAL RANGE IMPROVEMENTS.—A range improvement cooperative agreement shall ensure that the respective parties enjoy the benefits of any nonstructural range improvement, such as seeding, spraying, and chaining, in proportion to each party's contribution to the improvement.

(5) INCENTIVES.—A range improvement cooperative agreement shall contain terms and conditions that are designed to provide a permittee or lessee an incentive for investing in range improvements.

(b) RANGE IMPROVEMENT PERMITS.—

(1) APPLICATION.—A permittee or lessee may apply for a range improvement permit to construct, install, modify, maintain, or use a range improvement that is needed to achieve management objectives within the permittee's or lessee's allotment.

(2) FUNDING.—A permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance of a range improvement covered by a range improvement permit.

(3) AUTHORIZED OFFICER TO ISSUE.—A range improvement permit shall be issued at the discretion of the authorized officer.

(4) TITLE.—Title to an authorized permanent range improvement under a range improvement permit shall be in the name of the permittee or lessee.

(5) CONTROL.—The use by livestock of stock ponds or wells authorized by a range improvement permit shall be controlled by the permittee or lessee holding a range improvement permit.

(c) ASSIGNMENT OF RANGE IMPROVEMENTS.—An authorized officer shall not approve the transfer of a grazing preference, or approve use by the transferee of existing range improvements unless the transferee has agreed to compensate the transferor for the transferor's interest in the authorized permanent improvements within the allotment as of the date of the transfer.

SEC. 123. MONITORING AND INSPECTION.

(a) MONITORING.—Monitoring of resource condition and trend of Federal land on an allotment shall be performed by qualified persons approved by the Secretary, including but not limited to Federal, State, or local government personnel, consultants, and grazing permittees or lessees.

(b) INSPECTION.—Inspection of a grazing allotment shall be performed by qualified Federal, State or local agency personnel, or qualified consultants retained by the United States.

(c) MONITORING CRITERIA AND PROTOCOLS.—Rangeland monitoring shall be conducted according to regional or State criteria and protocols that are scientifically based. Criteria and protocols shall be developed by the Secretary in consultation with the Resource Advisory Councils established in section 161, State departments of agriculture and other appropriate State agencies, and academic institutions in each interested State.

(d) OVERSIGHT.—The authorized officer shall provide sufficient oversight to ensure that all monitoring is conducted in accordance with criteria and protocols established pursuant to subsection (c).

(e) NOTICE.—In conducting monitoring activities, the Secretary shall provide reasonable notice of such activities to permittees or lessees, including prior notice to the extent practicable of not less than 48 hours. Prior notice shall not be required for the purposes of inspections, if the authorized officer has substantial grounds to believe that a violation of this or any other Act is occurring on the allotment.

SEC. 124. WATER RIGHTS.

(a) IN GENERAL.—No water rights on Federal land shall be acquired, perfected, owned, controlled, maintained, administered, or transferred in connection with livestock grazing management other than in accordance with State law concerning the use and appropriation of water within the State.

(b) STATE LAW.—In managing livestock grazing on Federal land, the Secretary shall follow State law with regard to water right ownership and appropriation.

(c) AUTHORIZED USE OR TRANSPORT.—The Secretary cannot require permittees or lessees to transfer or relinquish all or a portion of their water right to another party, including but not limited to the United States, as a condition to granting a grazing permit or lease, range improvement cooperative agreement or range improvement permit.

(d) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to create an expressed or implied reservation of water rights in the United States.

(e) VALID EXISTING RIGHTS.—Nothing in this Act shall affect valid existing water rights.

Subtitle D—Authorization of Grazing Use

SEC. 131. GRAZING PERMITS OR LEASES.

(a) TERMS.—A grazing permit or lease shall be issued for a term of 12 years unless—

(1) the land is pending disposal;

(2) the land will be devoted to a public purpose that precludes grazing prior to the end of 12 years; or

(3) the Secretary determines that it would be in the best interest of sound land management to specify a shorter term, if the decision to specify a shorter term is supported by appropriate and accepted resource analysis and evaluation, and a shorter term is determined to be necessary, based upon monitoring information, to achieve resource condition goals and management objectives.

(b) RENEWAL.—A permittee or lessee holding a grazing permit or lease shall be given first priority at the end of the term for renewal of the grazing permit or lease if—

(1) the land for which the grazing permit or lease is issued remains available for domestic livestock grazing;

(2) the permittee or lessee is in compliance with this title and the terms and conditions of the grazing permit or lease; and

(3) the permittee or lessee accepts the terms and conditions included by the authorized officer in the new grazing permit or lease.

SEC. 132. SUBLEASING.

(a) IN GENERAL.—The Secretary shall only authorize subleasing of a Federal grazing permit or lease, in whole or in part—

(1) if the permittee or lessee is unable to make full grazing use due to ill health or death; or

(2) under a cooperative agreement with a grazing permittee or lessee (or group of grazing permittees or lessees), pursuant to section 105(b).

(b) CONSIDERATIONS.—

(1) Livestock owned by a spouse, child, or grandchild of a permittee or lessee shall be considered as owned by the permittee or lessee for the sole purposes of this title.

(2) Leasing or subleasing of base property, in whole or in part, shall not be considered as subleasing of a Federal grazing permit or lease: *Provided*, That the grazing preference associated with such base property is transferred to the person controlling the leased or subleased base property.

SEC. 133. OWNERSHIP AND IDENTIFICATION OF LIVESTOCK.

(a) IN GENERAL.—A permittee or lessee shall own or control and be responsible for the management of the livestock that graze the Federal land under a grazing permit or lease.

(b) MARKING OR TAGGING.—An authorized officer shall not impose any marking or tagging requirement in addition to the requirement under State law.

SEC. 134. TERMS AND CONDITIONS.

(a) IN GENERAL.—

(1) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the

VOL
142
PT
5
MR
21
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29
1996
UMI

amount of use (stated in animal unit months) in a grazing permit or lease.

(2) A grazing permit or lease shall be subject to such other reasonable terms or conditions as may be necessary to achieve the objectives of this title, or as contained in an approved allotment management plan.

(3) No term or condition of a grazing permit or lease shall be imposed pertaining to past practice or present willingness of an applicant, permittee or lessee to relinquish control of public access to Federal land across private land.

(4) The authorized officer shall ensure that a grazing permit or lease will be consistent with appropriate standards and guidelines developed pursuant to section 105 as are appropriate to the permit or lease.

(b) MODIFICATION.—Following careful and considered consultation, cooperation, and coordination with permittees and lessees, an authorized officer shall modify the terms and conditions of a grazing permit or lease if monitoring data show that the grazing use is not meeting the management objectives established in a land use plan or allotment management plan, and if modification of such terms and conditions is necessary to meet specific management objectives.

SEC. 135. FEES AND CHARGES.

(a) GRAZING FEES.—The fee for each animal unit month in a grazing fee year to be determined by the Secretary shall be equal to the three-year average of the total gross value of production for beef cattle for the three years preceding the grazing fee year, multiplied by the 10-year average of the United States Treasury Securities 6-month bill "new issue" rate, and divided by 12. The gross value of production for beef cattle shall be determined by the Economic Research Service of the Department of Agriculture in accordance with subsection (e)(1).

(b) DEFINITION OF ANIMAL UNIT MONTH.—For the purposes of billing only, the term "animal unit month" means one month's use and occupancy of range by—

(1) one cow, bull, steer, heifer, horse, burro, or mule, seven sheep, or seven goats, each of which is six months of age or older on the date on which the animal begins grazing on Federal land;

(2) any such animal regardless of age if the animal is weaned on the date on which the animal begins grazing on Federal land; and

(3) any such animal that will become 12 months of age during the period of use authorized under a grazing permit or lease.

(c) LIVESTOCK NOT COUNTED.—There shall not be counted as an animal unit month the use of Federal land for grazing by an animal that is less than six months of age on the date on which the animal begins grazing on Federal land and is the natural progeny of an animal on which a grazing fee is paid if the animal is removed from the Federal land before becoming 12 months of age.

(d) OTHER FEES AND CHARGES.—

(1) CROSSING PERMITS, TRANSFERS, AND BILLING NOTICES.—A service charge shall be assessed for each crossing permit, transfer of grazing preference, and replacement or supplemental billing notice except in a case in which the action is initiated by the authorized officer.

(2) AMOUNT OF FLPMA FEES AND CHARGES.—The fees and charges under section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a)) shall reflect processing costs and shall be adjusted periodically as costs change.

(3) NOTICE OF CHANGE.—Notice of a change in a service charge shall be published in the Federal Register.

(e) CRITERIA FOR ERS.—

(1) The Economic Research Service of the Department of Agriculture shall continue to compile and report the gross value of production of beef cattle, on a dollars-per-bred-cow basis for the United States, as is currently published by the Service in: "Economic Indicators of the Farm Sector: Cost of Production—Major Field Crops and Livestock and Dairy" (Cow-calf production cash costs and returns).

(2) For the purposes of determining the grazing fee for a given grazing fee year, the gross value of production (as described above) for the previous calendar year shall be made available to the Secretary of the Interior and the Secretary of Agriculture, and published in the Federal Register, on or before February 15 of each year.

SEC. 136. USE OF STATE SHARE OF GRAZING FEES.

Section 10 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (43 U.S.C. 315i) is amended—

(1) in subsection (a), by striking "for the benefit of" and inserting "in a manner that will result in direct benefit to, improved access to, or more effective management of the rangeland resources in";

(2) at the end of subsection (a), by striking ";" and inserting ": *Provided further*, that no such moneys shall be expended for litigation purposes;";

(3) in subsection (b), by striking "for the benefit of" and inserting "in a manner that will result in direct benefit to, improved access to, or more effective management of the rangeland resources in";

(4) at the end of subsection (b), by striking "." and inserting ": *Provided further*, That no such moneys shall be expended for litigation purposes.".

Subtitle E—Unauthorized Grazing Use

SEC. 141. NONMONETARY SETTLEMENT.

An authorized officer may approve a nonmonetary settlement of a case of a violation described in section 141 if the authorized officer determines that each of the following conditions is satisfied:

(1) NO FAULT.—Evidence shows that the unauthorized use occurred through no fault of the livestock operator.

(2) INSIGNIFICANCE.—The forage use is insignificant.

(3) NO DAMAGE.—Federal land has not been damaged.

(4) BEST INTERESTS.—Nonmonetary settlement is in the best interests of the United States.

SEC. 142. IMPOUNDMENT AND SALE.

Any impoundment and sale of unauthorized livestock on Federal land shall be conducted in accordance with State law.

Subtitle F—Procedure

SEC. 151. PROPOSED DECISIONS.

(a) SERVICE ON APPLICANTS, PERMITTEES, LESSEES, AND LIENHOLDERS.—The authorized officer shall serve, by certified mail or personal delivery, a proposed decision on any applicant, permittee, lessee, or lienholder (or agent of record of the applicant, permittee, lessee, or lienholder) that is affected by—

(1) a proposed action on an application for a grazing permit or lease, or range improvement permit; or

(2) a proposed action relating to a term or condition of a grazing permit or lease, or a range improvement permit.

(b) NOTIFICATION OF AFFECTED INTERESTS.—The authorized officer shall send copies of a proposed decision to affected interests.

(c) CONTENTS.—A proposed decision described in subsection (a) shall—

(1) state reasons for the action, including reference to applicable law (including regulations);

(2) be based upon, and supported by rangeland studies, where appropriate; and

(3) state that any protest to the proposed decision must be filed not later than 30 days after service.

SEC. 152. PROTESTS.

An applicant, permittee, or lessee may protest a proposed decision under section 151 in writing to the authorized officer within 30 days after service of the proposed decision.

SEC. 153. FINAL DECISIONS.

(a) NO PROTEST.—In the absence of a timely filed protest, a proposed decision described in section 151(a) shall become the final decision of the authorized officer without further notice.

(b) RECONSIDERATION.—If a protest is timely filed, the authorized officer shall reconsider the proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case.

(c) SERVICE AND NOTIFICATION.—After reviewing the protest, the authorized officer shall serve a final decision on the parties to the proceeding, and notify affected interests of the final decision.

SEC. 154. APPEALS.

(a) IN GENERAL.—Any person whose interest is adversely affected by a final decision of an authorized officer, within the meaning of section 702 of title 5, United States Code, may appeal the decision within 30 days after the receipt of the decision, or within 60 days after the receipt of a proposed decision if further notice of a final decision is not required under this title, pursuant to applicable laws and regulations governing the administrative appeals process of the agency serving the decision. Being an affected interest as described in section 104(3) shall not in and of itself confer standing to appeal a final decision upon any individual or organization.

(b) SUSPENSION PENDING APPEAL.—

(1) IN GENERAL.—An appeal of a final decision shall suspend the effect of the decision pending final action on the appeal unless the decision is made effective pending appeal under paragraph (2).

(2) EFFECTIVENESS PENDING APPEAL.—The authorized officer may place a final decision in full force and effect in an emergency to stop resource deterioration or economic distress, if the authorized officer has substantial grounds to believe that resource deterioration or economic distress is imminent. Full force and effect decisions shall take effect on the date specified, regardless of an appeal.

(c) In the case of an appeal under this section, the authorized officer shall, within 30 days of receipt, forward the appeal, all documents and information submitted by the applicant, permittee, lessee, or lienholder, and any pertinent information that would be useful in the rendering of a decision on such appeal, to the appropriate authority responsible for issuing the final decision on the appeal.

SEC. 155. PUBLIC PARTICIPATION AND CONSULTATION.

(a) GENERAL PUBLIC.—The Secretary shall provide for public participation, including a reasonable opportunity to comment, on—

(1) land use plans and amendments thereto; and

(2) development of standards and guidelines to provide guidance and direction for Federal land managers in the performance of their assigned duties.

(b) AFFECTED INTERESTS.—At least 30 days prior to the issuance of a final decision, the

Secretary shall notify affected interests of such proposed decision, and provide a reasonable opportunity for comment and informal consultation regarding the proposed decision within such 30-day period, for—

(1) the designation or modification of allotment boundaries;

(2) the development, revision, or termination of allotment management plans;

(3) the increase or decrease of permitted use;

(4) the issuance, renewal, or transfer of grazing permits or leases;

(5) the modification of terms and conditions of permits or leases;

(6) reports evaluating monitoring data for a permit or lease; and

(7) the issuance of temporary non-renewable use permits.

Subtitle G—Advisory Committees

SEC. 161. RESOURCE ADVISORY COUNCILS.

(a) ESTABLISHMENT.—The Secretary of Agriculture and the Secretary of the Interior, in consultation with the Governors of the affected States, shall establish and operate joint Resource Advisory Councils on a State or regional level to provide advice on management issues for all lands administered by the Bureau of Land Management and the Forest Service within such State or regional area, except where the Secretaries determine that there is insufficient interest in participation on a council to ensure that membership can be fairly balanced in terms of the points of view represented and the functions to be performed.

(b) DUTIES.—Each Resource Advisory Council shall advise the Secretaries and appropriate State officials on—

(1) matters regarding the preparation, amendment, and implementation of land use and activity plans for public lands and resources within its area; and

(2) major management decisions while working within the broad management objectives established for the district or national forest.

(c) DISREGARD OF ADVICE.—

(1) REQUEST FOR RESPONSE.—If a Resource Advisory Council becomes concerned that its advice is being arbitrarily disregarded, the Resource Advisory Council may, by majority vote of its members, request that the Secretaries respond directly to the Resource Advisory Council's concerns within 60 days after the Secretaries receive the request.

(2) EFFECT OF RESPONSE.—The response of the Secretaries to a request under paragraph (1) shall not—

(A) constitute a decision on the merits of any issue that is or might become the subject of an administrative appeal; or

(B) be subject to appeal.

(d) MEMBERSHIP.—

(1) The Secretaries, in consultation with the Governor of the affected State or States, shall appoint the members of each Resource Advisory Council. A council shall consist of not less than nine members and not more than fifteen members.

(2) In appointing members to a Resource Advisory Council, the Secretaries shall provide for balanced and broad representation from among various groups, including but not limited to, permittees and lessees, other commercial interests, recreational users, representatives of recognized local environmental or conservation organizations, educational, professional, or academic interests, representatives of State and local government or governmental agencies, Indian tribes, and other members of the affected public.

(3) The Secretaries shall appoint at least one elected official of general purpose government serving the people of the area of each Resource Advisory Council.

(4) No person may serve concurrently on more than one Resource Advisory Council.

(5) Members of a Resource Advisory Council must reside in one of the States within the geographic jurisdiction of the council.

(e) SUBGROUPS.—A Resource Advisory Council may establish such subgroups as the council deems necessary, including but not limited to working groups, technical review teams, and rangeland resource groups.

(f) TERMS.—Resource Advisory Council members shall be appointed for two-year terms. Members may be appointed to additional terms at the discretion of the Secretaries.

(g) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this subtitle, the Federal Advisory Committee Act shall apply to the Resource Advisory Councils established under this section.

(h) OTHER FLPMA ADVISORY COUNCILS.—Nothing in this section shall be construed as modifying the authority of the Secretaries to establish other advisory councils under section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739).

(i) STATE GRAZING DISTRICTS.—Resource Advisory Councils shall coordinate and cooperate with State Grazing Districts established pursuant to State law.

SEC. 162. GRAZING ADVISORY COUNCILS.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Governor of the affected State and with affected counties, shall appoint not fewer than five nor more than nine persons to serve on a Grazing Advisory Council for each district and each national forest within the 16 contiguous Western States having jurisdiction over more than 500,000 acres of public lands subject to commercial livestock grazing. The Secretaries may establish joint Grazing Advisory Councils wherever practicable.

(b) DUTIES.—The duties of Grazing Advisory Councils established pursuant to this section shall be to provide advice to the Secretary concerning management issues directly related to the grazing of livestock on public lands, including—

(1) range improvement objectives;

(2) the expenditure of range improvement or betterment funds under the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.) or the Taylor Grazing Act (43 U.S.C. 315 et seq.);

(3) developing and implementation of grazing management programs; and

(4) range management decisions and actions at the allotment level.

(c) DISREGARD OF ADVICE.—

(1) REQUEST FOR RESPONSE.—If a Grazing Advisory Council becomes concerned that its advice is being arbitrarily disregarded, the Grazing Advisory Council may, by unanimous vote of its members, request that the Secretary respond directly to the Grazing Advisory Council's concerns within 60 days after the Secretary receives the request.

(2) EFFECT OF RESPONSE.—The response of the Secretary to a request under paragraph (1) shall not—

(A) constitute a decision on the merits of any issue that is or might become the subject of an administrative appeal; or

(B) be subject to appeal.

(d) MEMBERSHIP.—The members of a Grazing Advisory Council established pursuant to this section shall represent permittees, lessees, affected landowners, social and economic interests within the district or national forest, and elected State or county officers. All members shall have a demonstrated knowledge of grazing management and range improvement practices appropriate for the region, and shall be residents of a community within or adjacent to the district or national forest, or control a permit or lease within the same area. Members shall be appointed by the Secretary for a term of two years, and may be appointed for additional consecutive terms. The membership of Grazing Advisory Councils shall be equally divided between permittees or lessees, and other interests: *Provided*, That one elected State or county officer representing the people of an area within the district or national forest shall be appointed to create an odd number of members: *Provided further*, That permittees or lessees appointed as members of each Grazing Advisory Council shall be recommended to the Secretary by the permittees or lessees of the district or national forest through an election conducted under rules and regulations prescribed by the Secretary.

(e) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this subtitle, the Federal Advisory Committee Act shall apply to the Grazing Advisory Councils established pursuant to this section.

(f) STATE GRAZING DISTRICTS.—Grazing Advisory Councils shall coordinate and cooperate with State Grazing Districts established pursuant to State law.

SEC. 163. GENERAL PROVISIONS.

(a) DEFINITION OF DISTRICT.—For the purposes of this subtitle, the term "district" means—

(1) a grazing district administered under section 3 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315b); or

(2) other lands within a State boundary which are eligible for grazing pursuant to section 15 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315m).

(b) TERMINATION OF SERVICE.—The Secretary may, after written notice, terminate the service of a member of an advisory committee if—

(1) the member—

(A) no longer meets the requirements under which appointed;

(B) fails or is unable to participate regularly in committee work; or

(C) has violated Federal law (including a regulation); or

(2) in the judgment of the Secretary, termination is in the public interest.

(c) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—A member of an advisory committee established under sections 161 and 162 shall not receive any compensation in connection with the performance of the member's duties as a member of the advisory committee, but shall be reimbursed for travel and per diem expenses only while on official business, as authorized by section 5703 of title 5, United States Code.

SEC. 164. CONFORMING AMENDMENT AND REPEAL.

(a) AMENDMENT.—The third sentence of section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)) is amended by striking "district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753)" and inserting "Resource Advisory Councils and Grazing Advisory Councils established under section 161 and section 162 of the Public Rangelands Management Act of 1996".

(b) REPEAL.—Section 403 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753) is repealed.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Subtitle H—Reports

SEC. 171. REPORTS.

(a) IN GENERAL.—Not later than March 1, 1997, and annually thereafter, the Secretaries shall submit to Congress a report that contains—

(1) an itemization of revenues received and costs incurred directly in connection with the management of grazing on Federal land; and

(2) recommendations for reducing administrative costs and improving the overall efficiency of Federal rangeland management.

(b) ITEMIZATION.—If the itemization of costs under subsection (a)(1) includes any costs incurred in connection with the implementation of any law other than a statute cited in section 102, the Secretaries shall indicate with specificity the costs associated with implementation of each such statute.

Title II—Management of National Grasslands

SEC. 201. SHORT TITLE.

This title may be cited as the "National Grasslands Management Act of 1996".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the inclusion of the National Grasslands within the National Forest System has prevented the Secretary of Agriculture from effectively administering and promoting grassland agriculture on National Grasslands as originally intended under the Bankhead-Jones Farm Tenant Act;

(2) the National Grasslands can be more effectively managed by the Secretary of Agriculture if administered as a separate entity outside of the National Forest System; and

(3) a grazing program on National Grasslands can be responsibly carried out while protecting and preserving sporting, recreational, environmental, and other multiple uses of the National Grasslands.

(b) PURPOSE.—The purpose of this title is to provide for improved management and more efficient administration of grazing activities on National Grasslands while preserving and protecting multiple uses of such lands, including but not limited to preserving sportmen's hunting and fishing and other recreational activities, and protecting wildlife habitat in accordance with applicable laws.

SEC. 203. DEFINITIONS.

As used in this title, the term—

(1) "National Grasslands" means those areas managed as National Grasslands by the Secretary of Agriculture under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012) on the day before the date of enactment of this title; and

(2) "Secretary" means the Secretary of Agriculture.

SEC. 204. REMOVAL OF NATIONAL GRASSLANDS FROM NATIONAL FOREST SYSTEM.

Section 11(a) of the Forest Rangeland Renewable Resource Planning Act of 1974 (16 U.S.C. 1609(a)) is amended by striking the phrase "the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525, 7 U.S.C. 1010–1012),".

SEC. 205. MANAGEMENT OF NATIONAL GRASSLANDS.

(a) IN GENERAL.—The Secretary, acting through the Chief of the Forest Service, shall manage the National Grasslands as a separate entity in accordance with this title and the provisions and multiple use purposes of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012).

(b) CONSULTATION.—The Secretary shall provide timely opportunities for consultation and cooperation with interested State and local government entities, and other interested individuals and organizations in the development and implementation of land use policies and plans, and land conservation programs for the National Grasslands.

(c) GRAZING ACTIVITIES.—In furtherance of the purposes of this title, the Secretary shall administer grazing permits and implement grazing management decisions in consultation, cooperation, and coordination with local grazing associations and other grazing permit holders.

(d) REGULATIONS.—The Secretary shall promulgate regulations to manage and protect the National Grasslands, taking into account the unique characteristics of the National Grasslands and grasslands agriculture conducted under the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010). Such regulations shall facilitate the efficient administration of grazing and provide protection for the environment, wildlife, wildlife habitat, and Federal lands equivalent to that on the National Grasslands on the day prior to the date of enactment of this Act.

(e) CONFORMING AMENDMENT TO BANKHEAD-JONES ACT.—Section 31 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010) is amended to read as follows:

"To accomplish the purposes of title III of this Act, the Secretary is authorized and directed to develop a separate program of land conservation and utilization for the National Grasslands, in order thereby to correct maladjustments in land use, and thus assist in promoting grassland agriculture and secure occupancy and economic stability of farms and ranches, controlling soil erosion, reforestation, preserving and protecting natural resources, protecting fish and wildlife and their habitat, developing and protecting recreational opportunities and facilities, mitigating floods, preventing impairment of dams and reservoirs, developing energy resources, conserving surface and subsurface moisture, protecting the watersheds of navigable streams, and protecting the public lands, health, safety and welfare, but not to build industrial parks or commercial enterprises.".

(f) SPORTSMEN'S HUNTING AND FISHING, AND OTHER RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding sportsmen's hunting or fishing activities on National Grasslands in accordance with applicable Federal and State laws, nor shall appropriate recreational activities be limited or precluded.

(g) VALID EXISTING RIGHTS.—

(1) IN GENERAL.—Nothing in this title shall affect valid existing rights, reservations, agreements, or authorizations. Section 1323(a) of Public Law 96–487 shall continue to apply to non-Federal land and interests therein within the boundaries of the National Grasslands.

(2) INTERIM USE AND OCCUPANCY.—

(A) Until such time as regulations concerning the use and occupancy of the National Grasslands are promulgated pursuant to this title, the Secretary shall regulate the use and occupancy of such lands in accordance with regulations applicable to such lands on May 25, 1995, to the extent practicable and consistent with the provisions of this Act.

(B) Any applications for National Grasslands use and occupancy authorizations submitted prior to the date of enactment of this Act, shall continue to be processed without interruption and without reinitiating any processing activity already completed or begun prior to such date.

SEC. 206. FEES AND CHARGES.

Fees and charges for grazing on the National Grasslands shall be determined in accordance with section 135, except that the Secretary may adjust the amount of a grazing fee to compensate for approved conservation practices expenditures.

PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1995

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 1296) to provide for the administration of certain Presidio properties at a minimal cost to the Federal taxpayer.

The Senate resumed consideration of the bill.

Pending: Murkowski modified amendment No. 3564, in the nature of a substitute.

AMENDMENT NO. 3564, AS MODIFIED

Mr. CAMPBELL. Mr. President, I rise today in support of my substitute amendment for the Presidio bill, offered in conjunction with the Senator from Alaska and the majority leader. Many people have been waiting a long time for this bill. I know the Senators from California and Congresswoman PELOSI have put a great deal of time and energy into this legislation, as have the staff from the Energy Committee and personal offices. In our efforts to try to reach consensus on all levels, we have managed to craft a bill that will provide enough balance and flexibility to incorporate all points of view. This bill offers a unique, creative and innovative approach to provide for the long-term protection and preservation of one of our Nation's greatest cultural, historical, and natural treasures.

When I was a college student at San Jose State University, my buddies and I would often take off for the weekend to "the city." One of my favorite places back then was the Presidio, and I spent a lot of time exploring the batteries and bunkers along the coast. It is just a spectacular site, situated on the threshold of the Golden Gate Bridge, overlooking the entire bay area. Last fall, I had the opportunity to visit the Presidio, and found that the base had changed very little in the years since I was a college student at San Jose.

There is something very special about the Presidio. The natural beauty, as well as the impressive history of the site captivated me 40 years ago, and continues to captivate millions of tourists, locals, and even some politicians today.

Before Christopher Columbus arrived in the New World, the indigenous tribes of Ohlone and Miwok inhabited the area known now as San Francisco. Taking advantage of this unique natural harbor, these tribes flourished from fishing in the plentiful bay.

When the land was finally taken over by the white new immigrants, the Presidio almost immediately became a strategic military post. For over 220 years, the Presidio is the oldest continually operated military post, commanded first by Spain in 1776, then Mexico and finally the United States in 1846. The Presidio has played a supporting role in almost every single major military conflict the United States has ever engaged in, starting with the Spanish-American War to the Civil War, World War I, and of course, World War II. The Presidio served also as a refuge for an estimated 16,000 people after the great earthquake and fire of 1906, and was the very first Army airfield established in the Nation in 1921.

Mr. President, the history of this national historic landmark is indeed distinguished and celebrated. I comment on it to describe to my colleagues the unique nature of this site and thus to explain the particulars of the legislation it requires.

For the past 7 years, since the Base Closure and Realignment Commission [BRAC] included the Presidio on its list of bases to be closed, the fate of the Presidio has been somewhat uncertain. When the National Park Service took control of the post in 1994, along with the addition of one of the most glorious parks to the system, the Park Service was faced with one of their most complex and challenging management problems.

Aside from its spectacular natural beauty, the Presidio is unlike any other national park. Scattered throughout the grounds are over 1,200 residential units, more than 6.2 million square feet of building space, and dozens of miles of paved roads. Because of the nature of the historic facilities, the cost of maintenance and management of this site is a whopping $25 million a year, making it our most expensive national park. Faced with the fiscal realities that we, in the Federal Government, must confront, the question that was posed to Congress was this: How can we continue to protect and preserve the Presidio for the benefit of all Americans without draining the already limited reserves of the National Park Service?

Mr. President, I believe the substitute amendment offered by Senators DOLE and MURKOWSKI and myself answers this question and in so doing, strikes the balance that we are all looking for.

The bill before us today establishes a mechanism that will reduce the need for appropriations to operate the Presidio. Rather than seeing the infrastructure in the Presidio as obstacles to the preservation of the park, this bill will utilize these buildings to generate revenues that will be recycled back into the funds that manage the park. By weaning the Presidio off of Federal taxpayer dependency, this bill will eventually create a self-sustaining park. The management structure created by our bill will enable the Presidio to be used in such a way that it will pay for itself.

Mr. President, our legislation will create a public-private management entity—the Presidio Trust—to provide for the management of the leasing, maintenance, and repair of the property within the Presidio. In addition, the National Park Service will continue to provide its expert guidance for interpretive services, visitor orientation, and educational programs. Under the structure of cooperative management, this bill will allow the trust (made up of private sector real estate and finance experts) and the Park Service to manage what they manage best, thereby eliminating costly bureaucratic blunders. If the bill is enacted, the Presidio will be the only unit of the National Park System, that will cost significantly less in 10 years than it costs today.

Mr. President, as I mentioned, I had the opportunity to tour the base facilities in San Francisco, as well as meet with the various interest groups last fall. While there were some differences on what the legislation affecting the Presidio should include, the groups were unanimous in their belief that the base should remain as a unit of the National Park System. People expressed real fears that there was a movement to sell the Presidio to a private developer, and I stated, at the time, that a sale would happen, "over my dead body." Many of my colleagues feel the same way.

This bill will not enable private interests to develop swank upscale condos, or private dining clubs. This bill will cater only to the interests of all Americans, by protecting the invaluable cultural, historic, and natural resources of the Presidio for this generation and generations to come. It is quite simply a good government approach that strikes a balance with the fiscal realities of our time with the need for continued conservation and preservation. I urge my colleagues to support this worthy piece of legislation.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the substitute to H.R. 1296.

Mr. DOLE. Presidio properties bill, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. As I understand, I do not know how many different projects are involved here, but they are all related and come from the Energy and Natural Resources Committee. I understand the Senator from Massachusetts would like to add to that the minimum wage amendment, which we do not believe belongs on this bill. Maybe it will belong on some other bill. It should not be considered at this time.

We would like to complete action on this. We have a number of items to complete this week, including, we hope, the farm bill conference report, line-item veto conference report, the omnibus appropriations bill, and, of course, the debt ceiling. It would be our hope we can complete action some time early on Friday. That may or may not happen. If not, I suggest we probably would have to be here on Saturday to complete action on those bills because some relate to whether or not the Government is shut down. The debt extension is very important, too.

So we can avoid—there will be a cloture vote on this bill tomorrow morning rather early. We have not decided the exact time, so we stay on the matter and amendments germane to the pending business.

AMENDMENT NO. 3571 TO AMENDMENT NO. 3564

(Purpose: To provide for the exchange of certain lands within the State of Montana)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. BURNS, proposes an amendment numbered 3571 to amendment No. 3564.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

TITLE —MISCELLANEOUS

SEC. 01. LOST CREEK LAND EXCHANGE.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (referred to in this Act as the "Secretary") shall acquire by exchange certain land and interests in land owned by R–Y Timber, Inc., its successors and assigns or affiliates (referred to in this Act as "R–Y"), located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

(2) OFFER AND ACCEPTANCE OF LAND.—

(A) NON-FEDERAL LAND.—If R–Y offers fee title that is acceptable to the United States to approximately 17,567 acres of land owned by R–Y and available for exchange, the Secretary shall accept a warranty deed to the land.

(B) FEDERAL LAND.—

(i) CONVEYANCE.—On acceptance of title to R–Y's land under paragraph (1), the Secretary shall convey to R–Y, subject to reservations and valid existing rights, by patent, fee title to lands and timber deeds of a value that is approximately equal to the value of the land described in subsection (a).

(ii) TIMBER HARVEST PROVISIONS.—

(I) PRACTICES.—Timber harvest practices used on the national forest land conveyed under clause (i) shall be conducted in accordance with Montana Forestry Best Management Practices, the Montana Streamside Zone Management Law (Mont. Code Ann. sec. 77–5–301 et seq.), and all other applicable laws of the State of Montana.

(II) RELATION TO PLANNED SALES.—Timber harvest volumes on land conveyed under clause (i) shall be in addition to, and not treated in any way as an offset against, the present or future planned timber sale quantities for the National Forest where the harvesting occurs.

VOL 142 PT 5 MR 21 — 29 1996 UMI

(III) TIMBER DESIGNATIONS.—

(aa) CONTRACT.—To ensure the expeditious and efficient designation of timber on land conveyed under clause (i), the Forest Service shall contract with a qualified private person agreed on by the Secretary and R–Y to perform the field work associated with the designations.

(bb) MINIMUM ANNUAL DESIGNATIONS.—Not less than 20 percent nor more than 30 percent of the timber on land conveyed under clause (i) shall be made available by the end of each fiscal year over a 5-year period beginning with the first fiscal year that begins after the date of enactment of this Act, and R–Y shall be allowed at least 5 years after the end of each fiscal year in which to complete the harvest of timber designated in that fiscal year.

(3) TITLE.—

(A) REVIEW OF TITLE.—Not later than 30 days after receipt of title documents from R–Y, the Secretary shall review the title for the non-Federal land described in paragraph (2) and determine whether—

(i) the applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(ii) all draft conveyances and closing documents have been received and approved; and

(iii) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary.

(B) UNACCEPTABLE QUALITY OF TITLE.—If the quality of title does not meet Federal standards and is not otherwise acceptable to the Secretary, the Secretary shall advise R–Y regarding corrective actions necessary to make an affirmative determination.

(C) CONVEYANCE OF TITLE.—The Secretary shall effect the conveyance of land described in paragraph (2) not later than 60 days after the Secretary has made an affirmative determination of quality of title.

(b) GENERAL PROVISIONS.—

(1) MAPS AND DOCUMENTS.—

(A) IN GENERAL.—Maps pertaining to the land described in subsection (a) are subject to such minor corrections as may be agreed upon by the Secretary and R–Y.

(B) NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives of any corrections made pursuant to this subsection.

(C) PUBLIC AVAILABILITY.—The maps and documents described in subsection (a)(2) (A) and (B) shall be on file and available for public inspection in the office of the Chief of the Forest Service.

(2) NATIONAL FOREST SYSTEM LAND.—All land conveyed to the United States under this section shall be added to and administered as part of the Deerlodge National Forest in accordance with the laws pertaining to the National Forest System.

(3) VALUATION.—The values of the lands and interests in land to be exchanged under this section are deemed to be of approximately equal value.

(4) HAZARDOUS MATERIAL LIABILITY.—The United States (including its departments, agencies, and employees) shall not be liable under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.), the Clean Water Act (33 U.S.C. 1251 et seq.), or any other Federal, State, or local law, solely as a result of the acquisition of an interest in the Lost Creek Tract or due to circumstances or events occurring before acquisition, including any release or threat of release of a hazardous substance.

Mr. BURNS. Mr. President, I rise to offer an amendment regarding the Lost Creek Land Exchange Act of 1996.

This amendment is important for the acquisition of the Lost Creek area of Montana for the public.

I want to emphasize that this amendment is a starting point. I fully anticipate major changes will need to be made when this bill goes to conference with the House. Yet, the process needs to move forward.

Under this amendment, 14,500 acres of blueribbon bighorn sheep habitat known as Lost Creek would become a part of the Deerlodge National Forest. For the past few years, local sportsmen and conservation groups, the Forest Service, and many others have been interested in the public acquiring this prime habitat. I, too, believe this is a worthwhile endeavor.

The amendment would transfer the Lost Creek area, and 3,000 additional acres currently owned by R–Y Timber, to the Forest Service. In return R–Y Timber will acquire the deed to land and timber.

The Lost Creek area has been valued at about $8 million. And the days of the Federal Government simply paying the price tag are over.

With assistance from the Forest Service, I am hopeful that alternative lands can be found to exchange for the Lost Creek area. The Forest Service has started this process.

Mr. President, as I stated earlier the amendment I am offering is a starting point. I fully anticipate having to make substantial changes when we move to conference. I hope that the parties involved will continue to work together so this win-win bill can made it to the President's desk.

I yield the floor.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3572 TO AMENDMENT 3571

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. BURNS, proposes an amendment numbered 3572 to amendment No. 3571.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be added insert the following:

TITLE —MISCELLANEOUS

SEC. 01. LOST CREEK LAND EXCHANGE.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—Notwithstnding any other provision of law, the Secretary of Agriculture (referred to in this Act as the "Secretary") shall acquire by exchange certain land and interests in land owned by R–Y Timber, Inc., its successors and assigns or affiliates (referred to in this Act as "R–Y"), located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

(2) OFFER AND ACCEPTANCE OF LAND.—

(A) NON-FEDERAL LAND.—If R–Y offers fee title that is acceptable to the United States to approximately 17,567 acres of land owned by R–Y and available for exchange, the Secretary shall accept a warranty deed to the land.

(B) FEDERAL LAND.—

(i) CONVEYANCE.—On acceptance of title to R–Y's land under paragraph (1), the Secretary shall convey to R–Y, subject to reservations and valid existing rights, by patent, fee title to lands and timber deeds of a value that is approximately equal to the value of the land described in subsection (a).

(ii) TIMBER HARVEST PROVISIONS.—

(I) PRACTICES.—Timber harvest practices used on the national forest land conveyed under clause (i) shall be conducted in accordance with Montana Forestry Best Management Practices, the Montana Streamside Zone Management Law (Mont. Code Ann. sec. 77–5–301 et seq.), and all other applicable laws of the State of Montana.

(II) RELATION TO PLANNED SALES.—Timber harvest volumes on land conveyed under clause (i) shall be in addition to, and not treated in any way as an offset against, the present or future planned timber sale quantities for the National Forest where the harvesting occurs.

(III) TIMBER DESIGNATIONS.—

(aa) CONTRACT.—To ensure the expeditious and efficient designation of timber on land conveyed under clause (i), the Forest Service shall contract with a qualified private person agreed on by the Secretary and R–Y to perform the field work associated with the designations.

(bb) MINIMUM ANNUAL DESIGNATIONS.—Not less than 20 percent nor more than 30 percent of the timber on land conveyed under clause (i) shall be made available by the end of each fiscal year over a 5-year period beginning with the first fiscal year that begins after the date of enactment of this Act, and R–Y shall be allowed at least 5 years after the end of each fiscal year in which to complete the harvest of timber designated in that fiscal year.

(3) TITLE.—

(A) REVIEW OF TITLE.—Not later than 30 days after receipt of title documents from R–Y, the Secretary shall review the title for the non-Federal land described in paragraph (2) and determine whether—

(i) the applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(ii) all draft conveyances and closing documents have been received and approved; and

(iii) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary.

(B) UNACCEPTABLE QUALITY OF TITLE.—If the quality of title does not meet Federal standards and is not otherwise acceptable to the Secretary, the Secretary shall advise R–Y regarding corrective actions necessary to make an affirmative determination.

(C) CONVEYANCE OF TITLE.—The Secretary shall effect the conveyance of land described in paragraph (2) not later than 60 days after the Secretary has made an affirmative determination of quality of title.

(b) GENERAL PROVISIONS.—

(1) MAPS AND DOCUMENTS.—

(A) IN GENERAL.—Maps pertaining to the land described in subsection (a) are subject to such minor corrections as may be agreed upon by the Secretary and R–Y.

(B) NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives of any corrections made pursuant to this subsection.

(C) PUBLIC AVAILABILITY.—The maps and documents described in subsection (a)(2) (A) and (B) shall be on file and available for public inspection in the office of the Chief of the Forest Service.

(2) NATIONAL FOREST SYSTEM LAND.—All land conveyed to the United States under this section shall be added to and administered as part of the Deerlodge National Forest in accordance with the laws pertaining to the National Forest System.

(3) VALUATION.—The values of the lands and interests in land to be exchanged under this section are deemed to be of approximately equal value.

(4) HAZARDOUS MATERIAL LIABILITY.—The United States (including its departments, agencies, and employees) shall not be liable under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.), the Clean Water Act (33 U.S.C. 1251 et seq.), or any other Federal, State, or local law, solely as a result of the acquisition of an interest in the Lost Creek Tract or due to circumstances or events occurring before acquisition, including any release or threat of release of a hazardous substance.

TITLE —VANCOUVER NATIONAL HISTORIC RESERVE

SEC. 01. VANCOUVER NATIONAL HISTORIC RESERVE.

(a) ESTABLISHMENT.—There is established the Vancouver National Historic Reserve in the State of Washington (referred to in this section as the "Reserve", consisting of the area described in the report entitled "Vancouver National Historic Reserve Feasibility Study and Environmental Assessment" published by the Vancouver Historical Study Commission and dated April 1993 as authorized by Public Law 101–523 (referred to in this section as the Vancouver Historic Reserve Report).

(b) ADMINISTRATION.—The Reserve shall be administered in accordance with—

(1) the Vancouver Historic Reserve Report (including the specific findings and recommendations contained in the report); and

(2) the Memorandum of Agreement between the Secretary of the Interior, acting through the Director of the National Park Service, and the city of Vancouver, Washington, dated November 14, 1994.

(c) NO LIMITATION ON FAA AUTHORITY.—The establishment of the Reserve shall not limit—

(1) the authority of the Federal Aviation Administration over air traffic control, or aviation activities at Pearson Airpark; or

(2) limit operations and airspace in the vicinity of Portland International Airport.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Mr. BYRD. Mr. President, I do not intend to object to the amendment, but I think we ought to go by the rules. The Senator did ask for the yeas and nays, so that is business intervening?

Mr. DOLE. Yes.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I am disappointed that we have not had the opportunity until now to debate the minimum wage amendment. On April 1, it will be 5 years since the last time the minimum wage was increased.

We are now at the lowest point we have been in nearly 40 years with regard to the purchasing power the minimum wage provides. That is unacceptable, at a time when we see CEO incomes going up by 23 percent to an average in the country today of $990,000—something we do not deny to them and something we certainly would not want to preclude. Many of them certainly deserve it.

There ought to be recognition, however, as we consider welfare reform and all of the other legislative measures that we are contemplating, that we need to provide more opportunity for people to go to work, and we ought to give them an economic incentive to do so.

People do not have the economic wherewithal, working full time at the minimum-wage today, to stay out of poverty. That is unacceptable. Sooner or later, we will have a vote on the minimum wage. Sooner or later, it has to be resolved. Sooner or later, this minimum wage increase must pass. We can do it sooner or we can do it later. Our preference is to do it sooner. This vehicle affords us the opportunity to do that. Whether it is this vehicle or any other bill, I certainly hope that we can do it soon.

I yield to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

AMENDMENT NO. 3573

(Purpose: To provide for an increase in the minimum wage rate)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. KERRY, Mr. WELLSTONE, Mr. DODD, Mr. SIMON, Ms. MIKULSKI, Mr. LEVIN, Mr. HARKIN, Mrs. BOXER, Mrs. MURRAY, Mr. PELL, Mr. LEAHY, Mr. LAUTENBERG, Mr. SARBANES, Mr. BRADLEY, and Mr. DASCHLE, proposes an amendment numbered 3573.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . INCREASE THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 3, 1996, not less than $4.70 an hour during the year beginning July 4, 1996, and not less than $5.15 an hour after July 3, 1997;".

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3574 TO AMENDMENT NO. 3573

(Purpose: To provide for an increase in the minimum wage rate)

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 3574 to amendment No. 3573.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . INCREASE IN THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 3, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;".

Mr. KERRY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, I just heard from the majority leader a few moments ago that we were not going to be able to have an opportunity to debate and take action on the minimum wage.

We are required now to use whatever parliamentary means we can to try and permit working families to see a judgment about whether this body is going to make a statement about increasing the minimum wage. The majority leader had been a leader in 1989 when we restored the minimum wage up to the small increase in its purchasing power. If we could gather from the majority leader—I see that he is moving into the cloakroom at the present time, so I guess that is an indication of what the answer would be.

We were going to try and get at least some agreement as to when we might be able to bring this up. We are denied even that opportunity to do so, in spite

VOL
142
PT
5
MR
21
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29
1996
UMI

of the fact that there was an indication from the Republican leadership that we were going to have the minority leader or his designee be recognized to offer an amendment. And we understood, since that was not a fixed order, that that was the intention of the Republican leadership at that time. We were denied the opportunity to have the bill before us.

Now we have the bill before us, and we were denied the opportunity to be able to debate that, or at least get a short time agreement. We are quite prepared to do it, as has been pointed out by my colleague from Massachusetts, Senator KERRY, and Senator WELLSTONE.

This is not a new issue. We were prepared to enter into a short time period, or at least have the opportunity to set a date for consideration of it. If the majority leader would let us have a fixed date for discussion on it—we were able to persuade the majority leader earlier on the health care bill to set a time for debate on it—we would certainly accede to the leader's recommendation, if we would have a precise time when we would be able to debate it. So if we were able to get a time definite, we would certainly respond to a request by the leader to have a time definite to be able to vote on this.

Mr. President, raising the minimum wage has broad support among the American people. The question is whether it has the support of the Republican leadership here in the U.S. Senate, Senator DOLE and the rest of the Republican leadership.

As I mentioned earlier, Senator DOLE supported this in the past. So the question is whether he is willing at this time to give an opportunity for us to vote on this measure now, or in the very near future.

We believe that working families deserve a raise. Minimum-wage families deserve a raise most of all. Nobody who works for a living should have to live in poverty.

It is basically the leader's decision that is going to make all the difference as to whether we are going to be able to act together, as we have in the past. We saw Republican Presidents, like Eisenhower, Nixon, Bush, who all supported that increase. And Republicans here, with some exceptions, supported that increase in 1989. All we are waiting for—and I think what the working families in this country are waiting for—is the majority leader to indicate that he, like others in this body, is on the side of working families. I hope that we will have a chance to do this because, as we have said, this issue is not going to go away. We understand the full agenda that is necessary for action.

I would certainly ask the minority leader if the time could be established definite, if he would work out a precise time with the majority leader so that working families in this country would know when the Senate was going to debate this issue. We will have to try to do the best we can under the circumstances that we have, but I deplore the fact that we are effectively denied the opportunity to debate this issue and to take action. I think it is an issue of fundamental fairness and justice. It is an issue involving families, women, and children, and the Senate should not turn its back on those families this afternoon or in these next days.

Mr. WELLSTONE and Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I will defer to my colleague from Massachusetts. I will take 1 minute.

I have been in the Chamber since this morning with my two colleagues. This amendment is simple and straightforward. It would increase the minimum wage from $4.25 an hour to $5.15 over 2 years—90 cents over 2 years. I will say it one more time. Senators and Representatives gave themselves, a few years ago, a very hefty salary increase from about $100,000 a year to about $130,000 a year. It seems to me we can give heads of working families the same kind of increase.

I do not think this is too much to ask. I think this is very much about economic fairness. While we are putting off a vote on this, there are many people who have to live with this minimum wage. This is extremely important to 200,000 working families in my State, much less their children, and I believe this effort to just block having an up-or-down vote goes against the grain of what is called accountability. We will bring this amendment up over and over and over and over again until there is a vote.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, we came to the floor this morning with the understanding that, while not as an official order, the minimum wage amendment was going to be offered. The minority leader was going to have time and the minority leader's designee was going to have an opportunity to submit the amendment. Senator KENNEDY was the designee and, indeed, the Senator intended to offer the minimum wage amendment.

We were blocked this morning from doing that, and now this afternoon a parliamentary process of what is called filling up the tree, putting in two amendments behind each other, which locks in the debate again, precludes a debate on the minimum wage at this time. But Senator KENNEDY has submitted an amendment to the underlying amendment, and I have submitted a second-degree amendment to that not because we are trying to tie up the Senate and not because we are trying to delay the process of resolving this other legislation but simply because, as Senator KENNEDY has said, we would like to have an answer. We would like to have a time.

We work this out in the Senate all the time. We have an agreement with respect to the health care bill. We know there will be a time certain for debate on an issue of major importance to the American people. All we are asking for is some kind of bipartisan agreement and understanding as to when we can have a vote, a debate and a decision, on whether or not we are going to give working people at the lowest end of the income scale a pay raise. Corporate America has had a pay raise almost every day of the year last year. The stock market went up 34 percent in 1 year. The chief executive officers of companies are walking away with, what, 200 times the salary of workers. It used to be only 50 times and now it is 200 times.

The stark reality is that in the United States of America in 1996, the minimum wage earns you a record 40-year low, or is about to earn you a record 40-year low. It is a 25-percent reduction over what it was in 1979. Through the 1950's, the 1960's, the 1970's, and finally even in the 1980's, as the minimum wage gap got bigger and bigger between what you earned working and the poverty level, we lifted it. All we are suggesting is that when a worker on the minimum wage earns three-quarters of the level of the poverty rate in this country, let us at least lift it up to permit them to get out of poverty.

If you are going to give meaning to the notion of work and you are going to give meaning to the notion of welfare reform, if you are going to give meaning to the values we talk about in this Chamber, you have to give meaning to work and the money that people earn for working. Nothing is more fundamental, and we hope that the Senate will have the opportunity to have a bipartisan vote on this issue.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. KERRY. I would be happy to yield for a question.

Mr. KENNEDY. Mr. President, as I understand, the pending issue before the Senate is now the Kerry amendment. I was just wondering whether the Senator, my colleague and friend, would be willing to vote on this so that we are not going to delay this with the idea that we would vote at, say, 4 o'clock with the time evenly divided between those who support this measure and those who would be opposed. Would the Senator——

Mr. KERRY. Mr. President, let me say in answer to my colleague, I would be delighted to have any fair amount of time on both sides. I think it would be

good if we could have that. I ask unanimous consent that we have a vote at a time certain and have a vote on my underlying amendment on the minimum wage at 4 o'clock.

Mr. DOLE. I object.

Mr. MURKOWSKI. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE addressed the Chair.

Mr. KENNEDY. Mr. President, will the Senator yield further?

The PRESIDING OFFICER. The Senator from Massachusetts——

Mr. KERRY. Mr. President, the regular order is——

Mr. DOLE. With no intervening action, I ask for recognition.

Mr. KENNEDY. Mr. President, are we going to get taken off our feet now?

The PRESIDING OFFICER. The Senator will suspend.

Mr. KENNEDY. Is the Senator going to be taken off his feet?

The PRESIDING OFFICER. If the Senator will suspend, the Senator from Massachusetts has the floor.

Mr. KERRY. Mr. President, I was going to yield for a question of my colleague. I believe he wanted to ask me a question. I yield for the purposes of answering the question.

Mr. KENNEDY. Mr. President, I just ask my colleague then if we are not able to get a time definite, which the Senator requested of the Senate—there was objection to that—has the Senator reached the conclusion that it is those who are objecting who are filibustering consideration of the minimum wage legislation? Would that be his conclusion, as it is mine?

Mr. KERRY. Mr. President, let me answer the question of my colleague before I draw a conclusion. I wonder, since the majority leader is in the Chamber, if, without yielding my right to the floor, I could ask the majority leader if he believes it would be possible for us to work out some kind of agreement as to time for a vote.

The majority leader was not in the Chamber, but I did say while he was out in the Cloakroom that this is not an effort to try to tie up the Senate. This is not an effort to try to delay the progress on this important legislation that we need to debate. This is simply an effort to try to see if we could reach a time certain for a vote on the minimum wage issue. I would ask the majority leader, without losing my right to the floor, if he would be willing to answer a question with respect to setting a time certain?

Mr. DOLE. Let me indicate I would be happy to discuss it. I am not certain we could reach an agreement. But, obviously, this bill, this amendment will, in effect, defeat the Presidio bill. There will not be any vote on the amendment today. There will be a cloture vote tomorrow. I assume cloture will not be invoked. Then the bill will come down, and I assume then there will be an effort to offer it on the next measure sometime this week. But I assume with the AFL–CIO in town and with their pledge of $35 million, it is probably a fairly appropriate time for Democrats to discuss this measure.

Mr. KERRY. Mr. President, without yet responding to the last comments of the majority leader, I again might ask, again without losing my right to the floor, I wonder if I could inquire of the majority leader why it might not be possible to set a time certain sometime in the future, perhaps a week or 2 weeks so that we could have at least a consideration of this issue on the floor of the Senate. I wonder if the majority leader might be willing to commit to that?

Mr. DOLE. Well, again, I will be happy to explore it. I have always been willing to explore any possibility. Maybe we could couple it with something we would like to do on this side of the aisle, something the majority leader might like to have happen. We could work some agreement like that. But, again, I have not—nobody has made a proposal except the amendment has been offered.

I assume that sooner or later the issue will be voted upon, directly or indirectly, but not today and not tomorrow and hopefully not this week, because we have a number of issues before us and this will take, as everyone knows, considerable debate. It is an unfunded mandate. It is subject to a point of order, according to the Congressional Budget Office. We all voted to end unfunded mandates, and here we are about to impose, or would like to impose, at least some would like to impose, another unfunded mandate on the very political subdivisions we said we would not mandate different costs and expenditures, whatever. Unless somebody has a proposal to make, now there is an amendment pending, and my view is that we should debate it. If there is to be debate, that is fine. There will be no vote. We will just wait and have the cloture vote tomorrow morning.

Mr. KENNEDY. Will the Senator yield?

The PRESIDING OFFICER. The junior Senator from Massachusetts has the floor.

Mr. KERRY. Mr. President, I would be happy to yield for a question to the Senator from Massachusetts.

Mr. KENNEDY. Will the leader be willing to find an agreeable time with the minority leader, the two leaders find an agreeable time, say, by June 10, to consider this legislation in the Chamber?

Mr. DOLE. Again, I would be happy to discuss it with the distinguished Democratic leader, Senator DASCHLE. I am not certain I would make that agreement.

I know it is important on that side of the aisle. It may be important to some on this side of the aisle. But it is also important to many small businesses in America. It is very controversial.

I just do not believe it should be on this bill unless the intent is to kill this bill. Maybe it is. I happen to support it. There are 23 States involved in this legislation: West Virginia, Massachusetts, California, Louisiana, Tennessee. I do not think the State of Kansas is involved, but there are a number of States—Colorado.

So I hope we might dispose of the pending legislation and then complete action on a number of conference reports this week and get the omnibus appropriation bill passed and the debt ceiling extension. That would just about complete the week.

Mr. KERRY. Mr. President, could I reiterate? We were able to work out, obviously, a very agreeable approach to the question on health care which stymied us in a similar way for a period of time. I want to reiterate to the majority leader, we are not trying to kill this bill, at least for this reason. And we are not attempting to delay.

Would it be possible to have an agreement that we will vote on this issue on a date certain between now and, say, the beginning of June? In a discussion with the majority leader, the minority leader and majority leader could arrive at a date certain for a vote?

Mr. DOLE. Again, I am always willing to try to resolve some of the problems. This is not going to be an easy one because, as I recall, the first 2 years of the Clinton administration, when the Democrats controlled Congress, we did not have any votes on minimum wage. The Democrats did not bring it up. They controlled everything. They controlled the White House and the House and the Senate.

Now, suddenly, after the AFL has their meeting and pledges millions and millions of dollars, we want to bring it up on the floor. I can imagine what would happen in the liberal media if the corporations came to town and said we are going to put $35 million in the Republican campaigns. There would be headlines in all the papers. All the talk shows would stop in midair to get it on the air.

I think there is also a very logical argument. There are going to be a lot of young people who lose their jobs. Many are black teenagers and many are young people whose parents live below the poverty line. So I think, if we are going to have this debate, it ought to be a lengthy debate. It ought to be on the merits. In my view, it cannot happen—I do not see how it can happen this week.

Obviously, the Senator is entitled, as he did, to offer an amendment to the underlying bill. That was our mistake. We should have taken care of that. It will not happen again.

But notwithstanding that, we can prevent a vote and we will prevent a vote because we do not believe it belongs on this legislation. There are 23

VOL
142
PT
5
MR
21
—
29
1996
UMI

States that have an interest in the pending legislation. I do not believe even the Democrats, who have very important projects in this legislation, are very excited about having the two Senators from Massachusetts offer this minimum wage adjustment to their legislation.

Mr. KERRY. Mr. President, let me say, in all respect, in response to the majority leader, we had a vote in the U.S. Senate last year and 51 U.S. Senators voted that we should take up the minimum wage before the end of the last session. We did not do that.

Now we are back. I did not even know about the AFL. I am glad you told me. Maybe I can arrange to get to the meeting. But I did not even know they were in town. We announced our intention to offer an amendment some time ago—Senator KENNEDY, who has been leading on this effort, together with Senator WELLSTONE, a group of us—this has been something we have been trying to do for a number of years. The fact is, it is getting more necessary, not less, as a consequence of the fact that the wage each day is worth less.

So, I say to the majority leader, we can always find a group that is in town at some period of time when some legislation is on the floor, and we all know Republicans collect far, far more money from interest groups than Democrats ever do. If we want to start pointing fingers at whose money comes from where, that is a different debate.

The fact is, working people do not get the kind of money any of us get from anywhere, even from their work. That is what this debate is all about. Folks who are working and cannot even pay for medical insurance, let alone rent, let alone food.

So I regret the majority leader will not say we can have a vote on this, will not even say we could have one by June. Therefore, Mr. President, I move to table my amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMPSON). Without objection, it is so ordered.

Mr. DOLE. Is the question on the motion to table the Kerry amendment?

The PRESIDING OFFICER (Mr. SANTORUM). Yes.

Mr. DOLE. The yeas and nays have been ordered?

The PRESIDING OFFICER. They have been ordered.

Mr. DOLE. Let's have the vote.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Kerry amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Wyoming [Mr. SIMPSON] is necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

I also announce that the Senator from West Virginia [Mr. ROCKEFELLER] is absent because of illness.

The result was announced—yeas 0, nays 97, as follows:

[Rollcall Vote No. 52 Leg.]

NAYS—97

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Roth
Santorum
Sarbanes
Shelby
Simon
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NOT VOTING—3

Bradley
Rockefeller
Simpson

So the motion to lay on the table the amendment (No. 3574) was rejected.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Kennedy amendment No. 3573.

Edward M. Kennedy, Paul Wellstone, Joe Biden, J.J. Exon, Chuck Robb, Carol Moseley-Braun, Christopher Dodd, Byron L. Dorgan, Claiborne Pell, Kent Conrad, John F. Kerry, Ron Wyden, David Pryor, Russell D. Feingold, Paul Sarbanes, Patrick Leahy, Dianne Feinstein, Frank R. Lautenberg.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

MOTION TO COMMIT

Mr. DOLE. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] moves to commit the pending bill to the Finance Committee with instructions to report by April 21, 1996 amendments to reform welfare and Medicaid.

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3653 TO THE MOTION TO COMMIT

Mr. DOLE. Mr. President, I send an amendment to the motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3653 to the motion to commit.

Strike the instructions in the pending motion and insert in lieu thereof "to report back by April 21, 1996 amendments to reform welfare and Medicaid effective one day after the effective date of the bill."

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3654 TO AMENDMENT NO. 3653

Mr. DOLE. Mr. President, I send a second-degree amendment to the motion.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3654 to amendment No. 3653.

Strike all after the first word in the amendment to the instructions to the pending motion and insert in lieu thereof "report back by April 21, 1996 amendments to reform welfare and Medicaid effective two days after the effective date of the bill."

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, we are prepared to vote on this motion at this time. Medicaid reform and welfare reform are high on everyone's priority list in America, particularly the voters and the taxpayers, and we would be prepared to vote on this motion, say, at 6 o'clock or 5 after 6 or 6:15, or whenever.

But I do believe now we are back on an issue that the American people are really concerned about: how we can save maybe $50 billion on welfare over the next 7 years by sending it back to the States, and maybe as much as $85 billion over the next 7 years on Medicaid by sending it back to the States, all in accordance with the 10th amendment to the Constitution, which says unless the powers vested in the Federal Government are denied to the States it belongs to the States and the people.

That is what we will debate at this time, unless there is a willingness to accept the amendments, or we can debate tomorrow after the cloture vote, whichever the Democratic leader prefers.

But I am prepared and now ask that we stand in recess until 9:30 tomorrow morning.

MOTION TO RECESS

Mr. DOLE. Mr. President, I now move the Senate stand in recess until the hour of 9:30 a.m., Wednesday, March 27, 1996.

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Vermont [Mr. JEFFORDS], the Senator from Delaware [Mr. ROTH], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Delaware [Mr. BIDEN], and the Senator from Connecticut [Mr. LIEBERMAN] are necessarily absent.

I also announce that the Senator from West Virginia [Mr. ROCKEFELLER] is absent because of illness.

The result was announced—yeas 50, nays 43, as follows:

[Rollcall Vote No. 53 Leg.]

YEAS—50

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Santorum
Shelby
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—43

Akaka
Baucus
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—7

Biden
Bradley
Jeffords
Lieberman
Rockefeller
Roth
Simpson

RECESS

The motion was agreed to; and the Senate, at 6:31 p.m., recessed until Wednesday, March 27, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 26, 1996:

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER THE PROVISIONS OF SECTION 601, TITLE 10, UNITED STATES CODE:

To be lieutenant general

MAJ. GEN. CAROL A. MUTTER, 521-60-7992

IN THE ARMY

THE FOLLOWING-NAMED CADETS, GRADUATING CLASS OF 1996, U.S. MILITARY ACADEMY, FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, 533 AND 4353:

To be second lieutenant

ANDRE B. ABADIE, 434-21-8915
KEVIN J. ACH, 310-76-4265
DAVID W. ACKER, 478-13-6896
JAMES M. ADAMS, 154-78-1574
MICHAEL L. ADAMS, 330-62-3394
NIRZARNI J. ADHVARYU, 322-60-5405
JASON P. AFFOLDER, 199-52-4882
PHILLIP R. AHN, 169-56-8283
JOHN B. AHRENS, 538-80-5744
ALEXIS M. ALBANG, 057-68-7671
ADAM A. ALBRICH, 544-21-5547
TIMOTHY T. ALDEN, 009-54-5301
PHILIP J. ALDRICH, 042-68-4851
GREGORY C. ALFRED, 423-23-1756
MARY ALFREDOCKIYA, 524-63-6985
MARK W. ANDERS, 293-64-0535
DEVRY C. ANDERSON, 183-60-8902
ERIC D. ANDERSON, 331-76-5662
MICHAEL A. ANDERSON, 131-70-8058
TREVER S. ANDERSON, 231-21-9653
STEPHANI O. ANDRASEK, 155-64-5885
CHRISTIN D. ANDREWS, 573-81-8989
ROBERT C. ARMSTRONG, 352-68-1506
JOHN E. ARNOLD, 460-73-2011
MICHAEL ARRIAGA, 451-95-2227
ROBERT M. ARTHUR, 270-82-5702
MARY K. ASHWORTH, 122-66-6828
DAVID W. AVERETT, 585-81-5766
MATTHEW J. AVERY, 219-13-6369
KEVIN B. BADGER, 463-37-5647
MICHAEL D. BAGULLY, 256-57-9112
BRENT A. BAKER, 461-83-8457
CULLEN G. BARBATO, 533-59-5219
DANIEL T. BARD, 157-72-0979
KEITH C. BARDO, 463-77-4148
ROBERT E. BARNSBY, 040-62-4493
BRIAN K. BARRY, 234-17-0169
STEVEN T. BARRY, 148-62-3711
JASON P. BATCHELOR, 217-94-1369
ARCHIE L. BATES, 418-11-1575
HEATH T. BATES, 414-53-6300
DAVID G. BAUER, 068-60-0554
DOEL D. BAUGHMAN, 309-04-8668
JOSEPH A. BEARD, 611-07-8184
RYAN B. BEAVER, 397-84-5802
BRIAN J. BECHARD, 001-54-8682
MICHAEL M. BECKWITH, 226-49-1663
JULIA BELL, 513-04-0419
MICHAEL J. BELLACK, 165-64-9329
EDWARD T. BENNETT, 413-13-9326
LANCE B. BENNETT, 481-86-5520
MORGAN A. BERGLUND, 230-11-3109
JEFFREY S. BERGMANN, 486-80-8768
JEANNE K. BERNER, 483-86-4399
RYAN C. BERRY , 502-84-4155
DREW P. BERWANGER, 157-62-3003
BRETT W. BIELAWSKI, 104-68-8107
JEFFREY S. BIGGANS, 198-60-0097
LEANNE M. BJORNSTAD, 396-72-4834
LYNYETTA C. BLACKSHEAR, 261-63-7075
WILLIAM J. BLAIR, 218-72-3749
TIMOTHY A. BLOCK, 378-76-6967
KEVIN D. BOATES, 408-51-6815
DAVID J. BOETTCHER, 392-76-5863
KENNETH M. BOLIN, 321-80-4689
PETER C. BONIN, 038-42-0750
GARY L. BOONE, JR., 342-68-7322
ROBERT G. BORN, 233-04-4680
CHRISTIAN N. BOTTCHER, 523-61-2369
RICHARD T. BOWEN, 408-59-7353
ALAN J. BOYER, 442-90-3384
KORY E. BOYER, 344-70-4141
COREY A. BRADDOCK, 504-02-8403
MATTHEW W. BRADSHAW, 287-82-7675
THOMAS J. BRADY, JR., 069-62-3096
JASON R. BRANDT, 396-80-0689
MATTHEW K. BRANDT, 391-72-8910
RICHARD M. BRATT, 526-27-6711
DONALD R. BRAUGHT, 585-63-5259
CASEY L. BREDEWATER, 450-29-4509
THOMAS P. BRENNAN, JR., 229-02-3812
BRETT M. BREWER, 244-57-7297
CHAD D. BROSKI, 302-74-8327
DANIEL F. BROSTEK, 115-72-8243
JASON P. BROWN, 544-96-9203
JUSTIN W. BROWN, 461-41-4149
LELAND B. BROWN, JR., 164-68-6685
PETER A. BROWN, 514-72-2789
ROBERT S. BROWN, 082-68-8665
THEODORE R. BROWN, 182-54-4691
JEREMY P. BROWNE, 545-55-7001
JAY R. BUCCI, 084-54-9086
MICHAEL D. BUCHHEIT, 034-66-9193
DAVID L. BUFFALOE, 519-86-2747
GEOFFREY R. BULL, 495-90-8883
BRANDI L. BULT, 304-88-4090
JESSICA L. BUNIN, 142-68-3017
JOHN F. BURGER, 456-39-7872
JAMES T. BURGESS, 194-68-4897
THOMAS F. BURRELL IV, 118-62-1102
DEREK F. BURT, 014-66-7208
JOSE M. BUSTAMANTE, 576-94-1016
ANTHONY L. BUTLER, 550-15-8618
MICHAEL K. BYARD, 138-82-6917
JOSHUA T. BYERS, 251-23-3943
JAMES M. CADET, 063-70-1889
MOLLY C. CAIN, 372-80-8280
ADRIAN P. CALAME, 216-15-1416
ERIK R. CALDWELL, 524-86-6329
GORDON A. CALLENDER, 439-15-2148
JOHN J. CAMIOLO, 028-52-6387
CHRISTOP R. CAMPBELL, 309-04-8902
JONATHAN A. CAMPBELL, 196-52-2093
WHITNEY A. CAMPBELL, 456-31-4651
MICHAEL V. CANGOLOSI, 530-31-6539
JAMES F. CANTELUPE, 285-84-6734
ERIC C. CAPERS, 155-56-7289
AARON S. CARLISLE, 349-70-4900
KARIN M. CAROLAN, 100-68-5369
STEVEN P. CARPENTER, 194-66-4948
BRADLEY M. CARR, 600-28-7527
CHRISTOP D. CARRANO, 068-54-7031
ELIZABET A. CASELY, 157-80-0185
ROBERT P. CASSERY, 011-60-8652
KRISTEN E. CATRON, 267-61-4488
ANDREW D. CECIL, 585-27-4330
SHANE D. CELEEN, 540-21-2180
VINCENZO S. CENTAMORE, 063-64-6507
MATTHEW P. CHAMPION, 561-73-7722
SCOTT A. CHANCE, 594-36-2699
BRANDYN P. CHAPMAN, 224-35-0645
YOUNG D. CHASE, 212-84-8856
CHAD N. CHEGWIDDEN, 258-61-4100
DANIEL M. CHEN, 061-58-1021
BRIAN V. CHERNAUSKAS, 559-75-1018
GABRIEL A. CHINCHILLA, 212-15-8848
BRIAN H. CHO, 485-92-4365
MICHAEL N. CHO, 092-54-0590
BRIAN CHOI, 140-86-3547
SUNG H. CHON, 601-38-6209
PAUL A. CHRISTIANSON, 601-30-8246
WILLIAM W. CHUNG, 170-54-7096
DAVID M. CHURCH, 122-66-0900
MICHAEL V. CIARAMELLA, 141-80-0869
AARON M. CICHOCKI, 315-86-5210
MAX W. CLEGG, 010-62-5581
BO S. COCKRELL, 236-15-4717
BRYAN M. COFER, 252-27-7089
DWAYNE L. COFFEY, 415-33-0361
WILLIAM G. COLBERT, 020-68-4817
ROBERT C. COLE, 460-25-1186
JOHN J. COLEMAN, 170-54-8759
TAUSHA E. COLEMAN, 593-32-3890
RICHARD L. COMITZ, 590-14-6337
JASON F. CONRAD, 377-80-7528
JOHN T. CONROY, 346-86-5845
MARC E. CONSELMAN, 454-73-0167
CARLOS A. CONTRERAS, 554-97-8949
PAUL A. COOK, 522-37-8367
SEAN M. COONEY, 051-68-8340
LENTON D. COOPER, 573-11-8236
MICHAEL N. COPPA, 072-64-3028
THOMAS P. CORNELIUS, 557-65-5860
STEPHEN J. COURREGES, 446-82-5254
RICHARD J. COVERT, 121-62-9334
MICHAEL T. COWPERTHWAIT, 572-57-2101

VOL
142
PT
5
MR
21
—
29
1996
UMI

JAMES E. COX, JR., 247-71-4871
RICHARD T. CRANFORD, 122-74-7654
CHAD A. CRANK, 432-17-4967
WILLIAM G. CRANS, JR., 131-66-5066
BRIAN A. CRAWLEY, 443-68-2080
JUSTIN L. CREMER, 477-92-4285
SCOTT C. CRISSEY, 230-86-0726
ROBERT E. CROFT, 047-66-1658
JOHN R. CROMBIE, 160-62-3646
MATTHEW A. CROUCH, 508-96-6446
JOHN D. CROW, 519-06-1453
PATRICK C. CRUSER, 519-04-6284
MATHEW A. CUNNINGHAM, 372-88-0227
IAN S. CURRIER, 541-13-8163
LEWIS M. CURRY, 308-66-3042
KEVIN R. CUTRIGHT, 559-69-4629
PATRICK J. DAGON, 319-78-4349
MATTHEW D. DALL, 489-94-9196
REBECCA L. DAMM, 363-92-4049
GLEN O. DARE, 274-66-6252
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142
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5
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29
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THE FOLLOWING-NAMED RESERVE OFFICERS' TRAINING CORPS CADETS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, 533, AND 2106:

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VOL
142
PT
5
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21
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29
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VOL
142
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5
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21
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29
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EXTENSIONS OF REMARKS

RURAL ROADS FUNDING

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mrs. JOHNSON of Connecticut. Mr. Speaker, anticipating next year's reauthorization of the 1991 Intermodal Surface Transportation Efficiency Act [ISTEA], I am introducing legislation today that will provide rural area roads eligibility for a small percentage of funding under the Surface Transportation Program [STP].

The intent of ISTEA's STP program was to provide greater flexibility to State and local authorities for transportation needs by providing States with block grant-type authority. However, ISTEA regulations prohibit roads classified as local or rural minor collectors from receiving Federal-aid highway funding. Since most roads in rural areas fall under this classification, they are not eligible for funding and remain in severe disrepair.

Under ISTEA's current STP distribution formula, States are required to set aside 10 percent of their STP funds for safety programs and 10 percent for transportation enhancement programs. The remaining 80 percent of STP funding goes into a general purposes fund, with a remaining distribution account receiving 50 percent, and a statewide distribution account receiving 30 percent.

Under the remaining distribution account, funding is provided to areas over 200,000 population, while only a minimal level of funding is provided to rural areas under 5,000 population based on a fiscal year 1991 funding level. Unfortunately, congressional attempts to provide State flexibility do not ensure adequate and equitable distribution of Federal assistance to rural area roads.

Moreover, roads functionally classified as local or rural minor collectors are not currently eligible for the rural areas under 5,000 population funding and, since most rural roads fall under these two classifications, they are ineligible for Federal assistance.

My legislation would allow roads functionally classified as local or rural minor collectors eligibility for STP funds under the existing special account for areas under 5,000 population only. My legislation would not amend the road classification system. Rather, it would only modify 23 USC 133(c) to allow roads functionally classified as local and rural minor collectors STP funding eligibility under the areas under 5,000 population account 23 USC 133(d)(3)(B). Moreover, I propose that of the 50 percent to be obligated under the remaining distribution account, at least 20 percent, or the existing minimum requirement, whichever is greater, should go to the rural areas under 5,000 population account. Finally, my legislation would amend the statewide planning process by requiring States to also consider the transportation needs of rural areas, including local and rural minor collectors.

I urge my colleagues to support this necessary legislation. It will provide the flexibility ISTEA was intended to produce and will greatly improve our roadway system by allowing local and rural communities the opportunity to decide which roads should be repaired.

MEDICAL SAVINGS ACCOUNTS: FANCY WORDS FOR NEW TAX SHELTER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. STARK. Mr. Speaker, medical savings accounts [MSA] will be voted on this week as part of the health insurance reform bill developed by the Republican leadership.

The MSA provisions should be deleted.

Everyone who thinks about them will quickly understand that they are destructive to the health insurance system, because they skim out the healthiest people in our society. Sicker and older people will be left behind in the traditional insurance pool, where rates will have to be raised to cover the costs of the more expensive people in that pool. These higher rates will, in turn, make insurance unaffordable to more people, thus increasing the number of uninsured in our society. MSA's may be good for individuals who are healthy at the present time, but they are bad for society that is trying to encourage health insurance for as many people as possible.

MSA's are an every-man-for-himself, to-hell-with-society philosophy.

What is not so clear is that they are a massive tax shelter.

I would like to include in the RECORD the portions of a paper by Iris J. Lav of the Center on Budget and Policy Priorities, which details how gross this new tax break is. Republicans talk about tax reform and tax simplification, but anyone who votes for MSA's is voting for tax complication and tax unfairness:

MSA PROVISIONS IN HEALTH CARE REFORM BILL CREATES TAX SHELTER AND CASTS DOUBT ON EXPANSION OF INSURANCE COVERAGE

(By Iris J. Lav)

The Medical Savings Account (MSA) provision in the House health care reform bill creates an extensive new tax shelter opportunity, the cost of which would grow over time. For people in good health, the MSA provision would be the equivalent of enacting a new Individual Retirement Account program—far more generous than the IRAs available prior to the Tax Reform Act of 1986.

Healthy, higher-income people who hope to retain for other purposes the tax-advantaged funds not needed for medical care would be attracted to use the MSAs with high-deductible insurance plans. People with less good health would find high deductible insurance plans less attractive and would be become segregated into conventional insurance plan, thereby raising the cost of such plans. As a result, it could become more difficult and less affordable for employers to offer adequate health insurance to employees most in need of it—potentially undermining the basic purpose of the health care reform legislation.

The potential problems caused by MSAs can be mitigated (but not eliminated) by limiting the ability of healthier people to use MSAs as a tax shelter for general purpose saving and investment. The tax shelter potential could be lessened by:

Significantly increasing the penalty for use of MSA funds for purposes other than paying medical bills.

Taxing interest earned on MSA accounts annually.

Recapturing foregone FICA (Social Security and Medicare) payroll taxes for amounts withdrawn from MSAs for purposes other than paying medical bills.

Raising the age at which funds may be withdrawn from MSAs for any purpose without incurring a penalty to age 65, so funds must remain available to expend on medical care until the individual qualifies for Medicare.

MSA PROVISIONS

Under the MSA proposal in the health care reform bill, qualified taxpayers (either directly or through their employers) are allowed to contribute yearly amounts to an MSA, up to a specified ceiling. To be qualified, taxpayers must have insurance coverage through a high-deductible health plan. Taxpayer (or their employers) may contribute the amount of the plan deductible of the MSA, up to $2,000 for an individual and $4,000 for a family.

Amounts individuals contribute to MSAs may be deducted on their income tax when determining adjusted gross income, which means they may be deducted whether or not the individual itemizes other deductions. If MSA contributions are made by employers on behalf of individuals (presumably even if salaries are reduced to allow the contributions to be made), the amounts contributed are not counted as wages or salary for purposes of computing income, FICA (Social Security and Medicare), or unemployment taxes. The interest earned on amounts accumulated in MSA accounts also is exempt from taxation.

Taxpayers may use the funds in their MSAs to pay any medical expenses that could qualify as itemized deductions on the taxpayers' income tax. Funds withdrawn from MSAs that are used to pay permitted types of medical bills are never taxed.

If funds are withdrawn from the MSA for non-permissible purposes, they are subject to income taxes as ordinary income in the year they are withdrawn. If the taxpayer is below age 59½, amounts withdrawn for non-permissible purposes also are subject to a 10 percent penalty. After the taxpayer attains age 59½, funds may be withdrawn from MSAs for any purpose without incurring a penalty.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 142 PT 5 MR 21 — 29 1996 UMI

MSA'S CREATE A TAX SHELTER

For higher-income taxpayers who anticipate remaining healthy, MSAs represent a new, tax-advantaged way to accumulate savings. Because contributions made by or through an employer are permanently exempt from Social Security and Medicare payroll taxes and are exempt from income taxes until withdrawn, and because the interest earned on amounts remaining in the MSA is allowed to compound without yearly taxation, the 10 percent penalty on withdrawals for non-permissible purposes is not sufficient to prevent MSAs from becoming a tax shelter. Even after the penalty is paid, the after-tax return to savings in an MSA would under many circumstances exceed the return to conventional savings.

Figure 1 [not printed in RECORD] shows the difference to a taxpayer in the 36 percent federal income tax bracket between saving $3,000 of gross earnings under current law and saving the same amount in an MSA. In each case, the deposit is held at a three percent rate of interest. Under current law, the taxpayer would have $1,742 in after-tax funds to deposit in a conventional savings account. (The $3,000 gross earnings would be reduced by a 36 percent income tax, an effective state income tax of 4.5 percent after accounting for deductibility against federal taxes and a 1.45 percent Medicare tax. Taking away 41.95% of $3,000 leaves $1,742.) If those funds remain on deposit for 10 years with interest taxed yearly, they would grow to $2,079. Under the MSA provision, however, the taxpayer would deposit the entire $3,000 and interest would compound free of tax. After 10 years, the account would hold $4,032. The taxpayer could withdraw the funds for purposes other than medical care, pay income tax and the 10 percent penalty on the withdrawn amounts, and have $2,236 remaining.

In other words, after 10 years the value to the taxpayer of the funds saved in the MSA would exceed the value of conventionally-saved funds by 7.6%, even though a penalty was assessed for non-permissible use of the funds. If during those 10 years the taxpayer attained age 59½, no penalty would be assessed and the value to the taxpayer of the MSA savings would exceed the value of the conventional savings by more than 15 percent. As shown in Figure 1, the differential value of the MSA savings grows with the length of the holding period. After 20 years, an MSA withdrawal with penalty exceeds the value of conventional savings by 21 percent, while an MSA withdrawal after age 59½ exceeds the value of conventional savings by 30 percent. (It may be noted that the cost of the Treasury in foregone tax revenues also would increase over time, as growing amounts of savings are likely to be sheltered from taxation.)

REGULATORY BURDEN FACING SMALL BUSINESS

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. MANZULLO. Mr. Speaker, I am a proud supporter of the Small Business Growth and Administrative Act, now retitled the Small Business Regulatory Simplification and Enforcement Act. This bill, as contained in the Contract With America Advancement Act, will:

First, require agencies to publish easily understood guides to assist small businesses in complying with regulations;

Second, require agencies to provide informal, nonbinding advice, about regulatory compliance to small business;

Third, create a Small Business Administration [SBA] small business and agriculture enforcement ombudsman to allow citizens to confidentially comment on SBA personnel;

Fourth, create independent boards to provide a greater opportunity to track small business regulatory enforcement and policy; and

Fifth, require agencies to develop programs to waive and reduce civil penalties for violations by small businesses.

I might note, Mr. Speaker, that these provisions unanimously passed the Senate by a 100-to-0 vote on March 19.

I am attaching an article that appeared in the Chicago Tribune last week about Perry Moy, who lives in the district I am privileged to represent and owns a Chinese family restaurant. This article explains the effect of regulations on small business. Regulators in the executive branch should heed his insights, and I urge a similar resounding vote of confidence in small business by my colleagues in the House.

[From the Chicago Tribune, Mar. 18, 1996]

RESTAURATEUR AWAITS RELIEF FROM "WASTEFUL" REGULATIONS

(By Wilma Randle)

McHenry County Restaurant owner Perry Moy spends his days doing a lot more than running his eatery. He also has to handle a lot of paperwork, much of it dealing with various governmental regulations.

Moy is the owner of the Plum Grove Restaurant, family-owned eatery in McHenry. And, he says the paperwork he has to deal with is something he really could do without.

Moy also served as a delegate at last year's White House Conference on Small Business where the issue of government regulations was a major concern for small business owners.

Thus, Moy is among the nation's small business operators who are watching with interest a bill currently being debated in Congress that would relieve small business owners of much of what they say is the burden of governmental regulations.

The "Small Business Growth and Administrative Accountability Act" would require federal agencies to periodically review regulations to determine whether they need changing, according to a recent notice distributed by the National Federation of Independent Business, a Washington-based association representing more than 500,000 small business owners around the country.

The NFIB contends government regulations force employers to waste billions of hours each year filing paperwork as well as billions in costs related to complying with different regulations. "That time and money could be better used and spent expanding businesses and creating jobs," said Jack Faris, NFIB president.

Paperwork isn't costing Moy billions of work hours, but he says when you run a small business, any time that isn't devoted to running the business is time you really can't afford to waste.

"The amount of paperwork I have to deal with—just in my business—is immense," he said. "I have to deal with everything from employee taxes to the health and liquor regulatory agencies. And it's not just federal agencies. There are all these state and local regulations too."

So, he said, "Whatever changes can be made to relieve the paperwork and regulatory burden on small business I would welcome. It's truly one of the drawbacks about running a small business."

TRIBUTE TO DADE COUNTY'S OUTSTANDING WOMEN

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mrs. MEEK of Florida. Mr. Speaker, it is my great pleasure to pay tribute for Women's History Month by joining with the board of commissioners, department of parks and recreation and the citizens of Dade County in celebrating the achievements of 15 outstanding women.

Elizabeth Metcalf—a woman of lasting impact, who has touched many lives in her service as a psychologist, teacher, State representative and dedicated volunteer for many organizations such as the League of Women Voters, The Girl Scout Council of Tropical Florida, and the Dade Heritage Trust.

Olimpia Rosado—came to the United States as an exile from Cuba in 1961, and since that time she has dedicated her life to preserving Cuban heritage, writing a regular column for Diario Las Americas, supporting the Miami Dade Public Library Hispanic Branch, and her extensive volunteer service.

Francena Thomas—children have always been her first priority. Francena has served as a public schoolteacher, university administrator, and currently as a community liaison for Metro Dade Police. Francena has hosted radio and television programs, writes a column for the Miami Times, and has spent extensive time volunteering for agencies such as Metro-Miami Action Plan, Alternatives to Violence, and the Youth Crimewatch Advisory Council.

Frances Bohnsack—serving presently as executive director of the Miami River Marine Group, Fran has made a positive imprint in the south Florida community through her activities in many women's organizations such as NOW and the Feminist Alternative. She has also dedicated her life as a teacher, political activist, and advocate.

State Representative Larcenia J. Bullard—is a former educator and school administrator who has taken on a task to serve in the Florida Legislature, along with her extensive community involvement which includes the NAACP, South Dade Civitan Club, National Council of Negro Women, Women's Political Caucus, and the Miami-Dade Criminal Justice Council. Representative Bullard is widely respected for her leadership in the South Dade Community she represents.

Linda Dakis—Judge Linda Dakis has focused her professional and volunteer efforts toward the effects of domestic violence in our community. She has been a leader in dealing with this difficult issue, and is respected nationally for her extensive work through publications and media program that explore this pervasive evil called domestic violence.

Margarita Rohaidy Delgado—has served as a social worker, Florida Senate Legislative Aide and presently owns her own company,

MRD Consulting. She has served the south Florida community through her involvement with many organizations, among them the City of Miami Off-street Parking Board, Dade County United Way Board of Trustees, and Metro-Dade County Health Policy Authority.

Tananarive Due—is well known through her career as a columnist for the Miami Herald, as a novelist, international scholar, Big Sister, and giving back to the community through the Miami NAACP ACT–SO Committee and Big Brothers-Big Sisters. She is the daughter of two infamous south Florida civil rights leaders.

Vickie Jackson—responding to the tragic domestic violence loss of her sister, Bridget Smith, Ms. Jackson founded the Domestic Violence Education and Prevention Project, Inc. She also volunteers her time to the Inner-City Children's Touring Dance Co. and many other arts programs for children.

Elizabeth Kaynor—has served tirelessly as the executive director for the City of Miami Commission on the Status of Women, and is the founding director for the Center for Continuing Education of Women at Miami-Dade Community College. She grasps every opportunity to work for women's advancement through education, communication, networking, and international exchanges.

Ivette Arteaga Morgan—is currently the assistant principal of the Miami Palmetto Adult Education Center, and has served as an elementary teacher, social worker, school administrator, and university faculty member. Dr. Morgan has provided leadership for bilingual and multicultural education programs, was a cofounder of ASPIRA, and has volunteered her time to many programs that encourage women's political participation.

Janice O'Rourke—as a leader in educational and women's organizations, this banking executive has lent her talents and energies to many causes such as the Miami Branch of the American Association of University Women and other organizations that focus on women's education and empowerment.

Deborah Reyes—serves as the president of Capital American Mortgage Co. and consulting and training group. She is committed to serving her home community through her church, the Girl Scouts Council of Tropical Florida, the Community Coalition for Women's History, and the National Board of the Girl Scouts of the USA.

Being honored posthumously are:

Meg O'Brien—was a woman of courage and determination who became the founder of the WLRN Radio Reading Service, which provides print-handicapped persons with 24 hours of news, literature, and general information. She shared her love for literature through the radio program "Cover to Cover," through the annual writer's conference in the Florida Panhandle, and through "The Late Show," a bedtime story initiative for detainees at Youth Hall.

Belen Saborido—immigrated to the United States and became a successful businesswoman and community leader, launching her own business in 1981. She worked tirelessly to support education, women's concerns, service to families and children, health care, and the arts.

NATIONAL DIABETES DAY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. PALLONE. Mr. Speaker, today is National Diabetes Day. Diabetes is a life-threatening, chronic disease, and a major public health issue that affects 16 million Americans directly and the rest of the population indirectly through its impact on medical care and costs.

Since the 1960's the prevalence of diabetes has tripled and it is reaching epidemic proportions. The National Institutes of Health estimates that about 1,800 new cases are diagnosed each day. Diabetes is by far the most widespread disease in our country today. In 1992 alone, cost of care for diabetes totaled $92 billion.

The skyrocketing rise in diabetes is linked to four very important factors. First, an aging population. The aging of the baby boomer population will ultimately increase that number even higher. Second, is the increasing degree of obesity. Third, is the fact that the population is living in a more sedentary lifestyle, and fourth is the fact that improved diagnosis techniques have isolated cases at earlier stages.

Those at risk for diabetes generally exhibit four different characteristics: they are over 45 years old, more than 120 percent above their ideal body weight, physically inactive, or have an immediate family member diagnosed with diabetes.

The toll of diabetes in death and human suffering is very great. Physicians are very critical to pubic education efforts. Physicians need to be more aware and sensitive to the fact that diabetes is a very serious disease. Many people are unaware they have the disease until they seek treatment for one of its crippling conditions. Some of these conditions include: stroke, blindness, heart disease, or even kidney disease.

Diabetes is the leading cause of blindness among those 20 to 74 years old. Also, as many as 20 percent of diabetics develop kidney disease. And diabetics are two to four times more likely to develop heart disease and strokes.

Diabetes is currently the fourth leading cause of death by disease. Moreover, about 169,000 Americans die each year from the disease—more than the number of people who die from AIDS or breast cancer.

We must realize that diabetes requires a lifetime of medical care and self-treatment. A person with diabetes must have access to supplies, equipment, and education. With these resources made available, a person with diabetes can greatly reduce any complications that cause any suffering associated with the disease.

Health care must be made a priority for people with diabetes. People with diabetes have great difficulty acquiring affordable health insurance that is needed to obtain medical care. Medicare and Medicaid, the Federal Government's two largest health care programs, do not provide coverage of supplies and medication necessary to avoid complications related to diabetes.

According to the American Diabetes Association, diabetes research is proven to save money. Studies taken show that for every dollar spent on medical research, $13 is saved in health care costs. The majority of diabetes research is supported by the National Institutes of Health. Ironically, of the more than $12 billion spent by the U.S. Government on medical research, only 3 percent is used to fund diabetes research. There must be a greater amount of support for medical research programs and also increased funding for diabetes research.

In regard to health care issues, we must have widespread support for legislation and efforts in the private sector that will ensure greater access to health care for people with diabetes.

I have recently become a cosponsor of two bills sponsored by Representative FURSE (H.R. 1073 and H.R. 1074) that seek to expand Medicare coverage of outpatient self-management training and access to blood testing strips. I have also signed on to a letter supporting the National Institutes of Health as a priority when considering a balanced budget.

We, Representatives in Congress, have the opportunity to improve the lives of millions of Americans with diabetes who rely on Medicare for their health insurance. I look forward to working with the other Members of Congress, now and in the future, to improve the lives of people with diabetes.

TRIBUTE TO FRANKLIN MEISSNER

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise to pay tribute to an outstanding individual, Mr. Franklin Meissner, of Weymouth, MA. Today, Mr. Meissner, the outgoing chairman of the board of the South Shore Chamber of Commerce, will be honored for his exceptional work. During his tenure, the South Shore Chamber had its most successful financial year and is now the second largest chamber of commerce in New England. As the 1995 chairman, Mr. Meissner made significant improvements to the administration of the chamber by reorganizing the Economic Development Organization and upgrading the communications and computer operations. He also instituted the "Elder-Preneur" of the year award, honoring older people who continue to contribute to society.

In addition to efforts at the chamber, Mr. Meissner has been very active in serving his neighbors and community. To list just a few of his civic service activities: he is a member of the Weymouth Rotary Club; is director of the South Shore Hospital, Health and Educational Foundation; and is director of the Bank of Braintree. Mr. Meissner is also a successful businessman, as president of Electro Switch Corp., he employs over 500 people in Massachusetts and North Carolina. What has been very evident in all of Mr. Meissner's activities is strong dedication and a commitment to success.

Mr. Speaker, it is indeed an honor and a pleasure for me to have this opportunity to recognize this outstanding individual. I am sure I speak on behalf of many members of

VOL
142
PT
5
MR
21
—
29
1996
UMI

the community who have worked with Mr. Meissner when I offer my heartfelt congratulations and best wishes on this special day.

163D ANNIVERSARY OF THE TREATY OF AMITY AND COMMERCE BETWEEN THE UNITED STATES AND THAILAND

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. GILMAN. Mr. Speaker, I rise today to commemorate the 163d anniversary of the Treaty of Amity and Commerce between the United States and the kingdom of Thailand. This treaty, signed in 1833, is unique in that it is the first treaty of its kind between the United States and an Asian nation. It is a symbol of our enduring friendship and high respect for the Thai people.

For many years, the United States has had a close political and personal relationship with the people and the Government of Thailand. The Thais stood shoulder to shoulder with us in our long and principled battle against communism in Southeast Asia. Today, they continue as our ally in the war against illicit drugs. Thailand stands as a model to other South East Asian nations as a bedrock of peace and stability in a region which has seen much turmoil.

Today, the Thais have much to be proud of in the robust development of their economic strength and their leadership in Asian commerce. The interdependence of our economies binds us even closer together and Thai-Americans have made strong contributions to American society and culture.

Mr. Speaker, it is a honor to recognize this 19th century treaty which serves as the foundation of a long and prosperous relationship. It is hoped that Thailand and the United States will continue their long-standing and mutually beneficial friendship which serves as a model of cooperation in the region.

REPUBLICAN HEALTH BILL WILL RIP-OFF SENIORS BY PERMITTING SALES OF BAD INSURANCE PRODUCTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. STARK. Mr. Speaker, the health insurance bill that was approved by the Ways and Means Committee last week contains language that completely guts the laws against Medigap fraud and abuse.

The following letter from a consumer advocate explains why.

It is another reason the House should pass a simple, pure Kennedy-Kassebaum bill.

SENIOR HEALTH INSURANCE ISSUES,
Scotts Valley, CA, March 20, 1996.

Hon. BILL ARCHER,
Chairman, House Committee on Ways and Means, Longworth HOB, Washington, DC.

DEAR CHAIRMAN ARCHER: I am very concerned about an Amendment by Mr. Collins that recently passed out of the Committee on Ways and Means on Duplication and Coordination of Medicare Related Plans. I have been a consultant on Medicare, supplemental insurance and long term care insurance for more than eighteen years to both state and national consumer groups. I was very active in a lawsuit brought by the Santa Cruz District Attorney against an insurance agency for overselling duplicative and overlapping coverage to seniors in 1989. We both testified repeatedly in both Houses on this issue prior to the passage of OBRA 90.

While there is a legitimate reason to carve out a narrow exemption for disabled Medicare beneficiaries who have purchased guaranteed issue major medical coverage that duplicates and coordinates against Medicare, the Collins Amendment does not even address that issue. The proposed amendment language rolls back all federal and state protections since 1980 against selling multiple and duplicate policies to seniors on Medicare. This Amendment would allow companies and agents to sell seniors any amount and combination of policies on top of their Medicare and a Medicare Supplement. This practice has a long and disgraceful public history that led Congress to take action several times over the last two decades.

Not only would the proposed language repeal all federal protections, it would repeal all existing state laws and prohibit the enactment of any future state laws to protect elderly consumers. In addition to allowing the sale of excessive and duplicative coverage, it would also allow companies to coordinate those benefits against Medicare and other existing health benefits.

I find it very hard to believe that this Congress would allow these practices to resume and strip states of their rights to protect their own citizens from these abusive practices. Good public policy demands that seniors make the best use of scarce premium dollars and use any excess towards providing for their long term care needs, not the purchase of unnecessary duplicate coverage. I urge you to take a closer look at this issue.

Sincerely,

BONNIE BURNS,
Consultant.

SENIOR HEALTH INSURANCE ISSUES,
Scotts Valley, CA, March 20, 1996.

Hon. NEWT GINGRICH,
Speaker, The Speakers Office, House of Representatives, Washington, DC.

DEAR SPEAKER GINGRICH: Enclosed are copies of letters I have written commenting on the recent proposed federal legislation on tax clarification of long term care insurance and on duplication of medical benefits for people on Medicare. I understand that both of these issues will be voted on the floor shortly in one or more bills related to health insurance reform. These legislative proposals are almost identical to language contained in the Budget Bill that garnered many of the same concerns. I hope you will consider the issues I have raised in my letters to the Chairs of the various committees and subcommittees. These are extremely important issues that have profound repercussions for older consumers.

Stripping states of their rights to regulate consumer protections within their borders for their oldest and most vulnerable citizens is not consistent with your desire to allow states more flexibility and choice. Is it your public policy position that overinsurance for health care costs in the oldest and sickest populations is a desirable outcome? I can't imagine that you want to see seniors using their scarce health care premium dollars that should be spent on long term care coverage used to purchase unnecessary and excessive health care coverage.

Please take a careful look at these issues.

Sincerely,

BONNIE BURNS,
Consultant.

IN HONOR OF CALIFORNIA RECLAMATION DISTRICT NO. 108

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. FAZIO of California. Mr. Speaker, I rise today to honor California reclamation district No. 108, which is celebrating its 125th year of operation.

In 1868, the California State Legislature authorized the organization of reclamation districts to encourage residents to transform the State's swamps and flooded areas into arable land. One of California's oldest reclamation districts, No. 108, dates from September 1870. District No. 108 was organized by Yolo and Colusa County landowners for the purpose of slavaging the tule lands that extended from the western bank of the Sacramento River to the Colusa Basin.

One of district No. 108's earliest and most important responsibilities was flood control. Tens of thousands of acres of district land occupied low-lying areas of the Colusa Basin, surrounded on three sides by water during flood periods. The district had the immense challenge of dealing with potential flooding. In order to handle this contingency the district helped fund and maintain the Knights Landing to Princeton levee on the west side of the Sacramento River, as well as other levees outside district boundaries.

At the turn of the century, the district purchased areas of Sutter and Colusa County land, which it used as outlet channels to relieve pressure on the west side Sacramento River levees. During the same period, district authorities supervised the construction of a back levee to protect district lands from northern and western flood waters.

As development of lands within the district grew, so did R.D. 108's flood control efforts. Eventually, the district's work at the Knights Landing Ridge resulted in the 1915 formation of the independent Knights Landing Ridge Drainage District. During the same period, the newly-created Sacramento River West Side Levee District assumed maintenance control of the West Side Levee between the towns of Knights Landing and Colusa.

The earlier flood control efforts undertaken by district No. 108 laid the foundation for the development of these newer entities. District No. 108 developed a strong cooperative relationship with these bodies which continues to this day. The entire lower portion of the Colusa Basin enjoys greater flood protection as a result of this cooperative effort.

In the early years of this century the district expanded its focus, moving into the realm of irrigation. In 1917 district No. 108 obtained permission to irrigate lands not adjacent to the Sacramento River. An intense effort was mounted to establish an irrigation and drainage system which would serve the entire district. This effort was completed with great success. Today, there are 118 miles of irrigation ditches and over 300 miles of drains operated and maintained by the district.

In recent years, reclamation district No. 108 has faced a variety of challenges. During the 1960's the district worked with Sacramento River Water users and the U.S. Bureau of Reclamation to formulate a supplemental water supply plan. Today, district No. 108 is bring together Federal, State, environment, and water administrators and landowners in an attempt to develop a feasible and cost effective method for protection of the Sacramento River's endangered fish.

CELEBRATION OF JAN PIERCE'S 40 YEARS OF PROGRESSIVE LABOR LEADERSHIP

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. MANTON. Mr. Speaker, I rise today to pay tribute to Jan D. Pierce, the vice president of the Communications Workers of America, District One.

For the last 40 years, Mr. Pierce has worked tirelessly as a progressive labor leader in the communications industry and has been a leading advocate for rank and file unionism in the United States.

Mr. Pierce has been an active union member his entire working life, beginning with his employment by the then Bell System in 1956. He then served as president of CWA Local 4320 in Columbus, OH. Following that, he worked with the CWA District One staff as area director, assistant to the vice president and beginning in 1985, as vice president of the largest CWA district in the country.

Mr. Speaker, Mr. Pierce has stood by his word for the last 40 years by serving as an articulate spokesperson with a progressive point of view on major social, economic and political issues. In addition, he has involved himself in countless causes and struggles including civil rights, human rights, women's rights, political campaigns, demonstrations, picket lines and movements to improve conditions for the American worker.

Mr. Speaker, I am proud to recognize the achievements of Jan D. Pierce, and I know my colleagues join me in honoring him as we celebrate 40 years of progressive labor leadership with the Communications Workers of America.

HONORING JOANNE O'ROURKE ISHAM, DIRECTOR, OFFICE OF CONGRESSIONAL AFFAIRS, CENTRAL INTELLIGENCE AGENCY

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. COMBEST. Mr. Speaker, I rise today to call special attention to the dedicated work of Ms. Joanne Isham as Director of Congressional Affairs at the Central Intelligence Agency. Ms. Isham served in this demanding job for 2 years, taking over the office in a period of controversy following the reprimand of several CIA employees for their handling of the Aldrich Ames spy case. She recognized that the CIA's relations with the Congress were badly damaged by the spy case and set about immediately to improve them.

Mr. Speaker, I witnessed a dramatic shift in the Agency's posture with the Congress following Ms. Isham's appointment. She initiated a series of reforms to ensure that the Intelligence Committees were kept fully and completely informed of significant developments at the Central Intelligence Agency. She accomplished this turnaround not with a heavy hand, but with fair and even-tempered management. Ms. Isham kept me fully apprised of significant developments in the intelligence community. She earned the committee's respect in a most difficult undertaking.

Ms. Isham has now been promoted to be Associate Deputy Director for the CIA's Directorate for Science and Technology. This is a new position that will enable her to capitalize on her strong relations with the Congress and many years of experience in the CIA to bring a strategic and more corporate management team to the CIA's Directorate for Science and Technology. We will miss her at Congressional Affairs, but look forward to working with her in this new capacity.

Finally, I want to note that, in recognition of her work, she was awarded the Contract With America's Distinguished Intelligence Medal by Director John Deutch on March 18, 1995, in recognition for her outstanding leadership and management of the Office of Congressional Affairs. I want to thank her for her service to her country and her unstinting bipartisan work on behalf of the intelligence community.

SALUTE TO FAMILIA DIAZ MEXICAN RESTAURANT

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. GALLEGLY. Mr. Speaker, I rise today to salute a family restaurant in my district that is celebrating six decades of success—a family restaurant that never forgot the importance of family.

Familia Diaz Mexican Restaurant, now a fixture on 10th Street in Santa Paula, was established in 1936 by two people who had just $500 in savings and a dream in their hearts. Jose and Josepha "Pepa" Diaz opened their cantina, originally called "Las Quince Letras," and resolved that through hard work and determination they would succeed.

While Jose worked the front, making conversation with faithful customers who, over the years, would become almost as close as family, Pepa would be in the kitchen turning out her famous recipies, sometimes sending daughter Vickie to the corner store to buy the ingredients for a particular dish.

Word spread and the restaurant grew. In the 1950's, their son, Tony, came into the business and built on the progress his parents had made. For many years, Tony's wife, Cecila, and his sister, Nora, almost single-handedly turned out the restaurant's famous tamales.

In 1980, when Tony was celebrating his 30th year in the restaurant, he was joined in the business by two of his children, Sandra and Dan. This was so very appropriate, because in Familia Diaz' 60 years of business, business has always been deeply rooted in family.

While the number of fast food restaurants turning out food that is precooked, prepackaged, and preheated continues to proliferate, it is refreshing to know there are still places to go where food is prepared, the way it is at Familia Diaz.

I would like to wish the Diaz family a sincere congratulations on this happy 60th anniversary and best wishes for the future. I know that as long as this restaurant maintains a healthy supply of its most precious commodity—family—it will continue to enjoy great success.

PROCLAMATION HONORING MRS. AMANDA FRAZER DAWSON

HON. VICTOR O. FRAZER

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. FRAZER. Mr. Speaker, I insert the following for the RECORD:

A PROCLAMATION

Whereas, Ms. Amanda Blyden was born on April 7, 1906 in Tortola in a little Village of Cane Garden Bay to Celina and George Blyden;

Whereas, Ms. Blyden moved to St. Thomas in the early 1900s;

Whereas, she attends Christ Church Methodist in the Market Square where she has remained an active member for over fifty years;

Whereas, Ms. Blyden married Mr. Albert Frazer on December 16, 1925;

Whereas, she had ten children, seven are presently alive and active in their communities;

Whereas, she is a proud grandmother and great grandmother to over fifty children;

Therefore, be it resolved on this the seventh day of April 1996, I, Victor O. Frazer, Member of Congress, join with family and friends to honor a great woman as she celebrates her ninetieth birthday.

HOUSE CONCURRENT RESOLUTION 148

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mrs. MINK of Hawaii. Mr. Speaker, I came to Congress in January 1965, when questions about our escalating involvement in Vietnam were widely debated. Congress had passed the Gulf of Tonkin resolution the summer before, providing supporters of the war in Vietnam with a claim that Congress had authorized it. I took a stand against United States involvement in the Vietnam war. Supporters of

VOL
142
PT
5
MR
21
—
29
1996
UMI

the war used the near unanimous vote taken by Congress in passing the Gulf of Tonkin resolution to prove that I was out of line and even un-American for opposing my Government at a time of armed conflict.

This Taiwan resolution repeats the mistakes of the Gulf of Tonkin resolution.

For 24 years we have adhered to a One China policy to the point where we have declined to recognize Taiwan as an independent nation. Until we do, our policy has been as stated in the Taiwan Relations Act. Taiwan does not have a United States Embassy in the United States; neither do we have one in Taiwan.

Despite the diplomatic difficulties that this One China policy has caused, it has produced enormous prosperity in Taiwan, making it the 19th largest economy in the world. Today Taiwan is a major trader with the United States as well as with the People's Republic of China. It has won its right to the international trading table without dispute.

The Taiwan Relations Act states no committment on the part of the United States to use our military force in case of threats by mainland China. It was carefully crafted to avoid this inference.

Today we are amending that act. This resolution specifically makes that pledge of military force.

I find it hard to support this resolution, despite the alarming and exceedingly provocative actions of the People's Republic of China, because it goes too far and changes the long-standing policy without any substantive debate and without discussion of all the ramifications of this change.

This resolution is a cold war style reaction to the current missile firing and military maneuvers by the People's Republic of China in the Taiwan Straits. A sounder resolution which deplored this provocation and urged that it come to a halt and commended the Government of Taiwan for their remarkable achievements, pledged continuing support and friendship, and congratulated them on their upcoming election would have been all that was needed to point to the obvious need for the People's Republic of China to back off.

Yet I cannot vote against the Taiwan resolution, because like most of the Congress I, too, am disturbed at the aggressive behavior flagrantly exhibited by the People's Republic of China. It is not a normal reaction to the first Presidential election going on in Taiwan. In fact, it assured the overwhelming election of President Lee. It probably is more related to the power struggle going on in the People's Republic of China over who is to succeed Deng Xiao-Ping. We know that the various factions are positioning themselves to succeed him. A statement that the United States is a friend of Taiwan was probably important to reiterate. However, to go further and threaten the use of our military I believe was going too far.

Further, I believe that the President of the United States is in charge of the foreign policy of the United States and is also the Commander in Chief of our military forces. President Clinton had already ordered our ships to the Straits of Taiwan to observe the tactical exercises to make sure that it did not invade Taiwan's territorial integrity.

For these reasons I decided to vote "present" to respect the President's appropriate exercise of authority over this episode. My vote of "present" was cast to indicate that I had confidence in the President to serve the interests of all Americans in this matter at this time.

In the future if it ever becomes necessary to consider a resolution of war against the People's Republic of China I want to be free to determine at that time whether or not to support such a step.

I believe that those who voted for this resolution could be said to have already made their decision to go to war.

I want to reserve that decision to a later time and hope that that time will never come.

AVIATION TAX SCHEDULE

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. LIGHTFOOT. Mr. Speaker, the administration has proposed as part of its fiscal year 1997 budget request that Congress give the Federal Aviation Administration [FAA] the unlimited authority to establish and raise new aviation taxes. Under the administration proposal, the FAA could establish and implement those new taxes not later than 60 days after enactment. Following my statement is the aviation tax schedule developed by FAA in support of its budget request. Space limitations prevent us from adding the complete document into the RECORD today. However, the full FAA document is readily available from my office.

This new aviation tax schedule is clearly a case of the "devil is in the details." The administration, in its publication "FAA fiscal year 1997 Budget in Brief," attempts to portray these aviation taxes as limited to $150 million. However, the legislative language submitted to Congress, coupled with the information I am sharing with this House today, tells another story.

The legislative language submitted to Congress does not actually limit the amount collected in aviation taxes, it merely limits the amount available for obligation in fiscal year 1997 to $150 million. As we see in the attached aviation tax schedule entitled, "Illustrative User Fees and Aviation Regulation and Certification," the administration clearly has bigger things in mind. This aviation tax plan could raise as much as $345 million in fiscal year 1997. Who knows what designs the administration would have on the almost $200 million in unobligated new tax funds the FAA could collect in fiscal year 1997.

At this point let me briefly highlight a few of Secretary Pena's proposed new aviation taxes.

At least $122 million could come from the airlines in the form of aircraft registration fees, air operator certificate fees and manufacturers certification fees. An additional $57 million could come from general aviation in the form of new license and medical certification fees. I am sure other parts of the aviation community will be interested to see what the administration believes should be their share of the new aviation taxes.

Mr. Speaker, this proposal is even worse than the original McCain-Pena proposal, S. 1239, because under this new administration proposal Congress would not have the opportunity to review any new aviation taxes before they were implemented. I hope Members of the other body who have supported S. 1239 will take a long, hard look at the administration's proposed aviation tax structure, because this is the future of aviation. This is what the administration would propose if Congress were to ever approve the McCain-Pena bill.

This administration's creation of a phony aviation funding crisis demonstrates that it does not believe itself capable of, nor is it even willing to attempt, to live within the confines of a balanced Federal budget.

We see today what the administration passes off as its vision of the future of aviation; not a modern, leaner, more efficient FAA—but new taxes to paper over the problems of an old, inefficient organization—in other words—business as usual.

It's interesting to note, Mr. Speaker, the administration continues to resist FAA reform. Two weeks ago the House passed the Duncan-Lightfoot FAA reform legislation. The Secretary of Transportation threatens a presidential veto of our FAA reform legislation. In fact, earlier this year the Appropriations Committee had to direct the FAA to develop and implement a plan to reform its personnel and procurement procedures.

Mr. Speaker, this plan for new aviation taxes goes to the heart of what the General Accounting Office has reported to us about the FAA. There is an organizational culture problem at FAA that I believe can only be fixed with continued congressional insistence on personnel reform, procurement reform and, of course, the restoration of FAA to independent agency status.

I think it is vital the Congress, the aviation community and the traveling public, which will ultimately pay these new taxes, have the opportunity to see the fine print whenever this administration proposes new aviation taxes. You can be sure this misguided tax proposal will face serious congressional scrutiny, particularly from the House Transportation Appropriations Subcommittee.

ILLUSTRATIVE USER FEES FOR AVIATION REGULATION AND CERTIFICATION

Presently the FAA charges fees for foreign repair stations and fees to recover the costs of the Civil Aviation Registry for processing and issuing aircraft registration certificates, dealers' aircraft certificates, and special registration numbers. Registry fees are nominal, for example, registering an aircraft is a one-time fee of $5 and there is no charge for airmen certification. Proposed new fees and increases in existing fees which were authorized by the Drug Enforcement Assistance Act of 1988 and which will take effect in 1997 still will not recover indirect overhead costs, nor will they compensate for FAA's costs to actually certify and license aircraft, airmen, air operations, or air agencies. A list of the types of Registry fees, how much is now charged and how much will be charged beginning in 1997, is shown in Exhibit No. 1, "Civil Aviation Registry" on the next page.

The User Fee Task Group studies a number of possible certification and licensing fees,

which are listed below. A brief description of each fee is provided in Appendix No. 2, "Synopsis of Illustrative User Fees—Certification, Regulation, and Licensing." More detailed narratives on each fee are available.

[In millions of dollars]

Illustrative fee:	*Projected annual revenue*
Aircraft Certification: Designee Appointments and Renewals	6.0
Aircraft Certification: Design Certification, Production Approval, and Airworthiness Certification	10.0
Aircraft Registration Fee	250.0
Airmen Certification/Registration (including Medical Certification)	56.5
Certification of Air Operators and Air Agencies	11.6
Civil Aviation Registry	11.0
Total Projected Annual Revenue	345.1

AIRCRAFT CERTIFICATION; DESIGNEE APPOINTMENTS AND RENEWALS

The FAA interviews and reviews the credentials and training of individuals who seek appointments as engineering, airworthiness, or inspection representatives. These individuals benefit economically as designees of the FAA. Therefore, a $1,000 fee for initial appointments and annual renewals would not seem unreasonable and would probably add an element of efficiency, as those designees who conduct certifications infrequently would opt not to be appointed, thereby reducing FAA's workload. Conversely, caution should be exercised to not charge too high a fee, as this might decrease the number of designees and also increase the FAA's workload.

EXHIBIT NO. 1.—CIVIL AVIATION REGISTRY IMPACT OF FULL COST RECOVERY

[In thousands of dollars]

	Current fee	Estimated annual collection	Proposed fee	Estimated annual collection	Required cost recovery fee	Estimated annual collection
Aircraft Registration Certificate (Non-Transport)[1]	5.00	210.0	32.00	1,344.0	45.03	1,891.4
Aircraft Registration Certificate (Transport)[1]	5.00	11.0	17.00	37.4	45.03	99.1
Aircraft Reregistration Certificate[2]	0	0	17.00	408.0	45.03	1,080.8
Airmen Certificate—New/Additional Ratings	0	0	14.00	2,240.0	18.21	2,913.8
Dealer's Aircraft Certificate—Original[3]	10.00	13.0	22.00	28.6	27.90	36.3
Dealer's Aircraft Certificate—Additional	2.00	6.4	7.00	22.4	27.90	89.3
Duplicate Aircraft Registration	2.00	6.0	7.00	21.0	44.89	134.7
Duplicate Airmen Certificate	2.00	90.0	7.00	315.0	23.85	1,073.4
Pilot Certificate—Reissued/Renewal[4]	0	0	14.00	980.0	23.85	1,669.8
Record Security Aircraft Parts Locations Engines & Props[5]	5.00	129.0	17.00	436.6	26.90	694.0
Record Security Interest[5]	5.00	150.0	17.00	510.0	26.90	807.0
Renewed Special Registration Number	10.00	40.0	28.00	112.0	34.68	138.7
Special Registration Number	10.00	100.0	30.00	300.0	37.16	371.6
Total		755.4		6,757.0		11,000.0

Requiring Operating Funds, $11.0M.

[1] This is the cost for the original aircraft registration.

[2] This is the cost for the renewal of aircraft registration which must occur every TEN years.

[3] These are currently renewed on an annual basis and will continue to be done that way.

[4] This will be for the ID portion of pilots certificates which will need to be renewed every TEN years.

[5] The collections for these fees currently goes to the General Fund, not the Registry.

FAA designates about 6,000 medical doctors, Airmen Medical Examiners (AME's), to perform medical examinations to certify the health of airmen. Typically, exams cost about $50–$75, and on average, AMEs conduct 50–100 exams a year. Few AMEs make a living from these exams and few would find it worthwhile to continue their designations if a fee were to be charged. Although not yet instituted, AMEs are to be charged $200 to attend FAA mandated training.

AIRCRAFT CERTIFICATION: DESIGN CERTIFICATION, PRODUCTION APPROVALS, & AIRWORTHINESS CERTIFICATION

FAA engineers conduct extensive analyses, inspections, and ground or flight tests to certify that an aircraft, engine, propeller, or aircraft part complies with design standards. FAA also approves manufacturers' request to produce and sell aircraft replacement parts. Fees could be charged for the initial certifications and for periodic renewals. While $10 million in annual revenue is projected for this user fee, much work needs to be done to fine tune this forecast, and to determine what types, and the amounts, of fees that could be charged.

AIRCRAFT REGISTRATION FEE

Presently, registering an aircraft is a one-time charge of $5. Under current legislation this will increase to an initial registration fee of $17 for commercial airlines and some business jets, and $32 for all other aircraft. Every ten years there will be a renewal registration fee of $17. The proposed illustrative aircraft fee, comparable to an automobile registration fee, could convert this fee to an annual fee with an option to pay several years in advance, and possible levels of charges could be the following:

Type of aircraft	Number in fleet[1]	Illustrative fees	Annual revenue (thousands)
Single Engine Pistons	123,600	$100	$12,360
Multi-engine Pistons	15,800	1,000	15,800
Turboprops	4,900	9,000	44,100
Turbojets	4,400	18,000	79,200
Piston Helicopters	1,500	500	750
Turbine Helicopters	3,200	1,500	4,800
Subtotal	153,400		157,010
Large Jet Aircraft	4,725	20,000	94,500
Total	158,125		251,510

[1] Based on 1997 forecast.

Note: It is important to bear in mind that these fees would be instituted in lieu of, not in addition to, the existing aviation taxes.

AIRMEN CERTIFICATION REGISTRATION AND AIRMEN MEDICAL CERTIFICATION

FAA certifies that airmen (e.g., flight engineers, pilots, mechanics) meet certain qualifications/requirements, for example, that pilots have flown a minimum number of hours. FAA assesses charges for certifying foreign airmen, but does not now assess a fee for domestic certifications. Fees could be established, comparable to those charged for foreign certifications, ranging from $250 to $400. Once certified, airmen could be charged an annual registration fee, like an individual's automotive driver's license. Annual fees might be the following:

Airmen	$15 annual fee	$20 annual fee	$25 annual fee
Student Pilots	X		
Private Pilots	X		
Mechanics	X		
Flight Navigators	X		
Parachute Riggers	X		
Dispatchers	X		
Commercial Pilots		X	
Flight Engineers		X	
Flight/Ground Instructors		X	
Airline Transport Pilots			X

A user fee is proposed to charge pilots to recover the costs to administer the Medical Certification and Airmen Medical Examiners Programs. To do so, the following fees might be assessed:

Certificate	No of certificates[1]	Possible fee	Projected revenue
1st Class Medical Certificate (commercial pilots; examined every six months)	170,000	$30	$5,100,000
2nd Class Medical Certificate (annual examination)	115,000	25	2,875,000
3rd Class Medical Certificate (private pilots examined every two years)	170,000	15	2,550,000
Total	455,000		10,525,000

[1] The number of certificates will decrease in the future when recreational pilots are not required to take a medical examination, but are able to self-certify that they are medically qualified to fly.

To simplify the administrative processing and to make it easier for airmen to pay, rather than charge a separate medical certification fee and a separate airmen registration fee, these charges should be combined into a single fee.

CERTIFICATION OF AIR OPERATORS AND AIR AGENCIES

Individuals and companies who wish to provide aviation services to the public must be certified by FAA that they meet certain requirements. These are mandated by law and include requirements relating to airplane performance, airworthiness, training programs, operating manuals, and crew member qualifications. Except for the certification of foreign repair stations, FAA does not charge for the time and resources expended in granting a certificate. Fees could be charged to cover the cost of the initial certification and annual renewals. Air operators include large airlines, commuter and small charter airlines, foreign airlines, external load operators, and agricultural operators. Air agencies include repair stations,

VOL 142 PT 5 MR 21 — 29 1996 UMI

pilot training schools, and maintenance schools.

An initial certification charge would be a flat rate determined by a formula using historical data. For example, to certify a large airline, FAA could charge $202,000, which is based on an average of 2000 inspector hours at a rate of $101 per hour. Annual renewal fees could be a rate based on the complexity of the review.

INTERNATIONAL COMPARISONS

User fees for certification and regulation are not without precedence. A review of fees charged by Australia, United Kingdom, Canada, and Japan, showed that all four countries charged fees for an air operator certificate, pilots' and other airmen's licensing, and certificates of airworthiness. See exhibit No. 2, "Certification and Regulation Fees—International Comparisons." Fee schedules for each country can be provided. Generally, Canada's certification and regulation fees, like the United States' at this time, are nominal, and do not capture the costs of providing the services. About 20%–30% of Canada's regulatory function is funded by user fees, and 70%–80% is subsidized by general taxpayers.

In almost all instances, instituting the illustrative certification and regulation fees would require new or revised authorizing legislation and an accelerated rulemaking process. S. 1239, "Air Traffic Management System Performance Act of 1995," a bill submitted by the Senate Committee on Commerce, Science, and Transportation's Subcommittee on Aviation, would allow the establishment of fees for safety, certification, security, training, inspection, and other activities. In addition, the bill mandates that the fees go into effect 45 days after submission to Congress. This is important since historically our experience has shown that it takes an average 2.4 years to go through the usual rulemaking process.

In an environment where users would be charged for services, fees for certification and licensing make sense, despite vehement opposition by those who would be charged. For a number of reasons, however, collection of these fees, while not impossible, would probably be difficult in FY 1996.

EXHIBIT NO. 2—CERTIFICATION AND REGULATION FEES INTERNATIONAL COMPARISONS

User Fee	Australia	United Kingdom[1]	Canada[2]	Japan	United States
Air Operators Certificate	Yes	Yes	Yes	Yes	No.
Pilot License	Yes	Yes	Yes	Yes	1997.
Licensing for Airmen Other Than Pilots	Yes	Yes	Yes	Yes	1997.
Airmen Medical Certification	—	Yes	Yes	Yes	No.
Other Designees (airworthiness representatives, manufacturing inspection representatives)	Yes	—	No	—	No.
Certificate of Airworthiness	Yes	Yes	Yes	Yes	No.
Certificate of Airworthiness Renewal	Yes	Yes	No	Yes	No.
Noise Type	—	Yes	No	Yes	No.
Noise Type Renewal	—	—	No	Yes	No.
Type Certificate	Yes	Yes	Yes	Yes	No.
Aircraft Registration	—	—	Yes	Yes	Yes.
Simulator Certificate (Annual and Renewal)	—	Yes	No	—	No.

[1] Other fees charged include: aircraft engine emissions; air traffic controllers' license (Canada also charges this fee); flying exhibit fees where more than 500 people are likely to attend.

[2] Generally these charges do not reflect costs of providing service. About 70–80% of Canada's regulatory function is subsidized by general taxpayers, and 20–30% is funded by user fees.

Note: Australian fees in effect on 7/90. Civil Aviation Authority (United Kingdom) fees in effect on 4/95 (rates are updated annually). Canadian fees effective as of 8/95. Japan's user fees in effect on 10/95.

As shown in the very first chart, the total projected revenue from certification, regulation, and licensing user fees is $345.1 million. This compares with the allocated cost[1] for Aviation Regulation & Certification of $658.6 million, resulting in a shortfall of $313.5 million. (See Appendix No. 2, "Comparison of Costs and Revenues by Activity.") While the precise amount of the deficit can be adjusted, e.g., adjust aircraft registration fee, reexamine aircraft certification revenue projection, or institute additional fees, the bottom line is that there is a sizable deficit between revenue from user fees and the costs of providing certification and regulation services.

CONGRESS MUST ACT CAREFULLY WHEN REGULATING SECOND AMENDMENT RIGHTS

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. GUNDERSON. Mr. Speaker, the debate about guns is as old as these United States of America. The American Revolution was about tyranny of the few over the many; and the power to control the masses included the ability to control firearms. As a result, our Founding Fathers believed it essential to guarantee the right to bear arms as a way to prevent history from repeating itself.

Throughout the ensuing 220 years, the second amendment has served us well—for food, for defense, and for sport. Guns were necessary to secure food and for protection as families settled our country during the early years of the country. Gun skills were vital to life then, remained important through two World Wars, and are still important today, especially to those outdoors enthusiasts in Wisconsin. There are many gun clubs in western Wisconsin, where young and old alike practice against targets and clay pigeons. Our hunters enjoy the sport and challenge of trying to bag a buck or a bird. We must ensure that their enjoyment can continue.

Yet everyone should recognize that the second amendment right to bear arms is not absolute. Congress has the ability to regulate the use of firearms where necessary. For example, over 60 years ago, Congress prohibited automatic weapons—machine guns—because allowing the sale of these weapons was contrary to the public interest. Today, we need to confront another growing problem—incidences of random gun violence by individuals and excessive drug-induced violence. This violence often pits our law enforcement personnel against criminals with greater firepower.

I believe that some firarms can be regulated by Congress without violating our second amendment rights. Just as a person cannot abuse his free speech rights by yelling fire in a crowded theater, there are reasonable limits that Congress may need to place on certain firearms. The issues are what firearms Congress regulates and how the regulation is conducted.

Today, we confront that issue as the House of Representatives again considers the assault weapons ban. Once again, both supporters and opponents have made their views known with emotional fervor. Both sides approach this debate with important and valid concerns. To many, the issue is the basic guaranty to bear arms provided in the second amendment to the Constitution. To others, the issue is a question of how to protect against mass killings all over the country, in both urban and rural areas.

When the House considered the assault ban in 1994, I noted that the real issue was not whether Congress could ban a short, designated list of firearms. Rather, the issue was whether, in addition to a short list, the people wanted to entrust the Federal bureaucracy with the power to decide which firearms were copies or duplicates of the firearms banned in the law or that met the additional banned firearm criteria. Supporters claimed that language prohibiting copies or duplicates is necessary to be effective and that the additional banned modifications are narrowly tailored. Opponents disagreed, noting that the effect would likely be to ban dozens of weapons. By a narrow vote of 216 to 214, the House decided that the Bureau of Alcohol, Tobacco and Firearms [BATF] should have that power.

In my opinion, the existing assault weapons law leaves excessive discretion to the Bureau of Alcohol, Tobacco and Firearms to determine when modified firearms should be banned. I believe then, as I believe now, that providing such wide latitude is wrong and that Congress must be more specific if it is to act at all.

As a result, I will vote to repeal the assault weapons ban. I sincerely believe that Congress must act very carefully when curtailing constitutionally protected rights, and it must fully disclose the effects of the legislation it passes to regulate those rights. The House did neither when it passed the assault weapons ban in 1994.

H.R. 2202, IMMIGRATION REFORM

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Ms. WATERS. Mr. Speaker, I was unable to be present for the floor debate on immigration

reform due to business in my district. However, I would like to submit my views on H.R. 2202 for the RECORD.

As a Californian, I am well aware of many of the problems and economic strains associated with illegal immigration. However, we must not deter people, many who come here seeking freedom and opportunity, and many who have become productive citizens, from legally entering the United States. Many legal immigrants come to this country with a desire to work. Our challenge is to manage that flow rationally.

H.R. 2202 is an extreme measure that not only attempts to stop illegals from crossing our borders—often in unworkable and repressive ways—but also limits many of our family members such as sisters, brothers, parents, and adult children from joining us in America. This bill actually punishes legal residents and citizens by unreasonably restricting family reunification visas. It denies adult children and siblings of citizens and legal residents—many who have waited years to enter the United States—the chance to reunite with their families in America. This change in law would unfairly punish families that depend on their loved ones, not the Government, for support.

This bill also imposes annual refugee caps, limiting the number of eligible refugee applications to 50,000 per year—that's almost half of the current number. These people may be terrorized by their government, and have no other recourse than to flee their nation. Under this legislation, refugees could be turned away if the immigration quota of 50,000 for that year has been filled. This is a disgrace for a nation with a solid tradition of immigration, and a history of being a refuge for those who flee terror and deprivation.

I am disillusioned that some of my colleagues seek to make this bad bill worse by amending it to deny children an education, simply because they happen to be born to undocumented parents. Such a move would only further hurt an already disadvantaged child. It is absolutely cruel to punish innocent children for their parents' decisions.

This provision would also take a financial toll. In Los Angeles County alone—my home, and the home to nearly 30 percent of California's public school population of almost 1.5 million—the administrative costs for verification could total as much as $97 million over a 7-year period, at $37 per student plus startup costs. It makes more sense to educate our children, rather than waste our resources verifying their citizenship, while risking discriminating against our own citizens in the process.

Other provisions, such as those which would force public hospitals to identify illegals before being reimbursed, are equally immoral. This could threaten public health and possibly increase harassment and discrimination in our hospitals.

It is my hope that we may vote to divide this bill into two parts, one which deals with legal immigration and the other with illegal immigration. I support securing our borders with more agents, better equipment, and sturdy barriers. I applaud the deportation of criminals and increased penalties for people who fraudulently reproduce U.S. documents. However, I do not back the provision to enhance the power of Federal law enforcement, including increasing wiretap authority. This is a complex bill with more weaknesses than strengths, at this point. Splitting the bill could allow us to focus on the real problem, which is stopping illegal, not legal, immigration.

Let us decrease the flow of illegal immigrants to our Nation, while proceeding to advance legal immigration. Our country continues to obtain its ultimate strength from diversity. Our tradition as a nation of immigrants obligates us to find a fair and just way to handle that responsibility.

Specifically, on the amendments, had I been present, I would have voted as follows:

Amendment No. 3, offered by Representative BEILENSON—"yes";

Amendment No. 4, offered by Representative MCCOLLUM—"yes";

Amendment No. 7, offered by Representative BRYANT (TN)—"no";

Amendment No. 9, offered by Representative VELÁZQUEZ—"yes";

Amendment No. 10, offered by Representative GALLEGLY—"no";

Amendment No. 12, offered by Representative CHABOT—"no";

Amendment No. 16, offered by Representative CANADY—"no";

Amendment No. 18, offered by Representative DREIER—"no";

Amendment No. 19, offered by Representative CHRYSLER—"yes";

Amendment No. 22, offered by Representative POMBO—"no";

Amendment No. 24, offered by Representative GOODLATTE—"no";

Amendment No. 28, offered by Representative BURR—"no";

Bryant motion to recommit—"yes".

Final passage—"no".

In addition, on Thursday, I would have voted "no" on rollcall vote 80, "no" on rollcall vote 81, "yes" on rollcall vote 82, and "no" on rollcall vote 83.

And, on the motion to go to conference on the omnibus continuing appropriations bill, I would have voted "yes".

Finally, on Friday, I would have voted "no" on both the rule and final passage of H.R. 125, to repeal the assault weapon ban.

TRIBUTE TO GIRL SCOUT GOLD AWARD RECIPIENT

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. OBEY. Mr. Speaker, today, I would like to salute an outstanding young woman, Elizabeth Fox, who has been honored with the Girl Scouts of the U.S.A. Gold Award by the Indian Waters Girl Scout Council in Eau Claire, WI.

She is being honored for earning the highest achievement award in Girl Scouting. The Girl Scout Gold Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development.

Girl Scouts of the U.S.A., an organization serving over 2.6 million girls, has awarded more than 20,000 Girl Scout Gold Awards to senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill five requirements: earn four interest project patches, earn the Career Exploration pin, earn the Senior Girl Scout Leadership Award project, earn the Senior Girl Scout Challenge, and design and implement a Girl Scout Gold Award project. A plan for fulfilling the requirements of the award is created by the senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

For the Girl Scout Gold Award project, Elizabeth organized a stuffed animal drive in her community and donated the toys to local timeout shelters. For her project, Elizabeth assessed the needs of her community, developed a plan to address one specific area in need, and followed through with the project to completion. The organizational and communications skills she developed through the project will benefit her throughout her life, and Elizabeth's dedication to Eau Claire will benefit the community for a long time to come.

The earning of the Girl Scout Gold Award is a major accomplishment for Elizabeth Fox, and I believe she should receive the public recognition due her for this significant service to her community and her country.

HONORING CHARLES C. WILLIAMS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. KILDEE. Mr. Speaker, it is my pleasure to rise before my colleagues in the U.S. House of Representatives to recognize Mr. Charles C. Williams. Mr. Williams is retiring after many years of dedicated public service. A retirement dinner in his honor is to be held on March 29, 1996 in Flushing, MI.

Throughout his 40-year career, Mr. Williams worked diligently to improve the lives of those who were less fortunate, and who were most in need. Mr. Williams proved to be a tireless advocate for children and played a vital role in helping to develop and advance programs dedicated to the preservation of one of the most important resources, the family. His work on behalf of his community has earned him the respect of not only his colleagues, but also the countless people whose lives were touched by him.

Mr. Speaker, Charles C. Williams has worked selflessly to make his community a better place in which to live. I know that his retirement dinner is not meant to celebrate his departure from the Department of Social Services, rather, the dinner is meant to show him the deep and abiding love and respect his colleagues, his family, his friends, and his community have for him. I ask you and my fellow Members of the 104th Congress to join me in paying tribute to such a dedicated public servant, Mr. Charles C. Williams.

VOL
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H.R. 2202—THE IMMIGRATION IN THE NATIONAL INTEREST ACT

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. KENNEDY of Rhode Island. Mr. Speaker, I believe H.R. 2202 creates an aura of fear and suspicion within our communities. Instead of addressing the real problem—the loss of our jobs to illegal immigrants, it unfairly punishes children and college students seeking an education. My district in Rhode Island is comprised of American citizens and legal residents of a multitude of races and nationalities. Because of that, I voted against final passage of the bill.

I wholeheartedly support H.R. 2202's initiatives to end illegal immigration by increasing the number of border control agents, building additional roads and barriers and cracking down on employers who hire illegal aliens. This mean spirited bill however, heightens the fear, hysteria, and anti-immigrant fervor that is running rampant across this country. For this reason, I could not in good conscience support this legislation.

My district in Rhode Island is enriched by the many people who have brought their cultures and traditions to this great Nation to build a life for themselves and for future generations. I am proud of these hardworking Americans, who each day go to work, pay taxes, and contribute to creating a stronger United States and Rhode Island.

Rhode Island boasts a myriad of ethnic groups who take pride in these cultures and traditions. This allows future generations of Rhode Islanders to celebrate the lives of their forebearers while providing the greater community the opportunity to share, learn, and respect the value of difference. This fellowship is part of the solution to ending the ignorance and fear of the unknown. Whether it be the Portuguese fiestas in Bristol, the Greek festivals in Pawtucket, the Hispanic celebrations in Central Falls, the French-Canadian traditions in Woonsocket, the Italian feasts in North Providence, or the Irish parades in Newport, Rhode Islanders value and cherish their ethnic roots. H.R. 2202 contributes to the slow but sure demise of these cultural values.

I find it unconscionable that Congress would approve legislation allowing school administrators the right to demand proof of citizenship before allowing a child to receive an education. It is a travesty that in an effort to curb illegal immigration, the authors of this bill have chosen to scapegoat children. Have we become so desperate that we must resort to these drastic measures? Creating an Orwellian society in which individuals must present a card to verify their legality refutes everything that is right and good about America. It is blind and unfair. It fans the flames of prejudice. Does anyone doubt who will be asked to present a card? All too easily administrators will fall back on old prejudices for guidance. Someone is not any less an American because of the color of their skin or because their last name is new to a neighborhood.

I view H.R. 2202 as nothing but a political ploy orchestrated by the Republican Party to once again appease their supporters, to retain and build upon their majority. By forcing Democrats to go along, or be criticized for not doing the politically in thing, the Republican majority is once again playing games with extremely important issues. I will not be a part of playing their games and trampling on the spirit of ethnic pride in Rhode Island and the United States.

CONSERVATIVES ATTACK SLAUGHTER AS SHE FILES COMPLAINT AGAINST MCINTOSH

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Ms. SLAUGHTER. Mr. Speaker, please insert the following article as additional documentation to my statement on March 22, 1996, regarding the need for the conduct of the Committee on Standards of Official Conduct to be beyond reproach.

[From Gannett News Service, Dec. 5, 1995]

CONSERVATIVES ATTACK SLAUGHTER AS SHE FILES COMPLAINT AGAINST MCINTOSH

(By John Machacek)

Rep. Louise Slaughter, D-NY., Tuesday filed an ethics complaint against a Republican subcommittee chairman. But she faces a counterattack from conservatives.

The complaint to the House Ethics Committee alleges Rep. David McIntosh, R-Ind., used fabricated documents and made false statements on the House floor during his drive to limit lobbying by federally funded nonprofit groups. Consumer activist Ralph Nader has filed a similar complaint.

Slaughter said McIntosh's actions were part of a "campaign of intimidation" aimed at silencing her and the Alliance for Justice, a civil rights and public interest lobbying group, which has vigorously opposed proposed Republican budget cuts.

"These actions . . . are way over the line," Slaughter said. "It's McCarthyism all over again, and we have to stop it."

Meanwhile, Americans for Tax Reform, a conservative group pushing McIntosh's legislation, is calling Slaughter the "original tax-dollars-for-lobbyists welfare queen" in postcards mailed to some of her constituents.

The mailing says Slaughter received $61,000 in campaign contributions last year "from special-interest lobbies that receive federal funds, which is used to lobby for more money."

"We wanted to draw attention to Louise Slaughter as the best-paid lobbyist these special interests could buy," says Audrey Mullen, executive director of Americans for Tax Reform, a coalition of conservative activists, taxpayer groups and businesses.

McIntosh, chairman of a House Government Reform subcommittee, brushed off the complaint, telling reporters that Slaughter and the Alliance for Justice were simply following the "first rule of special-interest politics."

"When your position on the merits of the issue is embarrassing, you launch an attack on your opponents," he said.

McIntosh's aides told reporters in October—after the House rejected Slaughter's request to debate her complaint against him—that he was not worried about Slaughter's plans to take her case to the Ethics Committee.

After "informal contacts" between House Ethics Committee and McIntosh staffers, McIntosh was told there "wouldn't be enough of a complaint" for the committee to pursue, said Chris Jones, McIntosh's press secretary.

The Ethics Committee staff makes recommendations to committee members.

Slaughter said in an interview Tuesday that McIntosh's "intimidation tactics" had continued through this week. She said a McIntosh aide told her staff McIntosh could file a counter-ethics complaint against her if a complaint was filed against him.

"Louise Slaughter can't have it both ways," Jones said. "Her staff has been calling Indiana reporters since September trying to stir up a story about an ethics complaint. If the Ethics Committee is to be used to solve political disputes, then everyone will be fair game."

McIntosh has apologized for the incident in which his staff used the Alliance for Justice's letterhead on a report that purported to list the amount of federal grants received by the alliance's members. He said the document should have contained a disclaimer. But he has recently told groups in Indiana that he stands by the figures

Slaughter and and Aron, Alliance for Justice president, say some of the information in the document was inaccurate.

SENATE—*Wednesday, March 27, 1996*

(Legislative day of Tuesday, March 26, 1996)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, You created us to soar, to mount up with wings like eagles. We realize that it is not just our aptitude, but our attitudes that determine our altitude. Our attitudes are the outward expression of our convictions congealed in our character. People read what is inside by what we project in our attitude.

Help us to express positive attitudes based on a belief that You are in control and are working out Your purposes. We want to allow You to love us profoundly so our attitude will exude vibrant joy. May Your peace invade our hearts so our attitude will reflect an inner security and calm confidence. We long to have the servant attitude of affirmation of others, of a willingness to listen to their needs and of a desire to put our caring into practical acts of kindness.

Lord, if there is any false pride that makes us arrogant, any selfishness that makes us insensitive, any fear that makes us overly cautious, any insecurity that makes us cowards, forgive us, and give us the courage to receive Your transforming power in our hearts. All this is so our attitude to others may exemplify Your attitude of grace toward us. In Your transforming name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. I thank the Chair.

ORDER OF PROCEDURE

Mr. LOTT. I ask unanimous consent that the time between now and 10:30 be equally divided between the two leaders or their designees.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. LOTT. Also, Mr. President, for the information of all Senators, following the debate and the establishment of a quorum, there will be a cloture vote on the pending Murkowski amendment to H.R. 1296, the Presidio legislation. Senators should be alerted that the vote will occur at approximately 10:40 this morning. If cloture is invoked on that substitute, it is still the hope that we may complete action on H.R. 1296 during today's session. If cloture is not invoked, it may be the intention of the majority leader to begin consideration of either the line-item veto conference report or the farm bill conference report.

Senators should be reminded that additional rollcall votes can be expected during the day. And again to emphasize that point, we are hoping we will soon have an agreement, working with the Democratic leader, we can announce with regard to the conference report to accompany S. 4, the line-item veto bill, but we are not prepared to do that at this time. So we will have debate between now and 10:30 equally divided, and then we will have the vote at 10:40.

I yield the floor, Mr. President.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I wish the Chair a good day.

PRESIDIO PROPERTIES ADMINISTRATION ACT

The Senate resumed consideration of the bill.

Pending:

Murkowski modified amendment No. 3564, in the nature of a substitute.

Dole (for Burns) amendment No. 3571 (to amendment No. 3564), to provide for the exchange of certain land and interests in land located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

Dole (for Burns) amendment No. 3572 (to amendment No. 3571), in the nature of a substitute.

Kennedy amendment No. 3573 (to amendment No. 3564), to provide for an increase in the minimum wage rate.

Kerry amendment No. 3574 (to amendment No. 3573), in the nature of a substitute.

Dole motion to commit the bill to the Committee on Finance with instructions.

Dole amendment No. 3653 (to the instructions of the motion to commit), to strike the instructions and insert in lieu thereof "to report back by April 21, 1996 amendments to reform welfare and Medicaid effective one day after the effective date of the bill."

Dole amendment No. 3654 (to amendment No. 3653), in the nature of a substitute.

Mr. MURKOWSKI. I am not going to take too long because I know many of my colleagues want to speak on the issues affecting welfare and Medicaid. But I do want to express my disappointment with the Democratic leadership and my colleagues on the other side of the aisle who have effectively killed a major and important park and conservation measure. As a matter of fact, the parks bill that we debated for some 7 hours the day before yesterday now can no longer be discussed, there is no additional time for debate because the measure now has, out of necessity, been set aside.

Let us look realistically at what this action is costing the general public relative to its parks and specific areas of importance, including the Presidio, which was in this parks package. The package included the ability to provide 2 million acres of wilderness to the people of the United States in the State of Utah, and to provide an important watershed to both New York and New Jersey known as Sterling Forest.

We had this measure before us. It had been put together as a consequence of a great deal of effort and a great deal of compromise. Some 23 States were affected, with some 53 individual titles or lands affected in those States. It was a package that had been negotiated with the House as well, and it was apparent to all that in order for the package to pass we had to keep all its aspects, including those that were of a controversial nature. One of those, of course, was Utah wilderness. The issue was all or nothing with some of the opponents. They felt that 2 million acres added to the wilderness designation in Utah was inadequate; it should be 5 or 6 million acres. The citizens of Utah—the legislature, the Governor, the entire Utah delegation—felt that 2 million acres was adequate. In any event, this body would have made that determination on a clear and unrestricted vote had not some Members saw fit yesterday to attach the minimum wage amendment to this package—the minimum wage is an important issue, but it simply does not belong on this parks package—and as a consequence the parks package has been set aside.

It will come up another day, but I wish to express my disappointment, and I thank my colleagues who have worked so hard to try to bring the package together.

I am disappointed also in the media because they failed to recognize the importance of this package. But I wish to at least have the RECORD reflect why we had that package before us.

The Senator from California and the Senator from New Jersey, both have

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

VOL
142
PT
5
MR
21
—
29
1996
UMI

indicated that somehow it was the fault of the majority that the package was before the Senate and that it was unfair, some suggested awful, that they were forced to vote on Utah wilderness and other measures if they wanted to see their measures enacted. In other words, they wanted Utah wilderness out of it. Yet they knew that the House would simply not accept the package unless Utah wilderness was in it.

Let the RECORD reflect that it was the objections on the other side of the aisle that have held each and every one of these measures up for some year or thereabouts. This was the right of the individual Senator, but I think it is disingenuous for him and other Senators on the Democratic side to suggest we were holding these measures. We simply recognized the reality and pleaded with the various Senators on holding together because there was something in this for everyone; every State was affected in some manner or form, and we would either all gain something meaningful or we would simply lose the effort. -

I do not think any of us at that time anticipated that the effort would be lost by attaching a minimum wage amendment to the parks package. I repeatedly tried to get time to break the threatened filibuster but there was no support on the other side of the aisle. Utah wilderness is a recent addition to the Senate Calendar, as is the Presidio. All the other measures have been effectively held up by the Democratic leadership because obviously they did not want to take on the holds from one Senator.

The situation was simple. If the Senator from New Jersey had not prevailed in both the House and Senate, then he was going to prevent any public land bills from being enacted. There were a few exceptions to that for which the Senator from Alaska is thankful, but it did not matter how important or critical to the National Park System they may be; in his opinion his measure was more important. That was his right. I respect him for his determination. But I want the RECORD also to reflect that I have tried my best to accommodate the interests of the Senator from New Jersey on Sterling Forest, but I am certainly not a magician. There are Members of the House who not only do not like the measure of the Senator from New Jersey, but they also have measures that they want. I hoped we could all get together to do something useful, or we could continue the stalemate. That appears to be where we are today.

So, there are two sides to every issue. I think we have all tried to work within our respective areas to accommodate the various Senators and to recognize this for what it was, and that was a giant compromise. While working with my friend from New Jersey and the Senators from California on their measures, as well as colleagues on both sides of the aisle, I appreciate the fact that the other side has decided, evidently, for the political opportunism associated with the realization that we have the AFL–CIO come out and publicly endorse the Clinton administration and indicated its willingness to raise some $35 million to defeat Members on this side of the aisle who are running. Evidently, that was the momentum to put the minimum wage on the parks bill.

I also appreciate the fact that the people of Utah are the real victims in this, in a sense, because it is their State that is in jeopardy with regard to the amount of wilderness. I commend those Senators here for speaking on behalf of their State in the interests of the majority of the residents of that State.

We can either reestablish some sense of comity, or history is going to reflect this very important package of measures for the park system was killed, and the environment is the sufferer. Unfortunately, I do not think the media are going to pick up on the accuracy of this, but someday history will.

I guess my unhappiness grew even greater when the two Senators from Massachusetts saw fit to basically drive a stake into the heart of this measure. I, again, went out of my way to include measures dealing with the Boston National Historical Park, Blackstone River Valley, which were items of great interest to the Senators from Massachusetts. I told the House there was no deal on this unless they were prepared to deal with those measures—not the measures just of the Senator from New Jersey, but the measures proposed by the Senators from Massachusetts.

Apparently, they care more about the politicized potential of campaign contributions from organized labor than they do about the measures from their own State or other measures included in this package for the benefit of others. It is a political stunt, and it is an expensive political stunt, at the expense of the environment.

So we are into it, and the consequences of that lead us to a vote that is going to take place in about 45 minutes on cloture. I, naturally, urge my colleagues to support cloture, but I am realistic enough to recognize this vote is going to be seen as a politically symbolic vote. It is going to have a reference to the minimum wage, which it certainly should not. This is a vote that should be on the merits associated with the parks package.

What is the answer? Sterling Forest is going to lose, Presidio is going to lose, Utah wilderness is going to lose, and 47 other special park bills will not move. This is the problem with hostage taking: Either they all get freed or they all will die. I think it is time to get off the plastic pedestal and get down to the business of the Presidio and other measures. I will vote for Sterling Forest, I will vote for Presidio, I will vote for Utah wilderness, I will vote for the other measures in the package because of its overall good for the environment, good for the National Park System, and the good for the Nation. I think it is time my colleagues on the other side of the aisle wake up and join me on what is good for the U.S. Senate, and that is to pass this package of compromise legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I commend the chairman of the Senate Energy and Natural Resources Committee for the statement he just made and for the effort he has brought to the Senate floor to get this important legislation through. I join him in regretting it has not been possible. I, too, hope in the future it will be possible.

THE WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION

Mr. President, I rise today to speak in favor of the omnibus lands bill, an amendment in the nature of a substitute to H.R. 1296. This bipartisan legislative package includes the Presidio bill and more than 50 other park and public lands bills, most of which have already been reported by the Energy and Natural Resources Committee. The vast majority of these bills are not controversial and deserve to be passed as part of this package.

I realize a few of the provisions in this legislation are controversial. Most notable is the title addressing Utah wilderness. The groups involved have worked for many years to strike a compromise. I support the Utah delegation in its effort to bring some finality to this situation. I believe Senators HATCH and BENNETT have made significant concessions, particularly in increasing acreage, and modifying the controversial hard release language. The people of Utah have wrestled with wilderness for over 20 years at a cost of $10 million. This issue needs to come to closure.

I also want to speak about an issue closer to home: Walnut Canyon. On November 9, 1995, the Energy and Natural Resources Committee held a hearing on this legislation and on December 6, the committee voted unanimously in favor of reporting the legislation to the full Senate. Throughout the legislative process, this issue has had the full support of the House, the Senate, and the affected communities in Arizona.

This legislation, introduced by Senator MCCAIN and me, is based on a consensus reached last year among interested parties, including the city of Flagstaff, the Coconino County Board of Supervisors, the Grand Canyon Trust, the National Parks and Conservation Association, the Hopi Tribe, the Navajo Nation, the National Park

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Service, the Forest Service, and numerous private individuals. I read this list only because I am proud that such diverse parties in Arizona could come together to support this important endeavor.

S. 231 is similar to the original legislation drafted last session by Representatives Karan English and BOB STUMP, who deserve a great deal of the credit for bringing the parties together. This session, Representative J.D. HAYWORTH introduced a House companion bill, H.R. 562, which was approved by the House by an overwhelming vote of 371 to 49. I hope that we are able to match that here in the Senate.

Walnut Canyon National Monument is an Arizona treasure that we must protect. This legislation will expand the boundaries by exchanging Park Service land for Forest Service land, adding approximately 1,200 acres to the monument. Currently, the monument encompasses numerous Sinaguan cliff dwellings and associated sites. Walnut Canyon includes five areas where archaeological sites are concentrated around natural promontories extending into the canyon, areas that early archaeologists referred to as forts. Three of the five forts are within the current boundaries of the monument, but the two others are located on adjacent lands administered by the Forest Service. By exchanging Park Service land for this Forest Service land, the two outside forts will be within the monument and receive the protection that those resources need and deserve. It is a simple and commonsense way to make the monument whole.

Mr. President, again, I urge my colleagues to put partisan differences aside and pass the omnibus parks bill.

Mr. HATFIELD. Mr. President, I support the omnibus lands bill before the Senate today. I speak as one of the few Senators without a single item in this large package. Let me focus for a moment on the most controversial component of the package—title XX, the Utah Public Lands Management Act.

As a member of the Energy and Natural Resources Committee, I have followed the divisive political debate that has raged for decades over the question of how much land in the State of Utah should be designated as wilderness. This debate has now spilled outside the boundaries of the Utah delegation and the State they represent. It is now a national debate in many ways outside their complete control. As a Senator who has seen this same thing happen in his own State, I can appreciate the difficulties of my colleagues from Utah.

I have also followed the Bureau of Land Management [BLM] over the last 15 years as it has spent in excess of $10 million analyzing vast tracks of land in Utah to more precisely determine their suitability for wilderness designation. In 1991, Interior Secretary Lujan identified 1.9 million acres as suitable for wilderness designation. The bill before us, which recommends 2 million acres for designation, reflects the technical information gathered by BLM as well as input from over 75 formal public meetings and thousands of letters.

Over the past two decades, our thinking about natural resource management has evolved, resulting in a more flexible and cooperative role for government at all levels—Federal, State, local, and tribal. As one who has looked for ways for the Federal Government to provide more flexibility in regulated activities, I am pleased that this evolution is taking place.

Mr. President, during the consideration of this bill in the Energy and Natural Resources Committee, I raised a number of concerns about various aspects of this legislation. I compliment my colleagues from Utah for their willingness to work with me to address my concerns. The legislation now allows for more balance and predictability, two components that are vital in public land management and decisionmaking. Their revisions include the following:

The release language, previously characterized as too hard, has been softened. The bill now clarifies BLM's role in administering the 1.2 million acres under study that were not designated as wilderness;

Another 200,000 acres have been added, making the total wilderness designation slightly greater than BLM's 1991 final recommendation;

The land exchanges allowed for in the legislation are now equal value exchanges; and,

Provisions allowing the construction of dams, pipelines, or communication sites within the wilderness area have been deleted.

There are those who are still not satisfied. They would like more acreage to be designated and tighter restrictions to be put on any existing uses of those lands proposed for inclusion. Some would even like to totally eliminate all existing uses.

These goals are self-defeating. They run counter to the 1964 Wilderness Act, which called for designating lands untrammeled by man, for the purposes of retaining its primeval character. The goal was not to find lands that have been encroached upon and require they revert to their primeval character.

The seemingly endless Utah wilderness debate demonstrates what can happen when either side takes an all or nothing approach. We must all recognize that wilderness is not the only protective designation available to us. There are other, more appropriate ways to protect our public lands while recognizing and allowing for prior uses. My colleagues from Utah have been fair and objective in their designations and in their release language.

This proposal relies upon BLM's planning process for the nondesignated public lands. This provides the flexibility and cooperative spirit necessary for sound management. It is important to note that their approach does not prevent a future Congress from reconsidering these lands' wilderness potential. Nothing is set in stone. Nothing would prevent a future Congress from passing legislation to add land to or withdraw land from this plan.

Those who depict this wilderness designation process as though we are faced with an irrevocable choice between wilderness or the bulldozer do us all a disservice.

Even for those lands never designated as wilderness, all is not lost for preservationists. There are a host of BLM land classifications designed to protect the natural and cultural attributes of our public lands without eliminating existing uses. Releasing the 1.2 million acres not selected for wilderness designation provides BLM's land managers, working together with local communities, greater management flexibility while insuring continued resource protection. These other protective designations include the following:

Areas of critical environmental concern;

Outstanding natural areas;

National landmarks;

Research natural areas;

Primitive areas; and

Visual resource management class I areas.

Mr. President, I have seen a fair number of wilderness bills become law during my three decades on the Energy and Natural Resources Committee. Since 1964, Congress has enacted 88 laws designating new wilderness areas or adding acreage to existing ones. We now have a system that includes 630 wilderness areas encompassing 104 million acres in 44 States.

I support passage of the Utah wilderness bill. This legislation brings to a close a 15-year-long battle and addresses more than its share of difficult issues. It does so fairly and objectively. Failure to pass this bill would put us into a third decade of debate and would seriously undermine the wilderness study process.

While I continue to view this legislation as pushing the edge of what is acceptable under the 1964 Wilderness Act, I take particular note of the longstanding and divisive debate this provision would allow us to move forward from. I look forward to following this debate in the coming days.

I yield the floor.

Mr. LEAHY. Mr. President, I rise in strong opposition to the omnibus national parks bill. There are so many problems with the Utah lands provisions that I hardly know where to begin in urging other Senators to vote against this package.

The Utah lands provision is simply unacceptable. It does not protect

VOL
142
PT
5
MR
21
—
29
1996
UMI

enough land, the American public opposes it, it includes hard release language, it sets bad precedents for wilderness designation, it opens unique and beautiful lands to powerlines, dams, pipelines, mining, and other uses, it compromises the heritage of our children, and it achieves all this only by ransoming every other national park project in the Senate.

The proponents of Utah lands language cannot buy public approval at any price. I wrote to Majority Leader DOLE last week to make this point perfectly clear. Senators, including this Senator who wants very much to see some of the associated measures pass, will not stoop to pass a so-called wilderness bill that leverages politics against the priceless beauty of remote Utah canyon lands.

I am frustrated by the high-stakes games being forced upon the Senate. One week we have our backs to the wall to finish a late farm bill so that farmers can begin planting. Another week we have our backs to the wall to finish a late appropriations bill so that the Federal Government can stay open. Last summer we were forced to adopt a salvage rider in order to get peace in the Middle East, relief to Oklahoma City bombing victims, and help for flood-damaged communities. In another occasion we have our backs to the wall to simply get veterans' benefits into the mail. Recently, the Senate has not been the deliberative body that Washington, Jefferson, Hamilton, and others envisioned for the greatest Nation in the world. The Senate should consider legislation on its merits. If a bill fails Senate approval, it fails. If it fails a veto override, it fails. Our Constitution sets the rules, and they have served us well for 200 years.

It is time to bring the political parties back together for reasonable debates on reasonable environmental policy. Conservation is as Republican as Richard Nixon and as Democrat as Jimmy Carter. Environmental protection is supported by Americans of all political stripes. I have worked with former Senator Bob Stafford in Vermont to restore the tradition of bipartisanship on environmental issues. Just recently I received a letter from the organization Republicans for Environmental Protection asking Senator DOLE to strip the Utah provisions from the bill. It is wrong for any party to charge down a path of exploitation and environmental abuse, and I urge the Senate to correct its course.

My children, and many of the children of my colleagues, will live most of their lives in the next century. We are in a position to decide what the next century will look like. Yes, we got here first. Just as the first explorers made resource decisions centuries ago, we now face similar decisions about the fate of our natural resources. Just as the native Americans and first European settlers decided to protect public lands as commons, we have an obligation to those who will follow. This bill gives the Senate a clear opportunity to decide whether we protect our heritage, or say "me first" to the treasures of southern Utah.

The political pressure to support the Utah giveaway is enormous for some of my colleagues. Nonetheless, the responsibility to do the right thing is far more valuable and far more important. I urge the Senate to reject the Utah lands provision.

Mr. SARBANES. Mr. President, I rise today to add my voice to those requesting that S. 884, title XX of the pending substitute amendment, be removed from the Presidio bill and be considered as freestanding legislation.

Mr. President, on Monday the Senate began consideration of H.R. 1296, legislation developed with the assistance of the California delegation creating a Presidio trust to manage property at the Presidio in San Francisco. The Presidio, a former Army post overlooking San Francisco Bay, was recognized by the Congress in 1972 as a national treasure and was slated for inclusion in the National Park System upon its cessation from military use.

The substitute amendment before us, the omnibus parks and recreation bill, contains—in addition to the Presidio bill—approximately 32 public lands titles, many of which have been reported out of the Energy and Natural Resources Committee with bipartisan support. However, one title of this amendment, title XX, the Utah Public Land Management Act, does not enjoy the same bipartisan support, and is preventing the Senate from completing action on the underlying Presidio legislation in a timely manner.

The Utah Public Land Management Act contains a number of provisions which would have a profound impact on all existing and future wilderness designations, seriously undermining standards of public lands management established by the Wilderness Act of 1964. The Wilderness Act of 1964 defined a wilderness as land where, "in contrast to those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and the community of life are untrammeled by man, where man himself is a visitor who does not remain."

Under this definition of wilderness, commercial activities, motorized access, and the construction of roads, structures, and facilities are prohibited in designated wilderness areas. I have serious concerns about provisions of the Utah land bill which would clearly undermine this definition of wilderness. This legislation would allow unprecedented uses incompatible with wilderness including motorized vehicle access within protected areas, construction of communication towers, and continued grazing rights.

In addition, I am concerned that the Utah lands bill designates only about 2 million of the Federal Government's 32 million acres in Utah as wilderness. Currently, the Federal Government manages 3.2 million acres of its holdings as wilderness study areas, allowing the Federal agency charged with managing the land the opportunity to conduct a thorough study to determine its suitability for inclusion in the Wilderness Preservation System. The legislation before us would direct those Federal agencies to make all land not selected for wilderness available for multiple uses, such as mining, grazing, and development. Hard release language included in the bill would preclude those agencies from managing this land in a way which would protect its wilderness characteristics for the future.

Mr. President, the wild and beautiful Utah public lands which are under discussion today are a national treasure belonging to all Americans. In my view, it is critical that we, as a nation, do not allow the destruction of our precious natural resources. Wilderness areas constitute only 2 percent of all land in the United States. We must not fail in our obligation to protect the beauty and integrity of these lands for future generations.

Mr. LAUTENBERG. Mr. President, I rise in opposition to the substitute amendment to H.R. 1296, the Presidio bill.

Mr. President, as we all know by now, this is not a noncontroversial public lands bill. There are many provisions in the bill that truly are noncontroversial, and that have been considered and voted on in committee with little if any opposition.

And I would note that the bill includes the Sterling Forest Preservation Act, which Senator BRADLEY and I strongly support.

Unfortunately, the real goal of the pending substitute amendment is to slip through the highly controversial Utah wilderness provisions, based on Senate bill 884. Those provisions would permanently release millions of acres from wilderness study, and, in turn, allow uses on these lands that will destroy lands with significant ecological and scientific value.

Mr. President, I oppose including S. 884 in this omnibus lands bill, and will support an effort to remove that title in its entirety. We need to act on many of the provisions in the underlying legislation, which are truly noncontroversial. But we ought to have a separate, open, and honest debate on those provisions that are controversial.

Mr. President, I have heard from more people—both in New Jersey and from out West—about the Utah wilderness bill than perhaps any other public lands issue. By an overwhelming margin, people have urged me to support Utah wilderness, and to oppose S. 884 as written.

Who are these people who visit my office, write me letters, stop me in the halls? They are people from New Jersey who understand what it means to live in the most densely populated State in the Nation. People who understand what it means to live in a State still reeling from the legacy of pollution from the industry, and who value open space, beautiful natural resources, and clean fresh air.

These New Jerseyans know that once land is destroyed by extensive development, it may never return as it was. At best, it takes a very long time to recover.

I've heard it said on the floor of this Senate that the only people who oppose S. 884 are the Eastern elites. Well, Mr. President, these so-called elites from New Jersey are really ordinary people who care about their environment and their Nation's natural resources. They care because they know what it's like to be without.

But, Mr. President, not everybody opposed to S. 884 is from New Jersey. Take the mayor of Springdale, UT. He visited me a year ago to explain how his community benefits more from preserving the wilderness than from activities that would alter or destroy it. As the mayor explained, recreation and its associated businesses provide for a sustainable and growing economy. By contrast, he said, resource extraction does not.

I've also heard from a fourth generation Utah native, the past president of the Salt Lake City Rotary Club, a Mormon, and father of four children who urged me to get involved in this issue.

He told me that recreational and other commercial enterprises depend on the wilderness. And that these businesses are critical to the economic vitality of the State of Utah and to Utahn's quality of life. He also told me that preservation is crucial to his peace of mind.

Mr. President, it is true that these lands are all in Utah. But they are also national lands that contribute to the entire country. They have great ecological significance, and they provide scientific and educational treasures, as well as a growing recreation business. That is why I care.

I also care very much about title XVI of the bill, the Sterling Forest Preservation Act. Let me talk a little about Sterling Forest and why its preservation is so important.

This bill designates the Sterling Forest Reserve and authorizes up to $17.5 million to acquire land in the Sterling Forest area of the New York/New Jersey Highlands region.

This would preserve the largest pristine private land area in the most densely populated metropolitan region in the United States. It also would protect the source of drinking water for 2 million New Jerseyans.

Mr. President, the Highlands region is a 1.1 million acre area of mountain ridges and valleys. The region stretches from the Hudson to the Delaware Rivers and consists primarily of forests and farmlands. The Forest Service, in a 1992 study, called the Highlands, "a landscape of national significance, rich in natural resources and recreational opportunities."

Unfortunately, the Highlands region faces an increasing threat of unprecedented urbanization. Perhaps the most immediately threatened area is Sterling Forest.

Located within a 2-hour drive for more than 20 million people, the 17,500-acre tract of land on the New York side is owned by a private company that has mapped out an ambitious plan for development.

The community that this corporation plans to develop will have a negative impact on drinking water for one-quarter of New Jersey residents. It also threatens the local ecosystem and wildlife, the nationally designated Appalachian Trail, and the quality of life of residents of the New York-New Jersey metropolitan area.

I will not describe this proposed project in detail.

But suffice it to say that one cannot build more than 14,000 housing units and 8 million square feet of commercial and light industrial space, and release 5 million gallons of treated wastewater into a pure environment, without a significant impact.

My concern about the project's effect on New Jerseyans' drinking water is not new. We have known for some time that this development will destroy valuable wetlands, which filter and purify the water supply, and watersheds, which drain into reservoirs—reservoirs which supply one quarter of New Jersey's residents with drinking water.

The proposal calls for three new sewage treatment plants to accommodate the development. These plants will discharge 5.5 million gallons of treated wastewater each day into the watersheds.

Compounding matters will be nonpoint source pollution generated by runoff from roads, parking lots, golf courses, and lawns. This runoff carries pollutants such as fertilizers, salt, and petroleum products, among others. Together these pollutants pose a serious threat to drinking water, which is why there is so much concern in New Jersey.

I am not alone in my opposition to the proposed development. Residents from the nearby communities also oppose it. Based on testimony delivered during local public hearings, the development plan will impose $21 million in additional tax burdens on surrounding communities. On the other hand, under the management scenario proposed by this bill, a park would generate revenue.

The only viable management option for this important ecosystem is preservation. And that is what is proposed in this legislation.

The bill would provide critical protection for the forest. But it does not impose the heavy hand of the Federal Government on the local community or on the owner of the property. The funds authorized in this bill represent a fraction of the total funding needed to purchase the forest. The rest would come from other public entities, such as the States of New Jersey and New York, and private parties.

I also would note that the legislation specifically requires a willing buyer-willing seller transaction—if the company determines that it is not in its best interest to sell, it doesn't have to.

Furthermore, the Federal Government would be relieved of the significant costs associated with forest management, law enforcement, fire protection, and maintenance of the roads and parking areas under an agreement with a respected bi-State authority.

These provisions have the support of the local communities, the two States, and regional interests. They are cost effective and reasonable. And they are environmentally responsible.

Senator BRADLEY and I have worked on this bill for years now, and we are pleased to note that last June, the bill passed as part of H.R. 400, now pending in the House. We have heard many expressions of support from the Speaker of the House for preserving Sterling Forest, and we anxiously await passage of H.R. 400.

Unfortunately, including Sterling Forest in this bill only serves to, in the words of the Sterling Forest Coalition, "hold Sterling Forest hostage to S. 884." The people of New Jersey do not support this omnibus lands bill as written, and I share their view.

Let me quote from a letter I received yesterday from the Highlands Coalition, a leading organization with membership in Connecticut, New York, and New Jersey:

> The Title XX of this bill, the Utah Public Lands Management Act . . . is anathema to environmental principles and must not be connected to Sterling Forest funding . . . The amount of acreage it would set aside as Wilderness in southern Utah is meager compared to what the majority of citizens in Utah and surrounding States would like to see. The preservation of Sterling Forest must not be at the cost of environmental degradation elsewhere in the United States. The Omnibus Parks bill must be amended to delete in its entirety the S. 884 Utah Public Lands Management provisions. If this bill is not so amended, we ask you to vote against the entire Omnibus Parks package.

Mr. President, letters like this help show how our Nation's wilderness areas meet national interests. I ask unanimous consent that the text of the letter from the Highlands Coalition be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VOL
142
PT
5
MR
21
—
29
1996
UMI

THE HIGHLANDS COALITION,
Morristown, NJ, March 21, 1996.

Re National Parks omnibus package.

Hon. FRANK R. LAUTENBERG,
Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: The Highlands Coalition, with membership organizations representing more than 300,000 people in New York, New Jersey and Pennsylvania, has been working for over 5 years for the preservation of the Sterling Forest in New York as public lands. New York, New Jersey and a private foundation have committed between $20 and $30 million for this purpose, but we need the federal funding component. Over the past three years various bills have been introduced in both the House and the Senate that would provide federal funding, but none of these has yet been signed into law. Now, another bill containing provisions for Sterling Forest funding, the Omnibus National Parks bill, has been introduced in the Senate.

The Title XX of this bill, the Utah Public Lands Management Act introduced by the Utah Senators as S. 884, is anathema to environmental principles and must not be connected to Sterling Forest funding. The amount of acreage it would set aside as Wilderness in southern Utah is meager compared to what the majority of citizens in Utah and surrounding states would like to see. Further, key provisions would allow development in designated federal Wilderness areas in Utah, thus threatening the integrity of the entire National Wilderness Preservation system.

The preservation of Sterling Forest must not be at the cost of environmental degradation elsewhere in the United States. The Omnibus Parks bill must be amended to delete *in its entirety* the S. 884 Utah Public Lands Management provisions. *If this bill is not so amended, we ask you to vote against the entire Omnibus Parks package.*

Sincerely,

WILMA E. FREY,
Coordinator.

Mr. LAUTENBERG. I also ask unanimous consent to have printed in the RECORD an editorial from a newspaper in New Jersey, the Bergen Record, who editorialized, "Sterling Forest is too important to this region's well-being to become a hostage of partisan politicking."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PROMISES, PROMISES—UTAH LAND GRAB WOULD HURT STERLING FOREST

Is this crazy or what? At a time when many congressional Republicans are trying to project a more moderate approach on environmental issues, some of their brethren are pressing for an omnibus public-lands bill that is an anathema to conservationists—and a stumbling block to saving Sterling Forest.

It's time for the GOP leadership, House Speaker Newt Gingrich and Senate Majority Leader Bob Dole to get on the same page and push for legislation that saves important resources without sacrificing others.

The omnibus environmental bill, which is expected to come to a Senate vote as early as later this week, includes $17.5 million toward the purchase of Sterling Forest. But it also includes a provision that would open 20 million acres of wilderness in southern Utah to forestry, mining, and other commercial interests. That's unacceptable.

Interior Secretary Bruce Babbitt has said, rightly, that he would recommend that President Clinton veto any bill that includes the Utah land giveaway. That would sink years upon years of effort to obtain federal funding to save Sterling Forest—a 17,500-acre watershed that provides the drinking water for 2 million New Jerseyans.

At a time when the owners of the land are moving ahead with their plans to build 13,000 housing units and 8 million acres of commercial development on the mountainous tract, such a setback at the federal level would be disastrous.

Just last month, Mr. Gingrich stood in a clearing near Sterling Forest and pledged that Congress would soon pass a bill to save the land without sacrificing any environmentally sensitive land in the process. The only sure way to do that is for Mr. Gingrich to push forward with an existing Sterling Forest bill, HR-400.

This bill has already passed the Senate. And Mr. Clinton has indicated he would sign it. Now it's a question of Mr. Gingrich keeping his word. Sterling Forest is too important to this region's well-being to become a hostage of partisan politicking.

As for the other public-lands legislation, the Republicans would be wise to jettison the Utah land grab and to press forward with an omnibus bill that has the nation's best interests at heart.

Mr. LAUTENBERG. Mr. President, I also care about title XXVI, which recognizes the historic significance and natural beauty of the Great Falls area of Paterson, NJ. Paterson is my home town. The history of the region was part of my childhood.

In 1778, Alexander Hamilton came to the area and decided that the Great Falls could serve as a power source for the Nation's first industrialized community. Working with Pierre L'Enfant and then Governor William Paterson, Hamilton began to develop the resources as a means to free the Nation from England through business and manufacturing.

Over the years, Paterson became known as the Silk City, and as the center of the textile industry.

During the past decades, however, the Great Falls historic preserve has borne the brunt of industrial flight and the treasures at the Great Falls are threatened. This bill would allow for the partnership of the National Park Service to assist in restoring the treasures and history of the area. The Senate passed this bill last Congress. The bill deserves to be passed on its own, rather than as part of an omnibus park land bill that will be vetoed.

In conclusion, Mr. President, I hope my colleagues will understand what is happening here. Most of the bills included in this package are noncontroversial. But some are not.

We should move forward and strike those bills that will attract a veto from the President and allow the rest of the bills to be considered and passed on their own merit.

Mr. BINGAMAN. Mr. President, I rise to express my concerns with the current language of the Utah wilderness bill. First of all, I am opposed to this controversial bill being attached to a large group of largely noncontroversial bills that are very important.

I do support passage of a Utah wilderness bill. However, I cannot support this bill. This bill largely precludes future designations of BLM wilderness in Utah; substantially alters the definition of wilderness; and may result in an unfair land exchange value between the United States and the State of Utah.

I am opposed to the hard release language the bill contains. If this bill were to become law, it would be the first of over 100 wilderness laws to contain hard release language. I agree that lands not included in this bill should generally be released to standard multiple use provisions, but I do not agree that BLM should be precluded from ever considering future wilderness designations on any of the other 20 million acres of public land in Utah. I believe the soft release language that the Bush administration supported is the appropriate route.

Even if these issues were resolved, I still have grave concerns stemming from the unique management and land exchange provisions. If this Utah wilderness bill were to become law, the Nation would effectively have two wilderness systems, Utah and the rest of the Nation. It would in effect result in a brand of wilderness that would be so different, that current BLM regulations, which are appropriate for all other BLM wilderness areas, would have to be substantially altered just to accommodate the unique provisions of this bill.

Most startling is the fact that it appears that the Secretary of the Interior would in Utah have less authority to control access in and around wilderness areas than nonwilderness areas. I repeat, it appears the Secretary would have less authority to control access in and around wilderness areas than nonwilderness areas. How can this be wilderness if it is less protected than other multiple-use lands?

One small example of nonconformity is the bill's special provisions for facilities within wilderness areas. Section 2003(d) provides:

> Nothing in this title shall affect the capacity, operation, maintenance, repair, modification or replacement of municipal, agricultural, livestock, or water facilities in existence of the date of the enactment of this Act

There is no qualification to this paragraph. Conceivably, projects could be expanded without any regard to impacts to wilderness values. This is only one small example of the special provisions included in the language of this bill.

In the past, wilderness laws have generally deferred to the access provisions of the Wilderness Act of 1964. This practice provides a measure of consistency throughout the wilderness system. The proponents of this Utah wilderness bill have strayed so far from

the vision of the original framers of the Wilderness Act that an althernative type of wilderness would, in effect, be established. I do not support this establishment of an alternative version of wilderness.

Even if this bill did not contain these nonconforming provisions, I would still have concerns with the land exchange provisions that would provide a unique means to establish the value of Federal lands to be exchanged to the State of Utah. These provisions would give a significant advantage to the State of Utah that no other State has enjoyed in its wilderness bills.

I support passage of a Utah wilderness bill. However, I believe the bill must not preclude future designations of wilderness; substantially alter the definition of wilderness; nor result in unfair exchange values between the United States and the State of Utah.

Mr. FEINGOLD. Mr. President, I rise today to express my deep concerns about the inclusion of S. 884, the Utah Public Lands Management Act, into the omnibus parks package now before the Senate.

I believe that it is critically important to make my colleagues aware that this omnibus package is not simply a means to clear small measures on the docket of the Energy and Natural Resources Committee. Among its provisions is a measure which decides the fate of 22 million Federally owned acres of land in southern Utah. It designates a portion of the acres as wilderness and leaves vast areas free for development. This is one of the few times this session that the Senate will have the opportunity to engage in a dialog over what should happen to these and other Federal lands.

The Utah provisions contained in the measure currently before the Senate are controversial provisions. Both Utah and national newspapers have been a hotbed of debate over the question of how much wilderness to protect and the process used to develop the bill. I also know that many citizens in my State are deeply concerned about aspects of this bill which would fundamentally change the way the Federal Government will manage lands which all Americans own. Wisconsinites who care deeply about the Federal lands in Utah as well as Federal land policy in general have written to me and urge significant changes in this measure.

Mr. President, a major concern about the measure currently before the Senate relates to the hard release language in the Utah provision which affects the future ability of the BLM to designate additional acres in Utah which may need protection as wilderness. BLM is currently managing 3.2 million of the 22 million acres it holds in Utah as wilderness. The provisions of the substitute amendment relating to Utah would designate approximately 2 million acres as wilderness. They further require that any lands not explicitly designated by the bill as wilderness will be managed for multiple-use. Therefore, even if BLM finds in the future that these lands are sensitive and in need of protection, no additional lands could be designated as wilderness. The Senate has never passed a bill containing such language before, and such language is a significant departure from the tenets of the 1964 Wilderness Act.

The key protection wilderness designation offers the lands in southern Utah is protection from certain kinds of development—but not from the use of the lands. Activities allowed in wilderness areas are: foot and horse travel; hunting and fishing; backcountry camping; float boating and canoeing; guiding and outfitting; scientific study; educational programs; livestock grazing if it has already been established; control of wildfires and insect and disease outbreaks; and mining on preexisting mining claims.

Prohibited activities, according to the 1964 Wilderness Act include: use of mechanized transport except in emergencies, or such vehicles as wheelchairs; roadbuilding, logging, and similar commercial uses; staking new mining claims or mineral leases; and new reservoirs or powerlines, except where authorized by the President as being in the national interest.

The magnificence of the wildlands that are at stake in this debate cannot really be done justice in words, Mr. President. As my colleague from New Jersey, Mr. BRADLEY, has already shown the Senate, they include starkly beautiful mountain ranges rising from the desert floor in western Utah with ancient bristlecone pine and flowered meadows. Some areas are arid and austere, with massive cliff faces and leathery slopes speckled with pinyon pine and juniper trees. Other areas support habitat for deer, elk, cougars, bobcats, bighorn sheep, coyotes, birds, reptiles, and other wildlife. These regions hold great appeal to hikers, hunters, sightseers, and those who find solace in the desert's colossal silence.

These BLM lands are truly remarkable American resources of soaring cliff walls, forested plateaus, and deep narrow gorges. This region encompasses the sculpted canyon country of the Colorado Plateau, the Mojave Desert, and portions of the Great Basin.

Some in this body may think it strange that a Senator from Wisconsin would speak on behalf of wilderness in Utah. The issue of and debate over Utah wilderness protection, Mr. President, has been one of which I have been aware since the time I joined the U.S. Senate. Many of my constituents believe that the lands of southern Utah are the last major unprotected vestige of spectacular landforms in the lower 48 States—of the caliber of lands so many nationwide already hold dear, such as Yellowstone, the Grand Canyon, and the Arctic National Wildlife Refuge. I have received more constituent mail—over 600 pieces in all—from Wisconsin citizens concerned about wilderness lands in Utah, than I have on any other environmental issue in this Congress—including many critically important issues to my state such as clean water, safe drinking water, the protection of endangered species, and Superfund reform. A man from Menominee Falls, WI, writes about the lands of Utah:

> These resources are national treasures that make our country great, and once they are gone they are lost forever.

A woman from Beloit added in her letter:

> I live in Wisconsin but my real home is the natural world . . . most voters do not concur with the irrevocable destruction that would result from (this measure) becoming law. Please: do all you can to be a voice for wilderness—not only in Wisconsin but in the fragile and gorgeous West.

One of the most poignant testimonials came from an Eau Claire resident:

> I have not had a lot of experience writing letters to my elected representatives. However, it appears that the current priorities in Washington are shifting away from conservation towards a destructive, greed oriented approach, under the guise of economic growth and development of public lands. Given this climate, I feel I must write to express my opinion. I have had the opportunity to visit much of the West over the past 30 odd years on annual family vacations. This is truly a unique land without rival anywhere else in the world. My family and I have learned to love and respect this region and we feel that it must be protected in its natural form. I strongly urge you to oppose any compromise Utah lands bill that does not include a strong vision of conservation for future generations.

Mr. President, I read from some letters from Wisconsin residents because I think it is critical to understand that the importance of protecting these lands in Utah extends beyond the borders of that State. Many Americans enjoy and treasure this area, just as they do other great American wilderness areas and it is the responsibility of all members of the Senate to be concerned about the fate of this national treasure.

I have been personally touched by these appeals from residents of my State. In recognition of the importance of this issue to my constituents, on October 11, 1995 I circulated a small paperback book containing essays and poems by 20 western naturalist writers reflecting their thoughts on the protection of wilderness in Utah to all members of the Senate. The book, entitled "Testimony," was released on September 27, 1995. It is modeled after the late author Wallace Stegner's 1960 Wilderness Letter to the Kennedy administration, which was a critical benchmark document in the development and

VOL
142
PT
5
MR
21
—
29
1996
UMI

eventual passage of the 1964 Wilderness Act. In his 1960 Wilderness Letter, Wallace Stegner said "something will have gone out of us as a people if we let the remaining wilderness be destroyed." Mr. President, those words are echoed and reverberated by these western writers as they describe the legislation now before the Senate and its affect on Utah.

The paperback was compiled during August 1995. The selections represent the opinions of the authors, written in direct response to the measure currently before Senate which would affect public lands management in Utah. The book includes writings by individuals such as: Terry Tempest Williams, Utah native and author of five books; T.H. Watkins, editor of Wilderness magazine; N. Scott Momaday, winner of the 1969 Pulitzer Prize for "House Made of Dawn"; and Mark Strand, former Poet Laureate of the United States. 1,000 copies of the book were printed for distribution on the Hill, and I now understand that the writers intend to release this-work through Milkweed Press in Minnesota for the general public. The writers donated their work to produce this small booklet and the printing costs were covered by a donation from a nonprofit foundation.

I distributed this book because I felt that it was important for all members of the Senate to have a copy of this book to review in making a decision that so profoundly affects future of such a spectacular area.

One of the pieces in the Testimony book that most caught my attention, Mr. President, was a selection by Stephen Trimbell. Steve Trimbell is a writer and photographer who lives in Salt Lake City, and who was instrumental in working with Terry Tempest Williams to facilitate putting the Testimony book together. Those Senators who have been following the debate over the Utah Wilderness Act are already very familiar with Mr. Trimbell's handiwork. For several months, every Friday, photographs of the areas excluded from wilderness designation under the measure before us were dropped off in every Senator's office. Many of those "Friday pictures," as they have come to be known around my office, were taken by Trimbell. I wanted to share Steve Trimbell's words on this matter with the Senate. He writes:

> My place of refuge is a wilderness canyon in southern Utah.
>
> Its scale is exactly right. Smooth curves of sandstone embrace and cradle me. From the road, I cross a mile of slickrock to reach the stream. This creek runs year-round, banked by orchids and ferns. Entering the tangle of greenery, I rediscover paradise. The canyon is a secret, a power spot, a place of pilgrimage.
>
> I found this canyon in my youth, twenty years ago. I came here again and again. I brought special friends and lovers. When my wife and I met, and I discovered that she knew this place, I felt certain that she knew a place deep within me, as well. My children are within a year of walking into the canyon on their own. I thrill to think of that first visit with them.
>
> On those early trips, I rarely saw other people. Once, in the velvet light before dawn, I awoke, sat boldly upright, and looked past my sleeping bag into a lone ponderosa pine—a tree that brought the spicy scent of mountain forest to this desert canyon. A few seconds later, a great horned owl noiselessly landed on a branch and looked back at me with fierce eyes. The owl flew down canyon, searching for unwary mice. I lay back, fell asleep, and awoke again when the sun warmed me.
>
> I bathed in plunge pools and waded along the stream, learning to pay attention, looking for reflections and leaf patterns and rock forms to photograph—details that I would not see if the canyon had not taught me how to look. Never before had I spent so much time alone on the land. Here, I matured, as a naturalist and photographer and human being.
>
> This wilderness canyon made me whole. It can still restore me to wholeness when the stress of life pulls me thin. It bestows peace of mind that lasts for months.
>
> People smile when they remember such particular places on Earth where the seasons and textures and colors belong to them. Where they know, with assurance and precision, the place and their relationship to it.
>
> "This is my garden."
>
> "This is our family beach."
>
> "I know this grove like the back of my hand."
>
> "I can tell you where every fish in this stream hides."
>
> "I remember this view; it takes me back to my childhood."
>
> These landscapes nourish and teach and heal. They help keep us sane, they give us strength, they connect us to our roots in the earth, they remind us that we share in the flow of life and death. We encounter animals in their native place and they look into our eyes with the amalgam of indifference and companionship that separates and unites us with other creatures. A garden can connect us with wildness. Wilderness connects us with our ancestral freedoms even more powerfully.
>
> Recently, we visited a canyon new to us in the southern Utah wilderness, this time with urban cousins—two girls, seven and eleven. The younger girl spotted a whipsnake, a nesting Cooper's hawk, beetles, Indian paintbrush. We painted ourselves with golden cattail pollen and launched boats we wove from rushes and milkweed leaves. Taught never to walk alone in their city, here the girls forged ahead out-of-sight, exploring, appropriating power, gathering the dependable certainties of the wilderness, building emotional bedrock, new layers of confidence and self-esteem. Perhaps this canyon will become their canyon.
>
> We need to preserve every chance to have such experiences, for ourselves, our children, and the grandchildren of our grandchildren.
>
> For we have reached the end of the gold rush. This wild country is our home, not simply one more stop on the way to the next boomtown. Respect for our home, thinking as natives, begins in our backyards, with our children. We move outward from there to local parks, to preservation of greenbelts, and from there to big wilderness.
>
> The wilderness canyons of Utah belong not to an elite cadre of backpackers, not to the cattle raising families of Escalante and Kanab, not to the Utah state legislature, not to the Bureau of Land Management. They belong to all citizens of the United States. In truth, they belong to no one. They are a magnificent expression of the powers of Earth, and we Americans hold Utah wilderness in trust for all humans and all life on our planet.
>
> The truly conservative action becomes clear: to preserve as many wildlands as possible for future generations rather than to fritter them away in casual development without even noticing. A Utah wilderness bill with too little land preserved and too many exceptions for development is unacceptable, destroying irreplaceable wild places for the short-term wealth of the few.
>
> Every year our wildlands shrink. We must act now, decisively, boldly. To save my canyon. Their canyon. Your canyon.
>
> We must preserve the wholeness of wild places that belong to everyone and to no one. In doing so, we demonstrate our trustworthiness—our capacity to take a stand on behalf of the land. On behalf of the canyons.
>
> Our canyons.

That short piece of writing is so powerful, Mr. President, because it is a timeless statement about how people feel about natural places. For myself, I personally know the value of wild areas. For the last 9 years, I have spent my summer vacations on Madeline Island, immediately adjacent to the Apostle Islands National Lakeshore in northern Wisconsin. I have always found the quiet beauty of the Apostle Islands refreshing and invigorating. The Apostle Islands are not a place the people in Wisconsin go for high-tech hubbub; it is a place where people go to experience nature's beauty.

I want to recount a story, one perhaps several of members of the Senate may remember, from 1967, when the Senate Subcommittee on Parks and Recreation held hearings on Senator Gaylord Nelson's plan to create the Apostle Islands National Lakeshore.

A man named John Chapple, a newspaperman from Ashland, WI, testified at those hearings. Mr. Chapple, who spent much of his life around the Apostle Islands, related the story of a time when he and his 10-year-old son were out in a 14-foot motorboat on the waters around the Apostle Islands:

> On one occasion, the water was very rough, and I pulled our little boat onto a sand beach so I could put some more gas in the motor.
>
> Three men came walking out. "Don't you know this is a private beach?" they said. "You are not supposed to land here."
>
> That stung, and it still stings.
>
> Twenty-five men with fortunes could tie the Apostle Islands up in a knot and post "keep out" signs all over the place.
>
> The beauty that God created for mankind would not be available to mankind anymore.
>
> These islands, with their primeval power to truly recreate, to reinvigorate, to inspire mankind with a love of peace and beauty . . . must be preserved for all the people for all the time and not allowed to fall into the hands of a few.

When the Senate acted to protect this area of northern Wisconsin, they heard the voices of Wisconsinites like Mr. Chapple who knew the value of peace and beauty and of preserving our natural heritage. Though those words were spoken by man nearly 20 years ago, about an entirely different landscape, they almost sound like an addendum to Steve Tribell's story about southern Utah canyons, which is included in a new testimony.

In places like the Apostle Islands and southern Utah, Wisconsinites have found opportunities to develop a consciously sympathetic relationship to the rest of the world, so that we may better live in it. These natural places are a confluence for the things we value in Wisconsin.

The parallels between the Apostle Islands in my State and southern Utah, interestingly go even further than the emotions that these landscapes evoke among the people of my State. Along the Apostle Island National Lakeshore's shoreline there are the wonderful rust colored sandstone cliffs. These sandscapes serve as staging areas for birds following their ancient paths of migration in the spring and fall. Of similar appearance and construct to the landscapes of southern Utah, these cliffs are particularly impressive this time of year now that they are covered with ice. The February 28, 1996, edition of the Minneapolis Star-Tribune ran a wonderful article about these red cliffs covered in ice that states:

> Frozen waterfalls hide a labyrinth of nooks and crannies that kids climb through and slide down like some frozen playland. "Awesome" is the word muttered by many visitors to the sea caves sculpted by centuries of wind and water at Apostle Island National Lakeshore near Bayfield.

In the case of the Apostle Islands, how did the Senate respond, Mr. President? And what does it tell us about the stewardship and attention we should pay here in the Senate to southern Utah. In 1967, Senator Nelson was leading the effort that led to President Nixon's signing, on September 26, 1970, of the legislation that established the Apostle Islands National Lakeshore—only a few months after the first Earth Day.

Many of my constituents are concerned that perhaps there isn't that kind of momentum in this body any more. As their letters reflect, they believe that there is a concerted campaign to undermine landmark environmental legislation, such as the Clean Water Act, and to curtail or end the Federal role in protection of endangered species and their habitats. They express frustration that the Senate is responding to efforts to persuade Americans they cannot afford further environmental protection, that the idea of protecting our natural heritage is somehow an affront to the American ideal of rugged individualism.

As we consider this measure we must be mindful of Wallace Stegner's words I quoted earlier, of the need to act carefully on these issues in community and with sympathy and responsibility for our place in the great scheme of things.

I feel that it is exceedingly important to be actively engaged in discussing alternatives for the management of significant resources such as these. I urge my colleagues to be committed to do so in Utah, and I urge them to oppose the inclusion of the Utah measure in this Omnibus package.

The Utah wilderness provisions in the legislation now before the Senate has several major weaknesses.

The first major concern is the "under protection" of areas that are suitable for wilderness designation. The bill would protect only 2 million acres in contrast to the 5.7 million protected in a competing bill, H.R. 1500, introduced in the House of Representatives and the 3.2 million acres currently being managed by BLM as wilderness pending congressional designation.

Mr. President, as other Senators have discussed, the review of public lands in Utah to determine their wilderness potential has had a long and contentious history. The BLM's initial inventory of this area to implement the 1976 Federal Land Policy and Management Act, known as FLPMA, identified 5.5 million acres of land as having potential wilderness values. Subsequent stages of that process resulted in 2.6 million acres of land being designated as wilderness study areas [WSA's] a designation which is a precursor to wilderness designation. Utah environmental interests challenged the 2.6 million designation, urging that about 700,000 acres be reinventoried. That additional study by BLM ultimately provided WSA status to 3.2 million acres—the management situation under which BLM is currently operating.

Controversies over the inventory have resulted in disagreement over how much wilderness to designate in Utah. Concerns over BLM's survey lead citizen groups to continue to conduct field based research to determine the wilderness values of other sensitive areas. These citizen group surveys lead to the development of alternative legislation to the proposal included in the omnibus package, which has been introduced in the other body by a Representative from New York, [Mr. HINCHEY]. That legislation, H.R. 1500, America's Red Rock Wilderness Protection Act, would set aside 5.7 million acres of land as wilderness—even more than the BLM is currently protecting as WSA's.

In addition to current congressional proposals, there have been previous administrative attempts to resolve the wilderness question in Utah. In 1991, the Bush administration recommended to Congress that 1.9 million acres be protected as wilderness. The proposal before us today has a similar acreage figure, only it recommends designation for different areas. However, the Interior Department now believes that more areas deserve wilderness designation.

In her testimony on behalf of the Department before the Energy and Natural Resources Committee this past December, Silvia Baca, Deputy Assistant Secretary, Land and Minerals Management for the Department of the Interior stated:

> We are sure other areas, both inside and outside existing WSAs, deserve such (wilderness) status.

I would remind Members of the Senate of the position taken by the Bush administration does not bind us as we consider the fate of this area, particularly given, as Ms. Baca also stated in her testimony, that:

> 1.9 million acres is inadequate to protect Utah's great wilderness.

The second area of concern is the fact that the lands in Utah designated as wilderness in this amendment would be required to be managed in a manner inconsistent with the Wilderness Act. In short, the meaning of "wilderness" designation would be significantly altered in this bill for these lands. The legislation is full of these exceptions to standard wilderness management protocol.

For example, under section 2002 of the amendment, roads would have to be maintained to a much greater extent than is provided for in the Wilderness Act. Access by cars, motorcycles, trucks, sport utility vehicles, and heavy equipment is guaranteed at any time of the year for water diversion, irrigation facilities, communication sites, agricultural facilities, or any other structures located within the designated wilderness areas. This type of unrestricted vehicular use is currently not allowed on lands now managed by BLM, or on many other parcels of Federal land, regardless of whether or not they are designated as wilderness. Creating an exemption to allow such activities within wilderness areas raises the question, Mr. President, what is the purpose of extending a special designation such as "wilderness" if we do so with so many holes that the designation is essentially meaningless or that the lack of such a designation would actually be more protective. As I said before, this bill would allow activities in a federally designated wilderness that would not be permitted on other nonwilderness Federal lands.

Another example of the way this legislation would undermine the management of wilderness areas is included in section 2006 on military overflights. This section includes special language preempting the Wilderness Act and permitting low level military flights and the establishment of new special use airspace over wilderness areas. This language sets a precedent for allowing such activities, precedent which is of great concern to the citizens of my

VOL 142 PT 5 MR 21—29 1996 UMI

State. I have been involved, along with concerned Wisconsin citizens, in monitoring the recently proposed expansion of low level flights by the Air National Guard in Wisconsin. The path of these low level flights would cross extremely ecologically sensitive areas in my State, and the existence of those areas has been instrumental in forcing the National Guard to take a more careful look at the planning of any such flights.

The third area of concern, which I highlighted earlier in my remarks, is the hard release language. This language, if enacted, would set an unacceptable precedent for the National Wilderness system. None of the more than 100 wilderness bills already enacted into law contains such language. In the past, moreover, hard release has been proposed only for lands formally studied by a Federal agency for designation as wilderness but released from the WSA study status by Congress. The language in this amendment goes even further, Mr. President, it applies to all the 22 million acres of BLM lands in Utah not just the 3.2 million WSA acres.

The final area of concern is the land exchange embodied in the Utah wilderness portion of this bill. This legislation mandates that State lands within or immediately adjacent to designated wilderness areas be exchanged for certain areas now owned by BLM. Some lands to be exchanged are explicitly designated in this legislation, such as the 3,520 acres that would be given to the Water Conservancy District of Washington County, Utah for the construction of a reservoir. Other areas are not explicitly designated. The State is allowed under this measure to choose from a pool of Federal lands in different areas. As others have discussed, the Dutch-owned mining company, Andalex Resources is currently moving through the Federal permitting process to develop a coal mine on lands which the State is interested in acquiring. This exchange has significant fiscal consequences.

First, the Interior Department believes the lands not to be of approximately equal value. More importantly, should the lands have been permitted for mining under Federal ownership, the taxpayers would receive the return for all such mining activities. CBO determined that the net income to the Federal Government of the lands being transferred to the State of Utah would amount to an average of almost $500,000 annually over the next 5 years, or approximately $2.5 million in Federal receipts. In contrast, the Federal receipts anticipated from the lands being traded to the Federal Government in exchange would amount to about $33,000 per year or a mere $165,000 over the same period. In comparative terms, Mr. President, for every $1 that the Federal Government gives in the lands it exchanges with Utah it only gets back 7 cents.

All of these concerns, Mr. President, have led the Secretary of the Interior, Mr. Babbitt to announce on March 15, 1996 that he would recommend that the President veto this omnibus package unless the Utah provisions were removed. That is a step that the Senate should take. If the Utah provisions remain in this bill as currently drafted, the bill deserves not only a Presidential veto, but a condemnation from every American who cares about protecting our natural resources.

WELFARE AND MEDICAID

Mr. KYL. Mr. President, I want to comment briefly this morning on welfare and Medicaid, because the majority leader has indicated that these are going to be two of his priorities after the recess. We are going to bring these bills to the floor in an effort to get them passed yet again and to get them signed by the President.

It seems we are in a campaign mode now. Everyone is focused on the Presidential election. It does not seem like it was just 4 years ago that President—candidate then—Bill Clinton was going around the country saying we need to end welfare as we know it. People might ask what has happened in the last 4 years? The President seemed to be committing himself to ending welfare as we know it. Yet, during the first 2 years of his administration, when the Democrat Party controlled the House and Senate, nothing was done. When Republicans finally came in and it was part of the Contract With America, however, something did get done. We passed bills for welfare reform, and they not only reformed the essence of the welfare program to put more focus on people working, on providing incentives to families, and to reducing the costs of welfare, but also returned much of the decisionmaking to the States under the theory that the States and local governments would have more connection with the specific people on welfare and would know better how to run the programs for the benefit of the people in their individual States.

We, therefore, passed a Balanced Budget Act that included significant welfare reform and sent that bill to the President on November 17. He vetoed the bill on December 6 and said that he wanted a different welfare bill. So we sent him another welfare bill. This time the Senate voted on a separate welfare bill, and the vote was 87 to 12. That is about as bipartisan as you can ever get in the U.S. Senate. Yet the President rejected that as well. In fact, in his State of the Union speech he said, "I will sign a bipartisan welfare bill if you will send it to me." We have already done that by a vote of 87 to 12. Democrats and Republicans alike understood the need for real welfare reform, and we sent that to him. But it still was not good enough.

So, the Nation's Governors got together, Democrats and Republicans, and unanimously agreed on welfare reform and on Medicaid reform, which I will speak to in just a moment. Initially, it seemed like we had an opportunity, not only to get the legislation passed through the House and Senate—that would be fairly easy—but to get the President to sign it, which is required in order for it to become law. But now, once again, it appears the President will not take yes for an answer, or he got cold feet or something, because now Secretary Shalala, for example, is saying she does not really like the idea of a block grant.

As everybody knows, the block grant is fundamental, it is essential, it is the central point here of our Medicaid and welfare reform. In other words, instead of having Washington decide what to do, we send the money directly back to the States for them to make the decision how best to operate the program in their State with a few general national guidelines, the rest of the decisions being made at the State level. So, once again, we proposed a specific idea, this time with all of the Nation's Governors in support. The administration is still saying no. It makes you wonder whether this President is really committed to welfare and Medicaid reform. Will we, in this Presidential campaign, once again be debating an issue that was debated 4 years ago, about which we all thought we were in agreement?

Let me quickly turn to Medicaid because the majority leader also indicated that he thinks, and I agree, that we need to have these two issues both sent to the President for reform because they both involve the same general element of return of control to the State. Medicaid is growing at roughly 10 percent annually. This is the program of health care for our indigent citizens. Obviously, without reform, that program is going to be in trouble. As a matter of fact, the Federal Government will spend over $1 trillion between 1995 and the year 2002 on Medicaid. Without reform, the States will spend $688 billion of their own money on Medicaid between 1996 and the year 2002. This represents 8 percent of the States' non-Federal revenue and an increase of 225 percent between 1990 and the year 2002. Obviously, this system must be reformed.

The legislation that we put together recognizes that there is a need for Federal support, there is a need for Federal standards, but the States can run these programs. My own State of Arizona was the first to get a waiver and, from the very beginning, it ran a program it calls ACCESS, which provides medical services to the poor and has done so at a cost that the State of Arizona could afford.

The bottom line of the reform that we have put together on Medicaid—and here, again, the Governors have been in agreement on this—is that the program will continue to grow, but just not as fast as it has in the past, because the States would be given more latitude to run the programs on their own.

Total Federal and State spending of Medicaid under these programs we have designed would, over the next 7 years, be at least $1.36 trillion. The Federal portion of this amount would exceed $780 billion. Federal spending for Medicaid would increase at an average annual rate of 5 percent, between 1996 and the year 2002. It would grow from just over $157 billion in 1995 to at least $220 billion in the year 2002, which represents an increase in spending of more than 40 percent, Mr. President. That is not a cut, lest anybody suggest that it is.

The key, as I said, is to allow the States greater flexibility to restructure the benefits of Medicaid to suit their own State's beneficiaries. Again, the National Governors Association has reached an agreement on Medicaid as well as on welfare.

The point of our comments this morning is to try to stress the fact that the Congress has been willing, the Nation's Governors and legislatures have been willing, but there is only one person who stands in the way of Medicaid and welfare reform. His name is Bill Clinton. He is the President of the United States. He said he was for reforming these two programs when he ran for President 4 years ago. But it has been 4 years and nothing has happened and nothing did happen until Republicans gained control of the House and Senate.

It should be very clear to our colleagues and the American people, this Republican Senate and the Republican House, the Nation's Governors, and many of our Democratic friends in the House and Senate are in agreement on what needs to be done. Will the President of the United States get that message before this next Presidential campaign? If he does not, my suggestion is that the American people will send that message loud and clear, because we should not have to wait until 1997 to reform welfare and Medicaid.

UNANIMOUS-CONSENT AGREEMENT—H.R. 1296

Mr. KYL. Mr. President, on behalf of the leader, I ask unanimous consent that the quorum be waived with respect to the cloture vote this morning on the Murkowski substitute amendment; and further, that Senators have until 10:30 this morning in order to file second-degree amendments to the substitute in accordance with rule XXII.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KYL. Finally, Mr. President, on behalf of the leader, to simply announce that Senators should be alert that the cloture vote will be at approximately 10:30 this morning.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

AMERICANS CONDEMNED TO FUTURES WITH NO HOPE

Mr. COVERDELL. Mr. President, I want to echo and underscore the remarks of my good colleague from Arizona. I do not know of any issue in the country for which there is more unanimity or agreement than the current status of our welfare programs. You can go to any community, any State, any region, any city, and, as I said, there is a unanimity that this program has failed.

Sometimes in the discussions, we fail to acknowledge what that means. What that means is that hundreds of thousands of Americans have been condemned to stunted futures with no hope, no real education, no real prospect for opportunity in a life as we have come to know to be synonymous with being an American.

You can do anything as long as it is different and it would be better. Every statistic that we have endeavored to improve with these massive welfare programs, with the exception of one piece of data, is worse today and not just a little worse, but dramatically so. Every condition of the target of the welfare programs is worse, not better. We have higher teenage pregnancies, we have more single-member households, we have less scores in our education programs. It is all worse.

What makes it even more difficult to comprehend is that we have spent more of the Treasury of America on the War on Poverty than we spent on the Second World War, the First World War, Vietnam, Korea, and the Persian Gulf combined. We, essentially, prevailed on those battles, but we have lost the war on poverty. That means that there are millions of Americans today for whom the future is bleak, and we owe our fellow citizens more than this condemnation that we have created in our own country.

To put in context a response, a contemporary response, the President of the United States went to the American people in 1992 and, in his successful bid for the Presidency, said, "This condition must stop. This condition must come to an end. Welfare as we know it will not continue."

He was elected President. He had a majority in the House and the Senate, and in the 103d Congress, the Clinton Congress, nothing happened. Welfare, as we know it, is as it is—unchanged.

Then we come to the 104th Congress and this new majority, and an extensive Welfare Reform Act was passed in the House and in the Senate and sent to the President, the President who had promised the American people that he would end welfare as we know it. Instead, what he ended was welfare reform in the dark of the evening when he vetoed the Welfare Reform Act, which he has now done twice.

So you have to begin to get the picture that if you did not do anything when you were in charge of the Congress and then you vetoed welfare reform twice subsequently, there may be a lack of interest in true welfare reform.

He is running political advertising as we speak today in the Nation's capital, and that advertising says that he is for welfare reform. I only suggest to the American people, at least to this point, there is a massive difference between the rhetoric and the words of the campaign and the actions and the deeds of governments, because we are today going into the final year of this administration, and there is no welfare reform, there is only a record of blocking and stopping.

The bill that went out of the Senate had over 80 votes, Republican and Democrat. He claimed it should be bipartisan. It was, but still vetoed, stopped.

At the end of the day—and I am going to yield in a moment to the Chair—at the end of the day, this is all about American citizens. I do not think history is going to look very kindly on America for what it did to these people across our land, mostly in our large cities. They are virtual ghettos, prisons from which escape is almost impossible, and that should guide our actions. These programs should be changed if we care about our fellow citizens.

Mr. President, I yield the floor. I will be able to take your post for a moment. I know you want to make some remarks as well.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair recognizes the Senator from Oklahoma.

GETTING OUT FROM UNDER THE REDTAPE OF THE FEDERAL GOVERNMENT

Mr. INHOFE. Mr. President, a few weeks ago, the freshman class of the U.S. Senate made a trip around the United States to talk to different groups, different gatherings. We went all the way from Philadelphia to Knoxville, to Minneapolis, to Cheyenne, WY. One of the things we talked about, probably more than anything else, was welfare reform, changing the system as we have come to know it since the 1960's.

The Senator from Missouri, Senator ASHCROFT, was with us during this. He came up with some evidence from the State of Missouri that I thought was

VOL 142 PT 5 MR 21 — 29 1996 UMI

quite remarkable. He was talking about the administration of the Medicaid program, how they have been able to file and get out from under the redtape of the Federal Government. The year prior to their being able to administer the Medicaid Program with the amount of money that they had, they reached some 600,000 families throughout the State of Missouri. The next year, or the year following the year that they were able to take over the total jurisdiction and control and administration and come out from under the redtape of the Federal Government—and this was done, I might add, under a Democrat administration, a Democrat director of the department of human services for the State of Missouri—they were able to use that same amount of money and reach 900,000 families. In other words, 50 percent more services were given to families just by eliminating the unnecessary trip and expense and redtape of the Federal Government.

I believe it has been our policy to get as many of these things back to the local level. Having served myself in the State legislature, having served as a mayor of a major city, Tulsa, OK, for three terms, I can tell you that the closer you can get to the people at home, the better a program will be administered.

On welfare, we spent some time looking at the welfare system. The President of the United States, when he ran for President, when Bill Clinton ran for President of the United States, he had a pretty good welfare reform system. In fact, the welfare reform system that he advocated during the time that he ran for President of the United States had work requirements, had elements in it that were precisely the elements of the welfare reform package that passed the House of Representatives and then passed the Senate by a vote of 87 to 12. It was a shock to everyone, even on his own side of the aisle where 60 percent of the Democrats voted to support this, when he came out and vetoed it. I would like to think that America woke up during the demagogy of the Medicare reform. I know that many——

The PRESIDING OFFICER. The Chair notifies the Senator that his time has expired.

Mr. INHOFE. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. One minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, let me just comment that many editorial writers around the country that normally are more of a liberal persuasion came out and editorialized in favor of the Republicans and the fact that we recognized that we have a system that was going into bankruptcy. I ask unanimous consent that these be printed in the RECORD, the two editorials from the Washington Post that made this very clear. The names of the editorials are "Medagogues" and "Medagogues, Cont'd."

The last sentence of the second editorial reads, "The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and duck responsibility, both at the same time. We think it's wrong." And America thinks it is wrong.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 18, 1995]

MEDAGOGUES

Newt Gingrich and Bob Dole accused the Democrats and their allies yesterday of conducting a campaign based on distortion and fear to block the cuts in projected Medicare spending that are the core of the Republican effort to balance the budget in the next seven years. They're right; that's precisely what the Democrats are doing—it's pretty much all they're doing—and it's crummy stuff.

There's plenty to be said about the proposals the Republicans are making; there's a legitimate debate to be had about what ought to be the future of Medicare and federal aid to the elderly generally. But that's not what the Democrats are engaged in. They're engaged in demagoguery, big time. And it's wrong—as wrong on their part now as it was a year ago when other people did it to them on some of the same health care issues. Then, they were the ones who indignantly complained.

Medicare and Medicaid costs have got to be controlled, as do health care costs in the economy generally. The federal programs represent a double whammy, because they, more than any other factor, account for the budget deficits projected for the years ahead. They are therefore driving up interest costs even as they continue to rise powerfully themselves. But figuring out how to contain them is enormously difficult. More than a fourth of the population depends on the programs for health care; hospitals and other health care institutions depend on them for income; and you cut their costs with care. Politically, Medicare is especially hard to deal with because the elderly—and their children who must help care for them to the extent the government doesn't—are so potent a voting bloc.

The congressional Republicans have confounded the skeptics who said they would never attack a program benefiting the broad middle class. They have come up with a plan to cut projected Medicare costs by (depending on whose estimates you believe) anywhere from $190 billion to $270 billion over the seven-year period. It's true that they're also proposing a large and indiscriminate tax cut that is a bad idea and that the Medicare cuts would indirectly help to finance. And it's true that their cost-cutting plan would do—in our judgment—some harm as well as good.

But they have a plan. Enough is known about it to say it's credible; it's gusty and in some respects inventive—and it addresses a genuine problem that is only going to get worse. What the Democrats have instead is a lot of expostulation, TV ads and scare talk. The fight is about "what's going to happen to the senior citizens in the country," Dick Gephardt said yesterday. "The rural hospitals. The community health centers. The teaching hospitals. . . ." The Republicans "are going to decimate [Medicare] for a tax break for the wealthiest people, take it right out of the pockets of senior citizens. . . ." The American people "don't want to lose their Medicare. They don't want Medicare costs to be increased by $1,000 a person. They don't want to lose the choice of their doctor."

But there isn't any evidence that they would "lose their Medicare" or lose their choice of doctor under the Republican plan. If the program isn't to become less generous over time, how do the Democrats propose to finance it and continue as well to finance the rest of the federal activities they espouse? That's the question. You listen in vain for a real response. It's irresponsible.

[From the Washington Post, Sept. 25, 1995]

MEDAGOGUES, CONT'D

We print today a letter from House minority leader Richard Gephardt, taking exception to an editorial that accused the Democrats of demagoguing on Medicare. The letter itself seems to us to be more of the same. It tells you just about everything the Democrats think about Medicare except how to cut the cost. That aspect of the subject it puts largely out of bounds, on grounds that Medicare is "an insurance program, not a welfare program," and "to slash the program to balance the budget" or presumably for any purpose other than to shore up the trust fund is "not just a threat to . . . seniors, families, hospitals" etc. but "a violation of a sacred trust."

That's bullfeathers, and Mr. Gephardt knows it. Congress has been sticking the budget knife to Medicare on a regular basis for years. Billions of dollars have been cut from the program; both parties have voted for the cutting. Most years the cuts have had nothing to do with the trust funds, which, despite all the rhetoric, both parties understand to be little more than accounting devices and possible warning lights as to program costs. Rather, the goal has been to reduce the deficit. It made sense to turn to Medicare because Medicare is a major part of the problem. It and Medicaid together are now a sixth of the budget and a fourth of all spending for other than interest and defense. If nothing is done those shares are going to rise, particularly as the baby-boomers begin to retire early in the next century.

There are only four choices, none of them pleasant. Congress can let the health care programs continue to drive up the deficit, or it can let them continue to crowd out other programs or it can pay for them with higher taxes. Or it can cut them back.

The Republicans want to cut Medicare. It is a gutsy step. This is not just a middle-class entitlement; the entire society looks to the program, and earlier in the year a lot of the smart money said the Republicans would never take it on. They have. Mr. Gephardt is right that a lot of their plan is still gauzy. It is not yet clear how tough it will finally be; on alternate days you hear it criticized on grounds that it seeks to cut too much from the program and on grounds that it won't cut all it seeks. Maybe both will turn out to be true; we have no doubt the plan will turn out to have our other flaws as well.

They have nonetheless—in our judgment—stepped up to the issue. They have taken a huge political risk just in calling for the cuts they have. What the Democrats have done in

turn is confirm the risk. The Republicans are going to take away your Medicine. That's their only message. They have no plan. Mr. Gephardt says they can't offer one because the Republicans would simply pocket the money to finance their tax cut. It's the perfect defense; the Democrats can't do the right thing because the Republicans would then do the wrong one. It's absolutely the case that there ought not to be a tax cut, and certainly not the indiscriminate cut the Republicans propose. But that has nothing to do with Medicare. The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and to duck responsibility, both at the same time. We think it's wrong.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Chair recognizes the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I thank the Chair.

PRESIDIO PROPERTIES ADMINISTRATION ACT

The Senate continued with the consideration of the bill.

Mr. BRADLEY. Mr. President, I would like to, if I could, get a few housekeeping measures out of the way. First, so that the RECORD can clearly reflect who is doing what to the bills that are before us at this moment, this is a bill that contains 33 titles. Every Senator should know that the Senator from New Jersey would not oppose moving 30 of those titles now, pass them by voice vote. I do not oppose them. I do not have holds on them. They can be moved now. If they are not moved now, someone does have a hold on them. It is not me.

I also make the other point that the distinguished chairman alluded to saying that these bills in this package have been on the calendar for over a year. Well, maybe some of them have been, not all of them. Indeed, there are some bills in this package that have not even been reported from the Energy Committee. There was no vote in the Energy Committee on at least 6 or 7 or 8 of these bills. They were added on the floor into this big package without them ever being reported out of the Energy Committee or having a hearing in this Congress. Some had a hearing in the last Congress, so that is not a big deal. They should be reported out of the committee, but they were not.

The other point is, the Senator from New Jersey has indeed not held all bills. The distinguished Senator from Alaska alluded to the fact that a bill that he was very interested in moved without any problem. So let us get that housekeeping matter out of the way first. We could move almost 30 titles by voice vote.

Let us get to the real issue here, which is the Utah wilderness bill, which is one of the titles, which is the title that I strongly oppose. Why do I oppose this? This is the most important public lands bill since the Alaska land bill of 1980. This is the most important public land bill since the Alaska bill over 15 years ago.

What are we talking about here? We are talking about declaring a part of Utah wilderness. There are two areas in question. One is the basin and range area. That is that vast area west of Salt Lake City, an area of salt flats and small mountain ranges. The writer John McPhee says that "Each range here" in the basin range "is like a warship standing on its own, and the Great Basin is an ocean of loose sediment with these mountain ranges standing in it as if they were members of a fleet without precedent." So one of the areas we are talking about is this unique area, basin and range.

The other area we are talking about is the great Colorado Plateau in southern Utah. The part of Utah that Harold Ickes, the first Secretary of the Interior during the administration of Franklin Roosevelt, said almost the whole part of Utah should be a national park, that almost the whole part of that southern part of Utah should be a national park.

It is a vast plateau and canyonlands of incredible beauty, vast plateaus like the Kaiparowits Plateau or the Dirty Devil Wilderness, some of the most remote and rugged landscapes in the West. Yet some of the most interesting records of those who inhabited this land before America—before Europeans ever came to the United States—are also located in this section of Utah, and the remains of the great Anasazi, who were here long before the first European set foot on this continent. All of this vast beauty is in southern Utah.

It is a genuine wilderness: Remote, rugged, deep-cut canyons that are sandstone cut, with deep rivers. It is the place of Zion and Bryce and Canyonlands. It is unique. It deserves wilderness designation.

We now have before the Senate the Utah wilderness bill. What is the problem with the Utah wilderness bill? Well, too little land is protected as wilderness; and too few protections are given to that land. In addition, the inventory process, the process by which the Bureau of Land Management determined which areas should qualify as wilderness, was flawed from the beginning.

In the State of Utah, there are 22 million acres under the control of the Bureau of Land Management. Under the bill before the Senate, 2 million of these acres—2 million of those acres—will be set aside as wilderness. That is all, 2 million acres.

Now, there are too few protections, as well. Just take the vast Kaiparowits Plateau, a plateau of juniper forests, trees that have been there long before the first European set his foot forth on the United States. It is a vast wilderness, one of the most vast wildernesses in the lower 48 States. Under this bill, about 50,000 acres of that plateau will be transferred to the State of Utah, an area for which a Dutch company is already negotiating to put a gigantic coal mine—a gigantic coal mine—in the heart of that wilderness.

What about Dirty Devil? There, of course, the area that is excluded will be set aside for tar sands development. The legislation also would allow new dams, called reservoirs, new dams. One thought that in the Colorado Plateau this issue was settled in the 1960's when the dams that were proposed at Dinosaur Monument were defeated because the people of this country realized that this incredible beauty, silence and time standing still needed to be protected, should not be blocked by a dam with another lake going up the Canyonlands and destroying both the record of human habitation and the possibility of walking in the Canyonlands.

What else? Well, roads and motor vehicles are allowed to an unprecedented extent in areas which are wilderness. Also, you give the State the right to designate which areas it wants without regard to environmental sensitivity, and with great concern that the lands that the Federal Government would exchange with the State will not be of equal value. In fact, in the Interior Department's comment on this bill, as embodied in the report, the Deputy Assistant Secretary for Land and Minerals Management, Sylvia Baca, says the following:

> "The tracts proposed to be obligated by the State have high economic value for mineral, residential, and industrial development. The fair market value of these lands may be 5 to 10 times more than the value of the lands that would be transferred to the Federal Government. Despite the imbalance in favor of State, the bill provides for increased compensation to the State if encumbrances on Federal lands being transferred result in an imbalance, but not the other way around. This would only add to the inequality of values in this proposed exchange.

Mr. President, if the coal mining development is not enough, if the tar sands development is not enough, if the oil exploration is not enough, the new dams are not enough, if the roads and motor vehicles are not enough, if the kind of unequal value trade between State and Federal Government is not enough, what about this provision in the bill that sets aside the 2 million acres for wilderness, but attaches no water right to this wilderness land? These are areas that get 10 to 12 inches of rain a year—not much. What happens if that water is diverted, is used in another way, and does not get to the wilderness? Whatever fragile life is there dies, and it is over.

In Nevada, a State not totally dissimilar, not nearly as dramatic in some of its beauty as southern Utah, but still a remarkably beautiful State with a very similar topography, when the Nevada wilderness bill passed, the authors of that bill made sure that there

VOL
142
PT
5
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21
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29
1996
UMI

was water attached to that wilderness so that you would not have a wilderness, essentially, destroyed.

Finally, in terms of objections to the bill, there is a so-called hard release language. Now, the release language, which basically means when you do a wilderness bill you release lands, lands that are not wilderness, but you do not release them forever and ever, because at some other point you might want to consider whether they are wilderness. The bill as originally drafted said that the land should be managed for nonwilderness multiple uses only—that was dropped—and a substitute was offered that said "the full range of uses."

However, the existing amendment, the existing section of the bill, also says that "lands released shall not be managed for the purpose of protecting their suitability for wilderness designation." This is a kind of belt and suspenders approach. The previous version of the bill as reported out had both belt and suspenders, two protections against further wilderness designation. The current version got rid of the suspenders but leaves the belt. It is still unprecedented in wilderness bills.

Mr. President, these are all serious flaws with this bill that need to be addressed that might be able to be addressed. The flawed process is what makes me doubtful.

Just a brief recapitulation: in 1964 the wilderness bill passed. What was the definition of wilderness in a 1964 bill? "A wilderness, in contrast with areas where man in his own works dominate the landscape, is hereby recognized as an area where the earth and the community of life are untrammeled by man and where man himself is a visitor who does not remain." That was the definition of wilderness.

In 1976, that was applied to Bureau of Land Management lands about 280 million acres nationwide. And in 1976, 1977, the Bureau of Land Management was given 15 years to identify which areas under its control would qualify for wilderness, possibly, to inventory possible wilderness areas. But do you know what happened in Utah? In Utah, they completed it in 1 year. They inventoried all 22 million acres controlled by the Bureau of Land Management. At the end of that year, they eliminated 20 million acres for consideration as wilderness.

What was the basis upon which they eliminated these 20 million acres? It was that they lacked outstanding opportunities for solitude or primitive recreation. That is why they were eliminated. In the fall of 1980, a representative of the Sierra Club toured a section of the Kaiparowits Plateau with the Utah BLM Director, Gary Wicks. Their helicopter touched down on the southern tip of Four-Mile Bench, which is part of the plateau. She says:

> We stood on the edge of as far as the eye can see. Incredibly beautiful, utterly wild land. And I would say, "Gary, why are you eliminating this from wilderness?" And he would say, "Because there are no outstanding opportunities for primitive recreation." And I would say, "And there are no outstanding opportunities for solitude either?" And Gary would say, "You are right. You can have solitude here, but it is not outstanding solitude.' And the man kept a straight face while he said that.

She concludes by saying, "If the helicopter left us there, we would have known what outstanding solitude was all about," because she would have been left in this vast wilderness, one of the most rugged areas of America. But it was on the basis that these lands did not provide sufficient solitude that they were eliminated from wilderness designation. That flies in the face of virtually everything.

Well, when only 2.6 million acres were set aside out of the 22.5 million acres, under the control of BLM, and only 2.6 were set aside, a lot of Utah people got very upset. They filed petitions and they filed briefs; they had 30 days in which to do that. And because of their efforts, it included 3.2 acres for wilderness. And since then, that is the amount of land in Utah today that had been managed as wilderness; 3.2 million acres are now being protected as if they were wilderness.

In 1991, BLM came up with its final suggestion—1.9 million acres. The Utah congressional delegation introduced its bill, which was 1.8 million. Two days ago on the floor, they modified it to 2 million acres. Well, there was another group of Utah residents that said this was kind of a hurried process, with helicopter flyovers, and only cutting out 2.6 million. So they said, "Let us do this scientifically," and they did that and came up with 5.7 million acres of Utah that should be wilderness. I do not know if it is 5.7. I am sure that there is some number lower than that which could preserve the wilderness areas. But I certainly know that 2 million is not enough and, particularly, with the language that is in this bill.

The real irony is that this is an attempt, while the protections for mining, coal, tar sands, oil exploration, dams, et cetera, in a State where only eight-tenths of 1 percent of the jobs are in mining, in a State where only 2 percent of the State economic product is in mining. The future is not there. The future is in this beauty that is self-evident to anybody that comes to southern Utah or to the basin and range. The real irony is the Senator from New Jersey, who comes from a State that is 89 percent urban, is making this argument in a State that is 87 percent urban—one of the best kept secrets of the West, the most urbanized area of America. People from this country are coming into the cities.

So I believe that this would even be in the long-term interest of the State. But that is not what this is about. The Utah economy is really not my province. It is my observation, as somebody who has looked at these issues. But what I want to preserve is the possibility for silence and the possibility for time that exists only in a wilderness.

I would like to read, in closing, just two things from a book prepared by several writers about the Utah wilderness. One is by John McPhee, who wrote in "Basin and Range" the following, talking about that basin and range area west of Salt Lake City, that geologic formation that has been stretching for several million years. Reno and Salt Lake City, 7 million years ago, were 60 miles closer together. They are 60 miles further apart today because the geological structure is moving. When it moves, the crust cracks, and up pops mountain ranges. These are the mountain ranges that we are trying to protect in the broader wilderness bill.

McPhee writes:

> Supreme over all is silence. Discounting the cry of the occasional bird, the wailing of a pack of coyotes, silence—a great spatial silence—is pure in the Basin and Range . . . "No rustling of leaves in the wind, no rumbling of distant traffic, no chatter of birds or insects or children. You are alone with God in that silence. There in the white flat silence, I began for the first time to feel a slight sense of shame for what we were proposing to do. Did we really intend to invade this silence with our trucks and bulldozers and after a few years leave it a radioactive junkyard?

Another writer—this will be the final one, and I quoted him the other day—is Charles Wilkinson. He was talking about taking his son into the Colorado Plateau. He says:

> One long hike took us down into a narrow canyon branching off the Escalante River. The sandstone walls, smoldering red, thrust straight up. Scattered pinyon and juniper, and ferns and grasses around the springs, accented the color embedded in the canyon sides.
>
> The Wingate Sandstone had been the rock of surrounding mountain ranges. During the Triassic, some 200 million years ago, water worked the mountains, wearing them into sand. Winds lifted the grains and piled them up as dunes on the desert floor. The sands hardened back into rock. Then the whole Colorado Plateau rose. . . The creek in this now canyon would have none of it, resolutely holding its ground against the upthrusting Wingate and younger formations on top of it, cutting down 1,000 feet into rock and time. Much of the day we walked up to our calves in the creek.
>
> Not long ago we scorned this land as remote, desolate. That thinking led to the postwar Big Build-up and the coal plants, dams, and uranium mines.
>
> But today we know southern Utah, in the heart of the Colorado Plateau, for what it really is. The geologic events were so cataclysmic and so recent, and the frail soils so erodible, that the Colorado Plateau holds more graphic displays of exposed formation than anywhere on earth. The dry air has preserved the ancient people's durable and magical rock art, villages, kivas, pots, and baskets to a degree found nowhere else.

> Yet our society seems to lack the will to care for the Canyon Country. The Utah congressional delegation . . . wants to declare some fragments of the backcountry wilderness and then throw the rest open to development.
>
> That would be so short-sighted, so contemptuous of time. The old images on the walls were made so long ago, the walls themselves even longer. Time runs out to the future, too: give our grandchildren, and those far down the line from them, the blessing of taking a daughter or son into the weaving, rosy side canyons, of finding their own Dream Panels, and of being instructed by the young person on how to scramble out.
>
> Time, oh, time . . . May we not forsake you now.

Mr. President, this is about time and silence, and the chance for future generations to explore and understand this vast and beautiful wilderness.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, during the debate, the Senator from New Jersey provided us with his viewpoint on many subjects related to the proper management of our Nation's public lands. I respect him for his positions, for his contribution to ensuring that one of this country's many natural resources—our public lands—are properly and efficiently managed in an environmentally sensitive manner.

However, to be perfectly frank about it, he is just plain wrong when it comes to our bill to designate wilderness in Utah. I do not believe he has a full appreciation for the difficulty these small communities in my State have with maintaining all of this land as wilderness.

The longer Congress postpones action on the Utah Public Lands Management Act, the more economically strapped our small towns become. It stands to reason that you cannot take a primary resource out of circulation within an economy and expect that economy to flourish. The land resources in rural Utah are of the utmost importance to an economy whose major industries include mining, farming, and ranching.

My friend from New Jersey says our rural Utah counties can live off tourism dollars. Certainly, the tourism industry is vital to our State and important to the general welfare of our economy. But, it is not a panacea for the ills that plagued small town U.S.A. as the Senator pointed out yesterday. To give two examples, since nearly one-half million acres of land have been designated wilderness study areas [WSA's] by the BLM in San Juan County, UT—in Utah's southwestern corner—tourism has only increased from 2 percent in 1985 to 5 percent in 1995. In Millard County, on the western half of Utah, BLM designated acres as WSA's. Guess what the impact to their tourism industry was? Good guess—zero.

In my opinion, these kinds of numbers are not going to save the local economy of any community no matter how much acreage is designated wilderness.

I do appreciate his sensitivity to the manner in which Utah's public lands are managed—I really do. But, I would like to set his mind at ease. We must be doing a fairly decent job; for, after all, we have placed every single acre in BLM's inventory in a position, at least as far as the Senator from New Jersey is concerned, that each of them meet the wilderness criteria. That is a pretty decent record.

However, Senator BRADLEY should worry about one matter, which was not discussed in any great detail yesterday, and that is the presence of State school trust lands now captured within these wilderness study areas. They are owned by the State of Utah on behalf of and for the benefit of Utah's school children—not New Jersey's school children, Utah's children.

These lands were endowed by the Federal Government to Utah's schools at the time Utah became a State—100 years ago. The Utah School Lands Trust is not a recent development.

But, given the selection of the WSA's, these trust lands have been unavailable for any major revenue producing activity since the WSA's were established due to the restrictions informally imposed on them by their neighboring lands.

The Utah State Legislature has made a commitment to improving the management of the trust lands. These trust lands must produce more revenue if the State of Utah is going to meet its challenges in education. Utah currently ranks 49th in the Nation in terms of per pupil education spending. While I happen to believe that Utah stretches its education dollar further than just about any State and does an exemplary job of educating our kids, there is just no question that education financing continues to be our major concern.

Two years ago, the legislature organized a new State body whose specific reason for being is to gain the greatest benefit from the school trust lands. This body, composed of private citizens, is serious about meeting the purpose for which they have been created, namely, to see that the trust lands produce. I remind my colleagues that wise investments are also part of good stewardship.

I'm sure my friend from New Jersey knows that the State has every legal right to access these lands and to utilize them for whatever purpose they can, consistent with Federal and State laws. But, as I stand here today, I am convinced that, at some point down the road, the State is going to become so frustrated with Congress and this process that it will either sell a trust land section to a commercial entity or take steps to develop the land.

The fact that no one wants a disturbance of that kind in or around a wilderness area is precisely why the trust lands have not been fully developed to date.

Yet, the State cannot wait forever to develop the trust lands. The revenue from these lands is becoming increasingly important to our educational system. And, I am certain that these lands will be developed to benefit our schools if we don't pass this bill.

This is why our bill provides for an exchange of these lands. We want to get the trust lands out of the wilderness areas. We want to establish a unity of title so there is no commingling of management styles. We want to erase this threat forever. That can only happen with passage of our proposal.

By the way, the proposal my friend from New Jersey was championing yesterday that has been introduced in the House does not contain any reference at all to the school trust lands contained within the areas designated by that bill. It does not indicate how trust lands in H.R. 1500 will be dealt with under this measure. Are they just going to remain as enclaves within designated areas? Given his concern for pristine wilderness, he should worry about what could happen in the absence of a land exchange.

But, let me discuss several points the Senator from New Jersey raised in his opening comments yesterday that need to be addressed. They are out in the public forum and deserve a brief response.

First of all, he said that our release language, while an improvement over the original language, was "a backdoor attempt to do what the original bill had intended to do but do it in a slicker way."

Mr. President, I went into detail yesterday as to what the intent of our release is and is not. There is no funny business here, no tricks, no backdoor attempt. We are stating the full intent behind our language in the light of day.

It is simple and straightforward. Nondesignated lands will slip back into the pool of normal BLM lands for continued management under BLM's existing authorizes, special designations, and the host of Federal legislative authorities which apply to public land management. Subsequently, they will be managed by the local BLM consistent with multiple uses defined in section 103(c) of the Federal Land Policy and Management Act and consistent with land use plans developed through section 202 of the same act. This language will allow the local BLM land managers, the "on-the-ground professionals," to manage nondesignated lands for their wilderness values and characters utilizing existing BLM authorities. I trust they will do so.

Our language asks the Federal manager to do his job, which is to manage the Federal lands in the best way possible. It is not up to that manager to

VOL
142
PT
5
MR
21
—
29
1996
UMI

decide if an acre of land should be deposited in the National Wilderness Preservation System—it is up to us. The land manager can use an existing authority to protect and preserve the wilderness—small "w"—character of the land. That is expected when it's appropriate. But, he is not authorized, nor should he be, to use an existing authority to protect and preserve that pristine character to become future wilderness—big "W", or part of the wilderness system, at a future date.

And, if that concept bothers the Senator from New Jersey then he should go back and change FLPMA or introduce a bill that requires another round of studies and review by the BLM—that is, if he wants to spend another 17 years and another $10 million of taxpayer funds.

The release language was suggested by the ranking minority member of the Energy Committee. He said himself that he found the practice of managing land for a future designation as offensive as the prohibition on the practice of not managing it for its characteristics.

If we go along with the Senator from New Jersey, then we should simply designate all 22 million acres in Utah as wilderness study areas and never derive any benefit from Utah's public lands. I do not understand why our language bothers the Senator from New Jersey so much. It is completely consistent with the scope and intent behind FLPMA.

Besides which, the BLM wilderness inventory had a beginning. It should also have an end, like this issue, and hopefully before Utah celebrates its 200-year birthday in 2096.

Second, the Senator indicated that "four million acres of Utah's red rock wilderness will be left open for development." He then went on to list several areas that fall into this category.

Several times yesterday it was asserted that the passage of our bill will lead to a massive immediate destruction of nondesignated lands. I do not know how many times I need to say this, but that statement is simply not true. In fact, it is offensive to me not only as one of the principal authors of this bill but as a Senator from Utah.

Our critics continues to conjure up images of bulldozers lined up to advance on these BLM lands. Those who rely upon such images to advance their cause purposely ignore our sincere desire—not to mention our entire State government—to protect these lands from inappropriate and destructive activities.

In addition, I mentioned the plethora of environmental laws and conservation regulations passed since 1964 that provide layer upon layer upon layer of protection for these lands. I will not go through the list again, but they are listed on the displayed chart.

This argument should not even be a part of this debate. Yet, it continues to be used in the propaganda and rhetoric of the elite special interest groups.

Unlike some, we have confidence in BLM's professional land managers to continue making objective decisions on the future uses of these lands in accordance with the law.

By the way, I would would like to remind the Senator from New Jersey that we include in our proposal more than 16,000 acres in Fish and Owl Creek Canyon, more than 220,000 acres of the Kaiparowits Plateau, and more than 75,000 acres of the Dirty Devil area.

Also, it might surprise the Senator to know that more than 80 percent of the acreage in our proposal is located near or below Interstate 70, the highway that divides Utah in half. John Sieberling, the former representative, once said that if he had it his way, he would make a national park of all the land south of Interstate 70, and if the Senator from New Jersey had his way he make the entire area wilderness. Let us be clear about this: our proposal protects Utah's red rock wilderness.

Third, Senator BRADLEY referenced the possible development of coal leases within the Kaiparowits Plateau by the State of Utah.

Yes, it is true that the State of Utah has identified these BLM lands—which are not contained in a wilderness study area—let us be clear about that: they are not being managed as wilderness—as one of 25 tracts of land it desires to exchange with the Federal Government.

But, what the Senator did not say is that these leases are currently under suspension by the Department of Interior pending completion of an environmental impact statement that will determine if mining is ever going to be allowed in that area,

Once again, as he did yesterday, the Senator is second guessing the activities of BLM's own personnel, only this time it deals with this EIS. He also accuses the State of Utah for mismanaging this acreage when there has been no determination that mining will ever occur there. While the coal is there, the ability to access it is still questionable.

If mining ever occurs in the manner described yesterday by Senator BENNETT, the leases will be subject to every pertinent Federal environmental law, whether the leases become State or not. No matter what happens to the ownership of the land, the Federal permitting process will continue.

And, since the lease holder will need to construct an access road to the site, build a power line to the site, and construct certain facilities all on BLM land, Federal permits for each of these items will be required. So, the big environmental special interest groups will have plenty of opportunities to appeal this project every step of the way.

Also, it is important to note that the site where the mine is projected to be located was rejected by the BLM during its initial statewide review process. The area was rejected because it did not meet wilderness criteria. Let me tell the Senator from New Jersey why.

Because located within a 2-mile radius of the proposed site are 80 drill sites, 36 miles of roads, an airstrip, and several other surface disturbances symbolic of mining activity. Do not forget—this same site was initially mined in the late 1970's. Of the 40 acres required for the mine site within the lease holders total leased area, half of it—more than 20 acres—has already been disturbed by mining activity. This site does not meet wilderness quality, but after seeing what is in some of the areas recommended by the special interest groups, I can see why they were confused with this site.

This is not an issue about protecting wilderness value; this is an issue about preventing the responsible development of Utah's largest coal reserves. But, nevertheless, this bill has nothing to do with whether or not this area will ever be mined.

Fourth, the Senator indicated our bill "denies a Federal water right to wilderness areas designated by this bill."

The Senator from New Jersey has evidently not read the language carefully. It is true that our bill does not create a Federal reserved water right for areas designated by this act. That is because we do not want to preempt State water law or to go around the State water appropriation system. But, it does not mean that the Federal Government cannot acquire a water right for designated wilderness areas.

Utah water law follows the concept of the prior appropriation doctrine. It has been the basis for more than 90 years of State administration of surface waters. All major rivers and stream systems in Utah have water rights established under this principle. The result is a fine tuned system relying on diversions, return flow, rediversions, mingled with some storage reservoirs. Any new filing or alteration of the existing pattern of water use literally sends ripples throughout the total system.

Unlike my colleague, we do not want to follow the typical Washington attitude that says we should preempt State law every time the Federal Government wants something from our States. Why can't we have the Federal Government abide by State laws once in a while when performing a Federal task? The Federal Government can obtain a water right in the State of Utah, and here is how it is done.

Under Utah State water law, one must put a water right to "beneficial" use. That is, it must be applied to the land, to home use, or to other consumptive uses in order to maintain the right.

However, there is an exception to the "beneficial" use requirement.

Two divisions within the Utah Department of Natural Resources—the Division of State Parks and the Division of Wildlife Resources—can legally acquire a water right and leave a determined quantity of water in a stream—an "instream" flow, as it were—that then becomes that particular water right's "beneficial" use.

Under our bill, the BLM is provided the ability to work cooperatively with these two State divisions to create an "instream" flow to avoid the potential dewatering of a wilderness area, in the unlikely event this occurs.

The process would be:

First, BLM acquires a water right from an upstream owner anywhere in the State—a rancher, an old mine site, a municipality, a private company, etc.

Second, the right is assigned or deeded—transferred—to one of the two State divisions previously mentioned.

Third, an instream flow is created.

In the fall of 1994, this occurred. The Division of Wildlife Resources acquired a water right from a private corporation and created an instream flow for wildlife purposes on 82 miles of the San Rafael River in central Utah.

The alternative to this language—an unqualified Federal reserve water right—would leave an ominous cloud over every existing water right in the State of Utah.

There is no expressed or implied Federal reserve water right in our language, but that does not in any way prevent the Federal Government from acquiring a water right following the proper State procedures.

Fifth, our language "permits the State of Utah to exchange State lands for Federal lands of approximate equal value." The Senator from New Jersey then indicated that the value of the Federal lands involved may be greater in value than the State lands.

Last December, the committee adopted our proposal to establish an exchange process whereby the value of the lands involved in the exchange would be determined based on national appraisal standards. While the BLM thinks the Federal lands are 5 to 10 times greater in value than the State lands, the State of Utah thinks the State lands, again captured within wilderness areas, are greater in value than the Federal lands. That is why the notion of a value, determined by recognized appraisers, and negotiated between the two parties, appears the soundest methodology to reconcile these differences. It does not matter, really, what either side is saying right now on the value question—it will be determined at a later time.

The universe of lands to be exchanged has been determined. Since the State of Utah has no choice at all to determine which lands it would trade to the Federal Government, it only makes sense to allow the State to determine which Federal lands it desires. It has identified 25 different parcels, ranging form speculative coal deposits to speculative natural gas to potential real estate development, and all in the name of benefiting Utah's school children.

The Senator is not correct. The Federal Government does not have to approve the transaction. Once the State makes an offer of lands to be exchanged, the two parties will sit down and conduct "good faith" negotiations on the various aspects of the trade. If a mutual decision is not reached, then the matter can be pursued in the courts.

Concern was expressed regarding our earlier language about the lack of involvement by the Secretary in crafting each exchange. I believe the language we have included in the substitute amendment remedies that situation and makes the Secretary a full player in this exchange should he desire to be involved.

And finally, the Senator indicated that our proposal contains "broad exceptions to the Wilderness Act of 1964," meaning he believes we are rewriting the definition of wilderness by allowing certain activities and facilities to be undertaken within designated wilderness areas.

This criticism goes to the so-called special management directives contained in our proposal.

These special provisions really are not that special after all. There are plenty of examples of previous public lands legislation containing such provisions.

A Congressional Research Service report, completed last July, concluded that the directives in S. 884 are comparable or related to similar language in 20 existing public laws and over 40 separate statutes adopted by Congress since 1978.

What do these special management directives do? They allow those activities, based on valid existing rights and consistent with the Wilderness Act of 1964, to continue in areas designated as wilderness. They are included to address the potential "on-the-ground" conflicts that are unique to Utah's BLM lands, such as livestock grazing, the gathering of wood by Native Americans, and the presence of water facilities used for agricultural, municipal, and wildlife purposes, to name a few.

The critical point here is that these rights predate the designation of land as wilderness.

We are not rewriting the definition of wilderness. On the contrary, we are merely adhering to the principles of the 1964 Wilderness Act and the history of wilderness legislation in the past two decades. The Wilderness Act of 1964 does not abandon or ignore rights that predate wilderness designation, and practically every wilderness bill passed since the late 1970's contains special language to protect these rights and to address any site specific conflicts that might arise in the exercise of these rights.

This language enables us to designate certain lands as wilderness that might be otherwise excluded under the 1964 act due to the conflict with valid existing rights.

But I would ask the Senator the following questions regarding his concerns for our special management directives.

Where was he when we passed the Okefenokee National Wildlife Refuge Wilderness Act, the Boundary Waters Canoe Area Wilderness Act, and the Florida Wilderness Act of 1984 that provided for the continued use of motorized boats or other watercraft in designated areas?

Where was he when we passed the already mentioned Boundary Waters Canoe Area Wilderness Act that provided for the continuation of snowmobile use in designated areas?

Where was he when we passed the Central Idaho Wilderness Act of 1980 that allowed the continued landing of aircraft and the future construction and maintenance of small hydroelectric generators, domestic water facilities, and related facilities in designated areas?

Where was he when we passed the Endangered American Wilderness Act of 1978 and our own Utah Wilderness Act of 1984 providing for sanitary facilities in designated areas?

Where was he when we passed the Colorado Wilderness Act of 1980 allowing motorized access for periodic maintenance and repair of a transmission line ditch in a designated area?

And, where was he when we passed the Colorado Wilderness Act of 1993 providing for the use, operation, maintenance, repair, modification, or replacement of existing water resources facilities located in designated areas?

The point is not to single out any of these laws for they did or did not do, but to merely demonstrate that special management directives are designed to address the on-the-ground conflicts unique to the areas designated by these laws. That is what we are providing for in our bill—those situations that are unique to Utah's lands. It is, as my colleagues will note, typical of the way we have developed public land policy in this body.

I would also state for the record two other items.

One, the Senator continues to mention the provision in our bill that provides for the continued use of motorboat activities in designated areas. First, these activities are only allowed if they predate the designation. And, second, and most importantly, our language was modified in the committee to ensure that it was consistent with the 1964 act.

Also, he spoke of the language in our bill permitting low-level military overflights. Let me remind the Senator

VOL 142 PT 5 MR 21 — 29 1996 UMI

that this language was provided to us by the Pentagon, and is nearly identical to similar language included in the California Desert Act. We have added language requested by the Air Force that recognizes Hill Air Force Base as the gateway to the Utah Test and Training Range, located in Utah's west desert area, that is the only training facility in the United States on which every aircraft in the Air Force inventory trains.

In closing, let me also say that our bill has been characterized as lacking large blocks of designated wilderness through which a traveler could wander from one time zone to another. Well, in our bill we may not extend any wilderness area beyond the mountain time zone, but it does have several large contiguous areas of spectacular wilderness all linked together in huge blocks of land. A visitor could never see another human being for days in these areas.

These areas include:

Desolation Canyon in central eastern Utah, through which the Green River flows—a total of 291,130 acres. This area may not cross any time zones, but it is located in three different counties.

Fiftymile Mountain in south central Utah—as mentioned, this is on the Kaiparowits Plateau and consists of 125,823 acres.

North Escalante Canyons—this area, once pursued to become a national park, totals 101,896 total acres.

Book Cliffs—this area so appropriately named is a showcase of topography and wildlife, and consists of 132,714 acres, all of which is located in Grand County, UT.

And, last but certainly not least is the San Rafael Complex—located in the heart of central eastern Utah and a topographer's dreamland, this area consists of 193,384 acres.

If one looks at where some of the other areas designated by or bill are located, you will note that many of them are located near some of Utah's national parks to form blankets of pristine wilderness, such as the area near Canyonlands National Park, Capitol Reef National Park, and Glen Canyon National Recreation Area.

Our legislation truly captures Utah's crown jewels of BLM lands, including high mountain ranges, deep river canyons, and red rock deserts. These are all reflective of Utah's premier scenic landscapes, and why we in Utah are not shy in stating that it took God 6 days to create Utah before he made the rest of the world with leftover parts.

Again, I urge the Senator from New Jersey to take another careful look at the facts and at the specific language in the substitute amendment. I think he will find reassurances there that this is a good bill for Utah and a good bill for the environment.

Mr. President, I have listened to this now for the past 3 days. I admire my friend from New Jersey. He is a fine person. He represents his State well.

But, he does not know anything about Utah. However, I happen to think that the Governor of Utah, both Senators, all three Congress people, virtually everybody in the State legislature, everybody in the PTA, school districts across the State, and 300 Democrat and Republican leaders, political leaders, know just a little bit better, just a little bit more, about Utah than the distinguished Senator from New Jersey.

I have heard about all I can bear to hear about silence and time, and having respect for them. We understand that. In Utah, we know what silence and time is because we have experienced them throughout our entire State. However, you do not get much silence and time in all of that low-lying sagebrush land along the highways which the other side has tried to put into this bill. They do not even know what wilderness is. We do. We have plenty of it in Utah. We put through the 800,000-acre Forest Service bill in 1984. I was a major mover on that bill. It has been a very good bill. We did it because Utahns agreed on what should be done. We love our State.

To hear this, you would think that 20 million acres is going to be ripped up for shopping centers. The fact is that every one of those 20 million acres will be subject to all environmental laws, and rightly so, as far as we are concerned. But on this 20 million acres, you might be able to ride a bicycle, if you want to, which you cannot do in wilderness.

Let me just say this. I have gone all over Little Grand Canyon. I have been all over the Black Box; Dirty Devil, and Sam's Mesa; North Escalante Canyons; San Rafael Swell; Book Cliff; Sid's Canyon; Desolation Canyon—beautiful areas that we put into this wilderness bill. Without this wilderness bill, they will not be wilderness. We think they ought to be.

This business that we allow dams in this bill is misleading—they are not there.

The polling data show that the majority of Utahans are for this bill, and once you explain to people in the polls that wilderness means no mechanization whatsoever, the support for those on the other side who are for 5.7 million acres drops off dramatically. But the majority are for our bill.

With regard to the value of lands to be exchanged, that is going to be negotiated under this bill. Nobody is going to rip off the Federal Government. But our school kids are dependent upon this bill, which is why we will negotiate the value of these school trust lands.

With regard to water, the Secretary can acquire water rights in the State through the State appropriation process. Can he not do that?

With regard to the release language, there is no binding of a future Congress whatsoever in this bill. If they want to do wilderness, they can do wilderness in Utah again. But they are going to have an uphill battle because people in Utah are tired of being pushed around.

With regard to the special management directives, I would say to my colleague that every major wilderness bill since 1978 has contained similar directives to take care of conflicts. We provide for that as well. On-the-ground conflicts have to be resolved, and over 20 separate bills passed by this body in the past two decades have done that. This is not something new.

We have used the public process here. This matter has gone through two decades, hundreds of meetings, $10 million, and brought people together all over the State. The affected counties did not want any wilderness—zero. Then they agreed to 1 million acres. We brought them up to 2 million acres. The other side wants 5.7 million. One group wants 16 million acres in wilderness. The fact is we have 100 percent more acreage in this bill than the affected counties want, and about 60 percent less than what these people on the other extreme want. That is what compromise is all about.

The fact of the matter is that this process has not been politicized. The Clinton administration came in and suddenly their BLM people started to decry all of the work that had been done through the years by other BLM people, and which was done in a reasonable and good way. They have politicized this process. There are volumes and volumes of data. The environmentalists have a 400-page book. We put the volumes and volumes of data here—two huge stacks this high—to show what we have gone through.

Have most of these people who are criticizing this bill even been to these places? The fact is most of them have not been there.

I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, we have put the crown jewels of Utah wilderness in this bill. I happen to believe that when you have the whole congressional delegation, the Governor, the legislature, the schools, the farmers, and virtually every organization except these environmental extreme organizations, all for this bill in a State that has protected its beauty itself, we do not need to be told by some Senator from New Jersey how to protect our State—or from any other State. We know how to do it. We know it is beautiful, and we are going to keep it that way, even while it is subject to these environmental laws.

It is almost offensive what has been going on here. If you look at what they are recommending—these low-lying

sagebrush lands along highways—where is the silence and solitude there? It is crazy.

When we start ignoring our colleagues who have gone through a process in this manner in a reasonable, decent, honorable way, having had to bring the one side along and having had to bring the other side along—and, now we are going to ignore all this because we want to do some national environmental agenda? That is when this particular body is going to have a lot of troubles in the future. That is all I can say. I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. All time having expired, the hour of 10:36 a.m. having arrived, the motion having been presented under rule XXII, the Chair directs the clerk to read the motion to invoke cloture on the Murkowski substitute amendment to H.R. 1296.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Murkowski substitute amendment to Calendar No. 300, H.R. 1296, providing for the administration of certain Presidio properties at minimal cost to the Federal taxpayer:

Bob Dole, Frank H. Murkowski, Rick Santorum, Slade Gorton, Trent Lott, Jim Inhofe, Hank Brown, Ted Stevens, Ben Nighthorse Campbell, Conrad Burns, Don Nickles, Larry E. Craig, Jim Jeffords, Judd Gregg, R.F. Bennett, Orrin G. Hatch.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Murkowski substitute amendment to H.R. 1296 shall be brought to a close?

The yeas and nays are ordered under rule XXII. The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 51, nays 49, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—51

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—49

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Simon
Specter
Wellstone
Wyden

The PRESIDING OFFICER (Mr. SANTORUM). On this vote, the yeas are 51, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—S. 4

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany S. 4, the line-item veto bill, and that the reading be waived.

Mr. DASCHLE. Reserving the right to object. There does not appear to be any disagreement with regard to the Presidio bill itself. That bill has broad-based, virtually unanimous support, so it is my hope that we can pass at least that bill by unanimous consent.

So I ask unanimous consent to strip all amendments and motions and to pass the Presidio bill in its own right.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. I hope we can resolve that matter. In light of the fact we need to continue to find ways in which to move the legislative agenda, I do not object to the majority leader's request.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4), a bill to grant the power to the President to reduce budget authority, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 21, 1996.)

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

PRESIDIO LEGISLATION

Mr. MURKOWSKI. Mr. President, in response to the minority leader's unanimous-consent request, obviously we are all sensitive to the merits of the Presidio. The California delegation has worked very, very hard on this. But as everyone in this body knows, this was a package that was put together with great commitment and great understanding that, indeed, in order for it to pass the Congress, it had to stay as a package.

Everybody knew that when we went in, and to suggest action by the U.S. Senate would be acceptable to the House everyone knows is unrealistic. So we are set with the reality here.

It is the intention of myself, as chairman of the Energy and Natural Resources Committee, to again pursue the package. It is the largest single environmental package that has come before the 104th Congress. We are all disappointed at the action that was taken by adding on the minimum wage amendment, but that was something seen fit by the minority to do, and we are left with this reality today, which is, indeed, unfortunate.

It is my intention to continue to pursue working with the Members who objected to the various aspects of the package, to try to continue to pursue it, in this legislative year. That is the pledge I want to make to the minority and the minority leader as well.

I want everybody to understand the rationale behind the objection. This would not have gone in the House as a freestanding Presidio bill. Everybody is aware of it.

Mr. President, I yield the floor.

Mr. DASCHLE. Mr. President, let me just say, the vote just cast had nothing to do with minimum wage. It had everything to do with simply one provision dealing with Utah wilderness. There was no understanding with regard to this package, as the distinguished Senator from Alaska has called it.

Obviously, each one of these bills merits consideration in and of its own right. There is no objection to the package were we to remove the Utah wilderness bill. That is the issue. That is what this vote was all about. But there is no disagreement whatsoever with regard to the Presidio bill on either side of the aisle, as I understand it, and to hold the Presidio hostage to all the other issues seems to me to be unfair.

I yield to the Senator from California for a brief comment and a question.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mrs. BOXER. Yes, I do have a question. I have a comment as well. To my friend, Senator MURKOWSKI, who has worked hard, along with Members on both sides of the aisle here, the fact is the House has passed the Presidio as a freestanding bill.

Indeed, that is the bill we have marked up. So there is not any reason not to pass the Presidio as a freestanding bill. I would ask my leader on the Democratic side, since he is a cosponsor of the Presidio bill which Senator FEINSTEIN and I have worked so hard on, and as well as Senator DOLE, he is a sponsor of the Presidio bill, will my leader give us his word that he will do all that he can to make this bill a reality? Because I would say to my friends on both sides, the Presidio is deteriorating? We need to get in there and make sure that that land is kept up. It is a priceless jewel. And we have such broad agreement. It just seems a pity that we would catch it up in these other debates.

Mr. DASCHLE. I answer to my friend from California in the affirmative. It is our desire to work with the delegation of California and others who are interested in maintaining the historic nature of this remarkable facility, that we pass the legislation this year. In has been a long, long effort, a tireless effort on the part of my two colleagues from California.

I hope we can successfully complete our work this year. It ought not be held hostage to very controversial legislation that has nothing to do with the Presidio itself. I yield the floor.

Mr. DOLE addressed the Chair.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Let me yield to the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, let me remind my colleagues of a fact that in the package there were about 53 individual items. The package was held up almost a year by a Member on the other side who refused to allow the individual issues to come up for action. That is a fact, and the RECORD will reflect that. Now we are faced with the reality of who is to blame for the failure of the package. I think the RECORD will reflect the reality that this was well on its way to successful consideration of cloture prior to the decision by the other side to put the minimum wage on it, which changed the complexion and the interpretation of the last vote. Many Members looked upon the last vote in actuality as a reference to support for the minimum wage and that it did not belong there. We all know it.

So the responsibility has to be with the minority that chose to allow and support inclusion of the minimum wage on the largest environmental package of this session, the 104th Congress. That is, indeed, unfortunate. Let us be realistic and recognize where the responsibility lay. It lay in holding that package hostage for a year and it lay with the responsibility of putting the minimum wage on it. I thank the Chair and thank the leader.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I understand it is all right with the Democratic leader if I obtain a consent agreement on the farm bill.

Mr. DASCHLE. That is correct.

Mr. DOLE. Let me do that while we also work out a time agreement on the line-item veto.

UNANIMOUS-CONSENT AGREEMENTS

Mr. DOLE. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of a concurrent resolution to be submitted by Senator LUGAR, further, the resolution be considered agreed to, and the motion to table be laid upon the table, the Senate then proceed to the conference report to accompany H.R. 2854, the Agriculture Reform and Improvement Act, that the reading be waived, and there be 6 hours of debate on the conference report to be divided as follows: Senator LUGAR, 2 hours; Senator LEAHY, 1 hour; Senator DASCHLE or designee, 3 hours; further, that immediately following the expiration or yielding back of time, the Senate proceed to vote on the adoption of the conference report with no intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object, and I will not object, I will only again point out to my colleague from Alaska that we would enter into a unanimous-consent agreement today for all of the package the Senator from Alaska referred to except the Utah wilderness. We will do it this morning. We can pass that bill by 11:15. It is now 11:14. So if the Senator from Alaska is prepared to drop the one controversial bill we will enter into an agreement today, unanimous-consent agreement, passing all the rest. If he is prepared to do that, I am prepared to do that right now.

But I have no objection to the request propounded by the majority leader having to do with the farm bill conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, let me add my hope that we can resolve the problem. I know there are a number of projects, including the Presidio, that I support, and hopefully this will—now and then we get things resolved around here. Maybe we can do this in the next few days. But we would like to in the interim, if we could, do the line-item veto and the farm bill conference report. That will give us some time, if there is any negotiating opportunities, to do that. It is also my hope that we can have a time agreement on the line-item veto. I understand that the distinguished Senator from West Virginia, Senator BYRD, would like us to at least proceed and then perhaps enter into a time agreement a bit later.

Mr. DASCHLE. It is my understanding, Mr. President, that is correct, the Senator from West Virginia is prepared at some point to enter into a time agreement. We assume he will be on the floor shortly, and we can discuss the matter with him at that time.

Mr. DOLE. Mr. President, let me indicate on this side of the aisle, for the present time the Senator from New Mexico, Senator DOMENICI, will be the manager in charge of the time on this side for the line-item veto.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, notwithstanding the unanimous-consent agreement, I ask unanimous consent that I be permitted to speak for 2 minutes on the cloture vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PRESIDIO PROPERTIES ADMINISTRATION ACT

Mr. BUMPERS. Mr. President, I want to echo what our distinguished minority leader has said. There are over 50 pieces of parks or public lands legislation in the bill on which we just refused to invoke cloture. I have two pieces of legislation in that package that are very important to me. I received no pleasure in voting against cloture and knowing that I have to start all over again moving those two bills.

I do not mind telling you this is a lousy way to legislate. It is like hanging a Damocles sword over your head by saying, "If you will vote for these 52 goodies, you are going to have to choke this bad one down too"; 49 Senators said they were not willing to do that.

They are all good pieces of legislation. If we want to sit here and talk about who had holds on those bills over the past few months, or the minimum wage bill, that is fine. However, that does not solve anything. As the minority leader stated, within 30 seconds we can pass more than 50 bills, 100 to zip, by simply removing the Utah wilderness bill.

Having said that, let me also say these things are no fun. Nobody has more respect for the two Senators from

Utah than I do. Senator BENNETT and I have worked together for endless hours trying to reform the concessions policies of the National Park System.

Therefore, it is not easy for me to filibuster and require a cloture vote on something that is so important to the Senators from Utah. But there are times, regardless of how close a friend you may be and how much respect you may have for another Senator, that you have to stand up for something you really feel is critically important. Perhaps the majority leader and the minority leader could sit down with the Senator from Alaska, who is chairman of our committee, and with Secretary Babbitt.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. And come back to this floor and do something very responsible that would be very pleasing to the people of this country. If the people of our country saw the Democrats and the Republicans joining hands, to pass more than 50 pieces of legislation in a bipartisan spirit, everyone in America would applaud. I promise you it would lift the morale of the country ever so slightly.

We ought to do it, and we certainly ought to do it before we check out of here tonight. I want to sit down with the two Senators from Utah. As I have suggested, perhaps the majority and minority leaders can participate along with the chairman and ranking member of the Energy Committee, and Secretary Babbitt and work on the Utah wilderness bill. I would like to get that contentious item off of the calendar.

Mrs. FEINSTEIN. I agree.

Mr. BUMPERS. People operating in good faith around here can do it. I am very pleased with the outcome of the cloture vote. I want my colleagues from Utah to know they are my friends. I hope we can work something out with regards to this legislation. I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, do I need unanimous consent to speak for 1 minute?

The PRESIDING OFFICER. Yes.

Mrs. BOXER. Mr. President, I ask unanimous consent to speak for 1 minute on the subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I thank my colleagues for their patience.

I just feel for some of us here in the Senate, particularly the two Senators from California, feel it is an awfully difficult situation when you have worked so long and hard and you have built up the kind of bipartisan support that we have for the Presidio, from the majority leader, to the minority leader, to Senator BEN NIGHTHORSE CAMPBELL, who literally came in and saved the thing, to Senator BUMPERS for being there for us through all the ups and downs of this battle, and to see it all come down in a crashing blow because of another issue, is awfully difficult for all of us.

I do hope that we can work something out on Utah wilderness, either by saying that it will come up in another context on its own—it does deserve the attention on its own. I support what Senator BUMPERS recommended, which is a high-powered meeting with the Senators themselves, a high-powered meeting to sit down with those who have taken such an interest in this, Senator BRADLEY and others, to try and resolve these differences and these problems.

I just want to say that we have a crown jewel of a national park in the Presidio, but if we do not quickly set up a trust and get to work making sure that there is upkeep, that the buildings are put to good and proper use, and that the income from those buildings go to repair the facilities and keep them pristine, we will lose this priceless jewel. I do not think anyone wants that to happen.

I was very pleased that Senator DASCHLE made a unanimous-consent request to pass Presidio on its own, because I think that we need to keep coming back to that point. There is no controversy there. I was heartened by the majority leader's comments that he is going to do what he can to make it happen. The clock is ticking on this priceless jewel. I hope we can reach across party lines as we did when we gained all the support to solve the Utah wilderness problem, pass this bill, without that attached to it.

I think we could all go home as Republicans and Democrats and be proud of what we have done. Thank you, Mr. President.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to speak for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I support the comments of my colleague on the Presidio. I have lived all my life one block from the Presidio. I know it well. The Presidio bill is predicated on something that is unique. It is a private-public partnership whereby the more than 500 historic buildings and the additional buildings would be leased out, with a hope that over a 15-year-period it would be able to make public areas of the Presidio self-supporting.

Having said this, I am hopeful that every Member of this body could realize the longer it takes to get a bill, the more in jeopardy that plan becomes. Because of the rains, because of the fact that many of these buildings are now boarded up, they are subject to intrusion, to vandalism; they are subject to the absence of an adequate policing authority on that 1,500-acre post. The Presidio, by each day of delay, is placed in jeopardy.

I am also hopeful, and I address these remarks to the distinguished majority leader, that he would be willing to become a party to negotiations which I think can go on, on the subject of the Utah wilderness, so that we might be able to get an agreement that would be satisfactory to the two Senators from Utah, as well. I think it is possible. I think that every area is not the same as Yellowstone or Yosemite. They have certain unique characteristics which need to have attention, as well.

I am hopeful, Mr. Leader, that in the ensuing days, perhaps under your auspice, there might be negotiations which could be carried out. At least we should try and see if we cannot get some agreement which can either enable the package to move ahead as a package, or enable the Presidio, something which my colleague just said, does have unanimous consent in this body, to move ahead.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I am happy to indicate for the record that I would be pleased to try to be helpful in an effort to resolve the differences. Obviously, the one big difference is the Utah wilderness provision. The other projects, I understand, are not particularly controversial. I indicate that I am happy to be of help, or to take the leadership and try to bring people together. I have already spoken briefly to the distinguished Senator from Alaska, Senator MURKOWSKI. It is the hope in the next few days we can make some progress.

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mr. DOLE. I understand the distinguished Senator from West Virginia is on his way to the floor. Hopefully, we can have the agreement before we commence the debate on the line-item veto because debate is 10 hours in the agreement. We would like to have it immediately start taking affect. If we speak for an hour or two beforehand, that would be an additional time.

The Senator from New Mexico will be here, as will others who are interested in this issue. Hopefully, we will not use the full 10 hours, have a vote early this evening, and then take up the farm bill conference report tonight.

Mr. McCAIN. Mr. President, do I understand that we are awaiting the approval of the other side for the unanimous consent?

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. DOLE. Senator BYRD.

Mr. MCCAIN. If I could, Mr. Leader, while we are waiting for Senator BYRD, I express my appreciation for the work of Senator LOTT, who brought together some very different views on this issue. He did, I think, a magnificent job in reconciling the differences that we had on this side of the aisle.

I also want to thank the Senators from Alaska and New Mexico who obviously have a very deep and abiding interest, given their responsibilities as chairmen of the respective committees. Again, I also thank you for your leadership in making this nearly come to reality.

I understand that Senator BYRD will have certain motions to be made on this issue.

Mr. DOMENICI. Mr. President, before we enter into the time agreement, while Senator MCCAIN and Senator COATS are on the floor, I want to congratulate them. This has been a long and arduous effort on both their parts. They have been single minded and resourceful about wanting to get line-item veto in as part of the legislation that Congress passed, and pass on some additional authority to the President.

I think the bill we have come up with, while there are some compromises from their original stand and certainly some from the original stand of the bill that left the Senate floor, I think we have a good bill. I think history is going to be made some time before too late in the evening, and it will be passed here in the Senate.

I think it is a well-rounded bill. It is a little broader than the original concept of line-item veto, but overall, I extend my hearty congratulation and most sincere feelings to them about their efforts, the two Senators who have led this cause.

I also want to comment on what our distinguished whip did. I want to say thanks to Senator LOTT. It was not as easy as some think to put this together. He brought us together. I want to thank our distinguished majority leader because he actually said to the whip, "Let's get it done." Our distinguished whip takes that kind of a challenge as a serious one, and it did not take too long for us to get the job done.

With that, until Senator BYRD arrives, unless someone else wants the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I understand that Senator SNOWE from Maine wants to address the Senate with reference to the death of Senator Muskie.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I will take just a moment of the Senate's time to prepare for a general debate. I ask unanimous consent that I may proceed for 4 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EPA STUDY ON ACID RAIN

Mr. MOYNIHAN. Mr. President, New York State, or upstate New York, has been shocked—I think that is a fair term—and finds itself in near disbelief to learn that the Environmental Protection Agency [EPA] has closed the Ithaca station, which is part of a broad network of monitoring stations that collect data critical to understanding the impact of acid rain on the Adirondack Preserve. There is little enough institutional memory around Washington, but one should think the EPA would know that the concern about acid rain began with the disappearance of trout from a number of lakes in the higher Adirondacks. This was a puzzle and, in the end, it was resolved by a fish biologist at Cornell University, Dr. Carl Scofield, who traced the cycle: acid rain caused by increasingly acidified air released aluminum from the granite surrounding the lakes. That aluminum leached into the lakes and was absorbed into fish gills. The fish died.

In 1980, I obtained approval of legislation—the Acid Precipitation Act—which was based on a bill I introduced here in the Congress the year before. My bill was incorporated as title VII into the Energy Security Act of 1980—Public Law 96-294—and directed the EPA to study, over a 10-year period, just what was going on—not to panic, not to go screaming to high Heaven that the skies were opening with awful substances that would burn holes in our children's heads, and things like that—but just to say, "What is this?" Some longitudinal work obviously was in order. The effort was to last for 10 years, at $5 million per year.

During the Reagan administration, as demand for action grew and knowledge was needed, money was collected from research budgets around the country, such that our project, in the end, became a half-billion dollar research project, the largest of its kind. We ended up knowing more about this subject than any of the other industrialized nations. It is a real enough subject, but if our understanding of it is to progress confidently, we need more data, such as can be collected by normal scientific inquiry.

In the 1990 Clean Air Act amendments—Public Law 101-549—we made the best use we could of our research on the subject. We called for large reductions in emissions in the Middle West. Winds blow those emissions toward the Adirondacks, of course. And just to see that we continued along this track, as the then-ranking member of the Committee on the Environment and Public Works—in the conference committee on the bill—I included certain provisions. One was designed so that the lay person could understand what was going on. The provision directed the EPA to compile and provide a registry of acidified lakes. Now, in Florida, that could be all lakes, of course; but it would not be in Pennsylvania or in New York. With the registry, over time, we would see how many lakes were being added, how many were being subtracted; how might we measure, essentially, the effect of our legislation? That has not been done.

I asked for other research measures in law, in statute, that have not been followed. And now the EPA has the arrogance and the insolence and the stupidity to close the research facility at the site where this whole subject was first understood, brought to national attention, and was addressed with national legislation.

Mr. President, I regret to say this, but I hope the administrator is hearing. I am not surprised that persons are calling for the abolition of the Environmental Protection Agency. If it will not obey the law, and if it will not follow elemental common sense, do we in fact need it, or is it an obstacle to the environmental concerns we share?

Mr. President, I thank the Chair.

I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. I ask unanimous consent to proceed as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEATH OF FORMER SENATOR EDMUND S. MUSKIE

Ms. SNOWE. Mr. President, I rise today with a heart full of sadness, reflection, and fond memories of one of the true giants of this institution—former Senator Edmund S. Muskie of Maine.

Like millions of Americans across the country, I awoke Tuesday to the news of Ed Muskie's passing. My heart goes out to his wonderful wife, Jane, their five children, grandchildren, and the entire Muskie family. I hope that their grief is tempered with the knowledge that their loss is shared by a Nation grateful for the life of a man who gave so much.

Like many other Members of this body, upon hearing the news, I found myself looking back on the remarkable career and lasting legacy of this first son of Maine who became one of the legendary figures in American political life.

Ed Muskie was a gentle lion. He sought consensus, but backed down from no one. He fought for what he believed in, and was loyal to his country. His greatest goal was to leave this Earth a better place for generations of Americans to come. And he succeeded.

Mr. President, as every citizen of my home State knows, Ed Muskie transformed the political landscape of Maine. Before he was elected Governor in 1954, Ed was fond of saying "the Democrats in Maine could caucus in a telephone booth." Well, much to the chagrin of some Republicans, Ed Muskie's election as Governor changed all that. He was literally the creator of the modern Democratic Party in Maine. After two 2-year terms as Governor, he went on to become the very first popularly elected Democratic Senator in Maine's history. And ultimately, his distinguished career culminated in his service to this Nation as Secretary of State.

But of all the positions he held in public service, it was here—as a Member of this institution, Mr. President, that Ed Muskie left his most indelible mark on history.

Whenever Washington gets mired down in partisan battles, I think of the example set by Senator Muskie and his Republican colleague, the late Senator Margaret Chase Smith, who died last year. They worked together across party lines on behalf of the people of Maine and the Nation. Although they may have had differences, they were united in their dedication to public service and to reaching consensus. They represented the best of what bipartisanship has to offer.

In our present-day budget battles, I think of Senator Muskie, who helped shape the modern budget process as the first-ever chairman of the Budget Committee. Ed possessed a rare wisdom and discipline which allowed him to express in very simple terms why it is so difficult to achieve fiscal responsibility in the Congress. "Members of Congress," he once said "have won reelection with a two-part strategy: Talk like Scrooge on the campaign trail, and vote like Santa Claus on the Senate floor."

Ed brandished that incisive wit many times in this very Chamber, Mr. President, and perhaps it was this humor, along with his commonsense approach to political life, that made Ed Muskie so effective throughout his remarkable career.

During his 21 years in the Senate, Ed Muskie was known for his moderation but he did not hesitate to tangle with his colleagues when he felt passionately about an issue. His reputation as a fighter was established early in his Senatorial career when he went head-to-head with another giant of this body, Senator Lyndon B. Johnson.

One day, as the story goes, the freshman Senator from Maine decided he just could not support the majority leader on a particular issue. Now, crossing the leader of your party is always risky, but that risk took on added significance when the leader was Lyndon Baines Johnson. But possessing a stubborn streak of downeast yankee independence that perhaps only a fellow Mainer can understand, Ed held his ground. He would not give in.

So, in his typically forgiving—and nonvindictive—way, LBJ promptly assigned the freshman Senator his fourth, fifth, and sixth committee choices.

From this rather dubious beginning, Ed Muskie landed a seat on the not-so-choice Public Works Committee. The rest, as they say, is history. It did not take him long to leave his mark on Washington—or on the land that stretches from the Allagash Wilderness of Maine, to the Florida Everglades, to the Redwood forests of California.

You see, growing up in western Maine, Ed had developed a deep appreciation for the environment. Thoroughly committed and visionary, Senator Muskie helped transform the Public Works Committee and went on to become the founding father of environmental protection in America by sponsoring both the Clean Air Act and the Clean Water Act of 1972. These two landmark pieces of legislation have both produced enormous benefits to the health and well-being of our Nation and its people. It is his unwavering commitment to environmental protection that is, perhaps, Ed Muskie's single greatest legacy to the American people. He was indeed Mr. Clean.

With the news of his passing, my thoughts went back almost 2 years ago to the day—because Ed Muskie's birthday is March 28—when Ed and Jane Muskie, accompanied by their children and grandchildren, came to celebrate Ed's 80th birthday at the Blaine House, Maine's executive mansion, as the guests of my husband Gov. Jock McKernan and me. It was a great privilege for us to give Ed and Jane and their family an opportunity to come back to a place that held some of their fondest memories. It was a very special time for all of us. And they spent the night. It was a truly honorable moment in my life.

That evening, Ed spoke passionately about the opportunities he enjoyed as a young man, and of the commitment and dedication that his parents had to their family and their community. And he spoke of the love and devotion that his father—a Polish immigrant—had for his new Nation.

He spoke of how much his roots in the small town of Rumford, ME, meant to him. It was those deep roots, along with his strong sense of family, that gave Ed Muskie the foundation upon which he would stand as he became a leading figure in American political life. And he cherished his father's roots, and from the standpoint that he viewed it as America giving every opportunity to anybody who sought to achieve.

I was struck with a very real sense of history listening to his reminiscences during that visit. I do not think it is possible for any Maine politician, regardless of party affiliation, to have come of age during the Muskie era and not have been influenced in some way by his presence. He was that preeminent in the political life of my State.

Ed Muskie was a towering figure in every sense of the word. In his physical stature, in his intellect, in his presence on Capitol Hill, in the extent of his impact on the political life of Maine, and in the integrity he brought to bear in everything he did.

And Ed was thoroughly and proudly a Mainer, with the quiet sense of humor associated with our State. Each year, the distinguished senior Senator entertained guests at the Maine State Society lobster dinner at the National Press Club by rubbing the belly of a live lobster, causing it to fall asleep, something only a real Mainer would know how to do.

Personally, I will always remember and be grateful for the warmth, friendship, and encouragement that Ed Muskie gave me over the years. When I entered the U.S. House of Representatives in 1979, I was the newest member of the Maine congressional delegation. Ed was the dean of the delegation. We were congressional colleagues for only a year and a half, but our friendship lasted throughout the years. And when I was elected to the seat which he had held with such distinction, I was touched by his kindness, and grateful for his advice and counsel.

Throughout his life, he never failed to answer the call of duty. He answered the call from the people of Maine * * * He answered the call from America's rivers and streams * * * And he answered a call from the President of the United States and a worried Nation when Senator Muskie became Secretary of State Muskie in a moment of national crisis.

Mr. President, 75 years before Edmund Muskie was born, another famous Mainer, Henry Wadsworth Longfellow, captured what I believe is the essence of the wonderful man we remember today. Longfellow wrote:

> Lives of great men all remind us
> we can make our lives sublime,
> And, departing, leave behind us
> footprints on the sands of time.

Ed Muskie's footprints remain on those sands. They are there as a guide for those of us who would follow in his path. They are big footprints, not easily filled. But we would all do well to try.

Mr. President, I yield the floor.

VOL
142
PT
5
MR
21
—
29
1996
UMI

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think we are still waiting for the distinguished senior Senator from West Virginia, Senator BYRD. And while we wait, I would like to ask consent that I be permitted to speak for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORMER SENATOR ED MUSKIE

Mr. DOMENICI. Mr. President, I cannot speak about Senator Ed Muskie with the depth of knowledge that Senator SNOWE had of his background and his impact on his beloved State of Maine. But it has fallen to me to be, at every stage of my growth in the Senate, on a committee with Senator Muskie.

My first assignment was the Public Works Committee. I was the most junior Republican, and Senator Muskie was the third-ranking Democrat and chaired the Subcommittee on the Environment. I also served on that subcommittee. I saw in him a man of tremendous capability and dedication when he undertook a cause. He learned everything there was to learn about it, and he proceeded with that cause with the kind of diligence and certainty that is not so often found around here. There were various times during the evolution of clean water and clean air statutes in the country that we could go in one of two directions, or one of three. Senator Muskie weighed those heavily, and chose the direction and the course that we are on now.

No one can deny that Senator Muskie is the chief architect of environmental cleanup of our air and water in the United States. Some would argue about its regulatory processes, but there can be no question that hundreds of rivers across America are clean today because of Ed Muskie. There can be no doubt that our air is cleaner and safer and healthier because of his leadership. I really do not think any person needs much more than that to be part of their legacy.

But essentially he took on another job, and a very, very difficult one—to chair the Budget Committee of the U.S. Senate. Again, it fell on me as a very young Senator to be on that committee. I have been on it ever since. I was fortunate to move up. He became chairman in its earliest days.

I might just say as an aside that the Chair would be interested in this. When we moved the President's budget—$6 billion in those days—that was a big, big thing, and we had a real battle for it. He would take the Presidents—no matter which ones—on with great, great determination.

But I want to close by saying that one of the things I will never forget about him is that he saw me as a young Senator from New Mexico. I had a very large family. He got to meet them and know them. On a number of occasions he personally said that he would very much like to make sure that we did not do things around here to discourage young Senators like DOMENICI from staying here. I think he was sincere, even though I was on the Republican side. I think he saw us with an awful lot of feeling ourselves up here in trying to establish rules that were very difficult, and he used to regularly say, "I hope this does not discourage you. We need to keep some of you around."

So to his wonderful family and to all of those close to him, you have suffered a great loss, but I can say that his life has been a great legacy for the country. That ought to lend you in these days of sorrow a bit of consolation, because that legacy is great. Death is obviously inevitable. He accomplished great things before that day occurred.

With that, I yield the floor.

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. What is the pending business?

The PRESIDING OFFICER. The conference report on the line-item veto.

Mr. DOMENICI. Mr. President, for the information of the Senate, we have just discussed the matter of a unanimous-consent agreement with Senator BYRD, and he indicated he is not prepared to enter into that time agreement just now and would like to use some time and get a better feel for himself as to where we are. I have no doubts we will enter into a similar agreement to the one our majority leader indicated, but it will not be forthcoming at this point. I think that is fair statement.

Mr. President, I note in the Chamber the presence of Senator MCCAIN. It is our prerogative as proponents of the conference to lead off, and I wonder if he would like to make a few opening remarks, and then I would make a few, and then perhaps we would yield the floor to Senator BYRD for his opening remarks.

Since there is no time agreement at this point, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from New Mexico for everything he has done on this issue. The Senator from New Mexico has been around here for a long time and is fully appreciative of the magnitude of what we are about to do. He also has been one who continuously has sought to improve and to make more efficient, and indeed constitutional, this effort, and I am grateful for his continued support.

I also appreciate the very tough and very cogent arguments that he made while we were arriving at this compromise which I think will prevail today. I never underestimate the persuasive powers of the Senator from West Virginia [Mr. BYRD]. I know he will come forward with a very strong and compelling and constitutionally and historically based argument against what we are trying to do today. I will listen as always with attention and respect.

Mr. President, 1 year ago, the Senate began consideration of S. 4, legislation to give the President line-item veto authority. Ten years before that, I began my fight in the Senate to give the President this authority, and 120 years before that Representative Charles Faulkner of West Virginia introduced the first line-item veto bill. Hopefully, a 120-year battle may soon be won. I would like to outline the line-item veto measure agreed to by the conferees. It is a good agreement and a good line-item veto bill.

The conference report amends title X of the Congressional Budget Impoundment Control Act of 1974 to add a new part C comprising sections 1021 through 1027. In general, part C will grant the President the authority to cancel and hold any dollar amount specified in law for the following purposes: First, to provide discretionary budget authority; or second, to provide new direct spending; or third, to provide limited tax benefits contained in any law. Congress has the authority to delegate to the President the ability to cancel specific budgetary obligations in any particular law in order to reduce the Federal budget deficit.

While the conference report delegates these narrow cancellation powers to the President, these powers are narrowly defined and provided within well-defined specific limits.

Under this new authority, the President may only exercise these new cancellation powers if the Chief Executive determines that such cancellation will reduce the Federal budget deficit and will not impair any essential Government function or harm the national interest. In addition, the President must make any cancellations within 5 days of the enactment of the law which contains the items to be canceled and must notify the Congress by transmittal of a special message within that time.

The conference report specifically requires that a bill or joint resolution be signed into law prior to any cancellations from that act. This requirement ensures compliance with the constitutional stipulations that the President enact the underlying legislation presented by Congress after which specific cancellations are then permitted.

We intend that the President be able to use his cancellation authority to

surgically eliminate Federal budget obligations. The cancellation authority does not permit the President to rewrite the underlying law, nor to change any provision of that law.

The terms "dollar amount of discretionary budget authority," "item of new direct spending," and "limited tax benefit" have been carefully defined in order to make clear that the President may only cancel the entire dollar amount, the specific legal obligation to pay, or the specific tax benefit.

"Fencing language" may not be canceled by the President under this authority. This means that the President cannot use this authority to modify or alter any aspect of the underlying law, including any restriction, limitation or condition on the expenditure of budget authority, or any other requirement of the law.

I wish to emphasize this point again. All fencing language is fully protected under this bill.

The lockbox provision of the conference report has also been included to maintain a system of checks and balances in the President's use of the cancellation authority. Any credit for money canceled will be dedicated to deficit reduction. The lockbox requirement ensures that the President does not simply cancel a particular dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit in order to increase spending in other areas.

The President's special cancellation message must be transmitted to the House of Representatives and to the Senate within 5 calendar days—excluding Sundays—after the President signs the underlying bill into law.

Such special cancellation messages must be printed in the first issue of the Federal Register published after the transmittal.

Upon receipt of the President's special message in both Houses of Congress, each dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit included in the special message is immediately canceled. The cancellation of a dollar amount of discretionary budget authority automatically rescinds the funds. With respect to an item of new direct spending or limited tax benefit, the cancellation renders the provision void, such that the obligation of the United States has no legal force or effect.

Any such cancellation is reversed only if a bill disapproving the President's action is enacted.

The conference report provides Congress with 30 calendar days of session to consider a disapproval bill under expedited procedures. A "calendar day of session" is defined as only those days during which both Houses of Congress are in session.

I wish to note that the expedited procedures provide strict time limitations at all stages of floor consideration of a disapproval bill. The conference report sets out procedures designed to prevent delaying tactics including but clearly not limited to filibuster, extraneous amendments, repeated quorum calls, motions to recommit, or motions to instruct conferees.

When the President's message is received, any Member may introduce a disapproval bill. The form of the disapproval bill is laid out in the conference agreement. For a disapproval bill to qualify for expedited procedures, it must be introduced no later than the fifth calendar day of session following receipt of the President's special message. Any bill introduced after the fifth day of session is subject to the regular rules of the two Houses.

A disapproval bill introduced in the House of Representatives must disapprove all of the cancellations in the special message. There are no similar requirements in the Senate, except no disapproval bill may contain any legislative language not germane and directly related to the President's cancellation message.

After introduction, a disapproval bill will be referred to the appropriate committee or committees. Any committee or committees of the House of Representatives to which such a disapproval bill has been referred shall report it without amendment, and either with or without recommendation, not later than the seventh calendar day of session after the date of its introduction.

Again, in the Senate, the committee may amend the bill, but it may not offer any amendments beyond the scope of the President's message.

If any committee fails to report the disapproval bill within the requisite time period, then the bill will be discharged from committee.

Procedure for consideration of the disapproval bill in the House of Representatives is noted in the conference report.

In the Senate, a motion to proceed to the consideration of a disapproval bill is not debatable. Section 1025(e)(6), of the bill, provides a 10-hour overall limitation for the floor consideration of a disapproval bill. Except as specifically provided in the bill, this limit on consideration is intended to cover all floor action with regard to a disapproval bill. This section is specifically meant to preclude the offering of amendments or the making of dilatory motions after the expiration of the 10 hours.

Amendments to a disapproval bill in the Senate, whether offered in committee or from the floor, are strictly limited to those amendments which either strike or add a cancellation that is included in the President's special message. No other matter may be included in such bills. To enforce this restriction in the Senate, a point of order, which may be waived by a three-fifths vote, would lie against any amendment that does anything other than strike or add a cancellation within the scope of the special message. To the extent that extraneous items are added to disapproval bills, and the Senate has not waived the point of order against such an item, the conference report intends that such legislation would no longer qualify for the expedited procedures.

In addition, should differing House and Senate disapproval bills be passed and the measure go to conference, the conferees must include any items upon which the two Houses have agreed and may include any or all cancellations upon which the two Houses have disagreed, but may not include any cancellations not committed to the conference.

Once a disapproval bill is passed by the Congress, it is assumed the President would veto the new bill. The President would have to use his constitutional veto authority to do so and could not cancel any part of a cancellation disapproval bill. The Congress would then have to muster a two-thirds vote to override the veto and force the President to spend the money.

Mr. President, there was considerable debate between the two Houses about exactly what the President may veto. In the original version of both S. 4 and H.R. 2, the President was given enhanced rescission authority. This would have allowed the President to veto any dollar amount he saw fit to cut. Some felt this authority would give the President too much power and might result in too much power shifting to the Executive. The compromise developed by the conferees returns to the idea of a line-item veto—in other words, the President can cancel any line.

Let me get a chart here, and demonstrate it very quickly. This is a chart that is very familiar to the conferees, I might add, since we used this during our debate and discussions.

The bill also allows the President to line-item veto—or cancel—new direct spending provisions in law. When the President vetoes these provisions, he is effectively canceling the obligation to pay the new benefits.

The bill also allows the President to line-item veto any targeted, or limited, tax benefits if those benefits effect 100 or fewer individuals.

Mr. President, this is not the approach I would have preferred. I believe that the Senate language developed with Mr. BRADLEY would have been more effective. However, as we all know, compromise often must occur in conference. The results can be seen here.

As I said, I would have preferred to see this issue addressed in a different manner, but the compromise still has teeth and will result in fewer special interest tax breaks and less corporate welfare.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Finally, the bill will become effective on January 1, 1997 or as soon as a balanced budget is signed into law, whichever is first. I want to note that President Clinton has agreed to this effective date. The line-item veto would sunset in 8 years. I would hope that after 8 years of use, the public would realize the value of the line-item veto and we would make this authority permanent. However, the sunset is included in the bill to address the concerns of some Members.

This is the actual language from the report, which calls for $49,846,000 for special grants for agricultural research.

The report language then goes on to state specific parts of the special grants for agricultural research, for example: Wood utilization research in Oregon, Mississippi, North Carolina, Minnesota, et cetera; wool research in Texas, Montana, and Wyoming.

What the President could do is say that he does not approval of wood utilization research in these six States. He could line item out, out of the report language, this $3,758,000, thereby subtracting that $3,758,000 from the $49 million which is in the bill for special grants for agricultural research. That is fundamentally what this line-item veto does. So that what is in the report language affects the original bill.

I was disappointed that the conference was not able to keep the Feingold-McCain emergency spending amendment. However, I have been assured by the staff of the Budget Committee that they would be willing to meet with our respective staffs and develop language to address the Senator from Wisconsin's and my concerns regarding this matter.

Mr. President, the power to line item veto is not new. Every President from Jefferson to Nixon used a similar power. The line-item veto power they exercised ensured that the checks and balances between the congressional and executive branch remained in balance. In 1974, in reaction to the Presidential abuses, the Congress stripped the President of this power. Unfortunately, since that time, the Congress has abused its ability to dictate how money be spent. This bill would restore the checks and balances envisioned by the Founding Fathers.

Further, unlike impoundment power where the President could use appropriated money to fund his priorities over the objections of the Congress, this bill contains a lockbox provision as I have described. Any money line item vetod under this bill could be used only for deficit reduction.

Mr. President, many have characterized this legislation as a dangerous ploy, not as a true budgetary reform. This is not accurate and does not take into account the greater picture of the dangers presented by our out-of-control budget process. The real danger is what has happened to the administration of the American Government. Unnecessary and wasteful spending is threatening our national security and consuming resources that could better be spent on tax cuts, deficit reduction, or health care. I do not make the charge that wasteful spending threatens our national security without a great deal of consideration. After last year's defense appropriations bill, it is unfortunately clear how dangerous this kind of spending can be to our national security. It should now be clear how urgent the need for a line-item veto is.

At a time when thousands of men and women who volunteered to serve their country have to leave military service because of changing priorities and declining defense budgets, we nonetheless are able to find money for billions of dollars of unnecessary spending in the defense appropriation bill. At a time when we need to restructure our forces and manpower to meet our post-cold war military needs, we have squandered billions on pointless projects with no military value.

Mr. President, every Congressman or Senator wants to get projects for his or her district. Everyone wants not only their fair share of the Federal pie for their States, they want more. Therein lies the problem. It is an institutional problem. I am not a saint. But we are trying to make a difference. I am not here to cast aspersions on other Senators who secured an unnecessary project for their States. I am not here to start a partisan fight.

Congress created the problem and its Congress' responsibility to fix it. It is a Congress that has piled up a $5 trillion debt. It is a Congress that is responsible for over a $200 billion deficit this year. It is a Congress that has miserably failed the American people. It is an institution that desperately needs reform.

Anyone who feels that the system does not need reform need only examine the trend in the level of our public debt. As I stated in my analysis of the most recent budget plans, the deficit has continued to balloon and spending continues to increase. In 1960, the Federal debt held by the public was $236.8 billion. In 1970, it was $283.2 billion. In 1980, it was $709.3 billion. In 1990, it was $3.2 trillion, and it is expected to surpass $5 trillion this year.

My colleagues may ask: Why is the line-item veto so important?

Because a President with a line-item veto could help stop this waste. Because a President with a line-item veto could play an active role in ensuring that valuable taxpayer dollars are spent effectively to meet our national security needs, our infrastructure needs, and other social needs without pointless pork barrel spending. And the President can no longer say, "I didn't like having to spend billions on a wasteful project but it was part of a larger bill I just couldn't say no to." Under a line-item veto, no one can hide

According to a recent General Accounting Office study, $70 billion could have been saved between 1984 and 1989, if the President had a line-item veto.

It is important because it can help reduce the deficit. It can change the way Washington operates. Mr. President, we cannot turn a blind eye to unnecessary spending when we cannot meet the needs of our service men and women. We cannot tolerate waste when Americans all over this country are experiencing economic hardship and uncertainly.

The American public deserves better than business as usual. As their elected representatives we are duty bound to end the practice of wasteful and unnecessary spending.

The line-item veto is not a means to encourage Presidential abuse, but a means to end congressional abuse. It will give the President appropriate power to help control spending and reduce the deficit. To anyone who thinks that Congress is fully capable of policing national fiscal affairs, I simply bring to the Senate's attention the $3.7 trillion public debt as irrefutable proof of our inability.

Mr. President, a determined President will not be able to balance the budget with the line-item veto. But a determined President could make substantial progress toward that goal.

I submit that had the President been able to exercise line-item veto authority over the past 10 years the fiscal condition of our Nation would not be nearly as severe as it is today.

With that in mind, I hope the Senate would consider the following quote by a prescient figure in the Scottish Enlightenment, Alexander Tytler. He stated:

> A democracy cannot exist as a permanent form of government. It can exist only until a majority of voters discover that they can vote themselves, largesse out of the public treasury. From that moment on, the majority always votes for the candidate who promises them the most benefit from the public treasury, with the result being that democracy always collapses over a loose fiscal policy.

If our debt surpasses our output, I fear that our democracy may one day collapse over loose fiscal policy.

Today is a historic day. A 120-year battle is coming to a close. The line-item may soon be a reality.

Mr. President, I want to, again, extend my respect and consideration and appreciation for the Senator from West Virginia, with whom I have debated this issue over the last 10 years. I would like to allege I have always prevailed over the Senator from West Virginia both in logic and in humor. I am afraid neither is the case, but I have found him to be a most distinguished opponent, most learned and most dedicated to the proposition to which he is committed.

Mr. President, I yield floor.

Mr. BYRD. Will the Senator yield?

Mr. President, I thank the distinguished Senator for his customarily gracious and courteous remarks concerning me. I wish to respond in kind by saying that, although I adamantly oppose the measure which the distinguished Senator from Arizona and the distinguished Senator from Indiana support, and for which they have fought so long, I have only the utmost respect for both of them. I think that the Senator from Indiana works hard and is dedicated. I serve with him on the Armed Services Committee. I admire him. I consider him to be my friend, and I am sure, regardless of the outcome in this instance, I will remain his friend.

The distinguished Senator from Arizona is a great patriot. He has served his country overseas, and he has served his country in this Chamber. He fights hard and very tenaciously for that in which he believes in the legislative field. He has done so in this instance. I regard him as one of the more skilled and devoted Members of the Senate. I have only the utmost respect for him.

I like to believe before the day is over, I will have prevailed over his position, but that is somewhat doubtful insofar as I am concerned at the moment. But I do respect him, and regardless of how vehemently I may propose my viewpoint, it has nothing to do with my respect for him and my friendship for him.

He also serves on the Armed Services Committee and is one of the outstanding members of that committee.

So with those words of respect, I now yield the floor. It is my understanding Senator DOMENICI plans to speak at this time.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I want to first acknowledge the hard work and dedication that Senator TED STEVENS from Alaska has put into this conference report. Obviously, there is no Senator here who is more dedicated to our prerogatives as a Senate and our prerogatives as individual Senators, and there is no Senator more concerned about maintaining that power. And, likewise, there is none who understands the effectiveness of the appropriations process any better than Senator TED STEVENS from Alaska, I might say, perhaps with the exception of the distinguished Senator from West Virginia.

Senator STEVENS worked tirelessly to come up with a compromise. He will speak for himself later in the day, but obviously, if there is a hero, he is one of them on this effort.

I have already indicated the two leaders on our side have spent a long period of their Senate life devoted to this, and they took the lead from the beginning. Senator McCAIN is one, who has just spoken, and I am sure that we will have a number of Senators speak before we are finished. But Senator COATS of Indiana will also be here. Obviously, he is a coleader of this cause. I acknowledge their dedicated effort.

I do not intend to speak very long at this point. We have completed a conference report after months in conference, and I rise in support of the Line-Item Veto Act which is before us.

I cannot emphasize enough the importance of this legislation. I believe it has the potential to fundamentally change the way we make spending decisions in Congress and our relationship to the executive branch. I think the objectives of this legislation are correct. We should enact legislation that facilitates our ability to extract lower priority spending from legislation and to devote that to deficit reduction.

However, I share the concerns of others about this bill's impact on the balance of power between the legislative and executive branch.

I also want to congratulate again the majority leader who brought together a group of Senators with very diverse views and got them to compromise on this final bill. The distinguished chairman of the Governmental Affairs Committee, Senator STEVENS, once again deserves a great deal of credit, for he chaired that effort, that conference and that effort that our leader put together in an effort to resolve differences.

Senators McCAIN and COATS, as I indicated heretofore, deserve the lion's share of credit for getting this bill where it is. And they have been tenacious advocates, and obviously we will hear from both of them here today.

Mr. President, I made line-item veto legislation a priority for the Budget Committee, because clearly we did not want to be making a point of order under the Budget Act on line-item veto because it came within the purview of legislation that must be considered by the Budget Committee. For a number of years getting this job done has been stopped either by filibuster or point of order. I thought it was time that we get that point of order out of the way and that we do our job and let us work our will.

We moved quickly to hold hearings and report Senate bill No. 4 at the beginning of 1995. If this bill had not been reported, it would have been subject to the point of order, as indicated, and we would probably never be here.

Mr. President, the conference report on this bill essentially adopts the House's enhanced rescission approach. I repeat, this essentially adopts the House's enhanced rescission approach. Essentially that approach was similar to the approach advocated by Senators McCAIN and COATS and many who followed their lead.

There are a significant number of modifications to the House's enhanced rescission concept and particulars.

One, we sunset this authority after 8 years to give Congress an opportunity to review the President's use of this authority. Some wonder why, but, essentially, if you did not have that, there would be no time when you could change this law over a President's objection without having two-thirds vote here in the Senate, because, indeed, if a President liked it and we did not like it—and there was a real reason for that, to argue that policy issue out—Presidents would veto whatever we sent them.

As a matter of course, we would be saying, regardless of how it is used—and it is a kind of new activity. Even the occupant of the chair, who used it as a Governor, understands and has spoken to me that this is somewhat different in scope when you do it this way, when it is the national picture, and we are treading on some new ground.

So I would have liked a shorter sunset provision, but the House had none. So there are 8 years. We will live through two complete Presidential terms, starting next January, and see how it is working out with reference to a judicious exercise of that new power given to Presidents.

No. 2, the line-item veto applies to all new spending, including new direct spending, that is frequently called entitlements or mandatories. Despite all the rhetoric, the only real deficit reduction this year has been in the area of discretionary spending. I have misstated the number heretofore, and let me be accurate. The only money saved in the balanced budget argument to this point is $12 billion less in spending in the appropriated accounts, domestic, in the year 1995. It is obvious to those who know the budget, we cannot balance the budget or significantly restrain Federal spending by just having a veto over discretionary accounts, nor can we continue the idea and concept that we can balance the budget on the back of the domestic discretionary programs, that spending alone.

We devote any savings from the line-item veto to deficit reduction through a lockbox concept. We clearly define and place restrictions on the President's cancellation authority. The President does not have complete discretion to cancel items in laws. He can only cancel entire items in laws or accompanying reports.

Moreover, the bill makes clear he can cancel only budgetary obligations. He cannot use his authority under any circumstance to change the provisions of

VOL 142 PT 5 MR 21 — 29 1996 UMI

law, that is, to write law in an appropriations bill.

We strengthen the expedited procedures for congressional consideration of a bill to disapprove of a President's cancellation of an appropriation, either the line item or direct spending or the limited tax benefit, which has been described by my friend from Arizona. I will not go into it any further now other than to say this bill, as it left the Senate, carried with it an expanded concept of what ought to be subject to cancellation.

The two things included here that were not historically considered were targeted taxes, that is, very special and direct taxes that benefit a small group of people or institutions, and new additional mandatory or direct expenditures, not vetoing entitlements, but if you create a new one that spends more money, the President has one opportunity to address that.

Frankly, I think both are fair because if the statement, that is clear, that appropriated accounts alone do not create the problem of deficit spending, nor are they the only area where special attention is made to special needs of special constituents by legislators, the same is done in tax bills and the same is done in entitlements.

Clearly, the President, if he is going to have a chance to get at and cancel budget authority, obligational authority for appropriated accounts, both domestic and defense, he ought to have a similar authority. This last part that I have just described is truly an experiment, but we worked as diligently as we could to make it clear and to make sure that everyone would understand what the conferees had in mind on direct or mandatory expenditures and targeted tax expenditures.

Again, I congratulate Senators DOLE, McCAIN, and my cohort who chaired this conference, the distinguished Senator from Alaska, Senator TED STEVENS. This is a remarkable achievement on their part. While it will be contested here today, I do not believe it will be contested that this is some very far-reaching legislation, that those who think change is good will clearly understand that this is a formidable event in the ever-changing landscape of the legislation that Congress considers and finally passes.

There will be a number of Senators who oppose this. Clearly, I want to say right up front that the distinguished Senator from West Virginia, former chairman of the Appropriations Committee, majority leader, minority leader of this U.S. Senate, will oppose this. He will be listened to. The concerns he expresses will not be light concerns. They will be important concerns.

Many of us have agreed with him in the past, and we have concerns about the legislation. However, we have come to the conclusion—many on the Appropriations Committee, or a number, will support this legislation—that the time is now to give line-item veto a chance, to get it over to the President who will sign it. First get it to the House, they will adopt it, and then go to work on making it work come January.

Now, we have not yet agreed upon the time that will be taken here because, quite appropriately, the distinguished Senator from West Virginia wants to watch his time carefully, not only for himself but some of his advocates.

When we started here on the floor, before a word was said, the distinguished Senator from West Virginia, in his usual style and gracious, gracious demeanor and respect for the institution, shook the hand of Senator McCAIN and Senator DOMENICI and indicated his respect, but indicated in this particular measure he did not agree. That is a great part of our Senate heritage. He disagrees. He will have his day. We disagree with Senator BYRD. We will have our day. I hope in the end we will have a majority of Senators supporting what we propose. I yield the floor.

(Mr. KYL assumed the chair.)

Mr. BYRD. Mr. President, "I am no orator, as Brutus is. But as you know me all: a plain blunt man * * * for I have neither wit, nor words, nor worth, action, nor utterance, nor the power of speech to stir men's blood. I just speak right on. I tell you that which you yourselves do know. * * *"

Mr. President, the Senate is on the verge of making a colossal mistake. The distinguished Senator from New Mexico was correct when he spoke of this measure as being a formidable measure, a far-reaching measure, a measure that will produce a sea change in the relationship between the executive and the legislative branch.

Let me say at the outset that I have only the utmost respect for the distinguished, the very distinguished Senator from New Mexico. He is one of the brightest Senators that I have seen during my 38 years in this body. He understands the budget process, in all likelihood, better than anyone else in this Chamber on either side of the aisle. He is skillful, he is dedicated, he is tenacious, and, of course, he is fighting for what he believes today. I cannot help but think, however, that in his heart of hearts, he would rather be supporting a more moderate measure than this that is before him. But I have no right to attempt to look into his mind or into his heart.

The Senate, you mark my words, is on the verge of making a colossal mistake, a mistake which we will come to regret but with which we will have to live until January 1 of the year 2005, at the very least. We are about to adopt a conference report which will upset the constitutional system of checks and balances and separation of powers, a system that was handed down to us by the Constitutional Framers 208 years ago, a system which has served the country well during these two centuries, a system that our children and grandchildren are entitled to have passed on to them as it was handed down to us.

And as I comprehend the appalling consequences—they may not become evident immediately, but in due time they will be seen for what they are—as I comprehend the appalling consequences of the decision that will, unfortunately, likely have been rendered ere we hear "the trailing garments of the Night sweep through these marble halls," I think of what Thomas Babington Macaulay, noted English author and statesman, wrote in a letter to Henry S. Randall, an American friend, on May 23, 1857:

> Either some Caesar or Napoleon will seize the reins of government with a strong hand; or your republic will be as fearfully plundered and laid waste by barbarians in the Twentieth century as the Roman Empire was in the Fifth—with this difference . . . that your Huns and Vandals will have been engendered within your own country by your own institutions.

The Senate is about to adopt a conference report, Mr. President, which Madison and the other Constitutional Framers and early leaders would have absolutely abhorred, and in adopting the report we will be bartering away our children's birthright for a mess of political pottage.

The control of the purse is the foundation of our constitutional system of checks and balances of powers among the three departments of government. The Framers were very careful to place that control over the purse in the hands of the legislative branch. There were reasons therefor.

The control over the purse is the ultimate power to be exercised by the legislative branch to check the executive. The Romans knew this, and for hundreds of years, the Roman Senate had complete control over the public purse. Once it gave up its control of the purse strings, it gave up its power to check the executive. We saw that when it willingly and knowingly ceded its powers to Julius Caesar in the year 44 B.C. Caesar did not seize power, the Senate handed power over to Caesar and he became a dictator. History tells us this, and history will not be denied.

The same thing happened when Octavianus, later given the title of Augustus in the Roman Senate, when in 27 B.C. the Senate capitulated and yielded its powers to Augustus, willingly desiring to shift from its own shoulders responsibilities of government. When it gave to him the complete control of the purse, it gave away its power to check the executive.

Anyone who is familiar with the history of the English nation knows that our British forebears struggled for centuries to wrest the control of the purse from tyrannical monarchs and place it in the hands of the elected representatives of the people in Parliament. Perhaps it would be useful for us to review briefly the history of the British Parliament's struggle to gain control of the purse strings, particularly in view of the fact that the Constitutional Framers in 1787 were very much aware of the history of British institutions, and were undoubtedly influenced in considerable measure by that history and by the experiences of Englishmen in the constitutional struggle over the power of the purse.

Cicero said that "one should be acquainted with the history of the events of past ages. To be ignorant of what occurred before you were born is to remain always a child. For what is the worth of human life, unless it is woven into the life of our ancestors by the records of history?"

To better understand how our own legislative branch came to be vested with the power over the purse, it seems to me that one should examine not only the roots of the taxing and spending power but also the seed and the soil from which the roots sprang and the climate in which the tree of Anglo-American liberty grew into its full flowering, because only by understanding the historical background of the constitutional liberties which we Americans so dearly prize can we fully appreciate that the legislative control of the purse is the central pillar—the central pillar—upon which the constitutional temple of checks and balances and separation of powers rests, and that if the pillar is shaken, the temple will fall. It is as central to the fundamental liberty of the American people as is the principle of habeas corpus, although its genesis and raison d'etre are not generally well understood. Therefore, before focusing on the power over the purse as the central strand in the whole cloth of Anglo-American liberty, we should engage in a kaleidoscopic viewing of the larger mosaic as it was spun on the loom of time.

Congress' control over the public purse has had a long and troubled history. Its beginnings are imbedded in the English experience, stretching backward into the middle ages and beyond. It did not have its genesis at the Constitutional Convention, as some may think, but, rather, like so many other elements contained in the American Constitution, it was largely the product of our early experience under colonial and State governments and with roots extending backward through hundreds of years of British history predating the earliest settlements in the New World.

Notwithstanding William Ewart Gladstone's observation that the American Constitution "is the most wonderful work ever struck off at a given time by the brain and purpose of man,"—although there is some question with regard to that quotation—the Constitution was, in fact, not wholly an original creation of the Framers who met in Philadelphia in 1787. It "does not stand in historical isolation, free of antecedents," as one historian has noted, but "rests upon very old principles—principles laboriously worked out by long ages of constitutional struggle." The fact is, Gladstone himself, contrary to his quote taken out of context, recognized the Constitution's evolutionary development.

British subjects outnumbered all other immigrants to the colonies under British dominion. The forces of political correctness are trying to change American history these days, but it cannot be changed. The very first sentence of Muzzey's history, which I studied in 1928, 1929, and 1930—the very first sentence—says: "America is the child of Europe." America is the child of Europe, political correctness notwithstanding.

They brought with them—those early settlers from England—the English language, the common law of England, and the traditions of British customs, rights, and liberties. The British system of constitutional government, safeguarded by a House of Commons elected by the people, was well established when the first colonial charters were granted to Virginia and New England. It was a system that had developed through centuries of struggle, during which many of the liberties and rights of Englishmen were concessions wrung—sometimes at the point of the sword—from kings originally seized of all authority and who ruled as by divine right.

The Constitutional Framers were well aware of the ancient landmarks of the unwritten English constitution. Moreover, they were all intimately acquainted with the early colonial governments and the new state constitutions which had been lately established following the Declaration of Independence and which had been copied to some degree from the English model, with adaptations appropriate to republican principles and local conditions. Let us trace a few of the Anglo-Saxon and later English footprints that left their indelible imprint on our own constitutional system.

Since time immemorial, Anglo-Saxon and later English kings had levied taxes on their subjects with the advice and consent of the witenagemot or the Great Council. When Parliament later grew out of the Great Council, and when knights and burgesses from the shires and boroughs, and representatives from the town and rural middle class were chosen to participate in Parliament, the king sought approval, from this representative body, of revenues for the operation of government, the national defense, and the waging of wars.

In return for its approval of the sovereign's request for money, Parliament learned that it could secure the redress of grievances and exact concessions from the king. You are asking for money? Then we, the people's representatives, want this first. Make these concessions, and then we will vote you the money. If he resisted, then Parliament would refuse to grant funding requests and new taxes. In 1297, almost 700 years ago now, Edward I reluctantly agreed to the "Confirmation of the Charters," and, in doing so, he agreed, under clause 6 of the Parliamentary document, that is the future he would not levy "aids, taxes, nor prices, but by the common consent of the realm." The significance of the event was twofold. In the first place, it was henceforth necessary that representatives of the whole people, and especially the middle class, be summoned to all Parliaments where any non-feudal taxation proposals were to be considered. Moreover, and of even greater importance, the control of the purse was lodged in Parliament, and this was a power that Parliament would frequently use to check the abuse of royal authority and to persuade the king to grant concessions.

This is the meat of the coconut. On two occasions in Edward II's reign (1307–1327), Parliament had asked for a redress of grievances before it granted taxes on personal property, and in both cases, the substance of Parliament's petitions were approved and enacted into statutes by the king. On one of these occasions, in 1309, the Commons granted a subsidy "upon this condition, that the king should take advice and grant redress upon certain articles wherein they are aggrieved." Members of Congress should take note.

There are early instances of the allocation of funds for specific purposes, such as the Danegeld, which was a land tax levied to meet requirements arising from Danish invasions and to buy off the invaders. It usually was two shillings on each hide of land. It continued for some time after the danger of Danish invaders had passed, and, as a land tax, it was revived by William the Conqueror for specific emergency purposes such as defense preparations in 1084, when the King of Denmark threatened to enforce his claim to the English throne. Although continued as a land tax under William I's successors, its original character was lost, and its name, the Dangeld, fell into disuse in 1163, during the reign of Henry II. It became a source of revenue for general purposes.

Feudal charges were levied by kings before the creation of Parliament and appropriated for specific purposes. For example, scutage, a tax levied upon a tenant of a knight's fee in commutation for military service, was assigned to the financing of military measures. Funds collected to buy Richard I's freedom were paid into a special "exchequer of ransom." The Saladin tithe was

VOL
142
PT
5
MR
21
—
29
1996
UMI

applied to financing the costs of a crusade, as were specific grants for Holy Land conquests in 1201, 1222, and 1270. In 1315, the Barons successfully insisted that Edward II's personal expenditures be limited to Pounds Sterling, 10 a day. By Edward III's day (1327–1377), it was becoming customary to attach conditions to money grants. Parliament often insisted that the money granted should be spent for certain specified purposes, and for no others.

In 1340, a grant was made by Commons to the king on the condition that it "shall be put and spent upon the Maintenance and Safeguard of our said Realm of England, and on wars in Scotland, France, and Gascoign, and in no places elsewhere during the said Wars." In 1344, a two-year subsidy was granted and appropriated specifically for the war in France and for defense of the North against invasion by the Scots. Two years later, and again in 1348, it was stipulated that the aid must be used for defence against the Scots. Parliament granted a subsidy to Richard II in 1382 with the express provision that it go to "the improvement of the defence of the realm of England and the keeping and Governance of his Towns and Fortresses beyond the Sea." The expenses of Henry IV's coronation, who reigned from 1399 to 1413, were funded by a special appropriation.

Sometimes, treasurers were appointed for overseeing a particular subsidy to ensure that the money was spent in accordance with the terms specified in the appropriations. Ship money was levied in early times in port cities to provide for naval maintenance and upkeep, the assumption being that the ports were the primary beneficiaries of a strong navy and were safeguarded from invasion by it. In 1382, the revenues from tonnage and poundage were specified for application to the safe keeping of the sea.

Some of the early appropriations went into details. For instance, a grant was made to Edward IV in 1472 to cover the expenses of 13,000 archers for one year at a daily wage of sixpence. Another grant was made by Commons to Edward IV in 1475 for his war in France on the condition that his departure for France be no later than St. John's Day in 1476, and he was not to receive the money until his ships were actually ready to leave for France.

Wool subsidies were specifically appropriated, on occasion, for defraying the cost of the garrison of Calais. The terms of numerous grants from the 14th century to the 17th century required the application of customs receipts to the defense of the country against invasion and to the protection of ships against pirates and hostile navies. The preamble to the subsidy Act of 1558–9 quoted Edward I as having recognized that his predecessors "tyme out of mynde have had enjoyed unto them, by authoritie of Parliament, for the defence of the Realms and the happy saulfguarde of the Seas" the proceeds of customs charges on certain goods.

Following the Restoration in 1660, Commons aimed at keeping Charles II short of funds to prevent the maintenance of a large standing army in time of peace. This was in contrast to their willingness to make grants for the navy, and they took precautions to ensure that appropriations for the Navy were spent for that purpose and no other, as, for example, in 1675, it was provided that the funds "for building ships shall be made payable into the Exchequer, and shall be kept separate, distinct, and apart from all other monies, and shall be appropriated for the building and furnishing of ships, and that the account for the said supply shall be transmitted to the Commons of England in Parliament."

The principle of appropriating the supplies (sums of money) for specific purposes only, instead of placing the funds without reserve into the king's hands, dates back at least as far as 1340. Here, then, as early as the mid-1300's—650 years ago—was the beginning of the current system of congressional appropriations as we know it. Members of Congress should be aware of the venerableness of this aspect of the modern appropriations process. It was not something that was conceived just yesterday and did not just come out of the woodwork.

After the Commons and Lords separated into two houses in the early 1300's, around 1339, 1340, and 1341, the House of Commons reserved to itself the power to initiate tax and money bills.

In 1395, the grant to the king, Richard II, was made "by the commons with the advice and consent of the lords." It started out in the commons. In 1407, the king—Henry IV, the former duke of Lancaster—agreed that he would listen to reports about money grants only "by the mouth of the speaker of the Commons." The right of the commons to originate taxes and money grants was a right by custom, not a statutory right, but it was a custom that was not easily shaken. For example, Henry IV had failed in 1407 when he tried to proceed first through the House of Lords. The Commons refused to accept such "a great prejudice and derogation of their liberties." The U.S. Constitution, in Article I, reflects the very same principle: "All Bills for raising revenue shall originate in the House of Representatives."

As the years passed, Parliament extended its power in the control of government expenditures and the earmarking of appropriations of money for particular purposes. Almost always it was specified that general taxes to the king were for national defense, a part of the custom on wool was to be used for the maintenance of Calais, as I have earlier stated, and the tunnage and poundage tax was to be spent for such specific purposes as the navy and "the safeguarding of the sea and in no other way." The royal income was to be used for the expenses of the royal household.

During the Commonwealth, the House exercised full control over government expenditures, and after the Restoration in 1660, the House claimed, and Charles II grudgingly conceded, the right of appropriation in the Appropriation Act of 1665. From that time, it became an indisputable principle that the moneys appropriated by Parliament were to be spent only for the purposes specified by Parliament. Since the reign of William and Mary (1689–1701), a clause was inserted in the annual Appropriation Act forbidding—forbidding under heavy penalties—Lords of the Treasury to issue, and officers of the Exchequer to obey, any warrant for the expenditure of money in the national treasury, upon any service other than that to which it was distinctly appropriated.

The right of Parliament to audit accounts followed, as a natural consequence, the practice of making annual appropriations for specified objects. Even as early as 1340, a committee of Parliament was appointed to examine into the manner in which the last subsidy had been expended. Henry IV resisted a similar audit in 1406, but in 1407 he conceded Parliament's right to look at the ways the appropriations were spent. Such audits became a settled usage.

These two principles—that of appropriations and that of auditing—were united by the framers in a single paragraph of Article I, section 9, of the U.S. Constitution: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

So, Mr. President, as we can see, legislative control over taxation bears close relation to the history of Parliament. The witenagemot possessed the right of advice and consent regarding taxation, although the right was probably exercised only rarely because the royal needs in the Anglo-Saxon era were normally supplied by income from royal farms, fines, and payments in kind or the quasi-voluntary tribute paid by the kingdom to its sovereign. The Norman kings exacted feudal aids and other special varieties of taxation, retaining and adding to the imposts of Saxon kings. But there is scant evidence as to what extent the council was asked by the kings. Although a tax in the reign of Henry I (1100–1135) was described as the "aid which my barons gave me," it appears that until the time of Richard I (1189–1199), the king usually merely announced in assembly

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the amounts needed and the reasons for his imposing subsidies. By the feudal doctrine, the payer of a tax made a voluntary gift for relief of the wants of his ruler.

Magna Carta (1215) provided that, except for three feudal aids, no tax should be levied without the assent of a council duly invoked. But as the burden of taxation increased, the necessity for broadening the tax base to all classes of society also increased. Hence, the establishment of the representative system is Parliament had its essential origin in the necessity for obtaining the consent, by chosen proxy, of all who were taxed. After the "Confirmation of the Charters" in 1297, the right of the people of the realm to tax themselves through their own chosen representatives became an established principle. The Petition of Rights, reluctantly agreed to by Charles I in 1628, emphatically reaffirmed the principle. Charles had attempted a forced loan in 1627 to meet his urgent money needs. This was, in effect, taxation without parliamentary sanction, and many refused to contribute, whereupon Charles arbitrarily imprisoned several persons who would not pay. When he called Parliament into session the next year, twenty-seven members of the new house had been imprisoned for failure to pay the forced loan. When Charles demanded the money he so desperately needed, the commons paid no attention. They decided almost at once to put their major grievances in a Petition of Rights. Among these, the Petition asked that arbitrary imprisonment should cease and that arbitrary taxation should cease and "no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by Act of Parliament." When Charles granted the Petition of Rights, the Commons voted him taxes.

The insistence by Charles I that he possessed a divine right to levy taxation and could seek funds directly from citizens, created the conditions for civil war in England. James I had decided to raise revenue by imposing an import duty on almost all merchandise, and the political struggle intensified when Charles acted to levy tonnage and poundage without parliamentary authority. After the House of Commons passed the Petition of Rights, it also moved to curb the King's power to raise revenue from customs duties, precipitating another clash with Charles.

Charles I tried to govern without Parliament by resorting to various means of raising revenue. Additional Knighthoods were created, requiring the beneficiaries to pay a fee to the King. Those who refused were fined. Other efforts to raise money led to increased resentment from citizens and threw the country into a state of crisis. Charles lost both his throne and his head.

The Bill of Rights, to which William III and Mary were required to give their assent before Parliament would make them joint sovereigns, declared "that levying money for or to the use of the crown, by pretense of prerogative, without grant of Parliament, for longer time, or in other manner than the same is or shall be granted, is illegal."

It was the violation of this constitutional principle of taxation by consent of the taxpayers, through their chosen representatives, that led to the revolt of the colonies in America. The Declaration of Independence explicitly names, as one of the reasons justifying separation from England, that of her "imposing taxes on us without our consent."

There is, then, a certain historic fitness in the fact that first among the powers of Congress enumerated in Article I, section 8, of the Constitution is the power "to lay and collect taxes." The power to appropriate monies is also vested by Article I solely in the legislative branch—nowhere else; not downtown, not at the other end of Pennsylvania Avenue, but here in the legislative branch.

Mr. President, we have all perhaps been subject to the notion that the Federal Constitution with its built-in systems of checks and balances, was an isolated and innovative new instrument of government which sprang into existence—sprang into existence—during three months of meetings behind closed doors in Philadelphia, and that it solely was the product of the genius of the Framers who gathered there behind closed doors to labor to make it come about. However, as I have also said heretofore, American constitutional history can only be fully understood and appreciated by looking into the institutions, events, and experiences of the past out of which the organic document of our nation evolved and took unto itself a life and soul of its own.

To ascertain the origin of the Constitution, then, it must be sought among the records treating of the fierce conflicts between kings and people—it cannot be found just in Madison's notes, but it must be sought among the records of treating fierce conflicts between kings and people—the evolution of chartered rights and liberties, and the development of Parliament in the island home of those hardy forebears who crossed the Atlantic to plant new homes in the wilderness and who transplanted to the English colonies of the New World the familiar institutions of government which would assure to them the rights and liberties which they, as British subjects in a new land, held to be their due inheritance.

The U.S. Constitution was, in many ways, the product of many centuries—many centuries—and it was not so much a new and untried experiment as it was a charter of government based to some extent on the British archetype, as well as on State and colonial models which had themselves been influenced by the British example and by the political theories of Montesquieu and others, who believed that political freedom could be maintained only by separating the executive, legislative, and judicial powers of government, which powers, when divided, would check and balance one another, thus preventing tyranny by any one man, as had been the case in France.

Moreover, unlike the British Constitution, which, as I say, was, generally, an unwritten constitution consisting of written charters, common law principles and rules, and petitions and statutes of Parliament, the American Constitution was a single, written document that was ratified by the people in conventions called for the purpose.

In a real sense, therefore, the U.S. Constitution was an instrument of government that was the result of growth and experience and not manufacture, and its successful ratification was, in considerable measure, due to the respect of the people for its roots deep in the past. The mainspring of the constitutional system of separation of powers and delicate checks and balances was the power over the purse, vested—where? Here in the legislative branch. That power guaranteed the independence and the freedom and the liberties of the people.

James Madison, who is justly called the father of the Constitution, summed up, in a very few words, the significance of the power over the purse in the preservation of the people's rights and liberties, and the fundamental importance of the retention of that power by the people's elected representatives in the legislative branch.

He did this in the Federalist No. 58, in which he referred to the House of Representatives and said:

> They in a word hold the purse; that powerful instrument by which we behold in the history of the British constitution, an infant and humble representation of the people, gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government. This power over the purse, may in fact be regarded as the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Let me repeat just the last portion of the words by Madison.

> This power over the purse, may in fact be regarded as the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Mr. President, the elected representatives of the people in this body should

VOL
142
PT
5
MR
21
—
29
1996
UMI

remember those weighty words by Madison, the father of the Constitution. If they wish to know the value of constitutional liberty, they might retire to those words and read.

Mr. President, to alter the constitutional system of checks and balances, by giving the executive—any executive, any President, Democrat or Republican—a share in the taxing or appropriations power through the instrument of an item veto or enhanced rescission would, in my view, be rank heresy. As we have seen, the entrusting of the power over the purse to the legislative branch was no accident of history but rather the result of over 600 years of contest with royalty. To chisel away this rock, that through bloody centuries has undergirded the hard-won, cherished rights of freemen in England and in America, should be anathema to any informed and thoughtful citizen in these United States.

To quote Aristotle: "Of all these things the judge is Time." From our vantage point, then, Mr. President, as we take the long look backwards into the murky past, history clearly teaches us that the power over the purse—the power to tax and to appropriate funds—wisely came to be lodged, more than 600 years ago, in the directly elected representatives of the people; that this principle lies at the foundation, and is a chief source, of our liberties; and that it is not a power that should be shared by a king or a President.

That our own Constitutional Framers clearly intended for the power over the purse to be solely in the hands of the elected representatives of the American people, we have only to review the words of Madison and Hamilton as they appeared in the Federalist Papers.

Hamilton in the Federalist #78 stated: "The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated."

Madison in the Federalist #48 stated, "The legislative department alone has access to the pockets of the people." In Federalist Paper #58—as I have already pointed out—Madison stated: "This power over the purse may, in fact, be regarded as the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance and for carrying into effect every just and salutary measure."

Thus, the founders of this republic left no doubt as to what branch of the government had control over the purse strings. The Executive was not given any control over the purse strings, with the single exception of the right of the President to veto, in its entirety, a bill—any bill—and in this case a bill making appropriations.

There was little discussion of the Presidential veto at the convention, as a reading of the convention notes will show. There was absolutely no discussion whatsoever with reference to a line item veto or any such modification thereof as we are now contemplating. Henry Clay, one of the greatest Senators of all time, in a Senate Floor speech on January 24, 1842, referred to the veto as "this miserable despotic veto power of the President of the United States." That is what he thought of a Presidential veto. It is not hard to imagine what Henry Clay would think of this conference report that is before the Senate today.

It is ludicrous—nay, it is tragic—that we are about to substitute our own judgment for that of the Framers with respect to the control of the purse and the need to check the Executive. Yet, that is precisely what we are about to do here today. We are about to succumb, for political reasons only, to the mania which has taken hold of some in this and the other body to put that most political of political inventions, the so-called "Contract with America" into law.

Saying this, I do not question but that some Senators genuinely, sincerely, and conscientiously believe that this is the right thing to do, and that this is the way to get a handle on the budget deficits.

To quote Homer in "The Iliad": "Not if I had ten tongues and ten mouths, a voice that could not tire, lung of brass in my bosom", would I be able to persuade those who are motivated by political expediency that future generations will condemn their shortsightedness and hold them responsible for the damage to our constitutional system that will be wrought by this radical shift of power from the legislative to the executive branch. "Who saves his country, saves all things, saves himself, and all things saved do bless him; Who lets his country die, lets all things die, dies himself ignobly, and all things dying curse him."

Most Presidents in recent times have espoused the line-item veto. I fought against surrendering this power to President Reagan, I fought against surrendering the power to President Bush, and I just as fervently oppose giving President Clinton—or any other President—a line-item veto or any modification thereof. I have taken an oath many times to support and defend the Constitution of the United States. My contract with America is the Constitution of the United States. I paid 15 cents for this copy several years ago. It cost $1, I think, now. There it is, well-worn, taped together, and pretty well marked up. But that is my contract with America.

So I have taken an oath many times to support and defend this contract with America, the Constitution of the United States, and I do not intend to renege on my sworn oath by supporting this conference report. It is a malformed monstrosity, born out of wedlock. Although the House voted on this version of the so-called line-item veto, the Senate did not. That is why I would say it was born out of wedlock.

It is a profanation of the temple of the Constitution which the Framers built, and it will prove to be an ignis fatuus in achieving a balanced budget. Its passage will effectuate a tremendous shift of power from the legislative branch to the Executive Branch, and it will be used as a club to be held over the head of every member of the United States Senate and House of Representatives by power hungry Presidents who will seek to impose their will over the legislative process to the detriment of the American people, whose elected representatives in Congress will no longer be free to exercise their judgment as to what matters are in the best interests of the states and the people whom they serve.

This so-called line-item veto act should be more appropriately labeled "The President Always Wins Bill." From now on, the heavy hand of the President will be used to slap down Congressional opposition wherever it may exist. Yet, I have no doubt that this measure will pass. Political expediency will be the order of the day, for we are like Nebuchadnezzar, dethroned, bereft of reason, and eating grass like an ox.

"O, that my tongue were in the thunder's mouth! Then with a passion would I shake the world."

The efforts of those who oppose this surrender of power to the President may be likened to the last stand of General George Armstrong Custer, who with 200 of his followers, were wiped out by the Indians at the Battle of the Little Big Horn, in Montana, in 1876, but I see this as the Battle of the "Big Giveaway", and I do not propose to go along.

As a matter of fact, I do not believe that it is within the capability of Congress to give away such a basic Constitutional power as the control over the purse strings, because that is the fundamental pillar upon which rests the Constitutional system of separation of powers and checks and balances.

I know there are those who say that it will only be for 8 years—from January 1, 1997, to January 1, in the year 2005. Senators will note that the bill does not take effect upon passage, upon enactment, the reason being that the majority party does not want to give this President this line-item veto. He may use it against them. And so they have crafted the date to follow the next election so that if President Clinton is able to use this ill-begotten measure at all, he would have to be reelected before he can do it. So they say it will only be for 8 years.

I do not believe that the constitutional powers of Congress can be so cavalierly shifted to the executive branch, whether it be for 8 years or for 1 year or for 6 months.

It is instructive to reflect on what George Washington had to say about checks and balances and separation of powers in his Farewell Address, and I shall quote therefrom: "It is important that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. * * * The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern * * * To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates."

It is my firm belief that we are about to enact legislation that is clearly unconstitutional, and I fervently hope that it will be struck down by the courts. But it might not be. In any event, this possibility does not relieve us of our own responsibility to make a judgment regarding the constitutionality of a measure which we are about to enact. Our oath to support and defend the Constitution against all enemies, foreign and domestic, requires no less of us than this. But I fear that the die, as Caesar said in the year 49 B.C. as he stood before the Rubicon, is cast. Before this day has ended, the Senate will have turned its back in all probability on the Constitution and partially disenfranchised the very people we are charged to represent, and it will have done so to its own great shame.

The Policraticus of John of Salisbury, completed in 1159, we are told, "is the earliest elaborate mediaeval treatise on politics." In it, we find a reference to the House of Caesar and an account of the means by which each in this line of Roman rulers came to his end. Julius, as we all know, was done to death in 44 B.C., at the hands of Brutus, Cassius, and others as they gathered on the Ides of March where the Senate was meeting. When Caesar saw those about him with their daggers drawn, he veiled his head with his toga and drew down its folds over his eyes that he might fall the more honorably.

Nero, who reigned from 54 to 68 A.D., after he had heard that the Senate had condemned him to death, begged that someone would give him courage to die by dying before him as an example. When he perceived that the horsemen were drawing near, he upbraided his own cowardice by saying, "I die shamefully." So saying, he drove the steel into his own throat and thus, says John of Salisbury, came to an end the whole house of the Caesars.

Here, now, we see in the proposal before us, the Legislative Branch being offered the dagger by which, with its own hands, it too may drive the steel into its own throat and thus die shamefully.

I say to Senators, beware of the hemlock. Let us pause and reject this measure lest the "People's Branch" suffer a self-inflicted wound that would go to the heart of the Constitutional system of checks and balances—the power over the purse, a power vested by the Constitution in the Legislative Branch, and in the Legislative Branch only.

Section 9, article I of the Constitution says, "No money shall be drawn from the Treasury, but in consequence of appropriations made by law." And in the very first section of article I, it says, "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives."

So here is where the power is vested to pass a law, to enact a law, to amend a law. But this conference report will change that. It will place into the hands of the Chief Executive a power which in essence will be a power to amend not only a bill but a law. A bill which has already been signed into law by the President can then within the next 5 days be amended almost single handedly by him by way of the rescissions process which is a loaded dice procedure. He cannot lose.

Now, let us take a look at this conference report and examine it.

For the record, let it be noted that this measure is not a true line-item veto. A true line-item veto would allow the President to actually line out items with which he did not agree in an appropriations bill or, depending on how such legislation were to be written; in any other bill that would come across his desk for signature.

And in some States he may not only line out the item but he may reduce the item. He may line out language. But we are talking about the line-item veto on the Federal level.

The measure before us would allow the President not to line out items in a bill, but rather to send special messages to Congress deleting or rescinding certain items from bills after he has signed them into law. Not only that, but this measure will also allow any President to rescind portions of spending measures that are contained in their accompanying tables, committee reports, or statements by the managers on the part of the conferees of both Houses. This approach is actually far more effective in getting at "presidentially-deemed" unacceptable spending than would be a direct line-item veto authority. This is so because bill language does not lend itself to specificity, and line-item veto authority would force the President to eliminate large lump sums in order to get at specific items he did not like, when perhaps he was in agreement with most of the spending in the lump sum.

The conference report would have the effect of stripping from the people's elected representatives, in Congress—the President is not directly elected by the people. The President is indirectly elected by the people. We are the elected representatives of the people. And here, in this forum of the States, we represent the States and the people.

It would take much of that power and place it, instead, in the hands of the occupant of the Oval Office and his unelected bureaucrats. This conference report effectively places in the hands of the President and unelected bureaucrats—I do not use those words pejoratively, but they are unelected and they are bureaucrats. And we have to have them. But, it places in the hands of the President and unelected bureaucrats, ultimate control over the Nation's finances.

I implore Senators, I beseech, I importune Senators to carefully read the conference report, to see how this is done. It is all plainly there in black and white. And it is a "heads-I-win, tails-you-lose" proposition for the President of the United States. It is an eye opener. Read it, Senators.

Section 1021(a) of this conference agreement would allow the President to cancel in whole—(1) any dollar amount of discretionary budget authority; (2) any item of new direct spending—see, it does not get into entitlements that are already in the law, and they are what is causing the budget deficits, but they escape the reaches of this conference report—any item of new direct spending; or (3) any limited tax benefit; as long as the President notifies the Congress "within 5 calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of the discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled."

Now let us look at section 1023(a), which states, in part:

> The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation.

Once the message comes in the door, the cancellation takes effect.

> If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null

VOL
142
PT
5
MR
21
—
29
1996
UMI

and void and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be effective as of the original date provided in the law to which the cancellation applied.

Section 1025(b) goes on to detail the time period in which Congress must pass its rescission disapproval bill. The conference agreement allows for:

> a Congressional review period of thirty calendar days of session, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;
>
> an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and
>
> if the President vetoes the rescission disapproval bill during the period provided, Congress is allowed an additional five calendar days of session to override the veto.

Allowing a presidential rescission to take effect unless specifically disapproved by the Congress has the force of taking from a majority of the people's representatives final say over how tax dollars are spent. That is most certainly the impact, Mr. President, because under this conference report, for all practical purposes, it would be necessary for Congress to marshal a two-thirds majority in both Houses in order to enact any appropriation to which the President might conceivably object. It is a stacked deck, and Congress will lose every time.

Consider this scenario: Once the House and Senate have passed an appropriations bill, the President can then, if we were to adopt this conference report, use his new-found rescission power to carve that appropriations bill up just the same as if he were carving a Thanksgiving turkey—a little here, a little there; the dark meat here, the white meat there.

After he or his bureaucrats decide, over the will of a majority of the representatives of the people, what they will carve out of duly enacted legislation, the President will then transmit a special message to Congress. Once he transmits his special message, Congress would have thirty days to pass a rescission disapproval bill. But since a disapproval bill is a direct denial of the President's request, and since the President is the one who proposed the rescission in the first place, I think we are safe in assuming that he would nearly always veto any such disapproval bill passed by both Houses. Therefore, it would be fairly pointless to even bring a disapproval bill to the Floor for a vote unless it had the support of two-thirds of the Senators and two-thirds of the House of Representatives. And it will almost never have that kind of support. This conference report loads the dice against Congress.

I used to play an old tune called, "I Am A Roving Gambler." It did not say anything about that roving gambler having loaded dice. But this conference report loads the dice and the President will always win—always. And you and I will always lose, and the people we represent will always lose.

Subsequent to the President's veto of the disapproval bill, Congress, of course, would have the opportunity to attempt an override. This time, however, the Congress would be limited to five days of consideration. In any event, it would take a vote of two-thirds of both Houses to override the President's veto of a disapproval bill.

In other words, under this conference report, Congress may actually have to pass an appropriation by a two-thirds supermajority in both Houses, before that appropriation could finally be nailed into law. Is that what Senators want? Are we truly intent on installing minority rule in this country? In our efforts to help get spending under control, are we running over the basic principle of majority rule in the process?

Additionally, by allowing the President—now, this is a radical departure from any idea I have ever heard suggested with reference to a line-item veto—by allowing the President to rescind new budget authority in bills or their accompanying tables, reports or statements of managers, or charts, the President's veto power is no longer limited to the various line-items in an appropriations bill. In other words, this conference agreement would enable a President to rescind any new budget authority contained in either an appropriations bill, or any table, report, or statement of managers accompanying any appropriation bills, by simply notifying Congress of such rescissions by a special message not later than five calendar days after enactment of an appropriations act.

So, he can go into this conference report—this does not go to the President for him to veto, the bill goes to the President for his signature or veto. This conference report does not go. He never sees it. Nor does the statement of the managers go, but he can reach into them through his bureaucrats who advise him, "Mr. President, there is a chart in this conference report on page 27, and you will find in that chart a certain item for certain States or certain regions of the country," and he can say, "Rescind them."

Congress' goal should be to give Presidents a stronger tool than they now have to reduce unnecessary spending. But, I do not believe, Mr. President, that we have to gut the power of the purse in order to give the President that new help. The approach outlined in this conference agreement would tend to arbitrarily substitute a President's judgment about the needs of the various individual states for the judgment of the duly elected representatives of those states and districts. I am sure that the people who vote to send us here do so at least in part because they feel we understand the needs of the states we represent and the views of the people of those states. I am equally sure that the people do not intend for our judgment and our votes to be summarily overruled. I do not think they intend that. I think if they really understood this conference report, if they really understood what we are about to do here, I do not think that the people would intend for our judgment and our votes to be summarily overruled or dismissed by a President—this President or any other President. Nor would I suspect that the people of our various states would want the deck so stacked against their elected representatives as to force us to muster votes of two-thirds of both Houses of Congress to overrule the President's judgment on a matter we thought important for the good of our states. But, this conference report is rigged, and it deals the cards that way and leaves the President and a minority in each body with the ultimate ace in the hole.

Mr. President, what we are talking about here is a measure that would increase exponentially the already overwhelming advantage that is held by the Executive in his use of the veto power. Out of the 1,460 regular vetoes that have been cast by Presidents directly over these past 208 years, only 105—or 7 percent—have been overridden in the entire course of American history. In 208 years, from the Presidency of George Washington, who vetoed two bills, and it was he who said the President has to veto the whole bill or sign it or let it become law without his signature. He cannot item veto it. That was George Washington. In 208 years from the Presidency of George Washington right down through President Clinton today, Congress has only been able to muster enough votes to override a President's veto 105 times, 7 percent of the total. In this case, this so-called enhanced rescission authority requirement for a disapproval resolution coupled with the President's veto power, creases a "heads I win, tails you lose" situation.

This overwhelming advantage on the side of a President is magnified by the fact that often the funds rescinded are likely to be of importance to only a few states or a single region. They may even be important to no more than a single congressional district. If that is the case, then how many Members of either House are going to be interested in overriding the President's veto? How many Senators are going to think it is worth standing up to the President and voting against reducing the deficit for the sake of one lonely House Member or a handful of Senators or a few Members of the House?

Take, for instance, the following six States: Maine, with 2 votes in the House; New Hampshire, with 2 votes; Massachusetts, 10 votes; Vermont, 1 vote; Rhode Island, 2 votes; and Connecticut, with its 6 votes. Collectively,

those states have 23 votes in the House of Representatives and 12 votes in the Senate. Those 35 individuals are going to find it extremely difficult, if not impossible, to interest two-thirds of the total House and Senate membership in overriding a presidential veto on an issue of concern only to the New England region. The type of "divide and conquer" strategy, which this conference report creates for the White House to use, would have a devastating effect on the power of the purse, and the system of checks and balances, which is the very taproot of the American constitutional system of government.

Not only will this conference report, when enacted into law, militate against small rural States like my own—which can muster only three votes in the other body—but it will be a prescription for minority rule. For over 200 years, the theory undergirding our republican system of government—some people speak of ours as a democracy. It is not a democracy. Ours is not a democracy. It would be impossible for a government that extends over 2,500 miles from ocean to ocean and has 250 million people to be a democracy. People should learn their high-school civics.

This is a republican form of government. And the theory undergirding our republican system of government has been that of majority rule. This conference report will substitute minority rule for majority rule by requiring a supermajority vote in both Houses to adopt a disapproval measure overriding a Presidential veto of appropriations passed initially by simple majorities in both Houses. A minority of 34 votes in the Senate will sustain a Presidential veto that may have already been given a two-thirds vote to override in the other body. In other words, the President and 34 Senators can overrule the wishes of the other 66 Senators and 435 Members of the House—if this is not minority rule in the field of legislation, what else may one call it? Do Senators wish to substitute minority rule for majority rule in the legislative process?

It is difficult to imagine why this body would want to deal such a painful blow, not only to itself, but to the basic structure of our constitutional form of government and to the interests of the people we represent.

Whether the President is a Democrat or a Republican is not my concern. Whether one party or another is in power in the Congress is not my concern here. My concern is with unnecessarily upsetting the balance of powers as laid out in the Constitution, and this conference report simply gives away much of the congressional control over the purse strings to a President.

What is fundamentally at stake here is the division of powers between the executive and legislative branches of Government, and the dangerous effects of instituting minority government. This is not a disagreement over reducing the deficit, or over giving the President some additional power to help do that. It is a disagreement over disrupting the people's power over the purse beyond what is necessary to accomplish our deficit reduction goal.

If we enact this conference report into law, control of the Nation's purse strings by a majority in the legislative branch would be severely impaired. That is a fact. It can be demonstrated by a careful reading of the report, and we ought not go down that road, because there is no turning back.

Mr. President, the most effective instrument of restraint possessed by the legislative branch against a powerful and reckless President is the control over the purse. For example, cutting off the flow of funds for an activity is the surest way of checking unwise presidential use of power. We have seen that in the effective use of curtailing funding in the example of our ill-advised adventure in Somalia.

I was the author of the amendment that drew the line which, in essence, said, "All right, Mr. President, after that date, if you want to stay, you come back, make your case before Congress, and seek the money for it."

Were the President to be granted enhanced rescission authority, though, we would have seriously unbalanced the delicate system that was put in place by the Constitution. We would have ceded congressional control over the purse to an executive who could then use it to affect our ability to check misadventures in foreign or domestic policy by threatening important initiatives in one or more States or a region.

The Framers of the Constitution were induced to give to the President the veto power, and they did this for two reasons: the first, was a desire to protect the executive against possible encroachments from the legislative branch, and the other was a desire to guard the country against the injurious effects of hasty and bad judgment.

Mr. President, it was a gross misapprehension on the part of the Framers who feared that the executive branch would be too feeble to successfully contend with the legislature in a struggle for power. Little did the Constitutional Framers dream that the powers of the Chief Executive would grow enormously with the passage of time. They could not foresee the powers that would flow to the President through his patronage as titular head of a political party. Nor, of course, could they foresee the power of the "bully pulpit" that would come with the invention of radio and television and modern telecommunications, which enable the President, at the snap of a finger, to summon before him for immediate disposal the advantages of the modern news media which enable him to appeal directly to the American people with one voice. The fears of the Framers, in this respect, were not only unfounded, but the constant encroachment, which they were concerned about, has not been by the legislative branch on the executive but has been just the opposite—there has been a constant erosion by the executive of the legislative authority.

The legislative branch of Government meets periodically; its power lies in its assembling and acting; the moment it adjourns, its power disappears. But the executive branch of the Government is eternally in action; it is ever awake on land and on sea; its action is continuous and unceasing, like the tides of some mighty river, which continues to flow on and on and on, swelling, and deepening, and widening, in its onward progress, until it sweeps away every impediment, and breaks down and removes every frail obstacle which might be set up to stay or slow its course.

The legislative branch sleeps but there stands the President at the head of the executive branch, ever ready to enforce the law, and to seize upon every advantage which presents itself for the extension and expansion of the executive power. And now, we are preparing here in the Senate to augment the already enormous power of an all-powerful chief executive by adopting a conference report that will shift the real power of the legislative branch to the other end of the avenue and place that power in his hands—to be used against the legislative branch, to be used against the elected representatives of the people in legislative matters. It is as if the legislative branch has been seized with a collective madness. The majority leadership in both Houses will have succeeded in enacting a major plank in the so-called Contract With America.

Mr. President, let me say once more, this is my contract with America: The Constitution of the United States. It cost me 15 cents several years ago. It can be gotten from the Government Printing Office, not for 15 cents today, but perhaps for a dollar. That is my contract with America.

The majority leadership in both Houses will have succeeded in enacting a major plank in its so-called Contract With America while it turns its back on the Constitution—the real Contract with America, which we have all sworn to support and defend—and the majority party in Congress will forever carry on its hands the stain of this unpardonable and gross betrayal of the Constitution and its Framers.

Let us contemplate the effect that the passage of this conference report would have on the power of the chief executive. At the present time, if all Senators are voting, 51 Senators are required to constitute a majority in the

VOL
142
PT
5
MR
21
—
29
1996
UMI

passage of a bill, while in the other body 218 Members are required to constitute a majority in the passage of that same bill. If the bill is vetoed, then two-thirds of the Senate, or 67 votes, if all Senators are present and voting, will be required to make that bill become a law over a Presidential veto. In other words, that veto by one man in the Oval Office will be worth the vote of 16 additional Senators, while in the House that Presidential veto by one man will be equal to 72 votes—a supermajority of 218 being required to pass the bill, and a supermajority of 290 being required to override a Presidential veto, or a difference of 72 votes. In other words, a veto cast by a single individual who holds the Presidency, will be worth the votes of 88 Members of the House and Senate. Is this not enough, Mr. President, that he would wield so vast and formidable an amount of patronage, and thereby be able to exert an influence so potent and so extensive? Must there be superadded to all of this power, a legislative force equal to that of 16 Senators and 72 Members of the House of Representatives?

I have viewed the veto power simply in its numerical weight, and the aggregate votes of the two Houses, but there is another important point of view which ought to be considered. It is simply this: the veto, armed with the constitutional requirement of a two-thirds vote of both Houses in order to override, is nothing less than an absolute power. In all of the vetoes over the past 2 centuries, as I have said, only about 7 percent of the regular vetoes have been overridden. When it comes to overriding the vetoes of bills of disapproval of Presidential rescissions, the President's veto will constitute virtually an unqualified negative on the legislation of appropriations by Congress. If nothing can set it aside but a vote of two-thirds in both Houses, that veto of disapproval bills might as well be made absolute and now because that is what it will amount to. The constitutional Framers did not intend for such raw power over the control of the purse strings to be vested in the hands of any Chief Executive.

Do Senators know what they are doing when they vote to adopt this conference report? They are voting willingly to diminish their own independence as legislators. No longer will they feel absolutely independent to speak their minds concerning any President, any administration or administration policies in their speeches on this floor, and no longer will they exercise a complete and uninhibited independence from the Chief Executive when casting their votes on matters other than appropriation bills because they will know that the President, with this new and potent weapon in his arsenal, can punish them and their constituencies for exercising their own free independence in casting a vote against administration policies, against Presidential nominees, against approval of the ratification of treaties.

Now, Mr. President, I find in the New York Times of today that not only I am concerned about this loss of independence that we will suffer if we adopt this conference report. In today's New York Times, I find an article by Robert Pear titled "Judges' Group Condemns Line-Item Veto Bill."

I will just read one paragraph as an excerpt therefrom. Here is what Judge Gilbert S. Merritt, chairman of the Executive Committee of the Judicial Conference, has to say: "Judges were given life tenure to be a barrier against the wind of temporary public opinion," said Judge Merritt. "If we didn't have judicial independence, I'm not sure we could maintain free speech and other constitutional liberties that we take for granted." So the judges are concerned about judicial independence. I am concerned about the independence of lawmakers once this conference report becomes law.

Plutarch tells us that Eumenes came into the assembly, and delivered himself in the following fable. It was a fable about a lion. "A lion once, falling in love with a young damsel, demanded her in marriage of her father. The father made answer, that he looked on such an alliance as a great honor to his family, but he stood in fear of the lion's claws and teeth, lest, upon any trifling dispute that might happen between them after marriage, he might exercise them a little too hastily upon his daughter. To remove this objection, the amorous lion caused both his nails and his teeth to be drawn immediately; whereupon, the father took a cudgel, and soon got rid of his enemy. This," continued Eumenes, "is the very thing aimed at by Antigonus, who is liberal in promises, till he has made himself master of your forces, and then beware of his teeth and claws."

Mr. President, President Clinton wants this conference report. President Bush would have liked to have had it. President Reagan wanted it. All Presidents, with the exception of President Taft, have wanted the veto power. So perhaps this President is about to be given the power which he will not be able to exercise, however, under its phraseology, unless and until he is reelected for the second term.

Mark my words, Mr. President, once he gets it—or any other President—then beware of his teeth and claws. Senator BYRD, you will not be as independent in your exercise against freedom of speech, against the policies of an administration, once that President has in his power this weapon. Beware of his teeth and claws. Senator BYRD, you might not have voted against Clarence Thomas if the President had this effective weapon in his arsenal. I do not know about that.

In other words, Mr. President, this power of rescinding discretionary spending will not be used by a President to reduce the deficit. It is not a deficit-reducing tool because it does not get at entitlements, past entitlements. They are one of the real causes of the deficit. This conference report does not get to them. It is not a deficit-reduction tool. Discretionary spending has already been cut to the bone. Entitlement spending, which is a real cause of growth in the deficits cannot be touched under this conference report. No. This new power of rescissions will be used by a President to threaten and coerce and intimidate members of the legislative branch to give the President what he wants or he will cut the projects and programs that our constituents need and want. It will be a sword of Damocles suspended over every Member.

This conference report, when it is examined in its minutest detail, will constitute an inhibition on freedom of speech. It is going to constitute an inhibition on the independence of judges. That is what this judge feared. I say it will constitute an inhibition on freedom of speech in both Houses, an inhibition on a Member's casting of votes on administration policies, an inhibition on every Member's free and untrammeled independence in carrying out his duties and responsibilities toward the constituents who send him or her here. What Senator is willing to surrender his independence of thought and action and speech—we will see—to an already all-powerful executive, made more powerful by a major share in the control of the purse strings given to him by this conference report, a power that no Chief Executive has heretofore, in the course of over 200 years, shared.

The political leadership of the majority party in this Congress may reap temporary political gain from the enactment of this unwise measure, but the damage that will have been done to our constitutional system of checks and balances will constitute a stain upon the escutcheon of the Congress for a long time to come. As the Roman Senator Lucius Postumius Megellus said to the Tarentines: "Men of Tarentum, it will take not a little blood to wash this gown." It will take not a little blood to wash this gown.

The majority party may reap an immediate and temporary political gain from this action, but in "reaching to take of the fruit" of this amendment, its proponents—like those in Milton's "Paradise Lost"—will "chew dust and bitter ashes."

In a March 10, 1993, hearing before the House Government Operations Committee, Mr. Milton Socolar, Special Assistant to the Comptroller General of the United States, stated "proposals to change the rescission process should be viewed primarily in terms of their effect on the balance of power between the Congress and the President with respect to discretionary program priorities." He went on to say that enhanced rescission authority "would constitute a major shift of power from the Congress to the President in an area that was reserved to the Congress by the Constitution and historically has been one of clear legislative prerogative."

Mr. President, once this shift of power to the President takes place, it will not be recovered by the legislative branch. Any bill to take it away from the President will be vetoed summarily and the prospects of overriding such a veto would be practically out of the question.

The moving finger writes; and, having writ,
moves on; nor all your piety nor wit
shall lure it back to cancel half a line,
nor all your tears wash out a word of it.

Senators should think long and hard before they agree to trade the long-term harm that will be done to the structure of our government for the short-term gain that might or might not come from passage of this bill. We should all stop and think about our Constitution, its system of checks and balances, and the wisdom of the Framers who placed the power of the purse here in this institution. We should all take the time to reread the Constitution, particularly those who may not have done so lately. We should reread it, and think about what that great document says before we agree to hand the type of enhanced rescission authority contained in this conference report over to the executive branch.

Mr. President, press reports tell us that this so-called item veto bill would give the Republicans their biggest legislative achievement of the 104th Congress. What a sad commentary to think that a bill of this quality, surrendering legislative power—the people's power through their elected representatives—and legislative responsibility to the President, and a bill so poorly drafted that we can only guess how it will be implemented, is considered an achievement. I cannot believe that the 104th Congress is so bereft of accomplishment that this bill represents its crowning glory.

Supporters of the item veto bill claim that it gives the President an essential tool in deleting "wasteful" federal projects and activities. Let us not deceive ourselves or the voters. There is not the slightest basis in our political history for believing that Presidents are peculiarly endowed by nature to oppose federal spending. Presidents like to spend money. They like proposing expensive new projects and programs, and they like to wield power, especially over the Members of the legislative branch. The national highway system, landing on the Moon, and Star Wars are some of the presidential initiatives.

The joint explanatory statement of the conference committee states that a January 1992 GAO report indicates that a line item veto "could have a significant impact upon federal spending, concluding that if Presidents had applied this authority to all matters objected to in Statements of Administration Policy on spending bills in the fiscal years 1984 through 1989, spending could have been reduced by a six-year total of about $70 billion." The fact is that the Comptroller General later apologized for this report, acknowledging that it had serious deficiencies and that the theoretical figure of $70 billion could not be defended. Actual savings, he said, could have been "close to zero." The Comptroller General even admitted that giving line item veto authority with the President could lead to higher spending, because the administration could use that authority to strike quid pro quos with legislators.

Mr. President, I ask unanimous consent to have this letter to which I have just referred, printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC, July 23, 1992.

Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: This is in response to your recent letter concerning our report on the line item veto.

In reviewing the report and the way it has been interpreted, it is now apparent that we were not sufficiently clear about the purpose of the report or what we judged to be its implications.

Let me emphasize that the analysis was not an attempt to predict what would have happened if the President were granted line item veto or line item reduction authority, only to define the outer limits of potential item veto savings during a particular period as a way of testing the assertion that item veto authority would permit a President to achieve a balanced budget.

Having defined an outer boundary for the possible budgetary savings from a hypothetical line item veto, it necessarily follows that the actual savings from such veto power are likely to have been much less than this. As you suggest in your letter, there are several reasons to believe that this would have been the case:

The President might not have applied the veto to every item to which objections were raised in the Statements of Administration Position (SAPs).

Some vetoes might have been overridden by the Congress.

Some, perhaps all, of the savings resulting from successful item vetoes might have been spent for other purposes which were either acceptable to the President or commanded sufficiently broad support in the Congress to override a veto.

Thus, depending on how the President chose to use the hypothetical item veto power and how the Congress responded, it seems likely that the actual savings could have been substantially less than the maximum and maybe, as you have suggested, close to zero. Indeed, one can conceive of situations in which the net effect of item veto power would be to increase spending. This could be the result, for example, if a President chose to announce his intent to exercise an item veto against programs or projects favored by individual Senators and Representatives as a means of gaining their support for spending programs which would not otherwise have been enacted by the Congress.

We attempted in the report to make it clear that we were developing an estimate of the theoretical maximum potential savings, not a prediction of the likely actual results. We cited the limited empirical evidence as suggesting that the actual use of an item veto would likely produce savings substantially smaller than the theoretical maximum but apparently we were not as clear in this regard as we had thought. We regret the inappropriate highlighting of the $70 billion total amount and the way it was characterized, which undoubtedly contributed to a misleading impression of the purpose and import of our analysis.

Finally, I regret that this report, which was undertaken on our own initiative, was not discussed with you before the assignment was begun and that it was addressed to you without your having been apprised of that intention. I have taken steps to assure that it will not happen again.

Sincerely yours,
CHARLES A. BOWSHER,
Comptroller General of the United States.

Mr. BYRD. Let us speak plainly. This bill changes the existing process the President uses to rescind, or terminate, appropriated funds. That process takes place after the President signs a bill into law. It does not operate when he is signing a bill, as is the case with the real item veto used by governors. It is a misnomer to call this bill an item veto.

Why do we not talk straight to the American people? Do we think they are unable to understand what we do in Washington, DC? How can we justify using false language and false concepts? This bill has nothing to do with an item veto. It is a change in the rescission process.

This executive attitude of "We know best" persists from decade to decade. The President's Economic Report for 1985 includes a discussion about the pros and cons of the item veto. It admits that there is little basis to conclude from the State experience that an item veto would have a substantial effect on Federal expenditures. In fact, it says that "per capita spending is somewhat higher in States where the Governor has the authority for a line-item veto, even corrected for the major conditions that affect the distribution of spending among States."

There are other constitutional problems with this bill. First, this bill will have a serious impact on the independence of the Federal judiciary. With enhanced rescission authority the President can delete judicial items, perhaps for punitive reasons. He has no such authority now.

Second, this bill contains a number of legislative vetoes declared unconstitutional by the Supreme Court in the

VOL 142 PT 5 MR 21 — 29 1996 UMI

1983 *Chadha* case. The Court said that whenever Congress wants to alter the rights, duties, and relations outside the legislative branch, it must act through the full legislative process, including bicameralism and presentment of a bill to the President. Congress could not, said the Court, rely on mechanisms short of a public law to control the President or the executive branch. The item veto bill, however, relies on details in the conference report to determine to what extent the President can propose rescissions of budget authority.

Third, this bill enables the President to make law or unmake law without Congress. If Congress fails to respond to the President's rescission proposals within the thirty-day period, his proposals become law. In fact, as soon as the rescission message is submitted to Congress, the President's proposal takes effect. If Congress has to comply with bicameralism and presentment in making law, how can the President make law and unmake law unilaterally?

Constitutional problems in the bill? Proponents say not to worry. Section 3 authorizes expedited review of constitutional challenges. Any member of Congress or any individual adversely affected by the item veto bill may bring an action, in the U.S. District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that a provision violates the Constitution. Any order of the district court shall be reviewable by appeal directly to the Supreme Court. It shall be the duty of both the district court and the Supreme Court to advance on the docket and to expedite to the greatest possible extent the disposition of a case challenging the constitutionality of the item veto bill.

Evidently the authors of this legislation had substantial concern about the constitutionality of their handiwork. A provision for expedited review to resolve constitutional issues is not boilerplate in most bills. You may remember that when we included a provision for expedited review in the Gramm-Rudman-Hollings Act of 1985, the result was a Supreme Court opinion that held that the procedure giving the Comptroller General the power to determine sequestration of funds violated the Constitution.

Why are we trying to pass a bill that raises such serious and substantial constitutional questions? We should be resolving those questions on our own. All of us take an oath of office to support and defend the Constitution. During the process of considering a bill, it is our duty to identify—and correct—constitutional problems. We cannot correct these here because we cannot amend the conference report. It is irresponsible to simply punt to the courts, hoping that the judiciary will somehow catch our mistakes.

As to the first constitutional issue: the impact that this bill might have on the independence of the judiciary. That is what the judges are concerned about, as reported by the New York Times today. Under this legislation, the President can propose rescissions for any type of budget item, regardless of whether it is for the executive, legislative, or judicial branch.

There is no exemption for the judiciary and certainly none for Congress. The President has full latitude to look through any bill and propose that certain funds and tax benefits be cancelled.

The item veto bill would allow the President to rescind funds for all of the judiciary except for the salaries of Article III Justices and judges. Anything else funds for courthouses, staff, expenses, etc. is subject to rescissions. Are these selections to be made solely for economy and "savings," or could they be retaliations for court decisions the executive branch finds disappointing? Probably we would never know, but the appearance of executive punishment for unwelcome decisions would be ever with us.

Given the fact that the executive branch is the most active litigant in federal courts, allowing the President this kind of leverage over the judiciary is improper and unwise. Furthermore, it represents a distinct danger to the independence of the judiciary. The availability of the rescission power, especially under the procedures of this bill, raises a clear issue of separation of powers and has constitutional dimensions.

If the President includes judicial items in a rescission proposal, judges would have to enter the political fray and lobby against the President. This is unseemly, whether the judges lobby openly or behind the scenes. They should not be put in that position, as this bill does.

Judges understand that they have to justify their budgets to Congress like any other agency, legislative or executive. But we have designed the process to protect their independence from the executive branch.

For example, the Budget and Accounting Act of 1921 specifically provided that budgetary estimates for the Supreme Court "shall be transmitted to the President on or before October 15th of each year, and shall be included by him in the Budget without revision." Congress wrote the 1921 statute this way not only for purposes of comity but to respect the coequal status of the judiciary. As the law now stands, in the U.S. Code, budget estimates for the entire judicial branch must be included in the President's budget without change.

Nevertheless, this item veto bill allows the President to reach into appropriations, to reach into conference reports, to reach into the statement of the managers, to reach into the tables and charts, and pick out judicial items for rescission. Last year, in testimony before the joint hearings conducted by the House Committee on Government Reform and Oversight and the Senate Committee on Governmental Affairs, Judge Gilbert S. Merritt testified that it "seems inconsistent to prohibit the Executive Branch from changing the Judiciary's budget prior to submission, but then to give the President unilateral authority to revise an enacted budget." His point is well taken. Certainly it is inconsistent. It cannot be justified.

More recently, the Judicial Conference of the United States has expressed its concern about the application of the item veto bill to judicial funds. It believes that there may be constitutional implications in giving the President this authority and notes that the doctrine of separation of powers recognizes the importance of protecting the judiciary against presidential interference. As the Judicial Conference points out, control of the judiciary's budget rightly belongs to Congress, not the executive branch. In light of the fact that the United States almost operating through the executive branch has more lawsuits in federal court than any other litigant, this rescission authority endangers the integrity and fairness of our federal courts. Judicial decisions should not be affected in any way, however remote, by potential budget actions by the executive branch.

Not only did Congress recognize this fundamental principal in the Budget and Accounting Act, it expressed the same value in legislation enacted in 1939. Although the 1921 statute prohibited the President from altering judicial budget estimates, the judiciary lacked a separate administrative office to prepare and implement its own budget. Oddly, it had to rely on the Department of Justice for this work. It was the Attorney General who prepared and presented to the Bureau of the Budget the estimates for judicial expenses. Several Attorneys General considered it "anomalous and potentially threatening to the independence of the courts" for the chief litigant the Department of Justice to have any control over the preparation of judicial budgets.

This anomaly was corrected by legislation in 1939 that created the Administration Office of the United States Courts, with the director appointed by the Supreme Court. The director prepared budget estimates submitted to the Bureau of the Budget and later to the Office of Management and Budget. The legislative history of the 1939 statute highlighted the need to protect the independence and integrity of the courts. In 1937 the Attorney General said that,

> * * * there is something inherently illogical in the present system of having the budget and expenditures of the courts and the individual judges under the jurisdiction of the Department of Justice. The courts should be an independent, coordinate branch of the Government in every proper sense of the term. Accordingly I recommend legislation that would provide for the creation and maintenance of such an administrative system under the control and direction of the Supreme Court.

On January 8, 1938, an article in the Washington Post pointed out that the Federal Government was the chief litigant in the federal courts. While there was no intention on the part of the newspaper "even to intimate that the Attorney General or his aides would use their power over the purse strings of the judiciary to bring a recalcitrant judge into line," the mere fact that the Attorney General "could do so if he wished constitutes a factor in the relationship between the Justice Department and the courts which should be eliminated."

During floor debate on the bill creating the Administrative Office of the U.S. Courts, Senator Henry Ashurst, chairman of the Judiciary Committee, came to the same conclusion. "No one believes," he said, "that either the present Attorney General or the preceding one would use his position to attempt to intimidate any judge; but we know enough about human nature to know that no man, not even a judge, is coldly impersonal and objective with one who holds the purse strings." In his testimony last year, Judge Merritt said that during the years between 1921 and 1939 the Budget Bureau had "refused to pass on requests for new judgeships" and the Department of Justice "cut judges' travel funds, eliminated bailiffs, criers and messengers, and reduced the salaries of secretaries to retired judges by one-half."

The judiciary should not be subject to the rescission requests made under this item veto bill. If such a bill were to pass, it is crucial to give a full exemption to the judiciary. Exempting the judiciary does not mean that the courts would escape the current pressure for budgetary cutbacks. Judges would still have to present their budget estimates to Congress and defend them. As Judge Merritt noted in his testimony last year, the judiciary's budget requests "are subjected to full review by the congressional appropriations committees in keeping with the fiscal power conferred on Congress by the Constitution. The Judiciary must justify each dollar it receives. This is appropriate and the Judiciary cheerfully respects this role of Congress." Scrutiny of judicial budgets should be in the hands of Congress, not the President.

I turn now to the issue of the legislative veto. This bill gives the President the authority to cancel any dollar amount of discretionary budget authority, any item of new direct spending, and any limited tax benefit. This authority applies to any "appropriation law," defined in the bill to mean any general or special appropriation act, or any act making supplemental, deficiency, or continuing appropriations "that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States."

Notice that the enhanced rescission authority applies only to appropriations bills "signed into law" by the President. This is a very peculiar feature. If the President vetoes a bill and the veto is overridden, the enhanced rescission authority is not available. Similarly, if the President decides not to sign an appropriations bill and it becomes law after ten days, Sundays excepted, the President may not use the enhanced rescission authority either. You will recall that President Clinton last December allowed the defense appropriations bill to become law without his signature.

Why does the enhanced rescission authority apply only to signed bills? If the goal is to maximize the opportunity for the President to rescind "wasteful" funds, why restrict the President this way? What is the purpose? Perhaps we are saying that if the President vetoes a bill and Congress overrides the veto, this second action by Congress should settle the matter. Congress has reaffirmed and reinforced the priorities established in the bill. Those priorities are not to be second-guessed in a rescission action.

Clearly this provision puts some pressure on a President not to exercise his constitutional right of veto which is set forth in section 7 of article I of the Constitution of the United States. If he vetoes and is overridden, the enhanced rescission procedure is not available. I doubt it we have thought through the merits and demerits of discouraging a veto.

The new procedure—this so-called line-item veto, enabling the President to simply cancel items of spending with which he does not agree, will make him, in fact, a super legislator. It will discourage him from using his existing constitutional veto powers to veto an entire bill, and encourage him to try to "fix" legislation with which he does not fully agree by canceling only portions of the bill. He will be the lawmaker *sui generis* because his cancellations will in practical effect, be absolute. There will be no recourse—no way to override his cancellations under the convoluted, stack-deck procedures set forth in this conference report.

The temptation to simply do a "cut and paste" job on spending bills, thereby foregoing the route of a full Presidential veto of an entire bill which might then be overridden will, it seems to me, be nearly overwhelming. As a result, we will have a President who not only "proposes," but also "deposes," in other words a super lawmaker in the White House circumventing in yet another way the principle of majority rule.

Additionally, such an approach will have the effect of discouraging a President from vetoing a whole bill, and thus through consensus and compromise and negotiations between the two branches, develop a new and better total product which he could then sign.

If the goal of this bill is to allow the President to rescind appropriations for projects and programs he objects to, we all know that appropriations bills contain large lump-sum amounts. We don't put details, or items, in appropriations bills. How does the President reach that level of detail?

The answer is that this bill allows the President to rescind dollar amounts that appear not merely in a bill but also in the conference report and the statement of managers included in the conference report. Here is where the issue of the legislative veto emerges. As defined in this bill, the term dollar amount of discretionary budget authority includes the entire dollar amount of budget authority "represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law." The dollar amount of discretionary budget authority also includes the entire dollar amount of budget authority "represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law."

In *INS* v. *Chadha* (1983), the Supreme Court ruled that whenever congressional action has the "purpose and effect of altering the legal rights, duties and relations of persons" outside the legislative branch, it must act through both Houses in a bill or joint resolution that is presented to the President. In other words, we cannot act by one House or even by both Houses in a concurrent resolution, because a concurrent resolution is not presented to the President. Nor can we act by committee or subcommittee. Anything that has the purpose and effect of altering the legal rights, duties, and relations outside Congress must comply fully bicameralism and presentment.

What of these details and items that appear in a conference report or in the statement of managers? This is a nonstatutory source. It complies with bicameralism but not with presentation. How can it bind the President?

I recognize that proponents of this bill can argue that the conference report and the statement of managers will continue to be nonbinding on the President in the management of these particular laws. To a certain extent that is true. The joint explanatory

VOL
142
PT
5
MR
21
—
29
1996
UMI

statement for this bill states: "The inclusion of subparagraph (A)(ii) is not intended to give increased legal weight of authority to documents that accompany the law that is enacted." For example, if Congress in a conference report takes a lump sum of $800 million and breaks it into one hundred discrete projects, the breakdown is nonstatutory and nonbinding with regard to implementing the law. The executive branch may depart from the breakdown over the course of a fiscal year. What is legally binding is the ceiling of $800 million. If the executive branch decides that it would like to shift money from one project to another, it can do that by following established reprogramming procedures. The breakdown, in that sense, is advisory.

But when it comes to submitting the rescission proposals, the breakdown in the conference report and the statement of managers is absolutely binding. If Congress decides to omit the breakdown in the conference report and the statement of managers, the President is limited to the lump sums and aggregates found in the bill signed into law.

It could be argued that any breakdown in the conference report and the statement of managers is a benefit to the President. Itemization creates an opportunity for the President he would not otherwise have. Why should he complain?

The constitutional point I raise is not answered by saying that the procedure might benefit the President. When Congress chose to authorize the Attorney General to suspend the deportation of aliens, subject to a one-House veto, that was a benefit. Without that authority the Attorney General would have to seek a private bill for each threatened alien. But the fact that this procedure constituted a benefit or advantage to the Attorney General, and that the Attorney General was better off with this mechanism than the previous one, did not save the one-House veto. In the *Chadha* case, the Court asked the specific question: did the one-House legislative veto comply with bicameralism and presentment? Clearly it failed both tests.

Similarly, Presidents sought authority to reorganize the executive branch and accepted the one-House veto that went with this delegation. Reorganization authority offered many benefits to the executive branch. Congress could not amend a presidential reorganization plan and it could not bury it in committee. The presidential plan would become law unless either House disapproved within a specific time period. Distinct and clear advantages to the President, but that did not save the one-House veto. *Chadha* said that this mechanism is unconstitutional for procedural reasons.

That returns us to my central question: Does the use of conference reports and statements of managers constitute an attempt by Congress to control the President short of passing a public law? Is this procedure a forbidden legislative veto? Whether it is a benefit, advantage, or opportunity for the President is irrelevant in answering this constitutional question.

Let me put this another way. Suppose we itemize the $800 million lump sum into a hundred specific projects in the conference report and statement of managers. Suppose further that Congress becomes unhappy with the President's subsequent rescission proposal and decides to retaliate the next year by eliminating all details in the conference report and statement of managers. Now the President is limited to the lump sum of $800 million in the bill. He can live with it or decide to propose the rescission of that full amount. Can any one doubt that Congress, in something that is short of a public law, is controlling the President this time in a negative or restrictive way?

Measure that fact against the explicit language of the Court in the *Chadha* case. In examining the one-House veto over the suspension of deportations, the Court concluded that the congressional action was "essentially legislative in purpose and effect." 462 U.S. at 952. Can anyone doubt that the congressional action in making language in a conference report and statement of managers the explicit guide for presidential rescissions is "essentially legislative in purpose and effect"?

Moreover, the Court in *Chadha* decided that the disapproval by the House of suspended deportations "had the purpose and effect of altering the legal rights, duties, and relations of persons" outside the legislative branch. Again, there can be no uncertainty about the purpose and effect of the conference report and the statement of managers. They have the purpose and effect of altering the legal rights, duties, and relations of the President in submitting rescissions.

Proponents of this bill may claim that it will be beneficial and constructive. We may differ on that score, but there can be no doubt about how the Court will react to such arguments. In *Chadha*, the Court said that "the fact that a given law or procedure is efficient, convenient, and useful in facilitating the functions of government, standing alone, will not save it if it is contrary to the Constitution." 462 U.S. at 944.

The question remains: Does this bill square with the *Chadha* ruling? If it does not, we are being asked to consciously adopt a bill that we know is unconstitutional, whatever merit its proponents may claim for it. All of us are capable of analyzing this issue. If the procedure established in this bill amounts to a legislative veto prohibited by the *Chadha* case, we are violating our oath of office in passing this bill. If enhanced rescission is of value, then we must vote down this bill and insist that its supporters construct an alternative bill that meets the constitutional test. To simply kick this issue to the courts is irresponsible.

It is curious that *Chadha* told Congress that if you want to make law you must follow the entire process, bicameralism and presentment, and yet this bill allows the President to make law and unmake law without any legislative involvement. Under the terms of this conference report, whenever Congress receives the President's special message on rescissions, the "cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect." The cancellation is "effective" upon receipt by Congress of the special message notifying Congress of the cancellation. Why is the cancellation "effective" before Congress has an opportunity to respond to the President's message? The executive branch may have legitimate reasons to make sure that agencies do not obligate funds that are being proposed for cancellation, but the language in this bill is offensive to the role of Congress in canceling prior law.

Of course the bill gives Congress thirty days to disapprove the President, subject to the President's veto and the need then for a two-thirds majority in each for the override. If Congress does nothing during the thirty day review period, the President's proposals become binding and the laws previously passed and enacted are undone. Through this process the President can make and unmake law without any necessary legislative action. How does that square with the intent and spirit of *Chadha*? Are we to argue that the President can make, or unmake, law singlehandedly and unilaterally, but Congress is compelled to follow the full lawmaking scheme laid out in the Constitution?

I earlier stated that placing details in a conference report and statement of managers violates *Chadha* because this phase of the legislative process is something short of a public law. It should be pointed out that in some legislative vehicles, like continuing resolutions, Congress incorporates by reference phases of the legislative process that are also short of a public law, such as a bill reported by committee or a bill that has passed one chamber. Yet those phases of the legislative process are in a vehicle—continuing resolution—that must pass both Houses and be presented to the President for his signature or veto. These precedents offer no support for the procedure adopted in this bill. The reference to committee report language in the item veto conference report does not comply with *Chadha*.

This is an enormous shift of power to the President but we cannot be sure that the courts will reverse such an abdication. If Congress is unwilling to protect its prerogatives, the courts won't always intervene to do Congress' work for it. As Justice Robert Jackson said in the Steel Seizure Case of 1952: "I have no illusion that any decision by this Court can keep power in the hands of Congress if it is not wise and timely in meeting its problems. * * * We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers."

On March 2, 1805, Vice President Aaron Burr bid adieu to the Senate, stepping down to make way for the new Vice President, George Clinton, who had been elected to serve during Jefferson's second term. Burr's farewell speech, according to those who heard it, was received with such emotion that Senators were brought to tears and stop their business for a full half hour. It was truly one of the great speeches in the Senate's history: "This House," said Burr that day, "is a sanctuary; a citadel of law, of order, and of liberty; and it is here—it is here in this exalted refuge; here, if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this Floor."

I regret to say, Mr. President, that, in my opinion, before this day is done, the ingenious prescience of Aaron Burr will have made itself manifest in the fateful events that will inevitably unfold and which will be witnessed on this Floor.

Philosophers, in their dreams, had constructed ideal governments. Plato had luxuriated in the bliss of his fanciful Republic. Sir Thomas More had taken great satisfaction in the refulgent visions of his Utopia. The immortal Milton had expressed his exalted vision of freedom. Locke has published his elevated thoughts on the two principles of government. But never, until the establishment of American independence and the drafting and ratification of that charter which embodied in it the checks and balances and separation of powers of our own constitutional system, was it ever acknowledged by a people, and made the cornerstone of its government, that the sovereign power is vested in the masses.

It was just such a noble attachment to a free constitution which raised ancient Rome from the smallest beginnings to the bright summit of happiness and glory to which the Republic arrived, and it was the loss of that noble attachment to a free constitution that plunged her from that summit into the black gulf of indolence, infamy, the loss of liberty, and made her the slave of blood thirsty dictators and tyrannical emperors.

It was then that the Roman Senate lost its independence, and her Senators, forgetful of their honor and dignity, and seduced by base corruption, betrayed their country. Her Praetorian soldiers urged only by the hopes of plunder and luxury, unfeelingly committed the most flagrant enormities, and with relentless fury perpetrated the most cruel murders, whereby the streets of imperial Rome were drenched with her noblest blood. Thus, the empress of the world lost her dominions abroad, and her inhabitants dissolute in their manners, at length became contented slaves, and the pages of her history reveal to this day a monument of the eternal truth that public happiness depends on an unshaken attachment to a free constitution.

And it is this attachment to the Constitution that has preserved the cause of liberty and freedom throughout our land and which today undergirds the noble experiment that never has ceased to inspire mankind throughout all the earth.

The gathered wisdom of a thousand years cries out against this conference report. The history of England for centuries is against this conference report. The declarations of the men who framed our Constitution stand in its way.

Let us resolve that our children will have cause to bless the memory of their fathers, as we have cause to bless the memory of ours.

Let us not have the arrogance to throw away centuries of English history and over 200 years of the American experience for political expediency. No party, Republican or Democrat, is worth the price that this conference report will exact from us and our children. Considering the fact that only about 7 percent of the regular vetoes have been overridden over a period of more than 200 years, it stands to reason that even a much smaller percentage of vetoes of disapproval bills will be overridden—keeping in mind that the presidential vetoes over the period of two centuries have been vetoes of measures which, in the main, have had national significance; the relatively few disapproval bills which will be vetoed under the conference report before the Senate will not likely be measures of national importance but will be of importance to only one or a few states, or perhaps a region at most, and it is very unlikely that the vetoes of disapproval bills will arouse sufficient sentiment in both Houses to produce a two-thirds vote to override. Hence, the President's single act of rescinding an appropriation item will be tantamount to its being stricken from the law.

This is an enormous power for the Legislative Branch to transfer into the hands of any President. The power to rescind will be tantamount to the power to amend, and this conference report will transfer to any President the power to single-handedly amend a measure after it has become law whereas a majority of both Houses is required to amend a bill by striking an item from the bill. The President will be handed the power to strike an item from a law which, if done by action of the Legislative Branch, would require the votes of 51 Senators and 218 members of the House, if all members were in attendance and voting. What an enormous legislative power to place in the hands of any President!

Mr. President, let us learn from the pages of Rome's history. The basic lesson that we should remember for our purposes here is, that when the Roman Senate gave away its control of the purse strings, it gave away its power to check the executive. From that point on, the Senate declined and, as we have seen, it was only a matter of time. Once the mainstay was weakened, the structure crumbled and the Roman republic collapsed.

This lesson is as true today as it was two thousand years ago. Does anyone really imagine that the splendors of our capital city stand or fall with mansions, monuments, buildings, and piles of masonry? These are but bricks and mortar, lifeless things, and their collapse or restoration means little or nothing when measured on the great clock-tower of time.

But the survival of the American constitutional system, the foundation upon which the superstructure of the republic rests, finds its firmest support in the continued preservation of the delicate mechanism of checks and balances, separation of powers, and control of the purse, solemnly instituted by the Founding Fathers. For over two hundred years, from the beginning of the republic to this very hour, it has survived in unbroken continuity. We received it from our fathers. Let us as surely hand it on to our sons and daughters.

Mr. President, I close my reflections with the words of Daniel Webster from his speech in 1832 on the centennial anniversary of George Washington's birthday:

> Other misfortunes may be borne or their effects overcome. If disastrous war should sweep our commerce from the ocean, another generation may renew it. If it exhaust our Treasury, future industry may replenish it. If it desolate and lay waste our fields, still, under a new cultivation, they will grow green again and ripen to future harvests. It were but a trifle even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All these might be rebuilt. But who shall reconstruct the fabric of demolished government? Who shall rear again the well-proportioned columns of constitutional liberty? Who shall frame together the skillful architecture which unites national sovereignty with

VOL
142
PT
5
MR
21
—
29
1996
UMI

State rights, individual security, and public prosperity? No. If these columns fall, they will be raised not again. Like the Colosseum and the Parthenon, they will be destined to a mournful, a melancholy immortality. Bitterer tears, however, will flow over them than were ever shed over the monuments of Roman or Grecian art. For they will be the remnants of a more glorious edifice than Greece or Rome ever saw: the edifice of constitutional American liberty.

Mr. President, I ask unanimous consent to have printed in the RECORD the newspaper article to which I alluded earlier today under the headline of "Judges' Group Condemns Line-Item Veto Bill"—that is an article from the New York Times—together with a letter addressed to me by Leonidas Ralph Mecham, Secretary of the Judicial Conference of the United States, in which he expresses concern with respect to the conference report before the Senate; an item from the Legal Times, the week of March 25, 1996, entitled "Points of View: Loosening the Glue of Democracy, the Line-Item Veto Would Discourage Congressional Compromise." The article is by Abner J. Mikva, a retired judge who served on the U.S. Court of Appeals for the D.C. Circuit, a former White House counsel for President Clinton, and a former Member of the U.S. House of Representatives. He served as chief judge in the D.C. circuit from 1991 to 1994.

Mr. President, with the permission of the distinguished Senator from New York [Mr. MOYNIHAN], I ask unanimous consent that a letter from Michael Gerhardt, a professor of law at the College of William and Mary, also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 27, 1996]

JUDGES' GROUP CONDEMNS LINE-ITEM VETO BILL

(By Robert Pear)

WASHINGTON, March 26.—The organization that represents Federal judges across the country today denounced a plan developed by Republican leaders of Congress that would allow the President to kill specific items in spending bills.

The organization, the Judicial Conference of the United States, said such authority posed a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against judges by vetoing items in judicial appropriations bills.

The proposal would shift power to the President from Congress, permitting him to block particular items in a spending bill without having to veto the entire measure. Early last year the House and Senate approved different versions of the proposal, known as a line-item veto. Recently they struck a compromise, which is expected to win approval in both chambers this week. President Clinton supports it.

But any line-item veto bill signed by the President is sure to be challenged in court, and today's criticism from the Judicial Conference suggests that it may get a chilly reception.

Judge Gilbert S. Merritt, chairman of the executive committee of the Judicial Conference, said it was unwise to give the President authority over the judicial budget because the executive branch was the biggest litigant in Federal court, with tens of thousands of cases a year.

The potential for conflict of interest is obvious, said Judge Merritt, who is also chief judge of the United States Court of Appeals for the Sixth Circuit. The court's headquarters are in Cincinnati: Judge Merritt's chambers are in Nashville.

In approving the line-item veto, Congress said it was necessary to curb "runaway Federal spending." But in an interview, Judge Merritt said the inclusion of the judiciary among agencies subject to the line-item veto was "a rather serious defect" in the bill.

The line-item veto was a major element of the Republicans' Contract With America and is a top priority of Senator Bob Dole, the majority leader, who has all but clinched the Republican nomination for President. The House passed its version of the line-item veto in February 1995, by a vote of 294 to 134. The Senate approved its version, 69 to 29, in March 1995, with 19 Democrats supporting it.

Under the compromise struck this month, the President could cancel spending for projects listed in tables and charts that accompany a bill, as well as in the bill itself. He could also cancel any new tax break that benefits 100 people or fewer.

Alan B. Morrison, a lawyer at the Public Citizen Litigation Group who has successfully challenged several unconventional lawmaking procedures, said: "In my view, this bill is unconstitutional. It certainly will be challenged in court."

Mr. Morrison said the line-item veto trampled on the procedure set forth in the Constitution for making law. Under that procedure, he said, the President may veto whole bills but not pieces of a bill.

In recent weeks, the decisions of several Federal judges have been harshly criticized by the White House and Republican candidates for President. Judges said such criticism highlighted the need for judicial independence.

"Judges were given life tenure to be a barrier against the winds of temporary public opinion," said Judge Merritt. "If we didn't have judicial independence, I'm not sure we could maintain free speech and other constitutional liberties that we take for granted."

In a letter to Congress, L. Ralph Mecham, secretary of the Judicial Conference, said: "The doctrine of separation of powers recognizes the vital importance of protecting the judiciary against interference from any President. This protection needs to endure. Control of the judiciary's budget rightly belongs to the Congress and not the executive branch."

Judge Richard S. Arnold, chairmen of the budget committee of the Judicial Conference, said in an interview: "We don't have any qualms about this particular President, but institutionally we have reservations about providing any President with a weapon that could, in the wrong hands, be used to retaliate against the courts for deciding cases against the Federal Government."

Judge Arnold, a longtime friend of Mr. Clinton, is chief judge of the United States Court of Appeals for the Eighth Circuit, which has its headquarters in St. Louis. Judge Arnold sits in Little Rock, Ark.

The Federal judiciary has a budget of $3 billion a year, accounting for two-tenths of 1 percent of the $1.5 trillion spent last year by the Federal Government. Congress may not reduce the salary of a sitting Federal judge, but may cut the budget for court clerks, secretaries, probation officers and security officers, as well as for judicial travel.

In the interview today, Judge Merritt described the judges' concern about the line-item veto this way: "If for some reason the President, whoever he may be, is irritated about something the judiciary has done, he could excise the appropriation for a particular court or a particular judicial function."

JUDICIAL CONFERENCE
OF THE UNITED STATES,
Washington, DC, March 21, 1996.

Hon. ROBERT C. BYRD,
Ranking Minority Member, Committee on Appropriations, U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR BYRD: I understand an agreement has been reached between Republican negotiators on "line-item veto" legislation. Although we have not seen a draft of the agreement to determine the extent to which the Judiciary might be affected, I did not want to delay communicating with you. The Judiciary had concerns over some previous versions of the legislation that were considered by the House and Senate. These concerns could also apply to the version on which agreement was just reached, depending on how it is drafted.

The Judiciary believes there may be constitutional implications if the President is given independent authority to make line-item vetoes of its appropriations acts. The doctrine of separation of powers recognizes the vital important of protecting the Judiciary against interference from any President.

Protection of the Judiciary by Congress against Presidential power and potential intervention is also evident in the Budget and Accounting Act of 1921, which ensures that the financial affairs of the Judiciary be insulated from political influence by the President and his staff. Prior to this Act, the Judiciary's budget was controlled by the Executive Branch. Now, by law, requests for judicial branch appropriations must be submitted to the President by the Judiciary, but must by transmitted by him to Congress "without change".

This protection needs to endure. Control of the Judiciary's budget rightly belongs to the Congress and not the Executive Branch, particularly in light of the fact that the United States, almost always through the Executive Branch, has more lawsuits in the Federal courts than any other litigant. The integrity and fairness of our Federal Courts should not be endangered by the potential of Executive Branch political influence.

In whatever agreement is ultimately reached by the conference committee, on behalf of the Judicial Conference of the United States, I urge that the independence of the Third Branch of Government be preserved.

I appreciate your consideration and we stand ready to assist you in any way necessary.

Sincerely,
LEONIDAS RALPH MECHAM,
Secretary.

[From the Legal Times, Mar. 25, 1996]

LOOSENING THE GLUE OF DEMOCRACY

(By Abner J. Mikva)

There is a certain hardiness to the idea of a line-item veto that causes it to keep coming back. Presidents, of course, have always wanted it because the line-item veto represents a substantial transfer of power from the legislative branch to the executive branch. Government purists favor the idea because the current appropriations process—whereby all kinds of disparate expenditures are wrapped or "bundled" into one bill so that the president must either swallow the whole thing or veto the whole thing—is very messy and wasteful. Reformers generally urge such a change because anything that curtails the power of Congress to spend has to be good.

My bias against the unbundling of appropriations and other legislative proposals has changed over the years. When I first saw the appropriations process, back in the Illinois legislature, it seemed the height of irresponsibility to bundle dozens of purposes into a single bill. It also seemed unconstitutional since the Illinois Constitution had a "single purpose" clause, under which bills considered by the legislature were to contain only one subject matter. But the "single purpose" clause had been observed in the breach for many years by the time I was elected in 1956.

I first saw the bundling process work when a single bill, presented for final passage, appropriated money for both the Fair Employment Practices Commission and a host of other commissions, including one to provide services for Spanish-American War veterans (there were two left in the state at the time) and one to study the size of mosquitoes that inhabited the downstate portions of Illinois. If I wanted to vote for the FEPC, I had to swallow all those other commissions, which I thought were wasteful. So I invoked the constitutional clause. to my dismay, the legislature favored all the other commissions on separate votes, but the FEPC went down to defeat. That is how I learned that there are some pluses to the bundling process.

Bundling is very asymmetrical in effect and probably wasteful. But it is also a legislative device that allows various coalitions to form and thus moves the legislative process forward.

Consider South America, where regional rivalries and resentments in many countries make governing very difficult. The inability to form the political coalitions that are normal in this country creates enormous pressure on the central government. This pressure is certainly one of the causes of the mini-revolts that perpetually arise. The have-nots feel excluded from the process, while the majority for the military regime) exercise their power without taking care of the depressed areas of the country.

It is more difficult to ignore the have-notes in the United States. First of all, members of Congress are elected as representatives of geographic areas, rather than as representatives of parties. Woe betide the congressman who starts thinking too much like a national legislator and forgets the parochial interests of his constituents.

Second, the separate elections of the president and Congress creates the necessity for the two branches to cooperate in setting spending priorities. Floating coalitions that take into account the needs of all the sections and groups in the country become essential. When urban interests wanted to promote a food program for the cities, for example, They formed a coalition with agricultural interests, and food stamps were joined with farm subsidies.

It is true that bundling encourages the merger of bad ideas with good ideas, and diminishes the ability of the president to undo the package. A line-item veto, which would allow the president to veto any single piece of an appropriations bill (or, under some proposals, reject disparate pieces of any other bill), makes the whole process more rational.

But it also makes it harder to find the glue that holds the disparate parts of our country together. City people usually don't care about dams and farm policy. Their rural cousin don't think much about mass transportation or urban renewal or housing policy. If the two groups of representatives don't have anything to bargain about, it is unlikely that either set of concerns will receive appropriate attention.

The other downside to the line-item veto is exactly the reason why almost all presidents want the change and why, up to now, most Congresses have resisted the idea. The line-item veto transfers an enormous amount of power from Congress to the president. For those of us who think that the executive branch is strong enough, and that an imperial presidency is more of a threat than an overpowering Congress, the current balance of power is just right.

That has been the gist of Sen. Robert Byrd's opposition to the line-item veto. The West Virginia Democrat has argued that the appropriations power, the power of the purse, is the only real power that Congress has and that the line-item veto would diminish that power substantially. So far, he has prevailed—although last year, the reason he prevailed had more to do with the Republicans' unwillingness to give such a powerful tool to President Bill Clinton.

But now the political dynamics have changed. The Republicans in Congress can fashion a line-item veto that will not benefit the incumbent president—unless he gets relected—and their probable presidential candidate, Senate Majority Leader Robert Dole, has recently made clear that he wants this passed. Chances for the line-item veto are vastly greater.

There are some constitutional problems in creating such a procedure. The wording of the Constitution suggests pretty strongly that a bill is presented to the president for his signature or veto in its entirety. It will take some creative legislating to overcome such a "Technicality." I reluctantly advised the president last year that it was possible to draft a line-item veto law that would pass constitutional muster. The draft proposal involved a Rube Goldberg plan that "pretended" that the omnibus appropriations legislation passed by Congress and presented to the president actually consists of separate bills for various purposes. This pretense was effectuated by putting language in legislation to that effect.

President Clinton was not then asking for my policy views, and I did not have to reconcile my advice with my policy bias toward the first branch of government—Congress. But I was uneasy enough to become more sympathetic to the late Justice Robert Jackson's handling of a similar dilemma in one of the Supreme Court opinions. He acknowledged his apostasy concerning an issue on which he had opined to the contrary during his tenure as attorney general. Quoting another, Justice Jackson wrote, "The matter does not appear to me now as it appears to have appeared to me then."

My apostasy was less public. My memo to the president was only an internal document, and I didn't have to tell him how I felt about the line-item veto. But now that I have no representational responsibilities, I prefer to stand with Sen. Byrd.

THE COLLEGE OF WILLIAM & MARY,
SCHOOL OF LAW.
Williamsburg, VA, March 27, 1996.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: I appreciate the chance to share with you my opinion on the constitutionality of the Line Item Veto Act of 1996, as set forth in the Conference Report, dated March 4, 1996 (hereinafter "the Republican draft" or "the Conference Report"). In this letter, I focus only on a few of the more serious problems with the Republican Draft and do not purport to analyze exhaustively its constitutionality. Even no, I am of the view that, given just the few significant flaws in the Conference Report that I identify and explain below, its constitutionality is plainly doomed.

Describing how the law works is crucial for identifying and understanding the constitutional and practical problems posed by some of its major provisions. As I read it, the critical delegation made by the Republican draft to the President is the authority to "cancel" all or any part of "discretionary budget authority," "any item of direct spending," or "any targeted tax benefit." Presumably, a presidential cancellation pursuant to the act has the effect of nullifying a portion of a budgetary or appropriations bill unless a majority of each chamber of Congress agrees within a specific time period to pass a "disapproval bill" specifying it intention to reauthorize the particular item cancelled by the President. The President may veto the disapproval bill, which can then become law only if two-thirds of each chamber of Congress agree to override his veto.

In my opinion, there are three fatal constitutional problems with the procedures outlined above. First, the law effectively allows any portion of a bill enacted by Congress that the President signs into law but does not cancel to become law, in spite of the fact that Congress will have never voted on it as such. This kind of lawmaking by the President clearly violates Article I, section 1, which grants "[a]ll legislative powers" to Congress, and Article I, section 7, which grants to Congress alone the discretion to package bills as it sees fit.

Article I states further that the President's veto power applies to "every Bill . . .. Every Order, Resolution or Veto to which the Concurrence of the Senate and House of Representatives may be necessary."[1] This means the President may wield his veto on the legislative product only, as Harvard Law Professor Laurence Tribe maintains in his treatise, "in the form in which Congress has chosen to send it to the White House: be the bill small or large, its concerns focused or diffuse, its form particular or omnibus, the President must accept or reject the entire thing, swallowing the bitter with the sweet."[2] Tribe's subsequent change of position is of no consequence, because he was right in his initial understanding of the constitutional dynamics of a statutorily created line-item veto mechanism. The fact that the President has signed the law as enacted is irrelevant, because a law is valid only if it takes effect in the precise configuration approved by the Congress. The President does not have the authority to put into effect as a law only part of what Congress has passed as such. The particular form a bill should have as a law is, as the Supreme Court has said, the "kind of decision that can be implemented only in accordance with the procedures set out in Article I."[3]

The Conference Report would enable the President to make affirmative budgetary choices that the framers definitely wanted to preclude him from making. The framers deliberately chose to place the power of the purse outside of the executive because they feared the consequences of centralizing the

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Footnotes at end of letter.

VOL 142 PT 5 MR 21 — 29 1996 UMI

powers of the purse and the sword. As James Madison wrote in the Federalist No. 58, "This power of the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people."[4] Every Congress (until perhaps this most recent one)—as well as all of the early presidents, for that matter—has shared the understandings that only the Congress has the authority to decide how to package legislation, that this authority is a crucial component of checks and balances, and that the President's veto authority is strictly a negative power that enables him to strike down but not to rewrite whatever a majority of Congress has sent to him as a bill.

The wisdom of leaving the power of the purse in Congress, as the framers desired as a means of checking the executive, is buttressed by the recognition that pork barrel appropriations—the evil sought to be eliminated by the Republican draft—are just unattractive examples of legislating for diverse interests, which is the very stuff of representative government. Apportioning the public fisc in a large and diverse nation requires degrees of coordination and compromise that the framers left to the initial discretion of Congress to be undone only as specified in Article I.

The second constitutional defect with the Conference Report's basic procedures involves the legitimacy of the cancelling authority given to the President. Proponents of this cancellation power defend it as a legitimate delegation of congressional authority to the President; however, this argument rests on a misunderstanding of the relevant constitutional doctrine. This misunderstanding is reflected in the CRS Report, which claims erroneously that "while the [Supreme] Court has used a balancing test in some separation of powers cases, it has never chosen to do so in delegation cases."[5] The latter assertion is simply wrong.

In fact, the Supreme Court has issued two lines of cases on congressional delegations. The first, which is not implicated by the Conference Report, involves delegations from Congress to administrative agencies or inferior bodies. The Court tends to evaluate such delegations under a "functionalist" approach to separation of powers under which the Court balances the competing concerns or interests at stake to ensure that the core function of a branch is not frustrated. For example, the Court used this approach in *Morrison* v. *Olson*[6] to uphold the Independent Counsel Act in which the Congress had delegated the executive function of criminal prosecution to an individual not formally associated with any of the three branches. Similarly, in *Mistretta* v. *United States*,[7] the Court upheld the constitutionality of the composition and lawmaking function of the United States Sentencing Commission, at least three of whose members are required by statute to be lower court judges and to which the Congress delegated the authorities to promulgate, review, and revise sentence-determinative guidelines.

The Republican Draft clearly violates, however, the second line of Supreme Court decisions on congressional delegations. These cases involve delegations from Congress to the titular head of a branch, such as one of its chambers or the President. In these cases, the Court has not used a balancing test; rather, the Court has used a "formalist" approach that treats the Constitution as granting to each branch distinct powers and setting forth the maximum degree to which the branches may share those powers. A formalist approach to separation of powers treats the text of the Constitution and the intent of its drafters as controlling and changed circumstances and broader policy outcomes as irrelevant to constitutional outcomes. In recent years, the Court has used this approach to strike down the legislative veto in *Chadha* because it would have allowed one House to take legislative action without complying with the procedures set forth in Article I; to hold in *Bowsher* v. *Synar*[8] that Congress may not delegate executive budgetary functions to an official over whom Congress has removal power; and to strike down in *Washington Airports Authority* v. *Citizens for the Abatement of Aircraft Noise*[9] the creation of a Board of Review partially composed of members of Congress with executive veto-like power over the decisions of the directors of the Metropolitan Washington Airports Authority.

Undoubtedly, the Court would follow a formalist approach in striking down the Republican draft. For one thing, the Court would not be able to escape applying the logic of *Bowsher* v. *Synar* to the proposed law. Whereas the crucial problem *Bowsher* was Congress' attempt to authorize the exercise of certain executive authority by a legislative agent—the Comptroller General, here the problem is that the President would plainly be exercising what everyone agrees is legislative authority—the discretion to determine the particular configuration of a bill that will become law. Even the law's proponent's admit it allows the President to exercise legislative authority, albeit in their view delegated to him by Congress.

Formalist analysis would be appropriate in evaluating such a delegation's constitutionality because it would be the kind about which the framers were most concerned; the checks and balances set forth in the Constitution deal directly with how the titular heads of each branch should interrelate. Hence, the Court has opted for a formalist approach to deal with delegations between the branches at their respective apexes to preclude one branch from aggrandizing itself at the expense of another. The Conference Report would clearly undermine the balance of power between the branches at the top, because it would eliminate the Congress's primacy in the budget area and would unravel the framers' considered judgment to restrict the President's role in the lawmaking process to a qualified negative rather than to have him exercise an affirmative power to redraft or reconfigure a bill.

Even if the Court used a functionalist approach to evaluate the constitutionality of the Republican draft, it would strike down the proposed law. The reason is that the law establishes an uneven playing field for the President and Congress on budgetary matters. In so doing, it profoundly alters the balance of power set forth in the Constitution. As Professor Tribe recognizes further in his treatise, such a scheme "would enable the President to nullify new congressional sending initiatives and priorities as well as to wipe out previously enacted programs that receive their funding through the annual appropriations process. Congress, which the Constitution makes the master of the public purse, would be demoted to the role of giving fiscal advice that the President would be effectively free to disregard.[10] Once again Tribe's subsequent change of position does not undermine the soundness of his initial reasoning, for the historical record is clear that the framers, as Tribe has recognized himself, never intended nor tried to grant the President any "special veto power over appropriation bills, despite their awareness that the insistence of colonial assemblies that their spending bills could not be amended once they had passed the lower house had greatly enhanced the growth of legislative power.[11]

An example should illustrate the problematic features of the proposed cancellation mechanism. Suppose that 55% of Congress passes a law, including expenditures for a new Veterans Administration hospital in New York. The President decides he would prefer for Congress not to spend any federal money on this project, so, after signing the bill into law, he exercises his authority to cancel the allocations made for the new facility. Again 55% of the Congress agrees to make this expenditure but this time through the passage of a disapproval bill. The President vetoes the latter, and Congress fails to override his veto, with only 55% of Congress (yet again) voting for the appropriation. The net effect is that the President would get to refuse to spend money 55% of the Congress will have thrice said it wanted to spend. Thus, the Conference Report would require Congress to vote as many as three separate times to fund something while assuming in the process an increasingly defensive posture vis-a-vis the President. In other words, the Republican draft allows the President to force Congress to go through two majority votes—the second of which is much more difficult to attain because it would have to be in favor of a specific expenditure that is now severed from the other items of the compromise giving rise to its inclusion in the first place—and one supermajority vote in order to put into law a particular expenditure.

A third constitutional problem with the Conference Report involves the constraints it tries to place on the President's cancellation authority. The latter if for all intents and purposes a veto. It has the effect of a veto because it forces Congress in the midst of the lawmaking process into repassing something as a bill that ultimately must carry a supermajority of each chamber in order to become law. Nevertheless, the Conference Report attempts to constrain the reasons the President may have for cancelling some part of a budget or appropriations bill. Just as Congress lacks the authority through legislation to enhance presidential authority in the lawmaking process by empowering him to reconfigure what Congress has passed as a bill into some other form prior to its becoming a law, Congress lacks the authority to restrict presidential authority by limiting the grounds a president may consider as appropriate for vetoing something.

Even apart from whatever constitutional problems the Conference Report may have, it poses two serious practical problems. First, the possibility for substantial judicial review of presidential or congressional compliance with the Republican draft is quite high. For example, it seems likely that lawsuits could be brought challenging whether the President has appropriately considered, as the act directs, such things as "the legislative history" or "any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information" or "the specific definitions contained" within it. At the very least, the bill requires that the President make some showing that he has done these things to the satisfaction of members of Congress (or at least those disposed to bring a lawsuit in the absence of such a showing). There are also numerous procedures OMB

and each house of Congress must follow that, presumably, could become the basis for judicial challenge if not done completely to the satisfaction of partisan foes in the other branch. In addition, there may be some questions as whether the President has in fact complied with Congress' or the Republican draft's understanding of the kinds of items he may cancel, such as a "targeted tax benefit."

The likely prospect of substantial judicial interference with the budgetary process is unsettling. The framers deliberately excluded the unelected federal judiciary from exercising any kind of decisive role in budgetary negotiations or deliberations. The Republican draft does not ensure that this exclusion will always be honored. The framers wanted all of the key decisionmakers within budget negotiations to be politically accountable; any budgetary impasse between the President and Congress that the federal courts help to resolve in favor of one or the other will simply diminish even further the public's confidence that the political process is the place to turn for answers to such deadlocks.

Another practical difficulty is with the authorization made by the Republican draft to the Joint Committee on Taxation to render an official opinion, which may become a part of a budgetary or appropriations measure, on whether it "contains any targeted tax benefit." The bill precludes the House or the Senate from taking issue with the judgment of the Joint Committee's finding. As a practical matter, this empowers a small number of members of Congress to impose their will on the whole body. Although this might have the salutary effect of expediting the passage of the covered legislation, it forces those members of Congress who disagree with the Joint Committee to express their disagreement only by voting down rather than by trying to amend a bill that they otherwise would support.

In summary, I believe that the Republican draft conflicts with the plain language, structure, and traditional understanding of the lawmaking procedure set forth in Article I; relevant Supreme Court doctrine; and the delicate balance of power between Congress and the President on budget matters. I am confident that the Supreme Court ultimately would strike the bill down if it were passed by Congress and signed into law by the President.

It has been a privilege for me to share my opinions about the Conference Report with you. If you have any other questions or need any further analysis, please do not hesitate to let me know.

Very truly yours,

MICHAEL J. GERHARDT,
Professor of Law.

FOOTNOTES

[1] U.S. Const. art. I, section 7, cls. 2, 3.

[2] Laurence Tribe, American Constitutional Law 265 (2d ed. 1988).

[3] *I.N.S.* v. *Chadha*, 462 U.S. 919, 954 (1982).

[4] The Federalist No. 58 at 300 (J. Madison) (M. Beloff ed. 1987).

[5] Congressional Research Service, Memorandum Regarding Constitutional Questions Respecting Bill to Grant President Enhanced Rescission Authority over Appropriations and Targeted Tax Benefits, at 16 (January 9, 1995).

[6] 487 U.S. 654, 693 (1988).

[7] 488 U.S. 361 (1989).

[8] 111 U.S. 714 (1986).

[9] 478 S. Ct. 2298 (1991).

[10] L. Tribe, *supra* note 2, at 267 (footnotes omitted).

[11] *Id.* at 267 (citing Note, "Is a Presidential Item Veto Constitutional?" 96 Yale L.J. 838, 841–44 (1987)).

MOTION TO RECOMMIT

Mr. BYRD. Mr. President, I send to the desk a motion to recommit the conference report.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will report the motion.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] moves to recommit the conference report on bill S. 4 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference.

Mr. BYRD. Mr. President, I ask unanimous consent further reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

Motion to recommit conference report on the bill S. 4 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in

VOL 142 PT 5 MR 21 — 29 1996 UMI

that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) Amendments and Divisions Prohibited.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) Temporary Presidential Authority To Rescind.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) Definitions.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) Exercise of Rulemaking Powers.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) Clerical Amendments.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) Effective Period.—The amendments made by this Act shall—

(1) take effect on the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, were the yeas and nays ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered, yes.

AMENDMENT NO. 3665 TO MOTION TO RECOMMIT

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd] proposes an amendment numbered 3665.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the instructions insert the following: "with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) In General.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"Sec. 1012A. (a) Proposed Cancellation of Budget Item.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) Transmittal of Special Message.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) Procedures for Expedited Consideration.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) Amendments and Divisions Prohibited.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) Temporary Presidential Authority To Rescind.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) Definitions.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

VOL 142 PT 5 MR 21 — 29 1996 UMI

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) Exercise of Rulemaking Powers.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) Clerical Amendments.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) Effective Period.—The amendments made by this Act shall—

(1) take effect on the date that is 1 day after the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.".

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3666 TO AMENDMENT NO. 3665

Mr. BYRD. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd] proposes an amendment numbered 3666 to amendment No. 3665.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word in the substitute amendment and insert the following: "instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) In General.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"Sec. 1012A. (a) Proposed Cancellation of Budget Item.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) Transmittal of Special Message.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) Procedures for Expedited Consideration.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of

the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) Amendments and Divisions Prohibited.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) Temporary Presidential Authority To Rescind.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) Definitions.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) Exercise of Rulemaking Powers.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) Clerical Amendments.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) Effective Period.—The amendments made by this Act shall—

(1) take effect on the date that is 2 days after the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.".

Mr. DOMENICI. Mr. President, before I suggest the absence of a quorum, let me ask Senator Byrd if he is getting close to being able to agree to a time limit.

Mr. BYRD. Yes, I am.

Mr. DOMENICI. Mr. President, we are in the process of restructuring this to accommodate what he has done. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOMENICI. Mr. President, I believe we are ready to enter into a unanimous-consent agreement. I am going to read it. Senator Byrd has seen it. Perhaps he has some suggestions, but let us get it on the Record right now.

I ask unanimous consent that during the consideration of the conference report on S. 4, the line-item veto bill, there be a total of 9 hours for debate on the conference report, with 4 hours under the control of Senator Domenici, or his designee, with the last hour of Senator Domenici's time under the control of Senators McCain and Coats; further, the remaining 5 hours under the control of Senator Byrd; any motions be limited to 60 minutes equally divided and any amendments thereto be limited to 60 minutes equally divided, as well, with all time counting against the overall limitation for debate; and further, that following the expiration or yielding back of time and disposition of any motions, the Senate proceed to vote on the adoption of the conference report with no intervening action.

I further ask unanimous consent that all the time used for debate up to now on the Republican side relative to the conference report be deducted from the time allotted under the consent agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Time is now controlled.

Mr. DOMENICI. I thank the Chair, and I thank Senator Byrd.

The PRESIDING OFFICER. Time is now controlled. Who yields time?

Mr. DOMENICI. Mr. President, parliamentary inquiry. How much time have we used on our side in favor of the bill?

The PRESIDING OFFICER. The majority has used 38 minutes.

Mr. DOMENICI. I thank the Chair. I yield the floor.

Mr. HATFIELD addressed the Chair.

Mr. BYRD. Mr. President, I yield 15 minutes of the time under my control to the distinguished senior Senator from Oregon, [Mr. Hatfield].

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. I thank the Senator from West Virginia for his yielding me time.

VOL
142
PT
5
MR
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29
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Mr. President, a very interesting experience occurred this morning at the Senate prayer breakfast. That is that former Senator Joseph Tydings from Maryland came to join us and some of the newer Senators sitting in our area, and we were informed about Senator Joe Tydings' father, Senator Millard Tydings, who represented the State of Maryland and had a very interesting political experience; and that was that he stood up, as a Democrat, to the effort on the part of President Roosevelt in 1937 to alter the structure of the Supreme Court, and that, as a result, President Roosevelt undertook a purge in the 1938 elections of those Senators who blocked his effort to change the structure of the Supreme Court which was in effect termed in those days "to pack the Court."

But he failed because the people of Maryland, as well as the people from Georgia, both returned those Senators that helped fight the packing of the Supreme Court—Democrats. They said, in effect, we support Mr. Roosevelt and the New Deal, but when he begins to tamper with the separation of powers and the checks and balances that our forefathers established in the Constitution, President Roosevelt has gone too far.

Mind you, at that time, Mr. President, there were about 19 Republicans sitting on this side of the aisle, out of the 96, and they had what they called the Cherokee strip because there were not enough seats for the Democrats to stay on that side of the aisle, and they took these back rows across this Senate and occupied those.

Senator Charles McNary of Oregon, with his little band of 19 Senators, with the assistance of the Democrats who would not support a Democratic President in packing the Supreme Court, held Mr. Roosevelt's effort and blocked it.

Mr. Roosevelt was not suggesting that we change the Supreme Court in terms of its rulings and its duties, "But just let me appoint one here and one there and one somewhere else when they get a certain age and they have not retired," because he was facing a hostile Supreme Court which was knocking down his legislation point by point when they found it to be unconstitutional.

Mr. President, this is the greatest effort to shift the balance of power to the White House that has happened since Franklin Roosevelt attempted to pack the Supreme Court. He is asking, "Oh, just give me a little veto here and a little veto there and a little veto somewhere else, and I select."

This is a concentration and transfer of power to the Chief Executive. I think it is contrary to sound constitutional practice. I am appalled that my colleagues on the Republican side should help by leading the effort to give more power to the White House, more power to the President of the United States. I suppose this is a generational gap. I grew up thinking only Franklin Roosevelt would ever be the President of the United States. And the Republican cry was, "He's leading us to a dictatorship," the concentration of power in the President's hands. The Republican campaign songs, campaign speeches in campaign after campaign, whether you were running for county sheriff or for Governor or for Senator, was to point to the fact that under the New Deal and President Roosevelt, they were concentrating power in the hands of the Chief Executive. And they were.

But here we are now, anxious to say, "Oh, please, Mr. President, take this new power. We don't have the ability to exercise the constitutional responsibility of creating and holding the purse strings."

That is what it is. Call it by any other name, it is still a transfer of power and an enhancement of power in the hands of the President. I think it is a sad commentary on the responsibility and the history and the constitutional duties of the U.S. Congress to say to the President, "We don't have the capability to exercise this, so we're going to dump it in your lap."

That was the story we talked about this morning with Senator Joe Tydings, because his father had the courage to stand firm as a Democrat against a Democratic President to stop this kind of imbalance that was being suggested by the President of the United States to add new members to the Supreme Court so he could have his total way. He controlled the Congress of the United States by extraordinary, extraordinary majorities. But it was the Supreme Court that got in his way. So he was going to change the structure of the Supreme Court so he could have more power.

Now, here is an interesting thing. Here is a Republican-led effort to give more power to a Democratic President. Maybe the election will change that in November, but once you transfer that power, no matter who is the President, you have transferred power to the other branch of Government.

One last little incident that I want to mention, and that is a few years ago Frank Church, a Democratic Senator from Idaho—Senator Church had been a strong supporter of President Johnson's Vietnam policy. The day came when he decided to join those of us who were opposing the Vietnam policy, and he got up over there—and I can remember how he made his speech, of stating his position now as an opponent of the Vietnam war. In that speech he quoted Walter Lippmann, who was a very renowned, very respected writer and had commented extensively on the issue of the Vietnam war.

So he quoted Walter Lippmann in his speech in saying, "I now stand, and I hate to say this to President Johnson, but I have to now take my position in opposition to the war policy."

Well, a week or so later Senator Church and Bethine, his wife, were down at the White House for a social function that President Johnson invited them to. As was the custom, they were going through the receiving line to pay their respects to President Johnson. You say different kinds of little remarks at that point to the President, very much a personal eyeball to eyeball. So Frank Church said to President Johnson, "You know, I have this Idaho project, and it's going to be coming down to the White House soon. I hope you'll help me on it." President Johnson looked him straight in the eye and said, "Why don't you go ask Walter Lippmann for it." "Why don't you go ask Walter Lippmann for it."

I do not have to draw a picture to see the linkage in the President's mind that you have decided not to support me on a war policy, well, I probably will be less than helpful to you on some kind of a project you have in Idaho. It invites all sorts of mischief. I can imagine the days when I stood very much in the minority on this Senate floor in opposing that Vietnam policy. I can very well imagine that I could have been given the same kind of treatment that he was extending to Frank Church, probably more likely because I was a Republican.

But let me say, there is not a single Senator in this body who could not become a target for that kind of political mischief exercised by a President when he wants your vote, when he needs your vote, when he, in effect, is demanding your vote. Then you stand there with your particular constituency when you have some funding of some kind in the Appropriations Committee, and he can just take that pen of his and, bop, just knock you out of the box; or he can say, "Now, I'll listen to your willingness to support me on this."

Likewise, it invites political mischief in this body, the Congress. They can load up a bill and say, "Well, the President now will have to veto that. He'll have to take that kind of political stance. We can embarrass him by forcing him to veto that out of the bill." I do not think we want to do that either.

I only wish that we would read our history, and remember that we came to this country to escape monarchies, dictators, czars, kaisers, and those powerful executives that ran everything in their governments. We deliberately set up three branches of government; we deliberately assigned different powers; at the same time, we had mixing of powers.

We are in the middle of an appropriation effort. There is not one way the President of the United States can force us to appropriate a dollar we do not want to appropriate. However, we

cannot appropriate a dollar without the President's approval or veto. That is the mixing of powers. He has legislative powers; we have executive powers. Consequently, we should not tinker with something that has worked very well for over 200 years in the separation of powers.

I want to say, I do not trust any President—I do not care whether he is Democrat or Republican—wanting to exercise all the power we want to give to him. Every person in this body that votes for this in the younger generations will live to see the day when it passes that they will regret that they bestowed this kind of power on the Chief Executive of the United States. It is contrary to our Republican doctrine. We want diffusion of power. We want the diffusion and the decentralization of power.

Yet the same Republicans that talk on the one hand about too much power in the Federal Government, we should give more power to local government or more power to the private sector, are now wanting to bestow an additional amount of power on the Chief Executive.

I yield the floor.

Mr. BYRD. Mr. President, I ask that the time that was consumed by Mr. HATFIELD be charged against the 5 hours under my control and not against the time on the motion.

The PRESIDING OFFICER. The Senator has that prerogative. The time will be charged that way.

Mr. STEVENS. Mr. President, I yield such time as I need. It will not be very long. I do want to say at the beginning that I am of the generation of the Senator from West Virginia and the Senator from Oregon, and have taken the positions they have stated in the past.

I am here today to explain why I support this bill.

Mr. DOMENICI. Will the Senator yield?

Mr. STEVENS. I yield.

Mr. DOMENICI. Whatever time is consumed by the Senator, I ask that it be charged against the bill and not against the amendment.

The PRESIDING OFFICER. The Senator has that prerogative. It will be charged that way.

Mr. STEVENS. Mr. President, I was pleased to be able to file this conference report on S. 4, which is called the Line-Item Veto Act. If enacted, I believe it will be the most significant delegation of authority by the Congress to the President since the Constitution was ratified in 1789.

What the Senator from West Virginia and the Senator from Oregon has said is true. It is a major, major, change in the policy of the Congress toward the executive branch. It is a temporary delegation of authority under this bill. This delegation is necessary and appropriate to help reduce the current Federal budget deficit, a deficit that I believe threatens to destroy the future well-being of our great Nation.

It is not without a lot of soul searching that I made the change in position that I have made on this bill. Mr. President, 43 Governors around the country have some form of line-item veto authority, including my own Governor in Alaska. As Governor of California, Ronald Reagan used the line-item veto authority to effectively reduce wasteful spending.

I have opposed this bill in the past because it did not cover the largest culprits of wasteful spending: entitlements and tax breaks for special interests. Together, they account for hundreds of billions of dollars each year. I opposed this bill because I did not think that we were committed to a balanced budget concept. This bill goes together with the balanced budget amendment and the significant steps that the Congress took in the Gramm-Rudman-Hollings procedures. In my judgment, this bill will enable the President to assist in carrying out the original intention of Gramm-Rudman-Hollings. At my request, the bill has been expanded and broadened to cover not only appropriations for specific projects but tax breaks and entitlements as well.

Today, Congress has the power to cut programs the President proposes that we believe are unnecessary, but unless the President vetoes an entire appropriations bill, he is powerless to single out a specific project he opposes. Likewise, unless he vetoes an entire tax bill, he cannot eliminate an unnecessary tax break designed to benefit only a narrow, special interest. This bill gives the President those powers temporarily.

In his annual State of the Union Address nearly 15 years ago, President Reagan came before us and asked us for the same power that Governors have, the power the Governor of Alaska has, and that he enjoyed as the Governor of California. Today, we are giving a President what President Reagan requested, but it is enhanced, Mr. President. It is more than President Reagan requested. It has been a long time coming, and I am pleased and hope that we will fulfill his dream. I want everyone to understand it is much, much, greater than what President Reagan asked for.

I have supported this conference report because it includes the core concept that I insisted on when the Senate considered S. 4 a year ago. That was that the line-item authority would apply to all three areas of Federal spending. Until then, as I said before, the proposals for a line-item veto hit only appropriations and left those large culprits, entitlements and target tax breaks, untouched.

The conference report gives to the President the specific authority to cancel dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits in any law that is enacted after the effective date. This means the President will be able to line out specific items in all three areas of Federal spending, whether it be appropriations, entitlements, or limited tax breaks.

The cancellation would be effective immediately and the money that is not spent goes to deficit reduction. It is part of the budget process, in my opinion. Money that is saved because of the exercise of the veto in this bill cannot be spent for any other purpose by the President or by Congress.

Now, much has been said in the press about the need for the line-item veto to control wasteful spending through the appropriations process. We have heard from the former chair of the Appropriations Committee and the current chairman of the Appropriations Committee. I still have hopes and dreams that I may be chair of the Appropriations Committee.

Many people wonder why I have changed my mind at this time. I think that some Members here seem to miss the fact that the discretionary appropriations account only for 35 percent—not even 35 percent, but approximately 35 percent—of Federal spending. The remainder of Federal spending is mandatory, in the form of entitlements, tax breaks, interest on the national debt, items we cannot control. There is no figure available for the amount of revenue that is lost to the Government through these targeted tax breaks, what the conference report now calls limited tax benefits.

If the Balanced Budget Act that Congress sent to the President had not been vetoed, by fiscal year 2002 discretionary appropriations would account only for 26 percent of Federal spending, a decrease of 9 percent even without the line-item veto. Let me repeat that: Congress agreed to a bill that the President vetoed that would have reduced the moneys covered by the appropriations process within a 7-year-period by 9 percent. The Congress already vetoed the prospect of an increase to the extent of 9 percent, Mr. President. By contrast, entitlements under the balanced budget bill that we passed and the President vetoed would have grown from 55 percent to 60 percent of Federal spending. The increase would continue. That was an increase of 5 percent in 7 years, with interest on the national debt accounting for the balance of Federal expenditures.

To put it another way, Mr. President, in 1980 the Defense Department accounted for 23 percent of Federal spending while the Social Security Administration accounted for 19 percent, and the Department of Health and Human Services 10 percent of total Federal spending. Seventeen years later, the Department of Defense will get 17 percent; Social Security, 25 percent; Health and Human Services, 22

VOL 142 PT 5 MR 21 — 29 1996 UMI

percent. In other words, the Department of Defense continues to go down while Social Security and Health and Human Services continues to go up.

Defense spending is all discretionary. It would be subject to the line-item veto under the original concept. The other two agencies that handle primarily entitlement programs would have been immune under the original line item veto concept.

This conference report allows the President to cancel new direct spending, which means any provision contained in nonappropriations laws which increase Federal spending above the current baseline. By allowing the President to cancel increases in existing entitlement programs, or the creation of new ones, the conference report provides the opportunity to control the explosive growth in mandatory spending. I basically support this bill because it now will give us a tool to require the President to help us control the growth in nondiscretionary spending.

Now, I think that ought to be very clear. In the area of taxes, the conference report does not go as far as I would have liked. But it was the best that we could get the conferees to agree to. Under our agreement, the President could cancel any limited tax benefit in a law under one of two conditions:

First, if the law contains a list of specific provisions, identified by the Joint Committee on Taxation as meeting the definition of a limited tax benefit in the conference report before the Senate now, then the President may cancel any provision so identified.

Second, if the law does not contain such a list prepared by the Joint Tax Committee, then the President may cancel any provision that meets the definition, in his opinion, of the limited tax benefit contained in this conference report. As I mentioned earlier, Mr. President, there is no ready list of revenue that has been lost to the Federal Government through targeted tax benefits. However, I believe it continues to run into hundreds of billions of dollars.

In the analytical perspectives that accompanied the President's 1997 budget, there is a table on pages 86 and 87 that I call to the Senate's attention. This lists the revenue that will be lost from major tax breaks of the past. The largest is $70 billion in fiscal year 1997 for the exclusion of employer contributions to medical insurance.

Over fiscal years 1997 to 2001, that exemption will cost the Government $423 billion. Let me repeat that in case anyone did not get that. In the period of time between 1997 and 2001, in the exemption that is already in one of the tax bills that exempts employer contributions to medical insurance, we will lose revenues of $423 billion. That is 75 percent of the entire discretionary budget that we are working on now in the Appropriations Committee.

The smallest tax break listed in the President's addendum is a special alternative tax on small property and casualty insurance companies. That provision will cost the Government, according to the President's statement, $25 million between 1997 and 2001.

It is impossible to tell from the table whether any of the provisions listed would in fact meet the definition of limited tax benefits under the conference report. I urge the Senate to remember that. It may well be that, although we are starting toward an attempt to give the President the right to eliminate limited tax breaks, we may have so defined limited tax breaks that they will never be touchable by the veto pen. But I think it illustrates my point that appropriations are not now, nor will they be in the future, totally responsible for the current Federal budget deficit. They are a part of it. They are a part of it, but the major part of it is the entitlement spending and the special tax breaks that account for so much of the problem.

In the case of appropriations, the President may cancel any dollar amount identified in an appropriations bill itself, or in the accompanying statement of managers or committee reports.

In addition, if an authorizing law has the effect of requiring the expenditure of funds provided in appropriations law for a particular program or project, the President may also cancel the dollar amount specified in the authorization law. I am not sure how many Senators realize that. But this is a very, very broad power we are delegating to the President of the United States.

The delegation is carefully structured in order to precisely define the President's authority.

In order to increase the President's discretion to cancel dollar amounts, the conferees agreed to allow the President to use the statement of managers or the governing committee report to identify those dollar amounts.

However, in order to prevent disagreements between the President and Congress over the dollar amount that can be canceled, the conferees specifically limited the President's authority to the entire dollar amount specified by Congress in the particular document he references—either the law itself or an accompanying report.

In addition, the President is required to cancel the entire dollar amount and may not cancel part of that dollar amount.

This limitation was included in order to ensure that the line item veto authority is not used to change policies adopted by the Congress that deals with appropriations or increases in tax benefits or entitlements. The line item authority cannot, for example, be used to reduce the amount appropriated for B-2 bombers so that the number of the bombers has changed. He must delete the entire amount to effect a change in policy.

Likewise, the conferees made clear that the cancellation authority does not apply to any condition, limitation, or restriction on the expenditure of funds or activities involving expenditure of funds.

This means, for example, that the President cannot cancel a prohibition on the expenditure of funds to implement a particular law or regulation.

The statement of managers before the Senate contains a number of specific examples to illustrate the conferees' intent with respect to those items the President may cancel in appropriations bills, and I want to incorporate those in my remarks at the conclusion.

I ask unanimous consent that they be printed following my remarks.

The PRESIDING OFFICER (Mr. LOTT). Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, as the Senator from New Mexico, PETE DOMENICI, said earlier today, this has been a difficult conference. Senator DOMENICI and his staff worked tirelessly on this conference report and deserve much of the credit for it.

Let me review just briefly some of the differences that had to be resolved. In the House bill, there was an enhanced rescissions approach, while the Senate bill that went to conference used separate enrollment.

The House bill applied only to appropriations and targeted taxes, while the Senate bill applied to appropriations, any tax that favored any one group, and new entitlement programs as well.

The House bill made the President's line item veto of a program effective after a congressional review period, while the Senate used a constitutional veto that was effective immediately.

The Senate bill contained a mandatory lockbox for deficit reduction. The House bill did not.

The Senate bill contained a sunset, and the House bill did not.

The list can go on and on, but foremost among all of these issues were real questions about just what it was that we were delegating to the President, and if that delegation would be found constitutional.

After many long days and nights, and not a few testy meetings—and I must say, these conferences were the most acrimonious I have faced in 28 years—I believe that we have taken the best elements of both bills and created something that will work as Congress intends. I think it may be too narrow, rather than too broad, before we are through.

More importantly, I think we have a clear delegation of authority to the President for a specific purpose, and it

is for the purpose of deficit reduction. That is what will pass constitutional muster, and I urge Members to remember that.

This is a bill for deficit reduction that goes hand-in-hand with the concept of a balanced budget bill, a bill to require the elimination of a deficit. It is a mechanism to assist in congressional discipline to ensure that the Congress and the executive branch exercise the discipline that is necessary to bring about an elimination of the deficit that so plagues our future. It is not something that is a permanent change in constitutional power. If it is to be continued, that is for someone who comes to this body after most of us will have left. But, as a practical matter, I think it is a step that must be taken if we are to demonstrate our complete commitment to the concept of eliminating a deficit and bringing about a balanced budget.

I want to congratulate the members of the conference. In particular, I want to point to the chairman of the Budget Committee, who was a cochairman of the Senate portion of the conference, and I point to Senators MCCAIN and COATS, who brought the original concept to the floor, and Chairmen CLINGER and SOLOMON on the House side. Their hard work helped to bring this bill together and bring it before the two bodies now.

We are all indebted to our majority leader, Senator DOLE. He really held our noses—and sometimes other things—to the grindstone.

I thank the current occupant of the chair, Senator LOTT, for his role as the assistant majority leader.

Mr. President, this bill is really a significant bill. Anyone who thinks it is something that should be passed over lightly is wrong. It is a major change in the balance of Government power. It is really a check on the check of the checks and balances, as far as I am concerned.

We are indebted to the staff who worked out many of the problems which we encountered with this bill. We would point them in the general direction, and they came back with language and concepts that would fulfill our goal.

Earl Comstock, who is here with me now, on my personal staff; Christine Ciccone, who helped from the Governmental Affairs Committee; Austin Smythe, Bill Hoagland, Beth Felder, and Jennifer Smith on the Budget Committee; Mark Busey with Senator MCCAIN; Sharon Soderstrom and Megan Gilly with Senator COATS; John Schall with Senator DOLE; Monty Tripp with Chairman CLINGER; Eric Pelliter with Chairman SOLOMON; and Wendy Selig with Congressman GOSS.

We got to know them pretty well, Mr. President. Unfortunately, they got to know us too well.

I think this is truly a momentous piece of legislation. I regret deeply that I disagree with my good friend from West Virginia and my chairman of the Appropriations Committee now. In my judgment, if it is my watch between the years 1997 and 2000, I intend to see to it that the Appropriations Committee heeds this warning. If we take action which might lead to increases in the deficit, if we allow funds to be spent which are not necessary, I hope the President will use this authority. If he uses his pen, as my good friend from West Virginia suggests, in a political fashion—if any President does that, he or she—during this period we are dealing with, then I think this is a powerful tool that will go away. The Congress will not allow the executive branch to have a power such as this to be exercised frivolously or politically.

This is a change in the Government structure we are suggesting. We are suggesting that the President hold the pen which allows the Congress to carry out the discipline that it imposed on itself. Gramm-Rudman-Hollings started this, Mr. President, and this bill that is before us today will continue the mechanisms of discipline to bring about elimination of the deficit. I pray to the good Lord that we will succeed this time.

Thank you, Mr. President.

I have asked that one page from this report be printed after my remarks. I call the Senate's attention to it. I do hope every Senator will read it. It is on page 20, section 1021, line-item veto authority.

That is what this bill is, not what it is not, but that is what it is. I think Senators should realize that.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

EXCERPT FROM STATEMENT OF MANAGERS

(7) Dollar Amount of Discretionary Budget Authority. The term "dollar amount of discretionary budget authority" is carefully defined in section 1026(7) in order to ensure that the President's authority to cancel discretionary spending in appropriation laws is clearly delineated. The conference report delegates the authority to the President to cancel in whole any dollar amount specified in an appropriation law.

In addition, to increase the President's discretion, the conference report allows the President to cancel a dollar amount of budget authority provided in an appropriation law by specific amounts identified by the Congress in the statement of managers, the governing committee report, or other law. By limiting the delegation of authority, the conferees intend to preclude arguments between the Executive and Legislative Branches and to ensure that the delegation is not overbroad or vague. As is described in further detail below, the conferees have sought to provide the President the ability to rescind entire dollar amounts, even if not specified as a dollar amount in the law itself, so long as the dollar amount can be clearly identified and is in an indivisible whole with which Congress has previously agreed.

The conferees note that the definition specifically excludes certain types of budget authority that are addressed by other provisions in part C of title X, as well as any restriction, condition, or limitation that Congress places on the expenditure of budget authority or activities involving such expenditure. The exclusion of restrictions, conditions, or limitations is included to make clear that the President may not use the authority delegated in section 1021(a) to cancel anything other than a specific dollar amount of budget authority.

The cancellation authority cannot be used to change, alter, modify, or terminate any policy included by Congress, other than by rescinding a dollar amount. Obviously, if the Congress has included a restriction in the law that prohibits the expenditure of budget authority for any activity, there is no dollar amount to be rescinded by the President, nor would any money be saved for use in reducing the federal budget deficit, which is a requirement for the use of the authority provided under section 1021(a).

As described in subparagraph (A)(i), the President many cancel the entire dollar amount of budget authority specified in an appropriation law. The term "entire" means just that; the President may rescind, or "line out" the dollar amount of budget authority specified in the law, so that the dollar amount provided in the law becomes zero after the cancellation. For example, in Public Law 104-37, the Agriculture Appropriations Act for Fiscal Year 1996, $49,486,000 was provided in the law for special grants for agriculture research. Using the authority granted under section 1021(a)(1), as defined under section 1026(7)(A)(i), the President could cancel only the entire $49,486,000.

Further, again under subparagraph (A)(i), if the appropriation law does not include a specific dollar amount, but does include a specific proviso that requires the allocation of a specific dollar amount, then the President may rescind the entire dollar amount that is required by the proviso. A fictitious example of what the conferees intend in this case follows:

An appropriation law includes a provision that states "for the operation and maintenance of the Army, $1,400,000,000, provided Fort Fictitious is maintained at Fiscal Year 1995 levels,". In this instance, the President could ascertain what the operation of Fort Fictitious cost in FY 1995, and could rescind that entire amount from the $1.4 billion provided for Army O&M. The conferees note that the President would have to take the entire dollar amount required to operate Fort Fictitious in FY 1995, and could not simply take part of that amount. It is intended to be an all or nothing decision.

As a further specific illustration, the conferees note that the General Construction Account in Public Law 104-46, the Energy and Water Development Appropriations Act, 1996, states:

"$804,573,000 to remain available until expended, of which such sums as necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri . . . "

In this example, the President could cancel the entire $804,573,000 or could cancel an amount equal to the entire dollar amount that would be required to fund the rehabilitation costs of the Lock and Dam 25 project, noting in his message all information as required by section 1022.

In subparagraph (A)(ii) the President is given the authority to rescind the entire dollar amount represented separately in any

VOL
142
PT
5
MR
21
—
29
1996
UMI

table, chart, or explanatory text included in the statement of managers or the governing committee report that accompanies an appropriation law. The term "governing committee report" is included to address the fact that the current practice in preparing the statement of managers for a conference report on an appropriation law is to simply address changes that were made in the statutory language and the accompanying committee reports, thus leaving intact and incorporating by reference tables, charts, and explanatory text in one of the two committee reports that were not modified by the conference.

An example of the authority described in subparagraph (A)(ii) is found in the Conference Report accompanying the FY 1996 Military Construction Appropriations Act (Public Law 104–32). The statement of managers accompanying the conference report contains a chart denoting allocations of dollars to various installations and projects. On page 38 there is an allocation of $10,400,000 for a physical fitness center at the Bremerton Puget Sound Naval Shipyard. Except for this chart there is no other reference to the physical fitness center in either the statute or narrative explanation in the Conference Report. under the authority provided by the definition in subparagraph (A)(ii), the President could cancel the entire $10,400,000 provided for the physical fitness center, but could not cancel only a part of that amount.

The inclusion of subparagraph (A)(ii) is not intended to give increased legal weight or authority to documents that accompany the law that is enacted. Rather, as an exercise of its authority to specify the terms of the delegation to the President, Congress is choosing to use those documents as a means of allowing the President increased discretion to reduce dollar amounts of discretionary budget authority provided in an appropriation law. In order to ensure that the delegated authority is clear, the conferees have limited that authority to dollar amounts identified by Congress in the appropriation law, the accompanying statement of managers, the governing committee report or other law. Since Congress often provides detailed identification of dollar amounts in the accompanying documents, they represent an agreed upon set of dollar amounts that the President may rescind in their entirety.

Subparagraph (A)(iii) has been included by the conferees to address a specific circumstance where neither the appropriation law nor the accompanying statement of managers or committee reports include any itemization of a dollar amount provided in that appropriation law. However, another law mandates that some portion of the dollar amount provided in the appropriation law be allocated to a specific program, project, or activity that can be quantified as a specific dollar amount. In this case, the President could rescind the entire dollar amount required to be allocated by the other law, since that dollar amount has been identified by Congress as a specific dollar amount that must be spent. As is the case with the earlier provisions, the President could not rescind part of the dollar amount mandated by the other law. It is an all or nothing decision. Likewise, the President could not use the cancellation authority to change, alter, or modify in any what the other law.

An example of the authority provided in subparagraph (A)(iii) is found in section 132 of Public Law 104–106, the National Defense Authorization Act for Fiscal Year 1996. Section 132 states that "Of the amounts appropriated for Fiscal Year 1996 in the National Defense Sealift Fund, $50,000,000 shall be available only for the Director of the Advanced Research Projects Agency for advanced submarine technology activities." In this example the President could "look through" the appropriation law to the authorization law that mandates that $50 million is available only for advanced submarine technology activities, and could cancel the entire $50 million.

However, had the appropriation law contained a provision that contradicted or otherwise made the mandate in the authorization law ineffective with respect to the allocation of the National Sealift Fund, then the President would not be able to use the amount in the authorization law as the basis for the cancellation of a dollar amount of discretionary budget authority. As with appropriations laws, the President cannot use the authority in subparagraph (A)(iii) to change, alter, or modify any provision of the authorization law.

Subparagraphs (A)(iv) and (A)(v) are variations on the authority granted in clauses (i) through (iii), and are intended to address the circumstance where Congress does not specify in the appropriation law, the accompanying documents, or other law a specific dollar amount, choosing instead to require the purchase of a particular quantity of goods. Subparagraphs (A)(iv) and (A)(v) allow the President to rescind the entire dollar amount of discretionary budget authority represented by the quantity specified in the law or documents. To determine the specific dollar amount, the President is required to multiply the estimated procurement cost by the total quantity of items specified in the law or documents. The President may then rescind the entire dollar amount represented by the product of those two figures. The conferees expect that the President will use the best available information, as represented by the President's budget submission or binding contract documents, to estimate the procurement cost.

The conferees have included the following example in order to more clearly explain the definition of dollar amount of discretionary budget authority as defined by section 1026(7). These examples are used solely for illustrative purposes and the conferees are in no way commenting on the merit of any of these programs. The conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The FY 1996 Agriculture Appropriations Act (Public Law 104–37) appropriates $49,846,000 in special grants for agriculture research. The Conference Report accompanying this law contains a table that allocates the $49,846,000 total into lesser dollar amounts of all which correspond to individual research programs. This table, for example, contains a $3,758,000 allocation for "Wood Utilization Research (OR, MS, MN, ME, MI)".

Using the definition in section 1026(7)(A) (i) and (ii), the President could cancel either the entire $49,846,000 specified in the statute or the entire $3,758,000 described in the chart in the Conference Report. However, because the Congress did not break down the allocations for each state associated with this project the President would not have the authority to take a portion of the $3,758,000 allocated to wood utilization research.

The conferees intend that cancellation authority only applies to whole items. If an item (or project) occurs in more than one state, and the law or a report that accompanies an appropriation law lists an item (project) and then lists a series of states, it is the entire item that must be canceled.

In the example listed above, "Wood Utilization Research" appears in the report as: "Wood Utilization Research (OR, MS, NC, MN, ME, MI)."

The conferees believe it is important to note that this line in the report must be canceled in its entirety. The President's cancellation authority is strictly limited. The President has no authority in this example to cancel wood utilization research for Michigan only.

To further illustrate this example, the conferees submit the following examples that corresponds to a chart contained in the same conference report: "Aflatoxin (IL), 133,000; Human Nutrition (AR), 425,000; Human Nutrition (IA), 473,000; Wool Research (TX, MT, WY) 212,000."

In this case, the President may cancel Aflatoxin (IL), Human Nutrition (AR), Human Nutrition (IA), and/or Wool Research (TX, MT, WY). Although there are two human nutrition research projects listed in two different states, because of the manner in which they are listed, each project may be separately canceled. Again, the President may only cancel the entire wool research program and may not cancel only wool research in Texas.

Section 1026(7)(B) describes what is not included in the definition of "dollar amount of discretionary budget authority." Subparagraphs (B)(i) and (B)(ii) exclude items of new direct spending, for which cancellation authority is provided under other sections of part C of title X. Subparagraph (B)(iii) excludes from the definition any budget authority canceled or rescinded in an appropriation law in order to ensure that those cancellations or rescissions cannot be undone by the President using the cancellation authority.

As described earlier, subparagraph (B)(iv) excludes from the definition any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or governing committee report on the expenditure of budget authority or on activities involving such expenditure. The following two examples illustrate the conferees' intent that the President cannot use the cancellation authority to alter the Congressional policies included in these restrictions, conditions, or limitations.

The Labor, Health and Human Services and Education and Related Agencies Appropriations Act, H.R. 1217, as amended by the Senate Appropriations Committee contained the following section:

"SEC. 103. No amount of funds appropriated in this Act for fiscal year 1996 may be used to implement, administer, or enforce any executive order, or other rule or order, that prohibits Federal contracts with, or requires that debarment of, or imposes other sanction on, a contractor on the basis that such contractor or organizational unit thereof permanently replaced lawfully striking workers."

The President's cancellation authority only applies to entire dollar amounts. The above example of "fencing language" is a limitation and contains no dollar amount. Therefore, the President has no authority to alter or cancel this statement of Congressional policy.

If a limitation or condition on spending—"fencing language"—is not written as a separate numbered or unnumbered paragraph, but instead is written as a proviso to an appropriated amount, the President still has no power to cancel the proviso.

The Energy and Water Development Appropriations Act, 1996, (Public Law 104–46), Title II, Department of the Interior, General Administrative Expenses, states:

"For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $48,150,000, of which $1,400,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377); *Provided*, that no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

Using this example, the President may cancel $48,150,000 or the $1,400,000 noted, but may not cancel or alter in any way the proviso restricting the use of other appropriated funds contained in this Act.

The conference report also allows the President to cancel the entire amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included. The conferees recognize that from time to time, budget authority may be mandated to be spent on a specific program or project without a specific dollar amount being listed. However, in order to comply with the proviso, the President would have to expend appropriated funds.

EXHIBIT 2

Sec. 1021. Line item veto authority

Section 1021(a) permits the President to cancel in whole any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States. The cancellation may be made only if the President determines such cancellation will reduce the federal budget deficit and will not impair any essential government function or harm the national interest. In addition the President must make any cancellations within five days of the date of enactment of the law from which the cancellations are made, and must notify the Congress by transmittal of a special message within that time.

The conferees specifically include the requirement that a bill or joint resolution must have been signed into law in order to clarify that the cancellation authority only becomes effective after the President has exercised the constitutional authority to enact legislation in its entirety. This requirement ensures that the President affirmatively demonstrates support for the underlying legislation from which specific cancellations are then permitted.

The term "cancel" was specifically chosen, and is carefully defined in section 1026. The conferees intend that the President may use the cancellation authority to surgically terminate federal budget obligations. The cancellation authority is specifically limited to any entire dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit. The cancellation authority does not permit the President to rewrite the underlying law, nor to change any provision of that law. The President may only terminate the obligation of the Federal Government to spend certain sums of money through a specific appropriation or mandatory payment, or the obligation to forego the collection of revenue otherwise due to the Federal Government in the absence of a limited tax benefit.

Likewise, the terms "dollar amount of discretionary budget authority," "item of new direct spending," and "limited tax benefit" have been carefully defined in order to make clear that the President may only cancel the entire dollar amount, the specific legal obligation to pay, or the specific tax benefit. "Fencing language" may not be canceled by the President under this authority. This means that the President cannot use this authority to modify or alter any aspect of the underlying law, including any restriction, limitation or condition on the expenditure of budget authority, or any other requirement of the law.

The conferees intend that, even once the federal obligation to expend a dollar amount or provide a benefit is canceled, all other operative provisions of the underlying law will remain in effect. If the President desires a broader result, then the President must either ask Congress to modify the law or exercise the President's constitutional power to veto the legislation in its entirety.

The lockbox provision of the conference report has also been included to maintain a system of checks and balances in the President's use of the cancellation authority. Any credit for money not spent, or for revenue foregone, is dedicated to deficit reduction through the operation of the lockbox mechanism. This ensures that the President does not simply cancel a particular dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit in order to increase spending in other areas.

Section 1021(b) requires the President to consider legislative history and information referenced in law in identifying cancellations. It also requires that the President use the definitions in section 1026, and provides that the President use any sources specified in the law or the best available information.

Section 1021(c) states that the President's cancellation authority shall not apply to a disapproval bill, as defined in section 1026. The provision is intended to prevent an endless loop of cancellations.

Mr. BYRD. Mr. President, will the Senator yield for one moment?

Mr. STEVENS. Yes.

Mr. BYRD. Mr. President, I take this occasion to congratulate the distinguished Senator from Alaska [Mr. STEVENS], and the other Members of the Senate who were conferees.

As I sat and listened to him as he has outlined the changes that were brought within the bill during the meeting of the conference, I commend our Senate conferees. I think they brought about several improvements over the House position. I thank them for that.

Mr. STEVENS. Mr. President, I am honored by those comments.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I thank the Senator from Alaska for his gracious remarks, and all of those involved in this, including the occupant of the chair, the Senator from Mississippi.

There is very little doubt that the Senator from Alaska had the most difficult time with this legislation. That is understandable given the fact that he will play a key and vital role in the upcoming appropriations process which affects us.

So we are very grateful, not only for his gracious remarks, but for his very cooperative participation in this process.

Mr. President, in behalf of this side, I yield 10 minutes to the Senator from Texas, who also played a very important role from time to time during our conference bringing a degree of insight, particularly helping us understand the difference between enhanced rescissions and real line-item vetoes.

Mr. President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. GRAMM. Mr. President, I believe this bill represents a significant break with the past. I think it does in a very real sense represent the changing of the guard. Might I say that I think it is long overdue.

The last time we balanced the Federal budget was in 1969 when Richard Nixon was President, and it happened only because of a big tax increase that occurred in 1968—an income surtax. It lasted only for 1 year, and then it was gone. The last time we balanced the budget 2 years in a row where the budget was balanced by fiscal restraint by doing what every family and every business in America has to do every year was in the middle of the 1950's when Dwight David Eisenhower was President of the United States.

In other words, we are here today changing the fundamental powers of the Presidency as they relate to the Congress and altering our system of the distribution of that power because for 40 years we have not been able or willing to say "no." And because we have not said "no," because we have said "yes" to virtually any organized special interest group with a letterhead, that has meant that families have had to say "no" on a constant basis. The problem is we have said "yes" to spending money when "yes" was the wrong answer, forcing families to say "no" to investing in their future and the future of this country, when "no" was the wrong answer. We are here today to try to change that.

What does the line-item veto do, and what does it not do? The line-item veto allows the President to go inside an appropriations bill and to eliminate a program, a project, or an activity. He does not have the ability to change it. He can either say "yes" or "no" to the whole thing and strike it out, and then alter the budget total at the top of the page.

This will allow the President to exercise leadership in controlling spending and to impose priorities. But, if the Congress does not agree and if there is strong disagreement, the President can be overridden. But what it does, no doubt about it—and the distinguished Senator from West Virginia is right—it changes the balance of power between

VOL
142
PT
5
MR
21
—
29
1996
UMI

the Congress and the President in one fundamental way: It gives the President enhanced power to say "no" to spending. It does not give him the ability to spend more money. It does not give him the ability to change priorities by partially altering spending figures. It enhances his ability to say "no."

It seems to me, Mr. President, after 40 years of living proof every day that our Government cannot say "no" when "no" is clearly the right answer, the time has come to change the system. This is a fundamental reform, there is no doubt about it.

If you had a President who was honest-to-God willing to get out a pen and to veto, he could change America. And he could change it very, very quickly. Let us hope that the Lord will give us such a person.

What is the problem with which we are trying to deal? The problem is not just this abstract idea of deficits. The problem is that in the mid-1960's, we fundamentally changed America without America ever knowing it, without an election ever being held on this subject, and maybe without Members of Congress knowing it.

What happened is that prior to 1965, in this whole century, excluding the years of the Great Depression, our economy had performed very well. We had experienced an economic growth rate of almost 3.5 percent. From 1950 to 1965, our economy grew at over 4 percent a year. What that meant was new jobs, new growth, new opportunity. It created a situation through the whole of the 20th century, with the exception of 4 years during the Great Depression, where in almost every family in America parents did better than their parents, and they could be almost certain that their children were going to do better than they had done.

Beginning in 1965, we traded that in for a Government growing at an average of 9 percent each and every year since. What has happened is this year the economy is growing at 1.7 percent. The average family's take-home, after-tax pay today is lower than it was in 1992. For the whole decade of the 1970's, the average working American family was worse off at the end of the decade than they were at the beginning because the economy did not perform, because we spent the seed corn of our economy here in Congress, and the President in signing appropriations bills had no ability to go inside those bills and strike items.

So what we are doing today is trying to change a system that is broken. There are clearly people who love the old ways, who believe that Congress ought to have this ability to fill up bills with little add-ons that the President would like to veto but cannot veto without vetoing the whole bill. But I think after 40 years of failure, after 40 years of mortgaging the future of the country, after 40 years of lowering the potential living standard of our people, we have an opportunity if we would change the way Government does its business to guarantee that our grandchildren will be twice as well off as they will be if you continue business as usual.

That is the ability to affect the lives of everybody in this country and everybody on this planet. It is the ability to give people the opportunity to escape poverty and fulfill their dreams. That cannot happen when Government is borrowing 50 cents out of every dollar. So we are here today to change it. This is going to be a fundamental, sweeping change in Government. My only disappointment is that it is not permanent. This is grandfathered, and what it will mean is that if we do have a President who actually uses it, my guess is we will not restore it to them once this expires. I had hoped this would be permanent law, but this is a very, very important bill. I commend everybody who has been involved in it.

Let me conclude by just thanking some people individually.

First of all, I thank TED STEVENS, who had very real hesitation about this bill. I thank PETE DOMENICI. Both of these men had real reservations when we started. This has meant a compromise for them, and I think, quite frankly, we have a better bill right now than we did when we started this process. I think they are largely responsible for it. But only because of their support will this bill become the law of the land.

I thank DAN COATS and JOHN MCCAIN for their leadership. This has been a battle which has really raged for 8 years. Many people have despaired of it ever happening. But it did happen because we had people who cared strongly about it. I think it reveals the basic lesson of democracy, and that is intensity counts. If you have people who care very strongly about something and they do not give up, ultimately they succeed.

I also thank the Presiding Officer, our distinguished assistant majority leader, for his good counsel in bringing people together and helping to push this matter to a final conclusion.

It is interesting in that I think this is an old issue which has been debated a long time and as a result there is not the clamor which normally would surround a bill that is as important and momentous as this bill is, and that is a disappointment I am sure both to those of us who are for it and those who are against it in terms of its profound impact on America. There are very few things we have done in the last 4 or 5 Congresses that have a larger potential impact than the passage of this bill.

I congratulate everybody who has been involved. I believe we are not only making history today, but we are making good history. That is something which does not happen very often. This is one more tool the President has, if the President wants to do something about the deficit. If we have a President who really wants to do it, all that President has to do is get one-third plus one in one House of Congress, sharpen up his pencil, and he is in business. I believe it is going to take strong leadership.

I wish to conclude by remembering the words of Ronald Reagan when he asked for this power and said, "Give me the line-item veto and let me take the heat." I was always disappointed we did not do that, but we are going to give whoever is President in January this power. We will see if they can take the heat.

I thank the Chair and I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition? The Senator from West Virginia.

Mr. BYRD. Mr. President, I shall quote Lord Byron:

> A thousand years scarce serve to form a state; an hour may lay it in the dust.

Mr. President, let me explain my motion now for the benefit of Senators on both sides.

Mr. President, in offering this motion to recommit, I am, I hope, providing one last opportunity for the Senate to come to grips with what we are about to do. It is my desire that each one of us, before we cast our vote on the conference agreement to S. 4, have the chance to reevaluate our position, to rethink the damaging consequences that will necessarily extend from this enhanced rescission proposal, and to vote, instead, for a more sensible approach than that offered in S. 4, as amended.

In essence, my motion to recommit would supplant the provisions currently contained in the conference agreement with those contained in S. 14, as originally introduced by Senators DOMENICI, EXON, CRAIG, BRADLEY, COHEN, DOLE, DASCHLE, and CAMPBELL on January 4, 1995. That measure was, I believe, a workable proposal that would give the President broad and uncomplicated authority to propose the rescission or repeal of not only appropriated funds, but, also, new direct spending and targeted tax benefits.

Consequently, my proposal will allow any President to rescind any of these budget items under an expedited process that guarantees the President will receive a vote on any of his proposed rescissions. The process would work as follows:

The President would have 20 calendar days after the date of enactment of each covered measure to transmit a special message to Congress proposing to cancel any of the budget items previously mentioned. The House and Senate would then be required to take up the President's proposed rescissions

under expedited procedures which would ensure that a vote on final passage of the President's proposed rescissions shall be taken in the Senate and House of Representatives on or before the close of the tenth day of session of that House after the date of the introduction of the bill in that House.

Furthermore, procedures are contained in the measure to ensure that such measures are introduced no later than the third day of session of each House after receipt of a special message from the President.

During consideration of the rescission bill in either House, any member may move to strike any proposed cancellation of a budget item. I might note parenthetically that this represents a change from S. 14, as introduced, in that S. 14 would have required a member of the House to gather the signatures of 49 other members in order to offer an amendment to a rescission bill on the Floor and in the Senate would have required a Senator to collect an additional 11 signatures in order to be able to offer an amendment to strike a proposed rescission from a bill. I do not agree that members of the House and Senate should be prohibited from offering their amendments as they so wish without the necessity of gathering signatures from other members.

Under my proposal, debate in the Senate on a rescission bill and all debatable motions and appeals in connection therewith shall not exceed 10 hours. A motion in the Senate to further limit debate on a rescission bill is not debatable. A motion to recommit a bill is not in order. Debate in the House of Representatives or the Senate on any conference report on any rescission bill shall be limited to not more than two hours, motions to further limit debate will be nondebatable, and motions to recommit the conference report will not be in order.

Finally, my proposal contains an ironclad lockbox provision to ensure that any monies saved through these rescissions are, indeed, used for deficit reduction. Under this proposal, the President and Congress must each take action to reduce the discretionary spending limits contained in section 601 of the Congressional Budget Act, the committee allocations under section 602, and the balances for the budget under section 252 of the Balanced Budget and Emergency Deficit Control Act.

By adopting this proposal, I believe that the Senate will then have passed a measure that effectively amends the present impoundment procedure, while at the same time maintaining the constitutional separation of powers by protecting congressional control of the purse strings from an unchecked executive.

Mr. President, I remind my colleagues that it was the considered judgment of the distinguished chairman of the Budget Committee, working in conjunction with the ranking member of that committee, Mr. EXON, that the expedited rescission process contained in S. 14, as originally introduced, was the most appropriate approach to this issue. Based on their expertise—expertise gained through many years of study of the budget process—the provisions contained in the Domenici-Exon rescission bill give us a workable process. Consequently, my motion, if adopted, would force the Congress to vote, in an expedited fashion, on the President's rescission proposals. No longer would Congress be in a position to simply ignore the recommendations of the President. We would be mandated, under the language I am proposing to have substituted, to consider the President's request, and to do so in a timely manner.

Furthermore, under the terms of S. 14, as introduced, this newly crafted expedited rescission process would extend not only to appropriated funds, but, also, to the vast amounts of revenues lost each year through the use of tax expenditures. As with entitlement programs, tax expenditures cost the U.S. Treasury billions of dollars each year; nearly $500 billion in this fiscal year alone. And, again, like entitlements, they receive little or no scrutiny once they are enacted into law. Even though they increase the deficit, just like spending on mandatory programs, tax expenditures routinely escape any meaningful fiscal control or oversight. Indeed, by masquerading as a tax expenditure, a program or activity that could not pass congressional muster could be indirectly funded and survive for years.

Yet, the conference agreement on S. 4 effectively puts this entire area of Federal expenditures out of the reach of the President. By limiting the President's rescission authority to only those tax expenditures that, by definition, benefit 100 or fewer taxpayers, S. 4 absurdly restricts the ability of the President to get at this type of backdoor spending.

How absurd is this? Imagine limiting the scope of the President's rescission authority to those appropriations that impacted 100 or fewer beneficiaries. Imagine the wrath of verbal indignation that would befall any Senator who stood up here and proposed that kind of rescission process. What would the proponents of S. 4 think of the efficacy of their legislation with that type of restriction in place on appropriated funds?

Mr. President, the concept of numerical definitions on tax expenditures was rejected in the Senate because we all know that any tax lawyer worth his salt can find a few extra people to qualify for the targeted tax benefit, thereby bringing the number of beneficiaries above 100 and out of range of rescission authority. Consequently, this limitation is nothing more than an open invitation to the many creative tax attorneys in this country to find ways to abuse the system.

But the asininity of such a provision does not stop there. The definition of a tax expenditure, or "limited tax benefit" as S. 4 calls it, is further gutted with exemptions for tax breaks that serve to benefit all persons in the same industry, or all persons engaged in the same type of activity, or even all persons owning the same type of property. Thus, under that definition, a special tax break passed by the Congress for anyone owning a Rolls Royce, for example, would not be subject to a presidential rescission since everyone affected would own the same type of property, in this case a Rolls Royce.

Mr. President, I find it ironic that the proponents of S. 4—who seem to be claiming that their so-called line-item veto is the only version that will effectively cut wasteful spending—are the very same people who seem to be afraid to give the President of the United States a similar method of cutting wasteful tax breaks. Why should the President be given the power to veto spending for school lunches, or highway construction, or drug programs, and not be given the power to veto the tax deduction claimed by businessmen for a three-martini lunch? Whether wasteful spending is in a program funded through an appropriation or through a tax break, it is still wasteful spending.

The Domenici-Exon expedited rescission bill, which I am offering as a substitute to the current conference agreement, gives the President real authority to go after wasteful tax breaks. Under the substitute, every tax break would get the same presidential scrutiny as every program funded through the appropriations process. No more, but certainly no less.

Finally, but not insignificantly, Mr. President, is the issue of timing. The rescission process that I am proposing is immediate. It is not put off until next year. It is not delayed until 1997, as it is under the conference agreement. Under the substitute, the President would have the opportunity to exercise his newfound rescission powers right away, this year, on any appropriations, or entitlements, or tax expenditures enacted by this Congress. But, under the conference agreement, the President—in this case President Clinton—is not allowed to affect the fiscal year 1997 appropriations. Apparently, President Clinton is not to be trusted with this new power. Apparently, the hope of the proponents of the conference agreement is that, after 1996, the White House will be under Republican control. Apparently, what is good for a possible Republican President is not so good for a President for the Democratic party.

Mr. President, my position on enhanced rescission is well known to my

VOL
142
PT
5
MR
21
—
29
1996
UMI

colleagues. I believe that passage of this conference report, in its present form, would be a truly monumental mistake that will do great harm to the constitutional balance of powers while contributing very little toward balancing the federal budget. I have been, and continue to be, unalterably opposed to granting any President the power to rescind portions of spending measures under conditions which would require a two-thirds vote of both Houses to override such rescissions.

But if we are to have legislation that amends the current rescission process, I hope that we will at least have the presence of mind to ensure that we do not give away, in wholesale fashion, that which the constitutional Framers so wisely placed in this branch of government. Accordingly, I urge my colleagues to adopt my motion to recommit.

The PRESIDING OFFICER (Mr. McCAIN). Who seeks recognition?

Mr. BYRD. Mr. President, I ask the time be charged against my time on the amendment.

The PRESIDING OFFICER. The time will be so charged. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I, first of all, want to take this opportunity to express my respect for the Senator from West Virginia. We clearly are on different sides of this issue. He has been an articulate and zealous protector of the prerogatives and rights of this institution, and he has articulated those well, and I respect that.

I also respect his unswerving allegiance and dedication to that proposition and know that it is very, very important, and it has been over the 8 years of debate on line-item veto, a great history lesson for this Senator.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his overly generous and charitable remarks.

Mr. COATS. Mr. President, it is my understanding that it has been cleared that we could move to a vote at 5:45, to have Senator DOMENICI recognized in order to make a motion to table the pending motion to recommit.

I want to make sure the minority leader and Senator BYRD—if that is his understanding?

Mr. BYRD. That is my understanding. I have no objection. I ask the request be amended to provide that Mr. MOYNIHAN be recognized at 5 o'clock to speak in opposition to the conference report, and the time to be charged against my time on the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. COATS. We have no objection to that, Mr. President. Therefore, I ask unanimous consent that at the hour of 5:45 this evening, Senator DOMENICI be recognized in order to make a motion to table the pending motion to recommit, and, prior to that, at 5 p.m. this evening, Senator MOYNIHAN of New York be recognized to speak in opposition—in favor of the motion to recommit and in opposition to the bill on the floor, the time to be charged to the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I would just alert our fellow Senators that a rollcall vote will now occur at 5:45 p.m. today; that there will still be, after that vote, time remaining on this debate. I am not sure how much of that time will be used. I do know there are some requests for time, so Senators should also expect that there will be additional debate and a vote on final passage on this line-item veto conference report sometime this evening.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I would like to request some time on this side. I think 5 minutes will be adequate.

Mr. COATS. Mr. President, I am happy to yield to the Senator from Mississippi whatever time he desires.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I want to say this afternoon I am extremely proud of the U.S. Senate and of the Congress, because I believe before this week is out we will have passed this already described momentous legislation into law. It is not an easy thing to do. It is very difficult.

I remember, soon after I came to the Senate, we had debate on the line-item veto. I think probably the Senator from Indiana and the Senator from Arizona, Senator McCAIN, were involved in it then. I made some comments, and I had a couple of Senators come over and explain to me that might not be a good idea, to support that. They caused me to think a lot about it.

But here, in effect, we are taking action against our interests. This is a fundamental change; there is no denying it. The Senator from West Virginia is right; the Senator from Alaska. Yet, we are going to do it because, first, I think, we have come up with better legislation than we had 7 years ago, or earlier this year.

We have improved it. We have made it more acceptable to more Senators or Congressmen, Republicans and Democrats. So we are going to go forward with it, and we are going to do it at a time when the majority of the Congress is not of the party of the President in the White House. We are saying that in spite of that—maybe because of it—we want him to have this additional authority.

For 15 years, we have been talking about the line-item veto, maybe longer. But I personally have been familiar with it for those years. As a Member of the House, I was for the line-item veto. I remember making speeches when President Carter was in the White House, and I continued to be for it during the Reagan administration, the Bush administration, and I continue to be for it.

So I think we are showing that we can rise above politics, if you will—partisan politics—and take an action because we believe it will be the right thing to do for our country, we believe it will be the right thing to do in trying to help control spending. It may not work like we hope it will, it may run into difficulties, but I believe it is the right thing to do, and I do support it.

I think that it will be used responsibly by the Presidents of the United States, this one or his successors. I think most Governors use it responsibly in their exercise of the line-item veto, and I think the Presidents will. But if they do not, we will have another opportunity to address it.

I do also want to join in commending the Senator from Arizona, Senator McCAIN, for his dogged support of this idea, and also the Senator from Indiana. They have worked together. They have worked against overwhelming odds and never gave up, even though it looked pretty dismal just a month or so ago.

I have to express my appreciation for Senator STEVENS and Senator DOMENICI. They were aggressive, they were active, but they were involved. I remember I had been talking with the Senator from Alaska one night about what we had been trying to do, and he had been very aggressive in saying how he did not want us to do that. He had worked me over from three or four different angles trying to educate me. Then I said, "OK, I understand you don't want it. Is there a solution?" He stopped and said, "Well, maybe there is."

So we worked together. Even the Senator from West Virginia, who so opposes this legislation, has been very much a gentleman in the way he has handled the debate, how he is addressing this issue today, the motion to recommit he has offered, and the time agreements he has entered into. So a lot of people deserve credit.

I think it is a carefully crafted piece of legislation. We went into the detail of what would it mean for the President to be able to veto in whole or in part. Quite frankly, we were a little bit surprised—I know I was—at what that could mean. So we worked to try to clarify what that "in part" meant.

It does include things other than just appropriations. It does include the so-called tax expenditure. But that provision is carefully drafted, it is carefully defined, and I think we came up with the right blend, so that also can be considered by the President when he reviews legislation we send to him.

We were very careful in deciding what to do on the sunset. There was a lot of argument that we should have no sunset, and there were others who said, and I kind of agreed, "Look, this is big legislation, important legislation, it may not work out correctly. It may be abused. So after a certain period of time, let's be allowed to take a look at it."

I think it will work correctly. I hope it will be extended. I hope to support to extend it when the time comes.

We even talked a lot about the effective date. We wanted to make sure it was going to be handled in such a way it would go into effect as soon as possible. We do have a provision that says if we reach a balanced budget this year, it will go into effect on that date, or January 1, 1997, whichever is earlier. The President and the majority leader talked about that and agreed that was the fair way to do it.

I think we have done what we said we were going to do. I have always felt the President should have this authority. I am in the Congress. I guess I should be jealous of ceding authority to the President, but I really do feel the President should have this authority. We can only have one Commander in Chief at a time. He is the ultimate authority. He should have the ability to go inside a bill and knock out things that are not justified, that have not been sufficiently considered, that cost too much—whatever reason—without having to veto the whole bill.

I am very pleased this afternoon to rise on the floor of the Senate and commend the Senate for what I believe will be their action today and all those associated with this effort. I think it is the right thing to do. I believe it will help save some of our children's tax money in the future.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Michigan [Mr. LEVIN], 30 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Chair.

Mr. President, first, let me thank our friend from West Virginia. He has already been told this afternoon by so many of us just how important he is to the Nation and to the U.S. Senate in the cause he is fighting and the many causes he has fought and continues to fight for in this body. Many of the accolades, indeed, have come from people who are on the other side of this issue from him, but I want to let him know, as someone on the same side of this issue as he is, we, too, feel particularly keenly about the leadership that he has exerted on this issue and so many other issues involving the Constitution of the United States.

This is our bedrock document, a fundamental document. It has no more staunch supporter of the Constitution in this body or in this country than Senator BYRD, and I just want to add my voice to those of so many others in this body on both sides of this issue in gratitude for the labor that he has given to this Constitution. From his perspective, I know they are not labors because they are labors of love.

Mr. BYRD. Mr. President, the Senator from Michigan is a man of great tenacity and perception and love for the Constitution and for him to deliver remarks on my behalf, he certainly has brightened my day. I am very grateful.

Mr. LEVIN. Mr. President, while we are expressing sentiments about each other personally, before I get into my remarks on this bill, which I oppose for reasons I will set forth, I want to add my thanks also to the Presiding Officer and the Senator from Indiana, who is managing the bill, and to others on the other side of this particular issue for the manner in which this debate has proceeded.

It is a very significant debate, and people on both sides of this issue feel very keenly about it. I think there is unity in terms of trying to find a form of line-item veto, so-called, which is constitutional, because whatever side of the particular bill we are on, as to whether we think this version is constitutional or not, I think most of us would like to find a formula which would give the President greater power to identify issues in bills, items in bills which he feels should be separately voted upon, which should be highlighted for the public, for the Congress, and we should then vote up or down on.

I, for instance, very much favor the version which the Senator from West Virginia has offered, which will be voted upon later this afternoon. That so-called expedited rescission process, it seems to me, is constitutional and is something which we can in good conscience, at least I can in good conscience, support.

The Presiding Officer and many others in this body obviously feel that the version which is currently before us is constitutional or I do not think they would have been proposing it. There is a difference on this issue, but it is a difference which is held in good faith. I must say, I greatly admire the Senator from Arizona and the Senator from Indiana and others for the manner in which they have proceeded relative to this issue.

Mr. President, as I said, I support the version of the line-item veto which is known as expedited rescission. That version would ensure that any item of spending which is enacted by the Congress that the President believes to be inappropriate would, in fact, have a separate congressional vote.

That approach to the line-item veto would make it impossible to hide questionable spending in massive appropriations bills. That is one of the goals of the sponsors of the version that is before us. It is to make it impossible to hide questionable spending in these massive appropriations bills.

Senator BYRD's version—the expedited rescission approach—also will make it impossible for these kinds of items to be hidden by a Congress because it would require and ensure a separate congressional vote on any item of spending that the Congress enacts that the President feels is inappropriate.

The problem with the current bill is that it fails the fundamental test of being consistent with the requirements of the Constitution that any repeal or amendment to a law be enacted in the same way that the law itself was enacted. The Constitution establishes the method by which laws are enacted, by which laws are amended, and by which laws are repealed. It is fundamental constitutional law. It is basic, bedrock law that says that a bill becomes law when it is passed by both Houses of Congress and signed by the President, or if the bill is vetoed by the President, when that veto is overridden by a two-thirds vote in each House.

The bill before us purports to create a third way by which laws can be made, a way not recognized in the Constitution. And this third way, this new way, is by giving the President the unilateral power to repeal a law or part of a law without any action by the Congress.

The Founding Fathers made a conscious decision to give the power of the purse to the Congress and not to the President. This power of the purse serves an important check on the power of the Presidency. It is, in fact, a crucial element in the system of checks and balances which was established by the Founding Fathers. These checks and balances are not a mere abstraction; they were expressly written into the Constitution to protect our freedom.

James Madison warned in Federalist No. 47 that—

> There can be no liberty where the legislative and executive powers are united in the same person.

He quoted Montesquieu for that point. It was because of that, the fear of uniting executive and legislative powers in the same person, that article I of the Constitution gives Congress, and not the President, the power of the purse.

Article I, section 1, states without qualification—and the first word in this quote is the critical one—

> All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Article I, section 8 adds:

> The Congress shall have Power To lay and collect Taxes, . . . to pay the debts and provide for the common Defense and general Welfare of the United States; . . . [and] To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Article I, section 9 affirms that:

VOL
142
PT
5
MR
21
—
29
1996
UMI

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by law.

It was Madison, in Federalist No. 58, who explained that the power of the purse was granted to Congress because it represents the "most complete and effectual weapon with which any Constitution can arm the immediate representatives of the people for obtaining a redress of every grievance and for carrying into effect every just and salutary measure."

Congress cannot change the system of checks and balances established by the Founding Fathers. We cannot do it, and we should not try. But this conference report, in the mechanism which it chooses, attempts to change the system of checks and balances which are embedded—and may I use the word "enshrined"—in the Constitution of the United States.

The enhanced rescission power that is granted to the President by this bill attempts to alter our constitutional system by giving the President unilateral authority to control spending and to substitute his personal budget priorities for the priorities that have been passed by the Congress and signed into law. This bill would give the President the unilateral power to repeal a statute or part of a statute without any action at all by the legislative branch.

That is the heart of the matter. This bill in front of us would give to the President the unilateral power to repeal a statute or part of a statute, the law of the land, without any action by the legislative branch. That is something that we cannot do.

The Supreme Court said as recently as in the Chadha case, that it is beyond Congress' power to alter the carefully defined limits and the power of the branches. This is what the Supreme Court said in Chadha:

> The bicameral requirement, the Presentment Clauses, the President's veto, and Congress' power to override a veto were intended to erect enduring checks on each Branch and to protect the people from the improvident exercise of power by mandating certain prescribed steps. To preserve those checks, and maintain the separation of powers, the carefully defined limits on the power of each Branch must not be eroded.

The Chadha court went on to say:

> There is no support in the Constitution or decisions of this Court for the proposition that the cumbersomeness and delays often encountered in complying with explicit constitutional standards may be avoided, either by the Congress or by the President. . . . With all the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution.

The veto or the repeal or the cancellation, unilaterally, of an existing law by the President is subject to the same constitutional restraints.

The Chadha court explicitly stated that "[a]mendment and repeal of statutes, no less than enactment, must conform with Article I" of the Constitution.

That is an explicit statement of Chadha by the Chadha court. We cannot change that unless we adopt a constitutional amendment and send it to the States.

The Chadha court has told us what courts have told us throughout our history, what the Constitution has told us. It says explicitly, "[a]mendment and repeal of statutes, no less than enactment, must conform with Article I" of the Constitution.

What this bill says is, "Well, we will try to create something else. We will let the President decide within 5 days after a law becomes law that he wants to cancel a part of that law." Unless the Congress acts to override him, the President's unilateral cancellation effectively amends the law of the land. We cannot do that. We should not try.

The Chadha court explained why it reached the conclusion that it did. It wrote that during the Convention of 1787 the application of the President's veto to repeals of statutes was addressed. It was very explicitly addressed during the Constitutional Convention. The Chadha court went through the Convention. The issue was the application of the President's veto to repeals of statutes. The Chadha court concluded, "There is no provision allowing Congress to repeal or amend laws by other than legislative means, pursuant to article I."

Now, Mr. President, the conference report acknowledges what I think is obvious: That when the President signs the appropriations bill—this approach would allow him to cancel within 5 days that appropriations bill—upon his signature that becomes the law of the land. The conference report, section 1021 says that notwithstanding the provision of parts A and B and subject to provisions of this part, "the President may with respect to any bill or joint resolution that has been signed into law, pursuant to article I, section 7 of the Constitution, may cancel in whole or in part," and it goes on to talk about what the President can cancel.

We are only talking here about bills which have become the law of the land. Those are pretty important words in this government of law. We do not allow Presidents to pick and choose which laws they abide by and which ones they do not. I cannot think of any other places where we say a law could be canceled by a President acting unilaterally; yet this bill says that a law—and that has become enacted, signed by the President—can be canceled in whole or in part by the President, acting alone.

Of course, the bill gives us the opportunity to override that cancellation with new legislation. That is not the point. That is not what article I of the Constitution provides. Article I of the Constitution as interpreted by Supreme Court opinion after Supreme Court opinion as recently as Chadha says the repeal, the amendment, the modification of a law must be done in the same way that a law is enacted. This bill is a deviation from that. This bill says "Well, we will create another way. We will create a new way. You do not have to enact an amendment. You do not have to adopt an amendment. You do not have to repeal the law the way the Constitution provides. We're going to say that the President of the United States, acting alone, is able to cancel a law of the United States."

Now, Mr. President, the argument has been made that the bill just restores to the President the authority that he exercised prior to the enactment of the Impoundment and Control Act in 1974. That is plainly wrong. No President has ever exercised the kind of unrestrained right to override congressional budget decisions that this bill would attempt to create. The Assistant Attorney General, Charles Cooper, in the Reagan administration, stated in a 1988 legal opinion, the following:

> To the extent that the commentators are suggesting that the President has inherent constitutional power to impound funds, the weight of authority is against such a broad power. This office has long held that the existence of such a broad power is supported by neither reason nor precedent. Virtually all commentators have reached the same conclusion without reference to their views as to the scope of executive power.

I note that same Assistant Attorney General, Charles Cooper, in the Reagan administration, cited no less an authority than Chief Justice Rehnquist, writing in his position as Assistant Attorney General in the Nixon administration, for the proposition that a Presidential power not to spend money "is supported by neither reason nor precedent."

The Constitution does not authorize this version of a line-item veto. The Constitution does not permit the President to repeal a law, to suspend a law, to ignore a law, unless he chooses to veto the law itself. He cannot cancel laws. This is just another word for modifying it or ignoring it or vetoing it.

George Washington said 200 years ago, "From the nature of the Constitution I must approve all the parts of a bill or reject it in toto."

Former President and Chief Justice William Howard Taft explained, "The President has no power to veto parts of the bill and allow the rest to become a law. He must accept it or reject it, and even his rejection of it is not final unless he can find more than one-third of one of the Houses to sustain him in his veto."

Congress cannot give the President that authority or even greater authority simply by changing the labels and calling a repeal or an amendment the

"cancellation" of a law. It is not the labels that count. It is the substance of what we are doing or purporting to do. What we are purporting to do in this bill is to give the President of the United States unilaterally a right which the Constitution denies him, and that is the right to cancel or veto or amend or modify or ignore the law of the United States.

If it is unconstitutional for Congress to give the President a particular power under one label, it is not suddenly constitutional merely because we change the label. We cannot acknowledge that the President does not have the right to "modify" or "repeal" a law under the Constitution, but at the same time maintain that he can "cancel" a law. A veto is no less a veto and a repeal is no less a repeal because we call it suspension or cancellation.

As a matter of fact, the Random House dictionary defines a veto as "The power vested in one branch of a government to cancel the decisions, enactments, et cetera, of another branch." To paraphrase the statement of Senator Sam Ervin on a similar issue in 1973, "You can't make an onion a flower by calling it a rose."

Now, it is argued by some that this bill is a constitutional delegation of power because the President is simply exercising some legislatively authorized discretion not to enforce a statutory provision. By this reasoning, the appropriation that has been canceled is still law. But I do not believe that is the intent of the sponsors. The bill itself is entitled the "Line-Item Veto Act." The bill creates a new part of the Congressional Budget Act entitled, "Part C, Line-Item Veto." The first provision of this new part is entitled, "Line-Item Veto Authority."

Now, in addition, the so-called discretion in this conference report only operates in one direction. Once a President cancels an appropriation under the bill, neither that President nor any other President would be permitted to spend the appropriated money without the enactment of new legislation.

When a President cancels a provision of law providing for direct spending, this bill provides that the provision shall have no legal force or effect. The bill expressly states in section 1026(4)(b) that the term "cancel" means, in the case of budget authority provided by law, to prevent such budget authority from having legal force or effect. That is right in the bill itself. There is no discretion that is being granted here to the President. There is only one-way discretion here, which is to cancel a provision of law and deprive it of legal force and effect in perpetuity.

Similarly, in the case of entitlement authority, the bill states that a cancellation "prevent[s] the specific obligation of the United States from having legal force or effect." The whole purpose of this bill is to deny the legal force or effect of any part of an appropriation that the President has canceled. In the case of the Food Stamp Program, the bill says its purpose is to "prevent the specific provision of law that results in an increase in budget authority or outlays for that program from having legal force or effect."

Now, Random House defines the term "cancel" to mean, "make void, to revoke, to annul." I think we would all agree that any bill that purported to authorize the President to unilaterally void or annul or revoke a statute would be unconstitutional.

Can the result be different because, instead of calling it a repeal or an annulment, we call it a cancellation? Can the application of the label "cancel" to what is clearly a repeal and an annulment change the outcome legally? I do not think so.

The bottom line is that this bill purports to grant to the President of the United States a unilateral authority, which the Constitution will not allow him to have or us to grant to him; that is, the authority to repeal a law without any action by Congress.

Chadha says that you cannot repeal or modify a law without any action by Congress. The Constitution says it. We cannot do—and we should not attempt to do—what the Supreme Court says cannot be done and which the very logic of the Constitution says cannot be done.

Assistant Attorney General Cooper, again in the Reagan administration, explained this in his legal memorandum on impoundment. He said that because an inherent impoundment power would not be subject to the limitations on the veto power contained in article I, clause 8, an impoundment would, in effect, be a superveto with respect to all appropriations measures. The inconsistency between such an impoundment power and the textural limits on the veto power further suggests that no inherent impoundment power can be discovered in the Constitution.

The same conclusion must be reached with regard to the cancellation power which is proposed in this conference report. Like an inherent impoundment power, cancellation of a provision would, in effect, be a superveto, going far beyond the veto power given to the President in the Constitution, because the President would not be required to veto the entire bill. Congress cannot, by statute, give the President powers that were denied to him in the Constitution.

As Prof. Thomas Sargentich of the Washington College of Law at American University explained in a March 13, 1995 letter to me, regarding an earlier version of this bill which took the same approach:

> S. 4 presents the question whether, given that the President cannot unilaterally rewrite or delete some portion of a bill at the time of presentment, the President nevertheless can sign the bill and decide thereafter to rescind budget authority under the law. Proponents of S. 4 seek to rely on a verbal contrast between "rescission" of budget authority and "repeal" or "veto" of all or part of a statute. The notion is that a 'rescission' is simply the execution of the law pursuant to a broad delegation.
>
> The problem with this suggestion is that it seems to exalt verbal form over legal substance. * * * A repeal of all or part of a statute after it becomes effective can only be accomplished by new legislation enacted with adherence to bicameralism and presentment. Using words like "suspend" or "rescind" or any other somewhat muted verb does not alter the underlying legal situation.

Similarly, Louis Fisher of the Congressional Research Service concluded in 1992 testimony before the House Rules Committee that a statute purporting to give the President unilateral power to rescind an appropriation would be unconstitutional. Dr. Fisher stated:

> Under what theory of government can Congress delegate to the President the power to rescind laws without further legislative involvement? Congress regularly delegates to the President substantial authorities to 'make law,' but this consists of discretion within the bounds of statutory law, not the power to terminate law. * * * Even if contemporary case law sustains the constitutionality of broad delegations, I would argue that the rescission of previously appropriated funds requires action through the regular legislative process: action by both Houses on a bill that is presented to the President.

And, a 1987 Note in the Yale Law Journal concludes unequivocally that—

> A transfer of authority to the President [through an enhanced rescission bill] to decide which parts of appropriation bills to enforce, would be a delegation of Congress' spending power. Such a delegation, however, would be unconstitutional. * * * Congress cannot constitutionally seek to solve its budget problems by attempting to divest itself of its constitutionally assigned powers.

Mr. President, I am confident that the courts will strike this provision down as an improper attempt by Congress to override the explicit standards, in article I of the Constitution, for the enactment and repeal of legislation. However, I do not believe that we should rely upon the courts to strike down unconstitutional statutes; we have an independent duty to scrutinize our actions and reject any proposal that would violate the strictures of the Constitution.

It has been argued that the end of hope for deficit reduction justifies the means.

The line-item veto has been cast as a mechanism to cut wasteful spending by Congress.

The premise has been weakened by the fact that the Presidents' budgets during most of the Reagan-Bush years had greater deficits than the budgets adopted by the Congress.

Also numerous studies show that State line-item veto provisions, rather than reducing spending, have been used

VOL 142 PT 5 MR 21 — 29 1996 UMI

for partisan, political purposes. CBO Director Robert Reischauer testified before the Governmental Affairs committee that:

> Evidence from the states suggests that the item veto has not been used to hold down state spending or deficits, but rather has been used by state governors to pursue their own priorities.... [A] comprehensive survey of state legislative budget officers found that governors were likely to use the item veto for partisan purposes..., but unlikely to use the veto as an instrument of fiscal restraint.

The same is likely to be true at the Federal level. For example, a President could push his agenda in Congress by threatening to use a line-item veto or enhanced rescission authority to kill projects in the State or district of a Member who opposed his proposals. Such threats could be used to advance policies in area—such as health care and welfare reform—that are completely unrelated to Federal spending. They could even be used to persuade Congress to increase Federal funding for projects favored by the President.

But even if one believes line-item veto will have a major impact on the deficit, then do it constitutionally. That is what the Byrd motion is all about. We should not do it by trying to give the President a part of the power over the purse, a power the constitution reserves to the Congress. We should not do it by trying to give the President the right to repeal a law or a portion of a law without congressional involvement.

The sponsors of the bill have taken the position that Presidents are unlikely to abuse these new powers. That view is not only naive, it is also inconsistent with the view of our Founding Fathers and the purpose of our constitutional system of checks and balances. As James Madison explained in "Federalist Number 51":

> [The great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department, the necessary constitutional means, and personal motives, to resist encroachments of the others....If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controuls on government would be necessary.

Moreover, as Justice Frankfurter pointed out in the wake of our battle against dictatorship in the Second World War, the road to tyranny may be paved with the best of intentions. Writing in the so-called Steel Cases overturning President Truman's attempt to take control of steel mills, Justice Frankfurter states:

> [The Founders] rested the structure of our central government on the system of checks and balances. For them the doctrine of separation of powers was not mere theory; it was a felt necessity. Not so long ago it was fashionable to find our system of checks and balances obstructive to effective government. It was easy to ridicule that system as outmoded—too easy. The experience through which the world has passed in our own day has made vivid the realization that the Framers of our Constitution were not inexperienced doctrinaires. These long-headed statesmen had no illusion that our people enjoyed biological or psychological or sociological immunities from the hazards of concentrated power. It is absurd to see a dictator in a representative product of the sturdy democratic traditions of the Mississippi Valley. The accretion of dangerous power does not come in a day. It does come, however slowly, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertion of authority.

Much will no doubt be made in the course of this debate of the fact that the President supports this bill of course. Every President would like Congress to hand over part of its power over the purse.

I would point out however that former Counsel to the President—the President's own counsel—has parted company with the President on this issue. In a March 25, 1996, column in the Legal Times, Abner Mikva wrote that line-item veto proposals not only raise constitutional problems, but would also transfer excessive power to the President. Judge Mikva has been consistent, and convincing, on this issue. Back in 1986, Judge Mikva wrote, in the University of Georgia Law Journal:

> [T]he source of almost all congressional power—the spine and bite of legislative authority—lies in Congress' control of the nation's purse. If ever Congress loosens its hold on this source of power or if ever the President wrests it away, then, to quote the late Senator Frank Church, "the American Republic will go the way of Rome." The delicate balance created by the Framers will have been destroyed.
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> * * * * *
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> Since 1873, when Ulysses Grant first proposed the idea, over 150 legislative proposals have called for Congress to give to the President the ability to veto individual parts of a bill. Congress has thus far rejected such proposals; with any luck, it always will.
>
> For regardless of whether Congress yields budgetary authority or the President usurps it, the threat to our constitutional order is the same. In our governmental system, the legislature does and must have plenary power over the budget. The power of the purse is the strength of the Congress; take that away, and all else will fall. Is Congress' management of the budget inefficient? Surely it is; the workings of democratic institutions always are. Is it cumbersome? Of course it is; getting a majority of 535 political prima donnas to agree on anything is a difficult task. But if we wish to live in a pluralistic and free society, we will strive to ensure that Congress retains exclusive control of the nation's purse. Only in that event will the delicate balance of our constitutional structure be preserved.

Mr. President, this bill is an unwise attempt to give away Congress' power over the purse and undo the system of checks and balances created by our Founding Fathers. It is at odds with the requirements of the Constitution. I urge my colleagues to reject it and adopt a different version called expedited rescission.

Mr. McCAIN. Mr. President, we were sort of going back and forth from one side to the other. Since Senator LEVIN just went, Senator ROTH was going to go and, then, I understand Senator DASCHLE will go. I believe that is the normal custom.

Mr. BUMPERS. Mr. President, I wonder if the floor manager would be willing to enter into a unanimous-consent agreement specifically naming the order of those who were here on the floor so others will know approximately when to come to the floor.

Mr. McCAIN. I note the presence of the Senator from West Virginia. I hope that is agreeable with him.

Mr. BUMPERS. I defer to our leader there, Senator BYRD, with how to approach this.

Mr. BYRD. Under the circumstances, I would be willing to do that. I am ordinarily not willing to stray away from what the rules require, but I would be happy to do that on this occasion.

Mr. BUMPERS. I suggest that Senator ROTH be recognized next, following which Senator DASCHLE be recognized.

Mr. DASCHLE. Well, Senator BUMPERS has been here longer than I have.

Mr. BUMPERS. I do not mind yielding to the leader. He has a much busier schedule than I do. Who would be next on that side?

Mr. McCAIN. I am not sure at this time whether it would be Senator NICKLES or Senator KYL.

Mr. BUMPERS. And then it would come back to me?

Mr. McCAIN. Yes, then the Senator from Arkansas.

Mr. BUMPERS. Does the Senator from Maryland wish to speak on this issue?

Mr. SARBANES. How long do we expect people to speak if we set up this procedure?

Mr. McCAIN. I say to my friend from Maryland that usually about this time of the afternoon and evening we find there are a lot of speakers.

The PRESIDING OFFICER. The Chair notes that Senator MOYNIHAN is to be recognized at 5 o'clock.

Mr. McCAIN. Yes, by previous unanimous consent, and there is a vote under a previous unanimous consent at 5:45.

Mr. BUMPERS. Is a certain time allotted to Senator MOYNIHAN?

Mr. BYRD. It is 30 minutes, I believe.

Mr. McCAIN. I ask the Chair, how much time does Senator MOYNIHAN have? Is there a certain amount of time?

The PRESIDING OFFICER. No time was allotted.

Mr. BYRD. Mr. President, I yield 30 minutes to Mr. MOYNIHAN.

Mr. McCAIN. At 5:45 is a vote to table the Byrd motion to recommit, under a previous agreement.

Mr. BYRD. So, between now and 5, there is time for several Senators.

Mr. McCAIN. Mr. President, I yield 15 minutes to the Senator from Delaware, Senator ROTH.

Mr. NICKLES. Will the Senator yield to me briefly?

Mr. McCAIN. Yes.

Mr. NICKLES. Mr. President, I rise today in strong support of the Line-Item Veto Act. The final Senate consideration and passage of this historic legislation is the result of years of hard work on the part of many of my colleagues.

I particularly wish to congratulate Senator McCAIN and Senator COATS, who have dedicated so much of their time and energy to this initiative. In recent years, they have taken up this cause which was so actively pursued in the past by Senator Mattingly, Senator Evans, and Senator Quayle.

My colleagues have shown great courage over the years in continuing to bring this issue to the floor of the Senate. They did this at some political risk, yet they did not waiver. They believe in this issue, and I think they are right.

I believe the line-item veto is vitally important, Mr. President. It will save money, and right now we are spending too much and our budget process does not work very well. The line-item veto is certainly not a panacea for all our budget problems, and it will not balance the budget. But it will help.

According to the Library of Congress, at least 10 Presidents since the Civil War have supported the line-item veto, including Presidents Grant, Hayes, Arthur, Franklin Roosevelt, Truman, Eisenhower, Nixon, Ford, Reagan, and Bush. Further, 43 of 50 State Governors have some form of line-item veto authority.

At its essence, this is a debate over checks and balances. Right now, we are writing a lot of checks, and there are few balances. Congress spends the money, and the President has two options. One, he signs the bill, or two, he vetoes the bill.

Historically, the balance of spending power between the executive and legislative branches of Government has varied considerably. Prior to 1974, several Presidents impounded congressionally directed spending, and Congress had little recourse.

According to the Congressional Research Service, the first significant impoundment of funds occurred in 1803 when President Thomas Jefferson refused to spend $50,000 appropriated by Congress to provide gunboats to operate on the Mississippi River. President Grant impounded funds for harbor and river improvement projects in 1876 because they were of a local interest rather than in the national interest. President Roosevelt impounded funds during the Great Depression and World War II, and in the 1960's President Johnson withheld billions of dollars in funding for highway projects.

This conflict came to a head in the 1970's when President Nixon impounded over $12 billion for public works housing, education, and health programs. Nixon's action led to the enactment of the Congressional Budget and Impoundment Control Act of 1974. Under this legislation, Congress eliminated the President's impoundment authority in exchange for establishing its own budget process.

Under the Congressional Budget Act, the balance of spending power is now significantly in Congress' favor. The President may now propose rescissions of appropriated funds, but Congress is not obligated to consider them. The General Accounting Office reports that from 1974 to 1994, Presidents have proposed 1,084 rescissions of budget authority totaling $72.8 billion. Congress has adopted only 399, or 37 percent, of the proposed rescissions in the amount of $22.9 billion. Congress has also initiated 649 rescissions totaling $70.1 billion, but most of these rescissions have been used to offset other Federal spending.

Mr. President, I have served on the Appropriations Committee. They probably work as hard as any committee in the Senate, and they are responsible for spending a little over $500 billion, about a third of what the Government spends right now.

For the most part, they do an excellent job with the annual appropriations bills and supplementals, but I can tell you from experience that every single appropriations bill has had items in it that we do not need and we cannot afford. The line-item veto will give the President the ability to strike those items that we cannot afford. We may or may not agree with him. If we disagree, we can try to override his veto.

Mr. President, I think it is important to note that this line-item veto will impact not only appropriated spending, but also new entitlement spending and limited tax benefits. We all know it is the outrageous growth of entitlement spending that is causing our deficit problems, so I think it is a significant step to give the office of the President more authority to control the growth of these programs.

Mr. President, again, I compliment my colleagues, particularly Senator McCAIN and Senator COATS, for their leadership. They have taken this issue on year after year, many times at considerable economic and political pain. I compliment them for their courage, and I am proud of their success.

The line-item veto is a significant accomplishment for the 104th Congress, but I continue to hope that it is not our most significant accomplishment. It is with no small degree of frustration that I note that President Clinton and the Democrats killed the constitutional amendment to balance the budget, they killed the Balanced Budget Act, and they killed welfare reform.

When President Clinton campaigned on a line-item veto in 1992, he claimed that he could reduce spending by $9.8 billion during his term. I wish we could have given it to him earlier, since spending has actually increased during his term so far. Even more amazing is that right now, in some room in the Capitol building, the President's aides are insisting on spending $8 billion more this year.

Mr. President, I hope the line-item veto is not our most significant budget accomplishment this year, but even if the President continues to block our other initiatives, this legislation will stand out as a shining example of our success.

Mr. BYRD. Mr. President, I yield 30 minutes to Mr. BUMPERS and 30 minutes to Mr. SARBANES at such time as they are recognized.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, today the Senate turns to the conference report on the line-item veto legislation. This legislation would provide for enhanced rescissions procedures to allow the President to cancel new items of direct or entitlement spending, appropriations, and limit the tax benefits; in sum, virtually all Government expenditures.

Mr. President, while I do support the conference report and believe in the intent of the legislation, I am concerned about the way the legislation affects tax provisions. Let me first outline my views regarding the underlying conference report, and then I will turn to the troublesome language regarding taxes.

Let me be clear that I believe that the line-item veto will not solve our deficit problem. In fact, it will be used as a tool to help trim Federal spending. We all know, that we need every possible tool to help reduce Federal spending.

This is a very important issue that was contained in the Contract With America. The Republican-led Congress continues to keep its promises to the American people in passing legislation that will help reduce Government spending, the budget deficit, and the debt burden on our children. In the Senate's first joint hearing with the House on the issue in January 1995, before the Governmental Affairs Committee, Dr. Alice Rivlin, Director of the Office of Management and Budget asked that the Congress provide the "strongest possible line-item veto power to the President." I agreed with Dr. Rivlin's statement. Congress has acted and will now give the President a very strong version of the line-item veto powers. Both the Senate and House passed the line-item veto overwhelmingly. This week the Senate will pass the conference report. A historic moment.

Mr. President, the time has come to put an end to out of control Federal

VOL
142
PT
5
MR
21
—
29
1996
UMI

spending that has taken money from the private sector—the very sector that creates jobs and economic opportunity for all Americans.

The American people are crying out for a smaller, more efficient Government. They are concerned about the trend that for too long has put the interests of big government before the interests of our job-creating private sector. They are irritated by the double-standard that exists between how our families are required to balance their checkbooks and how Government is allowed to continue spending despite its deficit accounts.

I believe that spending restraint for our nation is one of the most important steps we can take to ensure the economic opportunities for prosperity for our children and for our children's children.

As a nation—and as individuals—we are morally bound to pass on opportunity and security to the next generation.

The Federal behemoth must be reformed to meet the needs of all taxpayers for the 21st century. I am convinced that it is through a smaller, smarter government we will be able to serve Americans into the next century.

The President's recent budget proposals for next year offer clear evidence of the lack of political will to make the hard choices when it comes to cutting Government spending. His budget does not take seriously the need for spending restraint. In fact, Bill Clinton proposes spending over $1.5 trillion dollars this year and nearly $1.9 trillion dollars in 2002. In other words, the only path that the President proposes is one that leads to higher Government spending, higher taxes, and ever-increasing burdens for our children.

Deficit spending cannot continue. We can no longer allow waste, inefficiency, and overbearing Government to consume the potential of America's future. I am committed to spending restraint as we move to balance the budget. As I said before, the line-item veto legislation will not solve our deficit problems, but it will be a helpful tool to cut spending.

While the authority conferred upon the President in this legislation is commonly referred to as a line-item veto, the authority is actually an authority to cancel—with specified limitations—appropriations, entitlements, and tax cuts. This cancellation authority bears closer resemblance to impoundment authority than to a traditional veto.

What this legislation before us does is to allow a President to sign an appropriation, entitlement, or tax bill and then exercise a separate authority to cancel an item in those laws, such cancellation to be effective unless Congress passes another law, presumably over the President's veto, to negate the President's exercise of his cancellation authority.

My concern with this legislation is that I have never heard of impounding a tax cut. I have heard of impounding spending, but not a tax cut. As you know, 43 State Governors have line-item veto authority, but not a single Governor has any authority to cancel a tax cut.

It is my studied judgment that the Federal Government spends too much and taxes too much. The well being of our people would be significantly improved if both spending and taxation were diminished. Consequently, I would like this legislation better if it allowed the President to cancel only spending items and not tax-cut items.

Fortunately, the President's authority in the tax area is narrow—evidence of the fact that the conferees understood the anomaly of impounding tax cuts. In contrast to the authority on the spending side whereby the President may cancel, first, "any dollar amount of discretionary budget authority" and (2), "any item of new direct spending," the authority on the tax side is limited. The President has the authority to cancel only items which meet the definition of a "limited tax benefit."

A "limited tax benefit" is a defined term, which covers two specific categories:

First, a revenue losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; or

Second, any Federal tax provision which provides temporary or permanent transition relief for 10 or fewer beneficiaries in an fiscal year from a change to the Internal Revenue Code.

In further contrast to the President's authority to cancel on the spending side, the legislation before us provides an additional mechanism that applies only with respect to limited tax benefits, in order to further circumscribe the President's authority. This mechanism provides that in certain circumstances Congress may reserve unto itself the sole discretion to identify those items in a revenue or reconciliation bill or joint resolution that constitute a limited tax benefit. Such identification by Congress is controlling on the President, notwithstanding the definition of a "limited tax benefit" in the pending legislation, and is not subject to review by any court.

Historically, the Senate has enacted tax legislation either by unanimous consent, in the case of simple bills, or by agreeing to a conference report, in the case of more significant bills. As a practical matter, the bills adopted by unanimous consent generally deal with one subject and are not an important concern to advocates of a line-item veto authority in the tax area. Conference reports, in contrast, may contain a large number of tax items. It is in such context that a limited tax benefit might be found.

Consequently, whenever a revenue or reconciliation bill or joint resolution that amends the Internal Revenue Code of 1986 is in conference, the Joint Committee on Taxation is required to review the legislation and identify any provision that constitutes a limited tax benefit. If the conferees include this list of identified items in the conference report, the President can cancel a tax item only if it appears on the list. If the Joint Committee on Taxation finds that the bill contains no limited tax benefits and Congress includes a statement in the conference report that no such items exist, the President is thereby foreclosed from canceling any tax item. However, if Congress does not include a statement either identifying the specific limited tax benefits or declaring that none is contained in the bill, then the President may cancel a tax item if it falls within the definition of a limited tax benefit and the exercise of the President's authority meets the requirements of section 1021 of the Budget Act, as written by this pending legislation. Similarly, the President has such authority to cancel a limited tax benefit contained in legislation that is not adopted as a conference report. However, as I said, the occasion for an exercise of such authority would be rare, indeed.

The pending legislation authorizes conferees, in the above circumstances, to include a statement regarding the provision of limited tax benefits, notwithstanding any precedents or House or Senate rules—such as those rules relating to the proper scope of a conference—that might create a point of order against such inclusion. However, nothing in the pending legislation that authorizes the inclusion of such statements in a conference report limits either House from exercising its constitutional rulemaking authority by requiring, rather than authorizing, the inclusion of such statements.

Mr. President, I thank my colleagues for their attention, and I urge that they join me in supporting this needed legislation. I thank the Chair. I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BUMPERS], is recognized.

Mr. BUMPERS. Mr. President, the distinguished Senator from West Virginia yielded me 30 minutes, and I am quite sure I will not take that amount of time. I know there are many wishing to speak. It is one of those cases that Mo Udall described one time: "Just about everything that needs to be said has been said but everybody has not said it." So I am going to add my two cents worth.

First of all, the constitutional problems with this bill are insurmountable.

The people listening or watching would be interested in knowing, nowhere in the Constitution is the word veto mentioned. Here is what the Framers said in article I of the Constitution:

> Every bill which shall have passed through the House of Representatives and the Senate shall before it become a law be presented to the President of the United States. If he approve he shall sign it but if not he shall return it with his Objections to the House in which it shall have originated.

I have been here 21 years. I am not a constitutional scholar but a country lawyer with a great reverence for the Constitution. I have voted against more constitutional tinkering, I will bet, than any Senator here in the past 21 years. Unhappily, we have Members of this body who think that what Madison and Adams and Franklin did 207 years ago was simply a rough draft for us to finish. This is a classic case of casual tinkering with our Constitution, that sacred document which was put together by the greatest assemblage of minds under one roof in the history of the world.

Do you know what else it is? It is a classic political response to an admitted problem. It is a diversion and a distraction of the American people. It tells them, "Here is a simple answer to spending and deficits."

Nothing could be further from the truth. But people busy trying to make a living and keeping food in the mouths of their children do not have time to examine the complicated details of this proposal.

How did it all start? Where did this idea of a line-item veto originate? I do not know. I had not been here very long when Ronald Reagan was elected President. He had promised to balance the budget, and the first thing you know the deficit was soaring. And 8 years later the national debt had gone from $1 trillion to $3 trillion—tripled in 8 years. I do not want to be hypercritical of President Reagan, but I heard him say time and time again, "I can't spend a nickel that the Congress doesn't appropriate."

What he should have been saying is "The Government cannot spend a dime unless I sign off on it." Despite all of that rhetoric and talk about spending and deficits, from 1980 to 1992, the deficit went from $1 to $4 trillion. President Bush never vetoed an appropriations bill, and President Reagan vetoed one spending bill because it was not big enough—a Defense bill. He vetoed it because it did not have enough money in it.

President Clinton told my friends on the other side of the aisle, "You pass that reconciliation bill, and I am going to veto it." And they passed it, and he vetoed it. He did not veto it because of the amount of money in it. He vetoed it because of its priorities. But at this very moment, conferees all over this Capitol building are meeting trying to craft a resolution about differences on spending and programs. Frankly, not making much headway.

The President wants another $3 billion in education, and that is the sticking point. Let me digress just for a moment on that point and say I saw the most interesting quote yesterday. I think it was the President of Peru who said everything should be subordinate to our children they are just forming their brain cells, their bones, their minds, and bodies, and they do that in a few short years. His point was that if you neglect your children, you have lost a generation of what would otherwise be healthy, productive citizens.

I thought that comment was beautiful, appropriate, and absolutely true.

So our President is simply saying that for everybody we allow to grow up in ignorance, we all pay a price for it. I do not know whether he is going to get the $3 billion or not. We may have another continuing resolution. I think we will. But my point is this. We are negotiating, and we are talking. If I were to say to my friends on the other side of the aisle, "Let us just send this bill over to the President and let him pick and choose what he wants to kick out," I would start a riot right on the floor of the Senate. Nobody wants to do that.

I can remember when this line-item veto thing came up. I did not like it. People would say, "Well, you were a Governor, weren't you?

"Yes, I was Governor."

"Didn't you have a line-item veto?"

"Yes, I had a line-item veto."

And I used it occasionally. Do you know what I used it for? To get legislators in line.

"Senator, you know that vo-tech school for your high school in this bill? That sucker is going to be gone unless you get back down there and change your vote." That is the way I used it. That is the way a President of the United States would use it. It is a lethal weapon in the hands of the executive branch.

Today, at this very moment, the deficit has fallen from a projected $390 billion—that is what it was projected to be. In 1992, we were looking at a 1995 deficit of $390 billion. It is half that amount, and it is already down close to $20 billion from that projection, during just the first 3½ months of this new fiscal year. And it was not done with a line-item veto. It was done by people who were determined to try to get the budget balanced.

Oh, this is a terrible, terrible, lousy idea. It started out as a political diversion for the benefit of a party, to say, "Oh, wouldn't it be great if the President could just take all that pork out of there?" I have seen figures to show if the President utilized the line-item veto to its maximum, it would have about a 1 to 2 percent effect on the total budget. It is unneeded, hopelessly unworkable, and an unprecedented grant of power to the President of the United States. And, yes, it is patently unconstitutional.

This morning we had a vote. Everybody here knows what it was about. It was about the Utah wilderness bill. Even the people of Utah, apparently, did not think much of that bill. It is very controversial. But the bill tracked almost exactly what President Bush recommended when he was President.

Now, if President Bush were sitting in the White House right now and we were voting on cloture, as we did this morning, and the advocates of the Utah wilderness bill needed the nine votes that they did not get this morning, they could go to the White House and the President could call three Republicans and maybe six Democrats and say, "I have been looking at this bill over here. You know that little old research center you have down in your State? My people tell me they do not much like that. They do not think it is needed. They think it is a waste of money. I am inclined to disagree with my people. But, while I have you on the phone, I am a strong proponent of the Utah wilderness bill. Perhaps you and I could sit down. We could talk this over. Maybe you could see my way on the Utah wilderness bill and perhaps I could see your way on that little research center you have in your State."

It is not unheard of. I just got through confessing to you that is what I did when I was Governor. I have fought against 12 aircraft carriers; I thought 10 was adequate. I fought against bringing those old moth-eaten battleships out of mothballs at a cost of about $2 billion. Now they are back in mothballs. I fought and have continued to fight against the space station, which will go down in history as the most outrageous waste of money in the history of the U.S. Government. We finally killed the super collider. On every one of those things, the President was on the other side. And we build a multiple launch rocket in Camden, AR. Are you beginning to get the picture? The President might say, "Well, now, Senator, they tell me you are hot against the space station. I am hot for it. And the Defense Department told me they were thinking about moving the manufacturing of the multiple-launch rockets from Camden, AR, to someplace in Alabama." Do you think that does not get my attention, 750 jobs?

When James Madison and his colleagues in Philadelphia in 1787 were crafting that document that has given this country the oldest democracy in the history of the world, they said the power of the purse will be vested in Congress. They did not say "unless the President decides to tinker with the

VOL
142
PT
5
MR
21
—
29
1996
UMI

figures." They said, "The Congress shall pass appropriation measures." Do you know what they gave us in exchange for that? They said, "You can spend the money, but you also have to raise it." That was supposed to be a nice balance. You have to tax the people. That is not popular. You have to raise the money with taxation before you can spend it, but we are going to give you the power of the purse.

What are we doing? We are saying, "James Madison, you did not know what you were doing. You made a colossal mistake when you crafted our Constitution, so we are going to correct it. We are going to give the President all the powers you gave him in the Constitution, and we are going to take some away from Congress and say you not only have all the executive powers, being Commander in Chief and all those things, we are now going to give you the power of the purse."

Colleagues, do not, 2 years from now, 3 years from now, come on this floor and start crying about this mistake we are about to make. Oh, I know it is popular. You walk in any diner in America and ask, "Do you favor the line-item veto?" You bet. "Do you favor prayer in school?" You bet. "Do you favor a balanced budget amendment to the Constitution?" You bet. Count me in. "Are you against flag burning?" You bet. All those things that have a great emotional impact on people, until they have heard, as Paul Harvey says, "the rest of the story."

We are saying, "Mr. President, stop us before we spend again. We are out of control, and only you can bring us under control."

This is not such a good idea for the President, either. Everybody knows President Clinton and I have served our beloved State of Arkansas together for many, many years. He is my friend. But he is for this. I am sick that I did not get a chance to dissuade him before he said that publicly. But he says he is for a line-item veto, and that is a mild disappointment to me.

But, you know, Mr. President, if he picks out some projects that are the wrong projects and decides to send them back over here and require us, ultimately, to have a two-thirds vote in both Houses in order to pass, he may get in trouble in some State. So what do you think he is going to do? He did not just fall off a watermelon truck. He did not get elected President by being stupid. He is going to be very careful about what he excises out of the appropriations bills for fear he will lose that State.

Right now this Presidential race is heating up. Do you think a President is going to take anything big out of a bill in an election year? In an off year, when he is not running for President, he might pick out a couple of Senators he does not like, who have been particularly obstreperous and have fought against some of his programs, and in a year when he is not up for reelection, he may decide to take some of those projects out of the States of Senators of the other party.

Bear in mind, when we first started talking about term limits, it swept this country like a prairie fire. It is a terrible idea, a lousy idea. I have never been for it and will never be for it. Virtually every Member of this body on the other side of the aisle thought it was wonderful until they got control of Congress, and now you cannot even get it up for a vote.

We kept people's attention diverted just long enough, and the Republicans took control of Congress, and now it is not worth the cost of electricity to have a roll call on term limits. It would be defeated soundly. And when it comes to the line-item veto, they wanted a line-item veto so desperately—in all fairness 19 Democrats voted for this thing, too. What was it about? Take the heat off Ronald Reagan. That is really where it all started.

Then, suddenly, the contract, the famous Contract With America, over in the House of Representatives, it was put in the contract: line-item veto. Not many people in America knew it. Not many people in America cared. So we passed it. How long did it take after Bill Clinton got elected President—something nobody anticipated—we could not even get conferees appointed. Do you know what the bill now says? It will not go into effect until January 1997, with the ardent, divine hope that BOB DOLE will be President January 1, 1997.

Those are the shenanigans that are going on with our sacred Constitution.

Mr. President, another thing that those great minds in Philadelphia did almost 209 years ago is they provided a third branch of Government called the judicial branch. They set up a Supreme Court and such lower courts as Congress may establish. They are independent, and they are named for life. You cannot threaten them. An article in New York Times this morning describes a letter from the Federal judges vigorously opposing this, because if a Federal court renders a decision the President does not like, the next time around, he can just take their money away from them. He cannot take their salaries because you cannot reduce their compensation as long as they are sitting on the Court. You can take their clerks and secretaries away from them; you can cut the air-conditioning off. To give the President that kind of authority over the independent judiciary is the height of irresponsibility.

We not only have an independent judiciary, we just, fortunately, had a very wise man named John Marshall who was Chief Justice of the Supreme Court when the Marbury versus Madison case was argued. John Marshall said: "Somebody has to decide: Are those laws they're passing over there in conformance with this Constitution or not?"

So was born the doctrine of judicial review. Thank God for John Marshall and judicial review and a truly independent judiciary.

So, Mr. President, this bill gives the President a legislative authority to amend bills. He can literally amend our bills. I am terribly uncomfortable knowing this bill is going to sail through here with a big majority, but I am comforted in the fact that I believe the independent judiciary that was set up to stop such foolishness as this will, indeed, do so. So I repose my trust in the Supreme Court of the United States on this issue.

I yield the floor.

Mr. HOLLINGS. Mr. President, when the Senate passed the line-item veto back in March of 1995, taxpayers across the Nation applauded the bipartisan efforts of the 69 Democrats and Republicans that worked shoulder to shoulder for the common good. What a difference a year makes. A year later with Presidential politics well underway, Republican conferees have engaged in an outrageous bait-and-switch operation designed to win political points and push meaningful reforms onto the back burner. Gone is the carefully crafted compromise bill offered on the floor by the distinguished majority leader that Republicans embraced after deep divisions arose in their own ranks regarding the appropriateness of expanding Presidential rescission powers. Instead, conferees have substituted legislation based on the McCain-Coats enhanced rescission proposal—a measure that in 1993 received only 45 votes. In abandoning the Senate approach, the Republican majority has dangerously eroded bipartisan support for the Senate line-item veto and now threatens to snatch defeat from the jaws of victory.

Mr. President, I have been in this fight for too long to accept such circus tricks. For well over the last decade, I have touted the line-item veto as a meaningful way to restore responsibility and accountability to the budget process. Specifically, I have supported the separate enrollment legislative line-item veto which avoids the constitutional objections that are evident in proposals that seek to change the President's constitutionally prescribed veto powers. Under the separate enrollment mechanism, after legislation had passed both Houses of Congress in the same form, the enrolling clerk would enroll each appropriations item, targeted tax benefit, or new entitlement spending provision as a separate bill. In allowing these items to be considered as separate bills, the President would be able to use his existing veto power as defined in the Constitution to reject legislation.

Currently, some 43 States provide their chief executive with some version

of the veto pen. As a Governor of South Carolina, I used the line-item veto to balance four State budgets and win the first AAA credit rating of any Southern State. As a United States Senator, I have worked tirelessly to pass the line-item veto. In 1985, working with former Republican Mack Mattingly of Georgia, we rounded up 58 votes in the Senate for a line-item veto that was the prototype for the Senate passed version. In 1990, I offered similar legislation before the Senate Budget Committee and we adopted my bill by a vote of 13 to 6—the first time ever that the line-item veto had ever been favorably reported out of the Budget Committee. In 1993, Senator BILL BRADLEY and I offered an amendment to the budget reconciliation bill that would have applied the line-item veto to wasteful tax breaks as well as unnecessary spending and garnered 53 votes.

But instead of fighting for the proposal that has been gaining ground, the Republican majority, in resurrecting the enhanced rescission proposal, has backed the wrong horse. First, the conference report's enhanced rescission approach damages the fundamental balance of power between the coordinate branches of Government that is the cornerstone of our constitutional system of Government. Under current law, Presidential rescissions are suggestions. They have no force of law until Congress, as the legislative branch, enacts those changes. However, under new enhanced rescission powers, Presidential spending cuts and loophole closings would have immediate force and thus, affirmatively change the existing law just passed by Congress. To reinstate those provisions, Congress would have to reenact the specific proposals in a rescission disapproval bill, itself subject to a Presidential veto requiring two-thirds of both Houses to override. In my view, giving the President such legislative power amounts to an unconstitutional transfer of legislative power.

Second, the conference report's definition of a limited tax benefit would do little to focus scrutiny on special interest tax breaks. The original Senate bill, like the legislative language in the Republican Contract With America, appropriately recognized that pork is pork, be it of the tax or spending variety. But under the conference report, the definition becomes a tax lawyer's dream. It States that an item will be considered to be a limited tax benefit only if it is a tax benefit that goes to 100 or fewer beneficiaries or a transitional relief provision that accrues to 10 or fewer beneficiaries. This numerical distinction bears little relation to the relative wastefulness of a tax break and, if valid, might just as well apply to appropriations or new entitlement spending. By setting numerical thresholds, Congress does little to close outdated tax loopholes and a lot to encourage the Gucci gulch crowd to abuse the system and make sure that any newly proposed tax break has at least 101 beneficiaries. Moreover, additional restrictions further reduce the scope of qualifying tax benefits and erode the effectiveness of the line-item veto far beyond earlier versions.

Third, the conference report promises to give the President the veto pen, but withholds the ink. If conferees were really concerned about deficit reduction and not politics, why not make the act effective immediately rather that wait until either 1997 or the enactment of a balanced budget plan?

It is a sad truth, that politics are now more important than policy to this crowd. Having brought the line-item veto through the Senate on a bipartisan basis, the Republican majority has now retreated, fearing that a bipartisan line-item veto would leave no one over whom to claim victory. I do not know whether the Republican majority has the votes to prevail today, but ultimately this enhanced rescission approach will be found to be unconstitutional, which will bring us right back to where we started.

As I have stated earlier, it does not have to be that way. The bipartisan proposal that I and others have advocated, and that the Senate adopted last year, allows Congress to consider individual items in enacted legislation as separate bills. The Founding Fathers entrusted our Nation's chief executive with the power of the veto to provide our Government with the benefits of reconsideration and to promote legislative self-control. Unfortunately, over time, congressional construction of legislation has eroded that veto power where disparate spending and tax provisions are bundled in large omnibus bills. As a result, the President is forced to take it or leave it. Thus, the separate enrollment item veto eliminates this all or nothing choice and allows the President to apply his veto power in considering each item on its own merits.

More importantly, by maintaining congressional control over the process, the separate enrollment approach avoids the constitutional infirmities of enhanced rescission bills. As Lawrence Tribe, Constitutional Law Scholar at Harvard University, wrote in a letter to Senator BRADLEY,

> The most promising line-item veto by far is the suggestion . . . that Congress itself begin to treat each appropriation, and each tax measure, as an individual 'bill' to be presented separately to the President for his signature or veto. Such a change could be affected simply, and with no constitutional difficulty, by a temporary alteration in Congressional rules regarding the enrolling and presentment of bills.

Mr. President, this struggle will continue. And I will be willing in the future to work with colleagues on both sides of the aisle, as I have in the past, to develop a responsible, workable, constitutional, and bipartisan legislative line-item veto. I wish that day were today, but with the Presidential races in full swing, I fear once again that politics, not policy, is the driving force behind today's controversy.

Mr. BIDEN. Mr. President, I have for many years now supported a line-item veto that can help to wipe out wasteful special-interest spending items that are added to our appropriations bills.

But I have also cosponsored and supported line-item veto authority for the President that includes the authority to cut special-interest tax breaks, that lose money from the Treasury as surely as any spending program. In many ways they weaken our control over the deficit more than annual spending bills.

Because tax breaks characteristically last for years with little or no review, they can cause more damage than any single item in 1 year's appropriations bill.

The line-item veto we passed out of the Senate last year, the separate enrollment version that I have consistently supported for over a decade, included clear and strong language that put special-interest tax breaks under the same veto power as any pork-barrel spending project.

Unfortunately, the version that came out of conference with the House has so diluted that provision that it may well apply to virally no tax breaks.

That is why I will vote for Senator BYRD's proposal, that restores the clear authority to cut tax breaks as well as special-interest spending.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from New Mexico has 86 minutes. The Senator from West Virginia has 4 hours 9 minutes.

Mr. DOMENICI. At this moment, do I understand there is 5 minutes before Senator MOYNIHAN's time?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. I yield myself 5 minutes.

Mr. President, before we finally vote to table Senator BYRD's motion, there will be another 15 minutes on our side for discussion and some kind of rejoinder. But I just want to have a 5-minute discussion with the Senators about this issue of the shift in power.

I say to all of them, I have been concerned about that for a long time. I was concerned about it as this line-item veto concept, over the last decade, worked its way through here. But I do not think we ought to leave the record with any inference that Congress is left with no power to respond to a President's use of this item veto authority.

So if, indeed, Mr. President, any President of the United States chooses

VOL
142
PT
5
MR
21
—
29
1996
UMI

to make a mockery of the Senate or the House by arbitrarily exercising this veto, let me suggest the Senate has to confirm his Cabinet. The Senate has to confirm his appointees, and there are hundreds of them. Presidents of the United States need legislation. They work to get elected, and they send us their proposals. Their proposals are their policies and they need to pass Congress to become law.

Let me suggest that any President who would choose to act capriciously and arbitrarily in this line-item veto exercise will do so at his own risk. We are really trying out this item veto—it is an experiment in seeing if we can do a better job of spending the taxpayers' money. I believe Presidents who will arbitrarily and capriciously use that tool take unto themselves the opportunity that will certainly find that Congress will have a chance to a respond arbitrarily toward Presidents.

I am not threatening this, and I am not suggesting a tit-for-tat sort of situation. But the truth of the matter is, there is some serious balance of this power that remains vested in the Congress of the United States, and, indeed, speaking for our institution, the U.S. Senate, this institution, there are plenty of things Presidents need the U.S. Senate to do so they can do their executive work well.

After all, the President is the Executive. He needs Congress to help him so he can use his Executive powers. If he chooses to use them arbitrarily with reference to the line-item veto, then, obviously, he might find an uncooperative Senate, he might find an uncooperative Congress. I do not think that is ever going to occur, but I thought it might be good for the record just to explore that we have not given away all our power, we have not given away all our ability to say "yes" and "no" to Presidents of the United States on a myriad of things that the President needs for his Executive power.

Now, why do I say it that way? Because the contention is that he is taking away some of our prerogatives as legislators in the appropriating process, and if he chooses to do that arbitrarily, then he is, obviously, weakening our power.

I am suggesting we are not without recourse. I think there is going to be a give and take for a few years, but we are not also accepting this concept in perpetuity. We are giving the Executive the line-item veto for 8 years, two full Presidential terms. Then we will have to pass it again or change it.

But, indeed, that event of taking another look to see if it is being used properly or if we should further define things is not left solely within the discretion of Presidents, because this line-item veto sunsets in 8 years and we will have something to say about the continuation of it.

The arguments about constitutionality, the arguments about balance of power are serious. I commend the number of Senators for raising these serious issues in very delicate and sincere ways and I commend them for their concern. Most of all, I commend Senator BYRD for his dedicated explanations here and heretofore. He even wrote a whole book about the Roman senate versus losing its power and compared it in many ways to what he perceives might happen in this regard.

I was privileged to get one of those books. I do not always read books that are given to me, but I read that book. In fact, I told the Senator I had and I thought it was exciting.

He reminded me the successor to Rome was Italy. He reminded me I might even be a descendant of one of those people he wrote about.

Nonetheless, I thought that we ought to get this short 5-minute argument in response, just for our perspective in terms of why we are not fearful, why we do this with open eyes and open minds, hoping that it will help the American people get better Government at less cost. I yield the floor.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I would like to begin by joining the chairman of the Budget Committee in expressing my profound gratitude and admiration to the revered, sometime President pro tempore of the Senate, ROBERT C. BYRD, who has set us a standard which if we fail to meet today, will remain to measure those who come after us.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New York, whose obstinate veracity we all admire. I thank the Senator.

Mr. MOYNIHAN. Mr. President, I rise in the serene confidence that this measure is constitutionally doomed. That speaks to the stability of the American political system, a stability sustained in so many moments of peril by the American judiciary.

By contrast, I find myself once again agitated that a measure of such enormity—I use that word in both of its meanings—comes to us for so frivolous a reason. We are told by the committee of conference that the purpose of the conference report, which is to say the bill, is to promote savings. We are further informed that this is necessary because the American people consistently cite runaway Federal spending and a rising national debt as among the top issues of national concern over the past 15 years alone.

The national debt has quintupled from 1981 and 1996. Our total national debt amounted to just $1 trillion in 1981. Yet today, just 15 years later, that debt exceeds $5 trillion. Those numbers are not quite accurate, but they are approximate and will do.

I have stood on this floor for on to 15 years making the plain point that the increase in debt of the 1980's was an act of policy, designed to reduce the size of the Federal Government by reducing its fiscal resources. Fifteen days into his Presidency, February 5, 1981, President Reagan declared in a television address, "There are always those who told us that taxes can't be cut until spending was reduced. Well, you know, we can lecture our children about extravagance until we run out of voice and breath or we can cut their extravagance by simply reducing their allowance."

"Starve the beast" was the phrase. A huge increase in debt was the result. But at least until now we have not set out to mangle the Constitution to make up for the honest mistakes of one administration.

The separate enrollment bill passed by the Senate last March would have required appropriations bills to be disassembled by the enrolling clerks after passage and presented to the President, one by one, for his signature. During that debate I spoke at some length about its constitutional and practical defects. The legislation before us is somewhat less convoluted. But its effect on the separation of powers between legislative and executive branches would be just as profoundly destabilizing.

I will describe at this point what has been described as the methods, the procedure for cancellation. Once such a cancellation is made, it would ultimately require a two-thirds vote of the Congress to override. The legislation would have us depart dramatically from the procedures set forth in the plain language of the presentment clause in article I, section 7.

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it . . .

There is nothing ambiguous about this provision. The Supreme Court declared in INS versus Chadha in 1983 that—I quote the Court:

> It emerges clearly that the prescription for legislative action in Art. I, Section 7, represents the Framers' decision—[the framers' decision, Mr. President]—that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered procedure.

In Chadha the court held unconstitutional a statute that permitted either House of Congress by resolution to invalidate decisions of the executive branch as to whether certain aliens could be deported. This so-called legislative veto, according to the Court, impermissibly departed from the explicit procedures set forth in article I, which the court said were "integral parts of the constitutional design for the separation of powers."

And 3 years later, in Bowsher versus Synar, the Supreme Court was equally

scrupulous in requiring strict adherence to the procedures set forth in article I. In Bowsher, the Court invalidated the provision of the Gramm-Rudman-Hollings Deficit Control Act, giving the Comptroller General of the United States authority to execute spending reductions under the act. The Court held that this violated the separation of powers because it vested an executive branch function in the Comptroller General, who is a legislative branch official. "Underlying both decisions," the Congressional Research Service has written, "was the premise . . . that the powers delegated to the three Branches are functionally identifiable, distinct, and definable."

There is no ambiguity about the meaning of the requirements of article I, section 7, nor is there any uncertainty about why the framers vested the power of the purse in Congress. Madison in Federalist No. 58:

> This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Until the Supreme Court considers this bill—and it surely will—we will not have a definitive constitutional determination. But some of the Nation's leading constitutional scholars have already concluded that this legislation will be struck down by the courts when it reaches them.

Michael J. Gerhardt, a sometime professor of law at Cornell University, and now professor of law at the College of William and Mary, has written me to say, that in his opinion—I quote—"its constitutionality is plainly doomed."

He argues first that this legislation violates article I, section 7, in that it permits enactment of a bill that has never been voted on by Congress as such. That is, by exercising its power to cancel any part of the bill after signing it, the President would be creating a new law in a form never considered by Congress. That is plainly unconstitutional.

Professor Gerhardt argues that granting the President power to reconfigure bills passed by Congress is a legislative function which may not be delegated to the Executive. Finally, he notes that even if Congress could delegate the proposed veto power to the President, "Congress lacks the authority to restrict Presidential authority by limiting the grounds a President may consider as appropriate for vetoing something."

In his treatise, "American Constitutional Law," Laurence H. Tribe of the Harvard Law School writes that—

> . . . empowering the President to veto appropriations bills line by line would profoundly alter the Constitution's balance of power. The President would be free not only to nullify new congressional spending initiatives and priorities, but to wipe out previously enacted programs that receive their funding through the annual appropriations process.

Professor Tribe goes on to say:

> Congress, which the Constitution makes the master of the public purse, would be demoted to the role of giving fiscal advice that the executive would be free to disregard. The Framers granted the President no such special veto over appropriations bills, despite their awareness that the insistence of colonial assemblies that their spending bills could not be amended once they passed the lower house had greatly enhanced the growth of legislative power.

Yesterday, we asked Professor Tribe for his opinion on the legislation before the Senate today. He graciously telephoned our office this morning to say that after studying the conference report, he has concluded as follows. This is Laurence H. Tribe this morning:

> This is a direct attempt to circumvent the constitutional prohibition against legislative vetoes, and its delegation of power to the President clearly fails to meet the requisites of article I, section 7. Furthermore, nothing in my letter of January 13, 1993 regarding "separate enrollment" has any bearing on the mechanism that would be enacted here.

Professor Tribe refers to a letter that was quoted several times in last year's debate in which he discussed the possibility that separate enrollment might be constitutional. He emphasizes now that his 1993 letter should not be interpreted to indicate any support for this legislation, which he concludes is certainly not constitutional. Those are the constitutional considerations briefly stated.

Now to an additional subject that is of particular interest to me as ranking member and sometime chairman of the Committee on Finance, I direct the attention of the Senate to the provision of section 1021(A)(3) of this legislation dealing with limited tax benefits. This new language appears to be a response to the argument, raised in the debate last year, that spending and tax benefits should be treated equally under a line-item veto.

The provision purports to subject tax benefits to the same treatment under the line-item veto as other spending, yet the bill's application to limited tax benefits would have very little real effect, save, as I believe, pernicious ones.

Under the proposal, "limited tax benefit" is defined as any tax provision identified by the Joint Committee on Taxation as, (first), a revenue-losing provision; (second), having 100 or fewer beneficiaries in any fiscal year; and (third), not within a number of very broad exceptions designed to exempt from the line-item veto any tax provision under which "all similarly situated persons receive the same treatment." Any transition rule that the Joint Tax Committee estimates will benefit 10 or fewer taxpayers in any fiscal year would also be defined as a limited tax benefit.

This definition is so narrowly drawn that it will be almost effortlessly circumvented, for it is surely simple enough—and, Senators, as a member of the Finance Committee for 20 years, let me assure you, there is no problem expanding the number of beneficiaries from 10 to 100. It is very readily done and perhaps too often so.

To the extent the drafters are unwilling or unable to manipulate this numerical standard, one of the "similarly situated" exceptions often will be available to avoid the limited tax benefit designation. By way of an example, the conference report states that a provision that benefits only automobile manufacturers would not be treated as a limited tax benefit because "the benefit is available to anyone who chooses to engage in the activity." Thus, a provision that benefits only Ford Motor Co. but is drafted in a manner potentially open to General Motors and Chrysler would apparently escape the line-item veto.

The tax-writing committees often and properly find that tax relief may be justified in narrow circumstances. Such narrow relief is and ought to be granted sparingly, yet these features of the bill create a perverse incentive to craft broader tax benefits than necessary in order to avoid application of the line-item veto. This is surely counterproductive.

Second, while seemingly objective on its face, the definition includes several elements that are seriously ambiguous, raising a number of questions. For example, what does it mean to be "similarly situated?" Can a provision be drafted to benefit all baseball team owners to the exclusion of other sport franchises? How does one determine who are the beneficiaries of a particular provision? Would the football coaches pension provision—and, yes, there was one, in the vetoed Balanced Budget Act of 1995—be deemed to benefit only the pension plan itself or the more than 100 coach participants? I could go on longer than the Senate would be interested or perhaps even edified to hear.

There is a final point, sir. By vesting in the Joint Committee on Taxation the exclusive authority—not subject to judicial review, not subject to debate on the Senate floor—the exclusive authority to make these determinations, this legislation would effectively grant great additional power in drafting tax legislation to the chairman of the Senate Committee on Finance and the chairman of the House Committee on Ways and Means—those two persons to the exclusion, I fear, of the rest of the Congress, the Members of either body.

While the Joint Tax Committee may indeed be the best institutional decisionmaker on technical tax issues, the decision of what constitutes a limited tax benefit can and no doubt would be quite political. The chairmen of the two tax-writing committees could exert pressure on the Joint Tax Committee to exclude favored items from

VOL
142
PT
5
MR
21
—
29
1996
UMI

application of the bill. Conversely, the chairmen would be granted potentially undue influence over other Members' legislative items with the implicit threat that such items would be deemed subject to the line-item veto. In his letter to which I referred earlier, Professor Gerhardt expresses similar concerns about this provision.

Now, I mentioned that the purpose of this legislation, according to the conference committee, is to limit runaway Federal spending and thereby reduce the debt. I am here to report—and I hope someone will hear—that, in point of fact, the era of runaway spending is behind us.

The Federal budget is in primary surplus for the first time since the 1960's—for the first time. This came about largely as a consequence of the Omnibus Budget Reconciliation Act of 1993, which provided for deficit reduction of some $500 billion—the largest deficit reduction measure in the half century since the wartime-incurred deficit was reduced following World War II. Such was the size of the reductions that interest rates fell sharply, and the deficit premium, as it had been called, in the markets dropped, and another $100 billion was saved. And we are, at long last, moving our deficits down—down to 2 percent of gross domestic product this year. The difference between the present deficit and a true surplus is merely the debt service on the debt accumulated in those previous 15 years. If we had the debt of the 1970's, we would be in surplus today.

The sequence whereby that happened was the surpluses of the Kennedy-Johnson era became neutral in the Nixon administration, and the recessions and inflation of the Ford and Carter administrations produced small primary deficits. Then came the 1980's.

Then came 1993 and, among other things, I stand here saying—happily, to an almost empty Chamber—we had the largest tax increase in history, and I was chairman of the Finance Committee. It was not forgotten entirely in New York when I came back from the election. How did we do this? Very simply, we did it by compromise. We did it by the kind of compromise the Framers anticipated. The Framers said they did not create a system of government which presumed virtue. They took interest as a given and virtue as something to be acquired. And the offsetting principles, as Madison put it, to make up for the defect of better motives. We made all manner of compromises in that legislation, and we would not have our deficit down to 2 percent of GDP today had we not.

For example, the business meal tax deduction was reduced from 80 to 50 percent. That was something a chairman from New York could offer and say, "Here, I am willing to do this." The restaurant owners said, "What about us?" They were given a tax credit for the FICA tax they are required to pay on their employees' tips. Well, it was a compromise. I could go on and on about that. Gasoline and diesel fuels were raised 4.3 cents per gallon. Oh, Mr. President, do I remember that 0.3 cents—1 week in a room on the third floor without windows of this Capitol. But we got that. How? Airlines were given a 2-year exemption from the increased tax. We also took away tax benefits previously accorded exporters of raw timber.

Mr. President, these compromises make major legislation agreeable and effective. Supposing a member with which a chairman worked were asked to make a concession in return for an accommodation; supposing that member had to think: The minute this bill becomes law, that chairman will go to that President and say, "Take out that provision that was made for the Senator from Louisiana, because it was only done to get your bill by, Mr. President." You will not have that which makes legislation possible. You will not have that spirit of trust, which performance reinforces and creates the stability of our institutions. For if there is no trust, there will be no compromise, and if there is no compromise, there will be no Government—no stable Government.

I sometimes think of this simple fact. Mr. President, there are seven nations on Earth that both existed in 1914 and have not had their form of government changed by violence since 1914. There are two since 1800, and we are one of them. We are one of the seven and we are one of the two. That stability did not come easily, nor should it be assumed a given. That stability rests on the rock bed of the Constitution, and we do a very poor service to that stability when we begin to dynamite away parts of that rock bed.

I will close with simply one statement, which we are all required on our oaths to observe. The Judicial Conference of the United States has written to us to say: Do not do this. We are the least harmless branch—again, remember Madison—and we cannot make you do it. I will quote them:

> The line-item veto authority poses a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against the judges by vetoing items in judicial appropriation bills.

This is a profound responsibility which—in the end, we will turn to the courts to see sustained. I believe this is a serious concern. I hope that it will be attended to. Mr. President, I thank the Senate for its careful, courteous attention. I thank Senator DOMENICI. I thank, with special gratitude, Senator BYRD.

I will also, finally, ask unanimous consent that the letter from Prof. Michael Gerhardt, along with two letters from the Judicial Conference of the United States, be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COLLEGE OF WILLIAM & Mary
SCHOOL OF LAW,
Williamsburg, VA, March 27, 1996.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: I appreciate the chance to share with you my opinion on the constitutionality of the Line Item Veto Act of 1996, as set forth in the Conference Report, dated March 4, 1996 (hereinafter "the Republican draft" or "the Conference Report"). In this letter, I focus only on a few of the more serious problems with the Republican Draft and do not purport to analyze exhaustively its constitutionality. Even so, I am of the view that, given just the few significant flaws in the Conference Report that I identify and explain below, its constitutionality is plainly doomed.

Describing how the law works is crucial for identifying and understanding the constitutional and practical problems posed by some of its major provisions. As I read it, the critical delegation made by the Republican draft to the President is the authority to "cancel" all or any part of "discretionary budget authority," "and item of direct spending," or "any targeted tax benefit." Presumably, a presidential cancellation pursuant to the act has the effect of nullifying a portion of a budgetary or appropriations bill unless a majority of each chamber of Congress agrees within a specified time period to pass a "disapproval bill" specifying its intention to reauthorize the particular item cancelled by the President. The President may veto the disapproval bill, which can then become law only if two-thirds of each chamber of Congress agree to override his veto.

In my opinion, there are three fatal constitutional problems with the procedures outlined above. First, the law effectively allows any portion of a bill enacted by Congress that the President signs into law but does not cancel to become law, in spite of the fact that Congress will have never voted on it as such. This kind of lawmaking by the President clearly violates Article I, section 1, which grants "[a]ll legislative powers" to Congress, and Article I, section 7, which grants to Congress alone the discretion to package bills as it sees fit.

Article I states further that the President's veto power applies to "every Bill . . ., Every Order, Resolution or Vote to which the Concurrence of the Senate and House of Representatives may be necessary."[1] This means that the President may wield his veto on the legislative product only, as Harvard Law Professor Laurence Tribe maintains in his treatise, "in the form in which Congress has chosen to send it to the White House: be the bill small or large, its concerns focused or diffuse, its form particular or omnibus, the President must accept or reject the entire thing, swallowing the bitter with the sweet."[2] Tribe's subsequent change of position is of no consequence, because he was right in his initial understanding of the constitutional dynamics of a statutorily created line-item veto mechanism. The fact that the President has signed the law as enacted is irrelevant, because a law is valid only if it takes effect in the precise configuration approved by the Congress. The President does not have the authority to put into effect as a law only part of what Congress has passed as such. The particular form a bill should have as a law is, as the Supreme Court has said, the "kind of decision that can be implemented only in accordance with the procedures set out in Article I."[3]

The Conference Report would enable the President to make affirmative budgetary choices that the framers definitely wanted to preclude him from making. The framers deliberately chose to place the power of the purse outside of the executive because they feared the consequences of centralizing the powers of the purse and the sword. As James Madison wrote in the Federalist No. 58, "This power of the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people."[4] Every Congress (until perhaps this most recent one)—as well as all of the early presidents, for that matter—has shared the understandings that only the Congress has the authority to decide how to package legislation, that this authority is a crucial component of checks and balances, and that the President's veto authority is strictly a negative power that enables him to strike down but not to rewrite whatever a majority of Congress has sent to him as a bill.

The wisdom of leaving the power of the purse in Congress, as the framers desired as a means of checking the executive, is buttressed by the recognition-that pork barrel appropriations—the evil sought to be eliminated by the Republican draft—are just unattractive examples of legislating for diverse interests, which is the very stuff of representative government. Apportioning the public fisc in a large and diverse nation requires degrees of coordination and compromise that the framers left to the initial discretion of Congress to be undone only as specified in Article I.

The second constitutional defect with the Conference Report's basic procedures involves the legitimacy of the cancelling authority given to the President. Proponents of this cancellation power defend it as a legitimate delegation of congressional authority to the President; however, this argument rests on a misunderstanding of the relevant constitutional doctrine. This misunderstanding is reflected in the CRS Report, which claims erroneously that "while the [Supreme] Court has used a balancing test in some separation of powers cases, it has never chosen to do so in delegation cases."[5] The latter assertion is simply wrong.

In fact, the Supreme Court has issued two lines of cases on congressional delegations. The first, which is not implicated by the Conference Report, involves delegations from Congress to administrative agencies or inferior bodies. The Court tens to evaluate such delegations under a "functionalist" approach to separation of powers under which the Court balances the competing concerns or interests at stake to ensure that the core function of a branch is not frustrated. For example, the Court used this approach in *Morrison* v. *Olson*[6] to uphold the Independent Counsel Act in which the Congress had delegated the executive function of criminal prosecution to an individual not formally associated with any of the three branches. Similarly in *Mistretta* v. *United States*,[7] the Court upheld the constitutionality of the composition and lawmaking function of the United States Sentencing Commission, at least three of whose members are required by statute to be lower court judges and to which the Congress delegated the authorities to promulgate, review, and revise sentence-determinative guidelines.

The Republican Draft clearly violates, however, the second line of Supreme Court decision on congressional delegations. These cases involve delegations from Congress to the titular head of a branch, such as one of its chambers or the President. In these cases, the Court has not used a balancing test; rather, the Court has used a "formalist" approach that treats the Constitution as granting to each branch distinct powers and setting forth the maximum degree to which the branches may share those powers. A formalist approach to separation of powers treats the test of the Constitution and the intent of it drafters as controlling and changed circumstances and broader policy outcomes as irrelevant to constitutional outcomes. In recent years, the Court has used this approach to strike down the legislative veto in Chadha because it would have allowed one House to take legislative action without complying with the procedures set forth in Article I; to hold in *Bowsher* v. *Synar*[8] that Congress may not delegate executive budgetary functions to an official over whom Congress has removal power; and to strike down in *Washington Airports Authority* v. *Citizens for the Abatement of Aircraft Noise*[9] the creation of a Board of Review partially composed of members of Congress with executive veto-like power over the decisions of the directors of the Metropolitan Washington Airports Authority.

Undoubtedly, the Court would follow a formalist approach in striking down the Republican draft. For one thing, the Court would not be able to escape applying the logic of *Bowsher* v. *Synar* to the proposed law. Whereas the crucial problem in Bowsher was Congress' attempt to authorize the exercise of certain executive authority by a legislative agent—the Comptroller General, here the problem is that the President would plainly be exercising what everyone agrees is legislative authority—the discretion to determine the particular configuration of a bill that will become law. Even the law's proponents admit it allows the President to exercise legislative authority, albeit in their view delegated to him by Congress.

Formalist analysis would be appropriate in evaluating such a delegation's constitutionality because it would be the kind about which the framers were most concerned; the checks and balances set forth in the Constitution deal directly with how the titular heads of each branch should interrelate. Hence, the Court has opted for a formalist approach to deal with delegations between the branches at their respective apexes to preclude one branch from aggrandizing itself at the expense of another. The Conference Report would clearly undermine the balance of power between the branches at the top, because it would eliminate the Congress's primacy in the budget area and would unravel the framers' judgment to restrict the President's role in the lawmaking process to a qualified negative rather than to have him exercise an affirmative power to redraft or reconfigure a bill.

Even if the Court used a functionalist approach to evaluate the constitutionality of the Republican draft, it would strike down the proposed law. The reason is that the law establishes an uneven playing field for the President and Congress on budgetary matters. In so doing, it profoundly alters the balance of power set forth in the Constitution. As Professor Tribe recognizes further in his treatise, such a scheme "would enable the President to nullify new congressional spending initiatives and priorities as well as to wipe out previously enacted programs that receive their funding through the annual appropriations process. Congress, which the Constitution makes the master of the public purse, would be demoted to the role of giving fiscal advice that the President would be effectively free to disregard.[10] Once again Tribe's subsequent change of position does not undermine the soundness of his initial reasoning, for the historical record is clear that the framers, as Tribe had recognized himself, never intended nor tried to grant the President any "special veto power over appropriation bills, despite their awareness that the insistence of colonial assemblies that their spending bills could not be amended once they had passed the lower house had greatly enhanced the growth of legislative power."[11]

An example should illustrate the problematic features of the proposed cancellation mechanism. Suppose that 55% of Congress passes a law, including expenditures for a new Veterans Administration hospital in New York. The President decides he would prefer for Congress not to spend any federal money on this project, so after signing the bill into law, he exercises his authority to cancel the allocations made for the new facility. Again 55% of the Congress agrees to make this expenditure but this time through the passage of a disapproval bill. The President vetoes the latter, and Congress fails to override his veto, with only 55% of Congress (yet again) voting for the appropriation. The net effect is that the President would get to refuse to spend money 55% of the Congress will have thrice said it wanted to spend. Thus, the Conference Report would require Congress to vote as many as three separate times to fund something while assuming in the process an increasingly defensive posture vis-a-vis the President. In other words, the Republican draft allows the President to force Congress to go through two majority votes—the second of which is much more difficult to attain because it would have to be in favor of a specific expenditure that is now severed from the other items of the compromise giving rise to its inclusion in the first place—and one supermajority vote in order to put into law a particular expenditure.

A third constitutional problem with the Conference Report involves the constraints it tries to place on the President's cancellation authority. The latter is for all intents and purposes a veto. It has the effect of a veto because it forces Congress in the midst of the lawmaking process into repassing something as a bill that ultimately must carry a supermajority of each chamber in order to become law. Nevertheless, the Conference Report attempts to constrain the reasons the President may have for cancelling some part of a budget or appropriations bill. Just as Congress lacks the authority through legislation to enhance presidential authority in the lawmaking process by empowering him to reconfigure what Congress has passed as a bill into some other form prior to its becoming a law, Congress lacks the authority to restrict presidential authority by limiting the grounds a president may consider as appropriate for vetoing something.

Even apart from whatever constitutional problems the Conference Report may have, it poses two serious practical problems. First, the possibility for substantial judicial review of presidential or congressional compliance with the Republican draft is quite high. For example, it seems likely that lawsuits could be brought challenging whether the President has appropriately considered, as the act directs, such things as "the legislative history" or "any specific sources of information referenced in such law or, in the absence of

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Footnotes at end of letter.

VOL
142
PT
5
MR
21
—
29
1996
UMI

specific sources of information, the best available information" or "the specific definitions contained" within it. At the very least, the bill requires that the President make some showing that he has done these things to the satisfaction of members of Congress (or at least those disposed to bring a lawsuit in the absence of such a showing.) There are also numerous procedures OMB and each house of Congress must follow that, presumably, could become the basis for judicial challenge if not done completely to the satisfaction of partisan foes in the other branch. In addition, there may be some questions as whether the President has in fact complied with Congress' or the Republican draft's understanding of the kinds of items he may cancel, such as a "targeted tax benefit."

The likely prospect of substantial judicial interference with the budgetary process is unsettling. The framers deliberately excluded the unselected federal judiciary from exercising any kind of decisive role in budgetary negotiations or deliberations. The Republican draft does not ensure that this exclusion will always be honored. The framers wanted all of the key decisionmakers within budget negotiations to be politically accountable; any budgetary impasse between the President and Congress that the federal courts help to resolve in favor of one or the other will simply diminish even further the public's confidence that the political process is the place to turn for answers to such deadlocks.

Another practical difficulty is with the authorization made by the Republican draft to the Joint Committee on Taxation to render an official opinion, which may become a part of a budgetary or appropriations measure, on whether it "contains any targeted tax benefit." The bill precludes the House or the Senate from taking issue with the judgment of the Joint Committee's finding. As a practical matter, this empowers a small number of members of Congress to impose their will on the whole body. Although this might have the salutary effect of expediting the passage of the covered legislation, it forces those members of Congress who disagree with the Joint Committee to express their disagreement only by voting down rather than by trying to amend a bill that they otherwise would support.

In summary, I believe that the Republican draft conflicts with the plain language, structure, and traditional understanding of the lawmaking procedure set forth in Article I; relevant Supreme Court doctrine; and the delicate balance of power between Congress and the President on budget matters. I am confident that the Supreme Court ultimately would strike the bill down if it were passed by Congress and signed into law by the President.

It has been a privilege for me to share my opinions about the Conference Report with you. If you have any other questions or need any further analysis, please do not hesitate to let me know.

Very truly yours,

MICHAEL J. GERHARDT,
Professor of Law.

FOOTNOTES

[1] U.S. Const. art. I, section 7, cls. 2, 3.

[2] Laurence Tribe, American Constitutional Law 265 (2d ed. 1988).

[3] *I.N.S.* v. *Chada*, 462 U.S. 919, 954 (1982).

[4] The Federalist No. 58 at 300 (J. Madison) (M. Beloff ed. 1987).

[5] Congressional Research Service, Memorandum Regarding Constitutional Questions Respecting Bill to Grant President Enhanced Rescission Authority over Appropriations and Targeted Tax Benefits, at 16 (January 9, 1995).

[6] 487 U.S. 654, 693 (1988).

[7] 488 U.S. 361 (1989).

[8] 478 U.S. 714 (1986).

[9] 111 S. Ct. 2298 (1991).

[10] L. Tribe, supra note 2, at 267 (footnotes omitted).

[11] Id. at 267 (citing Note, Is a Presidential Item Veto Constitutional? 96 Yale L.J. 838, 841–44 (1987)).

JUDICIAL CONFERENCE OF THE,
UNITED STATES,
Washington, DC, March 15, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Capitol Building, Washington, DC.

Hon. ROBERT J. DOLE,
Majority Leader, U.S. Senate, Capitol Building, Washington, DC.

DEAR MR. SPEAKER AND MR. MAJORITY LEADER: I understand an agreement has been reached between Republican negotiators on "line-item veto" legislation. Although we have not seen a draft of the agreement to determine the extent to which the Judiciary might be affected, I did not want to delay communicating with you. The Judiciary had concerns over some previous versions of the legislation that were considered by the House and Senate. These concerns could also apply to the version on which agreement was just reached, depending on how it is drafted.

The Judiciary believes there may be constitutional implications if the President is given independent authority to make line-item vetoes of its appropriations acts. The doctrine of separation of powers recognizes the vital importance of protecting the Judiciary against interference from any President.

Protection of the Judiciary by Congress against Presidential power and potential intervention is also evident in the Budget and Accounting Act of 1921, which ensures that the financial affairs of the Judiciary be insulated from political influence by the President and his staff. Prior to this Act, the Judiciary's budget was controlled by the Executive Branch. Now, by law, requests for judicial branch appropriations must be submitted to the President by the Judiciary, but must be transmitted by him to Congress "without change".

This protection needs to endure. Control of the Judiciary's budget rightly belongs to the Congress and not the Executive Branch, particularly in light of the fact that the United States, almost always through the Executive Branch, has more lawsuits in the Federal courts than any other litigant. The integrity and fairness of our Federal Courts should not be endangered by the potential of Executive Branch political influence.

In whatever agreement is ultimately reached by the conference committee, on behalf of the Judicial Conference of the United States, I urge that the independence of the Third Branch of Government be preserved.

I appreciate your consideration and we stand ready to assist you in any way necessary.

Sincerely,

LEONIDAS RALPH MECHAM,
Secretary.

JUDICIAL CONFERENCE OF THE
UNITED STATES,
Washington, DC, March 21, 1995.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Office Building, Washington, DC.

DEAR SENATOR HATCH: On behalf of the Judicial Conference of the United States, I am pleased to respond to your request for the Judiciary's views on an amendment to the Dole substitute to S. 4. The amendment would require all appropriations of the Judiciary to be enrolled in one bill.

The Judiciary believes the amendment is critical to ensure the independence of the third branch. Without the amendment, each appropriated line item within the Judiciary would be a separate bill. The Executive Branch would then have the power to pick and choose which activities of the Judiciary it did and did not want funded. Such power over individual items raises the possibility that the Executive could seek to influence the outcome of litigation by selective vetoes or could try to retaliate for unwelcome decisions. The Executive is the major litigator in the federal courts.

The doctrine of separation of powers recognizes the extreme importance of protecting the Judiciary against inappropriate Executive Branch interference. This is reflected in the Constitution, which protects the tenure and salaries of Article III judges. It is also evident in the Budget and Accounting Act of 1921, which ensures that the financial affairs of the Judiciary be insulated from political influence by the President and his staff. Prior to this Act, the Judiciary's budget was controlled by the Executive Branch. Now, by law, requests for Judicial Branch appropriations must be submitted to the President and transmitted by him to Congress "without change". This protection needs to endure. Control of the Judiciary's budget rightly belongs to the Congress and not the Executive Branch. The Judicial Branch budget has never been the source of claims of "pork barrel" appropriations in Congress.

I appreciate having the opportunity to comment on this legislation and your amendment that will ensure that the integrity and fairness of our Federal Courts are not endangered by the potential of Executive Branch political influence.

We do not want our citizens to ever think that they are back in the position of the Colonists in 1776 who separated from England in part because of their perception, as Jefferson stated in the Declaration of Independence, that the Executive "has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers. He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries."

Sincerely,

GILBERT S. MERRITT,
Chairman.

Mr. MOYNIHAN. Mr. President, I believe I have two moments. I yield them to whichever Senator wishes to use them. I thank the Chair.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I note that the minority leader is on the floor. I understand a vote is scheduled for 5:45, and we have 15 minutes. Is that the parliamentary situation?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. Does the Senator desire to use his leader time?

Mr. DASCHLE. That is fine.

Mr. DOMENICI. Can we do it even though time is set?

Mr. DASCHLE. We can do that.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the distinguished minority leader be permitted to speak for 10 minutes, after which the 15 minutes that I have follow, and after that we proceed to a vote on or in relation to the Byrd amendment.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object.

Mr. DASCHLE. Mr. President, I would be more than happy to keep my remarks to fewer than 5 minutes. So perhaps if it would work, we can still try to keep the time. I know a lot of people are scheduling their time for the vote. I will be happy to limit my remarks to no more than 5 minutes, and perhaps even less.

Mr. DOMENICI. Mr. President, I yield up to 5 minutes of my 15 minutes to the distinguished minority leader so we keep the time as agreed.

Mr. DASCHLE. Mr. President, I thank the manager of the bill. Mr. President, let me begin by acknowledging the masterful presentation made by the distinguished Senator from West Virginia. No one knows this issue better than he does. No one has studied constitutional balance of power more carefully than has he. He has raised issues today of constitutionality and the balance of power with a clarity of vision and a depth of knowledge that every Senator ought to carefully consider.

His motion certainly would lead to a more thoughtful approach, in my view. The Byrd motion is one that should be supported by all Members of the Senate. It instructs the conferees to report a bill similar to S. 14, a bipartisan bill that was debated very carefully on the Senate floor a little over one year ago. It was sponsored by Senators DOMENICI and EXON and cosponsored by the majority leader, and reported out of the Budget Committee and the Governmental Affairs Committee. It does what the distinguished ranking member of the Appropriations Committee has indicated it would do—maintain the proper relationship between the role of Congress as well as the responsibilities of the President.

I believe it has three major advantages, and I want to touch very briefly on each of these advantages.

First, this plan provides an equal opportunity for the President to examine tax expenditures as well as appropriations measures. The Republican plan, constituted in the conference report, does not allow the President to review all of the special-interest tax breaks that are all too often considered on the Senate floor. It applies only to those that benefit fewer than 100 taxpayers. Frankly, there are not many provisions that apply to 100 or fewer taxpayers. The Joint Tax Committee determines which breaks can be canceled, and I believe that in many cases that alone ought to give us pause. Under S. 14, the President has the opportunity to more broadly apply the powers to examine all expenditures in a more careful way, not only on appropriations bills but also with regard to tax expenditures.

Second, we protect majority rule, which is a central principle of democracy. S. 14 requires a congressional majority to approve the cuts proposed by the President. Under the conference report, the President can prevail with the support of only one-third of either House of Congress. So, clearly, we abrogate the concept of majority rule. We certainly would not permit a minority to hold a majority hostage in cases like this.

Clearly, S. 14 is constitutional, as the distinguished ranking member and former chairman of the Appropriations Committee has so eloquently described in many ways this afternoon. He has enlightened us as to the problems with the conference report. The alternative that he presents avoids these problems by requiring Congress to vote to approve Presidential rescissions. Congress should not approve a bill subject to court challenge, and, clearly, the conference report will be challenged in court.

So, I believe, Mr. President, the motion of the distinguished Senator from West Virginia offers the best of both worlds. It gives the opportunity for the President to apply additional scrutiny to items in legislation which may be called into question. It gives him the opportunity to apply that scrutiny both to tax expenditures as well as appropriated spending. It allows us to retain majority rule and preserves the balance of power. It avoids constitutional questions that will certainly be raised as soon as this legislation would be enacted, and it is effective immediately.

We do not have to wait for the end of this year. We do not have to assume that we have to wait until the next term of the President to allow the power to be utilized. It allows him to do it now. We can look between now and the end of the year at the ways in which this might be utilized. This will allow us more opportunity to examine whether or not this approach is an appropriate way with which to assure additional scrutiny of spending and tax breaks in the future.

So I applaud the work of the Senator from West Virginia and others who have brought us this opportunity. I think it is important. It is critical that we carefully consider the constitutional questions that the distinguished Senator from West Virginia has raised.

I hope our colleagues will support this motion to recommit.

I yield the floor.

Mr. DOMENICI. Mr. President, with the minority leader on the floor, I wonder if it might be in order for me to ask unanimous consent that the yeas and nays be ordered on the Domenici motion to table the underlying amendment. I ask unanimous consent for that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. I yield 5 minutes of my time to Senator STEVENS.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I call the attention of the Senate to the very basic provision in this bill. It says in section 1021(a), "Notwithstanding the provisions of part A and B, and subject to this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to article I, section 7, of the Constitution of the United States * * *" take the action under this bill.

What we in fact under this bill are doing is giving the President the authority, in effect, to impound moneys that we have given him authority to spend. And we have the right to take that notification of any cancellation that he sends to us and send him, in effect, another bill saying we intend for you to spend those moneys. He may veto that second bill if he wants. But in the first instance, we are not giving the President any authority to change the law. We are telling him he can cancel funds provided only if the cancellation would reduce the Federal budget deficit, not impair essential Government functions, and not harm the national interest.

The issue here is whether the Congress has the right to delegate to the President the authority to not spend money. This is not a violation of separation of powers or a violation of the presentation clause of the Constitution. We have given the President, under this bill, limited authority to cancel—that is, to not spend—certain moneys Congress otherwise would have directed the President to spend.

I want to make sure people understand the way this works. A bill is sent to the President, which the President may sign, reject, or let it take effect without his signature under article I, section 7, of the Constitution. If, and only if, the President signs the bill into law, then under this bill the President is given the delegated authority from Congress not to spend certain portions of the money that he cancels according to the provisions of the bill.

I have heard the concept of many of the Senators, but I want to make sure that we all understand this is no different from giving the President the discretion not to enforce a particular

VOL
142
PT
5
MR
21
—
29
1996
UMI

law under certain circumstances or to decide, when based on specific criteria, to impose or to lift an import duty. We have done that. This conference report has no Chadha problems, based on the Supreme Court decision in the Chadha case. Congress is not going to be given the power to legislatively overturn a Presidential decision with regard to a veto or implementation of a law.

We have the power to take action for the second time after the President uses his authority under this bill to impound or cancel moneys and, in effect, put them into the track where they will reduce the deficit. We can pass a second bill. The President would veto that. He has no authority under this bill to deal with that second proposal. If we pass such a bill and direct the President to spend money he otherwise thought he should cancel, he has the authority to veto that bill, and we have the authority to override his veto; in effect, to mandate him to spend the money as we have said to do so on two occasions.

But I urge Senators not to refer to this as some action to give the President the authority to change a bill before it becomes law or to change in any way legislation that does not affect dollars. He only has the authority to, in effect, cancel the spending of dollars under specific circumstances that, while the circumstances are clearly limited, the scope of the authority is very broad.

Mr. DOMENICI. Mr. President, first, let me add to my brief comments a while ago about Presidents who might abuse this power because a lot has been said about how this might change the balance of power.

I remind every Senator that there is nothing in this bill that says we have to appropriate money that the President asks us for. Let me repeat; we do not have to appropriate money that the President asks us for. You see, if a President decides to be totally arbitrary about this, the Congress of the United States does not have to appropriate money for things the President wants. That is our balance. There can be no money spent unless we appropriate it.

So, in addition to all of the other things the President needs of a Congress and a Senate under the Constitution, those are all our powers that he needs to help him do his job.

In addition, he needs dollars to run the Government of which he is the Chief Executive, and we have to appropriate those dollars.

I am not worried about the balance of power because, obviously, Congress will withhold some of the President's power if this gets into an arbitrary match of power, and I believe it is going to be used to the betterment of our country, our people, and the taxpayers.

With reference to the motion we are going to vote on, let me be very brief and very forthright. The amendments Senator BYRD has offered and that I am going to move to table shortly will return the line-item veto to conference. It took us 6 months to reach a compromise on the line-item veto. To send it back with instructions is to kill it because what is purported to be instructed cannot pass the Senate and cannot pass the House.

This motion calls us to cast aside the compromise embodied in this conference report. It calls on the conferees to adopt an expedited rescissions approach instead. Both Houses rejected the expedited approach. Last year, during the Senate's consideration of the line-item veto, we voted 62 to 38 to table the expedited approach which the distinguished Senator from West Virginia, Mr. BYRD, is asking us to instruct the conference committee to do again—a nullity for sure, for nothing will happen, and I believe that is what is intended if these amendments were adopted.

I support the compromise, and it is now time to vote on the conference report on the line-item veto. A vote in favor of the motion will be a vote to defeat the line-item veto conference report before us. I urge Senators not to do that.

So we will all have a chance to make sure we do not send this to conference, I yield back the remaining time that I have, and I yield the floor.

I move to table the underlying amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to recommit the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 58, nays 42, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—58

Abraham
Ashcroft
Baucus
Bennett
Bond
Breaux
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feinstein
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kennedy
Kerry
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Robb
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—42

Akaka
Biden
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Ford
Glenn
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kerrey
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

The motion to table the motion to recommit was agreed to.

Mr. CHAFEE. Mr. President, I thank the managers for the opportunity to speak in favor of the conference report to accompany the Line-Item Veto Act, S. 4.

I would challenge those who argue that the President already has sufficient authority to rescind unwanted spending items. The opposite is true. The rescission authority vested in the President today barely works at all. In the overwhelming number of cases, Presidential rescission orders are ignored by Congress, and the subject funds are ultimately obligated.

In fact, since the rescission authority was established in 1974, Congress has only given approval to $23.7 billion of the $74 billion Presidential rescission requests. In other words two-thirds of the rescission requests died a quiet death.

By requiring Congress to affirmatively disapprove rescissions, this legislation would transform the present "paper tiger" into a functional tool for reducing and eliminating: Special interest spending items in appropriations bills; expansions of existing, or establishing of new, entitlements; and tax expenditures which benefit narrow groups of taxpayers.

Mr. President, the debate over this issue has been a long and tortured one. In looking back, I found an interesting item which illustrates just how long and tortured it has been. I want to direct the Senate's attention to a speech given on the floor of the House by Congressman R.P. Flowers from New York in support of the line-item veto. The date was December, 1882.

In addition to a belief that it would foster economy in Government, Representative Flowers had another motivation—that of supporting the wishes of a constituent who just happened to be President of the United States. That President was Chester A. Arthur, who advanced from Vice President to President when James A. Garfield was tragically struck down by an assassin's bullet in 1881.

In his annual message to the Congress, President Arthur stated:

> I commend to your careful consideration the question whether an amendment of the Federal Constitution . . . would not afford the best remedy for what is often a grave embarrassment both to Members of Congress and to the Executive, and is sometimes a serious public mischief.

The "embarrassment" and "public mischief" to which the 21st President was referring was the same problem then that it is today: The tactic we in Congress employ of burying narrow spending provisions—which cannot on their own merits survive the legislative process—in massive must-pass appropriation bills.

Congressman Flowers delivered his speech 114 years ago. While the proposal before us today is far less ambitious than the constitutional amendment requested by President Arthur, the arguments have been thoroughly vetted.

Representative Flowers summarized the arguments against the line-item veto as: First ". . . an indignant howl about our rights an interests" [in the Legislative Branch]; and second, ". . . those who feign mistrust of the Executive, who fear too much 'one-man power.'"

Wisely, the bill before the Senate today includes a sunset provision. If it turns out that this authority is abused by the Chief Executive—which I do not fear—then Congress can let the authority die.

The point is, we have been debating this issue for at least 114 years, and the arguments pro and con have been debated ad nauseam. Passage of this legislation will not solve our deficit problems. However, it will give the American people one more tool—one more check against unnecessary spending. Frankly, in my view, we need all the help we can get in that regard. So, I say: Let us pass this conference report and get on to other business.

Mr. KYL. Mr. President, the Line-Item Veto Act is a good bill, but one that should not be necessary. Congress should always have the good sense to spend taxpayers' hard-earned money wisely, for the benefit of all citizens.

Mr. President, British historian Alexander Tytler once said:

> A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves largesse from the public treasury. From that moment on, the majority always votes for the candidates promising the most benefits from the public treasury with the result that a democracy always collapses over loose fiscal policy, always followed by a dictatorship. The average age of the world's greatest civilization has been 200 years.

Alexander Tytler makes an excellent point, but perhaps the American people have wisdom and foresight that he could not understand. The American people recognize the burden that a spendthrift government can impose on them, their children, and their grandchildren. And that is why they have been so adamant about demanding change. Demanding less Government spending, lower taxes, and a leaner Government—before Tytler's prophecy comes to pass.

The American people began to change the face of Congress in the last election. And of course, electing fiscally responsible individuals to the Congress is probably the most powerful and effective weapon that the American people can wield in the fight against pork-barrel spending. It is more effective than a line-item veto can ever be.

The line-item veto itself is not a cure-all. It will not result in a balanced budget. There is not enough pork that can be deleted from the budget to accomplish that. But, if properly exercised by the President, it can make it easier to get to balance.

Make no mistake about it, this bill will shift a great deal of new power to the President. I do not relish that prospect because the potential for abuse by the President is great. He can use the veto power to reward or punish Members of Congress, depending upon whether they support or oppose other policies of his administration.

Most Presidents, however, will be responsible about how they use this awesome new power. That is because all eyes of the American people will be on the President if he abuses it, or if he fails to properly delete wasteful spending from appropriations bills. By signing this bill into law, President Clinton will be accepting significant new responsibilities from the American people to safeguard their hard-earned tax dollars. I have no doubt that they will hold him accountable if he fails to use the new power wisely.

Mr. President, just a few weeks ago, the nonpartisan taxpayers' organization, Citizens Against Government Waste, released the 1996 Congressional Pig Book Summary. The good news is that the organization certified that, in 1995, Congress produced the first pork-free appropriation bill ever—the legislative branch appropriations bill.

Unfortunately, however, not all of the news was good, and that is one reason why the line-item veto is still necessary. Citizens Against Government Waste found a total of $12.5 billion in pork-barrel spending in eight other fiscal year 1996 appropriations bills that have been signed into law. Among the projects that the group identified were rice modeling at the Universities of Arkansas and Missouri; shrimp aquaculture; brown tree snake research; the International Fund for Ireland; and the Iowa communications network, to name a few.

These are the kinds of projects that are likely to be the target of a line-item veto, projects that are typically hidden away in annual spending bills. They're enough to demonstrate the ability of certain legislators to "bring home the bacon" and curry favor with special interest groups back home. But, they don't amount to enough to cause Congress to reject an entire bill or prompt the President to veto a bill and bring large parts of the Government to a standstill.

The line-item veto is designed to bring accountability to the budget process. Instead of forcing the President to accept wasteful and unnecessary spending in order to protect important programs, it puts the onus on special interests and their congressional patrons to prove their case in the public arena. It subjects projects with narrow special interests to a more stringent standard than programs of national interest. The special interests would have to win a two-thirds majority in each House. Programs of national interest would merely require a simple majority.

That is the shift in the balance of power which the line-item veto represents. It is a shift in favor of the taxpayers, and that is why I intend to support it. If the Government were running a surplus, the taxpayers might be willing to tolerate some extra projects. But the Government is running annual deficits that are far too high, and there is no extra money to go around. There is not even enough to fund more basic needs.

Mr. President, when you find yourself in a hole, the first rule of thumb is to stop digging. Let us begin climbing out of the hole we have dug for ourselves and future generations. Let us pass the line-item veto.

EMERGENCY SPENDING PROVISIONS

Mr. FEINGOLD. Mr. President, will the Senator from Arizona yield for a question?

Mr. President, the Senator from Arizona noted in his opening statement on this measure that the emergency spending reforms he and I were able to include in the Senate-passed version were dropped in the conference committee version of this line-item veto measure.

Our provision limited emergency spending bills solely to emergencies by establishing a new point of order against nonemergency matters, other than rescissions of budget authority or reductions in direct spending, in any bill that contains an emergency measure, or an amendment to an emergency measure, or a conference report that contains an emergency measure.

The provision also featured an additional enforcement mechanism to add further protection by prohibiting the Office of Management and Budget from adjusting the caps on discretionary spending, or from adjusting the sequester process for direct spending and receipts measures, for any emergency appropriations bill if the bill includes extraneous items other than rescissions of budget authority or reductions in direct spending.

I know he shares my disappointment that those provisions were dropped.

Is it his understanding that though the emergency spending provisions were dropped from the final conference version of the line-item veto measure, we have been given assurances that the Budget Committee staff will work with our own staffs to bring this matter back on an appropriate legislative vehicle?

Mr. McCAIN. Mr. President, that is my understanding, and I look forward

VOL
142
PT
5
MR
21
—
29
1996
UMI

to working with the Senator from Wisconsin and the Budget Committee staff to address any technical concerns there might be with the emergency spending provisions.

Mr. FEINGOLD. I thank my friend from Arizona.

As we consider ways to empower the President to veto unjustified spending through this new authority, it only makes sense to enact reforms that prevent those abuses from passing in the first place.

The emergency spending reforms that Senator MCCAIN and I introduced as legislation, and included in S. 4 as it passed the Senate, did just that.

Our emergency spending legislation previously passed the House by an overwhelming vote and I am hopeful that we will soon be able to overcome the resistance to this provision and have it enacted into law as well.

And though I regret our reforms were not included in this proposal, I look forward to working with the Budget Committee and my good friend from Arizona to iron out any drafting problems, and find an appropriate vehicle for this needed reform.

Mr. FRIST. Mr. President, I rise today in strong support of the line-item veto. No single legislative procedure will do more to curb wasteful Government spending than this powerful legislative tool. For years, Washington has talked about this idea without acting. I am proud to be a Member of the Congress that will make the line-item veto a reality.

For years, the Federal Government has demonstrated an appalling lack of fiscal responsibility. Today, our national debt is over $5 trillion—more than $19,000 for every man, woman, and child in America—and is growing at a rate of $600 million a day. Entitlement spending—the two-thirds of the Federal budget on automatic pilot—is growing so fast that it will consume all of our tax dollars in just over a decade. Meanwhile, the other third of our budget, discretionary spending, is riddled with unnecessary pork-barrel projects. Basically, it is too easy to spend and too hard to save here in Washington. We owe it to the American taxpayer to impose fiscal discipline on Federal spending habits.

The line-item veto reforms our institutional and procedural tendency to overspend. Here's how it works. The President already can veto spending bills passed by Congress. S. 4 gives the President the authority to veto specific spending items—including appropriations, new entitlements, and limited tax benefits. The President's cancellations will stand unless Congress passes a bill restoring the spending and providing the two-thirds support necessary to override any additional vetoes.

Some people argue that S. 4 shifts too much power from Congress to the President. However, I believe the President needs a tool to help control Congress' insatiable appetite for spending the taxpayers' money. We must give our Chief Executive the power to strike discreet budget items which do not serve the national interest. In fact, I am so convinced that the line-item veto is the right thing to do that I am willing to give this power to a President of another political party.

While the line-item veto alone cannot balance our budget or pay off our national debt this one legislative tool could perform radical surgery on wasteful federal spending. In 1992, the General Accounting Office [GAO] estimated that a line-item veto could have saved $70 billion in wasteful spending during the last half of the 1980's. That $70 billion could provide a $250 tax credit for families with children for 7 years. Taxpayer watchdog group Citizens Against Government Waste identified an additional $43 billion in procedural pork spending in the last 5 years, spending which circumvented normal budget procedures. Imagine how a line-item veto could have saved a significant portion of that money.

But we don't need the GAO or a taxpayer watchdog to tell us that the line-item veto works. We only need to ask the 43 of our Nation's Governors who use this tool on a regular basis. In fact, when President Clinton was Governor or Arkansas, he used the line-item veto 11 times. If the States can control spending and balance their budgets, the Federal Government should follow their example.

Mr. President, I look forward to the day when I can tell my three sons, my fellow Tennesseans, and every American that they have inherited a country free of debt. I look forward to the better job opportunities and higher the standards of living they they will enjoy. And at that moment, I hope I can look back at the day we passed the line-item veto as the day a bipartisan group of legislators took a significant step down the road to fiscal accountability. I strongly urge my colleagues to support this bill.

THE LINE-ITEM VETO: STILL AN ILL-CONSIDERED PROPOSITION

Mr. PELL. Mr. President, when the line-item veto was last before us, I said that I found myself in opposition both on philosophical as well as practical grounds.

I must be quick to acknowledge that my reservations on practical grounds have been met. The conferees deserve credit for replacing the cumbersome and unworkable scheme of separate enrollment in the Senate version of the legislation, with at least a workable plan for enhanced rescission authority.

But my underlying philosophical reservation remains. As I said when the bill was last before us, I simply believe that Congress should be extremely chary in yielding its power of the purse to the executive branch. I hold this view on the basis of my Senate service under eight Presidents of both parties during my 35 years in the Senate, and notwithstanding the cordial relationships I have had with all of them.

I continue to believe that the executive branch, which under our Constitution, quite properly is a separate power center with its own agenda and its own priorities, inevitably will seek and use any additional power to achieve its objectives. And the pending grant of veto power over specific items, I fear, will surely give even the most benign and well-motivated Chief Executive a new means for exercising undue influence and coercion over individual members of the legislative branch.

I hold this view, notwithstanding my loyalty and respect for President Clinton, who I know would use such a grant of authority wisely. But it is the balance of institutional forces that must be considered, and it is in this connection that we have been well served by the erudition of the senior Senator from West Virginia [Mr. BYRD], who has reminded us so eloquently of the need to protect the legislative prerogatives. I agree with him and I commend him for his great service to the cause of constitutional government.

Mr. LEAHY. Mr. President, I have a number of serious concerns and questions about the conference report on the line-item veto, S. 4.

First, the line-item veto encourages minority rule by allowing a Presidential-item veto to stand with the support of only 34 Senators or 146 Representatives. This is not majority rule. We are back to anti-democratic supermajority requirements, which I thought were dismissed during the balanced budget amendment debate.

By imposing a two-thirds supermajority vote to override a Presidential-item veto, the line-item veto undermines the fundamental principle of majority rule. Our Founders rejected such supermajority voting requirements on matters within Congress' purview.

Alexander Hamilton described supermajority requirements as a poison that serves to destroy the energy of the government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junto to the regular deliberations and decisions of a respectable majority.

Such supermajority requirements reflect a basic distrust not just of Congress, but of the electorate itself. I reject that notion.

Moreover, supermajority requirements in any line-item veto bill is overkill. I am afraid that this bill will sacrifice many worthy projects on the altar of supermajority votes.

But supermajority power is not needed to strike wasteful line items.

The purpose of any line-item veto bill is to give the President the power

to expose wasteful line items to the sunlight of a congressional vote.

A majority vote is enough to kill any wasteful line item while still allowing Members to convince their colleagues to vote for a worthy line item.

In addition, these supermajority requirements hurt small States, like my home State of Vermont, by upping the ante to take on the President.

Under the line-item veto, Members from small States would have to convince two-thirds of Members in each House to override the President's veto for the sake of a project in another Member's district.

With Vermont having only one representative in the House, why would other members risk the President's wrath to help us with a project vetoed by the President?

Another question mark under this conference report is tax breaks.

Under the bill, the President has authority to veto only limited tax benefits, which are defined as providing a Federal tax deduction, credit or concession to 100 or fewer beneficiaries.

Any accountant or lawyer worth his or her high-priced fee will be able to find more than 100 clients who can benefit from a tax loophole. If more than 100 taxpayers can figure out a way to shelter their income in a tax loophole, the President would not be able to touch it. The bigger the loophole in terms of the number of people who can take advantage of it, the safer it is.

The definition of limited tax benefit sounds like a tax loophole in itself.

Would the President have line-item veto authority over the capital gains tax cut described in the House Republican Contract With America?

It certainly is estimated to lose revenue—the bipartisan Joint Committee on Taxation has estimated that the contract's capital gains tax cut would lose almost $32 billion from 1995 to 2000.

Yet somehow I think a capital gains tax cut would fall beyond the scope of being a limited tax benefit under this legislation.

Why do we not quit this shell game. Just state in plain language that the President has line-item authority over all tax expenditures.

I believe we should tread carefully when expanding the fiscal powers of the Presidency. The line-item veto will change one of the fundamental checks and balances that form the separation of powers under the Constitution—the power of the purse.

The line-item veto hands over the spending purse strings to the President, whose cuts would automatically become effective unless two-thirds of both Houses of Congress override the veto.

The President would have no burden of persuasion while a Member would have the Herculean task of convincing two-thirds of his or her colleagues in both Houses to care about the vetoed project.

It is truly a task for Hercules to override a veto. Just look at the record—of the more than 2,500 Presidential vetoes in our history, Congress has been able to override only 105.

As noted so well in The Federalist Papers: "the accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."

Let us not try to score cheap political points at the expense of over 200 years of constitutional separation of powers.

Mr. REID. Mr. President, I rise in opposition to the proposed Line-Item Veto Act. The conference report does more to upset the balance of powers than any legislation this body has considered this year. This is not about curbing expenditures. It is body abrogating constitutional responsibility. It is about ceding unbridled spending authority to one individual in one branch of the Government. It should not be called the Line-Item Veto Act. Rather, it should be called the Presidential Spending Empowerment Act. It grants unprecedented amounts of spending power to one individual. Proponents attack discretionary spending as though this were the reason for our deficit. They know better. Discretionary spending becomes a smaller part of the Federal budget every year. The days of pork-barrel spending have long since passed. This concept is replaced by yielding the President authority to punish his enemies.

This is an invitation to unfettered politicization of the Federal spending process. It is exactly this kind of undue influence that the founders sought to avoid through separation of powers doctrine. It does not take the imagination of Machiavelli to see how this power could be used for nefarious purposes. This is particularly true in an election year. Look at the possible scenarios that could be in store. This would give a future incumbent President quite a political weapon. Perhaps it could be used to entice the endorsement of Members from key primary States. A President could agree to not cancel an item of new direct spending on the condition that a member endorse his candidacy. Conversely, he could punish a Member for deciding not to support him. Even in a nonelection year, this unfettered power could be unleashed for the rawest of political purposes. Why? Because this legislation creates an implied threat against all Members of Congress. This implied threat is vested in one politician. It can be exercised on any piece of legislation this body considers.

The significance of the conference report is not what is said, it is what is not said. It attempts to remove politics from the process. Unfortunately, it will have the exact opposite effect that its supporters intend. It injects the rawest form of power politics into the Federal spending process.

The conference report creates enormous political arsenal and endows it in one individual. Its proponents say it will act as a shield against unnecessary spending. But it's really an axe that can bludgeon any legislator who dares to disagree with a President. This is not just about concentrating unprecedented amounts of power in one individual in one branch of government. It is about giving that individual a lethal political weapon. We are giving that individual license to use this weapon in whichever manner he sees fit.

Proponents of the conference report say this measure can be used as a surgical scalpel. I believe it more closely resembles a hovering guillotine. It is not just congressional spending authority that will be infringed. Our third branch of government, the judiciary, will have its independence placed in jeopardy.

I would encourage all Members to read an excellent piece on this issue in today's New York Times. It sets out some interesting arguments as to why the legislation is opposed by the judiciary. Many legal scholars are beginning to make their opposition known. Indeed, the Judicial Conference of the United States has spoken out against this measure. It said such authority posed a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against judges by vetoing items in judicial appropriations bills.

Judge Gilbert Merritt, chief judge of the Court of Appeals for the Sixth Circuit opposed this measure. Judge Merritt said it was unwise to give the President authority over the judicial budget because the executive branch was the biggest litigant in Federal court. I believe Judge Merritt is correct. The potential for conflict is obvious. All of us, at some point or another, have likely found ourselves in profound disagreement with a judicial ruling. But we realize there is a process in place for disagreeing with clearly wrongheaded decisions. We introduce legislation, hold hearings, and attempt to persuade our colleagues of the proposal's merits. None of us, individually, has the ability to influence a judicial decision we disagree with.

The conference report endows in one individual the tools with which to immediately demonstrate displeasure. Why don't we simply eliminate the lifetime tenure provisions from article III. Judges have good reason to fear this measure. They should be on notice that all future decisions could be subject to political appeal. The Supreme Court may ultimately have the final say but the President can ensure whether it has the paper on which to say it.

VOL 142 PT 5 MR 21 — 29 1996 UMI

This political weapon can be exercised in many different ways. The executive branch may be litigating one of its policies in Federal court. This happens all the time in every administration. Consider the conflict that could arise if the administration receives an unfavorable ruling from a particular court. Now, the President could employ the power of the bully pulpit or appeal to Congress to handle the matter legislatively. With this new political weapon, he could also excise the appropriation for that particular court. This is not meant to cast aspersions on our future Presidents. It merely reflects the political reality that the Framers recognized when they wrote the Constitution.

Process for considering item vetoes binds this body to new rules that are overly burdensome and unduly restrictive. It will be very disruptive to the consideration of substantive legislative matters. We don't even know how this will play out and we are today being asked to accept a 10-hour time agreement. A large number of line-item vetoes may deserve debate. Are we all willing to enter into a 10-hour time agreement today? What kind of chaos are we binding ourselves to?

There is a great deal of thought and consideration that goes into writing an appropriations bill. Typically, the White House is involved throughout this process. It is not as if the administration reads appropriations bills for the first time upon their passage. Administration officials are actively involved in every step of the way. Why not really make this easier? Allow the administration to write the measures and schedule up or down votes in both bodies.

Presidential veto of targeted tax benefits was a key feature of the Senate-passed bill. The conference report attempts to define tax benefits by counting the number of beneficiaries. At best, this is disingenuous. A tax benefit is defined as an income tax deduction, credit exclusion or preference to 100 or fewer people. Why not limit the scope of the veto to appropriations or new direct spending that impacts 100 or fewer beneficiaries? Perhaps this was added in conference to gain the support of tax lawyers. Any good tax lawyer will be able to find an extra person or two to meet the sufficient number of beneficiaries.

I believe that is why this body explicitly rejected the concept of numerical beneficiaries earlier. Different types of taxes are treated differently. Interestingly, other taxes such as estate and excise taxes would not be subject to a Presidential rescission. The report also excludes tax breaks that target persons owning the same type of property. Thus a tax benefit to owners of 1997 Rolls Royces would not be subject to a veto since all persons owned the same type of property.

Today, less than 7 percent of vetoes are overridden. If this measure passes, veto overrides will likely be nonexistent. This Presidential political weapon will be used against regions, States, or congressional districts. There, of course, will never be enough vetoes to override. This is a far worse bill than the one which made it out of this Chamber a year ago. That bill included a provision that allowed 60 Senators to prevent an item from being singled out for a veto. The conference report requires two-thirds of both the Senate and the House to override a veto. Thus, the President needs only 34 percent of one House in order to rescind appropriations the majority of Congress had previously voted to approve.

This is an unprecedented amount of veto power to endow in one individual. This Senator contends it is an unconstitutional delegation of legislative power.

Many legal scholars claim we have little to fear because this act will be ruled unconstitutional in the courts. I do not believe that is a chance worth taking. I realize the majority party is under a lot of pressure to complete its so-called Contract With America. But in its zeal for closure is it really willing to pass clearly unconstitutional acts? Are we willing to now discount and discard the doctrine of separation of powers? And what are the consequences?

Perhaps it was best stated by the Senate's great constitutional scholar, Senator BYRD, in an earlier debate: "History shows that when the Roman Senate gave away its power of the purse, it gave away its check on the executive." As for the line-item veto eliminating wasteful spending, Senator BYRD said it is "analogous to giving cyanide for a cold."

Who are we, the benefactors of these great constitutional rights, to sit in judgment of our Founding Fathers? If they were so right then, could we be so wrong today?

Mr. BIDEN. Mr. President, I have long supported an experiment with a line-item veto power for the President. Over a decade ago, I introduced my own plan for a line-item veto, with Senator Mattingly. Since then I have cosponsored several similar plans, in particular those offered by my distinguished colleagues Senator HOLLINGS and Senator BRADLEY.

I have held this position for all these years, Mr. President, not because I believe the line-item veto will solve our deficit problem. No single procedural change can do that.

I support a line-item veto because it will, at the margins, shift the incentives now in our system to attach special-interest spending to our appropriations bills. To rein in that practice, Mr. President, we must expose it. The line-item veto will give the President a tool, if he chooses to use it, to raise the profile of wasteful, special-interest spending—to expose it to the light of public scrutiny.

The need to track down and remove wasteful spending is not new, Mr. President, but it has never been more important than now. As we continue down the road toward a balanced budget, we must reserve every dime of taxpayers' money for the most important priorities of this country. Now, more than ever, waste in one program will require cuts in more deserving areas.

So we must do all we can do to change the incentive to smuggle such spending into appropriations bills in the first place, or to give the President the power to cut it out once it gets there.

Mr. President, the version of the line-item veto that I have consistently supported is not the one before us now. Nevertheless, I will vote for this line-item veto plan today, because I believe that it can be a useful check on wasteful spending, at a time when we must subject every dollar we spend to the most careful scrutiny.

Mr. President, I want to take a few minutes to explain the difference between the version I have consistently supported—the one, I must add, that we passed out of the Senate last year—and the version here before us today. I have long held that separate enrollment is the best approach, in contrast to the enhanced rescission plan before us now. But what do those fancy titles mean?

The separate enrollment approach to the line-item veto is the one that I have supported, and the one that I think most people have in mind when they think of a line-item veto. Quite simply, separate enrollment requires that the Congress take each item in the spending bills we pass and send them to the President separately, instead of lumped together as we do it now.

We used to send individual spending items to the President separately, back before the Civil War. I believe that the separate enrollment approach would restore a relationship between Congress and the Executive that was upset by the practice of lumping those items together. To that extent, it would be less disruptive of the constitutional relationship between the branches of our Government.

The way we do it now, we send the President every item for national defense, for example, in a single spending bill. If the President believes that there are too many tanks, or too many trucks, or too many missiles, he must veto the entire national defense bill to cut out the spending that he doesn't want.

We write bills that way on the bet that the President will accept additional spending as the price of getting our national defense or other basic needs paid for.

And, we must admit, Mr. President, we write bills that way because it serves the needs of individual Members of Congress to have their special projects—that on their own merits, in the cold light of day, could not muster a majority vote—to have those special projects pulled through the process by the locomotive of essential legislation.

By sending each item of spending to the President as individual bills—by separate enrollment of each item—Congress would expose each of those items to the scrutiny it deserves, would remove the camouflage of the larger spending bills.

The modest hope is not that the President will, willy-nilly, cut and slash special-interest items.

Rather, the expectation of those of us who have promoted this idea is that Members of Congress—confronted by a President with this new power—would choose not to include those special interest items that cannot pass the threshold of public scrutiny.

That is essentially the version that we passed out of the Senate last year, Mr. President, with one important addition. We included special interest tax breaks among the items the President could veto. Those tax expenditures lose money from the Treasury just as surely as any spending program.

And as for those items vetoed by the President, the normal constitutional procedures would apply—two-thirds majorities of each House would be required to override the veto, to restore the spending that the President has cut.

I have supported that approach as the one that least disturbs the constitutional relationship between the President and Congress, particularly on the crucial issue of the power of the purse.

I was heartened when that was the version passed by the Senate last year.

By the same token, Mr. President, I am less happy about the version before us today. But because I am still convinced that we need to improve our capacity to discourage if possible, and to cut out if necessary, any wasteful, special-interest spending, I will vote for this version.

The line-item veto bill before us today provides for a procedure that is more correctly known as enhanced rescission. It greatly transforms a Presidential procedure that right now has virtually no teeth—the rescission.

Currently, the President may tell Congress that he doesn't want to spend funds for one or more items in a spending bill that he has signed into law. But that will have no effect unless the Congress chooses, on its own, to pass a rescissions bill that may or may not include the items specified by the President.

If Congress chooses not to act, the President remains obligated to spend those funds in the legislation he has signed into law. So right now the rescission power doesn't amount to much, Mr. President, unless Congress decides on its own to make it law.

The bill here today would change that, would put real teeth in the rescission power. It would give the power of the law to a President's decision not to spend money on those items he chooses. That decision would become law unless Congress passed a specific bill to disapprove of his action. If Congress did not act, then the President's decision to cut those items would stand.

If Congress did pass a bill that disapproved of the President's cuts, the President could then use his veto power, which would require a two-thirds majority of each House of Congress to overturn.

This is a powerful new tool in the hands of the President. That is why I have always held that we should experiment with the line-item veto—that we should set a date certain on which the legislation will sunset. This line-item legislation provides for an 8-year experiment, after which it will terminate unless Congress agrees that the experiment has produced more benefits than costs.

This is longer than I think is necessary—particularly if we discover unintended consequences—but it does provide for two Presidential administrations over which to test the merits of this proposal.

I am more disappointed that the President's ability to cut special interest tax breaks has been severely weakened in conference with the House. The remaining provision would apply to only a few tax items—in fact, with clever tax lawyers on the job, it could well apply to virtually no tax breaks.

So, Mr. President, like so much legislation we consider and that becomes law, this line-item veto bill advances a worthy cause—cutting out waste and special-interest spending—but not in the ways that all of us may agree with. As someone who has for years advocated the separate enrollment method of line-item veto, I wish we had chosen that route.

But there is a more fundamental question: Will we give the President a power that will expose congressional spending to a higher level of scrutiny? Will we take an additional step to prevent the inclusion of special-interest spending in our appropriations bills? I am willing to take that step, Mr. President, and will vote for the conference report.

Mr. SMITH. Mr. President, I rise in strong support of the line-item veto bill before the Senate today, and urge my colleagues to pass this overdue measure. As a long-time opponent of pork-barrel spending, I am glad we are taking this first small step toward fiscal sanity.

When I attend a town meeting, or hold a briefing on the Federal budget, I often hear a common sentiment: "Why does Congress want to change Medicare, or education, or whatever, when we are spending $5 million on Hawaiian arts and crafts?" It is a question that cannot be answered. Pork-barrel spending may constitute a relatively small portion of the overall budget, but it represents a very symbolic part of the budget. If Congress cannot cut the little spending items, how on Earth can we make the difficult decisions on the larger programs?

Will the line-item veto balance the Federal budget? Of course not. But it will help restore discipline to our budget process. It is no secret that special projects and narrow interest provisions are often included in large spending bills. We often see $1 or $2 million projects tucked away in multibillion budget measures. A Senator or Congressman will issue a press release about the wonderful project, and then feel compelled to vote for the overall bill. Slowly, but surely, the spending bills begin to add up and the problem becomes worse. The pork-barrel spending is the grease that allows the budget process to move forward. And that budget process has led this Nation to a $5 trillion national debt.

The line-item veto bill will give the President—who has a national constituency with a national interest—the tool he needs to cut projects that serve a narrow constituency with a special interest. The legislation before the Senate today allows the President to veto appropriations, targeted tax provisions, and new entitlement spending. Any of these provisions, if passed separately, are now subject to a Presidential veto and a two-thirds override requirement. The line-item veto bill is a natural and simple extension of that constitutional power. Projects worthy of scarce Federal tax dollars should stand or fall on their own merit, not on the merit of a larger unrelated bill.

Mr. President, I have supported and cosponsored line-item veto legislation for more than a decade. It has been a long and arduous fight. I, for one, am glad that the fight is finally over. I commend my colleagues—Senator McCAIN and Senator COATS—for their hard work on behalf of this landmark legislation. This line-item veto bill before the Senate today will certainly stand the test of time.

Mr. ROCKEFELLER. Mr. President, I am a proponent of responsibly reducing the deficit, as are many of my colleagues. I, too, want to eliminate wasteful spending. But this conference report on the line-item veto bill is not the right way to ensure deficit reduction or responsible fiscal management in my view.

As articulated so poignantly by my colleague from West Virginia, Senator BYRD, the line-item veto legislation raises many constitutional problems and it substantially alters the balance

VOL
142
PT
5
MR
21
—
29
1996
UMI

of power devised by the Framers of our Constitution.

Before supporting such a dramatic change in the balance of powers, we need to examine it in light of what it really offers our country.

Giving a President broad power to cut discretionary spending concerns me in theory, but it troubles me even more to think about its potential effects in practice. A President may hastily veto substantive provisions of a spending bill, which he considers wasteful, but which really are essential programs for States or regions. One person's perception of waste or pork may be another person's funding for roads, schools, needed housing, or rural hospitals. Or a President could even wield a line-item veto as a political tool to intimidate a particular Member or groups of Members.

A specific example is the recent history of funding for the Appalachian Regional Commission [ARC]. Recent Republican Presidents sought to eliminate the Appalachian Regional Commission [ARC] from the budget, but a bipartisan group within Congress maintained this important program to promote economic development in some of the poorest counties of our country. The ARC provides basic funding for infrastructure and economic development.

In representing West Virginia's interest, I do not believe that Congress should give any President free range to cut discretionary spending. Under the line-item veto, a President could veto spending for the ARC, or other discretionary programs ranging from highway projects to housing programs.

It is important to note that the present system already offers a way for the President to express his dissatisfaction with provisions in spending bills, known as the rescission process. Although this process might need to be streamlined and simplified, the President already has the ability to call for the rejection of specific programs within spending bills. Through the rescission process, the President can call on Congress to make more immediate cuts in areas which he thinks are wasting taxpayers' money. The President can single out items in spending bills that he opposes, and if Congress approves the budget cuts are made immediately.

I agree that Congress needs to chart a careful course for deficit reduction and economic growth, and I continue to vote for cuts in specific programs where I believe Congress has wasted taxpayer money. I do not, however, want to risk the careless elimination of critical programs which benefit West Virginia and other States. And I do not want to irrevocably alter the balance of power between Congress and the executive branch which was enshrined in our constitution over 200 years ago. I think Congress has duty to be excruciatingly careful when fundamental rewriting of our Constitution is being considered. This conference report has not been given proper consideration and I disagree with its intent on principle. I oppose passage of this conference report.

Mr. GRASSLEY. Mr. President, I am proud to have this long awaited and unique opportunity to address the Chair about a successful conference report on a line-item veto.

Some of us have spent much of our congressional careers fighting against wasteful spending. Under present law, the Chief Executive often cannot join in the battle against waste without the risk of destroying the good along with the extravagant. This line-item veto conference report succeeds in allowing a responsible Chief Executive to join our team of responsible legislators. Indeed, the line-item veto will allow a responsible President to join us in weeding the peoples' legislative garden.

With this line-item veto, a responsible President can attack and cancel out entire dollar amounts in appropriation bills. He may not merely reduce a dollar amount; He may only cancel it entirely. With this line-item veto, a responsible President will attack and cancel out latent direct-spending provisions that would increase future spending. Thus, we will help prevent future deficit increases before they even begin; first, by eliminating a wasteful provision, and second, by dedicating any savings from operation of the line-item veto to a special lockbox for deficit reduction.

In the area of tax expenditures, a responsible President can attack certain flagged and frivolous tax legislation. This line-item veto will instruct the nonpartisan Joint Committee on Taxation to identify and flag any limited tax benefits that may exist in future conference reports of future tax bills. This conference report on the line-item veto defines limited tax benefits as any tax expenditures that would both, lose revenue either in the first year or over the first 5 years, and benefit 100 or fewer persons Then, Congress would add a list of these limited tax benefits to the conference report as a matter of law.

If the Joint Committee on Taxation looks, but does not see, any limited tax benefits, then it may issue a clean bill of health upon the related tax legislation. If the Joint Committee on Taxation does not look for any limited tax benefits, then the Chief Executive may himself look for the limited tax benefits. He would use our same objective measure outlined in the conference report.

Having found waste, a responsible President may effectively take out his ruler and draw a line through any offending legislation. After operating a line-item veto, the President would send a special message back to Capitol Hill outlining his actions. Both Houses of Congress would refer the vetoed line items to the appropriate committees.

The operative Senate committees may then report out a disapproval bill containing the vetoed line items. The Senate would listen to only 10 hours of debate and amendments before voting on a disapproval bill. Thereafter, the President may again see the same legislation because the process would simply start over. The President would then have the Executive powers offered by this line-item veto conference report and article I, section 7 of the Constitution.

Like the Constitution, this line-item veto conference report has many proud cosigners. I want to thank the chairmen and ranking members of the Committees on Governmental Affairs and the Budget. I also want to thank Senators MCCAIN and COATS for their efforts and commitment. Especially for his attention to the line-item veto as it may affect future tax legislation. I want to thank Senator ROTH, the able chairman of the Committee on Finance. Finally, I want to thank all those with whom I have always joined in our tireless efforts to stamp out the Government waste of taxpayer capital.

This is a great day indeed. I urge all of my colleagues to join in support of this conference report on the line-item veto.

Mrs. MURRAY. Mr. President, I take the floor to oppose the so-called line-item veto legislation before us today. I regret I cannot support this conference report, but unfortunately this report is careless, highly questionable and possibly unconstitutional. Mr. President, I support the line-item veto proposal submitted by Senator BYRD. His expedited rescission proposal was well-written and made good common sense, but unfortunately, it was not accepted by the Senate.

I know all too well the abuse that can arise through broad, sweeping line-item veto authority. Mr. President, I served in the Washington State Senate prior to coming to the U.S. Senate. My home State arms its executive with line-item veto authority, and while serving in the State legislature I witnessed, first hand, the horse trading that results by giving the State's executive this authority.

In my home State, the line-item veto does not deter spending. Rather, it encourages more spending. It puts legislators in the position of having to accept the Governor's priorities in order to make sure their legislative priorities are not vetoed by the Governor.

As you know, Mr. President, this debate essentially was spawned out of our desire to reduce Government waste and balance our Nation's budget deficit. I do not think there is a single Member in this body that does not want to reduce the Nation's budget deficit. However, I have great difficulty turning over my responsibility and Congress'

fiscal responsibilities to the executive branch. Mr. President, the line-item veto is a budget gimmick, and it simply passes the power of the purse from Congress to the President.

Since 1993, we have cut the Nation's budget deficit in half. This is commendable work. However, it was difficult work that required tough decisions. Congress and the Clinton administration chose to reduce and cut hundreds of Federal programs. This was not easy, but it is what we were elected to do. We will get our fiscal house in order once we set our minds to it. We do not need a line-item veto. We need courage. We should not shrink from our constitutional responsibilities. We should accept the challenge.

Mr. President, earlier today I listened to the elegant words of Senator BYRD. Senator BYRD is a great orator, respected legislator and an excellent teacher—especially when it comes to the constitutional issues surrounding the line-item veto. I hope my colleagues listened to his words, because there are some real constitutional issues that need to be addressed because of this legislation.

This legislation disrupts the delicate balance of powers laid out by our Founding Fathers. It shifts an enormous amount of power to the President of the United States—directly conflicting with Congress' constitutional duties. And, as written, this legislation gives the President and a one-third minority in one House the power to veto legislation a majority of Congress approved. It turns the idea of checks and balances on its head.

Mr. President, I also have grave concerns with the language pertaining to targeted tax benefits. This language is cleverly written in a way that ultimately prohibits the President from vetoing new targeted tax benefits. If we want to grant the President a line-item veto, let us at least do it the right way. Let us at least let the President strike new tax expenditures.

Moreover, I urge all my colleagues from small States to read this legislation carefully, because as it is written, the President has the power to strike very specific language including charts and graphs. For instance, the President would have the power to strike funding for a single State if an appropriations bill or report includes a chart breaking out spending per State. We know the President is not going to strike funding from electoral-vote rich States. But, what keeps the President from cutting funds in smaller States?

Mr. President, this again reminds me of the horse trading I experienced in my home State legislature. This legislation puts legislators in the awkward position of having to protect congressionally approved legislation from the President's veto pen—legislation that was debated, considered and eventually agreed to by Congress—agreed to the way our Founding Fathers envisioned the process would work, and the way our constituents expect us to govern.

In no way did our Founding Fathers expect the President to unravel legislation that was crafted through compromise by both the majority and the minority.

Mr. President, there is a right way to craft this legislation. It should be written clearly and carefully—without ambiguity. We should craft legislation that doesn't exempt specific tax breaks, one that doesn't allow a President to attack entitlements, and one that doesn't hold small States hostage.

So, Mr. President, I urge my colleagues to vote against this legislation. The line-item veto is not the solution to our deficit problems. We know what needs to be done to reduce the deficit, and we have done it here on this floor over the past 3 years. We know the line-item veto is not the tool needed to accomplish that goal, but rather, just a feel-good gimmick that puts off the tough decisions.

Mr. FEINGOLD. Mr. President, this issue is not simple, nor is it easy.

If it were, there would be a larger consensus on how we should proceed in this area, if at all.

I supported the version of S. 4 that passed this body—the so-called separate enrollment approach. Though that legislation was flawed, I was willing to support that experimental line-item veto authority to provide the President with some additional authority to eliminate inappropriate spending.

I do not believe the line-item veto is the whole answer to our deficit problem, or even most of the answer, but it certainly can be part of the answer.

The legislation before us today, too, is flawed, but I am willing to give this new mechanism a chance to work, and to see it tested over the next several years. Like the version of S. 4 that passed the Senate, this measure also has a so-called sunset clause which terminates the expanded veto authority unless Congress takes action.

If the Congress decides, which it may well do, that we have gone too far in delegating authority to the President, the sunset clause will make it much easier to terminate the experiment, if necessary. The burden will be on those who want to retain the authority.

Mr. President, in the end, that sunset clause allowed me to support a measure with which I am far from satisfied. Without a sunset clause, Congress would have to pass a bill to repeal the line-item veto authority. It is likely that any President would veto such a bill, and unless two-thirds of the members of both Houses were to override that veto, the President would retain this extraordinary new power.

Mr. President, though the continuing Federal budget deficits justify granting this temporary authority to the President on a trial basis, I do have serious concerns about this proposal, which I want to highlight, and will continue to monitor. Possibly my biggest concern is the effective threshold of two-thirds vote in each House to overcome this new expanded veto authority. That kind of threshold is provided in the Constitution for entire bills, but extending that authority for individual sections of a bill may be problematic. There are many uncertainties in this new authority that we are providing the President, and no one can anticipate all the potential abuses that might flow from this new authority.

Though we have no experience at the Federal level, those Members who have served in State government may have seen the use of line-item veto authority at the State level. Indeed, much of the support for a Federal line-item veto stems from the State experience.

But, Mr. President, few other States, if any at all, have witnessed the abuses of line-item veto authority that we have seen in Wisconsin. That abuse has been bipartisan—Governors of both parties have used Wisconsin's partial veto authority in ways it is safe to say no one anticipated when that authority was first contemplated. For example, Mr. President, Wisconsin's current Governor, Governor Thompson, has used the veto authority not only to rewrite entire laws, but actually to increase spending and increase taxes.

The two-thirds threshold compounds the uncertainty about possible abuses by making it that much more difficult for Congress to respond to that possible abuse.

Mr. President, another serious flaw in this measure are the provisions relating to tax expenditures. They are far from adequate. The language in the Senate-passed version of S. 4 relating to tax expenditures has been weakened significantly, essentially blunting this authority as a tool for restraining that area of spending that is among the largest and fastest growing, and that includes unjustified subsidies to some of the wealthiest individuals and corporations in the world.

Mr. President, tax expenditures contribute greatly to pressure on the deficit, and if any area should be subjected to the scrutiny of line-item veto authority, it is this one. The failure of this proposal to target abuses in this area is a serious flaw, and I regret the special interests that generated some of these abuses in the first place are exempt from this new Presidential authority.

Mr. President, I was disappointed, too, that the emergency spending reforms the senior Senator from Arizona [Mr. MCCAIN] and I incorporated into the Senate-passed version were dropped from this measure. That provision limited emergency spending bills solely to emergencies by establishing a new point of order against nonemergency matters, other than rescissions of

VOL
142
PT
5
MR
21
—
29
1996
UMI

budget authority or reductions in direct spending, in any bill that contains an emergency measure, or an amendment to an emergency measure, or a conference report that contains an emergency measure.

The provision also featured an additional enforcement mechanism to add further protection by prohibiting the Office of Management and Budget from adjusting the caps on discretionary spending, or from adjusting the sequester process for direct spending and receipts measures, for any emergency appropriations bill if the bill includes extraneous items other than rescissions of budget authority or reductions in direct spending.

As we consider ways to empower the President to veto unjustified spending through this new authority, it only makes sense to enact reforms that prevent those abuses from passing in the first place. The emergency spending reforms that Senator MCCAIN and I included in S. 4 did just that, and I regret they were not included in this proposal.

I understand, however, that commitments have been made to revisit this provision in separate legislation. The emergency spending legislation previously passed the House by an overwhelming vote and I am hopeful that we will soon be able to overcome the resistance to this provision and have it enacted into law as well.

Mr. President, the basic structure of this particular line-item veto authority also raises problems. Though it may be less cumbersome than the so-called separate enrollment approach envisioned in S. 4 as it passed the Senate, the new enhanced rescission approach could provide the President with more rescission authority than was intended.

In particular, the shift from Congress to the President in defining the precise material to be vetoed is potentially significant. Instead of vetoing or approving individuals minibills, as under the separate enrollment approach, the President decrees certain actions in the nature of rescissions—actions which effectively are given statutory authority because they are surmounted only by enactment of a disapproval bill.

The scope of these Presidential decrees are limited by the restrictions set forth in this bill, and though the intent of those proposing this new authority may be clear enough in their own minds, there cannot be one hundred percent certainty about the true scope of this new authority until it is actually put into effect. The unintended or even unimagined consequence of this new authority may be its biggest flaw.

This is just what happened in my own State. It is difficult to argue that the original sponsors of Wisconsin's partial veto authority ever intended that a future governor would be able to veto individual words within sentences or even individual letters within words, yet that is precisely what happened.

Successive court decisions gradually expanded the partial veto authority for Wisconsin's Governors, to the point that whole new laws could be created with the veto pen.

Mr. President, could the temporary authority which this measure grants the President be abused in this fashion? Though I do not believe it will, we cannot be certain about what some court might rule in interpreting the restrictions spelled out in the bill.

In some instances, the proposal before us allows the President to exercise his new authority based on committee reports or the statements of managers, neither of which have the force of law, and neither of which have ever been the subject of a vote in either House. That is troubling.

I am disturbed, too, by the language in this proposal regarding so-called items of direct spending. In defining these items, the measure refers to specific provisions of law.

Mr. President, this definition is not at all self-evident. Is a provision of law a numbered section, or can it be an unnumbered paragraph as well? How small a unit of entitlement authority does the proposal intend to expose to the new Presidential authority? For example, if a clause in a sentence defines new entitlement authority in some way, can that clause be canceled without taking the entire sentence with it? Or, can new entitlement authority be limited by the selective cancellation of one word if doing so meets the other stated formal requirements of the measure?

The proposal does not address that issue. It only mentions the words "specific provision of law" without further definition.

As someone who has seen just how creative a Governor can be with partial veto authority, this is a matter of serious concern to me.

Mr. President, there are a few safeguards built into this proposal that provide some comfort in this regard. As I noted before, the new authority sunsets in 8 years. We will have what amounts to an 8-year trial period in which we can monitor this new Presidential authority, and we will. Eight years represents two complete Presidential terms of office, and several election cycles within both Houses, ensuring a diverse set of partisan combinations under which this new authority can be tested, and enhancing the possibility that it will be used under different circumstances and with different ideological intent.

Also, it should be noted that this new authority is established by statute, not as part of the Constitution, thus the measure avoids magnifying these potential problems by making a permanent change to our basic law. To the extent that Congress can selectively control this new authority in subsequent statutes, even prior to the expiration of the proposal before us, the statutory approach to the line-item veto or enhanced rescission authority is much less restrictive than a constitutional amendment.

Nevertheless, Mr. President, we cannot be certain how this proposed authority will be used, no matter how carefully we draft the restrictions on that authority. Those who support this measure bear a special responsibility in this regard. And to that end, should this measure become law, I intend to establish a regular review process to monitor how the new authority is used, how it is misused, how much deficit reduction is produced, and lost opportunities for deficit reduction.

Though temporary, this delegation of authority is significant, and close and continuing scrutiny is warranted, even necessary.

Mr. President, the debate we have had on this issue for over a year has been instructive for me. For some, the passage of a line-item veto authority for the President will only mean they can scratch it off a list, and move on to another issue.

But this issue does not end with our vote, it begins.

We are about to embark on an important experiment. Whether for the benefit of the country and our democratic institutions remains to be seen, but I believe it is an experiment worth performing.

I congratulate the senior Senator from Arizona and the Senator from Nebraska [Mr. EXON] for their work on this measure. I thank them especially for their past efforts on behalf of the amendment I offered to clean up the emergency appropriations process. Though it was not included in the final version of this proposal, I very much appreciated their courtesy, and I look forward to working with them to find another vehicle for that worthy reform.

I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, our system of government is based on a separation of powers and checks and balances. That is the way the Founding Fathers structured it, and it is a system that has fostered America's greatness for over 200 years. Yet, this bill would fundamentally change and unbalance that system by transferring power from Congress to the President.

Some argue that this bill is unconstitutional. In a letter to Congress, L. Ralph Mecham, secretary of the Judicial Conference, stated that he fears that this bill will violate the separation of powers. He writes, "The doctrine of separation of powers recognizes the vital importance of protecting the judiciary against interference from any President. This protection needs to endure. Control of the judiciary's budget

rightly belongs to the Congress and not the executive branch."

Furthermore, an article in today's New York Times stated that the line-item authority poses "a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against judges by vetoing items in judicial appropriations bills." The article stated that Judge Gilbert Merritt, chairman of the executive committee of the Judicial Conference of the United States, stated that "judges were given life tenure to be a barrier against the winds of temporary public opinion. If we don't have judicial independence, I'm not sure we could maintain free speech and other constitutional liberties that we take for granted."

It is not clear what the Supreme Court will find when this law is challenged. But what is clear to me is that this bill is anticonstitutional. It is counter to the philosophy of the Constitution. The Constitution clearly separated each branch of government, giving each specific duties—and did so for a reason.

If one reads the Constitution, it is clear that the Framers deliberately placed the power of the purse in the hands of Congress. Article I, section 8 of the Constitution states, "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States."

Power over the purse has consistently rested in the hands of the Representatives and Senators of our country. This power is critical in maintaining our system of checks and balances. The measure before us today would shift that power away from Congress and put it in the hands of the President. It allows the President to unilaterally change a law after it is enacted—to cut off spending Congress has deemed necessary.

Moreover, this bill is contrary to its intended purpose: Deficit reduction. Some of my colleagues did not support the balanced budget amendment to the Constitution, but I did. I supported it because it covers every dollar of spending and taxing. This bill does not. Furthermore, the balanced budget amendment did not upset the balance of powers between the branches. This bill does.

There is a cliche that to every problem there is a simple wrong solution. Do we have a deficit problem? Yes. Will this bill solve our fiscal crisis? No. This bill is the wrong solution to our deficit problems. It is almost solely aimed at discretionary spending, which is clearly not one of the major causes of the budget crisis the Federal Government is facing.

I served on the Bipartisan Commission on Entitlement and Tax Reform. If we do not act, by the year 2012 entitlement spending will outstrip revenues. So discretionary spending could be cut to zero and still not solve our problems. Domestic discretionary spending has not grown as a percentage of the GDP since 1969, the last time we had a balanced budget. Domestic discretionary spending comprises only one-sixth of the $1.5 trillion Federal budget, and that percentage is steadily declining.

In practice this bill will have a minimal impact on the deficit. Yet this bill will have a high impact on the level of the public's cynicism because it will not solve our country's budget crisis. Congress is already having difficulty passing its 12th continuing resolution and the American people already have doubts about Congress' ability to pass funding measures. To reaffirm our commitment to the American people's priorities, we should remind ourselves of what we swore to do when we entered office: to uphold the Constitution. This line-item scheme violates the philosophy of that document.

Spending authority rests primarily with Congress because our Nation's Founders thought that that was the best small "d" Democratic thing to do. 535 Members of Congress by definition are closer to the people than the President. Members of Congress are elected from all over the country reflecting their constituents' interests, be they urban or rural. Can one executive reflect the needs of our Nation's varied constituencies better than a Member of the House who has to run every 2 years? The President, as stipulated in the Constitution can only face the people twice, and one of those times is before he takes office.

Part of our Nation's success is due to our healthy mistrust of the centralization of authority. The Founding Fathers did not create a unitary system like in France. They built a country based on a union. As Jefferson once said, "the way to have good government is not to trust it all to one, but to divide it among the many, distributing to every one exactly the functions he is competent to perform." The Founders thought that Congress was competent to legislate our spending bills, not the executive. More than 200 years of success is hard to argue with.

As we all know, it can take several months of work to get a bill signed into law. Under current law, the House and Senate can pass a bill and then send it to conference where the differences between the House and Senate versions of the bill are resolved. Oftentimes conferees spend hours, even days and weeks, working to resolve differences, so that both Houses can support the end product. This can be a delicate proceeding, calling for compromise and flexibility.

Upon completion of conference the House and Senate vote on the conference report and send the bill to the President for signature. Under this legislation, if the President decides to sign the bill, he could then decide to strike out, for instance, specific spending provisions in an appropriations bill. Under this bill, the President would also have the power to line-item out items that are listed in graphs, tables, charts, conference committee's statement of managers, or portions of a committee report not superseded by the conference report. The scope of possible rescissions is enormous.

If Congress disagreed with the President's rescissions, they could pass a disapproval bill which would have to be passed by both Houses, get through conference, and be passed again. Should the President proceed to veto to the disapproval bill, it would take two-thirds of the Members in each Chamber to override the President's veto. Since we have not even been able to pass a budget this year, I tremble to think what adding additional steps to the process will do to Congress' ability to act.

Clearly this is the most significant delegation of authority to the President that we have seen in over 200 years. If Congress passes this conference report we will abdicate our authority guaranteed to us under the Constitution, and give it to the President. Moreover, although this bill seeks to solve our fiscal problems, it could also serve to indirectly increase spending. For instance, if the Administration sought to increase spending for a mandatory program, he could lobby the Member to support his initiative by threatening to line-item out all of the appropriations for projects in that Member's district. As my friend Ab Mikva wrote in the March 25th edition of Legal Times, "For those of us who think that the executive branch is strong enough, and that an imperial presidency is more of a threat than an overpowering Congress, the current balance of power is just right."

Mr. President, the Founding Fathers carefully wrought our Constitution to include the doctrine of separations of powers. I believe that this conference report goes against that philosophy and ultimately, will have little effect on solving our fiscal problems, for these reasons, I will not support this report.

Mr. LAUTENBERG. Mr. President, I rise in strong opposition to this conference report. There is a right way and a wrong way to provide the President with a line-item veto. This is the wrong way.

Mr. President, I have supported a line-item veto in the past. I believe that the President should have greater authority to weed out wasteful tax breaks and unnecessary weapon systems.

But this legislation goes too far.

I have three major objections to this conference report.

VOL
142
PT
5
MR
21
—
29
1996
UMI

First, this legislation cedes too much power to the President. Under this proposal, any President and one-third plus one in the House can stop any appropriated item. This legislation goes much further than the so-called separate enrollment bill that passed the Senate. The legislation before us, in effect, allows the President to veto report language and tables in Committee reports. This means that the President can veto airport improvement funds for Newark but keep funds for Kennedy and LaGuardia airports. And the only way to override this type of veto is to get two-thirds of the Members in both House to support an individual item—which is highly unlikely.

The President of the United States already has awesome constitutional power. Look at what has happened in the past 6 months.

The President vetoed a Republican budget that made huge cuts in Medicare and Medicaid to pay for tax breaks for the rich. He stopped this cold.

He also vetoed a welfare reform bill that would have doomed 1.5 million children to live in poverty.

Finally, he vetoed spending bills that made deep cuts in education, environment, and community policing.

Mr. President, the Congress was never able to override these vetoes. This demonstrates how powerful the Presidency can be when it comes to vetoing unfair budget priorities. We should not provide the chief executive with this new power on top of the tremendous power he already possesses.

Second, this legislation makes a mockery of applying the line-item veto to tax breaks. The Senate bill originally allowed the President to use the line-item veto to stop some tax breaks. These breaks were defined far too narrowly. But even this language did not survive conference.

This conference report only allows the President to veto tax items that affect fewer than 100 persons. This means that Congress can pass a tax break that only applies to people with incomes over $1 million and the President could not single this out. Furthermore, the language also exempts other classes of persons from the tax provisions of the bill. One such exemption is property. Therefore, if Congress passed a tax break for 99 owners of a certain type of yacht, the President could not veto this provision.

In summary, this legislation allows the President to use the line-item veto to reject investments in education and the environment but not to reject tax breaks for millionaires. This is preposterous.

Finally, I object to the Republican political hypocrisy that went into choosing an effective date and sunset date for this legislation.

This bill was a part of the so-called Contract With America. The House passed its version of this bill on February 6, 1995. The Senate passed its version on March 23, 1995.

During debate on this legislation, I heard many Republicans in both Houses say that they were so committed to passing this legislation that they were even willing to give this power to a Democratic President. They argued how important the line-item veto was to cut out wasteful spending and unnecessary tax breaks.

Despite all of the clamoring by the Republicans, they began to drag their feet so that they would not have to give this power to President Clinton. They delayed naming conferees on the bill. They stalled on calling a meeting for the conferees. They kept dragging it out so that they could pass the fiscal year 1996 appropriations bills before the line-item veto bill became law.

During this period of inaction, the Republican majority sent President Clinton a pork-laden Defense appropriations bill that spent $7 billion more than the Pentagon wanted. This is when President Clinton really needed the line-item veto—so he could reject this $7 billion in unnecessary spending. But he did not have this tool then. The Republicans were simply playing politics with the line-item veto bill.

Now, we find ourselves with an entire new set of dates in this legislation. This bill will now go into effect on January 1, 1997 and it will last 8 years.

Mr. President, this is so blatantly political. But this is not the reason why we should reject this conference report. We should vote this down because it cedes too much power to the President and renders him powerless to fight tax breaks to the wealthiest Americans.

I urge my colleagues to reject this conference report.

I yield the floor.

Mr. CRAIG. Mr. President, I rise in support of S. 4, the conference report on the Line-Item Veto Act. The Senate is now wrapping up a long-overdue and historic debate.

I note that two words in particular sound very good in this debate: conference report. There must be many Members in both the Senate and the other body who have wondered if they would ever hear those two words used in connection with the line-item veto.

I want to recognize and commend the leadership and longstanding commitment that Senators McCAIN and COATS have shown on this issue, as well as Chairman DOMENICI and Chairman STEVENS, for their work in shepherding this legislation through committee, earlier passage in the Senate, and now, the conference process.

I also want to express my appreciation for the leadership of our distinguished majority leader, Senator DOLE, in bringing this vital reform to the floor. His name was at the top of this bill when several of us first introduced S. 4 on the first day of this 104th Congress, January 4, 1995, and he has been solidly committed to passage of this landmark legislation.

There are three principal reasons to enact this kind of reform:

First, a line-item veto will promote fiscal responsibility.

This is a major step on our way toward a balanced budget.

For more than 20 years, since the President was hamstrung by some of the lesser provisions of the 1974 Impoundment Control and Budget Act, congresses have ignored with impunity most of the Presidential recommendations to rescind spending authority for individual items.

Now, at least some obnoxious, unwarranted spending will be struck down.

Opponents of this bill have argued that it would lead to more spending, as Presidents use the leverage of the line-item veto to get more spending for their pet programs, or as Congress loads still more spending into bills, in hopes that at least some of it will get by the President. Alternatively, they argue that Presidents will abuse this power and fundamentally distort the balance of constitutional power between the executive and legislative branches.

But the histories of the 43 States that have given their Governors this veto authority do not bear out these dire—and purely theoretical—warnings.

The experience of the States with the line-item veto, including that of my State of Idaho, has been uniformly favorable.

And, looking back over the last two or three generations, we see that State governments have increased spending and taxes at much lower rates than the Federal Government.

It is an amazing concept for some in Washington, DC, but, when you assign someone responsibility—in this case, the responsibility that comes to chief executives with line-item veto authority—they often live up to high expectations. That has been the experience of the Sates.

Alone, the line-item veto process is not going to be enough to balance the budget.

What we really need is to take up the balanced budget amendment to the Constitution once more, pass it, and send it to the Sates—send it to the people—for ratification.

I challenge President Clinton, who at least saw the light on the line-item veto, to support the balanced budget amendment as well, and help pass it through the Senate so we can attack the cancerous Federal debt on a larger scale.

Second, the line-item veto will improve legislative accountability and produce a more thoughtful legislative process.

Starting when this act takes effect, Congress will be forced to reconsider questionable spending items and targeted tax breaks—items that Congress

would never pass in the first place if those items were considered on their own merits—items that just do not stand up under any amount of public scrutiny.

It would cast an additional dose of sunlight on the legislative process.

We are all familiar with the rush to get the legislative trains out on time.

That means bills and reports spanning hundreds of pages that virtually no one is able to read—much less digest—in the day or two that they are before the body.

Moreover, any more it seems that virtually every appropriations bill—even the 13 regular bills—and virtually every tax bill, is a huge bill.

Knowing that any individual provision may have to return to Congress one more time to stand on its own merits will promote more responsible legislation in the first place.

In short, embarrassing items will not be sneaked into these bills in the first place.

Third, a line-item veto would improved executive accountability.

There is always some concern that the line-item veto would transfer too much power from the Congress to the President.

First, I suggest that is not such a bad thing. The Framers of the Constitution never envisioned 1,500-page, omnibus bills presented to the President on a take-it-or-leave-it basis.

This is not a swipe at the constitutional system of checks and balances—it is a correction. The system is broken. This is one of the first steps in fixing it.

The supposed blackmail that Presidents will exert over Congress as a result of the line-item veto, is nothing, compared what kind Congress has exerted for years on the President.

A President will rarely, if ever, risk closing down an entire department in a mere attempt to take out a handful of earmarked, local benefits.

But let me also differ a little with the presumption that a radical shift of power would take place.

Many of us on both sides of the aisle have suggested, at different times, that Presidents are not always serious about the rescissions messages they send to Congress.

And, sometimes, the volume of rescissions they propose do not live up to tough talk about what they would do if they had the line-item veto.

It is time to call the President's bluff—and I mean every President, because this is a bipartisan issue.

For years now, we have seen groups like Citizens Against Government Waste and others come up with billions of dollars in long lists of pork items.

Once the President starts using the line-item veto authority, he or she will have to answer to the people if the use of that authority doesn't match the Presidential rhetoric.

Congress would not lose the power of the purse—but the President will soon be expected to use the power of the spotlight of heightened public scrutiny.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The majority leader.

Mr. DOLE. Madam President, I ask unanimous consent that a vote on the adoption of the conference report accompanying S. 4, the line-item veto bill, occur at 7 p.m. this evening, with the time between now and the vote to be equally divided between Senators McCAIN and BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Madam President, I rise in support of the position of the Senator from West Virginia, Mr. BYRD, on the line-item veto.

The PRESIDING OFFICER. Who yields the Senator time?

Mr. BYRD. How much time do I have under my control, I ask the Chair?

The PRESIDING OFFICER. The Senator has 25 minutes.

Mr. BYRD. Twenty-five minutes. I yield 5 minutes to the distinguished Senator from Louisiana.

Mr. JOHNSTON. I thank the Senator.

Madam President, this matter is not about balancing the budget, it is not even about the size of the deficit. This matter is about the relative power of the Chief Executive of the United States and the Congress of the United States. Why this Congress, this Senate, would want to give up its constitutional powers, which, by the way, I do not believe under the Constitution they have the right to do even if they wish to do that foolish thing, but why we would want to do that, I do not know.

I am particularly surprised, Madam President, that some of my colleagues on the other side of the aisle who fought so hard, for example, for star wars, why they would want to give to the President the right to veto star wars. I happen to have been an opponent through the years of star wars, at least at the levels of expenditure—$33 billion has been spent on star wars so far. I think that is a tremendous waste.

But, Madam President, I defend the right of this body and of this Congress to set those priorities. Why you would want to give it to the President to be able to change a bill already signed into law and just nit-pick that bill without taking out the whole bill, I do not know, Madam President.

Yesterday, there was an article in one of the Louisiana papers in which it said, "Louisiana delegation gets piece of pork." They went on to describe an appropriation that Congressman LIVINGSTON and I had gotten in the New Orleans area because we had a flood down there of biblical proportions, over 20 inches of rain in a 24-hour period, seven people killed, $1 billion in damage. We were able to respond to that issue.

They went on to define "pork" as that which was not in the President's budget. If the Congress exercised its power under the Constitution, the power of the purse, then that was pork, according to this article and according to the National Taxpayers Union. But had it been in the President's budget, it would have been perfectly all right.

The idiocy of that kind of formulation, Madam President, is to me, absolutely incredible. Coming from a newspaper article, it is not unexpected because that is the kind of thing that people like to read. But coming on to the floor of the Senate and Senators saying it is the White House that knows best, it is—and we are not talking about the President; we are talking about the nameless, faceless gnomes in the White House who would be setting priorities, making policies, making the decisions about our constituents.

Our constituents would be coming to us, as in the case of this 20-inch flood. You bet I was down there after the flood, as were my colleagues, going through the homes, looking at the devastation, trying to sympathize with the people, they demanding in turn that we do something about this terrible tragedy. Our colleagues are saying, "Look, if it's not in the President's budget, it should not be part of the bill. It is up to the White House to set those priorities."

Madam President, there was nobody from the White House down in Louisiana to see that flood. They could not be. The Office of Management and Budget does not have that kind of travel budget. They did not go down and look at the individual problems of individual States. That is the job for elected representatives. That is what the redactors of our Constitution had in mind. That is why they put the power of the purse in the Congress.

We are closest to the people, and we respond to them. To leave all of that power in, as I say, not the President—maybe the President would decide on star wars or some big item like that, but the accumulation of items in that budget would be decided by OMB. And what would be the policy of OMB? They would have to have broad policies, such as to say, if it is not in the President's budget, we are going to veto it. We are going to treat everybody alike.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. JOHNSTON. One additional minute.

Mr. BYRD. I yield 1 additional minute.

Mr. JOHNSTON. Madam President, the shift in power which this would bring out would be absolutely mind-boggling to me. You know, the whole fight would be, "Can you get in the

VOL
142
PT
5
MR
21
—
29
1996
UMI

President's budget or not?" It would make total supplicants of all Members of Congress. You might like that if you like the President. I think this President is going to be reelected. I like him. I must say I do not like him enough to turn over to him, and to all of his successors, the power of the purse when it is vested by the Constitution in this Congress.

Madam President, my colleague, Senator BYRD, and others, made a powerful statement about the unconstitutionality of this provision earlier today. They surely are right. If we do not stand up for the rights of the Congress under the Constitution, I hope the courts will. I will support the Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Senator. I yield the remainder of my time to Senator SARBANES.

Mr. SARBANES. Ten minutes?

Mr. BYRD. Ten minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 10 minutes.

Mr. BUMPERS. Would the Senator from West Virginia give me 1 minute prior to the Senator from Maryland speaking and it not come off the Senator's time?

Mr. BYRD. I yield 10 minutes to Senator SARBANES, but first 1 minute to Senator BUMPERS.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Senator from Louisiana for a very powerful, cogent statement. No. 2, I want to say to my colleagues that, if by some chance the Supreme Court does not rule this unconstitutional, you will never be able to take this power back. Thirty-four Senators can keep you from ever taking this power back. It will be gone forever.

When the Framers assembled in Pennsylvania, in Philadelphia, in 1787, the one thing they knew above everything else was they had had all the kings they wanted. They wanted no more kings. And they succeeded admirably. We have had 43 Presidents and no kings—until now. We are doing our very best to transfer kingly powers to the President of the United States. I thank the Senator for yielding.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I want to express my very deep appreciation to the distinguished Senator from West Virginia, Senator BYRD, for the extraordinary statement which he made earlier today on this issue. It is my prediction that, if this measure passes and is implemented, history will look back on this moment and say that was a critical turning point in our constitutional system and that it was the Senator from West Virginia, above all others, who stood on the floor and warned of what this would bring about; that it was the Senator from West Virginia who understood our existing constitutional system the best and saw the dangers inherent in this proposal.

Part of what is happening here is that we are engaged in symbolism, not the reality of addressing important national problems. There is a skilled craftsmanship in addressing problems of public policy which members of a legislative body are supposed to bring to the task. Anyone can get up and holler about problems. The question is, can you formulate an appropriate response?

As the distinguished Senator from Louisiana said, this proposal is not really about balancing the budget. You balance the budget by tough-minded decisions on the budget, which the President and the Congress have been making in recent years.

What is happening here is an enormous transfer of authority from the legislative branch to the executive branch that completely contravenes and contradicts the Constitution, so much so that I believe when tested in the courts, this measure will be found wanting. I fervently hope that will prove to be the case. This proposal gives the President the power, or purports to give the President the power, once he signs a piece of legislation into law, to then take out of that law various items—actually, as many as he chooses to pick—by what is called rescinding appropriation items—that unmaking of existing law. The Congress then, in order to override that rescission, would have to pass a disapproval bill which the President can veto. Once he vetoes the disapproval bill it takes a two-thirds majority in both Houses to override the President's rescission.

Thus, under the proposal before us, the President, as long as he can hold on to one-third plus one of either the Senate or the House—not both bodies; either the Senate or the House—can determine every spending priority of this country. Think of that. The President and 34 Senators, or the President and 146 Members of the House—not "and," but "or"—can determine every spending priority of this Nation. Obviously this represents a fundamental reordering of the separation of powers and the check and balance arrangements between the legislative and the executive branch in our Nation's Constitution.

Unfortunately, there is a tendency to dismiss such broad-reaching constitutional questions. They were, however, very much at the forefront of the thinking of the Founding Fathers when they devised the Constitution in Philadelphia in the summer of 1787; a Constitution that I might observe has served the Republic well for more than 2 centuries. As the able Senator from West Virginia has observed a very carefully balanced arrangement was put into place and it has served this Nation well. Obviously, when we consider changing our Nation's basic charter we need to be very careful and very prudent.

Now, I submit it does not take great skill or vision to have a strong executive. Lots of nations have strong executives. In fact, if a country's executive is too strong, we call it a dictatorship. If we review history, even look around the world now, we can see clear examples of this. It is one of the hallmarks of a free society to have a legislative branch with decisionmaking authority which can operate as a check and balance upon the executive. Another hallmark is to have an independent judicial branch which can also operate as a check and balance in the system. It should be noted that we have received a letter from the Judicial Conference of the United States expressing their very deep concern about this measure and indicating that they feel it undermines the independence of the judicial branch of our Government.

That letter states in part:

> The Judiciary believes there may be constitutional implications if the President is given independent authority to make line-item vetoes of its appropriations acts. The doctrine of separation of powers recognizes the vital importance of protecting the Judiciary against interference from any President.

The Senator from West Virginia, to his enormous credit, is a great institutionalist. He believes in the institutions of our Nation and is concerned with maintaining their strength and vitality and resists the political fad of the moment. Our founders established a balanced Government with independent branches, not only an executive with power and authority, but a legislative branch with power and authority, and a judiciary that is independent. This measure significantly erodes the arrangement which has served the Republic well for over 200 years.

I invite all of my colleagues to stop and think for a moment about how this proposal opens up the opportunity for the executive branch, for the President, to bring enormous pressure to bear upon the Members of the Congress and therefore markedly affect the dynamics between the two branches.

The President could link—easily link, obviously will link, in my judgment—unrelated matters to a specific item in the appropriations bill. Suppose a Member is opposing the President's policy—perhaps somewhere around the world or on some domestic policy; perhaps a nomination which the President had made—and the President receives a bill which contains in it an item of extreme importance to the Member's district or State, justified under any criteria as serving the Nation's economic interest; for example, the dredging of a harbor, or the building of a road. The President calls the number and says he noticed this item,

he certainly hopes he does not have to rescind it. He does not want to do so. He knows it is meritorious. But at the same time, he has this other issue that he is very concerned about in which the Member is opposing him.

My friend from Louisiana spoke of how the line-item veto power would be used to directly neutralize congressional policy on a particular issue. A majority is in favor of a certain policy, the President pulls it out and negates it, holds on to one-third of one House, and that is the end of it—even though a clear majority in both Houses of the Congress wanted the policy.

The next step beyond rendering the congressional opinion null and void on a specific issue itself, is to link that issue to some other unrelated issue on which the President is seeking to obtain leverage over the Member of Congress. In fact, in the hands of a vindictive President, the line-item veto could be absolutely brutal. I want to lay that on the record today. In the hands of a vindictive President the line-item veto could be absolutely brutal. But you would not need a vindictive President for abuses. Presidents anxious to gain their way, as all Presidents are, will use this weapon to pressure legislators.

Mr. JOHNSTON. Will the Senator yield?

Mr. SARBANES. I am happy to yield to the Senator.

The PRESIDING OFFICER. The time of the Senator is expired.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. BYRD. I yield 2 additional minutes to Senator SARBANES.

Mr. SARBANES. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Madam President, I wonder if the Senator finds this parallel: In a conference report, when the Senate and the House go to a conference committee, there are bargains struck, and finally a bill put together. Would it not be somewhat like being able to strike a bargain, putting the bill together, signing off on it, and then after the bill is signed, have one House strike all the items that the other House wanted?

Mr. SARBANES. You could absolutely redo the legislation.

I ask unanimous consent to have printed at the end of my remarks an article written by Judge Abner Mikva on this very point, called "Loosening the Glue of Democracy."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. Madam President, the Senator from West Virginia made a constructive proposal, which was just tabled, which would have allowed the President to propose rescissions to the Congress for consideration on an expedited basis, with the Congress having to vote on the rescission and with a majority vote required to approve the rescission. This would have enabled the President to spotlight those items of which he disapproved and required a congressional vote on them but would not have altered our basic constitutional arrangements.

The line-item veto tool contained in this legislation will not, in my judgment, become a way to delete appropriation items, but rather a tool and a legislative strategy used by the White House and executive branch to pressure Members on their positions on unrelated items. It will become a heavy, coercive weapon of pressure.

This is a dangerous departure from past constitutional practice, drastically shifting the balance between the executive and legislative branches. It will fundamentally alter our constitutional arrangement to the detriment of a system of government which has served well our Republic and been the marvel of the world.

Madam President, I close by again expressing my deep gratitude to the Senator from West Virginia for so clearly and eloquently setting forth the severe problems connected with this proposal.

EXHIBIT 1

[From the Legal Times, Mar. 25, 1996]

LOOSENING THE GLUE OF DEMOCRACY

THE LINE-ITEM VETO WOULD DISCOURAGE CONGRESSIONAL COMPROMISE

(By Abner J. Mikva)

There is a certain hardiness to the idea of a line-item veto that causes it to keep coming back: Presidents, of course, have always wanted it because the line-item veto represents a substantial transfer of power from the legislative branch to the executive branch. Government purists favor the idea because the current appropriations process—whereby all kinds of disparate expenditures are wrapped or "bundled" into one bill so that the president must either swallow the whole thing or veto the whole thing—is very messy and wasteful. Reformer generally urge such a change because anything that curtails the power of Congress to spend has to be good.

My bias against the unbundling of appropriations and other legislative proposals has changed over the years. When I first saw the appropriations process, back in the Illinois legislature, it seemed the height of irresponsibility to bundle dozens of purposes into a single bill. It also seemed unconstitutional since the Illinois Constitution had a "single purpose" clause, under which bills considered by the legislature were to contain only one subject matter. But the "single purpose" clause had been observed in the breach for many years by the time I was elected in 1956.

I first saw the bundling process work when a single bill, presented for final passage, appropriated money for both the Fair Employment Practices Commission and a host of other commissions, including one to provide services for Spanish-American War veterans (there were two left in the state at the time) and one to study the size of mosquitoes that inhabited the downstate portions of Illinois. If I wanted to vote for the FEPC, I had to swallow all those other commissions, which I thought were wasteful. So I invoked the constitutional clause. To my dismay, the legislature favored all the other commissions on separate votes, but the FEPC went down to defeat. That is how I learned that there are some pluses to the bundling process.

Bundling is very asymmetrical in effect and probably wasteful. But it is also a legislative device that allows various coalitions to form and thus moves the legislative process forward.

Consider South America, where regional rivalries and resentments in many countries make governing very difficult. The inability to form the political coalitions that are normal in this country creates enormous pressure on the central government. This pressure is certainly one of the causes of the mini-revolts that perpetually arise. The have-nots feel excluded from the process, while the majority (or the military regime) exercise their power without taking care of the depressed areas of the country.

It is more difficult to ignore the have-nots in the United States. First of all, members of Congress are elected as representatives of geographic areas, rather than as representatives of parties. Woe betide the congressman who starts thinking too much like a national legislator and forgets the parochial interests of his constituents.

Second, the separate elections of the president and Congress creates the necessity for the two branches to cooperate in setting spending priorities. Floating coalitions that take into account the needs of all the sections and groups in the country become essential. When urban interests wanted to promote a food program for the cities, for example, they formed a coalition with agricultural interests, and food stamps were joined with farm subsidies.

It is true that bundling encourages the merger of bad ideas with good ideas, and diminishes the ability of the president to undo the package. A line-item veto, which would allow the president to veto any single piece of an appropriations bill (or, under some proposals, reject disparate pieces of any other bill), makes the whole process more rational. But it also makes it harder to find the glue that holds the disparate parts of our country together. City people usually don't care about dams and farm policy. Their rural cousins don't think much about mass transportation or urban renewal or housing policy. If the two groups of representatives don't have anything to bargain about, it is unlikely that either set of concerns will receive appropriate attention.

The other downside to the line-item veto is exactly the reason why almost all presidents want the change and why, up to now, most Congresses have resisted the idea. The line-item veto transfers an enormous amount of power from Congress to the president. For those of us who think that the executive branch is strong enough, and that an imperial presidency is more of a threat than an overpowering Congress, the current balance of power is just right.

That has been the gist of Sen. Robert Byrd's opposition to the line-item veto. The West Virginia Democrat has argued that the appropriations power, the power of the purse, is the only real power that Congress has and that the line-item veto would diminish that power substantially. So far, he has prevailed—although last year, the reason he prevailed had more to do with the Republicans' unwillingness to give such a powerful tool to President Bill Clinton.

But now the political dynamics have changed. The Republicans in Congress can fashion a line-item veto that will not benefit

VOL
142
PT
5
MR
21
—
29
1996
UMI

the incumbent president—unless he gets reelected—and their probable presidential candidate, Senate Majority Leader Robert Dole, has recently made clear that he wants this passed. Chances for the line-item veto are vastly greater.

There are some constitutional problems in creating such a procedure. The wording of the Constitution suggests pretty strongly that a bill is presented to the president for his signature or veto in its entirety. It will take some creative legislating to overcome such a "technicality." I reluctantly advised the president last year that it was possible to draft a line-item veto law that would pass constitutional muster. The draft proposal involved a Rube Goldberg plan that "pretended" that the omnibus appropriations legislation passed by Congress and presented to the president actually consists of separate bills for various purposes. This pretense was effectuated by putting language in legislation to that effect.

President Clinton was not then asking for my policy views, and I did not have to reconcile my advice with my policy bias toward the first branch of government—Congress. But I was uneasy enough to become more sympathetic to the late Justice Robert Jackson's handling of a similar dilemma in one of his Supreme Court opinions. He acknowledged his apostasy concerning an issue on which he had opined to the contrary during his tenure as attorney general. Quoting another, Justice Jackson wrote, "The matter does not appear to me now as it appears to have appeared to me then."

My apostasy was less public. My memo to the president was only an internal document, and I didn't have to tell him how I felt about the line-item veto. But now that I have no representational responsibilities, I prefer to stand with Sen. Byrd.

Mr. BYRD. Madam President, I thank the Senator for his excellent remarks.

Mr. DOLE. Madam President, I am going to yield 3 minutes of my leader time to the distinguished Senator from Nebraska. First, I will take 30 seconds and then put my statement in the RECORD. I have a meeting in the office.

I have been listening to some of the debate. I know the distinguished Senator from West Virginia certainly understands this issue better than any of us. But we sometimes disagree. The one thing we should not do is elect a vindictive President. I do not think the present occupant is or the one challenging the President is. So we will be safe for the next 4 years, I tell the Senator from Maryland, and probably 8.

I understand what someone could do to abuse the power of the Office of the President. But we have been negotiating all afternoon in my office. We have five appropriation bills, and we have been trying to figure out how we can come together on those, taking a little out here and adding a little here. It is very, very complicated these days. We are working with the White House.

I think many of the fears and concerns expressed would be if you had somebody in the White House who stiffed Congress on everything and refused to negotiate. Right now, in my office we are negotiating with the Chief of Staff, Mr. Panetta, and trying to come together on a big, big appropriation bill so that we can pass it on Friday. We may not get it done because they have their priorities, and Congress has its priorities. But I believe the line-item veto is an idea whose time has come.

I certainly thank all those involved, particularly the Senator from Arizona, Senator MCCAIN, and the Senator from Indiana, Senator COATS, with the great assistance of the Senator from New Mexico, Senator DOMENICI, and the Senator from Alaska, Mr. STEVENS.

This is not a partisan measure. President Clinton supports the line-item veto. I think it has support on each side of the aisle. I know the Senator from West Virginia wants to leave here by 7 o'clock.

Madam President, again I am proud that today the Senate is passing the conference report on the Line-Item Veto Act of 1996. Giving line-item veto authority to the President is a promise we made to the American people in the Contract With America, and it is a promise we are following through on today.

Line-item veto seems to be the one thing that all modern Presidents agree on. All of our recent Presidents have called for the line-item veto—both Democrat and Republican Presidents alike. And for good reason. The President, regardless of party, should be able to eliminate unnecessary pork-barrel projects from large appropriations bills.

Most of our Nation's Governors have the line-item veto. Some States have had line-item veto since the Civil War. There's a lot of experience out there in the States that shows us this is a good idea; 43 Governors have the line-item veto, and now—finally—the President will, too.

President Clinton and I have talked about the Line-Item Veto Act. He wants the line-item veto and we both think it is a good idea.

Certainly, line-item veto is not a cure-all for budget deficits. No one is pretending it is the one big answer to all of our budget problems.

But it is one additional tool a President can use to help keep unnecessary spending down. It's one way for us to fulfill our pledge to American taxpayers for less Washington spending.

Line-item veto has a lot of support in the Senate. We passed our version of the bill in the Senate just about a year ago on March 17, 1995 with the support of 69 Senators.

But I know some are worried that it shifts the balance of power away from Congress and to the President. Well, appropriations bills that go on for hundreds of pages have already altered the dynamic between the President and Congress from what it was 200 years ago.

Even so, for those who aren't so sure line-item veto is the right approach, this bill has a sunset in it. We will try this experiment for a few years and see if it works. I am confident it will. It is an idea whose time has come.

Mr. President, I want to thank Senators STEVENS, DOMENICI, MCCAIN, and COATS for their work on this bill. It is thanks to them that we are about to pass this important and historic legislation.

Madam President, I yield 3 minutes of my leader time to the Senator from Nebraska.

Mr. EXON. Madam President, my colleagues know that I am an ardent supporter of a line-item veto. I had one when I was Governor of Nebraska and put it to excellent use. It was crucial to my success in balancing the budget.

I am an original cosponsor of line-item veto legislation. I am proud of the leadership role I have taken. I fervently believe that the President of the United States should have at his disposal every possible means to strip away the pork from the Federal budget. The line-item veto should figure prominently in his arsenal.

Mr. President, I will vote for this conference report, but I will not conceal my keen disappointment at what has emerged after nearly a year of stalling, partisan games, and bickering. This is a classic case of what might have been. I was a conferee but as usual, the minority was shut out of the decisionmaking process. I also have some possible constitutional questions and concerns.

Anyone who doubts the partisanship behind this legislation need look no further than its effective date—January 1, 1997. I have supported the line-item veto under Republican Presidents and Democratic Presidents. Those of us who have long sought the line-item veto believe it is a good idea, regardless who sits in the White House.

So, we are in a big hurry to pass this legislation because it is a popular issue in an election year. But, there is no rush to make it effective. How strange. That can wait until after the Republican Congress has passed one last set of appropriation bills and perhaps, for good measure, one last bill loaded with special interest tax breaks.

I had great expectations for this legislation; so did many of my colleagues on both sides. What we got was diminished returns. It now seems that those of us who fought the good fight will reluctantly have to accept an inferior product. We desperately need this line-item veto—as flawed as it may be.

Even the staunchest advocate of a line-item veto must confess that the Senate bill did not age well in conference. We do not have a better bill today. The line-item veto before the Senate today is a half-measure. It only addresses one side of wasteful Government spending.

Madam President, there are different types of pork around here. There is what I call classic pork, but it does not belong in a museum. It is the sweetheart awards, the bogus studies, the phony commissions, the make-work projects that look good to the constituents back home.

Frittering away the taxpayers' dollars is an affront to middle-income Americans who have been stretched and squeezed enough. This is where the line-item veto can be a fierce instrument against waste. The President can slice out the pork with a slash of his pen. In this regard, the measure before the Senate should accomplish today what we set out to do, and I salute the managers of the conference.

But the special interests who benefit from pork always seem to be one-step ahead of the deficit cutters. You might not find their pork on the menu of an appropriations bill. But they are still dining a la carte at the Finance or Ways and Means Committees, and yes, the Budget Committee too.

They dress up pork in the latest fashion: special interest tax breaks or tax expenditures. That is right, Mr. President. It is still pork, but it will be riveted onto a revenue bill or a budget reconciliation bill—like the one the Republican majority passed last fall. Call it a tax loophole or whatever you want, it is still just as wasteful, and it is still just as shameful as appropriated pork spending.

This problem of tax expenditures is not new. We have visited it many times, but with little resolution. The Budget Committee held hearings going back to 1993 on the budgetary effects of tax expenditures. OMB Director Dr. Alice Rivlin testified, and I quote, "Tax expenditures add to the Federal deficit in the same way that direct spending programs do."

I believe, and many of my colleagues on both sides agree, that if we are serious about cutting wasteful spending, if we are serious about reducing the deficit, if we are serious about a credible line-item veto, we should include special interest tax loopholes in the list of what the President can line out.

What should shine forth from this conference report is an attack on both wasteful appropriated spending and tax benefit pork. But the long arm of the special interests reached into the conference and turned off the lights when tax loopholes were put on the table.

From what I have seen of the conference report language, it could be virtually impossible for the President to veto special interest tax breaks, or as they are now called, limited tax benefits. There are so many exceptions that any tax lobbyist worth his salt will be able to write legislation in such a way that they will not be subject to the line-item veto procedure. And mark my words, they will.

The conference report language defines a tax benefit as a revenue-losing provision that does one or two things. It could provide a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries. What is more, there are exclusions for tax breaks that target persons in the same industry, engaged in the same type of activity, owning the same type of property, or issuing the same type of investment.

The exclusions do not end here; quite the contrary, they are expanded. There are exceptions for individuals with different incomes, marital status, number of dependents, or tax return filing status. For businesses and trade associations the exclusion could be based on size or form.

That is so limited, it does not exist. It is nearly impossible to think of any provision that it would cover. In fact, I do not believe that more than one or two of the more than dozens of tax provisions in the last year's Republican budget reconciliation would be subject to a Presidential line-item veto under the report language. And that bill was drafted before the lobbyists needed to draft their way around the line-item veto.

The exceptions are troubling enough, but it gets worse. Who defines a targeted tax benefit for the purposes of the line-item veto? I was surprised to learn that it will be the Joint Committee on Taxation. I, certainly, do not intend to disparage the committee and its fine members, but this oversight duty strikes this Senator like the proverbial fox guarding the henhouse. This conference report would make Aesop proud.

This is how it works. Under the provisions of the conference report, Joint Committee on Taxation will review every tax bill and decide whether the bill includes any tax loopholes, called limited tax benefits. The Joint Committee then gives its ruling to the conference committee, which gets to choose whether to include that information in its conference report. Recall that it is very often the staff of this same Joint Committee on Taxation that drafts the tax loopholes in the first place.

Here is the kicker. If the JCT statement is included, the President can rescind only, and I repeat, only those items identified in the legislation as limited tax benefits. The JCT declaration is more than a piece of paper. It is a declaration of immunity for what could very well be a limited tax benefit. It is an inoculation against a Presidential line-item veto. It is the magic bullet for tax lobbyists.

I do not believe that any of my colleagues fell off the turnip truck yesterday. We know how lobbyists work. I guarantee you that they will be swarming over JCT like the sand hill cranes returning to the Platte River in Nebraska. JCT will be thick as thieves with tax lobbyists. And for good reason, the committee will have the sweeping power to grant unprecedented immunity to any Tom, Dick, or Harry with a sweetheart tax deal.

Madam President, I am disappointed by the final product the conferees bring to the floor today. It is a tarnished reflection of the hopes I brought to the process. Yes; we should have done better. Yes; we should have attacked pork in all of its guises, Yes; we should have been tougher. But I have my doubts that more time and more debate will produce a different result—a superior result. I tell my colleagues that giving the President at least some power to rein in wasteful spending is better than doing nothing. So today, I will cast my vote for taking a small, but clear, step in the right direction. I urge my colleagues to do the same.

I yield my remaining time.

Mr. MCCAIN. Madam President, I yield 3 minutes to the Senator from South Carolina, Senator THURMOND.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, I rise in support of the conference report accompanying S. 4, the Line-Item Veto Act. For many years, I have been a supporter of giving authority to the President to disapprove specific items of appropriation presented to him. On the first legislative day of this Congress, I introduced Senate Joint Resolution 2, proposing a constitutional amendment to give the President line-item veto authority.

Presidential authority for a line-item veto is a significant fiscal tool which would provide a valuable means to reduce and restrain excessive appropriations. This proposal will give the President the opportunity to approve or disapprove individual items of appropriation which have passed the Congress. It does not grant power to simply reduce the dollar amount legislated by the Congress.

Madam President, 43 Governors currently have constitutional authority to reduce or eliminate items or provisions in appropriation measures. My home State of South Carolina provides this authority, and I found it most useful during my service as Governor. Surely the President should have authority that 43 Governors now have to check unbridled spending.

It is widely recognized that Federal spending is out of control. The Federal budget has been balanced only once in the last 35 years. Over the past 20 years, Federal receipts, in current dollars, have grown from $279 billion to more than $1.3 trillion. In the meantime, Federal outlays have grown from $332 billion in 1975, to more than $1.5 trillion last year, an increase of greater than $1.1 trillion. Annual budget deficits have reached $200 billion, with the national debt growing to more than $5 trillion.

Madam President, it is clear that neither the President nor the Congress are

VOL
142
PT
5
MR
21
—
29
1996
UMI

effectively dealing with the budget crisis. The President continues to submit budgets which contain little spending reform and continue to project annual deficits.

If we are to have sustained economic growth, Government spending must be significantly reduced. A balanced budget amendment, which I am hopeful will still be passed this Congress, and line-item veto authority would do much to bring about fiscal responsibility.

Madam President, it would be a mistake to fail to pass this measure. It is my hope that this Congress will now approve the line-item veto and send a clear message to the American people that we are making a serious effort to get our Nation's fiscal house in order.

Madam President, I congratulate the conferees for their work on this bill. This conference report provides the President with a very narrow authority to cancel specific appropriations, direct spending, or limited tax benefits. Under this provision, the Congress retains its legislative power of the purse in that the Congress may enact a bill disapproving the President's previous cancellation. This bill, of course, would be subject to a Presidential veto and subsequent congressional override.

Madam President, the conference report also requires that any canceled budget authority, direct spending, or tax benefit be applied to deficit reduction. Canceled funds would not be available to offset additional spending.

Madam President, the line-item veto will introduce a new level of discipline in the Federal budget process. It will bring an additional level of scrutiny to items of Federal spending. The line-item veto, combined with a balanced budget amendment, true reforms in entitlement spending, and restraint in Federal appropriations, will put us back on the track of fiscal responsibility.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. I yield to the Senator from Michigan, Senator LEVIN.

Mr. LEVIN. Madam President, I thank the Senator from West Virginia. Again, I congratulate him for the extraordinary effort he has made to try to make us pay attention to the underlying issues here. The bill before us says that, notwithstanding certain provisions, bills which have been signed into law can be canceled by the President.

Never in the history of this body has the Congress attempted to give to the President the power on his own to cancel the law of the United States. The process is the President signs the appropriations bills. It is then the law of the land. Those words should have a certain majesty in this body. This appropriations bill now signed by the President is the law. But under the approach before us, the President would then have 5 days in which he can cancel a part or all of that law without congressional involvement. Yes, the Congress could vote to override the cancellation, but if the Congress does not, the cancellation action of the President canceling the law of the land stands.

Never in the history of Congress has there been an effort to hand to a President that kind of power. We are told the President of the United States supports this. Of course he does. Every President would love Congress to hand part of its power to the President. Every President would love a piece of the power of the purse. But the Constitution will not let us do it, and we should not try.

Mr. SARBANES. Will the Senator yield?

Mr. LEVIN. I am happy to yield.

Mr. SARBANES. In fact, the Constitution says:

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his Objections . . . .

I do not see how constitutionally a President can sign a bill, make it the law, and then undo the law through a procedure that would not have been permitted by the Constitution.

Mr. LEVIN. The Supreme Court has said it precisely in the Chadha case. I am going to read these words again. I read them earlier this afternoon.

> Amendment and repeal of statutes no less than enactment must conform with article I.

The Supreme Court has told us what the Constitution tells us, as the Senator from Maryland just read:

> Amendment and repeal of statutes no less than enactment must conform with article I.

This conference report comes up with a new procedure which does not conform with article I and says that the President may cancel—that means repeal, void—the law of the land of the United States of America. He can with his pen on day 1 create a law by signing our bill, and on day 2, 3, 4, 5, or 6 cancel what is then already the law of the land.

Madam President, the Constitution will not tolerate that. We should not even attempt to do such a thing. There have been many reasons given for why the line-item veto in one version or another would be useful in terms of deficit reduction. There are ways constitutionally of doing it. The Senator from West Virginia made that effort earlier this afternoon. The current conference report before us simply cannot stand muster.

Again, I thank my friend.

Mr. McCAIN. Madam President, how much time remains?

The PRESIDING OFFICER. There are 22 minutes remaining.

Mr. McCAIN. I yield 11 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Madam President, I thank my colleague for yielding. I appreciate the debate that we have had. It has been a long and difficult and sometimes tortuous road to this particular point.

It was in the early or late 1800's that the first attempt to provide the line-item veto power to the executive branch was offered in the Congress. There have been 200 attempts subsequent to that. So it has been a long effort.

The question was raised: Why would Congress cede its independence? Why would Congress cede its power of spending to the executive branch?—because it is an extraordinary effort; it is a historic effort. But I would say that the reason this is happening and the reason this will pass very shortly with a pretty substantial bipartisan vote is that there has been an extraordinary abuse of the power of spending. Despite every legislative effort and every promise and pledge on this floor, the egregious practice of blackmailing the President by attaching to otherwise necessary spending bills pork barrel projects, projects spending that does not have any relevance to the particular bill and would never probably stand the light of day in debate on that particular issue or receive a majority vote has been passed into law.

I would just say in response to the Senator from Michigan that we have had constitutional lawyers pour over this legislation for years and years. The Chadha decision does not apply to what we have done here. Constitutional lawyers from each end of the spectrum and in between have told us that the legislation that we are presenting is constitutional.

I would like to take this opportunity to thank some people for their extraordinary work on this. I acknowledge Senator BYRD's articulate and worthy opposition to this message throughout the years that we have been debating line-item veto. I want to thank Senator DOMENICI and Senator STEVENS for helping us at a critical time. They were key to a strong, workable compromise on the issue. Senator DOLE's leadership, his decision to make this happen, to break the impasse and achieve a compromise, was absolutely critical to our success. Particularly, it is a privilege for me to thank my friend and colleague, JOHN MCCAIN from Arizona, for his efforts in this regard. I deeply respect his determination. He has been tireless in his fight against the current system and the status quo. He has persevered in long odds, in the face of what often looked like a losing battle. We joined together 8 years ago in a commitment to pass a line-item veto, and it has been my privilege to partner with him in this effort.

Madam President, this measure, in my opinion, is the most important Government reform that this Congress

for many Congresses has addressed. Yes, a line-item veto will help reduce the deficit. Yes, a line-item veto will eliminate foolish waste. But our ultimate objective is different. Our current budget process is designed for deception. It requires the disinfectant of scrutiny and debate.

When we send spending to the President that cannot be justified on its merits, it is attached more often than not to important appropriations bills. This has tended, first, to tie the President's hands, leaving him with a take-it-or-leave-it decision on the entire bill.

Second, it is used as a means of obscuring spending in the shuffle of uncounted billions of dollars of appropriations.

When we hide our excess behind a shield of vital legislation, our aim is plain. We do it to mask our wasteful spending by confusing the American taxpayer. We have created a system that avoids public ridicule only because it consciously attempts to keep our citizens from knowing how their money is spent. This is not a rational process. This is a deception. It is a trick, and it must stop. It is more than abuse of public money; it is a betrayal of public trust.

But now we have an opportunity to end that abuse and restore that trust. We have a chance to pass legislative line-item veto in a form that has gained support from both parties and in both Houses of Congress. We have the power to make our goal of budget reform a reality. It is not all that we need to do, but it is a huge leap forward.

The line-item veto is designed to confront our deficit and to save taxpayers' money. We have shaped this legislation to accomplish that purpose through a lockbox, ensuring that all the savings canceled by the President go forward toward deficit reduction.

The line-item veto is not a budgetary trick. Unlike the appropriations possess that currently exists and has existed from the beginning of this legislation, nothing is taken off budget. No pay dates are altered. It is a substantive change aimed at discouraging budget waste by encouraging the kind of openness and conflict that enforces restraint.

The goal is not to hand the Executive dominance in the budget process. The goal is the necessary nudge toward an equilibrium of budget influence strengthening vital checks on excess. But I think it does something more. I think the real benefit of the line-item veto is that it exposes a process that thrives on public deception. It is a lasting, meaningful reform—changing the very ground rules of the way this legislature has operated.

We have reached a historic decision, a historic moment. The first line-item veto, as I said, was introduced 120 years ago, interestingly enough, by a Congressman from West Virginia, Charles Faulkner. It died then in committee, and since then nearly 200 line-item veto bills have been introduced, each one buried in committee, blocked by procedures or killed by filibusters.

Today we have not been blocked. Today we have not been killed. And this issue will no longer be ignored or no longer be denied. The House and the Senate are in agreement. The President is in agreement. The public is in agreement. And now just one final vote remains.

This measure is a milestone of reform. It is the first time that the Congress will voluntarily part with a form of power it has abused. That is the result of a public that no longer accepts our excesses and excuses. But it is also evidence of a new era in Congress, proof of a sea change in American politics. This vote will prove that Congress can overcome its own narrow institutional interests to serve the interests of the Nation. That will be something remarkable, something of which every Member who supports this legislation can rightfully be proud.

With this vote, let us show the American people we are serious about changing the way this Congress works. Let us show them a legislative process conducted without deception and without the embarrassment we always feel when it is exposed. Let us show them that their tax money will no longer be wasted on favors for the few at the expense of the many. Let us show them that business as usual in Congress is finally and decisively over.

Madam President, I yield the floor. I yield back any additional time that was yielded to me.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, I yield myself the remaining time.

Madam President, a number of comments and statements have been made about this legislation, and due to a shortage of time I would not be able to respond to them. With the help of my friend and colleague from New Mexico, we will submit a long statement for the RECORD tomorrow in response to some of the comments and statements that were made about the impact of the line-item veto. I think it is important that the record be clear in response to some of those statements as I think in future years historians may be looking at the debate that took place in the Chamber today.

Madam President, we have nearly arrived at a moment I have sought for 10 years. In my life, I have had cause to develop a very keen appreciation for the value of time, and that appreciation has made it unlikely that I will soon enjoy a reputation for abiding patience. I confess my great eagerness for this day's arrival. The line-item veto's elusiveness has encouraged in me if not patience, then certainly respect for those who possess it in greater quantity than I.

Ten years may be but a moment in the life of this venerable institution, but it is a long time to me. In a few minutes, the issue will be decided. I am gratified beyond measure that the Senate is now apparently prepared to adopt S. 4, the line-item veto conference report, that its adoption by the other body is assured, and that the President of the United States will soon sign this bill into law.

I am deeply grateful to my colleagues who have worked so hard to give the President this authority. I wish to first thank my partner in this long, difficult fight, my dear friend, the Senator from Indiana, [Mr. COATS]. His dedication to this legislation has been extraordinary and its success would not have been possible absent the great care and patience he has exercised on its behalf.

I would like to thank Mark Buse on my staff and Sharon Soderstrom and Megan Gilly on Senator COATS' staff.

Madam President, I am grateful to the chairman of the Budget Committee, Senator DOMENICI, and the chairman of the Governmental Affairs Committee, Senator STEVENS. There have been moments in our conference when my gratitude may not have been evident, but I would not want this debate to conclude without assuring both these Senators of my respect for them and my appreciation for their sincere efforts to improve this legislation. We may have had a few differences on some questions pertaining to the line-item veto, but I know we are united in our commitment to the success of S. 4.

I also wish to thank the assistant majority leader, Senator LOTT. As he often does, amidst the confusion and controversies that often define conferences, he managed to identify the common ground and bring all parties to fair compromises and broad agreement.

Finally, let me say to the majority leader, Senator DOLE, all the proponents of the line-item veto know that without his skillful leadership, without his admonition to put differences over details aside for the sake of the principle of the line-item veto, we would not now stand at the threshold of accomplishing something of real value to this Nation. He is, as former baseball great Reggie Jackson once described himself, "the straw that stirs the drink" around this place.

The rules and customs of the Senate are not revered as inducements to action but, rather, for their restraining effect on ill-considered actions. Few things of real importance would ever occur here without Senator DOLE's leadership. The advocates of this legislation have cause to celebrate his leadership today, but I think even the opponents of this particular measure

VOL
142
PT
5
MR
21
—
29
1996
UMI

could refer to the many occasions when all Senators have had cause to celebrate Senator DOLE's leadership of the Senate.

Madam President, the support of my colleagues for the line-item veto have made this long, difficult contest worthwhile and an honor to have been involved in, but even greater honor is derived from the quality of the opposition to this legislation. And every Senator is aware that the quality of that opposition is directly proportional to the quality of one Senator in particular, the estimable Senator from West Virginia, Senator BYRD.

Madam President, I would like to indulge a moment of common weakness of politicians. I wish to quote myself. I wish to quote from remarks I made 1 year ago when we first passed the line-item veto. I said at that time that "Senator BYRD distinguished our debate, as he has distinguished so many of our previous debates," as he has distinguished today's debate, "with his passion and his eloquence, his wisdom and his deep abiding patriotism. Although my colleagues might believe I have eagerly sought opportunities to contend with Senator BYRD, that was, to use a sports colloquialism, only my game face. I assure you I have approached each encounter with trepidation. Senator BYRD is a very formidable man."

Madam President, I stand by that tribute today. If there is a Member of this body who loves his country more, who reveres the Constitution more, or who defends the Congress more effectively, I have not had the honor of his or her acquaintance. Should we proponents of the line-item veto prevail, I will take little pride in overcoming Senator BYRD's impressive opposition but only renewed respect for the honor of this body as personified by its ablest defender, Senator ROBERT BYRD.

Senator BYRD has solemnly adjured the Senate to refrain from unwittingly violating the Constitution. As I said, his love for that noble document is profound and worthy of a devoted public servant. I, too, love the Constitution, although I cannot equal the Senator's ability to express that love.

Like Senator BYRD, my regard for the Constitution encompasses more than my appreciation for its genius and for the wisdom of its authors. It is for the ideas it protects, for the Nation born of those ideas that I would ransom my life to defend the Constitution of the United States.

It is to help preserve the notion that Government derived from the consent of the governed is as sound as it is just that I have advocated this small shift in authority from one branch of our Government to another. I do not think the change to be as precipitous as its opponents fear. Even with the line-item veto authority, the President could ill-afford to disregard the will of Congress. Should he abuse his authority, Congress could and would compel the redress of that abuse.

I contend that granting the President this authority is necessary given the gravity of our fiscal problems and the inadequacy of Congress' past efforts to remedy those problems. I do not believe that the line-item veto will empower the President to cure Government's insolvency on its own. Indeed, that burden is and it will always remain Congress' responsibility. The amounts of money that may be spared through the application of the line-item veto are significant but certainly not significant enough to remedy the Federal budget deficit.

But granting the President this authority is, I believe, a necessary first step toward improving certain of our own practices, improvements that must be made for serious redress of our fiscal problems. The Senator from West Virginia reveres, as do I, the custom of the Senate, but I am sure he would agree that all human institutions, just as all human beings, must fall short of perfection.

For some years now, the Congress has failed to exercise its power of the purse with as much care as we should have. Blame should not be unfairly apportioned to one side of the aisle or the other. All have shared in our failures. Nor has Congress' imperfections proved us to be inferior to other branches of Government. This is not what the proponents contend.

What we contend is that the President is less encumbered by the political pressures affecting the spending decisions of Members of Congress whose constituencies are more narrowly defined than his. Thus, the President could take a sterner view of public expenditures which serve the interests of only a few which cannot be reasonably argued as worth the expense given our current financial difficulties. In anticipation of a veto and the attendant public attention to the vetoed line-item appropriation, Members should prove more able to resist the attractions of unnecessary spending and thus begin the overdue reform of our spending practices. It is not an indictment of Congress nor any of its Members to note that this very human institution can stand a little reform now and then.

Madam President, I urge my colleagues to support the line-item veto conference report and show the American people that, for their sake, we are prepared to relinquish a little of our own power.

I am very pleased to be here on this incredibly historic occasion.

I yield the remainder of my time.

Mr. BYRD. Will the Senator yield?

Mr. McCAIN. I am happy to yield.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I think of an old fable about two frogs. They both fell into a churn that was half filled with milk. One of the frogs immediately turned over, gave up the fight, and perished. The other frog kept kicking until he churned a big patty of butter. He mounted the butter, jumped out of the churn, and saved his life.

The moral of the story is: Keep on kicking and you will churn the butter.

Madam President, I say this in order to congratulate Senator MCCAIN and Senator COATS especially, for their long fight and for their success in having gained the prize after striving for these many, many years. They never gave up. They never gave up hope. They always said, "Well, we will be back next year."

So I salute them in their victory and, as for myself, I simply say, as the Apostle Paul, "I have fought a good fight, I have finished my course, I have kept the faith."

I thank all Senators.

Mr. COATS. Will the Senator yield, if I could just respond to that?

First of all, that is a high compliment and I am sure I speak for both Senator MCCAIN and myself in thanking you for that.

But, second, I leave here, after this vote, with the vivid picture in my mind that the Senator from West Virginia is still kicking in the churn on this issue, and that the final chapter probably is not written yet.

I admire his tenacity also, and I think he has gained the respect of Senator MCCAIN and I and everyone else for his diligence in presenting his case.

Mr. BYRD. I thank the Senator.

Mr. MCCAIN. I yield my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report on the line-item veto.

Mr. COATS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report, the yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced, yeas 69, nays 31, as follows:

[Rollcall Vote No. 56 Leg.]

YEAS—69

Abraham
Ashcroft
Baucus
Bennett
Biden
Bond
Bradley
Breaux
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
Daschle
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kennedy
Kerry
Kohl
Kyl
Lieberman
Lott
Lugar
Mack

McCain
McConnell
Murkowski
Nickles
Pressler
Robb
Roth
Santorum
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NAYS—31

Akaka
Bingaman
Boxer
Bryan
Bumpers
Byrd
Cohen
Conrad
Dodd
Ford
Glenn
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kerrey
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Rockefeller
Sarbanes

So, the conference report was agreed to.

Mr. DOLE. I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

CORRECTING THE ENROLLMENT OF H.R. 2854

Mr. DOLE. Pursuant to a previous unanimous consent agreement, I now call up Senate Concurrent Resolution 49, correcting the enrollment of the farm conference report.

The PRESIDING OFFICER. Under the previous order Senate Concurrent Resolution 49, a concurrent resolution to correct the enrollment of H.R. 2854 previously submitted by the Senator from Indiana is agreed to.

The concurrent resolution (Senate Concurrent Resolution 49) was agreed to as follows:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs, shall make the following corrections:

In section 215—

(1) in paragraph (1), insert "and" at the end;

(2) in paragraph (2), strike "; and" at the end and insert a period; and

(3) strike paragraph (3).

The PRESIDING OFFICER. Under the previous order, the motion to reconsider that vote is laid on the table.

The motion to lay on the table was agreed to.

AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report to accompany H.R. 2854.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2854) a bill to modify the operation of certain agricultural programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 25, 1996.)

The PRESIDING OFFICER. Debate on the conference report is limited to 6 hours; 2 hours under the control of the Senator from Indiana, Senator LUGAR; 1 hour under the control of the Senator from Vermont, Senator LEAHY; and 3 hours under the control of the Democratic leader or his designee.

Mr. DOLE. Madam President, I hope most, if not all, of the debate will be used this evening. I know the Senator from Indiana, the chairman of the committee, is here and prepared to debate. I know there are some others who may want to be heard tomorrow. But hopefully we can conclude action on this tomorrow morning and get it over to the House so they can conclude it before they take up health care; otherwise, we are going to have a problem getting it passed before the Easter recess.

So there will be no further votes tonight. That has already been announced. I thank the chairman of the committee. I think Senator LEAHY is also going to be here for some debate. I know the distinguished Democratic leader has time reserved too.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

THE DEATH OF EDMUND S. MUSKIE

Mr. DASCHLE. On behalf of myself, Senator DOLE, Senator COHEN, and Senator SNOWE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 234) relative to the death of Edmund S. Muskie.

Whereas, the Senate fondly remembers former Secretary of State, former Governor of Maine, and former Senator from Maine, Edmund S. Muskie,

Whereas, Edmund S. Muskie spent six years in the Maine House of Representatives, becoming minority leader,

Whereas, in 1954, voters made Edmund S. Muskie the State's first Democratic Governor in 20 years,

Whereas, after a second two-year term, he went on in 1958 to become the first popularly elected Democratic Senator in Maine's history;

Whereas, Edmund S. Muskie in 1968, was chosen as Democratic Vice-Presidential nominee,

Whereas, Edmund S. Muskie left the Senate to become President Carter's Secretary of State,

Whereas, Edmund S. Muskie served with honor and distinction in each of these capacities: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Edmund S. Muskie, formerly a Senator from the State of Maine.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourns as a further mark of respect to the memory of the deceased Senator.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, in the earliest days of our Nation, George Washington said it was the duty of public servants to "raise a standard to which the wise and the honest can repair."

In his more than five decades as a public servant, Senator Edmund Muskie not only raised the standard of wisdom and honesty in public office. On many occasions and in many ways, he set the standard.

Today I join my colleagues and, indeed, all of America, in saying goodbye to this extraordinary American.

Senator Muskie served two terms as Governor of Maine—something of a minor political miracle in such a rock-ribbed Republican State.

He also served with great dignity and distinction as our Nation's Secretary of State under President Carter.

But it was his service in this Chamber, and as his party's candidate for Vice President, for which Senator Muskie will be best remembered—and rightly so.

In 1974, I came to Washington as a Senate staffer. Senator Muskie had already served 15 years.

What first impressed me about him was his compassion, and his unshakable belief in the infinite possibilities of America. It was a belief he learned from his immigrant father, a belief that animated his entire life.

Ed Muskie knew that government cannot guarantee anyone the good life. But government has a responsibility to help people seize possibilities to make a good life for themselves, their families and their communities.

He held other beliefs deeply as well.

Ed Muskie believed that we have an obligation to be good stewards of this fragile planet.

He was an expert on air and water pollution, and he served as floor manager for two of the most important environmental laws ever—the Clean Air Act of 1963 and the Water Quality Act of 1965.

Ed Muskie believed that more was needed to solve the problem of poverty than money from Washington. Thirty years ago, he called for a new creative federalism.

VOL
142
PT
5
MR
21
—
29
1996
UMI

"No matter how much the Federal partner provides," he said, "no Federal legislation, no executive order, no administrative establishment can get to the heart of most of the basic problems confronting the state governments today."

Ed Muskie believed that politics ought to be a contest of ideas, not an endless series of personal attacks.

In 1970, Ed Muskie was the presumptive front-runner for his party's 1972 Presidential nomination. In that role, he was the victim of malicious and false attacks.

Rather than counter-attack, Senator Muskie appealed for reason and decency and truth. I want to quote from a televised speech he made back then, because I think it bears repeating today.

"In these elections * * * something has gone wrong," he said.

> There has been name calling and deception of almost unprecedented volume. Honorable men have been slandered. Faithful servants of the country have had their motives questioned and their patriotism doubted. . . .
>
> The danger from this assault is not that a few more Democrats might be defeated—the country can survive that. The true danger is that the American people will have been deprived of that public debate, that opportunity for fair judgment, which is the heartbeat of the democratic process. And that is something the country cannot afford.

Senator Muskie went on to say:

> There are only two kinds of politics. They are not radical or reactionary, or conservative and liberal, or even Democratic or Republicans. They are only the politics of fear, and the politics of trust.

Senator Muskie believed in the politics of trust.

And he believed in honest negotiation. Testifying before the Senate a few years ago, Senator Muskie said, "There's always a way to talk."

There is always a way to talk.

In his later years, Senator Muskie helped found an organization called the Center for National Priorities to find new ways to talk in a reasoned manner about the big problems facing our nation.

Today, we mourn Ed Muskie's death. But let us also celebrate his extraordinary life. And let us re-dedicate ourselves to the beliefs that shaped that life.

The belief that America is and must remain a land of possibilities—for all of us.

The belief that we must protect our environment.

The belief that it takes more than money alone to solve our problems. It takes hard work and personal responsibility, and people working together.

Let us rededicate ourselves to Senator Muskie's belief the politics can and should be a contest of ideas, and that we have a responsibility to talk straight to the American people.

And let us remember that we have a responsibility to talk straight to each other. There are many great and urgent issues facing this chamber.

There must be a way we can talk.

Ed Muskie is gone. But we can keep his spirit alive in this chamber. The choice is ours.

In closing, I offer my deepest condolences to Senator Muskie's widow, Jane, to their children, and to his many friends the world over.

The PRESIDING OFFICER. If there is no objection, the resolution is agreed to.

The resolution (S. Res. 234) was agreed to.

Mr. DOLE. I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. I yield the floor.

AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Indiana.

Mr. LUGAR. Mr. President, it is a privilege to bring before the Senate H.R. 2854, the Federal Agricultural Improvement and Reform Act. The farm bill that we are to pass after this debate will make the most sweeping changes in agricultural policy since the days of the New Deal. These changes begin a new era in which markets rather than Government will dominate farm decisions.

H.R. 2854 offers farmers more freedom to plant crops without Government constraint than they have had in decades. This legislation turns farm programs from an uncontrollable entitlement to a system of fixed and declining income-support payments. From now on, the Federal Government will stop trying to control how much food, feed, and fiber our Nation produces. Instead, we will trust the market for the first time in a long while to direct those signals.

Farmers during this time will not be left unprotected in a sometimes unforgiving world marketplace. H.R. 2854 provides new protection against export embargoes, ensuring that the United States will be a reliable supplier of agricultural products. The bill also strengthens our successful export credit programs, placing new emphasis on high-value exports that now constitute more than half of our overseas sales.

Back at home in this country, where resource conservation is increasingly important not only to producers but to all citizens, this bill offers new incentives to manage natural resources wisely. The Environmental Quality Incentive Program will share the cost of measures that enhance water quality and control pollution. The Conservation Reserve Program will be renewed through the year 2002, extending the many environmental benefits of that historic program.

This legislation will require more responsible use of taxpayer money. For example, until now, the Farm Services Agency has been compelled by law to make new loans to borrowers who are already delinquent. This bill will end that practice and other abuses of our lending programs.

H.R. 2854 reauthorizes food stamps and other important nutrition programs. It consolidates and streamlines rural development programs. It repeals dozens of outdated or unfunded Federal programs and requirements.

The President's spokesmen have stated that the President will sign this legislation with reluctance. I am not at all reluctant in my support. This is the best farm legislation I have seen in my congressional career.

Farmers who grow so-called program crops—wheat, feed grains, upland cotton, and rice—will be able to sign a 7-year production flexibility contract. They will receive 7 years of declining income support payments. These payments differ from the so-called deficiency payments now made under current law because the contract payments are unrelated to market price levels.

Farmers will be required to maintain their farm in agricultural use, to comply with some limitations on the planting of fruits and vegetables and to meet conservation requirements. The Federal Government will no longer tell them how many acres to plant or rigorously control their planting choices. This bill deregulates U.S. production agriculture.

As we approach the day when this bill will become law, I wish to salute the ranking Democratic member of the Agriculture Committee, Senator PATRICK LEAHY of Vermont. When he was chairman of the Agriculture Committee, I worked with him in a bipartisan way whenever I could. He has extended the same courtesy to me. H.R. 2854 is a better bill because of that partnership.

At the same time, I also want to praise the chairman of the House Agriculture Committee, Mr. PAT ROBERTS of Kansas. His tenacity led to reforms that a short time ago were clearly unthinkable.

However, those who most deserve this salute are the agriculture producers of the country that we all serve. They are the reason this Nation exceeds all others in the productivity of our agriculture system and in the abundance of our food supply. I am proud to be one of them. They deserve a Government that stands behind them without standing in their way. They want a farm bill that is designed for the new century. We have given that to them. That is what this bill represents. It heralds a future of opportunities, a future not without risk but full of challenge, and a future in which American farmers can compete, excel, and prosper.

Mr. President, the FAIR Act is, in fact, good for farmers for these reasons. First of all, flexibility. Under the FAIR Act, the act that we are debating this evening, farmers will be able to plant the mix of crops that best suits their climate, agronomic conditions, and market opportunities. That is extremely important. That is at the heart of this bill.

The United States stands at a remarkable point in history in which we have opportunities to supply markets all over the world if we are capable of fulfilling demand. Indeed, we will be more capable under this legislation. The opportunities for farmers to make money under the FAIR Act have never been better. That is a major reason why farmers support this legislation.

Simplicity: Farmers can enter into a 7-year contract and, in many cases, will not need to visit the United States Department of Agriculture again. Much of the endless rulemaking and many of the costly regulations that accompany today's farm programs will be eliminated. Certainly, farmers will know all the program parameters and the payment rates for the next 7 years at the time of signing. That signing, Mr. President, will occur in the 45 days following signature of this legislation by the President of the United States.

Under current programs, payment rates often change after program signup, and payments in future years are unknown. A known stream of payments, guaranteed by this legislation, will provide certainty to farm lending and all manner of farm business decisions.

Let me mention the factor of opportunity. Farmers will be able to adjust planting decisions to take advantage of market opportunities as they occur. Current programs force farmers to follow old planting patterns and U.S. Department of Agriculture regulations rather than profit opportunities.

Let me mention profitability. According to the Food and Agricultural Policy Research Institute, under FAIR, the act that we are discussing tonight, gross farm income will expand by 13 percent; net farm income will expand by 27 percent over the next 10 years. This occurs while Government payments to farmers decline by 21 percent during that period of time.

Growth: Farmers will be able to adjust plantings and take advantage of growth in the high-value processed product markets. Current programs often force farmers to limit plantings and plan for stagnant low-value bulk markets in order to qualify for the payments under the current programs.

The legislation that we are talking about is a revolution of consequence, perhaps the greatest in 60 years. I say that, Mr. President, because we are now in a situation in which the market-distorting target price system is replaced by one of certainty to farmers—but also to taxpayers, also to budget writers.

Let me explain for just a moment, Mr. President, how this works. In the past, we estimated in the last farm bill—a 5-year farm bill, as opposed to the 7-year bill in front of us today—that the cost of this in terms of the outlays for the program crops of corn, wheat, cotton, and rice, would be $41 billion, or a little over $8 billion a year for those crop deficiency payments. But, in fact, Mr. President, it turned out that the bill cost $57 billion—$16 billion more. Taxpayers have asked Members of the House and Senate, "How could you have missed the mark and estimated $41 billion, and it came out $57 billion?"

Well, Mr. President, the weather intervened, and various other legislative emergencies intervened. All sorts of things intervened. They always do in agriculture, given world conditions. Mr. President, we went out confidently from the last farm bill discussion in 1990 with a $41 billion item in mind, and it turned out to be $57 billion.

In this particular case, Mr. President, we define precisely the dollars that are going to be spent for these programs at the beginning, and they decline each year for 7 years. They are known to Congressmen and the press, and they are known to farmers at the time of signup. The farmer signs a contract and knows exactly what the payments are going to be for 7 years if he or she continues to farm, makes agricultural use of that land, complies with conservation requirements, and does not plant fruits or vegetables. Those are the only stipulations. That is a large difference, as I mentioned before. Having signed up, that is the last visit the farmer may need to pay to the CFSA office, or any other USDA office. That is a big change in the life of agricultural America.

Let me simply point out that the Government will no longer tell farmers which crops to plant. I have mentioned that before, but let me highlight that again.

Since the time that my father, Marvin Lugar, who was farming in Marion County, IN, in the 1930's, was forced to destroy a portion of his corn crop and a good part of the hogs that he had on the farm, under what were supply and control dictates of the New Deal—and I will just explain that again, Mr. President. The thought then was that if you left farmers to their own devices, they would always produce too much corn, too many hogs, too much of everything and that, in essence, supply would be overwhelming and the price would go down and farmers would fail. Therefore, the philosophy of the 1930's was that you have to control these farmers, you have to dictate what they can do and how much of it is permissible.

That has been our policy for the last 60 years. I must say, Mr. President, there is still, as farmers approach this bill, a certain amount of anxiety. If you have been in that straitjacket for 60 years, even if you did not like it, and you rebelled against the Federal Government and you gave speeches about how Washington ought to stop meddling in farming and you stood up at the county Farm Bureau and said, "I want to get rid of the Federal Government altogether," still, when the moment of truth often came, people said, "Where is the safety net?" And will, in fact, people produce too much if there are no limitations?

One of the great ironies, as we approached this farm bill and debated it throughout 1995, and now into 1996, was that in 1994, we had a great, enormous corn crop in the country—10 billion bushels. Arguably, that is the first or second largest crop in the history of the country. Immediately, agricultural economists—including those of the U.S. Department of Agriculture—said we have to control this situation or the price of corn will plummet given this overhang of supply. And so they did. As a corn farmer, I experienced this on my farm, the same one I inherited from my father, Marvin Lugar, whom I cited. In my generation, in 1995, I was told I could not plant 7.5 percent of my normal corn historical acreage, to literally lay it aside—nothing there—in order to qualify for the farm program. Farmers were told that all over the country, deliberately, as Government policy. We curtailed 7.5 percent of the acreage of corn that normally would have been planted.

Well, Mr. President, USDA was dead wrong. The year 1995 brought unparalleled demand in this country. People were feeding livestock around the world with our corn. It also brought demand for our soybeans and for our wheat and, in many months, for our cotton. The whole situation in China changed remarkably. We debate these issues as if the only thing that counts is our domestic economy. But we know, as a matter of fact, that the foreign policy implications for agriculture are profound, and the most profound one in 1995 was that the Chinese no longer exported. They sent strong signals that they would be importers. The markets they were servicing became importers from us.

So, as a result, Mr. President, as we have this debate this evening, the price of corn is approaching historical all-time highs, largely because the carryover from the 1995 crop, which was a short one, as it turned out, aided and abetted by a deliberate decision of the USDA to cut corn plantings, turned up short. The price of corn is approaching $4 a bushel.

In the past, we had big arguments on the floor, whether it be that the target price of $2.75 was too high—but that is

VOL
142
PT
5
MR
21
—
29
1996
UMI

not even in play, Mr. President. The price of corn right now is in the $3.80's, $3.90's. There are elevators all over this country—as a matter of fact, Mr. President, if you were a corn farmer, you could sell your entire crop that you do not even have in the ground yet for something well above the target price; namely, the price that is used to establish the deficiency payment, the subsidy for corn. You could sell it all. You could even reach ahead another year and sell that crop, if you were confident of the number of bushels that you could produce. That is what market signals are all about.

Mr. President, I have no doubt that during the course of this debate, Senators will come on the floor, being unacquainted with agricultural economics, and not having any corn of their own in the situation, and will talk about the "destruction of the family farm," and about a decline of income.

Mr. President, I hope that, as an antidote for those arguments, Senators will simply take a look at the price quoted in the newspaper tomorrow morning for cash corn and take a look at the futures markets on down this trail. They will notice a very substantial situation in our country for people who are farmers and who understand markets and who understand what we are about.

Mr. President, it seems to me that it is so important that we adopt this idea of looking toward markets. This hallmark of the bill really must be preserved. It is integral to the change that must occur if those of us who are farmers are to thrive in this coming economy.

Mr. President, I come before this body, as all Members know, as one who has 604 acres of land—about 250 acres, average, in corn; about 200 acres, average, in soybeans, each year. It is not a hobby farm. It is a productive farm, a profitable farm. It is a farm that has made a profit for many, many years. I come to this debate not as someone who is arguing on behalf of constituents entirely—although my constituents produce a lot of corn and beans in Indiana—but as somebody who has actually filled out the forms every year, who has had to comply with the rules of the game, who understands how farms might be more profitable, who attends every meeting of the Indiana Farm Bureau annually and, in the counties, talks to farmers to understand precisely what is at hand.

And I say, Mr. President, after 20 years in this body of debating farm legislation, this is the first time that I can go home to Indiana and say the future of agriculture is bright. We have an opportunity in terms of our upside potential for something magnificent for our generation of farming for those to whom we pass it along. I think that is critically important.

Mr. President, while we have tried to deal with this basic issue of freedom to farm we have also in both the House and the Senate attempted to deal meticulously with issues that are of importance to farmers all over this country county by county and locale by locale.

In the conference between the House and the Senate, staff identified close to 500 items in disagreement. In some cases the disagreement came because one House or the other did not even mention the item and, therefore, it was new and we had to try to resolve it. But there was common interest. In the course of 2 days, Mr. President, because of the urgency of this legislation, Members resolved all of these issues.

This is why we were able to come tonight. The hour is late and we will not complete our work until tomorrow. But I want to give hope to farmers that tomorrow will be the day in the Senate in which freedom to farm comes to pass because that will be a great day for agriculture in this country.

I appreciate this opportunity to lay before the Senate tonight the essence of this legislation.

I reserve the remainder of my time.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. CRAIG). The distinguished Democratic leader.

Mr. DASCHLE. Mr. President, Senator LEAHY, the ranking member of the Senate Agriculture Committee, had to attend to a family emergency and is therefore not able to participate in the debate tonight. I know that I speak for the Senate, Mr. President, in wishing him well as he attends to his personal business, and we look forward to hearing from him on this bill tomorrow.

Mr. President, I want to take just a few moments tonight. Let me begin by making a couple of general points.

First, let me commend the distinguished chairman of the Senate Agriculture Committee for his work on this effort. He and I may not agree on the final product. We certainly may not agree on how we ought to enact farm policy in this country. But I have no disagreement with him in the manner with which he has conducted his responsibilities as chairman. He is an extraordinary leader and a Senator who has earned profound respect on both sides of the aisle. And his skill and diligence in shepherding this bill to the floor again demonstrates why he is held in such high esteem.

I would like to draw attention tonight to how late in the season this bill is being considered. I hope that regardless of the outcome we would all agree that we should never allow legislation this important to be considered so late in a Congress.

We are dealing with the 1995 farm bill in March of 1996. It is almost April. There is no excuse for that.

I do not fault the distinguished chairman of the Committee. But I certainly fault the fact that in both houses of the Congress there appears to have been little priority given among our Republican colleagues to get this legislation to the floor in time to allow us to adequately consider all of these very controversial issues or in time to provide more certainty to farmers than they have been given.

There is no excuse for this delay. This legislation should have been passed—or at least considered—at a much earlier date.

I also take issue with the title "Freedom to Farm." Farmers have had the freedom to farm—to do whatever they wish—for decades.

There is no requirement that farmers sign up for the farm bill. They are not compelled to live under the confines of whatever farm legislation we pass.

In every farm bill passed since legislation of this kind was enacted farmers have had the freedom to farm. Regardless of what happens to this legislation, they will continue to have the freedom to farm.

Permanent law guaranteed the freedom to farm. If people did not want to be required to comply with the regulations and the legislation as it was enacted, they had the right not to do so. There was no requirement.

So now those who have opposed farm programs are saying to farmers, you do not have the right to advantage yourself under farm legislation at the end of 7 years because we are going to take away your options with regard to freedom to farm or anything else. We are going to phase out the partnership the government has had with agriculture. I believe that is something that merits a great deal of debate. We ought to be discussing with a lot more care.

Regardless of whether or not this legislation passes—I assume it will—I have every expectation we will be back again next year dealing with this issue of the phaseout of farm programs.

I come to the floor tonight with the realization that there are some good things in the bill. I want to address those briefly. But first there are a number of things I find to be most difficult to accept, most problematic as I consider the advantages and disadvantages of this legislation.

Perhaps the most significant disadvantage I find in the legislation before us tonight is that it fails to provide the safety net we have always guaranteed farmers in those times when they found themselves in extraordinary circumstances, whether they be economic or natural.

Loan rates are capped. There is no opportunity for loan rates to go up. We all know what an important financial and economic tool the loan rate system has been in farm legislation for a long time. There is no opportunity now for loan rates to go up. They can go down. They will never go up.

The opportunity we provided farmers to store their own grain on their own

farms—the freedom to store their own grain, if you will—is now denied farmers. The farmer-owned reserve has been eliminated. Why that is the case I am not sure. Why we do not give farmers the freedom to farm when it comes to storing their own grain is something that I will leave to others to explain.

We have eliminated the Emergency Livestock Feed Program. South Dakota had 10 inches of snow this weekend. Everything was shut down, while livestock producers are calving all through my State. The Livestock Feed Program is an extraordinarily important tool in times of disaster. This may not qualify. But there have been times just like this when it did, and farmers availed themselves of the Emergency Livestock Feed Program. But as a result of the passage of this legislation it is no more.

There is some flexibility but not for all. Vegetable producers are treated differently. Supposedly there is a signal from the market—not the Government. But I must say there is not a freedom to farm in all cases. Potato producers are not given the freedom to farm. Other producers that are still working under many of the same constraints they have had to work under in past years, and they are going to continue to be confronted with constraints in the future. We do not have the freedom to farm in all cases for all commodities under this legislation. So let no one be misled in that regard.

The deficit increases the first 2 years under this legislation by $4 billion—$4 billion in increased costs to the Federal Treasury. In large measure the reason for that is very simple. We will be paying farmers regardless of price. We will see record prices for wheat, perhaps record prices for corn, and we may actually also see record payments from the Federal Government to the same producers.

The ultimate effect of that will be very simple—somebody is going to pay. The taxpayers could be billed more than $4 billion in the next 2 years alone as a result of that.

Research programs are shortchanged. As one who had the good fortune to chair the research subcommittee in past Congresses, I am very concerned about sending exactly the wrong message on research—to say 2 years from now we will decide it is not enough. Research programs take longer than that. The clear blueprint we must lay out through research on what we intend to do in agricultural production, especially on the applied side of research, needs to be addressed. So to say that for some reason we will deal with that later, we will deal with that in a year or two, is just unacceptable.

Nutrition programs also are treated in the same manner. Food stamps, as everyone now knows, will only be reauthorized for 2 years in a 7-year bill. We are going to pay farmers for 7 years whether or not the price is warranted, but people on food stamps will only have the certainty of getting whatever assistance we can provide in this legislation for 24 months. After that, who knows. We did not say that about farmers, but we are going to say that about recipients of food stamps. You have kids out there who are getting less consideration than producers who may not even plant a crop.

Finally, Mr. President, of all the flaws, the one that I have alluded to in a couple of my comments tonight, the fact that producers, regardless of price, regardless of need, regardless of production, will receive a payment is something that I think is just unconscionable. We should not be in the business of doing that. It will come back to haunt us. It will come back to undermine the credibility of farm programs in the long run.

Nobody ought to be misled about that. It is wrong. Call it what you will—a transition payment, a deficiency payment—it is a welfare payment. It is wrong. Farmers are not comfortable with that. I do not blame them for rolling the dice, taking this legislation, with every expectation that Congress will come back at some point with clearer heads and a much better understanding of the importance of the partnership between our Government and our agricultural industry and recognize that some continuation of farm programs is necessary.

So if I were a farmer, I would say, "Well, look, if I am going to get a good price and I am also going to get a good payment, why not take it? Why not accept it?"

If I were a farmer, as pressed as they are today, I would take it, too. I would not argue against it. But that does not make it right. Economically and financially, it is right for every farmer. If they have the chance legally to do it, they should do it. But as policymakers, it is not right for us, if we are providing huge payments to farmers at times when farm prices are as high as they are.

So, Mr. President, for all those reasons, I intend to oppose this legislation. I will vote against it tomorrow. I hope that we will come back and recognize that we can do better than this. We need to do better than this. While that may not happen in 1996, I hope it does happen early next year.

I commend the chairman and others for the balance they have shown in other areas. The fact that we continue the Conservation Reserve Program is a good aspect of this legislation, and I support it. I am pleased that people recognize the importance and the tremendous contribution to conservation the CRP now has made for many years.

I am pleased that the Fund for Rural America has been provided for in this bill, ensuring that we address the needs of rural America. One of the key opportunities for us in rural areas now is the one I hope this legislation provides in creating new value-added product development. Value-added product development is our long-term future in agriculture. Hopefully, through the Fund for Rural America, value-added processing facilities of all kinds can be considered, financed and built.

I also believe that the increased flexibility this legislation represents is something we ought to applaud. Simplification is something that I think is more uncertain, but I do believe the goal intended in this legislation to simplify our current program is something everyone supports.

Perhaps, of all things, retaining permanent law is one of the most important aspects of this legislation that I am very enthusiastic about and certainly appreciate having.

This farm bill, Mr. President, is long overdue. It did not happen in 1995. It will now happen in 1996. 1995 is wasted. It was tied to the budget—the first time this has happened since 1947. Unfortunately, it has taken too long. Unfortunately, we are now at a time when farmers need certainty more than ever. It is too late to start over. The winter wheat crop will soon be harvested. Southern crops are already in the ground. Midwestern farmers are already beginning to plan their planting for this year. They do not know what the farm programs will be until we enact them into law.

The time for action is long overdue. The President has indicated he will sign the farm bill. He is forced to sign a bad bill because of the late date. He, as I do, has deep concerns about the safety net and the decoupling this represents. He has pledged to propose new legislation next year. I believe the public will demand it in less than a year's time.

The bottom line is we have to go back and make improvements, do a better job in a constructive way of addressing the deficiencies that I have pointed out tonight. To paraphrase a famous actor in a popular movie, "We will be back."

I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The chairman of the Senate Agriculture Committee.

Mr. LUGAR. Mr. President, I yield 10 minutes to the distinguished Senator from Washington [Mr. GORTON].

The PRESIDING OFFICER. The Senator from Washington has been yielded 10 minutes.

Mr. GORTON. Mr. President, the distinguished chairman of the Senate Agriculture Committee, the Senator from Indiana, has spent much of his time over the course of the last year as a candidate for President of the United States. He traveled about the country, speaking calmly, without invective, with common sense to the American people.

VOL
142
PT
5
MR
21
—
29
1996
UMI

The American people in large measure did not listen to that message, thoughtful as it was. In his usual gracious fashion, the Senator from Indiana, when that became apparent, withdrew, and endorsed the candidacy of our joint good friend, the majority leader of this Senate.

I must say that in some sense the loss of the people of the United States in that candidacy directly resulted in the great gain to the people of the United States in the construction of this farm bill, the most dramatic change in agricultural policy since the 1930's, one of great thoughtfulness and great promise not only for our agricultural community but for the people of the world in providing for them more and better food prospects.

So I express my deep gratitude to the Senator from Indiana for the job he has done for the people of the world, the people of the United States, and most specifically the farmers and agricultural businesses of the State of Washington.

I cannot let this part of my remarks go without also remarking on the actions of the Acting President of the Senate, the Senator from Idaho. I believe he is the only western member of the Agriculture Committee who specifically directed his attention at the needs for various policies for the farm community of the Pacific Northwest. We share extensive wheat ranching, and his attention to the problem of those ranchers is a matter for which I am most grateful. But particularly the Senator from Idaho was an eloquent advocate of the so-called Brown amendment during the conference over the farm bill. That was an issue of great importance, not just to people in agriculture but to people in cities and towns and communities all over the West.

The President of the United States, in his State of the Union Address, repeatedly spoke about a smaller and less intrusive Government. But agency after agency in his administration in Washington, DC, has been busily attempting to aggrandize more and more control over the lives of the people of the United States and most particularly over their lives in the West, where water is such a great necessity. This aggrandizement was particularly evident as the administration's Forest Service has been attempting to require water permit holders, some with permits more than 100 years old, in many Western States literally to donate to the Forest Service a significant portion of their water rights as a condition for the issuance or reissuance of their permits.

Led by the Senator from Idaho, the conferees agreed at least to an 18-month moratorium on these Forest Service demands. They agreed to create a water task force to study Federal water policy and water rights across Federal lands, and no later than 1 year after the enactment of this bill to submit recommendations to the Congress on how best to resolve the controversy.

Obviously, I would have preferred, as the Senator from Idaho would have preferred, to see language that would have permanently prohibited the Forest Service from this practice. But at least this gives us relief for the time being and an opportunity to take an objective look at these demands and to deal with them at length in the Congress later. So I must say that Washington State agriculture thanks the Senator from Idaho for his magnificent work in that connection.

Overall, the 1996 farm bill is a wonderful step forward. As a member of the Senate Budget Committee, I am delighted it makes a contribution toward a balanced budget both, as the Senator from Indiana said, in allowing us precisely to determine how much money will be spent with respect to income support and in the promise of a significant contribution toward a balanced budget within a 7-year period.

Even more significant is the fact that this bill is a dramatic step toward a free market economy in agricultural policy. Farmers and ranchers all across our country have asked for freedom from Government regulation, for the right to farm to the market rather than to particular programs, and to be able to respond to the demands of emerging world markets. No longer will farmers be told by the Federal Government what crop to plant, when to plant it, and how much to plant. These decisions ought to belong to the farmer, and now they will belong to that farmer.

One other detail: I am delighted to see the conferees agree to authorize the Market Promotion Program, I believe now called the Market Access Program, at $90 million. This program is vitally important to all agricultural exports. It is particularly important in Washington State. In the last decade, for example, we have seen an increase in apple exports from 4.3 million cartons to 25.1 million cartons, an increase of more than 500 percent, enriching growers in the State of Washington and making a real contribution to lower our trade deficit. The Market Promotion Program has made a significant contribution to that increase.

With the implementation of the General Agreement on Tariffs and Trade and the North American Free-Trade Agreement, we will see an increased demand for agricultural exports. I believe that both will successfully open new worldwide markets for United States agriculture. As a consequence, we need to provide our farmers with the ability to develop, maintain, and expand commercial export markets, and the Market Access Program will help us do exactly that.

As does the President, I believe in a smaller and less intrusive Government. The 1996 farm bill represents that less intrusive Government, a Government with faith in its farmers, its ranchers, and its local communities to make decisions for themselves. Simply put, this farm bill puts the decisionmaking process back into the hands of the farmer and gets the Federal Government significantly out of the business of telling our farmers how to farm. I enthusiastically support its adoption and its transmission into the law of the United States.

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator from Nebraska.

Mr. EXON. Mr. President, I yield myself 15 minutes off the time allotted to the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, all my life, before and during my last quarter of a century of continuous high service as either the Governor of Nebraska or the last 18 years as a Member of the U.S. Senate, having the great honor of representing the great State of Nebraska, there can be no question—and the record will show—that I have been an outspoken supporter of farm legislation, farmers, and what is good for rural America. With that background, I simply want to say about the farm bill that will pass tomorrow, without my support—it will pass, the die is cast, it is all over—but we cannot allow this to go forward without reviewing once again many of the concerns that myself and others from the Farm Belt have with regard to this legislation.

No. 1, if you remember back last year when we were having the budget debate—and I happened to be the ranking Democrat, the lead Democrat on the Budget Committee—we heard all these wonderful things about how we are going to take that farm program and we are going to help balance the budget in the year 2002 by reducing it. There were the magnificent figures bantered about as to how much we could save by the farm bill that the Republican majority was going to pass.

Obviously, I say, as a farm supporter all my life, this conference report is a sham as far as sound agricultural policy is concerned, and it is a sham as far as the taxpayers are concerned. According to the Congressional Budget Office, this conference report which we will vote on tomorrow will cost $3.2 billion more than the current law for 1996 and $1.4 billion more than current law in 1997. There is no savings, as the chief of staff of the Republican Budget Committee has said publicly.

So if anyone thinks that this measure contributes anything to balancing the budget, the opposite is true. That would not be so bad if we were taking this money and applying it as a safety net. That is what the farm programs have always been about, providing a safety net, not dishing out money to farmers for doing nothing.

This conference report is also a sham to farmers. The so-called 7-year contract with the transition payments stick out like a sore thumb. In future budget negotiations and allocations, reductions, in my view, are all but inevitable, when everyone finds out what this ill-advised bill does. Once again, let us have a thorough understanding that there were those of us who offered legitimate, reasonable proposals that gave the farmer all the flexibility that the farmer has under the so-called Freedom To Farm Act and allowed the farmers basically to plant what they want and get away from all that redtape, but that was not good enough.

This conference report, in addition to all its other shortcomings, goes right at the safety net. And the safety net, I should explain, is something that has been inherent in farm policy as long as we have had farm policy, and that is to provide a safety net for family-size farmers when the prices of the product that they raise, for whatever reason, was drastically low.

Those of us who understand agriculture, and I might say that there are people on both sides of the aisle, people who are for this program and people who are against it, who probably are very well-intentioned, but I am very fearful that this Freedom To Farm Act, or its successor, whatever you want to call it, is built around transition payments that are supposed to phase out in 7 years, the year 2002, when the budget is supposed to be balanced.

There were also those of us who have advanced policies to balance the budget in year 2002 with a workable farm program, which I think this one is not. Example: The conference report retains a cap on loan rates. Loan rates are historically what the farmer used as his safety net. He could borrow money at so much a bushel and store that commodity and sell it at a later date if the price went up. He had that option. Or if the price stayed the same or went down, he would forfeit the crop.

These levels are inadequate in this bill: $1.89 for corn and $2.58 for wheat. For all practical purposes, that is the end of the farmer-owned reserve which was always a major portion of stability and the safety net that has served us, not perfectly, but well.

The conference report is bad particularly, I suggest, for beginning farmers. Older farmers who have their land paid for will cruise toward retirement with a large amount of a hefty taxpayer-financed billions of dollars. I do not think there is any question but what we will hear more and more about these welfare payments to farmers because that simply is what it is. But this is only good for 7 years, we should understand.

This may be very good news for dad, but it sure is bad news for the son or daughter who may want to take over the farm after dad retires in the year 2002, because then, I assure you, that when this program and the cost of the program is fully explained to the people, the well will be so poisoned that we will never have the votes for a workable farm program.

All my public life, in defending and protecting farmers and rural America, I and others of us on both sides of the issue before the Senate, I might add, have fought continually to explain the need for a sound agricultural policy in America.

How sound is it? Pretty good. Most of the people do not understand that while they might think food costs are too high, the facts of the matter are, Mr. President, that the people of the United States of America have reaped the benefits of a sound farm program. We in the United States of America have the cheapest food costs of any nation in the industrialized world.

I simply say that this particular Freedom To Farm Act, with its hefty payments from taxpayers to the farmers of America, is sure not good for the farmers who want to take over after that 7-year period.

How good is it? Well, Mr. President, there has been talk on the floor tonight about, I believe one speaker said this bill is a chance for a farmer to make more money than ever before—I tend to agree with that—in many instances, maybe for doing nothing.

This particular measure authorizes an expenditure over 7 years of $47 billion. Do you know what, Mr. President, $36 billion of that $47 billion will go out for payments that another speaker in this regard said is good, because then we will know exactly how much money will be spent for price support programs. We sure do, and we know what it is going to be for 7 years—$37 billion.

That $37 billion will go out under a formula that has nothing to do with what the price of the commodity is that the farmer raises. It will have nothing whatsoever to do with the price that the farmers receive for the products of their labor in the marketplace. He or she will be making his own decisions. But I say to you, Mr. President, I do not think it is fair, I do not think it is reasonable.

The old farm program that a lot of people have criticized—and there are reasons to criticize it—the old program basically provided a safety net, and we did not pay the farmers anything if they were getting a fair and decent price for their product.

Most farmers will agree that if you are a corn farmer making $3.50 a bushel, you should not receive any money from the taxpayers or the Government of the United States of America. But most farmers would agree that if the corn would not be at $3.50 or $3.10 or $2.75, maybe down to $2, certainly somewhere in that framework, should be a trigger mechanism that would kick in as a safety net to help the farmers when they need help and not help the farmers when they do not need help.

Mr. President, as I said when I started out, the die is cast, and a week ago when some of my colleagues who were against this bill said they would request that the President veto it because it was so bad, I said I was not going to request the President to veto this farm bill. We have fought the good fight. We have had a chance at least to make the case that some of us very firmly believe in. But the facts of the matter are, we are the latest ever in passing a farm bill, and that is hurting the farmers because we are in the planting season.

So, as bad as this bill is, I do not suggest that the President veto the bill because with all of the other partisan battles that we have going on right now with regard to the budget, we could get ourselves in the position where we would have the same inefficient manner of managing the farm programs as we do in managing the overall Government of the United States, with a series of continuing resolutions, and evidently we are going to have the 11th and 12th continuing resolutions to fund this fiscal year, and this fiscal year is already halfway over. Pretty bad record. We should do things the right way.

I talked a few moments ago, Mr. President, about how I thought this program was wasteful. I cited the figures that are available with regard to what this is going to cost. The total cost of $47 billion; $36 billion of that will go directly to farmers, as another speaker said, with a chance to make more money than they ever made before.

I think it is wonderful. I support the concept of the marketplace. When the farmer can make a good living, an outstanding living, by relying on the price of the marketplace, that is fine with me. That is the way it should work. But what this particular measure overlooks is that there is no safety net, and there will not be after 7 years when the price goes down.

If I might, Mr. President—and I yield myself what additional time I might need under the time reserved for the minority leader—I would like to explain to the Senate just how bad this program is and how I think the well will be poisoned so that we can never ever again muster the votes in the House or the Senate for a workable farm program.

Under the freedom to farm bill, with its transition payments—let us talk about what those are. I would like to give you a specific or two. Under the act that was passed, let us take a 500-acre corn farm—that is not small; that is not big; that is probably somewhere near the average—a 500-acre corn farm that has a yield of 120 acres per bushel—and that is not a high or a low

VOL
142
PT
5
MR
21
—
29
1996
UMI

yield; that would be somewhere in the middle, somewhere in the average—and the cash market price that that farmer received for growing 120 bushels on a 500-acre farm, you multiply that by a cash price in the marketplace of $3.10—and it is near $3.40 today, so this is just an approximation—you take the 500 acres at 120 bushels per acre, that is 60,000 bushels, and you measure that 60,000 bushels by the cash price of $3.10, Mr. President, and you find that that particular farmer would have a gross cash income of $186,000 for 1 year. That is not net; that is gross.

Under the transition payments that are embodied in this particular measure, that same farmer would receive an additional check, which I can only say is probably welfare, of $22,000 from the Government on top of the $186,000 of gross cash income, obviously for a gross income of well over $200,000.

There is nothing wrong, Mr. President, with the present situation of a good price in the marketplace for corn. But it is terribly wrong, in my view, when we are trying to cut down the costs of Government and when we are attacking welfare payments that have to be cut, to envision, as has been described on the floor of the U.S. Senate, that these transition payments will continue regardless of what happens.

That means, Mr. President, that even if the farmer does not plant a crop under the example that I just gave, if he did not do anything, he would receive the $22,000 payment, I guess, for owning the land.

Mr. President, I am very concerned about this bill. I will not take any further time of the Senate tonight because, as I said, the die is cast. I will vote against this bill tomorrow for the reasons that I expressed tonight. If anyone should ever be interested in the further details, I would make reference to the CONGRESSIONAL RECORD of March 12, 1996, when this Senator went into great detail and cited background material from many others who understand farm policy and why we are voting against this measure.

It is bad farm policy. It is bad Government policy. But I certainly agree, Mr. President, that it is good for the established farmer over the next 7 years. Let me put it this way: If you are a 57-year-old farmer today, with your land paid for, you are going to have not only a good income, but a handsome income for the next 7 years. If you are 57 or 58 years old, which the average farmer in the United States is today, and you accept this program, you are going to be in pretty good shape, I would suggest, for the next 7 years.

But what about the son or daughter who wants to take over the farm? This measure, I emphasize once again, in my opinion, will so poison the well that we might never be able to have the stability that is necessary, because farming is a risky and expensive business, to provide the safety net that I think is absolutely essential for the stability of our farms after the year 2002.

I do not want to be overcritical of many of my friends that I have worked with on farm policy for a long, long time. They may have—I am sure that they do have—sincere beliefs that this is a good farm program. My experience and my study of the bill indicates that that is not the fact. But I also realize and recognize that the majority in the House and the majority in the Senate do not agree with me. I think the President has no option, given the late date that we are finally getting around to passing a farm bill, that this measure, against my wishes, will become the law of the land. We will see how it works out for the next 7 years. I reserve the remainder of my time. I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, let me say in partial response to my distinguished friend from Nebraska, I appreciate his gracious comment, even though he is in opposition. I agree with him when he points out that farmers who are 57 years of age and older will find this farm bill to be an exceptionally generous farm bill. That includes, as the Senator from Nebraska has pointed out, a large number of farmers in this country.

As the distinguished Chair was also a farmer, I understand, this is one of the points of concern for us in farming, the maturity of that group. But we are in agreement that this bill is good news for a majority of farmers in this country who are out there and who have some age and have had some experience.

The issue the Senator from Nebraska raises is, what about their sons and daughters? What will happen to them? Here, honest Senators will disagree. My own view, having four sons, and trying very hard to make certain that the farm can be passed along to them, as my dad passed along the farm that I now farm to me, I have a lot of optimism for them.

I believe, Mr. President, that the income that will come to farmers in the next 7 years will lead to an increase in land values. I believe the Lugar farm will be worth a great deal more in 7 years. I believe there will be income throughout that 7-year period of time which will make it even stronger than it is now. That is the legacy we pass along. We do so, I think, as farmers, as Senators, as people trying to deal in good farm policy.

Let me just point out that the Senator from Nebraska is correct that the loan rate for corn at $1.89 does not change in this bill. It is capped. Mr. President, we have already discussed the fact this evening that the cash price of corn in some elevators around the country approaches $4. The Senator from Nebraska pointed out, using perhaps an average price predicted for 1996, $3.10, which is well above both the target price and the loan rate. The loan rate simply is irrelevant with the price of corn at $3.10 or $3.90. It does not come into play.

The Senator might remind me what goes up comes down, and cycles curve. I understand that, Mr. President. This is one reason why a safety net is pertinent. The distinguished Senator has pointed out the safety net is gone, but, in fact, the safety net is alive. We are arguing maybe about the size of it. The Senator from Nebraska gently reminds us the safety net is very large in the coming year, citing the 500-acre corn farm at 120 bushels an acre and $3.10 per bushel. There will be a payment to that farmer, and it does not come because of market conditions; it comes because of this bill. It comes 7 years in a row because of this bill. That is quite a safety net. It is there because we are in transition, Mr. President, from whatever we have now to the market, to the unknown, to risk. We are mitigating that risk by having a very substantial safety net.

The Senator raises the correct question: What, after the safety net, happens after 7 years? Mr. President, as a part of this farm bill, the distinguished minority leader, Senator DASCHLE, pointed out this evening one of the things he likes best about the bill we are considering is that permanent farm law is continued.

That means, Mr. President, that the Agriculture Committees of the Senate and the House must return to this subject at some point prior to the end of 7 years. The reason why maintenance of current law forces that is because that law is totally irrelevant to current conditions. It would be terrible legislation, wreaking great hardship on many farmers. Many have felt that is why you leave it there to force the Senate and the House to reconsider, again and again, the pertinent conditions and the timely conditions.

So we will do that for better or worse. We will do that. We will take a look at the conditions as they pertain before the end of 7 years are over.

Mr. President, we have had a good debate this evening, and I will not prolong it. I did want to make those comments as I have listened carefully to my colleague.

Mr. COVERDELL. Mr. President, we are finally drawing to a close on what has been an exhausting, often contentious, but extremely rewarding 18-month process of deciding the future of American agriculture. Our efforts culminate today in final passage of the 1996 farm bill, appropriately titled the Federal Agricultural Improvement and Reform Act. Mr. President, the title of this legislation is appropriate, because I truly believe we have improved our agricultural programs, while making the reforms necessary for American farmers to compete in an increasingly global market. The most important aspect of this bill is that we have accomplished reform without jeopardizing our fragile rural economies in the process. As an active member of the Agriculture Committee, I can attest that we have been very careful to allow for economic adjustment in these communities, and have allowed our farmers the opportunity to participate in the decisionmaking process. This is Democracy at its finest.

The new farm bill is benevolent in its flexibility and in maintaining establishing a traditional safety net for producers. No longer will farmers in my home State of Georgia be required to simply plant for the program. These farmers can now evaluate the market conditions and plant the crops that will allow them to reap the greatest profit. This liberation of our hard-working farmers will, I believe, also lead to greater export potential as production levels for the higher-demand products will rise. The bill, most importantly, will protect farmers by maintaining standard marketing loan structures while providing market transition payments. This framework will promote economic stability in many of our poorest counties. In addition to these basic farm programs, we reauthorize important discretionary programs under the Trade, Nutrition, Conservation, Rural Development, Research, Promotion and Credit titles. These programs are vital to the State of Georgia. They will allow for continuing research efforts at our university system, will provide nutritious meals for Georgia schoolchildren, will keep Georgia soil on Georgia fields, will maintain active rural lending along with an array of other integral functions. In sum, this farm bill is simply good for Georgia and the Nation.

I would like to commend my colleagues on the Agriculture Committee in both the House and Senate who helped develop and guide this legislation carefully through both bodies. They have performed rural America a great service. Too often, it seems, agriculture is overlooked and criticized by the public, and some in Congress, who have limited knowledge of its importance to our national security. A strong agricultural sector is imperative to a strong America. We in the farm sector must take this message from the fields to the kitchen tables to communicate what agriculture really means to our citizens. Foremost, we must challenge ourselves to build our agricultural communities through increased trade and industry, and work with our farmers to develop ways to maximize their returns both on the farm and at the bank. This will be our ultimate test over the next 7 years of this bill.

I would especially like to thank those producer groups in Georgia who were so very helpful in our efforts to craft programs most important to my State. Producer-based reforms were the key to this legislation, and those in the peanut, cotton and dairy sectors were extremely helpful to me and my staff in these efforts. Congratulations to the University of Georgia, the Georgia Farm Bureau, the Georgia Peanut Commission, the Georgia Peanut Producers Association, the Georgia Milk Producers Association, the Georgia Cotton Council, the Georgia Cattlemen's Association, and the Georgia Pork Producers Association for their tireless efforts. While many other Georgia organizations contributed, these were the people most involved with my office in this process, and this is their victory. Each of these groups made the tough decisions necessary to achieve the bill's budgetary savings of approximately $2 billion and create more market and budget competitive programs for the future of agriculture. I have relied upon these groups' collective counsel in the crafting of the 1996 farm bill and look forward to our continued work together as we confront the many new challenges agriculture will face in the 21st century.

Mr. COCHRAN. Mr. President, this bill makes significant reforms of our Nation's longstanding agricultural policy. Farmers will no longer be forced to plant the same crops year after year to receive assistance, allowing for greater crop rotation and flexibility. Farmers will be able to make planting decisions which are in their own economic interest.

I am pleased that this farm bill retains the same operating provisions of the successful Marketing Loan Program which were contained in current law. This program has proven to be greatly beneficial for commodities such as cotton and rice. The Marketing Loan Program continues to achieve the objectives of minimizing forfeitures, the accumulation of stocks, and government costs while promoting competitive marketing in domestic and international markets. In order to maintain consistency in the operation of this program, it is the intention of the managers of this conference report that the Secretary of Agriculture extend the provisions of current regulations governing entry into the marketing loan and establishment of the repayment rate. Also, it is the intention that the Secretary of Agriculture continue to establish the prevailing world price for upland cotton in the same manner utilized for the 1991 through 1995 crops.

This farm bill preserves and enhances many of our successful environmental and conservation programs. For example, the Conservation Reserve Program is reauthorized and existing participants are eligible to reapply upon expiration of their contracts. The Wetlands Reserve Program is reauthorized with modifications to allow for non-permanent 30-year easements. I am very pleased that a program which I introduced to enhance our Nation's wildlife population was included in the conference agreement. The Wildlife Habitat Incentives Program is a new cost-share program for landowners, which will promote the implementation of essential management practices to improve wildlife habitat.

Failure to pass this farm bill conference report would cause a great deal of confusion and economic hardship for many of our Nation's farmers. This outcome will not be acceptable for farmers, consumers or taxpayers. Our farmers are ready to go to work now, but they need to know what the programs are going to be so they can make rational and thoughtful decisions. The Government's role in providing stability and an orderly transition to a market economy in agriculture is very important, and our commitment to this goal can be seen in this farm bill conference report.

This farm bill ensures our commitment to protecting and building upon our public and private investments in agriculture and rural America. Mr. President, it is time to act and I urge my colleagues to support passage of the farm bill conference report.

Mr. LUGAR. Mr. President, I point out that these Senators, Senator COVERDELL and Senator COCHRAN, are distinguished members of the Agriculture Committee and have contributed substantially to the legislation we have before the Senate.

I point out, Mr. President, that the CBO budget scoring for this farm bill for the conference agreement on H.R. 2854 comes in at a savings of $2.143 billion under the December 1995 CBO baseline. I simply state that as a matter of fact, because there has been argument as to whether there is a budget implication. I am simply pointing out there is. It is down $2.1 billion, and the baseline of December, 1995, as the Chair knows, is significant, because that came after this abundant year of good farm pricing that we have had.

Those farm prices meant a savings to the taxpayers of about $8 billion. If we had been scoring this, as the Chair knows from his service on the Budget Committee—and on this very subject, he authored legislation to try to make certain savings at least were reasonable—as I calculate it, the savings during the year through the market were about $8 billion, and $2 billion more is going to occur in this 7 years. That is substantial change in terms of the budget of the United States. I think that is important to introduce.

Mr. EXON. I yield myself off the time of the minority leader.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. EXON. Mr. President, I think the Senator from Indiana knows my high respect for him. We have worked together on many occasions over the years. I happen to think that he was one of the better qualified Republican candidates for President of the United States, and I saw the gentlemanly type of campaign that he ran. I was rather surprised that he did not catch on more than he did, but then, gentlemen do not always win.

We are at odds under the present bill. My point is, I want to drive it home once again, the Senator from Indiana indicated that the Agriculture Committee will monitor and look at this program as we go down the road. My point is—and I might be wrong, and I hope I am—but the farm program that is initiated with this freedom-to-farm act and the transition payments that go therewith, will so poison the well that even if the Agriculture Committee of the House and Senate think changes should be made, the public mood at that time will be to say, "What are you telling us? You have been giving this money away, chunks of billions of dollars, whether corn is $3 a bushel or $4 a bushel, and now you want to change it."

The main difference of opinion on this whole matter between the Senator from Indiana, my friend, and myself is that I do not think the concept that he is outlining, while it sounds like a better scenario to me than what this bill is intending to do, I am simply afraid there will not be the votes in the Senate or the House to make changes that the Senator from Indiana has at least indicated might be made and might be recommended at some further date. That is the crux, I think, of the difference between the point of view being expressed by the Senator from Indiana and the Senator from Nebraska.

I yield the floor.

Mr. LUGAR. Mr. President, I ask for the amount of time that remains under the control of the three Senators.

The PRESIDING OFFICER. The Senator from Indiana controls 84 minutes; the Democratic leader controls 138 minutes; and Senator LEAHY from Vermont controls 60 minutes.

MORNING BUSINESS

Mr. LUGAR. I ask that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOW MUCH FOREIGN OIL IS CONSUMED BY UNITED STATES? HERE'S WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that, for the week ending March 22, the U.S. imported 6,594,000 barrels of oil each day, 347,000 barrels more than the 6,247,000 barrels imported during the same period a year ago.

Americans now rely on foreign oil for more than 50 percent of their needs, and there is no sign that this upward trend will abate. Before the Persian Gulf war, the United States obtained about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity that will occur in America if and when foreign producers shut off our supply, or double the already enormous cost of imported oil flowing into the U.S.—now 6,594,000 barrels a day.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, March 26, 1996, the Federal debt stood at $5,066,587,916,694.66.

On a per capita basis, every man, woman, and child in America owes $19,154.54 as his or her share of that debt.

PROPANE EDUCATION AND RESEARCH ACT

Mr. FAIRCLOTH. Mr. President, I rise today to speak on behalf of the Propane Education and Research Act.

Mr. President, North Carolina depends heavily on the use of propane as an energy source. As a matter of fact, our State ranks as the sixth largest consumer of propane fuel in the country—consuming over 500 million gallons in 1994 alone.

Propane is a low-cost energy source. For this reason, residential and farm use is abundant throughout our State.

The propane industry has recognized that consumption is on a steady rise. To respond to the increased demand on the industry, producers and marketers have recognized a real need to launch a research and development program of their own. They know that a strong research and development program would increase the safety of propane, create greater efficiency in its use, and assist them in exploring the endless opportunities of new usages.

But to truly understand propane, you must take a hard look at the makeup of the industry. The industry is only 165 producers strong with about 5,000 retail marketers. The resources necessary to implement a strong research and development program for this industry are limited.

That's where the Propane Education and Efficiency Act comes into focus. PERA provides the propane industry an opportunity to establish a checkoff program that would collect one-tenth of one cent per gallon of the wholesale cost of propane. The proceeds would go toward a fund designed for research and development, education and safety.

Propane is the only energy source that is not supported by Federal research dollars. This industry-financed program gives an industry with limited resources the opportunity to enhance their product without coming to the Federal trough for help.

I commend the leadership of propane industry in North Carolina and the Nation as a whole for recognizing their needs and taking the initiative to find a solution that will work without an increased burden on taxpayers.

As an original cosponsor of this bill, I thank Senator DOMENICI for his willingness to introduce this important piece of legislation. I stand ready to assist my good friend from Arizona in any way to see that this bill moves forward.

I thank the Chair.

JOHN KLUGE

Mr. WARNER. Mr. President, as chairman of the Senate Committee on Rules and Administration, and as a proud Virginian, it is my pleasure to commend a fellow Virginian, Mr. John Kluge of Charlottsville, VA, for his contribution to the Library of Congress.

Born in Chemnitz, Germany, Mr. Kluge came to America when he was 8 years old and has become one of the Nation's most successful and highly regarded businessmen and one of its most generous humanitarians.

In 1990, John Kluge became the first chairman of the James Madison Council of the Library of Congress. The Madison Council, the Library's first private-sector support group in its 190-year history, plays a vital role in raising the visibility of the Library and promoting awareness and use of its collections. Its members include leaders in business, society, and philanthropy from across the Nation who are known for their commitment to education and scholarship. In its short history the Madison Council has funded over 50 programs, including fellowships for young scholars, publications and television programs, public exhibitions, scholarly conferences, centers of excellence that draw top thinkers to the Library to use and enhance its collections, a special acquisitions fund, and much more. Just recently, the council reached its goal of 100 founding members, set by John Kluge 6 years ago.

John Kluge has been the foremost private donor in the Library's history, personally giving nearly $8 million to the Library. His biggest single contribution was $5 million for the National Digital Library, which is the brainchild of the Librarian of Congress,

James Billington. Launched in 1994 with commitments of support from the Congress and private donors like Mr. Kluge, the National Digital Library is providing free unique content for the information superhighway opening new gateways to education for all Americans. Other projects to which John Kluge has contributed generously include the magnificent Vatican Library exhibition, the Leadership Development Program, an exhibition of heretofore unseen documents from the Soviet state archives, and purchase of a major collection of sound recordings.

By personally working on behalf of the Library of Congress, arranging meetings with potential supporters, giving of his own personal time, and bringing together an outstanding group of distinguished individuals who truly care about their national library and support it with their time, ideas, and financial contributions, John Kluge has made the Madison Council what it is today—a model of how the private sector can focus its resources within a public institution and make an important difference.

Because of John Kluge, millions more Americans know about our Nation's great Library which Congress has built and supported for almost 200 years, and they understand its importance in the history of our Nation.

John Kluge is one of the great philanthropists in America today. His contributions to the Library of Congress and the Nation have been immense. It is my privilege to commend him for his achievements.

MINIMUM WAGE

Mr. SARBANES. Mr. President, I rise today to express my strong disappointment that the Republican leadership will not allow a straight up-or-down vote on legislation to increase the Federal minimum wage. The Congress is long overdue in acting upon legislation which would establish a more realistic wage standard for the American worker and I would hope that the Senate has the opportunity to express its will on this matter—one so critical to working families—in the near future.

It would seem to me that the issue is a relatively simple one. As many of my colleagues will recall, under the Bush administration, the Senate voted overwhelming to enact an increase similar to the one being proposed today. In 1989, by a vote of 89–8, the Senate approved legislation which raised the minimum wage by 45 cents in 1990 and again in 1991 to bring it to its current level of $4.25 per hour. The proposal being put forth by myself and others would enact the same increase—45 cents this year and another 45 cents in 1997—raising the minimum wage to $5.15. It is my strongly held view that such an action, like that taken in the 101st Congress, would appropriately reflect the values and beliefs at the very core of our society—the idea that if you work hard and play by the rules, you deserve the opportunity to get ahead.

In my own State of Maryland, the city of Baltimore has been at the forefront of efforts to assure hard-working Marylanders receive a decent living wage. Just last year, Baltimore's Mayor Kurt Schmoke signed the Nation's first prevailing wage law which stipulates that all new or renegotiated contracts with the city of Baltimore must provide a minimum wage of at least $6.10 per hour. Baltimore's ground-breaking public policy initiative should serve as an example to cities across the Nation and, in my view, provides an ideal model for the U.S. Congress.

As we all well know, the real value of the minimum wage has deteriorated markedly since 1979. At its current level of $4.25 per hour, the minimum wage will fall to its lowest real value in 40 years if Congress fails to take action. In the late 1950's the real value of the minimum wage was worth more than $5 per hour by today's standards and in the mid-1960's it peaked at $6.28. However, Congress' failure to respond to inflation over the past 20 years has resulted in a 27-percent decline in the real value of the minimum wage since 1979 and a 50-cent drop since 1991. Since April 1991, the cost of living has risen 11 percent while the minimum wage has remained constant at $4.25.

The decrease in the value of the minimum wage has served to widen the gulf between the wealthiest and the poorest of our society. In an effort to offset this decline, I strongly supported President Clinton's expansion of the Earned Income Tax Credit [EITC] which raised the income of 15 million households—helping many rise above the poverty line. However, this is not enough. Even with the EITC expansion, a family of three with one full-time wage earner working year round at the current minimum wage brings home $8,500 and could receive a tax credit of $3,400 for a total annual income of $11,900. According to the Congressional Budget Office [CBO], the poverty level for a family of three in the United States stands at approximately $12,557. Therefore, at the current minimum wage, workers can work full-time for an entire year, qualify for the EITC and still fall some $657 below the poverty line. While the EITC is a critically important public policy initiative to assist low-income families, it should not be viewed as a substitute for a consistent, decent wage.

Opponents of increasing the minimum wage frequently argue that the typical minimum wage earner is a teenager simply working after school or on the weekends to earn a little extra spending money and that the Government should not be supplementing the incomes of this group of temporary, part-time workers. The truth, however, is that more than 70 percent of all minimum wage earners are adults over 19 years of age and the vast majority—58 percent—are women. Clearly, these are hard-working individuals trying to make a living and support a family on a wage that fails to allow them to even meet the poverty standard, let alone surpass it.

At a time when salaries of CEO's of major companies have increased by more than 20 percent and the congressional leadership is talking about giving tax breaks to some of the most well-off in our Nation, I find it completely unreasonable that an attempt to increase this basic standard for the working poor would be resisted.

Some argue that the economy cannot afford an increase in the minimum wage; that an increase in the minimum wage would ultimately rob the economy of jobs and income as businesses would be forced to pay fewer workers more. This is simply not true. A close review of recent evidence clearly demonstrates that a reasonable increase in the minimum wage does not result in huge job losses. A frequently cited 1992 study in which Princeton economists David Card and Alan Krueger examined the effects of a minimum wage increase in New Jersey found "no evidence" that a rise in New Jersey's minimum wage reduced employment opportunity. In fact, just the opposite was true. In comparing employment trends in New Jersey with those in Pennsylvania, Card and Krueger found the employment trends to be stronger in New Jersey, the State with the higher minimum wage. Similarly, Harvard economist Richard Freeman found in his 1994 study that "moderate legislated increases did not reduce employment and were, if anything, associated with higher employment in some locales."

Mr. President, it is clear that the American economy cannot only afford a reasonable rise in the minimum wage, but could actually benefit from such an increase. In fact, it stands to reason that more money in the pocket of the American worker means that more money is being spent and purchasing power is increased. The minimum wage proposal now before us would give the American worker an additional $1,872 in annual income. In Maryland alone, it would mean an increase in income for more than 131,000 workers. It may not sound like much to some in this Chamber, but it can make all the difference to a family struggling to heat their home, pay for groceries, or provide adequate health care for their children.

While economic considerations are an important aspect of this debate, neglecting to recognize the fundamental value of ensuring a living wage for American workers would compromise principles I believe to be integral to

VOL
142
PT
5
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21
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29
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the fabric of our society. Historically, Congress has acted to guarantee minimum standards of decency for working Americans. Measures to protect workers from unsafe and unfair working conditions were enacted under the belief that, as a society, we should support a basic standard of living for all Americans. It is in this spirit that minimum wage laws have been updated through the years.

As long as we in Congress fail to act, we send the message to working families across the country that hard work and sound living are not enough. Nearly two-thirds of minimum wage earners are adults who are struggling to achieve a decent standard of living for themselves and their families. The objective of the minimum wage is to make work pay well enough to keep families out of poverty and off Government assistance. An hourly rate of $4.25 is not enough to cover the average living expenses of a family of three. It is unthinkable that in what is arguably the wealthiest Nation in the world, there are families out there right now having to choose between food for their children and heat for their homes. If a family of three can barely get by on $4.25 an hour, how can a single mother—trying to stay off welfare—be expected to be able to provide food, clothing, shelter, medical care and child care on the current minimum wage? Instead of maintaining barriers to self-sufficiency, we should be helping to tear them down.

Mr. President, Americans want to work. They want to be able to adequately provide for themselves and their families. But they are working harder for less and are becoming increasingly frustrated in the process. It is critical that we recognize the reality of minimum wage earners and take steps to help them rise above poverty. President Roosevelt once called for "a fair day's pay for a fair day's work." The American worker deserves no less. Many of those who supported the minimum wage increase in 1989 are here today and I would urge them to join me in calling for vote on this important measure.

UNITED STATES/FRANCE AVIATION RELATIONS

Mr. PRESSLER. Mr. President, I rise today to discuss the important issue of United States aviation relations with the Government of France. Although the immediate crisis concerning the upcoming schedule for the summer season apparently has been resolved, I remain very concerned about the state of U.S./French aviation relations.

As a result of France's decision in 1992 to renounce the bilateral aviation agreement that existed between our two countries, France currently is our only major aviation trading partner with whom we do not have an air service agreement. In the absence of such an agreement, U.S. and French carriers continue to fly between our two countries, but they do so solely at the pleasure of each government and without the necessary flexibility to increase or change service when market demand warrants. Essentially, U.S./French air service is frozen as if the clock stopped in 1992.

In a speech before the International Aviation Club of Washington last month, I spoke at some length about the fires of air service liberalization burning brightly on the European continent. In hailing the enormously important U.S./German open skies agreement signed several weeks ago, I noted that nearly 40 percent of U.S. travel to Europe will now go to or connect through open skies markets. I ask unanimous consent that the text of the speech to which I referred be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Although this wave of air service liberalization touches France on three of its borders, France stands seemingly oblivious to the competitive air service forces besieging it. The fact of the matter is while its European neighbors are reaching out to embrace the future of global aviation with the enlightened view that the economic benefits of an open skies relationship with the United States are a two-way street, France continues to cling to the past. This choice is not without significant adverse consequences for France's economy.

So what precisely is France's air service policy with respect to the United States? It appears that policy can be best described as "managed stagnation." In an attempt to rebalance the market share of state-owned Air France vis-a-vis the highly competitive U.S. carriers, France has made the unfortunate decision to forego the tremendous air service growth other European countries are experiencing in their air service relationships with the United States. Ironically, some of the lucrative new air service opportunities European countries now enjoy are the direct result of traffic that France's restrictive air service policy has driven away to other countries.

According to a recent statement by Anne-Marie Idrac, the French State Secretary for Transport, France "is not any worse off" for its decision to renounce the U.S./French air service agreement. Economic analysis, however, paints a far different—and quite sobering—picture. In fact, this analysis shows France's policy of managed stagnation is a recipe with a very bad aftertaste for the French economy. Let me explain.

First, the adverse economic consequences of France's air service policy is best illustrated by a comparison with the recent experiences of the Netherlands. In 1991, both the U.S./French and U.S./Dutch air service markets experienced tremendous growth. Scheduled passenger traffic grew 21 percent and 14 percent respectively. In 1992, however, aviation relations with France and the Netherlands turned abruptly in opposite directions. Around the same time France renounced the U.S./French bilateral aviation agreement, the Netherlands opted to enter into an open skies agreement with the United States.

What has resulted from these decisions? The U.S./Netherlands passenger market has grown at a rate over 10 times faster than the U.S./French market. Between 1992 and 1994, scheduled passenger service between the United States and the Netherlands grew 38 percent. In stark contrast, France's decision to renounce the U.S. air service agreement caused passenger growth in the U.S./French market to abruptly halt. Scheduled passenger traffic in the U.S./French market grew a measly 3 percent during that period, compared to 21 percent in 1991 the year immediately prior to renunciation.

The net effect of these vastly different policies also is illustrated dramatically by the aggregate size of both country's passenger market with the United States. In 1991, the U.S./French passenger market was 100 percent larger than the U.S./Dutch market. By 1994, it was just 60 percent larger. What a difference two air service policies with the United States can make!

Importantly, this trend of France foregoing tremendous air service opportunities is reflected elsewhere in Europe as well. For instance, between 1992 and 1994 scheduled passenger traffic between the United States and Switzerland grew 30 percent—ten times faster than it did in the French market. Amazingly, this tremendous growth does not reflect the U.S./Switzerland open skies accord signed last year. As was the case in the Netherlands, the U.S./Switzerland open skies agreement will likely cause that rate of growth to accelerate. The more mature U.S./British air service market also experienced strong growth—10 percent—during this same period.

Unquestionably, France has succeeded at stagnating the U.S./French passenger service market at a time when new transatlantic air service opportunities for European countries with the United States abound.

Second, at a time when revenue from connecting passenger traffic is increasingly important, France's air service policy is drying up U.S. connecting traffic at Paris' two key international gateway airports, Paris-Charles de Gaulle and Orly. Between 1992 and 1994, connecting traffic carried on U.S. airlines fell 55 percent at the Paris airports. Let me repeat this astonishing fact. Connecting traffic carried on U.S. airlines fell 55 percent at the Paris airports between 1992 and 1994.

Where did this connecting traffic go? One need look no further than competing airports on the European continent. During the same period, U.S. airline connecting traffic grew 24 percent at Frankfurt and an astounding 329 percent at Amsterdam's Schipol Airport! The recent U.S./German open skies agreement, as well as open skies agreements the United States signed last year with neighboring countries including Belgium and Switzerland, will surely cause the rate of ongoing connecting passenger traffic diversion away from Paris airports to accelerate. In particular, I fully expect German airports will press France hard in this competition for connecting passenger traffic.

Third, Air France, the intended beneficiary of France's decision to renounce the U.S./French air service agreement, has on-balance suffered as a result of France's policy of managed stagnation.

It is true that state-owned Air France has increased its share of the U.S./French market from 29 percent in 1992 to 37 percent in late 1995. However, this rebalancing of market share, which in large part resulted from U.S. carriers routing connecting passengers to international gateway airports in other continental European countries, has come at an inordinately high price.

As a direct result of France's decision to tear up its air service agreement with the United States, Air France is isolated as the only major European carrier that does not have an alliance with a U.S. carrier. Quite correctly in my view, our Department of Transportation has indicated it will not approve any code-sharing alliance between Air France and a U.S. carrier until France agrees to enter into a sufficiently liberal air service agreement with the United States.

What is the practical consequence for Air France? Every major European carrier has access to feed traffic from the very lucrative U.S. domestic market except Air France. To make matters worse for Air France, if the United Airlines and Delta Air Lines alliances with European carriers are granted antitrust immunity, in combination with the Northwest/KLM alliance, nearly 50 percent of passenger traffic between the United States and Europe will be carried on fully integrated alliances. Without a doubt, France's air service policy with the United States has placed Air France at a severe competitive disadvantage in the transatlantic and connecting service markets.

A recent paper by the Commission of the European Communities on U.S./E.C. aviation relations made this point well. According to the E.C., "the commercial advantages of strategic alliances are such that it will be difficult for a major European carrier with the ambition to become (or remain) a global player, not to enter into an alliance with a U.S. partner." The E.C. is absolutely correct. France's decision to continue to forgo an air service agreement with the United States is threatening Air France's long-term future as a global player.

Mr. President, France's aviation policy with the United States is not only inconsistent with the trend of air service liberalization sweeping Europe, it also is badly out of step with France's own domestic air service policy. Earlier this year, France opened its skies to domestic competition thereby ending the virtual monopoly of Air Inter, the domestic wing of Air France. This forward looking domestic policy came about because France realized it needed to better position Air Inter to compete next year in the deregulated intra-European air service market.

Unfortunately, France has failed to apply this same vision to its air service policy with the United States. In marked contrast, France continues to cling to the past and it uses government restrictions to protect Air France from competition in the increasingly liberalized transatlantic market.

The huge economic costs the French economy is bearing as a direct result of France's misguided air service policy with the United States reminds me of an editorial I read earlier this year shortly after Thailand abandoned its economically disastrous experiment with renunciation of its air service agreement with the United States. That January 26, 1996, editorial from the Bangkok Post astutely called Thailand's decision to renew formal aviation relations with the United States "a victory for common sense."

Let me add Thailand's decision was also a victory for forward looking economic policy. In condemning the economic folly of Thailand's failed experiment, the Bangkok Post added "every airline that comes here or increases its frequency is investing more in the country, providing more jobs, bringing more tourists. Restricting those operations necessarily has the reverse effect." I ask unanimous consent that the text of the editorial from the Bangkok Post to which I have referred be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PRESSLER. Mr. President, let me conclude by saying I hope France will recognize its air service policy with the United States is an economic failure that is exacting a very high cost in terms of lost jobs and other commercial opportunities. To remedy this situation, I hope France will renew its formal aviation relations with the United States by agreeing to a liberal air service agreement. As the Commission of the European Communities recent study on EC/U.S. aviation relations recently warned, countries such as France with a restrictive air service policy place themselves at great economic risk as the wave of air service liberalization continues to sweep across Europe.

EXHIBIT 1

REMARKS OF SENATOR LARRY PRESSLER, BEFORE THE INTERNATIONAL AVIATION CLUB OF WASHINGTON, DC, FEBRUARY 14, 1996

Bruce, thank you for your kind introduction. I am pleased to join the long list of outstanding speakers who have been privileged to share their views on international aviation policy with this distinguished group.

Let me also thank the distinguished individuals who graciously accepted invitations to join me at the head table today. My friend Ambassador Chrobog and I met through our mutual love of opera. We also share a belief that the economic benefits of liberalized trade between nations is a two-way street. Mr. Ambassador, I am pleased that our two nations are on the brink of signing an open skies agreement of truly historic magnitude. Such an agreement will be momentous for both nations and will be a catalyst for fully liberalizing the enormous U.S./E.U. air service market. In pursuing this initiative, I believe Germany is providing outstanding leadership for all of its European Union partners.

Carol and Charlie, I am also pleased you are able to be here today. Carol and I share a common challenge. We each are trying to make U.S. air carriers realize that good things can happen to them when they work together as an industry. Robust competition and long-term economic vision need not be mutually exclusive. In fact, I would argue they can, and indeed should, go hand-in-hand. Charlie, as you will unfortunately experience firsthand, much work remains to be done in this regard.

For Valentines Day I had considered making sugar-coated remarks extolling the numerous benefits of a U.S./German open skies agreement. I decided, however, to save that speech for another day. The bitter sweet reality of U.S. international aviation policy is that every step taken—even major leaps forward such as a possible U.S./Germany open skies agreement—is met by parochial infighting among our carriers. Regrettably, I fully expect efforts to finalize the U.S./German open skies agreement will not escape this plague.

Let me say that I firmly believe pernicious infighting among our carriers is the single greatest barrier to the United States' efforts to open and expand global air service markets for U.S. carriers. It is a sad story which is played out time and time again.

As leaders in the aviation community, I come to you today with a challenge. I challenge you to broaden your vision of the significance of new international air service opportunities for our carriers. To me, these opportunities conjure up images of tremendous trade benefits which buoy the U.S. economy. I see significant economic benefits derived by our airline industry and aircraft manufacturers. I think of consumers benefiting by enhanced choice and competitive prices. I also see new jobs for American workers and new commercial opportunities for our States and communities.

I urge you to have the vision to look beyond which carrier has positioned itself to benefit most from new international air service opportunities. Simply put, I challenge you to make your focus the American

VOL 142 PT 5 MR 21 — 29 1996 UMI

flag on the tail of airplanes providing new service opportunities, not the name on the side of the plane.

With that challenge in mind, let me now turn to my specific remarks. Today I want to focus on exciting developments and old challenges in Europe. Of course, I speak of Germany and the United Kingdom respectively. However, since your last three speakers discussed U.S./Japan aviation relations—a subject in which I have a very keen interest—I cannot resist making a few points.

First, I am deeply troubled the Government of Japan continues to refuse to respect the beyond rights of our so-called 1952 carriers. Those rights are guaranteed by the U.S./Japan air service agreement. International agreements between countries are sacred trusts and nothing short of full compliance is acceptable.

Second, I am also very concerned about the Kyoto Forum which the Japanese organized recently. By excluding the United States and other Western country members of APEC, I believe the Government of Japan acted contrary to the spirit and intent of the Bogor Declaration.

Third, the Government of Japan's appeal for the United States to "equalize" aviation opportunities between our countries is misdirected. Market forces, not the U.S./Japan air service agreement, has tilted transpacific market share advantage in favor of U.S. carriers.

As I have said in the Senate numerous times, the disparity in transpacific market share is due to the fact that Japanese carriers—which labor under heavy government regulation—cannot compete with our more efficient carriers whose operating costs are substantially lower than their Japanese counterparts. If equality of transpacific market share is what the Government of Japan seeks, it should look no further than to itself to take steps which will enable Japanese carriers to compete more effectively with U.S. carriers. It is critical we not forget that just 10 years ago, under the very same bilateral agreement that the Government of Japan now criticizes, Japanese carriers had a larger market share on transpacific routes than U.S. competitors.

Fourth, complaints by the Government of Japan regarding the limited Fifth Freedom opportunities of our carriers must be put in proper context by considering the enormous offsetting Sixth Freedom opportunities Japanese carriers are exploiting between the Asia-Pacific market and the United States. Viewed from this perspective, Japan's criticism is without merit. In fact, I regard it as somewhat remarkable when one considers it comes from a major trading partner with whom the United States has a trade deficit of more than $65 billion!

Finally, in a floor speech on October 27th, I called on our so-called MOU carriers to come forward with economic analysis supporting their position that the cornerstone of our negotiating strategy with Japan should be to trade away the beyond rights of our 1952 carriers. Having seen no such study, today I renew my call for the MOU carriers to make their case with numbers, not rhetoric. I find it a bit odd that MOU carriers who criticize DOT for not doing adequate prenegotiation economic analysis are now pushing DOT to rush into passenger talks, even though these carriers have yet to provide economic analysis which supports their position.

Turning to Europe, let me first say that if the identity of the author of Primary Colors is the best kept secret in Washington, my support for an open skies agreement with Germany is one of the worst. I am delighted Secretary Peña and German Transport Minister Wissmann have agreed on the framework for an open skies agreement between our countries. I am also pleased a formal round of talks will be held in Washington next week to iron out textual details. I enthusiastically support swift completion of a formal U.S./German open skies agreement.

How is it that a U.S./German open skies agreement is within reach? Secretary Peña had the vision to recognize that competition is always the best ally to open restrictive markets. He built on the vision that President Bush and the Dutch government both showed when the United States and the Netherlands signed an open skies agreement in 1992. At that time, it was a very bold move, one for which Jeff Shane, who is here today, should be commended.

Jeff created a model on the European continent by which all neighboring countries could see firsthand the tremendous economic benefits that are produced by a liberalized aviation relationship with the United States. Last year, Secretary Peña built on that foundation with the nine European country open skies initiative. Then, he reached out to our excellent friend and great trading partner, Germany.

The timing could not have been better. Minister Wissmann—himself a man of great vision—recognized the time was right to secure for the German economy and German consumers the great benefits that unquestionably would result from an open skies agreement with the United States. As I said earlier, in pursuing this initiative, Germany has provided outstanding leadership for its partners in the European Union.

Before I discuss why I believe this tide of liberalization will reach the shores of the United Kingdom, let me address an issue that has come to my attention recently regarding the framework of the U.S./German open skies agreement.

I understand a question has been raised about the timing of when the U.S./German open skies agreement would take full force relative to a final decision on an application for antitrust immunity which is expected to be filed by the United Airlines/Lufthansa alliance. I do not consider this to be a problem. I have total confidence in Secretary Peña's ability to fully and fairly discharge his statutory duty in considering that application when it is filed, regardless of when the agreement goes into effect. I feel compelled to add I am somewhat mystified that some of our carriers continue to sell Secretary Peña so short, at the same time they reap the benefits from his excellent leadership in international aviation policy.

Last week in London, Malcolm Rifkind, the U.K. Secretary of State for Foreign and Commonwealth Affairs, gave a very important speech in which he advocated nothing less than transatlantic free trade. He called for "political will and vision" to bring this goal about. Pledging that "Britain will be a champion of greater economic liberalization across the Atlantic," Minister Rifkind noted the United Kingdom has been leading the way and said Britain would continue to do so.

The United Kingdom deserves great credit as a shining beacon for liberalizing trade in the U.S./E.U. market generally. However, its policy in the area of transatlantic air services is far out of step with the principles of free trade.

Let me share two truly remarkable facts which dramatically make my point. Last year, British Airways had a larger share of the U.S./U.K. passenger market than all U.S. carriers combined! Also, data shows that in terms of U.S./U.K. market share, two of the top three carriers are British airlines! Without question, market forces are not controlling the distribution of air service opportunities between the United States and Britain.

How will competitive forces unleashed by a U.S./German open skies agreement pressure Britain to reassess its outdated aviation policy which tarnishes an otherwise very impressive record on liberalizing transatlantic trade? The answer lies at two levels: heightened competition by continental European airports for connecting passenger traffic and enhanced competition by U.S. carrier alliances against British airlines.

London always will be a popular destination for passengers originating in the United States. That is not to say, however, that in this era of global networks, connecting passengers will continue to feel a compelling need to use Heathrow rather than airports such as Amsterdam's Schipol, Frankfurt or the new one planned at Berlin-Brandenburg. Connecting passengers look for convenient schedules and competitive fares. Due to the lack of European gateway opportunities, Heathrow once was the connecting airport of necessity, not choice, for passengers originating in the United States. Times have changed.

Liberalization of air service markets on the European continent have created new connecting service options. Evidence already clearly shows connecting traffic is being diverted away from London. Statistics dramatically illustrate this point. Between 1992 and 1994, connecting traffic carried on U.S. airlines grew just 3 percent at Heathrow. During the same period, U.S. connecting traffic grew 24 percent at Frankfurt and an astounding 329 percent at Schipol! An open skies agreement with Germany will greatly accelerate the rate of this connecting passenger diversion.

These statistics are very interesting but should they matter to a British policymaker? Absolutely. This trend should raise serious concerns considering that last year alone connecting traffic accounted for more than 1 billion pounds of export earnings for the United Kingdom.

A U.S./German open skies agreement will also make U.S. alliances with European carriers even more formidable competitors in the U.S./Europe air service market. This will not be a welcome development for British carriers. If the United and Delta alliances are granted antitrust immunity, in combination with the Northwest alliance, nearly 50 percent of passenger traffic between the United States and Europe will be carried on fully integrated alliances.

Will this pose a competitive challenge for British carriers? Investors in British Airways sure thought so. According to a Financial Times article last week, despite a quarterly pre-tax profit of 30 percent, British Airways shares fell on the news of the "preliminary 'open skies' deal struck between Germany and the U.S." British Airways' public attack on antitrust immunity last month at an ABA conference also is very telling on this point. Privately, British Airways has made no secret they very much covet antitrust immunity for their alliance with USAir.

So where do we go from here? I think U.S./U.K. negotiations should resume, but not on the terms of the October offer which was highly conditioned and essentially allowed the British to pick which U.S. carriers competed against British carriers in what markets. Instead, I encourage the British to

come to the table with a "bigger, bolder and braver" approach like Sir Colin Marshall, Chairman of British Airways, called for last November.

First, to help clear the way for more ambitious negotiations, I am announcing today that I plan to introduce legislation to increase to 49 percent the level of permissible foreign investment in U.S. airlines. I am already working with the Administration to determine a formulation to maximize the benefits of this tool. One thing is certain, the limited, highly conditioned October offer would not trigger the benefits of the bill I intend to introduce.

Second, I am also calling today for U.S. carriers to stop being "pennywise and pound foolish" with respect to Fly America traffic. As a taxpayer, I want the U.S. government to pay the most competitive price for government travel. As a policymaker, I find nothing in the legislative history of the Fly America statute even suggesting Congress intended to guarantee U.S. carriers a monopoly profit for government travel. I see no good reason the opportunity for British carriers to competitively bid through their U.S. carrier partners for Fly America traffic should not be on the table if British negotiators pursue a "bigger, bolder and braver" approach.

Third, as far as Heathrow access is concerned, I call on the British to muster up the "political will and vision" Minister Rifkind spoke of to change the runway operations at Heathrow. On this side of the Atlantic, we are constantly told by the British Ministry of Transport that additional Heathrow access is impossible because there are no additional take-off and landing slots. What the British fail to tell us is a number of U.K. airport capacity studies, including one issued as recently as August 1994, have concluded the British could potentially create an additional 100 daily takeoff slots and an additional 100 daily departure slots at Heathrow if they switched its runways to more efficient mixed-mode operations.

I am keenly aware this is a sensitive political issue for the British government. Not long after I suggested this last July in London, I received a letter from the Heathrow Noise Coalition politely telling me to mind my own business. One thing is clear, however, the British do not have a monopoly on political problems relating to Heathrow. I need not tell this audience that Heathrow access is a hot button political issue in the United States and, quite frankly, an issue that is straining relations between our two countries.

Let me close by saying an open skies agreement with Germany unquestionably would be the product of vision by both countries. I hope the same long-term economic vision will prevail in our aviation relations with the Japanese and the British. Again, thank you for the opportunity to join you today.

EXHIBIT 2

[From the Bangkok Post, Fri, Jan. 26, 1996]

U.S.-THAI AVIATION DEAL A VICTORY FOR COMMON SENSE

After five years of going eyeball to eyeball, the US and Thailand finally concluded an aviation agreement last January 19. Who blinked first? By all indications, Thailand. It had to, the policy of getting US airlines to reduce their frequencies between Northeast Asia and Thailand was working so brilliantly that it had to be scrapped and reversed. After all, Delta had pulled out of Thailand, both Northwest and United Airlines had reduced their frequencies. Lest anyone forget, that was the original intention for scrapping the agreement in November 1990. When the impact of that hit the tourism industry between the eyes, the backlash was instantaneous. In barely four rounds of informal and formal talks, an agreement materialized where about seven previous rounds had all failed.

There are many reasons for this agreement, and the speed at which it was pursued. But most important among them is that it risked becoming a serious political liability for Thailand's aviation negotiators who were running out of reasons for maintaining their hardline stand. The blast from the Association of Thai Travel Agents and its independent study on the aviation industry was one facet of the mounting pressure. Then there was all this talk of open-skies and aviation liberalization being pursued under the ASEAN and APEC umbrellas.

Thailand was being increasingly isolated as the US patched up its aviation differences, one by one, with other Asian and European countries. On the cargo front, the US-Filipino aviation agreement had opened a window of opportunity for Federal Express to develop Subic Bay as a regional cargo hub, a move that would leave Thailand's own Global Transpak project wallowing in the water. The American Society of Travel Agents annual convention is to be held in Bangkok in November, bringing 10,000 agents who would wonder how they are supposed to promote tourism to Thailand when the tourists can't fly here.

Moreover, the void was preventing the full consummation of the United Airlines-Thai International alliance. Both of Thailand's key aviation negotiators, the director-general of the aviation department and the permanent secretary of the ministry of communications, sit on THAI's board. By continuing to stall on the agreement, they were effectively hampering the progress of THAI. And soon coming to town as keynote speaker of the PATA conference in April is Garry Greenwald, the chairman of United Airlines who, lest anyone forget, recently tongue-lashed Japan's restrictive aviation policy and who would have no doubt have delivered a similar riposte at Thailand's had an agreement not been reached by then.

There was simply no way that Thailand could have won this battle. But neither is this agreement a victory for the United States. It is a victory for public pressure and the power of the Thai tourism, industry, especially groupings like the Association of Thai Travel Agents and people like Anant Sirisant who had the gumption to stand up and be counted, at considerable risk to himself and his own company, the East-West Group. While many other operators serve on committees and use their positions for personal aggrandizement, Mr. Anant stuck his neck out, and won.

Several months ago, this newspaper, too, called Thai aviation policy, "a national outrage." Suddenly, things began moving.

It has been said before, and it needs to be said again, global aviation is administered by archaic and backward 50-year-old rules that governments are having extreme difficult dismantling. There is no logical explanation for the structure any more; it's just the way it's done, especially in the absence of an alternative. Every country has to take its own course of action. In Thailand's case, every airline that comes here or increases its frequency is investing more in the country, providing more jobs, bringing more tourists. Restricting those operations necessarily has the reverse effect.

Foreign airlines serving Bangkok now need to forge stronger relationships with Thai hotels and tour operators, work with them, and use their political and economic strength to get what they want. This approach must, under no circumstances, be adversarial or aggressive, but always rational and constructive. If THAI is in the dumps, and likely to remain there for at least a few years as it seeks to regain its erstwhile prestige, there is no reason why other airlines should be hampered from raising their frequencies and bringing more tourists to spend their money in Thailand.

The U.S.-Thai deal is a clear victory for the concept of conducting the aviation business in an open and competitive manner. Because no matter what happens, it should always be the public that should benefit.

TRIBUTE TO EDMUND S. MUSKIE

Ms. MIKULSKI. Mr. President, I rise to pay tribute to the remarkable life of Edmund S. Muskie.

He was a great American, a true statesman, and I'm proud to say, a good friend.

Mr. President, I am the first woman of Polish heritage ever elected to the Senate. Ed Muskie took great pride in my election, since we shared a common heritage and a common set of values. He was gracious in helping me to learn the ways of the Senate. He was a strong mentor, and I have always been appreciative of the sound advice and concrete suggestions he offered to me.

He offered all of us a model of what a Senator should be. He stuck to principles, never afraid to take on the powers that be. He fought hard for what he believed in, but he bore no grudges. Edmund Muskie believed, as I do, that programs must deliver what they promise.

He made change his ally, and was never wedded to the past. If what we had been doing wasn't working, he fought to fix it. And he sought always to build consensus, to serve as a voice of moderation and practicality—in keeping with his New England roots.

I was proud to be a national co-chair of his campaign for the Presidency in 1972. It still strikes me as a great injustice that this good and decent man never had the opportunity to hold the highest office in the land. What a wonderful President he would have been.

Although he never realized his dream of becoming President, his contributions to our Nation were immense.

Edmund Muskie deserves the thanks of all Americans for his decades of public service. All of us who cherish our wilderness areas owe him a debt of gratitude for his steadfast defense of our environment as a distinguished Senator for 21 years. He was the father of the Clean Air Act and the Clean Water Act. The air we breathe is cleaner and the water we drink more pure because of Senator Muskie's dedication to environmental protection.

Those of us who care about fiscal responsibility—about making sure that

VOL
142
PT
5
MR
21
—
29
1996
UMI

America's hardworking taxpayers get a dollar's worth of services for a dollar's worth of taxes—owe him thanks for his stewardship of the Senate Budget Committee. As Chairman of the Committee, Senator Muskie fought to curb excessive Federal spending, while also ensuring that the Government did not turn its back on those seeking a helping hand.

We owe him thanks for his service as Secretary of State under President Carter. He undertook that important responsibility at a difficult and sensitive time—while the President was working to free American hostages being held in Iran. And he fulfilled his duties with honor and wisdom.

Those of us who are Democrats also owe him a special debt. Virtually single-handedly he revitalized a dormant Democratic party in his beloved state of Maine. He became Maine's first Democratic Governor in 20 years.

Without him, the Senate might never had been honored by the service of our former Majority Leader, George Mitchell, and the United Nations might never had benefitted from the enormous contributions of Madeline Albright. He mentored them both, providing them with some of their first experiences in government.

Mr. President, America is a better place because of the dedicated public service over many decades of Edmund S. Muskie. I thank him and honor him for his service to our country.

My thoughts and prayers go out to his wife, Jane, his children and the entire Muskie family.

THE PASSING OF WILLIAM JENNINGS DYESS

Mr. HEFLIN. Mr. President, William Jennings Dyess, a long-time Foreign Service officer and State Department official, passed away recently at his home here in Washington. He was buried in his hometown of Troy, AL. An alumnus of the University of Alabama, where he received his B.A. and M.A. degrees and earned a Phi Beta Kappa key, Bill Dyess served for 25 years in the Foreign Service.

The University of Alabama National Alumni Association recently announced that a scholarship endowment had been established in his memory. I ask unanimous consent that the text of the announcement be printed in the RECORD. It tells the story of a remarkable public servant whose achievements in his field will long serve as benchmarks for those who follow him into diplomatic service.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WILLIAM JENNINGS DYESS MEMORIAL SCHOLARSHIP ENDOWMENT FUND

Adopted and raised by a local barber and his wife, Tommie J. and Leota Mae Dyess, Billy—as he was affectionately known to his friends—started a ten-year career at The Troy Messenger, at age nine. He began first as a newspaper carrier and progressed through the ranks, to sports editor, and finally, city editor. Educated in the public schools of Troy, his senior year in 1947 he edited the Troy High School newspaper, which took five national honors.

Bill's passion for journalism found him at the University of Missouri, making Phi Eta Sigma honors, but an out-of-state tuition increase forced a return to his home state. Enrolling at the University of Alabama to train as a political scientist, he earned Phi Beta Kappa honors and graduated with a B.A. in 1950 and an M.A. in 1951. Although poor eyesight precluded his playing football, Bill's time at the University fueled his love for the sport. A Rotary International Scholarship, awarded by the Troy Chapter, took him to post-graduate work at Oxford University (St. Catherine's College). Later, he studied at Syracuse University's Maxwell School.

After college, Bill began a career that would take him far away from his hometown roots in Troy. One of his first stops would be a tour with U.S. Army Intelligence in Berlin from 1953–1956. In 1958, Bill left his Ph.D. studies at Syracuse to enter the foreign service of the U.S. Department of State. Serving primarily as a political officer in Belgrade, Copenhagen, and Moscow, and as chief of liaison in Berlin, he soon became a European specialist. In Washington, DC, he served tours as both the Czech and Soviet desk officer.

No matter where Bill was based, his central mission was meeting the Soviet challenge confronting the United States and its allies. He grappled with the Soviets mostly over bilateral affairs, maritime matters, and the status of a divided Berlin. Persona non grata in Moscow, Foreign Minister Gromyko attacked him by name before a group of U.S. Senators; Moscow denied him a visa and they seriously harassed him inside the Soviet Union, claiming he was an intelligence agent, which was false. Bill acknowledged, "Their real gripe was that as Soviet desk officer, I knew how to make life in Washington difficult for the KGB, and I did." In November 1974, Bill escorted Lithuanian-American Seaman Simus Kudirka and his family to freedom.

Bill left Soviet affairs in late 1975, "partly in order to lift my nose from the US–USSR bilateral grindstone and to see better the issues worldwide," he said. He then served as Deputy Assistant Secretary for Public Affairs, and in 1980, was appointed by President Carter as Assistant Secretary of State and later as interim spokesman. Drawing on his Soviet expertise, Dyess delivered dozens of talks before diverse audiences, using these occasions not merely to present Department views on such issues as nuclear deterrents, the grain embargo, and SALT (Strategic Arms Limitations Treaty) but also "to listen closely to what American citizens were saying. The State Department has learned that any foreign policy that lacks broad public support cannot be long sustained."

Over the years, Bill's duties frequently brought him into contact with the U.S. Congress, where his work on inter-agency committees made him well-known in the executive levels of government. He received the State Department's Superior Honor Award and Meritorious Honor Award. White House contacts extended over several Republican and Democratic administrations and in 1981, President Reagan appointed Bill as Ambassador to The Netherlands.

As Ambassador, Bill was responsible for every phase of U.S-Dutch relations, including military installations. He was credited with persuading Dutch officials and Parliamentarians to reexamine their positions on fulfilling NATO goals after the peace movement's protests stirred strong public anti-American sentiment. Bill enjoyed strong ties with the Dutch business community, then the largest direct investor in the U.S. from abroad. Before his retirement in 1983, The Netherlands awarded him the Grand Cross in the Order of Orange-Nassau, the highest decoration given to foreigners.

For Bill, retirement from government service meant another exciting beginning as he started his own consulting business, WmDyess Associates, Inc., in Washington, DC. Clients—he did not work for foreign governments—were in publishing, manufacturing, shipping and oil explorations.

Aside from running his own business, Bill was able to devote much of his time to the alumni activities of both Oxford University and the University of Alabama. He was particularly active with his local Alabama alumni chapter, the National Capital Chapter, where he promoted scholarship fundraising events. Serving as honorary scholarship chairman, on one such occasion, he organized a scholarship dinner for former University of Alabama President Dr. Frank Rose. On another occasion, Bill brought in Pulitzer Prize winner, Dr. Edward O. Wilson. Bill was a generous contributor of his time and money to the Alumni Associations' efforts.

An avid college football fan, Bill was a loyal supporter of the Alabama Crimson Tide. He read a book a week and was devoted to the subject of astrophysics. Bill was fluent in German, Russian, and Serbo-Croatian.

After a long bout with prostate cancer, at 66, Bill passed away on January 6, 1996 at his home in Washington, DC, and was buried with full military honors at Green Hills Cemetery in Troy, Alabama, next to his parents. His son, Chandler, and his beloved Jack Russell terrier, Pistol Ball, live in Washington, DC.

In memory of Bill's dedication to public service, his friends, with his family's support, have established a scholarship endowment at the University of Alabama National Alumni Association.

NEAL BERTE'S 20 YEARS AT BIRMINGHAM-SOUTHERN COLLEGE

Mr. HEFLIN. Mr. President, Dr. Neal R. Berte recently celebrated his 20th year as president of my undergraduate alma mater, Birmingham-Southern College. He has been, and continues to be, an outstanding spokesman, administrator, and scholarly leader of one of the Nation's very best liberal arts colleges.

A native of Ohio, Dr. Berte and his wife, Anne, have four grown children and two grandchildren. He obtained his bachelor's, master's, and doctoral degrees all at the University of Cincinnati. A member of Phi Beta Kappa honor society, he also holds honorary doctoral degrees from Birmingham-Southern and Cincinnati. He served as an associate professor at the University of Alabama from 1970 through 1974 and as the university's vice president for educational development from 1974 until 1976. He also served as dean of the university's New College from 1970

until 1976 when, on February 1, he became president of Birmingham-Southern College.

Dr. Berte is recognized as one of the most accomplished, successful educational professionals of our time. Under his stewardship, Birmingham-Southern's endowment has increased from $14 million to $82 million and its student population, made up of some of the brightest high school graduates in the State and Nation, has more than doubled. Acceptance of its graduates to medical and law schools is among the highest in the South and its outstanding faculty has increased by 66 percent during his tenure as president. He has also overseen the construction of eight new campus buildings.

The campus of Birmingham-Southern, known as The Hilltop, has an atmosphere of learning and of intellectual achievement. This atmosphere is reflected in the fact that the school is consistently recognized as one of the top national liberal arts colleges by such prestigious publications as U.S News and World Report, National Review, Money Magazine, the Insider's Guide to the Colleges, Southern Magazine, and the Princeton Review.

The National Review's College Guide has said, "An ambiance of graciousness, a tradition of academic excellence, and close student-faculty relations have made Birmingham-Southern College one of the standout liberal arts colleges in the South * * *" U.S. News calls it a " * * * trailblazer for higher education of the future." These kinds of accolades are a direct reflection of the school president's strong commitment, total dedication, and superb leadership skills.

Birmingham-Southern College's graduates of all ages speak often of the deep pride and affection they have for their alma mater. Indeed, the school enjoys an uncommonly strong level of support among its loyal and generous alumni. Even those of us who were students there long before Dr. Berte's arrival 20 years ago have enjoyed a renewed sense of pride in Birmingham-Southern since he became president.

Birmingham-Southern does not have a football program, but its basketball team has won two National Association of Intercollegiate Athletics [NAIA] championships in the past 7 years, most recently in 1995. Its baseball team has advanced to the NAIA World Series on three occasions.

Dr. Berte's many honors and awards include his induction into the Alabama Academy of Honor; his selection as Birmingham's Citizen of the Year; his selection as one of the 100 Most Effective College Presidents by the Council for Advancement and Support of Education; and his recognition as one of America's Leaders in Higher Education by the American Council on Education.

Birmingham's morning newspaper, the Post-Herald, carried a front-page feature on his life and career on February 6 and an editorial on his tenure at Birmingham-Southern the next day. I ask unanimous consent that the text of these articles be printed in the RECORD.

I want to commend and congratulate Dr. Neal Berte for his impeccable leadership, clear vision, and total dedication to the field of higher education in general and to Birmingham-Southern in particular. As a proud alumnus of the college, I have no doubt that his next 20 years there will be just as productive and vibrant as his first. It could not be in more capable hands.

There being no objection, the material was ordered to be printed in the Record, as follows;

[From the Birmingham Post-Herald, Feb. 6, 1996]

BERTE LOOKS TO THE FUTURE AT BSC

(By Michaelle Chapman)

When you ask Neal R. Berte about his future, expect him to talk about his goals for Birmingham-Southern College.

Berte celebrated his 20th anniversary as president there Thursday.

He has had plenty of opportunities to go elsewhere but said, "I feel sort of content."

That's not to say Berte has no goals for the small liberal arts school he helped build into one of the best of its kind in the nation.

But he really can't envision a job offer good enough to persuade him to leave the Hilltop and the city he has come to call home.

At 55, Berte is a slim and energetic man who puts those in his company at ease with his friendly but earnest manner.

While many college presidents confine their interests to campus, Berte's voice is heard far beyond the gates of Birmingham-Southern.

Berte is an example to his students, whom he expects to get involved in the community.

He's chairman of Leadership Birmingham and the Birmingham Business Leadership Group, made up of the chief executive officers of 45 of Birmingham's largest businesses.

His past positions have included chairman of the Birmingham Area Chamber of Commerce and campaign chairman and president of the United Way of Central Alabama. He's also been Birmingham's Citizen of the Year and been inducted into the city's Distinguished Gallery of Honor.

Birmingham-Southern students follow in Berte's footsteps in their amount of community involvement. "Every year, over half of our students and faculty are out in service to others," Berte said.

"We've been here long enough that I've seen them go out and make a difference in terms of their careers but also make a difference as far as their civic involvements, in the life of the communities where they live, in the life of their churches."

Berte said he gets to know the names of most students. "We work at trying to treat each student as an individual. * * * I think somehow knowing someone's name does make a difference, so I work at it," he said.

Students who get up early to exercise can find Berte in the college's old gym at 6 a.m. either running or doing weight training. He's in his office by about 8:15 a.m. and spends many evenings at on-campus functions or events around town.

Ed LaMonte, a Birmingham-Southern professor who is on leave while serving as interim superintendent of Birmingham schools, said Berte is an excellent example of leadership.

"He has simply stepped forward time after time to play a very important role in what is in the best interest of the city. * * * He has, on occasions, played a role that has cost the college a bit in terms of support but has served the community well," LaMonte said.

"He's the personification of the word 'leader,'" said Don Newton, president of the Chamber of Commerce. "I have never seen him tackle anything that he didn't complete the task."

Herbert A. Sklenar, chairman of the Birmingham-Southern Board of Trustees, believes Berte's involvement in the community is part of the reason why the school is doing so well.

"He took an institution that had a great tradition and history but was faltering somewhat and has turned it around and, by all kinds of measurements, turned it into a success," Sklenar said.

Twenty years ago, Berte said, "There were some large problems * * * that probably were reflective of many colleges and universities across the country. * * * We had a declining enrollment. We were operating on a deficit budget. I think it's fair to say the general public did not have a real positive attitude about the value of liberal arts education."

But the trustees were committed, the faculty was outstanding and the students were capable, he said.

Berte pulled all those forces together and began improving the school, which had abut 827 students. Today, 1,562 students are enrolled at Birmingham-Southern.

Other things are changing at Birmingham-Southern as well—much of it as part of the Toward the 21st Century Campaign, a $64 million fundraising effort that began last May. Pledges for $46 million have been received so far.

Berte is proud that the endowment has grown to $82.2 million from $14 million.

In the past few years, Birmingham-Southern has gotten considerable national recognition from magazines, publications and foundations that rate colleges and universities.

"That is good for Birmingham-Southern . . . but I'd like to believe it also is good for Birmingham and for Alabama," Berte said.

[From the Birmingham Post-Herald, Feb. 7, 1996]

20 YEARS OF LEADERSHIP

Twenty years ago, the future looked dim for many small, private liberal arts colleges. Declining enrollments and troubled financial conditions forced many such schools out of existence. Others survived by abandoning much of their distinctiveness through merger into other colleges and universities or becoming taxpayer-funded institutions. People were even questioning whether a liberal arts education still had any value.

Among the colleges in trouble was Birmingham-Southern College. Enrollment was down significantly, the college had a budgetary deficit and the college presidency had changed hands several times in a very short period.

Then, on Feb. 1, 1976, Neal Berte became college president. Under his leadership, the Methodist institution enhanced what were still strong academic programs, rebuilt its finances and reversed the erosion of a tradition of community involvement.

If Berte had done nothing more in the past 20 years than restore Birmingham-Southern's standing as one of the best liberal

VOL
142
PT
5
MR
21
—
29
1996
UMI

arts colleges in this part of the country, he would deserve high praise. But as anybody who follows public life in this community must know, he has done much more.

There is hardly a facet of civic life that has not been affected—for the better—by Berte. He holds or has held chairmanships in several organizations. But even more important has been his ability to bring other leaders and potential leaders together in ways that improve Birmingham for all of us. He has been a much-needed catalyst for change.

Anybody seeking an example of what being a leader means need look no farther than the Birmingham-Southern hilltop campus and the office of Neal Berte.

REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT FOR CALENDAR YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 135

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

In accordance with section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) (previously section 360D of the Public Health Service Act), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1994.

The report recommends the repeal of section 540 of the Federal Food, Drug, and Cosmetic Act that requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through the Center for Devices and Radiological Health technical reports, the Radiological Health Bulletin, and other publicly available sources. The Agency resources devoted to the preparation of this report could be put to other, better uses.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 27, 1996.*

REPORT ON THE TRADE AGREEMENTS PROGRAM FOR CALENDAR YEAR 1995 AND THE TRADE POLICY AGENDA FOR CALENDAR YEAR 1996—MESSAGE FROM THE PRESIDENT—PM 136

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

As required by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1996 Trade Policy Agenda and 1995 Annual Report on the Trade Agreements Program.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 27, 1996.*

MESSAGES FROM THE HOUSE

At 10:14 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 158. Joint resolution to recognize the Peace Corps on the occasion of its 35th anniversary and the Americans who have served as Peace Corps volunteers.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 146. Concurrent resolution authorizing the 1996 Special Olympics Torch Relay to be run through the Capitol Grounds.

H. Con. Res. 147. Concurrent resolution authorizing the use of the Capitol Grounds for the fifteenth annual National Peace Officers' Memorial Service.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.J. Res. 158. Joint resolution to recognize the Peace Corps on the occasion of its 35th anniversary and the Americans who have served as Peace Corps volunteers; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

Pursuant to the order of February 9, 1996, the following measure was placed on the calendar:

H.R. 849. An act to amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers; and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2189. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-2190. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Secretary of State Determination relative to Israel; to the Committee on Foreign Relations.

EC-2191. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on agency compliance with respect to unfunded mandates reform; to the Committee on Governmental Affairs.

EC-2192. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report relative to cost of travel and privately owned vehicles of federal employees; to the Committee on Governmental Affairs.

EC-2193. A communication from the Chairman of the Board of Governors of the Federal Reserve, transmitting, pursuant to law, a report relative to the implementation of its administrative responsibilities during calendar year 1995; to the Committee on Governmental Affairs.

EC-2194. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2195. A communication from the Vice President and General Counsel of the Overseas Private Investment Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2196. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2197. A communication from the Board Members of the Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Act to conform the statute of limitations with respect to the creditability of compensation under that Act to the statute of limitations with respect to the payment under the Railroad Retirement Act and for other purposes; to the Committee on Labor and Human Resources.

EC-2198. A communication from the Secretary of Transportation, Commonwealth of Virginia, transmitting, pursuant to law, the final report on the I-66 HOV-2 Demonstration Project; to the Committee on the Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-523. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION 1014

"Whereas, separation of powers is fundamental to the United States Constitution and the power of the federal government is strictly limited; and

"Whereas, under the United States Constitution, the states are to determine public policy; and

"Whereas, it is the duty of the judiciary to interpret the law, not to create law; and

"Whereas, our present federal government has strayed from the intent of our founding fathers and the United States Constitution through inappropriate federal mandates; and

"Whereas, these mandates by way of statute, rule or judicial decision have forced state governments to serve as the mere administrative arm of the federal government; and

"Whereas, federal district courts, with the acquiescence of the United States Supreme

Court, continue to order states to levy or increase taxes to comply with federal mandates; and

"Whereas, these court actions violate the United States Constitution and the legislative process; and

"Whereas, the time has come for the people of this great nation to further define the role of the courts in their review of federal and state laws; and

"Whereas, several states have petitioned the United States Congress to propose an amendment to the Constitution of the United States of America; and

"Whereas, the amendment was previously introduced in Congress; and

"Whereas, the amendment seeks to prevent federal courts from levying or increasing taxes without representation of the people and against the people's wishes; and

"Whereas, the State of Arizona desires that the United States Congress acknowledge and act upon this expression of the intent of the various states without the necessity of those states calling a constitutional convention as authorized in Article V of the Constitution of the United States: Therefore, be it

Resolved by the Senate of the State of Arizona, the House of Representatives concurring:

"1. That the Congress of the United States prepare and submit to the several states an amendment to the Constitution of the United States to add a new article providing as follows: "Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such a state or political subdivision, to levy or increase taxes".

"2. That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States.

"3. That the Legislature of the State of Arizona also proposes that the legislatures of each of the several states comprising the United States that have not yet made similar requests apply to the United States Congress requesting enactment of an appropriate amendment to the United States Constitution, and apply to the United States Congress to propose such an amendment to the United States Constitution.

"4. That the Secretary of State of the State of Arizona transmit copies of this Resolution to the presiding officer in each house of the legislature in each of the other states in the Union, the Speaker of the United States House of Representatives, the President of the United States Senate and to each Member of the Arizona Congressional Delegation."

POM-524. A concurrent resolution adopted by the Legislature of the State of Hawaii to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION NO. 14

"Whereas, the Omnibus Budget Reconciliation Act of 1993 signed into law by President Clinton on August 10, 1993, included the largest tax increase in history: $115 billion in new taxes and a forty-seven percent increase in income tax rates; and

"Whereas, the income, estate, and gift tax components of the tax increase were retroactive, taking effect on January 1, 1993; and

"Whereas, Treasury Secretary Bentsen has declared that more than one and one-quarter million small businesses will be subject to retroactive taxation despite the administration's claim that the tax increase "only affected the rich"; and

"Whereas, the retroactivity of the Omnibus Budget Reconciliation Act of 1993 is unprecedented in that it became effective during a previous administration-Before President Clinton or the 103rd Congress even took office; and

"Whereas, the passage of the bill resulted in loud public outcry against retroactive taxation; and

"Whereas, retroactive taxation places an unfair and intolerable burden on the American taxpayer; and

"Whereas, retroactive taxation is wrong, it is bad policy, and it is a reprehensible action on the part of the government; now, therefore, be it

"*Resolved by the House of Representatives of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, the Senate concurring*, That the Legislature of the State of Hawaii memorialize the Congress of the United States to propose and submit to the several states an amendment to the Constitution of the United States that would provide that no federal tax shall be imposed for the period before the date of the enactment of the retroactive tax; and

"*Resolved*, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Secretary of the United States Senate, the Clerk of the United States House of Representatives, Hawaii's Congressional delegation, the Speaker of the House of Representatives, and the Senate President."

POM-525. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION NO. 11

"Whereas, in recent years the federal judges, with the support of the United States Supreme Court, have imposed taxes or required the increase of taxes to raise the revenue to support various court orders; and

"Whereas, the judicial branch of government is making more decisions which affect the everyday life of citizens; and

"Whereas, taxation must be the exclusive prerogative of elected representatives and not be subject to imposition by an appointed judiciary; and

"Whereas, attempted judicial preemption in a matter as critical to the welfare of states and the people represented by state legislatures as taxation requires a response; and

"Whereas, the Missouri Legislature has passed a concurrent resolution requesting Congress to propose an amendment to the United States Constitution to restrict the power of the federal courts in this area; and

"Whereas, Colorado, Tennessee, and New York have already joined Missouri in its effort by adopting the identical language demonstrating the solidarity of state legislatures on this issue: Therefore, be it

"*Resolved*, That the Legislature of Louisiana memorializes the Congress of the United States to adopt and propose an amendment to the Constitution of the United States to read as follows: 'Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes.' Be it further

"*Resolved*, That a duly attested copy of this Resolution be immediately transmitted to the president of the United States, to the secretary of the United States Senate, to the clerk of the United States House of Representatives, and to each member of the Louisiana delegation to the United States Congress."

POM-526. A concurrent resolution adopted by the Legislature of the State of South Dakota; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION NO. 1010

"Whereas, in Missouri v. Jenkins (495 U.S. 33, 110 S.Ct. 1691 (1990)), the Supreme Court held that a federal court had the power to order an increase in state and local taxes thereby violating a fundamental tenet of the separation of powers: that members of the federal judiciary, who serve for life and are answerable to no one, should not have control over the power of the purse; and

"Whereas, section 8 of Article I of the Constitution of the United States vests with the legislative branch of government alone the extraordinary power to 'lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States'; and

"Whereas, the courts' action are an intrusion into a legitimate political debate over state spending priorities and not a response to a constitutional directive; and

"Whereas, Justice Kennedy observed in his dissent in Missouri v. Jenkins that 'this assertion of judicial power in one of the most sensitive of policy areas, that involving taxation, begins a process that one time could threaten fundamental alteration of the form of government our Constitution embodies'; and

"Whereas, since 1990, when the Supreme Court declared in Missouri v. Jenkins that the federal courts have the authority and power to levy and increase taxes, Congress has chosen not to intercede on behalf of the people to protect the democratic process which has been corrupted by the unconstitutional authority and power to tax which the federal courts have exercised; and

"Whereas, the time has come for the people of this great nation, and their duly elected representatives in state government, to reaffirm, in no uncertain terms, that the authority to tax under the Constitution of the United States is retained by the people who, by their consent alone, do delegate such power to tax explicitly to those duly elected representatives in the legislative branch of government who they choose, such representatives being directly responsible and accountable to those who have elected them: Now, therefore, be it

"*Resolved, by the House of Representatives of the Seventy-first legislature of the State of South Dakota, the Senate concurring therein*, That application is hereby made pursuant to Article V of the United States Constitution for an amendment to the Constitution reading substantially as follows: 'Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes.'; and be it further

"*Resolved*, That this petition constitutes a continuing application in accordance with Article V of the Constitution of the United States; and be it further

"*Resolved*, That this legislative body requests the legislatures of the several states comprising the Union to make similar application to Congress for the purpose of proposing such an amendment to the United States Constitution.".

POM-527. A resolution adopted by the Senate of the Legislature of the State of Kansas; to the Committee on Labor and Human Resources.

VOL
142
PT
5
MR
21
—
29
1996
UMI

"SENATE RESOLUTION NO. 1824

"Whereas, improving patient access to quality health care is a paramount national goal; and

"Whereas, the key to improved health care, especially for persons with serious unmet medical needs, is the rapid approval of safe and effective new drugs, biological products and medical devices; and

"Whereas, minimizing the delay between discovery and eventual approval of a new drug, biological product or medical device derived from research conducted by innovative pharmaceutical and biotechnology companies could improve the lives of millions of Americans; and

"Whereas, current limitations on the dissemination of information about pharmaceutical products reduce the availability of information to physicians, other health care professionals and patients, and limits the right of free speech guaranteed by the First Amendment to the United States Constitution; and

"Whereas, the current rules and practices governing the review of new drugs, biological products and medical devices by the United States Food and Drug Administration can delay approvals and are unnecessarily expensive: Now, therefore, be it

"*Resolved by the Senate of the State of Kansas*, That we respectfully urge the Congress of the United States to address this important issue by enacting comprehensive legislation to facilitate the rapid review and approval of innovative new drugs, biological products and medical devices, without compromising patient safety or product effectiveness; and be it further

"*Resolved*, That the Secretary of the Senate be directed to send enrolled copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Kansas Congressional Delegation."

POM–528. A concurrent resolution adopted by the Legislature of the State of West Virginia; to the Committee on Labor and Human Resources.

"HOUSE CONCURRENT RESOLUTION 18

"Whereas, improving patient access to quality health care is the number one national goal; and

"Whereas, the key to improved health care, especially for persons with serious unmet medical needs, is the rapid approval of safe and effective new drugs, biological products and medical devices; and

"Whereas, two thirds of all new drugs approved in the last six years by the Food and Drug Administration were approved first in other countries with approval of a new drug currently taking 14.8 years; and

"Whereas, the United States has long led the world in discovering new drugs, but too many new medicines first are introduced in other countries, with forty drugs currently approved in one or more foreign countries still in development in the United States or awaiting FDA approval; and

"Whereas, the patient is waiting for the industry to discover and efficiently develop safe and effective new medicines and for the FDA to facilitate the development and approval of safe medicines sooner; and

"Whereas, there is a broad bipartisan consensus that the FDA must be re-engineered to meet the demands of the twenty-first century; and

"Whereas, the current rules and practices governing the review of new drugs, biological products and medical devices by the United States Food and Drug Administration can delay approvals and are unnecessarily expensive; therefore, be it

"*Resolved by the Legislature of West Virginia:* That this Legislature respectfully urges: the Congress of the United States to address this important issue by enacting comprehensive legislation to facilitate the rapid review and approval of innovative new drugs, biological products and medical devices, without compromising patient safety or product effectiveness; and, be it further

"*Resolved*, That the Clerk of the House of Delegates be hereby directed to transmit appropriate copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and to each member of the West Virginia Delegation of the Congress."

POM–529. A resolution adopted by the Legislature of the Commonwealth of Puerto Rico; to the Committee on Foreign Relations.

"H.R. 5231

"The House of Representatives, as a body representing the People of Puerto Rico, deems it prudent to express to the Cuban community the indignation of the People of Puerto for those vicious murders and to urge the President and the members of the Congress of the United States of America to take all the measures directed to vindicating the memory of these four people, preventing the strategy of repression of the Cuban government against dissident groups and to attain the establishment of a democratic system of government in Cuba, based on respect for human dignity. Be it

"*Resolved by the House of Representatives of Puerto Rico:*

"SECTION 1. To express the repudiation and indignation of the House of Representatives of Puerto Rico for the cowardly murder of four (4) members of the humanitarian organization "Brothers to Rescue" by the armed forces of the totalitarian regime of Fidel Castro.

"SECTION 2. To urge the President and the members of the Congress of the United States of America to take all the measures needed to prevent the strategy of repression of the Cuban government against dissident groups and to attain the establishment of a democratic system of government in Cuba, based on respect for human dignity.

"SECTION 3. This Resolution shall be translated into the English language and remitted to the President of the United States and to the President and Speaker of both Bodies of the Congress of the United States of America.

"SECTION 4. A copy of this Resolution shall also be remitted to the Ambassadors of the United States of America and of Cuba at the United Nations Organization as well as to the Secretary General of said International Organization.

"SECTION 5. This Resolution shall take effect immediately after its approval."

POM–530. A resolution adopted by the Legislature of the Virgin Islands; to the Committee on Energy and Natural Resources.

"RESOLUTION NO. 1552

"Whereas, in 1968 and 1973, the Congress of the United States found it necessary to enact the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973; and

"Whereas, in considering the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, the Congress of the United States found the following to be true:

"'(1) From time to time, flood disasters have created personal hardships and economic distress which have required unforeseen disaster relief measures and have placed an increasing burden on the Nation's resources.

"(2) Despite the installation of preventive and protective works, and the adoption of other public programs designed to reduce losses caused by flood damage, these methods have not been sufficient to adequately protect against growing exposure to future flood losses.

"(3) As a matter of national policy, a reasonable method of sharing the risk of flood losses is through a program of flood insurance which can complement and encourage preventive and protective measures.

"(4) If such a program is initiated and gradually carried out, it can be expanded as knowledge and experience are gained, eventually making flood insurance coverage available on reasonable terms and conditions to persons who have need for such protection.

"(5) Many factors have made it economically difficult for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions.

"(6) A program of flood insurance which includes the large-scale participation of the Federal Government carried out to the maximum extent practicable by the private insurance industry is feasible and can be initiated.

"(7) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from floods and mud-slides.

"(8) The nation cannot afford the tragic loss of live caused annually by floods, nor the increasing property losses suffered by flood victims, most of whom are still inadequately compensated despite receiving disaster relief benefits.

"(9) It is in the public interest for persons already living in flood-prone areas to have an opportunity to purchase flood insurance and to have access to more adequate limits of coverage, so that they will be indemnified for their losses in the event of future flood disasters"; and

"Whereas, Hurricane Marilyn's high sustained and gusting winds caused the Territory of the United States Virgin Islands to suffer catastrophic damage in the billions of dollars; and also caused the territory to be declared a federal disaster area by President Clinton; and

"Whereas, Hurricane Opal's high sustained and gusting winds have devastated certain areas of the United States gulf coast and the Mexican coast; and

"Whereas, Hurricane Luis which threatened the United States Virgin Islands with Category 4 force winds and resulted in some physical damage to the territory; and

"Whereas, Hurricane Hugo's high sustained and gusting winds devastated the United States Virgin Islands, particularly St. Croix, and South Carolina in 1989, resulting in damage in the billions of dollars; and

"Whereas, Hurricane Andrew's high sustained and gusting winds devastated certain areas of southern Florida in 1992, resulting in damage in the billions of dollars; and

"Whereas, in light of a long history of hurricanes and their accompanying windstorms wreaking death and destruction in the United States, its possessions in the Caribbean sea and in the Pacific; and

"Whereas, the migration of people to coastal areas of the United States, and to its possessions including the U.S. Virgin Islands have increased; and

"Whereas, recent scientific warnings about global warming and its effect on global weather patterns are predicting more frequent and intense hurricane activity; and

"Whereas, the periodic absence of the "El Nino" phenomenon increases the likelihood of the formation of hurricanes; and

"Whereas, the Legislature of the Virgin Islands finds that the history of past hurricane and windstorm activity, and the prospect of increased hurricane and windstorm activity affecting the United States and its possessions (including the U.S. Virgin Islands) present the same, or similar, considerations which led to enactment of the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973; and

"Whereas, the following is from the National Flood Insurance Act:

"(1) Windstorms have created personal hardships and economic distress which have required unforeseen disaster relief measures and have placed an increasing burden on the Nation's resources.

"(2) Installation of preventive and protective works . . . have not been sufficient to protect adequately against growing exposure to future [windstorm] losses.

"(3) As a matter of national policy, a reasonable method of sharing the risk of [windstorm] losses is through a program of [windstorm] insurance.

"(4) If such a program is initiated . . . it can [make windstorm insurance] coverage available on reasonable terms and conditions.

"(5) Many factors have made it uneconomical for the private insurance industry alone to make [windstorm] insurance available to those in need of such protection on reasonable terms and conditions.

"(6) A program of [windstorm] insurance with large-scale participation of the federal government carried out to the maximum extent practicable by the private insurance industry is feasible and can be initiated.

"(7) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from [windstorms].

"(8) The nation cannot afford . . . the increasing losses of property suffered by [windstorm] victims, most of whom are still inadequately compensated despite the provision of costly disaster relief benefits.

"(9) It is in the public interest for persons already living in [windstorm-prone] areas to have both an opportunity to purchase [windstorm] insurance and access to more adequate limits of coverage, so that they will be indemnified for their losses in the event of future [windstorm] disasters." Now, therefore, be it

"*Resolved by the Legislature of the Virgin Islands:*

"SECTION 1. The Legislature of the Virgin Islands, on behalf of the people of the Virgin Islands, respectfully and urgently petitions the United States Congress to establish a National Windstorm Insurance Program, to be patterned after the National Flood Insurance Program.

"SECTION 2. Copies of this resolution shall be forwarded to the President of the United States, each member of the United States Congress, and the Virgin Islands Delegate to Congress. Copies of this resolution shall also be forwarded to the Governor and the Legislature of every state and possession of the United States located in a windstorm-prone area. These various jurisdictions shall be asked to adopt this resolution and to join with the United States Virgin Islands in petitioning Congress to establish a National Windstorm Insurance Program because they would also benefit from such a program."

POM–531. A resolution adopted by the House of the Legislature of the State of Georgia; to the Committee on Energy and Natural Resources.

"H.R. No. 850

"Whereas, a proposal has been made to the United States Congress to sell facilities used by the Southeastern Power Administration (SEPA) which is headquartered in Elbert County, Georgia; and

"Whereas, these facilities, which include nine hydroelectric dams, provide electric power and reservoirs for Georgia; and

"Whereas, all of these facilities, operated by the United States Army Corps of Engineers, also provide the public with needed fish and wildlife resources, municipal, industrial, and agricultural water supplies, flood control, reservoir and downstream recreational uses, and river water level regulation; and

"Whereas, such proposed sale would give too little assurance that these assets will be administered with due consideration to the purposes of the facilities not related to power production, such as water supply, flood control, navigation, recreation, and environmental protection; and

"Whereas, the revenue from the electricity generated by the hydroelectric dams exceeds the retirement obligations of the construction bonds and costs of operation and maintenance for these facilities; and

"Whereas, many Georgians served by these facilities could likely experience significant rate increases in electricity and water as a result of this sale: Now, therefore, be it

"*Resolved by the House of Representatives*, That the members of this body urge the United States Congress to reevaluate the negative impacts of this proposal and avoid any transfer of federal dams, resources, turbines, generators, transmission lines, and related power marketing association facilities. Be it further

"*Resolved*, That the Clerk of the House of Representatives is authorized and directed to transmit an appropriate copy of this resolution to the Speaker of the United States House of Representatives, the presiding officer of the United States Senate, and members of the Georgia congressional delegation."

POM–532. A resolution adopted by the House of the Legislature of the Commonwealth of Puerto Rico; to the Committee on Energy and Natural Resources.

"HOUSE CONCURRENT RESOLUTION NO. 35

"United States legislation on coasting trade limits the transit of ships between points in the United States, including its territories and possessions, directly or through a foreign port, to ships built and registered in the United States. 46 U.S.C. 883 (1988). Said legislation is applicable not only to the ports of the fifty states, but also to those of the territories and possessions. 46 U.S.C. 887 (1988). The Virgin Islands has been the only territory excluded from the application of this legislation, through an amendment approved in 1936. Ch. 228. 49 Stat. 1207.

"Said legislation is applicable to Puerto Rico since 1900, when, upon the approval of the first organic act (Foraker Act), the Congress provided that the coasting trade between Puerto Rico and the United States shall be regulated in accordance with the provisions of law applicable to such trade between any two great coasting districts of the United States. Furthermore, Puerto Rico constitutes, according to federal coasting trade laws, one of the 'great coasting districts' of the United States. Upon the approval of the Jones Act in 1917, Congress provided that the 'laws on tariffs, customs and taxes on imports to Puerto Rico prescribed in the Act (Foraker) would continue in effect.' Ch. 145, Section 58, 39 Stat. 968 (1917). This provision maintained the effectiveness of the coasting trade laws, which are still in force.

"Due to our geographic condition as an island, the significantly higher costs of maritime transportation in ships of North American registration and the juridical impossibility of using foreign flag ships, Puerto Rico has always been deprived of the advantages of free competition in the maritime transportation market.

"In the United States, there is a growing awareness that the coasting trade legislation is very inefficient and to a certain extent, obsolete. The benefits derived by the limited maritime sector are comparably inferior to those that would be derived by the total United States economy, through a new scheme of free competition in maritime transportation. Important sectors of the government of the United States have proposed the elimination or modification of coasting trade laws as part of their efforts to eliminate those areas in which there is a waste of resources, bureaucracy and inefficiency.

"In an increasingly interdependent world, Puerto Rico needs greater flexibility to take advantage of the options offered in the international market. To attain greater economic development, it is essential to reduce the dependency on federal transfers and tax privileges which diminish the dignity of the People, individually and collectively, and which represent an undue burden on the government and taxpayers of the United States. One way of achieving this objective is through the exclusion of Puerto Rico from the scope of application of the federal coasting trade laws. This would not be the first time that the Congress excludes a territory from said legislation. In 1936, the Congress excluded the Virgin Islands to stimulate the economy of said territory. See American Maritime Association vs. Blumenthal, 590 F. 2d 1156, 1166–69 (D.C. Cir. 1978). Be it

"*Resolved by the Legislature of Puerto Rico:*

"SECTION 1. The Legislature of the Commonwealth of Puerto Rico requests the Congress of the United States of America that by virtue of its full power to legislate over Puerto Rico under the Territorial Clause of the Federal Constitution, to amend the coasting trade laws to exclude Puerto Rico from the scope of application of said laws. Specifically, it is herein proposed:

"a. that the text of Title 46, Section 293 of the United States Code, in effect be amended to eliminate all reference to Puerto Rico and to integrate the current text of Section 293(a) of that same Title 46, to read as follows: 'The seacoasts and navigable rivers of the United States shall be divided into five great districts; the first to include all the collection districts on the seacoasts and navigable rivers between the northern boundary

VOL 142 PT 5 MR 21 — 29 1996 UMI

of the State of Maine and the southern boundary of the State of Texas; the second to include all the collection districts on the Great Lakes, their connecting and tributary waters, as far east as the Raquette River, New York; the third to include the collection districts on the seacoasts and navigable rivers between the southern boundary of the State of California and the northern boundary of the State of Washington; the fourth to consist of the State of Alaska; the fifth to consist of the State of Hawaii';

"b. that the present Section 293(a) of Title 46 of the United States Code be repealed;

"c. that the text of the Federal Merchant Marine Act of 1920, Section 21, 41 Stat. 997, 46 U.S.C. 877, in effect, be amended to add the following text: '. . .: and provided further, that the coasting laws of the laws of the United States shall not extend to the Commonwealth of Puerto Rico.'

"d. that Section 9 of the federal Act entitled 'An Act to temporarily provide revenues and a civil government of Puerto Rico, and for other purposes,' of April 12, 1900, Ch. 191, 31 Stat. 79, at present codified as 48 U.S.C. 744, be repealed.

"SECTION 2. A certified copy of this Concurrent Resolution shall be remitted to the members of the Senate and the House of Representatives and to the President of the United States of America, by the Secretaries of both bodies of the Legislature.

"SECTION 3. This Concurrent Resolution shall take effect immediately after its approval."

POM–533. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION NO. 30

"Whereas, the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (The Delta) is nationally recognized as both an important feature of the state's environmental and an important component of the state's water supply system; and

"Whereas, the Delta is the single most important source of water for the people, farms, and businesses of this state, providing the water supply for more than two-thirds of all Californians; and

"Whereas, the Delta is home to many aquatic species, including several endangered species; and

"Whereas, it is imperative to maintain the water quality of the Delta; and

"Whereas, it is the policy and the law of the state to protect and use wisely vita natural resources such as the Delta; and

"Whereas, the state has signed a historic accord with the federal government and important state agricultural, urban, and environmental water interests that calls for the development of a comprehensive solution for the environmental, water supply reliability, and water quality problems of the Delta; and

"Whereas, the state, the federal government, and important stakeholder interests have initiated a program known as CAL–FED to develop comprehensive and long-term solutions to the problems of the Delta; and

"Whereas, the CAL–FED program recognizes the need to expand participation to include all impacted parties and the interested public and has established a number of efforts including the Bay Delta Advisory Commission and monthly public workshops to do so; and

"Whereas, the success of the CAL–FED program is vital to the environmental and economic well-being of the state; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California memorializes the President of the United States and the Governor of California to commit to the CAL–FED program the necessary support to ensure the program's success in achieving a comprehensive solution to the problems in the Delta; and be it further

"*Resolved*, That the Legislature of the State of California encourages the people and entities involved in the CAL–FED program to coordinate the development of policies that will lead to comprehensive, economically viable and environmentally compatible solutions for the Delta and which may include proposed changes to state and federal law in support of those solutions; and be it further

"*Resolved*, That the Legislature of the State of California requests the manager of the CAL–FED program to submit to the Legislature a semiannual report on January 1 and July 1 of each year, regarding the progress CAL–FED has made towards achieving comprehensive and long-term solutions to the problems of the Delta; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to each Senator and Representative from California in the Congress of the United States, and to the Governor."

POM–534. A resolution adopted by the Senate of the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

"SENATE RESOLVE NO. 5

"Whereas the Alaska National Interest Lands Conservation Act (ANILCA), P.L. 96–487, was intended by its framers to fully settle the status of all federal land in Alaska and therefore provide much needed stability for the benefit of all businesses and citizens of the State of Alaska; and

"Whereas two areas of extreme importance to Alaska in ANILCA were

"(1) Title XI, which provided a mechanism to gain a right of access across Conservation System Units that were created as part of ANILCA; and

"(2) Secs. 101d and 1326b of ANILCA which prohibited the creation of new Conservation System Units in Alaska; and

"Whereas Title XI of ANILCA was specifically included to provide assured, reasonable, and timely access across the patchwork of federal Conservation System Units in Alaska but has been administered by the federal government in such a manner as to amount to no more than useless rhetoric; and

"Whereas secs. 101d and 1326b of ANILCA were included to assure no further land withdrawals from multiple use from the federal land base in Alaska, but these provisions have also been ignored by the federal government since the passage of ANILCA; and

"Whereas these two areas of extreme importance have been ignored by the federal government with the end result negatively affecting citizens and businesses in Alaska; and

"Whereas Alaska has the ability to request land exchanges under secs. 103b and 1302h of ANILCA of land now known to contain high resource values that have been arbitrarily withdrawn from multiple use of ANILCA; be it

"*Resolved*, That the Alaska State Senate respectfully requests that the federal government live up to the true intent of the Alaska National Interest Lands Conservation Act in all issues of access, and creation of additional Conservation System Units, and fully support exchanges of high resource value land with Alaska to enable Alaska to establish greater economic and infrastructure opportunities for the people of the state."

POM–535. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

"LEGISLATIVE RESOLVE NO. 7

"Whereas the founding fathers of this nation recognized that land is power and that a centralized federal government with a substantial land base would eventually overwhelm the states and pose a threat to the freedom of the individual; and

"Whereas the original 13 colonies and the next five states admitted to the Union were granted fee title to all land within their borders; and

"Whereas all but two states admitted to the Union since 1802 were denied the same rights of land ownership granted the states admitted earlier; and

"Whereas art. I, sec. 8, of the Constitution of the United States of America makes no provision for land ownership by the federal government, other than by purchase from the states of land '. . . for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings'; and

"Whereas acting contrary to the provisions of art. I, sec. 8, of the Constitution of the United States, the federal government withheld property from the states admitted since 1802, making them land poor and unable to determine their own land use and development policies; and

"Whereas this action has made those states admitted since 1802 unequal to other states and subject to unwarranted federal control; and

"Whereas restoration of property to which they are historically and constitutionally entitled would empower the land poor states to determine their own land use policies; be it

"*Resolved*, That the Alaska State Legislature urges the 104th Congress of the United States to right the wrong and to transfer to the states, by fee title, any federally controlled property currently held within the states admitted to the Union since 1802; and be it further

"*Resolved*, That the Congress is urged to then purchase from the newly empowered States land needed to meet the provision of art. I, sec. 8, United States Constitution."

POM–536. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION NO. 35

"Whereas, more than 50 years have elapsed since the Imperial Navy of Japan launched its surprise attack on the United States Naval Installation at Pearl Harbor, Hawaii; and

"Whereas, in the early morning of Sunday, December 7, 1941, the forces of the Imperial Navy of Japan under the command of Vice Admiral Chuichi Nagumo attacked the installations of the United States Pacific Fleet at Pearl Harbor, Hawaii; and

"Whereas, the Japanese forces were formidable, and consisted of 6 aircraft carriers, 2 battleships, 2 heavy cruisers, 11 destroyers, 360 aircraft, and various other vessels; and

"Whereas, during the 2-hour attack by the Japanese 2,330 United States military personnel were killed and 1,145 were wounded, and 100 civilians were killed or wounded; and

"Whereas, the United States Pacific Fleet in Pearl Harbor that morning included 94 Navy ships most of which were moored for the weekend; and

"Whereas, of the 94 ships, 70 were combat vessels, and 24 were auxiliary vessels; and

"Whereas, during the attack by the Japanese all 8 of the battleships in the harbor were hit, 5 were sunk, and one was severely damaged, several cruisers were damaged, 2 destroyers were sunk, and 9 other ships were sunk or severely damaged; and

"Whereas, of the 300 United States Army and Navy airplanes on Oahu that morning, the Japanese destroyed 140 and damaged 80, most of which were attacked on the ground, and the attack heavily damaged 6 Oahu air bases; and

"Whereas, the 3 Pacific Fleet aircraft carriers stationed at Pearl Harbor were fortunately not in the harbor at the time of the attack and thus escaped damage; and

"Whereas, that attack was a severe blow to the Pacific defenses of the United States and brought the United States into World War II as an active participant and marked the commencement of what was to become the greatest series of naval engagements in history, first to halt the expansion of the Japanese Imperial Forces, then to rout them from their entrenched positions; and

"Whereas, although a Pearl Harbor Memorial was erected above the sunken Battleship U.S.S. Arizona in Pearl Harbor, it is fitting and appropriate that an additional memorial be constructed in Washington, D.C. memorializing the great sacrifice made by those Americans who perished at the hands of the Japanese in that surprise attack; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take every action necessary to ensure the construction, dedication, and maintenance of a Pearl Harbor Memorial in a suitable place of honor in Washington, D.C.; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment:

S. 699. A bill to amend the Ethics in Government Act of 1978, to extend the authorization of appropriations for the Office of Government Ethics for seven years, and for other purposes (Rept. No. 104–244).

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1224. A bill to amend subchapter IV of chapter 5 of title 5, United States Code, relating to alternative means of dispute resolution in the administrative process, and for other purposes (Rept. No. 104–245).

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 42. A concurrent resolution concerning the emancipation of the Iranian Baha'i community.

By Mr. SPECTER, from the Select Committee on Intelligence:

Special Report entitled "Capability of the United States to Monitor Compliance with the Start II Treaty" (Rept. No. 104–246).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Gaston L. Gianni, Jr., of Virginia, to be Inspector General, Federal Deposit Insurance Corporation. (New Position.)

Stuart E. Eizenstat, of Maryland, to be Under Secretary of Commerce for International Trade.

Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years. (Reappointment.)

Laurence H. Meyer, of Missouri, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from 2/1/88.

Alice M. Rivlin, of Pennsylvania, to be a Vice Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years.

Alice M. Rivlin, of Pennsylvania, to be a Member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1996.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HELMS, from the Committee on Foreign Relations:

Lawrence Neal Benedict, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Alfred C. DeCotiis, of New Jersey, to be a Representative of the United States of America to the fiftieth Session of the General Assembly of the United Nations.

Ernest G. Green, of the District of Columbia, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2001, (Reappointment.)

Aubrey Hooks, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Congo.

Robert Krueger, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

Henry McKoy, of North Carolina, to be a Member of the Board of Directors of the African Development Foundation for a term expiring February 9, 2002, vice William H.G. Fitzgerald, term expired.

The following-named Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period: J. Stapleton Roy, of Pennsylvania.

Lottie Lee Shackelford, of Arkansas, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1998, (Reappointment.)

David H. Shinn, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ethiopia.

Harold Walter Geisel, of Illinois, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mauritius and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of The Comoros.

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably two nomination lists in the Foreign Service which were printed in full in prior the CONGRESSIONAL RECORDS of March 6 and March 18, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The following-named Career Members of the Senior Foreign Service of the Department of Agriculture for promotion in the Senior Foreign Service to the classes indicated:

Career Members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

Suzanne K. Hale, of Virginia.
Frank J. Piason, of New Jersey.

The following-named Career Members of the Foreign Service of the Department of Agriculture for promotion into the Senior Foreign Service to the class indicated:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

Lloyd J. Fleck, of Tennessee.
James D. Grueff, of Maryland.
Thomas A. Hamby, of Tennessee.
Peter O. Kurz, of Maryland.
Kenneth J. Roberts, of Minnesota.
Robert J. Wicks, of Virginia.

The following-named persons of the agencies indicated for appointment as Foreign Service officers of the classes stated, and also for the other appointments indicated herewith:

For appointment as Foreign Service Officers of Class One, Consular Officers and Secretaries in the Diplomatic Service of the United States of America.

DEPARTMENT OF STATE

Alfred Thomas Clark, of California.

For appointment as Foreign Service Officers of Class Two, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Mahlon Atkinson Barash, of Virginia.
Donald Allen Drga, of Texas.
Richard Jay Gold, of Virginia.

DEPARTMENT OF STATE

Barbara S. Aycock, of the District of Columbia.

Dana M. Weant, of Washington.

For appointment as Foreign Service Officers of Class Three, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Christine Adamczyk, of Michigan.
Syed A. Ali, of Florida.
Todd Hanson Amani, of Maryland.

VOL
142
PT
5
MR
21
—
29
1996
UMI

R. Douglass Arbuckle, of Florida.
David Chapmann Atteberry, of Texas.
E. Jed Barton, of Nevada.
Barbara L. Belding, of California.
Scott H. Bellows, of South Carolina.
Aleksandra Elizabeth Braginski, of the District of Columbia.
Robert F. Cunnane, of Washington.
Thomas R. Delaney, of Pennsylvania.
Thomas A. Egan, of Washington.
Branden W. Enroth, of Delaware.
Theodore Victor Gehr, of Oregon.
Lawrence Hardy II, of Washington.
Laura Anne Kearns, of Georgia.
Carol Bruce Kiranbay, of Virginia.
Charles G. Knight, of Virginia.
Charles Eric North, of Maryland.
Patricia O'Connor, of California.
Beth S. Paige, of Texas.
Andrew William Plitt, of Texas.
Mark M. Powdermaker, of Washington.
Alan I. Reed, of Washington.
William Earl Reynolds, of Montana.
Scott M. Taylor, of California.
Jill Jacqueline Thompson, of Texas.

DEPARTMENT OF AGRICULTURE

Margaret M. Bauer, of Virginia.
Michael L. Conlon, of Michigan.
Catherine M. Sloop, of Washington.
Margaret E. Thursland, of Virginia.
Dennis B. Voboril, of Kansas.
David J. Williams, of West Virginia.

DEPARTMENT OF STATE

Kevin Blackstone, of New York.

For appointment as Foreign Service Officers of Class Four, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF AGRICULTURE

Joani M. Dong, of California.
Hoa V. Huynh, of Oregon.
Emiko M. Purdy, of Pennsylvania.

DEPARTMENT OF STATE

Julie Deidra Adams, of Maryland.
Antoinette Rose Boecker, of Texas.
Scott Douglas Boswell, of New Jersey.
William W. Christopher, of California.
John Charles Coe, of Florida.
Mariko Dieterich, of Texas.
Mary Doetsch, of California.
Pamela Dunham, of Oregon.
Lara Suzanne Friedman, of Arizona.
Paul F. Fritch, Jr., of Wyoming.
Peter G. Hancon, of Illinois.
John David Haynes, of Colorado.
Michael G. Heath, of California.
Camille Diane Hill, of California.
Andrew P. Hogenboom, of New York.
Sherri Ann Holliday, of Kansas.
Randall Warren Houston, of California.
Bruce K. Hudspeth, of Virginia.
Lisa Anne Johnson, of Virginia.
Michael Robert Keller, of Florida.
Patricia Kathleen Keller, of Virginia.
George P. Kent, of Virginia.
Philip G. Laidlaw, of Florida.
Sherrie L. Marafino, of Pennsylvania.
Raymond D. Maxwell, of North Carolina.
Kathleen A. Morenski, of Virginia.
Andrew Leonard Morrison, of Arkansas.
Jonathan Edward Mudge, of California.
Tulinabo Salama Mushingi, of Virginia.
David Reimer, of Virginia.
Madeline Quinn Seidenstricker, of Florida.
Ellen Barbara Thorburn, of Michigan.
Hale Colburn VanKoughnett, of Texas.
Wendy Fleming Wheeler, of Washington.
William Randall Wisell, of Vermont.
Diane Elizabeth Wood, of Washington.

UNITED STATES INFORMATION AGENCY

Angela Delphinita Williams, of California.

The following-named Members of the Foreign Service of the Departments of Agriculture, Commerce and State to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Daniel K. Acton, of Virginia.
Mea Arnold, of Virginia.
Vaughn Frederick Bishop, of Virginia.
John P. Booher, of Virginia
Lea Ann Booher, of Virginia.
J. Alex Boston, of Maryland.
Brett J. Brenneke, of Illinois.
John G. Buchanan III, of Virginia.
Paul David Burkhead, of North Carolina.
Richard K. Choate, of Virginia.
Bart D. Cobbs, of Arkansas.
Michele Ondako Connell, of Ohio.
Carolyn Creatore, of Delaware.
Julie Sadtler Davis, of Georgia.
Paul Grady Degler, of Texas.
Cecelia Darlene Dyson, of Virginia.
Craig E. Farmer, of Virginia.
Alexander G. Feliu, of Virginia.
John H. Fort, of Virginia.
Ellen Jacqueline Germain, of New York.
Gary J. Glueckert, of Virginia.
Jacques LeRoy Gude, of Virginia.
Ceresa L. Haney, of Virginia.
Todd C. Holmstrom, of Michigan.
William M. Howe, of Alaska.
Bryan David Hunt, of Virginia.
Kim DeCoux Invergo, of Virginia.
Henry Victor Jardine, of Virginia.
Amer Kayani, of California.
Lucille L. Kirk, of the District of Columbia.
David Allan Katz, of California.
Joseph R. Kuzel, of Virginia.
Mitchell G. Larsen, of Illinois.
Raymond R. Lau, of Virginia.
Mary E. Lenze-Acton, of Virginia.
Louis F. Licht III, of Maryland.
Sharon E. Little, of Virginia.
James L. Loi, of Connecticut.
Gwen Lyle, of Texas.
Valarie Lynn, of Colorado.
Jackson A. MacFarlane, of Virginia.
Joseph A. Malpeli, of Virginia.
Ileana M. Martinez, of Pennsylvania.
Luis E. Matos, of Virginia.
Manuel P. Micaller, Jr., of California.
Katherine Elizabeth Monahan, of California.
Carrie L. Newton, of Virginia.
Geoffrey Peter Nyhart, of Florida.
John Raymond O'Donnell, of Virginia.
Pamela I. Penfold, of Virginia.
Daniel W. Peters, of Illinois.
Julia M. Rauner-Guerrero, of Virginia.
Jacqueline Reid, of Virginia.
Harvy Peter Reiner, of California.
Miguel Angel Rodriquez, of Maryland.
Julio Ryan Royal, of Virginia.
Stephen D. Sack, of Virginia.
Karen Marie Schaefer, of Virginia.
James Steven Schneider, of Virginia.
Lori A. Shoemaker, of Tennessee.
Zora Valerie Shuck, of Virginia.
Michele Marie Siders, of the District of Columbia.
Robert J. Swaney, of Virginia.
Marilyn J. Taylor, of Texas.
W. Garth Thornburn II, of Virginia.
Shawn Kristen Thorne, of Texas.
Bryn W. Tippman, of California.
Michael Carl Trulson, of California.
Jane S. Upshaw, of Virginia.
Graham Webster, of Florida.
Keresa M. Webster, of Virginia.
Bruce C. Wilson, of California.
Andrea L. Winans, of Virginia.
Kevin L. Winstead, of Virginia.
David Jonathan Wolff, of Florida.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on Armed Services:

*Joseph J. DiNunno, of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2000.

*Franklin D. Kramer, of the District of Columbia, to be an Assistant Secretary of Defense.

*Kenneth H. Bacon, of the District of Columbia, to be an Assistant Secretary of Defense.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD of November 7, 1995, February 20 and 26, March 5, 6, 11, 14, and 18, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of November 7, 1995, February 20 and 26, March 5, 6, 11, 14, and 18, 1996, at the end of the Senate proceedings.)

*Col. William Welser III, USAF to be brigadier general. (Reference No. 642.)

**In the Navy there is 1 appointment to the grade of lieutenant (John M. Cooney). (Reference No. 715.)

*In the Air Force there is 1 promotion to the grade of brigadier general (Timothy J. McMahon). (Reference No. 803–2.)

*Maj. General Kenneth E. Eickmann, USAF to be lieutenant general. (Reference No. 886.)

**In the Army Reserve there is 1 promotion to the grade of colonel (Gary N. Johnston). (Reference No. 913.)

**In the Army Reserve there are 32 promotions to the grade of colonel and below (list begins with Pat W. Simpson) (Reference No. 914.)

**In the Army there are 67 promotions to the grade of major (list begins with Margaret B. Baines). (Reference No. 915.)

**In the Army Reserve there are 28 promotions to the grade of colonel and below (list begins with Anthony C. Crescenzi). (Reference No. 916.)

**In the Navy there is 1 promotion to the grade of commander (Rex A. Auker). (Reference No. 917.)

**In the Navy and Naval Reserve there are 21 appointments to the grade of commander and below (list begins with Richard D. Boyer). (Reference No. 918.)

**In the Air Force Reserve there are 16 promotions to the grade of lieutenant colonel (list begins with Harold E. Burcham). (Reference No. 923.)

**In the Army Reserve there are 1,367 promotions to the grade of lieutenant colonel (list begins with Patrick V. Adamcik). (Reference No. 924.)

*Maj. Gen. Richard T. Swope, USAF to be lieutenant general. (Reference No. 925.)

**Lt. Gen. John G. Coburn, USA for reappointment to the grade of lieutenant general. (Reference No. 927.)

**In the Air Force there are 9 promotions to the grade of lieutenant colonel and below (list begins with Douglas W. Anderson). (Reference No. 929.)

**In the Navy there are 220 appointments to the grade of captain and below (list begins with Mark A. Admiral). (Reference No. 930.)

**In the Air Force Reserve there are 41 promotions to the grade of lieutenant colonel (list begins with Robert J. Abell). (Reference No. 939.)

**In the Navy there are 607 appointments to the grade of captain and below (list begins with Michael P. Cavil). (Reference No. 940.)

*Maj. Gen. John J. Cusick, USA to be lieutenant general. (Reference No. 948.)

**In the Navy there are 283 appointments to the grade of lieutenant (list begins with James L. Abram). (Reference No. 950.)

Total: 2,700.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI (for himself, Mr. Ford, Mr. Dole, Mr. Lott, Mr. Heflin, Mr. Shelby, Mr. Faircloth, Mr. Simpson, Mr. Cochran, Mr. Inhofe, Mr. Warner, Mr. Helms, Mr. McConnell, Mr. Thurmond, Mr. Burns, Mr. Johnston, Mr. Bingaman, Mr. Nickles, Mr. Lugar, Mrs. Kassebaum, Mr. Coats, and Mr. Grams):

S. 1646. A bill to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PRESSLER (for himself, Mr. Craig, Mr. Lott, Mr. Bennett, Mr. Simpson, Mr. Stevens, Mr. Murkowski, Mr. Inhofe, Mr. Kyl, and Mr. Thomas):

S. 1647. A bill to amend the Federal Land Policy and Management Act of 1976 to provide that forest management activities shall be subject to initial judicial review only in the United States district court for the district in which the affected land is located, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE:

S. Res. 233. A resolution to recognize and support the efforts of the United States Soccer Federation to bring the 1999 Women's World Cup tournament to the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. DASCHLE (for himself, Mr. Dole, Mr. Cohen, and Ms. Snowe):

S. Res. 234. A resolution relative to the death of Edmund S. Muskie; considered and agreed to.

By Mr. THURMOND:

S. Res. 235. A resolution to proclaim the week of June 16 to June 22, 1996, as "National Roller Coaster Week"; considered and agreed to.

By Mr. LUGAR:

S. Con. Res. 49. A concurrent resolution providing for certain corrections to be made in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself, Mr. Ford, Mr. Dole, Mr. Lott, Mr. Heflin, Mr. Shelby, Mr. Faircloth, Mr. Simpson, Mr. Cochran, Mr. Inhofe, Mr. Warner, Mr. Helms, Mr. McConnell, Mr. Thurmond, Mr. Burns, Mr. Johnston, Mr. Bingaman, Mr. Nickles, Mr. Lugar, Mrs. Kassebaum, Mr. Coats, and Mr. Grams):

S. 1646. A bill to authorize and facilitate a program to enhance safety, training; research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes; to the Committee on Energy and Natural Resources.

THE PROPANE EDUCATION AND RESEARCH ACT OF 1996

• Mr. DOMENICI. Mr. President, today I am very happy to introduce the Propane Education and Research Act of 1996. Propane is an extremely important source of clean-burning, domestically-produced energy in the United States providing fuel for cooking, heating, and hot water in over 7.7 million homes, half of all farms, and in millions of recreational applications. Even though propane is the fourth most used fuel in America, no Federal funds are spent on propane research. My legislation keeps it that way and simply provides a mechanism that permits, not requires, industry to fund its own research and development [R&D] program for propane.

This act would allow the propane industry, composed of over 165 producers and 5,000 marketers, to vote to establish a checkoff program to fund much needed R&D modeled after the many checkoff programs already established in Federal law. Collected from the industry at an initial rate of ⅒th of 1 cent per gallon of odorized—propane destined for the retail market—propane sold, these funds would support R&D, educational, and safety activities. Propane producers and marketers, who would bear the cost of the checkoff programs, have indicated broad support for the legislation.

Propane has traditionally served rural and suburban citizens who are beyond reach of most natural gas lines. The propane industry consists of mostly small businesses that individually cannot afford the necessary R&D, safety, and educational activities that result in enormous benefits to consumers. Some of these benefits include increased efficiency in propane appliances, safer handling and distribution, and an improved environment for Americans from this clean-burning fuel. Small businesses have not historically received direct benefits from federally sponsored energy R&D. This legislation does not fit the traditional heavy-handed approach to energy research and development, but gives the propane small business community the flexibility and the framework to pursue research, safety, and education on their own.

There are similar programs in energy industries, however, such as the Gas Research Institute, the Electric Power Research Institute, the Texas Railroad Commission propane checkoff, and similar State programs in Louisiana, Missouri, and Alabama. These programs have enjoyed considerable success, for example, the Gas Research Institute boasts a 400-percent return for each dollar collected and invested. Their work primarily benefits urban and suburban natural gas consumers, the propane legislation will benefit rural and suburban consumers, as well as urban and suburban propane consumers.

The agricultural industry, for example, which accounts for 7 to 8 percent of all propane consumed in the United States, will see substantial benefits from propane research and development. With even marginal increases in equipment efficiency, the agricultural propane users will reap large returns. More efficient uses of propane in other businesses, such as home construction, will further increase the value of the return on investment.

The legislation I am introducing will not actually establish the propane checkoff, but calls upon the propane industry to hold a referendum among themselves, to authorize establishment of the checkoff before it can go into effect. If the industry, propane producers, and retail marketers, vote to establish the checkoff, then the Propane Education and Research Council consisting of industry representatives, will be formed to administer the program. The legislation also looks down the road and allows the industry to terminate the program by a majority vote of both classes, or by two-thirds majority of a single class.

A companion bill, H.R. 1514, was introduced in the House of Representatives and currently enjoys broad bipartisan support. This enthusiasm underscores the wide, regional appeal of this

VOL
142
PT
5
MR
21
—
29
1996
UMI

innovative approach to meeting our domestic energy research needs. Moreover, my bill foster industry's efforts toward efficient, clean fuels that benefit consumers and producers alike without Federal dollars and with minimal governmental involvement.

I encourage my colleagues to join me in cosponsoring this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1646

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Propane Education and Research Act of 1996".

SEC. 2. FINDINGS.

Congress finds that—

(1) propane gas (also known as liquefied petroleum gas) is an essential energy commodity that provides heat, hot water, cooking fuel, and motor fuel, and has many other uses to millions of Americans;

(2) the use of propane is especially important to rural citizens and farmers, offering an efficient and economical source of gas energy;

(3) propane has been recognized as a clean fuel and can contribute in many ways to reducing pollution in cities and towns of the United States; and

(4) propane is primarily domestically produced, and the use of propane provides energy security and jobs for Americans.

SEC. 3. DEFINITIONS.

In this Act:

(1) COUNCIL.—The term "Council" means a Propane Education and Research Council established under section 4.

(2) INDUSTRY.—The term "industry" means persons involved in the United States in—

(A) the production, transportation, and sale of propane; and

(B) the manufacture and distribution of propane utilization equipment.

(3) INDUSTRY TRADE ASSOCIATION.—The term "industry trade association" means an organization exempt from tax, under paragraph 3 or 6 of section 501(c) of the Internal Revenue Code of 1986, that represents the propane industry.

(4) ODORIZED PROPANE.—The term "odorized propane" means propane that has had odorant added to it.

(5) PRODUCER.—The term "producer" means the owner of propane at the time at which the propane is recovered at a gas processing plant or refinery.

(6) PROPANE.—The term "propane"—

(A) means a hydrocarbon, the chemical composition of which is predominantly C^3H^8, whether recovered from natural gas or from crude oil; and

(B) includes liquefied petroleum gas or a mixture of liquefied petroleum gases.

(7) PUBLIC MEMBER.—The term "public member" means a member of the Council, other than a representative of producers or retail marketers, representing significant users of propane, public safety officials, academia, the propane research community, or other groups knowledgeable about propane.

(8) QUALIFIED INDUSTRY ORGANIZATION.—The term "qualified industry organization" means the National Propane Gas Association, the Gas Processors Association, a successor of the National Propane Gas Association or the Gas Processors Association, or a group of retail producers or marketers that collectively represent at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(9) RETAIL MARKETER.—The term "retail marketer" means a person engaged primarily in the sale of odorized propane to ultimate consumers or to retail propane dispensers.

(10) RETAIL PROPANE DISPENSER.—The term "retail propane dispenser" means a person that sells, but is not engaged primarily in the business of selling odorized propane to ultimate consumers.

(11) SECRETARY.—The term "Secretary" means the Secretary of Energy.

SEC. 4. REFERENDA.

(a) CREATION OF PROGRAM.—

(1) IN GENERAL.—The qualified industry organizations may conduct a referendum among producers and retail marketers for the creation of a Propane Education and Research Council.

(2) EXPENSES.—A referendum under paragraph (1) shall be conducted at the expense of the qualified industry organizations.

(3) REIMBURSEMENT.—The Council, if established, shall reimburse the qualified industry organizations for the cost of the referendum accounting and documentation.

(4) INDEPENDENT AUDITING FIRM.—The referendum shall be conducted by an independent auditing firm agreed to by the qualified industry organizations.

(5) VOTING RIGHTS.—Voting rights in the referendum shall be based on the volume of propane produced or odorized propane sold in the calendar year previous to the year in which the referendum is conducted, or other representative period agreed to by the qualified industry organizations.

(6) CERTIFICATION OF VOLUME OF PROPANE.—All persons voting in the referendum shall certify to the independent auditing firm the volume of propane the person represents.

(7) APPROVAL.—On the approval of persons representing ⅔ of the total volume of propane voted in the retail marketer class and ⅔ of all propane voted in the producer class, the Council shall be established.

(b) TERMINATION OR SUSPENSION.—

(1) REFERENDUM.—On the Council's initiative, or on petition to the Council by producers and retail marketers representing 35 percent of the volume of propane produced and sold, respectively, in the United States, the Council shall conduct a referendum to determine whether the industry favors termination or suspension of the Council.

(2) EXPENSE.—A referendum under paragraph (1) shall be conducted at the expense of the Council.

(3) INDEPENDENT AUDITING FIRM.—The referendum shall be conducted by an independent auditing firm selected by the Council.

(4) TERMINATION OR SUSPENSION.—Termination or suspension shall take effect if approved by—

(A) persons representing more than ½ of the total volume of odorized propane in the producer class and more than ½ of the total volume of propane in the retail marketer class; or

(B) persons representing more than ⅔ of the total volume of propane in produced or sold in the United States.

SEC. 5. PROPANE EDUCATION AND RESEARCH COUNCIL.

(a) SELECTION OF MEMBERS.—

(1) SELECTION BY QUALIFIED INDUSTRY ORGANIZATIONS.—The qualified industry organizations shall select all retail marketer, public, and producer members of the Council.

(2) ALLOCATION.—The producer organizations shall select the producer members of the Council, the retail marketer organizations shall select retail marketer members, and all qualified industry organizations shall select the public members.

(3) VACANCIES.—Vacancies in unfinished terms of Council members shall be filled in the same manner as original appointments.

(b) REPRESENTATION.—In selecting members of the Council, the qualified industry organizations shall give due regard to selecting a Council that is representative of the industry, including representation of—

(1) gas processors and oil refiners among producers;

(2) interstate and intrastate operators among retail marketers;

(3) large and small companies among producers and retail marketers, including agricultural cooperatives; and

(4) all geographic regions of the country.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 21 members, including—

(A) 9 members representing retail marketers;

(B) 9 members representing producers; and

(C) 3 public members.

(2) QUALIFICATIONS.—Each Council member representing retail marketers or producers shall be a full-time employee or owner of a business in the industry that the member represents or a representative of an agricultural cooperative.

(3) DISQUALIFICATION.—No employee of a qualified industry organization or other industry trade association shall serve as a member of the Council, and no member of the Council may serve concurrently as an officer of the board of directors of a qualified industry organization or other industry trade association.

(4) LIMITED COMPANY REPRESENTATION.—Not more than 1 person from any company (or affiliate of the company) may serve on the Council at any given time.

(d) COMPENSATION.—

(1) IN GENERAL.—Subject to paragraph (2), Council members shall receive no compensation for services performed or reimbursement for expenses relating to services performed.

(2) EXCEPTION FOR PUBLIC MEMBERS.—A public member may, on request, be reimbursed for reasonable expenses directly related to participation by the member in Council meetings.

(e) TERMS.—

(1) LENGTH OF TERMS.—A Council member shall serve a term of 3 years.

(2) NUMBER OF TERMS.—A Council member may not serve more than 2 full consecutive terms.

(3) MAXIMUM CONSECUTIVE YEARS.—A member filling an unexpired term may serve not more than 7 consecutive years.

(4) RETURN OF FORMER MEMBERS.—A former member of the Council may return to the Council only if the member has not been a member for a period of 2 years.

(5) INITIAL APPOINTMENTS.—Initial appointments to the Council shall be for terms of 1, 2, and 3 years, and shall be staggered to provide for the selection of 7 members each year.

(f) FUNCTIONS.—

(1) IN GENERAL.—The Council shall develop programs and projects and enter into contracts or agreements for implementing this Act, including programs to—

(A) enhance consumer and employee safety and training;

(B) provide for research and development of clean and efficient propane utilization equipment;

(C) inform and educate the public about safety and other issues associated with the use of propane; and

(D) provide for the payment of the costs of implementing subparagraphs (A) through (C) with funds collected under this Act.

(2) COORDINATION.—The Council shall coordinate activities with industry trade associations and others as appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities.

(g) USE OF FUNDS.—

(1) UNITED STATES AGRICULTURE INDUSTRY.—Not less than 5 percent of the funds collected through assessments under this Act shall be used for programs and projects intended to benefit the agriculture industry in the United States.

(2) COORDINATION.—The Council shall coordinate the use of funds under paragraph (1) with agriculture industry trade associations and other organizations representing the agriculture industry.

(3) USE OF PROPANE AS AN OVER-THE-ROAD MOTOR FUEL.—The percentage of funds collected through assessments under this Act to be used in any year for projects relating to the use of propane as an over-the-road motor fuel shall not exceed the percentage of the total market for odorized propane that is used as an over-the-road motor fuel, based on an historical average of the use of propane as an over-the-road motor fuel during the 3-year period preceding the year in which the funds are used.

(h) PRIORITIES.—Issues related to research and development, safety, education, and training shall be given priority by the Council in the development of programs and projects.

(i) ADMINISTRATION.—

(1) CHAIRMAN.—The Council shall select a Chairman from among the members of the Council.

(2) OFFICERS.—The Council shall select from among the members of the Council such officers as the Council considers necessary.

(3) COMMITTEES.—The Council may establish committees and subcommittees of the Council.

(4) RULES AND BYLAWS.—The Council shall adopt rules and bylaws for the conduct of business and the implementation of this Act.

(5) INDUSTRY COMMENT AND RECOMMENDATIONS.—The Council shall establish procedures for the solicitation of industry comment and recommendations on any significant plan, program, or project to be funded by the Council.

(6) ADVISORY COMMITTEES.—The Council may establish advisory committees of persons other than Council members.

(j) ADMINISTRATIVE EXPENSES.—

(1) LIMITATION ON EXPENSES.—The administrative expenses of operating the Council (not including costs incurred in the collection of the assessment under section 6) plus amounts paid under paragraph (2) shall not exceed 10 percent of the funds collected by the Council in any fiscal year.

(2) REIMBURSEMENT.—The Council shall annually reimburse the Secretary for costs incurred by the United States relating to the Council.

(3) LIMITATION ON REIMBURSEMENT.—A reimbursement under paragraph (2) for any fiscal year shall not exceed the amount that the Secretary determines is the average annual salary of employees of the Department of Energy.

(k) BUDGET.—

(1) REVIEW AND COMMENT.—Prior to August 1 of each year, the Council shall publish for public review and comment a budget plan for the next calendar year, including the probable costs of all programs, projects, and contracts and a recommended rate of assessment sufficient to cover the costs.

(2) SUBMISSION.—Following review and comment under paragraph (1), the Council shall submit the proposed budget to the Secretary and to Congress.

(3) RECOMMENDATIONS BY SECRETARY.—The Secretary may recommend any program or activity that the Secretary considers appropriate.

(l) RECORDS.—

(1) IN GENERAL.—The Council shall keep minutes, books, and records that clearly reflect all of the actions of the Council.

(2) PUBLIC AVAILABILITY.—The Council shall make the minutes, books, and records available to the public.

(3) AUDIT.—The Council shall have the books audited by a certified public accountant at least once each fiscal year and at such other times as the Council may determine.

(4) COPIES.—Copies of an audit under paragraph (3) shall be provided to all members of the Council, all qualified industry organizations, and any other member of the industry on request.

(5) NOTICE.—The Council shall provide the Secretary with notice of meetings.

(6) ADDITIONAL REPORTS.—The Secretary may require the Council to provide reports on the activities of the Council and on compliance, violations, and complaints regarding the implementation of this Act.

(m) PUBLIC ACCESS TO COUNCIL PROCEEDINGS.—

(1) IN GENERAL.—All meetings of the Council shall be open to the public.

(2) NOTICE.—The Council shall provide the public at least 30 days' notice of Council meetings.

(3) MINUTES.—The minutes of all meetings of the Council shall be made readily available to the public.

(n) ANNUAL REPORT.—

(1) IN GENERAL.—Each year the Council shall prepare and make publicly available a report that includes an identification and description of all programs and projects undertaken by the Council during the previous year and those planned for the upcoming year.

(2) RESOURCES.—The report shall detail the allocation and planned allocation of Council resources for each program and project.

SEC. 6. ASSESSMENTS.

(a) IN GENERAL.—The Council may levy an assessment on odorized propane in accordance with this section.

(b) AMOUNT.—

(1) INITIAL ASSESSMENT.—The Council shall set the initial assessment at no greater than ⅒ cent per gallon of odorized propane sold and placed into commerce.

(2) SUBSEQUENT ASSESSMENTS.—Subsequent to the initial assessment, annual assessments shall be sufficient to cover the costs of the plans and programs developed by the Council.

(3) ASSESSMENT MAXIMUM.—An assessment shall not be greater than ½ cent per gallon of odorized propane, unless approved by a majority of those voting in a referendum in the producer class and the retail marketer class.

(4) MAXIMUM INCREASE.—An assessment may not be raised by more than ⅒ cent per gallon of odorized propane annually.

(5) OWNERSHIP.—The owner of odorized propane at the time of odorization, or at the time of import of odorized propane, shall make the assessment based on the volume of odorized propane sold and placed into commerce.

(6) DUE DATE.—Assessments shall be payable to the Council on a monthly basis not later than the 25th of the month following the month of in which the assessment is made.

(7) EXPORTED PROPANE.—Propane exported from the United States is not subject to the assessment.

(8) LATE FEE.—The Council may establish a late payment charge and rate of interest to be imposed on a person that fails to remit or pay to the Council any amount due under this Act.

(c) ALTERNATIVE COLLECTION RULES.—The Council may establish an alternative means of collecting the assessment if the Council determines that the alternative means is more efficient and effective.

(d) INVESTMENT OF FUNDS.—Pending disbursement pursuant to a program, plan, or project, the Council may invest funds collected through assessments, and any other funds received by the Council, only in—

(1) obligations of the United States or an agency of the United States;

(2) general obligations of a State or political subdivision of a State;

(3) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(4) obligations fully guaranteed as to principal and interest by the United States.

(e) STATE PROGRAMS.—

(1) IN GENERAL.—The Council shall establish a program coordinating the operation of the Council with the programs of any State propane education and research council created by State law, or any similar entity.

(2) COORDINATION.—The coordination shall include a joint or coordinated assessment collection process, a reduced assessment, or an assessment rebate.

(3) REDUCED ASSESSMENT OR REBATE.—A reduced assessment or rebate shall be 20 percent of the regular assessment collected in a State under this section.

(4) PAYMENT OF ASSESSMENT REBATES.—An assessment rebate may be paid only to—

(A) a State propane education and research council created by State law or regulation that meets requirements established by the Council for specific programs approved by the Council; or

(B) a similar entity, such as a foundation established by the retail propane gas industry in a State that meets requirements established by the Council for specific programs approved by the Council.

SEC. 7. COMPLIANCE.

(a) IN GENERAL.—The Council may bring a civil action in a United States district court to compel compliance with an assessment levied by the Council under this Act.

(b) COSTS.—A successful action for compliance under this section may require payment by the defendant of the costs incurred by the Council in bringing the compliance action.

SEC. 8. LOBBYING RESTRICTIONS.

No funds collected by the Council shall be used in any manner to influence legislation or an election, but the Council may recommend to the Secretary changes in this Act or other statutes that would further the purposes of this Act.

SEC. 9. MARKET SURVEY AND CONSUMER PROTECTION.

(a) PRICE ANALYSIS.—

(1) IN GENERAL.—Not later than 2 years after establishment of the Council and annually thereafter, the Secretary of Commerce,

VOL
142
PT
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MR
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using only data provided by the Energy Information Administration and other public sources, shall prepare and make available to the Council, the Secretary, and the public an analysis of changes in the price of propane relative to other energy sources.

(2) METHODOLOGY.—

(A) IN GENERAL.—The propane price analysis shall compare indexed changes in the price of consumer grade propane to a composite of indexed changes in the price of residential electricity, residential natural gas, and refiner price to end-users of number 2 fuel oil on an annual national average basis.

(B) ROLLING AVERAGE PRICE.—For purposes of indexing changes in consumer grade propane, residential electricity, residential natural gas, and end-user number 2 fuel oil prices, the Secretary of Commerce shall use a 5-year rolling average price beginning with the year 4 years prior to the establishment of the Council.

(b) AUTHORITY TO RESTRICT ACTIVITIES.—

(1) IN GENERAL.—If in any year the 5-year average rolling price index of consumer grade propane exceeds the 5-year rolling average price composite index of residential electricity, residential natural gas, and refiner price to end-users of number 2 fuel oil in an amount greater than 10.1 percent, the activities of the Council shall be restricted to research and development, training, and safety matters.

(2) NOTIFICATION.—The Council shall inform Congress and the Secretary of Energy of any restriction of activities under this subsection.

(3) REANALYSIS.—On the expiration of each 180-day period beginning on the date on which activities are restricted under paragraph (1), the Secretary of Commerce shall conduct a new propane price analysis described in subsection (a).

(4) END OF RESTRICTION.—Activities of the Council shall continue to be restricted under this subsection until the percentage described in paragraph (1) is 10.1 percent or less.

SEC. 10. PRICING.

Notwithstanding any other provision of this Act, the price of propane shall be determined by market forces. The Council shall take no action, and no provision of this Act shall establish an agreement to, pass along to consumers the cost of the assessment provided for in section 6.

SEC. 11. RELATION TO OTHER PROGRAMS.

Nothing in this Act shall preempt or supersede any other program relating to propane education and research organized and operated under the laws of the United States or any State.

SEC. 12. REPORTS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and not less than once every 2 years thereafter, the Secretary of Commerce shall prepare and submit to Congress and the Secretary a report examining whether operation of the Council, in conjunction with the cumulative effects of market changes and Federal programs, has had an effect on propane consumers, including residential, agriculture, process, and nonfuel users of propane.

(b) CONSIDERATION BY THE SECRETARY OF COMMERCE.—The Secretary of Commerce shall—

(1) consider and, to the extent practicable, include in the report submissions by propane consumers;

(2) consider whether there have been long-term and short-term effects on propane prices as a result of Council activities and Federal programs; and

(3) consider whether there have been changes in the proportion of propane demand attributable to various market segments.

(c) RECOMMENDATIONS.—To the extent that the report demonstrates that there has been an adverse effect on propane prices, the Secretary of Commerce shall include recommendations for reversing or mitigating the effect.

(d) FREQUENT REPORTS.—On petition by an affected party or on request by the Secretary of Energy, the Secretary of Commerce may prepare and submit the report required by this section at less than 2-year intervals.●

By Mr. PRESSLER (for himself, Mr. CRAIG, Mr. LOTT, Mr. BENNETT, Mr. SIMPSON, Mr. STEVENS, Mr. MURKOWSKI, Mr. INHOFE, Mr. KYL, and Mr. THOMAS):

S. 1647. A bill to amend the Federal Land Policy and Management Act of 1976 to provide that forest management activities shall be subject to initial judicial review only in the United States district court for the district in which the affected land is located, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL LAND AND POLICY MANAGEMENT ACT OF 1976 AMENDMENT ACT OF 1996

Mr. PRESSLER. Mr. President, today I am introducing legislation to bring some common sense to the judicial review of land management activities. In 1995, every single proposed timber sale in the Black Hills National Forest was challenged by extreme environmental groups. Was this necessary? No. My legislation would prevent environmental activists from "court shopping" when they challenge Federal timber sales and other land management activities. Is this necessary? Yes.

The Black Hills National Forest in western South Dakota, famous for its enormous stands of ponderosa pine, is an essential part of South Dakota's economy. The Black Hills forest products industry includes 18 sawmills and 12 secondary manufacturers producing a full spectrum of lumber products, from housing quality lumber to particleboard and wood pellets. The list is endless. The industry sustains nearly 2,000 jobs. Preserving these South Dakota jobs and the future health of the forest requires careful management—both by the Forest Service and by the timber industry.

Mayor Drue Vitter, of Hill City, SD, said it best:

> Good management of the forest by the Forest Service helps sustain a good cut for the timber industry. If we groom the forest well and keep it healthy, then we will have a healthy economy.

Mr. President, the very first Federal timber sale in the Nation took place in the Black Hills near Nemo, SD, in 1899. That same area has been harvested twice since then. Today, a new generation of healthy ponderosa pine stands tall and strong—a testament to the proper stewardship of our national forests.

Recently, however, proper forest management has been hindered by lengthy court challenges of Forest Service timber sales. Environmental extremists challenge almost every proposed Federal timber sale—not just in South Dakota but across the country.

In the past 10 years, the number of Federal timber sales has decreased dramatically. In 1990, the Forest Service issued nine timber sale decisions in the Black Hills National Forest. In 1994, the Forest Service issued only four timber sale decisions on the Black Hills.

Why the decline? Mainly it is due to the never-ending court challenges. These reductions threaten the health of the forest, cause sawmills to go out of business, and cause loggers and other workers to lose their jobs. This is bad for the forests. This is worse for South Dakotans.

Angie Many, founder of the Black Hills Women in Timber organization, described the situation in a poignant letter to the editor of the Rapid City Journal newspaper. "When less timber is harvested, the dangers of losing major portions of the Black Hills National Forest to wildlife or insect infestations are increased . . . local mills shut down or decrease shifts, disemploying real people with effects that trickle down to many other businesses . . . families like mine are torn apart as loggers and mill workers travel to other areas to find work . . ." Sadly, Angie's description is accurate.

Often, when environmental extremists contest a Federal timber sale, they shop around for courts that will be most sympathetic to their environmental concerns and where they can get the longest delays. They seek court action in metropolitan areas—courts that frequently are busier and tend to be more liberal. Is this fair to loggers? Of course not.

Court-shopping is a sad fact of life right now in South Dakota. Here's an example: Two years ago, the Forest Service prepared the so-called Needles timber sale—a sale 6.77 million board feet in the Norbeck Wildlife Reserve. The Needles sale was aimed at thinning the stands of ponderosa pine which had become so dense from lack of management that wildlife no longer could survive there.

This presented the Forest Service with an opportunity—an opportunity to achieve a balanced approach to forest management. By thinning the forest, the Forest Service intends to create new habitat areas that would encourage the return of wildlife to the area. That's good sense—a plan that would result in both economic and environmental benefits.

The Needles sale also was needed to ensure the long-term health of the forest within the Norbeck Wildlife Preserve. The Preserve is deteriorating rapidly and poses a severe fire risk. A fire in this area would be devastating. It could destroy the forest and could cause permanent damage to the faces of the Mount Rushmore National Monument which lies within the Norbeck Wildlife Preserve. The Needles timber sale would reduce drastically the risk of fire and insect destruction.

Like almost every Federal timber sale in the Black Hills, the Needles timber sale was challenged almost immediately by a coalition of environmental extremists. For the past 2 years, this case has been pending in the Denver court system—with no hope of receiving any further attention. This just is not right.

As many of my colleagues know, the Denver court system is currently one of the busiest in the Nation. The Needles timber sale is not a high priority for this court, particularly now that the Oklahoma bombing trial has been moved to Denver. But, this is what environmental extremists want. They wanted a delay. They got a delay. My bill would put an end to that.

My legislation would require that Federal land management activities—including timber sales—be subject to initial judicial review only in the U.S. District Court in which the affected Federal lands are located. Under my bill, the Needles timber sale could have been heard in South Dakota—where there is no caseload logjam, so to speak.

That means no more court shopping. No more court backlog. No unnecessary delays. No lost timber revenue. And most important, no lost jobs. A court in South Dakota will understand the needs of South Dakota's forest and rangelands better than a remote big city, Federal court with a clear liberal bias.

Maurice Williams, the General Manager of Continental Lumber in Hill City, SD, agrees that South Dakotans are best equipped to determine how to manage the Black Hills:

> The proof is on the ground. The Black Hills National Forest represents more than a hundred years of solid management. A judge who never has seen the Black Hills just isn't qualified to decide how the forest should or should not be managed.

Mr. President, I agree with Maurice. I believe it is time to give States and conscientious timber harvesters the home court advantage. Already this legislation has been cosponsored by several of my colleagues, including Senators CRAIG, LOTT, BENNETT, SIMPSON, STEVENS, MURKOWSKI, INHOFE, KYL and THOMAS. I ask unanimous consent that a letter of support from the Black Hills Forest Resource Association be printed in the RECORD. I hope all my colleagues will take a close look at this bill and support its eventual passage.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JUDICIAL REVIEW OF FOREST MANAGEMENT ACTIVITIES.

(a) IN GENERAL.—Title VII of the Federal Land Policy and Management Act of 1976 (Public Law 94–579; 43 U.S.C. 1701 et seq.) is amended—

(1) in the title heading, by adding: "; JUDICIAL REVIEW" at the end; and

(2) by adding at the end the following:

"SEC. 708. JUDICIAL REVIEW OF FOREST MANAGEMENT ACTIVITIES.

"(a) DEFINITION OF FOREST MANAGEMENT ACTIVITY.—In this section, the term 'forest management activity' means a sale of timber, the issuance of a grazing permit or grazing lease, or any other activity authorized under a land use plan under this Act or a land or resource management plan under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) to be carried out on Federal land.

"(b) JUDICIAL REVIEW.—A forest management activity and land use plan under this Act or a land or resource management plan under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) (including an amendment to or revision of a plan) shall be subject to initial judicial review only in the United States district court for the district in which the affected land is located.".

(b) CONFORMING AMENDMENT.—The table of contents of the Federal Land Policy and Management Act of 1976 (43 U.S.C. prec. 1701) is amended—

(1) in the heading relating to title VII, by adding "; JUDICIAL REVIEW" at the end; and

(2) by adding at the end the following:

"Sec. 708. Judicial review of forest management activities.".

BLACK HILLS FOREST
RESOURCE ASSOCIATION,
Rapid City, SD, March 14, 1996.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: We have reviewed your draft legislation requiring that lawsuits involving forest management activities be filed in the United States district court in which the national forest is located.

We strongly support this legislation. Too often plaintiffs have "shopped" for courts that are backlogged or for the judges most inclined to offer favorable judgments. In our view, the public's interest is best served by keeping trials as local as possible to facilitate appearances by witnesses, other participants, and observers, as well as providing the best opportunity for local citizens to be fully informed.

Clearly, local decisions should be made locally, and the public's interest is not well served by allowing cases to be heard in far away courts with only a tangential stake in the outcome.

Thank you for your leadership on this issue.

TOM TROXEL,
Director.

Mr. LOTT. Mr. President, it gives me great pleasure to join Senator PRESSLER, my friend and colleague, as one of the original cosponsors for his timber sale proposal. This responsible legislative solution would cut court cost and remove delays which plague legitimate efforts to harvest timber from Federal lands.

Those who oppose any and all timber activities go to great lengths to obstruct the process. Frequently, they shop around for a court which supports their agenda. This usually creates a situation where the court making the ruling has neither a geographical connection nor a genuine first-hand understanding of the case and its consequences. Does this make judicial sense to any of my Senate colleagues?

Senator PRESSLER'S proposal is direct and straightforward. It simply requires that the court which conducts the judicial review and renders the decision must include the land in question within its district. Why is a Denver court more qualified to review a Black Hills timber sales than one in South Dakota? Common sense says the opposite would be true.

Senator PRESSLER'S approach will not prevent groups from challenging the timber sales on Federal lands. This proposal will not roll back any environmental statutes. To the contrary, it actually means the judicial decisions will be made more promptly. Why would any of these groups not want their court challenges acted upon promptly?

Senator PRESSLER'S plan also would cover other public policy issues like grazing permits and resource management plans. It makes sense that these judicial decisions, like timber sales, are made by those who will be directly affected, and who have the most knowledge of the situations.

Senator PRESSLER'S approach can be characterized as a focused and precise fix to the underlying statues. It is in keeping with the administration's "rifle-shot" procedure. The fundamental law is left in place and mere fine tuning occurs.

I ask all of my colleagues to give serious examination to this legislative proposal. It has merit and deserves both your support and your cosponsorship.

ADDITIONAL COSPONSORS

S. 287

At the request of Mrs. HUTCHISON, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 287, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 953

At the request of Mr. CHAFEE, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 953, a bill to require the Secretary of

VOL 142 PT 5 MR 21 — 29 1996 UMI

the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 969

At the request of Mr. BRADLEY, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1039

At the request of Mr. ABRAHAM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1039, a bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 1183, a bill to amend the act of March 3, 1931—known as the Davis-Bacon Act, to revise the standards for coverage under the act, and for other purposes.

S. 1189

At the request of Mr. DEWINE, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

S. 1245

At the request of Mr. ASHCROFT, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1245, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to identify violent and hardcore juvenile offenders and treat them as adults, and for other purposes.

S. 1397

At the request of Mr. KYL, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1397, a bill to provide for State control over fair housing matters, and for other purposes.

S. 1512

At the request of Mr. LUGAR, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1512, a bill to amend title 23, United States Code, to improve safety at public railway-highway crossings, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. HELMS, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1613

At the request of Mr. COCHRAN, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 1613, a bill to amend the National School Lunch Act to provide greater flexibility to schools to meet the Dietary Guidelines for Americans under the school lunch and school breakfast programs, and for other purposes.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the names of the Senator from Minnesota [Mr. GRAMS] and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 152

At the request of Mr. ABRAHAM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Resolution 152, a resolution to amend the Standing Rules of the Senate to require a clause in each bill and resolution to specify the constitutional authority of the Congress for enactment, and for other purposes.

SENATE CONCURRENT RESOLUTION 49—RELATIVE TO THE BILL (H.R. 2854) TO MODIFY THE OPERATION OF CERTAIN AGRICULTURE PROGRAMS

Mr. LUGAR submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs, shall make the following corrections:

In section 215—

(1) in paragraph (1), insert "and" at the end;

(2) in paragraph (2), strike "; and" at the end and insert a period; and

(3) strike paragraph (3).

SENATE RESOLUTION 233—RELATIVE TO THE 1999 WOMEN'S WORLD CUP TOURNAMENT

Ms. SNOWE submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 233

Whereas soccer is one of the world's most popular sports;

Whereas the Women's World Cup tournament is the single most important women's soccer event;

Whereas the 1995 Women's World Cup tournament was broadcast to millions of fans in 67 nations;

Whereas the United States Soccer Federation is attempting to bring the 1999 Women's World Cup tournament to the United States;

Whereas the United States is capable of meeting all of the requirements of a host country, including financing, transportation, security, communication, and physical accommodations;

Whereas the United States successfully hosted the 1994 Men's World Cup tournament in nine cities throughout the Nation; and

Whereas the 1999 Women's World Cup tournament will contribute to national and international goodwill because the tournament will bring people from many nations together in friendly competition; Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and supports the efforts of the United States Soccer Federation to bring the 1999 Women's World Cup tournament to the United States; and

(2) requests that the President of the United States designate appropriate Federal agencies to work with the United States Soccer Federation to meet the Federation Internationale de Football Association's requirements for the 1999 Women's World Cup tournament host country.

Ms. SNOWE. Mr. President, I rise today to submit a resolution supporting the efforts of the U.S. Soccer Federation to bring the 1999 Women's World Cup tournament to the United States.

Soccer is one of the world's most beloved sports, and its popularity in the United States has grown rapidly over the past 20 years. The Women's World Cup tournament, held every 4 years, is the single most important women's soccer event; the 1995 Women's World Cup was broadcast to millions of fans in 67 nations. Hosting this event will contribute to international goodwill and be a clear signal that America is serious about encouraging female participation in sports. Indeed, this tournament would serve as a showcase of the best female soccer athletes in the world, and something to which girls and young women could aspire.

Already, girls' soccer has experienced an explosion in popularity. On the high school level, it is reported that 41,119 girls played soccer in 1980, while 191,350 played in the 1994–95 school year. That's a remarkable increase of over 400 percent.

This increase is reflected on the collegiate level as well. In 1981, 77 schools sponsored women's soccer. By 1995, that number had swelled to 617. And a recent national survey indicates that of all the Americans who played soccer at least once during 1994, 39 percent percent were women.

These are very encouraging numbers. They demonstrate that soccer is a very appealing sport to women, and they demonstrate that soccer is an excellent way to get girls and women excited about participating in sports.

We all know that sports are just as important an activity for girls and women as they are for boys and men. Through sports, girls and women can get a feel for the positive competitive spirit which was, until recently, almost exclusively the property of boys and men.

Women and girls who participate in sports develop self-confidence, dedication, a sense of team spirit, and an ability to work under pressure—traits which enhance all aspects of their lives. In fact, 80 percent of women identified as key leaders in Fortune 500 companies have sports backgrounds.

Having the United States host the Women's World Cup in 1999 would be an inspirational way to highlight the excitement of participation in sports, and the heights of greatness which women can reach in athletics. Indeed, it would give Americans the chance to see their own outstanding female soccer players in action. The U.S. National Team won the inaugural title in 1991, and finished third in last year's event before sold out crowds.

The success of the 1994 Men's World Cup Soccer tournament in the United States showed the world that we were ready to be the center of the soccer universe. Indeed, I think we all felt justifiable pride in providing the world with excellent venues as well as first-class transportation, security, communication, and accommodations.

In order for the U.S. Soccer Federation to submit a formal bid to the Federation Internationale de Football Association [FIFA] to host the Women's World Cup, it must show Government backing. In 1987, a similar resolution was agreed to demonstrate support for the U.S. bid to host the 1994 Men's World Cup. By agreeing to this resolution, we will officially recognize their efforts and request that the President of the United States designate appropriate Federal agencies to work with the U.S. Soccer Federation to meet FIFA's requirements for the 1999 tournament's host country.

I hope my colleagues will join me in supporting this worthwhile effort.

SENATE RESOLUTION 234—RELATIVE TO THE DEATH OF EDMUND S. MUSKIE

Mr. DASCHLE (for himself, Mr. DOLE, Mr. COHEN, and Ms. SNOWE) submitted the following resolution; which was considered and agreed to:

S. RES. 234

Whereas, the Senate fondly remembers former Secretary of State, former Governor of Maine, and former Senator from Maine, Edmund S. Muskie,

Whereas, Edmund S. Muskie spent six years in the Maine House of Representatives, becoming minority leader,

Whereas, in 1954, voters made Edmund S. Muskie the State's first Democratic Governor in 20 years,

Whereas, after a second two-year term, he went on in 1958 to become the first popularly elected Democratic Senator in Maine's history,

Whereas, Edmund S. Muskie in 1968, was chosen as Democratic Vice-Presidential nominee,

Whereas, Edmund S. Muskie left the Senate to become President Carter's Secretary of State,

Whereas, Edmund S. Muskie served with honor and distinction in each of these capacities: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Edmund S. Muskie, formerly a Senator from the State of Maine.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Senator.

SENATE RESOLUTION 235—TO PROCLAIM "NATIONAL ROLLER COASTER WEEK"

Mr. THURMOND submitted the following resolution; which was considered and agreed to:

S. RES. 235

Whereas, the roller coaster is a unique form of fun, enjoyed by millions of Americans, as well as people all over the world;

Whereas, roller coasters have been providing fun since the 15th century;

Whereas, in 1885, an American named Phillip Hinckle invented a steam-powered chain lift to hoist coasters to new heights and new down-hill speeds;

Whereas, advances in technology and a renewed interest in leisure and recreation have meant a resurgence for roller coasters;

Whereas, engineers working with computers have been able to create the safest, most thrilling rides ever;

Whereas, there are an estimated 500 roller coasters worldwide, and more than fifty new projects underway in 1996;

Whereas, the world's oldest existing roller coaster, Leap-The-Dips, is located at Lakemont Park in Altoona, Pennsylvania, and is currently being restored;

Whereas, That the Senate proclaims the week of June 16 through June 22, 1996, as "National Roller Coaster Week".

AMENDMENTS SUBMITTED

THE PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1996

MCCAIN AMENDMENT NO. 3655

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer; as follows:

At the appropriate place in the amendment insert the following:

"Notwithstanding any other provision contained in any other Act, nothing in this act authorizing or requiring the Secretary of the Interior or the Secretary of Agriculture to acquire land shall be construed to take precedence or assume a higher priority over any other acquisitions undertaken by either the Secretary of the Interior or the Secretary of Agriculture."

THOMAS AMENDMENT NO. 3656

(Ordered to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to an amendment submitted by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

On page 2, strike lines 20 through 23 and insert the following:

(2) ACCESS BY INSTITUTIONS OF HIGHER EDUCATION.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institution of higher education.

(3) REVERSION.—If the property is used for a purpose not described in paragraph (1) or (2), all right, title, and interest in and to the property shall revert to the United States.

HATCH AMENDMENT NO. 3657

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3605 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

On page 150, line 6, strike "necessary or" and insert "necessary and".

HATCH AMENDMENT NO. 3658

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3583 submitted by Mr. BUMPERS to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(A) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(B) RELEASE.—Except as provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

(C) CONTINUING WILDERNESS STUDY AREAS STATUS.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to sections 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782 (c)):

VOL 142 PT 5 MR 21 — 29 1996 UMI

(1) Bull Canyon; UT00800419/COoolooool.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West; UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon; UT00600229/CO00300265.

(4) Cross Canyon; UT00600229/CO00300265.

HATCH AMENDMENT NO. 3659

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3587 submitted by Mr. FEINGOLD to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(A) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(B) RELEASE.—Except as provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

(C) CONTINUING WILDERNESS STUDY AREAS STATUS.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to sections 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782 (c)):

(1) Bull Canyon; UT00800419/COoolooool.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West; UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon; UT00600229/CO00300265.

(4) Cross Canyon; UT00600229/CO00300265.

HATCH AMENDMENT NO. 3660

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3647 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(A) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(B) RELEASE.—Except a provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (47 U.S.C. 1783(c)). Such land shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

(C) CONTINUING WILDERNESS STUDY AREAS STATUS.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to sections 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)):

(1) Bull Canyon: UT00800419/CO00100001.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West: UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon: UT00600229/CO00300265.

(4) Cross Canyon: UT00600229/CO00300265.

HATCH AMENDMENT NO. 3661

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3580 submitted by Mr. BUMPERS to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(A) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(B) RELEASE.—Except a provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (47 U.S.C. 1783(c)). Such land shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

HATCH AMENDMENT NO. 3662

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3591 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(a) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(b) RELEASE.—Except as provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

HATCH AMENDMENT NO. 3663

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3582 submitted by Mr. BUMPERS to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

On page 152, line 12, strike "Title," and insert the following thereafter: "title, so long as such activities have no increased significant adverse impacts on the resources and values of the wilderness areas than existed as of the date of the enactment of this title."

HATCH AMENDMENT NO. 3664

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3611 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

"(3) *Provisions relating to Federal lands.*—(A) The enactment of this Act shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

"(B) The transfer of lands and related activities required of the Secretary under this section shall not require an Environmental Impact Statement, and the Secretary shall not prepare such statement for the purposes of subsection 102(2)(c) of the National Environmental Policy Act of 1969.

"(C) The value of Federal lands transferred to the".

THE LEGISLATIVE LINE-ITEM VETO ACT OF 1996

BYRD AMENDMENT NO. 3665

Mr. BYRD proposed an amendment to the motion to recommit the conference report on the bill (S. 4) to grant the power of the President to reduce budget authority; as follows:

In lieu of the instructions insert the following: "with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) EFFECTIVE PERIOD.—The amendments made by this Act shall—

(1) take effect on the date that is 1 day after the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.".

BYRD AMENDMENT NO. 3666

Mr. BYRD proposed an amendment to amendment No. 3665 proposed by him to the motion to recommit the conference report on the bill S. 4, supra; as follows:

Strike all after the first word in the substitute amendment and insert the following: "instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) EFFECTIVE PERIOD.—The amendments made by this Act shall—

(1) take effect on the date that is 2 days after the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that Acquisition and Technology Subcommittee of the Committee on Armed Services be authorized to meet at 10:00 a.m. on Wednesday, March 27 in open session, to receive testimony on proliferation of weapons of mass destruction and the impact of export controls on national security in review of the defense authorization request for the fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, to conduct a mark-up of the following nominees: the Honorable Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System; The Honorable Alice Rivlin, of Pennsylvania, to be a Governor and serve as Vice Chairman of the Board of Governors of the Federal Reserve System; Laurence Meyer, of Missouri, to be a Governor of the Board of Governors of the Federal Reserve System; Stuart E. Eizenstat, of Maryland, to be under Secretary of Commerce for International Trade; and Gaston L. Gianni, Jr., of Virginia, to be Inspector General, Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session on the Senate on Wednesday, March 27, 1996, to conduct a mark-up of pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Wednesday, March 27, 1996 session of the Senate for the purpose of conducting a hearing on Spectrum Use and Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, March 27, 1996, for purposes of conducting a Full Committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 1605, a bill to amend and extend certain authorities in the Energy Policy and Conservation Act which either have expired or will expire on June 30, 1996, and S. 186, the Emergency Petroleum Supply Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DOLE. Mr. President, I ask unanimous consent that the full Committee

VOL
142
PT
5
MR
21
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29
1996
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on Environment and Public Works be granted permission to conduct a hearing Wednesday, March 27, at 9 a.m., Hearing Room (SD–406), on possible Federal legislative reforms to improve prevention of, and response to, oil spills in light of the recent North Cape spill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 10 a.m., to hold a business meeting to vote on pending items.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, March 27, 1995, at 2 p.m., to hold a hearing on judicial nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOLE. I ask unanimous consent that the Committee on Labor and Human Resources be authorized to hold a meeting during the session of the Senate on Wednesday, March 27, 1996, at 9 a.m. The committee will be in executive session on S. 1477, the Food and Drug Administration Performance and Accountability Act and the Older Americans Act Reauthorization, an original bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 9:30 a.m., to hold a hearing on campaign finance reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 9:30 a.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 2 p.m. in SH–219 to hold a closed briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, to hold hearings on the Global Proliferation of Weapons of Mass Destruction, Part II.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet on Wednesday, March 27, 1996, at 1:30 p.m., in open session, to receive testimony on the Department of the Navy's submarine development and procurement programs in review of the Defense authorization request for fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRUE COMMUNITY SPIRIT

• Mr. HOLLINGS. Mr. President, I would like to take a moment to acknowledge the passing of a truly admirable woman, Laura Toliver Jefferson, known affectionately and respectfully as Mother Jefferson. She was a tireless advocate for her community as well as a source of inspiration to those who knew her. Mrs. Jefferson will be remembered by all as the woman who fought over the course of nearly 30 years to get public sewer service for her community of Arthurtown, Little Camden, and Taylors. This was the area of South Carolina in which she was born, raised 10 children, and where she died at the age of 93. She will be greatly missed.

Mother Jefferson came to my attention when she was lobbying for a sewage system to be built in her community. To say that this development was long overdue would be an understatement. We tried several different avenues year after year, but the funding kept getting denied or held up. Over the many years, the citizens of Arthurtown, Little Camden, and Taylors found themselves caught in a complicated and often frustrating bureaucratic process. Where another person might be enraged by the redtape, Mrs. Jefferson remained undaunted, focused, and incredibly polite. Without ever complaining, she voiced the concerns of herself and her community. A local newspaper, the State, captured her humility and humor in an interview in 1985, "It ain't no disgrace to be poor. It's just inconvenient."

After nearly three decades of fighting, the community finally received $3.9 million in Federal and State grants, and the construction began. On July 12, 1995, the people of Little Camden, Arthurtown, and Taylors got a sewage system. They also got the opportunity to thank Mother Jefferson, in the form of a celebration at her house. As the crowd squeezed into her bathroom to share the communities' very first toilet flush, She said "I'm so grateful that I'm lost for words."

Mother Jefferson was one of the more articulate, gracious, determined people I have met. She was a truly good woman who participated in community affairs and made an enormous difference in people's lives. Her involvement and her spirit serve as a lasting lesson to us all. When writers or politicians talk about what makes America great, they are talking about people like Mother Jefferson. I send my sincere condolences to her family and friends. Like them, I will not forget her.•

BUDGET CUTS AND EDUCATION

Mr. SIMON. On March 12 the Senate voted to restore $2.6 billion in Federal funding for education. While this would still leave Federal support for education below 1995 levels, I was pleased to see the Senate take bipartisan action to at least partially reverse what was clearly an unwise decision. Senator HARKIN, Senator SPECTER, and the other Senators who have shown strong leadership on this issue deserve a great deal of credit for their efforts.

Recently, the Chicago Tribune published an article on the effect that Federal education cuts would have for the State of Illinois and the city of Chicago. The article gave a compelling account of what such cuts would mean for the millions of students. I strongly urge the Senate to maintain its position in conference to prevent the harmful impact that the House-proposed cuts would have on Illinois and on the Nation.

I ask that the Chicago Tribune article be printed in the RECORD.

The article follows:

[From the Chicago Tribune, Feb. 13, 1996]

U.S. BUDGET CUTS IMPACT CHICAGO SCHOOLS

(By Nathaniel Sheppard, Jr.)

Three years ago, at least two fights a day broke out at Ravenswood Elementary School in Chicago's rough and tumble Uptown community.

That number is down to about two per month, according to school officials, largely due to a Peer Leadership project that is part of a nationwide program known as Safe and Drug Free Schools and Communities.

Despite the program's success at Ravenswood and other city schools, it is at risk of becoming a casualty in the battle between Congress and President Clinton over the Federal budget.

It is one of several programs that could be crippled by cuts of $54 million in Illinois' share of Federal funds under the Title I program for the Nation's neediest children.

The cuts are incorporated in a temporary spending bill, known as a continuing resolution, that is keeping the government functioning during the budget crisis.

Under the stopgap measure, Federal funding for Title I programs in the State is cut from its $317.2 million level in the 1995 fiscal year to $263 million in fiscal 1996.

The cuts could lead to substantial layoffs of teachers—as many as 600 in Chicago alone, according to Department of Education estimates—and could hobble programs that have become the centerpiece of national and State efforts to make schools safe, drug-free and internationally competitive by the year 2000.

The 30-year-old Title I program is the largest run by the Department of Education.

It provides remedial aid to more than 50,000 under-performing students in public and private schools, including two-thirds of all elementary schools.

The program also funds salaries for thousands of teachers and aides.

Congress passed the temporary spending bill in December to keep agencies running after parts of the government were shut down twice last year in the budget dispute.

Clinton has agreed to Republican demands to balance the budget in 7 years using economic assumptions of the Congressional Budget Office. But Democrats and Republicans still disagree over how deep some budget cuts should be.

Republicans argue that Democrats exaggerate the harm the cuts will cause and say that in several areas, their reforms will lead to increased funding for education programs.

Nationwide, cuts in the Title I program total $1.1 billion or 17 percent over last year, under the current continuing resolution.

That reduces spending to $7 billion for individualized instruction, smaller classes, after-school study programs, computers, projects to encourage parental involvement in schools and other strategies some educators say are critical to meeting the federally mandated year 2000 goal.

"The cuts are a serious problem that threatens the safety and well-being of 40 million children and nearly every public school teacher, principal, and support staff member in America," said Secretary of Education Richard Riley.

Nationwide, safe and drug-free school and community programs would be slashed $107.8 million, Education Department officials say. That, they add, is enough to pay for 400,000 hand-held metal detectors, hire 3,300 security officers, keep 3,600 schools open for 3 hours of extra-curricular programs, hire 2,000 teachers for conflict-resolution courses and train 50,000 teachers and administrators in drug and violence prevention and education.

"For us, the impact will be devastating," said Patricia McPhearson, manager of the Safe and Drug Free Schools Program in Chicago. Its budget is cut 25 percent to $4.3 million in Chicago under the stopgap funding.

Statewide, cuts in the program total $4.7 million. Under even larger cuts proposed by House Republicans, the State would lose $10 million from the program.

Popular projects such as those at Sauganash and Ravenswood schools, and Amundsen High School could become skeletal programs, McPhearson said.

The program at Amundsen seeks to change the climate of community violence.•

NATIONAL DOMESTIC VIOLENCE HOTLINE

• Mr. WELLSTONE. Mr. President, 2 weeks ago I came to the floor to announce the realization of another component of our initiative to prevent violence against women—the national domestic violence hotline. At that time, I indicated that I would come to the floor every day for 2 weeks, whenever my colleagues would be kind enough to give me about 30 seconds of time, to read off the 800 number of the hotline.

The toll free number, 1–800–799–SAFE, will provide immediate crisis assistance, counseling, and local shelter referrals to women across the country, 24 hours a day. There is also a TDD number for the hearing impaired, 1–800–787–3224.

Mr. President, roughly 1 million women are victims of domestic violence each year and battering may be the single most common cause of injury to women—more common than auto accidents, muggings, or rapes by a stranger. According to the FBI, one out of every two women in America will be beaten at least once in the course of an intimate relationship. The FBI also speculates that battering is the most under-reported crime in the country. It is estimated that the new hotline will receive close to 10,000 calls a day.

I hope that the new national domestic violence hotline will help women and families find the support, assistance, and services they need to get out of homes where there is violence and abuse.

Mr. President, once again, the toll free number is 1–800–799–SAFE, and 1–800–787–3224, for the hearing impaired.•

OPERATION SAFE HAVEN AND THE ASSETS OF EUROPEAN JEWS IN SWISS BANKS

Mr. D'AMATO. Mr. President, I rise today to discuss an issue of great emotion and importance to Holocaust survivors and their families. The issue at hand is an inquiry into the return, by Swiss banks, of assets deposited by European Jews and others in the years preceding the Holocaust.

From the 1930's until the onset of the Holocaust, European Jews and others deposited funds and other assets in Swiss banks for safekeeping. In doing so, they were trying to avoid what some inevitably saw as the writing on the wall, namely the coming Nazi onslaught. Others did so, simply for business reasons. At the end of the war however, a great many Swiss banks denied holding these assets.

Throughout the intervening years, the victorious Allies made several requests of the Swiss Government for cooperation in finding these assets. Several organizations, in addition to the Allies made repeated and determined efforts to persuade the Swiss to examine their banks and to find these missing assets.

For the Swiss though, the matter was simple, they did all that they could to avoid any type of examination of their banking system, despite clear evidence of very deep cooperation with the Nazis. The Swiss hid behind their 1934 Bank Secrecy Act, claiming that they could not divulge the identity of their account holders. This is quite ironic in view of the fact that the 1934 Act was designed to protect the identity of the account holders from the Nazis. Now, they were using this same law to shield the assets from the survivors and the victims' rightful heirs.

Finally, in a series of agreements and treaties with the Allies following the war, Switzerland reluctantly agreed to search their banks' files for these assets. Finally, in 1962, the Swiss Bankers Association undertook a search through their records to find what assets, they denied holding in the first place. At the conclusion of this search, they found approximately 9 million Swiss francs, or some $2 million, belonging to 961 claimants. Nevertheless, some 7,000 claimants were turned down.

Numerous sources have questioned the validity of this search, but nothing was done beyond this until another search was performed in 1995. In this new search, according to the Swiss Bankers-Association, a total of 893 accounts, holding $32 million were found. These accounts were said to have been dormant for at least 10 years and were opened before 1945. These numbers have been criticized, by a variety of sources, as vastly too small.

It is in this vein, as Chairman of the Senate Banking Committee, I have begun an inquiry into this situation. The inquiry will examine the procedures by which Swiss banks calculated the amount of assets in their possession. In these post-war searches, in 1962–63, and most recently in 1995, the Swiss banks used different criteria to conduct their examinations. Therefore, the Banking Committee will evaluate how the banks searched their accounts, and what kind of accounts might have been missed. The Committee will try to discern if the searches were comprehensive enough to find all assets.

While in the early stages of the search, my staff has found declassified military intelligence documents that detail a variety of fascinating facts vital to this inquiry. In "Operation Safe Haven," a program of the Joint Treasury Department-Justice Department-State Department operation to locate and identify Nazi assets and looted assets in Europe, Military Intelligence officers filed a series of now-declassified reports on these topics. One such document, dated July 12, 1945, details a list of 182 separate bank accounts held by Societe General de Surveillance S.A. of Geneva. These holders of these bank accounts were from Romania, Hungary, Bulgaria, Croatia, Moravia, Slovakia, France, Holland, and Denmark.

This important document is vital to understanding the issue of Holocaust assets in Swiss banks. More importantly, we must compare it to the declarations of the Swiss that they had no

VOL 142 PT 5 MR 21 — 29 1996 UMI

real assets in their possession, and to later fulfillment of some claims made with them. To start, I would like to know if these accounts are among those found in the post-war, 1962, and 1995 searches, and if not, where is the money now?

At this time, Mr. President, I ask that the above mentioned document be printed in the RECORD at the conclusion of my remarks.

Mr. President, this document proves vital to countering the claim that there were no assets, or very little. With the help of the Congressional Research Service, I would like to list the amount of assets, held in the various currencies reported, converted into dollars at the 1945 rate. Additionally, I will list the value of those assets in 1995 dollars accounting for inflation, as well as what the accounts would hold today with 3 percent, 4 percent, and 5 percent interest respectively. The amounts are as follows:

Currency	1945 amount	1995 amount	1945+3%	+4%	+5%
Swiss Francs	$2,214,915	$18,738,181	$9,989,266	$16,390,371	$26,667,577
French Francs	4,925	41,665	22,261	36,396	59,297
Belgian Francs	713	6,034	3,223	5,269	8,585
British Sterling	71,488	604,790	323,126	528,296	860,716
Canadian Dollars	264	2,233	1,193	1,951	3,179
U.S. Dollars	119,020	1,006,915	537,970	879,557	1,433,009
Dutch Florin	227	1,923	1,026	1,678	2,733
Total	2,411,552	20,401,741	10,878,065	17,843,518	29,035,096

Mr. President, as you can see, these amounts are of an incredible magnitude. If they are accurate numbers, there is a real problem and the Swiss banks have a lot of questions to answer, and I plan to pose questions to them today. I plan on actively pursuing this matter until I achieve an authoritative, accurate and final accounting of all assets that numerous Swiss banks continue to hold from this time period and to which the survivors and rightful heirs are entitled.

The document follows:

[USG–SWI–105; Secret: No. 12100; Bern, Switzerland, Reference: SH No. 74, Date: July 12, 1945]

SAFEHAVEN REPORT

Subject: Supplementary Report on Funds Held for Others by Societe General do Surveillance S.A., Geneva.

Reference is made to SAFEHAVEN Report No. 4 of April 9, 1945. Attached hereto is a list of balances held by Societe General de Surveillance S.A., Geneva for nationals who are also residents of Rumania, Hungary, Bulgaria, Croatin, Moravia, Slovakia, France, Holland, and Denmark. It will be soon from the attached list that the balance hold for nationals who are also residents of the named countries total:

Swiss Francs	9,506,078.62
French Francs	250,000.00
Belgian Francs	31,282.08
Francs Gold (no further description)	182,100.00
British Sterling	17,739–4–17
Canadian Dollars	291.68
U.S. Dollars	119,020.64
Florin	599.22
Slovakia Cr.	5,162.60
Rumania Nom. Lei	1,400,000.00
Greek Drachmas	500,000.00
Kuna	10,069.00

And one safety deposit box for which no value can be attributed at this time.

The attached list represents certain amendments to the list appended to SAFEHAVEN Report No. 4 suggested by our informants, and also includes additional information in regard to other balances not heretofore reported. The attached list, which contains more detailed information relative to the property held than the earlier one, is said to be a complete list of all persons who are nationals and also residents of the countries named who have balances with S.G.S., except that for practical reasons later compilations omit balances below Swiss francs 10,000. Furthermore, it may be noted that we are advised that we now have a complete list of all accounts held by S.G.S. for all persons who are nationals and residents of countries which are of interest except Germany.

While we have been advised that S.G.S. holds no balances for persons in Germany, this statement has been questioned on the basis of an admission that advances were made to a German resident of Switzerland out of funds due Mr. Siepmann, the former Manager of the Hamburg Control Company which was formerly affiliated with S.G.S., and it is possible that an additional report will be submitted if additional information is obtained at a later date.

In SAFEHAVEN Report No. 4 it was stated that:

". . . It is reliably reported that since 1941 S.G.S. also has acted in a banking or fiduciary capacity by holding funds representing profits realized by its Balkan customers on shipments of merchandise to neutrals and to enemy territory. The transactions which resulted in the accumulation of profits involved over invoicing consignees, shipment of the merchandise against payment in Switzerland in Swiss francs, and withholding by S.G.S. of the excess payments or balances . . .

"It is stated that the aforementioned funds and other property are beneficially owned principally by Jewish persons who are nationals of and residents of the abovementioned countries and who were endeavoring (1) to profit from black market operations in local currencies of the Balkan countries; (2) to move funds out of their home countries; or (3) to insure that the funds would be safe from confiscation by their local authorities".

During the present investigation, however, a question was raised as to whether or not the above statement also were true for balances held for persons who are nationals and also residents of France, Holland, and Denmark and in reply the following memorandum dated June 18, 1945 was received:

"The only countries for which we hold financial accounts are Romania and to a very limited extent Bulgaria. We have never transacted such business for people in other countries."

From the foregoing it would appear that our earlier remarks do not hold for nationals and residents of Hungary, Croatia, Moravia, Slovakia, France, Holland, and Denmark. This conclusion seems to be correct since at our request the Genova Consulate discussed the memorandum of June 18, 1945, further with the S.G.S. and on July 2, 1945 advised in part as follows:

The memorandum of June 18 from S.G.S. is correct. On the French list all but the last two entries have been held since before the war. The last two were acquired from a bank in free exchange for the account of the persons mentioned. The Hungarian gold (as also the French gold) was deposited with the S.G.S. without its having any knowledge as to how it had been acquired."

For your further information, we are advised by the Geneva Consulate in their letter of July 2, 1945, that all dollar balances are deposited in blocked accounts except one of $4200 held for Maurice Moiso Rothmann, Bucharest, which is in the form of currency.

With regard to the balances held in French francs, the following was reported in the Geneva Consulate's letter referred to above:

"There is only one case involving a balance in French bank notes (S.A.R. DE TRANSPORTURI EGER on the Rumanian list involving 250,000 French francs) and those were declared to the French Consulate here by the S.G.S.

"Holdings shown on the French list should supposedly be declared by the owners. S.G.S. has no obligation to declare anything in these cases. It is not known for sure, but the presumption is that the French owners have not made any declarations in order to avoid taxation."

This information is reported to Washington and London for whatever further action may be desired.

We should like to request again that this information be regarded as extremely confidential and be so handled that it will not be disclosed to Swiss or other sources. The request is for the protection of our informants who appear to have been very cooperative.

Enclosures: 3 Lists
850.3/711.2
DJR/KRH/EGR/eb

Original and hectograph to the Department

Two copies to American Embassy, London
One copy to American Embassy, Lisbon
One copy to American Embassy, Madrid
Two copies to British Legation, Bern.

Reproduced by London Office, US Group CC. 2 August 1945.

[Enclosure No. 1 to Despatch No. 12100 (SH No. 74), dated July 12, 1945, from the American Legation Bern.]

Roumanie	Currency	Soldes crediteurs
M. Adler, Bucharest	FrS	22,018.85
Mondy Agent, Bucarest	FrS	22,219.70
Agraproduct, Bucarest c/bloque (vente 432 T. pois par W. Kundig & Co. Zurich.	FrS	330,110.00
Agraproduct, Bucarest c/financier	FrS	493,095.67
Leo Alpern, Bucarest	FrS	14,123.00
Arion Samuel, Bucharest	FrS	20,703.90
Mihail Atias, Bucarest	FrS	5,000.00
Mme. Cocutza M. Bach, Bucarest	FrS	45,989.10
Leon Balian, Bucarest	S	1,591.75
Leon Balian, Bucarest	FrS	[1]400.55
Leon Balian, Constantza (actions Selecta SAR, Bucarest).	Nom.Loi	1,400,000.00
Balian & Co. S.A Bucarest	FrS	4,557.40
Balian & Co. S.A Bucarest	Fbg	31,282.08
Emil Neumann Bercovici, Braila	FrS	15,772.05
Kriker Bouhartzian, Bucarest	FrS	9,993.30
Alexandru P. Bratulescu, Bucarest	FrS	9,992.80
Serban Salviny Cappon, Bucarest	FrS	3,000.00
Jancu Chitzes, Bucarest	FrS	5,953.05
Jancu Chitzes, Bucarest	S	3,013.66
Ing. Andrei V. Chrissoghelos No. 567	FrS	54,850.50
Ing. Andrei V. Chrissoghelos No. 936	FrS	579,263.50
Companie Cific S.A Bucarest	FrS	36,780.53
H. Cohl, Bucarest	FrS	9,974.60
D. Constantinescu, Bucarest	FrS	7,500.00
D. Constantinescu, Bucarest c/Depot	Francs OR	3,800.00
Ernst Ozallek, Bucarest	S	205,312.25
Ernst Ozollek, Bucarest	FrS	1,270.36
Const. A. Dimitropol, Bucarest	FrS	8,100.00
Eug. Dornheim, Timiscara	FrS	35,000.00
"Ergede" Radu G. Dumitrescu, Bucarest	FrS	3,272.65
S.A.R. de Transporturi Eger, Bucarest	FrS	258,381.05
S.A.R. de Transporturi Eger, Bucarest c/bloque.	FrS	10,500.00
S.A.R. de Transporturi Eger, Bucarest (en billets de banque).	Ffrs	250,000.00
Adolph J. Ellenbogen, Bucarest	FrS	5,925.80
Externa. S.A., Bucarest	FrS	1,600.00
Constantin Feltoiano, Bucarest	FrS	523,919.14
Mme. Adela Feldman, Bucarest	FrS	25,000.00
Isaac Feldstein, Bucarest c/927	FrS	736,792.60
Isaac Feldstein, Bucarest c/bloque	S	19,444.38
Isaac Feldstein, Bucarest	S	130.00
Isaac Feldstein, Bucarest c/suspens	FrS	1,465.00
Isaac Feldstein, Bucarest	Francs OR	32,300.00
Jankel Jancu Feldstein, Bucarest c/926	FrS	67,000.00
Jankel Jancu Feldstein, Bucarest	Francs OR	20,000.00
A. Fischler, Bucarest	FrS	6,000.00
Mme. Flora Franco, Bucarest	FrS	25,971.05
Mois Aron Franco, Bucarest	FrS	25,000.00
S.A. Gattorno, Bucarest	FrS	2,106.25
D. Alexandru Cerendai, Bucarest	FrS	5,000.00
George Gigantes, Bucarest	S	2,000.00
D. Goldberg, Bucarest	S	9.16.10
Rose Gorcewicz, Bucarest	FrS	7,497.00
Heinrich Gruenberg, Bucarest	FrS	14,973.25
Baruch Halpern, Bucarest	FrS	269,036.90
Hanza Romana, Bucarest	FrS	340.21
Marou Harabaziu, Bucarest	FrS	20,000.00
Herscovici H. Leib	FrS	90,525.80
Herscovici Simon, Bucarest	FrS	30,310.00
Heinrich Hoffman, Bucarest	FrS	8,472.55
Intercontinentale A.G., Bucarest	FrS	133,864.00
Intercontinentale A.G., Bucarest c/Espagne	FrS	27,258.10
Intercontinentale A.G., Bucarest c/Suede	FrS	11,949.45
Avram Adolf Isvoranu, Bucarest	FrS	193.80
Avram Adolf Isvoranu, Bucarest c/special	S	5,000.00
Avram Adolf Isvoranu, Bucarest (c/billets de bloque).	L	7,170.00.00
Joan C. Kisielevschi, Bucarest	FrS	10,000.00
Dr. Arthur Kiro, Bucarest	FrS	1,855.70
Moreno Klarsfeld, Bucarest	FrS	24,916.35
Sache Klein, Bucarest	S	1,690.00
Lupu Levenschn, Galatz	S	243.4.3
Robert Levy, Bucarest	FrS	5,707.50
Mme Alexander Lichtinger, Bucarest	FrS	22,500.00
Lloyd International, Bucarest	S	7,521.51
Lloyd International, Bucarest	FrS	426.47
Erich M. Loewenthal, Bucarest	FrS	100,115.00
Jules Loventons, Bucarest	FrS	20,000.00
Leopold Lustig, Bucarest	FrS	39,698.95
Jerassim Marulis, Bucarest	FrS	20,000.00
Ing. Gregore Melinte, Bucarest	FrS	342,623.76
Ing. Gregore Melinte, Bucarest (1 safe loue).		
Sigmund Mendelsohn, Bucarest	S	2,000.00
Mihran O. Mesrobian, Bucarest	FrS	249,988.60
Lazar Munteanu, Bucarest	S	2,339.36
Oficiul National de Comert S.A.R., Bucarest c/bloque.	S	218.74
Oficiul National de Comert S.A.R., Bucarest.	FrS	11,568.55
Jose. M. Pincas, Bucarest	S	5,984.14
Jos M. Pincas, Bucarest	FrS	588.60
Heskia Presente, Bucarest	FrS	66,092.31
Heskia Presente, Bucarest	S	1,946.39
Heskia Presente, Bucarest (en especies)	FrS	8,727.00
Rachel Presente, Bucarest	FrS	761,582.55
Rachel Presente, Bucarest	S	8,315.72
Rachel Presente, Bucarest	Frances OR	126,000.00
Rachel Presente, Bucarest (en especies)	Drachmes	500,000.00
Rachel Presente, Bucarest (en especie)	FrS	8,336.73
Rachel Presente, Bucarest (en billets bloque).	L	10,000.00.00
M.A. Rand & Co. Bucarest	L	312.10.4
M.A. Rand & Co. Bucarest	S	8.77
Simon L. Ross, Bucarest	FrS	6,113.30
Maurice Moise Rothmann, Bucarest	FrS	6,445.90
Maurice Moise Rothmann, Bucarest (en billets bloque).	S	4,200.00
Maurice Moise Rothmann, Bucarest	FrS	4,775.00
Rothschild, Bucarest	FrS	82,384.35
David Sabetay, Bucarest	FrS	140,739.33
Salomon Schapira, Bucarest	FrS	39,950.00
Simex S.A.R., Bucarest c/M. Goldring	FrS	9,623.97
Simex S.A.R., Bucarest c/Froim Pricert	FrS	44,668.54
Simex S.A.R., Bucarest c/Fl. Abeles	FrS	14,407.45
Socerex S.A.R., Bucarest c/No. 1	FrS	485,817.88
Socerex S.A.R., Bucarest c/bloque garantie 10%.	FrS	97,000.00
Socerex S.A.R., Bucarest c/5% reserve	FrS	9,733.25
Socerex S.A.R., Bucarest c/affaires Suede	S	7,654.03
B. Taingiu, Bucarest	FrS	30,717.90
Translloyd Maison de Transport, Bucarest	FrS	984.40
J. Weintraub, Bucarest	FrS	1,629.70
Nikolaus Zeller, Bucarest	FrS	5,198.00

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[1] debit.

[Enclosure No. 2 to Despatch No. 12100 (SH No. 74) dated July 12, 1943, from the American: Legation, Earn.]

Hongree	Currency	Soldes crediteurs
Rosa Farkas, Budapest		9,900.00
Agai & London Budapest	FrS	899,980.40
Bolban Bartok, Budapest	FrS	5,000.00
Mue Rosa Budanovich, Budapest	FrS	3,995.00
Fleischor Sandor, Budapest	FrS	470.00
Emile Friedlander, Budapest	FrS	119,979.83
Gesellschaft fur Internationalon Handel & Kommis, Budapest.	FrS	17,966.09
Hormes A.G., Budapest	S	6,498.62
Intercontinentale A.G., Budapest 600 montant sorvire au paiomont de frot do 256 Tonnes a Buche.	FrS	66,371.24
Alexander Grauss, Budapest	S	119.70
Goza Guttamane, Szegod	S	1,449.55
Horvat Istvan, Budapest	S	1,140.65
B. Kraicz, Budapest	FrS	151,404.95
Fr. Laufer, Budapest	FrS	183,108.63
Dr. A. Miklos, Budapest:		
7,007 pieces d'or do FrS 20-a 30	FrS	210,210
2 pieces d'or do FrS 10-a 15	FrS	30
		210,240
Moins solde debiteur	FrS	175,331.90
		34,908.10
A Rosenbaum, Budapest	S	105.44
Zoltan Weiner, Budapest	FrS	10,000.00
Hermes Ungar, Allg. Wochselstubo A.G. Budapest.	S	6,493.62
Rosa Farkas, Budapest		9,900.00
Agai & London Budapest	FrS	899,980.40
Bolbaa Bartok, Budapest	FrS	5,000.00
Mue Rosa Budanovich, Budapest	FrS	3,995.00
Fleischor Sandor, Budapest	FrS	470.00
Emile Friedlander, Budapest	FrS	119,979.83
Gesellschaft fur Internationalon Handel & Kommis, Budapest.	FrS	17,966.09
Hormes A.G., Budapest	S	6,498.62
Intercontinentale A.G., Budapest 600 montant sorvire au paiomont de frot do 256 Tonnes a Buche.	FrS	66,371.24
Alexander Grauss, Budapest	S	119.70
Goza Guttamann, Szegod	S	1,449.55
Horvat Istvan, Budapest	S	1,140.65
B. Kraicz, Budapest	FrS	151,404.95
Fr. Laufer, Budapest	FrS	183,108.63
Dr. A. Miklos, Budapest:		
7,007 pieces d'or do FrS 20-a 30	FrS	210,210
2 pieces d'or do FrS 10-a 15	FrS	30
		210,240
Moins solde debiteur	FrS	175,331.90
		34,908.10
A Rosenbaum, Budapest	S	105.44
Zoltan Weiner, Budapest	FrS	10,000.00
Hermes Ungar, Allg. Wochselstubo A.G. Budapest.	S	6,493.62

[Enclosure No. 3 to Despatch No. 12100 (SH Report No. 74] dated July 12, 1945, from the American Legation.]

Claimant	Currency	Soldes crediteurs
BULGARIE		
Nissin Hasan, Sofia	FrS	23,774.30
B. Heilborn, Sofia	FrS	165,117.18
Sergey Kalendjieff, Sofia	FrS	68,684.35
Marco Markoff, Sofia	FrS	39,249.10
Joseff Bohor Yulzeri, Sofia	FrS	4,512.00
CROATIE		
A. Debenjiak, Zagreb	FrS	34,436.22
"Jadran" Int. Transp., Zagreb	FrS	14,958.62
"Jadran" Int. Transp., Zagreb	Kuna	10,069.00
Export Ste. Commle., Split	S	2,258.58
Export Ste. Commle, Split	FsS	360,565.00
MORAVIN		
Dr. Erwin Karpeles, Brno	FrS	5,930.70
SLOVAQUIE		
Richard/Julius Heimann	FrS	15,000.00
W. Markstein, Bratislava	Fl	599.22
W. Markstein, Bratislava	L	2,100.00
W. Markstein, Bratislava	S	4,539.32
W. Markstein, Bratislava	FrS	27,528.90
W. Markstein, Bratislava	Cr. Sl.	5,162.60
FRANCE		
Establissements Douillet & Fils, Domleger	$ USA	19,632.66
Establissements Douillet & Fils, Domleger	FrS	900.01
Alice Eisinger, Marseille	FrS	17,078.50
Alice Eisinger, Marseille	$ USA	1,365.15
Alice Eisinger, Marseille plus differents titres americains.	$ Can.	291.68
Eliane Eisinger, Marseille plus differents titres americains.	$ USA	1,083.54
H. Yalzan, Casablanca	FrS	84,648.65
Ph. de Tristan, Paris: Trustee pour Foreign Mortgage and Investment Co. Ld. St. Johns Nfnd.	FrS	60,950.10
HOLLANDE		
Amsterdamsche Goederen Bk. Amsterdam	FrS	14,090.40
M. H. Bregstein, Amsterdam	FrS	18,043.15
J. H. Meesmann, Amsterdam	FrS	55,578.30
Ed. Sylmans, Rotterdam	FrS	47,476.85
DANEMARK		
F. Boehn, Copenhague	FrS	43,538.70

UNANIMOUS-CONSENT REQUEST—S. 1618

Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 347, Senate bill 1618, a bill to provide uniform standards for the award of punitive damages for volunteer services.

Mr. EXON. Mr. President, on behalf of a Democratic Member, I object.

The PRESIDING OFFICER. Objection is heard.

AUTHORIZATION FOR THE 1996 SPECIAL OLYMPICS TORCH RELAY ON THE CAPITOL GROUNDS—HOUSE CONCURRENT RESOLUTION 146

AUTHORIZATION TO USE THE CAPITOL GROUNDS FOR THE ANNUAL NATIONAL PEACE OFFICERS' MEMORIAL SERVICE—HOUSE CONCURRENT RESOLUTION 147

Mr. LUGAR. Mr. President, I ask unanimous consent that it be in order for the Senate to proceed, en bloc, to the consideration of the following concurrent resolutions just received from the House: House Concurent Resolution 146 and House Concurrent Resolution 147.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolutions are agreed to, en bloc.

So the concurrent resolutions (H. Con. Res. 146 and 147) were agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote and to lay that on the table.

The motion to lay on the table was agreed to.

NATIONAL ROLLER COASTER WEEK

Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate

VOL
142
PT
5
MR
21
—
29
1996

proceed to the immediate consideration of Senate Resolution 235, submitted earlier today by Senator THURMOND.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 235) to proclaim the week of June 16 to June 22, 1996, as "National Roller Coaster Week."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LUGAR. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 235) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 235

Whereas, the roller coaster is a unique form of fun, enjoyed by millions of Americans, as well as people all over the world;

Whereas, roller coasters have been providing fun since the 15th century;

Whereas, in 1885, an American named Phillip Hinckle invented a steam-powered chain lift to hoist coasters to new heights and new downhill speeds;

Whereas, advances in technology and a renewed interest in leisure and recreation have meant a resurgence for roller coasters;

Whereas, engineers working with computers have been able to create the safest, most thrilling rides ever;

Whereas, there are an estimated 500 roller coasters worldwide, and more than fifty new projects underway in 1996;

Whereas, the world's oldest existing roller coaster, Leap-The-Dips, is located at Lakemont Park in Altoona, Pennsylvania, and is currently being restored;

Resolved, That the Senate proclaims the week of June 16 through June 22, 1996, as "National Roller Coaster Week".

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ACCOMPANYING H.R. 1561

Mr. LUGAR. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may turn to the consideration of the conference report to accompany H.R. 1561, the State Department reorganization bill, and, further, that the reading be deemed waived, and there be a time limitation of 10 hours for debate, with the time divided and controlled as follows: 2 hours under the control of Senator HELMS, or his designee; 2 hours under the control of Senator KERRY, or his designee; 2 hours under the control of Senator NUNN; 3 hours under the control of Senator JOHNSTON; 1 hour under the control of Senator FEINSTEIN; provided further, that upon the expiration or yielding back of all time, the Senate proceed to vote on the adoption of the conference report with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, MARCH 28, 1996

Mr. LUGAR. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Thursday, March 28; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate immediately resume consideration of the farm conference report under a previous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 1296

Mr. LUGAR. Mr. President, I further ask unanimous consent that following the conclusion of debate on the farm conference report, the conference report be laid aside, and that there then be 30 minutes for debate prior to the cloture vote, to be equally divided in the usual form, and following that debate, the Senate proceed to vote on adoption of the farm conference report, to be followed immediately by the cloture vote with respect to the Kennedy amendment, with the preceding all occurring without any intervening action or debate, and that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LUGAR. Mr. President, for the information of all Senators, there will be a vote with respect to the farm conference report and a cloture vote with respect to the Kennedy amendment back-to-back, hopefully, by mid-morning. Also, the Senate is expected to consider the debt limit and the omnibus appropriation conference report prior to the close of business on Friday. The Senate could also be asked to resume the Presidio legislation. In addition, it is hoped that the Senate could also pass the charities bill, S. 1618. Therefore, votes can be expected throughout Thursday's and Friday's session of the Senate.

Mr. President, I add that, given the hour and the amount of time expired, it would appear that the votes with regard to the farm conference report are likely to come after noon, given the current situation. So Senators might be advised of that change, given the time that has expired this evening.

ORDER FOR ADJOURNMENT

Mr. LUGAR. Mr. President, If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order following the remarks of Senators PRESSLER and GRASSLEY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The chair recognizes the Senator from South Dakota.

Mr. PRESSLER. I thank the Chair. Let me say that my intention is to speak briefly on the farm bill, and then I want to introduce a piece of legislation, if I can do that as in morning business. The total time I will consume will be about 5 minutes.

The PRESIDING OFFICER. The Senator may proceed.

THE FARM BILL

Mr. PRESSLER. Mr. President, I am voting for the farm bill. I support the freedom-to-farm concept. This is not a perfect farm bill, but I find it somewhat ironic that some of my colleagues are voting against it, yet, urging the President to sign it, and then going out and criticizing it. It would be better to improve it and to be constructive.

Our farmers need a farm bill passed now. Many of them have already gone to the fields in our Nation. In South Dakota, they are meeting with their bankers, making their plans. It is time for us to pass a farm bill.

Mr. President, for years, we have had all this regulation and paperwork in agriculture. I come from a farm. I am a farmer. Last year, deficiency payments were sent out to the farmers. Then the commodity prices were high enough that the deficiency payments were sent back to the Department of Agriculture. All this requires a great deal of paperwork, and it costs the taxpayers a lot.

Let me commend Senator LUGAR and the managers of the farm bill, and Senator GRASSLEY and others, who have brought us a farm bill that will not only save taxpayers money, but will also help our Nation's farmers and ranchers.

Mr. President, let me say that I think the most important farm bill besides this is a balanced budget because, if we have a balanced budget, we will be able to export our commodities and the commodity prices will be high enough. Because of a balanced budget we will have low interest rates and a stable dollar and high exports. That is

what farmers and ranchers really want. They do not seek handouts. They want good prices on the world market. And they are there for us if we take advantage of it.

So there are many improvements we could make in this farm bill the next year or the year after. But let us pass it now. This is the best deal we can get at this time. If somebody had a better one, they should have brought it up.

Mr. President, I ask unanimous consent to speak as if in morning business for 3 minutes for the purpose of introducing a bill.

The PRESIDING OFFICER (Mr. LUGAR). Without objection, it is so ordered.

Mr. PRESSLER. I thank the Chair.

(The remarks of Mr. PRESSLER pertaining to the introduction of S. 1647 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PRESSLER. Mr. President, I thank the Chair. I thank my colleague from Iowa and Indiana and congratulate both of them for their work on the farm bill which was very outstanding.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first, just one sentence to compliment the now Presiding Officer, the Senator from Indiana for his leadership on getting the farm bill passed. I am going to speak tomorrow on the farm bill. This evening, in morning business, I am speaking on the subject of the drug problem.

THE CIRCLE OF HURT

Mr. GRASSLEY. Mr. President, we have heard a great deal on this floor about the problem of drugs in this country. Senator HATCH, Senator FEINSTEIN, Senator MOYNIHAN, and others, have spoken eloquently about the personal and societal costs that we bear because of illegal drug use. Add in the abuse of legal drugs in this country and the costs are staggering.

The record of the harm done is clear. The facts accumulate in depressing measure, detailing the damage done to individuals, to families, to communities, and to our civic life. Drugs destroy a person's capacity to live a decent life. They contribute to a widening circle of hurt that goes far beyond any individual choice to use drugs.

Like a stone dropped into a pond, the ripples move outward in an ever-widening circle. The result is an arc of pain and loss that is no respecter of social position, education, age, race, or location. Nothing brought this home to me more forcefully than a letter I received recently from a constituent. A constituent whose family has borne the brunt of what illegal drug use truly means. We can pile up facts and figures. We have the numbing statistics. But these cold, sterile numbers do not bring home to us the true meaning of what is involved. In order to understand the circle of hurt, let me share with you this story. As the dismaying figures on family violence, crime, and drug-addicted babies only too clearly show, this record is not unique.

Although is it not unique, it is, nevertheless, a story whose very prevalence is part of the harm done everyday by illegal drug use.

Kay and Jim Degrado of Marshalltown, IA, a community of 25,000, know firsthand what the facts and figures mean. Some years ago, their son began experimenting with drugs at 9 and was an addict by 13. Nothing that these good people could do made a difference. They watched as their son slowly sank into addiction and a world of violence, drug dealing, and abuse. As with many families, they were unprepared to deal with the problems. Their son became an addict and a dealer.

At 26, during his second treatment episode, he met a 22-year-old prostitute and crack addict. They subsequently moved in together after they were expelled from the treatment program. In addition to living together, they also began dealing together. They had an 800 number, beepers, and a separate apartment to deal from. Sales helped them maintain a $1,500 a day habit. This in a town of only 25,000. It was at this time that the couple learned that they were to have a baby, the woman's second. The first child was raised in a drug-addicted household, with all the emotional scars that involves. The second child, Tomi, now four, suffered a worse fate. She was born addicted.

As the Degrados learned, drug use damages the unborn child in profound ways. In ways that endure for a lifetime. Their granddaughter, young Tomi, was born with multiple problems. She has difficulty sleeping. She is averse to being touched. She's irritable and has a short attention span. In addition, she has difficulty swallowing, a common feature of drug-affected children. At four, she still must receive supplemental food and medication through a feeding tube in her abdomen. She is unable to use a spoon, lacking the coordination. The grandparents have adopted the child—after years of effort—and can give Tomi a loving home. But they can never heal the hurt. And there are many Tomis in this country.

According to some estimates, as many as 100,000 or more such babies are born every year to addicted mothers. The disabilities are lifelong. Tomi requires constant medical attention. And she has learning disabilities that will affect her as long as she lives. But this is not the end of the story. As with Tomi's parents, many addicts have more than just one child. These children are born addicted. Or they come into drug-using homes where physical and sexual abuse are common. Tomi has an older half-sister, and her mother is pregnant again.

Fortunately, the Degrados' son is in treatment, again, after two suicide attempts and numerous relapses. He visits his daughter but has not taken an active role in her life. It is still unclear if he will stay clean and sober. If he does, and I wish him well, it will come at great effort, one that will occupy him for the rest of his life.

And the cost? The monetary costs, of course, have been enormous. But that is only a small part of the expense. From the seemingly individual choice to use drugs, the Degrados' son, destroyed his own life. He brought pain and suffering to his family. It is a pain that still remains. In addition, he also fathered a child born with lifelong disabilities. Pushed drugs to others. And engaged in numerous crimes. From his one act, a decision to use drugs, the circle of hurt spreads outward in ever-widening arcs. That is the reality of drug use. The damage and harm are personal, immediate, and enduring.

Yet, what we hear from many these days—from some of our cultural and political elite—is that we should legalize such drugs. That we should make them widely available. The common argument is that we should not interfere with a personal choice. A choice which is, according to the argument, a victimless crime. No one is harmed. What a cruel and insensitive lie that is. No wonder so many decent people like the Degrados feel like the country, or its culture leaders, has taken leave of its senses.

And one finds the argument and its logical consequences increasingly prevalent. Recently, a member of my staff learned that a bookstore right here in the Washington area had a whole display on how to process your own drugs at home. The display was full of books on how to start your own drug business in the comfort of your living room. This in a store in a suburban shopping mall frequented by teenagers and families. This is reminiscent of the 1960's. That was the last time we flirted with the "drugs-are-OK-for-everybody" theme. But this is not the 1960's and I had hoped that we had learned something from our past. Seemingly not. At least not some.

Turn on MTV or listen to much of the popular music these days and you get the drugs-are-OK message. First, leading political figures and cultural gurus openly discuss the idea of making drugs readily available at over-the-counter prices. Second, newspaper editors flirt with the idea of legalization. Third, movies and TV shows are once again introducing drugs as okay into their plots. Fourth, many of our political leaders are sending confusing messages. So far, the most notable comment from the President on drug use

VOL
142
PT
5
MR
21
—
29
1996
UMI

was, "I didn't inhale." Just think of the unfortunate signal that sends, however inadvertent. And fifth, one of the most remembered policy recommendations from this administration was the call by the Surgeon General for legalization.

Lately we have William F. Buckley, Jr., repeating the legalization theme. And he is in good, or rather, bad company. Some newspapers, magazines, and a variety of pundits have picked up the theme. This does not mean, however, that this is an idea whose time has come. All of this fulminating over the virtues of drugs or the harm caused by preventing people from self-administering deadly substances, is limited to a few, if well-financed, individuals. But their voice has a disproportionate access to the media. A media that then broadcasts and enlarges on the theme, making it seem more influential than it really is. Unfortunately, this posturing encourages young people to dismiss not only the harm that drugs cause but to question whether it is wrong to use drugs. And so, the hurt goes on.

After years of decline, after years in which teenage attitudes toward drugs was moving in the right direction, we now see dramatic reversals in teen drug use, heading back up. More disturbing, we see a decline in negative attitudes to drug use. We have not yet returned to the 1979 levels of abuse, but we have made notable gains in that direction. As recent studies show, an increasingly large percentage of high school kids now report frequent marijuana use. The age at which use is beginning is also dropping. Experts now recommend that we must begin our antidrug prevention message in grade school.

Meanwhile, the casualties mount. The most recent data, released by the drug czar's office, confirm—as if more confirmation was necessary—that drug use is on the rise, especially among kids. This is particularly true of marijuana use. As we learned to our regret, marijuana is a gateway drug for further substance abuse. Heroin use is also on the rise. And much of the West and Middle West face a growing problem of methamphetamine use—the so-called workingman's cocaine. This drug is responsible for dramatic increases in family violence, in violent crime, and in hospital emergencies. What the numbers tell us is a depressing story of returning drug abuse.

We are still dealing with an addict population created by the drugs-are-OK argument from the 1960's and 1970's. Our current hardcore addicts were the 15-, 16-, and 17-year-olds of then. Today we are putting our 12-, 13-, and 14-year-olds at risk. We are mortgaging their futures and the lives of everyone they touch. We are exposing them to a cycle of hurt and suffering. I can imagine few more irresponsible acts. The last time we did it unconsciously or by inattention. If we do this again, we can make no claim to ignorance. We cannot appeal to our innocence. What we do now, we do with full knowledge. We simply cannot let this happen again.

I would like to ask my colleagues to look at my remarks from the standpoint of it portraying the problem of drugs that a family in Iowa had, the Kay and Jim Degrado family of Marshalltown, IA. It tells a story about how early drug use of a child leads to greater and greater problems. It talks about crack babies, and in the case of this family a crack grandchild that has been adopted by this family—the problems that families get into down the road of time in prison; all the crime that comes from illicit drug use.

I compliment this family for sharing their story with me and the granting of permission to me to discuss this issue on the floor of the Senate.

THE TRICKLE DOWN DEFECT

Mr. GRASSLEY. Mr. President, I have had a number of things to say lately about leadership and moral posture. I have mentioned these issues several times on this floor in the past few days. I wish to draw the attention of my colleagues to an example of what a void in clear leadership and guidance means. It illustrates what we might call the trickle down defect.

When there is uncertain leadership, when leaders are unclear on their true intent, their irresoluteness trickles down. Nowhere is this effect easier to detect than in this administration's drug policy. From almost the first day of this administration there have been mixed signals and muddled directions about our drug policy. While the words have pointed in one direction, actions have gone off in every direction. The only thing that has been constant has been inconsistency.

One of the best examples of that was the President's move to fire most of the people in the drug czar's office just after his inauguration. That office was then not supported. The drug issue fell off the agenda. The President called "time out" in the war on drugs.

Lately, the administration is moving to restore personnel to the drug czar's office. I am sure there is no connection between that move and the fact that this is an election year. Miraculously and suddenly, the President has learned what the American people have known all along. One of the most important tools in fighting drug abuse among kids is to provide consistent leadership—to have a consistent message. At one time, we had that. The most remembered phrase from the years before Mr. Clinton was "Just say no." Unfortunately, we lost that message.

The most remembered phrase of this administration is, "I didn't inhale."

Today, a mixed and muddled message has trickled down through the bureaucracy. We have seen a falling off in effort. We have seen confused priorities. We have seen a decline in interagency coordination. We have not seen much in the way of leadership. What we have seen is rising drug abuse.

And, this lack of consistency has consequences. The latest example comes from just the past few days. The Centers for Disease Control, a Federal agency based in Atlanta and paid for by the taxpayers, cosponsored a conference this past weekend. The conference was held under the innocent enough title of "harm reduction." Unfortunately, that mild phrase conceals a bleak reality. Things are not always what they seem.

Many of the other cosponsors of the conference, such as the Drug Policy Foundation and the Lindesmith Center, are among the largest drug legalization lobbies in this country. The press release announcing the conference put out by the Drug Policy Foundation ends with a call, and I quote, "End the Drug War". The stated goal of these organizations is to get drugs legalized. The CDC, perhaps unknowingly, have associated themselves with this position. A position that is supposedly directly opposite of the administration's stated policy. What you have is a Government agency charged with dealing with controlling epidemics collaborating with those who want to legalize drugs, which would cause a major epidemic. This is a masquerade. But, it is clear that the CDC is confused about what our policy is. Confused about their role in supporting that policy. But it should not come as a surprise.

Mixed up and muddled. Confused signals and uncertain direction. Actions that belie statements. This has been the recent legacy. No wonder people are confused.

When these things happen, who is responsible? Who do we look to? You have to look to the people who set the course. Remember that the CDC comes under the Public Health Service, which works for the Surgeon General. And who was our last Surgeon General? Joycelyn Elders. Recall that she was the one who sounded the call for legalization in the first days of the Clinton administration. There was never any meaningful response. Certainly the decimated Drug Czar's office could mount no convincing reply. Unfortunately, Dr. Elders' remarks remain fixed in public memory. Everyone remembers her, who remembers anything said by the Drug Czar? Or the President?

We have seen lately a born-again drug policy from the administration,

the message is still unclear. Evidently, the CDC is still confused. But their confusion is no orphan.

When the message broadcast from the top is contradictory. When it is hedged with qualifiers. When the guidance is unclear, it should come as no surprise to find bungling at the bottom.

Here we have the Centers for Disease Control, part of our national effort to fight the war on drugs, lending its name and prestige against the war of drugs. The right hand of this administration does not know what the left hand is up to. Lack of leadership trickles down. Is it any wonder that teenage drug use is on the rise? Is it any wonder that kids are unclear on why it is both harmful and wrong to use drugs? When you do not know where you are going, is it any wonder that you get lost? The failure of leadership demands a high price.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, and pursuant to the provisions of Senate Resolution 234, in memory of a great Senator and devoted friend of so many of us, the late Senator Edmund S. Muskie of Maine, the Senate stands adjourned.

Thereupon, the Senate, at 9:11 p.m., adjourned until Thursday, March 28, 1996, at 9 a.m.

VOL
142
PT
5
MR
21
—
29
1996
UMI

HOUSE OF REPRESENTATIVES—*Wednesday, March 27, 1996*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mrs. VUCANOVICH].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 27, 1996.

I hereby designate the Honorable BARBARA F. VUCANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Where there is no hope, our hearts are heavy; where there is no love, then evil thrives; where there is no faith, doubt increases; and where there is no vision, the people perish. Grant to us and to every person, O gracious God, the wisdom to discern and to accept Your gifts of faith and hope and love and, filled by Your spirit, may we be Your faithful people and You our God for ever and ever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York [Mr. WALSH] come forward and lead the House in the Pledge of Allegiance.

Mr. WALSH led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

RESIGNATION OF MEMBER AND APPOINTMENT OF MEMBER TO UNITED STATES-CANADA INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore laid before the House the following resignation as leader of the House delegation to the United States-Canada interparliamentary group for the year 1996:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 27, 1996.

Hon. NEWT GINGRICH,
Office of the Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to my request, I am hereby resigning as the leader of the House delegation to the United States-Canada Interparliamentary Group for the year 1996.

Sincerely,

DON MANZULLO,
Member of Congress.

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of 22 U.S.C. 276d, the Chair announces the Speaker's appointment of the following Member of the House to the United States delegation of the Canada-United States interparliamentary group: Mr. HOUGHTON, New York, chairman.

There was no objection.

APPOINTMENT AS MEMBER TO LIBRARY OF CONGRESS TRUST FUND BOARD

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of section 1 of 2 U.S.C. 154, as amended, by section 1 of Public Law 102–246, the Chair announces the Speaker's appointment to the Library of Congress Trust Fund Board the following member on the part of the House:

Mrs. Marguerite S. Roll, Paradise Valley, AZ, to a 3-year term. There was no objection.

GO ORANGE

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Madam Speaker, I rise today to congratulate the Syracuse University Orangemen men's basketball team who are on their way to the final four in the Meadowlands in East Rutherford, NJ, this weekend.

In central New York, we look forward to cheering them on in their third final four appearance in school history, the second under 20-year head coach Jim Boeheim—and the first since SU was denied the national championship by a single basket in 1987.

As I boast, I wish also to congratulate all the teams who have played in the National Collegiate Athletic Association's tournament, especially the University of Massachusetts, Kentucky and Mississippi State. The other three schools in the final four are State schools. Syracuse is the only one that bears the name of a city. So there is indeed a special feeling in my hometown for this team. At this moment there is a huge pep rally occurring in front of city hall and lots of orange everywhere.

No team has come further than the SU Orangemen. Coach Boeheim has once again successfully inspired and challenged an extraordinary group of young men.

They have fought from the first whistle, having been unranked in the preseason, to get here today, to play one more weekend. Two more games, we hope, in an incredible season.

We in Syracuse know them to be a great group of student athletes who have made us all very proud. Win or lose, the Orangemen of 1995–96 will be remembered with fondness for their sportsmanship and their heart. They have given many central New Yorkers a warm feeling after a very long winter.

Congratulations to all, and go Orange.

PASS A CLEAN BILL TOMORROW

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute.)

Mrs. KENNELLY. Madam Speaker, the Kennedy-Kassebaum bill has a simple premise: If you leave or lose your job, you should not lose your health insurance because of a preexisting health condition. As introduced in the House, the bill is only 65 pages long. Here is a copy of it.

However, the bill that will come to the House floor tomorrow is more than 220 pages long. Here is a copy of it. The bill adds 10 separate provisions to the health insurance portion of the bill.

Some of these additions are good ideas, but several are very controversial, such as tax breaks for medical savings accounts and exempting certain health plans from State insurance regulation. I am worried these additions could kill a bill that guarantees Americans the right to have portable health insurance.

Madam Speaker, Republicans in the Senate say they want a clean bill.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Democrats in the House say they want a clean bill. And the President says he wants a clean bill. I hope the majority in the House will now join us in an effort to pass a bill without any special interest addons. Let us not load on so much baggage that we bring the whole plane down.

RAISING TAXES IS THE WRONG WAY TO GO

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Madam Speaker, not so long ago, the President stood before us in this very Chamber and declared that "the era of big Government is over." His latest budget tells a different story, particularly with taxes. The President wants to raise taxes immediately and phase in a tax cut—that can be yanked if deficit targets are not met. In other words, the President wants a permanent tax increase and a temporary tax cut.

Madam Speaker, will liberal Democrats ever learn that smaller Government means less taxes? It is not enough to say you want to end big Government, you have to back it up with actions. If the President really wants to end the era of big Government, he needs to stop feeding the beasts. Raising taxes is simply the wrong way to go. We need to reduce our spending and reduce the tax burden on the American people—only then will the era of big Government truly be over.

TRIBUTE TO SENATOR ED MUSKIE

(Mr. BALDACCI asked and was given permission to address the House for 1 minute.)

Mr. BALDACCI. Madam Speaker, I was deeply saddened to learn yesterday of the death of Senator Ed Muskie. As a new Member of Congress from Maine, I have been privileged to call on Ed Muskie for advice and wisdom.

Ed Muskie was a leader for Maine and a statesman for the Nation. He never lost sight of his roots, nor wavered from his principles.

The people of Maine and the Nation are indebted to Ed Muskie for his passionate work on a wide range of issues. His vision in developing environmental legislation, especially the Clean Air and Clean Water Acts, is a legacy which will be recognized and honored by generations to come.

We can all learn much from the life that Ed Muskie led. I will never forget the advice that he gave to me shortly before I took office. He said, "Be yourself, work hard, and tell the truth." Those simple principles guided his life, and are what I strive to live up to every day.

Senator Muskie's devotion to Maine and his dedication to improving the quality of life for all Americans will long be remembered and appreciated. I know that my colleagues join me in expressing our deepest sympathy to Ed Muskie's wife, Jane, and the rest of his family.

CHINA ARMING IRAN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, China just sold patrol boats armed with state-of-the-art cruise missiles to Iran. Let me repeat. China just sold cruise missiles to Iran.

Now, the last time I checked, Iran is still listed as a terrorist nation by America, and, No. 2, the leaders of Iran refer to Uncle Sam as "the Great Satan."

This is unbelievable. China continues to arm, aid, and abet Iran, America's No. 1 enemy, and after all of this, the Congress of the United States rewards China with most-favored-nation trade status. Beam me up, Madam Speaker.

Our policy with China not only kills American jobs, it destabilizes the world, threatens American security, and people around here are granting them most-favored-nation trade status. I suspect today that not only are there a lot more people in Washington, DC, smoking dope, they are inhaling every single day.

WHAT IS IN STORE FOR AMERICA?

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Madam Speaker, our Republican friends are at it again. Last year they spent the whole year trying to decimate Medicare and Medicaid and hurt our senior citizens, and, thankfully, at least for now, we were able to stop them.

This year what do they have in store for America? The largest education cuts in the history of the United States. They would deny our schoolchildren the ability to compete in this global economy.

Let us look at what the $3.3 billion in education cuts amount to. Sixty-five million schoolchildren will be affected, basic reading and math skills cut, safe and drug-free schools cut, vocational education cut, adult education cut, title I education cut, the summer youth and employment program eliminated.

Not only do the Republicans not want to teach our children, they do not want to give them summer jobs. I guess they think they are better off hanging out on street corners than earning a few dollars to help with their families. This just shows once again the extreme, mean-spirited Republican agenda of sticking it to middle-class families.

Last year it was Medicare and Medicaid. Now it is education. What comes next?

OIL IMPORTS A THREAT TO U.S. NATIONAL SECURITY

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, independent oil and gas producers are the mainstay of our domestic energy industry. In fact, independents produce about 64 percent of the natural gas in the country and about 39 percent of the crude oil.

But this great industry is struggling. Imports of both oil and natural gas are on the rise, and employment is declining. The United States now imports over half of our annual demand.

Our dependency on foreign oil costs about $60 billion annually and makes up a substantial part of our trade deficit.

Just over a year ago, President Clinton signed a report issued by the Department of Commerce saying that increasing oil imports are a threat to national security. But even as the President felt the pain of the oil and gas industry, he offered no plans to end that pain.

In a survey released by the Sustainable Energy Budget Coalition on January 16, it found that "three-quarters of the American voters believe we need to do something to reduce dependency on foreign oil."

Public servants must do more than talk. They must act to lower taxes, reduce regulation, and lower the burden of government on our oil and gas industry. As we approach the next century, we must, once again, make a domestic oil and gas industry a priority.

KENNEDY-KASSEBAUM HEALTH CARE REFORM EFFORT

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Madam Speaker, health insurance reform is long overdue. As we know, fewer Americans are able to obtain health insurance now, and the cost of that health insurance keeps going up. So my colleague, the gentlewoman from New Jersey, Mrs. ROUKEMA, had a very good idea, which is shared in the Senate by Senator KASSEBAUM and Senator KENNEDY on a bipartisan basis, to put forth a bill in this House that would make it easier for people to take health insurance from one job to another. We call that portability. We also try to make it easier for people who have preexisting conditions or perhaps were disabled with some sort of health disorder, that they would be able to buy health insurance.

VOL
142
PT
5
MR
21
—
29
1996
UMI

We are all supportive of this. The Democrats, over 170, have said that they support it, but the Republican leadership here is trying to load down this bill with all kinds of extraneous material in terms of the best example is medical savings accounts that will actually drive up the cost of health insurance for the average person and make health insurance less affordable.

It is time now that we got together on a bipartisan basis and passed the Kennedy-Kassebaum-Roukema bill to make health insurance more affordable and make it possible for more people to obtain health insurance.

□ 1415

TIME TO STOP PLAYING POLITICS WITH OUR CHILDREN'S FUTURE

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Madam Speaker, the Republican majority's political gamesmanship knows no bounds—even when it comes to defaulting on the most important obligation of this House, providing for our children's future.

Because of Republican intransigence on the fiscal year 1996 budget, which is now almost half a year overdue, local schools have been severely injured, now knowing how much Federal aid they will receive, not knowing how many teachers they can hire, how many books they can buy, what kind of science programs they can run.

Not only do the Republicans think it is a good idea to slash education funds to pay for a tax cut for the wealthiest Americans, but now their irresponsibility is crippling local school boards' ability to spend whatever money we do send them.

Let's stop shooting dice with our children's futures. Let's fund the Government for the second half of the fiscal year and commit ourselves to supporting the President's proposal to increase funding for such crucial educational programs as title I for basic reading, writing, and math skills, Pell grants, safe and drug free schools, and the School to Work Program.

WHO IS FOR KIDS, AND WHO IS JUST KIDDING?

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Madam Speaker, the question of who is for kids and who is just kidding sounds very playful, but this is not a playful question to ponder. This is really about the survival of this great Republic which we are so proud of, because we need to know which Members of this body are not for kids. If they are not for kids, they are going right at this Nation's future.

I went to public school, my husband went to public school, both of our children went to public school, my mother taught in public school. Public schools have been the foundation of the future of this Nation. I am appalled that the Republicans in this body have put the biggest cuts in education we have ever seen at a time when we all agree that our schools need more help, not less.

If Members think that our math scores are high enough so we can pull back our funding to help math, if they think our basic reading skills are good enough so we can pull back on math, if Members think our classes are too small and we ought to make them bigger, and if they think it is a good idea to surrender on the drug war in the schools and not make them safe, then Members will love their side of the aisle. I do not. I think it is time we all wake up and fight back.

PUT OUR CHILDREN FIRST AND VOTE TO FUND EDUCATION

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Madam Speaker, on Monday I visited schools and met with parents in my district. I visited a DARE program in Stratford, CT, where a police officer works with fifth graders to keep kids off drugs. I attended an awards ceremony where young people were recognized for their work to keep their peers off drugs and alcohol. That evening, I organized a parents summit where about 100 parents gathered to discuss the challenges that they face trying to raise good kids today.

Let me share the comments of one parent. She said: "I feel like a boxer who is down and the count is 8. My head is down and I am dripping blood from every part of my body. The schools need to help teach the basics," she said. That is not what House Republicans are proposing. They want to cut basic math skills, basic reading skills.

The families that I met with do not believe that this Congress is on their side. This week we will have an opportunity to prove that we really want to help working families. Once again, I urge Speaker GINGRICH and the Republican leadership to reverse course, stand with our parents and our kids, and vote to fund education. Let us put our children first.

IN SUPPORT OF THE WOMEN'S HEALTH EQUITY ACT

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today in support of the Women's Health Equity Act and, in particular, in support of the osteoporosis provisions of the bill. Most women find out that they have osteoporosis when it is too late, after a bone fracture or a curvature of the spine has occurred. The real tragedy is that for many women the disease is preventable and treatable. But this is a disease that has an underlying condition that affects 25 million Americans, most of them, 80 percent of them, women. All of us lose bone mass as we age, but people with osteoporosis lose an excessive amount, leading to weak and brittle bones. As I just said, 80 percent of those suffering from osteoporosis are older women, and a woman's risk for hip fracture alone is now equal to the risk of developing breast and ovarian cancer.

It is time for us to give a little bit more attention to this disease, Madam Speaker.

CONGRESS, THE ADMINISTRATION, AND INDUSTRY MUST WORK TOGETHER TO PROVIDE STABILITY TO OUR DOMESTIC OIL AND GAS PRODUCTION

(Mr. BREWSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BREWSTER. Madam Speaker, domestic oil and gas production is critically important to our Nation's economy and national security. Just 5 years after fighting a war in Iraq, our Government has yet to take a single substantive step toward reforming restrictive regulations on our domestic energy industry.

Since the gulf war, our dependence on Middle Eastern oil has grown to the point where more than half of our country's oil and gas consumption is from imports. We cannot allow this situation to continue.

Working together, Congress, the administration, and industry must pass and enact legislative and regulatory initiatives which will provide stability to this extraordinarily important segment of our Nation's economy.

As you know, U.S. relations with our Middle East oil trading partners historically have been unstable. However, the United States does have at least one reliable trading partner. Petroles de Venezuela, the owner of Citgo, has been supplying oil and product to the United States for 70 years—through World War II and the Arab oil embargo.

While maximizing our domestic resources, we should also encourage trading with reliable neighbors and allies such as Venezuela.

THE WOMEN'S HEALTH EQUITY ACT OF 1996

(Ms. SLAUGHTER asked and was given permission to address the House

for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Madam Speaker, I rise today as Chair of the Women's Health Task Force of the Congressional Caucus on Women's Issues. On behalf of the caucus, I have the honor of introducing the Women's Health Equity Act of 1996. A momentous legislative initiative, the Women's Health Equity Act is an omnibus bill comprised of 36 separate pieces of legislation targeting women's health.

The first Women's Health Equity Act was introduced in 1990 as a result of a GAO report that documented of widespread exclusion of women from medical research and energized caucus and women around the Nation to action on women's health issues.

In the 6 years since, we have accomplished a great deal. We have achieved greater equity in both women's health research funding and inclusion of women in clinical trails. The increased funding for breast cancer has resulted in the discovery of the BRCAI gene-link to breast cancer 18 months ago. Since then, it has been found that the BRCAI gene seems to inhibit the growth and formation of tumors and may provide therapy for both breast and cervical cancer.

This news is miraculous and is very gratifying to the caucus because it was our initiative that resulted in the increased funding. But, our responsibility does not stop there. We must assure that social policy keep pace with advances in biomedical research. As a part of the Women's Health Equity Act, I have introduced legislation that would do just that.

H.R. 2748, The Genetic Information Nondiscrimination in Health Insurance Act prohibits insurance providers from:

First, denying or canceling health insurance coverage; second, varying the terms and conditions of health insurance coverage on the basis of genetic information; third, requesting or requiring an individual to disclose genetic information; and, fourth, disclosing genetic information without prior written consent.

The Women's Health Equity Act's initiative to increase funding for breast cancer research has resulted in discovery of potentially lifesaving genetic information and therapy. As therapies are developed to cure genetic diseases, and potentially to save lives, the women and men affected must be assured access to genetic testing and therapy without concern that they will be discriminated against. As legislators, I believe it is our responsibility to ensure that protection is guaranteed and I hope my colleagues will join me in that endeavor.

SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. VUCANOVICH). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

INTRODUCTION OF HPV RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Madam Speaker, I rise today to announce and celebrate the introduction of the Women's Health Equity Act of 1996. Included in the omnibus legislation are two bills that I have authored, the HPV Infection and Cervical Cancer Research Resolution, which I will introduce today, and the Equitable Health Care for Neurobiological Disorders Act of 1996. Both measures will enhance the length and quality of life for women in this country, and should be enacted by this Congress.

First, I am proud to introduce the HPV Infection and Cervical Cancer Research Resolution. This vital legislation will speed the detection and diagnosis of cervical cancer, and will, in fact, help to save women's lives. Early detection is the most effective method of stopping this killer of women. I know. I am a survivor of ovarian cancer, and early detection saved my life.

My measure expresses the sense of Congress that the National Cancer Institute and the National Institute of Allergy and Infectious Diseases should conduct collaborative basic and clinical research on the human papilloma virus [HPV] diagnosis and prevention as an indicator for cervical cancer.

Approximately 16,000 new cases of cervical cancer are diagnosed each year, and about 4,800 women die from this disease annually. However, if cervical cancer is detected while in its earliest in situ state, the likelihood of survival is almost 100 percent. HPV is a known risk factor for cervical cancer. Of the more than 70 types of HPV that have been identified, two types, types 16 and 18 in particular, have a strong linkage to cervical cancer.

With further study of the natural history of HPV and its association to the development of cervical cancer, HPV testing may prove to be an effective tool to aid the early diagnosis of this deadly disease. Therefore, it is appropriate to recommend basic and clinical research to determine how to utilize this data in the screening of women in clinics and hospitals across the country. My legislation will bridge the gap between new scientific discoveries about the linkage of HPV with cervical cancer and practical application of that knowledge by physicians and qualified health specialists in local communities.

The legislation has received the endorsement of the American Social Health Association. In addition, I am proud to include my bill in the Women's Health Equity Act of 1996.

In addition, I have introduced H.R. 1797, the Equitable Health Care for Neurobiological Disorders Act, into the Women's Health Equity Act of 1996. This legislation requires nondiscriminatory treatment of neurobiological disorders in employer health benefit plans. Under my bill, insurance coverage must be provided in a manner that is consistent with coverage for other major illnesses. Neurobiological disorders, include affective disorders like major depression, anxiety disorders, autism, schizophrenia, and Tourette's syndrome.

Currently, in short, individuals with neurobiological disorders receive much less insurance coverage than illnesses such as cancer, heart disease, or diabetes. This in equality contributes to the myth that such disorders are not physical illnesses and somehow they are the fault of the patient. For the individuals and the families affected by these disorders, the ordeal of coping with the disease is often compounded by severe financial burdens. My legislation recognizes the physical basis for many mental disorders, and requires their equal health coverage.

Just as the Kennedy-Kassebaum-Roukema health insurance reform bill addresses the need to ensure access to health care for Americans who change jobs, my bill ensures access to health care for Americans who suffer from mental disorders.

□ 1430

Both job portability and comprehensive coverage are key access issues in the health reform discussion. Without comprehensive coverage or health insurance portability, millions of Americans will be forced to seek treatment in expensive health care settings, like emergency rooms, or drain other social service institutions.

Mental disorders severely impact the health and the quality of life for millions of women throughout the Nation. Clearly, the equitable insurance coverage for mental disorders is an issue for all of us in society, as it is a women's health concern, as well.

Treatments for mental illnesses like depression exist and have a very high rate of success; therefore, it is essential that women suffering from neurobiological disorders have access to the care that they need.

Madam Speaker, I am proud to announce the introduction of these two bills. I urge my colleagues to cosponsor and enact the omnibus bill.

STATUS OF THE DRUG WAR

The SPEAKER pro tempore (Mrs. VUCANOVICH). Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. MICA. Madam Speaker, I come before the House this afternoon really concerned about a report that has now been released to the Congress. It is the National Drug Policy: A Review of the Status of the Drug War.

Madam Speaker, I serve on the Committee on Government Reform and Oversight, and this product is from our subcommittee, which I also serve on, which is the Subcommittee on National Security, International Affairs, and Criminal Justice. This report should be required reading for every Member of Congress, should be required reading for every citizen of the United States, and it should be required reading for everyone who is involved in the media of the United States.

This report details a history of total failure of our Nation's drug policy, and we see that decline almost immediately the moment that President Clinton took office. This is one of the most startling reports to ever be produced by the Congress, and I hope it gets the attention of every Member of Congress and every parent and everyone in the media.

What it does is, it in fact outlines a policy of national disaster. President Clinton started this when he dismantled the drug office, and did not make drug prevention and attacking the drug problem a priority of this administration.

Madam Speaker, when he talked about cutting the White House staff, he in fact cut 85 percent of the White House drug policy staff, and that is where the cuts came in. That is where the attention was not focused. Then he appointed Joycelyn Elders, who made drugs and drug abuse a joke and sent a mixed message. It was not the message of "just say no," it was the message of "just say maybe," and this report details the disaster that that policy has imposed on this Congress and on the Nation and our children.

Under President Clinton's watch, listen to this, drug prosecution has dropped 12.5 percent in the last 2 years. You have heard the comments about the judiciary he has been appointing and their decisions as far as enforcement, which have made enforcement and prosecution a joke in this country.

Madam Speaker, let me tell you the details of what this report is about and how it is affecting our children. Heroin use by teenagers is up, and emergency room visits for heroin rose 31 percent between 1992 and 1993 alone. In less than 3 years, the President has destroyed our drug interdiction program, and we know that cocaine is coming in from Bolivia, Peru, and Colombia, and transshipped through Mexico, which he recently granted certification in the drug certification program to.

What did we do with the drug interdiction program? We basically dismantled it. What are the results, again, with our children? Juvenile crime, in September 1995 the Justice Department's Office of Juvenile Justice and Delinquency Prevention reported that, now listen to this, and this is from the report: after years of relative stability, juvenile involvement in violent crime known to law enforcement has been increasing, and juveniles were responsible for about one in five violent crimes.

We see what this failed policy of this Clinton administration has brought us. Juvenile use and casual drug use in every area, marijuana, cocaine, designer drugs, heroin. Every one of these areas is dramatically off the charts, and it is the result of a failed national drug policy, and the responsibility and the trail to responsibility leads right to the White House.

Let me say finally that even the media coverage of this situation is terrible. It is a national disgrace that the media is not paying more attention, that they in fact put on one antidrug ad per day in markets and the Federal Government controls the airwaves, so the media should have as much responsibility for getting the message out, the message of this disaster created by this administration, and should begin a policy of education.

Finally, the President's policy, every standard, including drug treatment, is a disaster, and I will detail this further in another special order.

WOMEN'S HEALTH ISSUES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Madam Speaker, I take the floor first of all to say, in this month of women's history, how pleased I am that the President has made more history for women today. I thought the newspaper article was very, very exciting to talk about how the President has nominated the first woman to the rank of 3-star general. She is in the Marines, Maj. General Carol Mutter, and her wonderful motto is "perseverance pays." We salute her, and we thank the President for moving her forward, and I think all of our foremothers would be proud.

But we heard many other Congresswomen take the floor today and talk about the Women's Health Equity Act. The one thing that Congresswomen have the right to make a victory lap about is the progress that we have made on women's health in this body.

If the Congresswomen had not been here, believe me, it would not have happened, because when we first got into this they were even doing breast cancer studies on men. They had no women in any studies, no women in the aging studies, no women in any studies. Basically the Federal Government's message to women was, we may as well go see a veterinarian, because what our own doctors got from Federal studies was really very little. They had to take studies done on men and then try and see if it distilled and was applicable to women.

We got all of that changed. After prior vetoes and everything else, we finally not only got it passed, but a President who would sign it and a lot of it on board. But we are still just beginning. Unfortunately, in this body they tend only to see women's health as circling around reproductive issues and breast cancer. Those are both very important key issues, but there are any number of health issues that affect women that we have just begun to tap.

Starting in 1990, we put together different bills that all of us had dealing with different issues on women's health and we put them in one bill called the Women's Health Equity Act. Then we all cosponsored it together and pushed as much of it as we could.

This year there are 36 bills in there, and it deals with an awful lot of the things still on the table that we have not dealt with, everything from eating disorders, which affect women much more severely than men, all the way through to female genital mutilation, which this body has still refused to deal with, even though our European countries and other countries have, and there are all sorts of international bodies crying out, saying this is a human rights violation and that we should make it a felony for people to move to this country as immigrants and bring those cultural things with them.

I do not want to see female genital mutilation in this country and I hope every American agrees, and I cannot understand why this body will not move on it. But to still think we have got 36 bills of that wide a range that we have reintroduced, that are out there, that we are still going to keep trying to move before we are anywhere close to having parity with where men have been in all the health care issues.

Our point has always been, this is Federal money we are talking about, Federal money that goes to research and Federal money that goes to services, and they always collected the same tax dollars for women they did for men. No one ever said to women, "We'll leave you out of the research and we won't give you any services, but don't worry, we'll charge you lesser taxes." Maybe we would negotiate if they did that, but they never did. They charged us the same and then proceeded to leave us out of the research and cut us our of the services.

What we are trying to do is reclaim this, and the goal of the Congresswomen has been to try and know as much about women's health as we now know about men's health by the end of this century, so that we start on an equal health footing when we begin the next century. That is getting tougher and tougher to do, because over and over again the extremists in this body have turned around many of the gains that we are making. They turn them around daily. Today we will probably see another turnaround as we watch the first criminalization of a medical procedure that has ever happened in this body.

When we see these things happening to women's health, watch out. Yes, we should take a victory lap for what we have gained in information on osteoporosis, on breast cancer, on many of the things that we have gotten passed, gotten funded, and gotten out there, and the fact that we have gotten women into these research models so we will know much more when those different programs are done and those research projects are finished. But we are not there yet. We are not there yet. It is very easy to deny us getting to that goal of equal information by the year 2000, and it is also very easy for them to push back all the progress we have made, So cheer, but be alert.

SUPPORT H.R. 1833, PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. CANADY] is recognized for 5 minutes.

Mr. CANADY. Madam Speaker, today we will consider a bill that deals with a hard truth. H.R. 1833 addresses the ugly reality of partial-birth abortion. While every abortion sadly takes a human life, the partial-birth abortion method takes that life as the baby emerges from the mother's womb.

Partial-birth abortion goes a step beyond abortion on demand. The baby involved is not unborn. His or her life is taken during a breach delivery. A procedure which obstetricians use in some circumstances to bring a healthy child into the world is perverted to result in a dead child. The physician, traditionally trained to do everything in his power to assist and protect both mother and child during the birth process, deliberately kills the child in the birth canal.

This is a partial-birth abortion: First, guided by ultrasound, the abortionist grabs the live baby's leg with forceps; second, the baby's leg is pulled out into the birth canal; third, the abortionist delivers the baby's entire body, except for the head; fourth, then, the abortionist jams scissors into the baby's skull. The scissors are then opened to enlarge the hole; sixth, the scissors are then removed and a suction catheter is inserted. The child's brains are sucked out causing the skull to collapse so the delivery of the child can be completed.

As you can see, the difference between the partial-birth abortion procedure and homicide is a mere 3-inches.

Abortion advocates claim that H.R. 1833 would "jail doctors who perform life-saving abortions." This statement makes me wonder whether the opponents of the bill have even bothered to read the bill. H.R. 1833 makes specific allowances for a practitioner who performs a partial-birth abortion that is necessary to save the life of a mother.

Of course, there is not a shred of evidence to suggest that a partial-birth abortion is ever necessary to save a mother's life or for maternal health reasons.

Indeed, the procedure poses significant risks to maternal health. Dr. Pamela Smith, director of medical education, Department of Obstetrics and Gynecology at Mount Sinai Hospital in Chicago has written:

> There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial-birth abortion is a technique devised by abortionists for their own convenience . . . ignoring the known health risks to the mother. The health status of women in this country will . . . only be enhanced by the banning of this procedure.

Further, neither Dr. Haskell nor Dr. McMahon—the two abortionists who have publicly discussed their use of the procedure—claims that this technique is used only in limited circumstances. Dr. Haskell advocates the method from 20 to 26 weeks into the pregnancy and told the American Medical News that most of the partial-birth abortions he performs are elective. In fact, he told the reporter:

> I'll be quite frank: most of my abortions are elective in that 20- 24-week range . . . probably 20 percent are for genetic reasons. And the other 80 percent are purely elective.

He advocates the method because, quote:

> Among its advantages are that it is a quick, surgical out-patient method that can be performed on a scheduled basis under local anesthesia.

Dr. McMahon uses the partial-birth abortion method through the entire 40 weeks of pregnancy. He claims that most of the abortions he performs are nonelective, but his definition of nonelective is extremely broad. He describes abortions performed because of a mother's youth or depression as "nonelective." I do not believe the American people support aborting babies in the second and third trimesters because the mother is young or suffers from depression.

Dr. McMahon sent the subcommittee a graph which shows the percentage of, quote, "flawed fetuses," that he aborted using the partial-birth abortion method. The graph shows that even at 26 weeks of gestation half the babies Dr. McMahon aborted were perfectly healthy and many of the babies he described as "flawed" had conditions that were compatible with long life, either with or without a disability. For example, Dr. McMahon listed 9 partial-birth abortions performed because the baby had a cleft lip.

The National Abortion Federation, a group representing abortionists, has also recognized that partial-birth abortions are performed for many reasons other than fetal abnormalities. In 1993, NAF counseled its members, "Don't apologize: this is a legal abortion procedure," and stated:

> There are many reasons why women have late abortions: Life endangerment, fetal indications, lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, etc.

The supporters of partial-birth abortion seek to defend the indefensible. But today the hard truth cries out against them. The ugly reality of partial-birth abortion is revealed here in these drawings for all to see.

To all my colleagues I say: Look at this drawing. Open your eyes wide and see what is being done to innocent, defenseless babies. What you see is an offense to the conscience of humankind. Today, we will attempt to put an end to this detestable practice. After today, it will be up to the President. He has the power to stop partial-birth abortion or continue to allow the killing of a living child pulled partially from his mother's womb.

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PARTIAL-BIRTH ABORTION BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of New Jersey. Madam Speaker, even if President Clinton bows to the pressure of the pro-abortion lobby and vetoes the partial-birth abortion ban, the fact that the Congress, in what will be, as it was previously, a bipartisan vote in support of the ban and the fact that the American people of all political persuasions, men and women of all ages, are beginning, and I mean just beginning, to face the truth and reality about the cruelty of abortion on demand will have made all of this worth the effort.

I chair the subcommittee on International Operations and Human Rights. I also am chairman of the Helsinki Commission. I have been in this body now for some 16 years, Madam Speaker. I have always found when we work on human rights issues, it is never easy, whether it be trying to help a Soviet Jew, whether it be trying to help a persecuted Christian in the People's Republic of China, there are always these so-called unwanted people everywhere. Regrettably, the human rights abuse in this country is that which is directed at the most innocent and the most defenseless of all human beings, unborn children. This is the violation of human rights in the United States of America in 1996, the killing of unborn children, 1½ million or so per year on demand, and most of them are

VOL
142
PT
5
MR
21
—
29
1996
UMI

for birth control reasons, not the hard cases, life of the mother or even rape and incest. They constitute a very small, infinitesimal number of the abortions. Most of the abortions are done on demand.

Madam Speaker, I believe very strongly that the 22-year coverup of abortion methods, including chemical poisoning of babies is coming to an end. I think most people are beginning to realize, salt solutions are routinely injected into the baby's body, killing that baby, because of the corrosive impact of the salt. And they are appalled.

Another method of abortion, the most commonly procured method, is the dismemberment, D&C suction method, where the baby's body is literally ripped to shreds. We have, because of the leadership of subcommittee Chairman CHARLES CANADY's bill, hopefully, achieved the end of a very gruesome method of abortion, the partial-birth abortion method. This method in recent years has been done increasingly. It is being done in the later terms, in the 6th, 7th, 8th, 9th months of the babies' gestational ages. And, hopefully, even though the President may veto this, this will be the beginning of an effort to outlaw this sickening form of child abuse.

This picture to my left is truly worth a thousand words. It shows what the doctor does, and I just would like to use the doctor who is one of the pioneers of this gruesome method. I will just very succinctly read his statement as to how this method is done. His name is Dr. Martin Haskell, a doctor who performs partial-birth abortions by the hundreds. He has said, and I quote,

> The surgeon takes a pair of blunt, curved Metzenbaum scissors in the right hand. He carefully advances the tip curved down along the spine under his middle finger until he feels contact at the base of the skull under the tip of the middle finger. The surgeon then forces the scissors into the base of the skull. Having safely entered the skull, he spreads the scissors to enlarge the opening. The surgeon then removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. When the catheter is in place, he applies traction to the fetus, removing it completely from the patient.

What this so-called doctor is describing, Madam Speaker, is infanticide. The baby is partially born, and this so-called doctor then kills the baby in this hideous method. Hopefully, this legislation will get a second shot, notwithstanding the President's veto, so we can outlaw this gruesome form of child abuse and banish it from this land.

WHY THE ENDANGERED SPECIES ACT SHOULD BE IMPROVED

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Alaska [Mr. YOUNG] is recognized for 60 minutes as the designee of the majority leader.

Mr. YOUNG of Alaska. Madam Speaker, I take this time to bring to the attention of the floor, my colleagues, and those that might have the opportunity to hear what I have to say why the Endangered Species Act should be improved. That is the subject of this hour of debate. I will be joined by other Members that were directly involved in trying to improve the Endangered Species Act.

Madam Speaker, I came to this House as a Representative in 1973. Later that same year, I voted, one of the few remaining individuals that voted for the Endangered Species Act of 1973. There were only two hearings on the bill. There was no objection in the committee, and it very nearly passed unanimously on the floor. Those of us who voted for it never dreamed that some day it would be used by this Federal Government, the Government of the people, by the people, and for the people, supposedly, to control vast amounts of privately owned land, that it would be used by extremists to throw thousands of families on to the welfare roll.

The Government has said they want to improve the lot of the people, allowing this bill to be misused. And, Madam Speaker, that is what has happened to the Endangered Species Act. It is a tragedy. It is a law with good intentions, a good goal, but it has been taken to the extremes that the American people no longer support thus endangering the species and why we must improve the act.

This law has resulted in some people losing the right to use their land, their land, not your land, not the Federal Government's, but their land, because an agency, the Fish and Wildlife Service, has ordered them to use their land as a wildlife refuge. These landowners have not been compensated in any way, shape, or form, as our Bill of Rights requires. They still must pay their taxes on this federally controlled land and are singled out unfairly to bear the burden of paying for, supposedly, the public benefit. This has hurt not only the private landholder, the basis of our society, but it has also hurt the wildlife that depend on that land.

Because of the way that these Washington bureaucrats, primarily in the Fish and Wildlife agencies, have treated landowners, and particularly farmers, wildlife is no longer considered an asset by the landowners. Now the presence of wildlife is feared. A lucky few of these landowners have been able to file suit or fight the bureaucrats and extremists in court, a lucky few, those that have extremely great amounts of wealth. However, there are many people who have not been so lucky and have had to suffer the loss of their property or their livelihoods in silence without the tens of thousands of dollars needed to defend their rights in court.

Since I became chairman of the Committee on Resources, I have tried to ensure full and fair public debate on how to protect our endangered species and our threatened species while protecting the private property owner. Our committee held seven field hearings and five Washington, DC, hearings on this issue, the Endangered Species Act, and the revision of said act. We heard over 160 witnesses. Over 5,000 people attended and participated in these hearings.

Through our hearings all over the country, we gave the American people an opportunity to help us write our recommendations for repairing the Endangered Species Act. What we learned from these hearings is that American people love wildlife and have a true appreciation for our natural resources. However, the American people also love and cherish our Constitution, our way of life, and our freedom. The American people want a law that protects both wildlife and people. They want a law that is reasonable and balanced. They want a law that uses good science to list the species. Right now, today, all it takes is someone to file a petition saying they think, in fact, it is endangered, and then the Fish and Wildlife or Forest Service, Park Service, whoever it may be, will have to make a massive study even though that species may never reside there. That is how this act has been misused.

The American people are willing to make sacrifices if those sacrifices make sense and accomplish the goal of protecting truly endangered or threatened species. However, the current law on species, subspecies, and small regional subspecies, is based only on the best currently available science. That means, even though a species or subspecies may be thriving and abundant in various areas around the Nation, one small geographic population can be listed and can be used to stop the property owners from using their land in that area.

This is not America. The number of frivolous lawsuits that have been filed under the ESA have exploded. These lawsuits result in friendly settlements between the Government and extremist groups. Then the Government can use the excuse of court orders to shut down entire industries, put thousands of people out of work, and deprive landowners of their rights.

Lawyers are making millions of dollars, paid for by the taxpayers, by filing these suits, since the ESA requires judges to pay lawyers from the Federal Treasury.

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The result is entire communities are devastated while environmental groups get richer. Who is filing these suits?

Only environmentalists are allowed to file these suits in most of the country. If a private citizen may be harmed economically and wants to file a suit to protect their own land or job, the courts have closed the door in their faces. The ESA has been identified recently by a government commission as the worst unfunded mandate on States and local governments.

The Fish and Wildlife Service and the courts are imposing exorbitant costs on species protection and on small local towns and districts which they cannot afford. These small towns either pass on these costs to their taxpayers and property owners or reduce important public safety, health, and educational services. There are other serious problems with the way the Federal Government is using the law.

Now, do I, do we, does the committee support gutting or repealing the Endangered Species Act? Absolutely not. Contrary to what you may read in the paper or is being reported by this administration, we do not believe in eliminating or gutting ESA. But the American people are not going to continue to support and pay for our efforts to protect their wildlife unless we make the ESA work for the people and the wildlife. We need to make necessary repairs in a law that has become broken.

We spend hundreds of millions of dollars in this country for the protection of our great natural resources. Our good Secretary of Interior, Bruce Babbitt, has a $6 billion budget, a $6 billion budget, to protect our natural resources, but he says that is not enough. He wants more land under Government control, more money under Government control, and more power. Let us not forget that word, power.

We want to keep a good Endangered Species Act that truly protects our wildlife and our people, but we want to give more to do these good things back to the people who can do it best, the American public.

I trust the American people to be good stewards. They have in the past and will be in the future. When Federal action is needed to protect our wildlife that migrates across State lines, to protect our parks and refuges, to protect our waters and the air we breathe, we will continue to fund the millions to do the job, but we want to do it right.

Mr. Speaker, I take this time today because we need to make the Endangered Species Act work. We can only do that if we take up this important law and repair the damage that has been done.

Mr. Speaker, may I say, before I yield time to my colleagues, there is a case in California where a gentleman in fact is taking care of a small acreage of land and protects all species around it because he wanted to do so. Now he is under threat by the Fish and Wildlife Service saying because there are certain species on the small acreage of land, that he can no longer till the land around it. In fact, he is prohibited from making a living, without compensation. They would be taking his livelihood away.

Why do you think those species are there? It is because he has protected them. He has provided them shelter. He has provided them with food and the love that takes to maintain the species. But along comes this Government and says, "Now, we know what is best. You must not disturb their habitat." He was the one who protected the habitat.

He is being told by this Government that no longer has the sensibility to get out of the rain, that they know what is best for species. And he has a very serious choice to make: Is he in fact going to continue to protect those species, as he has done in the past, or will he retain his livelihood and eliminate that species? He does not want to do that.

It is time we review this act and improve this act, to make it work for the people of America, and for the species.

Mr. Speaker, I yield 5 minutes to the gentleman from Utah, Mr. [HANSEN].

Mr. HANSEN. Mr. Speaker, I appreciate the gentleman from Alaska yielding me time.

Mr. Speaker, I agree with the gentleman from Alaska. This is probably a very worthwhile piece of legislation, and I think the gentleman did the right thing in voting for it in 1973. However, that was not carved in stone. That did not come from Mount Sinai by the hand of Moses or some other great prophet. It was just done by puny little legislators who got together, and from time to time we have to make changes. Now is the perfect time to make changes in a law that we see is not working.

The gentleman from Alaska gave some very good illustrations. In another life I used to be Speaker of the House of the State of Utah. I that situation, I had to go talk to the Governor of the State every week.

I remember one day going down and talking to Governor Scott Matheson, a very fine man. He was just fuming. He was mad as could be. He said, "I am not going to let another blankety-blank person come into this State and find an endangered species, because what do they do, they tie it up in critical habitat, in endangered habitat, and all they are trying to do is get their master's or doctorate degree on this."

I remember also debating a law professor, Professor Jefferson from the University of Utah Law School. He made an interesting statement. He said, "Why is it that man, the Homo sapien, has more rights than the shark?"

I said, "Well, professor, if you would like to read the 27th chapter of Genesis, it says the Lord created all these things, and then He put man ahead of them and said he was supposed to be in charge of them all and be a good steward."

The professor said, "That just is myth and folklore in that book."

I said, "Take it that way if you want, professor, but that is what happened over the years. Man does have control. He is in control of these things and should be a good steward."

We find ourselves here today talking about are we a good steward with what is here upon the Earth, and we are bound to take care of? I think it is important to know, is the Endangered Species Act working as it is currently on the books?

My constituents and I have an extensive experience with ESA. One of the most impacted areas is Washington County in the little State of Utah. There we have four fish and a desert tortoise in that area. In addition to those, there are also approximately 50 species on the candidate list, some of which under the current rules are likely to be listed in the near future.

Accordingly, Washington County has the unfortunate experience of being one of the most heavily impacted counties in the United States. It is in the best interests of everyone, including States, local government, private landowners and the Federal Government, to try and work in partnership to preserve biodiversity and recover savable species.

To this end, the good people of Washington County have undertaken a habitat conservation plan that represents over 5 years of gut-wrenching effort, including the expenditure of over $1 million by a relatively small county to get this HCP approved. Another approximately $9 million will be expended by Washington County to see the plan fully implemented.

In addition to the millions spent by the county, the Federal Government is obligated under this plan to provide approximately $200 million to justly compensate affected landowners. Notwithstanding the fact that the Federal Government has this obligation, to date not one, not one single landowner has received payment for their land that has been rendered worthless by this HCP.

Knowing that the preservation of species is a top priority for everyone, it is important to emphasize that the current ESA, as regulated and implemented by the Fish and Wildlife Service, makes it difficult, if not totally impossible, to achieve this goal. Conservation of endangered species is best accomplished in an atmosphere that promotes a healthy economy founded on the principles of respect for voluntary involvement of local communities and affected landowners.

Perhaps the biggest problem of the current act, as interpreted by the Fish

VOL
142
PT
5
MR
21
—
29
1996
UMI

and Wildlife Service, is the use of the ESA to take people's private property without compensation and in some cases to insist upon totally unreasonable mitigation that prevents a landowner from utilizing all or part of their property.

We all share the same goals of a clean environment and preservation of species, but in order to accomplish this, we must restore some balance in the ESA, and that is what the gentleman from Alaska and the gentleman from California are trying to do. In concept it is unflawed, but the actual implementation of the law has become a nightmare for hundreds of communities around the country that will only worsen unless we have the courage to amend this act.

Mr. Speaker, I would urge the Members of this body to carefully consider what we have done, the problems we have, and they all ought to look at the map that shows if everyone of these endangered species is brought forward and is listed as critical, and then endangered, the Homo sapien might as well walk out as Jefferson Fordham said, and just leave it up to other things, because there will be no room for the Homo sapien if everyone of these is implemented.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for his comments. I hope the people watching and listening to this back in their offices understand that the gentleman from California and myself and the gentleman from Utah have tried to work out a solution to a very serious problem. When we passed this act, the regulatory law had come into effect. It is the regulatory law and the courts by extremist groups that have misinterpreted the law. We are trying to right this law so no longer can that occur, and keep our species and also recognize the importance of man and his right to participate on private property.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Speaker, I would like to point out the two gentlemen here have done an especially fine job in putting this together. All the criticism I have heard around America is in generalities. I wish these people would specifically point to the law and say this particular part is wrong or that particular part is wrong. Do not give us these generalities. Everyone can stand up and beat their chest. We want to have people tell us where we are wrong so we can discuss it. So far I have not personally had that opportunity. I wish the people of the House would take the time to look at the bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 10 minutes to the gentleman from Texas, Mr. SMITH.

Mr. SMITH of Texas. Mr. Speaker, I thank my friend from Alaska for yielding me time.

Mr. Speaker, I'm pleased to join Chairman YOUNG of the Resources Committee to discuss the critical need to fix the broken Endangered Species Act. The Endangered Species Act needs to be reformed because the current law harms people and the environment.

Today, the Endangered Species Act does not protect species. It violates the basic rights of hard-working, law-abiding, tax-paying Americans, the very people who ought to be empowered to protect our natural resources. While the Endangered Species Act is flawed in a number of ways, I'd like to focus on three of the most critical areas where the Endangered Species Act desperately needs to be reformed.

First, the Endangered Species Act needs to be operated in a way that respects the basic civil rights of all Americans. The fifth amendment to the U.S. Constitution provides: "Private property shall not be taken for public use without just compensation." This amendment guarantees a basic civil right: that no citizen in society can be forced to shoulder public burdens which, in all fairness, the public as a whole should share.

The fifth amendment does not stop the Government from meeting important public objectives. It simply ensures that those who want certain public benefits do not obtain these benefits at the expense of particular individuals. The fifth amendment is about fairness.

Usually, this simple, common sense, rule of fairness is followed. If the Government wants to use private property for construction of a highway or to create a national park, the Government simply condemns the land and uses the private property.

The requirement that Government pay for this private property—rather than simply taking this land—has not impeded the development of our highways or national parks. To the contrary, we have the best and most impressive highways and national parks the world has ever known. The requirement that Government pay to acquire private property for use in these public endeavors simply ensures fundamental fairness.

But not all public uses are equal. When it comes to some public uses of private property, private landowners are denied compensation. Americans whose land is used to protect endangered species suffer condemnation without compensation.

One American whose fifth amendment rights have been violated by an unfair, and unconstitutional, application of the Endangered Species Act is Margaret Rector. A 74-year-old constituent, Ms. Rector purchased 15 acres in 1973 in order to plan for her retirement. Her retirement plans were destroyed when in 1990, the U.S. Fish and Wildlife Service decided that her property might be critical habitat for the golden cheeked warbler, even though no birds were found on her property.

Ms. Rector was denied any productive uses of her private land. Today, Ms. Rector's property has lost over 97 percent of its value. Even though Ms. Rector is denied productive uses of her private property under a public law, the Government denies her just compensation.

The same rule of basic fairness that applies to Americans whose land is used for a highway or other public benefit also should apply to Margaret Rector. Americans whose land is used for protecting endangered species are not second-class citizens, and it's time that their Government stopped treating them that way. It is simply unfair, and a violation of basic civil rights, to obtain this kind of public benefit by forcing only a few Americans to should the entire cost.

It is essential that we reform the Endangered Species Act to ensure that all Americans' fifth amendment rights are respected. Government must compensate private landowners when it takes their land, or a portion of their property, for the public purpose of protecting and preserving endangered species.

Second, the Endangered Species Act must be reformed to encourage protection of endangered species. Today, it actually discourages resource conservation. Thousands of private landowners manage their lands as responsible environmental stewards. Unfortunately, in a classic example of unintended consequences of governmental action, the Federal Government's war on private property rights has actually undermined protection of endangered species, the very goal of the Endangered Species Act.

How did this happen? The Endangered Species Act imposes confiscatory regulations on private lands that contain valuable resources. It punishes ownership of vital or threatened natural resources. This discourages landowners from environmentally friendly land management practices, and deters the growth of wildlife habitat.

The story of Ben Cone is illustrative: Ben Cone is a North Carolina conservationist who carefully managed his 8,000 acres of timberland in North Carolina so as to develop natural resources and attract wildlife to his property. Mr. Cone was successful, so much so that Mr. Cone's property became the type of land that is habitat to the red cockated woodpecker. How did the Government reward Mr. Cone for his successful environmental management? It forced him to bear a $2 million loss for his hard work by prohibiting any development of a small portion of his property. His lesson: accelerate the rate of clearing the land to discourage the costly woodpecker.

The story of Mr. Cone is by no means the only evidence of the antienvironmental effects of the Endangered Species Act, as it is currently enforced. Officials at the Texas Parks and Wildlife Department contend that adding the golden-cheeked warbler and black-capped vireo to the endangered species list has encouraged the rapid destruction of their habitat. It is my hope that the Government end its counterproductive, and unfair, reliance on heavy regulation and instead encourage private environmental stewardship.

As in so many other areas, the goal of our policies should be results, not more power and more bureaucracy in Washington, DC. Whether we're talking about welfare, Medicaid, education, or protection of endangered species, the people of Texas, California, Wyoming, or Maine understand what needs to be done to serve important public goals. They don't need unelected officials in Washington—who have never visited their land—telling them what to do.

The goal of our Endangered Species Act should be protection of species and conservation of natural resources. The difference between Secretary Babbitt's approach and the reform model that we're discussing today is not the goal: both of us want to protect species. The question is how best to accomplish this goal.

We believe that landowners have an important role to play in resource protection. We believe that our resource protection laws need to work with landowners, not against them. And we believe that the kinds of disincentives that discouraged Ben Cone from protecting species must be eliminated.

The Endangered Species Act must be reformed to accomplish its goal: protection of species. Today it actually harms species.

Third, the Endangered Species Act should be used to protect species, not as a national land use planning device. When Congress enacted the Endangered Species Act, it did not intend to grant the Federal Government an easement over much of the private lands west of the Mississippi.

From the beginning, Congress realized the need to balance species protection with the rights and needs of people. Congress enacted this law to protect the bald eagle, to avoid direct harm to species whose numbers were low or depleted so as to avoid extinction. This is a laudable, and reasonable goal.

Unfortunately, too often what starts out as a reasonable and laudable Government program does not remain that way. Government officials at the Department of Interior have interpreted this reasonable law in an overbroad and unreasonable way so as to restrict activities on private property, regardless of whether an endangered species in threatened by this activity.

The Government has used the Endangered Species Act to impose ruinous restrictions on private lands regardless of whether the endangered species is on the land, will be harmed by the proposed activity, or has ever visited the land. According to the Department of Interior, as long as the land in question is the type of habitat that the endangered species tends to use, the Endangered Species Act applies. Most recently, Secretary Babbitt has discussed expanding this habitat to cover entire ecosystems.

It's time to return the Endangered Species Act to the original intent of its authors: to prevent harm to particular species. It's time to remind Government officials that private property is privately owned, and that the families and individuals who purchased the land, not the Federal Government, have dominion over it.

The Endangered Species Act is in critical need of reform. Our reform goals must be: Protect civil rights. Encourage private stewardship. Prevent Federal land control. Adoption of these simple, commonsense reforms, each of which was intended by Congress when it enacted the Endangered Species Act, will put some balance into the Endangered Species Act and should actually help preserve the environment.

□ 1515

Mr. YOUNG of Alaska. Mr. Speaker, I want people to remember and visualize the lady, the widow in Texas. She purchased the land in 1973, basically as retirement, if I am not mistaken.

Mr. SMITH of Texas. That is correct.

Mr. YOUNG of Alaska. And the value of that land prior to the golden-cheeked warbler supposedly was, it was valued to—do you have the value of that land?

Mr. SMITH of Texas. It was a couple hundred thousand and it depreciated in value 97 percent.

Mr. YOUNG of Alaska. My understanding is, it was valued close to a million dollars for her retirement and now is worth $30,000, if that, and, in fact, if it can be used at all. Again, it is my understanding, if I am not correct, you may answer this, that they had not found the golden-cheeked warbler but it was possibly the habitat for the golden-cheeked warbler; thus they declared it an endangered area for the species; is that correct?

Mr. SMITH of Texas. Mr. Speaker, if the gentleman will continue to yield, that is absolutely correct. The golden-cheeked warbler had never been seen on her property, past or present. It just might someday tend to land there. For that reason the regulations were imposed.

Mr. YOUNG of Alaska. It is also the fact, I think, if I am correctly informed, that they have found golden-cheeked warbler in many other different areas but because of the so-called habitat is the reason they classified it, but they never looked at the other areas to find out if there was an abundance of them there or whether in fact they could be helped in another area. They have taken this widow, this 70-year-old widow, invested the money in 1973, and taken her retirement away from her. I say that for those that are interested in Social Security, Medicare, and Medicaid. This is your Government in action, with no science, only an agency's idea of how the act should be implemented. That is why I thank the gentleman for supporting my efforts to improve the act so that the American people can regain their faith in this Government and also protect the species. I thank the gentleman.

Mr. POMBO. Mr. Speaker, along the same lines with this particular lady, I had the opportunity to hear her testimony before the endangered species task force. One of the things that she brought up at that time, and I thought it was very interesting, was that this was not some pristine isolated location, that this was in the middle of an area that was zoned for industrial development.

Mr. SMITH of Texas. Mr. Speaker, if the gentleman will continue to yield, that is exactly correct. This is not an isolated incident. It is not the exception to the rule. This is very typically the rule where someone purchases property for investment purposes, for a retirement home in this case, and then sees the value of their lifetime savings, perhaps lifetime savings of two or three generations, wiped out just because of the Government-imposed regulation. In this case, it makes no sense and does not have any connection to actually protecting or preserving any species.

Mr. YOUNG of Alaska. Mr. Speaker, this brings up another point in the gentleman's presentation.

Would you say that this is Government land management, Government land control, Government telling States and individuals what they have to do because the Federal Government says that is what you have to do?

Mr. SMITH of Texas. That is exactly right. I agree with the gentleman. Again, I appreciate his efforts and his leadership on this issue.

Mr. POMBO. Mr. Speaker, the gentleman also serves on the Committee on the Judiciary which has broad jurisdiction over constitutional issues.

Is it your understanding that there is any place for Federal land use policy in the Constitution?

Mr. SMITH of Texas. I think any Federal land policy of the kind that we are talking about, that means the way the current Endangered Species Act is being enforced, is in clear violation of the Constitution, particularly the fifth amendment. Until the Government decides to engage in some just compensation to compensate landowners for the

VOL
142
PT
5
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21
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29
1996
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lost value of their property, in my judgment they are in violation of the Constitution.

Mr. POMBO. So in essence what happened with your constituent in this case was you had someone who lost basically nearly all the value of her property, which she was going to use for retirement, but it could have been my property or anyone's property that lost the value of their property, based upon a decision that came out of fish and wildlife, which was, this is an industrial area, it is zoned for industrial use. It is not an isolated area. It is not a pristine habitat area. It is an industrial use that has industrial developments all around it. It borders on a major roadway, a major thoroughfare. But they were going to control any type of development on her property, not because there were endangered species on the property but because it was suitable habitat. If one wanted to live there, it could. It was suitable habitat.

Mr. SMITH of Texas. Right.

Mr. POMBO. You are telling us that that is what they were basing their decision on.

Mr. SMITH of Texas. The gentleman is absolutely correct. It is not the fact that the golden-cheeked warbler had ever landed in any of the foliage on that particular piece of property. It is not that they had at any time in the past. It is just that they some day might. There is no current use of the endangered species. That to me is out of balance. That is why we need to amend the Endangered Species Act.

Furthermore, I want to say to the gentleman, he makes another good point which is to say that this type of overzealous regulation enforcement by the Federal Government can hit anybody at any time. We are not just talking about an isolated landowner that may have a large ranch or farm in a rural area. We are talking about anyone who lives anywhere close to habitat that might be considered by the Federal Government to be a critical habitat.

Mr. POMBO. As chairman of the task force, I had the opportunity to take the task force to your district to hold a hearing earlier last year. One of the good fortunes that we had while we were in your district is we had the opportunity to visit a cattle ranch, a very well-managed cattle ranch in that area, and the gentleman took us out and explained to us how he was managing it to get the highest return from the property.

One of the issues that came up when we were out there was what would happen or how cattle ranchers would respond to the listing of the golden-cheeked warbler; in fact, how they would destroy habitat so that they would not have a problem with the fish and wildlife coming in and tell them they could not run cattle or could not run goats on their property.

Mr. SMITH of Texas. I remember well that day you and I were together on that Texas ranch. When you tell someone that they may lose the right of use of their property, it does not take long for that rancher or farmer to decide they are going to clear the brush that might be that critical habitat. Why wait for the Federal Government to, in effect, take over your property. The gentleman is absolutely correct. unfortunately these regulations force individuals not to be good stewards, it forces them to perhaps take some action that actually hurts the habitat in order to try to protect themselves.

Mr. POMBO. So if the golden-checked warbler were truly an endangered species and we were truly trying to recover that species, is not the Endangered Species Act working in the exact opposite direction? Is it not giving people the perverse incentive to destroy habitat so that they do not have a problem?

Mr. SMITH of Texas. I agree with the gentleman. I do not think the Endangered Species Act is being enforced as originally intended and, quite frankly, it has gotten out of balance. The balance is too great on the side of the regulations, and they do not take, in their enforcement, enough consideration of the adverse economic impact on the real people, hard-working individuals that may have spent their lives working to cultivate the land, spent their lives investing in the land, spent their lives working from daylight to dark pouring everything they have into the land and then all of sudden they find they cannot use it in the way they intended. Clearly, the Endangered Species Act is not being enforced as it should be enforced. We need to get back to a better balance.

Mr. POMBO. So what we are faced with today is that the Endangered Species Act as it is being implemented today is not good for species, is not recovering species, is not helping out with wildlife, and at the same time it is causing severe economic and social hardship across the country?

Mr. SMITH of Texas. The gentleman is correct, absolutely correct.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order?

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the gentleman from Louisiana [Mr. TAUZIN] newly acquired great Member of this side.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman from Alaska [Mr. YOUNG] not only for yielding time but for having this special order. It is important because I think all Americans love and appreciate the great outdoors. We appreciate the diversity of animal and plant life not only in America but on the planet. We all have an interest in preserving it and making sure that we do not lose it.

□ 1530

When you come to areas like Alaska and Louisiana, you have a special appreciation for it, because of the land, the water, the species that inhabit them are special to us. I grew up in the bayou country of south Louisiana where we are extremely close to nature. Nature was not just something we experienced by watching the Discovery Channel. It was part of our lives every day. To see anything go extinct is nothing that is very pleasant and certainly something we all want to avoid, not simply for the esthetics of it, but for the importance of it in terms of life on this planet.

Life should be precious to all of us. The life of a species ought to be one of the things we deeply cherish and want to protect.

Mr. Speaker, the question is not whether we love the great outdoors and whether we appreciate the great outdoors. The real question is whether the great indoors is working well enough to preserve the great outdoors. The great indoors is the Interior Department, and so great indoors is where bureaucrats work night and day turning out the regulations we all have to live with that most concerns us.

Mr. Speaker, what I think we are about is asking for reforms that bring common sense and effectiveness, user friendliness, to the environmental laws, the endangered species laws, of this country, not simply because we do not like bureaucrats, but, Mr. Speaker, more importantly, because rules and regulations ought to, No. 1, make common sense, because we will understand them better, appreciate them more, and they will work better; No. 2, they ought to be user friendly. That is, the people they affect ought to be taken into the equation. They ought to be considered. Public hearings, good science behind the decisions, explanations and a chance for people to have an understanding of why this rule is important to protect a species and perhaps change the way somebody is using and enjoying their property, for example.

The rules in the end ought to be not only good common sense and user friendly, but they ought to be effective, to carry out the purposes they intend.

A good example in Louisiana right now is a thing called the black bear conservation effort going on in our State. It is a voluntary land management plan that landowners have entered into voluntary agreements with conservationists to help propagate the species of black bear that resides in

Louisiana. The results have been dramatic.

Without Government intervention, without the Government coming in and declaring critical areas and coming down with all kind of rules about what you can do or not do with your property, landowners and conservationists are working cooperatively today to bring back a species, a subspecies of bear, that some said was threatened or perhaps endangered. The result is that we are getting an effective recovery.

Part of our commonsense plans to reform endangered species is to do just that, to put some good science into the equation that makes sure public hearings, that people have a chance to see and know what is going on, to make sure the regulations make common sense, that they are tested on the basis of effectiveness and cost benefit to make sure that we stress voluntary agreements first before we talk about command and control decisions out of Washington, DC, and then to test the bottom end result. Is it working? Is it recovering the species? Are we happy as a user family of American citizens who use this planet alongside the other species that inhabit this Earth? Are we happy together? Is it working out?

If we test it on that scale, the current law fails us pretty badly. If we test it on a scale of what we could accomplish, if we change the law in those respects, if we brought commonsense environmentalism to this Chamber, if we made our rules and regulations user friendly, and if we test it on the basis of how well they are recovering species, what good effect they are having, then I can guarantee you folks like the gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. POMBO] and I would not only be happy with the results, but Americans generally, whether you call yourself an environmentalist, conservationist, or whatever else you want to call yourself, we would all be happy to know that the laws are working, that they are appreciated, and that landowners and other effective groups are partners and friends of the act rather than having made enemies of the act and, therefore, fighting its effect instead of working with it.

Mr. Speaker, it is the kind of goal we hope to achieve. I think special orders like this, where we talk about the value of changing the law and making it better, are extremely important if we are ever going to get to that point, and we get past the politics and all the demagoguery, and we talk realistically about how we can build a better environmental law for America that protects species, and does make common sense, and takes people into account, and landowners, and values of their property, into account as we go about recovering their species.

Mr. YOUNG of Alaska. Mr. Speaker, the gentleman was speaking about his bear and the cooperative effort. This is the one thing, I know, in 1973, when we voted for this act, we thought we were doing, but for some reason we have lost track of the agency, that they have decided without looking at Federal lands, which we have 835 million acres of, we find out with the species residing in those areas they do not do that unless it is multiple-use land. They will come after the individual and say, you must do this. We lose this cooperation, we lose this partnership.

Mr. Speaker, I have said all along that we must be partners in this law in order to protect the species. You cannot expect the Government to protect the species by itself. The partners who should be part of it will in fact extinguish the species because they have no other choice.

Mr. TAUZIN. Mr. Speaker, a perfect example, this black bear deal in Louisiana. Not only was the conservation program working without any mandates from the Federal Government, not only was the black bear recovering nicely, but, believe it or not, the Department of the Interior was not happy with that. They instead came in and proposed a $3 million critical habitat area. They were going to impose it without any public hearings. They would not tell landowners what it would do to affect the use of their property. In fact, they could not explain what the differences were going to be when they mandate this critical area.

Well, we insisted on some public hearings. We finally got a couple, and we literally brought to light the fact that the program was working without the Federal Government mandating and controlling and creating critical areas. Landowners were volunteering. The partnership, Mr. YOUNG, was working.

Mr. YOUNG of Alaska. Can I bring an example up that I ran into recently in the State of Florida down around Gainsville?

There was a sighting of a puma, or a mountain lion or a puma, whatever you like to call it, by farmers, and they made up their mind they were going to protect this puma if, in fact, it was. The Fish and Wildlife from the Federal Government said there is no such thing in Florida and this area. Well, they found tracks, they being the farmers, saying, all right, we know it is here. They took costs of the tracks. They named him Toby, by the way. They cast the track, took it to the Fish and Game Department, our Government in action, and they had to say, lo and behold, there is a puma. So they set out, and they finally zapped him with a tranquilizing gun, and then did a DNA on the puma and decided the puma was a western puma from New Mexico. Now how he got—unless they are doing the Amtrak or a 747 plane.

Mr. TAUZIN. on vacation.

Mr. YOUNG of Alaska. Or on vacation. How he got all the way to Florida, I do not know.

Remember now the farmers wanted to keep the puma. This is a Florida puma, in their minds. But Fish and Wildlife said in their minds, and in fact made an edict; they got him in a cage now, said that he is not indigenous to the area, he is a western mountain lion, or a puma, and thus they are going to transfer him via air to New Mexico because he does not belong and because they decided he did not belong there.

Now keep in mind, if I am sure how ridiculous this is under the Endangered Species Act, and in the meantime this same thing, Mr. Babbitt and the Fish and Wildlife Department saying in fact the wolves are endangered in Yellowstone Park, and in Idaho and Utah. And they go to Canada, get a foreign wolf, and tranquilize those foreign wolves, and, by the way, they killed five of them in doing so at a cost of $7 million and transferred foreign wolves down into the United States, which are not the same DNA.

Mr. TAUZIN. They were not French speaking; were they?

Mr. YOUNG of Alaska. They were not French speaking, saying this is perfectly all right. This is our Fish and Wildlife in a position of making absolutely outrageous decisions under this act, and that is where we have to——

Mr. TAUZIN. Mr. Speaker, one of the things the gentleman from California [Mr. POMBO] has talked about at a number of our hearings was the fact that, overall, there are 4000 species waiting to get listed right now under the Government command and control system. Most of them are bugs. While we talk about the Endangered Species Act protecting beautiful animals, like pumas and bears and eagles, that actually the next listings, the next big round of listings, will be all kinds of insects. People's properties and values and their lives are going to be affected now dramatically because of the presence or absence of an insect anywhere near their home.

Mr. Speaker, this law is beginning to have effects that nobody calculated. If we do not somehow restore some common sense to it so that we can get more cooperative agreements in here and more good science behind some of these decisions, we are going to have some real problems in this country.

Mr. YOUNG of Alaska. Mr. Speaker, the gentleman says 3,000 are going to be bugs. Let us stress that, bugs, things that you squish if they get on you. You mean to tell me, if they decided that the red tick, the Mississippian tick that is awfully prevalent in the woods, and some places it is not because they are eradicated; if they decided that tick was—by the way, the tick carries diseases—was an endangered species, and I happened to get one of those

VOL 142 PT 5 MR 21 — 29 1996 UMI

ticks on my body as I was walking through the woods enjoying this beautiful flora and fauna, and that tick was on my body, I could not destroy it because of endangered species?

Mr. TAUZIN. You could if you wanted to pay——

Mr. YOUNG of Alaska. I would have to pay a $3,000 fine. Would I have to declare it with the Fish and Wildlife Department?

Mr. TAUZIN. I think you would probably find a way to hide that tick.

Mr. YOUNG of Alaska. Got to be one of those SSS's.

Mr. POMBO. Mr. Speaker, if the gentleman would yield on that. He is correct in his assumption of the 4,000–4,200 candidates, species. The vast majority of those are insects that they have on the species list. That is one of the major reasons why it is so critical that the Endangered Species Act be reauthorized and reformed in doing so.

Mr. Speaker, if they were to declare the gentleman's tick an endangered species, and it would not have to be endangered across the country, just in specific regions of the country, unique species, localized species, subspecies of the major tick species, they could list that as an endangered species. Not only would you get in trouble for smashing that, on the other side of that, under the current law in the way it is being implemented, they would have to import them from other areas of the country to reintroduce them into the areas where they had become endangered in order to maintain a viable population of them.

That is the absurdity of the act in the way that it is currently being implemented.

Mr. TAUZIN. Mr. Speaker, the biggest absurdity in my mind though, it is a fact that all of these decisions are being made without the benefit of good science. The law right now says that a listing can occur with what is called best available data, B-A-D. Bad science, whatever is available. If you only know a little bit, and that tells you it is endangered, then you have to list it under the current law. You do not need to do the research and find out whether or not, in fact, there are other populations of this animal or plant or insect somewhere else.

Mr. Speaker, we are driving, in effect, the whole body of regulations that are becoming increasingly difficult for Americans to live with on the basis of bad science. We do it without public hearings in many cases. We do not consider cost-benefit ratios. We do not consider whether the regulations we impose make common sense. We simply must impose them once that listing occurs on the basis of bad science.

Now, you cannot tell me that kind of a law makes good sense, to say that you are going to list something with bad science. Then you are going to have rules and regulations made without the benefit of public hearings and that in the end you are going to make a regulation that impacts dramatically the lives of people without ever considering the cost, without looking for the least-cost alternative, to find the best way to save that plant or animal without putting people out of work, or taking their property away from them, or putting in jail, as the gentleman from Alaska [Mr. YOUNG] said, smashing a bug.

Mr. POMBO. Mr. Speaker, the gentleman is absolutely correct. Current law does not require them to use good science. If he went out and did a biological study on his black bear in Louisiana, and he wanted to print that in a scientific magazine, it would have to stand up to peer review before they would ever allow you to even print it in a scientific magazine. But it could be listed as an endangered species based on that biological data without ever being peer reviewed, without another scientist, biologist, in this entire world verifying that you——

Mr. TAUZIN. You mean a biologist could nominate a species, and on the basis of his information could get listed and impact millions of Americans?

Mr. POMBO. Absolutely, and it does have to be a biologist. It can be a college student doing their senior thesis on the disappearance.

Mr. YOUNG of Alaska. Mr. Speaker, if I can, the gentleman has to understand one thing. We had a case in my great State of Alaska where there was a petition filed by two students from New Mexico saying that the archipelago wolf possibly could live in this forest and, by even filing the petition, 535,000 acres were put off limits for any man's activities until they can study if the archipelago wolf was, in fact, a reality.

Mr. TAUZIN. Mr. Speaker, the gentleman is saying that the land was put off limits even before the listing?

Mr. YOUNG of Alaska. Before the listing.

Mr. TAUZIN. Just because somebody—

Mr. YOUNG of Alaska. No scientist, and on top of that, the Fish and Wildlife, I have to give them some credit, says there is no way that the archipelago wolf would ever be there.

□ 1545

But Mr. Speaker, the Forest Service said we have to follow through with the studies. Consequently, the impact upon people in that community has been devastating. We have lost employment, we have put people on welfare, and still, there is no wolf and there never was a wolf and there never will be a wolf in that area, but because two people out of New Mexico filed a petition, that is why this act must be reformed.

Mr. TAUZIN. Mr. Speaker, I thought of something else that really does not make any common sense. Under the law, the way it is written today, interpreted by the Supreme Court, if I own a piece of property that may harbor some endangered species and I want to alter that property to enhance its capacity to hold that species, I cannot do it.

Mr. YOUNG of Alaska. You cannot do it. You cannot even develop a wetland for species that would reside in a wetland. You cannot do it.

Mr. TAUZIN. If I own a piece of property that I thought was mine and I want to enhance it for wildlife conservation, if there is an endangered species on it, I cannot even do that. The Government will not let me even enhance my property.

Mr. POMBO. Under current law, Mr. Speaker, they will not allow you to even enhance the current population of endangered species on your property.

Mr. YOUNG of Alaska. But they can. The Government can introduce a species, they can go to Canada and get a foreign wolf and bring it down, but you yourself cannot do it on your own property.

Mr. TAUZIN. I want you to think with me, if we were able to change the law, if we could get something past this Congress and signed by the President to bring some commonsense environmentalism to endangered species laws, and we had a situation where landowners would be encouraged to invite endangered species on their property and encouraged to enhance the conservation capabilities of their properties so these species could grow and actually enhance the population significantly, if had that kind of law in place, instead of the one that tells the landowner, "You had better not find an endangered species on your property or we will shut you down; you had better not invite one on, because we will shut you down; you had better not even try to improve your property for species because we will shut you down," if we have that kind of law, which we do today, and we had the chance to build a better law that encouraged landowners to do the right thing, why would we not do that?

Mr. POMBO. If the gentleman will yield, Mr. Speaker, why we would not do it is because so many people have so invested in the current system. If we look at those that are protecting the status quo who do not want commonsense changes, it is because they would have to give up power, if you empowered people. They would have to give up money, the tens of millions of dollars a year in Federal grants that these extremists get in order to maintain the current system. They want to protect the system that is in place right now because they have a pretty good thing.

Mr. YOUNG of Alaska. But they do not want to protect the species. They have not protected the species.

Mr. POMBO. The species has become secondary.

Mr. YOUNG of Alaska. They say it is a great success. In reality, there have been no species protected. They claim the eagle. The eagle was very viable in my State. The eagle's problem was DDT. It was not the Endangered Species Act. Once we stopped using DDT, we have eagles now in the majority of the United States today, and we have an abundance of them in Alaska, so it was not the act; but they keep waving it because it was the American bird. They keep saying, "This is what we did with this act."

Mr. POMBO. Mr. Speaker, if the gentleman will continue to yield, we talk about reversing the incentives so people have a positive incentive, a positive goal to create endangered species habitat, maintain endangered species habitat on their property, so we are using the carrot instead of the stick. People will respond to that.

The other side of this is the regulatory process. This right here represents what a developer goes through if he wants to develop a house on a piece of property. These are the steps that he has to go through just in case he has an endangered species problem. You wonder why houses cost so much money in this country. You wonder why the average working couple, the young couple my age, has such a difficult time purchasing a piece of property to follow the American dream. This is what has to happen before one shovel of dirt is turned, before one permit is issued.

Mr. TAUZIN. In fact, Mr. Speaker, not only are we not doing the right things, the law encourages landowners to do the wrong things, as the chairman of the committee pointed out.

We heard the testimony of one landowner whose father left him this beautiful property that they had develop over years, and all of a sudden, a woodpecker arrived. They discovered woodpeckers on the property they had enhanced. Now he is clear-cutting the rest of his property to avoid what he calls an infestation of an endangered species. Instead of doing the right thing, as his father had done for many years, he is clear-cutting now.

Mr. YOUNG of Alaska. Because he had to do it.

Mr. TAUZIN. He had to do it to protect his value.

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the gentleman from Washington, "DOC" HASTINGS.

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentleman for yielding, and I thank him for having this special order. The discussion that we have here has been, frankly, very interesting. What I would like to bring to this is the kind of a discussion from a macro standpoint. You have been talking about a micro standpoint.

When I look at reforming the Endangered Species Act, I look at bringing good science in as being very important, as the gentleman from Louisiana, Mr. TAUZIN, has said, and also protecting private property rights. But in my area in the Northwest, I want to talk about it from a macro standpoint, because it has a huge impact beyond what we talked about.

For example, the power in the Northwest comes from falling water. About 90 percent of our power comes from water over dams. Whenever we deal with water, of course, what are we dealing with? We are dealing with fish. We have a potential listing of several species of salmon, as the chairman knows, in the Pacific Northwest, Snake River salmon, Columbia River salmon.

I can tell you from a scientific standpoint, and this is the important part, from a scientific standpoint there is little difference between the Snake River salmon or the Columbia River salmon. One kind goes up to the tributary, and the other continues on up. Yet, because of that potential listing and because, in part, of the bad science, that has been part of what is being suggested by NMFS we have drawdowns not based on science, where it simply has not worked. I think what the committee has done as part of a reform to this plan is to bring the local community, the State, the local counties, whatever the case may be, into saving those species.

We have, for example, in place in the big Columbia system an agreement that was brought about some 8 years ago by local entities, we call them the big Columbia PUD's, the public power systems that we have there, it is called the Bernita Bar agreement. What it has done is enhanced the spawning grounds on the last free-flowing stretch of the river.

This is precisely what people thought needed to be accomplished earlier on, and it was done on a local level. The way the act is written now, those sorts of things are not encouraged. What the committee has passed out, that is encouraged, so I congratulate the chairman of the committee for taking the lead on this. Hopefully, we can get something passed.

I also want to commend him for his leadership in introducing a comprehensive proposal that makes common sense reforms to the ESA. As a member of Representative RICHARD POMBO's House ESA Task Force, which held a series of field hearings throughout the country last year on this issue, I am quite pleased that he included so many of our recommendations in his bill, H.R. 2275.

Reforming this well-intentioned but out-of-control law has been one of my top priorities in the 104th Congress. The problem with the current version is that it does not properly balance our environmental needs with our economic realities. I strongly believe these goals are not mutually exclusive.

The Endangered Species Act is having a devastating impact on our local economy throughout the Pacific Northwest. Whether it be loggers, farmers, water users, or any other hard working man or woman dependent on our natural resources, the ESA is in desperate need of reform.

My own area of central Washington is certainly no stranger to the existing problems of the ESA. As the location of many large dams and irrigation districts along the Columbia and Snake Rivers that generate power and provide water for our farmers, we have been faced in recent years with an ESA mandated National Marine Fisheries Service [NMFS] Plan to protect several species of salmon that will bring the total cost for salmon protection for our region to $500 million. Since 1982, our region has already spent $1.5 billion for salmon restoration. If we do not reform the ESA soon, the Pacific Northwest is likely to spend close to $1 billion annually on salmon recovery alone by the turn of the 21st century.

The NMFS proposal recommends depleting the storage reservoirs on the Columbia/Snake mainstem by 13 to 16 million acre feet [MAF]. Up to 90 percent of the total storage capacity will be used for flow augmentation at the annual cost of $200 to $300 million.

Worst of all, the best and most current science on this subject developed at the University of Washington indicates that in-river survival is better than previously expected, in the 90 percent survival range. That information, when included in current modeling, such as the University of Washington's CRiSP, Columbia River Salmon Passage Model, report indicates that reservoir depletion beyond some 5 million acre-feet will not increase survival.

Clearly, the science upon which NMFS is basing its recommendations is highly suspect. However, NMFS seems to have ignored this evidence and concluded that only dam operations are the problem. The point is we are about to enter into a process that will further restrict the economic opportunities of thousands of hard working men and women in our area with little or no scientific evidence that this plan will enhance or even protect existing salmon populations.

There are many factors behind the recent decline in salmon runs including the increase in ocean temperatures off the coast of Oregon and Washington, better known as El Nino. This increase in temperatures off our coasts has even caused declines in salmon runs and populations in rivers and streams where no dams exist. At the same time, as I understand it, salmon runs in Chairman YOUNG's home State of Alaska remain much stronger due in part to significantly lower ocean temperatures.

Let me be clear, my constituents and I are committed to protecting our precious salmon resource in the Northwest. However, we must do so in a common sense way that assures that these runs are protected for future generations to enjoy at minimal cost to our rural communities that depend on our dams for their economic survival.

One of the problems with the current law is that it mandates that all listed species be restored to original numbers. In some cases, this is a worthy and realistic goal. However, in other instances, this is counterproductive to the goal of species recovery.

For example, in my area of the country, there is the Snake River Sockeye salmon run that we are spending tens of millions of dollars in an attempt to restore to original numbers.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Almost everyone admits that it is virtually impossible to completely recover this run.

However, under the current ESA, we are being forced to do just that when we could be spending this money more wisely on improving salmon runs that are genetically indistinguishable from the Snake River Sockeye but have a far better chance of complete recovery.

Under H.R. 2275, the ESA is amended so that salmon runs like the Snake River Sockeye are protected. At the same time, the bill gives greater consideration to enhancing healthier runs that have a better chance of full recovery. This change in the law will lead to a much larger and healthier salmon supply for our entire region.

When one considers the ESA's current problems with the fact that only a handful of species nationwide have fully recovered to the point where they could be removed from the list since the act was first enacted in 1973, it is quite evident that the current law is neither protecting species nor families that depend on our natural resources for their livelihoods.

One of the major reasons for the act's failure to fully recover species is the set of perverse incentives that it encourages. The current law punishes people for protecting habitant on their property and rewards those who develop their land with no consideration for wildlife. These perverse incentives were mentioned over and over again by witnesses at our task force field hearings. That is why I am delighted that Chairman YOUNG has included a number of our recommended reforms in his bill.

First and foremost among our task force's concerns was the issue of compensation. H.R. 2275 encourages property owners to cooperate with the Federal Government in our efforts to protect species by compensating them when restrictions imposed by the ESA diminish their property's value by 20 percent or more.

This much needed reform will not only encourage greater cooperation between the public and private sectors in protecting species but will also force the Federal Government to prioritize our limited financial resources on species that are most in need of recovery. Rather than scattering our current resources on fully recovering all species, as the current act calls for, H.R. 2275 will lead to more recoveries and many more ESA success stories.

Equally important, our bill also encourages stronger science by requiring that current factual information be peer reviewed. In addition, the bill makes all data used in the decision process open to the public.

Mr. Chairman, I have barely scratched the surface in my limited time here this afternoon of all the improvements H.R. 2275 makes to the Endangered Species Act. Our task force continues to work hard in support of passing H.R. 2275 which addresses so many of our people's concerns.

I am pleased that Chairman YOUNG and Congressman POMBO have taken the lead on this legislation and look forward to continuing to work together on reforming this act so that it will better protect species and communities had hit by the current law.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for his support and information. He brings up a very valid point. If we had listened to the localities, the States, and the communities, we could have solved the problem on the river. I would suggest another thing, though, as long as the gentleman brought it up, because I brought it up myself about importing the Canadian wolves down to reintroduce wolves.

I have also suggested we can rebuild the Columbia River fishery by the enhancement with Alaskan stock. The answer I get from NMFS and the Fish and Wildlife: "We cannot do it because they are not indigenous to the area. They are not part of the stream." To them I say, "I thought you wanted to bring the fish back. We can help you do that." They say, "We cannot do it."

But it is all right for them to bring the wolves down, against everybody's wishes and beliefs, and they are Canadians; because our fish come from Alaska, a State of the United States, they are saying, "They are not part of the system." It is the mindset that we are dealing with today that is not working.

Under our bill, we will bring the people in and it will be part of the State, part of the community, and we will solve the problems and bring the species back. I am very excited about that concept, and I hope those that might be listening to this program will think about what we are trying to do, not gut it, not repeal it, but to improve upon it. That is what our bill does. I thank the gentleman.

Mr. HASTINGS of Washington. One last thing I would mention, if I may, Mr. Speaker. That is that we had a meeting of some local people from our State, talking about the need to amend this act.

One local farmer made a very profound statement. I think it is indicative of probably all of us across the West that have private property, where the treat would come by having an endangered species found on our private property. This particular farmer said, "If I saw a potential endangered species walk across my property, my first reaction would be to shoot it and kill it and not tell anybody."

Mr. HASTINGS of Alaska. They belong to the "Three S Club," "Shoot, shut up, and shovel."

Mr. HASTINGS of Washington. That is right. If we look at what the intention of the act was 23 years ago, and you voted for it because the intention was good, that action by this farmer would do nothing at all to enhance the species. It is counter to what we are trying to do. Why? Because of the heavyhanded administration coming from the Federal Government, because that is what this act says should be done. So it needs to be reformed, it needs to be reformed to bring the local people involved in this sort of stuff, but more important, common sense, and let us protect private property rights, because after all, that is a constitutional requirement.

Mr. PACKARD. Mr. Speaker, for decades the liberals in Congress have distorted the original intent of the Endangered Species Act to further their extreme agendas. In November, the voters cried foul and asked Republicans to restore rationality to our environmental laws.

Our reform proposal stops the radical environmentalists in their tracks. They will no longer ride roughshod over our property rights. Instead, Republicans will protect our natural resources as well as our freedoms.

In its current form, the Endangered Species Act creates perverse incentives for landowners to destroy habitat which could attract endangered species. Once these animals migrate there, landowners lose their property rights to the snails, birds or rats who happen to move in. In essence, the ESA, as currently written discourages the very practices which will ultimately protect endangered species habitats. Instead, we need to ask landowners to participate in preserving our natural resources. Property owners are not villains. Everyone wants to preserve our resources.

In addition, Federal bureaucratic administration and enforcement of the Endangered Species Act is tantamount to Federal zoning of local property. State and local officials have no say in how the ESA is implemented and enforced in their States and communities. State and local officials need to have greater control. They know what is best for their communities.

In my district I can give you several recent examples of government violating the rights of private property owners. One hundred twenty-one acres of the most beautiful property in Dana Point valued at over $1.5 million an acre was devalued because of the discovery of 30 pocket mice, an animal on the endangered species list. Years of planning for the use of this land had to be abandoned. The owner even offered to set aside four acres of his land just for the mice, about $150,000 per mouse, but the government said that was not enough.

In another instance, a property owner had a multimillion dollar piece of property in escrow when the city declared it as wetlands. He was then offered $1 an acre for this useless "wetland". This is a travesty.

Mr. Speaker, Congress passed the Endangered Species Act more than 20 years ago. Originally intended to protect animals, this act hurts humans. It is time to give human needs at least as much consideration as those of birds, fish, insects, and rodents. The time has come for a change. Private, voluntary, incentive-driven environmental protection is the only effective and fair answer to this controversial law.

RESTORING REASON TO ENVIRONMENTAL PROTECTION LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DOOLITTLE] is recognized for 5 minutes.

Mr. DOOLITTLE. Mr. Speaker, I will only use a minute or two, because I know the gentleman from California, [Mr. RADANOVICH] would like to comment on this. I would just commend

the gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. POMBO] for their leadership efforts in doing something to restore some reason, I think, to the laws of our country pertaining to this area.

The ESA is something that has a legitimate purpose. We need to have a law, however, that is balanced and reasonable and effective. I would submit that we have a number of stories heard in testimony around the country and I have heard many of these myself as I have sat on the task force, on the committee, and we have held hearings, we have had a number of instances where this has proven not to be the case.

It is one thing to talk about it in theory. It is another to be the private property owner and to have the big hand of Government holding a gun pointed at your head. That is what we heard time and time again from these private property owners who all of a sudden are forced with mandates from the EPA or the Corps of Engineers, or any other number of State and Federal agencies. It is just nearly overwhelming.

Let me just express strong support for the efforts of the chairman of the committee, and indicate to the American people that there is a real need to make sure that we are reasonable and responsible in dealing with our species, but there is also an obligation to protect our private property rights, and there is an obligation to make sure we have a balanced, reasonable, and effective approach on this.

Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. RADANOVICH].

Mr. RADANOVICH. Mr. Speaker, I thank the gentleman. I wanted to add my comments into the RECORD regarding this legislation. I think anybody here on this floor is in favor of protecting endangered species, is in favor of protecting the environment, is in favor of good stewardship. The question remains, though, is it a responsibility of the private property owners, is it a responsibility of local government, is it a responsibility of State government, or is it a responsibility of the Federal Government, and where do those responsibilities lie?

I think the folly of the endangered species over the last year has demonstrated that the heavy hand of Federal Government in care of the environment can produce some pretty crazy results. For instance, there was the arresting of a farmer in California for disking up five kangaroo rats and being sent to trial in Federal court. My hope is that in the adoption of the Endangered Species Act, according to the Pombo-Young bill, that that responsibility begins to be returned away from Federal bureaucrats and back down to the State, local, and private property owner level, because that is where good stewardship begins in this country.

Mr. POMBO. Mr. Speaker, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. POMBO. Mr. Speaker, the gentleman happens to come from a part of the country that has probably been impacted as greatly as any other region of the country in the central valley in California, with the multitude of species that are directly in the area that have been listed, as well as the aquatic species that survive within the natural river system in California, which has impacted the delivery of irrigation water to a number of the gentleman's constituents.

Is it his opinion that if we went to an incentive-based system that operated where the individuals were rewarded for their stewardship or rewarded for being good stewards of the lands and, quite frankly, had more of an impact on what recovery plans were adopted, what they look like, what best worked, would that work better for your constituency?

Mr. RADANOVICH. Yes, it would. I have a number of cases where people have gone the extra mile to provide habitat on their farms, to provide for the environment, things that they would like to see on there, and then being further penalized because of the fact that they have done that. Current law penalizes any initiative like that that is out there and currently exists.

This country will not survive unless stewardship is brought down to the local level and people are given incentives to take care of their private property and the environment, because that is really a natural thing for people to want to do. I think that natural tendency ought to be encouraged through legislation.

Mr. POMBO. If the gentleman will continue to yield, being a farmer himself, could the gentleman describe the fear that his constituents feel when they may or may not have an endangered species on their property?

Mr. RADANOVICH. I can tell you from personal experience where there were times when we would allow onto our property certain environmental groups to catalog certain species of flowers and different things. There is no way in God's green Earth we would be allowing that right now, simply because what it does is it leads to stealing of your private property rights. So under current law, there is a disincentive. The gentleman earlier mentioned the term "shoot, shovel, and shut up." That is very, very clear in response to current legislation.

□ 1600

REPUBLICAN ENVIRONMENTAL SWAT TEAMS OUT IN FULL FORCE

The SPEAKER pro tempore (Mr. EWING). Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. BONIOR] is recognized for 15 minutes as the designee of the minority leader.

Mr. BONIOR. Mr. Speaker, the Republican environmental SWAT teams are out in full force today.

Speaker GINGRICH is advising his colleagues to do photo-ops at local zoos to counter the image that the Republicans are extremists on the environment.

And over the past few weeks, a number of our Republican colleagues have come to this floor to defend their record on the environment.

Every time I hear one of them, I'm reminded of the story about that man who was arrested for eating a California condor.

He was dragged into court and the judge said, "before I lock you up, what do you have to say for yourself?"

The man said, "Judge, you don't understand. I was out hiking when I got caught in a terrible avalanche. I was trapped for days without food or water. When I was near death, a bird flew over my head, so I shot it down. I didn't know it was a California condor. But judge, if it wasn't for that bird, I would have starved to death."

The judge was so moved that he decided to let the man go free.

As he was walking out of the court, the man was stopped by reporters and they said, "Before you leave, we have to know one thing. What did the bird taste like?"

The man said, "Oh * * * it's kind of a cross between a bald eagle and a spotted owl."

It seems to me that the Republicans have the same problem on the environment. They don't have any credibility.

On one hand they come to this floor to talk about the environment. But on the other hand, they're working in the back room with the polluters lobby to destroy 25 years worth of progress on the environment.

Don't just take my word for it, Mr. Speaker. Listen to what others have said.

The Sierra Club says that the GOP agenda "breaks faith with the American public."

The Natural Resources Defense Fund calls the first session of the Republican Congress "the year of living dangerously."

The nonpartisan National Journal says that a conservative Republican tide is threatening to wash away 25 years of progress on the environment.

And just today, the lead editorial in the Washington Post reads, and I quote, "Republican leaders began to complain last fall that their party has been misunderstood on the environment. They said they intended to moderate their position. But the persistence" of the legislative riders that they are continuing to push even this week "suggests that there's been no moderation."

VOL 142 PT 5 MR 21 — 29 1996 UMI

In other words, they're just as extreme as they were a year ago.

And most telling of all in a recent poll: 55 percent of Republicans say they don't trust their own party on the environment.

Mr. Speaker, all over America today, people are wondering: how did this happen?

How did things go so wrong so fast?

For 25 years, Democrats and Republicans have worked together to protect the environment.

And we are rightfully proud of all that we've been able to accomplish.

Working together, we've made tremendous progress. Today, 60 percent of our lakes and rivers are clean. Major rivers no longer catch on fire. Millions of Americans are breathing cleaner air. Hundreds of toxic dump sites have been cleaned up. And tens of millions of Americans all over this country are reusing and recycling.

Together, we've banned DDT. We've protected millions of children from lead poisoning. We cut toxic emissions from factories in half. And in the process of keeping our environment clean, we've helped create millions of jobs.

This is a proud record of progress shared by both parties. But at the same time, we all know: the job is not done.

Despite all the progress we've made, 40 percent of our lakes and rivers are too polluted for swimming or fishing. One in three Americans still live in an area where the air is unhealthy. Ten million children under the age of 12 live within 4 miles of a toxic waste dump.

And as recently as 3 years ago, 104 people in Milwaukee died and 40,000 got sick when a toxin called cryptosperidium got released in their drinking water.

We've got a lot of work left to do. Yet, at the very moment when we need national leadership most the Republicans have mounted the most aggressive anti-environmental campaign in our history and are busy right now taking the environmental cop off the beat.

To understand how it happened, Mr. Speaker, you don't have to do an extensive search.

All you have to do is understand the environmental journey of one man.

One man who went from the hilltop of environmental protection to the sludgepit of environmental waste.

One man who went from having a 66-percent League of Conservation Voters approval rating all the way down to zero today.

And Mr. Speaker that one man is NEWT GINGRICH himself.

Long before House Republicans ever signed the Contract With America, NEWT GINGRICH signed a different contact, a contract with every polluter and anti-environment special interest in the land.

To understand his journey is to understand the extremism of House of Republicans.

You know, there are a lot of people who like to joke that Speaker GINGRICH is the kind of man who would jump up on a tree stump to give a speech on conservation.

But it wasn't always that way, Mr. Speaker.

In the early 1970's, before he was ever elected to Congress, NEWT GINGRICH actually taught a course on the environment.

In 1982, he earned a League of Conservation Voters approval rating of 66 percent.

In 1987–88, his approval stood at 50 percent.

That's not a stellar rating, but it's not bad.

But in 1989, something happened, Mr. Speaker. Something began to change.

People concerned about the environment began to notice that NEWT GINGRICH would no longer return their phone calls. He no longer spoke out on environmental issues.

And his voting record began to change.

In the 101st Congress, he sided with the oil industry and voted against States' rights to set their own oil spill laws. In 1989, he sided with the timber industry and voted to allow unchecked logging in the Tongass National Forest in Alaska.

In the 102d Congress, he sided with the mining and grazing industry and voted to sacrifice nearly two-thirds of the California Desert to industry. In 1991, he sided with the chemical industry and voted against communities' right to know when toxic waste was being dumped in their neighborhoods.

During this time, his voting record did more somersaults than Mary Lou Retton.

He flip-flopped on a bill to allow oil drilling in the Arctic Refuge. In the past, he sided with environmental protection. But now, he sides with the oil industry.

He's flip-flopped again and again on a bill that would protect endangered species. In the past, he sided with animals and voted yes. Today, he sides with industry.

And through it all, the man whose League of Conservation Voters approval rating stood at 50 percent in 1988 began to take a nosedive.

In 1989, it went down to 10 percent.

In 1990, it stood at 13 percent.

In 1991, it dove to 8 percent.

In 1992, it dropped to 6 percent.

In 1993, he felt guilty, so it went back up to 30 percent.

In 1994—zero percent.

In 1995—zero.

In 1996—zero.

The man who once taught a course on the environment was teaching us all how to sell out on the environment.

How did this happen, Mr. Speaker? What happened in 1989 to change things?

Well, its a simple answer. In 1989, NEWT GINGRICH was elected to his party's leadership. He was elected Whip of the Republican Party.

From the day he was elected whip, Mr. GINGRICH's campaign coffers began to bulge with contributions from the biggest polluters and special interests in America.

I would submit to you, Mr. Speaker, that this is the same exact pattern we see repeating itself in the Republican Party today.

From the minute the Republicans took over last year, a small army of very powerful industry lobbyists descended on Capitol Hill as if they owned the place.

As NEWT GINGRICH's own newspaper, the Atlanta Journal-Constitution wrote last May, these people have been, and I quote, "flooding the campaign coffers of friendly congressmen with hundreds of thousands of dollars in contributions."

Together with their friends in the Republican leadership the polluters lobby has mounted an all out assault on our environmental laws and public health protections.

In one documented case, an industry lobbyist actually sat at the dais during a committee hearing and helped rewrite the environmental laws of this Nation.

The polluters lobby is getting special favors, and the American people are paying the price.

Just listen to the parade of horribles that Speaker GINGRICH and his special interest friends are trying to pass today.

Just listen to what the Republican environmental agenda does in 1 year's time:

It cuts the Environmental Protection Agency by 21 percent.

It cuts pollution enforcement 25 percent.

It denies local communities $712 million in funding to protect drinking water, which is 29 percent below the President's request.

It cuts the land and water conservation fund 25 percent.

It even tried to kill the bipartisan Great Lakes initiative.

Because of all these budget games, 40 percent of all EPA health and safety inspections so far this year have been halted or canceled.

And that's not all.

Their budget cuts Superfund cleanup by 25 percent, which has forced the EPA to halt cleanup at 68 Superfund sites so far this year, including 4 in Michigan.

It rolls back local communities right-to-know about toxic waste.

It cuts Superfund research by 75 percent.

It cuts the Endangered Species Act 38 percent below the President's request.

It bars the listing of any new species as endangered.

It allows oil drilling in the Arctic Refuge.

It delays new meat inspection standards.

It weakens enforcement of the wetlands provisions of the Clean Water Act.

It accelerates—by 40 percent—logging of America's old-growth rain forest.

It eliminates funding for the National Park Service at Mojave Desert.

It terminates the Columbia Basin Ecosystem Management Project.

It delays approving pesticides with lower health risks to farmers.

It even delays new standards for toxic industrial air pollutants.

Under the present system, polluters pay. Under the Republican system, taxpayers would be required to pay the polluters to stop polluting.

No wonder Speaker GINGRICH is advising his colleagues to be seen at zoos. If they have their way zoos are the only place we'll be able to see animals.

And just as important as what they're trying to do is how they're trying to do it.

They knew the American people would never put up with the outright repeal of these bills so they're trying to sneak through the back door.

They knew they couldn't pass a bill to allow oil drilling in the Alaskan wilderness. So they snuck a provision into the reconciliation bill that allows drilling in Alaska.

They knew they couldn't just repeal the Clean Water Act. So they've attached legislative riders to gut environmental laws in 17 different ways.

They knew they couldn't pass a budget that cuts environmental protection. So every week, we get another stop-and-go budget that quietly keeps the EPA from doing its job.

I think the Republican Whip, TOM DELAY, said it best. He stood on this floor in defiance just a few months ago, and he said: "We are going to fund only those programs we want to fund. We're in charge. We don't have to negotiate with the Senate. We don't have to negotiate with the Democrats."

And apparently, they don't care much what the American people think either.

Thankfully, the American people are seeing right through the Republican agenda.

And thankfully, the veto pen of the President is more powerful than the axe of the GINGRICH Republicans.

Time and time again, the President has stood tall against the extreme cuts and we will continue to fight them every step of the way. Because we are a better nation than this and we are a better people than this.

We have come too far as a nation and we have sacrificed too much to turn the clock back now.

For 25 years, Democrats and Republicans worked together to protect the environment.

We have done so because we've always realized that despite our difference in the end we all drink the same water, we all breathe the same air, and we all depend on the same environment for our survival.

We can never forget. We don't just inherit this land from our parents. We borrow it from our children.

Speaker GINGRICH may have made a deal with polluters. But we were elected to what's right for the American people.

And if this Congress isn't going to work to protect the environment for our families and our children, if they aren't going to work to keep our water clean and our air safe, then come November the American people will elect a Congress that will.

□ 1615

THE URGENT NEED TO IMPROVE OUR EDUCATION

The SPEAKER pro tempore (Mr. EWING). Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 45 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I yield first to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for allowing me to share some of his special order time.

Mr. Speaker, today is the last day of the National Education Summit that is being held in New York.

Governors and business leaders from across the Nation recognize the urgent need to deal with America's education dilemma.

Most Americans, too, recognize the need to improve our education system so that every child can have a chance to learn, develop, and to realize his or her full potential, and in doing so, to be able to make a contribution to society. Yet, many Americans understand, regrettably, that there are too many of our Nation's students who are not being prepared for success later in life, but are doomed to failure.

They are in overcrowded classrooms, schools with poor curriculums, limited equipment, and low educational standards. Their teachers are underpaid and overworked. Too many of our students will drop out before completing high school if they are not challenged.

Mr. Speaker, we are at an important crossroads in education. All levels of government, and the private sector, should be working together and investing more resources in education, not less resources.

Again, most Americans are committed to investing more to improve our education system. Most Americans want to support our children and to ensure our Nation's future. And, if we understand the economics of education, we would know that quality education is a good investment.

Too many of my Republican colleagues want to invest less in education—25 percent less in some cases. Others question whether the Federal Government should even have a role in education.

But, the question should be which programs justify higher investment because they provide a sound economic payout? Which programs have worked and have proved their effectiveness? And, how can we insure quality performance and accountability?

The Federal Government supports educational programs and opportunities that the States and local communities are unable to provide. Let me briefly mention three examples of such programs.

The first is Head Start, Healthy Start, and other preschool programs—they have also proven their worth. These programs enable all children to be ready to learn when they enter school.

These programs have been studied, researched, and assessed to determine their value, and the results prove that if they are of high quality, they dramatically increase the educational performance of participants throughout their lives.

Investing in these programs gives back great payoffs for our society.

Title I compensatory education funds is another proven program. Last year, the First Congressional District of North Carolina received $46,267,400 in title I funds. These funds provided support to 30 school districts.

These funds provide for valuable teaching personnel and technology to disadvantaged school districts throughout the Nation.

This program addresses critical needs, identified by local school systems and has an outstanding record of performance where the right staff ratio and application of resources have been made.

The third example, Summer Youth Projects also have proven their value in addressing the need to give young people training and work experience during the summer.

These projects oftentimes provide the first real work experience, a disciplined environment, and the programs teach responsibility for the tasks assigned and how to work cooperatively with others.

Summer Youth Projects are effective in engaging young people in a constructive environment which contributes to their behavior and skill development.

Moreover, these projects are insurance against violence and disruption in our neighborhoods when young people are unsupervised and idle.

The three programs I have cited—the Pre-School Programs, Head Start, and Healthy Start; the Title I Program; and Summer Youth Employment—are all good educational programs that are

VOL
142
PT
5
MR
21
—
29
1996
UMI

provided by the Federal Government and deserve continued and increased investment.

These educational programs are a great payoff for our society. The programs can, certainly, be improved, can be made more effective. We should always seek to improve and to require full accountability for all resources. But, we should amend or reform our investment in the programs—not cripple or end them.

Mr. Speaker, We are at a crossroads. We must make required reforms, improvement, and sufficient investment to provide a quality education system where every child—every child has a chance to learn, develop, and contribute.

HEALTH CARE REFORM LEGISLATION

Mr. PALLONE. Mr. Speaker, I am here today, because I wanted to discuss the health care reform legislation that we expect to come to the House floor tomorrow. I was at the Committee on Rules earlier today, and at some point today this afternoon or this evening I would expect that they would report out a rule on the health care reform. My concern is that the bill that will come to the floor tomorrow, rather than being the very simple legislation that was called for and endorsed by President Clinton during his State of the Union Address, instead it would be a much more controversial bill loaded up with many provisions that cannot be agreed upon on a bipartisan basis in this House and in the Senate and that the rare opportunity that we have in this session in the next few weeks to pass meaningful health care reform essentially would be scuttled because of the language and because of the nature of the bill that Speaker GINGRICH and the Republican leadership would bring to the floor tomorrow.

Let me start out by saying that many of the Democrats that I work with were very pleased with it when the President, in his State of the Union Address, indicated that he would like to see brought to his desk and signed into law legislation that was initially sponsored in the Senate by Senator KASSEBAUM and also by Senator KENNEDY on a bipartisan basis. The hallmark of this Kennedy-Kassebaum bill, if you will, is to address the issue of portability and the issue of preexisting conditions.

Portability means your ability to take your health insurance with you, in other words, if you lose your job or you change jobs, that you would not lose your health insurance, that you would be able to carry it with you.

In addition, when we talk about preexisting conditions, we are talking the fact that in many cases in many States, if an individual has a preexisting condition, health condition, where they are disabled or they were hospitalized for a period of time, that they find it difficult to buy health insurance because the insurers simply do not want to cover them because they think it is too much of a risk. It is estimated that something like 30 million Americans are impacted in some way because of problems associated with portability or preexisting conditions and that if this legislation, as originally introduced in the Senate by Senators KENNEDY and KASSEBAUM, or here in the House, legislation that was introduced by the gentlewoman from New Jersey, Mrs. ROUKEMA, who is my colleague, a Republican from the State of New Jersey, that if their bill were to become law, addressing these issues of portability and preexisting conditions, that about 30 million Americans would benefit in some way because they would be able to carry their insurance with them from one job to another or would be able to get health insurance even though they might have a preexisting condition.

So when the President said that he was willing to sign this bill and urged the Congress in his State of the Union Address to move forward in passing this legislation, many of the Democrats were heartened, because we figured that even though this was a very small part of the health insurance reform, that it was something that was positive and we would like to see it moved.

We had about, I think it is, up to 172 Democratic Members in this House who signed on as cosponsors to Congresswoman ROUKEMA's bill and urged that the bill come to the floor exactly the way she had drafted the legislation. I should point out that I am actually the cochair, along with the gentlewoman from Missouri, Ms. MCCARTHY and the gentleman from California, Mr. DOOLEY, of the Democratic health care task force. We have two goals with our task force. One is to increase coverage, because we know a lot of Americans do not have health insurance coverage and the number that do not have coverage continues to grow. And a second goal is affordability. We know that health insurance is increasingly becoming more expensive and out of the reach of a lot of Americans. And so we would like to do what we can legislatively to make health insurance more affordable.

Well, the Kennedy-Kassebaum bill, the Roukema bill here in the House, achieves the purposes of increasing coverage, because more people would be able to obtain coverage through the portability and preexisting conditions provisions, and it certainly does not do anything to make health insurance less affordable. It might even help with the issue of affordability.

So we were very happy with the legislation. Our task force endorsed the legislation. We had 172 Members of the House on the Democratic side that supported the legislation; very optimistic until we found out what the Republican leadership had in mind. We started to hear, a few weeks ago, that they were going to put this bill in various committees, that the various committees were going to come up with all sorts of approaches, some maybe which make sense, a lot which did not make any sense, that would be ideas or legislative provisions that would be added to the Kennedy-Kassebaum bill, in an effort to try to load it up, if you will, with all kinds of controversial provisions that would make it more difficult to pass.

Well, I believe that is what is happening. I believe, Mr. Speaker, that based on what the Committee on Rules is likely to do today, even though myself and other urged them not to, that the bill that comes to the floor tomorrow is going to be a lot more controversial and a lot more complex and a lot more loaded down with provisions that are not necessarily good for the American people and that the bill tomorrow is likely to have provisions providing for MSA's, which are medical savings accounts, it is likely to deal with malpractice-issues, it is likely to deal with antitrust issues, it is likely to deal with a myriad of issues that have nothing to do with the original Kennedy-Kassebaum.

What that means is the Republican leadership is bringing this bill to the floor loaded down with all of these controversial provisions and essentially will kill the bill, because it will not pass. Even if it does pass here, it will not pass with Democratic support, it will not pass the Senate, and the President will not sign it.

The worst part about this is the provisions that they intend to put in with regard to medical savings accounts, because there, unlike the original Kennedy-Kassebaum bill, which expands coverage and which at best leaves the question of affordability the same, this will make health insurance more costly and less affordable to the average American.

The principle of MSA's, or medical savings accounts, basically says that if you are a fairly healthy individual or if you are a fairly wealthy individual or if you happen to be both, then you basically put your money aside in a savings account that is not taxable, essentially, somewhat like an IRA.

□ 1630

You only have coverage for catastrophic illness. So therefore, since you do not really need to pay for a lot of health-related activities, because you are healthy or whatever, or because you can afford to pay when you do go to a doctor out of the medical savings account that you have been accumulating, that you enter into this sort of IRA, and at the end of the road, 10, 20 years down the road, you can simply take the money out of this MSA, like an IRA, and use it for other purposes unrelated to health.

The problem is that it damages the risk pool. Health insurance is based on the notion of a risk pool. The idea is that both the healthy people and the people who are not as healthy are all part of the same pool. If you take out the ones that are the healthiest and leave the ones that are less healthy in the pool, the end result is that more money has to be paid out to cover their health care-related expenses, and therefore the premiums will go up for the people that remain in the pool and who have not opted for the medical savings account.

So what we believe will happen is that if MSA legislation goes into effect, the cost for people who still buy the traditional health insurance and do not enter into a medical savings account will actually rise. Their premiums will go up, and therefore insurance for the average person becomes less affordable instead of more affordable.

So we cannot, those of us who believe that we should be expanding coverage and making insurance more affordable, health insurance, simply cannot support the medical savings account. I am sure there are going to be people that do not support the malpractice changes and the antitrust changes, and all this good effort over the next few weeks to try to pass a clean bill that will simply address the issues of affordability, portability and preexisting conditions, as Kennedy-Kassebaum would do, simply goes down the drain because this bill is loaded up with all the other things that are controversial and make it difficult for the bill to pass and ultimately be signed into law.

I just wanted to make the point, if I could, in some commentaries that have come up over the last few weeks, to sort of back up some of the points that I just made on why we should have a clean health care reform bill, rather than have it loaded up with all these other extraneous provisions.

If I could just briefly read part of the editorial that was in the Washington Post on March 18 that says "Bad Move on Health Care." It says exactly the way I and many of my colleagues on the Democratic side have felt, that:

> Not too many weeks ago it seemed as if Congress was about to pass, and the president to sign, a modest bill to help people keep their health insurance while between jobs. Not even the principal sponsors, Sens. Nancy Kassebaum and Edward Kennedy, describe the bill as more than a first step. It would not help people to afford the insurance, just require insurance companies to offer it to them. Still, it would be an advance.
>
> Now, however, House Republicans are threatening to add to the bill some amendments from their health care wish list that could derail it. If some of these amendments are added, the bill ought to be derailed. The worst is a proposal to begin to subsidize through the Tax Code what are known as medical savings accounts. The underlying bill seeks to strengthen the health insurance system, if not by making it seamless, at least by moving it in that direction. The savings accounts would tend to fragment and weaken the system instead. The Republicans in 1994 accused the President of overreaching on health care reform, in part to satisfy assorted interest groups. He ended up with nothing to put before the voters on Election Day. They risk the same result.
>
> Under current law, if an employer helps buy health insurance for his employees, he can deduct the costs.

I do not need to get into all of this. The Washington Post is recognizing what we all know once again, which is that we have a good bill here as Senators KASSEBAUM and KENNEDY have put forward, along with my colleague the gentlewoman from New Jersey [Mrs. ROUKEMA] and it should not be loaded down with MSA's and all these other provisions.

In fact, when this legislation went before the House Committee on Ways and Means, there were a number of Democrats who essentially expressed the same concern that I have, and they put out a dissenting view on the Kennedy-Kassebaum bill. They referred to the bill that it should be the "sink the good ship Kassebaum-Kennedy bill," because it was designed in every way to torpedo the passage of the modest helpful provisions of Kennedy-Kassebaum-Roukema.

The bill as reported by the Committee on Ways and Means, according to the Democrats in dissent, is not health insurance reform. It includes only a weakened version of the group nondiscrimination provisions of Kennedy-Kassebaum-Roukema. Of course, they again go into the whole problem with the MSA's and the problems that I have outlined before with the medical savings accounts and what they would mean in terms of the average person's health insurance costs or premiums going up.

In fact, we estimate that the proposal to include the medical savings accounts could end up costing taxpayers $2 to $3 billion overall, because essentially what the MSA's do is to encourage skimming or cherry-picking. The healthiest and wealthiest will leave traditional health insurance, thereby raising costs on everyone else. The large out-of-pocket costs and high deductible insurance costing thousands of dollars that result from the MSA's are especially unaffordable for middle-class families or for the recently unemployed, the very people who most need insurance reform.

One of the things that many of the Democrats have also been pointing out about this legislation and the inclusion of the medical savings accounts is that it basically has been included by the Speaker and the Republican leadership in order to placate, if you will, one insurance company, the Golden Rule Insurance Co., and the person who is the leader of that by the name of J. Patrick Rooney. He and the Golden Rule Insurance Co. have actually given $1.2 million to Republican candidates and campaign committees, $157,000 to GOPAC, the Speaker's political action committee, and $45,000 to Speaker GINGRICH's own reelection campaign.

So essentially what we are seeing here again is special interests ruling the day, because the Golden Rule Insurance Co. felt that they would like to see the medical savings accounts proposal included in health insurance reform, because they have a lot to gain, because it is included, it is now in the bill, even though all the Democrats and probably most of the Republicans do not really want to see it there, because they know it will kill any real proposal for reform.

The other thing I wanted to say is that many of the consumer groups have come out very much opposed to this larger grab-bag legislation, and most of the groups, whether it is the American Medical Association, the Independent Insurance Agents, or a number of other health care organizations, have indicated strong support for the Kennedy-Kassebaum bill and have indicated that they would like it brought to the floor as a clean bill, because it will work.

I just wanted, Mr. Speaker, if I could for a minute, to talk about some of the things that the Consumers Union says about this legislation tomorrow and the fact that it has been loaded up with all these other provisions.

They mention with regard to the medical savings accounts that the medical savings accounts disrupt the health insurance market by creating financial incentives that encourage division of health care risks. Actuarial studies conclude that MSA's would appeal to relatively healthy and wealthy individuals. The American Academy of Actuaries estimates the selection process could result in higher premiums, as much as 61 percent, for those remaining in traditional health insurance plans. The Joint Committee on Taxation also estimates that a deduction for MSA's would drain $1.8 billion from Federal revenues, compounding the national debt.

So not only are the medical savings accounts a problem because they are going to take the healthiest and the wealthiest out of the insurance risk pool, not only are they bad because they are going to increase premiums for the average American, but they also have the real possibility of draining Federal revenues and actually compounding the problems that we have with the national debt.

The Consumers Union also opposes the relaxed antitrust provisions for provider networks, it opposes the limitations on medical malpractice, it opposes the private health insurance duplication, and, again, on the issue of malpractice reform and antitrust, a lot of people disagree. I am not saying that

VOL
142
PT
5
MR
21
—
29
1996
UMI

the Consumers Union is right when they say that these provisions are necessarily bad, but why include them in this bill? Why go this route? When right now we know that we have an unbelievable consensus on a bipartisan basis for Democrats and Republicans to move forward with the Kennedy-Kassebaum-Roukema bill, why are we loading it up with all these other provisions that are controversial and in many cases are going to actually increase the cost of health care for the average American?

It is nothing more than another example of how the Republican leadership in this House has put special interests first, has taken the interests of the wealthy and juxtaposed them against the interest of the average American. Hopefully some sense will prevail tomorrow. There will be a Democrat substitute offered that is essentially the Kennedy-Kassebaum-Roukema bill in its clean form.

I am hopeful that not only Democrats but Republicans will also support that substitute, and that we can get a clean bill passed here that deals with the issue of portability and also deals with the issue of preexisting conditions and has a good chance of passing in the Senate and ultimately going to the President. But we need to continue to speak out, Mr. Speaker. We have to continue to point out that that is the proper vehicle for this House to consider tomorrow, and not this larger piece of legislation that addresses all these controversial issues and makes it much more difficult for us to get rational health insurance reform in this session of Congress.

RECESS

The SPEAKER pro tempore (Mr. EWING). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 5 p.m.

Accordingly (at 4 o'clock and 41 minutes p.m.), the House stood in recess until 5 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. ROGERS] at 5 p.m.

SENATE AMENDMENTS TO H.R. 1833, PARTIAL-BIRTH ABORTION BAN ACT

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 389 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions, with Senate amendments thereto, and to consider in the House a single motion to concur in each of the Senate amendments. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

The SPEAKER pro tempore. The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 389 provides for consideration of the Senate amendments to the Partial-Birth Abortion Ban Act, H.R. 1833. The rule provides for 1 hour of debate on a single motion to concur in each and all of the Senate amendments. The rule further provides that the previous question is considered as ordered on the motion for final adoption.

Mr. Speaker, this rule will allow the House to consider amendments adopted by the Senate to the partial-birth abortion ban including an amendment offered by Senator DOLE that ensures doctors will be able to use this procedure when the life of a woman is in danger.

During consideration of this bill by the House last fall, serious concerns were raised about the affirmative defense provision included in the House bill that said that a doctor could not be convicted of using the partial-birth abortion procedure if the doctor can prove that the procedure was necessary to protect a woman's life. The affirmative defense, however, would not have protected a doctor from being arrested and prosecuted for using the procedure.

The Dole amendment adopted by the Senate addresses and ameliorates this concern. It clearly states that, without fear of prosecution, a doctor may use this procedure, when no other procedure is adequate, in order to protect the life of a woman.

Mr. Speaker, the rule is narrowly drawn so that we can adequately work with the Senate on changes that they have adopted to the bill and to expeditiously move the bill for final action. It is appropriate, Mr. Speaker, to limit debate on the measure to amendments that have been adopted in the Senate and not to use this bill as a vehicle for debating the enormous range of contentious issues relating to abortion.

Abortion is clearly one of the most emotionally charged issues that our Nation faces. People with the best of intentions who have carefully considered this issue come to opposite conclusions, and it is difficult to find areas of common ground. I would hope that this particular bill is an area where we can find that elusive common ground and prohibit a procedure that partially delivers a live child before killing it and completing the procedure, a procedure that one practitioner admits he uses for purely elective abortions about 80 percent of the time he uses this procedure.

Mr. Speaker, the procedure that we are talking about today is one that is gruesome and horrific. Without wishing to offend other Members or the people who may be watching these proceedings, I think it is critical, Mr. Speaker, that we describe exactly what it is we mean by a partial-birth abortion so that people will understand that we are not talking about a series of other issues that are related to the abortion debate, but we are talking in this bill about one very clearly described procedure that should be banned. -

In this procedure, which is used during the second and third trimesters of a pregnancy, the practitioner takes 3 days to accomplish the death of the child. For the first 2 days the woman's cervix is dilated so as to promote the ease with which the doctor will perform the abortion. On the third day the woman goes into the doctor's office and through the use of ultrasound the physician locates the legs of the child. Using a pair of forceps, the physician then seizes one of those legs and drags that leg through the birth canal. The doctor then delivers the rest of the child, legs, torso, arms, and stops when the head is still in the birth canal. One practitioner who uses this procedure says the child's head usually stops before being delivered because, of course, the cervix has not been dilated to the point that a regular vaginal delivery would occur because that is not the point of this exercise.

So, once the child's head is stopped in the birth canal, the doctor reaches down to the base of the child's skull, inserts a pair of scissors, ending the child's life, yanks those scissors open to enlarge the hole and uses a vacuum catheter to suck out the contents of the child's cranium.

That is the procedure that we are talking about in this bill, Mr. Speaker, the partial delivery of a living fetus whose life is ended with its head still in the birth canal by the deliberate insertion of a pair of surgical scissors so that an abortion may be accomplished.

That is what we are talking about in this bill, Mr. Speaker. We are not talking about any other type of abortion. We are not dealing with Federal funding. We are not talking about any of the other issues with which we have to grapple in the abortion debate. But we are talking about a so-called procedure

that measures life in inches, and we need to agree with the Senate amendments and move this legislation forward, hopefully for signature by the President.

Mr. Speaker, the rule that this bill has attached to it allows for fair consideration of the amendments adopted in the Senate, and I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman from Utah [Mrs. WALDHOLTZ] for yielding to me the customary half hour of debate time.

Mr. Speaker, we oppose the closed process that would make in order consideration of the Senate amendments to H.R. 1833, the so-called and misnamed partial-birth abortion ban. This is a bill that on the pretense of seeking to ban certain vaguely defined abortion procedures is, in reality, an assault on the constitutionally guaranteed right of women to reproductive freedom and on the freedom of physicians to practice medicine without Government intrusion.

Those of us, Mr. Speaker, who fought for many, many years to secure, and then to preserve and protect, the right of every woman to choose a safe medical procedure to terminate a wanted pregnancy that has gone tragically wrong, and when her life or health are endangered, are deeply troubled by the legislation before us today and by the rule under which it is being considered.

We say at the outset that the other body improved the bill by agreeing to the Smith-Dole amendment which does shield doctors from prosecution if they perform the procedure when the life of the mother was in danger, but only under certain circumstances. However, this is an extremely narrow so-called life exception that requires that the woman's life be endangered by, quote, a "physical disorder, illness or injury," end of quote, and it requires, further, that no other medical procedure would suffice.

It appears that if the mother's life is threatened by the pregnancy itself, then the procedure would still be illegal. And it does not take into account the fact that doctors do not use other procedures because they pose greater risks than does this method of serious health consequences to the mother, including the loss of future fertility.

And of course the Senate amendment does not provide an exception to preserve the mother's health no matter how seriously or permanently it might be damaged.

For those reasons, Mr. Speaker, we feel strongly that a true life and health exception amendment should have been made in order.

It is bad enough, we feel, that we are being asked to vote on this irresponsible piece of legislation. To make matters worse, we are being required to consider it under an unfair rule, and it is one that should be defeated. Once again the majority has brought this most controversial of bills to the floor under a totally closed rule. That we would again be forced to consider a bill of this importance and of this complexity under these restrictions is offensive, to begin with.

Once again, Members are being denied a vote on an amendment that would allow an exception to protect a woman's life under all circumstances or to prevent serious adverse consequences to her health and future fertility.

The Committee on Rules heard very compelling testimony from the gentlewoman from New York [Mrs. LOWEY], the gentleman from Massachusetts [Mr. FRANK], and the gentlewoman from Colorado [Mrs. SCHROEDER] on their request to offer a true life and adverse health exception amendment to the Senate language.

We believe Members should have had the opportunity to vote on allowing those exceptions to the ban.

This is obviously a basic and fundamental concern to women and to their families. Without that exception, the bill will force a woman and her physician to resort to procedures that may be more dangerous to the woman's health and to her very life and that may be more threatening to her ability to bear other children than the method that we seek to ban. Making this amendment in order would have meant that Members could cast a vote that shows respect for the importance of a woman's life, health, and future fertility.

Mr. Speaker, the truth is we have absolutely no business considering this prohibition and criminalization of a constitutionally protected medical procedure. This is, we believe, a dangerous piece of legislation. We oppose it not only because it is the first time the Federal Government would ban a particular form of abortion, but also because it is part of an effort to make it virtually impossible for any abortion to be performed late in the pregnancy, no matter how endangered the mother's life or health might be.

What is at stake here is whether or not it will be compassionate enough to recognize that none of us in this legislative body has all the answers to every tragic situation which confronts a woman and her family. We are debating not merely whether to outlaw a procedure but under what terms.

If we must insist on passing legislation that is unprecedented and telling physicians which medical procedures they may use despite their own best judgment, then we must also, it seems to us, permit a life or adverse health exception. It is the only way we can ensure that the bill might possibly meet the requirements that have been handed down by the U.S. Supreme Court.

Mr. Speaker, this is a very personal matter to the people involved. I would hope that everyone can, but obviously not everyone has had the chance to, read the very moving testimony of one of my own constituents, Mrs. Coreen Costello of Agoura, CA, in opposition to this bill. Mrs. Costello described herself as a conservative pro-life Republican who always believed abortion was wrong until she was faced with the choice that she was in this case faced with.

She recounts in detail the events that have led to confronting the painful reality that her only real option was to terminate her pregnancy. The bill before us would ban the surgical procedure Mrs. Costello had about which she wrote, and I quote her:

"I had one of the safest, gentlest, most compassionate ways of ending a pregnancy that had no hope. Other women, other families, will receive devastating news and have to make decisions -like mine. Congress has no place in our tragedies."

Mr. Speaker, if I may add a personal note, in 1967, then-Governor Ronald Reagan signed California's Therapeutic Abortion Act, which I authored and which was one of the first laws in the Nation to protect the lives and the health of our women.

□ 1715

When the U.S. Supreme Court subsequently ruled in Roe versus Wade that the government cannot restrict abortion in cases where it is necessary to preserve a woman's life or health, I thought that we have come to at least accept the precept that every woman should have the right to choose with her family and her physician, but without government interference, and when her life and health are endangered, how to deal with this most personal and difficult decision.

I see now that obviously I was wrong, and that this Congress is willing even to criminalize for the first time a safe medical procedure that is used only rarely, and almost always to end the most tragic of pregnancies.

Mr. Speaker, as I said, we believe this legislation is unwise, it is unconstitutional, and it is bad public policy to return to the dangerous situation that existed about 30 years ago and more. This legislation is not a moderate measure, as its proponents argue. It is, instead, likely the first step in an ambitious strategy to overturn Roe versus Wade, and we believe it would be a tragedy for all women and their families.

Mr. Speaker, it should be emphasized that what we are talking about making a crime is a medical procedure that is used only in very rare cases, fewer than 500 per year. It is a procedure that is needed only as a last resort, in cases

VOL
142
PT
5
MR
21
—
29
1996
UMI

where pregnancies that were planned and are wanted have gone tragically wrong. Adoption of the bill would have these results.

In cases where it is determined that an abortion is necessary to save the life of the women, the Senate amendment would force her to choose a method that may leave her unable to bear children in the future. The language of the Senate amendment will not protect women whose lives are threatened by their pregnancies, and doctors will be forced to choose other procedures, even if they are more dangerous.

Mr. Speaker, choosing to have an abortion is always a terribly difficult and awful decision for a family to make, but we are dealing here with particularly wrenching decisions in particularly tragic circumstances. It seems to us that it would be fitting if we showed some restraint and compassion for women who are facing those devastating decisions.

Let me end, Mr. Speaker, by quoting again, if I may, from Mrs. Costello's testimony before the Senate Committee on the Judiciary, just a very brief amount:

> Due to the safety of this procedure, I am again pregnant now. Fortunately, most of you will never have to walk through the valley we have walked. It deeply saddens me that you are making a decision having never walked in our shoes. When families like ours are given this kind of tragic news, the last people we want to seek advice from are politicians. We talk to our doctors, lost of doctors. We talk to our families and other loved ones, and we ponder long and hard into the night with God.
>
> What happened to our family is heartbreaking and it is private, but we have chosen to share our story with you because we hope it will help you act with wisdom and compassion. I hope you can put aside your political differences, your positions on abortion, and your party affiliations and just try to remember us. We are the ones who know. We are the families that ache to hold our babies, to love them, to nurture them. We are the families who will forever have a hole in our hearts. We are the families that had to choose how our babies would die. Each one of you should be grateful that you and your families have not had to face such a choice. I pray that no one you love ever does. Please put a stop to this terrible bill. Families like mine are counting on you.

Mr. Speaker, we do, as I have said before, strongly oppose the rule before us and the bill that it makes in order. We urge defeat of the rule so we can sent it back to the Committee on Rules and at least ask for a rule that would allow us to vote on an amendment to preserve the life, under all circumstances, and the health of the mother.

Mr. Speaker, I reserve the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield to the next speaker, I think it is important that we recognize that the procedure that we are talking about today is not a legitimate medical procedure recognized by experts of the American Medical Association. With all respect to my colleague on the Committee on Rules, for whom I have great respect and affection, there is no question but that the experience that his constituent had is one that none of us hope we have to share. But, Mr. Speaker, the American Medical Association's Council on Legislation, made up of 12 physicians, voted unanimously to recommend that the American Medical Association board of trustees endorse this partial birth abortion ban.

A member of the council, after they had discussed this procedure, said that they felt that this was not a recognized medical technique, and that the council members had agreed that the procedure was basically repulsive. We are not criminalizing an accepted medical technique, Mr. Speaker. It is unfortunate that we are having to debate what has become medicalized infanticide.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentlewoman for yielding time to me, and I commend her and the Committee on Rules for bringing forth this rule, and the members of the Committee on the Judiciary for originally introducing this legislation.

Mr. Speaker, I was sitting in my office at the time, still practicing medicine in 1993, when I got my copy of the American Medical News in which this procedure was first described where a baby is identified under ultrasound, the abortionist, using a forcep, reaches up into the birth canal and grabs the baby by the feet, dragging the baby out of the birth canal up to the level of its head, and then there, dangling outside the mother, typically with its arms and legs moving, a forcep is inserted into the back of the skull, an opening is created, the brains are sucked out, and the dead baby is then delivered.

I was amazed to read in this article that somebody could actually concoct a procedure this gruesome, and I was further shocked to read that the physicians who developed the procedure then went on to report that in 85 percent of the cases within which they do this procedure, there are no significant birth defects, and some of the defects that they cited, where they justified doing this procedure, included cleft lip and cleft palate.

Mr. Speaker, I was shocked, and frankly I was amazed that I could live in a country where a procedure as gruesome and awful as this could be legalized. Some would call this a safe medical procedure. I would contend that there was a party involved in this procedure where it was anything but safe. Indeed, it was lethal, and it was lethal in a most horrific way.

We in the United States, contrary to the contention of many people, have the most liberal left-wing abortion laws. In Europe, most of Europe that legalized abortion far before we did in this country, this type of procedure is not legal. They have restrictions on how you can do these procedures and when you can do them. Specifically, they are not legalized in late trimester, in late second trimester, and in the third trimester.

My colleague on the other side of the aisle I thought encapsulated the whole issue very well. There are some people who would like the mother to be able to choose how her baby will die. The majority of this body voted once before, and will vote again, that there is a place where the Government of the United States has to draw the line and say, "This is beyond the pale." This is a total repudiation of the principles upon which our Nation was founded. I support the rule. I encourage all my colleagues to vote for the rule.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from Ohio [Mr. HALL], a fellow member of the Committee on Rules.

Mr. HALL of Ohio. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the Senate amendments to this legislation and was proud to be an original cosponsor of the House-passed bill.

While abortions, except to save the mother's life, are wrong for those of us who believe in life, this particular procedure is doubly wrong. It requires a partial delivery and involves pain to the baby.

Mr. Speaker, you will hear the medical details of these abortions from other witnesses, but I simply lend my support to the bill as one who tries to ascribe to a moral code and commonsense. A compassionate society should not promote a procedure that is gruesome and inflicts pain on the victim. We have humane methods of capital punishment. We have humane treatment of prisoners. We even have laws to protect animals. It seems to me we should have some standards for abortion as well.

Many years ago surgery was performed on newborns with the thought that they did not feel pain. Now we know they do feel pain. According to Dr. Paul Ranalli, a neurologist at the University of Toronto, at 20 weeks a human fetus is covered by pain receptors and has 1 billion nerve cells—more than us, since ours start dying off with adolescence. Regardless of the arguments surrounding the ethics of the procedure, it does seem that pain is inflicted.

Finally, Mr. Speaker, I do not want to discuss a bill relating to abortion without saying that we have a deep moral obligation to improving the quality of life for children after they are born. I am a Member of Congress who is opposed to abortion. But, I

could not sit here and honestly debate this subject with a clear conscience if I did not spend a good portion of my time on hunger and trying to help children and their families achieve a just life once they are born.

We need to promote social policies that ensure the mother and child will receive adequate health care, training and other assistance that will, in turn, enable them to become productive members of society. We have not done a good job so far, and I am afraid to say, this House has been unraveling social programs all too easily. Until our Nation makes a commitment to offering pregnant women and their children a promising future, I am afraid the demand for abortion will not subside.

Enough is enough. If there's one thing this Congress ought to do this year is stop this very reprehensible and gruesome technique of abortion. We treat dogs better than this. Vote yes on this bill.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Speaker, today we will again vote on whether or not it should be lawful for an abortionist to kill a baby that already has been partially delivered in circumstances where the mother's life is not at risk. Remember, the doctor must grasp two kicking, healthy legs to secure the baby so that he can insert into the child's skull a scissor-like device that causes the brain to collapse, and it kills the child. Even those who advocate this type of abortion shudder to describe it. Only the most extreme ideologue could favor such a gruesome procedure where the mother's life is not in jeopardy.

This whole debate is over whether thinking, feeling, healthy little babies who are within weeks or sometimes even days of natural delivery should be robbed of the opportunity to breathe the same air you and I share. These babies, only inches away from being fully born, are no different from mildly premature babies. They deserve to live.

I celebrate the fact that today we will take a step in representing those who cannot represent themselves by passing the partial birth abortion bill, and I strongly, strongly urge Members to vote for its passage.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Speaker, this is not a bill about life, this is a bill about politics. Think about it. The House passed this bill in its original version to ban partial birth abortions. The Senate changed it. The Senate said, "You can make an exception to the ban in the case of the life of the mother." What is going on here? Congress is trying to be your doctor.

I though this was the era of getting Government off our backs, not the era of getting Government more into your personal issues.

□ 1730

Now it seems that we are imposing more Government regulations on a woman's personal life.

It is ironic that this Congress honors this month of March as Women's History Month. We celebrate women overcoming obstacles in their lives, women having liberties, and women having freedom of choice. Now here tonight, in a male-dominated Congress, they want to take away a woman's right to decide what is right for her and for her baby.

I have talked to constituents who have been forced to have this procedure to protect future fertility. I think we are foolish to think that we can handle this issue with our lawmaking process better than women can handle it in the medical arena.

Everyone knows that we cannot save life or make life by ordering it. Do not pass laws that may prevent healthy women from ever, ever becoming loving mothers. Support women. Support womanhood. Reject this rule. Reject this bill. Honor women. Honor medicine. Honor choice. Do not make bad law.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Speaker, I rise in support of this rule which I think is a very good one. It allows the Senate amendments that were made to this bill to be accepted by this House, and I believe that the Senate amendments are reasonable and, as I said before, acceptable.

This rule continues to focus on the matter at hand, only the Senate amendments, and for that reason I do not think we need any extraneous amendments to this bill.

When this House considered the bill in the past, the recent past, it passed it by 288 people voting for it, which showed wide bipartisan support for this bill. Now, under the guise of protecting the mother's health, efforts are being made to change this rule or ask for amendments to allow this exception.

The Supreme Court has considered in the case of Roe versus Bolton that to protect the mother's health, that definition of health can encompass all factors, physical, emotional, psychological, familial, and the woman's age, all relevant to the patient's well-being. This type of exception, as we found in California, would open the door wide open to the humane device of this partial-birth abortion, and certainly would be unacceptable.

Even many of the people that voted in the House earlier for this bill which outlawed this particularly terrible procedure would call themselves prochoice.

I find it somewhat ironic, too, as we are taking up the Endangered Species Act on this Hill and we are talking about preservation of animals in particular, that we actually protect the American eagle and its preborn, the egg of that eagle, more than we protect the preborn of a human being. It is actually a fine of $500 to $5,000, up to 1 year in prison, for destroying an eagle egg, a preborn eagle.

But this issue here is not about the big issue of abortion, but simply outlawing a particularly egregious and terrible procedure that is used. As I argued on the floor before, were we to transfer this type of procedure over to a way of executing people who have committed murder, on death row, there would be many in this body that would be the first to stand up or encourage people to go to court to stop this type of procedure as in violation of the eighth amendment to our Constitution which prohibits cruel and unusual punishment. Were we to take someone, instead of electrocuting them or using the gas chamber or, as in Utah, using the firing squad, and take a screwdriver and crack their skull and suck out their brain, which is this procedure that is used in this particular type of abortion, again we would be in court very quickly to defend that particularly terrible procedure, and I would agree on that.

The example that we used in our earlier debate occurred in Washington State, where a man on death row actually went to court and was able to set aside temporarily his death row conviction or the execution of the death penalty because he was so heavy, over 400 pounds, that he would be decapitated were he hung as was the procedure in Washington.

We have precedent for this, and I would simply say that the American Medical Association Council on Legislation has voted unanimously to recommend that the AMA endorse this bill. I think their opinion would carry an awful lot of weight.

Mr. Speaker, I was very pleased when this body passed H.R. 1833, the Partial-Birth Abortion Ban Act, by an overwhelming 288-to-139 margin. Today we consider the Senate's amendments to the bill and the rule.

The Senate passed the Partial-Birth Abortion Ban Act with similar bipartisan support. And that body's amendments are reasonable and acceptable. Furthermore, the rule simply addresses the matter at hand—the Senate amendments. There is no reason to consider extraneous amendments.

Unfortunately, the President and proabortion extremists continue to oppose this modest, widely supported bill. The President has threatened to veto this bill because it doesn't have amendments that would allow this gruesome procedure for virtually any reason. Under the guise of protecting the mother's health, the radical abortionists want to add a health-of-the-mother exception. The bill already would allow the partial-birth abortion procedure if the abortion was necessary to save the woman's life, and this procedure was the only method of doing so.

VOL
142
PT
5
MR
21
—
29
1996
UMI

However, to add "health" would be tantamount to writing in a loophole through which a Mack truck could be driven. While protecting a mother's health may sound reasonable on its face, the Supreme Court has defined "health" as anything that relates to one's well-being. Does that mean that being depressed or having a cold or allergies or a headache could qualify as jeopardizing health under such an open-ended definition? Certainly. In fact, the Court held in Doe versus Bolton that "health" encompasses "all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient." Therefore, to add "health" to this legislation would gut the bill.

The fact is, according to the doctors who perform most of this type of abortion, 80 percent of partial-birth abortions are elective. That means they are for almost any reason.

Mr. Speaker, let's be completely clear about the procedure that this bill would ban. The opponents of this bill would direct the debate to side issues, and for good reason: If the American people know the facts, they'll want this horrible abortion procedure banned.

While all methods of abortion are repulsive, barbaric, and nauseating, this abortion method reaches depths of inhumanity that only a calloused conscience could approve of.

Remember that this abortion procedure takes place during the second trimester or later. That's after the baby's heart is beating, which occurs at about 3 weeks after conception. That's after the baby's brain waves can be measured, which happens at 6 weeks. That's after morning sickness has usually subsided, after 3 months.

First, the abortionist uses ultrasound—an amazing, high-technology medical tool that gives doctors and parents-to-be a look at the baby inside the womb—the abortionist uses this tool of life as a tool of death. He uses ultrasound to guide his forceps to grab the unborn baby's leg.

Second, the abortionist pulls the baby by his leg into the birth canal and proceeds to deliver the baby's entire body, except for the head.

Next, the abortionist jams scissors into the base of the baby's skull. That's the usual point when the baby dies. Let me interject here that the only thing that separates this act from murder is the fact that the baby's head is still in the birth canal.

Finally, the abortionist removes the scissors and inserts a suction catheter. The baby's brains are sucked out, collapsing the skull. The dead baby is then fully delivered. That's a partial-birth abortion.

Some of the so-called antichoice extremists who support this bill include the American Medical Association's Council on Legislation, which voted unanimously to recommend that the AMA endorse H.R. 1833. The council made that recommendation because its members concluded that partial-birth abortion is not a legitimate medical procedure. This statement begs the question, if partial-birth abortion isn't an acceptable medical procedure according to a professional body in the field of medicine, then what is this procedure? It certainly doesn't reflect the Hippocratic oath, which says doctors should first do no harm.

It is ironic that we wouldn't treat convicted capital offenders this way. The ACLU would be up in arms and in court and crying "cruel and unusual punishment" if a State tried to stab scissors in the base of the prisoner's skull and then suck out his brains with a vacuum cleaner.

In fact, a court in Washington State ruled that hanging convicted murderer Mitchell Rupe, who weighted 400 pounds, would be cruel and unusual punishment. Rupe had appealed his death penalty by arguing that because of his excessive body weight, the noose would decapitate him, and that would be cruel and unusual punishment. The appellate judge agreed with this man, who had been convicted on two counts of first-degree murder.

Mr. Speaker, H.R. 1833 bans the performance of partial-birth abortions, the gruesome procedure that I have described.

As medical technology continues to develop to the point where surgery can be performed on unborn babies, where more and more premature babies survive, where doctors can perform increasingly sophisticated techniques that just 10 or 20 years ago we would have thought of as medical miracles, it's time to take a hard look at biological and medical facts.

H.R. 1833 bans a single abortion technique that even many people who call themselves pro-choice support the banning of. But what are the ethical and moral questions we as a society need to confront? Do the medical facts we have today support the ignorant bliss on which Roe versus Wade and Doe versus Bolton were decided? Is this country still a civilized society? What kind of a people would allow the partial birthing of a half-gestated baby, only to be stabbed with surgical scissors and his brains sucked out, knowing the biological facts we have in 1996?

It is also ironic that this Nation protects unborn eagles more vigorously than it protects unborn human beings. We punish people under three different acts—the Migratory Bird Treaty Act (16 U.S.C. 703), the Bald Eagle Protection Act (16 U.S.C. 668), and the Endangered Species Act (16 U.S.C. 1538 and 1540)—for destroying an eagle egg. The Migratory Bird Treaty Act provides for penalties up to $500 in fines and 6 months in prison for destroying an eagle egg. The penalty under the Bald Eagle Protection Act is a fine up to $5,000 and a year in prison. The Endangered Species Act provides for civil and criminal penalties; the criminal penalties for knowingly destroying an eagle egg, depending on the location where the egg is found, range to $50,000 in fines and 1 year in prison. Unborn eagles have that much protection under law. However, unborn human babies may be aborted at any time throughout the pregnancy. And in the case of partial-birth abortion, the baby can even be forcibly, partially delivered in order for the abortionist to destroy that baby's life.

Mr. Speaker, I have faith that the American people will make the right decision. Give the American people the facts, as has been done regarding partial-birth abortion, and they will arrive at the civilized, decent conclusion that this procedure should be outlawed. I believe the American people will remain true to our Nation's core values, that we are all endowed by our Creator with certain unalienable rights, foremost being the right to life.

I conclude with these verses from Psalm 139: "For you created my inmost being; you knit me together in my mother's womb. * * * My frame was not hidden from you when I was made in the secret place. When I was woven together in the depths of the earth, your eyes saw my unformed body."

Mr. Speaker, I urge that we accede to the Senate's amendments. I urge that we adopt this rule. And I urge the President to reconsider his veto threat.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK], who serves on the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, we will get to debate the substance of the bill, although very briefly. The gentlewoman from Utah [Mrs. WALDHOLTZ] said that this rule provides adequate time to discuss the Senate amendments. This rule, in fact, provides quite deliberately the minimum time that it is legally possible to give a bill on the floor of the House.

The rule gives 1 hour. That is the minimum that is allowed under the basic rules, so this is part of an effort to suppress debate and discussion on this bill. We will get to the substance, but I want to talk here about the outrageous procedure. It is one more example of this majority running absolutely roughshod over the notion of open debate and democracy and fairness. This is, once again, a rule as we say in previous weeks where to achieve their political purpose, to make sure that their political message is unadulterated, the majority sacrifices the right of the American people to have free debate.

For example, the gentlewoman from Utah talked about the amendment that was adopted in the Senate. She said people felt that the life exception for the mother was not done right so the Senate straightened it out. Many of us raised that same point here in the House, and why did we not straighten it out here in the House? Because they had the same rules the last time. The rule did not allow that amendment. It is an amendment that we in the House were prevented from considering because of the close-fisted rule of the majority on this bill.

The Senate did adopt the amendment, so they are giving in and they say, "OK, we will do it". They are almost taking credit for the improvement the Senate made when they refused to allow us to vote on such an amendment here. Now we have another amendment that we want to offer, and I understand here that we cannot even offer a motion to recommit this.

It is a very cleverly crafted procedure they have. This is not a bill. It is a concurrence with the Senate amendment because, by making it that way, we cannot even recommit it and no amendments are in order. We can do nothing in the House to alter this. We can vote up or down. We have twice been asked by the majority, not asked, directed by the majority to vote on this very important issue with no amendment and with the minimum time for debate allowed under the rules of this House.

They want to do it. They want to do it quickly and have as little conversation as possible because it will not stand up, apparently, they believe, to greater scrutiny. They are afraid to allow an amendment.

We have an amendment that we offered, the gentlewoman from Colorado and I. It is an amendment that was offered in the Senate. The Senate adopted one amendment and then the Senate rejected another but it got 47 votes. We are hardly talking about some fringe position; 47 votes, including Republican votes, in the Senate, and we are not being allowed to offer it here.

We cannot do it on the motion to recommit because there is no committee to which it can be recommitted. This is simply a motion to concur in the Senate amendment, and what is the amendment that the majority is afraid to allow the House to vote on?

They cannot plead time. We are less busy than the guys in "Marty," standing around on the corner. "What do you want to do tonight?" "I don't know. What do you want to do tonight?"

Voting is not one of the things, because the majority cannot get itself organized. We have hardly overvoted ourselves this week, but the majority is afraid to allow the amendment.

The amendment says the doctor will not be considered a criminal and sent to prison if he performs this procedure to prevent damage to the health of the mother. If a doctor were to decide that this procedure was necessary to avoid damage to the mother's ability to give birth in the future, he would be committing a crime if he did it because the majority will not even let us vote on an amendment that would say to avoid damage to her ability in the future to bear children. We are talking about serious adverse health effects.

At the Committee on Rules, the majority allowed a debate in the Committee on Rules. They did not want to but they cannot shut us up. They are probably working on a way to do that in the Rules Committee.

The gentlewoman from Colorado said this is so broad. What do we mean by health? My answer is simple. I think serious adverse health is good enough, and I am prepared to put the doctor's opinion up.

But if you think that is too broad, then amend the amendment. My colleagues on the other side of the aisle are afraid of open debate. If you think serious adverse health is too broad, why do you not put very, very, really serious adverse health? Or if you are afraid of psychological, put physical health. I do not agree with that. I would vote against that, but if you want to avoid serious physical damage to the mother but do not want to let in depression, then allow us to vote on it.

But your preferred procedure which you are imposing successfully on this House, I am afraid, I reemphasize this, that procedure requires us to vote and will not allow an amendment that would say to a doctor if you perform this procedure, and by the way it is called a procedure by the American College of Obstetricians and Gynecologists. I will put their letter in opposition to this in the RECORD. You are saying that we cannot even offer an amendment that would say to avoid serious damage to the mother's physical health. Our amendment does not say that, but you could amend the amendment and make that in order.

I know that democracy seems complicated to people who have so little practice with it. You are instead going to demand that we vote to make it criminal even if a doctor wanted to prevent serious physical damange to the health of the mother.

Mr. Speaker, I include the following letter for the RECORD:

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, November 1, 1995.

STATEMENT ON H.R. 1833: THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The American College of Obstetricians and Gynecologists is disappointed that the U.S. House of Representatives has attempted to regulate medical decision-making today by passing a bill on so-called "partial-birth" abortion.

The College finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community—demonstrating why congressional opinion should never be substituted for professional medical judgment.

The College does not support H.R. 1833, or the companion Senate bill, S. 939.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to simply respond quickly. The gentleman from Massachusetts is an excellent student of the rules of the House, and as such an excellent student of the rules of the House the gentleman knows that the minority had an opportunity to offer a motion to recommit when the House originally considered this bill. At that time the gentleman could have offered his amendment. He chose not to. The minority chose to not offer a motion to recommit. This bill went over to the Senate. It is back now for our concurrence.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, I rise today in support of House Resolution 1833, the Partial-Birth Abortion Ban Act, and I urge my colleagues to vote in favor of the rule and the final passage of this important legislation.

As a pro-life advocate I am committed to protecting the rights of unborn children. My primary concern is that abortion should not be treated like a routine medical procedure. Although some consider partial-birth abortions routine medical procedures, this could not be further from the truth. Partial-birth abortions are neither routine, legitimate or necessary.

Partial-birth abortions are most often performed in the second or third trimester. I am particularly troubled by the horrifying prospect of late term abortions. Even in Roe versus Wade, abortions are limited to the first trimester. Today we are considering continuing to allow abortions through the third trimester of fetal viability.

House Resolution 1833 not only bans the performance of this type of inhuman abortion but it imposes fines and a maximum of 2 years of imprisonment for any person who administered a partial-birth abortion. This gruesome and brutal procedure should not be permitted.

I strongly believe in the sanctity of life, and if 80 percent of the abortions are elective, we have to reconsider and reevaluate the value our society places on human life. This decision is not made in the case of rape or incest, not if the mother's life is in danger, and not if there are birth defects. In many cases this is a cold, calculated, and selfish decision.

This is not a choice issue. This is a life or death issue for an innocent child. Please join me in making this heinous procedure illegal.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Mrs. SLAUGHTER. Mr. Speaker, in every way this debate today is a tragedy.

First, I want to make it very clear, as clear as I can to people who are interested in knowing the truth, that the third trimester abortions, and the partial-birth abortions are very rare and they are not done as elective surgery at all. They are done in the case of a severely deformed fetus, a dead fetus, or a mother who will not survive until the birth is completed.

It is not a case of grabbing hold of two kicking legs and delivering a child that will be able to grow and respond to life. It is not a case of that at all. Why do we add to the awful tragedy of the families that desperately want the children that they are carrying and lose? Why do we say that the Congress of the United States knows better than the parents do and better than their doctor does, and we are going to require that they continue this pregnancy.

I am scared about the precedent that this legislation sets. To say that the

VOL
142
PT
5
MR
21
—
29
1996
UMI

procedure, practice and procedure, should be left to the Congress of the United States and not to medical people is a dangerous idea. A physician cannot choose this procedure even if other procedures would have serious health consequences, and we have talked about that, the possibility of loss of fertility.

□ 1745

But the underlying thing that last bothered me ever since I have been in the Congress of the United States is there is another underlying piece here, and that is that women do not have the right to choose, maybe they are not smart enough, we cannot let them decide what is the best thing in the world for them to do. Some men have to sit around and decide what is best, usually deciding that in legislatures all over the country and this Congress what it is that we can say is appropriate for them.

It is not original with me, but if women were that dumb, how in the world does anybody here expect that they had had a mother who bore them and raised them to extraordinary lengths that they are today? Had a Member of the Congress of the United States. Just like any other patient, a woman deserves the best care based on the best circumstances and the knowledge that it fits her situation. It should not be tailored to fit the needs of Members of Congress or any ideas that they may have. Women should not be considered second-class citizens and that needs a big brother to tell her what is permissible and what is not.

Unfortunately, I think this is only a beginning. The bill's sponsors have consistently stated this is a first step and, if they have the votes, they will prevent all abortion. I think many of them would also prohibit birth control. They want Government intrusion into every doctor's office and eventually into every bedroom. We should not start down this road. We should not prohibit medical procedures by Government fiat. We should not prohibit physicians and patients from making informed decisions based on the individual facts of the particular case.

Mr. Speaker, I ask defeat of this rule, which prohibits this House from modifying the draconian antiwoman provisions of this bill. I then ask my colleagues to preserve the right of women to the most appropriate medical procedure based on the best medical advice by defeating this underlying bill.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

I think it is important to point out the definition of elective and nonelective abortion regarding third-trimester abortions. In this particular situation, it depends on the definition of the person expressing it. One of the doctors who pioneered the partial-birth abortion procedure, as he called it, said the third trimester abortions he performed this way are nonelective, but he said that these abortions also are caused by factors such as maternal risk, rape, incest, psychiatric or pediatric indications. This doctor's definition of nonelective are extremely broad. He went on to tell the Subcommittee on the Constitution that he had performed more than 2,000 of these partial-birth abortions and that he attributed over 1,300 of them to what he called fetal indications or maternal indications.

Of those indications, the most common maternal indication was depression. Other maternal indications included what he called pediatric pelvis, their youth, spousal drug exposure, and substance abuse. Clearly, Mr. Speaker, what is elective or nonelective varies widely depending on the purpose of the person offering the definition.

Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. SOUDER].

Mr. SOUDER. Mr. Speaker, first I want to agree with the earlier speaker that this amendment is actually not needed. We in the House had already protected life of the mother, but in the new language, "necessary to save the life of the mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice for that purpose," makes it clear this has nothing to do with life of the mother.

I would also like to address the question of whether we men are trying to regulate women. I think one of the tragedies of this country are men who beat their spouses, mothers and fathers who treat their children as though they are objects to abuse. The question here is whether it is human life. If it is human life, it has nothing to do with whether it is the right of the woman or the right of the man to kill this child.

If we disagree over life, that is one thing. But to act like we are trying to do anything other than protect an innocent life is unfair. In this case, the life is a life. If its head pops out a little bit further but if the legs are out and the heart is beating and the head is inside, then you jab it, it is not a human life. This is a debate over human life, not the rights of women and men.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, abortion is a tough debate under any circumstances, and an emotional one. But I think the reason I oppose this rule and oppose this measure is because in this one this debate is wrongly directed. This is not an issue about whether or not a woman should have a right to choose or what state a fetus is viable or when life begins. The tragic situation in this case is that overwhelmingly the women affected do not want an abortion. They wanted to have this child. But it is being performed in the last trimester because of medical necessities. There are less than 500 of these procedures performed a year. And, yes, what are some of the situations? This has been a pretty graphic debate. Some of the situations, such as brains that have developed outside the fetus's skull, a situation where the woman's health, the mother's health is significantly endangered, once again, this woman, this couple having their child, want to have this child in the overwhelming number of cases I have been able to find, yet they are not able to. They find this out in the last trimester. I have got problems with Congress, a lot of people have problems getting involved in different areas. A lot of people have problems with Congress making important medical decisions, particularly when a woman's life is possibly endangered.

Under this amendment, it is improved a little bit from leaving the House. The prosecution has to show beyond a reasonable doubt the doctor performed this procedure improperly except the only way you get to that point is you charge the doctor and bring that physician to trial. For exercising medical judgment, a physician goes to trial. He or she cannot perform this procedure even to safeguard the severe adverse health effects to the mother, only for the life of the mother.

I guess what concerns me the most is that in this legislation they would permit the doctor to be charged but the woman who requested that understood that something has to be done, requested something be done, she is not charged. This whole thing does not belong in the Congress, and Congress should not start down this road.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 7 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, for more than two decades the multimillion-dollar abortion industry has sanitized abortion methods by aggressively employing the most clever and most benign of euphemisms market research can buy. Until today they succeeded in a massive coverup about the sickening truth about abortion methods, including chemical poisoning of the child by highly concentrated salt water or some other potion, dismemberment of the baby's fragile body by a knife connected to a suction machine that is 20 to 30 times more powerful than the average vacuum cleaner, and now brain extraction, the method at issue today, as if the child's brain were a diseased tooth in need of extraction or a tumor to be excised. Make no mistake about it, Mr. Speaker, partial-birth abortion is child abuse. And those who do it today have an unfettered right to kill. We can revoke that license to kill, Mr. Speaker, and we must. If the President vetoes this legislation, then he alone

will have empowered the abortionist to kill babies in this way. If he vetoes this bill, he renews this license to kill. He bears the responsibility for the thousands of kids who will die from this hideous method of abortion. Veto this bill, and there is no doubt whatsoever in my mind that Bill Clinton will go down in history as the abortion President.

Mr. Speaker, the abortion lobby lies to women and they lie to society at large, and they usually get away with it. But not this time. On this issue, they have said that partial-birth abortion is used primarily to save the life of the mother, an exception included in the bill, or for the deformity of the child. Leaving aside the inhumane notion that handicapped kids are throwaways or are to be construed as so much garbage, I thought we took care of that with passage of the Americans with Disabilities Act, which said that handicapped people have rights and they have inherent value, and we need to respect that.

Nevertheless, the fact of the matter is then, perhaps most of the partial-birth abortions procured in the United States are elective; in other words, they are abortions on demand. Dr. Martin Haskell, an abortionist who alone has performed over 1,000 partial-birth abortions, said in a tape recorded interview with the American Medical News that of the procedures he does, from 20 to 24 weeks, 80 percent are, "purely elective."

Mr. Speaker, the abortion lobby has also said that anesthesia kills the babies before they are removed from the womb. Even if that excuse were true, even if that rationalization were true, it would still mean that a baby dies. But again it is another lie. The American Society of Anesthesiologists, the ASA, has testified that such an assertion by the abortion lobby has, and I quote, "absolutely no basis in scientific fact," and is, "misleading and potentially dangerous to pregnant women." According to the ASA general anesthesia given to a pregnant woman does not kill nor does it injure an unborn baby or even provide the baby with protection from pain. And Dr. Haskell himself has said that local anesthesia he uses has no effect on the baby.

Mr. Speaker, to my left is a chart, one of a series of charts, medically correct, a diagram of what the actual procedure is all about. In a paper given by Dr. Haskell to the National Abortion Federation in 1992, entitled "Second Trimester Abortion From Every Angle," in September Dr. Haskell describes the partial birth abortion this way. Remember, this man, one of the pioneers who is trying to promote the use of this despicable form of child abuse, and he says, and I quote,

> With the instrument, when the instrument appears on the sonogram screen, the surgeon is able to open and close its jaws and firmly and reliably grasp a lower extremity of the child. The surgeon then applies firm traction to the instrument, causing a version of the fetus and pulls the extremity into the vagina.

He then goes on to say that,

> With a lower extremity in the vagina, the surgeon uses his fingers to deliver the lower extremity, then the torso, the shoulders, and then the upper extremities, the skull lodges in the internal cervical os. Usually there is not enough dilation for it to pass through. At this point, the right-handed surgeon slides the fingers of the left hand along the back of the fetus and hooks the shoulders of the fetus with the index and ring fingers palm down, while maintaining tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand. The surgeon takes a pair of blunt curved Metzenbaum scissors in the right hand. He carefully advances its tip curved down along the spine and under his middle finger until he feels it contact the base of the skull.

Mr. Speaker, according to Dr. Haskell, the surgeon then forces the scissors into the skull, right into the skull of that baby. And then he introduces a, suction catheter, holds it and excavates the skull contents.

Mr. Speaker, one nurse, a registered nurse by the name of Brenda Pratt Schaefer, witnessed several of these partial-birth abortions while working for Dr. Haskell. She said, in describing the process that,

> The baby's body was moving, his little fingers were clasping together, he was kicking his feet. All the while his little head was still stuck inside. Dr. Haskell took a pair of scissors, inserted them into the back of the baby's head. Then he opened the scissors up. Then he stuck a high-powered suction tube into the hole and sucked the baby's brains out.

This is child abuse, Mr. Speaker, let us face reality. And we can stop it.

Finally, just let me say, Mr. Speaker, I want to commend the distinguished gentleman from Florida, Mr. CANADY, the chairman of the subcommittee, for his courage in bringing this very important human rights legislation to the floor. The other side hates him for it. The abortion, lobby certainly does. They hate many others who fight for unborn kids.

But just let me say, protecting children and protecting human rights is always difficult. I serve as the chairman of the Subcommittee on International Operations and Human Rights. For 16 years I have been promoting human rights abroad. This, I would say, and submit to my distinguished colleagues, is a human rights abuse. Children are being slaughtered, some say 500, as if 500 is a small number of executions. That is, I think, a very conservative estimate; it is very likely many, many more than that. And it is being promoted as a method of choice.

□ 1800

I would submit that we have the opportunity today to stop this kind of child abuse and to protect little children from this kind of killing. We ought to do it. Support the rule and support the bill.

Mr. BEILENSON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I rise in strong opposition to this rule. The bill in question presents a direct challenge to Roe versus Wade. As one member of the majority boasted, "We intend to ban a woman's right to choose, procedure by procedure." I take him at his word, because this legislation will do just that.

I would like to put a human face on this debate and talk about Coreen Costello, who is pictured here. Coreen Costello would have taken any child that God would have given her, regardless of any handicap. But this child, the child that she was expecting, was not a child that could live. The Dole amendment would not have allowed Coreen Costello to use the procedure that now allows her to have other children. She is currently expecting yet another child. The Committee on Rules denied an amendment that would keep Coreen Costello's doctor out of jail.

I urge Members to have a heart. Vote humanitarian, vote for children, vote for women, vote for families, vote against this rule.

Mr. BEILENSON. Mr. Speaker, I yield the balance of my time to the gentlewoman from Colorado [Mrs. SCHROEDER].

The SPEAKER pro tempore (Mr. ROGERS). The gentlewoman from Colorado is recognized for 4 minutes.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from California for yielding me time.

Mr. Speaker, I eagerly, eagerly ask Members to vote against this rule. This rule is one more gag rule put on doctors dealing with women and their families in the most difficult situations that any family would ever have to face. I think it is unbelievable that we are gagging Members of Congress from being able to deal with the severe and adverse health conditions a woman can have, and that is what is being done. We are not being allowed to present that amendment.

The reason we are doing this today is really all political. Let us be honest. We have a letter from the President pointing out he will veto this bill in this form because it violates Roe versus Wade. We now have a new decision, a 100-page decision in Ohio, where the same kind of procedure was tested and the court said no, that is violative of Roe versus Wade.

We have heard so many statements made here that were incorrect, that you do not even know what to say.

People get up and they obsess on this, they obsess on this procedure and they obsess on all this stuff. The real issue is, show me an obstetrician and gynecologist that is going to do something terrible and evil and awful. We

VOL
142
PT
5
MR
21
—
29
1996
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try to make this into a witch trial. Show me parents that would want this.

These are crisis situations, where everything has gone wrong. We are only talking here about late, late abortions, where people were clinging to that child trying to go as far as possible. If we deny this kind of procedure, we are going to be denying to young parents their chance to have another shot at being a parent, which is probably one of the most driving desires anyone has.

Why do I say that? Because there are other procedures available. Sure, you could have a hysterectomy. There are other procedures available. But, guess what? You lose your reproductive organs. This procedure has been put together so that the reproductive system can remain whole and they get another shot at parenthood.

Should that not be okay? You hear people talk about how these are elective. Elective? These are not elective. Who in the world would sign up for a process like this, unless it was absolutely essential.

This bill does not do anything about early abortions in the first trimester. Remember what Roe versus Wade said? In the first trimester, you could do whatever. That is the elective part. We are talking about the late part, where Roe versus Wade said States can regulate this except in the case of life and severe health consequences to the mother.

Here is a mother that is happy we did not interfere in that, because she has gone on to be able to have another child, and she lived to see these two children grow to adulthood.

Is it the position of this Congress that other women in the future cannot have that opportunity? Are we going to move in and tell the doctors that would look at her health rather than this law, guess what, they go to prison for 2 years? Are we going to start criminalizing these medical procedures?

This is the first medical procedure we will ever have criminalized. Is that not interesting?

Mr. Speaker, I will put in the RECORD a letter from the American Nurses Association speaking clearly that they are opposed to this bill, and the American College of Gynecologists and Obstetricians, who are the ones that are the specialists who deal with this. They are opposed to this bill.

Mr. Speaker, we ought to be listening to the specialists and to the people who are talking about this. If we really think our medical profession is so badly trained in America, so against life that they are out doing these grizzly, terrible things, then we better look at the whole medical profession. But I do not think so. I hear this obsessing that you are hearing, which is wrong.

Vote "no" against this rule. Allow women to have their severe health consequences taken into consideration.

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS DOES NOT SUPPORT H.R. 1833

DEAR COLLEAGUE: I thought you might be interested in the following statement released by the American College of Obstetricians and Gynecologists. Protect women's health by voting "No" on H.R. 1833.

PAT.

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
November 1, 1995.

STATEMENT OF H.R. 1833—THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The American College of Obstetricians and Gynecologists is disappointed that the U.S. House of Representatives has attempted to regulate medical decision-making today by passing a bill on so-called "partial-birth" abortion.

The College finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community—demonstrating why congressional opinion should never be substituted for professional medical judgment.

The College does not support H.R. 1833, or the companion Senate bill, S. 939.

AMERICAN NURSES ASSOCIATION,
Washington, DC, November 8, 1995.
Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: I am writing to express the opposition of the American Nurses Association to H.R. 1833, the "Partial-Birth Abortion Ban Act of 1995", which is scheduled to be considered by the Senate this week. This legislation would impose Federal criminal penalties and provide for civil actions against health care providers who perform certain late-term abortions.

It is the view of the American Nurses Association that this proposal would involve an inappropriate intrusion of the federal government into a therapeutic decision that should be left in the hands of a pregnant woman and her health care provider. ANA has long supported freedom of choice and equitable access of all women to basic health services, including services related to reproductive health. This legislation would impose a significant barrier to those principles.

Furthermore, very few of those late-term abortions are performed each year they are usually necessary either to protect the life of the mother or because of severe fetal abnormalities. It is inappropriate for Congress to mandate a course of action for a woman who is already faced with an intensely personal and difficult decision. This procedure can mean the difference between life and death for a woman.

The American Nurses Association is the only full-service professional organization representing the nation's 2.2 million Registered Nurses through its 53 constituent associations. ANA advances the nursing profession by fostering high standards of nursing practice, promoting the economic and general welfare of nurses in the workplace, projecting a positive and realistic view of nursing, and by lobbying the Congress and regulatory agencies on health care issues affecting nurses and the public.

The American Nurses Association respectfully urges you to vote against H.R. 1833 when it is brought before the Senate.

GERI MARULLO,
Executive Director.

Mr. BEILENSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to the rule and legislation of H.R. 1833, for the dastardly impact on the life and health of the mother and the fetus and the physicians.

Mr. Speaker, I rise in opposition to the rule for H.R. 1833. We must be allowed to offer amendments to H.R. 1833, specifically, those which would provide for a true exception to save a woman's life, or for serious, adverse health consequences to the woman, including her future fertility, or where there exists severe or potentially fatal fetal abnormalities.

In 1973, and more recently in 1992, the Supreme Court held that a woman has a constitutional right to choose whether or not to have an abortion. H.R. 1833 is a direct attack on the principles established in both Roe versus Wade and Planned Parenthood versus Casey.

H.R. 1833 is a dangerous piece of legislation which would ban a range of late term abortion procedures that are used when a woman's health or life is threatened or when a fetus is diagnosed with severe abnormalities incompatible with life.

Because H.R. 1833 does not use medical terminology, it fails to clearly identify which abortion procedures it seeks to prohibit, and as a result could prohibit physicians from using a range of abortion techniques, including those safest for the woman.

H.R. 1833 is a direct challenge to Roe versus Wade—1973. This legislation would make it a crime to perform a particular abortion method utilized primarily after the 20th week of pregnancy. This legislation represents an unprecedented and unconstitutional attempt to ban abortion and interfere with physicians' ability to provide the best medical care for their patients.

If enacted, such a law would have a devastating effect on women who learn late in their pregnancies that their lives or health are at risk or that the fetuses they are carrying have severe, often fatal, anomalies.

Women like Coreen Costello, a loyal Republican and former abortion protester whose baby had a lethal neurological disease; Mary-Dorothy Lines, a conservative Republican who discovered her baby had severe hydrocephalus; Claudia Ades, who terminated her pregnancy in the sixth month because her baby was riddled with fetal anomalies due to a fatal chromosomal disorder, Vicki Wilson, who discovered at 36 weeks that her baby's brain was growing outside his head; Tammy Watts, whose baby had no eyes, and intestines developing outside the body; and Vikki Stella, who discovered at 34 weeks that her baby had nine severe anomalies that would lead to certain death. All these children were wanted but could not survive. These are the women who would be hurt by H.R. 1833—women and their families who face a terrible tragedy—the loss of a wanted pregnancy.

In Roe, the Supreme Court established that after viability, abortion may be banned by States as long as an exception is provided in cases in which the woman's life or health is at risk. H.R. 1833 provides no true exceptions for cases in which a banned procedure would be necessary to preserve a women's life or health.

The Dole amendment does not cover all cases where a woman's life is in danger. This narrow life exception applies only when a woman's life is threatened by a physical disorder, illness or injury and when no other medical procedure would suffice. By limiting the life exception in this way, the bill would omit the most direct threat to a woman's life in cases involving severe fetal anomalies—the pregnancy itself.

In fact, none of the women who submitted testimony during the Senate and House hearings on this bill would have qualified for the procedure under the Dole life exception. Instead, this bill would require physicians to use an alternative life-saving procedure, even if the alternative renders the woman infertile, or increases her risk of infection, shock, or bleeding. Thus, the result of this provision is that women's lives would be_ jeopardized, not saved.

This bill unravels the fundamental constitutional rights that American women have to receive medical treatment that they and their doctors have determined are safest and medically best for them. By seeking to ban a safe and accepted medical technique, Members of Congress are intruding directly into the practice of medicine and interfering with the ability of physicians and patients to determine the best course of treatment. The creation of felony penalties and Federal tort claims for the performance of a specific medical procedure would mark a dramatic and unprecedented expansion of congressional regulation of health care.

This bill is bad medicine, bad law, and bad policy. Women facing late term abortions due to risks to their lives, health, or severe fetal abnormalities incompatible with life must be able to make this decision in consultation with their families, their physicians, and their god. Women do not need medical instruction from the government. To criminalize a physician for using a procedure which he or she deems to be safest for the mother is tantamount to legislating malpractice.

I urge my colleagues to vote against this rule so that we can offer amendments which would create true life and health exceptions to the bill. These amendments would allow doctors to continue to perform the procedure which they feel is safest for the mother without risk of prosecution.

True life and health amendments would ensure that mothers, and families, facing tragic circumstances would continue to receive the best possible, and safest medical care available.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BECERRA]

Mr. BECERRA. Mr. Speaker, I rise in opposition to the rule and the bill. It is wrong-headed and should fail.

Mr. BEILENSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I rise in opposition to this legislation, which would prevent doctors from performing a lifesaving medical procedure. This is a direct threat to the health and lives of American women.

Mr. Speaker, we all hope that the number of abortions in this country can be decreased. But this debate is not about abortion. Restricting medical options that endangers the health of women is unconstitutional. The Supreme Court has stated that the Government may ban post-viability abortions, but it cannot restrict abortion when the procedure may be necessary to save the health and life of the mother.

The life exception included in this legislation is far too narrow to protect women's lives effectively. The exception would allow this procedure only as a last resort when a women's life is threatened by physical disorder, illness, and injury—when who other medical procedure would suffice. It does not consider that this may be the safest procedure to protect the health and life of the mother. This so-called life exception would have a women rendered sterile or face critical health risks rather than the use the safe and rare procedure that this legislation is attempting to outlaw.

Families faced with this difficult decision often go on to have successful pregnancies. Yet this legislation does nothing to protect health or future fertility of the mother—in fact, it puts a mother's future fertility at risk.

Mr. Speaker, the so-called partial-birth abortion ban is unconstitutional and inhumane. I urge my colleagues to vote against this legislation.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I rise in opposition to the rule and the underlying legislation.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentlewoman from Utah is recognized for 3½ minutes.

Mrs. WALDHOTZ. Mr. Speaker, let me address first the question that has been raised regarding this rule and the procedure by which this bill is brought to the floor.

We have heard complaints, Mr. Speaker, that there was not an opportunity to consider an amendment regarding the health consequences to the mother. But in fact, Mr. Speaker, as I pointed out earlier, the minority chose not to exercise its right to offer a motion to recommit when this bill first came to the floor. That was the opportunity, Mr. Speaker, that the minority had to offer whatever it felt was appropriate to change this bill. They decided not to do that. It is a bit disingenuous to complain about that now after the Senate has already taken up the bill, after the House had completed its debate.

In fact, Mr. Speaker, that particular amendment was offered in the Senate and it failed. We know what the definition of health of the mother is, because the Supreme Court provided us that definition in Doe versus Bolton, the companion case to Roe versus Wade, in which the Supreme Court defined health in the abortion context to include "all factors, physical, emotional, psychological, familial and the woman's age relevant to the well-being of the patient."

This is an extraordinary broadening of this bill. This bill was debated by the House, Mr. Speaker. It was debated by the Senate. We are back now to consider whether we should concur in the amendments that the other side has already stated improve the bill, a change that will allow doctors to exercise their best judgment in performing this procedure when it is necessary to save the life of the mother.

The gentlewoman from Colorado said though, Mr. Speaker, that we ought to look to the specialists, to the physicians, in determining whether this is an appropriate piece of legislation. So I wish to close, Mr. Speaker, by referring to the specialists.

First, Mr. Speaker, I would quote from Dr. Martin Haskell, a practitioner of the partial birth abortion method. When Dr. Haskell was asked about the advantages of this particular procedure he did not talk about the life of the mother. He did not talk about the sensation of the fetus. He did not talk about the health risk to the mother. He said this: "Among its advantages are that it is a quick, surgical, outpatient method that can be performed on a scheduled basis under local anesthesia." Those are not emergency measures, Mr. Speaker.

When Dr. Haskell was asked in an interview with Cincinnati Medicine in the fall of 1993, Dr. Haskell said when asked about the impact to the fetus of this procedure, the question, "Does the fetus feel pain?" This is what Dr. Haskell said: "I am not an expert, but my understanding is that fetal development is insufficient for consciousness." He continued, "It is a lot like pets. We like to think they think like we do. We ascribe humanlike feelings to them, but they are not capable of the same level of awareness we are. It is the same with fetuses."

Mr. Speaker, that is what one specialist, a practitioner of partial birth abortion, says about this procedure. But let us turn to another specialist, Dr. Pamela Smith, Director of Medical Education at the Department of ob-gyn at Mount Sinai Hospital in Chicago. Dr. Smith said, "There is absolutely no obstetrical situations encountered in this country that would require this procedure."

Mr. Speaker, I ask for support on this rule.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

VOL 142 PT 5 MR 21 — 29 1996 UMI

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mrs. WALDHOLTZ. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 148, not voting 14, as follows:

[Roll No. 93]

YEAS—269

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (NJ)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Thornton
Tiahrt
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—148

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Frank (MA)
Franks (CT)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Miller (CA)
Minge
Mink
Moakley
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Spratt
Stark
Studds
Thompson
Thurman
Torkildsen
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates
Zimmer

NOT VOTING—14

Bryant (TX)
Collins (IL)
Dooley
Dornan
Filner
Ford
Fowler
Gibbons
Harman
Smith (WA)
Stokes
Thomas
Torricelli
Weldon (PA)

□ 1832

The Clerk announced the following pairs:

On this vote:

Mr. Thomas for, with Ms. Harman against.
Mrs. Fowler for, with Mr. Stokes against.

Ms. FURSE and Mr. GILMAN changed their vote from "yea" to "nay."

Mrs. KELLY changed her vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 389, I move to take from the Speaker's table the bill (H.R. 1833), to amend title 18, United States Code, to ban partial-birth abortions with the Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Page 2, line 9, strike out [Whoever] and insert: *Any physician who*

Page 2, line 12, after "both." insert: *This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury: Provided, That no other medical procedure would suffice for that purpose. This paragraph shall become effective one day after enactment.*

Page 2, line 13, strike out [As] and insert: *(1) As*

Page 2, after line 16, insert:

"(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provision of this section.

Page 2, line 17, strike out [(c)(1) The father,] and insert: *(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure,*

Page 3, strike out lines 12 through 20.

MOTION OFFERED BY MR. CANADY

Mr. CANADY of Florida. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. ROGERS). The Clerk will designate the motion.

The Clerk read the motion.

Mr. CANADY of Florida moves to concur in each of the six Senate amendments to H.R. 1833.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. CANADY] and the gentlewoman from Colorado [Mrs. SCHROEDER] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 1833.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to express my support for the motion to concur in the

Senate amendments to H.R. 1833, the Partial-Birth Abortion Ban Act. H.R. 1833 bans a particularly heinous late-term abortion procedure unless that procedure is necessary to save the life of the mother.

This is partial-birth abortion:

Guided by ultrasound, the abortionist grabs the live baby's leg with forceps.

Mr. Speaker, then the baby's leg is pulled out into the birth canal by the abortionist.

The abortionist delivers the living baby's entire body, except for the head, which is deliberately kept lodged just within the uterus.

Then the abortionist jams scissors into the baby's skull.

The scissors are then opened to enlarge the hold in the baby's skull.

The scissors are than removed, and a suction catheter is inserted.

The child's brains are sucked out, causing the skull to collapse so that the delivery of the child can be completed.

Clearly, the only difference between partial-birth abortion,- the procedure which my colleagues have just seen described, and homicide is a mere 3 inches.

The supporters of partial-birth abortion seek to defend the indefensible, but today the hard truth cries out against them. Despite their relentless effort to misrepresent and confuse the issue, the opponents of this bill can no longer conceal the uncomfortable facts about this horrible procedure.

The ugly reality of partial birth abortion is revealed here in these drawings for all to see.

The Senate amendment to H.R. 1833 makes three acceptable changes to the House passed version of the bill:

First, the Senate amendment clarifies that H.R. 1833 allows a partial-birth abortion to be performed if it is necessary to save the life of the mother. Instead of a life exception in the form of an affirmative defense as passed by the House, the amendment inserts the life exception in the first paragraph of the bill. The effect of the amendment is to force the prosecution to prove beyond a reasonable doubt that the partial-birth abortion was performed to save the life of the mother or that another procedure would have saved her life.

Second, the Senate amendment restricts civil liability under the bill to physicians who perform partial-birth abortions or anyone who directly performs a partial-birth abortion. In other words, the amendment does not allow anyone who assists in a partial-birth abortion to be liable under H.R. 1833.

Third, the Senate amendment allows fathers to sue for damages only if the father was married to the mother at the time the partial-birth abortion was performed.

I believe that if H.R. 1833 is enacted into law with the Senate amendments, it will deter abortionists from partially delivering, and then killing, unborn children.

Unfortunately, Mr. Speaker, President Clinton has threatened to veto H.R. 1833 unless we make gutting changes to the bill. The President does not want to openly defend a procedure that 71 percent of the public says should be banned. Therefore, he is trying to deceive the American people by claiming he supports banning this, as he calls it, disturbing procedure while he has at the same time proposed an amendment that would gut H.R. 1833, making it totally meaningless.

Mr. Speaker, the President wants a bill that allows an abortionist to perform a partial-birth abortion whenever the abortionist says it is to prevent a serious adverse health consequence. The President wants to explicitly leave the definition of serious adverse health up to the abortionist. In Doe versus Bolton, the companion cause to Roe versus Wade, the Supreme Court defined health in the abortion context to include, and I quote, "all factors: physical, emotional, psychological, familial, and the woman's age, relevant to the well-being of the patient." Partial-birth abortions are currently being performed for such health reasons as the mother's depression or young age.

While Dr. Martin Haskell, a prominent practitioner of partial-birth abortion, stated that 80 percent of the partial-birth abortions that he performed from 20 to 24 weeks are purely elective, Dr. James McMahon called the partial-birth abortions he performed in the third trimester non-elective or health related. In documents submitted to the House Subcommittee on the Constitution, Dr. McMahon asserted: after 26 weeks, that is, 6 months, those pregnancies that are not flawed are still non-elective. They are interrupted because of maternal risk, rape, incest, psychiatric or pediatric indications. Dr. McMahon's definition of non-elective is extremely broad.

Accordingly, if President Clinton had his way, even third trimester partial-birth abortions performed because of a mother's youth or depression would be justified to preserve the mother's health. This is simply unacceptable.

Furthermore, Dr. McMahon told the subcommittee that he had performed more than 2000 of what he called intact dilation and evacuation abortions. He attributed more than 1300 of these late-term abortions to fetal indications or maternal indications. The most common maternal indication was depression. Other maternal indications included pediatric pelvis, that is, youth, spousal drug exposure, and substance abuse.

□ 1845

It is never necessary to partially vaginally deliver a living infant at 20 weeks, that is, 4½ months or later, before killing the infant and completing the delivery in order to protect a mother's life or even her health.

During two extensive hearings in the Committee on the Judiciary on H.R. 1833, not one of the medical experts invited to testify by the bill's opponents could point to a single circumstance that would require the use an abortion technique in which the infant was partially delivered alive and then killed. On the contrary, several physicians, including one well-known abortionist, have stated that partial birth abortion poses risks to the health of the mother.

Dr. Pamela Smith, the director of medical education for the Department of Obstetrics and Gynecology at Mr. Sinai Hospital in Chicago, has written:

> There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial birth abortion is a technique devised by abortionists for their own convenience, ignoring the known health risks to the mother. The health status of women in this country will only be enhanced by the banning of this procedure.

Dr. Martin Haskell, himself, said of a partial birth abortion, "Among its advantages are that it is a quick surgical outpatient method that can be performed on a scheduled basis under local anesthesia."

The President and other proponents of partial birth abortion know that adding an exception for health of the mother to H.R. 1833 is unnecessary and would gut the bill, allowing partial birth abortion on demand.

This is the question I would raise to the President and my colleagues who support abortion on demand: Is there ever an instance when abortion or a particular type of abortion is inappropriate? The vehement opposition of abortion rights supporters to H.R. 1833 makes their answer to my question clear. For them there is never an instance when abortion is inappropriate. For them the right to abortion is absolute, and the termination of an unborn child's life is acceptable at whatever time, for whatever reason, and in whatever way a woman or an abortionist so chooses.

To all my colleagues, I say this, Mr. Speaker: Look at this drawing. Open your eyes wide and see what is being done to innocent, defenseless babies. What we see here in this drawing is an offense to the conscience of humankind. Put an end to this detestable practice. Vote in favor of the motion to concur in the Senate amendments to H.R. 1833.

Mr. Speaker, I reserve the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS], the esteemed ranking member of the committee.

Mr. CONYERS. Mr. Speaker, I rise to make observations about two members of the Committee on the Judiciary, and

VOL 142 PT 5 MR 21 — 29 1996 UMI

I respect all of the members on the committee. First, I have asked the gentlewoman from Colorado, PATRICIA SCHROEDER, to manage this bill, because she will long be remembered for her sensitivity and dedication on a subject that is so difficult for all of us to deal with.

The other Member whose attention I would draw the membership to is the gentleman from Florida [Mr. CANADY], the author of this measure. Mr. CANADY is not a doctor, has never been to medical school, and has created a misnomer in the title of this bill. There is no medical term called "partial birth abortion." It is not in the medical dictionary, the American College of Obstetricians and Gynecologists do not use the term and in fact, has come out very strongly against the bill.

Mr. Speaker, assuming that we are not doctors, let us just talk about the law that we have a responsibility to deal with. Since the measure of the Gentleman from Florida was introduced, a Federal court in Ohio has spoken on a very similar measure and the Ohio Federal court has said very, very clearly that this procedure, the dilation and extraction, or D and X procedure, which was banned by an Ohio statute, is unconstitutional. Similarly, this bill is unconstitutional.

I urge my colleagues to consider that Roe versus Wade, through the constitutional process, has protected a woman's right to choose, for over 20 years. This attempt to ban a class of medically appropriate abortions is not only very discouraging, it is unconstitutional.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I think it is important that we talk about what this bill is and what it is not. The term abortion is used rather loosely around this body. Abortion, by definition, occurs before 20 weeks. This procedure is not used before 20 weeks. This procedure is used on viable infants, infants who are viable outside of the womb. So as we hear all the confusing dialogue tonight, it is important that everybody realize that infants, 22 weeks gestation, from the time of conception 22 weeks forward, which is actually less than 21 weeks, by normal count, those are viable infants by definition. Today if a baby is born at 22 weeks we do everything we can to save that baby.

So this bill is not about abortion, this bill is about eliminating the murdering of infants who are otherwise viable outside of the womb.

What is this bill? This bill eliminates a procedure that has been designed to be of benefit only to the abortionist. Every complicated pregnancy that might have an adverse outcome in terms of an indication under the present utilization of this procedure can in fact be delivered in a much more humane, much less traumatic, and much more beneficial way to both the infant and the mother. What this bill provides is the respect that a viable fetus deserves, an infant of 22 weeks.

Let us make no mistake about this, this procedure is utilized to terminate otherwise normal infants the vast majority of the time. We are going to hear otherwise on that, but if you think an infant with a cleft palate is someone who needs to be terminated, if you think adolescent females, because they are pregnant. should qualify under this bill, as the President would have us say, because of their adolescence or because of their age, should otherwise be an exception under this bill, then you do not in fact understand what this procedure is all about.

I would urge my colleagues to think about what this bill really is. This is not an abortion. This procedure is a convenient method for some practitioners to terminate the lives of otherwise viable infants.

Mrs. SCHROEDER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, first of all, let me answer the gentleman who was just in the well. I think it is terribly important to say we were trying to offer the amendment that is the law of the land, which is severe adverse health consequences to the mother. I resent very much hearing that this is about cleft palates and these are designer things and so forth, because this is not, and there is no one in this body trying to make it that way.

Now let me tell you why I hate this debate. I hate this debate because this debate reminds me of my 30th birthday, and let me bring you to my 30th birthday. My 30th birthday was spent in intensive care, an intensive care in which I had been given last rites. I had a 15-day-old baby girl I had not seen and a 4-year-old boy that I was terrified I would not see again. I want to tell the Members, that is scrambling, man. We had doctors, we had everybody running around figuring out what in the world can happen.

I just want to say to people in this Chamber, if you really think families in that situation want you, the U.S. Congress, to come in and tell them which procedures their doctors may use and which ones they may not use, I think you are wrong. I think doctors think this is a zone of privacy and families think this is a zone of privacy, and that we should trust our doctors, although I understand there are some Members here who trust Hamas more than they trust the Government. But I happen to trust my doctor in that instance a whole lot more than I trust you Members of Congress. I want you to know it.

I want you to know I also looked at your drawings. You know what it said on the bottom? It said, "Drawing commissioned by the National Conference of Catholic Bishops." Maybe they deliver babies, and maybe they practice medicine, but I go with the American College of Gynecologists and Obstetricians, because those are the ones I know that deliver babies. I am tired of the playing politics on this. I think America's families are tired of playing politics on this, and I really think that that is all this is about.

I wish there were some way to bring some sanity to this. My time has expired. I have thousands more I could say, but I only want to tell you, my 30th birthday was hell, and because of people like you, I could be dead, and I resent that very much.

Mr. Speaker, I rise to urge my colleagues to oppose the motion that would send to the President an abortion ban that does not have an exception for the life or health of the woman.

When the House first voted on this bill, we fought hard, but unsuccessfully, for an opportunity to debate and vote on an amendment that would provide an exception to the ban in cases where the woman's life or health is at risk. Since the original House vote on this bill, two noteworthy events have occurred.

First, an Ohio court has issued a 100-page opinion setting forth, with great detail and care, the unconstitutionality of a similar provision passed by the Ohio legislature. Central to the court's analysis is the fact that under Roe versus Wade and later cases, the government cannot ban abortions that are necessary to preserve the life or health of the woman.

Second, on February 28, President Clinton sent a letter to the chairman of the Judiciary Committee clearly stating that he will veto the legislation unless it contains a true exception for the life and health of the woman, as required by Roe versus Wade.

Because H.R. 1833, both in its original form and as amended by the Senate, fail to include any exception for the health of the woman, and because the life exception is too narrowly framed to constitute a true life exception, the bill before us today is unconstitutional. It clearly violates Roe versus Wade, and most importantly, it sends an unacceptable message to American women that their lives and health are not worthy of full protection.

In the course of our committee's hearings on this bill, we heard heart-rending stories from four women whose families benefited from the procedure this bill would ban, all in cases where terrible tragedies occurred late in the woman's pregnancy. As I listened to these women's stories, it became obvious to me that, in many respects, this bill is not about abortion at all. These pregnancies were wanted pregnancies, and the women told us that their families loved and cherished the babies that God was giving to them, no matter what disabilities those babies might have.

Unfortunately, these families had to confront the terrible tragedy that life was not to be for these babies, and they had to make decisions about how to manage the medical crises that confronted them in the way that best safeguarded the woman's life, health, and her ability to have another chance at motherhood. They chose this procedure based on advice from multiple medical specialists, knowing that

it posed the least risk to them and their future fertility. Some of these women told us that they were pro-life before they had this procedure, and they remain pro-life today. But they oppose this bill because it bans a medical procedure that preserved their health and their future fertility. Several of these women are pregnant again today, thanks to this procedure that safeguarded their reproductive capacity.

So, in truth, the bill before us today is as much about safe motherhood as it is about abortion. In 1920, 800 women died for every 100,000 live births. In 1990, 10 women died for every 100,000 births. While the maternal mortality ratio in the United States has decreased dramatically, pregnancy-related complications and deaths remain an important public health concern.

We cannot get complacent about safe motherhood. And an adjunct of safe motherhood is that when something goes terribly wrong with a pregnancy, the woman, her family, and her doctor have every right to do everything possible to preserve her future reproductive capacity, so that she can have another chance at motherhood.

So many times when we say the words "life and health of the woman" people react as if it's some kind of tricky legal technicality. That women don't die anymore because of pregnancy or childbirth. As a woman who almost died after childbirth, let me assure you, it can happen. And the CDC statistics I am citing are a reminder that the life and the health of the woman can indeed be placed in jeopardy during pregnancies today. The leading causes of pregnancy-related death are hemorrhage, embolism, and hypertensive disorders. Combined, they account for over 70 percent of pregnancy-related deaths. That's why options that reduce the risk of excess bleeding, such as the procedure we are considering today, can in many cases save the life or health of the woman.

You would think that Congress would have the sense to leave the practice of medicine to doctors. You would think that Congress would respect the privacy of the families who confront these terrible tragedies, and their intelligence in deciding how best to manage the life and health risks these tragedies bring with them. Instead, this bill tells these families that Congress would put the doctors who preserved the woman's life, her health, and her future fertility in prison for 2 years.

Look Coreen Costello in the eye, and tell her that the second chance at safe motherhood that this procedure afforded her is something that Congress is taking away. Sit down with her children and explain to them that Congress would subordinate their mother's health to a political agenda, so that supporters of this bill can run sensational 30-second ads to advance their political ambitions.

If this committee were serious about passing a bill that would pass constitutional muster, we would be voting on amendments to cure the constitutional problems that are so carefully detailed in the Ohio court decision and the President's letter. The President's letter makes it clear that he would quickly sign a bill that contained an exception for procedures necessary for the life of the woman or to avert serious adverse health consequences to the woman.

Without altering the bill to cure the vagueness problem, the undue burden on previability abortions, and to add a true life or health exception, everyone in this Chamber knows that this bill would be enjoined immediately by the courts. That being the case, what can the purpose be in forcing this bill to the President's desk without a life or health exception? I am afraid I cannot see one other than political gamesmanship, and it is distressing in the extreme to see that game being played at the expense of the lives and health of very real women in this country, women like Coreen Costello and Mary-Dorothy Line.

Don't play a political game with the lives and health of the women of this country. Don't vote to send this bill to the President without a health exception and without a true life exception.

Mr. Speaker, I include for the RECORD the following:

THE ISSUE IS NOT ABORTION

(By Mary-Dorothy Line)

My husband and I are extremely offended by the ad sponsored by the National Conference of Catholic Bishops that appeared in the March 26, 1996 edition of the Washington Post. A bill pending before the House (H.R. 1833) would ban intact dilation and evacuation (intact D&E) procedures used in some late-term abortions; late term abortions which are provided to protect the mother's life or health when there is no hope for the baby. This legislation is wrong, and it would hurt a lot of American families. We know. We are one of those families.

I am a registered Republican and we are practicing Catholics. Last April, we found out I was pregnant with our first child and were extremely happy. 19 weeks into my pregnancy, an ultrasound indicated that there was something wrong with our baby. The doctor noticed that his head was too large and contained excessive fluid. This problem is called hydrocephalus. Every person's head contains fluid to protect and cushion the brain, but if there is too much fluid, the brain cannot develop.

As practicing Catholics, when we have problems and worries, we turn to prayer. So, our whole family prayed. We were scared, but we are strong people and believe that God would not give us a problem if we couldn't handle it. This was our baby; everything would be fine. We never thought about abortion.

A few weeks later we had two more ultrasounds. We consulted with five specialists, who all told us the same thing. Our little baby had an advanced, textbook case of hydrocephaly. We asked what we could do. They all told us there was no hope and recommended that we terminate the pregnancy. We asked about in utero operations and shunts to remove the fluid, but were again told there was nothing we could do. We were devastated. I can't express the pain we still feel—this was our precious little baby, and he was being taken from us before we even had him.

My doctors, some of the best in the country, recommended the intact D&E procedure. No scissors were used and no one sucked out our baby's brain as is depicted in the inflammatory ads supporting H.R. 1833. A simple needle was used to remove the fluid—the same fluid that killed our son—to allow his head to pass through the birth canal undamaged. This was not our choice—this was God's will.

My doctor knew that we would want to have children in the future, even though it was the furthest thing from my mind at the time. They recommended the best procedure for me and our baby. Because the trauma to my body was minimized by this procedure, I was able to become pregnant again. We are expecting another baby in September.

I pray every day that this will never happen to anyone again, but it will, and those of us unfortunate enough to have to live this nightmare need a procedure which will give us hope for the future.

Congress needs to hear the truth. The truth does make a difference—when people listen. Last week, I testified at a hearing held in the Maryland legislature. A committee there was considering a bill similar to the one Congress in prepared to pass this week. In Maryland, they listened. And in Maryland, several conservative legislators joined in the 15-6 committee vote to reject this bill.

After seeing the callous way our tragedies are regarded by the proponents of H.R. 1833, I know the only hope to protect families lies with the President of the United States. I am told he is a good man. I am told he listens to people. I hope he listens to us, to the truth, and not to the political propaganda. I pray he shows love and compassion for women like me and families like mine. I pray he vetoes this bill.

Many people do not understand the real issue—it is women's health; not abortion and certainly not choice. We must leave decisions about the type of medical procedure to employ with the experts in the medical community and with the families they affect. It is not the place for government.

Mr. CANADY of Florida. Mr. Speaker, I yield 3½ minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I thank the gentleman from Florida for yielding time to me.

Mr. Speaker, I rise this evening in support of the amended version of H.R. 1833. The practice of partial-birth abortions should spark outrage in all of us. We, of this Congress, have a duty, a duty to protect children who might otherwise fall victim to this procedure. I believe we also have a duty to protect women from the scandalous falsehoods perpetrated by the opponents of this bill.

Those desperate to obscure the true nature of partial-birth abortions claim that the anesthesia given to the mother prior to the procedure results in the death of the child in utero. Based upon this myth they argue that it is misleading to call the procedure a partial-birth abortion, and any concerns that the child experiences pain are misplaced. Extreme abortion advocates have trumpeted this mistaken notion with the complicity of the unquestioning media.

Mr. Speaker, I rely upon the authority of Dr. Norig Ellison, president of the American Society of Anesthesiologists, who says this claim has "absolutely no basis in scientific fact."

Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology, says it is crazy. The American Medical News reported in a January 1 article that

VOL
142
PT
5
MR
21
—
29
1996
UMI

"Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia."

During the House and Senate debates over this measure, we heard several of the opponents piously express concern for the health of women. Yet, they willingly propagate the mistaken rhetoric of the extreme pro-abortionists, and undoubtedly frighten pregnant women in need of anesthesia for other medical reasons.

In Dr. Ellison's words:

> I am deeply concerned that the widespread publicity may cause pregnant women to delay necessary and perhaps life-saving medical procedures totally unrelated to the birthing process, due to misinformation regarding the effects of anesthetics on the fetus.

Mr. Speaker, the Senate amendments to the bill clearly make an exception should the life of the mother depend on the employment of this procedure. I am satisfied that no woman will be harmed as a result of this legislation, and many children will be spared a particularly gruesome fate. To oppose this bill is to display the extremism in the defense of abortion rights that is beyond reason and without compassion.

In the immortal words of Abraham Lincoln:

> Fellow Citizens, we cannot escape history . . . The fiery trial through which we will pass will light us down, in honor or dishonor, to the latest generation.

Let it be recorded by history that this Congress took a stand, not only against cruel medical practice, but for the life and death of women.

□ 1900

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY], the distinguished cochair of the Caucus on Women's Issues.

Mrs. LOWEY. Mr. Speaker, I rise in opposition to H.R. 1833.

Mr. Speaker, we are here today debating this extreme bill because the Republican leadership is absolutely committed to eliminating the right to choose. The pro-life majority in this House has restricted abortion rights throughout the last year—and this bill is yet another step on the road to the back alley. This legislation will criminalize abortion, harass doctors, and prevent women from getting the medical care they need.

Families facing a late-term abortion are families that want to have a child. These couples have chosen to become parents, and only face terminating the pregnancy due to tragic circumstances. Terminating a wanted pregnancy at this stage is agonizing and deeply personal.

This procedure is not about choice, It is about necessity.

Let me tell you about Claudia Ades, who lives in Sanata Monica, CA. She heard about this bill, and called to ask me if there was anything she could do to defeat it. As Claudia said so passionately, "This procedure saved my life and my family."

Three years ago, Claudia was pregnant and happier than she had ever been. However, 6 months into her pregnancy she discovered that the child she was carrying had severe fetal anomalies that made its survival impossible, and placed Claudia's own life at risk.

After speaking to a number of doctors, Claudia and her husband finally concluded that there was no way to save the pregnancy. "This was a desperately wanted pregnancy," Claudia said, "But my child was not meant to be in this world."

Those of us with healthy children can only imagine the horror that Claudia felt when she received the news about her condition. It is the news that all mothers pray every day they will never hear.

But, in those tragic cases where families do hear this horrible news, who should decide? The one thing that I know for sure is that the decision should not be made by Congress. At that horrible, tragic moment, the Government has no place.

Now, the Republican leadership could have made this a better bill by including real life and health exceptions. Not the sham life exception that's included in this bill—written by the Republican presidential candidate from Kansas who never met an abortion restriction that he didn't support. President Clinton even indicated that he would sign the bill if it contained real exceptions. But the Republican leadership doesn't want the President to sign this bill—they want him to veto it. This entire debate is a pay-off to the Christian Coalition and an exercise in election year political theatre.

Mr. Speaker, President Clinton's veto pen is the only thing protecting American women from the back alley. H.R. 1833 is an extreme bill that will put the lives of American women at risk. I urge its defeat.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE], a member of the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Speaker, I thank the chairman for his fine work.

Mr. Speaker, today I rise in support of an eminently reasonable bill to ban a heinous procedure to partially deliver fully formed babies, and then kill them. Again, I repeat, this is a very reasonable bill which the majority of Americans wholeheartedly support. Those who oppose this bill are the excessive ones.

Already, 288 of the Members of this House have voted to ban partial birth abortions. The bill before us today is identical except for three minor changes—all of which I support:

It still allows an exception to the ban in order to save the life of the mother, and now provides in those cases that the prosecution must prove that there was no other alternative available to save the mother's life, rather than placing the burden on the physician.

It clarifies that only the physician who performs the abortion may incur civil liability under the bill.

It allows fathers to sue a physician for damages only if the father and mother of the child were married when the abortion was performed.

We must put an end to this barbaric procedure where the difference between abortion and murder is literally a few inches. This is effective legislation to ban an unbelievably gruesome act. I urge my colleagues to support it.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK], the ranking member of the subcommittee.

Mr. FRANK of Massachusetts. Mr. Speaker, I salute the courage of the gentlewoman from Colorado [Mrs. SCHROEDER] and her willingness to take this issue on.

Mr. Speaker, we are clearly here dealing with a political issue. We heard one of the previous speakers say the purpose of it is to give the President something to veto. The President has said, amend this bill and he will sign it. Amend it to say that if the particular procedure is deemed necessary by a doctor to avoid serious adverse health consequences, he can do it.

Understand that this bill would say to a doctor, if in his judgment performing the abortion in this way is necessary to prevent severe physical damage to the mother, as long it is not life-threatening, he cannot do it. He can do it if it will save her life, but if it will destroy forever her chances of having a child, if it will cause her serious, long-lasting physical pain and disability, this bill says it is a crime to do it.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I think the gentleman is absolutely correct. They are saying that there is a life exception, but it is very cosmetic because the way I read the bill, it is that the doctor would have to prove there was no other medical procedure that would suffice, and maybe there is another medical procedure but it would not be as good for her outcome.

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, and of course that is only life. It does not deal with health. The majority refused to allow an amendment. Be very clear about it. We have twice asked them let us vote, as the Senate did, and the amendment in the Senate got 46 votes and lost narrowly.

Members have said, "Your health exception is too broad." My colleagues on the other side of the aisle can narrow it if they want to. But they cannot, however, object that we have one that is

too broad when they have none at all; when they are asking the House to vote for a bill that will make it a crime for a doctor to perform this procedure even if he believes that performing it is necessary to prevent serious physical, long-lasting, permanent damage to the mother. That is not a reason for going forward under this outrageous bill.

Mrs. SCHROEDER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I salute the gentlewoman from Colorado for her leadership, and I want to reiterate some of the points that have been made before.

Mr. Speaker, it all boils down to this: A doctor is in an operating room, an obstetrician-gynecologist. There is a serious problem that evolves and the doctor has to make a judgment. Does it make any sense for this body, or for any body, to impose the threat of a crime, a criminal penalty and a jail sentence, on that doctor while he or she is making the decision about what is best for health or for life?

Then let us say that we even go with the narrow amendment of life. What is the doctor going to do? Is a doctor not supposed to worry that maybe his or her judgment is different than what a jury might determine 2 years later, not under the glare of the operating room lights?

This amendment is regrettable. It is unfortunate. I have some sympathy with those that disagree with my view on the issue of choice, about the idea that it should not be easy and it should not be a quick decision, and abortion should not be a method of birth control. We are not talking about that here because in these cases the mother, the parents, wanted to have the baby but something happened and an emergency may occur. We, again without a bit of knowledge of what is actually the best medical procedure, are imposing something here, and that is simply wrong.

I would say to my colleagues, resist this amendment. It is not going to be an issue in political campaigns, believe me. It is too arcane and too gruesome. Do the right thing. Rise to the occasion and vote down this awful amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, we hear now today from some of our colleagues that this is an issue of privacy and the U.S. Congress should not vote on it. We vote on issues of speech, and that is very private. We vote on issues of prayer, and that is very private. We vote on issues of guns, and that is everywhere private. Certainly we should vote to ban this kind of procedure that takes the life of a partially delivered baby.

I hear some of my colleagues on this side of the aisle even say that this is a regrettable procedure, an unfortunate procedure. This is a gruesome and brutal procedure, and as we spend billions of dollars every single year on medicine and technology, certainly there is no room in our society for this kind of procedure to continue to take place in 1996, no matter what your view is as a pro-life or a pro-choice Member of Congress.

What are we voting on? A partial birth abortion is defined as a procedure in which a doctor partially delivers a living fetus before killing the fetus and completing the delivery. That is what we are voting on.

What have we added to this in chapter 74, section 1531? "This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of the mother whose life is endangered by a physical disorder, illness or injury."

Finally, let me conclude by saying this issue should not divide pro-choice and pro-life. It should not divide women and men. It should not divide Democrats and Republicans. It is a brutal and inhumane procedure that should be banned, and I urge my colleagues to support this bill.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. LOFGREN], a distinguished Member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, politicians in Congress have issues. We have wedge issues, we have issues we put in direct mail and we have rhetoric. I have heard a lot of partial discussions, selected comments that are meant to inflame, meant to persuade, and I think in some cases meant to mislead. But the people who will be hurt by this bill do not have issues. They have tragedies, and they do not need this bill to pass.

Mr. Speaker, I want to talk about people I really know, my friend Suzie Wilson's son and daughter-in-law, Bill and Vicki Wilson, and their wonderful children, Jon and Kaitlyn, because 2 years ago this April 8th they lost Abigail.

They were very much looking forward to Abigail. They had had two baby showers. The nursery was full of pink ribbons waiting for Abigail, and in the eighth month they found out that all of Abigail's brains had formed outside of her cranium and that there was no way that this child could survive. It was a tragedy.

They took their case to the doctor, who was able to save Vicki's life and to save her fertility. The question that faced them was not whether Abigail could live, but how would Abigail die and whether Vicki's uterus would burst while Abigail was dying.

I am glad that Vicki and Bill had the chance they did to keep their family intact. I know because we had a lot of tears, we friends of the family. They did not need the Congress of the United States to help them at that moment. They needed a doctor. They needed the love of their friends and their family. They needed the guidance of God.

Mr. Speaker, I have talked to Members in this body who have told me privately that if it were their wife, they would want this procedure, and then gone ahead and voted for this bill. I would ask all of you, do your politics with some other issues. Hurt someone else. Search your conscience and look at my friends, the Wilson family. Think of them and put politics aside.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, on Friday this House voted to repeal the assault weapons ban as a payoff to the NRA. Today we are voting to ban a rare but sometimes medically necessary procedure as a payoff to certain right-wing elements within the Republican party.

Mr. Speaker, we need to be honest with each other. Anti-choice forces see this ban as the first step toward ending a woman's right to choose in America. As far as the anti-choice forces are concerned, there is no difference between the procedure we are debating today and abortions in the cases of rape and incest.

□ 1915

Yet these same radicals believe that properly manipulated, this late-term procedure can be the wedge issue to divide the overwhelmingly pro-choice American public. Today, it is this procedure. Tomorrow, it is family planning.

Mr. Speaker, no one in this body likes this procedure. And, yes, it is unpleasant. But this rarely used medical procedure remains necessary to ensure that women who must have an abortion are still able to bear children afterwards.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I rise today in absolute support of H.R. 1833.

As I walked to the floor this evening, it struck me how ridiculous and sad it is that in this great Chamber in this great Nation, we should even be debating this issue.

What we are talking about today is not the issue of abortion per se.

That is a discussion for another time, and that time will come.

What we are talking about is a procedure that is positively medieval.

The issue of abortion is very emotional and I try to avoid using inflammatory rhetoric on the issue, because I have felt it didn't further the debate.

But in this case murder is not too strong a term.

VOL
142
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29
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Partial birth abortion is murder, cold, grisly, and premeditated.

Partial birth is used on babies who are up to 9 months in the womb.

The ninth and final month.

At 9 months, what is the difference between a baby in the womb or a baby in the crib? One is just as helpless as the other.

And yet this procedure exists and is used at will.

We have seen statements from abortionists that not only have they frequently performed this procedure, but they have often performed it in purely elective circumstances.

Can anyone argue that this chilling act is medically necessary?

The American Medical Association's Council on Legislation voted unanimously to recommend that the AMA board of trustees endorse H.R. 1833.

Many council members agreed that, "the procedure is basically repulsive."

To condone the practice of partial birth abortion is to discard and disgrace every shred of morality that we as human beings should embrace.

Mr. Speaker, I strongly urge my colleagues to take a stand against this evil procedure known as partial birth abortion and vote for H.R. 1833.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, we know that after the 24th week, only .01 percent of all abortions are performed, .01 percent. There are two or three procedures that are used, meaning that this particular procedure is used in only a portion of that .01 percent. Of these procedures, all are more terrifying and unpleasant than this one. But if a woman is carrying a fetus which has a severe abnormality or if the woman has a severe health condition which threatens her health if she continues to carry the fetus, one of these procedures must be used. The bill itself states that there are circumstances in which no other procedure will suffice.

The Senate amendments improved the bill only marginally, and I must still vote "no" because, one, I believe strongly that we should not remove a medical option that might preserve the health of a woman or preserve the ability of a woman to have future children. Second, I believe strongly that we should not decide medical procedures on the floor of this House and am deeply concerned about where this might lead. And, third, I believe strongly that we should not criminalize a medical procedure. For these three reasons, I must vote "no."

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to H.R. 1833 and criminalizing late-term abortions.

First of all, this conference report is a cruel, a very cruel attempt to make a political point. Make no mistake about it, ladies and gentleman, this conference report, with all of the emotional rhetoric and the exaggerated testimony, is a frontal attack on Roe versus Wade by the Gingrich majority, plain and simple. With the Gingrich majority, what they want is to do away with Roe. The radical rights wants to do away with Roe, and H.R. 183 is a good first step as far as they are concerned. So let us be honest about what this debate is really about.

This legislation seeks to prohibit the wide array of medical techniques which are rarely used but are sometimes required in the late stages of pregnancy, like with the Wilson family, in extreme and tragic cases when the life of the mother is in danger, or the fetus is so malformed that it has absolutely no chance of survival; for example, when the fetus has no brain, or the fetus is missing organs or the fetus's spine has grown outside of its body, when the fetus has zero chance of life, when women are forced to carry these malformed fetuses to term, they are in danger of chronic hemorrhaging, permanent infertility, or death.

Woman and their doctors need to make these decisions, not the Congress. Like the Wilsons, the family needs to make this decision with their doctors, not the Congress.

I urge my colleagues to oppose the conference report on H.R. 1833.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, children, however dependent, are not property and no child is ever a throw-away. A pregnancy is not a disease. Yet partial-birth abortions treat a partially delivered child as a tumor, as a wart, as a disease to be destroyed.

Even if you have a doubt, I say to my colleagues concerning the humanity of an unborn child, can you not resolve that doubt in the baby's favor when the infant is half delivered?

Mr. Speaker, for the first time ever, Democrats and Republicans will send to the President a bill that says "no" to the horrific procedure that literally sucks the brains out of a baby's head. This poster to my left is not some kind of fiction. It is the reality of this horrendous child abuse.

A registered nurse, Brenda Pratt Shafer, said after seeing some of these partial-birth abortions, and I quote, "The baby's body was moving, his little fingers were clasping together, he was kicking his feet. All the while, his little head was stuck inside." Dr. Haskell took a pair of scissors and inserted them into the back of the baby's head. Then he opened up the scissors. Then he stuck a high-powered suction tube into the hole and sucked the baby's brains out.

Mr. Speaker, for the first time ever, despite the extraordinary ability of the pro-abortion lobby to obfuscate and confuse, the reality of abortion is finally getting the scrutiny it deserves. By addressing this particular kind of abortion, this legislation compels us to face the dark secret, the cold fact that an unborn baby dies in every abortion.

I am astonished that Members can support this kind of abortion. Two decades of cover up are over. I would say to colleagues that the brutal methods, whether it be chemical poisoning or suction, dismemberment of a baby, in this case a partially delivered baby killed with brain suction, this must be brought to the forefront so the people know exactly what is going on.

I hope the President says to the bill that he will sign it. I hope he signs it. It is not likely. He will have earned the legacy of being the abortion President. What a tragic, what a pathetic legacy to be the abortion President, especially a man who once in his past used to be pro-life.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am sorry the gentleman would not yield. I wanted to point out it does say it was the Conference of Catholic Bishops that created that poster.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Speaker, it is really tragic, tragic that the personal problems and the anxieties of women who face these very, very difficult decisions that must be made with respect to their health and their safety and the integrity of their family and to have those tragic circumstances of a person's life be used under these circumstances to advance this political goal of trying to do away with abortion.

But I think that the debate clearly points out that what is being attempted here is a denunciation of the rights of women that have been created by the U.S. Supreme Court. That is what is at stake here.

It is not this procedure that is used so few times out of necessity, but it is the principle of interfering with the doctor and the women that require this procedure, taking away that right of a woman to make this difficult decision, taking away the right of a woman to consult with her physician about what needs to be done, allowing the Congress of the United States to make these decisions. I think that is the most reprehensible thing we could even think of.

We talk about getting big government off of the backs of people. Well, let us concentrate about what we are trying to do today. We are trying to take away the rights of reproductive freedom that the Supreme Court has established, which the courts have said

we must not interfere, and this is what is before us today, and that is why this Congress must oppose it. That is why this bill must never become law. It is trying to dictate to the doctors how to practice and criminalize their profession. I think it is outrageous.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE], a distinguished member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

I am not a criminal, Mr. Speaker. And I am ashamed that what we are doing today may, in fact, makes innocent women, women who love children, criminals. Coreen Costello, Mary-Dorothy Lines, Claudia Ades, Viki Wilson, Tammy Watts, and Vikki Stella, all women who offered their most personal stories about wanting to conceive and to have a loving child and yet coming upon a physical and debilitating need to have a medical procedure.

Today we have legislation that will not cover all cases where a woman's life is in danger. The bill will not provide a health exception. H.R. 1833 creates obstacles to medical research, and tragically the life exception will not protect women. Criminals, we are making. Women, their families, their physicians. This is not the way to go.

In order to suggest that those of us who rise to support the rights of women do not have a love of a higher authority, how shameful. This is a bad bill. It does not help this country. It does not help women, and it certainly does not help the love we have for our children.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to respond to a point that was made a few moments ago about this bill criminalizing the activities of women and making criminals of women. That is simply not true.

I would suggest that before Members come to the floor to speak about the bill, they might want to read the bill. The bill says clearly a woman upon whom a partial-birth abortion is performed may not be prosecuted under this section.

Mr. Speaker, I reserve the balance of my time.

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Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I rise in opposition to H.R. 1833. In yet another attempt to roll back a woman's right to choose, to roll back Roe versus Wade, and make all abortions illegal, choice opponents are putting forward legislation which could endanger a woman's life and her ability to have children in the future.

How odd that the majority party would describe itself as family friendly. Plain and simple, the supporters of this bill feel it is more important to save a doomed fetus than the life of a mother and her ability to have children in the future.

Coreen Costello is the mother of two. The Dole amendment would not have allowed her to use this procedure. Coreen Costello said in front of the Senate in her testimony that she would have taken any child that God gave her, regardless of any handicap. But her child was a child that could not live. Fortunately for Coreen and her family, her doctor was able to save her life and her fertility. She is now expecting her next child.

But what about the women who come after Coreen? What will happen to them, their health, their lives, their families, if this life-saving procedure is outlawed? Congress has no place in their decisions and no place in their tragedies.

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentlewoman from Colorado for yielding me time.

If your daughter and son-in-law were faced with the extraordinary tragedy of discovering extreme fetal deformity late in pregnancy or a life threatening development with abortion being the only alternative, would you, would you, each individual Member of this body, want her to have available to her the procedure that was the least threatening to her life and the most protective of her future reproductive capability and the most respectful of the need for the parents to be and their living children to mourn their tragic loss?

Consider the experience of Coreen Costello. Mrs. Costello and her husband hold strong pro-life views, but were suddenly faced with the terrible and painful truth of the problems with her pregnancy. Specialists had determined that the baby had a lethal neurological disorder. Doctors at Cedars-Sinai told the Costellos that their daughter would not live, and due to the amniotic fluid pooling in Mrs. Costello's uterus, as well as the baby's position, there was a serious risk of a ruptured uterus. Natural birth or an induced labor were impossible. Coreen Costello then considered a caesarean section, but the doctors at her hospital were adamant that the risk to her health and life were simply too great.

She and her husband chose not to risk leaving their other children motherless by opting for a D&E procedure. Because of the safety of the procedure, Coreen is now pregnant again.

What right have we here in Congress on this floor to say to this family that you should have risked mom's life and ignored your doctor's advice? By what authority do we tell these women that we know more in each of their cases than their own physicians?

It is ironic that some of you here are advocating legislation that would assure that managed care plans guaranteed physicians the right to tell women all the medical possibilities for treatment, and yet you will legislate here tonight the denial to women of America who face terribly tragic, painful, personal circumstances of the right to have the medical procedure that in truth is safest for them and most protective of their reproductive capability, assures them to the maximum extent possible that they will have more children in their future.

Men of the House of Representatives, women who are Members of Congress, if it were your daughter, would you not want her life and reproductive hopes and dreams protected? Of course you would. Do not do this shortsighted, mean-spirited, terrible thing to women in our Nation.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina [Mrs. MYRICK].

Mrs. MYRICK. Mr. Speaker, I honestly believe that a lot of the problems we have today in society stem from the fact that we have no regard for human life. You can call me old-fashioned, but I believe every individual born into this world is special, needed and important.

You know, our forefathers shared this philosophy when they wrote in our Declaration of Independence that we are endowed by our Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

I ask that we consider the difference. A doctor performs a painful, cruel, partial abortion one day, and it is accepted. And then the next day, if that same mother gave birth to the same age child and then she killed her child, she would be charged with murder. Only a few hours separates these two acts, but one is considered justified and accepted, even promoted, and the other is considered unjust. There is something wrong with our society today if we continue to justify such an unjust procedure.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I know that there are some Members of Congress who believe they know everything about everything, but maybe once in awhile Members of this body might want to show a little humility. We are discussing a procedure which, as I understand it, is used in .01 of 1 percent of abortions, a situation which occurs only under the most tragic circumstances.

Day after day we hear from our conservative friends about how the big,

VOL 142 PT 5 MR 21 — 29 1996 UMI

bad Government should leave people alone and get off of the backs of people. I would urge our conservative friends to heed that advice on this occasion.

This is a tragic circumstance. Let the woman, let her family, let the physician make that decision, not the politicians in Congress.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise today in strong support of H.R. 1833, the Partial Birth Abortion Ban Act. Today's battle for the rights of the unborn differ from previous prolife and proabortion debates. Yes, this debate today will not stop all abortions. It will only stop one procedure, the partial birth abortion. It brings to light the fact that when a woman and her unborn child have this type of procedure, that only the woman leaves the operating room.

Mr. Speaker, I think we are all forgetting one thing: A third trimester baby has a very good chance of living, if it was allowed to be born without interference. I urge my colleagues who might otherwise not support a prolife piece of legislation to support this legislation, which simply and narrowly protects against partial birth abortions.

This debate is not about a woman's right to choose, because there are other options. This debate today is about putting an end to a procedure that kills a child just a few inches from full birth.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BECERRA] a distinguished member of the Committee on the Judiciary and also the spouse of a distinguished physician.

Mr. BECERRA. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I am confused. The debate I am hearing from that side has nothing to do with the medical procedure that it seems we are trying to ban. I continue to hear people talk about how we are conducting abortions on babies that otherwise would be able to survive; if the pregnancy were to go to term, we would have a living baby. When in fact, as my wife who happens to be a high-risk obstetrician-gynecologist who deals specifically with women who have difficult pregnancies, has said, this is not a procedure where you are talking about a fetus that will go to term and where you will have a healthy baby born. This is a procedure that is used when it is fairly clear that the baby has no chance to live, and to allow the pregnancy to go to term would jeopardize the health and perhaps the life of the woman. So it seems like the debate is not really on point.

Now, let me read something that came from the American College of Obstetricians and Gynecologists, those doctors that are asked to perform these types of procedures and to protect the women involved.

They state:

> The college finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community, demonstrating why congressional opinion should never be substituted for professional medical judgment.

Mr. Speaker, I think that states it best. We have people here who are trying to impose their opinion on a medical profession where technical, highly sophisticated, highly trained individuals are being asked to perform lifesaving procedures.

It does not make sense. We should stay out of this. We should let a woman make that very difficult choice of what type of procedure she would need to preserve her health and her life, and perhaps have a chance to have a pregnancy that will be able to go to term.

Mr. Speaker, I would urge Members to seriously consider voting strongly against this particular bill, because it does not do what the proponents say.

Mrs. SCHROEDER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. ROGERS). The gentlewoman from Colorado is recognized for 2½ minutes.

Mrs. SCHROEDER. Mr. Speaker, as a woman, when I am with my doctor, I want that doctor focused on my health, and not on their criminal liability. What this bill does is it will focus any doctor on steering away from what they think might be best for the patient, because they could serve 2 years in prison or they could have a criminal record, or on and on and on.

Mr. Speaker, I think every citizen thinks that that is a zone of privacy. This Congress has never interfered in that zone of privacy between a family and their physician. Today, for the first time, if this bill becomes law, we will be moving to make an act criminal by a doctor. I much more trust my doctor than I do Members of this body, I am sorry to say, so I get very angry when I hear some of the things that have been said here.

I have heard people talk about "inhumane, brutal, gruesome, terrible." We have seen the drawings. The drawings were not done by the American College of Gynecologists and Obstetricians. They do not support this bill. They were done, as they say rightfully, by the Catholic Conference of Bishops. Now, they have the right to make their case here, but, please, again, I think most Americans trust their doctors to make those difficult decisions.

We have heard about pain, we have heard about everything. I sat through those hearings. The anesthesiologists who testified said that there is pain in everything. There is pain in birth. So if we are just going to outlaw anything that is painful, we are going to be a very busy Congress. What they were saying is what happened, some of the advocates were misstating anesthesiology procedures. That is possible, because people here are not doctors.

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But they were not supporting the bill. They were just trying to set the record straight. Bottom line, as the gentlewoman from Kansas said, these are in very tragic circumstances. Only .01 percent of all abortions would be affected by this. These are basically a handful of doctors, and thank goodness a handful of families. But I must say as one who has been there, one who almost lost her life, I would be terribly resentful of this happening, and I never thought it could happen to me, so I say to people, please, please, I know this is a difficult issue.

Anything you cannot explain, anything that is difficult to explain, people hesitate to vote against. But please be willing to make this explanation. It is much too important for America's families.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I strongly urge my colleagues to support H.R. 1833 with the Senate amendments which would ban this brutal procedure know as partial-birth abortion.

Mr. Speaker, as many of you know, I have 15 grandchildren. Two of my grandchildren, the miracle twins as I call them, were born prematurely at 7 months. They were so tiny that they could fit in your hands but they were perfectly formed little human beings and they are now 14 years old.

It makes me shudder to think that somewhere, perhaps even today, in this country that there are other little preborn human beings 7 months old in their mothers womb that are going to be subject to this brutal, horrible procedure known as a partial birth abortion.

I am not the only one who finds this procedure horrifying. The American Medical Association's Legislative Council unanimously decided that this procedure was not "a recognized medical technique" and that "this procedure is basically repulsive." This is especially true when you realize that 80 percent of these types of abortion are done as a purely elective procedure. It is important to note that this bill does make exception for this type of abortion if it is necessary to save the life of the mother, however, this is an exception that will have to be used rarely.

I think we can all agree that it is inhuman to begin the birthing process and nearly complete the delivery of the baby, only to suck the life out of the child.

I strongly urge my colleagues to support H.R. 1833, with the Senate amendments, which would ban this brutal procedure known as partial birth abortion.

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

The SPEAKER pro tempore (Mr. ROGERS). The gentleman from Illinois is recognized for 5 minutes.

Mr. HYDE. Mr. Speaker, I listened with great intensity to the debate this evening. It is an important debate. I heard the gentleman from Vermont talk about humility, and he is absolutely right. You do not deal with people's lives in a sense of arrogance at all. But at the same time, if you believe you are right, if you are convinced that you possess the truth and you remain silent, you become the accomplice of liars and forgers. I just ascribe the failure to consider the unborn, and I listened to all of the impassioned remarks of my friends on the other side, they never talk about the unborn. It is the woman, it is her family, it is her doctor, but the little tiny infant in the shadows, the absent person, the invisible person is the unborn, and that is a failure of imagination. That is a compassion deficit.

Mr. Speaker, I guess you have to be healthy to be born. I guess our Declaration of Independence, when it talked about the right to life being inalienable should have said if you are healthy, if you are healthy. God help you if you are handicapped before you are born. But if you make it through the birth canal, we will give you a preferred parking place. That is the way we deal with those situations. No, the partial birth abortion, which is just what it is. It is not an exercise of reproductive rights, and it is not a fetus. It is an abortion. It is not a termination of a pregnancy. It is an extermination of a defenseless little life whose little arms and little legs are wiggling until that scissors gets shoved in his neck and then they stiffen. We heard that testimony. Some of you heard that testimony. There is a coursening of our national conscience when you tolerate this form of torture.

Catholic bishops. Thank God somebody cares about this grotesquery. Thank God, I do not think that invalidates those charts. A political goal? If defending human dignity is political, then I plead guilty. But somebody has to speak up for that little defenseless child almost born, three-quarters born, just the little head left, and they brutally kill that little child, and you do it in the name of compassion. I am sorry, I think that is a coursening, a desensitizing of our conscience.

This bill outlaws a uniquely barbaric method of abortion. Even to describe it is painful, but it is not as painful as the pain that little unborn child feels. If steel traps are too brutal for wild animals, what is too brutal for a tiny member of the human family, an almost-born infant? Have you heard of PETA, People for the Ethical Treatment of Animals? We need a PETA for humans, people for the ethical treatment of tiny, defenseless, cannot rise up in the streets, cannot vote, cannot escape members of the human family. You would not treat a coyote like you treat this little almost-born baby.

Members keep insisting the Government should not intervene. Well, I know some Members are for Government intervention in everything but abortion. I understand that. But who will speak for the baby if the Government does not? What is the purpose of law to protect the weak from the strong? What is weaker than a little child almost born and you destroy that child in a barbaric way? No, I am glad the Government is there. I am not that libertarian that I do not think that Government should not protect the weak from the strong.

The only thing Members consider is the autonomy of the woman, the woman. Well, God bless the woman, and she needs help and care and love and nurturing. But what about the little baby? Why do you leave that out of your equation, our of your calculus?

We had four anesthesiologists tell us those little babies feel pain. That is why they get anesthesia. One of the head of the anesthesiology department at Emory University says the pre-term baby feels pain more that when it is born. That validates the title "silent scream." What about the pain felt by the little baby? Not a word, not a word.

Is there anything, is there anything we say no to? Is everything permitted? God help us if that is true. Let us draw the line here. This should not be tolerated.

Mr. DICKEY. Mr. Speaker, I submit the following material for enclosure in the RECORD:

DILATION AND EXTRACTION FOR LATE SECOND TRIMESTER ABORTION—PRESENTED AT THE NATIONAL ABORTION FEDERATION RISK MANAGEMENT SEMINAR, SEPTEMBER 13, 1992

(By Martin Haskell, M.D.)

INTRODUCTION

The surgical method described in this paper differs from classic D&E in that it does not rely upon dismemberment to remove the fetus. Nor are inductions or infusions used to expel the intact fetus.

Rather, the surgeon grasps and removes a nearly intact fetus through an adequately dilated cervix. The author has coined the term Dilation and Extraction or D&X to distinguish it from dismemberment-type D&E's.

This procedure can be performed in a properly equipped physician's office under local anesthesia. It can be used successfully in patients 20–26 weeks in pregnancy.

The author has performed over 700 of these procedures with a low rate of complications.

BACKGROUND

D&E evolved as an alternative to induction or instillation methods for second trimester abortion in the mid 1970's. This happened in part because of lack of hospital facilities allowing second trimester abortions in some geographic areas, in part because surgeons needed a "right now" solution to complete suction abortions inadvertently started in the second trimester and in part to provide a means of early second trimester abortion to avoid necessary delays for instillation methods.[1] The North Carolina Conference in 1978 established D&E as the preferred method for early second trimester abortions in the U.S.[2],[3],[4]

Classic D&E is accomplished by dismembering the fetus inside the uterus with instruments and removing the pieces through an adequately dilated cervix.[5]

However, most surgeons find dismemberment at twenty weeks and beyond to be difficult due to the toughness of fetal tissues at this stage of development. Consequently, most late second trimester abortions are performed by an induction method.[6],[7],[8]

Two techniques of late second trimester D&E's have been described at previous NAF meetings. The first relies on sterile urea intra-amniotic infusion to cause fetal demise and lysis (or softening) of fetal tissues prior to surgery.[9]

The second technique is to rupture the membranes 24 hours prior to surgery and cut the umbilical cord. Fetal death and ensuing autolysis soften the tissues. There are attendant risks of infection with this method.

In summary, approaches to late second trimester D&E's rely upon some means to induce early fetal demise to soften the fetal tissues making dismemberment easier.

PATIENT SELECTION

The author routinely performs this procedure on all patients 20 through 24 weeks LMP with certain exceptions. The author performs the procedure on selected patients 25 through 26 weeks LMP.

The author refers for induction patients falling into the following categories: previous C-section over 22 weeks; obese patients (more than 20 pounds over large frame ideal weight); twin pregnancy over 21 weeks; patients 26 weeks and over.

DESCRIPTION OF DILATION AND EXTRACTION METHOD

Dilation and extraction takes over three days. In a nutshell, D&X can be described as follows: dilation; more dilation; real-time ultrasound visualization; version (as needed); intact extraction; fetal skull decompression; removal; clean-up; recovery.

Day 1—Dilation

The patient is evaluated with an ultrasound, hemoglobin and Rh. Hadlock scales are used to interpret all ultrasound measurements.

In the operating room, the cervix is prepped, anesthetized and dilated to 9–11 mm. Five, six or seven large Dilapan hydroscopic dilators are placed in the cervix. The patient goes home or to a motel overnight.

Day 2—Dilation

The patient returns to the operating room where the previous day's Dilapan are removed. The cervix is scrubbed and anesthetized. Between 15 and 25 Dilapan are placed in the cervical canal. The patient returns home or to a motel overnight.

Day 3—The Operation

The patient returns to the operating room where the previous day's Dilapan are removed. The surgical assistant administers 10 IU Pitocin intramuscularly. The cervix is scrubbed, anesthetized and grasped with a tenaculum. The membranes are ruptured, if they are not already.

The surgical assistant places an ultrasound probe on the patient's abdomen and scans

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Footnotes at end of article.

VOL
142
PT
5
MR
21
—
29
1996
UMI

the fetus, locating the lower extremities. This scan provides the surgeon information about the orientation of the fetus and approximate location of the lower extremities. The transducer is then held in position over the lower extremities.

The surgeon introduces a large grasping forcep, such as a Bierer or Hern, through the vaginal and cervical canals into the corpus of the uterus. Based upon his knowledge of fetal orientation, he moves the tip of the instrument carefully towards the fetal lower extremities. When the instrument appears on the sonogram screen, the surgeon is able to open and close its jaws to firmly and reliably grasp a lower extremity. The surgeon then applies firm traction to the instrument causing a version of the fetus (if necessary) and pulls the extremity into the vagina.

By observing the movement of the lower extremity and version of the fetus on the ultrasound screen, the surgeon is assured that his instrument has not inappropriately grasped a maternal structure.

With a lower extremity in the vagina, the surgeon uses his fingers to deliver the opposite lower extremity, then the torso, the shoulders and the upper extremities.

The skull lodges at the internal cervical os. Usually there is not enough dilation for it to pass through. The fetus is oriented dorsum or spine up.

At this point, the right-handed surgeon slides the fingers of the left had along the back of the fetus and "hooks" the shoulders of the fetus with the index and ring fingers (palm down). Next he slides the tip of the middle finger along the spine towards the skull while applying traction to the shoulders and lower extremities. The middle finger lifts and pushes the anterior cervical lip out of the way.

While maintaining this tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand, the surgeon takes a pair of blunt curved Metzenbaum scissors in the right hand. He carefully advances the tip, curved down, along the spine and under his middle finger until he feels it contact the base of the skull under the tip of his middle finger.

Reassessing proper placement of the closed scissors tip and safe elevation of the cervix, the surgeon then forces the scissors into the base of the skull or into the foramen magnum. Having safely entered the skull, he spreads the scissors to enlarge the opening.

The surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. With the catheter still in place, he applies traction to the fetus, removing it completely from the patient.

The surgeon finally removes the placenta with forceps and scrapes the uterine walls with a large Evans and a 14 mm suction curette. The procedure ends.

Recovery

Patients are observed a minimum of 2 hours following surgery. A pad check and vital signs are performed every 30 minutes. Patients with minimal bleeding after 30 minutes are encouraged to walk about the building or outside between checks.

Intravenous fluids, pitocin and antibiotics are available for the exceptional times they are needed.

ANESTHESIA

Lidocaine 1% with epinephrine administered intra-cervically is the standard anesthesia. Nitrous-oxide/oxygen analgesic is administered nasally as an adjunct. For the Dilapan insert and Dilapan change, 12cc's is used in 3 equidistant locations around the cervix. For the surgery, 24cc's is used at 6 equidistant spots.

Carbocaine 1% is substituted for lidocaine for patients who expressed lidocaine sensitivity.

MEDICATIONS

All patients not allergic to tetracycline analogues receive doxycycline 200 mgm by mouth daily for 3 days beginning Day 1.

Patients with any history of gonorrhea, chlamydia or pelvic inflammatory disease receive additional doxycycline, 100 mgm by mouth twice daily for six additional days.

Patients allergic to tetracyclines are not given prophylactic antibiotics.

Ergotrate 0.2 mgm by mouth four times daily for three days is dispensed to each patient.

Pitocin 10 IU intramuscularly is administered upon removal of the Dilapan on Day 3.

Rhogam intramuscularly is provided to all Rh negative patients on Day 3.

Ibuprofen orally is provided liberally at a rate of 100 mgm per hour from Day 1 onward.

Patients with severe cramps with Dilapan dilation are provided Phenergan 25 mgm suppositories rectally every 4 hours as needed.

Rare patients require Synalogos DC in order to sleep during Dilapan dilation.

Patients with a hemoglobin less than 10 g/dl prior to surgery receive packed red blood cell transfusions.

FOLLOW-UP

All patients are given a 24 hour physician's number to call in case of a problem or concern.

At least three attempts to contact each patient by phone one week after surgery are made by the office staff.

All patients are asked to return for checkup three weeks following their surgery.

THIRD TRIMESTER

The author is aware of one other surgeon who uses a conceptually similar technique. He adds additional changes of Dilapan and/or lamineria in the 48 hour dilation period. Coupled with other refinements and a slower operating time, he performs these procedures up to 32 weeks or more.[10]

SUMMARY

In conclusion, Dilation and Extraction is an alternative method for achieving late second trimester abortions to 26 weeks. It can be used in the third trimester.

Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia

Among its disadvantages are that it requires a high degree of surgical skill, and may not be appropriate for a few patients.

FOOTNOTES

[1] Cates, W. Jr., Schulz, K.F., Grimes D.A., et al: The Effects of Delay and Method of Choice on the Risk of Abortion Morbidity, Family Planning Perspectives, 9:266, 1977.

[2] Borell, U., Emberey, M.P., Bygdeman, M., et al: Midtrimester Abortion by Dilation and Evacuation (Letter), American Journal of Obstetrics and Gynecology, 131:232, 1978.

[3] Centers for Disease Control: Abortion Surveillance 1978, p. 30, November, 1980.

[4] Grimes, D.A., Cates, W. Jr. (Berger, G.S., et al, ed): Dilation and Evacuation, Second Trimester Abortion—Perspectives After a Decade of Experience, Boston, John Wright—PSG, 1981, p. 132.

[5] Ibid, p. 121–128.

[6] Ibid, p. 121.

[7] Kerenyi, T.D. (Bergen, G.S., et al, ed): Hypertonic Saline Instillation, Second Trimester Abortion—Perspectives After a Decade of Experience, Boston, John Wright—PSG, 1981, p. 79.

[8] Hanson, M.S. (Zatuchni, G. I., et al, ed): Midtrimester Abortion: Dilation and Extraction Preceded by Laminaria, Pregnancy Termination Procedures, Safety and New Developments, Hagerstown, Harper and Row, 1979, p. 192.

[9] Hern, W.M., Abortion Practice, Philadelphia, J.B. Lippincott, 1990, p. 127, 144–6.

Mr. TIAHRT. Mr. Speaker, I believe my colleagues will be interested in Dr. Birnbach's testimony related to partial birth abortions.

Mr. Chairman, members of the subcommittee, my name is David Birnbach, M.D., and I am presently the director of obstetric anesthesiology at St. Luke's-Roosevelt Hospital Center, a teaching hospital of Columbia University College of Physicians and Surgeons in New York City. I am also president-elect of the Society for Obstetric Anesthesia and Perinatology, the society which represents my subspecialty.

I am here today to take issue with the previous testimony before committees of the Congress that suggests that anesthesia causes fetal demise. I believe that I am qualified to address this issue because I am a practicing obstetric anesthesiologist. Since completing my anesthesiology and obstetric anesthesiology training at Harvard University, I have administered analgesia to more than 5,000 women in labor and anesthesia to over 1,000 women undergoing caesarean section. Although the majority of these cases were at full term gestation, I have provided anesthesia to approximately 200 patients who were carrying fetuses of less than 30 weeks gestation and who needed emergency nonobstetric surgery during pregnancy. These operations have included appendectomies, gall bladder surgeries, numerous orthopedic procedures such as fractured ankles, uterine and ovarian procedures, including malignant tumor removal, breast surgery, neurosurgery, and cardiac surgery.

The anesthetics which I have administered have included general, epidural, spinal, and local. The patients have included healthy as well as very sick pregnant patients. Although I often use spinal and epidural anesthesia in pregnant patients, I also administer general anesthesia to these patients and, on occasion, have needed to administer huge doses of general anesthesia in order to allow surgeons to perform cardiac surgery or neurosurgery.

In addition, I believe that I am also especially qualified to discuss the effect of maternally administered anesthesia on the fetus, because I am one of only a handful of anesthesiologists who has administered anesthesia to a pregnant patient undergoing in-utero fetal surgery, thus allowing me to watch the fetus as I administered general anesthesia to the mother. A review of the experiences that my associates and I had while administering general anesthesia to a mother while a surgeon operated on her unborn fetus was published in the Journal of Clinical Anesthesia vol. 1, 1989, pp. 363–367. In this paper, we suggested that general anesthesia provides several advantages to the fetus who will undergo surgery and then be replaced in the womb to continue to grow until mature enough to be delivered. Safe doses of anesthesia to the mother most certainly did not cause fetal demise when used for these operations.

Despite my extensive experience with providing anesthesia to the pregnant patient, I have never witnessed a case of fetal demise that could be attributed to an anesthetic. Although some drugs which we administer to the

mother may cross the placenta and affect the fetus, in my medical judgment fetal demise is definitely not a consequence of a properly administered anesthetic. In order to cause fetal demise it would be necessary to give the mother dangerous and life-threatening doses of anesthetics. This is not the way we practice anesthesiology in the United States.

Mr. Chairman, I am deeply concerned that the previous congressional testimony and the widespread publicity that has been given this issue will cause unnecessary fear and anxiety in pregnant patients and may cause some to unnecessarily delay emergency surgery. As an example, several newspapers across the United States have stated that anesthesia causes fetal demise. Because this issue has been allowed to become a "controversy" several of my patients have recently expressed concerns about anesthesia, having seen newspaper or heard radio or television coverage of this issue. Evidence that patients are still receiving misinformation regarding the fetal effects of maternally administered anesthesia can be seen by review of an article that a pregnant patient recently brought with her to the labor and delivery floor. In last month's edition of Marie Claire, a magazine which many of my pregnant patients read, an article about partial birth abortion states: "The mother is put under general anesthetic, which reaches the fetus through her bloodstream. By the time the cervix is sufficiently dilated, the fetus has overdosed on the anesthetic and is brain-dead." These incorrect statements continue to find their way into newspapers and magazines around the country. Despite the previous testimony of Dr. Ellison, I have yet to see an article that states, in no uncertain terms, that anesthesia when used property does not harm the fetus. This supposed controversy regarding the effects of anesthesia on the fetus must be finally and definitively put to rest.

In order to address this complex issue, I believe that it is necessary to comment on three of the statements which have recently been made to the Congress.

First, Dr. James McMahon, now deceased, testified that anesthesia causes neurologic fetal demise.

Second, Dr. Lewis Koplick supported Dr. McMahon and stated: "I am certain that anyone who would call Dr. McMahon a liar is speaking from ignorance of abortions in later pregnancy and of Dr. McMahon's technique and integrity."

Third, Dr. Mary Campbell of Planned Parenthood has addressed this issue by writing the following: "Though these doses are high, the incremental administration of the drugs minimizes the probability of negative outcomes for the mother. In the fetus these dosage levels may lead to fetal demise—death—in a fetus weakened by its own developmental anomalies."

My responses to these statements are as follows:

One, there is absolutely no scientific or clinical evidence that a properly administered maternal anesthetic causes fetal demise. To the contrary, there are hundreds of scientific articles which demonstrate the fetal safety of currently used anesthetics.

Two, Dr. Koplick has stated that the "massive" doses used by Dr. McMahon are responsible for fetal demise. This again, is incorrect and there is not scientific or clinical data to support this allegation. I have personally administered "massive" doses of narcotics to intubated critically ill pregnant patients who are being treated in an intensive care unit. I am pleased to say that the fetuses were born alive and did well.

Three, Dr. Campbell has described the narcotic protocol which Dr. McMahon had used during his D&X procedures: it includes the administration of Midazolam (10–40 mg) and Fetanyl (900–2,500 µg). Although there is no evidence that this dose will cause fetal demise, there is clear evidence that this excessive dose could cause maternal death. These doses are far in excess of any anesthetic that would be used by an anesthesiologist and even if they are incrementally given over a 2 to 3 hour period these doses would in all probability cause enough respiratory depression of the mother, to necessitate intubation and/or assisted respiration. Since Dr. McMahon cannot be questioned regarding his "heavy handed" anesthetic practice. I am unable to explain why we would willingly administer such huge amounts of drugs if he did indeed administer 2,500 µg of fentanyl and 40 mg of midazolam to a patient in a clinic, without an anesthesiologist present, he has definitely placing the mother's life at great risk.

In conclusion, I would like to say that I believe that I have a responsibility as a practicing obstetric anesthesiologist to refute any and all testimony that suggests that maternally administered anesthesia causes fetal demise. It is my opinion that in order to achieve that goal one would need to administer such huge doses of anesthetic to the mother as to place her life at jeopardy. Pregnant women must get the message that should they need anesthesia for surgery or analgesia for labor, they may do so without worrying about the effects on their unborn child.

Thank you for your attention. I am happy to respond to your questions.

Mr. VOLKMER. Mr. Speaker, I submit the following material for inclusion in the Record:

[From the American Medical News, Nov. 20, 1995]

Outlawing Abortion Method: Veto-Proof Majority in House Votes To Prohibit Late-Term Procedure

(By Diane M. Gianelli)

Washington.—His strategy was simple: Find an abortion procedure that almost anyone would describe as "gruesome," and force the opposition to defend it.

When Rep. Charles T. Canady (R. Fla.) learned about "partial birth" abortions, he was set.

He and other anti-abortion lawmakers launched a congressional campaign to outlaw the procedure.

Following a contentious and emotional debate, the bill passed by an overwhelming—and veto-proof—margin: 288–139. It marks the first time the House of Representatives has voted to forbid a method of abortion. And although the November elections yielded a "pro-life" infusion in both the House and Senate, massive crossover voting occurred, with a significant number of "pro-choice" representatives voting to pass the measure.

The controversial procedure, done in second- and third-trimester pregnancies, involves an abortion in which the provider, according to the bill, "partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

"Partial birth" abortions, also called "intact D&E" (for dilation and evacuation), or "D&X" (dilation and extraction) are done by only a handful of U.S. physicians, including Martin Haskell, MD, of Dayton Ohio, and, until his recent death, James T. McMahon, MD of the Los Angeles area. Dr. McMahon said in a 1993 AM/News interview that he had trained about a half-dozen physicians to do the procedure.

The procedure usually involves the extraction of an intact fetus, feet first, through the birth canal, with all but the head delivered. The surgeon forces scissors into the base of the skull, spreads them to enlarge the opening, and uses suction to remove the brain.

The procedure gained notoriety two years ago, when abortion opponents started running newspaper ads that described and illustrated the method. Their goal was to defeat an abortion rights bill then before Congress on grounds it was so extreme that states would have no ability to restrict even late-term abortions on viable fetuses. The bill went nowhere, but strong reaction to the campaign prompted anti-abortion activists to use it again.

They drafted a bill that would ban the procedure, after considering a number of other options. An Ohio law passed earlier this year, for instance, bans "brain suction" abortions, except when all other methods would pose a greater risk to the pregnant woman. It has been enjoined pending a challenge.

MIXED FEELINGS IN MEDICINE

The procedure is controversial in the medical community. On the one hand, organized medicine bristles at the notion of Congress attempting to ban or regulate any procedures or practices. On the other hand, even some in the abortion provider community find the procedure difficult to defend.

"I have very serious reservations about this procedure," said Colorado physician Warren Hern, MD. The author of "Abortion Practice," the nation's most widely used textbook on abortion standards and procedures. Dr. Hern specializes in late-term procedures.

He opposes the bill, he said, because he thinks Congress has no business dabbling in the practice of medicine and because he thinks this signifies just the beginning of a series of legislative attempts to chip away at abortion rights. But of the procedure in question he says. "You really can't defend it. I'm not going to tell somebody else that they should not do this procedure. But I'm not going to do it."

Dr. Hern's concerns center on claims that the procedure in late-term pregnancy can be safest for the pregnant women, and that without this procedure women would have died. "I would dispute any statement that this is the safest procedure to use," he said.

Turning the fetus to a breech position is "potentially dangerous," he added. "You have to be concerned about causing amniotic fluid embolism or placental abruption if you do that."

Pamela Smith, MD, director of medical education, Dept. of Ob-Gyn at Mt. Sinai Hospital in Chicago, added two more concerns: cervical incompetence in subsequent pregnancies caused by three days of forceful dilation of the cervix and uterine rupture caused by rotating the fetus within the womb.

"There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be

VOL
142
PT
5
MR
21
—
29
1996
UMI

destroyed to preserve the life of the mother." Dr. Smith wrote in letter to Canady.

The procedure also has its defenders. The procedure is a "well-recognize and safe technique by those who provide abortion care," Lewis H. Koplik, MD, an Albuquerque, N.M., abortion provider, said in a statement that appeared in the Congressional Record.

"The risk of severe cervical laceration and the possibility of damage to the uterine artery by a sharp fragment of calvarium is virtually eliminated. Without the release of thromboplastic material from the fetal central nervous system into the maternal circulation, the risk of coagulation problems, DIC [disseminated intravascular coagulation], does not occur. In skilled hands, uterine perforation is almost unknown," Dr. Koplik said.

Bruce Ferguson, MD, another Albuquerque abortion provider, said in a letter released to Congress that the ban could impact physicians performing late-term abortions by other techniques. He noted that there were "many abortions in which a portion of the fetus may pass into the vaginal canal and there is no clarification of what is meant by 'a living fetus.' Does the doctor have to do some kind of electrocardiogram and brain wave test to be able to prove their fetus was not living before he allows a foot or hand to pass through the cervix?"

Apart from medical and legal concerns, the bill's focus on late-term abortion also raises troubling ethical issues. In fact, the whole strategy, according to Rep. Chris Smith (R, N.J.), is to force citizens and elected officials to move beyond a philosophical discussion of "a woman's right to choose," and focus on the reality of abortion. And, he said, to expose those who support "abortion on demand" as "the real extremists."

Another point of contention is the reason the procedure is performed. During the Nov. 1 debate before the House, opponents of the bill repeatedly stated that the procedure was used only to save the life of the mother or when the fetus had serious anomalies.

Rep. Vic Fazio (D, Calif.) said, "Despite the other side's spin doctors—real doctors know that the late-term abortions this bill seeks to ban are rare and they're done only when there is no better alternative to save the woman, and, if possible, preserve her ability to have children."

Dr. Hern said he could not imagine a circumstance in which this procedure would be safest. He did acknowledge that some doctors use skull-decompression techniques, but he added that in those cases fetal death has been induced and the fetus would not purposely be rotated into a breech position.

Even some physicians who specialize in this procedure do not claim the majority are performed to save the life of the pregnant woman.

In his 1993 interview with AMNews, Dr. Haskell conceded that 80 percent of his late-term abortions were elective. Dr. McMahon said he would not do an elective abortion after 26 weeks. But in a chart he released to the House Judiciary Committee, "depression" was listed most often as the reason for late-term nonelective abortions with maternal indications. "Cleft lip" was listed nine times under fetal indications.

The accuracy of the article was challenged, two years after publication, by Dr. Haskell and the National Abortion Federation, who told Congress the doctors were quoted "out of context." AMNews Editor Barbara Bolsen defended the article, saying AMNews "had full documentation of the interviews, including tape recordings and transcripts."

Bolsen gave the committee a transcript of the contested quotes, including the following, in which Dr. Haskell was asked if the fetus was dead before the end of the procedure.

"No, it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken.

"So in my case, I would say probably about a third of those are definitely dead before I actually start to remove the fetus. And probably the other two-thirds are not," said Dr. Haskell.

In a letter to Congress before his death, Dr. McMahon stated that medications given to the mother induce "a medical coma" in the fetus, and "there is neurological fetal demise."

But Watson Bowes, MD, a maternal-fetus specialist at the University of North Carolina, Chapel Hill, said in a letter to Canady that Dr. McMahon's statement "suggests a lack of understanding of maternal-fetal pharmacology. * * * Having cared for pregnant women who for one reason or another required surgical procedures in the second trimester, I know they were often heavily sedated or anesthesized for the procedures, and the fetuses did not die."

NEXT MOVE IN THE SENATE

At AMNews press time, the Senate was scheduled to debate the bill. Opponents were lining up to tack on amendments, hoping to gut the measure or send it back to a committee where it could be watered down or rejected.

In a statement about the bill, President Clinton did not use the word "veto." But he said he "cannot support" a bill that did not provide an exception to protect the life and health of the mother. Senate opponents of the bill say they will focus on the fact that it does not provide such an exception.

The bill does provide an affirmative defense to a physician who provides this type of abortion if he or she reasonably believes the procedure was necessary to save the life of the mother and no other method would suffice.

But Rep. Patricia Schroeder (D, Colo.) says that's not sufficient. "This means that it is available to the doctor after the handcuffs have snapped around his or her wrists, bond has been posted, and the criminal trial is under way," she said during the House debate.

Canady disagrees. "No physician is going to be prosecuted and convicted under this law if he or she reasonably believes the procedure is necessary to save the life of the mother."

ORGANIZED MEDICINE POSITIONS VARY

The physician community is split on the bill. The California Medical Assn., which says it does not advocate elective abortions in later pregnancy, opposes it as "an unwarranted intrusion into the physician-patient relationship." The American College of Obstetricians and Gynecologists also opposes it on grounds it would "supersede the medical judgment of trained physicians and * * * would criminalize medical procedures that may be necessary to save the life of a woman," said spokeswoman Alice Kirkman.

The AMA has chosen to take no position on the bill, although its Council on Legislation unanimously recommended support. AMA Trustee Nancy W. Dickey, MD, noted that although the board considered seriously the council's recommendations, it ultimately decided to take no position, because it had concerns about some of the bill's language and about Congress legislating medical procedures.

Meanwhile, each side in the abortion debate is calling news conferences to announce how necessary or how ominous the bill is. Opponents highlight poignant stories of women who have elected to terminate wanted pregnancies because of major fetal anomalies.

Rep. Nita Lowey (D, N.Y.) told the story of Claudia Ames, a Santa Monica woman who said the procedure had saved her life and saved her family.

Ames told Lowey that six months into her pregnancy, she discovered the child suffered from severe anomalies that made its survival impossible and placed Ames' life at risk.

The bill's backers were "attempting to exploit one of the greatest tragedies any family can ever face by using graphic pictures and sensationalized language and distortions," Ames said.

Proponents focus on the procedure's cruelty. Frequently quoted is testimony of a nurse. Brenda Shafer, RN, who witnessed three of these procedures in Dr. Haskell's clinic and called it "the most horrifying experience of my life.

"The baby's body was moving. His little fingers were clasping together. He was kicking his feet." Afterwards, she said, "he threw the baby in a pan." She said she saw the baby move. "I still have nightmares about what I saw."

Dr. Hern says if the bill becomes law, he expects it to have "virtually no significance" clinically. But on a political level, "it is very, very significant."

"This bill's about politics," he said, "it's not about medicine."

Mrs. VUCANOVICH. Mr. Speaker, I submit the following material for inclusion in the RECORD:

[From Cincinnati Medicine, Fall 1993]

2ND TRIMESTER ABORTION

(An interview with W. Martin Haskell, MD)

Last summer, American Medical News ran a story on abortion specialists. Included was W. Martin Haskell, MD, a Cincinnati physician who introduced the D&X procedure for second trimester abortions. The Academy received several calls requesting information about D&X. The following interview provides an overview.

Q: What motivated you to become an abortion specialist?

A: I stumbled into it by accident. I did an internship in anesthesia. I worked for a year in general practice in Alabama. I did two years in general surgery, then switched into family practice to get board certified. My intentions at that time were to go into emergency medicine. I enjoyed surgery, but I realized there was an abundance of really good surgeons here in Cincinnati. I didn't feel I'd make much of a contribution. I'd be just another good surgeon. While I was in family practice, I got a part-time job in the Women's Center. Over the course of several months, I recognized things there could be run a lot better, with a much more professional level of service—not necessarily in terms of medical care—in terms of counseling, the physical facility, patient flow, and in the quality of people who provided support services. The typical abortion patient spends less than ten minutes with the physician who performs the surgery. Yet, that patient might be in the facility for three hours. When I talked to other physicians whose patients were referred here, I saw problems that could be easily corrected. I realized there was an opportunity to improve overall quality of care, and make a contribution. I own the center now.

Q: Back in 1979 when you were making these decisions, did you consider yourself prochoice?

A: I've never been an activist. I've always felt that no matter what the issue, you prove your convictions by your hard work—not by yelling and screaming.

Q: Have there been threats against you?

A: Not directly. Pro-life activist Randall Terry recently said to me that he was going to do everything within his power to have me tried like a Nazi war criminal.

Q: A recent American Medical News article stated that the medical community hadn't really established a point of fetal viability. Why not?

A: Probably because it can't be established with uniform certainty. Biological systems are highly variable. The generally accepted point of fetal viability is around 24–26 weeks. But you can't take a given point in fetal development and apply that 100 percent of the time. It just doesn't happen that way. If you look at premature deliveries and survival percentages at different weeks of gestation, you'll get 24-week fetuses with some survival rate. The fact that you get some survivors demonstrates the difficulty in defining a point.

Q: Most women who get abortions end pregnancies during the first trimester. Who is the typical second-trimester patient?

A: I don't know that there is a typical second-trimester abortion. But if you look at the spectrum of abortions (most women are between the ages of 19 and 29) they tend to be younger. Some are older. The typical thing that happens with older women is that they never realized they were pregnant because they were continuing to bleed during the pregnancy. The other thing we see with older women is fetal malformations or Down's Syndrome. These are being diagnosed much earlier now than they used to be. We're seeing a lot of genetic diagnoses with ultrasound and amniocentesis at 17–18 weeks instead of 22–24 weeks. With the teenagers, anybody who has ever worked with or had teenagers can appreciate how unpredictable they can be at times. They have adult bodies, but a lot of time they don't have adult minds. So their reaction to problems tends to be much more emotional than an adult's might be. It's a question of maturity. So even though they may have been educated about all kinds of issues in reproductive health, when a teenager becomes pregnant, depending upon her relationship with her family, the amount of peer support she has—every one is a highly-individual case—sometimes they delay until they can no longer contain their problem and it finally comes out. Sometimes it's money: It takes them a while to get the money. Sometimes it's just denial.

Q: Do you think more information on abstinence and contraceptives would decrease the number of teenage pregnancies?

A: I grew up in the sixties and nobody talked about contraception with teenagers in the sixties. But today, though it may be controversial in some areas, there's a lot being taught about reproductive health in the high school curricula. I think a lot more is being done, but the bottom line is we're all still just human—with human emotions, and particularly with teenagers, a sense of invulnerability; it can't happen to me. So education helps a lot, but it's not going to eliminate the problem. You can teach a person the skills, but you can't make them use them.

Q: Does it bother you that a second trimester fetus so closely resembles a baby?

A: I really don't think about it. I don't have a problem with believing the fetus is a fertilized egg. Sure it becomes more physically developed but it lacks emotional development. It doesn't have the mental capacity for self-awareness. It's never been an ethical dilemma for me. For people for whom that is an ethical dilemma, this certainly wouldn't be a field they'd want to go into. Many of our patients have ethical dilemmas about abortion. I don't feel it's my role as a physician to tell her she should not have an abortion because of her ethical feelings. As individuals grow and mature, learn more, feel more, experience more, their perspective about themselves and life, morality and ethics change. Facing the situation of abortion is a part of that passage through life for some women—how they resolve that is their decision. I can be their advisor much as a lawyer can be; he can tell you your options, but he can't make you file a suit or tell you not to file a suit. My role is to provide a service and, to a limited degree, help women understand themselves when they make their decision. I'm not to tell them what's right or wrong.

Q: Do your patients ever reconsider?

A: Between our two centers, that happens maybe once a week. There's a patient who changes her mind or becomes truly ambivalent and goes home to reconsider, then might come back a week or two later. I feel that's one of the strengths of how we approach things here. We try not to create pressure to have an abortion. Our view has always been that there are enough women who want abortions that we don't have to coerce anyone to have one. We've always been strongly against pressure on our patients to go ahead with an abortion.

Q: How expensive is a second trimester abortion?

A: Fees range from $1,200–1,600 depending on length of pregnancy. More insurance companies cover abortion than don't cover it. About 15 percent of our patients won't use insurance because they want to maintain privacy. About 10–20 percent use insurance. The rest pay out of pocket.

Q: What led you to develop D&X?

A: D & E's, the procedure typically used for later abortions, have always been somewhat problematic because of the toughness and development of the fetal tissues. Most physicians do terminations after 20 weeks by saline infusion or prosteglandin induction, which terminates the fetus and allows tissue to soften. Here in Cincinnati, I never really explored it, but I didn't think I had that option. There certainly weren't hospitals willing to allow inductions past 18 weeks—even Jewish, when they did abortions, their limit was 18 weeks. I don't know about University. What I saw here in my practice, because we did D & Es, was that we had patients who needed terminations at a later date. So we learned the skills. The later we did them, the more we saw patients who needed them still later. But I just kept doing D & Es because that was what I was comfortable with, up until 24 weeks. But they were very tough. Sometimes it was a 45-minute operation. I noticed that some of the later D & Es were very, very easy. So I asked myself why can't they all happen this way. You see the easy ones would have a foot length presentation, you'd reach in and grab the foot of the fetus, pull the fetus down and the head would hang up and then you would collapse the head and take it out. It was easy. At first, I would reach around trying to identify a lower extremity blindly with the tip of my instrument. I'd get it right about 30–50 percent of the time. Then I said, "Well gee, if I just put the ultrasound up there I could see it all and I wouldn't have to feel around for it. I did that and sure enough, I found it 99 percent of the time. Kind of serendipity.

Q: Does the fetus feel pain?

A: Neurological pain and perception of pain are not the same. Abortion stimulates fibers, but the perception of pain, the memory of pain that we fear and dread are not there. I'm not an expert, but my understanding is that fetal development is insufficient for consciousness. It's a lot like pets. We like to think they think like we do. We ascribe human-like feelings to them, but they are not capable of the same self-awareness we are. It's the same with fetuses. It's natural to project what we feel for babies to a 24-week old fetus.

[From the American Medical News, Jan. 1, 1996]

ANESTHESIOLOGISTS QUESTION CLAIMS IN ABORTION DEBATE

(By Diane M. Gianelli)

WASHINGTON.—When he saw an article in the St. Louis Post-Dispatch that claimed anesthesia caused fetal death in some late-term abortion procedures. David Birnbach, MD, was "shocked."

"I thought, 'This is crazy,'" said Dr. Birnbach, who is director of obstetric anesthesiology at New York's St. Luke's-Roosevelt Hospital Center, and vice president of the Society for Obstetric Anesthesia and Perinatology.

"Everyday we have pregnant patients who get anesthesia—women who break their ankles, need knee surgery, have appendectomies, gallbladder removals, breast biopsies, and so on. Anesthetics done safely by an anesthesiologist do not do harm to either the mother or the baby," he said.

The anesthesia-causes-fetal-death claim was made by one of the two U.S. physicians who specialized in a particular type of late-term abortion that opponents call "partial birth" abortions. The contention has been repeated by other proponents of the procedure, who refer to it as "intact D&E" (for dilation and evacuation) or "D&X" (dilation and extraction).

Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia. But while some are now qualifying their assertion that anesthesia induces fetal death, they are not backing away from it.

When Rep. Charles T. Canady (R, Fla.) introduced a bill to ban the procedure, James T. McMahon, MD, a Los Angeles area family physician who specialized in this procedure before his recent death, responded. Dr. McMahon wrote that the anesthesia given to the mother before the abortion causes "neurological fetal demise."

The bill to ban the procedure, passed late last year by both the House and the Senate, defines it as one in which the provider "partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

The procedure was recently banned in Ohio, where its other main practitioner, Martin Haskell, MD, lives. But a federal judge declared the law there unconstitutional in a preliminary injunction last month.

VOL
142
PT
5
MR
21
—
29
1996
UMI

On the federal level, the bill faces a presidential veto threat, and while the measure passed the House by a 2-to-1 ratio, proponents do not have enough Senate votes to override a veto.

The claim about anesthesia causing fetal death has been repeated by many of the bill's opponents, including the National Abortion Federation, the National Abortion and Reproductive Rights Action League, and members of Congress. A recent Planned Parenthood "fact sheet" on these late-term abortions claims that "the fetus dies from an overdose of anesthesia given to the mother intravenously."

The distinction of when fetal death occurs is critical, because the bill would ban only procedures in which the fetus was killed after being partially delivered alive through the birth canal. If it could be proved that the fetuses died inside the womb—from anesthesia or any other cause—the abortion would not fall under the proposed law.

After reading the anesthesia-kills-fetuses claim in the St. Louis paper, the American Society of Anesthesiologists issued a press release denouncing it. And in testimony before the Senate, Norig Ellison, MD, president of the society—which did not take a position on the bill—called Dr. McMahon's statements "entirely inaccurate."

He added that he was "deeply concerned" that the widespread publicity given to Dr. McMahon's claims "may cause pregnant women to delay necessary and perhaps even life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus."

In fact, cases of maternal concern have already surfaced. Dr. Birnbach said he has already had patents raise questions. And Rep. Tom Coburn, MD, an Oklahoma Republican who still delivers babies when he goes home on weekends, said he just had a patient refuse epidural anesthesia during childbirth after hearing those claims. Dr. Coburn is a co-sponsor of the bill.

Dr. Ellison, vice chair of the Dept. of Anesthesiology at the University of Pennsylvania School of Medicine in Philadelphia, testified that very little of the anesthetic given the mother ever reaches, the fetus. He added that "in my medical judgment, it would be necessary—in order to achieve 'neurological demise' of a fetus in a 'partial birth' abortion—to anesthetize the mother to such a degree as to place her own health in serions jeopardy."

Planned Parenthood's Mary Campbell, MD, who wrote the fact sheet claiming anesthesia cases fetal death, was grilled during the Senate Judiciary Committee hearing Nov. 17, 1995, by Sen. Spence Abraham (R, Mich.).

When prodded, she conceded "I do not know what causes the fetus to die." When asked why her fact sheet attributes the cause to anesthesia, she replied, "I simplified that for Congress."

Afer the hearing, Dr. Campbell wrote to Sen. Barbara Boxer, (D, Calif.), who led the movement against the bill in the Senate. In her letter, Dr. Campbell repeated that anesthesia caused fetal death, but added some caveats. She said it "may lead to fetal demise (death) in a fetus weakened by its own developmental anomalies."

"In other cases," she wrote, "these drugs prevent the perception of pain by the fetus; they cause depression of fetal respiration before the extraction procedure and preclude fetal respiration afterward."

Dr. Birnbach disputes her contention. Even in the very high-end doses she mentioned, he said—10 mg to 40 mg of Versed, given in 1 mg to 2 mg increments, and 900 ug to 2,500 ug of fentanyl, given in 100 ug to 150 ug increments—"anesthesia does not kill an infant if you don't kill the mother."

He added that when patients receive the high-end dosage range specified by Dr. Campbell, the mother was in fact at risk for depressed breathing. "You can't give those high doses without harming the mother unless the mother is assisted in her breathing," he said.

Dr. Birnbach said that, on occasion, he has given even larger doses than the high-end ones cited by Dr. Campbell and has never caused any harm to either the mother or the fetus.

He also said that Dr. Campbell's claims that the medications depress fetal respiration before the abortion takes place were "immaterial" because fetuses don't breathe in the womb.

Dr. Birnbach added, however, that an infant born alive with depressed respiration can still survive normally. "The narcotics are not a problem. We can reverse the narcotics and we can breathe for the baby."

Another recurring theme at both the hearings and during the ensuing debate about the procedure centers around fetal pain. Specialists in this procedure claim the fetus feels no pain for a variety of reasons, but usually because they say fetuses lack the neural development necessary to perceive pain, or if they are capable of feeling pain, anesthesia given to the mother prevents the preception of pain in the fetus.

Robert J. White, MD, PhD, professor of neurosurgery at Case Western University in Cleveland, testified on the topic before Congress last summer. "There are published scientific studies that demonstrate that by the 20th week, many of the neuronal pathways that sense pain have already started to develop," he said. "By the 24th week, the connections of the cortex and the thalamus are well under way. . . . There is no way to argue with impunity that pain reception is not possible."

Michael J. Murray, MD, an anesthesiologist at the Mayo Clinic in Rochester, Minn., and president of the Minnesota Medical Assn., agrees.

In fact, he said, physicians doing fetal surgery inject narcotic fentanyl and muscle relaxants into the umbilical cord to provide pain relief, even though the mother is already anesthetized, "because what they get from the mom is not enough." He added that studies on neonates getting surgery right after birth indicate that those who were given opioids had much better outcomes than those who were just given muscle relaxants.

The bottom line for many anesthesiologists, regardless of their position on abortion: Women should not be concerned about questionable claims thrown out in the heat of the debate.

"Women who need anesthesia for emergency surgery during pregnancy or who request analgesia for labor should take heart that both they and their babies will do just fine," Dr. Birnbach said.

Mr. CANADY of Florida. Mr. Speaker, I submit the following material for inclusion in the RECORD.

March 27, 1996.

THE SMITH-DOLE SENATE AMENDMENT PROTECTS THE LIFE OF THE MOTHER

DEAR COLLEAGUE: This is in response to a March 26 "Dear Colleague" from Reps. Nita Lowey and Nancy Johnson, which ran under the very misleading headline, "The Dole Amendment Endangers Women's Lives."

As initially passed by the House on Nov. 1, 1995—with 288 votes—HR 1833 contained an "affirmative defense" provision that protected a doctor if he showed that he "reasonable believed" that a partial-birth abortion procedure was necessary to save a mother's life. These sorts of "affirmative defense" exceptions are found in literally dozens of federal criminal statutes. However, opponents of HR 1833 distorted the legal effect of the "affirmative defense" mechanism. Therefore, the prime sponsor of the Senate bill, Sen. Bob Smith (who for some curious reason is not mentioned in the Lowey-Johnson letter) and Sen. Dole offered an amendment that says the ban "shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury: *Provided*, That no other medical procedure would suffice for that purpose."

Senator Barbara Boxer—the leading Senate opponent of HR 1833—immediately endorsed the Smith-Dole Amendment, which was adopted 98-0. Here is what Senator Boxer said on the floor of the Senate: "And now here we have it. Here we have it, an exception now for life of the mother. I think that is progress. I think that is progress, because when we started, there was no exception. It was an affirmative defense." [Congressional Record, Dec. 5, 1995, p. S 18005]

Moreover, in a Jan. 31 letter to Cardinal Anthony Bevilacqua of Philadelphia, President Clinton himself recognized that the Senate had added a life-of-mother exception (but the President continues to demand the addition of the gutting "health exception" endorsed by the National Abortion and Reproductive Rights Action League.)

Reps. Lowey and Johnson write, "It is unclear whether pregnancy would legally constitute a physical disorder." A normal pregnancy does not constitute a life-threatening condition—but in those rare cases in which a "physical disorder, illness, or injury" causes the pregnancy to threaten a mother's life, the Senate exception obviously applies. With respect, our colleagues' reading of the Senate language is absurdly convoluted, and violates standard principles of statutory construction.

As to our colleagues' other objections: let's keep in mind that a partial-birth abortion involves the almost complete delivery of a living baby, who is then killed. Now, if the entire baby has been delivered alive, except for the head, supposedly without jeopardy to the mother, why can't the doctor simply deliver the head as well, without killing the baby?

When the American Medical News put essentially that very question to Dr. Martin Haskell (who has done over 1,000 partial-birth abortions) in a tape-recorded interview, Dr. Haskell's answer was both candid and chilling: "The point here is you're attempting to do an abortion . . . not to see how do I manipulate the sitnation so that I get a live birth instead," he said.

(There are rare cases in which a baby suffers from such severe hydrocephaly—head enlargement caused by excess fluid in the skull—so that without intervention, both vaginal delivery and a Caesarian could pose risks to the mother. In those cases, according to Prof. Watson Bowes, a nationally eminent authority on fetal and maternal medicine who is co-editor of the Obstetrical and Gynecological Survey, the standard treatment is cephalocentesis—removal of excess fluid through a needle. "Fluid is then withdrawn which results in reduction of the size in the head so that delivery can occur,"

wrote Prof. Bowes. "This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant.")

Attempts by HR 1833 opponents to "revive" the life-of-mother issue are merely another reflection of their refusal to come to grips with the uncomfortable fact—which is amply documented in the writings and validated statements of partial-birth abortion practitioners—that the overwhelming majority of partial-birth abortions have nothing whatever to do with life-threatening complications of pregnancy, but are (in the words of Dr. Martin Haskell) "purely elective."

Sincerely,

HENRY J. HYDE,
Chairman.

"FETAL DEATH" OR DANGEROUS DECEPTION? THE EFFECTS OF ANESTHESIA DURING A PARTIAL-BIRTH ABORTION

The claim that anesthesia given to a pregnant woman kills her fetus/baby before a partial-birth abortion is performed has "absolutely no basis in scientific fact," according to Dr. Norig Ellison, the president of the American Society of Anesthesiologists. It is "crazy," says Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology.

Despite such authoritative statements, this medical misinformation is still being disseminated. Here are a few examples:

ABORTION ADVOCATES

KATE MICHELMAN OF THE NATIONAL ABORTION RIGHTS ACTION LEAGUE (NARAL)

One of the leading proponents of the "anesthesia myth" is Kate Michelman, president of the National Abortion Rights Action League (NARAL). For example, in an interview on "Newsmakers," KMOX-AM in St. Louis on Nov. 2, 1995, Ms. Michelman said: The other side grossly distorted the procedure. There is no such thing as a "partial-birth." That's, that's a term made up by people like these anti-choice folks that you had on the radio. The fetus—I mean, it is a termination of the fetal life, there's no question about that. And the fetus, is, before the procedure begins, the anesthesia that they give the woman already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.

DR. MARY CAMPBELL OF PLANNED PARENTHOOD

Prior to the November 1, 1995, House vote on the bill, Planned Parenthood circulated to lawmakers a "fact sheet" titled, "H.R. 1833, Medical Questions and Answers," which includes this statement:

"Q: When does the fetus die?

"A: The fetus dies of an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight which is 50 to 100 times the weight of the fetus. The mother gets the anesthesia for each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb."

THE NEW YORK DAILY NEWS

The fetus is partially removed from the womb, its head collapsed and brain suctioned out so it will fit through the birth canal. The anesthesia given to the woman kills the fetus before the full procedure takes place. But you won't hear that from the anti-abortion extreme. It would have everybody believe the fetus is dragged alive from the womb of a woman just weeks away from birth. Not true. (Editorial, Dec. 15, 1995)

USA TODAY

"The fetus dies from an overdose of anesthesia given to its mother." (Editorial, Nov. 3, 1995)

THE ST. LOUIS POST-DISPATCH

"The fetus usually dies from the anesthesia administered to the mother before the procedure begins." (News story, Nov. 3, 1995)

SYNDICATED COLUMNIST ELLEN GOODMAN

Syndicated columnist Ellen Goodman wrote in mid-November that, if one relied on statements by supporters of the bill, "You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal."

THE TRUTH

"Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia." (American Medical News, January 1, 1996)

"[A]nesthesia does not kill an infant if you don't kill the mother." (Dr. David Birnbach quoted in American Medical News, January 1, 1996)

"I am deeply concerned, moreover, that widespread publicity . . . may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelated to the birthing process, dne to misinformation regarding the effect of anesthetics on the fetus." (Dr. Norig Ellison, Nov. 17, 1995, testimony before Senate Judiciary Committee)

"Drugs administered to the mother, either local anesthesia administered in the paracervical area or sedatives/analgesics administered intramuscularly or intravenously, will provide no-to-little analgesia [relief from pain] to the fetus." (Dr. Norig Ellison, November 22, 1995, letter to Senate Judiciary Committee)

Mr. SALMON. Mr. Speaker, I submit the following material for inclusion in the RECORD:

AMERICAN MEDICAL NEWS,
PUBLISHED BY THE AMA,
Chicago, IL, July 11, 1995.

Hon. CHARLES T. CANADY,
Chairman, Subcommittee on the Constitution, Committee on the Judiciary, U.S. House of Representatives, Rayburn House Office Bldg., Washington, DC

DEAR REPRESENTATIVE CANADY: We have received your July 7 letter outlining allegations of inaccuracies in a July 5, 1993, story in American Medical News, "Shock-tactic ads target late-term abortion procedure."

You noted that in public testimony before your committee, AMNews is alleged to have quoted physicians out of context. You also noted that one such physician submitted testimony contending that AMNews misrepresented his statements. We appreciate your offer of the opportunity to respond to these accusations, which now are part of the permanent subcommittee record.

AMNews stands behind the accuracy of the report cited in the testimony. The report was complete, fair, and balanced. The comments and positions expressed by those interviewed and quoted were reported accurately and in context. The report was based on extensive research and interviews with experts on both sides of the abortion debate, including interviews with two physicians who perform the procedure in questions.

We have full documentation of these interviews, including tape recordings and transcripts. Enclosed is a transcript of the contested quotes that relate to the allegations of inaccuracies made against AMNews.

Let me also note that in the two years since publication of our story, neither the organization nor the physician who complained about the report in testimony to your committee has contacted the reporter or any editor at AMNews to complain about it. AMNews has a longstanding reputation for balance, fairness and accuracy in reporting, including reporting on abortion, an issue that is as divisive within medicine as it is within society in general. We believe that the story in question comports entirely with that reputation.

Thank you for your letter and the opportunity to clarify this matter.

Respectfully yours,

BARBARA BOLSEN,
Editor.

Attachment.

AMERICAN MEDICAL NEWS TRANSCRIPT

Relevant portions of recorded interview with Martin Haskell, M.D.

AMN. Let's talk first about whether or not the fetus is dead beforehand . . .

HASKELL. No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And so in my case, I would think probably about a third of those are definitely are (sic) dead before I actually start to remove the fetus. And probably the other two-thirds are not.

AMN. Is the skull procedure also done to make sure that the fetus is dead so you're not going to have the problem of a live birth?

HASKELL. It's immaterial. If you can't get it out, you can't get it out.

AMN. I mean, you couldn't dilate further? Or is that riskier?

HASKELL. Well, you could dilate further over a period of days.

AMN. would that just make it . . . would it go from a 3-day procedure to a 4- or a 5-?

HASKELL. Exactly. The point here is to effect a safe legal abortion. I mean, you could say the same thing about the D&E procedure. You know, why do you do the D&E procedure? Why do you crush the fetus up inside the womb? To kill it before you take it out?

Well, that happens, yes. But that's not why you do it. YOu do it to get it out. I could do the same thing with a D&E procedure. I could put dilapan in for four or five days and say I'm doing a D&E procedure and the fetus could just fall out. But that's not really the point. The point here is you're attempting to do an abortion. And that's the goal of your work, is to complete an abortion. Not to see how do I manipulate the situation so that I get a live birth instead.

AMN, wrapping up the interview. I wanted to make sure I have both you and (Dr.) McMahon saying 'No' then. That this is misinformation, these letters to the editor saying it's only done when the baby's already dead, in case of fetal demise and you have to do an autopsy. But some of them are saying they're getting that information from NAF. Have you talked to Barbara Radford or anyone over there? I called Barbara and she called back, but I haven't gotten back to her.

HASKELL. Well, I had heard that they were giving that information, somebody over there might be giving information like that out. The people that staff the NAF office are not medical people. And many of them when I gave my paper, many of them came in, I learned later, to watch my paper because many of them have never seen an abortion performed of any kind.

VOL
142
PT
5
MR
21
—
29
1996
UMI

AMN. Did you also show a video when you did that?

HASKELL. Yeah. I taped a procedure a couple of years ago, a very brief video, that simply showed the technique. The old story about a picture's worth a thousand words.

AMN. As National Right to Life will tell you.

HASKELL. Afterwards they were just amazed. They just had no idea. And here they're rabid supporters of abortion. They work in the office there. And . . . some of them have never seen one performed . . .

Comments on elective vs. non-elective abortions:

HASKELL. And I'll be quite frank: most of my abortions are elective in that 20–24 week range . . . In my particular case, probably 20% are for genetic reasons. And the other 80% are purely elective.

[From the American Medical News, July 5, 1993]

SHOCK-TACTIC ADS TARGET LATE-TERM ABORTION PROCEDURE

FOES HOPE CAMPAIGN WILL SINK FEDERAL ABORTION RIGHTS LEGISLATION

(By Diana M. Gianelli)

WASHINGTON.—In an attempt to derail an abortion-rights bill maneuvering toward a congressional showdown, opponents have launched a full-scale campaign against late-term abortions.

The centerpieces of the effort are newspaper advertisements and brochures that graphically illustrate a technique used in some second- and third-trimester abortions. A handful of newspapers have run the ads so far, and the National Right to Life Committee has distributed 4 million of the brochures, which were inserted into about a dozen other papers.

By depicting a procedure expected to make most readers squeamish, campaign sponsors hope to convince voters and elected officials that a proposed federal abortion-rights bill is so extreme that states would have no authority to limit abortions—even on potentially viable fetuses.

According to the Alan Guttmacher Institute, a research group affiliated with Planned Parenthood, about 10% of the estimated 1.6 million abortions done each year are in the second and third trimesters.

Barbara Radford of the National Abortion Federation denounced the ad campaign as disingenuous, saying its "real agenda is to outlaw virtually all abortions, not just late-term ones." But she acknowledged it is having an impact, reporting scores of calls from congressional staffers and others who have seen the ads and brochures and are asking pointed questions about the procedure depicted.

The Minneapolis Star-Tribune ran the ad May 12, on its op-ed page. The anti-abortion group Minnesota Citizens Concerned for Life paid for it.

In a series of drawings, the ad illustrates a procedure called "dilation and extraction," or D&X, in which forceps are used to remove second- and third-trimester fetuses from the uterus intact, with only the head remaining inside the uterus.

The surgeon is then shown jamming scissors into the skull. The ad says this is done to create an opening large enough to insert a catheter that suctions the brain, while at the same time making the skull small enough to pull through the cervix.

"Do these drawings shock you?" the ad reads. "We're sorry, but we think you should know the truth."

The ad quotes Martin Haskell, MD, who described the procedure at a September 1992 abortion-federation meeting, as saying he personally has performed 700 of them. It then states that the proposed "Freedom of Choice Act" now moving through Congress would "protect the practice of abortion at all stages and would lead to an increase in the use of this grisly procedure."

ACCURACY QUESTIONED

Some abortion-rights advocates have questioned the ad's accuracy.

A letter to the Star-Tribune said the procedure shown "is only performed after fetal death when an autopsy is necessary or to save the life of the mother." And the Morrisville, Vt., Transcript, which said in an editorial that it allowed the brochure to be inserted in its paper only because it feared legal action if it refused, quoted the abortion federation as providing similar information. "The fetus is dead 24 hours before the pictured procedure is undertaken," the editorial stated.

But Dr. Haskell and another doctor who routinely use the procedure for late-term abortions told AMNews that the majority of fetuses aborted this way are alive until the end of the procedure.

Dr. Haskell said the drawing were accurate "from a technical point of view." But he took issue with the implication that the fetuses were "aware and resisting."

Radford also acknowledged that the information her group was quoted as providing was inaccurate. She has since sent a letter to federation members, outlining guidelines for discussing the matter. Among the points:

Don't apologize; this is a legal procedure.

No abortion method is acceptable to abortion opponents.

The language and graphics in the ads are disturbing to some readers. "Much of the negative reaction, however, is the same reaction that might be invoked if one were to listen to a surgeon describing step-by-step almost any other surgical procedure involving blood, human tissue, etc."

LATE-ABORTION SPECIALISTS

Only Dr. Haskell, James T. McMahon, MD, of Los Angeles, and a handful of other doctors perform the D&X procedure, which Dr. McMahon refers to as "intact D&E." The more common late-term abortion methods are the classic D&E and induction, which usually involves injecting digoxin or another substance into the fetal heart to kill it, then dilating the cervix and inducing labor.

Dr. Haskell, who owns abortion clinics in Cincinnati and Dayton, said he started performing D&Es for late abortions out of necessity. Local hospitals did not allow inductions past 18 weeks, and he had no place to keep patients overnight while doing the procedure.

But the classic D&E, in which the fetus is broken apart inside the womb, carries the risk of perforation, tearing and hemorrhaging, he said. So he turned to the D&X, which he says is far less risky to the mother.

Dr. McMahon acknowledged that the procedure he, Dr. Haskell and a handful of other doctors use makes some people queasy. But he defends it. "Once you decide the uterus must be emptied, you then have to have 100% allegiance to maternal risk. There's no justification to doing a more dangerous procedure because somehow this doesn't offend your sensibilities as much."

BROCHURE CITES N.Y. CASE

The four-page anti-abortion brochures also include a graphic depiction of the D&X procedure. But the cover features a photograph of 16-month-old Ana Rosa Rodriquez, whose right arm was severed during an abortion attempt when her mother was 7 months pregnant.

The child was born two days later, at 32 to 34 weeks' gestation. Abu Hayat, MD, of New York, was convicted of assault and performing an illegal abortion. He was sentenced to up to 29 years in prison for this and another related offense.

New York law bans abortions after 24 weeks, except to save the mother's life. The brochure states that Dr. Hayat never would have been prosecuted if the federal "Freedom of Choice Act" were in effect, because the act would invalidate the New York statute.

The proposed law would allow abortion for any reason until viability. But it would leave it up to individual practitioners—not the state—to define that point. Postviability abortions, however, could not be restricted if done to save a woman's life or health, including emotional health.

The abortion federation's Radford called the Hayat case "an aberration" and stressed that the vast majority of abortions occur within the first trimester. She also said that later abortions usually are done for reasons of fetal abnormality or maternal health.

But Douglas Johnson of the National Right to Life Committee called that suggestion "blatantly false."

"The abortion practitioners themselves will admit the majority of their late-term abortions are elective," he said. "People like Dr. Haskell are just trying to teach others how to do it more efficiently."

NUMBERS GAME

Accurate figures on second- and third-trimester abortions are elusive because a number of states don't require doctors to report abortion statistics. For example, one-third of all abortions are said to occur in California, but the state has no reporting requirements. The Guttmacher Institute estimates there were nearly 168,000 second- and third-trimester abortions in 1988, the last year for which figures are available.

About 60,000 of those occurred in the 16- to 20-week period, with 10,660 at week 21 and beyond, the institute says. Estimates were based on actual gestational age, as opposed to last menstrual period.

There is particular debate over the number of third-trimester abortions. Former Surgeon General C. Everett Koop, MD, estimated in 1984 that 4,000 are performed annually. The abortion federation puts the number at 300 to 500. Dr. Haskell says that "probably Koop's numbers are more correct."

Dr. Haskell said he performs abortions "up until about 25 weeks' "gestation, most of them elective. Dr. McMahon does abortions through all 40 weeks of pregnancy, but said he won't do an elective procedure after 26 weeks. About 80% of those he does after 21 weeks are nonelective, he said.

MIXED FEELINGS

Dr. McMahon admits having mixed feelings about the procedure in which he has chosen to specialize.

"I have two positions that may be internally inconsistent, and that's probably why I fight with this all the time," he said.

"I do have moral compunctions. And if I see a case that's later, like after 20 weeks where it frankly is a child to me, I really agonize over it because the potential is so imminently there. I think, 'Gee, it's too bad that this child couldn't be adopted.'

"On the other hand, I have another position, which I think is superior in the hierarchy of questions, and that is: 'Who owns the child?' It's got to be the mother."

Dr. McMahon says he doesn't want to "hold patients hostage to my technical skill. I can say, 'No, I won't do that,' and then they're stuck with either some criminal solution or some other desperate maneuver."

Dr. Haskell, however, says whatever qualms he has about third-trimester abortions are "only for technical reasons, not for emotional reasons of fetal development."

"I think it's important to distinguish the two," he says, adding that his cutoff point is within the viability threshold noted in *Roe* v. *Wade*, the Supreme Court decision that legalized abortion. The decision said that point usually occurred at 28 weeks "but may occur earlier, even at 24 weeks."

Viability is generally accepted to be "somewhere between 25 and 26 weeks," said Dr. Haskell. "It just depends on who you talk to.

"We don't have a viability law in Ohio. In New York they have a 24-week limitation. That's how Dr. Hayat got in trouble. If somebody tells me I have to use 22 weeks, that's fine . . . . I'm not a trailblazer or activist trying to constantly press the limits."

CAMPAIGN'S IMPACT DEBATED

Whether the ad and brochures will have the full impact abortion opponents intend is yet to be seen.

Congress has yet to schedule a final showdown on the bill. Although it has already passed through the necessary committees, supporters are reluctant to move it for a full House and Senate vote until they are sure they can win.

In fact, House Speaker Tom Foley (D. Wash.) has said he wants to bring the bill for a vote under a "closed rule" procedure, which would prohibit consideration of amendments.

But opponents are lobbying heavily against Foley's plan. Among the amendments they wish to offer is one that would allow, but not require, states to restrict abortion—except to save the mother's life—after 24 weeks.

Mr. SMITH of New Jersey. Mr. Speaker, I submit the following material for inclusion in the RECORD:

PARTIAL-BIRTH ABORTIONS: BEHIND THE MISINFORMATION

(By Douglas Johnson, NRLC Federal Legislative Director)

NOTE: The Partial-Birth Abortion Ban Act (HR 1833) has been approved in slightly different versions by the U.S. House of Representatives (Nov. 1, 1995, on a vote of 288–139) and by the U.S. Senate (Dec. 7, 1995, on a vote of 54–44). It is expected that the House will approve the Senate-passed bill on March 27 and send it to President Clinton soon thereafter. President Clinton will veto the bill because "the President shares the view of many that it would represent an erosion of a woman's right to choose," White House Press Secretary Mike McCurry said on December 20, 1995.

Opponents of the bill have disseminated an extraordinary amount of misinformation regarding the partial-birth abortion procedure and the legislation—much of it starkly contradicted by the past writings and recorded statements of doctors who have performed thousands of partial-birth abortions. Some of this misinformation has been adopted and widely disseminated by some journalists, columnists, editorialists, and lawmakers. This factsheet addresses some of these issues.

WHAT IS THE PARTIAL-BIRTH ABORTION BAN ACT (HR 1833)?

The Partial-Birth Abortion Ban Act (HR 1833) would place a national ban on use of the partial-birth abortion procedure, except in cases (if there are any) in which the procedure is necessary to save the life of a mother.

The bill specifically defines a "partial-birth abortion" as "an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery." [emphasis added] Abortionists who violate the law would be subject to both criminal and civil penalties, but no penalty could be applied to the woman who obtained such an abortion.

The bill is aimed at a procedure that has often been utilized by Dr. Martin Haskell of Dayton, Ohio; by the late Dr. James McMahon of Los Angeles; and by others. This procedure is generally used beginning at 20 weeks (4½ months) into the pregnancy, is "routinely" used to 5½ months, and has often been used even during the final three months of pregnancy.

The Los Angeles Times accurately and succinctly described this abortion method in a June 16, 1995 news story:

The procedure requires a physician to extract a fetus, feet first, from the womb and through the birth canal until all but its head is exposed. Then the tips of surgical scissors are thrust into the base of the fetus' skull, and a suction catheter is inserted through the opening and the brain is removed.

In 1992, Dr. Haskell wrote a paper ("Dilation and Extraction for Late Second Trimester Abortion") that described in detail, step-by-step, how to perform the procedure. Anyone who is seriously seeking the truth behind the conflicting claims regarding partial-birth abortions would do well to start by reading Dr. Haskell's paper, and the transcripts of the explanatory interviews that Dr. Haskell gave in 1993 to the publications American Medical News (the official AMA newspaper) and Cincinnati Medicine.

Regarding the procedure, Dr. Haskell wrote, "Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia." (p. 33). Dr. Haskell also wrote that he "routinely performs this procedure on all patients 20 through 24 weeks LMP [i.e., from last menstrual period] with certain exceptions" [i.e., from 4½ to 5½ months], these "exceptions" involving complicating factors such as being more than 20 pounds overweight.

Dr. Haskell also wrote that he used the procedure through 26 weeks [six months] "on selected patients." [p.28]

Dr. James McMahon used essentially the same procedure to a much later point—even into the ninth month. (Dr. McMahon died of cancer on Oct. 28, 1995.)

In a letter to Congressman Charles Canady dated March 19, 1996, Dr. William Rashbaum of New York City wrote that he has performed the procedure "routinely since 1979. This procedure is performed only in cases of later gestational age."

DOES THE BILL CONTAIN AN EXCEPTION FOR LIFE-OF-THE-MOTHER CASES?

As originally passed by the House on November 1, 1995, HR 1833 contained an "affirmative defense" provision, which would have shielded an abortionist from civil and criminal liability if he showed that he had "reasonably believed" that utilization of the partial-birth abortion procedure was necessary to save the life of a mother.

Similar "affirmative defense" exceptions are found in literally dozens of federal criminal laws. Nevertheless, after bill opponents distorted this provision, NRLC endorsed and the Senate unanimously adopted the Smith-Dole Amendment, which provides that the ban "shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury."

Senator Barbara Boxer (D–Ca.), the lead Senate opponent of the HR 1833, immediately endorsed the Smith-Dole Amendment, saying:

And now here we have it. Here we have it, an exception now for life of the mother. I think that is progress, because when we started there was no exception. It was an affirmative defense. [Congressional Record, Dec. 5, 1995, p. S 18005]

Under the Smith-Dole Amendment, an abortionist could not be convicted of a violation of the law unless the government proved, beyond a reasonable doubt, that the abortion was not covered by this exception. (In addition, of course, the government would have to prove, beyond a reasonable doubt, all of the other elements of the offense—that the abortionist "knowingly" partly removed a baby from the womb, that the baby was still alive, and that the abortionist then killed the baby.)

In a Jan. 31 letter to Cardinal Anthony Bevilacqua of Philadelphia, President Clinton acknowledged that the Senate had added a life-of-mother exception.

WHAT FURTHER CHANGES DOES PRESIDENT CLINTON DEMAND IN THE BILL?

In a February 28, 1996 letter to certain Members of Congress, the President insisted that abortionists must be permitted to use the procedure, not only to save a mother's life, but also whenever they assert that the procedure is necessary to prevent unspecified "serious health consequences."

The President's letter proposed precisely the language of an amendment offered on the Senate floor by Sen. Barbara Boxer (D–Ca.), which was endorsed by the National Abortion and Reproductive Rights Action League (NARAL) as a "pro-choice vote."

NARAL and other pro-abortion advocacy groups clearly recognized that the Boxer Amendment amounted to a re-statement of the status quo. After the Boxer Amendment was defeated by only a two-vote margin (51 to 47), a spokeswoman for the pro-abortion Alan Guttmacher Institute said, "We were almost able to kill the bill." (Congressional Quarterly Weekly Report, Dec. 9, 1995, page 3738)

President Clinton—a Yale Law School graduate who once taught constitutional law—understands very well that with respect to abortion, "health" is a legal term of art. In Doe v. Bolton (the companion case to Roe v. Wade), the Supreme Court defined "health" (in the abortion context) to include "all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient."

Thus, the Boxer Amendment (demanded by President Clinton) would allow abortionists to continue to perform partial-birth abortions, even during the seventh, eighth, and ninth months, for reasons such as "depression." This is not a far-fetched hypothetical, as discussed below under "For What Reasons Are Partial-Birth Abortions Usually Performed?"

Senator Boxer has added the word "serious" before "health," for optical effect, but adding the word does not legally narrow the scope of "health," since the amendment confers on the abortionist himself the unlimited power to define whether the "depression" or other "health" concern is "serious." No partial-birth abortion would ever be blocked by

VOL
142
PT
5
MR
21
—
29
1996
UMI

the law, because the Boxer Amendment confers on the abortionist absolute authority to decide what the law means ("in the medical judgment of the attending physician").

Thus, a "life" exception and a "health" exception are two vastly different things. For example: Prior to enactment of the Hyde Amendment in 1976, the federal Medicaid program paid for 300,000 "health" or "medically necessary" abortions a year; the term was construed to cover any physician-performed abortion. The Hyde Amendment limited reimbursement to "life" cases, which have been on the order of 100 to 200 annually. In other words, the ratio of "health" cases to "life" cases, under Medicaid, was more than 1,000 to 1.

HOW MANY PARTIAL-BIRTH ABORTIONS ARE PERFORMED?

Nobody knows. Pro-abortion groups have claimed that "only" 450 such procedures are performed every year. But the combined practices of Dr. Martin Haskell and the late Dr. James McMahon alone would have approximated that figure.

In a letter to Congressman Canady dated March 19, 1996, New York doctor William K. Rashbaum wrote that he has performed the procedure that would be banned by HR 1833 "routinely since 1979. This procedure is performed only in cases of later gestational age." Moreover, The New York Times reported in a Nov. 6, 1995 news story about the bill:

"Of course I use it, and I've taught it for the last 10 years," said a gynecologist at a New York teaching hospital, who spoke on the condition of anonymity. "So do doctors in other cities."

It is impossible to know how many other abortionists have adopted the procedure, without choosing to write articles or grant interviews on the subject. Both Haskell and McMahon spent years trying to convince other abortionists of the merits of the procedure. That is why Haskell wrote his 1992 instructional paper. For years, Mr. McMahon was director of abortion instruction at the Cedar Sinai Medical Center in Los Angeles.

There are at least 164,000 abortions a year after the first three months of pregnancy, and 13,000 abortions annually after 4½ months, according to the Alan Guttmacher Institute (New York Times, July 5 and November 6, 1995), which is an arm of Planned Parenthood. These numbers should be regarded as minimums, since they are based on voluntary reporting to the AGI.

FOR WHAT REASONS ARE PARTIAL-BIRTH ABORTIONS TYPICALLY PERFORMED?

Some opponents of HR 1833, such as NARAL and the Planned Parenthood Federation of America (PPFA), have persistently disseminated claimed that the procedure is employed only in cases involving extraordinary threats to the mother of grave fetal disorders. Regrettably, more than a few reporters, commentators, and members of Congress have uncritically embraced such claims and disseminated them as "facts."

For example, PPFA said in a press release that the procedure is "done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality." (Nov. 1, 1995) But (as PPFA well knows), this claim is inconsistent with the writings and recorded statements of doctors who have performed thousands of these procedures, or with documents gathered by the House and Senate judiciary committees.

Dayton abortionist Dr. Martin Haskell, who wrote a paper describing step-by-step how to perform the procedure (he's done over 1,000), described it as "a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia."

Dr. Haskell wrote that he "routinely performs this procedure on all patients 20 through 24 weeks" (4½ to 5½ months) pregnant [emphasis added], except on women who are more than 20 pounds overweight, have twins, or have certain other complicating factors.

In 1993, after NRLC's publicizing of Dr. Haskell's paper engendered considerable controversy, the American Medical News—the official newspaper of the AMA—conducted a tape-recorded interview with Dr. Haskell concerning this specific abortion method, in which he said:

And I'll be quite frank: most of my abortions are elective in that 20–24 week range * * * In my particular case, probably 20% [of this procedure] are for genetic reasons. And the other 80% are purely elective.

In testimony in a lawsuit in 1995, Dr. Haskell testified that women come to him for partial-birth abortions with "a variety of conditions. Some medical, some not so medical" Among the "medical" examples he cited was "agoraphobia" (fear of open places).

Moreover, in testimony presented to the Senate Judiciary Committee on November 17, 1995, ob/gyn Dr. Nancy Romer of Dayton (the city in which Dr. Haskell operates one of his abortion clinics) testified that three of her own patients had gone to Haskell's clinic for abortions "well beyond" 4½ months into pregnancy, and that "none of these women had any medical illness, and all three had normal fetuses."

Brenda Pratt Shafer, a registered nurse who observed Dr. Haskell use the procedure to abort three babies in 1993, testified that one little boy had Down Syndrome, while the other two babies were completely normal and their mothers were healthy. [Nurse Shafer's testimony before the House Judiciary subcommittee, with associated documentation, is available on request to NRLC.]

Dr. James McMahon voluntarily submitted to the House Judiciary Constitution subcommittee a breakdown of a self-selected sample of 175 partial-birth abortions that he performed for what he called "maternal indications." Of these,the largest single category of "maternal indication"—39 cases, or 22% of the total sample—were for "depression." (Other "maternal indications" included "spousal drug exposure" and "substance abuse.") Dr. McMahon's self-selected sample of "fetal indications" cases showed he had performed nine of these procedures for "cleft plate." Even though this data is cited in the official report of the committee, when NARAL President Kate Michelman was asked at a November 7, 1995 press conference about "arguments . . . that these procedures . . . are given for depression or cleft palate," Ms. Michelman responded, "That is . . . not only a myth, it's a lie."

Dr. McMahon also wrote: After 26 weeks [six months], those pregnancies that are not flawed are still nonelective. They are interrupted because of maternal risk, rape, incest, psychiatric or pediatric indications. [Emphasis added.] ["Pediatric indications" was Dr. McMahon's terminology for young teenagers.]

Dr. Pamela E. Smith, director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago, gave the Senate Judiciary Committee her analysis of Dr. McMahon's sample of 175 cases in which he said he had used the procedure because of maternal health indications. Of this sample, 39 cases (22%) were for maternal "depression," while another 16% were "for conditions consistent with the birth of a normal child (e.g., sickle cell trait, prolapsed uterus, small pelvis)," Dr. Smith noted. She added that in one-third of the cases, the conditions listed as "maternal indications" by Dr. McMahon really indicated that the procedure itself would be seriously risky.

Reporter Karen Tumulty wrote an article about late-term abortions, based in large part on extensive interviews with Dr. McMahon and on direct observation of his practice, which appeared in the Los Angeles Times Magazine (January 7, 1990). She concluded: If there is any other single factor that inflates the number of late abortions, it is youth. Often, teen-agers do not recognize the first signs of pregnancy. Just as frequently, they put off telling anyone as long as they can.

Dr. George Tiller of Wichita, Kansas, specializes in late-term abortions, including third-trimester abortions. Dr. Tiller's spokeswoman, Peggy Jarman, told the Kansas City Star: About three-fourths of Tiller's late-term patients, Jarman said, are teenagers who have denied to themselves or their families they were pregnant until it was too late to hide it.

In 1993, the then-executive director of the National Abortion Federation (NAF) distributed an internal memorandum to the members of that organization which acknowledged that such abortions are performed for "many reasons": There are many reasons why women have late abortions: life endangerment, fetal indications, lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, etc."

Likewise, a June 12, 1995, letter from NAF to members of the House of Representatives noted that late abortions are sought by, among others, "very young teenagers . . . who have not recognized the signs of their pregnancies until too late," and by "women in poverty, who have tried desperately to act responsibly and to end an unplanned pregnancy in the early stages, only to face insurmountable financial barriers."

It is true, of course, that some partial-birth abortions involve babies who have grave disorders that will result in death soon after birth. But these unfortunate members of the human family deserve compassion and the best comfort-care that medical science can offer—not a scissors in the back of the head. In some such situations there are good medical reasons to deliver such a child early, after which natural death will follow quickly.

IS A PARTIAL-BIRTH ABORTION EVER THE ONLY WAY TO PRESERVE A MOTHER'S PHYSICAL HEALTH?

Dr. Pamela E. Smith, Director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago, testified, "There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the life or health of the mother."

Dr. Harlan R. Giles, a professor of "high-risk" obstetrics and perinatology at the Medical College of Pennsylvania, performs abortions by a variety of procedures up until "viability." In sworn testimony in the U.S. Federal District Court for the Southern District of Ohio (Nov. 13, 1995), Prof. Giles said:

After 23 weeks I do not think there are any maternal conditions that I'm aware of that mandate ending the pregnancy that also require that the fetus be dead or that the fetal life be terminated. In my experience for 20 years, one can deliver these fetuses either vaginally, or by Caesarean section for that matter, depending on the choice of the parents with informed consent . . . But there's no reason these fetuses cannot be delivered intact vaginally after a miniature labor, if you will, and be at least assessed at birth and given the benefit of the doubt. [transcript, page 240]

Opponents of H.R. 1833 have publicized the cases of several women whose babies suffered from severe hydrocephalus (enlargement of the head). But an eminent authority on such matters, Dr. Watson A. Bowes, Jr., professor of ob/gyn (maternal and fetal medicine) at the University of North Carolina, who is co-editor of the Obstetrical and Gynecological Survey, wrote to Congressman Canady:

Critics of your bill who say that this legislation will prevent doctors from performing certain procedures which are standard of care, such as cephalocentesis (removal of fluid from the enlarged head of a fetus with the most severe form of hydrocephalus) are mistaken. In such a procedure a needle is inserted with ultrasound guidance through the mother's abdomen into the uterus and then into the enlarged ventricle of the brain (the space containing cerebrospinal fluid). Fluid is then withdrawn which results in reduction of the size in the head so that delivery can occur. This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant.

IS THE BABY ALIVE WHEN SHE IS PULLED FEET-FIRST FROM THE WOMB?

Yes, in most cases the baby is alive until the end of the procedure. American Medical News reported in 1993, after conducting interviews with Drs. Haskell and McMahon, that the doctors "told AM News that the majority of fetuses aborted this way are alive until the end of the procedure." On July 11, 1995, American Medical News submitted the transcript of the tape-recorded interview with Haskell to the House Judiciary Committee. The transcript contains the following exchange:

American Medical News: Let's talk first about whether or not the fetus is dead beforehand.

Dr. Haskell: No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated [to permit extraction of the fetus]. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And so in my case, I would think probably about a third of those are definitely are [sic] dead before I actually start to remove the fetus. And probably the other two-thirds are not.

In an interview quoted in the Dec. 10, 1989 Dayton News, Dr. Haskell again conveyed that the scissors thrust is usually the lethal act: "When I do the instrumentation on the skull . . . it destroys the brain tissue sufficiently so that even if it (the Fetus) falls out at that point, it's definitely not alive," Dr. Haskell said.

DOES ANESTHESIA GIVEN TO THE MOTHER KILL THE BABY? DOES THE BABY FEEL PAIN DURING THE PROCEDURE?

In Dr. Haskell's 1992 instructional paper, he lists among the "advantages" of the procedure that "it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia." [emphasis added] According to Prof. David H. Chestnut, editor of Obstetric Anesthesia: Principles and Practice, "Rational use of local anesthetic drugs does not affect the fetus." (Testimony to House Judiciary Constitution Subcommittee, March 21, 1996).

Dr. James McMahon utilized general anesthesia, at least in some cases, but anesthesiologists say that these drugs do not harm the fetus/baby unless given in amounts that would kill the mother or place her in grave danger. (See below.)

Nevertheless, many critics of the bill have insisted that the unborn babies are killed by anesthesia given to the mother, prior to being "extracted" from the womb. For example, syndicated columnist Ellen Goodman wrote in November that, based on her review of statements by supporters of the bill, "You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal."

The Planned Parenthood Federation of America (PPFA) has been among the most persistent purveyors of this mythology. Another leading proponent of the "anesthesia myth" has been Kate Michelman, president of the National Abortion and Reproductive Rights Act League (NARAL). For example, in an interview on "Newsmakers," KMOX-AM in St. Louis on Nov. 2, 1995, Ms. Michelman explained that she thinks it is wrong to call the procedure a "partial birth" because (she claimed) the baby is already dead. Kate Michelman's verbatim statement follows:

The other side grossly distorted the procedure. There is no such thing as a 'partial birth'. That's, that's a term made up by people like these anti-choice folks that you had on the radio. The fetus— I mean, it is a termination of the fetal life, there's no question about that. And the fetus, is, before, the procedure begins, the anesthesia that they give the woman already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.

However, the claim that anesthesia can kill an unborn fetus has been emphatically refuted in congressional testimony by the heads of the leading professional societies of anesthesiologists. These exports have criticized both pro-abortion leaders and certain journalists and commentators, for disseminating these bogus claims, while failing to publicize the authoritative statements of experts that these claims are entirely bogus.

In testimony before the Senate Judiciary Committee on November 17, 1995, Dr. Norig Ellison, president of the 34,000-member American Society of Anesthesiologists (ASA), said that such claims have "absolutely no basis in scientific fact." On behalf of the ASA, Dr. Ellison testified that regional anesthesia (used in many partial-birth abortions and most normal deliveries) has virtually no effect on the fetus. General anesthesia has some sedating effect on the fetus, but much less than on the mother; even pain relief for the fetus is doubtful, and certainly anesthesia would not kill the baby, Dr. Ellison testified. (In March 1996, Dr. Ellison said that his testimony had been reported in the medical press and that not one anesthesiologist had contacted ASA to express any disagreement.)

In testimony before the House Judiciary Constitution Subcommittee on March 21, 1996, Dr. David J. Birnbach, president-elect of the Society for Obstetric Anesthesia and Perinatology, testified, "I have never witnessed a case of fetal demise that could be attributed to an anesthetic. . . . In order to cause fetal demise, it would be necessary to give the mother dangerous and life-threatening doses of anesthesia."

Recently, the Planned Parenthood Federation of America (PPFA) and NARAL have tried to "explain" that they were really just referring to the practice of the late Dr. James McMahon—who, they claimed, used massive doses of narcotic anesthesia. But Dr. Birnbach said, "Although there is no evidence that this massive dose will cause fetal demise, there is clear evidence that this excessive dose could cause maternal death."

Brenda Pratt Shafer, a registered nurse from Dayton, Ohio, stood at Haskell's side while he performed three partial-birth abortions in 1993. In testimony before the Senate Judiciary Committee (Nov. 17), Shafer described in detail the first of the three procedures—which involved, she said, a baby boy at 26½ weeks (over 6 months). According to Mrs. Shafer, the abortionist delivered the baby's body and the arms—everything but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping, and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby was completely limp.

Since the baby is usually not dead before being removed from the womb, does the baby experience pain? Yes, according to experts such as Professor Robert White, Director of the Division of Neurosurgery and Brain Research Laboratory at Case Western Reserve School of Medicine, who testified before the House Judiciary Constitution Subcommittee: "The fetus within this time frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain." After analyzing the partial-birth procedure step-by-step for the subcommittee, Prof. White concluded: "Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure."

Similar testimony was presented to the subcommittee on March 21, 1996, by Dr. Jean A. Wright, associate professor of pediatrics and anesthesia at the Emory University School of Medicine in Atlanta. Recent research shows that by the stage of development that a fetus could be a "candidate" for a partial-birth abortion (20 weeks), the fetus "is more sensitive to pain than a full-term infant would be if subjected to the same procedures," Prof. Wright testified. These fetuses have "the anatomical and functional processes responsible for the perception of pain," and have "a much higher density of Opioid (pain) receptors" than older humans, she said.

IS THERE A MORE "OBJECTIVE" TERM FOR THE PROCEDURE THAN "PARTIAL-BIRTH ABORTION"?

Congressman Charles Canady (R-FL), the author of H.R. 1833 and the chairman of the subcommittee that conducted hearings on the bill, said on March 23, "It it time for some in the media to stop editing or denigrating the legal terminology that has been adopted by the U.S. House and the U.S. Senate, which is partial-birth abortion."

(When Congress defined certain firefarms as "assault weapons," that terminology was readily accepted by most journalists and editors—even though manufacturers of such devices utilize other terms.)

Some opponents of the Partial-Birth Abortion Ban Act (H.R. 1833) insist that anyone writing about the bill should say that it bans a procedure "known medically as intact dilation and evacuation." But when journalists

VOL
142
PT
5
MR
21
—
29
1996
UMI

comply with this demand, they do so at the expense of accuracy. The bill itself makes no reference whatever to "intact dilation and evacuation" abortions. More importantly, the term "intact dilation and evacuation" is not equivalent to the class of procedures banned by the bill.

The bill would make it a criminal offense (except to save a woman's life) to perform a "partial-birth abortion," which the bill would define—as a matter of law—as "an abortion in which the person performing the abortion partially vaginally delivers a *living* fetus before killing the fetus and completing the delivery." [emphasis added]

In contrast, the term "intact dilation and evacuation" was invented by the late Dr. James McMahon, and until recently, was idiosyncratic to him. It appears in no standard medical textbook or database, nor does it appear anywhere in the standard textbook on abortion methods, Abortion Practice by Dr. Warren Hern.

Because "intact dilation and evacuation" is not a standard, clearly defined medical term, the House Judiciary Constitution Subcommittee staff (which drafted the bill under Congressman Canady's supervision) rejected it as useless for purposes of defining a criminal offense. Indeed, it is worse than useless—a criminal statute that relied on such a term would be stricken by the federal courts as "void for vagueness."

Although there is no clear definition of the term, we know enough to say that it is inaccurate to equate "intact dilation and evacuation" abortions with the procedures banned by HR 1833, since in his writings Dr. McMahon clearly used the term so broadly as to cover certain procedures which would not be affected at all by HR 1833 (e.g., removal of babies who are killed entirely in utero, and removal of babies who have died entirely natural deaths in utero). Indeed, some of the specific women highlighted by opponents of HR 1833 had various types of "intact D&E" abortion procedures that were not covered by HR 1833's definition of "partial-birth abortion."

The term chosen by Congress is in no sense misleading. In sworn testimony in an Ohio lawsuit on Nov. 8, 1995, Dr. Martin Haskell—who has done over 1,000 partial-birth abortions, and who authored the instructional paper that touched off the controversy over the procedure—explained that he first learned of the method when a colleague described very briefly over the phone to me a technique that I later learned came from Dr. McMahon where they internally grab the fetus and rotate it and accomplish—be somewhat equivalent to a breach type of delivery.

In short, it is a misguided notion of objectivity for the any journalist to denigrate the term for a criminal offense that has been adopted and explicitly defined by the U.S. House and the U.S. Senate, in favor of a undefined term recently manufactured by the very special-interest that would be "regulated" by the legislation.

[In his 1992 instructional paper, Dr. Haskell referred to the method as "dilation and extraction" or "D&X"—noting that he "coined the term." The term "dilation and extraction" does not appear in medical dictionaries or databases.]

ARE THE FIVE LINE DRAWINGS OF THE PROCEDURE CIRCULATED BY NRLC ACCURATE, OR ARE THEY MISLEADING?

American Medical News (July 5, 1993) interviewed Dr. Martin Haskell and reported: Dr. Haskell said the drawings were accurate "from a technical point of view." But he took issue with the implication that the fetuses were "aware and resisting."

Moreover, at a June 15, 1995, public hearing before the House Judiciary Subcommittee on the Constitution, Dr. J. Courtland Robinson, a self-described "abortionist" who testified on behalf of the National Abortion Federation, was questioned about the drawings by Congressman Charles Canady (R-Fl.). Mr. Canady directed Dr. Robinson's attention to the drawings, which were displayed in poster size next to the witness table, and asked Dr. Robinson if they were "technically correct." Dr. Robinson responded:

That is exactly probably what is occurring in the hands of the two physicians involved. [Hearing record, page 89.]

Professor Watson Bowes of the University of North Carolina at Chapel Hill, co-editor of the Obstetrical and Gynecological Survey, wrote in a letter to Congressman Canady:

Having read Dr. Haskell's paper, I can assure you that these drawings accurately represent the procedure described therein. . . . Firsthand renditions by a professional medical illustrator, or photographs or a video recording of the procedure would no doubt be more vivid but not necessarily more instructive for a non-medical person who is trying to understand how the procedure is performed.

On Nov. 1, 1995, Congresswoman Patricia Schroeder and her allies actually tried to prevent Congressman Canady from displaying the line drawings during the debate on HR 1833 on the floor of the House of Representatives. But the House voted by nearly a 4-to-1 margin (332 to 86) to permit the drawings to be used.

DOES THE BILL CONTRADICT U.S. SUPREME COURT DECISIONS?

The Supreme Court has never said that there is a constitutional right to kill human beings who are mostly born.

In its official report on HR 1833, the House Judiciary Committee makes the very plausible argument that HR 1833 could be upheld by the Supreme Court without disturbing Roe. In Roe, the Supreme Court said that "the word 'person,' as used in the Fourteenth Amendment, does not include the unborn." Thus, under the Supreme Court's doctrine, a human being becomes a legal "person" upon emerging from the uterus.

But a partial-birth abortion does not involve an "unborn fetus." A partial-birth abortion, by the very definition in the bill, kills a human being who is partly born. Indeed, a partial-birth abortion kills a human being who is four-fifths across the 'line-of-personhood' established by the Supreme Court.

Moreover, in Roe v. Wade itself, the Supreme Court took note of a Texas law that made it a felony to kill a baby "in a state of being born and before actual birth," and the Court did not disturb that law.

Thus, the Supreme Court could very well decide that the killing of a mostly born baby, even if done by a physician, is not protected by Roe v. Wade.

SHOULD CONGRESS EVER BAN SPECIFIC "SURGICAL PROCEDURES"?

Some prominent congressional opponents of the bill to ban partial-birth abortions, including Rep. Schroeder (D-Co.), argue that Congress should not attempt to ban a specific surgical procedure. But Rep. Schroeder is the prime sponsor of HR 941, the "Federal Prohibition of Female Genital Mutilation Act." (The Senate companion bill is S. 1030.) This bill generally would ban anyone (including a licensed physician) from performing the procedure known medically as "infibulation," or "female circumcision." (Some physicians perform the procedure in response to requests from immigrants from certain countries, based on the rationale that those involved otherwise will probably obtain the procedure from persons without medical training.) The bill provides a penalty of up to five years in federal prison. Supporters of this bill argue, persuasively, that subjecting a little girl to infibulation is a form of child abuse. But then, so too is subjecting a baby to the partial-birth abortion procedure.

Mr. WELDON of Florida. Mr. Speaker, I submit the following material for inclusion in the RECORD:

MOUNT SINAI HOSPITAL
MEDICAL CENTER
Chicago, IL, October 28, 1995.

Hon. CHARLES CANADY,
Chairman, Subcommittee on the Consiitution, House Committee on the Judiciary, Longworth House Office Building, Washington, DC

DEAR CONGRESSMAN CANADY: It has recently been brought to my attention that opponents of HR 1833 have stated that this particular abortion technique should maintain its legality because it is sometimes employed by physicians in the interest of maternal health. Such an assertion not only runs contrary to facts but ignores the reality of the risks to maternal health that are associated with this procedure which include the following:

1. Since the procedures entails 3 days of forceful dilatation of the cervix the mother could develop cervical incompetence in subsequent pregnancies resulting in spontaneous second trimester pregnancy losses and necessitating the placement of a cerclage (stitch around the cervix) to enable her to carry a fetus to term.

2. Uterine rupture is a well known complication associated with this procedure. In fact, partial birth abortion is a "variant" of internal podalic version . . . a technique sometimes used by obstetricians in this country with the intent of delivering a live child. However, internal podalic version, in this country, has been gradually replaced by Cesarean section in the interest of maternal as well as fetal well being (see excerpts from the standard text Williams Obstetrics pages 520, 521, 865 and 866).

Furthermore, obstetrical emergencies (such as entrapment of the head of a hydrocephalic fetus or of a footling breech that has partially delivered on its own) are never handled by employing this abortion technique. Cephalocentesis, (drainage of fluid from the head of a hydrocephalic fetus) frequently results in the birth of a living child. Relaxing the uterus with anesthesia, cutting the cervix (Duhrssen's incision) and Cesarean section are the standard of care for a normal, head entrapped breech fetus.

There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial birth abortion is a technique devised by abortionists for their own convenience . . . ignoring the known health risks to the mother. The health status of women in this country will thereby only be enhanced by the banning of this procedure.

Sincerely,

PAMELA E. SMITH, MD,
Director of Medical Education, Department of Obstetrics and Gynecology.

THE UNIVERSITY
NORTH CAROLINA,
Chapel Hill, July 11, 1995.

Hon. CHARLES CANADY,
Chairman, Subcommittee on the Constitution, House Committee on the Judiciary, Washington, DC.

DEAR CONGRESSMAN CANADY: I have reviewed the Partial-Birth Abortion Ban Act (HR 1833. S. 939) and the related materials that you submitted to me.

Your bill would ban the use of the "partial-birth abortion" method, which you define as "an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

As regards the use of the term "partial-birth abortion" to describe the procedure: The term "partial-birth abortion" is accurate as applied to the procedure described by Dr. Martin Haskell in his 1992 paper entitled "Dilation and Extraction for Late Second Trimester Abortion," distributed by the National Abortion Federation.[1] Dr. Haskell himself refers to that procedure as dilation and extraction," but that is only a term, as he wrote, he "coined." Another practitioner, Dr. James McMahon, who uses a similar technique, uses the term "intact dilation and evacuation."[2]

There is no standard medical term for this period. The method, as described by Dr. Haskell in his paper, involves dilatation of the uterine cervix followed by breech delivery of the fetus up to the point at which only the head of the fetus remains undelivered. At this point surgical scissors are inserted into the brain through the base of the skull, after which a suction catheter is inserted to remove the brain of the fetus. This results in collapse of the fetal skull to facilitate delivery of the fetus. From this description there is nothing misleading about describing this procedure as a "partial-birth abortion," because in most of the cases the fetus is partially born while alive and then dies as a direct result of the procedure (brain aspiration) which allows completion of the birth.

As regards when fetal death occurs during this procedure: Although I have never witnessed this procedure, it seems likely from the description of the procedure by Dr. Haskell that many if not all of the fetuses involved in this procedure are alive until the scissors and the suction catheter are used to remove brain tissue.[1] Dr. Haskell, explicitly contrasts his procedure with two other late abortion methods that do induce fetal death prior to removal of the fetus (these alternative methods being intra-amniotic infusion of urea, and rupture of the membranes and severing of the umbilical cord).[1] Also, Doctor Haskell, in an interview with Diane Gianelli of American Medical News that the majority of the fetuses aborted this way are alive until the end of the procedure."[2] This is consistent with the observations of Brenda Shafer, R.N. who, in a letter to Congressman Tony Hall, described partial-birth abortions performed by Dr. Haskell which she observed.[3]

Moreover, in a document entitled "Testimony Before the House Subcommittee on the Constitution", June 23, 1995, Dr. James McMahon states that narcotic analgesic medications given to the mother induce "a medical coma" in the fetus, and he implies that this causes "a neurological fetal demise."[4] This statement suggests a lack of understanding of maternal/fetal pharmacology. It is a fact that the distribution of analgesic medications given to a pregnant woman result in blood levels of the drugs which are less than those in the mother. Having cared for pregnant women who for one reason or another required surgical procedures in the second trimester, I know that they were often heavily sedated or anesthetized for the procedures, and the fetuses did not die.

Dr. Dru Carlson, a maternal/fetal medicine specialist from Cedars-Sinai Medical Center in Los Angeles, writes that she has personally observed Dr. McMahon perform this procedure. In a letter to Congressman Henry Hyde she described the procedure and wrote that after the fetal body is delivered, it is removal of cerebrospinal fluid from the brain that causes instant brain herniation and death.[5] This statement clearly suggests that the fetus is alive until the suction device is inserted into the brain.

As regards whether the fetus experiences pain during this procedure: Dr. McMahon states that the fetus feels no pain through the entire series of procedures.[4] Although it is true that analgesic medications given to the mother will reach in the fetus and presumably provide some degree of pain relief, the extent to which this renders this procedure pain free would be very difficult to document. I have performed in-utero procedures on fetuses in the second trimester, and in these situations the response of the fetuses to painful stimuli, such as needle sticks, suggest that they are capable of experiencing pain. Further evidence that the fetus is capable of feeling fetal pain is the response of extremely preterm infants to painful stimuli.

As regards the accuracy of the illustrations of this procedure which have been distributed by the National Right to Life Committee: I have read the letters dated June 12, 1995 and June 27, 1995 sent to members of Congress by the National Abortion Federation, which state that the drawings of the partial-birth abortion procedure that have been distributed by you and by the National Right to Life Committee are "highly imaginative . . . with little relationship to the truth" and "misleading."[7]

Having read Dr. Haskell's paper[1], I can assure you that these drawings accurately represent the procedure described therein. Furthermore, Dr. Haskell is reported as saying that the illustrations were accurate "from a technical point of view."[2] First hand renditions by a professional medical illustrator, or photographs or a video recording of the procedure would no doubt be more vivid, but not necessarily more instructive for a non-medical person who is trying to understand how the procedure is performed.

As regards the impact of the banning of the procedure on other indicated standard medical procedures: Critics of your bill who say that this legislation will prevent doctors from performing certain procedures which are standard of care, such as cephalocentesis (removal of fluid from the enlarged head of a fetus with the most severe form of hydrocephalus) are mistaken. In such a procedure a needle is inserted with ultrasound guidance through the mother's abdomen into the uterus and then into the enlarged ventricle of the brain (the space containing cerebrospinal fluid).

Fluid is then withdrawn which results in reduction in the size of the head so that delivery can occur. This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant. This is an important distinction between a needle cephalocentesis which is intended to facilitate the birth of a living fetus as contrasted with the procedure described by Doctors Haskell and McMahon, which is intended to kill a living fetus which has been partially delivered.

The technique of the partial-birth abortion could be used to remove the fetus that had died in utero of natural causes or accident. Such a procedure would not be covered by the definition in your bill, because it would not involve partially delivering a live fetus and then killing it.

As regards viability of preterm infants in the second trimester of pregnancy: I have reviewed a "fact sheet" distributed by the National Abortion and Reproductive Rights Action League (NARAL) in opposition to your legislation.[8] This document states, "Very few premature infants born at 24 weeks' gestation actually survive. The chance for survival at 25 weeks' gestation is 10–15%; one week later—at 26 weeks—the chances of survival double to 24–45%. A survival rate of 50% is achieved only in live births at 27 or more weeks gestation." These figures are outdated and misleading. In a recent study from the National Institute of Child Health and Human Development Neonatal Network, survival was documented in a large number of premature infants born at the seven participating institutions.[9] At 23 weeks gestation the neonatal survival was 23 percent and at 24 weeks' gestation survival was 34 percent. As you can see in Figure 3 in the enclosed article by Maureen Hack et al., there are wide inter-institutional variations in neonatal survival at east gestational age. For example, at 24 weeks' gestation neonatal survival varied from a low of 10 percent to a high of 57 percent. This data applies to infants born without major congenital defects.

I trust this information will be helpful.

Respectfully,

WATSON A. BOWES, Jr., M.D.
Professor.

FOOTNOTES

[1] Haskell M. Dilation and extraction for late second trimester abortion. Presented at the National Abortion Federation Risk Management Seminar, Dallas, Texas, September 13, 1992.

[2] Gianelli D.M. Shock-tactic ads target late-term abortion procedures. American Medical News, July 5, 1993, p 3 ff.

[3] Shafer B. Letter written to Congressman Tony Hall, July 9, 1995.

[4] McMahon JT. Written submission to the House Subcommittee on the Constitution, Washington, D.C., June 23, 1995.

[5] Carlson DE. Letter to the Honorable Henry Hyde, Chairman, House Judiciary Committee, June 27, 1995.

[6] Saporta V, Prohaska G. Letter to Members of Congress, U.S. House of Representatives, June 12, 1995.

[7] Saporta V. Letter to Members of Congress, U.S. House of Representatives, June 27, 1995.

[8] National Abortion and Reproductive Rights Action League. Third-Trimester Abortion: The Myth of "Abortion on Demand". (Date not listed)

[9] Hack M, Hobar JD, Malloy MH, et al. Very low birth weight outcomes of the National Institute of Child Health and Human Development Neonatal Network. Pediatrics. 1991; 87:587–597.

Mr. ABERCROMBIE. Mr. Speaker, today I rise to discuss H.R. 1833, the Partial-Birth Abortion Ban Act. During the course of the debate, gory and graphic descriptions are going to be used to exaggerate and manipulate emotions to obscure the real issues. In fact, the title itself is misleading. This is not about abortion on demand, the issue is about women and their families facing a tragic situation. Women who chose to have a dilation and extraction or a dilatation and evacuation preformed late in their pregnancy, do so only as a last resort. These surgical procedures are

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Footnotes follow at end of Article.

VOL
142
PT
5
MR
21
—
29
1996
UMI

rarely ever utilized. Fewer than 500 a year are performed. These procedures are used in the case of desired pregnancies gone tragically wrong due to severe fetal anomaly or severe risk to the health or life of the mother.

I have read the personal testimony of Coreen Costello and Mary-Dorothy Line.These women and others like them wanted their child and were willing to have a child with disabilities. However, once they realized that the baby could not survive outside of the womb, they had to make a soul searching decision. This was a very difficult decision made by the women and their husbands, but because they chose to have a late term abortion procedure they saved their lives and preserved their ability to have more children. Without the surgical procedures H.R. 1833 outlaws, neither of these women would be pregnant today or even healthy.

Under H.R. 1833, Congress would intrude into the lives of Coreen Costello, Mary-Dorothy Line and other women by denying them surgical procedures which ensure their ability to conceive more children. H.R. 1833 says to American women: your health and fertility mean nothing to us.This bill flagrantly violates women's rights and demotes them to second class citizenry.

The Supreme Court ruled in the cases of *Roe* v. *Wade*, and *Planned Parenthood* v. *Casey* that if a woman's life or health is endangered, late term abortions can not be banned. Yet even as amended by the Senate, H.R. 1833 does not have a genuine life exception. Pregnancy does not qualify as a physical disorder, illness or injury. In addition, H.R. 1833 also does not provide an exception for when the mother's health is at serious risk. The language in H.R. 1833, under legal scrutiny, clearly violates the Supreme Court's rulings since it does not provide life or health exemptions. This bill prevents women from receiving the safest possible medical care in the rare instances when such care is called for in the most trying of personal circumstances and anguish.

The bill is an example of the impossibility of writing a law of general application for situations which clearly demand individualized professional judgement in consultation with the parties personnely effected. To interfere in such conditions is an affront to moral sensibility and it disregards the profound consequences both physicians and their patients must resolve.

Mr. POSHARD. Mr. Speaker, I rise today in strong support of the ban on partial birth abortions, and urge my colleagues to follow suit in passing this important legislation.

I sincerely believe this late-term abortion procedure goes beyond the usual scope of debate we in the House have heard on the issue of abortion. This ban is not only about respecting life, it's about using humane and ethical medical practices. In fact, a number of historically pro-choice Members of this body joined in supporting this ban when it first was conducted by the House because of the nature of the procedure.

As amended by the Senate, this bill continues to allow for such a procedure should the life of the mother be endangered by a physical disorder, illness, or injury. So let us not argue today about the health and well-being of our prospective mothers, because this bill protects those very rights. To include an exception for the health of a mother versus her life, does nothing more than allow this procedure to continue to be used as an elective form of abortion.

For this reason, the Partial Birth Abortion Ban Act deserves the support of every Member of Congress, regardless of your stance on the issue of abortion.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H.R. 1833. In 1973, and more recently in 1992, the Supreme Court held that a woman has a constitutional right to choose whether or not to have an abortion. H.R. 1833 is a direct attack on the principles established in both Roe versus Wade and Planned Parenthood versus Casey.

H.R. 1833 is a dangerous piece of legislation which would ban a range of late-term abortion procedures that are used when a woman's health or life is threatened or when a fetus is diagnosed with severe abnormalities incompatible with life. Because H.R. 1833 does not use medical terminology, it fails to clearly identify which abortion procedures it seeks to prohibit, and as a result could prohibit physicians from using a range of abortion techniques, including those safest for the woman.

H.R. 1833 is a direct challenge to Roe versus Wade (1973). This legislation would make it a crime to perform a particular abortion method utilized primarily after the 20th week of pregnancy. This legislation represents an unprecedented and unconstitutional attempt to ban abortion and interfere with physicians' ability to provide the best medical care for their patients.

If enacted, such a law would have a devastating effect on women who learn late in their pregnancies that they are carrying have severe, often fatal, anomalies.

Woman like Coreen Castello, a loyal Republican and former abortion protester whose baby had a lethal neurological disease; Mary-Dorothy Lines, a conservative Republican who discovered her baby had severe hydrocephalus; Claudia Ades, who had to terminate her pregnancy in the sixth month because her baby was riddled with fetal anomalies due to a fatal chromosomal disorder; Vicki Wison, who discovered at 36 weeks that her baby's brain was growing outside his head; Tammy Watts, whose baby had no eyes, and intestines developing outside the body; and Vikki Stella, who discovered at 34 weeks that her baby had nine severe anomalies that would lead to certain death. These are not elective procedures. These are the women who would be hurt by H.R. 1833—women and their families who face a terrible tragedy—the loss of a wanted pregnancy.

In Roe, the Supreme Court established that after viability, abortion may be banned by States as long as an exception is provided in cases in which the woman's life or health is at risk. H.R. 1833 provides no true exceptions for cases in which a banned procedure would be necessary to preserve a women's life or health.

The Dole amendment does not cover all cases where a woman's life is in danger. This narrow life exception applies only when a woman's life is threatened by a physical disorder, illness or injury and when no other medical procedure would suffice. By limiting the life exception in this way, the bill would omit the most direct threat to a woman's life in cases involving severe fetal anomalies—the pregnancy itself.

In fact, none of the women who submitted testimony during the Senate and House hearings on this bill would have qualified for the procedure under the Dole life exception. Instead, this bill would require physicians to use an alternative life-saving procedure, even if the alternative renders the woman infertile, or increases her risk of infection, shock or bleeding. Thus, the result of this provision is that women's lives would be jeopardized not saved.

This bill would create an unwarranted intrusion into the physician-patient relationship by preventing physicians from providing necessary medical care to their patients. Furthermore, it would impose a horrendous burden on families who are already facing a crushing personal situation.

Furthermore, the term "Partial birth abortion" is not found in any medical dictionaries, textbooks or coding manuals. It is a term made up by the author of H.R. 1833 to suggest that a living baby is partially delivered and then killed. The definition in H.R. 1833 is so vague as to be uninterpretable, yet chilling. Many OB/GYNs fear that this language could be interpreted to ban all abortions where the fetus remains intact. The supporters of this bill want to intimidate doctors into refusing to do abortions. Given the bill's vagueness, few doctors will risk going to jail in order to perform this procedure. As a result, women and their families will find it even more difficult, if not impossible, to find a doctor who will perform a late-term abortion, and women's lives will be put in even more jeopardy.

Late term abortions are not common; 95.5 percent of abortions take place before 15 weeks. Only a little more than one-half of 1 percent take place at or after 20 weeks. Fewer than 600 abortions per year are done in the third trimester and all are done for reasons of life or health of the mother, severe heart disease, kidney failure, or rapidly advancing cancer, and in the case of severe fetal abnormalities incompatible with the life—no eyes,no kidneys, a heart with one chamber instead of four or large amounts of brain tissue missing or positioned outside of the skull, which itself may be missing.

An abortion performed in the late second trimester or in the third trimester of pregnancy is extremely difficult for everyone involved. However, when serious fetal anomalies are discovered late in a pregnancy, or the mother develops a life-threatening medical condition that is inconsistent with the continuation of the pregnancy, abortion—however heart-wrenching—may be medically necessary.

In such cases, the intact dilation and extraction procedure [IDE]—which would be outlawed by this bill—may provide substantial medical benefits. It is safer in several respects than the alternatives, maintaining uterine integrity, and reducing blood loss and other potential complications. In addition, the procedure permits the performance of a careful autopsy and therefore a more accurate diagnosis of the fetal anomaly. Intact delivery allows geneticists, pathologists, and perinatalogists to

determine what exactly the fetus's problems were. As a result, these families, who are extremely desirous of having more children, can receive appropriate genetic counseling and more focused prenatal care and testing in future pregnancies. Often, in these cases, the knowledge that a woman can have another child in the future is the only thing that keeps families going in their time of tragedy.

Political concerns and religious beliefs should not be permitted to take precedence over the health and safety of patients. The determination of the medical need for, and effectiveness of, particular medical procedures must be left to the medical profession, to be reflected in the standard of care.

In passing H.R. 1833, this Congress would set an undesirable precedent which goes way beyond the scope of the abortion debate. Will we someday be standing here debating the validity of a triple bypass or hip replacement procedure? Aren't these dangerous and unpleasant procedures?

The legislative process is ill-suited to evaluate complex medical procedures whose importance may vary with a particular patient's case and with the state of scientific knowledge. The mothers and families who seek late term abortions are already severely distressed. They do not want an abortion—they want a child. Tammy Watts told us that she would have done anything to save her child. She said, "If I could have given my life for my child's I would have done it in a second."

Unfortunately, however, there was nothing she could do. For Tammy, and women like her, a late term abortion is not a choice it is a necessity. We must not compound the physical and emotional trauma facing these women by denying them the safest medical procedure available.

This bill unravels the fundamental constitutional rights that American women have to receive medical treatment that they and their doctors have determined are safest and medically best for them. By seeking to ban a safe and accepted medical technique, members of Congress are intruding directly into the practice of medicine and interfering with the ability of physicians and patients to determine the best course of treatment. The creation of felony penalties and Federal tort claims for the performance of a specific medical procedure would mark a dramatic and unprecedented expansion of congressional regulation of health care.

H.R. 1833 contains no exception for adverse health consequences and no true life exception. The Dole amendment is dangerously narrow and it would force doctors to forgo the safest choice for a woman whose life is at risk.

This bill is bad medicine, bad law, and bad policy. Women facing late term abortions due to risks to their lives, health or severe fetal abnormalities incompatible with life must be able to make this decision in consultation with their families, their physicians, and their God. Women do not need medical instruction from the Government. To criminalize a physician for using a procedure which he or she deems to be safest for the mother is tantamount to legislating malpractice. I urge my colleagues to defeat this dangerous legislation.

Mrs. SMITH of Washington. Mr. Speaker, this evening the House will be voting on the partial birth abortion ban legislation. As a nation, we have created a veil of silence when it comes to the reality of abortion procedures. It is easy to be pro-choice when one can claim ignorance about the ways and means of abortion: whether it is a saline abortion, dilation and extraction, or suction, just to name a few.

Tonight, we are talking about a particular procedure commonly referred to as the "partial birth abortion." The very use of the word "birth" should be a clue as to how this procedure is performed. By inducing a "breech" birth, and I would like to note that I was a "breech" baby, a doctor is able to deliver a baby feet first and while the child's head is still in the birth canal, insert surgical scissors into the base of the baby's skull and remove the brain tissue, thus collapsing the skull and then finishing the delivery of a now dead baby. We are tantalizing a young life as it enters the world, only to collapse its skull and end its life.

I used to be pro-choice, but I am confident that I would have changed my views years earlier had I been aware of the truly horrid nature of abortion. Had I known that this procedure was being performed, my decision to choose life would have been that much simpler. As a mother and grandmother, it is mind boggling to imagine having labor induced, to be giving birth, only to have the opportunity to be a mother stopped in midstream. One mother, Brenda Pratt Shafer, is a nurse who witnessed this procedure. In her own words, she has stated that she "had often expressed strong pro-choice views to my two teenage daughters." However, upon witnessing the partial delivery and death of a baby, she realized that it is easy to be pro-choice when one does not now what abortion is all about.

Some will say that this procedure is only used on children who would otherwise have serious birth defects or other abnormalities. The testimony of the doctors who have performed this procedure say otherwise. One such doctor, Martin Haskell of Ohio, has stated that 80 percent of abortions he has performed using this procedure were elective. Furthermore, as Americans, what is our life ethic if we continue down this slippery slope of wanting only the "perfect" child? I am fearful that as we increasingly hear terms like "gender selection" and the like, we will be banishing more innocent lives to a grisly death. As a mother, I know that there are no "perfect children." Health alone does not make the perfect child. If nothing else, the parents of a child whose life may only last a few hours or days or weeks have the opportunity to bond with their child and then say "goodbye."

Banning this procedure does not mean that other forms of abortion are acceptable. However, I challenge my colleagues in the House and Americans everywhere to justify the partial birth abortion. I ask my colleagues tonight to face the facts and accept this procedure for what it is. Many of us would like to turn the other way and have found ourselves angry that we are being "forced" to look at first hand the graphic nature of this act. I can only respond by saying that man's inhumanity to man is never pleasant. It is necessary to understand what we are up against.

I ask my colleagues in the House to accept the reality of the partially birth abortion and join with me in banning this procedure. It is just plan sick and does not reflect the values upon which this Nation was founded and still embraces to be true today.

Thank you and please join with me in supporting H.R. 1833, the Partial Birth Abortion Ban Act.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in opposition to this misguided and deceptive legislation before us known as H.R. 1833, the Partial Birth Abortion Ban Act. I believe this bill is both bad politics and bad policy.

Mr. Speaker, it is critical to protect women's health and preserve the ability of these women to have future healthy pregnancies. H.R. 1833 prevents women from receiving the safest medical care in the rare cases when a wanted pregnancy has gone tragically wrong. Women need access to the safest medical procedure. Under Roe versus Wade and later reaffirmed in Planned Parenthood versus Casey the Supreme Court explicitly declared that States can ban late term abortions, unless the woman's life or health is endangered, and in fact 41 States have already done so. As passed by the Senate, and earlier by the House, H.R. 1833 is a direct constitutional challenge to both Roe and Casey because it fails to provide a health exception.

Mr. Speaker, we must not be misled by the Senate's addition of language purporting to be a "life exception." As drafted, the "life exception" language is so narrowly crafted that a doctor would still risk criminal prosecution to perform this procedure. It is important to note that the Senate, by a narrow margin, rejected a true "life and adverse health" amendment that would have protected women who face life and health threatening pregnancies.

Mr. Speaker, since the House has considered this bill, public debate on the issue has shifted. The House acted to ban a specific abortion procedure and jail doctors after only brief debate and a prohibition on all amendments. When the far-reaching effects of this legislation were more fully debated both in the Senate and in the news media the bill passed the Senate by only a thin margin. The statements of the bill's proponents both in Congress and in anti-choice movements make it clear that H.R. 1833, far from being a moderate measure, is in fact the first step in an ambitious strategy to use the new congressional anti-choice majority to overturn Roe. I ask my colleagues to stop that from happening.

Mrs. VUCANOVICH. Mr. Speaker, as many of you know, I have 15 grandchildren. Two of my grandchildren, the miracle twins as I call them, were born prematurely at 7 months. They were so tiny that they could fit in your hands but they were perfectly formed little human beings and they are now 14 years old.

It makes me shudder to think that somewhere, perhaps even today, in this country that there are other little pre-born human beings 7 months old in their mothers womb that are going to be subject to this brutal, horrible procedure known as a partial birth abortion.

VOL
142
PT
5
MR
21
—
29
1996
UMI

I am not the only one who finds this procedure horrifying. The American Medical Association's Legislative Council unanimously decided that this procedure was not "a recognized medical technique" and that "this procedure is basically repulsive". This is especially true when you realize that 80 percent of these types of abortion are done as a purely elective procedure. It is important to note that this bill does make exception for this type of abortion if it is necessary to save the life of the mother however, this is an exception that will have to be used rarely.

I think we can all agree that it is inhuman to begin the birthing process and nearly complete the delivery of the baby, only to suck the life out of the child.

I strongly urge my colleagues to support H.R. 1833, with the Senate amendments, which would ban this brutal procedure known as partial birth abortion.

Mr. ZELIFF. Mr. Speaker, I rise today in support of the conference report to H.R. 1833, the Partial Birth Abortion Ban Act, which will prohibit the use of a single medical procedure in the performance of abortions. I do believe that this particular procedure is unnecessary and a particularly cruel method of ending a late-term abortion. I believe that saying no to one procedure (with exemptions for life-threatening situations) in this case is appropriate, and does not affect the reproductive rights of women with regard to the *Roe* v. *Wade* decision, which I support. Enactment of this legislation will not in itself have significant impact on those Constitutionally-guaranteed rights.

But let me be clear, Mr. Speaker, that I will not support a strategy in this body to slowly dismantle reproductive rights under *Roe* v. *Wade* piece by piece, and I will oppose further measures that are part of such a strategy. Having an abortion is a right as guaranteed under the Constitution and upheld by the Supreme Court. To embark on a congressional strategy aimed at slowly striking down that right is not only wrong-headed, it is backhanded. The American people support the right to choose and that fact would make any effort in this House to further restrict the right to choose an effort without the support of the American public.

In sum, Mr. Speaker, while I support this legislation today I will not continue to support an effort by anti-choice forces to slowly dismantle the constitutional rights of women in the country.

Mr. STOCKMAN. Mr. Speaker, I rise in support of the motion and ask you insert this information into the RECORD.

"FETAL DEATH" OR DANGEROUS DECEPTION? THE EFFECTS OF ANESTHESIA DURING A PARTIAL-BIRTH ABORTION

The claim that anesthesia given to a pregnant woman kills her fetus/baby before a partial-birth abortion is performed has "absolutely no basis in scientific fact," according to Dr. Norig Ellison, the president of the American Society of Anesthesiologists. It is "crazy," says Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology.

Despite such authoritative statements, this medical misinformation is still being disseminated. Here are a few examples:

ABORTION ADVOCATES

KATE MICHELMAN OF THE NATIONAL ABORTION RIGHTS ACTION LEAGUE (NARAL)

One of the leading proponents of the "anesthesia myth' is Kate Michelman, president of the National Abortion Rights Action League (NARAL). For example, in an interview on "Newsmakers," KMOX-AM in St. Louis on Nov. 2, 1995, Ms. Michelman said:

> The other side grossly distorted the procedure. There is no such thing as a 'partial-birth'. That's that's a term made up by people like these anti-choice folks that you had on the radio. The fetus—I mean, it is a termination of the fetal life, there's no question about that. And the fetus, is, before the procedure begins, the anesthesia that they give the women already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.

DR. MARY CAMPBELL OF PLANNED PARENTHOOD

Prior to the November 1, 1995, House vote on the bill, Planned Parenthood circulated to lawmakers a "fact sheet" titled, "H.R. 1833, Medical Questions and Answers," which includes this statement:

"Q: When does the fetus die?

"A: The fetus dies of an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight which is 50 to 100 times the weight of the fetus. The mother gets the anesthesia for each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb."

THE PRESS

THE NEW YORK DAILY NEWS

The fetus is partially removed from the womb, its head collapsed and brain suctioned out so it will fit through the birth canal. The anesthesia given to the woman kills the fetus before the full procedure takes place. But you won't hear that from the anti-abortion extreme. It would have everybody believe the fetus is dragged alive from the womb of a woman just weeks away from birth. Not true. (Editorial, Dec. 15, 1995)

USA TODAY

"The fetus dies from an overdose of anesthesia given to its mother."

THE ST. LOUIS POST-DISPATCH

"The fetus usually dies from the anesthesia administered to the mother before the procedure begins." (News story, Nov. 3, 1995)

SYNDICATED COLUMNIST ELLEN GOODMAN

Syndicated columnist Ellen Goodman wrote in mid-November that, if one relied on statements by supporters of the bill, "You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal."

THE TRUTH

"Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia." (American Medical News, January 1, 1996)

"[A]nesthesia does not kill an infant if you don't kill the mother." (Dr. David Birnbach quoted in American Medical News, January 1, 1996)

"I am deeply concerned, moreover, that widespread publicity . . . may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus." (Dr. Norig Elisson, Nov. 17, 1995, testimony before Senate Judiciary Committee)

"Drugs administered to the mother, either local anesthesia administered in the paracervical area or sedatives/analgesics administered intramuscularly or intravenously, will provide no-to-little analgesia [relief from pain] to the fetus." (Dr. Norig Ellison, November 22, 1995, letter to Senate Judiciary Committee)

STATEMENT OF NORIG ELLISON, M.D., PRESIDENT, AMERICAN SOCIETY OF ANESTHESIOLOGISTS

Chairman CANADY, members of the Subcommittee. My name is Norig Ellison, M.D., I am the President of the American Society of Anesthesiologists [ASA], a national professional society consisting of over 34,000 anesthesiologists and other scientists engaged or specially interested in the medical practice of anesthesiology. I am also Professor and Vice-Chair of the Department of Anesthesiology at the University of Pennsylvania School of Medicine in Philadelphia and a staff anesthesiologists at the Hospital of the University of Pennsylvania.

I appear here today for one purpose, and one purpose only; to take issue with the testimony of James T. McMahon, M.D., before this Suboommittee last June. According to his written testimony, of which I have a copy, Dr. McMahon stated that anesthesia given to the mother as part of dilation and extraction abortion procedure eliminates any pain to the fetus and that a medical coma is induced in the fetus, causing a "neurological fetal demise", or—in lay terms—"brain death".

I believe this statement to be entirely inaccurate. I am deeply concerned, moreover, that the widespread publicity given to Dr. McMahon's testimony may cause pregnant women to delay necessary, even lifesaving, medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus. Annually over 50,000 pregnant women are anesthetized for such necessary procedures.

Although it is certainly true that some general analgesic medications given to the mother will reach the fetus and perhaps provide some pain relief, it is equally true that pregnant women are routinely heavily sedated during the second or third trimester for the performance of a variety of necessary surgical procedures with absolutely no adverse effect on the fetus, let alone death or "brain death". In my medical judgment, it would be necssary—in order to achieve "neurological demise" of the fetus in a "partial birth" abortion—to anesthetize the mother to such a degree as to place her own health in serious jeopardy.

As you are aware, Mr. Chairman, I gave the same testimony to a Senate committee 4 months ago. That testimony received wide circulation in anesthesiology circles and to a lesser extent in the lay press. You may be interested in the fact that since my appearance, not one single anesthesiologist or other physician has contacted me to dispute my stated conclusions. Indeed, two eminent obstetric anesthesiologists appear with me today, testifying on their own behalf and not as ASA representatives. I am pleased to note that their testimony reaches the same conclusions that I have expressed.

Thank you for your attention. I am happy to respond to your questions.

Mr. GEJDENSON. Mr. Speaker, today I rise to express my opposition to H.R. 1833, the so-

called "Partial-Birth" Abortion bill. I voted against this measure last year when it was first considered by the House and I will do so again today because I do not believe that Congress is the proper authority to decide the appropriateness of a particular medical procedure. This decision should be made by a woman, her family and her physician.

Further, in addition to being the first step in an all-out assault on a woman's right to choose, this bill is also unconstitutional since it fails to make an exception for the life and health of the mother as required by Roe v. Wade. For that reason, President Clinton has indicated that he will veto this measure.

Proponents of H.R. 1833 would like the public to believe that the women who have third trimester abortions do so because after 6 months of pregnancy, they suddenly decide that they do not want a baby. This could not be further from the truth. The women I have heard speak about their experiences—Mary-Dorothy Line, Tammy Watts, Coreen Costello—all desperately wanted their babies, but severe fetal abnormalities left no chance of the child surviving outside of the womb. Nevertheless, they have all insisted that while their decision to have this_procedure was a painful one, it was their decision, not one forced upon them by the Federal Government.

With this in mind, it is ironic that while the Republican majority in Congress has spent much of the past year denouncing Government intervention in an individual's private life, they are intent on passing this bill which is the ultimate imposition of Government on a woman's health care choices.

Mr. FAZIO of California. Mr. Speaker, I oppose this rule and the underlying bill, H.R. 1833, because it is cruel and unnecessary Government intrusion into one of the most private and painful decisions a woman could ever face in her life.

When this bill came before the House last fall, and again today, we have a rule that does not offer an opportunity to vote on a true exception to protect the life and health of the woman.

Mr. Speaker, speakers on both sides of this issue have noted accurately that this procedure is rarely used. It is rarely used because the only reason women seek abortions late in pregnancy is because they face the terrible tragedy of a life-threatening or serious health-threatening situation, or when they discover that a very-much-wanted child simply will not survive after birth. When they face this tragedy, this is one of very few, and sometimes is the only procedure that can be used, to protect their ability to become pregnant again.

Testimony from women who have had this procedure is moving and undeniable. They are women who wanted their children and are devastated when they find that something has gone terribly wrong with their own health or that of the fetus.

I submit for the record the stories of two women who both desperately wanted their children, but instead needed this procedure when tragedy struck.

Mr. Speaker, we may never know the sorrow women like these two have faced. And we certainly can't presume to give them the best medical advice or emotional support they need. I urge the defeat of this rule and this bill.

TESTIMONY OF COREEN COSTELLO

My name is Coreen Costello. I live in Agoura, California, with my husband Jim and our son Chad and daughter Carlyn. Jim is a chiropractor and I live being a full-time, stay-at-home wife and mom. I am a registered Republican, and very conservative. I don't believe in abortion. Because of my deeply held Christian beliefs, I knew that I would never have an abortion. In fact, I remember a few years ago when I was nursing my son Chad, I watched a speech Congressman Hyde gave on C-SPAN against abortion. It was so eloquent, it moved me to tears. I even participated in the "Walk for Life" sponsored by our local Christian radio station.

Even now, I amazed at the fact that I am here. I never would have believed that I would be testifying in Congress, supporting an abortion procedure.

In March of last year, we were joyfully expecting the arrival of our third child. Then on March 24, almost a year ago to the day, when I was seven months pregnant, I began having premature contractions and my husband and I rushed to the hospital.

During an ultrasound, the physician became very silent. Soon more physicians came in. Jim told me everything would be fine but I knew there was something very wrong. I went into the bathroom and sobbed. I begged God to let my baby be okay. I prayed like I've never prayed before in my life.

My husband reassured me that we could deal with whatever was wrong. We had talked abut raising a child with disabilities and there was never a question that we would take whatever God gave us.

My doctor arrived at two in the morning. He held my hand, and informed me that they did not expect our baby to live. She was unable to absorb the amniotic fluid and it was puddling into my uterus. The poor precious child had a lethal neurological disorder and had been unable to move for almost two months. The movements I had been feeling over the last few months had been nothing more than bubbles and fluid. Her chest cavity was unable to rise and fall to stretch her lungs to prepare them for air. It was as if she had no lungs at all. Her vital organs were atrophying. Our darling little girl was going to die.

A perinatologist recommended terminating the pregnancy. For my husband and me, this was not an option. We chose to wait to go into labor naturally. We knew that it would not be long. Due to the excess amniotic fluid, a condition called polyhydramnios, premature labor was imminent. I wanted her to come on God's time—I didn't want to interfere.

It was so difficult to go home and be pregnant and go on with life, knowing my baby was dying. I wanted to stay in bed. My husband looked at me and said, "Coreen, this baby is still with us. Let's be proud of her. Let's make these last days of her life as special as possible." I got out of bed and put on my best maternity clothes, and went out with my daughter Carlyn to get ready for her fifth birthday party. I could feel my baby's life inside of me, and somehow I still glowed.

At this time we chose her name—Katherine Grace. "Katherine" meaning pure, and "Grace" representing God's mercy.

We went to many more experts over the next two weeks. It was discovered that Katherine's body was rigid and she was wedged in a transverse position. Most babies are in the fetal position, but Katherine's position was exactly the opposite. It was as if she were doing a swan dive—the soles of her feet were touching the back of her head. Her body was in a U-shape. Due to swelling, her head was already larger than that of a full-term baby. I did exercises every day, trying to change Katherine's position so that she could be delivered naturally. The amniotic fluid continued to puddle into my uterus.

No one expected her to survive labor, but if she had survived a natural birth or a C-section, we knew she would have suffocated immediately after the umbilical cord was cut. She had no lungs. She couldn't take even one breath. More and more ultrasounds made that terrible truth clearer and clearer, that if she were born, her passing would not be peaceful or painless. But we kept praying for a miracle, hoping that she would be able to pass away with our arms wrapped tightly around her, hearing us telling her how much we loved her.

We went back to the hospital again and again, thinking I was in labor. We were completely prepared to bring her into the world, with the hope of having her with us even just for a moment. This was my mission. But it was not to be. We decided to baptize her in utero, while we knew she was still alive.

By this time, I'd seen my own obstetrician, two resident obstetricians at Cedars-Sinai, and four_perinatologies. Each of these doctors had consulted with other experts. The doctors all agreed that our safest option was an intact D&E, but Jim and I couldn't face the horrible thought of having an abortion.

Finally, after two and a half weeks, I went to my own doctor again for another ultrasound. The polyhydramnios had grown even worse and my husband and her whole family were afraid for my health. I could not sit or lie down for more than ten minutes because the pressure on my lungs was so great. But I wasn't worried about myself—I only thought of Katherine.

When Dr. Crane, performed the ultrasound, Katherine's heart was barely beating. My doctor turned to my husband and said, "I can't deliver this baby. I could try, but I'm convinced we would end up doing a caesarean and under the circumstances, that is just too dangerous." He said, "I have to send you to Dr. McMahon."

I gasped out loud. Dr. Crane said to Jim, "This is about Coreen now," I began to cry. Again I said, "What about a caesarean?" Dr. Crane said, "I can't justify that risk to you. There is a safer way." When I saw the anguish on my doctor's face, I knew that we had no other choice. Dr. Crane supported us so much in our decision to have Katherine naturally, and he knew that we would have to live with our decision for the rest of our lives. When I saw the pain on his face, I knew I had to go. This wasn't a choice anymore. It wasn't up to us. There was no reason to risk leaving my children motherless if there was no hope of saving Katherine.

We drove to Los Angeles. I cried the whole way, patting my tummy and promising Katherine we would never let anyone hurt or devalue her. On the way, Jim was adamant that if we weren't comfortable, we would turn around and leave no matter what. There was no way he would let his little girl's life end in a way that didn't give her respect and dignity. I'd never felt so scared and sick to my stomach in my life. I kept asking God, "Why are you making this so difficult for us?"

We expected a cold gray building . . . we expected an abortion mill. We expected people who cared about me, but not about Katherine. When we arrived, the place was beautiful and peaceful. But when we walked in, I

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was still very defensive. I didn't trust these people.

The staff greeted us with such warmth and kindness. I was immediately taken in to see Gale McMahon, the clinic's head nurse. We started to talk, and Gale asked if we had named our baby. "Her name is Katherine Grace," I said and began to cry. When I looked up, she too had tears in her eyes. At that moment a little bit of my wall broke down.

Gale explained the procedure in detail. My husband asked a lot of questions. I was numb—I just kept thinking about Katherine. We then went in to see Dr. McMahon. As he met with us, he performed another ultrasound. I can't tell you the compassion he had for us. He knew how much discomfort I was in from the polyhydramnios and the size of my uterus, and how much we were both suffering at losing our little girl. He was so gentle and kind.

Dr. McMahon immediately asked me the same question Gale had: "Have you named her?" He never referred to her as fetal tissue, or a fetus, or even just a baby. She was always Katherine.

He told us that my condition meant that we had to do this procedure right away. My uterus was far too full of fluid to wait. We asked if there was any way that Katherine could be born alive. He looked carefully at the ultrasound, measured her head and explained sadly how large it was, and said that there was no way it could fit through my cervix without draining some of the fluid. He also explained that due to the difficulty of the position she was in, they would have to go inside my womb and for that, I would be put under heavy anesthesia. With her heartbeat as irregular and slow as it was already, he did not think she would survive the anesthesia.

It was so hard to accept, but we began to understand that it was what we had to do. After Dr. McMahon explained the procedure to us again, I felt comforted. He and his staff understood the pain and anguish we were feeling. I realized I was in the right place. This was the safest way for me to deliver. This left open the possibility of more children. It greatly lowered the health risk to me. Most important, it offered a peaceful, painless passing for Katherine Grace.

For many women, this procedure takes longer, but I went into labor very quickly after Dr. McMahon put in the first set of dilators. When I came back the next morning, my cervix was already dilated sufficiently, and it was time to begin the surgery. I was put under anesthesia.

When I awoke a few hours later, Katherine was brought in to us. Gale gave her to me and said, "She's beautiful." Gale helped me to bond with her. She really was beautiful. She was not missing part of her brain. She had not been stabbed in the head with scissors. She looked peaceful. My husband and I held her tight and sobbed.

One of the things I noticed when I was holding Katherine was that the socks we bought for her were too big. Someone had taken tiny, soft pink ribbons, and tied them gently at the ankles so that her socks would fit. I can't tell you the peace that brought me. I knew they were taking care of her just as we would. We stayed with her for hours, praying and singing lullabies. Giving her back was the hardest moment of my life.

Dr. McMahon and his staff helped us get through the dark days to come. They counseled us and gave us information on help for dealing with our grief—not just for Jim and me, but for our children, so they could get through the grief of losing their sister, and for our parents, so they could cope with their grief at losing their granddaughter.

When I went back for my checkup, Dr. McMahon was so pleased that I was recovering well physically. But he was worried about how I was doing emotionally, and we talked a lot about how I felt. My arms were physically aching, and he told me I wasn't alone, that so many women feel that way. Your arms ache to hold your baby. And then he told me something I've never forgotten. He said, "People don't want to know that this happens. They don't want to know that there are babies born with their brains outside their skulls, that there are babies for whom life is not gift but only cruelty and pain and death. They don't want to know what families like yours have to suffer." I didn't realize just how true that was until I came here.

I know how many of you feel about abortion, because that's how I felt. I still am against abortion. Before this happened to me, I had a friend who had something terrible like this happen in a pregnancy she'd wanted very much. I tried to be empathetic and I never said anything to her that was not kind, but in my heart there was a part of me that judged here. I knew that I would never make that decision. I don't judge anymore.

When I lost Katherine. I was devastated. For some reason God chose not to give her the gift of life. But losing her taught me how precious that gift of life is. I have my health. I have the ability to walk, to run, to enjoy life with my husband and my wonderful children. That is the gift that Dr. McMahon's procedure gave me and I am grateful for that every day of my life.

Because of the safety of this procedure, I am now pregnant again and will have another baby in June. Thanks to the grace of God and the skill and compassion of Dr. McMahon, I can have another healthy baby. If you outlaw this surgical procedure, other women like me will be denied that gift, that joy. They may lose their ability to have more children; they may lose their health; they may lose their lives. The child that I carry today is by no means a replacement for Katherine. There will always be a hole in our hearts where she should be, but this baby is a sign that life goes on and that God is good.

Someday, we'll tell our little boy or girl this story. We'll talk about Katherine, and how she changed our lives—and how, in a way, she went to Washington. We'll talk about how, even though her life ended before it could really begin, the way she left this world allowed us to have this new miracle. We pray that this story has a happy ending. We pray to be able to tell Chad, Carlyn and their little brother or sister that when Congress heard, really heard, the truth about the surgery that helped their Mom, the members of Congress realized that they had no business doing what they were trying to do. They knew that they could never understand. We didn't understand before. Now we do. I pray that you will understand as well and put a stop to this terrible bill. When you vote on this bill again, please remember me. remember my face, remember my name, remember my family and the child I am carrying.

TESTIMONY OF MARY-DOROTHY LINE

My name is Mary-Dorothy Line. I am here today to oppose H.R. 1833. This legislation would outlaw a compassionate medical procedure that helped me and my family through the most difficult situation in our lives. I have come to Washington to oppose this legislation to ensure that it is available to other women and families in the future.

I am a registered Republican and a practicing Catholic. My husband, Bill, is a consulting engineer. We live in Los Angeles, California. Bill and I got married while in college. We had been married almost 14 years before we decided to start our family. Since having children was not a decision we took lightly, we waited until we were financially, emotionally, and spiritually prepared. In April of 1995 when we found out I was pregnant, we were thrilled. We waited to tell my father and our other family members until Father's Day—an extra special Father's Day present.

The first four months proceeded normally. Dr. Pamela Lui, an OB/GYN at Northwestern University Hospital in Chicago was my doctor and I followed her instructions exactly. I read everything I could about pregnancy and parenting. We debated having an amniocentesis, but Dr. Lui said that it was not necessary due to my age (under 35) and no family history of genetic disorders. But she did recommend an alpha-fetoprotein (AFP) test which is routinely performed in most pregnancies to screen for neurological anomalies such as spina bifida. The nurse who drew my blood for the AFP said she would call me with the results in about two weeks, but if there was a problem, the doctor would call.

When Dr. Lui called I was not thinking and started chatting away to her until I remembered what the nurse said; my heart started pounding. Dr. Lui told me that the AFP showed an elevated level of something which might indicate that there was a problem with our baby. She advised us to have an amniocentesis even though the chances were still great that everything was fine.

My husband and I talked about what we would do if there was something "abnormal." We quickly decided that we are strong people and very much in love and, that while having a mentally or physically disabled child would be hard that it would not be too hard. But we also decided that we needed to know what we were dealing with, so I made an appointment with a perinatalogist at Northwestern Hospital to have an amniocentesis. During the ultrasound for the amniocentesis, the doctor noticed that the baby's head was too large and that there was a lot of fluid in his head. He told me to have another ultrasound in two weeks to check the progression.

I had no idea what all this meant so I rushed to Dr. Lui's office and asked her to explain. She drew some pictures and explained that the condition was called hydrocephalus; that in every person's head there is fluid to protect and cushion the brain, but if there is too much fluid, the brain cannot develop. I called my husband at work and had him taken out of a meeting to ask him to meet me right away. I explained everything to him. He said that everything would work out and not to worry. We actually believed everything would be OK in two weeks.

I told my father that we might have a problem, but he also said that everything would be fine since there are no genetic problems in either Bill's family or mine. When we told my mother-in-law, she said she would pray for us. We are all Catholic and go to church every week. When we have problems and worries, we turn to prayer. So, we prayed, as did our parents and grandparents.

To complicate matters even more, while these problems were occurring Bill and I were in the process of moving from Chicago to Los Angeles for my husband's job. As we were driving across the country, we had a week to talk and think and pray.

We arrived at our new apartment in Los Angeles on Sunday afternoon to a letter

from Northwestern Hospital in Chicago saying that the amniocentesis results were perfect. We were so relieved. I knew that there was still a chance that the excess fluid on the brain was a problem, but we had been praying so hard and wanted this baby so much that we truly believed that everything was going to be fine. Since it was Sunday, we went to church and thanked God. We went to bed happy that night; our worries were over.

Monday was my husband's first day of work at his new job. I had an appointment scheduled with a perinatalogist from Santa Monica Hospital and Cedar Sinai Hospital for another ultrasound. Bill insisted on coming to the ultrasound, even though I told him that he did not need to be there—after all, it was his first day of work. But I did think it would be exciting for him to see our baby on the ultrasound. I was 21 weeks pregnant.

The doctor, Dr. Connie Agnew, asked why we were there. We explained what the doctors in Chicago had told us and she said she would make her own diagnosis. After about a minute, she told us that she did not have good news; it was a very advanced textbook case of hydrocephaly. My husband almost passed out. We asked what we could do and she said there was nothing we could do. A hydrocephalic baby that advanced has no hope. The baby would most likely be stillborn. She recommended that we terminate the pregnancy.

Our ob/gyn in Los Angeles, Dr. William Frumovitz, recommended a second opinion. Dr. Frumovitz sent us to a wonderful, compassionate doctor at Cedar Sinai Hospital, Dr. Dru Carlson. She stayed late to see us and confirmed our worst fears. She asked us to bear with her as she looked at our baby to see if there were any other problems besides the hydrocephaly. We sat there and watched as she examined our baby, the baby we knew we would never have. She worked very hard for 45 minutes and then told us that in addition to the brain fluid problem, the baby's stomach had not developed and he could not swallow. We asked about in-utero operations and drains to remove the fluid, but Dr. Carlson said there was absolutely nothing we could do. The hydrocephaly was too advanced. Our precious little baby was destined to be taken from us. Dr. Carlson also recommended that we terminate the pregnancy.

My poor husband called our parents and grandparents and told them the awful news. My father started crying; we were all crying. This couldn't be happening to us. But it did happen to us.

Doctors Frumovitz, Agnew and Carlson referred us to Dr. James McMahon. They all said that the procedure that he performs, the intact dilation and evacuation (Intact D&E), was the best and safest procedure for me to have. The multiple days of dilation would not be traumatic to my cervix. This was important to preserve my body and protect my future fertility. They knew that that was very important to my husband and I since we really wanted to have children in the future. Dr. Carlson said that with this procedure they would be able to perform an autopsy to determine if we were likely to face similar problems in future pregnancies. With no hope for this baby, our doctors were recommending the best option, with hope for the future.

Dr. McMahon and his staff were the kindest people you could ever meet. They explained the intact D&E procedure to us. Dr. McMahon used ultrasound to examine the baby, in case the three other specialists were wrong. They were not.

The dilation took three days and two trips a day to his office. These were the worst days of our lives. We had lost our son before we even had him. After the dilation was complete, I was put under heavy anesthesia. A simple needle was used to remove the fluid from the baby's head, the same fluid that killed our son. This enabled his head to fit through my cervix.

My husband and I are disturbed by the way this compassionate medical procedure has been portrayed by members of Congress. We thoroughly investigated this procedure before we had it. Every specialist told us that it is a safe and compassionate procedure. We were very informed and educated before making this decision. What they were saying in Congress bothered us so much that I went back to Dr. McMahon's office to try to figure out why this procedure was being misrepresented. Our anger at how this procedure was portrayed is why I am here today.

This is the hardest thing I have ever been through. I pray that this will never happen to anyone ever again, but it will and those of us unfortunate enough to have to live through this nightmare need a procedure which will give us hope for the future. With this procedure families can see, hold and even bury their babies. In addition, the baby can be visually or clinically studied by specialists to determine if there are genetic abnormalities that can be avoided in future pregnancies. I am lucky that I was able to have this procedure. Because the trauma to my body was minimized by this procedure, I was able to become pregnant again, only four months later. We are expecting another baby in September. Dr. McMahon and the intact D&E procedure made this possible for us.

One of the first things Dr. McMahon told us was that this job was not done until he and his staff receive a baby picture of our next child. At the time, I couldn't imagine becoming pregnant ever again. A month later, it was all I thought about. I desperately wanted to be pregnant and finally start our family. This procedure gave us hope. Please don't take that away from the families who will need it after us. You must leave medical decisions to the families and the medical experts who have to live with the consequences. It is not the place of government to interfere in these very private, personal decisions.

Mr. STUPAK. Mr. Speaker, I rise today to express my support of the Senate amendments to H.R. 1833, legislation to ban partial-birth abortions.

I would like to share with my colleagues some highly cogent articles on the highly emotional issue of partial-birth abortions. I believe Dennis Byrne of the Chicago Sun-Times; George Will, writing for Newsweek magazine; and, John Leo, in U.S. News and World Report, convey some very important views that we should take into consideration as we debate and deliberate this legislation.

[From the Chicago Sun-Times, Dec. 12, 1995]

TRUTH IN REPORTING? GIMME A BREAK

(By Dennis Byrne)

Hands-down winner of the sleazy, dishonest journalism award is NBC's "Dateline" for its "reporting" on the partial-birth abortion ban. Not that NBC didn't have some stiff competition from other pro-choice media acolytes who blindly parrot the line that partial-birth abortions don't hurt the kid and are used only to save mama.

But NBC outdid all of them with a segment broadcast before the Senate voted Thursday to approve the ban on grisly partial-birth abortions. In it, NBC gave the white, middle-aged male senator who backed the bill (apparently no self-respecting woman of child-bearing age could be found to support the bill) a fraction of the time and none of the sympathetic treatment accorded the other side: a tearful woman who told Congress she had to have the procedure because of a defect in her fetus. The grieving, sensitive couple was even interviewed at graveside.

NBC neglected to make one critical fact clear, though: The couple's story had absolutely nothing to do with the ban. The whole story was irrelevant because the law would apply only to such abortions on live fetuses. This couple's was dead.

Continuing the parade of horribles: ABC's Sam Donaldson (M.D., Ph.D., etc.) explained Sunday that partial-birth abortions are used only for the most serious of health reasons. Which ignores what one doctor who performs them, Martin Haskell, told the American Medical Association's newspaper, American Medical News: "In my particular case, probably 20 percent are for genetic reasons. And the other 80 percent are purely elective."

The story also speared some other pro-choice myths, such as the idea that the fetus is dead before the abortion begins. "No, it's not," replied Haskell, estimating that in his case, about two-thirds of the fetuses are alive at the start of the procedure. Naturally, pro-choice extremists attacked the publication for supposedly misrepresenting Haskell, but the paper stood by the reporting, and produced a transcript from a tape recording.

Then comes AP reporter Diane Duston, who, in a story Friday about President Clinton promising to veto the bill, wrote without attribution: "Late second- or third-trimester abortions are performed to remove a severely deformed or already dead fetus that could cause the mother to die, become infertile or otherwise desperately ill." She ignores Haskell, who himself testified that "agoraphobia" (fear of open places) was among the reasons some women had sought a second-trimester abortion. Another physician testified that three of her own patients had gone to Haskell for abortions well beyond 4½ months into pregnancy—and that none were ill and all had normal fetuses. Another doctor who performed partial-birth abortions, the late James McMahon, acknowledged he performed at least 39 partial-birth abortions for "depression" and nine for cleft palate.

Then there is Kate ("I-make-it-up-as-I go-along") Michelman, president of the National Abortion and Reproductive Rights Action League, who said that anesthesia kills the fetus before the abortion. That riled the American Society of Anesthesiologists, which said such claims have "absolutely no basis in scientific fact." It doesn't kill the fetus, and may not even relieve its pain. Such false claims, the group added, endanger pregnant women and their unborn children because they might discourage medically necessary surgical procedures.

Finally, the Chicago Tribune weighed in Nov. 8 with a one-sided report of a National Organization for Women press conference opposing the ban. It was a moving story of a Naperville woman who had this procedure to spare her deformed child the trouble of living. But neither the Tribune nor NBC bothered telling the equally moving and eloquent story of an Oak Park woman, a Democrat, who also testified before Congress about how she decided not to have the procedure. More on her later.

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[From the Chicago Sun-Times, Jan. 4 1996]

NEVER LET FACTS IMPEDE IDEOLOGY

(By Dennis Byrne)

Somehow the wacky idea has gotten out that giving pregnant women anesthesia is bad.

The American Society of Anesthesiologists worries that women will delay necessary or even lifesaving medical procedures because they fear anesthesia will harm their fetuses. Dr. David Birnbach, of the Society for Obstetric Anesthesia and Perinatology, says cases of maternal concerns about dangers to the fetus have recently surfaced, the American Medical Association's American Medical News reported. Rep. Tom Coburn (R-Okla.), who still delivers babies, said a patient even refused epidural anesthesia during childbirth.

Birnbach and other experts uniformly insist that the fear is unfounded. Dr. Norig Ellison, president of the American Society of Anesthesiologists, told Congress that more than 50,000 pergant women are safely anesthetized annually without ill effects to mother or fetus.

Yet some folks are saying otherwise, including Kate Michelman, president of the National Abortion and Reproductive Rights Action League. Their insistence that anesthesia administered during partial-birth abortions prevents fetal pain and causes fetal death is having an unfortunate consequence: Some women are becoming afraid that anesthesia will harm babies they're planning to have.

Ellison's group has no position on the controversial ban on partially-birth abortions, in which a live, late-term fetus is partially pulled feet first, from the womb, stabbed in the back of the neck and its brains sucked out. But they do feel strongly about Michelman's misinformation. Birnbach said assertions that anesthesia causes fetal death in such abortions are shocking and crazy.

Ellison branded as "entirely inaccurate" a claim by an abortionist that the anesthesia eliminates fetal pain and causes brain death before the abortion. The fact is, he said, only a small portion of general anesthesia crosses the placenta to reach the fetus, depending on the amount, and none administered regionally does. It is not "absolutely known," he added, that the anesthesia even reduces the fetus' pain. "I have not spoken with one anesthesiologist who agrees with [the abortionist's] conclusion, and in my judgment, it is contrary to scientific fact. It simply must not be allowed to stand," he said.

As their evidence, pro-choicers cite a letter from an Albuquerque physician (not an anesthesiologist), Lewis Koplik, who opposes the ban. I read the letter to Ellison, who branded its conclusions "wrong" and "untrue." A dose of anesthesia massive enough to kill the fetus, as cited in the letter, places the mother's own health "in serious jeopardy," Ellison said, and should require the presence of an anesthesiologist (which is not standard practice).

Despite all this, Michelman's misinformation continues to be repeated as the unqualified truth by, for example, Sen. Carol Moseley-Braun (D-Chicago), syndicated columnist Ellen Goodman, a USA Today editorial, KMOX-AM in St. Louis and Planned Parenthood, said the National Right to Life Committee. Michelman repeated the assertion in a letter to the editor here on Sunday, attacking my support of the ban. (She also claimed I said that the anesthesia "does not affect the fetus"—which I didn't. But accuracy apparently isn't Michelman's strong suit.)

Ellison confesses to frustration that Michelman's misinformation gets circulated without challenge, while his scientific evidence is barely mentioned. Welcome, Doc, to the abortion wars, as referred by the ever-objective media. Never let facts stand in the way of a favored ideological agenda. Not even at the expense of women's health.

[From Newsweek, Dec. 11, 1995]

THE LAST WORD—FANATICS FOR CHOICE

PARTIAL-BIRTH ABORTIONS, SONOGRAM PHOTOS AND THE IDEA THAT "THE FETUS MEANS NOTHING"

(By George F. Will)

Americans are beginning to recoil against the fanaticism that has helped to produce this fact: more than a quarter of all American pregnancies are ended by abortions. Abundant media attention has been given to the extremism that has tainted the right-to-life movement. Now events are exposing the extraordinary moral evasions and callousness characteristic of fanaticism, prevalent in the abortion-rights lobby.

Begin with "partial-birth abortions." Pro-abortion extremists object to that name, preferring "intact dilation and evacuation," for the same reason the pro-abortion movement prefers to be called "pro-choice." What is "intact" is a baby. During the debate that led to House passage of a ban on partial-birth abortions, the right-to-life movement was criticized for the sensationalism of its print advertisements featuring a Dayton nurse's description of such an abortion:

"The mother was six months pregnant. The baby's heartbeat was clearly visible on the ultrasound screen. The doctor went in with forceps and grabbed the baby's legs and pulled them down into the birth canal. Then he delivered the baby's body and the arms—everything but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startled reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out."

To object to this as a sensationalism is to say that discomforting truths should be suppressed. But increasingly the language of pro-abortion people betrays a flinching from facts. In a woman's story about her chemical abortion, published last year in Mother Jones magazine, she quotes her doctor as saying. "By Sunday you won't see on the monitor what we call the heartbeat." "What we call"? In partial-birth abortions the birth is kept (just barely) partial to preserve the legal fiction that a baby (what some pro-abortion people call "fetal material") is not being killed. An abortionist has told The New York Times that some mothers find such abortions comforting because after the killing, the small body can be "dressed and held" so the (if pro-abortionists will pardon the expression) mother can "say goodbye." The New York Times reports, "Most of the doctors interviewed said they saw no moral difference between dismembering the fetus within the uterus and partially delivering it, intact, before killing it." Yes.

Opponents of a ban on partial-birth abortions say almost all such abortions are medically necessary. However, an abortionist at the Dayton clinic is quoted as saying 80 percent are elective. Opponents of a ban on such abortions assert that the baby is killed before the procedure, by the anesthesia given to the mother. (The baby "undergoes demise," in the mincing words of Kate Michelman of the National Abortion and Reproductive Rights Action League. Does Michelman say herbicides cause the crab grass in her lawn to "undergo demise"? Such Orwellian language is a sure sign of squeamishness.) However, the president of the American Society of Anesthesiologists says this "misinformation" has "absolutely no basis in scientific fact" and might endanger pregnant women's health by deterring them from receiving treatment that is safe.

Opponents of a ban say there are only about 600 such procedures a year. Let us suppose, as not everyone does, the number 600 is accurate concerning the more than 13,000 abortions performed after 21 weeks of gestation. Still, 600 is a lot. Think of two crashes of jumbo airliners. Opponents of the ban darkly warn that it would be the first step toward repeal of all abortion rights. Columnist John Leo of U.S. News & World Report says that is akin to the gun lobby's argument that a ban on assault weapons must lead to repeal of the Second Amendment.

In a prophecy born of hope, many pundits have been predicting that the right-to-life "extremists" would drastically divide the Republican Party. But 73 House Democrats voted to ban partial-birth abortions; only 15 Republicans opposed the ban. If the ban survives the Senate, President Clinton will probably veto it. The convention that nominated him refused to allow the Democratic governor of Pennsylvania, Bob Casey, who is pro-life, to speak. Pro-choice speakers addressed the 1992 Republican Convention. The two presidential candidates who hope that a pro-choice stance would resonate among Republicans—Gov. Pete Wilson, Sen. Arlen Specter—have become the first two candidates to fold their tents.

In October in The New Republic, Naomi Wolf, a feminist and pro-choice writer, argued that by resorting to abortion rhetoric that recognizes neither life nor death, pro-choice people "risk becoming precisely what our critics charge us with being: callous, selfish and casually destructive men and women who share a cheapened view of human life." Other consequences of a "lexicon of dehumanization" about the unborn are "hardness of heart, lying and political failure." Wolf said that the "fetus means nothing" stance of the pro-choice movement is refuted by common current practices of parents-to-be who have framed sonogram photos and fetal heartbeat stethoscopes in their homes. Young upscale adults of child-bearing age are a solidly pro-choice demographic group. But they enjoy watching their unborn babies on sonograms, responding to outside stimuli, and they read "The Well Baby Book," which says: "Increasing knowledge is increasing the awe and respect we have for the unborn baby and is causing us to regard the unborn baby as a real person long before birth . . ."

Wolf argued for keeping abortion legal but treating it as a matter of moral gravity because "grief and respect are the proper tones for all discussions about choosing to endanger or destroy a manifestation of life." This temperate judgment drew from Jane Johnson, interim president of Planned Parenthood, a denunciation of the "view that there are good and bad reasons for abortion." So, who now are the fanatics?

[From U.S. News & World Report, Nov. 1995]

HARDER HEARTS ON ABORTION

(By John Leo)

Partial birth abortions are unsettling even to read about—the only version of abortion in which fetuses, either viable, or near viability, are partly visible outside the body while alive and inches away from birth before being dispatched.

They are typically performed at 20 to 24 weeks, but sometimes later. The fetus is manipulated so that its feet and sometimes part of its body are outside the mother. The head is left in the uterus. Then the skull is pierced and the brain is suctioned out, causing skull collapse and death.

Why is the head of the fetus left inside the uterus when the removal of the brain takes place? "Avoiding trauma to the cervix" is usually cited as the reason, but the bottom line is really legal. Stopping the head just short of birth is a legal fig leaf for a procedure that doesn't look like abortion at all. It looks like infanticide.

Brenda Shafer, a registered nurse who supports abortion rights, says she witnessed three of these operations during a brief assignment to assist Dr. Martin Haskell at an Ohio abortion clinic in 1993. She says the three fetuses, two normal and one with Down's syndrome, all three 25 or more weeks along were alive when Dr. Haskell inserted scissors into their skulls. "I still have nightmares about what I saw," she said in a letter to an antiabortion Congressman in urging passage of the Partial Birth Abortion Ban Act.

Abortion-rights supporters have greeted the partial birth issue as the beginning of a new crusade to undermine *Roe* v. *Wade*. For some abortion opponents, it obviously is. But it also is true that a great many Americans. on both sides and in the middle are deeply troubled by the brutality and questionable morality of this particular procedure. It deserves to be judged on its own.

COSTLY VOTE

In the House vote, a dozen pro-choice Congressmen, including Ted Kennedy's son Patrick joined the lopsided majority and voted to ban partial birth procedures. They did this knowing they face some aggressive retribution from the abortion-rights lobby without gaining any support from the anti-abortion side. "It was a costly vote." said Rep. Jim Moran of Virginia, an abortion-rights backer. "I'm not going to vote in such a way that I have to put my conscience on the shelf."

It should be noted that the abortion lobby is having trouble getting its facts straight. After Brenda Shafer made her statement. Dr. Haskell said he didn't recall any such person working at his clinic. An employment card was produced. Then Rep. Patricia Schroeder and others extracted a nondenial denial from Dr. Haskell's head nurse, saying that Brenda Shafer "would not" have been present at the three abortions she said she saw.

Kate Michelman and other abortion-rights lobbyists insisted that partial birth abortion is "confined to extraordinary medical circumstances" and that anesthesia "causes fetal demise . . . prior to the procedure." Not true. A 1993 interview with Dr. Haskell in an American Medical Association newspaper quotes him as saying that 80 percent of these procedures are elective and two thirds occur while the fetus is alive. Dr. Haskell wrote a letter strongly implying he was misquoted. But an audiotape was produced showing that he wasn't.

And Michelman said. "It's not only a myth, it's a lie" that partial birth abortions are used to eliminate fetuses for minor defects such as cleft palates. But abortion practitioner Dr. James McMahon already had told Congress he had personally performed nine of these procedures solely because of cleft palates. Compared with the abortion-rights lobby, the O.J. defense looks obsessively ethical and tightly focused on verifiable truth.

In an article last month in the New Republic, feminist Naomi Wolf, an abortion-rights advocate, wrote that "with the prochoice rhetoric we use now, we incur three destructive consequences . . . hardness of heart, lying and political failure." She wrote: "By refusing to look at abortion within a moral framework, we lose the millions of Americans who want to support abortion as a legal right but still need to condemn it as a moral iniquity."

The partial birth issue is a good time for abortion-rights supporters to reclaim the moral framework that Wolf says they have relinquished. This repellent procedure goes way too far. No other Western nation, to my knowledge, allows it. It was unanimously condemned by the American Medical Association's council on legislation. (The full association later decided to-duck the issue and take no position.)

Those who defend it reflexively because it may lead to other legislation are in the exact position of gun lobbyists who shoot down bans on assault weapons because those bans may one day lead to a roundup of everybody's handguns. they refuse, on tactical grounds, to confront the moral issue involved. More of the abstract hardness that Wolf writes about.

Killing a five-month or six-month fetus that's halfway down the birth canal raises a moral issue way beyond that of ordinary abortion. It's perfectly possible to support a woman's right to abort and still think that the anything goes ethic of this horrific procedure has no place in a culture with any reverence left for life.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered.

The question in on the motion offered by the gentleman from Florida [Mr. CANADY].

The question was taken; and the Speaker pro tempore announced that the ayes appear to have it.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 286, nays 129, answered "present" 1, not voting 15, as follows:

[Roll No 94]

YEAS—286

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Fox
Franks (NJ)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kennedy (RI)
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martinez
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Thornton
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—129

Abercrombie
Ackerman
Andrews
Baldacci
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah

VOL
142
PT
5
MR
21
—
29
1996
UMI

Fazio
Fields (LA)
Frank (MA)
Franks (CT)
Frelinghuysen
Furse
Gejdenson
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Johnston
Kelly
Kennedy (MA)
Kennelly
Kolbe
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Meyers
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Rangel
Reed
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Studds
Thompson
Thurman
Torkildsen
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates
Zimmer

ANSWERED "PRESENT"—1

Richardson

NOT VOTING—15

Bryant (TX)
Collins (IL)
Dornan
Filner
Ford
Fowler
Gibbons
Harman
Roukema
Smith (WA)
Stokes
Thomas
Torricelli
Ward
Weldon (PA)

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The Clerk announced the following pairs:

On this note:

Mr. Thomas of California for, with Ms. Harman against.

Mr. Fowler of Florida for, with Mr. Stokes against.

Mr. MYERS of Indiana changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WARD. Mr. Speaker, on March 27, 1996, I was unavoidably detained and missed one rollcall vote. I would like the record to show that had I been present for rollcall vote No. 94, on H.R. 1833, the so-called partial-birth abortion ban, I would have voted "no."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROGERS). Pursuant to the provisions of clause 5 of rule I, the chair will now put the question on each motion to suspend the rules on which further proceeding were postponed on Tuesday, March 26, 1996, in the order in which that motion was entertained.

Votes will be taken in the following order: House Resolution 379, by the yeas and nays; and House Concurrent Resolution 102, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote.

ANNIVERSARY OF MASSACRE OF KURDS BY IRAQI GOVERNMENT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, House Resolution 379.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, House Resolution 379, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 22, as follows:

[Roll No. 95]

YEAS—409

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—22

Borski
Bryant (TX)
Clinger
Collins (IL)
Conyers
DeLay
Dornan
Filner
Ford
Fowler
Gibbons
Harman
McDermott
Pickett
Smith (WA)
Stark
Stokes
Studds
Thomas
Torricelli
Waters
Weldon (PA)

□ 2027

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROGERS). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional motion to suspend the rules on which the Chair had postponed further proceedings.

EMANCIPATION OF IRANIAN BAHAI COMMUNITY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 102.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 102, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 23, as follows:

[Roll No 96]

YEAS—408

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flanagan
Foglietta
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—23

Berman
Borski
Brewster
Bryant (TX)
Clinger
Collins (IL)
DeLay
Dicks
Dornan
Filner
Flake
Ford
Fowler
Gibbons
Gunderson
Harman
McDermott
Smith (WA)
Stokes
Studds
Thomas
Torricelli
Weldon (PA)

□ 2036

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3136, CONTRACT WITH AMERICA ADVANCEMENT ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–500) on the resolution (H. Res. 391) providing for consideration of the bill (H.R. 3136) to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3103, HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–501) on the resolution (H. Res. 392) providing for consideration of the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2854, FEDERAL AGRICULTURE IMPROVEMENT AND REFORM ACT OF 1996

Mr. GOSS, from the Committee on Rules submitted a privileged report (Rept. No. 104–502) on the resolution (H. Res. 393) waiving points of order against the conference report to accompany the bill (H.R. 2854) to modify the operation of certain agricultural programs, which was referred to the House Calendar and ordered to be printed.

VOL
142
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1996
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REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 956, COMMON SENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996

Mr. GOSS, from the Committee on Rules submitted a privileged report (Rept. No. 104-503) on the resolution (H. Res. 394) waiving points of order against the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT OF DEPARTMENT OF HEALTH AND HUMAN SERVICES REGARDING RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968—MEASSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Commerce:

To the Congress of the United States:

In accordance with section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) (previously section 360D of the Public Health Service Act), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1994.

The report recommends the repeal of section 540 of the Federal Food, Drug, and Cosmetic Act that requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through the Center for Devices and Radiological Health technical reports, the Radiological Health Bulletin, and other publicly available sources. The Agency resources devoted to the preparation of this report could be put to other, better uses.

William J. Clinton.

The White House, *March 27, 1996.*

1996 TRADE POLICY AGENDA AND 1995 ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means:

To the Congress of the United States:

As required by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1996 Trade Policy Agenda and 1995 Annual Report on the Trade Agreements Program.

William J. Clinton.

The White House, *March 27, 1996.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Washington, DC,
March 27, 1996.

Hon. Newt Gingrich,
Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: This is to formally notify you, pursuant to Rule L (50) of the Rules of the House of Representatives, that I, as custodian of records for the Office of the Clerk, U.S. House of Representatives, have been served with three grand jury subpoenas duces tecum issued by the U.S. District Court for the Eastern District of Michigan.

After consultation with the Office of General Counsel, I have determined that the Clerk's Office has no documents responsive to the subpoenas. Through counsel, I will so notify the appropriate Assistant U.S. Attorney.

Sincerely,

Robin H. Carle,
Clerk of the House of Representatives.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

FDA REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. Fox] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to address my colleagues tonight on a very important topic. Today it was announced that legislation will be introduced this week on FDA reform. This is long overdue here in the Congress, to make sure we help protect the health and safety of our constituents.

□ 2045

Today Congressman Greenwood, the task force chairman under Congressman Bliley started out with a discussion of our mission and was followed with remarks from Chairman Bilirakis, Chairman Barton, Congressman Klug, Congressman Buyer, Congressman Pallone, and Congressman Richardson.

It is a bipartisan effort, Mr. Speaker, for the purpose of making sure that we stop the insidious problem we have had in the country with the FDA treatment delayed become FDA treatment denied. We need to save lives, extend the years, and improve quality of life for all of our constituents. An idea whose time has arrived is FDA reform, not just for food, but for medical devices and pharmaceuticals as well.

It may well be the most extensive and important piece of legislation we will deal with in the second session of the 104th Congress, that being FDA reform. If we can hasten the approval process for drugs and medical devices while patients await a cure or a vaccine, we will certainly have accomplished much as Congressman and Senators.

Mr. Speaker, lest anyone believe otherwise, we are certainly not going to reduce in any way the safety of drugs, the efficacy of those drugs, but we want to speed up the process of the approval. It can be done through streamlining the clinical research, through third-party review and through working with international harmonization, by accepting certified results of tests by other countries.

I am hopeful the many people who came to Washington today who had illnesses such as cancer, ALS, epilepsy, AIDS, and a myriad of other conditions they have come to us saying, look, we need to make sure we can live longer, please, do not stop us from getting the experimental drugs, the miracle drugs we need in order to live a little longer and hope for a cure.

I believe today, ladies and gentleman, that we have heard from the American people, that we can work together in a bipartisan fashion, House and Senate together, working with the White House and working with the FDA. Dr. Kessler has a very important organization that he heads. We need to work with him to make sure the reforms we need are ones that can be embraced by all, because what we are talking about is the health care and the life of all of our constituents across this United States, in the country where 85 percent of the new drugs to extend life and to sustain life are being created. We want to make sure those discoveries stay here and the jobs of the people who are, thankfully, making those discoveries every day.

I thank you for the opportunity to address my colleagues, and I hope that we will fast-track this important legislation and it does in fact become passed before the end of the session.

TRIBUTE TO DAVID PACKARD

The SPEAKER pro tempore (Mr. Collins of Georgia). Under a previous order of the House, the gentleman from California [Mr. Farr] is recognized for 5 minutes.

Mr. FARR of California. Mr. Speaker, it is with deep sorrow that I rise today to salute a man who, without question, represented the very best of California

creativity and American ingenuity. David Packard, who revolutionized both the computer industry and modern-management practices died Tuesday in Palo Alto, CA. He was 83.

For anyone familiar with computers in the 20th century, the name Hewlett-Packard is synonymous with innovation, and with excellence. Founded in 1939 in a Palo Alto garage by Mr. Packard and his good friend William Hewlett, the company is now a recognized leader in its field, employing more than 100,000 workers. The "HP Way," Mr. Packard's standard for corporate practices and employee relations, is commonly cited as one of the best by business experts.

In creating his company, Mr. Packard said, "Get the best employees, stress the importance of teamwork, and fire them up with the will to win." Though many in business may take such words lightly, for Mr. Packard, they represented the only way to succeed.

There were no conventional offices at Hewlett-Packard, not even for the most senior engineers. To stress collaboration and creativity, employees were grouped together in close proximity where they could freely exchange ideas. This respect for the H-P employee also applied in a number of other ways. Hewlett-Packard was among the first in the business world to provide catastrophic medical coverage, flexible work hours and decentralized decision-making.

David Packard also took a keen interest in his global community and was a generous philanthropist. He established the Packard Foundation in 1964 to support community organizations, education, health care, conservation, population projects, the arts, and scientific research.

But while the Nation and the world are remembering David Packard for his business and industrial achievements, the people of the Monterey Bay are remembering David Packard as an ocean pioneer—our nation's Jacques Cousteau. He recently said that "I spent my entire business life in the technology field, and in my industrial career I have seen my share of revolutions in human understanding. I now realize that the ocean is the most important frontier we have."

David Packard used this scientific vision and $55 million to help his daughter Julie develop and open the Montery Bay Aquarium—the world's best example of top science education as good business. David took his vision a step further and built a state of-the-art marine lab at Moss Landing to pioneer new deep ocean exploration technologies. All told, David and his late wife Lucile donated over $450 million to scientific research, education, health care, conservation and the arts.

On a personal note, let me just say that I will sorely miss the many contributions of David Packard. A good family friend, he was one of those few people you cross in life who not only touches our hearts, but also inspires our minds. David was one of a kind. My thoughts and prayers go out to his four children, David, Nancy, Susan and Julie, his colleagues and his many, many friends.

TRIBUTE TO DAVID PACKARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. McInnis] is recognized for 5 minutes.

Mr. McINNIS. Mr. Speaker, I have just heard the gentleman from California [Mr. Farr] speak, and I want to say with some great deal of pride that Mr. Packard was born in Pueblo, CO. He was indeed a fine, fine gentleman and certainly a leader in our country and a leader in business.

THE STRENGTH OF FAMILY AND RELIGION

But I wanted to speak tonight to my colleagues about a couple of things that over the weekend inspired me about family and about duty to our country. Over the weekend I had an opportunity to visit with a very good friend of mine. His name is Jake. Jake is about 20 years old. He is a young man. He sees opportunity in this world. He is one of our kids. I think I call him a kid; he is a young man. But this young man wants to go into this society and continue in this society and accomplish things that he has dreamed of all of his life.

I was particularly pleased to visit with him this weekend because his friend, her name is Kara, and he is intending to propose to her tonight. Jake and Kara, I think, are good examples of the young people that we have in this country, of the assets that we have. I will come back to youth in just a minute.

The second event I went to this weekend was in Pueblo, CO. Pueblo is called the home of heroes. In Pueblo, CO, we have had four of our people, four citizens from Pueblo, who have won the United States Medal of Honor.

This weekend I got to be the guest at the Medal of Honor dinner, which we do have here in Pueblo, CO, where we honored 18. We had 18 Medal of Honor winners in this room. You talk about inspiration, to sit in here, you see people, such as Mr. Di Havera. Mr. Di Havera not only won the U.S. Medal of Honor but he won the Medal of Honor in the country of Mexico.

But the common thread that I saw at the medal of Honor dinner and with my friends Jake and Kara and with my own family was that they had the foundation of family and not only of the foundation of family but the foundation of religion. Regardless of the type of religion that you practice, it was amazing this weekend to see at the Medal of Honor dinner, how strong the families were in this large ballroom that we had. It was exciting to see the young people, such as Jake and Kara, who want to start out their lives together in this fine country. And what do they talk about? They talk about family. You know, a lot of times up here when we deal with these young people and they come to visit us in our offices, the questions they ask and the issues we talk about are a lot of things going wrong with this country, we have got a deficit, a budget deficit accumulating at a rate of about $30 million an hour, we have got a crime problem, we have got problems with the economy.

But what we oftentimes forget to stress to these young people is that in this country there are a lot more things going right than there are wrong. I think that this generation, the generation of Jake and Kara, is a generation that is going to have opportunities that were never there before for any other generation in the history of this country.

But I think that you have got to give credit for those opportunities to people like those brave people, men and women, on the Medal of Honor winners and the people who have set in this country the importance of family and the importance of religion as a foundation for responsibility, for moral values, and for duty to this country.

In conclusion, Mr. Speaker, I just wanted to share with my colleagues the kind of excitement I feel being around a positive setting, there with the Medal of Honor winners, people who gave it their all and then there with young people who are excited about the future of this country. I, too, share their excitement, and I, too, share the privilege of being able to sit with 18 Medal of Honor winners.

REINTRODUCTION OF THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT OF 1996

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii [Mr. Abercrombie] is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, I yield to the gentlewoman from Connecticut [Ms. DeLauro].

Ms. DeLAURO. Mr. Speaker, I thank the gentleman from Hawaii for yielding.

Mr. Speaker, today I am reintroducing the National Infrastructure Development Act, which I first introduced at the end of the 103rd Congress. This bill will create more than 250,000 jobs, and help mend our Nation's crumbling infrastructure. I am pleased to be joined by Democratic Leaders Dick Gephardt, Vic Fazio, and David Bonior, who have lead countless job creation efforts in this country. During this time of debate over the role of our Federal Government, I am proud to bring a bill to the floor which shows that Government can work for America.

VOL 142 PT 5 MR 21—29 1996 UMI

At a time when jobs are disappearing and when we face intense international competition from abroad we badly need to create new jobs and make the investments in our roads, bridges, airports, and sewers to make our Nation more competitive.

I want to remind Americans that since the election of President Clinton, the economy has continued to grow. Nearly 8 million jobs were created since his election; the unemployment rate has fallen from 7.3 percent to 5.5 percent; and, the Federal deficit has been cut in half—reducing interest rates and increasing purchasing power.

Yet, despite this good economic news, there are too many regions of the country where job growth remains slow, wages are stagnant, and people are hurting financially. Although the unemployment rate continues to decline in my home State of Connecticut, the continued threat of job loss is damaging the economic security of many families. The Federal Government must help identify new markets, and expand job opportunities for these hardworking Americans.

The National Infrastructure Development Act meets the needs of America by providing the financing mechanism needed to construct roads, bridges, sewers, schools, and airports. My bill works by leveraging a limited public investment in infrastructure to attract private capital investors. In particular, this legislation targets the pension community and other institutional investors. Together, these investors represent $4.5 trillion in investment potential.

Investments in infrastructure create good, high paying jobs, and enable businesses to perform at full capacity. With a small Federal investment, the National Infrastructure Development Act will improve our nation's infrastructure and create 250,000 jobs.

A public investment in infrastructure will succeed in spurring private sector investments. As evidence, we are already seeing private sector investors beginning to finance major infrastructure projects, such as toll roads. Further, a number of American pension plans are looking overseas to countries like China, where infrastructure investment is common. The United States must make private sector infrastructure investments even more attractive in this country.

My bill will make domestic infrastructure investments more attractive by investing in and insuring infrastructure projects through a government sponsored corporation. The National Infrastructure Corporation—or NIC—would be funded by an annual $1 billion government investment over a 3-year period. Construction or repair of schools, toll roads, airports, bridges, sewage treatment facilities, and clean-water projects are potential NIC investments.

Municipalities and states could borrow from the NIC, or be insured by the NIC for infrastructure projects. These projects would be sound investments for pension funds. In return, these investments would strengthen the U.S. economy, and improve our Nation's infrastructure. Over time, the NIC itself would be a solid investment for pension funds. The goal of this legislation is for private investors to eventually buy the Corporation from the Federal Government, repaying the taxpayer's original investment.

In addition, my bill would enable cities or states to offer bonds to pension funds for infrastructure construction. These bonds, called Public Benefit Bonds, would be attractive investments for pension funds because the bonds enable them to pass on tax benefits to their pensions.

To be clear, the National Infrastructure Development Act is not intended to replace the traditional means of funding infrastructure projects. Federal and State assistance will still be needed to fund highways and mass transit projects, sewers, and other infrastructure projects. My bill in only intended to meet the projected $30 billion annual shortfall of funds that are available for infrastructure projects. The NIC will supplement, not supplant, traditional methods of financing domestic infrastructure development.

Investments through the NIC will enable states to make better use of Federal funds they currently receive for these projects by using a small Federal investment to leverage large private investments. More infrastructure will be funded as a result of this legislation.

The National Infrastructure Development Act builds on President Clinton's goals for improving this Nation's infrastructure. The administration has enabled 32 States to construct 70 projects using a variety of innovative financing techniques. In addition, the Department of Transportation is completing a competition for 11 States to be able to establish State infrastructure banks that have a function similar to the National Infrastructure Corporation. Fifteen States entered this competition, and another 5 States wrote to express interest in entering future competitions.

This Congress has already given its approval of these efforts. The fact that so many States are looking for innovative financing methods should send a clear signal to this Congress that we must do more to meet these national infrastructure needs. The National Infrastructure Development achieves this objective.

This is a good government bill that benefits every American.

American workers benefit through good jobs. Under traditional government transportation and infrastructure investment programs, every billion dollars invested creates 35,000 to 50,000 new jobs. Under my bill, every dollar in Federal investment will result in $10 of actual construction. So each billion dollars in Federal investment will create 240,000 to 450,000 new jobs.

American businesses benefit from reliable infrastructure. Businesses depend on airports, roads, wastewater treatment facilities, and clean water projects. Stronger infrastructure will aid economic expansion.

American taxpayers benefit from better modes of transportation for fewer tax dollars, and better environmental quality.

Pension investors benefit because they can look for investment opportunities in the United States instead of overseas.

Every Member of Congress knows that Federal resources are scarce. The National Infrastructure Development Act will fill a major funding gap with a short term, limited investment and rebuild our Nation's infrastructure. Private investors need to have the opportunity to invest in America, and the Federal Government can work in partnership with the private sector.

This partnership will help us rebuild our country's aging infrastructure, create great jobs, and promote good investments.

I urge my colleagues on both sides of the aisle to closely examine this bill. Now is the time for us to move this important piece of legislation.

Mr. GEPHARDT. Mr. Speaker, I am pleased to join Congresswoman DELAURO in cosponsoring the National Infrastructure Development Act.

A fundamental governmental function is to create an economic environment conducive to growth and the creation of new opportunities and good jobs. No aspect of this function is more important than investing in the human and physical capital of the country.

To prosper, our country must invest in upgrading our public works and transportation systems. With the growing importance of high value added industry and just-in-time manufacturing, a strong transportation system is more vital to economic growth than ever. Unfortunately, we face a $300-billion backlog in transportation investment alone. According to recent studies, our national investment in transportation falls $17 billion short of the amount needed just to maintain current levels of performance.

During the 1980's, real Federal investment in infrastructure fell 16 percent. As the Federal Government reduced its investment, greater burdens fell on the states and municipalities. And many of them—not just inner cities or small towns but suburbs as well—have been unable to meet their needs. The result: falling productivity and a diminished quality of life. People spend hours in traffic jams instead of in offices or at home with their families. Traffic congestion now costs drivers in our largest cities over $40 billion per year. And long-promised road improvements needed to lower accident and fatality rates remain undelivered.

While we have made some progress in recent years, numerous studies document the

need for additional investment. Bringing our bridges and highways up to current safety standards would require a doubling of the current highway program. The Bipartisan Commission to Promote Investment in America's Infrastructure reported that America's total investment shortfall in its infrastructure amounts to between $40 billion and $80 billion per year. At the same time, Federal resources are limited. As discretionary spending caps are lowered, the Federal capital investment program will come under enormous pressure.

The purpose of the National Infrastructure Development Act is to increase the public works investment critical to our long-term economic growth. It does so by using innovative financing and techniques already used in the private secton to encourage more investment in our roads, bridges and transit systems.

The National Infrastructure Development Act establishes an innovative, investment-oriented Foreign infrastructure strategy to help States and municipal governments finance needed infrastructure. In creates a National Infrastructure Corporation to provide a broad array of financing for infrastructure projects.

The Clinton administration's innovative investment program shows that there is tremendous interest among States and local governments in new methods that would make Federal capital dollars go further. In the past year along, the administration has given approval to over 70 innovative financing projects in over 30 States. Moreover, 20 States have expressed interest in establishing State infrastructure banks that would enable them to make more created use of Federal transportation funds.

While the Congress in ISTEA provided greater flexibility in our highway program, we have only scratched the surface of the potential. The recent experiences with privately-financed toll roads in California and Virginia and my many discussions with State officials, business leaders, and local leaders lead me to believe that there is a strong need for creative Federal leadership.

By leveraging private and other public sector monies, the corporation would substantially increase the amount of infrastructure created by each Federal public works dollar. Experts estimate that the corporation would leverage up to $10 in private investment for every $1 it receives from the Federal Government. Under this legislation, the corporation's capitalization would be $3 billion. It is anticipated that this could support generate tens of billions in new investment and hundreds of thousands of jobs, while eliminating hundreds of infrastructure bottlenecks that stifle growth.

Congresswoman DELAURO has proposed an innovative mechanism to address the national problem of underinvestment in our public works. The legislation make a valuable contribution to understanding the issue and attaining this goal. I urge my colleagues to join in our effort to boost the Nation's public investment and productivity.

Mr. FAZIO of California. Mr. Speaker, I rise in strong support of legislation creating the National Infrastructure Corporation [NIC], of which I am an original cosponsor.

Today, it is estimated that there are over $30 billion in unfunded infrastructure projects throughout the United States. Due to increasing Federal, State, and local budget constraints, important infrastructure projects are being delayed or not considered at all. While it is clear that the United States is becoming increasingly a technology and information driven based economy, the necessity to build, repair and upgrade our roads, bridges, rail system, schools, and water treatment projects are just as important today as they ever have been.

That is why I have joined my colleagues today to address this important issue. This bill established the National Infrasture Corporation to foster more public/private construction projects and to help create good jobs. The NIC will provide credit assistance in the form of direct loans, bond insurance, and development risk insurance for critically needed infrastructure projects throughout the country.

The creation of the NIC is an innovative or smart financing mechanism to help augment existing Federal and State grant programs. As we in Congress look for better ways to leverage Federal resources, the NIC is a prime example of how the Federal Government can provide initial financial and significant in-kind resources to build new infrastructure and strengthen our old and outdated infrastructure.

To that end, I look forward to working with Representative ROSA DELAURO to bring this legislation to the country's attention and make it a priority in Congress.

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REPORT FROM INDIANA ON HOOSIER HEROES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. MCINTOSH] is recognized for 5 minutes.

Mr. MCINTOSH. Mr. Speaker, I rise today to give my report from Indiana. Every weekend Ruthie and I travel around my district and often meet amazing people, individuals who are truly dedicated to being the backbone of our community.

These are good people, taking responsibility for the future of our community. I like to call them Hoosier heroes. Today I want to praise leaders of the Stop the Violence movement in Anderson, IN, who have come together to help their community. With their persistence and dedication, they have created a very special group called Stop the Violence. Members of the community like Garrett Williams, Rev. Ray Wright, and Al Simmons have joined with schoolteachers and students at the Shadeland Elementary School. They were fed up with gangs and drug dealers and the violence in their streets, and they came together and said, "Stop the violence now." They marched through their streets wearing purple ribbons, purple T-shirts, and a purple ball cap to symbolize peace in our community.

They sent a message to the drug dealers. They were not going to take it anymore. Today, the Stop the Violence movement, which is spearheaded by Rudy Porter in the mayor's office, sends a message to the schoolchildren of Anderson: You do not have to carry guns, you do not have to fight with your classmates, you do not have to buckle under to the pressure of drug dealers to be cool.

Stop the Violence gives schoolchildren and parents hope. They give our entire Nation hope, and I am proud to have been able to march with Rudy and those students, and I wish all Americans could witness the pride and joy that came from those children's faces as they set out to stand up to the criminals and the drug dealers who roam their streets.

They said no. No more violence, no more drugs, no more crime. Hoosier heroes like Rudy Porter and Stop the Violence Committee give us hope that America's best days are indeed yet to come.

That is why I would like to commend not only Rudy, but also the schoolteachers, Karen Crawford and Freddie Williams, and a principal at Shadeland School, - Sharon Taylor Martin, who cares deeply about her children. And let us not forget the children, the children in Shadeland School, whose small, tiny voices, spoke out loudest of all. You made us proud. You are all Hoosier heroes.

If every community in America had Hoosier heroes like Rudy Porter and the students and the leaders of the Stop the Violence movement, our young people would get a message from us, a message loud and clear, we care about you, we have not forgotten who you are.

Thank you, Mr. Speaker. That is my report from Indiana for today. God bless.

NIKE'S RACE TO THE BOTTOM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, in support of our "Come Shop with Me" campaign, the New York Times fortunately ran a story this month on the business page with the subtitle "Low Wages Would Foreign Business, But the Price Is Worker Poverty." The story, which I will enter in the Record tonight, describes how a 22-year-old Indonesian man named Tongris was dismissed from his job making Nike shoes for export to the United States because he was organizing his fellow workers to demand more than the government-dictated poverty wage.

How much was Tongris and his coworkers getting paid to make Nike shoes? Twenty cents an hour. And that is with no benefits.

More than 5,000 workers turn out Nike shoes at this plant in Indonesia, shoes which often sell for over $100 a pair here in the United States. Nike

VOL 142 PT 5 MR 21 — 29 1996 UMI

and thousands of other manufacturers have been lured to set up business in Indonesia by the pitifully low wage level, along with the assurance by the Indonesian government that it will tolerate no strikes or independent worker associations. But as the Indonesian government itself admits in the article, it sets its wage purpose fully extremely low to only provide the minimum calories the worker need to survive each day.

My friends, this is no different from how plantation owners though about feeding their slaves. Feed them enough so that they will not die on the job. In fact, I remember visiting the Auschwitz death camp and reading the sign above the entry gate that read "Work will make you free."

Nike would like you to believe that they are truly a great American company. Nike in fact has been spending over $250 million a year in advertising to sell you, the consumer, the message that they are a good American corporate citizen. Nike has virtually bought off the entire American sporting world. Just look at how many college coaches and athletes in the NCAA basketball tournament now being played have been paid to wear Nike's trademark, the Gold Swoosh. Your people across this Nation are literally killing people to acquire Nike products.

The truth of the matter is, Nike does not produce one athletic shoe in this country, not one. It has shut down all its U.S. production while siphoning off billions of dollars in this marketplace through sales. But it employs 75,000 workers in places like Indonesia and China, hidden from view of the news media of this country. And they pay their workers exceedingly low wages, 10 cents an hour in China, 20 cents an hour in Indonesia, work them 7 days a week, under complete control of those employers. And yet though the shoes cost only $6 to make and ship to the United States from Indonesia, we end being asked to pay up to $150 a pair.

So it is fair game to ask who is benefiting from this kind of production system? It is not the American worker who is no longer employed making Nike shoes. It is not the worker in Indonesia or China who earns poverty wages. Finally, it is not the American consumer, who is being gouged to pay outrageous prices for Nike.

As Hakeem Olajuwon, the star basketball player from the Houston Rockets courageously pointed out when he refused to endorse Nike shoes, he said, I saw the prices go from $40 to $90 to $150, and in full cognizance that people were dying for these shoes, including inner-city kids, the kids that Nike was targeting with their inner-city role models. There is one sports figure with a conscience in this country. Thank God for that.

We as American workers and consumers could do one better. We could stop buying Nike shoes until Nike pledges allegiance again to the workers of this country and to its producers around the world. Is it not time we put a little bit of conscience back into corporate America?

Mr. Speaker, I include for the RECORD the New York Times article.

[From the New York Times, March 16, 1996]

AN INDONESIAN ASSET IS ALSO A LIABILITY

(By Edward A. Gargan)

SERANG, Indonesia.—Many days Tongris Situmorang, in his blue baseball hat with a large X on the front hangs around the gates of the enormous Nike sport shoe factory here, talking to friends leaving the assembly lines at the end of the work day.

The gangly 22-year-old used to work inside the well-guarded gates, but five months ago he was dismissed for organizing workers to demand more than the 4,600 rupiah they are paid each day, about $2.10, the Government-dictated minimum wage. Then, after being dismissed, he was locked in a room at the plant and interrogated for seven days by the military, which demanded to know more about his labor activities.

"We went on strike to ask for better wages and an improvement in the food," Mr. Situmorang explained "Twenty-two of us went on strike. They told us not to demand anything. They said we wouldn't get any money. But I have sued to get my job back."

Low wages are a big attraction for foreign companies doing business in Asia as high labor costs in the industrialized nations make the manufacturing of many consumer goods uneconomical. Like a wave washing over Asia, labor-intensive factories have swept south and west as incomes and living standards have risen from Hong Kong, Taiwan and South Korea, across Asia to China, Vietnam and Indonesia.

And across the region, businesses in developing economies are felling pressure from workers like Mr. Situmorang to lift wages. Clashes erupt between workers who want more and businesses and governments that fear that rising wages will drive away jobs to even-lower-wage countries. As strikes and worker-organizing attempts have increased here, the Government has taken a harsher line by cracking down on workers with police and military force.

For some companies, like Levi Strauss, worker complaints, were enough to prompt it to leave Indonesia two years ago. But others, like Nike, whose shoes are made in 35 plants across Asia, have expanded in the region to take advantage of cheap labor.

For the Indonesian Government, the long-term solution may be to find manufacturers of products that can support higher wages. "Our strategy is to improve our products so we are not producing products that are made in China, Vietnam, India or Bangladesh," said Tunghi Ariwibowo, the powerful Minister of Industries and Trade. "We cannot compete on wages with them."

More than 5,000 workers churn out Nike shoes here, shoes that often sell in stores in Asia, Europe and North America for perhaps $100 a pair. Nike and thousands of other manufacturers have been lured to set up business in Indonesia by the low wages—and the assurance that the Government will tolerate no strikes or independent unions.

Yet even at a little more than $2 a day, there is a widespread sense in Government circles that even that is too high for Indonesia to stay competitive.

As the Government tries to hold down wages—wages the Government admits provide only 93 percent of the earnings required for subsistence for one person—strikes and worker organizing have increased. And with the increase in labor agitation have come harsher crackdowns by the Government.

A spokeswoman for Nike in the United States, Donna Gibbs, said she was not aware of Mr. Situmorang's case or of the detention and interrogation of workers for a week. However, when pressed, she said, "Our information is that workers were not held for a week."

All the plants that manufacture Nike shoes in Asia, Ms. Gibbs said, are owned by subcontractors, mostly Koreans. Each subcontractor is required to adhere to a code of conduct drawn up by Nike, she said, and managers from Nike are involved in the daily oversight of subcontractors' operations, including not simply quality control matters, but the treatment and working conditions of the labor force.

Nike's code of conduct, Ms. Gibbs said, requires compliance with all local laws, the prevention of forced labor, compliance with local regulations on health and safety and provisions of workers insurance. She said she was unaware of 13- and 14-year-old girls working at the Nike plant here.

"Certainly we have heard and witnessed abuses over time," she said "and typically what happens is that we ask the contractor to rectify the situation and if it is not resolved we can terminate the business.

Ms. Gibbs said Nike has four to six subcontractors in Indonesia, a number that varies according to production needs. She said the minimum monthly wage was 115,000 rupiah, about $52.50, although the average was 240,000 ripiah, about $110. For a pair of shoes costing $80 in the United States, she said, labor accounts for $2.60 of the total cost.

"The problem is that the minimum wage does not provide for minimum subsistence," an Asian diplomat here said. "And beyond that, the companies don't always pay what is required by law. The level of unrest is not reported, but there are lots of reports from around the country of strikes."

"The philosophy of the minimum wage is to make sure the minimum calorie need per day is fulfilled," said Marzuki Usman, who heads the finance and monetary analysis body for the Finance Ministry and was the first chairman of the Jakarta Stock Exchange. "That is the formula."

On April 1, the minimum wage is to rise in many places to 5,200 rupiah, about $2.37.

"There are so many labor strikes," said Apong Herlima, a lawyer for the Indonesian Legal Aid Foundation who specializes in labor cases in Jakarta. "Employers always call the police and they come and interrogate the workers. Then, the workers are fired."

Because Indonesia's press treads carefully around sensitive issues—and social unrest is among the tenderest of subjects—it is difficult to gauge precisely the level of labor unrest. The Government reported that there were 297 strikes last year, although it did not provide the number of workers involved. Independent labor organizes insist the actual number is far higher.

"The number of strikes is increasing," said Leily Sianipar, a labor organizer in nearby Tangerang. "Most factories don't actually pay the minimum wage. Garment factories should pay 4,600 rupiah each day, but there is usually underpayment. So there are strikes. We try to organize workers. The factory owners use the police and the military to crack down. They try to intimidate the workers."

The Indonesian Government recognizes only one Government-sponsored union, the Federation of All Indonesian Workers Union. But most workers and independent activists maintain that the Government union does nothing to represent Indonesia's 40 million workers.

"Since they don't come from the bottom, and they aren't elected by the workers, there is no hope for the Government union," said Indera Nababan, the director of the Social Communication Foundation, a labor education group sponsored by the Communion of Churches of Indonesia. "I don't think over 10 years there has been any considerable change. The workers have no rights here to argue for their rights."

Not far from the Nike factory here, Usep, a lean man of 25, leaned against the cement wall of the tiny room he shares with his 19-year-old wife, Nursimi. Together, said Mr. Usep, who like most Javanese has only one name, the couple earn about $4.10 a day—or $82 a month. Of that, they must pay about $23 for the 6-foot-by-6-foot cement room they live in, with the remainder for their food and other needs.

A single bare bulb dangles from the ceiling, its dim glare revealing a plain bed, a single gas burner, and a small plastic cabinet. Their room, one of a dozen in a long cement building, is provided with one container of water daily. If they want more water, each jug costs 100 rupiah, about 5 cents.

"Of course we're not satisfied with this," Mr. Usep said, his words coming quietly. "We tried to talk to friends about this, but there is no response. Probably they are worried they will lose their jobs."

It is workers like these whom Ms. Sianipar has been trying to organize for the last seven years, a task that entails the constant risk of arrest.

"If we have a meeting, the police take us to the station and want to know if we want to make a revolution," she said, a laugh breaking over her words. "We had a meeting here last week and the police came. So we changed the topic of the meeting, but they took me to the station anyway. The police got angry and banged the table. But they let me go at 4 in the morning. They had the idea that we were doing underground organization."

Still, she admitted, the attitude of the police has moderated somewhat over the years. "Five years ago," she said, "we would have had much more trouble."

Not all foreign investors who use cheap Indonesian labor have ignored workers' complaints. In 1994, the American clothing company Levi Strauss withdrew its orders from a local garment contractor after reports that the management had strip-searched women to check if they were menstruating.

But many factories that manufacture clothing, shoes or electronic goods for American companies are owned by Taiwan or Korean companies, and labor organizers contend that conditions in these factories are much worse than in factories directly owned by Americans.

"American companies are here because they have to pay very little," said an American who works for a private aid organization, but who did not want his name used. "But American companies are not the worst violators of basic working conditions. The Koreans really stand out for poor conditions in their factories."

Outside the Nike factory, Mr. Situmorang continues his vigil, waiting for a court decision on whether he can get his job back. "I've gone to the labor department and the court," he said. He paused and sighed. "I really don't think in the end I will get my job back. This is Indonesia."

COMPARING 104TH CONGRESS TO 103D CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Georgia [Mr. KINGSTON] is recognized for 60 minutes as the designee of the majority leader.

Mr. KINGSTON. Mr. Speaker, I have a couple of topics we wanted to talk about tonight, and have with me my colleague from Arizona [Mr. HAYWORTH], and we may have others joining us. But what we were going to do is talk about some of the difference between the 103d Congress, the Congress that was here in 1993 and 1994, and contrast that with the current Congress that was elected and began to serve in 1995.

If you look back 2 years ago, which was my first term in Washington, and think about the changes, in 1993 the President had just passed the largest tax increase in the history of the country and then turned around and tried to nationalize or socialize medicine.

At the same time, the bureaucracy did not want to get left out of the action, and OSHA, the Occupational Safety and Health Administration, came up with a proposal that said if you smoke in your own house and you have a domestic employee, then you must have a smoke ventilator in your own kitchen.

The EEOC, meanwhile, came out with a ruling that one of the most dangerous hazards in the workplace today is religious symbols. So if you were working at the Ford plant and you had a "Jesus saves" T-shirt on, or if you had a necklace that had a Star of David, that was offensive. EEOC decided it was time to go after those doggone religious symbols in the workplace. That was the kind of thing that we had going on in the 103d Congress.

Now, contrast that with the 104th Congress. We have a Congress that has cut staff by one-third, reduced its operating expenses by $67 million, and put Congress and all of its Members under the same workplace laws as the private sector.

Now instead of debating should we reform welfare, we are debating how to reform welfare; instead of debating should we balance the budget, we are debating how to balance the budget. And when the crisis with Medicare came that was pointed out to us by a bipartisan committee, this Congress did the responsible thing and acted to protect and preserve it.

This Congress, Mr. Speaker, is night and day compared to that that was the 103d Congress. But we have our criticism. A lot of the criticism comes from the press and its allies over at the White House, Mr. Clinton. What we were going to do tonight is talk about some of the criticism.

Education, apparently Republicans do not have children, we do not care if they get educated or not. Seniors, apparently we all came from test tubes and none of us have moms or dads and we do not care what happens to their Social Security or Medicare, according to the President. Of course, the environment, we want to pave Old Faithful and level the Rocky Mountains.

But what is really going on with these issues, Mr. Speaker? We want to talk a little bit about the environment tonight, we want to talk a little bit about taxes and the middle class, and we will continue through a series of discussions to talk about some of these other issues.

I will yield the floor to Mr. HAYWORTH at this time.

Mr. HAYWORTH. I thank my friend from Georgia. I am heartened by the fact that other colleagues from the majority join us tonight to talk about a variety of topics.

Mr. Speaker, the gentleman from Georgia is absolutely correct. There could not be a greater difference in Government than the difference that exists between the 103d Congress, held captive by the proponents of big Government and more and more centralized planning and more and more taxation and more and more spending, and those of us now in the majority in the 104th Congress, unafraid to offer America, Mr. Speaker, a clear, commonsense approach to Government, an approach which really beckons and harkens back to our founders, an approach typified in the first act this Congress passed, which simply said this: Members of Congress should live under the same laws every other American lives under.

Indeed, as my friend from Georgia pointed out, with a litany of progress on a variety of issues, there is one inescapable fact that we confront at this juncture in the second session of the 104th Congress, and that is the criticism, the carping, the complaining, of liberals, both in this city and nationwide, of the powerful special interests who have as their mission in life the maintenance of the welfare state, the maintenance and enhancement and growth of centralized planning; those disciples of big Government who now would criticize the new commerce in this new majority and paint our agenda, indeed, our contract for America, as somehow being extreme.

Mr. Speaker, it is time to point to this simple fact: The only thing extreme about the agenda of the new majority is the fact that it makes extremely good sense.

I take, for example, the comments of my friend from Georgia, who talked about the fact that in the wake of the 1992 election the incoming President, as one of his first acts, chose to proposed and this Chamber approved by

VOL 142 PT 5 MR 21 — 29 1996 UMI

one vote the largest tax increase in American history. Emboldened by that victory, our friend at the other end of Pennsylvania Avenue worked in secret to devise a plan of government, that is to say, socialized medicine.

The American people said "Enough," and in November 1994 gave this new Congress a mandate.

Mr. Speaker, I can vouch as one who watched with interest my colleague from Georgia and my other colleagues here who served in the 103d Congress and served valiantly to point out the absurdity of the extremism of those who always endorse the liberal welfare state, I saw with my eyes their valiant efforts.

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But more importantly, through the votes of the good people of the United States of America with a new majority, we have moved to do simple things, ironically, the same things that a candidate for the Presidency, who was ultimately elected in 1992, talked about. My friend from Georgia remembers this well. Remember the campaign rhetoric: I will balance the budget in 5 years?

Mr. KINGSTON. Larry King Live, June 4, 1992.

Mr. HAYWORTH. My friend from Georgia offers the attribution. And if he would continue to yield, we would know that the President has had to be persuaded by Members of his own party to offer a phantom budget that would come into balance in 7 years, and using a personal analogy that I am sure my friend from Georgia can appreciate, since he is a physical fitness buff, the budget that the gentleman at the other end of Pennsylvania Avenue now advocates to try and bring our budget into balance would be akin to me saying I need to go on a diet. I think we can all acknowledge that fact. I think I am going to lose 50 pounds over the next 2 months, but I am going to lose 2 of those pounds in several weeks' time, and I will save the 48 remaining pounds for the final 2 days of the diet. It just does not work.

Theoretically, you can write down numbers on a sheet of paper, but what this new majority has offered is a clear, commonsense plan to bring this budget into balance in 7 years, which this President vetoed; a clear, commonsense plan to reform welfare as we know it, which this President vetoed; and now yielding to my friend from Georgia, I would gladly listen to his points.

Mr. KINGSTON. Mr. Speaker, I think it is important really when we do have a dialog to be factual about it. We have been accused of cutting student loans, and yet our budget calls for increasing student loans from $24 to $36 billion. We have been accused of cutting Medicaid, and yet our budget calls for an increase from $89 to $124 billion. Of course, we have been accused of cutting Medicare, but our budget goes from $180 billion to $290 billion. I think it is important that when we talk about this that we divide the facts from the rhetoric.

Now, one of the things that we have been trying to do with our reforms is to balance things, and I know our friend from Michigan [Mr. EHLERS] is here, and we wanted to talk about yes, there are things we are trying to fix, but we are not trying to destroy things, specifically in the environment. I do a lot of camping, and I plan to continue to do a lot of camping. I have 4 children, and my 12-year-old daughter last year started hunting with me. My 10-year-old son is coming along, and I want that environment there for them. I want there to be plenty of species out there. I want the endangered species to be protected. I want private property rights to be protected as well.

Mr. Speaker, I really get offended when the President accuses us of trying to gut environmental legislation when the Clean Water Act, the Endangered Species Act, and the Environmental Protection Agency all were created in the early 1970's under a Republican administration.

Let me yield to the gentleman from Michigan.

Mr. EHLERS. Thank you very much. I appreciate the gentleman yielding me time, and I would like to take a few moments to talk about some Republican ideas on the environment.

As the gentleman correctly pointed out, we have been criticized severely over the past 2 years for some of the actions taken and some of the votes that were held, but I would like to discuss from my perspective, first of all, as a scientist. I am sure the gentleman is aware of my scientific background. Perhaps not all of my colleagues are. But I would just simply mention I have a doctorate in nuclear physics, and I worked in the field for a number of years, both in research and teaching, before I entered the political arena. That does not make me an environmentalist or an ecologist automatically, but it at least indicates that I have the ability to establish fact from fiction when dealing with environmental issues.

Mr. Speaker, back in 1968, I first became concerned about the environment, and I noticed a little notice in the newspaper in Grand Rapids, MI, my hometown, that there was going to be a meeting to discuss environmental issues. I went to that meeting. There were a group of citizens concerned about some pollution that was taking place at that time in various areas of the State, and we formed an organization called the West Michigan Environmental Action Council, and I served as a charter member of that and I have also served on the board.

That whetted my interest in what was happening to the environment, and I had a good deal of interest in government but had never thought of running for office. But when our county developed a severe landfill problem and we had the possibility of raw garbage piling up in the streets, I decided to run for the county commission, and I used that as a means to straighten out the solid-waste situation in my county. It took the work of a lot of other people, too. I do not want to claim the credit for it. But it shows what a citizen activist who is concerned about the environment can do.

The interesting thing is, when I was elected to office and came up with some solutions, I soon lost many of my environmental friends who thought I was going to be a total purist and save the world. The gentleman knows as well as I, from working on issues here, there are many sides to issues and you have to use a reasonable, logical approach. When you are faced with mounds of garbage coming in the gate and the threat of it piling up on the sidewalks, you have to make some tough choices.

But over a period of time, we managed to totally revamp the solid waste disposal system. In fact, I suggested renaming it the solid waste storage system, because the gentleman knows as well as I that if you put it in the landfill, you have not disposed of it; you have simply stored it, and it is still there to create problems in the future. But in any event, we did resolve the environmental issues, and I will not go into all the details of that.

Later I moved on to the State senate. I was made chairman of the Environmental Affairs and Natural Resources Committee, and in the course of several years, with the help of John Engler, who was senate majority leader at that time, now the Governor of the State of Michigan, we got landmark legislation passed and probably had more environmental legislation passed in those 4 years than at any time in the history of the State of Michigan.

Mr. Speaker, I am giving this not to brag about my accomplishments but simply to point out that those people who think the environment is a Democrat issue and not a Republican issue are sorely mistaken. We have different approaches perhaps, but I believe that we can accomplish a great deal in the end on the environment by working together.

Mr. KINGSTON. I want to emphasize what the gentleman is saying by pointing out that President Theodore Roosevelt started the National Park System, and, of course, he was a great Republican at the time.

Mr. EHLERS. He was a great Republican, and also started in some ways the political meaning of the term conservationist. I always love to point out to my friends that the root word for conservation is the same as the root word for conservative and that any

true conservative should be an environmentalist, because it is important for all of us to conserve what we have for the advantage of future generations.

During my time in the political arena and working on environmental issues, I have learned some lessons which I just want to share with my colleagues here. First of all, the environment is extremely important. I can perhaps draw an analogy to something that we discuss here an awful lot: The balanced budget. We approach this, as Republicans, from the standpoint that we want to protect this economy, this Nation for our children and grandchildren. It is simply not right for us to continue to live in debt and expect our children and grandchildren to pay that debt. We want to leave them a promising future and not a huge debt. Well, that is also true of the environment. That is one of the reasons I am a confirmed environmentalist.

It is absolutely wrong for us to leave a polluted country to our children and grandchildren and to other future generations. We have to give them the same resource opportunities that we inherited from our ancestors. We have to give them the same clean environment that we have inherited from those who came before us. That is why the environment is very important to me. I want my children and grandchildren and their grandchildren to inherit a clean country, a clean planet, and to be able to have enough resources to use and enjoy this planet.

Mr. Speaker, another lesson I have learned is that energy, energy and energy use, are probably the single-most important component of the environment. Not everyone realizes this. But once you begin analyzing the sources of pollution, where it comes from, a lot of it is from improper use of energy or inefficient use of energy, and that is something this Congress has to spend more time and energy on, just recognizing the importance of energy and working on the efficient use of energy.

Now, let me make it clear, I am not here talking about energy conservation. Some people confuse those. Somehow they think if they are freezing in the dark, they are helping the environment. Well, that may be true, but it certainly is an uncomfortable way to save the environment. What I am talking about is simple, common-sense efficiency of use of energy which can result in less pollution and less cost and a better environment. Everyone wins in that situation.

Another lesson I have learned is that we have to work together on the environment. This is not a partisan issue. I happen to believe that the current Congress is far too polarized on many issues and sometimes polarized on the environment. But they should not be. The Congress should recognize this is a universal problem. The public certainly recognizes. Eighty percent of them favor a clean environment, and we should work together on this issue and recognize it is not partisan but it is important.

As a scientist, I have also learned that correct science is essential. You cannot ignore science and say there is no problem. You also should not manipulate science to prove your point of view, if it happens to be wrong. The facts are the facts, and you have to deal with it.

But another issue that arises when you are dealing with environmental issues is what I call trans-scientific issues, issues that do not have a ready scientific response because the problems are so immensely complicated, and there we simply have to use our best judgment in trying to come up with a workable solution.

Something else that has developed in science is tremendous improvements in detection of toxic materials or other sorts. But out of that comes a big mistake very frequently. A good example is the Delaney clause, which was passed years ago, said no substance used for human consumption can have any carcinogenic or mutagenic element in it at all. Well, as our detection methods got so much better, and we can now detect one part in a quadrillion, that law no longer makes any sense.

Mr. KINGSTON. If the gentleman will yield on that, I think that that is a real important idea or concept.

How it has been explained to me is that if you take, say, a wading pool that kids are in, not a swimming pool but a wading pool, the little blue, pink plastic kind, and you pour a gallon of pesticide in there, then back in the 1930s, that is what they detect. But today, if you take an eyedropper and into mom and dad's big swimming pool, 34,000 gallons, and you put a little drop of the pesticide in that pool, today we could detect it. Yet in many, many cases, that trace of pesticide is negligible, it is noncarcinogenic, it will not hurt anybody. But because our technology is so advanced, we can detect it, and yet our laws have not kept up with that.

That is what revamping the Delaney clause is all about, and it is so important because there are so many fertilizers that have been taken off the market because of this red tape interpretation of the Delaney clause, and yet other countries are still using those pesticides. So it is affecting us already, and we do need to resolve the issue, again, in a balanced way, protecting the consumer above everything else, but also utilizing the technology for our advantage and not against it.

Mr. EHLERS. Thank you very much. I appreciate that comment, because that is precisely what has happened. I am certainly not arguing for putting toxic materials in food or using the wrong fertilizers or anything like that. I am simply saying that our laws have to keep up with scientific changes, and if you demand a zero tolerance, as we did originally with the Delaney clause, it is a mistake, because there is no such thing in this life as zero risk.

Mr. Speaker, that leads to my next point, and that is, we have to learn as a nation to prioritize, to decide what is good and what is bad, and recognize, everyone has to recognize that there are certain risks to every part of life. For example, it is commonly assumed by many that natural is good. Something that is natural is good. Something that is artificial is bad. That is not necessarily true. For example, peanut butter. Perhaps I should not mention this in the hearing of those who are from Georgia. But peanut butter is a fairly carcinogenic material, and the lab tests have shown that. And if we truly enforce the Delaney clause, we would probably have to ban peanut butter.

Mr. KINGSTON. I do want to ask how you people in Michigan consume peanut butter. I would like to know more about that.

Mr. EHLERS. Well, in fact, everyone consumes peanut butter, and that is why it has not been banned. It is a food staple for so many people. I am simply pointing out that what we have to do is analyze the risks in every situation and prioritize the risks. There is a great deal of concern, of course, in our Nation about toxic waste, but yet, if you analyze in a hard-headed manner what really are the environmental risks we have today, what is the highest environmental risk, you are likely to find that there are many things other than improper disposal of waste that are higher up on the list.

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For example, urban sprawl with its destruction of habitat, and destruction of habitat of course is key in the endangerment of species, and that leads to something that my colleague from Maryland sitting here is an expert on, the Endangered Species Act. These are all very, very complex issues. We have to look at all aspects of these and recognize precisely what the problems are, and what the dangers are, and what this leads to, as my final point in this list before I summarize, and that is what we need is common sense regulation. That is something I have strived for throughout my legislative career.

It is very easy to adopt what is called the command and control approach where you simply say something is bad, let us regulate it out of existence. If you do that without looking at the benefits and the costs, you can go down a very dangerous path, dangerous both in terms of health and our economy.

What we, what I, typically did in the Michigan Senate, when we encountered a problem, I would get representatives

VOL
142
PT
5
MR
21
—
29
1996
UMI

gathered. I would get scientists together, environmentalists, industrialists, everyone possible, get a representative group together, sit down in a room and pound it out, week, after week, after week, educate each other about the problem and come up with a solution.

Mr. Speaker, frankly, that is what I believe that we have to have the Congress doing as well. That really results in good common sense regulation which gives the maximum return on laws and the maximum return on the investment of time and energy as well as money.

Mr. KINGSTON. If the gentleman would yield, I wanted to illustrate that on a true case that happened in Riverside, CA, where the residents in a neighborhood were not allowed to dig fire trenches because it would endanger kangaroo rat habitat. And so fire breaks were not dug, and a fire came. Thirty homes were destroyed, but, in addition to that, over 20,000 acres of kangaroo rat habitat was destroyed.

Clearly, using what you are saying, common sense approach, this certainly does not benefit the home owners, but it also defeated the whole objective, which was to protect the rat.

So we can clearly, without endangering the animal, we can clearly have more flexibility of the law and get away from the command and control which leaves out common sense.

Mr. EHLERS. Let me give an example, too, that occurred in Michigan.

Years ago it was discovered that the Kirtland's warbler in Michigan was an endangered animal. Everyone loved the Kirtland's warbler, a wonderful bird, beautiful song. It was endangered because of some very peculiar mating habits. This bird is very selective about its habitat for mating. It would only mate in jack pine trees which were less than 6 feet tall. As the forest grew, the jack pine were too tall, and the birds would not mate. So they were becoming extinct.

The initial approach suggested setting aside vast acreages so that there be at any given time enough jack pine available so that the birds would nest and proliferate. In fact, a different approach was developed, and that was to use smaller acreage and provide for selective cuttings of timber in such a fashion that there is always ample jack pine of the appropriate height.

The Kirtland's warbler has flourished. It is no longer endangered. It has become a major tourist attraction in that area. So we find that we have improved the habitat for the Kirtland's warbler. It has benefited the community as well, and it is a good example of meeting the needs of the environment, meeting the needs of the endangered species, and yet not with any undue takings, or anything of that sort.

Mr. Speaker, that is what I mean by commonsense regulation. There are ways of handling most of these problems if we simply take the time to address them properly and study them thoroughly, use scientific evidence, and do not get all wrapped up in rhetoric, or taking sides, or polarizing the issue.

Now this will not be true in every case, but it is true in many cases. Sometimes we will have really tough issues, but if we remember our environmental principles of saying the environment is very important, we have to find a solution, let us find the best possible solution, I think it will serve all of us well.

Well, I have given this as an example of a Republican approach to the environment, and I think it is the approach that we have to take here, that we have to follow, get away from some of our polarization.

To summarize, I would make a few key points. First of all, we must protect the environment; we have no choice about that; for the betterment of our planet and for the benefit of our children, grandchildren and future generations. We must do it scientifically. We cannot do it haphazardly. We have to analyze the risks as best we can and not simply say, "Oh, that is a terrible danger, let us address that and ignore something over here that might be even worse."

We must do it in priority order. We have to develop a method of prioritizing the demands, the problems in the environment, so we are putting our money where it makes sense, and we must use common sense in doing it.

But above all, we must do it for our children, our grandchildren and for any future generations. I thank the gentleman for yielding.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Michigan.

We have also been joined by the gentleman from Maryland [Mr. GILCHREST] who wanted to comment on a couple of points as well.

Mr. GILCHREST. I thank the gentleman for yielding. I wanted to just say a few things.

Mr. Speaker, we are here talking about a number of issues, one of which is policy relating to environmental issues. The gentleman from Michigan, the gentleman from Arizona, and the gentleman from Georgia, I think, all discussed the direction that we need to move in. The gentleman from Michigan said we need to protect the environment. There is no one in this room that wants to dirty the air, and I do not think there is anybody in this room that says the water is too clean, and I do not think there is anybody in this room that wants to do away with species that we are able to enjoy in the wild so that in years to come they will become extinct.

But there is a way that we can go about doing this in a fundamental manner that will bring more people into the process, and in the long run and in the short run, I believe, we will be more successful.

A hundred years from now, and I am sure that there are people out there listening, Mr. Speaker, that knew people that were alive in 1896. And we will know people that will know people in 2096. I am not sure any of us will know people that are alive in 2096, but our great grandchildren, perhaps our grandchildren, will know people that will be alive in the year 2096. So a hundred-year time span is not very long. And for us to protect the resources that we have right now, I think, is crucially important so that future generations will be able to enjoy the blessings that we have inherited.

Now in order to do that I do not think you can do that from a centralized authority like the Federal Government. We have been accumulating more and more responsibility with the States and the local governments and even private citizens. So, we create environmental legislation which is important for a lot of reasons.

For example, about 40 percent of the pollution problem in the Chesapeake Bay, where I come from, the Chesapeake Bay watershed; I live on the eastern shore of Maryland; about 40 percent of the problem in the Chesapeake Bay is air deposition. That means air pollution, and there is very little you can do about that, and about 60 percent of that air pollution which pollutes the Chesapeake Bay from the air is from automobiles.

We are increasing the number of cars every year; we are increasing the number of people that live in the watershed every year. So we have to begin to find solutions to problems that are difficult to solve because very often, if not always, the problems are as a result of increased population.

The way to do that, I think, is to begin cooperating and consulting with these environmental pieces of legislation, with the State government, with the local government and private citizens developing policies that can actually work. Future generations will not care who cleaned up the pollution, or even who polluted. The fact is they are going to live with what we do.

One other comment about clean air and clean water. Very often the Republicans are tagged with causing gridlock in Washington, with causing partisan politics in Washington, especially when it relates to environmental issues. I would just like to send this message, and that is gridlock. Arguments in Washington are not bad. You do not see the North Koreans arguing. You do not see gridlock in Cuba. What you see here in Washington is an argument about the best way that America should move forward. These arguments are actually bringing out more information. In fact, I would say that the people with the most credibility in

Washington right now are not the ones with long years behind them. They are not the powerful committee chairmen that might have been elected in the 1950's. We do not have that anymore.

Mr. Speaker, the people with the most power in Washington right now are the ones with credibility, and people with credibility are people with information. If we can begin to share information from Member to Member and develop legislation so that we can share responsibility, cooperate with the States, have consultations to do the best that we can with environmental legislation, then I think we are going to move forward to protect the environment.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield on that point, first of all, I have the utmost respect for my colleague from Maryland. We serve together on the Committee on Resources. It is no secret that we may not agree on every single jot and tittle with reference to policy.

Yet at the same time I am heartened by the fact that the gentleman from Maryland, as well as my friend from Michigan and my friend from Georgia, all recognize this central theme, that it is not centralization of power or a one-size-fits-all philosophy that oft times is outdated with reference to new technologies that develop, but, instead, the realization that there must be a spirit of conciliation, a spirit of cooperation and the notion that is really quite common sensical when you think about it, the acknowledgment that Phoenix is not the same as Philadelphia, that Monroe, LA, may not be the same as Grand Rapids, MI, that Savannah, GA, may not be the same as St. Louis, MO. There are different issues that confront us all.

So in that spirit, even while there may be some disagreements on how we get to a cleaner environment, how we recapture for the American people the true spirit of conservation, let us start with that premise, and also what the gentleman from Michigan talked about, and that is the sense of balance that must be there, preservation of the environment, a true spirit of conservation, and at the same time a preservation, if you will, of the fragile rural economies this Nation has; for example, in the Sixth District of Arizona.

So it is a challenge. It is not easy to face up to many of these questions, although common sense will rule the day, I believe, and we will ultimately come to some agreements. But let us also categorically reject even amidst the gridlock that my friend from Maryland talked about this need on the part of some within this body and at the other end of Pennsylvania Avenue to try and demonize those who will take another approach, indeed along the same lines of the school lunch debate, really the school lunch scare, and with reference to the mediscare debate. I have yet to see starving children in the streets or the elderly thrown in the streets. And by the same token, I do not believe the vast majority of Americans are turning on their taps and drinking sludge.

So let us articulate up front that, while there may be some slight differences in approaches, the bottom line remains true for members of the new majority. We want to find constructive, common sense solutions that preserve the environment, that preserve the economy and do exactly what the gentleman from Maryland talks about, offers an environment to generations yet unborn that is clean and that may be used, not only for emotional well-being, but for economic well-being for that is the challenge we face in the last decade of the 20th century.

So I am heartened by my friend's remarks and look forward to working with him, even acknowledging some differences along the way. I yield to my friend from Georgia.

Mr. KINGSTON. What is important though is we bring our laws up with our technology and bring our laws up with other levels of government to realize that when the Environmental Protection Agency started in the very early 1970's, it was just about the only and certainly the premier environmental protection agency in the country. Today in Georgia, in Maryland, in Michigan, and Arizona you have narrow groups. You have your own Environmental Protection Agency, which probably is about 10, 15 years old at this point.

□ 2145

Mr. Speaker, I had the honor to speak to the Association of State Environmental Protection Divisions a couple of months ago. I was a little bit worried because I was afraid that, well, I do not know if I am walking into a lion's den or not. They said, "We are ready. We can handly this. We can probably do a better job of attacking pollution cleanup because we are closer to the sites, we can work with turning, or the State legislative, we can get it turned around. Do not run from it, but do not get in our way, either." I think that is important.

Mr. EHLERS. Mr. Speaker, if the gentleman will yield, I would just like to comment on this little discussion, and especially commend the gentleman from Marylandy [Mr. GILCHREST], who is, I believe, without doubt, the wetlands expert of the Congress. He knows a great deal about it, and has made some very important contributions to that.

As I mentioned earlier, Mr. Speaker, I have been involved in the founding of the West Michigan Environmental Council. That group plus another group were instrumental in making Michigan the leader in writing State laws, in many cases before any other State or the Federal Government had. We wrote a wetlands law in Michigan over two decades ago. Michigan still is the only State that has been delegated authority by the EPA to administer its own wetlands law, and is not subject to Federal wetlands law.

It has always puzzled me why other States have not done that because, precisely as the gentleman from Maryland pointed out, each State is often better able to judge the situation within their State. Michigan is a very wet State. We are surrounded by Great Lakes, we have many inland lakes, we have many wetlands, and we have developed a wetlands law that works very well. I do not want to imply that it is without trouble and without dispute, but I can tell the Members from my experience in working with that and slogging through wetlands and working with the laws and working with the people, we managed to work things out.

Mr. Speaker, I was astounded when I came to Washington and discovered the antagonism toward the EPA in most parts of this country with regard to wetlands. I think part of it is, as the gentleman from Arizona mentioned, we have tried to pass one-size-fits-all legislation, and certainly the wetlands requirements in South Dakota and Arizona are different from those in Michigan and in Maryland. I think it is important for us to recognize that. It is also important for the States to take on that responsibility, as Michigan has done in passing its own wetlands law.

Similarly with takings laws, that is a real legal morass, and I regret the takings legislation that passed this body earlier this year, because I think, again, it was an attempt to be a one-size-fits-all, and it certainly did not fit my State. We have struggled with that for years with the wetlands law, with the Sand Dune Protection Act. We have come to a reasonable working arrangement on that, and keep working on trying to improve it.

Again, realize that the real objective is to protect the environment and work in a common-sense fashion that works, that gets the job done. When you were talking about clean water and clean air a moment ago, I was reminded, when I moved to Grand Rapids, Michigan, in 1966, the Grand River, which was a beautiful river flowing right through downtown, was filthy. No one would swim in it. No one boated on it. No one would think of catching fish from it. Now the river is clean enough so it has become a major fishing attraction. People boat on the river, and some even dare to swim in the river.

So we have made considerable progress in the past couple of decades, and I think it is a tribute to the progress we have made. We should never forget that. We have cleaned up most of the biological pollutants in the water and in the air. Now we are working on the chemical pollutants. It is a

VOL 142 PT 5 MR 21—29 1996 UMI

much tougher problem and much more scientific in nature. We have to, as I said earlier, use good science to do that.

Mr. KINGSTON. Mr. Speaker, as the gentleman points out, though, the need for honesty and integrity in the debate is so important. We have a Superfund bill we have been trying to get reauthorized now for 2 years, and while we are speaking, only about five of the national priority sites get cleaned up each year. Only 12 percent of the polluted national prioritized sites have been cleaned up, after 15 years and $25 billion of Superfund law. It is broken. Let us fix it. There is going to be a little bit of disagreement between the manufacturers in the private sector and the environmental community, but I would suspect there is still 75 percent or 80 percent of the issue that could be moved forward right now.

Mr. Speaker, I am very frustrated by the fact that in Washington, we always have to have this debate from both sides of any issue, "The sky is falling," and the other side wants to accelerate the fall, join me in this fight. It is very difficult in that kind of atmosphere to have an honest debate.

I know the gentleman from Maryland has been in the very center of some of these things.

Mr. GILCHREST. Mr. Speaker, the gentleman from Georgia is correct about the Superfund situation. I think this Congress has begun the process of resolving the vast differences in that complex piece of legislation so we can have as our priority spending the money on cleanup costs rather than litigation costs.

I would like to mention just one thing to the gentleman from Michigan. I know Michigan has assumed the enforcement of the Federal wetlands regulations, and Maryland is about to do the same thing. I would like to make a comment on wetlands, the Endangered Species Act, and these other pieces of environmental legislation which are sometimes very emotionally discussed.

In the State of Maryland, as a result of the Chesapeake Bay improving and having clean water, much of that is attributed to wetlands filtering out a good deal of the nitrogen that comes in as a result of farming, or filters out a variety of other pollutants that get into the groundwater and spawning areas for fish, but wetlands is key to the economic boom in Maryland. There is about $2 billion worth of tourism, commercial fishing, recreational fishing, hunting, boating that comes to the State of Maryland as a result of the type of environment we have, so wetlands regulations help us to manage our resources.

The Endangered Species Act, which in the State of Maryland is actually stricter than the Federal Endangered Species Act, that might cause some alarm for some people, but for the State of Maryland, it assumes that our rural areas, through certain management tools on the Federal, State, and local level, when we work in a pretty cooperative consulting fashion, ensures that our number one industry, or number one and number two industries in the State of Maryland are fishing, tourism, and agriculture. To save these particular industries, we need to work together and now apart.

We do need to recognize the differences in a regional way, but people in Louisiana want clean water, as the people in Maryland want clean water, so it is the consulting process. It is getting involved from all the different levels, including elected officials getting involved in the consulting process.

I just want to close with this one point, Mr. Speaker. I read recently a book from a Montana mayor, and I can't remember his name, the mayor of Missoula, Montana, wrote a book about community and place, and how we can reconcile the difference, especially that seem to become political differences. The essence of the book, without going into it, and I recommend the book to people to read, it is called "Community and the Politics of Place," I think that is the name of it. But the essence of the book is, he said that America used to be a frontier. People used to be able to go places if they did not like where they were. if they had religious differences or had any kind of quarrel or wanted to seek adventure, they could go to the frontier that seemed endless. Now America does not really have a frontier. America is filling up with people, and we are a prosperous Nation, so the next frontier will be the frontier that is based on our ability to consult, to cooperate, to use our intellectual skills to manage the limited resources that we have so that they will still exists for future generations. We cannot do that and argue.

My son told me a couple of years ago when he was in high school, when he sort of was getting ready to look at the world, he said the world to him seemed like two people in a big truck driving down the highway at 90 miles an hour, and the highway ended at a huge precipice, a 10,000-foot drop, and the people were not only not paying attention to where they were going, they were arguing.

So if we are going to be legislators that are going to deal with the problem of the Nation, we have to, together, set the example so we can cooperate here and disseminate that sense of policy to the rest of the country.

Mr. EHLERS. Mr. Speaker, if the gentleman will continue to yield, I simply wanted to comment that I agree wholeheartedly with that. I think, getting back to the theme of what we have been talking about, we are simply trying to demonstrate that we are Republicans are trying to develop a responsible approach to the environment here.

I appreciate the comments that have been made. I thank the gentleman from Maryland especially for his views on wetlands, and obviously, it is very similar to Michigan. There is just one minor correction, by the way. Michigan has its own wetlands law, whereas Maryland and New Jersey will administer the Federal wetlands law.

It was interesting, when I was in office there I heard a lot of complaints about the wetland law, and one legislator proposed repealing the Michigan wetland law. The two groups that argued the most against that were the sportsmen, who think the wetlands law is wonderful, because Michigan has great hunting and fishing and so forth, and business. They said, "We know this law. It works for Michigan. We do not want to be under the Federal law." That shows how each State can design the law that accomplishes the goals better than we can with a one-size-fits-all approach from Washington.

I think we have to set a minimum standard, but encourage the States to go beyond that. As Republicans who are talking about devolution of power, of letting the people in the communities have a say, I think this fits in beautifully with that.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield, I appreciate the gentleman making this point, and I simply want to make this point that I think it transcends almost every debate we have here, and it is a philosophical point of view that I think rings true with the majority of the American people.

As you relate to us the experiences of Michigan, as our colleague from Maryland relates the experiences in his State, certainly none among us would argue that at certain time in our history, the Federal Government has played a genuinely worthwhile role in serving as a catalyst to deal with some dramatic issues, but history does not occur in a vacuum.

Therefore, the challenge for us at this juncture in our history is to ask this question: Who do we trust? Do we trust the American people, do we trust local officials, elected by the people close to home, officials elected to State government, the State agencies that have grown up in the last 25 years to confront these problems, or do we always and forever turn these problems over to Washington bureaucrats to offer a Washington solution which may fit Washington, DC, but which might not fit Washington State? that is the essence of the debate that we have on a variety of topics.

I thank the gentleman from Michigan for drawing that distinction yet again when it comes to environmental legislation, the true meaning of conservation, and what it will mean to protect and preserve the environment as we move into the next century.

Mr. EHLERS. I would simply say, Mr. Speaker, we need both. Take clean

air, for example. We have to have a Federal law, because the transport across distances is so huge, but we also need local law to regulate how this is applied locally, and do it in a commonsense fashion. Only with everyone working together are we truly going to achieve a clean environment.

THE URGENT NEED FOR MEANINGFUL TAX REFORM

Mr. KINGSTON. Mr. Speaker, we wanted to touch base on the tax situation, with April 15 approaching quickly. I will yield to the gentleman from Arizona on this, but I want to start off with a couple of fun facts, first, about out tax system, because if you are like many of your American friends this last week or two, you took time filling out your tax form.

On an average, it takes 12 hours for you and your family to fill out your tax forms to the degree that you can, and then you take it to your accountant, and pay anywhere from $150 to $700 or $800, depending on where you are and how much you own and so forth. If you are a small business, it takes you 22 hours.

Here is a statistic that I really like, Mr. Speaker. The IRS has 480 tax forms, and 280 of them are forms that tell you how to fill out the other forms. That is absolutely absurd. The West Publishing Co., one of the official publishers of the Federal Tax Code, published the 1994 Tax Code in two volumes. Volume 1 contains sections 1 through 1,000, and it is printed in 1,168 pages. Volume 2 is page 1,500—1,500. We have a 1,564-page Tax Code, Mr. Speaker. It is absolutely absurd. The need for tax reform is urgent, it is great, it is right now. It is appropriate to look at while we are trying to balance the budget.

Mr. Speaker, I yield to the gentleman from Arizona [Mr. HAYWORTH].

□ 2200

Mr. HAYWORTH. I thank my friend the gentleman from Georgia.

In this Chamber where it is oft decried, the level of verbosity that often emanates within this Chamber, you have not seen words, Mr. Speaker, until you take a look at the Tax Code. The gentleman from Georgia talked about it. By wording, the Tax Code as it exists today consists of 555 million words, 555 million words in the last 10 years. In the wake of tax reform of a decade ago there have been 4,000 changes, resulting in the verbiage piling up.

Mr. Speaker, if you think you are paying by the word, that is certainly the case. Because in the wake of our last tax increase, the largest tax increase in American history, the President of the United States, who talks about tax breaks for the middle-class, offered a tax increase so regressive that with the retroactivity attached to it, people who had passed away still owed more from beyond the grave due to retroactivity.

It is the height of absurdity when the American family in 1948, an average family of four, surrendered about 3 percent of its income in taxes to the Federal Government, to where last year the average American family of four surrendered virtually one quarter of its income in taxes to the Federal government. That affects everyone.

Mr. Speaker, we need to make a change. We have taken a look at priorities and we see that clearly, in the wake of these expenditures, Washington's priorities have totally gotten out of whack.

Mr. KINGSTON. What is so important is that the average family in the 1950's paid 3 percent and today pays 24 percent in Federal income taxes. When you add in the other taxes, State and local taxes, the average middle-class family pays about 25-percent taxes.

I had an opportunity to talk to a driver with UPS, United Parcel Service, in my district. He said, "My wife works. She teaches school and has a good job, and I get a lot of overtime driving this truck. We have got three kids, and at the end of the month we do not have anything because it goes into washers and dryers and taxes and regulations and so forth."

That is the story of the middle-class American family today. All they are doing is working for the government. Then we turn around and make them fill out a tax form that is absurd, which they cannot do.

Mr. Speaker, you are on the Committee on Ways and Means. I bet you most Members of Congress cannot even fill out their own tax form. I believe that is real important. If we cannot do it, we who are setting the law, what do we expect of the American people?

Mr. HAYWORTH. If my friend would yield, there is something fundamentally wrong when the average American family pays more in taxes than on food, shelter and clothing combined. There is something wrong when Washington sends its resources to pay for 111,000 IRS employees, and yet can only have 6,700 DEA employees and only 5,900 border patrol employees.

What does that say to the American people? The Washington bureaucrats are saying, "Oh, we do not have time to staunch the flow of illegal drugs. We do not have time to guard the borders, though that is one of the prerogatives of the Federal Government as mandated in the constitution. But we do have time to audit you, Mr. and Ms. America. We do have time to cast aspersions on your honesty. We do have time to try and find our way into your pocketbook again and again and again and again."

Mr. Speaker, there is nothing ignoble or dishonorable about hard-working American taxpayers hanging onto more of their hard-earned money and sending less here to Washington, DC. Indeed, in the days to come once again, I know my friend Georgia disagrees with this notion, we extend our hand in cooperation to the minority. We extend our hand in cooperation to the President of the United States.

We have talked the talk for too long. Now, Mr. Speaker, it is time for us to walk the walk. We voted that way in this Chamber. We hope that those who would give lip service to these ideals would join with us and get about the business of governing. The American people deserve no less.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we have worked to repeal the 1993 Clinton tax increase on Social Security recipients. We have worked to increase the earnings limitations for American seniors. We have worked to increase the estate tax threshold from $600,000 to $750,000, and we have worked to end the marriage tax penalty and the capital gains tax, and the President vetoed that. Along with that, he vetoed a $500 per child tax credit for middle-class families.

Right now in America households all over this land, from Maine to Miami to California, you can reach in your pocket and say here is $500 that was a dividend for my work this year, but it was vetoed by this President of the United States.

We are not going to stop, Mr. Speaker, and talking about taxes is going to take a lot more time. We have with us the gentleman from California who wants to talk about another waste of manpower and money, and that is illegal immigration, so I want to yield to him.

Mr. BILBRAY. Mr. Speaker, I would first like to echo my colleagues' comments. My wife runs our family business which happens to be an income tax business. I heard a lot of talk in 1993 that the Clinton tax increase was only going to be a tax on the rich and the seniors who were wealthy. Well, I do not think the Members of the House really realized what they were doing. I will say this, and I need to say this so that I can go home to my bride in California this weekend.

The fact is that she showed me one individual and talked to one individual who was a classic example of the so-called tax on the rich. This person made less than $14,000 a year, but because he happened to be a Latino who had very strong religious beliefs, he did not divorce his wife. He was married and filing separate. Eighty-five percent of his Social Security is being taxed.

You remember in 1993 they told those of my colleagues who were here, this is only a tax on the wealthy Social Security recipients; it is not on the poor. Well, this man would like to ask: Would somebody in Congress tell him how rich he is?

I think that that is one issue that is not discussed enough and we need to

VOL
142
PT
5
MR
21
—
29
1996
UMI

start bringing it up. As somebody who is involved in doing tax returns for the working class in my community in San Diego, Mr. Speaker, I hope to bring up more of those items, talking with the constituents who are being taxed by this Congress under the guise of taxing the rich, when it is the working class that is getting harmed by this unfair and unjust legislation.

Mr. Speaker, another item that is unfair and unjust is that we have been trying to address this last week the fact that this Government of the United States has in the past rewarded people for coming across the border and breaking our immigration laws and then getting welfare, free education and free medicine, to the point where it is costing the State of California immense amounts of revenue, and the Federal Government has been walking away from this expense. The people in States across this country are paying this expense because the Federal Government has ignored it.

Mr. Speaker, with the passage of H.R. 2202, Mr. SMITH's bill,-we are finally now seeing this Congress recognizing its responsibility under the constitution to address the fact of illegal immigration. But there is one part of the illegal immigration issue, Mr. Speaker, that has not been addressed.

Mr. Speaker, I will just ask that we all consider the fact that giving automatic citizenship to children of illegal aliens is a problem we need to address. My bill, H.R. 1363, will address that, and we hope to work on that in the very near future.

WOMEN, WAGES, AND JOBS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 60 minutes.

Ms. NORTON. Mr. Speaker, this special order on women, wages, and jobs comes during Women's History Month, but more pertinently it comes because finally the issue of declining wages in our country has made it onto the national agenda.

The underlying discontent that has been there for two decades have come forward, and we see it in the Republican primaries. It is interesting that at least since the early 1980's many of us have been pointing to this un-American phenomenon where the stock market does well and people do poorly. Somehow or other it never caught on. There has been some attention paid to it as it affects men because the manufacturing sector has been so decimated as jobs have moved offshore. Now that the country is beginning to recognize that something different is happening, it is important that we look at all of those of whom something different is happening, and that is why I choose to raise it in relation to women.

As a former chair of the Equal Opportunity Employment Commission, I have long had an interest in discrimination against women. More is at work here than simple discrimination, however. What is at work here is the nature of our economy itself, some historic changes that are underway that reflect upon the kinds of jobs that are being produced and who gets those jobs.

The effect is felt in the widest gap in incomes we have seen since we have been keeping these records. We need to look at how this phenomenon affects women in particular because with the change in the economy there have been the greatest changes in women in the work force.

I want to point to a bill I have introduced, the Fair Pay Act, which in its own way is to the 1990's or seeks to be to the 1990's what the Equal Pay Act was to the 1960's.

This body in 1963 passed the Equal Pay Act in order to close the wage gap between men and women, and the Equal Pay Act has done a very good job for its limited mandate. Essentially, it was to look at people doing the same job and being paid differently for it. Some progress has been made, partly because of the Equal Pay Act, so that we have gone from about a 62-percent gap now to something like a 71-percent gap. That is the good news until we hear the bad news.

The bad news is that the closing of the gap itself reflects an alarming decrease in male wages as well as the new presence of highly educated women or highly skilled women in entry-level positions only. In other words, the average woman is just where she was. The average woman is experiencing what the average man is, stagnant or declining wages. But at entry levels, highly educated women like doctors and lawyers make the same as men, although those women have a gap that develops within their profession after the entry level.

I am this evening interested in the average woman, the silent worker out there every day. The Fair Pay Act is directed specifically to her and to part of what she is experiencing.

The Fair Pay Act simply says if you are doing comparable work you ought to get paid the same. The Fair Pay Act says if you are an emergency services operator, that is a female-dominated profession, you should not be paid less than if you are a fire dispatcher, that is a male-dominated profession.

Under the Fair Pay Act if you are a social worker, you would not earn less than a probation officer simply because you are a woman and he happens to be a man. Should not the market set the rates? That is precisely what the Fair Pay Act tries to do, even as the Equal Pay Act intervened in order to have the market set the rates.

Too often the habits of employers over the decades have built in distortions to the market. Women and minorities paid the price in reduced wages.

I want to emphasize that the Fair Pay Act that is H.R. 1507, would not, in fact, intervene into normal market processes, and that has been the problem people thought they saw in comparable worth work.

□ 2215

My bill would allow the extraction only of the discrimination factor, and the burden would be on the plaintiff, on the woman, as is always the case in discrimination cases, to show that the difference in wage she is experiencing is because of discrimination and not because of unbiased market factors.

I offer that this evening for inspection as one approach to the problem I raise in women and jobs.

I want to move to another remedy as well. We are finally beginning to talk about raising the minimum wage. Here is a subject covered with my mythology. If we are going to talk about women workers, we must talk about the minimum wage. Indeed, if we are going to talk seriously about welfare reform, we must talk about the minimum wage. Who are we talking about when we talk about a minimum wage worker? Some Americans would say, well, I think you are talking about a bunch of teenagers working at McDonald's. The typical minimum wage worker is a white woman over 20 years of age, likely to live in the South, who has not had the opportunity to attend college and who works in a retail trade, agriculture, or service job. That is who the minimum wage worker is. She is your wife and you daughter. She is your aunt and your young friend who has just graduated from high school.

Most minimum wage workers are women; 5.75 million women are paid between $4.25 and $5 per hour. That means 17 percent of all hourly paid female workers earn the minimum age and only the minimum wage. Most female minimum wage workers are not teenagers. They are adults. And when we say women are earning the minimum wage, we are talking about almost certainly the guardians of poor children. Often, most often, these minimum wage workers are women who are raising the poor children.

Now, Mr. Speaker, I am not here talking about the favorite subject of this body, deficit reduction. The minimum wage will add not 1 cent to the United States deficit. What it will do is take 300,000 children immediately out of poverty, 58 percent, almost 60 percent, of minimum wage workers are women. Nearly half of full-time jobs, and the statistics will show that many, if not most, of the others wished they could get full-time jobs, but of part-time minimum wage jobs 15 percent are black, 44 percent of minimum wage workers are Hispanic. What would we do, what would I have us do? Simply to raise the minimum wage to $5.15 per hour. Is there anybody in this body who would think that is too much for them to earn or too much for anyone they know to earn, too much for any constituent of theirs to earn? It would not have to come in one fell swoop. It could go to $4.70 an hour by July 5 this year and to $5.15 an hour by July 1, 1997.

Understand who we are talking about when we say the minimum wage worker. We are talking about the traditional way in which we have set a marker of what it means to be an American below which you shall not be forced to work. We are talking about a person who works typically 40 hours a week, 52 weeks a year, and earns $8,840. The impact of lifting the minimum wage would be that immediately 300,000 people, I want to correct what I said before, 300,000 people would be lifted out of poverty; 100,000 would be children. Only one-third of those affected by such an increase would be teenagers, because almost- 70 percent of minimum wage workers are 20 years old or older. They are adults going out to work every day with less than a poverty wage. That is who they are.

Since 1979, we have found that 97 percent of the Nation's increase in wealth has gone to the wealthiest 20 percent. The remaining 3-percent increase in wealth is left to the other 97 percent of the Nation's workers, and who has taken the brunt are those at the very bottom.

The value of the minimum wage has dropped 30 percent, my colleagues, since 1979. I want to put this graphically to you. I want us to face who we are talking about. Let us look at a family of four and consider what would happen if the sole earner is a minimum wage worker above the poverty line. The current poverty line for a family of four is $15,600. Now, if that family of four has one worker earning the minimum wage, $4.25 an hour, working full time the year around, about $8,500 a year, that worker would receive a tax credit, thanks to legislation passed by this body, if we do not cut it terribly much, and there are proposals to cut it, but today that worker would receive a tax credit of $3,400 under the 1996 provisions of the earned income tax credit.

That worker is so poor, that worker, single wage earner in a family of four, that she could collect food stamps worth $3,516. She would nevertheless still pay $650 in payroll taxes after qualifying for benefits and paying her payroll taxes. This family ends up $834 below the poverty line.

This is America, my friends. We cannot continue to send people to work every day, working hard, working in work you do not want to do and I do not want to do, and have them come home below the poverty line. That is dangerous. You are hearing the rumblings of it out there in the Republican primaries. Answer the call now.

In every State there will be large percentages that will benefit from an increase in the minimum wage. In my own city, a fairly small percentage, 7.8 percent, would benefit, and as I look at what would happen in some of the States, I am simply amazed. Idaho, almost 14 percent of the workers would benefit. In Louisiana, almost 20 percent of the workers would benefit. In Michigan, 10.5 percent; in Mississippi, 17 percent of the workers would benefit. In North Dakota, 18.2 percent of the workers would benefit.

I see my good friend and colleague from Georgia, Representative MCKINNEY, here. In Georgia, 11.9 percent of the workers would benefit. Very substantial percentages all across the United States, regardless of sex, regardless of your preconceptions about the place, regardless of whether you think of it as a poor State or a rich State, you have substantial proportions of the population that would immediately benefit from a raise from the minimum wage, not 1 cent added to the deficit, a sharing of income of the kind that has been typical in the United States that as companies become more prosperous there is a greater sharing of the profits with the workers. That is what has not been happening. That is why we are having a growing income gap.

The number of African-Americans who would benefit is important to note. Seventeen percent of all hourly paid African-American workers are minimum wage workers, and most of these low-wage workers are female. Twenty-one percent of all hourly paid Latino workers are minimum wage workers. And Latino women are especially likely to be paid very low wages; 25 percent of hourly paid Latino women earn at the minimum wage.

Now, I want to examine the critique of an increase in the minimum wage that is most often made, and that is that you reduce job opportunities. The answer is that that is not the case. I refer to nearly two dozen independent studies that have found that the last two increases in the minimum wage had a insignificant effect on employment. The Nobel Laureate economist Robert Solow recently told the New York Times that the evidence of job loss is weak, and I am quoting him, "The fact that the evidence is week suggest that the impact on jobs is small." Prof. Richard Freeman of Harvard said the following: At the level of the minimum wage in the late 1980's, moderate legislative increases did not reduce employment and were, if anything, associated with higher employment in some locales. We remember the 1980's, do we not, when there was a plethora of minimum wage jobs breaking out all over in this country? Minimum wage seems not to do what the conventional wisdom tells us. Kind of look at the facts. We have got to look at the studies.

There is also the myth that the blow will be to small businesses. First of all, 90 percent of workers in small business already earn more than the current minimum wage. Do not think that people in small businesses are simply looking for the cheapest labor they can find. They are looking for the best labor they can find. They have got to have people who give them the biggest bang for the buck. In any case, the law does not apply to businesses that do not have annual sales in excess of 4500,000 or employees that participate in interstate commerce. You have got to be in that category even to be covered. That means that many small businesses are simply not affected by the minimum wage at all. Ninety percent of workers in small businesses earn more than the current minimum wage. Indeed, half of minimum wage workers work in firms with more than 100 employees. That is cheating workers.

What this means is, we are giving a break to moderate and larger employers, because we are allowing them to hire people at minimum wage and keep more of the profit for themselves and they pass that on to us, ladies and gentlemen. because those people qualify for supplemental welfare, those people qualify for the supplemental benefits, food stamps and the rest. So go right ahead the way you are doing it, because what is means you are doing when you are allowing people to pay the present minimum wage is your are subsidizing that employer yourself. That is us, we, the taxpayers.

□ 2230

That is us, we, the taxpayers. Let them pay for the labor. Business is doing well. President Clinton has had an extraordinary effect on the stock market because of the way in which he has reduced the deficit. That is one of the factors that is yielding large gains in the stock market.

Where are those gains reflected in the pay envelope of the minimum wage worker? Why should the taxpayers subsidize that worker with food stamps or other supplements, rather than have the employer, who has profited from that worker pay? Let that employer pay.

This line is stark enough so that even without it being a big poster, I think I will make my point that a higher minimum wage does not cost jobs. This is the job level in 1991. This is the job level in 1996 since the last minimum wage increase. What we are seeing is there has been an extraordinary rise in jobs.

By the way, many of these are part-time, temporary, low-wage jobs. Whatever happened to the notion that if you raise the minimum wage, you will not

VOL 142 PT 5 MR 21 — 29 1996 UMI

make jobs? This is what has not been proved. This is the myth that is helping to sustain the minimum wage.

This is the myth that means the taxpayers are supplementing people who should be paid for their labor by the companies, almost all of them larger companies, or certainly medium-sized companies at least for whom they work.

Let me take a pause now, because I am very pleased to see that the gentlewoman from Georgia has come to the floor. I am very pleased to welcome the gentlewoman from Georgia, who always does her homework, and who has joined me in this special order.

I yield to the gentlewoman from Georgia, Representative CYNTHIA MCKINNEY.

Ms. MCKINNEY. Thank you very much. I certainly want to commend you for the role that you play in terms of being a role model for the newer Members and for people like me who have long looked up to you and now find myself working right next to you. I just want to say thank you for your leadership.

I have got some posters that I think punctuate what you have said. Here I have a chart that shows how from 1979 to 1995 the wages of men have decreased. The wages of women increased, and then began to decrease. The gap that was closing between men and women was basically because the wages of men were dropping.

Then, of course, as you have pointed out, the income gap. We have not seen the kind of income gap that we are experiencing now since the days just prior to the Great Depression. Here we see that the top 25 percent receive more than 95 percent of the income growth. The other 75 percent of Americans receive less than 5 percent of the income growth. Meanwhile, the top 5 percent of American families got more than 40 percent of America's growth.

Just as you so correctly pointed out about the impact that the President's policies have had on the deficit, the decrease in the deficit, and Wall Street, Wall Street sizzles, and Main Street fizzles.

I have another chart. Again, as you so correctly point out, the subsidies, the social safety net that we have painstakingly constructed or woven, is there because there are some corporations that are getting away with not paying their fair share. Certainly they are not paying their workers what they are worth. What we have seen here just in terms of the corporate income tax is that corporate income taxes have gone down, and, of course, individual income taxes have had to take up the slack.

In the previous special order we had one of our colleagues discussing about the diet that he was on, trying to lose 50 pounds, and he was going to lose 2 pounds and then save the other 48 pounds for the last 2 days of the diet.

Well, I think that is about the way the Republicans have run this ship of state, because they in their budget put off the hard decisions until the out years. But the Progressive Caucus has come up with a budget plan that does not put off the hard decisions into the off years. It goes right in by cutting defense spending and cutting corporate welfare. We demonstrate that you can have a downward trend, a steady downward decline in the deficit, if you make the hard choices, and you make them early.

So basically I would just say that when the economy is bad, nothing else is good. The work that you have put together with the legislation will improve the lives of working women all over this country.

I come from a family where my mother worked. She worked for 40 years at Grady Memorial Hospital as a nurse. I am a single female head of household, and I am a working woman. I suspect that if my son grows up and marries, as I suspect that he will, he will also marry a working woman.

We just want to make sure that the leadership of this country is aware and sensitive of the needs of working women, and that is what your legislation provides for.

I would also say, as the only one in the Georgia delegation, that after we were elected, we had women come to our office for issues that ranged from access to credit, to child support enforcement, to sexual harassment, and even something as simple as a role model who showed to them that, yes, it could be done.

So just as we plead with our colleagues to make sure that the plight of working women is not forgotten, we plead for ourselves, and I commend you for your legislation and the work that you do as a role model for the rest of us.

Ms. NORTON. I want to thank the gentlewoman not only for those very kind remarks, and coming from her they are treasured, but also for that very compelling statement. I very much appreciate her coming forward, particularly this late in the evening. But we have got to use what opportunities we have in order to make these important points at this critical time.

Let me continue then. What has happened to women? The gentlewoman from Georgia indicated that women were in fact beginning to improve, and that is true. But women have now been caught in the same spiral that has dragged men's wages down, and that is why we have really got to step up and take notice.

Until the 1970's women came into the work force drawn there by rising real wages. In order words, they came into the work force because they could earn more money and they were drawn to the work force by virtue of the lure of greater income.

Since the 1970's, there has been sluggish wage growth. Still they come. They come because they must. They come even though the wage gap for them, for the average one of them, is not closing.

Now, it is very interesting, in the 1980's we did see a rather precipitous narrowing of the wage gap. It is not altogether clear why, but we do know this, that 50 percent of the gap remains unexplained. We believe that possible explanations may be occupational segregation, women's jobs versus men's jobs, you are in a woman's occupation. That has typically had low-wage discrimination. Women having secondary rather than primary jobs, internal labor market influences.

In any case, the figures tell you about the creation of a whole new work force in our lifetime. In the 1950's, 30 percent of the work force was women. Today, 45 percent of the work force is women. In other words, we have come to the point where half of the people who go to work every day are men and half of the people who go to work every day are women. Yet the reward of wages is simply not there for the average woman.

Indeed, if we look at where women are employed, the lower the earnings, the greater percentage of women in that occupation. That is whether they are making goods or performing services.

Why are women working? I can tell you this much, they must be working, because there is no other choice, because half of all married women with children under 3 are in the labor force. Few women, unless they are highly educated and making a lot of money, and that is rather few, are going to go to work if they have a child under 3. In the 1970's, it was not half of all married women, it was a quarter. That means we have doubled. They are there because they have to be there. They are there because they are single head of household, or they are there because one wage earner cannot do it any longer in a family of two wage earners.

Women are to the new service economy what men were to the economy of the Industrial Revolution. Let us face it. That is what women are. We have fueled the new economy with women. Except in a very real sense, they look exactly like the male industrial workers, low paid, poor benefits of the 19th century. The conversion is itself remarkable. The conversion I speak of is in the economy itself, which has prepared the way to accept women workers.

In the 1960's three-quarters of all the nonfarm job creation was in services. That is a lot. But by the 1970's, 80 percent of all the nonfarm job creation was in services. By the 1980's, 100 percent of all the net job growth was in the services. Four out of every five women work in a service job.

What do I mean by a service job? Because what I mean by a service job is in fact or tells in fact the story of declining and low wages.

☐ 2245

A service job for a woman is a fast-food job. It is a job in a department store. It is a job as a health aide. It is a job as an insurance company clerk. It is a job in residential day care. It is a job as a beautician. It is a job as a clerical. The next time you go into the department store, look at that woman. Look at her closely, and you will know what I mean.

Mr. Speaker, the interesting thing is that historically, women tended to be in school and hospital jobs. There are proportionally few workers there because there are so many other workers in these other service jobs now that they have overwhelmed these school workers and the hospital workers, but watch out.

The school workers and the hospital workers very often were teachers and nurses, and those are relatively high-paid women's jobs, compared with health aides, insurance company clerks, fast-food clerks and department store clerks. These are honorable jobs. These are often good jobs. They just do not pay well. They do not pay what they are worth.

Listen to your constituents. They are hurting. They are hurting because they are not earning what they are worth. We have the only answer, is to get a greater sharing of the benefits of the labor with those who perform the labor. That is the American way, and unless it works that way, you get a disgruntled working class. There is no getting around it. You cannot continue to have a democratic society with a greater and greater share of the wages going to the top and almost none going to those at the bottom.

Now, do we have a situation where the money simply isn't there, that is the problem? That, my friends, is not the problem. You need only open your paper and look at what the stock market is doing, and you will see that the money is there. If anything, downsizing should have resulted in workers who were there getting paid more. It did not. That is why many companies are taking a second look at downsizing, because they have done it on the cheap. They have done it at the expense of workers and have not, in fact, increased productivity, have not done it the old-fashioned way, the American way.

Mr. Speaker, women have become the indispensable new workers who are fodder for the new economy. The last time the country needed the kind of labor supply we have gotten from women in the last two decades were, No. 1, at the time of the great immigration from Europe in the late 19th and early 20th century and No. 2, at the time the black workers in the South left and came north. Today, instead of asking workers to come from Europe or Asia to the United States, and of course there are many immigrants who come, instead what we are saying is, look at your own household and send a worker out for the new economy. If you are going to send a worker out for the new economy from your own household, then should not that new worker be paid what that new worker is worth?

Listen to your constituents now. Hear the cry. I say to my colleagues on the other side of the aisle, listen to your own primary. I never thought I would live to see a Republican sound like a labor Democrat, but I think that is what I heard Pat Buchanan sounding like. Now, that is not his tradition, and that is not the way he has run his political life, but I do think he heard something out there. We all better listen to it.

Whenever we have listened, we have found a remedy. This is not susceptible to yesterday's ideology or even tomorrow's. This is a new problem in the United States. When wages are low, the economy is bad. When wages are high, the economy is good. What is this new phenomenon? The economy is good and wages are low. Should not work that way.

Mr. Speaker, one of the things we can do, if it is working that way, is to look at the minimum wage, which has simply lost its value, and say pay people a little more to work. If you do not, you discourage work and then, of course, my friends get up on the House floor and say why do they not work? If it does not pay to work, how can we expect people to work?

This is America. This is America at the turn of the century. This is a country that must not send people to work only to have them come home poor. That is what is happening.

Economists tell us that there are a number of explanations for the low wages of women in particular. Typically, we are told that a reason for these low wages is crowding or concentration in traditional women's occupations. There may be some of that, but recent studies look to other answers. There was crowding in men's occupations. They had low skills, and yet in manufacturing, they had high wages. Why? My friends, the economists say it was because they were unionized. When the company would not share the profits, men went out and unionized. Women have not done that, and that may be part of the reason the economists tell us that they have not been able to extract a fair share of the profit of their labor from their employers.

We are also told that a reason is low capital investment in the industries in which women work. Even though we may not find the real answer any time soon, we need to look for a remedy very soon. We cannot allow the United States to become a place where you develop a permanent working class or, God forbid, what appear to be the case in many of the inner cities, a permentnt lumpenproletariat, people who never move up. Those would be the homeless, the people who are chronically or constantly unemployed. A greater and greater proportion of our population falls into this category.

This has never been that kind of European-class society. It has been a society where, however poor you were, you could look forward to being better off than your father. You may have been poor, but not as poor as he was. So there was steady progress, and a man could live to see a man who picked cotton live to see his son or daughter go to college. Today, people go to college on college loans and come back home to live because they cannot afford to strike out on their own, the way their parents did.

Mr. Speaker, this is a new America. This is not our America. We do not have all the answers to this America, but we do know this. Surely one of the answers, not maybe, but one of the answers surely is to give back at least some of the value to the minimum wage. It will have an effect, not only on those low-income workers, but it will have something of a ripple effect on those who are nearly as badly off, and you will not know the difference. You will not know it in the deficit. The businesses is question will hardly know it, because a few cents from their profit will go to their workers instead. Who among us would wish for any less?

Mr. Speaker, I recognize that the notion of the minimum wage, or for matter, my Fair Pay Act, are matters that have tended to divide Republican from Democrat, but it was in a Republican primary that one heard this cry first, and it was a Republican candidate that has tried to respond to it. He has responded to it in ways which many, not only in his own party but in mine, simply cannot agree. But he has heard something real. This body must hear something real. It is there. Do not deny it.

Do not tell low-paid workers who go to work every day that something will happen if you only wait for the economy to fit my paradigm, whether it is your flat-tax paradigm, your national sales tax paradigm or, for that matter, paradigms from my side of the aisle, such as stimulation paradigms. People need hope and relief now.

The minimum wage is traditional to American life. Even on the other side of the aisle, few say we should abolish it. There are some, but few. If we put to a vote today to abolish the minimum wage, I believe those of us who say keep it would prevail. The real question is, are you going to keep it at a level that is worthy of the name minimum wage? So far, we have not, and

VOL
142
PT
5
MR
21
—
29
1996
UMI

we are going to pay very severe consequences if we do not.

Among other things, any welfare reform bill we pass will come back to hit us in the face because the people on welfare will come back to claim other benefits because they will not be able to earn enough to pay the rent and to put food on the table.

So I come forward this evening to talk about women's wages in particular, and that is not because I think the problem of men's wages is any better. In fact, it is worse. Men have fallen out of the labor force at an astounding rate because of the decline in the manufacturing sector. Men have experienced an extraordinary reduction in their annual wages over the last quarter of a century.

Mr. Speaker, I have come to the floor this evening to talk about women because I do not intend for women to be lost in this debate. Because if you do not speak up for women, they surely will be lost in this debate. The Women's Caucus found them lost in the health debate before we spoke up, as we did today when we introduced the Women's Health Equity Act. Before we spoke up about breast cancer and osteoporosis and, for that matter, clinical trials for women with heart disease, before we spoke up, they got lost in the health debate. We do not intend them to be lost now that the country has heard some voices that say we work every day and it is getting worse.

I come to the floor this evening to say I hear you and I believe that many on both sides of this body hear. They heard it on the other side in their primary. We hear it on this side, as well. Doing something about it through the minimum wage, as a first step, is a good-faith way to say we hear you. We are going to respond not in a radical departure from what we have always done, but in the tradition that we have always used, in an increase in the minimum wage that will give you a small raise in your pay envelope.

Remember that these minimum-wage workers pay the same social security taxes that the rich do, and the difference in the impact on their pay envelopes is gargantuan. They need a break. They need a raise. Many of them are women, and the majority, the great majority, of those who earn the minimum wage are women, and they are the people who take care of your children. They are the people of the next generation. Hear them. Receive them. Respond and remedy.

Mr. DELLUMS. Mr. Speaker, I take this opportunity, as organized by my valued colleague, Congresswoman ELEANOR HOLMES NORTON, to address the economic condition of women, the jobs that they do and have, and the wages that they receive in relation to the general pool of wage earners. Some of us have been deeply concerned by the deteriorating economic status of the vast majority of workers, citizens, in this country. Although this fall from economic grace began about 16 years ago, the cumulative effects of this steady drop are now beginning to be painfully felt by the majority of job holders.

The experience and story of one of my constituents, whom I shall call Geraldine Mason, is descriptive of many other people in my district and throughout the United States.

Ms. Mason has one pre-school child. She works in a produce market and tries to work at least 40 hours a week, 50 weeks a year, but can only get about 32 hours of work a week. She gets more than the minimum wage, $5 an hour. Her wage is a bit higher because the San Francisco bay area is one of the most expensive places to live in the United States. When she is lucky and works a steady 50 weeks in the year, her total income is $8,000 a year. After taxes, her take home pay is $7,710.

She shares an apartment with her sister; Betty's share of the rent is $250 a month or $3,000 a year.

Of course she needs child care. Although she is on several lists for the few subsidized child care slots in the area, there are needier cases than hers—women who have even less income. So she pays something nominal, $100 a month, $1,200 a year to members of family who are available. Her share of the utilities, telephone, and garbage comes to $55 or $660 a year.

Her job is 5 miles from home and she uses public transport. She can't afford the monthly pass, so she pays $1.25 per trip which adds up to $625 a year. Her food comes to $900 a year; supplementary medical care $299 a year; incidentals, $600 a year. Total: $7,710 a year. This income is augmented by the Earned Income Tax Credit which is under attack.

We are citizens of the United States and are indeed blessed and fortunate to be in a land of agricultural wealth, with human and other resources of which we are justifiably proud. Although we suffer natural calamities—floods, droughts, and earthquakes—we are large enough so that by pooling our national resources we have been able to absorb such shocks better than most nations. We have indeed been blessed to not be in permanent drought as is an increasing band of land in the sub-Sahara region or in the frozen tundra of Russia. We are a wealthy nation.

Why then, should Geraldine Mason, who wants to work and does work; who is a responsible mother and a tax-paying citizen, pushed up against an impossible wall to scale? What do we, the lawmakers and the law implementers tell Geraldine Mason how to survive in this economy?

"Between 1979 and 1991, families headed by people under 25 years old saw their incomes drop $7,200 a year from $24,000 to $16,800 * * *." Even the better established 25–34-year-olds suffered an income drop of $4,000 going from $35,600 to $31,500 during this period. There are about 20 million workers in the United States in Betty Mason's situation.

We know that at differing levels, college graduates, postgraduate, and professionals are beginning to feel the simultaneous crunch of income maldistribution, loss of jobs, and job insecurity.

On maldistribution, 1 percent of American households, with net worth of at least $2.3 million each, owns nearly 40 percent of the Nation's wealth; the top 20 percent of American households, with net worth of $180,000 or more, have more than 80 percent of the Nation's wealth; this figure is the highest of all industrial nations.

At the bottom end of the scale, where Geraldine Mason is stuck, and many single, divorced women with children are, the lowest earning 20 percent of Americans earn only 5.7 percent of all the after-tax income paid to individuals in the United States.

According to Marion Anderson, as published in "Running Up the Down Escalator," an Employment Research Associates report,

ENTRY LEVEL WAGES 1979 AND 1991

	High school graduates			College graduates		
	All	Men	Women	All	Men	Women
1979	$8.32	$9.39	$7.12	$11.32	$12.57	$10.07
1991	6.48	6.90	6.02	11.30	11.39	10.75

Here is another worker: Susan Casavant lives in Vermont, in Congressman SANDERS' district. She presented her story to the Progressive Caucus panel at the March 8, 1996, hearing on "The Silent Depression, the Collapse of the American Middle Class" on her work in Vermont. She states

> I feel as if I am a good worker. I've been quite flexible and displayed responsibility and honest work. I have learned how to work in almost every department. Other employees depend on me in order to receive their work. I believe I pull a heavy load, both in and out of work.
>
> I have such a hard time making a living because Peerless Clothing pays poverty-level wages!! Why?

She makes $5.25 an hour, up 25 cents an hour from the $5-an-hour starting wage.

> . . . I work 40 hours per week plus overtime and Saturdays. My less than $200 a week check makes me feel like a fool. . . . It's still hard to make a good living. I still live with my family because I can't afford to pave my own road. . . . The insurance provided to us costs $41.70 per week for me and my son, that's about $168 per month and the worst part is that it doesn't cover half of the things me and my son need. I never thought my future could look so uninviting, I am twenty-one years old and I still depend on my parents; my mother cares for my son because I can't afford a good, safe day-care.
>
> I live in America, the land of freedom, so how do big companies like these get away with bringing down honest people and their hometowns too? I would like to live in security instead of doubt.

When Susan Casavant and other workers tried to form a union, the company said that it would close or move.

What does the 104th Congress say to her?

This is what we can say: American workers need a raise. American workers, who are among the world's most efficient and productive, need to have some sense that they can learn, work, and make a living wage. This Nation needs our workers, and our economy needs their work and needs their buying power.

In this Congress, I am proud to be a cosponsor of three bills raising the minimum wage: Mr. GEPHARDT's H.R. 940 which raises the minimum wage to $4.70 an hour; Mr. SANDERS' H.R. 363 which raises the minimum

wage to $5.50, and Mr. SABO's H.R. 619, which raises the minimum wage to $6.50 an hour. It is clear from the rosy picture of our economy that the growth is on the increasingly bowed back of our increasing pool of low-paid workers—a disproportionate share of whom are women.

Franklin D. Roosevelt understood the experience, the lives, the misery of the people struggling to find work and income in the 1930's. As Roosevelt led this country to victory by successfully calling on our sense of national pride, by calling on our sense of fairness and democracy, our sense of justice, he was proud to declare in 1944, and much of the Nation thrilled to hear him declare, his Economic Bill of Rights.

Section 2 of this declaration states the U.S. policy of "The right to earn enough to provide for an adequate living."

Space limits me from quoting the other sections which gave Americans in 1944 and later, such a sense of empowerment and self-respect, empowerment and self-respect that we are now losing, and with it our sense of pride in ourselves and each other.

Twenty three of us in the 104th Congress can say and have said that we can make a living wage and that there can be jobs at decent wages for all who want to work and can work. This statement is embodied in H.R. 1050, A Living Wage, Jobs for All Act, which I was proud to introduce with 22 cosponsors; among them ELEANOR HOLMES NORTON.

It will represent a new contract with our people—one that answers Geraldine Mason and Susan Casavant as to how they can have pride in their work and share equitably in the benefits of our wealthy Nation.

During the 104th Congress many of the ideas can be developed, improved upon, sharpened, critiqued, and openly discussed around the country in public meetings, and by the end of the year brought together into a whole legislative package to be reflected in a new budget for the 105th Congress.

I respectfully urge my distinguished and hard-working colleagues to join me in developing a process which will give our citizens new opportunities for economic security and which will hold out hope for women that they can be made full partners in this economic security.

Ms. JACKSON LEE of Texas. Mr. Speaker, I would like to thank my colleagues in the Women's Caucus for calling attention to the issues facing women in the work force and the difficult work they have done to celebrate this year's Women's History Month celebration. I am delighted to participate in this discussion of women, wages, and jobs, because it is an issue that has become increasingly important to us all, as women are now an integral part of the American work force.

First of all, let me commend the millions of women who juggle the dual role of homemaker and breadwinner, as well as those who choose homemaking as a career—for in our society every woman has a crucial role to play.

From the beginning of time, women have performed tasks which were crucial to the economic and social development of our society. At one time, we were only allowed to become educators nurses, seamstresses, and hairdressers, yet today we have expanded our roles to include doctors, lawyers, judges, administrators, and yes we have conquered the sciences as well. And so I say to the women of America, "you've come a long way."

Yes, we have come a long way, and my colleagues and I serving in the 104th Congress bear witness to that fact, yet we have so much farther to go.

On Friday March 8th, women across the globe celebrated International women's Day. A day which was set aside to mark the beginning of the struggle for equality and rights for women. In many countries, it was a day mixed with celebration and protest. Celebration for the many economic, social, and political obstacles we have successfully overcome, and protest for the ongoing inequalities and barriers that continue to deny us full participation in society. Yet in America, International Women's Day went literally without notice. Did we fail to recognize this day because we have conquered all the obstacles or is it because we have fallen down on the job?

Mr. Speaker, I submit to you that in spite of the strides that have been made, until we eradicate pay inequalities, the glass ceiling, sexual discrimination and the myriad of other problems facing working women, our battle is far from over.

A recent report from the U.S. Department of Labor's Glass Ceiling Commission shows that women represent over half of the adult population and nearly half of the work force in America. Women compose half of the work force, yet we remain disproportionately, clustered in traditionally "female" jobs with lower pay and fewer benefits. These studies show that women who make the same career choices as men and work the same hours as men often still advance more slowly and earn less.

Women remain underrepresented in most nontraditional professional occupations as well as blue collar trades. Consider the following:

Women make up 23 percent of lawyers but only 11 percent of partners in law firms, women are 48 percent of all journalists, but hold only 6 percent of the top jobs in journalism, women physicians earned 53.9 percent of the wages of male physicians, women are only 8.6 percent of all engineers, women are 3.9 percent of airplane pilots and navigators; and in dentistry, women are over 99.3 percent of hygienists, but only 10.5 percent of dentists.

The report found that although the pay gap for women narrowed significantly in fields such as computer analysts, it widened in others. They show that in 1993 women earned only 72 percent of the wages paid to men. This wage gap is worse for women of color. White women earn 72 cents per every dollar made by white men while African-American women earn 64 cents and Latino women earn a mere 54 cents.

Mr. Speaker, working women in this country have been fighting for equal pay for equal work for over 20 years now, and although the gap is closing, it is not happening at the rate any of us should be pleased with. When this government exposes civil or human rights violations in other countries, we are quick to impose sanctions to encourage people to remedy their behavior, yet when companies within our own borders continue to violate these same rights, we turn our heads, and say, "these things just take time." Well, how long will it take before working mothers can actually support their children, without the extra assistance from family, or government.

In closing, I would thank to Rep. NORTON for allowing me the opportunity to speak on this issue.

Ms. WATERS. Mr. Speaker, I would first like to thank my colleague, Congresswoman ELEANOR HOLMES NORTON, for bringing us together to discuss the vital issue of women and wages in our country.

While women have made some economic strides in the past few decades, we still have a long way to go. This session of Congress, under our new Republican leadership, was especially brutal for women—it was, and continues to be, antiwoman, antichoice, and antiworking family.

Today, most women work and spend less time with their children and families. Many cannot afford health insurance for their families and worry about their economic security in old age.

This Republican-led Congress has passed many bills to weaken and threaten women's rights, health, freedom, opportunities, economic equity, and economic security.

They have cut student loans, Social Security, family planning services, and child care. They have tried to take away our constitutional right to choose. They have attempted to slash funding for school nutrition programs, and have abolished important job training programs that train women for higher paying, nontraditional jobs. They have attacked affirmative action.

Let's talk about affirmative action, and how we need it to help level the playing field with men. Today women are still paid less for the same work. Women taxpayers are not getting their money's worth. Even with affirmative action, we make only 72 cents to a man's dollar. This is a disgrace.

In 1993, female managers earned 33 percent less than male managers, female college professors earned 23 percent less than male professors, and female elementary school teachers earned 22 percent less than male elementary school teachers, Let's not dismantle affirmative action until these discrepancies in wages are entirely erased.

The old boy network is alive and strong. Sexism and racism still exist and must be remedied. That's what affirmative action is all about. We must encourage and train women to seek higher paying jobs in order for them to successfully provide for their families.

Did you know that women who choose nontraditional female careers, such as fire-fighters or engineers, can expect to have lifetime earnings that are 150 percent of women who choose traditional careers like clerical workers or beauticians? We will not crack the "glass ceiling" until we break out of the "pink collar ghetto."

At this time of corporate downsizing and Government budget cutting, women must work even harder to secure a place in a changing economy. This is no easy task, especially when important programs for women have been slashed, such as the School-to-Work Opportunities Act.

This program, reduced by 22 percent this year, particularly affects female students who need exposure to high-skill, high-wage career options that are not traditional for girls. Cuts in

VOL
142
PT
5
MR
21
—
29
1996
UMI

job training programs, and the elimination of the Women's Educational Equity Act further hurt women's prospects for achieving pay equity with men in the near future.

There is some hope, however. We must start to teach our daughters—the next generation of women workers—to become independent thinkers and problem-solvers, so that they may increase their self-confidence and attain high-paying jobs as adults. We can praise them for taking risks, and for their ideas rather than their appearance.

We can encourage them to master computers and take leadership positions. We can enroll them in sports and begin to discuss career options now. We can serve as mentors and role models.

A few women have made it to the top of the corporate ladder. Two women sit on the Supreme Court, two head the Justice Department, and a record 31 percent of President Clinton's appointments to the Federal bench were women. My State, California, is the only State headed by two female Senators.

President Clinton, in this 1997 budget, has preserved funding for many programs important to women and families, including child care, child support, and job training.

The Congressional Caucus for Women's Issues, under the leadership of Congresswoman NITA LOWEY and Congresswoman CONNIE MORELLA, has been very active in assuring that women's concerns are not forgotten, even when we represent only 10 percent of the House of Representatives. Later on this year, we will continue the tradition of introducing the Women's Economic Equity Act. This package of bills will help women continue to succeed in the workplace.

Thank you, again, Congresswoman NORTON, for your commitment to women and economic equality, and for this opportunity to discuss women in the workplace.

GENERAL LEAVE

Ms. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

REPUBLICAN PRIMARIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I rise this evening to talk about a couple of Republican Presidential candidates who are not leading the polls and have not just won in California and other States. Of course, the gentleman who has done that is BOB DOLE. But I wanted to talk a little bit tonight about two friends, because I think that they have a great deal to offer the Republican Party and to the Nation, and I think it would be very unwise for our party and for the leadership that will be emerging from the convention in my hometown in San Diego to ignore either these candidates or the many millions of people whom they represent.

□ 2300

Mr. Speaker, those two candidates are my great friend and near-seat mate from California [Mr. DORNAN], who sits on the Armed Services Committee with me and whom I have endorsed for President, and another good friend, Pat Buchanan who has made a very spirited run at the Presidential nomination and not quite made it, but, nonetheless, has, I think, touched a nerve with many, many Americans and attracted many Americans to his agenda.

Let me start off by saying, Mr. Speaker, that I listened to my father in the past talk to me about political smear campaigns and how people were denigrated by the press, by the liberal media, to the point where they had no chance of winning an election. I remember him first showing me those evidences of such campaigns back in the Barry Goldwater days when Barry was denounced as someone who would get us into nuclear war, and was unfit to serve in the White House, and was supposed to be a very dangerous person. After he concluded an excellent career in the Senate, he was then regarded by the same pundits and liberal media people as a, quote, conservative statesman, but in those days he was bashed a lot.

And I noticed that Pat Buchanan has taken a lot of bashing, and I think very unfairly, because I look at his positions with respect to free trade. He opposes President Clinton's NAFTA, so there is something wrong with that position from the liberal media standpoint. He supports the right to life of unborn children, a traditional Republican opinion and position, and of course that is opposed by the liberal media. He supports a strong military, and of course that is opposed by the liberal media which watched with dismay as President Reagan's strong military posture dismantled the Soviet Union and ended the cold war.

Mr. Speaker, on a personal note Pat and Shelly are wonderful people. They are fine people, they care about the Nation, they have great compassion for their fellow Americans. And to see the media come out and imply that Pat Buchanan was anti-Semitic, and when you ask why they thought that, they said, well, it is the way he pronounces terms like Goldman Sachs. I thought, my gosh, we live in an age where the media can denounce somebody and call them names because of the way they pronounce a word. I have not seen McCarthyism, but I guess that is probably as close as we will come in these times.

So, Pat Buchanan has a great deal to offer the Republican Party. He really has the traditional Republican positions of fair trade, not free trade. Remember that, when John Kennedy offered one of the first free trade bills back in 1962, it was opposed mainly by three Senators: Barry Goldwater, STROM THURMOND, and a Senator named Prescott Bush, the father of the future President, George Bush. Conservatives opposed free trade because we thought that, if you gave away pieces of the American market and did not get anything in return, you were disserving millions of American working people and small businesses, and that is exactly the case today. And Pat Buchanan has been exactly right about NAFTA, and President Clinton, who fathered NAFTA, has been exactly wrong.

There was a $3 billion trade surplus over Mexico before NAFTA. Today there is a $15 billion trade deficit. That means billions of dollars gone that would have been coming to Americans who are working in America making those components and those products that now are made in Mexico. We have now a $30 billion trade deficit with Communist China, which even now is building short-range and long-range missiles, has a big weapons market in the Third World, selling weapons to Libya and Iraq and other nations.

So Pat Buchanan has traditional Republican principles, and I think it is a tragedy that he was smeared so thoroughly by the American media. I hope that BOB DOLE will open wide his party door and the door to the convention to Pat and to my other great friend, the gentleman from California [Mr. DORNAN].

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WELDON of Pennsylvania (at the request of Mr. ARMEY) for today and the balance of the week, on account of eye surgery.

Mrs. FOWLER (at the request of Mr. ARMEY) for today and the balance of the week, on account of medical reasons.

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CANADY of Florida) to revise and extend their remarks and include extraneous material:)

Mr. MCINNIS, for 5 minutes, today.

Mr. SMITH of New Jersey, for 5 minutes, today.

Mr. MCINTOSH, for 5 minutes, today.

Mr. BILBRAY, for 5 minutes, today.

Mr. SALMON, for 5 minutes, today.

Mr. SAXTON, for 5 minutes each day, today and on March 28.

Mr. LATOURETTE, for 5 minutes, on March 28.

(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Mr. SKELTON, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DOOLITTLE, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. TORKILDSEN, for 5 minutes, on April 15.

Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Members (at the request of Mr. FARR of California) to revise and extend their remarks and include extraneous material:)

Mr. FARR of California, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HUNTER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CANADY of Florida) and to include extraneous matter:)

Mr. BURTON of Indiana.
Mr. SHUSTER.
Mr. LEWIS of California in two instances.

(The following Members (at the request of Mr. FARR of California) and to include extraneous matter:)

Mrs. MEEK of Florida.
Mr. UNDERWOOD.
Mr. HAMILTON in three instances.
Mr. WISE.
Mr. HINCHEY.
Mr. POSHARD.
Mr. SABO.
Mrs. SCHROEDER.
Mr. STUDDS.
Mr. BRYANT of Texas.
Mr. HALL of Texas.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. ROBERTS.
Mr. HORN.
Mr. BAKER of California.
Mr. FRANKS of New Jersey.
Mr. SOLOMON.
Mr. WALSH.
Mr. FOX of Pennsylvania.
Mr. MARTINI.
Mr. MCKEON.

(The following Members (at the request of Mr. HUNTER) and to include extraneous matter:)

Mr. RAMSTAD.
Mr. HASTINGS of Washington.
Mr. GILLMOR.
Ms. VELÁZQUEZ.
Ms. DANNER.
Mr. KOLBE.
Mrs. MORELLA.
Mr. HALL of Texas.
Mr. BARCIA.
Ms. SLAUGHTER.
Mr. HOSTETTLER.

ADJOURNMENT

Mr. HUNTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Thursday, March 28, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2301. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting a report on laboratories designated as eligible to participate in the Department's Laboratory Revitalization Demonstration Program, pursuant to Public Law 104-106, section 2892(d) (110 State. 590); to the Committee on National Security.

2302. A letter from the Secretary of Labor, transmitting a report entitled "Core Data Elements and Common Definitions for Employment and Training Programs," pursuant to Public Law 102-367, section 404(a) (106 Stat. 1085); to the Committee on Economic and Educational Opportunities.

2303. A letter from the Secretary of Energy, transmitting the Department's annual report for the strategic petroleum reserve, covering calendar year 1995, pursuant to 42 U.S.C. 6245(a); to the Committee on Commerce.

2304. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2305. A letter from the Administrator, U.S. Small Business Administration, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2306. A letter from the Secretary, Naval Sea Cadet Corps, transmitting the annual audit report of the Corps for the year ended December 31, 1995, pursuant to 36 U.S.C. 1101(39) and 1103; to the Committee on the Judiciary.

2307. A letter from the Secretary of Transportation, transmitting a study on innovative financing available under the Airport Improvement Program, pursuant to 49 U.S.C. 47101 note; to the Committee on Transportation and Infrastructure.

2308. A letter from the Deputy Administrator, General Services Administration, transmitting a building project survey report for Research Triangle Park, NC, pursuant to 40 U.S.C. 610(b); to the Committee on Transportation and Infrastructure.

2309. A letter from the Chairman, Pension Benefit Guaranty Corporation, transmitting the 21st annual report of the Corporation, which includes the Corporation's financial statements as of September 30, 1995, pursuant to 29 U.S.C. 1308; jointly, to the Committees on Economic and Educational Opportunities and Ways and Means.

2310. A letter from the Secretary of Transportation, transmitting notification of the actions the Secretary has taken regarding security measures at Hellenikon International Airport, Athens, Greece, pursuant to 49 U.S.C. 44907(d)(3); jointly, to the Committees on Transportation and Infrastructure and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 842. A bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; with an amendment (Rept. 104-499 Pt. 1). Ordered to be printed.

Mr. SOLOMON: Committee on Rules. House Resolution 391. Resolution providing for consideration of the bill (H.R. 3136) to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit (Rept. 104-500). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 392. Resolution providing for the consideration of the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes (Rept. 104-501). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 393. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2854) to modify the operation of certain agricultural programs (Rept. 104-502). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 394. Resolution waiving points of order against the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes (Rept. 104-503). Referred to the House Calendar.

VOL
142
PT
5
MR
21
—
29
1996
UMI

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 842. Referral to the Committee on the Budget extended for a period ending not later than March 29, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MARTINI (for himself, Mr. McCollum, Mr. Hyde, and Mr. Schumer):

H.R. 3166. A bill to amend title 18, United States Code, with respect to the crime of false statement in a Government matter; to the Committee on the Judiciary.

By Mr. BAKER of Louisiana (for himself, Mr. Kanjorski, Mr. McCollum, Mr. Bachus, Mr. King, Mr. Hayworth, Mr. Chrysler, Mr. Cremeans, Mr. Fox, Mr. Metcalf, Mr. Weller, Mr. LaFalce, Mr. Orton, and Mr. Bentsen):

H.R. 3167. A bill to reform the Federal Home Loan Bank System, and for other purposes; to the Committee on Banking and Financial Services.

By Ms. DeLAURO (for herself, Mr. Gephardt, Mr. Bonior, and Mr. Fazio of California):

H.R. 3168. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Banking and Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANKS of New Jersey:

H.R. 3169. A bill to amend the Job Corps program under the Job Training Partnership Act to ensure a drug-free, safe, and cost-effective Job Corps, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. FRANKS of New Jersey (for himself, Mr. Pallone, Mr. Frelinghuysen, and Mr. Zimmer):

H.R. 3170. A bill to dispose of contaminated dredged sediments in a more environmentally responsible manner, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOKE:

H.R. 3171. A bill to limit the procurement of aircraft landing gear by the Secretary of Defense to landing gear that is manufactured and assembled in the United States; to the Committee on National Security.

By Mr. KENNEDY of Rhode Island (for himself, Mr. Boehlert, Mr. Markey, Mr. Blute, Mr. Pallone, Mr. Quinn, Mr. Torkildsen, Mr. Hinchey, and Mr. Gejdenson):

H.R. 3172. A bill to establish a Commission to develop strategies and policies to mitigate the environmental impacts associated with electric utility restructuring; to the Committee on Commerce.

By Mr. LANTOS (for himself, Mr. Brown of California, Ms. Waters, Mr. Moran, Mr. Frank of Massachusetts, Mr. Abercrombie, Mr. Gejdenson, Mr. Coleman, Ms. Pelosi, Mr. Stark, Mr. Kleczka, Mr. Miller of California, Mr. Jacobs, Mr. Sanders, Mr. DeFazio, Ms. Woolsey, Mr. Torres, Ms. Rivers, Mr. Lewis of Georgia, Mr. Cardin, Mr. Clay, Mr. Dellums, Mr. Johnson of South Dakota, Mr. Yates, Mrs. Mink of Hawaii, Mr. Schumer, Mr. Farr, Mr. Foglietta, Mr. Torricelli, Mr. Porter, Mr. Johnston of Florida, Mr. Shays, and Mr. Reed):

H.R. 3173. A bill to establish, wherever possible, nonanimal acute toxicity testing as an acceptable standard for Government regulations requiring an evaluation of the safety of products by the Federal Government; to the Committee on Commerce.

By Mrs. MORELLA:

H.R. 3174. A bill to amend the Public Health Service Act to provide for programs regarding women and the human immunodeficiency virus; to the Committee on Commerce.

H.R. 3175. A bill to amend the Public Health Service Act to provide for an increase in the amount of Federal funds expended to conduct research on alcohol abuse and alcoholism among women; to the Committee on Commerce.

H.R. 3176. A bill to amend the Public Health Service Act to establish programs of research with respect to women and cases of infection with the human immunodeficiency virus; to the Committee on Commerce.

By Mr. SENSENBRENNER (for himself and Mr. Obey):

H.R. 3177. A bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes; to the Committee on the Judiciary.

By Ms. SLAUGHTER (for herself, Mrs. Morella, Mrs. Lowey, Ms. Eddie Bernice Johnson of Texas, Ms. Brown of Florida, Mrs. Clayton, Miss Collins of Michigan, Mrs. Collins of Illinois, Ms. DeLauro, Ms. Eshoo, Ms. Furse, Ms. Harman, Ms. Jackson-Lee, Mrs. Johnson of Connecticut, Mrs. Kelly, Mrs. Kennelly, Ms. Lofgren, Ms. McKinney, Mrs. Maloney, Mrs. Meek of Florida, Mrs. Meyers of Kansas, Mrs. Mink of Hawaii, Ms. Norton, Ms. Pelosi, Ms. Rivers, Mrs. Roukema, Ms. Roybal-Allard, Mrs. Schroeder, Mrs. Thurman, Ms. Velazquez, Ms. Waters, and Ms. Woolsey):

H.R. 3178. A bill to promote greater equity in the delivery of health care services to American women through expanded research on women's health issues and through improved access to health care services, including preventive health services; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, Agriculture, International Relations, Veterans' Affairs, Economic and Educational Opportunities, National Security, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. VELÁZQUEZ:

H.R. 3179. A bill to modify various Federal health programs to make available certain services to women who are members of racial or ethnic minority groups, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Commerce, Economic and Educational Opportunities, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL (for himself, Ms. Molinari, Mr. Lantos, Mr. Porter, Mr. Levin, Mr. King, Mr. Torricelli, Mr. Moran, Mrs. Kelly, Mr. Bonior, Mr. Miller of California, and Mr. Rohrabacher):

H. Con. Res. 155. Concurrent resolution concerning human and political rights and in support of a resolution of the crisis in Kosova; to the Committee on International Relations.

By Ms. DeLAURO:

H. Con. Res. 156. Concurrent resolution expressing the sense of the Congress regarding research on the human papillomavirus and its relation to cervical cancer; to the Committee on Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

211. By the SPEAKER: Memorial of the Senate of the State of Kansas, relative to amending the Federal Food, Drug and Cosmetic Act and the Public Health Service Act to facilitate the development and approval of new drugs and biologics; to the Committee on Commerce.

212. Also, memorial of the Senate of the Commonwealth of Kentucky, relative to recognizing the injustices of human rights in Guatemala; to the Committee on Government Reform and Oversight.

213. Also, memorial of the Legislature of the State of California, relative to forced labor; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 528: Mr. Ehlers.

H.R. 573: Mr. Frank of Massachusetts.

H.R. 820: Mr. Flake, Mr. Graham, Mr. Sisisky, Mr. Stenholm, Mr. Ackerman, Mr. Schumer, Ms. Lofgren, Ms. Pryce, Mr. Shays, and Mr. Serrano.

H.R. 940: Mr. Bryant of Texas.

H.R. 957: Mr. LaTourette.

H.R. 1023: Mr. Gilchrest, Mr. Chrysler, Mr. Taylor of North Carolina, Mr. Young of Florida, Mrs. Clayton, Mr. de la Garza, Mr. Baldacci, Mr. Lucas, and Mr. Myers of Indiana.

H.R. 1127: Mr. Pomeroy.

H.R. 1363: Mr. Ballenger, Mr. Bass, Mr. Burr, Mr. Chrysler, Mrs. Chenoweth, Mr. Cremeans, Mr. Tiahrt, Mr. Weldon of Florida, Mr. McIntosh, and Mr. Jones.

H.R. 1386: Mr. Barcia of Michigan, Mr. Clement, and Mr. Stenholm.

H.R. 1406: Mr. Abercrombie, Mr. Martini, and Mr. Thornberry.

H.R. 1462: Mr. Baldacci, Mr. Frost, Ms. Molinari, Mr. Frazer, Mr. Faleomavaega, Mr. Clay, and Ms. McKinney.

H.R. 1484: Mr. Abercrombie.

H.R. 1496: Mr. Franks of New Jersey.

H.R. 1500: Ms. Harman.

H.R. 1619: Mr. Fields of Texas, Ms. Jackson-Lee, and Mr. Stockman.

H.R. 1776: Mr. Gingrich, Mr. Campbell, Mr. Berman, Mr. Kennedy of Rhode Island, and Mr. Deutsch.

H.R. 1802: Mr. Quinn.

H.R. 1810: Mr. Martini.

H.R. 1863: Mr. Bryant of Texas and Mr. Andrews.

H.R. 1883: Mr. Zimmer.

H.R. 2003: Mr. Filner.

H.R. 2011: Mr. Wynn.

H.R. 2019: Ms. Woolsey and Mr. Sanders.

H.R. 2071: Ms. Jackson-Lee.

H.R. 2270: Mr. Cox.

H.R. 2337: Mr. Cramer.

H.R. 2510: Mr. Martini.

H.R. 2579: Mr. Gibbons.

H.R. 2618: Mr. Bilbray.

H.R. 2745: Mr. Manton, Mr. Foglietta, and Mr. Rush.

H.R. 2856: Mr. Martini and Mr. McNulty.

H.R. 2893: Mr. Reed and Mr. Roberts.

H.R. 2925: Mr. Stenholm and Mr. Volkmer.

H.R. 2927: Mr. Weldon of Pennsylvania, Mr. Moorhead, and Mr. Lewis of California.

H.R. 2935: Mr. Cooley and Mr. Tate.

H.R. 2974: Mr. Fox.

H.R. 2976: Mr. Baldacci, Mr. Calvert, Mr. Chambliss, Mr. Crapo, Mr. Deutsch, Mr. Duncan, Ms. McKinney, Ms. Molinari, and Ms. Rivers.

H.R. 2994: Mr. McCollum, Mr. Gunderson, and Mr. Brown of California.

H.R. 3002: Mr. Ehlers.

H.R. 3004: Mr. Peterson of Minnesota, Mr. Ney, Mr. Deutsch, Mr. Bilbray, Mr. Gillmor, and Mr. Ehlers.

H.R. 3012: Mr. Hefley, Mr. Dellums, Mr. Smith of New Jersey, Mr. Barcia of Michigan, Mrs. Mink of Hawaii, Mr. Frazer, Mr. Frank of Massachusetts, Mr. Manton, and Mr. Matsui.

H.R. 3045: Mr. Rahall.

H.R. 3048: Mr. Castle, Mr. Cunningham, and Mr. Wamp.

H.R. 3050: Mr. Barcia of Michigan and Ms. Kaptur.

H.R. 3059: Mr. Barrett of Wisconsin, Mr. Foglietta, Mr. Frazer, Mr. Frost, Mr. Jefferson, Mr. Kleczka, Mr. Lipinski, Ms. Lofgren, Ms. McKinney, Mr. Miller of California, Ms. Rivers, Mr. Thompson, Mr. Waxman.

H.R. 3114: Mr. Neal of Massachusetts, Mrs. Johnson of Connecticut, and Mr. Funderburk.

H.R. 3118: Mr. Ackerman, Mr. Gene Green of Texas, and Mr. Cramer.

H.R. 3130: Mr. Gene Green of Texas.

H.R. 3142: Mr. Ensign, Mrs. Lowey, Mr. Gonzalez, Mr. Calvert, Mr. Hayes, Mr. Saxton, Mr. Montgomery, Mrs. Kelly, Mr. Abercrombie, Mr. Frost, Mr. Forbes, Mr. Clinger, Mr. Talent, Mr. Canady, Mr. Metcalf, Mr. Bryant of Texas, and Mr. Hunter.

H.R. 3149: Mr. Hancock.

H.J. Res. 97: Mr. Wise.

H.J. Res. 159: Mr. Whitfield, Mr. Bilbray, and Mr. Rose.

H. Con. Res. 47: Mr. Conyers, Mr. de la Garza, Mr. Hilliard, Mr. Ney, Mr. Sabo, and Ms. Velázquez.

H. Con. Res. 144: Mr. Torkildsen.

H. Res. 49: Mr. Thompson and Mrs. Meek of Florida.

H. Res. 348: Mr. McCollum and Mr. Goodling.

H. Res. 374: Mr. Camp, Mr. Frelinghuysen, Mr. Coble, Mr. Hunter, Mr. Porter, Mr. Martini, Mrs. Cubin, Mr. Nethercutt, Mr. Calvert, Mr. Ehrlich, Mr. Hancock, Mr. NcNulty, Ms. Woolsey, Mr. Gene Green of Texas, Mr. Weldon of Pennsylvania, Mr. Traficant, and Mr. Yates.

H. Res. 378: Mrs. Meyers of Kansas, Mr. English of Pennsylvania, Mr. Bateman, Mr. Wolf, Ms. Norton, Mr. Dellums, Mr. Calvert, Mr. Berman, and Ms. Pelosi.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

69. The SPEAKER presented a petition of the Transportation Policy Board of the Abilene Metropolitan Planning Organization, Abilene, TX, relative to the issues of appropriate taxation and adequate provision of transportation infrastructure; which was referred jointly, to the Committees on Transportation and Infrastructure and the Budget.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3103

Offered By: Mr. Dingell

Amendment No. 2: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Insurance Reform Act of 1996".

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

TABLE OF CONTENTS OF TITLE

Sec. 100. Definitions.

Subtitle A—Group Market Rules

Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.

Subtitle B—Individual Market Rules

Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.

Subtitle C—COBRA Clarifications

Sec. 121. Cobra clarification.

Subtitle D—Private Health Plan Purchasing Cooperatives

Sec. 131. Private health plan purchasing cooperatives.

Subtitle E—Application and Enforcement of Standards

Sec. 141. Applicability.
Sec. 142. Enforcement of standards.

Subtitle F—Miscellaneous Provisions

Sec. 191. Health coverage availability study.
Sec. 192. Effective date.
Sec. 193. Severability.

SEC. 100. DEFINITIONS.

As used in this title:

(1) Beneficiary.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) Employee.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) Employer.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) Employee health benefit plan.—

(A) In general.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) Rule of construction.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) Arrangements not included.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) Family.—

(A) In general.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) Child.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) Group health plan.—

(A) In general.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) Arrangements not included.—Such term does not include the following, or any combination thereof;

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

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(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) HEALTH STATUS.—The term "health status" includes. with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(10) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(11) PLAN SPONSOR.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(12) SECRETARY.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(13) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle A—Group Market Rules

SECTION 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

In General.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium; contribution requirements under the terms of such plan, except that such requirements shall not be based on health status (as defined in section 100(9)).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium; discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(e) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing is this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(A) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments.

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this title.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan. A group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan, and

(ii) all group health plans issued or delivered for issuance in the State or discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treatment of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan;

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnancy.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries who coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation or such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINTITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may be excluded except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse section as approved by the applicable certifying authority (as defined in section 142(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITIONS.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment

VOL
142
PT
5
MR
21
—
29
1996
UMI

period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUER.—

(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates.

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and title I of the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsections (b) and (c), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to such individual, or deny enrollment to such individual based on the health status of the individual; or

(B) impose a limitation or exclusion of benefits otherwise covered under the plan for the individual based on a preexisting condition unless such limitation or exclusion could have been imposed if the individual remained covered under a group health plan or employee health benefit plan (including providing credit for previous coverage in the manner provided under subtitle A).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph in a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) DEFINITION OF ELIGIBLE INDIVIDUAL.—As used in subsection (a)(1), the term "eligible individual" means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans, employee health benefit plans, or public plans established under Federal or State law, for not less than 18 months (without a lapse in coverage of more than 30 consecutive days) immediately prior to the date on which the individual desired to enroll in the individual health plan.

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, accepted and exhausted the maximum required period of continuous coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under an equivalent State program.

(c) APPLICABLE OF CAPACITY LIMIT.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENT.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this title shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan.

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of particular individuals.

(21) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status of particular individuals.

(2) NETWORK PLAY.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) IN GENERAL.—With respect to any State law with respect to which the Governor of the State notifies the Secretary of Health and Human Services that such State law will achieve the goals of sections 110 and 111, and that is in effect on, or enacted after, the date of enactment of this Act (such as laws providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, or mandatory conversion policies), such State law shall apply in lieu of the standards described in sections 110 and 111 unless the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(b) DETERMINATION.—

(1) IN GENERAL.—In making a determination under subsection (a), the Secretary of Health and Human Services shall only—

(A) evaluate whether the State law or program provides guaranteed access to affordable coverage to individuals described in sections 110 and 111;

(B) evaluate whether the State law or program provides coverage for preexisting conditions (as defined in section 103(e)) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(C) evaluate whether the State law or program provides individuals described in sections 110 and 111 with a choice of health plans or a health plan providing comprehensive coverage, and

(D) evaluate whether the application of the standards described in sections 110 and 111 will have an adverse impact on the number of individuals in such State having access to affordable coverage.

(2) NOTICE OF INTENT.—If, within 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that the State intends to enact a law, or modify an existing law, described in subsection (a), the Secretary of Health and Human Services may not make a determination under such subsection until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) NOTICE TO STATE.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making a final determination under subsection (a).

(c) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, adopts a model standard or standards for reform of the individual health insurance market, and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC standard or standards, that such standards comply with the goals of sections 110 and 111:

a State that elects to adopt such model standards or substantially adopt such model standards shall be deemed to have met the requirements of sections 110 and 111 and shall be subject to a determination under subsection (a).

SEC. 113. DEFINITION.

(a) IN GENERAL.—As used this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital of fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996", and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(2) ELECTION.—Section 2205(1)(C) of the Public Health Service Act (42 U.S.C. 300bb–5(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof.

(B) in clause (ii), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 2202(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb–6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb–8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

VOL 142 PT 5 MR 21 — 29 1996 UMI

(1) Period of coverage.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual." after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part",

(B) in subparagraph (D)(i), by inserting before, ", or" the following ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) Election.—Section 605(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof;

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 602(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) Notices.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(4) Birth or adoption of a child.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) Internal Revenue Code of 1986.—

(1) Period of coverage.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) Election.—Section 4980B(f)(5)(A)(ii) of the Internal Revenue Code of 1986 is amended—

(A) in subclause (I), by striking "or" at the end thereof;

(B) in subclause (II), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new subclause:

"(III) in the case of an qualified beneficiary described in the last sentence of paragraph (2)(B)(i), the date such individual is determined to have been disabled.".

(3) Notices.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(4) Birth or adoption of a child.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) Effective Date.—The amendments made by this section shall apply to qualifying events occurring on or after the date of enactment of this Act for plan years beginning after December 31, 1997.

(e) Notification of Changes.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) Definition.—As used in this title, the term "health plan purchasing cooperative" means a group of individuals or employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) Certification.—

(1) In general.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion. Each such cooperative shall also be registered with the Secretary.

(2) State refusal to certify.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this title, the Secretary shall certify and oversee the operations of such cooperative in such State.

(3) Interstate cooperatives.—For purposes of this section a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) Board of Directors.—

(1) In general.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a board cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of individual health plans or group health plans may not hold or control any right to vote with respect to a cooperative.

(2) Limitation on compensation.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(3) Conflict of interest.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant for, be a member of the board of directors or, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) Membership and Marketing Area.—

(1) Membership.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first-come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) Marketing area.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries may not be established on the basis of health status of the populations that reside in the area.

(e) Duties and Responsibilities.—

(1) In general.—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible.

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State.

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and

individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) Permissible activities.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this title, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers, and

(E) negotiating with health care providers and health plan issuers.

(f) Limitations on Cooperative Activities.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers.

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this title.

(g) Limited Preemptions of Certain State Laws.—

(1) In general.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) Health plan issuers.—

(A) Rating.—With respect to a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section. State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) Exception.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new rating period that is in excess of that which would be permitted under State rating laws.

(C) Benefits.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category or care, or services of any class or type of provider.

(D) Exception.—In those states that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) Rules of Construction.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives.

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State.

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans, or

(6) confer authority up a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) Application of ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health pan purchasing cooperative as if such plan were an employee welfare benefit plan.

Subtitle E—Application and Enforcement of Standards

SEC. 141. APPLICABILITY.

(A) Construction.—

(1) Enforcement.—

(A) In general.—A requirement or standard imposed under this title on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements of standards imposed under the title shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official of officials designated by the State to enforce the requirements of this title.

(B) Limitation.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a Sate enforce the requirements or standards of this title as they relate to employee health benefit plans.

(2) Preemption of state law.—Nothing in this title shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this title; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this title and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) Rule of Construction.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) Continuation.—Nothing in this title shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) Health Plan Issuers.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this title pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement law.

(b) Employee Health Benefit Plans.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this title in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) Failure to Implement Plan.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this title in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) Applicable Certifying Authority.—As used in this title, the term "applicable certifying authority"means, with respect to—

VOL 142 PT 5 MR 21—29 1996 UMI

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved; and

(2) an employee health benefit, plan, the Secretary.

(e) Regulations.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this title.

(f) Technical Amendment.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1996" before the period.

Subtitle F—Miscellaneous Provisions

SEC. 191. HEALTH COVERAGE AVAILABILITY STUDY.

(a) In General.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conclude a two-part study, and prepare and submit reports, in accordance with this section.

(b) Evaluation of Availability.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a nongroup basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) Evaluation of Effectiveness.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 192. EFFECTIVE DATE.

Except as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997, and

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 193. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE II—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

TABLE OF CONTENTS OF TITLE

TITLE II—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS
Sec. 200. Amendment of 1986 Code.
Subtitle A—Increase in Deduction For Health Insurance Costs of Self-Employed Individuals
Sec. 201. Increase in deduction for health insurance costs of self-employed individuals.
Subtitle B—Revenue Offsets
Chapter 1—Treatment of Individuals Who Expatriate
Sec. 211. Revision of tax rules on expatriation.
Sec. 212. Information on individuals expatriating.
Chapter 2—Foreign Trust Tax Compliance
Sec. 221. Improved information reporting on foreign trusts.
Sec. 222. Modifications of rules relating to foreign trusts having one or more United States beneficiary.
Sec. 223. Foreign persons not to be treated as owners under grantor trust rules.
Sec. 224. Information reporting regarding foreign gifts.
Sec. 225. Modification of rules relating to foreign trusts which are not grantor trusts.
Sec. 226. Residence of estates and trusts, etc.
Chapter 3—Repeal of Bad Debt Reserve Method for Thrift Savings Associations
Sec. 231. Repeal of bad debt reserve method for thrift savings associations.

SEC. 200. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Increase in Deduction For Health Insurance Costs of Self-Employed Individuals

SEC. 201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) In General.—Paragraph (1) of section 162(l) is amended to read as follows:

"(1) Allowance of deduction.—

"(A) In general.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(B) Applicable percentage.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
After 1996 and before 2002	50 percent.
2002 or thereafter	80 percent."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

SEC. 211. REVISION OF TAX RULES ON EXPATRIATION.

(a) In General.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) General Rules.—For purposes of this subtitle—

"(1) Mark to market.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

"(2) Recognition of gain or loss.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) Exclusion for certain gain.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(4) Election to continue to be taxed as United States citizen.—

"(A) In general.—If an expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph) shall not apply to the expatriate, but

"(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

"(B) Limitation on amount of estate, gift, and generation-skipping transfer taxes.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

"(c) Requirements.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) Election.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) Election to Defer Tax.—

"(1) In general.—If the taxpayer elects the application of this subsection with respect to any property—

"(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain for such property for the taxable year of the sale, but

"(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

"(2) Deferred tax amount.—

"(A) In general.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

"(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

"(ii) an amount of interest on the amount described in clause (i) determined for the period—

"(I) beginning on the 91st day after the expatriation date, and

"(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

"(B) Allocation of losses.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

"(3) Security.—

"(A) In general.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

"(B) Adequate security.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(4) Waiver of certain rights.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(5) Dispositions.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

"(A) immediately before death if such property is held at such time, and

"(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

"(6) Elections.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(c) Covered Expatriate.—For purposes of this section—

"(1) In general.—The term 'covered expatriate' means an expatriate—

"(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

"(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

"(2) Exceptions.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has been a resident of the United Stats (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) Property to Which Section Applies.—For purposes of this section—

"(1) In general.—Except as otherwise provided by the Secretary, this section shall apply to—

"(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be included in the gross income of the expatriate if such interest had been sold for its fair market value on such data in a transaction in which gain is recognized in whole or in part, and

"(B) any other interest in a trust to which subsection (f) applies.

"(2) Exceptions.—This section shall not apply to the following property:

"(A) United States real property interests.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(B) Interest in certain retirement plans.—

"(i) In general.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(ii) Foreign pension plans.—

"(I) In general.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(II) Limitation.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) Definitions.—For purposes of this section—

"(1) Expatriate.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) Expatriation date.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) Relinquishment of citizenship.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)).

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)).

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) Long-term resident.—

"(A) In general.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) Special rule.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) Special Rules Applicable to Beneficiaries' Interests in Trust.—

"(1) In general.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(2) Special rules for interests in qualified trusts.—

"(A) In general.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) Amount of tax.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) Deferred tax account.—For purposes of subparagraph (B)(ii)—

"(i) Opening balance.—The opening balance in a deferred tax account with respect to any trust interest in an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) Increase for interest.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

"(iii) Decrease for taxes previously paid.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) Allocable expatriation gain.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust in the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) Tax deducted and withheld.—

"(i) In general.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) Exception where failure to waive treaty rights.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) Disposition.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) Definitions and special rule.—For purposes of this paragraph—

"(i) Qualified trust.—The term 'qualified trust' means a trust—

"(I) which is organized under, and governed by, the laws of the United States or a State, and

"(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(ii) Vested interest.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

"(iii) Nonvested interest.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) Adjustments.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(3) Determination of beneficiaries' interest in trust.—

"(A) Determinations under paragraph (1)—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) Other determinations.—For purposes of this section—

"(i) Constructive ownership.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) Taxpayer return position.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) Termination of Deferrals, Etc.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) Imposition of Tentative Tax.—

"(1) In general.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) Due date.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) Treatment of tax.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) Deferral of tax.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) Coordination With Estate and Gift Taxes.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3).

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) to prevent double taxation by ensuring that—

"(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

"(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

"(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

"(k) Cross Reference.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).".

(b) Inclusion in Income of Gifts and Inheritances From Covered Expatriates.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) Gifts and Inheritances From Covered Expatriates.—Subsection (a) shall not

exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.".

(c) Definition of Termination of United States Citizenship.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(47) Termination of united states citizenship.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).".

(d) Conforming Amendments.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(f) Application.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.".

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

"(3) Cross reference.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).".

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence: "For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).".

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).".

(e) Clerical Amendment.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(f) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) Gifts and bequests.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) Special rules relating to certain acts occurring before February 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)-(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) Due date for tentative tax.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 212. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) In General.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

"(a) Requirement.—

"(1) In general.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

"(2) Timing.—

"(A) Citizens.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

"(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

"(ii) provided to the person or court referred to in section 877A(e)(3).

"(B) Noncitizens.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(b) Information To Be Provided.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at lease the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) Penalty.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

"(2) $1,000, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(d) Information To Be Provided to Secretary.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(e) Exemption.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.".

(b) Clerical Amendment.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals expatriating.".

(c) Effective Date.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

CHAPTER 2—FOREIGN TRUST TAX COMPLIANCE

SEC. 221. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) In General.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) Notice of Certain Events.—

"(1) General rule.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) Contents of notice.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identify of the trust and of each trustee and beneficiary or class of beneficiaries) of the trust.

"(3) Reportable event.—For purposes of this subsection—

"(A) In general.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) Exceptions.—

"(i) Fair market value sales.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

VOL
142
PT
5
MR
21
—
29
1996
UMI

"(ii) Deferred compensation and charitable trusts.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) Responsible party.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust.

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) United States Grantor of Foreign Trust.—

"(1) In general.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) Trusts not having united states agent.—

"(A) In general.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) United States agent required.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) Other rules to apply.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) Reporting by United States Beneficiaries of Foreign Trusts.—

"(1) In general.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) Inclusion in income if records not provided.—

"(A) In general.—If applicable records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includable in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceeding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) Application of accumulation distribution rules.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) Special Rules.—

"(1) Determination of whether united states person receives distribution.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) Domestic trusts with foreign activities.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) Time and manner of filing information.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) Modification of return requirements.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.".

(b) Increased Penalties.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) Civil Penalty.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information.

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) Special Rules for Returns Under Section 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) Gross Reportable Amount.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) Reasonable Cause Exception.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(c) Conforming Amendments.—

(1) Paragraph (2) of section 6724(d), as amended by sections 11004 and 11045, is amended by striking "or" at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting ",or", and by inserting after subparagraph (V) the following new subparagraph:

"(W) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).".

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 604 Information with respect to certain foreign trusts.".

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts"

(d) Effective Dates.—

(1) Reportable events.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) Grantor trust reporting.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) Reporting by united states beneficiaries.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 222. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) Treatment of Trust Obligations, Etc.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) Transfers at fair market value.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.".

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) Certain obligations not taken into account under fair market value exceptions.—

"(A) In general.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) Treatment of principal payments on obligation.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) Persons described.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.".

(b) Exemption of Transfers to Charitable Trusts.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) Other Modifications.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) Special rules applicable to foreign grantor who later becomes a united states person.—

"(A) In general.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) Treatment of undistributed income.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) Residency starting date.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) Outbound trust migrations.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.".

(d) Modification Relating to Whether Trust Has United States Beneficiaries.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) Certain united states beneficiaries disregarded.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.".

(e) Technical Amendment.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) Regulations.—Section 679 is amended by adding at the end the following new subsection:

"(d) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(g) Effective Date.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 233. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) General Rule.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) Subpart Not To Result in Foreign Ownership.—

"(1) In general.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) Exceptions.—

"(A) Certain revocable and irrevocable trusts.—Paragraph (1) shall not apply to any trust if—

"(i) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) Compensatory trusts.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) Special rules.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) Recharacterization of purported gifts.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) Special rule where grantor is foreign person.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.".

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) Credit for Certain Taxes.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.".

(c) Distribution by Certain Foreign Trusts Through Nominees.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) Distribution by Certain Foreign Trusts Through Nominees.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".

(2) Section 665 is amended by striking subsection (c).

(d) Effective Date.—

(1) In general.—Except as provided by paragraph (2), the amendments made by this section shall take effort on the date of the enactment of this Act.

(2) Exception for certain trusts.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

VOL
142
PT
5
MR
21
—
29
1996
UMI

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 224. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039F the following new section:

"SEC. 6039G. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

"(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039F the following new item:

"Sec. 6039G. Notice of large gifts received from foreign persons.".

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 225. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

"(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.".

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.".

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)." before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 226. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph

(D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.".

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMETIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.".

(2) PENALTY.—Section 1494 is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

CHAPTER 3—REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS

SEC. 231. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

"(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

"(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

"(A) such change shall be treated as a change in a method of accounting,

"(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

"(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

"(i) shall be determined by taking into account only applicable excess reserves, and

"(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

"(2) APPLICABLE EXCESS RESERVES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

"(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before December 31, 1995, over

"(ii) the lesser of—

"(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

"(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

"(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

"(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

"(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

"(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve: except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

"(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

"(A) IN GENERAL.— In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

"(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

"(ii) such taxable year shall be disregarded in determining—

"(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

"(II) the amount of such adjustment.

"(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

"(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

"(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

"(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

"(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995.

"(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

"(B) TREATMENT UNDER ELECTIVE CUTOFF METHOD.—For purposes of applying section 585(c)(4)—

"(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

"(ii) no amount shall be includable in gross income by reason of such reduction.

"(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(C) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

"(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

"(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

"(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spinoffs, and other reorganizations."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraph (2) and (3) as paragraphs (1) and (2), respectively.

VOL
142
PT
5
MR
21
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29
1996
UMI

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking "by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "by a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987).".

(C) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581 to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect.".

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The".

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(11) Paragraph (3) of section 992(d) is amended by striking "or 593".

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(14) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7).—The amendments made by subsection (b)(7) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

EXTENSIONS OF REMARKS

TRIBUTE TO A CIA LEGEND, WILLIAM L. MOSEBEY, JR.

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. SHUSTER. Mr. Speaker, I rise to pay tribute to William Mosebey who will receive, on Friday, March 29, 1996, the Central Intelligence Agency's Distinguished Intelligence Medal from Director of Central Intelligence, John Deutch.

Bill Mosebey has served our country with distinction for 34 years in the faroff outposts of the cold war. In those years, he rose to the highest level in the Central Intelligence Agency's clandestine service, but, more importantly he became a legend. Not since Chinese Gordon defended the gates of Khartoum has an officer reached the stature of William Mosebey. With a wry sense of humor, and a brilliant operational mind, he managed and executed the most difficult of clandestine operations, fulfilling every objective set out for him. He served as a chief of station in four countries. In each of them, he spent his share of time recruiting and managing wellplaced human penetrations.

His arrival in any post was a sure signal that the country was high on our President's priority list. His foes across the stark lines of the cold war knew that they were facing the ultimate professional—one who stands in the intelligence hall of fame with men like Richard Helms and Alan Dulles. At the same time, there was always time for a visit to the Bundu to add a new trophy to his wall.

Bill Mosebey is one of the unsung heros of our great victory over Marxism, but there is also another unsung hero and that is his wife Carolyn. In Bill's own words:

> Whatever contribution I was able to make to our national effort over the years of the cold war and after was sustained by the fact that I had a very engaged and supportive wife who, without question, would go anywhere and do anything the job demanded. As far as I am concerned she is stamped "keep forever" (an old KGB classification).

In Washington, a place that always made him long for the bush, he set an example for young officers. Never was there a time when he didn't have a moment to walk a new recruit through the intricacies of running a spy. Always ready to open his home with a homecooked meal from Carolyn's kitchen, he would entertain into the night with stories and laughter, but one came away from these evenings knowing that they had been in the presence of one of the great ones.

Mr. Speaker, Bill Mosebey is the Central Intelligence Agency's "Riley Ace of Spies." We owe him our gratitude and should shower him with our thanks. But knowing Bill, who has returned to his roots as a farmer in central Pennsylvania, he will be happy if the Sun shines, if it rains after the spring planting, and the hunting remains good this fall. But, he should also be pleased knowing that he left the Central Intelligence Agency with honor, with a distinguished record, and my enduring respect, along with those in the intelligence community, for a job well done.

A TRIBUTE TO UNDERSHERIFF RAY DORSEY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of San Bernardino County Undersheriff, Ray Dorsey of Redlands, CA. Undersheriff Dorsey will be honored today upon his retirement after almost 29 years of service to the San Bernardino County Sheriff's Department.

Ray Dorsey was born is Los Angeles, graduated from Redlands High School, and attended San Bernardino Valley College and the University of Redlands. He began his career in July 1967, when he was appointed deputy sheriff and assigned to the Glen Helen Rehabilitation Center. After serving his first patrol assignment at the Yucaipa Station, Ray was promoted to detective, his first of many promotions, and assigned to the specialized detective division in 1971 where his responsibilities included crimes against property and homicide investigations.

With his promotion to sergeant in 1973, Ray returned to the Yucaipa Station and assumed his duties as the second-in-command. His promotion to the rank of lieutenant in 1977 was closely followed by his promotion to captain in 1980, where he was given the responsibility of commanding the Sheriff's Specialized Detective Division. Three years later, he was promoted by Sheriff Floyd Tidwell to deputy chief which gave him responsibility over the next 4 years for the Valley-Mountain and Specialized Investigations Bureaus. In 1987, Ray was promoted to assistant sheriff which gave him oversight of the departmental support operations including corrections, training, records, crime laboratory, and identification. In 1991, Ray was appointed undersheriff and given wide responsibility for the overall operations of the department. He has served in this position under the leadership of both Sheriff Dick Williams and Sheriff Gary Penrod.

Mr. Speaker, I ask that you join me, our colleagues, as well as Ray Dorsey's family and many friends, in recognizing the selfless achievements of this remarkable man. Ray has given his professional life to the San Bernardino County Sheriff's Department and has served the citizens of San Bernardino County well for almost 30 years. It is only appropriate that the House recognize Undersheriff Dorsey today as he begins his well deserved retirement.

TURKEY PROPOSES COMPREHENSIVE PEACE IN THE AEGEAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, on March 24, 1996 new Turkish Prime Minister Mesut Yilmaz issued a statement calling for a process of comprehensive negotiations to resolve all bilateral Greek-Turkish problems in the Aegean as a whole.

Mr. Speaker, it is in the national interest of the United States and in the interest of lasting peace and stability in the eastern Mediterranean region that the differences between Greece and Turkey be resolved. We should use bilateral and multilateral means, as well as third-party mediation as necessary. All available opportunities for moving negotiations forward should be explored.

The key here is action, not just rhetoric or good intentions. We will have to see whether Turkey and Greece are willing to take concrete steps to resolve their longstanding differences in the Aegean.

These two NATO allies need to work with each other, with other NATO allies and if necessary with other international institutions to resolve their mutual problems. The proposals of Prime Minister Yilmaz hopefully will provide a timely opportunity to help break the current impasse in Greek-Turkish relations.

In order to inform other Members on the substance of Prime Minister Yilmaz' proposals, I am including the text of his statement in the RECORD. The text follows:

> TURKEY PROPOSES COMPREHENSIVE PEACE IN THE AEGEAN
>
> In a statement issued in Ankara today, Prime Minister Mesut Yilmaz called on Greece to enter into negotiations without preconditions with a view to settling all the Aegean questions as a whole, on the basis of respect for international law and agreements establishing the status quo in the Aegean.
>
> The Turkish proposal included talks on the conclusion of a political framework agreement, a swift agreement on a comprehensive set of confidence building measures related to military activities, avoiding unilateral steps and actions that could increase tension and a comprehensive process of peaceful settlement, including third party arbitration.
>
> The statement is as follows:
>
> "During the recent years, there have been important changes in the world political scene, with old enemies increasingly seeking peace with each other. As a matter of fact, many years ago Ataturk and Venizelos were able to settle the Turkish-Greek differences

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 142 PT 5 MR 21 — 29 1996 UMI

through an epoch-making historical compromise and to usher in an era of long-term friendship and cooperation between the two countries.

"Today, we are going through a tense period in our relations with Greece. The latest crisis has demonstrated once again that the present state of Turkish-Greek relations is fraught with dangers. The fundamental interests of both countries lie in peace and cooperation, not confrontation. We both stand to benefit from developing friendly and good-neighborly relations. Turkey and Greece have to overcome the cycle of conflict into which they have been locked. The failure to settle the existing problems creates an environment conducive to the eruption of new crises. This vicious circle must be broken at some point. The leaders of both countries are faced with a historic responsibility to establish a climate of mutual confidence, to give a new structure to their bilateral relations which would be free of problems, and thus open a brand new chapter in the Turkish-Greek relations. Turkey is ready and determined to do her utmost in that regard. I believe that the Greek leaders also have the necessary political will to live up to this historic responsibility.

"The current problems between the two countries must be taken up with a new and realistic approach. By isolating them from the emotions stemming from history and the chains imposed by short-term temporary considerations, our ultimate goal should be to bring comprehensive and lasting solutions to all the differences and problems between the two sides, especially those related to the Aegean Sea. An eventual settlement of the Aegean issues will only be viable and lasting if it is built on the fundamental rights and legitimate interests of both countries. For that reason, we should discuss our differences on the basis of mutual respect and with a willingness to reach a compromise.

"Turkey is a law-abiding country. In keeping with international law, she has always respected the territorial integrity and the inviolability of borders of all her neighbors, including Greece. In a similar vein, Turkey harbors no intention towards altering the status quo in the Aegean through unilateral steps and to make gains by de facto actions. An essential aspect of Turkey's position on the Aegean issues is respect for the status quo in the Aegean which was established through international agreements. These are the basic principles defining Turkey's approach to both her relations with Greece and the matters related to the Aegean. We have the right to expect Greece to display the same understanding and approach. If Greece also adopts these principles, it will be much easier to reach mutually acceptable solutions than is generally thought. In this spirit, Turkey wants to see all disputes pertaining to the Aegean settled through peaceful means in accordance with international law. She stands ready for such a settlement.

"I am therefore calling on Greece to enter into negotiations without preconditions with a view to settling all the Aegean questions as a whole.

"The search for a comprehensive and lasting solution will be conducted on the basis of respect for international law and the international agreements establishing the status quo in the Aegean. The talks that could be started on an exploratory basis shall not prejudice the respective positions of both sides regarding the substance of the issues.

"When it comes to peaceful means of settlement which would be appropriate to the special nature of the Aegean questions, Turkey does not rule out from the outset any method based on mutual acceptance. We have no prejudices in this respect. Accordingly, we are prepared to discuss with goodwill appropriate third party methods of settlement. The form, conditions and legal requirements of such methods can be taken up in detail in the course of the talks.

"The fundamental aim of such a peace process would be to resolve the differences that emerged after the historic compromise brought about by Ataturk and Venizelos. It is, therefore, essential for the two parties to rise to the occasion and take utmost care to avoid being tempted by petty political gains and a dangerous opportunism, if the peace process is to succeed.

"Concurrently with the initiation of a process of peaceful settlement aimed at bringing a comprehensive and lasting solution to the Aegean disputes, Turkey is also ready to start talks on the conclusion of a political document/declaration containing the basic principals that will govern the relations between the two countries or an agreement of friendship and cooperation. Such a political framework agreement, in addition to the fundamental principles on which the relations will be based, may also specify the avenues of cooperation as well as the procedures and settlement methods to be applied in case of the emergence of differences.

"Likewise, simultaneously with this process, I also propose to start talks in this transitional period with a view to bringing about a swift agreement between the two countries on a comprehensive set of confidence building measures related to military activities.

"Once the process of peaceful settlement is thus initiated, the two sides will naturally have to avoid unilateral steps and actions that could increase tension.

"I am proposing to Greece to engage in a comprehensive process of peaceful settlement that will not exclude from the beginning any method of settlement including third party arbitration. This will make an immense contribution to the strengthening of peace and stability in our region. Similarly, bringing a comprehensive solution to the Aegean questions will also contribute to the settlement of other questions in eastern Mediterranean on their own merits and within their own parameters. As our Greek friends frequently say, "actions speak louder than words." I, therefore, propose action, not words.

"I sincerely hope that Greece will give due consideration to our call for a peaceful settlement based on international law and legitimacy and will not let this historic opportunity slip away. This process may require a period of reflection and preparation. Whenever they respond to our proposal positively and are ready to engage in such a process, Turkey will also be ready.

"I am sure that our two nations living across each other along the shores of the Aegean do not want tension between them. They do not want mutual enmity. What they do want is peace, friendship and cooperation. I believe that as two nations with deep roots in history, the Turkish and Greek peoples deserve them.

"The late President Turgut Ozal, in a speech during a 1985 visit to the United States, stressed the need for such a compromise and said that we owed this to the future generations. I believe that we owe this not only to the future generations, but also to the present generation. History never forgives those who shrink from their responsibility."

TRIBUTE TO 100TH ANNIVERSARY OF APOLLO CLUB MALE CHORUS OF MINNEAPOLIS, MN

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. RAMSTAD. Mr. Speaker, I rise today to bring attention to the prestigious history and legacy of excellence for more than a century of the Apollo Club Male Chorus of Minneapolis, MN.

Just last year, the Apollo Club celebrated 100 years of truly superior musical performances. This marvelous chorus of amateur musicians exemplifies the spirit that makes our country great—friends from all walks of life, gathering outside of their daily and professional lives to fashion a powerful bond made possible only by a common, shared goal in which the group takes precedence over the individual.

The members of the Apollo Chorus have proven for more than 100 years what can be accomplished through a strong work ethic, teamwork, and a commitment to excellence.

The chorus has sung the works of history's greatest composers—Bach, Beethoven, Mozart, and others—all around our great Nation as well as overseas, wowing audiences with its unique, full, and mellow sounds.

Mr. Speaker, from its birthplace at the home of Col. Charles McC. Reeve on the south shore of Lake Harriet in Minneapolis, the chorus has graced a global stage over the years which has included performances at President Eisenhower's inaugural in 1957, the World's Fair in Brussels in 1958, the memorial atop the sunken Battleship *Arizona* at the Pearl Harbor commemorative ceremony in 1985 and international festivals from Wales to Nancy, France.

Among its many awards and honors, the Apollo Male Chorus won second place at the renowned Eisteddfod Choral Festival in 1982. But despite the chorus' success in musical competition, the Apollo Club's real focus has been on moving people with their special music, and educating audiences about the choral style they practice so eloquently.

Mr. Speaker, the members of the Apollo Chorus through the years have been true pioneers of choral song. Audiences swing and sing to the Apollo's international collection of rhythms.

In Greek mythology, Apollo stood for clarity, order, and harmony. In a world that too often leaves us stunned because of its chaos and discord, the Apollo Club delivers a much-needed message of peace and togetherness. Today we thank all the club's singers, leaders, officers, and special musical guests for their gift of beautiful music and extraordinary harmony.

Today, we salute the Apollo Club Male Chorus of Minneapolis for a century of wonderful entertainment and we honor this outstanding group for the joy its members have brought to our lives. The people of Minnesota are proud of the Apollo Club Male Chorus, and we wish them many more years of success.

INDIAN PREMIER SHRUGS OFF SCANDAL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. SOLOMON. Mr. Speaker, I insert for the RECORD a recent New York Times article regarding the latest corruption scandal in India. The article makes plain that though it is an ostensible democracy, India's system is rotten to the core. Isn't it time the United States stops dumping American taxpayer money into this black hole?

[The New York Times International, Feb. 25, 1996]

INDIAN PREMIER SHRUGS OFF SCANDAL

(By John F. Burns)

NEW DELHI.—After four resignations this week brought to seven the number of Indian Government ministers who have quit since the start of the year in a corruption scandal, Prime Minister P.V. Narasimha Rao told a rally of his governing Congress Party not to worry about the general election expected in April or May.

"The Congress is certain to lead the country," Mr. Rao said at a gathering on Friday of the party's youth wing in Guwahati, the capital of the northeastern state of Assam.

Indians were left to wonder whether Mr. Rao was engaging in bravado or displaying the canny political instincts for which he is renowned.

In the midst of a scandal that many Indian commentators have described as the worst since independence, few discount the possibility that Mr. Rao may yet turn the situation to his advantage.

Opinion surveys have suggested that the Congress Party, which has governed India for all but four years since 1947, has been heading for a drubbing at the polls. Political conjecture focused less on whether the Congress would lose its majority in the 535-seat Parliament than whether it would muster enough seats to lead a coalition

Many analysts forecast a breakthrough for the main opposition group, the Bharatiya Janata Party, whose brand of Hindu nationalism has troubled many Indians attached to the country's secular political tradition.

The Congress Party's woes were frequently blamed on Mr. Rao, who is 74, an uninspiring stump campaigner and beset with what many Indians have said is a near-fatal liability in a Congress leader: a lack of the popular appeal associated with the Nehru-Gandhi political dynasty.

Then came the corruption scandal, involving widespread bribes and kickbacks for Government contracts in a country where nearly half of all officially recorded economic activity is carried out by state-owned industries.

In addition to losing seven ministers, Mr. Rao has been faced with a welter of accusations that he was a beneficiary of some of the payoffs, including a transaction in 1991 in which the accuser says Mr. Rao took 30 million rupees, then the equivalent of $1.7 million, in return for steel contracts.

Yet throughout the weeks that the scandal has been growing, Mr. Rao has remained publicly serene.

Aides say the Indian leader believes that the payoff disclosures could be the savings of the Congress Party at the polls because they have snared major figures in the opposition parties as well as his own, thus depriving the opposition of corruption as an election issue.

One aide, Vithal N. Gadgil, has even said that Mr. Rao will present himself in the election as "Mr. Clean."

What is certain is that the controversy has rocked the opposition Bharatiya Janata Party, or B.J.P., at least as much as the Congress. The first wave of indictments last month included the B.J.P. president, L.K. Advani, who is regarded as the most ardent propagator within the party's upper ranks of the Hindu nationlist creed.

Broadly speaking, this holds that India should shift away from the secularism that has been a Congress principle toward an approach to government that gives primacy to the 700 million of India's 930 million people who are Hindus.

This week, the scandal claimed a new opposition victim in the resignation of Madan Lal Khurana, who as Chief Minister of the Delhi capital district was one of Bharatiya Janata's most prominent elected officials.

Like the 25 other politicians who have been indicted, Mr. Khurana's name appeared in what prosecutors have described as coded entries in diaries listing payoffs of more than $35 million that were seized in 1991 from the New Delhi home of a prominent industrialist, Surendra K. Jain.

Press accounts say Mr. Jain confessed to investigators last year to having been, along with one of his brothers, the principal paymaster in a web of corruption that ensnared dozens of leading politicians and public officials.

In addition to cash bribes, Mr. Jain is said to have told of paying for expensive gifts that included Mercedes-Benz cars, Belgian crystal and foreign trips. Details of many of the payoffs were listed in the diaries, against the initials of the recipients or, in some cases, their telephone numbers.

Mr. Rao seems certain to face heavy criticism in the election campaign for what opponents have described as an attempted cover-up.

Nearly four years passed after the police seizure of the dairies before the Central Bureau of Investigation, which is under the Prime Minister's direct control, made a sustained attempt to question, Mr. Jain and others alleged to have been involved in the payoffs. Even then, the investigative agency delayed any indictments until the Supreme Court intervened in November and set deadlines.

When the director of the investigation bureau reported to the Supreme Court this week that his agency had no "reasonable basis" for charges to be brought against Mr. Rao, the court ordered the investigators not to close the probe of "any person," no matter how important, until all leads were explored.

A lower court in New Delhi followed up on Friday by ordering the bureau to investigate allegations that Mr. Jain, on Prime Minister Rao's orders, paid out nearly $1 million in 1993 to bribe opposition members of Parliament into switching parties, thus saving the Rao Government from defeat on a non-confidence motion.

There has been widespread debate over whether Mr. Rao kept the lid on the scandal until shortly before the election so as to be able to use the indictments against opponents—and allies whose loyalty he doubted—or whether pressure from the Supreme Court forced his hand.

In any case, many Indians say the scandal has reached proportions that will lead to a far-reaching cleanup of Indian politics.

Previous scandals have subsided without a major shake-up in the political establishment. But this time, many commentators predict, the involvement of the Supreme Court will make it hard to contain the fallout.

"It will not fizzle out," said Rajinder Puri in The Times of India. "The process of destabilizing a rotten, corrupt, repressive and anti-people system will continue until reforms and a new system takes its place."

ANSWERING AMERICA'S CALL

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. ROBERTS. Mr. Speaker, I submit the following script written by Mr. Bradley Areheart, State winner of the Veterans of Foreign Wars of the United States and its Ladies Auxiliary Voice of Democracy broadcast scriptwriting contest. Mr. Areheart is a junior at Emporia High School in Emporia, KS and plans a career in medicine or politics. He was sponsored by the VFW Post 180 in Emporia. The contest theme this year was "Answering America's Call." Bradley has done a wonderful job of capturing the sense of duty that each of us has toward our fellow Americans and toward our future generations. I encourage each one of my colleagues to read Bradley's message and take his suggestions to heart.

ANSWERING AMERICA'S CALL

It's 2:00 in the morning and a lady clutches her heart as if struck! A heart attack! She staggers to the phone and frantically dials the numbers 9-1-1. The police dispatcher's voice comes across clearly but in a lethargic sounding tone. The lady, gasping, screams, "Help me! Help me! I've had a heart attack! Get someone out here!" "Wait right there; I'm going to put you on hold," is the dispatcher's reply as she picks up another line. A frantic call, put on hold by an apathetic operator. Important? Yes, and that call is not unlike the call being made today. A call of far greater importance to everyone in the United States. That call is America's plea for the future; we have several options as we hear that call. We can answer immediately, ignore it, or just like the apathetic operator, put it on hold. However, in my mind, we have only one clear option. If we are to be responsible, caring citizens, we must answer America's call.

Former Secretary of State Cordell Hull said, "I am certain that however great the hardships and the trials which loom ahead, our America will endure and the cause of human freedom will triumph." How truly this reflects the time since the foundation of our nation. In the 1700's America sounded a call for freedom from oppression so 50 brave Americans answered this call and signed the Declaration of Independence. The early part of this century saw America facing the perils of the depression and Franklin Roosevelt rose to meet the call by instilling hope and providing employment. In 1941, when the Japanese bombed our ships in Pearl Harbor, courageous Americans answered the call to arms and continued to fight until the Japanese surrendered. Indeed, history is filled with stories of how Americans have always met their country's call. But what if these calls had been left unanswered or put on hold? What would become of them? And more importantly, what would become of our country? We cannot be half-hearted and we

VOL
142
PT
5
MR
21
—
29
1996
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haven't been. We confront situations like a raging bull who has his eyes fixed only on the matador. And that's how things get done—full force? America answers the call because of patriotic citizens and leaders who see a light at the end of the tunnel. America will continue to answer the call because of compassion, pride, and love of country.

I am a youth of today, but a leader of tomorrow. I face certain responsibilities: the responsibility of speaking up for what's right, setting an example, and a willingness to fight for my country.

But currently, America's call is for the future. A call that is widespread and impossible to ignore. It's a call to return to basic values and truths that have always made America so great. The call is for safer streets, moral integrity, and family values. Former president Dwight Eisenhower said that "the problems of America are the family problems multiplied a million fold." And isn't that evident in today's society? As tomorrow's leaders, my generation must answer the call to become responsible, moral, intelligent, and patriotic citizens. The ideals of life, liberty, and the pursuit of happiness are not just empty words and must be stressed for all citizens. We cannot accept the attitude "It doesn't matter how I act; I'm just one person." Instead, we must share the feelings of so many Americans who say" "I love my country; I sincerely care about its future." That attitude must now direct all of us. There's an African proverb that says "it takes an entire village to raise a child." The time has come for all of us in the village to accept responsibilities. You see, we can determine needs and become catalysts for change. America's future demands the commitment of everyone to not only hear, but also answer America's call. Whether it be a call to arms or a call to peace.

Today's call is not an emergency 911 situation because America maintains her greatness at home and abroad. Our commitment must be to maintain that greatness and preserve our freedoms and liberties for future generations. I want to make sure that America is never like the woman making the 911 call, who despite her efforts to get help, is ignored. When my generation answers the call to become responsible citizens, we will be there to be counted. I promise my contributions by pursuing higher education, voting, and maintaining my morals and integrity. When everyone in my generation follows this lead, we will truly be answering America's call.

ANSWERING AMERICA'S CALL

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. WISE. Mr. Speaker, I would like to introduce for the RECORD a script written by John Shirley, a constituent from Berkeley Springs, WV. This script was West Virginia's winning entry into the Veterans of Foreign Wars—Voice of Democracy broadcast scriptwriting contest.

John's script stresses the importance of both cooperating and making unselfish, individual contributions in determining how well the ideals that make America will work for all of us. I encourage my colleagues to keep John's script in mind as we work to find effective solutions to the problems that currently face our Nation.

ANSWERING AMERICA'S CALL

Lost in the maddening crowd of passersby, I walked along the city street. Above the automobile horns and screaming car stereos, I heard a woman's sobs. I made my way through the wall of pedestrians and found her crying as she sat alone on a broken park bench. I sat down beside her and asked her what was wrong.

She gently took my hand and spoke. "Nobody cares about me anymore." I asked her what she meant.

She wiped her tears and struggled to speak again. "There is so much. I see hungry, homeless children shivering on the street. Drug deals take place beside them, and too often they get sucked in. I hear screams at night; men and women beat each other and their children. Gang wars take place on the streets, killing kids and innocent bystanders.

Students drop out of school and depend upon welfare to survive. They never strive to be their best; they settle for second or third place and I have to do the same.

Every day I wear the same white blouse and the same black slacks to make a statement. They are like two races with no connection, no relation and no understanding—just like me.

And worst of all, nobody cares about any of this. They won't use their rights. They don't speak out; they refuse to write it down; they refuse to force the politicians that fight over my body to think rationally and fairly; they refuse to realize the danger."

She buried her head in her hands and I tenderly placed my hand on her shoulder. The sun was setting and I knew that I had to leave. As I walked away I asked her name.

She quietly responded, "My name is America."

I tried to go home but something drew me back. I went to the bench to find her, but she was gone.

America cries out for help, how do we answer her call? A nation is comprised of individuals; in order to change our nation we must change ourselves. We must recognize the problems of America and more importantly, search for the ways to solve them. We need to get involved in our schools, communities and governments whether it be local, state or national.

Education is the key to awareness and understanding. Unfortunately, our current educational system leaves many students behind. Little regard is given to students' individual needs and learning styles. They want and need to know why in addition to how. If education is related to the real world, students will understand its real value.

In addition to formal education, America's youth must be given a basic system of values and beliefs both at home and in the community. We must make them aware that all people are equal despite differences in race, color or creed.

Community is the crucial link between individuals. Civic groups can and have successfully engineered and implemented programs for public education and support. Halfway houses and shelters for women and runaways provide many people with refuge from the streets and a second chance for success. Literacy classes and G.E.D. programs give hundreds of individuals the skills they need for employment. Communities can also come together to combat the growing problem of crime in America. Community watch groups and volunteer patrols have been effective in many American neighborhoods.

Government, the most integral part of America as we know it, has also been neglected. We are not controlled by the government; we are the government and must take an active role in its function. We can do this not only by running for a political office but also through such simple acts as signing a petition, participating in a campaign or rally, writing letters to public officials, voicing our opinions in the news media or by making informed choices at the next election.

These are all things that we can do but what will we do? We must choose our role and get involved. Our greatest victories are not achieved in armed conflict on foreign soil; they are achieved in our everyday lives as active American citizens. If we all take part, then we can ensure that America will not sit crying alone on a broken park bench. Instead, she will continue to hold and protect us and will forever remain in the greatest nation on earth.

A TRIBUTE TO ASSISTANT SHERIFF JIM BRADFORD

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of San Bernardino County Assistant Sheriff Jim Bradford, Jim will be honored today upon his retirement after nearly 27 years of service to the San Bernardino County Sheriff's Department.

Jim grew up in California, graduated from Colton High School, and obtained an associate of arts degree in business administration from San Bernardino Valley College and a bachelor of science degree in public management from Pepperdine University.

Jim began his career with the San Bernardino County Sheriff's Department as a line reserve deputy sheriff at the Yucaipa station in 1967. After serving as a volunteer for 2 years, Jim sold his business and became a full-time deputy sheriff in 1969 and was assigned to the Glen Helen Rehabilitation Center. He remained there until 1971 when he was reassigned to the Yucaipa station where he served as a patrol deputy and a reserve deputy coordinator. In 1973, he was promoted to detective and was assigned to the central detective division in San Bernardino.

Jim was promoted to sergeant in 1975 and returned to the Glen Helen Rehabilitation Center until his reassignment in 1977 as detective sergeant to the central detective division. Three years later, he was promoted to lieutenant where he served as unit commander in the crimes against property and homicide details. Jim was promoted to captain by Sheriff Floyd Tidwell in 1983 and was assigned to central station where he also served as chief of police for the cities of Loma Linda and Grand Terrace. Jim took command of the sheriff's bureau of administration with his promotion to deputy chief in 1987. Four years later, he was promoted once again to the position of assistant chief in charge of criminal operations by Sheriff Dick Williams.

Mr. Speaker, I ask that you join me, our colleagues, as well as Jim Bradford's family and many friends, in recognizing his many outstanding achievements. Jim has devoted his

professional life to the San Bernardino County Sheriff's Department and has served the citizens of San Bernardino County well for nearly 27 years. It is only appropriate that the House recognize Assistant Sheriff Bradford today as he begins his well deserved retirement.

PENSIONS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 27, 1996 into the CONGRESSIONAL RECORD.

PENSION PLANS: SAVING FOR A SECURE RETIREMENT

I am impressed by how many constituents stress the importance of working toward a good pension and a comfortable retirement. They put in many long hours to pay the bills and put their kids through school. They emphasize the value of hard work and sacrifice, and believe that a life of hard work should be rewarded with a secure retirement.

Many, however, are increasingly concerned about the outlook for their retirements. They find themselves working harder, often at more than one job, but can't seem to find the money to put away for retirement. In the past, Americans could rely on their employer to guarantee a pension, but the trend in recent years has been toward employers providing less generous pension benefits or no benefits at all, reflecting in part the shift from manufacturing to service-oriented businesses.

The average American will live about 18 years in retirement, more than ever before. Workers will need on average 70% of their pre-retirement income to maintain their standard of living. Today, half of all full-time workers have no private pension coverage. Most Americans rely on a combination of Social Security, individual savings, and pension plans for retirement, but traditional pension benefits represent a shrinking portion of retirement income. Since few pension plans are adjusted for inflation, the benefits retirees ultimately receive can only go so far. Increasingly, employees, rather than employers, are responsible for their pension savings and investment.

PENSION PLANS

There are two basic types of private pensions. The more traditional pension plan—a defined benefit plan—involves a company guaranteeing its workers a set monthly pension benefit based on earnings and years of service. A defined contribution plan, in contrast, involves an interest-bearing account established for each employee into which a contribution is made by the employee, and sometimes the employer. The employee is not guaranteed a set monthly benefit, but receives whatever funds are available in his account upon retirement. Of the 64 million active participants covered by private pension plans, about 39% are covered by a define benefit plan,while the remaining 61% are covered by a defined contribution plan.

In recent years, many employers have shifted from defined contribution plans. The federal government insures and regulates defined benefit plans, adding to their overall cost. Defined contribution plans, like 401(k) plans, are not federally insured and are less complicated and less costly for employers. Career employees tend to favor defined benefit plans because the pension is more predictable and larger. Employees who often change jobs fare better under defined contribution plans because they are portable.

CONCERNS

Concerns have been raised about both types of plans. Defined benefit plans are generally considered safer than contribution plans because they are federally insured and the employer bears the investment risk. Current law, however, does permit businesses to underfund their plans. Furthermore, the soundness of the government fund which insures defined benefit plans has been questioned. Most pension funds are adequately funded, but the federal insurer, the Pension Benefit Guaranty Corporation, has had to step in to pay benefits when bankrupt companies have been unable to do so. Congress, with my support, has taken steps to shore up the insurance fund, but underfunding continues to be a problem among some plans.

Defined contribution plans create a different set of problems. There are substantial funds invested in these plans. Today 401(k) plans, for example, hold $550 billion in assets for 22 million employees, and these plans continue to grow. These plans, however, are not federally insured. Also, recent news reports have shown a number of these plans to be susceptible to fraud. Investment decisions and risks lie with employees. Consequently, more responsibility is placed on employees to know what options they have, to invest their contributions wisely, and to monitor the management of pension funds.

POSSIBLE REFORMS

Congress can take steps to protect pension plans.

First, Congress should block efforts to let employers withdraw money from currently overfunded pension plans. Current law allows companies to use assets from overfunded plans only for retiree health benefits. Speaker Gingrich favors a change in the law to permit companies to raid surplus pension assets for other business purposes. I strongly oppose this proposal.

Second, Congress should consider ways to ease the regulatory burden on pension plans to encourage more companies, particularly small businesses, to establish plans for their employees. Tax incentives and simplified, uniform regulations for employers who offer plans can do much to offer American workers some security in their retirement.

Third, we should look for ways to make pension plans more portable. As workers move from job to job, it is important that they be able to carry benefits and contributions with them. Defined contribution plans offer workers this option, and because of the growth in such plans over the last 10 years, workers' pension plans have become more portable. Defined benefit plans are less portable than contribution plans because employers want to encourage their employees to stay at their jobs. In cases where employees do leave, they should be encouraged to roll over their contributions into an IRA rather than cash out their contributions.

Fourth, we must look at ways to further protect the assets which workers invest in 401(k)'s and other contribution plans, particularly given their recent enormous growth. The Labor Department has proposed several reforms, such as shortening the time an employer has to deposit employee contributions from the current 90-day period and encouraging employers to offer workers general investment information so that employees can better monitor their own plans.

CONCLUSION

Americans understand that planning for the future is crucial, and the sooner they start to save the better. It has become increasingly difficult, however, for workers to set aside a portion of shrinking salaries for retirement.

Congress should consider measures to protect the integrity of the private pension system as well as Social Security, and encourage businesses to expand coverage to those without a pension plan. I have co-sponsored a bill that would create a federal commission to study the pension issue and develop proposals to increase participation in pension plans and provide more protection for pension assets.

JOB CORPS IMPROVEMENT ACT OF 1996

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. FRANKS of New Jersey. Mr. Speaker, today I am introducing legislation to make the Job Corps safer for program participants and more cost-effective for taxpayers.

I support the Job Corps and its important mission. But for too long, Congress has tolerated too much waste, fraud, and inefficiency in this program. The American taxpayer wants more accountability, and the young people that the Job Corps serves need to better prepare themselves for an increasingly competitive job market. My legislation targets these two goals.

Job Corps was created more than three decades ago as part of President Lyndon Johnson's war on poverty. Presently, it is funded at over $1 billion a year, and it is the largest job training program for disadvantaged youth between the ages of 16 and 24.

In 1994, a survey of Job Corps students showed that 68 percent of enrollees had two or more barriers to employment, including not having a high school diploma, lacking basic skills or having limited English proficiency. The program currently serves over 60,000 young adults in 46 States.

The original idea behind Job Corps was to give disadvantaged youths a hand up in order to avoid a lifetime of hand-outs. But as times have changed, so have the problems facing Job Corps students.

And in too many instances the Federal Government has been too slow in adopting policies to adjust to changing times. Today many Job Corps students come from one parent homes in communities ravaged by crime, drugs, and violence—problems whose proportions could scarcely be imagined a generation ago.

In order to maintain an environment within which young people can learn, the centerpiece of my bill institutes a zero tolerance policy for drugs, alcohol abuse, and violence in the Job Corps. I know the Job Corps bureaucracy has recently made strides in combating these scourges. But because violence, alcohol abuse and drugs are anathema to a productive learning environment, Job Corps students deserve a guarantee in law that these centers can be a sanctuary where students can live

VOL 142 PT 5 MR 21 — 29 1996 UMI

and learn without fear. My bill ensures that those who enter the Job Corps in order to learn can do so, and those who enter the program without that commitment will be weeded out before they disrupt those who are intent to learn new job skills.

My bill also contains a provision requiring the Department of Labor to undertake an in-depth, comprehensive review of the entire Job Corps program. The purpose of this review would be to ascertain what the Job Corps does well and where further improvement is needed. Such a review has not taken place since 1982, and hard data on how well the Job Corps is fulfilling its mission is largely unknown. For example, the Department of Labor estimates that the overall job placement rate for Job Corps graduates is 70 percent, but some centers have had rates as low as 20 percent for 5 consecutive years. Furthermore, a recent General Accounting Office study found that fully 15 percent of Job Corps' job placement verification procedures were invalid. That means that some Job Corps centers were reporting that their graduates were finding jobs, when in fact they were not.

Reforms are needed to ensure that Job Corps enrollees obtain work upon graduation, and are not merely shuffled through the program. Considering that the average Job Corps student costs taxpayers $24,000 to train, it is no longer acceptable to assess the performance of this program by collecting anecdotal evidence. The comprehensive Job Corps review called for under my legislation is closely modeled after a proposal offered by Senator ARLEN SPECTER of Pennsylvania that passed the Senate last October. It will give Congress and the Department of Labor credible statistics that will allow us to make informed judgments on how best to improve and strengthen this important job training program.

My bill also limits the spending on the Job Corps bureaucracy to 13 percent. Currently 18 percent, or over $180 million is spent on administering this program. That figure is too high, and indicates that efficiencies can be made within the bureaucracy to reduce costs. I want more money spent on students, not on bureaucrats. My bill would force the Department of Labor to examine Job Corps' overhead budget, find the waste and eliminate it.

Today, there are 109 Job Corps centers throughout the country. In an effort to upgrade the performance of each of them, my bill would eliminate the 10 worst Job Corps centers in the Nation by the end of the century. At some Job Corps centers, the buildings and living quarters are in disrepair, the management is inept, the training that students receive is ineffective, and worst of all, violence and drugs are prevalent. Those centers need to be cleaned up or closed down, so the funds saved from their closure can be funneled to productive, well-run centers.

Job Corps is the most expensive Federal youth employment and training program. Despite the fact that Congress is consolidating nearly 100 education and training programs into State block grants, funds for Job Corps are actually slated to increase. The reason Congress has retained this program is because it has demonstrated some meaningful success. Many people are unaware that Job Corps students who do complete their training are five times more likely to get a training-related job, and training-related jobs pay 25 percent higher wages. Moreover, employers who hire Job Corps graduates are generally satisfied with their Job Corps hires.

My bill preserves what is right about Job Corps, and strengthens it for the future. It makes significant reforms to this program, with the promise of additional reform when the comprehensive performance review it calls for becomes available. The Federal Government's investment in this program is too great not to demand improvements, and the at-risk youths this program serves need what this program offers more than ever.

Mr. Speaker, without the Job Corps, many of today's disadvantaged youth would be unskilled, unemployable, and without hope. When it is successful, the Job Corps breaks the cycle of despair and turns unfocused youths into productive citizens. I support an effective Job Corps, and I will continue to fight to improve this important program.

CONGRATULATIONS REPUBLIC OF CHINA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. BURTON of Indiania. Mr. Speaker, on March 23, 1996, the people of the Republic of China on Taiwan overwhelmingly elected Lee Teng-hui as their first directly elected President. Mr. Lee's landslide victory was a clear indication of the voters' confidence in President Lee's ability to handle the challenges that lie ahead for his country. The voters' enthusiasm for this election also proves that democracy is not a system of government unimportant to Asians. The Republic of China on Taiwan should be commended for taking this final step in its transition to a full-fledged democracy, and in my opinion, President Lee is the perfect man to lead Taiwan to even greater achievements in the future. I congratulate the people of the Republic of China on Taiwan on their presidential election.

TRIBUTE TO THE LATE POLICE COLONEL BENJAMIN FRANKLIN AGUON LEON GUERRERO

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. UNDERWOOD. Mr. Speaker, the island of Guam lost one of its premier public servants last Friday night March 22. Guam Police Col. Benjamin Franklin Aguon Leon Guerrero, a man who dedicated half his life in service to the people of Guam through the police department, was stricken by a heart attack which caused his untimely death. He was only 44 years of age.

Col. Leon Guerrero, a close personal friend, worked through the ranks at the Guam Police Department starting out as a patrol officer. Prior to joining the police force, I vividly remember him as a school aide working under my supervision at George Washington High School in Mangilao. Since then, I eagerly watched his rise in the ranks while taking upon various tasks for the department of public safety, the department of corrections, and the Guam Police Department. He went on to become the most senior ranking classified officer in the Guam police force. He was later appointed to be the deputy chief of the Guam Police Department.

I must also make special mention that he was a published poet and a graduate of the 156th session of the Federal Bureau of Investigation [FBI] National Academy. In fact, it wasn't too long ago that I submitted a statement in the CONGRESSIONAL RECORD commending him for having been the first president of the FBI National Academy Hawaii Chapter to hail from outside the State's confines.

His more than 20 years of public service yielded him a collection of awards and decorations. They include the J. Edgar Hoover Medal for Distinguished Public Service, the Guam Police Commendation Service Award, the Guam Police Distinguished Service Medal, the Commanding Officer's Citation, and the Exception Performance Award. He is also listed in the 1992 edition of "Who's Who in American Law Enforcement."

The late Col. Leon Guerrero left a legacy of service and devotion to the island of Guam, to its people and to the United States as a whole. He is remembered my many as a mentor, an adviser, and a great man sensitive to the needs, not only of the police department, but the whole island of Guam.

His passing is a great loss and his presence will surely be missed. On behalf of the people of Guam, I offer my condolences and join his widow, Julie, and their children: Benjamin Franklin II, Peter Jesse, Jesse Ray, Sheena Marie, and Lolana Evette, in mourning the loss of a husband, a father, a very dear friend, and fellow servant to the people of Guam.

TRIBUTE TO G.W. CARVER MIDDLE SCHOOL

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mrs. MEEK of Florida. Mr. Speaker, it is my great pleasure to pay tribute to the staff and students at George Washington Carver Middle School upon their recent award as a Blue Ribbon School of Excellence.

Through strong support from the school district and the regional office, through progressive leadership, committed teachers and counselors, with a clear mission, dedicated students and very involved parents, George Washington Carver has become the only middle school in Dade County to receive the Blue Ribbon of Excellence Award from the U.S. Department of Education.

G.W. Carver Middle School Center for International Studies is the only public middle school to be recognized and accredited by the Governments of France, Spain and Germany. Some of Carver's teachers and textbooks

have been provided through the Governments of France and Spain.

Carver Middle School is a magnet school for international studies whose curriculum models the European system of studies, and students' tests scores are among the highest in all standardized tests. It has the highest attendance among Dade County schools, and exemplifies how school violence can virtually be eliminated.

Before 1970, Carver was the pride of the Coconut Grove black community, however, by 1986 plans were being considered to close the school because of dwindling enrollment. Now, 10 years later, it is a source of pride for the community and an example for all of us to follow.

For your superlative educational efforts, I salute you.

UNITED STATES-ORIGIN MILITARY EQUIPMENT IN TURKEY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, on September 8, 1995, I wrote to Secretary of State Christopher, asking several questions about the use and possible misuse of United States-origin military equipment by Turkey. This letter was a followup to an exchange of letters on the same issue earlier in the year, which I inserted in the RECORD at that time.

I have now received a response from the State Department to my September letter, which sets out the administration's position on the human rights situation in Turkey and its relationship to the issue of U.S.-supplied military equipment in the country.

Since I believe that other Members will find the administration's views informative and useful in formulating their own approach to this important issue, I would like to insert both my letter and the administration's response in the RECORD.

DEPARTMENT OF STATE,
Washington, February 29, 1996.

Hon. LEE HAMILTON,
U.S. House of Representatives.

DEAR MR. HAMILTON: This is a follow-up reply to your letter of September 8, 1995, to Secretary Christopher about human rights in Turkey. As stated in our November 1, 1995 interim response, you raised a number of serious questions in your letter. Thank you for your understanding in allowing us time to prepare this reply.

In your letter, you state that human rights abuses in Turkey are a matter of real concern to the U.S. Congress. We appreciate your interest and that of your colleagues in these issues. Congressional hearings, reports, and statements are a valuable way for the U.S. government to indicate concern about human rights in Turkey.

As we consider how best to pursue our objectives in Turkey, it is important to understand just what Turkey is up against. The Kurdistan Workers' Party (PKK) has stated that its primary goal is to create a separate Kurdish state in part of what is now Turkey. In the course of its operations, the PKK has frequently targeted Turkish—civilians. It has not hesitated to attack Western—including American—interests.

The Turkish government has the right to defend itself militarily from this terrorist threat. The Turkish military has said it seeks to distinguish between PKK members and ordinary Kurdish citizens in its operations. We remain concerned, nevertheless, about the manner in which some operations in the southeast have been conducted. As we have documented in our annual human rights reports and in the special report we submitted to Congress last June on the situation in the southeast, these operations have resulted in civilian deaths, village evacuations and burnings.

You ask what the U.S. is doing about information that U.S.-supplied defense articles may have been used by Turkey's military against civilians during the course of operations against the PKK. We discussed those issues at length in our June "Report on Allegations of Human Rights Abuses by the Turkish Military and the Situation in Cyprus."

These reports trouble us deeply. We have frequently cautioned the Turkish government to exercise care that its legitimate military operations avoid targeting civilians and non-combatants. We have made it clear that, in accordance with both the Foreign Assistance and Arms Export Control Acts, human rights considerations will continue to be very carefully weighed in considering whether or not to approve transfers and sales of military equipment.

With regard to death squad activities in the southeast, as we stated in our report last June, we have found reports of government involvement in these incidents to be credible. Others have also been involved. In this regard, a number of Turkish "Hizbullah" terrorists are now on trial for alleged involvement in "mystery killings." According to Turkey's prestigious Human Rights Foundation, these sorts of killings were down sharply in 1995.

We have told the Turks repeatedly that we do not believe a solely military solution will end the problems in the southeast. We urge them to explore political and social solutions which are more likely to succeed over time. These should include fully equal rights—among them cultural and linguistic rights—for all of Turkey's citizens including the Kurds. We have been encouraged by incremental actions toward granting the Kurds such rights. For example, Turkey's High Court of Appeals ruled in October that Kurdish former members of Parliament had not committed crimes when they took their oaths in the Kurdish language, wore Kurdish colors, and stated that Turkish was a foreign language for them. The Appeals Court's decision on these matters, which are very sensitive and emotional in Turkey, may send an important signal to the lower courts and may help expand Kurdish rights.

We believe it is important for those individuals who have been displaced to be compensated for their losses and to be able to return to their homes without fear. If the security situation prevents their return, it is important for the villagers to be compensated and resettled elsewhere. Like you, we are disturbed by Turkey's failure to date to adequately provide for the displaced. We will encourage the new Turkish government to do so.

In the long run, an improved dialog between the government and Kurdish representatives is needed to bring a lasting solution to the southeast. It is important that those who purport to speak for the Kurds do so sincerely and constructively. In this context, you asked whether former DEP members of the Turkish Parliament who were stripped of their immunities and fled to Europe could speak for the Kurds. Unfortunately, some of them associated the "Kurdistan Parliament in Exile" (KPIE), which is financed and controlled by the PKK. We cannot, therefore, advocate negotiations with the so-called KPIE.

There are legitimate interlocutors with whom the government could discuss Kurdish concerns. Although the Pro-Kurdish People's Democracy Party (HADEP) fell substantially short of obtaining the ten percent of the national vote required to take seats in the Turkish Grand National Assembly, the party campaigned well and carried a large number of votes in the southeast. In addition, other parties, politicians, academicians, businesspeople, and journalists also raised Kurdish concerns during the recent election campaign.

These developments are positive, and there are other signs that our active engagement with the Turks on human rights issues are meeting with success. The constitutional amendments enacted this past summer broadened political participation in several ways, including by enfranchising voters over eighteen and those residing outside of Turkey. There is also a move to devolve more authority from the central government to the local authorities. And, on October 27, the Turkish government—with encouragement from the U.S. and Europe—amended Article 8 of the Anti-Terror Law, which had been used to constrain freedom of expression substantially. As a result of this revision, over 130 people were released from prison and many pending cases are being dropped.

U.S. officials will continue to monitor closely human rights developments in Turkey. Our observations on Turkish human rights are the result of a constant, energetic effort by our Embassy and others in our government to stay informed. Our officials meet regularly with elected officials in the Turkish Administration and Parliament. We also speak frequently with critics of the government—including Turkish and international NGOs, bar and medical associations, lawyers, and other human rights activists. U.S. officials travel to the Southeast periodically where they see government officials and the affected parties.

We will also continue to encourage change by supporting those who are committed to human rights and democratic reforms, including Turkish NGOs. This is a long-term effort that will require continued engagement. The important point to keep in the forefront is that the real impetus behind democratic change in Turkey must come from Turkish citizens themselves. Our objective must be to give them all the constructive help we can.

I hope this information is useful. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES,
Washington, September 8, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State, Department of State,
Washington, DC.

DEAR MR. SECRETARY: Thank you for your reply of August 15th to my letter of June 29th concerning the use and possible misuse of U.S.-origin military equipment by Turkey. I wanted to follow-up that correspondence with two general lines of questioning.

VOL
142
PT
5
MR
21
—
29
1996
UMI

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In your response to my letter, you indicated that internal security, along with self-defense is recognized as an acceptable use of U.S.-supplied defense articles but that the United States is troubled about reports that a large number of civilians have been killed in Turkish government counter-insurgency operations against the PKK. Questions remain:

What precisely are you doing about these reports?

Is it the U.S. policy, for example, to tell the Turks when we see reports of the destruction of villages or the killing of civilians, that we do not like it and cannot tolerate such abuses in the use of U.S.-supplied equipment?

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Second, I have further questions regarding a related aspect of U.S. policy toward Turkey—resolution of the Kurdish issue in southeast Turkey.

There is considerable sympathy in Congress for the plight of the Kurdish population in Turkey, although-none for terrorist acts by the Kurdish Worker's Party (PKK). I do not know of any Member support for Kurdish separatism or the break up of Turkey, but there is strong support for full equality of rights, including cultural and linguistic rights, for all Turkish citizens, including the Kurds. Members are troubled by the Turkish government's dominant reliance on force to put down the insurrection in the southeast, and would like to see the United States take a more active role in promoting negotiations among a broad base of Turkish citizens to end the violence.

UNITED STATES—ORIGIN MILITARY EQUIPMENT IN TURKEY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

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DEAR MR. SECRETARY: Thank you for your reply of August 15th to my letter of June 29th concerning the use and possible misuse of U.S.-origin military equipment by Turkey. I wanted to follow-up that correspondence with two general lines of questioning.

First, I continue to have deep concerns about the use of U.S.-supplied military equipment in Southeast Turkey and about the reports of the misuse of that equipment, the wholesale destruction of villages, and the indiscriminate firing on civilian populations. Such abuses can erode support for Turkey in the Congress.

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I am concerned that if the present situation persists, the United States will have difficulty sustaining its Turkey policy. An amendment this summer to the Foreign Operations Appropriations bill in the House which limits aid to Turkey because of human rights concerns illustrates some of the problems that arise if these issues are not adequately addressed.

I understand that it is U.S. policy to support Turkey's territorial integrity and its legitimate right to combat terrorism, including terrorist acts by the PKK. I also understand that the U.S. supports democratic reform in Turkey as an integral part of the effort to improve human rights conditions and to undercut support for PKK violence. In this context, I would like to pose the following questions:

What is the United States doing to push efforts in Turkey to amend Article 8 of the antiterrorism law?

What are the implications for U.S. policy and for the situation in the Southeast if efforts to amend Article 8 fail or are abandoned?

What is the United States doing to promote efforts to provide Kurds with equal rights in Turkey? Is it United States policy to support the legitimate political, cultural and linguistic rights of Turkish citizens of the Southeast of Kurdish origin? How do you react to recent comments by senior Turkish officials that the extension of such rights are not a priority of the Turkish government?

In our human rights dialogue, is the U.S. pressing the Turkish government and General Staff to abandon tactics that target the Kurdish civilian population, such as forced evacuation and burning of Kurdish villages?

What is United States policy doing to address allegations that the Turkish government is either sponsoring or tolerating the activities of death squads reported to have killed hundreds of Kurdish activists in the southeast?

What is United States policy on meeting and dealing with the elected representatives of Turkish citizens in the Southeast regardless of whether they are able to sit in the National Assembly at this time? Does the United States support negotiations between several exiled Turkish Kurdish parliamentarians and the Turkish government? With whom do you think the Turkish Government should negotiate?

What kind of political engagement between the Turkish government and Kurdish nationalists does the United States seek to promote in order to encourage Turkey to move away from reliance on a solely military solution?

I look forward to your reply.

With best wishes,

Sincerely,
LEE H. HAMILTON,
Ranking Democratic Member.

THE ENTERPRISE RESOURCE BANK ACT OF 1996

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. BAKER of Louisiana. Mr. Speaker, today I am introducing comphensive legislation to provide the Federal Home Loan Bank System [FHLB] the tools it needs to expand on the significant contributions it has already made to the Nation's housing finance delivery system. It is especially fitting today, as we debate the role of the Federal Government in providing and stimulating economic development in the 104th Congress, to work with an existing private entity to deliver a much-needed and public purpose.

The Federal Home Loan Bank System was established in 1932 primarily to provide a source of intermediate- and long-term credit for savings institutions to finance long-term residential mortgages and to provide a source of liquidity loans for such institutions, neither of which was readily available for savings institutions at that time the Federal Home Loan Bank System was created.

In recent years, the System's membership has expanded to include other depository institutions that are significant housing lenders.

The segment of savings institutions and other depository institutions that are specialized mortgage lenders has decreased in size and market share and may continue to decrease. The establishment of the Federal National Mortgage Association [Fannie Mae], the Federal Home Loan Mortgage Corporation [Freddie Mac], and the Government National Mortgage Association [Ginnie Mae], and the subsequent development of an extensive private secondary market for residential mortgages has challenged the Federal Home Loan Bank System as a source of intermediate- and long-term credit to support primary residential mortgage lenders.

For most depository institutions, residential mortgage lending has been incorporated into the product mix of community banking that typically provides a range of mortgage, consumer, and commercial loans in their communities.

Community banks, particularly those in rural markets, have a difficult time funding their intermediate- and long-term assets held in portfolio and accessing capital markets. For example rural nonfarm businesses tend to rely heavily on community banks as their primary lender. Like the savings association in the 1930's these rural community banks draw most of their funds from local deposits. Longer term credit for many borrowers in rural areas may therefore be difficult to obtain. In short, the economy of rural America may benefit from increased completion if rural community banks are provided enhanced access to capital markets.

Access to liquidity through the FHLB System benefits well-managed, adequately capitalized community banks. For these banks, term advances reduce interest rate risk. In addition, the ability of a community bank to obtain advances to offset deposit decreases or to temporarily fund portfolios during an increase in loan demand reduces the bank's overall cost of operation and allows the institution to better serve their markets and community.

Used prudently, the FHLB System is an integral tool to assist properly regulated, well-capitalized community banks, particularly those who lend in rural areas and underserved neighborhoods, a more stable funding resource for intermediate- and long-term assets.

With that in mind, I have introduced this legislation today to enhance the utility of the Federal Home Loan Bank System. I want the mission of the System to remain strong in the ability to help Americans realize the dream of home ownership, but equally as important: I want the System to enrich the communities in which Americans build their dreams.

America is the world capital of free enterprise. Free enterprise is the foundation on which the American dream is built, and it is the engine by which American ingenuity is

VOL
142
PT
5
MR
21
—
29
1996
UMI

driven. My legislation will help nurture American free enterprise. That is why I call this bill the Enterprise Resource Bank Act.

The Enterprise Resource Bank Act will strengthen the System's mission to promote residential mortgage lending—including mortgages on housing for low- and moderate-income families. Enterprise Resource Banks will facilitate community and economic development lending, including rural economic development lending. And Enterprise Resource Banks will facilitate this lending safely and soundly, through a program of collateralized advances and other financial services that provide long-term funding, liquidity, and interest-rate risk management to its stockholders and certain nonmember mortgagees.

Since 1932, the Bank System has served as a link between the capital markets and local housing lenders, quietly making more money available for housing loans at better rates for Americans. Today the Federal Home Loan Banks' 5,700 member financial institutions provide for one out of every four mortgage loans outstanding in this country, including many loans that would not qualify for funding under secondary market criteria. The bank system accomplishes this without a penny of taxpayer money through an exemplary partnership between private capital and public purpose.

More than 3,500 of the bank system's current members are commercial banks, credit unions, and insurance companies that became eligible for bank membership in 1989. They demonstrate the market's value of the bank system by investing in the capital stock of the regional home loan banks. These institutions have recognized the advantages of access to the bank system's credit programs and have responded to their loan communities' needs for mortgage lending. As the financial marketplace grows larger and more complex, I envision the bank system as a necessary vehicle for serving community lending needs especially in rural and inner-city areas.

The Federal Home Loan Bank System serves an active and successful role in financing community lending and affordable housing through the Affordable Housing Program [AHP] and the Community Investment Program [CIP]. The AHP Program provides low-cost funds for member institutions to finance affordable housing, and the CIP Program supports loans made by members to community-based organizations involved in commercial and economic development activities to benefit low-income areas.

The Federal Home Loan Banks' loans—advances—to their members have increased steadily since 1992 to the current level of more than $122 billion. Since 1990, the banks have made $7.1 billion in targeted Community Investment Program advances to finance housing units for low- and moderate-income families and economic development projects. In addition, the banks have contributed more than $350 million through their Affordable Housing Programs to projects that facilitate housing for low- and moderate-income families.

While these figures are impressive, the Federal Home Loan Bank System needs some fine tuning to enable it to continue to meet the needs of all its members in a rapidly changing financial marketplace. The Enterprise Resource Bank Act of 1996 recognizes the changes that have occurred in home lending markets in recent years, which is reflected in the present composition of the bank system's membership. Enacting this legislation will enhance the attractiveness of the banks as a source of funds for housing and related community development lending, and will encourage the banks to maintain their well-recognized financial strength.

Specifically, my legislation—Targets the bank system's mission in statute to emphasize the System's important role of supporting our Nation's housing finance system and its potential role of supporting economic development by providing long-term credit and liquidity to housing lenders;

Targets the bank system's mission in statute to emphasize the System's important role of supporting our Nation's housing finance system and its potential role of supporting economic development by providing long-term credit and liquidity to housing lenders;

Establishes voluntary membership and equal terms of access to the System for all institutions eligible to become bank system members, and eliminates artificial restrictions on the banks' lending to member institutions based on their qualified thrift lender status;

Equalizes and rationalizes bank members' capital stock purchase requirements, preserving the cooperative structure that has served the System well since it creation in 1932;

Separates regulation and corporate governance of the banks that reflect their low level of risk while ensuring the banks can meet their obligations; and

Modifies the methodology for allocating the bank system's annual $300 million REFCORP obligation so that the individual banks' economic incentives are consistent with their statutory mission to support primary lenders in their communities.

Taken together, these interrelated provisions address the major issues identified in a recent series of studies of the bank system that Congress required from the Federal Housing Finance Board [FHFB], the Congressional Budget Office [CBO], the General Accounting Office [GAO], the Department of Housing and Urban Development [HUD], and a Stockholder Study Committee comprised of 24 representatives of Federal Home Loan Bank stockholder institutions from across the country.

The Enterprise Resource Banks Act will make the banks more profitable by enabling them to serve a larger universe of depository institution lenders more efficiently, and it will return control of the banks to their regional boards of directors who are in the best position to determine the needs of their local markets. At the same time, it will provide for the safety and soundness oversight necessary to ensure that this large, sophisticated financial enterprise maintains its financial integrity and continues to meet its obligations.

I first offered comprehensive legislation to modernize the bank system in 1992. The legislation is the culmination of efforts over the last 3 years to address in a balanced way the concerns of the banks' member institutions, community and housing groups, and various Government agencies. I look forward to passage of this important legislation to modernize an institution that works to improve the availability of housing finance and the opportunity of credit for all Americans, particularly those who are underserved.

GREEN EYES ARE SMILING IN CENTRAL NEW YORK

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. WALSH. Mr. Speaker, I am proud today to bring to the attention of my colleagues the environmental work of some high school students in central New York.

A group from Marcellus High School in Onondaga County has been chosen the winners of the Operation Green Eyes competition, an Environmental Protection Agency and MCI Foundation contest with an award of $10,000. Their project was based on a plan to use land mined by a local concrete company for a network of educational nature trails.

Schools from across the United States were challenged to complete an environmental community action project to see their community through Green Eyes and make a positive difference.

Projects were rated on innovation and originality, impact on the community, technical merit, and how well the students utilized the resources which were available to them.

On February 22 and 23 this year, three judges from the National Science Teachers Association met in Washington to judge the entries. They unanimously picked the Marcellus High School project to be the winner.

I want to add my congratulations to the students for this achievement. using their awareness of the environment as well as their critical problem-solving skills to make such a positive contribution to our community is an outstanding accomplishment.

I want to also publicly recognize with congratulations the advisers from the school, the MCI Foundation for its award sponsorship, the W.F. Saunders Co. for its cooperation, and last but not least Sylvester Stallone, who will participate in an award ceremony at the school.

WOMEN AND ALCOHOL RESEARCH EQUITY ACT OF 1996

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mrs. MORELLA. Mr. Speaker, I rise to introduce the Women and Alcohol Research Equity Act of 1996. This legislation will enable the National Institute on Alcohol Abuse and Alcoholism [NIAAA] to increase their research on women and alcoholism.

Over the last few years, NIAAA has made great strides in incorporating women into their research, and I applaud them for their progress. In fiscal year 1995, NIAAA spent 23 percent of their budget on research on alcohol abuse and alcoholism among women. This

represents a 69-percent increase over their fiscal year 1992 spending. However, the differences in the effects of alcohol and alcoholism on men and women necessitate further research on women and alcoholism.

The impact of alcoholism on women and men differs greatly. Women are more likely to use nontraditional health care systems for alcohol-related problems. Studies have shown that the development of consequences associated with heavy drinking may be accelerated in women. The death rate of female alcoholics is 50 to 100 percent higher than for male alcoholics. Heavy drinking contributes to menstrual disorders, fertility problems, and premature menopause, and alcohol use by pregnant women is the leading known cause of mental retardation in newborns. FAS strikes between 3,600 to 10,000 babies a year, and a Centers for Disease Control study indicates that the percentage of babies born with alcohol-related health problems increased sixfold between 1979 and 1993. It is critical that we bolster NIAAA's research on women and alcohol, and this legislation will help accomplish this.

This legislation recognizes the progress NIAAA has made. It instructs the NIAAA to maintain their current spending on women and alcoholism within their existing budget. It would also instruct House authorizers to add an additional $25 million in spending for NIAAA on research on alcohol abuse and alcoholism among women. Thus, this additional money would not subtract money from NIAAA's overall budget for women and alcohol, but instead add new funds for this critical research.

Clearly, alcohol abuse among women is a very serious problem with grave consequences. This legislation will include women in NIAAA's research so that we may better understand the effects of alcoholism particular to women and develop solutions that will work for women.

TRIBUTE TO THE LIBERTY TRIBUNE

HON. PAT DANNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Ms. DANNER. Mr. Speaker, since the Liberty Tribune's initial publication on April 4, 1846, and through the Civil War, both World Wars, America's voyages into space and countless other events, great and small, the newspaper has faithfully reported the news of the day. In fact, it is my understanding that the Liberty Tribune is the oldest continually published paper west of the Mississippi. This is truly an impressive accomplishment.

But longevity matters little if it is not accompanied by substance and style. The paper has more than passed muster on all three accounts, and the city of Liberty is a better place today because of it.

Community newspapers such as the Liberty Tribune serve as an important meeting place for generations of people from all walks of life. They provide information, chronicle the rough times, tout the good ones, and serve as a community's conscience when needed.

This is particularly true for our young people, who see that their successes in the classroom and on the ballfields make the local paper. They read about the important contributions of local civic leaders and witness how the power of well-reasoned opinions—on matters from local school district bond issues to international affairs—can affect government.

I know that the Liberty Tribune reports the positive happenings in the community as well as the bad news—true balanced reporting. This should not be surprising as the paper has had plenty of experience.

For instance, it is interesting to note that the Liberty Tribune started publication while James Polk was President. Some of the paper's first articles were about the Mexican-American War, in particular the story of Col. Alexander Donipan and his troops from Clay County who fought in the Battle of Bracito. Year later, the Liberty Tribune covered the Civil War and Jesse James. But to put matters into perspective, all of this is really little more than a quick glance back into history full of so much more news and reporting by the Liberty Tribune.

William Allen White, a towering figure in midwestern journalism for decades, believed that a hometown newspaper should serve a dual role—reporting the news and serving as a booster for the community. He understood that the true community newspaper works diligently not only to deliver the news but also to improve the community.

When the editor of a metropolitan paper scoffed at Mr. White and his Emporia, KS, Gazette, the respected small town editor fired back a timeless response.

"Know this and know it well," White said. "If you would take the clay from your eyes and read the little paper as it is written you would find all of God's beautiful sorrowing, struggling, aspiring world in it—and what you saw would make you touch the paper with reverent hands."

Mr. Speaker, the Liberty Tribune can take pride in being an important part of the strong tradition of balanced, community-minded reporting of which Mr. White spoke so eloquently.

TRIBUTE TO VIRGIL FROST ON HIS RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to an outstanding public servant in northwest Ohio. On December 31, 1995, Virgil Frost retired from his position as a bailiff/probation officer for Bowling Green Municipal Court.

Virgil Frost was born in Athens, OH, and graduated from Athens High School. He received his undergraduate degree from Ohio University and completed his graduate work at Bowling Green State University. He is a member of the Masonic Lodge, the Ohio Correctional and Court Services, the Kiwanis, and the National Criminal Justice Honor Society.

Virgil can look back on his career with great pride. In all of his duties, he has demonstrated a commitment to hard work and honest public service. During the course of his service, Virgil has held positions as a social worker with the Maumee Youth Camp and as the director of the Wood County Adult Probation Department. Because of his extensive experience, he has become a recognized expert in many areas of law enforcement and has received numerous performance awards for his work. Through his caring and dedicated efforts, he has literally improved the lives of a tremendous number of Wood County residents.

Americans would not be able to enjoy the blessings of our country without the tireless dedication of those who have the talent and willingness to work for the community. It is for this reason we owe a special debt of gratitude to people like Virgil, who have done an outstanding job for northwest Ohio. While he may be leaving his official capacity, I know he will continue to be actively involved in those causes dear to him.

I ask my colleagues to join me in paying a special tribute to Virgil, his wife, Patricia, and their sons, Mike, Mark, and Mathew, and wish them all the best in the years ahead.

FAIRNESS TO MINORITY WOMENS HEALTH ACT; WOMENS HEALTH EQUITY ACT

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Ms. VELÁZQUEZ. Mr. Speaker, domestic violence is an epidemic in our country. The statistics on family violence are staggering. Each year 4 million women are severely assaulted by their current or former partners. In fact, domestic violence is the leading cause of injury to women aged 15 to 44.

This national tragedy affects women from all social economic groups. However, poor immigrant women with children face unique challenges and bureaucratic hurdles. Under current law, legal residents who are in abusive relationships are not entitled to AFDC benefits or food stamps if they flee their homes to escape domestic violence. As a result, many women are forced to choose between feeding their children or being battered.

The current system has failed to provide protection and equity for battered immigrant women. This unfortunate situation had led me to introduce the Fairness to Minority Womens Health Act as part of the womens caucus' Womens Health Eqauity Act. My legislation would ensure that AFDC benefits and food stamps are granted to women and their children who escape domestic violent situations.

At times it is difficult for battered women to talk about domestic violence. This is especially true for language minority women who may feel intimated by counselors who do not speak their language. My bill provides bilingual family planning and counseling services.

This legislation also calls for a study on violence in the lives of Latino women and their children. Gathering factual data on the causes and effects must be a priority if the true extent of the problem of violence is to be addressed.

Every women should be able to escape domestic violence. I urge my colleagues on both

VOL 142 PT 5 MR 21 — 29 1996 UMI

sides of the aisle to join me in sponsoring this historic piece of legislation. We must work to ensure that all women seeking safety for themselves and their children get the help they desperately need. It's an investment worth making.

TRIBUTE TO PRESIDENT GROVER CLEVELAND

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. MARTINI. Mr. Speaker, I rise today to pay tribute to President Grover Cleveland as we celebrate this year the 159th anniversary of his birth in the great State of New Jersey.

One of New Jersey's most famous sons, Grover Cleveland entered the public arena with plain, honest talk and unwavering, uncompromising principles. His forthrightness in telling the truth was overwhelmingly refreshing for his time. President Cleveland's blunt political style and sincere dedication to public service enabled him to enchant the American people.

During his first year in office, President Cleveland, still a bachelor, worked 18-hour days to prove to the American public that they had elected the right man for the job. In an era of low expectations for the Nation's Chief Executive, President Cleveland labored tirelessly to rejuvenate the prestige, honor, and authority of the Presidency.

After his failed attempt for reelection, Grover Cleveland never lost his zeal for reform or his resolve to succeed. Amazingly, he fully expected to be President once again; a feat in American politics equal to coming back from the dead. However, on the last day of President Cleveland's first term, his new bride, Frances, remarked to a White House staffer to take good care of the furniture because they planned to return in just 4 years from today. Indeed, 4 years later, President Grover Cleveland became the only President in American history to win a second term after a 4-year political hiatus.

Discipline, work, courage, perseverance, and honesty—these are the attributes associated with Grover Cleveland's legacy. I am proud to give praise and honor to President Cleveland's memory and his selfless service to our Nation.

AIDS NOW THIRD LEADING CAUSE OF DEATH IN YOUNG WOMEN

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mrs. MORELLA. Mr. Speaker, I am reintroducing legislation today to address the need for increased research on HIV–AIDS in women and more targeted HIV–AIDS prevention and outreach efforts for women. Senator PAUL SIMON will be reintroducing the bills in the Senate in the next several weeks.

AIDS is now the third leading cause of death among women who are 25–44 years of age, according to the Centers for Disease Control and Prevention. The two largest increases in 1994, the year covered by the latest statistics, were a 30-percent increase among white women and a 28-percent increase among African-American women. AIDS was the cause of death for at least one out of every five young African-American women.

Women of color have been most severely affected; while African-American women and Latinas account for only 21 percent of women in the United States, they make up 54 percent and 20 percent of cumulative AIDS cases among women, respectively.

Since I first introduced legislation addressing HIV–AIDS and women in 1990, we have made progress on these issues. The National Institute on Allergy and Infectious Diseases [NIAID] initiated the women's natural history study, the women's interagency HIV study, and has worked to increase the number of women in clinical trials. Both NIAID and the National Institute of Child Health and Human Development [NICHD] have increased the resources devoted to topical microbicide research. I commend the NIAID and NICHD for their efforts, and I urge the research community to continue the momentum in these directions. This year's research bill reflects the progress that has been made, and provides for additional funding to further these gains.

A major focus of our research bill continues to be funding for research on topical microbicides and barrier methods of protection from sexually transmitted diseases [STD's], including HIV, that women can use with or without their sexual partner's cooperation or knowledge. The development of a topical microbicide—a compound capable of preventing the transmission of HIV and a range of STD's—is critically needed and would revolutionize our U.S. and global HIV and STD prevention programs.

Current HIV prevention methods rely on the cooperation of male partners. Many women lack the power within relationships to insist on condom use, as well as the resources to leave situations that place them at risk. It is critical that we acknowledge and respond to the issues of low self-esteem, economic dependency, fear of domestic violence, and other factors which are barriers to empowering women to negotiate safer sex practices.

The research bill also includes additional funding to continue the women's interagency HIV study, the ongoing study of HIV progression in women, and to conduct other research to determine the impact of potential risk factors for HIV transmission to women, such as infection with other STD's, the use of various contraceptive methods, and the use of vaginal products.

Other provisions include increased funding for support services, such as child care, in order to further the efforts by NIAID to increase enrollment of women in clinical trials. The bill also includes funding to increase data on women through gynecological examinations prior to enrollment in clinical trials and during the course of the trials. It is critical that the full range of questions important to understanding HIV in women are answered.

In regard to prevention, progress has also been made with the implementation of the CDC HIV community planning process. Through this program, State and local health departments work with local community-based organizations, community leaders, people living with HIV–AIDS, and groups at risk for HIV, to develop prevention programs for their own communities. However, despite the new statistics on HIV, most women still do not consider themselves to be at risk.

The prevention bill provides additional funding to family planning providers, community health centers, and other providers who already serve low-income women, to provide community-based HIV prevention programs. Many of them already provide unfunded prevention programs; this funding would allow them to expand their services and provide outreach to women who are not currently using family planning clinics or other community health services for women.

The bill also provides funding for referrals, including treatment for HIV and substance abuse, mental health services, pregnancy and childbirth, pediatric care, housing services, public assistance, job training, child care, respite care, and domestic violence.

Mr. Speaker, we have made progress in addressing the needs of women in the HIV epidemic, but we have far more to do. We are running out of time for a generation of young men—we cannot afford to wait. I urge my colleagues to join me in cosponsoring this legislation.

PERSONAL EXPLANATION

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HOSTETTLER. Mr. Speaker, due to a snow emergency in my district that began early March 19, 1996, I was unable to return to Washington, DC, until late evening on March 20, 1996. As a result of this unforeseen delay, I missed a number of rollcall votes during consideration of H.R. 2202, the Immigration in the National Interest Act. Had I been here for these votes, I would have voted as follows:

On roll No. 68, I would have voted "yea."

On roll No. 71, Beilenson, I would have voted "no."

On roll No. 72, McCollum, I would have voted "no."

On roll No. 73, Bryant, I would have voted "yea."

On roll No. 74, Velázquez, I would have voted "no."

On roll No. 75, Gallegly, I would have voted "yea."

On roll No. 76, Chabot, I would have voted "yea."

On roll No. 77, Gallegly, I would have voted "no."

On roll No. 78, Canady, I would have voted "yea."

On roll No. 79, Dreier, I would have voted "yea."

GENETIC INFORMATION AND HEALTH INSURANCE REFORM

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Ms. SLAUGHTER. Mr. Speaker, health insurance reform is coming to the House floor tomorrow. An important piece of that legislation deals with genetic information and insurance discrimination. Last December, I introduced H.R. 2748, the Genetic Information Nondiscrimination in Health Insurance Act—a bill to prevent the potentially devastating consequences of discrimination based on genetic information.

I am very pleased to learn that both the Republican version of health insurance reform and the Democratic substitute that will be introduced tomorrow contain some of the protections I introduced in my bill last fall.

While the provision in the legislation coming to the floor tomorrow is not as comprehensive as those outlined in my bill, it represents a very important first step in providing protections for people with predisposition to genetic disease.

Let me tell you a little bit about my bill and why it is so important. As chair of the Women's Health Task Force, I closely followed the reports last year indicating that increased funding for breast cancer research had resulted in the discovery of the BRCAI gene-link to breast cancer. While the obvious benefits of the discovery include potential lifesaving early detection and intervention, the inherent dangers of the improper use of genetic information are just becoming evident.

There is increasing concern that based on genetic information, individuals will be denied access to health care and insurance providers will require genetic screening in order to deny coverage to those who would cause a rise in group premiums.

The lessons we have learned from the past including the disastrous results of discriminating against those genetically predisposed to sickle-cell anemia. More recently, there are cases of people with a family history of breast cancer being afraid of getting tested for fear of losing access to insurance. Both these situations point to the need for comprehensive Federal regulations.

The bill I introduced last December would prevent that type of catastrophe by prohibiting insurance providers from:

First, denying or canceling health insurance coverage, or

Second, varying the terms and conditions of health insurance coverage, on the basis of genetic information.

Third, requesting or requiring an individual to disclose genetic information.

Fourth, disclosing genetic information without prior written consent.

The provisions in the health insurance reform bills to be considered on the floor tomorrow prohibit the use of genetic information as a preexisting condition. I applaud the inclusion of that aspect of my legislation in the insurance reform. I hope that my colleagues and I can continue to work together to apply the prohibitions on genetic discrimination across the board to cover all insurance policies and to address the important issue of privacy protection.

As therapies are developed to cure genetic diseases, and potentially to save lives, the women and men affected must be assured access to genetic testing and therapy without concern that they will be discriminated against. As legislators, I believe it is our responsibility to ensure that protection against genetic discrimination is guaranteed. Tomorrow we will take the first step in that direction. I invite my colleagues to join me in making the commitment to ensuring comprehensive protections against genetic discrimination.

CELEBRATING 25 YEARS OF COOPERATION

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. BARCIA. Mr. Speaker, the strength of cooperation is the greatest asset of any entity. I want you to know about the Saginaw Valley Bean and Beet Research Farm which is flush with cooperation, and as a result is proudly celebrating its 25th anniversary of operation this year. This facility, which started operations in 1971, is one of the premier locations in the world for research into matters of concern to sugar beet and dry bean producers and processors.

Michigan Sugar Co. and Monitor Sugar Co. helped to get all of this going by recognizing the importance of ongoing research in the maintenance of a competitive edge. The Michigan Bean Shippers Association, the Michigan Bean Commission, and the Farmers and Manufacturers Beet Sugar Growers Association pushed for creation of a single research farm. Producers helped fund the research by check-off from sales of their commodities, and continue to this day. Today, this facility is a wonderful joint effort of dry bean and sugar beet processors and producers, in cooperation with Michigan State University's Agricultural Experiment Station, the MSU Extension Service, and funding provided through the Cooperate State Research, Education and Extension Service of the U.S. Department of Agriculture. This Federal support has been generously provided with the cooperation of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration; and Related Agencies of the House Appropriations Committee.

It is phenomenal to me to think of the fact that 30 years ago farmers earned $60 million for dry bean crops and $23 million from sugar beet crops, with yields now having increased by about 80 percent since 1970. New varieties of dry beans have been introduced in the area to take advantage of changing consumer demands for dry bean varieties, particularly for the colored dry bean varieties that are so heavily demanded in other markets around the world. The stable prices that our consumers enjoy for sugar have been enhanced by a research program that is committed to improving yield and maintaining quality in an increasingly competitive market.

Work has been done over the years to improve the hardiness of varieties of beans and beets. Environmental concerns have been addressed by reviewing the efficacy of pesticides and herbicides as well as application practices. Planting methodology has been studied, ranging from narrow row planting efforts to increase yield per acre, to dealing with concerns created by soil compaction.

Several people deserve credit for this historic endeavor. Loren Armbruster, John Davis, Ernest Flegenheimer, Dr. Milt Erdman, Maurice Frakes, Dale Harpstead, John A. McGill, Jr., Basil McKenzie, Leyton Nelson, Grant Nichol, and Perc Reeve all deserve a major share of the credit for the creation of this facility. Former Congressman Bob Traxler led the efforts to secure Federal funding for this facility. Bob Young, Bill Bortel, Dale Kuenzli, John McGill, Greg Varner, and Dr. Don Christenson now work for the success of this facility. And support for this project continues to come from myself, Congressman CAMP, and Senator LEVIN.

Mr. Speaker, at a time when we want people to look to themselves for solutions to problems, we need to recognize the accomplishments of the Saginaw Valley Bean and Beet Research-Farm. I urge you and our colleagues to join me in wishing them the happiest 25th anniversary.

IN MEMORY OF MILLARD LEE BRENT

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HALL of Texas. Mr. Speaker, it is a privilege for me to pay tribute today to a legendary educator and outstanding citizen from the Fourth District of Texas—Millard Lee Brent, who died recently at the age of 83. Throughout his life Millard Brent was a prominent and respected figure in Dodd City, and he leaves behind a legacy of accomplishment that will be remembered for years to come.

A native of Dodd City, Millard Brent was born on October 22, 1912, to Ada Finley and Lee William Brent, and devoted much of his life to education. He received a bachelor's degree from Austin College in 1939, a master's degree from East Texas State University in 1951, and was an educator for 46 years. He served as superintendent of Dodd City schools from 1947 to 1962, was superintendent of Fannin County schools from 1962 to 1979, and in 1979 received the Fannin County Teacher of the Year Award. He then served on the board of directors of region 10 on State education from 1979 to 1988.

Millard also devoted much of his time in service to his community and county. He served as president of the Bonham Lions Club and president of the Fort Inglish Society. He served on the board of directors of the American Lung Association of the Dallas area, the Friends of Sam Rayburn Board, the Fannin County Fair Board, the board of the Fannin County Teachers Federal Credit Union, and the Board of Resolution, Conservation and Development. Millard was a member of the

VOL
142
PT
5
MR
21
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29
1996
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Dodd City Masonic Lodge, past Master, 32d degree Mason, Sherman Scottish Rite, and Denison County Commandry, and was an elder of the Dodd City Church of Christ. He received the Texas Historical Commission Award from Governor Dolph Briscoe and received the Fannin County Farmer Award for Outstanding Conservation.

Millard was married to Evalyn Opal Doan, who preceded him in death. Surviving are his son, Dr. Millard Brent of Sherman; brothers, George Brent of Bonham and C.J. Brent of Lannius; sister, Madeline Veal of Dallas; and several nieces and nephews.

Mr. Speaker, Millard Brent devoted his life to the betterment of his community and to the noble cause of education. His influence was felt in every aspect of his community and county, and there is no way to measure the good that he accomplished. As we adjourn today, I join his family and many friends in paying our last respects to this outstanding individual.

PERSONAL EXPLANATION

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HOSTETTLER. Mr. Speaker, due to a snow emergency in my district that began early March 19, 1996, I was unable to return to Washington, DC, until late evening on March 20, 1996. As a result of this unforeseen delay, I missed passage of H.R. 2937. Had I been able to be here for these votes I would have voted "yea" on roll No. 69.

TRIBUTE TO MORTON CHARLESTEIN

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. FOX of Pennsylvania. Mr. Speaker, a chosen few among us have the privilege and strength to reach 80 years of productive life. Mr. Morton Charlestein, who marks his 80th birthday on this April 1, has been an inspiration to all who know him and a source of love and support to all who come in contact with his warm and gracious being. He is a husband of over 50 years, a father, and grandfather of five; a leader in the dental and medical products industry; and a giant of support in the philanthropic community of greater Philadelphia whose good works reach across the country and around the world.

As chairman emeritus of the Premier Dental Products Co. and former president of the Dental Manufacturers of America, Mr. Charlestein's professional life has seen the introduction to the U.S. market of many, many innovative and now commonly used essential products in the dental profession. His support for dental schools and dental education is well known.

He is also an active member on the board of Har Zion Temple in Penn Valley, PA and on the board of the Jewish Theological Seminary of America. His support for programs fostering deeper religious understanding and commitment extend not only to his financial giving but to his personal involvement in communal prayer, and in family and institutional life on a daily basis.

Along with his wife, Malvina, and daughter, Ellyn, this man of vision has taken a personal family tragedy—the death of a young son-in-law—and turned it into a commitment of eradicating the suffering caused by amyotrophic lateral sclerosis [ALS]—Lou Gehrig's disease and has helped in the formation of support groups for patients; clinics dedicated to the treatment of this disease; and research projects in leading medical institutions worldwide.

I hold up Mr. Morton Charlestein as an example of a great American, having served his country overseas in World War II, who, in his personal and business dealings knows no barrier of race, social status, religion, or gender; and whose generosity and cheerfulness bring blessing to us all. May such Americans be multiplied and granted long life and good health.

CONGRATULATIONS TO PRESIDENT LEE TENG-HUI

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HINCHEY. Mr. Speaker, I wish to convey my congratulations to President Lee Teng-hui of the Republic of China. In the first direct Presidential election in Chinese history held on March 23, Lee Teng-hui won 54 percent of the vote, far outdistancing his three opponents. Democracy has finally arrived in the Republic of China and I have nothing but admiration and good wishes for President Lee.

I hope my colleagues will join me in wishing that God may continue to grant President Lee, and his Vice President-elect Lien Chan, all the wisdom in government their country in the years ahead, and that the people of the Republic of China will continue to enjoy prosperity and freedom.

GIVE IT BACK, GIVE IT ALL BACK

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mrs. SCHROEDER. Mr. Speaker, the minimum wage was last increased in 1991 by a lousy 65 cents an hour. That works out to a lousy $1,300 a year.

Since 1991, Members of Congress have increased their salaries by a whopping $37,000. That's 30 times the raise minimum wage workers have received.

In fact, that $37,000 raise is more than quadruple what a minimum wage worker earns in total all year. The annual salary of a minimum wageworker is $8,800.

If Bob Dole and Newt Gingrich want to block the proposed 1996 minimum wage increase, I have a suggestion, give back the $37,000.

A TRIBUTE TO MORTON GOULD

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. BRYANT of Texas. Mr. Speaker, it is with much sadness I recognize the death of former ASCAP President Morton Gould on February 21. The current ASCAP president and chairman, Marilyn Bergman aptly stated that "America has lost one of its most distinguished composers and conductors, and the creative community has lost one of its great leaders."

The honors Mr. Gould received during his long and illustrious life are countless. Mr. Gould received the Kennedy Center Honor in 1994 and the Pulitzer Prize in Music in 1995. He was elected to the American Academy of Arts and Letters in 1986. In addition, Mr. Gould was an award winning recording artists, with 12 Grammy nominations and a Grammy award in 1966. Mr. Gould served on ASCAP's board of directors for over 36 years, and led the society as president from 1986 to 1994.

Mr. Gould's contributions spanned eight decades and included significant works for orchestra, chamber ensemble, band, chorus, and soloists, as well as scores composed for film, television, Broadway, and ballet. Throughout his career, his work was particularly American, making use of such roots music styles as jazz, blues, spirituals, and folk music.

His music has been performed by every major American orchestra under the direction of such eminent conductors as Fritz Mahler, Arturo Toscanini, Leopold Stokowski, Sir George Sotti, Andre Previn, Leonard Slatkin, Eugene Ormandy, and Arthur Fiedler. As a conductor, Mr. Gould led countless orchestras throughout the world and recorded over 100 albums.

Mr. Gould was a tireless advocate for new American composers, and constantly sought opportunities to help expose their work. I was privileged to know him and work with him to further these goals. Morton Gould will be missed by millions worldwide who were touched by his talent and music.

COMMEMORATING RAY LANE'S 50 YEARS OF KIWANIS SERVICE

HON. GLENN POSHARD

OF ILLIONIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. POSHARD. Mr. Speaker, as we know, Kiwanis International has stood for outstanding community service with an emphasis on young children for decades. I rise today to honor Mr. Ray Lane, a member and leader of Kiwanis clubs in Toledo, Effingham, and Mattoon, IL for the past 50 years. Since joining Kiwanis in 1946, Ray has worked at it with the same energy and enthusiasm with which he has approached his entire life. I salute him today for his commitment to his fellow citizens.

It comes as no surprise that the leaders of clubs such as Kiwanis are also leaders in their jobs and other activities. This describes Ray Lane. He has always answered the call to duty, and would rather blaze a trail instead of waiting for a path to be carved. Ray received his bachelor's degree and special degree in education from Eastern Illinois University, and it was in the field of education that Ray made his greatest professional mark. Starting out as a teacher and coach while also serving his country for 11 months in the Philippines, he moved on to superintendent of the Toledo school district, despite his protests that he wasn't qualified, when the school board told him, "But you're the only one we can find." Undaunted, Ray went on to excel, assuming his role in the newly formed Greenup and Toledo county school district, and later as superintendent of Effingham Unit No. 40 schools and the Mattoon schools. Ray was not only a gifted administrator, but an innovator in curriculum as well, developing new kindergarten and English rhetoric programs that were adopted by the State board of education. His first love has always been music, and he was instrumental in adding staff in this area and other programs that traditionally received less attention, like special education. Professional affiliations included the National Education Association, the American Association of School Administrators, the National Association of School Business Officials, the Illinois Education Association, the Illinois Association of School Administrators, and Phi Delta Kappa.

All the while, Ray has been active in other community endeavors, including the United Methodist Church, the Masonic Lodge, the Elks Club, American Legion, and the chamber of commerce. What makes his Kiwanis participation perhaps extra special is that it has paralleled all his other achievements and this tribute just scratches the surface of his voluminous contributions to central and eastern Illinois. He has served as president of all three of his Kiwanis clubs, and his service will not be forgotten. He and wife Pauline have accomplished a great deal while also raising two sons. Mr. Speaker, my respect for Ray Lane is momentous. He is an example of all that we can accomplish if we take on life eagerly and acceptingly. It is an honor to represent Ray in the U.S. Congress. I wish him health and happiness in the future, and thanks for his efforts.

INTRODUCTION OF THE PORT REVITALIZATION ACT OF 1996

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. FRANKS of New Jersey. Mr. Speaker, today I am introducing legislation to address the nationwide problem of disposing of contaminated sediments that accumulate in our ports. This bill is entitled "the Port Revitalization Act of 1996. I am pleased to have joining me as original cosponsors Representatives Frank Pallone, Dick Zimmer, and Rodney Frelinghuysen.

Ports around the country must continually dredge their channels to ensure the safe passage of ships to their berths. If these channels are not dredged, oil tankers, container ships, and even passenger ships face the risk of running aground. While dredging has been a common practice for decades, the presence of contaminants in the mud at the bottom of our harbors now prevents the use of the ocean for disposal of a significant amount of dredged material.

This problem is especially acute in the Port of New York/New Jersey. Almost none of the 6 million cubic yards of required maintenance dredging will occur this year. Large container ships are now either scraping bottom or waiting for high tide to dock, and some shipping lines are already diverting their cargo to ports to Canada.

The Port Revitalization Act has several important features to address dredging crises at ports around the country. First, it expands the use of the Harbor Maintenance Trust Fund, which currently has a $500 million surplus, to allow it to be used for more than just the operation and maintenance expenses of Federal channels. This legislation allows the Fund to be used for the actual disposal of dredged material and for the construction of confined disposal facilities required for the safe disposal of dredged material, such as subaqueous pits, containment islands, and upland disposal options.

Second, under current law, the Federal Government can participate only in the ocean disposal of dredged sediment at a cost sharing ratio with a local sponsor of 65/35. This legislation offers a Federal cost sharing mechanism for the upland disposal of dredged material, as well as the construction of confined disposal facilities.

Third, this legislation reauthorizes, and increases funding for, the decontamination technology pilot study now underway by the Environmental Protection Agency. We must continue to invest in dredged sediment decontamination technology to make the material eligible either for beneficial upland use—golf courses, parking lots, etc., or ocean disposal.

Finally, this legislation authorizes a dredged material containment facility for the Port of New York/New Jersey, subject to the findings of the Army Corps of Engineers' Dredged Materials Management Plan for the Port of New York and New Jersey.

Mr. Speaker, this legislation has bipartisan support, as well as support from businesses, labor groups, State and local governments, and environmental groups. I urge my colleagues to cosponsor this legislation.

TRIBUTE TO TWO PROUD VETERANS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. STUDDS. Mr. Speaker, I rise to pay tribute to two courageous men whose personal triumphs over discrimination in the military helped hasten the day when all Americans will have the right to serve their country.

Today marks the retirement from active service of Petty Officer V. Keith Meinhold, an openly gay man who successfully challenged the military ban in court and has continued to serve with honor in the U.S. Navy.

The case of Meinhold versus Department of Defense began in 1992, when Petty Officer Meinhold affirmed on national television that he is gay. It ended more than 2 years later, when the Justice Department declined to appeal a decision in Meinhold's favor by the U.S. Court of Appeals for the Ninth Circuit. The court ruled that Petty Officer Meinhold could not be discharged simply for stating that he was gay and ordered the Navy to reinstate him.

Since then, Meinhold has served with distinction as an aviation warfare systems operator first class at the Naval Air Station on Whidbey Island, WA. By all accounts, his performance as a sonar analyst and instructor has been exemplary. His latest evaluation describes him as "a top notch professional * * * with uncompromising standards. * * * highly respected and trusted by superiors and subordinates alike."

His commander notes that "his inspirational leadership has significantly contributed to the efficiency, training, and readiness of my squadron." That squadron has been called the most combat ready unit in the Pacific fleet. So much, Mr. Speaker, for "good order, discipline, and morale."

At 13:30 hours Pacific time today, Petty Officer Meinhold will say goodbye to his comrades in Patrol Squadron 46 and give his final salute—a proud gay veteran who has honored us all by his courage and dignity.

Sadly, Mr. Speaker, this past week also brought news of the death from AIDS of another pioneer in the fight against discrimination in the military. Sergeant First Class Perry J. Watkins was a true hero who challenged the ban years before it became a major national issue.

Sergeant Watkins was an outstanding soldier who served on active duty for 14 years, including tours in Korea and Vietnam. His commanding officer called him "one of our most respected and trusted soldiers," awarding him 85 out of a possible 85 points for performance and professionalism.

Watkins had been completely candid about this sexual orientation from the start of his Army career in 1968. He was permitted to reenlist three times before the Army adopted a more stringent policy on homosexuality and sought his discharge in 1981.

In 1989, the U.S. Court of Appeals for the Ninth Circuit ordered the Army to allow Watkins to reenlist, citing the fact that it had done so repeatedly "with only positive results." In 1990, the Supreme Court refused to hear the Government's appeal.

Sergeant Watkins never returned to the Army. A year after the appeal was rejected, the Army settled the case, agreeing to let Watkins retire with full benefits, back pay, an honorable discharge, and a retroactive promotion to sergeant first class.

I wish that Perry Watkins, who did so much to end this cruel and senseless policy, could have lived to see his goal finally achieved. It is in large part because of what he did that it will be achieved, and for this he will always be remembered.

VOL
142
PT
5
MR
21
—
29
1996
UMI

THE GROWING INCOME GAP IN AMERICA

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. SABO. Mr. Speaker, I rise today to express my continued deep concern over the growing income gap in America. Last week, I stated that we must address this problem now, by enacting policies that encourage responsible corporate citizenship. Today, I would like to offer one example of how we can do so.

It is clear from our recent budget debates that all Members want the legislation we pass to expend Government resources wisely, getting the most value for our Federal dollars and granting the benefits of Federal policy to those who truly deserve them.

Americans from across the political spectrum have decried high CEO pay and perks, which seem only to increase while layoffs grow and worker pay stagnates. Many of our constituents may be surprised to learn, however, that our Government allows corporations generous tax deductions for corporate pay. Meanwhile, the lowest paid worker in the company could be earning the minimum wage and be below the poverty level.

In granting such tax deductions, our Government is implicitly encouraging this type of excessive compensation. I believe that in giving business this tax deduction, we should expect something in return. This is why I introduced the Income Equity Act, H.R. 620. My bill would restrict the amount of executive pay that is tax deductible by linking the tax deduction of those who make the most at a company with the salaries of those who make the least. H.R. 620 would limit the tax deductibility of executive pay to 25 times that of the lowest paid full-time worker. For example, if the lowest paid worker in a company is a janitor who is paid $10,000 per year, then any amount of salary paid to the CEO above $250,000 would no longer be tax deductible as a cost of doing business.

My bill will not restrict the freedom of companies to pay its workers and executives as they please. H.R. 620 will, however, send a strong message that companies should look out for those at the bottom as well as those at the top of the income ladder. H.R. 620 would also raise the minimum wage from the current $4.25 to $6.50 per hour, making up for the loss in buying power the minimum wage has experienced.

The Income Equity Act would be an important first step in crafting Government policies that encourage responsible corporate citizenship. I do not seek to burden businesses, but they must realize that we all have roles to play in bridging the income gap. Today, I ask your support for the Income Equity Act, which is just one piece of what must be a comprehensive plan to restore working Americans' faith in our economy.

PERSONAL EXPLANATION

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HOSTETTLER. Mr. Speaker, due to a snow emergency in my district that began early March 19, 1996, I was unable to return to Washington, DC, until late evening on March 20, 1996. As a result of this unforeseen delay, I missed the vote on passage of House Concurrent Resolution 48. Had I been able to be here for these votes I would have voted "yea" on roll No. 70.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 28, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 29

9:30 a.m.
Armed Services
Airland Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on Army modernization programs.
SR-222

11:00 a.m.
Armed Services
Strategic Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on cooperative threat reduction program, arms control, and chemical demilitarization.
SR-232A

APRIL 15

10:00 a.m.
Judiciary
Constitution, Federalism, and Property Rights Subcommittee
To hold hearings on S.J.Res. 49, proposed constitutional amendment to require a two-thirds vote on tax increases.
SD-226

APRIL 16

9:30 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for Air Force and defense agencies' military construction programs.
SD-116

Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.
SR-253

APRIL 17

9:30 a.m.
Rules and Administration
To resume hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns.
SR-301

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Air Force programs.
SD-192

1:30 p.m.
Indian Affairs
To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR-485

2:00 p.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
Business meeting, to mark up S. 984, to protect the fundamental right of a parent to direct the upbringing of a child.
SD-226

APRIL 18

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings to examine Spectrum's use and management.
SR-253

1:30 p.m.
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR-485

APRIL 19

1:30 p.m.
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR-485

APRIL 23

9:30 a.m.
Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings on proposed legislation authorizing funds for the Consumer Product Safety Commission.
SR-253

APRIL 24

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Army programs.
SD-192

APRIL 25

9:00 a.m.
Indian Affairs
To hold hearings on S. 1264, to provide for certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe.
SR-485

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.
SR-253

MAY 1

9:30 a.m.
Rules and Administration
To resume hearings on issues with regard to the Government Printing Office.
SR-301

SEPTEMBER 17

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.
335 Cannon Building

CANCELLATIONS

MARCH 28

10:30 a.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Justice.
S-146, Capitol

2:00 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Commerce.
S-146, Capitol

VOL
142
PT
5
MR
21
—
29
1996
UMI

SENATE—*Thursday, March 28, 1996*

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by Rev. Joan Thirkettle from San Diego, CA, Salvation Army of San Diego.

PRAYER

The Reverend Joan Thirkettle, Salvation Army of San Diego, offered the following prayer:

The world new each day, Almighty God, we give You thanks and praise. The days, months, and years You number and sustain. Your wisdom invites this Senate to share the daily administration of this Your United States. Your movement is heard in the walk of the people. The grass blows, the mountains tower, the waters slap the shores, all echo, You among us. Come with Your residence casting Your knowledge and dreams into the debates and decisions made for "We, the People." Take the deliberations of this body fueled with questions, doubts, and varying degrees of what is best and right, and bring consensus of shared patriot leadership for the Republic. It is You, God, who reigns. Guide these Senators as they champion justice, liberty, and peace. Counsel them as they speak, debate, and struggle with the complexities of domestic and global concerns. The mantle of trust is given these persons by the people, Mighty God. Help them carry this heavy mantle in the long hours of work and decisionmaking. Bring each Senator a calm and a confidence of heart this day and in the days to come. Thank You that You have made them ambassadors of Your work. Travel with them in peace. May their work declare Your intentions, Eternal God. This we pray, Lord, in Your name. Amen.

Mrs. BOXER addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from California.

THE GUEST CHAPLAIN

Mrs. BOXER. Thank you so much, Mr. President. I will just take a moment of the Senate's time to say how really thrilled I am to have heard the prayer given by the Reverend Joan Thirkettle this morning. I want to thank the Senate Chaplain, Dr. Ogilvie, for inviting her here today at my request.

To hear the sounds of a woman's voice coming from that particular place in the Senate Chamber is not that usual, but it is becoming more usual as we see more and more women go into this field.

I also say that it is very important because this month we do celebrate Women's History Month. So it is quite appropriate the Reverend Thirkettle spoke to us today.

There is one last point I want to make. She has come a long way from San Diego, CA, a beautiful part of the world. She spends her waking hours helping high school students, helping with family reeducation, helping with reunification, helping with job readiness, working with children, working with the Salvation Army in charge of shelters for youth and running the Christmas toy drive. So this is a woman who lives her beliefs.

I listened to her words today. She offers us, I think, some very good guidance. I thank her, and I thank Dr. Ogilvie.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. CAMPBELL). Under the previous order, leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Senator from Indiana [Mr. LUGAR] is recognized.

SCHEDULE

Mr. LUGAR. Mr. President, on behalf of the majority leader, Senator DOLE, let me say, for the information of all Senators, the Senate will immediately resume consideration of the farm bill conference report under the remaining time agreement reached yesterday.

Following that debate, the conference report will be set aside, and the Senate will begin 30 minutes of debate regarding the cloture motion with respect to the Kennedy amendment to the Presidio legislation.

Following that debate, the Senate will begin a vote on the adoption of the farm bill conference report, to be followed immediately by a vote on invoking cloture with respect to the Kennedy amendment. Additional rollcall votes are possible throughout today's session of the Senate.

AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 2854, which the clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2854) a bill to modify the operation of certain agricultural programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. The Senator from Indiana [Mr. LUGAR], is recognized.

Mr. LUGAR. Mr. President, yesterday in the beginning of the debate on the farm bill conference report, much of the debate centered upon title I, which is the Agricultural Market Transition Program. And, indeed, this is an extraordinarily important title for producers in this country. Senators reviewed the fact that the new farm bill will offer maximum flexibility to farmers in choosing what crops to plant and how many acres they will plant to meet market conditions in this country and in the world.

Likewise, the nonrecourse marketing assistance loans will remain. They are a safety net, as well as a method of managing income and operations, for producers.

Not mentioned yesterday, but clearly still in the farm bill, is a peanut program, modified somewhat during debate in both the House and the Senate, a sugar program and a milk price support and marketing order program. The Federal Dairy Export Program, the northeast dairy compact, payment limitations, commodity credit all come under this title I, the Agricultural Market Transition Program. I have no doubt, Mr. President, there will be more debate on that issue this morning. But I want to center on additional aspects of the farm bill that are extraordinarily important to all Americans.

Title II, the trade title, contains Public Law 480 and related programs. The conference report reauthorizes Food for Peace and allows private sector participation for the first time. The Food Security Wheat Reserve is renamed the "Food Security Commodity Reserve" to reflect that corn, rice, and sorghum are added as eligible commodities. A 4-million-metric-ton cap is placed on the reserve and access to reserve commodities is made easier.

Mr. President, there is also a provision for agricultural trade. The conference agreement reauthorizes several trade and export programs, with additional emphasis on high-value and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

value-added products. The Secretary is directed to monitor compliance with the agriculture provisions of the Uruguay round agreement of GATT and report violations to the United States Trade Representative. Agriculture producers are given additional protection against economic effects of agricultural embargoes.

In addition, several unnecessary and outdated provisions of Federal agricultural trade law are repealed.

The trade title contains a market access program. The Market Promotion Program is renamed the "Market Access Program" to more accurately reflect program goals. Expenditures are capped at $90 million per year, and reforms are implemented to restrict participation to small businesses, farmer-owned cooperatives, and agricultural groups.

The Export Enhancement Program is contained in title II. EEP expenditures are capped at $350 million a year in 1996; $250 million in 1997; $500 million in 1998; $550 million in 1999; $579 million in 2000; $478 million in 2001 and 2002.

For the years 2000 to 2002, the funding levels for EEP represent the maximum allowable expenditures under GATT. In addition, the Secretary is given authority to subsidize the export of intermediate value-added products.

Title III of the farm bill contains the conservation programs and, first of all, of course, is the Conservation Reserve Program, the CRP, which gives the Secretary authority to enter into new contracts and to extend CRP contracts. The authorized maximum acreage in CRP is maintained at 36.4 million acres. It also allows participants to terminate CRP contracts, except on those lands that are deemed to be of high environmental value. Funds saved due to termination of contracts may be used by the Secretary to enroll new lands in the program.

I point out, parenthetically, Mr. President, this arguably is the largest conservation program, including one of the most important environmental aspects the Senate will adopt this year.

The Wetlands Reserve Program is retained with modifications to encourage the use of temporary easements and cost-share restorations.

The Environmental Quality Incentive Program [EQIP], is instituted. This program targets approximately $1.2 billion over 7 years to assist crop and livestock producers to deal with environmental and conservation improvements on their farms. Assistance can be used for animal waste management facilities, terraces, waterways, filterstrips or other structural and management practices to protect water, soil, and related resources. Assistance to individual operations is capped at $10,000 a year, for a maximum of 5 years. Large operators, as defined by the Secretary, will be ineligible for assistance.

Other new conservation programs include the Farms for the Future Program providing $35 million to preserve farmland from commercial development. A new conservation farm option offers producers an additional alternative in meeting conservation goals. A Flood Risk Reduction Program is also included to provide farmers incentives to take out of production frequently flooded lands.

The Conservation Compliance Reform Program gives producers enhanced flexibility to modify conservation practices if they can demonstrate that the new practice achieves equal or greater erosion control. Variances from conservation compliance can now be granted on account of adverse weather or disease, and program payment penalties can be adjusted to be commensurate with the violation.

Swampbuster reform is included in title III. The Natural Resources Conservation Service is designated to lead Federal agencies in wetlands delineation and regulation on grazing lands. The agreement stipulates that current wetlands delineations remain valid until a producer requests a review. Penalties can now be adjusted to fit the wetlands violation. Exceptions can be granted for good faith. And wetlands mitigation options are expanded.

Title IV, a very important title, is the Federal Food Stamp Program. The conference agreement reauthorizes the Food Stamp Program for 2 years while Congress continues to work on comprehensive welfare reform legislation.

Mr. President, this issue has come before this body at least twice before. First of all, in the form of the Balanced Budget Act, where the food stamp provisions were a part of the farm bill and likewise a part of welfare reform. The Senate has considered separately welfare reform with food stamp provisions in that legislation.

As the Chair knows, in the case of both the welfare reform and the Balanced Budget Act, President Clinton vetoed this legislation. Therefore, it has been set aside. This farm bill recaptures now and reauthorizes the Food Stamp Program for 2 years pending action either in our committee, that is, the Agriculture Committee, or action by the Congress with regard to welfare reform that might encompass the Food Stamp Program.

Title V is a miscellaneous title, but an important one in the collection of programs that come under it. Crop insurance is one of these programs. The conference agreement eliminates the mandatory nature of catastrophic crop insurance, but requires producers to waive all Federal disaster assistance if they opt not to purchase catastrophic insurance. Dual delivery of crop insurance is eliminated in those States that have adequate private crop insurance delivery.

The bill corrects a provision of current law by amending the Federal Crop Insurance Act to include seed crops. Eligibility to purchase crop insurance is no longer linked to conservation compliance and swampbuster for producers who choose not to participate in the farm programs.

The Office of Risk Management is provided for. We establish in this legislation, within the Department of Agriculture, the Office of Risk Management to oversee and supervise the Federal Crop Insurance Corporation. The bill directs the Secretary to establish a business interruption insurance program that allows producers of program crops to obtain revenue insurance coverage. The Options Pilot Program is also extended through the year 2002. The Office of Risk Management is charged with oversight of these pilot programs.

Mr. President, the farm bill includes an Everglades Agricultural Area provision. The conference agreement provides $200 million for land acquisition in the Florida Everglades for the purpose of environmental restoration. An additional $100 million in Federal support will be financed through the sale or swap of other federally held land in Florida.

The farm bill provides a fund for rural America. And $300 million is provided for the fund in the years 1997 through 1999. This was a request of the President of the United States, and the Secretary of Agriculture placed a high priority on this fund. The Secretary is required to spend at least one-third of the amount on research and one-third of the amount on rural development. The other one-third of the money can be allocated to either purpose at the discretion of the Secretary. All of the funding must be spent through existing research and rural development programs.

The Agricultural Quarantine and Inspection provision appears in the conference report, which amends the Food, Agriculture, Conservation and Trade Act of 1990 to allow the Secretary to collect and spend fees collected over $100 million to cover the cost for providing quarantine and inspection services for imports.

The Safe Meat and Poultry Inspection Panel is created in this farm bill. The Panel of scientists within the Food Safety and Inspection Service will be charged with the responsibility of reviewing all inspection policies from a scientific perspective. The Panel's report and the Secretary's responses must be published in the Federal Register. State-inspected meat was discussed in our conference report. Within 90 days of enactment, the Secretary shall report and recommend to the Congress the steps necessary to achieve interstate shipment of State-inspected meat products.

Title VI of the conference report deals with USDA Farm Lending Program reforms. The conference report

VOL
142
PT
5
MR
21
—
29
1996
UMI

redirects farm lending programs to their original intent. Authority to make loans for a variety of nonagricultural purposes such as recreation facilities and small business enterprises is repealed. The Secretary is given authority to use collection agencies to recover delinquent loans. The agreement prohibits additional loans to delinquent borrowers and streamlines procedures for disposal of inventory property. A portion of loan funding is reserved for new and beginning farmers.

I point out, Mr. President, that that set of provisions comes after extensive hearings by the Agriculture Committee in which we found that borrowers sometimes are already delinquent and the Department was obligated, under previous law, to lend money to them in any event. Some of these obvious, glaring deficiencies have been corrected. I commend both committees and the conference for that provision.

Title VII deals with rural development. The Rural Community Advancement Program is authorized, and the Secretary may provide grants and direct and guaranteed loans and other assistance to meet rural development needs across the country. Funding under the Rural Community Advanced Program will be allocated to three areas: First of all, rural community facilities; second, rural utilities; and, third, a rural business and cooperative development. The new program provides greater flexibility, State and local decisionmaking, and a simplified uniform application process.

The Water and Waste Water Systems. Authorization for these systems is increased from $500 million to $590 million.

In telemedicine and distance learning programs, the conference agreement reauthorizes and streamlines these programs. Under the programs, the Secretary can make grants and loans to assist rural communities with construction of facilities and services, to provide distance learning and telemedicine service. Funding is authorized at $100 million annually.

Title VIII is the research title. The conference agreement reauthorizes Federal agricultural research, extension, and education programs for 2 years. This will allow Congress to continue ongoing review of these programs and determine how best to use the $1.7 billion in annual agricultural research, extension, and education spending. Additional research dollars are made available under this bill through the fund for rural America that I discussed earlier and which President Clinton and Secretary Glickman have championed.

Title IX, promotion, the generic commodity promotion program. The Secretary is directed to establish such a program. Under this program, interested industries could petition the Department of Agriculture for the establishment of a promotion program. Currently, each commodity must receive specific authorization from Congress to have a promotion program. Recognizing the generic program will not be operational for some time, the conference agreement authorizes new promotion programs for popcorn, canola, and kiwi fruit.

The full conference report was printed, I point out, Mr. President, in the CONGRESSIONAL RECORD of Monday, March 25, 1996, so that Senators have had an opportunity to review this conference report. The report came after discussion of as many as 500 differences between the House and the Senate bills. During an extensive and constructive conference of the two bodies last Wednesday and last Thursday, all issues were resolved. It is in that spirit that this conference report came to the Senate last evening and for further debate today.

Mr. President, let me simply review the fact that the time limit covering this report is 6 hours. Three of those hours are controlled by the distinguished Democratic leader, Senator DASCHLE, an hour by the ranking Democratic member of the Agriculture Committee, and 2 hours by myself. Approximately an hour and a quarter of debate occurred last evening. The remainder of the debate lies ahead of us. Hopefully, Senators who are controlling that time would be prepared to yield back that time to expedite the work of the Senate.

PRIVILEGE OF THE FLOOR

Mr. LUGAR. Mr. President, I ask unanimous consent that Patrick Sweeney, an employee of the General Accounting Office who has been detailed to the Agriculture Committee, be granted privilege of the floor during the pendency of consideration of the farm bill conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Noting no other Senators prepared to debate the issue, I suggest the absence of a quorum, with the time to be equally charged against the time allocated to the three Senators controlling time in this bill.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask to take time that has been allotted to me under the unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, we spent a lot of months of very, very hard work to craft this farm bill. Today, we are completing the final legislative step in the farm bill process. I am glad that Secretary Glickman has said that he will recommend that the bill be signed.

The Secretary is one of the most knowledgeable Secretaries of Agriculture with which I have ever worked. He has been a Member of the Congress. He has worked on many farm bills. He knows, as I do, that nobody ever gets everything they want in a farm bill. You have to bring in a number of competing interests and ultimately make a judgment of whether the bill should be signed or not. I believe it should be signed. I concur with his judgment.

I am also pleased that the President said he would sign the farm bill. In my discussions with the White House and with the Secretary, I have told them this is a good bipartisan bill that proves we can work together.

We were in a situation, Mr. President, where we were not going to be able to pass a Democratic or a Republican farm bill. However, if we worked as we have in the past in a bipartisan fashion, we could pass a very good farm bill.

There are many who had a hand in this legislation. First and foremost of those is the chairman of the Senate Agriculture, Nutrition and Forestry Committee, the senior Senator from Indiana, Senator LUGAR.

Had it not been for his energy, foresight and perseverance, we would not be on the floor today with a completed conference report. The Agriculture Committee is made up of members with very diverse and, I might say, occasionally conflicting interests. For those who know the Agriculture Committee as Senator LUGAR and I do, that is probably considered an understatement. The Senate has some committees that divide along ideological lines and one can almost predict how a vote might go.

That is not the case in the Senate Agriculture Committee. Conservatives join with liberals on various issues; conservatives break with conservatives; liberals break with liberals; moderates oftentimes have a balance of power; regions have interests that conflict with other regions. This is not a case of ideological balances. This is a case of trying to balance the different needs of different parts of our great and wonderful Nation.

Throughout the year, Chairman LUGAR worked closely with members to craft a bill that provides us with the basic road map for agriculture policy. I appreciate both his leadership and his friendship. The bill recognizes that farm policy has changed. It cannot be just about the production side of agriculture. It is about the consumption side of agriculture, too.

The bill provides important protection to consumers in key environmental conservation issues. The focus

is on providing incentives to get farmers to voluntarily do the right thing for the environment, their communities, and their neighbors.

It is a major step away from the old focus of mandatory, detailed regulations. The conservation provisions break with the past. They will provide cash payments to farmers for improvements that make sense for their farms. The bill will help farmers do those things that farmers know should be done. The bill contains the Environmental Quality Incentives Program, EQUIP, to assist farmers in solving critical water quality problems, for those farmers who want to protect lakes, rivers, and the ground water important to both them and their neighbors. This means that farmers will get funds to protect the groundwater that their neighbor's children drink.

There is $300 million in new spending to restore the Florida Everglades which is one of America's national treasures.

All of us should agree, whether we are from Florida or not, that we need to restore the Florida Everglades to its full glory.

There is a $35 million initiative to buy easements sold by willing sellers, on farmland threatened by development. This voluntary program, called Farms for the Future in Vermont, allows farm families to save their farmland for their children.

The bill contains a conservation farm option that will encourage farmers to use good conservation methods. I am pleased that, despite efforts to phase out the Conservation Reserve Program, we were able to save it. It is the Nation's largest, and most successful, private land conservation program.

I also want to mention dairy. Let me speak not as the ranking member of the committee, but as a Vermonter.

I know the farmers in Vermont. They work very, very hard. They rise early every morning and work late into the night just to get their milk into the market. I have sat in the kitchens of farm houses throughout Vermont and talked with the farmers, the women and men, and their sons and daughters, who run these dairy farms. I have gotten up with them at 4 o'clock in the morning and gone into the barns and helped them do their chores and milking. One farmer said I probably made a better Senator than I did a hired hand.

I was helping Bob Howrigan bring a couple different herds in different fields. As I helped him bring one of the herds across to the milking shed, I said, "Bob, I got that herd in for you, and I probably only lost a couple cows on the way over."

He said, "PAT, I appreciate it. If I keep you around a few weeks I can get out of farming altogether."

That is the kind of humor that goes on. These are people who work harder than anybody else I know. These are small family farms. They dot the New England countryside. They are a beautiful part of our heritage. But they exist only if they work hard and efficiently.

So I am pleased this bill includes an issue very important to my region, the Northeast Interstate Dairy Compact. Farmers in my State are not looking for handouts.

All they want is a farm bill that gives them a fair price for an honest day's work. They will work harder than anybody else, but they ought to be recompensed for that work. I am tired of the person in the middle getting all the profits and the typical Vermont farmer going almost 15 years without any kind of a price increase.

This compact is the last best hope of preserving Vermont's heritage. Dairy farmers work harder than anyone I know. Cows have to be milked 7 days a week. It does not make a difference whether it is 25 degrees below zero, as it is often in Vermont, or 5 o'clock in the morning. It makes no difference. The cows have to be milked.

I commend Chairman LUGAR for his help on the dairy compact. I commend the other members of the Vermont delegation. Interestingly enough, we are a State where one-third of our delegation is independent, one-third is Republican, and the remaining third is me. We came together, all three of us, to work for this. Chairman LUGAR talked to farmers in Vermont. He knew how important it was. After years of debate in Congress, we finally have a farm bill that gives them the dairy compact.

I want to remind everyone that while retail prices for dairy products have increased 30 percent, farm prices have actually decreased 5 percent. I want to also point out that although the price of a half gallon of milk has gone from $1.19 to $1.59 over the past 15 years, the farmer's share has remained at just 59 cents.

The dairy compact establishes a system which gives the States and local farmers control over their lives.

It will ensure that New England consumers can find milk in their supermarkets at fair prices.

It will also provide family farmers throughout the region with a decent living, so that they will be able to pass on their farms to their children and their children's children.

Instead of a national standard imposed by the Federal Government, the dairy compact allows local citizens, farmers and officials to make local decisions on milk. That is good for dairy farmers, good for Vermont and good for America.

Mr. President, I ask unanimous consent that a resolution in support of the compact from the New England Governors, letters in support of the compact from various groups in Vermont, the vote totals in each of the State legislatures be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEW ENGLAND GOVERNORS'
CONFERENCE, INC.,
Boston, MA, February 13, 1995.

Hon. PATRICK J. LEAHY,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: I understand the Northeast Interstate Dairy Compact awaits action by the full Senate. On behalf of the New England Governors' Conference, Inc., I write to ask your help in moving the Compact bill forward as quickly as possible.

The attached Resolution of the New England Governors' Conference, Inc. was adopted unanimously at our recent meeting in Washington, D.C.

The Dairy Compact has been enacted into law by the six New England states. We hope you will support this unique experiment in cooperative federalism. The Compact is a bipartisan, state-sponsored, regional response to the chronic problem of low dairy farm prices. If successfully implemented, the Compact will stabilize our region's dairy industry and reinvigorate this crucial segment of our rural economy, without cost to the federal government or adverse impact on the national industry.

Thank you for your consideration of this matter.

Very truly yours,

WILLIAM A. GILDEA,
Executive Director.

RESOLUTION 127—NORTHEAST DAIRY COMPACT

A Resolution of the New England Governors' Conference, Inc. in support of congressional enactment of the Northeast Dairy Compact.

Whereas, the six New England states have enacted the Northeast Interstate Dairy Compact to address the alarming loss of dairy farms in the region; and

Whereas, the Compact is a unique partnership of the region's governments and the dairy industry supported by a broad and active coalition of organizations and people committed to maintaining the vitality of the region's diary industry, including consumers, processors, bankers, equipment dealers, veterinarians, the tourist and travel industry, environmentalists, land conservationists and recreational users of open land; and

Whereas, the Compact would not harm but instead complement the existing federal structure for milk pricing, nor adversely affect the competitive position of any dairy farmer, processor or other market participant in the nation's air industry; and

Whereas, the limited and relatively isolated market position of the New England dairy industry makes it an appropriate locality in which to assess the effectiveness of regional regulation of milk pricing, and

Whereas, the Constitution of the United States expressly authorizes states to enter into interstate compacts with the approval of Congress and government at all levels increasingly recognizes the need to promote cooperative, federalist solutions to local and regional problems; and

Whereas, the Northeast Interstate Dairy Compact has been submitted to Congress for approval as required by the Constitution; Now therefore be it *Resolved*, That the New England Governors' Conference, Inc. requests that Congress approve the Northeast Interstate Dairy Compact; and be it further *Resolved*, That, a copy of this resolution be sent to the leadership of the Senate and the House of Representatives, the Chairs of the

VOL
142
PT
5
MR
21
—
29
1996
UMI

appropriate legislative committees, and the Secretary of the United States Department of Agriculture.

Adoption certified by the New England Governors' Conference, Inc. on January 31, 1995.

STEPHEN MERRILL,
Governor of New Hampshire,
Chairman.

VERMONT PUBLIC INTEREST
RESEARCH GROUP,
Montpelier, VT, March 29, 1995.

Re Support for the Northeast Interstate Dairy Compact.

Hon. PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: Thank you for your efforts last year to move the Northeast Interstate Dairy Compact through the Senate. VPIRG appreciates that those efforts fell prey to gridlock in Congress. Notwithstanding, we strongly support the Compact—we see it as a means to sustain family farms and agriculture in Vermont. We were thus heartened to see your co-sponsorship of Senate Joint Resolution 28 on March 2nd, and ask you to help accelerate its movement through Congress.

We know that passage will not be easy. But the time is right for a strong push. We need your help more than ever. The mood of Congress is to return power to the states and, in the case of the Compact, allow states greater power to manage their own affairs collectively. Please take advantage of this opportunity to promote passage of the Compact at the earliest time possible.

Time is of the essence—Vermont dairy farmers are in trouble. We read that the Vermont Department of Agriculture reported a loss of 50 more dairy farms in January and February alone, bring the total to below 2,000 farms. If anything, the rate of loss seems to be increasing, and this is of great concern to our club members.

In addition to their direct input into the economy. Vermont dairy farms add to the aesthetic quality of the state. And financially stable farms are better able to deal with agricultural run-off problems and important regulations to deal with non-point pollution. Family-owned dairy farms are also a significant part of Vermont's heritage and it is important that they continue to operate here.

Again, thank you for your efforts in supporting the Compact. We are behind you 100%!

Sincerely,

KATHERINE M. VOSE,
Executive Director.

VERMONT FEDERATION OF
SPORTSMEN'S CLUBS, INC.,
April 13, 1995.

Senator PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: Thank you for your efforts last year to move the Northeast Interstate Dairy Compact through the Congress. We appreciate that those efforts fell prey to gridlock. Notwithstanding, the Vermont Federation of Sportsmen Clubs, Inc. continues to strongly support the Compact—we see it as a reintroduction of Senator Joint Resolution 28 on March 2nd, and ask you to help accelerate its movement through Congress.

We know that passage will not be easy. But the time is right for a strong push. The mood of Congress is to return power to the states and, in the case of the Compact, allow states greater power to manage their own affairs collectively. Please take advantage of this opportunity to promote passage of the Compact at the earliest time possible.

Time is of essence for an even more critical reason—Vermont dairy farmers are in trouble. We read that the Vermont Department of Agriculture reported a loss of 50 more dairy farms in January and February alone, bring the total to below 2000 farms. If anything, the rate of loss seems to be increasing, and this is of great concern to our club members.

In addition to their direct input into the economy. Vermont dairy farms add to the aesthetic quality of the state. Tourism and recreational opportunities are enhanced by the open space provided by farms, Family owned dairy farms are a significant part of Vermont's heritage and it is important that they continue to operate here.

Again, thank you for your efforts in supporting the Compact. We are behind you 100%!

Yours in Sportsmanship,

RALPH BUCHANAN,
Secretary, VFSC.

BOURDEAU BROS., INC.,
Champlain, NY.

Re Support for the Northeast Interstate Dairy Compact.

Senator PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: Thank you for your efforts last year to move the Northeast Interstate Dairy Company through the Senate. We appreciate that those efforts fell prey to gridlock in Congress. Notwithstanding, Bourdeau Brothers, Inc. continues to strongly support the Compact—we see it as a means to sustain family farms and agriculture in Vermont and the Northeast. A substantial part of our feed and fertilizer business is with Vermont farmers and they need help! We were thus heartened to see the reintroduction of Senate Joint Resolution 28 on March 2nd, and ask you to help accelerate its movement through Congress.

We know that passage will not be easy. But the time is right for a strong push. The mood of Congress is to return power to the states and, in the case of the Compact, allow states greater power to manage their own affairs collectively. Please take advantage of this opportunity to promote passage of the Compact at the earliest time possible.

The Compact is a unique piece of legislation and is clearly a regional solution to a regional problem. In the long-run, it benefits both consumers and producers. It complements the existing federal program, and even has a provision to discourage overproduction. It's a work of art.

Again, thank you for your efforts in supporting the Compact. We are behind you 100%!

Sincerely,

GERMAIN BOURDEAU,
President.

VERMONT HOUSING AND
CONSERVATION COALITION,
Montpelier, VT, April 13, 1995.

Senator PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR PAT: I am writing on behalf of the Vermont Housing and Conservation Coalition to support passage of the Northeast Interstate Dairy Compact legislation. The Coalition is a group of land conservation and affordable housing organizations, including the Vermont Land Trust, that have been instrumental in the creation of the Vermont Housing & Conservation Trust Fund and in the implementation of its program. In less than eight years, that program has permanently protected more than 125 operating farms in Vermont through the acquisition of conservation easements, and the momentum is growing. Over a third of the transactions have involved the transfer of the farm from one generation of owners to the next, which is a key element in maintaining the long-term viability of the agricultural industry in this state.

But that is not the only key element, as you well know. What is also critically important, especially with dairy farming continuing to be the largest sector of Vermont agriculture, is that farmers receive a fair price for their product. If milk prices continue at their present disastrously low levels, Vermont may see a drastic shrinkage in its number of family farms. Even if much of that land is absorbed into other stronger farm operations, Vermont will have lost some of the fabric which makes this state so special.

Congress has been moving in the direction of returning more control to the States. It is therefore highly significant that the six New England States have all adopted the legislation endorsing the compact. The only barrier to returning some sense of fairness and control over milk prices is Congress' authorization.

I understand that the Joint Resolution has been reintroduced in the House and Senate. I hope you will do all you can to push for its passage by Congress at the earliest possible time. Time is short. An officer at the Farm Credit Association, who works with many farmers and is a strong advocate of Vermont's program to purchase development rights on farmland, recently told me that Vermont may lose as many as 800 farms in the next five years. He felt that the next 12–18 months will be the most difficult. We cannot afford to wait for the Compact legislation.

Thank you for your support. With best wishes.

Sincerely,

DARBY BRADLEY,
Co-Chair.

VERMONT SKI AREAS ASSOCIATION,
Montpelier, VT, April 11, 1995.

Re Northeast Interstate Dairy Compact.

Senator PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: As you well know, tourism and agriculture in Vermont are mutually dependent industries. More and more, these two industries depend on the health and prosperity of each other. For as long as I can remember, the Vermont ski industry has taken a keen interest in the health and stability of Vermont's dairy farms. We not only share a working landscape, but we also share common markets as well as common values.

On behalf of Vermont ski areas, I want to thank you for your continued support of the Northeast Interstate Dairy Compact. Solving our financial problems within the dairy industry will challenge us for a generation to come, but there is little question that an essential first step is the passage of legislation creating the Northeast Interstate Dairy Compact.

I urge you to give this matter special attention in a very busy legislative session. We in Vermont's ski industry know, perhaps better than ever, what hard economic times can mean and want to lend our voice of support to the enactment of this legislation at the earliest possible date.

Sincerely,

JOSEPH A. PARKINSON,
Executive Director.

VERMONT CURRENT USE
TAX COALITION,
Montpelier, VT, March 30, 1995.

Hon. PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: We appreciate your efforts of last year to try to obtain passage of the Northeast Interstate Dairy Compact legislation. Congress did not see fit to act on the legislation. We still believe this legislation deserves your strong support and so urge you to help accelerate Senate Joint Resolution 28 through Congress.

It is clear that passage will not be easy against western and mid-western determination to hold onto control of milk pricing structures over the entire country. But, we believe that if agriculture is to be sustainable over the foreseeable future in New England, we must be able to set prices for our products based on production costs in New England, not in the corn belt, or on vast federal range lands of the west. The dairy industry should lead the way; the other agricultural sectors will follow.

It appears that now is not only an opportune time to press this legislation because of the general mood on federal deregulation and greater empowerment of the states to manage their own affairs, but also because Vermont agriculture, and dairy farms in particular, are undergoing increasingly difficult financial times. Vermont lost 50 more dairy farms in the first two months of this year. Where is it going to end?

The Compact was adopted with near-unanimous support by the six New England state legislatures. The Current Use Tax Coalition supported the process then, and we continue to believe that if agriculture is to remain an active part of our lives in Vermont this key piece of legislation must be passed.

Thank you for your efforts on behalf of Vermont agriculture.

Sincerely,

DAVID A. MCDONOUGH,
Chair, Current Use Tax Coalition.

NATIONAL BANK OF MIDDLEBURY,
Middlebury, VT, April 3, 1995.

Hon. PATRICK LEAHY,
U.S. Senator, State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: Thank you for your efforts last year to move the Northeast Interstate Dairy Compact through the legislature. National Bank of Middlebury continues to strongly support the Compact, and we are pleased to see the re-introduction of Senate Joint Resolution #28 on March 2, We know that passage will not be easy. However, the Compact has received near unanimous support from the six New England state legislatures. There is a clear regional mandate to solve this problem.

Time is of the essence because Vermont dairy farmers are in trouble. The Vermont Department of Agriculture reported a loss of 50 more dairy farms in January and February alone bringing the total farms in Vermont to below 2,000 in number. We will see one of our customers added to the list of casualties in June. The "loss-of-farms" rate is alarming for the industry, but also for the state economy. It is unclear how much farming contributes to the tourism economy and the postal nature of Vermont. Our instincts tell us it is immeasureable. So, we urge you to promote passage of the Compact at the earliest time possible. Thank you for your efforts in supporting the Compact.

Sincerely,

G. KENNETH PERINE,
President.

NORTHEAST INTERSTATE
DAIRY COMPACT COMMITTEE,
Montpelier, VT.

INTERSTATE COMPACT LEGISLATIVE PROCESS

Connecticut: (P.L. 93–320) House vote = 143–4; Senate vote = 30–6. (Joint Committee on Environment voted bill out 22–2; Joint Committee on Government Administration and Relations voted bill out 15–3; Joint Committee on Judiciary voted bill out 28–0)

Maine: Originally adopted Compact enabling legislation in 1989 (P.L. 89–437) Floor votes and Joint Committee on Agriculture vote not recorded. The law was amended in 1993. (P.L. 93–274) House vote = 114–1; Senate vote = 25–0. (Joint Committee on Agriculture vote not recorded)

Massachusetts: (P.L. 93–370) Approved by unrecorded voice votes.

New Hampshire: (P.L. 93–336) Senate vote = 18–4; House vote unrecorded voice vote; (Senate Committee on Interstate Cooperation vote-unrecorded voice vote; House Committee on Agrinclture voted bill out 17–0)

Rhode Island: (P.L. 93–336) House vote=80–7; Senate vote = 38–0. (House Committee on Judiciary voted bill out 11–2; Senate Committee on Judiciary voice vote not recorded.)

Vermont: Originally adopted Compact in 1989 (P.L. 89–95) House vote = unanimous voice vote; Senate vote = 29–1. The law was amended in 1993. (P.L. 93–57) Floor voice votes, and House and Senate Agriculture Committee voice votes, not recorded.

Mr. LEAHY. Mr. President, the bill expands a great program in Vermont called the Farms for the Future.

Vermont's dairy farms are part of what makes Vermont so special. That is why I want to help Vermont farm families keep their land in agriculture through the Farms for the Future Program.

I included this program in the 1990 farm bill, and since then, Vermont has purchased the development rights for nearly 100 farms throughout the State.

Let me put that another way—nearly 100 Vermont farmers received cash payments under this program. This kept their land in farming.

I am pleased that this bill contains $35 million more for farmland protection programs throughout the Nation.

While this bill has many accomplishments, I wish we could have done even more in environmental areas. For example, the Wetlands Reserve Program places a lower cap on enrollments than the bill passed by the Senate.

Retaining the Senate's cap would have provided further environmental insurance to future generations.

The committee I sit on is called the Agriculture, Nutrition, and Forestry Committee for a reason.

We have a long bipartisan history of making sure every child in our Nation—whether they are rich or poor—has enough to eat.

While agriculture programs now extend for 7 more years, one of our most important child nutrition programs, food stamps, will expire 2 years from now.

Fourteen million children benefit from the Food Stamp Program. I fear that our precious children—those least able to defend themselves in our society—will be at risk in 2 years. I intend to work with Senators LUGAR, DASCHLE, DOLE, and others to make certain that this does not happen.

Mr. President, in closing, while this bill adopts important new provisions in farm policy, we must be careful about patting ourselves too much on the back. There are important areas in conservation, the environment and nutrition where we have failed to go the extra step.

Although this bill is called the farm bill, it affects every American every day of their lives. What we pass today will impact families when they take a vacation to one of our national parks, spread a picnic lunch under a tree, bit into a sandwich or drink a glass of juice.

The 2 million farmers are important and this bill will serve them well.

But we cannot forget that farm policy affects the more than 250 million Americans who are concerned about the environment, conservation, and important nutrition programs.

In the last year partisan fights on the budget and other issues have tied up Congress and shut down the Government on two occasions. We all realize that is not the way to govern. That is why last month, when it appeared that the farm bill would be caught in the same trap, I decided to act.

With Senator LUGAR and Senator DOLE, I offered a bipartisan farm bill with strong conservation, environmental and nutrition provisions. I am proud that a bipartisan step led to this final bill. I want to also thank Chairman ROBERTS for his efforts in working with me at conference. His freedom-to-farm idea has captured the hearts of many thousands of farmers through America.

This is Congressman KIKA DE LA GARZA's last farm bill, as it is the last farm bill for Senator PRYOR and Senator HEFLIN. I have greatly enjoyed working with all of them over the years.

Let me focus on the conservation provisions for a moment. They are different from most—they will provide cash payments to farmers for improvements they would want to make anyway.

One program is a voluntary program of payments to Vermont farmers who want to protect Lake Champlain, or protect rivers or other lakes near their fields. It is also a voluntary program for farmers around the Nation.

VOL
142
PT
5
MR
21
—
29
1996
UMI

It can be expensive to manage your land. Some may need assistance in getting the job done right. That is why Senator LUGAR and I designed a conservation program called EQUIP. It cuts redtape and guarantees funding for conservation assistance for the next 7 years.

This is voluntary assistance that will be available if you need it. It can help Vermont farmers comply with the State's new accepted agricultural practices.

We are in this together. We want to keep our streams full of trout. We want to make sure St. Albans Bay, Lake Memphremagog, and Missiquoi Bay are clean for everyone to enjoy. This bill also protects lakes and rivers in all States.

Keeping our State and regional dairy industry strong is the driving force behind the Northeast Dairy Compact. Working together is how we have gotten so far. At a later date I will thank all those involved in getting the dairy compact approved.

Today I want to thank the agriculture committee chairmen in Vermont, Senator Tom Bahre and Representative Bobby Starr, Governor Dean, Commissioner Graves, Congressman SANDERS, and the hundreds of dairy farmers in Vermont who worked with me on getting the job done. And I want to say a special thanks to JIM JEFFORDS. He and I have worked side by side throughout this fight.

I also need to highlight the role of Danny Smith. He came down to Washington and worked directly with me on getting the compact included in the final bill. His support was vital.

The compact has come a long way, from the State legislatures of New England, to the Congress.

Vermonters and all of New England know the importance of the dairy industry. But in New England people know that the dairy compact is more than helping farmers, and helping the dairy industry in the region.

To New Englanders, a vital rural agricultural economy is part of both the heritage they treasure and the future in which they believe.

This bill represents real reform of Federal dairy policy. This bill phases down dairy price supports saving more than $300 million, more than 20 percent compared to the baseline. This bill fully funds the Dairy Export Incentive Program and poises the U.S. dairy industry to capture expanding world markets.

The Federal milk orders remain in place but mandates their reform and consolidated the current number of 33 by about two-thirds. I am concerned that the Secretary has been given only 3 years to complete this process. These provisions were hard fought compromises addressing the concerns of farmers, processors, consumers, and the various regions. No region or interest group is completely satisfied, but that is the sign of a good compromise.

A major thrust of this bill is to reduce regulations that are imposed on farmers and ranchers. It reduces conservation regulations and farm program regulations.

The conference report gives farmers a lot more flexibility to decide what crops to plant. That means farmers will be able to choose the crop rotations that are best for their farms, rather than planting to meet the requirements of the farm program.

The bill eliminates existing penalties for producing hay and other resource-conserving crops, so the environment should benefit as well.

The conference report also brings to an end the practice of requiring farmers to idle productive cropland. No longer will USDA decide each year how much land a farmer must set aside to get farm program payments. From now on, the Government will pay farmers to idle land only when that land is environmentally sensitive.

A key section of this farm bill is the continuation of international food aid programs—Public Law 480, Food for Progress and the Emerging Democracy Program. These programs are critical in our global efforts to fight world hunger. Our responsibility to help others is a moral obligation and I am delighted that the importance these programs play in the fight against world hunger is understood by all conferees.

I am pleased with the strong emphasis that this bill places on importance of maintaining strong U.S. agricultural export markets. Export of U.S. agricultural products, especially in the value-added market, is one of the most profitable and fastest growing sectors in our Nation's economy. My home State of Vermont understands its importance. Vermont export statistics indicate that Vermont exported more than $175 million in agricultural-derived products—many of these in the value-added category. That translates into a thriving economy and local job creation.

This bill also streamlines USDA farm lending programs. The conferees worked hard with Secretary Glickman to produce a title both the administration, Congress and farm borrowers can support, and I believe we have crafted an effective policy to help farmers prepare for the next century without creating the dependency on USDA loan programs that have existed in past to the detriment of both USDA and the individual borrowers.

I am disappointed that the conference report does not provide a better safety net for farmers. Farm program payments will not be tied to market conditions, so farmers may get large Government payments when they do not need them, and may not get sufficient aid when times are hard. I hope that we can work on new ways to help farmers deal with market risk.

I am also concerned with some of the changes that have been made in the Crop Insurance Program. Farmers will no longer be required to purchase crop insurance to get farm program benefits. While I support giving farmers freedom of choice, I fear that too many farmers will fail to obtain insurance.

If we have widespread crop disaster and many farmers do not have insurance coverage, there will again be political pressure to enact ad hoc disaster programs. I supported the effort to reform crop insurance in 1994 largely because I wanted to bring an end to ad hoc disaster programs. I want everyone to understand that my willingness to accept these changes in the Crop Insurance Program should not be misinterpreted as a willingness to return to wasteful disaster programs.

I have two major concerns with the meat and poultry advisory panel. First, it will waste money that would be better spent on meat and poultry inspectors. Second, the scope of what the panel can investigate is too broad.

However, on the positive side, the panel is advisory and does not have the constitutional or statutory power to delay food safety actions of the Secretary. Delays will only result if the Secretary voluntarily agrees that the delay is appropriate.

I accepted the provision on studying the usefulness of permitting the interstate shipment of State-inspected meat. This idea was proposed by the President of the United States in his farm bill recommendations. I think it would be useful to have the Secretary's most recent views on this issue.

I am especially happy that this legislation includes a proposal that was added at my request, the Flood Risk Reduction Program contained in section 385. I first became interested in this situation after the disastrous floods of 1993. I raised this issue in a hearing with then Secretary Espy.

I asked the Secretary whether it would make more sense to stop fighting the Mississippi River and the natural elements of these lands and instead to enroll them in the Wetland Reserve Program.

In addition, I spoke to the President personally about this proposal. I also wrote a letter to the President detailing my emergency wetlands reserve initiative that would improve the proposed disaster relief program for the Mississippi Valley floods. In this letter I continued to attack the inefficiency and high cost of the disaster relief program.

In addition, I pointed out that there is a very good possibility that many of the cropland areas that were once wetlands would be better off returned to wetland status rather than repaired and kept in crops.

The success of voluntary programs to help farmers move off flood prone bottom land can be seen in the example of

Levee District 8 in Iowa. This area had a history of flood damage. It would have cost the taxpayer about $1,500 per acre to return this land to farmable condition. And then a few years later, it would have flooded again. Instead this levee district was voluntarily abolished. A decision that works for the farmers and the taxpayer. I ask unanimous consent that a description of that success story be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE 1993 FLOODS—FROM LEVEE DISTRICT TO WILDLIFE REFUGE

(By Bruce Mountain)

The farmers were grim as they stood at the road below Bob Hawk's house that leads into the upper end of Levee District 8 and Louisa County, Iowa. It was 7 a.m. on July 8, 1993, and it appeared they were going to lose again. There had been record rains in the Iowa River Basin; and Levee District 8, only six miles from the Mississippi, was feeling the brunt of the massive run-off as it funneled 12 million acres down the river.

The levee was built in 1927 to protect 2,000 acres of crop ground. The area also contained 600 acres of old oxbows and sloughs (Spitznogle Lake, Sunfish Lake, Rush Lake, Parsons Lake, Wilson Lake, Hall Lake, and Diggins Slough) and riverine forests. It had been estimated the levee was a 25-year levee (able to withstand floods that occur once every 25 years), but in the last 60 years it had been breached 14 times.

This looked like it would be number 15. Ed Yotter and the other farmers stood at 551 feet above sea level, and the lower end of the district, at 541 feet, was already under several feet of water due to seepage up through the saturated ground and through the levee. By 8 a.m. water started to lap over the top of the levee at several locations, so the 25 farmers and neighbors moved off the main levee and worked to reinforce the cross levee between Levee District 8 and the adjacent upstream levee district, number 11.

At 9 a.m. word came that the main levee of District 11 had broken and water was gushing in. By 11 a.m. water was coming over the main levee in District 8 like a waterfall. Officially, the main levee was breached in six locations and the cross levee was breached in five, but actually these were the accumulation of many smaller breaches all along the levees. At its height, the flood water was more than two feet over the top of the levee, drowning the hopes of another year's crop.

When the flood water finally receded in September, the farmers looked over the damage. They were stunned by the numerous scour holes (some 25 to 100 feet long and 17 feet deep), sand deposits (some 6 inches to 6 feet deep), and flotsam. The Soil Conservation Service (SCS), now known as the Natural Resources Conservation Service, moved in to assess the damage to the crop ground in Levee District 8 (it was later set at up to $3,000 per acre) and to estimate the costs to fix the roads and drainage system. The Army Corps of Engineers obtained estimates to fix the levees.

But the landowners were tired of fighting the river. And conservationists and public officials knew this oft-flooded land shouldn't be farmed. For a brief time after the waters receded and before the repairs would need to begin, the situation was ripe for change, and a variety of agencies and nonprofits seized the opportunity. They put together a buy-out of the properties in Levee District Number 8 and created—a year and a half later—Horseshoe Bend, a division of the Mark Twain National Wildlife Refuge and a good case study of how a coalition can move quickly when conditions—and the will for change—are right.

GATHERING FUNDS AND WILLING BUYERS

If the flooding of Louisa County's levee had been a localized incident the levees would have been rebuilt ($800,000), the drainage ditches cleared ($400,000), the sand bars removed, the scour holes filled, and the debris removed ($1.7 million) for an estimated $2.9 million. This excludes the additional costs and federal dollars for disaster payments ($200,000) as well as crop insurance payments and the non-recoverable costs of the landowners. (Today, it is believed that these estimates were low because in the adjacent levee district, number 11, where the levee was actually repaired, the initial estimate proved to be 80 percent below the actual costs.)

This was not, however, a localized incident. The flooding of the entire Upper Mississippi River Basin in 1993 was the worst in years. At many of the U.S. Geological Survey gauging stations along the Mississippi, the flow levels exceeded the hundred year mark. In response, Congress passed the Emergency Wet and Reserve Program (EWRP) in October 1993 as a part of flood relief support. Without the funds provided by this program, the Louisa Levee District buy-out could not have occurred.

The federal government's disaster aid program was developed to provide compensation for severely damaged crop ground and also to break the cycle of paying for similar damage caused by future floods. Under the program, the Department of Agriculture would purchase a permanent easement on crop acres where the damage caused by the flood exceeded the value of the easement. The easement would prohibit all but very limited agricultural practices, and in Louisa County, it was set at $683 per acre.

In early October, the Iowa office of the SCS proposed the idea of buying out the entire levee district, but only from willing sellers and only if the district were dissolved so as to ensure that future levee reconstruction costs would not be incurred. The SCS did not have the funds or the statutory authority to purchase the district, so, in late October, it organized meeting with its own representatives, the Fish and Wildlife Service (FWS), the Federal Emergency Management Agency (FEMA), the Environmental Protection Agency (EPA), the Corps, the Iowa Department of Natural Resources, the Iowa Natural Heritage Foundation, Pheasants Forever, and other interested parties to seek a solution.

The group immediately realized that for the project to be successful, quick action would be needed. With winter approaching, the dredge barges the Corps needed to repair the levees would soon be frozen out. The group thought that a buy-out of the fee title to the parcels in the levee district could be accomplished through joining the Emergency Wetland Reserve payment with additional cash to be raised to equal the fair market value of the property.

The area also qualified for FEMA assistance. Applications were made to the Iowa Disaster Management Office, which helped handle FEMA payments, to have the buy-out declared as an alternative floodplain project. That declaration would make up to 90 percent of the disaster payments eligible to be applied for the buy-out. However, an estimated additional $500,000 to $600,000 would still be needed to accomplish the project. Representatives for the FWS indicated they would have the money but not until 1994. The National Fish and Wildlife Foundation then agreed to provide a $250,000 grant to be matched by $250,000 from The Conservation Fund; these monies would be used as a loan or stop-gap funding until the FWS funds became available. Other non-profits, such as the Iowa Natural Heritage Foundation and Pheasants Forever, also provided funding.

The Iowa Natural Heritage Foundation, a 15-year-old private group, was asked to be the project facilitator. The Foundation would coordinate the offers to purchase land from the individual landowners, coordinate the Emergency Wetland Reserve Program funding with the National Fish and Wildlife Foundation and Conservation Fund monies, and oversee the eventual transfer of the properties. Before the buy-out could proceed, the ultimate owner and manager of the area had to be determined. The choice was between the Iowa Department of Natural Resources and the Fish and Wildlife Service. Due in part to state budgetary constraints and federal management personnel available at the nearby Mark Twain Wildlife Refuge, the FWS was the logical choice to hold title and manage the project.

Another condition for the project to proceed was the closing of the levee district and drainage district. Therefore, the statutory requirements for closing the districts, including legal notice and voting procedures, had to be researched. The final closing took place on March 31, 1994.

Once the landowners agreed to the concept, offers to purchase had to be negotiated with each landowner. The district is owned by 13 different landowners with parcels ranging in size from 13 acres to more than 1,500 acres. One farm is owned by an investor/operator, and another was deeded by President James Polk under federal patent to the owners, Jack and Merrit Parsons's great-great-grandfather, in 1846. Two sisters, Mary Boysen and Martha Hawk, each owned Century Farms, a designation given to farms that have been in the same family for 100 years. Another farm was acquired by duck hunters in 1929, and it is still operated as a private duck hunting club by the heirs of the six original partners.

We concluded that all of the offers to landowners had to be based on a consistently applied formula. Several of the landowners said that they were dissatisfied with the offers, but eventually agreed to them, based on the knowledge that other landowners were getting the same offers and that there were no "special deals." By sticking to this strategy, individual negotiations and appraisals were avoided.

The first offer was signed December 13, 1993, and the last one was executed May 6, 1994. Seven of the ten landowners had closed by November 30, 1994. The rest closed by the end of 1994 as the farmers finished their field work.

MANY PARTNERS

Completing a project with so many partners and landowners in such a short time required creativity, cooperation, and attention to detail. One of the more important aspects of this partnership was the Cooperative Agreement signed by the Soil Conservation Service, the Fish and Wildlife Service, and the Iowa Natural Heritage Foundation. This agreement delineates the responsibilities of each party. One useful provision of the agreement is one that specifies that access will be available to top-level officials when efforts were stymied on the local level.

VOL 142 PT 5 MR 21—29 1996 UMI

The public/private mix in the project was important. The public and private partners can be divided into five categories, each of which served different roles and functions: implementing non-profit organizations, jurisdictional agencies, funding agencies, funding non-profits, and project managing agencies.

In this project, the Iowa Natural Heritage Foundation was an implementing or facilitating non-profit organization. An implementing non-profit was necessary because flexibility and speed were needed to consummate the project. The Iowa Natural Heritage Foundation's Wetlands for Iowa Program was chosen for the project, in part, because it has expertise in land acquisition projects and in forming partnerships with state and federal agencies and other non-profits to fund the purchase of such projects. In this case, the Wetlands for Iowa Program had the responsibility to educate landowners on the concept of merging the Emergency Wetland Reserve Program easement with a buy-out.

The Foundation also had many other tasks. It did a preliminary appraisal of the land in November of 1993 and devised the uniform buy-out plan. It paid for a quick appraisal of cropland and non-cropland based on comparable sales and pre-flood land values. From this, a portion of the value due to the flood damage, as determined by SCS, was deducted to arrive at the current value. In dealing with non-motivated sellers, the Foundation packaged the idea as an attractive alternative to farming in the floodplain and as being fair among all neighbors.

The Foundation also negotiated offers to purchase land with each landowner and provided the flexibility to customize each transaction. Tax deferments were provided through three-way land exchanges. For example, the Foundation purchased land from a third party (pursuant to the instructions of the owner of levee district land) and then traded the land for land in the levee district. The Foundation then would receive the EWRP payment. Non-levee district acres were purchased to round out tracts that were not eligible for the EWRP. For example, the Spitznogle brothers owned 12 acres inside the levee district, but wanted to sell 20 acres to have square boundaries. The additional eight acres was purchased with some of the funds provided by other nonprofits.

Finally, the Iowa Natural Heritage Foundation developed a timetable for all public and private participants to ensure each was fulfilling its responsibilities. These included appraisals, surveys, title problems, financing, preparing grant applications, closing on each parcel, and transferring each to the Fish and Wildlife Service.

The many jurisdictional agencies involved in the project—the Soil Conservation Service, the Fish and Wildlife Service, the Federal Emergency Management Agency, and the Corps—had responsibilities that varied in breadth and longevity. The SCS was responsible for evaluating flood damage to each land parcel and for implementing the Emergency Wetland Reserve Program. The wetland restoration requirements of the EWRP for the participating landowners were the responsibility of the FWS. The FWS also conducted the environmental assessment and environmental impact studies and engaged an independent appraiser to assess the properties and develop comparable figures from in-house appraisers. These figures were very close to the "quickie" appraisal obtained by the Iowa Natural Heritage Foundation.

FEMA's involvement included assessing damage compensation under its statutory authority and developing the project as an alternative plan. FEMA also had a role as a funding agency for the project as did the SCS and the FWS. Funding non-profits included the Iowa Natural Heritage Foundation, the National Fish and Wildlife Foundation, The Conservation Fund, Pheasants Forever, and the Izaak Walton League. The fifth category of partners were project managing agencies, which included the SCS, the FWS, and the Corps.

Typically, this type of project does not work in normal regulatory frameworks. Entrenched bureaucrats, enamored with their own regulations, can be a death knell to a project. The time it takes to babysit hesitant landowners and coordinate state and federal agencies does not permit one agency to be inflexible in interpreting its regulations when the intent of the regulations can be met through cooperative and imaginative initiatives. All partners need access to top agency personnel because someone outside the organization can sometimes get results, whereas agency personnel may not have the authority or the influence to buck their way up the system.

The Louisa County levee buy-out required close interagency cooperation. As an example, SCS defined the value of damages to the land for purposes of qualification for EWRP. FWS then directed its appraisers to use the same data and valuation premises in determining the fair market value of the land. We would have had difficulty closing the project if the agencies had used two different methods of appraisal and the land qualified for EWRP but would not qualify for the buy-out.

Another example: Regulations for the SCS for EWRP easements, and the FWS for land acquisitions, required their respective legal counsel to determine that landowners had marketable title to the land, subject to the guidelines of the project. Through negotiations, SCS agreed to accept FWS opinions of title. This avoided a separate time-consuming step by keeping the project out of the hands of at least one set of government lawyers.

The last ingredient for success was agency flexibility. For example, EWRP regulations require all easements to be surveyed and this would have caused an immense delay in the project. To its credit, SCS waived these regulations, since most of the acquisitions involved the entire tract. Surveys were then conducted only on five parcels split on irregular boundary lines.

SEVERE LESSONS

This unique project is giving farmers an opportunity to find alternative agricultural land to continue farming without fighting the floods. Additionally, it provides short- and long-term savings to taxpayers because a one-time, fair-market purchase of flood-prone land is much cheaper than continued, expensive federal programs to rebuild levees, clean drainage districts, repair land, and pay disaster payments. All of these costs are interspersed with crop-deficiency payments and insurance claims. In addition, our latest calculation shows the Fish and Wildlife Service saved $235,000 by having the Iowa Natural Heritage Foundation facilitate the transactions. The federal government still has the responsibility to provide existing protection in certain floodplains; but it also must develop alternatives to controlling nature, such as relocating willing landowners and returning parts of the floodplain to the river.

The great flood of 1993 taught us some severe lessons. We have to expand our mission from just controlling the water that affects our individual properties to effectively dealing with the effects of the water all the way down the river ecosystem. We also have to learn to live with the river system by holding more of the rain water where it falls and by slowing its movement through the system, thereby allowing the river to reestablish some of its checks and balances.

Lastly, we have to stop "just greasing the squeaky wheel" and find ways to spread the available federal funds for floodplain management among the various alternatives that benefit the general public. This includes developing a management plan for the entire river system, coordinating pertinent programs and agencies and—where there are willing landowners—giving some of our natural resources back to nature.

Mr. LEAHY. The experience with the Emergency Wetland Reserve Program led me to include the flood risk reduction initiative into this legislation. The purpose of this program is to help farmers who farm in areas that flood frequently to move their farming activities off lands that are flooded frequently. It helps farmers by giving them the capital that they need to move their farming operations to fewer risky areas. To the taxpayer, it is a commonsense program that will reduce the long-term taxpayers' exposure for agriculturally related flooding costs. It should help reduce the severity and frequency of floods to the farmers' neighbors.

Crop damages in recent years have been the source of more than half of the property damages in many floods, including the great Midwest flood of 1993. Our farm programs have unfortunately provided incentives that increase flood damages because they have directly supported the growing of easily damaged commodities even in areas that are flood prone. The crop insurance, disaster assistance, and related programs also make the public assume much of the risk of growing commodities in flood prone areas. We have a strong interest in eliminating the authority to help farmers to switch to more flood resistant uses of flood prone land.

It gives farmers the financial capability to move their operations to less risky land. The incentives for farmers to switch to less risky land come from the funds that have in the past been paid to farmers who farm the flood prone land. In this way, we will give farmers in flood prone areas the flexibility to shift to alternative agricultural or conservation uses of land that are less subject to flood damages.

Under section 385 of this act, the Secretary may enter into a contract with a producer under which the producer will agree to forego virtually all of the forms of Federal financial assistance received in flood prone areas. In return, this section provides that the Secretary will provide the farmer a one-time payment equal to 95 percent of the future market transition payments on the land affected. It further provides these funds from the Commodity Credit

Corporation regardless of whether it has received advanced appropriations.

Subsection (e) of this section further authorizes the Secretary to provide additional payments to encourage this switch to less flood-sensitive land. It gives the Secretary the authority to add to the farm bills' lump sum payments, funds appropriated for programs that would otherwise be used to support agriculture in flood plains. For example, at a minimum this would include funds appropriated for crop insurance, disaster assistance or conservation programs.

The Secretary is, of course, free to condition payment for these funds on appropriate conditions.

The conferees, by including a separate subsection (e), were merely recognizing that funds are available to the Secretary from different sources—CCC and advanced appropriations. The conference included language requiring advanced appropriations because the conference wished the Secretary to offset any funds provided through the Flood Risk Reduction Program from funds for other appropriated programs that are saved by the flood risk reduction contract.

As you can see, I have fought hard for this Flood Risk Reduction Program. That is why, I am very pleased it is part of this farm bill.

Mr. President, I will speak further at a later time. I notice other Senators on the floor. I see the distinguished senior Senator from North Dakota here, and I know he wishes to speak. I reserve the remainder of my time.

I ask the distinguished Senator, under whose time is he speaking?

Mr. CONRAD. Who has time?

Mr. LEAHY. I think everybody does, for and against.

Mr. CONRAD. I would be speaking in opposition.

Mr. LEAHY. Then, Mr. President, that time is reserved by the distinguished Democratic leader, Senator DASCHLE. On his behalf, I yield time to the Senator from North Dakota under the control of the time of the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized. How much time does he seek?

Mr. CONRAD. I will just proceed and end at an appropriate time. That is the agreement that I have.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. CONRAD], is recognized.

Mr. CONRAD. I thank the Chair and the ranking member for his courtesy. I thank the chairman of the committee, as well, for his graciousness throughout the debate. We have disagreed, but we have disagreed in a way that I think you would expect of Senators who have mutual respect. I certainly respect the chairman and the ranking member. I wish all committees were conducted in the way the Agriculture Committee is conducted. People are given a complete and fair chance to present their views. We disagree, but we do it without personal rancor. I think that is a tribute to the chairman and ranking member.

Mr. President, we are in 1996, and we are working on the 1995 farm bill. Something is wrong. What is wrong is that there has been a failure to act. This is the first time since 1947 that a farm bill has lapsed before a new farm bill has been put in place. So we are late.

Mr. President, it is critical that we act quickly so that farmers know the rules of the road as they proceed in this new crop year.

This new farm bill has many positive elements. Let me talk about three.

First, this farm bill retains permanent law. That is critically important because, at the end of this 7-year period, if we had followed the lead of the House, there would be nothing. There would be no permanent farm law. Farmers would have no assurance that there was provision for them in the future. Mr. President, we have had tough fights on this question, but permanent law has been preserved.

The second positive element of this bill is that it provides a dramatic increase in flexibility for farmers. They can plant for the market and not for the farm program. That is certainly a significant improvement.

Third, this farm bill provides a guaranteed payment that will help farmers with the repayment of advanced deficiencies from last year. Now, some say that farmers ought to be repaying, without assistance, their advanced deficiencies from last year because prices have been high. It is true that prices are very good right now. But it is also true that you do not benefit from high prices if you do not have a crop.

Mr. President, in my State, many farmers have had 3 years of very poor crops. They have had it because of very serious weather conditions. We have gone from the extraordinary circumstance of the worst drought since the 1930's—in 1988 and 1989—to having the wettest conditions, we have seen in decades, for 3 years in a row.

Mr. President, it is very hard for some people to understand why farmers are complaining about weather conditions, when conditions turn wet. Mr. President, they just did not turn wet; we got the deluge of the century. In one day, one little town in North Dakota received 10 inches of rain. This is an area that gets maybe 25 inches a year. They received 10 inches in one day. We have, in the Devil's Lake basin, what I have described to my colleagues in the past as a remarkable circumstance of a closed basin with a large lake that is rising as a result of these wet conditions. It has gone up 13 feet in the last 2 years. The National Weather Service has just informed us it is going to go up another 2½ feet this year. The surface area of the lake has doubled. We had Federal officials come out to look at the disaster that is occurring there.

They asked the city officials of the little town of Minnewaukan why they built their water treatment facility so close to this lake because now this water treatment facility is surrounded on three sides by this lake. The city officials laughed, and told the Federal officials, "When we built this treatment facility it was 7 miles from the lake. Now it is surrounded by the lake."

Mr. President, those very wet conditions have meant that many farmers have gotten only a partial crop, and even though prices are high they have not had the benefit because they have not had a crop to sell. So these guaranteed payments—especially this year—are important in allowing them to repay and stay in business.

But just as I have talked about what are I think the positive features of this bill, I would be remiss if I did not say that I believe the underlying farm policy contained in this legislation is fatally flawed. First of all, it decouples payments from prices and production. Mr. President, that is wrong. This legislation contains payments that are fixed but sharply declining. That is wrong. This legislation provides no adjustments if prices plunge, or yields are low. That is wrong.

I remember very well in 1986—that was the year I was elected to the U.S. Senate—wheat that is now selling for over $5 a bushel was selling for $2 a bushel. But we had a safety net. We had a deficiency payment system that allowed some offsets from the Federal Government. That saved literally thousands of family farmers in my State. Under this legislation there will be no safety net. Thousands of farmers will be forced off the land if prices plunge, or if yields are abnormally low because of disasters.

I remember very well what it was like in the 1980's going town to town and meeting to meeting. People came up to me broken financially and in spirit because prices collapsed.

Mr. President, we should not fashion a farm policy that turns its back on people in times of disaster, whether it is a price collapse, or a weather disaster. We ought to maintain a safety net in this legislation.

Mr. President, in my State there are now 30,000 farmers. I believe that under this legislation if prices decline—and they will; we know that it is inevitable in agriculture that prices will decline—when they do, literally thousands of family farmers in my State will be at risk. I believe we will lose perhaps as many as 10,000 family farmers. That will be felt in every city and town in my State. Every school, every rural electric cooperative, every farm co-op, and every grocery store will be hard hit, if more farmers leave the land. And

VOL 142 PT 5 MR 21 — 29 1996 UMI

what will happen to those people? They will go to the cities of the country—the cities where there are already too many people. I look around us here in the Nation's Capital, Metropolitan D.C. and I see too many people here already. It makes no sense to have more people come to the cities and leave the countryside bare.

Mr. President, in Europe they have a policy to keep people on the land. Europe has that policy because they have recognized that it makes sense. They understand the jobs that are created by having agricultural production in their countries. Mr. President, Europe has been hungry twice. They never intend to be hungry again. As a result, they support their farmers at a level three to four times what we do for ourselves. On exports they support their producers at a level eight times ours. They understand that there are not just the jobs on the farm—that there are the jobs in every element of agriculture that are attached to having that production in their countries.

In this country there are 20 million jobs involved in agribusiness, from trucking to running the elevator, to all the ancillary activities of agricultural production—20 million jobs. Agriculture is one of the two shining lights in the export picture of the United States. Airplanes and agriculture are two places where we enjoy a substantial trade surplus.

But under this legislation, Mr. President, we are raising the white flag of surrender. We are engaged in what I call "unilateral disarmament" because we are saying to our competitors, "You go ahead and aggressively seek these markets. We are going to back off. We are going to back down. We are going to let you take them."

Mr. President, this is a profound mistake. And, if we allow it to go forward, we will see happen to us in agriculture what has happened to us in automobiles and electronics, and every other place where the United States did not fight for its market share.

Mr. President, that is a mistake. We would never do it in a military confrontation. It makes no sense to do it in a trade battle.

Mr. President, for those reasons I will reluctantly vote against this farm bill in the hopes that it will send a signal that there are things we must do for the future.

(The remarks of Mr. CONRAD pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, can you tell me the circumstances of the time available on each side?

The PRESIDING OFFICER. The Democratic leader has 122 minutes, the Republican leader has 65 minutes. Senator LEAHY has 50 minutes.

Mr. DORGAN. The Democratic leader has how much time?

The PRESIDING OFFICER. He has 120 minutes.

Mr. DORGAN. Let me yield such time as I may consume from the allocation allotted to the Democratic leader.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. DORGAN], is recognized.

Mr. DORGAN. Mr. President, the conference report on the farm bill is now before the Senate. I listened to the presentation by my colleague, Senator CONRAD, who intends to vote against it. I, too, will vote against it. This is not a decent farm bill. It is not a good farm bill. It is attractive to some in the short term. It is sugar coating bad policy.

Those who walk around here with bags of sugar putting out bad policy and want to brag that they have done something good for people I guess might actually, in their minds, feel they have done something good for somebody. However, I cannot conceive that this piece of legislation, being addressed in a serious way, says that we want to help family-sized farms in this country.

This is not a good piece of legislation. This started out as something called Freedom to Farm, which is a handy title, but it really is nothing more than a title. The whole proposition here was to create what is called transition payments. We would create these transition payments in order to get out of a farm program and pull the safety net out from under family farmers.

I guess it is appropriate for those who do not want a minimum wage increase for the folks working at the bottom of the economic ladder to say we do not want a minimum wage for farmers either. Let us pull the rug out from under family farmers. Let us do it this way. Let us provide transition payments to farmers up front as a payment for our getting out of the business of helping farmers when prices collapse.

And so they make the transition payments attractive enough so someone looks at them the first year and says, "well, this is going to a be pretty good circumstance the first year; if I get a good crop and prices are high, I will make good money, plus the Government will give me a good payment." And they say, "well, that is pretty attractive, isn't it?"

Yes, it is attractive. It is wrong. If you have a good crop and prices are high, you do not need the Government to give you a payment for anything. But the whole premise of doing this is so that at the end of the 7 years you can pull the rug out from under them and say, "By the way, we gave you transition payments; we bought you off up front so you have no farm program anymore; you have no safety net any longer."

This bill passed the Congress, both the House and the Senate, and then went to conference, and I wish to show my colleagues a chart that just pulls off the first sentence of a rather lengthy Associated Press piece describing this piece of legislation. It says it better than I could, but let me just read it. Lest anyone who comes here bragging about how wonderful this bill is for family farmers wants to continue to brag about that, here is what this bill is. Robert Green had it right in the Associated Press:

> With a mix of luck, work, and unusual organization, the lobby for big grain companies, railroads, meat companies, millers and shippers scored a big win in the Senate-passed overhaul of farm programs.

This is the overhaul of those farm programs. This is what they won, not farmers. This is what the big grain trade firms won. They scored a big victory. Guess what. When the big grain trade firms win, who loses? Family farmers.

Is it unusual that the winner coming out of a debate about farm policy in this Congress would be the biggest grain trade firms in the world? I guess not. They have been winning right along. Why would they not win this debate?

What bothers me a little bit is that the bill which is going to help family farmers is mislabeled. It is a bill designed to tell farmers this is going to be in your best interests. The bill tries to sound attractive to farmers as a set of agricultural policies, but it is really a big grain trade farm bill. They scored the big victory. They are the winners.

Now, what do we have when we deal with farmers? What we have in most cases is a group of family operations out there around the country. They get up in the morning. They work hard. They go to bed at night. They have tried to make their own way. They have a yard light out there in the yard that shines every night.

If you get on an airplane and fly across this country, fly across Minnesota, North Dakota, South Dakota, Montana, what you see are those thousands of yard lights on at night. They all represent the economic blood vessels that feed into those small towns that make rural life worthwhile and possible. Every time one of those yard lights turns out, it means a little less economic life, a little less opportunity in rural America. And we have seen year after year after year fewer yard lights in our country.

There are some people who say it does not matter whether there are any lights out there in the prairie. They do not care whether the lights dot the prairie at night; that land will be farmed. We do not have to have people living out there to have people farming. We can have corporate

agrifactories farm this country from California to Maine. We do not have to worry about the little guy. We do not have to worry about the family. It will get farmed. We have bigger tractors and bigger combines. We have bigger corporations. They will farm it. They are big enough.

So if you do not care who lives there, whether there are families out there, then this is probably a great policy. Of course, food prices will go up once corporations are farming the country, but that is in the longer term. That may be what is behind all this. I do not know.

I do know this. I have a friend who lives 5 miles south of Regent, ND, in Indian Creek. He is down there trying to operate a small farm, planting in the spring, not knowing whether what he is going to spend on planting—buying the seed, fertilizer, having a tractor—it is an older tractor but having a tractor—and all the apparatus to plant that seed, he does not know whether that seed is going to grow.

All that money might be wasted because that seed may not grow. We may have a drought. It may not come up. So you invest all that money at the front end of the year and you may have no crop. Or it may come up and you may have the most beautiful looking crop you have ever seen, and then in July or June a hailstorm comes along and in 15 minutes the crop is gone. Your money is gone. Your dreams are gone. Your hope is gone.

Or let us assume that he plants that crop, it comes up, and it is a gorgeous crop, a bumper crop, and then he fixes up the combine and gases up and goes to harvest that crop and discovers the price has collapsed. This crop cost him $4.70 a bushel to produce, and then he takes the truck to the elevator and drops off his grain or her grain and discovers that the elevator says it is worth $3 a bushel. They have lost a $1.70 a bushel with all that work.

First you may not get a crop. If you get a crop, you may not get a price. Those are the twin risks that almost no one else in our country faces. For that reason, because we want families to have an opportunity to stay on the farm, we have had a safety net. The new mantra here in Washington is "no more safety net." Let's do transition payments, buy them off and say, by the way, we think you ought to operate in the free market.

Now, who is in the free market? What are the sharks out there in the free market going to do when we set all of this free? First of all, you have the big grain trading firms. What do they want? Do they want higher prices? Absolutely not. They would like lower prices. You have the big milling firms. Are they begging for higher grain prices? No. They want lower prices. You have the grocery manufacturers. Do they want higher grain prices? No. They want lower grain prices.

You have all these influences in the marketplace that in every way, every day are trying to knock down grain prices. When they win, farmers lose. Lower grain prices mean farmers simply do not have the opportunity to make a profit on their product.

I have shown you the story that I think is probably the only accurate one I have seen about what really happened with the farm bill passed by the Senate and now is back before us:

> With a mix of luck, work, and unusual organization, the lobby for the big grain companies, railroads, meat companies, millers and shippers scored a big win in the Senate-passed overhaul of farm programs.

When big grain companies, the big shippers, the meat companies, and the grocery manufacturers are having a party, when they are having a day of fiesta because of what this Senate did, does anybody here soberly believe that is in the interest of family farmers? Those interests do not run parallel, and everybody in this Chamber knows it. When these big grain companies win, farmers lose. It is very simple.

Let me talk just for a moment about grain prices. Some people say grain prices are high right now, and they are record high compared to the last 10 years. Take a look at what has happened to the price of wheat in 10 years. It goes all over the board. I must say, in every case the price of wheat is still below what the USDA says it costs to produce a bushel of wheat, $4.70 a bushel. In every case for 10 years the market price is still below what USDA says it costs, the full cost, to produce a bushel of wheat.

Nonetheless, the wheat prices go down to $2.33 in 1977, meander up to $2.49, back to $2.42 in 1986. In fact, just 5 years ago wheat prices were $2.61. I ask anybody in this Chamber, how many farm units do they think will survive if we get to the point of $2.60 wheat and no safety net? What will happen when we have transitioned people out of the farm program because we said we will give you a few payments up front and then you are on your own.

I know I strongly supported retaining permanent law until the year 2002, but everybody understands they included that in this bill to get it passed. The full intention of those who support this farm legislation is to transition farmers out of a circumstance where a safety net exists so when prices collapse they have a little help.

I am the first to admit, when they stand up to talk about, "The farm program does not work," I am the first to admit the farm program, in my judgment, needs improving. It became a straitjacket for farmers. We had the Government telling farmers what to plant and when to plant it, and that did not make any sense. Every proposal before the Congress would have changed that, including the substitute that we offered.

The current program did not work very well. What should have been a bridge across price valleys became a set of golden arches for the biggest producers in the country. I agree with that as well, and that ought to change. But none of those criticisms are a justification for pulling the rug out from under family farmers—none. If we are going to write a farm bill, we ought to do it seriously and thoughtfully, in a way that says this farm bill cares about whether we have family farmers.

Mr. President, if we in the Congress are not interested in who farms, if we are neutral on the question of whether there are family farms out there with yard lights burning and people living on the farms, if we are neutral on that, if we do not care, then get rid of the whole farm program. Get rid of it altogether. We do not need a farm program. Do we need a farm program to give incentives to the biggest agrifactories to produce? I do not think so. Let them produce for the market. Let us get rid of the farm program.

USDA was created under Abraham Lincoln. Abe Lincoln created the Department of Agriculture with nine employees—think of that. In the 1860's, USDA, nine employees. Now, a century and a third later, we have a USDA with close to 100,000 employees. A third of those, I guess, are in the Forest Service. But think of what has happened with the USDA. We do not need a USDA, in my judgment, if the purpose of the farm program here in Congress is not to try to nurture and maintain and help and strengthen family farms.

Someone says, how do you define a family farm? I do not have a simple definition. I guess a yard light. I mean, a family living out there on the farm, human beings living out there, that is a family farm, I guess I could define it.

Michelangelo was asked, "How did you carve David?"

"I chipped away a piece of marble at a time and chipped away everything that was not David."

I could chip away everything that is not a family farm and have a practical definition, I suppose. But my point is: If our business is not to try to help families to have an opportunity to survive the twin risks of the possibility of not being able to produce anything and the possibility of producing something and having no price, what is our business? If our business is not to try to protect those families or give those families some help, let us not have a farm program at all. If it is our business, let us create a farm program that does just that.

This farm program says to farmers, we are neutral on the issue of whether families are living on the land. It says to farmers, "We are going to transition you." We are going to say to you, "We will give you some really attractive-looking things in the first year or so. Then, we are going to pull the rug out."

VOL 142 PT 5 MR 21 — 29 1996 UMI

We are going to say to you, "You might have record wheat prices this year, grain prices this year. You might have a bumper crop this year. You might have the best income you have had in a century of your family living on and operating on the land. We do not care. We are going to give you a big Government payment. But, down the road, you and your family might suffer catastrophe: no crop, no price, and do you know what we are going to say to you then? Tough luck."

This year we are going to say, "Here is a payment you do not need," and a few years down the road we are going to say, "Sayonara, tough luck. We do not care." That is not much of a farm bill, as far as I am concerned.

For farmers in this country, people out there who are trying to make a living, struggling against the odds, trying to deal with economic influences that are so much larger and so much more powerful than they are—this piece of legislation, while attractive in the first year or two, in my judgment undercuts the true long-term interests of trying to maintain a network of family farms in our country.

Let me finish where I started. We have kind of come full circle, in many respects. I know there are people on this floor who do not like what I said. They will stand up and say it is all baloney, this is a wonderful bill, they worked hard on it, they are wonderful people, and so on and so forth.

Let me admit they are wonderful people and worked hard on it, but let me also say the product they came up with does not serve the interests of family farmers in this country. I do not want more Government in agriculture. I want Government to let farmers farm. But I also want to care whether there are family farmers left in our country. I want us, as a country, if we have a farm policy and we are going to spend money on a farm policy, to decide we are going to spend it in pursuit of helping farmers when prices collapse, helping them stay on the land.

If that is not our business, get rid of the whole business, just get rid of it all. Do not come here and pretend you are passing a bill that is good for family farmers when you are going to pull the rug out from under them 5 or 10 years from today.

There is great disagreement in my State among farm organizations and commodity groups on this subject, but there ought to be no disagreement that family farmers have been the economic all-stars in our country. We have had, for some long while, a basic safety net to try to help family farmers over price valleys, when international prices drop and stay down. Those who believe that such a safety net is ill-advised are often the same people who are here suggesting minimum wages do not matter and a whole series of other economic contentions that I fundamentally disagree with.

I think, if we are going to spend billions, we ought to decide to spend billions in pursuit of policies that really do help America's family farmers, America's economic all stars. The failure to do that forces me to vote against this piece of legislation and to conclude that the winners, as is indicated in this piece of work, are the grain trade firms. The winners are the millers. The winners are the grocery manufacturers. Sadly, the losers will be America's family farmers.

We will have another day. This is advertised as a 7-year farm bill. There will be changes in this body and, when there are changes sufficient so that those of us who believe differently can come to the Chamber with additional ideas and have the votes to pass them, you will see a new farm program. This may last a year. But I tell you this, when this Chamber changes, we will be back. Those of us who believe that there are two sides to this issue, that the economic well-being of the big grain trading firms in this country is assured by their economic strength but that the economic well-being of family farmers is assured by our determination to try to help them, will be back. Those of us who believe this will come back with a farm bill that will work for family farms in our country.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

Mr. LUGAR. Mr. President, I yield time to the distinguished Senator from Idaho.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Idaho [Mr. CRAIG], is recognized.

Mr. CRAIG. Mr. President, let me thank the distinguished chairman of the Senate Agriculture Committee, Senator LUGAR, for yielding time.

At the outset, let me thank Chairman LUGAR and the ranking minority member, Senator LEAHY, for the bipartisan way they worked, together with the whole committee, in crafting the farm bill that we have before us today. It was a tremendous pleasure for me and my staff to work with the staff of the Agriculture Committee to produce what I think is a truly revolutionary document, and a change, a positive change for American agriculture.

Let me also recognize Sara Braasch, who worked with me on my staff, for the tremendous effort she put in, working with the Senate Agriculture Committee staff, resolving so many different issues that make up a good farm bill.

Over the course of the last 2 years I have held a series of meetings across my State, meeting with farmers and ranchers about what they thought ought to be in a new farm bill, a new, national, public policy, as to how Government, Federal Government, ought to interface with American agriculture and Idaho agriculture. I heard in so many ways a level of frustration mounting across my State that, while they thought some level of farm policy was necessary, Government was no longer a cooperating partner.

It had become a traffic cop, if you will, a conservation cop, if you will, telling that family farmer how to farm, what to farm, how much residue they could have on their soil, how they would have to do this, maybe they ought to change their equipment line to accomplish a different form of farming.

I doubt that that is the kind of agriculture that Abraham Lincoln envisioned when he created USDA. I think he saw USDA as a partner for research, as a partner for bringing on new concepts and ideas, but certainly not as a large, monolithic governmental agency that was telling production agriculture how it ought to farm, and that is exactly where we saw farm policy heading.

This weekend, I met, once again, with farmers in Idaho to talk about what is_in the new farm bill. There were potato growers there, bean growers, wheat growers, barley growers, ranchers—a broad cross-section—along with processors. They were pleased with what they began to see and hear. Dairy was there, and dairy, of course, is a large and growing segment of my State's agriculture. They are concerned, but they believe that we have made the right decisions to move them toward a more open market.

That is exactly what I think we have accomplished: a significant change in agricultural policy, as the chairman of our committee so clearly spoke to last evening, and a very important change.

We are saying to American agriculture, "You have an opportunity now to adjust and change with the markets; that you don't have to farm to the program; that you don't have to have the Federal agent who comes out and says, 'Oh, I think you are 7, 8, 10 percent over acreage, you are beyond the flex, you better take some of that out or change it a little bit.'" Is that farming or playing the game?

The young farmers of Idaho—and, yes, they are family farmers—but they have millions of dollars invested. I find it interesting, when we worry about farmers, we always fall back on the word "family," "family." Farming is a big business in my State today. It is family-run, in many instances, but those families have assets in the millions of dollars, and they work daily as astute, well-trained businessmen and women trying to operate their agribusinesses.

We know agriculture is changing, and we know that it is capable of adapting. When those young farmers and ranchers come to me, in most instances they find Government the liability and not the asset. I think that is why they look at what we are doing in S. 1541, and the

new farm bill that we have before us, and say this is good policy.

I will be the first to recommend to our chairman that the responsibility of the Senate Ag Committee over the next several years will be to monitor, to do effective oversight, to make sure that that which we are crafting into policy that will hit the ground in rule and regulation that American agriculture will respond to, we ought to watch, especially in the more complicated areas like the dairy policy. But certainly, as the chairman said last night, there will be fewer visits to the local USDA office by production agriculture in the coming years, he speaks well, because there should be. We are saying to American agriculture and to my farmers in Idaho today, you have great flexibility to do what you said you wanted to do.

There are some provisions in this bill that are enhanced substantially, because along with all that we heard from agriculture over the last several years, Mr. President, there are several things we also heard that we just did not change and did not just take away from farm policy. Conservation is one of those. The CRP program has worked well in my State, and agriculture likes it because it gives us an opportunity to build back wildlife habitat and to improve water quality and to improve the erosion that was happening on some of our more erodible lands, some of our steeper landscapes.

We kept CRP. We strengthened the conservation program. We recognized that here is where USDA and Government can be a cooperating partner, and I underline the word "cooperating," not going in and telling them, "Here is how you must do it," but "Here are a variety of ways to manage your assets in a way that we can provide a better environment, and you can enhance your farmstead and all that you have on your private property."

Clearly, the chairman and the ranking minority member worked with all of us to assure that we had a strong CRP program; the creation of a wildlife habitat program; a grazing lands conservation initiative that will provide technical assistance to private landowners in grazing areas, again, a very positive approach toward dealing with the responsibilities we ought to have; an extension of the resource conservation and development districts. That which the House did not do, we reinstated.

We have strong water language, as was spoken to last night by the Senator from Washington as it relates to the responsibility of the U.S. Forest Service in responding to the relicensing or the recertification of water projects on public lands without holding these municipalities or water districts hostage or blackmailing them, as they should not do but as they were doing. We have offered a moratorium to make sure that we get USDA to understand their responsible and legal role under Western water law, and that is, not to take without compensation a property right as is clearly established under Western water law.

Guaranteed payments to wheat and barley growers to help provide stability over a 7-year period—somebody said no more safety nets. I think we have provided a very good glidepath and a very substantial ramp on which to glide that path toward the market, and that is what we are asking American agriculture to do.

I fought hard for a readjustment in an important program for my State, the sugar program. We have made major changes in deregulating it and creating greater flexibility. But it is a program that is no net cost to the taxpayer. It is one that pays for itself, and it is one in which, again, Government can play a valuable role, and that is to solve the political barriers that oftentimes happen in trade, where we can have massive dumping in a domestic market that could destroy that market for the producer. We have said, "Here are the regulations and the process that will protect the domestic producer, while recognizing our responsibility to the consumer," and I think the sugar program reflects that.

The one program that was the most difficult to change was the program that was the most regulated, and that was the dairy program. Literally for months in the Senate we tried to resolve that issue. In the House, there was a stalemate. Finally, in the last hours, we were able to work out compromises that like, again, all other programs in this bill, moves the dairy producer toward the market while at the same time allowing a tremendous opportunity for that individual producer to get into world markets. That is exactly where production agriculture in our country today must go to remain profitable.

I said on the floor of the Senate some months ago that in my youth, I had the opportunity to be a national officer in the once called Future Farmers of America, now known as FFA. I remember standing on the floor at State conventions around this country and saying one farmer produced enough for his or herself and 30 other Americans.

Today, we know that has changed dramatically. That one farmer produces enough for his or herself and about 130 other Americans or world citizens. I use that to dramatize how important it is for Government to participate with agriculture in knocking down the political barriers that disallow us from entering world markets. That is a legitimate role of Government. It is clearly spoken to in this bill.

Another legitimate role is research. I think that is what our first agricultural President, Abraham Lincoln, had in mind, using the assets of Government to advance agriculture, not to control it and manipulate it and manage it. That is exactly what we have done historically. But, frankly, over the last decade, we have backed away from Government's responsibility in long-term research that has helped advance new variety and kept productivity on the farms of America at ever increasingly higher rates. I think we speak again to that issue in this bill.

Let me conclude, Mr. President, by saying Government does, in my opinion, have a legitimate role in agriculture, and that is as a cooperator, to cooperate in the area of trade, to knock down the political barriers that might artificially be established that disallow production agriculture from getting into world markets.

It also has an area in research. That is what we ought to advance to assure the constant maintenance and ever-increasing productivity on America's farms.

It also has a responsibility to cooperate in conservation and improving environmental standards, but it does not have a responsibility to dictate the market or to micromanage the family farm or the agricultural production unit. That is what this farm bill speaks to.

Let me close by once again thanking the chairman and the ranking member for recognizing our role, as the Senate Ag Committee, to move quality legislation to this floor and now to the President's desk. I am pleased to have been a part of it. I am proud to serve on the Senate Ag Committee. I think we have made a quantum leap forward in working with agriculture to move itself into the 21st century as a market-producing entity of the American economy.

I yield back the balance of my time.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, it has been our habit, at least thus far in the debate, to alternate sides. The distinguished Senator from Idaho has just spoken. The Senator from Oregon has been waiting to speak, but I request that it be permissible for the Chair to recognize a Democratic Party speaker and ask the distinguished ranking member to yield time and then to alternate herein. I will grant time to the Senator from Oregon.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. WELLSTONE. Mr. President, I wish to let the Senator know I am speaking against the bill.

Mr. LEAHY. I understand. I have time reserved in favor of the bill. I wonder if I might yield——

Mr. WELLSTONE. I thought I had time from the minority leader to speak against the bill.

Mr. LEAHY. The Senator does, and the minority leader will let the Senator have whatever time he wants.

VOL 142 PT 5 MR 21—29 1996 UMI

Mr. WELLSTONE. Ten minutes.

Mr. LEAHY. Mr. President, I see two colleagues here. We have had a speech in favor. Why do we not let the distinguished——

Mr. WELLSTONE. I would yield myself 10 minutes from the minority leader's time to speak against the bill.

Mr. LEAHY. Could I point out another thing, I say to the Senator? We have a conference on the appropriations, and the distinguished chairman of that wants to go forward. As the distinguished Senator from Florida only wants 5 minutes, why do I not yield to the distinguished Senator from Florida the 5 minutes so the distinguished Senator from Oregon, the chairman of the Appropriations Committee, can then next be recognized and then yield whatever time the distinguished Senator from Minnesota wants.

Mr. WELLSTONE. I have to go to the State Department for an arrangement between a Minnesota company and another country in 15 minutes. That is why I have been here early.

Mr. LEAHY. Mr. President, I ask that the time from the Democratic leader be given to the distinguished Senator from Minnesota to speak in opposition. I ask if he might try, as best he can, to accommodate the others, to limit his time.

Mr. WELLSTONE. Absolutely. I would be pleased to do so.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAHAM. Mr. President, can I ask if I might be recognized after the Senator from Oregon?

Mr. LEAHY. I assure the Senator from Florida, he will be.

Mr. GRAHAM. I thank the Senator.

Mr. WELLSTONE. Mr. President, I thank my colleagues. I am sorry we are all here at once. I will try to be very brief. I have been on the floor for some time waiting to speak.

Mr. President, first of all, let me just thank all of my colleagues for their work on the bill, including the distinguished Senator from Indiana, whom I have a tremendous amount of respect for. I mean that very sincerely.

Let me say that the good news is that farmers need to know where they stand. The spring planting season is upon us. People need to know what the program is going to be.

The good news is that there are some programs, some provisions in this legislation that are positive and very important. One of them is the reauthorization of the Conservation Reserve Program, which I think has been a win-win-win program. It does my heart good when environmentalists and farmers and outdoor recreation people all come to my office, all in strong agreement about the importance of this program.

I also think that the $300 million for rural economic development is extremely important. In particular, the focus on encouraging and providing whatever kind of assistance we can for farmers to form their own value-added processing co-ops and retain as much of the value of what they produce as possible, is right on the mark.

Finally, I am no strong supporter of what was the status quo, and I do believe, as my colleague from North Dakota said, in all too many cases farmers have had to farm a farm bill as opposed to farm the land. No question about it: more flexibility is certainly one of the things that farmers in my State have been very interested in.

Let me talk about two fundamental flaws of this piece of legislation. I take very serious exception—and I do not think it is really provincial on my part to do so—to the dairy provisions. It has to do with why we are elected. We are elected to do our best, to speak for and represent and sometimes, I suppose, fight for people in our States. I thought that the Senate had spoken clearly that we were not in favor of a northeast dairy compact. I was very involved in the effort to knock that provision out. In the conference committee, we got a variation of that, giving the Secretary of Agriculture the right to certify such a compact.

That troubles me to no end. It is a huge flaw in this legislation. The dairy provisions of this bill are not favorable to farmers in Minnesota, period. There is not substantial, genuine reform of the milk marketing order system, which is what we need. We have been losing thousands of dairy farmers in my State.

What this potential northeast dairy compact is all about is it gives one region of the country an opportunity to have its own deal while it takes the problems of another region of the country off the table. It is simply unfair. For that reason alone, I would not vote for this farm bill.

The second reason is—and I could go on and on, but I am not going to out of deference to my colleagues who are also here on the floor to speak—but to make a very long story short, I believe that this piece of legislation is fundamentally flawed in one other respect. What we have here is a carrot followed by a stick.

The carrot is that if prices are high—and they currently are—and in addition to your price, you have a hefty support payment that goes on top of that, it is a carrot. I can hardly blame people for being attracted to that proposition. As a matter of fact, I can hardly blame some farmers in my State who I think are saying, "Look, we don't know, Paul, whether there's going to be any farm program in the future. We might as well get the best financial deal that we can." I understand that.

But the question is, what happens in the future? I heard my colleague from Idaho talk about a glidepath. But glidepath to where? I mean, if we are going to cap the loan rate at $1.89 for a bushel of corn and $2.58 for a bushel of wheat, the 1995 level, my question is, since what goes up, comes down, and what happens when prices are low again? That is the stick. That comes later on.

We are talking about children of farmers who want to farm in the future. We are talking about whether or not farmers are going to have any negotiating power in the marketplace. I think what happens is that eventually, with this piece of legislation, the grain farmers in my State will be on their own. They are on their own with the grain companies, and they are on their own with the Board of Trade. They are on their own with the railroad interests.

I agree with my colleague from North Dakota. I think the Tulsa World had it right: "With a mix of luck, work and unusual organization, the lobby for big grain companies, railroads, meat companies, millers and shippers scored a big win in the Senate-passed overhaul of farm programs . . ."

Mr. President, again, there is so much more to say. Let me put it this way. I wish there was a free market in agriculture. I wish Adam Smith's invisible hand was operative. I wish that in the food industry we had many small economic enterprises in competition with one another. But that is not what a rigorous economic analysis of the food industry really shows us.

The conglomerates have muscled their way to the dinner table, exercising raw economic and political power over farmers, taxpayers, and consumers. Everywhere the farmers look, whether it is on the input side or whether it is the output side, they are the ones, the family farmers are the ones, who really represent the free enterprise part of this, but they are faced with oligarchy at best and monopoly at worst.

I think this bill is a piece of legislation that is great for the grain companies because eventually they will get their prices low. If the farmers, as they look to who they sold their products to, if the farmers could see many small businesses, that would be fine. But that is not what they are faced with. They are faced with concentration. Now we are simply taking away the very leverage that farmers have had for a fair price in the marketplace.

So this piece of legislation is a carrot, followed by a stick. I think it is going to lead to the demise of many family farms. I really do believe that. I know my colleagues disagree with me. I hope they are right. I hope I am wrong. Because the health and the vitality of communities in Minnesota is not based upon the acres of land that are farmed or the number of animals, but the number of family farmers that live there. I see this piece of legislation

being a stacked deck against family farmers on the grain front. On the dairy front, the Northeast dairy compact is outrageous and discriminatory and never should have been put in the bill by the conference committee. On that basis alone, as a Senator from Minnesota, I do not support this piece of legislation. I hope my colleagues will vote "no." I yield the floor.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Chair recognizes Senator HATFIELD.

Mr. LUGAR. I yield time to the distinguished Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the chairman of our Agriculture Committee, the Senator from Indiana, Mr. LUGAR, for yielding time. I, too, want to add my word of congratulations to the leadership of this committee, Senator LUGAR and Senator LEAHY, for bringing forth an upgrading and updating of this agricultural legislation.

Mr. President, the flood of 1996 in my part of the country has had a devastating impact on much of my State. What I have enjoyed for many years, and now in my adopted home, is the lush and green countryside of the coastal area. It is now barren and covered beneath 2 feet of river silt. The once bountiful pasture lands are no more, and the dairy cows struggle, searching the bare landscape to find scant morsels of food. Many businesses, homes, and families have been adversely affected by the flood. Imagine a small part of this flood damage area, a small county in northwestern Oregon, seven raging rivers running through it and the silt-laden waste water flooding into three bays of the Pacific Ocean. There is such a county, and that county, Mr. President, is Tillamook County, a good Indian name, Tillamook County.

Tillamook County on the northern Oregon coast is the poorest per capita income county of the 36 counties in my State. The entire population of the town of Tillamook consists of only 4,000 people. Roads which connect Tillamook to the rest of the State have been and will be closed for months. Highway 6, which is the east-west corridor to Portland, will be closed for months. Highway 101, which is the north-south corridor out of Tillamook, has been closed since November when the storm started hitting this part of the State.

The leading enterprise in the area is dairy. Mr. President, no industry has suffered more than the dairy industry in Tillamook. As a result of the floods primarily, and windstorms, is that thousands of acres of Tillamook are covered with silt—in some cases as high as 2 feet. It may take as long as 2 years for these lands to recover. Added to the destruction of the grazing land, there have been tremendous losses in livestock and feed, along with damaged equipment and facilities.

Of this town of 4,000, more than 400 people work at the Tillamook County Creamery Association, a local co-op of producers and processors. In this county, there are over 2,000 people directly involved in the dairy industry. Those numbers do not include veterinarians, transporters, supply stores, restaurants, and businesses that live and die based on the health of the dairy farmers.

In summary, Mr. President, this community is isolated due to closed roads. The land, which is the lifeblood of the communities, is smothered under 2 feet of silt. The economic base of this community has been decimated. The short-term prospects for this community are bleak.

With such misery heaped upon this little community, it would have been easy for them to give up, but that is not what has happened. The community of Tillamook locked arms and is working their way back. Immediately after the floods, efforts were made to keep production levels as high as possible at the Tillamook County Creamery Association. Haygrowers throughout Oregon donated several thousand tons to feed the animals. The outpouring of relief efforts has been phenomenal. The Oregon Dairy Farmers Association coordinated relief efforts, which included $200,000 in donations from within the industry, lining up hay deliveries, and assisting hard-hit dairies outside of the town of Tillamook—which, by the way, this town of 4,000 is the largest town in that little county. Dairy farmers helping other dairy farmers. Local, State, and Federal agencies are also assisting with potential loan programs and technical expertise.

I inquired if there was anything else that Congress could do for this community. The response was, "Help us with the Pacific Northwest Milk Marketing order." Now, Mr. President, I attempted to include legislation in the farm bill which would have done so. My amendment would have separated, temporarily, Oregon from this regional milk marketing order. What is the Pacific Northwest Milk Marketing order? Let me explain.

Oregon and Washington and a small part of northern Idaho are part of this regional marketing order. Federal milk orders are authorized by the Agricultural Marketing Agreement Act of 1937. Mr. President, this depression legislation, almost 60 years old, unfortunately, is still governing much of our dairy industry. As the Senator from Idaho has indicated, this bill moves the dairy industry closer to the market economy. Under this law the Secretary of Agriculture establishes Federal orders that apply to buyers of milk. Orders are initiated by dairy farmers normally through cooperatives and can be issued only with the approval of the dairy farmers in the affected area. A milk order is a legal document issued to regulate the minimum prices paid to dairy farmers by handlers of grade A milk in a specified marketing area.

Now, Mr. President, my amendment would have temporarily changed the milk marketing order for a period of 2 years to let flexibility apply to this unique situation in one part of that industry in the Northwest, the Tillamook County Creamery Association. The change would have allowed these farmers to get back on their feet and compete in an open market by giving them added flexibility in establishing their prices.

It was at this point that I hit a brick wall. What was that brick wall? Darigold, Inc. Prior to 1989, Oregon had its own milk marketing order, and it was not until that time that efforts were made to combine the orders. Those efforts were headed up and dominated by Darigold. They used their size and their strength to combine Washington and Oregon under one marketing order, against the objections of the small milk handlers in Oregon. Darigold is the fourth largest cooperative in the Nation, the fourth largest cooperative in the entire Nation. Darigold had almost $1 billion in sales in 1994 alone, with much of their production—and please let me underscore this—with much of their production in powdered milk, for example, being purchased by Government surplus markets. Compare this with the Tillamook County Creamery Association, which had $124 million in sales, all in consumer products produced from local milk—consumer products, not big Government contracts. In their January 1996 member newsletter, Darigold claims a 1995 production of 4.7 billion pounds of milk, 10 times the volume of the Tillamook County Creamery Association, with milk purchased from three States. Darigold produces a wide variety of milk products, including powdered milk, ice cream, packaged cheese, and butter. Compare that with Tillamook, which focuses mainly on a specialty product known as the world famous Tillamook Cheese, which is sold to consumers.

How did Darigold hold up this amendment? The same way most things are done in this litigious society we live in—the Darigold lawyers came forth and threatened to tie up this legislation in the courts. They were sure they could do so for at least a year, and this is the year that needs help. This would have blocked the temporary separation of Oregon from the Pacific Northwest Milk Marketing order for this year. Tillamook County and its dairy farmers do not have the luxury of waiting a year. The Darigold brick wall would have been able to thwart the very will of Congress by stalling this amendment, if it had been adopted. Mr. President, this is a terrible injustice and a black eye on the capitalistic system,

VOL
142
PT
5
MR
21
—
29
1996
UMI

when the giants can run out the small operators from the marketplace because they have Government contracts.

Tillamook County is small, it is battered, but I know it is not out. The strong will of the people of this community and the dairy industry in Oregon will not allow this setback to discourage them. I am disappointed that we will not be able to give Tillamook a helping hand at this time of great need. I am disappointed with the Darigold lawyers for blocking this assistance, and I am disappointed by the greed of the Darigold, Inc. Mr. President, in this situation, the almighty dollar was the bottom line, and compassion was nowhere to be found. That is not and should not be the character of our economic system.

I thank my good friends from Washington and Idaho, particularly Senator GORTON and Senator CRAIG, who have been very sympathetic of the situation in Oregon. They have offered their assistance where possible, and I thank my colleagues for their sensitivity to the plight of flood-damaged Tillamook and the State of Oregon.

I yield the floor.

Mr. LEAHY. Mr. President, I yield from my time such time as the Senator from Florida might need.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I want to commence by stating my deep appreciation to Chairman LUGAR and the ranking member, Senator LEAHY, for their great consideration of issues that were important to agriculture across America and especially important to agriculture and the people of my State of Florida.

Mr. President, as you well know, the State of Florida is a State peculiarly vulnerable to a variety of climatic and other disasters. One of the things that we have tried to do is to learn from those disasters and avoid, where possible, a repetition of previous mistakes, and to bring to the attention of the appropriate decisionmakers steps that could be taken in order to moderate the impact of future adverse consequences.

In the last few years, we have had an unusual number of incidents that have impacted Florida agriculture. Hurricane Andrew is the best known, but by no means the only such incident. As a result of that, we have assembled a number of lessons learned, in terms of how American agricultural law for disasters, crop insurance, and other steps that are intended to soften the impact of negative events, could be modified to be more effective and applied to the special agriculture of our State.

I wish to thank Senator LUGAR, Senator LEAHY, and their colleagues for their consideration and for the number of steps that are contained in this legislation that will have that effect.

Let me just briefly summarize a few of those provisions. The Federal Crop Insurance Act will be amended by the legislation before us today to provide for coverage of crops that have been destroyed by insect and disease, as well as those destroyed by storm or flood, or other natural conditions.

This act will expand coverage to nursery crops and to aquaculture, which have been two of the fastest-growing aspects of American agriculture. It will require that the Federal Crop Insurance Act consider marketing windows when determining whether it is feasible to require replanting during a crop year.

To elaborate on that, Mr. President, as you know, much of Florida agriculture is targeted on a winter growing season. There have been instances in which a natural disaster had occurred at the end of that season—let us say, in this month of March, there were requirements that you had to replant, even though by replanting the crops, they would mature in the middle of the summer when the window for our particular agriculture had closed. This will allow the Federal crop insurance administrators to consider the economic feasibility, as well as the agricultural feasibility of replanting a crop that has been destroyed. So, Mr. President, that represents an important set of lessons learned from disasters and now applied to moderate the impact of future disasters.

Second, Mr. President, there is an important provision in this legislation that is to avoid what would be not a disaster, but a calamity of global importance, and that is the collapse of the Florida Everglades. The Florida Everglades represent a treasure, which happens to be located within the State of Florida, but has been long recognized as a national treasure since 1947. The second largest national park in the lower 48 States is Everglades National Park. It has been recognized by international bodies, including the United Nations, as an ecosystem of international importance. It is a system that has been in very serious trouble. It is a system, which started thousands of years ago as a unique flow of water, commencing in the central part of south Florida, in a slow incremental process that eventually then led to the area that we now call Florida Bay. It provided one of the most fertile areas for wildlife, plants, and fisheries in the world. It is a system which has been destroyed largely because of its uniqueness.

When Europeans came to this region, they looked at the Everglades, and what they saw was a formidable swamp. They saw something that was different than they had known in their previous home. They committed themselves to the goal of turning this unique system into something that was common and pedestrian. For the better part of a century, that effort was pursued with great vigor, and with the support of the people of Florida, and of the Governments of the State and the Nation.

It has been in the last 30 years that we have fully appreciated the fact that it was that very uniqueness of the Everglades that gave it its essential value. Also, it was that uniqueness that contributed to the many ways in which the Everglades sustained life, for humans and others, in the south Florida region.

So a major effort to save the Everglades has been underway. It has been recognized that that effort would require a partnership, and an important member of that partnership was the Federal Government. The Federal Government has significant interest in the Everglades National Park's national wildlife refuges and national fresh water preserves.

The Federal Government also will play a key role in executing those things that will be necessary for the salvation of the Everglades. The people of Florida do not ask the Federal Government to do this singularly, but they ask for a unity of purpose between the National Government and themselves.

Mr. President, I am especially pleased to recognize the tremendous step forward that this legislation represents with that goal of "save the Everglades." In this legislation, there is contained a direct entitlement funding for a special Everglades restoration initiative of $200 million. There are also contained various provisions which will encourage the disposition of surplus land, with the proceeds of that disposition to be used for Everglades restoration. One of those provisions could provide up to an additional $100 million for restoration of the Everglades.

I want to particularly thank Senator LUGAR, who has been especially vocal in his recognition of the importance of the Everglades, and Senator LEAHY, who has been a staunch advocate of a whole variety of initiatives contained in this legislation that are designed to recognize the fact that there is no conflict between the economics of American agriculture and the protection of the fundamental environmental resources upon which agriculture depends.

I commend both of these colleagues for their outstanding contributions, and there is no place in which this will be more significant or more appreciated than in the contribution toward the salvation of the Everglades.

So I wish, Mr. President, to conclude with a joint statement with my colleague, Senator MACK, elaborating on the provisions that are of special importance to our State contained in this legislation, and to conclude with my deep thanks on behalf of the 14 million citizens of my State for what leaders of this legislation have done to prepare us for future disasters and to contribute to avoidance of what would be a disaster of global proportion if we were to lose the qualities of the Florida Everglades.

Mr. GRAHAM. Mr. President, Senator MACK and I would like to take a moment to thank Chairman LUGAR and ranking member LEAHY for their hard work on the 1996 farm bill. We are particularly pleased with the inclusion of provisions that will have a direct benefit to the State of Florida, our growers, and the Everglades ecosystem.

First of all, this farm bill will address three problems that have faced Florida growers of specialty crops. Upon enactment of Federal Agricultural Improvement and Reform Act, the Federal Crop Insurance Act will be amended to provide for coverage of crops destroyed by insects and disease, expand coverage to all nursery crops and aquaculture, and require the Federal Crop Insurance Act to consider marketing windows when determining whether it is feasible to require replanting during a crop year.

Disasters are a way of life for all involved in agriculture. Disaster relief appropriations are an item of the past. The laws to today need to cover all of agriculture to allow recovery after time of great loss. The amendments which were passed go a long way to addressing inequalities in law and definition to allow coverage for major agricultural segments.

Multiple weather-related disasters, from Hurricane Andrew to the record number of hurricanes in 1995, clearly illustrated deficiencies in disaster coverage of many agricultural commodities. Many agricultural products such as aquatic species and numerous horticultural products are not clearly defined as being eligible for disaster assistance. Additionally, even though the Federal Crop Insurance Act was passed, many agricultural commodities still do not have crop insurance available and as such can not even recoup planting costs under current guidelines.

Changes were clearly needed to allow coverage of all agricultural crops during time of disaster. A tree grown for horticultural purposes should be covered whether it is grown in a port or in rows in the ground. Nontraditional species raised for food purposes should be clearly covered.

Acquaculture-raised species—whether for food or nonfood purposes—should also be covered. Foliage plants are agricultural commodities raised for aesthetic purposes. Tropical fish, while not for food purposes, are clearly raised in aquaculture for aesthetic purposes, and should be covered just as surely as our foliage protection. Many States now find that horticulture and foliage plants have become their No. 1 agricultural commodity.

Disasters are likewise not just weather-related events. A rapidly spreading pest or disease can statistically be a greater danger than a hurricane event.

DEFINITION OF DISASTER FOR FEDERAL CROP INSURANCE ELIGIBILITY

The history of natural disasters in Florida has demonstrated the need for the definition of disaster to include events that are not directly weather-related. Beyond a certain level, the devastation of the gypsy moth, citrus canker, or other pests and diseases constitutes a disaster of major scale. The 1996 farm bill will establish a pilot program to have the term "natural disaster" include extensive crop destruction caused by insects and disease.

DEFINITION OF AGRICULTURE FOR FEDERAL CROP INSURANCE ELIGIBILITY

Florida growers of specialty crops also need a definition of agriculture that includes more than just food, fiber and grain. Historically, for disaster purposes, neither aquaculture or nursery crops have been covered.

As recently as the December freezes, producers in the Hillsborough County area were told that aquaculture species, such as tropical fish and aquatic plants, were not defined as agriculture. While these species are reared for aesthetic purposes, they are certainly agriculture—as much as any other horticultural production.

In-ground plants and trees for the nursery industry were still not covered even after 4 years of negotiation and discussions with Federal Crop Insurance officials in Kansas City. Florida growers are appreciative that this farm bill will expand Federal crop insurance to aquaculture and direct the FCIC to establish a pilot program to allow nursery crops to participate in the Federal Crop Insurance Program.

INCLUDE "MARKETING WINDOW" AS A CRITERIA FOR REQUIRING REPLANTING

A third problem for Florida growers of winter crops has involved the interpretation of the clause requiring replanting where feasible after disaster destruction. Until this farm bill, the Federal Crop Insurance has not considered marketing windows when making judgments about claims. Given that USDA can consider economics, potential marketing of the product must be considered as an economic factor.

As a recent example, a potato crop in Dade County was destroyed. The climate of the county would have permitted the growers to replant and barely get in a crop before that weather became too hot. However, the marketing window and contracts for sale of the product would have been totally nonexistent by the time a long-term crop like potatoes could be raised. The Federal Government required the growers to replant even though no sales of that commodity would have been feasible after the area's marketing period was over. Florida growers raise crops in the dead of winter, and are often double and triple cropping the same land with a succession of commodities to meet very defined and limited marketing windows. I am gratified that the mangers of the farm bill agreed to include our provision requiring the Federal Crop Insurance Corporation to consider marketing windows in determining whether it is feasible to require replanting during a crop year.

BROWN CITRUS APHID RESEARCH

This farm bill also provides authorization of up to $3,000,000 in research funding for the eradication and control of the brown citrus aphid and the citrus tristeza virus. The virus, which is carried by the aphid, poses the most formidable threat in decades to the Florida citrus industry. The citrus tristeza virus, in several forms, has the capability of killing millions of citrus trees in Florida, Texas, and California over the next several years. The language included in this bill will help us provide to the citrus community of our Nation the tools it needs to combat this serious threat.

EVERGLADES RESTORATION FUNDING

The 1996 Farm bill also provides an unprecedented opportunity to further the restoration of the Everglades ecosystem. I yield to Senator MACK.

Mr. MACK. I and my esteemed colleague Senator GRAHAM rise today to congratulate this Congress for its foresight and commitment to one of the most important restoration efforts in our Nation's history, the restoration of the south Florida ecosystem, better known as the Everglades. Under section 506 of the 1996 farm bill, the United States has made a historical commitment to this unique national treasure.

Mr. GRAHAM. The Everglades is an extraordinary ecosystem that travels south from the Kissimmee River through the Everglades and down to Florida Bay. The Everglades ecosystem supports south Florida's industries of tourism, fishing, and agriculture and special quality of life of over 6 million residents by providing water supply and recreational activities. The Federal Government has a direct vested interest in the Everglades ecosystem, which houses the Loxahatchee Refuge, and three national parks: Everglades National Park, Big Cypress National Park and Biscayne Bay National Park.

Mr. MACK. The health of the Everglades ecosystem is critically endangered. The same American spirit of ingenuity and adventure that led us to the Everglades at the turn of the century must now be called upon to save this extraordinary resource that is so emblematic of the American character. The Everglades has taught us that a strong economy and healthy environment are not mutually exclusive.

Mr. GRAHAM. Historically, we have tried to tame the Everglades by focusing on small parts of the ecosystem without regard to how the whole system works. This has proved to be a mistake. As we have tried to develop or

VOL 142 PT 5 MR 21 — 29 1996 UMI

manage parts of the ecosystem separately, the result has been to wreak havoc on the entire ecosystem, thus putting the entire ecosystem in jeopardy. The Everglades is not a set of discreet parts like the limbs of a body but instead is a blood line that circulates throughout the entire ecosystem. The long term viability and sustainability of the ecosystem—whether it is wildlife, urban water supply, agriculture, tourism, recreation activities, or fishing—are all dependent upon the same lifeblood, the Everglades, the River of Grass. Decades of diking, damming and using the Everglades for singular purposes has so endangered the health of the Everglades that in the future the ecosystem may not be available to be used for any purpose.

Mr. MACK. The State of Florida has made extraordinary efforts to address the complex problems of the region and to restore this precious resource. Because south Florida is home to 7 of the 10 fastest-growing metropolitan areas in the Nation, we are at a critical crossroad in the Everglades restoration. Together the State of Florida and the Federal Government can continue their developing partnership to consummate Everglades restoration.

Mr. GRAHAM. While it is understood that a significant gap exists in our scientific knowledge about the ultimate ecological and water management needs of the Everglades ecosystem—which necessitates continued detail studies—the framework for restoration and design of major projects for land acquisition, water storage, and restored hydrology are clear. Restoration of one of the largest functioning ecosystems in the world is a massive undertaking. Congress has acknowledged that success will depend on the Federal Government, the State of Florida, and local, regional and tribal interests working in tandem.

Mr. MACK. In acknowledgement of this responsibility, Congress has provided $200,000,000 and possibly as much as $300,000,000 to expedite Everglades restoration activities, which will include acquisition of the highest priority lands needed to improve water storage and water quality critical to the restoration effort. This unprecedented commitment of $200,000,000 will be provided to the Secretary of Interior to either carry out the restoration activities or to provide funding to the State of Florida or the U.S. Army Corps of Engineers to carry out restoration activities. Congress does not intend for these funds to supplant any previous funds committed to any agency of the Federal Government or the State of Florida for the purpose of Everglades restoration, including the commitment to fund STA 1E, a component of the Everglades Restoration Project.

Mr. GRAHAM. Specifically, the legislation does the following:

Section 506(a) directs the Secretary of the Treasury to transfer to the Secretary of the Interior $200,000,000 of any funds not otherwise appropriated.

Sections 506 (b) and (d) authorize the Secretary of the Interior to use the $200,000,000 until December 31, 1999 to conduct restoration activities in the Everglades ecosystem in South Florida. In implementing these sections, the Secretary may rely upon the priorities, programs, projects, and initiatives identified by the Federal South Florida Interagency Task Force.

Under Section 506(b)(3), the Secretary of the Interior can conduct restoration activities that include the acquisition of real property interests intended to expedite resource protection.

Under Section 506(c) as may be appropriate, the Secretary of the Interior and transfer the restoration funds to the U.S. Army Corps of Engineers or the State of Florida or the South Florida Water Management District to carry out restoration activities in the Everglades ecosystem.

Section 506(e) requires the Secretary of the Interior to submit an annual report to Congress that describes what activities were carried out under the initiative.

Section 506(f) also established a special account to be funded by the sale of surplus Federal property in the State of Florida. The special account is to be managed by the Secretary of the Interior to carry out restoration activities. The Secretary of the Interior is limited in his ability to use the special account funds to acquire real property or an interest in real property. The Secretary can use these special account funds for real property acquisition only if the State of Florida contributes or has contributed an amount equal to not less than 50 percent of the appraised value of the real property interest to be acquired. The actual sale of surplus property is to be managed by the Administrator of the General Services Administration. This account will not exceed $100,000,000.

And finally, under section 506(g), the Secretary of the Interior is directed to submit a report to Congress that assesses whether any unreserved and unappropriated Federal lands are suitable for disposal or exchange for the purpose of conducting restoration activities in the Everglades ecosystem. Section 506(g) is not intended to amend or supersede any applicable Federal statute that governs Federal land management, exchange or disposal.

Mr. LEAHY. Mr. President, I thank my distinguished colleague from Florida for his kind words. I note that he and his colleague from Florida worked very, very hard with both Senator LUGAR and me on this issue. It is one where we came together to address not only a Florida issue but what is truly a national issue.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Florida.

Mr. McCONNELL. Mr. President, I congratulate Senator LUGAR, our conference chairman, and his staff, Senator LEAHY and his staff, Chairman ROBERTS and his staff, and Congressman DE LA GARZA and his staff for helping us get to this important day for American agriculture.

Policymaking decisions in agriculture have never been simple or easy. Chairman LUGAR and the ranking Democrat, Senator LEAHY, chartered a course that led them toward a bipartisan bill. Farmers and ranchers across the country are now awaiting the passage of this important legislation.

For the first time in 60 years, we have a commonsense approach that will release farmers from the bureaucratic controls of USDA. Under this approach, farmers will no longer be told what to plant, where to plant, or how much to grow. Uncertain deficiency payments tied to market prices are eliminated and replaced with preset and market transition payments that farmers can count on with confidence.

This legislation, formerly titled the Agricultural Market Transition Act, has been renamed the Federal Agricultural Improvement and Reform [FAIR] Act of 1996. This legislation not only reforms commodity programs but also includes rural development, conservation, credit, research, trade, and nutrition.

Highlights of the bill include:

Eliminates the requirement to purchase crop insurance to participate in commodity programs.

Establishes an Environmental Quality Incentives Program.

Export and promotion programs are reauthorized and refocused to maximize impact in a post-NAFTA/GATT environment.

Maintains the Conservation Reserve Program.

Reauthorizes nutrition programs.

Reauthorizes Federal agricultural research programs.

Provides for dairy reform. Eliminates the budget assessment on dairy producers, phases down the support price on butter, powder, and cheese over 4 years. Consolidates marketing years.

Provides funding for Florida Everglades restoration.

Establishes fund for rural America to be used for rural development and research.

Retains the 1949 Agricultural Act as permanent law.

Streamlines and consolidates rural development programs to provide a more focused Federal effort while encouraging decisionmaking at the State level.

When we began the process of formulating an agricultural policy about 14 months ago, the message I got was that farmers wanted less Government, less redtape, and less paperwork. They said we need planting flexibility and less regulation—to put it more simply let farmers be farmers.

Mr. President, many commodity programs and provisions in the 1990 farm bill expired on December 31, 1995. It is now late March. Spring planting is already underway in many Southern States, and it is imperative that producers know the requirements of the commodity programs. The farmers in this country already have their schedules altered by Mother Nature—they shouldn't have to wait for Congress too.

Producers who raise wheat and feed grains and other commodities want to know what kind of program will be in operation before they make their planting decisions and seek money for their operating loans. Program announcements are usually made in early- to mid-February, and farmers usually begin to sign up for the programs at the beginning of March.

Farmers in my State and across the country can wait no longer. We need a new farm program in place—quickly. It is time to pass responsible legislation that provides the agriculture sector with policy for the next several years.

There are many other provisions that deserve to be highlighted, however I wanted to mention a few that I took an active role in trying to resolve. I support this package and believe it provides a safety net and the opportunity for the agriculture sector to meet the challenges that lie ahead.

First, I am grateful that language concerning the regulation of commercial transportation of equine to slaughter is included. Under this provision the Secretary of Agriculture is provided authority to develop sound regulations that will protect the well-being of equine that are commercially transported to slaughter. Often these horses are transported for long periods, in overcrowded conditions and often in vehicles that have inadequate head room. Some of these horses are in poor physical condition or have serious injuries. These regulations would allow horses to get to a slaughter facility safely and as quickly as possible with the least amount of stress to the animal. I want to make it very clear this provision does not authorize the Secretary to regulate the transportation of horses other than to slaughter or the transportation of livestock or poultry to slaughter or elsewhere.

Second, I also want to thank Senator COCHRAN for his assistance in confronting what may be the most serious health crisis facing the U.S. equine population. I'm referring to the Department of Agriculture's recent decision to grant a waiver allowing the importation of horses infected with equine piroplasmosis, also known as EP, so that they may compete in the Olympic games to be held in Atlanta this year. With help from Senator COCHRAN we have strong report language stating that the 20-point plan that has been agreed upon by the European Union, the Georgia Department of Agriculture, and the U.S. Department of Agriculture must not be relaxed and the conditions must be followed and administratively enforced.

Third, dairy policy has always been a contentious issue and it was no different during this farm bill. One provision I felt must be included was the continuation of the Fluid Milk Promotion Program. Building a stronger demand for milk is essential to the entire dairy industry. Fluid milk sales account for about 35 percent of the total amount of milk produced, which means changes in this category are significant. I believe continuation of this processor-funded program is a very good way to attack misperceptions and to keep people drinking milk. We need to continue to increase people's understanding of the benefits and importance of milk and continue to show consumers new ways to keep milk in their diets.

Fourth, conservation concerns in Kentucky have centered around how to help farmers improve water quality. A new program—the Environmental Quality Incentive Program [EQIP] will target over $1 billion for 7 years to assist crop and livestock producers with environmental and conservation improvements on their farms. I believe this program will be very beneficial to the farmers in Kentucky in providing cost-share and technical assistance in improving water quality.

Another issue I heard loud and clear from my Kentucky farmers dealt with the mandatory purchase of catastrophic crop insurance [CAT]. I made this one of my top priorities, and I am happy to report that my fellow conferees also heard similar comments from their farmers. The conference agreement eliminates mandatory catastrophic crop insurance, but requires producers waive all Federal disaster assistance if they opt not to purchase CAT insurance. This means that tobacco farmers and grain producers don't have to purchase CAT crop insurance to participate in a commodity program or to get their marketing card. Eligibility to purchase crop insurance is no longer linked to conservation compliance and swampbuster for producers who choose not to participate in farm programs.

Mr. President, today's 2 million farmers and the 19 million workers employed in our food and agriculture system generate over 16 percent of our Nation's income. We must keep the farmer, the rancher, the food, and the agriculture sector healthy and growing. It is time to give our Nation's farmers and ranchers some answers and to pass this conference report today.

Again, I thank our committee chairman, ranking member, and staff for their dedication and hard work.

Mrs. KASSEBAUM. Mr. President, I rise today in support of the final passage of the conference report on H.R. 2854, the Federal Agriculture Improvement and Reform Act of 1996. In some ways, it is only natural that this farm bill occurred like one of the other major factors affecting agriculture, the weather. With the weather, you're never sure when the rains will come, but inevitably, it will rain. This legislation brings an end to the waiting and uncertainty currently surrounding farmers and ranchers in my state, as well as around the country.

I would like to thank Senate Agriculture Committee Chairman LUGAR and ranking member LEAHY for their tireless work to bring together the many different sides and address their concerns in this farm bill. And of course, a hearty congratulations to my fellow Kansans and members of the Kansas agricultural triumvirate, House Agriculture Chairman ROBERTS, Senate majority Leader DOLE, and USDA Secretary Glickman.

As a supporter of Congressman ROBERTS' freedom-to-farm bill, it is rewarding to see its inclusion in the final legislation. For production agriculture, this bill represents producer flexibility, program simplicity, and stability—all important priorities that will allow U.S. agriculture to successfully compete in the world marketplace. For the taxpayer, this legislation shows the continued commitment by agriculture to lower spending and reduce the deficit. Clearly, if all government programs displayed agriculture's commitment towards reduced spending, there would be no deficit today.

Many other important programs are also included in this legislation. A clear priority was given to conservation programs, including a strong Conservation Reserve Program [CRP]. The CRP has proven to be a valuable tool to promote wildlife habitat, reduce soil erosion, and improve water quality. Reauthorizing this program at its current level and allowing increased flexibility for the producer will allow current program benefits to be retained and increase the focus of this program to improve the most environmentally sensitive lands.

It should be noted that this farm bill is truly comprehensive legislation that will affect all Americans. Included in this bill is important trade legislation that maintains our commitment to providing valuable food aid to those nations in need, strengthens our ability to open new markets, and encourages the development of emerging trading partners. Research, nutrition, rural development, and credit programs are all included in this bill to ensure to their future viability.

Mr. President, it is true that the rains will inevitably come. However, no action by Congress can remove the uncertainty of how much, when, and where it will rain; but we in Congress can and should remove the uncertainty

VOL
142
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surrounding agricultural programs by passing this legislation.

SECTION 147

Mr. LEAHY. Mr. President, the chairman and I want to discuss in more detail what was intended in section 147 of H.R. 2854, the section which grants congressional consent to the northeast interstate dairy compact, subject to certain conditions.

This compact will allow the six New England States to regulate the price of all class I drinking milk sold in those States. The regulation may apply to any class I milk sold in the New England States but produced elsewhere, as well as to such milk produced by New England farmers. The compact also provides that farmers from beyond New England receive its benefits as well as their New England counterparts.

The conditions of congressional consent are intended to ensure the compact operates in harmony with the Federal milk market order program, and in complement with the changes otherwise being imposed on that program by this act. Seven conditions of consent are identified.

The condition in section 147(1) requires that the Secretary of Agriculture make a finding of compelling public interest in the compact region before the compact may be implemented. This provision ensures a determination by the Secretary of the compact's need in the region before the compact's authority to regulate interstate commerce, as granted by the consent provided by this act, can become operational.

The next four conditions of consent outlined in section 147(2) through section 147(5) constitute substantive restrictions on the compact's operation, as entered into by the States. In response to concerns raised by some conferees, section 147(2) limits the compact's regulatory authority to only class I milk. Notwithstanding any provision of the compact to the contrary, the compact commission will not be able to regulate other classes of milk. This condition limits the compact's regulatory reach to only the local and regional, fluid milk market. It ensures that the compact will have no effect on the national market for manufactured dairy products.

Section 147(3) constitutes a procedural limitation on the compact's operation. This condition establishes a finite time limit for the provision of congressional consent to the compact. The section establishes that congressional consent terminates concurrently with the completion of the Federal milk market order consolidation process required under section 143 of the act.

Also in response to concerns raised by committee conferees, conditions in section 147(4) alter the procedure by which additional States may enter the compact. The list of potential new entrants is limited to a named few. Such States may only join if contiguous to a member State and only upon approval by Congress.

Section 147(5) requires the compact commission to compensate the Commodity Credit Corporation [CCC] for purchases by the Corporation attributable to surplus production in the New England States. This condition was necessary for the compact to ensure that there would be no score from the Congressional Budget Office. The compact commission's responsibility to make compensation is to be measured by the Secretary's reference to a comparison of the rate of increased production. The compact commission would have the responsibility to provide compensation for those CCC purchase attributable to an increase in the rate of New England milk production in excess of the national average rate of increase.

Section 147(6) provides for cooperation by the Department of Agriculture in the compact's operation. The Department has in the past construed findings of fact in the Agricultural Marketing Agreement Act of 1937 as precluding the Department's cooperation in the operation of State over-order pricing programs. This condition makes clear these past departmental determinations do not apply to the compact, and that the Department shall provide such technical assistance as requested by the compact commission and requires that the compact commission will reimburse the Department for that assistance. The provision is designed to avoid duplication in audit procedures and any other mechanism needed to administer the compact, and thereby to reduce the compact's regulatory burden and cost.

Except in one regard section 147(7) provides only language of clarification, rather than imposes any additional, substantive, or procedural restriction on the compact's operation. This condition in the main part clarifies that the commission may not limit or prohibit the marketing of milk or milk products in the compact region from any other area in the United States. It also clarifies that the commission may not alter or amend procedures established under Federal milk marketing orders relating to the movement of milk between or among orders.

Neither of the first two sentences of that section is intended to limit the compact commission's authority to establish a compact over-order price regulation for all fluid milk marketed into the compact region in any form, packaged or bulk, produced in another production region in the United States. The last sentence of this section 147(7) delineates this point.

The one substantive restriction of this condition is its limitation of the use of compensatory payments under section 10(6) of the compact. Because the use of compensatory payments is disfavored in milk marketing law, the compact itself placed strict restrictions upon their use in section 10(6). Their use even as so restricted proved to be of some concern, accordingly, the conference report further restricts their use under section 147(7).

Does the chairman agree that this description accurately reflects the views of the conferees.

Mr. LUGAR. That is correct.

Ms. MOSELEY-BRAUN. Section 334 establishes a new conservation program called the environmental quality incentives program. One of the purposes of the program, as stated in section 1240(2)(B), is to assist "farmers and ranchers in complying with this title and Federal and State environmental laws." Could the Senator explain to me how this might occur?

Mr. LEAHY. In order to provide the opportunity for an environmental quality incentives plan to be designed to assure that a producer is in compliance with other Federal State rules, regulations, and laws, USDA should enter into agreements with the appropriate agencies to assure that USDA is the only agency with routine decision-making authority and oversight of development and implementation of the plan. These inter-agency agreements should focus on the development process of the plan, not specific conservation practices or management techniques; strive for maximum flexibility due to the variability of agricultural operations and resource conditions; provide that specific practices in the plan may be implemented in varying timeframes within the duration of the plan; assure that implementation of the plan is not interrupted by frequent revisions caused by changes in agency agreements; and recognize the need to encourage producers to develop plans by allowing reasonable implementation periods that provide for economic recovery of costs. If a plan is designed to assure that a producer is in compliance with other Federal or State rules, regulations, and laws, the producer may request plan revisions when necessary to accommodate any significant operational changes or unforeseen technical problems within the farming or ranching enterprise.

Mr. President, I yield, from the time of the distinguished Democrat leader, Senator DASCHLE, to the Senator from Wisconsin such time as he may need to speak in opposition to the bill.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, I thank the Senator from Vermont.

Mr. President, we have heard many good things about this farm bill and the promises of market orientation and positive reform that it brings to farm policy, but I believe a more critical examination of this bill demonstrates

something entirely different, and so I want to refute some of the assertions that have been put forth during this debate.

I think every Member of the Senate would agree that agricultural policy needs reform. The realities of production, markets and budgets change rapidly, and therefore what is demanded is a periodic revamping of agricultural policy. I agree that we need greater market orientation in farm policy, and I agree that we need less Government intervention into the production decisions of farmers. However, we also need a farm policy that is defensible to all citizens of our country, and I believe that this bill will ultimately fall short in this very important regard.

The structure of current farm programs is basically to provide a safety net, making supplemental payments to farmers only when prices are low, and freeing farmers to make their money from the market when prices are sufficiently high, as they are currently.

In contrast, this bill offers farmers a so-called guaranteed payment every year for the next 7 years, based entirely on their past production, regardless of market prices. If market prices are high, as they are today, farmers will receive the same payments as they would in times of low prices. In fact, farmers will not even be required to plant a crop in order to get the Government payment. I have a very hard time defending this as a wise expenditure of Federal dollars.

Another assertion about this bill that I challenge is the idea that the goal of simplification and flexibility in farm programs requires guaranteed payments to farmers, even if they do not plant a crop. We all agree that farmers should have greater planting flexibility and that the Federal Government should get out of the business of dictating planting decisions to farmers. But again, farm programs must be defensible to all citizens of our country, not just those few in a position to reap short-term windfall profits from the Government.

Another assumption that the casual observer of this farm bill debate might be tempted to make after listening to the debate is that this bill cuts the cost of farm programs. Yet, a quick analysis of the cost projections for this bill indicates that in the first 2 years of this bill the taxpayer will be required to pay an additional estimated $4 billion for farm programs over what they would pay under the current program. Why? Because the taxpayer will be required to make large cash payments to farmers in times of expected high market prices, as opposed to making payments to farmers only in those years when prices are low.

While these are a few of my concerns about the overall structure of the bill, as a Senator from Wisconsin, my overriding concerns are with the dairy provisions of this bill. And in that regard I believe that this bill offers a very mixed and a dangerous message.

On the one hand, I am hopeful that the milk marketing order reform provisions of the final farm bill will give the USDA the tools that are necessary to bring about greater regional equity in milk pricing policies and to make the milk marketing order system more reflective of today's markets.

The bill instructs the Secretary of Agriculture to consolidate and reform orders within 3 years, and essentially instructs him to do so without consideration to the existing price system established by the 1985 farm bill. I think this is a positive change, and I am very hopeful it will bring about a marketing system that is more defensible in today's economy and more equitable to all the dairy farmers of our country.

However, I am stunned by the inclusion of another provision of this bill, which I believe goes in the complete opposite direction of market orientation, and that is the northeast interstate dairy compact. While the bill does not approve the compact, it does explicitly give the Secretary of Agriculture the authority to do so on a temporary basis if the Secretary determines that there is a compelling public interest in the area.

My colleagues will recall that during the Senate consideration of the farm bill, we voted to strike the northeast dairy compact from the bill. In doing so, the majority of the Senate demonstrated their disagreement with efforts to establish what amounts to regional dairy cartels, and on the House side the northeast dairy compact never was included.

So it is very hard for me to understand how a dangerous provision like this can appear in a conference report when it has been clearly rejected by both Houses of Congress. In my mind, Mr. President, that is back-room dealing at its worst.

It is true that some provisions have been added to the compact to try to blunt its negative effects. Other safeguards that had been agreed to in previous debates were deleted. But my overriding concern about the northeast dairy compact is now and always has been one of dangerous precedent.

Since my first day in the Senate, I have fought to make Federal dairy policy more equitable to the dairy farmers of the Upper Midwest. Most agricultural economists, and now even the Secretary of Agriculture, agree that the current milk pricing policies have had a disproportionately negative effect on the farmers of my region, and I am hopeful that the milk market order reform provisions of this bill will help reverse that injustice. But I fear that even the most equitable milk market order reforms will be meaningless in the long run if we start allowing regions to segregate themselves from the rest of the country economically through efforts like the Northeast Dairy Compact.

Our country and its Constitution are built on the concept of a unitary market without barriers. While I appreciate the efforts that have been made to water down the ill effects of the compact, I strongly believe that the long-term ramifications of this compact on a State like Wisconsin, which depends so heavily on national markets, are ominous.

A New York Times editorial this past weekend stated the following about the Northeast Dairy Compact:

> A House-Senate conference committee has managed to tarnish the most important farm bill in years by inserting a last-minute provision for a New England milk cartel that would gouge consumers and violate the free market concept that has made the 1996 farm bill worthwhile. The regional milk monopoly is the very opposite of the kind of reform this bill was meant to provide.

It will now be up to those who support true market-oriented dairy pricing reform to make that case to the Secretary of Agriculture and to assure this regional compact does not come into effect.

Lastly, while this farm bill eliminates the 10 cent per hundredweight budget assessment that all dairy farmers hate, its net effect on dairy farm income will be negative. In fact, I know of no other farmers that are asked to give up their price safety net as dairy farmers are through the elimination of the Milk Price Support Program without providing some sort of direct transition payment to soften the blow. While I question the wisdom of the overall structure of this bill, it would seem only logical to apply that structure equitably across commodities, and this bill does not do that with respect to the dairy farmer. So I will cast my vote against this farm bill.

I yield the remainder of my time.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Indiana.

Mr. LUGAR. I yield 10 minutes to the distinguished Senator from Pennsylvania [Mr. SANTORUM].

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Chair.

Mr. President, I rise in support of this legislation, and I do so enthusiastically, although I must say I do have some reservations about a few of the titles which I will talk about later.

Overall, this bill does move in the right direction. It moves toward freedom to farm, which I think is absolutely important for agriculture in America, to be not only profitable for the farmer but to be able to produce goods that can be sold all over the world.

I am very proud of the conservation title in this legislation. I think the dairy title takes a step in the right direction. Dairy, as has been said by various people on the floor, is probably the

VOL
142
PT
5
MR
21
—
29
1996
UMI

toughest area to reform, but we have taken steps in the right direction. It is going to take a little bit longer to get the kind of reforms in dairy that are necessary to be more free market oriented, but I think we have moved substantially in the right direction, and I support this bill.

I have some problems with respect to sugar and peanuts, but they will not keep me from voting in favor of this legislation and to commend both Chairman LUGAR and Senator LEAHY, the ranking member, for a job well done in putting this agreement together under fairly serious time constraints as we approach the planting season.

Let me first focus on the conservation title because this Congress has been excoriated by many in the national media for being an anti-environmental Congress. I suggest this farm bill is the most proenvironmental farm bill ever passed. It makes some terrific reforms by focusing on incentive-based programs, where we encourage farmers to be good stewards of the land. Farmers are good stewards of the land, by and large. We should have programs to complement their natural tendency, which is to take good care of the land that they need to grow their crops or to raise their cattle or sheep or whatever the case may be.

This is a very important step in the right direction. We should commend the leaders here, and the Congress, for putting this bill forward in an area, as I said before, where we are being criticized for not being sensitive to the environment. We have established new programs, incentive-based programs, that I believe will have a tremendously positive effect on the environment in rural America.

As a sponsor of the Environmental Quality Incentive Program that Senators LUGAR and LEAHY introduced and incorporated into this bill, I am particularly encouraged by the cost-shared assistance that will be available for livestock and crop farmers.

Senator LUGAR mentioned the Farms for the Future Program earlier. This is an amendment I offered on the floor of the Senate to provide $35 million for farmland preservation. It is an incredibly successful program in Pennsylvania. In fact, we have an overwhelming demand for this program in Pennsylvania that we simply cannot meet. This is an attempt to have the Federal Government help out to preserve high-quality farmland that happens to be located in an area near an urban area that is under very intense pressure for development. What we are seeing happen, obviously, as the urban sprawl continues to move out into the rural area, we are losing very valuable farmland. In fact, in many of my counties, particularly in southeastern Pennsylvania, we are seeing the whole farm economy destroyed because of the pressure of development. I know it is not just happening in Pennsylvania. It is happening across the country. Farmland preservation is a way to recognize that the farm economies in these areas where we have such high quality farmlands and we have a good agriculture base are worth preserving and protecting. This is a way to do it. So I am very excited about this aspect of the conservation title.

Finally, the whole freedom to farm concept is important with respect to the environment. Instead of dictating our farm policy from Washington, we are now giving flexibility to farmers. So they are not going to plant the same crop on the same ground, year after year. This practice requires increased uses of pesticides and fertilizers, because you are draining the ground of nutrients every year because you are planting the same crops. Now, you will see different crops planted and a reduction in the use of pesticides and herbicides. That is a very important, environmentally positive aspect to the freedom to farm approach.

So, there are a lot of things in this farm bill we should be very excited about from that perspective. I want to congratulate, again, the Agriculture Committee and the conferees, for keeping these programs strong and crafting a good title.

Let me now move to an area I am concerned about and that, obviously, is sugar and peanuts. But one other thing before that. I am disappointed we were not able to eliminate permanent law. Permanent law is from 1949. It is a law that is obviously not in use. It is superseded every few years when we do a farm bill, as we will this time. We will suspend permanent law, but it is still on the books. We say, "What does it matter if it does not come into effect? Why is it so important that you want to get rid of this?"

Permanent law is really the hammer held over our heads, that if we do not pass a farm bill, if we do not keep these farm programs going and we do not repeal permanent law, we kick back to this permanent law which means we have outrageously-priced commodities. This is, really, one of the reasons I believe we continue to pass farm bills and we continue to have an interfering Government hand in agriculture.

If we got rid of permanent law, then the farm bill would have to be passed based on its merits as a bill, not because there is a hammer out there that would throw the economy into disruption if we did not pass a farm bill. So, retaining the permanent law hammer gives me a little bit of trepidation that, when this farm bill comes up again for reauthorization, the transition to more free markets could be hampered because of that hammer. So I am disappointed in that. But, again, it is another fight for another day.

Finally, on the sugar and peanuts—I could talk at length about both, but I am going to focus my attention on what I see is the more egregious of the two programs and that is the peanut program. I stood on the floor right at this spot and offered an amendment on peanuts, which was a gradual phase-down of support price. The opponents of that amendment got up here and demanded—they said, "Look, you guys do not understand. We have real reform in here." They just said, "This is substantially reformed in the original bill. You do not have to go this far. This is outrageous reform, the Senator from Pennsylvania is talking about. This is just too severe. We have real reform in this underlying bill. As a result, you can be for reform of the peanut program and not vote for the amendment of the Senator from Pennsylvania."

Well, as I knew at the time and as I said at the time, I said: Yes, there are some reforms in here. They are not substantial. It is lipstick on a pig. But, yes, you can argue there are reforms here. But you know what is going to happen. These folks, who are advocates of this program, they are going to get in conference and they are going to gut all the reforms and they will come back and it is business as usual.

Surprise, what happened? They get to conference and almost all the minimal reforms that occurred in the original bill are gone. They are gutted. There is almost no reform in this bill anymore with respect to the peanut program in particular. That is fine. I should have known better. In a sense, I did know better. But I will state right here, that this program, while it is only reauthorized every few years—5, 7, whatever years it is—may be only reauthorized that often, but we are going to have another vote on the peanut program this year, maybe more than one vote. We are going to do it on appropriation bills. We may do it on who knows what other bills. We are not going to continue to sandbag reform on peanuts and then go to conference and gut it and have it included in the big bill where you cannot get to it anymore.

This battle is not over. There will not be any argument anymore from the other side that we actually reformed it because you did not reform it. Now we are going to talk about the merits of this program, as to whether it should go forward. Let me talk about the merits of this program. Yes, we cut the support price of peanuts from $678 a ton down to $610 a ton for quota peanuts.

By the way, the world price for peanuts is $350 a ton, but we are now at the tough, mean-spirited rate of $610 a ton, if you are on quota. We have two classes of citizens in peanuts, who grow peanuts. We have people who are lucky enough that their granddaddy was able to get a quota or license from the Government to grow them, and you get $610 a ton. If your granddaddy was not around when they were giving out the

quotas, you only get, if you sell them on the additional market to the Government, $132 a ton.

It is the same quality peanuts, maybe grown by the same farmer, some are quota some are additional. But you get $132 versus $610. OK? The world market is $350.

So we have two classes of people out here. You say, "Well, yeah, you reduce the price." "Well, yes, we reduce the price. Guess what? We now have made this a no-cost program." That is the way they sort of got around it.

No, it is not reform. It is not going to cost money anymore. How do they do that? Every year the Secretary of Agriculture estimates what the consumption of peanuts will be in this country and sets the quota. Let us say it is 1.2 million tons of peanuts, and he sets the quota.

The Secretary cannot allow the Government to be a big buyer of peanuts, and the reason is because we cannot get stuck with a lot of expensive peanuts and not be able to sell them.

Mr. President, I ask for 2 additional minutes.

Mr. LUGAR. I yield 1 additional minute.

Mr. SANTORUM. So the problem is, he will have to go out and short the market; in other words, he will have to have a lower quota than they actually expect so they do not end up buying a bunch of peanuts and being stuck with the cost.

We had two provisions in there that actually penalized farmers 5 percent every time they sold their peanuts to the Government when they had a price equal to the quota price available on the market. Well, they gutted that provision. They gutted that provision completely.

How do they do it? First, they said the farmer has to put up his entire crop. What do you mean "entire"? You put up 99 percent of your crop and you sell 1 percent on the open market, and you avoid all penalties. That is No. 1. There is a big loophole here, No. 1.

No. 2, it says that you have to sell your entire crop to the Government for 2 consecutive years, and then you get penalized. One year one producer sells it all to the Government, the next year another one does, and you play games with producers so nobody gets caught. That is another big loophole in this.

I can go on with a whole variety of other gutting amendments that occurred in conference. But the fact of the matter is this program is not reformed in this bill. We are going to have plenty of opportunities on the floor of the Senate over the next 6 months to reform it, and I am looking forward to that debate.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. LEAHY. How much time does the Senator wish?

Mr. HEFLIN. Ten to twelve minutes.

Mr. LEAHY. I yield 10 minutes to the Senator from Alabama. My time is dwindling, so I yield 10 minutes.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise today to talk a few moments on the farm bill conference report that is before the Senate. Last year, when the farm bill process began, farmers came to me representing all types of commodities enthusiastically supporting the continuation of the present programs which provided a safety net for farmers in times of disaster or low market prices. They told me the programs were working well, and, particularly in the South, these programs had worked exceptionally and extremely well, specifically in regard to cotton.

However, there was substantial Republican opposition to the continuation of such programs, even within budgetary limits. Therefore, the Republicans pushed the Agricultural Market Transition Act of 1996, formerly known as the freedom to farm bill, in which the farm program payments were decoupled and all Government programs would ultimately be phased out at the end of 7 years.

In order to gain producers' support for a farm program phaseout, the Republicans advocated fixed, but declining, payments regardless of market prices. The program that they advocated guaranteed payments to farmers whether they needed them or not. This program, in my opinion, constituted a welfare program.

In regard to cotton, it is understood that if you can produce cotton and get a price close to the target price, which is 72.9 cents a pound, you can make a living. The target price was based on the idea of taking the cost of production and the minimum amount necessary to have a return on equity comparable to what business groups endeavor to try to have as a return on equity, on a conservative basis.

But we find that under this program, this freedom to farm act, that if cotton went up to 85 cents a pound, which would be a bonanza year for profits and for prices, nevertheless under this, you would get a Government payment, a mailbox payment. If cotton went, as it did last year, to $1.06 a pound, you would, nevertheless, under the Republican proposal, get a Government subsidy. There is no point in paying money to people who do not need it, and that would be what would have happened last year under this particular program. Support for farmers should be available during times of low market prices or uncontrollable natural disasters. Payments should not be made to farmers when commodity prices are as high as they currently are.

I oppose such an approach, feeling that this program could not survive close public scrutiny and is simply not good policy.

However, in the Senate, there was extended debate, there were cloture motions filed, and it appeared that cloture would not be obtained at one point, so compromises were worked out. Senator LEAHY took a lead in trying to work out a compromise, and I commend him for the end result. I do not like all the compromises, but at least with the circumstances with which we were faced, we did achieve a bill.

One aspect of the compromise was reinstating permanent law. Permanent law will ensure that Congress in the future must address farm programs and not simply allow them to expire.

The addition of permanent law as a part of the now called Federal Agricultural Improvement and Reform Act of 1996 is a vital element for assuring that the Federal Government will refocus its attention on agricultural policy and ensure that we maintain a partnership with rural America and not abandon our agriculture producers at the end of 7 years.

The Senate compromise also reauthorized conservation programs, including the Conservation Reserve Program [CRP] and permitted new CRP enrollments. The conservation title of the farm bill demonstrated a very strong commitment to the environment.

In addition, the very important nutrition programs were also reauthorized.

Discretionary agricultural programs, such as research, trade, rural development and credit were also rolled into the final bill.

The conference report before us today contains much of the Senate bill, and even some improvements were achieved in conference, including improvements in the peanut program. However, to me, this bill contains about an equal amount of good and bad, and this is so even after the compromise changes were included in the conference report.

If I had to weigh the good and the bad on a scale, they would come out about equal. But we are faced today with the fact that the planting season is upon us. A day has not passed in which I do not hear from farmers anxious for some direction from Congress regarding farm programs. Time is of the essence. The planting season is upon us, and that is an element that we must consider.

Nevertheless, I cannot overlook my strong concerns regarding the outyears when it is predicted that commodity prices will fall and the farmers will need an adequate and certain safety net.

The agricultural policy in China, for all practical purposes, is today controlling cotton prices in America, among

VOL
142
PT
5
MR
21
—
29
1996
UMI

others. They have vast billions of citizens to feed, and whatever policy they may establish concerning agriculture, it certainly affects the commodity prices in America today. If Chinese agricultural policy changes immediately, or in the next couple of years, then we will again experience commodity price fluctuations and the safety net provided in the bill before the Senate does not provide an adequate safety net to deal with this potential problem, and this concerns me deeply.

But at the same time, we also are faced with another situation. In my State of Alabama and in the Southeast, and in other sections of the country, last year saw disastrous conditions that affected the production of farm commodities. In the cotton belt, we had to deal with the boll weevil, the tobacco budworm, and the beet armyworm. Alabama also experienced a terrible drought, and then had to deal with two hurricanes unfortunately at harvest time. Alabama, along with other regions of the country, each had their share of uncontrollable factors to deal with this last season. Unfortunately, catastrophic crop insurance proved to be inadequate and many farmers struggled to make back their cost of production, and many did not. We tried to pass some limited degree of disaster assistance for cotton farmers during agriculture appropriations, but this effort was unsuccessful. So we are looking at a situation today where the first payment under the, as I call it the freedom to farm act, would act as a disaster payment to farmers for the disastrous situations experienced last year.

Therefore, while I believe this bill to be flawed in some areas, I have decided to vote for the conference report. I base this decision on weighing the good and the bad, and I believe it to be about equal. The fact that it is late in the day and this bill does provide some immediate assistance to farmers, I will, with reservation, vote for this conference report. I have hopes in the future that we will come back and take a responsible look at the policy, a year from now or 2 years from now, and look again at the overall policy pertaining farm programs.

I would like to commend Senator LEAHY for his work in this regard.

Mr. LEAHY. I will yield another minute for that, Mr. President.

Mr. HEFLIN. I think he did a great job and he reestablished a great deal of Democratic principles into the policy that we have, particularly research and conservation and environmental as well as others in regard to it.

I would briefly like to mention the peanut program. In my judgment the peanut program reform went far too far. According to studies that were made by Auburn University, the final version of the peanut program being voted on today will result in a 28-percent loss of income to the peanut farmer. While other commodity producers are receiving transition payments, the peanut producer is seeing nearly a one-third reduction in his income. In my judgment, the degree to which the program was reformed was unnecessary and punitive.

Mr. President, as I am looking at this farm bill, this will be the last farm bill that I will participate in, since I am retiring at the end of the year. I have long been a supporter of the American farmer. My commitment to agricultural producers has been constant throughout my career. I am concerned that the bill before us today does not provide the kind of safety net that I would prefer to see and leave as a legacy for future generations of farmers. I hope that in the future, Congress will not turn its back on American farmers in the event that commodity prices fall and farmers are left without any price protection.

I ask the Senator if I could have a couple more minutes.

Mr. LEAHY. I yield another minute to the Senator.

Mr. HEFLIN. Basically, I think that the farm bill ought to have balance. Take for example feed grains. Feed grains are important to the producers, and the structure of their program is important to them. But so on the other hand are the users of feed grains, such as the producers of cattle, hogs, and catfish. It is so necessary to have a balance. So I hope that as we look to the future and look again in regard to these matters, that we will attempt to achieve a balance between producers and users of agriculture commodities.

I would like to recognize Senator LUGAR for his work on this farm bill. Senator LUGAR has been a good chairman. I disagreed with him on many aspects of the bill and of the overall policy but he was certainly a gentleman throughout; he made certain that everybody had an opportunity to be heard. I think that he wants to achieve a balance in regard to farm policy and hopefully this will be addressed in the future.

So, as we look forward toward the future, we hope we can have a farm policy that has balance. At some time in the future I will deliver a speech to the Senate relative to balance—balance relative to trade, balance in regard to agriculture policy. But today, Mr. President, I will vote for the conference report.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, we are going back and forth. I see a Member on the other side of the aisle. But I note, if I might, the distinguished chairman. I do intend to make a statement later in praise of both Senator HEFLIN and Senator PRYOR, two of our most distinguished Members, who are leaving the committee at the end of this year.

Mr. LUGAR. Mr. President, Senator GRASSLEY is prepared to wait for Senator KERREY's speech. Senator KERREY has been on the floor. I will ask recognition for him to speak following Senator KERREY.

Mr. PRYOR. Mr. President, I am not seeking recognition to speak, but merely to ask the question, is there a possibility that we could seek, once the speakers coming up are through—I have been here for a good while this morning. In fact, I have enjoyed being over here this morning listening to some of this debate. But I see some of my colleagues, Senator KERREY, Senator BRYAN. I would be glad to follow them, if I just knew some order.

Mr. LEAHY. I wonder on our side, as we go back and forth on the Democrat side, I wonder if my colleagues would be willing to have it be the sequence of Senator KERREY, Senator BRYAN, Senator PRYOR. Is that what the Senator is suggesting?

Mr. PRYOR. I would be glad to follow my colleague, Senator BRYAN.

Mr. BRYAN. If I might, the distinguished Senator from Arkansas has been here longer than I.

Mr. LEAHY. Why not Senator KERREY, Senator PRYOR, Senator BRYAN, as we take our turns. That is assuming there will be a chorus between each Democrat of a Republican seeking recognition.

Mr. LUGAR. If the Chair would permit, following Senator KERREY, Senator GRASSLEY would be the Republican speaker, to be followed then by the two Democratic speakers, and then any Republican that comes on the floor.

Mr. LEAHY. I thank the chairman.

Mr. PRYOR. So I will not surprise either of the splendid managers of this piece of legislation, I am going to vote against this bill. But there is one section I find very appealing in this legislation. I want to talk about that section just for a while, 4 minutes.

Mr. LEAHY. Those in opposition will have time yielded by the distinguished Democratic leader, and we will take that at that appropriate time.

The PRESIDING OFFICER. The Democratic leader has 84 minutes.

Mr. LEAHY. Is the Senator from Nebraska speaking in opposition?

Mr. KERREY. Yes. I ask for 10 minutes, to be charged against the Democratic leader's time.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. KERREY. Mr. President, first let me praise the conferees. Given the acrimony surrounding the debate, and given the lateness of the hour, it is entirely possible for conferees to look and produce nothing, or to produce a bill which the President would have had to veto. I appreciate very much—I know a great deal of movement had to occur in order to resolve many of the conflicts. I applaud them for having produced a piece of legislation that the President has indicated that he will sign and that he would like to revisit next year.

Mr. President, I would like to go through some of the things I see are good in this bill. I do intend to vote against it, but there are a number of things that are quite good.

First, in the area of conservation, one of the great success stories of farm programs over the past 60 years has been the tremendous improvement in conservation of soil and of water that has occurred on the private property in this country. Very often one of the political lines is used when describing the farm program as "What a failure it has been." But one need only look at the snapshot of what this country looked like in the 1930's versus what it looks like in the 1990's. Indeed, you can go back to the 1980's and see considerable progress just in the last 10 years. It has been a great, often untold story, this success story in this country.

This bill authorizes the CRP at 36.4 million acres through 2002. All conservation programs are going to become more responsive to State and local needs since the technical committees that control will be required to include agriculture producers as well as nongovernmental organizations, giving them an expanded role.

This is no small item, Mr. President. It empowers people at the State level to come up with plans for the CRP that dovetails with their plans for conservation, their plans for tourism, their plans for water quality. We have tried that at the State level in Nebraska, and I can alert colleagues that groups that typically opposed one another have been able to reach agreement as a consequence of being given the power and control over making these kinds of decisions.

There is simplified conservation planning in this legislation for farmers through the Environmental Quality Incentives Program and the Conservation Farm Options. It is a tremendous improvement. I applaud the conferees for including it.

It provides for pilot wetlands mitigation projects to give farmers flexibility in managing their frequently cropped wetlands that have been badly degraded.

It makes many improvements to the law dealing with good-faith violations of conservation requirements and granting of variances from conservation requirements, stemming from "abandonment" of farmed wetlands and in defining "agricultural land" so the U.S. Department of Agriculture will be the agency responsible for delineating wetlands on pasture, rangelands and tree farms.

Next, the Resource Conservation and Development Program, which has also been very successful in my State, is reauthorized through the year 2002. The next big thing I identify is something quite good, spoken at length by many other people, but we have retained permanent authority for farm programs. Thus, we are not phasing out the farm program, not only at the end of 7 years, but the door is open if this program turns out not to be successful, for us to revisit and perhaps change the law.

Third, it increases planting flexibility, though we take a step backward from the 1990 farm bill in planting flexibility for farmers who want to plant fruits and vegetables. I am pleased the conferees adopted a provision I requested regarding alfalfa and other forages. For the first time, farmers and ranchers will not be penalized for harvesting alfalfa and other forages on their base or contract agencies. This will help farmers meet their conservation compliance requirements and may result in more conserving-use species being grown on environmentally sensitive land.

I point out there was an alternative, called the Farm Security Act, providing tremendous flexibility and simplicity by reverting to the normal crop acreage system, what we, on the Democratic side, proposed and tried to get supported. It would have retained a market orientation but would have provided tremendous new simplicity and flexibility for the farmer.

In addition, the rural development programs are improved. The creation of the Rural Community Advancement Program will give States more flexibility to address their individual needs, and the Fund for Rural America will provide additional resources for addressing needs in both rural development and in research.

Next, on the negative side, now moving from the good to the bad, depending on your point of view, my point of view is that it is very bad to create a fixed payment system that is, in essence, ignorant of the market, ignorant of the farmer's revenue, and ignorant of whether the farmers even plant a crop. This decoupled program of so-called guaranteed payments is far from being market oriented. It is market ignorant. American taxpayers would not stand for our Government giving AFDC payments to a family making $100,000 a year, any more than they will stand for our Government giving producers a freedom-to-farm payment—up to $230,000, in fact—when that farmer has received record-breaking profits or when he decides not to plant at all.

Next, it overpays farmers when revenue is high but leaves farmers without adequate protection during bad years when they need Federal support the most. Worse, the loan rate is capped for the 1995 levels. It can go down, but it can never go up. In a time when farm prices have increased and are projected to remain high for several years, these cap loan rates quickly become as outdated as the crop basis of previous farm bills.

Wheat and feed grain farmers, the individual producers themselves, came and said, "If you take these caps off, we will pay for it by taking reduced guaranteed payments," but the majority party refused to make this commonsense change.

In 1996, the farm program was expected to cost very little. To be clear on this, in 1985 the farm program cost $26 billion; last year, $10 billion. This year was going to cost $6 billion; next year it is forecasted to be $3 billion as a consequence of prices being high. Farmers are getting a decent income from the market, and the taxpayers are benefiting from the greatly reduced cost of the farm bill.

As much as I dislike many of the aspects of the 1990 farm bill, it is undeniable, from a taxpayer's perspective, that the 1990 farm bill was working. Our deficit will actually increase by $4.5 billion by the end of 1997 as a result of this bill.

Yesterday, we heard the Secretary of Agriculture come before the Agriculture Appropriations Subcommittee and present the President's budget for 1997 to Congress, and he had to say, "We did not know what the farm bill would be, so we could not include the farm bill consideration." But his budget, assuming spending needs would be the same as they have been under the 1990 farm bill, shows that there is a $3 billion increase in the mandatory side of the farm program payments.

So, please understand for those who will vote for this thing and issue the press release talking about how it will be cheaper in the first year, and the budget that we will debating this year, the budget will actually increase on the mandatory side by $3 billion. Increasing mandatory spending by $3 billion in 1997 can mean one of only two things, Mr. President: Either the deficit will increase, or discretionary spending will have to decrease.

In the President's 1997 budget, budgetary authority for discretionary spending amounts to $13 billion. Budget authority for mandatory spending is $59 billion, including the nutrition programs. That $13 billion is a $200 million increase over last year. With inflation running about 2½ percent, that is an actual cut, Mr. President. With this $3 billion increase in the mandated side, unless we bust the budget or find an offset someplace else, we will have to take the discretionary programs down even further than is being recommended by the President.

Next, Mr. President, our Nation's neediest people are shortchanged by this bill, since the Food Stamp Program is reauthorized for only 2 years. Only 2 years' authorization of food stamps, while farmers are supposedly guaranteed payments up to $230,000 for 7 years.

Research is shortchanged as well, Mr. President, with programs being authorized only through 1997. This is a result

VOL 142 PT 5 MR 21 — 29 1996 UMI

of the House insistence that we should force ourselves to craft a new bill dealing with research within that time period. I agree our research program should be reexamined and updated. However, if the past 14 months is any indication of how quickly the House and Senate Agriculture Committees and Congress as a whole will act to reauthorize agriculture-related programs, the majority's insistence of only a 21-month authorization for research is not a very good idea.

Less planting flexibility for farmers who grow fruits and vegetables is the next objection I have, Mr. President. Potatoes, in particular, is a crop grown increasingly in my State, and not only grown but also processed. So it is an important source of jobs. Under the 1990 farm bill, the current law, any farmer could plant potatoes as long as that farmer agreed to give up any Federal subsidy on the acres that were planted to potatoes. That is fair policy.

Unfortunately, I was unable to persuade the majority that we should adopt the same policy of planting flexibility for potato growers under this bill. Instead, the conferees adopted a provision that will create an allocation system, a quota, Mr. President, for farmers who want to plant potatoes or other fruits and vegetables on contract areas. Instead of allowing any farmer to plant potatoes, if the farmer agrees to forego his Federal subsidy it limits potato production on contract acres to three situations: First, a region with a history of double planting; next, a planting history that includes potatoes; and farmers that can prove to the U.S. Government, the USDA, they have grown potatoes in the past, but that farmer is limited to planting no more than his average production of potatoes in the 1991-95 period.

So in conclusion, we are saying freedom to farm, more flexibility, but you are not able to do what you are allowed under the old farm bill, which is, if you want to plant an alternative crop you are allowed to take a decreased payment off your normal base. I object to this arbitrary planting restriction, particularly since farmers of each of the three situations must also give up their guaranteed payment.

Mr. President, the last time the Congress failed to enact a farm bill during the year it was due was in 1947. I point out, in 1990, when this bill was being debated, when the current law was being debated, in July 1990, there was a great debate over an amendment offered by the Senator from Texas, Senator Bentsen. What he said was, we are going to authorize the Secretary—any section of this farm bill is extended during that 5-year period to reauthorize the rest of the farm bill. Why? Because the Republicans at this time were quite concerned—there was a colloquy between the distinguished Senator from Indiana and the Senator from Kansas saying, we have to do this because July is too late.

We waited far too long, Mr. President, this time around. 1947 was the last year when this happened. That year there was a Democrat in the White House and Republicans controlled the House and the Senate. In my judgment, we are going to have to do the same thing that the voters did in 1948 to break the current logjam we have on the farm bill and the appropriations bill if the American people's will is not going to continue to be frustrated.

However, the conference committee—as I said at the beginning, I must revert to praise—the conference committee does a terrific job. They could have ended the day and passed nothing. They were up against a time line—self-imposed, in my judgment—as a result of not getting the work done. That having been said, it would have been very easy for them to have passed something the President could not have signed.

I hope that the political changes in 1996 present us with an opportunity to revisit this bill on behalf of farmers who need income, on behalf of people in communities who depend upon that income for jobs, on behalf of the taxpayers who are going to pay for it, and, most important, on behalf of the American consumer.

I yield the floor.

Mr. LUGAR. Mr. President, I yield 10 minutes to the Senator from Iowa, Senator GRASSLEY.

Mr. GRASSLEY. Mr. President, Congress and the Senate takes up today the passage of legislation regarding the farming community and is presenting legislation as a basis for a safety net for the agriculture of the next century. The programs of this century are outdated for the agriculture of the next century.

Now, Mr. President, the opponents of this bill take great delight in calling this a welfare bill for farmers. Well, of course, that shows a complete lack of understanding of the farm economy and of farm programs.

First of all, farmers have relied on a Government program for the past 60 years. The urban press has always referred to Government programs as "welfare" because they are too stupid to understand the interrelationship between food production and what goes on in cities and the jobs that it creates.

But what the press does not tell you is what the farmers have done for the American consumer. Farm programs have helped farmers to supply us with the best and the cheapest food supply in the world. Is this welfare? Everyone—most of all, the consumer—has benefited from farm programs, and they will continue to do so under this bill.

But Congress has passed, in this bill, the most sweeping changes in farm programs in 60 years. We will not, in this new environment of change, pull the rug out from under farmers in this legislation.

We are providing in this legislation a glidepath to the free market type of agriculture that most farmers want. This bill provides a glidepath. It provides guaranteed, certain payments to farmers to allow them to adjust to a new era of agriculture.

This era will be heavily influenced by free market forces instead of Government programs. This new era will also be influenced by the opening of markets in Europe and the Pacific rim when free-trade agreements, such as GATT, are allowed a chance to work. Most farmers welcome the opportunity to meet every competitor abroad, compete in every market, and send a clear signal—which this bill does—that we are going to supply that market. We are going to be in the market to stay.

But, of course, during transition, there must be an adjustment period. The Government safety net must continue in order to ease the transition. This bill accomplishes that goal.

And anyone in this Chamber who thinks farmers will take this market transition payment and not plant a crop has a total lack of understanding not only about farming but about economics in general.

The farmers I know cannot afford to pay the property tax on their land and to take these payments and expect to make a living from them. They will have to earn income from the land. Not only do they have to do it, they want to do it. They have to produce and market a crop in order to provide such a living.

With all due respect to any of my colleagues who think otherwise, it is insulting to our farmer constituents to insinuate that they will take a Government payment and fly off to Florida and let the productivity of their land and the return from that productivity be nonexistent.

Obviously, you are not talking to the same farmers that show up at my town meetings and visit my office. These farmers want to continue to farm the land and make a living from that land.

So let us give farmers just a little bit of credit. Let us trust them not only to do the right thing, but to do the only thing that makes sense economically. That is what most of this farm bill is all about—letting farmers make their own decisions, instead of Government making all of their decisions for them.

Mr. President, I simply cannot, on another point, buy the argument made by the opponents of this bill that we have failed to provide an adequate safety net for farmers. The farmers I talk to do not think the current program is any safety net at all.

If you want to see how the current program would work for some farmers if it were extended, talk to the farmers

in southern Iowa, western Illinois, and northern Missouri who did not get a crop planted in 1995, and ask them about a safety net. They had little or no crop to market this year. Yet, they did not receive a deficiency payment because prices are so high. They lost a lot of income, and many of them are on the verge of going out of business. Yet, some of my colleagues want to extend the 1990 farm program because they think it is a better safety net.

This new farm bill has all the components of an adequate safety net. First, it makes guaranteed, fixed payments to farmers for the next 7 years—something they can count on. It lets farmers manage their income from the Government, instead of some bureaucrat in Washington doing it.

Since we know the amount that we have to spend on the farm program over the next 7 years—and we have to know that if we are going to get to a balanced budget—why not let the farmers manage this money instead of Washington? Once again, the opponents of the bill would rather keep the powers in the hands of unelected, faceless bureaucrats, when the farmers, business people, as they are and must be, are competent to do this and want to do it and welcome the freedom to do it.

This farm bill also has a strong Marketing Loan Program. This represents the true safety net for our farmers. It protects the farmers against rapid decline in prices. Finally, we establish a new program in this farm bill called revenue insurance. In fact, it is already being used in Iowa under the name of crop revenue coverage. This new product is a public-private partnership that represents the future of farm programs. The farmers I talked to in town meetings over the past weekend are very excited about this product. They feel that it is the only safety net that they need, one that they can control, and one that is related to the marketplace.

So let us not substitute our judgment for that of our farmers. It is their business, their livelihood, and there is nobody who knows better how to manage the 350-acre average-size farm in Iowa than the man who is operating it or the woman who owns and operates it. They know better than many people here. Let them decide what a sufficient safety net is for their business. I think most of them will decide that this new revenue insurance product is a very strong safety net.

Also, Mr. President, the opponents of this bill argue that we are ending Government involvement in farming, and that this is just plain wrong. These are scare tactics designed to undermine the intent of this bill.

First of all, permanent law, specifically the 1949 act, is still in place as an incentive for Congress to consider farm legislation after the year 2002.

Second, I understand from the Congressional Budget Office that agriculture will have about a $4 billion baseline for farm programs after 2002.

Finally, and most significantly, the bill establishes a strong insurance program. This program will be a public-private partnership that provides a very strong safety net for family farmers.

So Government will continue to play a very important role in farming. But the role will be much more limited. It is accurate to say that farmers' business decisions will no longer be made in Washington. But the Federal Government will continue to play a role in providing a safety net.

Maybe the opponents of this bill want the Government to continue to control all aspects of agriculture. But farmers do not want that, and the supporters of this bill do not want that. But it is just fear-mongering to insinuate that the Federal Government will pull the rug out from under the family farmers. This simply will not happen under this very good piece of legislation.

I commend the manager of the bill for writing a very good piece, as well as the Senator from Vermont.

I yield the floor.

Mr. LEAHY. Mr. President, I yield time from the time of the distinguished Democratic leader to the Senator from Arkansas.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished ranking member, Senator LEAHY, for yielding to me. I want to compliment not only Senator LEAHY but also our friend and chairman of the committee, Senator LUGAR of Indiana.

This has been a very, very difficult process indeed—Mr. President steering this particular piece of legislation through the Agriculture Committee ultimately onto the floor of the Senate. In my opinion, it is long overdue. We will not fight that battle now. That has been the battle of the past days, and perhaps it could be a battle for a future day. But at least let me say that our two ranking members, our two managing members, this afternoon have worked very hard and very closely to bring this matter to the floor of the Senate this afternoon.

I would like to take just a moment to highlight section 926 of the farm bill conference report to my colleagues in the U.S. Senate. I find myself in a very unusual position of pointing to something in this report which I actually support, and those sections are few and far between. But this is section 926 that I strongly support.

As many of my colleagues know, I have not nor will I today support the freedom-to-farm concept espoused in the philosophy of this legislation. I believe it ends the much-needed safety net for our family farmers. However, I have stated my opinion numerous times on this floor, in the Agriculture Committee, and most recently in the last week or so as a member of the conference committee that brought this bill to the floor of the U.S. Senate.

Nevertheless, I would like to very quickly highlight one particular provision which was included to recognize one of our distinguished colleagues in the U.S. Senate. Section 926 of the report designates the research facility operated by the Agricultural Research Service—ARS—near Booneville, AR, as the "Dale Bumpers Small Farms Research Center."

Booneville, AR, by the way, is less than 15 miles south from an even smaller Arkansas town known as Charleston. The reason I bring this up is that Charleston, AR, just so happens to be the hometown of our colleague, the senior Senator from Arkansas, the Honorable Dale Bumpers. At one time Senator BUMPERS not only operated a small business, which was a hardware store, but he was also an attorney in Charleston, AR. He took great pride in stating that he was not only the only attorney but that he was the best attorney in Charleston, AR.

Mr. President, naming this research facility after the Honorable DALE BUMPERS could not be more appropriate, and I am very pleased today to play a very small part in making this distinction possible. Senator DALE BUMPERS has been a tremendous ally for the farmers and ranchers of Arkansas and across the whole country.

As chair and now ranking member of the Agriculture Appropriations Subcommittee, Senator BUMPERS has worked and continues to work tirelessly on behalf of the agriculture community. He is also, as we all know, the former chairman of the Senate Small Business Committee.

It was early 1976 when the Booneville Chamber of Commerce went to work to find a better way to utilize State-owned land near this particular town. With the tireless help of Senator DALE BUMPERS, the necessary groundwork began, and this truly grassroots project was off and running. After consideration of all possible uses for this land, the overwhelming conclusion was that a research facility to benefit small farms would be the most valuable use. I so well remember this project. It seems so many years ago, as I was Governor at the time and did what I could at the State level to push this project forward.

Over the next couple of years working with Senator BUMPERS, with his help, vision, and foresight with the feasibility studies that he was responsible for when they were conducted, additional backing was gained. Certainly they showed that a research facility for small farmers in small farming operations was justified. Since it was State-owned and State-involved, Mr. President, support from the Governor

VOL 142 PT 5 MR 21 — 29 1996 UMI

was crucial. And when my successor, Governor Bill Clinton, entered office in 1979 he quickly recognized the merit of establishing a small farms research center. Approval from local organizations was also obtained, and the citizens of Booneville traveled to Washington, DC, to the Nation's Capital to follow through on their efforts. I remember so well those meetings. I also remember the leadership of Senator DALE BUMPERS—that much-needed fire that got these funds committed, and the project was then off the ground.

Finally, in 1980, Mr. President, with all of the planning, and all of the studies finally completed, about 15 acres of State-owned land was leased to the University of Arkansas, which in turn was leased to the Department of Agriculture to be used in research. All of this would not have been possible without the leadership and the vision—and certainly the commitment—of the Honorable DALE BUMPERS.

On behalf of the citizens of Booneville, AR, and throughout our entire State, on behalf of the farmers and the ranchers who have and will continue to benefit from the important research conducted there, let me at this time express the much-deserved appreciation for all of Senator BUMPERS' efforts in making a worthy project become reality. We hope that this small token of recognition will demonstrate our gratitude to Senator DALE BUMPERS.

Let me conclude, Mr. President, by stating that this idea to name this particular facility has been kicking around I must say for a long time. For a long time many members of the community of Booneville have thought that the appropriate name for this center would be the "Dale Bumpers Small Farms Research Center." We have leaders like Jeral Hampton, Rick Lippard, Gene Remy, Don Dunn, A.B. Littlefield, and John T. Hampton who served on a committee to steer this center from the blueprint stage to the active research stage that it finds itself in today.

It is a great opportunity, and I must say a great challenge that lies ahead to benefit not only small farmers in our State but small farmers in research across this great country of ours.

It is a great honor for me. It is great to be able to assist in the proper naming of this U.S. Department of Agriculture research center after our distinguished colleague and senior Senator from the State of Arkansas.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, I understand that under unanimous consent Senator BRYAN would be recognized.

Mr. BRYAN. Responding to the floor manager's inquiry, I will speak for less than 10 minutes, hopefully.

Mr. HARKIN. Parliamentary inquiry: This Senator would like to know what the speaking order is that is coming down the pike?

The PRESIDING OFFICER. Let us defer to the floor manager.

Mr. LUGAR. Mr. President, may I suggest to the Chair that it might be appropriate after Senator BRYAN is recognized that Senator JEFFORDS be recognized on our side, and then Senator HARKIN, if that would work out with the arrangement. We have attempted to alternate back and forth. But there was no Republican present when Mr. BRYAN appeared and, therefore, I recognized that he was the next speaker on that occasion. But after him, I would like to proceed to Senator JEFFORDS.

The PRESIDING OFFICER. I understand Senator BRYAN, Senator JEFFORDS, and Senator HARKIN, in that order.

The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair. I thank the majority floor manager for accommodating me and recognizing me in sequence.

Mr. President, I rise today in opposition to the conference report and to speak about an aspect of this farm bill that is particularly troubling to me and has been troubling to me for many years.

Again and again this Senate has passed provisions to reduce and to reform the Market Promotion Program which is also known as MPP. Each and every time the Senate has called for reform of MPP the conference committees which convened subsequent to the passage of those reforms have removed the reform language from the final conference report.

By way of background, Mr. President, the Market Promotion Program was created to encourage the development, maintenance, and expansion of exports of U.S. agricultural products. MPP is a successor to the Targeted Export Assistance Program [TEA] which was established in 1986. TEA was originally created to counter or offset the adverse effect of subsidies, import quotas, or other unfair trade practices of foreign competitors directed at U.S. agricultural exports. Since 1986, the Federal Government has spent $1.43 billion on TEA and MPP.

The General Accounting Office has pointed out that the entire Federal Government spends about $3.5 billion annually on export promotion. While agricultural products account for approximately 10 percent of total U.S. exports, the Department of Agriculture spends about $2.2 billion each year or 63 percent of that total. By contrast, the Department of Commerce spends $236 million annually on trade promotion.

MPP is operated through approximately 64 organizations that either run market promotion programs themselves or pass the funds along to individual companies to spend on their own advertising efforts. In fiscal year 1994, about 43 percent of all MPP activities involved generic promotions while 57 percent involved brand-name promotions.

In fiscal years 1986 through 1993, $92 million of MPP funds went to foreign companies.

Mr. President, when I talk about MPP funds, I am talking about tax dollars collected from American citizens who remit their taxes to the Federal Government each year. That $92 million represents nearly 20 percent of the total funds allocated for brand-name promotions during those 8 years. In fiscal year 1994, more than 140 foreign companies received MPP funds.

Although the stated goal of MPP is to benefit U.S. farmers, the program can also benefit foreign enterprises. By funding foreign firms, the General Accounting Office has contended that MPP can make it more difficult for U.S. firms to compete and to obtain a foothold in foreign markets. While it has been argued that the funding of foreign companies may produce short-term gains in the export of U.S. agricultural commodities, those gains are likely to come at the expense of U.S. firms gaining a more permanent foothold in overseas markets.

On September 20 of last year, the Senate voted 62 to 36 to reform the MPP Program and to lower the amount of Federal Government money supporting it. This amendment was cast in the form of the Bumpers-Bryan amendment and would have made three reforms to MPP.

First, under the provisions of the amendment, only small businesses and Capper-Volstead cooperatives would be eligible for financial assistance.

Second, no funds would be used to provide assistance to foreign trade associations.

Third, the funding level would be reduced to $70 million.

When the fiscal year 1996 agriculture appropriations conference report came back to the Senate on October 12 of last year, it was passed on a voice vote. The conference committee had removed the Senate language reforming MPP and restored its level of annual funding to $110 million.

Again we tried to reform MPP when the 7-year farm program authorization first came before the Senate last month. The Senate passed the Bryan-Kerry-Bumpers-Reid amendment by a vote of 59 to 37, and it contained the same provisions that were previously included in the Bumpers-Bryan amendment, the reforms as well as reducing funding to $70 million annually. Now the farm bill conference report has come back to the Senate and, again, repeating the pattern of the past MPP reforms that passed the Senate, have been removed.

Let me make specific reference, Mr. President, to language contained in the conference report itself that addresses this subject, and I quote:

> Funds shall not be used to provide direct assistance to any foreign for-profit corporation for the corporation's use in promoting foreign-produced products.

Now, at first blush, a superficial reading of the language might suggest that foreign companies would be excluded from receiving money through MPP, but this apparent reform is disingenuous. While the language adopted by the conference committee might prohibit direct assistance to foreign companies, it does not prohibit indirect assistance to foreign companies by nonprofit associations. And in what may be the ultimate irony, the conference report implies that a new reform is being enacted that would preclude payment to foreign corporations for foreign-produced products. MPP was never designed—and I repeat never designed—to compensate corporations for foreign-produced products. This claim of reform is illusory.

At a time when the gospel of budgetary restraint has reportedly been embraced by all, a majority of the agricultural conferees continue to pursue a taxpayer giveaway to foreign corporations.

Finally, this conference report adds a new and rather curious mandate. It officially changes the name of the Market Promotion Program to the Market Access Program [MAP] as it will now be designated. Is this reform? I would submit that if it looks like a duck, walks like a duck, quacks like a duck, swims like a duck, it is a duck. Whether it is called MPP or MAP, this program remains what it has always been, a frivolous use of taxpayer money and a prime example of a corporate welfare program that should be eliminated.

Mr. President, I yield the floor.

Mr. LUGAR. Mr. President, I yield 5 minutes to the distinguished Senator from Vermont, Senator JEFFORDS.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. First of all, I commend the chairman of the Committee on Agriculture, along with the ranking member, for the incredible work that they have put into this bill. I believe it is an excellent piece of legislation that provides stability, enhances markets, streamlines outdated programs, creates incentives to protect the environment, and benefits all farmers from all regions of the country. Having worked on several farm conferences in my period in the House, I know how difficult and how hard it is to come through with a consensus. Not only do you have to worry about all the farm interests but also you have to worry about all of those who are affected by farm policy. It is a tremendous piece of work which they have accomplished. I also thank the Members in the House with whom I worked for many years, for their support at the critical time on the conference committee. Without their help this could not have come about.

I am especially pleased that the conference reached a comprehensive dairy title that reflects the interests of all regions of the country. I was most keenly concerned about the Senate farm bill's inability to give our dairy farmers at least a fair deal. It was this concern that motivated me to vote against the bill for the first time in my 20 years in Congress.

Fortunately, through the help of our chairman and ranking member from my good State of Vermont, the conference committee, after hours of intense consideration produced a dairy title that provides stability for our farmers and true reform in the dairy program. The dairy title eliminates the 10-cent-per-hundredweight assessment paid by dairy producers, returning $150 million annually to dairy producers throughout the country at this difficult time for them. It reforms and consolidates the Federal milk marketing order system, consolidating the orders from 34 to between 10 and 14 will help bring more uniformity in prices throughout the country. It continues price support purchases from December 31, 1999, followed by a recourse loan program for butter, nonfat dry milk and cheese beginning on January 1, 2000, giving the industry the means to compete in world markets and enhancing the future of a strong, renewed dairy industry. Most significantly for the farmers of New England, the bill grants consent to the Northeast Interstate Dairy Compact.

Mr. President, in March of last year, I introduced the Northeast Interstate Dairy Compact along with the entire New England delegation. The dairy compact is intended to help give farmers and consumers fair and stable milk prices in New England. It will establish an interstate commission consisting of one delegation from each of the six New England States. The commission will have the authority to hold public hearings on the fluid class 1 milk market in New England.

The dairy compact originated in the Vermont legislature over 7 years ago. It has universal support among Vermonters and throughout New England and is critical to the maintenance of the region's dairy industry, if not its survival, offering both income stability and income enhancement. The compact has been overwhelmingly approved by the legislatures of all six New England States and simply needed the consent of Congress.

What the State legislatures offered was not at all a novel idea. The widespread support for and central importance of the dairy compact to New England has been throughly emphasized by the regions Governors, legislatures, consumers, farmers, and local processors.

The single most overwhelming fact about the economics of dairying in New England is that the price to the consumer continues to increase at the same time the price to the farmer continues to go down. In fact, current farm milk prices are, as low as they were over 10 years ago while the price to consumers is substantially higher.

The hard working dairy farmers of New England have seen federally set minimum prices return less money than it costs them to produce their milk. The result, during the 1980's, 40 percent of the New England farms ceased to operate. In my own State of Vermont, where agriculture is such an important part of our economy and way of life, nearly 50 percent of the farms have been lost in past 10 years.

The inclusion of the dairy compact in the conference report is a tribute to the hard-working dairy farmers of New England, who are such a vital part of the region's heritage. The compact ensures that family farms from St. Albans to Pawlet, to those in the Northeast Kingdom and all across New England will have the ability to survive and remain economically viable into the next century.

Mr. President, milk processing plants, feed and equipment dealerships, veterinarians, banks, and many others suffer when farms in their communities go out of business.

Not surprisingly, the dairy processors' lobby fought hard to prevent Congress from approving the compact. After all, they have benefited for a long time on both ends of their business from cheaper farm milk and higher consumer prices.

Several of my colleagues have heard from large milk processors in their States about how this compact could hurt the national dairy industry or the farmers in their own State.

Such claims are false. The compact would in no way prevent milk from coming into the region or affect the price of milk in any other region of the country. Despite the claims of the processors' lobby, the fact remains that the compact is very similar to existing State over-order programs currently in place. Like those programs, the compact would not conflict with or alter the Federal milk marketing order system, but only complement its operation. In short, New England States are working cooperatively as a region only to maintain a healthy dairy industry in New England, without adverse effect on the rest of the country.

The compact has been carefully crafted so that it will not affect the national dairy industry. Nonetheless, in order to address any concerns that the conference committee may of, had of, how the compact will work in practice several additions were included.

The compact limits the ability of other States to join; allows farmers outside New England who sell milk within the region to benefit from the compact; restricts the interstate commission to regulate class I milk only,

VOL 142 PT 5 MR 21 — 29 1996 UMI

and will terminate concurrent with the Secretary's implementation of the dairy pricing and Federal milk marketing order consolidation and reforms.

Mr. President, I am also pleased that this bill takes great strides at addressing conservation practices. USDA conservation programs have traditionally addressed the problems faced by producers growing row crops. The technical and financial assistance that livestock producers need have not been well addressed by our current set of conservation programs. This bill creates a new Environmental Quality Incentives Program to help farmers with conservation projects, creating new incentives for farmers to protect and enhance the use their land.

In addition, the bill includes a $35 million initiative to buy easements on farmland threatened by development and $50 million wildlife habitat program. These provisions, along with several others will help farmers from throughout the country deal with water quality, erosion and other conservation challenges.

Mr. President, the hard work and partnership with both the House and Senate has produced a comprehensive bill that reflects accountable reform, important market stability, and environmental responsibility.

I encourage my colleagues to support this important piece of legislation.

Mr. DOMENICI. Mr. President, I rise in support of the conference agreement on the farm bill.

This is the first major, fundamental change in Federal agriculture policy since the first farm programs were created in the 1930's.

Today an international market has developed for America's farm products and we need to provide the mechanisms that allow farmers to base decisions on market conditions and not on Government programs.

This conference agreement provides farmers with that mechanism through the Market Transition Program.

The Market Transition Program moves agriculture in a new direction which will give farmers the freedom to plant what they want, when they want.

The Market Transition Program also ends the production control programs of the Depression era.

Under our current system, farmers may be required to take land out of production which allows our foreign competitors to make up the difference in the world markets.

This conference agreement gives the farmer the flexibility to base business decisions on market conditions and not on Government programs.

Mr. President, this conference agreement allows the Department of Agriculture to spend $67.7 billion on commodity, trade, research, rural development, and conservation programs over the next 7 years as estimated from the December 1995 baseline.

CBO's preliminary estimates indicated that this conference agreement saves $2.1 billion over the next 7 years.

This conference agreement does not achieve the $4.6 billion in savings that was included in the Vetoed Balanced Budget Act of 1995. However, it does provide a down payment toward a balanced budget and is a step in the right direction.

Mr. President this bill also adds spending discipline to the commodity programs by including a spending cap. Spending for commodity programs through the Commodity Credit Corporation has varied widely from $600 million in 1975 to $26 billion in 1986.

The spending cap will limit unforseen spending increases which have frequently occurred in past years.

Mr. President, on a more parochial issue, the bill includes a provision regarding the New Mexico valencia peanut pool.

The Senate-passed bill included an amendment to clarify the original intent of the law. The House passed bill had no such provision.

Mr. President, as part of the 1985 farm bill, Congress created an exclusive pool for New Mexico valencia peanuts, and the provision was retained in the 1990 farm bill.

The original intent of the law is to allow only those valencia peanuts physically grown in New Mexico to enter the pools of the State.

However, peanut growers in my home State have notified me that valencia peanuts grown in Texas have entered the New Mexico pool because of a loophole in existing regulations.

It is my understanding that the USDA regulations allow a producer to enter valencia peanuts grown on a Texas farm if that producer has a combined New Mexico-Texas farm that is administered in New Mexico.

The compromise reached in this agreement clarifies that valencia peanuts must be physically produced in New Mexico in order to enter the New Mexico valencia peanut pool for 1996 and subsequent crop years.

The compromise also grandfathers those producers who entered valencia peanuts grown in Texas during the 1990 to 1995 crop years.

Producers may enter Texas grown valencia peanuts in the New Mexico pool, but the amount is limited to the 6-year average—1990 to 1995—that the producer entered into the pool during that period.

For example, producer "A" entered 10 tons of Texas grown valencia peanuts for each year during 1990 to 1995—a total of 60 tons for the 6 year period. Producer "A" would have a 6-year average of 10 tons.

Producer "A" will be able to enter up to 10 tons of Texas grown valencia peanuts per year into the New Mexico pool.

Producer "B" also has a combined New Mexico-Texas farm administered in New Mexico. But, producer "B" has no history of entering Texas grown valencia peanuts into the New Mexico pool during the 1990 to 1995 crop years.

Under this scenario, producer "B" would not be allowed to enter Texas-grown valencia peanuts into the New Mexico pool for future crop years. Producer "B" could, however, continue to participate in the New Mexico pool with peanuts physically grown in New Mexico.

Mr. President, this conference agreement also includes other provisions which are important to native Americans and the operations of the Commodity Supplemental Food Program.

I thank the distinguished chairman and ranking member of the Agriculture Committee for their review and consideration of this and other issues that I brought to the committee's attention.

I urge the adoption of the conference agreement.

Mr. BAUCUS. Mr. President, I rise today to express my support for the conference report to H.R. 2854, the Federal Agriculture Improvement and Reform Act—the farm bill.

Mr. President, this is a bill which has been too long in coming to the floor of the Senate. The authority contained in this bill expired on New Year's Eve. This debate began on the 1995 farm bill. And with the tardiness of our action this bill will barely be in time for the 1996 crop.

I will cast my vote in favor of adopting this report. I feel that it is essential that we get this legislation passed and to the President for his signature. It is time for our Nation's food producers to know what their program will be in the coming year.

It is my hope that by next week, this bill will be signed into law. The Secretary of Agriculture has recommended that the President sign it. And the President has indicated he will do so. So I am pleased that today we will pass this bill.

There are a number of important items which have been included. In my mind, the most important inclusion is retaining the 1949 Agricultural Act as underlying, permanent law. Mr. President, I am convinced that the 1949 act is the reason we have had this farm bill debate. And I expect that 7 years from now, it could very well be the reason we have a farm bill debate at the sunset of this bill.

This legislation contains a number of valuable conservation programs. In our part of the country, the Conservation Reserve Program, the CRP, is a major factor in wildlife habitat conservation, water quality enhancement, and soil conservation. We are continuing this valuable program. And we are authorizing a new Environmental Quality Incentive Program which will help producers of both crops and livestock to make management changes for the improvement of the natural resource on

which their future and their livelihood depends. This program will also provide for cooperative efforts with conservation organizations to enhance wildlife habitat. It's a win-win for States like Montana.

I am pleased that this is comprehensive legislation—it extends beyond the commodity programs. In addition to conservation, we have addressed credit, research, trade, rural development, and promotion activities. In the arena of trade we have authorized the important Market Access Program, the Export Promotion Program, and the Foreign Market Development Program. These programs are vital to our export activities.

Agriculture trade is a real bright spot in our total trade effort. Our agriculture exports last year were over $54 billion dollars. This year, we are expected to exceed that, reaching $60 billion. That will leave us a positive agriculture trade surplus of $30 billion.

The commodity program featured in this bill directs our farmers to obtain an ever-increasing percentage of their income from the marketplace. In today's world, that means American producers will need to be very competitive and expand their exports. And while our export programs are not funded at levels I would prefer, they will go a long ways toward our export goals.

The commodity programs will provide farmers the flexibility to plant crops which the market demands. No longer will the Government be making planting decisions. While that will be helpful to many farmers that flexibility will carry with it a need to develop and improve alternative crops to grow more successfully in arid climates like that in Montana. Only then will Montana farmers have true planting flexibility. The work at Agricultural Research Stations like the one in Sidney, MT will be an important part of this equation.

In this year, with good prices and sizeable payments it should be a pretty good year for our Montana producers. I hope that the prices we are now experiencing can be maintained. If so, this program should work well for the entire 7 years it is authorized. However, we need to take advantage of the strong price cycle we are in to reform the crop insurance program so it is a more functional system of risk management. If we fail to accomplish this task we could be in for tough times in the late years of the bill.

There are other problems I see in this bill. I am disappointed that this will end the Emergency Livestock Feed Program. And I would like to see the loan rate caps removed. I would also prefer that the research title was authorized for the entire 7 years. This forces a research title to be authorized next year or to risk authorization by appropriation in our important research program. Some might find these to be small concerns, however, to my State they are important.

Before I close Mr. President, I want the record to reflect my appreciation for the work of our Senate conferees on this issue. They had a difficult task and I would like to thank them because this bill is far preferable to the bill brought to conference by our colleagues across the Hill. So I would thank the conferees, especially the chairman and the ranking member for their efforts in getting this accomplished.

And with that Mr. President, I urge my colleagues to approve this conference report and I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, I am pleased that the Senate has finally reached closure on the farm bill.

Bringing the farm bill to this final stage in the legislative process has not been an easy task. As we approach the end of this debate, I am reminded of the words of Thomas Jefferson, who once said "Were we directed from Washington when to sow and when to reap, we should soon want bread."

While we are far from wanting bread in America, Jefferson's words sound almost as if they had been said by a farmer only 2 hours ago, instead of two centuries ago. Farmers today, like farmers in Jefferson's time, want to get their profits from the market, with as little Government interference as possible.

The new approach to farm programs embodied in this bill, known as the Market Transition Act, or freedom to farm, finds its roots in these views. The new commodity programs are designed on the belief that it is important to reduce Government interference with planting decisions. These new programs have been fashioned to provide farmers with the simplicity, flexibility, and certainty that they seek.

I have great reservations about some aspects of this new approach, however. Farmers still need a system in place to help moderate risk, and provide a financial safety net. In this regard, the Market Transition Act falls profoundly short. And that is a very serious flaw we must revisit as quickly as possible.

Perhaps these problems would have been resolved had the farm bill been handled by this Congress as farm bills have been handed in the past. For over 40 years, farm bills were considered early, and passed on time. Farm programs, which are so very important to rural America, and which can have far-reaching effects, were rigorously debated and reviewed well in advance of their expiration date. While the results may not have been perfect, previously Congresses gave farm bills the time and attention they deserved.

But, I am not running the Senate. And the hour is late. There is a time to debate, and a time to act. Planting season is upon us. We must move beyond politics, and move ahead. Farmers need a farm bill in place—now.

The Market Transition Act may need to be revisited. But it is time to enact a law. My vote for the 1996 farm bill was a vote to end debate, pass a farm bill, and provide farmers with the certainty they need for this crop year.

There are good things about this farm bill. The bill is strong in the areas of conservation, environment, rural development, and research. The Conservation Reserve Program is maintained at 34.6 million acres. The Environmental Quality Incentives Program is authorized at $200 million per year to help livestock and crop farmers control pollution and erosion. The Fund for Rural America, a program I support, was created to provide $300 million for rural development and research initiatives. The Market Promotion Program, now known as the Market Access Program, survived and is authorized at $90 million to promote U.S. agriculture exports overseas. And permanent law is retained, lessening the danger that in 7 years, Federal support for agriculture will end.

I am particularly pleased this bill includes my proposal to increase the marketing loan rate for oilseeds. For soybeans, a major Illinois commodity, the marketing loan rate will be set at 85 percent of the Olympic 5-year average, but no less than $4.92 or no more than $5.26 per bushel. Allowing the soybean loan rate to rise by 5 percent if prices increase helps to treat soybeans equitably with other crops, allows soybeans to compete more effectively for acreage, and provides some protection for small producers against increased volatility in production and prices that may result from full planting flexibility.

With other aspects of this bill, however, I have serious concerns.

I am greatly disturbed by the decision of the conferees to include the Northeast interstate dairy compact. These provisions were soundly rejected by the Senate, not considered by the House, and, therefore, without question, should never have been included in this conference report. I intend to work with my Midwestern colleagues in the Senate to ensure that the U.S. Department of Agriculture never implements this compact, which would set dangerous constitutional precedent and have a serious impact on both dairy farmers and dairy companies in Illinois.

I am also concerned that food stamps have been reauthorized for only 2 years. Roughly 27 million Americans are served by food stamps, 1.2 million of whom are Illinoisans, and over half of whom are children. Food stamps are about providing the nutrition necessary to ensure that mothers and babies remain healthy, students remain alert, and the unemployed make it through tough times. It is poor policy

VOL 142 PT 5 MR 21 — 29 1996 UMI

for Congress to play political games with programs designed to support the health of children, working families, and the elderly.

Many of the improvements in this bill would not have been possible without the leadership of the distinguished Democratic leader, Senator DASCHLE. While he will vote no on this bill, he has worked to make this a better bill, and I commend his leadership on agriculture issues which are so very important to his State.

I would also like to thank the distinguished majority leader, Senator DOLE, and Senators LUGAR, LEAHY, GRASSLEY, and COCHRAN for their work on this bill, and for their assistance and support for programs important to the State of Illinois.

Mr. President, agriculture programs must change with the times. The economic practices and social trends in rural America are vastly different than in decades past. These changes aren't just important to farmers and rural communities. They are not just about dry statistics buried in some obscure report. They are about issues that are critically important to everyday people.

That is why changes to farm programs must be made judiciously. Major changes to Federal farm policies must receive careful attention before they are made, so that inadvertent mistakes that could be very harmful to farmers are avoided.

We can do far better than this bill. But doing nothing—having no bill—is not an option, and that is why I will vote in favor of the 1996 farm bill.

Mr. WELLSTONE. Mr. President, I am pleased that we finally have a farm bill which will pass and will be signed by the President. The bill is long overdue. Farmers should not have to wait any longer for certainty regarding the programs they will operate under.

I regret that the bill has taken so long. The process itself has contributed to a poor outcome for American agriculture and for rural American communities. There are some positive sections of the bill—conservation, nutrition, and needed funding for rural development. But the commodity provisions take us exactly in the wrong direction. The bill decouples Government support from production and from market prices. It caps loan rates at low levels. And it directs the majority of taxpayer payments to the largest, most affluent farms to the same degree as the status-quo programs which operate so unfairly now.

It would be more appropriate to refer to this legislation as the "corporate agribusiness bill" than as a farm bill. After a few short years, American farmers will be left to the tender mercies of a global marketplace that is dominated by corporate conglomerates and trading boards.

We might have produced a better farm bill if our debate over it had been more timely and deliberate. The effort to include an entire 7-year bill in last year's budget reconciliation bill, with little debate and practically no input from Democrats, followed by the now-successful push to pass a plan that was not subjected to extensive hearings or substantial input from rural America has produced a bad bill. Better proposals were offered in both the House and the Senate, including a reform bill introduced here last year by Senate Minority Leader DASCHLE, which I was proud to cosponsor. But those proposals were never given real consideration.

This bill is as deeply flawed now as when I voted against its original Senate version. It was not improved by the conference committee. It does not represent good farm policy and will not likely promote economic revitalization in rural America. I will vote against it now, and it is my hope that as this bill's flaws become even more apparent in its implementation, the result will be its reconsideration by the next Congress so that more genuinely progressive reform of Federal farm policy can be enacted.

Some people, including some Minnesotans, believe that the so-called freedom-to-farm approach to farm policy is the best way forward for American agriculture. I profoundly disagree with that judgment. I believe it is designed to benefit large corporate agribusiness and will actually harm most family farmers. It will likely increase current trends toward economic concentration in agriculture, to the disadvantage of small and moderate-sized farm operations.

I have consistently favored long-term Federal farm policy that would promote family agriculture and revitalize our rural economy. That is not what freedom-to-farm represents. It is such bad policy that it will discredit farm programs forever. The public will not support farm programs that write checks to farmers when prices are high, and no matter what, or even whether anything, is planted.

During initial consideration, Senator DORGAN offered an amendment which I supported, which would have required that farmers plant a crop in order to receive the guaranteed Government payment. That was voted down. I don't think this is the kind of policy that reaches out to the general public for support at a time when we are looking at slashing the budgets for health care and education programs.

Freedom-to-farm represents a dubious carrot followed by a very real stick. What is the short-term carrot? The carrot is so-called "contract" payments, or "transition" payments on the way to the elimination of farm programs. Farmers who have some debt, or who have had a poor crop in the past couple of years, or who did not get good prices last year, would like a Government payment this year on top of decent prices. There is no question about that.

I understand why some people consider that promise attractive. They believe that a promise of 7 years of payments is the best they will get from this Congress. But the contracts cannot be guaranteed. Congress can do another budget bill at any time and reduce or eliminate the payments. The entire purpose of freedom-to-farm is to reduce farm-program spending, then eliminate it. Even current policy, which I have never supported, offers farmers more protection over seven years than freedom-to-farm.

What is the medium-term and the long-term stick? Prices will not stay where they are likely to be this year. Freedom-to-farm caps loan rates at 1995 levels. As the so-called guaranteed payments diminish, and then when they run out, how many Minnesota farmers can make a living off of $1.89-a-bushel corn, or $2.58-a-bushel wheat? Is that the future we want to leave our young farmers?

That is the reality of freedom-to-farm. It ultimately leaves farmers to the tender mercies of the grain companies and the railroads and the Chicago Board of Trade—$1.89 corn is what freedom-to-farm is about. Maybe not this year. But who believes that prices will always be strong? I voted for an amendment to lift the caps off the loan rates. That amendment failed. If farm policy were designed to deliver farmers a fair price in the marketplace, there would be no need for any Government payments. But this bill is designed to encourage maximum production and low prices.

I have supported what I consider to be genuine reform of farm programs. I cosponsored a 7-year proposal last year which called for a targeted marketing-loan approach. That plan would provide farmers the planting flexibility they need. But it also would provide needed long-term protection from some of the uncertainties that farmers face—uncertainties of weather, and of markets that are dominated by large multinational companies. It also would raise loan rates and target farm-program benefits to family-size farmers. I still believe that our proposal, modeled after the Farmers Union plan and endorsed by the Minnesota corn growers, was the best proposal. Perhaps the debate over agriculture policy in the United States will be resumed next year. I intend to see that it is.

Mr. President, I have been working since I arrived to the Senate 5 years ago to achieve an improvement in Federal dairy policy and meaningful reform of the Federal milk marketing orders. This bill does not achieve that goal. Some small improvements in dairy policy were included in the conference committee, notably the elimination of assessments. But not nearly enough. And the bill now will allow

creation of a Northeast dairy compact, despite our overwhelming vote here during initial consideration of the farm bill against that outcome, and despite the fact that the compact was not in either the House or Senate version of the bill. The Northeast compact would only further forestall real Federal order reform. It would cut a special deal for one region's dairy farmers to the detriment of dairy farmers in the Upper Midwest. And it would set a bad precedent for interstate commerce in milk by creating new regional barriers. We need good national dairy policy. And I will continue to resist establishment of a Northeast compact in the absence of substantial reform which will benefit the Midwest. Minnesota and Wisconsin are the best natural dairy-producing states in the country. It is not rational that Federal policy should drive thousands of Minnesota producers from business.

Mr. President, I am pleased that we finally have authorized the enrollment of new acres into the successful and popular Conservation Reserve Program [CRP]. I worked very hard on that. And I am pleased that we could include some additional conservation, rural development and nutrition provisions. It is very important that we ensure that rural development efforts include assistance for farmer-owned, value-added processing cooperatives, which represent an extremely hopeful development in rural America. They are the best of rural America's innovative, self-help tradition, which keeps capital and jobs in local communities.

SAFE MEAT AND POULTRY INSPECTION PANEL

Mr. BRADLEY. Mr. President, I am very concerned about the inclusion in the farm bill conference report of language establishing a Safe Meat and Poultry Inspection Panel. This seemingly innocent-sounding organization may actually be a device to delay needed food safety reforms, and give power over crucial safety decisions to a part-time, administratively unworkable group. Under the terms of the conference report, it would be superimposed over the Food Safety and Inspection Service as one more, unaccountable layer of government.

Authorization for this new panel was contained in neither version of the farm bill, and it was not subjected to hearings in either body. It was slipped into the report at the last minute and has had no public or press scrutiny. Not only would it duplicate existing bodies such as the National Advisory Committee on Microbiological Criteria for Foods, the panel would also be exempt from the Federal Advisory Committee Act and its open-government requirements. Even worse, should it be used to delay or restrict needed safety reforms, the result will be disastrous, not just for consumers but also for the industry itself.

At a time when Britain may be compelled to kill its entire cattle herd because of mad cow disease, the meat industry cannot afford any more actions which will diminish public confidence in our food supply.

I am especially concerned that the new panel would delay issuance of the final version of the proposed pathogen reduction; Hazard Analysis and Critical Control Point System [HACCP] rule. This set of regulations, more commonly known as the E. coli rule, is crucial for controlling this deadly organism and modernizing American meat inspection.

Mr. President, a year ago last March I introduced the Family Food Protection Act which built on these regulations and extended them even further. I was moved by the death of Katie O'Connell, a beautiful, happy 2-year-old girl from my home State of New Jersey who died from eating a hamburger at a fast food restaurant. Although her meal was contaminated with the deadly pathogen called E. coli, the meat that Katie ate had been declared safe by inspectors from the U.S. Department of Agriculture.

Katie died from a disease that should have been detected through our Federal meat inspection system. Katie is no longer alive because that system failed her and her family and has failed thousands of others across the country.

Diseases caused by foodborne illness often strike those most vulnerable in our society: our children. Two summers ago, health officials in New Jersey battled another outbreak of the disease that killed Katie O'Connell. One family, the McCormicks of Newton, NJ, had two of their children (ages 2 and 3) hospitalized. Their lives were in danger because they, too, ate meat that was declared safe by Federal inspectors in the Department of Agriculture.

These cases are far from isolated: the Centers for Disease Control estimates that over 9,000 people die and another 6.5 million get sick from food borne illnesses each year.

The USDA regulations proposed a year ago February would require a daily testing for salmonella at meat and poultry processing plants across America. Additionally, each of the Nation's 6,000 slaughterhouses and processing plants would have to develop operating plans designed to minimize possible sources of contamination—in other words, to design systems to avoid contamination in advance instead of fighting it after it breaks out.

This proposal represents a significant improvement over the current system which has remained in place remarkably unchanged for over 90 years—since the reforms put in place in the wake of Upton Sinclair's wrenching expose, "The Jungle."

Ironically, a cost-benefit analysis was done on the proposed rule. Even though it used a very conservative figure for the value of human life, the ratio was still extremely favorable. According to the analysis, while the rule would cost $250 million per year initially, falling to $220 million a year once it was fully implemented, the benefits were at least $1 billion per year. If a more generous value were used for human life, the cost-benefit ratio was, of course, even more positive.

And $220 million would be the cost to consumers only if every penny of the system's costs were passed along—just two-tenths of a cent per pound. That's right. Two-tenths of a cent per pound. So a consumer would have to buy 5 pounds of hamburger before incurring even a penny of cost. Contrast this with the cost to consumers of $1 billion to $3.7 billion per year attributable to lost wages and medical costs that otherwise would occur without the rule. Surely, the typical American would be more than willing to pay this modest price to avoid sickness or even death to a loved one.

I don't want any more children to die. According to the USDA, the summer months are the prime time for food borne diseases. I question the need to reinvent the wheel at this time.

Unfortunately, these proposed regulations have been the subject of countless hearings, roundtable meetings with industry and consumer groups, and on and on. At one point the industry even claimed that the E. coli organism was not technically an adulterant under our food safety laws in an attempt to deny the agency the ability to regulate. This new panel is yet another attempt to delay.

Do we really need to waste years, lives, and money redoing old analyses and creating new ones in an effort to stall or even defeat these regulations?

Mr. President, I am concerned that these regulations are already a target of members in the other body who would try to delay them further through appropriations riders and other techniques. Instead of delay, I urge my colleagues to stop interfering with these regulations. They are exactly the kinds of regulations we claim to want. They are cost-effective, deal with a serious problem, and have been subjected to close scrutiny by a wide variety of interests. We should not misuse the farm bill to thwart these important regulations.

Mr. FEINGOLD. Mr. President, my colleagues have been speaking today about their frustrations with the 1996 farm bill. I share those frustrations as well as dismay about the process in which this body has been engaged.

In early February we considered this legislation on the Senate floor. The specific commodity program provisions of that bill were never once the subject of a Senate Agriculture Committee markup, and in fact, were not even the subject of a single hearing in that committee. That the commodity provisions represented a drastic change from both

VOL
142
PT
5
MR
21
—
29
1996
UMI

the philosophy and mechanics of current policy appeared irrelevant to the sponsors of this bill.

The process for consideration of this bill was flawed in numerous ways. For example: The text of the underlying bill considered on the floor was written in the backroom, separate even from the eyes and ears of members, of many members of the Agriculture Committee; Almost immediately after the bill was introduced, the majority leader filed cloture to limit debate on the measure before debate had even begun; This bill was considered on the floor with just 10 hours for members to offer and debate amendments prior to final passage; Farmers, the public, and even Senators were not given an adequate opportunity to review this bill before it passed on the floor of the Senate.

Contrast that to consideration of the 1990 farm bill in which each title of the bill was considered separately by the Agriculture Committee during extensive public markup sessions. Consideration of the 1990 farm bill, reported on June 21, 1990, gave Senators nearly a month to study the bill and another 7 days of floor consideration before final passage. Senators were free to iron out their differences with the managers and were provided time for full and open debate with adequate opportunity to offer amendments to the bill.

The 1985 and 1981 farm bills provided similar opportunities for review and debate. Senators had roughly 2 months to review the 1985 farm bill after it was reported and had 12 days of active floor debate. Following the filing of the committee report on the 1981 farm bill, Senators were provided with over 3 months to study and review the bill before its passage in September after 5 days of floor debate.

It is no wonder that the general public is frustrated with Congress. Based on this farm bill process they have every right to be. The conference agreement on which we are to vote in just a few hours was printed in the RECORD just 2 days ago. I ask how many of my colleagues have had an opportunity to read this bill? There are numerous provisions in this bill that were in neither the House nor the Senate bill. The implications of these provisions have not been fully explored.

I wonder if Senators are aware that this bill gives broad authority to the Secretary of Agriculture to propose and implement commodity promotion programs without an initial congressional authorization. In fact, producers of any commodity could be assessed a mandatory tax under this proposal for a period of 3 years before they ever get a chance to vote on the promotion program they have been forced to pay into. This bill contains no protections for consumers in the event that agricultural processors wish to establish mandatory promotion programs and pass those costs directly on to consumers.

Are Senators aware that section 501 of this bill attempts to rewrite 30 years of legislative history with respect to commodity promotion programs in an effort to combat Federal court challenges to these programs? Mr. President, that language was in neither the House nor the Senate bill and has not been the subject of hearings or debate in either Chamber of Congress. I want to make clear that the legislative findings in section 501 of this bill are not indicative of the views of more than a handful of farm bill conferees. Many of these findings, in fact, do not even make sense unless one is aware of the efforts of dissenting farmers to reform programs or are familiar with the first amendment challenges to these programs. Indeed Mr. President, this bill contains some very creative language intended to rewrite an already well-established history as to the purpose and intent of these programs.

I think this has been a shameful process, Mr. President, irresponsible to farmers, consumers and taxpayers, and completely inconsistent with our responsibilities to carry out a deliberative legislative process.

It seems the Congress can't even decide what this farm bill is about. Since its inception, the name of this farm bill has changed 3 times. First we were told this bill was the freedom to farm bill. Then it became the Agricultural Market Transition Act—a name which perhaps most accurately described the motivation of the sponsors of this legislation: to transition farmers away from the basic safety net provided by existing programs. Now, Mr. President, it is called the Federal Agricultural Improvement and Reform Act, or FAIR. That name creates a catchy, if not superficial, acronym, but is about as inaccurate a name as could be found. It presumes this bill represents both reform and improvement of existing programs. In my opinion, this bill does neither.

Even the catchy acronym is a misnomer. To whom is this bill fair? I don't see any fundamental fairness in this bill.

Is it fair to the average farmer to be given an ultimatum on the very programs that help manage the vagaries of farming caused by factors beyond his control? Because that is what many farmers in Wisconsin felt they were given. They were told that Congress was going to eliminate farm programs in any case, so they had better grab the money in these transition payments while they can.

However, when some of these farmers argue in favor of the bill, they really appear to be arguing for the maintenance of the safety net, not in favor of termination of these programs and the so-called transition payments. They argue that farm programs are critical in allowing family farmers to secure credit. They argue that farm programs provide them with the security to adopt forward-looking business plans. They argue that without farm programs, the attrition rate in farming will only increase while younger people will be unable to enter farming. I have not heard substantive arguments in favor of eliminating the basic safety net for farmers and replacing it with guaranteed but declining payments that aren't tied to market prices.

Is it fair to small farmers who rely more on the existence of farm programs for their survival than larger corporate farms, that this declining pot of money is not targeted more toward their needs? This bill bases a farmers' payment on what he received in the past. Large farmers continue to get large payments under this bill. How does that help small farmers transition away from their reliance on Federal programs? The answer is, it doesn't, Mr. President.

This bill could have provided a tremendous opportunity to reform farm programs by targeting limited Government funds to smaller farmers. While this bill takes some steps to reduce corporate welfare, Congress could have made far greater reductions in the payment limitations. Instead the bill makes a slight reduction in the maximum deficiency payments one can receive but fails to eliminate loopholes that allow large farmers to get twice that amount. Eliminating loopholes and reducing payment limitations would have likely achieved greater Federal savings in commodity programs than the commodity titles in the so-called FAIR Act without hurting America's family farms. Instead, this bill depletes the small pot of money for farmers by providing transition payments in the same proportions as they are now provided. That doesn't sound very fair to me.

Is this bill fair to taxpayers who will now be asked to provide annual checks to farmers even when market prices are good? The fact is that these market transition payments cannot be justified on sound fiscal grounds. While this bill may save money over 7 years, based on CBO projections, it results in far greater costs in the next 2 years for commodity program payments compared to current law. That is because we don't make unnecessary payments under the current farm bill. Government costs are low when market prices are high. Existing programs make payments to farmers only when market conditions are poor and farm income is depressed. But market conditions are expected to be favorable in the next few years. Even so, the FAIR Act doles out the money to producers even if they are making a profit through the marketplace. This bill is fiscally irresponsible and fundamentally unfair to taxpayers. USDA reports that, based on their estimates, taxpayers will pay out $25 billion more to farmers under this bill than under current law. Every taxpayer should ask why they should pay farmers when market prices are high.

Is this bill fair to consumers when the most costly programs from their perspective, such as the sugar and peanut programs, are left fundamentally untouched? Is it fair that the program which has very little effect on consumer prices, the dairy price support program, is the program eliminated in the name of consumer protection? Is it fair to consumers that this bill virtually ignores the aspects of Federal milk marketing orders that do have a substantial impact on consumers—that is the federally established prices for fluid milk that are excessive in many parts of this country? No, Mr. President. This bill is not fair to consumers, particularly on dairy policy. It is a fraud from the standpoint of consumer protection, making only token changes in the programs that most offend the pocketbook.

In my opinion this bill should be called the unfair act of 1996 because it is most unjust to dairy farmers in the upper Midwest. Fundamentally, this bill includes major provisions strongly opposed by the upper Midwest dairy industry. This bill provides congressional consent to the Northeast Dairy Compact and includes much of the House-passed Solomon amendment which the upper Midwest had opposed.

The provisions of the House-passed dairy amendment were improved somewhat in the conference committee but are still devastating to America's family dairy farmers. The House passed amendment reduced dairy farmer income by $4 billion over the next 7 years by eliminating the price support program for milk. The conference agreement is expected to cause only slightly less pain because the support level is not reduced as much prior to program termination. However, the conference agreement eliminates the price support program in 1999 rather than 2000 as provided by the House bill.

It is ironic the dairy price support program is eliminated in this bill given that it was the lowest cost of all commodity programs in fiscal year 1995, except for no-net cost programs such as sugar and tobacco. The program cost less than $4 million in fiscal year 1995 according to USDA. Interestingly, the no-net cost programs all operate under strict supply control mechanisms in order to extract the support price from consumers through higher market prices. The dairy price support program does not rely on supply control and has had little impact on consumer prices unlike the sugar and peanut programs.

And yet, the dairy price support program is the only commodity program actually terminated in this legislation and dairy farmers the only producers not provided with transition payments. Not only do producers of other commodities continue to benefit from their underlying programs maintained in this bill, but they also receive sizable transition payments annually.

As a result, most observers expect dairy farmers to suffer from a larger decrease in family farm income than producers of any other commodity affected by this bill. Producers of some other commodities will actually enjoy income increases out of this so-called reform bill, at least in the next 2 years. But dairy farmers are asked to suffer.

Mr. President, I am baffled as to the reason why this was agreed to in this conference report. The dairy price support program has made great strides toward market orientation and operates truly as a safety net. While the conference agreement authorizes a processor recourse loan program for dairy after price supports are terminated, such a program can merely act as a price stabilizer, not as a price support mechanism.

I am extremely concerned about the impact of terminating the price support program. Wisconsin loses over 1,000 dairy farmers annually. I am fearful that without a basic safety net, that rate will increase in the coming years, particularly if the inequities of the Federal milk marketing order system are not eliminated.

I have spoken often on the floor and to the Agriculture Committee about the need to reform Federal orders to eliminate market distortions, regional inequities, and consumer-related costs caused by excessive class I differentials. Even Secretary of Agriculture Dan Glickman has conceded that Federal orders have created regional inequities and that upper Midwest producers have suffered as a result. I had hoped the farm bill process would ultimately provide for those much needed changes.

I am concerned, however, that this bill does not ensure that such discriminatory features will be eliminated. The House bill provided exceptionally limited reform of the Federal milk marketing order system, which is among the most outrageous commodity programs in existence.

Unfortunately the minimal reforms in the House bill were made only slightly stronger by the conferees. The agreement requires the Secretary to reduce the existing number of orders to between 10 and 14. That is certainly a step in the right direction. However, consolidation alone does not guarantee a fundamental restructuring of class I prices nor does it ensure that Eau Claire, WI will no longer be used as the basing point for pricing milk. These should have been simple assurances to provide if the conferees were sincere in their reform efforts as some claim.

The conference agreement appears to release the Secretary from compliance with statutorily required class I differentials in the reform process, but provides no further guidance on what factors the Secretary is to consider in these deliberations. All too often, those factors are political, not economic, and they do not work in our favor. There is absolutely nothing in this bill to ensure that class I differentials will be reformed or substantially altered from their current levels. In fact, the report language appears to specifically allow for an outcome in which reformed differentials are virtually the same as the current excessive statutory minimums. I will work to ensure that does not happen.

I think, however, that the greatest blow to the upper Midwest is the inclusion of the Northeast Interstate Dairy Compact in the conference agreement. The compact was not only defeated in the Senate, it was also excluded from the House bill. Its emergence in the final conference agreement is outrageous and unconscionable. While many might contend that the conference agreement provides a scaled back version of the compact, I am still concerned about its ultimate approval, its precedent, and its potential impact.

The conference agreement gives congressional consent to the compact subject to the Agriculture Secretary's determination that it serves a compelling public interest in the Northeast. I have a number of concerns with this. First, while this may put some members at ease, I caution those who think the Secretary of Agriculture will be more resilient against the political forces that came to bear upon the entire U.S. Congress and which resulted in the inclusion of this language. Second, a finding of a compelling public interest in the compact region is not an appropriate test for approval of this compact. The U.S. Constitution requires Congress to approve interstate compacts in order to protect the national interest. We can assume that the States agreeing to the compact have already determined that this is in their States' overall public interest. That test should be irrelevant. Rather, Congress should be able to ensure that the compact serves a compelling national public interest. I think the Northeast Dairy Compact would fail that test. Third, I think it is quite cowardly for the Congress to abdicate its role in the approval of this very controversial compact by making the Secretary do the dirty work. Authority for compact approval resides in the legislative branch, not the executive branch. This is a congressional responsibility, and this bill shirks it.

That the term of congressional consent for the compact is tied to the implementation of consolidated Federal orders, is somewhat of an improvement over a compact of indefinite term. I would provide two caveats to those who think this provides protection to dairy producers elsewhere, and in particular in the upper Midwest. First,

VOL
142
PT
5
MR
21
—
29
1996
UMI

once consent is provided, it will be easier to reinstate after expiration. Second, the compact could remain in place much longer than the 3-year deadline for implementation of order consolidation. Consolidation can be delayed if the Secretary is enjoined by a court order from implementing order changes, thus providing continuing consent for the compact.

The conference agreement attempts to provide safeguards to prevent the compact from interfering in interstate commerce by keeping noncompact milk outside of its borders. However, the compact commission will still be able to require that anyone buying milk from outside the compact region pay the compact over-order price. That provision, coupled with transportation costs, is still an extremely effective barrier to trade.

I urge my colleagues to keep in mind that the fight over the compact was not just about the regional walls it erected. It was also about the impacts the compact would have on national markets for milk and dairy products. And, Mr. President, the dairy compact will have impacts outside its region. Increasing prices in the compact States, particularly to the levels anticipated by those farmers, will cause increased production. That production will likely spill over from fluid markets into manufactured product markets. That will ultimately impact the base price that all farmers receive for their milk, since prices nationwide are linked to prices for manufactured dairy products. In fact, the conference agreement neglected to include language contained in Senate Joint Resolution 28, ensuring that such production responses would not impact the national market.

Furthermore, the conference agreement will allow the compact States to provide their processors with export subsidies so that they can export their high cost product to other parts of the United States that are playing by the rules. This is the type of subsidy we are asking other countries to eliminate through our trade agreements, yet we are creating our own domestic export subsidies through this compact.

The Senate made clear by voting down the compact during consideration of the farm bill that this type of price fixing compact is not acceptable. And yet here we are again, fighting the Northeast Dairy compact. Having won this issue in the Senate we will now be forced to fight this administratively as well. And if it is approved administratively, we will have to fight when the Northeast comes back to Congress seeking renewal of this consent. And finally, we will fight this battle as other regions come to Congress looking for approval of similar price fixing agreements for dairy farmers in their regions.

Mr. President, I ask unanimous consent that an editorial from the New York Times regarding the compact be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 23, 1996]

MILK SOURS THE FARM BILL

A House-Senate conference committee has managed to tarnish the most important farm bill in years by inserting a last-minute provision for a New England milk cartel that would gouge consumers and violate the free-market concept that has made the 1996 farm bill worthwhile. The full House and Senate need to excise this noxious favor to the New England dairy lobby before approving the bill in voting set for next week.

The dairy interests achieved their victory in the conference committee after failing to persuade either chamber to enact such a proposal earlier. The conferees accepted the bill's major reform, a seven-year phaseout of subsidies for corn, wheat, rice and cotton. That could save billions eventually and release farmers to make their own marketing decisions free of government supervision. But the conferees adopted a weak Senate provision that would reinstate the subsidies after 2002 unless Congress again votes them out.

The conference committee also weakened the Government's ability to preserve wetlands, something neither house had done on its own. The committee wants to restrict the Agriculture Department's valuable program to prevent diversion of fishing streams that run through Federal land.

There were some environmental gains. At least $200 million was approved to buy and restore major stretches of the Florida Everglades. A program to encourage farmers not to develop environmentally fragile land was renewed, as were food stamp and nutrition programs. A program to help farmers keep their animal waste and other pollutants from running off into waterways was adopted.

But the regional milk monopoly is the very opposite of the kind of reform this bill was meant to provide. The bill would authorize the Secretary of Agriculture to permit the six New England states to set high prices and erect tariff hurdles against outside competition. That is totally alien to the central idea of agriculture reform, which is to set loose the forces of free-market competition.

How could such a backlash occur? The agriculture committees of both Senate and House are dominated by farm and dairy interests. By appointing conferees from this limited group, Congressional leadership vests tremendous power with the members least responsive to the current popular concern over the environment and over consumer prices. The full Senate and House can do better.

Mr. FEINGOLD. Mr. President, at the beginning of the 104th Congress I thought it inconceivable, given the deregulatory and market-oriented rhetoric of some of our Senate leaders, that the Northeast Dairy Compact would be granted approval. It is the antithesis of market orientation. It seeks to protect agricultural producers in one particular region by imposing artificially high costs on consumers.

In fact, this compact flies in the face of the rhetoric associated with this very farm bill. I've heard so many Senators claim this bill allows farmers to make decisions based on the market, not on Government payments. But the compact attempts to insulate a small group of farmers from the very market conditions this bill embraces so tightly.

Mr. President, I am opposing this farm bill for the many reasons I have outlined today. And I know this bill will pass. I intend to fight hard for the upper Midwest as both the Northeast compact and Federal order measures proceed through the administrative process. I will work with Secretary Glickman to ensure that meaningful reform of Federal milk marketing orders is implemented in a timely manner.

And if, as the minority leader has suggested, this is a 1 year farm bill, I will be back on this floor trying to improve dairy farmer income which is so badly slashed in this bill.

I yield the floor.

Mr. CHAFEE. Mr. President, on March 15, 1996, I wrote to Chairman LUGAR to express my concerns about the potential undermining of wetlands conservation provisions in the farm bill. Proposals to exempt a vast number of wetlands from the Swampbuster Program and changes to the definition of "agricultural land" for purposes of wetlands delineations were among the specific concerns raised in my letter. I am pleased to report that Chairman LUGAR has responded to these concerns. A letter written by Chairman LUGAR upon the completion of the conference states:

> The bill makes no changes to the existing definition of a wetland, and does not exempt any lands based solely on cropping history or size. Although the report does define "agricultural lands" for the purpose of implementation of the interagency memorandum of agreement on wetlands delineations, it does not amend Section 404 of the Clean Water Act or require any changes to the 1987 Army Corps of Engineers wetlands delineation manual.

Mr. President, I ask unanimous consent that a copy of this letter dated March 23, 1996, be printed in the RECORD following this colloquy. I congratulate Chairman LUGAR and ranking member LEAHY for their efforts in crafting a sound conservation title that will benefit the environment and the economy well into the next century.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LUGAR. I want to thank the Senator from Rhode Island for his kind words. As I mentioned in the letter, I believe that this conference report is the most environmentally responsive and responsible farm legislation in our Nation's history. As chairman of the Environment and Public Works Committee, which has jurisdiction over the Clean Water Act and the Federal Wetlands Program, Senator CHAFEE's support means a great deal to me.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, DC, March 23, 1996.

Hon. JOHN H. CHAFEE,
Chairman, Senate Committee on Environment and Public Works, Dirksen 410, Washington, DC.

DEAR CHAIRMAN CHAFEE: Thank you for your letter of March 15 in which you expressed interest in the conservation provisions of the 1996 farm bill. I am pleased to report that the Conferees agreed to what I feel is the most environmentally responsive and responsible farm legislation in our nation's history.

You specifically mentioned a concern that existing wetland conservation provisions might be undermined in the farm bill. In fact, the Conference agreement makes several common-sense updates to the "swampbuster" compliance requirements that will make the program more flexible for producers while still protecting wetland functions and values. The bill makes no changes to the existing definition of a wetland, and does not exempt any lands based solely on cropping history or size. Although the report does define "agricultural lands" for the purpose of implementation of the interagency memorandum of agreement on wetland deliberations, it does not amend Section 404 of the Clean Water Act or require any changes to the 1987 Army Corps of Engineers wetland delineation manual.

In other areas, the Conference agreement established the new Environmental Quality Incentives Program, which stands to make a significant positive impact on water quality. In addition, the Conservation Reserve Program and Wetlands Reserve Programs are reauthorized through 2002, with new provisions that will make the WRP more attractive to producers. Combined with the new crop planting flexibility provisions in the commodity title, these conservation efforts represent an impressive commitment to addressing the potential adverse environmental impacts of agricultural production. I know that, as Chairman of the Environment and Public Works Committee, you can appreciate the tremendous investment made in this new farm bill. I hope you can enthusiastically support the Conference Report when it is debated on the floor later this week.

Sincerely,

RICHARD G. LUGAR,
Chairman.

Mr. GRASSLEY. I am pleased that the conferees agreed to include a provision in the bill that I originally authored regarding revenue insurance. I and the farmers in my State truly believe that revenue-based risk management tools are a vital resource for today's and tomorrow's American farmer as the weather, market, and global trading patterns continue to fluctuate and pose often unpredictable risks for farmers worldwide.

The FAIR Act would require the Federal Crop Insurance Corporation to offer pilot revenue insurance programs for a number of crops for crop years 1997 through 2000 so that by 2002 and the end of the production flexibility contracts provided under this bill, we will have well-tested revenue based risk management products available for farmers.

It is very important to note, however, that it was never my intent to restrict the authority of the Federal Crop Insurance Corporation as it currently exists under law to conduct pilot programs. There are two revenue insurance pilot programs currently operating for crop year 1996. I, and I do not believe the conferees, intend for this new language in any way to interfere with the operation or expansion of these existing programs to other crops under the same terms and conditions under which they are currently operating. Rather, my intent was to encourage the Corporation to expand current efforts to other crops and speed the development of such products for the American farmer. Does the chairman agree with this interpretation—that the FAIR Act language is not intended to restrict the existing authority of FCIC to approve pilot programs under similar terms as the 1996 revenue pilot programs—for example on a whole State basis, although in a limited number of States?

Mr. LUGAR. Yes; I would agree that the conferees intended for this language not to restrict FCIC authority to implement the revenue insurance pilot program authorized by this Act.

Mr. GRASSLEY. I thank the chairman. I strongly urge the Corporation to further experiment with revenue-based insurance products and to do so under similar terms and conditions represented by the 1996 crop year revenue insurance programs.

Mr. FEINGOLD. Mr. President, the Federal Agricultural Improvement and Reform Act of 1996 eliminates the requirement that farmers buy catastrophic crop insurance in order to participate in other USDA farm programs. However, as I indicated in my letter to you on March 20, there is some concern that language as drafted may not technically delink the crop insurance purchase requirement for forage. The language in the bill delinks the crop insurance purchase requirement for crops planted in spring of 1996. However, forage crops, as perennials, are typically planted once every three or four years. Thus, forage crops which will be harvested in 1996 may have been planted several years ago, and may not be captured by the language in the bill.

It is my understanding that it was the intent of the conference committee and the intent of this legislation to delink crop insurance purchase requirements for participation in other USDA programs for all crops, including forage. Is that correct?

Mr. LUGAR. The Senator is correct. section 193(a)(2) of this bill is intended to allow delinkage of the purchase of catastrophic crop insurance for all crops including forage harvested in 1996 and beyond. Producers of forage crops harvested in 1996 should be able to participate in all USDA programs without purchasing catastrophic crop insurance, regardless of when that forage crop was planted. There was no intent to exclude forage from these delinkage provisions and the Secretary should interpret section 193(a)(2) as such.

Mr. FEINGOLD. I thank the Senator.

Mr. LEVIN. Mr. President, I had hoped to be able to support the farm bill conference report. On balance, however, the conferees did not make enough improvements to the bill passed by the Senate for me to do so. In several important ways, the conferees have made it worse. It is unfortunate that this Congress, overdue in completing action on a farm bill, has produced this bill in apparent haste to get something down.

The conferees have included a dairy title that treats milk producers very differently from other agriculture sectors, and is potentially damaging to Michigan milk producers. This bill reauthorizes the basic dairy price support program that we have today, but reduces the price support level from $10.35 per hundredweight [cwt.] in 1996 to $9.90/cwt. in 1999. Then, in the year 2000, the program is somehow to magically transform into a recourse loan program. This type of experimentation, without adequate consideration or hearings on its economic effects, could seriously harm the dairy sector and producers income, not to mention supply and price stability. I regret that the conferees did not incorporate more of the comprehensive and cost-effective Gunderson approach into the final product.

Further, the bill opens the door for establishment of the Northeast Dairy compact, a door that we had closed in the Senate bill. It gives the Secretary of Agriculture the authority to create the compact if he finds a "compelling public need in the [Northeast] region." This is a mistake and I will join efforts to repeal this provision if this bill becomes law.

I have been open to producers' desire to increase their flexibility, in the context of Federal farm programs, so long as it has not required crops like fruits and vegetables to unfairly compete against crops that receive Federal price supports. This bill continues that protection, which is important for Michigan's diverse and productive fruit and vegetable sector. But, my colleagues and producers should remember why the Federal Government has a farm program—our Nation needs a secure and stable supply of food. Producers have always had the flexibility to not participate in these programs.

The contract payments in the bill may assist producers to achieve greater flexibility and encourage them to be more sensitive to the market. But, I am still disturbed that the Government payments bear no direct relation to market prices. Producers will receive these payments in times of high prices even though they are doing well. That

VOL
142
PT
5
MR
21
—
29
1996
UMI

makes no sense. There are no provisions for a safety net when prices drop. That makes no sense either.

The managers of the bill have informed me that there is no requirement that a contract payment recipient actually engage in farming on contract acreage for the 7 years that the contract runs. At a time when we are reforming welfare and emphasizing work, I find it unacceptable to give taxpayers dollars away to a producer or owner who might decide to leave contract land fallow and still collect a tidy Government payment.

Simplification of Federal agriculture programs is generally a good idea. That is one positive concept in the bill before us, which I hope will bear out in implementation. I am also pleased that this bill contains most of the important conservation programs, particularly the Conservation Reserve Program, and the trade, and research titles that were included in the Senate bill. And, we have been able to prevent any serious damage to the sugar program.

In my judgement, however, Congress could and should have put together a better farm bill than this one, and in a more timely way. The majority should have put the farm bill higher up on its agenda so that we would not be acting hastily now to give producers some direction on Government agriculture policy so far into the crop year. This bill charts a controversial and uncertain course for 7 years. But, at least we have retained permanent law so that Congress must revisit agriculture policy no later than 2002.

Mr. FAIRCLOTH. Mr. President, I rise to speak on behalf of the Federal Agriculture Improvement and Reform Act.

Mr. President, I am one of only a few working farmers in Congress. Having worked the land most of my life, I know, first hand, what it is like to try to make a living under Federal farm programs. As my colleagues began crafting a new farm bill, I believed we had a historic opportunity to change the way our farm sector operates while still maintaining a strong commitment to conservation practices that truly protect the environment.

Now that our work is complete, I can tell you that Congress is steering the farm community in the right direction. Through the FAIR Act, farmers will no longer be told by someone in Washington what to plant, how much to plant and even how much not to plant. Farmers will now have the freedom to make their own planting decisions based on market demands rather than mandates from Washington.

The age of micromanaging the farm sector from a corner office at the USDA is over. And it should be. The world has changed dramatically since I first took over the farm from my father. Whether we like it or not, NAFTA and GATT are now the law of the land. Fortunately, Congress recognized this and crafted a farm bill that gives farmers the freedom to respond to these new market demands. Had Congress not done their job by producing the FAIR Act, farming in this country would have been left behind in the cold.

This farm bill also goes a long way toward protecting the environment. Mr. President, it only makes common sense that farmers would support strong conservation practices because a healthy environment is essential to a good harvest. As a matter of fact, the conservation title attracted strong bipartisan support because it reauthorized and expanded the Wetlands Reserve Program and the Conservation Reserve Program and created new conservation initiatives like the Environmental Quality Incentive Program. Through strengthening the conservation title, this Congress has proven our commitment to protecting the environment while allowing farmers to make a living from their land.

I am proud of the work done by my colleagues in both the Senate and the House. Senator LUGAR, Representative ROBERTS, and the conferees have produced a farm bill like no other in the history of this Nation and they should be commended for it.

Mr. HELMS. Mr. President, in many ways this farm legislation is historic. In my 23-plus years as a member of the Senate Agriculture Committee, I have never been faced with so many changes in the overall structure of American agriculture—and, in large measure, for the better most of America and the farmers of this country.

I doubt that anyone seriously imagined that this Congress could succeed in streamlining agriculture programs and increasing the effectiveness of agriculture. This bill includes reforms to most of the major commodity programs, including peanuts, cotton, dairy, feed grains, and wheat.

In my home State of North Carolina, agriculture has long been a leading industry, providing jobs and economic opportunity for countless small family farmers and their communities. This legislation will give North Carolina's farmers stability for at least the next 7 years while removing the strong arm of government controls over our commodity programs. It will ease the strain on rural America.

Mr. President, I applaud the two chairman for undertaking these market-oriented reforms that will unquestionably help the family farmers adapt and adjust to the 21st century. As a former chairman of the Senate Agriculture Committee, I know and understand the difficult and painstaking process that has consumed weeks and months.

I am convinced that this farm bill will help farmers become more productive, and will continue to save tax dollars and it will improve the rural environment.

At a time when the Federal debt has climbed beyond the 5 trillion dollar mark, Congress owes it to the farmers and taxpayers of this country not to enact a meaningless temporary solution, but to establish a sound new policy of agricultural reform.

That is what happened, and I, for one, believe both Agriculture Committees, House and Senate pursued the real reforms that were needed. In that, I am proud of the peanut farmers of my State and other States for embracing a no net cost program and sacrificing close to $500 million out of their pockets to contribute to balancing the Federal budget in 7 years. In order to save the peanut program we all had to sacrifice, but in the end, this bill retains the peanut program and reforms it to make it more efficient for the farmers and less costly for taxpayers.

This bill offers a future to the farmers of America, who can now wake up everyday and knowing what their future payments will be. The taxpayers will know how much of their money will be spent. U.S. agriculture now has a future—our farmers have a future.

Mr. CAMPBELL. Mr. President, I would like to offer my full support for the farm bill conference report. I believe this bill, carefully crafted after many months of hard work and compromise, will offer much needed stability to farmers across America. In addition, it symbolizes a new path for our agricultural industries, leading us away from the Depression-era policies of the past and towards a freer, more flexible system which will empower our farmers to face the challenges of the 21st century.

I am particularly pleased and supportive of the conservation and nutrition components of the bill, which I believe illustrates the strong bi-partisan collaborative work that crafted this compromise. The environmental provisions will help farmers protect agricultural lands through specific appropriations that will conserve farmland from development. With my homestate of Colorado facing a tremendous growth in population, this will enhance the precious preservation of private land, open space and wildlife habitat from developers and subdivisions. In addition, by recognizing the inexorable ties between agriculture and water, this bill will provide much needed support to farmers to help protect our water supplies and maintain water quality.

I also want to congratulate the managers of this bill—Senators LUGAR and LEAHY, and the conferees in maintaining and extending the Food Stamp Program. This will reiterate the commitment of the Federal Government to families, women and children that rely on this vital program for their daily subsistence. I know there are many issues that still need to be resolved for welfare reform legislation, but I am glad that the farm bill recognizes the importance of the Food Stamp Program.

Mr. President, I would like to conclude my statement by reiterating the fundamental importance of agriculture to my homestate of Colorado's economy, environment, and identity. The importance of this bill to my constituents is tremendous, and I hope these dramatic reforms will breathe new life into the farms of America to revitalize the industry for the next century.

Mr. WARNER. Mr. President, as you know, every 5 years Congress undertakes a rewrite of farm legislation. Some years this process is relatively painless, some years it is more difficult. Farm programs are bipartisan efforts, with both sides working to achieve the best result possible for the nation's farmers.

This year has proven to be the most contentious, hard fought farm bill in memory. I am fortunate, through seniority, to have become a member of the Senate Agriculture Committee—the first Senator from Virginia, I might add, in nearly 30 years.

For close to 1 year the Agriculture Committee has been working diligently to craft a new farm bill for our country. On September 30 of this past year, the old farm bill expired. Under the necessary budget changes and spending priorities that we set forth, a large portion of the farm bill was part of the Balanced Budget Act that Congress passed and sent to the President. The President, unfortunately for America, vetoed it. This veto created a critical problem for U.S. agriculture.

The problem is that commodity support programs for the next 7 years were wiped out with the President's veto of the Balanced Budget Act. Existing authority for those programs had expired. All that remain are outdated statutes from 1938 and 1949.

The solution required action. Chairman LUGAR skillfully negotiated the regional and political obstacles that could have doomed this effort. Certainly, there are areas still to be addressed and work to be done. But today we take a major step forward in farm policy—a step toward the future.

Mr. President, the farm bill debate is a microcosm of the larger debate we have witnessed over the balanced budget. It represents a struggle with those who are comfortable with the statusquo, who want to continue the failed policies of big government intervening in people's lives and dictating their decisions. We are ending Washington control of farm policy.

Reformed farm policy is one step towards our goal of smaller government and a balanced budget. But, as you know, this is a new direction. Even the name of this bill—the Agricultural Reform and Improvement Act—indicates the direction toward which farmers want to go.

Briefly, this farm bill will accomplish several things. The bill will reform and modernize farm programs; provide a more certain income safety net for farmers through direct payments; strengthen conservation programs; and, provide broad planting flexibility.

In short, we give farmers what they want—greater flexibility and freedom from Government intervention. Farmers like the plan because it is good for the bottom line. Support is broad because it will have the most positive impact on farm income. The plan is simple, certain and efficient. It eliminates layers of bureaucracy and accompanying regulations. Best of all, this bill shifts decision making from Washington back to the farm.

The bill calls for the end of Government planting controls. It provides an entirely new outlook for American agriculture, which I find very exciting both as a member of the Committee responsible for farm policy and as somebody who has owned and operated a farm.

The plan is simple, in contrast to the needless complexity of current programs.

It offers certainty. Farmers will know what their future payments will be. Taxpayers will know how much these programs will cost. U.S. agriculture will have more security against future budget cuts.

Finally, it is market oriented. Farmers' payments will be the same even if they choose to plant alternate crops. Producers' planting decisions will be based on the market—as these decisions should be. Under this bill there will be planting freedom, not arbitrary government controls.

This bill is good for the environment. It strenghtens conservation programs, enhances wetlands protection, and emphasizes improving water quality, which is of critical importance to Virginia and the Chesapeake Bay.

This bill's agricultural provisions are a long-term plan endorsed by a broad spectrum of agricultural groups, including, in my State, the Virginia Farm Bureau and the Virginia Agribusiness Council. Let us be clear: U.S. producer and agribusiness organizations nationwide support this plan. We owe it to those who work in agriculture in our respective States—not to those who would dictate farm policy from behind a desk—to pass this bill.

Mr. President, I have heard many Senators lament the delay in enacting a new Farm Bill. While this bill is a few months late—due in large part to President Clinton's veto of the balanced budget bill—the reforms it contains are years overdue.

I am proud to have participated in this historic legislation during my first term as a member of the Agriculture Committee. And I commend Chairman LUGAR and his able staff on a job well done.

SECTION 389

Mr. BROWN. Mr. President, section 389 comes as a result of many hours of negotiations involving the U.S. Department of Agriculture, the U.S. Forest Service, the U.S. Fish and Wildlife Service, and various Members of Congress. The language agreed to by the conference committee is a step forward in an effort to ensure that the Forest Service does not take water from existing users without providing proper compensation.

My amendment, as modified by the conference committee, provides for an 18-month moratorium on any U.S. Forest Service decision to require bypass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use permit. Nothing in this section changes current law regarding the allocation of water or rights to the use of water, and the expiration of the moratorium is not intended to be a recognition or grant of authority to the Forest Service for imposition-of bypass flows.

The amendment also creates a water rights task force to study, make recommendations, and report back to the Congress and the administration on questions of: First, whether, and the manner in which, a Federal water right should be acquired by the U.S. Forest Service for minimum instream flow, environmental and watershed management purposes on the National Forests domain either through purchase from or a lawful exchange of valuable consideration with a willing seller; second, measures, if any, deemed to be necessary to protect the free exercise and use of decreed non-Federal water rights which require land use authorization permits from the U.S. Forest Service; and third, the legal and economic effects of creating a Federal environmental water right upon existing state laws, regulations, and customs of water usage and measures that would be useful in avoiding or resolving conflicts with any regulatory taking of a valuable decreed water right pursuant to conditions for the reissuance of a special use permit.

This language is intended to reaffirm the fact that for over 150 years, the United States has followed a policy of deferring to State laws governing the use and allocation of water in the western United States. As the Supreme Court observed in *California* v. *United States*, 438 U.S. 645, 653 (1978):

> The history of the relationship between the Federal Government and the States in the reclamation of the arid lands of the Western States is both long and involved, but through it runs the consistent thread of purposeful and continued deference to State water law by Congress.

It is also necessary to understand that national forests were created to protect and allow water uses, not as an excuse to take water away from people

VOL
142
PT
5
MR
21
—
29
1996
UMI

that have been using it for decades. The national forests were created pursuant to the Organic Administration Act of 1897, 16 U.S.C. 481, which explicitly provides for the use of water from national forests for domestic, mining, milling, or irrigation purposes. In *United States* v. *New Mexico*, 438 U.S. 696 (1978), the United States Supreme Court rejected claims by the Forest Service that the Organic Administration Act authorized the assertion of claims to the use of water for fishery and other secondary purposes of the national forests. The Supreme Court held that the Organic Administration Act was enacted by Congress "principally as a means of enhancing the quantity of water that would be available to the settlers of the arid west." The Court rejected the Forest Service claims to the use of water for secondary purposes because they would defeat the purpose for which the national forests were created, in part because these claims would result in a gallon-for-gallon reduction in the water supply available for use by farmers and cities in the West. The bypass flows that the Forest Service now wants to require are for the same secondary purposes, and would result in the same, or even greater, losses of water by existing users.

The assignment of land management functions to a Federal agency in and of itself does not provide an appropriate legal basis for assertion of water rights by Federal agencies to preempt State law with regard to the expropriation of already existing decreed water rights. The enactment of the Multiple Use and Sustained Yield Act [MUSYA], 16 U.S.C. 528–31, and the Federal Land Policy Management Act [FLPMA], did not change or expand the primary purposes for which the national forest lands are to be managed pursuant to the Organic Administration Act. In fact, the National Forest Management Act [NFMA] expressly provides that any change in land use authorizations "shall be subject to valid existing rights," 16 U.S.C. 1604(i). In addition, sections 701 (g) and (h) of the Federal Land Policy Management Act [FLPMA] contain explicit savings provisions regarding the management and use of water, specifically disclaiming any delegation of authority to "affect" the use of water. The provisions make it clear that these acts create no new Federal authority over the use or water, and most certainly do not authorize the imposition of bypass flows on existing facilities.

It is also important to recognize that any Federal claims to water for the Organic Administration Act, Federal Land Policy Management Act [FLPMA], National Forest Management Act [NFMA], or other Federal purposes, whether based upon appropriative rights, riparian rights or reserved rights, must be asserted and established pursuant to the McCarran amendment, 43 U.S.C. 666.

In conclusion, Mr. President, I ask that the Senate act favorably to pass the conference report to H.R. 2854, the Agricultural Market Transition Act, which includes my amendment containing the subject moratorium and task force language. I would hope that in the coming 18 months an agreement will be reached on this subject—an agreement which will ensure the adequate protection of western water.

Mr. KEMPTHORNE. Mr. President, I join my colleagues in supporting the final passage of the conference report for the farm bill, and applauding the efforts the members of the Senate and House Agriculture committees. In particular, I call attention to the efforts of Senator CRAIG, coauthor of the compromise which this body adopted a few weeks ago, and which formed the basis for the bill we are adopting today.

Mr. President, this bill is an important step forward for our Nation's agricultural policy. For Idaho's farmers, it means the freedom to have the Federal Government off their backs and out of their tractors. For the first time in a century, they will be able to plant crops according to the market, instead of according to Uncle Sam's outdated policies. The 7 year contracts and loan programs provided in the bill give farmers the safety net they need to make this transition.

Under the bill, Idaho's wheat farmers will have the security to analyze market demands. Idaho's growing dairy industry will be better prepared to take their place in the world market. And Idaho's sugarbeet growers will be in an excellent position to compete as domestic market restrictions are removed.

This bill grants agricultural producers the freedom to meet the demands of growing international markets. They will be able to step back and look at their crop rotation plans, and to try new and innovative crops that might not have been allowed under the old programs. Some of those new crops may well prove to be the solution to soil erosion, or a dependable alternative source of income. Such individual innovation and specialization were not possible under the old bureaucratic dictates.

Mr. President, this bill is important because of what is changes, but it is also important for what it strengthens, and that is our Nation's commitment to research and international trade development. Of all the concerns raised by Idaho's farmers since we began debate on the bill, commitment to research and international trade has been at the top of their list.

Under the new rural development provisions, and specifically through the agriculture competitiveness initiative, we will see a strengthened agriculture research program, the key to our Nation's strong food supply system. This research program will encourage the development and application of new technologies, such as the precision farming research being conducted at the Idaho National Engineering Laboratory in Idaho Falls.

The bill also maintains a strong commitment to international market development programs. So long as our Nation's agriculture producers face subsidized competition in our foreign markets, we will need to ensure that our producers are in a position to meet that challenge. We have maintained the Export Enhancement Program and the Market Promotion Program, and elevated the Foreign Market Development Program to an independent status. These programs are vital tools for Idaho commodities, such as wheat, beans, peas, and lentils, to help them develop their overseas markets.

The bill also removes needless burdens and provides important incentives. It eliminates the requirement that farmers sign up for crop insurance and encourages private insurance companies to fill the gap. It streamlines current USDA conservation programs, and provides new incentives to help farmers achieve these national goals. I am particularly pleased to see that successful conservation programs, including the Conservation Reserve Program and the Wetlands Reserve Program, will continue to be a tool to protect the environment and provide habitat for wildlife.

Agriculture is Idaho's No. 1 industry. Its diversity forms the foundation for the rest of the State's economy. There is still work to be done to remove regulatory and tax burdens on farmers, these small-business people who are the stewards of our Nation's open spaces. This includes our efforts to reform the Delaney clause and its unrealistic limitations on pesticide tolerances, and to remove disincentives to re-registration of minor crop pesticides. But this farm bill is the first step to bringing Idaho's and the Nation's farmers into the 21st century and I urge my colleagues to support its passage.

Mr. McCAIN. Mr. President, first let me express my sincere admiration and respect for the chairman of the Agriculture Committee, Senator LUGAR of Indiana. Senator LUGAR is a man of vision and reason with respect to our nation's agricultural policies, and the Senate is fortunate to have a man of his caliber as Chairman of the Agriculture Committee. It is an extremely challenging position, due to the pleadings of numerous regional and narrowly-focused agricultural groups that descend in droves upon the Congress every 5 years. They urgently request more and more Federal aid, lest the extent of their taxpayer-funded subsidies, price supports, and grant programs stray too far from the status quo.

A Senate that is split between Members dedicated to fiscal responsibility, and those equally dedicated preserving virtually every aspect of Federal largesse, is not a promising forum for a boldly reformist farm bill. For those of us that were hoping for a significantly less costly, less expansive farm bill, this is deeply regrettable. I cannot support a massive new farm bill that does little to lighten the heavy burden that price supports and farm programs have long placed on taxpayers, and I will oppose this conference report.

Mr. President, the unprecedented election of 1994 has been interpreted in many ways; its signals meant different things to the diverse Members of this body, and among the luminous commentators who purport their views to represent the pulse of the masses. My personal beliefs about what the American people are calling for often run head-on into the resistance of this body. I can, however, confidently convey my judgment about one meaning of the November, 1994 election without reservation. Clearly, the new Congress was not empowered to cautiously piece together an expensive array of farm programs, and pass the bill to taxpayers. This Congress was not directed to timidly wander among agricultural special interest groups and seek a consensus that would offend no one. No one, of course, except for taxpayers, who unknowingly will be stuck with the bill.

I oppose this conference report with regret. I supported H.R. 1541 with the understanding that it would actually reduce the cost of farm programs by 15%. The Senate-passed version of S. 1541 was widely described as a substantial reduction of spending on farm subsidies. I also hoped that the House would make further reductions and fiscally responsible reforms. I was mistaken. This conference report contains almost $50 billion in direct farm subsidies over the next seven years, and in its entirety will cost taxpayers close to $70 billion over that time. If any savings are achieved they will be modest, and I am all too familiar with the outcome of previous farm bills, which routinely cost billions more than anticipated.

This is simply unacceptable, Mr. President. We are acquiescing to the well-organized interests who are satisfied with nothing but a bigger trough from which to feed.

At a time when Congressional overspending has already rung up a $5 trillion dollar debt; and when we must fight the administration and its free-spending allies every step of the way for even the most modest restraints on spending, a $70 billion farm bill is simply indefensible. I cannot justify voting for such a bill to my constituents in Arizona, who this year must work five months a year just to pay their taxes!

The logic of passing a new, $70 billion farm bill escapes me, Mr. President, but I think it will prove positively unfathomable to most Americans. A large segment of the Congress seems to operate in a world completely disconnected from any sense of urgency about deficit spending. News reports which mindlessly turn reductions in increases into life-threatening cuts—as we saw with the School Lunch Program last year—cynically feed this atmosphere. This manipulative shell game will go on and on, I'm sure, until a decisive majority of the Congress—with the support of a President who has the courage to lead—stands up and simply says, "Enough!"

To the contrary, this conference report—and this Administration—continues to say: "No problem."

Just last week the Washington Post had a prominent story about how the fiscal year 96 deficit will be dramatically lower than expected. It will undoubtedly bolster the administration's confidence in striving for billions more in domestic spending. Of course, there was no mention in the article about how this year's cheery, refreshingly low deficit means that at best, the Federal Government will spend $400 million more each day than it takes in. This farm bill will keep the tab on that credit card rolling along with respect to agricultural spending for the next 7 years.

During the initial Senate debate on the 1996 farm bill, I was optimistic that the freedom to farm concept of decoupling farmers from bureaucratic crop controls would be a ground-breaking, cost-effective reform. It has not turned out that way. With this conference report, farmers do get a freedom to farm, but lurking just below its surface is the same, dusty maze of permanent price subsidies that the Congress purportedly wanted to move away from.

Let me point out several other areas where this conference report has stumbled badly away from the Senate bill I supported. First, it has several dairy provisions which boggle the mind of anyone interested in cost-efficient, pro-market farm policies. The Northeast Dairy Compact—a price control consortium reminiscent of the very best of Soviet block agricultural policies—is given new life despite being previously rejected by the Senate. Furthermore, this conference report will allow dairy interests in the State of California to impose a new trade barrier on out-of-state milk. California's price-enhancing dairy regulations jack up milk prices for its nearly 30 million consumers, and they will now be codified in Federal law to shield California's dairy industry from fair and open competition. The California solids-added provision is incontestably anti-competitive, anti-market, and definitely anti-consumer. However, even in 1996, those dubious attributes are not enough to exclude them from being tucked into a farm bill.

There are many more areas of great concern for me in this measure. A new, $300 million-a-year rural development program—added at the behest of the administration—was the subject of some thirty seconds of debate in the Senate. There is a $360 million grant program for private grazing lands; a $600 million grant program for livestock activities; $360 million for a new twist on the Market Promotion Program. And, of course, cherished, old standbys like the sugar and peanut programs.

Let me emphasize, Mr. President, I support providing a credible level of truly-needed assistance to farmers in America. I would oppose pulling the rug out from under them with a complete elimination of farm programs. Many agricultural producers in Arizona have relied on price support programs, and dozens of rural communities in my State have greatly benefitted from important rural development initiatives. We should continue meritorious farm programs that work, and that also comply with the fiscal discipline necessary to balance the budget.

I want to express my gratitude to Senator LUGAR for preserving an amendment that will assist Native American community colleges. Indeed, I recognize that if Senator LUGAR was able to fully develop all of his ideas for federal agricultural policies, our country would be in much better shape. I regret that his best efforts have been dissipated by interests unwilling to yield in their defense of a status quo we can no longer afford.

I cannot support a massive package of $70 billion in agricultural spending at a time when the administration and the Congress has been unwilling to stem the tide of deficit spending. It represents too little real reform, not enough relief for taxpayers, and too much toleration of business as usual.

Mr. GLENN. Mr. President, I rise today in opposition to the conference report on the the farm bill. While I strongly favor some aspects of the bill, I have serious reservation about the 7-year contract and the dairy provisions.

This bill ends the system of giving subsidies to farmers when market prices drop. Instead farmers sign a 7-year contract to get annual market transition payments regardless of market conditions. I support moving to a market oriented farm policy. However, I think it is wrong to pay farmers regardless of market conditions and I strongly oppose paying farmers when they do not plant a crop. In times when commodity prices are high, such as now, farmers will receive big checks they do not need, in bad years farmers will receive little or no support.

I also oppose giving the Secretary of Agriculture the authority to implement the Northeast Interstate Dairy Compact. This provision allows six

VOL
142
PT
5
MR
21
—
29
1996
UMI

States more leeway in setting their own prices. I think we need to take a good look at our current system of dairy price supports and move dairy along with the other commodities into a realistic market oriented system.

I support the conservation provisions put forward in this bill which emphasize land management options for farmers and livestock producers, not simply land retirement, to reduce the harmful environmental and economic impacts of agriculture activities. For example, the bill authorizes the Environmental Quality Incentives Program [EQIP] which combines the functions of several current conservation programs into one voluntary incentive and cost-share program for crop and livestock producers. I am pleased that the bill channels additional needed funds to rural development and agricultural research programs through the Fund for Rural America.

I do not believe this bill is good public policy. I am concerned it will cost us more to phase into the new program than to maintain current law. And finally, I also feel that the Congress will be forced to return to this issue as soon as less favorable market conditions return for farmers.

Mr. HOLLINGS. Mr. President, I rise today to voice my opposition to the 1996 farm bill. Although the conferees have worked hard on this legislation and have obtained many good things for rural America, overall the bill is a bad bill, it is bad policy, and it is bad for the small family farmer in South Carolina. With this bill, Congress isn't the goose that laid the golden egg. It's the goose that is laying the rotten egg. And like rotten eggs, this bill stinks.

As I said, this farm bill does have some positive aspects. We establish the Fund for Rural America to infuse $300 million into research and rural development—something that South Carolina and other rural States can definitely use. We create a new Environmental Quality Incentives Program that will help smaller farms with conservation projects.

We also reauthorize the Conservation Reserve Program, a program which is extremely popular among farmers and which improves millions of highly erodible acres across the country. Finally, we reauthorize several nutrition programs for 7 years. I am disappointed that the conference committee chose to reauthorize food stamps for only 2 years, but I hope we will revisit this issue soon.

Despite the few good portions in this farm bill, it remains bad farm policy. Here's how absurd the bill is. Instead of the current price support system in which we help farmers recover their losses with deficiency payments, this bill allows the Government to pay farmers in each of the next 7 years—regardless of whether they have a good or bad year, regardless of whether they plant anything at all or regardless of market prices. Do you know what that means to the budget? It means we'll have to spend a lot more money than we currently spend on farm programs. It is estimated that this farm bill will cost the taxpayers an additional $4 billion over the next 2 years compared to current law. The current system works—why fix it? Current law provides that farmers do not receive Government subsidies in good years. But under this bill, we'll essentially give farmers a bonus in good years—like this year. That makes no sense to me in this environment of fiscal responsibility in which everybody and his brother is trying to find ways to save money.

The small family farmer—especially the South Carolina farmer—comes under attack in this wrong-minded legislation. Through this bill, payments to farmers will decline over the next 7 years. But farming, like history, occurs in cycles. This bill doesn't take the cyclical nature of farming into account. Over the next 7 years, prices almost certainly will decrease from the high prices we now enjoy. But, at the end of this 7-year farm bill, prices likely will be low at the same time that payments are low. In other words, farmers who might be living high on the hog now will be scraping to make ends meet later on. I am worried that this will have catastrophic effects on the small farmer in my State and that many small farmers will have no choice but to harvest their fields for the last time.

And that, in turn, could lead to the expansion of corporate farming. While I do believe there is a place for corporate farming, I don't believe that their successes should come at the detriment of small family farms. These folks, including many of my friends in Mullins, Dillon, Manning, Kingstree, Bamberg, Hampton, Orangeburg, and Charleston, have faithfully cultivated their land for many years. I believe they should be able to continue their profession, not be forced out of it by ill-conceived legislation. This bill is shortsighted. Down the road, it will hurt farmers.

Mr. President, we should have passed a farm bill last year and farm policy should never have been considered as part of the budget package. The hour, however, is late. Farmers need to know where they stand for the coming crop year. For this reason, I understand that the Secretary of Agriculture has reluctantly recommended that the President sign this legislation, and that the President has agreed to sign it with serious hesitation. The President, however, also has indicated that he will continue to work with Democrats in the Congress to propose more farmer friendly legislation next year. I look forward to working with the President on this issue because, as sure as I stand here today, I guarantee that this farm bill won't be around for the 7 years it stipulates.

The so-called freedom to farm concept has been flawed from the start. This piece of legislation, although it may have a different name, follows in the same disastrous direction. I refuse to turn my back on the family farmers of South Carolina and I believe it is wrong for us to pay money to farmers when they do not need it. As a result, I will vote against the farm bill this afternoon. I look forward to revisiting this issue again next year.

I thank the chair.

Mr. SIMON. Mr. President, In many important ways, this farm bill is a good bill for Illinois. While it is not a perfect bill, I'm pleased to see that some of the most meaningful programs were protected. The bill offers farmers limited certainty in the area of income protection and provides a safety net for farmers in future years. In addition, it improves conservation efforts and reauthorizes important nutrition programs, as well as trade and research titles.

Illinois is second only to Iowa in soybean production, with 9.7 million acres planted to soybeans. Exports for soybeans and soybean products totaled $7.9 billion in 1995, making soybeans the largest export, in terms of value, in U.S. agriculture.

This bill raises the marketing loan rate for soybeans to 85 percent of an Olympic 5-year average, with a ceiling of $5.26 per bushel. Despite a 3-percent annual growth in world demand for vegetable oil and protein meal, U.S. oilseed acreage has declined by 17 percent since 1979. This slight increase in the marketing loan rate creates some incentive for soybean production here at home, which helps our trade balance.

The bill also retains permanent law for farm programs. Agriculture policy should protect family farms as well as consumers. The original freedom to farm proposal eliminated permanent law for farm programs, allowing no safety net past the year 2002. Through the leadership of Senator DASCHLE, Democratic Members of the Senate were able to guarantee a safety net for farmers in year 7.

I strongly object to language in the bill giving the Secretary of Agriculture authority to implement the Northeast Interstate Dairy Compact and will work to see that it is not implemented. Dairy farmers in the Midwest cannot compete against this kind of regional price fixing. It is bad policy, legally questionable and the Senate voted to remove it from the Senate bill.

In addition, we are making a big mistake authorizing the safe meat and poultry inspection panel. The role of the panel is to delay implementation of proposed meat inspection regulations. We need to modernize our meat and poultry inspection system and speed up

efforts to implement the proposed hazard analysis and critical control point system, not set up road blocks to improving the system. Meat and poultry inspection is a human health issue. At a time when the world is facing serious food safety problems, such as the British beef crisis, the rejection of United States poultry imports to Russia due to Salmonella contamination and the E. coli disaster in the United States, it is simply irresponsible and shortsighted to be stalling efforts to improve the system. I will work with my Democratic colleagues to prevent funds from being appropriated for the panel.

Ms. MIKULSKI. Mr. President, I will vote against the farm bill conference report. I believe that the farm bill, in its present form, goes against the true purpose of a farm bill—to help America's farmers. While I support the reauthorization of the Conservation Reserve Program and other conservation and nutrition programs, I do not believe this bill is in Maryland's interests.

I realize that spring planting is fast approaching, but that is no reason to be forced into accepting a bill that will hurt Maryland farmers and the Maryland industries that depend on our farmers. This bill does just that.

I believe that the Freedom to Farm Act, included in this bill, will have harmful long-term effects on the family farmer in Maryland. This bill puts the family farm up for sale. The bill does not provide a strong enough safety net for farmers. Setting a flat subsidy rate, then removing it in 7 years, without allowing flexibility during extreme economic conditions or natural disasters, is dangerous for farmers in Maryland and across the country. Under this conference agreement, producers will be paid even when prices are high, but will not receive necessary protection when prices are low.

I am particularly concerned that this bill continues and expands the Sugar Price Support Program to the detriment of cane refiners such as Domino in my hometown of Baltimore. This sugar program jeopardizes the future of the cane refining industry. It provides additional protection to domestic growers that would increase the price of raw cane sugar and put Domino and its 600 employees out of business. This is totally unacceptable. Sugar cane refining is one of the few manufacturing industries still left in our inner cities. The farm bill conference report threatens Domino's future. I see no reason why a farm bill must threaten an entire industry.

Also of deep concern to me is the fact that this bill reauthorizes the Food Stamp Program for only 2 years. What happens to Maryland's poor after that? To add insult to injury, while it provides a helping hand to the most impoverished in our communities for only 2 years, this bill guarantees corporate welfare to huge agribusiness for 7 years.

During this Congress, we have debated the issue of a balanced budget. We need a balanced budget, and I regret that we have not succeeded this year in finding consensus and the sensible center on a plan to eliminate the deficit. This bill will make this task even more difficult. Originally designed to save billions of dollars, this conference report will end up costing the American people an extra $1.3 billion.

It is for these reasons that I must vote against the farm bill. I acknowledge that this bill will likely pass and be signed into law by the President. But I also believe that the flaws in this conference report are so severe that Congress will need to revisit these issues next year. I hope at that time we will be able to produce a workable farm bill, one that addresses the best interests of farmers, business, and families.

Mr. NICKLES. Mr. President, I want to compliment my friend from Indiana, chairman of the Agriculture Committee, and all of my colleagues involved in the farm bill debate for their hard work in crafting legislation which reforms our Nation's agriculture policies. The conference report on the Federal Agricultural Improvement and Reform Act represents a long-term plan to get the Government out of the farming business—an idea I strongly support. The final agreement offers farmers flexibility, simplicity, certainty, opportunity and growth and I urge my colleagues to support its adoption.

Under the provisions of this bill, farmers will have the flexibility to plant the crop or crops that best suit their climate, conditions and market opportunities. No longer will the Government tell farmers which crops to plant and no longer will the Government tell farmers to leave productive land idle in exchange for a Federal handout.

Current agriculture programs will be simplified by allowing farmers to enter into 7-year contracts. After the initial sign-up, many farmers will never need to visit USDA again. I strongly support provisions in the bill which eliminate the countless rules and costly regulations that accompany today's farm programs.

The conference agreement provides certainty to farmers by ensuring they will know all program parameters and payment rates for the next 7 years. Under current programs, payment rates often change after program sign-up and payments in future years are unknown. A fixed stream of payments bolsters confidence in farm lending and all areas of farm business decisions.

I believe in the opportunity this legislation provides to farmers. Decades-old planting patterns that limit profits are eliminated and replaced with flexibility and fixed market transition payments. Farm income will grow as farmers are no longer limited to planting stagnant, low-value, market crops.

With respect to haying and grazing provisions included in the conference agreement, I want to thank both the House and Senate Committees for their commitment to allowing farmers to hay and graze their lands. I was involved in amending the original bill, which restricted haying and grazing, and I thank my colleagues for their continued interest in providing the utmost flexibility to those who earn their living in agriculture.

Finally, as many of you know, Oklahoma and other Western States have suffered a severe drought during the past 6 months. Farmers tell me that if Congress doesn't enact this farm bill many will be forced out of business. Frankly, I do not want to see that happen.

Congress has a responsibility to farmers in Oklahoma and every other agricultural State to enact a farm bill this week. I support the conference report before the Senate and urge my colleagues to vote for its adoption.

APPLICABILITY OF THE CONGRESSIONAL REVIEW ACT

Mr. LUGAR. I would ask the sponsor of the just-passed Congressional Review Act of 1996, the Senator from Oklahoma, Mr. NICKLES, whether the bill, if signed by the President this week, will apply to the Department of Agriculture's rules that will be promulgated under the Agricultural Reform and Improvement Act.

Mr. NICKLES. Yes, I will inform the chairman of the Agriculture Committee that all Federal agency rules will be subject to congressional review upon enactment of the Congressional Review Act.

Mr. LUGAR. I ask the Senator from Oklahoma if the Department of Agriculture were to issue major rules under the Agricultural Reform and Improvement Act, that is rules that would have a large economic impact on the agricultural community might be held up for 60 calendar days by the Congressional Review Act?

Mr. NICKLES. Yes, my colleague is correct. If any Federal agency issues what the Congressional Review Act defines as "major" rules, those rules would not be allowed to go into effect for at least 60 calendar days. However, I advise my colleague that the President, by Executive order, may declare a health, safety, or other emergency, and that particular major rule would be exempt from the 60-day delay. I would add, that the President's determination of whether there is an emergency is not subject to judicial review.

Mr. LUGAR. As the Senator from Oklahoma may know, we in the conference on H.R. 2854 did not contemplate such prompt enactment of the congressional review bill. I would

VOL 142 PT 5 MR 21 — 29 1996 UMI

inform the chairman that H.R. 2854 requires that the Secretary of Agriculture, within 45 days of enactment, offer market transition contracts available to eligible producers. These contracts must not be further delayed, or they will not be effective for the 1996 planting season. Moreover, these contracts are worth billions of dollars, and are certainly going to qualify as major rules under the Congressional Review Act. Would the chairman agree that these major rules are the type that are contemplated by his committee as qualifying for the emergency exception available to the President?

Mr. NICKLES. Yes, I agree with the chairman of the committee that the other emergency exception from the 60-day delay of major rules was included for this kind of circumstance. Certainly, it would be totally appropriate for the President to determine by Executive order that the market transition contract rules promulgated this spring under the Agricultural Reform and Improvement Act are emergency rules that would not be subject to the automatic 60-day delay.

Mr. LUGAR. I thank the Senator for that clarification.

Mr. KERRY. Mr. President, today the Senate is considering the conference report on the farm bill. I had hoped that the conference would produce a bill that would be more fiscally responsible than either its House or Senate predecessors. However, I regret that in my view it does not achieve that fiscal reform. I voted against final passage of the Senate's farm bill, S. 1541, when the Senate acted on it last month because, while it was improved considerably in some key respects from the bill that the Republican leadership originally introduced, ultimately, it was not the reform package that I believe our Nation needed and had the right to expect. Unfortunately, neither does this conference report provide the improvements that would be needed to secure my support.

I understand that the President, with some reservation, is expected to sign into law the conference report now before us. I know that farmers, as they head into the spring planting season, need to know the conditions under which they must operate. And I acknowledge that this bill is probably the best package that could be expected to emerge from a conference with the House in the contentious, partisan environment which pervades Capitol Hill. Indeed, the conference package is far better than the House bill, which, in fact, was not complete legislation because it did not reauthorize important conservation and nutrition programs that have traditionally been addressed in omnibus farm legislation.

It is imperative that I congratulate and sincerely compliment the Senators who worked diligently to secure an agreement at least as good as the one before us today. Agriculture Committee Ranking Democrat PAT LEAHY deserves our commendation for his successful struggle to insist that adequate conservation and nutrition provisions be included. Chairman LUGAR again on this bill demonstrated his well-known and respected ability to place the Nation's interests as his first objective instead of partisan scoring and ideological rigidity. The way in which Senators LUGAR and LEAHY worked together in pursuit of responsible legislation that could pass both houses and receive the President's signature is a model that others in this body would do well to emulate.

I compliment Senator LEAHY, also, for his instrumental role in including in this conference agreement a provision important to me and my New England colleagues allowing the Northeast Interstate Dairy Compact to go into effect upon the approval of the Secretary of Agriculture. As a cosponsor of the compact legislation, I am very pleased that it will be included in a bill that apparently will become law.

This conference agreement includes important rural development programs that are important to farmers in my State of Massachusetts as well as to farmers across the country. The bill retains new development initiatives such as the multimillion-dollar Fund for Rural America and the new structure for delivery for rural development programs, the Rural Community Advancement Program [RCAP]. RCAP provides important flexibility to States to allow them to develop innovative approaches to their unique rural development problems by permitting each State director to tailor assistance to local needs. This is a vast improvement over the previous Republican proposal for block grants to the States.

But on the central question of the way it deals with farm incomes, I reluctantly must conclude this conference report fails to make the grade. While it eliminates the current price support structure for many commodities programs, it replaces it with an extremely costly fixed direct payment to farmers. The Congressional Budget Office estimates that for the first 2 years under this new proposal—fiscal years 1996 and 1997—the Treasury will pay out $5 billion more to farmers than would be paid under a continuation of the current price support programs.

While some claim that this 7-year direct payment program is necessary to wean farmers off Federal support, that argument is significantly weakened by the provision in the bill that retains the outdated 1949 Agricultural Act as the permanent law governing Federal commodity programs. According to the United States Department of Agriculture, the 1949 statute, if enacted today, would cost taxpayers $10 billion for 1996 alone, substantially more than the recently expired provisions.

I remain convinced that we need a new approach to farm policy. We need to transition to a situation where we permit the free market to function with much less interference, regardless of how well-intentioned it may be. When this issue first came before the Senate, I supported cloture on the Leahy-Dole reform package—although it was far from ideal in my mind—because it would have replaced the 1949 statute and the financial support provided by the current price support programs with a 7-year phase-out plan. Also, importantly, that package would have reauthorized critical conservation and nutrition programs, including food stamps, through 2002. The conference agreement reauthorizes food stamps for only 2 years.

Today we must vote yes or no on the conference package in its entirety. While it contains many important and acceptable nutrition, conservation and rural development provisions, it falls well short of the kind of bill we ought to be passing. While I accept the explanation of Senators LUGAR and LEAHY that this is the best bill they could get their House counterparts to approve, it falls too far short of what our Nation needs and there will be too little to show for too great an expenditure of tax dollars for me to be able to vote affirmatively.

Mr. President, for these reasons, I will cast my vote in opposition to this conference report.

Mrs. MURRAY. Mr. President, this Farm Bill Conference Report represents a bold new direction for the future of this Nation's agricultural policy. A direction I do not support. The removal of the safety net for our farmers will prove itself to be a mistake, I think. Undermining the safety net is easy now since prices are relatively high, but when prices drop, and we all know they will, I fear this farm bill may come back to haunt us. In fact, it may well come back regardless of prices. It may come back because of the so-called market-transition payments: guaranteed payments to farmers regardless of market conditions or production. I am truly afraid that the American public will not view these payments as a safety net to maintain a safe and stable food supply. They will view the payments as a give-away. Those of us who understand the importance of farm programs know better than to undermine farm support structures in this way. That is why we think the payments should continue to be tied to production and the marketplace.

Many have expressed the sentiment that after the 7 years of Freedom to Farm, we will continue to maintain some kind of farm program. While the preservation of permanent agricultural law in the conference report provides some assurance that this will be the case, I am not so confident. The proponents of "Freedom to Farm" have

made it explicitly clear that they view the market transition payments as a transition to nothing. Moreover, I am also concerned that public outcry over these direct payments will force us to revisit the farm bill sooner than 7 years. If this occurs, I am not at all convinced that Congress will seek to rectify the situation by reinstating a more traditional safety net, they may well decide just to end the payments, period.

Which just goes to the point: we had the opportunity to appropriately address national agricultural policy and we failed. Instead, we chose to let budget priorities drive farm policy. By putting forward policies that could not even make it out of committee, we undermined the process and the result is far from satisfactory. Congress has let our farmers down. The farm bill has traditionally been bipartisan with considerable time provided for debate and discussion. Congress sought to provide all parties a chance to provide their input. That tradition has ended with this bill. Take the dairy provisions for example. There is still a considerable amount of disagreement over these provisions, a compromise has not been achieved.

Despite all this, our farmers do need certainty for the 1996 season. I spoke with the wheat growers in my State of Washington yesterday. While they share many of my concerns with this farm bill, they told me they need something for this season. It would be unfair to hold the farmers of America hostage to our disagreements. While in the long term, I have serious concerns about the future of our farms under this bill, in the short term, they need to know what to plant for. I therefore will support this conference report, with serious reservations, in order for my farmers to have the certainty they need this season. I am committed to protecting the ability of our farmers to continue producing a safe and stable food supply for this Nation and the world. I will be watching the impacts of "Freedom to Farm" on our Nation's farms closely as the program, or lack of program, moves forward.

The PRESIDING OFFICER. Who seeks time?

Mr. LEAHY. Mr. President, on the procedure we have, we have been going back and forth. I know the distinguished Senator from Iowa was seeking recognition.

I yield, from the time of the Democratic leader, time to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, there are really two parts to this farm bill. One component was in general put together in a very bipartisan and cooperative manner. That process has produced a number of sound provisions that deserve broad support.

There are many good features in the titles of this bill dealing with conservation, for example, the continuation of the Conservation Reserve Program and the Wetlands Reserve Program, the Environmental Quality Incentives Program and improvements in the wetlands conservation rules. The wetlands rules are something that has concerned me greatly. They have been very confusing and frustrating to many farmers in Iowa, but there some positive changes in this bill that should make wetlands conservation rules more reasonable and workable for farmers.

One of the wetlands changes involves farmland that has been converted in the past and drainage tiles have been put in, but for one reason or another, such as tile plugging up, the land has returned to wetland again. Farmers in this situation have had problems with the rules in trying to reopen their drainage systems. This bill will allow farmers to go in and unplug their tiles and go ahead and drain those fields, if they have already been previously converted. That is very important.

This bill also provides that farmers can take a wet spot, a small spot in the field, and go ahead and convert it and farm it if they mitigate the loss through improving, restoring or creating wetlands in the area. Sometimes that is the best thing to do, because there may be a better area for a wetland than where it is existing right now in the middle of a field. And the bill also calls for clarifying the rules on the types of wetlands that are so insignificant that they are not subject to wetlands rules. So these are very good changes for our farmers.

Although there are a number of positive features in the bill, there is one aspect of the bill that outweighs everything else, and for that reason I cannot support this farm bill. I am speaking about the commodity program provisions in this bill. They are the most substantial part of the bill: $35.6 billion in direct payments alone. Commodity programs involve by far the largest amount of Federal agricultural outlays, and they will have, naturally, the largest effect on the agricultural economy of my State of Iowa. So, if the commodity programs in the farm bill will not be good for the farm families in my State, I simply cannot support the bill. Regrettably, that is the case with this bill.

It is true it is late in the season. This farm bill is at least 6 months late—more like 9 months late. Farmers, at least in my area, are starting in their fields. They are wondering why the leadership of this Congress could not get its work done to pass the farm bill on time. I will not be forced into voting for a farm bill simply because the Republicans could not get their act together and get it done last year.

I have here the CONGRESSIONAL RECORD from July 26, 1990. I was here. I was working on the farm bill at that time, the 1990 farm bill to take effect with the 1991 crop. Here is what the minority leader, Senator DOLE, said at that time, July 1990:

> Mr. President, we are rapidly approaching the August recess, and back in my home State of Kansas farmers are preparing for the seeding of the winter wheat crop. Even as they reflect upon the record Kansas wheat crop recently harvested, uncertainty lies ahead. That is because Congress again has been unable to finish the farm bill in a timely manner so that producers of fall crops will know their program in advance.

Here is the Senator from Kansas, Senator DOLE, complaining in July 1990, that we do not have the farm bill done in July 1990 to cover 1991 crops. Here it is March 1996 and we do not have the 1995 farm bill done to cover 1996 crops.

Again, it was the other side that was in charge. We could have had a farm bill out here on the floor last fall. We passed commodity provisions out of our committee last September. We could have had a farm bill on the floor in October or November or December. We sat here and twiddled our thumbs, waiting to try to get some kind of budget deal that was never agreed upon. We could have had the farm bill done at that time, but the leadership did not bring it up. So now we have a gun held to our heads, saying we have to pass it now, it is awfully late. I do not like to operate in that atmosphere, and I will not vote for it on that basis—just on that basis.

I cannot support the bill because it sets up a farm program with payments that have no relationship to commodity prices, crop production, or farm income levels. This bill has it exactly backward. It will provide far less protection against low farm income than previous farm bills. But then it turns around and makes substantial payments to farmers in good times, when there are good prices and high incomes. What this is going to mean is it will hurt agriculture's image and undermine support for any sound farm policy in the future.

A sound farm policy is one that promotes good farm income from the market, but helps farm families survive circumstances beyond their control, when the market goes down or they have a disaster. The farmers I know want to farm for the market and not the mailbox. This bill says no matter what the market does, no matter how good your income, you are going to get a check in that mailbox. Most farmers I know do not want to farm like that.

I want to make it clear that I want reform in farm programs with full planning flexibility, less paperwork, less redtape, less hassle. We can do that. There was general agreement on both sides of the aisle, in a bipartisan fashion, to make those reforms. We can provide that planting flexibility without adopting the payment scheme in

VOL
142
PT
5
MR
21
—
29
1996
UMI

this bill that will send checks to farmers, even when they have a good income from the market.

I want farm programs that work better for farmers, but this bill goes far beyond reasonable reforms to destroy the farm income safety net. It is absolutely unnecessary to take the radical approach in this bill in order to achieve the commonsense reforms that farmers have told me they want.

The proponents of this farm bill are not really telling farmers the whole story. The payments may look good now, but if commodity prices and farm incomes fall—and past cycles in the farm economy show how quickly and devastatingly that can happen—this bill sets farmers up for a big fall. By the time we get to the later years in this farm bill, the maximum payment for corn is about 28 cents a bushel—no matter how low the price may fall, 28 cents a bushel.

Have no doubt about it, what this bill does is it shifts risk. It is a tremendous shift of risk onto farmers. They are being told to produce all they can so that grain companies will have plenty of grain to trade, but if surpluses and low prices develop, as they most certainly have many times before, it will be the farmers who get the short end of the stick.

They will have much less help in working out of that low-price situation than we have had in the past. There will be no farmer owned reserve, for example, because this bill specifically takes it out, and the bill also raises the CCC interest rate by a full percentage point above the cost of money to CCC. I offered amendments here on the Senate floor to put the farmer owned reserve back in and take out the CCC interest rate hike. Only two Republican Senators voted for those amendments and neither was approved.

To see how the farm income safety net is slashed in this bill, let us take, for example, an Iowa farmer with a 350-acre corn base. If the price of corn, let us say, is $1.90 in 2002, that farm will have about $23,000 less income protection under this bill than it would have under the 1990 farm bill. That is because this bill will not respond to low prices.

I suppose some of you might say, "Well, $1.90 a bushel, we won't get to that price." I have been around long enough to remember when Earl Butz in the 1970's said that American farmers should plant "fence row to fence row" to meet burgeoning world demand for U.S. agricultural exports. In my State of Iowa, we plowed up a very large share of the hills in southern Iowa, planted soybeans and planted corn. I tell you, we had a ride. There was a boom. Farmers had a good ride and a lot of them went deeply into debt. Why shouldn't they? There was supposed to be no end to it. Land prices skyrocketed. A lot of big new tractors and combines were bought. Many young farmers, in particular, took on a lot of debt to get started or to expand. Then in a few short years the crash came and out went the young farmers. We had a devastating time in the 1980's. I am very concerned this bill is setting farmers up for that same kind of situation again, because it does not have enough protection against low prices and farm incomes.

This bill also imposes a new cap on loan rates for wheat and feed grains, which is another weakening of the farm income safety net. The loan rate for corn cannot go above $1.89 a bushel, but it can go below $1.89. I offered an amendment in conference, backed by the National Corn Growers and the National Association of Wheat Growers, to lift the cap on loan rates for wheat and feed grains, but, again, I could not get one vote from the Republican side of the aisle.

To illustrate the lack of farm income protection in this bill, I did some rough calculations and determined that if this bill had been in effect in Iowa for the last 5 years of the 1980's, Iowa's farm families would have had about $2 billion less in farm income than they had under the farm bill in effect at that time. That would have been devastating for Iowa's farm families and rural communities. That kind of situation could develop again, and if it does this bill will be woefully inadequate.

I am convinced this bill will hasten the trend to larger farms and the decline of the family farm. The largest share of these contract payments will go to the larger farms, and there will be much less income protection for the smaller farms against low prices and incomes. Do not take my word. Here is an article that appeared in the March 24, 1996 Sunday New York Times:

> The new approach, called Freedom to Farm by its supporters, would accelerate the ongoing consolidation of smaller less profitable farms into larger, more efficient corporate farms. That has serious implications, not only for the face of farming in America but also for the livelihoods of rural communities.

That is from the New York Times. I might also point out, Mr. President, that the New York Times, the Washington Post, and the Wall Street Journal have all editorially endorsed this so-called freedom-to-farm type of program. I tell farmers in Iowa, any time the New York Times, the Wall Street Journal, and the Washington Post all editorially endorse a farm program, I get worried, I get really worried.

Let us talk about fiscal responsibility. Here we are trying to reduce the deficit. We want to get a balanced budget. I support that. We ought to be as tight as we possibly can with taxpayers' dollars. If someone needs help, yes, that is when you come in with some assistance. But if you do not need help, why spend taxpayers' dollars?

This bill will spend $35.6 billion on direct payments to farmers, even if prices are high and farm incomes are high. Those payments, made whether they are needed or not, hold huge potential for embarrassing farmers and those who support sound farm policy. We should save that money for farmers when and if they need it.

Going back to the example of the Iowa farm with the 350-acre corn base, that farmer would get a payment of about $13,000 in 1997, even if corn is $3 a bushel and yields are good. No matter what that farmer makes from the market, the Government will send out a check for $13,000. I just do not see how that is fiscally responsible when we are trying to balance the Federal budget.

Here is another example: a large Kansas wheat and grain sorghum farm, with 1,800 acres of wheat and 600 acres of grain sorghum. Let us assume wheat is selling for $5 and grain sorghum for $3 in 1998. That farm would have a net income of about $195,000 after costs. That is net farm income. On top of that, Uncle Sam will write a check to that farmer for just under $40,000. Furthermore, if a farmer arranges his or her business carefully to take full advantage of the programs and maneuver around the payment limitation, that one individual farmer could receive as much as $80,000 in a year in direct cash payments from Uncle Sam, even if the farmer makes a net income of over $195,000, as in the example, or more. That money will be paid out regardless of how much money that farmer makes in the market.

I want someone to explain to me why the taxpayers—especially taxpayers living in rural communities across this Nation trying to make ends meet in small businesses or working at low wages—should be asked to pay for a farm program that makes sizable payments to farmers, even if they are making a good income from the market?

Where is the fairness in a system of income transfers from taxpayers who are struggling to make a living if that money will be spent in providing payments to other people when they do not need the help?

And the impact of this bill on taxpayers could be substantial. The Congressional Budget Office has estimated this bill will send out over $5 billion more in direct farm payments during fiscal 1996 and 1997 than would be the case under the 1990 farm bill. USDA estimates that this bill will result in direct income support payments of about $25 billion more over the 7-year period than would have been the case if we had just continued the 1990 farm bill.

Mr. President, here is the conference report on the farm bill. I know not too many people read these documents. I just want to read one sentence out of section 113. It is titled "Section 113. Amounts Available for Contract Payments," and it spells out for every fiscal year how much money would be

available. It amounts to about $35.6 billion. But listen to this:

> The Secretary shall, to the maximum extent practicable, expend the following amounts to satisfy the obligations of the Secretary under all contracts.

"The Secretary shall, to the maximum extent practicable" make these payments. Wait a minute. I thought we were trying to save money for the taxpayers. I thought we were trying to reduce the deficit and balance the budget. Here is a bill that says USDA has to pay it out no matter what happens, no matter how much money farmers make; to the maximum extent practicable, it has to make those payments.

I would like someone to show me one other bill passed by this Senate or House that says, for example, that the Secretary of Health and Human Services has to pay out, to the maximum extent practicable, a sum of money for welfare payments. Or let me see a bill stating that the Secretary of Education has to pay out, to the maximum extent practicable, money for title I. I do not believe you will find such a provision anywhere.

I certainly have never seen anything like this in an agriculture bill in all the time I have been here. I just do not see how anyone who claims to be a conservative can be in favor of mandating that the Secretary shall make the maximum payments possible no matter what commodity prices or farm incomes are.

I offered an amendment on this very point. My amendment said that payments under this bill could not be any higher than they would have been under the 1990 farm bill, except in the case of a farmer with a disaster loss. Farmers with disaster losses would receive the whole contract payment. Any money saved in a fiscal year through my amendment would be rolled over and reserved for payments to farmers in later years when they may have a greater need for them.

Here is an article from the front page of the Iowa Farm Bureau Spokesman dated November 18, 1995, quoting Dean Kleckner, the president of the American Farm Bureau Federation. Mr. Kleckner is not a member of my political party, and we have disagreed on issues in the past. But here he is, quoted just a few months ago, expressing opposition to the payment mechanism that is in this bill, just as I have:

> "In order to provide a long-term safety net, the conference committee should develop a program that maintains a price-payment linkage and allows budgeted funds not expended in years of high prices to be available in years when farm income is low," the Rudd, Ia., farmer said in a letter to House and Senate budget conferees last week.
>
> "Failure to resolve this issue will render farm programs either an ineffective income support mechanism or subject them to being an irresistible political target," Kleckner said.

Mr. President, I offered an amendment in the conference committee to do just that. It would have kept the money in reserve in times of high prices; USDA would not have paid out any more than under the 1990 farm bill unless the farmer had a disaster. Any money that was not paid out would have been rolled over for use in making payments in future years when the need may be greater because of lower prices or disaster losses. Again, my amendment was rejected along strict party lines. Every Republican voted against it.

Some people get pretty edgy and touchy when they hear it said that this farm bill makes farmers vulnerable to criticism that they are receiving welfare payments. If this bill becomes law, I can only say, get used to it; get used to it. The national press, who have never been friendly to agriculture, will have plenty of new material. There will be television stories and the same editorial writers at the New York Times, the Washington Post, and others will go to work. You mark my words. There will be editorials about USDA making large payments to large farmers no matter how much money they are making from the market.

The editorial writers do not understand what is going on in agriculture anyway, but what I am concerned about is the damage this bill threatens to do to the public's image of farmers and of agriculture programs. Farmers do not want to be perceived as receiving something for nothing, regardless of whether they need it. I do not believe farmers receive welfare, or that farm programs are welfare. Farmers work very hard for their money. They are proud people. They want to get their income from the market and not from the mailbox. There is real potential for this bill to contribute to an impression among the public that farm programs are welfare.

What I am saying is that I firmly believe and most sincerely believe that those who support this program are doing a great disservice to farmers because it sets up farmers for this kind of attack, that they are receiving welfare, getting payments even though they are making good money from the marketplace. It is setting up farmers, I think, for a big fall.

Not only are farmers going to have a greatly reduced farm income safety net under this bill, they are also likely to suffer damage to their public image because of the payment scheme in this bill. We should not pass a bill that gives critics of farmers and sound farm policies more ammunition to fire away in the national press. It can only be damaging to hard-working farmers in Iowa and across our land. It is hard enough sometimes to explain to our urban counterparts why we need a decent farm policy, without having to overcome the image created by this bill.

Mr. President, farm programs should be there as a safety net to provide adequate protection when times are hard, not to pay out over $35 billion to the maximum extent practicable even when commodity prices and farm incomes are high. This bill slashes the farm income safety net, and it is not fiscally responsible. For those reasons, I cannot in good faith support this farm bill. I hope we can come back next year, perhaps, and readjust this bill so that we will have enough money available for farm programs in the years when it is really needed.

I hope and pray this radical so-called freedom-to-farm approach will not devastate our farm families. I am very concerned that the payments made in the next year or so will create a political liability. When we do have a downturn in the farm economy and there is a real need for an adequate farm income safety net, the political capital required to pass the necessary legislation will have been used up. Those of us who care very deeply about family farms and about rural America will not be able to get anything through here to help them through their tough times.

For these reasons, Mr. President, I cannot support this farm bill. I see the train is on the track expect this bill will pass. I understand the President has indicated he will sign it reluctantly. I must say, in all candor, I am disappointed that the President did not rely upon his authority under the existing law to carry out a decent farm program and avoid being cornered into signing a bill as objectionable as this one. Farmers should not be in the position of having an entirely new farm bill enacted at this late date. We should not have been in a position of writing a farm bill with a gun held to our head, instead of working together in a bipartisan fashion to hammer out a really good, sensible farm bill for farmers. I am just sorry the President did not use his authority to avoid this situation. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from Iowa for his excellent statement. I do not know that anyone could say it any better. He has capsulized very well what many of us feel about this legislation. He has been in the trenches and has fought the fight and has led the effort in many cases. I applaud him for his statement and for the contribution he has made to this debate again this morning.

As I consider the contributions made by many of our colleagues, let me also call attention to the fact that this is the last farm bill that the Senator from Alabama, Senator HEFLIN, and the Senator from Arkansas, Senator PRYOR, will probably be involved in. Over the years they have been remarkable advocates of sound farm policy and leaders in their own right in so

VOL 142 PT 5 MR 21—29 1996 UMI

many ways. The people of Alabama and the people of Arkansas could do no better than to have the representation that they have had in Senators HEFLIN and PRYOR. They will certainly be missed as we consider farm legislation in the future.

Let me commend as well our distinguished ranking member and the chairman for their work in bringing us to this point. We may not agree entirely on many of the issues involved in farm policy or ultimately on what we should do with this legislation, but no two people have worked harder and in a more bipartisan manner to bring us what we have been able to achieve today. So I again publicly thank them for their leadership.

As I said last night, Mr. President, this bill is long overdue. I do not have an explanation as to why, as late as it is, we are dealing with the 1995 farm bill in 1996, but we do know this, we know that farmers need certainty. We do know that it is too late to start over. We know that the winter crop will soon be harvested. We know that southern crops are already in the ground. We know that midwestern farmers are ready to begin planting.

In fact, just recently a farmer from Volga, SD, called me from a supply store trying to decide what kind of seed to buy for spring planting because the seed was going to be determined in part by what the ground rules are for the farm bill. How much planting time he had available to him, what the planting year was going to be like was going to be determined by what we decided. He simply said, "We can't wait any longer. Get it done. Get it done."

So we are here with that realization. We know we need to get it done. We received hundreds of calls to do something, to provide certainty, to take what we can now and to fix the rest later. That is exactly what we are doing. I do not know what the farm programs eventually will be, but I do know this, that the time for action is long overdue. I know and farmers know that we cannot wait any longer.

As a result, the President is going to be forced to sign this legislation, forced to sign a bad bill because of a late date. He shares our concern about the safety net and the decoupling in this legislation. But with our ranking member and with others, we intend to fight another day, to come back, to do even more to ensure that farmers will have the kind of certainty, the kind of assurances that they have had in past farm legislation.

There are some good provisions in this bill. No one should be misled in that regard. The continuation of the Conservation Reserve Program is a good thing. The incorporation of many of the conservation programs and the adequate funding for those programs is a good thing and would not have happened without the effort made by the ranking member.

The Fund for Rural America is a good thing. That it guarantees spending on rural development and research, that it addresses the needs of rural America, especially in creating new value-added markets all over the country, is a good thing. We provide assistance for value-added processing facilities through the Fund for Rural America. I must tell you, it is one of the best features of this farm legislation.

The increased flexibility for some producers also is a good thing. Simplification is a good thing. Perhaps most importantly of all, the guarantee that we will have permanent law, with the expiration of this legislation, is perhaps the most important thing of all. Ensuring that permanent law will be there, regardless of circumstances, regardless of our inability to find some consensus about what to do after this legislation expires, in my view, is perhaps the best thing.

In spite of all of that, and that does represent a significant amount of bipartisan consensus, there are at least six serious flaws, Mr. President, that in my view, bring me to the same conclusion that the Senator from Iowa has just expressed. I cannot support this bill in large measure because, simply, it fails to provide the safety net that we believe is so essential in any piece of farm legislation.

Loan rates are capped in this bill. They can go down. They can never go up. The farmer owned reserve is eliminated. There is no possibility for farmers to truly have the freedom to farm if they do not have the freedom of access to the tools necessary to farm. The farmer owned reserve is one of the best tools farmers ever had. It is no longer there. It is not freedom to farm when you take the tools, financially and otherwise, away from the same farmers that ostensibly have such freedom today. The Emergency Livestock Feed Program is gone, another tool that undermines a real opportunity to provide the freedom that we all say we want for farmers today.

Not long ago, three South Dakota farmers met with the President. If they expressed anything in the short time they had with the President of the United States, it was this: "Mr. President, we need that safety net. Mr. President, we know we will face national disasters. We will face natural calamities in South Dakota and throughout the Midwest, and for that matter in all parts of the country that will require we have a safety net, an insurance program. Do not be a part of taking that away."

The second and perhaps equally as significant a problem I see with this bill is it pays producers, regardless of price. It requires guaranteed payments, as the Senator from Iowa has indicated today, probably in an unprecedented fashion. It requires the Government to pay producers, regardless of their circumstances. As the Senator so ably said, where else in law today are people required to get a payment, regardless of need, regardless of circumstance? I must say, Mr. President, of all the things in this bill, that is the one that troubles me the most.

Third, while we do have some degree of flexibility, some degree of new-found simplicity in this legislation, no one should be misled about the fact that there are some who have less flexibility. Vegetable producers are treated differently than grain producers. A potato producer in South Dakota is not given the freedom to farm, is not given the flexibility he may need to be able to compete effectively in the marketplace. Why? Because we are protecting other potato producers in other areas of the country.

That kind of freedom to farm is not articulated very well by proponents of this bill. Instead of getting signals from the market, some producers are receiving stronger signals from the Government for certain products, such as potatoes.

Fourth, the research program, in my view, Mr. President, is one of the greatest concerns as I look to the long-term future of farm legislation. What happens in 2 years to research? How do we assure those who are involved in research today in our colleges and universities across this country, in agricultural clinics and laboratories all over the country, what we are going to do with regard to basic and applied research 2 years from now? We do not have the luxury of turning the spigot on and off. We do not have the luxury of telling a researcher out there, "Go ahead and do it, but we cannot give you any guarantees 2 years from now you will have any assurance that money will continue." What kind of a vote of confidence is this? Researchers want to know that when it comes to new production or new markets, we are going to stand, ready in partnership, with research to make sure that agriculture continues to be what it is today.

Mr. President, I am also concerned about the deficit consequences of this legislation. No one denies this bill increases the deficit in the first 2 years by more than $4 billion. In rooms just down the hall we are trying to figure out how to cut billions of dollars from education, the environment, national service, programs that directly affect people in virtually every walk of life. We are cutting billions there and adding billions on the floor as we speak—$4 billion in the next 2 years, largely in payments given to farmers who will tell you privately this is not the year they need them. You do not need farm payments when prices are as high as they are in grain today, but we are going to provide them. We are going to mandate them. We are going to tell farmers you go out and do whatever you want, get as much money as you can from the marketplace, God bless you, we will still give you $50,000, $100,000, $200,000 in some cases.

Mr. President, the nutrition program, as well, troubles me a good deal. How we can reauthorize farm program benefits and these payments to farmers for 7 years, but payments to nutrition for children for only 2 years, is troubling in many ways.

Having said all of that, we recognize the good things. We wish we could improve those that are not good. We recognize that we will fight another day. We recognize that there are a lot of people out there struggling who want certainty. Bob Ode, a farmer near Brandon, SD, who was just in my office the day before yesterday. He is concerned about the lack of a safety net. He has told me that grain farmers and livestock producers in our State 2 years ago lost 13 percent of their income. Last year, they lost 18 percent of their income. In the last 2 years, many farmers have lost over 30 percent of their income, and our response today is to say we are going to take away your safety net. It is no longer there. You are on your own.

Are we really prepared to do that? Do we want to tell Bob Ode and farmers across this country that is the best we can do? Mr. President, we can do better. We must do better. We must come back, whether it is next year or at some time in the not-too-distant future. We must address these deficiencies. We cannot conscientiously allow this to happen.

I am very pleased that the President has promised to join forces with us, next year, to make that happen. We can do better. I yield the floor.

Mr. LEAHY. I understand the Senator wishes to speak in opposition to the bill?

Mr. BUMPERS. Yes.

Mr. LEAHY. I yield 5 minutes, from the distinguished Democratic leader's time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I thank the distinguished ranking member, my good friend from Vermont.

First, I want to express my profound gratitude to my colleague, Senator PRYOR, for the very laudatory and kind words he delivered on the floor a moment ago when he referred to a provision in the bill to name the U.S. Department of Agriculture Small Farmer Research Center in Arkansas after me.

As I sat there in my office watching Senator PRYOR deliver those accolades I couldn't but help question if it was really me he was describing. He laid it on pretty thick.

The thing that makes Senator PRYOR easily the most popular politician in Arkansas is because he is one of the most generous to a fault and one of the hardest working people I have ever known. You never see his name mentioned in the Arkansas press that it does not say, "Senator PRYOR, the most popular politician in Arkansas," as the lead to whatever story they are reporting.

I have been deeply honored to have him as a colleague, and deeply distressed to know that he will depart this body at the end of this session of Congress. We have had what I think is probably as fine a working relationship as any two Senators in the U.S. Senate have ever had. But I want to publicly express my gratitude to Senator PRYOR for all the kind things he did say about me.

He gave me much too much credit. Of course, that is one of the things that makes him so popular back home. He gives other people credit for everything that happens, no matter what his role was in it.

In this particular case I can honestly say the Senate would have been justified in naming that after an aide, my agriculture assistant back in those days, Rhona Weaver. It was essentially Rhona's idea. She worked with the State leaders and the leaders of the community. I would be remiss if I did not pay tribute to her. We politicians take credit for everything, but the truth of the matter is most of it originates with our staff, and this is a classic case in point.

I am deeply honored, Mr. President. And now, because I detest this bill so much, I am in the very ambivalent position of having to vote against a bill that places a great honor on me. Nevertheless, I have no choice but to vote no.

Let me just say, in these few remarks, that I personally thought the bill before us, which will probably be always remembered as the freedom-to-farm bill, was fatally flawed in concept. Senator CONRAD of North Dakota said it more appropriately several times, and it bears repeating. This bill is like the people who followed Jim Jones down to Guyana, and he told them, when they were committing mass suicide, to drink the Kool-Aid, it tastes good, and the children drank the Kool-Aid. It was after they got it down that the problems began. And so it is with this bill. It is going to taste good to the farmers, initially, because they are going to be paid a handsome bonus on top of record commodity prices. They do not even necessarily have to farm to get the bonus. The conference report did make one improvement from the earlier Senate version. To get the bonus, they at least have to engage in some sort of agricultural activity. But I can think of all kinds of activities that I can argue are "agricultural" in nature but do not resemble farming as farmers in my State would recognize it. You are going to see "60 Minutes" stories of farmers who are maybe getting 80 cents or a dollar a pound for cotton, plus a very handsome, generous payment from "Uncle Sugar." To make matters worse, depending on how they finally define "agricultural activity," you might see farm payments being paid to people who no longer plant a seed or turn a clod of dirt.

That is not what farmers want. They do not want welfare. That is what this is, pure and simple. Actually, I suppose you could argue that welfare is what you give to people who need it, which may not be the case with these freedom-to-farm handouts. But the problem is going to be just like drinking the Kool-Aid. Seven years from now, or sooner, when these payments have been terminated or have dwindled to nearly nothing, if commodity prices are back where they were 2 years ago, I do not know what is going to happen. We either go back to the drawing board and draft a bill similar to the one we are abandoning, or we just say "adios" to the farmers of America. I might remind my colleagues that in 1987 when the farm credit crisis was at its worst, the Congress did not abandon America's farmers. We stood by them in bad times as well as good and helped many of them make a substantial come-back. But with this bill, we are virtually saying "don't let the door hit you on the way out."

The tragedy of this is that many aspects of current law—the marketing loan in particular—that we have used all of these years is working. And they are working as they were intended. According to the CBO baseline estimates—one of our more esoteric exercises—USDA will show a $4 billion reduction in spending of farm programs in 1995 below what we anticipated less than a year ago. While terms like "baseline" do not mean anything to laymen, we all understand that we spent $4 billion less last year than we anticipated because wheat, cotton, and corn are well above the target price. Rice is really the only major commodity that is below the target price, and under current law, rice farmers would benefit. If commodity prices in the next 7 years stay as high as they are right now, the freedom-to-farm bill will cost $21 billion more than current law. In fact, if prices stayed at current prices, and rice improved a little, then every penny paid out as freedom-to-farm welfare is money we have no business spending this way. I can think of lots of better uses of this money for rural America. We are cutting conservation, we are cutting research, we are cutting rural water and sewer programs, we are cutting rural housing, and the list goes on and on. If you will give these billions of dollars that you are willing to give farmers already making record profits to us on the Agriculture Appropriations Subcommittee for discretionary spending, I will show you how we can put it to use in a way that can really make a difference

VOL 142 PT 5 MR 21 — 29 1996 UMI

in farming communities in every State of this Nation.

Finally, Mr. President, let me speak about the Market Promotion Program, which Senator BRYAN and I have tried to kill as religiously as I have tried to kill anything in my life. On a very handsome vote in the U.S. Senate, we cut the Market Promotion Program—the program that subsidizes Tyson, McDonald's, Hiram Walker, Gallo Brothers, and many other of the biggest corporations in America These subsidies were paid to them for advertising they ought to be, and perhaps would be, doing on their own, according to the GAO. Finally, we got that program cut back to $70 million less than 2 months ago on the floor of the U.S. Senate. What do you think? Here it is reincarnated in this bill at $90 million.

Senator BRYAN has already spoken on some of the ways the reforms he and I successfully brought to this program were dismantled one by one. Defenders of this program may have tried to hide their changes by changing the name of the program or by using language that appeared to be making reforms but were actually just a restatement of current law. MPP may have become MAP—and I won't begin here to describe the fun the press can have with this new name when you consider some of the former program beneficiaries—but it is really nothing new. Fortune 500 companies will still find ways to taxpayer-finance their already huge advertising budgets and foreign companies can still get the federal government to advertise in a way that might be adverse to similar U.S. companies. And so, is the only reform a provision to prohibit giving federal assistance to foreign companies for the purpose of promoting foreign agricultural production? And they call this bill the Federal Agriculture Improvement and Reform Act [FAIR]? This measure is hardly an improvement or a reform, and it certainly isn't fair.

So MPP, MAP, or whatever it ultimately gets called, lives on. I guess that is one of the unique things about the U.S. Senate. Nothing ever really dies. Rasputin finally died, but it seems that the Market Promotion Program, or whatever you call it, never will. So while there may be some things in the bill that have some redeeming value, they seem to have miraculously escaped my attention under the glare of such unbelievable policies as those I have just described.

So, Mr. President, when the roll is called, I will have no choice but to vote "no" on this. That is not to say that I do not admire the distinguished chairman and ranking member for their endless hours of trying to craft something that this body could agree on and that the House could agree on. Maybe it is the very best anybody could do. I do not know. But those best efforts do not require me to vote "aye." Therefore, I will vote "no."

I yield the floor.

Mr. LEAHY. Mr. President, I will speak on my own time. I always enjoy hearing the distinguished Senator from Arkansas. I told him before that one of the joys of coming here is that we came in the same class. He is one of the best friends I have had for 22 years here. I almost hate to go into this speech and muddy the water with facts, but one that I point out is on the Market Promotion Program, which I voted to cut and change over the years. There are significant changes. We made significant reforms to this program in 1993, and we gave a great deal of flexibility to the Secretary to carry out the reforms we had. I agree that participation in this program should be limited. This program is designed to help those who do not have large marketing organizations or deep pockets. It is designed for the small dairy co-ops in Vermont that use it now to promote exports to Canada, and other places, or the small rice dealers in Arkansas, who might use it. And bit by bit, this supertanker is being turned around, I tell my friend from Arkansas. We are improving it and will continue to do so.

I also tell my friend from Arkansas—and he knows this, as I do—that nobody ever brought to the floor a farm bill where they liked every single page of it. There is no legislation that comes before this Congress that is more a product of having the balanced interests of regions, individuals, of commodities, and balance of the needs of people who are not directly involved with farming, but have an actual interest—people who see the legislation in here to protect the Everglades and to help rehabilitate the Everglades, and those who see a Conservation Reserve Program continued and strengthened, those who see permanent law maintained, those who see improvements in some of our nutrition programs, as well as several new environmental initiatives like the EQUIP program, added here. These are things that effect every one of us, whether we are farmers or not. There are those throughout the country, farmers or not, who applaud these initiatives in this bill.

I would like to take this time, Mr. President, to thank several of my colleagues for their work on behalf of agricultural interests, who will not be here in the next farm bill. One, of course, is the distinguished ranking Member of the House Agriculture Committee, Representative KIKA DE LA GARZA. He went out of his way to be not only bipartisan in his own body, but in this body, as we have tried to bring together competing interests of farm bills. His most recent success was accomplished while chairman of the House Agriculture Committee, with a reorganization of the USDA and overhaul of the Federal Crop Insurance Program.

Then, in our body, let me speak of two Members I will miss greatly, both in serving with them on the Agriculture Committee and serving with them in the Senate.

One is my colleague from Alabama, Senator HEFLIN. I am proud to say I have served for 15 years on the Agriculture Committee with Judge HEFLIN. I served with him also on the Judiciary Committee. But I think in many ways I have relied on his expertise and his good humor. His ability to help forage consensus and coalition has been on the Agriculture Committee. His expertise and his judgment is going to be sorely missed. He has been the spokesman for southern agriculture. Certainly nobody ever discussed peanuts without Judge HEFLIN being there, and so much else of southern agriculture.

I think of the times when I traveled to his State of Alabama with him, with he and his wife, Mike, and on occasion when my wife was able to join us. I remember going to one function—a dinner in a school—where there were several hundred people there. I am positive that the judge called every one by name and asked about members of their family by name. I was then chairman of the Senate Agriculture Committee. I was nothing but a spear carrier on that trip to Alabama. I can assure the Chair, they were there to see Senator HEFLIN and this Eastern Senator who came with him, and who talked funny as far as they were concerned.

So I want to thank Senator HEFLIN for all he has done to further agriculture programs and, in particular, the rural development programs—the rural development programs that helped Alabama but also helped rural Vermont, and have helped rural areas throughout our country.

Another person I want to recognize from that committee is Senator DAVID PRYOR. I never have known any Member of the Senate, Republican or Democrat, who did not have great affection for DAVE PRYOR. I know I have been proud to serve on the Committee with him and proud that he has been one of my close friends in the Senate over the years.

Again, DAVID PRYOR is one who has time and again helped us bring coalitions together—his quiet dedication, his obvious knowledge of the facts, but also his knowledge that, as a Senator, there are certain prerogatives, especially debate prerogatives, that are available to all of us, and my memory of that goes back to the 1985 farm bill.

Senator PRYOR and his colleague Senator BUMPERS were concerned that the bill would cut Federal price supports for the rice industry. They came to the Senate floor and they delayed action by reading their favorite rice recipes into the CONGRESSIONAL RECORD. The opposition finally gave in to these Southern gentleman when Senator PRYOR announced that he knew of 1,000 rice recipes. I checked that figure with Senator PRYOR this morning, and the distinguished Senator from Arkansas told me that not only did he know them but that he kept copies of them in his desk should the need arise to add to our education in the Senate. Should he suddenly be called upon to give us time for reflection, he is prepared to talk about rice recipes.

That kind of dedication is going to be sorely missed. But these are people—Senator HEFLIN and Senator PRYOR—who have improved the Senate Agriculture Committee by their presence and have left a great legacy for all of us.

Mr. President, I have sometimes joked that Senators are merely constitutional impediments to their staffers, or constitutional necessities for their staffs. But I must say that this bill was made possible by the hard work of staff. And I think of those on my side of the aisle that I was able to appoint who have worked tirelessly in 1995 and 1996 on this farm bill.

I am particularly indebted to my staff director, Ed Barron. He joined me in 1987, and he has been a great fountain of education, encouragement, and tireless work. He is a good friend. He is a good adviser.

In the past he was the lead staff person who handled nutritional and rural development programs. The continuation of the nutrition programs in this bill is a tribute to his commitment to these issues. Ed also had a critical role in getting the dairy compact included in the final bill. His attitude on the compact reflected mine: "Never give up." And he never did.

Ed worked tirelessly in a bipartisan manner demonstrating superb political judgment and negotiating skills.

I thank him for his hard work. And, I believe his sons, James and Stephen, and his wife, Bonnie, will be delighted to know that they finally are going to see him again. They will have him back this weekend.

Jim Cubie, my chief counsel, has been with me over a decade on both appropriations matters and agriculture matters. His commitment to conservation and environmental issues has helped make this the most environmentally progressive farm bill in history. Without his dedication, there would not have been such a strong connection between farm policy and conservation initiatives.

Working alongside Jim was Brooks Preston whose commitment to the environment was forged during a childhood spent outdoors. Brooks provided invaluable legislative support for both my personal office and the committee on environmental and forestry issues.

Pat Westhoff, my chief economist, poured endless amounts of energy providing economic analysis for the committee on commodity program and budgetary issues. I felt confident knowing that Pat was leading the complex negotiations needed to fine tune the intricate details of the bill. Pat, your dedication and service to this committee is recognized and commended.

Thanks, as well, to Pat's wife Elena and to his children Christina, Ben, and Maria for letting us borrow Pat for what seemed to them to be about 50 years.

Kate Howard, my counsel for international trade, joined the staff for the 1994 GATT deliberations. Since then, Kate has continued to play a lead role in the trade, international food aid, and agricultural credit programs. Kate's efforts to build a bipartisan consensus for the international programs in this bill, and her support for the international food assistance programs, is especially appreciated.

Tom Cosgrove played a leading role in the passage of the dairy compact and other dairy reforms. On my committee for the past 5 years, Tom has worked endless hours on behalf of dairy farmers in Vermont and across America. Born on a dairy farm himself, Tom connected with the dairy community and understood their concerns, enabling him to effectively translate their needs into legislation.

David Grahn spent countless hours drafting the bill and deserves a special mention. Without him, the drafting of this legislation would not have been as successful. David would be here now—except that he and his wife just had a baby during the last 2 weeks of the farm bill. Congratulations, David and Jill, on your baby girl, Carolyn Elizabeth Grahn.

Bob Paquin has worked tirelessly for me on agriculture issues in Vermont. I appreciate that he flew down to Washington to help out on the compact at the critical moment. His talents are greatly appreciated.

Diane Coates, who started in my Vermont office and has been working on the committee for 2 years, provided invaluable support to Ed Barron. Her work on nutrition programs was particularly helpful.

Kevin Flynn, who started with me in the Washington office and joined the committee last fall, provides excellent support for everyone on the committee.

I was also very fortunate to have on staff several people as fellows or from the Department of Agriculture. Rob Hedgerg provided invaluable expertise in the areas of conservation, research, and rural development. Kate DeRemer's efforts ensured that the final bill included a research title that prepares our farmers for the next century.

Ron Williams, who arrived right in the thick of things, provided critical assistance. His patience and unflappable personality are invaluable.

There are a number of people who are no longer on the committee but worked very hard to help get us to the point we have reached today. Nick Johnson did a superb job for Vermont and me on rural development and nutrition and I wish him all the best at the Center for Budget and Policy Priorities.

Craig Cox, who left my committee to join the Natural Resources Conservation Service at USDA, spent countless hours over the past 3 years to help lay the foundation for the conservation title that we included in the farm bill.

Bryant Farland, who left the committee last year to enter law school, provided excellent support to the committee. His professional attitude and cheerful approach to every assignment is sorely missed.

Senate legislative counsel—especially Gary Endicott, Tom Cole, and Janine Johnson—deserve a lot of credit for their willingness to stay late and their excellent work.

I must also thank Secretary Glickman, and his chief of staff, Greg Frazier, as well as the Secretary's dedicated staff at USDA for countless hours of support during this long process.

But I have emphasized over and over again that this is bipartisan legislation. I compliment my good friend from Indiana, as I have before, Senator LUGAR, who listened and worked so hard with me so that we could pass this bill. We agreed on some issues and disagreed on others. But, we know that we can always take each other's word.

I think many times staff reflect the Members they work for. Chuck Connor deserves a great deal of credit for that. He works for one of the most honest, dedicated, hard-working Senators here. This is reflected in the type of person Chuck Connor is. He is someone I have respected in all of the years that I have worked with him. I consider him one of the finest staff in this body. I compliment him, and I thank him for his work and the direction he gave to Randy Green, Dave Johnson, and Michael Knipe, and others.

Mr. LUGAR. Mr. President, our side will be represented ably by the majority leader in a moment as he will make a final statement.

For several decades, the U.S. Department of Agriculture subsidized farmers with target prices and deficiency payments. Target prices for wheat, feed grains, cotton, and rice were set at levels believed to represent a fair price for the crops.

Whenever the average market price was below the target price, the Federal Government paid farmers the difference. This was called a deficiency payment.

Now Congress is considering a plan that would scrap deficiency payments and target prices and replace them with fixed payments. The farmer receives the same subsidy payment whether prices are high or low. Advocates for change believe this system

VOL
142
PT
5
MR
21
—
29
1996
UMI

provides the certainty farmers need with regard to payments and the predictability taxpayers demand with regard to balancing the target. Defenders of the status quo criticize this plan because farmers receive payment during periods of extremely high prices.

While no one wants subsidies paid when they are not needed, the current system of deficiency payments and target prices fails even the most modest standards of targeting or means testing.

Deficiency payments are a poor indicator of farm wealth. Price represents only one-half of the farm income picture. Cash receipts in farming are a product of price per bushel multiplied by the quantity produced.

Recent history is a case in point: 1994 was a remarkable year for corn production. Total corn production for the country exceeded 10 billion bushels—a feat most thought was impossible. In the Midwest, whole fields averaging over 200 bushel per acre were commonplace.

Large supplies caused prices to fall. The average corn price for the year was $2.26 per bushel—almost 50 cents below the target price. According to our system of calculating farm wealth, 1994 was a terrible year because prices were lower. Taxpayers came to the rescue with substantial subsidies even though farmers harvesting 200 bushels per acre corn at $2.26 per bushel grossed a record breaking $450 per acre.

As is often the case in farming, 1995 was different than 1994. Weather problems and pestilence plagued farmers throughout the year. Many farmers who harvested 200 bushels per acre in 1994 saw their production fall to 90 bushels or less in 1995. Some farmers lost their entire crop. With falling production and strong demand, prices were substantially above target price levels. Corn farmers received $3.00 per bushel or more for their crop.

1995, however, was a very difficult year for many farmers because they had little, if any, crop to sell at higher prices. Ninety bushels per acre at $3.00 per bushel represents a per acre gross of $270 per acre—40 percent below 1994. Yet the USDA declared 1995 as a good income year, and took away all subsidies for the 1995 crop. Generous subsidies were paid to 80 percent of the corn farmers in America in 1994.

Freedom to farm gets the Government out of the business of estimating good income years and poor income years. The 7-year baseline payment levels are distributed—on a declining basis—to farmers over the next 7 years without regard to commodity prices.

Will there be years in which farmers receive a subsidy even though their income was high? Perhaps. But this is no more the case than under present law. The current system has indeed failed to identify genuine need. Let's give the USDA something better to do with their time.

In short, Mr. President, although it has been suggested that the freedom-to-farm bill would not be a good idea in the event that a bad year came along on the farm, the fact is the current program has not been particularly helpful. In those years in which we have had a great abundance of crops in and great revenue from the fields, we have also had target prices in addition or great deficiency payments. That is an important point to make, and I make it for the RECORD.

Mr. President, I thank, once again, the distinguished ranking member, Senator LEAHY, for an extraordinary opportunity to work with him and to create, I believe, a remarkable farm bill.

Today, as we pass a farm bill that shapes the outlook of agriculture for the 21st century, it is time to recognize the tireless efforts of one of the finest staffs on Capitol Hill.

I want to start by recognizing the efforts of the professional staff of the committee led by senior professional staff member, Robert (Randy) Green. Randy deserves special credit for his outstanding professional efforts in translating complex ideas into effective legislation. Often working through the night into the mornings and on countless weekends, Randy and his staff exemplified a dedication to the truth in the details of the committee conference process. While respecting the views of others, the professional staff crafted a bill in a manner that was fair. They have worked on endless proposals and through many very tough negotiating meetings to achieve the exciting new concepts about agriculture that were passed today. Katherine Brunett McGuire, David Stawick, Darrel Choat, Terri Nintemann, Terri Snow, Elizabeth Johnson, Douglass Leslie, Patrick Sweeney, and Bill Simms combined their extensive knowledge of agricultural issues to create this landmark revision of Agriculture policy. They are the unsung heroes who took the plight of the American farmers seriously and kept their shoulders to the task until we have arrived at the conclusion of this conference.

Dave Johnson, chief counsel, Marcia Asquith and Michael Knipe, counsels, spend endless hours giving assiduous attention to the details in the drafting of legislation to forge compromises on the most difficult issues. They worked diligently to negotiate provisions that would be effective and yet pull together diverse interests. Patiently drafting and redrafting a great many ideas that ultimately were not part of this legislation, but necessary in arriving at the concluding language, they never gave up and determinedly made the resulting Farm Bill a strong one.

Chief economist, any Morton, spent hours crunching numbers for the committee to ensure that the bill's cost fell within budgetary constraints. It is a tribute to his ability that this bill is scored so successfully by CBO and achieves the numbers that are required. Andy's knowledge of agricultural economics has proven to be a most valuable resource to the committee.

Andy Fisher did a superb job of keeping the press informed of the bill's progress and his ability to translate complex agricultural issues for the press and operate under severe time constraints ensured that the public was well informed.

Chief clerk, Robert Sturm, along with Debbie Schwertner, Danny Spellacy, David Dayhoff, Mary Kinzer, Jill Clawson, Cathleen Harrington and Barbara Ward kept the office running smoothly throughout this process. In conducting many hearings, both here and in the field, responding to hundreds of letters, answering thousands of telephone calls, and tracking a very active staff they demonstrated their diligence and loyalty to the Committee.

I also want to thank Gary Endicott, Janine Johnson and Thom Cole from the legislative counsel's office for their willingness to respond to the committee's requests and for lending their valuable expertise to the development of this bill.

As well, I want to commend the minority staff of the committee who contributed greatly with their professionalism and cooperation. In particular, I want to thank minority staff director, Edward Barron and chief counsel, Jim Cubie. They led the way to agreement through many continuous issues.

I would especially like to commend staff director, Chuck Conner for his tremendous contribution to the committee. Chuck's leadership and broad expertise in agricultural policy provided the committee with sound guidance on key issues. His resolute attitude and strong convictions kept the conference advancing when the process seemed mired in difficulty. Chuck molded a superb staff and prepared them with precision so that they could navigate a steady course to the passage of this legislation. The public rarely sees the work of the Senate staff but they give so much to our country. Their sacrifice and long hours are shared by their families and I applaud their efforts.

Mr. DOLE. Mr. President, we have had a number of farm bills discussed and passed since I have been in the Senate. Of course, the first question is, is it good for agriculture and good for the consumers and good for the American people generally? I think we can say that the answer is in the affirmative in each case.

I certainly thank Senator LUGAR, the chairman of the committee, and Senator LEAHY, the ranking Democrat on

the committee. They have worked together, as we must, in agriculture. I have always found that if you bring a bill to the floor that is too partisan, either Democratic or Republican, it is not going to pass. And so, as has been the case in the past 20, 30 years, as far as I can recollect, this is a bipartisan piece of legislation. It should be bipartisan or nonpartisan. I do not believe that to the American farmer who is sitting out there making his decision on what is good or bad it depends on whether it has a D or an R behind it. But if it is worked out in Congress, as it has been, on a bipartisan basis, then I believe the American farmer, rancher, and, of course, the American taxpayer, too, is generally more satisfied.

This bill is also a good environmental bill, as I will touch on later.

I would like to also congratulate my friends and colleagues on the other side of the Capitol, PAT ROBERTS, and Congressman DE LA GARZA. I have worked with them over the years. My friend, PAT ROBERTS, is my Congressman in western Kansas. He has done an outstanding job working with the Senate and working with the House and again in coming up with a very important piece of legislation. It is truly a bipartisan effort.

I congratulate my colleagues, particularly those who were conferees. It has required a lot of patience and a lot of perseverance, qualities which farmers and ranchers have to have themselves. They have to have patience and persistence or they would not be in business very long.

The legislation before us will transition America's farmers into the 21st century without disrupting the farm economy or land values, and farmers, as other Members in the Chambers have said, finally are going to plant for the market and not for the Government.

In addition, this legislation provides farmers with what they have asked for the most—certainty, simplicity, and flexibility. As I travel across America, farmers and ranchers tell me the same thing: Keep it simple. All Government programs, and especially all regulations, must be simpler and less intrusive. The farm program should pass the common sense test.

As I said, another big winner in this bill is the American taxpayer. This legislation ensures reasonable and responsible spending through a capped entitlement. If we are to balance the budget—and we will—the American farmer will tell you that everyone must contribute including himself. Farmers often remind me that they are taxpayers, too. And as taxpayers, farmers want a balanced budget because they know under a balanced budget, spending on interest payments are projected to decline $15 billion over 7 years. And the farmers would be one of the greatest beneficiaries in that event.

For family farmers who often struggle to make ends meet, the money saved through reduced interest payments could make the difference between success and failure.

This is landmark legislation. The bill contains one of the most significant conservation packages ever enacted. Instead of mandates and the heavy hand of Government, this bill reflects a common sense approach. This historic farm bill is one that conservationists can be proud of.

This legislation includes elements from the conservation bill authored last year by Senators LUGAR, CRAIG, GRASSLEY, and myself, also known as S. 1373, the Agricultural Resource Enhancement Act.

For example, this farm bill continues the Conservation Reserve Program which, at 36.4 million acres, makes the program twice the size of the National Wildlife Refuge System. This program is the Nation's biggest and the most successful private lands conservation program.

The bill streamlines cost-share incentive programs into one revitalized program, the Environmental Quality Incentive Program. The program will spend $200 million per year on cost-share assistance for crop and livestock farmers as they work to control pollution and erosion.

For years, farmers have been planting the same crops year after year which leads to excessive use of fertilizer, chemicals, and tillage to control pests and maintain crop yields. This bill provides farmers with complete planting flexibility, allowing them to plant environmentally sensitive crops.

The bill also ensures sound conservation practices on over 300 million acres. This legislation continues the successful record of the 1985 and 1990 farm bills by requiring participating producers to meet soil conservation and wetlands protection standards.

In addition, the bill provides funding for the restoration of the Florida Everglades, balances conservation compliance regulations, expands mitigation options for wetlands, and authorizes new conservation and wildlife enhancement programs.

Several national farm organizations have praised the conservation provisions as providing a more common sense balance between practical conservation methods and protection of natural resources and wildlife.

As I see it, this bill is not the end but a beginning. It is a positive first step in a larger effort to ensure that rural America prospers. From here, we can address other issues. Tax and regulatory reform are a must. Property rights protection and health care reform are vital. I am committed to taking action on these issues, so that rural America can realize a brighter future.

American agriculture is ready and waiting for policies that will help prepare it for a successful 21st century. This legislation lays a solid foundation for sustained growth.

Like other members on the Ag Committee—and I have been proud to be a member of that committee for a long time—I certainly have had outstanding staff, headed by Mike Torrey, who has worked closely with Chuck Conner and others, along with Dave Spears, who is in my Kansas office but has been back here from time to time to help us on this legislation, and Bruce Knight, who helped us a great deal with the conservation title.

I want to thank my three staff members, in addition to all the others that have been mentioned by Senator LEAHY and Senator LUGAR. Without staff, I do not believe we could be here today, on the verge of voting for this historic legislation.

This is historic legislation. This is a complete departure from the past when it comes to agricultural legislation.

Again, I want to particularly commend our distinguished chairman, Senator LUGAR, along with Senator LEAHY and others, who have made it possible.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, do I have time remaining?

The PRESIDING OFFICER. The time has expired.

Mr. LEAHY. Is the Senator from Montana speaking in favor of the bill?

Mr. BURNS. In favor of the bill.

Mr. LEAHY. How much time does the Senator wish?

Mr. BURNS. Two minutes or less.

Mr. LEAHY. I will yield to the Senator, not to exceed 5 minutes.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank Senator LEAHY, the ranking member of the Ag Committee, and of course Senator LUGAR, who has displayed great leadership crafting this legislation.

I rise today in support of the conference report of the Federal Agriculture Improvement Act of 1996, now known as FAIR. I see this as a positive move forward for agriculture and agricultural production in America. This is a bill—and an idea—that is overdue and now the time has come for the implementation.

As I review this conference report, I see many components that I favor, and of course there are provisions that I think are softer than they should have been for the good of the producer and the good of the Nation and its economy. Positive steps have been taken in the Commodity programs and in the marketing and foreign trade provisions. However, I do believe that we could have provided greater flexibility for our producers in some of the conservation programs.

I have listened to many of the Members of the Senate in the past day discuss that this will doom the future of

VOL 142 PT 5 MR 21 — 29 1996 UMI

agriculture, and that we are providing welfare for the American farmer. This is truly not the case. This act will provide for the future of the American farmer in a way that Congress has not had the nerve to address for almost 60 years. This bill will assist many young farmers to have access to the land and allow for the future development of agricultural production in this country.

I have heard many times that we have not provided for a safety net for the small farmer. As I look at the programs that were enacted to protect the small family farmer in the past, they have not done a very good job at offering protection to these people that make their living of the land. In recent years, due to many circumstances, we have seen a decline in the number of small family farmers.

What we have done is bring American agriculture into the future. Gone are the days that a producer can take grain to the elevator and figure that the job is done as they watch the grain drop through the grate. American producers are going to have to take an active role in marketing their own products, from the field to the final product.

I suggest that with the passage of this bill our work has just begun. We now need to work on the improvements for the future of agriculture in our Nation. With the passage of this measure we will finally take a step toward getting Government out of the farming business. We need to set our sights on those areas of law and Government assistance that Government should work on. The role of Government in this new future will be those areas that the individual farmer has little or no real access to. The role of government in the future should be in the development and expansion of research assistance in the marketing in both domestic and foreign markets. This is how we can and should develop the future for our producers.

As we place our producers in the world market, we need to provide them with the tools to compete in this market. To do this we need to offer to them the advancements that will keep American agriculture a lead player in the world. At a time when we see a trend in declining yields, we need to provide our producers with the best research in developing resistant crops. The market is there for them to be active in, but they need the tools available to them to see meaningful gains in the amounts that they can earn from their had labor. Just recently, we have found the presence of a fungus in grain that could, if it was not properly dealt with, permanently damage our access to foreign markets. I would like to commend the Department of Agriculture for the work that they have done with the recent discovery of karnal bunt within our country. With a meaningful and dedicated research effort, we can and should be able to find a way to develop a resistant seed to this and many of the diseases that target our crops in the United States.

In addition, we need to offer to our producers the understanding and assistance in marketing their commodities. As I have previously stated, many producers think that their job is done when it reaches the elevator. As we move into this new program, our producers are going to need the knowledge and the access to information and opportunities to improve their ability to make a return on their investment. In my discussions around the State of Montana, many farmers, young and old, have stated that they are glad to have the Government out of their business. What they would like to see from Government now is a little assistance in learning what it takes to market their product. They do not want Government directly involved. They would like assistance in marketing their efforts, both here in the United States and on the world market. This was one of the major reasons that I worked hard to have this legislation include wording on the foreign market development cooperators program.

Finally, but not least of all, we need to address a major concern in the agriculture community: tax reform. This Congress has been called upon by the people to institute tax reform to address the concerns of all Americans. Any progress that we make on this front will greatly benefit the American small family farmer. Provisions must include changes in the inheritance tax code, to allow more families to keep their operations in the family. For generation after generation, our farm families have worked to keep their operations within the family, yet current tax structure seeks to penalize those people who want to keep the operation in the family.

Another of the Tax Codes that we need to address is the capital gains tax. There are a great number of Montanans who would like to sell their operation. However, with current structure and the price of land, they are not in a position to put their property on the market. Action in this tax will allow many new and younger farmers to move onto land that may now be out of production. This must be addressed, and we must do so soon.

We have taken the first step to address the future of American agriculture. It is only the first step. The future is upon us and we must make the most of it for the family farmer in America. I support this first step and I hope the Senate will endorse it fully for the producers in the field.

I want to make a further comment. I think there are some areas where we have to continue to work. I think the market development amendments we got put in there to develop markets abroad, our foreign trade—we know agricultural exports are one of the great, bright, and shining spots of our trade. But I think tax reform for agriculture still remains a very, very important part of our work to be done here on the floor of the Senate.

We had a hearing this morning on agricultural appropriations and the work of the ARS. Of course, with the inspection service, we know we still have problems. Sometimes we look at the funding. Maybe it is not quite enough in our Agricultural Research Service. We have to continue to do research on how do we produce food and fiber for America, this great Nation, and also, over in the area of inspection, on how do we isolate these very disastrous things that can happen to us in agriculture.

I will give you an example, karnal bunt now in wheat. They got it isolated. They knew what to do. But it is a situation that could have devastated the durum wheat industry in our part of the country. In Montana, it is karnal bunt. All we have to do is look across the ocean and take a look and see how important APHIS is to us, the inspection service on plants and animals, when we take a look at England and the situation they are in with their "mad cow" situation.

So I congratulate the leadership on this bill. We will be supporting this bill. It is a departure from even the carryover from the 1930's.

I thank the leadership, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, my understanding is we will go to discussion on minimum wage at this point?

The PRESIDING OFFICER. Time remains on the farm issue.

Mr. SIMON. I yield the floor.

Mr. DORGAN. Mr. President, my understanding is the minority leader has 12 minutes remaining. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. Mr. President, let me yield myself as much of that 12 minutes as I shall use. I shall not use the entire 12 minutes.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, my colleague from Montana just a few moments ago spoke of something my colleague from North Dakota spoke about earlier this morning. Let me just make a comment about that topic. I also want to make a couple of final comments about the conference report that is on the floor before us.

My colleague from Montana, Senator BAUCUS, and my colleague, Senator CONRAD, talked about actions Canada has taken in the last 24 hours with respect to the restriction of durum, durum wheat, moving into Canada because of a fungus called karnal bunt. I

have in the last couple of hours talked to Chief of Staff at the White House, Leon Panetta, who is going to be contacting the agriculture secretary of the trade ambassador to talk about the actions Canada has taken. It has the possibility of causing some real chaos in our ability to export durum grain, because that durum goes through ports on the Saint Lawrence Seaway that are Canadian facilities. To suggest somehow American durum could not move through those facilities could have a devastating impact on our ability to export durum grain.

The Canadians, I think, have created a circumstance that is fundamentally unfair. Karnal bunt does not survive above the 35th parallel, we are told by the scientists. The suggestion that they can use karnal bunt as some sort of an excuse to injure our ability to serve export markets is, I think, a transparent attempt to create advantage for themselves in international trade at our expense. I have asked the President to take some immediate action to respond to this issue.

But the reason I make that point now is my colleague from Montana made the point about things like karnal bunt and the problem they pose in the marketplace. There are a whole series of things that can cause significant changes in grain prices. We had someone out here recently talking about, "Well, we have a loan rate in this bill which provides a safety net. So there is, in fact, a safety net." However, the fact is that the loan rate in this piece of legislation creates a safety net that is so far below the market price that, for family farmers to make a living, it is not much of a safety net at all.

The point I wanted to make finally in this discussion is one about market power. I brought to the floor a story that was written following the Senate passage of the farm bill. This news story says that the big grain trading firms won in the U.S. Senate, the meat companies won, the millers won, the grocery manufacturers won. The biggest economic interests got a full plate when the Senate passed this farm bill.

The fact is, when the big grain trading firms win in farm policy it means family farmers lose. What happens is, you set people loose in a survival of the fittest circumstance and say, "You just battle it out, out there in the marketplace," And what do you face in the marketplace? You face grain trading firms, one of which has more storage capacity in one firm than all of the wheat raised in my State, one grain trading firm can store all the wheat that is raised in North Dakota—that is market power.

Now, if you put 8 or 9 grain trading firms at the choke neck of the bottle through which all that grain has to move and then you say to the 30,000 North Dakota farmers, "Each you should compete in these circumstances," guess who wins and guess who loses? It is not a surprise. The story I showed on the floor of the Senate describes it accurately.

This bill is a major victory for the biggest grain trading firms, the biggest millers, grocery manufacturers and others, because they like lower grain prices in the long run. They are in the marketplace in order to nick grain prices back, to keep them down. What does that mean? Family farmers cannot survive. The deck is stacked against them. The odds are against them. The fact is, there will be fewer yard lights out there, fewer families able to live on the farm and make a decent living.

When you see those yard lights, those economic blood vessels that serve small communities and create a rural life style, turn out, you lose something important. When those blood vessels shrink away, you devastate something I think is very important in our country.

The reason I keep talking about family farmers is I care who farms this country. It makes a difference to me. It makes a big difference to me, whether an corporate agrifactory is farming America from California to Maine, or whether America is dotted with yard lights where families exist out on the land, trying to make a living.

We had an world renowned author from North Dakota who died last year, whose name was Critchfield. He wrote several wonderful books about what this country gains from the rural parts of America. He talked about the nurturing of values that comes from the farms to the small towns and to the cities, as people move in our country.

I think to suggest somehow that those values, which have always started at the family farm, are not important is a mistake. These values have moved their way through this country of ours—I'm talking about helping one another, shared sacrifices and so on—and to suggest that this is not important in our future is a regrettable oversight for this country.

It does matter who farms in this country. If we do not have a farm bill that stands up for the interest of family farmers, let us not have a farm bill at all; we do not need it. And if we have a farm bill, let us have a farm bill that stands up and speaks for the economic interests of families out there trying to make a living. We need a farm bill for those trying to make a living in circumstances where, if they plant a seed, they may not get a crop, and if they get a crop, they may not get a price. Family farmers face twin risks that no one else in this country faces.

Time after time when international prices drop—and they will and they do—family farmers go bankrupt. That is why we for years have decided we will provide a basic safety net to try to give family farmers a chance to survive over those price valleys.

This bill, for all of the huffing and puffing of those who support it, basically pulls the safety net out from under family farmers. Yes, it is attractive in the first year. Yes, there will be money in the first year, the second year and people will like it. But that money is labeled "transition money."

What is the transition from? The transition is to move farmers away from a safety net. If we do this we will be left one day with more expensive food produced by corporate agrifactories that farm all of this country. There will be precious few lights dotting America's prairies because this Congress says family farmers do not matter.

I will make one final comment. This issue is over this year. We are a year late, we are pretty short on the correct policy initiatives, but this issue is not over for the long term.

Next year there will be a different Senate, and those of us who believe that we ought to invest in the future of family farmers will be here. We will be here to give family farmers a chance to make it in a marketplace where there are a lot of larger interests that want lower prices and do not care whether family farmers survive. Those of us who believe in a different philosophy in a different approach will be back. We will be back to rewrite a farm bill based on a policy approach that is more appropriate for the long-term economic interests of those families who today struggle against the odds.

Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I know of no one else who wishes to speak. I have been authorized by the distinguished Democratic leader, Senator DASCHLE, and the ranking member, Mr. LEAHY—and I have exhausted my time—to yield back all time.

The PRESIDING OFFICER. All time is yielded back.

PRESIDIO PROPERTIES ADMINISTRATION ACT

The PRESIDING OFFICER. The clerk will now report the pending business.

The assistant legislative clerk read as follows:

> A bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.

The Senate resumed consideration of the bill.

Pending:

Murkowski Modified amendment No. 3564, in the nature of a substitute.

Dole (for Burns) amendment No. 3571 (to amendment No. 3564), to provide for the exchange of certain land and interests in land located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

Dole (for Burns) amendment No. 3572 (to amendment No. 3571), in the nature of substitute.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Kennedy amendment No. 3573, to provide for an increase in the minimum wage rate.

Kerry amendment No. 3574 (to amendment No. 3573), in the nature of a substitute.

Dole motion to commit the bill to the Committee on Finance with instructions.

Dole amendment No. 3653 (to the instructions of the motion to commit), to strike the instructions and insert in lieu thereof "to report back to April 21, 1996 amendments to reform welfare and Medicaid effective one day after the effective date of the bill."

Dole amendment No. 3654 (to amendment No. 3653), in the nature of a substitute.

AMENDMENT NO. 3573

The PRESIDING OFFICER. There will now be 30 minutes equally divided prior to the cloture vote.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I yield myself 2½ minutes.

We are talking about the minimum wage. We are talking about 12 million Americans who can benefit, and what that means to 12 million Americans, people who are struggling, I do not think I need to spell out for most people. But unfortunately, in the U.S. Senate, we have to spell it out.

We ought to spell it out, among other things, in terms of welfare. I have heard the phrase "welfare reform" on the floor of the Senate over and over again this year and last year. Let me tell you, this minimum wage bill will do more to help people on welfare and for welfare reform than any welfare reform bill that has been before us. And it will save money for the Federal Government.

Once in a while, we can do the humanitarian thing and save money. We will save welfare money. We will save money on the earned income tax credit if this is adopted. So for people who are interested in saving money, moving toward a balanced budget, here is one practical way of doing it.

But let me mention one other observation that I think is important, and that is the way we finance campaigns and distort what is taking place. Probably before this session of Congress is over, we are going to reduce the capital gains tax. Primarily 10,000 people will benefit from that. People are going to come out with the numbers, but 60 percent of the benefits go to 10,000 people. But those 10,000 people are contributors on both sides of the aisle, and we listen to them.

How many of the 12 million people earning the minimum wage are big campaign contributors? Virtually none. So their voice is muted in this process. We ought to today speak up for 12 million people who are not big campaign contributors but need our help.

Mr. President, I see you are about to gavel me down, so I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 12 minutes 15 seconds remaining on your side and 15 minutes remains on the other side.

Mr. KENNEDY. I yield 3 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, this minimum wage increase is a very simple and straightforward proposition. Minimum wage right now is $4.25 an hour. You can work 52 weeks a year, 40 hours a week and you still do not make poverty wages. This is important for working families in Minnesota and across the country—almost 200,000 workers in my State—much less their children.

We are talking about a 90-cent increase over 2 years—90 cents over 2 years—to try and respond to the concerns and circumstances of working families in the United States of America, working families in Minnesota.

Let me put it another way. The U.S. Senate a few years ago voted itself 1 year a $30,000 increase in salary. That is almost four times the total yearly income of what minimum wage workers make right now in our country. The U.S. Senate voted itself a $30,000 increase in 1 year, which is almost four times the total annual salary of a minimum wage worker and his or her family in this country, and we cannot raise the minimum wage for working people?

I do not consider this to be partisan strategy. I do not consider this to be a game. I do not consider this to be tactics. People in the United States of America make it a plea that we respond to the issues that they care about; that we respond to fundamental economic justice questions. That a worker in our country should be able to see his or her wage raised from $4.25 an hour to $5.15 an hour over 2 years is a matter of fundamental economic justice. It is what I call a Minnesota economic justice issue, and I urge my colleagues to vote for cloture.

Mr. KENNEDY. Mr. President, I yield 3 minutes to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, thank you. I am pleased to join with my colleagues in asking the rest of my colleagues to join with all of us in voting for this increase in the minimum wage.

This vote is not a vote on process, it is not a vote on cloture, it is not a vote on who controls the Senate, it is not a vote on Presidential politics; it is a vote on whether or not people who are today working at the minimum wage who are at a record almost 40-year low in the purchasing power of that wage are going to get a raise.

We hear colleagues try to make diversionary arguments: "Well, this is going to lose jobs."

We have heard those arguments, Mr. President. We put the minimum wage in America into effect in 1938 at 25 cents. Obviously, to get up to the $4.25, it has been raised in the meantime.

In 1989, we raised it here, and 89 U.S. Senators, Democrat and Republican alike, joined in raising the minimum wage. We raised it each time against the arguments that, "Oh, this is going to lose us jobs."

Finally, in the last 5 years, because that argument keeps being raised, a series of studies have been done, study after study. More than two dozen of them have shown you do not lose jobs when you raise the minimum wage. As long as you obviously raise it to a reasonable level, you increase employment.

The study by Lawrence Katz, of Harvard, and Alan Krueger, of Princeton, most recently has showed what happened in New Jersey. New Jersey, Mr. President, raised the minimum wage to a level that is well above the $5.15 that we are seeking. If you had a comparable level today to what they raised it in New Jersey, it would be the equivalent of $5.93. We are only asking to raise it to something that is still 13 percent below the level the minimum wage had in the 1980's. We are not asking to raise it to the full level of purchasing power the minimum wage has had in the past.

America was never slowed by having it at that level in the past. We have increased employment in this country. In fact, after adjusting for inflation, studies would show that if we raised it now to just $5.15 an hour, you would still be below the purchasing power level of the minimum wage in prior years.

The other day we had an employer stand with us talking about the minimum wage. He is in the restaurant business. That is one of the businesses you most often hear about might be negatively impacted. This employer not only pays more than the minimum wage in his restaurant business, but he gives everybody in that business full health care—full health care—more than the minimum wage, and he is doubling his business every single year. He keeps the people employed. He keeps the people working for him. It is good for his business. It is good for the country, Mr. President. This is fair.

When chief executives are getting paid more, when the stock market goes up 34 percent in 1 year, when the productivity of this country increases 12 percentage points over the course of the last 5 years, but wages only go up 2 percent, it is time to say, give those people working at the least point of the economic ladder a raise. I hope we will do that in a bipartisan fashion.

Mr. President, let us not misunderstand this cloture vote today; let us not misunderstand what it means about the prevailing political agenda of the majority leadership who have consistently supported huge tax cuts for the wealthiest Americans and millions of dollars in corporate give-aways, but will not allow a simple up-or-down vote on increasing the minimum wage.

This cloture vote today is that vote. Some on the other side of the aisle would have us believe that this is a vote about schedules, or about Presidential politics, or about Democratic attempts to usurp control of the Senate when, in fact, it is none of those things. It is the vote on whether or not we support an increase in the minimum wage. It's a vote about economic justice.

Mr. President, I have offered, on my part, and we, on this side, have all said that we would "sit down and shut up," in exchange for a vote anytime between now and June—an honest, up-or-down vote on rasing the hourly wage of the poorest American workers. But even that request was rejected by the majority leadership. So, this is not about us—on this side of the aisle—taking hold of the Senate's agenda, or stalling action on the Presidio bill. On the contrary, it is an honest insistence that we address this fundamental issue of fairness and economic justice.

The arguments that we are hearing from the other side—that an increase in the minimum wage loses jobs, that somehow giving people a better chance at survival is a bad thing—simply do not hold up on the economic side or on the fairness side.

In fact, Mr. President, the last time we raised the minimum wage by 90 cents over 2 years, it was with broad bipartisan support and the signature of a Republican President. These arguments never came up then, but now, we cannot even get the Republican majority to bring the issue up for a vote. It would seem to me that the only thing that has significantly changed—besides the inability of 22 million hard working Americans to keep up in this economy—is the political imbalance of a Republican Party sliding hopelessly to the extreme. Because—based on empirical evidence—the need for an increase is clear.

Study after study show that increasing the minimum wage helps.

I have brought up example after example in the last few days of young single mothers and working families in my State, trying desperately to find a job that pays them enough to raise their families with dignity—that pays enough to provide health care for their children, a decent safe place to live—enough to afford daycare and groceries, pay the heat and pay the electricity. Mr. President, is that too much to ask for people on the job and off the doles?

The evidence is clear. This increase would not be out of the range of increases that have been enacted at the Federal level and in some States, and the overwhelming preponderance of evidence—in studies that looked at the two-step 90-cent increase in the Federal minimum at the turn of the decade, as well as State increases at the level of nearly $5.70 an hour in 1996 dollars—is that these increases do not increase job loss.

So any argument here that points to job loss as a reason for voting against giving people a raise, is, on its face, absurd. David Card, in "Industrial and Labor Relations Review" in October 1992, studied the first 45-cent increase to $4.25 in the Federal minimum wage and found there to be no increase in job loss. Now, that study is in 1991 dollars. The equivalent in 1996 dollars is $4.93—without—without causing job loss.

Another study by Card and Alan Krueger, "The Effect of the Minimum Wage on the Fast Food Industry" studied the effects of New Jersey increasing its minimum wage by 80 cents, from $4.25 an hour to $5.05 an hour in 1992—that's $5.69 an hour in 1996 dollars—and they found that the increase did not cause job loss.

And a specific study by David Card entitled, "Do Minimum Wages Reduce Employment: A Case Study of California, 1987–1989" that looked at California's 90-cent increase in the minimum from $3.35 an hour in 1987 to $4.25 an hour in 1988—that's $5.68 in 1996 dollars—has no significant impact on job loss.

Card concluded: "Comparisons of grouped and individual State data confirm that the rise in the minimum wage increased teenagers' wages. There is no evidence of corresponding losses in teenage employment."

Another study by Lawrence Katz of Harvard and Alan Krueger of Princeton examined an increase on the minimum wage on the fast-food industry in Texas and found that the employment effects, if anything, were positive.

Mr. President, let us not be fooled by diversionary arguments that muddy the waters. There's no correlation between increases in the minimum wage and job loss, and that argument should be put to rest once and for all.

Harvard labor economist Richard Freeman, in the International Journal of Manpower, in November 1994, said it best. He said: "at the level of the minimum wage in the 1980s, moderate legislated increases did not reduce employment and were, if anything, associated with higher employment in some locales."

He said, "Studies based on employment across economic units such as States and counties yield more disparate results. Most studies, however, reject the notion that the late 1980's and early 1990's increases had adverse employment effects, and the studies that find adverse effects prior to those increases obtain small elasticities—meaning small employment effects—which confirm the effectiveness of the minimum in redistributing wage income.

He concluded: "That moderate increases in the minimum wage transferred income to the lower paid without any apparent adverse effect on employment at the turn of the 1990's is no mean achievement for a policy tool in an era when the real earnings of the less skilled fell sharply."

Freeman also observed that any net reduction in employment from a higher minimum wage that might occur among teenagers would be mitigated by the extremely high turnover rates of these workers. So even if a higher minimum wage means that it will take some low-wage workers a little longer to find jobs, once they do find a job they will benefit from the higher wages.

Do you know what this vote comes down to, Mr. President? It comes down to whether or not to put $2,000 more in the pockets of workers. In these times, is that a difficult choice? That, $2,000 more for every minimum wage worker in local economies. My Republican friends rail against welfare, but when it comes to being fair, mark them absent.

So what are we arguing about. What are my Republican colleagues trying to tell us. What straws are they grasping at to create an argument about job loss, and teenage employment—or about the imagine hobgoblins that would appear if we were to give more money to the people who need it most.

Mr. President, the truth is that raising the minimum wage to $5.15 an hour, according to everyone, would make up slightly more than half of the ground that was lost to inflation during the 1980's. In fact, after adjusting for inflation, the studies show that even if we raised the minimum wage to $5.15 an hour it would still be 13 percent below its average purchasing power during the 1970's. To have the same purchasing power that it had in 1996 it would have to be raised to $5.93 and we certainly would not get a vote on $5.93 when we can't get one on $5.15.

Mr. President, the purchasing power of the minimum wage is now at its second lowest level in four decades. After adjusting for inflation, the value of the minimum wage is below its level for every year—except 1989—going all the way back to 1955.

To put this in perspective: as real wages for the middle-class have been stagnant, the real wages of people at the bottom end have dropped. And so the dramatic shift in wealth and obvious wage inequities in America are contributing to an extraordinary change in worker morale.

To put it simply: the dreams and hopes of millions of hard-working American families who or on the job and off the dole are at stake here. This is about whether or not we understand what people are going through in this country.

Mr. President, we are talking about the working poor. In 1993 more than half of the poor, some 22 million people, lived in households with someone

VOL
142
PT
5
MR
21
—
29
1996
UMI

who went to work everyday—8 hours a day—7 days a week. Some 4.2 million workers in America paid by the hour in 1993 had earnings at or below the minimum wage. This was 6.6 percent of hourly workers. An additional 9.2 million hourly workers had earnings just above the minimum wage.

Mr. President, these are not teenagers. These are not minorities. They are, to large extent, women. Less than one-in-three, 31 percent, were teenagers. About one-in-five, 22 percent, were 20 to 24 years old. Nearly half were aged 25 and older.

And almost 62 percent of them were women.

Mr. President, who are the real losers in today's economy? Not the corporate executives. Not the Republican leadership in the Senate that is looking to give them a massive tax cut, and reward these same corporations with huge giveaways. No. The ones being left further and further behind—are working women.

They represent 46 percent of the paid work force, but 60 percent of those working for the minimum wage. These working women cannot make ends meet on $4.25 an hour. A single working woman with two children cannot pay for daycare, health care, housing, and food on subpoverty wages. For that family of three, the Federal poverty level is $12,500. At the minimum wage that family earns only $8,500, $4,000 below the poverty level. Times have changed since the 1960's and 1970's when the minimum wage was enough to raise families up to the poverty line.

That imbalance is an unacceptable inequity in America. Yet, Republicans in Congress are quibbling over raising the minimum to $5.15—even though, since 1979, the minimum wage has lost 25 percent of its value—while at the same time they favor a tax cut for the wealthiest Americans, and wonder why women who take home less than $132 a week are forced to choose welfare over work.

While it may be easy for some to moralize about values and the dignity of work while they earn a congressional salary that is 10 times the poverty level for a family of three, common sense and common decency require that we look at what a single mother with a child and $148 a week faces in real terms, everyday. She has to hope that her employer provides or subsidizes the cost of daycare. But daycare programs at work are rare, particularly for minimum wage earners. Nationally only 5 percent of employers pay for or subsidize daycare costs for full time employees, and, if a mother is offered a second- or third-shift job, daycare is simply not an option.

The Republicans response is not only to say no to increasing the minimum wage, but to cut food stamps, cut school lunches, and cut nutritional programs for underprivileged children. Yet, they ask single working mothers to work hard, stay off of welfare, pay for daycare, get a decent apartment, feed the children, pay for health care, save for the future, have a good time, and make ends meet.

Times have, indeed, changed in the 57 years since Congress first set the minimum wage at 25 cents an hour in 1938. But what has not changed is our pride and our spirit and our sense of hope. There are millions and millions of young, hard-working Americans in the vanguard of a new labor movement that is no longer fighting against ruthless employers for child labor laws, fair labor practices, health and safety standards, decent working conditions, or an 8-hour day. I hope we have put those fights behind us because those labor wars were fought over the most fundamental rights of people trying to work for a living and survive the unregulated power of ruthless employers.

Now, there is a new labor force struggling against downsizing and technology and a global economy. For them, an increase in the minimum wage is not too much to ask. The last time we voted to increase it, in 1989, a Republican President and a Democratic Congress did it together. And there were none of these arguments that we are hearing today.

We worked together then to raise the minimum from $3.35 an hour to $4.25 an hour, and I was proud to have voted for it. The House passed it by a vote of 382 to 37 with 135 Republicans voting for the increase. It passed the Senate by a vote of 89 to 8 with 36 Republicans on the side of common sense. We can do it again together, if common sense and fairness are still bipartisan virtues in Washington.

I yield the floor.

Mr. KENNEDY. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Massachusetts, has 5 minutes 50 seconds remaining on his side. There are still 15 minutes remaining on the other side.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I am sorry I was distracted. I think the Senator from Massachusetts suggested time run over here.

Mr. KENNEDY. I was inquiring what the allocation of time was that remained.

Mr. MURKOWSKI. Mr. President, as the chairman of the Energy and Natural Resources Committee, the committee that brought the Presidio legislation to the floor, I want to make some very brief comments at this time. I think we are all very much aware that minimum-wage legislation has absolutely nothing to do with the parks package that included the Presidio, the Utah wilderness, Sterling Forest, and numerous other titles. As a matter of fact, we had some 35 titles in the bill that affected some 26 States.

It is no secret that, unfortunately, the parks package coincides with the national convention of the AFL–CIO, or at least their Washington meeting, and it is unfortunate for this legislation that the timing and the announcement by the group that they were going to raise some $35 million to put into the campaign effort against Republicans who were up for reelection. The announcement that they were clearly endorsing the Clinton administration, provided Members on the other side the opportunity to put the minimum wage, which is one of labor's criteria, on something that might move. Unfortunately, the parks package, the Presidio, all the 35-some odd titles, are affected.

The point is, Mr. President, minimum wage legislation has nothing to do with this package of bills before the Senate. It has really no business being offered or even debated while there is one of the most important environmental and conservation legislative packages before the 104th Congress. Yet, they have seen fit to take advantage of this opportunity. They are well within their rights, but, in the opinion of the Senator from Alaska, this is simply politically motivated and it is political grandstanding. We all know it, even if the media refuses to report it that way.

It is rather interesting to see the media's comments with regard to the bill and the support base concerning the adequacy of wilderness in Utah. Not too many people are aware of just how much a million acres of wilderness is in size. It is about three times the size of the State of Rhode Island. Two million acres is about half the size of the State of New Jersey. It is a pretty big hunk of real estate. In any event, in this legislation, there was a provision that would have put 2 million additional acres into a wilderness classification in Utah.

There are those who suggest that the legislation prevents the Federal Government and the Congress from making a determination that additional wilderness might be created. That is absolutely false, Mr. President. Anyone who studied the legislation, anyone who looked at the bill, and particularly the media, should recognize that Congress can create more wilderness any time they see fit, as is evidenced by the creation of 56 million acres of wilderness in my State of Alaska.

So, the point I want to make at this time, Mr. President, is, as we look at the status of this bill and the package in the context of its significance, this package of park-related issues constitutes the most significant single environmental package before the Senate in this Congress.

Those who criticize the package process have a responsibility for two things.

One, ask the question why is the package needed? The answer to that question is simple. As these individual bills came before the Energy and Natural Resources Committee and were reported out, had their hearings, and so forth, a hold was put on virtually every one of these 50 plus bills now found within the 35 titles of this legislation. The Senator from New Jersey who saw fit to hold up the entire collection of reported bills to negotiate his particular interests relative to the State of New York and the State of New Jersey. That issue was Sterling Forest.

We have no problem with that, but it did force us to package all of the individual bills into a single piece of legislation. Some are now suggesting we take it apart. Yet we all know it will not prevail in the House if one goes and the others do not.

Mr. President this process has been going on for a year. Mr. President, the other interesting thing is that hundreds of thousands of dollars have been expended criticizing this package by unnamed, motivated elitists. They do not have to report where the money comes from. They simply write full-page ads in some of the Nation's major newspapers.

I think that is a bit irresponsible, Mr. President, they are responsible to no one. They are well-financed groups that are single focused.

They are not the people of Utah. They are not the legislature of Utah. They are not the delegation from Utah. They are an elitist group that wants to dictate the terms and conditions under which they can recreate in Utah or any other Western State.

I advise my colleagues that perhaps it is time to put a little wilderness in all of our States. We have six States that have no wilderness. Is there justification for that?

Mr. President, in conclusion, I urge my colleagues to show some restraint in their enthusiasm to get 5 seconds on the evening news tonight. Let us move forward with the most important conservation measure to come before this body. We have an opportunity to preserve that magnificent Presidio, provide the necessary authority for the Bureau of Land Management to set aside 2 million acres of new wilderness, and provide critical protection for other areas.

Mr. President this bill affects almost every single State, let us move forward on this important environmental bill and leave this specific amendment for the Labor Committee.

We need to pass the Presidio bill, Mr. President. The minimum wage has no business even being on this bill. We all know it.

I reserve the balance of my time. How much time is remaining?

The PRESIDING OFFICER. The Senator from Alaska has 7 minutes and 32 seconds remaining.

Mr. MURKOWSKI. I yield the floor.

Mr. LEVIN. Mr. President, the issue before us is straightforward. It is about whether or not we are truly committed to helping working people earn a livable wage.

Recently, we have begun to hear more concern expressed about jobs and wages for the working family in America. Some have newly discovered the problems that working families face today: the declining purchasing power of their wages, increasing health care costs, and the high cost of child care are among those most important. But, for some of us, and for the American people, this is not a new issue.

Unfortunately, too little has been done to address these concerns. Today, we have the opportunity to take an important step in the right direction, by making sure that those hard-working Americans at the bottom of the wage ladder get closer to a fair living wage.

Many workers in our society work for low wages and few benefits. They have virtually no bargaining power in their workplaces and any attempt to negotiate for higher wages is futile. For these workers, the government has historically provided protection in the form of a minimum wage.

The Rand Corp. a highly respected think tank, recently reported what they called a double dose of bad news: economic inequality is growing and living standards for millions are getting worse.

The last time we gave minimum wage workers a raise was 5 years ago April 1. The current minimum wage is $4.25. In the last 5 years, because of inflation, the buying power of that wage has fallen 50 cents. The minimum wage is now 29 percent lower in purchasing power than it was in 1979—17 years ago.

With this amendment, the hourly minimum wage would rise to $4.70 this year and to $5.15 next year. Close to 12 million American workers would take a step forward toward a more equitable living wage.

Remarkably, there are some in this Congress who not only would not increase this wage to a fair level, but would eliminate the wage completely. But, I think that they comprise a minority. The last increase had overwhelming bipartisan support. On November 8, 1989, the Senate passed the increase by a vote of 89 to 8. Supporting that increase were the current majority and minority leaders. In the House, this bill passed by a vote of 382 to 37. Voting yes were the current Speaker of the House and the minority leader. Of course, the bill was signed into law by President George Bush.

The results of Rand's study demonstrate once again that the economic squeeze is real. Discounting inflation, the study shows that the median income of families fell more than $2,700 over 4 years to about $27,000 in 1993. People at the lower rungs of the economic ladder have had it the worst.

These figures illustrate that although our economy is growing and unemployment is relatively low, working families are confronting difficult and uncertain times. This amendment would provide a modest boost in earnings for many of these households.

A higher minimum wage could help reverse the growing wage inequality that has occurred since the seventies. A raise in the minimum wage is not only good for workers, but it is also good for business.

The minimum wage is now at a lower level in terms of purchasing power than it has been in three or four decades. That means minimum wage workers buy less. More money in the pockets of workers means more dollars circulating in the local economy.

While some claim a moderate increase in the minimum wage will cost jobs, leading economists find little evidence of loss of employment. Instead, they find that a ripple effect could expand the impact beyond the immediate minimum wage workforce. Some workers in low-wage jobs who currently earn more than the minimum wage may see an increase in their earnings as minimum wages rise.

As the richest nation on Earth, our minimum wage should be a living wage, and it is not. When a father or mother works full-time, 40 hours a week, year-round, they should be able to lift their family out of poverty. Sadly, even the proposed $5.15 an hour will not do that. But, our proposal makes an important stride toward assuring that work is more profitable than welfare.

A minimum wage hike rewards work and lessens the burden of dependency. The current minimum wage is actually about $2 an hour less than what a family of four needs to live above the poverty line. At $4.25 an hour, you earn $680 a month, gross. That's $8,160 per year. The poverty line for a family of four is $15,600 per year.

Adults who support their families would be the prime beneficiaries of our proposal to raise the minimum wage. Nearly two-thirds of minimum wage earners are adults and more than one-third are the sole breadwinners. Nearly 60 percent of the full-time minimum wage earners are women. Often these are women bringing home the family's only paycheck.

We must puncture the myth that a minimum wage hike would only help teens holding down part-time jobs after school. An increase in the minimum wage would improve the standard of living for many working Americans who live paycheck to paycheck, trying to get a foothold on the American dream. In reality, almost half of minimum wage earners work full-time

VOL
142
PT
5
MR
21
—
29
1996
UMI

while only one-fifth work less than half time. Only a quarter are teenagers.

In 32 States, including Michigan, over 10 percent of the workforce would benefit directly from an increase in the minimum wage. Workers who now earn less than $5.15 per hour stand to gain immediately. An analysis by the Economic Policy Institute finds 10.5 percent of all Michigan voters, more than 420,000 workers, are in this group.

Mr. President, the bottom line is work should pay, and the current minimum wage is not enough to live on. The minimum wage is a floor beneath which no one should fall. But we should make sure that standing on that floor, a person can reach the table. A full-time minimum wage job should provide a minimum standard of living in addition to giving workers the dignity that comes with a paycheck. Hard-working Americans deserve a fair deal.

Mr. CAMPBELL. Mr. President, I take this opportunity today to clarify my position on the pending Kennedy amendment to increase the minimum wage. As with any debate that takes place in this Chamber, we debate both the merits of a particular legislative initiative as well as, and equally important, the procedures and timing of bringing a legislative initiative to the floor for debate.

Mr. President, last year during debate on S. 1357, the Balanced Budget Act adopted by this Congress, I supported a sense-of-the-Senate resolution to debate and vote on the merits of increasing the minimum wage. While I have been supportive of past minimum wage increases, I don't believe H.R. 1296, the Presidio Act, the underlying bill currently being considered, provides a proper vehicle to increase the current minimum wage. This bill, and the fact that the pending amendment prevents further consideration of this bill, is not conducive to properly address some of its more contentious issues regarding a minimum wage increase.

For example, just as minimum wage opponents may believe the highest proportion of low-wage workers to be young people, proponents of a higher minimum wage often portray the minimum wage work force as largely adult and, therefore, much more in need of an increase. However, we must recognize that this debate hinges upon how one defines youth. If, for example, one defines a youth as between 16 and 19 years of age, then about 36 percent of workers, paid hourly at the minimum wage, are youths and 64 percent adults. However, if one adopts a definition of youth as one between 16 and 24 years of age, then about 60 percent of the work force at the Federal minimum wage are youths and only 40 percent are adults. Indeed, this discrepancy alone warrants further debate.

Mr. President, this brings me to the second, and equally important issue, that of the procedure and timing of this discussion. I believe this debate on the minimum wage deserves to be debated as a vehicle unto itself, and not as a proposal to be attached to each and every legislative initiative that comes up on the floor in this Chamber, in this case H.R. 1296, the Presidio legislation.

The procedure of appending the minimum wage initiative to H.R. 1296, in my view Mr. President, is to attach a nongermane element to a bill that deserves to be debated on its own merits. In this case, it is a bill that has several elements that are important to my State of Colorado.

As a small business owner and former minimum wage laborer, I can truly understand where both sides of this debate are coming from. While a compromise increase of 45 cents over 2 years is something I would consider, Congress should approach this issue with full deliberation; over 80 million workers are covered by the Fair Labor Standards Act's minimum wage, and its impacts would undoubtedly be far reaching.

Therefore, I look forward to working with my colleagues on this issue in the future, and I am hopeful a more suitable legislative vehicle will be found in which we can properly address the issue of raising the Federal minimum wage.

Mr. DODD. Mr. President, I rise today in strong support of this amendment on behalf of American workers and American families.

Here in Washington, and on the campaign trail we hear a lot of talk about corporate downsizing, stagnant wages, and worker anxiety. Throughout this country, American workers and their families are frustrated and anxious of what the future might bring.

And, if we're going to do more than pay lip service to these issues, if we're going to be serious about helping those Americans that work hard and play by the rules then this amendment should pass by a unanimous vote.

Today, with this measure we have a genuine opportunity, on behalf of millions of American workers, to turn the minimum wage into a true living wage.

Today, the real value of the minimum wage is at its second lowest point in 40 years—$4.25 an hour.

Now, I want every person in this room to consider living on $4.25 a hour; or, living on $36 a day. That's an annual income of $8,500 a year—well below the poverty level for a family of three, which is $12,500.

How can any American expect to bring themselves out of poverty or pull themselves up by their bootstraps when they're expected to raise a family on $8,500 a year?

Over the past year I've heard a lot of talk from the other side of the aisle about encouraging responsibility and a strong work ethic among our Nation's welfare recipients. I think it's something we can all agree upon.

But, it is utter hypocrisy to talk about encouraging self-sufficiency and responsibility while we ask our Nation's poorest citizens to live on a meager wage of $36 a day.

Let us be clear, the people affected by the minimum wage aren't high-school kids flipping hamburgers at McDonald's. I can see why people would like to believe that: it certainly makes it easier to oppose this amendment.

We're talking about child care workers, waiters and waitresses, telemarketers, custodians, salesclerks, and the list goes on and on.

The fact is, more than 73 percent of those affected by the minimum wage are adults. More than 47 percent are full-time workers. Four in ten are the sole earner for their families and nearly one in five currently lives in poverty.

What's more, nearly 60 percent of minimum wage workers are women, more than three-quarters of whom are adults. That's 5.2 million adult women, many of whom are also busy raising children who would be directly affected if we pass this amendment.

These figures represent millions of American workers who are just able to keep their heads above water, who are barely subsisting at three-fourths the level of poverty.

For them this amendment isn't about politics or partisan games—this is about economic survival.

Now, my colleagues from across the aisle often use the argument that raising the minimum wage will cost jobs. But study after study has shown that this is a fallacious argument.

Studies done after the minimum wage was raised in 1990 demonstrate that not only did it have a negligible effect on job loss, but in some locales it actually brought higher employment.

The fact is, a higher minimum wage is not only a stronger incentive to work, but it reduces turnover, increases productivity, and lowers cost for retraining and recruiting.

And, the fact is we're not even talking about an enormous increase—only 90 cents an hour. And, while 90 cents may not seem like a lot to most people, it represents $1,800 in potential income for American workers.

For a family struggling to make ends meet, a simple 90-cent-an-hour increase in the minimum wage would pay for 7 months of groceries, or 1 year of health care costs, or more than a year's tuition at a 2-year college.

And if you don't believe me, listen to the experts. According to a recent study by economists William Spriggs and John Schmitt: "The overwhelming weight of recent evidence supports the view that low-wage workers will benefit overwhelmingly from a higher Federal minimum wage."

And that's the choice we have before us today: To raise the minimum wage and make a real difference in the lives of close to 12 million American workers.

If we want to be serious about moving welfare recipients to work, if we want to calm the fears of anxious workers, if we want to provide economic opportunity for every American we have a solemn commitment to pass this amendment and raise the minimum wage for American workers.

In the past, this body has, in a bipartisan manner, overwhelmingly supported increasing the minimum wage. The last time we raised it in 1989, the Senate voted 89 to 8.

Indeed, Senator DOLE, who I often hear talking about the importance of working families on the campaign trail, was a key supporter of raising the minimum wage in 1989.

Well, I hope Senator DOLE and all my colleagues continue the bipartisan tradition of supporting the minimum wage and join me in backing this critically important amendment for American workers.

Mr. KOHL. Mr. President, I rise in support of the Kennedy amendment to raise the minimum wage.

This amendment presents the Senate with a unique opportunity to address one of the most pressing anxieties for America's lower and middle-class workers—stagnant wages. By passing this amendment, Congress can take a small step to help reverse the shrinking purchasing power and suppressed living standards of America's lowest paid workers.

The amendment before us would allow some of the hardest working American's to make a better life for themselves and their families. It would increase the minimum wage from the current level of $4.25 to $5.15 over 2 years. Granting a 90 cent wage increase over 2 year's will not solve the economic problems of the working class nor will it break the bank; but it will help working families.

Mr. President, over 12 million workers would directly benefit from an increase in the minimum wage—over 210,000 of those workers live in Wisconsin.

Contrary to assertions of minimum wage opponents, this amendment would not wreak havoc on job availability. In fact, a large group of prominent economists, including three Nobel prize winners, recently endorsed a minimum wage increase. These economists assert that the moderate Federal minimum wage increase will not significantly jeopardize employment opportunities. The Kennedy amendment represents such a moderate increase.

Mr. President, the plight of the American worker has received more attention in speeches during recent political primaries than through the policy decisions of the 104th Congress. During the first session of the 104th Congress, we have seen proposals to cut education, job training, and workplace safety programs. Perhaps most inexcusable are the severe cuts proposed in the earned income tax credit for low paid working Americans. These are the same workers who are held down by the artificially low minimum wage.

Mr. President, the economy appears healthy, unemployment is down and millions of jobs have been created over the past 3 years. Yet the average American worker remains uneasy. Real wages have become stagnant and many Americans have discovered that their standard of living has decreased over the years.

It has been almost 5 years since the minimum wage has been increased. Studies indicate that after the minimum wage was increased in 1991, the real value of the wage has fallen by nearly 50 cents. Furthermore, the real value of the minimum wage is 29 percent lower than it was in 1979. If this trend continues, the value of the minimum wage will plummet to a 40-year low by 1997.

The importance of increasing the minimum wage looms even larger today as Congress attempts to balance the budget and cut spending for welfare, worker education and training, the earned income tax credit, child care and other resources that families use to stay afloat economically. To deny America's lowest paid workers a sustaining wage during a time of substantial budget cuts simply represents misguided priorities. This is precisely the time when we need to reward the people who work. If we are going to cut funding for education and training, we must provide individuals with the economic tools necessary to get ahead.

The last minimum wage increase under President Bush enjoyed broad bipartisan support. I urge my colleagues in the Senate to undertake a similar bipartisan effort today and demonstrate their commitment to working families by restoring the fair value of the minimum wage. It is time for Congress to remove this issue from Presidential politics and take real legislative action to address the economic problems facing the American worker.

Raising the minimum wage will not solve all of the problems of low-wage workers, but it will go far in demonstrating that Congress can act to help those on the lowest rung of the economic ladder. I urge my colleagues to vote for cloture and pass the minimum wage increase.

Ms. MOSELEY-BRAUN. Mr. President, I support raising the minimum wage over the next 2 years, from its current $4.25 per hour to $5.15 per hour, because I believe in the American dream and I believe in family values.

If a person works hard and diligently, he or she should succeed. This is a deeply held belief in this country and one which I share—this is the American dream. And if a person works hard and diligently, he or she should be able to care for family—this is family values.

Today, 12 million Americans earn the minimum wage. In my State alone, over 10 percent of the workforce earns the minimum wage—545,647 Illinoisans earn $4.25 an hour. This means that an Illinoisan, working 40 hours a week, 52 weeks a year, earns only $8,840.

These workers are not just young people working at their first job—although young people often contribute to their family's income. The majority of the people earning minimum wage—73 percent—are adults. Many of these are parents raising families on under $9,000 a year—still eligible for food stamps. It is a travesty that a mother or father working full-time— 40 hours a week, 52 weeks a year—cannot support a family.

As we continue to purge the welfare roles of children and their mothers, we should remember that close to 60 percent of-those earning minimum wage are women. These are women who are taking responsibility for themselves and their children. These are women who are trying to make it on their own. These are women who go to work every single day. And still, minimum wage does not provide them with a living wage for their family.

This legislation would not overcompensate workers. It has been almost 5 years since the minimum wage was last increased. Prices have increased over the last 5 years, as I'm sure anybody who has bought a carton of milk or a dozen eggs lately can tell you.

In this country, we increasingly face a declining standard of living for working people. In the 1980's, 80 percent of Americans did not improve their standard of living. While the average wage increased 67 percent, the average price of a home increased by 100 percent, the average price of a car increased 125 percent, and the cost of a year in college increased by 130 percent. And the minimum wage increased by only 23 percent.

If a 90-cent increase in minimum wage had been part of the Contract With America, by today, a full-time worker earning the minimum wage would have earned an additional $2,000. That money could pay more than 7 months of groceries, rent or mortgage for 4 months, a full year of health care costs, or 9 months of utility bills. The money would make a world of difference to a family—and it is money that the employee earned.

And paying a living wage does not mean that jobs will be lost as opponents of increasing the minimum wage claim. Last year a group of respected economists, including three Nobel Prize winners, concluded that an increase in the minimum wage to $5.15 an hour will have positive effects on the

VOL
142
PT
5
MR
21
—
29
1996
UMI

labor market, workers, and the economy.

Workers are our greatest resource. The American worker is what has made this country great. We should recognize the contributions of our workers and reward those who work long and hard to earn a living. And we must make certain that parents working full-time can support their families. If a parent working full-time cannot keep a family above poverty, a child will learn about the American nightmare, not the American dream.

Let us today show that America rewards work, that Americans who try hard can succeed, that America's families are important to us. A living minimum wage is a sign of a just and decent society. I urge my colleagues to vote for cloture and for this modest increase in the minimum wage.

Mr. BAUCUS. Mr. President, this one is real simple. If you raise the minimum wage, you provide working people with a higher salary and a better standard of living. And so I come here in very strong support for the minority leader's effort to give working people a raise by increasing the minimum wage.

BUTTE SAFEWAY

Over the years, Butte, MT, has seen more than its share of hard times. When the mines closed, a lot of people said it was curtains for Butte. But those people had obviously not spent much time in Butte.

Through a lot of hard work, resourcefulness, and community spirit, the folks in Butte fought to rebuild their economy. And they did it. The economic success story that is Butte today is a great example of what can happen when people come together, play by the rules, and work hard.

A few weeks ago, I was in Butte. I spent some time at the Safeway store just listening to people. And I was struck by what a young woman named Rhonda had to say. She was in her early 20's; friendly, energetic, and bright. And like most people that age, she was also anxious to build a better future for herself. But she told me, "Max, I am having a hard time making ends meet on minimum wage. I work hard, but it's just not enough."

A whole lot of Montanans feel just the same. They see their wages increasing too slowly to keep up with the cost of living. They find it harder and harder to save money to send their children to college.

In fact, according to a recent study, over 52,000 Montana workers—more than the entire population of Lewis and Clark County, Montana's sixth largest county—would find it a little easier to make ends meet if we raised the minimum wage to just $5.15 per hour.

FALLING WAGES, RISING COSTS

The experts confirm this. A recent Paine-Webber analysis shows that real wages in America have declined from $7.55 per hour in 1990 to $7.40 in 1995.

We're getting the worst of it in Montana. Our wage growth has been slower than virtually any other State in the Nation. Let me point to a few startling Montana statistics to prove my point:

The purchasing power of the average Montana family has actually fallen by $700 over the last 10 years;

In 1980, Montana's average personal income ranked 33 in the Nation. But today we've slipped to 41;

And the cost of living continues to climb—particularly when it comes to housing costs. Just 5 years ago, the average price of a Montana home was about $48,000. But today that figure has increased by 30 percent to $68,500.

NEED THE RIGHT KIND OF CHANGES

The people who suffer most from this wage stagnation are the middle class—the backbone of America. People who work hard. Pay taxes. Volunteer in their communities. When they suffer, the whole country suffers. Because if our middle class cannot afford homes, or cars, or college educations for the children—ultimately American businesses and America itself will be weaker.

Congress is not going to solve these problems all by itself. But there are some things Congress can do to help.

We need to cut the tax burden on working families. Not by giving new tax breaks to corporations that are already profitable, but by giving a tax deduction for college expenses, so more families can afford college and more children can qualify for high-paying jobs in demanding fields.

We need to make sure family businesses can stay in the family, by reducing the estate and gift tax substantially.

We need to balance the budget, in the right way. Not by threatening retirement and health security. Not by threatening the next generation's prosperity by cutting college loans and vocational education. But by a more serious effort to attack fraud and abuse in Government health care programs, by sticking to the Defense Department's recommendations on security rather than tacking on pork programs, and by resisting the temptation to create new loopholes and deductions for profitable companies.

RECORD OF THE CONGRESS

So these are the people Congress is here to help. And I think it's fair to say that at the beginning of 1995, a lot of Montanans felt this Congress might help. There was a lot of new blood and some new ideas, and people had some high hopes.

But those hopes have vanished in the mess of bumbling revolutionary experiments and Government shutdowns which the leadership in the House has created. Rather than make people a little more prosperous and secure, the Congress seems to have deliberately done just the opposite.

When Speaker GINGRICH, for example, was angry about his seating assignment on Air Force One a few months back, he shut down Yellowstone and Glacier National Park, along with most of the rest of the Government, to take revenge. That drove small businesses in the gateway communities to the edge of bankruptcy. And it threatened to put Park Service employees and Government research scientists on welfare.

A SECOND CHANCE

So the leadership in this 104th Congress has let our State down pretty badly. All too often, rather than do something good and positive for the people, it has done something irrational and destructive.

But we are here today to offer the folks in charge a second chance.

By adopting this amendment, we will give hard-working people a raise. Plain and simple. A 90-cent-an-hour raise in the minimum wage, from $4.25 an hour to $5.15 an hour. That is something concrete for people like Rhonda. People who are working hard and finding they can't make it.

For a young woman working 40 hours a week at the minimum wage, this amendment means a raise of 90 cents per hour. That means almost $2,000 more in the pocket every year. And it means a bump along the wage scale that will give some help to Rhonda's co-workers with a bit more seniority—the men and women struggling to provide for their families on $6 or $7 an hour.

OPPOSITION TO MINIMUM WAGE MISGUIDED

I know some around here don't like the idea. But if they'll step back and look again, they'll find that the opposition to a minimum wage increase boils down to one idea: higher wages are bad for the country.

I simply can't accept that. America cannot prosper by keeping a lid on the prosperity of most of our families. That doesn't make sense.

So by putting party ideology aside, the majority here can rebuild some of the credit it has squandered in the past year and a half. It can do some good for honest, deserving working people like Rhonda. And that is what we ought to do.

This minimum wage increase is a chance for Congress to show some common sense. Some independence from elitist supply-side ideologs. The courage to do what we all know is right.

Let's agree to this amendment and give America a raise.

Thank you, Mr. President, and I yield the floor.

Mr. KENNEDY. I yield myself 4 minutes.

Mr. President, I urge the Senate to vote for cloture and end this unconscionable Republican filibuster against the minimum wage. Senate DOLE is leading this filibuster. He is the one who can end it. It is his decision.

Thumbs up, and 13 million wage earners get their first pay raise in 5 years.

Thumbs down, and 13 million minimum wage workers go on living in poverty, because the minimum wage is not a living wage. A hard day's work deserves a fair day's pay. No one who works for a living should have to live in poverty.

Senator DOLE locks up the nomination, and the first thing he does is lock out the 13 million Americans who are only asking for the fair minimum wage they deserve. Stock prices are going right up through the roof, and the minimum wage is falling through the basement. That is not fair. It is not acceptable.

Speaker GINGRICH and Senator DOLE make a remarkable couple. It is like Bonnie and Clyde writing the Republican platform. NEWT GINGRICH wants to repeal the ban on assault weapons, and BOB DOLE wants to block any increases in the minimum wage. Democrats do not share those appalling priorities and neither do the vast majority of the American people.

Who are the minimum wage workers? The vast majority are not teenagers. More than two-thirds are adults, 59 percent are women. Minimum wage workers are nurses aides caring for patients, child-care workers caring for young children, garment workers, retail clerks, janitors cleaning office buildings.

Last year, we heard the story of Tonya Outlaw. She had been teaching at a child care center in Windsor, NC, for 4 years making the minimum wage. She left a high-paying job because she could not afford the child care for her own two daughters. Earning only $4.25 an hour, she cannot afford medicine for her family. She lives with her uncle and sister. Every bill is a struggle. Why are the Republicans filibustering against giving the raise that she deserves?

David Dow was 23 years old when I met him last year working for a pizza chain, in Southfork, PA, working for the minimum wage, struggling to support his 2-year-old daughter and 1-year-old son. His wife works for telemarketing, just above the minimum wage. They have no health insurance, are repaying college loans, and cannot afford child care. They work different shifts and see each other for an hour or two a day, except on weekends.

This is America in 1996. Who are the Republicans kidding? David Dow needs the pay raise the Republicans are filibustering.

The question is, whose side are you on? You cannot have it both ways. We cannot be for working Americans and their families and against making the minimum wage a decent wage. You cannot be concerned about declining living standards for American families and the widening income gap between the wealthiest Americans and everyone else, and then deny a fair increase in the minimum wage.

Congress has not voted to raise the minimum wage in 5 years. At least three times since that last increase, the Senate has given themselves a pay increase. We take care of the privileged. Surely it is time to take care of those at bottom of the economic ladder.

It is shocking that the longstanding bipartisan support for raising the minimum wage has disappeared. The last vote in the Senate in 1989 was 89–8 in favor of a 90-cent increase in the minimum wage.

The economy is healthier in 1996 than it was in 1989. Inflation and unemployment are lower. Corporate profits and the stock market are at record highs.

BOB DOLE and all but a handful of Republican Senators were in the mainstream in 1989 and voted to make the minimum wage a fair wage. The question now is, why have they changed?

I withhold the balance of the time.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, how much time do we have remaining on this side?

The PRESIDING OFFICER. Seven minutes and thirty-two seconds.

Mr. MURKOWSKI. I will yield my remaining time to the Senator from Oklahoma after I make a few remarks.

Mr. President, I think it is interesting to reflect that the attack now is being made on the majority leader as a consequence of the fact that he is the designee, Republican nominee for President.

The comment has been made that there is a filibuster going on. I do not know that there is a filibuster going on. We voted yesterday on cloture. We will vote today on cloture, but, instead, the attack is on the majority leader. I resent that.

Mr. President, the amendment today being offered would raise the minimum wage from $4.25 to $5.15, a 20-percent increase over 2 years. Now, our Democratic friends suggest that this would be very meritorious and everybody would be a winner. They are accommodating, obviously, the interests of the unions. Of course, those members are virtually all in the unions, receiving a wage much higher than the minimum wage. But look at what they are not addressing and the consequences associated with that.

That is why I oppose the amendment, because of the danger that it is going to foreclose job opportunities precisely for those who we want to help. They do not mention that. Increasing the minimum wage will raise the lower rung of the economic ladder and leave behind those just trying to get a foothold with their first job. They will not be hired and we all know it.

The amendment, though well-intentioned, will cause a loss of entry-level jobs. It will limit job opportunities for low-skilled workers. This will not help raise the standard of living for the poor. They do not even want to address that in the discussion.

The U.S. Senate cannot repeal the law of supply and demand. Common sense tells us we cannot make it more expensive to hire new workers and then expect employers to hire the same number of workers. Experience has shown when we raise the minimum wage, employers hire fewer workers and substitute new machinery and new technology in place of those workers. That is why we pump our own gas today. That is why we pay with a credit card rather than have a gas attendant do the job, wash our windows. It is why we bus our own trays in the fast food restaurants.

Make no mistake about it, Mr. President, this is not a win-win-win. As a consequence, the appropriateness of putting this on the parks bill, the most significant environmental measure to come before this body, is simply unconscionable. It is political opportunism at its worst. The fact that it is directed at the majority leader is absolutely uncalled for.

I yield the balance of my time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. How much time is remaining?

The PRESIDING OFFICER. Four minutes.

Mr. NICKLES. Mr. President, I compliment my friend and colleague from Alaska, Senator MURKOWSKI, for, one, his statement, but also for maybe one of the most important things he said: This amendment has nothing to do with the national parks. It does not belong on this bill.

You might say, well, why is it on this bill? Why was it offered by my friend and colleague from Massachusetts to put on this bill? I will tell you. In my opinion, it is all about politics. It is not about increasing minimum wage. If my friends on the other side of the aisle wanted to increase the minimum wage, they controlled this body in 1993, in 1994. They controlled the White House. They could have done it at that time. They had that right. They had the votes. The majority leader could have called it up any time. They did not do it.

Why did they do it now? Well, Presidential politics. Plus, I noticed an article in the paper that says the AFL-CIO endorses Clinton and approves a $35 million political program. They want to run a lot of independent expenditures, all against Republicans. It is all about politics. It does not belong on this bill. We should reject this amendment.

What is the substance of the amendment? The substance of the amendment is, it says if you make less than $5.15 an hour, you should not have a job. Not only should you not have a job, you cannot have a job. An increase in the minimum wage says it is against the Federal law for you to have a job if

VOL
142
PT
5
MR
21
—
29
1996
UMI

you make less than $5.15. You cannot have a job.

I do not care if my friends from the States of Massachusetts, New York, or North Dakota want to increase the minimum wage to $10 an hour in their States; let them do it. I do not think they should do it in my State because they are going to put some people out of work. I heard them say that it has no adverse economic impact and maybe it will increase jobs. If that is the case, let us increase minimum wage to $10 an hour. I do not want everybody to make just $5 an hour; I want everybody to make more than $5 an hour. Why not $10 or $20 an hour? If we can repeal the law of economics, if it makes no difference whatsoever economically, let us make it more because I want people to make a lot more money. I am not against people getting a raise. I want that.

But I do not want to raise the minimum wage and say it is against the law for you to have a job if the best thing you can get is $4.50 or $4.75. I have kids that make that amount of money. We are going to pass a law that says they cannot have a job if it does not pay $5.15. If the infinite wisdom of Washington, DC, says, "If you do not have a job that pays at least $5.15 an hour, you should not have a job," and that person cannot get a job and they are idle, then what are they doing? A lot of times they end up involved in crime or involved in mischief. That is ridiculous. And they do not learn a trade or a new skill.

I worked for minimum wage. I do not make any bones about it. I worked for minimum wage after my wife and I were married, 27½ years ago. We made $1.60 an hour. I needed more, but it was enough. I quit that job and started my own janitor service. I learned a trade, and I hired a lot of people, and they all made more than minimum wage. Why in the world should we set an arbitrary level, a higher level, and say, "If you do not meet this level, you cannot have a job? Uncle Sam says we would rather have you be idle if you cannot meet at least this standard." I think that is ridiculous.

I think the Senator's amendment is wrong in its substance. It is nothing but a political act of appeasement or trying to make organized labor leaders happy. Thank you very much for your $35 million. You are going to get a great program. We are going to try to embarrass BOB DOLE and see if we cannot come up with a great program to thank you for your money. I think that is blatant political abuse and should be rejected. I hope it is rejected.

My colleagues on the other side know this amendment is not going to become law. They hope to score some political points, and I hope they will not be successful.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 1 minute 12 seconds.

Mr. KENNEDY. Mr. President, I yield myself 1 minute 12 seconds.

BOB DOLE, March 28, 1974:

> I am pleased to support the conference report on the minimum wage bill. A living wage for a fair day's work is a hallmark of the American economic philosophy.

May 17, 1989, BOB DOLE on the floor of the Senate:

> I have said, as a Republican, I am not going to stand here and say you can live on $3.25 an hour, or $4.55 an hour.

BOB DOLE on the Senate floor, April 11, 1989:

> To be sure, I am all for helping the working poor. I have spent most of my public life supporting causes on behalf of the working poor, and no one would deny that the working poor are the ones who most deserve a wage increase.

Mr. President, where is that BOB DOLE? Where is that BOB DOLE? I hear from my colleagues that they resent the fact that this is being offered on this particular bill. I want to tell you that it does not make a difference whether any Senator resents it in here. The people who resent us not doing this have a right to, and they are the men and women not getting it. They are the ones who ought to feel the resentment by our failure to provide a decent wage, a livable wage, for working 40 hours a week, 52 weeks of the year.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time.

Mr. President, I think it would be very unfortunate if someone cast this as anything other than what it is—unless we act soon, we will be at the lowest point in terms of purchasing power that we have been in our Nation's history when it comes to the minimum wage. That is a fact.

This is not an effort to encumber an environmental bill, as troubling as one aspect of that bill is. It has nothing to do with Presidential politics, it has nothing to do with labor unions. It has everything to do with the fact that the economic foundation for working families in this country has been, is now, and will continue to be the minimum wage. That is a fact. A fair minimum wage is an economic foundation for working families, period.

Seventy-three percent of those who would benefit from this minimum wage increase are adults. Almost three out of every four people; not just those getting started in life, or just out of high school or college. They are people struggling to make ends meet with a family. And 40 percent of those on minimum wage today are the sole breadwinners.

Let us put an end to the stereotype of the teenager flipping hamburgers so he can buy a car, or somehow get started right out of school. The face of a typical minimum wage worker is a woman working full time or part time to support her family, a single mother working 40 hours a week, and concluding at the end of every week or month when she tries to pay the bills that she is still living in poverty. A minimum wage increase could help, at long last, after 5 years, pull her at least a little bit out of the depths of concern that she has about the economic and financial problems she is facing. A 90-cent increase, which is what this bill would do, provides $1,800 more in a year's time. And 45 cents does not sound like a whole lot, but when you combine 45 cents this year and next, over a period of time you find that it buys more than 7 months worth of groceries, 1 year of health care, including insurance premiums, prescription drugs, and other out-of-pocket costs.

This increase will buy 4 months rent or mortgage payments. This increase pays 9 months of utility bills. So do not let anybody mislead you. This is not just a minuscule amount for a lot of people. This is whether people can eat or have the ability to pay their bills. That is what we are talking about here.

The increase in the minimum wage is obviously just a piece of it. The earned-income tax credit is also a very important part. We have faced, throughout this last 14 months, efforts by many of our Republican colleagues to cut the earned-income tax credit. They tell us that they ought to go out and find a job, they do not need the EITC, they ought to rely on the marketplace to find, somehow, an increase in wages there. If we are going to rely upon the marketplace, we better have a living wage to do that. The minimum wage can only be the beginning for many of these working families.

Republicans often tell us they want to move people off welfare and on to work, and we share that view, that desire, that goal. What do you tell people who work 40 hours a week and are still below the legal level of poverty in this country? How is that an encouragement to tell people to get off welfare? Restoring the minimum wage to a working wage is one of the best ways you get people off of welfare.

Five years, Mr. President, is a long time. In that 5 years, we have had increases in our wages. Just about every CEO in this country has seen dramatic increases in their wages. I do not deny them that. In many cases, they truly deserve it. On April 1, we will see the fifth anniversary of the last increase in the minimum wage. We have seen a 20-year period of wage stagnation, and the gap between the richest and poorest in this country has never been wider. The stratification in this country has to be something this Senate addresses.

A higher minimum wage is the least we can do to begin dealing effectively

with that stratification. The real value of the minimum wage has fallen by nearly 50 cents since 1991, and by 29 percent since 1979. If we do not act right now, the real value will be at a 40-year low by January 1997.

This is not just a matter affecting a few people, Mr. President; 12 million working people will benefit directly by what we are going to decide this afternoon. In 32 States, it is over 10 percent of the work force. In study after study, in spite of all the denials you hear from our Republican friends—nearly two dozen in all, not one or two—have shown that a moderate increase in the minimum wage can be achieved without costing jobs. That is not our assertion. That is not something we just postulate about. This is something that actually has been examined in case after case after case, and in every single case it has been reported that you can raise the minimum wage at a moderate level and not cost jobs.

In fact, we see a positive effect on both business and workers. A higher minimum wage reduces turnover, raises productivity, and lowers recruitment and training costs. When workers are paid better, when they get a better living wage, then there is more demand for the products they make.

There are all kinds of advantages in doing this in a proper way. We know that. Apparently, a lot of Republican colleagues share that view because the last time we voted in 1989, 89 Senators supported the increase in the minimum wage. A Republican President signed it into law indicating that he endorsed the principle of a guaranteed and fair minimum wage.

The time has come to show that same bipartisanship and to do it again. A recent Gallup poll said that 77 percent of the American people think that we ought to do it again. Sixty-three percent of Republicans think that we ought to do it again.

This is not a "new mandate." This is not something that we have just dreamed up. This is something we have been doing for decades and decades with the realization you have to start somewhere. The U.S. Conference of Mayors just sent us all a letter that makes it very clear that they endorse an increase in the minimum wage. These are government leaders at the most local level telling us that they see what this does; they know that if we get people off welfare, they can reduce the cost of government. The way to do it is with a minimum wage that works.

So, Mr. President, there are those who say we are somehow encumbering the process. So be it. If there is no other way to ensure that we get a vote on the minimum wage, we have no other choice but to do it this way.

We have all agreed that we will hold off on offering this as an amendment to any other piece of legislation if we can simply get a timeframe within which this can be debated, when we can consider it in a way that gives us a commitment to vote on a minimum wage.

The ultimate irony is that the majority is asking people making $4.25 an hour to wait until the majority figures out a way to cut their Medicare benefits before they allow them a 45-cent increase. Republicans—at least some of them—are prepared to wage a war on working families.

Two days ago, we saw that they are willing to go to any length to avoid a vote and to face a choice. We saw a 4-hour quorum call, a motion to recommit, a recess in one of the biggest weeks of the year, and talk of an unfunded mandates points of order.

Mr. President, never have so few done so much to deny so little to so many.

Working Americans are not going to be fooled. Our Republican colleagues cannot have it both ways. They express newfound concern for workers in a campaign but then manufacture reasons to oppose them when it is real.

If you oppose the minimum wage, as the House majority leader does, then vote against this. But if you believe that 12 million people—many the sole earners for their families—deserve an increase, then vote for it.

The time to face up to that choice is what this is all about. It is what we were elected to do. Let us do it this afternoon.

Several Senators addressed the Chair.

Mrs. BOXER. Mr. President, will the minority leader yield for a question?

Mr. DASCHLE. If I have time available, I will be happy to yield for a question.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President.

I ask the Democrat leader. Is it not so that 51 Senators have already gone on record in favor of raising the minimum wage?

Mr. DASCHLE. The Senator is correct. We have seen a number of Republicans as well as Democrats—in fact, almost unanimously the Democrats and many Republicans have indicated their support in votes taken earlier last year.

So clearly we have a majority vote in the Senate in support of an increase in the minimum wage.

Mrs. BOXER. Mr. President, will my leader agree that these parliamentary maneuvers are really meant to delay, put off, postpone, block an up-or-down vote even though the majority of Senators support such an increase?

Mr. DASCHLE. The Senator is correct.

Several Senators addressed the Chair.

Mr. NICKLES. Mr. President, will the minority leader yield for a question?

Mr. DASCHLE. I am happy to yield, if I have any time.

Mr. NICKLES. I ask the Senator from South Dakota, correct me if I am wrong, but when the Democrats were in control of the Senate and the House in 1993 and 1994 and you had Bill Clinton in the White House, if this is so urgent, why did not you bring it to the floor any time during those 2 years? Is there any reason why it was not brought to the floor at that time?

Mr. DASCHLE. The answer is very simple. Obviously, if we could put some sort of cost of living adjustment in the minimum wage we would do so. We would do so today. We would do so any time. Obviously that is not possible. So we have to revisit the issue from time to time. The average length of time between increases of the minimum wage is 6 or 7 years. You cannot do it the first couple of years. We know that. As much as we would like to, we recognize the limitations of increasing the minimum wage. But over a period of time, you finally have to come to the conclusion that, if you cannot do it in 2 years, if you cannot do it in 3 years, at least you have to do it in 5 years.

That is really what this is all about—a recognition that we could not do it before but we ought to do it now—now that we have reached a purchasing power level that approaches the lowest in history.

So certainly the Senator from Oklahoma recognizes, as all of us do, that this is the time to face up to the facts and adjust this minimum wage as we know we must.

Mr. DORGAN. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The time has expired.

Mr. DASCHLE. My time has expired. I appreciate the indulgence of the President.

Mr. MURKOWSKI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Fifteen seconds.

Mr. MURKOWSKI. Mr. President, I think we have just witnessed a preview of the course of the Senate action from here on until the elections. It is going to be crass political attacks against the Republican Presidential nominee, BOB DOLE. Nothing meaningful is going to get done in this body, and that is simply too bad.

The PRESIDING OFFICER. All time has expired.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

(The remarks of Mr. WARNER pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. MURKOWSKI. Mr. President, I ask for the yeas and nays on the conference report to accompany H.R. 2854, the farm bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 74, nays 26, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—74

Abraham
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Leahy
Lieberman
Lott
Lugar
Mack
McConnell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Robb
Roth
Santorum
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NAYS—26

Akaka
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Glenn
Harkin
Hollings
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin
McCain
Mikulski
Pryor
Reid
Rockefeller
Sarbanes
Wellstone

So the conference report was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRESIDIO PROPERTIES ADMINISTRATION ACT

The Senate continued with the consideration of the bill.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Kennedy amendment No. 3573.

Edward M. Kennedy, Paul Wellstone, Joe Biden, J.J. Exon, Chuck Robb, Carol Moseley-Braun, Christopher Dodd, Bryon L. Dorgan, Claiborne Pell, Kent Conrad, John F. Kerry, Ron Wyden, David Pryor, Russell D. Feingold, Paul Sarbanes, Patrick Leahy, Dianne Feinstein, Frank R. Lautenberg.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate shall be brought to a close?

The yeas and nays are ordered under rule XXII.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. THOMPSON). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—55 yeas, nays 45, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—55

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Simon
Snowe
Specter
Wellstone
Wyden

NAYS—45

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote the yeas are 55, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

Mr. HELMS. Mr. President, I ask that the Chair lay before the Senate the conference report to accompany H.R. 1561, the State Department Authorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1561), a bill to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 8, 1996.)

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to call off the quorum call for 5 minutes to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO GIFT BAN EXEMPTION

Mr. WELLSTONE. Mr. President, today in the Washington Post, and yesterday in the Congress Daily, there were some articles suggesting that Senator McCONNELL, Chair of the Senate Ethics Committee, was talking about a blanket exemption on the gift ban—and there may be changes to this, and I hope so—for the upcoming political conventions in San Diego and in Chicago.

Mr. President, I want to speak very briefly—and I suspect that I speak on behalf of other colleagues, Senator McCAIN from Arizona, Senator FEINGOLD from Wisconsin, Senator LAUTENBERG, Senator LEVIN—after more than 2½ years of negotiations and several hard-fought battles, just as the ink is drying, for a major change like this to be proposed, I think would be a serious breach of faith with the people in our country.

Mr. President, a friend and former Senator, Eugene McCarthy, who, by the way, will be 80 this weekend, has joked with me about being a "Calvinist" on congressional gift rules, but the reason many of us Senators worked very hard on this reform is that we want people to have more confidence and more trust and more faith in the political process. I just want to say that I really think if there is any kind of blanket exemption here, it would be a terrible mistake.

I can see the headlines now: "Members of Congress Take a Holiday from New Ethics Rule;" or "Pressed By Special Interests, Members Backslide to Provide Access;" or another headline, "Safe Harbor From Ethics Rules Members Let Their Hair Down at the Conventions."

Mr. President, I just want to make it clear to colleagues that we would be making a terrible mistake. It is one thing if there are specific issues that have to be resolved, specific problems where maybe there could be minor clarifications. I say just maybe because I think this gift ban legislation is very reasonable.

But, quite frankly, people do not want to see us go into these conventions and having special interests pay for our hotels or having them pay for various kinds of outings or having them pay for fancy dinners. It is just simply out of the question, Mr. President.

We have a $50 limit on a gift. You can take one up to $50. I say if somebody is thinking about eating more than $50 worth of shrimp at a gathering, this is becoming more a health care issue, not an issue of gift reform.

I do not mean to be just talking about this with a twinkle in my eye, but I want to say to colleagues, I do not know what was intended by these comments, but those who worked very hard on this certainly would be out on the floor. If there was any broad or blanket exemption, we would oppose it with all our might. And, more importantly, people in this country would not stand for it.

Mr. President, let me just say one more time: The ink is barely dried on these new gift rules, and some are now proposing to relax them. All of a sudden we hear about possible exemptions from the gift rules while Members are at the conventions. For Democrats and Republicans alike—let me be bipartisan—it would be a huge mistake to go back on the very reform law that we passed a few months ago. We must not do it.

There should not be any broad exemptions for these political conventions. We ought to live up to the law of the land that we passed. We ought to live up to this reform. We all ought to go by very high standards. I think people want us to.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HELMS. Now, Mr. President, will the Chair review for me the unanimous consent in terms of time.

The PRESIDING OFFICER. The agreement is 2 hours under the control of the Senator from North Carolina, Senator HELMS, or his designee; 2 hours under the control of Senator KERRY or his designee; 2 hours under the control of Senator NUNN; 3 hours under the control of Senator JOHNSTON; and 1 hour under the control of Senator FEINSTEIN.

Mr. HELMS. That makes 2 hours on our side. That is a total of 10 hours.

The PRESIDING OFFICER. Ten hours.

Mr. HELMS. I yield myself such time as I may consume.

Mr. President, the Senate now has before it the conference report accompanying H.R. 1561, which, of course, is the Foreign Relations Authorization Act for fiscal year 1996 and 1997.

This bill authorizes $6.5 billion for the operation of the Department of State, the U.S. Information Agency, and the Arms Control and Disarmament Agency for 1996 and 1997. That represents a $500 million cut from fiscal year 1995 spending.

After 1996, the bill authorizes funding for the State Department and requires the President to abolish at least one of the three anachronistic foreign affairs agencies: Either the Arms Control and Disarmament Agency, the U.S. Agency for International Development, or the U.S. Information Agency.

During the course of this debate, some may attempt to portray this legislation as isolationist. I hear that all the time. But you better not go out and ask the taxpayers of America what they think of it, because they do not agree with these people who cry isolationism.

These people who oppose this bill and have opposed it will not ever, of course, mention that the Secretary of State, Warren Christopher, himself proposed the abolishment of not one but all three of these agencies. The fact is likely to be ignored, as well, that such prominent isolationists as Henry Kissinger, George Shultz, Larry Eagleburger, General Al Haig, and Jim Baker, all five being former Secretaries of State, support this, testified on behalf of it, and urged that we pare back these anachronistic, bloated foreign affair agencies. Of course, the media did not say much about that. They never do.

This bill, of course, does not cut the muscle out of our foreign affairs apparatus. What it does do is cut the fat—a little bit of it—by making deep and necessary reductions in the current bloated and unwieldy Federal bureaucracy that says it is dedicated to foreign affairs.

This bill cuts $500 million from the 1995 spending level. I have already said that. I do not think that is isolationism. If it is isolationism, Mr. President, let us make the most of it, because if I could have my full way, we would cut even more deeply across the board and save the taxpayers billions upon billions of dollars, not only in terms of the State Department but all across this bloated Federal bureaucracy.

This bill is simply a recognition that the U.S. Government wants too much money and desperately needs to reduce the $5 trillion Federal debt that has been piled up and will be dumped on the backs of young people. Simply put, the State Department can and must do more with less, and the greatest advocates of that have been the present Secretary of State, before he was instructed to take a hike, and five former Secretaries of State, who stood up and said, "This needs to be done."

Most important, in agreeing to this conference report, the Senate has an opportunity to send to the President of the United States a bill to disestablish at least one anachronistic Federal agency and, thereby, save the American taxpayers $1.7 billion. It was my intent, when I embarked on this legislation, to do far better than that, but the distinguished Presiding Officer knows what happened all of last year, and for most of this year—it was filibustered. There were instructions from the White House to delay and obfuscate and not to let this bill pass because it will cost some bureaucrats their jobs. So they filibustered. And only when the Senator from North Carolina said, "All right, if you are going to filibuster this bill, you are not going to get any more ambassadors, and you can tell your President that." Pretty soon, they said, "Let's make a deal." When they made a deal, they got the ambassadors. But if they had not made a deal, at least to have a vote on this legislation, those ambassadors would still be sitting twiddling their thumbs.

Let me remind all involved that Republicans were elected in 1994, in the majority of both the House and Senate, to cut the size of the Federal Government and to eliminate waste by the Federal Government. And this is the first piece of legislation to be sent to the President of the United States which will result in one agency—one anachronistic Federal agency—being abolished.

I sat at home the night that the President delivered his State of the Union Address. I would rather be with Dot Helms than go to any State of the Union Address. She is a lot better company. I heard the President say over and over again—it was a great show, by the way—"The era of big Government is over." Do you remember him saying that? Some people cheered, including the few conservatives who were sitting down there. Well, the President will soon have the opportunity to prove that he meant that. But, already, the White House is sending word that the President is going to veto this bill, minimal as it may be.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. President, after months of foot-dragging and calculated delays, our friends on the other side grudgingly allowed our reform efforts to be voted on in the Senate and went into a conference committee with the House of Representatives. Mr. President, I have participated, during my nearly 24 years in the Senate, in a lot of conferences. But this conference was one of the most peculiar I have ever seen or heard about, let alone participated in. Prior to the convening of the conference between the House and the Senate, the Democrat Senators made three demands, and I believe the majority made every possible good-faith effort to meet those demands. First was on the question of funding levels. This conference report is consistent with the Commerce, State, Justice appropriations bill on nearly every account. The funding levels contained in this bill are the best that the President of the United States is going to get from a Republican Congress.

Second, despite receiving no input whatsoever—not a syllable—a bipartisan attempt was made to work out an acceptable compromise on population funding. That not being possible, the entire issue was then set aside for later consideration.

Finally, the Democrats demanded that no more aid provisions be included in the final conference agreement. Again, the majority agreed and obliged. Except for the Peace Corps and some antinarcotics funding, there are no foreign aid authorizations in this bill. Important provisions necessary to bring peace in Ireland and to end the embargo of Armenia are included. What do you know? Despite all of these concessions that we made, when the conference began, not one Senate Democratic conferee—except for JOHN KERRY of Massachusetts, with one brief visit by the distinguished Senator from Rhode Island, Senator PELL—attended any meeting of the conference. Senator PELL just visited briefly one time, and JOHN KERRY was there for a while.

Now, the conference met on five separate occasions over a period of 2 weeks, and never did any other Democratic member of the Foreign Relations Committee even set foot in the room.

Mr. President, the Office of Management and Budget recommends that the President veto this bill when it is presented to him. According to an OMB statement, one reason the President should veto the bill is because "it fails to remedy the severe limitation on U.S. population assistance programs placed in the fiscal year 1996 foreign operations bill."

Do not be deceived by the words "population assistance program." It has nothing to do with assisting the population. It has everything to do with unborn babies that the Federal Government wants to finance to be killed.

Now, I suggest, however, that if the President agrees with OMB, then he should not have signed the foreign operations bill if he did not approve of the abortion-related provision in that because it is strange indeed that the President would veto this bill because it does not fix a problem that he, himself, the President, created when he signed the appropriations bill. So that is the inconsistency that we have run into all along.

Mr. President, the distinguished occupant of the Oval Office apparently wants to have his cake and eat it, too. Further, the Office of Management and Budget recommended to the President that he veto the bill because it terminates the Agency for International Development's housing guarantee program. Now, what OMB kept secret, though, was the fact that this program is the international equivalent to the U.S. savings and loan bailout just a few years ago. The General Accounting Office, when recommending the termination of this program reported: "We estimate that the cost to the U.S. Government of future loan default from the existing portfolio of loans is likely to be an additional $600 million."

That is on top of the $400 million already lost, Mr. President. Yet, AID and others in this administration, have been struggling for more than a year to keep this sorry program alive. I suspect that when the American people learn—if the media will dare let them know about it—that Congress has passed and the President has vetoed a bill that would save $1.7 billion and abolish one of those temporary Federal agencies created in 1950—in the 1950's, at least— I think the American people are going to have a definite reaction. By the way, Ronald Reagan used to say, "There is nothing as close to eternal life as a temporary Federal agency." He was right about that. We are trying to do away with one of them. We are not get getting anywhere much. But we will see.

Let me take a moment to recognize the valuable work that has been performed by other of my colleagues on this side of the aisle who served as conferees on this bill— Senator HANK BROWN, Senator COVERDELL, Senator ASHCROFT. Most important, I want to pay my respects to the distinguished Senator from Maine, Ms. SNOWE, who chaired the International Operations Subcommittee and who has worked faithfully side by side with me and others to move this bill forward as best we could in the face of a total blockade by the other side. Senator SNOWE is most knowledgeable about the intricacies of the State Department and the international operations budget.

Well, Mr. President, here we are. We are now at the point, as the saying goes, where "the rubber meets the road." A vote against this conference report is a reaffirmation of the status quo which has contributed so much to the $5 trillion Federal debt that has been run up by the Congress of the United States. Do not blame any President, Democrat or Republican. The damage was done right here and in the House of Representatives. This is where that $5 trillion debt was run up because we could have stopped it.

Those of us over the period of the last 23 years and 3 months, as far as I am concerned, who tried to hold down the spending were described by the liberal media as being tight-fisted and ultraconservative. But I think the young people, when they realize what the Congress of the United States has done in dumping this $5 trillion debt on the American people, are going to have a small revolution of their own. I hope it will start in November among those who are 18 or older.

By the way, Mr. President, back in February 1992, I realized that nobody was paying much attention to the Federal debt which at that time stood at about, as I recall, $3.5 trillion. I think it was February 22 or 23 that I decided to begin making a daily report to the Senate on the Federal debt as of the close of business the previous day. On Mondays the report, of course, was for the close of business the previous Friday.

One day I went into the Cloakroom where Senators were awaiting a rollcall vote that had been scheduled by unanimous consent. I got to thinking about how big $1 trillion is. I went in, and I said, "Fellows, how many million are there in a trillion?" I had all sorts of guesses. These are the folks, myself included, who have been here when this debt has been run up. Only one of them, as I recall, had the vaguest notion of how many million there are in a trillion. Finally one of them got out a piece of paper and scribbled it down. He said, "There are a million million in a trillion." What do you know about that? Now we owe 5 million million dollars—"we" being the coming generation, in the main.

I think that is a criminal act on the part of the Congress of the United States—to run up that debt for these young people to pay.

In any case, a vote in favor of this pending conference report will be a vote to cut Federal spending by $1.7 billion for the American taxpayers while shutting down at least one anachronistic, wasteful, bloated, antiquated agency.

I reserve the remainder of my time and yield the floor.

Mr. DOLE. Mr. President, since last year we have been working hard to reform the foreign policy bureaucracy—to save the taxpayers nearly $2 billion and to get our foreign policy machinery working smoothly. This bill takes a big leap forward in that direction.

And, this bill does even more. It supports numerous U.S. foreign policy

goals—from Europe to Asia—at a time when our interests are being challenged around the globe.

In addition to State Department reorganization, this bill has many other important provisions including:

The Humanitarian Aid Corridors Act, which prohibits U.S. aid to other governments does not block U.S. assistance to needy populations;

Full funding of the administration's request for assistance to Israel;

Funding for the International Fund for Ireland and provisions to encourage recipients to use business practices consistent with the so-called MacBride Principles;

A mandate for the establishment of Radio Free Asia and the beginning of broadcasts into China and other Communist countries in Asia;

Prior notice of Security Council votes on U.N. peacekeeping activities and a limitation of the U.S. assessment percentage for U.N. peacekeeping to 25 percent;

Authorization for the Bosnia and Herzegovina and self-defense fund to provide $100 million to-arm and train Bosnian Federation Forces.

The list goes on and on. The Point is that no matter how hard the administration tries to muddy the waters with its long list of objections—no matter how much rhetoric administration officials spew forth—it is clear that the Clinton administration is more interested in protecting the foreign policy bureaucracy and promoting the status quo, than protecting and promoting American interests.

We've heard the administration's objections, but let's look at the facts. This bill is silent on abortion. With respect to Vietnam, the Congress is only requiring that the President certify that his own stated criteria have been met before relations with Vietnam are upgraded. This legislation supports U.S. foreign policy interests and only limits bureaucratic redundancy and inefficiency. This bill allows our limited foreign aid dollars to go further.

Mr. President, to threaten to veto this bill is irresponsible. To actually veto this bill is inexcusable.

Mr. HELMS. Mr. President, I ask unanimous consent that the time in the quorum call be deducted proportionately from both sides controlling the time.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed for up to 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. To be charged to each side. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. SPECTER. I thank the Chair. I thank my distinguished colleague from North Carolina.

TEEN PREGNANCY PREVENTION WEEK

Mr. SPECTER. Mr. President, I have sought recognition to comment about the establishment of Teen Pregnancy Prevention Week in the Commonwealth of Pennsylvania from March 18 to March 24, and about a meeting of a number of people at Central High School in Philadelphia on Friday, March 15, at 3 p.m. where a group of educators, ministers, students, and I spoke briefly about this subject.

There is enormous controversy on the subject of pro-choice, pro-life, but there is a consensus that there ought to be the maximum effort made toward prevention of teen pregnancy and that, to the extent possible, information should be distributed and there ought to be positive peer pressure on teens on the subject of abstinence.

The birth rate among teenagers remains at a surprisingly and alarmingly high level compared to those of nearly all other developed countries. In Pennsylvania, the pregnancy rate is 58.3 per 1,000 females aged 15 to 25.

A proclamation was adopted which I ask unanimous consent to be printed at the conclusion of these remarks on Teen Pregnancy Prevention Week.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, this is in line with efforts which are now being made by the Appropriations Subcommittee which I chair, Labor, Health, Human Services and Education, to allocate more funding for Title XX on abstinence. This is a funding issue which I have been active in at the specific request of our colleague, Senator Jeremiah Denton, who was a major spokesman for this issue prior to his departure from the Senate back in 1987.

Mr. President, it is my intention to introduce legislation to increase funding and authorization on the abstinence issue and, also, legislation to promote adoption with tax breaks. My staff and I are currently in the process of securing cosponsors for that legislation, which I anticipate introducing sometime in the latter portion of April.

Mr. President, at this point, I ask unanimous consent that the full text of the proclamation be printed in the RECORD together with the list of the speakers who spoke at the Teen Pregnancy Prevention Week press conference back on March 15, 1996, together with a copy of the "Dear Colleague" letter which I am circulating with the request that any of my colleagues who wish to support this legislation let me know so they may be added as cosponsors.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PHILADELPHIA FAMILY POLICY COUNCIL,
Philadelphia, PA, March 14, 1996.

TEEN PREGNANCY PREVENTION WEEK PRESS CONFERENCE SPEAKERS LIST

1. William Devlin, Director, Philadelphia Family Policy Council.
2. Reverend Ray Barnard, pastor, Impacting Your World Christian Center.
3. Dr. Della Blair, Founder and Director, Blair Christian Academy.
4. Dr. Keith Herzog, prediatrician, affiliated with Holy Redeemer Hospital and Medical Center and St. Christopher's Hospital for Children.
5. Reverend Herb Lusk, pastor, Greater Exodus Baptist Church.
6. Tim Julien, Senior at Central High School.
7. Monica Sneed, Junior at Girls' High.
8. Rachel Toliver, Junior at Central High School.
9. Dan Kim, student at Central High School.
10. Senator Arlen Specter; Signing of Proclamation.

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, March 25, 1996.

DEAR COLLEAGUE: I am writing to urge you to cosponsor two bills I intend to introduce shortly: the Adolescent Family Life and Abstinence Education Act of 1996 and the Adoption Promotion Act of 1996.

While there are obviously great differences of opinion on the pro-life/pro-choice issue, there is a consensus that all efforts should be made to prevent unwanted teen pregnancies through abstinence. The first bill does just that.

Where tax breaks for adoption would encourage carrying to term, we should act on that as well. The second bill does just that.

The following describes the essence of the two bills:

Adolescent Family Life and Abstinence Education Act of 1996.—Reauthorizes the Adolescent Family Life (Title XX) program, which funds demonstration projects focusing on abstinence, adolescent sexuality, adoption alternatives, pregnancy and parenting. This program had bipartisan support when originally enacted in 1981 and when it was reauthorized in 1984. Authority for Title XX expired in 1985 and since then, the program has been operating under funding provided in the annual Labor, HHS, and Education Appropriations bill. For FY 1996, the Labor, HHS, and Education Appropriations Subcommittee, which I chair, has provided $7.7 million for the Adolescent Family Life program. Congress should reauthorize Title XX to demonstrate our commitment to abstinence education and the physical and emotional health of adolescents.

The Adoption Promotion Act of 1996.—Provides tax incentives to encourage adoption, a policy which serves as a compassionate response to children whose own parents are unable or unwilling to care for them. This is particularly important in an era when so many teenagers are having babies and are unable to care for them. This proposal is based substantially on the provisions contained in the balanced budget legislation which Congress passed in 1995 but was vetoed by the President.

I hope you will cosponsor one or both of these bills. If you are interested, please contact me or have your staff contact Dan Renberg at 224-4254.

Sincerely,

ARLEN SPECTER.

P.S. A more detailed statement of the bills is enclosed. My office and I would be glad to provide additional information upon request.

VOL
142
PT
5
MR
21
—
29
1996
UMI

EXHIBIT 1

Whereas, In the United States, birth rates among teenagers remain at alarmingly high levels compared to those of nearly all other developed countries and in Pennsylvania, the pregnancy rate is 58.3 per 1,000 females ages 15–19; and

Whereas, the negative effects of early parenthood on the lifelong health, educational status, and financial condition of adolescents are well documented and babies born to teenage mothers are more prone to low birthweight and to have medical and developmental problems, teenage pregnancy is a public health issue of serious concern. Still, it is just one symptom of the greater problem of teenage sexual activity which carries many additional risk; and

Whereas, sexually transmitted diseases (STD's) some of which can be easily cured but others of which can cause permanent damage, infertility, death or harm to an unborn child, continue to affect 3 million teenagers per year, a solution that offers complete protection from these diseases is needed; and,

Whereas, The emotional consequences of early sexual activity can include anxiety, regret, decreased self-esteem, confusion about intimacy and shattered dreams; and

Whereas, "Safe sex" is at best a relative concept since even consistent, correct use of condoms can not guarantee freedom from STD's or pregnancy and offers no protection from the emotional consequences of intimacy without commitment; and

Whereas, studies indicate a decrease in sexual activity among teenagers in recent years, a recent study indicated that 9 out 10 youths want help in saying "no" to sexual pressure, and, abstinence programs designed for pre-teens and teenagers record a clear reduction both in teen pregnancy rates and teen sexual activity at large; and.

Whereas, the people of the state of Pennsylvania are interested in the health and well being of youth. I recognize that young people must be taught the risks of pre-marital sexual activity, the benefits of abstinence prior to marriage, and how to build healthy relationships on a solid foundation. This indicates my belief in the strength and character of the young people of this fine state.

Now, therefore, I Arlen Specter, United States Senator From Pennsylvania, do hereby proclaim the week of March 18 to 24, 1996 to be Teen Pregnancy Prevention Week. I urge all citizens to take part in activities and observances designed to increase understanding of abstinence as the positive solution to the problems of teenage pregnancy and its related issues. This message is not one of mere prevention, but a message of hope. At the local, state, and national levels, I uphold and support the message of abstinence prior to marriage as the healthy alternative for all Pennsylvanians.

In witness thereof, I have hereunto set my hand.

Mr. SPECTER. I thank the Chair. I yield the floor.

Mr. HELMS. Mr. President, on the basis that I mentioned earlier, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 and 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. KERRY. Mr. President, this conference report that we are now considering on H.R. 1561 is not a traditional nuts-and-bolts authorization bill for the Departments of State, USIA, and ACDA. It is, regrettably, a nonbipartisan and controversial bill in its current form.

This bill seeks to reorganize the foreign affairs agencies of the executive branch by forcing on the President a consolidation of one Agency, USIA, AID, or ACDA, even though the administration has made it very, very clear that is unacceptable to them. So, for that reason alone, this particular bill is subject to veto by the President. He has said that he will, indeed, veto it on that basis. I think it is regrettable we are going to take the time of the Senate to go through the process of sending the President something that he has already said he is going to veto, but that is what we are going to do.

But there are other implications in here. If a President of the United States asserts constitutional authority with respect to particular prerogatives within the formulation of the conduct of American foreign policy, it seems to me we ought to be careful to at least examine, if not respect at face value, those assertions with respect to that constitutional authority. And I think that there are legitimate questions here about whether or not it is appropriate, if the President says that is a prerogative and he does not want to be forced into that position; whether or not we should not respect that and create a different formulation by which we end up with the same result.

We did offer a different formulation by which we would end up with the same result during the course of the conference. That was rejected. Specifically, we offered the same amount of savings that we will achieve under the numbers in this bill—actually, a slightly lower aggregate amount of savings—but we recommended that we only hold out the threat of closure of these agencies if the President refused to return to us a sufficient plan with respect to the reorganization of our foreign policy agencies, and we had the right to determine whether or not we thought that was a sufficient plan. If we did not, we could reject it and start again.

In addition to that, there are a series of policy issues attached to what should, in normal circumstances, be a nuts-and-bolts reauthorization. Those policy decisions, each and every one of them, present their own set of problems. One such policy issue is the very, very significant alteration of our relationship with China, it might be said, literally shaking the foundations of that relationship at a very precarious time in our dealings with both China and Taiwan. I will have more to say about that subsequently, as will other colleagues.

In addition to that, it undermines the President's July 1995 decision with respect to normalization with Vietnam, and puts language into the authorizing process that, in effect, sets back our accountability process on the POW/MIA's.

Furthermore, it fails to meet the administration's budget requests for fiscal year 1997, particularly for the critical account of peacekeeping. The United States is engaged, as we all know, in most critical peacekeeping efforts in the world, most recently in Bosnia. To suggest the Congress is going to be unwilling to meet what we know are the agreed-upon figures and responsibilities for those peacekeeping efforts is simply irresponsible. Moreover, it sends a very, very dangerous, damaging message to our relationships with our allies.

Yesterday, I had the privilege of having a meeting with our Ambassador to the United Nations, Ambassador Albright, whom I think most would agree has been really doing an outstanding job on our behalf in New York at the United Nations. She relates that, literally in every debate, in every single effort, now, to try to bring our allies along on some particular effort, she meets with not just resistance, but a level of cynicism and scorn with respect to the United States' arrearages and the United States' slowness in paying with respect to peacekeeping.

Even in Bosnia, we are $200 million shy of a $200 million commitment. And the on-the-ground effort which the European representative, Carl Bildt, is trying to implement on our behalf and the European's behalf, is significantly restrained by virtue of the perception that we are not serious, we are not there, we are not going to really leverage this and try to guarantee that the on-the-ground civilian component can be as successful as the on-the-ground military component has been to date.

In addition to that, the United States-assessed contributions to the United Nations and its related agencies, as well as ACDA and the International Exchange Programs, are all significantly underfunded for the 1997 year.

I know, as my colleagues know, there is no easier whipping boy in the United States today than foreign policy and the United Nations. If you want to get applause at a local meeting at home, if you want to get people to kind of vent some of their anger at the waste of Washington, all you have to do is say to them, "By God, I think the money ought to be going here to X, Y, or Z

town instead of to these foreign efforts." And most people will automatically cheer and say you are absolutely correct.

When you ask most Americans how much money they think is going into our foreign policy effort, it is really amazing how far off most Americans are. I go to town meeting after town meeting; when the issue comes up, I say, "How much do you think we are paying for foreign assistance, foreign aid? Do you think it is 20 percent of the budget?" And a number of hands go up. "Do you think it is 15 percent of the budget?" Quite a few hands go up. "Do you think it is 10, 9, 8 percent of the budget?" A lot of hands go up, the vast majority. "Is it 5 percent of the budget?" And you get the remainder of the hands with the exception of a few.

Then, when you finally get down and say, "Is it 1 percent or less of the budget," I usually have one or two hands go up. That is what it is. That is what it is. It is 1 percent or less. It is less than 1 percent of the budget of the United States that we commit to all of our interests in terms of peacekeeping, AID, efforts to leverage peace in the Middle East. And most of the money, as we know, is contained within, almost, two items, Egypt and Israel, but significant portions are spread around with respect to some of the development programs and other efforts to curb drugs, narcotics, money laundering, immigration—a whole lot of things that we try to do in that field, including, I might add, one of the most important of all today: our economic enterprises.

We are shortchanging ourselves in places like Hong Kong, Singapore, the Far East, with respect to our Foreign Commercial Service, where we are losing countless job opportunities for Americans, countless manufacturing opportunities in this country, because we do not have the people on the ground sufficient to marry those opportunities with the opportunities in this country. That is extraordinarily shortsighted, because we could pay their salaries many times over in a matter of months, and I think that has been proven many times over.

So, Mr. President, the current level of funding is a very significant issue to the administration, and the administration has appropriately, in my judgment, suggested that those numbers are sufficiently low that that is a reason to veto this bill.

In addition to that, there still is no satisfactory solution to the question of family planning, and it is ultimately a bill that, in my judgment, is deficient.

I think many of my colleagues know that Senator HELMS and I have been grappling in good faith with the central and perhaps most controversial issue in this bill, and that was the reorganization of the foreign affairs agencies.

At the start of the year, I was excited about the proposition, and I still remain excited about the proposition, that we could consolidate, we might even merge, we need to reduce the size. I applaud the Senator from North Carolina in his efforts to try to press that. It is very legitimate. There does need to be a savings. There can be some savings, but I think there is an equally legitimate question about whether or not, at first instance, we should make an executive department decision regarding reorganization.

I think if we were to create the framework, if we were to hold a very heavy sword over the head of the administration, suggesting that if they do not do it sufficiently, they will pay a price, I think that would have been a very appropriate approach and it is one which we offered. In the absence of the administration being willing to accept a forced agency numbered closure, it is very difficult, obviously, to pass a bill.

I appreciate the fact—and I want the chairman to know it—I appreciate the fact that this conference report does contain a compromise on reorganization, and I think that did reflect a willingness of the House Republican conferees to move away from the House-passed bill's requirement that all three agencies be abolished. I want to respect the fact that they did move and say it on the record, and it would have been my hope that we might have been able to come to a final agreement on this.

But regrettably, the compromise does not meet the veto proof test, because it denies the President that executive department right of how to reorganize and, therefore, it is not just the fact of reorganization that is being asserted here, it is the principle of Presidential prerogative which, as we know, is not unimportant in the context of foreign policy.

Moreover, there is a very serious question, which I am confident the Senator from Arizona [Mr. MCCAIN], who is on the floor, will share with me, that it is really inappropriate for this conference effort to prohibit the President from following through on an Executive determination and an Executive right with respect to diplomatic relations with another country. Having determined, as a matter of that Presidential right, that we will establish diplomatic relations, for the Congress to then not fund the requisites of that diplomatic process; that is, an embassy, is to come in through the back door to, again, deny the President the prerogatives of Presidential authority in the conduct of foreign affairs.

So, again, that is a problem with respect to this particular issue.

Mr. President, let me say further that one of the most damaging components of this conference report, which I know the Senator from Louisiana is going to talk about and I know Senator NUNN of Georgia is going to talk about, is the very provocative and, in my judgment, ill-advised initiatives with respect to Taiwan and China.

I do not want to suggest that Taiwan should not be considered at some point for membership in GATT or the United Nations. It may well be that in the context of further marching down the road of one China and two systems and of bringing a sufficient dialog together between China and Taiwan, it will be possible to work those details out. But it is clearly on its face ill-advised in the context of the current difficulties for the U.S. Congress to step in and make extraordinarily important and provocative statements about that relationship that can only lend further fears to a Beijing that is so significantly caught up in, convoluted by, constrained by the transition process today, the leadership transition process.

Any of us has to understand that there are certain limits as to what the center of China, the Beijing regime can do at a time when there is a leadership transition in the shadows and perhaps sometimes not even so much in the shadows. For us to step in and alter in a unilateral way the Shanghai communique and the Taiwan Relations Act and the 1982 further communique would be to disrupt and, in fact, make more dangerous an already fragile and difficult situation.

There is no question but that the President of the United States on those items alone—just on the question of President Lee Teng-hui's visit to the United States, GATT and U.N. membership, and on the question of the relationship of the Taiwan Relations Act and the 1982 communique—those items alone, each and every one of them individually, let alone in the aggregate, ought to be grounds for a veto.

I think it is important for us to understand that while all of us here share a deep-rooted belief that the words of the communique are critical with respect to peaceful transition in Taiwan and that the words of the communique are critical with respect to our commitment to the Taiwanese not to ever be subjected to an invasion or to takeover by force or to a subversion of the democracy they are increasingly choosing and practicing, it would be equally wrong for us to just move away from the policy track that has guided our movements in that region for so long.

I think it is fair to say that if we were serious about establishing that as a policy of the United States Congress, it would be fair to understand that China would interpret that as an extraordinarily belligerent, provocative move that would elicit nothing but a hard-line response and wind up having exactly the opposite effect of what we are trying to achieve in the long run and make the world a far more dangerous place.

I believe that we can continue to back the principles of the communique and Taiwan Relations Act without resorting to those measures. We will still

VOL
142
PT
5
MR
21
—
29
1996
UMI

sell weapons to Taiwan as they need it for defense, and we will still abide by the guarantees of the two systems and of a peaceful transition. But what a terrible mistake it would be to start to assert a sort of "435-person House and 100-person Secretary of State policy" from the U.S. Congress.

Mr. President, finally, let me just say, turning to the funding levels, I want to speak for a quick moment about not just the peacekeeping money, but the relationship with the United Nations itself and our arrearages.

Ambassador Albright has made it very, very clear, and I think all of us need to really think about this—I encourage colleagues to go to New York and meet with representatives of various countries, find people who they respect in the process as observers and truly inquire independently of an advocate of the administration—whether or not our arrearages are creating a legitimate problem in our ability to achieve the very reforms that we are seeking at the United Nations.

In the context of this conference process, Congressman HAMILTON and I offered a proposal that would have allowed for continued leverage to get reform from the United Nations. We proposed that we not pay the arrearages back in one lump sum so that we lose leverage and control, but rather that we agree to pay them back, that we make it clear that we are going to do that, while simultaneously over a 5-year period achieving a fixed set of reforms within the U.N. itself, as well as achieving from the U.N. commitments with respect to changing the formula for contributions in and of itself.

I believe the contribution formula ought to change. The world has changed since the formula was set up. The gross domestic products of our partners have grown, and, on a relative basis, ours is shrinking compared to theirs. So it is appropriate for us to look to the United Nations and to our allies for fair contribution, for burden sharing and for a more fair distribution of that effort.

But right now, as a consequence of our unilateral decision not to pay, our allies are paying more than 100 percent. I will tell you, our allies, ranging from the British, the Canadians, French and others, are looking at us askance and wondering and increasingly feeling a sense of the inappropriateness of our unilateral actions. I know that our envoys are hearing about this on a regular basis, and it is diminishing our ability, Mr. President, to be able to achieve the very goals we are trying to achieve.

Let me say, finally, that this bill is an improvement over the House-passed bill on a number of different questions. It is my hope that after the President has vetoed this bill, that we might be able to quickly meet and resolve these particular issues. It was my feeling, had we embraced a couple of these concepts in the course of the conference rather than simply shunting them aside, we might still have been able to have the consensus and bipartisanship necessary to pass this.

Mr. President, the conference report on H.R. 1561, which we are now considering, is not just a traditional nuts-and-bolts authorization bill for the Department of State, USIA, and ACDA. It is a controversial bill with far-reaching provisions.

This bill seeks to reorganize the foreign affairs agencies in the executive branch by forcing the President to abolish one agency—USIA, AID or ACDA—even though the administration has made it clear from day one that it will not accept any forced consolidation of agencies. It undermines the President's July 1995 decision to normalize relations with Vietnam and threatens to set back the POW/MIA accounting process that we have worked so hard to put in place. It shakes the foundations of United States relations with China and tilts the balance toward Taiwan at a precarious time in the relations between Taiwan and China. It is a bill which fails to meet the administration's anticipated budget requests for fiscal year 1997, particularly for critical accounts such as peacekeeping, U.S.-assessed contributions to the United Nations and related agencies, ACDA, and international exchange programs. It lacks a satisfactory solution to the family planning issue. In short, it is a bill that I cannot support and that the President has indicated that he will veto.

I think all of my colleagues know that Senator HELMS and I have been grappling with the central, and perhaps most controversial issue in this bill—the reorganization of the foreign affairs agencies—for over a year. As I indicated from the start, I am sympathetic to the idea of consolidation, and I believe that Senator HELMS provided the committee with a thought-provoking plan for reorganizing the foreign affairs agencies. Personally, I can envision ways in which functions of the State Department and one or more of the three other foreign affairs agencies could be merged. In fact, as the chairman knows, I offered an amendment in committee to abolish one agency and consolidate its functions into the State Department. However, this proposal—like the chairman's proposal to abolish all three agencies, AID, USIA, and ACDA—was rejected by the administration.

The fact of the matter is that the administration does not now, and has never, supported the forced consolidation of agencies. That is why I worked with the chairman to forge a compromise in the Senate that would force consolidation through savings rather than through the mandatory abolition of agencies, and at the same time allow the Senate to act on S. 908. It was clear then, as it is clear now, that the Senate-passed version of consolidation was the only version that could possibly gain the support of Democrats in this body and of the administration.

I appreciate the fact that this conference report contains a compromise on reorganization which reflects the willingness of the House Republican conferees to move away from the House-passed bill's requirement that all three agencies be abolished. However, this compromise does not meet the veto-proof test because it denies the President the right to determine how to reorganize the foreign affairs agencies under his control. I believe this is a right that any President, Democrat or Republican, would assert.

Section 1214 of this conference report essentially prohibits the President from establishing an American embassy in Vietnam unless he certifies that Vietnam is fully cooperating on the POW/MIA issue in the four areas set forth by President Clinton. The Senate-passed bill contained nothing on this issue. The House bill contained weaker, sense of the Congress language. Unfortunately, the Republican conferees decided to up the ante by including the language now in section 1214—language which was in the fiscal year 1996 Commerce, State, Justice appropriations conference report that President Clinton vetoed. He indicated his opposition to this provision in that veto statement and he has cited it as one of the provisions that will provoke a veto of this conference report.

On the face of it, section 1214 might look like a harmless provision. But the fact of the matter is, this is a veiled attempt to go backwards—to nullify the decision made by President Clinton last July to normalize our relations with Vietnam.

That decision was the culmination of a process begun several years ago by President Bush, when he laid out a road map for improvement in relations between the United States and Vietnam. Under the road map, which the Clinton administration has embraced, genuine progress on the POW/MIA issue would result in the establishment of full diplomatic relations.

Genuine progress has been made. Through the efforts of people like Gen. John Vessey and the often heroic work by our own joint task force personnel and their Vietnamese counterparts in the field, we have a process in place that is producing that accounting.

Of the 2,154 Americans technically classified as MIA's in all of Southeast Asia, we have only 50 in Vietnam whose fate has yet to be confirmed. That means we have confirmed the fates of 146 of the 196 priority discrepancy cases. We have determined that 567 Americans were lost over water or in other circumstances where survival

was doubtful and where the recovery of remains is very difficult. We have recovered 520 remains from Vietnam, 170 of which have already been positively identified as American. The remainder are pending identification by our scientists at CILHI. We have investigated all unresolved live sighting reports and received over 27,000 materials including photos and other archival materials. It is clear that Vietnam is working diligently to help us resolve outstanding POW/MIA cases.

Last November, the Defense Department's POW/MIA office released its comprehensive review of individual cases of Americans unaccounted for in Southeast Asia. In testimony on the report before the Military Personnel Subcommittee of the House Committee on National Security, Deputy Assistant Secretary of Defense James W. Wold stated the bottom line. He said, "We have no evidence that information is being deliberately withheld." In addition, all of our United States military personnel involved in the POW/MIA accounting process, from the Commander in Chief of United States Forces in the Pacific to the private first class excavating a crash site have confirmed that Vietnam's cooperation has been extraordinarily extensive and represents a genuine effort on the part of the Government and people of Vietnam to resolve this issue once and for all.

The United States under Presidents Bush and Clinton made a commitment to Vietnam that the bilateral relationship would move forward as their cooperation on the POW/MIA issue improved. Vietnam is doing its part. The United States must fulfill its commitment in turn. The language in section 1214 of this bill puts that commitment in question and, in so doing, threatens to undermine the successful accounting process that we have put in place.

Apart from the damaging section on Vietnam, this conference report contains several provisions on China-Taiwan issues which are potentially damaging to our bilateral relations with Beijing. For example, section 1708 expresses the Sense of Congress that Taiwanese President Li should be allowed to visit the United States in 1996. Section 1709 advocates Taiwan's admission into GATT and the WTO. Most damaging of all, section 1601 subordinates the 1982 Joint Communique between the United States and China to the Taiwan Relations Act, in order to enable the United States to provide more weapons to Taiwan. This provision unilaterally repudiates a fundamental and longstanding element in the bilateral relationship between the United States and China. The administration has made it clear that this provision is a veto item.

Taken together, these provisions are a provocation to China. They raise the specter of a United States that is tilting toward Taiwan, encouraging Taiwan's apparent quest for independence, and positioning itself to enhance Taiwan's military capabilities in contravention of the fundamental nature of the United States-China relationship. To adopt these provisions now, when China and Taiwan are reaching out to each other to defuse the tensions between them, would be a mistake.

Turning to funding levels, this bill fails to meet the administration's likely budget request for fiscal year 1997, particularly, as I said earlier, in key accounts such as peacekeeping, assessed U.S. contributions to the U.N. international exchanges, and ACDA. I understand that the Republican conferees wanted to stay within the caps set by the budget resolution for function 150, the international affairs function. All of us, including President Clinton, understand that economies must be achieved if the budget is going to be balanced. However, the glide path in the existing budget resolution for function 150 is too steep—as it is for other functions—and if we stick to this glide path, our ability to promote and protect our national interests and to conduct diplomacy will be greatly jeopardized.

For example, we are not going to be able to use our leverage effectively at the United Nations to secure management reforms and revisions in our assessed contributions if we continue to be the deadbeat debtor. This conference report prevents us from paying not only through inadequate authorization levels but also by withholding high percentages of our peacekeeping contributions and our contributions to the regular budget until the President can certify that various reforms have been achieved. There is no disagreement over the need for reform at the United Nations but there is real disagreement among us over how to achieve it. The money card can only work so long and I think its effectiveness has run out. Few, if any, at the United Nations believe we are going to pay and as long as they do not believe it, we have no leverage to promote reform.

This conference report also includes some foreign aid provisions. Of these, the most problematic—and one cited by the administration as a reason for Presidential veto—is section 1111 which effectively terminates the housing guarantee program in several countries such as those in Eastern Europe and South Africa.

Finally, I should point out that this bill is an improvement over the House-passed bill on the question of family planning because it does not contain the objectionable provisions on Mexico City and prohibitions on funding for UNFPA. However, in an effort to avoid a fight over this issue—on which the House and Senate are so divided—the Republican conferees decided to remain silent on the family planning issue. In so doing they missed the opportunity to release funds for population assistance that have been held up under the fiscal year 1996 foreign operations appropriations bill. The restrictions in that bill cut family planning aid by 35 percent below last year's levels, and prohibit using any of the 1996 funds until July. Ironically, such restrictions could actually serve to increase the number of abortions and maternal deaths in developing countries, since they mean fewer couples will have access to contraceptives, health services and information. Therefore, the administration strongly opposes these restrictions and has cited the failure of this conference report to resolve the family planning issue as another reason for a veto.

Mr. President, this conference report represents a radical departure, not only from the traditional bipartisanship that has marked American foreign policy for so long, but also from the traditional bipartisanship that has enabled the foreign affairs committees of the Senate and the House to fulfill their authorizing responsibilities for the State Department and related foreign affairs agencies. Some will argue this is just politics, but they are wrong. The gulf between us is rooted in policy and the policy in this bill is not in our national interests. That is why I am going to vote against this conference report and why the President is going to veto it.

I reserve the remainder of our time at this point in time, Mr. President.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, let me spend just 2 or 3 minutes in respectful response to my friend from Massachusetts. His statement that the Taiwan Relations Act, which is a public law passed by the Congress of the United States, supersedes an Executive order, that is a matter of fact. The United States Congress was clear in its intent to support Taiwan's defense needs when this Taiwan Relations Act was passed.

The 1982 Executive order, referring to the ability of the United States to sell arms to Taiwan, seems to contradict certain terms of the Taiwan Relations Act. Now then, section 1601 does not—does not—repudiate the 1982 Executive order, though I confess that I wish it did. It does, however, clarify that in those instances in which the Taiwan Relations Act and the 1982 Executive order seem to contradict one another, the Taiwan Relations Act is, after all, United States law, therefore, stipulates the policy to which the United States should and must adhere.

Not once—this is the point, Mr. President—not once during the course of the conference between the House and the Senate did a single Member of the House or a single Member of the

VOL 142 PT 5 MR 21—29 1996 UMI

Senate raise this provision as a problem. As a matter of fact, I think it is worthy of note that when the staff met preliminarily, the staff of the Senate and the staff of the House, Democrats and Republicans, the Democrats' staff members made it clear that they were not there to participate; they were only to take notes. They refused to take any action or any part in the proceedings. So that is a little bit like the fellow who killed his mother and father and asked for mercy in the court because he was an orphan. They did not participate when we wanted them to, when we were begging them to.

With that said, I remind my colleagues that this provision was adopted by both Houses of Congress. Therefore, it was in both the House and the Senate bills. I also remind my distinguished colleague and friend from Massachusetts that he, himself, voted in support of this exact language during the committee consideration of the State Department authorization bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, for a long time now many critics of the administration's Russia policy have been voicing our deep concern that that policy is structured to serve a variety of interests, few of which could be defined as America's national security interests.

Let me just mention two of the more obvious administration positions which manifest a greater concern for Russia's interests than our own. The administration's persistent reluctance to seize the present opportunity to expand NATO has been maintained out of deference to the political sensibilities of current Russian leaders who wish to take political advantage from Russian nostalgia for empire.

The administration's opposition to lifting the unjust arms embargo imposed on the Government of Bosnia, a position which eventually required the United States to deploy our military forces to that country, was partially a consequence of the administration's fear of offending Russia's fraternal regard for the Serbian aggressors in Bosnia.

Mr. President, over the last 2 days we have learned that the administration's Russia policy is intended to serve the interests of at least one American, the President's, to the extent that the President defines his interests as being reelected to office.

The Washington Times reported yesterday and today that at the terrorism summit earlier this month, President Clinton privately pledged to maintain positive relations with President Yeltsin, as both men seek reelection this year, and President Clinton helpfully identified to President Yeltsin one issue of an extraordinary national security value to the United States that the Russian President could help him with—U.S. sales of chickens to Russia.

Mr. President, in the Washington Post today there is an article entitled: "White House Asks for Probe in Leak of Clinton-Yeltsin Talk Memo." Mr. McCurry, that erudite observer of national security issues says in the article:

> The President feels like he ought to be able to sit down with the President of Russia and have a private conversation.

I agree with Mr. McCurry:

> State Department officials said that the Talbott memorandum was circulated fairly widely . . ..

Incidentally, I would like to say I am proud to have opposed Mr. Talbott's nomination on two occasions.

The article goes on:

> The memo, as quoted in the Times, said President Clinton pledged to work with Yeltsin to maintain positive relations with the United States, as both men seek reelection this year. One way to do this, the memo quoted President Clinton as saying, is for Yeltsin to stop restricting poultry imports.

President Clinton said—and I quote:

> "This is a big issue, especially since 40 percent of U.S. poultry is produced in Arkansas," the memo said.

I ask unanimous consent that the article from the Washington Post and an another article from the Washington Times on the issue be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

White House Asks for Probe in Leak of Clinton-Yeltsin Talk Memo

(By John F. Harris)

The White House yesterday asked the Justice Department to investigate the leak of a classified State Department memo detailing a recent conversation between President Clinton and Russian President Boris Yeltsin.

Clinton was "concerned" by a report in yesterday's Washington Times based on a memo written by Deputy Secretary of State Strobe Talbott, according to White House press secretary Michael McCurry. It recounted talks between Clinton and Yeltsin earlier this month when both leaders attended an anti-terrorism summit in Egypt.

National security adviser Anthony Lake instructed an aide to call the Justice Department to encourage the FBI to investigate an apparent "violation of federal law," the spokesman said.

At a news briefing yesterday, McCurry said "the Washington Times appears to be illegally in possession of a classified document," but in a later interview he said that comment had been "inartful." The White House believes the illegality was committed by someone in the government who leaked the information, not by the newspaper in taking the document or publishing it, McCurry explained.

Asked for comment on the investigation yesterday, Times editor-in-chief Wesley Pruden said, "I always wish the FBI well in whatever endeavors they undertake."

McCurry said Clinton and Lake considered the leak to be far more sensitive than the typical anonymous disclosure that is commonplace in Washington journalism. "The president feels like he ought to be able to sit down with the president of Russia and have a private conversation," McCurry said.

State Department officials said that the Talbott memorandum was circulated fairly widely within the administration, and would have been seen by senior officials in other government departments, in addition to the State Department.

The memo, as quoted in the Times, said Clinton pledged to work with Yeltsin to maintain "positive" relations with the United States as both men seek reelection this year. One way to do this, the memo quoted Clinton as saying, is for Yeltsin to stop restricting poultry imports. Clinton said "this is a big issue, especially since 40 percent of U.S. poultry is produced in Arkansas," the memo said.

Lake, according to White House and Justice Department officials, instructed the National Security Council lawyer yesterday to initiate a criminal investigation. Justice officials said yesterday that they had not yet turned the matter over to the FBI but expected to do so soon.

McCurry said administration officials have been concerned about other disclosures published in the Times under reporter Bill Gertz's byline, and hinted that law enforcement officers earlier had been called in to track down his sources.

Lake, he said, wanted the FBI to "add this to any ongoing inquiry that they have going."

Gertz, a national security reporter, in recent months has written other articles based on classified documents concerning arms control and missile defense.

The White House has brought on troubles for itself by encouraging the FBI to launch investigations. When White House travel office staff members were fired in 1993, administration officials called in the FBI to investigate the employees. Congressional critics said that was an attempt by the White House to use the agency for political ends.

Clinton Vows Help for Yeltsin Campaign

(By Bill Gertz)

President Clinton, in a private meeting at the recent anti-terrorism summit, promised Boris Yeltsin he would back the Russian president's re-election bid with "positive" U.S. policies toward Russia.

In exchange, Mr. Clinton asked for Mr. Yeltsin's help in clearing up "negative" issues such as the poultry dispute between the two countries, according to a classified State Department record of the meeting obtained by The Washington Times.

Mr. Clinton told Mr. Yeltsin that "this is a big issue, especially since about 40 percent of U.S. poultry is produced in Arkansas. An effort should be made to keep such things from getting out of hand," the memo said.

White House and State Department spokesmen confirmed the authenticity of the memo but declined to comment on what they acknowledged was an extremely sensitive exchange between the two leaders.

The memorandum on the March 13 talks in Sharm el-Sheikh, Egypt, does not quote the two presidents directly but paraphrases in detail their conversation.

According to the classified memorandum, Mr. Yeltsin said "a leader of international stature such as President Clinton should support Russia and that meant supporting Yeltsin. Thought should be given to how to do that wisely."

The president replied that Secretary of State Warren Christopher and Russian Foreign Minister Yevgeny Primakov "would talk about that" at a meeting in Moscow. The meeting ended last week.

Mr. Clinton told Mr. Yeltsin "there was not much time" before the Russian elections and "he wanted to make sure that everything the United States did would have a positive impact, and nothing should have a negative impact," the memo said.

"The main thing is that the two sides not do anything that would harm the other," Mr. Clinton said to Mr. Yeltsin. "Things could come up between now and the elections in Russia or the United States which could cause conflicts."

The memorandum, contained in a cable sent Friday by Deputy Secretary of State Strobe Talbott, was marked "confidential" and was intended for the "eyes only" of Thomas Pickering, U.S. ambassador to Russia, and James F. Collins, the State Department's senior diplomat for the former Soviet Union.

The memo said Mr. Clinton suggested that the chicken dispute and others like it could be made part of talks between Vice President Al Gore and Russian Prime Minister Victor Chernomyrdin.

Mr. Gore announced Monday that Russia has lifted the ban on U.S. chicken imports that had been imposed out of concern that the chicken was tainted with bacteria.

The Washington Times reported March 8 that Mr. Clinton intervened personally in the poultry dispute late last month.

The president's directives to his staff to solve the problem right away benefited powerful Arkansas poultry concerns. Among them is the nation's leading producer, Tyson Foods Inc., whose owner, Don Tyson, has long been a major contributor to Mr. Clinton's campaigns.

U.S. poultry exports make up one-third of all U.S. exports to Russia and are expected to total $700 million this year.

Asked about the memo on the Clinton-Yeltsin meeting, White House Press Secretary Michael McCurry said yesterday that it is "inaccurate" to say Mr. Clinton promised to orient U.S. policy toward helping the Russian leader's political fortunes. Rather, he said, the president wanted to make sure that issues in the two countries do not hamper good relations. The poultry issue was raised in that context only, the press secretary said.

Mr. McCurry, who said he was present at the meeting, also said the president was referring to "positive relations" between the two countries and not political campaigns.

Those present at the meeting included Mr. Christopher, CIA Director John Deutch, National Security Adviser Anthony Lake and, besides Mr. Yeltsin, four Russian officials, including Mr. Primakov and Mikhail Barsukov, director of the Federal Security Service.

During the discussion, Mr. Yeltsin outlined his political strategy for winning the June presidential elections and said he still had doubts about running as late as last month.

"But after he saw the Communist platform, he decided to run," the memo said, "The Communists would destroy reform, do away with privatization, nationalize production, confiscate land and homes. They would even execute people. This was in their blood."

Mr. Yeltsin said he will begin his campaign early next month, traveling throughout Russia for two months to "get his message to every apartment, house and person" about his plan to strengthen democracy and reforms.

"The aim of Yeltsin and his supporters would be to convince the candidates one by one to withdraw from the race and to throw their support behind Yeltsin," the memo said.

Russian Communist Party leader Gennady Zyuganov is "the one candidate who would not do this" because he is "a die-hard communist," and Mr. Yeltsin noted that he "would need to do battle with him."

Mr. Yeltsin dismissed former Soviet President Mikhail Gorbachev as "not a serious candidate."

"He had awoken one morning and decided to run and would wake up another morning and decide to withdraw his candidacy," Mr. Yeltsin said of his predecessor. "This would be better for him because he now had some standing and if he participated in the elections, he would lose any reputation he had left."

Mr. McCAIN. Mr. President, give me a break. What kind of foreign policy is that? Does President Clinton know that he is President of the United States now and not Governor of Arkansas? Since when is poultry sales a big issue to be discussed between two Presidents? What happened to NATO expansion, Bosnia, proliferation of weapons of mass destruction, recent allusions in Russia to the restoration of the Soviet Union, and a host of other genuine big issues? But what does this President do? He calls a big issue the fact that 40 percent of U.S. poultry is produced in Arkansas, so it is a big issue between himself and President Yeltsin.

Mr. President, that is unacceptable conduct and shows again that on-the-job training has failed as the domestic policy; President puts his toe in the water on foreign policy.

Mr. President, I do not want to diminish the importance of selling chickens to Russia where sales were restricted until now. Poultry sales are a legitimate industry in the United States and surely deserve some consideration. Neither would I begrudge the President's concern for his own home State of Arkansas, which happens to produce about 40 percent of the poultry in the United States. But I would like to think that when the President of the United States sits down with the President of Russia to discuss big issues with him, areas of real security concern to the United States, there would be something somewhat higher on the agenda than chicken sales. I would also like to think that President Clinton would regard United States national security interests to be the priorities of United States policy with Russia, not anyone's reelection.

I assure the President, the satisfactory resolution of outstanding differences with Russia on the questions I have identified will do a lot more to restore the President's credibility as a statesman, and consequently enhance his reelection prospects, than will his efforts to boost chicken sales abroad.

What does the priority given by the President's Russian policy to narrow parochial interests say about his position on other questions which should concern us in Russia? It may say a great deal. The President encourages the IMF to approve one of the biggest loans in its history to Russia. Was this part of the President's plan for his and Mr. Yeltsin's reelection? Is our muted reaction to Moscow's brutality toward Chechnya a consequence of the bilateral Presidential campaign?

As we all read today, the leaked memo by Deputy Secretary of State Strobe Talbott, which referred to this Presidential discussion and President Clinton's intention to conduct our relations in a way that would have only a positive impact on President Yeltsin's reelection prospects, thereby reaffirming once again the administration's personality based Russian policy, has caused the administration to initiate an FBI investigation to determine the identity of the leaker. That endeavor, I am confident, will prove to be a colossal waste of the FBI's time.

What the classified memo really indicates is not some official's indiscretion, but the administration's abuse of the tool of security classification. Chicken sales and the reelection desires of President Yeltsin and President Clinton are not—I repeat, not—state secrets. Indeed, I believe it is very important for the American people to discover at last what interest the administration's policy to Russia, this most critically strategic of relationships, are intended to serve. Today, we have our answer: It is the same interests which most of the administration's policies are intended to serve—President Clinton's reelection.

Mr. President, let me say again, I strongly condemn the use of important U.S. diplomacy, which should be reserved for our most vital national security interests, to serve anyone's campaign interest, much less the President of the United States.

I yield the floor.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I got to the floor to speak about China, but first a word about chickens.

Mr. President, chickens may be an important industry in Arkansas, and they are, but the reason I think it is entirely legitimate—in fact, entirely important—for this President to speak to President Yeltsin about chickens is because Russia was denying entry into the Russian market of American chickens, perhaps grown in Arkansas, but grown in America by Americans, for the wrong reasons. That is, they were not permitting these chickens to come in because they did not want the competition.

Mr. President, this President, any President, has a great interest in open markets, particularly with a country which we are doing a lot to help and who we are encouraging to have open markets. I applaud this President for

VOL
142
PT
5
MR
21
—
29
1996
UMI

seeking to do away with those barriers to open markets in Russia.

Mr. SARBANES. Will the Senator yield?

Mr. JOHNSTON. I yield for a question, yes.

Mr. SARBANES. In fact, the President's efforts, it would seem to me, are part of a strategy to try to bring Russia into the international economic system as a legitimate player like other countries that are playing by the rules of trade. Would that not be correct?

Mr. JOHNSTON. That is precisely right. One of the problems with Russia now is that they do not have open markets. We are trying to encourage that. It so happens that chickens are a huge business in Russia, and the American chicken is more economically produced, is a better quality, and is preferred by Russians.

Mr. SARBANES. It could have been any product, for that matter, but the basic point is that we are trying to move Russia toward a market economy, something that the former Soviet Union did not do. That was a command economy.

Everyone says Russia ought to become a market economy, and obviously the United States and other countries in the West have a role to play in that. It seems to me this effort of the President was part and parcel of trying to move Russia in the direction of becoming a free market system and of participating in the global economy.

Mr. JOHNSTON. This is not the only item of interest and not the only thing that the President discusses with President Yeltsin, but it certainly is a legitimate one.

I can say if those were Louisiana chickens, I would be calling him up and saying, "Mr. President, don't stand for this. Speak to your friend, President Yeltsin, about it."

Now, Mr. President, this time last week we had a very dangerous world situation where two American carrier battle groups were steaming in the vicinity of the Strait of Taiwan and where the People's Republic of China, the largest country in the world, was engaging in live-fire tests, close to Taiwan. It is not an understatement to say that the world was in real danger of a conflagration at that time, not because anyone desired war but because the close proximity of these forces involving live fire made the possibility of a misstep, of a bump in the night between two ships, of a misspent or misfired rocket or shell, a very great danger.

Today, Mr. President, we all breathe easier as the crisis has passed. Mr. President, the problem remains. The potential for a huge crisis remains.

I would like to speak to what I regard as a very fateful decision. That is, the pending legislation; the pending legislation, Mr. President, would move this country, in my view, from a policy of engagement with the largest country in the world to a policy of containment of the largest country in the world, and containment equals—make no mistake about it—a new cold war. I can assure my colleagues that if I know anything about China, they will not be contained, and you can get ready for a new cold war if this bill should pass and become law.

Now, this bill, Mr. President, in my view, is potentially the most insidious bill that has been passed by either House in my 24 years in the U.S. Senate. I believe it has the significance, if passed and signed into law, of the Tonkin Gulf resolution. I think Senator NUNN has called it a declaration of war. The President has promised to veto it.

Mr. President, make no mistake, it is a very serious step for the U.S. Congress to be considering. I believe the Senate should sober up before this ill-conceived policy takes root.

Now, just what is this bill, and why do I call it so insidious and potentially—potentially—a Gulf of Tonkin resolution? First, it says that the Taiwan Relations Act supersedes the Shanghai communique. Of course, the Taiwan Relations Act deals with the defense of Taiwan; the Shanghai communique deals principally with a one-China policy. What do we mean by one-China policy? One China, two systems, peaceful reunification. The three points of the triangle which have been repeated by everyone: one China, two systems, peaceful reunification.

To say that the Taiwan Relations Act supersedes the Shanghai communique is not simply to say, as my dear friend from North Carolina, Senator HELMS, says, simply to state the obvious—that is, that an act of Congress supersedes an executive agreement. We know that. What it is saying is that, in effect, it nullifies, it subsumes, it cancels out the Shanghai communique and that the United States Congress, in this case, because it is a sense-of-the-Congress provision, that the United States Congress is abandoning the Shanghai communique. That, Mr. President, is very serious.

It also encourages the Taiwanese to move toward independence. We also rename and upgrade the Taipei representative office. In itself, this does not constitute a move toward independence. But taken together, particularly with an invitation to President Li Teng-hui to visit the United States "with all appropriate courtesies," these three elements taken together, Mr. President, are unmistakable. They are abandonment of the one-China policy, a move for independence for Taiwan.

Now, Mr. President, the House, apparently sensing the seriousness of the step they were taking, adds a further element not contained therein that it is our intention to assist in the defense of Taiwan, which, indeed, might be necessary should we enact this ill-conceived piece of legislation—a fateful, fateful decision, Mr. President.

One thing is absolutely clear: The unilateral declaration of independence by Taiwan is unacceptable to the People's Republic of China and will be resisted. Now, up until last year, things were going along swimmingly. The United States, the People's Republic of China, and Taiwan were all reading off the same song book. We were all saying one China, two systems, peaceful reunification and, indeed, we have reinforced, many times over, the Taiwan Relations Act, which was not at all inconsistent with one China, two systems, peaceful reunification. That is what the Taiwanese were saying, what the PRC was saying, and that is what President Nixon said in the Shanghai communique; that is what President Carter said in the joint communique of 1979; that is what President Reagan said in the joint communique of 1982; that is what President Bush said, and that is what President Clinton is saying. All were saying the same thing.

Things were going along very well. There were 1½ million Taiwanese who visited the People's Republic of China. There were tens of billions of dollars of investment by Taiwan in China. Talks were going on between the leaders of the two countries, or two areas. And then what happens? Well, we had what the Congress regarded as a very innocent invitation by Cornell University to have their distinguished alumni, President Li Teng-hui, come back and make a speech. We, in the Congress—or at least almost everyone in the Congress said, "Look, this is not a State visit, there is no significance to this. This is simply a homecoming to the old university, the old school." Well, Mr. President, we may have thought that in the Congress—but, I did not share that view, and I was the only Member of the Senate who voted against that visit—but I can tell you that the world, and certainly the People's Republic of China, and certainly Taiwan, did not regard it as such an innocent visit. On the visit, he brought along government leaders from Taiwan. He promised no press conferences, but said, "I will be available if you stand behind this bush when I am walking on the Ellipse. You can ask your question and I will give you an answer." And that happened.

He was met by Members of Congress. It had all the trappings, Mr. President, of a State visit, and it was clearly regarded by the People's Republic of China as being something more than a homecoming to the old university. And that, in turn, Mr. President, has been accompanied by a whole barrage of acts and initiatives designed to move in the direction of independence.

Why does a province of China—if that is what Taiwan is, as the Chinese claim—need membership in the United Nations? That upsets the PRC. We put that kind of language, also, in our resolutions, and, Mr. President, it constitutes still another act of this Congress moving toward unilateral independence of Taiwan.

Mr. President, just a few days ago, Deputy Foreign Minister Liu was meeting with us down in S–211, a stone's throw from where we stand. Ten Senators were there. We had an in-depth discussion with Deputy Foreign Minister Liu. He reiterated the peaceful unification theme. He reiterated the indelible, irrevocable friendship between the United States and the People's Republic of China. But he said, "The United States, of all countries, should understand our attitude in the People's Republic of China about Taiwan." He said, "You fought a civil war, the bloodiest war in the history of your country, about the question of unification, and about the question of unilateral declarations of independence. So you, America, ought to understand our feeling, because our feeling was just like President Lincoln's feeling about the American Civil War." He said, "The issue is sovereignty. We regard a declaration of independence by Taiwan as a matter of sovereignty, which we will safeguard." He said—and I took down these notes—"It is an overriding task. There is no other choice." He quoted Deng Xiaoping as saying this was an "explosive issue, as big as the universe; compared to it, all other issues are easy."

Mr. President, you can take solace from that in the repetition of the peaceful reunification. You can take solace from the fact that it is a one China, two systems, peaceful reunification system, which he repeated. You can take solace from the fact that he repeated the friendship of the People's Republic of China with the United States. But it is unmistakable—unmistakable—that a unilateral declaration of independence by Taiwan and moves by the United States Government to encourage that are unacceptable and are going to lead to trouble.

Now, if that is what we are going to do, Mr. President, as a nation, as a State Department, as an administration, as a Congress, I, for one, want this Congress to have its eyes wide open about what the implications are of that fateful move. This is not a series of moves to invite people back to universities for the old alumni to get together and give the old college yell. It is not about that. It is about war and peace, about the stability of Asia, and it is about the future of this country.

Now, Mr. President, one of the most important questions I think you can ask is: What is the defining international event of this era? Is it the war in Bosnia? Is it peace in the Middle East and all that that portends and all of its implications? Is it the demise of the Soviet Union and the rise of Russia and privatization, and all of the problems that are happening in Russia? I do not believe so. Mr. President, Sareed Zakaria, the managing editor of Foreign Affairs, stated in the New York Times of February 18 that, "The defining international event of this era is the rise of China to world power." It is happening so fast, its implications are so vast that it is an event that is being missed. And, certainly, the implications of the event are being missed by the vast proportion of Americans, and I submit, by most Members of this Congress. Indeed, I, myself, really missed the significance of what is happening.

I first went to China with a number of my colleagues in 1976. At that time, China was backward and poor and oppressive. It was depressing. Everybody dressed the same. No food. No travel. No automobiles. No jobs. No nothing. I remember the one particular riveting sight I saw was the cabbages piled on the street—and this was in November—for the winter. There was just a big mound of cabbages to be used by the people to eat. They were piled on the street, and they would come and grab a cabbage when they needed it. And you could go to the markets, which we did, and there was nothing there.

So, Mr. President, as I read about progress and growth in China, as the years passed since that trip in 1976, I intellectually could believe it. But I just did not really realize it until 1992 when I went to a conference where Larry Summers, who at that time was the chief economist of the World Bank, was making a speech. He said that China would be the largest economy in the world shortly after the turn of the century. These words rang in my head like an unbelievable statement—the largest economy in the world, that backward country that I saw, was impossible I thought.

So I made arrangements within a month to go to China. Mr. President, I was blown away. It was astonishing. It is one vast construction site in China. It is already the second or the ninth largest economy in the world depending on how you calculate those things, what figures you use. But it is arguably the second largest economy in the world. There are traffic jams. There is abundant food. There is colorful and even stylish clothing. Forty percent of the people have color televisions. Twelve percent of the people in China had VCR's. You have CNN, you have five-star hotels, and as I mentioned, you have traffic jams.

In 1976, when we landed in Shanghai, they did not even have automobiles. They had to bring the automobiles down from Beijing on railroad cars. Now when you go to China there are traffic jams. On my trip last year, going back to Beijing from where we were should have taken about 2½ hours. It took 7 hours because of the traffic jams.

The growth is so vast. Kwangtung Province, where I arrived, is larger than any country in the European Community, other than reunited Germany. They have had in the previous 10 years a cumulative growth of 440 percent—440 percent in 10 years. It is a growth rate today of three to four times the growth in the United States. We are very proud of our growth rate here. They continue to project a growth rate of 8 to 9 percent.

Mr. President, it is astonishing what is going on. I urge my colleagues, every Member of the Senate, to get over there and see. See for yourself, not just the growth, but make your own opinion about what kind of country this is and what kind of future they have.

In my view, Mr. President, 20 years from now our country will be judged by its success in foreign policy, in its stability, in the prosperity of its citizens, in the job rate, and in the growth rate, all of those things, but also by how successfully we deal with China and these other rapidly growing countries on the Pacific rim.

This is one area where we make or break, in my judgment, the future of this country.

So just what are the implications then of having a policy—of changing from a commitment to engagement to a policy of containment toward this rapidly growing country? I can tell you, this, Mr. President, a policy of containment, I believe, leads to cold war. Here is what I think is possible. A hot war is possible—not probable, but it is possible. The destabilization of Asia is an expected event.

What is Japan going to do when the area becomes destabilized? I can tell you what Japan is going to do. They are either going to insist that the United States come in with our nuclear umbrella in vastly greater numbers, or they are going to want to rearm. It is tit for tat. When Japan begins to rearm, the People's Republic of China is going to want to rearm that much more. What do they do in Indonesia? They will want to rearm. What about Vietnam, which has been a traditional enemy of the People's Republic of China? They are going to rearm. Pretty soon you have a real donnybrook of a cold war.

Mischief in Korea? Look at the People's Republic of China. They have played a very salutary and peacemaking role with the United States in trying to moderate North Korean policy. Believe me. Everybody knows that. As a member of the Intelligence Committee, I can tell you that everybody knows that. You can read it in the paper. But if they are suddenly our adversary, what is their role going to be with respect to Korea? Arms proliferation? Oh, I know, it has been prominently printed that they have violated

VOL
142
PT
5
MR
21
—
29
1996
UMI

the MTCR, the Missile Treaty Control Regime, by shipping M-11 rockets to Pakistan and that they are shipping magnets which can be used for uranium enrichment also to Pakistan.

Mr. President, there is a lot of evidence printed in the paper about these things. I must tell you that, while I clearly do not countenance what they have done or what they have alleged to have done, these are hardly the kind of violations that rise to the level of what is possible. These enrichment magnets that they talk about can be used for uranium enrichment, no doubt. But they do not find themselves on the schedule of things that were prohibited. That is their argument at least; it is for uranium enrichment and not for making bombs. On the MTCR violations, they are not alleged to have shipped anything lately. None of that has appeared in the newspapers.

The administration, faced with the information, did not see fit to put sanctions for that reason. But whatever their present conduct is with respect to proliferation, it is nothing, compared to what they could possibly do. Do not forget what their capabilities would be on proliferation. They have the capacity to vastly increase their military spending. They are being criticized for increasing it way too much right now. But it is less than 12 percent of what we spend.

Mr. President, they have the capacity. If we want to provoke them, if we want to challenge China's pride and national feeling, believe me, they can increase way beyond 11.8 percent of what the United States spends.

What kind of damage would this do to the U.S. economy? Well, you can count on inflation because I guess we, along with all of this new cold war, revoke MFN. And all of these products which we import from them, we pay more for those. How much tax would we pay for this new cold war, for this new military buildup that would come? How many lost jobs in America? Most important, Mr. President, could we be successful? If we set out to contain China, could we be successful? I can tell you this, Mr. President. We successfully contained the Soviet Union, but it took us trillions of dollars, it took us 40 years, and it took the unified support of all of the countries of Western Europe all working together, all joining together in NATO.

Who is coming to the defense of the United States saying, "Yes, United States, let us contain China." Who is doing that? Name for me one country that is doing that outside of Taiwan. Do the Germans? No. Look, Helmut Kohl has been to the PRC—over there at least twice seeking commercial contracts. They have invited Li Peng to come to Germany. The British? Oh, no. They may disagree a little bit about Hong Kong, but, Mr. President, the British are not trying to contain the People's Republic of China. The French? No. The French are selling nuclear reactors to China and beefing up in contracts all the time.

Nobody would support a policy of containment. It is a cold war that we would have to sustain ourselves. So, if we are going to try to contain and have a new cold war with the People's Republic of China, we are going to have to do it alone, and it is going to be a very, very expensive endeavor.

We are not going to pass this kind of legislation on the cheap. It is going to be very expensive—not just in the dollars we put into defense, not just in the jobs lost in America, but what it does to the economy of this country.

To abandon one China, to abandon a policy of containment, to make China our adversary would constitute perhaps the greatest diplomatic failure in United States history.

The fault of all of this is that we are presented with two choices. They say it is either appeasement or it is containment. It is either you are weak or you are strong. You have no other choice in between.

Those are the wrong choices. We are told that if we are weak, you encourage and you reward misconduct. If you do not stand up and tell them exactly what to do on human rights, then you are countenancing all these violations. And there are violations of human rights, to be sure. And the same thing is true of trade and Taiwan and proliferation; you have to stand up and be strong, they say. And if you are strong, we can change it all. We have absolute power, so Americans think, or some Americans think, to change China. All we have to do is tell them what to do and they will do it.

As Orville Schell said in the New Yorker—Orville Schell is a great author. You remember he wrote that book about nuclear winter, so he certainly knows about the dangers of international conflicts. But just last week he said in effect: Mao taught his comrades in arms to respect real power.

The idea that, if you are strong, stand up and it will happen. Or Charles Krauthammer said, "We ought to revoke MFN. Send the fleet into the Taiwan Strait," said Krauthammer, and "After all," he says, "if you wait for war, you invite war."

I am not sure what he meant by that. I took it to mean that you ought to go ahead and risk war right now and let us have it sooner rather than later.

Mr. President, this kind of talk—be tough, challenge them, tell them exactly what to do—in my view are not the choices facing this country. Appeasement or containment are not the proper choices.

The faults of China are very well-known. I really believe that the press, to some degree, has done a job of demonizing China. Part of that is China's fault because reporters go to China and they are treated badly. They treat reporters in China like a lot of politicians in America would like to treat reporters if they thought they could get away with it. But we know better and so we smile all the while. How do you think George Bush would have treated reporters if he thought he could have gotten away with it, or Bill Clinton, how do you think he feels about some of these reporters who write about Whitewater? But the Chinese treat them that way and they get terrible press.

Look, China is not a democracy. They do not have a Bill of Rights. They have all kinds of human rights violations. Ask Wei Jen Sheng about that. No question about that. Trade abuses? Yes. Intellectual property abuses? Yes. Live fire was a provocative thing in the Strait of Taiwan. Proliferation, MTCR, all of these things are faults of China which have been publicly and widely chronicled all over the United States, so we know they have plenty of faults.

Mr. President, if they have faults, they are not nearly as bad as their harshest critics would indicate. This is not a hostile regime. This is not a regime that is threatening its neighbors. It is not threatening to invade Taiwan. It is certainly not threatening any of their other neighbors. They never have, Mr. President. They have committed themselves over and over again to what they called nonhegemony in the region. They are proceeding toward Westernization at an astonishing pace. Privatization.

It may not be a democracy, Mr. President, but it is certainly not communism. Their market is about half-and-half—half free open market and about half State controlled, and the proportion that is free is growing all the time. I remind my colleagues that this country does not have a 100-percent free market. There are vast areas such as the post office, such as the Government which are not free in the United States. But theirs is about 50–50. The products produced are free.

The difference between China in 1976 when I was first there and now is mind-boggling. There is travel now. Just to give you one example is the unit system they used to have in 1976. A block captain would give out the job, the ration stamps, and the housing of every person. They were tethered to and controlled by their block and their block captain. They could not travel. They would not have had the money to travel. There was no job to be had elsewhere.

Indeed, in 1989, Tiananmen Square was more of a revolt against the assignment of jobs, I believe, than it was about democratization. Today, the block system does not exist in vast areas of China. There are hundreds of millions of Chinese who travel and have traveled and take jobs on their

own without permission of the block captain.

You want to know what real freedom is, Mr. President, or what real oppression is. It is the inability to travel and get a job and work where you wish. But now there is this freedom to get jobs and jobs in Western-controlled companies where they are absorbing Western culture, Western ways, and Western freedom.

We hear that there are widespread death penalties in China. According to the New York Times, in the first 6 months of 1995 there were 1,865 death penalties meted out in China. That is not disproportionate to the amount of death penalties meted out in this country for those whose conduct merits the death penalty. I happen to be a supporter of the death penalty properly acquired. You may still disagree with 1,865 death penalties meted out in China in the first 6 months, but this is hardly Nazi Germany during their worst times.

The National People's Congress, Mr. President, is acquiring more and more power all the time. Indeed, there are some China watchers who say that Choa Zhenwei, who is the head of the National People's Congress, is a competitor with Jiang Zemin for power. I do not give that as my own view, but it is clear that the National People's Congress is getting additional power and is making a step, a real step in the direction of some kind of democracy. In fact, they fairly recently enacted measures which provide that you cannot be held for more than 30 days without charges being filed, a presumption of innocence.

That sounds fundamental, and it is, but they did not have it in China and they now have it and the National People's Congress gave it to us. You now have lawsuits in China about the environment, about zoning, consumer lawsuits. These did not exist a few years ago. They did not exist, indeed, at the time of Tiananmen Square in 1989.

Now, all of these things which I am telling you may not help Wei Jen Sheng, who is probably the most prominent of the dissidents at this time. But it is progress. And the point is, this is not a rogue regime. It may not be a saintly regime. It is neither. Just as the economy is not a Communist economy, it is not a total free market either. It is about 50–50. And you have to engage China as an emerging country, as a changing country.

What I believe this country needs is to determine what kind of China we want and devise a policy that has some possibility of getting us there. What do we want from China? Most important, we want a responsible member of the international community. We want a country that respects the rule of law—certainly in trade—and in human rights and in commerce and in every way that we can urge them to do so, a responsible member of the international community. We want them, I believe, to be a prosperous China. With 1.2 billion citizens and all that power, a country which is declining, which is not prosperous, is a dangerous country for all of Asia and all the world. Most of all, we want a friendly China.

It is clear, to get there, that China does not respond to a list of demands. I wish that it were true. I wish that we could give them our list and tack it on the church door and expect that these things would be done, but they have shown time and time again that public pressure and hectoring of the Chinese is counterproductive.

I would say the degree of success, of what we are able to extract from the Chinese in terms of our demands, is inversely proportionate to the amount of publicity that we give to those set of demands. Why is it that they are so inordinately sensitive, unreasonably sensitive to the demands of the United States? Very simple. They have one of the most searing histories of humiliation, certainly of a great power, that exists on the face of the Earth. In the last 150 years, they have been dominated at least four times by foreign powers. The opium wars in the 19th century—do you know, Mr. President, in the opium wars, the British invaded and subjugated China because they were trying to restrict their market of opium? Can you imagine anything less reasonable, less civilized, more to be criticized than that? That is what the British did.

The Japanese did not just attack China. You had the rape of Nanking.

When the British controlled Shanghai, as the great commercial center—and they had these clubs; they would not even admit Chinese in the clubs in their own city of Shanghai.

Mr. President, it is a series of humiliations, historically, that have been seared into the consciousness of the Chinese. The 1949 revolution was as much about nationalism as it was about communism, and I can tell you there are strong strands of nationalism that bind the Chinese, all 1.2 billion of them, in the strongest kind of way.

Add to the sensitivity that comes from that historical humiliation the fact that this country is a country in transition. Add to that the explosive growth. In that same article in the New York Times by Sareed Zakaria, the managing editor of foreign affairs, he says, "Nowhere in history has a country grown as fast as China without political and social upheaval."

So here you have a China that is in a power transition, with human growth almost double digits, and you have this sensitivity. So it requires, on our part, the most enormous amount of sophistication and sensitivity that we are capable of giving.

So, what, then, should we do? Mr. President, we ought to get a clear and consistent China policy and articulate it. I wish the President of the United States would make a statement of where we stand. Yes, he has stated that we continue to adhere to the Shanghai communique, but he needs to make that clear. We need to understand that Taiwan is central to this issue of engagement of the largest country in the world in population and soon perhaps to be the largest economy of the world. And what does that mean? It means we need to reassure the People's Republic of China that we will not be a party to unilateral declarations of independence, that the Shanghai communique, that the Nixon doctrine, that the Reagan communique, that the Carter communique are still our policy and are not subsumed and superseded by, but are consistent with, the Taiwan Relations Act.

At the same time, we should continue to reassure Taiwan that we will stand behind them when it comes to any threat of invasion; that unification needs to be peaceful. But that is what we have said all along. That is what China has said all along: One country, two systems, peaceful reunification. Now, what is wrong with that? And why can we not articulate that clearly?

We need to treat their leaders with respect and dignity. As I say, they are enormously sensitive and we frequently fail to recognize that this country, the Middle Kingdom, as it has been historically called, has not, in fact, been treated with the proper respect and dignity.

I do not believe that most Americans know what is going on in China in terms of the huge—not just huge growth, but huge strides forward that they are making. We need to recognize the limitations that there are on human rights. We just cannot give a list of demands, as much as we want to do so. We have to recognize those limitations. That does not mean we do not continue in the strongest way possible, that can be effective, to stand up for human rights and dignity all over the world, but it means that we do so in a way that is likely to be effective.

Mr. President, if we do those things, then it will allow us to be more firm on the missile treaty control regime. It will allow us to be more firm on trade. The problem is, when you have two carrier battle groups steaming in the Strait of Taiwan, then to invoke sanctions on trade looks like a further step toward containment and cold war and makes it inappropriate to take the kind of steps on trade or MTCR that you ought to do.

So that, in effect, by dealing with Taiwan in a traditional way that we should, that is to reassure all parties, one China, two systems, peaceful reunification—to reassure all parties that our policy allows us, then, to be more firm in areas that are likely to make it effective.

VOL 142 PT 5 MR 21—29 1996 UMI

We have surely made our point. The Chinese, I submit, have made their point, that is, they are not going to stand for a unilateral declaration of independence. We have made our point with not one but two carrier groups—not one but two carrier battle groups. We have made that point strongly. We have stood up for Taiwan, our friend.

Now it is time for us to be more patient, to lower our voices, to have a greater engagement with the People's Republic of China, to have high level discussions and, most of all, to kill this very ill-considered piece of legislation.

This piece of legislation, at this sensitive time, could do more than anything I know to put us at odds and put us in a position of containment and cold war with the largest nation on Earth.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senate majority leader is recognized.

UNANIMOUS CONSENT AGREEMENT—H.R. 3136

Mr. DOLE. Mr. President, I think we have an agreement on the debt limit which will be coming from the House momentarily.

I ask unanimous consent that when the Senate receives from the House H.R. 3136, the debt limit bill, the bill be read a third time and passed and the motion to reconsider be laid upon the table, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. I further ask unanimous consent that the following Senators be recognized for up to 10 minutes each with respect to the debt limit any time during the remainder of today's session: Senator GRAHAM of Florida and Senator PRYOR.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASING THE PUBLIC DEBT LIMIT

Mr. ROTH. Mr. President, today the Senate considers H.R. 3136, a bill to increase the public debt limit to $5.5 trillion. The bill would also increase the earnings limit for all Social Security recipients as well as provide regulatory relief for small businesses. The regulatory relief package mirrors S. 942, which passed the Senate earlier this month by a vote of 100 to 0. As of last night, some details of that package were still being finalized. Senator BOND, chairman of the Small Business Committee, will explain that portion of this bill. I will focus my remarks on the Senior Citizens' Right to Work Act of 1996. However, before I do that, let me spend a few moments on the need for the debt-limit increase.

Earlier this year, we passed two bills, H.R. 2924 and H.R. 3021, to provide for temporary relief from the current debt limit. These two bills created new legal borrowing authority not subject to the debt limit for a short period of time. Today we will act on the long-term extension. According to the Congressional Budget Office, this increase should be sufficient through the end of fiscal year 1997.

Over the past decade, many have argued against raising the debt limit, however, let me remind my colleagues that last fall we passed a budget that would have achieved balance in 7 years. That legislation would have gone a long way to reduce the amount of debt limit increases which are always so painful to enact. Unfortunately, as we all know, President Clinton decided to veto the Balanced Budget Act of 1995.

If we fail to concur in the action of the House, or if President Clinton were to veto this bill, we would find ourselves in a fiscal and financial crisis. The Government could not borrow and bills would only be paid out of current receipts, leading to defaults on interest payments and payments to contractors as well as an inability to make all required benefit payments. These defaults would also lead to higher interest rates.

Congress has raised the debt limit 33 times between 1980 and 1995. Many of these increases were short-term temporary extensions. It is important to remember that the increase of $600 billion included in this bill is the third largest increase. The largest increase was in the 1990 budget deal and the second largest was in the 1993 Clinton tax-increase bill.

I hope that the Senate expeditiously enacts this critically important piece of legislation to preserve the full faith and credit of the U.S. Government.

Now let me turn to title I of this bill. The Senior Citizens' Right to Work Act is a big step toward providing greater economic opportunity and security for America's senior citizens.

Under current law, millions of men and women between the ages of 65 and 69 are discouraged from working because they face a loss of their Social Security benefits. If a senior citizen earns more than a certain amount—the so-called earnings limit—he or she loses $1 in Social Security benefits for every $3 earned. The current earnings limit is a very low amount—only $11,520.

Mr. President, this earnings limit is unfair to seniors and is a barrier to a prosperous economic future of all Americans.

For today's seniors, the earnings limit can add up to a whopping tax bite. According to both the Congressional Research Service and the Joint Committee on Taxation, seniors who have wages above the earnings limit can face marginal tax rates over 90 percent, when one factors in Federal and State taxes.

Mr. President, that is not right.

But as unfair as the earnings test is today, it will be an even bigger problem in the future, a future that is rapidly approaching.

We all know the statistics concerning the aging of America. In the same way, we realize more and more that much of our future economic growth will depend on the ability of older Americans to remain working.

Mr. President, why do we even have this earnings limit? Back in 1935, when the Social Security system was designed, it was widely believed that the economy could support only a limited number of workers. Perhaps this belief was understandable 60 years ago—when we were in the middle of the Great Depression. But today, few, if any, economists hold such a belief. In fact, most believe quite the opposite.

Mr. President, I also believe this bill will improve public confidence in the Social Security system.

Social Security is a contract with the American people. Everyone working today knows the taxes the Federal Government takes from them each payday will be returned by the Social Security program when they retire. For parents working to support a family, this sizable tax can be—and often is—overwhelming.

But what too many seniors find out, Mr. President, is that the Government can exact a high price when they reach 65. If they continue to work, seniors are allowed to earn very little before the Government starts taking back benefits. As I noted earlier, for every dollar a senior earns over the earnings limit—currently only $11,530—he or she loses 33 cents in benefits.

Mr. President, the bill now before the Senate would raise the earnings limit for seniors aged 65 to 69 to $12,500 this year, and to $30,000 by 2002. This legislation is entirely paid for with real savings, not gimmicks.

But we are not just spending money. This bill also provides $1.8 billion of deficit reduction over 7 years.

Even better, according to the Social Security Administration, title I of this bill actually improves the long-range health of the Social Security trust fund.

Mr. President, I ask unanimous consent that a memorandum from the Office of the Actuary of the Social Security Administration that makes this point be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ROTH. Mr. President, we all know the Social Security trust fund has a long-range solvency problem. Beginning in 2013, payroll taxes will no longer be enough to cover benefits, and by 2031 the trust fund surplus will be depleted.

Although this bill is in no way a complete solution to that problem, every little bit helps.

Lastly, let me note that title I contains two other provisions important to the health of the Social Security system.

First, the bill provides funding for continuing disability reviews. These reviews are supposed to be done periodically to determine if individuals receiving disability benefits under Social Security or SSI continue to be disabled. Historically, this important program integrity activity has not been well funded, and the Social Security Administration has a backlog of over 1 million reviews waiting to be done. Social Security itself admits that billions of dollars have been lost from not doing these reviews, and even more money will be lost in the future.

This bill will help fix that urgent problem.

Incidentally, the continuing disability review provision is supported by the Administration, and a very similar proposal is continued in the President's 1997 budget.

Second, title I of this bill contains a provision to protect the Social Security and Medicare trust funds from underinvestment or disinvestment—which has been endorsed by the Treasury Department.

Title I of this bill was reported out of the Finance Committee unanimously and a similar measure passed the House by the overwhelmingly bipartisan vote of 411 to 4.

I am grateful to Senators DOLE and MCCAIN, both champions of raising the earnings limit, for their tireless efforts on this issue. I am proud to join them in this effort.

Raising the earnings limit is also strongly supported by AARP.

Mr. President, I ask unanimous consent that a letter from AARP be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. ROTH. Mr. President, in closing on the earnings limit, let me quote two distinguished experts from the Urban Institute, Eugene Steuerle and Jon Bakija. These experts have stated, "The simple fact is that the earnings test is a tattered remnant of a bygone era."

Mr. President, let us act now, and send the message to America's seniors that we value their experience and skills.

EXHIBIT 1

MARCH 22, 1996.

From: Stephen C. Goss, Deputy Chief Actuary.

Subject: Estimated, long-range OASDI financial effects of the Senior Citizens' Right to Work Act of 1966—Information.

To: Harry C. Ballantyne, Chief Actuary.

Enacting the "Senior Citizens' Right to Work Act of 1996" (Title II of H.R. 3136) would increase (improve) the long-range OASDI actuarial balance by a total amount estimated at 0.03 percent of taxable payroll. The long-range solvency of the OASDI program would thus be improved by reducing the long-range deficit from 2.17 percent of taxable payroll to 2.14 percent of taxable payroll. These estimates are based on the intermediate (alternative II) assumptions of the 1995 Trustees Report. The balance of this memorandum describes the long-range financial effects of the individual provisions of the title.

Sections 204 and 205 of this act would each increase (improve) the long-range OASDI actuarial balance by an estimated 0.01 percent of taxable payroll. Section 204 would require one-half support from a stepparent at time of filing for a stepchild to receive benefits on the stepparent's account, and terminate benefits to stepchildren upon the divorce of the stepparent and the natural parent. Section 205 would prohibit eligibility to DI (and SSI) disability benefits based on drug addiction or alcohol abuse, respectively. Section 202, which would raise the earnings test exempt amount for beneficiaries at or above the normal retirement age to $30,000 by 2002, would result in negligible (estimated at less than 0.005 percent of taxable payroll) changes in the long-range OASDI actuarial balance. Sections 206 (pilot study on information for OASDI beneficiaries), 207 (protection of the trust funds), and 208 (professional staff for the Social Security Advisory Board) would also result in negligible effects on the long-range actuarial balance.

Section 203 authorizes the appropriation of specific amounts to be made available for fiscal years 1996 through 2002 for continuing disability reviews. This provision will have the effect of increasing the number of continuing disability reviews through 2002, with the result that total costs of the DI program will be lower for the long-range period and that the solvency of the OASDI program will be improved throughout the long-range period. Additional savings will occur if continuing disability reviews continue at the same level beyond 2002 as is provided for in this provision through the year 2002. The effect of this provision, assuming the appropriation of the specified amounts through 2002, is estimated to be an additional increase (improvement) in the long-range actuarial balance estimated at 0.01 percent of taxable payroll.

STEPHEN C. GOSS.

EXHIBIT 2

AARP,
Washington, DC, March 27, 1996.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN ROTH: The American Association of Retired Persons supports the Senior Citizens Right to Work Act—the proposed increase in the Social Security earnings limit—on the pending debt limit bill. We should be encouraging, not penalizing, those who continue to work and contribute to the economy.

AARP has long supported an increase in the earnings limit. The current level of $11,520 penalizes beneficiaries age 65 through 69 who desire to continue in the workforce. Your proposal, which would increase the limit to $30,000 over a 7-year period, is a fiscally responsible way of enabling many moderate and middle-income beneficiaries to improve their economic situation. AARP commends you and your committee for your leadership in the effort to finally address this long-overdue reform.

AARP believes that the earnings limit increase should be financed in an appropriate manner in order to maintain the integrity of the Social Security trust funds. While tradeoffs within the program are necessary, such financing is the responsible course. Towards this end, the Association notes that the Social Security actuaries have projected that your proposal would result in an improvement in the long range actuarial balance of the Social Security trust funds.

The proposed increase in the earnings limit would also send a strong signal to working beneficiaries that their skills, expertise and enthusiasm are welcome in the workplace. The public policy of this nation should be to encourage older workers to remain in the workforce. Your proposal would further that goal.

The Association remains committed to increasing the earnings limit, and we are pleased that Congress and the Administration have agreed to raise the earnings limit in the 104th Congress. Again, we thank you for your leadership.

Sincerely,

HORACE B. DEETS,
Executive Director.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I express the appreciation and relief of all Members of this body and Americans everywhere that we shall, in very short order, under this agreement extend the debt ceiling to $5.5 trillion. That will take us through this fiscal year and past the next election to about September 30, 1997. This particular drop-dead date is out of our way. We can have a good national debate on other issues.

I make the point, Mr. President, that while, again, we have to extend the debt ceiling, for the first time since the 1960's, the United States has a primary surplus in its budget, which is to say that the revenues from taxes and other activities exceed the costs of the operations of the Federal Government.

Debt service makes for a continuing deficit, but it is coming down. The total deficit this fiscal year will be approximately 2 percent of gross domestic product. It was 5.7 percent just a few years ago. This is a good development. It is a bipartisan one. The vote was bipartisan in the House. It is responsible behavior. I thank all concerned.

Finally, Mr. President, I particularly want to thank my colleague, the chairman of the Committee on Finance.

Mr. President, my friend and distinguished associate, Senator JEFF BINGAMAN, has some very laudable concerns to raise the earnings limit for the blind so that in future years it will increase in parallel with the increase for retirees under Social Security, a provision included in this bill.

In that regard, I would like to take this opportunity to thank Senator MCCAIN for his thoughtfulness in pressing a matter of concern to him. The earnings limitation is an obsolete provision from the 1930's. We are gradually going to get rid of it now. Senator

VOL
142
PT
5
MR
21
—
29
1996
UMI

McCAIN deserves great credit for that, and I would like to so express my appreciation.

With that, I yield the floor, and I thank the managers of this legislation for allowing us to interrupt. Otherwise, it was default by midnight—well, midnight tomorrow. Even so, we have averted that, and we can go on to the proper business of the Senate. I thank the Chair.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I certainly thank our colleague from New York for his cordial management of this very important issue that had to be resolved.

Mr. BINGAMAN. Mr. President, I had hoped to offer an amendment to the debt limit bill that would have rectified an unjust situation in the legislation concerning the Social Security earnings limit increase for retirees. My amendment would have reestablished the linkage between earnings limit increases for retirees and the blind, a linkage that has existed since 1977. Unfortunately the bill we are considering ends that linkage which I believe is unfair and not supported by adequate policy considerations. However, Mr. President, I understand that passage of this amendment would have potentially damaged completion of the debt limit bill, a bill that has too long been delayed by extremist politics, so therefore I do not feel that now is an appropriate time to pursue my amendment.

However, Mr. President, it is my understanding that the ranking member of the Senate Finance Committee, Mr. MOYNIHAN, has given me his commitment to support my efforts in the Finance Committee and on the floor of the Senate, if necessary, to support an amendment that reestablishes some linkage between the blind and retirees on the next bill reported out of the Finance Committee that amends the Social Security Act. Am I correct in that understanding?

Mr. MOYNIHAN. The Senator from New Mexico is correct.

Mr. BINGAMAN. I also understand that my friend and colleague, Senator MOYNIHAN, will work with me to develop appropriate offsets that will insure that this amendment will not violate the provisions of the Budget Act when the amendment comes before the Senate during this Congress. Am I correct in that understanding?

Mr. MOYNIHAN. Yes, the Senator from New Mexico is correct.

Mr. BINGAMAN. I thank the Senator.

Mr. KYL. Mr. President, I rise in opposition to this bill to increase the public debt limit.

Twice last year, Congress passed legislation that properly coupled a debt limit increase with the steps necessary to balance the budget and thus preclude the need for additional debt limit increases in the future. Twice, the President vetoed the bills.

Let us be clear. If there is any possibility that the Federal Government will default on its obligations, it is a result of the President's insatiable appetite to spend the taxpayers' money.

President Clinton opposed the Balanced Budget Amendment last year. He vetoed the Balanced Budget Act—the first balanced budget to have passed the Congress in 26 years. He vetoed appropriations bills that comply with the strict budget limits for the current fiscal year.

It is the President's spending plan that, more than anything else, threatens to bankrupt the Nation and condemn future generations to a forever declining standard of living.

Mr. President, there is nothing in this bill that will ensure progress toward a balanced budget. The only reason the debt limit increase is going to pass is that it has been coupled with an increase in the Social Security earnings limitation and regulatory reform for small businesses.

Senior citizens and small businesses should not be held hostage to a debt limit increase. We should not have to vote to lead the Nation down the road to bankruptcy in order to ensure that seniors can keep more of their hard-earned income or to relieve small businesses of the regulatory burden that is hindering them.

My constituents know where I stand on the earnings limitation. I have cosponsored legislation in the past to repeal it. I voted four times last year on proposals relating to the repeal or raising of the earnings test, most recently on November 2, 1995.

No American should be discouraged from working, yet that is what the earnings limitation is specifically designed to do. The policy violates the very principles of self-reliance and personal responsibility on which America was founded. It is wrong. Not only does the earnings limit deny seniors the opportunity to work and supplement their retirement incomes, it denies American businesses a lifetime of expertise that many seniors bring to their work. The earnings limitation ought to be repealed.

The regulatory relief provisions of this bill passed the Senate just last week by a vote of 100 to 0. The vote was unanimous. It was unanimous for a reason: small businesses are being overwhelmed by federal rules and regulations.

Obviously, the regulatory relief measure could stand on its own merit. The only reason to include it here is that it will help win votes for the passage of the debt limit increase.

Mr. President, senior citizens, and small businessmen and women deserve better than to be made scapegoats for another debt limit increase. The earnings limit and regulatory reform provisions should be stripped from this bill and passed on their own merit. We should not, however, agree to any further increase in the debt limit until we first put the budget on a path to balance, and obviate the need for future debt limit increases.

Mr. McCAIN. Mr. President, once again we are debating whether or not to raise the Social Security earnings limit. The debt limit increase bill before the Senate contains what is basically the text of S. 1470, the Senior Citizens Right to Work Act.

I have discussed this issue many times on the Senate floor and I do not want to force my colleagues to listen to the same arguments that I have made here for the last 8 years. Therefore, I will be brief.

Passage of this bill will change a depression-era law that is designed to keep seniors out of the workplace. It is long overdue that we take this action.

Mr. President, this bill would raise the Social Security earnings limit from today's level of $11,280 per year to $30,000 per year over a 7-year period. Currently, if a senior citizen earns over the $11,280 earnings limit, the senior loses 1 of every $3 he or she earns. By raising the limit to $30,000, seniors who need to work would be allowed to do so without facing this onerous penalty.

Let me emphasize, this bill does not repeal the earnings limit. Although I would like to see the limit repealed in its entirety, this bill does not do that. It merely raises the limit to $30,000. And, Mr. President, I don't think anyone here in the Senate believes that $30,000 per year is much money.

Rich seniors—those who live of lucrative investments, stock benefit, trust accounts—are not effected by the earnings limit. Their income is safe and sound. The earnings limit only effects seniors who are forced to survive from earned income. Therefore, this bill has no effect on well-off seniors.

On the other hand, a working senior—one who works at McDonalds, or Disney or anywhere just to make ends meet—will benefit greatly by passage of this bill. And the 1.4 million seniors who are burdened by this onerous earnings test will be able to use the money they save due to its change to make their lives a little better.

Again, Mr. President, I don't want to belabor my colleagues with a long dissertation on this matter. They have all heard the arguments again and again. And I believe, if one is to believe the lofty statements that sometimes appear in the RECORD, that virtually every Member of this Senate supports taking action on this matter.

But year after year there have been one reason or another for Members to defeat this bill. There is always some excuse. Well, Mr. President, the time for excuses is over.

The bill before the Senate is not perfect. Many have concerns over technical aspects of it. But, Mr. President, now is the time to pass this measure. If any Members object to a pay for in this bill, then let them suggest an alternative. The sponsors of this bill are open to suggestions. But let me make the record completely clear, any Member who comes to the floor and argues on some technical parliamentary issue is working to defeat this bill.

Unlike the last time this bill was brought before the Senate, we pay for this bill without touching discretionary spending.

This bill is paid for. It is paid for 10 years. It is paid for out of mandatory spending. And specifically, it is paid for out of Social Security.

This bill is paid for by the following changes I will outline:

This bill pays for the increase in the earnings limit through two major changes in present law.

First, the bill ends entitlement to SSDI and SSI disability benefits if drug addiction or alcoholism are the contributing factors material to the determination of disability. Those individuals with drug addiction or alcoholism who have another severe disabling condition will still be able to qualify for benefits based on that disability. So the only individuals who will lose benefits are those whose sole disabling condition is drug addiction or alcoholism.

In fiscal years 1997 and 1998, $50 million of the savings from this change will be added to the Substance Abuse Prevention and Treatment Block Grant, providing additional funds for treatment services. This approach recognizes that while drug addicts and alcoholics need treatment, they are not in fact helped by cash benefits which can be used to pay for their addiction or drinking.

I would like to emphasize that those individuals with a drug addiction or alcoholism condition who have another severe disabling condition will still be able to qualify for benefits based on that disability. In these cases, the bill requires that benefits be paid to a representative payee if the Commissioner of Social Security finds that this would serve the interest of the individual. In addition, the bill requires that individuals whose benefits are paid to a representative payee be referred to the appropriate State agency for substance abuse treatment services. This approach recognizes that such individuals not only need substance abuse treatment but often need the assistance of others to ensure that their cash benefits are not used to sustain their addiction. Over a 5-year period, this change will save approximately $3.5 billion.

Second, the bill makes several changes in the entitlement of stepchildren to Social Security benefits. For a stepchild to receive benefits on the stepparent's account, the bill requires that a stepparent provide at least 50 percent of the stepchild's support, and for stepchildren to receive survivor's benefits, the bill requires that the stepparent provided at least 50 percent of the child's support immediately prior to death. In addition, a stepchild's Social Security benefits are terminated following the divorce of natural parent and the stepparent. These changes will ensure that benefits are only paid to stepchildren who are truly dependent on the stepparent for their support, and only as long as the natural parent and stepparent are married. Over a 5-year period, these changes will save approximately $870 million.

Taken together, these two changes will not only offset the cost of raising the earnings test limit, but will also improve the long term solvency of the Social Security system. In addition, the bill permits adjustments to the discretionary spending caps, so that spending for Continuing Disability Reviews [CDR's] can be increased. If these cap adjustments are fully used and the additional reviews are conducted, an additional savings of approximately $3.5 billion could result. Although these savings are not needed to pay for the increase in the earnings test limit, they would also increase the long term solvency of the Social Security System.

Mr. President, current law applies such an onerous and unfair tax to working seniors that they are effectively forced to stop working. This is unconscionable and it must be changed. Basically, passage of this bill will allow seniors who do not have enough in savings or pensions to work to make ends meet.

It does not help rich seniors who have stocks and bonds. Money derived from those sources is currently exempt from the earnings limit. This limit only affects earned income—money earned by seniors who go to work everyday for an hourly wage.

Mr. President, this bill would raise the Social Security earnings limit from today's level of $11,280 per year to $30,000 per year over a 7 year period.

I strongly believe this reform will result in a change in the behavior of our Nation's seniors. When we raise the earnings limit, seniors will work more, and thus pay more in taxes. I hope that all my colleagues understand this point. This bill will benefit working seniors—those most in need of our help.

Unfortunately, under a static scoring model—one used by the Congressional Budget Office—this amendment would be scored at costing just over $7 billion dollars.

And once again, I want to repeat, this bill is fully paid for without touching discretionary spending.

Mr. President, the Social Security earnings test was created during the depression era when senior citizens were being discouraged from working. This may have been appropriate then when 50 percent of Americans were out of work, but it is certainly not appropriate today. It is not appropriate today when seniors are struggling to get ahead and survive on limited incomes. Many of these seniors are working to survive and make it day to day.

Most people are amazed to find that older Americans are actually penalized by the Social Security earnings test for their productivity. For every $3 earned by a retiree over the $11,280 limit, they lose $1 in Social Security benefits. Due to this cap on earnings, our senior citizens, many of whom are existing on low incomes, are effectively burdened with a 33.3 percent tax on their earned income. Combined with Federal, State, and other Social Security taxes, it will amount to a shocking 55- to 65-percent tax bite, and sometimes even more—Federal tax—15 percent, FICA—7.65 percent, earnings test penalty—33.3 percent, State and local tax—5 percent. Obviously, this earnings cap is punitive, and serves as a tremendous disincentive to work. No one who is struggling along at $11,000 a year should have to face an effective marginal tax rate which exceeds 55 percent.

This is an issue of fairness. Why are we forcing people not to work? Why are we punishing people for trying to "make it." No American should be discouraged from working. Unfortunately, as a result of the earnings test, Americans over the age of 65 are being punished for attempting to be productive. The earnings test doesn't take into account an individual's desire or ability to contribute to society. It arbitrarily mandates that a person retire at age 65 or suffer the consequences.

Perhaps most importantly, the earnings cap is a serious threat to the welfare of low-income senior citizens. Once the earnings cap has been reached, a person with a job providing just $5 an hour would find that the after tax value of that wage drops to less than $3. A person with no private pension or liquid investments—which, by the way, are not counted as "earnings"—from his or her working years may need to work in order to meet the most basic expenses, such as shelter, food and health-care costs.

There is also a myth that repeal of the earnings test would only benefit the rich. Nothing could be further from the truth. The highest effective marginal rates are imposed on the middle income elderly who must work to supplement their income. Plus these middle income seniors are precisely the group that was hit hardest by the 85-percent tax increase included in President Clinton's Budget Reconciliation Act of 1993. This tax increase hits hardest those seniors who were frugal during their working lives in order to save toward their retirement since the tax

VOL
142
PT
5
MR
21
—
29
1996
UMI

affects both their Social Security and their savings. The 85 percent increase has hit a group of seniors who are far from rich with a triple whammy and is a further disincentive to these seniors who could further contribute to our economic growth by working.

We have a massive Federal deficit. Studies have found that repealing the earnings test could net $140 million in extra Federal revenue. Furthermore, the earnings test is costing us $15 billion a year in reduced production. Taxes on that lost production would go a long way toward reducing the budget deficit. Nor, as it continues to become tougher to compete globally, can America afford to pursue any policy that adversely affects production or effectively prevents our citizens from working.

Mr. President, let me also note that changes to the earnings test will in no way jeopardize the solvency of the Social Security trust funds. Let me clarify for the record that the Social Security system will in no way be at risk if we alter the status quo in regards to the earnings test. To claim it would is a red herring and is unfortunately nothing more than a cruel scare tactic.

Let me also point out that one very disturbing consequence of the President's tax increase on Social Security is that it continues to punish those seniors who do work—what little they can due to the earnings test—in order to make ends meet. They are hit with both the tax on their benefits and the Social Security earnings test penalty. This is completely unfair.

It is certainly true that our Nation's seniors—as a group —are better off today that they were when Social Security was created in 1935. It is also true that many other groups in our society are suffering from declining standards of living. Deficit reduction and economic growth are of paramount concern for this Nation. But increasing the taxation of Social Security benefits is neither an appropriate nor effective way to achieve these goals.

Finally, it is simply outrageous to continne two separate policies that both keep people out of the work force who are experienced and want to work. We have been warned to expect a labor shortage. Why should we discourage our senior citizens from meeting that challenge? As the U.S. Chamber of Commerce, which strongly supports this legislation, has pointed out, "retraining older workers already is a priority in labor intensive industries, and will become even more critical as we approach the year 2000."

A number of our Nation's prominent senior organizations are lining up in favor of repealing both of these measures. Among these groups are the National Committee to Preserve Social Security and Medicare and the Seniors Coalition.

Mr. President, before I finish, I want to discuss the issue of delinking the blind. Let me clarify for the record that I support what my colleague from New Mexico, Mr. BINGAMAN had wanted to accomplish. The Social Security earnings limit effects more than just the elderly, it also effects the earnings of blind individuals who receive Government benefits. Unfortunately, the provisions of S. 1470 which were added to the debt ceiling bill breaks the link between the blind and the earnings limit.

Now we must act on the debt ceiling, which we must soon pass in order to ensure that the Government is not forced to close. There is not time to amend this bill and call a conference committee. We must send the debt ceiling to the White House as soon as possible. I was not pleased that the rule in the House did not allow for this issue to be fully addressed. But the House has acted and we are now limited by such action. This leaves us with few options.

I would hope, Mr. President, that perhaps the chairman of the Finance Committee, the Senator from New Mexico, and myself could agree on some date certain for the Finance Committee to address this issue. We could give our assurances to the blind community that the Finance Committee would act and that if they did not, then Mr. BINGAMAN and I would offer this amendment to another bill.

I would hope that we could take that path.

I know it is not the perfect solution. But I am doubtful that we will be able to solve this problem today.

Further, the Senator from New Mexico's amendment would not have fully relinked the blind to the earnings limit. The provisions of the Senior Citizens Freedom to Work Act raises the earnings limit from approximately $11,000 to $30,000 over a 7 year period. The Bingaman amendment would only raise the earnings limit for the blind from $11,000 to $14,000. Although this amendment offers the blind some relief, it does not offer full linkage.

I would hope that we could fully relink the blind to the earnings limit at the appropriate time.

I want all my friends in the blind community to know that I will work with them to see to it that this issue is properly addressed. I know that all of my colleagues are keenly aware of the problems associated with employment for the blind. But as I noted, we must pass this debt ceiling bill now. We cannot wait. We cannot risk closing the Government.

And I again, give every assurance I can to the blind community that we will address this issue and we will do it very soon.

Mr. President, in closing, America cannot afford to continue to pursue two separate policies that adversely effect production and are unfairly burdensome to one particular segment of society. Our Nation would be better served if we eliminate the burdensome earnings test and the grossly unfair tax increase and provide freedom, opportunity and fairness for our Nation's senior citizens.

For 8 long years I have fought to relax the Social Security earnings test. When the President signs this bill tonight or tomorrow, the battle will have been won and America's seniors have a right to rejoice.

Mr. COHEN. Mr. President, today, we are considering legislation which will extend the current $4.9 trillion debt ceiling to $5.5 trillion. I am pleased that the administration and the leadership on both sides were able to come together to take permanent action on this issue. However, I want to focus my comments on another important change included in this bill: Senator McCAIN's proposal to raise the Social Security earnings limit.

This has been a priority for many years because of the earning limit's detrimental impact on retirees with low and moderate incomes who have to work out of necessity to maintain a decent standard of living. I hope that raising the limit will help these senior citizens who are just barely getting by with a Social Security check and whatever other income they can scrape together.

It is also clear that more and more retirees will need to work in the future. Retirement forecasters report that baby boomers did not get an early start on saving for retirement, so even more senior citizens will find it necessary to supplement their retirement savings and benefits with work to maintain a decent standard of living in the future.

To minimize the impact on the financial health of the trust fund that will occur when the limit is raised, we have had to accept tradeoffs. We will eliminate drug addiction and alcoholism as a basis for disability under the Supplemental Security Income Program and the Disability Insurance Program. This change is estimated to save about $5.5 billion in spending.

The operation of these two programs has a direct effect on the stability of Social Security. The public's positive perception of Social Security as our most successful Federal program is being threatened—not only because of the risk of insolvency—but also because of fraud and program inefficiencies in the Federal disability programs.

I want to remind my colleagues that we are already shifting payroll taxes away from the retirement side of Social Security to shore up the disability insurance trust fund. This reallocation has represented a shift of more than $38 billion in the last 2 years. By 2004, more than $190 billion will be transferred to the Disability Insurance Program. We must continue to guard against the abuse of these Federal benefits, particularly when we are taking

funds out of retirement and putting funds into a program that is deeply troubled.

A blatant example of how our Federal disability programs have gone haywire came to light more than 2 years ago in an investigation of SSI and SSDI benefits being paid to drug addicts and alcoholics. The investigation was conducted by my staff on the Special Committee on Aging with the General Accounting Office.

We found that the word on the street is that SSI benefits are an easy source of cash for drugs and alcohol. The message of the disability programs had been: "If you are an addict or an alcoholic, the money will keep flowing as long as you stay addicted. If you get off the addiction, the money stops."

Rather than encouraging rehabilitation and treatment, the disability programs' cash payments have perpetuated and enabled drug addiction and dependency.

At a hearing of the Senate Special Committee on Aging I chaired, we heard from Bob Cote, the director of a homeless shelter in Denver. Mr Cote told the committee in riveting testimony that he personally knew 46 drug addicts who had died from drug overdoses from the drugs they bought with SSI checks. Mr. Cote went on to testify that a liquor store down the street from his shelter was the representative payee for over $200,000 in SSI checks, and a bar just two doors down from his shelter was the representative payee for $160,000 in SSI checks.

Taxpayers were outraged to learn that situations like these have been going on for years with almost no oversight by the Social Security Administration on how these tax dollars and trust fund moneys have been used.

Congress took steps to place better protections on the disability payments made to addicts and alcoholics. We mandated that all persons receiving disability benefits due to alcohol or drug abuse must receive treatment, imposed a 3-year cutoff for benefits for addicts and alcoholics, and toughened the representative payee rules in order to get cash out of the hands of addicts.

These reforms are now in effect and early examination suggests that this carrot and stick approach has worked to stem abuses in the disability program. The referral and monitoring system which was overhauled in 1994 more than pays for itself and will save the Federal Government more than $25 million in 1996.

The legislation before us today allows the Commissioner of the Social Security Administration to continue to refer drug addicts and alcoholics to treatment. Eliminating drug addiction and alcoholism as a disability will result in only 25 percent of recipients diagnosed as drug addicts or alcoholics actually leaving the program. A substantial portion will stay on the rolls, continuing to receive checks without receiving treatment. It is very important that the treatment money be made available to the States to rehabilitate substance abusers.

The legislation continues to require the use of responsible representative payees who will ensure that the Federal checks are being used for living expenses—not drugs and not alcohol.

The legislation also takes the necessary step to allocate funding to conduct continuing disability reviews [CDR's]. Until now, our hands have been tied because of the appropriations caps on discretionary spending. I commend Senator McCAIN's acknowledgment that it is short-sighted to ignore the need to provide more resources to SSA to comply with the mandate to perform CDR's. In the SSDI program, the agency is experiencing a backlog rate of more than 1.4 million cases. With that type of backlog, getting on disability means a lifetime of benefits, even for persons who could return to work. A recent HHS Inspector General report concluded that $1.4 billion could be saved if we could perform CDR's just on those backlogged cases.

Finally, we need to turn our attention to the current return to work policies in these two programs. Last year, the Senate Aging Committee began to review the record of SSA to promote rehabilitation for people with disabilities. Appallingly, only about 1 in every 1,000 persons on the disability rolls gets off the program through the SSA's rehabilitation efforts. The Federal disability programs have failed to keep pace with a more accessible workplace being created through the Americans With Disabilities Act and advances in medical technology.

More must be done to ensure that people with disabilities who can and want to return to the work force are given some assistance. There are a significant number of disabled recipients who want to work. Unfortunately, the program now discourages recipients from even trying to work, because they fail to take into consideration how recipients can be retrained and rehabilitated to eventually leave the rolls. I believe that we must pursue a policy which will put a greater emphasis on rehabilitation and return to work. At the same time we are acknowledging the benefits of allowing senior citizens to retain more of their earnings—a work incentive—we need to be open to the same ideas for people with disabilities.

Mr. SIMPSON. Mr. President, because we recently shouldered the important matter of extending the debt limit, I feel obliged to address the provision in that bill that increases the earnings limit for Social Security beneficiaries aged 65–69. As my colleagues know, this is a change that I have expressed serious concern about in the past. Now that enactment of this provision has come to pass, I want to state my views about the general issue of the earnings limit.

First, let me pay tribute to a fine chap, my esteemed colleague from the great State of Arizona, Senator JOHN McCAIN for his dogged determination and tireless efforts to effect this change in the law. I know that my past intervention on this issue has not always been truly welcome to my colleague—but I trust that my intentions, which were always constructive, were apparent.

It has never been my intention to permanently forestall all changes to the earnings limit. I trust that the provision attached to the debt limit extension provides the best available means of achieving the objectives of my friend from Arizona and all others who are interested in raising the earnings limit for seniors.

Clearly, I appreciate the fundamental principle behind the earnings limit legislation. Americans are living longer, are productive for more years, and our retirement systems need to recognize these facts. As chairman of the Senate Finance Subcommittee on Social Security and Family Policy, I have a demonstrated interest and responsibility to see that we adapt wisely and properly to these changes. One of my charges is to monitor any changes in Social Security policy and to ensure that those changes are not detrimental to the long-range solvency of the Social Security system. I have expressed my misgivings about previous funding mechanisms to "pay for" this legislation, and I am pleased to note that the offsets now come in a more straightforward manner from Social Security spending.

Ultimately, Congress must come to grips with the fact that American society is aging. For the benefit of today's workers, we must act to address these issues very soon, or the cost to our children and grandchildren will be catastrophically high. We must make changes to ensure the solvency of future retirement programs—we should increase the retirement age while at the same time offering inducements for Americans to work longer without suffering penalties that discourage continued participation in our work force.

We can't have it both ways—handing out plums that allow workers to stay in the work force in a productive way, while at the same time avoiding the hard choices that must follow—meaning raising of the retirement age. I hope that this first step will lead Congress to confront the next necessary decision. Increases in the Social Security eligibility age must be enacted soon, and the change will have to be phased in over a long period—perhaps 20 years—in order to be fair and effective. Such a plan will allow today's workers to plan for these changes.

VOL
142
PT
5
MR
21
—
29
1996
UMI

This legislation to increase the earnings limit is offset in large part by terminating the disability benefits for drug addicts and alcoholics. Many have considered the payment of benefits to these groups to be an abuse of the Social Security system. This measure passed by the Senate makes a clear choice that we will subsidize the continued working activity of senior citizens instead of subsidizing these addictions of alcohol and drug use. Clearly, the Senate is appropriately going on record as to what activity we wish to encourage and what we want to discourage.

Another change that will offset the cost of this legislation is the increase in reviews of those people who are currently receiving disability benefits. Such payments were never intended to be a lifetime allowance to substitute for employment or self-employment. For years, the Social Security Administration has been unable to complete these required reviews—the result of which is that people are receiving disability payments long after their disability has either ceased or improved to the point where a return to work is possible. Not only will these reviews result in savings for the trust funds, but they will place able Americans who can return to work back in the workplace.

I congratulate Senator McCAIN for finding the offsets that enable us to pay for the increased earnings limits for seniors. I am very pleased—you can hardly know how much—to be able to speak to this issue without having thrown a monkey wrench into the works and frustrating my colleague from Arizona. I am most hopeful that this measure will be merely a prelude to Congress coming to grips with the much larger issue of the aging of America and the future of our retirement programs. The steps that we must take in the future will never—in any way—be as popular as this measure, but we must have the political fortitude to make those decisions as well. That is our job, that is our duty.

Mr. DASCHLE. Mr. President, it is important that my colleagues recognize two very important aspects of the legislation we are considering today.

First, this legislation increases spending on Social Security and offsets that spending, in part, by using savings that had been identified as necessary to bring about a balanced budget. The language was changed at the last minute so that a point of order against using non-Social Security savings to pay for Social Security spending could be avoided. But I do think my colleagues should be aware that this legislation uses savings that had been identified for reducing the deficit.

Second, the savings in this legislation exceeds the level that is needed to pay for the spending increase. According to the Congressional Budget Office, this legislation achieves $3.5 billion in on-budget savings, and $1.8 billion in net savings over 7 years.

The impact of these provisions on the deficit would actually be higher than the CBO numbers indicate. This is because the bill would allow the discretionary spending caps to be increased in order to conduct more continuing disability reviews. These reviews are conducted to verify that beneficiaries are still entitled to disability benefits. Because of budgetary pressures, and competing priorities, the Social Security Administration has not been able to conduct as many CDRs as they would like. CBO estimates that, if fully utilized, this provision could result in net savings of $800 million dollars by the year 2002.

Finally, the savings are understated because CBO does not take into consideration the fact that raising the earnings limit means that beneficiaries who work will receive higher Social Security benefits. Under current law, if their income is high enough, they will be obligated to pay higher taxes. Actuaries at the Social Security administration estimate the impact to be $726 million over the 7-year budget window.

In sum, Mr. President, the net impact of the legislation we are adopting today is, in effect, to make a down payment on deficit reduction of more than $3 billion over 7 years.

SENIOR CITIZENS' RIGHT TO WORK ACT

Mr. GRAHAM. Mr. President, in this Congress, we have talked a lot about reforming welfare, about empowering people to help themselves, about removing disincentives to work for able-bodied citizens. Well, Mr. President, here is our chance.

Here are citizens who are not looking for hand-outs, who are not looking for favors, who are not even looking for help. These people are not looking for anything but the right to contribute—as working, tax-paying citizens—to their country. Are we going to continue to say, no, you cannot work. No, you cannot contribute. No, you cannot be considered a valuable part of our Nation's workforce?

Mr. President, I submit to you that our senior citizens can be a valuable part of our workforce. They have the experience, the maturity, and the desire to contribute to the workforce. And many of them are able to work and contribute significantly.

Mr. President, the Social Security earnings test may be our Nation's biggest disincentive to allowing those who want to work, who have asked to work, to continue to contribute meaningfully. Isn't it ironic that we have been talking about removing disincentives to work for those who are on welfare, yet preventing our Nation's seniors from contributing in any meaningful way?

These seniors are not on welfare; rather, they have spent a lifetime contributing to the Social Security Program—they have earned their benefits. We should not use the reduction of these benefits to prevent our seniors from working.

For every $3 that seniors aged 65 to 69 earn over $11,520 this year, the Federal Government takes away $1 in Social Security benefits. According to the Social Security Administration, about 930,000 seniors in this age group are affected by the earnings cap. But let me bring this policy issue away from the statistics.

Each month, I take a different job to stay in touch with the people I represent. In 1991, I took a job bagging groceries at the Winn-Dixie supermarket in Pace, FL, which is near Pensacola. I worked with a man by the name of Jim Young, who is a father of three and grandfather of two. And Jim needs to work. Like many Americans, Jim is looking ahead to the legal age of retirement with full benefits, but without a big retirement savings account. Listen to Jim Young explain this issue: "I don't-have retirement savings, and there are a lot of other people who don't either."

Jim Young would like to work past the age of 65. He needs to work past the age of 65. And by current law, if Jim makes $18,000 when he turns 65—just $18,000, he will lose $1200 of his Social Security benefits. To people like Jim Young, to most older Americans, that's a lot of money. Why should the Government put up a barrier to block Jim Young from working, from supporting his family?

Some opponents of this legislation may make the argument that reform isn't needed because older Americans are well-off and therefore, don't need to work. To those people, I say: Talk to Jim Young, who now works in the produce department at Winn-Dixie. Talk to Winn-Dixie and find out whether employers want to hire the talents of older Americans like Jim Young.

True, when the Social Security earnings test was designed, it may have made sense to discourage older Americans from working, under the rationale that keeping seniors out of the job market would free up jobs for younger people who needed work.

But times have changed. The declining birth rate after the post-World War II baby boomer generation means that fewer teens are in the job market. Many employers are looking for seniors to fill jobs. And people like Jim Young are ready to work. They need to work. And to these people, we should say, "Go ahead. Support your family. Help yourself to improve your quality of life. We won't stand in your way."

Social Security was not designed to be the sole support of our senior citizens, but now, many seniors—like Jim Young—have little savings to supplement their benefits. And we have been saying to those seniors who can work, to those senior who want to work, that we want to penalize them for their efforts? This policy is unfair to our seniors. And even worse, it doesn't make sense.

Without the earnings cap, more seniors would likely choose to continue working. Additional revenue would be generated through Social Security and income taxes paid on their wages. This would substantially offset the increase in benefit payments.

In addition, we have been struggling to find ways to improve the long-term solvency of the Old Age, Survivors, and Disability Insurance Program. The Social Security Administration estimates that the offsets in this legislation would pay for the increase in the earnings limit. But the offsets would also improve the long-term solvency of the OASDI program by about 0.03 percent. That's not a lot, but it's a step in the right direction.

So you see, Mr. President, we cannot afford to discourage our older population from working. We need their experience. We need their skills. And we need to allow them to provide for their families.

When I go home to Florida and I see Jim Young and all of the other Jim Youngs who are working to support themselves and their loved ones, I want to say, we are proud of your efforts. We salute your efforts. And we thank you for your valuable contributions to this great Nation of ours.

So as we continue to talk about welfare reform and look for ways to help able-bodied people get back to work, I say: Let us take this issue out of the welfare arena and apply it to those who are not on welfare, to those who simply want to receive the benefits they have earned while continuing to be a part of the workforce. Let us look to our mothers, our fathers, our grandparents. Let us look to Jim Young.

Mr. President, approving this legislation to allow our seniors to work is good policy. It is fiscally sound. And it is the right thing to do.

Mr. NICKLES. Mr. President, clearly, the American people believe that Washington has too much control over their everyday lives. They attribute much of this to a Federal bureaucracy that has grown out of control over the last several decades. Today, the Senate will take a major step toward holding regulatory agencies accountable for the rulemakings they issue. In an effort to return common sense to Federal regulations, we are sending to the President legislation which will provide a formal Congressional review process of regulations issued by Federal agencies.

The Congressional Review Act before us is similar to S. 219, the Regulatory Transition Act that passed the Senate 100–0 a year ago this week. I fully concur with changes made by the House to the Senate bill and believe this represents a workable consensus agreement.

It is estimated that the direct cost to the public and private sectors complying with Federal regulations was $668 billion in 1995. This translates into a cost of $6,000 annually for the average American household. This means higher prices for the cars we drive, the houses we live in, and the food we consume. It also means diminished wages, increased taxes, and reduced government services.

The Congressional Review Act provides for a 60-day review period following the issuance of any Federal agency final rule during which the Congress may enact a joint resolution of disapproval, under a fast-track procedure in the Senate. If the joint resolution passes both Houses, it must be presented to the President for his action.

As in the Senate-passed version, the Congressional Review Act provides for a formal congressional review procedure following the issuance of any final rule by a Federal agency, during which the Congress has an opportunity to review the rule and, if it chooses, enact a joint resolution of disapproval. An expedited review procedure is provided in the Senate for 60 session days beginning on the later of the date Congress receives the agency's report on the rule, or the date the final rule is published in the Federal Register.

Upon issuing a final rule, a Federal agency must send to Congress and GAO a report containing a copy of the rule and also send to GAO or if requested, to Congress, the complete cost-benefit analysis, if any, prepared for the rule and the agency's analyses required by the Regulatory Flexibility and Unfunded Mandates Acts.

For major final rules, GAO shall provide within 15 days to the appropriate committee an assessment of the agency's compliance with the regulatory flexibility, unfunded mandates, and cost-benefit analyses performed by the agency.

Any Senator or Representative may introduce a resolution of disapproval of an agency final rule. The joint resolution of disapproval, which declares that the rule has no force or effect, will be referred to the committees of jurisdiction.

As provided in the Senate version the agreement contains the look-back provision provided to permit congressional review of major final rules issued between March 1, 1996, and the date of enactment.

With regard to concerns raised about unnecessary legal challenges to rules, this act, as in the Senate-passed version, provides that "no determination, finding, action, or omission under this title shall be subject to judicial review."

The agreement does not provide for expedited procedures in the House, but terminates the use of the Senate procedures on the 60th session day, instead of the 45-calendar-day review that was provided in the Senate version.

The Senate expedited procedures can be used to consider a resolution of disapproval that may be introduced with respect to most Federal agency final rules. All final rules that are published less than 60 session days before a session of Congress adjourns sine die, or that are published during sine die adjournment, shall be eligible for review and for fast-track disapproval procedures in the Senate for 60 session days beginning on the 15th session day following the date the new session of Congress convenes.

If the Senate committees of jurisdiction have not reported the resolution of disapproval within 20 calendar days from the date Congress receives the agency's report on the rule, or on the date the final rule is published in the Federal Register, whichever is later, a petition signed by 30 Senators may discharge the committee from further consideration and place the resolution of disapproval directly on the calendar.

Under the Senate procedures, the motion to proceed to the joint resolution is privileged and is not debatable. Once the Senate has moved to proceed to the resolution of disapproval, debate on the resolution is limited to 10 hours, equally divided, with no motions—other than a motion to further limit debate—or amendments in order. If the resolution passes one body, it is eligible for immediate consideration on the floor of the other body.

As provided in the Senate version, the Congressional Review Act declares that no court or agency shall infer any intent of the Congress from any action or inaction of the Congress with regard to a rule unless the Congress enacts a joint resolution of disapproval regarding that rule. As all of my colleagues are well aware, the Congress at any time can review and change, or decide not to change, rules or their underlying statutes. Accordingly, it is my belief that the courts should not treat the mere introduction of a joint resolution of disapproval as grounds for granting a stay to any greater or lesser extent than the courts now take cognizance of any other bills that are introduced.

Major final rules, which the Congressional Review Act defines as final rules that meet the criteria for "major rules" set forth in the Reagan Administration's Executive Order 12291, may not take effect until at least 60 calendar days after the rule is published. However, major final rules addressing imminent threats to health and safety, or other emergencies, criminal law enforcement, matters of national security, or issued pursuant to any statute implementing an international trade agreement may be exempted by Executive Order from the 60-day minimum delay in the effective date. The decision by the President to exempt any

VOL
142
PT
5
MR
21
—
29
1996
UMI

major final rule from the delay is not subject to judicial review.

Major final rules would not go into effect after the 60-day period if the joint resolution of disapproval has passed both Houses within that time. If the joint resolution of disapproval is vetoed, the effective date of the final rule will continue to be postponed until 30 session days have passed after the veto, or the date on which either House fails to override the veto, whichever is earlier.

To address statutory or judicial deadlines that apply to disapproved rules, these deadlines are extended for one year after the date of enactment of the joint resolution.

Currently, Congress must approve tax increases, and thanks to the Unfunded Mandates Act passed last year must also focus its attention on any major unfunded mandate. But Congress has virtually no formal role, other than oversight, over the promulgation of a Federal regulation, even if its impact on the economy is measured in billions of dollars. There may have been a time in our Nation's history where congressional review wasn't important. But agencies are now very large, with broad authorities and individual agendas. This new act will help Congress carry out its responsibility to the American people to ensure that Federal regulatory agencies are carrying out congressional intent.

Finally, I wish to extend my sincere appreciation to Senator HARRY REID who has worked tirelessly on this issue since its inception.

MIA'S IN NORTH KOREA—SECTION 1607—UNITED STATES-NORTH KOREA AGREED FRAMEWORK

Mr. MURKOWSKI. Mr. President, as we prepare to vote on the conference report on H.R. 1561, the Foreign Relations Revitalization Act of 1995, I would like to direct my colleagues' attention to one provision of the act that relates to what, I believe, is an often-overlooked issue. That issue is the fate of more than 8,100 American servicemen from the Korean war.

We have always demanded the fullest possible accounting in Vietnam for those listed as missing in action, and the question that I think must be asked is, why not North Korea as well?

Of the 8,100 servicemen not accounted for after the Korean war, at least 5,433 of these were lost north of the 38th parallel. In Vietnam, by contrast, the number of unresolved cases is 2,168, and Vietnam has cooperated in 39 joint field activities.

The United States Government recently announced plans to contribute $2 million through United Nations agencies to relieve starvation in North Korea. The donation was consistent with other instances where the United States seeks to relieve human suffering, despite disagreements with the government of the receiving country.

What is inconsistent with United States policy is our failure to ensure that the Democratic People's Republic of Korea addresses the humanitarian issue of greatest concern to the American people—the resolution of the fate of servicemen missing in action since the end of the Korean war.

I think the families of the servicemen see that same inconsistency. I would refer my colleagues to a March 26, 1996, front page story in the Washington Post, "The Other MIAs, Americans Seek Relatives Lost in Korea." In that story, the President of the Korean/Cold War Family Association of the Missing was quoted as saying: "North Korea wants humanitarian assistance, yet they won't give it themselves. Our families are starving to know what happened to their loved ones. We want an accounting for these men. They deserve an accounting. It's grossly dishonorable to walk away from them." I could not say it better.

I remind my colleagues that relations between the United States and Vietnam did not even begin to thaw until the Government of Vietnam agreed to joint field operations with the United States military to search for missing servicemen. The pace and scope of normalization was commensurate with Vietnam's cooperation on the MIA issue and other humanitarian concerns. In every discussion between United States Government officials and their Vietnamese counterparts, the MIA issue war paramount. The Vietnamese received very clear signals that progress in normalizing relations with the United States would come only after progress was made on the MIA issue.

In contrast to our Vietnam policy, United States policy toward North Korea lacks this focus. The recent announcement regarding food aid did not mention our interest in the MIA issue. The agreed framework between the United States and the DPRK does not talk about cooperation on MIA's—even though the framework commits the United States to give the DPRK free oil and supply two highly advanced light-water reactors; a total package that exceeds $5 billion—$4 billion for the reactors and $500 million for the oil, not counting potential future aid for the grid system to distribute the power that the reactors will produce. The agreed framework also envisions the United States lifting trade restrictions and normalizing relations—regardless of any movement on the MIA issue.

The most obvious difference between Vietnam and North Korea is North Korea's nuclear program. The United States has an overriding national security interest in stopping the North Korea nuclear program. Nevertheless, I do not believe we should have ignored the MIA issue. That is why I have introduced legislation (S. 1293) that would prevent establishing full diplomatic relations or lifting the trade embargo until the DPRK has agreed to joint field operations.

The conference report before us is consistent with S. 1293. Section 1607 states the sense of the Congress that:

> the President should not take further steps toward upgrading diplomatic relations with North Korea beyond opening liaison offices or relaxing trade and investment barriers imposed against North Korea without . . . obtaining positive and productive cooperation from North Korea on the recovery of remains of Americans missing in action from the Korean war without consenting to exorbitant demands by North Korea for financial compensation.

I urge the Clinton administration to pursue the policy that is laid out in section 1607.

I recently had the opportunity to sit down with our dedicated armed services personnel in Hawaii who are responsible for negotiating with the North Koreans on the MIA issue. It was clear from that briefing that joint field operations would have a high probability of considerable success because, unlike Vietnam, the United States has concrete evidence of the sites of mass U.N. burial grounds and prisoner-of-war camp locations. But United States personnel have no access in North Korea to these sites. The only thing preventing our personnel from going in and making these identifications is the North Koreans.

The North Koreans have been unilaterally turning over some remains. Unfortunately, the North Koreans, without training in the proper handling of remains, have turned over excavated remains that have not been properly handled, making identification vastly more difficult, if not impossible. Of the 208 sets of remains turned over since 1990, only 5 sets have been identified.

Despite United States aid flowing to North Korea, the Koreans have repeatedly attempted to link progress on the remains issue to separate compensation—amounts of money seemingly far in excess of reimbursement costs for recovery, storage, and transportation of remains. The U.S. Government must stand by its policy not to buy remains—this would degrade the honor of those who died in combat. Instead, the United States has offered to reimburse North Korea for reasonable expenses, as we do in Southeast Asia. Talks to try to move the MIA remains repatriation issue forward at this moment appear stalled.

While the United States has been careful not to link the nuclear issues with other policy concerns in North Korea, it is not unreasonable for the United States to consider North Korea's behavior on other issues, such as the MIA issue, when considering whether to provide humanitarian aid to the closed nation. For the families of the 5,433 soldiers and airmen still missing more than 40 years after the end of the conflict there is no more humane action that North Korea could

take than to let America have sufficient access to try to resolve as many of these cases as possible.

We have demanded fullest accountability from the Government of Vietnam on the MIA issue. We should demand the same of the Government of North Korea.

CONGRESSIONAL REVIEW AND SMALL BUSINESS REGULATORY FAIRNESS BILL

Mr. LEVIN. Mr. President, it has been 17 years that I have fought for and supported a mechanism for congressional review of agency rules before they take effect. Believe it or not I ran for the Senate in 1978 on the need for legislative veto. That's what we called the right of Congress to review important regulations and stop the ones that don't make sense before they take effect. After the Chadha case, we changed the name from legislative veto to legislative review since the Supreme Court ruled that legislative vetoes—involving only one or two houses of Congress without the President—were unconstitutional. This bill uses a joint resolution of disapproval which is a constitutional mechanism and which was the cornerstone of a bill I introduced with Senator David Boren from Oklahoma back in the early 1980's.

My proposal was adopted with respect to the Federal Trade Commission and the Consumer Product Safety Commission. It was passed by the Senate, with respect to all Federal agencies, on the omnibus regulatory reform bill, S. 1080, in the 96th Congress. But it didn't become law then, and despite repeated efforts over the year, it hadn't become law until this time.

As a longtime member of the Governmental Affairs Committee, I have worked on various regulatory reform proposals, but none has been as significant to me as legislative veto or legislative review. That's because it, alone, puts important regulatory decisions in the hands of the politically accountable, only directly elected branch of the Government, and that is the Congress. And that's where I think these important public policy decisions belong.

The provision we are adopting today, which is similar to the proposal we passed on S. 219 last year, is not exactly what I would have chosen to support, but it's close enough. I think it would have been wiser to have the legislative review apply only to major rules and not every rule issued by Federal agencies. We want to concentrate our energies—at least in the beginning—on the rules that have the greatest impact and not be overwhelmed with requests to review hundreds of rules at the same time. It's been estimated that over 4,000 rules are issued in any 1 year. That amount could simply overtake our ability to be effective with respect to any one rule. That is why I think it would be preferable to have this legislation apply to only major rules—that is, rules that have an economic impact of over $100 million of costs in any 1 year.

I am also concerned about the requirement that each agency physically send to each house of Congress and to the GAO a copy of the final rule, a description of the rule, and notice of the effective date. That is a large and unnecessary paperwork burden that must be met before any rule can take effect. That means for even a small, routine rule, the agency will have to send us the rule and required description. Almost all rules are already published in the Federal Register and we can read that as readily as the public can. I think this will prove to be an unnecessary requirement that needlessly generates paper, and takes precious staff time at both the agencies and in the office of the Secretary of the Senate and the Clerk of the House.

I am also concerned about the change the House made with respect to counting days as calendar days. The bill we have before us would allow a major rule to take effect within 60 calendar days, but would allow the expedited procedure for congressional review to occur within 60 legislative or session days. That's a very big difference in time. At the end of a session of Congress, that could mean we would have the opportunity to disapprove a rule possibly 6 months after it took effect. I think that opens the rulemaking process to unintended and unnecessary mischief. The rule would be in effect, the regulated community would be expected to comply with the rule, and then Congress could come along, using expedited procedures, and repeal the rule. That will create a great deal of uncertainty for businesses and governments alike.

Moreover, Mr. President, the fact that Congress retains the legal right, using expedited procedures, to overturn a rule should not be used by a court to stay the effective date of a rule or to allow a regulated person to delay compliance. That would violate the intent of this legislation. We are very clear in this legislation that major rules take effect within 60 calendar days and nonmajor rules take effect in after the rule is sent to Congress and in accordance with the agency's normal procedures. There is no basis in this legislation for delaying the effective date or the requirements for compliance with a rule other than what I just described. So a court would not have any basis for delaying compliance based on the longer period for expedited procedures.

The expedited procedures are Congress' internal mechanism for prompt consideration of a joint resolution to disapprove a rule. We could disapprove rules now, by using a joint resolution of disapproval. But being aware of that possibility does not permit a court to waive compliance or delay the effective date of a rule and it shouldn't just because we've added expedited procedures.

I expect we will monitor the implementation of these requirements carefully and make the necessary changes as we identify real-life problems. That will certainly be my intention.

These procedural problems aside, though, Mr. President, I am pleased with this legislation. No longer will be able to tell our constituents who complain about regulations that do not make sense, "talk to the agency," or "your only recourse is the courts." Now we are in a position to do something ourselves. If an agency is proposing a rule that just does not make sense from a cost perspective it will be easier for us to stop it. If a rule doesn't make sense based on practical implementation, we can stop it. If a rule goes too far afield from the intent of Congress in passing the statute in the first place, we can stop it. That's a new day, and one a long time in coming.

How much time these new responsibilities will take and how often the resolution of disapproval will be exercised, no one can predict. We may be surprised in either direction. But as we work with this process and learn from this process, we can make the necessary adjustments in the law. The important thing is that we get this review authority in place and I am very pleased that we are going to be able to do that in this legislation.

I'd like to comment on title III of this bill as well. As a member of both the Small Business Committee and the Governmental Affairs Committee, I am particularly familiar with and interested in the small business regulatory fairness provisions. I support adding judicial review to the Regulatory Flexibility Act and, like legislative review it's been a long time in coming. It will be the stick that forces the regulatory agencies to pay attention to their responsibilities with respect to small governments and small businesses

I have previously commented on my concerns about the provision establishing the SBA Enforcement Ombudsman. While I can support this provision, I do not think it goes far enough in using the traditional role of ombudsman to resolve enforcement disputes, and I will be pursuing legislation in the vein in the Governmental Affairs Committee. I am relieved, however, that we have made it clear that while a responsibility of the ombudsman is to evaluate and rate agencies based on their responsiveness to small business in the area of enforcement, it is not the responsibility of the ombudsman to rate individual personnel of those agencies. This is an important issue because, while we certainly want to promote and ensure fair treatment of small business with respect to regulatory enforcement, we do not want to weaken or intimidate our enforcement personnel so they fail to do the job we require

VOL
142
PT
5
MR
21
—
29
1996
UMI

of them. Senator BOND made those assurances in a colloquy we had when this bill initially passed the Senate.

I also want to note that the Small Business Regulatory Fairness Board created by this legislation is subject to the requirements of the Federal Advisory Committee Act. This ensures that the business conducted by this panel is open to the public and that any potential conflicts of interest are known. Obviously, since the bill limits membership, the requirements of FACA for balanced membership would not apply. But to the extent the requirements of FACA can apply, they are expected to apply, and that is why this provision is acceptable.

The provision granting the small business advocacy review panel the opportunity to see a proposed rule before it is published in the Federal Register is a novel step. While the panel is comprised of Federal employees, the panel is directed to obtain comments and input from small entities. The purpose of this comment and review is to assess whether the agency lived up to its responsibilities under the Regulatory Flexibility Act. It is my understanding that the panel is not permitted or expected to share a copy of the draft proposed rule with the small entities with whom it confers, but rather to field comments and concerns about the nature of the rulemaking and its possible effects on small entities. This is an important limitation because to allow otherwise would be to give a unique advantage to one group that is not permitted to other persons affected by the proposed rule.

Mr. President, because this bill is attached to the debt ceiling bill, some of these provisions will take effect immediately. There will be start-up problems with some of these provisions, in particular the congressional review process, because there is no preparation time. We should recognize the reality of these problems and work diligently to mitigate them.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. COVERDELL. Mr. President, I yield myself as much time as I may need. I see several Senators who are waiting to give remarks. I alert them that I will not be long. I simply must make a remark or two about the statements that have been addressed before the Senate by my colleague from Louisiana.

He, obviously, is very much a student of the issues of China and Taiwan and the United States. He speaks with great sincerity and knowledge. I think he raises a significant dilemma. While we all acknowledge the scope of new China, the People's Republic of China, its size, its military prowess, its emerging economy, it almost reminds you of the Gold Rush, the oil booms, but given that, bigness in size and power alone cannot be the stanchions upon which we, or the rest of the world, establish our relationship with the People's Republic of China.

Yes, those are critical ingredients. They cannot stand apart from everything else. The 20 million people who live in the Republic of China Taiwan also have long claim to one-China policy, but it does not accept dictatorship or oppression or many others of the grievous policies of the People's Republic of China.

From the time Chiang Kai-shek retreated to that island in 1949, that was a conquest, in a sense, of Taiwan. The native Taiwanese, who outnumbered those who retreated, have long harbored the independent or nationalistic movement. I think a reality of contemporary review of this situation has to acknowledge that that movement is likely to grow, and a reality of this democratic election that just occurred was that President Li was faced, as we are, with contemporary issues in our own country, with the nationalistic spirit that is emerging there.

The one-China policy cannot, with the flick of a light, turn that way, even though it is much larger, much more powerful. It just cannot obviate this nationalistic movement, and I do not think we can ignore it.

I do not believe that the People's Republic of China—and I heard Dr. Kissinger when he appeared before the Foreign Relations Committee. He basically slapped the wrist of the United States and Taiwan and the People's Republic of China.

But for the People's Republic of China to come to the point where, because of their size and because of their prowess, they are going dictate to the United States who can visit here—I mean, what is a visit is not an abrogation of the one-China policy. Their leaders visit here, too. I think that does need to be confronted, or addressed; maybe that is a better word.

So, I think the Senator is right that it is not just appeasement and not just confrontation. But that projects appeasement as well as confrontation. In the tone of the remarks, I felt it was somewhat of an apology for our endeavoring to struggle with the People's Republic of China and we should accept their edicts because of their size and their power. I personally would reject that. I do not think that is what the Senator meant, but in the tone of it, the excusing of the sale of powerful weapons, human rights violations—that is still a rogue government. It is still a dictatorship.

While I think it is a delicate issue for us to struggle with, I do not accept appeasement because of their size nor because of their economy. I do not mean to dwell on that long, but I did want to comment.

Mr. JOHNSTON. If the Senator would yield, I was not suggesting—and I tried to make it clear—I was not countenancing any violations of the missile treaty control regime, which, by the way, I do not. If they violate it—my own opinion is they did. That violation was, what, 3, 4 years ago. I forget exactly when. They have the capacity to continue to violate it further, but are not at this time.

I do not excuse that. But I say that really what we ought to do is reassure Taiwan, as we have, that the law of the land is the Taiwan Relations Act, that we will not countenance any invasion of Taiwan, but that our policy ought to encourage peaceful reunification, one China, peaceful reunification, two regimes, which six Presidents have signed on to, and we should not change that—that is what I am saying—and reassure both parties.

Mr. COVERDELL. But if I might, six Presidents have reaffirmed that. That is a long time. As the Senator has said, the burgeoning economy of China has gotten to a place that even the Senator had missed, and the Senator has revisited and seen it. That is a massive change during this course of time. The point I am trying to make is, there are equally important changes that are occurring in Taiwan.

Mr. JOHNSTON. Exactly.

Mr. COVERDELL. Among them, that cannot be undone, is there a growing movement that it is a democracy. That is a democracy. The People's Republic of China is not. They are miles apart in that. There is a growing and emerging spirit within this island that they should be free and they should never be intimidated into the kind of government that the People's Republic of China still is, and they have empirical evidence of the way that government would operate by watching even the situation in Hong Kong today, which is a very disruptive situation, as you know, and very controversial.

So they have reason to be deeply concerned about their own freedom which they now own. That is a change in the flow of events among them.

Mr. JOHNSTON. Is the Senator saying that we should encourage a unilateral declaration?

Mr. COVERDELL. No, I am not. That phenomenon is as real and different as some of the changes the Senator pointed to that have occurred in the People's Republic of China. It cannot be ignored.

Mr. JOHNSTON. Would my friend find at fault this formulation, that the United States should make it clear to both sides that reunification, if it occurs, is a bilateral decision of the two countries, to be taken peacefully, and that the United States step aside, step out of the arena, having reassured both sides—Taiwan that we do not countenance any invasion, and the PRC, that we are not encouraging a unilateral declaration of independence—and let those two parties make their decision?

Mr. COVERDELL. I think one of the things that the Senator said in his initial remarks, that would be my answer to that—and it goes back to the point I just made about massive changes occurring in the People's Republic of China and in Taiwan—would be that when you call upon the President to maybe articulate, as much of what all of us say are captured by views and attitudes that perhaps were obsolete.

So I do not know that I would specifically accept or embrace the point the Senator made just now, but I would acknowledge that there are major changes occurring in the geography of the area and it does require all of our attention. I admire the effort that the Senator has given to the subject, but I just wanted to remind us that there are two sets of phenomena and changes that are occurring. I do not believe President Li had any option but to acknowledge the winds of change and attitudes on his own island.

Mr. President, I was going to make some remarks about the drug policy, but I am going to defer that. I see the manager of the bill has returned to the floor. I know the Senator from California——

Mr. THOMAS. Would the Senator yield for a question?

Mr. COVERDELL. I certainly would.

Mr. THOMAS. With regard to the discussion that we are having, I wonder if the gentleman would agree that what we are talking about here basically is the bill before us, and some of the discussion has been about several of the components of that bill which I find do not place us on the side of being opposed to the one-China policy, and they do not place us on the side of being particularly supportive of one or the other of these parties, but rather indicate that we expect to stick with the agreements that are made on both sides.

Mr. COVERDELL. I would agree.

Mr. THOMAS. I was a little surprised that the suggestion was that all of the problems were because President Li came here. There are some problems on the other side, agreements that have not been lived up to. I wonder if the gentleman would agree that that is what this bill is about, is to have agreements with both of these sides and to expect that they be lived up to?

Mr. COVERDELL. I do agree. I appreciate the remarks by the Senator from Wyoming. I mentioned, in the colloquy between myself and the Senator from Louisiana, that, indeed, I do not find the visit by President Li as a reprehensible act. It seemed to me to be a rather normal exchange. I concede the sensitivities, but I do not believe the People's Republic of China should be carrying their concerns and sensitivities to the point that they are telling us who we might have visit the United States.

Mr. JOHNSTON. Will the Senator yield?

Mr. COVERDELL. I will.

Mr. JOHNSTON. When the statute says we should invite President Li, they should come with all appropriate courtesies, that is just not a casual visit, as if by a foreign tourist. "All appropriate courtesies" means, in effect, we ought to invite a head of state and have this, in effect, as a state visit. Is that not what the plain language means?

Mr. COVERDELL. I think you expand the interpretation of the language. That may be interpreted in the eye of the beholder, but it would certainly be viewed by President Li one way and the People's Republic of China another. But we extended appropriate courtesies to the leaders of the People's Republic of China that visited our country.

Mr. JOHNSTON. I know. But when it says we should seek a visit with "all appropriate courtesies," what does "all appropriate courtesies" mean?

Mr. COVERDELL. As I just said, it could be interpreted in many ways. But I would remind the Senator that that is nothing more than a sense of the Congress, and not law.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I yield—how much time does the Senator want?

Mr. THOMAS. Ten minutes.

Mr. HELMS. I yield 5 minutes to the distinguished Senator. But before he begins, Mr. President, I have a little housekeeping task to do for the leader.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 168 received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 168) waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. HELMS. Mr. President, I ask unanimous consent that the joint resolution be considered, read a third time, and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The joint resolution (H.J. Res. 168) was passed.

Mr. HELMS. I thank the Chair, and I thank the Senator.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for up to 5 minutes.

Mr. THOMAS. Mr. President, I rise in support of the conference report on H.R. 1561, the State Department Reorganization Act, and of the distinguished chairman of the Foreign Relations Committee.

I do not need to reiterate for my colleagues the tortuous route that this bill has followed to make it to the floor today; I believe we are all aware of it. Let me just note why I feel this bill is important.

This legislation was the first authorization measure to reach the floor of the Senate within budget targets, fulfilling the mandate the American people gave us last November. This bill is a promise kept: money is saved, redundant bureaucracies eliminated, and the ability of our Nation to conduct foreign policy enhanced.

We will hear all sorts of arguments against this legislation. Let me just address a few that fall within the jurisdiction of my Subcommittee on East Asia. Several of my Democrat colleagues circulated a "Dear Colleague" letter last week on the China-specific provisions of the conference report. In it, they expressed concern that "[s]everal provisions in this report are unnecessarily provocative to China and precipitate continuing destabilization of U.S.-Sino relations."

Let me say here that I am a great supporter of improving relations with the People's Republic of China; I am supportive of the one-China policy. But I have examined the sections with which they were concerned, and find them essentially to be strawman arguments, without impact on our adherence to the one-China policy. Let me go through them one by one.

First, they are concerned with section 1601, which declares that the provision of the Taiwan Relations Act (22 U.S.C. §§3301 et seq.) supersede provisions of the United States-China joint communique of August 17, 1992.

Frankly, as the chairman of the Subcommittee on East Asia and Pacific Affairs, I don't share their opposition to this particular provision. The Taiwan Relations Act, which governs our relationship with Taiwan, is a statute and as such is the law of the land. The only thing which could supersede it would be a treaty. The communique, however, is not a treaty; it was never presented

VOL 142 PT 5 MR 21—29 1996 UMI

to the Senate for its advice and consent. Rather, it is simply an official announcement of the intentions of the respective parties. Consequently, it is not binding on either party, and has no force of law in the United States.

Section 1601 is therefore simply a restatement of legal fact. As such, I am at a loss to understand why it would be objectionable to the Chinese, objectionable to my colleagues, or a source of encouragement to pro-independence elements on Taiwan.

Second, they fault section 1708 which supports the admission of the President of Taiwan with all appropriate courtesies. Mr. President, while I myself am not a fan of this section, I would note first that the section does not mandate the admission of President Li. Second, I would note that just this week President Lee said we would not seek to make such a visit.

Third, they fault section 1606 which would according to them, and I quote, "impose unnecessary new reporting requirements on the State Department to provide detailed information and political judgments on the implementation of the Sino-British Joint Declaration on Hong Kong".

I find this the least compelling of their concerns. We regularly require the State Department to make these reports all the time; the Department probably prepares such a report on almost every country in the world save some of the smaller ones.

We have a real interest in assuring that the People's Republic of China lives up to their agreements, and such a report would be extremely important that they do so in relation to their promise to protect democracy there after 1997. An annual report would be especially helpful to this body in following developments there.

Their next complaint is that section 1603 would change the name of Taiwan's office here from Taiwan Economic and Cultural Representative Office to Taiwan Representative Office. I fail to see how this simple name change can cause so much consternation.

Finally, Mr. President, they oppose section 1303, regarding Tibet. I would note, however, that this section simply authorizes the President to appoint a special envoy; it does not require him to do so. If he finds the idea so objectionable, then he does not have to make the appointment.

Mr. JOHNSTON. Will the Senator yield?

Mr. THOMAS. I yield.

Mr. JOHNSTON. Mr. President, what I meant is sort of a precipitating event that caused this tit-for-tat thing, and the Chinese are clearly greatly to be criticized for all of those things that my colleague said, but I really meant the precipitating events. You can point to that as the events that started it all, and that has led from that point on.

Mr. THOMAS. I appreciate the comments. I do not think there is any question that we should understand how important that is to the People's Republic of China. It probably means more to them than it does to us and we need to recognize that.

So my colleagues can see that these five sections, taken independently, are of little if any import. Some of my colleagues have said that, while that may be the case, taken together they are alarming. Well, Mr. President, if separately these sections equal zero, then they still equal zero when added together.

I take exception to the argument of the Senator from Louisiana that United States-China relations were going along fine until we decided to admit President Li to the United States, and that these sections will simply make matters worse. Frankly, that's a statement I would expect to hear from the Chinese Ambassador here. What about their nuclear transfers to Pakistan? What about their failure to live to the intellectual property rights agreement? What about their pretensions in the Spratly Islands? What about human rights violations? What about their back-sliding regarding Hong Kong?

Mr. President, the present state of affairs is hardly the sole fault of the United States. And these give sections are hardly going to cause a precipitous downturn in those relations. As the Chinese say, it takes two hands to clap.

So again Mr. President, I rise in support of this proposal. I think it is one of the things that the voters said to us in 1994. They said we need to make some changes in the way the Federal Government operates; that the Government is too big, it spends too much, and that we should find better ways to deliver services, that we should find more efficient ways to use tax dollars.

This bill is the way to do that. Mr. President, every other sector of our Government is facing difficult cuts and reorganization; the foreign policy sector should have to bear the same burden as any other. This is not about isolationism, though many Democrats would have the public believe otherwise in a hope to obscure the issue, not about usurping the role of the executive branch, nor is it about a vendetta aimed at a particular set of bureaucrats.

I cannot commend Chairman HELMS enough on his hard work and persistence on this legislation; I urge my colleagues to support it.

DEBT LIMIT INCREASE

The PRESIDING OFFICER. The Chair announces that H.R. 3136 has just been received from the House, and under the previous order the bill is considered read a third time and passed and the motion to reconsider is laid upon the table.

So the bill (H.R. 3136) was considered read the third time and passed.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mrs. FEINSTEIN. Mr. President, I believe I have an hour reserved and I yield myself such time as I may consume.

Mr. President, I rise as a member of the Foreign Relations Committee to express my strong opposition to the conference report to accompany H.R. 1561, the State Department authorization bill.

This bill has been the cause of much turmoil, as we all know. It began with the markup of a bill that the Democrats on the Foreign Relations Committee had no part in drafting, and that many felt contained an excessively far-reaching plan to eliminate three foreign affairs agencies: The Agency for International Development, the Arms Control and Disarmament Agency, and the U.S. Information Agency.

When that bill reached the floor, Republicans were unable to invoke cloture on it. Meanwhile, the Senate was prevented from taking action to confirm 18 ambassadors, several hundred Foreign Service officer promotions, and to consider two critical arms control treaties—START II and the Chemical Weapons Convention.

Finally, last December, after several arduous weeks of negotiating, the distinguished chairman of the Foreign Relations Committee, Senator HELMS, and the distinguished Senator from Massachusetts, Senator KERRY, reached a compromise version of the consolidation plan that allowed the bill to be voted out to conference.

This, in turn, resulted in the Senate immediately confirming the ambassadorial nominations that had been on hold, and taking action soon thereafter to ratify the START II treaty. In addition, hearings are now underway that will lead to a vote by the full Senate on ratification of the Chemical Weapons Convention by April 30. For that I am grateful.

I was among those who voted for S. 908 last December, in part because I felt the compromise consolidation plan reached by Senators HELMS and KERRY was a reasonable plan. However, my major motivation was to get it to conference so that we could take action on the ambassadors and treaties that were before the Senate.

Unfortunately, the bill that has come back from conference has many, many problems. First of all, the consolidation plan that came back from conference has moved considerably from the fairly reasonable compromise reached by Senator HELMS and Senator KERRY. The conference report version requires the elimination of three agencies: USAID, ACDA, and USIA, two of which the President can later choose to preserve. This provision differs sharply from the preconference version which gave the President full discretion over whether or not to eliminate an agency. The new report also requires $1.7 billion in savings over 4 years, rather than over 5 years, as was in the Senate-passed bill.

Now, philosophically, Mr. President, it is my very strong belief that a President, any President, must and should be able to organize or reorganize the foreign affairs agencies of the United States as he or she sees fit.

I basically believe that foreign policy should be bipartisan, that we should work out our difficulties and speak as one Nation, as represented by our President. But I believe the President must be in charge of foreign policy. I came to that belief, Mr. President, ironically when I was a mayor. I was visited by the Chancellor of Germany, Helmut Schmidt. I saw, when I visited with him at the Fairmont Hotel, that he was chain smoking and was very upset. I said, "What is wrong?" He said to me an interesting thing. He said, "You know, you Americans have no idea what you do when you reinvent the wheel of foreign policy every 4 years. You have no idea what it does to your allies." He went home and, 2 weeks later, he resigned.

I thought that was very interesting, and I never forgot what he said. So I began to watch American foreign policy a little differently. I saw where it is very difficult for many countries to really understand with what voice this Nation really speaks. I understand the separation of powers. I understand the balance of powers. And yet, we must, as a nation, speak to other nations with one voice and with clearly defined policies. I am finding that becomes more and more difficult.

So, consolidation is not the issue. Many of us support consolidation, but we can only support it if it is done in such a way that we provide our President, whether he be Republican or Democrat, with flexibility in the organization of the foreign affairs agencies. Unlike the compromise version that passed the Senate, this conference report returns to a coercive approach that forces the President to eliminate at least one agency over his objections. I simply cannot support a consolidation plan structured in this manner.

Second, this conference report does nothing to address the unprecedented restrictions that were placed on U.S. international population and family planning assistance in the fiscal year 1996 foreign operations bill.

After months of stalemate on that bill, a conference report was sent to the President, which has the effect of cutting U.S. international population and family planning programs by some 85 percent. These restrictions will have a seriously negative effect on women and families around the world. Family planning assistance, which helps women plan and space their pregnancies, has proven to be a major factor in curbing poverty and starvation and overpopulation, and providing the opportunity for a decent way of life in many parts of the world that are badly overcrowded with children starving by the thousands because of lack of food.

Ironically, the restrictions in the foreign operations bill are advocated by those who oppose abortion and argue for a so-called pro-family agenda. But U.S. law already forbids the use of any U.S. foreign assistance for the provision of abortions.

As the distinguished chairman of the Appropriations Committee, who is a proud opponent of abortion, has pointed out time and time again, depriving millions of poor women of access to voluntary family planning services will only result in more unwanted pregnancies and more abortions. This bill fails to address these misguided restrictions.

Third, this bill prohibits any funds from being used to open, expand, or operate diplomatic or consular posts in Vietnam, unless the President certifies that the Vietnamese Government is fully cooperating with the U.S. in a number of areas related to the search for POW's and MIA's—a worthy statement. The problem is that these areas are effectively uncertifiable. In addition, failure to expand our new relationship with Vietnam could actually jeopardize the significant progress that has been made on the POW/MIA issue.

Furthermore, this provision unduly restricts the President's ability to conduct foreign relations according to his understanding of U.S. national interests. And by this I mean that it places conditions on whether or not the President can open an embassy.

Finally, at the time of the vote on S. 908, I made it very clear that there was an entire category of provisions in the bill, wholly separate from the consolidation aspect, that I found deeply troubling. These provisions related in various ways to the United States' relationship with the People's Republic of China, the largest country on Earth, and the most dynamically growing country in the world today.

At that time, I expressed the hope that these provisions would be ameliorated or removed in conference. In fact, I said that the resolution of these matters would be critical to my consideration of whether or not to support the conference report.

Unfortunately, virtually every one of these provisions remains in the bill. Some are in a slightly modified form, but they remain objectionable. There are even some new provisions on China in this conference report that were not in the original bill. Let me first list the provisions in this bill relating to China and then explain why they will result in my voting against this conference report.

Section 1601 declares that the provisions of the Taiwan Relations Act supersede provisions of the United States-China joint communique of August 17, 1982.

Section 1603 allows the Taipei Economic and Cultural Representative Office, TECRO, to change its name to the Taipei Representative Office.

Section 1606 imposes unnecessary new reporting requirements on the Department of State to provide detailed information and political judgments on the implementation of the Sino-British Joint Declaration on Hong Kong.

New in the bill, section 1702 imposes excessive reporting requirements on the President with respect to human rights in China, beyond those already required in the annual Human Rights Report, which I have just read. It is a detailed report, and I believe very strongly that it was inaccurately reported in the press. Section 1702 expresses the sense of Congress that the President should impose human rights-related preconditions on a possible future visit to China.

Section 1708 supports the admission of the President of Taiwan to the United States for a visit in 1996 "with all appropriate courtesies".

A new section, section 1709, supports the United States pushing for Taiwan's admission to the World Trade Organization [WTO], without respect to the status of China's application to join the WTO.

Section 1303 authorizes the President to appoint a special envoy for Tibet, and such a person would have to carry the rank of Ambassador.

Another new section in the bill, section 1701, provides that the President should condemn a prison system in China and, in essence, demand that China dismantle the prisons. What nation has ever told us to dismantle a prison? Would we listen to that, and would we be affected by it if they did that? I think not.

The simple fact of these eight provisions, and others, suggests something about this bill: It is excessively preoccupied with China. No other country receives half the attention China receives in this bill.

But far more serious than the preoccupation with China is the very serious damage that these provisions could do to our increasingly important and, I must say, increasingly strained relationship with China. I happen to believe strongly in the importance of the proper development of a relationship with the People's Republic of China, which is the most overlooked and most significant bilateral relationship in the world today.

I also happen to believe that there are those in China and in this country

VOL
142
PT
5
MR
21
—
29
1996
UMI

who would like to see it became an adversarial relationship. Yes. Would they like to see a return to the dangerous, pivotal, bipolar superpower arrangements that existed all during the cold war? That is what is understood by their actions. Nations then line up. They are either in one camp or the other. It is good for weapons sales. I do not want to see that happen. This relationship is too important to peace and stability in Asia. And, yes, it is too important to the prevention of major misunderstanding which could lead to a potential and devastating third world war.

As my colleagues know, the past few weeks have seen tensions in the triangular United States-China-Taiwan relationship reach new heights. As Taiwan's first fully democratic presidential election approached, China felt compelled to vent its displeasure over what it has perceived as a pro-independence policy in Taiwan by conducting missile tests and live-ammunition military exercises in the Taiwan Strait. These tests and exercises by China were unnecessary, dangerous, and provocative. And I have said as much directly to the highest-level Chinese officials.

The administration responded prudently by expressing its deep concern, by sending the U.S.S. *Nimitz* carrier group to join the U.S.S. *Independence* carrier group in the region to monitor events there, and by making it clear to the Chinese that any attack on Taiwan would have very grave consequences. This is in anyone's book strong and definitive action.

Under these tense circumstances Congress, I believe, must be very careful right now, post-Taiwanese election, not to take any action that would make a potentially difficult situation worse. There is a real window of opportunity. There is a calling for the first democratically elected President of Taiwan to take some steps to clarify Taiwanese policy, to indicate the willingness to reinstitute the across-the-strait dialog, and to clarify once and for all—perhaps jointly with China—a One-China policy.

I believe, as far as the United States is concerned, that we do not need legislation to further inflame the situation. The point has been made. The election has been held. The Taiwanese President has been reelected. Now we need to play the pivotal role of encouraging the parties to get together and discuss a peaceful resolution of their difficulties.

Without firm United States adherence to the principle of one China we would be unable to conduct any kind of normal relations with Beijing. This is an undeniable fact of life, no matter what anybody in this body says.

If there is not a One-China policy, we drive the People's Republic of China into the adversarial Soviet Union-type of response and a cold war. I do not believe this is desirable United States policy. And that is the impact. That is the practical, as I would say, "on the streets" impact of this bill.

I do not believe that the United States is going to retreat on a One-China policy. But to amend the Taiwan Relations Act to explicitly supersede the 1982 joint communique is to give substance and credibility to China's fears. That is what they suspect we are up to. Why would we take that provocative step at this time? For what reason other than to enable ourselves to become incendiary? From the Chinese prospective, it would be tantamount to a declaration that we were about to send a new round of arms sales to Taiwan, that we no longer subscribe to the One-China policy, and that we are meddling deeply in their internal affairs.

Not only would passing this provision be foolhardy; it is also unnecessary. The Taiwan Relations Act is the law of the land. And, like any law, it carries greater weight than any diplomatic agreement, other than a treaty.

But to amend the act to explicitly state that it supersedes the 1982 joint communique would be seen by China as an outright repudiation of a critical and stabilizing element of our longstanding policy toward China subscribed to by six United States Presidents.

I want to commend the administration for listing this provision prominently among the principal reasons the President will veto this bill when it lands on his desk.

Elsewhere in this conference report Congress expresses its support for a visit to the United States by the President of Taiwan in 1996 "with all appropriate courtesies". I must ask my colleagues: How short are our memories? For over 10 months our relationship with China has been in crisis. Here is a country—Taiwan—that says it is in opposition to independence, that says as late as March 5 in a written directive by the Taiwanese premier, that "We are in opposition to independence." Why then would we ask a leader who is not representing an independent country to make an official visit? It does not make sense.

Li Teng-hui's visit to Cornell was the event that sparked the incendiary nature of the last few months. And remember, that visit was billed as a private one; an unofficial one. One can only assume by using the phrase "with all appropriate courtesies" the authors of this provision mean to imply some kind of an official visit despite America's commitment—we made a commitment—to maintain only economic, cultural, and unofficial relations with Taiwan. That is our commitment. If our relationship with China has suffered that much over an unofficial visit, one can scarcely imagine the damage it would suffer in the wake of an official one.

I think we face a similar problem with the proposed name change of the Taipei Economic and Cultural Representative Office. It was only a year ago that the Taiwanese reached an agreement with the administration to change the office's name from the Coordinating Committee for North American Affairs to its current title. Now some are advocating a change to the Taipei Representative Office. I have asked the Taiwanese if they asked for this change. They said no, they did not. Then why are we doing it? Only to tweak China? Is this really necessary? Is this how we want to make foreign policy, a tweak here and a tweak there? "We know your Achilles' heel, China, and now we are going to press on it a little bit." Oh, my goodness.

The current title of the office accurately reflects the unofficial nature of our relationship with Taiwan based primarily on economic and cultural relations. There is no need to create a new title that is not desired, that implies some kind of broader recognition, other than to tweak China.

The people of Taiwan are to be congratulated for the democratic elections they have recently held. They can be justifiably proud. But the crux of our difficulties with China is China's concern that we are in some way egging Taiwan on toward a declaration of independence.

That should not be the message we send.

These provisions give credible substance to China's fear. They suggest we are not satisfied with Taiwan's status and will undertake unilateral actions to nudge it in the direction of independence.

As I said, that is not our role. Our role as a friend of China and a friend of Taiwan is to encourage the peaceful resolution of the Taiwan issue by negotiation and mutual decision. The United States has no right to take actions that could lead to either a nonpeaceful outcome or a nonnegotiated outcome. Unilateral actions by any party in this matter are not acceptable.

There are other provisions which will be irritants of our relationship with China at best and counterproductive to our own goals at worst. For example, I am aware that the backers of the provision authorizing a special envoy for Tibet have only the best of intentions—to see life improved for the Tibetan people. However, I can assure my colleagues that the appointment of a special envoy for Tibet with the rank of Ambassador would be seen by the Chinese, once again, as an attempt to advocate for independence of an area they consider within their territorial boundaries. Even if this person never set foot in Lhasa—and we know that with the rank of Ambassador the Chinese would never let him set foot in Lhasa—we know the Chinese will view

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such a special envoy as interfering in their internal affairs.

Now, I am as committed as any Member of this body to improving the lives of the Tibetan people. My husband and I both regard his Holiness, the Dalai Lama, as a personal friend. I first met him in Dharmsala in 1978 and have spent many hours with him and his representatives discussing ways to help Tibet and Tibetans. In January, in Hong Kong, I met with his older brother, Gyalo Thondup, who has been his representative in many negotiations with the Chinese, and had an extensive discussion.

In 1991, I carried a letter from his Holiness, the Dalai Lama, to President Jiang Zemin asking for negotiations between the two sides. As mayor of San Francisco in 1979, I was the first public official to invite the Dalai Lama to visit a city in the United States—San Francisco, an official visit to my city. And since then I have been trying to find ways to bring the two sides together and to encourage China to understand that it is to China's great advantage to see that the culture and religion of the Tibetan people are protected and that human rights for the Tibetan people are improved.

I recite this background merely to make the point that I am well acquainted with the issue of Tibet and have spent many years working on it. In my view, the appointment of a special envoy by the United States would be counterproductive. It would result in the Chinese being unwilling to talk with us or anyone else about ameliorating conditions for the Tibetan people.

What we need to do instead, through intense, continuing, low-key diplomacy, is to convince the Chinese that it is to their advantage to engage in talks with the Dalai Lama in which all issues other than Tibetan independence would be on the table. This I believe is an achievable goal but only if we avoid somehow injecting ourselves in the issue in such a way that the Chinese see us as advocates for Tibetan independence. You cannot have a special envoy with the rank of Ambassador and not create the impression that what we are trying to do is see Tibet as independent. Therefore, the Chinese will fight any improvements all the way. That is why I think this is not well thought out.

There has already been at least one missed opportunity to advance the cause of Tibet. After the last Panchen Lama died, the Chinese authorities invited the Dalai Lama to come to Beijing for a memorial service, but he declined the invitation. I believe that was a mistake because it would have given a new generation of Chinese leadership an opportunity to get to know the Dalai Lama as the fine person he truly is, as a caring, loving person, and a devout Buddhist.

By all means, we should continue to explore ways to achieve cultural and religious autonomy for Tibet and hopefully one day the return of the Dalai Lama and Tibetans in exile to their native soil. And in the words of an ancient Chinese proverb, "When water flows, there will be a channel." I am hopeful that the water of negotiations will flow before too long.

In my discussions with Chinese leaders over the last year, they have repeatedly raised their concern that the United States is pursuing a policy of containment with respect to China, perhaps in the guise of something else. I do not believe we have such a policy, and I have said so. However, when I look at a bill like this one, full of provisions that deal almost patronizingly with an independent nation, China, I must say it seems that some, for whatever reason, do genuinely want to pursue a policy of containment. One certainly could not blame a Chinese observer for drawing that conclusion.

I think we have discussed at length in the past why a containment policy is unworkable and unwise. China is a nation of 1.2 billion people. It is a nuclear power. It is a permanent member of the U.N. Security Council and one of the fastest growing and most dynamic economies in the world. China is not going to be contained. What we need to do is set a long-term strategic and conceptual, goal-oriented relationship with certain priorities in our policies, areas where we can work together, and a methodology for areas where there is a difference of opinion to be able to sit down over the long term at the table and make progress on those issues that divide us. I believe this is possible. We have enormous national interests in developing a peaceful and cooperative relationship with China, and we cannot do so by setting them apart, by making them the adversary that they do not want to be and that we do not want them to become.

I hope my colleagues will reconsider the wisdom of legislating in this area so excessively in the future.

Mr. President, for all of the problems contained in this bill, I urge my colleagues to oppose the conference report. If the bill is passed, I wish to commend the President for pledging to veto this legislation, and I look forward to congratulating him when he does.

I thank the Chair. I reserve the remainder of my time

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). Who yields time?

Mr. HELMS. Mr. President, I am assuming that Senator KERRY will yield. Would the Chair recognize that assumption?

The PRESIDING OFFICER. The Senator from Illinois is recognized on the time of the Senator from Massachusetts.

Mr. HELMS. Very well.

Mr. SIMON. I thank the Chair, and I will try not to impose on the time of Senator KERRY. I am going to vote against this, though I differ somewhat with my colleague from California, as I will explain very shortly.

I think the bill as a whole does harm to what we are trying to do in the area of foreign relations, and I say this with great respect for my friend from North Carolina, who chairs the Foreign Relations Committee, and who is my neighbor in the Dirksen Building and a friend.

We cut back on foreign aid. I know there is popularity to that. But when at town meetings people say, "Why don't we cut back on foreign aid and help the people in our country?"—as the Presiding Officer knows, I have been voting to help people in our country. Then I ask them, "What percentage of our budget do you think goes for foreign aid?" They usually guess 10 percent, 15 percent, 25 percent. And I say, "Less than 1 percent."

They are startled. We spend less, as a percentage of our budget, on foreign aid than any of the Western European countries and Japan. If you put all the Western European countries and Japan together, we spend less than any of them. It does not make sense.

We are authorizing $6.5 billion for fiscal year 1996–97. That is a $500 million cut, while at the same time, this year, we have given the Pentagon $7 billion more than they requested. U.S. security would be helped immensely if we were to give the Pentagon what they requested and use a portion of this for foreign aid.

For example, the housing guarantee programs in South Africa and Eastern Europe are totally eliminated. I know a little bit about South Africa. I do not know that much about Eastern Europe, but I think the situations are somewhat similar. In South Africa, it is vitally important for that country to show the people of that country that they are going to make some progress. Nelson Mandela is immensely popular today, both in the white and black community in South Africa. Public opinion polls are almost identical for whites and blacks there. But the reality is, he has to show that he can deliver for people who have been oppressed, and the housing program is an inexpensive way for the United States to help. Mr. President, 28 million poor people have been helped by our housing program in Eastern Europe and South Africa—and we want to eliminate that.

Regarding limitations on U.S. assistance on population, if you do not have population assistance, let me tell you, the abortion rates go up and other problems arise. It is very interesting. If you look at Japan, for example, where they have programs to tell people about contraception and other things, you have a very low abortion rate. You

VOL
142
PT
5
MR
21
—
29
1996
UMI

also have less than 1 percent of children born out of wedlock. If you have assistance on planned parenthood and that sort of thing, we reduce the abortion rates.

We also reduce the problem—it depends on whose estimates you believe, but the world population is going to grow. It will roughly double in the next 45 to 60 years. The most conservative estimates are 45 years; the more optimistic are 60 years. We ought to be helping out.

The United Nations—and here I applaud my colleague who is the Presiding Officer for being very responsible in this area—the United Nations, we now owe them $1.4 billion. The budget for the United Nations, for New York, Geneva, and the six commissions, not counting peacekeeping, is $1.2 billion for a year. In other words, we owe more than a year's expenses for running the United Nations. Running the United Nations takes $500 million less than running the New York City police department. The No. 1 deadbeat in the world is the United States.

Do not kid yourself that we are not hurting ourselves. Here is today's newspaper, an Associated Press story, "World Bank Arrears Disqualify United States. American contractors can't bid on $2.1 billion in projects." Why? Because the World Bank has a rule, if you get too far back in what you owe, that country cannot bid on projects. So, contractors in Illinois and Arkansas and North Carolina and Vermont are hurt by our being a deadbeat here. I hope we will do better.

Then I would like to comment on the China situation a little bit. Real candidly, if I were to write the language in this resolution, I would write it differently. But I have to say, I do not think we should quake every time China growls. I share with the chairman of the Foreign Relations Committee a feeling that we should let Taiwan know that a freely elected government is regarded as a friend of the United States.

Perhaps inviting President Li officially here right now may not be the right thing while China's leadership is going through this turmoil, but to turn a cold shoulder constantly to Taiwan, when they have a free press, multiparty system, free elections—they are the seventh biggest trading partner of the United States, they are second only to Japan in the foreign reserves they have—to pretend there are not two countries there is just a mistake.

I heard my colleague from California, Senator FEINSTEIN, for whom I have high regard, I heard her talking about the Shanghai communique and, while we have said as a nation we recognize one China, frankly I think that was a mistake. We cannot reverse that overnight. But that was done at a time when we were worried about the Soviet Union and we were trying to keep China and the Soviet Union apart. But the reality is, we ought to treat China and Taiwan as we did West Germany and East Germany. Both East Germany and West Germany did not like it that we recognized the other side, but that did not prevent the two of them from eventually coming together again. But we said the reality is there are two governments and that is the reality today.

I think we have to be sensitive to the Chinese situation. I do not think, to use Senator FEINSTEIN's language, we should just be tweaking China whenever we can. I think we ought to be firm, solid, and let them know that military aggression is not going to be tolerated. We have not been as firm as we should be.

Senator FEINSTEIN is right when she says our policy has been one of zigzagging. Without going to the Presidential level, I frankly think we ought to have cabinet members from both sides appearing in each other's country. When I was in Taiwan, I do not know, 3 years ago or so, the Foreign Minister had a luncheon honoring me, but our representative in Taiwan—we do not even have the courage to call him an ambassador—our representative in Taiwan could not come because the luncheon was in a government building. He is not allowed to go into a government building.

That is just ridiculous. We have to recognize reality. When we face a choice of cuddling up to democracies or dictatorships, the United States of America should not have a difficult time. We ought to be siding with democracies rather than dictatorships.

I think we ought to say to China, "We want you to be our friend." But we also ought to say, just as firmly, "We are for democracies." And I hope gradually we will recognize that there are, in fact, two governments over there. To pretend anything else invites possible trouble.

Let me just add this. I heard Tibet mentioned. That is history now, not good history, but I am afraid that is done. But if we do not say very clearly "you cannot invade Taiwan or send missiles there," dictatorships are never satisfied with just one piece of property.

The reality is, if China takes Tibet, it will not be too long and they are going to go up and take Mongolia. Look at some of those Chinese maps. They already have Mongolia as part of China, and who knows where it goes next. We should learn the lessons from history, and we should side with democracies while we maintain reasonable relations with dictatorships.

Mr. President, I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, what we are doing is alternating this side and that side. I suggest it is appropriate now for the Chair to recognize the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. HELMS. I thank the Chair.

Ms. SNOWE. Mr. President, I want to thank the chairman, and I want to thank you, Mr. President.

I rise in strong support of the conference report to accompany H.R. 1561, the Foreign Relations Authorization Act for fiscal years 1996 and 1997. As chair of the Foreign Relations Subcommittee on International Operations, we have jurisdiction over these issues contained in this legislation, and I am very pleased with the report that the conference committee issued with respect to this important bill.

I commend the chairman of the Foreign Relations Committee, Chairman HELMS. I know this has been a long and difficult road to bring this authorization bill to this point. Regrettably, we did not have enough assistance from the administration or the State Department to work out the differences that developed between the committee and this administration and the State Department. But regardless, I think the bill that has come before the Senate and has come before the House is a bill that certainly should be accepted by both sides.

Frankly, as one who has been involved in this process as the ranking member of the similar subcommittee in the House for almost 10 years, I am somewhat surprised at the way in which the State Department or the President has refused to negotiate the differences on some of the issues that have been at the forefront of this authorization bill for more than 1 year.

I have never been in a situation in being responsible for this authorization bill in which the President has never submitted an authorization request. We have not yet to date ever received a State Department authorization bill for the issues before us referring to the State Department authorization and the other related agencies, such as international broadcasting activities, international exchanges, as well as international organizations and our contributions to the United Nations as well.

We have never yet in this entire process received a bill from the administration with respect to any one of these issues. And, as I said, this is the first time in all of the years in which I have had the responsibility of addressing the State Department authorization bill that a President has failed to submit a legislative authorization bill.

But be that as it may, we worked it through the process, as Chairman HELMS indicated. It was a difficult process, to say the least. But here in the Senate in December, the bill passed by a margin of 82 to 16. It received tremendous bipartisan support. So I would expect that this conference report should receive the same bipartisan support. If anything, this conference report is even stronger than the bill that passed the Senate back in December.

But I think it is important to review what occurred over this last year to have reached this point and to demonstrate that the conference report that is before this body reconciled the differences, in fact, came a long way to accommodate the differences that the minority had in the committee or here on the floor or that the President had or that the State Department had, but every time we reconciled those differences, they moved the goal posts. They were unwilling to resolve and to reconcile the issues that are before us today.

But I think it is important to review exactly how much we have accommodated the administration's concern, as well as the minority.

First of all, when you are looking at the consolidation issue, it is important to remember that back in January of 1995, Secretary Christopher himself acknowledged that consolidation was possible. He, in fact, proposed to the administration that the consolidation of three agencies into the State Department was a realistic approach.

The Vice President recommended that we could achieve savings in the State Department and related agencies of approximately $5 billion over 4 years. So that is the point at which we started this whole proposition.

So the Senate Foreign Relations Committee, with Chairman HELMS, recommended that we consolidate three agencies with a savings of $3 billion.

We started working through the differences. The minority members of the committee said, "No, we don't want to support consolidating any agencies." But they did, in fact, agree to consolidating one agency with a savings of $2 billion over 4 years. The majority in the committee said we will consolidate three agencies with $3 billion over 4 years.

So here we are at this point with a conference committee report, and what do we have? We have a conference committee report that says we have to reconcile the differences between the Senate and the House. And so the Senate position going into conference was no agency consolidation but a mandate requiring $1.7 billion over the next 4 years.

The House, on the other hand, had a position of consolidating three agencies over the next 5 years, with no specified savings. So what did we do? We came out of the conference committee with one agency, a savings of $1.7 billion. That is very close to the position that was supported by the Senate back in December with a vote of 82 to 16.

I guess it is hard to understand why anybody would suggest that this is an unrealistic or unachievable consolidation proposal. We have come from the Vice President's proposal of $5 billion down to $1.7 billion, and even the minority on the committee supported $2 billion worth of savings, and in the conference report we have $1.7 billion in savings, so even less than what even they supported. They supported one consolidation, one agency to be consolidated in the State Department. That is what came out of the conference committee. We got one agency requirement for consolidation or merging into the State Department. So we have come a long way to reconcile those differences.

It is really hard to understand why there has been so much resistance to this effort and to make some accommodation to bridge the differences. We have certainly gone a long ways to reconciling those differences, not only within this body, but with the House as well.

Then we had the issue of the international family planning proposals. Well, again, the House bill contains some very restrictive language with respect to UNFPA and Mexico City policy provisions that, in fact, those are the same provisions that endangered the foreign operations appropriations bill last year. But we were able to remove those onerous provisions from the conference report. We removed all of them. But yet at the same time, again, we had objections from the other side, because they said, "Well, that's not enough. It is not enough that you took those provisions out. You should also have language in this conference report that overturns the restrictions and the reductions in international family planning programs in the appropriations bill."

That is an interesting recommendation considering the fact that the minority did not want to have any development assistance proposals in the State Department bill, and that is why almost all of the foreign aid language was removed, rightfully so, because the Senate never had that opportunity to consider that legislation. So it was removed. We took out all the international family planning restrictions and all the development assistance legislation. But yet at the same time, they are saying, "It is not enough because we think we should overturn the appropriations language."

Well, that process is occurring right now, hopefully, in the conference committee on the omnibus appropriations bill. But certainly the conference report is not the vehicle to do it, since we have taken out all the other foreign aid components.

I should say that the language that is in the current continuing resolution with respect to the international family planning programs are the very same programs in the very same continuing resolution that the President signed into law and was supported by Members of this body.

The appropriate vehicle for resolving the appropriation differences on international family planning funding is in the conference committee on the omnibus appropriations. That is where that debate should occur, not here in this conference report.

Our goal was to remove the restrictive language on international family planning and Mexico City provisions that would have set us back in those areas. We did that. That was a major accomplishment. There are important issues in this legislation that ought to be supported by all Members of this body.

This legislation contains several important policy initiatives, such as the McBride Principles. This would codify the McBride Principles and place them in permanent law.

The McBride Principles would establish a standard of nondiscrimination for any project or enterprise in Northern Ireland funded through our contributions to the International Fund for Ireland. This is a very important principle to uphold. I think this would be the first time that will provide an opportunity for all Members of this Senate to vote on the McBride Principles and to support codifying them into Federal law.

Another important policy initiative that this bill would place into permanent law is the Humanitarian Aid Corridor Act. This provision, first enacted on a 1-year basis in the foreign operations appropriations bill, would require that recipients of American aid not block the delivery of any humanitarian aid to any neighboring country. While drafted generically, it is intended to send a strong signal to Turkey, which in the past has frequently attempted to block the delivery of desperately needed humanitarian assistance to the people of Armenia.

A third major legislative initiative in this conference report is the Terrorist Exclusion Act, which I first introduced in the last Congress. This would restore the President's authority to exclude the entry into the United States of any individual who is a member of a violent terrorist organization. This is basically to restore the law prior to 1990.

So, I guess it is hard again, going back to the administration's position, to understand why the President and the State Department have gone on record in opposition to this legislation, because the agency reorganization is essential, even by the Secretary of State's own admission, even by the Vice President's own recommendations to save $5 billion.

I cannot imagine that anybody would suggest that we cannot merge one agency into the State Department,

VOL
142
PT
5
MR
21
—
29
1996
UMI

that we cannot merge the Arms Control and Disarmament Agency. It is a modest agency of 250 people, that in this day and age when we need a new world order, when it comes to our own State Department and related agencies, we have to reorganize. It is important to have a unified, singular voice when it comes to delivering our foreign policy. That was the basic intent of this agency consolidation. But we have met resistance at every step of the way by the administration, even though at some point in time the administration or Members on the other side have indicated that they support such consolidation.

Let us talk about the funding levels. The authorization level in this conference report represents probably a high point in funding levels for these agencies. In fact, it is in conformance with the budget resolution. The reductions in funding are modest, no more than $500 million under the 1995 funding level.

The President has argued for cuts in domestic programs, but–this is the one area in which he is recommending an increase. In fact, the President recommended a $1 billion increase in the foreign aid accounts. I think it is interesting that the President would recommend cuts in so many domestic discretionary programs in order to achieve a balanced budget, but insist on continued growth in foreign spending. But that is exactly the case, because in the statement that was issued by the administration, they objected to the funding levels that were incorporated in this conference report.

There has been opposition by some because of the provision that addresses the International Housing Guarantee Program. This program is routinely criticized as one of AID's most ineffective and wasteful programs. In fact, GAO has conducted a study of this program which subsidized housing for citizens of other countries. The GAO found that this program is well on its way to wasting $1 billion in U.S. taxpayers' money—$1 billion.

I cannot believe that the administration again is objecting to this provision to remove this program when it has already been demonstrated to lose for the taxpayers more than $1 billion. The overall program represents a 40-percent loss to the American taxpayers with respect to the inefficiency and the ineffectiveness of this program. Yet, again, the administration states as one of its objections the fact that it cuts this International Housing Guarantee Program.

We come to the issue of Vietnam. The bill simply requires the President to certify that Vietnam is fully cooperating on the POW/MIA accounting prior to establishing even closer relations with Vietnam. Now, how can anyone find this objectionable? The President has already taken every opportunity to state his belief that Vietnam is fully cooperating.

I may disagree with the President on that assertion, but be that as it may, if the President certifies that they are fully cooperating—that is his own prerogative and initiative as described in this provision—then he can move forward to establish even broader diplomatic relations. So I cannot understand why the President would object to this language.

Mr. President, it has been a long process with respect to this conference report. As I said earlier, again, I think it is important to remind Members of this body that we had no guidance, no counsel, from this administration. The fact is, in the process during the conference committee and prior to the meeting of the conference committee, members of the State Department, representing the administration and the Department, refused to offer language or to cooperate in the process throughout the month-long effort.

I think we could have reached a consensus at some point. It is hard to believe they could not support this conference report, because I cannot imagine being more accommodating on all of the issues that were of concern to them originally in terms of how many agencies would be required to be merged into the State Department, or how much savings we would realize as a result.

I mean, we basically went from three to one agency, and we went from $3 billion to $1.7 billion worth of savings as a result of agency consolidation and reorganization. From my estimation, I think that is a pretty reasonable compromise. I want to further remind this body again the Vice President said that we could achieve $5 billion worth of savings, the Secretary of State said and recommended to the administration that we ought to be able to consolidate three agencies into the State Department. But we are only talking about one here now. We are only talking about saving $1.7 billion.

We have had no legislative recommendations from this administration with respect to this State Department authorization. Again, as I said earlier, for more than a decade that I have been working on this very issue, I have never had an administration not submit a legislative proposal with respect to authorization for the State Department and related agencies.

The President, of course, can veto this legislation and has indicated he will. I hope that he will not because I do believe this conference report does strike a compromise between the House and the Senate. It accommodates the concerns and the views of the administration. I think it is unfortunate if the President moves forward with a veto because he will have failed to seize an opportunity to move forward in this consolidation process and to reorganize our foreign policy structure.

It will be the President who vetoes that consolidation, and it will be the President who vetoes the savings in this bill. It will be the President who vetoes the McBride Principles and the codification of the Humanitarian Aid Corridor Act. It will be the President who denies himself the authority he needs to prevent members of terrorist organizations from entering the United States and endangering the lives of American people. That is the bottom line here with respect to this conference report.

I hope that Members will give this very serious consideration and adopt this conference report because it is, I think, a step toward the kind of goals we want to accomplish for our foreign policy structure, not only for the short term but for the long term.

Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, I ask unanimous consent to proceed for 2 minutes on the time of the Senator from Massachusetts, to be followed by Senator PRYOR, who has some time coming.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I was sitting in my office earlier this afternoon and the senior Senator from Arizona came to the floor and chastised President Clinton for apparently discussing on the telephone with President Yeltsin the poultry embargo that the Russians had imposed against all American poultry. The Senator suggested that he hoped that the President had much greater things to discuss with the President of Russia.

Now, Mr. President, I do not know what they talked about, but I personally applaud President Clinton for bringing up that very difficult issue. The Russians import $2.1 billion worth of all products in the United States every year, a little over $2 billion, and one-third of that, over $700 million of that, is poultry. Not just my State—it is North Carolina, Mississippi, Alabama, Texas.

Now, the Senator from Arizona acted as though there were something small or childish about the President talking to President Yeltsin about that embargo, which has now been solved. The President did exactly what I would expect him to do.

I know that the Senator from Arizona is not speaking for Senator DOLE. Would he say the same thing if they embargoed rice or wheat? Would we have heard that same speech if President Clinton had called President Yeltsin about a wheat embargo? I do not think so. I know that if Senator DOLE ever became President and we had that kind of an embargo, in my opinion, he would not hesitate to pick up the phone and call the President of Russia about it.

I am just amazed. Here is a big trade issue, and trade is about all we talk about here anymore and about the so-called 301 retaliatory measures. I suspect, frankly, that President Clinton's intervention on that helped resolve it, and the people of my State are working today, the people in North Carolina, Alabama, and Texas are working today because the President called the President of Russia and said, "This is a funny issue. Why don't you let up?" I think that is what solved the problem.

I applaud President Clinton for his intervention. I deplore people trying to treat that in such a cavalier, simplistic manner.

Mr. PRYOR. Mr. President, I ask unanimous consent the Senator from Alaska be recognized for 8 minutes, and after the Senator from Alaska finishes, I be recognized for a 10-minute period. I ask that the time that I use be charged to Senator KERRY of Massachusetts.

The PRESIDING OFFICER. And the time of the Senator from Alaska?

Mr. MURKOWSKI. I believe Senator HELMS indicated a willingness to yield time.

Mr. HELMS. The Senator from Alaska, as far as I am concerned, can speak as long as he likes, but he has stipulated 8 minutes.

Mr. MURKOWSKI. I concur with the floor manager. Senator PRYOR was kind enough to allow me to go out of turn.

The PRESIDING OFFICER. Eight minutes is charged to Senator HELMS. The time of the Senator from Arkansas is charged to Senator KERRY.

Mr. SARBANES. Is it possible to continue the sequence of speakers, or does the chairman not wish to do that?

Mr. PRYOR. If I may respond, what we are doing is continuing the sequencing, because Senator BUMPERS, after finishing his presentation, we have asked that Senator MURKOWSKI on the other side be recognized, and then I would be recognized. I guess I would be recognized after Senator MURKOWSKI.

Mr. HELMS. In the natural course of things, Senator SARBANES would be recognized if time is yielded to him. I am sure that he can get that by unanimous consent, to be charged to Senator KERRY.

Mr. SARBANES. After Senator PRYOR?

Mr. HELMS. No, no, go back and forth. The Senator from Alaska is going to speak only 8 minutes.

Mr. MURKOWSKI. Mr. President, as we prepare to vote on the conference report on H.R. 1561, the Foreign Relations Revitalization Act of 1995, I rise to express my specific concerns that the statement of administration policy indicates that the President appears to be going to veto this bill based at least in part on section 1601, which reaffirms the primacy of the Taiwan Relations Act.

Mr. President, the opponents of the provision claim we are nullifying the joint communique. I totally disagree with this interpretation. Let me refer to the definition of the specific word "supersede" as used in section 1601. The Oxford dictionary say "supersede" means override. I was an original author of this language so I know a little about its legislative intent, and that is that the Taiwan Relations Act overrides the provisions of the communique only if the two are in conflict.

Now, section 3 of the Taiwan Relations Act commits the United States to sell Taiwan whatever defense articles it needs for self-defense and that the executive branch and the Congress will jointly determine what those needs might be.

In 1982, President Reagan pledged in a joint communique with China to decrease arm sales to Taiwan. That was the so-called bucket.

The Taiwan Relations Act was ratified by Congress and is the law of the land. Make no mistake about it. The 1982 communique is an executive agreement never ratified by the Congress.

Now, all that the provision in the conference report says is that the law of the land—the law of the land, Mr. President—the Taiwan Relations Act, will supersede the provisions of the joint communique if the two are in conflict. They have to be in conflict, Mr. President. That is the difference. This is simply a matter of legal precedence.

Mr. President, I ask unanimous consent that the reference from the Oxford dictionary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Supersede: To desist from, discontinue (a procedure, an attempt, etc.); not to proceed with –1750. †b. intr. To desist, forbear, refrain –1850. †2. To refrain from (discourse, disquisition); to omit to mention, refrain from mentioning –1689. †3. To put a stop to (legal proceedings, etc.); to stop, stay –1838. b. Law. To discharge by a writ of supersedeas 1817. †4. To render superfluous or unnecessary –1797. 5. To make of no effect; to render void, nugatory, or useless; to annul; to override. Now rare or Obs. 1654. 6. pass. To be set aside as useless or obsolete; (to be replaced by something regarded as superior 1642.) 7. To take the place of (something set aside or abandoned); to succeed to the place occupied by; to serve, be adopted or accepted instead of 1660. 8. To supply the place of (a person deprived of or removed from an office or position) by another; also, to promote another over the head of; pass. to be removed from office to make way for another 1710. b. To supply the place of (a thing) 1861. 9. Of a person: To take the place of (some one removed from an office, or †promoted); to succeed and supplant (a person) in a position of any kind 1777.

5. The Norman invader superseded Anglo-Saxon institutions 1863. 6. When this work must be superseded by a more perfect history 1838. 7 Oxen were superseding horses in farm-work 1866. 9. Captain Maling takes his passage to s. Captain Nisbet in the Bonne Citoyenne Nelson.

Mr. MURKOWSKI. For example, if the threat to Taiwan is increasing, defensive arm sales should go up. They should not be arbitrarily limited by the bucket. Prior administrations have followed this principle in practice, such as selling F–16's to Taiwan, even though they were outside the dollar limits of the bucket.

It was a matter of convenience. We wanted to do it, so we found a way to do it. I do not see why the administration is objecting to this provision, because it is consistent with current practice. I would also remind my colleagues that the identical language passed out of the Foreign Relations Committee in 1994 on a 20–0 vote when I was a member of that committee.

Mr. President, I again find it incredible that the administration would issue this veto threat over a provision that was intended merely to restate reality: The law of the land takes precedence over a statement of policy. I do not think you could find one constitutional scholar who would disagree with that proposition.

Secretary of State Christopher, in correspondence with me in 1994, acknowledged that it was the administration's position, as it was of previous administrations, that the Taiwan Relations Act as a public law takes legal precedence over the 1982 joint United States-China communique, an Executive communication that was never, as I said, ratified by Congress. Mr. President, I have that letter from Secretary of State Christopher. When the letter was given to me, I told the Secretary, at his request, that I would not release the letter. But I think that the State Department should look up that letter and find out what the Secretary said because I think what he said then is as applicable today, March 28, 1996, as it was April 22, 1994. So I suggest that the State Department do a little backtracking.

It is important to remember that the 1982 communique was based on the premise that the future of Taiwan would be settled solely—this is important—by peaceful means and was signed at a time when decreased tensions between China and Taiwan meant that Taiwan's self-defensive needs were not increasing.

The Senate voted 97–0 last week to reaffirm the commitments made in the Taiwan Relations Act. One of the commitments is that the President, in consultation with the Congress, will review whether the capabilities and intentions of the People's Republic of China have increased the threat to Taiwan. If so, defensive arms sales to Taiwan, obviously, should be adjusted upward accordingly, if indeed that is the case.

Well, we have seen, in recent weeks, the heightened tensions. I do not have to go into the significance of what the M–9 missile message was. It was that

VOL 142 PT 5 MR 21 — 29 1996 UMI

China can indeed launch a missile from the mainland, and it can indeed go to Taiwan. Indeed it has a payload of about 1,200 pounds, and it drops its locomotion in entry, and, as a consequence, it is very difficult to pick up. I am not sure that the technology is available to counter that missile threat.

As we look at some of the other missile threats to the United States, including to my State of Alaska and to Hawaii, we find we are in the range of some of those, which the rest of the United States is not in the range of. I do not think Hawaii and Alaska are expendable, although some of my colleagues may differ from time to time.

Since 1994, China has mounted a series of military exercises near Taiwan. In September and October 1994, the People's Liberation Army conducted combined air, land, and sea exercises on Chou Shan Island, about 60 miles south of Quemoy. At that time, Assistant Secretary of State Winston Lord described these exercises as "the most expansive * * * that China has conducted in 40 or 50 years." In June and July of last year, the PLA conducted more exercises, including firing four medium range M–9 missiles—the first time China had used missiles to threaten an opponent. Right before the Legislative Yuan elections in November, China conducted large-scale combined-arms, amphibious and airborne assault exercises designed to simulate an invasion of Taiwan.

Then, on the eve of the first direct democratic presidential election in Taiwan, China began a series of three more tests. First, China fired four more M–9 missiles into closures within 25 to 35 miles of the two principal northern and southern ports of Taiwan. China followed the missile tests with live ammunition war games in a 2,390-square-mile area in the southern Taiwan Strait, followed by another live ammunition exercise between the Taiwan islands of Matsu and Wuchu.

China may not yet have the capability to invade and conquer the Republic of China on Taiwan, but it does have the capability to do significant harm by mining ports, undertaking a limited blockade with its 5 nuclear-powered and 45 conventional-powered attack submarines, and conducting a terror campaign with missiles capable of carrying nuclear or chemical warheads. Taiwan lacks a reliable missile defense and has only two modern conventional submarines.

I do not consider myself an expert on defense matters, but it appears that Taiwan needs additional deterrence capability, especially with regard to missile defenses. I commend the Clinton administration for sending our carriers into the area of the Taiwan Strait recently to monitor China's war exercises. This exercise should put the Defense Department in a very good position to evaluate the threat to Taiwan from China in determining the level of future arms sales.

Mr. President, I only hope that the diplomats in the State Department do not ignore the military reality in making decisions about future arms sales to Taiwan because of a fear of China's reaction. But, unfortunately, that is what I believe is the driving force behind the veto threat. The administration states that section 1601 "would be seen as a repudiation of a critical and stabilizing element of longstanding U.S. policy toward China, increasing risks at a time of heightened tensions."

Mr. President, the most critical element in U.S. policy toward China is the peaceful resolution of Taiwan's future. If China, by force, repudiates that element, then the basis of the United States' one-China policy is simply stripped away.

We should recognize that that provision in the Foreign Relations Authorization Act does not repudiate U.S. policy, it reaffirms it. I call on the administration to drop this veto threat and implement the law as required.

Mr. President, I am grateful to my good friend from Arkansas, who has accommodated me and my schedule. I thank the floor manager.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

THE DEBT CEILING LEGISLATION

Mr. PRYOR. I thank the Chair. Mr. President, I am going to revert back to a measure that we just passed in the Senate, I think, less than an hour ago, which is the debt ceiling legislation.

On that legislation, the distinguished Senator from Arizona, Senator MCCAIN, had included an amendment he had long fought for, and I support that amendment very strongly, Mr. President. That was an amendment relative to the social security earnings test. It was on that particular amendment that I had told the leadership in times past that should that amendment come to the floor, I was going to attempt to amend that particular provision with a measure that would basically clear up, once and forever more, a mistake we made in the GATT Treaty legislation that we passed last year in the U.S. Senate.

In other words, Mr. President, I was going to use that as a vehicle to amend this provision, which allows one particular drug company—Glaxo, for example—to absolutely continue taking advantage of not only the taxpayer, but also the consumer, the aging American, taking this particular drug called Zantac, and prohibiting, precluding generic competition from coming into the marketplace.

Mr. President, on December 13, 1995, I received a letter from my friend and colleague, the distinguished chairman of the Judiciary Committee. In the letter it says, "Please be assured that I intend to honor my commitment. I will begin a hearing on pharmaceutical patent issues February 27, 1996, and I plan to hold a markup by the end of March."

Well, Mr. President, our friend and colleague, the distinguished chairman of the Judiciary Committee, Senator HATCH, did in fact hold a hearing on February 27, 1996. However, the markup on this particular matter, the Glaxo issue, has not been scheduled. It has not been scheduled for any time in March. To the best of my knowledge, it has not been scheduled for April, May, and who knows—I just hope it will be scheduled someday.

But what is at issue is this fact: Every day we refuse in the Senate and in the House of Representatives, the other body, to correct this mistake that we made through this system, in not clearing up the issue of the patent extension for this particular drug company, and about six other drug companies, every day that we refuse, every day that we delay, Mr. President, we are fattening their pocketbooks to the extent of $5 million a day. That is $5 million each day that is being paid for by the consumer, the taxpayer, the Veterans Administration, the HMO's, right on down the line—any consumers that buy Zantac. We have been told that a generic that is ready to go into the marketplace immediately could absolutely walk into that marketplace today, begin competition with Zantac at one-half of the price of this prescription drug. But, Mr. President, we have refused to do it. We have had a vote in December, and we failed by two votes to get enough votes in this body to close this loophole and to state that we are no longer going to continue this very major windfall for one or two or three drug companies.

We made a mistake. We extended all patents from 17 to 20 years in GATT, and we said that a generic company could market their product on the 17-year expiration date, if they already made a substantial investment and were willing to pay a royalty.

We think that is a fair balance of interest. The other thing we did in GATT was that we said we are going to allow every human, every company, every product to have the same extension of their patent rights. However, we set out a perfectly illegitimate reason to give to a few drug companies a unique opportunity to not be included in the GATT legislation. So, therefore, we excluded a few pharmaceutical manufacturers, and we said to them that you are going to have an extra 3 years on your patent. You are not going to have any competition whatsoever in this particular drug marketing and in the sales of the particular drug.

During the February hearing held by Senator HATCH, the chairman of the Judiciary Committee, we had the evidence, we had the testimony of our U.S. Trade Ambassador, Ambassador Kantor, we had the Patent Office, and we had everyone representing this administration that we could think of say that this was never intended to be a part of the GATT Treaty. The negotiators never intended to carve out a special reason, or a special status, for a very few—if I might say, a handful—of drug manufacturers.

Mr. President, during that testimony that day in late February of 1996, during all of the discussions that we have held on the floor of the U.S. Senate, during the committee meetings that have been addressing this issue, including the Finance Committee, there is not one scintilla of evidence—not one—that one individual has ever maintained that this was a deliberate act by the negotiators, that this was a deliberate act by the Congress of the United States to carve out this special exemption for a handful of drug manufacturers.

We have competition-ready to come to the marketplace. We have cheaper prices ready to be able to come into the marketplace to provide quality drugs at competitive prices—more than competitive prices. For us to believe that we can continue this great windfall, I think is very wrong indeed.

I urge the chairman of the Judiciary Committee to proceed forthwith with a markup for this particular issue. He knows what the issues are.

Mr. President, I further state that at the proper time on the proper legislative vehicle, I will offer to the Senate once again the opportunity to correct the record, once again the opportunity to set things right, because every day that we delay is another $5 million in profits to the pharmaceutical companies that make Zantac and these other drugs. We are delaying now about another 15 to 20 days at least because we are leaving on a 2-week recess tomorrow. That is another $75 million to $80 million for these drug companies in extra profits for them at this time.

We had a vote in December, and we have seen since that time and since that vote another $450 million of profits being given to them in a windfall nature.

I think the American people certainly are calling on us to be responsible to set the record straight and to admit that we made a mistake.

I am going to give the Senate—and hopefully the other body—an opportunity to correct that mistake in the very near future. I will be offering that on the first legislative vehicle that I see the opportunity to attach it to after we return from our Easter break.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I was dismayed to hear the comments our colleague, Senator PRYOR, just made with reference to the Judiciary Committee's deliberations on the GATT/pharmaceutical patent issue.

My colleague was correct in stating that I wrote him a letter in December indicating the committee would hold a hearing and a markup on this issue.

In fact, we held a hearing on February 27 on the specific issue he raised, and 1 week later, March 5, held another hearing on the more general issue of pharmaceutical patent life at which the GATT issue was also commented upon by a number of individuals.

Perhaps my colleague was not aware, that, on Tuesday, I notified the committee that this would be a possible agenda item for markup this week. However, it was not possible to forecast the arduous, time-consuming immigration markup, which extended much longer than any of us had anticipated. In addition, Senator KENNEDY, the ranking member of the Labor Committee and a top member of Judiciary, expressed concerns about how the Judiciary Committee's agenda was conflicting with the FDA reform markup this week in Labor. Accordingly, at the outset of the Judiciary Committee's deliberations on the immigration bill this morning, I made the following statement:

> Finally, let me say a few words the Committee's consideration of how certain GATT transition rules should apply to the generic drug industry—this is the so-called GATT patent issue.
>
> This was the subject of a lengthy floor debate on December 7th and a Committee hearing on February 27th.
>
> As I have stated on a number of occasions, my preference is to achieve some sort of compromise on the issue. But this is a very complex issue that involves the confluence of three interrelated statutes: the GATT implementing law, the Federal Food, Drug, and Cosmetic Act, and the patent code.
>
> I am aware that there are discussions taking place in an attempt to fashion a compromise proposal. I have directed my staff to continue to facilitate these discussions.
>
> Frankly, the Immigration Bill has taken longer that any of us would have liked or could have planned for. It became apparent earlier this week that we would not have time to complete a GATT mark-up before Friday.
>
> We still have many amendments to dispose of on the Immigration Bill. I also know that Chairman Kassebaum's Labor Committee is in the middle of the FDA reform mark-up and that Senator Kennedy wanted to closely coordinate our schedules today. Other members have scheduling conflicts as well.
>
> For these reasons, I am announcing my intent to schedule mark-up on the GATT issue when we return from recess. I would like to consider a compromise that most of us can support. I don't think the PRYOR bill meets that test. I hope we will continue working toward an agreement over the recess.

I wish to make amply clear for the record that Senator PRYOR's staff had informed me that he did not anticipate, nor wish for, a markup on this issue in Judiciary, but rather he wished to pursue a dialogue on the floor. Thus, I was heartened to hear his remarks just now in which he stated he wanted the Judiciary Committee to mark up a bill.

Before closing, I would like to address one specific comment Senator PRYOR made. Those who advocate change in the law argue that the Congress clearly intended to achieve the results of the Pryor/Chafee/Brown amendment when we originally passed the Uruguay Round Agreements Act (URAA). They continue to argue to this day that it was merely a "technical oversight" which led to this "unfair" outcome.

I find it strange that not one person has come forward, that there has been not one shred of evidence, not one memo, nor paragraph of a memo, nor even a sentence in any document supporting Senator PRYOR's contention.

In fact, the Court of Appeals for the Federal circuit, a completely disinterested party, could find no definitive evidence on this issue at all. In the November, 1995 Royce decision, the Federal circuit stated:

> The parties have not pointed to, and we have not discovered, any legislative history on the intent of Congress, at the time of passage of the URAA, regarding the interplay between the URAA and the HATCH–Waxman Act."

I do not wish to rehash the arguments related to the GATT at this time. It is an extraordinarily complex issue, and is not as simple as it might appear to some. It is no secret to this body that I am not supportive of the Pryor amendment as drafted in December.

What I do want to emphasize is that a fair resolution of this issue remains my priority and, as I said at the markup this morning, I am hopeful we can fashion a compromise that is acceptable to the majority of Senators. I hope that my colleagues Senators PRYOR, BROWN and CHAFEE, will be willing to work with us in that regard and I look forward to their suggestions for areas in which a resolution can be crafted.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. MCCAIN. Mr. President, I was one of the first Members of the Senate to support Senator HELMS' efforts to consolidate U.S. foreign policy agencies. This bill does not go as far as I or many of my colleagues on the Foreign Relations Committee had hoped it would in this respect. I, and I know the chairman, had envisioned a consolidation which would require the dismantlement of three agencies—USAID, USIA, and ACDA. But just getting the bill into and out of the conference committee was a major accomplishment and I commend the chairman for it.

I support the bill and I will vote for it. A savings of $1.7 billion over 4 years and the merging into the State Department of at least one foreign policy

VOL
142
PT
5
MR
21
—
29
1996
UMI

agency is a proposition simply too good to pass up.

However, I do want to register my steadfast opposition to one particular provision in the bill. The conference report conditions funding for any expansion in United States diplomatic relations with Vietnam on Presidential certifications in a number of areas related to missing United States servicemen. The Senate wisely refrained from including similar language in its bill, and despite its several efforts to address the issue in previous legislation, the House included only sense-of-the-Congress language.

Given that neither House decided to legislate in this area, I was quite dismayed to find out that somehow during the proceedings of the conference committee, the conferees actually decided to make the House language tougher. One reasonably expects—and common sense would indicate—that a compromise develops midway between two positions. But in this case, compromise involved not only caving to the House position, but giving House conferees something for their trouble.

This is the third time that I have come to the floor to register my opposition to the same language in different conference reports. I know that conferees often have a difficult time dealing with this issue. On one side of the debate are those who seek to block the President's decision to normalize relations with Vietnam at every opportunity. They are extraordinarily focused and unrelenting. In contrast, those on the other side of the debate either have an understandable predominate interest in reaching a real compromise, or truly see no harm in forcing the President's hand.

As was the case with the CJS conference report, the balance of sentiments on this issue in this conference has contributed to the certainty of a Presidential veto. I know that the President would have likely vetoed the bill anyway. He has fought the idea of State Department reorganization since Secretary Christopher first proposed it. However, I think we have complicated the case for consolidation with this provision on Vietnam. In short, we have given the President one more reason to veto the bill. And unlike some of his reasons, to my mind, this one is legitimate.

When the bill returns to the Senate for a possible veto override, I hope the conference will revisit the issue of United States-Vietnam relations and approve language which reflects the will of at least one House of Congress. Consistent with his constitutional powers, the President last year made a decision to normalize relations with Vietnam. As I have pointed out to my colleagues a number of times, this is a fact. The President should not be constrained in his efforts to carry out his decision. If we cannot respect President Clinton's decision on its merits, we ought to at least respect the power his office entitles him to exercise.

Mr. DODD. Mr. President, I oppose H.R. 1561. I do so for many reasons.

I believe that this bill is not only myopic, but it is dangerous. H.R. 1561 calls upon the President to eliminate one of three foreign policy agencies and includes authorization levels that would force the United States to withdraw from some international organizations. It overlooks the successful efforts the administration has already undertaken to reduce its expenditures. Mr. President, the United States is unquestionably the strongest Nation in the world. These foreign affairs agencies are essential to U.S. leadership. H.R. 1561 undermines our strength and leadership in the world.

In addition to objection to the general direction the bill takes us, there are also specific provisions that are seriously flawed. Specifically, look at how this bill treats relations with Vietnam. Section 1214 makes funding for a U.S. Embassy in Vietnam dependent upon a Presidential certification that Vietnam is fully cooperating on the POW/MIA issue. Most certainly we all want to resolve any outstanding POW/MIA cases. However, this provision isn't likely to facilitate that end. This provision, if enacted, could threaten the progress that has already been made on the POW/MIA issue. Moreover, it could restrict the President's ability to pursue our national interests in Vietnam and put United States firms at a competitive disadvantage.

Second, it in terms of U.S. participation in the United Nations, this bill provides inadequate funding levels for fiscal years 1996 and 1997. The United States is already $1.2 billion in arrears to the United Nations. Besides being irresponsible, this outstanding obligation thwarts our influence in the United Nations and impedes our diplomatic efforts to reform the institution. Even Namibia, one of the poorest countries in the world with a GDP 86 times less than the United States, has paid up. That, Mr. President, is shameful.

Third, H.R. 1561 fails to resolve the limitations on U.S. population assistance programs placed in the fiscal year 1996 foreign operations appropriations legislation. Such restriction will have a serious, detrimental impact on women and families in the developing world. These restrictions will cause an estimated 7 million couples in developing countries to be without access to safe, voluntary family planning services. And what will the result be? Millions of unwanted pregnancies and abortions. Mr. President, I am sure that none of my colleagues want to see this happen.

Mr. President, I conclude my statement by reiterating that H.R. 1561 is shortsighted, dangerous, and that I vigorously oppose it. I encourage my colleagues to join me in voting against the conference report.

Mrs. KASSEBAUM. Mr. President, today, we have before us significant legislation which, if it becomes law, will restructure the principal institutions used to conduct America's foreign policy. The process leading to this point may have been less bipartisan and less open than some of us would have desired. But I want to commend the chairman of the Foreign Relations Committee, Senator HELMS, for his determination in shepherding this difficult bill through the legislative process.

The heart of this bill is its reorganization of our Nation's foreign policy bureaucracy. While I still have reservations about the continued deep cuts in our foreign affairs spending—an account that already has sustained deep cuts since the late 1980s—that is not the issue here. Congress made the decision to continue cutting our foreign affairs spending when we passed the budget resolution last year. The purpose of this authorizing legislation is to try to shape those cuts in a manner that will best protect our ability to carry out the Nation's foreign policy.

I believe this conference report's approach to streamlining and consolidation—an approach dramatically different from the original versions introduced a year ago in both Houses—is reasonable. In essence, this legislation would require the abolition of one of our four principal foreign policy agencies and would require a savings of $1.8 billion over 4 years. It wisely vests in the President, however, the maximum possible flexibility to determine the details of reorganization.

Because the reorganization provisions are, in my judgment, reasonable, I intend to vote for this legislation. However, I very much regret that the legislation also contains many foreign policy provisions which have been less scrutinized and which, in my view, would have been better omitted. Let me outline my specific concerns with the legislation:

First, the bill contains a number of provisions that may further irritate our relations with China. Most important among these is the provision asserting that the Taiwan Relations Act takes precedence over the 1982 Sino-United States joint communique. The triangular relationship between Washington, Beijing and Taipei is a delicate diplomatic balance in each of its legs, and in this legislation Congress is needlessly seeking to strengthen one leg—the leg between Washington and Taipei—without regard for the effect on the other two.

Second, the bill unwisely reopens the difficult debate about our relations with Vietnam. In 1994, after weighing the arguments on both sides, Congress concluded that normalizing relations with Vietnam best serves America's national interests in that region. I do not believe we should roll back that decision today.

Third, the bill creates a new category of political asylum for persons fleeing coercive population practices. I have opposed this provision from its inception because I believe it may open a floodgate of false claims for immigrants from certain countries not otherwise able to enter the United States.

Fourth, the conference report restores several provisions that require withholding of U.S. contributions to the United Nations—provisions that were struck from the Senate bill at my request. I believe that we have reached the limits of this nickel-and-dime approach to reforming the United Nations and that these narrow withholding requirements have become counterproductive. What is needed, in my view, is a broader approach to reform. Unfortunately, a provision that I added to the Senate bill to require the administration to submit to Congress an overall proposal for reforming the United Nations consistent with several specific objectives has been dropped from the conference report.

Fifth, this legislation has cherry picked the foreign aid authorization bill, incorporating a small handful of its most politically popular provisions into the broader State Department Authorization bill. This approach ensures that no other foreign aid authorization will be enacted this year. I worry we are creating a situation in which no foreign aid program other than the few in this bill will be authorized and, as a result, funding for any others may be blocked.

Sixth, this authorization legislation does not deal with the difficult population issue of international family planning, despite the compromise reached in the Foreign Operations Appropriations debate stipulating that the matter would be handled in this bill.

Seventh, the legislation ends the United States housing guarantee program, with an exception for our program in South Africa. I tend to believe this is an important program that should not be banned by statute.

Mr. President, this is a long list of objections. To weigh them against the strengths of the bill's reorganization provisions was no easy task. I concluded, however, that the bill on balance is worthwhile—largely because its reorganization provisions will bring an order to the inevitable downsizing of these agencies that otherwise might not exist. I also want to support the Chairman of the Foreign Relations Committee. However, I understand the President has reached a different conclusion and intends to veto this legislation. If that occurs, I cannot give assurances that I would vote to override his veto.

Mr. NICKLES. Mr. President, I want to compliment my friend from North Carolina for moving forward a proposal to reduce the size of government that was opposed by the Administration and those on the other side of the aisle. I think through his persistence we have a bill that may not go as far as most of us in the Senate would like to see, but at least it is a step in the right direction.

I do think, however, that the debate on this bill helps to magnify the fundamental differences between those on this side of the aisle and those on the other side of the aisle.

When this bill was originally proposed it would have eliminated three government agencies, The Agency for International Development [AID], The Arms Control and Disarmament Agency [ACDA] and The United States Information Agency [USIA] and folded these functions back into the State Department. By doing this, the American taxpayer would have saved $3.66 billion during the next four years.

Now we have a bill that calls for the elimination of these three agencies, but the bill allows the President to issue a waiver for the elimination of two of these three agencies. The result is that the American taxpayer will only realize about half of the $3.66 billion in savings as originally proposed.

I want to remind my colleagues how we got from the original version of the bill to the Conference Report. This is especially enlightening because when the bill was originally proposed, it was hailed as the Helms-Christopher plan because the bill mirrored a plan outlined by Secretary of State Warren Christopher to eliminate these agencies.

This is what the January 12, 1995 edition of the Washington Times had to say about this bill:

> If imitation is the sincerest form of flattery, then Secretary of State Warren Christopher and Deputy Secretary of State Strobe Talbott ought to be basking in the glow of admiration beaming upon them from Capitol Hill. Jesse Helms and Rep. Benjamin Gilman, chairmen of the Senate and House Foreign Affairs Committees, recently unveiled their plan for the re-invention of the U.S. State Department and—Ta-da—it bore more than a passing resemblance to the plan produced by Messrs. Christopher and Talbott.

However, when Vice-President GORE and his re-inventing government staff got a hold of Secretary Christoper's plan it was fundamentally altered. Instead of adopting it, the Vice-President decided to streamline these agencies. And since then, according to the August 5, 1995 edition of Congressional Quarterly, "the administration * * * has mounted a furious effort to kill the Helms bill."

Once again, I want to compliment my friend from North Carolina for continuing to move this plan as originally proposed forward in the face of opposition. He moved the bill through his committee, but when the bill got to the floor of the Senate, the Democrats here carried the administration's torch and frustrated efforts to eliminate these agencies.

Twice the Senate tried to cut-off debate, and twice, along party lines, the Senate was prevented from moving forward on the bill.

I wish to remind my friends on the other side of the aisle and the American people, that the bill does not eliminate the functions of The Agency for International Development [AID], The Arms Control and Disarmament Agency [ACDA] and The United States Information Agency [USIA]. Some have argued that the bill in its original form would have eliminated important government functions. I ask how? The bill transfers the functions of these agencies to the State Department and eliminates the bureaucracy created by these independent agencies.

I wish to point out again for my colleagues in the Senate, that the first bill of the 104th Congress that would have eliminated three government agencies faced vigorous opposition by the Democrats in its original form. And the watered down version, which we are about to pass which would eliminate only one government agency, faces a certain veto by the President. This despite the fact that in his state of the union address the President said "the era of the big government is over."

I don't think the American people could get a more clear picture of who is doing what about the size of government.

Mr. COHEN. Mr. President, much of the debate today has addressed issues that are important but peripheral to the focus of this bill, which is the size and organization of the State Department and associated foreign policy agencies.

Going back to the Nixon administration, numerous reviews have been conducted by the Foreign Relations Committee, its House counterpart, and many executive branch-appointed groups to determine how best to streamline the array of foreign policy agencies that exist. My staff at the Oversight of Government Management has studied this issue, as well. A common theme of these reviews has been that more efficiencies can be achieved, and this probably should include the merging of some existing agencies. The conference report now before the Senate directs, in essence, the elimination of at least one of three agencies—the Agency for International Development [AID], the Arms Control and Disarmament Agency [ACDA], or the U.S. Information Agency [USIA]—with primary focus on AID and ACDA.

The 1989 House Foreign Affairs Committee report coauthored by Congressmen HAMILTON and GILMAN called for AID's elimination. A 1992 report by a bipartisan group appointed by AID, itself, called for AID's merger into the State Department.

VOL
142
PT
5
MR
21
—
29
1996
UMI

A decade ago, I cochaired with Harold Brown a study group at the Johns Hopkins School of Advanced International Studies. We commissioned a paper on why ACDA should not be merged into the State Department. Quite frankly, despite the best efforts of the author who was an advocate of ACDA, the resulting paper produced only weak arguments for keeping ACDA as an independent agency.

Three years ago, Lynn Davis, a protege of Secretary Brown, was appointed by the Clinton administration to be Under Secretary of State. One of her first initiatives was to push to merge ACDA into the State Department, but her effort failed in the face of congressional opposition.

Last year, Secretary Christopher, himself, proposed merging these three agencies into the State Department, but his proposal was not accepted.

So the concept of merging ACDA, at least, into the State Department is hardly radical. And few would argue that, in after the "reinvention" initiatives undertaken by the current administrator, more must be done to reduce the size and improve the effectiveness of AID.

This bill makes clear the desire of Congress to see genuine streamlining, talked about for so many years, finally and effectively implemented.

At the same time, legitimate questions have been raised as to whether the specific mechanism in the conference report is the best way to go about it. Throughout the Reagan and Bush administrations, Republicans criticized congressional micromanagement of the President's foreign policy. Some will ask why now, in 1996, we seem to be shifting direction and trying to impose restrictions on the President. Even more than in the case of the reorganization provisions of the conference report, this is true for many of the conference report's policy provisions.

In this regard, I would highlight sections dealing with the Housing Investment Guarantee Program, Vietnamese migrants, and China. Besides being unrelated to the core function of this bill, many such provisions contain unwise policy prescriptions.

We should encourage, for example, aid programs that leverage private international investment, not terminate such programs as the conference report would do. We should encourage enhanced dialogue between United States and Chinese officials, rather than discourage it as the conference report would do.

Despite these deficiencies, however, the bill does make progress on the decades-old project of streamlining the various foreign policy agencies, and so I intend to vote for it.

If the President does veto the conference report, I hope that we can act promptly to rework it into a bill that can be enacted by deleting or modifying these objectionable provisions.

Mr. HELMS. Mr. President, I suggest the absence of a quorum with the time to be charged proportionately.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered. The time will be charged proportionately, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina, managing the bill, was seeking recognition.

The Senator from North Carolina.

Mr. HELMS. Let us be fair about this thing. This is two Democratic Senators. The Senator from Maryland has been waiting around to speak, and I want to be sure that he is agreeable to being preceded.

Mr. BINGAMAN. Mr. President, I yield the floor.

Mr. HELMS. Mr. President, in the case of the Senator from Maryland, will the Chair deem that he has been yielded time by Senator KERRY?

The PRESIDING OFFICER. That is the Chair's understanding. The Senator from Maryland.

Mr. HELMS. Very well.

Mr. SARBANES. Mr. President, I yield myself 10 minutes. How much time is still available to Senator KERRY?

The PRESIDING OFFICER. He has 67 minutes and 45 seconds.

Mr. SARBANES. I yield myself 10 minutes of Senator KERRY's time. I am authorized to do that.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. I thank the Chair, and I thank the distinguished chairman of the committee.

Mr. President, I rise in opposition to the conference report. I regret that should be the case, because I really do think we should make a very strong effort here to develop a bipartisan approach toward our foreign policy. But this bill takes us in so many of the wrong directions that I simply cannot support it.

First of all, we must understand that we are in a new period with respect to foreign policy. Now that the cold war is over, in my judgment the United States needs to bolster its diplomatic, economic, and political capacities to influence events around the world. We need to anticipate and prevent conflicts through mediation and negotiation. We need to promote sustainable development and support human rights in order to avoid conflicts, which would then lead to even larger economic and human costs. We need to protect our citizens—indeed, all of the world's citizens—from disease, environmental degradation, exhaustion of natural resources, the proliferation of weapons of mass destruction, terrorism, and trafficking in narcotics.

These are all issues that transcend national borders. They are sapping the vitality and strength of societies all across the world. And as the focus shifts to economic matters, we need to expand markets for U.S. goods and services and to create a level international playing field for American workers.

Frankly, I think that these things often can be accomplished more safely, more effectively, and at lesser cost through carefully designed foreign assistance programs and skillful diplomatic engagement than by retreat back to our shores, to a new form of isolationism, or by resorting routinely to unilateral military intervention. The reliance on military force is, of course, our ultimate protection. But many of the problems we are now dealing with are amenable to resolution or subject to influence well short of that. This is a major change from the cold war.

This legislation undertakes, in effect, to impose on the executive branch a reorganization of the foreign policy functions of the Government. I am very frank to tell you that I think if the political situation were reversed and there were a Democratic Congress trying to impose this upon a Republican President, my colleagues on the other side of the aisle would be protesting very loudly that this was an inappropriate intrusion into the functions of the Chief Executive, an improper effort to limit the executive's ability to determine the organization of the foreign policy agencies.

Unfortunately, there is not a shared approach on this bill. It was reported out of the committee on a straight party-line vote. It confronted a similar situation on the floor until some concessions were made. Unfortunately, when we got to conference, most of those concessions were abandoned. So the bill now before us is markedly different than the bill that passed the Senate.

I did not support the bill that passed the Senate, and since it has worsened in conference, by definition I would not support the conference report. But for those who did support the Senate bill, I want to underscore the fact that the bill now before us is markedly different from what moved out of the Senate. Moreover, in my judgment, in virtually every instance it is different in the wrong direction. In other words, there is even less reason to support this legislation, and more reason to oppose it.

There are many troubling provisions in this legislation. Let me just touch on some of them. I am not going to try to cover them all. I know the hour is late, and others wish to speak.

I have talked about the reorganization proposal that provides for mandatory elimination of at least one of the foreign policy agencies. I happen to think that these agencies are doing a good job, particularly under the restructuring efforts that are taking place internally, and in that regard I particularly cite for commendation the efforts at AID. Under the able leadership of the Administrator, Brian Atwood, that agency has been streamlined and energized in order to do its job more effectively.

Secondly, this authorization bill would have the effect of providing caps on appropriations—in other words, of setting ceilings on spending—which are far below the levels necessary to conduct foreign policy and to sustain our interests overseas. I think we are going to face important challenges in the coming years. I do not think we ought to hamstring the ability of the Executive to deal with them. I simply offer to my colleagues on the other side the proposition that they have one of their own now seeking to be the Chief Executive, and they ought to stop and think twice whether they would want him hobbled and hamstrung, as I believe this legislation would do.

This legislation imposes very severe cuts in terms of U.S. participation at the United Nations. I know for many people, the United Nations is not the most popular agency, but let me simply submit to you, if we did not have the U.N., we would have to invent it. In many instances, the United Nations helps us to achieve important U.S. foreign policy objectives. Often when a situation breaks out around the world, the first reaction everyone has is, "Well, the United Nations ought to do something about it," and, in many instances, the U.N. has done something about it very successfully.

We are now the largest deadbeat at the U.N. in terms of meeting our dues and assessments. I think for a Nation which constantly asserts that it is the world's leader, this is a sorry state of affairs. Unfortunately, the conference report before us would only exacerbate this situation.

Furthermore. this legislation makes such drastic changes with respect to AID that I doubt very much that that agency would be able to continue to function in any meaningful manner.

In that regard, I ask unanimous consent that a letter from 20 religious and faith-based organizations be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. Mr. President, this is a letter from 20 religious and faith-based organizations urging opposition to H.R. 1561.

Let me quote from that letter urging this opposition to the conference report:

> . . . The bill would eviscerate further the U.S. commitment to self-help development for poor people in the developing world.
>
> We are particularly troubled by the bill's proposal to abolish the Agency for International Development.

They then go on to say that this would be a misordering of U.S. priorities; that support for poverty eradication and self-help development should be a primary objective of U.S. foreign aid and that it should be administered by an independent agency.

They then discuss other matters in the legislation about which they are very concerned. I think this is a very thoughtful letter, and I hope my colleagues will examine it very closely.

Mr. President, the administration has indicated that they will veto this legislation, as I think they should. I have not discussed some of the particular regional matters. A number of my colleagues have discussed the Taiwan Relations Act and the impact that this has on the United States relationship with Taiwan and on our relationship with the People's Republic of China. I do not think the provisions that are in this legislation have been carefully thought through, and if they were adopted we could run a high risk of destabilizing the situation and contributing to heightened tensions in the region.

Others, I know, have talked also about the family planning implications of this legislation and the fact that it misses an opportunity to correct appropriations restrictions that are having a deleterious impact on women and families in the developing world. This is voluntary family planning services that we are talking about. It is not the abortion issue. I am talking about programs that are designed to make family planning information and services safe and accessible, programs that have had a positive impact around the world. In fact, U.S. foreign assistance does not provide funding for abortion. What we are talking about here are international family planning programs which have been in place for many, many years and traditionally are strongly supported on both sides of the aisle.

So, in summary, Mr. President, I think this legislation falls well short of what we should be enacting into law. I very much regret that the end product is, in my view, essentially a partisan affair. We ought not to be formulating our foreign policy that way, but that is what has happened here.

I would also like to commend Senator KERRY of Massachusetts, who has made a yeoman's effort to reach out in an inclusive way and to try to shape reasonable legislation. I very much regret that that was not achieved, and I urge my colleagues to vote against the conference report.

Mr. President, I yield the floor.

EXHIBIT 1

20 RELIGIOUS AND FAITH-BASED ORGANIZATIONS URGE OPPOSITION TO H.R. 1561, THE FOREIGN RELATIONS REVITALIZATION ACT OF 1995

DEAR SENATOR: We strongly urge your opposition to the conference report on H.R. 1561, the Foreign Relations Revitalization Act of 1995, when it is considered by the full Senate. The bill would eviscerate further the U.S. commitment to self-help development for poor people in the developing world.

We are particularly troubled by the bill's proposal to abolish the Agency for International Development. The harm posed by such a proposal is not undone by the provision allowing a presidential waiver of the requirement to abolish two foreign policy agencies. While we support the reform of AID, we do not believe that transferring its functions to the State Department would accomplish such reform. To the contrary, we believe strongly that U.S. assistance for development should be administered by an agency separate from the State Department so that the long-term needs for sustainable development are not sacrificed for short-term political objectives. Assistance in support of political objectives already accounts for the majority of U.S. foreign aid. This, in our view, represents a serious misordering of the priorities that should govern U.S. foreign assistance. We believe that support for poverty eradication and self-help development should be the primary objective of U.S. foreign aid and that it should be administered by an independent agency.

We are also concerned about the funding levels for a number of programs as authorized in the legislation. We believe that funding for U.S. contributions to international organizations, including the general budget of the United Nations, is inadequate. We also believe that funding for U.N. peacekeeping activities for FY 97 is insufficient. We believe that it is imperative that funding be approved that, at a minimum, will not increase the arrearages in U.S. contributions to the U.N., including peacekeeping activities. Continued U.S. disregard for treaty obligations related to assessed contributions will further undermine U.S. leadership in the world.

We oppose the militarization of the international narcotics control program and are especially concerned that funding would nearly double in FY 97 to $213 million. The program has proven largely ineffective in reducing the volume of illicit drugs entering the U.S. At the same time it has strengthened foreign militaries that have engaged in serious and systematic human rights violations.

The bill contains a number of constructive refugee and migration policy provisions that deserve support. We regret that these provisions may not be enacted because of objectionable provisions throughout the rest of the bill.

We are encouraged by the Administration's statement that the President will veto the bill if it is presented to him in its current form. We hope that there will be sufficient opposition in the Senate to defeat the measure, making such a veto unnecessary. We urge you to oppose the bill.

Sincerely,

David Bechmann, President, Bread for the World; Mark Brown, Associate Director for Advocacy, Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America; Imani

VOL 142 PT 5 MR 21 — 29 1996 UMI

Countess, Executive Director, Washington Office on Africa; Michael Dodd, Director, Columban Fathers Justice and Peace Office; Bill Dyer, Justice and Peace Officer, Missionaries of Africa; Richelle Friedman, Lobbyist, NETWORK, A national Catholic Social Justice Lobby; Jaydee R. Hanson, Assistant General Secretary, Ministry of God's Creation, General Board of Church and Society, United Methodist Church; Maureen Healy, Africa Liaison, Society of St. Ursula; Rev. Dan C. Hoffman, Area Executive, Global Ministries of the United Church of Christ/Disciples of Christ; Rev. Elenora Giddings Ivory, Director, Presbyterian Church (U.S.A.), Washington Office; Kathryn J. Johnson, Interim Director, Asia Pacific Center for Justice and Peace; Jay Lintner, Director, Office for Church in Society;/United Church of Christ; Erich D. Mathias, Program Associate, Global Ministries of the United Church of Christ/Disciples of Christ; James Matlack, Director, Washington Office, American Friends Service Committee; Timothy A. McElwee, Director, Washington Office, Church of the Brethen; Terence W. Miller, Director, Maryknoll Justice and Peace Office; Richard S. Scobie, Executive Director, Unitarian Service Committee, Lawrence Turnipseed, Executive Director, Church World Service; George Vickers, Executive Director, Washington Office on Latin America; Kathryn Wolford, President, Lutheran World Relief.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I yield myself up to 6 minutes off the time Senator KERRY has reserved.

Mr. President, I also oppose the Foreign Relations Revitalization Act of 1995. In my view, it is wrongheaded legislation and, if enacted, it will undermine our national interests. The legislation, in fact, does undermine the President's constitutional mandate to conduct the foreign affairs of the Nation. By passing a bill such as this, we would be trying to run America's foreign policy out of this Chamber rather than allowing the Executive to conduct the Nation's foreign policy.

Among my concerns about this act is the forced consolidation of agencies. By passing the act, we would tell the President that he is required to eliminate at least one foreign affairs agency, either the Arms Control and Disarmament Agency, the U.S. Information Agency, or the Agency for International Development. When the goal becomes putting the Government out of business and wrecking departments and agencies in some haphazard approach without carefully considering the consequences that a particular agency's termination might have, then something has gone very wrong.

Furthermore, the authorization levels that are provided in the bill will force other organizations to retreat further from engagement in world affairs.

America needs to pursue its interests vigorously in international affairs and to assure that the interests of American citizens are promoted. Withdrawing from the world will only help to make our citizens victims of emerging problems to which we will be ill-equipped to respond if this bill becomes law.

The legislation sets authorization ceilings in fiscal years 1996 and 1997 that are far below the levels necessary to conduct the President's foreign policy and to properly maintain U.S. interests abroad in such areas as overseas posts, foreign affairs agencies, arms control and nonproliferation activities, international organizations and peacekeeping, public diplomacy and sustainable development.

In this bill, the Congress is recklessly venturing into an already stressful set of complex problems between the People's Republic of China and Taiwan. By amending the Taiwan Relations Act to state that the act supersedes the provisions of the 1982 joint communique between the United States and China, as the bill instructs, we are certain to pour oil on a smoldering flame. Many commentators and scholars argue that this would be seen as a repudiation of a critical and stabilizing element of the longstanding United States policy toward China.

This bill also expresses the sense of Congress that the President of Taiwan should be admitted to the United States for a visit this year with all appropriate courtesies. We have already gone down that road once. It seems clear to me that it is foolish, if not dangerous, for us to do so once again.

My list of concerns continues in that that bill prohibits any funds from being used to open, expand or operate a diplomatic or consular post in Vietnam unless a number of compliance items are met by Vietnam.

I am not going to debate whether those compliance guidelines are important. I believe that they are probably valid things to pursue, but not as a condition to establishing an embassy or getting it operating. This is cold war legislation that does not appear to recognize that the cold war is over and that the world has moved on. It is not appropriate for this Chamber to micromanage the President's foreign affairs initiatives in this manner.

On other fronts, the Foreign Relations Revitalization Act compels the United States to downgrade its participation in the United Nations, significantly restricts our country's ability to coordinate peacekeeping efforts and intelligence activities, when global stability issues are at stake. Our role in the United Nations is something that certainly deserves national discussion and debate, but this bill presupposes the answer to that discussion.

Mr. President, this act should be rejected. It clearly does not further the best interests of the American public. I urge my colleagues to vote against its passage.

Mr. President, I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 117 minutes.

Mr. NUNN. I will not need all that time. But could I inquire of the Chair what happened to my 3 minutes?

The PRESIDING OFFICER. There were three quorum calls, equally divided. Each one took 1 minute.

Mr. NUNN. I thank the Chair. I can assure my colleagues I will not need all of my time.

Mr. President, I rise in strong opposition to the conference report on H.R. 1561, the Foreign Relations Authorization Act for fiscal years 1996 and 1997. Although I have a number of problems with the conference report, Senator BINGAMAN from New Mexico and others have identified a number of problems that I will identify myself with. I would like to focus my remarks on the provisions relating to China.

Mr. President, I am relieved that tensions in the Taiwan Strait appear to be easing in the aftermath of Democratic elections in Taipei. We are already very proud of what occurred in Taipei and proud of the people in Taiwan for carrying out their democratic elections under great pressure from the mainland.

I am pleased that the Governments of the People's Republic of China and Taiwan are now making conciliatory statements. I hope a high level of dialogue between these two Governments can take place in the near future.

Mr. President, it would be truly ironic if China and Taiwan begin moving down the road to improving their relations while we take actions in the U.S. Congress that will further the deterioration in the relations between the United States and China. I would find that very ironic. But I am afraid that that is what this act will do.

Before I discuss the specific provisions of this conference report, I would note that the Senate passed a concurrent resolution last Thursday expressing the Sense of Congress regarding missile tests and military exercises by China. As I noted in my floor speech on that concurrent resolution, which had bipartisan support and passed by a vote of 97 to 0, it was "well-reasoned and responsible and * * * designed to make a constructive contribution to the situation."

The concurrent resolution reviewed the history of the three joint communiques under three different Presidents, noted the adherence to a one-China policy by the administrations of Presidents Nixon, Ford, Carter, Reagan, Bush, and Clinton, and "deplored" China's missile tests and military exercises as "potentially serious threats to the peace, security, and stability of Taiwan, and not in the spirit

of the three United States-China Joint Communiques."

The concurrent resolution went on to cite provisions of the Taiwan Relations Act and ended by stating that—

> The Government of Taiwan should remain committed to the peaceful resolution of its future relations with the People's Republic of China by mutual decision.

Mr. President, the concurrent resolution the Senate passed last week was responsible and was designed to make a constructive contribution to the situation. Unfortunately, the China provisions of the conference report are, in my view, not responsible and not constructive.

I will just go into detail on a couple of the most troublesome provisions. Section 1601 of the Foreign Relations Authorization Act now pending would amend the Taiwan Relations Act to provide that the Act supersedes the provisions of the 1982 Joint Communique issued under President Reagan.

Mr. President, if it is a matter of law, and it is, that the Taiwan Relations Act supersedes the communique, then that already happened without any declaration of the Senate. Less than a week after the Senate, without one dissenting vote, specifically pointed to the three United States-China Joint Communiques, this act, if it becomes law, could be interpreted as nullifying the validity of one of those joint communiques.

Just to go into details of the 1982 Reagan Joint Communique, it stated in part that—

> The Chinese Government reiterates that the question of Taiwan is China's internal affair. The message to compatriots in Taiwan, issued by China on January 1, 1979, promulgated a fundamental policy of striving for peaceful reunification of the motherland. The Nine-Point Proposal put forward by China on September 30, 1981, represented a further major effort under this fundamental policy to strive for a peaceful resolution to the Taiwan question.

Then section 5:

> The United States Government attaches great importance to its relations with China, and reiterates that it has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs, or pursuing a policy of "two Chinas" or "one China, one Taiwan."

Then section 6:

> Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arm sales to Taiwan will not exceed either in qualitative or quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually the sales and arms to Taiwan, leading over a period of time to a final resolution. In so stating, the United States acknowledges China's consistent position regarding the thorough settlement of this issue.

Mr. President, I believe it is instructive and very important for the Senate, because this is an important vote—I do not know whether people are listening. I do not know whether people have studied this act. I do not know whether people understand the far-reaching implications of this, but this is one of the most important votes we will make this year.

I believe it is instructive, particularly for colleagues on the Republican side of the aisle, to note that President Reagan issued a statement in conjunction with the 1982 Joint Communique, which was prepared by the Reagan administration.

In that statement President Reagan stated that—I am quoting—

> Regarding future U.S. arms sales to Taiwan, our policy, set forth clearly in the communique, is fully consistent with the Taiwan Relations Act.

Mr. President, if President Reagan was right in that carefully crafted statement—this was not a speech off the cuff or a remark he made on television or anything of that nature. This was a very carefully crafted statement by President Reagan in 1982, that went along with the communique with China.

Again, I want to point out the most important sentence that he said in that statement that relates to this act tonight. He states:

> Regarding future U.S. arms sales to Taiwan, our policy, set forth clearly in the communique, is fully consistent with the Taiwan Relations Act.

Mr. President, the pending legislation strongly implies that President Reagan was wrong in this carefully crafted statement in 1982. If the Taiwan Relations Act is inconsistent with the 1982 Joint Communique, President Reagan was wrong, and this act would be viewed as creating a new interpretation of United States-China policy.

Make no mistake about it: If President Reagan was right in his statement, then there is absolutely no need for this act to refer to any kind of superseding of the joint communique—if he was correct. If he was wrong, all these years under both President Reagan, President Bush and under President Clinton, then we have had a communique which the State Department, our policy, our three Presidents, have felt was consistent with the Taiwan Relations Act and which we have been following regarding arm sales and so forth, that, in effect, is now being implicitly overruled.

Do we really want to implicitly take a step tonight that could be viewed and certainly will be viewed by China and by others in the world as creating a new interpretation of United States-China policy by law? Are we prepared to do that? That is what this legislation does. If that is what the Senate wants to do tonight, people can go right ahead and vote for it. It will pass, and the President will have to decide what to do.

I do not believe the Senate of the United States is focused on this, and I do not believe my colleagues thoroughly understand the very profound implications of this, in effect, declaration, or implied declaration, that the Taiwan Relations Act is inconsistent with President Reagan's joint communique with China of 1992.

To continue quoting President Reagan in the statement he made after the joint communique, not part of the joint communique: "Arms sales will continue in accordance with the Act and with the full expectation that the approach of the Chinese Government to the resolution of the Taiwan issue will continue to be peaceful."

Do we want to implicitly overrule that sentence? Do we want to implicitly overrule the first sentence that I have already read twice, but will read again, "Regarding future United States arms sales to Taiwan, our policy, set forth clear in the communique, is fully consistent with the Taiwan Relations Act"? Which of those sentences do we want to implicitly state has been superseded by the Taiwan Relations Act?

"Arms sales will continue in accordance with the Act and with the full expectation that the approach of the Chinese Government to the resolution of the Taiwan issue will continue to be peaceful." Is that statement wrong? Is the first statement wrong? That seems to be what we are saying.

"We attach great significance," again, President Reagan's statement, "We attach great significance to the Chinese statement in the communique regarding China's 'fundamental' policy; and it is clear from our statements that our future actions will be conducted with this peaceful policy fully in mind."

Continuing from President Reagan, "The position of the United States Government has always been clear and consistent in this regard. The Taiwan question is a matter for the Chinese people, on both sides of the Taiwan Strait to resolve. We will not interfere in this matter or prejudice the free choice of, or put pressure on, the people of Taiwan in this matter. At the same time, we have an abiding interest and concern that any resolution be peaceful. I shall never waiver from this fundamental position."

Mr. President, this legislation, in effect, says that President Reagan did not know what he was doing when he made that statement, that the Taiwan Relations Act itself superseded the joint communique, because it was inconsistent with it. There is no reason for it to supersede the joint communique unless there is an inconsistency. If there is no inconsistency, there is no reason to say it supersedes it, because the consistent joint communique would not be overruled by a consistent United States law, which the Taiwan Relations Act is—it is law. There is no doubt about that.

VOL 142 PT 5 MR 21 — 29 1996 UMI

President Reagan made it clear in his Presidential statement that the reduction in arms sales to Taiwan is based upon the premise, as expressed in the joint communique, that the Taiwan question will be settled peacefully.

Mr. President, China believes that Taiwan has acted in ways that are inconsistent with the one-China policy. No question but that is what China believes and is the basis of a lot of their action. Taiwan contends it does not seek independence. President Li has said that. President Li has also restated his desire for peaceful reunification with the mainland.

China, in my view, has greatly overreacted to its perceptions by conducting missile launches and military exercises which I believe are inconsistent with the other fundamental principle of settling the Taiwan question peacefully. I happen to believe that what China has done in recent weeks is counterproductive to its own purpose, which is, as stated, eventual peaceful reunification.

The Taiwan Relations Act of 1979 was enacted at the time of the establishment of diplomatic relations between the United States and China, a diplomatic act which established the principle of one China. The Taiwan Relations Act was needed to create a foundation for dealing with Taiwan in the aftermath of the end of diplomatic relations with the Republic of China. It did not, nor did it need to, refer to the one-China principle, because it focused instead on ensuring that the Taiwan question was settled peacefully by ensuring that Taiwan had the means to defend itself.

Enactment of section 1601 of this act pending before us now, which is the pending conference report, could be interpreted—and I say would be interpreted by many—to say that the Taiwan Relations Act is inconsistent and even supersedes the principle of one China. I do not believe that is what the authors intended to do here. Perhaps they can clarify that.

I am fearful that a number of people in the world, including China itself, could very well interpret this legislation as superseding the principle of one China. This is a complex, complicated area where words really do matter. I think we should be very careful this evening.

Mr. President, I believe China's provocative military actions have been dangerous and counterproductive to China's interest and certainly to the interest of stability in that area of the world. I believe that China has greatly overreacted on the subject of Taiwan. The enactment of this conference report will make the situation worse because it would undercut one of the two main principles of our relationship with China and could give the Chinese—probably would give the Chinese—the impression that the United States was no longer willing to live up to its commitments as set out in the three joint communiques by President Nixon, President Carter, and President Reagan, and followed by the other Presidents, including President Bush and President Clinton.

Mr. President, I believe this legislation, if it passed and became law, would be a very, very serious mistake, one of the most profound mistakes this Congress has made and probably any Congress has made in recent years. I think it would take our troubled relations with China and turn them into a real downward spiral of additional trouble.

Mr. President, I also would like to call the Senate's attention to section 1702 of the act, the Declaration of Congress Regarding U.S. Government Human Rights Policy Toward China. Within this section, it is expressed in the sense of the Congress that "The President should decline the invitation to visit China until and unless there is a dramatic overall progress on human rights in China and Tibet and communicate to the Government of China that such a visit cannot take place without such progress."

Mr. President, this is exactly what we have done in this country under two Presidents, President Bush and President Clinton, for the last 7 years. It does not appear to be working very well. This is basically a freezing, if we took the sense of the Congress seriously—if the President did—a freezing of the status quo.

Mr. President, while I believe it is counterproductive to our own goals to make human rights in China the centerpiece and the be-all and end-all of United States-Chinese relations, I do not think we further our goals when we do that, including our human rights goals. The United States has a strong interest in seeing respect for human rights improve in China and, indeed, all over the world. The enactment of this provision or any provision similar to it would run counter to the very actions the United States must take in order to address and help constructively resolve the differences between the United States and China, including, but not limited to, progress on human rights.

Mr. President, I think a lot of people forget that the United States has 38,000 troops in Korea. We have the most isolated regime in the world, North Korea, that is not only on a quest—or has been up until the last year—to become a nuclear power, but also has, according to reports, increasing problems with starvation, including predictions by most organizations that the problems are going to get worse in the next 3 or 4 months.

Mr. President, one of the things that people do not recognize is that China has been very, very constructive in terms of the United States' position on the Korean Peninsula, both in terms of encouraging North Korea to behave in the nuclear area and also encouraging the parties there to resolve their differences with dialogue and without a war.

This is a dangerous situation in Korea. We have 38,000 troops there. In our relationship with China, we appear to forget altogether about the connection between China and the situation in Korea.

I do not see how we can do that and keep our minds on our duty to our own military forces that are stationed there. But it seems to be completely ignored in all of our debates about China. I would say, on the one side, people on the left seem to believe that, in China, 10 dissidents is on the same level, at least, with the whole United States question on the Korean Peninsula. People on the right seem to believe that we can take positions that basically unravel, or at least implicitly unravel, communiques entered into by Presidents Reagan, Carter, and Nixon, and we can do that with impunity, and we can forget any relationship between what we do vis-a-vis China in terms of keeping our agreements, and what they may do regarding helping us resolve the Korean situation peacefully.

There are a lot of other mutual interests we have with China, but they get lost in this atmosphere. Perhaps they will continue to get lost until we have the kind of high-level dialogue between the President of the United States and the President of China, and between our Secretary of State and their Foreign Minister, that can begin to talk about mutual interests and resolve the differences, which are differences of considerable importance, within the framework of working as partners with mutual interests. That is not possible in the current atmosphere.

But what this bill says is that we should place human rights in China and in Tibet above anything else. The Korean Peninsula, the nuclear quest for arms in Korea, the 38,000 American troops that are in Korea, the stability of Northeast Asia, and even Taiwan-China relations. We are saying—if you take this seriously—that the President should not have any kind of visit to China until they act, in American terms, acceptably on human rights both in China and Tibet.

Mr. President, on human rights, I think the United States is unique. But we will really be unique if we take this resolution seriously, because we would be the only country in the world that takes that position. Not a single ally—not one—has taken the position that their head of State should not visit China. That is what we are saying here—that the President should not visit China.

Mr. President, maybe we do not take these sense-of-the-Congress resolutions seriously. They are not law, and would not be binding the President. If we do not take them seriously and they are not important, how do we expect anybody else to take them seriously? Unfortunately, when we put resolutions like this in the bill, the only people that take them seriously are the people they affect adversely. And they react adversely. So I do not know what we are really trying to say here. But I know it is counterproductive. It would postpone, if not preclude, efforts to establish a much-needed strategic dialogue between the United States and China. Clearly, the dialog with China is more important than ever at this time— unless we really want to go into a period of years of cold war and dangers of something far worse than cold war, in that part of the world.

For the strategic dialogue between the United States and China to be successful in working to resolve our differences, participation is required on the highest levels of leadership. That means the President of the United States has an active role to play, whether it be President Clinton or President DOLE in 1997. How soon this resolution would apply to "President" DOLE, saying to him, "You should not have any Presidential visit or dialog with China until they meet our terms on human rights"—I really have a hard time believing that we are serious about saying this.

So whichever President is elected in 1996, that is what this resolution is saying. This is indefinite. This resolution says we do not think you should ever visit China until you have resolved the human rights questions in China and Tibet to our satisfaction.

Mr. President, we have not treated any other country in the world this way. We do not treat Russia that way right now. We expect the President of the United States to meet with President Yeltsin, but most of us deplore what is happening in Chechnya, the continued killing of a tremendous number of innocent people there. We do not say to the President, "Do not visit Russia."

Mr. President, people forget that we are very proud of what Taiwan has done. Taiwan had an election under very serious pressure. We are proud of their economic progress. All of us have very close friends in Taiwan. These are some of the most productive, energetic people in the world. And this country is always going to have a very friendly relationship with the people in Taiwan.

We were very patient with Taiwan. They were not a democracy, in our sense of the word, for years and years. We are celebrating democracy now. For 35 years, we supported Taiwan when they were not a democracy. We have had the same thing with the South Koreans. We celebrate what is happening in South Korea now, with the democratic election of a President. We went for years and years and years, where we spent literally billions of dollars helping defend South Korea when they did not meet our definition of human rights. It is only in recent years that they have. And now we single out China and say, "We do not want our President talking to you, or visiting you, or having any dialogue with you, until you meet our definition of human rights."

I really do not believe the Senate of the United States wants to say this tonight. That is what we will say if we pass this resolution.

Mr. President, 7 years have passed since an American President, or Vice President, has journeyed to Beijing, or the President, or premier, of China has been in Washington. This provision would say to the President: "please do not change this situation. This is a great policy. It is really working." Well, is it working? Does anybody think that helped our relations? I think this is a fundamental error that would be damaging to United States-China relations and United States foreign policy.

This conference report's provisions attempt to deal with differences with China by prohibiting initiatives and efforts that would help resolve the very differences that we are frustrated about.

Quoting from a speech I gave on China about 3 weeks ago:

> Not only must our expectations be realistic, but we cannot wait to engage extensively with China until it has become more like us. . . . We must engage with China and its current leaders now. . . . China's transition and its potential impels America, insofar as possible, to be actors on the scene.

Mr. President, China is determined to preserve the areas it considers part of China, including Taiwan, Hong Kong, Macao, and Tibet. Passage of this legislation will inevitably cause China to harden its position. We should not make miscalculations regarding this.

From the Chinese perspective, Tibet, like Taiwan, is considered to be an issue of sovereignty to be resolved internally by China and Tibet. In the Foreign Relations Authorization Act pending before us, it is expressed as the sense of Congress that "Tibet * * * is an occupied country under the established principles of international law." That is what we are saying in this bill.

Mr. President, as a matter of fact, longstanding United States policy is that Tibet is part of China. That is not a new policy by the Clinton administration. We have had that policy through a number of administrations. This is also shared by every member of the United Nations. Even the Dalai Lama does not go as far as this conference report. What are we doing? What are we doing? Do we know?

Mr. President, I view with concern section 1303 of the act, which advocates establishing a special envoy for Tibet. That is what we are voting on. This provision would have the United States establish a level of official relations with Tibet—if you take it seriously—that undermines our longstanding, established Tibetan policy. More important, this provision would weaken our ability to influence Chinese policies in Tibet and would greatly weaken our influence to protect the people in Tibet from abuses, which we all know have occurred.

My specific concerns are as follows: The proposed duties of the special envoy would duplicate and, I believe, greatly undercut responsibilities already being discharged by the United States State Department—that is, promoting dialog between the Dalai Lama and the Chinese Government concerning the religious and cultural integrity of Tibet and discussing the human rights problems in Tibet with Chinese Government officials.

The President has already appointed, the Senate has confirmed, and the Chinese Government has accepted an envoy to all of China—and that is the United States Ambassador, resident in Beijing—our former colleague, Ambassador Sasser.

The Chinese Government, in my view, would refuse to accept a special envoy for Tibet, and would in all likelihood make regular travel to Tibet impossible for United States diplomats.

Is that what we want? Do we want to imply that Tibet is separate from China, and do we want to have a separate United States envoy, and probably in all likelihood result in virtually cutting off access of the United States to Tibet? Is that what we want? Because that is what we are voting on.

Mr. President, this provision in my view would be counterproductive to its intended purpose. I am sure the purpose of the provision is to help the people of Tibet. My view is that it would be totally counterproductive to that end. The United States can maintain and promote good relations between the Dalai Lama and his representatives. We can promote the need for substantive negotiations to take place between the Dalai Lama, or his representatives, and senior members of the Government of China. We can coordinate United States Government policies, programs, and projects concerning Tibet, and we can carry out any other actions the President deems necessary with regard to Tibet without the need to establish a special envoy in the process.

The United States cannot solve the question of Tibet on the floor of this Congress. Only the people in Tibet and the people all over China, including Tibet, can resolve their differences. A special envoy could neither contribute to this dialogue nor foster a solution, but is likely to be totally counterproductive.

I will close by making just one additional observation on another provision, without getting into detail. Some

VOL
142
PT
5
MR
21
—
29
1996
UMI

of my other colleagues have already spoken on this. Section 1708 of the pending authorization bill states that "the President of Taiwan should be admitted to the United States for a visit in 1996 with all appropriate courtesies." Mr. President, this provision, to say the least, is unwise at this point in time—unless we want to deploy our aircraft carriers, several of them, to the region, and spend a great deal of the next several years in the Taiwan Strait.

PRIVILEGE OF THE FLOOR

Mr. NUNN. Mr. President, I ask unanimous consent that Maurice Hutchinson, legislative fellow of my staff, be admitted privileges of the floor during the consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I reserve the remainder of my time.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. NUNN. Does anyone else have time at this point?

The PRESIDING OFFICER. The Senator from Massachusetts has 52 minutes, and the Senator from North Carolina has 37 minutes.

Mr. NUNN. I yield to the former chairman of the Foreign Relations Committee and ranking Democrat, Mr. PELL, whatever time he desires.

Mr. PELL. Mr. President, I thank my colleague.

Mr. President, I regret that I am unable to support this conference report on H.R. 1561, the Foreign Relations Authorization Act, fiscal years 1996 and 1997. I recognize that House and Senate Republican conferees have attempted to find a middle-ground between the respective bills passed by each House and that this conference report is an improvement over the House-passed bill. Although there are some provisions in the bill that I support, I believe the bill is fundamentally flawed in four areas—reorganization of the foreign affairs agencies, funding for the Arms Control and Disarmament Agency and for our contributions to the United Nation, and American policy toward China.

This bill requires the President to abolish one of the foreign affairs agencies—AID, USIA, or CDA. There is no doubt that this is an improvement over the original language in the House bill, which mandated the abolishment of all three of these agencies. However, this conference report falls far short of the Senate bill, which sought to force consolidation through savings rather than the mandatory abolition of agencies. The Senate bill preserved the President's constitutional right to determine how to organize those agencies which carry out the foreign policy directives of the President of the United States. The conference report takes that away. I cannot support a bill which crosses this line and abolishes an important foreign affairs agency simply for the sake of abolishment. On an issue such as this I feel it is important for the Congress to acknowledge the prerogative of the President to organize the foreign affairs agencies in a manner which best serves the nation's interests and the President's foreign policy priorities.

As a strong supporter of ACDA and its mission, I am deeply disturbed by the inadequate funding levels for ACDA in this bill. The fiscal year 1996 authorization of $35.7 million represents a 28 percent reduction from the fiscal year 1995 level. The fiscal year 1997 authorization of $28 million is not only a 44 percent reduction from the fiscal year 1995 level, but cuts ACDA so deeply that it can no longer carry out its core missions, such as being our watchdog on proliferation, verifying arms control agreements, and monitoring compliance with new agreements. This is a foolish and costly approach at a time when our needs in the area of arms control are increasing, not decreasing.

The conference report also fails to authorize the necessary funds for the United States to pay assessed contributions to the United Nations and its related agencies. I agree that we need to do all that we can to force the United Nations to adopt serious management and financial reforms but failing to meet our treaty obligations is not the way to achieve this goal. It simply diminishes our influence and encourages other nations to take the same, ill-advised approach.

Finally, section 1601 of the conference report amends the Taiwan Relations Act [TRA] of 1979, to say that the provisions of the Act relating to arms sales to Taiwan supersede any provision of the joint communique, signed between the United States and China in 1982, limiting such arm sales. I believe this provision was added out of genuine concern for the people of Taiwan, a concern I share. But I also believe that this is the wrong approach to Taiwan's security problem and the wrong time to take it.

Our relationship with the People's Republic of China is at one of its lowest points in history, certainly the lowest point since the Tiananmen massacre. We have major disputes with the Chinese on a number of serious issues, ranging from trade to human rights to proliferation of weapons of mass destruction. While we will not back away from any of these issues, it is important that both governments act prudently and not unnecessarily damage the relationship further. But this bill does the opposite, by undercutting the basis for United States-Chinese relations. Section 1601 constitutes a unilateral revision of one of the cornerstones of the bilateral relationship. Adopting a measure like this would certainly cause a backlash from Beijing, by playing into the hands of hard liners in the Chinese leadership and aiding them in their attempt to promote an anti-Western, anti-United States agenda.

I also think this approach is likely to fail in its fundamental purpose of advancing Taiwan's security. For almost 3 weeks, we saw tensions rise in the Taiwan Strait as China tested M–9 missiles and held massive military exercises in an attempt to intimidate a Taipei it fears is heading toward a declaration of independence, aided by foreign powers. Just this week, after Taiwan's historic presidential election on Saturday, we are seeing some initial positive signs that both governments are reaching out to each other in order to move back toward a more stable relationship. A reversal of U.S. arms sales policy at this time would certainly hamper those efforts. It is very much in Taiwan's security interest that all three capitals work to defuse tensions, not inflame them. Section 1601 would further damage already strained relations with Beijing and likely endanger, rather than strengthen Taiwan. It is the wrong policy at the wrong time.

Mr. President, for these reasons, I intend to vote against this conference report. The President has indicated that he will veto this bill over the issues I have discussed as well as some others, and I ask unanimous consent that the administration's statement to that effect be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY H.R. 1561—FOREIGN RELATIONS REVITALIZATION ACT OF 1995

If the conference report on H.R. 1561 is presented to the President in its current form, the President will veto the bill. While steps have been taken to improve the bill, it still contains numerous provisions which do not serve U.S. foreign policy or U.S. national interests.

The principal reasons for the veto are:

Forced Consolidated of Agencies. The legislation interferes with the President's prerogatives to organize the foreign affairs agencies in a manner that best serves the Nation's interests and the Administration's foreign policy priorities. This bill mandates the abolition of at least one foreign affairs agency, and includes authorization levels that would force other organizations to retreat further from engagement in world affairs. The Administration has already implemented significant reinvention of and reductions in international programs and is working towards further streamlining and reorganization. H.R. 1561 fails to provide, however, the necessary flexibility for the Administration to manage the agencies that implement foreign policy, which is essential to United States leadership.

Authorization of Appropriations. The authorization levels included in the bill for FYs 1996 and 1997, which constitute ceilings on appropriations, are below the levels necessary to conduct the President's foreign policy and to maintain U.S. interests overseas in such areas as operating overseas

posts of foreign affairs agencies, arms control and nonproliferation, international organizations and peacekeeping, public diplomacy, and sustainable development. In addition, these levels would cause reduction-in-force (RIFs) of highly skilled personnel at several foreign affairs agencies.

Taiwan Relations Act. Section 1601 amends the Taiwan Relations Act to state that the Act supersedes the provisions of the 1982 Joint Communique between the United States and China. This would be seen as a repudiation of a critical and stabilizing element of long-standing U.S. policy towards China, increasing risks at a time of heightened tensions.

Relations with Vietnam. Section 1214, concerning the use of funds to further normalize relations with Vietnam, unduly restricts the President's ability to pursue national interests in Vietnam, and in particular could threaten the progress that has been made on POW/MIA issues and put U.S. firms at a competitive disadvantage. Legislation which restricts the opening of missions also raises constitutional concerns.

U.S. Participation in International Organizations. Provisions related to U.S. participation in the United Nations, which provide inadequate funding levels for FYs 1996 and 1997, and unworkable notification requirements would undermine U.S. diplomatic efforts to reform the U.N. and to reduce the assessed U.S. share of the U.N. budget. Furthermore, the provisions could interfere with ongoing Executive-Legislative Branch discussions aimed at achieving a consensus on UN funding and reform issues.

Housing Guaranty Program. Section 1111 would terminate several worthwhile country program, such as those in Eastern Europe and would eliminate any future programs, including those for South Africa. Additionally, this provision could inadvertently cause the cut-off of development assistance to many of the poorest countries of the world, as well as the cut-off of Economic Support Fund (ESF) anti-crime and narcotics-related assistance.

Family Planning. The conference report fails to remedy the severe limitations on U.S. population assistance programs placed in the FY 1996 foreign operations appropriations legislation. These restrictions will have a major, deleterious impact on women and families in the development world. It is estimated that nearly 7 million couples in developing countries, will have no access to safe, voluntary family planning services. The result will be millions of unwanted pregnancies and abortions.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I am going to suggest the absence of a quorum, but I want to ask unanimous consent that all quorum calls henceforth be charged proportionately.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, this has been cleared on both sides. I ask unanimous consent that the vote on the conference report occur at 9 p.m. tonight, with the time between now and the vote to be divided as follows: Senator BIDEN, for up to 20 minutes, and all remaining time under the control of Senator DOLE, the majority leader, or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RUSSIAN POULTRY MARKET

Mr. BIDEN. Mr. President, I have two comments I would like to make. I first would like to respond very briefly to a speech earlier in the day made by one of my colleagues before I discuss the foreign relations authorization bill pending before the Senate. I would like to address briefly the earlier comments of my good friend, the distinguished Senator from Arizona, regarding the President's involvement in resolving our trade impasse with Russia. The distinguished Senator suggests that it was inappropriate for the President to impress upon Mr. Yeltsin that the poultry industry is important to Mr. Clinton's home State, as well as to many other parts of America; I must say forthrightly, the single most important industry in my State.

Since Russia announced over a month ago that it was banning the import of all American poultry, I have been in daily contact with the White House, our Trade Ambassador Mickey Kantor, and our Agriculture Secretary Dan Glickman, to keep this $500 million market open to American poultry growers.

Fortunately, the hard work of the administration has paid off. Just this week the Russians announced that they are backing down. This would not, in my view, have been possible without the direct involvement of the President, the Vice President, Ambassador Kantor and Secretary Glickman.

Since 1982, Sussex County, one of our counties in Delaware, has remained the No. 1 broiler-producing county in the United States of America. The Delmarva peninsula is home to 21,000 poultry workers, and produces more than 600 million birds per year. It is a major supplier of the Russian poultry market.

Last year, for example, one major Delaware producer exported 1,300 tons of frozen poultry to Russia. Another exported $10 million worth of poultry products.

Those of us who understand this industry know that it is under increasing competitive pressure as grain prices soar and the price of other meats fall. But, they know how to prosper in a competitive environment. That is why we can ship higher quality poultry to Moscow and Saint Petersburg and still beat their prices. In turn, it is the responsibility of this and, I believe, every administration to maintain the open international markets that they need, not only for American poultry but for all American products. Keep in mind that Russia's market was closed as recently as 1991. Now, Russia purchases $500 million worth of poultry every year, and the market has been growing. This is just one of the many products they purchase.

This has been a real success story for American exports. Of American exports, the agricultural community is the only real success story in American exports of continuing, year-in-and-year-out consequence.

I, for one, think it is perfectly appropriate, as a matter of fact absolutely necessary, for the President of the United States, in this case President Clinton, to let President Yeltsin know just how important these exports are. I cannot think of any better way for a President to drive the point home than to make this issue personal.

I wanted very much for the President to successfully resolve this problem of the poultry industry. As any negotiator on the floor of this Senate understands, the one way in which, on a close call, we all appeal to our colleagues ultimately is we say: This is personal to me. This is personal to me.

Mr. Yeltsin is a politician. Every world leader is a politician. Politicians in international relations react no differently than politicians on the Senate floor.

I think it was perfectly appropriate and necessary for the President to use everything in his arsenal to convince the Russians not to violate international trade agreements with regard to poultry or anything else.

Mr. President, I believe that the people who disagree with the President acknowledge he is a master communicator. You can bet Yeltsin got the message.

So let us keep the big picture in mind and not get hung up on questions of style. The results, which are keeping 500 million dollars' worth of export markets open, speak for themselves. I

VOL
142
PT
5
MR
21
—
29
1996
UMI

think this is an important achievement on President Clinton's part and an important international trade issue. Had he failed, it would have set the precedent for significant trade consequences for the United States, and not just in poultry. I think most Americans, regardless of political party, feel the President did the right thing. I know I think he did the right thing.

AGAINST BACKDOOR ISOLATIONISM

Mr. BIDEN. Mr. President, I would now like to register my strong opposition to the question we are about to vote on, the conference report on H.R. 1561, the Foreign Relations Authorization Act.

In spite of some modifications, this report still, in my view, suffers from the fatal flaws that afflicted the Senate bill which we voted upon in December and I voted against.

This conference report would abolish three agencies that continue to serve the interests of the American people: The Arms Control and Disarmament Agency, the U.S. Information Agency, and the U.S. Agency for International Development.

While unwisely folding these agencies into the Department of State, it would severely cut funding for diplomatic activities, thereby further undermining our ability to carry out a coherent foreign policy.

The report also includes a sadly inadequate sum for foreign assistance, contains language that would be extremely damaging to POW/MIA identification in Vietnam, unwisely tampers with the 1982 joint communique with China, and generally attempts to give the impression that it is an internationalist piece of legislation.

Mr. President, the intent and impact of this legislation is not internationalist at all. No, the report is, in fact, yet another attempt at backdoor isolationism, in my view.

The legislation has its genesis in a deeply flawed ideological belief that no matter what the objective facts are, less Government tomorrow is better than whatever level of Government we have today. Following this simplistic logic, we have three independent agencies today so let us have two, or one, or even none tomorrow.

Never mind that all three agencies—ACDA, USIA, and AID—have all made significant strides in restructuring their activities and saving large sums of money and large sums of taxpayer dollars on their own accord.

Never mind that the missions of all three of these agencies are even more important today than they were during the cold war.

Less is more, so hack away. If this act were anything more than a numbers game, it would not blithely give the President a waiver authority to save up to any two agencies of his choice. It is like picking draft choices. I will trade you one and you pick any two you want.

It has nothing to do with anything other than the notion that less is better. For, if it were otherwise, we would say, "Mr. President, you must deal specifically with this agency or that agency." This, however, is like giving up future draft choices.

The legislation appears at first glance to have been crafted in blissful ignorance, both of what has been going on in our foreign policy apparatus for years and what it takes to conduct American foreign policy around the globe today.

How else could one explain ignoring ACDA's increasingly critical watchdog role in nuclear nonproliferation. It does not matter that the cold war is over. We now face the danger of nuclear weapons in the hands of several new countries, including rogue States like Iran and Libya.

Moreover, terrorist groups threaten to get ahold of nuclear material for the purpose of blackmailing entire cities and potentially nations. Now, more than ever, we need the proven expertise and independent judgment of ACDA.

Can we really believe that the drafters of this legislation are unaware of USIA's technologically sophisticated efforts to bring America's message to the world? Do they also not know that American public affairs officers are often our embassies' most proactive diplomats? Can they not see that merging them into a large bureaucracy would inevitably smother their creativity?

Mr. President, is it credible to believe that the innovative public-private enterprise funds that USAID has pioneered in Central and Eastern Europe have escaped the notice of the sponsors of this legislation? Do they really not comprehend that development aid is a cost-effective way to head off crises around the world?

No, I think the answer to all these questions is clear: Less is more, so let us slash, let us slash.

It is bad enough that absorbing these agencies would rob them of their independence that has served this Nation so well for decades. But, Mr. President, this legislation adds insult to injury by denying the State Department the necessary funding to adequately carry out the new functions it will now inherit, along with its current duties as the principal vehicle for the carrying out of U.S. foreign policy.

The sponsors of this legislation would have us believe that a profligate and bloated bureaucracy needs to be cut down to size. In my view, nothing can be further from the truth.

The international affairs budget is now 45 percent lower than it was in 1984.

Altogether, it represents only 1.3 percent of Federal spending.

Over the past 3 years alone, the State Department's budget has been cut in real terms by 15 percent, at the same time the Department's responsibilities have been increased with the birth of many new countries out of the wreckage of the Soviet Union.

We see what is happening in Bosnia. We know what is happening in all the former Soviet republics, and it makes sense for us not to have a presence there? It makes sense for us not to be involved? It makes sense for us to close embassies? It makes sense for us not to open consulates?

I cannot believe that is what is motivating this legislation. It is simply this notion that we should cut and slash.

Forced to respond to these fiscal stringencies, the State Department has taken some very painful measures:

It has cut its total work force by 1,700 persons.

It has downsized the Senior Foreign Service by almost one-fifth, and, in my opinion, this measure is a thoughtless waste of a national resource.

It had to cancel, for example, the 1995 and 1996 Foreign Service examinations—in effect, a tragic waste of a future national resource, namely, the best and the brightest college and university graduates who will be unable to join our diplomatic corps and serve this Nation.

It has cut its administrative expenses by nearly $100 million. Anyone visiting an American embassy abroad has seen our highly trained professionals doubling- and even tripling-up in cramped office space, even as they routinely work 12 hours a day or more.

Yet, Mr. President, some politicians see fit to use the Foreign Service and other agencies as whipping boys in an attempt to fuel this mindless anti-Government feeling that afflicts some of our fellow citizens.

I regret to say that last summer, one of our colleagues and a good friend of mine castigated American diplomats for allegedly working in "marble palaces" and "renting long coats and high hats" only a few weeks after Bob Frasure, Joe Kruzel, and Nelson Drew were killed on the Mt. Igman Road above Sarajevo—working not in a marble palace, but in an armored personnel carrier, and wearing fatigues, not long coats and high hats.

Finally, the State Department has been forced to close a string of diplomatic posts, thereby severely hampering our ability to carry out political, economic and cultural diplomacy in an increasingly competitive world.

I come from a State where there are a number of multinational corporations. They have historically—not solely, but in part—had access and information provided to them through economic and commercial officers at our consulates and our embassies. Why are we closing them? In the name of economy, in the name of the long-term future of American economic growth? What is the reason?

From all this, any objective observer, in my view, can see that the foreign policy apparatus of the United States has already been pared down to the bone.

What does this legislation do? After mandating that the State Department assume the functions of ACDA, USIA and AID, it calls for further budget cuts of $1.7 billion over the next 4 years.

I think this is a shell game which ends with nothing left under any one of the shells.

In effect, this legislation will also cripple our ability to head off crises around the world through diplomacy that this President and future Presidents of the United States will be faced with the stark choice of either doing nothing or sending in the military.

Let me make a truly radical suggestion, Mr. President. This year we gave the Pentagon $7 billion more than it asked for. I have consistently supported keeping the U.S. military the strongest military in the world, and I continue to do so.

But why not give the Pentagon only $5 billion more than it asked for and transfer the remaining $2 billion to the international affairs budget, keep the three agencies functioning, and enable this country to get back into the big leagues of international diplomacy?

Unfortunately, with our backdoor isolationists in control of this Congress, this perfectly sensible suggestion, I believe, is totally impossible.

No, Mr. President, this conference report is a triumph of ideologically driven romanticism. It speaks to an earlier, simpler age.

Unfortunately, though, we are approaching the turn of the 21st century. The world is ever more complex, not simple, and closing our eyes will not make the complexity go away.

This bogus administrative reform, combined with purposefully punitive budget cuts, is no more than backdoor isolationism, in my view.

This conference report ought to be titled "The Smoot-Hawley Foreign Policy Act of 1996."

It is a blueprint for the affairs of an inward looking, minor nation, not the world's only remaining superpower.

As you might guess, I will cast my vote against this backdoor isolationism, and I urge my colleagues on both sides of the aisle to do the same.

This is not a time to turn inward. This is a time to look outward. This is a time to claim our mantle, to engage in diplomacy, and to help shape a world that will make it safer and economically more viable for Americans to live in.

I thank my colleagues for their indulgence and yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, the majority leader has suggested that in order to enable Senators to get home a few minutes earlier, that we start the rollcall vote immediately, but to run it on for there to be plenty of time for Senators to arrive. So I make that unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask for the yeas and nays. I thought they had already been ordered.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the conference report to accompany H.R. 1561. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Arkansas [Mr. PRYOR], and the Senator from Nebraska [Mr. EXON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 44, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—52

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—44

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Reid
Robb
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—4

Exon
Mack
Pryor
Rockefeller

The conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, on behalf of the majority leader, Senator DOLE, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS DECENCY ACT

Mr. EXON. Mr. President, I would like to make reference to this, and will ask for this to be printed in the RECORD. I notice with great interest a full-page ad in the New York Times of March 26, 1996, and the startling information here in dark type is "Does Sex Turn You off?" Then it goes on to say—this is published by Penthouse—entitled "The Facts of Life."

It says:

> It is a touchy subject. But an important one. Especially if you're a marketer who wants to reach men. If you've never experienced the satisfaction of advertising in Penthouse, there are some facts you should know. Facts that help explain why Penthouse is a savvy business decision, and why it performs as well as it does. For starters, Penthouse's efficiency far surpasses Playboy, GQ, Sports Illustrated and Esquire. We also reach a higher concentration of 25 to 49 year old men. And at newsstands, where a full purchase price helps gauge a magazine's true value to readers, Penthouse's sales are routinely on top.
>
> What's more, study after study has found that the more involved readers are with a magazine's editorial, the more they're involved with its advertising. And no magazine's readers are more involved than Penthouse's. The appeal and leadership of Penthouse extends beyond print, however. On site on the Internet —http://www.penthousemag.com—attracts over 80,000 people daily—(not hits, people.) This not only makes Penthouse one of the Internet's most popular sites, it enables us to guarantee advertisers an audience of 2.4 million people every month. This proposition is

VOL 142 PT 5 MR 21 — 29 1996 UMI

> encouraging more and more marketers to take advantage of both Penthouse Magazine and Penthouse Internet. If you're an advertiser who wants the special stimulation Penthouse offers, contact Ms. Audrey Arnold, Publisher, at 212–702–6000.

And it says down here:

> Penthouse, The Facts Of life.

Mr. President, when Congress considered the Communications Decency Act, commonly called the CDA, as part of the telecommunications bill, opponents of the Communications Decency Act raised all kinds of concerns that passage of the Communications Decency Act would restrict free speech of adults and end the commercial viability of the Internet.

Let me repeat that last part again: And end the commercial viability of the Internet.

The Washington Post in this regard printed an editorial that the Exon Communications Decency Act would interfere with the matter of making money on the Internet.

I have only cited the article that appeared in a full-page ad in the New York Times and intend to make these remarks tonight to thank the Penthouse magazine for printing that full-page ad, which is their right—pretty expensive but it is their right, and obviously they are a pretty good free enterprise, money-making concern. But I think it points out more than anything else how all of the opponents to the Communications Decency Act are way off base.

The recent full-page ad in the New York Times both refutes and makes meaningless the claims of the elimination of free speech of adults and the end of commercial viability on the Internet. Penthouse Magazine, which until enactment of the Communications Decency Act, offered free adult fare to Internet users of any age, was one of the first purveyors of sexual material to take steps to comply with the new law. That law is clearly working and has already been instituted to create a great success story.

Before our law was introduced and before it was passed, there was thunderous silence, thunderous silence, Mr. President, from both the industry and those loud voices that are now hammering away at the Communications Decency Act.

Published reports have indicated that Penthouse and Hustler Internet sites, referencing great numbers in the wording from the ad that I just read, and maybe some others now require, after passage of the act, a card to access these offerings.

Like it or not, Mr. President, this is the type of electronic pornography that is legal and constitutionally protected for adults. If their actions are as reported of requiring a credit card before you can access this particular part of the Internet that is widely, widely used according to Penthouse, if they have indeed instituted the procedure of having a credit card, then Penthouse and Hustler and their like appear to be in compliance with the new law, and I applaud them for that.

Adult material remains available then to adults but children are not provided pornography. This is precisely what the Communications Decency Act was designed to do, and it is working. The fully anticipated court challenge that is now underway apparently is not aware of this fact or it would be a defense on its face to some of the constitutional challenges that are being made.

The fear that keeping pornography away from children on the Internet would destroy this great medium and all of those charges that have been made are erroneous, they are unfounded, and it is nonsense.

During the year the Communications Decency Act was fully debated, Internet use doubled, and Internet growth has continued since the passage of the bill. Already, AT&T, MCI, and several local telephone companies have announced plans to offer easy Internet access and the Internet is coming to help other media as well and will come as I understand it to cable and satellite television.

Penthouse boasts, as I have just read, that it attracts over 80,000 people daily to its Internet site and an audience of 2.4 million each month. The ad's enthusiasm for the Internet is in keeping with the Communications Decency Act. We know that great system called the Internet that provides information and help to a lot of people is not only important but I simply say that the scare tactics that continue to be used by the Communications Decency Act's opponents are not well founded. It is not censorship, the word opponents of the Communications Decency Act throw around at will, to responsibly protect our children from pornography and, I might add, pedophiles.

The Communications Decency Act was fully debated, extensively negotiated and carefully designed to strike the right balance between the protection of children and the growth of this exciting and promising new technology. Revisionists like to paint a picture of Congress rushing to judgment on computer technology especially as it affects the spread of pornography. In my nearly 18 years in the Senate, I have won passage of many pieces of legislation dealing with the most important issues of the day including bills affecting national security, law enforcement, transportation, safety and deficit reduction. No bill that I have worked on has had as much attention, discussion or debate as the Communications Decency Act. For one full year, the Nation has talked about the Communications Decency Act. And that is good.

The hands-off crowd, though, have argued that protection of children was exclusively and totally the responsibility of the parent. For families to safely enjoy the benefits of the Internet, the family had to be there turning on the computer or turning it off, making sure that whatever the child brought up on the screen was acceptable to them.

The Communications Decency Act does not lessen—and I emphasize again, Mr. President, does not lessen—the need for parents to be vigilant, ever vigilant. But, by putting the law on the side of the families and the children, the Communications Decency Act recognized, as our First Lady might say, "It Takes A Village."

I am also pleased that the President of the United States and the U.S. Department of Justice fully support the Communications Decency Act. I am delighted that the computer industry has been working to develop blocking software and parental control software as well. Before the Communications Decency act was introduced, these products did not exist. But all the blocking software in the world should not absolve an adult from the responsibility for allowing the abuse or the corruption of a child. The Communications Decency Act holds those who attempt to harm children responsible for their acts.

To all of those who are worried, the Communications Decency Act is law, and the Internet, in the meantime, is doing just fine. They should be applauding the article and ad that I read, published by Penthouse.

Adults still have access to their legal vices. But most important, children are steadily gaining protection when they travel on the information superhighway.

Mr. President, I ask unanimous consent that a letter from the President's counsel to me be printed in the RECORD, and I yield the floor.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, February 28, 1996.

Senator JIM EXON,
U.S. Senate,
Washington, DC.

DEAR SENATOR EXON: Thank you for your recent letter to the President concerning the Telecommunications Reform Act of 1996. The President has asked me to respond on his behalf.

On February 8, 1996, the President was pleased to be able to sign the historic Telecommunications Reform Act into law. I know that the President was equally pleased that you were able to participate in the event.

Your letter also referred to Title V of the Telecommunications Reform Act, otherwise known as the Communications Decency Act. As you know, the President is committed to defending efforts to protect children from harmful material whether it is targeted at them via the computer or other media. Accordingly, the President firmly supports the Communications Decency Act.

As you accurately predicted, various challenges to the Communications Decency Act

have been filed. The Department of Justice is vigorously defending the Act against these challenges as a proper and narrowly tailored exercise of Congress' power to regulate the exposure of children to computer pornography.

Again, thank you for your letter and for your expression of support for our endeavors to defend the Communications Decency Act.

Sincerely,

JACK QUINN,
Counsel to the President.

A SALUTE TO KANSAS

Mr. DOLE. Mr. President, Kansas Senator Richard L. Bond delivered a moving tribute to the State of Kansas on the occasion of the 135th anniversary of statehood. During our annual celebration in Topeka, WI, Governor Tommy G. Thompson served as the keynote speaker for the evening of celebration and appreciation.

In his narrative, Senator Bond captured the heart and strengths of our State, and I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

A SALUTE TO KANSAS

Governor Graves, Governor Thompson, Senator Kassebaum, Chairman Miller, Distinguished Guests and fellow Kansans, it is my pleasure to offer a salute to Kansas on the occasion of her 135th birthday of statehood. Having turned sixty years of age in the past year I am pleased whenever I'm invited to a birthday party for something older than I am.

This past summer a book titled "Vacation Places Rated" was published which listed Kansas dead last as a desirable vacation spot. The vacationers surveyed apparently felt Kansas had little to offer. Such sentiments are not new. In 1867 Henry Stanley wrote, "Tourists through Kansas would call this place dull enough . . . For a passing traveler in search of pleasure, it certainly possesses few attractions."

If one is in search of a sandy sea-side shore or a snow-capped mountain peak Kansas is not the place to look.

For those of us who call Kansas home we know what may be lost on the casual visitor.

The beauty of Kansas resides in the subtle grace of its geography, the strength of its people's character and the spirit of hope that shapes its future.

America may not turn to Kansas when its looking for a tropical resort but America looks to Kansas for so much more . . .

Today, when Americans want the finest grain in the world they call on Kansas.

Today, when Americans want the finest steak in the world they call on Kansas.

Today, when Americans want oil and natural gas to heat their homes and cook their food they call on Kansas.

Today, when Americans want the finest aircraft in the world they call on Kansas.

And yes, Governor Thompson, we even make some pretty good cheese.

And today, when America needs leadership it calls on Kansas—

Congresswoman Jan Meyers, the first Republican woman to chair a standing committee in the U.S. House.

Congressman Pat Roberts, reshaping farm policy as Chairman of the House Agriculture Committee.

Senator Nancy Kassebaum, the first woman elected to the U.S. Senate in her own right, working to reform welfare, education and job training as Chair of the Senate's Labor and Human Resources committee.

And, Senator Bob Dole who has served as Senate Majority Leader longer than any other person.

We are blessed with an abundance of Republican leaders that reflect the virtues of Kansas—persistence, hard work, common sense and hope. Congressmen Brownback and Tiahrt continue this tradition.

But this Kansas tradition of leadership is nothing new.

Sixty years ago in the depths of the dust bowl and depression Governor Alf Landon worked to balance our state budget and serve as our party's standard bearer in the Presidential election. His dignity and sense of compassion were not victims to the fiscal austerity of the time.

More than fifty years ago when America faced the challenge of World War, Gen. Eisenhower lead our forces to victory in Europe and secured the peace. The boyhood lessons learned in Abilene served him well in that endeavor and during the eight years he served our nation as President. The 34th President whose boyhood home was in the 34th state.

Today, when the need for leadership on the national level has never been greater, Americans again call on Kansas. The man from Russell tested by war and tested in the public arena stands ready to lead our country into the next millennium. His greatest strengths are the gifts of Kansas. A character shaped by faith and family, a determination to confront challenges and an ingenuity to overcome them. When America calls on Kansas we always offer our best. President Bob Dole will be no exception.

Kansas has historically been willing to make tough choices. The choice to reject slavery caused our state to be born in the midst of a bloody struggle. A struggle for which Kansas paid a high price—Kansas suffered the highest mortality rate in the nation during the Civil War. But our birth in troubled times only made Kansans appreciate the price of freedom even more.

From the prairie, Kansans built a way of life—not focused on the value of possessions but on the importance of family, neighbors, faith and community. Obstacles were merely opportunities for innovation and the creative spirit of Kansans always rose to meet the challenge. We have always sought the stars through difficulties.

Floods, grasshoppers, dust storms, drought, tornadoes—all have caused the Kansas spirit to bend but it has never broken.

Tonight, on the occasion of 135 years of statehood Kansas remains a great place to call home. But regardless of our contributions much remains to be done. As President Eisenhower said, "Accomplishment will prove to be a journey, not a destination." Kansas is a young state—one with its best years ahead—full of possibilities. We must work to accomplish the full potential of these possibilities—creating an even better Kansas for future generations.

Some may seek to exploit divisions within our party but I believe many more will seek to focus on that which unites us. Since the Republican Party in Kansas was organized in 1859 in Osawatomie it has known its share of controversy but it has also provided our state with leaders united by a belief that government isn't the solution to every problem and that a limited government that encourages individual opportunity and freedom best serves the citizens of Kansas. With candor, respect and trust we as Republicans can continue to provide such leadership for Kansas. The contrasts that define our differences can be a source of strength not division. We have a great leader in our governor, Bill Graves. His vision for Kansas is worthy of our continued mutual investment.

One hundred years ago a young editor, having recently purchased, The Emporia Gazette, published an editorial entitled, "What's the Matter with Kansas?" With it's publication William Allen White garnered his first national attention. A century later upon revisiting that question we know that there is nothing the matter with Kansas that the people of Kansas can't fix—working together.

It is true that some may look at Kansas and see only what Zebulon Montgomery Pike first described as "The Great American Desert." But those of us that call Kansas home know better. We know that Kansas is a fount of commerce, prosperity, and hope—a place occupied by those who know the importance of faith and family and who believe in a future of unlimited potential. A land of open vista and friendly people. Regardless of where we roam Kansans are sure of one thing—there's no place like home. For all the blessings of Kansas we give thanks.

Happy Birthday Kansas and Many Happy Returns.

TROY SYSTEMS, INC.

Mr. WARNER. Mr. President, I am pleased today to have the opportunity to recognize a company, TROY Systems, Inc., located in the great city of Alexandria, VA. TROY Systems is a shining example of the vitality of the American Dream, having grown from a small disadvantaged section 8(a) company into a national and award winning federal contractor. I would like to especially congratulate their CEO and President, K. David Boyer, for TROY's incredible success. While TROY may soon be graduating from the 8(a) program, I am confident of their continued success.

In 1984, in a small apartment in Alexandria, David Boyer and Felicity Belford started on an entrepreneurial journey. Their plan was to build a company providing information systems and technology support to the Federal Government. Starting with just two employees, TROY Systems has grown to a work force of over 350 employees and revenues in 1995 of almost $25 million.

In 1995, TROY was named by TechNews, Inc. and Deloitte and Touche to their National Technology "Fast 500" list of the fastest growing technology-intensive companies in the United States. The company shared this honor with such heavyweight and well-known corporations such as Microsoft, Dell Computer, and Novel. TROY Systems has received other such awards such as being named to Inc. magazine's list of the 500 fastest growing companies, receiving Ernst & Young's Entrepreneur of the Year award, and being selected by the Virginia Chamber of Commerce as one of

VOL
142
PT
5
MR
21
—
29
1996
UMI

the "Fantastic 50" fastest growing small private companies in the commonwealth.

I would like to submit for the record an article which appeared in the November edition of InSight magazine describing TROY Systems' impressive growth and achievements, as well as their involvement in the important Department of Defense Defense Messaging System project.

TROY Systems is a fine example that the American Dream is alive and well and I am proud to salute them for their hard work and accomplishments.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DMS SPOTLIGHT—TROY SYSTEMS, INC.

One member of the DMS contract team is a small business, minority-owned firm with a strong background in government information systems support. TROY Systems, Inc., of Alexandria, Virginia, will be providing training courses to help DMS users get up to speed with products procured through the contract.

TROY became involved with Loral through the Mentor/Protege program sponsored by the Department of Defense. The program encourages large prime contractors to seek out small businesses that can benefit from such an alliance. During the course of the relationship, both companies have learned from the other, and contracts have been pursued with either party acting as the prime. According to K. David Boyer, Jr., President & CEO of TROY, "The major benefit of our relationship with Loral has been the mutual re-engineering of corporate processes, as a result of our learning experience as we work together." Boyer started the business working from a home office in October of 1984. Since its inception, TROY has grown from two people to a staff approaching three hundred people, and has been listed in the INC 500.

TROY has operated under the Small Business Set Aside 8(a) Program and is currently looking forward to graduation in 1996. To position itself as a strong information technology company into the next decade, TROY has built an impressive list of federal and corporate clients. Winning large government contracts over a diverse customer base has led to significant expansion of TROY's capabilities. Since 199[illegible], TROY has developed and conducted worldwide user training for the U.S. Army health care community, the Navy Recruiting Command, and the Veteran's Benefits Administration. TROY currently performs on contracts with three Department of the Navy agencies (NAVSEA, NAVAIR, and NAVSUP), the Air Force, and numerous civilian agencies including GSA, GAO, and the RTC. In addition, TROY serves as IV & V (Independent Verification & Validation) analyst for the Resolution Trust Corporation's massive software systems, which were built by IBM and tested by Troy Systems, Inc.

What seems to set TROY apart from other SDBs (Small, Disadvantaged Businesses) is the consistency between its walk and its talk. Boyer states, "I built this company with the philosophy that 8(a) and other such programs were not necessary for us to succeed. We are a leader in our area of technology expertise. That is why we have won so many contracts."

Loral's award of DMS provides yet another opportunity for TROY to utilize its expertise. Once curricula are completed, approved, and made available, DMS users will be able to choose from the following courses offered through the DMS contract: Basic User; Operating Systems Administrator; Directory System Administrator; Message Handling System Administrator; and Management Workstation System Administrator.

Harry H. Hagenbrock is the senior manager at TROY, responsible for the DMS program. Hagenbrock comments, "Due to the tremendous number of users (projected to be 2,000,000) that will ultimately be on line with DMS, TROY will be building its staff and resources to present the courses in the field, or "train the trainer," for those commands who wish to provide DMS training internally.

TROY Systems, Inc., is ramping up its capabilities, and working closely with Loral Corporation to bring its DMS training and support resources to a state of readiness. CEO Boyer, a former Air Force Officer, is looking forward to the DMS challenge. Boyer concludes, "Our many commercial and military contracts have prepared us to train DMS users. We are looking forward to help make DMS happen."

RECOGNITION OF EDWARD L. KING

Mr. NUNN. Mr. President, I rise today to recognize the contributions to the Senate and to the Nation that have been made by Edward L. King who is leaving the staff of the Senate for the private sector.

Ed King retired from the U.S. Army as a lieutenant colonel in 1969 after a distinguished military career, including combat infantry duty in Korea and assignments in important staff positions with an emphasis on NATO and inter-American matters.

After his military service, Ed turned his hand to writing and authored "The Death Of the Army: A Pre-Mortem" which was selected by the New York Times Review of Books as one of the 12 best current events books of the year for 1972.

In 1971, Ed came to the Hill for the first time, serving as a staff consultant to the Congressional Joint Economic Committee and later that same year as special consultant for NATO affairs to Senator Mike Mansfield. Ed returned to the Hill in 1975 and served as Administrative Assistant to Senator William Hathaway until 1979. Ed subsequently served as special assistant to Senator Paul Tsongas in 1984, during which time he acted as an intermediary to the La Palma—El Salvador—peace talks. From 1985 to 1987, Ed served as a consultant on Central America to Senator ROBERT BYRD. Finally, Ed served on the Senate Democratic Policy Committee from 1987 to the present time. Over the last 10 years, Ed has worked as a senior foreign policy advisor for Majority Leaders ROBERT BYRD and George Mitchell and for Minority Leader THOMAS DASCHLE.

I first came to know Ed King while he was working on the Democratic Policy Committee. I also came to respect and admire Ed as he went from legislative crisis to crisis with the same calm but determined and effective demeanor that I am sure served him and his troops so well as a combat infantry officer. Whether the issue was pop-up legislation dealing with the Persian Gulf, Somalia, Haiti, or Bosnia or setting up a routine meeting for Senators with a visiting foreign official Ed was always on top of the situation, always in full control of the facts, and ready with a solution to bridge ostensibly irreconcilable positions. And despite the stress and the raised voices on the part of some, Ed never lost his good nature and sense of humor.

But what I remember most of all were the numerous occasions on which a long stint of negotiations ended with the parties agreed on the general framework of a solution and leaving it to Ed to come up with the specific text that embodied that general solution. And you knew that the specific text would be ready the first thing the next morning and that it would have been agreed to on all sides at the staff level and vetted with and acceptable to the administration.

Mr. President, the Senate is losing one of its finest staff members. The Nation is losing a fine public servant whose contributions will, for the most part, remain unknown. I, for one, want the record to reflect that this Senator appreciates the service that Ed King has rendered to the Senate and the Nation. I know that he will be successful in the private sector and that he will continue to make a contribution in whatever he does in the future.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, March 27, 1996, the Federal debt stood at $5,069,500,044,702.95.

On a per capita basis, every man, woman and child in America owes $19,165.10 as his or her share of that debt.

It is no wonder that babies come into this world crying.

A TRIBUTE TO GERTRUDE MALLARD PRITCHER

Mr. HOLLINGS. Mr. President, I would like to take this opportunity to wish a very happy birthday to Gertrude Mallard Pritcher of St. George, SC. Mrs. Pritcher will turn 100 years old on April 13.

The 11th of 12 children, Gertrude Pritcher was born in Colleton County in 1896 to John Behlin and Annie Eliza Liston Hucks. In the history of her life, one can trace the history of the South Carolina Lowcountry. She grew up in Smoaks, where she taught school in a one-room schoolhouse, and Sunday school at a Methodist Church. Throughout the 1930s,'40s and '50s, she lived in Beaufort County where she was active in home demonstration clubs,

specializing in gardening, cooking and sewing. A member of Daughters of the American Revolution, Mrs. Pritcher has three daughters and one son by her first husband, William Daniel Mallard of Summerville. They were married for almost 50 years, until his death in 1965. Mrs. Pritcher married Asbury Pritcher of Beaufort County in 1972 who has also passed away.

Like a true Southerner, she has a love of and flair for storytelling. With her knowledge of the counties of South Carolina, and with all the family and friends she has, you can bet she has some good ones to tell. She enjoyed a healthy and active life for 85 years, until a stroke in 1981. The condition curtailed her activity somewhat, but she continues to live comfortably in St. George where her children and grandchildren enjoy her company, and her tales. Let's all hope that we can have as rich a life.

THE FLAG AMENDMENT

Mr. HATCH. Mr. President, the February, 1996 issue of the American Legion Magazine contains a column entitled, "We Will Continue To Stand By Our Flag," by Daniel A. Ludwig, national commander of the American Legion. As my colleagues know, the American Legion, other veterans and civics groups, the Citizens Flag Alliance, and countless individuals undertook an effort to pass a constitutional amendment authorizing protection of the American flag. There was nothing in it for any of the participants in that great effort. This effort fell just short in the Senate. But, I note that in 1989 an amendment received 51 votes; in 1990, 58 votes; and in 1995, 63 votes. In the other body, the effort went from falling short in 1989 to an overwhelming win in 1995.

I said in December that the effort to enact a constitutional amendment authorizing protection of the American flag will be back. And so it will, as the column by Commander Ludwig makes clear. I ask unanimous consent that the column be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the American Legion Magazine, Feb. 1996]

WE WILL CONTINUE TO STAND BY OUR FLAG

(By Daniel A. Ludwig)

By the time you read this, the postmortems on the Senate vote on the flag amendment will largely have subsided. The media may finally have stopped smirking their smirks of (supposed) intellectual superiority. The constitutional scholars who were thrust into an unaccustomed limelight will have gone back to their universities to continue the debate in quieter fashion. The public-interest groups who took sides against us—and, we always believed, against the public interest—will have turned their attention to other cherished aspects of traditional American life that need to be "modernized," which is to say, cheapened or twisted or gutted altogether.

Observers have suggested that we, too, should give up the fight. Enough is enough, they say. "You gave it your best, now it's time to pack it in." Those people don't understand what the past six years, since the 1989 Supreme Court decision, have really been about.

From the beginning of our efforts, debate centered on the issue of free speech and whether the proposed amendment infringes on it. But whether flag desecration is free speech, or an abuse of free speech, as Orrin Hatch suggests (and we agree), there is a larger point here that explains why we can't—shouldn't—just fold up our tents and go quietly.

Our adversaries have long argued that opposition to the amendment is not the same as opposition to the flag itself, that it's possible to love the flag and yet vote against protecting it. Perhaps in the best of all possible worlds we could accept such muddied thinking.

Sadly, we do not live in the best of all possible worlds.

In the best of all possible worlds it would not be necessary to install metal detectors in public schools, or have drunk-driving checkpoints on our highways, or give mandatory drug tests to prospective airline employees. Indeed, in the best of all possible worlds, the Pope would not have to make his rounds in a bulletproof vehicle. In all of these cases, we have willingly made certain sacrifices in freedom because we recognize that there are larger interests at stake. In the case of the metal detectors, for example, the safety of our children, and our teachers, and the establishment of a stable climate for instruction to take place, is paramount.

If the flag amendment is about anything, it's about holding the line on respect, on the values that you and I asked our lives to preserve. We live in a society that respects little and honors still less. Most, if not all, of today's ills can be traced to a breakdown in respect—for laws, for traditions, for people, for the things held sacred by the great bulk of us.

Just as the godless are succeeding at removing God from everyday life, growing numbers of people have come to feel they're not answerable to anything larger than themselves. The message seems to be that nothing takes priority over the needs and desires and "rights" of the individual. Nothing is forbidden. Everything is permissible, from the shockingly vulgar music that urges kids to go out and shoot cops, to "art" that depicts Christ plunging into a vat of urine—to the desecration of a cherished symbol like the U.S. Flag.

Are these really the freedoms our forefathers envisioned when they drafted the Bill of Rights? Thomas Jefferson himself did not regard liberty as a no-strings proposition. His concept of democracy presupposed a nation of honorable citizens. Remove the honorable motives from a free society and what you have left is not democracy, but anarchy. What you have left, eventually, is Lord of the Flies.

Amid all this, the flag stands for something. If respect for the flag were institutionalized, and children were brought up to understand the unique collection of principles it represents, there would be inevitable benefits to society, benefits that would help turn the tide of today's chaos and disrespect. For no one who takes such principles to heart—no one who sees the flag as an untouchable symbol of democracy, of decency—could possibly do the things that some people do, these days, in the name of freedom.

The flag stands for something miraculous that took life upon these shores more than two centuries ago and, if we only let it, will live on for centuries more. It stands for a glorious idea that has survived every challenge, that has persevered in the face of external forces who promised to "bury" us and internal forces which promised to tear us apart. Let us never forget this.

And let us not forget that 63 out of 99 senators voted with us, or that we won over 375 legislators in total. Our efforts were no more wasted than were the efforts to take remote outposts in the Pacific a half-century ago. Those efforts, too, failed at first, but eventually we prevailed.

We undertook a noble fight in trying to save our flag, and the fact that we have suffered a temporary setback does not diminish the nobility of what we fought for. This is not over by a long shot. They will hear from us again.

Mr. BYRD. Mr. President, on the Op Ed page of today's edition of the New York Times there is a column I want to call to my colleagues' attention entitled "Line-Item Lunacy" by David Samuels. Even though the current debate on this matter is over for now, I encourage my fellow Senators to take the time to read this thoughtful opinion. Mr. President, to that end, I ask unanimous consent that the column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 28, 1996]

LINE-ITEM LUNACY

(By David Samuels)

It's a scene from a paranoid thriller by Oliver Stone: A mercurial billionaire, elected President with 35 percent of the vote, holds America hostage to his minority agenda by vetoing item after item in the Federal budget, in open breach of the separation of powers doctrine enshrined in the Constitution. Impossible? Not anymore.

With the announcement by Republican leaders that they plan to pass the line-item veto this spring, the specter of a Napoleonic Presidency has moved from the far reaches of poli-sci fiction, where it belongs, to the brink of political possibility.

At the moment, of course, a Presidential dictatorship is far from the minds of the G.O.P. leadership and White House Democrats, who hope that the line-item veto would encourage the President to eliminate pork-barrel giveaways and corporate tax breaks. But to see the measure as a simple procedural reform is to ignore the forces that have reconfigured the political landscape since it was first proposed.

Back in the 1980's, President Ronald Reagan ritually invoked the line-item veto while shifting blame onto a Democratic Congress for ballooning deficits. Part Republican chestnut, part good-government gimmick, the line-item veto became part of the Contract With America in 1994, and this month rose to the top of the political agenda.

What the calculations of Democrats and Republicans leave out, however, is that the unsettled politics of the 1990's bear little relation to the political order of the Reagan years.

VOL
142
PT
5
MR
21
—
29
1996
UMI

In poll after poll, a majority of voters express a raging disaffection with both major parties. With Ross Perot poised to run in November, we could again elect our President with a minority of the popular vote (in 1992, Mr. Clinton won with 43 percent). The line-item veto would hand over unchecked power to a minority President with minority support in Congress, while opponents would have to muster two-thirds support to override the President's veto.

By opening every line in the Federal budget to partisan attack, the likely result would be a chaotic legislature more susceptible than ever to obstructionists who could demand a Presidential veto of Federal arts funding or sex education programs or aid to Israel as the price of their political support.

And conservatives eager to cut Government waste would do well to reflect on what a liberal minority might do to their legislative hopes during a second Clinton term in office.

Nor would the line-item veto likely result in more responsible executive behavior. The zigs and zags of Bill Clinton's first term in office give us a clear picture of the post-partisan Presidency, in which the executive freelances across the airwaves in pursuit of poll numbers regardless of the political coherence of his message or the decaying ties of party. With the adoption of the line-item veto, the temptation for Presidents to strike out on their own would surely grow.

The specter of a President on horseback armed with coercive powers might seem far away to those who dismissed Ross Perot as a freak candidate in the last election. Yet no law states that power-hungry billionaires must be possessed of Mr. Perot's peculiar blend of personal qualities and doomed to fail. Armed with the line-item veto, a future Ross Perot—or Steve Forbes—would be equipped with the means to reward and punish members of the House and Senate by vetoing individual budget items. This would enable an independent President to build a coalition in Congress through a program of threats and horse-trading that would make our present sorely flawed system seem like a model of Ciceronian rectitude.

President Clinton has promised to sign the line-item veto when it reaches his desk. Between now and then, the historic breach of our constitutional separation of powers that the measure proposes should be subject to a vigorous public debate. At the very least, we might reflect on how we intend to govern ourselves at a time when the certainties of two-party politics are dissolving before our eyes.

Mr. BYRD. Mr. President, Mr. Samuels eloquently points out just one of the many concerns this country could very well face with the adoption of this legislation. He focuses on what might happen should our two-party system dissolve and allow for a rogue individual to be elected president by a minority of the American people. In this scenario, the possibility of a tyrannical oppressor freely and recklessly wielding power has to be considered. While at the present time the likelihood of such an event seems farfetched, it is just this type of concern that we elected members of the people's branch must consider.

Indeed, if there is one bright spot on this day after Senate passage of S. 4, it is that in eight years the Congress will revisit this issue. It is my hope that at that time, wisdom will prevail.

EDMUND S. MUSKIE

Mr. DODD. Mr. President, I wanted to take a few moments today to speak about the death of former Senator Edmund Muskie.

I first met Ed Muskie during his visits to my family's house in Connecticut more than 30 years ago as he traveled back to Maine from Washington.

And like my father before me—I was honored to serve with him in Congress. I came to greatly admire and respect his leadership, his conviction, his knowledge and his great devotion to public service.

Edmund Muskie was a truly dedicated member of this body for 22 years. He served both the people of Maine and all the American people as a committed and able legislator.

And when his party and his President called on him he answered. He twice ran for national office as a Democrat: Once for Vice-President in 1968 and once for the Democratic nomination for President in 1972. And he finished his career as Secretary of State, under President Carter in 1980.

Throughout his more than two decades of public service Ed Muskie was ahead of his time in his efforts to keep our environment clean and America's fiscal house in order.

He earned the apt nickname "Mr. Clean" for his pioneering work on the Clean Air Act and Clean Water Act, both of which he shepherded through the Senate. Generations from now, when Americans are enjoying our safe and healthy air and water, they should thank Edmund Muskie for having the foresight and vision to place a clean environment on top of the political agenda.

And even before the era of exploding federal deficits in the 1980's, Edmund Muskie strived to bring fiscal discipline to Congress, as chairman of the Senate Budget Committee.

Yesterday, former President Jimmy Carter said he had "never known any American leader who was more highly qualified to be President of the United States." And it is to the American people's misfortune that a man of such principle never had the opportunity to reach the Oval Office.

As a fellow Democrat and Northeasterner I remain committed to the policies that Edmund Muskie so energetically championed as a U.S. Senator.

My thoughts and prayers go out to his wife Jane, his children, his friends and the people of Maine.

THE CONSTITUTIONALITY OF THE LINE ITEM VETO CONFERENCE REPORT

Mr. HEFLIN. Mr. President, I rise today to explain my opposition to this so-called line-item veto conference report, which passed on March 27. I have been a strong supporter of a line item veto and feel that such legislation would provide the President with an effective weapon to fight wasteful spending. I have voted for several line item veto bills that I felt were constitutional. However, I did not support this legislation, as it violates the plain reading of the Constitution.

In Article I, section 7, the Constitution sets out fundamental procedures for the enactment of a law. It states that every bill should be passed by both houses and then presented to the President to either sign or veto. If the bill is vetoed each house may override such a veto by two-thirds vote. The bill then becomes law once it is signed or a veto is overridden by each house of Congress.

This conference report allows the President, after a bill has become a law, to go back and review that law and to pick and choose what portions of the law he desires to repeal, and to do so in an unconstitutional manner. This flies in the face of the fundamental principal of "separation of powers" and the "checks and balances" of our government. Article I, section 1, of the Constitution states that "[a]ll legislation Powers herein granted shall be vested in a Congress of the United States.

The Supreme Court in INS versus Chadha discussed the importance of the "separation of powers" provisions in Article I, section 1. The court stated that

> [t]hese provisions of Art. I are integral parts of the constitutional design for the separation of powers. We have recently noted that "[t]he principle of separation of powers was not simply an abstract generalization in the minds of the Framers: it was woven into the document that they drafted in Philadelphia in the summer of 1787."

The Court further expressed that,

> [i]t emerges clearly that the prescription for legislative action in Art. I, sections 1, 7, represents the Framers' decisions that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered, procedure.

This conference report would allow the President, in effect, to repeal an existing law; thereby violating the provisions of Article I. The Court in Chadha held that "[a]mendment and repeal of statutes, no less than enactment, must conform with Art. I." The Court went further by stating that

> [t]he bicameral requirement, the Presentment Clauses, the President's veto, and Congress' power to override a veto were intended to erect enduring checks on each Branch and to protect the people from the improvident exercise of power by mandating certain prescribed steps. To preserve those checks, and maintain the separation of powers, the carefully defined limits on the power of each Branch must not be eroded.

This highlights the importance of maintaining the legislative procedures set out by the Constitution and the separate powers the Constitution has bestowed upon the three branches of our government.

Mr. President, this bill chips away at the constitutionally prescribed "checks and balances" set forth by our Founding Fathers. I believe that a line-item veto can be a useful weapon against wasteful spending if drafted so as to protect the fundamental procedures set out by our Constitution; however, this bill as presented cannot sustain constitutional muster.

HELEN KELLY—A FAITHFUL PUBLIC SERVANT

Mr. BYRD. Mr. President, I have been a member of this body for nearly thirty-eight years. During this time, I have come to treasure the traditions of this institution and the unique place it holds in our system of government. Through the Senate I have worked with men and women who possess some of our country's finest and ablest minds, and with them, I have witnessed and been part of history.

While this history will attest to the importance of my fellow Members of the Senate, often what goes unnoticed is the behind-the-scenes work of our staffs. I feel confident in saying that there is not a Member of this body who could represent his or her constituents in this day and age without the diligent, hard work of Senate staffers. And it is to pay tribute to one of these dedicated staffers that I speak on the Senate floor today.

Twenty years ago, on March 8, 1976, Helen B. Kelly came to work in my office as a receptionist. She came with Hill experience, having previously worked for Congressman Broyhill from Virginia. This knowledge, combined with her natural interest and compassion for people, was quickly noted, and Helen was promoted to the position of caseworker.

In my office, as in other Congressional offices, there is no greater matter of importance than constituent services. As we all know, sifting through the federal bureaucracy can be a daunting and often exasperating experience. Well, Helen has mastered the art of cutting through Washington's red tape. Whether it be working out a visa problem for a constituent's family member or giving guidance to a military academy nominee, Helen has shown the dedication and perseverance to get the job done.

I want to say thanks and congratulations to Helen Kelly on behalf of my fellow West Virginians and the Senate. This is a demanding but rewarding profession. Were it not for people like Helen who breathe life and vitality into it, I believe the Senate would not be the premier legislative body that we treasure today.

JAPAN-UNITED STATES EXCHANGES

Mr. LUGAR. Mr. President, I rise today to discuss an important issue in our relationship with Japan. It has come to my attention that for every American student studying in Japan, 20 Japanese study in the United States. This puts the United States at a comparative disadvantage in dealing with issues of economic competitiveness and strategic cooperation that confront and will continue to confront our bilateral ties for many years.

Japan possesses the second-most powerful economy in the world. Its resources and expertise affect the health and vitality of international trade and finance. United States-Japan cooperation and understanding will be required if issues pertaining to the global economy, development, health, peacekeeping, weapons proliferation, the environment, and others are to be addressed constructively. At the same time, Japan's economic prowess poses significant challenges to and opportunities for improving the economic well-being of the United States. We simply must learn how to gain the trust and cooperation of the Japanese people, its entrepreneurs, and policy makers. We need to do better and be better informed about Japan if we hope to correct the nagging imbalance in trade. Historically, we have been ill-prepared for this task. We must be better prepared in the future.

One part of the solution to this problem lies in the education of young Americans in the language, culture, and society of Japan. It is the young Americans of today who will take the lead in dealing with their Japanese peers in a language and style the latter will respect and appreciate. Back channel politics has worked well through the years, but it is insufficient for the future. We now want to make certain there is a very large network of United States students studying in Japan that will make a difference in building the kind of bridges that are required if our relationship with Japan is to be more productive now and in the future.

Finally, Mr. President, I would like to mention that a coalition of public and private organizations is mounting a new program known as the Bridging Project to address this need to educate more Americans in and about Japan. In a time of fiscal stringency and belt tightening, public funds for this and other initiatives are gong to become even more scarce. The private sector must get more involved. Private-public partnerships and other creative solutions involving the private sector will be required if we are going to keep pace with our Japanese competitors. We should encourage this coalition to do everything it can to ensure that the United States remains competitive with Japan in the future.

HABEAS CORPUS REFORM

Mr. HATCH. Mr. President, just short of a year ago, this country was rocked by an attack on the Alfred Murrah Federal building in Oklahoma City, OK. In the wake of that horrible tragedy, this body took up antiterrorism legislation. I fought for the inclusion of meaningful habeas corpus reform legislation in the Senate bill over the initial hesitation of President Clinton. The House bill contains identical language. We will shortly be delivering a conference report to the President for his signature. At long last, after well over a decade of effort, we are about to curb these endless, frivolous appeals of death sentences.

I might add that this is one of the most important criminal law changes in this country's history, and it is about time we get it on track.

To be sure, there are many other important antiterrorism measures which will be included in the final terrorism bill including increased penalties, antiterrorism aid to foreign nations, plastic explosives tagging requirements, and important law enforcement enhancements. But let us make no mistake about it—habeas corpus reform is the most important provision in the terrorism bill. In fact, it is the heart and soul of this bill. It is the only thing in the Senate antiterrorism bill that directly affected the Oklahoma bombing. If the perpetrators of that heinous act are convicted, they will be unable to use frivolous habeas petitions to prevent the imposition of their justly deserved punishment. The survivors and the victims' families of the Oklahoma tragedy recognized the need for habeas reform and called for it to be put in the bill.

The Clinton Administration, which initially opposed meaningful habeas corpus reform, came to its senses and the President himself said he supported our habeas reform proposal. The antiterrorism bill, with the Hatch-Specter habeas proposal passed this body in an overwhelming vote.

Most of those familiar with capital litigation know that support for true habeas reform—support for an end to frivolous death penalty appeals—is the most authentic evidence of an elected official's support for the death penalty. It is against this backdrop that I was surprised to learn recently that on the eve of House debate on the antiterrorism bill—a bill that includes this important habeas reform proposal—the White House had sent emissaries to key Members of the House to lobby for weakening changes to the habeas reform package. Former White House Counsel Abner Mikva, accompanied by White House staff, met with key Members of the House and proposed that the bill be amended to essentially restore the de novo standard of review in habeas petitions. This would have gutted habeas corpus reform by allowing Federal judges to reopen issues that had been lawfully and correctly resolved years earlier. I had

VOL
142
PT
5
MR
21
—
29
1996
UMI

thought we had a President who was committed to meaningful habeas reform.

When I first learned of this effort, I was surprised. After all, President Clinton promised that justice in the Oklahoma bombing case would be swift. Indeed, he recognized that an end to frivolous death penalty appeals was critical when he said,

> [Habeas corpus reform] ought to be done in the context of this terrorism legislation so that it would apply to any prosecutions brought against anyone indicted in Oklahoma.

[Larry King Live, June 5, 1995].

But then I began to consider all of the steps this President has taken to undermine the death penalty. For example, President Clinton vetoed legislation late last year which contained language identical to the terrorism bill's habeas corpus proposal. Veto message to H.R. 2586, the temporary debt limit increase, Nov. 13, 1995. Prior to that, in 1994, the Clinton Justice Department lobbied the Democrat controlled House for passage of the so-called Racial Justice Act. This provision, in the guise of protecting against race-based discrimination, would have imposed a quota on the imposition of the death penalty. It would have effectively abolished the death penalty.

When the Senate refused to accept this death penalty abolition proposal, President Clinton decided to issue a directive implementing a so-called Racial Justice Act-type review of all Department of Justice decisions involving the Federal death penalty. [Wall Street Journal, July 21, 1994]. On March 29, 1995, Attorney General Reno issued the directive. Ironically, the Clinton Administration did not see fit to provide the victims' families in death penalty eligible cases with any right to petition the Department on the issue of whether the death penalty should be sought. [A.G. Reno directive on title 9 of the U.S. Attorneys' Manual, March 29, 1995].

To further gauge President Clinton's position on the death penalty and the streamlining of habeas corpus reform, one should consider whether his Department of Justice has supported State efforts to impose capital sentences. According to testimony provided to the Senate Judiciary Committee, the Clinton Justice Department considers the fact that a case involves the death penalty as a factor against filing amicus briefs in support of the State. [Testimony of Paul Cassell, Associate Professor of law, University of Utah, November 14, 1995]. The Bush Administration filed briefs in support of the State in 44.4 percent of the cases on appeal where a defendant's death sentence was being challenged. Briefs were filed in 42.9 percent of these cases and in 1991 and in 37.5 percent of the cases in 1992. In 1994, the Clinton Justice Department failed to file a single brief in support of States trying to carry out capital sentences. Many of these cases presented opportunities to protect the Federal death penalty but the Clinton administration sat on its hands.

On March 14, President Clinton said that, in his opinion, the terrorism bill's habeas corpus provision is not as good as it could be, and that there are some problems in the way that it's done but that he may go along with the version contained in the terrorism bill. [U.P.I. March 14, 1996].

Ironically, President Clinton's support for the terrorism bill seems to be dwindling as the likelihood for passage of habeas corpus reform seems to be increasing. Some Democrats appear to be preparing to scuttle the bill by arguing that it may not go far enough. Indeed, one of my colleagues on the other side of the aisle has gone so far as to call the House terrorism bill useless. We now hear that there is talk within the White House of a possible veto threat unless the terrorism bill is changed.

What I find interesting is that most of the provisions the President and his brethren are flexing their muscles over were not in the administration's original terrorism bill. For example, the President has been critical of the House's bipartisan votes to drop a ban on so-called cop killer bullets and a provision allowing law enforcement to conduct roving wiretaps. On February 10, 1995, Senator BIDEN introduced the administration's original terrorism bill, S. 390. Neither of these provisions were contained in S. 390. Indeed, the House-passed terrorism bill is more comprehensive than the President's original bill.

So I ask my colleagues: Why is a bill which is substantially similar to—in fact broader than—the original Clinton-Biden bill of 1995 useless in 1996? Could the fact that the final terrorism bill will contain tough, true habeas corpus reform be what's really at issue here?

President Clinton's newfound tough on crime rhetoric must be balanced against his administration's record of hostility toward true habeas corpus reform. In a few weeks, the Congress will deliver to President Clinton a tough terrorism bill which will contain our habeas corpus reform provision—a provision to end frivolous death penalty appeals. This reform measure has already been vetoed once and President Clinton has tried to weaken it. If he chooses to veto the terrorism bill, that will be a decision he and the families of murder victims across this country will have to live with. But let's not kid ourselves about why he may do so. To borrow a phrase—keep your eye on the ball. The ball here is habeas corpus reform.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS FOR FISCAL YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 137

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

It is my special pleasure to transmit herewith the Annual Report of the National Endowment for the Arts for the fiscal year 1994.

Over the course of its history, the National Endowment for the Arts has awarded grants for arts projects that reach into every community in the Nation. The agency's mission is public service through the arts, and it fulfills this mandate through support of artistic excellence, our cultural heritage and traditions, individual creativity, education, and public and private partnerships for the arts. Perhaps most importantly, the Arts Endowment encourages arts organizations to reach out to the American people, to bring in new audiences for the performing, literary, and visual arts.

The results over the past 30 years can be measured by the increased presence of the arts in the lives of our fellow citizens. More children have contact with working artists in the classroom, at children's museums and festivals, and in the curricula. More older Americans now have access to museums, concert halls, and other venues. The arts reach into the smallest and most isolated communities, and in our inner cities, arts programs are often a haven for the most disadvantaged, a place where our youth can rediscover the power of imagination, creativity, and hope.

We can measure this progress as well in our re-designed communities, in the buildings and sculpture that grace our cities and towns, and in the vitality of the local economy whenever the arts arrive. The National Endowment for the Arts works the way a Government agency should work—in partnership with the private sector, in cooperation with State and local government, and in service to all Americans. We enjoy a

rich and diverse culture in the United States, open to every citizen, and supported by the Federal Government for our common good and benefit.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 28, 1996.*

MESSAGES FROM THE HOUSE

At 10:26 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agree to the amendments of the Senate to the bill (H.R. 1833) to amend title, United States State Code, to ban partial-birth abortions.

The message also announced that pursuant to the provisions of section 1 of Public Law 102–246, the Speaker appoints Mrs. Marguerite S. Roll of Paradise Valley, AZ, as a member from private life, to the Library of Congress Trust Fund Board on the part of the House to a 3-year term.

The message further announced that pursuant to the provisions of 22 U.S.C. 276d, the Speaker appoints Mr. Houghton of New York, chairman, on the part of the House to the United States Delegation of the Canada-United States Interparliamentary Group.

The message also announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 102. Concurrent resolution concerning the emancipation of the Iranian Baha'i community.

ENROLLED BILL SIGNED

At 12:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

At 2:49 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the bill (S. 4) to grant the power to the President to reduce budget authority.

At 5:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3136. An act to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.

At 6:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 4. An act to give the President line item veto authority with respect to appropriations, new direct spending and limited tax benefits.

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore [Mr. THURMOND].

MEASURE PLACED ON THE CALENDAR

The following concurrent resolution was placed on the calendar:

H. Con. Res. 102. Concurrent resolution concerning the emancipation of the Iranian Baha'i community.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on March 22, 1996 he had presented to the President of the United States, the following enrolled joint resolution:

S.J. Res. 38. A joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2199. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled "Core Data Elements and Common Definitions for Employment and Training Programs"; to the Committee on Labor and Human Resources.

EC–2200. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Hellenikon International Airport, Athens, Greece; to the Committee on Commerce, Science, and Transportation.

EC–2201. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, the report of a building project survey; to the Committee on Environment and Public Works.

EC–2202. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–2203. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2204. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–537. A resolution adopted by the Council of the City of Willowick, Lake County, Ohio relative to the Internet; to the Committee on Commerce, Science, and Transportation.

POM–538. A resolution adopted by the Legislature of the Virgin Islands; ordered to lie on the table.

"RESOLUTION NO. 1551

"Whereas, the global spread of HIV infection and AIDS necessitates a worldwide effort to increase communication, education and preventive action to stop the spread of HIV and AIDS; and

"Whereas, the World Health Organization has designated December 1st of each year as World AIDS Day, a day to expand and strengthen the worldwide effort to stop the spread of HIV and AIDS; and

"Whereas, the World Health Organization now estimates that 18.5 million people have been infected with HIV and that more than 1.5 million of them have developed AIDS; and

"Whereas, the American Association for World Health is encouraging a better understanding of the challenge of HIV and AIDS nationally as it recognizes that the number of people diagnosed with HIV and AIDS in the United States continues to increase; and

"Whereas, an estimated 1 in 250 Americans are currently HIV positive and over 441,528 AIDS cases have been reported (as of December 31, 1994); and

"Whereas, of these 441,528 people, 85% were men and 13% were women; and

"Whereas, the remaining 2% were children less than 13 years old; and

"Whereas, through 1994, a total of 870,270 AIDS related deaths have been reported to the Center for Disease Control (CDC); and

"Whereas, the United States has the highest reported rate of AIDS in the industrialized world; and

"Whereas, World AIDS Day provides an opportunity to focus on HIV infection and AIDS, to show care for people with HIV infection and AIDS, and to learn about HIV and AIDS; and

"Whereas, World AIDS Day focuses on "Shared Rights and Shared Responsibilities; and

"Whereas, the Legislature of the Virgin Islands urges Virgin Islanders to protect everyone's right to HIV and AIDS prevention and care; and

"Whereas, the Legislature of the Virgin Islands recognizes that everyone shares the same human rights regardless of their HIV status; and

"Whereas, the Legislature of the Virgin Islands emphasizes the shared responsibilities of individuals, families, and governments and the international community to promote prevention; and

"Whereas, December 1, 1995, has been declared as "World AIDS Day"; and

"Whereas, all Virgin Islanders are urged to take part in activities and observances designed to increase the awareness and understanding of HIV and AIDS as a global challenge by wearing a red ribbon; and

"Whereas, the wearing of a red ribbon unifies the many voices seeking a meaningful response to the AIDS epidemic and shows a commitment to the fight against this disease; and

"Whereas, the red ribbon symbolizes the hope that one day soon the AIDS epidemic

VOL
142
PT
5
MR
21
—
29
1996
UMI

will end, that the sick will be healed, and that the stress upon our society will be relieved; and

"Whereas, the red ribbon also serves as a constant reminder of the many people in these Virgin Islands, as well as the world over, suffering as a result of this disease, and of the many people working to find a cure; and

"Whereas, the red ribbon demonstrates compassion for people with AIDS and their caretakers, and shows support for education and research leading to effective treatments, vaccines, and a cure; Now, therefore, be it

"*Resolved by the Legislature of the Virgin Islands:*

"SECTION 1. The Legislature of the Virgin Islands, on behalf of the people of the Virgin Islands, officially recognizes World AIDS Day and joins the global effort to prevent the further spread of HIV and AIDS.

"SECTION 2. Copies of this resolution shall be forwarded to the President of the United States, each member of the United States Congress, and the President of the American Association for World Health.

POM–539. A resolution adopted by the Western Legislative Conference relative to congratulatory message; ordered to lie on the table.

POM–540. A resolution adopted by the Western Legislative Conference relative to export finance assistance; ordered to lie on the table.

POM–541. A resolution adopted by the Western Legislative Conference relative to appreciation; ordered to lie on the table.

POM–542. A resolution adopted by the Western Legislative Conference relative to appreciation; ordered to lie on the table.

POM–543. A resolution adopted by the Western Legislative Conference relative to Federal Medicaid proposals; ordered to lie on the table.

POM–544. A resolution adopted by the Western Legislative Conference relative to long-term care insurance partnerships; ordered to lie on the table.

POM–545. A resolution adopted by the Western Legislative Conference relative to the designation of wilderness areas; ordered to lie on the table.

POM–546. A resolution adopted by the Western Legislative Conference relative to Federal rangeland reforms; ordered to lie on the table.

POM–547. A resolution adopted by the Western Legislative Conference relative to nuclear materials management; ordered to lie on the table.

POM–548. A resolution adopted by the Western Legislative Conference relative to wetlands management; ordered to lie on the table.

POM–549. A resolution adopted by the Western Legislative Conference relative to Federal environmental statutes; ordered to lie on the table.

POM–550. A resolution adopted by the Western Legislative Conference relative to regulatory reform principles; ordered to lie on the table.

POM–551. A resolution adopted by the Western Legislative Conference relative to the Clean Water Act; ordered to lie on the table.

POM–552. A resolution adopted by the Western Legislative Conference relative to the cleanup of hazardous and radioactive wastes at Federal facilities; ordered to lie on the table.

POM–553. A resolution adopted by the Western Legislative Conference relative to coordinated ecosystem management and marine biodiversity; ordered to lie on the table.

POM–554. A resolution adopted by the Western Legislative Conference relative to the management of Pacific fishery resources; ordered to lie on the table.

POM–555. A resolution adopted by the Western Legislative Conference relative to the coastal and ocean management; ordered to lie on the table.

POM–556. A resolution adopted by the Western Legislative Conference relative to economic zones; ordered to lie on the table.

POM–557. A resolution adopted by the Western Legislative Conference relative to the Pacific Ocean; ordered to lie on the table.

POM–558. A resolution adopted by the Western Legislative Conference relative to water issues; ordered to lie on the table.

POM–559. A resolution adopted by the Western Legislative Conference relative to public lands; ordered to lie on the table.

POM–560. A resolution adopted by the Western Legislative Conference relative to the Bureau of Land Management; ordered to lie on the table.

POM–561. A resolution adopted by the Western Legislative Conference relative to higher education programs; ordered to lie on the table.

POM–562. A resolution adopted by the Western Legislative Conference relative to educational technology; ordered to lie on the table.

POM–563. A resolution adopted by the Western Legislative Conference relative to school-to-work systems; ordered to lie on the table.

POM–564. A resolution adopted by the Western Legislative Conference relative to WLC meetings; ordered to lie on the table.

POM–565. A resolution adopted by the Western Legislative Conference relative to Federal transportation grants; ordered to lie on the table.

POM–566. A resolution adopted by the Western Legislative Conference relative to trade; ordered to lie on the table.

POM–567. A petition from a citizen of the State of Wisconsin relative to scholarships; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1596. A bill to direct a property conveyance in the State of California (Rept. No. 104–247).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 255. A bill to designate the Federal Justice Building in Miami, Florida, as the "James Lawrence King Federal Justice Building".

H.R. 869. A bill to designate the Federal building and U.S. Courthouse located at 125 Market Street in Youngstown, Ohio, as the "Thomas D. Lambros Federal Building and U.S. Courthouse".

H.R. 1804. A bill to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the "Judge Isaac C. Parker Federal Building".

H.R. 2415. A bill to designate the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Ysleta in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building".

H.R. 2556. A bill to redesignate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce:

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

William L. Wilson, of Minnesota, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

COMMUNICATIONS SATELLITE CORPORATION

Barry M. Goldwater, Sr. of Arizona, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1998. (Reappointment)

COMMUNICATIONS SATELLITE CORPORATION

Peter S. Knight, of the District of Columbia, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1999. (Reappointment)

COAST GUARD

The following regular officers of the U.S. Coast Guard for promotion to the grade of rear admiral:

John E. Shkor
Paul E. Busnick
John D. Spade
Douglas H. Teeson
Edward J. Barrett

The following regular officers of the U.S. Coast Guard for promotion to the grade of rear admiral (lower half):

Joseph J. McClelland, Jr.
John L. Parker
Paul J. Pluta
Thad W. Allen

COAST GUARD

Vice Admiral James M. Loy, U.S. Coast Guard, to be Chief of Staff, U.S. Coast Guard, with the grade of vice admiral while so serving.

Vice Admiral Richard D. Herr, U.S. Coast Guard, to be vice commandant, U.S. Coast Guard, with the grade of admiral while so serving.

Vice Admiral Kent H. Williams, U.S. Coast Guard, to be commander, Atlantic Area, U.S. Coast Guard, with the grade of vice admiral while so serving.

Rear Admiral Roger T. Rufe, Jr., U.S. Coast Guard, to be commander, Pacific Area, U.S. Coast Guard, with the grade of vice admiral while so serving.

The following-officer of the U.S. Coast Guard Reserve for promotion to the grade of rear admiral:

Richard W. Schneider

The following officer of the U.S. Coast Guard Reserve for promotion to the grade of rear admiral (lower half):

Jan T. Riker

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PRESSLER. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably six nomination lists in the Coast Guard, which were printed in full in the CONGRESSIONAL RECORD on November 28, 1995, January 22, 1996, February 9, 1996, February 20, 1996, March 5, 1996, and March 11, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of November 28, 1995, January 22, 1996, February 9, 1996, February 20, 1996, March 5, 1996, and March 11, 1996, at the end of the Senate proceedings.)

The following officers of the United States Coast Guard Reserve for promotion to the grade indicated:

To be captain

George J. Santa Cruz
Gregory E. Shapley

To be commander

James E. Litsinger
Dale M. Rausch
Maury A. Weeks
Donald E. Bunn

To be lieutenant commander

Pinkey J. Clark
Kevin M. Pratt

The following individual for appointment as a permanent regular commissioned officer in the United States Coast Guard in the grade of lieutenant:

Sherry A. Comar

Pursuant to the provisions of 14 USC 729, the following-named commanders of the Coast Guard Reserve to be permanent commissioned officers in the Coast Guard Reserve in the grade of captain:

Steven D. Poole
Thomas J. Falvey
John P. Miceli
Gerald P. Fleming
Catherine A. Bennett
Roderick L. Powell
Richard T. Walde
Frank A. Freisheim
Brian J. McDonnell
Ivan R. Krissel
Richard E. Tinsman
Kevin J. MacNaughton

The following Regular officers of the United States Coast Guard for promotion to the grade of lieutenant commander in the Coast Guard:

Michael S. Fijalka
Joseph P. Sargent, Jr.
Gerald E. Anderson
Kristopher G. Furtney
George E. Butler
Gary A. Schenk
Margaret S. Bosin
Guy R. Theriault
Richard A. Sparacino
Mark S. Hemann
Gregory A. Cruthis
Ralph Haes
Charles D. Dahill
Steven R. Godfrey
Wesley E. Driver
Edward B. Swift
Walter B. Wrzesniewski
Francis J. Elfring
Philip F. Dolin
Michael A. Walz
Nicholas F. Russo
Bryan R. Emond
Dale M. Jones, Jr.
Christopher P. Scraba
Stephen C. Rothchild
Byron H. Romine
Michael W. Shomin
Meredith L. Austin
Gary D. Lakin
Stephen S. Scardefield
Joseph D. Phillips
Carlyle A. Blomme
Kelly S. Strong
Thomas J. Hughes
Wayne D. Cawthorn
Joseph C. McGuiness
Frank H. Kingett
Daniel J. Christovich
Robin E. Kane
Robert B. Watts
Keith J. Turro
Lori A. Mathieu
Davis L. Kong
Edward J. Gibbons
Manuel R. Raras III
Edwardo Gagarin
Mathew E. Miller
David M. Singer
Douglas H. Olson
Lincoln H. Benedict
Scott A. Fleming
Brian F. Poskaitis
Kevin P. Crawley
Terry L. Hoover
Duane F. Rumpca
Daniel S. Rotermund
Adolph L. Keyes
Ronald L. Roddam
John T. Fox
Mark R. Dix
James R. Manning
Nancy R. Goodridge
Gregory C. Busch
James J. Fisher
Robert T. Vicente
Timothy A. Cook
Brian C. Emrich
Catherine A. Haines
Todd K. Watanabe
Brendan C. Frost
Michael R. Hicks
Jacob R. Ellefson
James L. Knight
Laura L. Schmitt
James F. Martin
Christine C. Pippenger
Elizabeth A. Lasicki
Steven C. Truhlar
Gary M. Thomas
Jay Jewess
Christopher Yakabe
David A. Vaughn
Geoffrey A. Trivers
Steven V. Carleton
Robert S. Burchell
Robert E. Brogan
Terance E. Keenan
Laurie J. Mosier
Mark S. Ogle
Wayne P. Brown
Steven A. Weiden
Joseph J. Turosky III
Eric J. Forde
Thomas A. Saint, Jr.
Charles A. Schue III
Frederick A. Salisbury
Michael C. Ryan
Wesley S. Trull
Guy A. McArdle
Roger V. Bohnert
George J. Bowen II
John A. Meehan
William J. Ziegler
Douglas W. Stephan
Douglas R. McCrimmon, Jr.
David P. Dangelo
Douglas W. Simpson
Brian L. Dunn
Kenneth J. Reynolds
Douglas I. Hatfield
Brenton S. Michaels
Joseph A. Lukinich, Jr.
Rondal B. Litterell
David C. Hoard
Carl B. Hansen
Gregory S. Omernik
Ernest M. Gaskins
Brian A. Sanborn
Howard R. White
Alberto L. Perez-Vergara
William F. Imle
Linn M. Carper
Jerry R. Honeycutt, Jr.
Joseph B. Kolb
Frederick E. Bartlett
Andrew W. Connor
Gerald A. Green
Carolyn M. Deleo
Robert B. Burris
Christopher L. Roberge
Jon G. Beyer
Patrick Little
John D. Sharon
Michael B. Christian
Michael F. McAllister
Tommey H. Meyers
Matthew Von Ruden
Karl J. Gabrielsen
James S. Plugge
Daniel T. Pippenger
Werner A. Winz
Thomas E. Hickey
Christopher J. Tomney
Mark T. Lunday
James R. Lee
John N. Healey
Kurt A. Van Horn
Mark Dietrich
Hung M. Nguyen
John R. Caplis
Steven T. Baynes
Todd S. Turner
Timothy P. Leary
Brandt G. Rousseaux
James M. Heinz
Mark P. Peterson
Byron E. Thompson
Michael A. Mohn
Gregory J. Sundgaard
Richard K. Hunt
Paul S. Szwed
Mark A. True
Mark A. Cawthorn
Kathryn L. Oakley
Barry A. Compagnoni
Robert J. Klapproth
Craig L. Eller
Mark E. Dolan
Frederick G. Myer
Charles A. Turner
Christopher D. Brewton
Dale A. Bouffiou
Chris A. Nettles
Lia E. Debettencourt
John G. Hornbuckle
Mark J. Metoyer
Richard E. Petherbridge
Craig A. Lindsey
Kimberly J. Nettles

The following Regular and Reserve Officers of the United States Coast Guard to be permanent commissioned officers in the grades indicated:

To be lieutenant

Gerald E. Anderson
Charles D. Dahill
Nancy R. Goodridge
Douglas I. Hatfield
James J. Jones
Mark A. Willis
Stephen E. Schroeder
Timothy J. Gilbride
James J. Mikos
Paul A. Gummel
Edward J. Vandusen
David M. Flaherty
John L. Beamon
Hewitt A. Smith III
Marcus X. Lopez
Sean D. Salter
James Q. Stevens III
Charles H. Simpson, Jr.
Daniel J. Molthen
Rogers W. Henderson
Scott H. Olson
Brian W, Roche
Robert T. Hendrickson, Jr.
Paul E. Gerecke
David W. Mooney
Gerald M. Charlton, Jr.
Kurt A. Lutzow
Gerald A. Williams
Jose A. Saliceti
Timothy A. Mayer
Todd C. Hall
Michael L. Gatlin
Christine R. Gustafson
James Borders, Jr.
Kevin R. Sheer
Thomas S. MacDonald
James W. Bartlett
Peter J. Clemens
James A. Stewart
Carla J. Grantham
Kevin A. Jones
Susan R. Klein
Jeffrey K. Pashai
Wesley K. Pangle
Karen L. Brown
Neil H. Shoemaker
Brian P. Washburn
Kristin K. Barlow
Lara N. Burleson
Christel A. Dahl
Mark A. Emmons
Jose M. Zunica
Andres V. Delgado
Garth B. Hirata
David E. Hoten
George R. Lee
Robert L. Smith
Robert C. Gaudet
Mark J. Morin
Jeffrey A. Baillargeon
Barbara N. Benson
Michelle R. Webber
Darnell C. Baldinelli
Michael H. Day

To be lieutenant (junior grade)

Jeffrey R. McCullars
Paul E. Dittman
Daniel H. Mades
Christopher B. O'Brien
Peter V. Nourse
David R. Simeur II
Dean J. Dardis
Patrick S. McElligatt
Nancy L. Peavy
Edward A. Westfall
William A. Birch
Randall G. Wagner
Douglas R. Campbell
Karl D. Dornburg
Joyce E. Aivalotis
Melvin Wallace
Andre L. McGee
Charles G. Alcock
Thomas J. Salveggio
Tony M. Cortes
Steven E. Vigus
Matthew X. Glavas
Lisa A. Ragone
Ronald K. Grant
Eric L. Tyson
Gregory N. Delong
David A. Bullock
Timothy J. Cotchay
Bob I. Feigenblatt
Stephen A. McCarthy
Ramon E. Ortizvalez
Thomas W. Harker
Kyle A. Adams
Daniel R. Norton
Bruce D. Cheney, Sr.
Christopher K. Bish
Kevin L. Rebrook
Mark P. Doran
Kathleen M. McNulty
Brendan C. Bennick
William E. Runnels
Michael R. Charbonneau
Bradley J. Ripkey
Michael Sakaio
Christina M. Bjergo
James E. Elliott
Brett A. Taft
Joseph F. Rock, Jr.
Joseph M. Fierro
Charles A. Caruolo
Karl I. Meyer
Michael A. Baroody
Robert I. Coller
Robert R. Harper, Jr.
Joseph Ponseti, Jr.
William R. Timmons
Peter A. Yelle
Claudia C. Gelzer
Daniel D. Unruh
Mark Marchione
Matthew D. Woodward
John A. Denard
John B. Milton
John A. Cromwell
Scott A. Hinton
Orin E. Rush, Jr.
Mitchell A. Morrison
Christopher B. Hill
Alan L. Blume
Jeffery W. Thomas
Larry L. Littrell
Christopher M. Holmes
Thomas N. Thomson
Bryan P. Rorke
David H. Anderson
Edward W. Price, Jr.
Thomas J. Robinson II
Richard M. Klein
Jerry J. Briggs
William G. Lutman
Gregory L. Carter
Roger A. Smith
James V. Mahney, Jr.
Kevin N. Knutson
Donna G. Urban

VOL 142 PT 5 MR 21 — 29 1996 UMI

Raymond C. Milne III
Joel B. Roberts
Dale Dean
David J. Wierenga
Mark J. Bruyere
Thomas J. Goldberg
Michael F. Trevett
John G. White
Timothy A. Tobiasz
Christopher S. Nicolson
Dale A. Bluemel
Lawrence A. Kiley
Whitney L. Yelle
James F. Blow
Edward W. Sandlin II
Scott D. Stewart
Ismal Curet
Michael A. Vanvoorhees
Lewis M. Werner
Charles A. Roskam II
James A. Nussbaumer
Kevin Y. Pekarek
Michael T. Lingaitis
Erich M. Telfer
Constantina A. Stevens

The following cadets of the United States Coast Guard Academy for appointment to the grade of ensign:

Stephen Adler
Todd Adrian
Andrew Aguilar
Christopher Allan Ahearn
Kristina Marie Ahmann
Lee Allison
Brian Robert Anderson
Pete Agrao
David Lewis Arritt
Scott Aten
Jonathan Dickinson Baker
Alain Velasco Balmacedo
Clifford Ronald Bambach
Agustus James Bannan
Timothy James Barelli
Che Jeremy Barnes
Jennifer Alice Beaver
Eric Michael Belleque
Scott David Benson
John Berry
Robert Humber Bickerstaff
Jeff Brian Bippert
Dawn Black
Chad Eric Bland
Jed Robert Boba
George Charles Bobb
Michael Bolz
Fred Van Boone
Russell Eugene Bowman
Sean Terrence Brady
Paul Brooks
Andy Scott Brown
Heath Michael Brown
Jessica Irene Brown
Thomas Russell Brown
Timothy Tyson Brown
William Alan Budovec
Marc Alan Burd
Erva Jennifer Burhans
Travis Lance Burns
Colin Edward Campbell
Rachelle Lyn Cannon
Willie Lee Carmichael
Scott Eric Carroll
Anthony Cella
Adam Abraham Chamie
Casey Louis Chmielewski
Bradley Clare
Kathryn Nadene Clevenger
Eric Mitchell Cooper
Phillip Alexander Cowall
Phillip Allen Crigler
Timothy Patrick Cronin
Christopher Francis Dabbieri
Quincy Lamont Davis
Seth Joo Yong Denning
Jared Colin Dillian
Patrick Dougan
William Albert Dronen
William Earle Duncan
Michael P. Duren
Michael Arthur Edwards
Timothy Aaron Mahr
Zachary Joseph Malinoski
Gary Mason
Gregory Alen Matyas
Austin Joseph McGuire
Eileen Patricia Meehan
Tracy Walsh Mehr
Brian Arthur Meier
Peter Neal Melnick
Sally Messer
Brian Miles
Christopher Michael Milkie
Gabrielle Genevieve Miller
Emily Minbiole
Erica Lea Mohr
Robert Thomas Moorhouse
Joe L. Morgan
Seal Gregory Morrissey
Jesse Clate Morton
Todd William Moyer
Michael Shawn Moyers
Jonathan Edward Musman
Adam Eric Nebrich
Benjamin Louis Nicholson
Craig Mickael O'Brien
John Kenneth O'Connor
James Joseph O'Kane
Thomas Andrew Olenchock
Matthew Orendorff
Drew Francis Orsinger
Brian Palm
Michael John Paradise
Andrew Thomas Pecora
Scott Thomas Peterein
Hillary Genelle Peterson
Ty Jeremy Peterson
Christopher Brian Phelan
Lena Michele Piazza
Richard Charles Pokropski
Michelle Lee Quach
Brian Kevin Riemer
Erick Roane
Keith Michael Ropella
Michael Ray Roschel
Andrew Eric Rosenbaum
Brad Rosello
Herbert Henry Eggert
Michael James Ennis
Philip Allan Ero
Salvatore Jason Fazio
Michele Flaherty
Taina Fonseca
Anthony F. Franzago
Michael Shariff Fredie
Ernie Toledo Gameng
Juan Garcia
Christofer Lyle German
Michael Ryan Gesele
William Raymond Gibbons
Steven Gilbert
Kevin David Glynn
Raja Goel
Peter Ward Gooding
Dennis Michael Gordon
Michael Patrick Guldin
Fernando Gutierrez
Timothy Dale Hammond
Colin Harding
Mark Koffman Harris
Rebecca Pearl Harvey
Chris S. Hayter
Jalyn Gail Heil
Robert Hengst
John Hennigan
Mark Donald Heupel
Eric Edwards Hoernemann
Christy Lynn Hogan
Eli Hoory
Eric Kenneth Horn
Walter Laurence Horne
Robert Anthony Hueller
John Paul Humpage
Mark Alan Jackson
Benjamin Alexandea Janczyk
Merle Johnson
Reese Parker Johnson
Samuel Johnson
Anthony Raymond Jones
Alexander Sarol Joves
Eirik Thomasson Kellogg
Carl Martin Kepper
Robert John Keramidas
Adam Lincoln Kerr
Timothy James Kerze
Fair Charlie Kim
Jooyi Kim
William Anderson King
Heather Kristine Klemme
Chris Kluckhuhn
Sean Adam Komatinsky
Gabrielle Nicole Krajenski
Jason A. Kremer
Paul Emil Lafond
Karl David Lander
James Willis Larson
Ryon L. Little
Scott Stanley Littlefield
Katherine Mary MacDonald
Ryan Alexander Roslonek
Anthony Lee Russell
Michael Ryan
Olav Magnus Saboe
Andrea Lynn Sacchetti
Jerry Wayne Saddler
Matthew J. Salas
Aaron Michael Sanders
Derek Thomas Schade
Daniel Schaeffer
Tabitha A. Schiro
Michael Schoonover
Cynthia Seamands
Edward See
Richard Servantez
John Edward Shkor
Jeremy Charles Smith
Christain Jared Souter
Eric Ryan St. Pierre
Nell Baynham Stamper
Jane Elizabeth Stegmaier
Scott Allan Stoermer
Brian Patrick Storey
Tracy Ann Strock
Daniel Matthew Stulack
Jonathan Theel
Michael David Thomas
Randall Thomas
Paul Edward Tressa
Woodrow E. Turner
Todd David Vance
Mark Aaron Voris
Gretchen Anne Wagner
Michael Anthony Walsh
Daniel Ward
Eric Ward
Donis Wayne Waters
Michelle Renee Watson
Andres Michael Went
William Edward Whitaker
Laurina Mae-Anne Wilcox
Mark Wilcox
Anthony Wade Williams
Douglas Erhardt Williams
Torrence Bement Wilson
Kimberly Zust

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. HUTCHISON:

S. 1648. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Herco Tyme*; to the Committee on Commerce, Science, and Transportation.

By Mr. KERREY (for himself, Mr. DOLE, Mr. EXON, and Mrs. KASSEBAUM):

S. 1649. A bill to extend contracts between the Bureau of Reclamation and irrigation districts in Kansas and Nebraska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself, Mr. KERRY, Mr. SIMON, Mr. LEAHY, Ms. MIKULSKI, and Mr. INOUYE):

S. 1650. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WARNER:

S. 1651. A bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to medicare to enroll in the Federal Employees Health Benefits program; to the Committee on Armed Services.

By Mr. McCONNELL:

S. 1652. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to establish a national resource center and clearinghouse to carry out training of State and local law enforcement personnel to more effectively respond to cases involving missing or exploited children, and for other purposes; to the Committee on the Judiciary.

By Mr. CONRAD:

S. 1653. A bill to prohibit imports into the United States of grain and grain products from Canada, and for other purposes; to the Committee on Finance.

By Mrs. BOXER (for herself and Mr. BRADLEY):

S. 1654. A bill to apply equal standards to certain foreign made and domestically produced handguns; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. PELL, Mr. D'AMATO, Mr. PRESSLER, Mr. LEVIN, and Mr. FEINGOLD):

S. Con. Res. 50. A concurrent resolution concerning human and political rights and in support of a resolution of the crisis in Kosova; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERREY (for himself, Mr. DOLE, Mr. EXON, and Mrs. KASSEBAUM):

S. 1649. A bill to extend contracts between the Bureau of Reclamation and irrigation districts in Kansas and Nebraska, and for other purposes; to the Committee on Energy and Natural Resources.

THE IRRIGATION PROJECT CONTRACT EXTENSION ACT OF 1996

• Mr. KERREY. Mr. President, I introduce legislation to extend the water service contracts for irrigation projects in Nebraska and Kansas.

Mr. President, a little over 50 years ago, Congress authorized construction of a set of water management projects as a part of the Flood Control Act of 1944. These projects were designed to provide control, conservation, and use of water resources throughout the Missouri River basin. Known as the Pick-Sloan Missouri Basin Program, the system has provided flood control, power generation and irrigation to over 3.7 million acres, as well as stream pollution abatement, sediment control, water supplies for cities and industry, enhancement of fish and wildlife, and recreation opportunities.

Each of the projects had 40-year water service contracts for irrigation with the Bureau of Reclamation, in the Department of the Interior. These contracts are beginning to expire. In fact, three of those 40-year contracts will expire on December 31 of this year. Though the procedures for contract renewal were not spelled out, it is clear that contract renewal was considered when the original agreements were made. It is also clear that an immediate extension of the service contracts is necessary. Extending these contracts will give the Bureau of Reclamation the necessary time to complete the contract renewal process as well as provide us time to collect input to fully evaluate our options and maximize the benefits of the best option.

The legislation I introduce today is straight-forward and simple: It would extend each of 10 water service contracts upon expiration for a period of 4 years. The terms of each contract would be the same as those originally negotiated.

I am glad to be able to say that this legislation has the full and bipartisan support of each Senator from both of the affected States, Nebraska and Kansas. It has been a real pleasure to work with each of my cosponsors on an issue where we found such clear and easy agreement, both about what needed to be done and how to get there. So, on behalf of myself, the majority leader, BOB DOLE, my friend and fellow Nebraskan JIM EXON, NANCY KASSEBAUM, and the thousands of Nebraskans, Kansans, and visitors who benefit from these projects, I introduce the Irrigation Project Contract Extension Act of 1996.•

By Mr. HARKIN (for himself, Mr. KERRY, Mr. SIMON, Mr. LEAHY, Ms. MIKULSKI, and Mr. INOUYE):

S. 1650. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Labor and Human Resources.

THE FAIR PAY ACT OF 1996

• Mr. HARKIN. Mr. President, the Equal Pay Act, passed in 1963, made it illegal to discriminate against women when determining pay levels for the same job. Since then, we have made some progress in reducing employment discrimination against women. But we cannot have equality of opportunity in the workplace without equality and fairness in wages and salary. Even though many women have moved up and out of traditionally female jobs, stereotypes and historical discrimination remain firmly imbedded in pay scales.

Current law has not done enough to combat wage discrimination when employers routinely pay lower wages to jobs that are dominated by women. That is why I am introducing the Fair Pay Act of 1996. The Fair Pay Act is designed to pick up where the Equal Pay Act left off by paying women equally for equivalent work.

The heart of the Fair Pay Act will make it illegal to discriminate against employees on the basis of sex, race, and national origin by requiring equal pay for work in jobs that are comparable in skill, effort, responsibility, and working conditions. Women and minorities make up 57 percent of the workforce and their salaries are an essential component of family income. It is a fundamental issue of fairness to provide equal pay for work that is of equal value to an employer.

Wage gaps can result from differences in education, experience, or time in the workforce and the Fair Pay Act does not interfere with that. But, just as there is a glass ceiling in the American workplace, there is also what I call a glass wall—where women are on the exact same level as their male coworkers. They have the same skills, they have the same type of responsibilities, but they are still obstructed from receiving the same pay. It is a hidden barrier, but a barrier all the same. And it is keeping out equality, opportunity, and above all fairness. The Fair Pay Act is about knocking down the glass wall.

To illustrate, consider a study done in the county of Los Angeles that compared the job requirements and salaries of children's social service workers who were mostly women and probation officers who were mostly men. The two jobs required the same skills and education, and the working conditions were similar. However, the social service workers were paid an average of $35,000 a year while the probation officers were paid an average of $55,000 a year—a $20,000 difference in salary.

Over a lifetime, that kind of wage gap adds up. The average woman loses $420,000 over a lifetime due to unequal pay practices. Such gaps in income are life changing: it can mean the difference between welfare and self-sufficiency, owning a home or renting, sending your kids to college or to flip burgers, or having a decent retirement instead of an uncertain old age.

The Fair Pay Act is a commonsense business issue. Women and minorities make up over half of the work force and fair pay is essential to attract and keep good workers.

The Fair Pay Act is an economic issue. Working women, after all, don't get special discounts when they buy milk. They can't get a special rate buying clothes for their kids. Bread and gasoline don't cost less for working women than working men. And women and minorities are certainly taxed at the same rate as men are, yet they don't get any break when April 15 rolls around.

The Fair Pay Act is a family issue. Family budgets are getting squeezed by the day. When women are discriminated against in their pay, they aren't the only ones who lose. When women aren't paid what they're worth, husbands and children get cheated too.

Now, I've heard the critics. Some say there is no discrimination in the workplace. It's just the natural economic forces paying workers their fair share.

Others say that this is a decision that should be left to the private sector alone. If the private sector wants to discriminate, they say, that should be their right. Well, we as a society have said discrimination in any form should not be tolerated and that's what this bill is about.

There is perhaps no other form of discrimination that has as direct an impact on the day-to-day lives of workers as economic discrimination. The Equal Pay Act was designed to end that. And it has helped. But we need to go further to address economic discrimination for equivalent work.

And most importantly, the American people want fair pay legislation. The Fair Pay Act has already been endorsed by a wide variety of groups and organizations. In addition, polling data consistently show that over 70 percent of the American people support a law requiring the same pay for men and women in jobs requiring similar skills and responsibilities. Please join me in supporting the Fair Pay Act of 1996. I welcome your ideas and suggestions.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VOL
142
PT
5
MR
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29
1996
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WE SUPPORT THE FAIR PAY ACT

A. Philip Randolph Institute.
Adams National Bank.
AFL–CIO.
AFSCME.
American Association of Retired Persons.
American Association of University Women.
American Civil Liberties Union.
American Federation of Government Employees.
American Library Association.
American Nurses Association.
American Physical Therapy Association.
Americans for Democratic Action.
Bakery, Confectionery, Tobacco Workers International Union.
B'nai B'rith Women.
Business and Professional Women/USA.
Center for the Advancement of Public Policy.
Coal Employment Project.
Coalition of Black Trade Unionists.
Coalition of Labor Union Women.
Dulles Area NOW.
Episcopal Church Center, Women in Mission & Ministry.
Equal Rights Advocates.
Federally Employed Women.
Federation of Organizations for Professional Women (FOPW).
Financial Women International Fund for the Feminist Majority.
General Federation of Women's Clubs.
Industrial Union Department, AFL–CIO.
Institute for Research on Women's Health.
International Brotherhood of Teamsters.
Int'l Union of Electronic, Electrical, Salaried, Machine & Furn. Workers Union.
International Union, United Auto Workers.
Hubbard and Revo-Cohen, Inc.
Kentucky Commission on Women.
League of United Latin American Citizens.
MANA: A National Latina Organization.
National Association for Commissions for Women.
National Association for Girls and Women in Sport.
National Association of Social Workers.
National Association for the Advancement of Colored People.
National Committee on Pay Equity.
National Council of Jewish Women.
National Council of Negro Women.
National Education Association.
National Federation of Federal Employees.
National Organization for Women.
National Treasury Employees Union.
National Urban League.
National Women's Law Center.
Network: A National Catholic Social Justice Lobby.
Office and Professional Employees Int'l Union.
Self Help for Equal Rights.
Service Employees International Union.
The Newspaper Guild.
UNITE! Union of Needletrades, Industrial and Textile Employees.
United Food and Commercial Workers Union.
United Methodist Church.
Utility Workers Union of America.
Wider Opportunities for Women.
Women Employed.
Women in Communications, Inc.
Women on the Job.
Women of the Job Taskforce.
Women Work! The National Network for Women's Employment.
Women's Information Network.
Women's Legal Defense Fund.
Women's Self Employment Project.
YWCA of the USA.●

● Mr. LEAHY. Mr. President, today, more than half our population faces discrimination every day. Hard to believe, but it is true.

Women currently earn, on average, 28 percent less than men. That means for every dollar a man earns, a woman earns only 72 cents. Over a lifetime, the average woman will earn $420,000 less than the average man based solely on her sex. This is unacceptable. We must correct this gross inequity, and we must correct it now.

How is this possible with our Federal laws prohibiting discrimination? It is possible because we in Congress have failed to protect one of the most fundamental human rights—the right to be paid fairly for an honest day's work.

Unfortunately, our laws ignore wage discrimination against women and minorities, which continues to fester like a cancer in workplaces across the country. The Fair Pay Act of 1996 would close this legal loophole by prohibiting discrimination based on wages.

I do not pretend that this act will solve all the problems that women and minorities face in the workplace. It is, however, an essential piece of the puzzle.

Equal pay for equal work is often a subtle problem that is difficult to combat. And it does not stand alone as an issue that women and minorities face in the workplace. It is deeply intertwined with the problem of unequal opportunity. Closing this loophole is not enough if we fail to provide the opportunity for women and minorities, regardless of their merit, to reach higher paying positions.

The Government, by itself, cannot change the attitudes and perceptions of individuals or private businesses in hiring and advancing women and minorities, but it can set an example. Certainly, President Clinton has shown great leadership by appointing an unprecedented number of women to his administration. Earlier this week, the Department of Defense, the Nation's largest employer of women, reached a milestone when President Clinton appointed the first female three-star general, Maj. Gen. Carol Mutter of the U.S. Marine Corps. I share her sentiment when she said she could not wait until there were no more firsts for women. The Government has a long way to go, however, since General Mutter will be the lone woman out of more than 100 three-star officers.

The private sector also has a long way to go to provide equal opportunity. The report released by the Glass Ceiling Commission last year found that 95 percent of the senior managers of Fortune 1000 industrial and Fortune 500 companies are white males. The Glass Ceiling Commission also found that when there are women and minorities in high places, their compensation is lower than white males in similar positions. This wage inequality is the issue we seek to address today.

In the next decade, the changing nature of the workplace—women and minority men will make up 62 percent of the work force by the year 2005—will force businesses to look at the larger pool of qualified Americans to continue to be competitive in the marketplace. As this change occurs, we must demand fair pay for equal work.

For the first time in our country's long history, this bill outlaws discrimination in wages paid to employees in equivalent jobs solely on the basis of a worker's sex, race, or national origin. I say it is about time. I commend Senator HARKIN for introducing the Fair Pay Act, and I am proud to be an original cosponsor of it.

The Fair Pay Act would remedy gender and race wage gaps under a balanced approach that takes advantage of the employment expertise of the Equal Employment Opportunity Commission [EEOC], while providing flexibility to small employers . In addition, it would safeguard legitimate wage differences caused by a seniority or merit pay system. And the legislation directs the EEOC to provide educational materials and technical assistance to help employers design fair pay policies.

It is a basic issue of fairness to provide equal pay for work of equal value. The Fair Pay Act makes it possible for women and minorities to finally achieve this fundamental fairness. I urge my colleagues to support this legislation.●

By Mr. WARNER:

S. 1651. A bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to medicare to enroll in the Federal Employees Health Benefits program; to the Committee on Armed Services.

MILITARY RETIREES HEALTH BENEFITS LEGISLATION

Mr. WARNER. Mr. President, today I am pleased to introduce legislation which will return a sense of fairness to the military health care system by providing Medicare-eligible uniformed services retirees the same health care plan that is currently available to every other retired federal employee. This proposed legislation would allow all Medicare-eligible military retirees and family members to participate in the Federal Employee Health Benefits Plan [FEHBP].

Under the current system, military retirees are the only group of Federal employees whose health plan is taken away at age 65, requiring them to rely exclusively on Medicare. This is a broken promise, one made as they took their oath of office. I am sure that my colleagues would agree that this situation is not only inherently unfair, but that it also breaks a long standing health care commitment to our military retirees. It is worth noting that

nearly all of the largest U.S. corporations, such as General Motors, IBM and Exxon, provide their retirees with substantial employer-paid health coverage in addition to Medicare. The commonly held belief that the health care provided for military retirees is second to none is a myth. The truth is that when compared to what is provided by other large employers including the rest of the Federal Government, the health care that is provided to our Medicare-eligible military retirees and their family members has become second to almost all others.

This legislation is a major step toward the application of equitable standards of health care for all Federal Employees and honors our commitments to those veterans who served our Nation faithfully through many years of arduous military service. I invite my colleagues to join me as cosponsors of this bill. I would like to thank Jack Hoggard, Commander, USN(RET) and Mike Matthes, Commander, USN for their efforts in producing this important legislation. -

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By Mr. McCONNELL:

S. 1652. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to establish a national resource center and clearinghouse to carry out training of State and local law enforcement personnel to more effectively respond to cases involving missing or exploited children, and for other purposes; to the Committee on the Judiciary.

THE JIMMY RYCE LAW ENFORCEMENT TRAINING CENTER ESTABLISHMENT ACT OF 1996

● Mr. McCONNELL. Mr. President, I am pleased to introduce a bill to establish the Jimmy Ryce Law Enforcement Training Center for the Recovery of Missing and Exploited Children.

Each year tens of thousands of children are reported missing from their homes. The Department of Justice estimates that 3,000 to 4,000 children are taken coercively by nonfamily members. And the National Center for Missing and Exploited Children gets involved with almost 300 cases a year which involve children abducted by strangers intending harm. Many of these children are never seen again.

This is the most critical factor in a missing child investigation. And too, often, local law enforcement officials lack the experience and the resources to conduct a swift and effective investigation which will maximize the chances for a safe recovery.

The Jimmy Ryce Center, which will be established by this bill, will combine the resources of the National Center for Missing and Exploited Children with those the F.B.I.'s National Crime Information Center and Child Abduction and Serial Killer Unit, as well as the Office of Juvenile Justice and Delinquency Prevention. The Jimmy Ryce Center will be a national training center for law enforcement officials from all over the United States and its programs will address: identifying the elements of a missing and exploited child case investigations; applying research regarding missing and exploited child case investigations and analyzing successful and unsuccessful investigative techniques; and educating about the national resources available to assist local efforts in a missing and exploited child case investigation.

The Jimmy Ryce Center will also make it a priority to provide comprehensive nationwide training for law enforcement regarding report taking and NCIC entry of missing child information. And, the training center will expand current training done by the Office of Juvenile Justice and Delinquency Prevention and coordinate programs in all 50 States and the District of Columbia.

I am confident the bill will have the support of the Department of Justice. It already has the support of the Fraternal Order of Police, and I ask unanimous consent that the FOP's letter, as well a copy of the bill, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) an investigation to find a missing child presents unique circumstances for law enforcement agencies, including the need for specialized training and the capability of swift response to maximize the chances for the safe recovery of the child;

(2) local law enforcement officials often lack experience and are unaware of the Federal resources available to assist in the investigation of cases involving a missing child; and

(3) a national training facility should be established to assist State and local law enforcement agencies in—

(A) providing comprehensive training in investigations of cases involving missing or exploited children;

(B) ensuring uniform, consistent, and meaningful use of reporting systems and processes; and

(C) promoting the use of vital national resources.

SEC. 2. AMENDMENT.

Section 404(b)(2)(D) of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended by striking "children; and" and inserting "children, including—

"(i) the establishment of an onsite training center at the national clearinghouse to be known as the Jimmy Ryce Law Enforcement Training Center for the Recovery of Missing Children, designed to—

"(I) assist high-level law enforcement leaders from across the country, selected by State officials, to develop effective protocols and policies for the investigation and prosecution of cases involving a missing or exploited child; and

"(II) introduce those officials to resources available from the clearinghouse and Federal agencies to assist in cases involving a missing or exploited child;

"(ii) nationwide training in report-taking and data entry in cases involving missing or exploited children for information specialists, conducted at State and local law enforcement facilities by employees of the national clearinghouse and the National Crime Information Center of the Federal Bureau of Investigation, designed to ensure that necessary information regarding cases involving missing or exploited children is gathered and entered at the local level in a timely and effective manner; and

"(iii) State-based basic investigation training in cases involving missing or exploited children for State and local police investigators selected by State officials, conducted by employees of the national clearinghouse and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice, designed to provide practical instruction in the investigation of cases involving missing or exploited children; and".

FRATERNAL ORDER OF POLICE,
NATIONAL LEGISLATIVE PROGRAM,
Washington, DC, March 27, 1996.

Hon. MITCH McCONNELL,
U.S. Senate, Washington, DC.

Hon. PETER DEUTSCH,
U.S. House of Representatives, Washington, DC.

GENTLEMEN: On behalf of the 270,000 members of the Fraternal Order of Police, this is to express our strong support for your legislation to provide funding and facilities to train state and local law enforcement officers in investigative techniques for utilization in missing and exploited children case.

As a member of the Board of the National Center for Missing and Exploited Children (NCMEC), I am thoroughly familiar with the wonderful work of the Center, and with the strong bond which the NCMEC has forged with state and local officers. The proposed Jimmy Ryce Law Enforcement Training Center for the Recovery of Missing Children, which would operate within the framework of the NCMEC, can only enhance that relationship, and will make it even more productive.

We thank both of you for your leadership on this issue, and in the many other areas where both of you have weighed in on the side of tough yet progressive law enforcement.

Sincerely,

GILBERT G. GALLEGOS,
National President.●

By Mr. CONRAD:

S. 1653. A bill to prohibit imports into the United States of grain and grain products from Canada, and for other purposes; to the Committee on Finance.

THE IMPORT PROHIBITION ACT OF 1996

Mr. CONRAD. Mr. President, on another matter, we learned yesterday that Canada is banning all imports of United States durum as a result of the karnal bunt fungus found in Arizona. Mr. President, this ban means that no durum may be exported to Canada. Durum is the wheat that makes pasta. So all the pasta lovers should understand most of the durum that makes pasta in this country is grown in North Dakota. Eighty-seven percent of the durum wheat that makes pasta is grown in North Dakota. And our Canadian friends from the north have now

VOL
142
PT
5
MR
21
—
29
1996
UMI

banned all imports of U.S. durum wheat. What does that mean? Well, it means a lot.

It means that our durum is not going to be able to leave through the Great Lakes. That is where the grain that is grown in North Dakota and the rest of the Midwest is transferred to what we call lakers, ships that go on the lake to transoceanic vessels. Those transfers are made in Canadian ports.

This ban will mean that our grain cannot leave through those Canadian ports. That means our grain is going to have to go south through the gulf adding a lot of cost and expense. That means we are going to be less competitive against the Canadians.

Mr. President, one might understand what the Canadians are doing here if in some way they were threatened. They themselves have acknowledged they are not threatened. They themselves have acknowledged that karnal bunt cannot survive in the cold of Canada. And there is no karnal bunt that has been found in the Midwest. The only place it was found was on isolated farms in some southwestern States.

So the Canadians are engaged, I believe, in a deception. They are saying they are banning our exports of durum wheat through their ports to protect their producers. But by their own statements they know—and they have acknowledged—that they are not threatened.

So what is really going on, Mr. President? I believe it is an attempt to secure a competitive advantage, and we should not allow it. We should fight back.

Today, I am introducing two bills: One that will ban imports of Canadian durum until Canada drops its restriction on our grain. And the second bill would ban the imports of all cattle and beef from Canada given the fact that we have seen the mad cow disease develop in England. We know there have been shipments of cattle from England to Canada in the past.

If they are going to threaten us because of karnal bunt found in Arizona, we can threaten them in the same way and shut off all imports from Canada of their beef and their cattle because of the mad cow syndrome in England when we know there have been shipments of beef from that country to Canada.

It makes just as much sense to ban imports of cattle and beef from Canada where there is no known BSE as it does to ban imports of wheat from the upper midwest where there are no known outbreaks of karnal bunt.

That is equivalent treatment. That is standing up for America. I hope that other of my colleagues will join me in supporting this legislation to send a clear message to our neighbors to the north that we are not going to accept their refusal to take our exports of durum through their markets.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) The Canadian Government has imposed a ban on the importation of durum wheat from the United States because of an outbreak of karnal bunt in Arizona.

(2) The ban applies to all imports of durum wheat from the United States, including wheat from States where no evidence of karnal bunt has been found.

(3) No karnal bunt has been found in any wheat produced in Montana, North Dakota, South Dakota, Minnesota, or in the Great Lakes region.

(4) The Canadian Government has stated that due to the cold climate in Canada there is no risk of an outbreak of karnal bunt in Canada.

(5) Canada's ban on shipments of durum wheat through the Great Lakes ports is unjustifiable and the ban places unnecessary restrictions on shipments of other wheat through the Great Lakes ports.

SEC. 2. PROHIBITION AGAINST ENTRY OF CERTAIN CANADIAN GRAIN PRODUCTS.

(a) IN GENERAL.—Not later than 15 days after the date of the enactment of this Act, the President shall prohibit the entry, or withdrawal from warehouse for consumption, of all grain products (described in heading 1001 or 1101.00.00 of the Harmonized Tariff Schedule of the United States) which are produced, grown, or manufactured in Canada.

(b) DURATION.—The prohibition imposed under subsection (a) shall remain in full force and effect until the Secretary of Agriculture and the United States Trade Representative—

(1) determine that Canada has removed the prohibition on imports described in subsection (c), and that durum wheat products produced in the United States are permitted full and fair access to the markets of such country; and

(2) submit to the Congress the determination under paragraph (1), together with the reasons underlying the determination.

(c) PROHIBITION DESCRIBED.—The prohibition described in this subsection is a prohibition on the importation of durum wheat products produced in the United States where there is not sufficient evidence that karnal bunt exists with respect to such wheat.

By Mrs. BOXER (for herself and Mr. BRADLEY):

S. 1654. A bill to apply equal standards to certain foreign made and domestically produced handguns; to the Committee on the Judiciary.

THE JUNK GUN VIOLENCE PROTECTION ACT OF 1996

• Mrs. BOXER. Mr. President, I am introducing, along with my distinguished colleague from New Jersey, Senator BRADLEY, a bill to give equal treatment to the manufacture, transfer, and possession of both foreign made and domestically produced junk guns.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1654

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Junk Gun Violence Protection Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the prohibition on the importation of handguns that are not generally recognized as particularly suitable for or readily adaptable to sporting purposes, often described as junk guns or Saturday night specials, has led to the creation of a high-volume market for these weapons that are domestically manufactured;

(2) traffic in junk guns constitutes a serious threat to public welfare and to law enforcement officers, and the use of such firearms is increasing;

(3) junk guns are used disproportionately in the commission of crimes;

(4) of the firearms traced in 1995, the 3 firearms most commonly traced to crimes were junk guns; and

(5) the domestic manufacture, transfer, and possession of junk guns should be restricted.

SEC. 3. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN HANDGUNS.

(a) RESTRICTION.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(y)(1) It shall be unlawful for a person to manufacture, transfer, or possess a junk gun that has been shipped or transported in interstate or foreign commerce.

"(2) Paragraph (1) shall not apply to—

"(A) the possession or transfer of any junk gun otherwise lawfully possessed under Federal law on the date of the enactment of the Junk Gun Violence Protection Act;

"(B) any firearm or replica of a firearm that has been rendered permanently inoperative;

"(C) the manufacture for, transfer to, or possession by the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for law enforcement purposes (whether on or off duty); or

"(D) the manufacture, transfer, or possession of a junk gun by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.".

(b) DEFINITION OF JUNK GUN.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(33)(A) The term 'junk gun' means any firearm that is not described in section 925(d)(3), and any regulations issued under such section.".•

ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 1219

At the request of Mr. McCAIN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1219, a bill to reform the financing of Federal elections, and for other purposes.

S. 1483

At the request of Mr. KYL, the names of the Senator from Wyoming [Mr. THOMAS], the Senator from Texas [Mr. GRAMM], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 1483, a bill to control crime, and for other purposes.

S. 1487

At the request of Mr. GRAMM, the names of the Senator from Nevada [Mr. REID], the Senator from North Carolina [Mr. HELMS], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 1487, a bill to establish a demonstration project to provide that the Department of Defense may receive Medicare reimbursement for health care services provided to certain medicare-eligible covered military beneficiaries.

S. 1612

At the request of Mr. HELMS, the names of the Senator from New Hampshire [Mr. SMITH], and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1623

At the request of Mr. WARNER, the names of the Senator from Oklahoma [Mr. INHOFE], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. LOTT, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of Senate Concurrent Resolution 26, a concurrent resolution to authorize the Newington-Cropsey Foundation to erect on the Capitol Grounds and present to Congress and the people of the United States a monument dedicated to the Bill of Rights.

SENATE RESOLUTION 215

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of Senate Resolution 215, a resolution to designate June 19, 1996, as "National Baseball Day."

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the names of the Senator from Indiana [Mr. COATS], the Senator from Florida [Mr. MACK], the Senator from Arizona [Mr. McCAIN], the Senator from Wyoming [Mr. SIMPSON], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week".

SENATE CONCURRENT RESOLUTION 50—RELATIVE TO KOSOVA

Mr. DOLE (for himself, Mr. PELL, Mr. D'AMATO, Mr. PRESSLER, Mr. LEVIN, and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 50

Whereas the Constitution of the Socialist Federal Republic of Yugoslavia, adopted in 1946 and the amended Yugoslav Constitution adopted in 1974, described the status of Kosova as one of the 8 constituent territorial units of the Yugoslav Federation;

Whereas the political rights of the Albanian majority in Kosova were curtailed when the Government of Yugoslavia illegally amended the Yugoslav federal constitution without the consent of the people of Kosova on March 23, 1989, revoking Kosova's autonomous status;

Whereas in 1990, the Parliament and Government of Kosova were abolished by further unlawful amendments to the Constitution of Yugoslavia;

Whereas in September 1990, a referendum on the question of independence for Kosova was held in which 87 percent of those eligible to participate voted and 99 percent of those voting supported independence for Kosova;

Whereas in May 1992, a Kosovar national parliament and President, Dr. Ibrahim Rugova, were freely and fairly elected, but were not permitted to assemble in Kosova;

Wherease according to the State Department Country Reports on Human Rights for 1995, "police repression continued at a high level against the ethnic Albanians of Kosova * * * and reflected a general campaign to keep [those] who are not ethnic Serbs intimidated and unable to exercise basic human and civil rights";

Whereas over 100,000 ethnic Albanians employed in the public sector have been removed from their jobs and replaced by Serbs since 1989;

Whereas the government in Belgrade has severely restricted the access of ethnic Albanians in Kosova to all levels of education, especially in the Albanian language;

Whereas the Organization on Security and Cooperation in Europe observers dispatched to Kosova in 1991 were expelled by the government in Belgrade in July 1993, and have not been reinstated as called for in United Nations Security Council Resolution 855 of August 1993;

Whereas following the departure of such observers, international human rights organizations have documented an increase in abuses;

Whereas the United Nations announced on February 27, 1995, that Serbia had granted it permission to open a Belgrade office to monitor human rights in Serbia and Kosova;

Whereas Congress directed the State Department to establish a United States Information Agency (U.S.I.A.) cultural center in Prishtina, Kosova, in section 223 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993;

Whereas Secretary of State Warren Christopher announced on February 27, 1996, that Serbian leader Slobodan Milosevic has agreed to the establishment of such center and that preparations for the establishment of the center are proceeding;

Whereas with the signing of the Dayton agreement on Bosnia, future peace in the Balkans hinges largely on a settlement of the status of Kosova; and

Whereas the President has explicitly warned the Government of Serbia that the United States is prepared to respond in the event of escalated conflict in Kosova caused by Serbia: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the situation in Kosova must be resolved before the outer wall of sanctions against Serbia is lifted and Serbia is able to return to the international community;

(2) the human rights of the people of Kosova must be restored to levels guaranteed by international law;

(3) the United States should support the legitimate claims of the people of Kosova to determine their own political future;

(4) international observers should be returned to Kosova as soon as possible;

(5) the elected government of Kosova should be permitted to meet and exercise its legitimate mandate as elected representatives of the people of Kosova;

(6) all individuals whose employment was terminated on the basis of their ethnicity should be reinstated to their previous positions;

(7) the education system in Kosova should be reopened to all residents of Kosova regardless of ethnicity and the majority ethnic Albanian population should be allowed to educate its youth in its native tongue;

(8) progress toward the establishment of a United States Information Agency cultural center in Prishtina, Kosova, is to be commended and the Secretary of State should redouble efforts to open the center as soon as possible; and

(9) the President should appoint a special envoy to aid in negotiating a resolution to the crisis in Kosova.

Mr. DOLE. Mr. President, I rise to submit a concurrent resolution regarding human rights in Kosova and in support of resolving the crisis in Kosova. I am pleased to be joined by Senator PELL, Senator D'AMATO, Senator PRESSLER, Senator LEVIN and Senator FEINGOLD.

This resolution is being submitted today in the House by Representatives ENGEL, MOLINARI, and KING. We are submitting this resolution because Kosova has been pushed to the sidelines by this administration—as well as the previous administration. And, without resolving the crisis in Kosova there is little, if any, hope of achieving a lasting peace in the Balkans.

This resolution cites the course of events since 1989, during which the Albanian people in Kosova have been denied their fundamental human and political rights by the Milosevic regime. The 1995 State Department country human rights reports stated the following about the deplorable situation in Kosova, and I quote, "Police repression continued at a high level against the ethnic Albanians of Kosova, and reflected a general campaign to keep [those] who are not ethnic Serbs intimidated and unable to exercise basic human and civil rights."

VOL
142
PT
5
MR
21
—
29
1996
UMI

Since martial law was imposed in Kosova more than 7 years ago, Albanians have been fired from their jobs, restricted access to all levels of education, especially in their own language, denied basic political rights, and subjected to severe human rights abuses, including torture.

Among other things, this resolution calls on the Clinton administration to maintain the so-called outer wall of sanctions against Serbia until the situation in Kosova is resolved, to redouble efforts to open a USIA cultural center in Pristina, Kosova, and to appoint a special envoy to aid in negotiating a resolution to the crisis in Kosova.

Since the Dayton accords were signed, there are those who claim that peace in the Balkans has been achieved. That is wishful thinking. Let me be clear: There will be no lasting peace or stability in the Balkans unless and until the situation in Kosova has been resolved. Indeed, ignoring Kosova could lead to yet another violent conflict that could bring in our NATO allies on opposite sides.-Therefore, the United States must pressure the Milosevic regime diplomatically and economically to end its repression of the 2 million Albanians in Kosova.

Mr. President, we must bring Kosova from the back burner to the front burner. We need a comprehensive approach to the Balkans which includes Kosova. I hope that the submission of this resolution will send a message to the administration that it is high time to exercise U.S. leadership on this critical matter.

Mr. PELL. Mr. President, I am pleased to join Senator DOLE in submitting this resolution on Kosova. Congressman ENGEL has taken the lead in submitting a companion resolution in the House.

I remain concerned about the situation in Kosova, where the majority Albanian population continues to suffer severe human rights abuses. If left unchecked, the situation in Kosova could be the spark that ignites another powder keg of violence in the former Yugoslavia.

Since 1989, more than 100,000 ethnic Albanians employed in the public sector have been removed from their jobs and replaced by Serbs. The Belgrade Government has severely restricted the access of ethnic Albanians in Kosova to all levels of education, and has pursued a general campaign of intimidation and repression. This country has invested a great deal in creating and maintaining peace in Bosnia. Our diplomats and our military personnel are to be commended for the fine job that they are doing with regard to Bosnia. I am concerned, however, that if the situation in Kosova is not resolved, our diplomatic, economic, and military investment in Bosnia will be for naught. A comprehensive solution to the former Yugoslavia must address Kosova.

This resolution is designed to focus attention on Kosova—as a key component to stability in the region. It expresses the sense of Congress that among other things, the situation in Kosova must be resolved before the outer wall of sanctions be lifted against Serbia. In other words, Serbia would continue to be denied access to international financial institution assistance and to be denied full diplomatic relations with the United States and its allies pending the resolution of Kosova and other issues. There are signs that international consensus on maintaining this outer wall is cracking, and this resolution is therefore useful in keeping attention focused on Kosova. I believe it is important to send a signal to Serbian President Milosevic that he cannot hope to bring Serbia back into the international community's fold unless and until he agrees to address the issue of Kosova.

The resolution also welcomes the progress that has been made toward the establishment of a USIA office in Kosova. As one who sponsored legislation several years ago that authorized the creation of such a center, I am particularly interested in ensuring that the United States establish a presence in Kosova. Secretary Christopher should be commended for securing President Milosevic's approval to establish such a center.

The resolution also calls on Serbia to allow international observers to return to Kosova, and urges the President to appoint a special envoy to help in negotiating a resolution to the Kosova issue.

I believe it is in our interest to maintain a spotlight on Kosova, and I would encourage my colleagues to join me in supporting this resolution.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, March 28, 1996, at 10 a.m., in open session, to receive testimony from the unified commanders on their military strategies and operational requirements in review of the Defense authorization request for fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 28, 1996, to conduct a hearing on S. 1547, "a bill to limit the provision of assistance to the Government of Mexico using the exchange stabilization fund established pursuant to section 5302 of title 31, United States Code, and for other purposes".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Thursday, March 28, 1996 session of the Senate for the purpose of conducting an executive session and markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, March 28, 1996, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the issue of competitive change in the electric power industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LUGAR. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to consider pending business Thursday, March 28, at 9:15 a.m., hearing room SD–406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 28, 1996 at 10 a.m. to hold hearing, agenda attached.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to conduct an oversight hearing during the session of the Senate on Thursday, March 28, 1996, on the recent settlement and accommodation agreements concerning the Navajo and Hopi land dispute. The hearing will be held at 9 a.m. in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, March 28, 1996, at 10 a.m., to hold an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LUGAR. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 28, 1996 at 2 p.m., in SH–219, to hold a closed briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. LUGAR. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, March 28, 1996, at 9:30 a.m., to hold a hearing to discuss adverse drug reactions and the effects on the elderly.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. LUGAR. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 28, 1996, at 2 p.m., to hold hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. LUGAR. Mr. President, I ask unanimous consent that the Subcommittee on Seapower be authorized to meet at 2:30 p.m. on Thursday, March 28, 1996, to receive testimony on the multiyear procurement proposal for the C–17 strategic airlifter.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COST ESTIMATE ON S. 1467

• Mr. MURKOWSKI. Mr. President, when the Committee on Energy and Natural Resources filed its report on S. 1467, the Fort Peck Rural County Water Supply System Act, the estimate from the CBO was not available. We have now received the estimate and I ask that it be printed in the RECORD for the information of the Senate. The CBO estimate states that enactment of S. 1467 would not affect direct spending or receipts and does not contain any unfunded mandates.

The estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 27, 1996.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1467, the Fort Peck Rural County Water Supply System Act of 1995.

Enactment of S. 1467 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 1467.

2. Bill title: Fort Peck Rural County Water Supply System Act of 1995.

3. Bill status: As reported by the Senate Committee on Energy and Natural Resources on March 15, 1996.

4. Bill purpose: The bill would authorize the construction of the Fort Peck Rural County Water Supply System and authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the proposed water system.

5. Estimated cost to the Federal Government: Assuming appropriation of the authorized amounts for fiscal year 1997, S. 1467 would result in discretionary spending totaling $6.6 million over the 1996–2000 period. This estimate reflects the basic authorization of $5.8 million, increased, as specified in the bill, by the estimated impact of inflation during the time between October 1, 1994, and the construction period. Outlays are estimated based on historical spending rates for similar water projects. Funding for the Fort Peck project would constitute new spending—to date, no amounts have been appropriate for this project.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Spending subject to appropriations action:					
Authorization level	0	7	0	0	0
Estimated outlays	0	1	5	1	0

The costs of this bill fall within budget function 300.

6. Pay-as-you-go considerations: None.

7. Estimated impact on State, local, and tribal governments: S. 1467 contains no intergovernmental mandates as defined in Public Law 104–4 and would impose no direct costs on state, local, or tribal governments.

The bill would limit the federal share of this project to 80 percent. The Fort Peck Rural County Water District would have to provide matching funds of about $1.5 million in order to receive the full amount of federal assistance authorized. This project would be voluntary on the part of the district, however.

8. Estimated impact on the private sector: The bill would impose no new federal/private sector mandates, as defined in Public Law 104–4.

9. Previous CBO estimate: None.

10. Estimate prepared by: Federal cost estimate: Gary Brown. State and Local Government Impact: Marjorie Miller. Private Sector Impact: Patrice Gordon.

11. Estimate approved by: Robert A. Sunshine, for Paul N. Van de Water, Assistant Director for Budget Analysis.•

U.S. MARSHAL SERVICE'S DISTINGUISHED SERVICE AWARD

• Mr. LEVIN. Mr. President, I rise today to honor U.S. Marshal Barbara C. Lee and the Western District Office of Michigan, United States Marshals Service in Grand Rapids, MI. On March 1, 1996, in a special ceremony in Oklahoma City, Marshal Lee was presented the U.S. Marshals Service's Distinguished Service Award for the district office she heads. I am proud to note that I nominated Marshal Lee, who was sworn into office by President Clinton in 1994.

Before her current appointment, Marshal Lee served as a Deputy U.S. Marshal and as a Special Agent with the Internal Revenue Service. Marshal Lee studied criminal justice and accounting at Grand Valley State University, in Allendale, MI. Marshal Lee was nominated for the Laura Cross Award, the Federal Government's highest honor for career achievement by a female law enforcement officer.

Marshal Lee's office was selected for the district award because of its leadership in accomplishing court security tasks within the confines of a tight budget. The district office shuffled personnel, travel and overtime expenses while continuing to provide exceptional security. During the presentation of the award, Director Eduardo Gonzalez noted the special security Marshal Lee's operation provided for several judicial conferences and high-threat trials.

Despite diminishing resources, Marshal Lee and her office have continued to provide the exceptional security services for which the U.S. Marshals Service is known. I know that my Senate colleagues join me in congratulating U.S. Marshal Barbara C. Lee and the Western District Office of Michigan for being awarded the U.S. Marshals Service's Distinguished Service Award.•

HONORING THE ROTARY CLUB OF MERIDEN

Mr. LIEBERMAN. Mr. President, I rise today to honor the Rotary Club of Meriden, CT, on the occasion of their 75th anniversary.

On April 26, 1921, Meriden joined the nationwide movement of Rotary Clubs under Charter 898. Numbering only 27 businessmen, the club had no idea then that they would grow into one of the pillars of the community. Ever since their founding, the club has immersed itself in the every-day life of Meriden, constantly striving to make the city a better place through the sponsoring of various activities and events.

The Rotary Club of Meriden reaches out to the people in numerous ways. They were the first organization in the city to sponsor Little League Baseball, the great American game. The youth of Meriden are also assisted through college scholarships provided by the Rotary Club, as well as through the Meriden Public Library Career Center, which the club has long supported.

The Rotary Club not only contributes to Meriden's spiritual beauty, but to its physical beauty as well. The club is responsible for planting over one thousand trees in the city. They work closely with other humanitarian

VOL
142
PT
5
MR
21
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29
1996
UMI

groups, either bell ringing for the Salvation Army or sponsoring bloodmobiles for the Red Cross.

The Rotary Club also strives to help those outside Meriden, its influence reaching as far as the international community. Their exchange study groups bring business and professional people to Meriden from countries such as France, Germany, and Japan, so that all may learn from one another.

Meriden and the entire State of Connecticut is fortunate to have had a group such as the Meriden Rotary Club in its service for 75 years. Another 75 years of service and support is eagerly anticipated.

CAMPAIGN FINANCE REFORM

Mr. KOHL. Mr. President, I rise today to discuss one of the most difficult issues facing our democracy—campaign finance reform. First, we must recognize that our democratic system has come a long way in the last 30 years. Information on who finances campaigns and how that money is spent is now available to any citizen. With the advance of the Internet, most of this information can be found through your home computer.

But, while disclosures laws passed in the 1970's have worked largely as intended, other reforms instituted at that time have created a new set of problems. In order to more clearly identify who was contributing to campaigns, Congress created a new mechanism for democratic involvement—Political Action Committees. Twenty years ago, PAC's were seen as positive vehicles to channel special interest dollars through public organizations.

Unfortunately, the proliferation of PAC's and special interest contributions in our election system has overtaken most other forms of democratic involvement. Because of the high costs of running campaigns, especially the cost of purchasing television ads, American political campaign funding is dominated by special interest contributions.

It should not surprise us that the American public has become increasingly cynical as this trend has become worse. This public disillusionment contributes to pessimism about the future of our Government and has led to a disturbing lack of faith in our democratic institutions. Despite the good efforts of many grassroots citizen organizations and elected officials, every attempt in Congress to reform the campaign finance system since 1979 has failed.

This lack of progress is not the fault of one political party or one branch of government. Democrats and Republicans have tried to push through meaningful reform for the last two decades, and reasonable people can disagree about the best course for the future. But, this gridlock must not be allowed to stand any longer. The American public is demanding a fundamental change in the way campaigns are financed and we must act this year to implement that change.

These are the reasons that I am cosponsoring S. 1219, the Senate Campaign Finance Reform Act. This legislation, sponsored by Senator MCCAIN and my Wisconsin colleague Russ FEINGOLD, is the first meaningful bipartisan campaign finance bill to be seriously considered in two decades. The fact that the House of Representatives has a similar bipartisan bill only adds credibility to this proposal.

S. 1219 strikes at the heart at much of what is wrong with our campaign finance system: it eliminates PAC contributions; caps the amounts that can be spent in campaigns; curtails the practice of bundling contributions; and closes the loopholes allowing so-called "soft money" contributions. The legislation establishes many of these limits through a voluntary system, thereby conforming with Supreme Court rulings governing campaign financing.

Like many Senators, if I had drafted my own bill, I would have omitted some provisions of this legislation and included others. But any meaningful bipartisan reform must be a compromise between competing proposals. And campaign finance reform must be done in a bipartisan fashion—legislation crafted by one party and rammed through the Congress will not and should not get the support of the American people.

Mr. President, I recognize there are deep divisions among Members of Congress over the how to reform our campaign finance system. These divisions have led to stalemate after stalemate over twenty years. And without serious reform the American public will continue to mistrust not only the way we elect candidates, but the very fundamental precipes of our Government. This must not go on.

S. 1219 is the best option currently moving through the Congress to renew America's faith in our elections and curtail the influence of special interest contributions. I am pleased to add my name as a cosponsor of this bill, and urge my colleagues to join us in this important effort.

TRIBUTE TO PLYMOUTH STATE COLLEGE ON THEIR 125TH ANNIVERSARY

• Mr. SMITH. Mr. President, I rise today to pay tribute to Plymouth State College on the occasion of their 125th anniversary. I would like to congratulate this outstanding educational institution on reaching such an important milestone. The trustees, faculty, and students should be proud of the academic excellence and high education standards the college represents; not just in the State of New Hampshire but all over New England.

Located in the foothills of the White Mountains in New Hampshire, Plymouth State College, originally named the Plymouth Normal School, first opened its doors on March 15, 1871 to 80 students pursuing teaching degrees. Today, over 125 years later, 4,000 students attend Plymouth State College, pursuing degrees in the performing arts, the sciences, social work, languages, humanities, interdisciplinary studies, the social sciences, business, and many other academic fields.

The history of Plymouth State College originally stemmed from the Holmes Plymouth Academy, which dates back to 1808, as one of the first teaching institutions in New England. In 1871, the academy buildings were presented to the State of New Hampshire and the campus was renamed the Plymouth Normal School. The school began to grow at a steady rate during the late 1800's. Rounds Hall, which included a library and classrooms, was dedicated in August 1891. The growth of the Normal School under Dr. Charles C. Rounds caused the State legislature to appropriate funds for a new dormitory called Normal Hall. During the turn of the century, the enrollment of the Normal School increased, approaching 150 students.

From 1911 to 1946, Dr. Ernest Silver served as the college's principal. In 1911, Dr. Silver hired the famous American poet and New Hampshire native, Robert L. Frost, to teach psychology and the history of education. Robert Frost also shared Dr. Silver's residence, a house opposite Normal Hall that had recently been purchased. During Dr. Silver's administration, the school saw another period of campus expansion and modernization including the opening of the new training school providing added space in Rounds Hall for manual training and other classes. Two new dormitories were constructed, a modern library was built, and facilities for recreation and physical education were improved.

In 1939, Plymouth Normal School changed its name again to Plymouth Teacher's College. Construction and expansion increased during the 1950's and the new Lamson Library was built across Highland Street in 1964. Boyd Hall, a new fieldhouse and gym were built in 1968 and 1969. The fieldhouse contains an indoor track, gymnasium, swimming pool, and other facilities for the physical education program at the college.

Just last year, the Hartman Union Building opened its new facility on the property where the old high school once stood. This student center contains a full-size court, weight room, snackbar, bookstore, the college radio station, the college newspaper, a sidewalk cafe, complete U.S. Postal Mail Service, and many more student services.

Most recently, Plymouth State College added a business program to the

numerous choices of degrees students can pursue at the college. Today's president of the college, Donald Wharton, believes that every student must receive a strong education and specialized instruction in a particular field. The faculty and staff at Plymouth State College are proud of the fine reputation the teaching program has received over the years, and the specialized degrees in liberal arts majors.

Congratulations to 125 years of academic excellence. Plymouth State College has provided outstanding instruction and a superior learning environment for New Hampshire students for years. Best wishes for continued success and expansion in the years to come.•

TRIBUTE TO DAVID PACKARD

• Mr. BINGAMAN. Mr. President, the Nation lost a great leader Tuesday with the death of David Packard. He was the first and greatest of the acquisition reformers in the top reaches of the Pentagon. As Deputy Secretary of Defense in the first Nixon administration, he fostered competition in a wide range of programs, including the Air Force fighter program that produced the F–16 and F–18. He helped found the Defense Systems Management College at Fort Belvoir in order to bring modern management techniques to the defense acquisition system. And throughout the almost quarter century since he stepped down as Deputy Secretary of Defense, he continued in an advisory capacity to the most senior reaches of Government to argue for the need for change in the way the Pentagon develops and buys weapon systems.

It is perhaps fitting that under Secretary Bill Perry's leadership, the reforms which Mr. Packard advocated for so long are now taking firm root throughout the military services. Dr. Perry and all the reformers with whom I have had the pleasure of working during my 13 years service in the Senate point to David Packard as the first to show the way toward a more rational acquisition system.

Mr. President, I am grateful that I was able to work with David Packard over the last decade on several important issues. He was at an age when most people stop work and take up retirement. But not David Packard. He would answer the call of public service whenever it sounded. He suffered from a bad back, and taking transcontinental plane flights forced him to endure real pain to serve his country, but serve he did.

David Packard always was focused on the art of the possible. He knew that change was incremental and he would take what progress he could make today to build for another day. I first met him in 1985. He came to me, a Democrat then in the minority here in the Senate, because I had indicated an interest in a report he had written in 1983 for the White House Science Council. Its topic was how to improve the Federal Government-operated research laboratories. He had called for significant changes in personnel policy, in acquisition of laboratory equipment, and in improving laboratory infrastructure.

The most important change he and his panel had advocated was to allow all the laboratories to go to a more flexible personnel system along the lines of the system then in place at the Naval Weapons Center at China Lake, CA. Mr. Packard had been frustrated by the slow pace of the Reagan administration in considering his panel's proposals. He wanted to jumpstart congressional consideration with my help and that of then Congressman Don Fuqua, another Democrat.

Unfortunately, all we were able to win in the short run was the adoption of a flexible personnel system at the National Bureau of Standards, now the National Institute of Standards and Technology. As predicted, that personnel system has worked very well and helped NIST maintain its leadership in a broad range of technologies. As usual, David Packard was ahead of his time. What he recommended more than a decade ago on lab personnel reform is now part of the effort to reinvent the Pentagon's laboratories.

Mr. President, I will miss David Packard's wisdom and guidance, and so will many of my colleagues on both sides of the aisle. There's a passage from T. E. Lawrence's book Seven Pillars of Wisdom, which reads:

> All men dream, but not equally. Some dream by night in the dusty recesses of their minds, and wake in the day to find it is vanity. But the dreamers of the day are dangerous men. For they act their dream with open eyes to make it possible.

David Packard was a dreamer of the day who deserves to be remembered by a grateful Nation for the dreams he made possible. I am glad to have known him.•

SAGINAW HIGH SCHOOL TROJANS

• Mr. LEVIN. Mr. President, I rise today to honor the Saginaw High School boys basketball team. On Saturday, March 23, 1996, the Trojans from Saginaw, MI, won the Michigan Class A State basketball championship over Southfield Lathrup by a score of 67 to 60. The game took place in front of 11,000 raucous fans at Michigan State University's Breslin Center.

The Trojans showed great character in their journey to the State championship. In their semifinal game, the Trojans rebounded from a 19-point deficit to win and move on to the championship. Once again in the championship game, the Trojans had to come back from a large deficit to win—this time they were behind by 12 points.

In the championship game, the Trojans succeeded against great odds. The story of David and Goliath comes to mind when envisioning the game between Saginaw and Southfield Lathrup. Saginaw High faced a team with a considerable size advantage, but the Trojans were not intimidated and continued to play the way they had all season long, stressing teamwork and defense. The Trojans caused 21 turnovers, scoring 22 points off those turnovers.

The Trojans' hard work and determination which marked their championship victory is nothing new to those familiar with the team. The Trojans' coach, Marshall Thomas, said after the game, "No other team will outwork us." The Trojans have surely shown us how hard they will work and what heart they have in coming back from two large deficits to win the Michigan State championship.

But it wasn't just the team who showed great heart in winning the State championship, as the players and coaches are quick to point out. Support from the students, faculty and community was vital for the Trojans to overcome such long odds. Trojans' fans traveled all over the State to cheer their team on to victory. The fans continued to give their team strong support regardless of the score of the game.

I know that my Senate colleagues join me in congratulating Saginaw High School on winning the Michigan Class A State basketball championship.•

THE DEATH OF HUNG WO CHING

• Mr. AKAKA. Mr. President, I rise to pay tribute to a very dear friend and pioneer Hawaii businessman, Hung Wo Ching, Aloha Airgroup vice chairman, who died on March 26, 1996, in Honolulu. Since 1958, Mr. Ching served on the interisland carrier's board of directors and held a number of executive positions with the company. Under his leadership, Aloha Airlines Inc. grew from an upstart airline to become the dominant interisland carrier in the State of Hawaii.

Hung Wo Ching was raised in Hawaii by immigrant parents from Canton, China. He graduated from Honolulu's McKinley High School in 1931 and attended the University of Hawaii. Following his freshman year, he studied liberal arts at Yenching University in Beijing, China.

In 1935, he returned to the United States and completed his undergraduate education at Utah State University, where he earned a bachelor's degree in agricultural economics. In 1945, he received his doctorate in agricultural economics from Cornell University. When he was 41 years old, he attended Harvard University as a visiting scholar.

In 1945, Mr. Ching traveled to Tientsin, China to start a sugarbeet industry. The outbreak of civil war in China

VOL 142 PT 5 MR 21 — 29 1996 UMI

2 years later put an end to those dreams, and he returned to Hawaii to concentrate on his real estate investments. Shortly after his return to Hawaii, the founder of Trans Pacific Airlines encouraged him to invest in his upstart airline.

In addition to being on Aloha's board of directors, Mr. Ching was also a director for Bishop Insurance of Hawaii, Inc., and the chairman of the board of directors of Diamond Head Memorial Park and Nuuanu Memorial Park. He was an honorary trustee of the U.S. Committee for Economic Development and the Bishop Museum, and a member of the advisory councils of Cornell University and Utah State University. He was a member of the Judicial Council of the Supreme Court of Hawaii, the Hawaiian Civic Club, and the advisory board of Liliuokalani Trust.

Over the years, Mr. Ching has held trusteeships and directorships with many Hawaii companies and charitable foundations, including Bishop Estate, Bank of Hawaii, Alexander and Baldwin, Matson Navigation Co., Hawaiian Telephone, Hawaiian Life Insurance Co., Ltd., Hawaiian Western Steel, Ltd., and Hauoli Sales, Ltd.

Mr. President, I ask my colleagues in the Senate to join me in paying tribute to the memory of Hung Wo Ching, and pass along our deepest sympathies to his wife, Elizabeth, and his children and grandchildren.•

THE LEARNING WINDOW

• Mr. CONRAD. Mr. President, Newsweek magazine on February 19, 1996, published an article regarding research that is underway by several pediatric neurobiologists in the United States on the development of a child's brain. The research examined the significance of early childhood experiences, particularly for children ages 0–3, on the development of the brain.

According to researchers, "it's the experiences of early childhood, determining which neurons are used, that wire the circuit of the brain as surely as a programmer at a keyboard reconfigures the circuits in a computer. Which keys that are typed—which experiences a child ahs—determines whether the child grows up to be intelligent or dull, fearful or self-assured, articulate or tongue-tied." According to the researchers, almost anything is possible provided children are exposed to the right experiences at an early age. As one researcher, Harry Chugani of Wayne State University remarked, "early experiences are powerful, they can completely change the way a person turns out."

Mr. President, the findings of these neurobiologists support a much closer examination by Congress of whether we are providing sufficient support at the Federal level for Head Start programs, and especially the Zero-to-Three initiative for infants and toddlers. As my colleagues may recall, during consideration of Head Start reauthorization in 1994, authority for a new infant and toddler initiative was adopted as part of the reauthorization of Head Start programs. Under the reauthorization, 3 percent of total appropriations for fiscal year 1995—$3.5 billion—was set aside for Zero-to-Three programs.

Currently, funding for the Zero-to-Three initiative totals $106 million. By 1998, the level of funding for the Zero-to-Three initiative will increase to 5 percent of total appropriations. President Clinton has requested $3.9 billion for Head Start in his fiscal year 1997 budget. Under Head Start fiscal year 1995 appropriations, more than 750,000 children between the ages of 3 and 4 are participating in Head Start programs nationwide.

Mr. President, the research of neurobiologists suggests that we may be missing an opportunity to ensure that our children develop to their fullest potential during the early years in life, ages 0–3. The neurobiologists point out that there is a narrow window of opportunity to develop the brain's potential and that to wait until the ages of 3 and 4 when most children begin Head Start programs may be too late to have a significant impact on the brain's development.

I urge my colleagues to examine the research regarding the development of a child's brain that is discussed in the February 19 issue of Newsweek. I ask that the text of the article from Newsweek appear in the RECORD at the conclusion of my remarks.

[From Newsweek, Feb. 19, 1996]

YOUR CHILD'S BRAIN

(By Sharon Begley)

(A baby's brain is a work in progress, trillions of neurons waiting to be wired into a mind. The experiences of childhood, pioneering research shows, help form the brain's circuits—for music and math, language and emotion)

You hold your newborn so his sky-blue eyes are just inches from the brightly patterned wallpaper, *ZZZt:* a neuron from his retina makes an electrical connection with one in his brain's visual cortex. You gently touch his palm with a clothespin; he grasps it, drops it, and you return it to him with soft words and a smile. *Crackle:* neurons from his hand strengthen their connection to those in his sensory-motor cortex. He cries in the night; you feed him, holding his gaze because nature has seen to it that the distance from a parent's crooked elbow to his eyes exactly matches the distance at which a baby focuses. *Zap:* neurons in the brain's amygdala send pulses of electricity through the circuits that control emotion. You hold him on your lap and talk . . . and neurons from his ears start hard-wiring connections to the auditory cortex.

And you thought you were just playing with your kid.

When a baby comes into the world her brain is a jumble of neurons, all waiting to be woven into the intricate tapestry of the mind. Some of the neurons have already been hard-wired, by the genes in the fertilized egg, into circuits that command breathing or control heartbeat, regulate body temperature or produce reflexes. But trillions upon trillions more are like the Pentium chips in a computer before the factory preloads the software. They are pure and of almost infinite potential, unprogrammed circuits that might one day compose rap songs and do calculus, erupt in fury and melt in ecstasy. If the neurons are used, they become integrated into the circuitry of the brain by connecting to other neurons; if they are not used, they may die. It is the experiences of childhood, determining which neurons are used, that wire the circuits of the brain as surely as a programmer at a keyboard reconfigures the circuits in a computer. Which keys are typed—which experiences a child has—determines whether the child grows up to be intelligent or dull, fearful or self-assured, articulate or tongue-tied. Early experiences are so powerful, says pediatric neurobiologist Harry Chugani of Wayne State University, that "they can completely change the way a person turns out."

By adulthood the brain is crisscrossed with more than 100 billion neurons, each reaching out to thousands of others so that, all told, the brain has more than 100 trillion connections. It is those connections—more than the number of galaxies in the known universe—that give the brain its unrivaled powers. The traditional view was that the wiring diagram is predetermined, like one for a new house, by the genes in the fertilized egg. Unfortunately, even though half the genes—50,000—are involved in the central nervous system in some way, there are not enough of them to specify the brain's incomparably complex wiring. That leaves another possibility: genes might determine only the brain's main circuits, with something else shaping the trillions of finer connections. That something else is the environment, the myriad messages that the brain receives from the outside world. According to the emerging paradigm, "there are two broad stages of brain wiring," says developmental neurobiologist Carla Shatz of the University of California, Berkeley: "an early period, when experience is not required, and a later one, when it is."

Yet, once wired, there are limits to the brain's ability to create itself. Time limits. Called "critical periods," they are windows of opportunity that nature flings open, starting before birth, and then slams shut, one by one, with every additional candle on the child's birthday cake. In the experiments that gave birth to this paradigm in the 1970, Torsten Wiesel and David Hubel found that sewing shut one eye of a newborn kitten rewired its brain: so few neurons connected from the shut eye to the visual cortex that the animal was blind even after its eye was reopened. Such rewiring did not occur in adult cats whose eyes were shut. Conclusion: there is a short, early period when circuits connect the retina to the visual cortex. When brain regions mature dictates how long they stay malleable. Sensory areas mature in early childhood; the emotional limbic system is wired by puberty; the frontal lobes—seat of understanding—develop at least through the age of 16.

The implications of this new understanding are at once promising and disturbing. They suggest that, with the right input at the right time, almost anything is possible. But they imply, too, that if you miss the window you're playing with a handicap. They offer an explanation of why the gains a toddler makes in Head Start are so often evanescent: this intensive instruction begins

too late to fundamentally rewire the brain. And they make clear the mistake of postponing instruction in a second language. As Chugani asks, "What idiot decreed that foreign-language instruction not begin until high school?"

Neurobiologists are still at the dawn of understanding exactly which kinds of experiences, or sensory input, wire the brain in which ways. They know a great deal about the circuit for vision. It has a neuron-growth spurt at the age of 2 to 4 months, which corresponds to when babies start to really notice the world, and peaks at 8 months, when each neuron is connected to an astonishing 15,000 other neurons. A baby whose eyes are clouded by cataracts from birth will, despite cataract-removal surgery at the age of 2, be forever blind. For other systems, researchers know what happens, but not—at the level of neurons and molecules—how. They nevertheless remain confident that cognitive abilities work much like sensory ones, for the brain is parsimonious in how it conducts its affairs: a mechanism that works fine for wiring vision is not likely to be abandoned when it comes to circuits for music. "Connections are not forming willy-nilly," says Dale Purves of Duke University, "but are promoted by activity."

LANGUAGE

Before there are words, in the world of a newborn, there are sounds. In English they are phonemes such as sharp ba's and da's, drawn-out ee's and ll's and sibilant sss's. In Japanese they are different—barked *hi's*, merged rr/ll's. When a child hears a phoneme over and over, neurons from his ear stimulate the formation of dedicated connections in his brain's auditory cortex. This "perceptual map," explains Patricia Kuhl of the University of Washington, reflects the apparent distance—and thus the similarity—between sounds. So in English-speakers, neurons in the auditory cortex that respond to "ra" lie far from those that respond to "la." But for Japanese, where the sounds are nearly identical, neurons that respond to "ra" are practically intertwined, like L.A. freeway spaghetti, with those for "la." As a result, a Japanese-speaker will have trouble distinguishing the two sounds.

Researchers find evidence of these tendencies across many languages. By 6 months of age, Kuhl reports, infants in English-speaking homes already have different auditory maps (as shown by electrical measurements that identify which neurons respond to different sounds) from those in Swedish-speaking homes. Children are functionally deaf to sounds absent from their native tongue. The map is completed by the first birthday. "By 12 months," says Kuhl, "infants have lost the ability to discriminate sounds that are not significant in their language, and their babbling has acquired the sound of their language."

Kuhl's findings help explain why learning a second language after, rather than with, the first is so difficult. "The perceptual map of the first language constrains the learning of a second," she says. In other words, the circuits are already wired for Spanish, and the remaining undedicated neurons have lost their ability to form basic new connections for, say, Greek. A child taught a second language after the age of 10 or so is unlikely ever to speak it like a native. Kuhl's work also suggests why related languages such as Spanish and French are easier to learn than unrelated ones: more of the existing circuits can do double duty.

With this basic circuitry established, a baby is primed to turn sounds into words. The more words a child hears, the faster she learns language, according to psychiatrist Janellen Huttenlocher of the University of Chicago. Infants whose mothers spoke to them a lot knew 131 more words at 20 months than did babies of more taciturn, or less involved, mothers; at 24 months, the gap had widened to 295 words. (Presumably the findings would also apply to a father if he were the primary caregiver.) It didn't matter which words the mother used—monosyllables seemed to work. The sound of words, it seems, builds up neural circuitry that can then absorb more words, much as creating a computer file allows the user to fill it with prose. "There is a huge vocabulary to be acquired," says Huttenlocher, "and it can only be acquired through repeated exposure to words."

MUSIC

Last October researchers at the University of Konstanz in Germany reported that exposure to music rewires neural circuits. In the brains of nine string players examined with magnetic resonance imaging, the amount of somatosensory cortex dedicated to the thumb and fifth finger of the left hand—the fingering digits—was significantly larger than in nonplayers. How long the players practiced each day did not affect the cortical map. But the age at which they had been introduced to their muse did: the younger the child when she took up an instrument, the more cortex she devoted to playing it.

Like other circuits formed early in life, the ones for music endure. Wayne State's Chugani played the guitar as a child, then gave it up. A few years ago he started taking piano lessons with his young daughter. She learned easily, but he couldn't get his fingers to follow his wishes. Yet when Chugani recently picked up a guitar, he found to his delight that "the songs are still there," much like the muscle memory for riding a bicycle.

MATH AND LOGIC

At UC Irvine, Gordon Shaw suspected that all higher-order thinking is characterized by similar patterns of neuron firing. "If you're working with little kids," says Shaw, "you're not going to teach them higher mathematics or chess. But they are interested in and can process music." So Shaw and Frances Rauscher gave 19 preschoolers piano or singing lessons. After eight months, the researchers found, the children "dramatically improved in spatial reasoning," compared with children given no music lessons, as shown in their ability to work mazes, draw geometric figures and copy patterns of two-color blocks. The mechanism behind the "Mozart effect" remains murky, but Shaw suspects that when children exercise cortical neurons by listening to classical music, they are also strengthening circuits used for mathematics. Music, says the UC team, "excites the inherent brain patterns and enhances their use in complex reasoning tasks."

EMOTIONS

The trunk lines for the circuits controlling emotion are laid down before birth. Then parents take over. Perhaps the strongest influence is what psychiatrist Daniel Stern calls attunement—whether caregivers "play back a child's inner feelings." If a baby's squeal of delight at a puppy is met with a smile and hug, if her excitement at seeing a plane overhead is mirrored, circuits for these emotions are reinforced. Apparently, the brain uses the same pathways to generate an emotion as to respond to one. So if an emotion is reciprocated, the electrical and chemical signals that produced it are reinforced. But if emotions are repeatedly met with indifference or a clashing response—Baby is proud of building a skyscraper out of Mom's best pots, and Mom is terminally annoyed—those circuits become confused and fail to strengthen. The key here is "repeatedly": one dismissive harrumph will not scar a child for life. It's the pattern that counts, and it can be very powerful: in one of Stern's studies, a baby whose mother never matched her level of excitement became extremely passive, unable to feel excitement or joy.

Experience can also wire the brain's "calm down" circuit, as Daniel Goleman describes in his best-selling "Emotional Intelligence." One father gently soothes his crying infant, another drops him into his crib; one mother hugs the toddler who just skinned her knee, another screams "It's your own stupid fault!" The first responses are attuned to the child's distress; the others are wildly out of emotional sync. Between 10 and 18 months, a cluster of cells in the rational prefrontal cortex is busy hooking up to the emotion regions. The circuit seems to grow into a control switch, able to calm agitation by infusing reason into emotion. Perhaps parental soothing trains this circuit, strengthening the neural connections that form it, so that the child learns how to calm herself down. This all happens so early that the effects of nurture can be misperceived as innate nature.

Stress and constant threats also rewire emotion circuits. These circuits are centered on the amygdala, a little almond-shaped structure deep in the brain whose job is to scan incoming sights and sounds for emotional content. According to a wiring diagram worked out by Joseph LeDoux of New York University, impulses from eye and ear reach the amygdala before they get to the rational, thoughtful neocortex. If a sight, sound or experience has proved painful before—Dad's drunken arrival home was followed by a beating—then the amygdala floods the circuits with neurochemicals before the higher brain knows what's happening. The more often this pathway is used, the easier it is to trigger: the mere memory of Dad may induce fear. Since the circuits can stay excited for days, the brain remains on high alert. In this state, says neuroscientist Bruce Perry of Baylor College of Medicine, more circuits attend to nonverbal cues—facial expressions, angry noises—that warn of impending danger. As a result, the cortex falls behind in development and has trouble assimilating complex information such as language.

MOVEMENT

Fetal movements begin at 7 weeks and peak between the 15th and 17th weeks. That is when regions of the brain controlling movement start to wire up. The critical period lasts a while: it takes up to two years for cells in the cerebellum, which controls posture and movement, to form functional circuits. "A lot of organization takes place using information gleaned from when the child moves about in the world," says William Greenough of the University of Illinois. "If you restrict activity you inhibit the formation of synaptic connections in the cerebellum." The child's initially spastic movements send a signal to the brain's motor cortex; the more the arm, for instance, moves, the stronger the circuit, and the better the brain will become at moving the arm intentionally and fluidly. The window lasts only a few years: a child immobilized in a body cast until the age of 4 will learn to walk eventually, but never smoothly.

There are many more circuits to discover, and many more environmental influences to

VOL
142
PT
5
MR
21
—
29
1996
UMI

pin down. Still, neuro labs are filled with an unmistakable air of optimism these days. It stems from a growing understanding of how, at the level of nerve cells and molecules, the brain's circuits form. In the beginning, the brain-to-be consists of only a few advance scouts breaking trail: within a week of conception they march out of the embryo's "neural tube," a cylinder of cells extending from head to tail. Multiplying as they go (the brain adds an astonishing 250,000 neurons per minute during gestation), the neurons clump into the brain stem which commands heartbeat and breathing, build the little cerebellum at the back of the head which controls posture and movement, and form the grooved and rumpled cortex wherein thought and perception originate. The neural cells are so small, and the distance so great, that a neuron striking out for what will be the prefrontal cortex migrates a distance equivalent to a human's walking from New York to California, says developmental neurobiologist Mary Beth Hatten of Rockefeller University.

Only when they reach their destinations do these cells become true neurons. They grow a fiber called an axon that carries electrical signals. The axon might reach only to a neuron next door, or it might wend its way clear across to the other side of the brain. It is the axonal connections that form the brain's circuits. Genes determine the main highways along which axons travel to make their connection. But to reach particular target cells, axons follow chemical cues strewn along their path. Some of these chemicals attract: this way to the motor cortex! Some repel: no, that way to the olfactory cortex. By the fifth month of gestation most axons have reached their general destination. But like the prettiest girl in the bar, target cells attract way more suitors—axons—than they can accommodate.

How does the wiring get sorted out? The baby neurons fire electrical pulses once a minute, in a fit of what Berkeley's Shatz calls auto-dialing. If cells fire together, the target cells "ring" together. The target cells then release a flood of chemicals, called trophic factors, that strengthen the incipient connections. Active neurons respond better to trophic factors than inactive ones, Barbara Barres of Stanford University reported in October. So neurons that are quiet when others throb lose their grip on the target cell. "Cells that fire together wire together," says Shatz.

The same basic process continues after birth. Now, it is not an auto-dialer that sends signals, but stimuli from the senses. In experiments with rats, Illinois's Greenough found that animals raised with playmates and toys and other stimuli grow 25 percent more synapses than rats deprived of such stimuli.

Rats are not children, but all evidence suggests that the same rules of brain development hold. For decades Head Start has fallen short of the high hopes invested in it: the children's IQ gains fade after about three years. Craig Ramey of the University of Alabama suspected the culprit was timing: Head Start enrolls 2-, 3- and 4-year-olds. So in 1972 he launched the Abecedarian Project. Children from 120 poor families were assigned to one of our groups: intensive early education in a day-care center from about 4 months to age 8, from 4 months to 5 years, from 5 to 8 years, or none of all. What does it mean to "educate" a 4-month-old? Nothing fancy: blocks, beads, talking to him, playing games such as peek-a-boo. As outlined in the book "Learningames," each of the 200-odd activities was designed to enhance cognitive, language, social or motor development. In a recent paper, Ramey and Frances Campbell of the University of North Carolina report that children enrolled in Abecedarian as preschoolers still scored higher in math and reading at the age of 15 than untreated children. The children still retained an average IQ edge was 4.6 points. The earlier the children were enrolled, the more enduring the gain. And intervention after age 5 conferred no IQ or academic benefit.

All of which raises a troubling question. If the windows of the mind close, for the most part, before we're out of elementary school, is all hope lost for children whose parents did not have them count beads to stimulate their math circuits, or babble to them to build their language loops? At one level, no: the brain retains the ability to learn throughout life, as witness anyone who was befuddled by Greek in college only to master it during retirement. But on a deeper level the news is sobering. Children whose neural circuits are not stimulated before kindergarten are never going to be what they could have been. "You want to say that it is never too late," says Joseph Sparling, who designed the Abecedarian curriculum. "But there seems to be something very special about the early years."

And yet . . . there is new evidence that certain kinds of intervention can reach even the older brain and, like a microscopic screwdriver, rewire broken circuits. In January, scientists led by Paula Tallal of Rutgers University and Michael Merzenich of UC San Francisco described a study of children who have "language-based learning disabilities"—reading problems. LLD affects 7 million children in the United States. Tallal has long argued that LLD arises from a child's inability to distinguish short staccato sounds—such as "d" and "b." Normally, it takes neurons in the auditory cortex something like .015 second to respond to a signal from the ear, calm down and get ready to respond to the next sound; in LLD children, it takes five to 10 times as long. (Merzenich speculates that the defect might be the result of chronic middle-ear infections in infancy: the brain never "hears" sounds clearly and so fails to draw a sharp auditory map.) Short sounds such as "b" and "d" go by too fast—.04 second—to process. Unable to associate sounds with letters, the children develop reading problems.

The scientists drilled the 5- to 10-year-olds three hours a day with computer-produced sound that draws out short consonants, like an LP played too slow. The result: LLD children who were one to three years behind in language ability improved by a full two years after only four weeks. The improvement has lasted. The training, Merzenich suspect, redrew the wiring diagram in children's auditory cortex to process fast sounds. Their reading problems vanished like the sounds of the letters that, before, they never heard.

Such neural rehab may be the ultimate payoff of the discovery that the experiences of life are etched in the bumps and squiggles of the brain. For now, it is enough to know that we are born with a world of potential—potential that will be realized only if it is tapped. And that is challenge enough.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GRASSLEY. Again, for the majority leader, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Executive Calendar nominations Nos. 502, 531, 532, 533, 535, 536, 537, 538, 539, and all nominations placed on the Secretary's desk in the Air Force, Army and Navy.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, that any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

AIR FORCE

The following named officer for appointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States code, Section 601: _

To be general

Lt. Gen. Michael E. Ryan, 505-54/9889, U.S. Air Force.

DEPARTMENTOF DEFENSE

Kenneth H. Bacon, of the District of Columbia, to be an Assistant Secretary of Defense. (New Position)

Franklin D. Kramer, of the District of Columbia, to be an Assistant Secretary of Defense.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Joseph J. DiNunno, of Maryland to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2000. (Reappointment)

AIR FORCE

The following-named officer for promotion in the Regular Air Force of the United States to the grade indicated under title 19, United States Code, section 624:

To be brigadier general

Col. Timothy J. McMahon, 138-38-1034

The following-named officer for appointment to the grade of lieutenant general wile assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Kenneth E. Eickmann, 456-72-2203, United States Air Force

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Richard T. Swope, 051-34-6942, U.S. Air Force

ARMY

The following-named officer for reappointment to the grade of lieutenant general in the United States Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. John G. Coburn, 364-38-3232, U.S. Army

The following-named officer for appointment to the grade of lieutenant general in the United States Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. John J. Cusick, 196-32-4700, U.S. Army

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

APPOINTMENTS BY THE MAJORITY AND MINORITY LEADERS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that pursuant to Public Law 103-432, the following members be named to the Advisory Board on Welfare Indicators:

Jo Anne B. Barnhart, of Virginia; Martin H. Gerry, of Kansas; Gerald H. Miller, of Michigan, upon the recommendation of the majority leader, and Paul E. Barton, of New Jersey, upon the recommendation of the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, MARCH 29, 1996

Mr. GRASSLEY. Mr. President, I further ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Friday, March 29; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business until the hour of 12:30, with Senators to speak for up to 5 minutes each except for the following: Senator THOMAS, 30 minutes; Senator DORGAN, 20 minutes; Senator HATCH, 20 minutes; Senator COHEN, 15 minutes; Senator FAIRCLOTH, 10 minutes; Senator HUTCHISON, 5 minutes; Senator WELLSTONE, 10 minutes; Senator MURKOWSKI, 15 minutes; Senator GLENN, 15 minutes; and Senator MCCONNELL, 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I thank the Chair.

PROGRAM

Mr. GRASSLEY. Mr. President, the leader would like me to inform all of our colleagues that there will be a period for morning business for 2½ hours to accommodate a number of requests by Members. It is hoped that during tomorrow's session, the omnibus appropriations conference report will become available. Senators should therefore be aware rollcall votes are possible during Friday's session. The Senate may also be asked to turn to any other legislative or executive items for action.

ORDER FOR ADJOURNMENT

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, for the benefit of everybody, this is probably going to be something less than 10 minutes. I ask permission to speak for a period of time as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VOID IN MORAL LEADERSHIP PART IV

Mr. GRASSLEY. Mr. President, last week I began giving a series of speeches about the void in moral leadership in the White House.

By moral leadership, I don't mean morality. I mean simply setting a good example for the American people: Being trustworthy, honest, candid, and so on, simple, basic values that all Americans share, and that all Americans expect to see in their leaders.

Frankly, there has been a failure by this White House to set a good example.

And I have been very specific about my observations, what the President, the First Lady and others have done, and where the good example broke down.

I began this series of speeches with the words of two great American presidents in mind.

The first was a pronouncement by Franklin Delano Roosevelt.

FDR said that, the Presidency is preeminently about moral leadership.

It's not about being a good engineer or a good decisionmaker or a good speaker.

It's about moral leadership.

The second was from Teddy Roosevelt.

He talked about the obligation we have to tell the truth about the President, more than any other American.

To not do so, he said, was both base and servile.

And so I have felt an obligation to make this observation, Mr. President:

There has been a failure in this White House of setting a good example for the American people.

Today, I will further support my claim.

I will refer to a new Washington Post-ABC News poll, conducted March 14-17 of 1,512 randomly selected adults.

In the survey, half of the respondents said they thought the First Lady is not telling the truth about Whitewater.

Questions about the candor and straight-forwardness of the First Lady go right to the heart of my point.

It goes beyond the issue of anyone calling anyone dishonest, or a liar.

That would not be proper!

My point is that there is a growing perception out there in grassroots America that the First Lady has not told the truth.

How can the moral authority to lead survive such a perception with this White House?

At this point, the most qualified outside observer of the Whitewater and Travelgate issues is James B. Stewart. Mr. Stewart was given access to sources by the White House. Mr. Stewart is also described as ideologically akin to the Clintons. He is a respected, Pulitzer Prize-winning journalist, formerly with the Wall Street Journal. His bona fides are generally recognized as impeccable.

On March 11, Mr. Stewart was interviewed by ABC's Ted Koppel on "Nightline."

Mr. Koppel asked the following question:

> And to those who say, has all of this investigation, the congressional investigations, the independent prosecutors, the time that you have spent in putting this book together * * * was it all worth all the money and the time and the effort and the pain?

Here is Mr. Stewart's reply:

> I think in the end we'll find that it was—that the truth is important in our society, that justice is important in our society.
>
> I don't think you can put a pricetag on those things.
>
> Yes, It's terribly expensive, and at times it seems very wasteful, and at times it's nasty and partisan.
>
> It often is a blood sport, as Vince Foster said. But why is that?
>
> It's because the truth was never honored in the first place, and I hope if there's any lesson that comes out of that, that people in the future will recognize that.

Mr. President, that is a hard punch taken at the White House.

That truth was never honored in the first place.

But it is a fair punch.

It is observations like Mr. Stewart's which are having an impact out at the grassroots.

The Washington Post ran a story about the new Post-ABC poll in its March 24 edition.

The article was written by R.H. Melton, and was entitled, "First Lady Bears the Brunt of Unfavorable Opinion on Whitewater."

One grocery store manager in Pontiac, MI, seems to support the contention of Mr. Stewart on "Nightline."

The store manager, Dwight Bradford, age 27, said:

> This is something he should have settled before becoming president.

VOL
142
PT
5
MR
21
—
29
1996
UMI

By him not taking action, the Republicans have made him look a little dumbfounded.

And if she knew something, she's been withholding evidence.

And that is wrong for a government official.

It makes the United States look bad.

The Post article also showed that the Whitewater response by the White House is having repercussions that cut across party affiliation.

Rouvain Benison, a Democrat, is also quoted in the story, saying the following:

> Whitewater is a symptom, the lack of moral leadership, of moral integrity, strength, courage—all the good things in a person's character.

These were not my words, Mr. President.

In fact, this gentleman stated the case more eloquently than I did in each of my speeches of the past week.

It is a symptom of a lack of moral leadership.

Word is getting out in the countryside, Mr. President.

The people we serve know when their leaders are failing to lead.

They know that moral leadership is not coming from their White House.

Since the time of the Post-ABC survey, a new revelation from the White House has reinforced the perception of a lack of candor.

I am referring to the First Lady's March 21 responses to formal questions from the House Committee on Government Reform and Oversight.

The subject matter was, who knew what, when, about the firing of innocent workers in the White House Travel Office.

Never mind that the White House released her responses too late for the evening news shows to do any serious reporting.

That is an old trick in this town.

If there is bad news, or if you want to minimize coverage, just wait till the TV news shows are over to release it.

But the real news in this story—the real news in the First Lady's responses—was the fueling of the perception of a lack of straight forwardness, of candor.

In a 25-page response, only 16 pages of which contained actual responses, here is what appeared: the words "I do not recall" appeared 21 times; the words "I do not believe" appeared 9 times; the words "I believe" appeared 7 times; the words "I may have" appeared 5 times; the words "it is possible that" appeared 3 times; the words "no specific recollection" appeared 2 times; in one case, she reports "she had heard" something, which is hearsay, yet in three other cases she reports merely that she had "no first-hand knowledge"; and, the following phrases were used once each: "I cannot recall"; "he may have mentioned"; "a vague recollection"; "I do not remember"; "it is hard to remember"; and "a general recollection."

In other words, Mr. President, these were not necessarily totally forthcoming answers.

I believe the First Lady may be totally sincere in these responses, as opposed to taking the advice of some clever lawyer and doing a soft shoe routine.

But, given the White House's history of not being forthcoming, do you not see how this could further fuel the perception of a lack of candor.

Do you not now see why honoring the truth in the first place—as "Blood Sport" author Jim Stewart put it—is so important for our national leaders.

Do you not now see my point about the need for our leaders to set a good example.

That Washington Post-ABC poll tells me that about half the people of this country do not have the level of confidence they should in their leadership in the White House.

In my view, Mr. President, setting the example is the most important thing for our leaders in the White House.

In that respect, I agree with FDR—who I quoted earlier—but I do not believe we are getting that example, and a growing number in this country apparently agree with me.

It is a serious erosion of leadership and public confidence, and it must be restored.

I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m., Friday, March 29.

Thereupon, the Senate, at 9:46 p.m., adjourned until Friday, March 29, 1996, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 28, 1996:

TENNESSEE VALLEY AUTHORITY

JOHNNY H. HAYES, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2005. (REAPPOINTMENT)

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

GEN. JOHN H. TILELLI, JR., 152-30-5962, U.S. ARMY.

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS ASSISTANT COMMANDANT OF THE MARINE CORPS, HEADQUARTERS, U.S. MARINE CORPS, AND APPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF SECTION 5044, TITLE 10, UNITED STATES CODE:

ASSISTANT COMMANDANT OF THE MARINE CORPS

To be general

LT. GEN. RICHARD I. NEAL, 023-30-0571.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER SECTION 601, TITLE 10, UNITED STATES CODE:

To be lieutenant general

MAJ. GEN. TERRENCE R. DRAKE, 514-50-6646.

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE NAVY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

UNRESTRICTED LINE

To be rear admiral

REAR ADM. (LH) JAMES F. AMERAULT, 018-32-0491, U.S. NAVY.
REAR ADM. (LH) LYLE G. BIEN, 504-58-1731, U.S. NAVY.
REAR ADM. (LH) RICHARD A. BUCHANAN, 174-58-9136, U.S. NAVY.
REAR ADM. (LH) WILLIAM V. CROSS II, 190-34-1635, U.S. NAVY.
REAR ADM. (LH) WALTER F. DORAN, 104-36-4942, U.S. NAVY.
REAR ADM. (LH) JAMES O. ELLIS, JR., 252-76-4995, U.S. NAVY.
REAR ADM. (LH) WILLIAM J. FALLON, 155-34-0304, U.S. NAVY.
REAR ADM. (LH) THOMAS B. FARGO, 550-66-9953, U.S. NAVY.
REAR ADM. (LH) DENNIS V. MCGINN, 020-34-1807, U.S. NAVY.
REAR ADM. (LH) JOSEPH S. MOBLEY, 550-56-1832, U.S. NAVY.
REAR ADM. (LH) EDWARD MOORE, JR., 430-82-0064, U.S. NAVY.
REAR ADM. (LH) DANIEL J. MURPHY, 546-68-6221, U.S. NAVY.
REAR ADM. (LH) RODNEY P. REMPT, 571-60-5464, U.S. NAVY.
REAR ADM. (LH) NORBERT R. RYAN, JR., 201-34-4487, U.S. NAVY.
REAR ADM. (LH) RAYMOND C. SMITH, JR., 548-54-1889.
REAR ADM. (LH) ANTHONY J. WATSON, 323-38-1025.

RESTRICTED LINE

To be rear admiral

REAR ADM. (LH) GEORGE P. NANOS, JR., 003-32-1992, U.S. NAVY.
REAR ADM. (LH) CRAIG E. STEIDLE, 056-26-0017, U.S. NAVY.
REAR ADM. (LH) JAMES L. TAYLOR, 292-38-7610, U.S. NAVY.
REAR ADM. (LH) PATRICIA A. TRACEY, 084-40-3579, U.S. NAVY.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 28, 1996:

DEPARTMENT OF DEFENSE

KENNETH H. BACON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

FRANKLIN D. KRAMER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOSEPH J. DI NUNNO, OF MARYLAND, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2000.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. MICHAEL E. RYAN, 505-54-9889, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. TIMOTHY J. MCMAHON, 138-38-1034.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. KENNETH E. EICKMANN, 456-72-2203, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD T. SWOPE, 051-34-6942, U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

to be lieutenant general

LT. GEN. JOHN G. COBURN, 364-38-3232, U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

to be lieutenant general

MAJ. GEN. JOHN J. CUSICK, 196-32-4700, U.S. ARMY.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING HAROLD E. BURCHAM, AND ENDING KEVIN W. MORRILL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 26, 1996.

AIR FORCE NOMINATIONS BEGINNING DOUGLAS W. ANDERSON, AND ENDING HAROLD D. HITES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 5, 1996.

AIR FORCE NOMINATIONS BEGINNING ROBERT J. ABELL, AND ENDING LEO R. SHOCKLEY, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 11, 1996.

IN THE ARMY

ARMY NOMINATION OF GARY N. JOHNSTON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 20, 1996.

ARMY NOMINATIONS BEGINNING PAT W. SIMPSON, AND ENDING WARNER J. ANDERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 20, 1996.

ARMY NOMINATIONS BEGINNING MARGARET B. BAINES, AND ENDING *JEFFREY S. WILLIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 20, 1996.

ARMY NOMINATIONS BEGINNING ANTHONY C. CRESCENZI, AND ENDING ALBERT R. SMITH, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 20, 1996.

ARMY NOMINATIONS BEGINNING PATRICK V. ADAMCIK, AND ENDING JOSEPH M. ZIMA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 26, 1996.

IN THE NAVY

NAVY NOMINATION OF JOHN M. COONEY, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 7, 1995.

NAVY NOMINATION OF REX A. AUKER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 20, 1996.

NAVY NOMINATIONS BEGINNING RICHARD D. BOYER, AND ENDING EDWARD J. POSNAK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 20, 1996.

NAVY NOMINATIONS BEGINNING MARK A. ADMIRAL, AND ENDING ALICE A. ZENGEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 5, 1996.

NAVY NOMINATIONS BEGINNING MICHAEL P. CAVIL, AND ENDING CHARLES K. NIXON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 11, 1996.

NAVY NOMINATIONS BEGINNING JAMES L. ABRAM, AND ENDING ROBERT E. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 14, 1996.

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HOUSE OF REPRESENTATIVES—*Thursday, March 28, 1996*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We recognize, O God, that we as a people have been blessed with means both spiritual and material, that we have been given knowledge and insight into the workings of the world and the revelations of the human spirit. Yet, we know too that we have not always aspired to use our resources in ways that strengthen our land and give vision and hope to every person. May Your word, O God, speak to us, may Your spirit inspire us, and may Your grace encircle us this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Missouri [Ms. MCCARTHY] come forward and lead the House in the Pledge of Allegiance.

Ms. MCCARTHY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agreed to the following resolution:

S. RES. 234

Whereas, the Senate fondly remembers former Secretary of State, former Governor of Maine, and former Senator from Maine, Edmund S. Muskie;

Whereas, Edmund S. Muskie spent six years in the Maine House of Representatives, becoming minority leader;

Whereas, in 1954, voters made Edmund S. Muskie the State's first Democratic Governor in 20 years;

Whereas, after a second two-year term, he went on in 1958 to become the first popularly elected Democratic Senator in Maine's history;

Whereas, Edmund S. Muskie in 1968, was chosen as Democratic Vice-Presidential nominee;

Whereas, Edmund S. Muskie left the Senate to become President Carter's Secretary of State; and

Whereas, Edmund S. Muskie served with honor and distinction in each of these capacities: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Edmund S. Muskie, formerly a Senator from the State of Maine.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Senator.

The message also announced that the Senate had passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 146. Concurrent resolution authorizing the 1996 Special Olympics Torch Relay to be run through the Capitol Grounds; and

H. Con. Res. 147. Concurrent resolution authorizing the use of the Capitol grounds for the fifteenth annual National Peace Officers' Memorial Service.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4) "An act to grant the power to the President to reduce budget authority."

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 49. Concurrent resolution providing for certain corrections to be made in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 15 Members on each side for 1-minutes.

UNION BOSSES ATTACKING THE PREFERRED REPUBLICAN VISION OF THE FUTURE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, most working men and women in this country prefer the Republican vision of the future. They support a change in the way the Federal Government works and operates, they want a change in the way the welfare system operates, they want an end to race and gender preferences on the job and in our schools, and they want to decide who spends their money and on what. Yet, the self-proclaimed champions of "working men and women" resist this popular agenda at every turn.

On Monday, a group of elite, liberal, big union bosses levied a $35 million tax increase on the men and women of the AFL–CIO, money they will use to attack the pro-family, pro-middle-class agenda of change offered by this Republican-led Congress. Despite their efforts, the union bosses better be wary, because it is only a matter of time before the rank and file throws them out and replaces them.

HEALTH REFORM DOES NOT HELP THE JOBLESS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I will support the health reform bill today; portability is long overdue. But I do have a question. What good is portability to many Americans who do not have a job?

It is about jobs, Congress, and around here jobs has become an absolute four-letter word to the highest degree.

Check out some of the new high paying jobs American workers could apply for: Deep fried foods specialist. Gizzard skin remover. Corn cob pipe assembler. Pantyhose crotch closer machine operator. How about a poultry impregnator? Tell me, Mr. Speaker, what exactly is a poultry impregnator?

I am going to vote for the health reform bill, but it is a help to those who have, but it does absolutely nothing for those that have not. A job, that is.

Think about that.

THE REFUSE-TO-LOSE BASKETBALL OF MY UMASS MINUTEMEN

(Mr. TORKILDSEN asked and was given permission to address the House for 1 minute.)

Mr. TORKILDSEN. Mr. Speaker, I rise today to recognize the extraordinary accomplishments of the all-but-ordinary UMass Minutemen, the best basketball team in the country.

Center Marcus Camby has dominated as a scorer, rebounder, and shotblocker, and is the best player in the country.

Starting guards Carmelo Travieso and Edgar Padilla personify teamwork. They combine their unique talents, under any circumstance, to make an assist, shoot a three, steal a ball, or steal a game.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Donta Bright is the best finisher in the country. And Dana Dingle is one of the quietest threats in college ball, averaging 14 points per game.

But no description of the UMass team would be complete without recognizing the enormous contribution made by Coach John Calipari, the best coach in the country. As the Minutemen sprinted from Midnight Madness to March Madness, Coach Cal reminded America that through hard work and determination, good guys can finish first.

As the only UMass-Amherst graduate ever to serve in Congress, I share great pride in our team.

And for all those who marvel at the success of refuse-to-lose basketball, and UMass itself, there is only one message: The best is yet to come.

HOUSE LEADERSHIP HAS SURRENDERED TO THEIR EXTREMISTS

(Ms. MCCARTHY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCCARTHY. Mr. Speaker, today we have an opportunity to give the American people something they want and something they need, a guarantee that if they change jobs they will not lose their health insurance.

It is that simple. We know how to do it. The President, the Republican Senate and House Democrats all agree.

So I ask what is the problem? the problem is that the House leadership has surrendered to their extremists and loaded up a truly bipartisan bill with special interest provisions that would cost the American taxpayer millions of dollars.

My constituents are not asking for something for nothing. They are willing to pay for health insurance.

Let us push those special interests aside, work together, and give American families basic security.

Mr. Speaker, I urge the Republican leadership to put politics aside, clean up this bill so we can give Americans this important first step toward health care reform. It is the right thing to do.

WHO DO WE TRUST?

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to my colleague from Missouri. Many things she said I agree with: the notion of health insurance being able to be taken from job to job; the notion of affordability and portability is important. But again my friends on the other side would rather play politics and indulge in name calling than deal with sound policy.

No, it is not extreme to let the American people have medical savings accounts so that they can decide how to spend their health carė dollars. Mr. Speaker, the fact is that will help American taxpayers and the hard-working men and women of America immeasurably, and once again, Mr. Speaker, it comes down to this basic question:

Why should we be afraid to let the American people have control of their own money, have control of their own future, and again, Mr. Speaker, it comes down to this question:

Who do we trust; the people of the United States or the Washington bureaucrats?

Mr. Speaker, I trust the people of the United States.

END HEALTH CARE INSURANCE DISCRIMINATION

(Mr. BENTSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, the House later today can do something that has really been quite rare in this Congress. We can pass legislation which will actually help average Americans, and I would say to the gentleman from Arizona, we can pass legislation that 191 Members of this House on both sides of the aisle support, that was introduced by a Member of the gentleman's side of the aisle, the 55 Members of the other body, a majority of the other body, support, that every group, from the American Medical Association and the American Hospital Association to the independent insurance agents and the National Association of Manufacturers support.

We can pass legislation that does away with insurance discrimination for preexisting conditions, that says, If someone loses their job, or they get sick, they can stll retain their right to buy insurance that has common sense market reform, that everyone should agree with, and not load it up with special interests' gobbledygook which will kill this bill forever.

This Congres has accomplished virtually nothing, but today we have an opportunity to get something passed that the other body will pass in April, that the President will sign, and do right by the American people.

So the gentleman from Arizona [Mr. HAYWORTH] is way off base with what he is saying. Let us do right by the American people and pass a democratic substitute of health care reform.

FOOD AND DRUG ADMINISTRATION REFORM

(Mr. BURR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURR. Mr. Speaker, the United States has the best health care system in the world. It is unthinkable for Americans to have anything less than superior access to lifesaving drugs. By safety streamlining the drug approval process we can not only help families and seniors by lowering drug prices and keeping high paying jobs on American soil, but we will give terminally ill patients access to lifesaving treatments.

Yesterday patients from across this country came to Washington and told us their hard stories about being denied access to drugs that may, in fact, save their lives. It is these courageous people that inspire us to reform the Food and Drug Administration.

America's health care industry and patients are chained to a FDA process that provides no flexibility, no common sense, and has no human face. The average time for the drug approval in this country is a whopping 13 to 15 years. For terminally ill patients with no hope that timeable simply will not do.

I urge my colleagues to watch FDA reform as it comes to this House floor later this month.

DO NOT KILL HEALTH CARE REFORM

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, by adding these medical savings accounts to the health care reform bill today, the Republican leadership is essentially killing health care reform. What they are doing is making it possible for the wealthy and the healthiest among us to get into these medical savings accounts and take away their contribution from the risk pool, so that what is left is that the average person's premiums are going to go up, because if someone is not wealthy and they are not healthy and they have to stay in the traditional health insurance pool, they are actually going to have to pay more, and the bill is going to be less affordable.

Do not load down this bill. Just listen to this quote from Senator ROBERT BENNETT, a Republican who says, "The Republicans on the House side are going to turn this bill into the vehicle to attach MSA's and other things, and if they do that, it'll die."

That is what the Republican leadership is doing today, killing this bill with all this extraneous material that only helps wealthy people and exposes the rest of the country to higher premiums for their health insurance.

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LASALLE LANCERS: 1996 OHIO STATE DIVISION I HIGH SCHOOL BASKETBALL CHAMPIONS

(Mr. CHABOT asked and was given permission to address the House for 1

VOL 142 PT 5 MR 21 — 29 1996 UMI

minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, I want to take a moment this morning to pay tribute to the 1996 Ohio State Division I high school basketball champions, the LaSalle Lancers of Cincinnati, OH.

After finishing in last place in their league during the regular season, LaSalle refused to give up. The team confounded the experts by going all the way to Columbus, knocking off powerhouse Toledo St. John's in the State championship game on Saturday night and winning the entire State championship.

I will admit to some personal bias in this instance. LaSalle High School is not only in my congressional district, it is my alma mater. In fact, I got my start in politics at LaSalle running for student council office. I realize some people probably still hold LaSalle responsible for getting my political career off the ground, but that is life.

Coach Fleming and Coach Scott Tillett, about whom a wonderful front page article appeared in the Cincinnati Enquirer yesterday, and all of the fine young men that were on the team at LaSalle, they brought so much glory to our hometown, they certainly are entitled to our tribute.

I want to thank the LaSalle Lancers and congratulate them for winning the State championship this year. Way to go, Lancers.

PRESERVE BIPARTISANSHIP IN SUPPORT FOR HEALTH CARE REFORM

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, as Members well know, bipartisanship are those rare occasions on which the Democrats and the Republicans agree. We have found some agreement. We agree we need health care reform that provides portability so people can change jobs and keep their health insurance. We agree that we need to prevent people from being barred from insurance because of preexisting conditions. The question becomes, why do we not pass the bill that we both agree on. I will tell Members why: because the Republicans want to ruin this bill, kill this bill with extraneous material to benefit their wealthy friends.

Once again, they ruined bipartisan support by putting on benefits for the wealthy. Just like the tax breaks, here they come again. These medical savings accounts are basically a boondoggle to benefit wealthy, healthy people. They take their money and put it in savings accounts and get a tax advantage. That leaves the rest of us, those who are poor, those who are sick, the regular working guy, to pay higher insurance rates. That is not right.

Every major editorial paper in this country has criticized these medical savings accounts because they only benefit a few wealthy people. We need bipartisanship. We have an opportunity. Please, Republicans, do not ruin it.

VOTE FOR THE REPUBLICAN HEALTH CARE REFORM PLAN

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, when it comes to this health care debate, we have to ask ourselves: What are the Washington liberal Democrats afraid of? Why are the Democrats so anticonsumer choice? Why are they so against power to the people? Why are they doing everything possible to defeat medical savings accounts, which would allow their own constituents to have more health care choices without the edicts and interference of insurance companies, health care agencies, managed care business types? Why are Democrats afraid of consumer choice?

It is simple. If their constituents find out that they are in a better position to make choices that suit themselves better than what Washington liberals want them to do, then their consumers and constituents are going to figure out, you know, "We do not need all the bureaucracy that the Democrats keep taxing us for. In fact, we do not need these Democrats." They will probably invite them to come home. That, Mr. Speaker, seems to be why they are so afraid of anything that would give more decision-making power to the American consumers and less to the Washington bureaucracy. Vote for the Republican health care reform plan.

SUPPORT GOOD HEALTH CARE REFORM: SUPPORT THE KENNEDY-KASSEBAUM BILL

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning in the name of bipartisanship and good health reform, but I wonder if many of us know the story of Robin Hood and the seven thieves, because that is just what we have today. The whole issue of health reform has already gotten bipartisanship support. The Kennedy-Kassebaum bill simply says we want to give people the ability to have health care if they lose their job. If, tragically, they have a preexisting disease, lung disease, cancer, or heart disease, then we still care about them, and they can have insurance and be able to survivie.

But Robin Hood and the seven thieves, the House Republican leadership, wants to say, "We want to give the money to the rich. We want to make sure we have a medical savings plans," which allows people to hoard money away, and those who are working and the working poor and those who are sick will not have the ability to have good health insurance because the medical savings plan is applicable only to the wealthy and the healthy. We will find out that under this Republican medical savings plan, working people will be left out in the cold. They would leave less healthy people to buy ordinary medical insurance at elevated prices because of this proposed medical savings plan. People who in fact lost their jobs would not have insurance.

Let us not kill this bill. Let us support good health reform. Let us pass the Kennedy-Kassebaum bill in a truly bipartisan manner for all Americans to have portability in health insurance coverage and coverage if you have a preexisting condition.

SUPPORT H.R. 3103, THE HEALTH CARE COVERAGE AVAILABILITY AND AFFORDABILITY ACT

(Mr. NORWOOD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mr. NORWOOD. Mr. Speaker, today we will make a great step forward, in my opinion, in making health care available to all Americans. The Health Care Coverage Availability and Affordability Act will give Americans the two things they need most: increased access to health care and decreased cost. We will give hardworking Americans increased access by addressing the issues of preexisting conditions and portability. We will decrease the cost by tax deductibility for the self-employed, authorizing small employers' purchasing pools, and allowing Americans to have medical savings accounts. We are going to accomplish this without increasing government bureaucracy or writing thousands of pages of new regulations.

Mr. Speaker, we are increasing access while lowering costs. Should that not be the goal of any health care legislation? We are doing it with as little government influence as possible, or interference. I urge my colleagues to support 3103, and I would remind them that when we talk in this body about rich and wealthy, the liberal Democrats define that as anybody with a job.

DO NOT LET THE REPUBLICAN PARTY OBSTRUCT HEALTH CARE REFORM TODAY

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, among the greatest failures of this failed Republican Congress is the failure to address the real health care needs of the American people. Mr. Speaker, the failed Contract on America was essentially silent on this question. Last year Speaker GINGRICH's entire program on health care was, to use his words, let Medicare wither on the vine for the health care security of our seniors.

This year the strategy is a little different. It has been spelled out here in black and white in the House Republican national strategic plan for 1996. The health care plan they outline is, and I quote: "We will pursue a targeted inoculation strategy on Medicare"; not to inoculate against illness among the American people, but to inoculate against one of the most highly contagious illnesses politically in this country, and that is that the American people are beginning to understand the neglect and the failure of this Congress brought on by this Republican Party that cares more about special interests than the true national interests of the American people. Do not let them obstruct health care reform today. Let us do something for the 42 million American people who lack health insurance, health insurance coverage.

THE TRUTH ABOUT THE SPEAKER'S REMARKS ON HCFA AND MEDICAL SAVINGS ACCOUNTS

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, I rise to correct the RECORD. The Speaker of the House stated that he would like to see the Health Care Financing Administration, which is the big bureaucracy created by liberal Democrats in Washington that processes all the claims, he would like to see that wither on the vine, and the gentleman from Texas has misquoted the Speaker.

I would also like to rise in support of medical savings accounts. One of the biggest reasons why we have terrible health care inflation in American is because the providers and the consumers, both the doctor and the patient, are not the ones picking up the tab, and in medical savings accounts, the patients suddenly become wise and discriminating consumers. Where medical savings accounts have been implemented, cost savings average 17 percent. A 17-percent reduction in our health care costs in this Nation would be a huge benefit to our economy, a huge benefit to our industries, and a huge benefit for our competitiveness in the international markets.

It is good for consumers. Support the Republican health care bill.

THE HEALTH CARE REFORM BILL

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, last Friday was political payday for the NRA with a vote to repeal the assault weapons ban. Yesterday was political payday for the antichoice crowd with a vote to ban an extremely rare abortion procedure. And today, Mr. Speaker, is political payday for the Golden Rule Insurance Co. and its medical savings account scheme.

Today we will vote on a health insurance reform bill which includes medical savings accounts, at a cost of $2 billion to taxpayers. It is no coincidence, however, that the Golden Rule Insurance Co. has given more than $14 million to Republicans.

This chart, Mr. Speaker, demonstrates how a few large, well-placed contributions to the GOP resulted in today's vote on medical savings accounts.

Mr. Speaker, the old saying is true: He who has the gold, rules. And while the American people want serious health insurance reform, all they are getting from the GOP is cash-and-carry government.

RECOGNIZING A GOOD IDEA: MEDICAL SAVINGS ACCOUNTS

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, I was going to speak on another subject, but I have to comment on the lack of information that the other side has on medical savings accounts. I, in fact, as chair of the Subcommittee on Civil Service of the Committee on Government Reform and Oversight, held hearings on this. We found that in every instance, for almost every State and local government that testified on these, we found lower costs, lower premiums, expanded coverage.

Because it was not a Washington command and control idea, they do not like it. Because it does not limit your choices, the other side does not like it. Because it is not an old government idea or solution, they do not like it. Mr. Speaker, I think if we had a new idea and it came up and bit them on the leg, they would not even recognize it. Mr. Speaker, this is a new idea. It saves costs. It saves premiums. It is a good idea. It is time for it.

REPUBLICAN ADD-ONS MAY DERAIL BIPARTISAN HEALTH REFORM TRAIN

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, health insurance has really not been insurance for a very long time, because we have allowed those companies to refuse coverage to anybody who needs it. So today we have a great chance to do something about this. We have a chance to free people up who have been locked in their jobs because they do not dare lose their health insurance, and we have the ability of people to be able to port around their insurance coverage. And the Republican extremists in the House are about to derail this bipartisan train, this bipartisan train that came speeding out of the Senate, and this bipartisan train that the New York Times is talking about today, as they say, "The House Republicans have added amendments that are not only bad health policy, but could delay passage of this useful health care reform."

Mr. Speaker, I think it is time we stand up and say to the extremists, "Please, stop this. America has been waiting much too long for this portability and for having some price constraints, and ending the denying of these preexisting conditions as a way to shut you out of your health care. Stand up to the extremists, finally. Please, let us get some health care reform."

SUPPORT NEEDED AMENDMENT TO HEALTH CARE REFORM TO PROVIDE FOR LONG-TERM CARE

(Mr. ENSIGN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENSIGN. Mr. Speaker, the Senate bill was, frankly, inadequate. I offered an amendment in the Committee on Ways and Means, which was accepted, which will address long-term health care for Americans. Most elderly Americans are unaware of the magnitude of long-term care costs and of the limits of Government assistance. Many Americans wrongly assumed that Government programs or their general insurance will cover the costs of any long-term care services they might need. The reality is that the cost of long-term care can quickly wipe out the assets of even those who have worked and saved for a lifetime.

For example, the average cost of nursing home care is now over $38,000 a year. If you happen to need such care, your options are limited under the current system. Only about 2 percent of long-term care costs are handled by private insurance. Normally, everyone else pays out of pocket or is forced to Medicaid, to the degree that nearly 40 percent of Medicaid costs are swallowed by long-term care components.

This bill now includes the language that allows tax deductions for long-term care services, as is allowable for medical services. I urge the support of

VOL
142
PT
5
MR
21
—
29
1996
UMI

this amendment and the support of this bill.

URGING PASSAGE OF THE KASSEBAUM - KENNEDY - ROUKEMA HEALTH CARE REFORM BILL

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, American families are losing their health insurance every day because of corporate downsizing. The original Kennedy-Kassebaum health insurance bill was bipartisan common-sense reform that gave families a few simple protections. It cut down on denials due to preexisting conditions, it helped people get individual coverage when they lost group or COBRA coverage, it began chipping away at job lock, where fear of losing health insurance keeps people from changing jobs.

☐ 1030

But the House Republican leadership is turning straightforward reform into a goodie bag for a privileged few. Medical savings accounts, a payoff to a fat cat contributor to the majority. Limits on malpractice awards to people whose lives and dreams have been ruined.

The Republican leadership has demonstrated once again they just do not care about average working people. We should pass the Kennedy-Kassebaum-Roukema bill and not a special interest spinoff. It is the very least we can do.

CHANGE THE RULES ON OIL

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, it has been 5 years since the gulf war, and we have done nothing to end our dependence on oil, foreign oil.

Today the United States imports more than 50 percent of its oil from foreign countries, not because we want to, but because our laws have forced us to. When we mandate that all companies have to get 1,000 permits and regulations to drill just one well, anytime we increase the regulatory cost by $37 billion, when we close off their access to oil-rich land and when we support a destructive tax code that contains provisions like the alternative minimum tax, we are just asking for lost jobs and foreign dependence.

Is it any wonder our oil companies have lost over 500,000 jobs since 1972, closed half of their refineries and moved to Vietnam, China, and Russia?

Mr. Speaker, we must change the rules to allow our oil industry to flourish, create jobs and provide a strong and secure America for us and our children.

HEALTH CARE REFORM

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, today we have a choice. We can take a simple, single step to ensure people who can change their jobs or lose their jobs that they can take their health insurance with them. Or we can let this simple, necessary piece of legislation get totally complicated in a maze of complications.

It cannot be said too often. Everybody agrees that individuals who change their job should be able to take their health insurance with them. People who are in a job should not be locked in that job because they are afraid they will lose their health insurance. The President agrees. He said, I will sign Kennedy-Kassebaum, it is a good first beginning in health care reform. The other body agrees. They have passed a bipartisan piece of legislation. The House Democrats agree. We will offer a substitute today that contains the Kennedy-Kassebaum bill. It is a clean, a good bill. Even some House Republicans agree. The substitute that we will introduce today was introduced originally by a Republican.

Mr. Speaker, there is one problem. Some people are not satisfied with fixing this problem. They want to add 10 new provisions in health care reform, 10 new insurance provisions that are too complicated. Pass the Kennedy-Kassebaum bill, begin health care reform.

NOT IF BUT WHEN

(Mr. ISTOOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISTOOK. Mr. Speaker, no nation can be secure if it depends on another nation for its economic lifeblood. Five years ago, we sent 500,000 American troops to the Persian Gulf to fight for oil. In 1991 we imported 45 percent of our oil. Today, we import 52 percent, 9 million barrels per day, annually $60 billion going out of the country to buy oil.

The number of producing wells in this country has declined by 11 percent since the gulf war. Instead of becoming less dependent on foreign oil, we are more so. No nation can be secure with such dependency, and because 60 percent of America's oil wells, 60 percent, Mr. Speaker, are developed not by major oil companies but by independent producers, it is in America's national interest to do all that we can to preserve America's independent producers of petroleum.

HEALTH CARE REFORM

(Ms. DELAURO asked and was given permission to address the house for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today we have a golden opportunity to pass health care reform which, in fact, will be a first step to improving the lives of hard-working Americans. People that I hear from every day in my community say to me they are scared to death that, if they change their jobs, they will lose their health care or, if they or their children have had an illness which they have managed to survive, that in fact insurance companies will deny them insurance because of a preexisting condition.

The piece of legislation that we talk about today, a bipartisan piece of legislation, can help begin to change that fact in the lives of working families today. What is stopping this event? The Republican leadership has decided to load this up with special goodies for their special interests.

Mr. Speaker, let me just quote the Washington Times. Do not take my word for it. The Washington Times, not a liberal newspaper, says that riders imperil health reforms. That is what this is about.

My Republican colleague of the Committee on Commerce, Mr. BLILEY, the chairman, said yesterday, and I quote, "The more you load the wagon, the heavier it is to move."

Do not let them pass this bill with these riders. It will end health care for working families in this country.

THE LINE-ITEM VETO

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker and my colleagues, today is perhaps the most exciting day in my 18-year career here in this Congress, as it is for another former President, President Ronald Reagan. President Reagan, I hope you are listening. You said in your book entitled Autobiography by Ronald Reagan, on American life with the following paragraphs, you said: And yet, as I reflected on what we had accomplished, I had a sense of incompleteness, that there was still work to be done.

We need a constitutional amendment to require a balanced budget, said Ronald Reagan. He went on to say: And the President needs a line-item veto to cut out unnecessary spending.

Today, the Congress is agreeing, the Senate has already acted. We will act in the next hour, and we will send to the President a true line-item veto that is going to put a dent in this big-spending Congress once and for all, and the American people are going to yell hooray, hooray, hooray.

PREEMPTION OF STATE PROTECTIONS IS A BAD IDEA

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, today the House Republicans will pass up a golden opportunity to advance realistic bipartisan health care reform when it considers H.R. 3103, instead of sponsoring and passing the Roukema-Kassebaum-Kennedy health reform bill that I cosponsored.

The bill which the House considers today will have disastrous consequences for consumers. Carefully crafted State insurance laws will be replaced by a uniform standard developed and implemented by the Department of Labor here in Washington. That is right. We are taking away States' ability to regulate and move it here to Washington. They want to move it to an agency that one of my Republican colleagues said was led by what he thought was a Communist.

What does this mean to the average American family? State statutes and rules requiring certain benefits be covered by health insurance policies may no longer apply. For instance, many States like Texas, where I am from, have statutes requiring the inclusion of newborn infant coverage in their State law. That will be wiped out if this bill passes today.

Under the Republican health plan, this may no longer apply. This is moving from State control to Washington control. That must have been in the fine print of the Contract With America.

A GREAT DAY FOR AMERICA

Mr. GOSS. Mr. Speaker, I think that the gentleman from New York [Mr. SOLOMON] said it very well. This is a historic day in this body. We are going to pass the line-item veto today. It is something that we have worked hard on and long on, and we finally are in a position where we are going to deliver a version of the line-item veto which works.

This is part of the new majority here. We are getting spending under control. This matters to America, so I hope Americans will stay tuned.

It is also remarkable to me that on the very same day we are doing this historic event, we are also going to be bringing forward the first meaningful health care reform in many, many a year for the people of this country who need access to affordable health care. That is in the agenda for today as well, and I believe we are going to get that done, too. A great day for America.

HEALTH CARE REFORM

(Mr. ROMERO-BARCELÓ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

(Mr. ROMERO-BARCELÓ. Mr. Speaker, today, the House will begin consideration of the Health Coverage Availability Act. As we embark on this very important discussion, I would like to urge my colleagues on the other side of the aisle not to pass up on what is a truly golden opportunity to advance realistic, bipartisan health care reform legislation.

History has shown us that past efforts to tackle this issue have failed largely because they tried to accomplish too much. Unfortunately, by giving in to special interest groups, the majority seems to be headed down that same path once again.

Let's keep things simple. The Roukema-Kassebaum-Kennedy [RKK] bill is a sound piece of legislation that has broad bipartisan support. By helping millions of Americans keep their health insurance when they switch jobs, regardless of their health condition, it provides a much needed and relatively noncontroversial solution that a vast majority of the Members of this Chamber can agree on.

The demands of the moment require both Democrats and Republicans to unite behind the RKK bill if there is to be any realistic possibility for health reform during this Congress. Let us pass RKK now. The other issues can be worked out separately and moved separately.

REPUBLICANS PAY BACK TO SPECIAL INTERESTS

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, the Republicans are at it again. No different than we have done in the past here, my colleagues take a good bill, one that everything on both sides really has supported to pass, the Senate supports it, the President supports it. It is known as the Roukema-Kassebaum-Kennedy bill. It provides for portability, it provides for health care for preexisting conditions. And then my colleagues take that good bill and they put a terrible piece of legislation along with it, because they think well, we cannot pass that terrible piece of legislation by itself, and we can only pass it if we tack it on a big one.

Mr. Speaker, this is what they are doing. They are tacking it on. And what is it? It is payoff time. It is payoff time to the special interests of this House, the people that are paying for the Republicans' campaign. That is what it is.

What does the Washington Times say about it? "Riders imperil health reforms."

So really, do they want to do health reform? No; they want to pass something for their special interests. That is what they want to do. Let us vote them down.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole under the 5-minute rule. Those committees are the Committee on Banking and Financial Services, the Committee on Commerce, the Committee on Economic and Educational Opportunities, the Committee on Government Reform and Oversight, the Committee on International Relations, the Committee on the Judiciary, the Committee on National Security, the Committee on Resources, the Committee on Science, the Committee on Transportation and Infrastructure, and the Permanent Select Committee on Intelligence.

Mr. Speaker, it is my understanding that the minority has been consulted and that there are no objections to this request.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from New York?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3136, CONTRACT WITH AMERICA ADVANCEMENT ACT OF 1996

Mr. SOLOMON. Mr. Chairman, by direction of the Committee on Rules, I call up House Resolution 391 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 391

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order (except those arising under section 425(a) of the Congressional Budget Act of 1974) to consider in the House the bill (H.R. 3136) to provide for the enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit. The amendments specified in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) a further amendment, if offered by the chairman of the Committee on Ways and Means, which shall be in order without intervention of any point of order (except those arising under section

VOL
142
PT
5
MR
21
—
29
1996
UMI

425(a) of the Congressional Budget Act of 1974) or demand for division of the question, shall be considered as read, and shall be separately debatable for 10 minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit, which may include instructions only if offered by the Minority Leader or his designee.

SEC. 2. If, before March 30, 1996, the House has received a message informing it that the Senate has adopted the conference report to accompany the bill (S. 4) to grant the power to the President to reduce budget authority, and for other purposes, then—

(a) in the engrossment of H.R. 3136 the Clerk shall strike title II (unless it has been amended) and redesignate the subsequent titles accordingly; and

(b) the House shall be considered to have adopted that conference report.

☐ 1045

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. SOLOMON asked and was given permission to include extraneous material.)

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON:

Page 2, line 9, strike "one hour" and all that follows through "Means" on line 12, and insert in lieu thereof the following:

"80 minutes of debate on the bill, as amended, with 60 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform and Oversight or their designees".

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the amendment be agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from California [Mr. BEILENSON]. He is one of the most understanding Members of this body. He is going to be leaving us at the end of this year and we are going to miss him. We do not always agree, but he is one fine gentleman.

Mr. Speaker, House Resolution 391 provides for consideration of the bill H.R. 3136, the Contract With America Advancement Act of 1996. That is important. This bill contains the Senior Citizens Right to Work Act of 1996. It contains the Line-Item Veto Act, the Small Business Growth and Fairness Act of 1996, and a permanent increase in the public debt limit.

Believe me, if it were not for these other issues I just read off, I would not be standing up here supporting the increase in the debt limit for this Government. Not only does this bill represent the completion of three major contract promises, but it represents the product of bipartisan, bicameral and dual-branch negotiations. Think about that, ladies and gentlemen. That is cooperation. The bill before us today addresses concerns of both houses of Congress and the Clinton administration as well.

Mr. Speaker, this rule provides for consideration in the House of H.R. 3136, as modified by the amendments designated in the Committee on Rules report on this resolution. The rule provides for the adoption of two amendments. The first amendment is to title III of the bill relating to regulatory reform, and the second amendment is to title I of this bill relating to the Social Security earnings test limit. Both amendments address specific concerns of the administration and have been included in the bill in the spirit of bipartisan cooperation. It is hoped that the final product will meet the concerns of all parties involved.

The rule waives all points of order against consideration of the bill except those arising under section 425(a) of the Budget Act relating to unfunded mandates. The rule provides for 1 hour of debate equally divided between the chairman and ranking member of the Committee on Ways and Means, and of course we have just enacted an addendum to that, an amendment giving the gentleman from Pennsylvania [Mr. CLINGER] and his committee an additional 20 minutes, equally divided between the chairman and the ranking member.

The rule further provides for the consideration of an amendment to be offered by the gentleman from Texas [Mr. ARCHER] or his designee, which is debatable for 10 minutes. This further amendment was provided to the manager of the bill in order to accommodate any further negotiations between Congress and the administration that occurred last night after the Committee on Rules reported this bill. It is my understanding now, however, that the use of this authority will not be necessary. Upon completion of debate, the rule provides for one motion to recommit which, if containing instructions, may only be offered by the minority leader or his designee.

Finally, Mr. Speaker, the rule provides that if before March 30, 1996, the House has received a Senate message stating that the Senate has adopted the conference report on S. 4, which is the Line-Item Veto Act, then following House passage and engrossment of H.R. 3136, the Clerk shall be instructed to strike title II unless amended from this bill. This title contains the exact text of the conference report of Senate bill 4.

Furthermore, upon the actions of the House, it will be deemed to have adopted the conference report on S. 4, which is the line-item veto conference report. This final procedure has been included in the rule as part of our continuing efforts to expedite the consideration of this terribly, terribly important piece of legislation.

Mr. Speaker, as to the text of H.R. 3136, let me express my strong support for these Contract With America measures. Title I, the Senior Citizens Right to Work Act of 1996, is crucial legislation which will lift the current impediments seniors throughout my district and yours and throughout this entire country face as they try to increase their income by working in their later years.

It is the most ridiculous thing when you have paid into Social Security with your own money, over all of these years, 30, 40, 50, 60, whatever it might be, that money is yours. It is being paid back to you from a trust, and yet you are penalized if you earn more than $11,000, three to one; you have to give back one dollar for every three you earn over $11,000. That is about the most undemocratic thing that I have ever seen. This bill is going to correct that.

It also provides relief that was made in 1994 and is a promise that is going to be kept today. Title III, the Small Business Growth and Fairness Act of 1996, will provide needed regulatory relief and flexibility to millions of small business owners, to farmers and families across this country, enabling these job creators, and these kind of businesses create 75 percent of every new job in America every single year. It allows them to expand employment in the marketplace and to grow our Nation's economy and grow jobs for high school students graduating and college students, as well.

Now, while this regulatory reform does not go as far as I would like to see it, it still represents a dramatic shift in the direction of regulatory relief that was promised in the contract for America. Mr. Speaker, this was another promise Republicans made, and this is another promise Republicans are going to keep here today.

Mr. Speaker, title II of the bill represents legislation that is near and dear to my personal heart, legislation that I have worked to pass for more than 18 years here in this Congress. Title II is the Line-Item Veto Act. It represents fundamental budget process reform, and I never thought it would happen. After many hearings, three committee markups, 2 days of floor consideration in the House, 1 week of floor consideration in the Senate, and more than a year of debate in a committee on conference, a thoroughly researched, extensively debated and well drafted bill has finally been produced. The conferees, led by the gentleman from Pennsylvania, Chairman CLINGER, sitting next to me over here, are to be commended for bringing the House such thorough and historic budget process reform and getting it through the Senate.

Mr. Speaker, as you well know, I have been an ardent supporter of the line-item veto all these years. Nevertheless, I believe the conference report language before us today will provide the President, any President, regardless of political party, with an even more effective, yet limited line-item veto authority that I ever thought could be possible.

Without question, it will result in lower, more responsible Government spending. Under the bill, the President is delegated the constitutional authority to cancel dollar amounts of discretionary appropriations. He is granted the ability to limit tax benefits or increases in direct spending, and these cancellations must be transmitted by special message to the Congress within 5 days of signing the original bill into law.

With report to dollar amounts of discretionary appropriations, the President is permitted to cancel specific items in appropriations bills, any governing committee reports or joint explanatory statements to accompany a conference report. What that means is the bill will also allow the President to cancel any increase in direct spending, which includes entitlements and the Food Stamp Program. Believe me, that is going to make a difference, since that takes up almost all of the budget, these entitlement programs.

This delegated authority will allow the President to cancel any new expansions of direct spending.

Now, with regard to tax benefits, the President is permitted to cancel any limited tax benefits identified by the nonpartisan Joint Committee on Taxation in any revenue or reconciliation law. In an effort to limit this delegated cancellation authority, the line-item veto requires that the cancellations may be made if the President can determine that such cancellation would reduce the Federal budget deficit.

Most importantly, Mr. Speaker, in order to ensure reductions the deficit, a lot of people ought to listen to this because this is something we have been fighting for years, the bill has established a lock bloc mechanism lowering the statutory spending caps, locking in any savings gained through the use of the line-item veto.

How many times have we offered amendments on this floor and we have cut out spending on a project only to find the money was reinstated for another project later on? That is going to stop right now when the President signs this bill.

The bill also provides for expedited procedures in both the House and the Senate for consideration of a bill to disapprove any cancellation by the President. That disapproval bill would then be subject to a veto by the President, which would then have to be overriden by a two-thirds vote of both houses in order for the money, intended to be canceled, to be spent or to take effect. I intend to discuss the specifics of these expedited procedures later on in the debate, as will my good friend, the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the conference on line-item veto. However, I will say now that these expedited procedures were intentionally drafted to allow any Member, majority or minority, who can muster sufficient support to receive a vote to disapprove on the floor of this House any particular veto.

The bill also provides for expedited judicial review of any challenge to the constitutionality of the act. No severability or nonseverability provisions were included in the bill, but it is the intention of the conferees that any judicial determinations regarding the constitutionality of the bill be applied severably to the legislation. This is consistent with the current rule of thumb regarding constitutional challenges to any law that is silent on the issue of severability.

Finally, the line-item veto authority becomes effective on the date of the earlier of these two: enactment of a 7-year balanced budget plan, or January 1, 1997. This authority would sunset on January 1, 2005.

Now, there has been some discussion whether the delay in the effective date has been motivated by partisan politics, but let us set the record straight here and now. As was stated in the Committee on Rules yesterday, this effective date has been agreed to by the signers of the conference report on both sides of the aisle, which were bipartisan. The Senate majority leader and Republican nominee for President, BOB DOLE, and President Clinton himself, after a conversation between Majority Leader DOLE and the President, both agreed to this effective date publicly in press conferences. Furthermore, the effective date was also chosen in part to take away any partisan games involving the line-item veto, take it out of the picture during the presidential election year.

Mr. Speaker, with that discussion of the rule and the major provisions of the line-item veto, I urge support of the rule and the bill for this historic occasion.

I include the following material for the RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of March 27, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	59	59
Modified Closed[3]	49	47	25	25
Closed[4]	9	9	16	16
Total	104	100	100	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of March 27, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).

VOL
142
PT
5
MR
21
—
29
1996
UMI

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of March 27, 1996]

H. Res. No. (Date rpt.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H. Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/21/96).
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96).
H. Res. 388 (3/20/96)	C	H.R. 125	Gun Crime Enforcement	A: 244–166 (3/22/96).
H. Res. 391 (3/27/96)	C	H.R. 3136	Contract w/America Advancement	
H. Res. 392 (3/27/96)	MC	H.R. 3103	Health Coverage Affordability	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New York, my chairman and my good friend, for his kind words.

Mr. Speaker, we have very serious concerns about this rule and about the bill that makes in order the so-called Contract With America Advancement Act. This legislation provides for an increase in the public debt limit to $5.5 trillion, but it also includes three measures that are completely unrelated to the debt limit: a bill increasing the Social Security earnings limit, a conference report on the so-called Line Item Veto Act, and a new version of regulatory reform legislation entitled the Small Business Growth and Fairness Act.

The rule before us continues the disturbing trend under the Republican majority of disregarding normal legislative procedures and unreasonably restricting debate. This is a closed rule. No amendments are in order except one that the gentleman from Texas [Mr. ARCHER] is permitted to offer. When the Committee on Rules met last night on this matter, the committee allowed this amendment without knowing what it would be. We hope it is a good amendment.

The rule also sets up a highly unusual procedure, which the gentleman from New York [Mr. SOLOMON] described a few minutes ago, for disposing of the Line Item Veto Act. The rule provides that if the other body approves the conference report on this bill before Saturday and the House passes H.R. 3136, the conference report shall be sent to the President as a freestanding bill.

Because the Senate approved the conference report last night, that part of this bill will in fact be separated upon passage of this legislation. We believe it is unnecessary and unwise to construct final action on the Line Item Veto Act in this convoluted manner. There is no good reason why this matter should not be considered in the same way other conference reports are normally considered; that is, as freestanding legislation and without reference to action by the other body. For that matter, there is no good reason why any of the extraneous legislation included in this increase in the debt limit must be included.

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While we understand that the inclusion of the three bills here reflects an agreement, reached between the President and the Republican leadership in both Houses of the Congress, we regret that is the case. We think it would have been much more responsible and appropriate for us to consider a simple, straightforward debt limit increase. The raising of the debt limit is an extremely urgent matter, as we all know. We have to do it very soon to prevent a Government default. The fact this very necessary legislation is encumbered with unrelated controversial matters will cause, unfortunately, some of us who otherwise would support raising the debt limit to instead vote against it.

In the Committee on Rules last night, we offered an amendment to make in order a clean debt limit increase. Unfortunately, Mr. Speaker, our amendment was defeated on a party line vote, as were several other amendments we offered that would have given the House more choices in the outcome of this important legislation.

Mr. Speaker, the most troubling portion of this legislation, in my view, is the Line Item Veto Act conference report. While we all agree that reducing Federal budget deficits is one of the most important tasks facing us, many of us do not believe that providing the President with the extraordinary new authority contained in the Line Item Veto Act will do much, if anything, to help us achieve that goal.

What this legislation will do is transfer power from Congress to the President and enhance the power of a minority in Congress to override the will of a majority on matters of spending priorities. Under this legislation, the President's cancellation of line items in appropriations, which includes not only items listed in bills but also in committee reports and joint statements of managers or direct spending or targeted tax benefits, would automatically take effect unless Congress specifically passes a resolution disapproving the cancellation. If Congress overturns the President's action, the President could then veto the disapproval, which, in turn, would have to be overridden by two-thirds of both Houses. Thus the President would be empowered to cancel any such item with the support of only a minority of Members of either House. A one-third plus 1 minority, working with the President, would control spending.

This procedure would result in a dramatic and quite possibly unconstitutional shift in responsibility and power from the legislative branch to the executive branch. This broad shift of powers could easily lead to abuses. The President could target the rescissions against particular legislators or particular regions of the country or against the judicial branch. This power could be used to force Congress to pay for a pet Presidential project that a majority of Members oppose or to agree to a policy that is completely unrelated to budgetary matters.

Furthermore, we would be transferring this unprecedented amount of power to the President with little reason to believe that it would have much of an effect on the Federal budget deficit. This new line item veto would be used primarily for annually appropriated discretionary spending. However, discretionary spending, as Members know, which accounts for less than one-third of the budget, is already the most tightly controlled type of spending, since it is subject to strict caps. It has been declining both as a percentage of the total Federal budget and as a percentage of GDP for the last several years. It will continue to do so into the foreseeable future.

Additional controls in this area of the budget will not accomplish much, if anything, in the way of deficit reduction. In fact, discretionary spending is an area of the budget where Presidents have wanted more spending than Congress has approved. According to the Office of Management and Budget, from 1982 to 1993, Congress appropriated $59 billion less than the President had requested.

In addition, over the last 20 years, Congress has rescinded $20 billion more than the President has requested in rescissions. If those patterns continue and the President is given greater leverage in the appropriations process, it is likely that he will use this new line item veto authority as a threat to secure appropriations for programs he wants funded rather than to reduce total amount of spending.

I would also like to point out that the legislation is unlikely to accomplish what its advocates claim it will in the way of including special-interest targeted tax benefits under this new authority. That is because the bill allows the Joint Tax Committee, which is controlled by the House and Senate tax-writing committees, to determine what provisions in the bill constitute a targeted tax benefit before it is sent to the President. Thus it is highly unlikely that many special-interest tax benefits, if any at all, will be subject to the line item veto authority.

For all of these reasons, Mr. Speaker, if the House moves forward with approval of this line item veto authority, I believe even the measure's most ardent supporter will in time come to regret it.

The other troubling piece of this package, at least in this Member's view, is the increase in the Social Security earnings limits for recipients aged 65 to 69. While this legislation is extremely popular, I believe it moves in the wrong direction in terms of what we need to accomplish to control spending, and perhaps it is more than a little ironic that it is coupled with the line item veto in this piece of legislation. This part of the legislation would increase Social Security benefits, already our Nation's most expensive entitlement program by far, by an estimated $7 billion over the next 7 years alone. Most of that benefit increase also, most, would go to relatively well-off recipients while some of the spending cuts used to pay for those benefit increases would fall on those of more modest means.

In addition, the legislation would take a giant step toward turning Social Security retirement benefits into a reward for turning age 65 rather than insurance against the loss of income that

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comes with retirement, as the Social Security system was designed to provide. We ought to consider very carefully whether that kind of change is wise, particularly when we know we are facing a huge shortfall in the funds that will be needed to pay existing levels of benefits when the large baby-boom generation reaches retirement age in the early part of the next century.

Finally, Mr. Speaker, although many of us on this side of the aisle would have greatly preferred a rule providing for a straightforward debt limit extension, we believe that if this legislation is going to be encumbered with extraneous matters that are a priority to our Republican Members, then the rule also ought to permit us to at least consider one legislative priority from this side of the aisle as well. One of our highest priorities is increasing the minimum wage.

So, at the end of this debate, we shall move, Mr. Speaker, to defeat the previous question so that we may amend the rule to provide for consideration of an amendment that would raise the minimum wage in two steps to $5.15 an hour.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would say to my good friend, first of all, this line-item veto does not apply to just the small portion of the budget dealing with discretionary spending. The conference final report expanded that to include all entitlement programs, including food stamps. It includes the entire budget.

Second, the gentleman complains that there are extraneous matters in this bill other than the debt ceiling; namely, Social Security, repeal of penalties and the line-item veto and regulatory relief. And yet, in their trying to defeat the previous question, they will add further extraneous material. That I do not understand.

Mr. Speaker, I yield 3½ minutes to the gentleman from Sanibel, FL [Mr. GOSS], one of the most respected and hardest-working Members of this body. He is a member of the Committee on Rules and also a tremendous help as a conferee on the line-item veto measure.

Mr. GOSS. Mr. Speaker, this is a fair rule for business at hand that allows the House to approve necessary legislation to preserve the full faith and credit of the United States—while keeping important promises to the American people. I confess, I am extremely uncomfortable voting for an extension of the debt ceiling. An offer of extended credit is a false favor to someone who is having trouble paying the bills. And the same holds true for the national budget—higher debt limits simply postpone and exacerbate the inevitable pain of paying the bill. We have a moral obligation to break the cycle of debt. Of course we know that decades of neglect cannot be reversed overnight. But that does not mean we should not spend every day moving in that direction. Although President Clinton torpedoed our effort to lock in this year a glidepath to balance in 7 years, the drive toward a balanced budget is continuing. Our new majority has already saved billions of dollars in this year's spending cycle alone. We've crafted positive reforms to preserve and strengthen our national safety net—while shrinking the size and reach of the Federal bureaucracy. We've made tough choices to secure our children's future—and we are not going to be sidetracked by President Clinton's overactive veto pen. We all know the pen is filled with red ink, just like his budget pen. Mr. Speaker, I will vote for this debt ceiling increase—but only because we are finally on the right track toward a balanced budget and fiscal sanity. I hope next time we vote on the debt limit we will be voting to lower the ceiling, nor raise it. Thankfully, there is good news in this bill—items that represent promises kept to America. With this bill we will be implementing the line-item veto, a major deficit cutting tool that we are delegating to the President in the interest of saving the taxpayers money. After more than a year of hard work, the conference has completed an agreement to grant the President real, effective and carefully defined line-item veto authority over spending and tax bills.

This historic delegation of power will be a significant new weapon in our arsenal as we fight for deficit reduction. It is not a matter of the President pitted against the Congress. It is a matter of the two branches of government working together to ensure wise management of the Nation's finances. For the first time, the bias will shift away from spending and toward saving. Americans understand that big spending and tax bills often get signed into law, carrying with them provisions of questionable national merit that might not stand on their own. The line-item veto allows the President to zero in on these items and bring them to the light of day. That is just the kind of accountability we so desperately need in the Federal budget process to bring our spending under control. Finally, Mr. Speaker, I am delighted that this legislation includes the Senior Citizens' Right to Work Act, legislation to increase, to restore some fairness to our Tax Code for seniors. I take my hat off to the gentleman from Kentucky [Mr. BUNNING] for the incredible work he has done on that, as well. The Social Security earnings limit is a dinosaur—and it discriminates mightily against those seniors who want to be productive. This is a long-overdue first step toward the ultimate goal of repealing the unfair restriction altogether. Support this rule and the bill.

I take my hat off to the gentleman from New York [Mr. SOLOMON], the chairman, and the gentleman from Pennsylvania [Mr. CLINGER], the chairman, and the gentleman from Massachusetts [Mr. BLUTE], for the extraordinary work they did in prevailing in the conference on this version we are passing today.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I strongly urge my colleagues to reject this unfair rule. If we are going to attach unrelated items to this debt limit extension, then I believe the working people of America deserve to know why the Gingrich Republicans will not allow the House to vote on an amendment that would increase the minimum wage.

What is the majority so afraid of? Why are they in opposition to paying working parents enough, enough to support their families and enough to take care of their kids?

Clearly, Mr. Speaker, the new majority knows that if it came to a vote, it would be next to impossible for Members of this House to deny the fact that the 10 million minimum wage earners in this country deserve a raise.

Mr. Speaker, in light of the fact that April 1 will mark the 5-year anniversary of the last time this House approved an increase in the minimum wage, the truth is the minimum wage has significantly lost its value and it keeps families in poverty.

Mr. Speaker, it is time for this body to do something good for the working families of this country and to make work pay.

To my colleagues who care about working people in this country, I urge you to reject this rule and show the new majority that it is high time for an increase in the minimum wage.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in opposition to the rule because it denies a long-overdue opportunity to raise the minimum wage.

Yesterday the Committee on Rules rejected my request to offer an amendment to increase the minimum wage. They have left in the cold families who are working hard and playing by the rules and who are being left behind.

Think about it, the minimum wage today is $4.25 an hour. That means the approximate annual salary for a full-time minimum wage worker is $8,500, barely half the official poverty line for a family of four and below what people make on welfare. They would deny a 90-cent-an-hour increase. Imagine 90 cents. This, from people who make over $130,000 a year.

Members of Congress earned more during the Government shutdown than a full-time minimum wage worker earns in a single year.

America needs a raise. Reject this rule. Help hard-working families by putting more money in their paychecks.

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Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds just to respond to the last two speakers, to say that yes, there is some merit in raising the minimum wage. I believe that it should be raised. But, just to give an example, I met with farmers from all over New York State yesterday, and we discussed that and how it would reflect on them. They said:

> JERRY, if you can just give us some regulatory relief, in other words, so we don't have to spend so much of our money meeting all of these regulations, we certainly wouldn't object to a raise in the minimum wage.

Let the regulatory relief bills go through that we pushed for the last 2 years, and I think you would find some support.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER], someone I have great respect for. The gentleman came to the body 18 years ago with me and is the chairman of the Committee on Government Reform and Oversight. He was the chairman of our conference for over a year on the line-item veto. If you want to know why his hair is a little grayer, it is because of that, I assure you. He did yeoman work. We could not be here today without BILL CLINGER.

Mr. CLINGER. Mr. Speaker, I thank the chairman for yielding time to me.

Mr. Speaker, I rise in strong support of this rule.

Mr. Speaker, we often engage in this body in hyperbole, some would say hot air. But I have got to say today we really are entitled to say this is a historic time we are engaged in. This bill we are going to be considering today is indeed a historic bill.

For years a lot of us have talked the talk about the line-item veto. But, unfortunately, we have been unable to bring it to the floor to get a vote. Today we are going to be able to walk the walk. So I am very delighted as chairman of the conference on the line-item veto to bring our product to this floor as part of the increase in the debt limit. I think it is absolutely appropriate that it should be considered as part of this increase in the debt limit.

Mr. Speaker, we are about to consider a bill that will increase the Federal debt limit to $5.5 trillion. That is $22,000 for every man, woman, and child in this country. We have got to find a better way to get control of this spending. What this bill will do is give the President a scalpel instead of a hacksaw to really deal with the enormous debt that we keep building up year after year after year and the deficits we run year after year. This is an enormous burden we have been imposing on the American people. This is the first serious effort to really provide an effective means to address this enormous problem.

I have to say we would not be here without the hard work of a lot of people. BOB DOLE, our nominee for President, was an inspiration and really was the driving force in getting us to resolve this conference and get an agreement with the White House on what could pass and be signed by the President. The gentleman from New York [Mr. SOLOMON] has been a tireless worker for this legislation for, as he said, 10 years and longer. The gentleman from Florida [Mr. GOSS], the gentleman from Massachusetts [Mr. BLUTE], the gentleman from Kentucky [Mr. BUNNING], all of whom served over this whole year on this conference, have just been invaluable in bringing us to this day. At times we did not think we would get an agreement because of determined opposition. Despite that tough opposition from people on both sides of the aisle and both sides of the Capitol, we have gotten an agreement.

Mr. Speaker, this is a good bill. I urge support for the line-item veto and for this bill.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I thank the gentleman from California for the time.

Mr. Speaker, this is one of those occasions when every Member of this body should be mindful of the undertaking that we make at the beginning of every Congress to protect and defend the Constitution of the United States, because the line-item veto provision in this proposed bill runs absolutely in the face of that obligation.

The first words of the Constitution are, "All legislative powers herein granted shall be vested in a Congress of the United States." A few pages later, dealing with the President's responsibility with regard to legislation, the Constitution states as follows: "If he approves, he shall sign it,"—the bill—"but, if not, he shall return it with his objections."

Those are the basic parameters of the legislative responsibilities that we have under the Constitution and that the President has under the Constitution, and it is not in our power to change them. It is our responsibility in fact to respect and preserve them.

While the friends that we have across the ocean in Britain are having second thoughts these days about their monarchy, this line-item veto provision and its effect will be to start the gradual accretion of power in an American monarchy.

If we recall those grand words of the Declaration of Independence in which we protested the usurpation of power by King George, then mark my words, we will live to regard the usurpation of power that we invite by future Presidents of the United States if this provision becomes law.

Thank God that the courts will be there to do the right thing and find it, as it is, contrary to the Constitution.

The court has spoken to this point many times, but most recently and on point I think in the Chadha case, making it absolutely clear that the powers of neither branch with respect to the division and responsibility on legislation can be eroded.

What is even more bizarre in this particular proposal is the provision for the 5-day "cancellation" period. Now, think about that. This is a metaphysical leap of Herculean proportions.

The enactment provisions of the Constitution say that once the President signs a bill, it shall be law. We propose that he then gets a 5-day cancellation right after signing a bill? That is absolutely absurd. This defies any logical reading -of the clear meaning of the Constitution with regard to these provisions.

But beyond the constitutional arguments, this proposal is fundamentally unwise, and it manifests a disrespect of our own responsibilities in this body under law and under the Constitution.

On the large issues, let us think back to what would have happened during the Reagan administration, with a President who, for his own reasons, sent budgets to this body zeroing out most categories of education funding in the Federal budget. Presumably, if that President had this power, it would be exercised to eliminate most education funding by the U.S. Government, and 34 Senators representing 9 percent of the people of this country, in league with the President, could have brought about that outcome.

Even more pernicious, and the invitation to usurpation that lies in this language can also be understood by going back to those days in the late eighties when we were still debating whether we would continue aid to the Contras. Now, if I happened to have been fortunate enough to have gotten, let us say, a provision in an appropriations bill for a needed post office or a needed courthouse in my district, and it was down at the White House awaiting signature at the same time we were debating aid to the Contras, I would guarantee you I would have gotten a call from someone at the White House saying, "Congressman, I notice you had some success in dealing with this need in your district. We are pleased at that, but we need your support on aid to the Contras."

That is exactly the kind of absolutely evil excess of power that we are inviting future Presidents to use. Pick your issue. That is one that comes to my mind.

VOL 142 PT 5 MR 21 — 29 1996 UMI

It is clear that the Governors of the several States who have this power use it in exactly this way, to get their version of spending adopted in contradiction to the legislative judgment.

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds to just say to my good friend that I suspect he protests too much. From Thomas Jefferson to Richard Nixon, Presidents had the right of rescission. If they did not want to spend the money because it was not necessary, they did not have to do it. Unfortunately for America, this Congress took that President to the Supreme Court, and the Supreme Court made him spend the money. That is what happened, and that is why we are in the fiscal mess we are in today. We are attempting to turn around a little bit of that.

Mr. Speaker, I yield 3 minutes to the gentleman from Southgate, KY, Mr. JIM BUNNING, someone I used to worship when I was growing up. He was a hero of mine because of his baseball prowess, throwing no-hitters and pitching shutouts. He is no less a hero today, especially for what he has done today on this line-item veto.

Mr. BUNNING of Kentucky. Mr. Speaker, the first bill I signed on when I came to Congress 9 years ago was the line-item veto, and, thank God, we are finally going to get it passed today. It has been a long time coming, but we have taken another major step in restoring fiscal responsibility to the budget process. Of course, I am talking about the line-item veto.

The line-item veto will allow the President to end, once and for all, that notion that Federal spending cannot be controlled. As President Truman said, the buck will truly stop with the President. If he does not use that power that we give him, shame on him. I have been for this bill, by the way, when a Republican was in office, and now I am for it while a Democrat is in office.

Mr. Speaker, we are going to give the President the opportunity to restore the fiscal integrity of this Government and to end the era of pork-barrel spending. We all have spending needs in our States and districts, but we have a duty to the country not to bankrupt the Treasury. All spending is not the same. Alpine Ski slides in tropical locations and ice hockey warming huts are not of the same importance as people with adequate needs for post offices and courthouses.

Mr. Speaker, the bill before us is not perfect. We have worked hard to make something work that everyone can use, that is good for the American people. It was crafted in an effort to accommodate the concerns of the broadest cross-section of the Members of this House and the Senate.

I wish we had not gone down the road of applying the line-item veto to tax issues, but even on that issue we have tried to meet the concerns with the majority of this Congress. I hope and pray that everyone realizes that this line-item veto is in the best interest of the United States of America, and if in fact the courts look at this bill, as one of the prior speakers has talked about, that they will find how much the need is there for this and it will be ruled constitutional by the courts. We will let them decide. Let us just do our work and pass this bill today.

Mr. Speaker, it's been a long time in coming but we are about to take another major step toward restoring fiscal responsibility to the budget process. I am, of course, talking about finally giving the President the line-item veto.

The line-item veto will allow the President to end, once and for all, the notion that federal spending cannot be controlled. As President Truman said, the buck will truly stop with the President.

If he doesn't use the power that we give him, shame on him.

We are going to give him the opportunity to restore the fiscal integrity of this Government and end the era of the pork barrel.

We all have spending needs in our States and districts but we also have a duty to the country not to bankrupt the Treasury.

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The line-item veto before us today will be criticized by some who think that it goes too far. Others will say that we did not do enough. That satisfies me that we did the right thing.

To those who wanted us to include more on taxes, I would simply remind them that our financial problems have not been caused by too few revenues but by too much spending.

In 1981, the year before the Reagan tax cut took effect, revenues were $599 billion and by 1993 revenues had grown to nearly $1.15 trillion., Even though revenues nearly doubled spending grew at an even faster pace.

To paraphrase President Reagan, the American people are not taxed too little, their Government spends too much.

Nonetheless, we recognized that there is the potential for abuse in the tax laws and we have taken adequate steps to address that problem.

The limited tax provisions which appear from time to time in a large tax bill and which under the Democrats were often targeted to a specific taxpayer are now going to be subject to the line-item veto.

That means that Congress will now specifically point out to the President what these provisions of limited benefit are and he can use the line-item veto on them.

The nonpartisan Joint Tax Committee will identify these limited tax provisions for the tax writing committees based on the definition in this bill. And we will clearly point to them in what we send to the President for his signature.

I feel confident that the President will see the good policy behind some of these very narrow tax breaks such as the orphan drug tax credit which provides a tax incentive for research into drugs for rare diseases.

But he can use his veto pen to make sure that no unfair tax breaks are given to one or just a few taxpayers as has happened from time to time.

I would also remind those who think that we should have gone farther on allowing the President to item veto tax provisions to remember that tax breaks allow people to keep their own money.

Spending provisions take money from one person's pocket to be used for someone else's benefit.

If that distinction isn't clear to you, I imagine that your constituents can help you see the light. They know whose money we are spending.

This is a good bill and by passing it we can keep one of our most important promises from the Contract With America. I urge my colleagues to support line-item veto.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in opposition to this rule and urge the House to defeat the previous question. My opposition to the rule is very simple: This rule denies that House an opportunity to consider an amendment to increase the minimum wage that was offered before the Rules Committee by my colleague, Representative DELAURO.

Some on the other side of the aisle will argue that a minimum wage increase is not germane to a bill increasing the debt limit. I remind my colleagues that the Republican leadership has chosen to load this bill with extraneous matters, including regulatory reform for small business, which is of questionable germaneness. The Republican leadership has deliberately decided not to allow this body to consider wage relief for the working poor.

Mr. Speaker, it is time for this House to give workers a raise, a raise that is long overdue. April 1 will mark the fifth anniversary of the last time the minimum wage was increased. The real wages of American workers have been declining for over two decades and the disparity between rich and poor in this country continues to grow. In terms of distribution of wealth, the United States has become the most unequal industrialized nation in the world. Increasing the minimum wage is one modest step toward addressing this problem.

The Republican leadership of this House enjoys the distinction of destroying the spirit of bipartisanship on so many issues, including the minimum wage. In 1989, for example, the

minimum wage increase passed this body by a vote of 382 to 37, with 135 Republicans voting for the bill, and 89 to 8 in the Senate, with the support of 36 Republicans. In fact, Speaker GINGRICH, Senator DOLE, and my committee chairman, BILL GOODLING voted for the last increase. Regrettably, Republicans now appear too embarrassed to even allow this body to vote on that issue.

We often talk about how important it is to get people off welfare. If we are serious about that, if we really want to get people off welfare as opposed to just talking about it, there is one simple way to do that—to make work pay.

Recent studies suggest that 300,000 workers would be lifted out of poverty if the minimum wage were raised to $5.15 per hour. It is time to do something positive for the working poor.

Mr. Speaker, the vast majority of Americans support raising the minimum wage. It is unconscionable for the Republican leadership of this House to block the will of the American public.

Defeat this rule, defeat the previous question, allow us to consider increasing the minimum wage.

□ 1130

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes and 45 seconds to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. SOLOMON. Mr. Speaker, I yield 15 seconds to the gentleman from Maryland [Mr. HOYER].

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Maryland [Mr. HOYER] is recognized for 3 minutes.

Mr. HOYER. Mr. Speaker, let me say that the debt limit part of this bill should have been passed last year. It is another indication of the inability of the leadership of this House to get issues of fiscal importance to the floor in a timely fashion. The debt has been confronting us since September of last year and has placed at risk the good credit of the United States of America, which in fact placed, therefore, the fiscal stability of the international community at risk.

Mr. Speaker, I will vote against this rule, and I will vote against it because it marries two issues, one which I very strongly support.

Finally, the Republican leadership has come to the extension of the debt until 1997, so that it will not be a political football but will be the recognition of fiscal responsibility.

It is late but welcomed. However, they have married to that bill a line item veto. It is a line item veto which the gentleman from Colorado, one of the previous speakers, has characterized as contrary to the provisions of the Constitution of the United States. I agree with that premise. I am hopeful that the courts will find this provision unconstitutional, oecause I believe with Senator BYRD and I would hope with at least some of my colleagues that this is a radical shift of authority from the people of the United States and their representatives to the Executive of the United States.

Now, I support an enhanced rescission. That is a device which would allow the President of the United States to take out of a piece of legislation and say to the American public, this item should not be passed but the bill should be passed. But then the enhanced rescission would say, we have to bring it back to the House in the full light of the American public's scrutiny in a democracy and pass it. But what it would not do is to give to the President the ability to have one-third plus one of a House say that I and I alone will top this from going into effect.

Mr. Speaker, that will be a radical shift of power. It is not surprising that we pass radical proposals in this Congress, of course, but the fact of the matter is it is bad policy. In my opinion, we will live to regret it.

It is ironic, indeed, that those who have waited 9 years, according to the gentleman from Kentucky, Mr. BUNNING, to see this legislation pass, propose today to have it delayed until January. If it is so important, why not now? Is it perhaps because President Clinton is a Democrat? I hope not.

Mr. SOLOMON. Mr. Speaker, I yield myself 45 seconds. I was proud to yield 15 to my good friend over there so he would have some time.

The President of the United States is a part of this agreement to make it January 1, 1997. That was what we call cooperation, bipartisanship.

Let me just say to my good friends, as I listened to the speakers up here, one after another get up and oppose this line-item veto, I look at the National Taxpayers Union and almost every one of them appear as the biggest spenders in the Congress. They used to be a majority, and they are the ones that drove this debt through the ceiling, $5 trillion.

It irritates me to have to stand up here today and vote to raise the debt ceiling by $500 billion when I voted for none of it, none of that debt.

Well, the reason I am going to vote for it is because we have a chance now to do something for the senior citizens, get rid of this heinous tax that is on Social Security now, on the earnings tax. We have a chance to do the line item veto, which is going to put a crimp in every one of these big spenders. There are not many left around here. Most of them got beat, but there are still a few and we are going to cut their spending off.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, the gentleman is not referring to me personally, I take it.

Mr. SOLOMON. No; absolutely not. I have great respect for my friend, although I will check the list to see if he is on it.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. BLUTE], someone I have great respect for, from Shewsbury, MA. He has only been here now for about 3½ years. But let me tell my colleagues, he has been a leader on this line item veto. With him and some of the others, like the gentleman from New York [Mr. QUINN] and the gentleman from Delaware [Mr. CASTLE] and many others, the gentleman from Tennessee [Mr. DUNCAN], who is not here on the floor yet, but because of them, we have this line-item veto here now. He is a great American.

Mr. BLUTE. Mr. Speaker, I thank the chairman for his kind words. This is, as others have said, a very important day, a very exciting day because it means that this Government is going to make a break from the past and we are going to continue the process of turning the Federal ship of state away from deficits and-debt and toward fiscal sanity and fiscal balance by giving the President of the United States the line-item veto authority. It is a major step forward in eliminating wasteful Federal spending.

In passing the conference report on S. 4, the Line-Item Veto Act, Congress is saying to the American people that we have listened to the call for fiscal responsibility. For more than a century, Presidents like Ronald Reagan have called for the line-item veto, but it took this Republican Congress to give it to a Democratic President in a true showing of bipartisanship.

Bipartisanship is exactly what has characterized this legislation from its inception. It passed the House on February 6, 1995, by the overwhelming vote of 294 to 134. All along, Members from both sides of the aisle have pushed this legislation toward this ultimate destination. In a process that took more than a year, the House and Senate conferees worked out the differences in two bills which could not have been more different. The product of that work is an extremely workable procedure that mirrors what the House has passed.

Congress has delegated to the President the very serious power to cancel individual spending items that are normally buried in appropriations bills. However, we did not stop there. This conference report expands the line-item veto to include direct spending and limited tax benefits that cost the American taxpayers more in some cases than appropriations bills. Unlike other attempts at rescissions legislation, the emphasis in this conference report is on deficit reduction and not spending.

Mr. Speaker, the President will be able to cancel individual spending items, increases in direct spending and limited tax benefits. Congress must then pass a bill to disapprove of those cancellations and affirm it wants to spend the money. The President can veto the disapproval legislation and Congress must override by a two-thirds majority. Make no mistake about it, this is a powerful tool of fiscal accountability.

When the Congress cannot muster the two-thirds to override the President, the total of the cancellations must be deposited in a lockbox. This mechanism will guarantee that a cancellation or rescission in spending cannot be used in another account. Instead, any savings must be used toward deficit reduction.

This line-item veto, Mr. Speaker, has been field tested in 43 States with very impressive results. It is common sensical. It works. It is what the American people want.

Let us continue the revolution of fiscal sanity begun by the 104th Congress and give the President this fiscal tool.

Mr. Speaker, on a personal note, I would like to commend and thank the gentleman from Pennsylvania [Mr. CLINGER], the gentleman from New York [Mr. SOLOMON], the gentleman from Florida [Mr. GOSS], and the gentleman from Kentucky [Mr. BUNNING], for allowing me the extraordinary opportunity to serve with them on this historic conference report.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding time to me.

The Contract With America Advancement Act: what a true abuse of the English language. If this is an advancement of the Contract With America, the one thing it demonstrates is that some of our Republican colleagues cannot tell backward from forward. Let us look at what is included in this great advancement of the Contract With America failed agenda.

Well, the first thing is an increase in the Social Security earnings limit. A laudable measure. So laudable that 411 Members of this body last year voted to approve it, and only four voted against it. Our seniors would have this Social Security earnings limit adjusted already if our Republican colleagues had advanced it at the beginning of this Congress instead of at this point.

What is the second item? Regulatory reform. Far different from the regulatory wreckage of the unilateral disarmament of our health and safety laws that they proposed last year. Again, if they had advanced this very modest regulatory reform, our small businesses across America would have had relief in 1995, not a promise in 1996. Finally and most important, it advances the contract through the line-item veto. What is the history of the line-item veto in this body?

Well, last February we took it up, and we considered it, and we approved it by a vote of 294 to 134. It is true that the version that is here before us today is improved, improved in part because at the time of that debate in February, my Republican colleagues rejected the sunset amendment that I proposed, and today they have incorporated that very amendment into this proposal.

The Speaker of the House came to the floor that night and he told us, and I quote: "You have a Republican majority giving to a Democratic President this year without any gimmicks an increased power over spending, which we think is important."

Unfortunately, he did not think it was important enough to appoint conferees for 6 months, or the President would have had this tool last year. What we have here is a Contract With America that is a flop, and this advancement act is a sop.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, the vote we are about to have on this rule, on the previous question on the rule, will be a vote on whether or not we as Members of this body want to raise the minimum wage, whether we want to raise the minimum wage.

Mr. Speaker, all over America people are working hard. They are working overtime. They are working second jobs. They are working third jobs to make ends meet. They deserve a break. They deserve to have a government that is on their side, that will not stand in their way. But once again, we are here and the majority will not, the majority will not even allow us a vote on an issue to put more money in the pockets of Americans. That is what we are talking about, putting more money in the pockets of working people and families in this country.

Now, the minimum wage has not been raised since 1989. Back then two people who supported the raise were NEWT GINGRICH and BOB DOLE. But they are standing in the way today of helping working families. Mr. Speaker, when are my friends on this side of the aisle going to learn they cannot talk about family values if they are not going to value the family and they cannot move from welfare to work if they do not make work pay.

The minimum wage is not enough. It is less than $9,000 a year for a full-time worker. One cannot raise a family on that amount of money. There are literally millions of single parents in this country who are trying to do just that. Think about it. Could we raise a child or two children on that? It is a disgrace that people who make that choice to choose work over welfare, who work hard every single day, they try to set a good example for their kids, for their neighborhood, cannot lift themselves above the poverty line.

□ 1145

Now these are not kids we are talking about. We are talking about 60 percent of the people on the minimum wage are working women with children who work hard and deserve a raise. They do not come to this floor, do not come to this floor, I tell my colleagues, to tell us that it will cost jobs, because every study that has been done over the last few years, from California to the studies that were done in Pennsylvania and New Jersey, have indicated that there would not be a loss of jobs. In fact, some of the studies say that there would be an increase in jobs in this country if we, in fact, raise the minimum wage.

Mr. Speaker, that is why over a hundred economists, three Nobel laureates, have said raise the minimum wage. When the minimum wage goes up, everybody benefits. People who make a little bit more than the minimum wage will get a raise, people above them will get a raise, and what we will have is people circulating more money in the economy. People will be buying more at the grocery store, they will be buying more at the hardware store. It will create a dynamic where people will have more money in their pockets, and they will be spending money, and they will help the economy in general.

Now over 12 million Americans would benefit right away from a 90-cent increase in the minimum wage, including about 42,000 people in my own State of Michigan alone.

Mr. Speaker, it has been 5 years since we raised the minimum wage. Its value, as I said at the beginning of my remarks, it at its 40-year low, 40-year low. Seventy percent of the American people in a recent poll say they support an increase in the minimum wage.

Now is the chance for my colleagues to stand up and face this issue head-on because here it is. This vote on the previous question on the rule is whether or not my colleagues are going to support having this made in order so we could vote on this important question and put money in the pockets of Americans today.

I urge my colleagues to vote "no" on the previous question so we can have the opportunity to raise this issue, and I thank my colleague for having yielded me this time.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentleman from Tennessee [Mr. DUNCAN], who has led the fight for as long as I can remember, ever since he succeeded his father as a Congressman, and he has been a real leader on this.

Mr. DUNCAN. Mr. Speaker, I rise in strong support of this bill which includes a very important provision—the line-item veto.

Mr. Speaker, I first want to thank my good friend, the gentleman from New York [Mr. SOLOMON], with whom I have worked so closely on this issue in the past, for yielding me this time.

Mr. Speaker, when we pass this legislation, I think there is no one in this House who will deserve more credit for it than the gentleman from New York, JERRY SOLOMON. I congratulate him for his work on this very important piece of legislation.

Mr. Speaker, on the first day of every Congress since I was elected in 1988, I have introduced a line-item veto bill that is almost identical to the provision that we are considering now.

While past Congresses have been unwilling to pass a line-item veto with real teeth in it, and in fact we passed one that the Wall Street Journal in 1993 called a voodoo line-item veto bill, I am pleased that today we are on the verge of approving a line-item veto that will truly be effective in reducing pork barrel spending.

In fact, the other body overwhelmingly passed this provision yesterday by a vote of 69 to 31.

Mr. Speaker, this is not a partisan issue. Forty-three of our Nation's Governors, both Democratic and Republican, already have the line-item veto and are using it to cut spending in their States and balance their budgets.

It is time for Congress to give this same tool to the President, so that he can eliminate the most outrageous examples of wasteful and unnecessary spending without vetoing entire appropriation bills.

The General Accounting Office estimated in 1992 that more than $70 billion of pork-barrel spending could have been cut between 1984 and 1989 if Presidents Reagan and Bush had had a line-item veto.

The Cato Institute estimates that $5 to $10 billion a year could be saved with a line-item veto.

In last year's State of the Union Address, President Clinton highlighted some of the most absurd examples of pork-barrel spending approved by the 103d Congress, and said "If you give me the line-item veto, I will remove some of that unnecessary spending."

Mr. Speaker, I wish we did not need such things as a balanced-budget amendment and a line-item veto to bring our Federal spending under control.

Unfortunately, however, Mr. Speaker, Congress has proven time and again that it does not have the will to cut spending on its own.

That is why this legislation is so very necessary today. If the Congress does not really want to cut spending, it will have to say so, and say so publicly.

Mr. Speaker, with a national debt of over $5 trillion, we simply cannot afford to withhold this important tool from the President any longer.

Former Senator Paul Tsongas, writing in the Christian Science Monitor a few months ago, said that if present trends continue, the young people of today will face average lifetime tax rates of an incredible 82 percent.

We must do something about this to give a good economic future to our children and grandchildren.

This will not solve our problems by itself, but it will be a big step in the right direction. I urge passage of this very important legislation.

Mr. SOLOMON. Mr. Speaker, I yield 45 seconds to the gentleman from Harrisburg, PA [Mr. GEKAS].

Mr. GEKAS. I thank the gentleman for yielding this time to me.

Mr. Speaker, when I first ran for the Congress many years ago, I ran on a platform that included 10 separate items, much like the Contract With America. One of them, much like the Contract With America, was to advance the cause of line-item veto. My own Commonwealth, Pennsylvania, had enjoyed since its constitutional existence long time ago that privilege on the part of the Governor, the chief executive. I wanted, as part of my campaign for election to the Congress, to try to transfer that responsibility to the Chief Executive of the United States.

We are at the threshold now of accomplishing one of my points of my own personal Contract With America. Second, another point, regulatory flexibility with judicial review is also at hand with this vote.

I urge support of the previous question.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Let me simply advise Members that if the previous question is defeated, we will offer an amendment to the rule which would make in order the floor amendment to incrementally increase the minimum wage from its current $4.25 an hour to $5.15 an hour beginning on the Fourth of July 1997.

Mr. Speaker, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], our distinguished minority leader.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Missouri is recognized for 1¾ minutes.

Mr. GEPHARDT. Mr. Speaker, Members of the House, I urge my colleagues to vote against the previous question so that we can add an amendment to this bill that will increase the minimum wage. I simply want to say that wages, decent wages, are a family value. People who earn the minimum wage today earn a little over $8,000 a year. The minimum wage has not been increased in 5 years. It is a 40-year low. One-third of the people on the minimum wage are the sole wage earner in their family. It will not cost jobs, as some have asserted.

I met a woman in my district the other day, a single mother with 2 minimum wage jobs. She told me she was worried that her kids would not be a victim of a crime; she was worried they would perpetrate crimes. People cannot spend time with their family if they do not earn a decent wage.

I urge Members to vote against this previous question, and I say to my friends on the other side, "You've not heard the last of the minimum wage. I suspect we won't prevail on this vote. But we are going to bring it back and back and back and back until we finally prevail for America's families and workers."

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from New York is recognized for 3 minutes.

Mr. SOLOMON. Mr. Speaker, let me say to my good friend, the minority leader, who I have great respect for, I just cannot help but feel that there are some political games being played here. As my colleagues know, written into this rule was a little provision that said during the time after the Committee on Rules finished meeting last night, and while Mr. Panetta or the President were meeting with our Republican leadership, they could have negotiated to add anything into this bill, anything. That was not even mentioned once, this business of the increasing the minimum wage. Where this has come from I do not know, but I just suspect it is political games.

So let us just do away with that, and let me just in closing give my colleagues a little bit of history because it is kind of interesting, especially when we consider the word BYRD from West Virginia, something to do with the other body. As my colleagues know, in 1876; that was 120 years ago, Representative Charles Falken of West Virginia—remember him, George; was the gentleman here then?—came to the floor of this House and introduced a bill granting the President the authority to veto individual items in spending measures. Can my colleagues imagine that 120 years ago, a Representative from West Virginia? Boy, how times change over 120 years.

When I first came to this Congress 17 years ago, one of the first bills I introduced was the line-item veto. We have been waiting 17 years. In 1980, when Ronald Reagan entered the White House and asked Congress to grant him line-item veto authority, that was 16 years ago. In 1994 the Republican candidates for the House of Representatives all across this great country campaigned on a promise in the Contract With America that, if elected, they would pass a bill giving the President line-item veto, no matter who that President was, Republican, Democrat.

Mr. Speaker, I stand here today at the finish line of a race that has lasted 120 years, and I get so excited I can jump up and down. Today I stand with my Republican colleagues and a good number of Democrats. Wait and see, most of the Democrats on that side of

VOL 142 PT 5 MR 21 — 29 1996 UMI

the aisle will vote to deliver a promise to the American people.

As a conferee on the line-item veto, I must submit that this historic moment is due in no small part to the efforts of our conference chairman, the gentleman from Pennsylvania [Mr. CLINGER], sitting right next to me, and that of the Senate majority leader, BOB DOLE. If BOB DOLE had not put his weight behind this, we never would have got it by many of those Senators who do not want to give up that power. They want to spend, spend, spend, but they did, thanks to BOB DOLE.

Mr. Speaker, I ask unanimous consent to include in the RECORD further explanatory information regarding the expedited procedures of congressional consideration of a Presidential message.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The statement referred to is as follows:

Mr. Speaker, in order to ensure that the provisions relating to the receipt and consideration of a cancellation message and a disapproval bill are clearly understood, I believe it is necessary to provide some further explanation.

Upon the cancellation of a dollar amount of discretionary budget authority, an item of direct spending or a limited tax benefit, the President must transmit to Congress a special message outlining the cancellation as required. When Congress receives this special message it shall be referred to the Committee on the Budget and the appropriate committee or committees of jurisdiction in each House. For example, the message pertaining to the cancellation of a dollar amount of discretionary budget authority from an appropriation law would be referred to the Committee on Appropriations of each House; a message pertaining to the cancellation of an item of direct spending would be referred to the authorizing committee or committees of each House from which the original authorization law derived. Any special message relating to more than one committee's jurisdiction, i.e., a cancellation message from a large omnibus law such as a reconciliation law, shall be referred to each committee of each House with the appropriate jurisdiction.

Every special message is referred to the Committees on the Budget of both the House and the Senate. This is due to the requirement in the bill that the President include in each special message certain calculations made by the Office of Management and Budget. These OMB calculations pertain to the adjustments made to the discretionary spending limits under section 601 and the pay-as-go balances under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as a result of the cancellation to which the special message refers.

Upon receipt in the House, each special message shall be printed as a document of the House of Representatives.

In order to assist Congress in assuring a vote of disapproval on the President's cancellation message, a series of expedited procedures are established for the consideration of a disapproval bill. A disapproval bill qualifies for these expedited procedures if it meets certain time requirements within an overall time period established for congressional consideration. The time clock for congressional consideration starts the first calendar day of session after the date on which the special message is received in the House and Senate. Congress has 30 calendar days of session in which to approve or disapprove under these expedited procedures of the President's action. A calendar day of session is defined as only those days in which both Houses of Congress are in session.

During this 30-day time period, a disapproval bill may qualify for these expedited procedures in both Houses. However, upon the expiration of this 30 day period a disapproval bill may no longer qualify for these expedited procedures in the House of Representatives. A disapproval bill may qualify at any time for the expedited procedures in the Senate.

If Congress adjourns sine die prior to the expiration of the 30-calendar day of session time period and a disapproval bill relating to a special message was at that time pending before either House of Congress or any committee thereof or was pending before the President, a disapproval bill with respect to the same message may be reintroduced within the first 5 calendar days of session of the next Congress. This reintroduced disapproval bill qualifies for the expedited procedures and the 30-day period for congressional consideration begins over.

In order for a disapproval bill to qualify for the expedited procedures outlined in this section it must meet two requirements. First, a disapproval bill must meet the definition of a disapproval bill. Second, the disapproval bill must be introduced in later than the 5th calendar day of session following the receipt of the President's special message. Any disapproval bill introduced after the 5th calendar day of session is subject to the regular rules of the House of Representatives regarding consideration of a bill.

It should be noted that the expedited procedures provide strict time limitations at all stages of floor consideration of a disapproval bill. The conferees intend to provide both Houses of Congress with the means to expeditiously reach a resolution and to foreclose any and all delaying tactics—including, but clearly not limited to: extraneous amendments, repeated quorum calls, motions to recommit, or motions to instruct conferees. The conferees believe these expedited procedures provide ample time for Congress to consider the President's cancellations and work its will upon them.

Any disapproval bill introduced in the House of Representatives must disapprove all of the cancellations in the special message to which the disapproval bill relates. Each such disapproval bill must include in the first blank space a list of the reference numbers for all of the cancellations made by the President in that special message.

Any disapproval bill introduced in the Senate may disapprove all or part of the cancellations in the special message to which the disapproval bill relates.

Any disapproval bill shall be referred to the appropriate committee or committees of jurisdiction. Any committee or committees of the House of Representatives to which such a disapproval bill has been referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction.

If any committee fails to report the disapproval bill within that period, it shall be in order for any Member of the House to move that the House discharge that committee from further consideration of the bill. However, such a notion is not in order after the committee has reported a disapproval bill with respect to the same special message. This motion shall only be made by a Member favoring the bill and only 1 day after the calendar day in which the Member offering the motion has announced to the House his intention to make such a motion and the form of which that motion takes. Furthermore, this motion to discharge shall only be made at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day in which the-Member gives the House proper notice.

This motion to discharge shall be highly privileged. Debate on the motion shall be limited to not more than 1 hour and shall be equally divided between a proponent and an opponent. After completion of debate, the previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion was agreed to or not agreed to shall not be in order. It shall not be in order to consider more than one such motion to discharge pertaining to a particular special message.

After a disapproval bill has been reported or a committee has been discharged from further consideration, it shall be in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the disapproval bill. If the bill has been reported, the report on the bill must be available for at least one calendar day prior to consideration of the bill. All points of order, except that lying against the bill and its consideration for failure to comply with the one day layover, against the bill and against its consideration shall be waived. The motion that the House resolve into the Committee of the Whole shall be highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate on the disapproval bill shall be confined to the bill and shall not exceed 1 hour equally divided between and controlled by a proponent and an opponent of the bill. After completion of the 1 hour of general debate, the bill shall be considered as read for amendment under the 5-minute rule. Only one motion that the committee rise shall be in order unless that motion is offered by the manager of the bill.

No amendment shall be in order except any Member if supported by 49 other Members, a

quorum being present, may offer an amendment striking the reference number or reference numbers of a cancellation or cancellations from the disapproval bill. This process allows Members the opportunity to narrow the focus of the disapproval bill striking references to cancellations they wish to overturn. A vote in favor of the disapproval bill is a vote to spend the money the President sought to cancel. A vote against the disapproval bill is a vote to agree with the President to cancel the spending.

No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. At the conclusion of consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without any intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

All appeals of decisions of the Chair relating to the application of the rules of the House of Representatives to this procedure for consideration of the disapproval bill shall be decided without debate.

It shall be in order to consider only one disapproval bill pertaining to each special message under these expedited messages except for consideration of a similar Senate bill. However, if the House has already rejected a disapproval bill with respect to the same special message as that to which the Senate bill refers, it shall not be in order to consider that bill.

In the event of disagreement between the two Houses over the content of a disapproval bill passed by both Houses, conferees should be promptly appointed and a conference on the disapproval bill promptly convened.

Upon conclusion of such a committee of conference it shall be in order to consider the report of such a conference provided such report has been available to the House for 1 calendar day excluding Saturdays, Sundays, or legal holidays, unless the House is in session on such a day, and the accompanying statement has been filed in the House.

Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall be limited to not more than 1 hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate shall not be debatable. A motion to recommit the conference report shall not be in order and it shall not be in order to reconsider the vote by which the conference report is agreed to or disagreed to.

Mr. SOLOMON. Mr. Speaker, in closing I just would like to point out that President Ronald Reagan closed his autobiography entitled Ronald Reagan In American Life with these following paragraphs, which I cited in my 1 minute earlier today. He said:

"And yet, as I reflected on what we had accomplished, I had a sense of incompleteness, that there was still work to be done. We need a constitutional amendment to require a balanced budget," said Ronald Reagan, "and the President needs a line-item veto to cut out unnecessary spending."

Come over here and give Ronald Reagan another birthday present. Let us pass this line-item veto. Give it to the President who has guaranteed, "I will sign it."

Come over here and vote for it.

Mr. DINGELL. Mr. Speaker, I rise in opposition to this rule.

We have just been informed that this closed rule self-executes into this debt limit bill a completely unrelated Senate-passed bill that will promote fraud by rogue operators posing as small businesses. This bill has not been reviewed by the House committees of jurisdiction, and the SEC strongly opposes it as drafted.

While I strongly support initiatives to aid small business development, this legislation includes provisions that gives preferential treatment to small businesses that engage in securities fraud. One section would require the SEC to adopt a program to reduce, or in some circumstances to waive, civil penalties for violations of statutes or rules by small entities. This would have the obvious effect of encouraging rogues and knaves to conduct unlawful activities through small-business shells in order to get off with a slap on the wrist or a free fraud. Mr. Speaker, this is outrageously bad public policy.

I ask unanimous consent to include in the RECORD a copy of a letter from the Chairman of the SEC outlining the problems with the small business bill.

I urge my colleagues to defeat this rule.

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, March 27, 1996.

HON. JOHN D. DINGELL,
House of Representatives, Committee on Commerce, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN DINGELL: I am writing to express the views of the Securities and Exchange Commission ("SEC" or "Commission") regarding S. 942, the "Small Business Regulatory Enforcement Fairness Act of 1996." S. 942 recently passed the Senate and we understand that it may soon be considered by the House. Although the Commission is very supportive of fostering small business endeavors, it has serious concerns that the bill could have a negative impact on the Commission's enforcement program. The Commission's principal concerns are as follows:

The Commission is concerned about the provisions in S. 942 that suggest that preferential treatment should be afforded to small businesses that engage in violative conduct. Fraud is by no means confined to large entities: some of the most egregious securities frauds in recent years (*e.g.*, involving penny stocks, prime bank notes, and wireless cable) have been perpetrated by shell companies and other entities that could qualify as "small entities" under S. 942. In fact, nearly three-quarters of the firms in the securities industry could be considered "small entities." As a general matter, the Commission believes that rules involving market integrity should apply and be enforced equally as to all firms, large as well as small.

Another troubling provision in S. 942 would shift attorneys fees and other expenses to the Commission, even in cases where the Commission prevails in court, but where it fails to obtain the *full* relief it has sought. In order to protect investor funds from fraud and abuse, the SEC often must act with swift, decisive enforcement action against fraud or other misconduct. The requirements of S. 942 could serve to hamper the Commission's enforcement efforts as it seeks penalties or other appropriate relief from wrongdoers.

The Commission's enforcement program is well-recognized for its fairness. As a general practice, potential defendants are given the opportunity through "Wells" submissions to directly address the merits of proposed SEC enforcement actions before they are instituted by the Commission. In addition, pursuant to The Securities Enforcement Remedies and Penny Stock Reform Act of 1990, Congress already requires the Commission to weigh various factors before seeking or imposing civil penalties. These include mitigating factors—such as the ability of the respondent to pay a penalty as well as its ability to continue in business. The Commission is concerned, however, that the imposition of S. 942's additional requirements could "tilt" the enforcement balance in favor of small firms, regardless of the damage that may be done to public investors.

The Commission has a record on small business issues that is second to none. In recent years, the Commission has created a new, simpler registration and disclosure regime for small businesses that seek to raise capital in the securities markets. It also has sought to expand the category of small businesses that are exempt from the registration and full disclosure requirements of the Exchange Act. Most recently, the Commission's internal Task Force on Disclosure Simplification released a report recommending the elimination of numerous SEC regulations and forms, and proposing a variety of additional steps to ease the capital formation process for small businesses.

The Commission recognizes that still more can be done to reduce the regulatory burdens of small business, and we are committed to continuing our efforts in this area. However, while it is possible to streamline disclosure requirements for small business issuers without impairing market fairness, there is much less room to dilute or alter the regulatory and enforcement framework that applies to market professionals who handle investors' retirement funds and savings. In applying and enforcing rules relating to market integrity, the Commission believes that investor protection must come first.

The attached staff analysis discusses the issues raised by S. 942 in greater detail. We believe that the Commission's concerns can be easily met through appropriate exemptive provisions for the SEC. We ask your assistance in raising these issues on behalf of the Commission when S. 942 is considered by the House.

Sincerely,

ARTHUR LEVITT,
Chairman.

Attachment.

STAFF ANALYSIS OF EFFECTS OF S. 942 ON SECURITIES AND EXCHANGE COMMISSION

The Securities and Exchange Commission ("SEC" or "Commission") has traditionally supported efforts to facilitate the capital formation process for small business. However, SEC staff is concerned that S. 942's proposals for small business regulatory reform sweep too broadly—that the bill could potentially impair regulatory and enforcement efforts that are crucial to the integrity of the

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securities markets, while imposing significant new costs upon the Commission.[1] This analysis focuses on parts of the bill that the Commission staff believes are the most troublesome.

SMALL BUSINESS ENFORCEMENT VARIANCE

Section 202 of S. 942 would require each agency to adopt a policy or program "to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties" for violations of statutes or rules by small entities. This section appears to be premised on the assumption that violations by medium-sized or large businesses should be penalized, but that violations by small businesses should be tolerated. This approach does not seem appropriate for the regulation of the securities markets, which depend on the exercise of professional judgment and self-vigilance by *all* market participants, regardless of size.[2]

As a threshold matter, it is important to recognize that serious fraud is not confined to large entities: some of the most egregious frauds in recent years (involving penny stocks, prime bank notes, and wireless cable) have involved firms that could qualify as "small entities" under S. 942. In addition, this enforcement philosophy would also be applied to non-scienter based securities violations that are equally critical to the integrity of the securities market, for example, broker-dealer capital requirements. Notably, in crafting rules such as the capital requirements, the Commission already considers the size and the nature of a broker-dealer's business; if a firm violates the requirements applicable to them, there is no reason to consider these matters in the enforcement context.

This provision already exempts matter relating to environmental health and safety; on additional exemption relating to securities violations would appear equally tenable.

In any event, the language of the general requirement of Section 202 suggests that the reduction of civil penalties for violations by small businesses in mandatory; at a minimum, this language should be changed to clarify that the agency has discretion to consider "appropriate circumstances" in determining whether to reduce civil penalties.

AMENDMENTS TO EQUAL ACCESS TO JUSTICE ACT

S. 942 would increase the ability of all qualifying litigants (and not just small businesses) to recover fees from agencies under the Equal Access to Justice Act ("EAJA"). Currently, EAJA permits litigants to recover attorney's fees and other expenses from an agency if the agency's position was not "substantially justified." S. 942 would expand the opportunities for such recovery by permitting the award of fees and expenses if the judgment or decision of the court or adjudicative officer is "disproportionately less favorable" to the SEC than the relief the SEC requested. In practical terms, this means that the SEC could "lose, even if it wins" in a lawsuit or other enforcement proceeding.

The changes to EAJA made by S. 942 would significantly increase the exposure of the Commission to fee awards, in at least two ways:

First, the SEC might have to pay EAJA fees even in cases that it wins, in the event that it does not obtain the full relief it initially sought. For example, in enforcement actions, the Commission frequently seeks to obtain an injunction against securities law violations. While the court could find that a violation has occurred, it might not award an injunction for other reasons—for example, if the defendant is too old, working in a different type of business, or has expressed remorse for the violation. In such situations, the court's final judgment may be "disproportionately less favorable" to the Commission than the relief requested for reasons wholly unrelated to the merits of the Commission's case.

Second, the SEC would be vulnerable to fee awards in cases where it loses central issues of fact or law, regardless of the reasonableness of the Commission's position. The Commission faces some litigation risk every time it brings an enforcement action. Enforcement cases for insider trading fraud, for example, generally require the Commission to piece together documentary evidence such as telephone records and securities trading patterns. If a jury or judge disagrees with the Commission's interpretation of the facts and exonerates a defendant, the Commission could be liable for EAJA fees, even if the Commission had reasonably interpreted the available evidence and sought relief that it believed was substantially justified by such evidence.

Similarly, adverse resolution of legal issues could subject the Commission to EAJA fee awards. Even the most settled interpretations of the securities laws are subject to dissenting approaches of judicial or adjudicatory decisionmakers. In a recent case, for example, the U.S. Court of Appeals for the Fourth Circuit refused to follow several other circuit courts that had long recognized a claim for fraudulent insider trading based on the misappropriation of material nonpublic information. *United States* v. *Bryan*, 58 F.3d 933 (4th Cir. 1995). In such situations of novel or unanticipated legal decisions, the adverse resolution of a central issue can remove any grounds for relief and subject the Commission to fee awards.[3]

Finally, the Commission often must act with swift, decisive enforcement action against fraud, particularly in cases where money may be moved quickly outside of the jurisdiction of a U.S. Court. The requirements of S. 942 would hamper the Commission's enforcement efforts by requiring it to evaluate the risks to its own funds before seeing penalties or other appropriate relief from wrongdoers.

Because the Commission could be liable for EAJA awards even when it prevails in a lawsuit, or when its position is reasonable,[4] the Commission opposes the EAJA provisions of S. 942.[5]

AMENDMENTS TO REGULATORY FLEXIBILITY ACT

S. 942 would amend the Regulatory Flexibility Act ("Reg. Flex. Act") to permit court challenge of the Commission's final regulatory flexibility analyses. Enacted in 1980, the Reg. Flex. Act currently requires the Commission to prepare regulatory flexibility analyses evaluating the economic impact of proposed SEC rules and rule changes on small businesses. The SEC takes seriously the Reg. Flex. Act requirements, and faithfully prepares the requisite analyses for every rulemaking action it takes. Nevertheless, the Act requires the Commission to predict future events—that is, the effects that new and untested rules will have on small businesses operating in ever-changing markets. Such predictions are intrinsically imprecise; the Commission cannot predict market forces and behavior in advance.

The Reg. Flex. Act amendments in S. 942 would enable small businesses to challenge in court the SEC's compliance with the Reg. Flex. Act. A small business might try to argue, for example, that the SEC did not adequately foresee the impact that a rule change would have on small businesses. As a result of such a challenge, a court could order the SEC to defer enforcement of the rule against small entities until the court completed its review of the challenge, unless the court were to find "good cause" for continuing the enforcement of the rule.

The amendments contained in S. 942 would thus make it possible for a party who opposes any Commission rule proposal to use the Reg. Flex. analysis (regardless of the care and effort taken in its preparation) as a pretext for litigation. Conceivably, even rules that reduce burdens or provide exemptions for businesses—large or small—could be subject to attack under the Reg. Flex. Act amendments on the grounds that the Commission did not foresee their potential impact on small businesses, even where the impact was shaped in large part by market shifts or economic forces. In any event, the Commission believes that, as a general matter, rules regulating market participants and relating to market integrity issues should apply equally to all firms, large as well as small.

CONGRESSIONAL REVIEW OF COMMISSION RULEMAKING

Title V of S. 942 permits Congress to override an agency's adoption of any rules. This legislative veto authority does not extend, however, to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee. Because the Commission's rules directly concern the integrity and efficiency of the securities markets, and are often closely tied to the stability of such markets, we believe that it is appropriate to accord the same exemption for SEC rules as is accorded to the Federal Reserve and the FOMC.[6]

FOOTNOTES

[1] Senator Bond has made notable efforts to narrow the scope of S. 942. However, the bill passed by the Senate continues to pose significant issues with respect to the Commission's enforcement and regulatory programs. This analysis outlines those concerns for the Commerce Committee.

[2] In fact, of the approximately 7600 broker-dealers registered with the Commission, over 5300 are small entities.

[3] Although the proposed EAJA amendments provide an exception from fee awards if the "party or small entity has committed a willful violation of law or otherwise acted in bad faith, or special circumstances made an award of attorney's fees unjust," a court or administrative law judge probably could not make a finding of "willful violation" or bad faith action by the defendant if it determined that, even in a close case, its interpretation of the law or the facts did not permit the relief requested by the Commission.

[4] Under existing law, EAJA fees have not been imposed on the SEC when the court has found that there was a reasonable basis for the Commission's action. *See, e.g., SEC v. Switzer*, 590 F. Supp. 756 (W.D. Okla. 1984) (refusing to award EAJA fees, despite finding no securities law violation, because of reasonable basis for Commission's enforcement action).

[5] Even though the Commission by law forwards the civil penalties it obtains in enforcement actions to the U.S. Treasury, the Commission must pay EAJA fees directly out of its annual appropriation. Amendments to EAJA under S. 942 would further increase the burden on the Commission by increasing the fee rate for attorney's fees from $75 per hour to $125 per hour.

[6] Similar concerns arise regarding H.R. 994, a separate regulatory reform bill that is currently under consideration in the House. That bill would require the Commission to engage in a lengthy, costly and onerous review of all of its rules (even those involving market integrity), despite the substantial efforts the Commission has made in the past to tailor its rules to the changing conditions of the securities industry. A similar exception in H.R. 994 for the rules of the federal banking agencies should be extended to include the Commission.

Footnotes at end of article.

Mr. SOLOMON. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the "ayes" appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution, as amended.

The vote was taken by electronic device and there were—yeas 232, nays 180, not voting 19, as follows:

[Roll No. 97]

YEAS—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—180

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Bonior
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—19

Blute
Borski
Bryant (TX)
Chapman
Collins (IL)
Fields (LA)
Filner
Forbes
Fowler
Gutierrez
Jefferson
Kaptur
Kennedy (RI)
Lazio
Nethercutt
Sisisky
Smith (WA)
Stokes
Weldon (PA)

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The Clerk announced the following pairs:

On this vote:

Mrs. Fowler for, with Mrs. Collins of Illinois against.

Mr. Lazio of New York for, with Mr. Stokes against.

Mr. GIBBONS and Mr. DEUTSCH changed their vote from "yea" to "nay."

Mr. SHAYS changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BEILENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 232, noes 177, not voting 22, as follows:

[Roll No. 98]

AYES—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh

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Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—177

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Bonior
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Clay
Clayton
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—22

Blute
Borski
Bryant (TX)
Chapman
Collins (IL)
Dickey
Fields (LA)
Filner
Fowler
Gejdenson
Gutierrez
Hayes
Kaptur
Kennedy (RI)
Lazio
Longley
Nethercutt
Roth
Smith (WA)
Stokes
Tauzin
Weldon (PA)

□ 1224

The Clerk announced the following pairs:

On this vote:

Mrs. Fowler for, with Mrs. Collins of Illinois against.

Mr. Lazio of New York for, with Mr. Stokes against.

Mr. BARCIA changed his vote from "aye" to "no."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BLUTE. Mr. Speaker, on rollcall No. 98, I was attending a White House bill-signing ceremony on the Senior Citizens Housing Safety Act. Had I been present, I would have voted "yes."

(For text of conference report deemed adopted pursuant to Resolution 391, see proceedings of the House of March 21, 1996, at page 6016.)

CONTRACT WITH AMERICA ADVANCEMENT ACT OF 1996

Mr. ARCHER. Mr. Speaker, pursuant to House Resolution 391, I call up the bill—H.R. 3136—to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to House Resolution 391, the amendments printed in House Report 104–500 are adopted.

The text of H.R. 3136, as amended pursuant to House Resolution 391, is as follows:

H.R. 3136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Contract with America Advancement Act of 1996".

TITLE I—SOCIAL SECURITY EARNINGS LIMITATION AMENDMENTS

SEC. 101. SHORT TITLE OF TITLE.

This title may be cited as the "Senior Citizens' Right to Work Act of 1996".

SEC. 102. INCREASES IN MONTHLY EXEMPT AMOUNT FOR PURPOSES OF THE SOCIAL SECURITY EARNINGS LIMIT.

(a) INCREASE IN MONTHLY EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. 403(f)(8)(D)) is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be—

"(i) for each month of any taxable year ending after 1995 and before 1997, $1,041.66⅔,

"(ii) for each month of any taxable year ending after 1996 and before 1998, $1,125.00,

"(iii) for each month of any taxable year ending after 1997 and before 1999, $1,208.33⅓,

"(iv) for each month of any taxable year ending after 1998 and before 2000, $1,291.66⅔,

"(v) for each month of any taxable year ending after 1999 and before 2001, $1,416.66⅔,

"(vi) for each month of any taxable year ending after 2000 and before 2002, $2,083.33⅓, and

"(vii) for each month of any taxable year ending after 2001 and before 2003, $2,500.00.".

(b) CONFORMING AMENDMENTS.—

(1) Section 203(f)(8)(B)(ii) of such Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended—

(A) by striking "the taxable year ending after 1993 and before 1995" and inserting "the taxable year ending after 2001 and before 2003 (with respect to individuals described in subparagraph (D)) or the taxable year ending after 1993 and before 1995 (with respect to other individuals)"; and

(B) in subclause (II), by striking "for 1992" and inserting "for 2000 (with respect to individuals described in subparagraph (D)) or 1992 (with respect to other individuals)".

(2) The second sentence of section 223(d)(4)(A) of such Act (42 U.S.C. 423(d)(4)(A)) is amended by striking "the exempt amount under section 203(f)(8) which is applicable to individuals described in subparagraph (D) thereof" and inserting the following: "an amount equal to the exempt amount which would be applicable under section 203(f)(8), to individuals described in subparagraph (D) thereof, if section 102 of the Senior Citizens' Right to Work Act of 1996 had not been enacted".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after 1995.

SEC. 103. CONTINUING DISABILITY REVIEWS.

(a) AUTHORIZATION FOR APPROPRIATIONS FOR CONTINUING DISABILITY REVIEWS.—Section 201(g)(1)(A) of the Social Security Act (42 U.S.C. 401(g)(1)(A)) is amended by adding at the end the following: "Of the amounts authorized to be made available out of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under the preceding sentence, there are hereby authorized to be made available from either or both of such Trust Funds for continuing disability reviews—

"(i) for fiscal year 1996, $260,000,000;

"(ii) for fiscal year 1997, $360,000,000;

"(iii) for fiscal year 1998, $570,000,000;

"(iv) for fiscal year 1999, $720,000,000;

"(v) for fiscal year 2000, $720,000,000;

"(vi) for fiscal year 2001, $720,000,000; and

"(viii) for fiscal year 2002, $720,000,000.

For purposes of this subparagraph, the term 'continuing disability review' means a review conducted pursuant to section 221(i) and a review or disability eligibility redetermination conducted to determine the continuing disability and eligibility of a recipient of benefits under the supplemental security income program under title XVI, including any review or redetermination conducted pursuant to section 207 or 208 of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296).".

(b) ADJUSTMENT TO DISCRETIONARY SPENDING LIMITS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding the following new subparagraph:

"(H) CONTINUING DISABILITY REVIEWS.—(i) Whenever a bill or joint resolution making appropriations for fiscal year 1996, 1997, 1998, 1999, 2000, 2001, or 2002 is enacted that specifies an amount for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, the adjustments for that fiscal year shall be the additional new budget authority provided in that Act for such reviews for that fiscal year and the additional outlays flowing from such amounts, but shall not exceed—

"(I) for fiscal year 1996, $15,000,000 in additional new budget authority and $60,000,000 in additional outlays;

"(II) for fiscal year 1997, $25,000,000 in additional new budget authority and $160,000,000 in additional outlays;

"(III) for fiscal year 1998, $145,000,000 in additional new budget authority and $370,000,000 in additional outlays;

"(IV) for fiscal year 1999, $280,000,000 in additional new budget authority and $520,000,000 in additional outlays;

"(V) for fiscal year 2000, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays;

"(VI) for fiscal year 2001, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays; and

"(VII) for fiscal year 2002, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays.

"(ii) As used in this subparagraph—

"(I) the term 'continuing disability reviews' has the meaning given such term by section 201(g)(1)(A) of the Social Security Act;

"(II) the term 'additional new budget authority' means new budget authority provided for a fiscal year, in excess of $100,000,000, for the Supplemental Security Income program and specified to pay for the costs of continuing disability reviews attributable to the Supplemental Security Income program; and

"(III) the term 'additional outlays' means outlays, in excess of $200,000,000 in a fiscal year, flowing from the amounts specified for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, including outlays in that fiscal year flowing from amounts specified in Acts enacted for prior fiscal years (but not before 1996).".

(c) BUDGET ALLOCATION ADJUSTMENT BY BUDGET COMMITTEE.—Section 606 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding the following new subsection:

"(e) CONTINUING DISABILITY REVIEW ADJUSTMENT.—

"(1) IN GENERAL.—(A) For fiscal year 1996, upon the enactment of the Contract with America Advancement Act of 1996, the Chairmen of the Committees on the Budget of the Senate and House of Representatives shall make the adjustments referred to in subparagraph (C) to reflect $15,000,000 in additional new budget authority and $60,000,000 in additional outlays for continuing disability reviews (as defined in section 201(g)(1)(A) of the Social Security Act).

"(B) When the Committee on Appropriations reports an appropriations measure for fiscal year 1997, 1998, 1999, 2000, 2001, or 2002 that specifies an amount for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, or when a conference committee submits a conference report thereon, the Chairman of the Committee on the Budget of the Senate or House of Representatives (whichever is appropriate) shall make the adjustments referred to in subparagraph (C) to reflect the additional new budget authority for continuing disability reviews provided in that measure or conference report and the additional outlays flowing from such amounts for continuing disability reviews.

"(C) The adjustments referred to in this subparagraph consist of adjustments to—

"(i) the discretionary spending limits for that fiscal year as set forth in the most recently adopted concurrent resolution on the budget;

"(ii) the allocations to the Committees on Appropriations of the Senate and the House of Representatives for that fiscal year under sections 302(a) and 602(a); and

"(iii) the appropriate budgetary aggregates for that fiscal year in the most recently adopted concurrent resolution on the budget.

"(D) The adjustments under this paragraph for any fiscal year shall not exceed the levels set forth in section 251(b)(2)(H) of the Balanced Budget and Emergency Deficit Control Act of 1985 for that fiscal year. The adjusted discretionary spending limits, allocations, and aggregates under this paragraph shall be considered the appropriate limits, allocations, and aggregates for purposes of congressional enforcement of this Act and concurrent budget resolutions under this Act.

"(2) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under paragraph (1), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations pursuant to sections 302(b) and 602(b) of this Act to carry out this subsection.

"(3) DEFINITIONS.—As used in this section, the terms 'continuing disability reviews', 'additional new budget authority', and 'additional outlays' shall have the same meanings as provided in section 251(b)(2)(H)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(d) USE OF FUNDS AND REPORTS.—

(1) IN GENERAL.—The Commissioner of Social Security shall ensure that funds made available for continuing disability reviews (as defined in section 201(g)(1)(A) of the Social Security Act) are used, to the greatest extent practicable, to maximize the combined savings in the old-age, survivors, and disability insurance, supplemental security income, medicare, and medicaid programs.

(2) REPORT.—The Commissioner of Social Security shall provide annually (at the conclusion of each of the fiscal years 1996 through 2002) to the Congress a report on continuing disability reviews which includes—

(A) the amount spent on continuing disability reviews in the fiscal year covered by the report, and the number of reviews conducted, by category of review;

(B) the results of the continuing disability reviews in terms of cessations of benefits or determinations of continuing eligibility, by program; and

(C) the estimated savings over the short-, medium-, and long-term to the old-age, survivors, and disability insurance, supplemental security income, medicare, and medicaid programs from continuing disability reviews which result in cessations of benefits and the estimated present value of such savings.

(e) OFFICE OF CHIEF ACTUARY IN THE SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 702 of the Social Security Act (42 U.S.C. 902) is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following new subsection:

"Chief Actuary

"(c)(1) There shall be in the Administration a Chief Actuary, who shall be appointed by, and in direct line of authority to, the Commissioner. The Chief Actuary shall be appointed from individuals who have demonstrated, by their education and experience, superior expertise in the actuarial sciences. The Chief Actuary shall serve as the chief actuarial officer of the Administration, and shall exercise such duties as are appropriate for the office of the Chief Actuary and in accordance with professional standards of actuarial independence. The Chief Actuary may be removed only for cause.

"(2) The Chief Actuary shall be compensated at the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5, United States Code.".

(2) EFFECTIVE DATE OF SUBSECTION.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 104. ENTITLEMENT OF STEPCHILDREN TO CHILD'S INSURANCE BENEFITS BASED ON ACTUAL DEPENDENCY ON STEPPARENT SUPPORT.

(a) REQUIREMENT OF ACTUAL DEPENDENCY FOR FUTURE ENTITLEMENTS.—

(1) IN GENERAL.—Section 202(d)(4) of the Social Security Act (42 U.S.C. 402(d)(4)) is amended by striking "was living with or".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to benefits of individuals who become entitled to such benefits for months after the third month following the month in which this Act is enacted.

(b) TERMINATION OF CHILD'S INSURANCE BENEFITS BASED ON WORK RECORD OF STEPPARENT UPON NATURAL PARENT'S DIVORCE FROM STEPPARENT.—

(1) IN GENERAL.—Section 202(d)(1) of the Social Security Act (42 U.S.C. 402(d)(1)) is amended—

(A) by striking "or" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting "; or"; and

(C) by inserting after subparagraph (G) the following new subparagraph:

"(H) if the benefits under this subsection are based on the wages and self-employment income of a stepparent who is subsequently divorced from such child's natural parent, the month after the month in which such divorce becomes final.".

(2) NOTIFICATION.—Section 202(d) of such Act (42 U.S.C. 402(d)) is amended by adding the following new paragraph:

"(10) For purposes of paragraph (1)(H)—

"(A) each stepparent shall notify the Commissioner of Social Security of any divorce upon such divorce becoming final; and

"(B) the Commissioner shall annually notify any stepparent of the rule for termination described in paragraph (1)(H) and of the requirement described in subparagraph (A).".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall apply with respect to final divorces occurring after the third month following the month in which this Act is enacted.

(B) The amendment made by paragraph (2) shall take effect on the date of the enactment of this Act.

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SEC. 105. DENIAL OF DISABILITY BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.

(a) Amendments Relating to Title II Disability Benefits.—

(1) In general.—Section 223(d)(2) of the Social Security Act (42 U.S.C. 423(d)(2)) is amended by adding at the end the following:

"(C) An individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(2) Representative payee requirements.—

(A) Section 205(j)(1)(B) of such Act (42 U.S.C. 405(j)(1)(B)) is amended to read as follows:

"(B) In the case of an individual entitled to benefits based on disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.".

(B) Section 205(j)(2)(C)(v) of such Act (42 U.S.C. 405(j)(2)(C)(v)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(C) Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 405(j)(2)(D)(ii)(II)) is amended by striking all that follows "15 years, or" and inserting "described in paragraph (1)(B).".

(D) Section 205(j)(4)(A)(i)(II) of such Act (42 U.S.C. 405(j)(4)(A)(ii)(II)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(3) Treatment referrals for individuals with an alcoholism or drug addiction condition.—Section 222 of such Act (42 U.S.C. 422) is amended by adding at the end the following new subsection:

"Treatment Referrals for Individuals with an Alcoholism or Drug Addiction Condition

"(e) In the case of any individual whose benefits under this title are paid to a representative payee pursuant to section 205(j)(1)(B), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).".

(4) Conforming amendment.—Subsection (c) of section 225 of such Act (42 U.S.C. 425(c)) is repealed.

(5) Effective dates.—

(A) The amendments made by paragraphs (1) and (4) shall apply to any individual who applies for, or whose claim is finally adjudicated by the Commissioner of Social Security with respect to, benefits under title II of the Social Security Act based on disability on or after the date of the enactment of this Act, and, in the case of any individual who has applied for, and whose claim has been finally adjudicated by the Commissioner with respect to, such benefits before such date of enactment, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

(B) The amendments made by paragraphs (2) and (3) shall apply with respect to benefits for which applications are filed after the third month following the month in which this Act is enacted.

(C) Within 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify each individual who is entitled to monthly insurance benefits under title II of the Social Security Act based on disability for the month in which this Act is enacted and whose entitlement to such benefits would terminate by reason of the amendments made by this subsection. If such an individual reapplies for benefits under title II of such Act (as amended by this Act) based on disability within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the entitlement redetermination (including a new medical determination) with respect to such individual pursuant to the procedures of such title.

(b) Amendments Relating to SSI Benefits.—

(1) In general.—Section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

"(I) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(2) Representative payee requirements.—

(A) Section 1631(a)(2)(A)(ii)(II) of such Act (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

"(II) In the case of an individual eligible for benefits under this title by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.".

(B) Section 1631(a)(2)(B)(vii) of such Act (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(C) Section 1631(a)(2)(B)(ix)(II) of such Act (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows "15 years, or" and inserting "described in subparagraph (A)(ii)(II).".

(D) Section 1631(a)(2)(D)(i)(II) of such Act (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(3) Treatment referrals for individuals with an alcoholism or drug addiction condition.—Title XVI of such Act (42 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

"TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION

"Sec. 1636. In the case of any individnal whose benefits under this title are paid to a representative payee pursuant to section 1631(a)(2)(A)(ii)(II), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).".

(4) Conforming amendments.—

(A) Section 1611(e) of such Act (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(B) Section 1634 of such Act (42 U.S.C. 1383c) is amended by striking subsection (e).

(5) Effective dates.—

(A) The amendments made by paragraphs (1) and (4) shall apply to any individual who applies for, or whose claim is finally adjudicated by the Commissioner of Social Security with respect to, supplemental security income benefits under title XVI of the Social Security Act based on disability on or after the date of the enactment of this Act, and, in the case of any individual who has applied for, and whose claim has been finally adjudicated by the Commissioner with respect to, such benefits before such date of enactment, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

(B) The amendments made by paragraphs (2) and (3) shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act for which applications are filed after the third month following the month in which this Act is enacted.

(C) Within 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify each individual who is eligible for supplemental security income benefits under title XVI of the Social Security Act for the month in which this Act is enacted and whose eligibility for such benefits would terminate by reason of the amendments made by this subsection. If such an individual reapplies for supplemental security income benefits under title XVI of such Act (as amended by this Act) within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the eligibility redetermination (including a new medical determination) with respect to such individual pursuant to the procedures of such title.

(D) For purposes of this paragraph, the phrase "supplemental security income benefits under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

(c) Conforming Amendment.—Section 201(c) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is repealed.

(d) Supplemental Funding for Alcohol and Substance Abuse Treatment Programs.—

(1) In general.—Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated to supplement State and Tribal programs funded under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33), $50,000,000 for each of the fiscal years 1997 and 1998.

(2) Additional funds.—Amounts appropriated under paragraph (1) shall be in addition to any funds otherwise appropriated for allotments under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33) and shall be allocated pursuant to such section 1933.

(3) Use of Funds.—A State or Tribal government receiving an allotment under this subsection shall consider as priorities, for purposes of expending funds allotted under this subsection, activities relating to the treatment of the abuse of alcohol and other drugs.

SEC. 106. PILOT STUDY OF EFFICACY OF PROVIDING INDIVIDUALIZED INFORMATION TO RECIPIENTS OF OLD-AGE AND SURVIVORS INSURANCE BENEFITS.

(a) In General.—During a 2-year period beginning as soon as practicable in 1996, the Commissioner of Social Security shall conduct a pilot study of the efficacy of providing certain individualized information to recipients of monthly insurance benefits under section 202 of the Social Security Act, designed to promote better understanding of their contributions and benefits under the social security system. The study shall involve solely beneficiaries whose entitlement to such benefits first occurred in or after 1984 and who have remained entitled to such benefits for a continuous period of not less than 5 years. The number of such recipients involved in the study shall be of sufficient size to generate a statistically valid sample for purposes of the study, but shall not exceed 600,000 beneficiaries.

(b) Annualized Statements.—During the course of the study, the Commissioner shall provide to each of the beneficiaries involved in the study one annualized statement, setting forth the following information:

(1) an estimate of the aggregate wages and self-employment income earned by the individual on whose wages and self-employment income the benefit is based, as shown on the records of the Commissioner as of the end of the last calendar year ending prior to the beneficiary's first month of entitlement;

(2) an estimate of the aggregate of the employee and self-employment contributions, and the aggregate of the employer contributions (separately identified), made with respect to the wages and self-employment income on which the benefit is based, as shown on the records of the Commissioner as of the end of the calendar year preceding the beneficiary's first month of entitlement; and

(3) an estimate of the total amount paid as benefits under section 202 of the Social Security Act based on such wages and self-employment income, as shown on the records of the Commissioner as of the end of the last calendar year preceding the issuance of the statement for which complete information is available.

(c) Inclusion With Matter Otherwise Distributed to Beneficiaries.—The Commissioner shall ensure that reports provided pursuant to this section are, to the maximum extent practicable, included with other reports currently provided to beneficiaries on an annual basis.

(d) Report to the Congress.—The Commissioner shall report to each House of the Congress regarding the results of the pilot study conducted pursuant to this section not later than 60 days after the completion of such study.

SEC. 107. PROTECTION OF SOCIAL SECURITY AND MEDICARE TRUST FUNDS.

(a) In General.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"PROTECTION OF SOCIAL SECURITY AND MEDICARE TRUST FUNDS

"Sec. 1145. (a) In General.—No officer or employee of the United States shall—

"(1) delay the deposit of any amount into (or delay the credit of any amount to) any Federal fund or otherwise vary from the normal terms, procedures, or timing for making such deposits or credits,

"(2) refrain from the investment in public debt obligations of amounts in any Federal fund, or

"(3) redeem prior to maturity amounts in any Federal fund which are invested in public debt obligations for any purpose other than the payment of benefits or administrative expenses from such Federal fund.

"(b) Public Debt Obligation.—For purposes of this section, the term 'public debt obligation' means any obligation subject to the public debt limit established under section 3101 of title 31, United States Code.

"(c) Federal Fund.—For purposes of this section, the term 'Federal fund' means—

"(1) the Federal Old-Age and Survivors Insurance Trust Fund;

"(2) the Federal Disability Insurance Trust Fund;

"(3) the Federal Hospital Insurance Trust Fund; and

"(4) the Federal Supplementary Medical Insurance Trust Fund.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 108. PROFESSIONAL STAFF FOR THE SOCIAL SECURITY ADVISORY BOARD.

Section 703(i) of the Social Security Act (42 U.S.C. 903(i)) is amended in the first sentence by inserting after "Staff Director" the following: ", and three professional staff members one of whom shall be appointed from among individuals approved by the members of the Board who are not members of the political party represented by the majority of the Board,".

TITLE II—LINE ITEM VETO

SEC. 201. SHORT TITLE.

This title may be cited as the "Line Item Veto Act".

SEC. 202. LINE ITEM VETO AUTHORITY.

(a) In General.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by adding at the end the following new part:

"Part C—Line Item Veto

"LINE ITEM VETO AUTHORITY

"Sec. 1021. (a) In General.—Notwithstanding the provisions of parts A and B, and subject to the provisions of this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States, cancel in whole—

"(1) any dollar amount of discretionary budget authority;

"(2) any item of new direct spending; or

"(3) any limited tax benefit;

if the President—

"(A) determines that such cancellation will—

"(i) reduce the Federal budget deficit;

"(ii) not impair any essential Government functions; and

"(iii) not harm the national interest; and

"(B) notifies the Congress of such cancellation by transmitting a special message, in accordance with section 1022, within five calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled.

"(b) Identification of Cancellations.—In identifying dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits for cancellation, the President shall—

"(1) consider the legislative history, construction, and purposes of the law which contains such dollar amounts, items, or benefits;

"(2) consider any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information; and

"(3) use the definitions contained in section 1026 in applying this part to the specific provisions of such law.

"(c) Exception for Disapproval Bills.—The authority granted by subsection (a) shall not apply to any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any law that is a disapproval bill as defined in section 1026.

"SPECIAL MESSAGES

"Sec. 1022. (a) In General.—For each law from which a cancellation has been made under this part, the President shall transmit a single special message to the Congress.

"(b) Contents.—

"(1) The special message shall specify—

"(A) the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit which has been canceled, and provide a corresponding reference number for each cancellation;

"(B) the determinations required under section 1021(a), together with any supporting material;

"(C) the reasons for the cancellation;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the cancellation;

"(E) all facts, circumstances and considerations relating to or bearing upon the cancellation, and to the maximum extent practicable, the estimated effect of the cancellation upon the objects, purposes and programs for which the canceled authority was provided; and

"(F) include the adjustments that will be made pursuant to section 1024 to the discretionary spending limits under section 601 and an evaluation of the effects of those adjustments upon the sequestration procedures of section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(2) In the case of a cancellation of any dollar amount of discretionary budget authority or item of new direct spending, the special message shall also include, if applicable-

"(A) any account, department, or establishment of the Government for which such budget authority was to have been available for obligation and the specific project or governmental functions involved;

"(B) the specific States and congressional districts, if any, affected by the cancellation; and

"(C) the total number of cancellations imposed during the current session of Congress on States and congressional districts identified in subparagraph (B).

"(c) Transmission of Special Messages to House and Senate.—

"(1) The President shall transmit to the Congress each special message under this part within five calendar days (excluding Sundays) after enactment of the law to which the cancellation applies. Each special message shall be transmitted to the House of Representatives and the Senate on the same calendar day. Such special message shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session.

"(2) Any special message transmitted under this part shall be printed in the first issue of the Federal Register published after such transmittal.

"CANCELLATION EFFECTIVE UNLESS DISAPPROVED

"Sec. 1023. (a) In General.—The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation. If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null and void

VOL
142
PT
5
MR
21
—
29
1996
UMI

and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be effective as of the original date provided in the law to which the cancellation applied.

"(b) Commensurate Reductions in Discretionary Budget Authority.—Upon the cancellation of a dollar amount of discretionary budget authority under subsection (a), the total appropriation for each relevant account of which that dollar amount is a part shall be simultaneously reduced by the dollar amount of that cancellation.

"DEFICIT REDUCTION

"Sec. 1024. (a) In General.—

"(1) Discretionary budget authority.—OMB shall, for each dollar amount of discretionary budget authority and for each item of new direct spending canceled from an appropriation law under section 1021(a)—

"(A) reflect the reduction that results from such cancellation in the estimates required by section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 in accordance with that Act, including an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear; and

"(B) include a reduction to the discretionary spending limits for budget authority and outlays in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 for each applicable fiscal year set forth in section 601(a)(2) by amounts equal to the amounts for each fiscal year estimated pursuant to subparagraph (A).

"(2) Direct spending and limited tax benefits.—(A) OMB shall, for each item of new direct spending or limited tax benefit canceled from a law under section 1021(a), estimate the deficit decrease caused by the cancellation of such item or benefit in that law and include such estimate as a separate entry in the report prepared pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(B) OMB shall not include any change in the deficit resulting from a cancellation of any item of new direct spending or limited tax benefit, or the enactment of a disapproval bill for any such cancellation, under this part in the estimates and reports required by sections 252(b) and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(b) Adjustments to Spending Limits.—After ten calendar days (excluding Sundays) after the expiration of the time period in section 1025(b)(1) for expedited congressional consideration of a disapproval bill for a special message containing a cancellation of discretionary budget authority, OMB shall make the reduction included in subsection (a)(1)(B) as part of the next sequester report required by section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(c) Exception.—Subsection (b) shall not apply to a cancellation if a disapproval bill or other law that disapproves that cancellation is enacted into law prior to 10 calendar days (excluding Sundays) after the expiration of the time period set forth in section 1025(b)(1).

"(d) Congressional Budget Office Estimates.—As soon as practicable after the President makes a cancellation from a law under section 1021(a), the Director of the Congressional Budget Office shall provide the Committees on the Budget of the House of Representatives and the Senate with an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear.

"EXPEDITED CONGRESSIONAL CONSIDERATION OF DISAPPROVAL BILLS

"Sec. 1025. (a) Receipt and Referral of Special Message.—Each special message transmitted under this part shall be referred to the Committee on the Budget and the appropriate committee or committees of the Senate and the Committee on the Budget and the appropriate committee or committees of the House of Representatives. Each such message shall be printed as a document of the House of Representatives.

"(b) Time Period for Expedited Procedures.—

"(1) There shall be a congressional review period of 30 calendar days of session, beginning on the first calendar day of session after the date on which the special message is received in the House of Representatives and the Senate, during which the procedures contained in this section shall apply to both Houses of Congress.

"(2) In the House of Representatives the procedures set forth in this section shall not apply after the end of the period described in paragraph (1).

"(3) If Congress adjourns at the end of a Congress prior to the expiration of the period described in paragraph (1) and a disapproval bill was then pending in either House of Congress or a committee thereof (including a conference committee of the two Houses of Congress), or was pending before the President, a disapproval bill for the same special message may be introduced within the first five calendar days of session of the next Congress and shall be treated as a disapproval bill under this part, and the time period described in paragraph (1) shall commence on the day of introduction of that disapproval bill.

"(c) Introduction of Disapproval Bills.—(1) In order for a disapproval bill to be considered under the procedures set forth in this section, the bill must meet the definition of a disapproval bill and must be introduced no later than the fifth calendar day of session following the beginning of the period described in subsection (b)(1).

"(2) In the case of a disapproval bill introduced in the House of Representatives, such bill shall include in the first blank space referred to in section 1026(6)(C) a list of the reference numbers for all cancellations made by the President in the special message to which such disapproval bill relates.

"(d) Consideration in the House of Representatives.—(1) Any committee of the House of Representatives to which a disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction. If any committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill, except that such a motion may not be made after the committee has reported a disapproval bill with respect to the same special message. A motion to discharge may be made only by a Member favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

"(2) After a disapproval bill is reported or a committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. If reported and the report has been available for at least one calendar day, all points of order against the bill and against consideration of the bill are waived. If discharged, all points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed, shall be confined to the bill, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the bill. The bill shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except if offered by the manager. No amendment to the bill is in order, except any Member if supported by 49 other Members (a quorum being present) may offer an amendment striking the reference number or numbers of a cancellation or cancellations from the bill. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

"(3) Appeals from decisions of the Chair regarding application of the rules of the House of Representatives to the procedure relating to a disapproval bill shall be decided without debate.

"(4) It shall not be in order to consider under this subsection more than one disapproval bill for the same special message except for consideration of a similar Senate bill (unless the House has already rejected a disapproval bill for the same special message) or more than one motion to discharge described in paragraph (1) with respect to a disapproval bill for that special message.

"(e) Consideration in the Senate.—

"(1) Referral and reporting.—Any disapproval bill introduced in the Senate shall be referred to the appropriate committee or committees. A committee to which a disapproval bill has been referred shall report the bill not later than the seventh day of session following the date of introduction of that bill. If any committee fails to report the bill within that period, that committee shall be automatically discharged from further consideration of the bill and the bill shall be placed on the Calendar.

"(2) Disapproval bill from house.—When the Senate receives from the House of Representatives a disapproval bill, such bill shall not be referred to committee and shall be placed on the Calendar.

"(3) Consideration of single disapproval bill.—After the Senate has proceeded to the consideration of a disapproval bill for a special message, then no other disapproval bill originating in that same House relating to that same message shall be subject to the procedures set forth in this subsection.

"(4) Amendments.—

"(A) Amendments in order.—The only amendments in order to a disapproval bill are—

"(i) an amendment that strikes the reference number of a cancellation from the disapproval bill; and

"(ii) an amendment that only inserts the reference number of a cancellation included in the special message to which the disapproval bill relates that is not already contained in such bill.

"(B) Waiver or appeal.—An affirmative vote of three-fifths of the Senators, duly chosen and sworn, shall be required in the Senate—

"(i) to waive or suspend this paragraph; or

"(ii) to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

"(5) Motion nondebatable.—A motion to proceed to consideration of a disapproval bill under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

"(6) Limit on consideration.— (A) After no more than 10 hours of consideration of a disapproval bill, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or to table.

"(B) A single motion to extend the time for consideration under subparagraph (A) for no more than an additional five hours is in order prior to the expiration of such time and shall be decided without debate.

"(C) The time for debate on the disapproval bill shall be equally divided between the Majority Leader and the Minority Leader or their designees.

"(7) Debate on amendments.—Debate on any amendment to a disapproval bill shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

"(8) No motion to recommit.—A motion to recommit a disapproval bill shall not be in order.

"(9) Disposition of senate disapproval bill.—If the Senate has read for the third time a disapproval bill that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a disapproval bill for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate disapproval bill, agree to the Senate amendment, and vote on final disposition of the House disapproval bill, all without any intervening action or debate.

"(10) Consideration of house message.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a disapproval bill shall be limited to not more than four hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

"(f) Consideration in Conference—

"(1) Convening of conference.—In the case of disagreement between the two Houses of Congress with respect to a disapproval bill passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

"(2) House consideration.—(A) Notwithstanding any other rule of the House of Representatives, it shall be in order to consider the report of a committee of conference relating to a disapproval bill provided such report has been available for one calendar day (excluding Saturdays, Sundays, or legal holidays, unless the House is in session on such a day) and the accompanying statement shall have been filed in the House.

"(B) Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(3) Senate consideration.—Consideration in the Senate of the conference report and any amendments in disagreement on a disapproval bill shall be limited to not more than four hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

"(4) Limits on scope.—(A) When a disagreement to an amendment in the nature of a substitute has been referred to a conference, the conferees shall report those cancellations that were included in both the bill and the amendment, and may report a cancellation included in either the bill or the amendment, but shall not include any other matter.

"(B) When a disagreement on an amendment or amendments of one House to the disapproval bill of the other House has been referred to a committee of conference, the conferees shall report those cancellations upon which both Houses agree and may report any or all of those cancellations upon which there is disagreement, but shall not include any other matter.

"DEFINITIONS

"Sec. 1026. As used in this part:

"(1) Appropriation law.—The term 'appropriation law' means an Act referred to in section 105 of title 1, United States Code, including any general or special appropriation Act, or any Act making supplemental, deficiency, or continuing appropriations, that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States.

"(2) Calendar day.—The term 'calendar day' means a standard 24-hour period beginning at midnight.

"(3) Calendar days of session.—The term 'calendar days of session' shall mean only those days on which both Houses of Congress are in session.

"(4) Cancel.—The term 'cancel' or 'cancellation' means—

"(A) with respect to any dollar amount of discretionary budget authority, to rescind;

"(B) with respect to any item of new direct spending—

"(i) that is budget authority provided by law (other than an appropriation law), to prevent such budget authority from having legal force or effect;

"(ii) that is entitlement authority, to prevent the specific legal obligation of the United States from having legal force or effect; or

"(iii) through the food stamp program, to prevent the specific provision of law that results in an increase in budget authority or outlays for that program from having legal force or effect; and

"(C) with respect to a limited tax benefit, to prevent the specific provision of law that provides such benefit from having legal force or effect.

"(5) Direct spending.—The term 'direct spending' means—

"(A) budget authority provided by law (other than an appropriation law);

"(B) entitlement authority; and

"(C) the food stamp program.

"(6) Disapproval bill.—The term 'disapproval bill' means a bill or joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending, or limited tax benefits in a special message transmitted by the President under this part and—

"(A) the title of which is as follows: 'A bill disapproving the cancellations transmitted by the President on _______', the blank space being filled in with the date of transmission of the relevant special message and the public law number to which the message relates;

"(B) which does not have a preamble; and

"(C) which provides only the following after the enacting clause: 'That Congress disapproves of cancellations _______', the blank space being filled in with a list by reference number of one or more cancellations contained in the President's special message, 'as transmitted by the President in a special message on _______', the blank space being filled in with the appropriate date, 'regarding _______.', the blank space being filled in with the public law number to which the special message relates.

"(7) Dollar amount of discretionary budget authority.—(A) Except as provided in subparagraph (B), the term 'dollar amount of discretionary budget authority' means the entire dollar amount of budget authority—

"(i) specified in an appropriation law, or the entire dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

"(ii) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

"(iii) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law;

"(iv) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; and

VOL 142 PT 5 MR 21—29 1996 UMI

"(v) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law.

"(B) The term 'dollar amount of discretionary budget authority' does not include—

"(i) direct spending;

"(ii) budget authority in an appropriation law which funds direct spending provided for in other law;

"(iii) any existing budget authority rescinded or canceled in an appropriation law; or

"(iv) any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or committee reports on the expenditure of budget authority for an account, program, project, or activity, or on activities involving such expenditure.

"(8) ITEM OF NEW DIRECT SPENDING.—The term 'item of new direct spending' means any specific provision of law that is estimated to result in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(9) LIMITED TAX BENEFIT.—(A) The term 'limited tax benefit' means—

"(i) any revenue-losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; and

"(ii) any Federal tax provision which provides temporary or permanent transitional relief for 10 or fewer beneficiaries in any fiscal year from a change to the Internal Revenue Code of 1986.

"(B) A provision shall not be treated as described in subparagraph (A)(i) if the effect of that provision is that—

"(i) all persons in the same industry or engaged in the same type of activity receive the same treatment;

"(ii) all persons owning the same type of property, or issuing the same type of investment, receive the same treatment; or

"(iii) any difference in the treatment of persons is based solely on—

"(I) in the case of businesses and associations, the size or form of the business or association involved;

"(II) in the case of individuals, general demographic conditions, such as income, marital status, number of dependents, or tax return filing status;

"(III) the amount involved; or

"(IV) a generally-available election under the Internal Revenue Code of 1986.

"(C) A provision shall not be treated as described in subparagraph (A)(ii) if—

"(i) it provides for the retention of prior law with respect to all binding contracts or other legally enforceable obligations in existence on a date contemporaneous with congressional action specifying such date; or

"(ii) it is a technical correction to previously enacted legislation that is estimated to have no revenue effect.

"(D) For purposes of subparagraph (A)—

"(i) all businesses and associations which are related within the meaning of sections 707(b) and 1563(a) of the Internal Revenue Code of 1986 shall be treated as a single beneficiary;

"(ii) all qualified plans of an employer shall be treated as a single beneficiary;

"(iii) all holders of the same bond issue shall be treated as a single beneficiary; and

"(iv) if a corporation, partnership, association, trust or estate is the beneficiary of a provision, the shareholders of the corporation, the partners of the partnership, the members of the association, or the beneficiaries of the trust or estate shall not also be treated as beneficiaries of such provision.

"(E) For purposes of this paragraph, the term 'revenue-losing provision' means any provision which results in a reduction in Federal tax revenues for any one of the two following periods—

"(i) the first fiscal year for which the provision is effective; or

"(ii) the period of the 5 fiscal years beginning with the first fiscal year for which the provision is effective.

"(F) The terms used in this paragraph shall have the same meaning as those terms have generally in the Internal Revenue Code of 1986, unless otherwise expressly provided.

"(10) OMB.—The term 'OMB' means the Director of the Office of Management and Budget.

"IDENTIFICATION OF LIMITED TAX BENEFITS

"SEC. 1027. (a) STATEMENT BY JOINT TAX COMMITTEE.—The Joint Committee on Taxation shall review any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 that is being prepared for filing by a committee of conference of the two Houses, and shall identify whether such bill or joint resolution contains any limited tax benefits. The Joint Committee on Taxation shall provide to the committee of conference a statement identifying any such limited tax benefits or declaring that the bill or joint resolution does not contain any limited tax benefits. Any such statement shall be made available to any Member of Congress by the Joint Committee on Taxation immediately upon request.

"(b) STATEMENT INCLUDED IN LEGISLATION.—(1) Notwithstanding any other rule of the House of Representatives or any rule or precedent of the Senate, any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 reported by a committee of conference of the two Houses may include, as a separate section of such bill or joint resolution, the information contained in the statement of the Joint Committee on Taxation, but only in the manner set forth in paragraph (2).

"(2) The separate section permitted under paragraph (1) shall read as follows: 'Section 1021(a)(3) of the Congressional Budget and Impoundment Control Act of 1974 shall _______ apply to __________.', with the blank spaces being filled in with —

"(A) in any case in which the Joint Committee on Taxation identifies limited tax benefits in the statement required under subsection (a), the word 'only' in the first blank space and a list of all of the specific provisions of the bill or joint resolution identified by the Joint Committee on Taxation in such statement in the second blank space; or

"(B) in any case in which the Joint Committee on Taxation declares that there are no limited tax benefits in the statement required under subsection (a), the word 'not' in the first blank space and the phrase 'any provision of this Act' in the second blank space.

"(c) PRESIDENT'S AUTHORITY.—If any revenue or reconciliation bill or joint resolution is signed into law pursuant to Article I, section 7, of the Constitution of the United States—

"(1) with a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) only to cancel any limited tax benefit in that law, if any, identified in such separate section; or

"(2) without a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) to cancel any limited tax benefit in that law that meets the definition in section 1026.

"(d) CONGRESSIONAL IDENTIFICATIONS OF LIMITED TAX BENEFITS.—There shall be no judicial review of the congressional identification under subsections (a) and (b) of a limited tax benefit in a conference report.".

SEC. 203. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress or any individual adversely affected by part C of title X of the Congressional Budget and Impoundment Control Act of 1974 may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this part violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

SEC. 204. CONFORMING AMENDMENTS.

(a) SHORT TITLES.—Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(1) striking "and" before "title X" and inserting a period;

(2) inserting "Parts A and B of" before "title X"; and

(3) inserting at the end the following new sentence: "Part C of title X may be cited as the 'Line Item Veto Act of 1996'.".

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following:

"PART C—LINE ITEM VETO

"Sec. 1021. Line item veto authority.
"Sec. 1022. Special messages.
"Sec. 1023. Cancellation effective unless disapproved.

"Sec. 1024. Deficit reduction.
"Sec. 1025. Expedited congressional consideration of disapproval bills.
"Sec. 1026. Definitions.
"Sec. 1027. Identification of limited tax benefits.".

(c) EXERCISE OF RULEMAKING POWERS.—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking "and 1017" and inserting ", 1017, 1025, and 1027".

SEC. 205. EFFECTIVE DATES.

This Act and the amendments made by it shall take effect and apply to measures enacted on the earlier of—

(1) the day after the enactment into law, pursuant to Article I, section 7, of the Constitution of the United States, of an Act entitled "An Act to provide for a seven-year plan for deficit reduction and achieve a balanced Federal budget."; or

(2) January 1, 1997;

and shall have no force or effect on or after January 1, 2005.

TITLE III—SMALL BUSINESS REGULATORY FAIRNESS

SEC. 301. SHORT TITLE.

This title may be cited as the "Small Business Regulatory Enforcement Fairness Act of 1996".

SEC. 302. FINDINGS.

Congress finds that—

(1) a vibrant and growing small business sector is critical to creating jobs in a dynamic economy;

(2) small businesses bear a disproportionate share of regulatory costs and burdens;

(3) fundamental changes that are needed in the regulatory and enforcement culture of Federal agencies to make agencies more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) three of the top recommendations of the 1995 White House Conference on Small Business involve reforms to the way government regulations are developed and enforced, and reductions in government paperwork requirements;

(5) the requirements of chapter 6 of title 5, United States Code, have too often been ignored by government agencies, resulting in greater regulatory burdens on small entities than necessitated by statute; and

(6) small entities should be given the opportunity to seek judicial review of agency actions required by chapter 6 of title 5, United States Code.

SEC. 303. PURPOSES.

The purposes of this title are—

(1) to implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations;

(2) to provide for judicial review of chapter 6 of title 5, United States Code;

(3) to encourage the effective participation of small businesses in the Federal regulatory process;

(4) to simplify the language of Federal regulations affecting small businesses;

(5) to develop more accessible sources of information on regulatory and reporting requirements for small businesses;

(6) to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented; and

(7) to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities.

Subtitle A—Regulatory Compliance Simplification

SEC. 311. DEFINITIONS.

For purposes of this subtitle—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 312. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides". The guides shall explain the actions a small entity is required to take to comply with a rule or group of rules. The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides.

(b) COMPREHENSIVE SOURCE OF INFORMATION.—Agencies shall cooperate to make available to small entities through comprehensive sources of information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

(c) LIMITATION ON JUDICIAL REVIEW.—An agency's small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of this section, the content of the small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.

SEC. 313. INFORMAL SMALL ENTITY GUIDANCE.

(a) GENERAL.—Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency which regulates small entities, it shall be the practice of the agency to answer inquiries by small entities concerning information on, and advice about, compliance with such statutes and regulations, interpreting and applying the law to specific sets of facts supplied by the small entity. In any civil or administrative action against a small entity, guidance given by an agency applying the law to facts provided by the small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages sought against such small entity.

(b) PROGRAM.—Each agency regulating the activities of small entities shall establish a program for responding to such inquiries no later than 1 year after enactment of this section, utilizing existing functions and personnel of the agency to the extent practicable.

(c) REPORTING.—Each agency regulating the activities of small business shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on the Judiciary of the House of Representatives no later than 2 years after the date of the enactment of this section on the scope of the agency's program, the number of small entities using the program, and the achievements of the program to assist small entity compliance with agency regulations.

SEC. 314. SERVICES OF SMALL BUSINESS DEVELOPMENT CENTERS.

(a) Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (O), by striking "and" at the end;

(2) in subparagraph (P), by striking the period at the end and inserting a semicolon; and

(3) by inserting after subparagraph (P) the following new subparagraphs:

"(Q) providing information to small business concerns regarding compliance with regulatory requirements; and

"(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 312(a) of the Small Business Regulatory Enforcement Fairness Act of 1996.".

(b) Nothing in this Act in any way affects or limits the ability of other technical assistance or extension programs to perform or continue to perform services related to compliance assistance.

SEC. 315. COOPERATION ON GUIDANCE.

Agencies may, to the extent resources are available and where appropriate, in cooperation with the states, develop guides that fully integrate requirements of both Federal and state regulations where regulations within an agency's area of interest at the Federal and state levels impact small entities. Where regulations vary among the states, separate guides may be created for separate states in cooperation with State agencies.

SEC. 316. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

Subtitle B—Regulatory Enforcement Reforms

SEC. 321. DEFINITIONS.

For purposes of this subtitle—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 322. SMALL BUSINESS AND AGRICULTURE ENFORCEMENT OMBUDSMAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

"(a) DEFINITIONS.—For purposes of this section, the term—

"(1) 'Board' means a Regional Small Business Regulatory Fairness Board established under subsection (c); and

"(2) 'Ombudsman' means the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under subsection (b).

"(b) SBA ENFORCEMENT OMBUDSMAN.—

"(1) Not later than 180 days after the date of enactment of this section, the Administrator shall designate a Small Business and Agriculture Regulatory Enforcement Ombudsman, who shall report directly to the

VOL
142
PT
5
MR
21
—
29
1996
UMI

Administrator, utilizing personnel of the Small Business Administration to the extent practicable. Other agencies shall assist the Ombudsman and take actions as necessary to ensure compliance with the requirements of this section. Nothing in this section is intended to replace or diminish the activities of any Ombudsman or similar office in any other agency.

"(2) The Ombudsman shall—

"(A) work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel;

"(B) establish means to receive comments from small business concerns regarding actions by agency employees conducting compliance or enforcement activities with respect to the small business concern, means to refer comments to the Inspector General of the affected agency in the appropriate circumstances, and otherwise seek to maintain the identity of the person and small business concern making such comments on a confidential basis to the same extent as employee identities are protected under section 7 of the Inspector General Act of 1978 (5 U.S.C.App.);

"(C) based on substantiated comments received from small business concerns and the Boards, annually report to Congress and affected agencies evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency;

"(D) coordinate and report annually on the activities, findings and recommendations of the Boards to the Administrator and to the heads of affected agencies; and

"(E) provide the affected agency with an opportunity to comment on draft reports prepared under subparagraph (C), and include a section of the final report in which the affected agency may make such comments as are not addressed by the Ombudsman in revisions to the draft.

"(c) REGIONAL SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

"(1) Not later than 180 days after the date of enactment of this section, the Administrator shall establish a Small Business Regulatory Fairness Board in each regional office of the Small Business Administration.

"(2) Each Board established under paragraph (1) shall—

"(A) meet at least annually to advise the Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies;

"(B) report to the Ombudsman on substantiated instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the Board as to agency enforcement policy or practice; and

"(C) prior to publication, provide comment on the annual report of the Ombudsman prepared under subsection (b).

"(3) Each Board shall consist of five members, who are owners, operators, or officers of small business concerns, appointed by the Administrator, after receiving the recommendations of the chair and ranking minority member of the Committees on Small Business of the House of Representatives and the Senate. Not more than three of the Board members shall be of the same political party. No member shall be an officer or employee of the Federal Government, in either the executive branch or the Congress.

"(4) Members of the Board shall serve at the pleasure of the Administrator for terms of three years or less.

"(5) The Administrator shall select a chair from among the members of the Board who shall serve at the pleasure of the Administrator for not more than 1 year as chair.

"(6) A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

"(d) POWERS OF THE BOARDS.

"(1) The Board may hold such hearings and collect such information as appropriate for carrying out this section.

"(2) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(3) The Board may accept donations of services necessary to conduct its business, provided that the donations and their sources are disclosed by the Board.

"(4) Members of the Board shall serve without compensation, provided that, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

SEC. 323. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS.

(a) IN GENERAL.—Each agency regulating the activities of small entities shall establish a policy or program within 1 year of enactment of this section to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining penalty assessments on small entities.

(b) CONDITIONS AND EXCLUSIONS.—Subject to the requirements or limitations of other statutes, policies or programs established under this section shall contain conditions or exclusions which may include, but shall not be limited to—

(1) requiring the small entity to correct the violation within a reasonable correction period;

(2) limiting the applicability to violations discovered through participation by the small entity in a compliance assistance or audit program operated or supported by the agency or a state;

(3) excluding small entities that have been subject to multiple enforcement actions by the agency;

(4) excluding violations involving willful or criminal conduct;

(5) excluding violations that pose serious health, safety or environmental threats; and

(6) requiring a good faith effort to comply with the law.

(c) REPORTING.—Agencies shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on Judiciary of the House of Representatives no later than 2 years after the date of enactment of this section on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.

SEC. 324. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

Subtitle C—Equal Access to Justice Act Amendments

SEC. 331. ADMINISTRATIVE PROCEEDINGS.

(a) Section 504(a) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(4) If, in an adversary adjudication arising from an agency action to enforce a party's compliance with a statutory or regulatory requirement, the demand by the agency is substantially in excess of the decision of the adjudicative officer and is unreasonable when compared with such decision, under the facts and circumstances of the case, the adjudicative officer shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. Fees and expenses awarded under this paragraph shall be paid only as a consequence of appropriations provided in advance.".

(b) Section 504(b) of title 5, United States Code, is amended—

(1) in paragraph (1)(A), by striking "$75" and inserting "$125";

(2) at the end of paragraph (1)(B), by inserting before the semicolon "or for purposes of subsection (a)(4), a small entity as defined in section 601";

(3) at the end of paragraph (1)(D), by striking "and";

(4) at the end of paragraph (1)(E), by striking the period and inserting "; and"; and

(5) at the end of paragraph (1), by adding the following new subparagraph:

"(F) 'demand' means the express demand of the agency which led to the adversary adjudication, but does not include a recitation by the agency of the maximum statutory penalty (i) in the administrative complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.".

SEC. 332. JUDICIAL PROCEEDINGS.

(a) Section 2412(d)(1) of title 28, United States Code, is amended by adding at the end the following new subparagraph:

"(D) If, in a civil action brought by the United States, or a proceeding for judicial review of an adversary adjudication described in section 504(a)(4) of title 5 the demand by the United States is substantially in excess of the judgment finally obtained by the United States and is unreasonable when compared with such judgment, under the facts and circumstances of the case, the court shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. Fees and expenses awarded under this subparagraph shall be paid only as a consequence of appropriations provided in advance.".

(b) Section 2412(d) of title 28, United States Code, is amended—

(1) in paragraph (2)(A), by striking "$75" and inserting "$125";

(2) at the end of paragraph (2)(B), by inserting before the semicolon "or for purposes of subsection (d)(1)(D), a small entity as defined in section 601 of title 5";

(3) at the end of paragraph (2)(G), by striking "and";

(4) at the end of paragraph (2)(H), by striking the period and inserting "; and"; and

(5) at the end of paragraph (2), by adding the following new subparagraph:

"(I) 'demand' means the express demand of the United States which led to the adversary

adjudication, but shall not include a recitation of the maximum statutory penalty (i) in the complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.".

SEC. 333. EFFECTIVE DATE.

The amendments made by sections 331 and 332 shall apply to civil actions and adversary adjudications commenced on or after the date of the enactment of this subtitle.

Subtitle D—Regulatory Flexibility Act Amendments

SEC. 341. REGULATORY FLEXIBILITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) SECTION 603.—Section 603(a) of title 5, United States Code, is amended—

(A) by inserting after "proposed rule", the phrase ", or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States"; and

(B) by inserting at the end of the subsection, the following new sentence: "In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules published in the Federal Register for codification in the Code of Federal Regulations, but only to the extent that such interpretative rules impose on small entities a collection of information requirement.".

(2) SECTION 601.—Section 601 of title 5, United States Code, is amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting "; and", and by adding at the end the following:

"(7) the term 'collection of information'—

"(A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

"(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the United States; or

"(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

"(B) shall not include a collection of information described under section 3518(c)(1) of title 44, United States Code.

"(8) RECORDKEEPING REQUIREMENT.—The term 'recordkeeping requirement' means a requirement imposed by an agency on persons to maintain specified records.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended—

(1) in subsection (a) to read as follows:

"(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States as described in section 603(a), the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

"(1) a succinct statement of the need for, and objectives of, the rule;

"(2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

"(3) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

"(4) a description of the projected reporting, record keeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

"(5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."; and

(2) in subsection (b), by striking "at the time" and all that follows and inserting "such analysis or a summary thereof.".

SEC. 342. JUDICIAL REVIEW.

Section 611 of title 5, United States Code, is amended to read as follows:

"§611. Judicial review

"(a)(1) For any rule subject to this chapter, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

"(2) Each court having jurisdiction to review such rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

"(3)(A) A small entity may seek such review during the period beginning on the date of final agency action and ending one year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of one year, such lesser period shall apply to an action for judicial review under this section.

"(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this chapter, an action for judicial review under this section shall be filed not later than—

"(i) one year after the date the analysis is made available to the public, or

"(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.

"(4) In granting any relief in an action under this section, the court shall order the agency to take corrective action consistent with this chapter and chapter 7, including, but not limited to—

"(A) remanding the rule to the agency, and

"(B) deferring the enforcement of the rule against small entities unless the court finds that continued enforcement of the rule is in the public interest.

"(5) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this section.

"(b) In an action for the judicial review of a rule, the regulatory flexibility analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (a)(4), shall constitute part of the entire record of agency action in connection with such review.

"(c) Compliance or noncompliance by an agency with the provisions of this chapter shall be subject to judicial review only in accordance with this section.

"(d) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law.".

SEC. 343. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 605(b) of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual basis for such certification. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

(b) Section 612 of title 5, United States Code is amended—

(1) in subsection (a), by striking "the committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives".

(2) in subsection (b), by striking "his views with respect to the" and inserting in lieu thereof, "his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the".

SEC. 344. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) SMALL BUSINESS OUTREACH AND INTERAGENCY COORDINATION.— Section 609 of title 5, United States Code is amended—

(1) before "techniques," by inserting "the reasonable use of";

(2) in paragraph (4), after "entities" by inserting "including soliciting and receiving comments over computer networks";

(3) by designating the current text as subsection (a); and

(4) by adding the following:

"(b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter—

"(1) a covered agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;

"(2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and

VOL
142
PT
5
MR
21
—
29
1996
UMI

recommendations from those individuals about the potential impacts of the proposed rule;

"(3) the agency shall convene a review panel for such rule consisting wholly of full time Federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;

"(4) the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of each individual small entity representative identified by the agency after consultation with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c);

"(5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c), provided that such report shall be made public as part of the rulemaking record; and

"(6) where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.

"(c) An agency may in its discretion apply subsection (b) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.

"(d) For purposes of this section, the term covered agency means the Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor.

"(e) The Chief Counsel for Advocacy, in consultation with the individuals identified in subsection (b)(2), and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of subsections (b)(3), (b)(4), and (b)(5) by including in the rulemaking record a written finding, with reasons therefor, that those requirements would not advance the effective participation of small entities in the rulemaking process. For purposes of this subsection, the factors to be considered in making such a finding are as follows:

"(1) In developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration.

"(2) Special circumstances requiring prompt issuance of the rule.

"(3) Whether the requirements of subsection (b) would provide the individuals identified in subsection (b)(2) with a competitive advantage relative to other small entities.".

(b) SMALL BUSINESS ADVOCACY CHAIRPERSONS.—Not later than 30 days after the date of enactment of this Act, the head of each covered agency that has conducted a final regulatory flexibility analysis shall designate a small business advocacy chairperson using existing personnel to the extent possible, to be responsible for implementing this section and to act as permanent chair of the agency's review panels established pursuant to this section.

SEC. 345. EFFECTIVE DATE.

This subtitle shall become effective on the expiration of 90 days after the date of enactment of this subtitle, except that such amendments shall not apply to interpretative rules for which a notice of proposed rulemaking was published prior to the date of enactment.

Subtitle E—Congressional Review

SEC. 351. CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.

Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"Sec.
"801. Congressional review.
"802. Congressional disapproval procedure.
"803. Special rule on statutory, regulatory, and judicial deadlines.
"804. Definitions.
"805. Judicial review.
"806. Applicability; severability.
"807. Exemption for monetary policy.
"808. Effective date of certain rules.

"§ 801. Congressional review

"(a)(1)(A) Before a rule can take effect, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

"(i) a copy of the rule;

"(ii) a concise general statement relating to the rule, including whether it is a major rule; and

"(iii) the proposed effective date of the rule.

"(B) On the date of the submission of the report under subparagraph (A), the Federal agency promulgating the rule shall submit to the Comptroller General and make available to each House of Congress—

"(i) a complete copy of the cost-benefit analysis of the rule, if any;

"(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

"(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

"(iv) any other relevant information or requirements under any other Act and any relevant Executive Orders.

"(C) Upon receipt of a report submitted under subparagraph (A), each House shall provide copies of the report to the Chairman and Ranking Member of each standing committee with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

"(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction in each House of the Congress by the end of 15 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

"(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

"(3) A major rule relating to a report submitted under paragraph (1) shall take effect on the latest of—

"(A) the later of the date occurring 60 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register, if so published;

"(B) if the Congress passes a joint resolution of disapproval described in section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

"(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

"(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

"(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

"(b)(1) A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule.

"(2) A rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule.

"(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of subsection (a)(3) may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive Order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws;

"(C) necessary for national security; or

"(D) issued pursuant to any statute implementing an international trade agreement.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

"(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule for which a report was submitted in accordance with subsection (a)(1)(A) during the period beginning on the date occurring—

"(A) in the case of the Senate, 60 session days, or

"(B) in the case of the House of Representatives, 60 legislative days,

before the date the Congress adjourns a session of Congress through the date on which the same or succeeding Congress first convenes its next session, section 802 shall apply to such rule in the succeeding session of Congress.

"(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

"(i) such rule were published in the Federal Register (as a rule that shall take effect) on—

"(I) in the case of the Senate, the 15th session day, or

"(II) in the case of the House of Representatives, the 15th legislative day, after the succeeding session of Congress first convenes; and

"(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a rule can take effect.

"(3) A rule described under paragraph (1) shall take effect as otherwise provided by law (including other subsections of this section).

"(e)(1) For purposes of this subsection, section 802 shall also apply to any major rule promulgated between March 1, 1996, and the date of the enactment of this chapter.

"(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

"(A) such rule were published in the Federal Register on the date of enactment of this chapter; and

"(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

"(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under section 802 respecting a rule, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"§ 802. Congressional disapproval procedure

"(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced in the period beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ___ relating to ___, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in).

"(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

"(2) For purposes of this section, the term 'submission or publication date' means the later of the date on which—

"(A) the Congress receives the report submitted under section 801(a)(1); or

"(B) the rule is published in the Federal Register, if so published.

"(c) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

"(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

"(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

"(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

"(e) In the Senate the procedure specified in subsection (c) or (d) shall not apply to the consideration of a joint resolution respecting a rule—

"(1) after the expiration of the 60 session days beginning with the applicable submission or publication date, or

"(2) if the report under section 801(a)(1)(A) was submitted during the period referred to in section 801(d)(1), after the expiration of the 60 session days beginning on the 15th session day after the succeeding session of Congress first convenes.

"(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

"(1) The joint resolution of the other House shall not be referred to a committee.

"(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(g) This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"§ 803. Special rule on statutory, regulatory, and judicial deadlines

"(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of enactment of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

"(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

"§ 804. Definitions

"For purposes of this chapter—

"(1) The term 'Federal agency' means any agency as that term is defined in section 551(1).

"(2) The term "major rule" means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

"(A) an annual effect on the economy of $100,000,000 or more;

"(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

"(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

The term does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.

"(3) The term 'rule' has the meaning given such term in section 551, except that such term does not include—

"(A) any rule of particular applicability, including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing;

"(B) any rule relating to agency management or personnel; or

"(C) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

"§ 805. Judicial review

"No determination, finding, action, or omission under this chapter shall be subject to judicial review.

"§ 806. Applicability; severability

"(a) This chapter shall apply notwithstanding any other provision of law.

"(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

"§ 807. Exemption for monetary policy

"Nothing in this chapter shall apply to rules that concern monetary policy proposed

VOL
142
PT
5
MR
21
—
29
1996
UMI

or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

"§806. Effective date of certain rules

"Notwithstanding section 801—

"(1) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping, or

"(2) any rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest,

shall take effect at such time as the Federal agency promulgating the rule determines.".

SEC. 352. EFFECTIVE DATE.

The amendment made by section 351 shall take effect on the date of enactment of this Act.

SEC. 353. TECHNICAL AMENDMENT.

The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking .... **801".**

TITLE IV—PUBLIC DEBT LIMIT

SEC. 401. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar limitation contained in such subsection and inserting "$5,500,000,000,000".

The SPEAKER pro tempore. Pursuant to House Resolution 391, as amended, the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes, the gentleman from Florida [Mr. GIBBONS] will be recognized for 30 minutes, the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 10 minutes, and the gentlewoman from New York [Ms. SLAUGHTER], the designee of the ranking minority member, will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on and include extraneous material on the bill H.R. 3136.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 3136, the Contract With America Advancement Act of 1996. This legislation contains the Senior Citizens' Right to Work Act, the Line-Item-Veto Act, the Small Business Growth and Fairness Act of 1996, and provides for a permanent increase in the public debt limit.

Let me first compliment Chairmen SOLOMON, CLINGER, and BUNNING, and the rest of the line-item-veto conferees for their hard work. As the original author of line-item-veto legislation at the request of President Reagan, I am a true believer in the line-item veto. I know that it will help control spending and therefore aid us in obtaining a balanced budget. Accordingly, I welcome its inclusion in H.R. 3136.

I am also proud that the Senior Citizens' Right to Work Act will be included in this legislation. It is another of my career-long projects—one which I began working on with former Senator Goldwater in the early 1970's. As you know the House has already approved this measure by a large bipartisan vote of 411 to 4 last December 5. It would raise the earnings limit for seniors between the ages of 65 and 69 to $30,000 by the year 2002, while fully preserving the long-term financial integrity of the Social Security trust funds. In fact, according to the Social Security actuaries, this bill improves the long-range solvency of the trust funds by a significant amount.

This legislation is also strongly supported by a broad group of seniors' associations, including the AARP.

We all know that the current earnings limit is too low and is nothing more than a tax on hard-working seniors.

In our Contract With America, we promised to raise the earnings limit which discourages older workers from remaining in the work force and sharing their experience, knowledge, and skills with younger workers. Today, we take another important step in fulfilling that promise by providing relief from the onerous earnings limit to almost 1 million senior citizens who want or need to work. Again, I want to compliment Social Security Subcommittee Chairman JIM BUNNING and Whip DENNY HASTERT for their outstanding efforts on this legislation. They have been untiring in their work on this project.

Mr. Speaker, H.R. 3136 also includes another important element of our Contract With America, regulatory relief for small business. This is a vital element of the bill, and I believe Chairman HYDE will be speaking on it in more detail.

Finally, H.R. 3136 contains an increase in the permanent statutory debt ceiling from its current level of $4.9 trillion to $5.5 trillion. This amount should provide the Government with enough authority to operate through fiscal year 1997. This is the level including in the Balanced Budget Act, and sought by the Treasury Department. We have receive correspondence from Treasury expressing their support for the provision.

This is a straightforward debt limit extension. As you know, we need to pass this legislation quickly as the current temporary limit expires tomorrow.

Section 107 of this legislation codifies Congress' understanding that the Secretary of Treasury and other Federal officials are not authorized to use Social Security and Medicare funds for debt management purposes under any circumstances. Specifically, the Secretary of the Treasury and other Federal officials are required not to delay or otherwise underinvest incoming receipts to the Social Security and Medicare trust funds. They are also required not to sell, redeem or otherwise disinvest securities, obligations or other assets of these trust funds except when necessary to provide for the payment of benefits and administrative expenses of these programs. The legislation applies to the following trust funds: Federal Old-Age and Survivors Insurance [OASI] Trust Fund; Federal Hospital Insurance [HI] Trust Fund; and Federal Supplementary Medical Insurance [SMI] Trust Fund.

Since late October, the total amount of public debt obligations has been very close to the public debt limit. This has given rise to concerns that the Social Security and Medicare trust funds might be underinvested or disinvested for debt management purposes. While the administration has stated that it would not take such action, it is desirable to make clear in law that these funds could not be used for debt management purposes. It is the purpose of this legislation to clarify that any limitation on the public debt shall not be used as an excuse to avoid the full and timely investment of the Social Security trust funds. The Secretary, by law, is the managing trustee of these trust funds, and also the chief financial officer of the U.S. Government charged with its day-to-day cash management. As such, he shall take all necessary steps to ensure the full and timely investment of the Social Security and Medicare trust funds.

This bill seeks to assure that the Secretary of the Treasury and other Federal officials shall invest and disinvest Social Security and Medicare trust funds solely for the purposes of accounting for the income and disbursements of these programs. There are no circumstances envisioned under which the investments of the trust funds will not be made in a timely fashion in accordance with the normal investment practices of the Treasury, or under which the trust funds are drawn down prematurely for the purpose of avoiding limitations on the public debt or to make room under the statutory debt limit for the Secretary of the Treasury to issue new debt obligations in order to cover the expenditures of the Government.

Mr. Speaker, this is an excellent bill, which advances many important elements of our Contract With America, keeping our promises to the American people. I urge my colleagues on both sides of the aisle to support it today.

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Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield 30 seconds to the gentlewoman from California [Ms. HARMAN].

PERSONAL EXPLANATION

Ms. HARMAN. Mr. Speaker, I was in my district yesterday on official business. Had I been present, I would have voted "no" on the rule and "no" on passage of H.R. 1833, the partial birth abortion bill; "yes" on the passage of House Resolution 379; and "yes" on the passage of House Concurrent Resolution 102.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, this is a paradox day in the U.S. House of Representatives. We are going to raise the earnings limit under Social Security immediately from about $11,000 a year to $14,000 or so a year, I believe, and that will, on average, mean an income of about $20,000 for a Social Security retiree. That is a very good thing to do.

The paradox is, at the same time we are not going to be doing anything about the minimum wage. So what are we saying in essence? We are saying that the person who is retired and might work part time needs $24,000 a year, but the young person who is working every day of the week and working hard, maybe digging ditches, and has children to support can get by just fine on $8,840 a year. So I want to congratulate my colleagues on a sense of humor, I suppose, and a wonderful paradox.

Mr. ARCHER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I rise in opposition to H.R. 3136.

Mr. Speaker, I strongly support increasing the Social Security earnings limit. The current earnings limit of $11,280 hurts low-to-moderate-income seniors who work out of necessity, not choice.

Our Nation achieved unprecedented wealth and power because of the strong work ethic, self-reliance, and personal responsibility of today's senior citizens. They are the generation that built this Nation. To punish these productive, industrious seniors, who are the ones that made America great is absolutely absurd. All Americans lose when the earnings limit prevents us from employing the teaching and experience of our Nation's most precious resource.

Let me also say I support wholeheartedly empowering small businesses to challenge burdensome regulations. In fact, observation of the catastrophic effects extraneous regulations have on small businesses and property owners was a major motivation for my seeking office.

We should pass legislation to increase the Social Security earnings limit, and to empower small business, and I hope we do it soon. However, I must vote against this measure today because I simply cannot support what would be a monumental mistake that would be made by this Congress if we hand over legislative powers to the president in the form of a line-item veto.

Mr. Speaker, let me first say that I believe that a line item veto could be effective in eliminating wasteful port. However, I strongly believe that the consequences of shifting the delicate power balance of between the executive and legislative branches of government would far outweigh any advantages gained by this measure.

Let me remind you of Alexander Hamilton's stern warning in Federalist No. 76 of why we must keep the powers given respectively to the legislature and executive branches of government separate:

> Without the one or the other the former would be unable to defend himself against the depredations of that latter. (The Legislature) might gradually be stripped of his authorities by successive resolutions. . .
>
> And in one mode or the other, the legislative and executive powers might speedily come to be blended in the same hands.

Mr. Speaker, the Constitution specifically gives the power of the purse to the people, which are represented in the Congress. Let us not give that sacred responsibility away to the President because we as a Congress do not have the discipline to make necessary spending cuts. The more powers we give to the executive to control the spending of taxpayer dollars, the less we will have of a representative government our Founding Fathers envisioned.

Mr. Speaker, I strongly believe that the Congress will regret the day that we surrender this tremendous power to the executive. I urge my colleagues to stand back and take a hard look at what we are doing today, and whether it is really worth giving away power that rightfully belongs to this, the people's House.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HYDE], the highly respected chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I rise in support of H.R. 3136, and particularly title III of that bill, the Small Business Regulatory Enforcement Fairness Act of 1996.

Title III, as amended by the rule, is patterned after the provisions of S. 942, legislation sponsored by Senator CHRISTOPHER BOND of Missouri, which passed the Senate on March 19 by the vote of 100 to 0. It would provide important regulatory relief for America's small businesses.

This measure is vitally important to the small business community, which is particularly burdened by the effect of multiple, and many times conflicting, regulatory requirements. It should be viewed not as a total solution to all regulatory problems, but as a good first step of making rules more fair, more rational, and more carefully tailored to achieve the goal they are designed to accomplish.

First, title III proposes important changes in the Regulatory Flexibility Act, allowing judicial review of certain aspects of that statute. The Regulatory Flexibility Act was first enacted in 1980. Under its terms, Federal agencies are directed to consider the special needs and concerns of small entities—that is, small businesses, local governments, farmers, and so forth, whenever they engage in a rulemaking subject to the Administrative Procedure Act. The agencies must then prepare and publish a regulatory flexibility analysis of the impact of the proposed rule on small entities, unless the head of the agency certifies that the proposed rule will not "have a significant economic impact on a substantial number of small entities."

From the beginning, the problem with this law has been the lack of availability of a judicial reviews mechanism to enforce the purposes of the law. Right now, if agencies do not actually conduct a regulatory flexibility analysis or fail to follow the other procedures set down in the act, there is no sanction. Thus, under current law, the small business community has no remedy.

Title III would cure this problem. In instances where an agency should have undertaken a regulatory flexibility analysis and did not, or where the agency needs to take corrective action with respect to a flexibility analysis that was prepared, small entities are authorized to seek judicial review within 1 year after final agency action. A court will then review the agency's action under the judicial review provisions of the Administrative Procedure Act. The remedies that a court may order include remanding the rule back to the agency and deferring enforcement of the rule against small entities, pending agency compliance with the Regulatory Flexibility Act.

Another important aspect of title III is the congressional review procedure. This will allow Congress to review all proposed rules to determine whether or not they should take effect. Specifically, title III would allow Congress to postpone for 60 days the implementation of any major rule, generally defined as having an annual effect on the economy of $100 million or more. The language allows the President to bypass the 60-day delay through the issuance of an Executive order, if the rule addresses an imminent threat to the public health or safety, or other emergency, or matters involving criminal law enforcement or national security.

This legislation was developed by Senator DON NICKLES and Senator HARRY REID. My Judiciary Committee staff has worked very closely with Senator NICKLES' staff concerning the details of this provision.

I think it is important to emphasize that this approach means that Congress must be prepared to take on greater responsibility in the rulemaking process. If during the review period, Congress identifies problems in a proposed major rule prior to its promulgation, we must be prepared to take action. Each standing committee will have to carefully monitor the regulatory activities of those agencies falling within their jurisdiction.

Title III also includes a provision which will require Federal agencies to simplify forms and publish a plain English guide to help small businesses comply with Federal regulations. These compliance guides will not be subject to judicial review, but may be considered as evidence of the reasonableness of any proposed fines or penalties. Federal agencies would also be directed to reduce or waive fines for small businesses in appropriate circumstances, if violations are corrected within a certain period.

VOL
142
PT
5
MR
21
—
29
1996
UMI

The proposal would also create an ombudsman within the Small Business Administration to gather information from small businesses about compliance and enforcement practices, and to work with the various agencies so as to respond to the concerns of small businesses regarding those practices.

In addition, some important changes would be made in the Equal Access to Justice Act. The Equal Access to Justice Act [EAJA] currently provides that certain parties who prevail over the Federal Government in regulatory or court proceedings are entitled to an award in attorneys' fees and other expenses, unless the Government can demonstrate that its position was substantially justified or that special circumstances would make the award unjust. Eligible parties are individuals whose net worth does not exceed $2 million or businesses, organizations, associations, or units of local government with a net worth of no more than $7 million and no more than 500 employees. The act covers both adversary administrative proceedings and civil court actions.

Title III proposes to change the Equal Access to Justice Act so as to make it easier for small businesses to recover their attorneys fees, if they have been subjected to excessive and unsustainable proposed penalties. It would amend the EAJA to create a new avenue for small entities to recover their attorneys fees in situations where the Government has instituted an administrative or civil action against a small entity to enforce a statutory or regulatory requirement. In these situations, the test for recovering attorneys' fees would become whether the final demand of the United States, prior to the initiation of the adjudication or civil action, was substantially in excess of the decision or judgment ultimately obtained and is unreasonable when compared to such decision or judgment. The important point here is that this legislation will level the playing field and make it far more likely that the United States will not seek excessive fines or penalties from small businesses and will be more likely to make fair settlement offers prior to proceeding with a formal regulatory enforcement action or before going to court to collect the civil fine or penalty.

Mr. Speaker, I have only described in very general terms today the substance of this important title. Because the language is the product of negotiation and compromise with the Senate, there is no formal legislative history available to explain its terms. To cure this deficiency, I will be inserting in the CONGRESSIONAL RECORD at a later date a document which will serve as the equivalent of a statement of managers. The same document will be submitted to the RECORD in the Senate. It is the committee's intent that that document carry the weight of legislative history regarding title III of H.R. 3136.

Mr. Speaker, this legislation represents an important and significant step toward removing unnecessary and unduly burdensome regulations from the backs of small businesses. I urge my colleagues to support H.R. 3136 and look forward to its prompt passage and it being signed into law.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I rise to speak against H.R. 3136. My opposition stems not from a desire to prevent the needed increase in the debt limit, nor do I oppose the increase in the Social Security earnings limit contained in section 4, a proposition I supported with my vote in favor of H.R. 2684 last December.

Rather, my objection, Mr. Speaker, is to the measure before us, which rests on my adamant opposition to the line-item veto provisions of section 3. The line-item veto is not about money as such. It is about power, specifically the balance of power between the executive and legislative branches of the Federal Government. This has nothing to do with Republicans and Democrats. It has nothing to do with the contract except the contract we should be keeping with history that provided for our constitutional democracy to be able to sustain a balance between the executive and the legislative. It assumes that the executive branch, compared to the legislature, is inherently inclined to restrain spending. In fact, however, congressional appropriations have been lower than the amounts requested by the past three Presidents, Democrat and Republican alike. In denying Congress the authority to single out proposed rescissions for individual consideration, H.R. 3136 denies to the Congress an authority it grants to the President.

If the President can unilaterally veto individual items in a single bill, why is Congress required to sustain or override those vetoes as an indivisible package? Why is Congress denied the authority, why are we denying ourselves the authority to judge each veto cast by the President? The upshot is more power for the executive branch, less for the legislature. By giving the President power to veto specific tax and appropriation items within a single bill, H.R. 3136 deprives the legislative branch of its share of its ability to strike a compromise with the executive.

Mr. Speaker, it upsets the carefully calibrated balance between the legislative and executive branches of Government. That balance is what inclines our political system to compromise. Look at what is happening in the rest of the world where the executive has exclusive authority. I know I am going to be among the few votes that is going to be cast today. What I regret is, and this has happened before in our legislative history, there will be a few who will try to strike a balance to keep the power of the legislature against the executive, and one day there will be a Ph.D. writing a thesis about it, how we gave up our power, how we gave up the balance of power that exists in our democracy. Vote "no" on 3136.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky [Mr. BUNNING], the respected chairman of the Subcommittee on Social Security of the Committee on Ways and Means.

Mr. BUNNING of Kentucky. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, hopefully the third time around will be the charm and the Social Security earnings limit will be passed. I want to thank DENNIS HASTERT, the deputy whip, and all the Republican Members of the 100th Congress class, because this has been a class project for over 8 years.

Mr. Speaker, the House has twice passed legislation to increase this onerous earnings limit in the 104th Congress, but lack of Senate action has kept this measure off the President's desk.

I have a very good feeling that the tide has turned and our colleagues in the other body want to see this done as much as we do.

I want to commend the House and Senate leadership for working with the Ways and Means Committee and the Finance Committee to make the earnings limit increase part of the debt limit legislation.

We have worked out a fair bill which makes good policy while actually improving the financial integrity of the Social Security trust funds.

By increasing the earnings limit on working senior citizens, we are fulfilling the commitment we made in the Contract With America to bring economic relief to older workers.

The earnings limit is a depression-era relic that has outlived its usefulness. Older workers have a great deal of knowledge and experience and our country needs the skills of experienced workers. The current limit is unrealistically low and sends the message that the Federal Government does not want seniors to continue working and contributing.

Today's older Americans are living longer and healthier. They want to continue contributing to society, but they have to ask themselves if it is worth losing a good part of their Social Security benefits to do so.

In most cases, the answer is "No." By discouraging skilled older workers from working, we are forgoing one of society's greatest resources—experienced workers—a commodity every employer in the United States needs and values.

The earnings limit is particularly harsh on lower to middle-income seniors who must work to supplement their Social Security benefits.

Approximately 1 million working seniors have some or all of their benefits withheld because of the current earnings limit. These are not wealthy working seniors.

These are seniors who do not have substantial pensions, investments or savings to supplement their Social Security checks.

The earnings limit is nothing less than a tax on work. Seniors need and deserve some tax relief. I urge my colleagues to join me in making this long

overdue change to increase the earnings limit to $30,000.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I voted against the rule on this particular bill, not because I oppose the provisions of the bill in general but in specific, I have a problem with one provision on line-item veto.

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I am a long-time supporter of the line-item veto. That is an issue which has not been partisan. It is an issue that the administration has asked for. I have supported it, and many on both sides of the aisle have supported it. The concern I have is that the line-item veto, under this bill, will not go into effect when we pass the bill. It will not go into effect until the end of the current term of this President. This President is a Democrat. This Congress is controlled by Republicans. That looks to the public like business as usual, like the Republicans are afraid to give a Democratic President the authority to veto specific items of pork.

It is not like we do not have a problem ongoing with park-barrel spending. I have in my hand the Citizens Against Government Waste's 1996 Congressional Pig Book. In that they identify $12.5 billion in just 8 appropriation bills that we passed in 1996, 8 of the 13, $12.5 billion of pork.

We passed in February 1995 through this House and in March through the other body a line-item veto bill. It took 6 months to even appoint conferees. Now we finally have the line-item veto coming to passage as part of this bill. It is too late for 1996 and these billions of dollars. Under this bill, it is too late for 1997 as well.

Did they believe that, by passing line-item veto, there would only be Republican Presidents in the future? A Democratic President would not be eligible to use the line-item veto? Well, I am going to put into the RECORD statements by the majority leader of the House, majority leader in the Senate and majority whip in the Senate. I am also going to put into the RECORD statements by the Committee on Rules chairman and other people on the floor of this House, saying we are not afraid to give it to a Democrat President. Here we are giving it, it is not just a Republican, we are giving it to him. No, you are not, not unless he wins reelection.

So I simply believe that we ought to change one provision in this bill. Let us make line-item veto effective immediately upon enactment. If the President does not appropriately use it, then Congress can challenge the President. If the President does appropriately use it, we start cutting inappropriate spending today rather than waiting until after the 1997 fiscal year.

So I would urge my colleagues to revise this bill, and I hope that we will have a motion to recommit with instructions to do so.

Mr. CLINGER. Mr. Speaker, I yield myself 2 minutes.

As chairman of the Government Reform and Oversight Committee, I am very pleased to rise in strong support of this measure. Two of the provisions in this measure were initiated in the Government Reform and Oversight Committee, and we are very proud they are part of this debt ceiling increase, because the line-item veto goes directly to the question of trying to hold down the debt, which we are now going to be forced to increase today.

The previous speaker said that this was a provision that we should give the President right now. I would point out to the gentleman that this was a suggestion that the President himself made. Contrary to many of the Members on the other side of the aisle, this President, our President, supports the line-item veto and supports the date that has been selected.

I would also point out he does have within his own power the key to unlock this provision and make it effective today, and that would be if he would agree to a balanced budget agreement. That is, as I say, in his power.

We had a lot of trouble reconciling the many differences, frankly, that existed between the Senate and the House. Many in this room will remember how vast those differences were. But we were able, in the final analysis, to come to agreement. It was a bipartisan bicameral agreement. There are Members on both sides who support strongly the provision of the line-item veto. There are Members on both sides, frankly, who disagree with the line-item veto.

The intent of the legislation, Mr. Speaker, is to provide the President a tool, only a tool, to approach this question of deficit reduction. We have provided it not just for the appropriations process, which would only get at about 30 percent of the spending, we have also provided it for entitlements. We have provided it for targeted tax preferences which have been so abused in the past. The President is going to have a broad authority and broad ability to deal with the deficit and to deal with the debt, which has been spiraling out of control.

I would point out it is important to note, consistent with the demand of both Houses in the conference, the conference report does not allow the President to strike any restriction, condition, or limitation on how funds may be spent. It is limited to whole dollar amounts. No policy can be changed as a result of this.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield 30 seconds to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, just in response to my friend who just mentioned that it was the President who asked for this, yes, the President asked for line-item veto. The President did not ask for line-item veto to be until after the new year of 1997. It was offered by the majority leader, Senator DOLE, to be available then, and the President said he wanted line-item veto, he would be willing to accept it and would accept it under those terms.

It was not the President suggesting to delay line-item veto until 1997. The President did accept it, but he has asked for it consistently to be effective immediately, and I have a letter so stating.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me explain to the Chair what I am about to do. I am going to yield to the gentlewoman from Connecticut [Mrs. KENNELLY], then I am going to get out of the way and let the gentlewoman from New York use her 10 minutes.

I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I am delighted to stand here today, on March 28, 1996, because it is a good day for the United States of America, it is a good day for the economic security of the United States of America, it is a good day for the financial markets of the United States of America, but most importantly it is a good day for the full faith and credit of the United States.

We are raising the debt limit. We should have done it 5 months ago, but we are doing it today, and I am pleased that that is happening.

There are those who say it did not matter if we did not raise it when we should have 5 months ago. I have to differ because I do not think there is any way of knowing if there were not interest rate increases or delaying schedules of auctions for securities, or, in fact, holding those actions for securities, or, in fact, holding those auctions when they should have.

Having said that, I am glad today has come. There is one disappointment I have, though, in this bill. For 19 years, for 19 years, the blind of this country have been joined with the elderly of this country, in being able to earn a certain amount of money over and above the Social Security earnings test. For some reason, the majority has decided to drop the blind from this joint relationship with those over 65. I do think it is too bad, because it really hurts the economic independence of the blind in this country.

I certainly hope the majority in another time will look at this piece of legislation. I know the gentleman from Texas [Mr. ARCHER] introduced it originally. I do hope once again we can couple the blind with those over 65 so economic independence can be theirs also.

VOL 142 PT 5 MR 21 — 29 1996 UMI

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is perhaps a good day but it certainly is a strange one. I would never have thought I would be part of a Congress of the United States that would unilaterally hand over major parts of its power to the executive department. To me, the strength of the Government of the United States, as written by the Founding Fathers, was the separation of powers, for each part of the legislative, the executive, and the judiciary, well defined.

With the action taken here in the House and in the Senate, we are unilaterally handing over to the President, whomever he or she may be, the right to veto all the work that we do here in Congress. Members of the House who have served under Governors, who have the right of line-item veto, have told me that in many cases it is a genteel way to commit blackmail.

Will we save money with the line-item veto? Well, consider this scenario: Let us say there is a President who is finding it very difficult, perhaps, to get reelected, and to get support from the members of his party who serve in the House or in the Senate. He would call in a delegation, perhaps mine, New York, which is rather large, and says to us, you are not supporting me, but I do notice here that in the bills that have been sent to me, that there is a very critical item under New York that has so much money. We are then, Members, confronted with either determining whether we are going to stand pat, face the President of the United States and tell him to forget about it, or allow him simply to line out what is necessary for the people that we represent.

It is possible, is it not, that under those circumstances, that a delegation, a legislator, anyone, a leader would decide not to spend less money, Mr. Speaker, but could be induced to spend more? Indeed, it may be that such a President wants more than that has been asked for; the line-item veto does not say that in all cases that they will be going for less; it is entirely possible that a President will ask for more.

I believe that this measure is unconstitutional, and I hope that it will be judged so. It is a tragedy to me that this has been added on to what is one of the most important pieces of legislation that we have to come before us. The threat of fiscal default hanging over the United States of America has left a cloud over us that should never have been there in the first place. No nation ever talked about defaulting by choice until this time. To put, again, a sort of genteel from of blackmail, things that we normally would like to debate, strikes me as not the best way to do business.

We have heard this conference report being bipartisan and the great support that you have had on both sides of the aisle. I think it is important to point out, Mr. Speaker, that the conference that took place, took place only between House and Senate Republicans. No Democrats in the House or Senate were a part of that conference, and indeed the Democrats only saw the conference report after it was filed. Without any question, this side of the House had no impact whatever on that conference report.

But in addition, this conference report goes much further than either the House bill or the Contract With America went. For example, it includes Medicare, Medicaid, Social Security, and all other entitlement programs. We are now going to say to the President, "If you do not like the increases that we have given in Social Security, get rid of them." We have put Medicare and Medicaid again up to the vagaries of the President without the ability of the people here to make the determination for the people who sent us, the 500,000 and more in each district who depend upon us to make those decisions, now you want to turn these decision over to the President.

But there is one other piece that I was particularly involved in myself during the 100 days of the Contract With America when line-item veto was brought up. We were concerned over on our side about the fact that in many cases it is just as serious a drain on the Federal Treasury, in many cases, just as much a breach of faith, to use tax policy. And we put forth an amendment on this side to make sure that tax policy, giving benefits to certain groups, certain persons in the United States, would be looked at and scrutinized if the line-item veto indeed became law. That has been narrowed to the point of nonrecognition. Your tax-break friends are safe.

What we are saying with this bill, this line-item veto today, is that the President may run through the bills in any way he or she likes, taking out anything or everything no matter the importance of it or what it may mean for the country. However, when it comes to tax benefits and tax policy, given to favorite constituents or constituent groups, nobody is going to be touching that. That is going to be sacred.

Obviously, this bill is important for us to pass. Our fiscal responsibility and our fiscal reputation depend on it, and it is high time that the Social Security recipients receive some attention with the fact that they have been limited in the income that they can receive. Without jeopardizing their Social Security.

But, Mr. Speaker, adding line-item veto to this is an abrogation of our power. It is an abrogation of the Constitution of the United States, and, frankly, I think that putting it on this bill says to the Nation basically we cannot be trusted. It is going to have to be somebody at 1600 Pennsylvania Avenue to make these final decisions. That is a decision and a statement that I personally am not willing to make.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I would just like to briefly carry on the discussion of how much power has been transferred from Congress to the President. Article I, section 9 of the Constitution says that Congress shall control the purse strings. Article 1 of section VII of the Constitution says that Congress shall decide how deep we go into debt.

I bring this chart to portray the authority and responsibility that Congress has now given away to the President of the United States. This pie chart represents the Federal budget for this coming year. The blue area represents the 52 percent of spending now in these welfare entitlement programs. The spending in those programs cannot be changed without the consent of the President.

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It has been demonstrated now that also the administration has the authority to go deeper in debt without the consent of Congress.

Transferring even greater power to the administrative branch, to the President, by saying that he will have the authority to line out, to veto anything in an appropriation bill, is a tremendous transfer of power.

I served under three governors while in the State legislature in Michigan. Every one of those governors, liberal and conservative, used the leverage of the line-item veto to get spending they wanted. A lot of States have the line-item veto. Almost every one of those States also have a constitutional provision that says they have to have a balanced budget.

In the State legislature, while the Governor says "I want to shift priorities to what I think is important spending," either for political purposes or for philosophic goals. In the U.S. Government, where we do not have that kind of safeguard of a balanced budget, there is a danger of actually increasing spending and not decreasing spending as some presume.

During the last three decades, a lot of us wished that the President had authority to veto spending we did not like. But we now have a Congress that is becoming more frugal, is being more conscientious of a balanced budget, and is more interested in cutting. Now we are saying we are going to take away responsibility from this Chamber, from this body and give it to the President. This is inconsistent with what our Founding Fathers thought was an appropriate balance. I think this legislation could have different results than

some expect. I hope we do not see the dangers that could result from further disrupting the balance of power.

Ms. SLAUGHTER. Mr. Speaker, I yield the balance of my time to the gentleman from Wisconsin [Mr. BARRETT].

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Wisconsin is recognized for 1½ minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, I support the line-item veto. It is a good measure, a measure that the American people want. Why? They want the line-item veto because they are concerned about two things. They are concerned about pork barrel spending, and they are concerned about special interest tax breaks.

This bill does a good job of taking care of the pork barrel spending, but it does a lousy job of taking care of special interest tax breaks. Why is that? It is because the people on the Republican side of the aisle like special interest tax breaks.

We hear on the floor day after day proponents of tax reform from the Republican side say, "Let's have a flat tax. Let's get rid of all these deductions. Let's get rid of all these loopholes."

Well, this was the opportunity to get rid of those. This bill was the opportunity to say we do not believe in special interest tax loopholes.

But when they came up to bat, they swung and missed. They had no desire to give the President of the United States the ability to get rid of special interest tax loopholes. Why not? Because they are the gift that just keeps on giving. You can tuck them away into a revenue bill. You do not have to go through the appropriations process. It just keeps giving and giving and giving.

The other irony of this entire debate is something that has happened to me over the last year and a half when I have gone back to my district and talked at Rotary lunches or Kiwanis lunches. They always talk about the Presidential line-item veto. I say, "Mark my words: We will get it, but the Republican leadership will find a way to make sure that President Clinton does not have the authority to get rid of their pork barrel spending or their special interest tax loopholes in the 104th Congress."

The provisions we are passing today do not give the President the ability to do it in this Congress.

Mr. CLINGER. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I rise in very strong support of this legislation, noting that 43 Governors have the line-item veto. Governor John Engler of Michigan has spoken out strongly that it does restrain unwise spending.

Mr. Speaker, there are some supporters of line-item veto who may have despaired of ever getting it done. I must admit that there were days over the past 13 months when I had my doubts. Well, in the spirit of Sean Connery I am reminded "never to say never." Today we fulfill a major plank in the Contract With America and implement a powerful budget-cutting tool. Title II of the bill before us is the text of our conference agreement on the line-item veto. It reflects countless hours of meetings and discussions—and an enormously good faith effort by all the conferees to ensure that this significant delegation of power from the Congress to the President is effective, workable and clearly defined. The conferees understood the magnitude of a delegation of authority of this kind. Quite simply, it is historic. Although some of our colleagues are fundamentally opposed to transferring such power to the President—any President—I firmly believe that this is a legitimate and necessary element of our battle to bring the Federal budget under control. We have been very careful in this conference report to carefully define our terms and the limitations that Congress is placing on the President's use of the line-item veto authority. The purpose of the line-item veto is to add to our arsenal of weapons against low-priority or unnecessary Federal spending. The goal is deficit reduction and we have ensured that the authority applies only to money being spent. Just as 43 Governors do today, the President, under the line-item veto, will have the ability to cancel individual items of spending and tax legislation if he believes doing so will help reduce the deficit. The burden of proof will then be on the Congress to come up with a two-thirds majority to override the President and spend the money over his objections. If the Congress is unable to muster that supermajority, then the funds are not spent and are applied to deficit reduction. The remarkable thing about this measure is that it fundamentally shifts the bias away from spending and toward saving the taxpayers money. That is a change that more than 70 percent of Americans have been asking for. Americans know that when huge spending and tax bills go to the President for his signature or veto, often individual items of less or even questionable national merit get carried into law by the greater good in the bill. That costs money—lots of money—and that's what this tool is designed to control. Our conference built upon the House enhanced rescission model and, I believe, made it stronger by expanding the authority beyond appropriation measures to include new entitlements. As everyone knows, entitlement programs are a major culprit in our current budget imbalance—and the line-item veto should help to curb the creation of new programs that we can't afford. The conference report also allows the President to use his line-item veto to cancel limited tax benefits—provisions that are slipped into the Tax Code to benefit 100 or fewer people at a cost to the taxpayers at large.

Mr. Speaker, our staff has spent countless hours refining the language of this measure to ensure that we understand the repercussions of this delegation of authority. While we recognize the possibility for gaming of the system—by the Congress and the executive—we have built in important safeguards, including an 8-year sunset to allow us an opportunity to assess the line-item veto's effectiveness. Finally, Mr. Speaker, I point out to my colleagues that the President and the House leadership have agreed that the effective date of this new authority will be January 1, 1997, or enactment of a 7-year balanced budget, whichever comes sooner. This is a practical result that ensures sufficient time for the Executive and Congress to consider the measure's provisions and impact. In addition, this specified effective date allows the line-item veto to rise above short-term political realities. I think it is an enormously sensible decision and I applaud the President and our leaders for it.

Mr. Speaker, last night the other body adopted this conference report by a 69-to-31 vote. It's time for this House to deliver a similar result.

Mr. CLINGER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DELAY], the distinguished majority whip and tireless leader in the battle to achieve a line-item veto.

Mr. DELAY. Mr. Speaker, I thank the gentleman for his words.

Mr. Speaker, I rise in strong support of the Contract With America Advancement Act, and I urge my colleagues to vote for it.

This bill proves the pundits wrong. The Contract With America is alive and well, and is working to better the lives of American families.

I am especially pleased by two provisions in this legislation.

The regulatory flexibility act is a small but significant step in the right direction for making commonsense changes to our regulatory system.

This bill will bring much needed congressional accountability to the regulatory process. No Congress before this one has been willing to take responsibility for the way laws are implemented after they are signed.

I believe it is both appropriate and necessary for Congress to conduct oversight over agencies' promulgation of regulations, and am very pleased that this, the first Republican Congress in 40 years, is the one to make it happen.

We also are finally enacting the line-item veto.

When I was first elected to the House, I made the line-item veto one of my top priorities.

This may not be a good week for pork, but it is a great week for the American taxpayer.

Gone are the days, when Congresses inserted pork barrel projects to buy votes for their Members.

With this line-item veto, we will make certain that those days of wasting taxpayer dollars are gone forever.

I applaud my colleagues for their work on this legislation, and I urge them to send this bill to the President.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I rise in strong support of this legislation, but

VOL
142
PT
5
MR
21
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29
1996
UMI

it is interesting how we got here. We got here today because the Republican leadership and the Democrat administration worked together to bring this bill forward. We have Democrats and Republicans working together, and when we work together it is amazing what we can accomplish.

This bill is important. It does deal with the Social Security earning limitation. For too long senior citizens have been penalized for working with outrageously high tax rates. This bill corrects that.

The line-item veto is an important bill. It helps to spotlight individual appropriations. We pass these omnibus bills where none of us really have an opportunity to study each and every provision in that legislation. The line-item veto will give us an opportunity to look at these items individually and give the President a role as to whether they should become law.

Small business regulatory relief, there are problems with small business. The oversight function of Congress should be to take a look at what regulations impact on small business, and this bill does that.

Increasing the debt ceiling, we all know that we need to do that. We have already spent the money. We have got to honor our obligations.

But it is interesting, why have we delayed for so long in bringing these bills forward? As I listened on the floor when we were considering other debt extension bills, the Republican leadership told us we could not consider it because we had to deal with deficit reduction. This bill does not deal with deficit reduction; it deals with extending the debt limit, as it should.

Perhaps the only lesson that we can take out of this bill on deficit reduction and balancing the budget is if we use the process of Democrats and Republicans working together, then we can accomplish a balanced budget in this Congress. So I hope this legislation will spill over to other efforts between Democrats and Republicans to bring sound legislation to the floor, not in a vacuum by one party, but in cooperation by both parties, between the Congress and the President. If we do that, we will indeed serve our constituents well.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS], the chairwoman of the Committee on Small Business.

Mrs. MEYERS of Kansas. Mr. Speaker, I would like to thank the chairman very much for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 3136. I support the increase in the senior citizens earning threshold, I support the line-item veto, and particularly I support title III of this act, which is of enormous importance to this country's 21 million small businesses.

Subtitle A of title III provides that agencies will provide plain English guides on new regulations for small business. Subtitle B provides for a regulatory ombudsman to assist small businesses in disputes with the Federal Government. These two subtitles, along with subtitle D, the Regulatory Flexibility Act, were among the very top priorities listed by the White House Conference on Small Business.

I would like to focus for a moment on the Regulatory Flexibility Act, which those interested in small business have been working for for many years. The Regulatory Flexibility Act has been on the books since 1980, and it provides that agencies must review all new rules and regulations for their specific impact on small business and then help mitigate that impact if it is extreme. But there is no enforcement mechanism, and the agencies have largely ignored it.

This bill would provide for judicial review of the process, and thus put teeth in that Regulatory Flexibility Act. This judicial review of regulatory flexibility has strong bipartisan support. It has passed this House by a vote of 415 to 15, and last week it passed the Senate by 100 to 0.

There are many good reasons to support this bill, but its value and importance to small business is the best reason to me and to the Committee on Small Business.

I urge my colleagues to support H.R. 3136.

Mr. CLINGER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida [Mr. MICA] who has been a champion for regulatory reform and also a leader in the line-item veto battle.

Mr. MICA. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, small business is really the largest employer in our country. Small business in fact is the cornerstone of free enterprise. Today small business in the United States is being choked to death on mindless regulations, edicts and paperwork, and federally mandated compliance forms.

When they write the epitaph of American small business, let me read for you what the tombstone is going to say: "Here lies American small business, murdered by overregulation, murdered by taxation and litigation."

Today we cannot totally free the bondage of small business in America. What we can do today, however, is allow some regulatory flexibility, and that is what this legislation does.

Today, through this legislation, small business will have a small but a fighting chance to challenge this crazy Federal bureaucratic rulemaking process. Today we can let Congress place a small check on the bureaucrats who have made a lifetime career of pumping out mindless, costly, and ineffective regulations.

Today, if we are going to sink our Nation further into the rathole of debt, we can, through these regulatory reform measures, give small business, who employ our people, who pay our taxes, a small but fighting chance to dig us out of that rathole of debt.

Mr. CLINGER. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from Indiana [Mr. MCINTOSH] who has been a leader in this Congress on regulatory reform and an active participant on our committee, and chairman of the Subcommittee on Regulatory Reform.

Mr. MCINTOSH. Mr. Speaker, I thank the chairman for yielding me time, and thank him for his leadership on this bill.

Mr. Speaker, I rise in strong support of the line-item veto provision, the provision removing penalties from senior citizens, and title III, the Small Business Regulatory Enforcement Fairness Act of 1996.

What we have before us today is a small step toward reforming our regulatory process. It is time, Mr. Speaker, that we get Government off of our backs, and back on our side in this country.

Small businesses create 75 percent of the new jobs in this country, and I am particularly pleased to support the provisions of this bill that will allow small businesses to challenge agency decisions in court when they ignore the needs of small businesses and they write new regulations and create redtape.

I am also very pleased with subtitle E that will bring agency regulations back to Congress for a vote. This part of the bill originated as a companion bill to my legislation, H.R. 450, the Regulatory Transition Act of 1995. And I was pleased to work with the gentleman from Pennsylvania, Chairman CLINGER, the gentleman from New York, Chairman SOLOMON, and the gentleman from Illinois, Chairman HYDE, along with Senator DON NICKLES, to craft provisions that will be acceptable to both bodies and provide for meaningful congressional review of agency rulemaking actions.

Our Subcommittee on Regulatory Affairs has held field hearings around the country. We have heard from many people who are suffering because of Federal over-regulation. One person is Bruce Gohman, a small businessman in Minnesota, who says that he consciously limits his job creation to 50 employees. He will not hire more people because of the fear of being subjected to more redtape and more Government regulations.

I say we need this reform to allow Mr. Gohman to create more good jobs and to pay higher wages to his employees so that we can get this economy going again.

Mr. Speaker, I strongly support title III of this bill, and say it is time we have regulations that are smarter, safer, and provide more environmental protection, and less redtape.

Mr. Speaker, this title is one of the most important pieces of legislation for small business growth and job creation that we will take up this year. In fact, it is the number one legislative priority for small business. Although this is not a comprehensive regulatory reform bill, this is an important first step in enacting needed reform for hard-working Americans in their struggle against the regulatory bureaucracy in Washington. Moreover, this title will hold the administration accountable for the impact of rules on all Americans.

As I have said, I am especially pleased with the reforms in subtitles D and E, which address issues that I have been concerned about for a number of years. Subtitle D will strengthen the Regulatory Flexibility Act by allowing affected small businesses, local governments, and other small entities to challenge certain agency action and inaction in court. Currently, the Regulatory Flexibility Act requires Federal agencies issuing new rules to consider the impact the rules would have on small entities and prepare a regulatory flexibility analysis unless it certifies that the rule would not have a significant economic impact on a substantial number of small entities. In my experience working with Vice President Quayle on the President's Council on Competitiveness, I discovered that the Federal agencies often ignored the mandate of the act and refused to prepare a regulatory flexibility analysis. The limited judicial review provided in subtitle D will serve as a needed check on agency behavior and help enforce the mandate of the act.

Subtitle E will add a new chapter 8 to the Administrative Procedure Act, which will allow Congress to review agency rulemaking actions and determine whether Congress should pass joint resolutions under expedited procedures to overrule the rulemaking action. This subtitle originated almost one year ago as companion legislation to H.R. 450, the Regulatory Transition Act of 1995, which was reported out of my Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs. Although I would have liked this subtitle to go further, the bill we are going to pass today is a good start and can easily be amended in the future to provide for an expedited procedure to review and stop the most wrong-headed rulemaking proceedings before they waste more agency and private resources.

As the principal House sponsor of the Congressional Review subtitle, I am very proud that this bill will soon be sent to the President again, and I hope signed by him this time. The House and Senate passed an earlier version of this subtitle as section 3006 of H.R. 2586, which was vetoed by the President last November. Before it becomes law, this bill will have passed the Senate at least four times and passed the House at least twice. In discussions with the Senate and House co-sponsors this past week, we made several changes to the version of this subtitle that both bodies passed on November 9, 1995, and the version that the Senate passed last week. I will be happy to work with Chairman HYDE and Chairman CLINGER on a document that we can insert in the CONGRESSIONAL RECORD at a later time to serve as the equivalent of a floor managers' statement. But because this bill will not likely have a conference report or managers' statement prior to passage, I offer the following brief explanation for some of the changes in the subtitle:

DEFINITION OF A "MAJOR RULE"

The version of subtitle E that we will pass today takes the definition of a "major rule" from President Reagan's Executive Order 12291. Although President Clinton's Executive Order 12866 contains a definition of a significant rule that is purportedly as broad, several of the administration's significant rule determinations under Executive Order 12866 have been questionable. The administration's narrow interpretation of "significant rulemaking action" under Executive Order 12866 helped convince me that Congress should not adopt that definition. We intend the term "major rule" to be broadly construed, particularly the nonnumerical factors contained in the new subsection 804(2) (B) and (C).

AGENCY INTERPRETIVE RULES, GENERAL STATEMENTS OF POLICY, GUIDELINES, AND STATEMENTS OF AGENCY POLICY AND PROCEDURE ARE COVERED BY THE BILL

All too often, agencies have attempted to circumvent the notice and comment requirements of the Administrative Procedure Act by trying to give legal effect to general policy statements, guidelines, and agency policy and procedure manuals. Although agency interpretive rules, general statements of policy, guideline documents, and agency policy and procedure manuals may not be subject to the notice and comment provisions of section 553(c) of title 5, United States Code, these types of documents are covered under the congressional review provisions of the new chapter 8 of title 5.

Under section 801(a), covered rules, with very few exceptions, may not go into effect until the relevant agency submits a copy of the rule and an accompanying report to both Houses of Congress. Interpretive rules, general statements of policy, and analogous agency policy guidelines are covered without qualification because they meet the definition of a "rule" borrowed from section 551 of title 5, and are not excluded from the definition of a rule.

Pursuant to section 801(3)(C), a rule of agency organization, procedure, or practice, is only excluded if it "does not substantially affect the rights or obligations of nonagency parties." The focus of the test is not on the type of rule but on its effect on the rights or obligations of nonagency parties. A statement of agency procedure or practice with a truly minor, incidental effect on nonagency parties is excluded from the definition of a rule. Any other effect, whether direct or indirect, on the rights or obligations of nonagency parties is a substantial effect within the meaning of the exception. Thus, this exception should be read narrowly and resolved in favor of nonagency parties who can demonstrate that the rule will have a nontrivial effect on their rights or obligations.

THE 60-DAY DELAY ON THE EFFECTIVENESS OF MAJOR RULES AND THE EMERGENCY AND GOOD CAUSE EXCEPTIONS

Two of the three previous Senate versions of this subtitle would have delayed the effective date of a major rule until at least 45 days after the relevant agency submitted the major rule and an accompanying report to Congress. One of the Senate versions and both House versions opted for at least a 60-day delay on the effectiveness of a major rule. The 60-day period was selected to provide a more meaningful time within which Congress could act to pass a joint resolution before a major rule went into effect. Even though the expedited congressional procedures extend beyond this period—and some of the special House and Senate rules would never expire—it would be preferable for the Congress to act before outside parties are forced to comply with the rule.

The subtitle provides an emergency exception in section 801(c) and a limited good cause exception in section 808(2) from the 60-day delay on the effectiveness of a major rule. Sections 801(c) and 808(2) should be narrowly construed, for any other reading of these exceptions would defeat the purpose of the delay period. The emergency exception in section 801(c) is only available pursuant to Executive order and after congressional notification that a specified situation exists. The good cause exception in section 808(2) is borrowed from the chapter 5 of the Administrative Procedure Act and applies only to rules which are exempt from notice and comment under section 553. Even in such cases, the agency should provide for the 60-day delay in the effective date unless such delay is clearly contrary to the public interest. This is because a determination under section 801(c) and 808(2) shall have no effect on the procedures under 802 to enact joint resolutions of disapproval respecting such rule, and it is contrary to the policy of this legislation that major rules take effect before Congress has had a meaningful opportunity to act on such joint resolutions.

ALL EXECUTIVE AGENCIES AND SO-CALLED INDEPENDENT AGENCIES ARE COVERED BY THE BILL

Congress intends this legislation to be comprehensive. It covers any agency or other entity that fits the "Federal agency" definition borrowed from 5 U.S.C. 551(1). That definition includes "each authority of the government" that is not expressly excluded by section 551(1)(A)–(H). The objective is to cover each and every entity in the executive branch, whether it is a department, independent agency, independent establishment, or Government corporation, whether or not it conducts its rulemaking under section 553(c), and whether or not it is even covered by other provisions of title 5, U.S. Code. This definition of "Federal agency" is also intended to cover entities and establishments within the executive branch, such as the U.S. Postal Service, that are sometimes excluded from the definition of an agency in other parts of the U.S. Code. This is because Congress is enacting the congressional review legislation, in large part, as an exercise of its oversight and legislative responsibility over the executive branch. Regardless of the justification for excluding or granting independence for certain entities from the coverage of certain laws, that justification does not apply in this legislation, where Congress has an interest in exercising its constitutional oversight and legislative responsibility over all executive branch agencies and entities within its jurisdiction.

Examples too numerous to mention abound in which Federal entities and agencies issue regulations and rules that impact businesses, small and large, as well as major segments of the American public, yet are not subject to the

VOL
142
PT
5
MR
21
—
29
1996
UMI

traditional 5 U.S.C. 553(c) rulemaking process. It is essential that this regulatory reform measure include every agency, authority, or entity that establishes policies affecting all or any segment of the general public. Where it is necessary, a few special adjustments have been made, such as the exclusion for the monetary policy activities of the Board of Governors of the Federal Reserve System, rules of particular applicability, and rules of agency management and personnel. Where it is not necessary, no exemption is provided and the rule is that the entity's regulations are covered by this act. This is made clear by the provisions of the new section 806 which states that the act applies notwithstanding any other provision of law.

□ 1315

Mr. CLINGER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. ROYCE].

Mr. ROYCE. Mr. Speaker, I rise in support of this legislation which is urgently needed to avoid financial chaos. This is a compromise bill. In exchange for extending the debt limit, it provides a much needed procedure for reducing unnecessary pork barrel spending. That procedure is the line-item veto. As cochairman of the congressional pork busters coalition, I strongly support the line-item veto as an essential tool to eliminate pork from appropriations bills. We have been battling pork for 6 years on the floor of this House, but not always successfully.

This legislation provides much needed back up power to the Executive, allowing him to surgically slice out those items which do not deserve funding. Governors in 43 States, including California, already have this power and it has worked well. In our State of California, it has allowed our Governors to balance the budget. The House voted for a line-item veto over a year ago, and it has been bottled up in the Senate ever since. This is a golden opportunity to finally achieve our goal.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I want to thank one of the heroes of D-day for the opportunity, the gentleman from Florida [Mr. GIBBONS].

When the new majority came to power 1 year ago, they promised the American people that Congress would change its ways, that we would live by all the laws of the land. Obviously one of the laws that we are not going to live by is the law of regulating false advertising. The very name of this bill is false advertising. It has nothing to do with the Contract With America. It has everything to do with raising the debt limit by $600 billion.

The American people have consistently said that the biggest threat to this Nation is our horrible debt. It is a vulnerability greater than any other thing because it is eating up so much of our taxes. Just the interest on the national debt eats up more of our taxes than Medicare, than Medicaid, twice as much as Medicaid, the national defense, 10 times more than food stamps, and 12 times more than welfare.

In the 2 minutes that I have spoken to my colleagues, this Nation has spent $1 million on interest on the national debt, just in the past 2 minutes.

So what is their solution? We will borrow more money. We will pay more interest. That is crazy.

Mr. Speaker, what do they do? Do they come to the floor and be honest with the American people and say we want to borrow some more money? No, they hide it. They hide it behind three bills that have already passed this body on their own merit, three bills that were just waiting for the U.S. Senate to agree to so they can become law.

There is only one purpose for this bill. It is to borrow more money and to waste more money on interest on the national debt. Instead of the balanced budget that the American people were promised, this is just more borrow and spend. But it is not the first time since I have come to Congress that this has happened. Around November 7, 1989, I got a call from then-President Bush's White House. I was very new to this body. It said, can you do us a favor? Can you help us just one time temporarily raise the national debt? Just a temporary thing.

Mr. Speaker, I had only been here a couple of weeks, and, my goodness, the President of the United States called. I was flabbergasted and honored, and, of course, Mr. President, you made perfect sense. We have got to do that. So the debt was raised from 2.87 trillion to 3.1 trillion. That was not the end of it. In October 26, 1990, this House came back, and H.R. 5838 permanently raised the debt ceiling from 3.1 to 4.1 trillion, just a couple years later. And then again on August 5, 1993, the House raised the debt ceiling from 4.1 to 4.9.

It is like saying, I am going to pay off my Visa card but first I am going to raise my debt limit on my visa card from 5,000 to 10,000. You do not ever get there.

Today they are being asked to raise it from 4.9 to 5.5 trillion. Voting to raise the debt limit is a lot like an alcoholic saying, I am just going to have one more drink. A very good friend of mine from Pascagoula, MS, just came out of alcoholic rehab. He said, I would wake up every morning and I could always find an excuse for just one more drink. It is Thanksgiving. It is the week before Christmas. It is Mardi Gras. It is spring break. There is always one more excuse, one more drink. But until he work up and said, I am not going to have any more excuses, no more drinks, did he cure his problem.

Mr. Speaker, America has to run out of excuses. We have got to quit borrowing. We cannot be for a balanced budget and then turn around and borrow $600 billion more. Let us draw the line today. Let us quit fooling the American people. Let us do what is right for this country.

I thank the chairman and the great hero of D-Day. This gentleman, in case Members do not know, paratrooped into Normandy the night before the D-Day invasion. He is going to end his congressional career this year. He is a great American, and we are going to miss him.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I thank my friend, the gentleman from Texas [Mr. ARCHER] for yielding time to me. I want to congratulate the gentleman from Pennsylvania [Mr. CLINGER] and, of course, congratulate the gentleman from Florida [Mr. GIBBONS]. We are going to miss him greatly.

Mr. Speaker, it saddens me that we have gotten to the point where we have to rely on the line-item veto to turn the corner on the profligate spending that we have seen go on for decades. We have seen it successful in 38 States. I would simply like the RECORD to show that in our State of California, Governor Wilson has used the line-item veto 354 times, saving our State's taxpayers nearly $800 million.

I hope very much that we can proceed with passage of this very important measure.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, let us see if this sounds right. Congress is frustrated with political pork. Congress has tried but Congress is fed up with pork-barrel spending.

Congress honestly and desperately wants to stop all of this political pork. So Congress today, in both desperation and frustration, has decided that the only way to stop political pork is by giving the top politician in America, the President, the power to control political pork. Beam me up here. Let me remind everybody herein assembled, this is not Rotary. This is the Super Bowl of politics. And as we speak, White House staffers are not only watching and listening to what we say but how we say it, and they will be individually scoring your voting records to determine who may need some discipline.

In America the people are supposed to govern. My problem with the line item veto is very simple. It is an awesome transfer of the people's power to one person who needs to get elected and then needs 34 Senators in his hip pocket to run America. I guarantee not one of those 34 Senators will ever worry about a line item veto.

Mr. Speaker, let me say this today in the little bit of time I have, watch what we say from here on out, bite our

tongues, mind our votes, mind our votes. And consider our votes politically, folks, because the White House is watching, the White House is keeping score.

I think there is a better way to do this without transferring the power from the people to the White House. We are making the White House too powerful in the United States of America. I think we are endangering the freedom of our Nation and the power of our people.

With that, I appreciate the gentleman for giving me the time. I want to echo the remarks of the gentleman from Mississippi [Mr. TAYLOR].

I have been quite aggressive in some of my opposition at times to the Committee on Ways and Means, but never to the gentleman personally. I think the gentleman is an absolute great American. We are going to miss the gentleman from Florida [Mr. GIBBONS]. I thank him for putting up with me. A lot of Members love him; I certainly do.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, as one who did not support the line item veto because I do not think we can always count on the President of the United States, regardless of who he is, not to have some pettiness in his surroundings. But what I do not understand is there was a big push to do the line item veto early on over here, and I understand that this transaction will not go into place until 1997. Why would not the line item veto go and this President have the benefits of it for the next 7 months?

Mr. TRAFICANT. Mr. Speaker, I would like to respond by saying evidently the next President-elect will have the line item veto authority. It is amazing to me. I think it is unconstitutional, to start with, but I can remember a vote on a Btu tax, and the President wanted a Btu tax. I can remember that I happened to be the only Democrat in the Congress to speak out against that tax. With the line item veto it is not a very comfortable position. Maybe someone from that side might say the reason why.

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania. We are going to miss him as well.

Mr. CLINGER. Just to briefly say, Mr. Speaker, the President has agreed to the date. Obviously he is confident that he is in fact going to be reelected. I do not share that confidence, but he believes that he will be. Therefore, he is going to have that ability on January 1 in his view. The second thing is he has the key to provide the line-item veto to his use now upon signing a balanced budget agreement.

Mr. TRAFICANT. Reclaiming my time, I do not care if it is a Democrat or Republican, we are all Americans. We are expanding the power of the Presidency. That is not good for our country, Mr. Speaker.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the deputy whip, the gentleman from Illinois [Mr. HASTERT], a respected Member of the House.

Mr. HASTERT. Mr. Speaker, I thank the gentleman for yielding time to me.

This is the third time the House of Representatives has taken up legislation to raise the earnings limit for working seniors in the 104th Congress. I want to congratulate the gentleman from Texas [Mr. ARCHER], who I think for 13 Congresses has worked to make this thing possible. I also want to congratulate the gentleman from Kentucky [Mr. BUNNING], who is the chairman of the Social Security Subcommittee, along with Members of the 100th class who have been working on this project for another 8 years. They have made this thing happen.

Mr. Speaker, every time this legislation has come to the floor, it has passed with nearly a huge bipartisan margin. It is clear the House understands that working seniors, people who have to earn money by the sweat of their brow, usually people who have earned money by the sweat of their brow their whole life, who have not been able to accumulate huge savings or investments or those revenues or huge pensions, that today they have to go out and work to supplement their pension, to supplement their Social Security so that they can have a decent life, so that they can help put their grandchildren through college, so that they can maybe go on a vacation or somebody pay their property taxes or even buy a new car. These people are affected by this bill.

I am proud to be able to stand here today and say that those seniors will be able to make more money this year without paying a tax on work. Those seniors will be able to eventually realize and take the earnings test up to $30,000 so that they can share the benefits of work that all Americans can have without paying a penalty or a tax on it.

Mr. Speaker, I sincerely wish we were able to raise the limits faster, as in earlier versions of this bill, but I am glad we have been able to come up with a plan that the President will sign. The seniors need and deserve relief. They have waited patiently for too long. In fact, I think those people who have to work by the sweat of their brow, people who work at McDonald's and flower shops and drive school buses need a break today, and we are going to give it to them.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, to my friend, the gentleman from Pennsylvania [Mr. CLINGER], who is leaving this august body and has been a friend for a lot of years, everything that is in this bill that we are debating here today, as soon as the President signs it, will go into effect with the exception of the line-item veto; is that right?

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Speaker, as I indicated, this would also go into effect if the President would agree to the balanced-budget agreement.

Mr. HEFNER. The balanced budget is not what we are voting on.

□ 1330

The gentleman is saying to the President, If you will do what we want to do, we'll give you the line-item veto this year, but everything else extending the debt limit and everything else will go into effect as soon as he signs it, with the exception of the line-item veto which we passed well over a year ago, in the first year of this new administration.

Why? I do not understand why the gentleman would object to giving the President the line-item veto when he has got all these bills that are coming up for all the appropriations for everything that we authorized this year. Why would the gentleman want to wait until 1997, because we can save a lot of money? Would it have been possible until you make it effective as soon as the bill is signed?

Mr. Speaker, just as among friends here, we are just friends here, would it not have been possible to put into this legislation that as soon as the President signs it, he will have the line-item veto? It is just that simple.

Yes or no; could the gentleman have done it that way?

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. That could be done but would kill the conference agreement and prevent enactment of the bill. The President has in fact agreed that the date should be January——

Mr. HEFNER. That is not exactly true, Mr. CLINGER.

Mr. CLINGER. He did agree to that date; did he not?

Mr. HEFNER. That was the best he could get, but I think he would agree, if it were made possible, that the line-item veto would go into effect as soon as he—I do not think he would have any problem with that.

Mr. CLINGER. I would understand that, but if the gentleman would yield——

Mr. HEFNER. But it could be done.

Mr. CLINGER. There is a recognition that this is an effort to try to——

Mr. HEFNER. Mr. Speaker, taking back my time, the gentleman is setting

VOL
142
PT
5
MR
21
—
29
1996
UMI

the legislative agenda here. He could have made it in order that everything would go into effect, the line-item veto, everything, would have gone into effect. It could have been done; am I right or not? Yes or no?

Mr. CLINGER. No. Not and pass the bill.

Mr. HEFNER. I reclaim my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The time of the gentleman from North Carolina [Mr. HEFNER] has expired.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding this time to me.

The American farmer and the owner of a small business will be, at the end of this day, applauding the action of the Congress of the United States. For too long they have suffered the indignity of the Federal regulator, the agency head, who burdens the farmer and burdens the small business man with countless items of regulation that stifle business, it stifles the ability of the farmer to expand his operation and, thus, have created a situation in our country where entrepreneurs are afraid to hire new people, are afraid to embark on new enterprises.

What we do here today in reforming regulatory flexibility is for the first time give a disaffected regulatee, if there be such a word, the right to appeal a burdensome regulation that has been foisted upon them by administrative agencies. That is a tremendous advance. Instead of having to sit back and take whatever the agency says as a mandate, now for the first time we will have the farmer and the small business man say to himself and to the community, "I'll be able to do something about this adverse regulation."

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the distinguished gentleman for yielding this time to me, and let me just say I support this legislation in every aspect of it. I think many, many good things are happening here.

I only have a minute and a half. I want to talk about the line-item veto. I think we need to look at the record first of all. Congress over the years, Republicans and Democrats, have spent a tremendous amount of money, more than, perhaps, we should have. I think this country really wants mechanisms in place which are going to help us reduce that burden of spending, and I believe strongly the line-item veto will do it.

I have listened to this whole argument today because I am interested in it. As a Governor of a State for 8 years, I had the line-item veto. We are one of the 43 States which has it. I can tell my colleagues it was beneficial in my State from both points of view. It caused us to get into a room together and to discuss our budgets, and to make absolutely sure we were in concert with each other and we were doing what was in the best interests of the State. It was beneficial, without a doubt, to the budget process of the State of Delaware and I am convinced it will be beneficial to the budget process of the United States of America.

We, in my judgment, are not yielding power to the President absolutely. We are allowing the President to become involved in the budget process. But we also retain the right to override vetoes in the circumstances in which they arise, and, quite frankly, if we have a President who for political reasons, ideological reasons, political reasons, whatever it may be, decides to make an issue of all of this, we have the ability to just as easily point out that it is politics and that it is wrong.

What will really happen in this process is that we will be able to sit down together to negotiate things that are absolutely in the pork barrel category. They can be eliminated.

So for the reasons of that and the rest of this very good bill I hope we will all support it here in a few minutes.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. QUINN].

Mr. QUINN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise today in support of the entire bill which includes the most important line-item veto. This 104th Congress has been hailed as a reform-minded Congress. We have made historic attempts to cut wasteful Government spending, scale back a bloated bureaucracy and, most importantly, balance our Federal budget.

Although we have made great strides in these areas, our budgets still suffer from a deficit increasing plague which is known as pork barrel spending. In order to complete this goal of returning fiscal responsibility to the Federal Government, we must enact this measure.

With the line-item veto the President can literally draw a line through any item in the Federal budget without having to veto the entire budget. No longer will taxpayer dollars be spent on wasteful projects. Instead, the stroke of a pen from the President will eliminate millions of dollars of pork from each year's budget.

Furthermore, these savings will go into a lockbox, insuring that they be used for deficit reduction. In fact, the General Accounting Office, during the course of our discussion on this matter these last 2 years, has reported that they would have saved or been able to save over $70 billion had the line-item veto been in effect.

Mr. Speaker, we are here again with this opportunity to pass a historic measure. On a day when we are asking to support an increase in the debt limit to a record $5.5 billion, I think it is imperative and it is appropriate that we give the President this authority.

Mr. Speaker, I also want to take a moment at this time to commend our colleague, the gentleman from Pennsylvania [Mr. CLINGER], who is retiring after this session. We said yesterday at the Committee on Rules, I will say it again, his work on the line-item veto bill, as well as many other numerous reform problems and perspectives, has been truly remarkable. Without his effort it would still be stuck in conference. We appreciate his work and ask everybody to vote for the line-item veto.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentleman from Texas for yielding time to a person that wants to talk against the bill.

Mr. Speaker, what this bill does is increases the debt of the United States by $600 billion. At 5-percent interest, that is another $30 billion a year that taxpayers will have to pay.

I think it is unconscionable to continue to increase the debt without some guidelines, without some actual legislative change, at the very least some direction, to cut the spending of this overbloated Government. Borrowing has obscured the true siege of Government. Ultimately we must reach a balanced budget. This bill does not do that, and that is why I am voting against it.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. I thank the gentleman for yielding me the time.

Mr. Speaker, let me rise in opposition to H.R. 3136 and mention that, along with some of the Members who have spoken earlier, I, too, believe that this bill will ultimately be found constitutional if it is signed into law. I also note with curiosity that we made the line-item veto effective after the term of the current President, Bill Clinton, has expired, and I think that is somewhat questionable as to why this Congress, under the new majority, has decided not to allow this particular President the opportunity to exercise a line-item veto if they are so adamantly for it.

But let me mention something that I find extremely disturbing in this particular bill, which I cannot understand why it is even in here, and that is the whole issue of regulatory reform. I do not think there is any Member of Congress who does not wish to see regulatory flexibility and decreasing the burden on small business so long as we provide protections to the environment, to workers, and to people, our consumers.

But, disturbingly, this bill commits an end run on the whole issue of regulatory reform because what it does is it provides, in this particular piece of legislation, through an amendment which I must say just came to us last night, which amends this bill which came to us just 2 days ago, the whole structure used to regulate agencies and regulate businesses out there in this country. How someone is supposed to be able to know what something that they got 2 days ago completely means and then now have to analyze something that they got last night, what that means is beyond me. But that is what we are being asked to swallow here through this end run.

I am not sure what is wrong with this particular bill, but why was it that the majority was unwilling to let sunshine on these provisions so we could decide if, in fact, this is the true regulatory reform we need?

Let me mention a couple of other things. This legislation creates, in the regulatory reform provisions, so-called regulatory fairness boards and advocacy panels. These are panels and boards that may be made up completely of a few favored small businesses that are trying to get themselves out of regulation, or can even include people who are exclusively major campaign contributors to particular Members of Congress or to particular parties. That I find very disturbing and very offensive.

What else does this legislation do? It allows for private ex parte communications. In other words, all the interested parties are normally under the customary practice allowed to sit in, in an open and fair process on the record, on what should be done with regard to regulatory reform.

This legislation says no, we do not need to do that any more. Let us go ahead and let a few people who happen to sit on these boards or advocacy panels have the opportunity to privately, without the other interested parties, sit down with some of these agencies that are actually going to create these particular regulations or remove certain regulations. That is unfair to those businesses that are trying to do this in a fair and evenhanded manner.

Finally, the environment is at stake. I would urge all the Members to, if they really have a chance, take a look at this. We are going to take out the penalties for environmental violations of law.

As I was saying, take a look at the provisions that deal with environmental regulations. What we see here are waivers of penalties that would otherwise apply to those businesses that we find in violation of our clean water and safe drinking water standards. Any penalty for having violated those particular laws or regulations could be waived.

Not only that, but because we have not had enough time to examine it, it is going to be fairly clear from some of the cryptic language that is used that they are going to create a nest egg for attorneys, because they will be able to go in there and take this to court because so much of this is so difficult to understand. What they are doing though is putting the consumer at risk, they are putting the environment at risk, and I would urge Members to take a close look for all the reasons I stated on why we should oppose H.R. 3136.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume simply to very briefly respond to the gentleman who has just spoken.

Mr. Speaker, this legislation on small business regulatory reform should not come as a big surprise to him because it was debated thoroughly on the floor of this House last year. This was one of the elements of the Contract With America.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield 1½ minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I have voted on the three main components of this bill already, regulatory reform, Social Security earnings limit increase, and a line-item veto. I think it is very important that the American public knows what this bill is. This is adding things to increase the debt for our children. What is wrong with the scenario to say that we are in debt, we have no figured-out way, no agreed-to plan, to solve that debt, and we are going back to the bank to borrow more money?

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Mr. Speaker, the Members of this Congress need to make sure they know what they are doing when they vote to extend the debt and jeopardize the future of our children by not doing the proper thing in terms of living within our means today.

Consider what it will be like when we are 70 or 80 years of age. They will not, our children or grandchildren, be able to buy a home, will not be able to own a car. Their living standard will be halved, because we did the wrong thing today. This is not about the Social Security earnings limit, this is not about the line-item veto, this is not about reg reform, this is about not living up to the very hard responsibility that this Congress has been entrusted with, and that is not to live beyond our means.

I would urge each Member of Congress to consider what the real issue is here today, and vote not to extend his debt limit until we have an agreement that gives us a plan on how we manage the finances of this country.

Mr. CLINGER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in reluctant opposition to this legislation.

Mr. Speaker, I want my colleagues to know that I have absolutely no quarrel with the heart of this bill—the mechanism by which we enact a long-term increase in the debt limit. My colleagues know that I have long advocated decisive action on the debt limit and feel this step is long overdue. In addition, I have supported the increase in the Social Security earnings limit and believe the so-called reg flex provisions of this bill are an improvement on current law.

My opposition is prompted exclusively by the inclusion of the line-item veto in this must-pass legislation.

Mr. Speaker and my colleagues, enactment of the line-item veto is a serious error and a fundamental violation of the basic constitutional principal of the separation of powers. Every school child in America should have learned that. The separation of powers is a foundation of our democracy.

Mr. Speaker, Mr. David Samuels has it right in an Op-Ed piece in today's New York Times—"Line Item Lunacy." I include this article for the RECORD.

David Samuels writes:

> The line-item veto would hand over unchecked power to a minority President with minority support in Congress, while opponents would have to muster two-thirds support to override the President's veto.

[From the New York Times, Mar. 28, 1996]

LINE-ITEM LUNACY

(By David Samuels)

It's a scene from a paranoid thriller by Oliver Stone: A mercurial billionaire, elected President with 35 percent of the vote, holds America hostage to his minority agenda by vetoing item after item in the Federal budget, in open breach of the separation of powers doctrine enshrined in the Constitution. Impossible? Not anymore.

With the announcement by Republican leaders that they plan to pass the line-item veto this spring, the specter of a Napoleonic Presidency has moved from the far reaches of poli-sci fiction, where it belongs, to the brink of political possibility.

At the moment, of course, a Presidential dictatorship is far from the minds of the G.O.P. leadership and White House Democrats, who hope that the line-item veto would encourage the President to eliminate pork-barrel giveaways and corporate tax breaks. But to see the measure as a simple procedural reform is to ignore the forces that have reconfigured the political landscape since it was first proposed.

Back in the 1980's, President Ronald Reagan ritually invoked the line-item veto while shifting blame onto a Democratic Congress for ballooning deficits. Part Republican chestnut, part good-government gimmick, the line-item veto became part of the Contract With America in 1994, and this month rose to the top of the political agenda.

What the calculations of Democrats and Republicans leave out, however, is that the unsettled politics of the 1990's bear little relation to the political order of the Reagan years.

In poll after poll, a majority of voters express a raging disaffection with both major parties. With Ross Perot poised to run in November, we could again elect our President with a minority of the popular vote (in 1992,

VOL
142
PT
5
MR
21
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1996
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Mr. Clinton won with 43 percent). The line-item veto would hand over unchecked power to a minority President with minority support in Congress, while opponents would have to muster two-thirds support to override the President's veto.

By opening every line in the Federal budget to partisan attack, the likely result would be a chaotic legislature more susceptible than ever to obstructionists who could demand a Presidential veto of Federal arts funding or sex education programs or aid to Israel as the price of their political support.

And conservatives eager to cut Government waste would do well to reflect on what a liberal minority might do to their legislative hopes during a second Clinton term in office.

Nor would the line-item veto likely result in more responsible executive behavior. The zigs and zags of Bill Clinton's first term in office give us a clear picture of the post-partisan Presidency, in which the executive freelances across the airwaves in pursuit of poll numbers regardless of the political coherence of his message or the decaying ties of party. With the adoption of the line-item veto, the temptation for Presidents to strike out on their own would surely grow.

The specter of a President on horseback armed with coercive powers might seem far away to those who dismissed Ross Perot as a freak candidate in the last election. Yet no law states that power-hungry billionaires must be possessed of Mr. Perot's peculiar blend of personal qualities and doomed to fail. Armed with the line-item veto, a future Ross Perrot—or Steve Forbes—would be equipped with the means to reward and punish members of the House and Senate by vetoing individual budget items. This would enable an independent President to build a coalition in Congress through a program of threats and horse-trading that would make our present sorely flawed system seem like a model of Ciceronian rectitude.

President Clinton has promised to sign the line-item veto when it reaches his desk. Between now and then, the historic breach of our constitutional separation of powers that the measure proposes should be subject to a vigorous public debate. At the very least, we might reflect on how we intend to govern ourselves at a time when the certainties of two-party politics are dissolving before our eyes.

He's absolutely right! A pure line-item veto—and the version included in this bill is fairly pure—would give the President of the United States new dramatic, unilateral powers. It would mean that any President, operating in league with just 34 Senators, could strip any spending proposal or tax cut, no matter their merit, from any bill. The consolidation of power in the executive branch is undeniable.

As Mr. Samuels writes, "By opening every line in the Federal budget to partisan attack, the likely result would be a chaotic legislature more susceptible than ever to obstructionists . . ."

This line-item veto could easily take legislative horse-trading to a new level. While many President's have held out the prospect of pork in order to enlist votes for legislation they wanted—that is, the vote trading that occurred during the NAFTA debate—the line-item veto will allow a President to threaten specific programs and projects proposed by Members in order to compel their cooperation on other votes.

This is a dramatic shift in the balance of power is an open invitation to any President to engage in legislative blackmail. For example, what if President Clinton decided to remove only Republican initiatives from a measure? If 34 Democratic Senators uphold his action, the President wins.

We all recognize the genius of the framers of our U.S. Constitution. They did not want a king or a dictator or an oligarchy—a small group ruling the Nation. So they wrote the Constitution based on a delicate system of checks and balances and the separation of powers doctrine.

I have supported a so-called expedited rescissions process which will maintain the delicate balance of powers by allowing the President to reject spending and tax changes with a majority vote of Congress.

I am convinced, however, that the Supreme Court of the United States will save this Congress from itself. This proposed violates the foundation of our Constitution and will be overturned at its first judicial challenge.

Mr. Speaker, I regret that inclusion of this line-item veto will force me to vote "no" on this vital legislation.

Many of my colleagues know that I have been a strong voice urging quick passage of a long-term debt limit extension. I spoke out on this issue as early as November 15 in a letter to Speaker GINGRICH and again in letters in late January, in late February, and early March.

And today—finally, finally—we are doing the right thing.

For too long, many in this Congress threatened to use this long-term debt limit extension bill as leverage in the effort to enact entitlement reform or other legislation.

That was playing with fire.

When it comes to our financial obligations, the stakes are simply too high. In its 219-year history, the United States has never defaulted on its financial obligations. The full faith and credit of the United States must not be jeopardized.

Default could set off a chain reaction of economic events, at home and abroad, that could be both uncontrollable and catastrophic. Even talking about a default carries costs that are being borne by the taxpayers and private businesses.

As Members dedicated to fiscal responsibility and protecting the economic future of our country, I am pleased that we are finally taking responsible action to increase the debt ceiling and, in doing so, avoid default.

Mr. Speaker, I also support enactment of a phased increase in the Social Security earnings limit and the provisions of the small business regulatory flexibility act.

Mr. CLINGER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, 75 percent of the American people support the line-item veto, and have supported the line-item veto for a long time. I am sorry the gentleman from North Carolina did not stay on the floor. He asked me the question, could we not have made this effective now? I would return the question and say why did not the majority, the then-majority party, provide a line-item veto for the 40 years in which they controlled this body?

It has been suggested that there are a number of reasons why we should not enact this legislation. It has been suggested that it is unconstitutional. It is not really our job to determine what is constitutional or what is not unconstitutional, but the fact is that we do provide severability in this measure. If a provision, any provision of the matter is considered to be unconstitutional, it can be stricken and the rest of the matter can stand.

It has also been suggested, Mr. Speaker, that we have engaged in a reckless transfer of power. I would suggest, on the contrary, this provides the President with a refined tool to attack the deficit problem that looms over us. It merely gives him an effort to be more selective in the way that he goes about deficit reduction.

Congress retains the power to override any Presidential veto. We have not given that power away. I am sure that we will exercise that power. We also limit his ability to do this to whole dollar amounts. He cannot single out projects unless they are congressional earmarks. He has to take out the entire amount if he is going to do anything, so that was, I think, an important addition that we got in conference.

Mr. Speaker, there are the dire results that have been indicated by some of the Members who have spoken against this measure, if, in fact, that turns out to be true, there is a sunset provision in this legislation that provides that there will be an opportunity to review this matter at a time within 8 years. Mr. Speaker, I think this is a reasonable, a reasoned, and a sensible measure that should be enacted.

I want to discuss just one other brief area that needs clarification in this legislation. We created small business and agriculture enforcement ombudsmen who would be appointed by the Administrator in the SBA. Concerns have arisen in the inspector general community that those ombudsmen would have new enforcement powers that would conflict with those currently held by the inspectors general. I want to make it very clear that nothing in this act is intended to supercede or conflict with the Inspector General Act of 1978, as amended, or to otherwise restrict or interfere with the activities of any office of the inspector general but, rather, be used to help our small business and work with the inspectors general.

Mr. Speaker, I urge a strong bipartisan support for the increase in the debt limit and the line-item veto and regulatory reform.

Mr. Speaker, I include for the RECORD a letter from the Joint Committee on Taxation containing examples of how the tax provisions of this measure would work.

The material referred to is as follows:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, March 26, 1996.

Hon. PETER BLUTE,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. BLUTE: This is in response to your letter of March 24, 1996, in which you requested the staff of the Joint Committee on Taxation to prepare some examples of how the provisions of S. 4, the "Line Item Veto Act," would apply to tax legislation.

The Line Item Veto Act provides that each "limited tax benefit" is subject to the President's line-item veto authority. In general, the Line Item Veto Act defines a "limited tax benefit" as any provision prescribing tax consequences under the Internal Revenue Code that is either (1) a revenue-losing provision that provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries in any fiscal year for which the provision is in effect (subject to certain exceptions described below); or (2) a Federal tax provision that provides temporary or permanent transitional relief to 10 or fewer beneficiaries in any fiscal year, except to the extent that the provision provides for the retention of prior law for all binding contracts (or other legally-enforceable obligations) in existence on a date contemporaneous with Congressional action specifying such a date. The Joint Committee on Taxation is responsible for identifying limited tax benefits.

A provision is defined as "revenue-losing" if it results in a reduction in Federal tax revenues either for the first year in which the provision is effective or for the 5-year period beginning with the fiscal year in which the provision is effective. A revenue-losing provision that affects 100 or fewer beneficiaries in a fiscal year is not a limited tax benefit if any of certain enumerated exceptions is satisfied. First, if a provision has the effect of providing all persons in the same industry or engaged in the same activity with the same treatment, the item is not a limited tax benefit even if there are 100 or fewer persons in the affected industry. For this purpose, the staff of the Joint Committee on Taxation believes that a broad definition of "activity" is intended to be applied, e.g. for purposes of determining whether a proposal related to drug testing is a limited tax benefit, all persons engaged in drug testing would be considered to be engaged in the same activity or the same industry rather than all persons engaged in clinical testing of drugs for certain diseases. A second exception is for provisions that have the effect of providing the same treatment to all persons owning the same type of property or issuing the same type of investment instrument. Finally, a provision is not a limited tax benefit if the only reason the provision affects different persons differently is because of: (1) the size or form of the business or association involved; (2) general demographic conditions affecting individuals, such as their income level, marital status, number of dependents, or tax return filing status; (3) the amount involved; or (4) a generally available election provided under the Internal Revenue Code.

We have made a preliminary review of the Balanced Budget Act of 1995 (the "BBA"), as passed by the Congress, and have also provided examples of items from earlier legislation that would constitute limited tax benefits if the Line Item Veto Act were in effect at the time such provisions were enacted. (The Line Item Veto Act is scheduled to go into effect on January 1, 1997, or the day after a seven-year balanced budget act has been enacted, whichever is earlier.) The attached list is not intended to be dispositive of exhaustive. The Joint Committee staff continued to analyze the provisions in the BBA and other tax legislation and it is possible that additional provisions will be identified as limited tax benefits.

I hope that this information is helpful to you. If we can be of further assistance, please let me know.

Sincerely,

KENNETH J. KIES,
Chief of Staff.

EXAMPLES OF LIMITED TAX BENEFITS WITHIN THE MEANING OF S. 4, THE LINE-ITEM VETO ACT

THE BALANCED BUDGET ACT ("BBA") OF 1995

1. Exemption from the generation-skipping transfer tax for transfers to individuals with deceased parents (sec. 11074)

Under present law, a generation-skipping transfer tax generally is imposed on transfers to an individual who is more than one generation younger than the transferor. An exception provides that a transfer from a grandparent to a grandchild is not subject to the generation-skipping tax if the grandchild's parent (who is the grandparent's child) is deceased at the time of the transfer. The BBA provision would expand the present-law exception to apply also in other limited circumstances, e.g., to transfers to grandnieces and grandnephews whose parents are deceased.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. It does not provide the same treatment to all persons engaged in the same activity—making generation-skipping transfers—because transfers to individuals with deceased parents would be treated differently than transfers to individuals whose parents are still alive.

2. Extension of the orphan drug tax credit (sec. 11114)

Prior to January 1, 1995, a 50-percent tax credit was allowed for qualified clinical testing expenses incurred in the testing of certain drugs for rare diseases or conditions. The BBA provision would extend the credit through December 31, 1997.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 drug companies in at least one fiscal year in which the provision would be in effect, and all persons engaged in the activity of drug testing are not treated the same. Only certain types of drug testing would qualify for the credit.

3. Extension of binding contract date for biomass and coal facilities (sec. 11142)

Under present law, a tax credit is provided for fuel produced from certain "nonconventional sources." In the case of synthetic fuel produced from coal and gas produced from biomass, the credit is available only for fuel from facilities placed in service before January 1, 1997, pursuant to a binding contract entered into before January 1, 1996. The BBA provision would extend the credit to facilities placed in service before January 1, 1998, pursuant to a binding contract entered into before July 1, 1996.

This provision is a "limited tax benefit" because it loses revenue, it is expected to affect fewer than 100 fuel producers, and all persons engaged in the production of fuel from nonconventional sources are not treated the same. Persons producing fuel from nonconventional sources in facilities placed in service after July 1, 1996 would not be eligible for the credit.

4. Exemption from diesel fuel dyeing requirements with respect to certain States (sec. 11143)

Under present law, an excise tax is imposed on all diesel fuel removed from a terminal facility unless the fuel is destined for a nontaxable use and is indelibly dyed pursuant to Treasury Department regulations. A similar dyeing regime exists for diesel fuel under the Clean Air Act, but the State of Alaska is partially exempt from the dyeing regime of the Clean Air Act. The BBA provision would exempt diesel fuel sold in the State of Alaska from the excise tax dyeing requirement during the period when that State is exempt from the Clean Air Act dyeing requirement.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. The provision does not treat all persons engaged in the same activity the same way, because persons removing diesel fuel from terminals in Alaska would be treated differently than those removing diesel fuel from terminals in other areas of the United States.

5. Common investment fund for private foundations (sec. 11276)

The BBA provision would grant tax-exempt status to any cooperative service organization comprised solely of members that are tax-exempt private foundations and community foundations, if the organization meets certain requirements and is organized and operated solely to hold, commingle, and collectively invest and reinvest funds contributed by the members in stocks and securities, and to collect income from such investments and turn over such income, less expenses, to the members.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. The provision does not treat all persons engaged in the same activity the same way, because mutual funds that are engaged in the same type of activity, i.e., collectively investing funds in stocks and securities, would not receive the benefit of the provision.

6. Transition relief from repeal of section 936 credit (sec. 11305)

Under present law, certain domestic corporations with business operations in the U.S. possessions may elect the section 936 credit which significantly reduces the U.S. tax on certain income related to their operations in the possessions. The BBA generally would repeal section 936 for taxable years beginning after December 31, 1995. However, transition rules would be provided under which corporations that are existing claimants under section 936 would be eligible to claim credits for a transition period. One of these transition rules would allow a corporation that is an existing claimant with respect to operations in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands to continue to determine its section 936 credit with respect to its operations in such possessions under present law for its taxable years beginning before January 1, 2006.

This transition rule for corporations operating in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands is a "limited tax benefit" because it is

VOL 142 PT 5 MR 21 — 29 1996 UMI

expected to provide transitional relief from a change to the Internal Revenue Code to 10 or fewer beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not meet the binding contract exception.

7. Modification to excise tax on ozone-depleting chemicals (sec. 11332)

Under present law, an excise tax is imposed on the sale or use by the manufacturer or importer of certain ozone-depleting chemicals. Taxable chemicals that are recovered and recycled within the United States are exempt from tax. The BBA provision would extend the exemption to imported recycled halons.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 importers in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. Although anyone who imports recycled halons would receive the same treatment under the provision, others engaged in the manufacture or import of ozone-depleting chemicals would not qualify for the exemption.

8. Modification to tax-exempt bond penalties for local furnishers of electricity and gas (sec. 11333)

Under present law, tax-exempt bonds may be issued to benefit private businesses engaged in the furnishing of electric energy or gas if the business's service area does not exceed either two contiguous counties or a city and one contiguous county. If, after such bonds are issued, the service area is expanded beyond the permitted geographic area, interest on the bonds becomes taxable, and interest paid by the private parties on bond-financed loans becomes nondeductible. The BBA provision would allow private businesses engaged in the local furnishing of electricity or gas to expand their service areas beyond the geographic bounds allowed under present law without penalty under certain specified circumstances.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. All persons engaged in the activity of generating electricity or gas would not be treated the same.

9. Tax-exempt bonds for sale of Alaska Power Administration Facility (sec. 11334)

Under present law, tax-exempt bonds may be issued for the benefit of certain private electric utilities. If the bonds are used to finance acquisition of existing property by these utilities, a minimum amount of rehabilitation must be performed on the property as a condition of receiving the tax-exempt bond financing. The BBA provision would waive the rehabilitation requirement in the case of bonds to be issued as part of the sale of the Snettisham facility by the Alaska Power Administration.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit only one issuer of tax-exempt bonds, and it does not fall within any of the stated exceptions. No other issuers of tax-exempt bonds would benefit from the provision.

10. Transitional rule under section 2056A (sec. 11614)

Under present law, a marital deduction generally is allowed for estate and gift tax purposes for the value of property passing to a spouse. The marital deduction is not available for property passing to a non-U.S.-citizen spouse outside a qualified domestic trust ("QDT"). The requirements for a qualified domestic trust were modified in the Omnibus Budget Reconciliation Act of 1990 ("OBRA 1990"). The BBA provision would allow trusts created before the enactment of OBRA 1990 to qualify as QDTs if they satisfy the requirements that were in effect before the enactment of OBRA 1990.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. The provision would benefit a closed group of taxpayers. Trusts created before the enactment of OBRA 1990 would be treated differently than trusts created after the enactment of OBRA 1990.

11. Organizations subject to section 833 (sec. 11703)

Present-law section 833 (created in the Tax Reform Act of 1986) provides special tax benefits to Blue Cross or Blue Shield organizations existing on August 16, 1986, which have not experienced a material change in structure or operations since that date. The BBA provision would extend this special rule to other similarly-structured organizations that were in existence on August 16, 1986, and have not materially changed in structure or operations since that date.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and all persons engaged in the same activity would not be entitled to take the benefit. The benefit would be available only to a closed group of taxpayers that were in existence in 1986, and would not be available to any newly formed entities.

EXAMPLES OF "LIMITED TAX BENEFITS" FROM OTHER STATUTES

1. The original income tax, as enacted in 1913, exempted the sitting President

The 1913 Act imposing the first income tax provided an exemption for the sitting President of the United States for the remainder of his term. If the Line Item Veto Act had been applicable at the time, the President would have had the option of canceling this "limited tax benefit."

2. Financial institution transition rule to interest allocation rules

A provision in the Tax Reform Act of 1986 changed the rules relating to how multinational corporations allocate interest expense for foreign tax credit purposes. The provision included a favorable rule for banks, and also included a special exception allowing "certain" nonbanks to use the favorable bank rule. The special exception applied to any corporation if "(A) such corporation is a Delaware corporation incorporated on August 20, 1959, and (B) such corporation was primarily engaged in the financing of dealer inventory or consumer purchases on May 29, 1985, and at all times thereafter before the close of the taxable year." P.L. 99–514, 100 Stat. 2548, sec. 1215(c)(5).

This transition rule would have been a "limited tax benefit" if it were expected to provide transitional relief from a change to the Internal Revenue Code to 10 or fewer beneficiaries in at least one fiscal year in which the provision would be in effect. (In retrospect, it is believed that 10 or fewer beneficiaries actually received the benefit of this provision.)

3. Community development corporations

The Omnibus Budget Reconciliation Act of 1993 included a provision that created an income tax credit for entities that make qualified cash contributions to one of 20 "community development corporations" ("CDCs") to be selected by the Secretary of HUD using certain selection criteria. Each CDC could designate which contributions (up to $2 million per CDC) would be eligible for the credit.

This provision would have constituted a "limited tax benefit" if it were expected to provide a benefit to 100 or fewer contributors in at least one fiscal year in which the provision would be in effect. (In retrospect, it is believed that 100 or fewer contributors received the benefit of this provision.) All persons who engage in the activity of making contributions to CDCs are not treated the same, and the difference is not based upon size, filing status, or any of the other enumerated factors.

4. Exemptions from cutbacks in meal and entertainment expense deductions

Prior to 1986, a 100-percent deduction was provided for certain meal and entertainment expenses. In 1986, the deduction was reduced to an 80-percent deduction. In 1993, the deduction was again reduced, to a 50-percent deduction. In both 1986 and 1993, an exemption was provided for food and beverages provided on an offshore oil or gas platform or drilling rig. A separate exemption was provided for support camps in proximity to and integral to such a platform or rig, if the platform or rig is located in the United States north of 54 degrees north latitude (i.e., in Alaska).

These exemptions both would have been "limited tax benefits" in 1986 if they had been expected to provide transitional relief from a change to the Internal Revenue Code to 10 or fewer beneficiaries in at least one fiscal year in which the provision would be in effect.

5. Transition relief from private activity bond requirements

The Omnibus Budget Reconciliation Act of 1987 created a new category of private activity bond for bonds issued by a governmental unit to acquire certain nongovernmental output property, e.g., electrical generation facilities. Such bonds generally are subject to a State's annual private activity volume limitation. However, specific transition relief was provided for "bonds issued—(A) after October 13, 1987, by an authority created by a statute—(i) approved by the State Governor on July 24, 1986 and (ii) sections 1 through 10 of which became effective on January 15, 1987, and (B) to provide facilities serving the area specified in such statute on the date of its enactment."

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit only on issuer of tax-exempt bonds, and it does not fall within any of the stated exceptions. No other issuers of tax-exempt bonds would benefit from the provision.

6. Various Tax Reform Act of 1986 provisions

The Tax Reform Act of 1986 contains a number of provisions that are clearly targeted to only one taxpayer (in some cases, even referring to the taxpayer by name). For example:

"* * * indebtedness (which was outstanding on May 29, 1985) of a corporation incorporated on June 13, 1917, which has its principal place of business in Bartlesville, Oklahoma." (sec. 1215(c)(2)(D))

"In the case of an affiliated group of domestic corporations the common parent of

which has its principal office in New Brunswick, New Jersey, and has a certificate of organization which was filed with the Secretary of the State of New Jersey on November 10, 1887 * * *" (sec. 1215(c)(6)(A))

A facility if "(i) such facility is to be used by both a National Hockey League team and a National Basketball Association team, (ii) such facility is to be constructed on a platform using air rights over land acquired by a State authority and identified as site B in a report dated May 30, 1984, prepared for a State urban development corporation, and (iii) such facility is eligible for real property tax (and power and energy) benefits pursuant to State legislation approved and effective as of July 7, 1982." (sec. 1317(3)(S))

"A project is described in this subparagraph if such project is consistent with an urban renewal plan adopted or ordered prepared before August 28, 1986, by the city council of the most populous city in a state which entered the Union on February 14, 1859." (sec. 1317(6)(U))

A facility if "(i) such facility is to be used for an annual civic festival, (ii) a referendum was held in the spring of 1985 in which voters permitted the city council to lease 130 acres of dedicated parkland to such festival, and (iii) the city council passed an inducement resolution on June 19, 1986." (sec. 1317(7)(J))

A residential rental property if "(i) it is a new residential development with approximately 98 dwelling units located in census tract No. 4701, and (ii) there was an inducement ordinance for such project adopted by a city council on August 14, 1984." (sec. 1317(13)(M))

"A facility is described in this subparagraph if it consists of the rehabilitation of the Andover Town Hall in Andover, Massachusetts." (sec. 1317(27)(I))

Proceeds of an issue if "(i) such issue is issued on behalf of a university established by Charter granted by King George II of England on October 31, 1754, to accomplish a refunding (including an advance refunding) of bonds issued to finance 1 or more projects, and (ii) the application or other request for the issuance of the issue to the appropriate State issuer was made by or on behalf of such university before February 26, 1986." (sec. 1317(33)(C))

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas [Mr. ARMEY].

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Texas [Mr. ARMEY] is recognized for 12 minutes.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, when we wrote the Contract With America, we promised the American people a new deal, a change, a real change which would be meaningful in their real lives. We promised innovation and responsiveness.

Today we bring forward the Contract With America Advancement Act, and it includes the line-item veto. The line-item veto is something the American people have called for for years. The chairman of the committee, the gentleman from Texas [Mr. ARCHER], who first came to Congress with Richard Nixon was in the White House, introduced the line-item veto at that time.

Through the end of the Nixon Presidency and through the Ford Presidency, through the Carter Presidency, the Reagan Presidency, the Bush Presidency, and thus far through the Clinton Presidency, the chairman has fought for a line-item veto, and through all that time the other party, while in the majority, were unwilling to give this authority to the President of the United States. They were unwilling to give this authority to any President, Republican or Democrat, because they claimed it for themselves, in defiance of the will of the American people. Today we will pass it, Mr. Speaker.

We promised and we are delivering today, regulatory reform to give relief to the small business men and women of this country who create the majority of our new good jobs. Again, we are trying to roll back the regulatory steamroller that has been running over small business in America and has been the hallmark of initiatives of the past Democrat majorities.

In this landmark piece of legislation, we are increasing the limitation on earnings available to our senior citizens before they see a reduction of their Social Security benefits, benefits that were bought and paid for with after-tax dollars throughout all their working years, a simple justice for senior Americans, denied to them for all these years by the Democrat majorities in the past.

They say we are late in getting this done. In the first few months of the second session of our first term in the majority in 40 years, they say we are late in getting done what it is they never would or never could even try to do. We will stand on our promptness. These contract items that will go forward today, I expect the President will sign. Unhappily, he has vetoed others.

The President has already vetoed lower taxes for the working men and women of this country. Welfare reform, much needed and much called for by the people of this country, the President has vetoed twice. A balanced budget the President has vetoed; significant spending reductions and reform, the President has vetoed. The President has not been an agent of change for the American people, Mr. Speaker. The President has been a veto for the status quo.

When the President vetoed these bills, he shut down the Government, and yes, he won a short-term public relations battle. Many were counting us out in our new majority by the end of last year, but we came back in March, and we are back. We have just completed the most productive month of this Congress. During this month of March we have passed a farm bill that is truly revolutionary, taking agriculture in a new direction of freedom for all Americans.

As I have observed the move of farm policy in the past, I have found myself observing that when the American farmers bit on it and joined a partnership with the Federal Government, they became the junior partners, not free on their own land. We are fixing that this month.

We are passing this month a job that we began in 1990, that we had prepared in 1991, that was disallowed to come to this floor by the Democrat majority in 1991, that would move health legislation to end job lock, and would make insurance more affordable for all Americans. That will be done before we leave this week.

We will pass this week product liability reforms. The gentleman from Illinois, HENRY HYDE, our distinguished chairman of the Committee on the Judiciary, sat on that committee for 22 years, 22 years of time when the American people cried for relief from the product liability laws that were choking off job creation in America, and the gentleman from Illinois never got to see even a single hearing on the subject under Democrat chairmen. We will pass that on to the President this week. He says he will veto it on behalf of the trial lawyers.

We have passed already in March the most effective death penalty ever. We have passed an immigration reform that, one, protects our borders; and two, reflects the true openness and compassion to lovers of freedom that this country has demonstrated through its foundation and through its entire history.

Today in Roll Call, Mr. Speaker, this legislation was called landmark and nontraditional. It is landmark and it is nontraditional, nontraditional in the sense that for the past 40 years we had a do-nothing majority that only chose to build on the status quo, never chose to dare to take a chance on freedom, never chose to dare to innovate, never chose to keep faith and be responsive to the demands of the American people.

We are doing that today, and we will do that through the rest of this term, and we will do that in the next Congress, because, Mr. Speaker, the American people deserve a Congress that has the ability to know their goodness and the decency to respect it. That is what they will have.

Mr. SKAGGS. Mr. Speaker, this is one of those occasions when every Member should be mindful of the undertaking that we make at the beginning of every Congress to protect and defend the Constitution of the United States, because adopting the line-item veto provision in this proposed bill would run absolutely counter to that obligation. The first words of Article I, sec. 1 of the Constitution are, "All legislative powers herein granted shall be vested in a Congress of the United States." Later in Article I, sec. 7 dealing with the President's responsibility with regard to legislation, the Constitution states as follows: "If he approve, he shall sign it,"—the bill—"but, if not, he shall return it with his objections."

Those are the basic parameters of the legislative responsibilities that we have under the

VOL
142
PT
5
MR
21
—
29
1996
UMI

Constitution and that the President has under the Constitution, and it is not in our power to change them. It is our responsibility in fact to respect and preserve them.

While our friends across the ocean in Britain are having second thoughts these days about their monarchy, this line-item veto provision will effectively start the accretion of monarchical power in the American presidency. The Founders would surely be appalled.

Incredibly, under this proposal, after an appropriations bill has been passed by the Congress and signed it into law, the President can repeal, the authors of this bill say "cancel," those parts of that law he opposes by the mere act of writing them down on paper and sending the list to Congress. This "repeal" power may be suitable for Royalty but it is an unconstitutional insult to the principle of representative democracy.

Recall those grand words of the Declaration of Independence in which we protested the usurpation of power by King George, and mark my words, we will live to regret the usurpation of power that we invite on the part of future Presidents of the United States if this provision becomes law.

Thank God the courts stand ready to do the right thing and to find this provision, as it is, contrary to the Constitution.

The Supreme Court has spoken to this issue most recently and on point in the Chadha case, there making it absolutely clear that the powers of neither branch with respect to the division of responsibility on legislation can be legislatively eroded.

What is even more bizarre in this particular proposal is the provision for the 5 day cancellation period. Now think about that. This is a metaphysical leap of Herculean proportions.

The enactment provisions of the Constitution say that once the President signs a bill, it shall be law. We propose that he then has a 5 day cancellation right, after signing a bill? That is absolutely absurd. This defies any logical reading of the clear meaning to the provisions of the Constitution that delineate the roles and powers of Congress and the President with respect to legislation.

But beyond the constitutional arguments, this proposal is fundamentally unwise. And, sadly, it manifests a shameful disrespect by us of our own responsibilities and the Constitution.

On the large issues, let us think back to what would have happened during the Reagan administration, with a President who, for his own reasons, sent budgets to this body zeroing most categories of education funding in the Federal budget. Presumably, if that President had this power, it would be exercised to eliminate most education funding by the United States Government, and 34 Senators representing 9 percent of the people of this country, in league with the President, could have brought about the outcome.

The invitation to usurpation that lies in this language is even more pernicious and can also be understood by going back to the late eighties, when we were still debating whether we would continue aid to the Contras. Now, let's say I happened to have been fortunate enough to have gotten a provision in an appropriations bill for a needed post office or a needed courthouse in my district, and the bill was down at the White House awaiting signature at the same time we were debating aid to the Contras. I would guarantee you I would have gotten a call from someone at the White House saying "Congressman, I notice you had some success in dealing with this need in your district. We are pleased at that, but we need your support on aid to the Contras." The not so subtle message: your vote on what we want, or you lose the post office.

That is the kind of extortionate excess of power that we are inviting future presidents to apply.

Pick your issue. That is one that comes to my mind.

It is clear that the Governors of the several States who have this power use it in exactly this way, to get their version of spending adopted. As one former Governor recently stated, the real use of the line-item veto power he had as Governor was not to control a bloated budget but to persuade legislators to change their votes on important issues. Ironically, this may actually result in more spending; in most cases, certainly no reduction.

Last year, the majority in this body rejected the expedited rescissions proposal that represented a constitutionally acceptable approach to this issue, requiring each Member of Congress to be accountable with a specific vote on any items a President might find objectionable enough to rescind. Without that mechanism for requiring congressional reconsideration, the line-item veto proposal before us is clearly unconstitutional.

The language in the Constitution clearly gives Congress the responsibility for crafting legislation, while the President is limited to simple approval or disapproval of bills presented to him. Article I, section 7 refers to the President returning a bill, not pieces of a bill. Yes, the Constitution allows the President to state his objections to a bill upon returning it, but the objections merely serve as guidelines for Congress should it choose to redraft the legislation.

We have no legitimate power to pass a statute to the contrary. The Constitution does not allow the President to repeal a provision of law by striking a spending level approved by Congress. We have no legitimate power to pass a statute to the contrary.

As the Supreme Court noted in its decision I.N.S. versus Chadha, "Explicit and unambiguous provisions of the Constitution prescribe and define the respective functions of the Congress and of the Executive in the legislative process."

The Court continues, "These provisions of Article 1 are integral parts of the constitutional design for the separation of powers." The line-item veto proposal in the bill before us would impermissibly alter the "constitutional design for the separation of powers" between the executive and legislative branches by allowing the President singlehandedly to repeal or amend legislation which Congress has approved, and the President has already signed into law.

The Framers were deliberate and precise in dividing legislative powers. In the Federalist papers, Hamilton and Madison both expressed the view that the legislature would be the most powerful branch of government. Thus, they also recognized the need for some checks on its powers. So, the Constitution provides for a bicameral legislature, with each body elected under different terms and districts. And it affords the President a veto power. Other constraints are also imposed, such as requirements for origination of certain legislation in the House.

The President's veto power, as a check on Congress, was recognized to be a blunt instrument. As Hamilton explains in Federalist 73, the Framers acknowledged that with the veto power "the power of preventing bad laws includes that of preventing good ones." It was their sense, however, that "the negative would be employed with great caution."

The line-item veto being considered today, by providing the President with the authority to repeal or "cancel" appropriations and some tax laws, turns the framework defined in article I, section 7 on its head. What the President might decide to "cancel" under this provision is simply repealed, unless the Congress goes through an entire repetition of the article I legislative process, including a two-thirds vote of both houses. This would allow the President and a minority in only one house of Congress to frustrate the will of the majority—an outcome that-flies in the face of the constitutional principle of majority rule.

Finally, Mr. Speaker, I must comment on a very deceptive provision of this line-item veto bill. The authors of the bill claim it doesn't focus unfairly on appropriations bills—which traditionally include funding for education, environmental, health, and other governmental programs—because it also includes tax provisions among the items the President can "cancel."

But, the only tax provisions that can be cancelled are "limited tax benefits," defined as revenue-losing provisions that provide a benefit to "100 or fewer beneficiaries under the Internal Revenue Code of 1986." A tax break for a particular industry that takes millions of dollars out of the Federal treasury can't be cancelled by the President. And even a so-called limited tax break can be easily finessed—that is, immunized from veto—if the conference report merely fails to identify it as such.

Why? I think the answer is obvious. Many members of the majority party are fond of handing out tax breaks to their friends in particular industries. So, under this bill, a member who wants to include funding in an appropriations bill for a national park in her Congressional District must worry about the President cancelling a benefit to her District, but a member who wants to provide funding to his favorite industry or business by including a tax break in a larger tax bill doesn't need to be concerned.

Mr. Chairman, this proposal goes too far in fuzzing the separation of powers set forth in the Constitution. It subjects members of Congress to a new, extreme form of executive branch pressure. It unfairly targets appropriation expenditures while ignoring most tax expenditures. I urge my colleagues to reject it before it is rejected by the courts. Regrettably, this provision so taints this entire bill, otherwise needed to extend the debt limit, that the bill itself should be defeated.

Mr. STEARNS. Mr. Speaker. I rise in support of this legislation to raise the debt ceiling because I do not believe we can allow our Government to go into default. To do otherwise would wreak havoc on our Nation's good standing and would result in Social Security and Veterans benefits from being sent out.

It is difficult to take this action but I can tell you that because of this Congress' vigilance we have already saved approximately $23 billion in spending over the past year. This is a very good start on the road to achieving a balanced budget.

There are two provisions in particular that are included in this measure that allow me to vote in favor of H.R. 3136.

We provide the means to give the President the line-item veto. President Reagan asked Congress over and over again—"Give me the line-item veto." If only Congress had given him this mechanism for fiscal discipline, we wouldn't have these huge debts which, if not reduced, threaten to crush the next generation with huge taxes and a diminished quality of life.

Today we have been given a rare opportunity to enact legislation that will accomplish this.

My other chief reason for voting for this bill is that it contains an increase in the earnings limit for those age 65 to 69 to $30,000 by the year 2002. Currently, a wōrking senior who reaches $11,280 in earned income loses $1 in Social Security for each $3 earned thereafter. That's a marginal tax rate of 33 percent. That's a high price for merely wanting to work.

The earnings test limit is unjust. It treats Social Security benefits less like a pension and more like welfare. It represents a Social Security bias in favor of unearned income over earned income.

It is effectively a mandatory retirement mechanism our country no longer accepts or needs. It precludes greater flexibility for the elderly worker and also prevents America's full use of eager, experienced and educated elderly workers. Finally, it deprives the U.S. economy of the additional income tax which would be generated by the elderly workers.

Let's pass this bill today so that we can get America back on the right track.

Mr. VENTO. Mr. Speaker, I reluctantly support this measure, H.R. 3136, the debt limit package. First, we need to honor the debt which our Nation has incurred. The U.S. credit rating must not be in question, nor should the risk of default. For over 200 years through civil and world wars, recession and depression, the United States has honored our debt.

Certainly it is deplorable that the total U.S. debt has grown so dramatically in the past decades, but the 1993 Clinton budget measure passed by Congress has had a dramatic and positive impact. The deficit of 1996 is half of the 1993 projected 1996 deficit, lowering the amount of deficit by $150 billion this 1996 fiscal year, and at the same time our Nation's economy has performed positively, inflation is in check, unemployment remains low and productivity growth, G.D.P., and business profitability are strong.

This debt ceiling will act to accommodate the Federal budget needs until late 1997. It is past time to take this off the Republican political agenda. The threat of default and intimidation won't work, to sell GOP budget programs that lack merit.

Included in this package of legislative measures is a constitutionally questionable line item veto power for the President. President Clinton, of course, wants this power, but this sloppy rearrangement of the fundamental separation of powers proviso won't pass muster. Furthermore, the line item veto power in this promises much but delivers little. First, it doesn't apply to authorization and appropriation riders.

Therefore, the environmental riders so controversial this fiscal year would be beyond the line item veto reach of this measure. Second, it only applies to categories of spending, making it impossible to single out the specific bad apple in the basket. Finally it doesn't apply to bad tax policy, only specific narrow tax provisions of specific small groups as certified by the Joint Tax Committee.

Yet another dubious congressional limit in the constitutional separation of powers and unique congressional authority which cannot be delegated to the nonelected apparently is the rush to give away congressional powers held by the previous Democratic Congress. The Republicans have today sold symbolism, not substance, to the Executive Office, and they bought it. To add further limits, the measure has a short life—1997 to 2005. This line item veto is weak, not likely to be effective and will be rendered inoperable by the courts and/or its limited scope.

Everyone can record it on their political campaign literature as an accomplishment, that's probably its best use; other issues added to the debt ceiling measure apparently are popular and the further price of the 2-year debt ceiling which the President agreed to. I'm concerned that the expanded Social Security earning limit, the retirement test ceiling may undermine support for the Social Security Retirement System. The basic predicate of Social Security retirement is that the beneficiary is no longer working. This means a job and slot is available to a less senior worker.

For many, this elevated ceiling means they will receive Social Security retirement benefits but remain on the same job, in essence claiming a retirement income and the wages of a worker. The idea regarding the Social Security retirement is that workers are not able to continue working and that the Social Security income provides for that person and family during that phase of one's life. At least this measure maintains a ceiling and earlier versions lifted it even further.

The income group that benefits from this provision is healthy and generally better off financially. It would be regrettable if the upshot of this policy change would undermine Social Security retirement for those unable to work.

Finally, this overall bill contains some regulatory relief for smaller enterprises. Candidly, I've had serious reservations about the broad ranging measures that try to pass as regulatory relief. Too many have been put forth and passed by the 104th Congress whose intent was to render inoperable important health, safety, and environmental laws.

Rules and regulations are the wheels which carry laws into implementation. Usually the Administrative Procedures Act [APA] provides sufficient assurance of participation and monitoring of the executive department or agency rule and regulatory process. The features of this provision seems reasonable—ironically expanding the potential for lawsuits and litigation—after the Republican majority in this House and Congress have beat the drum and attempted to enact ill considered punitive measures on the legal process and limiting the peoples right to seek redress.

Mr. Speaker, legislation is the art of compromise and as we can note from this document a big dose of symbolism. I'm voting for this measure with little enthusiasm, but with a pragmatic eye.

The Republicans have finally arrived at a point of talking with a Democratic President and have convinced themselves to move forward on the debt ceiling, the main vehicle and single most important engine which necessitates this legislation before the House.

Mr. CONYERS. Mr. Speaker, I am opposed to the regulatory reform provisions of the bill for the following reasons.

On process: This bill has never been considered by the Judiciary Committee or by any other committee in the House. It's stealth process—we only saw the final draft late last night—continues the Republican record of disdain for the committees and for proper democratic process. This bill was created by a secret process in the House, and will allow special interests to secretly influence regulations in the executive branch.

The secret influences of the few: Under the bill, so-called Regulatory Fairness Boards and Advocacy Panels are to be established to directly influence the content of regulations and the nature of regulatory enforcement. These boards are to be made up solely of a few favored small businesses, and can include exclusively campaign contributors.

Ex parte contacts in reg writing: The boards and advocacy panels will provide an avenue for private ex parte contacts with the agencies and the OIRA administrator to influence regulations and enforcement—a departure from the commonly accepted principle that the regulation writing process should be open and on the record. They provide an ex parte and secret forum for these favored businesses to complain about how statutorily mandated regulations are written and enforced.

Yet another attack on the environment: While we all support the concept of regulatory flexibility—that is helping small businesses comply with a vast array of Federal regulations—this bill takes the concept to the extreme. For it allows the waiver of some of our most important environmental penalties relating to safe drinking water and clean air. If, for example, it happens to be a small business that is operating a chemical manufacturing operation or a small business that is a water supplier, laws protecting citizens from drinking water hazards like cryptosporidium or other chemical contamination could simply be waived (section 323). Our environmental safety and health is at risk from these hazards regardless of the source of the hazards.

Still more litigation for the lawyers: Section 611 allows for environmental regulations that protect our air, water, food, and workplaces to be suspended or even overturned by the courts if these and other ill-defined provisions are not strictly adhered to. This judicial review is different from what the House has voted on in the past—for past regulatory flexibility bills that we've voted on allow for judicial review of the reg flex analysis only. This bill, however,

VOL
142
PT
5
MR
21
—
29
1996
UMI

could put hundreds of environmental rules at risk, and subject them to endless litigation in the courts for merely procedural reasons that are only marginally related to the fundamental issues surrounding the promulgation of the rule.

Mrs. MALONEY. Mr. Speaker, I intend to vote for this bill. It contains measures which I strongly support. Most importantly, raising the debt ceiling is absolutely essential to ensuring the continued full faith and credit of the United States. Without passage of this bill, the economic security of our country would be gravely imperiled. The legislation also contains provisions to relieve the regulatory burden on our Nation's small businesses and a measure, which I strongly support, to increase the earnings limit for Social Security recipients.

This measure also contains a line-item veto provision about which I have very serious concerns. First, this conference report grants to the President the significant power to item veto new entitlement spending. Spending on Medicare, Medicaid, Social Security, and food stamps help out most vulnerable citizens, the elderly, and infirm. The original House bill, and the Republican's own contract on America, did not grant this authority.

The line-item veto provision before us today also would not become effective until January 1, 1997. This timing conveniently exempts the fiscal year 1997 appropriations cycle from Presidential line-item vetoes. Cynics might conclude that the Republican majority wants one last chance to tuck the pet projects into this year's appropriations bills.

Finally and most egregiously Mr. Chairman, this line-item veto measure takes a loophole included in the House-passed bill and expanded it into a black hole for special interests. The House bill included a provision on allowing the President to item veto targeted tax breaks. Unfortunately, the majority breached its own contract in defining that term very narrowly to mean only those tax giveaways that affect 100 or fewer people. This artificial number can easily be fudged by a smart tax lawyer—you simply have to help out 101 or 102 people.

This conference report includes this loophole and expands it into a black hole for special interests by allowing the President to item veto only those targeted tax benefits identified by the Joint Committee on Taxation, a committee controlled by the tax writing committees of Congress. So if they say it isn't a special interest tax break, the President can never veto it. Mr. Chairman, this is a sham.

The Republican Party was committed to the much broader definition right up to the moment they gained the majority, then they had a sudden change of heart. With this bill the Republicans claim they will end special interest tax breaks, but if you read the fine print you'll see they expect nothing of the kind.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of H.R. 3136, the Contract With America Advancement Act.

This Member is particularly pleased that, as reported on the House floor H.R. 3136 included the Line-Item Veto Act. An important tool in the battle to reduce spending would be to give the President line-item veto authority.

A line-item veto would enable the President to veto individual items in an appropriations bill without vetoing the entire bill. With a line-item veto the executive could strike a pen to the pork-barrel projects that too often find their way into appropriations bills.

This power is currently given to 43 of the Nation's Governors, where it has been a successful tool that discourages unnecessary expenditures at the State level. It is appropriate that the President have this authority as well.

This Member has cosponsored legislation to institute a line-item veto since 1985, and is pleased that this initiative may soon be enacted into law. Legislation to provide for a line-item veto has been introduced in Congress for over 100 years. The time has come to recognize the need for more stringent and binding budget mechanisms.

This Member is also pleased that H.R. 3136 raises the limit on income senior citizens may earn and still receive full Social Security benefits. In the last three Congresses, this Member cosponsored related legislation, and has consistently supported efforts to reduce or eliminate the Social Security earnings limit on senior citizens who must work to make ends meet. Seniors of modest means who have to work to supplement their Social Security checks should be allowed to work without paying an effective marginal tax rate higher than that of millionaires.

In addition, this legislation also includes much-needed regulatory relief provisions that would inject some common sense into the current regulatory and bureaucratic framework which now exists.

Federal regulations cost the economy hundred so billions of dollars each year. Too often, these regulations were not based on sound science and resulted in little or no benefit to society. This is an issue which must be addressed to provide relief from the plethora of Federal regulations.

This Member urges his colleagues to support H.R. 3136 as reported to the House floor, in order to advance important initiatives to establish a line-item veto, provide regulatory relief, and limit an unfair tax on senior citizens.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise today in strong support of H.R. 3136, the Contract With America Advancement Act, a measure to provide for a line-item veto, for Social Security benefits relief for our senior citizens and for small business regulatory reform.

Mr. Speaker, during my tenure in the Congress, I have been a solid and steady advocate of a platform that recognizes we need to bring real change to this Federal Government of ours. For example, during my freshman and sophomore years, I had sponsored legislation providing for the implementation of a Presidential line-item veto to end the days where the legislatively-spawned Government pork and largesse would cause our deficit to grow like an unkempt bush in one's front yard and the President would not have the hedge clippers to trim it.

However, during those two Congresses, I and other fervent supporters of the line-item veto had been frustrated and thwarted by the then-Democratic majority. The Democrats would say that a line-item veto would render Congress impotent or that Congress does not need to use such a draconian measure as a line-item veto and that we can solve our Nation's fiscal problems by just saying no to pork. Mr. Speaker, I did not accept the Democrats' empty assurances about spending then, and my instincts were proved current when that supposed discipline was nowhere to be found.

Thankfully, Mr. Speaker, times have changed. With the passage of H.R. 3136, the President of the United States, be he Republican or Democrat, will be able to eliminate specific spending and target tax provision in legislation passed by the Congress. This is important, for now the President will have the ability to veto out pork barrel spending in a bill which he may view in an otherwise favorable light. Mr. Speaker, this is a mechanism that 43 of our Governors now possess, and we should extend it to the President of the United States.

Mr. Speaker, I also want to take note of other provisions in H.R. 3136 that I support. I feel that the bill's provisions which raise the limit of income senior citizens may earn while still receiving full Social Security benefits would be beneficial to those concerned.

Presently, senior citizens between the ages of 65 and 69 lose $1 in Social Security benefits for every $3 they earn above $11,520 while the_earnings test amounts to an additional 33 percent marginal tax rate on top of existing income taxes. Because of this, seniors who want to work past the age 64 would not have the ability to remain productive, and thus, they are unfairly treated. H.R. 3136 would gradually raise the earnings limit for seniors between the ages of 65 and 90 from the current level of $11,520 to $30,000 by the year 2002.

I have spoken with many seniors around my district, and they, Mr. Speaker, have indicated to me that this measure sounds like a pretty good idea. Many of the seniors in my district still want to work full time or part time. They want to be productive members of society and by raising the limit on income, they can achieve this desired lifestyle. We should definitely support this initiative.

Finally, I rise in full support of the measures in H.R. 3136 which would provide regulatory relief to our Nation's small businesses. Presently, Federal regulations cost our Nation's small businesses an astronomical $430 billion per year while spending a ludicrous 1.9 billions hours per year completing Federal regulatory forms.

Included in these relief provisions are reforms providing for regulatory compliance simplification, regulatory flexibility, procedures for Congress to disapprove new regulations, and small business legal fees associated with fighting excessive proposed penalties.

Mr. Speaker, small businesses are the true lifeblood of our Nation's economy. By helping our small businesses by providing regulatory fairness, we will truly help our workers, our families, our towns and our cities.

Mr. Speaker, I support H.R. 3136, and I urge my colleagues to do likewise when it comes time to vote.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to speak about H.R. 3136, the Contract With America Advancement Act. I will vote for this bill because it raises the debt limit, however, I must state that I would have preferred a clean debt limit bill. I support the increase in the earnings limit for social security beneficiaries, however, I would like to have

had more debate about the small business regulatory flexibility provisions.

I am a strong supporter of small business, which is the foundation of America's economic base. I support regulatory flexibility for small business and having clear guidelines so that small businesses can more easily comply with Government standards. However, I have concerns about bogging down Government agencies in frivolous lawsuits that would draw their attention away from maintaining Government standards for the environment and ensuring workplace safety.

Mr. Speaker, I would also like to discuss this bill in the context of the current ongoing budget debate, and I would urge that we as a body do more for the American people than pass a debt limit increase. Although we will be discussing other important issues the Health Coverage Availability Act, I would like to remind this House of the glaring fact that we do not yet have a balanced budget for the United States, when this fiscal year is half over, and we have not provided funding for all of the Government agencies that serve the American public. This outrageous fact is not forgotten by the American people, and I would urge the leadership on both sides to not forget their duty to the citizens of this country.

The summer is fast approaching and teens that participate in the Summer Jobs Program are wondering if the budget will leave their program intact, or if it will be eliminated. Students and families across the country are wondering what is going on in this House.

Mr. Speaker, I will vote for this debt limit increase bill, but I would urge my colleagues to remember that we are not finished with the budget and that the American people are watching and that they know what the real issues are. Thank you, Mr. Speaker, and I reserve the balance of my time.

Mr. EWING of Illinois. Mr. Speaker, I rise in strong support of this legislation which contains judicial review of the Regulatory Flexibility Act [RFA].

This is an issue which I have been heavily involved in for nearly 5 years, when I was first elected to Congress in 1991. At that time, one of the top concerns I heard about from my constituents was the burden of excessive Federal regulations. Small businesses in particular felt that the money and time they spent complying with rules and regulations handed down from the Federal Government were crippling their ability to complete and invest in productive activity. In the 4½ years since I was elected, these concerns have only increased.

When I was elected, I looked for ways to reduce unnecessary regulation. I found that way back in 1980 Congress passed, and President Carter signed into law, the RFA. Simply put, the RFA required Federal regulators to conduct an analysis of the impact of any proposed new regulation could have on small businesses and small governmental entities. The RFA required the regulators to seek corrective ways to minimize the impact of those proposed rules before they are finalized.

Despite the good intentions of the RFA, the act has been almost totally ignored by Federal regulators for the 16 years its has been on the books. When I looked further into this issue, I found that Federal agencies were routinely using a loophole in the law which allows then to publish a statement in the Federal Register certifying that their regulation does not affect a significant number of small entities, and therefore allowing the agency to avoid conducing the analyses required by the RFA. In fact, I found that RFA analyses are rarely conducted, even when a regulation clearly would have a major impact on the small entities being regulated.

Herein lies the achilles heel of the RFA. When an agency certifies that a regulation will not significantly affect small entities, that certification cannot be challenged in court. A small business owner is prohibited from asking the courts to review whether the Federal agency has complied with the RFA. It is because the agencies know their decision to ignore the RFA cannot be challenged that they almost always do ignore the act. This fact has been confirmed to me as I have met with dozens of small business organizations and hundreds of small business owners over the past 4 years to discuss this issue. A number of hearings have been held in both the Small Business Committee and the Judiciary Committee and scores of witnesses have convinced me and many others in Congress that without judicial review, the Federal regulators will continue to ignore the RFA.

Many of us talk about reducing the cost which Government regulations impost on the American economy, but with passage of this legislation this Congress is actually doing something about it. We are living up to our campaign promises to make the Government less intrusive, less burdensome on the private sector. We will make Government regulations more sensible, more responsive to those who must comply with them. And we will do it without jeopardizing the environment, or public health and safety.

Many of this issues we debate in Congress have become polarized by partisanship and deep philosophical differences. But this issue, providing judicial review of the RFA, is a fine example of how both parties can identify a problem which the American people want us to fix, and how we can work together, both Republicans and Democrats, to solve a problem and help the American people. I am proud to have worked in a bipartisan fashion with JAN MEYERS, IKE SKELTON, and JOHN LAFALCE for 4 years to pass judicial review of the RFA. Working together, we convinced over 250 Members of the last Congress to cosponsor our legislation, and have passed RFA judicial review with overwhelming majorities in the House. We have put aside our partisan differences to pass this commonsense legislation.

The Republican Congress and President Clinton, who have disagreed on so many issues, have come together in support of providing judicial review of the RFA. Vice President GORE's Reinventing Government Commission recommended providing RFA judicial review as its top priority for the Small Business Administration. RFA judicial review was again a top recommendation of the White House Conference on Small Business conducted last year. We have received letters pledging strong support for RFA judicial review from the President, Chief of Staff Leon Panetta, and SBA Administrator Philip Lader. I would like to request consent to include those letters in the RECORD. Mr. Jere Glover, the administration's chief advocate for small business, has been a strong supporter of judicial review and his influence has been very important.

Virtually every national small business organization has been strongly supportive of RFA judicial review, but a handful of groups have been active participants of the Regulatory Flexibility Act coalition for the past 4 years, and have made this issue a top priority for their members. I would like to recognize these organizations for their outstanding work and commitment to passing this legislation. Jim Morrison, Benson Goldstein and Becky Anderson of the National Association for the Self Employed have provided invaluable institutional knowledge about how the RFA can and should work. David Voight of the U.S. Chamber of Commerce has also provided great institutional knowledge about the RFA, and the Chamber has lent considerable clout to this legislation. The National Federation of Independent Business, and their employees Nelson Litterst and Kent Knutson, have worked endlessly to mobilize hundreds of thousands of small businesses in support of this legislation. Both-the NFIB and the Chamber of Commerce have included Reg Flex votes in their "Key Vote" programs which have been extremely important in informing Members of Congress about how important this issue is to their small business constituents. Craig Brightup and the National Roofing Contractors Association have made this issue a top priority from the very beginning, and in fact was the first small business organization to bring this issue to my attention. Marcel Dubois and the American Trucking Associations have been extremely active in mobilizing small businesses in support of RFA judicial review. Finally, Tom Halicki of the National Association of Towns and Townships has played a critical role in bringing to the attention of Congress the importance of judicial review not only to small businesses, but to small governmental bodies as well.

Finally, I want to thank Representatives MEYERS, LAFALCE, and SKELTON and their staff, particularly Harry Katrichis of the Small Business Committee, and Eric Nicoll of my staff for their persistent dedication to passing this legislation over the past 4 years.

SMALL BUSINESS ADMINISTRATION,
October 8, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: The Administration supports strong judicial review of agency determinations under the Regulatory Flexibility Act that will permit small businesses to challenge agencies and receive strong remedies when agencies do not comply with the protections afforded by this important statute.

In fact, the National Performance Review publicly endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small businesses, states, and other entities are reduced.

As Chairman of the Policy Committee of the National Performance Review, under Vice President Gore's leadership I vigorously advocate this position. I have continued to champion this policy within the Administration.

VOL 142 PT 5 MR 21—29 1996 UMI

If confirmed as Administrator of the U.S. Small Business Administration, I will join the Congress and the small business community in continued efforts to pass legislation for such judicial review.

Thank you for your leadership on this important issue to small business.

Sincerely,

PHILIP LADER,
Administrator-Designate.

THE WHITE HOUSE,
Washington, October 7, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: Your particular question about the Administration's position on judicial review of actions taken under the Regulatory Flexibility Act has come to my attention.

As you have discussed with Senator Bumpers, the Administration supports such judicial review of "Reg Flex."

The Administration supports a strong judicial review provision that will permit small businesses to challenge agencies and receive meaningful redress when they choose to ignore the protections afforded by this important statute.

In fact, the National Performance Review endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small business, states, and other entities are reduced.

Ironically, Phil Lader, our nominee for Administrator of the Small Business Administration (whose nomination was voted favorably today by a 22-0 vote of the Senate Small Business Committee) has been a principal champion of judicial review of "Reg Flex." In his capacity as Chairman of the Policy Committee on the National Performance Review, Phil vigorously advocated this position. I know that, if confirmed, as SBA Administrator, he would join us in continued efforts to win Congressional support for such judicial review.

Sincerely,

LEON E. PANETTA,
Chief of Staff.

THE VICE PRESIDENT,
Washington, November 1, 1994.

Hon. THOMAS W. EWING,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE EWING: Thank you for contacting me regarding the Regulatory Flexibility Act.

As the President and I have made clear, we strongly support judicial review of agency determinations rendered under the Regulatory Flexibility Act. We remain committed to securing this important reform during the next Congress and will work with Congress for the enactment of strong judicial review for small businesses.

We also understand that it will be important to continue our work with small businesses to ensure that such an amendment provides a sensible, reasonable, and rational approach to judicial review, as recommended by the National Performance Review. As you know, the National Performance Review recommended that which was (and continues to be) sought by the small business community—i.e., an amendment that furthers the intent of the Act and reduces the paperwork burdens on small businesses.

The President and I look forward to working with Congress on this matter and appreciate your leadership in this area.

Sincerely,

AL GORE.

THE WHITE HOUSE,
Washington, October 8, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: My Administration strongly supports judicial review of agency determinations under the Regulatory Flexibility Act, and I appreciate your leadership over the past years in fighting for this reform on behalf of small business owners.

Although legislation establishing such review was not enacted during the 103rd Congress, my Administration remains committed to securing this very important reform. Toward that end, my Administration will continue to work with the Congress and the small business community next year for enactment of a strong judicial review that will permit small businesses to challenge agencies and receive meaningful redress when agencies ignore the protections afforded by this statute.

As you know, the National Performance Review endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small business, states, and other entities are reduced.

Again, thank you for your continued leadership in this area.

Sincerely,

BILL CLINTON.

Mr. SHAW. Mr. Chairman, I rise today in support of H.R. 3136, the Contract With America Advancement Act, which includes language to raise the amount of money a senior citizen may earn before losing Social Security benefits. Twice before I have supported this legislation; in the Senior Citizens' Equity Act, and in the Senior Citizens Right to Work Act. Support of this legislation is my commitment to the senior citizens of my district to remove the disincentive to continue working after they begin receiving their Social Security benefits. Increasing the Social Security earnings limit from $11,520 to $30,000 will significantly improve benefits for moderate- and middle-income beneficiaries who work out of necessity, not choice. It will also remove the penalty on those with income from work, but not from other sources such as dividends and interest. I urge my colleagues to help our Nation's seniors by voting for this bill.

Mr. DAVIS. Mr. Chairman, I rise to speak in favor of the Senior Citizens' Right to Work Act which has been included in H.R. 3136. This bill will encourage seniors between the ages of 65 to 69 to work by eliminating financial penalties on hardworking seniors who want to supplement meager Social Security benefits. I strongly urge all of my colleagues to support H.R. 3136 and our senior citizens by increasing the Social Security earnings limit.

The Senior Citizens' Right to Work Act also contains a provision which will eliminate Social Security disability benefits to drug addicts and alcoholics. While I adamantly support this provision, I would like to voice my concern about the fraud and abuse that will occur as a result. Given past abuses in the SSI and SSDI programs, we must be alert to the likelihood that many of these drug addicts and alcoholics currently on Federal disability rolls will attempt to requalify for Social Security benefits under other disability categories. I believe that more can and should be done to ensure accountability in these programs, eliminate fraud and abuse, and save Federal dollars.

Mr. Chairman, we should support referral and monitoring agency programs that currently use national case tracking systems to identify drug addicts and alcoholics who are improperly receiving Federal checks. These types of programs have already saved the Federal taxpayers millions of dollars that would have been spent as a result of the fraudulent practices of drug addicts and alcoholics. Unfortunately, this legislation, in eliminating the drug addiction and alcoholism benefit category, will also eliminate these types of tracking programs. I hope that we can correct this blow to current fraud and abuse monitoring practices in order to ensure that drug addicts and alcoholics do not find a way around the major accomplishments we are achieving today.

Mr. BROWN of California. Mr. Speaker, small manufacturing businesses striving to meet Federal regulatory requirements must have access to the technological information they need to comply with Federal and State laws and regulations. Therefore, I am pleased that the Regulatory Flexibility Act title of this conference report makes it clear that any Federal agency with the requisite expertise is empowered to help in this effort. I am especially pleased that the Manufacturing Extension Program [MEP] of the National Institute of Standards and -Technology will continue to provide its full menu of services in southern California and throughout the Nation.

Those of us who have worked to promote the concept of technology extension over the years are well aware of the unique roles played by the Small Business Development Centers [SBDC], the Agricultural Extension Service, and other specialized programs in helping small business. Each of these programs, however, has limited funding; even when they are all putting forth their best efforts, there may not be enough resources to go around. If small business people are required to take time away from production to comply with environmental and other standards, we want them to locate the help to do so as readily as possible, whether that help comes from the Small Business Administration, the Department of Commerce, or the Department of Agriculture.

Given that SBDC's have a broad mission to serve all small business, specialized programs like the MEP are often best situated to meet the regulatory compliance needs of small manufacturers. In my native southern California, for example, there are many excellent examples where the MEP provided help to small businesses that no SBDC could have been expected to provide. Our region is blessed by a large number of small manufacturers, including defense subcontractors, who need very specialized assistance to meet California's air and water quality standards. This led the MEP to set up the Los Angeles Pollution Prevention Center, which provides the specialized environmental engineering expertise both to companies and also to other manufacturing extension centers.

Let me give some specific examples. Without this center, it would have been extremely difficult for Nelson Name Plate, a small manufacturer of metal and plastic nameplates, to survive the mandated phase-out of chemicals it was using for cleaning its brass stock. The center helped Nelson implement a closed loop, customized cleaning system which required no modification of its sanitation permits.

The Pollution Prevention Center also permitted Art-Craft, a 20-person firm in the Santa Barbara area, to identify a waterborne primer for painting aircraft which met the exacting standards of both Boeing and the Clean Air Act and to develop the monitoring system it needed to show compliance. It helped CUI, a medical prosthesis company, to replace a curing process using ozone-depleting chemicals with a low-cost, solvent-free process that led to reductions both in hazardous wastes and air emissions.

Mr. Speaker, clearly it is in the Nation's interest to write our laws so that small businesses can provide good jobs and high-quality products while complying fully with environmental and other important regulations. I thank the conferees on this Title for avoiding a legislative turf fight and for allowing the MEP to continue one of its most important missions.

Mr. REED. Mr. Speaker, it is with reluctance that I will vote in favor of this bill before us today.

For almost 6 months, this Nation's good faith and credit has been questioned due to the failure of the Republican majority to complete its budgetary responsibilities.

Apparently, my Republican colleagues have come to their senses and will end their last minute, stop gap extensions of the Government's ability to meet its obligations to bond holders and Social Security recipients.

However, while my colleagues are acting to prevent default they have attached a number of controversial provisions to this must-pass legislation—namely, some of the bill's regulatory reform language as well as line-item veto authority for the President.

Let me be clear, while I am concerned with some of the regulatory reform provisions included in this bill, I support regulatory reform.

I am pleased that legislation to provide judicial review of the Regulatory Flexibility Act is finally on its way to becoming law.

Small businesses have been working to pass this legislation for years, and it will give real teeth to the small business protections in the Regulatory Flexibility Act. My subcommittee marked up this legislation last year, and this will be the second time a version of this legislation has passed the House.

However, there are other regulatory reform-related provisions in the debt ceiling bill that were never considered by the Judiciary Committee, nor any other House committee.

These provisions were not in H.R. 3136 as introduced. Instead, these items were slipped into a manager's amendment that was adopted by passage of the rule. Moreover, they are not identical to the provisions that passed the Senate as part of Senator Bond's bill, S. 942.

For example, one of the non-Senate provisions requires the chief counsel of the SBA to select individuals representative of affected small entities who would review a proposed rule before it is available to the public at large and lobby for changes. These individuals could be campaign contributors of special interest representatives. This provision has been limited to OSHA and EPA rules, since apparently the majority realized what havoc it would wreak if certain politically connected individuals were able to preview IRS, SEC, and other rules—and were thus able to restructure their financial transactions, for example.

Many of the regulatory reform provisions in the bill are meritorious and are based on S. 942. However, that is no reason to circumvent the deliberative legislative process. We ought to review these provisions in committee and work on a bipartisan basis to evaluate and improve upon them instead of slipping them in to must pass legislation.

If my colleagues are not concerned with some of the provisions of the regulatory reform language in H.R. 3136, I would urge them to consider the implications of the line-item veto section of this bill.

I am concerned with wasteful spending, and I have voted to cut a multitude of unneeded programs like the superconducting supercollider and the advanced liquid rocket motor.

However, I am opposed to the line-item veto because it would disrupt the checks and balances of the Constitution. Currently, the President has the power to veto any legislation and Congress can attempt to override this veto. A line-item veto would severely inhibit the legislative branch's say in the spending priorities of this Nation.

The line-item veto sounds innocuous enough, but the people of a small State like Rhode Island know full well what giving the President the authority to pick and choose budget items means.

Indeed, Rhode Island has experienced a Presidential effort through existing executive branch authority to eliminate an essential program.

In 1992, President Bush tried to rescind funding for the *Seawolf* submarine program which is vital to our Nation's defense and is the livelihood of thousands of working Rhode Islanders.

Fortunately, Democrats beat back this attempt, but I am concerned that the line-item provision before us would make future battles closer to a Sisyphean battle than a fair fight. For example, a President—of any political party—could use the line-item veto to eliminate other programs that are important to Rhode Island without fear because a small State like mine only has four votes in Congress.

I would argue that it was this fear of retribution which motivated the Founding Fathers to give the legislative branch the power of the purse and restrict the President's veto powers.

Regrettably, the line-item veto before us today, would grossly distort the Constitution's delicate balance of power and tilt it to the President, and I cannot support such a shift with the interests of my State in mind.

Mr. Speaker, as I stated earlier, I will support this bill because it is imperative that we prevent the Government from defaulting on obligations made many years ago.

In addition, I will also vote for this legislation because it contains provisions that would increase the amount of income that Social Security recipients can earn without losing any benefits.

Under current law, Social Security recipients between the ages of 65 and 69 can earn up to $11,520 in 1996 without having their benefits reduced. Each $3 in wages earned in excess of this limit results in a deduction of $1 in Social Security benefits.

This legislation gradually increases the amount seniors under age 70 can earn without losing any benefits to $30,000 by the year 2002.

I support increasing the Social Security earnings test and voted in favor of the Senior Citizens' Right to Work Act, which included this increase. The House overwhelmingly passed this bill on December 5, 1995 by a vote of 411 to 4.

Approximately 1 million of the 42 million Social Security recipients are expected to benefit from this increase in the earnings limit.

Increasing the earnings test will help improve the overall economic situation of low and middle income seniors in Rhode Island who work out of necessity, not by choice. For example, a Rhode Island senior currently making $12,500 loses almost $330 in Social Security benefits. With the increase included in the legislation before us, that senior would not lose any benefits.

Our seniors have the skills, expertise, and enthusiasm that employers value, and they should be encouraged to work and contribute, not penalized for it.

Mr. Speaker, in closing, I believe I have a duty to prevent the default of the U.S. Government and I will support H.R. 3136, but I would urge my Republican colleagues to stop using important budget legislation as a vehicle for pet causes. Thank you, Mr. Speaker.

Ms. DUNN of Washington. Mr. Speaker, I rise today in support of H.R. 3136, the Contract With American Advancement Act. Over the past 15 months, Republicans have made truly historic efforts to change business as usual here in Washington, DC. Central to those efforts has been our drive to finally put our Nation on a credible path to a balanced budget.

Despite the fact that Republicans crafted the first balanced budget since 1969, we have learned that a supposedly revolutionary idea like balancing the budget takes two elections. Despite this setback, we have not given up the fight.

Republicans continue to believe that Washington spends too much, taxes too much, and that government is too big. That is why we are doing all we can to reduce spending, reduce taxes, and shrink the size of government.

While we may not be able to accomplish as much this year as we had hoped, we are dedicated to doing as much as we can—right now. That brings me to the measure before us today. While we continue to work to keep our promises to the American people for a balanced budget, we must not put the Nation at undue risk. This vote—to authorize the Government to borrow more money by increasing the Nation's debt limit—is not easy.

Congress has twice sent the President a bill that extends the Government's borrowing authority. President Clinton has vetoed both bills. Now Republicans again act to avoid default.

Our current debt limit stands at $4.9 trillion. And it is growing everyday. Someone, someday has to pay off this debt. I do not want to leave it to the next generation. We have a responsibility to our children, and to our children's children, to end this pattern of destructive out-of-control spending.

Mr. Chairman, $4.9 trillion is a lot of money. To put that figure into perspective I want to share just a few facts. If we were to pay all of the debt off today, a family of four would need

VOL
142
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to contribute over $72,000 as their share of the debt. A single person's bill would come to just $18,000.

Every week we continue to have this debt, that family's personal share of the debt rises by $89. Every month—$383. For most families, this is a monthly car payment which ends in 4 or 5 years. But this is not a car payment, it is our national debt. You keep giving, but you get nothing in return and you continue to pass the tab onto our children.

Included in this measure is what I believe to be one of the most important tools necessary to fix our irresponsible spending habits—the line-item veto. To demonstrate how important this tool is, I am willing to give the authority to a President of a different party. To those who say the President will use it for political purposes, I say nonsense. The President currently has veto authority. With line item authority he simply could remove the misguided pork barrel spending without killing the entire bill.

It is time we give the President what 43 Governors have: the fiscal responsibility to strike out the pork. The American people clearly are in favor of this provision, as well they should be. With a new debt ceiling of $5.5 trillion, it is time we stop Congress' out of control spending.

The bottom line is that we are in far too deeply. Over the past 15 months Republicans have made the difficult choices necessary to reduce the size of the Federal Government, to provide families and employers with badly needed tax relief, and to provide for a balanced budget in 7 years. We are building a path to the future that restores both hope and opportunity for all Americans—from my parents to my children and to their children yet to be born.

Our Nation is at a crossroads. There are two competing visions of America's future. We can either adhere to the status quo as the President suggests—which means higher taxes on families, more spending, more debt, fewer jobs, and less opportunity for our children—or we can follow a new responsible course by balancing our Nation's budget, cutting taxes and restoring hope, confidence, opportunity, and prosperity.

To be sure, it has not been easy making the tough choices needed to reach a balanced budget. But those are decisions that we have been willing to confront. In no way should today's extension of the debt limit relieve us of this responsibility. To the contrary, we must be more vigilant than ever in bringing our Nation back to a responsible fiscal path. To the next generation—to my own two sons—I say that Republicans are committed to redoubling our efforts to convince the President that enactment of a balanced budget is our single most important responsibility.

Mr. BLILEY. Mr. Speaker, I commend Chairman HYDE of the Judiciary Committee and Senator BOND for their leadership on this bill. We share the goals of reducing regulatory burdens on small business and, in so doing, promoting job creation and economic growth.

S. 942 sweeps across a wide range of Federal regulation. Oversight of the Securities and Exchange Commission [SEC] falls within the jurisdiction of the Commerce. The SEC is charged with the important role of preventing fraud in our securities markets. Though its enforcement of the anti-fraud provisions of the securities laws, the SEC builds confidence of investors and makes our financial markets liquid and transparent.

My analysis of the provisions of S. 942 indicates that the bill will not have any negative effect on the enforcement activities of the SEC. We will not tolerate, and this bill does not create, any free pass for financial fraud. Specifically, Section 323(b)(4) of the bill expressly excludes "violations involving wilful or criminal conduct" from the small business enforcement variance. In the context of the Federal securities laws, I understand "wilful" to have the longstanding judicial construction as expressed in, for example, *Tager* v. *Securities and Exchange Commission*, 344 F.2d 5, 7 (2d. Cir. 1965).

In addition, it is my understanding that the enforcement procedures followed by the SEC under current law, specifically the Securities Enforcement Remedies and Penny Stock Reform Act of 1990, satisfy the requirements of Section 323, and said section does not impose requirements beyond those of the Remedies Act.

In connection with the provisions of S. 942 dealing with attorneys fees, the fill excludes awards of attorneys fees in connection with wilful violations. In the context of the Federal securities laws, the term "wilful" has the meaning set forth in Tager, supra at 7.

Additionally, provisions of S. 942 makes useful changes in what constitutes a demand by the Government. My understanding is that the term "demand" when applied in the context of the Federal securities laws, does not include notices or other communication with the staff or members of the SEC that occur in the context of the "Wells" procedure.

Finally, my understanding of the provisions for Congressional review of major rules, the definition of major rules would not extend to actions for exemptive relief under the securities laws. Such exemptive rules are those that permit regulated entities to engage in transactions that would otherwise be proscribed by statute. It would be perverse to read this deregulatory bill in such a way as to inhibit exemptive relief for regulated persons by the SEC.

Mr. HYDE. Mr. Speaker, I submit for the RECORD a summary of the Small Business Regulatory Enforcement Fairness Act, included in H.R. 3136.

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT VIEWS OF THE HOUSE COMMITTEES OF JURISDICTION ON THE CONGRESSIONAL INTENT REGARDING THE "SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT OF 1996"

I. SUMMARY OF THE LEGISLATION

The Hyde amendment to H.R. 3136 replaced Title III of the Contract with America Advancement Act of 1996 to incorporate a revised version of the Small Business Regulatory Enforcement Fairness Act of 1996 (the "Act'). As enacted, Title III of H.R. 3136 became Title II of Public Law 104-121. This legislation was originally passed by the Senate as S. 942. The Hyde amendment makes a number of changes to the Senate bill to better implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations, including judicial review of agency actions under the Regulatory Flexibility Act (RFA). The amendment also provides for expedited procedures for Congress to review agency rules and to enact Resolutions of Disapproval voiding agency rules.

The goal of the legislation is to foster a more cooperative, less threatening regulatory environment among agencies, small businesses and other small entities. The legislation provides a framework to make federal regulators more accountable for their enforcement actions by providing small entities with an opportunity for redress of arbitrary enforcement actions. The centerpiece of the legislation is the RFA which requires a regulatory flexibility analysis of all rules that have a "significant economic impact on a substantial number" of small entities. Under the RFA, this term "small entities" includes small businesses, small non-profit organizations, and small governmental units.

II. SECTION-BY-SECTION ANALYSIS

Section 201

This section entitles the Act the "Small Business Regulatory Enforcement Fairness Act of 1996.'

Section 202

This section of the Act sets forth findings as to the need for a strong small business sector, the disproportionate impact of regulations on small businesses, the recommendations of the 1995 White House Conference on Small Business, and the need for judicial review of the Regulatory Flexibility Act.

Section 203

This section of the Act sets forth the purposes of this legislation. These include the need to address some of the key Federal regulatory recommendations of the 1995 White House Conference on Small Business. The White House Conference produced a consensus that small businesses should be included earlier and more effectively in the regulatory process. The Act seeks to create a more cooperative and less threatening regulatory environment to help small businesses in their compliance efforts. The Act also provides small businesses with legal redress from arbitrary enforcement actions by making Federal regulators accountable for their actions. Additionally, the Act provides for judicial review of the RFA.

Subtitle A—Regulatory Compliance Simplification

Agencies would be required to publish easily understood guides to assist small businesses in complying with regulations and provide them informal, non-binding advice about regulatory compliance. This subtitle creates permissive authority for Small Business Development Centers to offer regulatory compliance information to small businesses and to establish resource centers to disseminate reference materials. Federal agencies are directed to cooperate with states to create guides that fully integrate Federal and state regulatory requirements on small businesses.

Section 211

This section defines certain terms as used in this subtitle. The term "small entity" is currently defined in the RFA (5 U.S.C. 601) to include small business concerns, as defined by section 3(a) of the Small Business Act (15 U.S.C. 632(a)) small nonprofit organizations and small governmental jurisdictions. The process of determining whether a given business qualifies as a small business is straightforward, using size standard thresholds established by the SBA based on Standard Industrial Classification codes. The RFA also

defines small organization and small governmental jurisdiction (5 U.S.C. 601). Any definition established by an agency for purposes of implementing the RFA would also apply to this Act.

Section 212

This section requires agencies to publish "small entity compliance guides" to assist small entities in complying with regulations which are the subject of a final regulatory flexibility analysis. The bill does not allow judicial review of the guide itself. However, the agency's claim that the guide provides "plain English" assistance would be a matter of public record. In addition, the small business compliance guide would be available as evidence of the reasonableness of any proposed fine on the small entity.

Agencies should endeavor to make these "plain English" guides available to small entities through a coordinated distribution system for regulatory compliance information utilizing means such as the SBA's U.S. Business Advisor, the Small Business Ombudsman at the Environmental Protection Agency, state-run compliance assistance programs established under section 507 of the Clean Air Act, Manufacturing Technology Centers or Small Business Development Centers established under the Small Business Act.

Section 213

This section directs agencies that regulate small entities to answer inquiries of small entities seeking information on and advice about regulatory compliance. Some agencies already have established successful programs to provide compliance assistance and the amendment intends to encourage these efforts. For example, the IRS, SEC and the Customs Service have an established practice of issuing private letter rulings applying the law to a particular set of facts. This legislation does not require other agencies to establish programs with the same level of formality as found in the current practice of issuing private letter rulings. The use of toll free telephone numbers and other informal means of responding to small entities is encouraged. This legislation does not mandate changes in current programs at the IRS, SEC and Customs Service, but these agencies should consider establishing less formal means of providing small entities with informal guidance in accordance with this section.

This section gives agencies discretion to establish procedures and conditions under which they would provide advice to small entities. There is no requirement that the agency's advice to small entities be binding as to the legal effects of the actions of other entities. Any guidance provided by the agency applying statutory or regulatory provisions to facts supplied by the small entity would be available as relevant evidence of the reasonableness of any subsequently proposed fine on the small entity.

Section 214

This section creates permissive authority for Small Business Development Centers (SBDC) to provide information to small businesses regarding compliance with regulatory requirements. SBDCs would not become the predominant source of regulatory information, but would supplement agency efforts to make such information widely available. This section is not intended to grant an exclusive franchise to SBDC's for providing information on regulatory compliance.

There are small business information and technical assistance programs, both Federal and state, in various forms throughout this country. Some of the manufacturing technology centers and other similar extension programs administered by the National Institute of Standards and Technology are providing environmental compliance assistance in addition to general technology assistance. The small business stationary source technical and environmental compliance assistance programs established under section 507 of the Clean Air Act Amendments of 1990 is also providing compliance assistance to small businesses. This section is designed to add to the currently available resources for small businesses.

Compliance assistance programs can save small businesses money, improve their environmental performance and increase their competitiveness. They can help small businesses learn about cost-saving pollution prevention programs and new environmental technologies. Most importantly, they can help small business owners avoid potentially costly regulatory citations and adjudications. Comments from small business representatives in a variety of fora support the need for expansion of technical information assistance programs.

Section 215

This section directs agencies to cooperate with states to create guides that fully integrate Federal and state requirements on small entities. Separate guides may be created for each state, or states may modify or supplement a guide to Federal requirements. Since different types of small entities are affected by different agency regulations, or are affected in different ways, agencies should consider preparing separate guides for the various sectors of the small business community and other small entities subject to their jurisdiction. Priority in producing these guides should be given to areas of law where rules are complex and where the regulated community tend to be small entities. Agencies may contract with outside providers to produce these guides and, to the extent practicable, agencies should utilize entities with the greatest experience in developing similar guides.

Section 216

This section provides that the effective date for this subtitle is 90 days after the date of enactment. The requirement for agencies to publish compliance guides applies to final rules published after the effective date. Agencies have one year from the date of enactment to develop their programs for informal small entity guidance, but these programs should assist small entities with regulatory questions regardless of the date of publication of the regulation at issue.

Subtitle B—Regulatory Enforcement Reforms

This subtitle creates a Small Business and Agriculture Regulatory Enforcement Ombudsman at the Small Business Administration to give small businesses a confidential means to comment on and rate the performance of agency enforcement personnel. It also creates Regional Small Business Regulatory Fairness Boards at the Small Business Administration to coordinate with the Ombudsman and to provide small businesses a greater opportunity to come together on a regional basis to assess the enforcement activities of the various Federal regulatory agencies.

This subtitle directs all Federal agencies that regulate small entities to develop policies or programs providing for waivers or reductions of civil penalties for violations by small entities, under appropriate circumstances.

Section 221

This section provides definitions for the terms as used in the subtitle. [See discussion set forth under "Section 211" above.]

Section 222

The Act creates a Small Business and Agriculture Regulatory Enforcement Ombudsman at the SBA to give small businesses a confidential means to comment on Federal regulatory agency enforcement activities. This might include providing toll-free telephone numbers, computer access points, or mail-in forms allowing businesses to comment on the enforcement activities of inspectors, auditors and other enforcement personnel. As used in this section of the bill, the term "audit" is not intended to refer to audits conducted by Inspectors General. This Ombudsman would not replace or diminish any similar ombudsman programs in other agencies.

Concerns have arisen in the Inspector General community that this Ombudsman might have new enforcement powers that would conflict with those currently held by the Inspectors General. Nothing in the Act is intended to supersede or conflict with the provisions of the Inspector General Act of 1978, as amended, or to otherwise restrict or interfere with the activities of any Office of the Inspector General.

The Ombudsman will compile the comments of small businesses and provide an annual evaluation similar to a "customer satisfaction" rating for different agencies, regions, or offices. The goal of this rating system is to see whether agencies and their personnel are in fact treating small businesses more like customers than potential criminals. Agencies will be provided an opportunity to comment on the Ombudsman's draft report, as is currently the practice with reports by the General Accounting Office. The final report may include a section in which an agency can address any concerns that the Ombudsman does not choose to address.

The Act states that the Ombudsman shall "work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel." The SBA shall publicize the existence of the Ombudsman generally to the small business community and also work cooperatively with enforcement agencies to make small businesses aware of the program at the time of agency enforcement activity. The Ombudsman shall report annually to Congress based on substantiated comments received from small business concerns and the Boards, evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each regulatory agency. The report to Congress shall in part be based on the findings and recommendation of the Boards as reported by the Ombudsman to affected agencies. While this language allows for comment on the enforcement activities of agency personnel in order to identify potential abuses of the regulatory process, it does not provide a mandate for the boards and the Ombudsman to create a public performance rating of individual agency employees.

The goal of this section is to reduce the instances of excessive and abusive enforcement actions. Those actions clearly originate in

VOL
142
PT
5
MR
21
—
29
1996
UMI

the acts of individual enforcement personnel. Sometimes the problem is with the policies of an agency, and the goal of this section is also to change the culture and policies of Federal regulatory agencies. At other times, the problem is not agency policy, but individuals who violate the agency's enforcement policy. To address this issue, the legislation includes a provision to allow the Ombudsman, where appropriate, to refer serious problems with individuals to the agency's Inspector General for proper action.

The intent of the Act is to give small businesses a voice in evaluating the overall performances of agencies and agency offices in their dealings with the small business community. The purpose of the Ombudsman's reports is not to rate individual agency personnel, but to assess each program's or agency's performance as a whole. The Ombudsman's report to Congress should not single out individual agency employees by name or assign an individual evaluation or rating that might interfere with agency management and personnel policies.

The Act also creates Regional Small Business Regulatory Fairness Boards at the SBA to coordinate with the Ombudsman and to provide small businesses a greater opportunity to track and comment on agency enforcement policies and practices. These boards provide an opportunity for representatives of small businesses to come together on a regional basis to assess the enforcement activities of the various federal regulatory agencies. The boards may meet to collect information about these activities, and report and make recommendations to the Ombudsman about the impact of agency enforcement policies or practices on small businesses. The boards will consist of owners, operators or officers of small entities who are appointed by the Administrator of the Small Business Administration. Prior to appointing any board members, the Administrator must consult with the leadership of the House and Senate Small Business Committees. There is nothing in the bill that would exempt the boards from the Federal Advisory Committee Act, which would apply according to its terms. The Boards may accept donations of services such as the use of a regional SBA office for conducting their meetings.

Section 223

The Act directs all federal agencies that regulate small entities to develop policies or programs providing for waivers or reductions of civil penalties for violations by small entities in certain circumstances. This section builds on the current Executive Order on small business enforcement practices and is intended to allow agencies flexibility to tailor their specific programs to their missions and charters. Agencies should also consider the ability of a small entity to pay in determining penalty assessments under appropriate circumstances. Each agency would have discretion to condition and limit the policy or program on appropriate conditions. For purposes of illustration, these could include requiring the small entity to act in good faith, requiring that violations be discovered through participation in agency supported compliance assistance programs, or requiring that violations be corrected within a reasonable time.

An agency's policy or program could also provide for suitable exclusions. Again, for purposes of illustration, these could include circumstances where the small entity has been subject to multiple enforcement actions, the violation involves criminal conduct, or poses a grave threat to worker safety, public health, safety or the environment.

In establishing their programs, it is up to each agency to develop the boundaries of their program and the specific circumstances for providing for a waiver or reduction of penalties; but once established, an agency must implement its program in an evenhanded fashion. Agencies may distinguish among types of small entities and among classes of civil penalties. Some agencies have already established formal or informal policies or programs that would meet the requirements of this section. For example, the Environmental Protection Agency has adopted a small business enforcement policy that satisfies this section. While this legislation sets out a general requirement to establish penalty waiver and reduction programs, some agencies may be subject to other statutory requirements or limitations applicable to the agency or to a particular program. For example, this section is not intended to override, amend or affect provisions of the Occupational Safety and Health Act or the Mine Safety and Health Act that may impose specific limitations on the operation of penalty reduction or waiver programs.

Section 224

This section provides that this subtitle takes effect 90 days after the date of enactment.

Subtitle C—Equal Access to Justice Act Amendments

The Equal Access to Justice Act (EAJA) provides a means for prevailing parties to recover their attorneys fees in a wide variety of civil and administrative actions between eligible parties and the government. This Act amends EAJA to create a new avenue for parties to recover a portion of their attorneys fees and costs where the government makes excessive demands in enforcing compliance with a statutory or regulatory requirement, either in an adversary adjudication or judicial review of the agency's enforcement action, or in a civil enforcement action. While this is a significant change from current law, the legislation is not intended to result in the awarding of attorneys fees as a matter of course. Rather, the legislation is intended to assist in changing the culture among government regulators to increase the reasonableness and fairness of their enforcement practices. Past agency practice too often has been to treat small businesses like suspects. One goal of this bill is to encourage government regulatory agencies to treat small businesses as partners sharing in a common goal of informed regulatory compliance. Government enforcement attorneys often take the position that they must zealously advocate for their client, in this case a regulatory agency, to the maximum extent permitted by law, as if they were representing an individual or other private party. But in the new regulatory climate for small businesses under this legislation, government attorneys with the advantages and resources of the federal government behind them in dealing with small entities must adjust their actions accordingly and not routinely issue original penalties or other demands at the high end of the scale merely as a way of pressuring small entities to agree to quick settlements.

Sections 231 and 232

H.R. 3136 will allow parties which do not prevail in a case involving the government to nevertheless recover a portion of their fees and cost in certain circumstances. The test for recovering attorneys fees is whether the agency or government demand that led to the administrative or civil action is substantially in excess of the final outcome of the case and is unreasonable when compared to the final outcome (whether a fine, injunctive relief or damages) under the facts and circumstances of the case.

For purposes of this Act, the term "party" is amended to include a "small entity" as that term is defined in section 601(6) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This will ensure consistency of coverage between the provisions of this subtitle and those of the Small Business Act (15 U.S.C. 632 (a)). This broadening of the term "party" is intended solely for purposes of the amendments to the EAJA effected under this subtitle. Other portions of the EAJA will continue to be governed by the definition of "party" as appears in current law.

The comparison called for in the Act is always between a "demand" by the government for injunctive and monetary relief taken as a whole and the final outcome of the case in terms of injunctive and monetary relief taken as a whole. As used in these amendments, the term "demand" means an express written demand that leads directly to an adversary adjudication or civil action. Thus, the "demand" at issue would be the government's demand that was pending upon commencement of the adjudication or action. A written demand by the government for performance or payment qualifies under this section regardless of form; it would include, but not be limited to, a fine, penalty notice, demand letter or citation. In the case of an adversary adjudication, the demand would often be a statement of the "Definitive Penalty Amount." In the case of a civil action brought by the United States, the demand could be in the form of a demand for settlement issued prior to commencement to the litigation. In a civil action to review the determination of an administrative proceeding, the demand could be the demand that led to such proceeding. However, the term "demand" should not be read to extend to a mere recitation of facts and law in a complaint. The bill's definition of the term "demand" expressly excludes a recitation of the maximum statutory penalty in the complaint or elsewhere when accompanied by an express demand for a lesser amount. This definition is not intended to suggest that a statement of the maximum statutory penalty somewhere other than the complaint, which is not accompanied by an express demand for a lesser amount, is per se a demand, but would depend on the circumstances.

This test should not be a simple mathematical comparison. The Committee intends for it to be applied in such a way that it identifies and corrects situations where the agency's demand is so far in excess of the true value of the case, as compared to the final outcome, and where it appears the agency's assessment or enforcement action did not represent a reasonable effort to match the penalty to the actual facts and circumstances of the case.

In addition, the bill excludes awards in connection with willful violations, bad faith actions and in special circumstances that would make such an award unjust. These additional factors are intended to provide a "safety valve" to ensure that the government is not unduly deterred from advancing its case in good faith. Whether a violation is "willful" should be determined in accordance with existing judicial construction of the subject matter to which the case relates. Special circumstances are intended to include both legal and factual considerations which may make it unjust to require the public to pay attorneys fees and costs, even

in situations where the ultimate award is significantly less than the amount demanded. Special circumstances could include instances where the party seeking fees engaged in a flagrant violation of the law, endangered the lives of others, or engaged in some other type of conduct that would make the award of the fees unjust. The actions covered by "bad faith" include the conduct of the party seeking fees both at the time of the underlying violation, and during the enforcement action. For example, if the party seeking fees attempted to elude government officials, cover up its conduct, or otherwise impede the government's law enforcement activities, then attorneys' fees and costs should not be awarded.

The Committee does not intend by this provision to compensate a party for fees and costs which it would have been expended even had the government demand been reasonable under the circumstances. The amount of the award which a party may recover under this section is limited to the proportion of attorneys' fees and costs attributable to the excessive demand. Thus, for example, if the ultimate decision of the administrative law judge or the judgment of the court is twenty percent of the relevant government demand, the defendant might be entitled to eighty percent of fees and costs. The ultimate determination of the amount of fees and costs to be awarded is to be made by the administrative law judge or the court, based on the facts and circumstances of each case.

The Act also increases the maximum hourly rate for attorneys fees under the EAJA from $75 to $125. Agencies could avoid the possibility of paying attorneys fees by settling with the small entity prior to final judgement. The Committee anticipates that if a settlement is reached, all further claims of either party, including claims for attorneys fees, could be included as part of the settlement. The government may obtain a release specifically including attorneys fees under EAJA.

Additional language is included in the Act to ensure that the legislation did not violate of the PAYGO requirements of the Budget Act. This language requires agencies to satisfy any award of attorneys fees or expenses arising from an agency enforcement action from their discretionary appropriated funds, but does not require that an agency seek or obtain an individual line item or earmarked appropriation for these amounts.

Section 233

The new provisions of the EAJA apply to civil actions and adversary adjudications commenced on or after the date of enactment.

Subtitle D—Regulatory Flexibility Act Amendments

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.), was first enacted in 1980. Under its terms, federal agencies are directed to consider the special needs and concerns of small entities—small businesses, small local governments, farmers, etc.—whenever they engage in a rulemaking subject to the Administrative Procedure Act. The agencies must then prepare and publish a regulatory flexibility analysis of the impact of the proposed rule on small entities, unless the head of the agency certifies that the proposed rule will not "have a significant economic impact on a substantial number of small entities."

Under current law, there is no provision for judicial review of agency action under the RFA. This makes the agencies completely unaccountable for their failure to comply with its requirements. This current prohibition on judicial enforcement of the RFA is contrary to the general principle of administrative law, and it has long been criticized by small business owners. Many small business owners believe that agencies have given lip service at best to the RFA, and small entities have been denied legal recourse to enforce the Act's requirements. Subtitle D gives teeth to the RFA by specifically providing for judicial review of selected sections.

Section 241

H.R. 3136 expands the coverage of the RFA to include Internal Revenue Service interpretative rules that provide for a "collection of information" from small entities. Many IRS rulemakings involve "interpretative rules" that IRS contends need not be promulgated pursuant to section 553 of the Administrative Procedures Act. However, these interpretative rules may have significant economic effects on small entities and should be covered by the RFA. The amendment applies to those IRS interpretative rulemakings that are published in the Federal Register for notice and comment and that will be codified in the Code of Federal Regulations. This limitation is intended to exclude from the RFA other, less formal IRS publications such as revenue rulings, revenue procedures, announcements, publications or private letter rulings.

The requirement that IRS interpretative rules comply with the RFA is further limited to those involving a "collection of information." The term "collection of information" is defined in the Act to include the obtaining, causing to be obtained, soliciting of facts or opinions by an agency through a variety of means that would include the use of written report forms, schedules, or reporting or other record keeping requirements. It would also include any requirements that require the disclosure to third parties of any information. The intent of this phrase "collection of information" in the context of the RFA is to include all IRS interpretative rules of general applicability that lead to or result in small entities keeping records, filing reports or otherwise providing information to IRS or third parties.

While the term "collection of information" also is used in the Paperwork Reduction Act (44 U.S.C. 3502(4))("PRA"), the purpose of the term in the context of the RFA is different than the purpose of the term in the PRA. Thus, while some courts have interpreted the PRA to exempt from its requirements certain recordkeeping requirements that are explicitly required by statute, such an interpretation would be inappropriate in the context of the RFA. If a collection of information is explicitly required by a regulation that will ultimately be codified in the Code of Federal Regulations ("CFR"), the effect might be to limit the possible regulatory alternatives available to the IRS in the proposed rulemaking, but would not exempt the IRS from conducting a regulatory flexibility analysis.

Some IRS interpretative rules merely reiterate or restate the statutorily required tax liability. While a small entity's tax liability may be a burden, the RFA cannot act to supersede the statutorily required tax rate. However, most IRS interpretative rules involve some aspect of defining or establishing requirements for compliance with the CFR, or otherwise require small entities to maintain records to comply with the CFR now be covered by the RFA. One of the primary purposes of the RFA is to reduce the compliance burdens on small entities whenever possible under the statute. To accomplish this purpose, the IRS should take an expansive approach in interpreting the phrase "collection of information" when considering whether to conduct a regulatory flexibility analysis.

The courts generally are given broad discretion to formulate appropriate remedies under the facts and circumstances of each individual case. The rights of judicial review and remedial authority of the courts provided in the Act as to IRS interpretative rules should be applied in a manner consistent with the purposes of the Anti-Injunction Act (26 U.S.C. 7421), which may limit remedies available in particular circumstances. The RFA, as amended by the Act, permits the court to remand a rule to an Agency for further consideration of the rule's impact on small entities. The amendment also directs the court to consider the public interest in determining whether or not to delay enforcement of a rule against small entities pending agency compliance with the court's findings. The filing of an action requesting judicial review pursuant to this section does not automatically stay the implementation of the rule. Rather, the court has discretion in determining whether enforcement of the rule shall be deferred as it relates to small entities. In the context of IRS interpretative rulemakings, this language should be read to require the court to give appropriate deference to the legitimate public interest in the assessment and collection of taxes reflected by the Anti-Injunction Act. The court should not exercise its discretion more broadly than necessary under the circumstances or in a way that might encourage excessive litigation.

If an agency is required to publish an initial regulatory flexibility analysis, the agency also must publish a final regulatory flexibility analysis. In the final regulatory flexibility analysis, agencies will be required to describe the impacts of the rule on small entities and to specify the actions taken by the agency to modify the proposed rule to minimize the regulatory impact on small entities. Nothing in the bill directs the agency to choose a regulatory alternative that is not authorized by the statute granting regulatory authority. The goal of the final regulatory flexibility analysis is to demonstrate how the agency has minimized the impact on small entities consistent with the underlying statute and other applicable legal requirements.

Section 242

H.R. 3136 removes the current prohibition on judicial review of agency compliance with certain sections of the RFA. It allows adversely affected small entities to seek judicial review of agency compliance with the RFA within one year after final agency action, except where a provision of law requires a shorter period for challenging a final agency action. The amendment is not intended to encourage or allow spurious lawsuits which might hinder important governmental functions. The Act does not subject all regulations issued since the enactment of the RFA to judicial review. The one-year limitation on seeking judicial review ensures that this legislation will not permit indefinite, retroactive application of judicial review.

For rules promulgated after the effective date, judicial review will be available pursuant to this Act. The procedures and standards for review to be used are those set forth in the Administrative Procedure Act at Chapter 7 of Title 5. If the court finds that a final agency action was arbitrary, capricious, an abuse of discretion or otherwise not

VOL 142 PT 5 MR 21 — 29 1996 UMI

in accordance with the law, the court may set aside the rule or order the agency to take other corrective action. The court may also decide that the failure to comply with the RFA warrants remanding the rule to the agency or delaying the application of the rule to small entities pending completion of the court ordered corrective action. However, in some circumstances, the court may find that there is good cause to allow the rule to be enforced and to remain in effect pending the corrective action.

Judicial review of the RFA is limited to agency compliance with the requirements of sections 601, 604, 605(b), 608(b) and 610. Review under these sections is not limited to the agency's compliance with the procedural aspects of the RFA; final agency action under these sections will be subject to the normal judicial review standards of Chapter 7 of Title 5. While the Committees determined that agency compliance with sections 607 and 609(a) of the RFA is important, it did not believe that a party should be entitled to judicial review of agency compliance with those sections in the absence of a judiciable claim for review of agency compliance with section 604. Therefore, under the Act, an agency's failure to comply with sections 607 or 609(a) may be reviewed only in conjunction with a challenge under section 604 of the RFA.

Section 243

Section 243 of the Act alters the content of the statement which an agency must publish when making a certification under section 605 of the RFA that a regulation will not impose a significant economic impact on a substantial number of small entities. Current law requires only that the agency publish a "succinct statement explaining the reasons for such certification." The Committee believes that more specific justification for its determination should be provided by the agency. Under the amendment, the agency must state its factual basis for the certification. This will provide a record upon which a court may review the agency's determination in accordance with the judicial review provisions of the Administrative Procedure Act.

Section 244

H.R. 3136 amends the existing requirements of section 609 of the RFA for small business participation in the rulemaking process by incorporating a modified version of S. 917, the Small Business Advocacy Act, which was introduced by Senator Domenici, to provide early input from small businesses into the regulatory process. For proposed rules with a significant economic impact on a substantial number of small entities, EPA and OSHA would have to collect advice and recommendations from small businesses to better inform the agency's regulatory flexibility analysis on the potential impacts of the rule. The House version drops the provision of the Senate bill that would have required the panels to reconvene prior to publication of the final rule.

The agency promulgating the rule would consult with the SBA's Chief Counsel for Advocacy to identify individuals who are representative of affected small businesses. The agency would designate a senior level official to be responsible for implementing this section and chairing an interagency review panel for the rule. Before the publication of an initial regulatory flexibility analysis for a proposed EPA or OSHA rule, the SBA's Chief Counsel for Advocacy will gather information from individual representatives of small businesses and other small entities, such as small local governments, about the potential impacts of that proposed rule. This information will then be reviewed by a panel composed of members from EPA or OSHA, OIRA, and the Chief Counsel for Advocacy. The panel will then issue a report on those individuals' comments, which will become part of the rulemaking record. The review panel's report and related rulemaking information will be placed in the rulemaking record in a timely fashion so that others who are interested in the proposed rule may have an opportunity to review that information and submit their own responses for the record before the close of the agency's public comment period for the proposed rule. The legislation includes limits on the period during which the review panel conducts its review. It also creates a limited process allowing the Chief Counsel for Advocacy to waive certain requirements of the section after consultation with the Office of Information and Regulatory Affairs and small businesses.

Section 245

This section provides that the effective date of subtitle D is 90 days after enactment. Proposed rules published after the effective date must be accompanied by an initial regulatory flexibility analysis or a certification under section 605 of the RFA. Final rules published after the effective date must be accompanied by a final regulatory flexibility analysis or a certification under section 605 of the RFA, regardless of when the rule was first proposed. Thus judicial review shall apply to any final regulation published after the effective date regardless of when the rule was proposed. However, IRS interpretative rules proposed prior to enactment will not be subject to the amendments made in this subchapter expanding the scope of the RFA to include IRS interpretative rules. Thus, the IRS could finalize previously proposed interpretative rules according to the terms of currently applicable law, regardless of when the final interpretative rule is published.

Subtitle E—Congressional review subtitle

Subtitle E adds a new chapter to the Administrative Procedure Act (APA), "Congressional Review of Agency Rulemaking," which is codified in the United States Code as chapter 8 of title 5. The congressional review chapter creates a special mechanism for Congress to review new rules issued by federal agencies (including modification, repeal, or reissuance of existing rules). During the review period, Congress may use expedited procedures to enact joint resolutions of disapproval to overrule the federal rulemaking actions. In the 104th Congress, four slightly different versions of this legislation passed the Senate and two different versions passed the House. Yet, no formal legislative history document was prepared to explain the legislation or the reasons for changes in the final language negotiated between the House and Senate. This joint statement of the committees of jurisdiction on the congressional review subtitle is intended to cure this deficiency.

Background

As the number and complexity of federal statutory programs has increased over the last fifty years, Congress has come to depend more and more upon Executive Branch agencies to fill out the details of the programs it enacts. As complex as some statutory schemes passed by Congress are, the implementing regulation is often more complex by several orders of magnitude. As more and more of Congress' legislative functions have been delegated to federal regulatory agencies, many have complained that Congress has effectively abdicated its constitutional role as the national legislature in allowing federal agencies so much latitude in implementing and interpreting congressional enactments.

In many cases, this criticism is well founded. Our constitutional scheme creates a delicate balance between the appropriate roles of the Congress in enacting laws, and the Executive Branch in implementing those laws. This legislation will help to redress the balance, reclaiming for Congress some of its policymaking authority, without at the same time requiring Congress to become a super regulatory agency.

This legislation establishes a government-wide congressional review mechanism for most new rules. This allows Congress the opportunity to review a rule before it takes effect and to disapprove any rule to which Congress objects. Congress may find a rule to be too burdensome, excessive, inappropriate or duplicative. Subtitle E uses the mechanism of a joint resolution of disapproval which requires passage by both houses of Congress and the President (or veto by the President and a two-thirds' override by Congress) to be effective. In other words, enactment of a joint resolution of disapproval is the same as enactment of a law.

Congress has considered various proposals for reviewing rules before they take effect for almost twenty years. Use of a simple (one-house), concurrent (two-house), or joint (two houses plus the President) resolution are among the options that have been debated and in some cases previously implemented on a limited basis. In *INS* v. *Chadha*, 462 U.S. 919 (1983), the Supreme Court struck down as unconstitutional any procedure where executive action could be overturned by less than the full process required under the Constitution to make laws—that is, approval by both houses of Congress and presentment to the President. That narrowed Congress' options to use a joint resolution of disapproval. The one-house or two-house legislative veto (as procedures involving simple and concurrent resolutions were previously called), was thus voided.

Because Congress often is unable to anticipate the numerous situations to which the laws it passes must apply, Executive Branch agencies sometimes develop regulatory schemes at odds with congressional expectations. Moreover, during the time lapse between passage of legislation and its implementation, the nature of the problem addressed, and its proper solution, can change. Rules can be surprisingly different from the expectations of Congress or the public. Congressional review gives the public the opportunity to call the attention of politically accountable, elected officials to concerns about new agency rules. If these concerns are sufficiently serious, Congress can stop the rule.

Brief procedural history of congressional review chapter

In the 104th Congress, the congressional review legislation originated as S. 348, the "Regulatory Oversight Act," which was introduced on February 2, 1995. The text of S. 348 was offered by its sponsors, Senators Don Nickles and Harry Reid, as a substitute amendment to S. 219, the "Regulatory Transition Act of 1995." As amended, S. 219 provided for a 45-day delay on the effectiveness of a major rule, and provided expedited procedures that Congress could use to pass resolutions disapproving of the rule. On March 29, 1995, the Senate passed the amended version of S. 219 by a vote of 100–0. The Senate later substituted the text of S. 219 for the text of H.R. 450, the House passed "Regulatory Transition Act of 1995." Although the

House did not agree to a conference on H.R. 450 and S. 219, both Houses continued to incorporate the congressional review provisions in other legislative packages. On May 25, the Senate Governmental Affairs Committee reported out S. 343, the "Comprehensive Regulatory Reform Act of 1995," and S. 291, the "Regulatory Reform Act of 1995," both with congressional review provisions. On May 26, 1995, the Senate Judiciary Committee reported out a different version of S. 343, the "Comprehensive Regulatory Reform Act of 1995," which also included a congressional review provision. The congressional review provision in S. 343 that was debated by the Senate was quite similar to S. 219, except that the delay period in the effectiveness of a major rule was extended to 60 days and the legislation did not apply to rules issued prior to enactment. A fillibuster of S. 343, unrelated to the congressional review provisions, led to the withdrawal of that bill.

The House next took up the congressional review legislation by attaching a version of it (as section 3006) to H.R. 2586, the first debt limit extension bill. The House made several changes in the legislation that was attached to H.R. 2586, including a provision that would allow the expedited procedures also to apply to resolutions disapproving of proposed rules, and provisions that would have extended the 60-day delay on the effectiveness of a major rule for any period when the House or Senate was in recess for more than three days. On November 9, 1995 both the House and Senate passed this version of the congressional review legislation as part of the first debt limit extension bill. President Clinton vetoed the bill a few days later, for reasons unrelated to the congressional review provision.

On February 29, 1996, a House version of the congressional review legislation was published in the Congressional Record as title III of H.R. 994, which was scheduled to be brought to the House floor in the coming weeks. The congressional review title was almost identical to the legislation approved by both Houses in H.R. 2586. On March 19, 1996, the Senate adopted a congressional review amendment by voice vote to S. 942, which bill passed the Senate 100–0. The congressional review legislation in S. 942 was similar to the original version of S. 219 that passed the Senate on March 29, 1995.

Soon after passage of S. 942, representatives of the relevant House and Senate committees and principal sponsors of the congressional review legislation met to craft a congressional review subtitle that was acceptable to both Houses and would be added to the debt limit bill that was scheduled to be taken up in Congress the week of March 24. The final compromise language was the result of these joint discussions and negotiations.

On March 28, 1996, the House and Senate passed title III, the "Small Business Regulatory Enforcement Fairness Act of 1996," as part of the second debt limit bill, H.R. 3136. There was no separate vote in either body on the congressional review subtitle or on title III of H.R. 3136. However, title III received broad support in the House and the entire bill passed in the Senate by unanimous consent. The President signed H.R. 3136 into law on March 29, 1996, exactly one year after the first congressional review bill passed the Senate.

Submission of rules to Congress and to GAO

Pursuant to subsection 801(a)(1)(A), a federal agency promulgating a rule must submit a copy of the rule and a brief report about it to each House of Congress and to the Comptroller General before the rule can take effect. In addition to a copy of the rule, the report shall contain a concise general statement relating to the rule, including whether it is a major rule under the chapter, and the proposed effective date of the rule. Because most rules covered by the chapter must be published in the Federal Register before they can take effect, it is not expected that the submission of the rule and the report to Congress and the Comptroller General will lead to any additional delay.

Section 808 provides the only exception to the requirement that rules must be submitted to each House of Congress and the Comptroller General before they can take effect. Subsection 808(1) excepts specified rules relating to commercial, recreational, or subsistence hunting, fishing, and camping. Subsection 808(2) excepts certain rules that are not subject to notice-and-comment procedures. It provides that if the relevant agency finds "for good cause ... that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, [such rules] shall take effect at such time as the Federal agency promulgating the rule determines." Although rules described in section 808 shall take effect when the relevant Federal agency determines pursuant to other provisions of law, the federal agency still must submit such rules and the accompanying report to each House of Congress and to the Comptroller General as soon as practicable after promulgation. Thus, rules described in section 808 are subject to congressional review and the expedited procedures governing joint resolutions of disapproval. Moreover, the congressional review period will not begin to run until such rules and the accompanying reports are submitted to each House of Congress and the Comptroller General.

In accordance with current House and Senate rules, covered agency rules and the accompanying report must be separately addressed and transmitted to the Speaker of the House (the Capitol, Room H-209), the President of the Senate (the Capitol, Room S-212), and the Comptroller General (GAO Building, 441 G Street, N.W., Room 1139). Except for rules described in section 808, any covered rule not submitted to Congress and the Comptroller General will remain ineffective until it is submitted pursuant to subsection 801(a)(1)(A). In almost all cases, there will be sufficient time for an agency to submit notice-and-comment rules or other rules that must be published to these legislative officers during normal office hours. There may be a rare instance, however, when a federal agency must issue an emergency rule that is effective upon actual notice and does not meet one of the section 808 exceptions. In such a rare case, the federal agency may provide contemporaneous notice to the Speaker of the House, the President of the Senate, and the Comptroller General. These legislative officers have accommodated the receipt of similar, emergency communications in the past and will utilize the same means to receive emergency rules and reports during non-business hours. If no other means of delivery is possible, delivery of the rule and related report by telefax to the Speaker of the House, the President of the Senate, and the Comptroller General shall satisfy the requirements of subsection 801(a)(1)(A).

Additional delay in the effectiveness of major rules

Subsection 553(d) of the APA requires publication or service of most substantive rules at least 30 days prior to their effective date. Pursuant to subsection 801(a)(3)(A), a major rule (as defined in subsection 804(2)) shall not take effect until at least 60 calendar days after the later of the date on which the rule and accompanying information is submitted to Congress or the date on which the rule is published in the Federal Register, if it is so published. If the Congress passes a joint resolution of disapproval and the President vetoes such resolution, the delay in the effectiveness of a major rule is extended by subsection 801(a)(3)(B) until the earlier date on which either House of Congress votes and fails to override the veto or 30 session days[1] after the date on which the Congress receives the veto and objections from the President. By necessary implication, if the Congress passes a joint resolution of disapproval within the 60 calendar days provided in subsection 801(a)(3)(A), the delay period in the effectiveness of a major rule must be extended at least until the President acts on the joint resolution or until the time expires for the President to act. Any other result would be inconsistent with subsection 801(a)(3)(B), which extends the delay in the effectiveness of a major rule for a period of time after the President vetoes a resolution.

Of course, if Congress fails to pass a joint resolution of disapproval within the 60-day period provided by subsection 801(a)(3)(A), subsection 801(a)(3)(B) would not apply and would not further delay the effective date of the rule. Moreover, pursuant to subsection 801(a)(5), the effective date of a rule shall not be delayed by this chapter beyond the date on which either house of Congress votes to reject a joint resolution of disapproval.

Although it is not expressly provided in the congressional review chapter, it is the committees' intent that a rule may take effect if an adjournment of Congress prevents the President from returning his veto and objections within the meaning of the Constitution. Such will be the case if the President does not act on a joint resolution within 10 days (Sundays excepted) after it is presented to him, and "the Congress by their Adjournment prevent its Return" within the meaning of Article I, §7, cl. 2, or when the President affirmatively vetoes a resolution during such an adjournment. This is the logical result because Congress cannot act to override these vetoes. Congress would have to begin anew, pass a second resolution, and present it to the President in order for it to become law. It is also the committees' intent that a rule may take effect immediately if the President returns a veto and his objections to Congress but Congress adjourns its last session sine die before the expiration of time provided in subsection 801(a)(3)(B). Like the situations described immediately above, no subsequent Congress can act further on the veto, and the next Congress would have to begin anew, pass a second resolution of disapproval, and present it to the President in order for it to become law.

Purpose of and exceptions to the delay of major rules

The reason for the delay in the effectiveness of a major rule beyond that provided in APA subsection 553(d) is to try to provide Congress with an opportunity to act on resolutions of disapproval before regulated parties must invest the significant resources

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[1] In the Senate, a "session day" is a calendar day in which the Senate is in session. In the House of Representatives, the same term is normally expressed as a "legislative day." In the congressional review chapter, however, the term "session day" means both a "session day" of the Senate and a "legislative day" of the House of Representatives unless the context of the sentence or paragraph indicates otherwise.

VOL 142 PT 5 MR 21—29 1996 UMI

necessary to comply with a major rule. Congress may continue to use the expedited procedures to pass resolutions of disapproval for a period of time after a major rule takes effect, but it would be preferable for Congress to act during the delay period so that fewer resources would be wasted. To increase the likelihood that Congress would act before a major rule took effect, the committees agreed on an approximately 60-day delay period in the effective date of a major rule, rather than an approximately 45-day delay period in some earlier versions of the legislation.

There are four exceptions to the required delay in the effectiveness of a major rule in the congressional review chapter. The first is in subsection 801(c), which provides that a major rule is not subject to the delay period of subsection 801(a)(3) if the President determines in an executive order that one of four specified situations exist and notifies Congress of his determination. The second is in subsection 808(1), which excepts specified rules relating to commercial, recreational, or subsistence hunting, fishing, and camping from the initial delay specified in subsection 801(a)(1)(A) and from the delay in the effective date of a major rule provided in subsection 801(a)(3). The third is in subsection 808(2), which excepts certain rules from the initial delay specified in subsection 801(a)(1)(A) and from the delay in the effective date of a major rule provided in subsection 801(a)(3) if the relevant agency finds "for good cause . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." This "good cause" exception in subsection 808(2) is taken from the APA and applies only to rules which are exempt from notice and comment under subsection 553(b)(B) or an analogous statute. The fourth exception is in subsection 804(2). Any rule promulgated under the Telecommunications Act of 1996 or any amendments made by that Act that otherwise could be classified as a "major rule" is exempt from that definition and from the 60-day delay in section 801(a)(3). However, such an issuance still would fall within the definition of "rule" and would be subject to the requirements of the legislation for nonmajor rules. A determination under subsection 801(c), subsection 804(2), or section 808 shall have no effect on the procedures to enact joint resolutions of disapproval.

A court may not stay or suspend the effectiveness of a rule beyond the period specified in section 801 simply because a resolution of disapproval is pending in Congress

The committees discussed the relationship between the period of time that a major rule is delayed and the period of time during which Congress could use the expedited procedures in section 802 to pass a resolution of disapproval. Although it would be best for Congress to act pursuant to this chapter before a major rule goes into effect, it was recognized that Congress could not often act immediately after a rule was issued because it may be issued during a recesses of Congress, shortly before such recesses, or during other periods when Congress cannot devote the time to complete prompt legislative action. Accordingly, the committees determined that the proper public policy was to give Congress an adequate opportunity to deliberate and act on joint resolutions of disapproval, while ensuring that major rules could go into effect without unreasonable delay. In short, the committees decided that major rules could take effect after an approximate 60-day delay, but the period governing the expedited procedures in section 802 for review of joint resolution of disapproval would extend for a period of time beyond that.

Accordingly, courts may not stay or suspend the effectiveness of any rule beyond the periods specified in section 801 simply because a joint resolution is pending before Congress. Such action would be contrary to the many express provisions governing when different types of rules may take effect. Such court action also would be contrary to the committees' intent because it would upset an important compromise on how long a delay there should be on the effectiveness of a major rule. The final delay period was selected as a compromise between the period specified in the version that passed the Senate on March 19, 1995 and the version that passed both Houses on November 9, 1995. It is also the committees' belief that such court action would be inconsistent with the principles of (and potentially violate) the Constitution, art. I, §7, cl. 2, in that courts may not give legal effect to legislative action unless it results in the enactment of law pursuant that Clause. See *INS* v. *Chadha*, 462 U.S. 919 (1983). Finally, the committees believe that a court may not predicate a stay on the basis of possible future congressional action because it would be improper for a court to rule that the movant had demonstrated a "likelihood of success on the merits," unless and until a joint resolution is enacted into law. A judicial stay prior to that time would raise serious separation of powers concerns because it would be tantamount to the court making a prediction of what Congress is likely to do and then exercising its own power in furtherance of that prediction. Indeed, the committees believe that Congress may have been reluctant to pass congressional review legislation at all if its action or inaction pursuant to this chapter would be treated differently than its action or inaction regarding any other bill or resolution.

Time periods governing passage of joint resolutions of disapproval

Subsection 802(a) provides that a joint resolution disapproving of a particular rule may be introduced in either House beginning on the date the rule and accompanying report are received by Congress until 60 calendar days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress). But if Congress did not have sufficient time in a previous session to introduce or consider a resolution of disapproval, as set forth in subsection 801(d), the rule and accompanying report will be treated as if it were first received by Congress on the 15th session day in the Senate, or 15th legislative day in the House, after the start of its next session. When a rule was submitted near the end of a Congress or prior to the start of the next Congress, a joint resolution of disapproval regarding that rule may be introduced in the next Congress beginning on the 15th session day in the Senate or the 15th legislative day in the House until 60 calendar days thereafter (excluding days either House of Congress is adjourned for more than 3 days during the session) regardless of whether such a resolution was introduced in the prior Congress. Of course, any joint resolution pending from the first session of a Congress, may be considered further in the next session of the same Congress.

Subsections 802(c)–(d) specify special procedures that apply to the consideration of a joint resolution of disapproval in the Senate. Subsection 802(c) allows 30 Senators to petition for the discharge of resolution from a Senate committee after a specified period of time (the later of 20 calendar days after the rule is submitted to Congress or published in the Federal Register, if it is so published). Subsection 802(d) specifies procedures for the consideration of a resolution on the Senate floor. Such a resolution is highly privileged, points of order are waived, a motion to postpone consideration is not in order, the resolution is unamendable, and debate on the joint resolution and "on all debatable motions and appeals in connection therewith" (including a motion to proceed) is limited to no more than 10 hours.

Subsection 802(e) provides that the special Senate procedures specified in subsections 802(c)–(d) shall not apply to the consideration of any joint resolution of disapproval of a rule after 60 session days of the Senate beginning with the later date that rule is submitted to Congress or published, if it is so published. However, if a rule and accompanying report are submitted to Congress shortly before the end of a session or during an intersession recess as described in subsection 801(d)(1), the special Senate procedures specified in subsections 802(c)–(d) shall expire 60 session days after the 15th session day of the succeeding session of Congress—or on the 75th session day after the succeeding session of Congress first convenes. For purposes of subsection 802(e), the term "session day" refers only to a day the Senate is in session, rather than a day both Houses are in session. However, in computing the time specified in subsection 801(d)(1), that subsection specifies that there shall be an additional period of review in the next session if either House did not have an adequate opportunity to complete action on a joint resolution. Thus, if either House of Congress did not have adequate time to consider a joint resolution in a given session (60 session days in the Senate and 60 legislative days in the House), resolutions of disapproval may be introduced or reintroduced in both Houses in the next session, and the special Senate procedures specified in subsection 802(c)–(d) shall apply in the next session of the Senate.

If a joint resolution of disapproval is pending when the expedited Senate procedures specified in subsections 802(c)–(d) expire, the resolution shall not die in either House but shall simply be considered pursuant to the normal rules of either House—with one exception. Subsection 802(f) sets forth one unique provision that does not expire in either House. Subsection 802(f) provides procedures for passage of a joint resolution of disapproval when one House passes a joint resolution and transmits it to the other House that has not yet completed action. In both Houses, the joint resolution of the first House to act shall not be referred to a committee but shall be held at the desk. In the Senate, a House-passed resolution may be considered directly only under normal Senate procedures, regardless of when it is received by the Senate. A resolution of disapproval that originated in the Senate may be considered under the expedited procedures only during the period specified in subsection 802(e). Regardless of the procedures used to consider a joint resolution in either House, the final vote of the second House shall be on the joint resolution of the first House (no matter when that vote takes place). If the second House passes the resolution, no conference is necessary and the joint resolution will be presented to the President for his signature. Subsection 802(f) is justified because subsection 802(a) sets forth the required language of a joint resolution in each House, and thus, permits little variance in the joint resolutions that could be introduced in each House.

Effect of enactment of a joint resolution of disapproval

Subsection 801(b)(1) provides that: "A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule." Subsection 801(b)(2) provides that such a disapproved rule "may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule." Subsection 801(b)(2) is necessary to prevent circumvention of a resolution of disapproval. Nevertheless, it may have a different impact on the issuing agencies depending on the nature of the underlying law that authorized the rule.

If the law that authorized the disapproved rule provides broad discretion to the issuing agency regarding the substance of such rule, the agency may exercise its broad discretion to issue a substantially different rule. If the law that authorized the disapproved rule did not mandate the promulgation of any rule, the issuing agency may exercise its discretion not to issue any new rule. Depending on the law that authorized the rule, an issuing agency may have both options. But if an agency is mandated to promulgate a particular rule and its discretion in issuing the rule is narrowly circumscribed, the enactment of a resolution of disapproval for that rule may work to prohibit the reissuance of any rule. The committees intend the debate on any resolution of disapproval to focus on the law that authorized the rule and make the congressional intent clear regarding the agency's options or lack thereof after enactment of a joint resolution of disapproval. It will be the agency's responsibility in the first instance when promulgating the rule to determine the range of discretion afforded under the original law and whether the law authorizes the agency to issue a substantially different rule. Then, the agency must give effect to the resolution of disapproval.

Limitation on judicial review of congressional or administrative actions

Section 805 provides that a court may not review any congressional or administrative "determination, finding, action, or omission under this chapter." Thus, the major rule determinations made by the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget are not subject to judicial review. Nor may a court review whether Congress complied with the congressional review procedures in this chapter. This latter limitation on the scope of judicial review was drafted in recognition of the constitutional right of each House of Congress to "determine the Rules of its Proceedings," U.S. Const., art. I, §5, cl. 2, which includes being the final arbiter of compliance with such Rules.

The limitation on a court's review of subsidiary determination or compliance with congressional procedures, however, does not bar a court from giving effect to a resolution of disapproval that was enacted into law. A court with proper jurisdiction may treat the congressional enactment of a joint resolution of disapproval as it would treat the enactment of any other federal law. Thus, a court with proper jurisdiction may review the resolution of disapproval and the law that authorized the disapproved rule to determine whether the issuing agency has the legal authority to issue a substantially different rule. The language of subsection 801(g) is also instructive. Subsection 801(g) prohibits a court or agency from inferring any intent of the Congress only when "Congress does not enact a joint resolution of disapproval," or by implication, when it has not yet done so. In deciding cases or controversies properly before it, a court or agency must give effect to the intent of the Congress when such a resolution is enacted and becomes the law of the land. The limitation on judicial review in no way prohibits a court from determining whether a rule is in effect. For example, the committees expect that a court might recognize that a rule has no legal effect due to the operation of subsections 801(a)(1)(A) or 801(a)(3).

Enactment of a joint resolution of disapproval for a rule that was already in effect

Subsection 801(f) provides that: "Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect." Application of this subsection should be consistent with existing judicial precedents on rules that are deemed never to have taken effect.

Agency information required to be submitted to GAO

Pursuant to subsection 801(a)(1)(B), the federal agency promulgating the rule shall submit to the Comptroller General (and make available to each House) (i) a complete copy of the cost-benefit analysis of the rule, if any, (ii) the agency's actions related to the Regulatory Flexibility Act, (iii) the agency's actions related to the Unfunded Mandates Reform Act, and (iv) "any other relevant information or requirements under any other Act and any relevant Executive Orders." Pursuant to subsection 801(a)(1)(B), this information must be submitted to the Comptroller General on the day the agency submits the rule to Congress and to GAO.

The committees intend information supplied in conformity with subsection 801(a)(1)(B)(iv) to encompass both agency-specific statutes and government-wide statutes and executive orders that impose requirements relevant to each rule. Examples of agency-specific statutes include information regarding compliance with the law that authorized the rule and any agency-specific procedural requirements, such as section 9 of the Consumer Product Safety Act, as amended, 15 U.S.C. §2054 (procedures for consumer product safety rules); section 6 of the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §655 (promulgation of standards); section 307(d) of the Clean Air Act, as amended, 42 U.S.C. §7607(d) (promulgation of rules); and section 501 of the Department of Energy Organization Act, 42 U.S.C. §7191 (procedure for issuance of rules, regulations, and orders). Examples of government-wide statutes include other chapters of the Administrative Procedure Act, 5 U.S.C. §§551–559 and 701–706; and the Paperwork Reduction Act, as amended, 44 U.S.C. §§3501–3520.

Examples of relevant executive orders include E.O. No. 12866 (Sept. 30, 1993) (Regulatory Planning and Review); E.O. No. 12606 (Sept. 2, 1987) (Family Considerations in Policy Formulation and Implementation); E.O. No. 12612 (Oct. 26, 1987) (Federalism Considerations in Policy Formulation and Implementation); E.O. No. 12630 (Mar. 15, 1988) (Government Actions and Interference with Constitutionally Protected Property Rights); E.O. No. 12875 (Oct. 26, 1993) (Enhancing the Intergovernmental Partnership); E.O. No. 12778 (Oct. 23, 1991) (Civil Justice Reform); E.O. No. 12988 (Feb. 5, 1996) (Civil Justice Reform) (effective May 5, 1996).

GAO reports on major rules

Fifteen days after the federal agency submits a copy of a major rule and report to each House of Congress and the Comptroller General, the Comptroller General shall prepare and provide a report on the major rule to the committees of jurisdiction in each House. Subsection 801(a)(2)(B) requires agencies to cooperate with the Comptroller General in providing information relevant to the Comptroller General's reports on major rules. Given the 15-day deadline for these reports, it is essential that the agencies' initial submission to the General Accounting Office (GAO) contain all of the information necessary for GAO to conduct its analysis. At a minimum, the agency's submission must include the information required of all rules pursuant to 801(a)(1)(B). Whenever possible, OMB should work with GAO to alert GAO when a major rule is likely to be issued and to provide as much advance information to GAO as possible on such proposed major rule. In particular, OMB should attempt to provide the complete cost-benefit analysis on a major rule, if any, well in advance of the final rule's promulgation.

It also is essential for the agencies to present this information in a format that will facilitate the GAO's analysis. The committees expect that GAO and OMB will work together to develop, to the greatest extent practicable, standard formats for agency submissions. OMB also should ensure that agencies follow such formats. The committees also expect that agencies will provide expeditiously any additional information that GAO may require for a thorough report. The committees do not intend the Comptroller General's reports to be delayed beyond the 15-day deadline due to lack of information or resources unless the committees of jurisdiction indicate a different preference. Of course, the Comptroller General may supplement his initial report at any time with any additional information, on its own, or at the request of the relevant committees of jurisdiction.

Covered agencies and entities in the executive branch

The committees intend this chapter to be comprehensive in the agencies and entities that are subject to it. The term "Federal agency" in subsection 804(1) was taken from 5 U.S.C. §551(1). That definition includes "each authority of the Government" that is not expressly excluded by subsection 551(1)(A)–(H). With those few exceptions, the objective was to cover each and every government entity, whether it is a department, independent agency, independent establishment, or government corporation. This is because Congress is enacting the congressional review chapter, in large part, as an exercise of its oversight and legislative responsibility. Regardless of the justification for excluding or granting independence to some entities from the coverage of other laws, that justification does not apply to this chapter, where Congress has an interest in exercising its constitutional oversight and legislative responsibility as broadly as possible over all agencies and entities within its legislative jurisdiction.

In some instances, federal entities and agencies issue rules that are not subject to the traditional 5 U.S.C. §553(c) rulemaking process. However, the committees intend the congressional review chapter to cover every agency, authority, or entity covered by subsection 551(1) that establishes policies affecting any segment of the general public. Where it was necessary, a few special exceptions were provided, such as the exclusion for the

VOL
142
PT
5
MR
21
—
29
1996
UMI

monetary policy activities of the Board of Governors of the Federal Reserve System, rules of particular applicability, and rules of agency management and personnel. Where it was not necessary, no exemption was provided and no exemption should be inferred from other law. This is made clear by the provision of section 806 which states that the Act applies notwithstanding any other provision of law.

Definition of a "major rule"

The definition of a "major rule" in subsection 804(2) is taken from President Reagan's Executive Order 12291. Although President Clinton's Executive Order 12866 contains a definition of a "significant regulatory action" that is seemingly as broad, several of the Administration's significant rule determinations under Executive Order 12866 have been called into question. The committees intend the term "major rule" in this chapter to be broadly construed, including the non-numerical factors contained in the subsections 804(2) (B) and (C).

Pursuant to subsection 804(2), the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget (the Administrator) must make the major rule determination. The committees believe that centralizing this function in the Administrator will lead to consistency across agency lines. Moreover, from 1981–93, OIRA staff interpreted and applied the same major rule definition under E.O. 12291. Thus, the Administrator should rely on guidance documents prepared by OIRA during that time and previous major rule determinations from that Office as a guide in applying the statutory definition to new rules.

Certain covered agencies, including many "independent agencies," include their proposed rules in the Unified Regulatory Agenda published by OMB but do not normally submit their final rules to OMB for review. Moreover, interpretative rules and general statements of policy are not normally submitted to OMB for review. Nevertheless, it is the Administrator that must make the major rule determination under this chapter whenever a new rule is issued. The Administrator may request the recommendation of any agency covered by this chapter on whether a proposed rule is a major rule within the meaning of subsection 804(2), but the Administrator is responsible for the ultimate determination. Thus, all agencies or entities covered by this chapter will have to coordinate their rulemaking activity with OIRA so that the Administrator may make the final, major rule determination.

Scope of rules covered

The committees intend this chapter to be interpreted broadly with regard to the type and scope of rules that are subject to congressional review. The term "rule" in subsection 804(3) begins with the definition of a "rule" in subsection 551(4) and excludes three subsets of rules that are modeled on APA sections 551 and 553. This definition of a rule does not turn on whether a given agency must normally comply with the notice-and-comment provisions of the APA, or whether the rule at issue is subject to any other notice-and-comment procedures. The definition of "rule" in subsection 551(4) covers a wide spectrum of activities. First, there is formal rulemaking under section 553 that must adhere to procedures of sections 556 and 557 of title 5. Second, there is informal rulemaking, which must comply with the notice-and-comment requirements of subsection 553(c). Third, there are rules subject to the requirements of subsection 552(a)(1) and (2). This third category of rules normally either must be published in the Federal Register before they can adversely affect a person, or must be indexed and made available for inspection and copying or purchase before they can be used as precedent by an agency against a non-agency party. Documents covered by subsection 552(a) include statements of general policy, interpretations of general applicability, and administrative staff manuals and instructions to staff that affect a member of the public. Fourth, there is a body of materials that fall within the APA definition of "rule" and are the product of agency process, but that meet none of the procedural specifications of the first three classes. These include guidance documents and the like. For purposes of this section, the term rule also includes any rule, rule change, or rule interpretation by a self regulatory organization that is approved by a Federal agency. Accordingly, all "rules" are covered under this chapter, whether issued at the agency's initiative or in response to a petition, unless they are expressly excluded by subsections 804(3)(A)–(C). The committees are concerned that some agencies have attempted to circumvent notice-and-comment requirements by trying to give legal effect to general statements of policy, "guidelines," and agency policy and procedure manuals. The committees admonish the agencies that the APA's broad definition of "rule" was adopted by the authors of this legislation to discourage circumvention of the requirements of chapter 8.

The definition of a rule in subsection 551(4) covers most agency statements of general applicability and future effect. Subsection 804(3)(A) excludes "any rule of particular applicability, including a rule that approves or prescribes rates, wages, prices, services, or allowances therefore, corporate and financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing" from the definition of a rule. Many agencies, including the Treasury, Justice, and Commerce Departments, issue letter rulings or other opinion letters to individuals who request a specific ruling on the facts of their situation. These letter rulings are sometimes published and relied upon by other people in similar situations, but the agency is not bound by the earlier rulings even on facts that are analogous. Thus, such letter rulings or opinion letters do not fall within the definition of a rule within the meaning of subsection 804(3).

The different types of rules issued pursuant to the internal revenue laws of the United States are good examples of the distinction between rules of general and particular applicability. IRS private letter rulings and Customs Service letter rulings are classic examples of rules of particular applicability, notwithstanding that they may be cited as authority in transactions involving the same circumstances. Examples of substantive and interpretative rules of general applicability will include most temporary and final Treasury regulations issued pursuant to notice-and-comment rulemaking procedures, and most revenue rulings, revenue procedures, IRS notices, and IRS announcements. It does not matter that these later types of rules are issued without notice-and-comment rulemaking procedures or that they are accorded less deference by the courts than notice-and-comment rules. In fact, revenue rulings have been described by the courts as the "classic example of an interpretative rul[e]" within the meaning of the APA. See *Wing* v. *Commissioner*, 81 T.C. 17, 26 (1983). The test is whether such rules announce a general statement of policy or an interpretation of law of general applicability.

Most rules or other agency actions that grant an approval, license, registration, or similar authority to a particular person or particular entities, or grant or recognize an exemption or relieve a restriction for a particular person or particular entities, or permit new or improved applications of technology for a particular person or particular entities, or allow the manufacture, distribution, sale, or use of a substance or product are exempted under subsection 804(3)(A) from the definition of a rule. This is probably the largest category of agency actions excluded from the definition of a rule. Examples include import and export licenses, individual rate and tariff approvals, wetlands permits, grazing permits, plant licenses or permits, drug and medical device approvals, new source review permits, hunting and fishing take limits, incidental take permits and habitat conservation plans, broadcast licenses, and product approvals, including approvals that set forth the conditions under which a product may be distributed.

Subsection 804(3)(B) excludes "any rule relating to agency management or personnel" from the definition of a rule. Pursuant to subsection 804(3)(C), however, a "rule of agency organization, procedure, or practice," is only excluded if it "does not substantially affect the rights or obligations of non-agency parties." The committees' intent in these subsections is to exclude matters of purely internal agency management and organization, but to include matters that substantially affect the rights or obligations of outside parties. The essential focus of this inquiry is not on the type of rule but on its effect on the rights or obligations of non-agency parties.

The SPEAKER pro tempore. Pursuant to House Resolution 391, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BONIOR

Mr. BONIOR. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BONIOR. I am in its present form, Mr. Speaker.

Mr. ARCHER. Mr. Speaker, I reserve a point of order against the motion to recommit.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Bonior moves to recommit the bill to the Committee on Ways and Means with an instruction to report the bill back to the House forthwith with the following amendment: Add at the end of section 331(b) the following:

The amendment made by subsection (a) shall only apply during periods when the minimum wage under section 6(a)(1) of the Fair Labor Standards Act is not less than $4.70 an hour during the year beginning on July 4, 1996 and not less than $5.15 an hour after July 3, 1997.

POINT OF ORDER

Mr. ARCHER. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. ARCHER. Mr. Speaker, I make, actually, two points of order: a point of order that the motion to recommit with instructions is not germane to the bill; and, second, that the motion to recommit with instructions constitutes an unfunded intergovernmental mandate under section 425 of the Congressional Budget Act.

I would ask that a ruling first be made on the point of order against germaneness, on the basis of germaneness.

The SPEAKER pro tempore. Does the gentleman from Michigan [Mr. Bonior] desire to be heard on the point of order?

Mr. BONIOR. I do, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan [Mr. Bonior] on the point of order.

Mr. BONIOR. Mr. Speaker, this bill is very broad in its scope. This bill provides that the President be given a line-item veto authority. This bill provides for an increase in the amount Social Security recipients could earn before their Social Security benefits are reduced. Third, it allows small businesses to seek judicial review of regulations.

Mr. Speaker, this bill has to do with taxpayers. There is nothing more important to taxpayers and citizens in this country than to be able to have revenues in their pockets. What we are offering and what we are suggesting under this motion to recommit is that we be given the chance to vote on the increase in the minimum wage, which has not been raised for the past 5 years. The minimum wage is a very important part of a variety of laws in this country that deal with ability of people to make ends meet. People today have incomes——

The SPEAKER pro tempore. The Chair would advise the gentleman from Michigan [Mr. Bonior] to speak on the point of order, and keep his remarks confined to what is pending.

Mr. BONIOR. I would say to the Speaker that the minimum wage is directly related to the interest of small business in our country today.

The third piece of this bill that was added in the Committee on Rules allows small business to seek judicial review of regulations. In that sense, Mr. Speaker, it seems to me that those people who are affiliated with small business on the employment side ought to have redress to getting a decent wage in this country. You cannot live and raise a family on $9,000 a year or less. We are asking millions of Americans to do that. This bill will provide an opportunity for——

Mr. ARCHER. Mr. Speaker, may we have regular order on the debate on the point of order?

The SPEAKER pro tempore. The gentleman is correct. The gentleman from Michigan is reminded to confine his remarks to the germaneness of the point of order as raised by the gentleman from Texas [Mr. Archer].

☐ 1400

Mr. BONIOR. Let me just add another point to my argument, Mr. Speaker, on a more technical ground, because I am not able, under the admonition of the Speaker, and the proper admonition, I would say, to talk about the substance, which deals with giving people a fair wage in this country. So I will talk about subtitle c of the bill that requires that the Department of Labor certify whether any of its rules, including rules governing the minimum wage, where a small business could go to court seeking a stay of the Department of Labor's rules governing the minimum wage.

It seems to me that, because of the addition of that subsection and the broadening of the bill, the minimum wage indeed is in order as a discussion point in a motion to recommit.

I would further add, Mr. Speaker, that my recommittal motion is logically relevant to the bill and establishes a condition that is logically relevant to subtitle c. Under the House precedent, my motion, I think, meets this test. If we are meeting the test for employers, if we are meeting the test for seniors, it seems to me we ought to be meeting the test for those women, primarily, millions of them raising kids on their own making less than $8,000 a year. They ought to be given the chance to have this debated and voted on by the House of Representatives.

Mr. Speaker, wages are important, they are stagnant in this country.

The SPEAKER pro tempore (Mr. Hastings of Washington). The gentleman will suspend.

Mr. ARCHER. Mr. Speaker, I regret again that I must ask for regular order. The gentleman wants to wander afield and to debate the substance of the motion to recommit, which is improper at this moment in the House.

The SPEAKER pro tempore. The Chair has observed that the gentleman is to confine his remarks to the point of order, and not the substance.

Mr. BONIOR. Mr. Speaker, I apologize to my friend from Texas and to the Speaker for wandering. I have difficulty not talking emotionally about this issue because of what I see in the country. But I will confine my remarks to subsection c of the bill that requires that the Department of Labor certify. And I would tell my friend from Texas, the Department of Labor has to certify whether any of its rules, including rules governing the minimum wage. And that, it seems to me, is the direct connection in this bill with the needs of working people in this country who are working for a minimum wage and deserve to have the opportunity to have that wage increase.

Mr. ARCHER. Mr. Speaker, may I be heard on my point of order?

The SPEAKER pro tempore. The gentleman from Texas is recognized.

Mr. ARCHER. Mr. Speaker, I would like to be heard on the point of order on germaneness first and, subsequent to the ruling on that point of order, be heard on the second point of order on intergovernmental mandates.

Mr. Speaker, the motion to recommit is not germane because it seeks to introduce material within the jurisdiction of a committee that is not dealt with in this bill. That is, the subject of the amendment, the minimum wage falls within the jurisdiction of the Committee on Economic and Educational Opportunities, while the subject matter of the bill falls only within the jurisdiction of the Committee on Ways and Means, the Committee on the Budget, the Committee on Rules, the Committee on the Judiciary, the Committee on Small Business, and the Committee on Government Reform and Oversight.

In addition, the motion to recommit seeks to amend the Fair Labor Standards Act, which is not amended by this bill.

Finally, there is the gentleman's argument about rulemaking. The rulemaking authority under this bill is general and not agency specific. Therefore, the motion to recommit is not germane to the bill and should be ruled out of order on that basis.

Mr. ENGEL. Point of order, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman from New York [Mr. Engel] wish to be heard on the point of order raised by the gentleman from Texas [Mr. Archer]?

Mr. ENGEL. Yes; I would.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. ENGEL. Mr. Speaker, I must say that I think it is disingenuous and outrageous to say that the minority leader's point of order is not in order here.

The SPEAKER pro tempore. The gentleman will suspend.

Mr. ARCHER. Mr. Speaker, the gentlemen on the other side of the aisle can debate substance at another point in time. This debate now is on the point of order, and they should be told to restrain their comments on the point of order.

The SPEAKER pro tempore. The gentleman from Texas is correct. The Chair would remind the gentleman from New York, as he reminded the minority whip, that he is to confine his remarks to the question of germaneness as raised on the point of order by the gentleman from Texas.

Mr. ENGEL. Mr. Speaker, it would seem to me, if we are debating this bill on raising the debt ceiling limit, that something to do with the minimum wage is about as germane to the debt ceiling limit lifting as the line-item

VOL 142 PT 5 MR 21 — 29 1996 UMI

veto is and as allowing seniors to make more money for Social Security purposes. I cannot see why one would not be germane and why these other things are germane. In fact, we should have a clean lifting of the debt ceiling and then we would not have to worry about germaneness after all.

So it would seem to me that we cannot on the one hand attach all kinds of extraneous things to the lifting of the debt ceiling and then on the other hand claim that the minimum wage is not at least as relevant to the lifting of the debt ceiling as the line-item veto and senior citizens are. I just do not think it is fair if we are going to talk about playing by fair rules. I think we ought to be fair. While they may want to stifle free speech on the other side of the aisle, I think we have a right to ask for equity here.

The SPEAKER pro tempore. The Chair is prepared to rule on the point of order raised by the gentleman from Texas on germaneness. The gentleman from Texas makes a point of order that the amendment proposed in a motion to recommit offered by the gentleman from Michigan is not germane to the bill. The text of germaneness in the case of a motion to recommit with instructions is a relationship of those instructions to the bill as a whole.

The pending bill permanently increases the debt limit. It also comprehensively addresses several other unrelated programs, specifically, the Senior Citizens' Right to Work Act, which amends the Social Security Act, the Line-Item Veto Act, which amends the Congressional Budget and Impoundment Control Act, and the Small Business Growth and Fairness Act of 1996, which amends the Regulatory Flexibility Act and the Small Business Act, and it establishes congressional review of agency rulemaking.

The motion does not amend the Fair Labor Standards Act. The motion does not directly amend the laws that go directly to the jurisdiction of the Committee on Economic and Educational Opportunities.

The Chair would cite to page 600 of the Manual the following: An amendment that conditions the availability of funds covered by a bill by adopting as a measure of their availability the monthly increases in the debt limit may be germane so long as the amendment does not directly affect other provisions of law or impose unrelated contingencies.

Therefore, the Chair rules that this motion is germane and overrules that point of order.

UNFUNDED MANDATE POINT OF ORDER

Mr. ARCHER. Mr. Speaker, I urge my second point of order that the motion to recommit with instructions constitutes an unfunded governmental mandate under section 425 of the Congressional Budget Act. Section 425 prohibits consideration of a measure containing unfunded intergovernmental mandates whose total unfunded direct costs exceeds $50 million annually. The precise language in question is the text of the instructions that amends the Fair Labor Standards Act to increase the minimum wage.

According to the Congressional Budget Office, an increase in the minimum wage from $4.25 to $5.15 would exceed the threshold amount under the rule of $50 million. In fact, CBO estimates that it would impose an unfunded mandate burden of over $1 billion over 5 years.

Let me also point out that CBO estimates that this provision would result in a 0.5- to 2-percent reduction in the employment level of teenagers and a smaller percentage reduction for young adults. These would produce employment losses of roughly 100,000 to 500,000 jobs. Therefore, I urge the Chair to sustain this point of order, and I urge my colleagues to vote against the consideration of this unfunded mandate on State and local governments.

The SPEAKER pro tempore. The gentleman from Texas makes a point of order that the motion violates section 425 of the Congressional Budget Act of 1974. In accordance with section 426(b)(2) of the Act, the gentleman has met his threshold burden to identify the specific language of the motion. Under section 426(b)(4) of the Act, the gentleman from Texas [Mr. ARCHER] and a Member opposed will each control 10 minutes of debate on the point of order.

Pursuant to section 426(b)(3) of the Act, after debate on the point of order, the Chair will put the question of consideration, to wit: Will the House now consider the motion?

Mr. BONIOR. Mr. Speaker, I seek time in opposition to the point of order.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] will control 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is indeed ironic that a point of order would be made on this particular motion on the basis that this provides an additional burden on small businesses in this country. That is from our perspective not accurate, not fair. Let me take the accuracy argument first.

Every study recently done in New Jersey, in Pennsylvania, in California, has come to the conclusion that an increase in the minimum wage which has not been increased in 5 years, which is at $4.25 an hour, which is at its lowest level in 40 years, would not only, Mr. Speaker, would not only not cost businesses, would not cost jobs, it would add jobs. That is what some of these studies have said. Over 100 economists, three Nobel laureates, have suggested it is way past the time that we raise the minimum wage for these folks who have chosen work over welfare, 70 percent of them who are adults, many of them single women with children who need to have more money in their pockets so that they can survive and so they can live in dignity and teach their children that work indeed does pay in this country.

That is what we are all about here, making work pay. Five years ago we passed a similar bill, 90 cents over 2 years, which President Bush supported. Some of my friends on this side of the aisle support it. And here we are again, 5 years later, people struggling to make ends meet, having to work because they are getting paid the minimum wage and in various parts of this country having to work overtime in some jobs, having to work two or three jobs; fathers who cannot come home at night and be with their kids for athletic events, who are not there for PTA meetings; mothers who have to work overtime who are not there reading them bedtime stories, teaching their kids right from wrong.

Mr. Speaker, that is what this is all about. This issue is more than about wages. This is about community. This is about family.

Mr. Speaker, there is nothing more important than increasing the wages of the 80 percent of Americans in this society today who have not seen an increase since 1979.

□ 1415

Since 1979, 98 percent of all income growth in America has gone to the top 20 percent. The other 80 percent got 2 percent of that growth. So the minimum wage, while it will not help all of those 80 percent, will help some of them and it will help the people who are above the minimum wage a little bit. But it more importantly will circulate money throughout the economy, and the more money people have, the more they spend at the hardware store, the more they spend at the grocery store.

This indeed is necessary for us to do justice to those who are working in this society today and who have been denied economic justice for too long. So I do not believe, Mr. Speaker, that this is a violation of the unfunded mandates bill. This is a funding of the mandates of people to take care of their families. That is what this is about, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, this clearly is an unfunded mandate on State and local government. It is the very thing that this Congress overwhelmingly passed a law to prevent last year. It will significantly increase the cost of State and

local government. If the Federal Government is to do that by its own legislation, it has an obligation to reimburse the State and local governments. That is not mandatory that we do that, but we took the position that it was inappropriate for us to do that. That is why we are having this debate today, because of the unfunded mandate legislation that was passed and signed into law by the President last year.

In addition, it places an unfunded mandate of unquantified amount on employers, which was also part of the law that we passed on a bipartisan basis and signed by the President of the United States last year. Here already the provisions of that law are to be tested. Did we really mean it? Well, if this motion to recommit passes, it will say to the American people we did not really mean it.

I do not think that is an appropriate thing for this Congress to do. CBO estimates that the potential loss of jobs will range, will reduce the employment level of teenagers and a smaller percentage reduction of young adults, reducing by a half a percent to 2 percent in the employment level of those types of individuals. They would produce employment losses of 90 cents per hour, increasing the minimum wage. From roughly 100,000 to 500,000 jobs, that 90-cent-per-hour increase will cost employment that much.

I urge a positive vote on the point of order on unfunded mandates, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the minority whip for yielding me the time.

Mr. Speaker, let us say what this really is. This is an attempt by the Republican majority not to allow the whole issue of minimum wage, of raising the minimum wage for American workers to come to the floor. I serve on the Committee on Economic and Educational Opportunities. We cannot get that bill to come to committee. The Republican leadership has blocked it. We cannot get that bill to come to the floor. The Republican leadership has blocked it.

They could care less about raising the minimum wage. They expect people to work at a $4.25 an hour standard, which is less than people who are on welfare are getting. So much for welfare reform. They claim they are for welfare reform, but they do not want to pay someone who wants to work for a living a decent wage. Apparently they think coolie wages is what we should do, $4.25 an hour. This would simply raise it to $5.15.

The last raise was 5 years ago. Workers' moneys in terms of what they make on minimum wage are at a 40-year low. Is there no decency? Do we not care about what people who are trying to work for a living do?

The Republican majority does not want this to come to a vote. I may ask my colleagues on the other side of the aisle, what are they afraid of? All we are saying is that the minimum wage ought to be raised from $4.25 to $5.15. We owe it to America's workers to do this. This is simple decency. What are you afraid of? Are you afraid that the vote will pass and that people on your side of the aisle, some of them, may even vote for it?

There has been an attempt to block this bill from being in the committee and from being on the floor. We cannot get a vote. All we are saying is let us vote up or down whether or not the minimum wage should be raised. That is all we are asking and that is all we want here this afternoon.

PARLIAMENTARY INQUIRY

Mr. ARCHER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman will state it.

Mr. ARCHER. Would the Speaker please explain to the House how this vote will be framed and what a "yes" or "no" vote will mean, because this is the first time that we have had a test of the unfunded mandate legislation?

The SPEAKER pro tempore. The question will be put by the Chair, to wit, will the House now consider the motion to recommit? So an "aye" vote would mean that the House should indeed consider the motion to recommit. A "no" vote would mean that the House would not consider the motion to recommit.

Mr. ARCHER. Mr. Speaker, would it be fair to say that a "no" vote then would sustain the point of order?

The SPEAKER pro tempore. Yes.

Mr. BONIOR. Mr. Speaker, that is not a point of order. Mr. Speaker, may I be heard?

The SPEAKER pro tempore. The statute provides that on this point of order the House shall decide that question and not a ruling from the Chair on whether to consider the motion. It would not be a prerogative of the Chair to make that judgment.

Mr. CLINGER. Mr. Speaker, I would indicate that I think a "yes" vote on this matter would in effect be saying that we would allow an unfunded mandate to be passed through, or open the door to passing through, an unfunded mandate to the States.

Those who would want to sustain the unfunded mandate legislation, and this is our first look at this thing, the first time we have had to consider this procedure, those who want to sustain that should vote "no" on this measure.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DELAY], the majority whip.

Mr. DELAY. Mr. Speaker, I hope Members are watching this debate because this is the first time that we have had this kind of vote in the 104th Congress, and I am urging a "no" vote on this particular motion.

I hope Members will really take a look at what is happening here. This is blatant politics and blatant hypocrisy. The gentleman from New York who just spoke before I did said in his speech that we owe the American workers this vote and we owe the American workers to raise the minimum wage. Where did he get that? I submit he got that from the convention that was just held in this town by the AFL–CIO who said that they would raise over $35 million to take this majority out.

That is what this vote is all about. This group over here on this side of the aisle has been screaming and yelling for the last many weeks.

Mr. BONIOR. Mr. Speaker, I move that the gentleman's words be taken down. He used the word "hypocrisy."

□ 1425

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Clerk will report the last words by the gentleman from Texas [Mr. DELAY].

The Clerk read as follows:

> The gentleman from New York, who just spoke before I did, said in his speech that we owe the American workers this vote and we owe the American workers to raise the minimum wage. I submit he got that from the convention that was just held in this town by the AFL–CIO, who said that they would raise over $35 million to take this majority out. That is what this vote is all about. This group over here on this side of the aisle has been screaming and yelling for the last many weeks.

The SPEAKER pro tempore. The Chair does not believe that anything in those remarks constitutes any personal reference to any other Member of this body.

Mr. BONIOR. Mr. Speaker, may I be heard?

The SPEAKER pro tempore. The gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, the Clerk needs to go back farther, because there was reference and the use of the word "hypocrite," and the Clerk has not gone back far enough to pick up the words that I objected to. The word "hypocrisy" was used, excuse me, Mr. Speaker.

The SPEAKER pro tempore. The Chair would remind the gentleman that on points such as that, the point of order from the gentleman making the point of order has to be timely. The Clerk has gone back several sentences to transcribe what the gentleman had said, and the gentleman's demand certainly was not timely in this instance.

The gentleman from Texas may proceed with his remarks.

POINT OF ORDER

Mr. BONIOR. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

VOL
142
PT
5
MR
21
—
29
1996
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Mr. BONIOR. Mr. Speaker, that dialog that I am referring to could not have taken more than 30 seconds, and it seems to me that I was indeed timely when I rose to my feet as the gentleman was completing his idea, which included referring to the gentleman from New York [Mr. ENGEL] with the term "hypocrisy."

The SPEAKER pro tempore. Under the precedents set, those points of order raised by the gentleman have to be on a timely basis. This is precedent that has been set in this body for a number of years where there are intervening remarks that you are alluding to. So the Chair rules that the gentleman from Texas may proceed.

Mr. BONIOR. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is: Shall the decision of the Chair stand as the judgment of the House?

MOTION TO TABLE OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I move to table the appeal of the ruling of the Chair.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARCHER] to lay on the table the appeal of the ruling of the Chair.

The question was taken; and the Speaker pro tempore announced that they ayes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 232, noes 185, not voting 14, as follows:

[Roll No. 99]

AYES—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—185

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Bryant (TX)
Collins (IL)
Fields (LA)
Filner
Fowler
Frost
Hayes
Martinez
McNulty
Smith (WA)
Stokes
Tejeda
Weldon (PA)
Williams

□ 1453

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. TEJEDA. Mr. Speaker, I was at the White House on official business and missed vote No. 99. Had I been present,-I would have voted "no."

I ask that my statement appear in the RECORD immediately after the vote.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under the order of business, the debate is on a point of order by the gentleman from Texas [Mr. ARCHER].

The gentleman from Texas [Mr. DELAY], the majority whip, has 1 minute remaining.

The Chair recognizes the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, all I was trying to say was is it not interesting that we are having a motion on the floor, 3 days after the AFL–CIO had a convention calling for an increase in the minimum wage and promising to raise $35 million by assessing their membership more of their hard-earned wages, to take out the majority that is trying to allow working families to keep more of their hard-earned wages?

I hope everyone that was outraged by the gun vote last week will vote "no" on this, because we were accused of the same thing.

Is it not also interesting that we have heard time and time again that we have not had enough hearings in this body; that we have to look at these issues, hold hearings on these issues. yet we have the Democrats bringing a motion to the floor that wants to do away with the unfunded mandate legislation that was passed by the Senate and debated in less than 20 minutes.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARCHER] has 5½ minutes remaining, and the gentleman from Michigan [Mr. BONIOR] has 4 minutes remaining.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. GOODLING], the

chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. Mr. Speaker, I think the first thing I would like to do is remind all Members that our balanced budget provides an instant raise for workers in the form of lower taxes, reduced interest rates, and greater economic growth.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. VOLKMER. Mr. Speaker, do we have the balanced budget before us to speak on? What is the issue which the speakers in the well should address?

□ 1500

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The House is debating whether to consider the motion to recommit; the question that the House is debating right now is whether the pending recommittal motion should be considered.

Mr. VOLKMER. A recommittal motion.

The SPEAKER pro tempore. Whether to consider a recommittal motion.

Mr. VOLKMER. Whether to consider a recommittal motion.

The SPEAKER pro tempore. That is correct.

The gentleman from Pennsylvania [Mr. GOODLING] is recognized for 1½ minutes.

Mr. GOODLING. Mr. Speaker, our balanced budget provides an instant raise for workers in the form of lower taxes, reduced interest costs, and greater economic opportunity which will lead to higher wages for America's workers.

Let me assure Members that the committee of jurisdiction will look at the overall picture as to why in the last 3 years we have had a very stagnant economy, which has resulted in a very stagnant growth in relationship to wages and benefits. We will look at the overall picture. We will see whether it is unfunded mandates, such as one that was proposed today. We will look to see whether it is regulatory reform that is needed. But we will not look at a single issue because the issue is all-encompassing and we have to look at every piece of that and we will do it in a conference. We will do it in committee. We will do it in hearings. But we will not be rushed to do something that will, in fact, stagnate the economy even more. We cannot afford to grow at 1 percent or less, or we will never get out of this stagnated economy that we are presently in.

Mr. BONIOR. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Speaker, I am surprised that the leadership of this House would suggest that requesting an increase in the minimum wage for American workers is an unfunded mandate. If we follow that logic, adhere to it, then this body would not be able to do anything to protect the health and welfare of the American people.

We just heard it said that the so-called balanced budget contains provisions that will be beneficial to the American workers, tax cuts. In fact the opposite is true. We are chopping away at the earned income tax credit. We are going to raise taxes for minimum wage people. That is what my colleagues are going to do.

Mr. Speaker, the American people need an increase in their wages. They need an increase in wage. They have come to this Congress and asked for it. The last time this Congress authorized an increase in their salary was 1989. They are falling way behind. At the rate of this minimum wage, a person working full time makes only $8,500 a year. That is below the poverty level. The American people need an increase in their wage. They have asked for it. We have a responsibility to give it to them. Let us give them an increase.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume, simply to respond that the Parliamentarian and the Speaker have decided that there are adequate grounds, that there is an unfunded mandate in this bill, or we would not be having this procedural vote. Let me make that very clear. This is a procedural vote. There are adequate grounds to establish that there is an unfunded mandate in this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Let me correct the gentleman from Texas by suggesting that this is a motion to proceed on a vote to have a debate on the minimum wage. That is what we are discussing. That is the issue that is before us. The question is will we even proceed to discuss this basic fundamental economic justice issue of whether people can earn a decent living and whether they should move to work as opposed to welfare in this country. That is what this is about.

My friend, and he is my friend, from Texas said and preached to us just a few minutes ago about the AFL–CIO wanting this vote. Those people do not make the minimum wage. They do not make it because they got together. They banded together in unity for a decent wage for themselves. They are working for other folks. They are trying to get them a decent wage.

Mr. Speaker, the distinguished gentleman from Pennsylvania [Mr. GOODLING], who is also my friend, says we need to study this. We are not going to be rushed. We need to go slow. It is at its 40-year low, 40-year low, the minimum wage. No hearings have been held in this Congress.

We have got about 30-some days left in the legislative calendar. My colleagues do not want a vote. They are blocking a vote. They blocked the vote on the minimum wage in the Senate. They are blocking it here again in the House. Wages are important to people. We want to put money in people's pockets by raising their wages. That is what this issue is all about.

Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, the Republican majority will find any excuse to hurt hard-working middle-class families in this country. Today the Republican majority would deny and block a vote to increase the minimum wage. Mothers and fathers are working harder, longer hours, two and three jobs, and have seen their wages not rise but decrease. They scramble to pay their bills, to make ends meet at the end of every week. More than two-thirds of minimum wage workers are 20 years and older, they are not teenagers.

The approximate annual average salary of a minimum wage worker is $8,500 a year. It is below the poverty level. It is below the welfare level.

Imagine, this Republican majority says no to a 90 cents increase an hour for working families in this country, 90 cents, when they make over $130,000 a year.

That is not justice. It is wrong to happen to working families in this country. Shame. Stop the excuses. Let us vote on a minimum wage in this House and let us past minimum wage for working families in this country.

PARLIAMENTARY INQUIRIES

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. VOLKMER. Mr. Speaker, as a result of my previous parliamentary inquiry to the Chair and to others, that the debate was on the motion to recommit to determine whether or not it is an unfunded mandate; is that correct or incorrect?

The SPEAKER pro tempore. The Chair will read from section 426(b) of the Budget Act as to what the House is debating: question of consideration, "as disposition of points of order under section 425 or subsection (a) of this section, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order."

Mr. VOLKMER. The point of order is the motion to recommit is an unfunded mandate; is that correct?

The SPEAKER pro tempore. That is correct.

Mr. VOLKMER. That is the point of order.

Now, the Parliamentarian does not rule on this and we are to vote and make an individual decision as to whether or not we believe that this is

VOL 142 PT 5 MR 21 — 29 1996 UMI

an unfunded mandate if the point of order is proper; is that correct, as an individual?

The SPEAKER pro tempore. The question is simply on whether this body wants to consider the motion to recommit, notwithstanding the point of order.

Mr. VOLKMER. Notwithstanding the point of order. Therefore, any Member can raise a point of order not on the motion to recommit or an amendment or anything under this rule, correct?

The SPEAKER pro tempore. Only against this motion at this time.

Mr. VOLKMER. Only against the motion.

Now, should the Members not make a decision based on recommendations like the Congressional Budget Office which says this is not an unfunded mandate?

The SPEAKER pro tempore. The Chair would remind Members that the reason the House is having this debate is so the Members can make up their minds on which way they want to vote on this question.

Mr. VOLKMER. Without listening to the Congressional Budget Office.

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FRANK of Massachusetts. Mr. Speaker, it has to do with the nature of the question we are voting on.

As I understand it, we are talking about the new rule adopted at the beginning of this Congress dealing with what to do when there is an unfunded mandate. Would this vote, and this would help, I believe, us clarify it, because we have dealt with this once before in my recollection, would a vote now to proceed with the minimum wage vote be the equivalent of what the House did when we adopted the rule on the agriculture bill which waived the unfunded mandate point of order?

When the House adopted the majority's proposed rule on the agriculture bill, it waived the point of order with regard to unfunded mandates and allowed us then to proceed on the bill which CBO said had unfunded mandates. Are we now being asked to do the same thing; namely, take up the bill although CBO does not say there are unfunded mandates in there, as we did when we adopted the majority's rule on the agriculture bill?

The SPEAKER pro tempore. The Chair can only respond that the reason the House is having this debate is so the House can make the judgment on whether there shall be a vote on the motion to recommit.

Mr. ENGEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ENGEL. Mr. Speaker, the previous gentleman mentioned that the rule on the agriculture bill waived a point of order with regard to unfunded mandates. Is this the blatant politics and blatant hypocrisy that the majority whip was referring to?

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry.

The Chair would advise Members that the gentleman from Texas [Mr. ARCHER] has 3½ minutes remaining, the gentleman from Michigan [Mr. BONIOR] has 30 seconds remaining, and the gentleman from Texas [Mr. ARCHER] has the right to close.

Mr. BONOIR. Mr. Speaker, I yield 30 seconds to the gentleman from Vermont [Mr. SANDERS].

☐ 1515

Mr. SANDERS. Mr. Speaker, the leadership of this Congress has passed huge tax breaks for the rich and for the largest corporations in America.

But somehow, when some of us want to raise the minimum wage for millions of American workers, we are told that we are not even allowed to have a vote.

People today are working longer hours for lower wages, and they are entitled to a raise. Mr. Speaker, let us raise the minimum wage; more importantly, let us have the guts to vote on the issue.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas [Mr. ARMEY], the majority leader.

Mr. ARMEY. Mr. Speaker, after years of frustration and months of hard work we are here today to do three good things for the American people: to give the President of the United States the long-sought line-item veto authority the American people wish for him to have, to give the senior citizens of America a chance to work in their senior years and still retain their Social Security benefits with less prejudice from the Government's desire to take their earnings away, their benefits away, if they earn money, and to create job opportunities by lessening the red tape burden on small business. We are here to do these things that the minority, when they were in the majority, would not do, and we can complete that work.

Now we are being asked, and I might say it has been a very colorful and entertaining show; we are being asked to go back on the work that we did earlier on unfunded mandates and pose an unfunded mandate on the communities in our country in order to raise the minimum wage. Is this an effort to stop three good things from happening or to do one bad thing?

I was just asked by one of my colleagues a moment ago why is it the minority did not raise the minimum wage last year when they had the majority in the House, they had the majority in the Senate and they had the White House?

Mr. Speaker, I suspect the reason is that they read page 27 of Time magazine on February 6, 1995, where the President was quoted as saying that raising the minimum wage is, and I quote, "the wrong way to raise the incomes of low wage earners." Perhaps they did not.

We have had an interesting show, I have been much entertained by it, I am sure the Nation has been entertained. But this body belongs to the people for serious work.

I propose that we vote down this motion, get on with our work, and do some good things for America rather than punish the working poor.

The SPEAKER pro tempore. The question is, will the House now consider the motion to recommit?

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 228, not voting 11, as follows:

[Roll No. 100]

AYES—192

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Riggs
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs

Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stenholm
Stockman
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOES—228

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Bryant (TX)
Collins (IL)
Diaz-Balart
Fields (LA)
Filner
Fowler
McNulty
Ros-Lehtinen
Smith (WA)
Stokes
Weldon (PA)

☐ 1537

Mr. GILMAN changed his vote from "no" to "aye."

So the question of consideration was decided in the negative.

The result of the vote was announced as above recorded.

Mr. MOAKLEY. Mr. Speaker, I would like to clarify for the RECORD inaccurate claims made by those on the Republican side of the aisle that this motion contains an unfunded intergovernmental mandate. The fact of the matter is, Mr. Speaker, it does not. They suggested that the Congressional Budget Office has determined that this motion regarding the minimum wage contained an unfunded mandate. CBO did not make any such determination. In fact, CBO has determined just the opposite, that this motion does not contain any unfunded mandates. The document to which the Republicans referred did not cite this language at all but rather referred to a letter written by CBO last year to a Member of the other body on another piece of legislation under consideration by that Chamber. That legislation contained specific language which would have directly increased the minimum wage. To equate that legislation with this modest motion is to compare apples and oranges—make that grapes and watermelons.

I want to place at this point in my statement, a letter from the Congressional Budget Office that states that this motion does not contain an unfunded mandate:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 28, 1996.

Hon. JOHN JOSEPH MOAKLEY,
Ranking Minority Member, Committee on Rules, House of Representatives, Washington, DC.

DEAR CONGRESSMAN: As you requested, we have reviewed the motion made by Mr. Bonior to determine whether it contains an intergovernmental mandate as defined by the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). The motion would require H.R. 3136, the Contract with America Advancement Act of 1996, to be recommitted to the House Committee on Ways and Means, with instructions to add a new section to the bill. The new section would amend section 331 of Subtitle C to prohibit the administrative proceedings provisions of that subtitle from applying in any period during which the minimum wage was less than $4.70 per hour beginning on July 4, 1996, and $5.15 per hour after July 3, 1997.

The motion and the new section would not increase the minimum wage, but would make other provisions conditional on such an increase. Subsequent legislation would be necessary to increase the minimum wage. Public Law 104–4 defines an intergovernmental mandate as "any provision in legislation . . . that would impose an enforceable duty upon state, local, or tribal governments." The motion contains no such enforceable duty and thus does not contain an intergovernmental mandate.

If you wish further details on this matter, we would be pleased to provide them. The CBO staff contact is Theresa Gullo.

Sincerely,

JUNE E. O'NEILL,
Director.

It is very important that the membership of the House of Representatives, during this first formal raising of the unfunded mandate point-of-order, be aware of this attempt by the Republican majority to misuse, confuse, and distort the once laudable intention of this law. The unfunded mandates legislation enjoyed widespread bi-partisan support, passing the House by vote of 394 to 28. I was a member of the conference committee and a supporter of this measure. Members on both sides of the aisle supported this initiative because of growing concern over the imposition of unfunded Federal requirements on the public and private sector.

I am deeply concerned that the unfunded mandates law is being used not to curb the past practice of imposing financial burdens on State and local government entities and the private sector, but instead to stifle debate on certain legislative items.

During the consideration on the unfunded mandates legislation in January 1995, I expressed my concern on the section of the bill that implemented this new point-of-order. The legislation specifically prevents the Rules Committee from waiving the point-of-order that is triggered when there is an unfunded mandate—as defined by Public 104–4—in any bill, joint resolution, motion, conference report, or amendment. Only a small handful of House rules in the history of the House of Representatives have been given this special protection. If a member raises an unfunded mandates point-of-order, all he or she need do is to cite the provision in the measure under debate. There is an automatic 20 minutes of debate followed by a vote.

There is no parliamentary or budgetary ruling and there is no burden of proof on the Member raising the point-of-order. It does not matter if the point-of-order is baseless, simply by raising the point-of-order, the House is required to vote on whether to consider the text that is challenged. A simple majority of the House, for any reason, regardless of whether there is any legitimate financial imposition or not, can deny the opportunity of a Member to proceed with an otherwise germane and viable legislative measure. I raised the concern at that time that this could be used both to stop legislation not containing unfunded mandates from being considered on the floor and as a dilatory tactic to disrupt the legislative process. I was always assured that this would not be used for this purpose. Even then, however, I did not anticipate that the very first use of this tactic would be to deny the minority the right to offer an entirely legitimate and germane motion to recommit.

One of the Republican leadership's first changes to the House rules on the 104th Congress guaranteed the minority the right to recommit with instructions. In fact, during the 102d and 103d Congresses in particular, we in the majority were crudely accused of "raping the rights of the minority" by, on rare occasion, denying them instructions on the motion to recommit. Now it appears they are grossly misusing the new unfunded mandates law and, on this first challenge out of the gate, we are being denied the very right that was so vital to the Republicans in previous Congresses.

I am deeply troubled that if this practice continues, it could simply become a backdoor

VOL
142
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approach used to gag legitimate debate, whether on the motion to recommit or on any other responsible and germane legislative initiatives. I urge the majority to carefully consider the ramifications of misusing the unfunded mandates point-of-order for purposes other than the legitimate intentions spelled out in Public Law 104–4. The unfunded mandates law should be used as tool to fix legislation that imposes unfair financial burdens on state and local governments and the private sector. It should not be used as a weapon to prevent the consideration of viable and responsible legislation initiatives.

MOTION TO RECOMMIT OFFERED BY MR. ORTON

Mr. ORTON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is the gentleman opposed to the bill?

Mr. ORTON. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ORTON moves to recommit the bill to the Committee on Ways and Means with instructions to report the bill forthwith with the following amendment:

On page 60, strike lines 5 through 15 and insert the following:

SEC. 205. EFFECTIVE DATES.

This title and the amendments made by it shall take effect and apply to measures enacted after the date of its enactment and shall have no force or effect on or after January 1, 2005.

PARLIAMENTARY INQUIRIES

Mr. ORTON. Mr. Speaker, before being recognized to speak on my motion to recommit, I have a parliamentary inquiry which is important to resolve, so people can understand the motion to recommit and how it fits into what we have been voting on.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ORTON. Mr. Speaker, is it correct that the rule which was adopted providing for debate on this bill did automatically adopt the conference report on the line-item veto as a separate bill and authorize that to be sent to the President for his signature?

The SPEAKER pro tempore. The Chair would tell the gentleman that the answer to that is yes.

Mr. ORTON. Further parliamentary inquiry, Mr. Speaker. Is it correct that the rule provides that title II in this bill, which is the line-item veto title, would be stripped from this bill if unamended, and the bill would be sent without title II, but if amended, title II would remain in this bill and go to the Senate for their consideration?

The SPEAKER pro tempore. In response to the gentleman, if title II were amended as a result of a motion to recommit, then it would not be stricken from the engrossed bill. But the operation of section 2(b) of the House Resolution 391 would not be affected. The conference report on S. 4 would stand as adopted.

Mr. ORTON. Therefore, Mr. Speaker, the conference report, standing as adopted, would go to the President for his signature, regardless of whether this motion to recommit is adopted and the title is amended. The only effect of amending the title would be to keep title II in the bill as amended for Senate consideration of the title II as amended, is that correct?

The SPEAKER pro tempore. That is correct.

Mr. ORTON. So if we adopt the motion to recommit and amend this title II, the President would have the original conference bill under the rule for his signature, and assuming the Senate adopted this bill with the amendment, would also have title II as amended, under this bill for his signature, is that correct?

The SPEAKER pro tempore. That would be possible.

Mr. ORTON. I thank the Speaker.

The SPEAKER pro tempore. The gentleman from Utah [Mr. ORTON] is recognized for 5 minutes on the motion to recommit.

Mr. ORTON. Mr. Speaker, I will be as clear and concise as I can. This motion to recommit does one thing and one thing only to the bill we are considering. It simply says that the line-item veto provisions of the bill would become effective immediately upon enactment, rather than waiting until the next calendar year to become effective. That is all it does.

Therefore, the President will already get the opportunity to sign the conference report making line-item veto effective the beginning of next year.

☐ 1545

This amendment will give him the opportunity, if adopted, to make it effective immediately and give the President the authority to veto items of specific spending between the date of enactment and the next calendar year. That is the only difference.

Now, Mr. Speaker, let me just in explanation suggest that not only I but many of my colleagues on both sides of the aisle support this line-item veto. The line-item veto has not been partisan. It is supported by both Democrats and Republicans, by the Congress and the President. In fact, during floor debate in the other body on March 23, 1995, the majority leader said the following: "During the 1980's, opponents of the line-item veto used to say that Republicans supported it only because the President happened to be a Republican at the time. Now, we are in the majority and we are prepared, nearly all of us on this side, to give this authority to a Democratic President."

The Senate majority whip said the following: "Why be afraid of allowing this current President to use his power? We on this side of the aisle, the Republicans, are ready to give this opportunity to President Clinton so he can have the opportunity to pare spending."

In this body in February 1995 during debate on this line-item veto bill, the Chairman of the Committee on Rules, Mr. SOLOMON, said the following: "Well, here we are. We get a Democrat President, and here is SOLOMON up here fighting for the same line-item veto for the Democrat President."

Finally, the gentleman from Florida [Mr. GOSS] during the same debate said, "Let us give it to the President whether the President is Democrat or Republican. Let us stop the games. Let us get into budget management."

That is what this amendment is about. It is about budget management. It is about stopping the partisan games. It is about saying we are for line-item veto now, not next year or next decade; we want it to be effective upon enactment.

Mr. Speaker, that is all this amendment will do. If passed, it will send it to the other body for consideration and the President's signature, which would then give us all the opportunity to drop partisan rhetoric and actually have the opportunity to cut spending.

Now someone suggests we do not really need it because we are cutting spending. This is the 1996 congressional pig book put out by the Citizens Against Government Waste. They have identified over $12.5 billion in the eight appropriation bills that we have already passed for 1996 of questionable spending which, if the President had this authority right now, he could veto. That is for 1996. We have lost that opportunity. Let us not lose the opportunity for 1997. Let us give him the opportunity during the appropriation process of 1997.

Mr. Speaker, I yield to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I thank the gentleman from Utah for yielding.

I would say this is a very simple motion. I voted for a line-item veto for President Bush. I voted for the rule to give the line-item veto immediately to the President 2 hours ago. This motion will say, do not wait until 1997, do not play politics, do not do what the American people do not want us to do. Let the President cut $25 billion out of spending now.

Mr. Speaker, it would be interesting to see and explain to our constituents why we did not extend the line-item veto to the President of the United States tomorrow.

Mr. ORTON. Mr. Speaker, in closing let me just say we do not want to make this a partisan fight. This motion to recommit is not partisan. This motion to recommit does nothing to the bill which we are adopting except one thing: making the line-item veto effective immediately upon enactment so that this President has not only the opportunity, but the responsibility, to look at each item of spending and veto

those items that he believes are inappropriate, send them back under new legislation. It is appropriate, it is responsible, it is the thing to do. I would urge adoption of the motion to recommit.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Texas [Mr. ARCHER] is recognized for 5 minutes in opposition to the motion to recommit.

Mr. ARCHER. Mr. Speaker, I yield to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I am a little concerned with what I am hearing here today because Senate Majority Leader DOLE and President Clinton chose the effective dates that are in this bill today. If we want to kill line-item veto, we will unbalance this very, very delicate document we have here today.

Mr. Speaker, our conferees have spent a year now working together with people who did not want a line-item veto over in the other body. There were a lot of them. But finally, with the leadership of BOB DOLE we got them to move, and they conceded to us on almost everything, almost everything. We have a real, true line-item veto here today, something we have always wanted.

Now, there are things in here I do not like. There is a sunset provision for 8 years. I wanted it to be permanent. Know what we did? We traded that off to get something that my colleagues and I want, and that is a lockbox provision, so that if any President vetoes an item and it sticks, that means that money cannot be reprogrammed. It means it is cut out of the budget and we have that satisfaction.

Mr. Speaker, Ronald Reagan told me once, JERRY, the art of compromise means success in politics; people have other views. We have worked diligently with Senator EXON and other good Democrats on the other side of the aisle in the Senate to put this together. We better vote down this motion to recommit and vote for this, and let us give the President a true line-item veto. That is what the American people want.

Mr. ARCHER. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the Committee on Government Reform and Oversight.

Mr. CLINGER. Mr. Speaker, I served as chairman of the conference on the line-item veto. It was a difficult, contentious, hotly contested conference. We argued and debated over the issues long and hard. It took us a year, yes, it took us longer than any of us would have wanted.

It was not a partisan matter; in fact, there are those who support line-item veto, the gentleman from Utah being one of the staunchest supporters of the line-item veto on both sides of the aisle and in both Chambers, so this is not a partisan issue. But what we finally arrived at, I think, is the best that we can get. One of the items that was agreed to was an effective date. That was only finally resolved because there was an agreement reached between the President of the United States and the majority leader of the Senate to depoliticize the issue.

Mr. Speaker, I would point out that to change the effective date now would really put this right square in the middle of the Presidential debate. I think it would clearly distort what we are trying to do here. By putting it on January 1, obviously the gentleman from Utah [Mr. ORTON] and Members on the other side of the aisle feel very strongly that they will, in fact, reelect our President, their party leader. We, on the other hand, feel very strongly that we will elect our nominee, Mr. DOLE. This takes it out of the political spectrum. It gives the next President or the continuing President the ability to use this line-item veto.

So I would urge, and urge strongly, Members on both sides not to upset the apple cart here, because it really could do violence to what we had agreed to.

Our conference report is on its way to the President now. It was, in fact, passed as a result of the rule that passed. It was passed. Now, if we were to adopt this amendment, it would change a deal that has been made, an agreement that has been reached, bipartisan on both sides of the aisle and I think would possibly make it difficult for us actually to exercise the line-item veto.

So I would urge as strongly as I can, please, keep the effective date where it is, keep it out of the political and the Presidential campaign this year.

Mr. ARCHER. Mr. Speaker, to reiterate what was said in the earlier debate, that the President has within his power unilaterally to activate this authority immediately after his signature on the bill by signing and agreeing to a balanced budget for this country and does not have to wait until January 1, 1997.

Further, to say to the Members that the perfect can be the enemy of good movement for what has taken so very, very long, and I know it better than anybody else, because I initiated line-item veto as a proposal before the Congress. It is not agreed to, it can be signed into law. Let us not put it back into the maze of procedure that could further tie it up this year. I urge a vote against the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ORTON. Mr. Speaker, on that I demand the yeas and nays. The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 159, nays 256, not voting 16, as follows:

[Roll No. 101]

YEAS—159

Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Chapman
Clay
Clement
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Deutsch
Dingell
Doggett
Dooley
Doyle
Durbin
Edwards
Ensign
Eshoo
Farr
Fattah
Fazio
Flake
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Graham
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kleczka
LaFalce
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
Meehan
Menendez
Miller (CA)
Minge
Mink
Moakley
Moran
Neal
Neumann
Obey
Olver
Orton
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sawyer
Schroeder
Schumer
Shadegg
Shays
Sisisky
Skaggs
Skelton
Slaughter
Souder
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Upton
Vento
Visclosky
Volkmer
Wamp
Ward
Waters
Waxman
Wilson
Wise
Woolsey
Wynn
Zimmer

NAYS—256

Abercrombie
Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clayton
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dixon
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Evans
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foglietta
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly

VOL
142
PT
5
MR
21
—
29
1996
UMI

Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio

Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McKinney
Meek
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nadler
Nethercutt
Ney
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula

Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Serrano
Shaw
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Spence
Stark
Stearns
Stockman
Stump
Talent
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Towns
Traficant
Velazquez
Vucanovich
Waldholtz
Walker
Walsh
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wolf
Yates
Young (AK)
Young (FL)
Zeliff

NOT VOTING—16

Bryant (TX)
Collins (IL)
Duncan
Fields (LA)
Filner
Fowler

Lantos
McIntosh
McNulty
Ros-Lehtinen
Smith (WA)
Spratt

Stokes
Tate
Torricelli
Weldon (PA)

□ 1614

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mrs. Fowler against.

Mrs. MYRICK, Ms. JACKSON-LEE of Texas, Mrs. CLAYTON, Mr. WATT of North Carolina, and Mr. NADLER changed their vote from "yea" to "nay"

Messrs. PAYNE of New Jersey, SHADEGG, and SALMON changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CLINGER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 328, noes 91, not voting 12, as follows:

[Roll No. 102]

AYES—328

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Collins (GA)
Combest
Costello
Cox
Coyne
Cramer
Crane
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier

Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Ford
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hefley
Hefner
Heineman
Hilleary
Hinchey
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones

Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Myrick
Nadler
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman

Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roth
Royce
Rush
Sawyer
Saxton
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner

Shaw
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen

Torres
Upton
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—91

Abercrombie
Baker (CA)
Barr
Bartlett
Barton
Becerra
Beilenson
Berman
Borski
Bunn
Chenoweth
Clay
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Cooley
Crapo
Dellums
Dingell
Doolittle
Evans
Fattah
Forbes
Frank (MA)
Gonzalez
Hastings (FL)
Hayworth
Herger

Hilliard
Hoekstra
Jackson (IL)
Jacobs
Jefferson
Johnston
Kanjorski
Kingston
Klink
LaFalce
Largent
Lewis (CA)
Lofgren
Markey
Martinez
Matsui
McDermott
McKinney
Meek
Metcalf
Mink
Mollohan
Murtha
Myers
Neal
Oberstar
Olver
Owens
Payne (NJ)
Pelosi
Pombo

Rahall
Rangel
Roukema
Roybal-Allard
Sabo
Salmon
Sanders
Sanford
Scarborough
Schroeder
Serrano
Shadegg
Shays
Skaggs
Smith (MI)
Stark
Stockman
Studds
Stump
Taylor (MS)
Thompson
Towns
Traficant
Velazquez
Waters
Watt (NC)
Waxman
White
Yates

NOT VOTING—12

Bryant (TX)
Collins (IL)
Fields (LA)
Filner

Fowler
Lantos
McNulty
Ros-Lehtinen

Smith (WA)
Stokes
Torricelli
Weldon (PA)

□ 1632

The Clerk announced the following pairs:

On this vote:

Mrs. Fowler for, with Mrs. Collins of Illinois against.

Ms. Ros-Lehtinen for, with Mr. Filner against.

Mrs. Smith of Washington for, with Mr. Stokes against.

Mr. CRAPO and Mr. BARTLETT of Maryland changed their vote from "aye" to "no."

Mr. FOGLIETTA changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE ARTS, FISCAL YEAR 1994—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. KOLBE) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Economic and Educational Opportunities:

To the Congress of the United States:

It is my special pleasure to transmit herewith the Annual Report of the National Endowment for the Arts for the fiscal year 1994.

Over the course of its history, the National Endowment for the Arts has awarded grants for arts projects that reach into every community in the Nation. The agency's mission is public service through the arts, and it fulfills this mandate through support of artistic excellence, our cultural heritage and traditions, individual creativity, education, and public and private partnerships for the arts. Perhaps most importantly, the Arts Endowment encourages arts organizations to reach out to the American people, to bring in new audiences for the performing, literary, and visual arts.

The results over the past 30 years can be measured by the increased presence of the arts in the lives of our fellow citizens. More children have contact with working artists in the classroom, at children's museums and festivals, and in the curricula. More older Americans now have access to museums, concert halls, and other venues. The arts reach into the smallest and most isolated communities, and in our inner cities, arts programs are often a haven for the most disadvantaged, a place where our youth can rediscover the power of imagination, creativity, and hope.

We can measure this progress as well in our re-designed communities, in the buildings and sculpture that grace our cities and towns, and in the vitality of the local economy whenever the arts arrive. The National Endowment for the Arts works the way a Government agency should work—in partnership with the private sector, in cooperation with State and local government, and in service to all Americans. We enjoy a rich and diverse culture in the United States, open to every citizen, and supported by the Federal Government for our common good and benefit.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 28, 1996.*

HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 392 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 392

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes. An amendment in the nature of a substitute consisting of the text of H.R. 3160, modified by the amendment specified in part 1 of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. All points of order against the bill, as amended, and against its consideration are waived (except those arising under section 425(a) of the Congressional Budget Act of 1974). The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, with 45 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, 45 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce, and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Economic and Educational Opportunities; (2) the further amendment specified in part 2 of the Committee on Rules, if offered by the minority leader or his designee, which shall be in order without intervention of any point of order (except those arising under section 425(a) of the Congressional Budget Act of 1974) or demand for division of the question, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit, which may include instructions only if offered by the minority leader or his designee. The yeas and nays shall be considered as ordered on the question of passage of the bill and on any conference report thereon. Clause 5(c) of rule XXI shall not apply to the bill, amendments thereto, or conference reports thereon.

The SPEAKER pro tempore. The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only I yield the customary 30 minutes to the distinguished gentleman from Massachusetts [Mr. MOAKLEY], the ranking member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, the Rules Committee has carefully crafted this rule to allow for ample debate on the major issues of health insurance reform without opening ourselves up to a free-for-all. The purpose is to pass a streamlined bill that accomplishes meaningful, results without getting bogged down in a replay of last Congress' frustrating and fruitless health reform debate.

Mr. Speaker, this rule is a modified closed rule that allows us to knit together the work product of five major committees. This rule makes in order as base text for the purpose of amendment the text of H.R. 3160, modified by a technical amendment printed in part 1 of the Rules Committee report. The rule waives all points of order against the bill as amended and against its consideration, except those arising under section 425(e) of the Congressional Budget Act of 1974, relating to unfunded mandates. The rule provides for a total of 2 hours of debate, with 45 minutes equally divided between the chairman and ranking member of the Committee on Ways and Means, 45 minutes equally divided between the chairman and ranking member of the Committee on Commerce, and 30 minutes equally divided between the chairman and ranking member of the Committee on Economic and Educational Opportunities. The rule allows the minority to offer the amendment in the nature of a substitute, as referenced to the CONGRESSIONAL RECORD in part 2 of our Rules Committee report. That amendment shall not be subject to any point of order—except relating to section 425(e) of the budget act—or to any demand for a division of the question. The amendment shall be debatable for 1 hour, equally divided between a proponent and an opponent. The previous question shall be considered as ordered on the bill as amended and on any further amendment thereto, to final passage, without intervening motion, except as specified. The rule provides for the traditional right of the minority to offer one motion to recommit, with or without instructions, but instructions may be offered by the minority leader or a designee.

Finally, this rule provides that the yeas and nays are ordered on final passage and that the provisions of clause 5(c) of rule XXI shall not apply to votes on the bill, amendments thereto or conference reports thereon. The purpose of this last provision, Mr. Speaker, is one of an abundance of caution with respect to the new House rule requiring a supermajority vote for any amendment or measure containing a Federal income tax rate increase. The provision in question in the bill is a popular one with Members on both sides of the aisle. It closes the loophole that currently allows people to renounce their citizenship to avoid paying U.S. taxes.

Although most people might agree that bringing a currently exempt group of people under an existing income tax rate is not an increase in Federal income tax rates, and thus would not be

VOL
142
PT
5
MR
21
—
29
1996
UMI

subject to the new House rule, we have been advised that some might disagree. And possibly the MSA withdrawal penalty could be construed by some as a tax rate increase but I do not believe that was what the rule was aiming at.

And so, to ensure that this important provision does not jeopardize passage of this bill, we are providing this protection from the rule.

Mr. Speaker, I am pleased to support this cooperative product, to provide genuine health insurance reform for working Americans. The committees of this House have taken the bill from the other body and built upon it, achieving a better product without overloading it to the point of failure. This bill improves on the other body's bill by addressing and fixing the problem of affordability. This bill ensures that individuals will not be denied health insurance if they change jobs. It ensures that individuals who move to another job that doesn't offer coverage can buy an individual policy without fear of preexisting condition restrictions. These portability provisions are the cornerstone, but we have done more because we recognize that if we provide access to the uninsured without making it affordable, we have accomplished nothing.

Today, 85 percent of the uninsured work for small businesses. We respond by allowing small employers to join together to purchase health insurance. This bill allows self-employed individuals to deduct 50 percent of their health insurance premiums, giving them the same advantage larger companies already enjoy. By establishing medical savings accounts, this bill offers individuals more control over their own health care costs. We propose to limit lawsuit abuse—which drives up health care costs and makes insurance more expensive for everyone—and attack fraud and abuse, with stiff penalties on those who cheat the system. It's a solid package of real reform.

Mr. Speaker, this bill had not even been produced before opponents began tearing it apart.

The same folks who in the last Congress tried to engineer socialized medicine, Government-run medicine that tells you when you are sick, what doctor you must see and what pills you must take. Well, those folks have joined together again to deride our plan which they said would ruin the prospect for health care reform. I believe their goal is to have Government run all of your lives. But this bill is a positive set of proposals for meaningful and doable health care reform now.

Support the rule; support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out today's rule is one more closed rule in a year of 100 percent restrictive rules. I just want to remind Members of this because of the orations we used to hear from the other side on closed rules.

This year, every rule that has come out of the Committee on Rules so far has been restricted in some form. It also waives the three-fifth vote required for tax increases, which my Republican colleagues like so much, they wanted to make it an amendment to the Constitution. If the three-fifth vote for tax increases is that important, Mr. Speaker, why are Republicans waiving it on this bill? In fact, this is the second time the three-fifths vote has come up and it is the second time that they have waived it.

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Mr. Speaker, today we have a great opportunity. We have the chance to make a huge difference in the lives of millions of Americans. We have the chance to pass a bipartisan health bill that will do two things that will affect every single American. Today, if Republicans will join with the Democrats, we could pass a bill that would enable more people to take their health care with them when they leave a job, and limit preexisting conditions so that people are not denied health care just because they have been previously ill.

But, Mr. Speaker, even though this opportunity is right at our fingertips in the form of the Kennedy-Kassebaum-Roukema bill, it is about to slip away. It is because my Republican colleagues have loaded up a very excellent bill with a lot of goodies for special interests. My Republican colleagues, Mr. Speaker, have also added medical savings accounts which will take over $2 billion from Medicare and spend it on tax breaks for younger and wealthier people, and they have added controversial malpractice provisions which will virtually ensure the bill's veto.

Mr. Speaker, over the last year I have had a lot of hands-on experience with the American health care system, and I know how important good health care is, and I know how important good health insurance is. I can tell my colleagues there is not a single person in this country that does not worry that they may lose their health care if they change jobs, or even worse, they would be denied their health care coverage just because they have had a previous illness.

But this Republican-controlled House is once again about to put the good of special interests before the good of the Nation.

Mr. Speaker, this is a time of great uncertainty in our country. Today many workers wake up each morning wondering whether they will have a job at the end of the day and even whether they will be able to provide their family health care. Today health care costs are skyrocketing, and the Republican House is turning a blind eye to the needs of working men and women.

But we have heard over and over again our Republican colleagues talk about providing opportunity for America's middle class. Mr. Speaker, if ever there was a chance to do that, this is the bill. This is our chance to do something for the people of this country, and we should take it.

I urge my colleagues to defeat the rule, defeat the previous question. It is time to put the American people and their health care before politics.

Mr. Speaker, I reserve the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think there are a couple of points that need to be made here.

Technically of course, at the very onset of this rule debate, this is not a closed rule which we are debating. This is a modified closed rule. What is the difference? The difference in the importance of a modified closed rule is that the modified closed rule allows their side the opportunity to offer a complete substitute. In addition to that, it allows them to make a motion to recommit. There is certainly plenty of room for them to maneuver over there, to offer the kind of amendments or changes that they feel are important.

Second, Mr. Speaker, I think a few words should be said in response to the comments made about the waiver of clause 5(c) of rule XXI in this rule against the bill and the amendments thereto. As my colleagues are aware, clause 5(c) requires a three-fifths vote on the adoption or passage of any bill, joint resolution, amendment or conference report carrying, quote, a Federal income tax rate increase, unquote.

We do not feel there is any provision in this bill that raises Federal income tax rates as construed by the legislative history on this rule. As the section-by-section analysis of this rule explained when the rule was adopted on January 4 of 1995, and I quote:

> For purposes of these rules the term "Federal income tax rate increase" is, for example, an increase in the individual income tax rates established in section 1 and the corporate income tax rates established in section 11, respectfully, of the Internal Revenue Code of 1986.

Those are commonly understood marginal tax rates, or income bracket tax rates, applicable to various minimum and maximum income dollar amounts for individuals and corporations.

In response to the letter from the ranking minority member of the Committee on Rules to the chairman last year requesting a clarification of this rule, the Committee on Rules published such a clarification in the report on the rule for the reconciliation bill. The bottom lien of that clarification reads as follows, and again I quote:

> It is the intent of this committee that the term "Federal income tax rate increase" should be narrowly construed and confined to the rate specified in those two sections, that is sections 1 and 11 of the Internal Revenue Code, respectfully, establishing marginal rates for individuals and corporations.

Nothing in the bill before us increases either the individual income tax rates contained in section 1 of the Code or the corporate income tax rates contained in section 11 of the Code. Thus, according to the Committee on Rules clarification, as requested by the ranking minority member, this bill does not trigger a three-fifths vote on either the minority substitute or on the bill itself. However, as was mentioned in the opening statement on this rule, the waiver was provided out of an abundance of caution to avoid unnecessary points of order.

> EXPLANATION AND DISCUSSION OF CLAUSE 5(c), RULE XXI WAIVER
>
> (Excerpted From the Rules Committee's Report on H. Res. 245, the Reconciliation Rule)
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> As indicated in the preceding paragraph, the Committee has provided in this rule that the provisions of clause 5(c) of House Rule XXI, which require a three-fifths vote on any bill, joint resolution, amendment or conference report "carrying a Federal income tax rate increase," shall not apply to the votes on passage of H.R. 2491, or to the votes any amendment thereto or conference report thereon.
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> The suspension of clause 5(c) of rule XXI is not being done because there are any Federal income tax rate increases contained in the reconciliation substitute being made in order as base text by this rule. As the Committee on Ways and Means has pointed out in its portion of the report on the reconciliation bill—
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> "The Committee has carefully reviewed the provisions of Title XIII and XIV of the revenue reconciliation provisions approved by the Committee to determine whether any of these provisions constitute a Federal income tax rate increase within the meaning of the House Rules. It is the opinion of the Committee that there is no provision of Titles XIII and XIV of the revenue reconciliation provisions that constitutes a Federal income tax rate increase within the meaning of House Rule XXI, 5(c) of (d)."
>
> Nevertheless, the Committee on Rules has suspended the application of clause 5(c) as a precautionary measure to avoid unnecessary points of order that might otherwise arise over confusion or misinterpretations of what is meant by an income tax rate increase.
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> Such point of order was raised and overruled on the final passage vote of H.R. 1215, the omnibus tax bill, on April 15, 1995. The ranking minority member of the Rules Committee subsequently wrote to the chairman of this Committee requesting a clarification of the rule. An exchange of correspondence with the Parliamentarian and the Counsel of the Joint Tax Committee was subsequently released by the chairman of this Committee on June 13, 1995, regarding the ruling and the provision of the bill which gave rise to the point of order.
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> The Committee would simply conclude this discussion by citing from the section-by-section analysis of H. Res. 6, adopting House Rules for the 104th Congress, placed in the Congressional Record at the time the rules were adopted on January 4, 1995. With respect to clauses 5(c) and (d) which require a three-fifths vote on any income tax rate increase and prohibit consideration of any retroactive income tax rate increase, respectively:
>
> "For purposes of these rules, the term "Federal income tax rate increase" is, for example, an increase in the individual income tax rates established in section 1, and the corporate income tax rates established in section 11, respectively, of the Internal Revenue Code of 1986, (Congressional Record, Jan. 4, 1995, p. H–34)".
>
> The rates established by those sections are the commonly understood "marginal' tax rates or income "bracket" tax rates applicable to various minimum and maximum income dollar amounts for individuals and corporations. It is the intent of this committee that the term "Federal income tax rate increase" should be narrowly construed and confined to the rates specified in those two sections. As indicated in the Ways and Means Committee's report, those rates have not been increased by any provision contained in H.R. 2491 as made in order as base text by this resolution.

Mr. Speaker, I yield 6 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. I think the gentleman from Colorado for yielding me this time.

Mr. Speaker, I think we need to talk about how this bill came about and what is in it and what is not in it. The bill is an amalgam of ideas that have been tested around this House for the last 5 or 6 years, things that made eminent good sense.

Now this year of course the House has been working on Medicare and Medicaid, and insurance reform has been on the back burner, but we have always tried to use the issue and work the issue of portability so that we could have people move from group to group and group to individual.

Now, in the Senate bill there was some controversy with the group to individual because people who were basically healthy, when they lose their jobs, many times do not go out and buy a very expensive insurance policy. People who are sick, or if they are 15 years of age, and three kids, and a wife who is going to deliver, or if they are 55 years of age and have a preexisting condition, and need to go into immediate health insurance coverage, they are going to go out and buy that insurance policy, probably at whatever cost. So we thought that it was very, very important that we design and change the group to individual policy so that only sick people would not buy individual insurance, that we could hold down the cost so that insurance can be available and affordable to everybody.

So, the way that we structure group to individual allows for that, but it is really the central theme of what this bill does.

Health care availability is something that we all strive for. We know that there are a lot of Mercedes and Rolls Royces out there that are available. The problem is people do not drive them because they cannot afford them. Well, my colleagues, that is the same way in health care. If someone cannot afford the health care, if they cannot afford that insurance policy, then they do not buy it, and those folks riding around in Mercedes and Rolls Royces certainly have a lot of money to spend, and they can probably afford anything. But most of those people are people that do not have jobs.

So that is the issue. How do we take people who need a health care bill and they do not have a job?

Our approach to that is an approach of a type of policy that they can buy that is a low-cost policy, maybe a deductible, but something that is affordable, not for just people who are sick, but people who are well. So the theme of affordability and availability is central to everything that we have put in this package, and my colleagues know this package goes a little bit beyond the Senate package, but it is because we think that the Senate package was lacking.

We have had four committees that have worked on this bill and four committees that went out and structured things that were within their jurisdiction and moved legislation through their committees, had hearings, subcommittee hearings, full committee hearings, took amendments, listened to amendments, went through the debate and moved out a package; each bill within the jurisdiction of that committee. The Committee on Rules then put those three bills together, plus some information or piece of legislation that came out of the Committee on the Judiciary and put it together in the Rules Committee yesterday.

Now what is the difference between this bill, the House Republican bill sponsored by the chairmen of the four committees and subcommittee chairman, and the Senate bill? For one thing, we have medical savings accounts, and my colleagues will hear people over here saying, "Boy, medical savings accounts are only for rich people," and that is just a fraud.

Medical savings accounts are for everybody. The average employer cost per employee family in this country is about $4,500 a year. If my colleagues had a $4,500 savings or $4,500 life insurance policy, Medisave, a policy, probably my colleagues would take a $2,000 deductible and buy a high deductible policy; my colleagues would take that other $2,500 and put it in their medical savings account.

Now is that for rich people? No, that is for the average worker. That is for the guy who carries a lunch bucket to work. But a fellow or a person or a family that wants to control his own choice in health care, that does not want an HMO or an insurance company telling him what doctor to go to, or what hospital to go to, or what type of treatment to get, somebody that wants to control their own health care choice, and with a medical savings account we do just that.

Now if my colleagues do not spend that money, then they get to keep it,

VOL
142
PT
5
MR
21
—
29
1996
UMI

and that is real portability, because if my colleagues had this insurance policy for a couple of years and they have $10,000 or $15,000 or $20,000 in their medical savings account, that gives them real portability. My colleagues can move that and take it wherever they want, or buy insurance with it, pay for health care costs with it.

Also, this bill has long-term care expense so people, seniors, can take their assets and move it into long-term care, or if they have a fatal disease, they can take their life insurance, cash it in, and buy long-term care or health care with it.

We also have small group employer, so the 85 percent of the people who do not have insurance today that live in families that work for small businesses, that they can go to the marketplace and get the same break that big businesses get.

Now this is commonsense reform, my colleagues. It is something that everybody can work with, it makes health care not just available, but affordable. I hope that my colleagues would vote for this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, I rise in opposition to the Republican effort to sabotage realistic and meaningful health care this year. Senators KENNEDY and KASSEBAUM have sponsored health insurance reform legislation that is a positive first step to removing the barriers for coverage for thousands of Rhode Islanders and millions of Americans.

I am cosponsor of the Kennedy-Kassebaum bill. It will be offered as a Democratic substitute, and this bill would prohibit insurance companies from dropping coverage when a person changes jobs or preventing coverage if a person has a preexisting condition. In addition, this bill would increase the tax deduction for the self-employed from 30 percent to 80 percent by the year 2002. It is also estimated that this bill would help 25 million Americans each year, with minimal impact on individual premiums or the federal budget. In Rhode Island this would be terribly helpful for thousands of Almacs workers who were recently laid off when the store closed, a supermarket chain.

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These are individuals that need this type of coverage. Regrettably, House Republicans decided against taking up this bipartisan bill. House Republicans chose instead to cater to special interests and consider a bill with controversial and costly provisions. This Republican plan will doom the prospect of meaningful health care reform this year in the Congress.

Mr. Speaker, I urge rejection of this measure.

Mr. KENNEDY of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, this bill is very simple. There was a deal cut in the U.S. Senate, the Kennedy-Kassebaum bill. President Clinton agreed to Kennedy-Kassebaum. All the Republicans in the Senate agreed to Kennedy-Kassebaum. The Kennedy-Kassebaum bill does three things. It says to the ordinary citizens of this country that if they are willing to pay their health care premium if they change their jobs, they are going to continue to get health care. If they lose their job, they are going to continue to get health care. If they get sick, they will continue to get health care.

With the Republican substitute, the Republicans have taken a stake and thrown it into the heart of health care reform. This notion of supporting MSA's, this notion of including caps on damages so if you lose your leg you are only going to pay people $250,000, ends up doing one thing; that is, throwing off the track the ability of the American people, once and for all, to get needed health care coverage.

All we are trying to do is enrich the pockets of the doctors, enrich the pockets of the lawyers, and take away from the serious effort of getting the people that do not have health insurance or that lose health insurance simply because they get sick, simply because they lose their job, taking that hope away.

We have the opportunity to get the job done. Let us come together, and let us support the Democratic substitute which will once again put health reform back on track.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I thank my friend, the gentleman from Massachusetts, for yielding me this time.

Mr. Speaker, this is a bad rule. I thought we were going to get a rule and a bill before us that will let us deal with health insurance portability and preexisting conditions, that will let us deal with the problems that our constituents are facing of losing their jobs and losing their health benefits, and being unable to get health insurance without preexisting condition restrictions. Democrats and Republicans agreed to deal with that issue.

Yet this rule makes it less likely we will get to that day. This rule does not permit any amendments to be offered. Many amendments were suggested in the Committee on Rules, that would help improve the bill that has been brought forward.

Let me just mention a couple of the areas that troubled me. The bill preempts State laws in many, many ways. I thought we were supposed to be returning power to our States. This bill makes it very difficult for our States to respond to health insurance problems. In my own State, we have adopted small group market reform. Yet the provisions in the underlying bill would seriously jeopardize Maryland's ability to continue that small market reform.

I had offered an amendment in the Committee on Rules for fraud and abuse. There are new provisions in this bill that make it more difficult for the Justice Department to bring fraud cases against providers that are cheating. Yet the Committee on Rules did not make that amendment in order.

The group-to-individual provisions need to be improved. They are too restrictive to a person who loses their health insurance and must provide an individual plan. This rule does not allow us the opportunity to go forward with the type of portability that we need. The only option before us is to support the Democratic substitute if we want portability and eliminating preexisting conditions.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I rise in opposition to this rule. I had hoped to have an amendment made in order which would raise the lifetime benefit cap on health insurance from $1 million to $10 million. My amendment would have benefited the 1,500 Americans a year who exceed the current cap, and some 10,000 Americans between now and the year 2000. It would save Medicaid $7 billion over 5 years, and the cost is small. The American Academy of Actuaries estimates a 1-percent to 2-percent increase in premiums.

Mr. Speaker, a medical catastrophe could befall any one of us here in this Chamber and in this body, any one of our children, our parents, our loved ones, at any time. Many times I say to myself, "There but for the grace of God go I." Not being able to have sufficient health insurance coverage severely compounds the catastrophe. A point that needs to be made is the plight of the distinguished actor Christopher Reeve, who is well known to all of us. In honor of his courage, I introduced legislation upon which the amendment was based, named the Christopher Reeve Health Insurance Reform Act.

Mr. Speaker, every day we see inflation adjustments for other needed services: for consumer products, for education. In some of these cases, the adjustment reflects the reality of current costs. In others, they offer protection to the American people. My amendment would have done both. I am disappointed not for myself, but for the people of this Nation that my amendment was not allowed under this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise today on behalf of the hardworking families in my district, families who struggle to pay their bills, work hard, and they play by the rules. They live in fear of losing their health insurance if they change jobs. They cannot get health care coverage because of a preexisting condition. These families are a pink slip away from disaster.

I went to visit the Tomaso Construction Co. in my district. I met with workers there, and a worker said to me that he was frightened to death that he may lose his job. He has a child with a terminal illness. He stays up nights worrying that he will lose his job and will not be able to have the health insurance he needs for his child. Today Congress has the chance to prove that we are here to help working families.

The bipartisan Kennedy-Kassebaum-Roukema bill expands access to health insurance. It increases portability, it limits a health insurance company's ability to deny coverage because of preexisting medical conditions. Rather than helping these hardworking families, the Republican leadership has hijacked the bill to make a payoff to their special interest cronies. The bill provides a big windfall to the Golden Rule Insurance Company by including a provision for medical savings accounts. The Wall Street Journal said today that Golden Rule was the third biggest corporate giver to the Republican party in the last election. The Washington Times, not a liberal newspaper, says, "Riders imperil health reform."

Mr. Speaker, I urge my colleagues to reject this special interest payoff and support the Democratic substitute. It will provide real health care security to the hardworking families of this country.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, the bill reported out under this rule preempts and therefore eliminates consumer protections existing in State law for employers and employees insuring through associations or multiple employer arrangements known as MEWAs. This preemption of State law is a horrible idea, and deserves separate consideration and debate while the bill is before the House.

The consequence of allowing insuring entities to operate without effective State oversight creates a situation where small businesses will be ripped off. Folks who believe they are insured by their company's plan will find out they are not, often after they have racked up ruinous health bills.

Mr. Speaker, I am the only Member of this Chamber to have served as a State insurance commissioner. I know full well people will be hit with fraudulent insurance practices if this bill is enacted. I have seen it happen. In the home State of the gentleman from Florida [Mr. GOSS], a fraudulent entity collected nearly $35 million in premiums from 7,000 employers. It collapsed, leaving 40,000 employees without coverage, and $29 million in unpaid claims.

Why in the world would the majority want to wipe out the State laws developed to keep this from happening again? Why in the world would the Committee on Rules not allow separate consideration on this issue? Time and time again we have heard the new majority hail the role of State government, yet today's bill wipes out the efforts of States to protect small businesses and the workers they ensure. Vote "no" on this bad bill.

Mr. GOSS. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. I thank the gentleman for yielding time to me.

Mr. Speaker, the gentleman has made the statement that it is a terrible thing to preempt State law, but the gentleman must be aware that under the ERISA statute, most of private health care in this Nation is indeed a situation where State law has been preempted, and employer-provided health care is basically self-insured, or some with fully insured plans. So this is not the evil thing that one would think.

All we are suggesting is that small employers might have the same advantages as large employers have. That is all.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this Congress has a historic opportunity to pass limited, but meaningful health insurance reform. Just an hour from now, however, we'll begin to debate a bill specifically constructed by the Republican leadership to sabotage any meaningful reform this Congress.

Rather than supporting the bipartisan Kennedy-Kassebaum-Roukema bill, the G.O.P. House leaders insist on pushing their own bill which contains controversial provisions like medical savings accounts.

And why medical savings accounts? Just follow the money. The Golden Rule Insurance Co. has given more than $1.4 million to the G.O.P. and, coincidentally, Golden Rule just happens to be the premier company peddling medical savings accounts.

Mr. Speaker, the old saying is true: He who has the gold, rules. And while the American people want serious health insurance reform, all they are getting from the G.O.P. is cash-and-carry government.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the gentleman from Massachusetts for yielding time to me.

Mr. Speaker, for the whole day today the Republican leadership blocked consideration of a raise in the minimum wage. Then the majority whip, in relation to my speech that I made, said, "This is blatant politics and blatant hypocrisy." His words clearly should have been taken down, but the Speaker disallowed it.

Now the Republican leadership shamefully is not allowing us to consider a clean version of the Kennedy-Kassebaum-Roukema health reform bill, even though the American people want it. The American people want to know that if they lose their jobs, they can continue to have health insurance. The American people want to know that if there is a preexisting condition used as a excuse not to give them or a loved one health insurance, that that cannot be used as an excuse anymore. It has bipartisan support in the Senate, and is supported by the President. It represents the minimum that can be done to provide additional health security to the American people.

Again, the Republican leadership is blocking it, taking this bill and weighing it down with all kinds of strange things that do not belong in this bill. They know it is going to kill the bill. That is their real motive, to kill this bill. They can pretend they are for health care reform, but in reality what they are doing to this bill kills the bill, and the American people ought to know that.

Republicans have been talking a lot about how they want to reconnect with average working people. Is this the way they do it? By blocking the Roukema bill, this demonstrates that the Republican leadership are more interested in political gain than in passing legislation that helps the American worker. This is really shameful.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as we debate the merits of health insurance reform, it is crucial that we keep in mind a newly emerging and very important aspect of health insurance reform, that is genetic information and the potential for insurance discrimination. Last December, I introduced H.R. 2748, the Genetic Information Non-discrimination in Health Insurance Act—a bill to prevent the potentially devastating consequences of discrimination based on genetic information.

I am very pleased to learn that both the Republican version of health insurance reform and the Democratic substitute contain some of the protections I introduced in my bill last fall.

While the provision included in both versions of the legislation on the floor

VOL
142
PT
5
MR
21
—
29
1996
UMI

today is not as comprehensive as those outlined in my bill, it represents a crucial first step in providing protection for people with predisposition to genetic disease.

As chair of the Women's Health Task Force, I closely followed the reports last year indicating that increased funding for breast cancer research had resulted in the discovery of the BRCA-1 gene-link to breast cancer. While the obvious benefits of the discovery include potential lifesaving early detection and intervention, the inherent dangers of the improper use of genetic information are just becoming evident.

We must learn from the lessons of the past. We must remember the disastrous results of discriminating against those genetically predisposed to sickle cell anemia. And, we must guard against history repeating itself. There are recent reports of people with a family history of breast cancer afraid of getting tested for fear of losing access to insurance. We must assure our citizens that advances in our understanding of human genetics will be used to promote health and not to promote discrimination. Both the lessons of the past and the recent discoveries point to the need for comprehensive Federal regulations.

The bill I introduced last December would prevent discrimination by prohibiting insurance providers from: denying or canceling health insurance coverage, or varying the terms and conditions of health insurance coverage, on the basis of genetic information; requesting or requiring an individual to disclose genetic information, and disclosing genetic information without prior written consent.

Mr. Speaker, the provisions contained in the legislation being considered today prohibit the use of genetic information as a preexisting condition. I applaud the inclusion of that aspect of my legislation in the insurance reform packages. However, the provisions are limited in two major respects. One, the pool of people covered by this legislation is restricted to those in the employment market. Two, the legislation does not address the important issue of privacy protection.

I hope that my colleagues and I can continue to work together to apply the prohibitions on genetic discrimination across the board to cover all insurance policies and to prohibit disclosure of genetic information.

As therapies are developed to cure genetic diseases, and potentially to save lives, the women and men affected must be assured access to genetic testing and therapy without concern that they will be discriminated against. As legislators, I believe it is our responsibility to ensure that protection against genetic discrimination is guaranteed. Today, we will take the first step in that direction. I invite my colleagues to join me in making the commitment to ensuring the passage of comprehensive protections against genetic discrimination.

Mr. Speaker, I urge a "no" vote on this rule.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for those who are distressed about the opportunity they might have or might not have a chance to get at the bill known as the Kassebaum-Kennedy-Roukema, I believe it is the substitute that is going to be made in order, and they should take it up with the leadership on the other side of the aisle.

Mr. Speaker, I yield 2 minutes to my friend and colleague, the distinguished gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as the chairman of the Subcommittee on Health and Environment of the Committee on Commerce, I truly believe that reforming our Nation's health care system is one of the most important issues before Congress today.

Mr. Speaker, who does not support insurance portability? Who does not believe that people with preexisting conditions have a right to purchase health insurance at a reasonable price, just like everyone else?

□ 1715

And who can argue that fraud in our health care system has to be controlled or that unnecessary paperwork should be eliminated? The legislation before us today would address these and other important issues so that they could be enacted into law this year.

Mr. Speaker, our legislation is a starting point for reform, a reasonable beginning in resolving our Nation's health care problems. The bill in the Senate is also a reasonable beginning, and I commend Chairwoman KASSEBAUM for her work, but it does not go far enough. Even the President's bill in the last Congress addressed administrative simplicity and medical malpractice reform. Those, along with waste, fraud, and abuse, are consensus items.

If we enact into law, Mr. Speaker, these important consensus items, then many Americans will certainly benefit. I urge my colleagues to show the American people that we truly want change by supporting this rule and acting now on health reform.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, how often do we get a clear shot at helping 25 million people? Twenty-five million. Today, we have that chance. We can help them stay healthy. We can help them end their fear. We can help them achieve their dreams. Unfortunately, however, some Members of this body do not want us to have a clear shot with a clean bill. They want to gum up the works with proposals we do not need, proposals that doom this entire bill.

Why would they do this? Two words, Mr. Speaker: Special interests.

Mr. Speaker, many Democrats agree, many Republicans agree, the President agrees. Do not gum up the works, do not support special interests over our interests. Twenty-five million people are waiting. Do not let them down. Vote against this rule.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Speaker, I rise to strongly endorse this rule.

I would like to talk about one particular component of the piece of legislation that is exposed in the rule, and that is medical savings accounts. It truly is an idea whose time has come.

Let us face the facts. Those on the other side had more confidence in bureaucracy and the heavy-handed government than they do in individuals. In fact, they do not want to give individuals these kinds of choices because they believe that Washington knows better what their needs are than they know what their own needs are for themselves. Medical savings accounts are being demanded by people out there. In fact, there are some 3,000 companies who are already offering medical savings accounts.

Mr. Speaker, the only problem is our tax policy is discriminatory. It does not give the same kind of tax advantage to people wanting to establish medical savings accounts as it does to those companies providing premium coverage for traditional health care. Despite the charges of the opponents, MSA's are great for sick people and for the less well off. Why? Because you get first-dollar coverage.

It astounds me the arguments that the other side has used against medical savings accounts saying that only healthy people would flock to them. Why? When you have a high deductible health care policy that kicks in when your medical savings account ends, you are going to get first-dollar coverage, and sick people would want it as well as healthy people.

Finally, I would just like to say that they will work, by cutting out the bureaucracy, the redtape and the paperwork and replacing it with a free market. Individuals will be able to shop around and get the best deal that they can. When my last child was born, we had a traditional health care policy that paid $3,500 for the delivery. Two months later my sister-in-law had a baby at the same hospital, same doctor, yet they negotiated a cash payment of $1,500. They work.

Let us talk about special interests, let us talk about the fact that the biggest interest group against this is managed care. Why? Because they would rather see the savings go into the managed care, the HMO programs, than they would back in the individual's pockets. Let us get rid of the heavy-handed government and let us really think about special interests and who is in whose pocket.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. I thank the gentleman from Massachusetts, and I would simply say that every time we address this health reform question, the American people see us collapse. We do not have to collapse today, Mr. Speaker. We can support the Kassebaum-Kennedy-Roukema bill in the Democratic substitute, which allows for portability, and it protects those with preexisting conditions.

In addition, it recognizes the small businessperson who has been working an striving. It allows them an 80-percent deduction for their small business health insurance by the year 2002.

Mr. Speaker, let us stop the game. We know that the medical savings plans are simply for those who are healthy and wealthy. Let us face it. Whenever we hear from our seniors and those that are least able to take care of themselves, they are in these HMO plans and they cap them out, the doctors say I cannot see you because I have limits.

We need real health reform. Let us provide the American worker with portability and the opportunity to be covered for a preexisting condition. Likewise, let us not take the State administrators out of determining whether the rates are too high when you have to pay for an insurance plan. It is time to support a bill that the Senate will support.

The New York Times said, health reform now. But the Republican plan will kill it. Let us be bipartisan. Support the Kennedy-Kassebaum-Roukema bill, which is a Democratic substitute, and make sure that we do not collapse on the American people. Provide them with good health reform, good insurance, portability, and the coverage of preexisting disease.

Mr. Speaker, I rise today in support of the Democratic substitute to the Health Coverage Availability Act. This bill contains the portability provisions found in the Kassebaum-Kennedy-Roukema proposal, and it also increases the tax deduction for the self-employed health insurance costs, which is 30 to 80 percent in 2002, instead of the 50 percent offered in the Republican bill. I believe that this promise of portability assists the American worker who changes jobs and needs health insurance. I also support increasing the tax deduction to 80 percent because it would grant to the self-employed the tax favored status for approximately the same portion of their health insurance costs as is enjoyed by many employees.

This Democratic substitute has the provisions that hold bipartisan support. I believe that we should work together to pass some meaningful health care reform this year, and we should not attach controversial provisions that will defeat the bill. Contrary to what supporters of MSA's claim, medical savings accounts are not equitable. Medical savings accounts will be used primarily by upper income healthy individuals who can afford the high deductible.

I do not support MSA's, because medical savings accounts would appeal mainly to healthy people, and this would leave less healthy people to buy medical coverage at increased cost. This will obviously make health insurance more expensive. This so-called reform measure goes against the goal of real health care reform, which is to create a more standardized health package for everyone and equalize the less healthy and the poorer with those more able. The bill generally prohibits punitive damages in cases involving drug and medical device manufacturers or sellers whose products had been approved by the Food and Drug Administration. Prohibiting punitive damages for pharmaceutical and manufacturers of medical devices takes away their ongoing responsibility to public health after they have received FDA approval.

The Republican bill allows small employers to band together to purchase coverage for their workers but then exempts them from State taxation. I support such associations, however, this bill would take these co-ops out of State administration, and thus makes State level health reform more difficult.

The substitute amendment like the Republican bill assures group to group and group to individual portability. It limits the exclusion for preexisting conditions to 12 months and provides that the exclusion would be reduced by the period of time the person was covered in his or her previous job.

The substitute prohibits insurance carriers and HMO's from denying coverage to employers with two or more employees and prohibits employment-based health plans from excluding any employee from coverage based on health status. This substitute amendment also requires health plans to renew coverage for groups and individuals as long as the premiums are paid. All of these measures help to assure some significant health reform for Americans.

If we are truly committed to health care reform, then I urge my colleagues to pass the substitute amendment. Thank you, Mr. Speaker, and I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I rise today in support of Medical Savings Accounts. Unfortunately, MSAs have become a polarizing and partisan issue in this House. By giving MSAs tax treatment that is equal to other types of employer-provided health insurance plans, we will be giving the American people what they desperately need in their health care: Portability, lower costs, and more choices.

MSAs should not be a partisan issue. In fact, Democrats were the initial sponsors of MSAs, and MSAs unanimously passed the House Ways and Means Committee in 1994 during the debate on the Clinton health care plan. While I understand that many of my colleagues do not want to weigh down or destroy any health insurance reform with any extraneous and unnecessary provisions, I believe that MSAs are an essential part of insurance reforms that will benefit all Americans. It goes without saying that the health care of the American people should always hold priority over partisan politics.

Those opposed to MSAs claim that they will lead to adverse risk selection. But of the over 2,000 MSA plans that employers have in place, there are no actual examples of adverse risk selection. And the very sick will save money in most cases because their out of-pocket-costs will be less under MSAs.

I also support basic health insurance provisions included in the Democratic substitute that allow for portability, limits on the exclusion for pre-existing conditions, and increases in the health insurance tax deductions for the self-employed. These provisions would allow employees who get laid off to keep their health insurance, and gives an individual the peace of mind to change jobs or start their own business based on what is best for their career and family without worrying about his or her family's health insurance.

In addition to portability, exclusion of pre-existing conditions, tax deductions, and MSA's, an ideal health insurance reform bill would also include provisions that allow small employers to pool together to purchase health insurance. These small businesses should be allowed the same exemptions from State regulations that big businesses enjoy. But, I do not believe that medical malpractice provisions that put a price on pain and suffering as low as $250,000 should be included in any health insurance bill that we pass today.

In any case, MSA's should be added to health insurance reform because they will lower costs while still giving individuals the freedom to make career decisions based on the best interests of the individual. MSA's do lead to cost containment, as studies have shown. Soaring health costs are a large reason for an increasing anxiety among cash-strapped working Americans, and MSA's are proven to lower costs to employers and employees without sacrificing service and care.

Lastly, MSA's give the consumer unlimited choices. Patients are allowed to shop around to choose their personal doctors based on their own unique needs.

Mr. Speaker, we should subdue our partisan politics for 1 day and include MSA's in health insurance reform so Americans can worry less about their health care and more about their career and family.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, when I talk to my constituents about health insurance reform, basically they say, look, the quality of health care is good

VOL
142
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in this country, but the problem is a lot of people do not have health care coverage and the cost of health insurance keeps going on.

So when we talk about the Kennedy-Kassebaum-Roukema bill, it accomplishes the goal of expanding coverage because a lot more people that have the problem with preexisting conditions or problems with portability should be able to get health insurance now who were not able to get it before. But on the issue of affordability, essentially by adding these medical savings accounts to this bill, which I think is a big mistake and will essentially kill the bill, what we are doing is making health insurance less affordable, going against the goal and what most people want.

The reason is very simple, and that is why I do not understand some of the comments on the other side. Essentially the people who are going to take advantage of MSAs are people who have a lot of money, or people who are healthy who figure that they can put this money aside and have it collect, and they only need catastrophic health care coverage. People who are sicker and need to go to the doctor or the hospital more often are not going to be able to afford a medical savings account, because they will have to constantly shell out money to pay for the health care coverage that they are receiving.

So what is essentially going to happen is that this risk pool is going to be split. The healthy and the wealthy are going to get out of the risk pool and have the MSAs. The people who are sicker or do not have as much money, probably who will be the majority, they will see their premiums go up; and in essence health insurance will be less affordable.

Vote against the rule and vote against this Republican leadership bill.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I thank the gentleman from the opportunity to address the question of MSA's and also follow the gentleman from New Jersey [Mr. PALLONE].

I serve as chairman of the Subcommittee on Civil Service of the Committee on Government Reform and Oversight and actually had the opportunity to conduct hearings on MSA's. We have heard the other side of the aisle and the gentleman from New Jersey [Mr. PALLONE] just bash MSA's.

Let me say what Mayor Schundler testified to, the mayor of Jersey City, NJ, who came before our subcommittee. He said MSA's were offered and 60 percent of eligible employees chose MSA's over their previous plan. What were the results? And this is a city facing financial disaster and not being able to provide health care for their employees. The results reduced the out-of-pocket costs to employees and still saved the city about $275 per employee, but they do not want to deal with the facts on the other side.

Let us take another area, a small county, Ada County, ID, testified that under their county's MSA plan, the taxpayer saved money and the employees saved out-of-pocket costs which were reduced.

Then the private sector was at our hearing. At the hearing the subcommittee heard of reported cost savings ranging from 17 to 40 percent by more than 1,000 private businesses that have adopted MSA's.

Finally, how about the AFL-CIO? Let us see what one of their affiliates said. They called MSA's an option offered to their employees a win win situation.

So if we went to provide health care cost effectively, these are the facts, this is the result, and this is how we can do it. It just happens to be a new idea whose time has arrived.

☐ 1730

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, there is a lot that could and should be said about MSA's. I am going to save that for another time. Right now I would like to spend maybe a minute and a half and talk about the subject of hypocrisy.

Tomorrow the Committee on Rules is going to bring up a rule for a constitutional amendment that would require a two-thirds vote to raise income taxes, and then, the very next legislative day, April 15, when we get back from vacation, we are going to bring that bill up on the floor to require a two-thirds vote.

Now on the first day of this legislative term back in January 1995, we passed a law that was supposed to govern all of our actions that said we require a three-fifths vote to raise taxes, and do you know, every single time it has applied, it has been waived, and here is the third time that the Committee on Rules again waives the three-fifths requirement.

We had to waive it, with that Contract With America, Tax Relief Act that was a big issue. Remember I raised a point of order. It turns out that, sure enough, it did include a tax increase. So the Parliamentarian recognized we had to waive it.

The second time we had the budget resolution, we had the Committee on Rules had to waive it, and now the third time we have got tax increases here. We are going to waive the rule because it is inconvenient to let it apply to this bill, but is it not unbelievable that tomorrow the Committee on Rules—just for pure expedience, political gain—is going to bring up this rule saying that you need a two-thirds vote, putting it in the Constitution and then expecting us to vote on it April 15. Unbelievable. I think some of the members of the Committee on Rules ought to be embarrassed about this one.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. ROYCE].

Mr. ROYCE. Mr. Speaker, I rise in support of the rule and this legislation because this legislation gives individuals greater control over their own health care through the introduction of medical savings accounts.

These medical savings accounts put individuals in charge of their own health care. It gives them greater freedom and more choices, and it will drive down costs. At the same time, they help resolve the portability issue.

One problem with the current health insurance system in this country is that coverage for working people is usually tied to the job rather than the individual. Medical savings accounts, which would be owned by the individual for life, move with the individual. It is the ultimate in portability.

Medical savings accounts are becoming increasingly common in the public sector. This popularity in the private sector is even more significant considering the fact that they are handicapped by tax laws which give deductions to employers who pay their workers' insurance premiums but not to the employers who are paying into the medical savings accounts. This inequitable tax treatment penalizes individuals who want to select their own health providers and plans as well as individuals without health plans at work.

The legislation before us today removes this handicap and allows individuals and employers to make tax-deductible contributions to the accounts when employees are covered by a high deductible health insurance policy.

Further, in allowing for a tax-free buildup of these accounts, this bill makes the choice of medical savings accounts available to many more Americans, and everyone owning an MSA would have an incentive to spend their money wisely. That is a marked contrast to the use-it-or-lose-it approach fostered by third-payer plans. The savings would be theirs, and so would the choice.

The competition would also put pressure on providers to reduce costs so everyone would benefit, and while MSA options may not solve every problem, it would certainly help consumers giving them more choices, more control, lifetime security, and lower costs.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan [Mr. DINGELL], the former chairman of the Committee on Commerce.

Mr. DINGELL. Mr. Speaker, I rise in opposition to this closed rule.

I want to acknowledge the gracious reception I received at the Committee on Rules hearing yesterday from Chairman SOLOMON and the other members

of the Rules Committee. And I appreciate that the rule makes in order a substitute, which I will offer together with my colleagues (Mr. SPRATT and Mr. BENTSEN), that will enable us to pare this bill down to two simple and uncontroversial propositions: a clean Kassebaum-Roukema bill, and tax deductibility of health insurance for the self-employed.

But what we asked for was an open rule, and we have not gotten one. Thus, while the Republican leadership has loaded this bill down with a fine assortment of goodies for their friends in the health insurance industry, the medical profession, the HMO's, and other special pleaders, Democrats will not have a fair opportunity out here on the floor to make changes in those special-interest provisions.

For example, I had hoped to offer an amendment to strike a provision in the Republican bill that contains a sneak attack on the pocketbooks of America's seniors. This sneaky provision would put millions of our senior citizens at the mercy of health insurance scam artists who want to sell policy after policy to the same frightened and infirm people, whether they need it or not. The Republican bill would repeal existing protections in the Medicare law that regulate the sale of duplicative policies that had seniors paying premiums over and over again for coverage they didn't need.

But my amendment was not made in order. It seems that my Republican colleagues care more about helping their friends in the health insurance business than about protecting seniors from rip-offs. Oppose this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, the original bill had broad bipartisan support that guaranteed that those who lose their job for any reason can still get health insurance coverage.

This bill is loaded up with so many special interest provisions that for the consumer, the poor and the sick, it does more harm than good. The medical savings accounts will allow a few health people to take money out of the Medicare Program, leaving behind a group that are, on average, sicker and, therefore, will have higher health care costs.

The malpractice changes are all slanted to help the wrongdoer at the expense of the victim. They only preempt State laws to the extent that they hurt the victim. Incredibly, the bill provides if the victim is hurt worse under State law, then the State law prevails.

Mr. Speaker, we should reject the special-interest wrongdoer protections and instead pass the original bipartisan consumer protection health care bill.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I am sure that the Members are watching and listening to this debate on the rule for the so-called Health Coverage Availability and Affordability Act.

I hope Members will really take a look at what is happened here. This is blatant politics and blatant hypocrisy. The bill's title speaks of laudatory goals, while the provisions of the bill for medical savings accounts will ultimately have adverse effects on health insurance policies of all persons in this country who are not wealthy and cannot afford a medical savings account. The Golden Rule Insurance Co. is being repaid by the Gingrich majority for Golden Rules contribution to GOPAC and the Republican's campaign coffers. It's more than 30 pieces of silver. It is millions from taxpayers' pockets to put into the pockets of Golden Rule. Blatant politics and blatant hypocrisy.

Mr. GOSS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I would like to talk about what the American people want and the facts about the bill before us. They want medical insurance that is available, affordable, and portable. Most Americans without health insurance work for small business. Most small businesses also want to provide health insurance to their employees but find it too expensive to do so. Large corporations, on the other hand, are able to buy health insurance in bulk for their thousands of employees at more affordable rates.

Current law does not give small businesses the same opportunities to join together with other small businesses and purchase insurance in bulk. The end result is that insurance is not affordable.

Our bill makes health insurance affordable and available for small businesses by allowing them to pool together and buy insurance for their employees in bulk at affordable rates. This change will make medical insurance available and affordable for tens of millions of Americans who work for small businesses and have no insurance today. This is supported by small business associations across the board and deserves the full support of Congress.

We also make insurance more portable. We make it easier for employees to take their health insurance with them when they change jobs. For too long employees have resisted changing jobs and advancing in their careers because of fear of losing their health insurance. By making health insurance more portable, we open new job opportunities for millions of Americans. This is a good bill. Let us pass the bill. Let us pass the rule. If there is anything blatant about this, it is blatant democracy at work.

Mr. GOSS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. Mr. Speaker, I have been really intrigued by this debate. We hear actually some of the architects of the Clinton health care plan, that would socialize the health care system and one-seventh of our economy, lecturing us on how we need to now fix health care in America. Very intriguing.

The fact of the matter is that what it shows is we have two different views of America; those Americans who believe in empowering Americans, and those Americans who believe that we must socialize government, socialize health care, and do everything we can to take the decision out of the hands of the consumers and the doctors.

Who could not like medical savings accounts? Who could not? They take the middle man out. They give power to patients and doctors, family doctors, to sit down and decide what the best course of treatment is to cure people who are ill that come to their office without having to call an insurance company first and decide how to use the money.

Somebody said it helps special interests and actually drives up costs. Let me tell my colleagues, that is a novel approach. I wonder what economics class has ever been taught that shows that free enterprise and empowering consumers drives up the cost of medical care. It makes absolutely no sense.

So let us look at the two different views of America. With Democrats in control, they wanted to socialize; with the Republicans in control, we want to privatize. We want to drive down cost, and we want to empower doctors and patients to sit down together and decide what is best for their medical future. That makes sense to me.

I support the rule and the bill.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank my colleague for yielding this time to me.

Mr. Speaker, I rise in support of this rule. The legislation we will vote on today addressed the most fundamental and important issues that currently prevent a large majority of the uninsured from accessing the health care system.

What do Americans want from Health Care Reform?

They want health care reform that ensures portability, controls costs, and expands access.

If we are to have true health care reform, we must include malpractice reforms, medical savings accounts, increases in tax deduction for health insurance for self-employed individuals, provisions to prevent waste, fraud, and abuse, and administrative reforms. Without providing such necessary relief, we will not succeed in bringing down the costs associated with delivering health care.

Passage of this bill will benefit all Americans, especially the 39 million who lack any

VOL
142
PT
5
MR
21
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29
1996
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type of health coverage. These individuals must live in constant fear of becoming sick and not having the necessary insurance to meet their medical needs.

Lastly, I am particularly pleased that my suggestion to include "genetic information" in the definition of health status was agreed to and made part of the final package. I believe by doing so we have enhanced and made it an even better piece of legislation. I will have more to say about this in the next period of debate.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I find it amazing that last year the group that wanted to nationalize health care has taken exception with the Republican Party because we want to go beyond the portability issue. What is it that we want to do that we disagree? Medical savings accounts, giving consumers choices rather than command-and-control Washington Bureaucrats. We want to stop waste, fraud, and abuse.

I realize the Democratic Party is partial to waste, and I can understand that. We want to stop medical malpractice, and we have tort reform. The Hill newspaper, though, explains the Democrats' position on that with $2.2 million in campaign contributions last year going to political candidates, 94 percent Democrats.

I will put this in the RECORD, Mr. Speaker.

That is why they are against this. It is a tort reform issue. It is a trial lawyers' issue. They are also against small businesses. I like the idea of pet shops, clothes stores, bicycle shops, combining together to get economies of scale that large corporations can. My small businesses are in favor of that, as are all small businesses all over America. Then again, the Democratic Party has never been partial to small businesses. What is it on long-term health care? We want long-term health care.

Mr. Speaker, I support the rule and strongly urge a "yes" vote on the bill.

The article referred to follows:

TRIAL ATTORNEYS SEEK MORE HILL CLOUT

(By Craig Karmin)

In a move that would increase the political power of trial lawyers and benefit Democratic congressional candidates, the Association of Trial Lawyers of America is planning a new program to encourage its members to contribute to ATLA-endorsed candidates.

These individual contributions would supplement ATLA's political action committee, which was the sixth largest contributor during the 1994 elections. It donated more than $2.2 million to congressional campaigns, with Democrats receiving 94 percent of the funds. In 1995, despite Republican majorities in the House and Senate, the association gave 79 percent of its $700,000 in campaign contributions to Democrats.

The political and financial clout of the trial lawyers has been credited with President Clinton's threat to veto the product liability law, and the group has come under fire from congressional Republicans.

According to a letter the association sent to the Federal Election Commission, ATLA would "obtain advance commitments from its members to contribute a specified amount" to certain candidates. It would further "recommend the size of contributions that members should send to particular candidates" and "suggest when members should mail their contributions."

The FEC met last week on the subject and is expected to approve ATLA's request to engage in these activities in the near future. But these contributions could be prohibited under bipartisan campaign finance reform bills pending in both the House and Senate. ATLA contends that these contributions are constitutionally protected by the First Amendment.

The association's plan to strongly urge its 60,000 members to contribute to congressional campaigns would expand the power and influence of an already formidable special interest on Capitol Hill and in the White House.

Josh Goldstein of the Center for Responsive Politics said he thought the ATLA plan would provide "a way for trial lawyers to distinguish themselves from other lawyers when giving to campaigns," and therefore "give them more bang for their buck on Capitol Hill."

ATLA's program encouraged Democrats about their chances in the fall elections. "I think it could impact a number of races because it will probably benefit Democrats more than Republicans," said Don Sweizer, a Democratic consultant and former finance director at the Democratic National Committee. "It's good news for our team."

Republicans seemed to agree. "In general, I think Republicans should be concerned," said Dawn Sciarrino, a vice president at Brockmeyer, Allen and Associates, a Republican consulting firm. "This helps them funnel a great deal of money to the candidates of their choice."

Pam Liapakis, president of ATLA, said that she was inspired by a similar program at EMILY's List, an association whose contributors give money to Democratic pro-choice women candidates. Liapakis expects to have the program "up and running" well before the November elections.

But if campaign reformers have their way, this could be the only election in which ATLA, EMILY's List, or any other organization can engage in what is sometimes referred to as "bundling" contributions. Bipartisan campaign finance reform bills submitted in the House and Senate would ban this kind of activity.

Liapakis, however, said she believed ATLA's program was within the law. "There is a right under the First Amendment to communicate and to participate in elections," she said.

□ 1745

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, as a physician, I am particularly concerned with the section of this bill that many may not have had a chance to study. Buried within the 300-plus pages of this bill is a 29-page section called "Administrative simplification."

Now, "administrative simplification" has a nice right to it, but let me tell you why everyone concerned with the future of health care in this country should oppose the inclusion of this section in any health care reform bill.

First of all, section 1173 on page 222 forces a physician to reveal confidential patient information for billing purposes. The bill says "The Secretary shall adopt standards for transactions and data elements for such transactions to enable health information to be exchange electronically." This bill sets up electronic elearinghouses for all the health care administration information in this country.

Now, among the transactions that doctors will be forced to make, on page 223, it says "Claims or equivalent encounter information." This will require doctors to submit not just general information, but personal, private information that patients need to disclose to their doctors.

Next, this bill fails to adequately protect the privacy of patient health information, which is vital if you are going to have good quality care in this country. Instead of actual privacy protections, the administrative simplification section provided vague promises to develop privacy standards in the future.

The bottom of page 226, part E of section 1173, it says "Privacy standards for health information." It reads, "The Secretary shall adopt standards with respect to the privacy of individually identifiable health information."

Now, we do not know what those protections are going to look like, yet we are going to set in place a collection mechanism from all the patients in this country in this bill. We have overridden all States, all insurance commissioners, everybody else in one provision, stuck in a 300-page bill that most people on this floor have never read.

When I asked in the Committee on Ways and Means about this section, they said it has been cleared with all the groups. So I called some of the groups, and it has not been cleared with the groups. They understand that this is an invasion of privacy.

I cannot understand how Republicans can be putting a bill out here that invades the public privacy for people who say they want privacy, and they want the Government out of their lives, to suddenly say to the insurance industry in a 29-page section buried in this bill, you can gather all the information you want and have a electronic transfer, so any insurance company can type in a name and here it will come printed out somewhere in a computer somewhere.

That is what is being set up in this bill, and it is for the insurance industry, and everybody ought to understand it. You are going to come to rue the day that you pass this bill without talking about it.

Mr. MOAKLEY. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The gentleman from Massachusetts is recognized for 1½ minutes.

Mr. MOAKLEY. Mr. Speaker, I urge a "no" vote on the previous question. If the previous question is defeated, I shall offer an amendment to the rule which will make in order the amendment by the gentleman from Wisconsin [Mr. GUNDERSON], the gentleman from Illinois [Mr. POSHARD], the gentleman from Kansas [Mr. ROBERTS], the gentleman from Texas [Mr. STENHOLM], the gentleman from Minnesota [Mr. GUTKNECHT], and other members of the Rural Health Coalition.

Yesterday several of these members appeared before the Committee on Rules and spoke eloquently on the importance of a 24-hour emergency care antitrust relief to small rural hospitals and expanded telemedicine services in rural areas. It is important when we consider health care reform to ensure that Americans who live in small towns and rural communities are able to enjoy the same access to health care as those in urban areas.

Mr. Speaker, the text of my proposed amendment is as follows:

PREVIOUS QUESTION AMENDMENT TEXT (H.R. 3103–H. RES. 392)

On page 3, line 11 of House Resolution 392, immediately after "opponent;" strike "and 93)" and insert the following:

"(3) the amendment printed in Section 2 of the resolution by Representatives Gunderson, Poshard, Roberts and Gutknecht or their designee, which shall be in order without intervention of any point of order (except those arising under section 425(a) of the Congressional Budget Act of 1974) or demand for division of the question, shall be considered as read, and shall be separately debatable for 30 minutes equally divided and controlled by the proponent and opponent; and (4)".

At the end of the resolution, add the following new section:

"Sec. 2. At the end of the bill, add the following new title (and conform the table of contents accordingly):

TITLE V—PROMOTING ACCESS AND AVAILABILITY OF HEALTH COVERAGE IN RURAL AREAS

Subtitle A—Medicare Program

SEC. 501. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 of the Social Security Act (42 U.S.C. 1395i–4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"SEC. 1820. (a) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program described in subsection (c).

"(b) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (c) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (d)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(c) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (b), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (d)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area;

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 6 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 72 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 72-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(d) RURAL HEALTH NETWORK DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(e) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(f) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed 12 beds (minus the number of inpatient beds used for providing inpatient care in the facility pursuant to subsection (c)(2)(B)(iii)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a

VOL
142
PT
5
MR
21
—
29
1996
UMI

unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital.

"(g) Waiver of Conflicting Part A Provisions.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.".

(b) Part A Amendments Relating to Rural Primary Care Hospitals and Critical Access Hospitals.—

(1) Definitions.—Section 1861(mm) of such Act (42 U.S.C. 1395x(mm)) is amended to read as follows:

"Critical Access Hospital; Critical Access Hospital Services

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(e).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) Coverage and payment.—(A) Section 1812(a)(1) of such Act (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Sections 1813(a) and section 1813(b)(3)(A) of such Act (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient rural primary care hospital services" each place it appears, and inserting "inpatient critical access hospital services".

(C) Section 1813(b)(3)(B) of such Act (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services".

(D) Section 1814 of such Act (42 U.S.C. 1395f) is amended—

(i) in subsection (a)(8) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and

(iii) by amending subsection (l) to read as follows:

"(l) Payment for Inpatient Critical Access Hospital Services.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(3) Treatment of critical access hospitals as providers of services.—(A) Section 1861(u) of such Act (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".

(4) Conforming amendments.—(A) Section 1128A(b)(1) of such Act (42 U.S.C. 1320a-7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(B) Section 1128B(c) of such Act (42 U.S.C. 1320a-7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(C) Section 1134 of such Act (42 U.S.C. 1320b-4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(D) Section 1138(a)(1) of such Act (42 U.S.C. 1320b-8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

(E) Section 1816(c)(2)(C) of such Act (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(F) Section 1833 of such Act (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";

(iv) in subsection (l)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(v) in subsection (l)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(G) Section 1835(c) of such Act (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(H) Section 1842(b)(6)(A)(ii) of such Act (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(I) Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services"; and

(II) in paragraph (2), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";

(iv) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(v) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(J) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(K) Section 1866(a)(1) of such Act (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";

(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals" and "critical access hospital services", respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "rural primary care hospitals" and inserting "critical access hospitals", and

(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".

(L) Section 1866(a)(3) of such Act (42 U.S.C. 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(M) Section 1867(e)(5) of such Act (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(c) Payment Continued to Designated EACHs.—Section 1886(d)(5)(D) of such Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting "as in effect on September 30, 1995" before the period at the end; and

(2) in clause (v)—

(A) by inserting "as in effect on September 30, 1995" after "1820 (i)(1)"; and

(B) by striking "1820(g)" and inserting "1820(e)".

(d) Part B Amendments Relating to Critical Access Hospitals.—

(1) Coverage.—(A) Section 1861(mm) of such Act (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(B) Section 1832(a)(2)(H) of such Act (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

(2) Payment.—(A) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access hospital services".

(B) Section 1834(g) of such Act (42 U.S.C. 1395m(g)) is amended to read as follows:

"(g) Payment for Outpatient Critical Access Hospital Services.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(e) Effective Date.—The amendments made by this section shall apply to services furnished on or after October 1, 1996.

SEC. 502. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) In General.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".

(b) Requiring Rural Emergency Access Care Hospitals To Meet Hospital Anti-Dumping Requirements.—Section 1867(e)(5) of such Act (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

(c) Coverage and Payment for Services.—

(1) Coverage.—Section 1832(a)(2) of such Act (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (I);

(B) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(2) Payment based on payment for outpatient critical access hospital services.—

(A) In general.—Section 1833(a)(6) of such Act (42 U.S.C. 1395l(a)(6)), as amended by section 501(f)(2), is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(B) Payment methodology described.—Section 1834(g) of such Act (42 U.S.C. 1395m(g)), as amended by section 501(f)(2)(B), is amended—

(i) in the heading, by striking "Services" and inserting "Services and Rural Emergency Access Care Hospital Services"; and

(ii) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

(d) Effective Date.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1996.

SEC. 503. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) Prohibiting Denial of Request for Reclassification on Basis of Comparability of Wages.—

(1) In general.—Section 1886(d)(10)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(2) Effective date.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) of such Act (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii) of such Act.

(b) Continuing Treatment of Previously Designated Centers.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1997 and each subsequent fiscal year.

Subtitle B—Small Rural Hospital Antitrust Fairness

SEC. 511. ANTITRUST EXEMPTION.

The antitrust laws shall not apply with respect to—

(1) the merger of, or the attempt to merge, 2 or more hospitals,

(2) a contract entered into solely by 2 or more hospitals to allocate hospital services, or

(3) the attempt by only 2 or more hospitals to enter into a contract to allocate hospital services,

if each of such hospitals satisfies all of the requirements of section 512 at the time such hospitals engage in the conduct described in paragraph (1), (2), or (3), as the case may be.

SEC. 512. REQUIREMENTS.

The requirements referred to in section 511 are as follows:

(1) The hospital is located outside of a city, or in a city that has less than 150,000 inhabitants, as determined in accordance with the most recent data available from the Bureau of the Census.

(2) In the most recently concluded calendar year, the hospital received more than 40 percent of its gross revenue from payments made under Federal programs.

(3) There is in effect with respect to the hospital a certificate issued by the Health Care Financing Administration specifying that such Administration has determined that Federal expenditures would be reduced, consumer costs would not increase, and access to health care services would not be reduced, if the hospital and the other hospitals that requested such certificate merge, or allocate the hospital services specified in such request, as the case may be.

SEC. 513. DEFINITION.

For purposes of this title, the term "antitrust laws" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies with respect to unfair methods of competition.

Subtitle C—Miscellaneous Provisions

SEC. 521. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS EXCLUDED FROM GROSS INCOME.

(a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS.

"(a) General Rule.—Gross income shall not include any qualified loan repayment.

"(b) Qualified Loan Repayment.—For purposes of this section, the term 'qualified loan repayment' means any payment made on behalf of the taxpayer by the National Health Service Corps Loan Repayment Program under section 338B(g) of the Public Health Service Act.".

(b) Conforming Amendment.—Paragraph (3) of section 338B(g) of the Public Health Service Act is amended by striking "Federal, State, or local" and inserting "State or local".

(c) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. National Health Service Corps loan repayments.

"Sec. 138. Cross references to other Acts.".

(d) Effective Date.—The amendments made by this section shall apply to payments made under section 338B(g) of the Public Health Service Act after the date of the enactment of this Act.

VOL
142
PT
5
MR
21
—
29
1996
UMI

SEC. 522. TELEMEDICINE SERVICES.

The Secretary of Health and Human Services shall establish a methodology for making payments under part B of the medicare program for telemedicine services furnished on an emergency basis to individuals residing in an area designated as a health professional shortage area (under section 332(a) of the Public Health Service Act).

Mr. Speaker, every single rule the House has adopted this session has been a restrictive rule. You heard that correctly. The Republican House has so far adopted 100 percent restrictive rules in this session. If it is adopted, the rule before us will leave that 100 percent purely restrictive rules record intact.

This is the 65th restrictive rule reported out of the Committee on Rules in this Congress. In addition, 71 percent of the legislation considered this session has not been reported from committee. Ten out of 14 measures brought up this session have been unreported. Mr. Speaker, I include the following material for the RECORD:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provide for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(l)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(l)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H.Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 0f rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. *RULE AMENDED*.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title..	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	1D.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.

VOL
142
PT
5
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21
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29
1996
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FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5(c) of rule XXI (3/5 requirement on votes raising taxes).	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res.	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate.	N/A.
H.R. 1745	Utah Public Lands Management Act of 1995	H.Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min)..	N/A.
H.Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dorman), H.Res. 302 (Buyer), and H.Res. 306 (Gephardt); 1 hour of debate on each..	1D; 2R
H.Res. 309	Revised Budget Resolution	H.Res. 309	Closed; provides 2 hours of general debate in the House.	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H.Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.
	PROCEDURE IN THE 104TH CONGRESS 2D SESSION			
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered. ** NR.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131. ** NR.	N/A.
H. R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the house the motion printed in the Rules Committee report; 1 hr. of general debate; previous quesetion is considered as ordered. ** NR.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed; ** NR	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate; makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law; Chairman has en bloc authority for amends in report (20 min.) on each en bloc..	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H.Res 368	Open rule; makes in order the Hyde substitute printed in the Record as original text; waives cl 7 of rule XVI against the substitute; Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A.
H.R. 3021	To Guarantee the Continuing Full Investment of Social security and Other Federal Funds in Obligations of the United States.	H.Res 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H.Res. 372	Restrictive; self-executes CBO language regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report; Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which if contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	2D/2R.
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735. ** NR.	6D; 7R; 4 Bipartisan.
H.R. 2202	The Immigration and National Interest Act of 1995	H. Res. 384	Restrictive; waives all points of order against the bill and amendments in the report except for those arising under sec. 425(a) of the Budget Act (unfunded mandates); 2 hrs. of general debate on the bill; makes in order the committee substitute as base text; makes in order only the amends in the report; gives the Judiciary Chairman en bloc authority (20 min.) of debate on the en blocs; self-executes the Smith (TX) amendment re: employee verification program..	12D; 19R; 1 Bipartisan.
H.J. Res. 165	Making further continuing appropriations for FY 1996	H. Res. 386	Closed; provides for the consideration of the CR in the House and gives one motion to recommit which may contain instructions only if offered by the Minority Leader; the rule also waives cl 4(b) of rule XI against the following: an omnibus appropriations bill, another CR, a bill extending the debt limit. ** NR.	N/A.
H.R. 125	The Gun Crime Enforcement and Second Amendment Restoration Act of 1996.	H. Res. 388	Closed; self-executes an amendment; provides one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee. ** NR.	N/A
H.R. 3136	The Contract With America Advancement Act of 1996	H. Res. 391	Closed; provides for the consideration of the bill in the House; self-executes an amendment in the Rules report; waives all points of order, except sec. 425(a)(unfunded mandates) of the CBA, against the bill's consideration; orders the PQ except 1 hr. of general debate between the Chairman and Ranking Member of Ways and Means; one Archer amendment (10 min.); one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; Provides a Senate hookup if the Senate passes S. 4 by March 30, 1996. **NR.	N/A
H.R. 3103	The Health Coverage Availability and Affordability Act of 1996	H. Res. 392	Restrictive: 2 hrs. of general debate (45 min. split by Ways and Means) (45 split by Commerce) (30 split by Economic and Educational Opportunities); self-executes H.R. 3160 as modified by the amendment in the Rules report as original text; waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA; makes in order a Democratic substitute (1 hr.) waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA, against the amendment; one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; waives cl 5(c) of Rule XXI (requiring 3/5 vote on any tax increase) on votes on the bill, amendments or conference reports.	N/A

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*Contract Bills, 67% restrictive; 33% open. ** All legislation 1st Session, 53% restrictive; 47% open. *** All legislation 2d Session, 94% restrictive; 6% open. **** All legislation 104th Congress, 65% restrictive; 35% open. ***** NR indicates that the legislation being considered by the House for amendment has circumvented standard procedure and was never reported from any House committee. ****** Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

Mr. GOSS. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 1 minute.

Mr. GOSS. Mr. Speaker, first of all I would like to say that we have considered many amendments in this process and it is quite clear there are many good ideas.

This does not pretend to be comprehensive health care reform. This is very special, and it is meant to be doable and accomplished now, to take a subject we think we can do to make improvement for access and affordability for a great many Americans, to take the bill the Senate has worked on and to make it better here and to send it to the American people. We think that is doable.

We have given the other side two bites at this. We have given them their own substitute and the right to recommit, of course.

Some have said, "Oh, my gosh; what we need to do here is get back on the health care track." Let me remind you, the health care track of the last 40 years was derailed in a monumental train wreck under the Clinton administration. They cannot even find the engineer for that.

We now have something that is doable today, and all we need to do is get this rule on the floor, have the debate, vote this health care reform, and we come out with more health care opportunities for more Americans than we have today. It is worth doing.

Mr. Speaker, I urge support of the rule.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GOSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 229, nays 186, not voting 16, as follows:

[Roll No. 103]

YEAS—229

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—186

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

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NOT VOTING—16

Becerra
Bryant (TX)
Collins (IL)
Conyers
Fields (LA)
Fowler
Lantos
McNulty
Neal
Ros-Lehtinen
Smith (TX)
Smith (WA)
Stokes
Torricelli
Weldon (PA)
Wilson

☐ 1809

Ms. FURSE and Mr. BALDACCI changed their vote from "yea" to "nay."

Mr. COBURN and Mr. THOMAS of California changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. COMBEST). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 3136. An act to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit; and

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

The message also announced that the Senate agrees, to the report of the committee of conference on the disagreeing votes of the two House on the amendment of the Senate to the bill (H.R. 2854) "An act to modify the operation of certain agricultural programs."

☐ 1815

HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

Mr. ARCHER. Mr. Speaker, pursuant to House Resolution 392, I call up the bill (H.R. 3103), to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. COMBEST). Pursuant to House Resolution 392, the amendment in the nature of a substitute consisting of the text of H.R. 3160 modified by the amendment specified in part 1 of House Report 104–501 is adopted.

The text of H.R. 3103 consisting of the text of H.R. 3160, as modified, is as follows:

H.R. 3160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Coverage Availability and Affordability Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED AVAILABILITY AND PORTABILITY OF HEALTH INSURANCE COVERAGE

Subtitle A—Coverage Under Group Health Plans

Sec. 101. Portability of coverage for previously covered individuals.
Sec. 102. Limitation on preexisting condition exclusions; no application to certain newborns, adopted children, and pregnancy.
Sec. 103. Prohibiting exclusions based on health status and providing for enrollment periods.
Sec. 104. Enforcement.

Subtitle B—Certain Requirements for Insurers and HMOs in the Group and Individual Markets

PART 1—AVAILABILITY OF GROUP HEALTH INSURANCE COVERAGE

Sec. 131. Guaranteed availability of general coverage in the small group market.
Sec. 132. Guaranteed renewability of group coverage.

PART 2—AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE

Sec. 141. Guaranteed availability of individual health insurance coverage to certain individuals with prior group coverage.
Sec. 142. Guaranteed renewability of individual health insurance coverage.

PART 3—ENFORCEMENT

Sec. 151. Incorporation of provisions for State enforcement with Federal fallback authority.

Subtitle C—Affordable and Available Health Coverage Through Multiple Employer Pooling Arrangements

Sec. 161. Clarification of duty of the Secretary of Labor to implement provisions of current law providing for exemptions and solvency standards for multiple employer health plans.

"PART 7—RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS

"Sec. 701. Definitions.
"Sec. 702. Clarification of duty of the Secretary to implement provisions of current law providing for exemptions and solvency standards for multiple employer health plans.
"Sec. 703. Requirements relating to sponsors, boards of trustees, and plan operations.
"Sec. 704. Other requirements for exemption.
"Sec. 705. Maintenance of reserves.
"Sec. 706. Notice requirements for voluntary termination.
"Sec. 707. Corrective actions and mandatory termination.
"Sec. 708. Additional rules regarding State authority.".
Sec. 162. Affordable and available fully insured health coverage through voluntary health insurance associations.
Sec. 163. State authority fully applicable to self-insured multiple employer welfare arrangements providing medical care which are not exempted under new part 7.
Sec. 164. Clarification of treatment of single employer arrangements.
Sec. 165. Clarification of treatment of certain collectively bargained arrangements.
Sec. 166. Treatment of church plans.
Sec. 167. Enforcement provisions relating to multiple employer welfare arrangements.
Sec. 168. Cooperation between Federal and State authorities.
Sec. 169. Filing and disclosure requirements for multiple employer welfare arrangements offering health benefits.
Sec. 170. Single annual filing for all participating employers.
Sec. 171. Effective date; transitional rule.

Subtitle D—Definitions; General Provisions

Sec. 191. Definitions; scope of coverage.
Sec. 192. State flexibility to provide greater protection.
Sec. 193. Effective date.
Sec. 194. Rule of construction.
Sec. 195. Findings relating to exercise of commerce clause authority.

TITLE II—PREVENTING HEALTH CARE FRAUD AND ABUSE; ADMINISTRATIVE SIMPLIFICATION; MEDICAL LIABILITY REFORM

Sec. 200. References in title.

Subtitle A—Fraud and Abuse Control Program

Sec. 201. Fraud and abuse control program.
Sec. 202. Medicare integrity program.
Sec. 203. Beneficiary incentive programs.
Sec. 204. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health care programs.
Sec. 205. Guidance regarding application of health care fraud and abuse sanctions.

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

Sec. 211. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 212. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.
Sec. 213. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.
Sec. 214. Sanctions against practitioners and persons for failure to comply with statutory obligations.
Sec. 215. Intermediate sanctions for medicare health maintenance organizations.
Sec. 216. Additional exception to anti-kickback penalties for discounting and managed care arrangements.

Sec. 217. Criminal penalty for fraudulent disposition of assets in order to obtain medicaid benefits.
Sec. 218. Effective date.

Subtitle C—Data Collection

Sec. 221. Establishment of the health care fraud and abuse data collection program.

Subtitle D—Civil Monetary Penalties

Sec. 231. Social security act civil monetary penalties.
Sec. 232. Clarification of level of intent required for imposition of sanctions.
Sec. 233. Penalty for false certification for home health services.

Subtitle E—Revisions to Criminal Law

Sec. 241. Definitions relating to Federal health care offense.
Sec. 242. Health care fraud.
Sec. 243. Theft or embezzlement.
Sec. 244. False statements.
Sec. 245. Obstruction of criminal investigations of health care offenses.
Sec. 246. Laundering of monetary instruments.
Sec. 247. Injunctive relief relating to health care offenses.
Sec. 248. Authorized investigative demand procedures.
Sec. 249. Forfeitures for Federal health care offenses.
Sec. 250. Relation to ERISA authority.

Subtitle F—Administrative Simplification

Sec. 251. Purpose.
Sec. 252. Administrative simplification.

"PART C—ADMINISTRATIVE SIMPLIFICATION

"Sec. 1171. Definitions.
"Sec. 1172. General requirements for adoption of standards.
"Sec. 1173. Standards for information transactions and data elements.
"Sec. 1174. Timetables for adoption of standards.
"Sec. 1175. Requirements.
"Sec. 1176. General penalty for failure to comply with requirements and standards.
"Sec. 1177. Wrongful disclosure of individually identifiable health information.
"Sec. 1178. Effect on State law.
Sec. 253. Changes in membership and duties of National Committee on Vital and Health Statistics.

Subtitle G—Duplication and Coordination of Medicare-Related Plans

Sec. 261. Duplication and coordination of medicare-related plans.

Subtitle H—Medical Liability Reform

PART 1—GENERAL PROVISIONS

Sec. 271. Federal reform of health care liability actions.
Sec. 272. Definitions.
Sec. 273. Effective date.

PART 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

Sec. 281. Statute of limitations.
Sec. 282. Calculation and payment of damages.
Sec. 283. Alternative dispute resolution.

TITLE III—TAX-RELATED HEALTH PROVISIONS

Sec. 300. Amendment of 1986 code.

Subtitle A—Medical Savings Accounts

Sec. 301. Medical savings accounts.

Subtitle B—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

Sec. 311. Increase in deduction for health insurance costs of self-employed individuals.

Subtitle C—Long-Term Care Services and Contracts

PART I—GENERAL PROVISIONS

Sec. 321. Treatment of long-term care insurance.
Sec. 322. Qualified long-term care services treated as medical care.
Sec. 323. Reporting requirements.

PART II—CONSUMER PROTECTION PROVISIONS

Sec. 325. Policy requirements.
Sec. 326. Requirements for issuers of long-term care insurance policies.
Sec. 327. Coordination with State requirements.
Sec. 328. Effective dates.

Subtitle D—Treatment of Accelerated Death Benefits

Sec. 331. Treatment of accelerated death benefits by recipient.
Sec. 332. Tax treatment of companies issuing qualified accelerated death benefit riders.

Subtitle E—High-Risk Pools

Sec. 341. Exemption from income tax for State-sponsored organizations providing health coverage for high-risk individuals.

Subtitle F—Organizations Subject to Section 833

Sec. 351. Organizations subject to section 833.

TITLE IV—REVENUE OFFSETS

Sec. 400. Amendment of 1986 Code.

Subtitle A—Repeal of Bad Debt Reserve Method for Thrift Savings Associations

Sec. 401. Repeal of bad debt reserve method for thrift savings associations.

Subtitle B—Reform of the Earned Income Credit

Sec. 411. Earned income credit denied to individuals not authorized to be employed in the United States.

Subtitle C—Treatment of Individuals Who Lose United States Citizenship

Sec. 421. Revision of income, estate, and gift taxes on individuals who lose United States citizenship.
Sec. 422. Information on individuals losing United States citizenship.
Sec. 423. Report on tax compliance by United States citizens and residents living abroad.

TITLE I—IMPROVED AVAILABILITY AND PORTABILITY OF HEALTH INSURANCE COVERAGE

Subtitle A—Coverage Under Group Health Plans

SEC. 101. PORTABILITY OF COVERAGE FOR PREVIOUSLY COVERED INDIVIDUALS.

(a) CREDITING PERIODS OF PREVIOUS COVERAGE TOWARD PREEXISTING CONDITION RESTRICTIONS.—Subject to the succeeding provisions of this section, a group health plan, and an insurer or health maintenance organization offering health insurance coverage in connection with a group health plan, shall provide that any preexisting condition limitation period (as defined in subsection (b)(2)) is reduced by the length of the aggregate period of qualified prior coverage (if any, as defined in subsection (b)(3)) applicable to the participant or beneficiary as of the date of commencement of coverage under the plan.

(b) DEFINITIONS AND OTHER PROVISIONS RELATING TO PREEXISTING CONDITIONS.—

(1) PREEXISTING CONDITION.—

(A) IN GENERAL.—For purposes of this subtitle, subject to subparagraph (B), the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before—

(i) the effective date of the coverage of such participant or beneficiary, or

(ii) the earliest date upon which such coverage could have been effective if there were no waiting period applicable,

whichever is earlier.

(B) TREATMENT OF GENETIC INFORMATION.—For purposes of this section, genetic information shall not be considered to be a preexisting condition, so long as treatment of the condition to which the information is applicable has not been sought during the 6-month period described in subparagraph (A).

(2) PREEXISTING CONDITION LIMITATION PERIOD.—For purposes of this subtitle, the term "preexisting condition limitation period" means, with respect to coverage of an individual under a group health plan or under health insurance coverage, the period during which benefits with respect to treatment of a condition of such individual are not provided based on the fact that the condition is a preexisting condition.

(3) AGGREGATE PERIOD OF QUALIFIED PRIOR COVERAGE.—

(A) IN GENERAL.—For purposes of this section, the term "aggregate period of qualified prior coverage" means, with respect to commencement of coverage of an individual under a group health plan or health insurance coverage offered in connection with a group health plan, the aggregate of the qualified coverage periods (as defined in subparagraph (B)) of such individual occurring before the date of such commencement. Such period shall be treated as zero if there is more than a 60-day break in coverage under a group health plan (or health insurance coverage offered in connection with such a plan) between the date the most recent qualified coverage period ends and the date of such commencement.

(B) QUALIFIED COVERAGE PERIOD.—

(i) IN GENERAL.—For purposes of this paragraph, subject to subsection (c), the term "qualified coverage period" means, with respect to an individual, any period of coverage of the individual under a group health plan, health insurance coverage, under title XVIII or XIX of the Social Security Act, coverage under the TRICARE program under chapter 55 of title 10, United States Code, a program of the Indian Health Service, and State health insurance coverage or risk pool, and includes coverage under a health plan offered under chapter 89 of title 5, United States Code.

(ii) DISREGARDING PERIODS BEFORE BREAKS IN COVERAGE.—Such term does not include any period occurring before any 60-day break in coverage described in subparagraph (A).

(C) WAITING PERIOD NOT TREATED AS A BREAK IN COVERAGE.—For purposes of subparagraphs (A) and (B), any period that is in a waiting period for any coverage under a group health plan (or for health insurance coverage offered in connection with a group health plan) shall not be considered to be a break in coverage described in subparagraph (B)(ii).

(D) ESTABLISHMENT OF PERIOD.—A qualified coverage period with respect to an individual shall be established through presentation of certifications described in subsection (c) or in such other manner as may be specified in regulations to carry out this title.

(c) CERTIFICATIONS OF COVERAGE; CONFORMING COVERAGE.—

(1) IN GENERAL.—The plan administrator of a group health plan, or the insurer or HMO

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offering health insurance coverage in connection with a group health plan, shall, on request made on behalf of an individual covered (or previously covered within the previous 18 months) under the plan or coverage, provide for a certification of the period of coverage of the individual under such plan or coverage and of the waiting period (if any) imposed with respect to the individual for any coverage under the plan.

(2) STANDARD METHOD.—Subject to paragraph (3), a group health plan, or insurer or HMO offering health insurance coverage in connection with a group health plan, shall determine qualified coverage periods under subsection (b)(3)(B) by including all periods described in such subsection, without regard to the specific benefits offered during such a period.

(3) ALTERNATIVE METHOD.—Such a plan, insurer, or HMO may elect to make such determination on a benefit-specific basis for all participants and beneficiaries and not to include as a qualified coverage period with respect to a specific benefit coverage during a previous period unless such previous coverage for that benefit was included at the end of the most recent period of coverage. In the case of such an election—

(A) the plan, insurer, or HMO shall prominently state in any disclosure statements concerning the plan or coverage and to each enrollee at the time of enrollment under the plan (or at the time the health insurance coverage is offered for sale in the group health market) that the plan or coverage has made such election and shall include a description of the effect of this election; and

(B) upon the request of the plan, insurer, or HMO, the entity providing a certification under paragraph (1)—

(i) shall promptly disclose to the requesting plan, insurer, or HMO the plan statement (insofar as it relates to health benefits under the plan) or other detailed benefit information on the benefits available under the previous plan or coverage, and

(ii) may charge for the reasonable cost of providing such information.

SEC. 102. LIMITATION ON PREEXISTING CONDITION EXCLUSIONS; NO APPLICATION TO CERTAIN NEWBORNS, ADOPTED CHILDREN, AND PREGNANCY.

(a) LIMITATION OF PERIOD.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, a group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, shall provide that any preexisting condition limitation period (as defined in section 101(b)(2)) does not exceed 12 months, counting from the effective date of coverage.

(2) EXTENSION OF PERIOD IN THE CASE OF LATE ENROLLMENT.—In the case of a participant or beneficiary whose initial coverage commences after the date the participant or beneficiary first becomes eligible for coverage under the group health plan, the reference in paragraph (1) to "12 months" is deemed a reference to "18 months".

(b) EXCLUSION NOT APPLICABLE TO CERTAIN NEWBORNS AND CERTAIN ADOPTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not provide any limitation on benefits based on the existence of a preexisting condition in the case of—

(A) an individual who within the 30-day period beginning with the date of birth, or

(B) an adopted child or a child placed for adoption beginning at the time of adoption or placement if the individual, within the 30-day period beginning on the date of adoption or placement,

becomes covered under a group health plan or otherwise becomes covered under health insurance coverage (or covered for medical assistance under title XIX of the Social Security Act).

(2) LOSS IF BREAK IN COVERAGE.—Paragraph (1) shall no longer apply to an individual if the individual does not have any coverage described in section 101(b)(3)(B)(i) for a continuous period of 60 days, not counting in such period any days that are in a waiting period for any coverage under a group health plan.

(3) PLACED FOR ADOPTION DEFINED.—In this subsection and section 103(e), the term "placement", or being "placed", for adoption, in connection with any placement for adoption of a child with any person, means the assumption and retention by such person of a legal obligation for total or partial support of such child in anticipation of adoption of such child. The child's placement with such person terminates upon the termination of such legal obligation.

(c) EXCLUSION NOT APPLICABLE TO PREGNANCY.—For purposes of this section, pregnancy shall not be treated as a preexisting condition.

(d) ELIGIBILITY PERIOD IMPOSED BY HEALTH MAINTENANCE ORGANIZATIONS AS ALTERNATIVE TO PREEXISTING CONDITION LIMITATION.—A health maintenance organization which offers health insurance coverage in connection with a group health plan and which does not use the preexisting condition limitations allowed under this section and section 101 with respect to any particular coverage option may impose an eligibility period for such coverage option, but only if such period does not exceed—

(1) 60 days, in the case of a participant or beneficiary whose initial coverage commences at the time such participant or beneficiary first becomes eligible for coverage under the plan, or

(2) 90 days, in the case of a participant or beneficiary whose initial coverage commences after the date on which such participant or beneficiary first becomes eligible for coverage.

Such an HMO may use alternative methods, from those described in the previous sentence, to address adverse selection as approved by the applicable State authority. For purposes of this subsection, the term "eligibility period" means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. Any such eligibility period shall be treated for purposes of this subtitle as a waiting period under the plan and shall run concurrently with any other applicable waiting period under the plan.

SEC. 103. PROHIBITING EXCLUSIONS BASED ON HEALTH STATUS AND PROVIDING FOR ENROLLMENT PERIODS.

(a) PROHIBITION OF EXCLUSION OF PARTICIPANTS OR BENEFICIARIES BASED ON HEALTH STATUS.—

(1) IN GENERAL.—A group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not exclude an employee or his or her beneficiary from being (or continuing to be) enrolled as a participant or beneficiary under the terms of such plan or coverage based on health status (as defined in section 191(c)(6)).

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the establishment of preexisting condition limitations and restrictions to the extent consistent with the provisions of this subtitle.

(b) PROHIBITION OF DISCRIMINATION IN PREMIUM CONTRIBUTIONS OF INDIVIDUAL PARTICIPANTS OR BENEFICIARIES BASED ON HEALTH STATUS.—

(1) IN GENERAL.—A group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not require a participant or beneficiary to pay a premium or contribution which is greater than such premium or contribution for a similarly situated participant or beneficiary solely on the basis of the health status of the participant or beneficiary.

(2) CONSTRUCTION.—Nothing in this subsection is intended—

(A) to effect the premium rates an insurer or HMO may charge an employer for health insurance coverage provided in connection a group health plan,

(B) to prevent a group health plan (or insurer or HMO in health insurance coverage offered in connection with such a plan) from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention, or

(C) to prevent such a plan, insurer, or HMO from varying the premiums or contributions required of participants or beneficiaries based on factors (such as scope of benefits, geographic area of residence, or wage levels) that are not directly related to health status.

(c) ENROLLMENT OF ELIGIBLE INDIVIDUALS WHO LOSE OTHER COVERAGE.—A group health plan shall permit an uncovered employee who is otherwise eligible for coverage under the terms of the plan (or an uncovered dependent, as defined under the terms of the plan, of such an employee, if family coverage is available) to enroll for coverage under the plan under at least one benefit option if each of the following conditions is met:

(1) The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or individual.

(2) The employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment.

(3) The employee or dependent lost coverage under a group health plan or health insurance coverage (as a result of loss of eligibility for the coverage, termination of employment, or reduction in the number of hours of employment).

(4) The employee requests such enrollment within 30 days after the date of termination of such coverage.

(d) DEPENDENT BENEFICIARIES.—

(1) IN GENERAL.—If a group health plan makes family coverage available, the plan may not require, as a condition of coverage of an individual as a dependent (as defined under the terms of the plan) of a participant in the plan, a waiting period applicable to the coverage of a dependent who—

(A) is a newborn,

(B) is an adopted child or child placed for adoption (within the meaning of section 102(b)(3)), at the time of adoption or placement, or

(C) is a spouse, at the time of marriage,

if the participant has met any waiting period applicable to that participant.

(2) TIMELY ENROLLMENT.—

(A) IN GENERAL.—Enrollment of a participant's beneficiary described in paragraph (1) shall be considered to be timely if a request for enrollment is made within 30 days of the date family coverage is first made available or, in the case described in—

(i) paragraph (1)(A), within 30 days of the date of the birth,

(ii) paragraph (1)(B), within 30 days of the date of the adoption or placement for adoption, or

(iii) paragraph (1)(C), within 30 days of the date of the marriage with such a beneficiary who is the spouse of the participant,

if family coverage is available as of such date.

(B) COVERAGE.—If available coverage includes family coverage and enrollment is made under such coverage on a timely basis under subparagraph (A), the coverage shall become effective not later than the first day of the first month beginning 15 days after the date the completed request for enrollment is received.

(e) MULTIEMPLOYER PLANS, MULTIPLE EMPLOYER HEALTH PLANS, AND MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—A group health plan which is a multi-employer plan, a multiple employer health plan (as defined in section 701(4) of the Employee Retirement Income Security Act of 1974), or a multiple employer welfare arrangement (to the extent to which benefits under the arrangement consist of medical care) may not deny an employer whose employees are covered under such a plan or arrangement continued access to the same or different coverage under the terms of such a plan or arrangement, other than—

(1) for nonpayment of contributions,

(2) for fraud or other intentional misrepresentation of material fact by the employer,

(3) for noncompliance with material plan or arrangement provisions,

(4) because the plan or arrangement is ceasing to offer any coverage in a geographic area,

(5) for failure to meet the terms of an applicable collective bargaining agreement, to renew a collective bargaining or other agreement requiring or authorizing contributions to the plan, or to employ employees covered by such an agreement,

(6) in the case of a plan or arrangement to which subparagraph (C), (D), or (E) of section 3(40) of the Employee Retirement Income Security Act of 1974 applies, to the extent necessary to meet the requirements of such subparagraph, or

(7) in the case of a multiple employer health plan (as defined in section 701(4) of such Act), for failure to meet the requirements under part 7 of subtitle B of title I of such Act for exemption under section 514(b)(6)(B) of such Act.

SEC. 104. ENFORCEMENT.

(a) ENFORCEMENT THROUGH COBRA PROVISIONS IN INTERNAL REVENUE CODE.—

(1) APPLICATION OF COBRA SANCTIONS.—Subsection (a) of section 4980B of the Internal Revenue Code of 1986 is amended by striking "the requirements of" and all that follows and inserting "the requirements of—

"(1) subsection (f) with respect to any qualified beneficiary, or

"(2) subject to subsection (h)—

"(A) section 101 or 102 of the Health Coverage Availability and Affordability Act of 1996 with respect to any individual covered under the group health plan, or

"(B) section 103 (other than subsection (e)) of such Act with respect to any individual.".

(2) NOTICE REQUIREMENT.—Section 4980B(f)(6)(A) of such Code is amended by inserting before the period the following: "and subtitle A of title I of the Health Coverage Availability and Affordability Act of 1996".

(3) SPECIAL RULES.—Section 4980B of such Code is amended by adding at the end the following:

"(h) SPECIAL RULES.—For purposes of applying this section in the case of requirements described in subsection (a)(2) relating to section 101, section 102, or section 103 (other than subsection (e)) of the Health Coverage Availability and Affordability Act of 1996—

"(1) IN GENERAL.—

"(A) DEFINITION OF GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 191(a) of the Health Coverage Availability and Affordability Act of 1996.

"(B) QUALIFIED BENEFICIARY.—Subsections (b), (c), and (e) shall be applied by substituting the term 'individual' for the term 'qualified beneficiary' each place it appears.

"(C) NONCOMPLIANCE PERIOD.—Clause (ii) of subsection (b)(2)(B) and the second sentence of subsection (b)(2) shall not apply.

"(D) LIMITATION ON TAX.—Subparagraph (B) of subsection (c)(3) shall not apply.

"(E) LIABILITY FOR TAX.—Paragraph (2) of subsection (e) shall not apply.

"(2) DEFERRAL TO STATE REGULATION.—No tax shall be imposed by this section on any failure to meet the requirements of such section by any entity which offers health insurance coverage and which is an insurer or health maintenance organization (as defined in section 191(c) of the Health Coverage Availability and Affordability Act of 1996) regulated by a State unless the Secretary of Health and Human Services has made the determination described in section 104(c)(2) of such Act with respect to such State, section, and entity.

"(3) LIMITATION FOR INSURED PLANS.—In the case of a group health plan of a small employer (as defined in section 191 of the Health Coverage Availability and Affordability Act of 1996) that provides health care benefits solely through a contract with an insurer or health maintenance organization (as defined in such section), no tax shall be imposed by this section upon the employer on a failure to meet such requirements if the failure is solely because of the product offered by the insurer or organization under such contract.

"(4) LIMITATION ON IMPOSITION OF TAX.—In no case shall a tax be imposed by this section for a failure to meet such a requirement if—

"(A) a civil money penalty has been imposed by the Secretary of Labor under part 5 of subtitle A of title I of the Employee Retirement Income Security Act of 1974 with respect to such failure, or

"(B) a civil money penalty has been imposed by the Secretary of Health and Human Services under section 104(c) of the Health Coverage Availability and Affordability Act of 1996 with respect to such failure.".

(b) ENFORCEMENT THROUGH ERISA SANCTIONS FOR CERTAIN GROUP HEALTH PLANS.—

(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, sections 101 through 103 of this subtitle (and subtitle D insofar as it is applicable to such sections) shall be deemed to be provisions of title I of the Employee Retirement Income Security Act of 1974 for purposes of applying such title.

(2) FEDERAL ENFORCEMENT ONLY IF NO ENFORCEMENT THROUGH STATE.—The Secretary of Labor shall enforce each section referred to in paragraph (1) with respect to any entity which is an insurer or health maintenance organization regulated by a State only if the Secretary of Labor determines that such State has not provided for enforcement of State laws which govern the same matters as are governed by such section and which require compliance by such entity with at least the same requirements as those provided under such section.

(3) LIMITATIONS ON LIABILITY.—

(A) NO APPLICATION WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No liability shall be imposed under this subsection on the basis of any failure during any period for which it is established to the satisfaction of the Secretary of Labor that none of the persons against whom the liability would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(B) NO APPLICATION WHERE FAILURE CORRECTED WITHIN 30 DAYS.—No liability shall be imposed under this subsection on the basis of any failure if such failure was due to reasonable cause and not to willful neglect, and such failure is corrected during the 30-day period beginning on the first day any of the persons against whom the liability would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(4) AVOIDING DUPLICATION OF CERTAIN PENALTIES.—In no case shall a civil money penalty be imposed under the authority provided under paragraph (1) for a violation of this subtitle for which an excise tax has been imposed under section 4980B of the Internal Revenue Code of 1986 or a civil money penalty imposed under subsection (c).

(c) ENFORCEMENT THROUGH CIVIL MONEY PENALTIES.—

(1) IMPOSITION.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, any group health plan, insurer, or organization that fails to meet a requirement of this subtitle (other than section 103(e)) is subject to a civil money penalty under this section.

(B) LIABILITY FOR PENALTY.—Rules similar to the rules described in section 4980B(e) of the Internal Revenue Code of 1986 for liability for a tax imposed under section 4980B(a) of such Code shall apply to liability for a penalty imposed under subparagraph (A).

(C) AMOUNT OF PENALTY.—

(i) IN GENERAL.—The maximum amount of penalty imposed under this paragraph is $100 for each day for each individual with respect to which such a failure occurs.

(ii) CONSIDERATIONS IN IMPOSITION.—In determining the amount of any penalty to be assessed under this paragraph, the Secretary of Health and Human Services shall take into account the previous record of compliance of the person being assessed with the applicable requirements of this subtitle, the gravity of the violation, and the overall limitations for unintentional failures provided under section 4980B(c)(4) of the Internal Revenue Code of 1986.

(iii) LIMITATIONS.—

(I) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No civil money penalty shall be imposed under this paragraph on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(II) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No civil money penalty shall be imposed under this paragraph on any failure if such failure was due to reasonable cause and not to willful neglect, and such failure is corrected during the 30-day period beginning on the first day

VOL 142 PT 5 MR 21 — 29 1996 UMI

any of the persons against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(D) ADMINISTRATIVE REVIEW.—

(i) OPPORTUNITY FOR HEARING.—The person assessed shall be afforded an opportunity for hearing by the Secretary upon request made within 30 days after the date of the issuance of a notice of assessment. In such hearing the decision shall be made on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested, the assessment shall constitute a final and unappealable order.

(ii) HEARING PROCEDURE.—If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 30 days after the date of the decision of the judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subparagraph (D).

(E) JUDICIAL REVIEW.—

(i) FILING OF ACTION FOR REVIEW.—Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this paragraph may obtain review by the United States district court for any district in which such person is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice be registered mail to the Secretary.

(ii) CERTIFICATION OF ADMINISTRATIVE RECORD.—The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed.

(iii) STANDARD FOR REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

(iv) APPEAL.—Any final decision, order, or judgment of such district court concerning such review shall be subject to appeal as provided in chapter 83 of title 28 of such Code.

(F) FAILURE TO PAY ASSESSMENT; MAINTENANCE OF ACTION.—

(i) FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed by action in the appropriate United States district court.

(ii) NONREVIEWABILITY.—In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(G) PAYMENT OF PENALTIES.—Except as otherwise provided, penalties collected under this paragraph shall be paid to the Secretary (or other officer) imposing the penalty and shall be available without appropriation and until expended for the purpose of enforcing the provisions with respect to which the penalty was imposed.

(2) FEDERAL ENFORCEMENT ONLY IF NO ENFORCEMENT THROUGH STATE.—Paragraph (1) shall apply to enforcement of the requirements of section 101, 102, or 103 (other than section 103(e)) with respect to any entity which offers health insurance coverage and which is an insurer or HMO regulated by a State only if the Secretary of Health and Human Services has determined that such State has not provided for enforcement of State laws which govern the same matters as are governed by such section and which require compliance by such entity with at least the same requirements as those provided under such section.

(3) NONDUPLICATION OF SANCTIONS.—In no case shall a civil money penalty be imposed under this subsection for a violation of this subtitle for which an excise tax has been imposed under section 4980B of the Internal Revenue Code of 1986 or for which a civil money penalty has been imposed under the authority provided under subsection (b).

(d) COORDINATION IN ADMINISTRATION.—The Secretaries of the Treasury, Labor, and Health and Human Services shall issue regulations that are nonduplicative to carry out this subtitle. Such regulations shall be issued in a manner that assures coordination and nonduplication in their activities under this subtitle.

Subtitle B—Certain Requirements for Insurers and HMOs in the Group and Individual Markets

PART 1—AVAILABILITY OF GROUP HEALTH INSURANCE COVERAGE

SEC. 131. GUARANTEED AVAILABILITY OF GENERAL COVERAGE IN THE SMALL GROUP MARKET.

(a) ISSUANCE OF COVERAGE.—

(1) IN GENERAL.—Subject to the succeeding subsections of this section, each insurer or HMO that offers health insurance coverage in the small group market in a State—

(A) must accept every small employer in the State that applies for such coverage; and

(B) must accept for enrollment under such coverage every eligible individual (as defined in paragraph (2)) who applies for enrollment during the initial period in which the individual first becomes eligible for coverage under the group health plan and may not place any restriction which is inconsistent with section 103(a) on an individual being a participant or beneficiary so long as such individual is an eligible individual.

(2) ELIGIBLE INDIVIDUAL DEFINED.—In this section, the term "eligible individual" means, with respect to an insurer or HMO that offers health insurance coverage to any small employer in the small group market, such an individual in relation to the employer as shall be determined—

(A) in accordance with the terms of such plan,

(B) as provided by the insurer or HMO under rules of the insurer or HMO which are uniformly applicable, and

(C) in accordance with all applicable State laws governing such insurer or HMO.

(b) SPECIAL RULES FOR NETWORK PLANS AND HMOs.—

(1) IN GENERAL.—In the case of an insurer that offers health insurance coverage in the small group market through a network plan and in the case of an HMO that offers health insurance coverage in connection with such a plan, the insurer or HMO may—

(A) limit the employers that may apply for such coverage to those with eligible individuals whose place of employment or residence is in the service area for such plan or HMO;

(B) limit the individuals who may be enrolled under such coverage to those whose place of residence or employment is within the service area for such plan or HMO; and

(C) within the service area of such plan or HMO, deny such coverage to such employers if the insurer or HMO demonstrates that—

(i) it will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees, and

(ii) it is applying this paragraph uniformly to all employers without regard to the claims experience of those employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—An insurer or HMO, upon denying health insurance coverage in any service area in accordance with paragraph (1)(C), may not offer coverage in the small group market within such service area for a period of 180 days after such coverage is denied.

(c) SPECIAL RULE FOR FINANCIAL CAPACITY LIMITS.—

(1) IN GENERAL.—An insurer or HMO may deny health insurance coverage in the small group market if the insurer or HMO demonstrates to the applicable State authority that—

(A) it does not have the financial reserves necessary to underwrite additional coverage, and

(B) it is applying this paragraph uniformly to all employers without regard to the claims experience or duration of coverage of those employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—An insurer or HMO upon denying health insurance coverage in connection with group health plans in any service area in accordance with paragraph (1) may not offer coverage in connection with group health plans in the small group market within such service area for a period of 180 days after such coverage is denied.

(d) EXCEPTION TO REQUIREMENT FOR ISSUANCE OF COVERAGE BY REASON OF FAILURE BY PLAN TO MEET CERTAIN MINIMUM PARTICIPATION OR CONTRIBUTION RULES.—

(1) IN GENERAL.—Subsection (a) shall not apply in the case of any group health plan with respect to which—

(A) participation rules of an insurer or HMO which are described in paragraph (2) are not met, or

(B) contribution rules of an insurer or HMO which are described in paragraph (3) are not met.

(2) PARTICIPATION RULES.—For purposes of paragraph (1)(A), participation rules (if any) of an insurer or HMO shall be treated as met with respect to a group health plan only if such rules are uniformly applicable and in accordance with applicable State law and the number or percentage of eligible individuals who, under the plan, are participants or beneficiaries equals or exceeds a level which is determined in accordance with such rules.

(3) CONTRIBUTION RULES.—For purposes of paragraph (1)(B), contribution rules (if any) of an insurer or HMO shall be treated as met with respect to a group health plan only if such rules are in accordance with applicable State law.

SEC. 132. GUARANTEED RENEWABILITY OF GROUP COVERAGE.

(a) IN GENERAL.—Except as provided in this section, if an insurer or health maintenance organization offers health insurance coverage in the small or large group market, the insurer or organization must renew or continue in force such coverage at the option of the employer.

(b) GENERAL EXCEPTIONS.—An insurer or organization may nonrenew or discontinue health insurance coverage offered an employer based only on one or more of the following:

(1) NONPAYMENT OF PREMIUMS.—The employer has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the insurer or organization has not received timely premium payments.

(2) FRAUD.—The employer has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(3) VIOLATION WITH PARTICIPATION OR CONTRIBUTION RULES.—The employer has failed to comply with a material plan provision relating to participation or contribution rules in accordance with section 131(d).

(4) TERMINATION OF PLAN.—Subject to subsection (c), the insurer or organization is ceasing to offer coverage in the small or large group market in a State (or, in the case of a network plan or HMO, in a geographic area).

(5) MOVEMENT OUTSIDE SERVICE AREA.—The employer has changed the place of employment in such manner that employees and dependents reside and are employed outside the service area of the insurer or organization or outside the area for which the insurer or organization is authorized to do business.

Paragraph (5) shall apply to an insurer or HMO only if it is applied uniformly without regard to the claims experience of employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(c) EXCEPTIONS FOR UNIFORM TERMINATION OF COVERAGE.—

(1) PARTICULAR TYPE OF COVERAGE NOT OFFERED.—In any case in which a insurer or HMO decides to discontinue offering a particular type of health insurance coverage in the small or large group market, coverage of such type may be discontinued by the insurer or organization only if—

(A) the insurer or organization provides notice to each employer provided coverage of this type in such market (and participants and beneficiaries covered under such coverage) of such discontinuation at least 90 days prior to the date of the discontinuation of such coverage;

(B) the insurer or organization offers to each employer in the small employer or large employer market provided coverage of this type, the option to purchase any other health insurance coverage currently being offered by the insurer or organization for employers in such market; and

(C) in exercising the option to discontinue coverage of this type and in offering one or more replacement coverage, the insurer or organization acts uniformly without regard to the health status or insurability of participants or beneficiaries covered or new participants or beneficiaries who may become eligible for such coverage.

(2) DISCONTINUANCE OF ALL COVERAGE.—

(A) IN GENERAL.—Subject to subparagraph (C), in any case in which an insurer or HMO elects to discontinue offering all health insurance coverage in the small group market or the large group market, or both markets, in a State, health insurance coverage may be discontinued by the insurer or organization only if—

(i) the insurer or organization provides notice to the applicable State authority and to each employer (and participants and beneficiaries covered under such coverage) of such discontinuation at least 180 days prior to the date of the expiration of such coverage, and

(ii) all health insurance issued or delivered for issuance in the State in such market (or markets) are discontinued and coverage under such health insurance coverage in such market (or markets) is not renewed.

(B) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under subparagraph (A) in one or both markets, the insurer or organization may not provide for the issuance of any health insurance coverage in the market and State involved during the 5-year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(d) EXCEPTION FOR UNIFORM MODIFICATION OF COVERAGE.—At the time of coverage renewal, an insurer or HMO may modify the coverage offered to a group health plan in the group health market so long as such modification is effective on a uniform basis among group health plans with that type of coverage.

PART 2—AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE

SEC. 141. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO CERTAIN INDIVIDUALS WITH PRIOR GROUP COVERAGE.

(a) GOALS.—The goals of this section are—

(1) to guarantee that any qualifying individual (as defined in subsection (b)(1)) is able to obtain qualifying coverage (as defined in subsection (b)(2)); and

(2) to assure that qualifying individuals obtaining such coverage receive credit for their prior coverage toward the new coverage's preexisting condition exclusion period (if any) in a manner consistent with subsection (b)(3).

(b) QUALIFYING INDIVIDUAL AND HEALTH INSURANCE COVERAGE DEFINED.—In this section—

(1) QUALIFYING INDIVIDUAL.—The term "qualifying individual" means an individual—

(A)(i) for whom, as of the date on which the individual seeks coverage under this section, the aggregate of the qualified coverage periods (as defined in section 101(b)(3)(B)) is 18 or more months and (ii) whose most recent prior coverage was under a group health plan, governmental plan, or church plan (or health insurance coverage offered in connection with any such plan);

(B) who is not eligible for coverage under (i) a group health plan, (ii) part A or part B of title XVIII of the Social Security Act, or (iii) a State plan under title XIX of such Act (or any successor program), and does not have individual health insurance coverage;

(C) with respect to whom the most recent coverage within the coverage period described in subparagraph (A)(i) was not terminated based on a factor described in paragraph (1) or (2) of section 132(b);

(D) if the individual had been offered the option of continuation coverage under a COBRA continuation provision or under a similar State program, who elected such coverage; and

(E) who, if the individual elected such continuation coverage, has exhausted such continuation coverage.

In applying subparagraph (A)(i), the reference in section 101(b)(3)(B)(ii) to a 60-day break in coverage is deemed a reference to a 60-day break in any coverage described in section 101(b)(3)(B)(i).

(2) QUALIFYING COVERAGE.—

(A) IN GENERAL.—The term "qualifying coverage" means, with respect to an insurer or HMO in relation to an qualifying individual, individual health insurance coverage for which the actuarial value of the benefits is not less than—

(i) the weighted average actuarial value of the benefits provided by all the individual health insurance coverage issued by the insurer or HMO in the State during the previous year (not including coverage issued under this section), or

(ii) the weighted average of the actuarial value of the benefits provided by all the individual health insurance coverage issued by all insurers and HMOs in the State during the previous year (not including coverage issued under this section),

as elected by the plan or by the State under subsection (c)(1).

(B) ASSUMPTIONS.—For purposes of subparagraph (A), the actuarial value of benefits provided under individual health insurance coverage shall be calculated based on a standardized population and a set of standardized utilization and cost factors.

(3) CREDITING FOR PREVIOUS COVERAGE.—Crediting is consistent with this paragraph only if any preexisting condition exclusion period is reduced at least to the extent such a period would be reduced if the coverage under this section were under a group health plan to which section 101(a) applies. In carrying out this subsection, provisions similar to the provisions of section 101(c) shall apply.

(c) OPTIONAL STATE ESTABLISHMENT OF MECHANISMS TO ACHIEVE GOALS OF GUARANTEEING AVAILABILITY OF COVERAGE.—

(1) IN GENERAL.—Any State may establish, to the extent of the State's authority, public or private mechanisms reasonably designed to meet the goals specified in subsection (a). If a State implements such a mechanism by the deadline specified in paragraph (4), the State may elect to have such mechanisms apply instead of having subsection (d)(3) apply in the State. An election under this paragraph shall be by notice from the chief executive officer of the State to the Secretary of Health and Human Services on a timely basis consistent with the deadlines specified in paragraph (4). In establishing what is qualifying coverage under such a mechanism under this subsection, a State may exercise the election described in subsection (b)(2)(A) with respect to each insurer or HMO in the State (or on a collective basis after exercising such election for each such insurer or HMO).

(2) TYPES OF MECHANISMS.—State mechanisms under this subsection may include one or more (or a combination) of the following:

(A) Health insurance coverage pools or programs authorized or established by the State.

(B) Mandatory group conversion policies.

(C) Guaranteed issue of one or more plans of individual health insurance coverage to qualifying individuals.

(D) Open enrollment by one or more insurers or HMOs.

The mechanisms described in the previous sentence are not an exclusive list of the mechanisms (or combinations of mechanisms) that may be used under this subsection.

(3) SAFE HARBOR FOR BENEFITS UNDER CURRENT RISK POOLS.—In the case of a State that has a health insurance coverage pool or risk pool in effect on March 12, 1996, and that implements the mechanism described in paragraph (2)(A), the benefits under such mechanism (or benefits the actuarial value of which is not less than the actuarial value of such current benefits, using the assumptions described in subsection (b)(2)(B)) are deemed, for purposes of this section, to constitute qualified coverage.

(4) DEADLINE FOR STATE IMPLEMENTATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the deadline under this paragraph is July 1, 1997.

VOL
142
PT
5
MR
21
—
29
1996
UMI

(B) Extension to permit legislation.—The deadline under this paragraph is July 1, 1998, in the case of a State the legislature of which does not have a regular legislative session at any time between January 1, 1997, and June 30, 1997.

(C) Construction.—Nothing in this section shall be construed as preventing a State from—

(i) implementing guaranteed availability mechanisms before the deadline,

(ii) continuing in effect mechanisms that are in effect before the date of the enactment of this Act,

(iii) offering guaranteed availability of coverage that is not qualifying coverage, or

(iv) offering guaranteed availability of coverage to individuals who are not qualifying individuals.

(d) Fallback Provisions.—

(1) No state election.—If a State has not provided notice to the Secretary of an election on a timely basis under subsection (c), the Secretary shall notify the State that paragraph (3) will be applied in the State.

(2) Preliminary determination after state election.—If—

(A) a State has provided notice of an election on a timely basis under subsection (c), and

(B) the Secretary finds, after consultation with the chief executive officer of the State and the insurance commissioner or chief insurance regulatory official of the State, that such a mechanism (for which notice was provided) is not reasonably designed to meet the goals specified in subsection (a),

the Secretary shall notify the State of such preliminary determination, of the consequences under paragraph (3) of a failure to implement such a mechanism, and permit the State a reasonable opportunity in which to modify the mechanism (or to adopt another mechanism) that is reasonably designed to meet the goals specified in subsection (a). The Secretary shall not make such a determination on any basis other than the basis described in subparagraph (B). If, after providing such notice and opportunity, the Secretary finds that the State has not implemented such a mechanism, the Secretary shall notify the State that paragraph (3) will be applied in the State.

(3) Description of fallback mechanism.—As provided under paragraphs (1) and (2) and subject to paragraph (5), each insurer or HMO in the State involved that issues individual health insurance coverage—

(A) shall offer qualifying health insurance coverage, in which qualifying individuals obtaining such coverage receive credit for their prior coverage toward the new coverage's preexisting condition exclusion period (if any) in a manner consistent with subsection (b)(3), to each qualifying individual in the State, and

(B) may not decline to issue such coverage to such an individual based on health status (except as permitted under paragraph (4)).

(4) Application of network and capacity limits.—Under regulations, the provisions of subsections (b) and (c) of section 131 shall apply to an individual in the individual health insurance market under this subsection in the same manner as they apply under section 131 to an employer in the small group market.

(5) Termination of fallback mechanism.—The provisions of this subsection shall cease to apply to a State if the Secretary finds that a State has implemented a mechanism that is reasonably designed to meet the goals specified in subsection (a), and until the Secretary finds that such mechanism is no longer being implemented.

(e) Construction.—

(1) Premiums.—Nothing in this section shall be construed to affect the determination of an insurer or HMO as to the amount of the premium payable under an individual health insurance coverage under applicable state law.

(2) Market requirements.—

(A) In general.—The provisions of subsection (a) shall not be construed to require that an insurer or HMO offering health insurance coverage only in connection with a group health plan or an association offer individual health insurance coverage.

(B) Conversion policies.—An insurer or HMO offering health insurance coverage in connection with a group health plan under subtitle A shall not be deemed to be an insurer or HMO offering an individual health insurance coverage solely because such insurer or HMO offers a conversion policy.

(3) Disregard of association coverage.—An insurer or HMO that offers health insurance coverage only in connection with a group health plan or in connection with individuals based on affiliation with one or more bona fide associations is not considered, for purposes of this subtitle, to be offering individual health insurance coverage.

(4) Marketing of plans.—Nothing in this section shall be construed to prevent a State from requiring insurer or HMOs offering individual health insurance coverage to actively market such coverage.

SEC. 142. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE.

(a) Guaranteed Renewability.—Subject to the succeeding provisions of this section, an insurer or HMO that provides individual health insurance coverage to an individual shall renew or continue such coverage at the option of the individual.

(b) Nonrenewal Permitted in Certain Cases.—An insurer or HMO may nonrenew or discontinue individual health insurance coverage of an individual only based on one or more of the following:

(1) Nonpayment.—The individual fails to pay payment of premiums or contributions in accordance with the terms of the coverage or the insurer or organization has not failed to receive timely premium payments.

(2) Fraud.—The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(3) Termination of coverage.—Subject to subsection (c), the insurer or HMO is ceasing to offer health insurance coverage in the individual market in a State (or, in the case of a network plan or HMO, in a geographic area).

(4) Movement outside service area.—The individual has changed residence and resides outside the service area of the insurer or organization or outside the area for which the insurer or organization is authorized to do business.

Paragraph (4) shall apply to an insurer or HMO only if it is applied uniformly without regard to the claims experience of employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(c) Termination of Individual Coverage.—The provisions of section 132(c) shall apply to this section in the same manner as they apply under section 132, except that any reference to an employer or market is deemed a reference to the covered individual or the individual market, respectively.

(d) Exception for Uniform Modification of Coverage.—The provisions of section 132(d) shall apply to individual health insurance coverage in the individual market under this section in the same manner as it applies to health insurance coverage offered in connection with a group health plan in the group market under such section.

PART 3—ENFORCEMENT

SEC. 151. INCORPORATION OF PROVISIONS FOR STATE ENFORCEMENT WITH FEDERAL FALLBACK AUTHORITY.

The provisions of paragraphs (1) and (2) of section 104(c) shall apply to enforcement of requirements in each section in part 1 or part 2 with respect to insurers and HMOs regulated by a State in the same manner as such provisions apply to enforcement of requirements in section 101, 102, or 103 with respect to insurers and HMOs regulated by a State.

Subtitle C—Affordable and Available Health Coverage Through Multiple Employer Pooling Arrangements

SEC. 161. CLARIFICATION OF DUTY OF THE SECRETARY OF LABOR TO IMPLEMENT PROVISIONS OF CURRENT LAW PROVIDING FOR EXEMPTIONS AND SOLVENCY STANDARDS FOR MULTIPLE EMPLOYER HEALTH PLANS.

(a) Rules Governing Regulation of Multiple Employer Health Plans.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by the preceding provisions of this title) is amended by inserting after part 6 the following new part:

"PART 7—RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS

"SEC. 701. DEFINITIONS.

"For purposes of this part—

"(1) Fully insured.—A particular benefit under a group health plan or a multiple employer welfare arrangement is 'fully insured' if such benefit (irrespective of any recourse available against other parties) is provided by an insurer or a health maintenance organization in a manner so that such benefit constitutes insurance regulated by the law of a State (within the meaning of section 514(b)(2)(A)).

"(2) Insurer.—The term 'insurer' means an insurance company, insurance service, or insurance organization which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2)(A)).

"(3) Health maintenance organization.—The terms 'health maintenance organization' means—

"(A) a Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

"(B) an organization recognized under State law as a health maintenance organization, or

"(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization,

if it is subject to State law which regulates insurance (within the meaning of section 514(b)(2)(A)).

"(4) Multiple employer health plan.—The term 'multiple employer health plan' means a multiple employer welfare arrangement which provides medical care and which is or has been exempt under section 514(b)(6)(B).

"(5) Participating employer.—The term 'participating employer' means, in connection with a multiple employer welfare arrangement, any employer if any of its employees, or any of the individuals who are dependents (as defined under the terms of the arrangement) of its employees, are or were covered under such arrangement in connection with the employment of the employees.

"(6) Sponsor.—The term 'sponsor' means, in connection with a multiple employer welfare arrangement, the association or other entity which establishes or maintains the arrangement.

"(7) State insurance commissioner.—The term 'State insurance commissioner' means the insurance commissioner (or similar official) of a State.

"SEC. 702. CLARIFICATION OF DUTY OF THE SECRETARY TO IMPLEMENT PROVISIONS OF CURRENT LAW PROVIDING FOR EXEMPTIONS AND SOLVENCY STANDARDS FOR MULTIPLE EMPLOYER HEALTH PLANS.

"(a) Treatment as Employee Welfare Benefit Plan Which Is a Group Health Plan.—

"(1) In general.—A multiple employer welfare arrangement—

"(A) under which the benefits consist solely of medical care (disregarding such incidental benefits as the Secretary shall specify by regulation), and

"(B) under which some or all benefits are not fully insured,

shall be treated for purposes of subtitle A and the other parts of this title as an employee welfare benefit plan which is a group health plan if the arrangement is exempt under section 514(b)(6)(B) in accordance with this part.

"(2) Exception.—In the case of a multiple employer welfare arrangement which would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii), paragraph (1) shall apply with respect to such arrangement, but only with respect to benefits provided thereunder which constitute medical care.

"(b) Treatment Under Preemption Rules.—

"(1) In general.—The Secretary shall prescribe regulations described in section 514(b)(6)(B)(i), applicable to multiple employer welfare arrangements described in subparagraphs (A) and (B) of subsection (a)(1), providing a procedure for granting exemptions from section 514(b)(6)(A)(ii) with respect to such arrangements. Under such regulations, any such arrangement treated under subsection (a) as an employee welfare benefit plan shall be deemed to be an arrangement described in section 514(b)(6)(B)(ii).

"(2) Standards.—Under the procedure prescribed pursuant to paragraph (1), the Secretary shall grant an arrangement described in subsection (a) an exemption described in subsection (a) only if the Secretary finds that—

"(A) such exemption—

"(i) is administratively feasible,

"(ii) is not adverse to the interests of the individuals covered under the arrangement, and

"(iii) is protective of the rights and benefits of the individuals covered under the arrangement,

"(B) the application for the exemption meets the requirements of paragraph (3), and

"(C) the requirements of sections 703 and 704 are met with respect to the arrangement.

"(3) Information to be included in application for exemption.—An application for an exemption described in subsection (a) meets the requirements of this paragraph only if it includes, in a manner and form prescribed in regulations of the Secretary, at least the following information:

"(A) Identifying information.—The names and addresses of—

"(i) the sponsor, and

"(ii) the members of the board of trustees of the arrangement.

"(B) States in which arrangement intends to do business.—The States in which individuals covered under the arrangement are to be located and the number of such individuals expected to be located in each such State.

"(C) Bonding requirements.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

"(D) Plan documents.—A copy of the documents governing the arrangement (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits and coverage that will be provided to individuals covered under the arrangement.

"(E) Agreements with service providers.—A copy of any agreements between the arrangement and contract administrators and other service providers.

"(F) Funding report.—A report setting forth information determined as of a date within the 120-day period ending with the date of the application, including the following:

"(i) Reserves.—A statement, certified by the board of trustees of the arrangement, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 705 are or will be met in accordance with regulations which the Secretary shall prescribe.

"(ii) Adequacy of contribution rates.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the arrangement for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the arrangement. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

"(iii) Current and projected value of assets and liabilities.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the arrangement and a projection of the assets, liabilities, income, and expenses of the arrangement for the 12-month period referred to in clause (ii). The income statement shall identify separately the arrangement's administrative expenses and claims.

"(iv) Costs of coverage to be charged and other expenses.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the arrangement.

"(v) Other information.—Any other information which may be prescribed in regulations of the Secretary as necessary to carry out the purposes of this part.

"(4) Filing fee.—Under the procedure prescribed pursuant to paragraph (1), a multiple employer welfare arrangement shall pay to the Secretary at the time of filing an application for an exemption referred to in subsection (a) a filing fee in the amount of $5,000, which shall be available, to the extent provided in appropriation Acts, to the Secretary for the sole purpose of administering the exemption procedures applicable with respect to such arrangement.

"(5) Class exemption treatment for existing large arrangements.—Under the procedure prescribed pursuant to paragraph (1), if—

"(A) at the time of application for an exemption under section 514(b)(6)(B) with respect to an arrangement which has been in existence as of the date of the enactment of the Health Coverage Availability and Affordability Act of 1996 for at least 3 years, either (A) the arrangement covers at least 1,000 participants and beneficiaries, or (B) with respect to the arrangement there are at least 2,000 employees of eligible participating employers,

"(B) a complete application for the exemption with respect to the arrangement has been filed and is pending, and

"(C) the application meets such requirements (if any) as the Secretary may provide with respect to class exemptions under this subsection,

the exemption shall be treated as having been granted with respect to the arrangement unless and until the Secretary provides appropriate notice that the exemption has been denied.

"(c) Filing Notice of Exemption With States.—An exemption granted under section 514(b)(6)(B) to a multiple employer welfare arrangement shall not be effective unless written notice of such exemption is filed with the State insurance commissioner of each State in which at least 5 percent of the individuals covered under the arrangement are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed. The Secretary may by regulation provide in specified cases for the application of the preceding sentence with lesser percentages in lieu of such 5 percent amount.

"(d) Notice of Material Changes.—In the case of any multiple employer welfare arrangement exempt under section 514(b)(6)(B), descriptions of material changes in any information which was required to be submitted with the application for the exemption under this part shall be filed in such form and manner as shall be prescribed in regulations of the Secretary. The Secretary may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the exemption.

"(e) Reporting Requirements.—Under regulations of the Secretary, the requirements of sections 102, 103, and 104 shall apply with respect to any multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) in the same manner and to the same extent as such requirements apply to employee welfare benefit plans, irrespective of whether such exemption continues in effect. The annual report required under section 103 for any plan year in the case of any such multiple employer welfare arrangement shall also include information described in subsection (b)(3)(F) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed not later than 90 days after the close of the plan year.

"(f) Engagement of Qualified Actuary.—The board of trustees of each multiple employer welfare arrangement which is or has

VOL
142
PT
5
MR
21
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29
1996
UMI

been exempt under section 514(b)(6)(B) shall engage, on behalf of all covered individuals, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

"(1) are in the aggregate reasonably related to the experience of the arrangement and to reasonable expectations, and

"(2) represent such actuary's best estimate of anticipated experience under the arrangement.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

"SEC. 703. REQUIREMENTS RELATING TO SPONSORS, BOARDS OF TRUSTEES, AND PLAN OPERATIONS.

"(a) In General.—A complete application for an exemption under section 514(b)(6)(B) shall include information which the Secretary determines to be complete and accurate and sufficient to demonstrate that the following requirements are met with respect to the arrangement:

"(1) Sponsor.—The sponsor is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 5 years before the date of the application, organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care (within the meaning of section 607(1)), and the applicant demonstrates to the satisfaction of the Secretary that the sponsor is established as a permanent entity which receives the active support of its members and collects dues or contributions from its members on a periodic basis, without conditioning such dues or contributions on the basis of the health status of the employees of such members or the dependents of such employees or on the basis of participation in a group health plan. Any sponsor consisting of an association of entities meeting the preceding requirements of this paragraph shall be treated as meeting the requirements of this paragraph.

"(2) Board of trustees.—The arrangement is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement, and the board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the arrangement and to meet all requirements of this title applicable to the arrangement. The members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business. No such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the arrangement, except that officers or employees of a sponsor which is a service provider (other than a contract administrator) to the arrangement may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the arrangement other than on behalf of the sponsor. The board has sole authority to approve applications for participation in the arrangement and to contract with a service provider to administer the day-to-day affairs of the arrangement.

"(3) Covered persons.—The instruments governing the arrangement include a written instrument which provides that, effective upon becoming an arrangement exempt under section 514(b)(6)(B)—

"(A) all participating employers must be members or affiliated members of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or affiliated member of the sponsor, participating employers may also include such employer,

"(B) all individuals thereafter commencing coverage under the arrangement must be—

"(i) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers, or

"(ii) the beneficiaries of individuals described in clause (i), and

"(C) no participating employer may provide health insurance coverage in the individual market for any employee not covered under the arrangement which is similar to the coverage contemporaneously provided to employees of the employer under the arrangement, if such exclusion of the employee from coverage under the arrangement is based in whole or in part on the health status of the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the arrangement.

"(4) Inclusion of eligible employers and employees.—No employer described in paragraph (3) is excluded as a participating employer (except to the extent that requirements of the type referred to in section 131(d)(2) of the Health Coverage Availability and Affordability Act of 1996 are not met) and the requirements of section 103 of such Act (as referred to in section 104(b)(1) of such Act) are met.

"(5) Restriction on variations of premium rates.—Premium rates under the arrangement with respect to any particular employer do not vary on the basis of the claims experience of such employer alone.

"(b) Treatment of Franchise Networks.—In the case of a multiple employer welfare arrangement which is established and maintained by a franchisor for a franchise network consisting of its franchisees, the requirements of subsection (a)(1) shall not apply with respect to such network in any case in which such requirements would be met if the franchisor were deemed to be the sponsor referred to in subsection (a)(1), such network were deemed to be an association described in subsection (a)(1), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in subsection (a)(1).

"(c) Certain Collectively Bargained Arrangements.—In the case of a multiple employer welfare arrangement in existence on March 6, 1996, which would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii) or (to the extent provided in regulations of the Secretary) solely for the failure to meet the requirements of subparagraph (D) or (F) of section 3(40)—

"(1) subsection (a)(1) shall not apply, and

"(2) the joint board of trustees shall be considered the board of trustees required under subsection (a)(2).

"(d) Certain Arrangements Not Meeting Single Employer Requirement.—

"(1) In general.—In any case in which the majority of the employees covered under a multiple employer welfare arrangement are employees of a single employer (within the meaning of clauses (i) and (ii) of section 3(40)(B)), if all other employees covered under the arrangement are employed by employers who are related to such single employer—

"(A) subsection (a)(1) shall not apply if the sponsor of the arrangement is the person who would be the plan sponsor if the related employers were disregarded in determining whether the requirements of section 3(40)(B) are met, and

"(B) subsection (a)(2) shall be treated as satisfied if the board of trustees is the named fiduciary in connection with the arrangement.

"(2) Related employers.—For purposes of paragraph (1), employers are 'related' if there is among all such employers a common ownership interest or a substantial commonality of business operations based on common suppliers or customers.

"SEC. 704. OTHER REQUIREMENTS FOR EXEMPTION.

"A multiple employer welfare arrangement exempt under section 514(b)(6)(B) shall meet the following requirements:

"(1) Contents of governing instruments.—The instruments governing the arrangement include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

"(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)),

"(B) provides that the sponsor of the arrangement is to serve as plan sponsor (referred to in section 3(16)(B)), and

"(C) incorporates the requirements of section 705.

"(2) Contribution rates.—The contribution rates referred to in section 702(b)(3)(F)(ii) are adequate.

"(3) Regulatory requirements.—Such other requirements as the Secretary may prescribe by regulation as necessary to carry out the purposes of this part.

"SEC. 705. MAINTENANCE OF RESERVES.

"(a) In General.—Each multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) and under which benefits are not fully insured shall establish and maintain reserves, consisting of—

"(1) a reserve sufficient for unearned contributions,

"(2) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities, and

"(3) a reserve, in an amount recommended by the qualified actuary, for any other obligations of the arrangement.

"(b) Minimum Amount for Certain Reserves.—The total of the reserves described in subsection (a)(2) shall not be less than an amount equal to the greater of—

"(1) 25 percent of expected incurred claims and expenses for the plan year, or

"(2) $400,000.

"(c) Required Margin.—In determining the amounts of reserves required under this section in connection with any multiple employer welfare arrangement, the qualified actuary shall include a margin for error and other fluctuations taking into account the specific circumstances of such arrangement.

"(d) Additional Requirements.—The Secretary may provide such additional requirements relating to reserves and excess/stop loss coverage as the Secretary considers appropriate. Such requirements may be provided, by regulation or otherwise, with respect to any arrangement or any class of arrangements.

"(e) Adjustments for Excess/Stop Loss Coverage.—The Secretary may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any arrangement or class of arrangements to take into account excess/stop loss coverage provided with respect to such arrangement or arrangements.

"(f) Alternative Means of Compliance.—The Secretary may permit an arrangement to substitute, for all or part of the requirements of this section, such security, guarantee, hold-harmless arrangement, or other financial arrangement as the Secretary determines to be adequate to enable the arrangement to fully meet all its financial obligations on a timely basis. The Secretary may take into account, for purposes of this subsection, evidence provided by the arrangement or sponsor which demonstrates an assumption of liability with respect to the arrangement. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the arrangement in the form of assessments of participating employers, security, or other financial arrangement.

"SEC. 706. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

"Except as provided in section 707(b), a multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) may terminate only if the board of trustees—

"(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date,

"(2) develops a plan for winding up the affairs of the arrangement in connection with such termination in a manner which will result in timely payment of all benefits for which the arrangement is obligated, and

"(3) submits such plan in writing to the Secretary.

Actions required under this paragraph shall be taken in such form and manner as may be prescribed in regulations of the Secretary.

"SEC. 707. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

"(a) Actions To Avoid Depletion of Reserves.—A multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) shall continue to meet the requirements of section 705, irrespective of whether such exemption continues in effect. The board of trustees of such arrangement shall determine quarterly whether the requirements of section 705 are met. In any case in which the committee determines that there is reason to believe that there is or will be a failure to meet such requirements, or the Secretary makes such a determination and so notifies the committee, the committee shall immediately notify the qualified actuary engaged by the arrangement, and such actuary shall, not later than the end of the next following month, make such recommendations to the committee for corrective action as the actuary determines necessary to ensure compliance with section 705. Not later than 10 days after receiving from the actuary recommendations for corrective actions, the committee shall notify the Secretary (in such form and manner as the Secretary may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the committee has taken or plans to take in response to such recommendations. The committee shall thereafter report to the Secretary, in such form and frequency as the Secretary may specify to the committee, regarding corrective action taken by the committee until the requirements of section 705 are met.

"(b) Mandatory Termination.—In any case in which—

"(1) the Secretary has been notified under subsection (a) of a failure of a multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) to meet the requirements of section 705 and has not been notified by the board of trustees of the arrangement that corrective action has restored compliance with such requirements, and

"(2) the Secretary determines that the continuing failure to meet the requirements of section 705 can be reasonably expected to result in a continuing failure to pay benefits for which the arrangement is obligated,

the board of trustees of the arrangement shall, at the direction of the Secretary, terminate the arrangement and, in the course of the termination, take such actions as the Secretary may require, including recovering for the arrangement any liability under section 705(f), as necessary to ensure that the affairs of the arrangement will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the arrangement is obligated.

"SEC. 708. ADDITIONAL RULES REGARDING STATE AUTHORITY.

"(a) Exclusion of Arrangements From the Small Group Market in any State Upon State's Certification of Guaranteed Access to Health Insurance Coverage in Such State.—

"(1) In general.—If a State certifies to the Secretary that such State provides to its residents guaranteed access to health insurance coverage, during the period for which such certification is in effect, the law of such State may regulate any health care coverage provided in the small group market in such State (or prohibit the provision of such coverage) by a multiple employer welfare arrangement which is otherwise exempt under section 514(b)(6)(B) and whose sponsor is described in section 703(a)(1), notwithstanding such exemption. Any such certification shall be in effect for such period, not greater than 3 years, as is designated in such certification. Such certification shall apply with respect to such arrangements as are identified, individually or by class, in the certification.

"(2) Guaranteed access.—For purposes of this subsection, the certification by a State that such State provides 'guaranteed access' to health insurance coverage to the residents of such State means—

"(A) certification that the number of residents of such State who are covered by a group health plan or otherwise have health insurance coverage exceeds 90 percent of the total number of the residents of such State, or

"(B) certification that—

"(i) the small group market in such State provides guaranteed issue for employees with respect to at least one option of health insurance coverage offered by insurers and health maintenance organizations in such market, and

"(ii) the State has implemented rating reforms in the small group market in such State which are designed to make health insurance coverage more affordable.

"(b) Exceptions.—

"(1) Certain multistate associations.—Subsection (a) shall not apply in the case of a multiple employer welfare arrangement operating in any State which has made a certification under subsection (a)(2)(B) if—

"(A) in the application for the exemption under section 514(b)(6)(B), the sponsor of such arrangement demonstrates to the Secretary (in such form and manner as shall be prescribed in regulations of the Secretary) that—

"(i) such sponsor operates in the majority of the 50 States and in at least 2 of the regions of the United States, and

"(ii) the arrangement covers, or is to cover (in the case of a newly established arrangement), at least 7,500 participants and beneficiaries, and

"(B) at the time of such application, the arrangement does not have pending against it any enforcement action by the State.

"(2) Existing arrangements.—Subsection (a) shall not apply with respect to an arrangement operating in any State if—

"(A) such arrangement was operating in such State as of March 6, 1996, and

"(B) at the time of the application for the exemption under section 514(b)(6), the arrangement does not have pending against it any enforcement action by the State.

"(3) Limitations.—Paragraphs (1) and (2) shall not apply in the case of any State which has made a certification under subsection (a) and which, as of January 1, 1996, had enacted a law that either—

"(A) provided guaranteed issue of individual health insurance coverage offered by insurers and health maintenance organizations in the individual market using pure community rating and did not provide for any transition period (after the effective date of the guaranteed issue requirement) in the implementation of pure community rating; or

"(B) required insurers offering health insurance coverage in connection with group health plans to reimburse insurers offering individual health insurance coverage for losses resulting from those insurers offering individual health insurance coverage on an open enrollment basis.

Regulations under this part may provide for an exemption from the applicability of paragraph (1) in the case of certain arrangements that are limited to a single industry.

"(c) Assessment Authority With Respect to New Arrangements.—

"(1) In general.—Notwithstanding section 514, a State may impose by law a premium tax on multiple employer welfare arrangements which are otherwise exempt under section 514(b)(6)(B) and the sponsor of which is described in section 703(a)(1)—

"(A) in the case of an arrangement established after March 6, 1996, and

"(B) in the case of an arrangement in existence as of March 6, 1996, if the arrangement commenced operations in such State after March 6, 1996.

VOL
142
PT
5
MR
21
—
29
1996
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"(2) PREMIUM TAX.—For purposes of this subsection, the term 'premium tax' imposed by a State on a multiple employer welfare arrangement means any tax imposed by such State if—

"(A) such tax is computed by applying a rate to the amount of premiums or contributions received by the arrangement from participating employers located in such State with respect to individuals covered under the arrangement who are residents of such State,

"(B) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan,

"(C) such tax is otherwise nondiscriminatory, and

"(D) the amount of any such tax assessed on the arrangement is reduced by the amount of any tax or assessment imposed by the State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage (or other insurance related to the provision of medical care under the arrangement) provided by such insurers or health maintenance organizations in such State to such arrangement.

"(d) DEFINITIONS.—For purposes of this section—

"(1) SMALL GROUP MARKET.—The term 'small group market' means the health insurance coverage market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) on the basis of employment or other relationship with respect to a small employer.

"(2) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a calandar year, an employer who employs at least 2 but fewer than 51 employees on a typical business day in the year. For purposes of this paragraph, 2 or more trades or businesses, whether or not incorporated, shall be deemed a single employer if such trades or businesses are within the same control group (within the meaning of section 3(40)(B)(ii)).

"(3) REGION.—The term 'region' means any of the following regions:

"(A) The East Region, consisting of the States of Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, and Ohio, and the District of Columbia.

"(B) The Southeast Region, consisting of the States of Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, and Tennessee.

"(C) The Midwest Region, consisting of the States of Montana, South Dakota, North Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Wisconsin, Michigan, Illinois, and Indiana.

"(D) The West Region, consisting of the States of Oregon, Washington, Idaho, Nevada, California, New Mexico, Arizona, Nebraska, Wyoming, Hawaii, Alaska, Colorado, and Utah.".

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6)(A)(i) of such Act (29 U.S.C. 1144(b)(6)(A)(i)) is amended by striking "is fully insured" and inserting "under which all benefits are fully insured", and by inserting "and which is not described in section 702(a)(1)" after "subparagraph (B)".

(2) Section 514(b)(6)(B) of such Act (29 U.S.C. 1144(b)(6)(B)) is amended—

(A) by inserting "(i)" after "(B)";

(B) by striking "which are not fully insured" and inserting "under which any benefit is not fully insured"; and

(C) by striking "Any such exemption" and inserting:

"(ii) Subject to part 7, any exemption under clause (i)".

(c) CONFORMING AMENDMENT TO DEFINITION OF PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 1002(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes the sponsor (as defined in section 701(6)) of a multiple employer welfare arrangement which is or has been a multiple employer health plan (as defined in section 701(4)).".

(d) DEFINITIONS.—

(1) GROUP HEALTH PLAN.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(42) Except as otherwise provided in this title, the term 'group health plan' means an employee welfare benefit plan to the extent that the plan provides medical care (within the meaning of section 607(1)) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.".

(2) INCLUSION OF CERTAIN PARTNERS AND SELF-EMPLOYED SPONSORS IN DEFINITION OF PARTICIPANT.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended—

(A) by inserting "(A)" after "(7)"; and

(B) by adding at the end the following new paragraph:

"(B) In the case of a group health plan, such term includes—

"(i) in connection with a group health plan maintained by a partnership, an individual who is a partner in relation to the partnership, or

"(ii) in connection with a group health plan maintained by a self-employed individual (under which one or more employees are participants), the self-employed individual,

if such individual is or may become eligible to receive a benefit under the plan or such individual's beneficiaries may be eligible to receive any such benefit.".

(3) HEALTH INSURANCE COVERAGE.—Section 3 of such Act (as amended by paragraph (1)) is amended further by adding at the end the following new paragraph:

"(43)(A) Except as provided in subparagraph (B), the term 'health insurance coverage' means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by an insurer or a health maintenance organization.

"(B) Such term does not include coverage under any separate policy, certificate, or contract only for one or more of any of the following:

"(i) Coverage for accident, credit-only, vision, disability income, long-term care, nursing home care, community-based care dental, on-site medical clinics, or employee assistance programs, or any combination thereof.

"(ii) Medicare supplemental health insurance (within the meaning of section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1))) and similar supplemental coverage provided under a group health plan.

"(iii) Coverage issued as a supplement to liability insurance.

"(iv) Liability insurance, including general liability insurance and automobile liability insurance.

"(v) Workers' compensation or similar insurance.

"(vi) Automobile medical-payment insurance.

"(vii) Coverage for a specified disease or illness.

"(viii) Hospital or fixed indemnity insurance.

"(ix) Short-term limited duration insurance.

"(x) Such other coverage, comparable to that described in previous clauses, as may be specified in regulations.".

(4) MEDICAL CARE.—Section 607(1) of such Act (29 U.S.C. 1167(1)) is amended—

(A) by striking "The term" and inserting the following:

"(A) IN GENERAL.—The term";

(B) by striking "(as defined" and all that follows through "1986)"; and

(C) by adding at the end the following new subparagraph:

"(B) MEDICAL CARE.—For purposes of this paragraph, the term 'medical care' means—

"(i) amounts paid for, or items or services in the form of, the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for, or items or services provided for, the purpose of affecting any structure or function of the body,

"(ii) amounts paid for, or services in the form of, transportation primarily for and essential to medical care referred to in clause (i), and

"(iii) amounts paid for insurance covering medical care referred to in clauses (i) and (ii).".

(5) OTHER DEFINITIONS.—Section 514 of such Act is further amended by adding at the end the following new subsection:

"(e) For purposes of this section, the terms 'fully insured', 'health maintenance organization', and 'insurer' have the meanings given such terms in section 701.".

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (as amended by section 102(g)) is amended by inserting after the item relating to section 609 the following new items:

"PART 7—RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS

"Sec. 701. Definitions.
"Sec. 702. Clarification of duty of the Secretary to implement provisions of current law provising for exemptions and solvency standards for multiple employer health plans.
"Sec. 703. Requirements relating to sponsors, boards of trustees, and plan operations.
"Sec. 704. Other requirements for exemption.
"Sec. 705. Maintenance of reserves.
"Sec. 706. Notice requirements for voluntary termination.
"Sec. 707. Corrective actions and mandatory termination.
"Sec. 708. Additional rules regarding State authority.

SEC. 162. AFFORDABLE AND AVAILABLE FULLY INSURED HEALTH COVERAGE THROUGH VOLUNTARY HEALTH INSURANCE ASSOCIATIONS.

Section 514 of the Employee Retirement Income Security Act of 1974 is amended—

(1) by redesignating subsections (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) The provisions of this title shall supercede any and all State laws which regulate insurance insofar as they may now or hereafter—

"(A) preclude an insurer or health maintenance organization from offering health insurance coverage under voluntary health insurance associations,

"(B) preclude an insurer or health maintenance organization from setting premium rates under a voluntary health insurance association based on the claims experience of the voluntary health insurance association (without varying the premium rates of any particular employer on the basis of the claims experience of such employer alone), or

"(C) require—

"(i) health insurance coverage in connection with a voluntary health insurance association to include specific items or services consisting of medical care, or

"(ii) an insurer or health maintenance organization offering health insurance coverage in connection with a voluntary health insurance association to include in such health insurance coverage specific items or services consisting of medical care,

except to the extent that such State laws prohibit an exclusion for a specific disease in such health insurance coverage.

Subparagraph (C) shall apply only with respect to items and services which shall be specified in a list which shall be prescribed in regulations of the Secretary.

"(2)(A) If a State certifies to the Secretary that such State provides to its residents guaranteed access to health insurance coverage, during the period for which such certification is in effect, the law of such State may regulate any health insurance coverage provided in the small group market in such State (or prohibit the provision of such coverage) by a voluntary health insurance association. Any such certification shall be in effect for such period, not greater than 3 years, as is designated in such certification.

"(B) For purposes of this paragraph, the certification by a State that such State provides 'guaranteed access' to health insurance coverage to the residents of such State means—

"(i) certification that the number of residents of such State who are covered by a group health plan or otherwise have health insurance coverage exceeds 90 percent of the total number of the residents of such State, or

"(ii) certification that—

"(I) the small group market in such State provides guaranteed issue for employees with respect to at least one option of health insurance coverage offered by insurers and health maintenance organizations in such market, and

"(II) the State has implemented rating reforms in the small group market in such State which are designed to make health insurance coverage more affordable.

"(3)(A) Paragraph (2) shall not apply in the case of any voluntary health insurance association with respect to any State if the qualified association demonstrates to the Secretary (in such form and manner as shall be prescribed in regulations of the Secretary) that—

"(i) such qualified association operates in the majority of the 50 States and in at least 2 of the regions of the United States,

"(ii) the arrangement covers, or is to cover (in the case of a newly established arrangement), at least 7,500 participants and beneficiaries, and

"(iii) under the terms of the arrangement, either—

"(I) the qualified association does not exclude from membership any small employer in the State, or

"(II) the arrangement accepts every small employer in the State that applies for coverage.

"(B)(i) Subject to clause (ii), paragraph (2) shall not apply with respect to a voluntary health insurance association operating in any State if such association was operating in such State as of March 6, 1996.

"(ii) Clause (i) shall apply in the case of an arrangement in connection with any State only if the qualified association demonstrates to the Secretary (in such form and manner as shall be prescribed in regulations of the Secretary) either—

"(I) that the qualified association does not exclude from membership any small employer in the State, or

"(II) that the arrangement accepts every small employer in such State that applies for coverage.

"(C) Subparagraphs (A) and (B) shall not apply in the case of any State which has made a certification under paragraph (2) and which, as of January 1, 1996, had enacted a law that either—

"(i) provided guaranteed issue of individual health insurance coverage offered by insurers and health maintenance organizations in the individual market using pure community rating and did not provide for any transition period (after the effective date of the guaranteed issue requirement) in the implementation of pure community rating; or

"(ii) required insurers offering health insurance coverage in connection with group health plans to reimburse insurers offering individual health insurance coverage for losses resulting from those insurers offering individual health insurance coverage on an open enrollment basis.

"(5) For purposes of this subsection—

"(A) The term 'voluntary health insurance association' means a multiple employer welfare arrangement—

"(i) under which benefits include medical care (within the meaning of section 607(1)),

"(ii) under which all benefits consisting of such medical care are fully insured,

"(iii) which is maintained by a qualified association,

"(iv) under which no employer is excluded as a participating employer (except to the extent that requirements of the type referred to in section 131(d)(2) of the Health Coverage Availability and Affordability Act of 1996 are not met), the requirements of section 103 of such Act (as referred to in section 104(b)(1) of such Act) are met, and all health insurance coverage options are aggressively marketed to eligible employees and their dependents, and

"(v) under which, with respect to the operations of the arrangement in any State, the health insurance coverage is provided by an insurer or health maintenance organization to which the laws of such State applies.

"(B) The term 'qualified association' means an association with respect to which the following requirements are met:

"(i) The sponsor of the association is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 5 years, organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group), for substantial purposes other than that of obtaining or providing medical care (within the meaning of section 607(1)).

"(ii) The sponsor of the association is established as a permanent entity which receives the active support of its members.

"(iii) The constitution and bylaws of the association provide for periodic meetings on at least an annual basis.

"(iv) The association collects dues or contributions from its members on a periodic basis, without conditioning such dues or contributions on the basis of the health status of the employees of such members or the dependents of such employees or on the basis of participation in a group health plan or voluntary health insurance association.

Such term includes a group of qualified associations, as defined in the preceding provisions of this clause.

"(C) The term 'small group market' means the health insurance coverage market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) on the basis of employment or other relationship with respect to a small employer.

"(D) The term 'small employer' means, in connection with a group health plan with respect to a calandar year, an employer who employs at least 2 but fewer than 51 employees on a typical business day in the year. For purposes of this paragraph, 2 or more trades or businesses, whether or not incorporated, shall be deemed a single employer if such trades or businesses are within the same control group (within the meaning of section 3(40)(B)(ii)).

"(E) The term 'region' means any of the following regions:

"(i) The East Region, consisting of the States of Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, and Ohio and the District of Columbia.

"(ii) The Southeast Region, consisting of the States of Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, and Tennessee.

"(iii) The Midwest Region, consisting of the States of Montana, South Dakota, North Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Wisconsin, Michigan, Illinois, and Indiana.

"(iv) The West Region, consisting of the States of Oregon, Washington, Idaho, Nevada, California, New Mexico, Arizona, Nebraska, Wyoming, Hawaii, Alaska, Colorado, and Utah.".

SEC. 163. STATE AUTHORITY FULLY APPLICABLE TO SELF-INSURED MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PROVIDING MEDICAL CARE WHICH ARE NOT EXEMPTED UNDER NEW PART 7.

(a) IN GENERAL.—Section 514(b)(6)(A)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(6)(A)(ii)) is amended by inserting before the period the following: ", except that, in any such case, if the arrangement provides medical care (within the meaning of section 607(1)), such a law of any State may apply without limitation under this title".

(b) CROSS-REFERENCE.—Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) (as amended by section 301) is amended by adding at the end the following new subparagraph:

"(G) For additional rules relating to exemption from subparagraph (A)(ii) of multiple employer health plans, see part 7.".

SEC. 164. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting "for any plan year of any such plan, or any fiscal year of

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any such other arrangement," after "single employer", and by inserting "during such year or at any time during the preceding 1-year period" after "control group";

(2) in clause (iii)—

(A) by striking "common control shall not be based on an interest of less than 25 percent" and inserting "an interest of greater than 25 percent may not be required as the minimum interest necessary for common control"; and

(B) by striking "similar to" and inserting "consistent and coextensive with";

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

"(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only 1 participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement,".

SEC. 165. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

"(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E),".

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

"(C) A plan or other arrangement is established or maintained in accordance with this subparagraph only if the following requirements are met:

"(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

"(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement, or

"(II) pay a commission or any other type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations of the Secretary), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement,

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

"(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are identified to the plan or arrangement and who are neither—

"(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit), nor

"(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment),

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Health Coverage Availability and Affordability Act 1996 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

"(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed in regulations of the Secretary that the plan or other arrangement meets the requirements of clauses (i) and (ii).

"(D) A plan or arrangement is established or maintained in accordance with this subparagraph only if—

"(i) all of the benefits provided under the plan or arrangement are fully insured (as defined in section 701(2)), or

"(ii)(I) the plan or arrangement is a multiemployer plan, and

"(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

"(E) A plan or arrangement is established or maintained in accordance with this subparagraph only if—

"(i) the plan or arrangement is in effect as of the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, or

"(ii) the employee organization or other entity sponsoring the plan or arrangement—

"(I) has been in existence for at least 3 years or is affiliated with another employee organization which has been in existence for at least 3 years, or

"(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.".

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: "Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).".

SEC. 166. TREATMENT OF CHURCH PLANS.

(a) SPECIAL RULES FOR CHURCH PLANS.—

(1) IN GENERAL.—Part 7 of subtitle B of title I of such Act (as added and amended by the preceding provisions of this Act) is amended by adding at the end the following new section:

"SEC. 709. SPECIAL RULES FOR CHURCH PLANS.

"(a) ELECTION FOR CHURCH PLANS.—

"(1) IN GENERAL.—Notwithstanding section 4(b)(2), if the church or convention or association of churches which maintains a church plan covered under this section makes an election with respect to such plan under this subsection (in such form and manner as the Secretary may by regulations prescribe), then, subject to this section, the provisions of this part (and other provisions of this title to the extent that they apply to group health plans which are multiple employer welfare arrangements) shall apply to such church plan, with respect to benefits provided under such plan consisting of medical care, as if—

"(A) section 4(b)(2) did not contain an exclusion for church plans, and

"(B) such plan were an arrangement eligible to apply for an exemption under this part.

"(2) ELECTION IRREVOCABLE.—An election under this subsection with respect to any church plan shall be binding with respect to such plan, and, once made, shall be irrevocable.

"(b) COVERED CHURCH PLANS.—A church plan is covered under this section if such plan provides benefits which include medical care and some or all of such benefits are not fully insured.

"(c) SPONSOR AND BOARD OF TRUSTEES.—For purposes of this part, in the case of a church plan to which this part applies pursuant to an election under subsection (a), in treating such plan as if it were a multiple employer welfare arrangement under this part—

"(1) the church, convention or association of churches, or other organization described in section 3(33)(C)(i) which is the entity maintaining the plan shall be treated as the sponsor referred to in section 703(a)(1), and the requirements of section 703(a)(1) shall not apply, and

"(2) the board of trustees, board of directors, or other similar governing body of such sponsor shall be treated as the board of trustees referred to in section 703(a)(2), and the requirements of section 703(a)(2) shall be deemed satisfied with respect to the board of trustees.

"(d) DEEMED SATISFACTION OF TRUST REQUIREMENTS.—The requirements of section 403 shall not be treated as not satisfied with respect to a church plan to which this part applies pursuant to an election under subsection (a) solely because assets of the plan are held by an organization described in section 3(33)(C)(i), if—

"(1) such organization is incorporated separately from the church or convention or association of churches involved, and

"(2) such assets with respect to medical care are separately accounted for.

"(e) DEEMED SATISFACTION OF EXCLUSIVE BENEFIT REQUIREMENTS.—The requirements of section 404 shall not be treated as not satisfied with respect to a church plan to which this part applies pursuant to an election under subsection (a) solely because assets of the plan which are in excess of reserves required for exemption under section 514(b)(6)(B) are held in a fund in which such assets are pooled with assets of other church plans, if the assets held by such fund may not, under the terms of the plan and the terms governing such fund, be used for, or diverted to, any purpose other than for the exclusive benefit of the participants and beneficiaries of the church plans whose assets are pooled in such fund.

"(f) INAPPLICABILITY OF CERTAIN PROVISIONS.—

"(1) PROHIBITED TRANSACTIONS.—Section 406 shall not apply to a church plan by reason of an election under subsection (a).

"(2) CONTINUATION COVERAGE.—Section 601 shall not apply to a church plan by reason of an election under subsection (a).".

(b) CONFORMING AMENDMENTS.—

(1) Section 4(b)(2) of such Act (29 U.S.C. 1003(b)(2)) is amended by inserting before the semicolon the following: ", except with respect to provisions made applicable under any election made under section 704(a) of this Act".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (a), by inserting "(including a church plan which is not exempt under section 4(b)(2) by reason of an election under section 704)" before the period in the first sentence; and

(B) in subsection (b)(2)(B), by inserting "and including a church plan which is not exempt under section 4(b)(2) by reason of an election under section 704" after "death benefits".

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (as amended by the preceding provisions of this title) is further amended by inserting after the item relating to section 703 the following new item:

"Sec. 709. Special rules for church plans.".

SEC. 167. ENFORCEMENT PROVISIONS RELATING TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.

(a) ENFORCEMENT OF FILING REQUIREMENTS.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) (as amended by sections 102(c)) is further amended—

(1) in subsection (a)(6), by striking "paragraph (2) or (5)" and inserting "paragraph (2), (5), or (6)"; and

(2) by adding at the end of subsection (c) the following new paragraph:

"(6) The Secretary may assess a civil penalty against any person of up to $1,000 a day from the date of such person's failure or refusal to file the information required to be filed with the Secretary under section 101(g).".

(b) ACTIONS BY STATES IN FEDERAL COURT.—Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended—

(1) in paragraph (8), by striking "or" at the end;

(2) in paragraph (9), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(10) by a State official having authority under the law of such State to enforce the laws of such State regulating insurance, to enjoin any act or practice which violates any requirement under part 7 for an exemption under section 514(b)(6)(B) which such State has the power to enforce pursuant to section 506(c)(1).".

(c) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of such Act (29 U.S.C. 1131) is amended—

(1) by inserting "(a)" after "SEC. 501."; and

(2) by adding at the end the following new subsection:

"(b) Any person who, either willfully or with willful blindness, falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, an arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

"(1) being a multiple employer welfare arrangement to which an exemption has been granted under section 514(b)(6)(B),

"(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, or

"(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met,

shall, upon conviction, be imprisoned not more than five years, be fined under title 18, United States Code, or both.".

(d) CESSATION OF ACTIVITIES IN ABSENCE OF EFFECTIVE STATE REGULATION UNLESS STANDARDS UNDER ERISA EXEMPTION ARE MET.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n)(1) Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of a multiple employer welfare arrangement providing benefits consisting of medical care (within the meaning of section 607(1)) that—

"(A) is not licensed, registered, or otherwise approved under the insurance laws of the States in which the arrangement offers or provides benefits, and

"(B) if there is in effect with respect to such arrangement an exemption under section 514(b)(6)(B), is not operating in accordance with the requirements under part 7 for such an exemption,

a district court of the United States shall enter an order requiring that the arrangement cease activities.

"(2) Paragraph (1) shall not apply in the case of a multiple employer welfare arrangement if the arrangement shows that—

"(A) all benefits under it referred to in paragraph (1) are fully insured, within the meaning of section 701(1), and

"(B) with respect to each State in which the arrangement offers or provides benefits, the arrangement is operating in accordance with applicable State insurance laws that are not superseded under section 514.

"(3) The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the arrangement.".

(e) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) is amended by adding at the end (after and below paragraph (2)) the following new sentence: "The terms of each multiple employer health plan (within the meaning of section 701(4)) shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.".

SEC. 168. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(c) STATE AUTHORITY WITH RESPECT TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—

"(1) STATE ENFORCEMENT.—

"(A) AGREEMENTS WITH STATES.—A State may enter into an agreement with the Secretary for delegation to the State of some or all of the Secretary's authority under sections 502 and 504 to enforce the requirements under section 514(d) or the requirements under part 7 for an exemption under section 514(b)(6)(B). The Secretary shall enter into the agreement if the Secretary determines that the delegation provided for therein would not result in a lower level or quality of enforcement of the provisions of this title.

"(B) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this paragraph may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.

"(C) CONCURRENT AUTHORITY OF THE SECRETARY.—If the Secretary delegates authority to a State in an agreement entered into under subparagraph (A), the Secretary may continue to exercise such authority concurrently with the State.

"(D) RECOGNITION OF PRIMARY DOMICILE STATE.—In entering into any agreement with a State under subparagraph (A), the Secretary shall ensure that, as a result of such agreement and all other agreements entered into under subparagraph (A), only one State will be recognized, with respect to any particular multiple employer welfare arrangement, as the primary domicile State to which authority has been delegated pursuant to such agreements.

"(2) ASSISTANCE TO STATES.—The Secretary shall—

"(A) provide enforcement assistance to the States with respect to multiple employer welfare arrangements, including, but not limited to, coordinating Federal and State efforts through the establishment of cooperative agreements with appropriate State agencies under which the Pension and Welfare Benefits Administration keeps the States informed of the status of its cases and makes available to the States information obtained by it,

"(B) provide continuing technical assistance to the States with respect to issues involving multiple employer welfare arrangements and this Act,

"(C) make readily available to the States timely and complete responses to requests for advisory opinions on issues described in subparagraph (B), and

"(D) distribute copies of all advisory opinions described in subparagraph (C) to the State insurance commissioner of each State.".

SEC. 169. FILING AND DISCLOSURE REQUIREMENTS FOR MULTIPLE EMPLOYER WELFARE ARRANGEMENTS OFFERING HEALTH BENEFITS.

(a) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following new subsections:

"(g) REGISTRATION OF MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—(1) Each multiple employer welfare arrangement shall file with the Secretary a registration statement described in paragraph (2) within 60 days before commencing operations (in the case of an arrangement commencing operations on or after January 1, 1997) and no later than February 15 of each year (in the case of an arrangement in operation since the beginning of such year), unless, as of the date by which

VOL
142
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1996
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such filing otherwise must be made, such arrangement provides no benefits consisting of medical care (within the meaning of section 607(1))).

"(2) Each registration statement—

"(A) shall be filed in such form, and contain such information concerning the multiple employer welfare arrangement and any persons involved in its operation (including whether coverage under the arrangement is fully insured), as shall be provided in regulations which shall be prescribed by the Secretary, and

"(B) if any benefits under the arrangement consisting of medical care (within the meaning of section 607(1)) are not fully insured, shall contain a certification that copies of such registration statement have been transmitted by certified mail to—

"(i) in the case of an arrangement which is a multiple employer health plan (as defined in section 701(4)), the State insurance commissioner of the domicile State of such arrangement, or

"(ii) in the case of an arrangement which is not a multiple employer health plan, the State insurance commissioner of each State in which the arrangement is located.

"(3) The person or persons responsible for filing the annual registration statement are—

"(A) the trustee or trustees so designated by the terms of the instrument under which the multiple employer welfare arrangement is established or maintained, or

"(B) in the case of a multiple employer welfare arrangement for which the trustee or trustees cannot be identified, or upon the failure of the trustee or trustees of an arrangement to file, the person or persons actually responsible for the acquisition, disposition, control, or management of the cash or property of the arrangement, irrespective of whether such acquisition, disposition, control, or management is exercised directly by such person or persons or through an agent designated by such person or persons.

"(4) Any agreement entered into under section 506(c) with a State as the primary domicile State with respect to any multiple employer welfare arrangement shall provide for simultaneous filings of reports required under this subsection with the Secretary and with the State insurance commissioner of such State.

"(5) For purposes of this subsection, the term 'domicile State' means, in connection with a multiple employer welfare arrangement, the State in which, according to the application for an exemption under this 514(b)(6)(B), most individuals to be covered under the arrangement are located, except that, in any case in which information contained in the latest annual report of the arrangement filed under this part indicates that most individuals covered under the arrangement are located in a different State, such term means such different State.

"(6) The Secretary may exempt from the requirements of this subsection such class of multiple employer welfare arrangements as the Secretary deems appropriate.

"(h) FILING REQUIREMENTS FOR MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—

"(1) IN GENERAL.—A multiple employer welfare arrangement which provides benefits consisting of medical care (within the meaning of section 607(1)) shall issue to each participating employer—

"(A) a document equivalent to the summary plan description required of plans under this part,

"(B) information describing the contribution rates applicable to participating employers, and

"(C) a statement indicating—

"(i) that the arrangement is not a licensed insurer under the laws of any State,

"(ii) the extent to which any benefits under the arrangement are fully insured,

"(iii) if any benefits under the arrangement are not fully insured, whether the arrangement has been granted an exemption under section 514(b)(6)(B) (or whether such an exemption has ceased to be effective).

"(2) TIME FOR DISCLOSURE.—Such information shall be issued to employers within such reasonable period of time before becoming participating employers as may be prescribed in regulations of the Secretary.".

(b) EFFECTIVE DATES.—Section 101(g) of the Employee Retirement Income Security Act of 1974 (added by subsection (a)) shall take effect on the date of the enactment of this Act. Section 101(h) of such Act (added by subsection (a)) shall take effect as provided in section 171.

SEC. 170. SINGLE ANNUAL FILING FOR ALL PARTICIPATING EMPLOYERS.

(a) IN GENERAL.—Section 110 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1030) is amended by adding at the end the following new subsection:

"(c) The Secretary shall prescribe by regulation or otherwise an alternative method providing for the filing of a single annual report (as referred to in section 104(a)(1)(A)) with respect to all employers who are participating employers under a multiple employer welfare arrangement under which all coverage consists of medical care (within the meaning of section 607(1)) and is fully insured (as defined in section 701(1)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. The Secretary of Labor shall prescribe the alternative method referred to in section 110(c) of the Employee Retirement Income Security Act of 1974, as added by such amendment, within 90 days after the date of the enactment of this Act.

SEC. 171. EFFECTIVE DATE; TRANSITIONAL RULE.

(a) EFFECTIVE DATE.—Except as otherwise provided in section 170(b), the amendments made by this subtitle shall take effect January 1, 1998. The Secretary shall issue all regulations necessary to carry out the amendments made by this subtitle before January 1, 1998.

(b) TRANSITIONAL RULE.—

(1) IN GENERAL.—If the sponsor of a multiple employer welfare arrangement which, as of the effective date specified in subsection (a), provides benefits consisting of medical care (within the meaning of section 607(1) of the Employee Retirement Income Security Act of 1974) files with the Secretary of Labor an application for an exemption under section 514(b)(6)(B) of such Act within 180 days after such date and the Secretary has not, as of 90 days after receipt of such application, found such application to be materially deficient, then section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) shall not apply with respect to such arrangement during the period following such date and ending on the earlier of—

(A) the date on which the Secretary denies the application under the amendments made by this title or determines, in the Secretary's sole discretion, that such exclusion from coverage under the provisions of such section 514(b)(6)(A) of such arrangement would be detrimental to the interests of individuals covered under such arrangement, or

(B) 18 months after such effective date.

(2) NO PENDING STATE ACTION.—Subparagraph (A) shall apply in the case of an arrangement only if, at the time of the application for the exemption under section 514(b)(6)(B), the arrangement does not have pending against it an enforcement action by a State.

Subtitle D—Definitions; General Provisions

SEC. 191. DEFINITIONS; SCOPE OF COVERAGE.

(a) GROUP HEALTH PLAN.—

(1) DEFINITION.—Subject to the succeeding provisions of this subsection and subsection (d)(1), the term "group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care (as defined in subsection (c)(9)) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise, and includes a group health plan (within the meaning of section 5000(b)(1) of the Internal Revenue Code of 1986).

(2) LIMITATION OF REQUIREMENTS TO PLANS WITH 2 OR MORE EMPLOYEE PARTICIPANTS.—The requirements of subtitle A and part 1 of subtitle B shall apply in the case of a group health plan for any plan year, or for health insurance coverage offered in connection with a group health plan for a year, only if the group health plan has two or more participants as current employees on the first day of the plan year.

(3) EXCLUSION OF PLANS WITH LIMITED COVERAGE.—An employee welfare benefit plan shall be treated as a group health plan under this title only with respect to medical care which is provided under the plan and which does not consist of coverage excluded from the definition of health insurance coverage under subsection (c)(4)(B).

(4) TREATMENT OF CHURCH PLANS.—

(A) EXCLUSION.—The requirements of this title insofar as they apply to group health plans shall not apply to church plans.

(B) OPTIONAL DISREGARD IN DETERMINING PERIOD OF COVERAGE.—For purposes of applying section 101(b)(3)(B)(i), a group health plan may elect to disregard periods of coverage of an individual under a church plan that, pursuant to subparagraph (A), is not subject to the requirements of this title.

(5) TREATMENT OF GOVERNMENTAL PLANS.—

(A) ELECTION TO BE EXCLUDED.—If the plan sponsor of a governmental plan which is a group health plan to which the provisions of this subtitle otherwise apply makes an election under this paragraph for any specified period (in such form and manner as the Secretary of Health and Human Services may by regulations prescribe), then the requirements of this title insofar as they apply to group health plans shall not apply to such governmental plans for such period.

(B) OPTIONAL DISREGARD IN DETERMINING PERIOD OF COVERAGE IF ELECTION MADE.—For purposes of applying section 101(b)(3)(B)(i), a group health plan may elect to disregard periods of coverage of an individual under a governmental plan that, under an election under subparagraph (A), is not subject to the requirements of this title.

(6) TREATMENT OF MEDICAID PLAN AS GROUP HEALTH PLAN.—A State plan under title XIX of the Social Security Act shall be treated as a group health plan for purposes of applying section 101(c)(1), unless the State elects not to be so treated.

(7) TREATMENT OF MEDICARE AND INDIAN HEALTH SERVICE PROGRAMS AS GROUP HEALTH PLAN.—Title XVIII of the Social Security Act and a program of the Indian Health Service shall be treated as a group health plan for purposes of applying section 101(c)(1).

(b) INCORPORATION OF CERTAIN DEFINITIONS IN EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Except as provided in this section, the terms "beneficiary", "church plan", "employee", "employee welfare benefit plan", "employer", "governmental plan", "multiemployer plan", "multiple employer welfare arrangement", "participant", "plan sponsor", and "State" have the meanings given such terms in section 3 of the Employee Retirement Income Security Act of 1974.

(c) OTHER DEFINITIONS.—For purposes of this title:

(1) APPLICABLE STATE AUTHORITY.—The term "applicable State authority" means, with respect to an insurer or health maintenance organization in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved with respect to such insurer or organization.

(2) BONA FIDE ASSOCIATION.—The term "bona fide association" means an association which—

(A) has been actively in existence for at least 5 years,

(B) has been formed and maintained in good faith for purposes other than obtaining insurance,

(C) does not condition membership in the association on health status,

(D) makes health insurance coverage offered through the association available to all members regardless of health status,

(E) does not make health insurance coverage offered through the association available to any individual who is not a member (or dependent of a member) of the association at the time the coverage is initially issued,

(F) does not impose preexisting condition exclusions except in a manner consistent with the requirements of sections 101 and 102 as they relate to group health plans, and

(G) provides for renewal and continuation of health insurance coverage in a manner consistent with the requirements of section 132 as they relate to the renewal and continuation in force of coverage in a group market.

(3) COBRA CONTINUATION PROVISION.—The term "COBRA continuation provision" means any of the following:

(A) Section 4980B of the Internal Revenue Code of 1986, other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines.

(B) Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.), other than section 609.

(C) Title XXII of the Public Health Service Act.

(4) HEALTH INSURANCE COVERAGE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by an insurer or a health maintenance organization.

(B) EXCEPTION.—Such term does not include coverage under any separate policy, certificate, or contract only for one or more of any of the following:

(i) Coverage for accident, credit-only, vision, disability income, long-term care, nursing home care, community-based care dental, on-site medical clinics, or employee assistance programs, or any combination thereof.

(ii) Medicare supplemental health insurance (within the meaning of section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1))) and similar supplemental coverage provided under a group health plan.

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers' compensation or similar insurance.

(vi) Automobile medical-payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Such other coverage, comparable to that described in previous clauses, as may be specified in regulations prescribed under this title.

(5) HEALTH MAINTENANCE ORGANIZATION; HMO.—The terms "health maintenance organization" and "HMO" mean—

(A) a Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

(B) an organization recognized under State law as a health maintenance organization, or

(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization,

if (other than for purposes of part 2 of subtitle B) it is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974).

(6) HEALTH STATUS.—The term "health status" includes, with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(7) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term "individual health insurance coverage" means health insurance coverage offered to individuals if the coverage is not offered in connection with a group health plan (other than such a plan that has fewer than two participants as current employees on the first day of the plan year).

(8) INSURER.—The term "insurer" means an insurance company, insurance service, or insurance organization which is licensed to engage in the business of insurance in a State and which (except for purposes of part 2 of subtitle B) is subject to State law which regulates insurance (within the meaning of section 514(b)(2)(A) of the Employee Retirement Income Security Act of 1974).

(9) MEDICAL CARE.—The term "medical care" means—

(A) amounts paid for, or items or services in the form of, the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for, or items or services provided for, the purpose of affecting any structure or function of the body,

(B) amounts paid for, or services in the form of, transportation primarily for and essential to medical care referred to in subparagraph (A), and

(C) amounts paid for insurance covering medical care referred to in subparagraphs (A) and (B).

(10) NETWORK PLAN.—The term "network plan" means, with respect to health insurance coverage, an arrangement of an insurer or a health maintenance organization under which the financing and delivery of medical care are provided, in whole or in part, through a defined set of providers under contract with the insurer or health maintenance organization.

(11) WAITING PERIOD.—The term "waiting period" means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the minimum period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the plan.

(d) TREATMENT OF PARTNERSHIPS.—

(1) TREATMENT AS A GROUP HEALTH PLAN.—Any plan, fund, or program which would not be (but for this paragraph) an employee welfare benefit plan and which is established or maintained by a partnership, to the extent that such plan, fund, or program provides medical care to present or former partners in the partnership or to their dependents (as defined under the terms of the plan, fund, or program), directly or through insurance, reimbursement, or otherwise, shall be treated (subject to paragraph (1)) as an employee welfare benefit plan which is a group health plan.

(2) TREATMENT OF PARTNERSHIP AND PARTNERS AND EMPLOYER AND PARTICIPANTS.—In the case of a group health plan—

(A) the term "employer" includes the partnership in relation to any partner; and

(B) the term "participant" includes—

(i) in connection with a group health plan maintained by a partnership, an individual who is a partner in relation to the partnership, or

(ii) in connection with a group health plan maintained by a self-employed individual (under which one or more employees are participants), the self-employed individual,

if such individual is or may become eligible to receive a benefit under the plan or such individual's beneficiaries may be eligible to receive any such benefit.

(e) DEFINITIONS RELATING TO MARKETS AND SMALL EMPLOYERS.—As used in this title:

(1) INDIVIDUAL MARKET.—The term "individual market" means the market for health insurance coverage offered to individuals and not to employers or in connection with a group health plan and does not include the market for such coverage issued only by an insurer or HMO that makes such coverage available only on the basis of affiliation with a bona fide association (as defined in subsection (c)(2)).

(2) LARGE GROUP MARKET.—The term "large group market" means the market for health insurance coverage offered to employers (other than small employers) on behalf of their employees (and their dependents) and does not include health insurance coverage available solely in connection with a bona fide association (as defined in subsection (c)(2)).

(3) SMALL EMPLOYER.—The term "small employer" means, in connection with a group health plan with respect to a calendar year, an employer who employs at least 2 but fewer than 51 employees on a typical business day in the year. All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this title.

(4) SMALL GROUP MARKET.—The term "small group market" means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) on the

VOL 142 PT 5 MR 21 — 29 1996 UMI

basis of employment or other relationship with respect to a small employer and does not include health insurance coverage available solely in connection with a bona fide association (as defined in subsection (c)(2)).

SEC. 192. STATE FLEXIBILITY TO PROVIDE GREATER PROTECTION.

(a) STATE FLEXIBILITY TO PROVIDE GREATER PROTECTION.—Subject to subsection (b), nothing in this subtitle or subtitle A or B shall be construed to preempt State laws—

(1) that relate to matters not specifically addressed in such subtitles; or

(2) that require insurers or HMOs—

(A) to impose a limitation or exclusion of benefits relating to the treatment of a pre-existing condition for a period that is shorter than the applicable period provided for under such subtitles;

(B) to allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 60-day periods provided for under sections 101(b)(3)(A), 101(b)(3)(B)(ii), and 102(b)(2); or

(C) in defining pre-existing condition, to have a look-back period that is shorter than the 6-month period described in section 101(b)(1)(A).

(b) NO OVERRIDE OF ERISA PREEMPTION.—Except as provided specifically in subtitle C, nothing in this Act shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 193. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided for in this title, the provisions of this title shall apply with respect to—

(1) group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 1998, and

(2) individual health insurance coverage issued, renewed, in effect, or operated on or after July 1, 1998.

(b) CONSIDERATION OF PREVIOUS COVERAGE.—The Secretaries of Health and Human Services, Treasury, and Labor shall jointly establish rules regarding the treatment (in determining qualified coverage periods under sections 102(b) and 141(b)) of coverage before the applicable effective date specified in subsection (a).

(c) TIMELY ISSUANCE OF REGULATIONS.—The Secretaries of Health and Human Services, the Treasury, and Labor shall issue such regulations on a timely basis as may be required to carry out this title.

SEC. 194. RULE OF CONSTRUCTION.

Nothing in this title or any amendment made thereby may be construed to require (or to authorize any regulation that requires) the coverage of any specific procedure, treatment, or service under a group health plan or health insurance coverage.

SEC. 195. FINDINGS RELATING TO EXERCISE OF COMMERCE CLAUSE AUTHORITY.

Congress finds the following in relation to the provisions of this title:

(1) Provisions in group health plans and health insurance coverage that impose certain pre-existing conditions impact the ability of employees to seek employment in interstate commerce, thereby impeding such commerce.

(2) Health insurance coverage is commercial in nature and is in and affects interstate commerce.

(3) It is a necessary and proper exercise of Congressional authority to impose requirements under this title on group health plans and health insurance coverage (including coverage offered to individuals previously covered under group health plans) in order to promote commerce among the States.

(4) Congress, however, intends to defer to States, to the maximum extent practicable, in carrying out such requirements with respect to insurers and health maintenance organizations that are subject to State regulation, consistent with the provisions of the Employee Retirement Income Security Act of 1974.

TITLE II—PREVENTING HEALTH CARE FRAUD AND ABUSE; ADMINISTRATIVE SIMPLIFICATION; MEDICAL LIABILITY REFORM

SEC. 200. REFERENCES IN TITLE.

Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

Subtitle A—Fraud and Abuse Control Program

SEC. 201. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 1997, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to health plans,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse,

"(D) to provide for the modification and establishment of safe harbors and to issue advisory opinions and special fraud alerts pursuant to section 1128D, and

"(E) to provide for the reporting and disclosure of certain final adverse actions against health care providers, suppliers, or practitioners pursuant to the data collection system established under section 1128E.

"(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

"(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

"(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payor, or otherwise.

"(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 242(b) and 249(c) of the Health Coverage Availability and Affordability Act of 1996, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XIX, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT FOR FRAUD AND ABUSE CONTROL PROGRAM, ETC.—

"(A) DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND JUSTICE.—

"(i) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (C), to be available without further appropriation, in an amount not to exceed—

"(I) for fiscal year 1997, $104,000,000,

"(II) for each of the fiscal years 1998 through 2003, the limit for the preceding fiscal year, increased by 15 percent; and

"(III) for each fiscal year after fiscal year 2003, the limit for fiscal year 2003.

"(ii) MEDICARE AND MEDICAID ACTIVITIES.—For each fiscal year, of the amount appropriated in clause (i), the following amounts shall be available only for the purposes of the activities of the Office of the Inspector General of the Department of Health and Human Services with respect to the medicare and medicaid programs—

"(I) for fiscal year 1997, not less than $60,000,000 and not more than $70,000,000;

"(II) for fiscal year 1998, not less than $80,000,000 and not more than $90,000,000;

"(III) for fiscal year 1999, not less than $90,000,000 and not more than $100,000,000;

"(IV) for fiscal year 2000, not less than $110,000,000 and not more than $120,000,000;

"(V) for fiscal year 2001, not less than $120,000,000 and not more than $130,000,000;

"(VI) for fiscal year 2002, not less than $140,000,000 and not more than $150,000,000; and

"(VII) for each fiscal year after fiscal year 2002, not less than $150,000,000 and not more than $160,000,000.

"(B) FEDERAL BUREAU OF INVESTIGATION.—There are hereby appropriated from the general fund of the United States Treasury and hereby appropriated to the Account for transfer to the Federal Bureau of Investigation to carry out the purposes described in subparagraph (C), to be available without further appropriation—

"(i) for fiscal year 1997, $47,000,000;

"(ii) for fiscal year 1998, $56,000,000;

"(iii) for fiscal year 1999, $66,000,000;

"(iv) for fiscal year 2000, $76,000,000;

"(v) for fiscal year 2001, $88,000,000;

"(vi) for fiscal year 2002, $101,000,000; and

"(vii) for each fiscal year after fiscal year 2002, $114,000,000.

"(C) USE OF FUNDS.—The purposes described in this subparagraph are to cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(ii) investigations;

"(iii) financial and performance audits of health care programs and operations;

"(iv) inspections and other evaluations; and

"(v) provider and consumer education regarding compliance with the provisions of title XI.

"(4) APPROPRIATED AMOUNTS TO ACCOUNT FOR MEDICARE INTEGRITY PROGRAM.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under section 1893, subject to subparagraph (B) and to be available without further appropriation.

"(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1997, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1998, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1999, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 2000, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2001, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2002, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For each fiscal year after fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 202. MEDICARE INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(5) Developing (and periodically updating) a list of items of durable medical equipment in accordance with section 1834(a)(15) which are subject to prior authorization under such section.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity demonstrates to the Secretary that the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner; and

"(4) the entity meets such other requirements as the Secretary may impose.

In the case of the activity described in subsection (b)(5), an entity shall be deemed to be eligible to enter into a contract under the Program to carry out the activity if the entity is a carrier with a contract in effect under section 1842.

"(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

"(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

"(2)(A) Except as provided in subparagraph (B), the provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section.

"(B) Competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary, except that the Secretary may contract with entities that are carrying out the activities described in this section pursuant to agreements under section 1816 or contracts under section 1842 in effect on the date of the enactment of this section.

"(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor

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has met or exceeded the performance requirements established in the current contract.

"(e) Limitation on Contractor Liability.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.".

(b) Elimination of FI and Carrier Responsibility for Carrying Out Activities Subject to Program.—

(1) Responsibilities of fiscal intermediaries under part A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.".

(2) Responsibilities of carriers under part B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).".

SEC. 203. BENEFICIARY INCENTIVE PROGRAMS.

(a) Clarification of Requirement to Provide Explanation of Medicare Benefits.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide an explanation of benefits under the medicare program under title XVIII of the Social Security Act with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(b) Program To Collect Information on Fraud and Abuse.—

(1) Establishment of program.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) Payment of portion of amounts collected.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(c) Program To Collect Information on Program Efficiency.—

(1) Establishment of program.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) Payment of portion of program savings.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 204. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH CARE PROGRAMS.

(a) In General.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(1) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(2) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(3) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(4) In the second sentence of subsection (a)—

(A) by striking "a State plan approved under title XIX" and inserting "a Federal health care program", and

(B) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(5) In subsection (b), by striking "title XVIII or a State health care program" each place it appears and inserting "a Federal health care program".

(6) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(7) By adding at the end the following new subsection:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government (other than the health insurance program under chapter 89 of title 5, United States Code); or

"(2) any State health care program, as defined in section 1128(h).".

(b) Effective Date.—The amendments made by this section shall take effect on January 1, 1997.

SEC. 205. GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 201, is amended by inserting after section 1128C the following new section:

"GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS

"Sec. 1128D. (a) Solicitation and Publication of Modifications to Existing Safe Harbors and New Safe Harbors.—

"(1) In general.—

"(A) Solicitation of proposals for safe harbors.—Not later than January 1, 1997, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

"(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

"(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

"(iii) advisory opinions to be issued pursuant to subsection (b); and

"(iv) special fraud alerts to be issued pursuant to subsection (c).

"(B) Publication of proposed modifications and proposed additional safe harbors.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

"(C) Report.—The Inspector General of the Department of Health and Human Services (in this section referred to as the 'Inspector General') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

"(2) Criteria for modifying and establishing safe harbors.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

"(A) An increase or decrease in access to health care services.

"(B) An increase or decrease in the quality of health care services.

"(C) An increase or decrease in patient freedom of choice among health care providers.

"(D) An increase or decrease in competition among health care providers.

"(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

"(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

"(G) An increase or decrease in the potential overutilization of health care services.

"(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

"(i) whether to order a health care item or service; or

"(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

"(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

"(b) Advisory Opinions.—

"(1) Issuance of advisory opinions.—The Secretary shall issue written advisory opinions as provided in this subsection.

"(2) Matters subject to advisory opinions.—The Secretary shall issue advisory opinions as to the following matters:

"(A) What constitutes prohibited remuneration within the meaning of section 1128B(b).

"(B) Whether an arrangement or proposed arrangement satisfies the criteria set forth in section 1128B(b)(3) for activities which do not result in prohibited remuneration.

"(C) Whether an arrangement or proposed arrangement satisfies the criteria which the Secretary has established, or shall establish by regulation for activities which do not result in prohibited remuneration.

"(D) What constitutes an inducement to reduce or limit services to individuals entitled to benefits under title XVIII or title XIX or title XXI within the meaning of section 1128B(b).

"(E) Whether any activity or proposed activity constitutes grounds for the imposition of a sanction under section 1128, 1128A, or 1128B.

"(3) Matters not subject to advisory opinions.—Such advisory opinions shall not address the following matters:

"(A) Whether the fair market value shall be, or was paid or received for any goods, services or property.

"(B) Whether an individual is a bona fide employee within the requirements of section 3121(d)(2) of the Internal Revenue Code of 1986.

"(4) Effect of advisory opinions.—

"(A) Binding as to secretary and parties involved.—Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

"(B) Failure to seek opinion.—The failure of a party to seek an advisory opinion may not be introduced into evidence to prove that the party intended to violate the provisions of sections 1128, 1128A, or 1128B.

"(5) Regulations.—

"(A) In general.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue regulations to carry out this section. Such regulations shall provide for—

"(i) the procedure to be followed by a party applying for an advisory opinion;

"(ii) the procedure to be followed by the Secretary in responding to a request for an advisory opinion;

"(iii) the interval in which the Secretary shall respond;

"(iv) the reasonable fee to be charged to the party requesting an advisory opinion; and

"(v) the manner in which advisory opinions will be made available to the public.

"(B) Specific contents.—Under the regulations promulgated pursuant to subparagraph (A)—

"(i) the Secretary shall be required to respond to a party requesting an advisory opinion by not later than 30 days after the request is received; and

"(ii) the fee charged to the party requesting an advisory opinion shall be equal to the costs incurred by the Secretary in responding to the request.

"(c) Special Fraud Alerts.—

"(1) In general.—

"(A) Request for special fraud alerts.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under the medicare program or a State health care program, as defined in section 1128(h) (in this subsection referred to as a 'special fraud alert').

"(B) Issuance and publication of special fraud alerts.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

"(2) Criteria for special fraud alerts.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

"(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

"(B) the volume and frequency of the conduct that would be identified in the special fraud alert.".

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

SEC. 211. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) Individual Convicted of Felony Relating to Health Care Fraud.—

(1) In general.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) Felony conviction relating to health care fraud.—Any individual or entity that has been convicted after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) Conforming amendment.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

"(1) Conviction relating to fraud.—Any individual or entity that has been convicted after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) Individual Convicted of Felony Relating to Controlled Substance.—

(1) In general.—Section 1128(a) (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) Felony conviction relating to controlled substance.—Any individual or entity that has been convicted after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) Conforming amendment.—Section 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "Conviction" and inserting "Misdemeanor conviction"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 212. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 213. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) Individuals controlling a sanctioned entity.—(A) Any individual—

"(i) who has a direct or indirect ownership or control interest in a sanctioned entity and who knows or should know (as defined in section 1128A(i)(6)) of the action constituting the basis for the conviction or exclusion described in subparagraph (B); or

"(ii) who is an officer or managing employee (as defined in section 1126(b)) of such an entity.

"(B) For purposes of subparagraph (A), the term 'sanctioned entity' means an entity—

"(i) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(ii) that has been excluded from participation under a program under title XVIII or under a State health care program.".

VOL 142 PT 5 MR 21 — 29 1996

SEC. 214. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) Minimum Period of Exclusion for Practitioners and Persons Failing To Meet Statutory Obligations.—

(1) In general.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) Conforming amendment.—Section 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) Repeal of "Unwilling or Unable" Condition for Imposition of Sanction.—Section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 215. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) Application of Intermediate Sanctions for any Program Violations.—

(1) In general.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) Other intermediate sanctions for miscellaneous program violations.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) Procedures for imposing sanctions.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) Conforming amendments.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) Agreements With Peer Review Organizations.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) Effective Date.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 216. ADDITIONAL EXCEPTION TO ANTI-KICKBACK PENALTIES FOR DISCOUNTING AND MANAGED CARE ARRANGEMENTS.

(a) In General.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) any remuneration between an organization and an individual or entity providing items or services, or a combination thereof, pursuant to a written agreement between the organization and the individual or entity if the organization is an eligible organization under section 1876 or if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services, or a combination thereof, which the individual or entity is obligated to provide, whether through a withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.".

(b) Effective Date.—The amendments made by this section shall apply to written agreements entered into on or after January 1, 1997.

SEC. 217. CRIMINAL PENALTY FOR FRAUDULENT DISPOSITION OF ASSETS IN ORDER TO OBTAIN MEDICAID BENEFITS.

Section 1128B(a) (42 U.S.C. 1320a–7b(a)) is amended—

(1) by striking "or" at the end of paragraph (4);

(2) by adding "or" at the end of paragraph (5); and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) knowingly and willfully disposes of assets (including by any transfer in trust) in order for an individual to become eligible for medical assistance under a State plan under title XIX, if disposing of the assets results in the imposition of a period of ineligibility for such assistance under section 1917(c),".

SEC. 218. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect January 1, 1997.

Subtitle C—Data Collection

SEC. 221. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) In General.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 201 and 205, is amended by inserting after section 1128D the following new section:

"HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

"Sec. 1128E. (a) General Purpose.—Not later than January 1, 1997, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

"(b) Reporting of Information.—

"(1) In general.—Each Government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

"(2) Information to be reported.—The information to be reported under paragraph (1) includes:

"(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

"(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

"(C) The nature of the final adverse action and whether such action is on appeal.

"(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

"(3) Confidentiality.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

"(4) Timing and form of reporting.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

"(5) To whom reported.—The information required to be reported under this subsection shall be reported to the Secretary.

"(c) Disclosure and Correction of Information.—

"(1) Disclosure.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

"(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

"(B) procedures in the case of disputed accuracy of the information.

"(2) Corrections.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

"(d) Access to Reported Information.—

"(1) Availability.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

"(2) Fees for disclosure.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

"(e) Protection From Liability for Reporting.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

"(f) Definitions and Special Rules.—For purposes of this section:

"(1) Final adverse action.—

"(A) In general.—The term 'final adverse action' includes:

"(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

"(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

"(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, nonrenewability, or otherwise, or

"(III) any other negative action or finding by such Federal or State agency that is publicly available information.

"(iv) Exclusion from participation in Federal or State health care programs.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) Exception.—The term does not include any action with respect to a malpractice claim.

"(2) Practitioner.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

"(3) Government agency.—The term 'Government agency' shall include:

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

"(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

"(D) State law enforcement agencies.

"(E) State medicaid fraud control units.

"(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

"(4) Health plan.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(5) Determination of conviction.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(i).".

(b) Improved Prevention in Issuance of Medicare Provider Numbers.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.".

Subtitle D—Civil Monetary Penalties

SEC. 231. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) General Civil Monetary Penalties.—Section 1128A (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(f)(1))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Coverage Availability and Affordability Act of 1996 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C).".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))",

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)", and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) Excluded Individual Retaining Ownership or Control Interest in Participating Entity.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection—

"(A) retains a direct or indirect ownership or control interest in an entity that is participating in a program under title XVIII or a State health care program, and who knows or should know of the action constituting the basis for the exclusion; or

"(B) is an officer or managing employee (as defined in section 1126(b)) of such an entity;".

(c) Modifications of Amounts of Penalties and Assessments.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(d) Claim for Item or Service Based on Incorrect Coding or Medically Unnecessary Services.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,";

VOL
142
PT
5
MR
21
—
29
1996
UMI

(2) in subparagraph (C), by striking "or" at the end; and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or should know is not medically necessary; or".

(e) Sanctions Against Practitioners and Persons for Failure To Comply With Statutory Obligations.—Section 1156(b)(3) (42 U.S.C. 1320c–5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(f) Procedural Provisions.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 215(a)(2), is amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (B)(i) or (C)(i) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128A(a).".

(g) Prohibition Against Offering Inducements to Individuals Enrolled Under Programs or Plans.—

(1) Offer of remuneration.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended—

(A) by striking "or" at the end of paragraph (3);

(B) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(D) by inserting after paragraph (4) the following new paragraph:

"(5) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program (as so defined);".

(2) Remuneration defined.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding at the end the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(h) Effective Date.—The amendments made by this section shall take effect January 1, 1997.

SEC. 232. CLARIFICATION OF LEVEL OF INTENT REQUIRED FOR IMPOSITION OF SANCTIONS.

(a) Clarification of Level of Knowledge Required for Imposition of Civil Monetary Penalties.—

(1) In general.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) in paragraphs (1) and (2), by inserting "knowingly" before "presents" each place it appears; and

(B) in paragraph (3), by striking "gives" and inserting "knowingly gives or causes to be given".

(2) Definition of standard.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)), as amended by section 231(g)(2), is amended by adding at the end the following new paragraph:

"(7) The term 'should know' means that a person, with respect to information—

"(A) acts in deliberate ignorance of the truth or falsity of the information; or

"(B) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required.".

(b) Effective Date.—The amendments made by this section shall apply to acts or omissions occurring on or after January 1, 1997.

SEC. 233. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.

(a) In General.—Section 1128A(b) (42 U.S.C. 1320a–7a(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

"(i) $5,000, or

"(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

"(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act.

Subtitle E—Revisions to Criminal Law

SEC. 241. DEFINITIONS RELATING TO FEDERAL HEALTH CARE OFFENSE.

(a) In General.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"§ 24. Definitions relating to Federal health care offense

"(a) As used in this title, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(1) section 669, 1035, 1347, or 1518 of this title; or

"(2) section 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title, if the violation or conspiracy relates to a health care benefit program.

"(b) As used in this title, the term 'health care benefit program' means any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 23 the following new item:

"24. Definitions relating to Federal health care offense.".

SEC. 242. HEALTH CARE FRAUD.

(a) Offense.—

(1) In general.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

"Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health care benefit program; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.".

(2) Clerical amendment.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) Criminal Fines Deposited in Federal Hospital Insurance Trust Fund.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act (42 U.S.C. 1395i) an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 243. THEFT OR EMBEZZLEMENT.

(a) In General.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"§ 669. Theft or embezzlement in connection with health care

"(a) Whoever embezzles, steals, or otherwise without authority knowingly converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care benefit program, shall be fined under this title or imprisoned not more than 10 years, or both; but if the value of such property does not exceed the sum of $100 the defendant shall be fined under this title or imprisoned not more than one year, or both.

"(b) As used in this section, the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or embezzlement in connection with health care.".

SEC. 244. FALSE STATEMENTS.

(a) In General.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1035. False statements relating to health care matters

"(a) Whoever, in any matter involving a health care benefit program, knowingly—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or

"(2) makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section, the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

"1035. False statements relating to health care matters.".

SEC. 245. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF HEALTH CARE OFFENSES.

(a) In General.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"§ 1518. Obstruction of criminal investigations of health care offenses

"(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

"1518. Obstruction of criminal investigations of health care offenses.".

SEC. 246. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following:

"(F) Any act or activity constituting an offense involving a Federal health care offense.".

SEC. 247. INJUNCTIVE RELIEF RELATING TO HEALTH CARE OFFENSES.

(a) In General.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense.".

(b) Freezing of Assets.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense" after "title)".

SEC. 248. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) In General.—Chapter 223 of title 18, United States Code, is amended by adding after section 3485 the following:

"§ 3486. Authorized investigative demand procedures

"(a) Authorization.—In any investigation relating to any act or activity involving a Federal health care offense, the Attorney General or the Attorney General's designee may issue in writing and cause to be served a subpoena requiring the production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. A subpoena shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(b) Service.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) Enforcement.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

"(d) Immunity From Civil Liability.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a summons under this section, who complies in good faith with the summons and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e) Limitation on Use.—(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefor.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

"3486. Authorized investigative demand procedures.".

(c) Conforming Amendment.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486 of title 18)," after "subpoena".

SEC. 249. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) In General.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.".

(b) Conforming Amendment.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) Property Forfeited Deposited in Federal Hospital Insurance Trust Fund.—

(1) In general.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 301(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) Costs of asset forfeiture.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services;

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

VOL
142
PT
5
MR
21
—
29
1996
UMI

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 250. RELATION TO ERISA AUTHORITY.

Nothing in this subtitle shall be construed as affecting the authority of the Secretary of Labor under section 506(b) of the Employee Retirement Income Security Act of 1974, including the Secretary's authority with respect to violations of title 18, United States Code (as amended by this subtitle).

Subtitle F—Administrative Simplification

SEC. 251. PURPOSE.

It is the purpose of this subtitle to improve the medicare program under title XVIII of the Social Security Act, the medicaid program under title XIX of such Act, and the efficiency and effectiveness of the health care system, by encouraging the development of a health information system through the establishment of standards and requirements for the electronic transmission of certain health information.

SEC. 252. ADMINISTRATIVE SIMPLIFICATION.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

"PART C—ADMINISTRATIVE SIMPLIFICATION

"DEFINITIONS

"SEC. 1171. For purposes of this part:

"(1) CLEARINGHOUSE.—The term 'clearinghouse' means a public or private entity that processes or facilitates the processing of nonstandard data elements of health information into standard data elements.

"(2) CODE SET.—The term 'code set' means any set of codes used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

"(3) HEALTH CARE PROVIDER.—The term 'health care provider' includes a provider of services (as defined in section 1861(u)), a provider of medical or other health services (as defined in section 1861(s)), and any other person furnishing health care services or supplies.

"(4) HEALTH INFORMATION.—The term 'health information' means any information, whether oral or recorded in any form or medium that—

"(A) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or clearinghouse; and

"(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

"(5) HEALTH PLAN.—The term 'health plan' means a plan which provides, or pays the cost of, health benefits. Such term includes the following, and any combination thereof:

"(A) Part A or part B of the medicare program under title XVIII.

"(B) The medicaid program under title XIX.

"(C) A medicare supplemental policy (as defined in section 1882(g)(1)).

"(D) A long-term care policy, including a nursing home fixed indemnity policy (unless the Secretary determines that such a policy does not provide sufficiently comprehensive coverage of a benefit so that the policy should be treated as a health plan).

"(E) Health benefits of an employee welfare benefit plan, as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), but only to the extent the plan is established or maintained for the purpose of providing health benefits and has 50 or more participants (as defined in section 3(7) of such Act).

"(F) An employee welfare benefit plan or any other arrangement which is established or maintained for the purpose of offering or providing health benefits to the employees of 2 or more employers.

"(G) The health care program for active military personnel under title 10, United States Code.

"(H) The veterans health care program under chapter 17 of title 38, United States Code.

"(I) The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1073(4) of title 10, United States Code.

"(J) The Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(K) The Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code.

"(6) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' means any information, including demographic information collected from an individual, that—

"(A) is created or received by a health care provider, health plan, employer, or clearinghouse; and

"(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and—

"(i) identifies the individual; or

"(ii) with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

"(7) STANDARD.—The term 'standard', when used with reference to a data element of health information or a transaction referred to in section 1173(a)(1), means any such data element or transaction that meets each of the standards and implementation specifications adopted or established by the Secretary with respect to the data element or transaction under sections 1172 through 1174.

"(8) STANDARD SETTING ORGANIZATION.—The term 'standard setting organization' means a standard setting organization accredited by the American National Standards Institute, including the National Council for Prescription Drug Programs, that develops standards for information transactions, data elements, or any other standard that is necessary to, or will facilitate, the implementation of this part.

"GENERAL REQUIREMENTS FOR ADOPTION OF STANDARDS

"SEC. 1172. (a) APPLICABILITY.—Any standard adopted under this part shall apply, in whole or in part, to the following persons:

"(1) An health plan.

"(2) A clearinghouse.

"(3) A health care provider who transmits any health information in electronic form in connection with a transaction referred to in section 1173(a)(1).

"(b) REDUCTION OF COSTS.—Any standard adopted under this part shall be consistent with the objective of reducing the administrative costs of providing and paying for health care.

"(c) ROLE OF STANDARD SETTING ORGANIZATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any standard adopted under this part shall be a standard that has been developed, adopted, or modified by a standard setting organization.

"(2) SPECIAL RULES.—

"(A) DIFFERENT STANDARDS.—The Secretary may adopt a standard that is different from any standard developed, adopted, or modified by a standard setting organization, if—

"(i) the different standard will substantially reduce administrative costs to health care providers and health plans compared to the alternatives; and

"(ii) the standard is promulgated in accordance with the rulemaking procedures of subchapter III of chapter 5 of title 5, United States Code.

"(B) NO STANDARD BY STANDARD SETTING ORGANIZATION.—If no standard setting organization has developed, adopted, or modified any standard relating to a standard that the Secretary is authorized or required to adopt under this part—

"(i) paragraph (1) shall not apply; and

"(ii) subsection (f) shall apply.

"(d) IMPLEMENTATION SPECIFICATIONS.—The Secretary shall establish specifications for implementing each of the standards adopted under this part.

"(e) PROTECTION OF TRADE SECRETS.—Except as otherwise required by law, a standard adopted under this part shall not require disclosure of trade secrets or confidential commercial information by a person required to comply with this part.

"(f) ASSISTANCE TO THE SECRETARY.—In complying with the requirements of this part, the Secretary shall rely on the recommendations of the National Committee on Vital and Health Statistics established under section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)) and shall consult with appropriate Federal and State agencies and private organizations. The Secretary shall publish in the Federal Register any recommendation of the National Committee on Vital and Health Statistics regarding the adoption of a standard under this part.

"(g) APPLICATION TO MODIFICATIONS OF STANDARDS.—This section shall apply to a modification to a standard (including an addition to a standard) adopted under section 1174(b) in the same manner as it applies to an initial standard adopted under section 1174(a).

"STANDARDS FOR INFORMATION TRANSACTIONS AND DATA ELEMENTS

"SEC. 1173. (a) STANDARDS TO ENABLE ELECTRONIC EXCHANGE.—

"(1) IN GENERAL.—The Secretary shall adopt standards for transactions, and data elements for such transactions, to enable health information to be exchanged electronically, that are appropriate for—

"(A) the financial and administrative transactions described in paragraph (2); and

"(B) other financial and administrative transactions determined appropriate by the Secretary consistent with the goals of improving the operation of the health care system and reducing administrative costs.

"(2) TRANSACTIONS.—The transactions referred to in paragraph (1)(A) are the following:

"(A) Claims (including coordination of benefits) or equivalent encounter information.

"(B) Claims attachments.

"(C) Enrollment and disenrollment.

"(D) Eligibility.

"(E) Health care payment and remittance advice.

"(F) Premium payments.

"(G) First report of injury.

"(H) Claims status.

"(I) Referral certification and authorization.

"(3) ACCOMMODATION OF SPECIFIC PROVIDERS.—The standards adopted by the Secretary under paragraph (1) shall accommodate the needs of different types of health care providers.

"(b) UNIQUE HEALTH IDENTIFIERS.—

"(1) IN GENERAL.—The Secretary shall adopt standards providing for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the health care system. In carrying out the preceding sentence for each health plan and health care provider, the Secretary shall take into account multiple uses for identifiers and multiple locations and specialty classifications for health care providers.

"(2) USE OF IDENTIFIERS.—The standards adopted under paragraphs (1) shall specify the purposes for which a unique health identifier may be used.

"(c) CODE SETS.—

"(1) IN GENERAL.—The Secretary shall adopt standards that—

"(A) select code sets for appropriate data elements for the transactions referred to in subsection (a)(1) from among the code sets that have been developed by private and public entities; or

"(B) establish code sets for such data elements if no code sets for the data elements have been developed.

"(2) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution (including electronic distribution) of code sets and modifications made to such code sets under section 1174(b).

"(d) SECURITY STANDARDS FOR HEALTH INFORMATION.—

"(1) SECURITY STANDARDS.—The Secretary shall adopt security standards that—

"(A) take into account—

"(i) the technical capabilities of record systems used to maintain health information;

"(ii) the costs of security measures;

"(iii) the need for training persons who have access to health information;

"(iv) the value of audit trails in computerized record systems; and

"(v) the needs and capabilities of small health care providers and rural health care providers (as such providers are defined by the Secretary); and

"(B) ensure that a clearinghouse, if it is part of a larger organization, has policies and security procedures which isolate the activities of the clearinghouse with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.

"(2) SAFEGUARDS.—Each person described in section 1172(a) who maintains or transmits health information shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

"(A) to ensure the integrity and confidentiality of the information;

"(B) to protect against any reasonably anticipated—

"(i) threats or hazards to the security or integrity of the information; and

"(ii) unauthorized uses or disclosures of the information; and

"(C) otherwise to ensure compliance with this part by the officers and employees of such person.

"(e) PRIVACY STANDARDS FOR HEALTH INFORMATION.—The Secretary shall adopt standards with respect to the privacy of individually identifiable health information transmitted in connection with the transactions referred to in subsection (a)(1). Such standards shall include standards concerning at least the following:

"(1) The rights of an individual who is a subject of such information.

"(2) The procedures to be established for the exercise of such rights.

"(3) The uses and disclosures of such information that are authorized or required.

"(f) ELECTRONIC SIGNATURE.—

"(1) IN GENERAL.—

"(A) STANDARDS.—The Secretary, in coordination with the Secretary of Commerce, shall adopt standards specifying procedures for the electronic transmission and authentication of signatures with respect to the transactions referred to in subsection (a)(1).

"(B) EFFECT OF COMPLIANCE.—Compliance with the standards adopted under subparagraph (A) shall be deemed to satisfy Federal and State statutory requirements for written signatures with respect to the transactions referred to in subsection (a)(1).

"(2) PAYMENTS FOR SERVICES AND PREMIUMS.—Nothing in this part shall be construed to prohibit payment for health care services or health plan premiums by debit, credit, payment card or numbers, or other electronic means.

"(g) TRANSFER OF INFORMATION AMONG HEALTH PLANS.—The Secretary shall adopt standards for transferring among health plans appropriate standard data elements needed for the coordination of benefits, the sequential processing of claims, and other data elements for individuals who have more than one health plan.

"TIMETABLES FOR ADOPTION OF STANDARDS

"SEC. 1174. (a) INITIAL STANDARDS.—The Secretary shall carry out section 1173 not later than 18 months after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, except that standards relating to claims attachments shall be adopted not later than 30 months after such date.

"(b) ADDITIONS AND MODIFICATIONS TO STANDARDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall review the standards adopted under section 1173, and shall adopt modifications to the standards (including additions to the standards), as determined appropriate, but not more frequently than once every 6 months. Any addition or modification to a standard shall be completed in a manner which minimizes the disruption and cost of compliance.

"(2) SPECIAL RULES.—

"(A) FIRST 12-MONTH PERIOD.—Except with respect to additions and modifications to code sets under subparagraph (B), the Secretary may not adopt any modification to a standard adopted under this part during the 12-month period beginning on the date the standard is initially adopted, unless the Secretary determines that the modification is necessary in order to permit compliance with the standard.

"(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

"(i) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

"(ii) ADDITIONAL RULES.—If a code set is modified under this subsection, the modified code set shall include instructions on how data elements of health information that were encoded prior to the modification may be converted or translated so as to preserve the informational value of the data elements that existed before the modification. Any modification to a code set under this subsection shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

"REQUIREMENTS

"SEC. 1175. (a) CONDUCT OF TRANSACTIONS BY PLANS.—

"(1) IN GENERAL.—If a person desires to conduct a transaction referred to in section 1173(a)(1) with a health plan as a standard transaction—

"(A) the health plan may not refuse to conduct such transaction as a standard transaction;

"(B) the health plan may not delay such transaction, or otherwise adversely affect, or attempt to adversely affect, the person or the transaction on the ground that the transaction is a standard transaction; and

"(C) the information transmitted and received in connection with the transaction shall be in the form of standard data elements of health information.

"(2) SATISFACTION OF REQUIREMENTS.—A health plan may satisfy the requirements under paragraph (1) by—

"(A) directly transmitting and receiving standard data elements of health information; or

"(B) submitting nonstandard data elements to a clearinghouse for processing into standard data elements and transmission by the clearinghouse, and receiving standard data elements through the clearinghouse.

"(3) TIMETABLE FOR COMPLIANCE.—Paragraph (1) shall not be construed to require a health plan to comply with any standard, implementation specification, or modification to a standard or specification adopted or established by the Secretary under sections 1172 through 1174 at any time prior to the date on which the plan is required to comply with the standard or specification under subsection (b).

"(b) COMPLIANCE WITH STANDARDS.—

"(1) INITIAL COMPLIANCE.—

"(A) IN GENERAL.—Not later than 24 months after the date on which an initial standard or implementation specification is adopted or established under sections 1172 and 1173, each person to whom the standard or implementation specification applies shall comply with the standard or specification.

"(B) SPECIAL RULE FOR SMALL HEALTH PLANS.—In the case of a small health plan, paragraph (1) shall be applied by substituting '36 months' for '24 months'. For purposes of this subsection, the Secretary shall determine the plans that qualify as small health plans.

"(2) COMPLIANCE WITH MODIFIED STANDARDS.—If the Secretary adopts a modification to a standard or implementation specification under this part, each person to whom the standard or implementation specification applies shall comply with the modified standard or implementation specification at such time as the Secretary determines appropriate, taking into account the time needed to comply due to the nature and extent of the modification. The time determined appropriate under the preceding sentence may not be earlier than the last day of the 180-day period beginning on the date such modification is adopted. The Secretary may extend the time for compliance for small insurance plans, if the Secretary determines that such extension is appropriate.

"GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS

"SEC. 1176. (a) GENERAL PENALTY.—

"(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall impose on any person who violates a provision of this part a penalty of not more than $100 for each such violation, except that the total amount imposed on the person for all violations of an

VOL
142
PT
5
MR
21
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29
1996
UMI

identical requirement or prohibition during a calendar year may not exceed $25,000.

"(2) PROCEDURES.—The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this subsection in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.

"(b) LIMITATIONS.—

"(1) OFFENSES OTHERWISE PUNISHABLE.—A penalty may not be imposed under subsection (a) with respect to an act if the act constitutes an offense punishable under section 1177.

"(2) NONCOMPLIANCE NOT DISCOVERED.—A penalty may not be imposed under subsection (a) with respect to a provision of this part if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person violated the provision.

"(3) FAILURES DUE TO REASONABLE CAUSE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a penalty may not be imposed under subsection (a) if—

"(i) the failure to comply was due to reasonable cause and not to willful neglect; and

"(ii) the failure to comply is corrected during the 30-day period beginning on the first date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

"(B) EXTENSION OF PERIOD.—

"(i) NO PENALTY.—The period referred to in subparagraph (A)(ii) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

"(ii) ASSISTANCE.—If the Secretary determines that a person failed to comply because the person was unable to comply, the Secretary may provide technical assistance to the person during the period described in subparagraph (A)(ii). Such assistance shall be provided in any manner determined appropriate by the Secretary.

"(4) REDUCTION.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under subsection (a) that is not entirely waived under paragraph (3) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

"WRONGFUL DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

"SEC. 1177. (a) OFFENSE.—A person who knowingly and in violation of this part—

"(1) uses or causes to be used a unique health identifier;

"(2) obtains individually identifiable health information relating to an individual; or

"(3) discloses individually identifiable health information to another person,

shall be punished as provided in subsection (b).

"(b) PENALTIES.—A person described in subsection (a) shall—

"(1) be fined not more than $50,000, imprisoned not more than 1 year, or both;

"(2) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both; and

"(3) if the offense is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, fined not more than $250,000, imprisoned not more than 10 years, or both.

"EFFECT ON STATE LAW

"SEC. 1178. (a) GENERAL EFFECT.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), a provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall supersede any contrary provision of State law, including a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form.

"(2) EXCEPTIONS.—A provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall not supersede a contrary provision of State law, if the provision of State law—

"(A) imposes requirements, standards, or implementation specifications that are more stringent than the requirements, standards, or implementation specifications under this part with respect to the privacy of individually identifiable health information; or

"(B) is a provision the Secretary determines—

"(i) is necessary to prevent fraud and abuse, or for other purposes; or

"(ii) addresses controlled substances.

"(b) PUBLIC HEALTH REPORTING.—Nothing in this part shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.".

(b) CONFORMING AMENDMENTS.—

(1) REQUIREMENT FOR MEDICARE PROVIDERS.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (P);

(B) by striking the period at the end of subparagraph (Q) and inserting "; and"; and

(C) by inserting immediately after subparagraph (Q) the following new subparagraph:

"(R) to contract only with a clearinghouse (as defined in section 1171) that meets each standard and implementation specification adopted or established under part C of title XI on or after the date on which the clearinghouse is required to comply with the standard or specification.".

(2) TITLE HEADING.—Title XI (42 U.S.C. 1301 et seq.) is amended by striking the title heading and inserting the following:

"TITLE XI—GENERAL PROVISIONS, PEER REVIEW, AND ADMINISTRATIVE SIMPLIFICATION".

SEC. 253. CHANGES IN MEMBERSHIP AND DUTIES OF NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS.

Section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)) is amended—

(1) in paragraph (1), by striking "16" and inserting "18";

(2) by amending paragraph (2) to read as follows:

"(2) The members of the Committee shall be appointed from among persons who have distinguished themselves in the fields of health statistics, electronic interchange of health care information, privacy and security of electronic information, population-based public health, purchasing or financing health care services, integrated computerized health information systems, health services research, consumer interests in health information, health data standards, epidemiology, and the provision of health services. Members of the Committee shall be appointed for terms of 4 years.";

(3) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and inserting after paragraph (2) the following:

"(3) Of the members of the Committee—

"(A) 1 shall be appointed, not later than 60 days after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, by the Speaker of the House of Representatives after consultation with the minority leader of the House of Representatives;

"(B) 1 shall be appointed, not later than 60 days after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, by the President pro tempore of the Senate after consultation with the minority leader of the Senate; and

"(C) 16 shall be appointed by the Secretary.";

(4) by amending paragraph (5) (as so redesignated) to read as follows:

"(5) The Committee—

"(A) shall assist and advise the Secretary—

"(i) to delineate statistical problems bearing on health and health services which are of national or international interest;

"(ii) to stimulate studies of such problems by other-organizations and agencies whenever possible or to make investigations of such problems through subcommittees;

"(iii) to determine, approve, and revise the terms, definitions, classifications, and guidelines for assessing health status and health services, their distribution and costs, for use (I) within the Department of Health and Human Services, (II) by all programs administered or funded by the Secretary, including the Federal-State-local cooperative health statistics system referred to in subsection (e), and (III) to the extent possible as determined by the head of the agency involved, by the Department of Veterans Affairs, the Department of Defense, and other Federal agencies concerned with health and health services;

"(iv) with respect to the design of and approval of health statistical and health information systems concerned with the collection, processing, and tabulation of health statistics within the Department of Health and Human Services, with respect to the Cooperative Health Statistics System established under subsection (e), and with respect to the standardized means for the collection of health information and statistics to be established by the Secretary under subsection (j)(1);

"(v) to review and comment on findings and proposals developed by other organizations and agencies and to make recommendations for their adoption or implementation by local, State, national, or international agencies;

"(vi) to cooperate with national committees of other countries and with the World Health Organization and other national agencies in the studies of problems of mutual interest;

"(vii) to issue an annual report on the state of the Nation's health, its health services, their costs and distributions, and to make proposals for improvement of the Nation's health statistics and health information systems; and

"(viii) in complying with the requirements imposed on the Secretary under part C of title XI of the Social Security Act;

"(B) shall study the issues related to the adoption of uniform data standards for patient medical record information and the electronic exchange of such information;

"(C) shall report to the Secretary not later than 4 years after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996 recommendations and legislative proposals for such standards and electronic exchange; and

"(D) shall be responsible generally for advising the Secretary and the Congress on the status of the implementation of part C of title XI of the Social Security Act."; and

(5) by adding at the end the following:

"(7) Not later than 1 year after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, and annually thereafter, the Committee shall submit to the Congress, and make public, a report regarding—

"(A) the extent to which persons required to comply with part C of title XI of the Social Security Act are cooperating in implementing the standards adopted under such part;

"(B) the extent to which such entities are meeting the privacy and security standards adopted under such part and the types of penalties assessed for noncompliance with such standards;

"(C) whether the Federal and State Governments are receiving information of sufficient quality to meet their responsibilities under such part;

"(D) any problems that exist with respect to implementation of such part; and

"(E) the extent to which timetables under such part are being met.".

Subtitle G—Duplication and Coordination of Medicare-Related Plans

SEC. 261. DUPLICATION AND COORDINATION OF MEDICARE-RELATED PLANS.

(a) TREATMENT OF CERTAIN HEALTH INSURANCE POLICIES AS NONDUPLICATIVE.—Effective as if included in the enactment of section 4354 of the Omnibus Budget Reconciliation Act of 1990, section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(1) in clause (iii), by striking "clause (i)" and inserting "clause (i)(II)"; and

(2) by adding at the end the following:

"(iv) For purposes of this subparagraph, a health insurance policy providing for benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual is not considered to 'duplicate' any health benefits under this title, under title XIX, or under a health insurance policy, and subclauses (I) and (III) of clause (i) does not apply to such a policy.

"(v)(I) For purposes of this subparagraph, a health insurance policy (or a rider to an insurance contract which is not a health insurance policy), providing benefits for long-term care, nursing home care, home health care, or community-based care and that coordinates against or excludes items and services available or paid for under this title and (for policies sold or issued on or after 90 days after the date of enactment of this clause) that discloses such coordination or exclusion in the policy's outline of coverage, is not considered to 'duplicate' health benefits under this title.

"(II) For purposes of this subparagraph, a health insurance policy (which may be a contract with a health maintenance organization) that is a replacement product for another health insurance policy that is being terminated by the issuer, that is being provided to an individual entitled to benefits under part A on the basis of section 226(b), and that coordinates against or excludes items and services available or paid for under this title is not considered to 'duplicate' health benefits under this title.

"(III) For purposes of this clause, the terms 'coordinates' and 'coordination' mean, with respect to a policy in relation to health benefits under this title, that the policy under its terms is secondary to, or excludes from payment, items and services to the extent available or paid for under this title.

"(vi) Notwithstanding any other provision of law, no criminal or civil penalty may be imposed at any time under this subparagraph and no legal action may be brought or continued at any time in any Federal or State court if the penalty or action is based on an act or omission that occurred after November 5, 1991, and before the date of the enactment of this clause, and relates to the sale, issuance, or renewal of any health insurance policy or rider during such period, if such policy or rider meets the nonduplication requirements of clause (iv) or (v).

"(vii) A State may not impose, in the case of the sale, issuance, or renewal of a health insurance policy (other than a medicare supplemental policy) or rider to an insurance contract which is not a health insurance policy, that meets the nonduplication requirements of this section pursuant to clause (iv) or (v) to an individual entitled to benefits under part A or enrolled under part B, any requirement relating to any duplication (or nonduplication) of health benefits under such policy or rider with health benefits to which the individual is otherwise entitled to under this title.".

(b) CONFORMING AMENDMENTS.—Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended—

(1) in subparagraph (C)—

(A) by striking "with respect to (i)" and inserting "with respect to", and

(B) by striking ", (ii) the sale" and all that follows up to the period at the end; and

(2) by striking subparagraph (D).

Subtitle H—Medical Liability Reform

PART 1—GENERAL PROVISIONS

SEC. 271. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS.

(a) APPLICABILITY.—This subtitle shall apply with respect to any health care liability action brought in any State or Federal court, except that this subtitle shall not apply to—

(1) an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action, or

(2) an action under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(b) PREEMPTION.—This subtitle shall preempt any State law to the extent such law is inconsistent with the limitations contained in this subtitle. This subtitle shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this subtitle or otherwise imposes greater restrictions than those provided in this subtitle.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) AMOUNT IN CONTROVERSY.—In an action to which this subtitle applies and which is brought under section 1332 of title 28, United States Code, the amount of noneconomic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(e) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 272. DEFINITIONS.

As used in this subtitle:

(1) ACTUAL DAMAGES.—The term "actual damages" means damages awarded to pay for economic loss.

(2) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system established under Federal or State law that provides for the resolution of health care liability claims in a manner other than through health care liability actions.

(3) CLAIMANT.—The term "claimant" means any person who brings a health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(4) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. Such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(5) COLLATERAL SOURCE PAYMENTS.—The term "collateral source payments" means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(6) DRUG.—The term "drug" has the meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(7) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from injury (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State law.

VOL
142
PT
5
MR
21
—
29
1996
UMI

(8) Harm.—The term "harm" means any legally cognizable wrong or injury for which punitive damages may be imposed.

(9) Health benefit plan.—The term "health benefit plan" means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract,

(D) a multiple employer welfare arrangement or employee benefit plan (as defined under the Employee Retirement Income Security Act of 1974), or

(E) a MedicarePlus product (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(10) Health care liability action.—The term "health care liability action" means a civil action brought in a State or Federal court against a health care provider, an entity which is obligated to provide or pay for health benefits under any health benefit plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or distribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

(11) Health care liability claim.—The term "health care liability claim" means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services.

(12) Health care provider.—The term "health care provider" means any person that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(13) Health care service.—The term "health care service" means any service for which payment may be made under a health benefit plan including services related to the delivery or administration of such service.

(14) Medical device.—The term "medical device" has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(15) Noneconomic damages.—The term "noneconomic damages" means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

(16) Person.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(17) Product seller.—The term "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, rents, leases, prepares, blends, packages, labels a product, is otherwise involved in placing a product in the stream of commerce, or installs, repairs, or maintains the harm-causing aspect of a product. The term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; or

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(18) Punitive damages.—The term "punitive damages" means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

(19) State.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 273. EFFECTIVE DATE.

This subtitle will apply to any health care liability action brought in a Federal or State court and to any health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of enactment of this subtitle, except that any health care liability claim or action arising from an injury occurring prior to the date of enactment of this subtitle shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

PART 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

SEC. 281. STATUTE OF LIMITATIONS.

A health care liability action may not be brought after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of the action was discovered or should reasonably have been discovered, but in no case after the expiration of the 5-year period that begins on the date the alleged injury occurred.

SEC. 282. CALCULATION AND PAYMENT OF DAMAGES.

(a) Treatment of Noneconomic Damages.—

(1) Limitation on noneconomic damages.—The total amount of noneconomic damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(2) Joint and several liability.—In any health care liability action brought in State or Federal court, a defendant shall be liable only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

(b) Treatment of Punitive Damages.—

(1) General rule.—Punitive damages may, to the extent permitted by applicable State law, be awarded in any health care liability action for harm in any Federal or State court against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct—

(A) specifically intended to cause harm, or

(B) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) Proportional awards.—The amount of punitive damages that may be awarded in any health care liability action subject to this subtitle shall not exceed 3 times the amount of damages awarded to the claimant for economic loss, or $250,000, whichever is greater. This paragraph shall be applied by the court and shall not be disclosed to the jury.

(3) Applicability.—This subsection shall apply to any health care liability action brought in any Federal or State court on any theory where punitive damages are sought. This subsection does not create a cause of action for punitive damages. This subsection does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages.

(4) Bifurcation.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded.

(5) Drugs and devices.—

(A) In general.—(i) Punitive damages shall not be awarded against a manufacturer or product seller of a drug or medical device which caused the claimant's harm where—

(I) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm, or the adequacy of the packaging or labeling of such drug or device which caused the harm, and such drug, device, packaging, or labeling was approved by the Food and Drug Administration; or

(II) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(ii) Clause (i) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(I) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(II) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(B) Packaging.—In a health care liability action for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(c) Periodic Payments for Future Losses.—

(1) General rule.—In any health care liability action in which the damages awarded for future economic and noneconomic loss exceeds $50,000, a person shall not be required

to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are found likely to occur, as such payments are determined by the court.

(2) Finality of judgment.—The judgment of the court awarding periodic payments under this subsection may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(3) Lump-sum settlements.—This subsection shall not be construed to preclude a settlement providing for a single, lump-sum payment.

(d) Treatment of Collateral Source Payments.—

(1) Introduction into evidence.—In any health care liability action, any defendant may introduce evidence of collateral source payments. If any defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(2) No subrogation.—No provider of collateral source payments shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated the right of the claimant in a health care liability action.

(3) Application to settlements.—This subsection shall apply to an action that is settled as well as an action that is resolved by a fact finder.

SEC. 283. ALTERNATIVE DISPUTE RESOLUTION.

Any ADR used to resolve a health care liability action or claim shall contain provisions relating to statute of limitations, noneconomic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are identical to the provisions relating to such matters in this subtitle.

TITLE III—TAX-RELATED HEALTH PROVISIONS

SEC. 300. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Medical Savings Accounts

SEC. 301. MEDICAL SAVINGS ACCOUNTS.

(a) In General.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. MEDICAL SAVINGS ACCOUNTS.

"(a) Deduction Allowed.—In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to a medical savings account of such individual.

"(b) Limitations.—

"(1) In general.—Except as otherwise provided in this subsection, the amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed—

"(A) except as provided in subparagraph (B), the lesser of—

"(i) $2,000, or

"(ii) the annual deductible limit for any individual covered under the high deductible health plan, or

"(B) in the case of a high deductible health plan covering the taxpayer and any other eligible individual who is the spouse or any dependent (as defined in section 152) of the taxpayer, the lesser of—

"(i) $4,000, or

"(ii) the annual limit under the plan on the aggregate amount of deductibles required to be paid by all individuals.

The preceding sentence shall not apply if the spouse of such individual is covered under any other high deductible health plan.

"(2) Special rule for married individuals.—

"(A) In general.—This subsection shall be applied separately for each married individual.

"(B) Special rule.—If individuals who are married to each other are covered under the same high deductible health plan, then the amounts applicable under paragraph (1)(B) shall be divided equally between them unless they agree on a different division.

"(3) Coordination with exclusion for employer contributions.—No deduction shall be allowed under this section for any amount paid for any taxable year to a medical savings account of an individual if—

"(A) any amount is paid to any medical savings account of such individual which is excludable from gross income under section 106(b) for such year, or

"(B) in a case described in paragraph (2)(B), any amount is paid to any medical savings account of either spouse which is so excludable for such year.

"(4) Proration of limitation.—

"(A) In general.—The limitation under paragraph (1) shall be the sum of the monthly limitations for months during the taxable year that the individual is an eligible individual if—

"(i) such individual is not an eligible individual for all months of the taxable year,

"(ii) the deductible under the high deductible health plan covering such individual is not the same throughout such taxable year, or

"(iii) such limitation is determined under paragraph (1)(B) for some but not all months during such taxable year.

"(B) Monthly limitation.—The monthly limitation for any month shall be an amount equal to 1/12 of the limitation which would (but for this paragraph and paragraph (3)) be determined under paragraph (1) if the facts and circumstances as of the first day of such month that such individual is covered under a high deductible health plan were true for the entire taxable year.

"(5) Denial of deduction to dependents.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(c) Definitions.—For purposes of this section—

"(1) Eligible individual.—

"(A) In general.—The term 'eligible individual' means, with respect to any month, any individual—

"(i) who is covered under a high deductible health plan as of the 1st day of such month, and

"(ii) who is not, while covered under a high deductible health plan, covered under any health plan—

"(I) which is not a high deductible health plan, and

"(II) which provides coverage for any benefit which is covered under the high deductible health plan.

"(B) Certain coverage disregarded.—Subparagraph (A)(ii) shall be applied without regard to—

"(i) coverage for any benefit provided by permitted insurance, and

"(ii) coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.

"(2) High deductible health plan.—The term 'high deductible health plan' means a health plan which—

"(A) has an annual deductible limit for each individual covered by the plan which is not less than $1,500, and

"(B) has an annual limit on the aggregate amount of deductibles required to be paid with respect to all individuals covered by the plan which is not less than $3,000.

Such term does not include a health plan if substantially all of its coverage is coverage described in paragraph (1)(B). A plan shall not fail to be treated as a high deductible health plan by reason of failing to have a deductible for preventive care if the absence of a deductible for such care is required by State law.

"(3) Permitted insurance.—The term 'permitted insurance' means—

"(A) Medicare supplemental insurance,

"(B) insurance if substantially all of the coverage provided under such insurance relates to—

"(i) liabilities incurred under workers' compensation laws,

"(ii) tort liabilities,

"(iii) liabilities relating to ownership or use of property, or

"(iv) such other similar liabilities as the Secretary may specify by regulations,

"(C) insurance for a specified disease or illness, and

"(D) insurance paying a fixed amount per day (or other period) of hospitalization.

"(d) Medical Savings Account.—For purposes of this section—

"(1) Medical savings account.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a rollover contribution described in subsection (f)(5), no contribution will be accepted—

"(i) unless it is in cash, or

"(ii) to the extent such contribution, when added to previous contributions to the trust for the calendar year, exceeds $4,000.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(2) Qualified medical expenses.—

"(A) In general.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder for medical care (as defined in section 213(d)) for such individual, the spouse of such individual, and any dependent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise.

"(B) Health insurance may not be purchased from account.—

"(i) In general.—Subparagraph (A) shall not apply to any payment for insurance.

"(ii) Exceptions.—Clause (i) shall not apply to any expense for coverage under—

"(I) a health plan during any period of continuation coverage required under any Federal law,

"(II) a qualified long-term care insurance contract (as defined in section 7702B(b)), or

"(III) a health plan during a period in which the individual is receiving unemployment compensation under any Federal or State law.

"(3) Account holder.—The term 'account holder' means the individual on whose behalf the medical savings account was established.

"(4) Certain rules to apply.—Rules similar to the following rules shall apply for purposes of this section:

"(A) Section 219(d)(2) (relating to no deduction for rollovers).

"(B) Section 219(f)(3) (relating to time when contributions deemed made).

"(C) Except as provided in section 106(b), section 219(f)(5) (relating to employer payments).

"(D) Section 408(g) (relating to community property laws).

"(E) Section 408(h) (relating to custodial accounts).

"(e) Tax Treatment of Accounts.—

"(1) In general.—A medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) Account terminations.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(f) Tax Treatment of Distributions.—

"(1) Amounts used for qualified medical expenses.—

"(A) In general.—Any amount paid or distributed out of a medical savings account which is used exclusively to pay qualified medical expenses of any account holder (or any spouse or dependent of the holder) shall not be includible in gross income.

"(B) Treatment after death of account holder.—

"(i) Treatment if holder is spouse.—If, after the death of the account holder, the account holder's interest is payable to (or for the benefit of) the holder's spouse, the medical savings account shall be treated as if the spouse were the account holder.

"(ii) Treatment if designated holder is not spouse.—In the case of an account holder's interest in a medical savings account which is payable to (or for the benefit of) any person other than such holder's spouse upon the death of such holder—

"(I) such account shall cease to be a medical savings account as of the date of death, and

"(II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such holder, in such holder's gross income for the last taxable year of such holder.

"(2) Inclusion of amounts not used for qualified medical expenses.—

"(A) In general.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of the account holder or of the spouse or dependents of such holder shall be included in the gross income of such holder.

"(B) Special rules.—For purposes of subparagraph (A)—

"(i) all medical savings accounts of the account holder shall be treated as 1 account,

"(ii) all payments and distributions during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) Excess contributions returned before due date of return.—If the aggregate contributions (other than rollover contributions) for a taxable year to the medical savings accounts of an individual exceed the amount allowable as a deduction under this section for such contributions, paragraph (2) shall not apply to distributions from such accounts (in an amount not greater than such excess) if—

"(A) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

"(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the individual for the taxable year in which it is received.

"(4) Penalty for distributions not used for qualified medical expenses.—

"(A) In general.—The tax imposed by this chapter on the account holder for any taxable year in which there is a payment or distribution from a medical savings account of such holder which is includible in gross income under paragraph (2) shall be increased by 10 percent of the amount which is so includible.

"(B) Exception for disability or death.—Subparagraph (A) shall not apply if the payment or distribution is made after the account holder becomes disabled within the meaning of section 72(m)(7) or dies.

"(C) Exception for distributions after age 59½.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account holder attains age 59½.

"(5) Rollover contribution.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) In general.—Paragraph (2) shall not apply to any amount paid or distributed from a medical savings account to the account holder to the extent the amount received is paid into a medical savings account for the benefit of such holder not later than the 60th day after the day on which the holder receives the payment or distribution.

"(B) Limitation.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in the individual's gross income because of the application of this paragraph.

"(6) Coordination with medical expense deduction.—For purposes of determining the amount of the deduction under section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care.

"(7) Transfer of account incident to divorce.—The transfer of an individual's interest in a medical savings account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a medical savings account with respect to which the spouse is the account holder.

"(g) Cost-of-Living Adjustment.—

"(1) In general.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount in subsection (b)(1), (c)(2), or (d)(1)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the medical care cost adjustment for such calendar year.

If any increase under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

"(2) Medical care cost adjustment.—For purposes of paragraph (1), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(A) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(B) such component for August of 1996.

"(h) Reports.—The Secretary may require the trustee of a medical savings account to make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary determines appropriate. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) Deduction Allowed Whether or Not Individual Itemizes Other Deductions.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) Medical savings accounts.—The deduction allowed by section 220."

(c) Exclusions for Employer Contributions to Medical Savings Accounts.—

(1) Exclusion from income tax.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) General Rule.—Except as otherwise provided in this section, gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) Contributions to Medical Savings Accounts.—

"(1) In general.—In the case of an employee who is an eligible individual, gross income does not include amounts contributed by such employee's employer to any medical savings account of such employee.

"(2) Coordination with deduction limitation.—The amount excluded from the gross income of an employee under this subsection for any taxable year shall not exceed the limitation under section 220(b)(1) (determined without regard to this subsection)

which is applicable to such employee for such taxable year.

"(3) No constructive receipt.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions referred to in paragraph (1) and employer contributions to another health plan of the employer.

"(4) Special rule for deduction of employer contributions.—Any employer contribution to a medical savings account, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

"(5) Definitions.—For purposes of this subsection, the terms 'eligible individual' and 'medical savings account' have the respective meanings given to such terms by section 220."

(2) Exclusion from employment taxes.—

(A) Social security taxes.—

(i) Subsection (a) of section 3121 is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(ii) Subsection (a) of section 209 of the Social Security Act is amended by striking "or" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting "; or", and by inserting after paragraph (18) the following new paragraph:

"(19) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b) of the Internal Revenue Code of 1986."

(B) Railroad retirement tax.—Subsection (e) of section 3231 is amended by adding at the end the following new paragraph:

"(10) Medical savings account contributions.—The term 'compensation' shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(C) Unemployment tax.—Subsection (b) of section 3306 is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting "; or", and by inserting after paragraph (16) the following new paragraph:

"(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(D) Withholding tax.—Subsection (a) of section 3401 is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(d) Medical Savings Account Contributions Not Available Under Cafeteria Plans.—Subsection (f) of section 125 of such Code is amended by inserting "106(b)," before "117".

(e) Exclusion of Medical Savings Accounts From Estate Tax.—Part IV of subchapter A of chapter 11 is amended by adding at the end the following new section:

"SEC. 2057. MEDICAL SAVINGS ACCOUNTS.

"For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any medical savings account (as defined in section 220(d)) included in the gross estate."

(f) Tax on Excess Contributions.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "**MEDICAL SAVINGS ACCOUNTS,**" after "**ACCOUNTS,**" in the heading of such section,

(2) by striking "or" at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 220(d)), or", and

(4) by adding at the end the following new subsection:

"(d) Excess Contributions to Medical Savings Accounts.—For purposes of this section, in the case of a medical savings accounts (within the meaning of section 220(d)), the term 'excess contributions' means the sum of—

"(1) the amount by which the amount contributed for the taxable year to the accounts (other than rollover contributions described in section 220(f)(5)) exceeds the amount allowable as a deduction under section 220 for such contributions, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of distributions out of the account included in gross income under section 220(f) (2) or (3) and the excess (if any) of the maximum amount allowable as a deduction under section 220 for the taxable year over the amount contributed to the accounts.

For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 220(f)(3) applies shall be treated as an amount not contributed."

(g) Tax on Prohibited Transactions.—

(1) Section 4975 (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(4) Special rule for medical savings accounts.—An individual for whose benefit a medical savings account (within the meaning of section 220(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 220(e)(2) to such account."

(2) Paragraph (1) of section 4975(e) is amended to read as follows:

"(1) Plan.—For purposes of this section, the term 'plan' means—

"(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medical savings account described in section 220(d), or

"(E) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph."

(h) Failure To Provide Reports on Medical Savings Accounts.—

(1) Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) Reports.—

"(1) In general.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) Provisions.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans), and

"(B) section 220(h) (relating to medical savings accounts)."

(i) Exception From Capitalization of Policy Acquisition Expenses.—Subparagraph (B) of section 848(e)(1) (defining specified insurance contract) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any contract which is a medical savings account (as defined in section 220(d)).".

(j) Clerical Amendments.—

(1) The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following:

"Sec. 220. Medical savings accounts.

"Sec. 221. Cross reference."

(2) The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end the following new item:

"Sec. 2057. Medical savings accounts."

(k) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

SEC. 311. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) In General.—Paragraph (1) of section 162(l) is amended to read as follows:

"(1) Allowance of deduction.—

"(A) In general.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(B) Applicable percentage.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
1998	35 percent
1999, 2000, or 2001	40 percent
2002	45 percent
2003 or thereafter	50 percent."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle C—Long-Term Care Services and Contracts

PART I—GENERAL PROVISIONS

SEC. 321. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) General Rule.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

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1996
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"SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE.

"(a) In General.—For purposes of this title—

"(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

"(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

"(4) except as provided in subsection (e)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

"(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) Qualified Long-Term Care Insurance Contract.—For purposes of this title—

"(1) In general.—The term 'qualified long-term care insurance contract' means any insurance contract if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

"(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(C) such contract is guaranteed renewable,

"(D) such contract does not provide for a cash surrender value or other money that can be—

"(i) paid, assigned, or pledged as collateral for a loan, or

"(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C),

"(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits, and

"(F) such contract meets the requirements of subsection (f).

"(2) Special rules.—

"(A) Per diem, etc. payments permitted.—A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) Special rules relating to medicare.—

"(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(ii) No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

"(C) Refunds of premiums.—Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(c) Qualified Long-Term Care Services.—For purposes of this section—

"(1) In general.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

"(A) are required by a chronically ill individual, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) Chronically ill individual.—

"(A) In general.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity,

"(ii) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i), or

"(iii) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

"(B) Activities of daily living.—For purposes of subparagraph (A), each of the following is an activity of daily living:

"(i) Eating.

"(ii) Toileting.

"(iii) Transferring.

"(iv) Bathing.

"(v) Dressing.

"(vi) Continence.

Nothing in this section shall be construed to require a contract to take into account all of the preceding activities of daily living.

"(3) Maintenance or personal care services.—The term 'maintenance or personal care services' means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

"(4) Licensed health care practitioner.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r)(1) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(d) Aggregate Payments in Excess of Limits.—

"(1) In general.—If the aggregate amount of periodic payments under all qualified long-term care insurance contracts with respect to an insured for any period exceeds the dollar amount in effect for such period under paragraph (3), such excess payments shall be treated as made for qualified long-term care services only to the extent of the costs incurred by the payee (not otherwise compensated for by insurance or otherwise) for qualified long-term care services provided during such period for such insured.

"(2) Periodic payments.—For purposes of paragraph (1), the term 'periodic payment' means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

"(3) Dollar amount.—The dollar amount in effect under this subsection shall be $175 per day (or the equivalent amount in the case of payments on another periodic basis).

"(4) Inflation adjustment.—In the case of a calendar year after 1997, the dollar amount contained in paragraph (3) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(10).

"(e) Treatment of Coverage Provided as Part of a Life Insurance Contract.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as part of a life insurance contract—

"(1) In general.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

"(2) Application of 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(3) Application of section 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

"(4) Portion defined.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a qualified long-term care insurance contract."

(b) Long-Term Care Insurance Not Permitted Under Cafeteria Plans or Flexible Spending Arrangements.—

(1) Cafeteria plans.—Section 125(f) is amended by adding at the end the following new sentence: "Such term shall not include any long-term care insurance contract (as defined in section 4980C)."

(2) Flexible spending arrangements.—Section 106 (relating to contributions by employer to accident and health plans), as amended by section 301(c), is amended by adding at the end the following new subsection:

"(c) Inclusion of Long-Term Care Benefits Provided Through Flexible Spending Arrangements.—

"(1) In general.—Effective on and after January 1, 1997, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(c)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

"(2) Flexible spending arrangement.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage."

(c) Continuation Coverage Excise Tax Not To Apply.—Subsection (f) of section 4980B is amended by adding at the end the following new paragraph:

"(9) Continuation of long-term care coverage not required.—A group health plan shall not be treated as failing to meet the requirements of this subsection solely by reason of failing to provide coverage under any qualified long-term care insurance contract (as defined in section 7702B(b))."

(d) Clerical Amendment.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of qualified long-term care insurance.".

(e) Effective Date.—

(1) In general.—The amendments made by this section shall apply to contracts issued after December 31, 1996.

(2) Continuation of existing policies.—In the case of any contract issued before January 1, 1997, which met the long-term care insurance requirements of the State in which the contract was sitused at the time the contract was issued—

(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), and

(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

(3) Exchanges of existing policies.—If, after the date of enactment of this Act and before January 1, 1998, a contract providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

(4) Issuance of certain riders permitted.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a rider which is treated as a qualified long-term care insurance contract under section 7702B, and

(B) the addition of any provision required to conform any other long-term care rider to be so treated,

shall not be treated as a modification or material change of such contract.

SEC. 322. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) General Rule.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702B(c)), or".

(b) Technical Amendments.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended by inserting before the period "or for any qualified long-term care insurance contract (as defined in section 7702B(b))".

(2)(A) Paragraph (1) of section 213(d) is amended by adding at the end the following new flush sentence:

"In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (10)) shall be taken into account under subparagraph (D)."

(B) Subsection (d) of section 213 is amended by adding at the end the following new paragraphs:

"(10) Eligible long-term care premiums.—

"(A) In general.—For purposes of this section, the term 'eligible long-term care premiums' means the amount paid during a taxable year for any qualified long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

"In the case of an individual with an attained age before the close of the taxable year of:	**The limitation is:**
40 or less	$ 200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	2,000
More than 70	2,500.

"(B) Indexing.—

"(i) In general.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(ii) Medical care cost adjustment.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(II) such component for August of 1996.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence.

"(11) Certain payments to relatives treated as not paid for medical care.—An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

"(A) by the spouse of the individual or by a relative (directly or through a partnership, corporation, or other entity) unless the service is provided by a licensed professional with respect to such service, or

"(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in any of paragraphs (1) through (8) of section 152(a). This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance."

(3) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(4) Paragraph (7) of section 213(d) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

(2) Deduction for long-term care services.—Amounts paid for qualified long-term care services (as defined in section 7702B(c) of the Internal Revenue Code of 1986, as added by this Act) furnished in any taxable year beginning before January 1, 1998, shall not be taken into account under section 213 of the Internal Revenue Code of 1986.

SEC. 323. REPORTING REQUIREMENTS.

(a) In General.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

"SEC. 6050Q. CERTAIN LONG-TERM CARE BENEFITS.

"(a) Requirement of Reporting.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the person making the payments, and

"(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) Long-Term Care Benefits.—For purposes of this section, the term 'long-term care benefit' means—

"(1) any amount paid under a long-term care insurance policy (within the meaning of section 4980C(e)), and

VOL
142
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1996
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"(2) payments which are excludable from gross income by reason of section 101(g).".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

"(ix) section 6050Q (relating to certain long-term care benefits),".

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

"(Q) section 6050Q(b) (relating to certain long-term care benefits),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050Q. Certain long-term care benefits."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits paid after December 31, 1996.

PART II—CONSUMER PROTECTION PROVISIONS

SEC. 325. POLICY REQUIREMENTS.

Section 7702B (as added by section 321) is amended by adding at the end the following new subsection:

"(f) CONSUMER PROTECTION PROVISIONS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any contract if any long-term care insurance policy issued under the contract meets—

"(A) the requirements of the model regulation and model Act described in paragraph (2),

"(B) the disclosure requirement of paragraph (3), and

"(C) the requirements relating to nonforfeitability under paragraph (4).

"(2) REQUIREMENTS OF MODEL REGULATION AND ACT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any policy if such policy meets—

"(i) MODEL REGULATION.—The following requirements of the model regulation:

"(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

"(II) Section 7B (relating to prohibitions on limitations and exclusions).

"(III) Section 7C (relating to extension of benefits).

"(IV) Section 7D (relating to continuation or conversion of coverage).

"(V) Section 7E (relating to discontinuance and replacement of policies).

"(VI) Section 8 (relating to unintentional lapse).

"(VII) Section 9 (relating to disclosure), other than section 9F thereof.

"(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

"(IX) Section 11 (relating to minimum standards).

"(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

"(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(ii) MODEL ACT.—The following requirements of the model Act:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

"(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

"(iii) DETERMINATION.—For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.

"(3) DISCLOSURE REQUIREMENT.—The requirement of this paragraph is met with respect to any policy if such policy meets the requirements of section 4980C(d)(1).

"(4) NONFORFEITURE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any level premium long-term care insurance policy, if the issuer of such policy offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

"(B) REQUIREMENTS OF PROVISION.—The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

"(i) The nonforfeiture provision shall be appropriately captioned.

"(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying policies approved by the Secretary for the same policy form.

"(iii) The nonforfeiture provision shall provide at least one of the following:

"(I) Reduced paid-up insurance.

"(II) Extended term insurance.

"(III) Shortened benefit period.

"(IV) Other similar offerings approved by the Secretary.

"(5) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this subsection, the term 'long-term care insurance policy' has the meaning given such term by section 4980C(e).".

SEC. 326. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

"SEC. 4980C. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

"(a) GENERAL RULE.—There is hereby imposed on any person failing to meet the requirements of subsection (c) or (d) a tax in the amount determined under subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be $100 per policy for each day any requirements of subsection (c) or (d) are not met with respect to each long-term care insurance policy.

"(2) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

"(c) RESPONSIBILITIES.—The requirements of this subsection are as follows:

"(1) REQUIREMENTS OF MODEL PROVISIONS.—

"(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

"(i) Section 13 (relating to application forms and replacement coverage).

"(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

"(iii) Section 20 (relating to filing requirements for marketing).

"(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

"(I) in addition to such requirements, no person shall, in selling or offering to sell a long-term care insurance policy, misrepresent a material fact; and

"(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

"(v) Section 22 (relating to appropriateness of recommended purchase).

"(vi) Section 24 (relating to standard format outline of coverage).

"(vii) Section 25 (relating to requirement to deliver shopper's guide).

"(B) MODEL ACT.—The following requirements of the model Act must be met:

"(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

"(ii) Section 6G (relating to outline of coverage).

"(iii) Section 6H (relating to requirements for certificates under group plans).

"(iv) Section 6I (relating to policy summary).

"(v) Section 6J (relating to monthly reports on accelerated death benefits).

"(vi) Section 7 (relating to incontestability period).

"(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(f)(2)(B).

"(2) DELIVERY OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the issuer shall deliver to the applicant (or policyholder or certificateholder) the policy (or certificate) of insurance not later than 30 days after the date of the approval.

"(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificateholder (or representative)—

"(A) provide a written explanation of the reasons for the denial, and

"(B) make available all information directly relating to such denial.

"(d) DISCLOSURE.—The requirements of this subsection are met if the issuer of a long-term care insurance policy discloses in such

policy and in the outline of coverage required under subsection (c)(1)(B)(ii) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b).

"(e) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the term 'long-term care insurance policy' means any product which is advertised, marketed, or offered as long-term care insurance.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

"Sec. 4980C. Requirements for issuers of long-term care insurance policies.".

SEC. 327. COORDINATION WITH STATE REQUIREMENTS.

Nothing in this part shall prevent a State from establishing, implementing, or continuing in effect standards related to the protection of policyholders of long-term care insurance policies (as defined in section 4980C(e) of the Internal Revenue Code of 1986), if such standards are not in conflict with or inconsistent with the standards established under such Code.

SEC. 328. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this part shall apply to contracts issued after December 31, 1996. The provisions of section 321(g) (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 326 shall apply to actions taken after December 31, 1996.

Subtitle D—Treatment of Accelerated Death Benefits

SEC. 331. TREATMENT OF ACCELERATED DEATH BENEFITS BY RECIPIENT.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, the following amounts shall be treated as an amount paid by reason of the death of an insured:

"(A) Any amount received under a life insurance contract on the life of an insured who is a terminally ill individual.

"(B) Any amount received under a life insurance contract on the life of an insured who is a chronically ill individual (as defined in section 7702B(c)(2)) but only if such amount is received under a rider or other provision of such contract which is treated as a qualified long-term care insurance contract under section 7702B and such amount is treated under section 7702B (after the application of subsection (d) thereof) as a payment for qualified long-term care services (as defined in such section).

"(2) TREATMENT OF VIATICAL SETTLEMENTS.—

"(A) IN GENERAL.—In the case of a life insurance contract on the life of an insured described in paragraph (1), if—

"(i) any portion of such contract is sold to any viatical settlement provider, or

"(ii) any portion of the death benefit is assigned to such a provider,

the amount paid for such sale or assignment shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

"(B) VIATICAL SETTLEMENT PROVIDER.—The term 'viatical settlement provider' means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

"(i) such person is licensed for such purposes in the State in which the insured resides, or

"(ii) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes—

"(I) such person meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners, and

"(II) meets the requirements of the Model Regulations of the National Association of Insurance Commissioners (relating to standards for evaluation of reasonable payments) in determining amounts paid by such person in connection with such purchases or assignments.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) TERMINALLY ILL INDIVIDUAL.—The term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 24 months or less after the date of the certification.

"(B) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)).

"(4) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1996.

SEC. 332. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract if the only payments under the rider are payments meeting the requirements of section 101(g).

"(3) EXCEPTION FOR LONG-TERM CARE RIDERS.—Paragraph (1) shall not apply to any rider which is treated as a long-term care insurance contract under section 7702B."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on January 1, 1997.

(2) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), and

(B) the addition of any provision required to conform an accelerated death benefit rider to the requirements of such section 818(g),

shall not be treated as a modification or material change of such contract.

Subtitle E—High-Risk Pools

SEC. 341. EXEMPTION FROM INCOME TAX FOR STATE-SPONSORED ORGANIZATIONS PROVIDING HEALTH COVERAGE FOR HIGH-RISK INDIVIDUALS.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end the following new paragraph:

"(26) Any membership organization if—

"(A) such organization is established by a State exclusively to provide coverage for medical care (as defined in section 213(d)) on a not-for-profit basis to individuals described in subparagraph (B) through—

"(i) insurance issued by the organization, or

"(ii) a health maintenance organization under an arrangement with the organization,

"(B) the only individuals receiving such coverage through the organization are individuals—

"(i) who are residents of such State, and

"(ii) who, by reason of the existence or history of a medical condition, are unable to acquire medical care coverage for such condition through insurance or from a health maintenance organization or are able to acquire such coverage only at a rate which is substantially in excess of the rate for such coverage through the membership organization,

"(C) the composition of the membership in such organization is specified by such State, and

"(D) no part of the net earnings of the organization inures to the benefit of any private shareholder or individual."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle F—Organizations Subject to Section 833

SEC. 351. ORGANIZATIONS SUBJECT TO SECTION 833.

(a) IN GENERAL.—Section 833(c) (relating to organization to which section applies) is amended by adding at the end the following new paragraph:

"(4) TREATMENT AS EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATION.—

"(A) IN GENERAL.—Paragraph (2) shall be applied to an organization described in subparagraph (B) as if it were a Blue Cross or Blue Shield organization.

"(B) APPLICABLE ORGANIZATION.—An organization is described in this subparagraph if it—

"(i) is organized under, and governed by, State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations, and

"(ii) is not a Blue Cross or Blue Shield organization or health maintenance organization.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1996.

TITLE IV—REVENUE OFFSETS

SEC. 400. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

VOL
142
PT
5
MR
21
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29
1996
UMI

Subtitle A—Repeal of Bad Debt Reserve Method for Thrift Savings Associations

SEC. 401. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

"(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

"(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

"(A) such change shall be treated as a change in a method of accounting,

"(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

"(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

"(i) shall be determined by taking into account only applicable excess reserves, and

"(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

"(2) APPLICABLE EXCESS RESERVES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

"(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before December 31, 1995, over

"(ii) the lesser of—

"(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

"(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

"(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

"(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

"(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

"(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve; except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

"(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

"(A) IN GENERAL.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

"(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

"(ii) such taxable year shall be disregarded in determining—

"(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

"(II) the amount of such adjustment.

"(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

"(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

"(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

"(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

"(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995:

"(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

"(B) TREATMENT UNDER ELECTIVE CUT-OFF METHOD.—For purposes of applying section 585(c)(4)—

"(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

"(ii) no amount shall be includible in gross income by reason of such reduction.

"(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(c) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

"(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

"(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

"(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spin-offs, and other reorganizations."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking "by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "by a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

"(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987),".

(C) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581) to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect."

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The",

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(11) Paragraph (3) of section 992(d) is amended by striking "or 593".

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(14) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7).—The amendments made by subsection (b)(7) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

Subtitle B—Reform of the Earned Income Credit

SEC. 411. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) (relating to individuals eligible to claim the earned income credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.".

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 is amended by adding at the end the following new subsection:

"(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).".

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income credit) to be included on a return, and

"(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Treatment of Individuals Who Lose United States Citizenship

SEC. 421. REVISION OF INCOME, ESTATE, AND GIFT TAXES ON INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subsection (a) of section 877 is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—

"(1) IN GENERAL.—Every nonresident alien individual who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B, shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

"(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if—

"(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $100,000, or

"(B) the net worth of the individual as of such date is $500,000 or more.

In the case of the loss of United States citizenship in any calendar year after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1994' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000."

(b) EXCEPTIONS.—

(1) IN GENERAL.—Section 877 is amended by striking subsection (d), by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) TAX AVOIDANCE NOT PRESUMED IN CERTAIN CASES.—

"(1) IN GENERAL.—Subsection (a)(2) shall not apply to an individual if—

"(A) such individual is described in a subparagraph of paragraph (2) of this subsection, and

"(B) within the 1-year period beginning on the date of the loss of United States citizenship, such individual submits a ruling request for the Secretary's determination as to whether such loss has for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B.

"(2) INDIVIDUALS DESCRIBED.—

"(A) DUAL CITIZENSHIP, ETC.—An individual is described in this subparagraph if—

"(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, or

"(ii) the individual becomes (not later than the close of a reasonable period after loss of United States citizenship) a citizen of the country in which—

"(I) such individual was born,

"(II) if such individual is married, such individual's spouse was born, or

"(III) either of such individual's parents were born.

"(B) LONG-TERM FOREIGN RESIDENTS.—An individual is described in this subparagraph if, for each year in the 10-year period ending on the date of loss of United States citizenship, the individual was present in the United States for 30 days or less. The rule of section 7701(b)(3)(D)(ii) shall apply for purposes of this subparagraph.

"(C) RENUNCIATION UPON REACHING AGE OF MAJORITY.—An individual is described in this subparagraph if the individual's loss of United States citizenship occurs before such individual attains age 18½.

"(D) INDIVIDUALS SPECIFIED IN REGULATIONS.—An individual is described in this subparagraph if the individual is described in a category of individuals prescribed by regulation by the Secretary."

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 877(b) of such Code is amended by striking "subsection (c)" and inserting "subsection (d)".

(c) TREATMENT OF PROPERTY DISPOSED OF IN NONRECOGNITION TRANSACTIONS; TREATMENT OF DISTRIBUTIONS FROM CERTAIN CONTROLLED FOREIGN CORPORATIONS.—Subsection (d) of section 877, as redesignated by subsection (b), is amended to read as follows:

"(d) SPECIAL RULES FOR SOURCE, ETC.—For purposes of subsection (b)—

"(1) SOURCE RULES.—The following items of gross income shall be treated as income from sources within the United States:

"(A) SALE OF PROPERTY.—Gains on the sale or exchange of property (other than stock or debt obligations) located in the United States.

"(B) STOCK OR DEBT OBLIGATIONS.—Gains on the sale or exchange of stock issued by a domestic corporation or debt obligations of United States persons or of the United States, a State or political subdivision thereof, or the District of Columbia.

"(C) INCOME OR GAIN DERIVED FROM CONTROLLED FOREIGN CORPORATION.—Any income or gain derived from stock in a foreign corporation but only—

"(i) if the individual losing United States citizenship owned (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), at any time during the 2-year period ending on the date of the loss of United States citizenship, more than 50 percent of—

"(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(II) the total value of the stock of such corporation, and

"(ii) to the extent such income or gain does not exceed the earnings and profits attributable to such stock which were earned or accumulated before the loss of citizenship and during periods that the ownership requirements of clause (i) are met.

"(2) GAIN RECOGNITION ON CERTAIN EXCHANGES.—

"(A) IN GENERAL.—In the case of any exchange of property to which this paragraph applies, notwithstanding any other provision of this title, such property shall be treated as sold for its fair market value on the date of such exchange, and any gain shall be recognized for the taxable year which includes such date.

"(B) EXCHANGES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any exchange during the 10-year period described in subsection (a) if—

VOL 142 PT 5 MR 21 — 29 1996 UMI

"(i) gain would not (but for this paragraph) be recognized on such exchange in whole or in part for purposes of this subtitle,

"(ii) income derived from such property was from sources within the United States (or, if no income was so derived, would have been from such sources), and

"(iii) income derived from the property acquired in the exchange would be from sources outside the United States.

"(C) Exception.—Subparagraph (A) shall not apply if the individual enters into an agreement with the Secretary which specifies that any income or gain derived from the property acquired in the exchange (or any other property which has a basis determined in whole or part by reference to such property) during such 10-year period shall be treated as from sources within the United States. If the property transferred in the exchange is disposed of by the person acquiring such property, such agreement shall terminate and any gain which was not recognized by reason of such agreement shall be recognized as of the date of such disposition.

"(D) Secretary may extend period.—To the extent provided in regulations prescribed by the Secretary, subparagraph (B) shall be applied by substituting the 15-year period beginning 5 years before the loss of United States citizenship for the 10-year period referred to therein.

"(E) Secretary may require recognition of gain in certain cases.—To the extent provided in regulations prescribed by the Secretary—

"(i) the removal of appreciated tangible personal property from the United States, and

"(ii) any other occurrence which (without recognition of gain) results in a change in the source of the income or gain from property from sources within the United States to sources outside the United States,

shall be treated as an exchange to which this paragraph applies.

"(3) Substantial diminishing of risks of ownership.—For purposes of determining whether this section applies to any gain on the sale or exchange of any property, the running of the 10-year period described in subsection (a) shall be suspended for any period during which the individual's risk of loss with respect to the property is substantially diminished by—

"(A) the holding of a put with respect to such property (or similar property),

"(B) the holding by another person of a right to acquire the property, or

"(C) a short sale or any other transaction."

(d) Credit for Foreign Taxes Imposed on United States Source Income.—

(1) Subsection (b) of section 877 is amended by adding at the end the following new sentence: "The tax imposed solely by reason of this section shall be reduced (but not below zero) by the amount of any income, war profits, and excess profits taxes (within the meaning of section 903) paid to any foreign country or possession of the United States on any income of the taxpayer on which tax is imposed solely by reason of this section."

(2) Subsection (a) of section 877, as amended by subsection (a), is amended by inserting "(after any reduction in such tax under the last sentence of such subsection)" after "such subsection".

(e) Comparable Estate and Gift Tax Treatment.—

(1) Estate tax.—

(A) In general.—Subsection (a) of section 2107 is amended to read as follows:

"(a) Treatment of Expatriates.—

"(1) Rate of tax.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if, within the 10-year period ending with the date of death, such decedent lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

"(2) Certain individuals treated as having tax avoidance purpose.—

"(A) In general.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

"(B) Exception.—Subparagraph (A) shall not apply to a decedent meeting the requirements of section 877(c)(1)."

(B) Credit for foreign death taxes.—Subsection (c) of section 2107 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Credit for foreign death taxes.—

"(A) In general.—The tax imposed by subsection (a) shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of any property which is included in the gross estate solely by reason of subsection (b).

"(B) Limitation on credit.—The credit allowed by subparagraph (A) for such taxes paid to a foreign country shall not exceed the lesser of—

"(i) the amount which bears the same ratio to the amount of such taxes actually paid to such foreign country in respect of property included in the gross estate as the value of the property included in the gross estate solely by reason of subsection (b) bears to the value of all property subjected to such taxes by such foreign country, or

"(ii) such property's proportionate share of the excess of—

"(I) the tax imposed by subsection (a), over

"(II) the tax which would be imposed by section 2101 but for this section.

"(C) Proportionate share.—For purposes of subparagraph (B), a property's proportionate share is the percentage of the value of the property which is included in the gross estate solely by reason of subsection (b) bears to the total value of the gross estate."

(C) Expansion of inclusion in gross estate of stock of foreign corporations.—Paragraph (2) of section 2107(b) is amended by striking "more than 50 percent of" and all that follows and inserting "more than 50 percent of—

"(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(B) the total value of the stock of such corporation,".

(2) Gift tax.—

(A) In general.—Paragraph (3) of section 2501(a) is amended to read as follows:

"(3) Exception.—

"(A) Certain individuals.—Paragraph (2) shall not apply in the case of a donor who, within the 10-year period ending with the date of transfer, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

"(B) Certain individuals treated as having tax avoidance purpose.—For purposes of subparagraph (A), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

"(C) Exception for certain individuals.—Subparagraph (B) shall not apply to a decedent meeting the requirements of section 877(c)(1).

"(D) Credit for foreign gift taxes.—The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph."

(f) Comparable Treatment of Lawful Permanent Residents Who Cease To Be Taxed as Residents.—

(1) In general.—Section 877 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Comparable Treatment of Lawful Permanent Residents Who Cease To Be Taxed as Residents.—

"(1) In general.—Any long-term resident of the United States who—

"(A) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(B) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country,

shall be treated for purposes of this section and sections 2107, 2501, and 6039F in the same manner as if such resident were a citizen of the United States who lost United States citizenship on the date of such cessation or commencement.

"(2) Long-term resident.—For purposes of this subsection, the term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the event described in subparagraph (A) or (B) of paragraph (1) occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(3) Special rules.—

"(A) Exceptions not to apply.—Subsection (c) shall not apply to an individual who is treated as provided in paragraph (1).

"(B) Step-up in basis.—Solely for purposes of determining any tax imposed by reason of this subsection, property which was held by the long-term resident on the date the individual first became a resident of the United States shall be treated as having a basis on such date of not less than the fair market value of such property on such date. The preceding sentence shall not apply if the individual elects not to have such sentence apply. Such an election, once made, shall be irrevocable.

"(4) Authority to exempt individuals.—This subsection shall not apply to an individual who is described in a category of individuals prescribed by regulation by the Secretary.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations providing for the application of this subsection in cases where an alien individual becomes a resident of the United States during the 10-year period after being treated as provided in paragraph (1)."

(2) Conforming amendments.—

(A) Section 2107 is amended by striking subsection (d), by redesignating subsection (e) as subsection (d), and by inserting after subsection (d) (as so redesignated) the following new subsection:

"(e) Cross Reference.—

"For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e)."

(B) Paragraph (3) of section 2501(a) (as amended by subsection (e)) is amended by adding at the end the following new subparagraph:

"(E) Cross reference.—

"For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e)."

(g) Effective Date.—

(1) In general.—The amendments made by this section shall apply to—

(A) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(B) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after February 6, 1995.

(2) Special rule.—

(A) In general.—In the case of an individual who performed an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)) before February 6, 1995, but who did not, on or before such date, furnish to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of such act, the amendments made by this section and section 11349 shall apply to such individual except that—

(i) the 10-year period described in section 877(a) of such Code shall not expire before the end of the 10-year period beginning on the date such statement is so furnished, and

(ii) the 1-year period referred to in section 877(c) of such Code, as amended by this section, shall not expire before the date which is 1 year after the date of the enactment of this Act.

(B) Exception.—Subparagraph (A) shall not apply if the individual establishes to the satisfaction of the Secretary of the Treasury that such loss of United States citizenship occurred before February 6, 1994.

SEC. 422. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

(a) In General.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

"(a) In General.—Notwithstanding any other provision of law, any individual who loses United States citizenship (within the meaning of section 877(a)) shall provide a statement which includes the information described in subsection (b). Such statement shall be—

"(1) provided not later than the earliest date of any act referred to in subsection (c), and

"(2) provided to the person or court referred to in subsection (c) with respect to such act.

"(b) Information To Be Provided.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877(a)(2)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) Acts Described.—For purposes of this section, the acts referred to in this subsection are—

"(1) the individual's renunciation of his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(2) the individual's furnishing to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(3) the issuance by the United States Department of State of a certificate of loss of nationality to the individual, or

"(4) the cancellation by a court of the United States of a naturalized citizen's certificate of naturalization.

"(d) Penalty.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year (of the 10-year period beginning on the date of loss of United States citizenship) during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the tax required to be paid under section 877 for the taxable year ending during such year, or

"(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(e) Information To Be Provided to Secretary.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(f) Reporting by Long-Term Lawful Permanent Residents Who Cease To Be Taxed as Residents.—In lieu of applying the last sentence of subsection (a), any individual who is required to provide a statement under this section by reason of section 877(e)(1) shall provide such statement with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(g) Exemption.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section."

(b) Clerical Amendment.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals losing United States citizenship."

(c) Effective Date.—The amendments made by this section shall apply to—

(1) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(2) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after such date.

In no event shall any statement required by such amendments be due before the 90th day after the date of the enactment of this Act.

SEC. 423. REPORT ON TAX COMPLIANCE BY UNITED STATES CITIZENS AND RESIDENTS LIVING ABROAD.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report—

(1) describing the compliance with subtitle A of the Internal Revenue Code of 1986 by citizens and lawful permanent residents of the United States (within the meaning of section 7701(b)(6) of such Code) residing outside the United States, and

(2) recommending measures to improve such compliance (including improved coordination between executive branch agencies).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. ARCHER], the gentleman from California [Mr. STARK], the gentleman from Virginia [Mr. BLILEY], and the gentleman from Michigan [Mr. DINGELL] will each be recognized for 22½ minutes; and the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Missouri [Mr. CLAY] will each be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous materials on the bill, H.R. 3103.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HOBSON].

VOL
142
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Mr. HOBSON. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, I want to thank the members and staff of the Commerce and Ways and Means Committees for including administrative simplification in the Health Coverage Availability and Affordability Act. This provision is based on legislation that TOM SAWYER, NANCY JOHNSON, and I introduced earlier in this Congress.

We have the most advanced health care services in the world due mainly to our success in using technology. We can use this same technology to improve the way our health care system is run. Our provision removes the barriers that have prevented modern technology from replacing outdated, paper-based health information systems.

Today, the lack of uniform standards for financial and administrative health information is a barrier to modernizing health information systems. Most health plans already transmit data electronically, but the data is nonstandard or incomplete, and cannot be used to coordinate benefits or effectively track fraud and abuse.

Uniform standards for health information would enable the private sector to reduce paperwork (which adds nearly 10 cents to every health care dollar), expose fraud (which is difficult to do in a confusing, disjointed paperwork system), and provide consumers with the information they need to compare health plans and services.

The Health Care Financing Administration [HCFA] is implementing a Medicare transaction system for handling standardized Medicare claims. Under current law, HCFA has the authority to adopt Government standards for health information, and to mandate the use of those standards by the private sector.

Our administrative simplification provision, as it was included in this bill, limits HCFA to adopting standards that already have been developed by a voluntary, consensus process that has included input from the private and public sectors. It establishes a process for the standardization of health data that builds on progress in the private sector.

Our provision was developed over several years in a cooperative effort between the private and public sectors. Political support for our provision is bipartisan and bicameral—it was introduced as H.R. 1766 by Representatives DAVE HOBSON, TOM SAWYER, and NANCY JOHNSON, and as S. 872 by Senators KIT BOND and JOSEPH LIEBERMAN.

Also, as the original author of this provision, I want to clarify that our intention is that health benefits under employee welfare benefit plans would not include hospital or fixed indemnity, specified disease, accident, disability income, dental, and vision benefits.

These provisions and the overall bill respond to the need for health care reform in a responsible way. I encourage Members to vote for the bill.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget.

Mr. KASICH. Mr. Speaker, I want to congratulate all of the chairmen on what we are producing here today, which is a fantastic improvement in the lives for all Americans who have been held hostage from changing jobs because of a lack of portability, which we guarantee in this bill, and to give them security in knowing that preexisting conditions that have denied them health insurance or have denied them the ability to be secure in their homes are being removed with this bill.

This is a great day for the American people, a great day for the American family, and we did it without socializing the system. I thank my colleagues for producing this bill.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Speaker, I rise in full support of this legislation.

Mr. Speaker, the health care reform legislation now under consideration by the Republican-controlled House of Representatives draws a dramatic contrast against the health care reform legislation considered by Congress in 1994 under a Democrat majority.

The legislation of 1994, crafted by President Clinton and introduced by the Democrat leader, Mr. RICHARD GEPHARDT, would have created a new bureaucratic government agency with authority over most of the health care choices each private citizen makes.

This year, however, under a Republican-controlled House, we are considering health care reform legislation that avoids the explosion of government bureaucracy. This legislation is a direct response to the views and concerns expressed by American citizens during the 1994 health care debate when we defeated the Clinton socialistic health care proposal.

This year's reform legislation will provide greater access to health care without increasing government bureaucracy. It will eliminate permanent preexisting condition limitations; ensure greater insurance portability so those who change jobs will have access to coverage; offer greater tax fairness for individuals; provide tax deductible contributions to medical savings accounts targeting those middle-income individuals and families without health care; streamline administrative costs and procedures; combat fraud and abuse in the health care industry; invoke medical malpractice reform that discourages unnecessary litigation currently driving up the cost of health care; and above all preserve the quality and freedom of choice that exists in our current market-based system.

One of the most important and unique components of this health care reform legislation is the creation of medical savings accounts [MSA's]. This provision will allow individuals and families to purchase a high deductible health plan and make tax deductible contributions to MSA's for the purpose of saving money for health care expenditures. In addition, contributions by employers on behalf of their employees will be excludable from taxable income. This proposal will finally provide an ideal way for young individuals and young families just starting out, to obtain affordable, quality health care coverage.

Estimates indicate that at least 1 million people will open medical savings accounts. Approximately 650,000 people who earn between $40,000 and $75,000 per year will choose MSA's; while 120,000 people who earn between $30,000 and $40,000 per year will join. The vast majority of those benefiting from the MSA will be middle-income families who, in today's market, face the most difficult challenge in obtaining coverage.

MSA's create more fairness for small employers and their employees by eliminating barriers to coverage. As a small business owner, I know first hand what kind of limitations small businesses face when trying to establish health care coverage for their employees. Often, providing health care becomes too complicated or too expensive for these employers.

MSA's will be an ideal way for small businesses to assist employees in obtaining health care coverage. MSA's may very well mean the difference between those employees who have no insurance and those that have access to affordable health care.

MSA's will provide the maximum degree of portability for employees. When an employee leaves, he or she will take the MSA to the next job.

MSA's will ultimately reduce the long-term care expenditures of medicare and Medicaid by promoting the purchase of long-term care insurance. The provision will allow individuals to make a tax-free withdrawal for the purposes of paying long-term care insurance premiums. Long-term is among the largest expenditures in entitlement health care programs. Encouraging citizens to purchase coverage in the private markets means reduced costs to the taxpayers.

MSA's will provide the maximum amount of choice for health care consumers. Individuals and families will have the maximum amount of control over the choices they make in their health care. Maximizing the ability of the consumer to choose means increased competition and cost savings for that individual or family purchasing health coverage.

MSA's have a long history of bipartisan support. In 1994, the Democrat party leader, Representative GEPHARDT, endorsed MSA's. In 1994, Senator PAUL SIMON introduced legislation to establish MSA's. In addition, States have passed State-level legislation that exempt MSA deposits from State-level taxes.

Mr. Speaker, the MSA provision is one of several very important health care reform components of the Health Coverage Availability and Affordability Act. The health care debate began during the last Congress (103d). Today, in the 104th Congress we are fulfilling the commitment to enact common sense health care reform that will provide greater portability and accessibility of health care for all Americans.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House considers the Health Coverage Availability and Affordability Act of 1996. This bill, Mr. Speaker, is truly historic. After years of talking about health reform, we are now, with the new Republican majority in this House, going to enact health reform. Most importantly, H.R. 3103 reflects what Americans want in health reform because it addresses the

two issues that concern our citizens the most, availability and affordability of health insurance coverage and health care.

A key to increasing the availability of health insurance is insuring portability of coverage if a breadwinner changes jobs. No one should ever say no to a new job simply because he or she fears that the new health insurance company will say no to them. This bill tells workers that they will not have to worry about preexisting conditions limiting their ability to get coverage if they change jobs.

Both to increase the availability and affordability of health care coverage, we establish medical savings accounts. Deductions for MSA's with health insurance protection ought to be an option available to working Americans. MSA's offer Americans the ultimate in portability because, with an MSA, you take the money with you and retain the savings to spend on your health care needs regardless of a change in your employment or life circumstances.

A new study by the Joint Committee on Taxation demonstrates that the M in MSA stands for middle income. The joint committee estimates that 650,000 out of the 1 million people who will be covered by MSA's earn between $40,000 and $75,000 a year while another 120,000 people who will choose MSA's earn below $40,000 per year.

The bill further insures affordability of coverage by raising the deductibility of health insurance for 3.2 million self-employed Americans. At the beginning of this Congress the deduction had expired. Congress increased it to 30 percent last year, and now we increase it to 50 percent.

H.R. 3103 also provides important incentives for Americans to protect their families through the purchase of long-term care insurance, and it allows for accelerated death benefits for those with terminal illnesses such as cancer or HIV. Both of these important measures were part of our Contract With America.

Our bill makes health insurance and medical care more affordable by attacking a key health care cost driver that runs up costs for everyone, and that is fraud and abuse. It is tough on health care crooks by creating new criminal penalties for health care fraud, expanding other penalties and providing the necessary funds for Federal investigator to route out health care crime.

Another cost driver this bill addresses is the current quagmire of paperwork. The bill will make the process cheaper and easier by promoting a common claims form and electronic transmission of this information.

Finally H.R. 3103 undermines one of the major cost drivers, and that is medical malpractice. It gives real reform and will promote health insurance pooling for small employers.

The bill was truly a group effort by four of the House committees with health jurisdiction. I cannot stress enough the leadership provided in developing this joint initiative by the gentleman from Illinois [Mr. HASTERT] and all the chairmen of the committees involved and their subcommittee. I am particularly grateful for the contribution of the bill's chief cosponsor, the Committee on Ways and Means' Subcommittee on Health chairman, the gentleman from California [Mr. THOMAS].

Availability and affordability, two issues important to all Americans; both are the prescription for real achievable private sector health care reform this year. I am confident my colleagues will join me in supporting the Health Coverage Availability and Affordability act of 1996.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is called the Health Coverage Availability and Affordability Act, but it ain't. Because of the medical savings accounts and other provisions in here, the Republicans have managed through some legislative legerdemain to turn a silk purse into a sow's ear.

The Democratic substitute will, in fact, bring back the Roukema-Kassebaum-Kennedy bill with some technical corrections to make sure that it limits preexisting conditions, and would by far be a better bill, a truly bipartisan bill, one that will pass in the Senate and one that would in fact be signed by the President.

Now, if the Republican intention is to fill up prime time with a bill that they know will pass, it is to me a very sick trick to play on the seniors.

First of all, this bill purports to increase the deduction for self-employed, but really it only does it for 50 percent, and that is in 2003. The Democratic alternative does it at 8 percent, and it does it right up front and pays for it. It is not flimflamming the American public into thinking they are getting something that they are not.

It is also a bad bill because the insurance reforms are weaker. It limits individuals to just one policy and guarantees issue only to small firms of less than 50 people. The rest are out on the street. It spends over $2.5 billion of Medicare money on MSA tax breaks. We should save easy anti-fraud money for Medicare trust fund relief. Not only are the MSA's a bad policy, they are a payoff to the Golden Rule Insurance Company who has contributed almost $1.5 million to Speaker GINGRICH'S political operations.

If that is not bad enough policy, I do not know what is.

This bill actually increases costs in traditional insurance pools. The MSA's, the mean ones, will drive up the rates for most people.

The GOP has mislabeled their bill, I suspect intentionally. The GOP anti-fraud provisions contain 3 pro-fraud loopholes: advisory opinions, harder proof for civil monetary penalties, and they are allowing kickbacks in managed care plans. The CBO, the Republican CBO, says their plans will cost the system a billion dollars.

There is also a payoff to American Family Life. It takes out the Medigap anti-duplication laws, will return us to the days of ripping off seniors by unscrupulous insurance salesmen.

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The payoff to the AMA is in the malpractice caps that reward doctors. I would remind Members that it was released today that there are over 13,000 doctors convicted of sex crimes and other crimes who are still practicing in this country, who will go untouched if the Republicans remove the malpractice caps.

Mr. Speaker, the GOP expatriate language is too weak. We should keep it simple. We should support the Dingell-Spratt-Bentsen substitute, and give the people true portability and true reform.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], the most respected chairman of the Subcommittee on Oversight of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman, the chairman of the committee, for yielding time to me.

Mr. Speaker, this is a great day or night for Americans. Health security is important to every man, woman, and child. Tonight we take a giant step toward guaranteeing coverage, in spite of preexisting conditions, protecting millions of Americans and their families.

I introduced the first insurance reform bill, and in fact, with our former colleague Rod Chandler, introduced the first legislation to enable small businesses to group together to provide lower cost insurance for businesses. Tonight we bring a lot of that thinking, 5 years old, to fruition, and for the first time, we are going to put on the President's desk a reform bill that will really directly affect the lives of our constituents and create for them the opportunity to move from job to job, developing their careers, without fear of losing health coverage for their spouse and children.

Twenty-five million workers and dependents are affected by changes in employment every single year; 3.6 million will face job lock. That is 3.6 million workers, but all of their dependents as well. They are the people whose fears will be allayed by tonight's legislation. One hundred and thirty-eight million workers and their dependents

VOL
142
PT
5
MR
21
—
29
1996

are covered by employer plans, and any one of them at any time could need what we do here tonight. This is, indeed, a giant step toward health security for all working Americans.

Underneath that bill, included in it, is the accomplishment of other goals that we have long aspired to. For 5 years we have tried to spread long-term care insurance to protect seniors against the cost of nursing home care, without forcing them to spend down to poverty. This is a remarkable piece of legislation. It is long overdue. It represents the culmination of solid study over 5 years. Mr. Speaker, I urge the Members' support.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, this could have been a great night in this Chamber. In fact, we came very close to having this a great night in this Chamber.

Mr. Speaker, Senator KASSEBAUM and Senator KENNEDY introduced a piece of legislation, very simple, very precise, very direct. What that legislation said was, "If you lose your job or if you change your job and you have a preexisting health condition, you will not lose your health insurance."

What happened? Senator KASSEBAUM daily appealed to her colleagues to keep the bill direct and simple. This very afternoon, Senator BRADLEY stood next to Senator KASSEBAUM. He was very much interested, as many of us have been, that if you have a baby you should be allowed to stay in the hospital for 48 hours. What did he say? He said, "I will not put forth my amendment because it might jeopardize Senator KASSEBAUM's bill."

Mr. Speaker, did that happen over in this side of the House? It certainly did not. The bill that we have before us tonight has 301 additional pages of insurance changes. As I listened to people talk, and we have talked about this bill all day, I hear some on the majority side say that the additions to the bill have a very definite policy objective; namely, to make health insurance more affordable. How I wish that was true.

However, two of the most controversial riders, tax breaks for medical savings accounts, and an exemption from State insurance laws for certain health plans, could actually make health insurance higher for many, many people, the cost of health insurance. Both of these provisions would promote risk skimming, which puts the healthiest Americans in a separate health care plan. For anyone who knows about insurance, you know when you do not have a decent risk pool, the risk pool does not work.

Mr. Speaker, we have an opportunity tonight to move forward in a bipartisan legislative manner. Senator KASSEBAUM and KENNEDY's bill was put forth here by the gentlewoman from Connecticut, Mrs. ROUKEMA, and many Members of this body. We could take this bill, this simple, precise bill, and have portability for health insurance. That is all we have to do. We do not have to do everything that would just complicate matters. We can help millions of Americans by doing a simple, good bill.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr HOUGHTON], a respected member of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, I would like to talk on the portability issue. I think it is an important one. I know that a lot of people have talked on it. It will not be the last discussion about this. However, I think it is important. I know a little bit about it, and it is really at the heart of this whole bill.

Mr. Speaker, basically what it does is to free up somebody to work wherever he or she wants. That is not a bad concept. You work for company A and you want to move to company B, but company B does not have any health insurance program. You get a job at company C, but at a far less salary. You would rather take the job at company B. You cannot do it. You cannot help your family.

Under this condition, you must be given an opportunity to have an insurance policy yourself or through the company, irrespective of where you are working or irrespective of the preexisting conditions. It makes a lot of sense, Mr. Speaker. I fully endorse this.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I thank my friend, the gentleman from California, for yielding me this time.

Mr. Speaker, let me say to my good friend, the chairman of the Committee on Ways and Means, this bill has certainly changed since it left the Committee on Ways and Means. That is unfortunate, because I know that the chairman agrees with me that we are trying to return power to our States. This bill moves in exactly the opposite direction. By preempting our States in health insurance, which has been a traditional role for State governments to regulate, this bill moves in the wrong direction. It preempts our States without providing adequate Federal protection.

Mr. Speaker, let me just give one example of the impact that this bill will have, if it becomes law, on the State of Maryland. We enacted small market reform in our State. It covers employers that have employees, between 2 and 50 employees. It also covers the association plans, and now also covers our self-employed. The plan is working.

Mr. Speaker, let me just read from a letter that I received from our State officials:

> The reforms went into effect July 1, 1994. . . . The small business community (the Maryland Chamber, Retail Merchants Association, individual businesses) and insurance agents report the reforms have stabilized the market, increased price competition, and increased choice of delivery systems.

The reforms proved so successful to the general assembly that they expanded it to include the self-employed.

Yet, the provisions that are included in this bill would seriously jeopardize our ability to continue that plan in Maryland, for, you see, companies would be able to come under Federal regulation and void the State plan, and therefore, defeat the purpose of the pooling arrangements in our State. That is unfortunate and it is wrong.

Let me give a second example. My State has passed the emergency room care legislation, that uses the "reasonable lay person" definition on when that person should be reimbursed for care in an emergency room. We are not waiting for the Federal Government to act on it. The Federal Government has not acted on it. Do not penalize my State by allowing more and more insurance plans to be able to get out from under State regulation and be able to avoid their responsibility to cover emergency room care. That is what this bill will allow to happen. More and more companies will be able to avoid State regulation. That is wrong. It should not happen. We should allow the States to respond.

Let me quote, if I might, from the National Association of Insurance Commissioners:

> Unfortunately, we continue to have grave concerns that subtitle C of title I of H.R. 3160 would significantly erode existing State level insurance reforms. The net effect of the final provisions relating to MEWA's is extremely damaging to States authority to govern their own insurance market.

Mr. Speaker, I do not understand why we are moving in the wrong direction by taking more power, rather than giving our States the ability to control health insurance. The National Association of State legislators opposed those provisions in the bill, and for good reason. I regret that the only option we have is to support the Democratic substitute if we want to deal with preexisting conditions.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HERGER], another respected member of the Committee on Ways and Means.

Mr. HERGER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, in 1996, an estimated 3.1 million self-employed Americans will be unfairly denied adequate tax relief for their health insurance costs. Individuals that receive health coverage through their employers do no pay taxes on those benefits while self-employed individuals are only allowed to

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deduct 30 percent of what they spend on health care insurance.

Mr. Speaker, this mere 30 percent deduction inadequate, discriminatory, and discourages the self-employed from obtaining proper medical coverage and care. While this bill doesn't completely end this inequitable tax treatment of the self-employed, it moves us closer to that goal by increasing the health care deduction for the self-employed to 50 percent.

Mr. Speaker, I urge my colleagues to support the self-employed in this country by adopting this much-needed legislation.

Mr. STARK. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I support Kennedy-Kassebaum. This bill before us now is not Kennedy-Kassebaum-plus, it is Kennedy-Kassebaum-minus. In a way, this bill is the story of this session so far. When the Republicans have a chance to do something good, they ruin it by overreaching. They simply cannot resist excess, and they cannot resist turning a bipartisan bill, which Kennedy-Kassebaum is, into a partisan one.

Mr. Speaker, why is this Kennedy-Kassebaum-minus? I think it is very clear, when someone who is covered by group insurance leaves and must have individual insurance, there is going to be less protection for affordability under the bill we have here than Kennedy-Kassebaum, period. It is likely that the individual will pay more.

Second, they have included MSA's, which are likely to draw the healthiest away and hurt everybody else in terms of premiums. Let me just say one thing about MSA's. They are really a potential tax shelter for wealthy people, because if you put money into them, you do not pay Social Security taxes. You indefinitely defer income taxes. And if you keep them until death, you avoid estate taxes. IRA's are structured to avoid that kind of sheltering. What these MSA's, as the Republicans here in the House, once again going to an extreme, what they have done is to promote tax sheltering for very wealthy families.

One last point, and we have made it a number of times, on fraud and abuse. Why make it tougher for the Government to impose civil and monetary penalties in the case of fraud and abuse? Why do that? Why do you require that the proof be recklessness instead of negligence, when the Government relies on the providers, the tens of thousands, to submit accurate bills? Mr. Speaker, I do not understand what pressure group you are reacting to, but it is bad for the public at large.

So for all of these reasons, I urge that we reject this bill. Unfortunately, once again, they have gone much too far. Nothing exceeds like excess, as has been said many years ago. I think we have no alternative but then to vote for the substitute. Let us do Kennedy-Kassebaum, taking care of the self-employed. Let us not go backward. Let us not turn this into a political issue. This reform is long overdue.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. MCCRERY], a respected member of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Speaker, medical savings accounts will provide hard-working Americans the freedom to personally manage and even save a portion of their health care dollars. By granting consumers complete control, MSA's allow working men and women and their families to tailor health care spending to their individual needs. This element of personal responsibility will lead to more cost-conscious and cost-efficient spending choices.

MSA's are easily portable from one job to another and provide total freedom when choosing a family's health care provider. In the case of a serious illness or injury, MSA beneficiaries will continue to have comprehensive medical coverage through a high-deductible health plan which meets those costs. Furthermore, this bill helps individuals plan for their future long-term care needs by allowing MSA funds to be used to purchase long-term care insurance or services.

In short, Mr. Speaker, MSA's provide hard-working American families the ultimate in health insurance: choice, flexibility, and portability.

Mr. STARK. Mr. Speaker, I yield 4 minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, I wish that we were out here voting on the Kennedy-Kassebaum-Roukema bill, but we are not. HIAA, the Health Insurance Association of America, did not want that bill to come to the floor, and so we have this bill we have before us. This bill was written by, or at least for, the insurance industry.

The first thing in it is data collection. I mentioned that under the rule, they collect data, they have electronic clearinghouses that can shift that information. There is no privacy protection in this bill whatsoever. This is the first time the Federal Government has gotten into collecting health care data, and there are no privacy protections.

But worst about this bill is that it purports to be about portability. Portability means you have insurance, you lose your job, what happens to you? Well, how can you carry your insurance until you get your next job, or what do you do to cover your family? Now, this bill says that, if you were in a company that had 50 people or you had a group insurance and you go out there and you start looking for insurance, the insurance company or the State can decide what they are going to offer you.

Mr. Speaker, we are not going to get the same policy we have now. No one listening to this should think that portability means what I have now I will have tomorrow, because it simply is not so. We give the insurance companies the ability to say, we will give you the average actuarial value policy. What does that mean? It has never been done in the United States. This is a pig in a poke. Anybody who thinks that the insurance companies when they do not have to give you insurance are going to give you the same thing, they are going to jack the price. And you are going to get less benefits, particularly if you have any kind of medical problem.

They are going to medically underwrite you. If you have cancer or heart attack or anything, diabetes, whatever, you suddenly are going to find out you do not have the same benefits you had under your old group policy.

Now, let us say we have a job and we lose it and move to another company. We may get into the next company, but the company that has more than 50 employees has no guarantee that they can go out and buy a policy. There is no guarantee of issue to an employer who has more than 50 people.

Mr. Speaker, all of these proposals fit the insurance company's ability to cherry pick and avoid the sick people and make their choices and find ways to make money. Anything that is in this bill could be done now by the insurance companies. The Republicans have put out there essentially what I say is a guarantee that we can buy a Cadillac in this country. Now, we can pass a bill and say everybody can buy a Cadillac. We guarantee that Cadillac dealerships must issue us the keys to a Cadillac.

Mr. Speaker, why do people not have Cadillacs? They have not got the money to buy Cadillacs. This bill is a fraud because it says, we get portability. But just like a bill that says we get a Cadillac, we would not get one.

Now, if that were not enough, if it were not just the issue of portability, the opportunities for fraud by insurance companies are increased in this bill. We passed a law since I came to Congress that said that insurance companies could not sell a policy to old people for things that are covered by Medicare. We could not duplicate without saying to the old folks: This policy covers what is under your Medicare. Now, any old folk would say to that: Well, that is stupid. Why should I buy that policy?

So they quit selling those policies. This bill says that an insurance company can go out selling something all over the place that covers what is covered by Medicare. It is simply an opportunity to legalize their fraud.

This is a bad bill. Vote for Dingell, Spratt, and Bentsen.

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Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. Ramstad].

Mr. RAMSTAD. I thank the gentleman for yielding me the time.

Mr. Speaker, last year alone, $31 billion was lost to Medicare fraud and abuse, Medicare and Medicaid fraud and abuse. Everyone here talks about doing something about waste, fraud and abuse in our health care system. This bill finally does something to eliminate these parasites on our health care system.

Mr. Speaker, our bill establishes the Medicare integrity program, which increases the ability of Medicare to prevent payments for fraudulent, abusive or erroneous claims.

We, for the first time, require the Health Care Finance Agency to use state-of-the-art computer software, the same type used by private insurers, and to hire private sector companies with proven track records to prevent fraud and abuse. This will result, according to the CBO, in a net savings of almost $2 billion over the next 6 years.

The other provisions that fight health care fraud and abuse are listed on this chart, Mr. Speaker. I urge approval of this bill to get at waste, fraud, and abuse.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

It is interesting that the previous speaker spoke about parasites I think here to enlighten us about parasites. is the gentleman from Virginia [Mr. Moran], who will tell us about the Golden Rule Insurance Company, which gave Mr. Gingrich's political operations over $1.5 million, which is why we are discussing these MSA's.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. Moran].

Mr. MORAN. Mr. Speaker, as the gentleman from California [Mr. Stark] has explained, I think we know why MSA's are included in this legislation and why the Republican Party wants so much to make them into law. The principal beneficiary of this legislation would be Golden Rule Insurance Co.

All we have to do is to track the campaign contributions to the Speaker and GOPAC and the Republican committee.

Let me explain why the Democrats are not supporting Golden Rule Insurance Co. and their medical savings accounts. In the 1992 annual statement, only 54 cents out of every premium dollar was actually going into medical costs. Imagine. Half of the revenue went into shareholder profits and the like.

Let me explain why the State of Vermont kicked these medical savings account of Golden Rule Insurance Co. out of the State. It is because half of the people in Vermont, 5,000 people have these policies, half of them found that in the tiny writing at the bottom that Golden Rule had excluded whole body parts from coverage. They excluded their arms, their breasts, their backs, their hips, their hands, their legs, their circulatory system. Imagine excluding these things from coverage.

Let me tell my colleagues why the State of Kentucky had so much problem with Golden Rule Insurance Co. Golden Rule Insurance Co. does not want to cover newborns. They will not cover them until they prove that the newborn is healthy. Kentucky passed a law that says you have to cover newborns for the first 30 days of life. Golden Rule sued the State because they do not want to cover newborns for the first 30 days of life.

Mr. Speaker, let me tell my colleagues about some other folks who had specific experience. Carol Schreul of Aurora, IL, Golden Rule rejected her insurance for a brain tumor, $39,000. They would not cover it. They said that she listed her weight as 190 pounds but that it was actually 210 pounds.

Let me tell my colleagues about another Golden Rule policyholder who suffered a stroke, $20,000 in bills. James Anderle was a Milwaukee barber. It turns out that they said he had a preexisting condition, that he had the flu, and that this was a preexisting condition. And so they did not want to cover it.

Claims for $49,000 were denied Harry Baglayan, a self-employed repairman. He underwent bypass surgery. They said that he did not tell them that he had nausea 4 months earlier, and that was a preexisting condition.

I will just quote from the Wall Street Journal, which, it seems to me, probably has a little bit of credibility around these parts. The Wall Street Journal says that they are a sham, that in fact they are most known for cherry picking. In fact, when a claim actually is accepted, they wind up suing the beneficiary and the State. They have piled up $1 billion in assets. It is a sham, Mr. Speaker. We should not include this in our bill.

Mr. ARCHER. Mr. Speaker, I yield myself 15 seconds simply to say that the previous speaker made a very interesting emotional presentation. It just so happens that it has no relevancy to what we are talking about today.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. Sam Johnson].

Mr. SAM JOHNSON of Texas. Mr. Speaker, medical savings accounts are for middle-income America. There is a chart that proves it. Medical savings accounts, therefore, must be part of any health care plan we pass. They are an important option for both employers and employees. They give enhanced portability, preserve consumer choice, allow retirement savings and contain costs.

Medical savings accounts offer all Americans the opportunity to buy a plan that best meets their individual needs.

Mr. Speaker, middle-income Americans are my constituents. They repeatedly tell me that one of the most important things that they want is the ability to choose their own doctor. Medical savings accounts do that. They will allow people to achieve control over their own health care dollars, make it more cost-conscious and bring down the total cost of medical costs for everyone.

Medical savings accounts are good for America. Medical savings accounts offer Americans a freedom they deserve.

Mr. STARK. Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. Portman].

Mr. PORTMAN. Mr. Speaker, I rise today in strong support of the bill and I do so because I think it will provide greater security to millions of working Americans by eliminating some significant obstacles to health care.

I think this is precisely the kind of health care reform, Mr. Speaker, that the American people have called for. It is targeted reform. It is incremental reform. It makes commonsense improvements to an imperfect system.

Let me give my colleagues an example. This bill helps level the playing field between those who are self-employed and those who work for corporations. The health insurance deduction for the self-employed goes from 30 percent to 50 percent over a 7-year period. With this single step, we are making health care more affordable for 3.2 million Americans, many of those Americans who are now caught in the net, Americans who are now uninsured. That means the mon and pop grocery store down the street. That means that our favorite barber. That means that our local mechanic. All of these people may be self-employed.

In my State of Ohio alone, this enhanced deduction will affect more than 50,000 farm families. It makes sense. Corporations receive a significant deduction, and it is only fair that the self-employed do, too.

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Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Nevada [Mr. Ensign], a respected member of the Committee on Ways and Means.

Mr. ENSIGN. Mr. Speaker, in southern Nevada, with the fastest-growing senior population in the country, I constantly hear from elderly constituents about the exorbitant costs of long-term care. People like our parents and grandparents are paying about $40,000 a year for nursing home care. If they do not have the money, Medicaid requires that they lose virtually everything or legally hide everything before they can get help with long-term care from the government.

Currently, there is no provision in the Tax Code that relates to long-term care expenses. Most people incorrectly believe that private insurance will pick up this tab when they need it. But this is simply not the case for 98 percent of long-term care recipients. This bill incorporates the Ensign amendment that treats long-term care expenses as tax-deductible medical expenses. Some of my senior Democratic Ways and Means Committee members have told me they have been trying to do this for over 10 years. Best of all, it is fully paid by making billionaires who renounce their U.S. citizenship for tax purposes pay their fair share. This should have been done years ago, and certainly we should all support this bill with this amendment.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. Christensen], a respected member of the Committee on Ways and Means.

Mr. CHRISTENSEN. Mr. Speaker, I rise today to speak in favor of a provision that will help senior citizens in my home State of Nebraska, and throughout the country.

What I am referring to are the provisions in this bill that dramatically improve the way we treat long-term care, making long-term care more affordable and accessible.

This bill puts long-term care on a level playing field with other important forms of insurance and provides a much-needed incentive for individuals to take personal responsibility for their long-term care needs.

First, this legislation requires that long-term care insurance be treated like accident and health insurance, meaning that it will generally be excluded from an employee's gross income for tax purposes.

Second, thanks in large part to my colleague Mr. Ensign from Nevada, this bill provides that many long-term care expenses will now be deductible.

We as a nation must come together in a bipartisan fashion to put an end to a long-term care system that pulls seniors into poverty and forces taxpayers to step in to bear the burden.

This legislation does just that.

Once again we are doing what we said we would do by ensuring a bright future for our senior citizens.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Rangel].

Mr. RANGEL. Mr. Speaker, I think the Republicans should be lauded for attempting at least to pick up the pieces of what has to be a concern to all Americans, and that is inadequate health care for most of our citizens, especially those people who are working and do not have access to insurance. They are not insured by the Federal Government, because they make too much money, and, of course, they do not have enough money to get their own insurance.

But why the Republicans would come in with an insurance plan that allows tax exemptions for people who can afford just to put it in a bank account and if they make certain that it is a high deductible, that is that the only time that they can use it is for catastrophic diseases, then it just seems to me that what we are doing is allowing the insurance companies to cherry-pick and select those people who are healthy and then those people who are not insured by that can come right back and fall on the regular public system that is there.

What we do need is a comprehensive insurance program that really was the one that was initiated before, and perhaps it was too much to consume at one time, but we cannot forget that there are 40 million people out there in the United States that have no insurance at all, and these are the people that are the most vulnerable and these are the people that cannot afford to have these type of savings accounts which are there to protect those who already have.

I think that instead of just selecting those parts of the people that they believe would give political support, that what we have to have in this country is an insurance, a health insurance system where every American, regardless of how much money they have or whether they do not have any at all, can say in this great country that people will not die just because they lack access to health care.

All over we see we are cutting back the public share. If we want to do more in the private sector, let it be fairer.

Mr. ARCHER. Mr. Speaker, I yield myself 1 minute.

I think the debate, Mr. Speaker, has been very curious today. On the one hand, the Democrats accuse us of overreaching, of having too comprehensive a bill. This is from the same people that gave us the unbelievably complex Government takeover of the entire health care system in 1994. It is fascinating. And then they come and say, oh, we are concerned about insurance companies taking a part of the money paid on the premiums and not spending it on health care, but they want to deny medical savings accounts where the individual spends his or her own money without regard to a third-party payer.

There is an enormous inconsistency here, but in a sense it is consistent because in 1994 they wanted to deny choice to the people of this country and now they want to deny choice to the people of this country to have their own medical savings accounts.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself the balance of my time.

I would just suggest that the Republicans would like to spend almost $4 billion on long-term care insurance at the same time they cut $90 billion out of Medicaid, which pays for long-term care for the poorest. It is true that we had a bill that would have provided health insurance to all Americans, and there are 40 million Americans out there uninsured who obviously the Republicans do not give a hoot about. All they care about are the rich, who can enjoy the medical savings accounts.

So if you do not have insurance and your children do not have insurance, the Republicans are doing nothing. If you are very rich or you know some rich people, they get helped by this bill.

The Dingell-Spratt-Bentsen amendment would be the bill to support, which would get us the Roukema-Kennedy-Kassebaum bill, which does all the good things on a bipartisan basis that we need to do and does away with the claptrap that has been added on to this bill with the awful intention of killing it, which to me is cynical, and it is cynical because it is going to hurt the poor and the elderly while it helps the rich, like Ross Perot and the friends of the Republicans. And that is not what this country needs.

We have 40 million people who do not, whose COBRA benefits could protect them; 3½ million who will expire. The Republicans voted against extending it.

Support the Dingell-Spratt-Bentsen amendment.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. Thomas], the highly respected, helpful creator of a big part of this bill, the chairman of the health subcommittee of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I thank the chairman, the gentleman from Texas [Mr. Archer], for yielding me this time. I want to compliment him as I want to compliment the chairmen of the other committees, the gentleman from Virginia [Mr. Bliley] and the gentleman from Pennsylvania [Mr. Goodling]. It really is exciting, and I am pleased that this new majority for the first time in more than 40 years has a work product on the floor that could not be produced by the former majority.

The Democrats had more than 40 years. In fact, it has been more than 10 years since the last health insurance bill has been on the floor. The Democrats owned Washington in the entire 103d Congress; the Democrats had a majority in the House. They had a majority in the Senate. They had a President. Not one product to deal with the plight of the American worker, so eloquently described by the Democrats over and over again, on this floor ever came to the floor. We were never provided the opportunity to help. We had the opportunity to hear of the plight of the poor worker just as we did a few minutes ago. The gentlewoman from

VOL
142
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29
1996

Connecticut talked about that poor beleaguered person, and I am sure he is and he has been for a long time and he was during the entire time the Democrats were in the majority.

The major committees in the House, not just one committee, the major committees of responsibility have come together and we have produced H.R. 3103. It is not too much, it is not too little, it is just about right for responsible and reasonable health care reform. We have actually accomplished a modest improvement for the self-employed. We moved their deductibility from 30 percent to 50 percent, prospectively. That is really all that we thought was prudent and appropriate.

Criticism from the minority over this? We do not do enough, fast enough. Who was it that left those same self-employed without any protection whatsoever for the entire calendar year of 1994? All of a sudden they want to do something for these people. When they were in control they did absolutely nothing. They allowed the deductibility for health care to lapse. When you were running the place, why were not you more responsible?

H.R. 3103 reforms tort law in the area of medical malpractice. Is it radical? Half the States limit noneconomic damages. Is it controversial? Last March, with 247 votes, 44 Democrats, 23 from the North, 21 from the South, joining the new majority, the responsible Democrats and the Republicans passed medical malpractice reform. We put it in the product liability bill. The exact same language as passed the floor of the House is in this bill. We have put together increased penalties for fraud and abuse. Tougher rules, stiffer penalties. We find it, we fix it, and we make sure that we can fight it. Stiffer penalties, stronger rules. What is wrong with requiring the government to tell people when they ask the government is this OK?

What is wrong with advisory opinions? Apparently, the gentleman from California [Mr. STARK] did not find anything wrong with advisory opinions last June, outside the context of the political responses we have been hearing today. In H.R. 1912, the gentleman from California [Mr. STARK] introduced a bill to deal with health care fraud and abuse. On page 41, the gentleman from California has a provision, subtitled (d), advisory opinions, on kickbacks, and self-referrals.

We also have greater availability and greater affordability of health insurance, you have heard from many of my colleagues in the area of medical savings accounts. We have heard over here from the minority, how horrendous is this provision. Well, is it really? It is choice. It does not say that you must, it says you can. It does not say you shall, it says you may. It is a choice. It is one more choice. Possibly it is a product that people who now cannot find a product in the marketplace will use.

Who are those people? We have heard the profile of those individuals characterized as the healthy and the wealthy. Take a look at, again, the chart that the gentleman from Texas, Mr. SAM JOHNSON, focused on. According to the Joint Tax Committee, 51 percent of the people who are going to find this a useful product are in the $50,000 to $74,000 range, middle class. On the far right of the chart that is $100,000 and above; that is everybody who makes more than $100,000, $200,000, $300,000, $400,000, a million. That is out there less than 12%. That is that enormous group on the other end of the chart. Let us look at the lower end, from $40,000 to $49,000, 13 percent, from $30,000 to $39,000, 11 percent, the vast majority of people who will find this product usable are the middle and the lower middle class.

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What is wrong with small employers being able to voluntarily pool their resources so they can save on their health insurance, just like large employers? We begin to make sure that people who more and more need to invest in long-term health care, their cost of the insurance, and the cost of the health care itself, thanks to the gentleman from Nevada, an amendment in the Committee on Ways and Means, will be allowed under the Tax Code. Long overdue, and never done by the Democrats when they were in the majority.

Finally, the heart of the matter: The American worker will no longer have to worry about changing jobs or losing insurance.

H.R. 3103 is a good bill support it.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. BLILEY] is recognized for 22½ minutes and the gentleman from Michigan [Mr. DINGELL] is recognized for 22½ minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the substitute to H.R. 3103, The Health Coverage Availability and Affordability Act of 1996. During my tenure in Congress, I do not recall the House ever passing a health insurance market reform bill. We are about to take an historic action to change that.

The legislation before you today makes real reforms, and most importantly, it makes health insurance coverage both available—and affordable—for millions of Americans.

The substitute represents a consensus agreement that was developed as a result of the provisions that were reported out of the Commerce Committee, as well as those developed by the Committee on Ways and Means, the Committee on the Judiciary, and the Committee on Economic and Educational Opportunities. It is designed to address the interrelated issues of accessibility and affordability of health insurance coverage.

The provisions of this bill within the jurisdiction of the Commerce Committee are designed to deal with the difficult problem of job lock, or, put more simply, an employee's reluctance to change jobs because of pre-existing condition exclusions in health care coverage. This bill will ensure that individuals who have an opportunity to move to new or better jobs will not have to face limitations in their coverage for pre-existing medical conditions that will affect them or their families. This bill will also assure people in group health plans that they cannot be excluded from coverage, or from renewing their coverage, based on their health status. It provides limits on the period of exclusion for a pre-existing condition and assures that, once covered, the condition will not be excluded from future coverage if the individual meets the requirements of the bill.

The Commerce Committee reported provisions also provide for guaranteed availability of coverage to employees in the small group market. Each insurer that offers coverage in the small group market would have to accept every small employer and every eligible individual within the group.

The bill would also ensure portability of health insurance for qualifying individuals moving from group to individual coverage. This is accomplished by giving States flexibility to achieve individual coverage through a variety of means that include risk pools, group conversion policies, open enrollment by one or more insurers and guaranteed issue.

The bill also contains a number of other provisions which we strongly support. It allows small employers to take advantage of pooling so they can purchase affordable health insurance coverage. It reforms the medical malpractice system which will help contain costs and it provides for new health choices for those who want to purchase medical savings accounts.

It also includes provisions on fraud and abuse and administrative simplification. The General Accounting Office has estimated that fraud and abuse accounts for one out of every ten dollars spent on health care. Regrettably, fraud and abuse not only contributes to the ever-increasing cost of health care, it also leads to a lack of confidence in the health care system and its providers. Providing concrete laws and guidelines and stringent penalties for violations will ensure the continued integrity of the nation's health care system.

The administrative simplification provisions are needed to ensure that there are standards for the transmission of financial and administrative

data. Much of this information is currently transmitted in an electronic format. However, there is not a uniform standard and there are no consistent security standards or safeguards regarding the use of this information.

I urge my colleagues to join me in supporting this bill which will begin to help solve some very real problems for many Americans.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, today we choose between the people who carry a lunchbox to work, and the people who carry Gucci briefcases and wear imported loafers.

The people who carry lunchboxes aren't asking for special favors or special treatment. They're not asking for a tax loophole. What they want is very simple. When they change jobs, or if they fall prey to downsizing, or if a loved one contracts cancer or diabetes, they want to be able to buy health insurance. That's all.

I am afraid that this very modest request from the people who carry lunchboxes is going to fall on deaf ears in this House. The majority has instead constructed a monument to the influence industry.

We can pass a bill that makes health insurance portable and prohibits discrimination or restrictions because of pre-existing conditions. This simple bill would help 25 million Americans. Another provision in this bill on the tax deductibility of health insurance for the self-employed would help 3 million Americans.

We could pass that bill, sail it through the Senate, and have it on the President's desk for signature tonight. Instead, we're going to be voting on a Christmas tree bill adorned with ornaments for various special interests. And like a Christmas tree, it's soon going to be put out on the lawn for garbage pickup.

I know whose side I'm on. I'm voting with the people who carry lunchboxes. I urge my colleagues to do the same.

Mr. Speaker, I submit the following material for the RECORD:

HEALTH CARE? YOU COMPARE

H.R. 3103 BASE TEXT

A stripped-down Roukema/Kassebaum bill: no choice of plans for workers who lose their jobs; no guarantees for businesses with more than 50 workers; preempts State laws that protect consumers.

Limits deductibility of health insurance premiums for the self-employed to 50%.

Controversial Medical Savings Accounts.

Controversial medical malpractice law changes.

Controversial repeal of protections for seniors so they won't be ripped off by sale of useless, duplicative health insurance policies.

Controversial provisions overriding state insurance laws.

Controversial provisions making it harder to find and punish wrongdoers.

DINGELL/SPRATT/BENTSEN

A clean Roukema/Kassebaum bill: full portability; protection against discrimination due to preexisting conditions; guaranteed renewal.

Increases deductibility of health insurance premiums for the self-employed from 30% to 80%.

No other controversial provisions to weigh down the bill, slow down the conference, or provoke a Presidential veto.

Keep it simple. Keep it clean. Give the American people what they need.

Support the substitute. Oppose H.R. 3103's base text.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself 30 seconds to respond to my good friend, the gentleman from Michigan.

What a difference, my colleagues, 2 years makes. On this very night, the night before we broke for our Easter recess, 2 years ago, I sat over there next to my then chairman, the gentleman from Michigan, and said, "Mr. Chairman, the President's bill is too heavy. It is too much. It is socialized medicine. We can't move it. We ought to take up the Rowland-Bilirakis bill, bipartisan bill, which was modest, like our bill, and deal with it and mark it up in committee." He said "It can't be done. I am sorry." Now he is back. What a difference.

Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. BILIRAKIS] the chairman of the subcommittee.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am pleased to be here today to add my voice to those in favor of health care reform for America's families.

I must say that this moment is both satisfying and, at the same time, deeply ironic. For, now, the House finally has the opportunity to approve health care reforms many of us have advocated for many years. The irony lies in the fact we could have accomplished many of these reforms over 2 years ago if the former leadership had been willing to act and the current administration willing to compromise.

Despite all the political attacks you may hear today—and make no mistake, they are political attacks—health care reform is an idea whose time has come—again and again. The problems we seek to fix today we identified long ago along with many of the solutions contained in this legislation.

Many of you in this Chamber may remember that during the 103d Congress, Congressman Roy Rowland and I introduced consensus health reform legislation. The Rowland-Bilirakis bill was the only true bipartisan bill—but we never got our day in court. Not one vote was ever scheduled on our proposal despite broad support for the provisions contained in the bill.

Despite the great hue and cry in 1994 for reform, my own Commerce Committee did not even schedule a markup on my bill—or any other version of health reform. Today, we have the opportunity to change all that.

We finally have the opportunity to cast a historic vote on a health reform package which contains many of the items advocated by the Rowland-Bilirakis bill in the last Congress.

Like my previous proposal, this legislation will raise deductions for the self-employed, enact provisions on fraud and abuse, promote administrative simplification, establish pooling for small employers, provide for medical malpractice reform, and ensure insurance portability.

To be sure, not all items in this legislation are precisely as we proposed back in 1994. But many of the core items have been subject to bipartisan agreement in the past and should now be viewed in a similar light. I urge my colleagues, on both sides of the aisle, to set aside any remaining differences and pass this bill.

Indeed, it is thus somewhat mystifying when I hear that this bill is somehow too loaded up. And it is a little more than ironic when the main criticism of the previous Rowland-Bilirakis bill was that it didn't do enough.

You can't have it both ways. We have to do something to resolve problems in our health care system now, in this Congress. We never had the chance in 1994.

Health care is too expensive. This bill will help make health care more affordable for millions of families. Access to health care is too restricted—this bill allows policies to be carried from one job to another. Too many people have too few choices with regard to health care—this bill will expand the number of opportunities we all have to secure an effective health care plan for our family.

These are problems we can solve now and which will improve the lives of millions of working Americans. We cannot let this moment pass without passing this bill. I strongly urge my colleagues to support our efforts to improve our Nation's health care delivery system and help make health care in this country both more accessible and affordable.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I am very happy to be here today. Many of my colleagues know that I am the House sponsor of the Kassebaum-Kennedy health insurance reform package. If I had my way, we would be debating and quickly passing a clean version of that legislation.

The portability and the guaranteed issue that it will deliver to 30 million Americans now.

VOL 142 PT 5 MR 21 — 29 1996 UMI

Kassebaum-Kennedy-Roukema is legislation that has been cosponsored in the House by a wide multitude of bipartisan support and in the Senate, Senate Committee on Labor and Resources, it was passed unanimously. It deserves bipartisan support.

The American people want health care reform, and they need it. They are sick and tired of partisan bickering and political gamesmanship. They want results and they want them now.

Unfortunately, I fear the Hastert omnibus bill will inevitably lead to more gridlock and inaction. I fear that, in the end, the American people will not get the common sense reforms that they deserve.

I think it should be noted right here and now that within the last 24 hours, two prominent Republican leaders in the Senate, Senator KASSEBAUM and Senator BENNETT, have confirmed their firm opposition to an omnibus bill. I think we should keep that in mind today.

I expect that if this should be blocked and it should end up in gridlock, I expect that the American people will hold us responsible in November.

Now, do not get me wrong. Some of the reforms that are not part of the Kassebaum-Roukema bill, such as medical malpractice reforms, I have supported in the past and will continue to support. But let us understand and be frank about it. Whether we support them or do not support them, the key components, malpractice, expansion and medical savings account, let us understand and be frank about that, that medical malpractice reform, medical savings account and ERISA expansion are controversial components. They are controversial, they are complex, and they demand individual consideration as individual pieces of legislation.

Mr. Speaker, I again say that we must answer to the American people and pass this legislation in its clean form tonight.

Mr. Speaker, I rise this evening in support of commonsense health insurance reform.

Many of my colleagues know that I am the House sponsor of the Kassebaum-Kennedy health insurance reform package. If I had my way, we would be debating and quickly passing a "clean" version of the Kassebaum-Roukema plan today and the portability and guaranteed issue that it presents to 30 million Americans.

Kassebaum-Roukema is legislation that has been cosponsored by 193 House members, and which the Senate Labor and Human Resources Committee approved unanimously.

The American people want healthcare reform. They are sick and tired of partisan bickering and political gamesmanship. They want results and they want them now.

Unfortunately, I fear the Hastert omnibus package will inevitably lead to more gridlock and inaction. And I fear that, in the end, the American people will not get the commonsense reform they deserve.

And it should be noted that within the last 24 hours 2 prominent Republican leaders in the Senate have confirmed their firm opposition to an omnibus bill.

Should that happen, I expect the American people to hold the 104th Congress accountable, as well they should.

Now don't get me wrong. Some of the reforms in H.R. 3103 that are not part of the Kassebaum-Roukema plan—such as medical malpractice reforms—I have supported in the past, and will continue to support in the future.

However, there can be no doubt that certain elements of the underlying bill (such as medical malpractice reform, medical savings accounts, and an ERISA expansion) should be fully debated by the Congress on a case-by-case basis—not wrapped-up into one gigantic package. Each one of these components are complex and controversial and should be properly considered independently.

In the past, I have been a very strong advocate of medical malpractice reforms so that physicians can stop practicing defensive medicine in order to insulate themselves from frivolous lawsuits that only lead to over-utilization of the health care system and higher liability insurance premiums. I will vigorously support these reforms in the future as well.

Nevertheless, I recognize that medical malpractice reform is a very controversial idea that faces serious obstacles in the Senate, and perhaps a veto by President Clinton.

With regard to medical savings accounts, I have some very serious reservations about this idea.

While the notion of empowering individuals to make their own health care decisions has a certain amount of merit, I am concerned that medical savings accounts could, in the long term, serve to ruin the health insurance market.

Medical savings accounts could serve to segregate the population into two groups: Young, healthy people using medical savings accounts and older, sicker people in conventional health plans. If this kind of risk-segmentation happened, the health insurance premiums for older, sicker individuals would skyrocket beyond imagination.

I refuse to support health reform legislation that makes this scenario a reality. Medical savings accounts should be reviewed and debated on their own merit—not as part of some, larger package.

Finally, I want to discuss my concerns about those provisions in the omnibus package that expand the ERISA pre-emption of state insurance laws.

For many years, I served as the ranking minority member of the then House Education and Labor Subcommittee on Labor and Management Relations, which had jurisdiction over ERISA, the Federal law governing employee benefits such as health care or pensions.

The single, most important lesson I learned about ERISA from my time on the subcommittee was this: the more you think you've learned about ERISA and how it works, the more you realize how little you truly know.

I am increasingly of the view that while ERISA as originally devised served a useful purpose, we need a new ERISA for the modern context.

As more and more employers self-insure, thereby receiving a pre-emption from any State insurance rule, regulation or law, employees find themselves at the mercy of their employer's choice of health benefit plan.

For example, New Jersey and other States have enacted laws that require at least 48 hours of hospitalization coverage for women giving birth. These laws are a response to the efforts of managed care networks to discharge women, and their newborn children, within 24 hours of labor and delivery.

When employers self-insure, their employees do not receive the benefit of any of these protections because of the ERISA preemption.

With the expected rapid growth in managed care networks and their enrollies in the future, this trend will only get worse, not better.

Consequently, rather than the significant expansion of the current ERISA as envisioned in H.R. 3103, I believe we need to carefully examine ERISA and devise a new form of this law to meet our current needs.

We should not be considering any ERISA expansion as part of a larger package, where these kinds of issues get lost in the shuffle.

Passing a clean version of the Kassebaum-Roukema plan avoids all of these problems. I hope that we don't let this golden opportunity to slip through our collective fingers.

□ 1930

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE], a valued member of the committee.

Mr. GANSKE. Mr. Speaker, this bill will help fix a health care system that has been beyond the means for many Americans.

Now a worker who wants to pursue his career but cannot change jobs because of an illness in the family would be covered by a new employer's insurance, group-to-group portability. Now an employee who is laid off or between jobs and cannot get individual coverage for his preexisting condition would be able to get coverage, group-to-individual portability. Now the small business employee, whose employer cannot afford to purchase insurance for the firm's five employees because one of them has a chronic illness, would be able to better afford health insurance.

Mr. Speaker, this bill makes it easier for Americans to get and keep health insurance. It is important that this bill includes medical savings accounts. They will return control over health care spending to consumers, save money, and lower health care overutilization. I am pleased that this bill also increases the health insurance deduction for self-employed individuals from 30 percent to 50 percent by the year 2003. While big businesses have been able to deduct all their health care costs, millions of self-employed individuals have been left without a similar benefit. That is not fair. We must give people more incentives and more options to carry health insurance for their families.

The Health Coverage Availability and Affordability Act will also crack down on fraud and abuse, saving millions of dollars. This, too, would keep the cost of your premiums down.

Mr. Speaker, finally, medical malpractice reform will help hold down the cost of defensive medicine and help keep premiums down. If health care is more affordable, more people will have real access to it.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I am so pleased that my colleague, the gentlewoman from New Jersey [Mrs. ROUKEMA] spoke just before me, because basically she pointed out that what we really need tonight is a clean bill, not loaded down with medical savings accounts and all the other things that are being suggested by the Republican leadership.

Mr. Speaker, the gentlewoman was trying to address portability and preexisting conditions, essentially expand coverage for many people now who cannot get coverage, and also keep health insurance affordable, and she achieves that essentially by saying that if you lose your job or change jobs, the insurance companies still have to provide you with individual coverage. She also limits the situations where the insurance companies can refuse to cover you because of preexisting medical conditions.

This is a very modest bill. We, on the Democratic side, managed to get 172 Members here to cosponsor her bill. In the Senate, there are 54 current cosponsors of the Kassebaum-Kennedy bill, so we know we can move this legislation, and the legislation is good because it is very modest. It basically keeps the insurance pool intact. It does not encourage healthy people to opt out. It does not bring in a lot of new people who are unemployed or who cannot afford insurance or who are critically ill that would increase the costs of health insurance.

But lo and behold, what do we get from the Republican leadership? They throw in the medical savings accounts, and what does that do? It breaks the risk pool. It breaks the insurance risk pool. Essentially what it does is to encourage healthy people and wealthy people to opt out and buy catastrophic coverage and get a tax break to put their money aside and leave everyone else in this risk pool so that they have to pay higher premiums, because it is going to cost more to insure them. It does the very thing, the very opposite, if you will, of what the gentlewoman from New Jersey, Mrs. ROUKEMA, and Senators KASSEBAUM and KENNEDY strove to do.

Mr. Speaker, what will be the ultimate result of increasing the costs of health insurance who remain and do not opt for the medical savings accounts? there will be fewer people insured, fewer people insured.

Mr. BLILEY. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, the chance for basic bipartisan health care reform may be slipping away, because some have taken a good idea and loaded it up with a lot of gifts to special interests. Why do we not put the American people first for a change?

Mr. Speaker, we all agree there are a few minor changes that we could make to our health care system that would cost the American taxpayer nothing, would offer security to millions of Americans in need of basic health care coverage. I say let us do those things that we can agree on. That is preexisting condition and portability.

We have to stop the unjust practice of denying those with preexisting conditions insurance coverage. Many people who need insurance the most cannot get it because of these preexisting conditions. Another 4 million Americans who have insurance are afraid to leave their jobs, fearing that they never might be insured at another job again.

Mr. Speaker, we should ask ourselves, how many are throwing themselves, begging for a medical savings account? That is for the healthy and for the wealthy. All our constituents are definitely knocking down our doors, demanding us to cut important services like medicare and medicaid and education so that we can spend billions on creating medical savings account.

There are too many controversial malpractice reforms in this bill. Why do we have to load it up? Why can we not do like the other body does and for a change let us say they have taken the right path and pass a bill like Roukema-Kennedy-Kassebaum. That is what we were elected to do. We all said we would do it. Now we have other political agendas that might prevent a good bipartisan health package from being enacted.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Speaker, I rise today in support of the Health Care Coverage Availability and Affordability Act. In this time of economic insecurity and increasing pressure on America's working-class families, this bill is a common sense approach to health care access that also makes health care more affordable. In 1993, the Clinton administration and the liberals in Congress lined up behind the big government socialized medicine plan. This plan was an utter failure, not because the American people did not want security in their health coverage but because it was the wrong approach, though our Committee on Commerce in the 103d Congress had the right approach with the gentleman from Florida [Mr. BILIRAKIS] and Dr. Rowland of Georgia.

H.R. 3103 takes the right approach in dealing with their anxiety, ensuring that people who change or lose their jobs will have access to health care, regardless of preexisting conditions. This is important and deals with the same issues as the Kassebaum bill. However, while this is a good starting point, it just does not go far enough. Providing portability is important but on its own, it fails to deal with the forces that drive health care costs higher.

Mr. Speaker, it is nonsense to tell the American people that we will increase their access to health care without making health care more affordable. If we do nothing to bring down the cost of health care, we have the same old problem. We will be told that some provisions were included in this bill to kill health care reform. That is bull. Increasing access and reducing health care costs are two sides of the same coin.

This bill attempts to remove the influence of the trial lawyers in medicine by reforming the medical liability system. It gives young people, a large portion of whom do not have coverage, more health care choices. We must pass H.R. 3103.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, if I might have the attention of the distinguished chairman.

Am I correct that his bill prohibits group health plans or insurers offering coverage through group health plans from requiring a participant to pay a premium contribution that is greater than a premium contribution for a similarly situated participant or beneficiary solely on the basis of the health status of the participant or beneficiary?

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Speaker, the gentleman is correct.

Mr. STUDDS. Am I further correct that the word "solely" in this provision means that there can be no discrimination at all in the setting of premium contribution amounts for a participant on the basis of health status?

Mr. BLILEY. Mr. Speaker, if the gentleman will continue to yield, the gentleman is correct.

Mr. STUDDS. Mr. Speaker, although I am somewhat underwhelmed by both of the propositions before us, I think this is a significant step in the right direction.

Mr. BLILEY. Mr. Speaker, how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. COMBEST). The gentleman from Virginia [Mr. BLILEY] has 11 minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 12¾ minutes remaining.

VOL 142
PT 5
MR 21 — 29
1996
UMI

Mr. BLILEY. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise in support of the Kassebaum-Roukema-Kennedy legislation. I rise lamenting the fact that we will not take "yes" for an answer. Very frankly, the Kennedy-Kassebaum-Roukema bill was bottled up in the Senate until the heat got so high recently that the Republican in the Senate who then publicly admitted holding up the bill said no, let it go forward.

Mr. Speaker, all of us in a bipartisan way agree that we ought to preclude preexisting conditions being an impediment to our citizens getting insurance. All of us believe that people ought not to be locked into their jobs because they do not have portability of health care security through their insurance. All of us believe that in a bipartisan way. That is what the gentlewoman from New Jersey [Mrs. ROUKEMA] was saying. That is what Senator KASSEBAUM is saying from Kansas. But we are having trouble taking yes for an answer.

Mr. Speaker, I personally believe that the medical savings account, although superficially appearing to provide some options, in fact will increase the cost for those who are less healthy and less wealthy. That is not just a fancy phrase. I think it is reality.

In addition, as my colleague, the gentleman from Maryland [Mr. CARDIN] expressed when he spoke on Ways and Means, our State is very concerned about precluding it from making determinations. In fact, we are stopping States from having the flexibility that our Republican colleagues say they ought to have.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS], a distinguished member of the committee.

Mr. STEARNS. Mr. Speaker, I rise in support of the Archer/Bliley bill because I believe the issue of genetic privacy is of tremendous importance. I introduced H.R. 2690, the Genetic Privacy and Nondiscrimination Act of 1995. My bill would ban discrimination based on a person's genetic profile.

I wish to acknowledge my colleague and good friend Representative JOE KENNEDY who is helping me on the other side of the aisle. He and I are working together on this bill.

With new forms of genetic testing able to reveal an individual's likelihood of contracting a number of diseases, the possibility arises that employers and health insurers could use that information to discriminate.

This is a civil rights issue. People who are already at risk due to their genetic makeup shouldn't have to worry about the additional hardship of losing their job or health insurance.

Like a companion bill introduced by Senators MARK HATFIELD and CONNIE MACK, H.R. 2690 would also ban the disclosure of genetic information by anyone without the written authorization of the individual. This safeguard would protect the privacy of individuals who would rather their genetic information be kept private.

I am pleased that I was able to add a portion of my bill to the Archer-Bliley bill.

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Genetic testing has proved effective in certain cases, and it can be argued that the detection of a gene or a certain genetic characteristic will not necessarily result in the onset of a particular illness. So, we have an ambiguity here. We have an opportunity where somebody could have a defect which somebody would interpret different ways which would prevent them from having good health care insurance.

Genetic testing is moving along, as we all know, and it raises many ethical and legal and social questions relating to access to genetic testing, insurability and employability, and we need to make this confidential. The purpose of the Genetic Privacy Act, which I have provided, is to establish some guidelines concerning disclosure and use of genetic information with the goal of balancing the rights of the individuals against the needs of society.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I rise in support of the substitute which gives us an opportunity to pass a reform we know will be signed by the President.

In the last Congress we saw the demise of comprehensive health care reform, and those who objected to that initiative said that it was too much. We ended up with nothing. Hundreds of thousands of New Jerseyans and millions of Americans continued to languish in the insecurity of no health care coverage.

Today we can address one major concern of millions of working Americans, the fear of moving from job to job because of the possible loss of comprehensive health insurance. We can eliminate the condition referred to as job lock and free up opportunities for working men and women to seek new employment.

We also have an opportunity to provide necessary protection for those Americans with preexisting illnesses who are trapped in a job solely because of their inability to become insured if they leave their position. We have the opportunity to eliminate the discriminatory practice of denying continued health care to people with diabetes and other illnesses for which insurance coverage has been nearly impossible to obtain.

But the committee's bill contains provisions which are unacceptable to the President, the Senate and which, if included, may end any hope of enacting even modest health care reform, and I hope this is not the cynical reason behind the bill.

Twenty-five percent of my constituents have no health care insurance whatsoever. If we have to enact health care reform one step at a time, so be it. But let us take the first step today by insuring more people, liberating them in their choices through the adoption of the Democratic substitute.

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I rise to support the Archer-Bliley bill, which will be the antidote to the problem we have in the United States of making sure we have sufficient coverage for all Americans.

As my colleagues know, the United States spends far more per capita on health care than any other major Nation in the world. But yet despite the rising costs of health care, millions of Americans are without health insurance and millions more expected to join the ranks of the uninsured.

The solution to the problem, I believe, Mr. Speaker, is in fact contained in H.R. 3103. The reforms before us here tonight in the House reform current health care insurance practices to make health insurance more available and more affordable.

The bill encourages insurance companies to provide coverages to the workers who change from one-employer provided plan to another. It gives the portability everybody wants. They lose their job and move to a job without coverage. It allows small employers to join together to purchase group health insurance for the first time, to do so for their employees, and allows self-employed individuals, Mr. Speaker, to deduct increasing percentages of their health insurance premiums from their income taxes.

This is an idea whose time has arrived, and I would ask for my colleagues to support this legislation for those reasons, but still a few more. It allows organizations such as trade associations and chambers of commerce to voluntarily associate to purchase health insurance which would be available to all member organizations. Further, it provides incentives to encourage individuals and their employers to make tax-deductible contributions in lieu of health insurance premiums.

Finally, Mr. Speaker, it increases penalties for fraud.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, three years ago the insurance industry spent $100 million to kill comprehensive health care reform. How many of

these companies are ominously silent on this Gingrich special interest health care bill.

One politically active insurance company located in Indiana would benefit handsomely under the Gingrich plan thinks to a special interest giveaway larded onto the Republican bill. Medical savings accounts will enrich a select group of high-end catastrophic providers, skim the well-off and the healthy out of the insurance pool, and increase costs for everyone left behind.

This Gingrich special interest plan is a bill written by the insurance companies, of the insurance companies, and for the insurance companies. Approximately 40 million Americans are without health care and without health insurance. A majority of these Americans are from working families, working hard, paying their taxes, playing by the rules. They need our help in this Chamber tonight.

Mr. Speaker, pass the Dingell substitute. Defeat the Gingrich special interest bill.

Mr. BILILEY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I find it appalling that the Democrats would bring in this special interest thing. The integrity of the debate; is it possible to have a honest debate any more at all?

I mean if my colleagues want to talk about special interests, read yesterday's Hill newspaper article. The American Trial Lawyers just gave $2.2 million to candidates last year, 94 percent going to Democrats opposed to this bill because it has tort reform. My colleagues want to talk special interests? Weigh on in, because my colleagues are the ones who are in the pocket of the American trial bar.

Let us get to the real issue here. Medical savings accounts gives choice to Americans. It takes it away from our Washington bureaucrat command and control allies and puts it in the hands of the American public where it belongs. That is what our constituents want, and once they start making their own decisions on health care, they are going to decide a whole lot of other things, like they may need somebody else to represent them in Congress.

I think it is important to also know that our colleagues are standing one more time against small businesses by opposing legislation that would allow pet stores and clothing stores and barber shops to pool together and buy their insurance as a group.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, more women in the United States are injured and killed through domestic violence than by automobile accidents, muggings, and rapes by strangers combined. Domestic violence is a terrible plague in American society.

Given that reality, it is an absolute outrage that a number of insurance companies deny health insurance to women who have been battered and who have been victims of domestic violence. These insurance companies argue that domestic violence is a preexisting condition and that it might not be profitable for them to insure these women. Under these conditions women are being abused twice, first by their batterers and, secondly, by the insurance companies who refuse to insure them and their families.

Mr. Speaker, I am delighted that both the Republican and Democratic health care bills before us tonight include an amendment which I offered which would once and for all put an end to this outrage. Women who are battered are entitled to health insurance just like anyone else.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. COX], chairman of the Republican Policy Committee.

Mr. COX of California. Mr. Speaker, I would just like to thank my colleague from Vermont. My understanding of his remarks is that he is pleased with the bill because it includes provisions that will make sure that domestic violence is covered, that it is not excluded from our protections as a preexisting condition.

That is my understanding. Is that correct?

Mr. SANDERS. Mr. Speaker, will the gentleman yield?

Mr. COX of California. I yield to the gentleman from Vermont.

Mr. SANDERS. Included both in the Republican bill and the Dingell bill as well, yes.

Mr. COX of California. I thank the gentleman for pointing out that additional salutary impact of this legislation.

There is something else in this legislation that I would like to highlight, in addition to the fact that it will solve the problems that we have all agreed need to be solved on preexisting conditions and on portability of coverage. That is reducing costs in the way that the Congressional Budget Office has told us is the most effective way possible.

A September 1993 Office of Technology Assessment report said that a ceiling on noneconomic damages in medical lawsuits is the best way that we can get a grip on costs. Earlier in this session we have devoted our attention to this issue, and this Congress has, by overwhelming bipartisan vote, approved this kind of health care liability reform that, I want to point out, is also included in this bill and provides a very solid reason for voting for it.

One of the key elements is what in California we call MICRA. It is health care cost control that we have had in place for many, many years. It was passed by a Democratic legislature, signed by a Democratic governor. It is bipartisan in this Congress, as well. I was very pleased to be the Member who offered this legislation in the first session of Congress and to see the strong bipartisan support that it won.

We do have too many frivolous lawsuits, and, as a matter of fact, we can through this proven technique, already a law in California, control them for the benefit of every single individual insured person in America. Driving down health care costs this way is very, very important.

Mr. DINGELL. I yield 1½ minutes to the distinguished gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, among the many provisions, hundreds of pages of provisions which the insurance industry added to the Kennedy-Kassebaum bill that passed the Senate with, God forbid, bipartisan support, the most insidious of those provisions are those that provide for the medical savings accounts because they would set off a chain reaction.

First, they encourage the healthy and particularly the wealthy who can afford the high deductibles of MSA's to opt out of their current insurance pool. That shrinks the insurance pool needed to keep premiums more affordable for everybody.

Next, that is injury to hard-working middle-income people left behind in the pool because they are going to see their premiums go up, they are going to have to make up the loss of the healthiest and wealthiest.

And, finally to add insult to injury, the same middle-income workers paying higher premiums will also be paying taxes to replace the tax breaks handed to those who can afford these accounts.

Mr. Speaker, that is wrong, and I urge my colleagues to support the substitute which is a clean Kennedy-Kassebaum-Roukema bill. It is real reform with several clean good steps toward real health insurance reform. It eliminates the denials for preexisting conditions when someone changes jobs, it eliminates some of the job lock which keeps people from changing jobs due to fear of losing their insurance, and it reduces the burden on the self-employed by raising their health insurance deduction to 50 percent.

Mr. BLILEY. Mr. Speaker, I have only one speaker left, and I reserve the balance of my time. I understand I have the right to close.

VOL
142
PT
5
MR
21
—
29
1996
UMI

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Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, we have a real opportunity tonight to do something for the working families in this country. The American public is clamoring for health care relief. It is one of the fundamental concerns of the people of this country. People in this Nation are frightened that they will lose their jobs, that they will lose their health care, that they will be denied health insurance because of a preexisting condition that they may have or that their children may have.

Mr. Speaker, the Kassebaum-Kennedy-Roukema bill takes a first step toward addressing these problems. It is a good bill, it is a bipartisan bill. It addresses the needs of the American people. Do not load up the bill with politically contentious issues that are designed to kill this bill, this opportunity for health care reform. It is wrong. It is not what the people of this Nation have sent us here to do. It is not what our jobs are about.

Mr. Speaker, the authors of this bill have asked for a clean bill, not to be loaded up. Mrs. KASSEBAUM earlier today said, "I think there are some who, by design, would like to see problems." The Washington Times today says that "Riders Imperil Health Care Reforms," and it says that "House and Senate Republicans said they planned to add a series of controversial provisions to a popular health insurance reform bill, clouding chances for quick passage."

The gentleman from Virginia [Mr. BLILEY] himself has said that, "If you load up the wagon, it is heavier to pull." Do not sacrifice health care reform. Do not sacrifice the American public for special interests tonight. It is wrong to do that. We have a golden opportunity to do something, not for the Golden Rule Insurance Co., but for the American people, for the working families of this country who deserve to have relief from the perils of a disastrous illness. Vote against this bill, vote for the Democratic substitute.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, when President Clinton stood here a few months ago and announced his support for a bill that had been authored by Senator KASSEBAUM and the gentlewoman from New Jersey, Mrs. ROUKEMA, to be joined by the gentlemen from Massachusetts, Senator TED KENNEDY, and JOSEPH KENNEDY, the country was ecstatic. They were convinced for the first time we would actually do something about the need to make health insurance portable and to prevent prior conditions from making insurance either unavailable or unaffordable to many people.

Tragically, we are here tonight debating a bill that goes far beyond that consensus, that moves us into conflict on issues like MSAs, that are a pure giveaway to a gentleman from Indiana named Mr. Rooney, who legitimate insurance salesmen in my district claim they would never sell policies for.

We have watered down portability, we have limited the ability to prevent prior conditions from being remedied in this legislation, because we have taken an approach that does not really give people what they have been told they will get. They will pay more if there are fortunate enough at all to be able to continue to have health coverage. They are not going to be able to keep the kind of plan they have had. This proposal ensures they will pay more.

Tragically, in the process of making this bill difficult to pass and sign, we have not done enough to help small business people who need 80 percent, if not 100 percent, deductibility, and we have weakened consumer protections and gutted State law.

Please oppose this bill and support the substitute.

Mr. Speaker, I offer my strong support for the Democratic substitute.

The Republican bill is loaded down with special interest amendments like MSA's political paybacks for the Golden Rule Insurance Co.

These paybacks mean everyone else will have to pay more for their insurance.

The Democratic substitute will help tens of millions of Americans keep their health insurance when they switch jobs, regardless of their condition.

The Democratic substitute addresses several fundamental problems.

If an employee who has been covered for at least 18 months switches or loses his or her job, that employee could buy insurance without exclusions for pre-existing medical conditions.

Workers will no longer be locked into jobs or prevented from starting their own businesses for fear of losing their own coverage.

The substitute also contains an increase in the deductibility of health insurance for the self-employed.

Greater deductibility serves two important goals.

First, greater deductibility increases affordability. Increasing deductibility will help millions of farmers, small businesses, and other working families afford the high cost of health care insurance.

Second, greater deductibility ensures greater fairness in our tax code. Corporations have long enjoyed full deductibility for their health insurance costs. It is time to narrow the gap between Wall Street and Main Street.

This substitute represents legislation that we can pass today and that the President would sign tomorrow. It has received wide bipartisan support, both here in the House and in the other body.

Let us not miss this opportunity to enact health care insurance reform that will benefit millions of hard-working Americans.

I urge a yes vote on this substitute.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY] to conclude debate on this side.

Mr. MARKEY. Mr. Speaker, it is with sorrow and frustration that I rise to oppose this bill. Reform of our health care system is long overdue. The fact that some 40 million Americans do not have health insurance is an absolute disgrace, and it is high time that we do something about it. Last week the Committee on Commerce unanimously approved legislation that would have provided at least some relief to millions of hardworking American families by ending job lock and limiting the use of preexisting condition clauses.

It was a good first step. It was incremental, to be sure. It would have guaranteed that health care was affordable, but at least it would have been accessible. It was modest, and for that reason I had hoped that a large majority of Members from both sides of the aisle could support it.

Mr. Speaker, my mother always says that a half a loaf is better than none, and I supported that bill, even though it was really only a couple of slices. I know the American people want the whole loaf. Unfortunately, the leadership has taken a couple of good, wholesome slices of health insurance reform and slapped a whole lot of extraneous junk food on top, creating a health care hoagie of medical savings accounts, caps on medical malpractice awards, and other unhealthy additives. These anchovies and olives and onions are sure to tickle the taste buds of a very few special interests, but cause heartburn for millions of consumers.

Barry Goldwater's old words can be twisted here this evening, because now the Republican Party believes that extremism and the defense of special interests is no vice. "The American Medical Association wants it, we will just toss it into this bill."

Barbara Tuchman wrote a very famous book back in the early 1980's, entitled the "March of Folly", basically chronicling throughout the ages the mistakes.

Mr. BLILEY. Mr. Speaker, it is with pleasure that I yield the balance of my time to the gentleman from Illinois [Mr. HASTERT], the chief deputy whip, a gentleman who has worked tirelessly on this legislation.

The SPEAKER pro tempore (Mr. COMBEST). The gentleman from Illinois [Mr. HASTERT] is recognized for 4½ minutes.

Mr. HASTERT. Mr. Speaker, I thank the chairman of the Committee on Energy and Commerce for yielding time to me. As a matter of fact, Mr. Speaker, I thank all of those chairmen of the committees who have worked together to make this bill possible, and the subcommittee chairmen, and I would be remiss if I did not thank the staff of

the combined committees, who did an excellent job in working together to make sure that this bill was successful.

Mr. Speaker, I have heard a lot of outrageous statements from the other side of the aisle tonight, and even one from our side of the aisle. But it questions me, it wonders me, I guess you would say, who are those special interests that everybody is talking about? Is it the small businessman who needs to have the ability, the deductibility; that if he has a small business and wants to get his employees covered, 85 percent of which are people who work today and do not have insurance and end up in situations with one family member that works for a small business, that we give them the ability to pool that and take it to the marketplace with the same advantages that big business gets? Is that a special interest?

Is it a special interest for a family who wants to get health care and make choices of their own, instead of having an HMO or a doctor or an insurance company tell them, is that the special interest they talk about?

Maybe, Mr. Speaker, there are some dinosaurs still in this Congress that do not want to have change, some dinosaurs that still want to have big Federal health care take care of everything, and take over everything, and if they cannot have it their way, then they are going to do the very minimum, the very minimum to cover the ladies and gentleman of this country and the families of this country.

Mr. Speaker, we have traveled a long road in a short period of time with this reform bill. For that, I applaud the cooperation of everybody. It must be noted that with this legislation, we have succeeded where previous Congresses have failed, and we have put together reforms in the health care delivery system that will help people today. Our legislature will lower the cost of health care insurance while making it more available and affordable to middle-income American families.

Who among our critics will deny that health insurance is too expensive? Who among our critics will deny that American families should have more control over their health care spending? Who among our critics will deny that patients deserve more health care dollars than bureaucrats and trial lawyers? I have listened with intent interest, and the charges of some of the members of the minority party are just outrageous.

They claim our bill does too much, that it goes too far, and that it is too ambitious for this Congress. This claim, coming from proponents of the President's ill-conceived centralized, federalized health care scheme, can only be seen as a farce. I contend that the President's first health care bill was far too big. The Kennedy approach now advocated by the President is just too small. Our health care plan is just right for the American family.

Our colleagues in the other body deserve a great deal of credit for trying to remove the barriers created by preexisting conditions. It is a needed reform, and it is contained in our bill. This bill gives people who lose or change jobs the insurance that they can keep their health insurance when they need it most.

One other misstatement of fact. The Senate has not passed the Kennedy bill. It has only moved out of committee. Only yesterday the letter comes out of the Senate that the leadership in the U.S. Senate approves of our bill. They ratify our bill. They commend us for doing these things, for doing more for the American people.

I have to say that a letter from the small business groups in this country says that this is the right thing to do for the American working people, for those people who have to carry a lunch bucket to work. It gives them choice, it gives them coverage, and Mr. Speaker, the time has come to pass this legislation. I ask for its approval.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 15 minutes, and the gentleman from Missouri [Mr. CLAY] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I yield myself 4½ minutes.

Mr. Speaker, today this House of the people has a historic opportunity to cast their vote for landmark legislation designed to address the health insurance concerns expressed by the people.

For nearly three decades the American people have looked to Congress to improve private health insurance accessibility, affordability, and accountability. Unfortunately, until this point, efforts to nationalize health care have deprived our people of the added security that would result from the commonsense and bipartisan elements of targeted health insurance reform contained in the measure we are now considering. These elements, such as health insurance portability, renewability, and pooling for small employers, have been long debated and included in various legislative proposals offered by the members of the Economic and Educational Opportunities Committee and many others.

These needed well-targeted reforms did not advance in the last Congress because of the failed efforts by the President to promote his government-run health care plan. The American people were not fooled—the elements of the President's plan proved too costly, too bureaucratic, and would have led to health care rationing. However, our efforts here today give evidence that we are seriously taking President Clinton at his word which was given in his State of the Union address last year, "Let's do it step by step; let's do whatever we have to do to get something done" in regard to incremental health insurance reform.

That is why the legislation before us is deliberately more modest in scope. Rather than trying to create a new health care system, the Health Coverage Availability and Affordability Act seeks to build on those elements of the Nation's employment-based system that work well—namely the fully insured and self-insured group health plans under ERISA—while at the same time making the important changes to the current system which are needed.

The changes called for by the American people, like the people who have spoken at my town meetings in York, PA, include helping end job-lock for employees seeking new employment by limiting preexisting condition restrictions under the new employer's plan and eliminating such restrictions for those who maintain continuous health insurance coverage. This proposal, like the bill reported by our Committee, does that and more.

In addition, an employer would not be able to exclude new workers from their company health plan simply because that worker or a member of his or her family may have a serious health condition. Such individuals would have to be permitted to enroll and be able to choose a benefit package under the plan. If family coverage is offered under a group health plan, spouses who lose other coverage and newborns would have to be allowed to be enrolled.

Smaller businesses have also expressed concern that insurers not be able to drop their coverage because of the health status of their employees. The legislation addresses this concern by prohibiting insurers and multiple employer plans from failing to renew health insurance coverage because of adverse claims experience or other reasons. Smaller employers and their employees would also have an expanded choice of health insurance coverage because of provisions in the bill allowing employers to choose their coverage from among all of the products offered by insurers and HMO's participating in the small group market.

I believe these changes reflect the kind of important reforms the American public expect of us. But we must also help those who have no coverage at all. The problem of the uninsured is primarily one of small businesses that cannot afford to buy insurance for their workers.

The many witnesses who spoke at our committee's hearings stressed that making health insurance more affordable was the key to making it more available to the American worker and his or her family. Therefore, the legislation contains provisions that will help achieve the goal of expanding coverage to the nearly 34 million individuals in working families who now do

VOL
142
PT
5
MR
21
—
29
1996
UMI

not have health insurance coverage. It does this by clarifying the ERISA law to allow employers, especially smaller employers, to form multiple employer plans through the associations that represent the Nation's trades and businesses and by allowing employers and employees to choose and negotiate for the type of coverage they need and can afford.

In 1974, Congress enacted the Employee Retirement Income Security Act or, as it came to be known, ERISA. In doing so, Congress shaped and put into place the cornerstone of our country's employee benefits law. More importantly, it laid the foundation upon which employers and negotiated multiemployer plans have been able to successfully provide benefits to workers and their families, including pensions, health, and other benefits. As Dr. Richard Lesher, president of the U.S. Chamber of Commerce, has testified, "Our membership is convinced that preservation of ERISA is a critical step on the road to significant health care reform. We support H.R. 995 [the bill reported by the Committee] as it builds upon ERISA by including needed insurance market reform."

This is one issue on which employers and unions agree. For example, Mr. Robert Georgine, chairman of the National Coordinating Committee for Multiemployer Plans, stated in testimony that:

> Given this reality [that there will be no employer mandate] the next best approach is a policy that encourages an expansion of voluntary, employment-based coverage without imposing additional costs on existing health plans.* * * H.R. 995 [the bill reported by the Committee] takes this approach. We are pleased that the bill uses ERISA as its vehicle.

By utilizing the time-tested features contained in ERISA, the provision under subtitle C, like those under H.R. 995, build upon the successes produced by private sector innovation and market competition.

Under subtitle C of the bill, multiple employer plans could self-insure or fully insure, gaining all of the advantages this entails including economies-of-scale and lower costs. Small employers who now do not have access to coverage, or cannot afford it, would be automatically eligible for more affordable health coverage through the plans sponsored by their business and trade associations. Together with other provisions of the bill, such as the increase in the deduction of health insurance costs for the self-employed, this legislation will unleash small employers into a more competitive health insurance marketplace, thus enabling them to secure more affordable health coverage in the same manner as do larger employers.

Subtitle C also brings more accountability to the health insurance market. The Department of Labor inspector general, Mr. Charles Masten, testified that this is necessary and important legislation to stop health insurance fraud perpetrated by bogus unions and other illegitimate operators. Legitimate plans will be made accountable and fraudulent schemes will be halted when these provisions are enacted.

In sum, subtitle C and the other provisions of the Health Coverage Availabilty and Affordability Act present this Congress with perhaps its best opportunity since the passage of ERISA to expand access to affordable health insurance for many American families.

The measure is superior to other bills in either body in regard to protecting the American worker and his family and offering the opportunity for true portability of health insurance coverage, by increasing the likelihood that the mobile worker's next employer will also be offering a health plan. The fact that small employers strongly support the pooling provisions in the bill is testament to the vast potential multiple employer plans have for expanding coverage and reducing the cost-shifting from the uninsured to the insured worker that currently takes place.

The House bill is also more protective under its portability provisions. The bill would allow a 60-day lapse in coverge before portability protection for preexisting conditions would be interrupted while other bills would allow only a 30-day lapse in coverage to terminate an employee's portability protection. The House bill has also been crafted carefully to be both more protective and administrable with regard to the evidence employees must give to received portability credit for prior coverage. It is anticipated that under the House bill most group health plans would utilize the simpler portability rule which credits employees with period of prior coverage for purposes of reducing a new 12-month preexisting condition period without requiring a demonstration that the prior coverage actually covered the preexisting condition—a potentially lengthy and costly determination.

The House bill has also been carefully drawn to avoid issues that made the Clinton plan so controversial such as provisions requiring group health plans to include particular forms or types of benefit.

In sum, the provisions of the Health Coverage Availability and Affordability Act represent the best opportunity in decades for American workers and their families to gain increased access to more affordable and accountable health insurance coverage. I urge my colleagues to vote for this workable responsible targeted health insurance reform bill. The American people will thank you for the increased security they will have when you make history by passing this landmark health coverage legislation.

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Mr. CLAY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in opposition to H.R. 3103. The Republican leadership is passing up a golden opportunity today to pass a realistic, bipartisan health reform bill. Instead of bringing to the floor the Roukema-Kassebaum-Kennedy bill, the leadership is bringing up for consideration H.R. 3103. This bill is so weighted down with complex, controversial, and special interest provisions that it could doom health reform for 1996.

Members will have a chance, however, to vote for sensible, bipartisan health reform legislation today. The democratic substitute is the Roukema bill, and I urge my colleagues to support it.

The Nation cries out for the reasonable, constructive approach of the Roukema bill. Democrats and Republicans should unite behind this bill. It has broad bipartisan support in both Houses of Congress. The President has said he will sign it.

The House Republican leadership is on the verge of dashing the hopes of millions of people. They are on the verge of blocking the modest legislative objectives of a large, bipartisan group of Members in the House and Senate.

Mr. SPEAKER, included in H.R. 3103 is a proposal to exempt self-funded, multi-employer health plans, or MEWA's, from State law. This proposal is opposed by the National Conference of State Legislatures and the National Association of Insurance Commissioners.

The large, self-funded health plans created by this bill would be financial disasters waiting to happen. There is a reason Congress delegated responsibility for regulating MEWA's to the States in 1983. While many legitimate, successful MEWA's exist, the MEWA business continues to attract unscrupulous operators and to experience an inordinate failure rate.

Considering the fraud and abuse that has long been associated with MEWA's, it is incredible that the bill would grandfather existing MEWA's. The bill would immediately exempt large, existing MEWA's—the good, the bad, and the ugly—from State solvency and insurance laws. Having obtained this instant "Good Housekeeping Seal of Approval," unscrupulous and inadequately financed operators could begin preying on the public—one step ahead of the Labor Department which might still be reviewing their application for a Federal certificate.

The bill's solvency standards are inadequate to the task assigned to the Labor Department to regulate hundreds of multistate, multiemployer health plans enrolling up to as many as 20 million people. Consumers could find very little standing behind a Federal MEWA if it should get into financial trouble.

This bill is an ironic example of legislative forum shopping; it greatly expands Federal authority over the private sector. The Federal Government for the first time would be in the business of chartering and regulating the solvency of privately run, national health plans.

Perhaps nothing the Republicans have passed during the 104th Congress would increase Federal financial exposure more than this bill's MEWA provision. It would only be a matter of time before a large, multistate MEWA would go under, leaving consumers with millions of dollars in unpaid medical bills.

And to whom will these angry, aggrieved consumers turn when this happens? Their State insurance regulator?

No. Consumers will turn to the Labor Department and Members of Congress for relief. And, as with the savings and loans insolvencies of the 1980's, the urge and political pressure to bail out these MEWA's and protect constituents will be irresistible.

Finally, considering the hostility, not to mention the appropriations riders and budget cuts, that has met Labor Department regulatory activity during this Congress, it is almost certain that the Labor Department will be a weak regulator.

Do you want the Federal Government to assume responsibility for regulating large, multistate health plans whose insolvencies could expose the Federal Government to multimillion-dollar bailouts—especially in an era of Federal Government downsizing, anti-regulating zeal, and diminishing budgets?

Mr. Speaker, this bill brings market fragmentation to an even higher plain. It carves up the multiemployer plan market, treating large plans differently than small plans, old plans differently than new plans, single industry plans differently than multiindustry plans, plans in one State differently than plans in another.

Its exemptions, its exceptions to the exemptions, and its loopholes to the exceptions to the exemptions—never mind the bill's grandfathering of scoundrels along with the saints—makes this bill look like swiss cheese and smell like limburger.

Finally, the United States has an extremely fragmented health insurance market. This bill would make it worse. The expansion of self-funded plans would greatly exacerbate market fragmentation.

The bill's expansion of the ERISA preemption to self-funded multiemployer plans, and the cost savings associated with not having to comply with State solvency and insurance rules, will make being a Federal MEWA an extremely attractive option for existing multiemployer plans and trade association plans that currently offer fully insured products to their members. Many of these plans would seek to become federally chartered self-funded MEWA's. And, many employers that now offer an insured product to their employees—through Blue Cross-Blue Shield, for example—will transfer their coverage to these Federal MEWA's.

These Federal, self-funded MEWA's will siphon healthier, younger groups from traditional insurance markets and, as a consequence, will undermine those markets as well as State health reform initiatives. As healthier groups exit the insurance market, premiums will rise, forcing some individuals to drop coverage. In addition, shrinkage in the size of insurance markets means a shrinkage in both a State's insurance premium tax base and high risk pool assessment base; H.R. 3103 would cost States millions and millions of dollars in lost revenues—revenues which States use to finance high risk pools for the uninsured. This bill will make it more difficult for States to maintain and expand their efforts to expand coverage to the uninsured. That would be a travesty.

I urge Members to oppose H.R. 3103 and to support the Democratic substitute.

NATIONAL ASSOCIATION OF
INSURANCE COMMISSIONERS,
Washington, DC, March 28, 1996.

Hon. NEWT GINGRICH,
Speaker of the House, Washington, DC.

DEAR MR. SPEAKER: I am writing to comment upon the "Health Coverage Availability and Affordability Act of 1996", H.R. 3160, adopted by the House Rules Committee yesterday and scheduled for a vote by the full House of Representatives today. As you are aware, over the last few weeks, the National Association of Insurance Commissioners' (NAIC) Special Committee on Health Insurance (the "NAIC Committee"), together with the National Conference of State Legislatures ("NCSL"), has provided comments upon H.R. 995, H.R. 3063 and H.R. 3070.

We appreciate the legislation's extension of portability reforms to self-funded health care plans governed by the Federal Employee Retirement Income Security Act ("ERISA"); the NAIC has long called for these reforms and federal intervention in this area is laudable. We also appreciate certain clarification that were made to provisions in the bills adopted by the committees of jurisdiction relating to state flexibility and the Medicare anti-duplication prohibitions. However, as detailed below, we continue to have serious concerns with the bill's provisions relating to multiple employer welfare arrangements ("MEWAs").

We commend the additional clarifications made within Title 1, Subtitle D, Section 192, relating to "State Flexibility to Provide Greater Protection". The bill contains further limits on the scope of its preemption than were contained in H.R. 3063 and H.R. 3070. The legislative now states that it does not preempt those state laws "that related to matters not specifically addressed" in the bill. The bill also specifically saves several areas of state laws. We appreciate this enhanced state flexibility. We do, however, remain concerned about the absence of a broader construction clause explicitly saving from preemption any state laws that are not inconsistent with the bill and which provide greater beneficiary protection. In the absence of such a clause, the bill might be construed to "preempt the field" of any state law that touches upon any area minimally mentioned in the bill, even if the bill's provisions were not intended to preempt such state law. Since this a new area of federal intervention, we urge caution and care in the final crafting of preemption language.

We also appreciate the significant strides made in refining the range of health insurance policies which are not to be considered duplicative for the purposes of the application of the new Medicare anti-duplication provisions. We would appreciate the opportunity to clarify the states' remaining jurisdiction concerning health insurance policies governed by these provisions (possibly within legislative history) and to provide technical comments. We would like to commend you for tightening the consumer protections in these provisions from the earlier provisions adopted by amendment in committee.

We reiterate the concerns raised in our letter of March 18, 1996 to Chairmen Archer and Bliley concerning the long term care insurance related provisions within the legislation.

Unfortunately, we continue to have grave concerns that Subtitle C of Title 1 of H.R. 3160 would significantly erode existing state-level insurance reforms. The net effect of the final provisions relating to MEWAs is extremely damaging to states' authority to govern their own insurance market. The final language contains many layers of savings for, and exemptions from, state laws. This maze clouds the picture. Upon close examination of the multiple tiers of provisions, the bill preempts state laws governing health insurance, including those governing MEWAs, in all but a small number of states.

In sum, the changes made to Subtitle C do not represent a significant improvement from those contained within H.R. 995. We therefore remain opposed to most of the provisions contained within Subtitle C of Title I of the bill and reiterate the prior concerns expressed by the NAIC Committee on this topic. (See Joint NAIC Committee/NCSL letter dated March 5, 1996 to Representative William Goodling).

In addition, the bill still preempts state rating laws applicable to association plans thereby creating an unlevel playing field between these plans and other insured plans. Market fragmentation will thereby worsen and costs within the insured market could spiral. With respect to association plans, the bill also preempts state mandated benefit laws which have been enacted by the states.

The state budgetary impact of the bill is still likely to be significant. The bill only allows states to apply premium taxes to newly-formed or newly operating arrangements. Any arrangement that can argue they were already "operating" in a state cannot be taxed on a level playing field with state-regulated insurers. This provision thus promotes unfair competition and could significantly diminish state premium tax income.

The bill strips states of their oversight responsibility over a significant class of MEWAs. We question whether states could in good conscience accept responsibility for MEWA activities by asking the U.S. Department of Labor, pursuant to the option in the bill, for the authority to enforce the inadequate federal standards set forth in the bill. While gaps and ambiguities in federal law have led to some enforcement difficulties, this should be addressed by clarifications in federal law, not by the sweeping preemption of state regulatory authority over MEWAs proposed through H.R. 3160.

Thank you for your consideration of our comments. We look forward to continuing to work together on legislation to promote portability and availability of health insurance. Please feel free to call Kevin Cronin, the NAIC's Acting Executive Vice President and Washington Counsel at (202) 624-7790, with any questions you may have.

Sincerely,

BRIAN K. ATCHINSON,
President, NAIC,
Superintendent, Maine Bureau of Insurance.

NATIONAL CONFERENCE OF STATE
LEGISLATURES,
Washington, DC, March 27, 1996.

Hon. JOHN JOSEPH MOAKLEY,
Ranking Member, Committee on Rules,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE MOAKLEY: On behalf of the National Conference of State Legislatures, I would like to share our thoughts on H.R. 3160, pending health insurance reform legislation. NCSL supports efforts to extend

VOL
142
PT
5
MR
21
—
29
1996
UMI

portability to individuals covered by ERISA plans and to establish minimum federal standards for insured plans. We are pleased that Title I, Subtitles A and B, build on the foundation for reform built by states over the last several years. We have been assured that the intent of Subtitles A and B is to continue to support state regulation and innovation in the small group and individual markets. We are pleased that changes have been made since the mark-up of H.R. 3070 and H.R. 3103, to provide additional clarity with regard to the ability of states to exceed the federal standards, established in the bill. We continue to have some concerns. For example, Section 103(b)(1) that states, ". . . A group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not require a participant or beneficiary to pay a premium or contribution which is greater than such premium or contribution for a similarly situated participant or beneficiary *solely* on the basis of the health status of the participant or beneficiary." NCSL is concerned that state rating laws that prohibit or restrict the use of health status in a manner different than prescribed in the bill, may be preempted. For example, in cases where plans that include a rating component in addition to health status, state rating reforms may not apply. We hope to work with you to obtain additional clarity.

While we support the thrust of Subtitles A and B of Title I, NCSL opposes Subtitle C and urges you not to include these provisions in the House health insurance reform bill. Subtitle C fails to recognize the traditional role of states in the regulation of insurance and the important contributions state legislators have made in increasing accessibility and portability of health insurance and addressing fraud and consumer protection issues with regard to Multiple Employer Welfare Associations, by eliminating state authority to oversee Multiple Employer Welfare Associations (MEWAs). Instead, Subtitle C: (1) creates incentives for the establishment of federally regulated MEWAs, moving more individuals out of the reach of state insurance regulators and the protections those regulators provide; (2) permits some MEWAs to operate without receiving full federal approval; and (3) expands the Department of Labor's (DOL) authority over employer solvency and MEWAs, but fails to authorize funds for expanding DOL staff to perform these functions. NCSL opposes this preemption of state authority and the deregulation of MEWAs.

The MEWA provisions of H.R. 3160 would: (1) disrupt the existing health insurance market, undermining existing state efforts to improve access to health care and adversely affecting insurance premiums overall, and (2) make it easier for unscrupulous individuals to commit fraud under the protective umbrella of this proposed federal law which fails to provide adequate protections for plan participants. NCSL supports and encourages the development of public and private purchasing cooperatives and other innovative ventures that permit individuals and groups to negotiate affordable health care coverage on the same basis as large groups. We also believe that these entities should and must be regulated and that consumers must be protected. Work remains to be done at both the state and federal government levels to strike a reasonable balance for MEWAs. NCSL urges you to retain the state role in regulating MEWAs.

States have made tremendous progress in reforming the small group insurance market. Since 1990 at least, 43 states have enacted laws that require carriers to renew coverage guaranteed renewal); 37 states have enacted laws that require carriers to offer coverage to small groups regardless of the health status of their employees or previous claims experience (guaranteed issue); and 45 states limit pre-existing condition waiting periods and require carriers to give individuals credit for previous coverage. In addition, similar efforts are underway in a number of states with respect to the individual insurance market. Since 1991 at least, 16 states have enacted guaranteed renewal; 11 states have enacted guaranteed issue; and 22 states have limited pre-existing condition waiting periods. Twenty-four states have established state high-risk health insurance pools that enrolled over 100,000 individuals last year. Finally, states are continuing to work with MEWAs to strike a balance between reasonable state regulations, plan flexibility and consumer protection.

NCSL joins the many other groups in urging you to move forward without further delay on these incremental, but important steps toward health reform. NCSL looks forward to working with you and your colleagues in the future as we work together toward expanding health care access and affordability.

Sincerely,

WILIAM POUND,
Executive Director.

Mr. CLAY. Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, I rise in support of the bill to open access and make health care affordable.

Mr. Speaker, today, with the passage of this bill, H.R. 3103, we will be expanding health care coverage to millions of Americans. After years of discussing how best to bring reform to our health care system, this bill brings meaningful incremental health care reform. H.R. 3103, the Health Care Coverage Availability and Affordability Act, addresses two crucial needs in our health care system—access and affordability.

First, let's review our current situation. Eighty-five percent of the population has health insurance, mostly through their employer. The uninsured, approximately 39 million Americans, today are not poor and are not elderly. The poor are covered by Medicaid; the elderly are covered by Medicare. Of the uninsured, 47 percent were employed full time; 38 percent worked part-time; 16 percent were unemployed. If incentives can be created in the market so more employed individuals can get affordable coverage and those between jobs can get coverage; then, the number of uninsured individuals will go down. Meaning millions of Americans will be covered by medical insurance.

Furthermore, many individuals cannot get coverage due to pre-existing conditions or because it is too expensive. Many businesses cannot get coverage because one of the employees or a dependent of an employee has a pre-existing condition. Employees are discouraged from changing jobs or starting their own businesses because they cannot get coverage due to a pre-existing condition.

H.R. 3103 will help create incentives so more individuals receive affordable insurance. First, it addresses the problems of access and affordability. Under H.R. 3103, group health plans (large employer plans, insurers, health maintenance organizations) are prohibited from imposing a pre-existing condition exclusion that exceeds 12 months for conditions that were diagnosed or treated within the previous 6 months on individuals that move from one group plan to another group plan. Pre-existing conditions would not affect newborns, adopted children, or pregnancy. Health insurance providers must reduce previous condition exclusion periods for an individual who enrolls in another program by the amount of time the individual was covered by a group health plan, health insurance, and HMO or Medicaid. Health insurance providers may not deny coverage to individuals in group health plans because of (1) a medical condition, (2) claims experience, (3) receipt of treatments for a medical condition, (4) medical history, (5) evidence of insurability or (6) disability.

H.R. 3103 also ensures portability of health insurance for those moving from group coverage to individual coverage, such as someone leaving a large employer to start a business. Many States, including Indiana, have addressed this issue. Under H.R. 3103, States are given the flexibility to address this problem such as by risk pools, or conversion policies, open enrollment periods, guaranteed issue, or any means that a State sees fit. However, for those State's that have not acted adequately, an insurer or HMO issuing individual health insurance coverage would have to offer an insurance policy equal to the average acturial value of the plans offered in the individual market by that insurer. The insurer would be prohibited to decline to issue coverage based on health status.

One of the key provisions of the bill allows small employers to voluntarily form groups for the purpose of self-insuring or providing health care coverage. Associations, like the NFIB or the Farm Bureau, would be able to band their members together for health insurance purposes and be treated like large multi-state employers. The regulatory structure that enables General Motors or IBM or AT&T to offer health insurance coverage, will now exist for the local hardware store, the corner grocer, and the farmer to purchase affordable health care coverage.

Voluntary health insurance associations are not new. In northwest Indiana a group of businesses have banded together to gain market clout to buy health care coverage for their employees. Typically, the employers in the alliance enjoy savings of 10 percent to 40 percent and can access 11 different health plans. H.R. 3103 should make their task easier and the bill should encourage other entities to band together to get access to affordable health insurance.

These provisions address the regulatory side of health insurance. By themselves, they make this bill worthy of support, but H.R. 3103 does not stop at insurance reform. It includes noteworthy tax relief as well.

First, H.R. 3103 increases the health insurance deduction for self-employed individuals from 30 percent to 50 percent by the year 2003. In 1995, Congress made this deduction permanent and raised it from 25 percent to 30 percent. We need to take care of the entrepreneurial spirit of America which lies in small

business. This bill will increase the deduction to 50 percent. As large employers get a complete write-off of health insurance expenses, this bill brings an element of tax fairness to the system.

The bill also extends the medical expense tax deduction to include long-term care services that are curing or rehabilitative in nature, or are maintenance and personal care required by the chronically ill. This should give some relief to taxpayers who need long-term care. In additon, benefits paid out under life insurance "accelerated death benefits" contracts would not be treated as taxable income to the terminally or chronically ill beneficiary.

H.R. 3103 also includes Medical Savings Accounts. Individuals covered by a high deductible health insurance plan or their employer could make tax deductible contributions to a medical savings account. Funds could only be used for qualified medical expenses and disbursements for non-medical reasons would be treated as taxable income and subject to an additional 10 percent penalty. MSAs are true portability. The account belongs to the individual and is under the individual's control. This is a creative solution to provide more affordable insurance coverage and greater choice.

Finally, H.R. 3103 addresses fraud. Recent studies estimate that fraud costs consumers 5 to 10 percent of ever health care dollar spent. This is literally billions of dollars and leads to higher costs and higher premiums. It authorizes the Secretary of Health and Human Services and the Attorney General to jointly establish a national program to combat health care fraud. Under Medicare, the Secretary of HHS is required to establish a program to encourage individuals to report suspected fraud and abuse in the Medicare Program. Individuals who have been convicted of felonies relating to health care fraud or controlled substances would be excluded from Medicare and State health care programs for a minimum of 5 years. Criminal penalties would be revised and enhanced.

H.R. 3103 is a good bill with much needed reform. It goes beyond simple portability and addresses access, affordability, and choice. Once enacted, it will mean that someone today without insurance has a better chance of getting it and affording it tomorrow.

Mr. GOODLING. Mr. Speaker, I yield 4½ minutes to the gentleman from Illinois [Mr. FAWELL], who has spent probably hundreds of hours putting this legislation together and guiding us in committee.

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to enthusiastically support H.R. 3160. The bill includes key small business health insurance reform that was in H.R. 995, reported by the Economic Opportunities Committee: It gives small employers the right to form groups for the purpose of self-insuring or fully insuring and thereby gain access to affordable health care with the economies of scale that large employers and union plans have had for years under ERISA.

The problem of the uninsured is predominately a problem of small business lacking access to affordable insurance. Eighty-five percent of the 40 million uninsured are in families with at least one employed worker, the majority of whom work in a small business. Small businesses face health insurance premiums 30 percent higher than larger companies due to higher administration costs, and an additional 30 percent more due to costly State mandated coverages.

Small business people—through the National Federation of Independent Business—call this reform "A remarkable advancement for small businesses over current law * * * a massive improvement". Here's what NFIB says. I am going to be quoting from a letter from them.

> NFIB is seeking to correct a basic unfairness in our health care system. Big business is allowed to buy health insurance under a different set of rules than small business. Because of ERISA, large self-insured businesses are exempted from State law in their health plans while small business is stuck with State insurance coverage mandates . . . and other forms of regulation. This inequity between big business and small business in large part explains why the premiums of corporate America are going down, while small business premiums are going up.
>
> H.R. 3160 would stop this unfairness by allowing small firms to band together across State lines to purchase health insurance with nearly the same exemption from State law that big business has. Small employers will be able to cut their premiums by as much as a third. The legislation give(s) small firms almost every advantage they lack in purchasing health insurance today.

As I have indicated, big business has all of these advantages.

Achieving this is NFIB's highest health reform priority. Any substitute that does not directly address this inequity between big and small business is unacceptable to the more than 600,000 members of NFIB.

Of course, NFIB is but one of dozens of employer groups that support this approach. It is backed by the Chamber of Commerce, National Association of Manufacturers, National Association of Wholesalers, the National Restaurant Association, the National Retail Federation, the church groups, and many others, and I might also add, by labor unions that understand how valuable this type of legislation is.

A recent editorial in the Chicago Tribune entitled "Free the Health Insurance Market" expressed it this way:

"Freed of the need to offer 50 different policies, an organization such as the National Restaurant Association could arrange with an insurer to offer a basic policy to all its members. Without mandating coverage or capping premiums—two odious features of President Clinton's failed reform plan—the (bill) spurs the private insurance market to absorb a good portion of the Nation's 41 million uninsured, the vast majority of whom either have jobs or have a jobholder in he family."

Unless we do something there by the way, what good is portability?

Mr. Speaker, many of the Governors had concerns about the original H.R. 995 as introduced last year. I am pleased to report that we worked very closely with many of them over the past year, and have addressed their concerns. Several changes were made that are acceptable to the Governors and the employer community.

Let me ask this one question, and think about it: Who benefits from this legislation? The people who cut your hair, serve you at restaurants, repair your car, clean your clothes—the millions of people working in small businesses all over America and who produce most of our new jobs.

I urge my colleagues to vote no on the substitute and vote yes on final passage of H.R. 3160. Allow employees of small businesses the same kind of access to affordable health care as that available to employees of large businesses.

SECTION-BY-SECTION ANALYSIS OF PROVISIONS RELATING TO ERISA GROUP HEALTH PLANS CONSIDERED BY THE COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES IN THE HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

TITLE I—INCREASED AVAILABILITY AND PORTABILITY OF HEALTH PLAN INSURANCE COVERAGE

Subtitle A—Coverage Under Group Health Plans

Sec. 101. Portability of coverage for previously covered individuals, and

Sec. 102. Limitation on preexisting condition exclusions; no application to certain newborns, adopted children, and pregnancy.

Group health plans, insurers, and health maintenance organizations would be prohibited from imposing a preexisting condition exclusion that exceeded 12 months for conditions for which medical advice, diagnosis, or treatment was received or recommended within the previous 6 months prior to becoming insured. In the event that the individual was a late enrollee, the preexisting condition exclusion could not exceed 18 months.

Preexisting condition exclusions or limitations could not be applied to newborns and adopted children so long as these individuals become insured within 30 days of birth or placement for adoption. Pregnancy could not be treated as a preexisting condition. In addition, genetic information could not be considered a preexisting condition, so long as treatment of the condition to which the information was applicable had not been sought during the 6 months prior to becoming covered.

Group health plans, insurers, and health maintenance organizations (HMOs) would be required to credit periods of qualified previous coverage toward the fulfillment of a preexisting condition exclusion period when an individual moves from one source of group health coverage to another. Specifically, a preexisting condition limitation period would be reduced by the length of the aggregate period of any qualified prior coverage. Prior coverage would not have to be credited toward a preexisting condition limitation period if the individual experienced a break in qualified group coverage of more than 60 days. (Qualified group coverage means any period of coverage of the individual under a group health plan, health insurance coverage, Medicaid, Medicare, military health care, the Indian Health Service, state

VOL 142 PT 5 MR 21 — 29 1996 UMI

health insurance coverage or state risk pool, and coverage under the Federal Employee Health Benefits Program (FEHBP).) A waiting period for any coverage under a group health plan (or for health insurance coverage offered in connection with a group health plan) would not be considered a break in coverage.

Presentation of a certification of prior coverage would establish an individual's eligibility for credit against a preexisting condition limitation period. Group health plan administrators, insurers, HMOs, and state Medicaid programs would be required to provide such certifications of coverage upon request of the individual.

In determining whether an individual has met qualified coverage periods, a group health plan, insurer, or HMO offering group coverage could elect one of two methods. Under the first, it could include all periods, without regard to the specific benefits offered during the period of prior coverage. Under the second, it could look at periods of prior coverage on a benefit-specific basis and not include as a qualified coverage period a specific benefit unless coverage for that benefit was included at the end of the most recent period of coverage. Entities electing the second method would have to state prominently in any disclosure statements concerning the plan or coverage and to each enrollee at the time of enrollment or sale that the plan or coverage had made such an election and would have to include a description of the effect of this election. Upon the request of the plan, insurer, or HMO, the entity providing the certification would have to promptly disclose information on benefits under its plan. It could charge the reasonable cost for providing this information.

Sec. 103. Prohibiting exclusions based on health status and providing for enrollment periods.

This section provides for availability of coverage. The bill would ensure that employees and their dependents could not, based on health status, be excluded from enrolling in their group health plan and being continually enrolled. Health status is defined to include, with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

Group health plans would be required to provide for special enrollment periods for eligible individuals who lose other sources of coverage if certain conditions were met. An individual would have to be allowed to enroll under at least one benefit option if: (1) the employee (or dependent) had been covered under another group health plan at the time coverage was previously offered, (2) that this was the reason for declining enrollment, (3) that the individual lost their coverage as a result of certain events (loss of eligibility for coverage, termination or employment, or reduction in the number of hours of employment), and (4) the employee requested such enrollment within 30 days of termination of the coverage.

In the event that a group health plan provided family coverage, the plan could not require, as a condition of coverage of a beneficiary or participant in the plan a waiting period applicable to the coverage of a beneficiary who is a newborn, an adopted child or child placed for adoption, or a spouse, at the time of marriage, if the participant has met any waiting period applicable to that participant. The bill defines timely enrollment as being within 30 days of the birth, adoption, or marriage if family coverage was available as of that date.

Renewability requirements apply to certain arrangements to assure continued access of employers to health coverage to offer their employees. A group health plan which is a multiemployer plan, a multiple employer health plan (as defined in section 704 of ERISA), and a multiple employer welfare arrangement (providing medical care) may not deny an employer whose employees are covered under such a plan or arrangement continued access to the same or other coverage under the terms of such plan or arrangement other than (1) for nonpayment of premiums or contributions, (2) for fraud or other intentional misrepresentation of material fact by the employer, (3) for noncompliance with material plan or arrangement provisions, (4) because the plan or arrangement is ceasing to offer any coverage in a geographic area, (5) for failure to meet the terms of an applicable collective bargaining agreement, to renew a collective bargaining or other agreement requiring or authorizing contributions to the plan, or to employ employees covered by such an agreement, (6) in the case of a plan or arrangement to which subparagraph (C), (D), or (E) of section 3(40) of ERISA applies, to the extent necessary to meet the requirement of such subparagraph, or (7) in the case of a multiple employer health plan (as defined in section 701(4) of such Act), for failure to meet the requirements under part 7 of ERISA for exemption under section 514(b)(6)(B) of such Act. It is not included that anything in this section be construed to preclude any such plan or arrangement from establishing employer contribution requirements or group participation requirements not otherwise prohibited by this Act.

Sec. 104. Enforcement.

The above provisions would be enforced through penalties assessed through the Internal Revenue Code (IRC), Employee Retirement Income Security Act (ERISA), or through civil money penalties assessed by the Secretary of Health and Human Services (HHS). The Secretaries of Treasury, Labor, and HHS would be required to issue regulations that are nonduplicative and in a manner that assures coordination and nonduplication in their activities as provided for under this Act.

Enforcement through ERISA. Sections 101, 102, and 103 of Subtitle A (and the definitions under Subtitle D insofar as they are applicable to such sections) are deemed to be provisions of Title I of the Employee Retirement Income Security Act of 1974 (ERISA) for purposes of applying the enforcement, fiduciary and other provisions of such title. The Secretary of Labor would only apply the sanctions under ERISA to an insurer or HMO that was subject to state law (within the meaning of section 514(b)(2)(A)) in the event that the Secretary determines that the state has not provided for enforcement of the above provisions of the Act. Sanctions would not apply in the event that the Secretary of Labor established that none of the persons against whom the liability would be imposed knew, or exercising reasonable diligence, would have known that a failure existed, or if the noncomplying entity acted within 30 days to correct the failure. In no case would a civil money penalty be imposed under ERISA for a violation for which an excise tax under the COBRA enforcement provisions under the Internal Revenue Code was imposed or for which a civil money penalty was imposed by the Security of HHS.

Enforcement through the IRC. IRC enforcement would be done through the Consolidated Omnibus Budget Reconciliation Act (COBRA) health insurance continuation provisions (section 4980B). In general, a noncomplying plan would be subject to an excise tax of $100 per day per violation. Penalties would not be assessed in the event that the failure was determined to be unintentional or a correction was made within 30 days. For purposes of applying the COBRA enforcement language, special rules would apply: (1) no tax could be imposed by this provision on a noncomplying insurer or HMO subject to state insurance regulation if the Secretary of HHS determined that the state had an effective enforcement mechanism; (2) in the case of a group health plan of a smaller employer that provided coverage solely through a contract with an insurer or HMO, no tax would be imposed upon the employer if the failure was solely because of the product offered by the insurer or HMO; and (3) no tax penalty would be assessed for a failure under this provision if a sanction had been imposed under ERISA or by the Secretary of HHS with respect to such failure.

Enforcement through Civil Money Penalties. A group health plan, insurer, or HMO that failed to meet the above requirements would be subject to a civil money penalty. Rules similar to those imposed under the COBRA penalties would apply. The maximum amount of penalty would be a $100 for each day for each individual with respect to which a failure occurred. In determining the penalty amount, the Secretary would be required to take into account the previous record of compliance of the person being assessed with the applicable requirements of the bill, the gravity of the violation, and the overall limitations for unintentional failures provided under the IRC COBRA provisions. No penalty could be assessed if the failure was not intentional or if the failure was corrected within 30 days. A procedure would be available for administrative and judicial review of a penalty assessment.

The authority for the Secretary of HHS to impose civil money penalties would not apply to enforcement with respect to any entity which offered health insurance coverage and which was an insurer or HMO subject to state regulation (within the meaning of section 514(b)(2)(A) of ERISA) by an applicable state authority if the Secretary of HHS determined that the state had established an enforcement plan. In no case would a civil money penalty be imposed under this provision for a violation for which an excise tax under COBRA or civil money penalty under ERISA was assessed.

Subtitle B—Certain Requirements for Insurers and HMOs in the Group and Individual Markets

Part 1. Availability of Group Health Insurance Coverage

Sec. 131. Guaranteed availability of general coverage in the small group market.

This section provides for guaranteed availability of general coverage in the small group market. Each insurer or HMO that offered general coverage in the small group market in a state would have to: (1) accept every small employer in the state that applied for such coverage; and (2) accept for enrollment every eligible individual who applied for enrollment during the initial enrollment period in which the individual first became eligible for coverage under the group health plan. No restriction based on health status could be placed on the ability of an eligible individual to enroll.

The small group market is generally defined as employer groups with more than 2 and less than 51 employees. An eligible individual is one in relation to the employer as determined: (1) in accordance with the terms of the plan; (2) as provided by the insurer or HMO under rules which would have to be applied uniformly; and (3) in accordance with applicable state laws. Special rules would apply to network plans and HMOs to ensure that this guaranteed availability provision did not lead to capacity problems. In addition, such entities would not have to enroll a small group whose employees worked or lived outside the entity's service area. Insurers and HMOs could deny enrollment to an eligible small group in the event that the group failed to meet certain minimum participation or contribution requirements that were consistent with state law.

Sec. 132. Guaranteed Renewability of group coverage.

This section provides for guaranteed renewability of group coverage. If an insurer or HMO offered health insurance coverage in the small or large group market, the coverage would have to be renewed or continued in forced at the option of the employer. (An insurer or HMO could modify the coverage offered to a group health plan so long as the modification was effective on a uniform basis among group health plans with that type of coverage.) Exceptions to the guaranteed renewability requirement would apply in the event that the employer failed to pay the premiums, committed fraud, violated the participation rules, or moved outside the service area. In addition, guaranteed renewability would not apply if: (a) the insurer or HMO ceased to offer any such coverage in a state (or in the case of a network plan, in a geographic area); (b) in the event that the insurer or HMO uniformly terminated offering a particular type of coverage and provided adequate notice and the opportunity to elect other health insurance being offered in that market; and (c) in the event that the entity discontinued offering all health insurance coverage in the small or large group market or in both markets in a state, provided for adequate notice. In the last instance, such an entity could not reenter the market it left for at least 5 years.

Subtitle C—Affordable and Available Health Coverage Through Multiple Employer Pooling Arrangements

Sec. 161. Clarification of duty of the Secretary of Labor to implement provisions of current law providing for exemptions from State regulation of multiple employer health plans.

Sec. 161, Subsection (a). Rules governing state regulation of multiple employer health plans.

This subsection adds a new Part 7 (Rules Governing State Regulation of Multiple Employer Health Plans) to Title I of ERISA, as follows:

"Sec. 701. Definitions.

This section defines the following terms: insurer, fully-insured, medical care (as under current law), multiple employer health plan, participating employer, sponsor, and state insurance commissioner.

"Sec. 702. Clarification of duty of the Secretary of Labor to implement provisions of current law providing for exemptions from State regulation of multiple employer health plans.

This section clarifies the conditions under which multiple employer health plans (MEHPs), non-fully-insured multiple employer arrangements providing medical care, may apply for an exemption from certain state laws. The exemption process is contained in current ERISA law, which also contains restrictions on the ability of states to fully regulate such entities. Specifically, existing section 514(b)(6)(A)(ii) of ERISA provides that in the case of such a partly insured or fully self-insured arrangement, any law of any State which regulates insurance may apply only "to the extent not inconsistent with other parts of ERISA." However, under section 514(b)(6)(B), the Department of Labor (DOL) may issue an exemption from state law with respect to such self-insured arrangements.

"Section 702 clarifies that only certain legitimate association health plans and other arrangements (described below) which are not fully insured are eligible for an exemption and thereby treated as ERISA employee welfare benefit plans. This is accomplished by clarifying the duty of the Secretary of Labor to implement the provisions of current law section 514(b)(6)(B) to provide such exemptions for MEHPs. Under section 514(a) of ERISA, States are preempted from regulating employee welfare benefit plans, but an exception is made under section 702 to allow states to enforce the conditions of an exemption granted a MEHP.

"Section 702 further sets forth criteria which a self-insured arrangement must meet to qualify for an exemption and thus become a MEHP. The Secretary shall grant an exemption to an arrangement only if: (1) a complete application has been filed, accompanied by the filing fee of $5,000; (2) the application demonstrates compliance with requirements established in sections 703 and 704 below; (3) the Secretary finds that the exemption is administratively feasible, not adverse to the interests of the individuals covered under it, and protective of the rights and benefits of the individuals covered under the arrangement, and (4) all other terms of the exemption are met (including financial, actuarial, reporting, participation, and such other requirements as may be specified as a condition of the exemption).

"The application must include the following: (1) identifying information about the arrangement and the states in which it will operate; (2) evidence that ERISA's bonding requirements will be met; (3) copies of all plan documents and agreements with service providers; (4) a funding report indicating that the reserve requirements of section 705 will be met, the contribution rates will be adequate to cover obligations, and that a qualified actuary (a member in good standing of the American Academy of Actuaries or an actuary meeting such other standards the Secretary considers adequate) has issued an opinion with respect to the arrangement's assets, liabilities, and projected costs; and (5) any other information prescribed by the Secretary. Exempt arrangements must notify the Secretary of any material changes in this information at any time, must file annual reports with the Secretary, and must engage a qualified actuary.

"Section 702 also provides for a class exemption from section 514(b)(6(A)(ii) of ERISA for large MEHPs that have been in operation for at least five years on the date of enactment. An arrangement qualified for this class exemption if: (1) at the time of application for exemption, the arrangement covers at least 1,000 participants and beneficiaries, or has at least 2,000 employees of eligible participating employers; (2) a complete application has been filed and is pending; and (3) the application meets requirements established by the Secretary with respect to class exemptions. Class exemptions would be treated as having been granted with respect to the arrangement unless the Secretary provides appropriate notice that the exemption has been denied. It is expected that the standards applicable to entities eligible for a class exemption will be no less protective than if an individual exemption were granted to such an entity.

"Sec. 703. Requirements relating to sponsors, board of trustees, and plan operations.

This section establishes eligibility requirements for MEHPs. Applications must comply with requirements established by the Secretary. Applications must demonstrate that the arrangement's sponsor has been in existence for a continuous period of at least 5 years and is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for a least annual meetings, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group, including a corporation or similar organization that operates on a cooperative basis within the meaning of section 1381 of the IRC) for purposes other than that of obtaining or providing medical care. Also, the applicant must demonstrate that the sponsor is established as a permanent entity, has the active support of its members, and collects dues from its members without conditioning such on the basis of the health status or claims experience of plan participants or beneficiaries or on the basis of the member's participation in the MEHP.

"Section 703 also requires that the arrangement be operated, pursuant to a trust agreement, by a "board of trustees" which has complete fiscal control and which is responsible for all operations of the arrangement. The board of trustees must develop rules of operation and financial control based on a three-year plan of operation which is adequate to carry out the terms of the arrangement and to meet all applicable requirements of the exemption and Title I of ERISA. The rules also require that all employers who are association members be eligible for participation under the terms of the plan. Eligible individuals of such participating employers cannot be excluded from enrolling in the plan because of health status as required under section 103 of the Act (nor be excluded by purchasing an individual policy of health insurance coverage for a person based on their health status). The rules also stipulate that premium rates established under the plan with respect to any particular participating employer cannot be based on the claims experience of the particular employer.

"In addition to the associations described above, certain other entities are eligible to seek an exemption as MEHPs under section 514(b)(6)(B) of ERISA. These include (1) franchise networks (section 703(b)), (2) certain existing collectively bargained arrangements which fail to meet the statutory exemption criteria (section 703(c)), and (3) certain arrangements not meeting the statutory exemption criteria for single employer plans (section 703(d)). (Section 709 of ERISA, added by Section 166, also makes eligible certain church plans electing to seek an exemption.)"

"Sec. 704. Other Requirements For Exemption.

"Section 704 requires a MEHP to meet the following requirements: (1) its governing instruments must provide that the board of trustees serves as the named fiduciary and plan administrator, that the sponsor serves as plan sponsor, and that the reserve requirements of section 705 are met; (2) the contribution rates must be adequate, and (3) any other requirements set out in regulations by the Secretary must be met."

VOL
142
PT
5
MR
21
—
29
1996
UMI

"Sec. 705. Maintenance of Reserves.

"Section 705 requires MEHPs to establish and maintain reserves sufficient for unearned contributions, benefit liabilities incurred but not yet satisfied and for which risk of loss has not been transferred, expected administrative costs, and any other obligations and margin for error recommended by the qualified actuary. The minimum reserves must be no less than 25% of expected incurred claims and expenses for the year or $400,000. The Secretary may provide additional requirements relating to reserves and excess/stop loss coverage and may provide adjustments to the levels of reserves otherwise required to take into account excess/stop loss coverage or other financial arrangements."

"Sec. 706. Notice Requirements for Voluntary Termination.

"Section 706 provides that, except as permitted in section 707, a MEHP may terminate only if the board of trustees provides 60 days advance written notice to participants and beneficiaries and submits to the Secretary a plan providing for timely payment of all benefit obligations."

"Sec. 707. Corrective Actions and Mandatory Termination.

"Section 707 requires a MEHP to continue to meet the reserve requirements even if its exemption is no longer in effect. The board of trustees must quarterly determine whether the reserve requirements of section 705 are being met and, if they are not, must, in consultation with the qualified actuary, develop a plan to ensure compliance and report such information to the Secretary. In any case where a MEHP notifies the Secretary that it has failed to meet the reserve requirements and corrective action has not restored compliance, and the Secretary determines that the failure will result in a continuing failure to pay benefit obligations, the Secretary may direct the board to terminate the arrangement."

"Sec. 708. Additional Rules Regarding State Authority.

Under section 708(a), a state which certifies to the Secretary that it provides guaranteed access to health coverage may elect to opt out of the MEHP provisions outlined above and deny a MEHP the right to offer coverage in the small group market (or otherwise regulate such MEHP with respect to such coverage), except as described below. A state is considered to provide such guaranteed access, if (1) the state certifies that at least 90% of all state residents are covered by a group health plan or otherwise have health insurance coverage, or (2) the state has, in the small group market, provided for guaranteed issue of at least one standard benefits package and for rating reforms designed to make health insurance coverage more affordable. In states without such guaranteed access, MEHPs could offer coverage in the small group market in the state as long as they meet the standards set forth in Part 7. For purposes of item (2) above and the similar provision under section 162 of the bill, it is intended that states that have achieved very high levels of health insurance coverage through means such as tax-preferred status for entities required to provide guaranteed issue, community-rated coverage be considered to meet the requirement under (2) regardless of how long a state law requiring such has been in effect.

"Section 708(b) provides a limited exception to the above described state opt out for certain large, multi-state arrangements. The state opt out (described in item (2) in the above paragraph) does not apply to new and existing MEHPs that meet the following criteria: (1) the sponsor operates in a majority of the 50 states and in at least 2 of the regions of the country; (2) the arrangement covers or will cover at least 7,500 participants and beneficiaries; and (3) at the time the application to become a MEHP is filed, the arrangement does not have pending against it any enforcement action by the state. In addition, the state opt out (described in items (1) and (2) in the above paragraph) does not apply in a state in which an arrangement meeting the MEHP standards operates on March 6, 1996, to the extent a state enforcement action is not pending against such an entity at the time an application for an exemption is made. The above two exceptions do not apply to any state which, as of January 1, 1996, either (1) has enacted a law providing for guaranteed issue of fully community rated individual health insurance coverage offered by insurers and HMOs, or (2) requires insurers offering group health coverage to reimburse insurers individual coverage for losses resulting from their offering individual coverage on an open enrollment basis. Regulations may also apply certain limitations to single industry plans.

"Under section 708, a state could assess new association-based MEHPs (former after March 6, 1996) nondiscriminatory state premium taxes set at a rate no greater than that applicable to any insurer or health maintenance organization offering health insurance coverage in the state. MEHPs existing as of March 6, 1996 would remain exempt from state premium taxes; however, if they expand into a new state, the state could apply the above rule.

Section 162. Affordable and Available Fully-Insured Health Coverage Through Voluntary Health Insurance Associations.

This section adds a new subsection (d) to section 514 of ERISA which provides for the establishment of Voluntary Health Insurance Associations (VHIAs). Under this section, a VHIA is defined as a multiple employer welfare arrangement, maintained by a qualified association, under which all medical benefits are fully-insured, under which no employer is excluded as a participating employer (subject to minimum participation requirements of an insurer), under which the enrollment requirements of section 103 of the Act apply, under which all health insurance coverage options are aggressively marketed, and under which the health insurance coverage is provided by an insurer or HMO to which the laws of the state in which it operates apply.

The term qualified association means an association in which the sponsor of the association is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 5 years, organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group), for substantial purposes other than that of obtaining or providing medical care (within the meaning of section 607(1) of ERISA), is established as a permanent entity which receives the active support of its members and meets at least annually, and collects dues without conditioning such dues on the basis of the health status or claims experience of plan participants or beneficiaries or on the basis of participation in a VHIA.

Section 162 sets forth the preemption rules applicable to VHIAs. This provision would preempt two types of state laws and leave unaffected any other applicable state law not otherwise preempted under current law (i.e., section 514 of ERISA). The first type of law preempted is a law which might otherwise preclude an insurer or HMO from setting premium rates based on the claims experience of the employers participating in a VHIA (without varying the premium rates of a particular employer on the basis of the employer's own experience). As a result of this provision, a qualified association could form a VHIA and offer health insurance coverage and establish and distribute plan costs in a manner similar to that permitted under current law for self-insured plans. This will empower employees and employers to form groups to more effectively and cost-efficiently purchase fully-insured health insurance coverage.

Section 162 also preempts a second type of State law that requires health insurance coverage in connection with group health plans to cover specific items or services consisting of medical care (but does not preempt laws prohibiting the exclusion of specific diseases). This will enable employers and employees to establish health insurance packages which include benefits which they want and which they can afford.

Under this section, a state which certifies to the Secretary that it provides "guaranteed access"' to health coverage may deny a VHIA the right to offer coverage in the small group market (or otherwise regulate such VHIA with respect to such coverage), except as described below. A state is considered to provide such guaranteed access if (1) the state certifies that at least 90% of all state residents are covered by a group health plan or otherwise have health insurance coverage, or (2) the state has, in the small group market, provided for guaranteed issue of at least one standard benefits package and for rating reforms designed to make health insurance coverage more affordable. In a state without such guaranteed access, VHIAs could offer coverage in the small group market in the state as long as they meet the standards for such entities.

This section also provides a limited exception to the above described state opt out for certain large, multi-state arrangements. The state opt out (described in item (2) in the paragraph above) does not apply to VHIAs that meet the following criteria: (1) the sponsor operates in a majority of the 50 states and in at least 2 of the regions of the country; (2) the arrangement covers or will cover at least 7,500 participants and beneficiaries; and (3) under the terms of the arrangement, either the qualified association does not exclude from membership any small employer in the state, or the arrangement accepts every small employer in the state that applies for coverage.

In addition, the state opt out (described in items (1) and (2) in the paragraph two paragraphs above) does not apply in a state in which an arrangement operates on March 6, 1996 and under the terms of the arrangement, either the qualified association does not exclude from membership any small employer in the state, or the arrangement accepts every small employer in the state that applies for coverage.

The above exceptions for multi-state plans and existing plans do not apply to any state which, as of January 1, 1996, either (1) has enacted a law providing for guaranteed issue of fully community rated individual health insurance coverage offered by insurers and HMOs, or (2) requires insurers offering group health coverage to reimburse insurers offering individual coverage for losses resulting

from their offering individual coverage on an open enrollment basis.

Sec. 163. State authority fully applicable to self-insured multiple employer welfare arrangements providing medical care which are not exempted under new part 7.

This section clarifies the scope of ERISA preemption to make clear the authority of states to fully regulate non-fully-insured MEWAs which are not provided an exemption under new Part 7 of ERISA.

Sec. 164. Clarification of treatment of single employer arrangements

This section modifies the treatment of certain single employer arrangements under the section of ERISA that defines a MEWA (section 3(40)). The treatment of a single employer plan as being excluded from the definition of MEWA (and thus from state law) is clarified by defining the minimum interest required for two or more entities to be in "common control" as a percentage which cannot be required to be greater than 25%. Also a plan would be considered a single employer plan if less than 25% of the covered employees are employed by other participating employers.

Sec. 165. Clarification of treatment of certain collectively bargained arrangements.

This section clarifies the conditions under which multiemployer and other collectively-bargained arrangements are exempted from the MEWA definition, and thus exempt from state law. This is intended to address the problem of "bogus unions" and other illegitimate health insurance operators. The provision amends the definition of MEWA to exclude a plan or arrangement which is established or maintained under or pursuant to a collective bargaining agreement (as described in the National Labor Relations Act, the Railway Labor Act, and similar state public employee relation laws). (Current law requires the Secretary to "find" that a collective bargaining agreement exists, but no such finding has ever been issued). It then specifies additional conditions which must be met for such a plan to be a statutorily excluded collectively bargained arrangement and thus not a MEWA. These include:

(1) The plan cannot utilize the services of any licensed insurance agent or broker to solicit or enroll employers or pay a commission or other form of compensation to certain persons that is related to the volume or number of employers or individuals solicited or enrolled in the plan.

(2) A maximum 15 percent rule applies to the number of covered individuals in the plan who are not employees (or their beneficiaries) within a bargaining unit covered by any of the collective bargaining agreements with a participating employer or who are not present or former employees (or their beneficiaries) of sponsoring employee organizations or employers who are or were a party to any of the collective bargaining agreements.

(3) The employee organization or other entity sponsoring the plan or arrangement must certify annually to the Secretary the plan has met the previous requirements.

(4) If the plan or arrangement is not fully insured, it must be a multiemployer plan meeting specific requirements of the Labor Management Relations Act (i.e., the requirement for joint labor-management trusteeship under section 302(c)(5)(B)).

(5) If the plan or arrangement is not in effect as of the date of enactment, the employee organization or other entity sponsoring the plan or arrangement must have existed for at least 3 years or have been affiliated with another employee organization in existence for at least 3 years, or demonstrate to the Secretary that certain of the above requirements have been met.

Sec. 166. Treatment of church plans.

This section adds a new section 709 to ERISA permitting church plans to voluntarily elect to apply to the Department of Labor for an exemption under section 514(b)(6)(B) and in accordance with new ERISA Part 7. An exempted church plan would, with certain exceptions, have to comply with the provisions of ERISA Title I in order to receive an exception from state law. The election to be covered by ERISA would be irrevocable. A church plan is covered under this section if the plan provides benefits which include medical care and some or all of the benefits are not fully insured.

Sec. 167. Enforcement provisions relating to multiple employer welfare arrangements.

This section amends specific provisions of ERISA to establish enforcement provisions relating to the multiple employer elements of the bill: (1) a civil penalty applies for failure of MEWAs to file registration statements under section 169 of the bill; (2) the section provides for State enforcement through Federal courts with respect to violations by multiple employer health plans, subject to the existence of enforcement agreements described in section 168 below; (3) willful misrepresentation that an entity is an exempted MEWA or collectively-bargained arrangement may result in criminal penalties; (4) the section provides for cease activity orders for arrangements found to be neither licensed, registered, or otherwise approved under State insurance law, or operating in accordance with the terms of an exemption granted by the Secretary under new part 7; and (5) the section provides for the responsibility of the fiduciary or board of trustees of a MEHP to comply with the required claims procedure under ERISA.

Sec. 168. Cooperation between Federal and State authorities.

This section amends section 506 of ERISA (relating to coordination and responsibility of agencies enforcing ERISA and related laws) to specify State responsibility with respect to self-insured Multiple Employer Health Plans and Voluntary Health Insurance Associations. A State may enter into an agreement with the Secretary for delegation to the State of some or all of the Secretary's authority to enforce provisions of ERISA applicable to exempted MEHPs or to VHIAs. The Secretary is required to enter into the agreement if the Secretary determines that delegation to the State would not result in a lower level or quality of enforcement. However, if the Secretary delegates authority to a State, the Secretary can continue to exercise such authority concurrently with the State. The Secretary is required to provide enforcement assistance to the States with respect to MEWAs.

Sec. 169. Filing requirements for multiple employer welfare arrangements offering health benefits.

This section amends the reporting and disclosure requirements of ERISA to require MEWAs offering health benefits to file with the Secretary a registration statement within 60 days before beginning operations (for those starting on or after January 1, 1997) and no later than February 15 of each year. The section also requires MEWAs providing medical care to issue to participating employers certain information including summary plan descriptions, contribution rates, and the status of the arrangement (whether fully-insured or an exempted self-insured plan).

Sec. 170. Single annual filing for all participating employers.

This section amends ERISA's section 110 (relating to alternative methods of compliance with reporting and disclosure requirements) to provide for a single annual filing for all participating employers of fully insured MEWAs.

Sec. 171. Effective date; transitional rule.

This section provides that, in general, the amendments made by this title are effective January 1, 1998. In addition, the Secretary is required to issue all regulations needed to carry out the amendments before January 1, 1998. The section provides for transition rules for self-insured MEWAs in operation as of the effective date so that those applying to the Secretary for an exemption from State regulation are deemed to be excluded for a period not to exceed 18 months unless the Secretary denies the exemption or finds the MEWAs application deficient, provided that the arrangement does not have pending against it an enforcement action by a state. The Secretary can revoke the exemption at any time if it would be detrimental to the interests of individuals covered under the Act.

Subtitle D—Definitions; General Provisions

Sec. 191. Definitions; scope of coverage, and

Sec. 192. State flexibility to provide greater protection.

In addition to providing definitions of terms used in this title of the Act, this subtitle provides that, subject to the ERISA savings clause below, nothing in Subtitle A, B, or D should be construed to preempt state laws: (1) that relate to matters not specifically addressed in such subtitles, (2) that require insurers or HMOs to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition period for a period that is shorter than the applicable period provided under such subtitles; (3) that allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 60-day periods provided for under sections 101 and 102, or (4) that, in defining "preexisting condition" to have a look-back period that is shorter than 6 months. The ERISA savings clause states that, except as provided specifically in subtitle C, nothing in this Act shall be construed to affect or modify the provisions of section 514 of ERISA (relating to federal preemption of state laws relating to employee benefit plans).

Sec. 193. Effective Date.

In general, except as otherwise provided for in this title, the provisions of this title would apply with respect to: (1) group health plans and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 1998; and (2) individual insurance coverage issued, renewed, in effect, or operated on or after January 1, 1998.

The Secretaries of HHS, Treasury, and Labor would be required to issue regulations on a timely basis as may be required to carry out this title.

Sec. 194. Rule of Construction.

Nothing in this title or any amendment made thereby may be construed to require the coverage of any specific procedure, treatment, or service as part of a group health plan or health insurance coverage under this title or through regulation.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas, Mr. GENE GREEN.

VOL
142
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MR
21
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29
1996
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Mr. GENE GREEN of Texas. Mr. Speaker, I would like to thank my colleague and ranking member from Missouri for yielding me the time.

Mr. Speaker, I rise in opposition to H.R. 3103, and a little background. I was honored to serve 20 years in the Texas legislature, Mr. Speaker, and work for many of those years with the statehouse members to beef up and strengthen our State health insurance regulation laws so that people who buy group insurance would know what they are purchasing. Here today I see this bill would actually abolish that protection, not only in the State of Texas, but State legislatures all over the country have worked for many years to provide and strengthen State oversight of these laws.

Mr. Speaker, yesterday I asked the Committee on Rules to make in order my amendment striking the preemption of these multiple employer welfare arrangements, also known as the MEWA insurance laws, because what happens now is in all of our States, we regulate them. This bill will take away that State regulation and move it to Washington to definitely a universal national standard developed and implemented from Washington and will replace these carefully crafted local State insurance laws that meet the needs of our local States and not necessarily what is from Washington.

Mr. Speaker, that is right. The majority of the Republicans want to move the regulation of these insurance laws from the States to an agency led by what one of my Republican colleagues said in his turn were Communists.

We hear a lot of rhetoric from the other side about giving more power to the States, and yet in this issue the Republicans want to take away the States' authority to regulate these health plans and give it to the Federal Government. While we have heard about local control rhetoric so much, the House Republicans want to expand the authority of the Department of Labor with these regulations.

In his own estimates, Secretary Reich will have to develop 26 new regulations to deal with the federalization of multiple employer welfare arrangements. The Federal Government got out of this business of regulating MEWA's in 1983 because the States were better equipped to deal with the high instances of fraud on the local level. But now we see this bill will preempt those States rights, and what will it mean to the average American family. State statutes requiring that certain benefits covered by health insurance policies may no longer apply.

Again, let me give an example from the State of Texas. In 1973 we changed the law that required insurance policies in Texas have to cover newborn infants. Up until then, a newborn infant had to survive 14 days before the group insurance policy would cover them. That was a mandated benefit, and this bill would possibly take that away unless the Department of Labor somehow says, OK, we are going to have this minimum benefit. This protection would be no longer available, at least on the local level, that the States have decided need to be provided to the purchasers of insurance.

Unlike block grants, States have tested and successfully regulated MEWA's, and there is no compelling reason or need to preempt State authority in this area.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, I would like to thank the gentleman from Missouri [Mr. CLAY], the ranking member, for yielding me this time.

Mr. Speaker, there are two sets of ideas before the House tonight. There is a set of ideas on which there is disagreement, whether we should limit the amount people can recover if they are a victim of malpractice; whether or not people should have medical savings accounts; whether or not there should be pooling arrangements for small businesses. There is legitimate disagreement about those things.

Then there is another set of ideas on which there is virtual unanimous agreement, broad consensus that we should make it illegal to say you cannot deny someone an insurance policy because they have been sick, and that people should be able to take their insurance from job to job.

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Mr. Speaker, logical people would say that we put aside the things on which we cannot agree and debate about them and try to refine them and deal with them another day and then we take the things on which we do agree and pass them so we can send them to the President of the United States and make them law.

But we are not going to do that. What we are going to do tonight in the bill that is before us is take a lot of controversial provisions and maybe pass them out of here and send them to a conference that will, in likelihood, I believe they will wither on the vine and die.

Now, this is not just another cynical example of the cynical exercise of how politics is practiced in our country. It is more than that. It has a lot to do with real people in real families and their real lives.

Mr. Speaker, the American people understand this. A woman with breast cancer, a man who has had a triple bypass heart operation, a shipyard worker who has had asbestosis can be denied health insurance coverage now because the have been sick. If the substitute offered by the gentlewoman from New Jersey [Mrs. ROUKEMA] does not pass tonight, they can still be denied that coverage. We need to make it illegal, illegal for an insurance company in this country to say to that woman with breast cancer of that man with asbestosis or that person who has had the triple bypass operation that, we are not going to sell you a policy or that we are going to charge you the Moon and the stars to buy the policy. A unanimous vote in a Senate committee said they agreed with that. Dozens of Republicans and Democrats, if not hundreds around here, have said they agree with that. The President of the United States has said he would sign that. But unless the Roukema substitute passes, we are not going do do that.

Do the right thing tonight. Vote "yes" on the Roukema substitute and "no" on this bill.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the ranking member for yielding me this time.

Mr. Speaker, this bill ought to be defeated. We should be considering a clean version of the Kennedy-Kassebaum-Roukema health reform bill, and I would say that the reason we are not considering a clean version of the Kennedy-Kassebaum-Roukema health reform bill is because the Republican leadership really does not want to see health care reform come into law.

They really want to see it defeated. But, quite frankly, they do not have the guts to say it. So they are weighing this bill down with all kinds of extraneous things that do not belong in the bill, knowing full well that this will kill the bill.

The Senate is going to pass a clean version. The President has said he will sign a clean version, and yet what we are doing today is a political charade. We are not passing a clean version, we are deliberately not passing the version the Senate is passing, and we know that the President will not agree.

So it is a charade. And, again, the Republican leadership does not have the guts to say the truth. You know, the gentleman from Texas [Mr. DELAY], the Republican whip, had it right before, when he said on the House floor, and I quote the gentleman from Texas from his speech on the House floor, "This is blatant politics and blatant hypocrisy." Except he was wrong in directing it to me and the Democrats. It seems to me the blatant, as the gentleman from Texas [Mr. DELAY] said, "blatant politics and blatant hypocrisy" is on the part of the gentleman from Texas [Mr. DELAY] and the Republican leadership because they do not have the guts to say we are against health care reform; instead, they are just weighing down this bill with a bunch of nonsense.

We believe that portability ought to become law. We believe that preexisting conditions is not a reason to deny people health care coverage. The Roukema bill does that. The Roukema bill will pass. The Roukema bill has the votes to pass, yet what they are doing is making it impossible for the Roukema bill to pass, and that to me is, quote, as the gentleman from Texas [Mr. DELAY] says, "blatant politics and blatant hypocrisy."

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in strong support of H.R. 3103 because it allows small employers to form Multiple Employer Health Plans [MEHPs] which can cross State lines. Small businesses operate closer to the bottom line than larger businesses, and are often unable to obtain coverage at any price. They pay higher premiums if they do obtain coverage, and cannot count on stable premiums.

MEHPs can self insure, in which case they would be required to register and maintain substantial capital reserves—a minimum of $400,000 or 25 percent of the expected claims—whichever was higher.

MEHPs would allow small employers to band together around the country, thereby avoiding expensive State-mandated benefits. Right now, small businesses pay up to 30 percent more in premiums than big businesses that can make use of ERISA exemptions.

The substitute does not allow small employers to form MEHPs across State lines.

I urge my colleagues to support 3103.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of H.R. 3103, and want to address the provisions relating to medical savings accounts for MSA's.

During the debate over the President's health care reform package during the 103d Congress, we saw that Americans view choice as fundamental to our health care system. By allowing people the chance to choose a high-deductible health insurance plan and to place the premium savings into a personal savings account, we are providing a way for people to manage their health care expenses. This plan would be used to cover major health costs while the savings account would cover routine and preventive care.

Under this bill, individuals could deposit up to $2,000 per year and could save, in the account, what they didn't use. Any withdrawals from the account for non-medical expenses would be taxable and subject to an early withdrawal penalty of 10 percent. Also, MSAs would allow patients to choose their own doctors and participate in their own care. These accounts belong to the individual and are portable during a job change.

Employers are currently able to offer MSA-like plans. However, unlike other traditional plans, the Government does not allow these plans to be tax deductible. MSAs should receive equal treatment, because recent studies indicate that these plans reduce the health care costs for employers by around 12 percent compared to traditional plans. This cost reduction directly enables employers to maintain quality health benefit plans to their employees at no additional charge. As we look for market-oriented ways to contain the costs of health care, MSAs should be viewed as an attractive option.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I wish for once Members of Congress would put themselves in the shoes of hard-working Americans, whether those shoes are loafers or construction boots, and then Americans would work together to reform in a simplistic and bipartisan commonsense way our health care system.

Now, we have two choices tonight: We can either support H.R. 3103, a convoluted measure that is highly controversial, with all kinds of special-interest provisions that will never become law, or we can support a bipartisan provision from Senator KENNEDY, Senator KASSEBAUM, and the gentlewoman from New Jersey [Mrs. ROUKEMA].

There is a bipartisan approach, a commonsense approach to provide portability, to provide health care for workers who lose their jobs. Let me give an example of why this is important. IBM has laid off 40,000 people; AT&T 40,000 people. These people are hard workers. They have children that may have diabetes or leukemia. And now health insurance companies can say, "We don't want to cover you anymore." If you vote for the Roukema Bill, the Kennedy-Kassebaum bill, you will allow these hard-working Americans to take their insurance with them and to not let the insurance companies be prejudiced against these people.

Vote for our children. Vote for our hard-working people in America, and vote for commonsense bipartisanship.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. KNOLLENBERG].–

Mr. KNOLLENBERG. Mr. Speaker, I rise in strong support of H.R. 3103 and commend my colleague, the gentleman from Illinois [Mr. FAWELL] for his efforts in bringing this legislation, which is badly needed, to the floor.

H.R. 3103 is not about big insurance companies or some Government takeover, as some would suggest. It is about providing coverage for millions of uninsured, and it allows them to get it on an accessible and affordable basis.

H.R. 3103 is about providing insurance to those millions of people that are currently unable to get insurance. For too long this system has stacked the deck against small business. Big businesses, such as GM, IBM, I just heard, have had the luxury of providing employees insurance through self-insuring, while small businesses lack the resources to self-insure. This bill directly addresses the inequality by allowing small businesses to join together to self-insure.

Mr. Speaker, Kassebaum-Kennedy is a Cadillac coverage program, one size fits all, without affordability. I urge my colleagues to vote for H.R. 3103.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of this bill for a variety of different reasons, probably chief of which is that it will allow many small employers to pool their resources together and purchase health care benefits in bulk.

This is an advantage the has been held by large corporations for many years and has been denied small businesses, and, as a consequence of that, those small businesses have to pay a much higher premium and they therefore choose not to provide coverage.

I would like to also additionally briefly address the issue of medical savings accounts. We have heard a lot of discussion about how bad these supposedly are, but I would assert that if medical savings accounts were available to the employees that work for Members of the minority, the majority of their employees would select medical savings accounts because medical savings accounts truly give the health care consumer the freedom to choose how to spend their health care dollars. It has been shown repeatedly that they over and over save a considerable amount of money. One of the biggest problems in our health car system is the third-party payer system.

Mr. CLAY. Mr. Speaker, I yield the balance of my time to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, the Dingell-Kennedy-Kassebaum substitute is a modest but significant step forward for health care. I rise in support of the substitute.

It is good that we are here addressing problems such as portability or increased deductibility for small businesses and preexisting condition discrimination. These small steps forward are important, but the American people should not be misled.

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The noble goal of universal health care, health care for all Americans, is not being discussed tonight. The administration bill in the 103d Congress was striving to help Americans join the other civilized, industrialized nations

VOL
142
PT
5
MR
21
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29
1996
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and provide health care for the 43 million Americans who are not covered with any health care plan.

This bill moves us no closer to health care for everybody. Looming over all of us in our present health care system is the dangerous threat to the Medicaid entitlement. That is not being discussed, but the Medicaid entitlement is America's beachhead for universal health care. Even if we pass the highly desirable Kennedy-Kassebaum-Dingell substitute, we will be taking a giant step backward if we throw away the Medicaid entitlement within a few weeks.

The American people must not be swindled. Two actions are needed. Tonight we have to pass the substitute, and we also have to make certain that in the future, the next few weeks, we deny the Governors, the majority Republicans in this body the opportunity to roll back the clock to destroy 30 years of good health care by eliminating the Medicaid entitlement. The Medicaid entitlement is absolutely necessary for the 43 million Americans who are not covered. The hope for those 43 million lies in keeping the Medicaid entitlement and expanding it.

This was the noble goal of the administration's bill in the 103d Congress. It was very difficult because they were looking to close that gap. It was very difficult because the 103d Congress proposal by the administration was attempting to have America join the other civilized industrialized nations for universal health care.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I am proud to be an original cosponsor of H.R. 3103. Approximately 17 percent of our nonelderly population does not have health care insurance coverage in the United States of America. This very important piece of legislation decreases that rank of the uninsured, that 17 percent, by making health insurance more readily available and affordable. Many things we should have done many years ago: Guaranteeing the portability of health insurance for workers changing or leaving jobs, limiting the ability of insurers to use preexisting conditions to deny health insurance coverage, making health insurance more affordable by reforming malpractice laws and cracking down on fraud and abuse, and several other measures which are here.

This focused reform bill compliments the efforts of States to expand health insurance coverage within their borders rather than superseding them.

I would like to say a word or two about those who argue that this would kill Kassebaum-Kennedy. This bill does not kill what our colleagues in the Senate have accomplished. This bill builds upon the sound principles to expand availability contained in Kassebaum-Kennedy, but also addresses affordability, which is not addressed in that bill.

Mr. Speaker, I encourage all of us to support this excellent piece of legislation.

Mr. GOODLING. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I think all one can say, I would just compliment the leadership on this side of the aisle. I would like to point out, too, that you will notice that no one, no one on this side of the aisle, criticized the legislation that that side is pushing. Yet I think it is fair to say we have had an abundance of criticism from that side.

We are simply asking that small employers have the rights that mid-sized and large employers have had for a long time, and that is to be able to self-insure. They preempt state law. You have heard it say there are 138 million people today under the ERISA law.

Mr. DEFAZIO. Mr. Speaker, I rise in opposition to H.R. 3103, the so-called "Health Coverage Availability and Affordability Act," and in support of the Democratic substitute.

We all agree that the American system of health care is in dire need of an overhaul. Health care costs are skyrocketing out of control. Having doubled in the last decade, they're far beyond the reach of any American who's uninsured and can't afford exorbitant insurance premiums. Four million Americans lost health insurance between 1988 and 1994. Millions more are just a pinkslip away from losing all of their health care coverage.

There are provisions in H.R. 3103 that I support. I agree that it is high time Congress acts to correct some of the more egregious practices of insurance companies. Denying insurance to individuals because of pre-existing conditions, genetic information, or a history of domestic violence is outrageous. It is a good start to ban these practices.

I've supported legislation that would correct these policies. I've authored legislation that would prohibit using domestic violence as a risk factor. I've also co-sponsored the Kennedy-Kassebaum-Roukema health care reform bill, which has the support of Senate Republicans and Democrats as well as the President.

The Democratic substitute would replace H.R. 3103 with language from the Kennedy-Kassebaum-Roukema bill. This bill would expand access to health insurance for Americans by increasing portability and limiting insurance companies' ability to deny coverage because of pre-existing conditions. The political consensus for the Kennedy-Kassebaum-Roukema bill means that it could become law in a matter of weeks.

But H.R. 3103 embraces controversial, divisive policies that doom any chance of insurance reform and minimal health security for the American people.

As a long-time advocate of fiscal responsibility, I must oppose the provisions in this bill establishing generous Medical Savings Accounts [MSAs]. The MSAs would result in a significant loss of taxpayer dollars without a substantial revenue offset. Under this bill, individuals could deposit up to $2,000 annually and families up to $4,000 in tax-free MSAs. The Joint Committee on Taxation has estimated that this provision alone would cost the U.S. taxpayers approximately $2 billion. This flies in the face of the deficit reduction goals to which this Congress purports to aspire.

The Republican leadership counters that the bill contains budgetary savings to offset the revenue loss from MSAs. This assertion is laughable and cynical. The budgetary savings are achieved through "reforms" in the Medicare program—the health plan for America's senior citizens. This is the same Medicare program that the Republicans claim is in such a dire financial crisis.

Any savings achieved through Medicare reforms should be used to shore up the Medicare trust fund. Failing that, these savings should be used to lower deductibles and increase benefits for Medicare beneficiaries. It makes no sense to use this savings to offset a tax break for the limited number of individuals who can afford MSAs.

Individuals who choose to open MSAs will likely be healthier, wealthier and younger than average. Unfortunately, the majority of the Medicare population is among the older and sicker and would not benefit from MSAs. The Republican leadership's bill would, therefore, steal money from Medicare recipients to pay for tax breaks for healthier Americans.

Ironically, H.R. 3103 would also remove state oversight and replace it with Federal regulation to advantage insurance companies. This would be a severe blow to the States' rights movement. For the past year we have heard Republicans disparage the role of the Federal Government. Yet, under this legislation, the Republican leadership conveniently tosses aside this argument in favor of Federal supremacy over insurance coverage. This legislation preempts existing state insurance reforms and State regulation of self-funded multiple employer plans [MEWAs].

In Oregon, local leaders have developed a series of health care initiatives with the active support of insurers, consumers and the business community. H.R. 3103 could seriously jeopardize these reforms, as well as reforms already enacted in other States.

Every American should have lifetime access to quality, affordable health care. All of our major economic competitors have adopted comprehensive health care reforms. Surely the United States of America, the greatest industrial power on Earth, can adopt the minimal protections in the Kennedy-Kassebaum-Roukema bill.

If you truly want to bring some relief to our constituents, I urge my colleagues to support the Democratic substitute which would replace the controversial Republican leadership's proposal with the language in the Kennedy-Kassebaum-Roukema bill.

Mr. CLINGER. Mr. Speaker, I rise in strong support of the "Health Coverage Availability and Affordability Act of 1996." This legislation takes very practical, needed steps to ensure working Americans that they will always have access to health insurance regardless of their health, their family's health, or their employer. H.R. 3103 will ensure Americans portability and renewability of their health coverage while

eliminating the fear of losing coverage because of pre-existing condition limitations when changing or losing a job.

I am particularly pleased to see provisions in the bill that set tough policies to combat health care fraud and abuse. Recent studies estimate that overcharging, double billing, and charging for services not rendered to patients cost consumers up to 10 percent of every health care dollar spent. This results in both higher health care costs and insurance premiums for everyone.

Under H.R. 3103, penalties for defrauding the Government through Federal health care programs, such as Medicare and Medicaid, will be stiffened. Furthermore, the bill will require the Secretary of Health and Human Services and the Attorney General to jointly establish a national health care fraud and abuse control program to coordinate Federal, State and local law enforcement to combat fraud with respect to health plans.

In addition, the "Health Coverage Availability and Affordability Act of 1996" will require the Secretary of Health and Human Services to exclude from Medicare and State health care programs for a minimum of 5 years individuals and entities who have been convicted of felony offenses relating to health care fraud; require the Secretary to provide beneficiaries with an explanation of each item or service for which payment was made under Medicare; and require the Secretary to establish a program to encourage individuals to report suspected fraud and abuse in the Medicare program.

I firmly believe that the fraud and abuse provisions in H.R. 3103 are long overdue and represent a serious effort to reduce fraudulent activity, which drives up the cost of health care for everyone. The Government Reform and Oversight Committee, which I chair, has held several hearings on this very issue, and I feel strongly that we need to act now to crack down on health care fraud and abuse.

Also, as a representative of a largely rural district, I am pleased to see provisions in H.R. 3103 that will allow small businesses to join together to form purchasing cooperatives. This provision exempts small businesses from certain State insurance regulations—an exemption that big business now enjoys. This change will make health insurance affordable for small businesses who cannot afford it at the present time—a problem that is particularly noticeable in rural areas. Some predict that small employers will be able to cut their business premiums by as much as a third, even while paying State premium taxes, which is provided for under the bill. This provision will certainly increase access to quality health care to rural individuals.

Again, I urge my colleagues to support this sensible, responsible approach to health care reform.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 3103, the Health Coverage Availability and Affordability Act and urge my colleagues to support this well intentioned bill.

As one of the Republican cosponsors of the Roukema/Kassebaum/Kennedy portability measure, I am acutely aware of the need for Congress to approve a health coverage measure which will ensure working people and families that they will always have access to health insurance regardless of their health, their family's health, or their employer. Accordingly, I commend my colleague, Representative ROUKEMA, for her efforts in the House to bring this portability measure before the House today.

Similarly, I am pleased that the House will have an opportunity to make a good bill better. In addition to making health insurance more available to all Americans, H.R. 3103 makes it more affordable and provides more choices.

H.R. 3103 will provide incentives to encourage individuals, and their employers, to make tax deductible contributions—in lieu of health insurance premiums—to a specialized savings account [MSA] to be used at a later date for health expenses; it increases penalties for fraud and abuse of the federally-funded health care system; and allows self employed individuals and small businesses to voluntarily associate to purchase health insurance which would be available to all member organizations.

All of these provisions mentioned above will help our Nation's farmers, self-employed, and small business entrepreneurs to provide health insurance for their families and employees.

Though H.R. 3103 may not be a perfect bill it does provide important health insurance reforms that will ensure broad health coverage for our constituents.

Furthermore, this measure is a step in the right direction. I look forward to working further with my colleagues on health care reform measures which will protect those Americans who currently do not have health insurance coverage.

I urge my colleagues to support H.R. 3103.

Mr. STENHOLM. Mr. Speaker, in an effort to keep health insurance reform moving through the legislative process, I rise with some reservation to support H.R. 3103, the Health Coverage Availability Act of 1996.

My record clearly reflects my strong support of health insurance reform. In addition to efforts on rural health issues and system-wide reform, I have worked for many years to make health insurance both accessible and affordable for millions of underserved Americans, many of whom reside in the 17th District of Texas. In one very recent example, I heard from a constituent who has been employed since 1954, working the last 10 years with her sister in a bookkeeping and secretarial business. At one point, she had hospitalization insurance, but the price of the policy continually increased to the point that she finally had to drop it because she could no longer afford it. She now worries about the health and economic vulnerability of her situation.

While this legislation does not specifically address all of her needs, I believe certain provisions such as portability of health insurance, limitation on pre-existing conditions, increased tax deductibility for the self-employed, and guaranteed availability of insurance for small employers, are definitely steps in the right direction.

Because the Senate has taken the lead on a health insurance reform bill which the President has pledged to sign, I must express my concerns about the political ramifications of loading this bill down with some of the more controversial issues that have been included here today. I recall just a few years ago, during a similar health care debate, when my friends on the other side of the aisle were criticizing Democrats for "overreaching" on health care reform proposals. Now, I fear we are back to square one.

Like many Members of this body, I would like to see additional health care reforms, including reforms to develop rural health networks and preserve rural health services. Facing political reality, however, I realize that this might not be the proper vehicle to achieve these goals.

I am also concerned that rather than promoting the goals of greater health insurance access and affordability, some provisions in this bill may have the reverse impact in the long run because sufficient safeguards were not added to the provisions. For example, I have strongly supported small employer pooling arrangements with effective certification and solvency standards, as well as protections to ensure that the pool is large enough to manage risk. However, I am worried that the pooling section of this legislation fails to meet those concerns.

I am especially concerned that the bill we are considering today includes provisions and changes which were made after the Committees of jurisdiction reported out their components of the bill.

While I am not convinced that this House bill meets many of my concerns, I do believe that these issues can be worked out in conference. Therefore, in the spirit of keeping the process moving forward, I intend to vote yes on final passage. It is my hope that we not let another opportunity to achieve some type of bipartisan health care reform pass us by, simply because we again overreach the boundaries of consensus. That is why I am cautiously supporting H.R. 3103, with the hope that the conference committee will inject bipartisan commonsense into the process and develop a health insurance reform bill that will get a Presidential signature.

After all, without both a congressional majority and a Presidential signature, my constituents in the 17th district, or Americans anywhere else, will receive no benefit from this political exercise. In the final analysis, I would hope that the ultimate goal for us all is weighed not in political, special interest terms, but in terms of caring for the health needs of our un- and under-insured populations.

Mr. HORN. Mr. Speaker, there has been a campaign of misinformation about this legislation. Americans have been told that this bill would deny them continued health insurance coverage for alternative medical treatments. This is untrue.

This bill does not deal with health insurance coverage for alternative medical treatments. This is an issue that must be addressed by the States. H.R. 3103 only requires that each State implement a mechanism to ensure individual coverage.

This bill does increase choices for health care delivery systems by providing for medical savings accounts. With these accounts, Americans can utilize their health care dollars for whatever treatment fits their needs. That is the way to ensure that alternative medical treatments remain available for anyone who wants them.

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142
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Mr. FRANKS of Connecticut. Mr. Speaker, H.R. 3103, the Health Care Coverage Availability and Affordability Act will ensure that Americans have access to health care coverage. More importantly, however, the bill will insure that people do not lose their insurance coverage when they switch jobs.

During the March 17th hearing this subcommittee held on insurance reform I stated that I had worked for both small businesses and for Fortune 500 companies. During my tenure in the business world I saw first hand the concern of individuals who have worked hard and suddenly found themselves without employment or insurance coverage. These individuals worry about how they will make their insurance payments to COBRA. COBRA benefits are supposed to cover individuals during periods of unemployment, but without a job how can the individual keep up his or her COBRA payments. They can't, so they simply slip through the cracks in our insurance industry. These are the individuals that we must be most concerned with.

This same scenario can be applied to the self employed. Should a self-employed individual's company fail, what would happen during the period of unemployment. I have recently reintroduced legislation I sponsored during the 103d Congress. My bill would allow us to look at the situation I just described in a similar fashion to the way in which we look at unemployment compensation, with the exception that the employer will not have to contribute. While a person is employed, why not have that person make contributions to an uninsurance trust. The employee would be able to contribute money to the trust and then access it during periods of unemployment. We also need this kind of return.

The bill before us today brings about much-needed reform to the insurance industry in this country. It addresses such important issues as portability and pre-existing conditions. Individuals will no longer have to remain in a job they do not like in order to maintain insurance coverage. Under this bill if an individual changes jobs his or her insurance coverage will follow. Also, according to this bill insurance companies will no longer be able to deny coverage to individuals with pre-existing conditions.

H.R. 3103 addresses the problem of medical malpractice as well. The bill establishes uniform standards for health care liability suits brought in court. Malpractice lawsuit awards are capped at $250,000 for non-economic damages and $250,000 or three times the non-economic damages for punitive damages. This capping of damages will aid in driving down health care costs.

This bill will allow organizations, like trade associations, to voluntarily associate to purchase health care insurance. This insurance would then be available to all member organizations. The voluntary association organizations for the purpose of buying health insurance will allow them to increase their purchasing power, thus allowing them to purchase insurance at a significant savings.

The bill provides relief for self-employed individuals by allowing them to deduct increasing percentages of their health insurance costs from their income taxes. This provision, like many of the others contained in this bill, will make the purchasing of health insurance more affordable. This is especially important for self-employed individuals because all too often they fall through the cracks in our health insurance industry.

Penalties for fraud and abuse of the federally funded health care system are increased under this legislation. Overcharging, double billing, and charging for services not rendered has become too prevalent. These types of fraud cost consumes 5 to 10 percent of ever health care dollar. This results in higher health care costs as well as higher in insurance premiums.

Finally the bill allows for the establishment of medical savings accounts, MSA's. MSA's will bring about changes to health insurance. These accounts will place the consumer in charge of his or her health care. The consumer will have total control over his or her health care. This will allow the consumer to spend his or her health care dollars as he or she wants.

Mr. Speaker, the legislation before us takes important steps toward reforming the health insurance industry in this country. I applaud this legislation and look forward to its passage. Thank you and I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I rise today in support of the Health Coverage Availability and Affordability Act of 1996. This bill includes provisions I have long supported on paperwork reduction.

I am pleased to see that today, the House will have the opportunity to vote on these and other needed reforms. Legislation aimed at making health insurance more available and affordable while reducing administrative paperwork is long overdue. While President George Bush introduced similar legislation in 1992, the then Democrat-controlled Congress blocked its consideration. It was not until the defeat of President Clinton's nationalized health care system that a consensus coalesced around these market-based reforms.

Currently, excessive paperwork, redtape, and duplicative administrative costs add nearly 10 cents to every health care dollar spent in the United States. In response to this concern I introduced legislation during the 102d Congress, along with our former colleague, Alex McMillan, to reduce these unnecessary costs through the establishment of uniform health claims and electronic billing standards.

Following this first ever free-standing bill on billing simplification, my Ohio colleague, DAVE HOBSON, took up the cause, improving upon our efforts. Congressman HOBSON's work has been integral in the promotion of the benefits of a uniform electronic billing system.

Mr. Speaker, I support the passage of the Health Care Coverage Availability and Affordability Act. American working families need and deserve the flexibility and cost-saving measures this bill provides.

Mr. PARKER. I want to congratulate the many Members who have been instrumental in bringing to the floor this important health care reform legislation.

In the 103d Congress, a number of us worked diligently on a similar, incremental package that would have corrected many identifiable problems in our health care delivery system.

Unfortunately, we never had an opportunity to vote on such a measure.

Today, however, I am pleased that we will finally be able to tell our constituents that help is on the way—changes will be made to address many of their health care concerns.

The passage of this legislation will assure people that they can change jobs and obtain group health insurance coverage through a new employer, without pre-existing condition limitations.

For those individuals who are between jobs and have been unable to obtain coverage due to a pre-existing condition, this bill will make it possible for them to do so.

For small employers, new pooling arrangements and an increased deduction for health insurance premiums will make it easier for them to purchase insurance coverage for their employees.

For individuals and families, medical savings accounts will now be available that allow them to control their own health care decisions and costs.

And for the many States like my own that provide health care coverage for uninsured high-risk individuals, this bill will clarify the tax-exempt status of State-established health insurance risk pools.

Currently, such risk pools are not automatically exempt from Federal income taxes.

This bill provides the necessary legislative fix to assist States in making much-needed medical insurance available to uninsurable residents.

Of course this bill, like the proposal I worked on in the last Congress, also includes provisions addressing such important needs as administrative simplification, fraud and abuse elimination, and medical malpractice reform.

In closing, we are taking the critical first steps toward a health care delivery system that is more accessible and affordable.

H.R. 3103 establishes a strong foundation on which future reforms in our health care delivery system can be based.

We should not let this opportunity to improve the Nation's health care system slip away once again.

Mr. CONYERS. Mr. Speaker, medical malpractice is a widespread and serious problem in our society. Studies have established that it is the third leading cause of preventable death, second only to those deaths associated with cigarette smoking and alcohol abuse. More than 1.3 million hospitalized Americans, or nearly 1 in 25, are estimated to be injured annually by medical treatment, and about 100,000 such patients, or 1 in 400, die each year as a direct result of such injuries.

Unfortunately, in federalizing this state law matter, the Republican proposals would absolutely decimate the protections the states have provided for against medical malpractice and other forms of misconduct. A summary of these provisions follows:

A. Statute of Limitations/§281—Prohibits victims from bringing any state health care liability action more than two years after an injury is discovered or five years after the negligent conduct that caused the injury first occurred. Such a proposed new federal statute of limitations takes no account of the fact that many injuries caused by medical malpractice or faulty drugs often take years to manifest

themselves. Thus under the proposal, a patient who is negligently inflicted with HIV-infected blood and develops AIDs six years later would be forever barred from filing a medical malpractice or product liability claim.

B. $250,000 Cap on Non-economic Damages/§282(a)(1)—Caps the award of non-economic damages in medical malpractice actions at $250,000. The bulk of data indicates that dollar caps do not provide significant savings. Using information derived from a 1992 GAO study, the ABA's Special Committee on Medical Professional Liability found that state tort reform proposals "have not had any measurable impact on overall health [care] costs" and that personal health care spending had doubled between 1982 and 1990, regardless of the type of "reforms" adopted. A 1986 GAO study on the impact of specific tort changes on medical malpractice claims revealed that claims and insurance costs continue to rise despite state-adopted limits on victim compensation.

Even the total elimination of malpractice costs would provide only negligible savings to the health care system. According to separate reviews by the U.S. Department of Health and Human Services and CBO, the total amount of *all* liability premiums paid in the United States represents less than 1% of the Nation's health care costs. And factoring in the costs of so-called "defensive medicine" would not result in any significant additional savings to the health care system, according to both the CBO and the Congressional Office of Technology Assessment.

An additional concern with caps on non-economic damages is that they could unfairly penalize those victims who suffer the most severe injury and are most in need of financial security. Although harder to scientifically measure, non-economic damages compensate victims for real losses—such as loss of sight, disfigurement, inability to bear children, incontinence, inability to feed or bathe oneself, or loss of a limb—that are not accounted for in lost wages. And non-economic damage caps have been found to have a disproportionately negative impact on women, minorities, the poor, the young, and the unemployed; since they generally have less wages, a greater proportion of their losses is non-economic.

C. Joint and Several Liability/§282(a)(2)—Eliminates the state doctrine of joint and several liability for non-economic damages. This will allow wrongdoers to profit at the expense of innocent victims, rather than forcing tortfeasors to allocate liability among themselves, as has traditionally been the case under state law. And since women, minorities, and the poor generally earn less wages, such limitations on non-economic damages could have a disproportionately negative impact on these groups.

D. Limits on Punitive Damages/§282(b)—Caps punitive damage awards at the greater of $250,000 or three times economic damages; limit the state law standard for the award of punitive damages to intentional or "consciously indifferent" conduct; allow a bifurcated proceeding to determine issues relating to punitive damages; and completely ban punitive damages in the case of drugs or other devices that have been approved by the FDA or any other drug "generally recognized as safe and effective" pursuant to FDA-established conditions.

These proposed limitations raise a number of concerns. Arbitrary caps on punitive damages may provide unjustified windfalls to the few tortfeasors responsible for blatant and wanton medical misconduct. (In fact, studies have shown that only 265 medical malpractice punitive awards were awarded in the United States in the 30 years between 1963 and 1993.) By insulating grossly negligent conduct, the proposed new federal standard for establishing punitive damages comes close to criminalizing tort law. Permitting defendants to bifurcate proceedings concerning the award of punitive damages may well lead to far more costly and time-consuming proceedings, again working to the disadvantage of injured victims. And banning punitive damages for FDA-approved products is likely to have a disproportionate impact on women, since they make up the largest class of victims of medical products.

E. Periodic Payments/§282(c)—Grants wrongdoers the option of paying damage awards in excess of $50,000 on a periodic basis. This provision would apply not only to future economic damages realized over time, such as lost wages, but to non-economic losses, like the loss of a limb, that are realized all at once. Also, in contrast to many state law periodic payment provisions, the Republican proposal does not seek to protect the victim from the risk of nonpayment resulting from future insolvency by the wrongdoer or to specify that future payments should be increased to account for inflation or to reflect changed circumstances.

F. Collateral Source and Subrogation/§282(d)—In most states under the collateral source rule, a victim is able to obtain compensation for the full amount of damages incurred, and his or her health insurance provider is able to seek subrogation in respect of its own payments to the victim. This ensures that the true cost of damages lies with the wrongdoer while eliminating the possibility of double recovery by the victim. The Republican proposal would turn this system on its head by allowing tortfeasors to introduce evidence of potential collateral payments owing from the insurer to the victim. This could have the effect of shifting costs from negligent doctors to the health insurance system in general and taxpayers in particular, resulting in increased health premiums paid by workers and businesses.

Another problematic feature of Republican malpractice proposals has been their one-sided, anti-victim nature. For example, their proposal allows States to enact more restrictive caps and damage limitations, but not permit the states freedom to grant victims any greater legal rights. Their proposals also ignore a number of complex legal issues. For example, in the state law context, various damage caps have been held to violate state constitutional guarantees relating to equal protection, due process, and rights of trial by jury and access to the courts; and these very same concerns are likely to be present at the federal level. And by layering a system of federal rules on top of a two-century-old system of state common law, the Republican proposals will inevitably lead to confusing conflicts, not only within the federal and state courts, but between federal and state courts.

I urge opposition to these proposals which would harm victims and insulate wrongdoers from liability.

Mr. NEAL of Massachusetts. Mr. Speaker, one lesson that both Democrats and Republicans learned from the health care reform debate in the 103d Congress is that retaining access to affordable health insurance is an anxiety that plagues most American families.

We exhausted the health care debate a few years ago in this Congress searching for ways to do it all—to make health care cheaper, better, and more accessible for everyone. And though we didn't pass health care reform legislation at that time, the fact that we are here today talking about limiting pre-existing condition exclusions and making health insurance portable—two consensus issues that Democrats and Republicans both support—is proof that our efforts did not fail.

I'd like to take a moment today to applaud our President for choosing to act upon America's health care concerns, and for having the courage to bring the issue of health care reform to the forefront of our national agenda.

The United States, and Massachusetts in particular, is home to the best quality health care in the world, and it is our job as Members of this House to make quality care available to Americans. The pre-existing condition limits and portability provisions in this bill meet this goal.

We also have a unique opportunity today to make health insurance more affordable to the self-employed by increasing the deductibility of health insurance premiums. Under current law, the self-employed are allowed a 30 percent deduction. The bill before us today gradually increases the deduction to 50 percent and 50 percent is not phased in until 2003.

The Democratic substitute addresses this issue in a more sensible and equitable manner. The Democratic substitute would increase the deduction to 50 percent in 1997 and 80 percent in 2002. Affordability is the greatest barrier to expanding health coverage. Increasing the deduction to 50 percent in 1997 will help make insurance affordable to those who lack coverage. Now, the self-employed may be able to fit into their budget the cost of health insurance.

Equity in the tax code should be one of our primary focuses. Corporations are allowed to deduct 100 percent of the cost of providing health insurance. Narrowing the gap between corporations and the self-employed restores greater tax equity.

Self-employed businesses range in spectrum from family farms to sole practitioners. These businesses are a vital part of our economy. We need to make health care affordable for them.

I urge you to support the Democratic substitute which tackles the issues where there is agreement and will make a difference in the health care of Americans.

Mrs. VUCANOVICH. Mr. Speaker, it took many years of debate, and thousands of town hall meetings, but by George, I think we've got it.

Congress has finally stepped up to the plate to ensure that Americans are able to obtain health insurance. Too many Americans are

VOL
142
PT
5
MR
21
—
29
1996
UMI

shut out of health care insurance because of preexisting conditions, or because they change jobs. With one swing of the bat in the first inning of the game, we have successfully completed a "Triple A"—much better than a triple play. The bill provides "A"-vailability, "A"-ffordability and "A"-ccountability. It helps employees who try to obtain health insurance, employers who try to provide health insurance, and the bill tackles the high cost of health care.

It makes good on promises by raising the health deduction for self-employed to 50 percent by the year 2003, provides citizens the opportunity to contribute to Medical Savings Accounts, and allows individuals to deduct long-term care expenses.

The House Committees' team has made the advancement up to third base, and it's up to the rest of us to take it home. I urge my colleagues and teammates to support this historic bill.

Mr. CUNNINGHAM. Mr. Speaker, today I rise in support of Health Coverage Availability and Affordability Act, H.R. 3103, particularly the provisions which will provide small employers with the ability to reduce health insurance costs through the formation of multiple employer arrangements [MEWÃs]. H.R. 3103 will bring affordable health care to millions of Americans who currently are uninsured, and will also provide greater assurance that those who already have health coverage will not lose it when they change jobs.

Without the small employer pooling provisions, any incremental health reform measure only addresses the problem of security for those who currently have health insurance. However, by providing small business with the same tools that are already available to large corporations in obtaining health coverage, we can also help the problem of the uninsured.

Eighty-five percent of the forty million uninsured are persons in families with at least one employed worker, and the majority of these workers are employed in small businesses. As small business becomes a larger portion of the economy, more and more people will find themselves employed by smaller companies. Thus, if we are ever going to make health coverage affordable for the uninsured, it is imperative that we provide small business with the same opportunities that already are available to large corporations for keeping health costs down.

Small employer pooling arrangements must operate uniformly across state lines, just like large employer arrangements do currently. We must provide a market-oriented, 21st century solution to the problem of the uninsured.

I urge you to vote in favor of H.R. 3103 to increase health care security and affordability for American workers.

Mr. LAZIO of New York. Mr. Speaker, I rise today in proud support of H.R. 3103, the Health Coverage & Affordability Act of 1996, of which I am a cosponsor.

This is a day which I have been looking forward to since I first took office over 3 years ago. Today, we are taking a long overdue step to provide real, substantive change to our health care system which will help working class families across America, and in my home district of Long Island.

For far too long, many Americans have worried that losing a job or having a preexisting condition would jeopardize the portability of their health insurance.

Because of this bill, workers will continue to have coverage if they change or lose their job—even with preexisting conditions. General Accounting Office [GAO] statistics show that 12 million workers with employer-based insurance leave their jobs every year, and millions more lose their jobs. H.R. 3103 would benefit up to 25 million Americans per year, including those who face job-lock, by eliminating the preexisting condition exclusions for persons with prior health insurance coverage.

An important feature of H.R. 3103 will eliminate discrimination based on genetic information. This would allow thousands of men and women to undergo genetic testing needed to preserve their health without fear of losing their health insurance or not being able to acquire it. This protection is essential for the women of Long Island, where instances of breast cancer are among the highest in the country. With H.R. 3103 in place, these women can be tested for BRCA–1, a gene linked to the disease, without fear of losing the insurance needed to meet their medical needs.

As a result of our efforts today, health care will become more affordable. H.R. 3103 tackles the problem created by rampant fraud and lawsuit abuse that drives up the cost, and will increase penalties for those who commit fraud and abuse. Importantly, this bill also increases the health insurance deduction for self-employed individuals from 30 percent to 50 percent by 2003, and allows taxpayers to make tax-deductible contributions to a medical savings account.

I urge my colleagues to support this bill and these reforms which will ease some of those worries of families who are already being squeezed by high taxes and falling wages by ensuring availability, affordability, and accountability to those who receive health care through their jobs. The American people deserve this and we owe it to them to pass it by a wide bi-partisan margin.

Mr. KLECZKA. Mr. Speaker, Americans will today witness firsthand an overt effort by the Republican leadership to sink a much-needed piece of legislation for the sake of preserving their cozy relationship with special-interests. A perfectly good insurance reform bill introduced by Senators KENNEDY and KASSEBAUM and Representative ROUKEMA in the House has been loaded with extra, controversial provisions that will make it difficult, if not impossible, to pass into law.

While modest, the original bill could help 21 million Americans by waiving the pre-existing condition exclusions for individuals who have had continuous health coverage. As many as 4 million people who are currently "locked" into their jobs for fear of losing needed health coverage for themselves or their family would benefit from the bill's national portability standards.

Yet, despite the fact that this bill will benefit 25 million Americans, Republicans in the House do not support it. In the Ways and Means Committee, the Kennedy-Kassebaum-Roukema bill did not receive one Republican vote. Apparently, 25 million hard-working Americans are not enough to convince the GOP that we need this legislation. Evidently, unless it has the blessing of the Health Insurance Association of America it is not worth voting for.

Why else would these Members condition their support for insurance reform on adding "sweeteners" like medical liability provisions that limit the legal rights of malpractice victims? Why do we need to permit insurance companies to sell Medicare beneficiaries unnecessary and costly policies that duplicate benefits they already have?

The Republican bill (H.R. 3103) includes other items that will likely meet strong opposition in the Senate, namely, controversial provisions that effectively limit the ability of States to enact health care reforms by pre-empting existing state regulations on multi-employer health plans. Already, a large percentage of employers are exempt from state reforms under the ERISA. With this provision, Congress takes even more health plans out of states' reach.

This add-on is especially puzzling since it flies in the face of the States' rights argument we have been hearing over and over from the Republicans. They want to block grant Medicaid, welfare, public housing, senior employment programs and other Federal initiatives and let the states administer and regulate them. Why not health care reform? Their own argument that the states can do things better and more efficiently than the Federal Government is contradicts this new policy.

As one of only four Democrats that cast their vote in favor of the Ways and Means insurance reform legislation, I strongly support providing my constituents with health coverage they can take from job to job. But, I differ from my Republican colleagues in one important respect. Not only do I support it—I also want it to pass. This final version of the bill bends over backwards so far to please so many special interests that it severs the spine that holds it together and paralyzes the legislative process.

Mr. Speaker, I support the clean Democratic substitute, which is identical to the original Kennedy-Kassebaum-Roukema bill and I urge my colleagues to do likewise.

Mr. COSTELLO. Mr. Speaker, I rise today in support of the Kennedy-Kassebaum substitute to be offered by the Democratic leader, and in opposition to the bill as a whole. Unfortunately, radical members of the majority conference have hijacked this bill and turned it into a special-interest Christmas tree, which could very well jeopardize its passage in the Congress.

Health insurance reform is long past due. Millions of Americans are still routinely denied health care coverage because of preexisting conditions. Some are forced to remain in stagnant jobs and turn down promotions or other job opportunities in order to insure the continuation of their employer-sponsored health care benefits.

The Senate has introduced legislation with wide bipartisan support to address the issue of portability of insurance. That legislation, the Kassebaum-Kennedy bill, ensures health insurance portability when individuals move from one employer to another. President Clinton voiced his support for this legislation during his State of the Union Address. In the House

of Representatives, my colleague, Representative ROUKEMA has introduced similar legislation, and 192 of my colleagues have joined me in cosponsoring Representative ROUKEMA's legislation.

With the broad bipartisan support of this health insurance reform, it is a disgrace that the Republican leadership has sabotaged the enactment of this legislation by adding controversial provisions to the bill. Some Members in the Senate have suggested these provisions may end the chances of passage of this legislation, which is why I will vote for the Kennedy-Kassebaum-Roukema substitute and against final passage. This issue is too important to let partisan politics jeopardize the health care of the American people. We have waited for too long. The time is now to pass and enact a clean health insurance reform bill that will assure the portability of health insurance when individuals change jobs.

Ms. DUNN of Washington. Mr. Speaker, I rise today in strong support of the Health Coverage Availability and Affordability Act of 1996. This legislation solves the health insurance problems most common among my constituents in Washington State—eliminating job lock and preexisting conditions -while keeping the costs of premiums down.

A critical component of our efforts to keep the cost of health Insurance down is the set of provisions to reduce fraud and abuse in our Nation's health care system.

According to the General Accounting Office, each year as much as 10 percent of our Nation's total health care expenditures are lost to fraud and abuse. With annual health care costs in the United States approaching $1 trillion, fraud and abuse is robbing taxpayers and policyholders of about $100 billion each year.

Let me repeat that because it is an important fact: fraud and abuse is costing our constituents about $100 billion each year.

Despite the enormity of the problem, the GAO concluded that "only a small fraction of the fraud and abuse committed against the health care system is identified."

The Department of Health and Human Services has estimated that Medicare and Medicaid programs alone lose as much as $31 billion annually to fraud and abuse.

And who pays? Patients, that is who. And in the case of Medicare and Medicaid, taxpayers pay for health care fraud and abuse in the form of higher health care costs and higher premiums.

For all these reasons attacking fraud and abuse is an essential component of the measure before us today.

For instance, we get tough on fraudulent and unscrupulous suppliers and providers who game the system in order to reap billions of dollars.

Through the establishment of the Medicare Integrity Program, we greatly increase Medicare's ability to prevent payments for fraudulent, or erroneous claims, and to identify illegal billing schemes early to avoid large losses.

We provide incentives for individual beneficiaries to report fraudulent, abusive, or wasteful claims practices.

Under the bill, a Health Care Fraud and Abuse Account with the Federal hospital trust fund is created. Moneys derived from the newly coordinated health care antifraud and abuse programs will be transferred into the trust for the expressed purposes of fighting fraud and abuse.

This new funding is vital because there has been a 45-percent drop in per claim spending on Medicare fraud and abuse prevention activities since 1989, despite historic savings rates in excess of $10 for every $1 invested in prevention. Our plan devotes more resources to the fight against fraud and abuse.

We also toughen criminal laws and enforcement tools for intentional fraud and abuse. The lack of a specific Federal health care fraud criminal statute, coupled with weak sanctions, has significantly hampered law enforcement's efforts to combat health care fraud. That is why it is so necessary to create this new criminal offense for activities such as theft, embezzlement, false statements, and money laundering. We then provide for mandatory forfeiture of property in such cases. In addition, civil monetary penalties will be substantially increased from $2,000 to $10,000 for each item or service involved. All of these efforts will serve to deter future abuses.

Strengthening prevention, increased funding for the battle against fraud and abuse, better coordination and enforcement, new criminal fraud statutes—all of these are included in this bill. I urge my colleagues to support our effort to end this annual $100 billion rip-off of taxpayers by supporting the bill.

Mr. MANZULLO. Mr. Speaker, the legislation we are considering here today, H.R. 3103, will enable millions of Americans to purchase affordable health insurance. H.R. 3103 will extend to Americans of all incomes, health status, and employment status the ability to enter into the health care market.

One of the biggest problems facing workers in job transition is that health insurance is not portable. Although the average person will change jobs eight times during his working life, employees are limited in their ability to keep their health insurance during job changes and periods of unemployment. One consequence is that many employees experience job lock, remaining in jobs just to keep their health insurance.

H.R. 3103 addresses this problem in several ways. This bill allows individuals to purchase tax-free medical savings accounts [MSA's], which allow people to contribute to their own health care savings fund. Under MSA's, people could confine health insurance to catastrophic coverage, reduce their monthly insurance premiums and make deposits to a MSA instead. Insurance would be used to pay for expensive and infrequent treatments, while MSA funds would be used to pay small bills covering routine medical services. Moreover, these accounts would be portable so that if one person moves to another job or loses their job, health coverage would not end. MSA's would make it easier for employees to pay premiums during unemployment or job transition. Since workers are spending their own money, MSA's also would restrain health care spending by empowering consumers to make cost-conscious purchasing decisions.

This legislation also provides portability for persons moving from one employer group health plan to another. Under this bill, when a person is covered by an employer health plan, the plan cannot refuse to cover a preexisting condition for more than 12 months. However, individuals changing jobs would receive credit for periods of continuous health care coverage under their previous employer's group health plan. So if a person has employer-sponsored health coverage for at least 12 months and switches to another employer who provides health benefits, no preexisting condition exclusion will be allowed.

The Health Coverage Availability and Affordability Act also allows small employers to band together in associations to form multiple employer groups that could fully-insure or self-insure. Under current law, large businesses are allowed to buy health insurance under a different set of rules than small business. Large, self-insured businesses are exempted from State law in their health plans while small businesses are stuck with State mandates, premium taxes, and other forms of regulation. This inequity between big business and small business in large part explains why the premiums of corporate America are going down while small business premiums are going up.

In addition, this legislation seeks to provide a greater incentive for the self-employed of this country to purchase health insurance by raising the amount they can deduct for health care costs from 30 percent to 50 percent by the year 2003. One of the major problems facing small business is the high cost of health insurance. There are nearly 3 million self-employed Americans without health insurance. If this group of business owners were given a greater deduction, many of these uninsured would purchase insurance, substantially reducing the number of uninsured Americans.

Mr. Chairman, H.R. 3103 encompasses measures that will enhance the current market system and make health insurance accessible and affordable for millions of Americans, and I strongly support its passage.

Mr. KOLBE. Mr. Speaker, I have heard from a number of my constituents from Tucson, some healthy, some with diabetes, multiple sclerosis, or asthma, and many who have a child that has health problems. It is for these people that we will vote on reform of the health insurance market.

Our current health insurance market provides too little protection for individuals and families with significant health problems and makes it to difficult for employers—particularly small employers—to obtain adequate health coverage for their employees.

Mr. Speaker we need to ask ourselves what will the health Care Availability and Affordability Act do for the American people:

The bill will allow workers to move from job to job.

The bill will allow workers who lose their job to maintain their health care insurance, and

The bill will allow workers to maintain their health care insurance if they move to a company that does not offer health care services.

What will the Health Care Availability and Affordability Act do for business community:

The bill will allow small business to join together under the auspices of ERISA to purchase insurance coverage or to cover their employees under self-insured multiple employer health plans.

Mr. Speaker, it is obvious how this will help the American people. Smaller companies will have the opportunities to pool together to purchase health care insurance, therefore, increasing the access of health care services to

VOL
142
PT
5
MR
21
—
29
1996
UMI

small business employees while reducing the cost of insurance premiums. It put small and large business in the same playing field.

Mr. Speaker, the Health Care Availability and Affordability Act, in addition to making health insurance more available and portable, addresses a even more pressing issue the affordability of health care services.

The bill will raise the health insurance deductible percent age from 30 to 50 percent for the self-employed.

The bill will allow individuals to include long-term care services as part of their health care expenditures Federal income tax deduction, and most importantly the bill will allow individuals covered by a high deductible health insurance plan or their employer to make a tax deductible contribution to a medicare savings account.

Mr. Speaker, the working families of this country have demanded changes to the health insurance market, and we have provided the mechanism, in the Health Care Availability and Affordability Act, that will give the American people what they need.

Mr. Speaker I urge my colleagues to join me in voting "aye" on the Health Care Availability and Affordability Act.

The SPEAKER pro tempore (Mr. COMBEST). All time for debate has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, as the designee of the minority leader, under the rule, and on behalf of myself and my two colleagues, the gentleman from South Carolina [Mr. SPRATT] and the gentleman from Texas [Mr. BENTSEN], I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. DINGELL:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Insurance Reform Act of 1996".

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

TABLE OF CONTENTS OF TITLE

Sec. 100. Definitions.
Subtitle A—Group Market Rules
Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.
Subtitle B—Individual Market Rules
Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.
Subtitle C—COBRA Clarifications
Sec. 121. Cobra clarification.
Subtitle D—Private Health Plan Purchasing Cooperatives
Sec. 131. Private health plan purchasing cooperatives.
Subtitle E—Application and Enforcement of Standards
Sec. 141. Applicability.
Sec. 142. Enforcement of standards.
Subtitle F—Miscellaneous Provisions
Sec. 191. Health coverage availability study.
Sec. 192. Effective date.
Sec. 193. Severability.

SEC. 100. DEFINITIONS.

As used in this title:

(1) Beneficiary.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) Employee.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) Employer.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) Employee health benefit plan.—

(A) In general.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) Rule of construction.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) Arrangements not included.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) Family.—

(A) In general.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) Child.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) Group health plan.—

(A) In general.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) Arrangements not included.—Such term does not include the following, or any combination thereof;

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) Group purchaser.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) Health plan issuer.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) Health status.—The term "health status" includes. with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(10) Participant.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(11) Plan sponsor.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(12) Secretary.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(13) State.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle A—Group Market Rules

SECTION 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

In General.—

(1) Nondiscrimination.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium; contribution requirements under the terms of such plan, except that such requirements shall not be based on health status (as defined in section 100(9)).

(2) Health promotion and disease prevention.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premiums; discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) Application of Capacity Limits.—

(1) In general.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) First-come-first-served.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(e) Construction.—

(1) Marketing of group health plans.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) Involuntary offering of group health plans.—Nothing is this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(A) In General.—

(1) Group purchaser.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) Participant.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments.

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this title.

(3) Rules of construction.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) Termination of Group Health Plans.—

(1) Particular type of group health plan not offered.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan. A group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) Discontinuance of all group health plans.—

(A) In general.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan, and

(ii) all group health plans issued or delivered for issuance in the State or discontinued and coverage under such plans is not renewed.

(B) Application of provisions.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) Prohibition on market reentry.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

Treatment of Network Plans.—

(1) Geographic limitations.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status of particular participants or beneficiaries.

(2) Network plan.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA Coverage.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) In General.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treatment of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan;

VOL
142
PT
5
MR
21
—
29
1996
UMI

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnancy.

(b) Crediting of Previous Qualifying Coverage.—

(1) In general.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) Discharge of duty.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries who coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation or such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) Definitions.—As used in this section:

(A) Previous qualifying coverage.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) Limitation or exclusion of benefits relating to treatment of a preexisting condition.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) Effect of previous coverage.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) Late Enrollees.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may be excluded except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) Affiliation Periods.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse section as approved by the applicable certifying authority (as defined in section 142(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) Preexisting Conditions.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) State Flexibility.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) Disclosure of Information by Health Plan Issuer.—

(1) In general.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates.

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) Exception.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) Construction.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) Disclosure of Information to Participants and Beneficiaries.—

(1) In general.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) Plan description and summary.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and title I of the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) Limitation on Requirements.—

(1) In general.—Except as provided in subsections (b) and (c), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to such individual, or deny enrollment to such individual based on the health status of the individual; or

(B) impose a limitation or exclusion of benefits otherwise covered under the plan for the individual based on a preexisting condition unless such limitation or exclusion could have been imposed if the individual remained covered under a group health plan or employee health benefit plan (including providing credit for previous coverage in the manner provided under subtitle A).

(2) Health promotion and disease prevention.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) Health plan issuer.—A health plan issuer described in this paragraph in a health plan issuer that issues or renews individual health plans.

(4) Premiums.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) Definition of Eligible Individual.—As used in subsection (a)(1), the term "eligible individual" means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans, employee health benefit plans, or public plans established under Federal or State law, for not less than 18 months (without a lapse in coverage of more than 30 consecutive days) immediately prior to the date on which the individual desired to enroll in the individual health plan.

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, accepted and exhausted the maximum required period of continuous coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under an equivalent State program.

(c) Applicable of Capacity Limit.—

(1) In general.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) First-come-first-served.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) Market Requirement.—

(1) In general.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) Conversion policies.—A health plan issuer offering group health plans to group purchasers under this title shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) Marketing of plans.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) In General.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) Termination of Individual Health Plans.—

(1) Particular type of individual health plan not offered.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan.

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of particular individuals.

(21) Discontinuance of all individual health plans.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) Prohibition on market reentry.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) Treatment of Network Plans.—

(1) Geographic limitations.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status of particular individuals.

(2) Network plan.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) In General.—With respect to any State law with respect to which the Governor of the State notifies the Secretary of Health and Human Services that such State law will achieve the goals of sections 110 and 111, and that is in effect on, or enacted after, the date of enactment of this Act (such as laws providing for guaranteed issue, open enrollment

VOL 142 PT 5 MR 21 — 29 1996 UMI

by one or more health plan issuers, high-risk pools, or mandatory conversion policies), such State law shall apply in lieu of the standards described in sections 110 and 111 unless the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(b) Determination.—

(1) In general.—In making a determination under subsection (a), the Secretary of Health and Human Services shall only—

(A) evaluate whether the State law or program provides guaranteed access to affordable coverage to individuals described in sections 110 and 111;

(B) evaluate whether the State law or program provides coverage for preexisting conditions (as defined in section 103(e)) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(C) evaluate whether the State law or program provides individuals_described in sections 110 and 111 with a choice of health plans or a health plan providing comprehensive coverage, and

(D) evaluate whether the application of the standards described in sections 110 and 111 will have an adverse impact on the number of individuals in such State having access to affordable coverage.

(2) Notice of intent.—If, within 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that the State intends to enact a law, or modify an existing law, described in subsection (a), the Secretary of Health and Human Services may not make a determination under such subsection until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) Notice to State.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making a final determination under subsection (a).

(c) Adoption of NAIC Model.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, adopts a model standard or standards for reform of the individual health insurance market, and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC standard or standards, that such standards comply with the goals of sections 110 and 111:

a State that elects to adopt such model standards or substantially adopt such model standards shall be deemed to have met the requirements of sections 110 and 111 and shall be subject to a determination under subsection (a).

SEC. 113. DEFINITION.

(a) In General.—As used this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) Arrangements Not Included.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital of fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) Public Health Service Act.—

(1) Period of coverage.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb-2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996", and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title",

(2) Election.—Section 2205(1)(C) of the Public Health Service Act (42 U.S.C. 300bb-5(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof.

(B) in clause (ii), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 2202(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) Notices.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb-6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(4) Birth or adoption of a child.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb-8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) Employee Retirement Income Security Act of 1974.—

(1) Period of coverage.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual." after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part",

(B) in subparagraph (D)(i), by inserting before, ", or" the following ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) Election.—Section 605(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof;

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 602(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) Notices.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(4) Birth or adoption of a child.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) Internal Revenue Code of 1986.—

(1) Period of coverage.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) Election.—Section 4980B(f)(5)(A)(ii) of the Internal Revenue Code of 1986 is amended—

(A) in subclause (I), by striking "or" at the end thereof;

(B) in subclause (II), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new subclause:

"(III) in the case of an qualified beneficiary described in the last sentence of paragraph (2)(B)(i), the date such individual is determined to have been disabled.".

(3) Notices.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(4) Birth or adoption of a child.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) Effective Date.—The amendments made by this section shall apply to qualifying events occurring on or after the date of enactment of this Act for plan years beginning after December 31, 1997.

(e) Notification of Changes.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) Definition.—As used in this title, the term "health plan purchasing cooperative" means a group of individuals or employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) Certification.—

(1) In general.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion. Each such cooperative shall also be registered with the Secretary.

(2) State refusal to certify.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this title, the Secretary shall certify and oversee the operations of such cooperative in such State.

(3) Interstate cooperatives.—For purposes of this section a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) Board of Directors.—

(1) In general.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a board cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of individual health plans or group health plans may not hold or control any right to vote with respect to a cooperative.

(2) Limitation on compensation.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(3) Conflict of interest.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant of, be a member of the board of directors or, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) Membership and Marketing Area.—

(1) Membership.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first-come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) Marketing area.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries may not be established on the basis of health status of the populations that reside in the area.

(e) Duties and Responsibilities.—

(1) In general.—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible.

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State.

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) Permissible activities.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this title, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers, and

(E) negotiating with health care providers and health plan issuers.

(f) Limitations on Cooperative Activities.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers.

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this title.

VOL 142 PT 5 MR 21 — 29 1996 UMI

(g) Limited Preemptions of Certain State Laws.—

(1) In general.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) Health plan issuers.—

(A) Rating.—With respect to a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section, State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) Exception.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new rating period that is in excess of that which would be permitted under State rating laws.

(C) Benefits.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category or care, or services of any class or type of provider.

(D) Exception.—In those states that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) Rules of Construction.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives.

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State.

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans, or

(6) confer authority up a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) Application of ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health pan purchasing cooperative as if such plan were an employee welfare benefit plan.

Subtitle E—Application and Enforcement of Standards

SEC. 141. APPLICABILITY.

(A) Construction.—

(1) Enforcement.—

(A) In general.—A requirement or standard imposed under this title on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements of standards imposed under the title shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official of officials designated by the State to enforce the requirements of this title.

(B) Limitation.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a Sate enforce the requirements or standards of this title as they relate to employee health benefit plans.

(2) Preemption of state law.—Nothing in this title shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this title; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this title and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) Rule of Construction.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) Continuation.—Nothing in this title shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) Health Plan Issuers.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this title pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement law.

(b) Employee Health Benefit Plans.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this title in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) Failure to Implement Plan.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this title in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) Applicable Certifying Authority.—As used in this title, the term "applicable certifying authority"means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved; and

(2) an employee health benefit, plan, the Secretary.

(e) Regulations.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this title.

(f) Technical Amendment.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1996" before the period.

Subtitle F—Miscellaneous Provisions

SEC. 191. HEALTH COVERAGE AVAILABILITY STUDY.

(a) In General.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conclude a two-part study, and prepare and submit reports, in accordance with this section.

(b) Evaluation of Availability.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a nongroup basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) Evaluation of Effectiveness.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 192. EFFECTIVE DATE.

Except as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall

apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997, and

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 193. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE II—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

TABLE OF CONTENTS OF TITLE

TITLE II—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

Sec. 200. Amendment of 1986 Code.

Subtitle A—Increase in Deduction For Health Insurance Costs of Self-Employed Individuals

Sec. 201. Increase in deduction for health insurance costs of self-employed individuals.

Subtitle B—Revenue Offsets

Chapter 1—Treatment of Individuals Who Expatriate

Sec. 211. Revision of tax rules on expatriation.

Sec. 212. Information on individuals expatriating.

Chapter 2—Foreign Trust Tax Compliance

Sec. 221. Improved information reporting on foreign trusts.

Sec. 222. Modifications of rules relating to foreign trusts having one or more United States beneficiary.

Sec. 223. Foreign persons not to be treated as owners under grantor trust rules.

Sec. 224. Information reporting regarding foreign gifts.

Sec. 225. Modification of rules relating to foreign trusts which are not grantor trusts.

Sec. 226. Residence of estates and trusts, etc.

Chapter 3—Repeal of Bad Debt Reserve Method for Thrift Savings Associations

Sec. 231. Repeal of bad debt reserve method for thrift savings associations.

SEC. 200. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Increase in Deduction For Health Insurance Costs of Self-Employed Individuals

SEC. 201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) In General.—Paragraph (1) of section 162(l) is amended to read as follows:

"(1) Allowance of deduction.—

"(A) In general.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(B) Applicable percentage.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
After 1996 and before 2002	50 percent.
2002 or thereafter	80 percent."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

SEC. 211. REVISION OF TAX RULES ON EXPATRIATION.

(a) In General.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) General Rules.—For purposes of this subtitle—

"(1) Mark to market.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

"(2) Recognition of gain or loss.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) Exclusion for certain gain.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(4) Election to continue to be taxed as United States citizen.—

"(A) In general.—If an expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph) shall not apply to the expatriate, but

"(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

"(B) Limitation on amount of estate, gift, and generation-skipping transfer taxes.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

"(c) Requirements.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require.

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) Election.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) Election to Defer Tax.—

"(1) In general.—If the taxpayer elects the application of this subsection with respect to any property—

"(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain for such property for the taxable year of the sale, but

"(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

"(2) Deferred tax amount.—

"(A) In general.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

"(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

"(ii) an amount of interest on the amount described in clause (i) determined for the period—

"(I) beginning on the 91st day after the expatriation date, and

"(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

"(B) Allocation of losses.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

"(3) Security.—

"(A) In general.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

"(B) Adequate security.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(4) Waiver of certain rights.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(5) Dispositions.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any

VOL
142
PT
5
MR
21
—
29
1996
UMI

property shall be treated as having disposed of such property—

"(A) immediately before death if such property is held at such time, and

"(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—The term 'covered expatriate' means an expatriate—

"(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

"(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has been a resident of the United Stats (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) PROPERTY TO WHICH SECTION APPLIES.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided by the Secretary, this section shall apply to—

"(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be included in the gross income of the expatriate if such interest had been sold for its fair market value on such data in a transaction in which gain is recognized in whole or in part, and

"(B) any other interest in a trust to which subsection (f) applies.

"(2) EXCEPTIONS.—This section shall not apply to the following property:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(B) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(i) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(ii) FOREIGN PENSION PLANS.—

"(I) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(II) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)).

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)).

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest in an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust in the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(I) which is organized under, and governed by, the laws of the United States or a State, and

"(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1)—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3).

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) to prevent double taxation by ensuring that—

"(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

"(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

"(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

"(k) CROSS REFERENCE.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).".

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatristion date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).".

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.".

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

"(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).".

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence: "For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).".

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added

VOL
142
PT
5
MR
21
—
29
1996
UMI

by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) SPECIAL RULES RELATING TO CERTAIN ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)-(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 212. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

"(2) TIMING.—

"(A) CITIZENS.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

"(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

"(ii) provided to the person or court referred to in section 877A(e)(3).

"(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at lease the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

"(2) $1,000, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(e) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals expatriating.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

CHAPTER 2—FOREIGN TRUST TAX COMPLIANCE

SEC. 221. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identify of the trust and of each trustee and beneficiary or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to

be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

"(A) IN GENERAL.—If applicable records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includable in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceeding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.".

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information.

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d), as amended by sections 11004 and 11045, is amended by striking "or" at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting ",or", and by inserting after subparagraph (V) the following new subparagraph:

"(W) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).".

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 604 Information with respect to certain foreign trusts.".

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts"

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 222. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.".

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTIONS.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.".

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)*(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

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"(4) Special rules applicable to foreign grantor who later becomes a United States person.—

"(A) In general.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) Treatment of undistributed income.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) Residency starting date.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) Outbound trust migrations.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.".

(d) Modification Relating to Whether Trust Has United States Beneficiaries.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) Certain united states beneficiaries disregarded.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.".

(e) Technical Amendment.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) Regulations.—Section 679 is amended by adding at the end the following new subsection:

"(d) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(g) Effective Date.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 233. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) General Rule.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) Subpart Not To Result in Foreign Ownership.—

"(1) In general.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) Exceptions.—

"(A) Certain revocable and irrevocable trusts.—Paragraph (1) shall not apply to any trust if—

"(i) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) Compensatory trusts.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) Special rules.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) Recharacterization of purported gifts.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) Special rule where grantor is foreign person.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.".

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) Credit for Certain Taxes.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.".

(c) Distribution by Certain Foreign Trusts Through Nominees.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) Distribution by Certain Foreign Trusts Through Nominees.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".

(2) Section 665 is amended by striking subsection (c).

(d) Effective Date.—

(1) In general.—Except as provided by paragraph (2), the amendments made by this section shall take effort on the date of the enactment of this Act.

(2) Exception for certain trusts.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) Transitional Rule.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 224. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) In General.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039F the following new section:

"SEC. 6039G. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) In General.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) Foreign Gift.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) Penalty for Failure To File Information.—

"(1) In general.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) Reasonable cause exception.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) Cost-of-Living Adjustment.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

"(b) Clerical Amendment.—The table of sections for such subpart is amended by inserting after the item relating to section 6039F the following new item:

"Sec. 6039G. Notice of large gifts received from foreign persons.".

"(c) Effective Date.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 225. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

"(a) Modification of Interest Charge on Accumulation Distributions.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) General Rule.—For purposes of the tax determined under section 667(a)—

"(1) Interest determined using underpayment rates.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) Period.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) Applicable number of years.—For purposes of paragraph (2)—

"(A) In general.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) Product described.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) Undistributed income year.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) Determination of undistributed net income.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) Periods before 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.".

(b) Abusive Transactions.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) Abusive transactions.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.".

(c) Treatment of Loans From Trusts.—

(1) In general.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) Loans From Foreign Trusts.—For purposes of subparts B, C, and D—

"(1) General rule.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) Definitions and special rules.—For purposes of this subsection—

"(A) Cash.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) Related person.—

"(i) In general.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) Allocation.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) Exclusion of tax-exempts.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) Trust not treated as simple trust.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) Subsequent transactions regarding loan principal.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(2) Technical amendment.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)." before "or 1274" each place it appears.

(d) Effective Dates.—

(1) Interest charge.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) Abusive transactions.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) Loans from trusts.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 226. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) Treatment as United States Person.—

(1) In general.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.".

(2) Conforming amendment.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) Foreign estate or trust.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).".

(3) Effective date.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) Dometic Trusts Which Become Foreign Trusts.—

(1) In general.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.".

(2) Penalty.—Section 1494 is amended by adding at the end the following new subsection:

"(c) Penalty.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).".

(3) Effective date.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

CHAPTER 3—REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS

SEC. 231. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) In General.—Section 593 (relating to reserves for losses on loans) is amended by

VOL
142
PT
5
MR
21
—
29
1996
UMI

adding at the end the following new subsections:

"(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

"(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

"(A) such change shall be treated as a change in a method of accounting,

"(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

"(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

"(i) shall be determined by taking into account only applicable excess reserves, and

"(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

"(2) APPLICABLE EXCESS RESERVES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

"(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before December 31, 1995, over

"(ii) the lesser of—

"(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

"(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

"(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

"(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

"(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

"(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve: except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

"(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

"(A) IN GENERAL.— In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

"(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

"(ii) such taxable year shall be disregarded in determining—

"(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

"(II) the amount of such adjustment.

"(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

"(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

"(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

"(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

"(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995.

"(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

"(B) TREATMENT UNDER ELECTIVE CUTOFF METHOD.—For purposes of applying section 585(c)(4)—

"(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

"(ii) no amount shall be includable in gross income by reason of such reduction.

"(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(C) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

"(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

"(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

"(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spinoffs, and other reorganizations."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraph (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking "by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "by a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987).".

(C) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581 to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect.".

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The".

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(11) Paragraph (3) of section 992(d) is amended by striking "or 593".

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(14) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7).—The amendments made by subsection (b)(7) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. DINGELL] and a Member opposed will each control 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DINGELL. Mr. Speaker, I believe I will have the right to close under this as the author of the amendment?

The SPEAKER pro tempore. Who seeks control in opposition?

Mr. THOMAS. Mr. Speaker, I seek to control the time in opposition.

The SPEAKER pro tempore. The Chair would state that because the gentleman from California [Mr. THOMAS] is a member of the Committee on Ways and Means, the gentleman from California would have the right to close.

Mr. DINGELL. Mr. Speaker, further parliamentary inquiry. Is it not the rule that the author of the amendment has the right to close?

The SPEAKER pro tempore. The manager of the bill has the right to close, and the Committee on Ways and Means is the reporting committee on the pending bill.

Mr. DINGELL. That is a rather extraordinary ruling.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. THOMAS. Mr. Speaker, is it rather unusual for the committee that offers the bill on which a Member offers a substitute to the committee bill not to close? Is that a rather unusual ruling, or is that the ordinary rule around this place and has been for years?

The SPEAKER pro tempore. The Chair indicated that the representative of the managing committee would have the right to close.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas [Mr. BENTSEN], a coauthor of the amendment.

Mr. BENTSEN. Mr. Speaker, I thank the gentleman from Michigan for yielding me time.

Mr. Speaker, I am pleased to join with my distinguished colleagues, Mr. DINGELL and Mr. SPRATT, in offering this substitute.

Mr. Speaker, earlier today, my wife called to tell me that our 2-year-old daughter Meredith had gotten hold of her sister's cough medicine. The doctor ordered her to the hospital and my wife rushed her to the emergency room. As I drove to meet her, I was concerned about my daughter, but I didn't worry about the bill. We in Congress have health insurance. Fortunately, Meredith is OK, and we need not worry about how we pay.

That's not the case for the young woman I recently met in my district who could not purchase health insurance because her daughter had a heart condition. Her husband earns too much to be on Medicaid, nor does she want to receive such assistance. She only wants the right to buy health insurance, but her daughter's preexisting heart condition precludes that. The Bentsen-Spratt-Dingell substitute would prohibit discrimination based on such preexisting conditions and ensure that this family could finally provide health care for their child without falling into poverty.

Today, this House has the opportunity to pass simple, straightforward steps that will help millions of Americans like this Channelview, TX, family. If we focus on reforms that have broad, bipartisan support, and put aside for now those proposals that divide us, as this substitute does, we can begin to address the health care fears that weigh ever heavier on the minds of families across this country.

I urge my colleagues to keep in mind the people we are trying to help. Let us remember the 40 million Americans who are without health insurance today, including 4.6 million people in my home State of Texas. That is 1 million more Americans without insurance than when Congress last debated health care 2 years ago. Millions more face becoming uninsured if they lose or change jobs, and others are locked in jobs they do not want because they or a family member have a preexisting condition.

These are the people we must remember as we debate this issue today. That young mother in Channelview needs our help now. She and millions of other Americans do not have the luxury of waiting as we spend months, even years, debating the controversial, untested provisions, such as Medical Savings Accounts, that are in the bill before us. These provisions may even have merit. But they should not be allowed to hold up or kill the commonsense, bipartisan, noncontroversial reforms in our substitute. The American people deserve what we in Congress have, and our substitute provides that.

This substitute tracks the bipartisan Health Insurance Reform Act of 1996 as introduced in the other body by Senators NANCY KASSEBAUM and EDWARD KENNEDY and as filed in the House by our Republican colleague, MARGE ROUKEMA. I want to congratulate my colleague from New Jersey for her leadership on this issue and urge her and others on her side of the aisle to join us in supporting this substitute.

This substitute ends insurance discrimination against people with preexisting health conditions. It guarantees people access to group or individual coverage if they change jobs, lose jobs, or get sick. It helps small businesses to join together and purchase more affordable coverage.

Our substitute makes one major addition to the Roukema bill. It phases in an increase from 30 to 80 percent the amount that self-employed individuals can deduct from their taxes for the cost of health insurance, affording the same treatment to the self-employed as we do to corporations.

Altogether, these reforms will help 28 million Americans to buy and keep health insurance.

Mr. Speaker, I want to underscore the broad consensus for these reforms. Most of us in this body from both sides of the aisle support them. The President supports them. More than 135 organizations representing business, workers, and health care providers support them. These include the American Medical Association, the American Hospital Association, the AFL–CIO, the Independent Insurance Agents, and the National Association of Manufacturers.

We need to remember the lessons learned from Congresses past regarding health care reform. A comprehensive, complicated reform bill is too controversial and cannot be enacted in whole. Instead we should pass this consensus bill of incremental reforms that will bring immediate help to millions of Americans.

But the addition of controversial provisions isn't the only reason we should pass this substitute. The Republican bill also has weaker portability provisions than the substitute and weakens important consumer protections.

The Republican bill weakens the portability provision by limiting group to individual transfer to a single plan. This will ensure that high risk individuals are pooled together and forced to pay exorbitant premiums.

The Republican plan also would limit the number of businesses that could

VOL
142
PT
5
MR
21
—
29
1996
UMI

benefit from this plan. The Republican plan only guarantees first-time issuance of insurance for businesses employing between 2 and 50 people. All businesses with more than 51 employees would not be protected.

This bill also would create a new class of insurance with lower capital and solvency requirements, thus increasing risk to the small businesses that purchase from these new plans. It would contradict the McCarran-Ferguson Act, creating federally regulated insurance using lower standards. And it provides a huge loophole for New York and New Jersey, but not the other 48 States.

Finally, the Republican plan would weaken consumer protection laws by eliminating regulations that prohibit the sale of duplicative health insurance policies to senior citizens. Under the bill, insurance companies would be permitted to sell policies that duplicate Medicare benefits and then collect premiums from seniors who already are covered under Medicare. They would pay twice. These plans are currently prohibited and I am concerned that many seniors will not be aware of the risks associated with purchasing such plans.

Mr. Speaker, this is a fairly easy vote. We can vote to increase the economic security of hundreds of millions of Americans who are currently covered by private insurance by passing this amendment and end once and for all insurance discrimination against: people with a preexisting medical condition; people who lose their job but still need health insurance; and small businesses of any size that want to buy safe, sound, and affordable health insurance for their employees.

It is a market-based plan that the American people support, that addresses their real concerns, and that can become a reality tomorrow. The Republican bill fails this test and will take years to even come close to becoming law. My colleagues, tonight let's forget we are Democrats and Republicans for one shining moment of compromise. Let us put victory for the American people and their health security ahead of political victory. Let's do right by the American people and pass the Bentsen-Spratt-Dingell substitute.

Mr. THOMAS. Mr. Speaker, I yield 15 minutes to the gentleman from Virginia [Mr. BLILEY], the chairman of the Committee on Commerce, and ask unanimous consent that he be allowed to allocate said time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. THOMAS. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the special rule for coordination of long-term care policies has been misinterpreted by some in the administration. I want to clarify that this rule applies to policies that provide health care benefits only for long-term care and similar benefits, such as community-based care, and would not apply to a policy that covers other health care benefits.

Mr. Speaker, we have been hearing for some time that all the Democrats want is Kassebaum. The gentleman from New York said "Let's have 'pure' Kassebaum."

Let me tell you, what you have in front of you is not pure Kassebaum. As you might expect, the Democrats have changed the bill. They have told you they have only added things to it. They said, "We just wanted to help the self-employed more than the Republicans."

You left the self-employed stranded for a whole year in 1994 when you were in the majority. Nice to have you come around and have you helping the self-employed.

If this is supposed to be pure Kassebaum, why don't you include the items on page 105? Title III, miscellaneous provisions. "HMO's allowed to offer plans with deductibles to individuals with medical savings accounts."

Kassebaum includes medical savings accounts and the ability to apply to an HMO to receive benefits while you have a medical savings account. You conveniently left that out. If you want pure Kassebaum, you would have MSA's in the bill.

On page 106, Sense of the Senate. "It is the sense of the Senate that the Congress should take measures to further the purposes of this act, including any necessary changes to the Internal Revenue Code of 1986 to encourage groups and individuals to obtain health coverage and to promote access, equity, portability, affordability, and security of health benefits." That is exactly what the Committee on Ways and Means has done.

The Senate committee cried out in the Kassebaum bill, "We don't have jurisdiction over the Tax Code, but if we did, these are the kinds of things that we would do." And what they asked for, we have included in our bill.

Only one committee has looked at the Kassebaum bill in the Senate. It is not on the floor of the Senate. They did not have jurisdiction over the revenue code. Four committees in the House looked at our bill, and given our distinct and unique jurisdictions, we contributed to and improved this bill. We did exactly what Senator KASSEBAUM asked us to do. We added items that provided and promoted access, equity, portability, affordability and security of health benefits.

Guess what you left in the bill? Notwithstanding all of the protestations on the floor about the Democrats in terms of States rights, and, after all, the Republicans are going to usurp the States rights, take a look at page 91 in the Kassebaum bill.

It says under subtitle D(b), certification, number 2, State refusal to certify. It says, "If a state fails to implement a program for a certifying health plan purchasing cooperative in accordance with the standards under this act, the secretary shall certify and oversee operations of such cooperative's Federal preemption."

Notwithstanding all of your crocodile tears, about "pure" Kassebaum, the Feds have a role in play to your substitution.

I would tell my Republican colleagues, beware: This is not Kansas. This bill is not from Dorothy. It isn't even from Toto. It has been written and comes from the Land of Oz.

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Mr. BLILEY. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman from Michigan [Mr. DINGELL] for yielding me time to express my strong support for his substitute to H.R. 3103, an omnibus package of health reform proposals.

The Dingell amendment is comprised, essentially, of two items: the so-called Kassebaum-Kennedy-Roukema health insurance reform package and a proposal to allow self-employed individuals to deduct 80 percent of their health insurance premiums, rather than the 30 percent current law allows for.

The difference between this package and H.R. 3103 is this simple: If the House approves the Dingell plan it can be quickly passed by the Senate and signed into law by President Clinton immediately. This will immediately deliver insurance portability; eliminate job lock and give guaranteed insurance to 30 million Americans who presently do not qualify.

H.R. 3103, as brought to the House floor today, cannot.

The Republican leadership's package, which contains several very controversial elements, faces a guaranteed Senate filibuster, or, if it were to ever get that far, a certain veto at the White House.

If you want to vote in support of health insurance reform legislation that will make a real difference in the daily lives of millions of Americans this year, support the Dingell alternative.

Anything else won't survive the legislative process, and is simply a political exercise rather than an attempt to enact commonsense, bipartisan health reforms.

I am very proud to be the House author of the companion bill to the Kassebaum-Kennedy measure, H.R. 2893—which currently has 193 cosponsors—17 Republicans and 176 Democrats—which encompasses precisely the kind of incremental health reforms that the Republicans so strongly advocated in 1993–94 when the 103d Congress was debating President Clinton's massive health care reform plan.

This modest package of insurance reforms would simply make health insurance plans portable for workers leaving one job for another; restrict the ability of insurance carriers to impose pre-existing condition limitations in their policies; and allow small employers to pool together to purchase health benefits for their workers.

A very strong and broad coalition has endorsed the Kassebaum-Roukema legislation including: The National Governors Association; the American Medical Association; the American Hospital Association; the National Association of Manufacturers; the Business Roundtable, and the AFL-CIO—on the Senate side, the U.S. Chamber of Commerce has endorsed the Kassebaum-Kennedy package, too; the Healthcare Leadership Council, and the Independent Insurance Agents Association; and the ERISA Industry Committee [ERIC], and the American Association of Retired Persons [AARP] are just a few of the more prominent supporters of the Kassebaum-Kennedy-Roukema legislation.

I might add that, during his State of the Union speech 2 months ago, President Clinton endorsed this bill, and has repeatedly stated that he is prepared to sign this legislation if we can just move it through the Congress this year.

Some of the reforms in H.R. 3103—such as medical malpractice reforms—I have supported in the past, and will continue to support in the future as freestanding measures.

However, we must acknowledge that these issues raise significant policy questions.

Reforms such as medical malpractice and medical savings accounts should be debated by the Congress on an individual, case-by-case basis, particularly given the level of controversy that these proposals raise in both parties of the House and Senate.

In addition, it is highly unlikely that, given the limited number of legislative days in our session this year, that the Senate would ever be able to pass such a controversial and omnibus package of health reforms.

In fact, prominent Republican Senators have repeatedly and publicly stated their opposition to such an omnibus bill, as recently as a day or 2 ago.

It's time for the Congress to stop playing these games—the American people are sick and tired of bickering and political gamesmanship.

We must immediately enact common-sense, incremental health insurance reforms.

The General Accounting Office [GAO] has estimated that up to 30 million American citizens would benefit from the health insurance reforms incorporated in the Kassebaum-Roukema plan.

Let's not permit such a golden opportunity to help so many people slip through our collective fingers because of partisan politics.

In closing, Mr. Speaker, I urge my colleagues to join me in support of the Dingell substitute to H.R. 3103, because it's the right thing to do for the American people now.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, with all due respect to my good friend and colleague from new Jersey [Mrs. ROUKEMA], we had a bipartisan plan in the last Congress authored by my good friend from Florida, the chairman now of our Subcommittee on Health and Environment of the Committee on Commerce, and the gentleman from Georgia who is no longer with us, Dr. Roy Rowland. I sat right over there on this night 2 years ago with then the chairman of my committee, and I said, you cannot move this massive socialized medicine bill of the President's. We have a good bipartisan bill and we ought to take it up. It was not enough for him.

Mr. Speaker, but now all of a sudden, this bill, which is more modest than the Bilirakis-Rowland bill, is too much. I find that rather ironic.

Mr. Speaker, I rise in strong opposition to the substitute. While it is a well-intentioned proposal, it simply falls short of the mark of ensuring that health insurance is both available and affordable.

Our bill is focused on the real problems people encounter in obtaining health insurance in the small business market. Small employers who are trying to provide their employees and their families with adequate coverage will not be helped by this substitute. They will not be able to purchase affordable health insurance coverage.

In addition, a recent letter from the National Association of Independent Businesses points out that big business is in the position of purchasing health insurance under a different set of rules than small business. Their letter points out that the Health Coverage Availability and Affordability Act would stop the unfairness by allowing small firms to band together across State lines to purchase health insurance with nearly the same exemption from State law that big business has. Achieving this is NFIB's highest health reform priority. And I quote from their letter: "Any substitute amendment that does not directly address this inequity between big and small business is unacceptable to the more than 600,000 members of NFIB."

Mr. Speaker, the Democratic substitute does not address this inequity. It is all form and no substance. Its pooling provisions simply allow the formation of purchasing cooperatives, which can be formed under current law. Thus, it falls short of the mark in addressing the key concerns of small business in reforming the small employer health insurance market.

Mr. Speaker, I would also like to point out to my colleagues that National Right to Life has raised a serious concern about the nondiscrimination language in the substitute. The nondiscrimination language could be read to apply to the content of a benefits package. Thus, the language could be used to require the inclusion of elective abortions in all health insurance plans. This problem has not been addressed in the substitute and remains an issue for pro-life Members.

In addition, the Democrat substitute fails to allow for medical savings accounts, an option that provides true portability for individuals, including the self-employed. It does not encourage the purchasing of long-term health insurance coverage, because it does not allow expenses for long-term care and long-term care insurance premiums to be tax deductible.

Mr. Speaker, it also fails to address the question of affordability because it does nothing to address the increased costs our current malpractice laws bring to the health care system.

Perhaps the substitute's most glaring omission is its failure to address the issue of fraud and abuse, which has also contributed to the high cost of health insurance coverage. According to the General Accounting Office, each year as much as 10 percent of total health care costs are lost to fraud and abuse. Given that annual health care costs in the United States are now approaching $1 trillion, fraud and abuse are costing taxpayers and policyholders large sums of money. Despite the enormity of the problem, GAO has concluded that only a small fraction of this fraud and abuse is detected. The failure of a health reform bill to address this issue is unfortunate.

The HHS Inspector General in a letter to the ranking member of the Committee on Commerce points out that the provisions in the Republican bill will help to reduce fraud and abuse. It states:

> Generally speaking, these provisions are excellent . . . The bill contains many improvements to the laws intended to address health care fraud. In our judgment, enactment of the provisions . . . would be very effective in reducing the amount of fraud and abuse in the health care system . . .

Finally, I feel I must address the constant refrain we have heard that somehow Senators KASSEBAUM and KENNEDY's bill, is the gold standard and cannot be amended. It is absolutely absurd for us to say that a bill cannot be improved. It is also rather naive for us to say that a bill that comes out of Committee in the Senate will not be amended on the floor of that body where there are no germaneness rules and anything can be attached to anything.

Mr. Speaker, do not expect a clean Kassebaum-Kennedy bill to come out of the Senate. I assure my colleagues that whatever we do tonight, we will be in conference.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina [Mr. SPRATT].

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of Bentsen-Spratt-Dingell. There is a lot on our agenda about which the American people are undecided or divided, but clearly they want us to change the way that health insurance in this country is written. They want the law to say that if they lose their jobs or leave it, they can take their health insurance with them; if they have an illness or an injury, they can keep their insurance and not be ostracized by carriers as having preexisting conditions.

Mr. Speaker, there is something else the American people want. They want an end to partisan bickering. Our substitute goes to both goals. It is not just a chance to change health insurance. It is a chance to do something bipartisan. We make health insurance portable. We take care of people with preexisting conditions, and we do it in a bipartisan bill, a clean bill that is unencumbered by pet provisions.

Mr. Speaker, the differences between the base bill, H.R. 3103, and our substitute, which is essentially Kennedy-Kassebaum-Roukema, are seemingly small but the differences are potentially insidious.

First of all, let me just cover a couple. The base bill in our substitute says that if you lose your job, you can convert from group to individual coverage once your extension under COBRA has expired. But in the substitute, we say that when you convert, you have the right to pick among the policies that an insurance company offers.

In the base bill, people lose this flexibility. They have got a Hobson's choice. That is because the base bill has been amended to let the States restrict individuals to a single policy, and that one policy is bound to become the high-risk pool for all the rejects and bad risks. That will make the premium cost excessive, probably beyond the reach of most people who need it, and we are not giving health insurance availability unless we give health insurance affordability.

There is another provision very deep in this base bill which differs from the substitute. Both of us permit small employers to band together to purchase insurance, and, banded together, they can broaden their risk pool and get better rates. So far, so good. But the base bill goes on to exempt multiemployer health plans from State regulations that govern other multiemployer health plans and places these under the Department of Labor. You got it. The Republicans want to give the Federal Government the power to regulate these insurance, self-insurance plans, and take it away from the State government.

Here, do not take it from me, listen to what Mr. Gradison, a very respected member of this body from the other side of the aisle, now head of the Health Insurance Association of America, says about that particular provision of the main bill before us. He says,

> We strongly oppose the provision contained in the House leadership bill which we believe will undermine the progress States have made in reforming their small employer insurance markets and leave an unstable health care market in its wake.

Mr. Speaker, we have a chance to pass a bipartisan bill, to keep this bill on track and I urge support for the bill.

Mr. Speaker, there is much of our agenda about which the people are undecided or divided. But clearly they want us to change the way health insurance is written. They want the law to say that if they lose their job or leave it, they don't have to lose their health insurance—they can take it with them. And if they have an illness or injury, they can keep their insurance, and not be ostracized by carriers for a "preexisting condition."

There's something else people want: They want an end to partisan bickering.

Our substitute goes to both goals. It is not just a chance to change health insurance, it's a chance to do something bipartisan. We make health insurance portable; we take care of people with preexisting conditions; and we do it in a bipartisan bill, a clean bill, unencumbered by pet provisions and special concessions.

The differences between the base bill, H.R. 3103, and our substitute, which is the Kennedy-Kassebaum-Roukema bill, are seemingly small but potentially insidious.

First of all, both the base bill and our substitute say that if you lose your job, you can convert from group to individual coverage once your 18-month extension under COBRA has expired. But in the substitute, we say that when you convert, you can pick among the policies a company offers. In the base bill, you lose this flexibility. That's because the base bill was amended to let the States restrict individuals to a single policy; and that one policy is bound to become the high-risk pool for all the rejects and bad risks. This will make the premium cost excessive, probably beyond the reach of most who need it. Our substitute guarantees individual coverage, but it does not limit that guarantee to one insurance policy. The person who converts may still have his premium rated, adjusted upward for a preexisting condition; but he can also buy into an insurance pool with lots of other people who are ordinary, unrated risks. And while this bill gives that no one protection against higher premiums, our substitute leaves the States the power to regulate premiums, as many already have. And if you are in an insurance pool with ordinary risks, the States can limit the rated premium you have to pay for your policy, say, to 50 percent of the standard premium. But if you end up in a risk pool with all bad risks, there is no way to spread the cost and mitigate the premiums.

Next, the base bill, as well as our substitute, permits small employers to band together to purchase insurance. In banding together, they can broaden their risk pool and get better rates. But the base bill exempts multiemployer health plans from the State regulations that govern other multiemployer plans, and places these under the Department of Labor. In bypassing State laws, particularly on what constitutes an adequately capitalized plan, the base bill, in the words of the Health Insurance Association of America, sets up "a very flimsy safety net for employees with self-insured, federally regulated coverage." It puts the insured in peril of being in an unsound plan and not having coverage when it is needed. Our bill respects the competency of the States in this field, and leaves multiemployer insurance plans subject to State law.

Next, the base bill includes Medicare fraud and abuse provisions, and claims savings back into Medicare to boost the solvency of the Part A trust fund. Instead these Medicare funds are used to offset the tax revenues lost by allowing MSA's. This comes from the group that for the past year has told seniors that deep cuts in Medicare were needed to keep the trust fund solvent.

Next, the base bill raises the tax deduction allowed the self-employed to 50 percent of the premiums they pay, but reaches that level only in year 2003. On this subject, our substitute departs from Kennedy-Kassebaum-Roukema; it too increases the tax deduction for the self-employed, but we go to 80 percent by the year 2002. I am not altogether opposed to MSA's, but I would much rather use the tax offsets to cover the revenue losses to pay for a higher rate of deductibility. More small business people, more self-employed Americans, will benefit from being able to deduct 80 percent of their health insurance premiums than will benefit from medical savings accounts.

Finally, the base bill repeals current laws that we put in place to regulate the sale of policies that duplicate Medicare coverage. These protections were enacted to protect unsuspecting seniors from purchasing coverage that they already have under Medicare. The base bill opens a loophole that would allow insurers to sell Medicare beneficiaries a policy that is not identical to Medicare coverage, say offering additional homecare visits, but include a rider in the policy that denies payment for any service covered by Medicare.

Mrs. ROUKEMA tonight, and Senator KASSEBAUM several days ago, have all warned against overloading this bill with extraneous stuff, like medical savings accounts and malpractice reform. I am not opposed to all those add-ons; I've voted for malpractice reform; but what I favor most is moving this bill. It is a shame to bog it down with controversial provisions, and a shame to blow this opportunity to do something bipartisan for a change.

Let's keep this bill on track; let's keep it clean and make it bipartisan. Vote for the Bentsen-Spratt-Dingell substitute.

Mr. THOMAS of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], an extremely important member of the Committee on Ways and Means and the chairman of the Subcommittee on Oversight.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman.

Mr. Speaker, I rise in strong opposition to the substitute, not because it is not an admirable bill. In fact, Senators KASSEBAUM and KENNEDY deserve enormous credit for bringing this issue of

insurance reform to the top of the agenda of both Houses, but our bill is literally better. My amendment conformed this bill in many of its details to the Kassebaum-Kennedy bill, working with my chairman. Our bill actually adds protection, not in the Kassebaum-Kennedy bill, to assure that genetic information about an individual cannot be used to exclude that person from health coverage. Our bill is far better on portability. It is far more generous in its determination of what is continuous coverage and what is a break in service because it counts, that is gives credit for coverage, time on Medicare, Medicaid, DOD's Tricare, the Indian Health Service, the Federal Employees Health Benefits programs and State risk pools. Furthermore, our bill gives protection that the Kennedy-Kassebaum bill does not give to people covered under individual policies to assure that they can get into a new policy without discrimination if they move outside the service area or if the insurer goes out of business.

In many of its details, our bill is simply an improved version, a stronger bill than the Kennedy-Kassebaum bill. In its breadth it is also superior. This Chamber has had before it for 5 years, proposals to allow people to deduct the premiums of long-term-care insurance so that we can get employers providing long-term-care insurance and we can encourage seniors to buy long-term-care insurance so that in the future, seniors will not have to spend down to poverty, spend every cent they worked for and were able to save, to cover the costs of nursing home care.

□ 2115

That kind of public-private partnership is imperative to providing security and dignity to our seniors in their retirement years. This is the only bill that has ever brought those long-term-care provisions to the floor of the House in a form in which the President would sign the bill.

Furthermore, this bill will allow deduction of long-term home care costs. Think for how many seniors that is terribly important. For many, it will probably wipe out their entire tax liability.

So this bill is a thoughtful broadening, an inclusion of a number of terribly important health policy solutions that this House at other times has supported, that are not that controversial, that the President will clearly sign, and ought to be part of a health care reform—and part of this Congress' accomplishments.

So do not yield to the siren song of all we can pass is Kennedy-Kassebaum. It is simply far too little. It is too narrow a vision. It does not answer the needs of the American people.

Mr. BLILEY. Mr. Speaker, I reserve the balance of my time.

Mr. BENTSEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, today employees who have insurance coverage where they work fear that if they lose their job or change jobs they will not be able to get insurance. If they have a medical problem, they worry they will be excluded from coverage permanently or that they will have a long waiting period before they can be covered. They face the so-called "job lock" where they cannot move on to other or better jobs because they cannot risk the loss of their health insurance coverage, and if they lose their job, their situation is made worse by facing the loss of that insurance.

The substitute before us would change that. It would guarantee them access to health insurance coverage. It would assure them that an existing health problem would not be a reason to exclude them from coverage.

Now this base bill that we are seeking to amend has provisions that are similar to Kennedy-Kassebaum, the Dingell bill, the Roukema bill. There really is not a lot of difference between all these provisions. There are some differences, but they are minor, and they are differences that can be worked out if people sat down and talked them through. In fact, I voted for the Kennedy-Kassebaum-Roukema version of this legislation when it was in the Committee on Commerce. Everybody did. It was a unanimous vote.

But the Republican proposal before us adds some things that I think will make this legislation fail ultimately to become law. They take medical savings accounts, which may or may not be a good idea; the small employer pooling, which may or may not work. A lot of people fear that it will lead to cherry-picking of the least risky people by insurance companies. They make medical malpractice changes, which are very controversial because some people fear that this will deprive injured parties of their full redress. They take savings from the Medicare Program because of an antifraud provision, and they use those savings to fund the tax breaks for medical savings accounts.

Those are controversial issues. They should not be in a bill that can be passed on a bipartisan basis and turned into law.

There are things I would like us to do, because let us realize what we are not addressing is the problem of the 40 million uninsured in this country. I do not care what version of the bills we pass today, they are not going to be covered after all is said and done.

I think there are important changes we need in our health care system, but if we do not have a consensus to accomplish them, let us do what we can and pass the bill that would prevent this job lock and assure that people will get insurance if they leave their jobs and take another job or want to buy a private insurance policy.

I would urge support for the substitute. I will not go through the denigration of what the other people have to say. What I do say is let us pass what we can into law. Let us not lose this chance.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS], the chairman of the Health and Environment Subcommittee, a pioneer in health care reform, the man who led the bipartisan effort in the 103d Congress.

Mr. BILIRAKIS. I thank the gentleman for yielding the time to me.

Mr. Speaker, I rise in opposition to this substitute, and yet without question I certainly support the goals of the substitute. Both bills address insurance portability, eliminate preexisting condition prohibitions, end job lock, and both bills address medical savings accounts.

The Kassebaum bill amends the HMO act to allow the offering of high deductible MSA's, and it also provides a sense of committee resolution to encourage MSA's. But that is where the common elements end. The substitute simply falls far short of the mark on true practical health care reform.

Our bill offers more options to the American people. My constituents are always asking me, I am sure my colleagues' are, what Congress is doing to address fraud and abuse. What is Congress doing to eliminate unnecessary paperwork? When will our medical malpractice laws be changed? Our bill addresses these important areas.

In addition, it also extends the medical expenses deduction to long-term care services which is important to our seniors. A Band-Aid solution like the substitute proposes would not address more systematic problems which drive up costs and limit access to our health care system.

On health care reform, the American people deserve more than a Band-Aid. They deserve our best efforts to fix what we can in a system which everyone agrees is broken.

Mr. BENTSEN. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Speaker, I just wanted to talk a little bit about the matter that is before us. One of the previous speakers talked about a bipartisan effort called Roland-Bilirakis. Mr. Speaker, While I respect both of the people greatly who came out with that effort, it did not pass this House, it did not have the necessary support, and so we are here today trying to figure out what steps we can take to make an improvement upon the trillion dollar industry that is health care in this Nation.

Mr. Speaker, I would suggest that Roukema-Kassebaum-Kennedy is that modest step. It is that first step that is going to help tens of millions of Americans keep their health insurance when they switch their jobs, regardless of preexisting health conditions.

VOL
142
PT
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MR
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The Republicans, though, in this House are proposing a health insurance reform that is not as strong as Roukema-Kassebaum-Kennedy. They are adding on what I believe to be special interest amendments and paybacks that are going to sabotage the first real attempt we had to be able to do a bipartisan step in the right direction for the working people of this country.

Now, we are talking about two editions, that in one instance the CBO is saying that the bill's profraud loopholes are going to cost $400 million. Less revenue coming in, and enforcement of fraud is going to suffer. Why should we want to do this?

The MSA proposal is not going to fly in the Senate, it is not going to fly with the President. Why would the Republicans want to doom this package by adding these two things to it?

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, tonight I rise to deliver to my congressional colleagues a message from the 180,000 Medicare beneficiaries who reside in my south Florida district, and that message is simply:

Stop the fraudulent and abusive practices against the Medicare Program, and do it now.

This substitute ignores the issue of fraud and abuse.

Mr. Speaker, this body has already voted for the Medicare fraud and abuse provisions that are included in this bill when it passed the Medicare Preservation Act, and, as we all remember, the Medicare Preservation Act was vetoed by President Clinton. Now we have another chance to move a step closer to saving the Medicare Program from bankruptcy.

This bill is the toughest and most serious attempt that this Congress has made to stop fraud and abuse in the Medicare Program and health care generally with the new strong criminal penalties for offenses against the American people. I am proud to have contributed to this effort, and I know that when my constituents learn of their new rights under the Medicare Program, they will be proud of this Congress, too.

Let us pass this bill and save Medicare millions of dollars and save all the American taxpayers billions of dollars in reducing fraud and abuse.

Mr. BENTSEN. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in support of the Democratic substitute. By correcting the most obvious deficiencies in the health insurance market, this legislation is a much-needed, albeit small step toward reforming our health care system, because it frees the American worker from job lock which prevents millions from taking better jobs for fear of losing their health care coverage.

It protects people with preexisting conditions by limiting the exclusion period and prohibiting employers and insurers from denying coverage to these individuals. It expands availability and access by prohibiting insurers from denying coverage to specific employee groups, and it increases the deduction for the self-employed to 80 percent in support of America's small business.

The Democratic substitute brings a measure of fairness and justice to our health insurance system without the special interest provisions in the House Republican bill. I urge all Members to vote in favor of the Democratic substitute.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS], a distinguished member of the Committee on the Budget.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, a number of years ago the President came in with major reform of health care. It was wide reaching, it was well beyond what anyone in this House wanted to do, and now we have a bill that in my judgment is very sensible. It is very logical. The Roland-Bilirakis bill never passed 2 years ago because it never had a vote. It never had a vote because unfortunately the other party was jealously guarding the jurisdictions of each committee.

This bill here has the input of the Committee on the Judiciary, the Committee on Commerce, the Committee on Ways and Means, and the Committee on Economic and Educational Opportunities, and in it there is a very significant portion of this bill dealing with fraud, title II, preventing health care fraud and abuse; it goes for about 70 pages. I have a hard time understanding what is meant by a clean bill.

□ 2130

What is a clean bill that does not deal with waste, fraud, and abuse? We have been having hearings for decades about the waste, fraud, and abuse. That so-called clean substitute ignores it completely. This bill here deals with waste, fraud, and abuse, and for the first time makes health care fraud a Federal offense, an all-payer system, not just for Medicare and Medicaid and Champus, but for all health care fraud. We are determined that this House is going to do something responsible.

I will just conclude by saying I am totally convinced that this House is going to pass a health care bill. It may not be exactly like this one when we deal with our conference with the Senate, but it will be a meaningful bill, and it will be far better than the substitute bill presented. I urge my colleagues to take part in what we are doing. We are going after waste, fraud, and abuse for the first time in a serious way. It is happening under our watch. Be proud of it.

Mr. BENTSEN. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Once again, Mr. Speaker, the Gingrich Republicans are standing in the way of meaningful health care reform and it's American families who are going to wind up paying the price. While Speaker GINGRICH says his plan may make health insurance more available, it does nothing whatsoever to make it affordable.

Thankfully, for the American people, we have another choice before us today. We have the Democratic substitute. The one bill that will extend coverage to 25 million Americans. The one bill that has bipartisan support in the Senate. And the one bill that will be signed into law by the President.

To my colleagues on the other side of the aisle: Don't use your vote to scuttle significant health care reform this year. Instead, stand up for working families, and support the Democratic substitute.

Mr. BENTSEN. Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, several years ago I introduced legislation which allowed a full 100 percent deductibility of health insurance premiums for self-employed people. I represent a rural district. I represent a lot of farm families. It is very difficult for them to buy health insurance, and when they do, it is expensive, and they find that they can only deduct now 30 percent of the cost of the premiums.

The real unfairness is the fact that corporations can deduct 100 percent of the cost of health insurance premiums. Self-employed people cannot. What we do with the Democratic substitute is to address this in an honest way. I hope some of my Republican colleagues will consider breaking ranks tonight and joining in this bipartisan approach to health care reform.

Let me tell the Members what we know now. The fastest growing sector in the American economy are self-employed people, people who are starting their own businesses. If you ask them their No. 1 headache, you are going to find, to your surprise, it is health insurance; how to pay for it, how to cover your family and a few employees.

What we do in the Democratic substitute is to allow up to 80 percent deductibility over a period of several years. If Members take a look at the alternative on the Republican side, they will find they only reach 50 percent. This is a big difference for a small business.

I hope that some of my colleagues will think twice and join us. I think it is far better for us to come together, Democrats and Republicans, pass real

health care reform, instead of trying to score some political victory for the Golden Rule Life Insurance Company. Let us do something for the real self-employed people who need a helping hand.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Illinois [Mr. WELLER], who knows full well that in the calendar year 1994 it was the Democrats who left the self-employed with no deductibility whatsoever.

Mr. WELLER. Mr. Speaker, I rise to oppose the substitute and support H.R. 3103, which deserves the votes of Democrats as well as Republicans. Mr. Speaker, H.R. 3103 addresses a real problem faced by almost 40 million Americans, 85 percent of whom are small business people, the self-employed, farmers, and their families and workers.

I have listened over the last several years to many families unable to afford health insurance. They say the prices of health insurance are too high if they are self-employed or work for small business. H.R. 3103 helps the little guy, the self-employed, and small business; frankly, people like my mother and father, fifth generation family farmers who, because their rates are based on two, face very high rates.

Mr. Speaker, H.R. 3103 helps make health insurance more affordable, the risk pools allowing small employers, perhaps through the Farm Bureau or the local Chamber of Commerce, to purchase in a cooperative fashion a bigger group policy, getting more affordable rates, also giving 100 percent tax deduction for long-term care, and raising the 50 percent self-employed taxes.

Mr. BENTSEN. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, for 8 years I had the privilege of representing North Dakota as its State insurance commissioner. During that time I evaluated the health insurance crises experienced by families all across the State. While undoubtedly there were many facets to the problems I encountered, far and away the largest problem was affordability.

I am astounded that the previous speaker could talk about affordability as a health issue addressed by the majority plan and deride the substitute, when in fact, deductibility of health insurance premium geared specifically at enhancing the affordability of coverage is the feature best exemplified in the substitute, as opposed to the majority plan. Look at the facts: Fifty percent deductibility immediately under the substitute, and only 30 percent under the majority plan, phasing up to 80 percent deductibility under the substitute plan, and only 50 percent in the majority plan.

The difference between 80 percent and 50 percent deductibility is the difference between affordability and unaffordability of health insurance for farm families, for self-employed families in North Dakota and all across the country. The No. 1 problem for so many families with health insurance tonight, Mr. Speaker, is affordability. Let us make it more affordable by increasing the deductibility. Only the substitute, in my opinion, goes the limits it needs to increasing the deductibility for purposes of making this coverage more affordable.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the deputy whip, the gentleman from Illinois [Mr. HASTERT], a gentleman who has put more work into this bill than anyone on the Committee on Commerce.

Mr. HASTERT. Mr. Speaker, I thank the gentleman for yielding time to me.

I guess we just need to straighten out some things. To my friend who just talked over here about the deductibility, I guess plagiarism is one of the best compliments there is. To my friend, the gentleman from Illinois, who talked about the deductibility issue, it is interesting, it is the same folks who for years just let the deductibility for small businesses go to zero and left it there until we moved it to 30 percent. We are going to move it to 50 percent. They are talking about something in 2002. It is a promise, folks. I would not count on that promise.

Mr. Speaker, also I would say to my good friend from New Jersey, who says that the Senate leadership wants this Kassebaum bill, it is interesting, she did not read her papers, because the Senate leadership endorses our bill. They are going to move an add-on to the Senate to exactly what we have passed in this House tonight, so she might be apprised of that.

Mr. Speaker, we have heard a lot of outrageous claims on the other side of the aisle. I think now is the time of reckoning. This substitute is just a whisper in the dark. It does not do anything to help health care. We cover group-to-group, we cover group-to-individual, and we also make health care affordable for the American people.

If Members want real change in health care, if we really want to help Americans from the shoestore and the barber shop and the truck drivers and the real people that work out there in America, defeat this substitute, the farce out here that they are putting out as the substitute, and support the Republican bill.

Mr. BENTSEN. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I urge my colleagues to support this substitute, this alternative. It does two things, and it does them better than the original bill. First, it provides for portability. It does it better than the underlying bill, because if you lose your job and you lose your insurance and you try to find an individual plan, the substitute allows you to have some options and lets you be able to buy an affordable individual plan.

The second thing this bill does is deal with the self-employed by allowing them to be able to deduct 80 percent of their premium, whereas the underlying bill is at 50 percent. It makes it better for the self-employed. Both of these issues enjoy strong bipartisan support. This bill, the alternate, if it is passed, will be signed quickly by the President, will be approved by the Senate. It can be a reality. It is stronger than the underlying bill, and it can be passed and enacted into law.

Mr. Speaker, I urge my colleagues to support the substitute.

Mr. THOMAS. Mr. Speaker, it is my privilege to yield 1 minute to the gentleman from Oregon [Mr. BUNN], who came here to make a difference, and he does.

Mr. BUNN of Oregon. Mr. Speaker, I am pleased tonight to say that the substitute is a good bill, but the Republican version is a better bill. We have a win-win tonight. I think we ought to be pleased with that.

Mr. Speaker, I am also delighted that we had the opportunity to address some concerns in the Committee on Rules, and the Committee on Rules was willing to make the necessary changes to assure that this bill is a floor, not a ceiling, so that reforms like Oregon passed just last year will be maintained. I think we are on track to assuring that Americans will have good, affordable health care, and State reforms which will stay on track.

Again, we have a win-win. Theirs is good, ours is great. I support maintaining the Republican version, which means saying no to a good substitute.

Mr. Speaker, let me start by saying that I am glad that we were able to protect State health insurance reform efforts within this bill. As many people brought to my attention, including my State insurance commissioner, State insurance reform efforts may have been jeopardized by specific language not exempting them within this bill. I am proud to say that the language currently in this bill is very similar to that of the Democratic substitute, and while I support many of the reform efforts contained in that bill, I believe the Republican bill goes even further and ensures even broader coverage than that alternative. I am supporting the base bill and opposing the substitute. I look forward to reforming our national health insurance laws as soon as possible.

Mr. BENTSEN. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I am pleased to join with my colleagues in supporting the substitute. It is time to stop just talk about health care reform, and accomplish some real health care reform. This substitute represents a sensible approach to health care reform, and it may be the only chance we

VOL 142 PT 5 MR 21 — 29 1996 UMI

have to enact affordable health care for the American people. This bill would prohibit many of the current unfair insurance practices which deny and exclude individuals and families with significant health problems. Insurers often deny health coverage for preexisting conditions, the very illnesses most likely to require quality medical care.

Approximately 81 million Americans have medical conditions which could result in the denial of coverage. We know from recent studies that African-American women are dying at a faster rate from heart disease and stroke. Minority children are dying and experiencing more complications from asthma and other preventable respiratory diseases. We are seeing an increase in the infection rate for HIV and AIDS among young African-American males.

We know that low-income persons are dying because they simply cannot purchase the ability to live. Many of those who are fortunate enough to have insurance give up opportunities for new jobs because they are afraid of losing what little coverage they have. We must have portability. This substitute, while it does not address all health care concerns, does move in the right direction.

Mr. BLILEY. Mr. Speaker, it gives me great pleasure to yield 2 minutes to the distinguished gentleman from Louisiana [Mr. MCCRERY], a member of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to congratulate the gentlewoman from New Jersey, the gentleman from Michigan, the gentleman from South Carolina, the gentleman from Texas, for I think putting forth a well-intentioned effort to improve the lot of people in this country vis-a-vis the health insurance system. It is a good effort. However, in the face of what we should be doing in health care reform in this country, it is weak. It is watered down. It is half-hearted.

Mr. Speaker, we should not be so timid in this House to bend to the threats of the President of the United States, who is up for reelection this year. We should do what we think is right for the American people in our health care system. If you go to a town meeting and listen to the people, what do they talk about? They talk about portability. That is a problem. We solved that in our bill. But what is the main thing they talk about? Cost. "Mr. Congressman, do something about the escalating cost in our health care system."

The substitute, regrettably, does nothing for cost containment. Our bill, on the other hand, has medical malpractice reform, which goes to the heart of the escalation of costs in the health care system. We attack fraud and abuse, waste in the system, which goes to the heart of cost escalation. We introduce a new concept, make it tax-advantaged, medical savings accounts, which will allow a lot of little people in this country to get health care coverage for the first time.

☐ 2145

These are all things that we should be doing if we were not so timid. We need to vote against the substitute and vote for the underlying bill.

Mr. BENTSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GIBBONS], the ranking member of the Committee on Ways and Means.

Mr. GIBBONS. Mr. Speaker, I want to take just a couple of minutes to explain why the medical savings account is not popular on our side of the aisle, and why it probably is pretty popular with our colleagues over here, our Republicans friends.

If we look at the average family in America, it has an average family income of $34,000 a year, $34,000 a year. That is what half of the taxpayers have as family income. Now, if we look very closely at that family, they are paying about an 18- or 20-percent tax level, but only 3 or 4 percent of that tax is income tax. All the rest of it is FICA tax. They are only getting a medical savings account deduction out of income tax, not out of FICA tax.

So half of the people in the United States that we claim as constituents and part of our party get absolutely nothing out of these medical savings accounts. But what do we do for our very well-off friends?

Mr. Speaker, first of all, they can afford it. They get a large deduction percentage-wise in all of this as opposed to 2 or 3 percent for our folks. Second, do not even make them pay FICA tax on that cash that they get as income. So that is another tax reduction they get, and we have not even talked about it here.

Third, and this is the insult of all, this allows them to exclude it from their estate tax. Now, how many of our constituents over here even have to worry about an estate tax? Obviously, many of my colleagues' do. My colleagues exempt them from the estate tax.

Now, what do we have to have in the estate tax? Well, between husband and wife, they can have millions of dollars and not pay any estate tax. But when the last of the family dies, they have an estate tax. They have to have $600,000 before they pay a penny's worth of estate tax. This thing is just designed for very wealthy people.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I rise in opposition to the substitute. I think the substitute is a laudable effort, but there are a lot of other things that we can do that are important to this issue. There is a bipartisan bill, it is called Hobson-Sawyer, and it is called Bond-Lieberman in the Senate, and it is in our bill, it is not in this bill. It is the administrative simplification bill.

It gets rid of a lot of forms that have to be transferred around, a multiplicity of forms. It makes it simple. Everyone agrees that that is good. It also gets at fraud. Everyone agrees we ought to do that, but it is not in my colleagues' bill, and it should be in their bill. Everybody agrees that it is a good bill. There is no opposition. This part of the bill passed out of the committee 30 to zip. It is a good piece of legislation, it ought to be passed. That is why I support our bill and do not support the substitute.

Mr. BLILEY. Mr. Speaker, I have no further requests for time. I yield my remaining 1 minute back to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I have 5 minutes and I have one speaker left. Under the rules we have the right to close.

Mr. BENTSEN. Mr. Speaker, I yield the balance of my time to the chief sponsor of the amendment, the gentleman from Michigan [Mr. DINGELL], the ranking member of the Committee on Commerce.

Mr. DINGELL. My colleagues, this has been a good debate. I think we owe a great debt of gratitude to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA] for the leadership which she has shown in this matter which has brought us to where we are tonight, and I would urge my colleague to appreciate her great effort in this matter.

Having said that, it is very important to us to look at the situation we confront here. As an old friend of mine once observed, the perfect good is the enemy of the good. That means that, if we load this bill down with a vast plethora of amendments, we are liable to get no bill at all.

I yield to no man in my devotion to the concept that we must change the medical practice in this country to afford greater opportunity in this country to afford greater opportunity in this country and greater security to all the people.

The fact is that we had that opportunity before us in the last Congress and it was rejected. My Republican colleagues have made a great talk about what it was that we did in those days and what we are doing tonight. The hard fact of the matter is that neither of these bills solves the problem.

But the real fact is that the bill and the substitute which is offered by the Democratic Members has the ability to solve the problems in large part of some 25 million Americans who need portability and who need protection against prohibitions on preexisting conditions in insurance policies. It also does something else. It ups the amount

of deductibility to 80 percent for individuals and small business. That is extremely important in terms of making health insurance available to large numbers of people who would otherwise be denied that benefit.

So I urge my colleagues to support the simpler and the cleaner bill, and I would urge them to recognize that the special interest amendments which are inserted in the Republican bill accomplish nothing but benefiting special interests and denying people the real opportunity to access to meaningful health insurance.

Mr. Speaker, let us look a little bit at what is in the Republican bill. First of all, it is loaded down like a Christmas tree, and I am satisfied that it will wind up with the same fate of a Christmas tree, dumped on the lawn at the conclusion of the discussion. It affords no chance for workers who lose their jobs to have a choice of plans. It makes no guarantees of businesses with more than 50 workers. It preempts State laws that protect consumers. It limits the deductibility of insurance premiums only to 50 percent. It has the controversial medical savings plans which do only one thing, and that is to benefit the insurance companies that have spent millions of dollars lobbying for this particular benefit for themselves, to benefit those who are healthy and those who have money, not those who are ill and who have need.

It has controversial medical malpractice law changes. Now I happen to think we need some changes in medical malpractice, but I did not think that we need the changes that are here. It also makes it harder to catch and to punish wrongdoers. Perhaps one of the worst things that it does is that it repeals protections that we invested in seniors some years ago to prevent them from being ripped off by useless, duplicative health insurance policies under which they pay for the same benefits which they are getting from Medicare, but in which they are prohibited from collecting benefits because of clauses in the legislation and because the prior liability goes to the Medicare policies.

There are also controversial provisions in here which override State insurance laws.

Mr. Speaker, the hard fact is that tonight we should be working to make it simple. We should be working to make this a proposal which will go to the President, which will pass quickly through the House and Senate, which will move easily through conference, and which will go to the President for quick and easy signature. To risk veto or to arrive at a situation where we do not help the some 25 million people who are dependent on the question of portability and who are afflicted with the problems of not being able to have preexisting conditions treated under their health insurance plans or under health insurance plans which would be made available under this legislation is both unwise and unnecessary and inconsistent with our responsibilities to the people.

I would hope that soon we will be able to address a really meaningful proposal for health insurance for all the people, to see to it that we provide that last element of security for the American people, which every American finds to be troublesome in the extreme, because it is an essential and important part of the security net which Americans think that every American should have. Regrettably, that choice is not before us. Regrettably, the Republican Members of this body have chosen not to move forward on that.

President Clinton tried to do that 2 years ago and it was rejected overwhelmingly on this side of the aisle. I would urge my colleagues to recognize that a little that we can get quickly which will really help people is a lot better than an illusory lot which will help no one and not become law and not help anybody.

I would urge my colleagues to therefore vote for the substitute which the Democratic Members will be offering tonight and to do something which is going to benefit all of the people and which will be of significant benefit to some 25 million who will derive benefits under the portability and under the preexisting provisions.

I urge my colleagues to vote in the interests of the country. I urge them to vote for the substitute. I urge them to vote for a proposal which will give us significant progress, rather than the assurance of further confusion, further controversy, and possible veto and loss of this legislation in the Senate or in a conference between the House and Senate.

Mr. Speaker, I yield myself 3 minutes, and ask unanimous consent to revise and extend my remarks.

Mr. Speaker, we are faced today with a simple choice:

Will the House give the American people what they want—a straightforward, simple, and uncontroversial bill to reform health insurance, a bill that can go to conference with the Senate quickly and be enacted into law?

Or will the House doom the chances for enacting such a bill by erecting a Christmas tree, decorated with all manner of controversial ornaments?

I want to commend my colleague from New Jersey, Mrs. ROUKEMA, for recognizing the simplicity of this equation early on, and for introducing in the House the companion to Senator KASSEBAUM's bill in the Senate. The Kassebaum-Roukema bill has enjoyed widespread and bipartisan support. It has been endorsed by 135 organizations, including the AMA, the American Hospital Association, the Independent Insurance Agents, the National Association of Manufacturers, and the Healthcare Leadership Council.

Many of us have tried, on a bipartisan basis, to persuade the leadership to keep this health insurance bill limited only to the Roukema-Kassebaum bill and to tax deductibility of health insurance for the self-employed, another uncontroversial provision with broad support. But in spite of the very public pleas from our side of the aisle, as well as from Representative ROUKEMA, Senator KASSEBAUM, and Senator BENNETT on the Republican side, we have ended up instead with a Christmas tree.

The Dingell-Spratt-Bentsen substitute incorporates the Roukema bill as title I. The amendment is very simple. It ends discrimination against people with preexisting conditions so they can get health insurance. It guarantees that Americans who lose or change their jobs can get health insurance. It requires health insurance companies to renew people's policies. And in title II, it increases the health insurance tax deduction for self-employed individuals from 30 percent to 80 percent, a major priority for small businesses and family farmers.

By voting for the substitute, my friends, you will be telling your constituents that you want the House to pass a bill that can be signed and become law. By voting against it, you will be telling them that they will have wait longer for health insurance reform—and how long? Perhaps years?—because you can't say no to the special interests who want to load this bill up with controversial add-ons and thereby kill its chances for passage.

Now I know that many of my colleagues, on both sides of the aisle, don't happen to think that each and every one of these provisions added by the Republican leadership is bad. Medical savings accounts, antitrust relief, malpractice reform—there are strongly held views on both sides of these issues. But regardless of our personal views on any of them, one thing is clear: they are all controversial; they all weigh this bill down; and they all significantly reduce the chances of enacting the kind of simple health insurance reform the American people are demanding.

Mr. Speaker, I urge my colleagues:

Don't kill this chance for health insurance reform by passing a Christmas tree instead of a clean bill. Support a clean bill by supporting the substitute. Vote "yes" on Dingell-Spratt-Bentsen.

Mr. THOMAS. Mr. Speaker, it is my privilege and honor to yield the remainder of the majority's time on this substitute to the Speaker of the House, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I thank my friend from California for yielding me the time to close, and I say I always rise with some slight trepidation after my dear friend from Michigan, who has been a leader in the House and is a very effective articulator of his side.

Mr. Speaker, I would say to him, however, that to describe as a Christmas tree a series of things the American people want is different than describing as a Christmas tree things only politicians want. And I do plead guilty to the charge that on a bipartisan basis we tried to reach out and actually listen to the American people,

VOL
142
PT
5
MR
21
—
29
1996
UMI

and that some people are very grateful to us for that.

Let me start, for example, with the Alzheimer's Association. The Alzheimer's Association wrote us and said:

> The Alzheimer's Association is writing in general support of the provisions in H.R. 3160 to clarify the Tax Code so that taxpayers may deduct their long-term care expenses as medical expenses. We are particularly pleased to note the committee's addition of specific language to assure that this deduction is available to taxpayers who are incurring expenses for care for persons who are cognitively impaired.

They go on to say:

> This change in the Tax Code has had strong bipartisan support for a number of years and has appeared in virtually every version of health reform legislation seriously considered over the last two Congresses.

Now, maybe to some of our friends that is a Christmas tree. But if one has a parent with Alzheimer's, if one has a loved one with Alzheimer's, or if one has a child with a chronic disease, or a child born with a genetic defect that requires permanent long-term care, this provision is a good step in the right direction, and we should be proud that we listened to the American people.

The American Health Care Association, largely representing folks who are involved in nursing homes, an area where we have a growing population and as more Americans live beyond 80 years of age there will be even more Americans, they said: "We applaud and support your efforts to enact health insurance reform legislation that also addresses long-term care."

Now, that is very important. And yes, it is true we added it to the bill because we listened. We think that, while the start in the Senate was a useful start and we respect the work of the other body, we do not think the House is bound automatically to simply say, oh, please send us something that we can rubber stamp.

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The American Farm Bureau Federation wrote, and they said:

> A provision of the Health Coverage Availability and Affordability Act of 1996, one which deals with cooperative insurance purchasing arrangements, is particularly important to the 4.5-million-member families of the American Farm Bureau Federation. Farmers are, by and large, self-employed, and as such must purchase health insurance for themselves and their families. Many join together in cooperative purchasing arrangements in order to obtain quality health insurance plans at affordable rates. The Farm Bureau applauds and supports your effort on this issue and the section of the legislation that would facilitate voluntary insurance purchasing cooperatives so that individuals and small companies can negotiate and receive the same price advantage that many larger businesses presently receive.

So, yes, it is true we listened to the Farm Bureau, and we listened to the rural families of America and to the small family farmers.

The National Federation of Independent Businesses, and I am particularly surprised that so many of my friends who normally rail against the rich and declare class warfare and worry about the giant corporations, that they could get a letter like this from the National Federation of Independent Businesses and ignore it.

Here is what the National Federation of Independent Businesses said:

> As the House prepares to take up health care reform, I am writing to let you know how important the small employer pooling provisions of the Health Coverage Availability and Affordability Act are to the members of the National Federation of Independent Businesses. NFIB is seeking to correct a basic unfairness in our current health system, the fact that big business is allowed to buy health insurance under a different set of rules than small business. Because of the Employment Retirement Income Security Act, large self-insured businesses are exempted from State law, in their health plans, while small business is stuck with State insurance coverage mandates, premium taxes, and other forms of regulation. This inequity between big business and small business in large part explains why the premiums of corporate America are going down while small business premiums are going up. State mandates alone can increase premiums for small business by 30 percent. The Health Coverage Availability and Affordability Act would stop this unfairness by allowing small firms to band together across State lines to purchase health insurance with nearly the same exemption from State law that big business has. Achieving this is NFIB's highest health reform priority. Any substitute amendment that does not directly address this inequity between big and small businesses is unacceptable to the more than 600,000 members of the National Federation of Independent Businesses. I hope you will stand up for small business and oppose efforts to remove the small employer pooling provisions of the Health Coverage Availability and Affordability Act. Passage of these pooling provisions will drive coverage up and premiums down for small business.

I particularly congratulate the gentleman from Illinois [Mr. FAWELL], who has done such yeoman work in that area.

The Chamber of Commerce said here were the returns of their poll: 97.8 percent said they needed small employer pooling; 97.1 percent said they needed to allow self-employed individuals to fully deduct the cost of their health coverage; 96 percent said they needed administrative simplification; 92 percent said they wanted medical malpractice reform.

Let me say to my good friends on the left, yes, it is true, we listened to the American people. We heard the American people say that access was a start but access was not enough, you also have to have affordability because the truth is if you do not keep the price down, you do not have access if you are too poor to pay the premium.

So just passing some Washington law with a Washington rule for a Washington bureaucrat, that does not mean that a small business or a family farm can actually pay for it, does not get the job done. So we went to part 2, which was affordability. We guaranteed accessibility, and we added affordability.

And there is a third part. We had strong provisions on fraud, and I particularly want to congratulate the gentleman from Oklahoma [Mr. COBURN], who is a medical doctor, who is infuriated at the level of fraud that we have in the system today, and Dr. COBURN is a Representative from Oklahoma who has worked tirelessly in his first term to make sure that we have strong steps and strong penalties against fraud.

When the General Accounting Office reports that fraud may account for 10 percent of health care costs, that is $100 billion a year. We have anecdote after anecdote on this floor from Members who have had members of their family involved in situations of clear-cut fraud, when you watch on NBC as a woman reports that she called in to complain because they had charged her for her autopsy and, since she was still alive, she does not think she had one, and their answer was that must have been an EKG. She said, "Honey, I did not have that either."

We had one of our colleagues who walked up to me one day and said, you know, his mother had called him, she heard us talking about fraud, and she said she got billed for two mammograms. She called the doctor's office. She said, "You did not have two mammograms." They said, "Oh, yes. We must have done two mammograms." She said, "I had a mastectomy 7 years ago. I know you did not do two mammograms." Their next comment was, "What do you care?" The Government will pay the bill."

What this bill establishes is it directs the Secretary of Health and Human Services to establish a system for senior citizens to turn in fraud and to give senior citizens the power to help us police the system so people engaged in ripping off you, the taxpayer, and rip off the consumer of Medicare is better protected and has a better incentive to turn in fraud.

I would say if you want accountability, we have it. If you want access, we have better access. We give twice as long a period as Kennedy-Kassebaum between insurance without losing coverage, twice as long. We have a better system of access, and it is far more affordable under our bill than it is under the substitute.

So I would simply say to my friends, do not be partisan about this. Here is an occasion where we started with a bill that was bipartisan in the Senate. We have improved the bill. Medical savings accounts is, in fact, an issue of great concern to some people. It is a brand-new idea. We believe it will help things.

I want the House to know that if the President sends up a veto signal, we

are not going to risk vetoing coverage for all Americans in medical savings accounts, but we want to make the case. We want to try to convince him that he ought to be willing to sign it.

There are other items in here. Malpractice reform, my good friend admitted we need to do something, too, on malpractice reform. The trial lawyers should not be ripping America off.

I talked about a week ago to the American dental association. It occurred to me, if dentists acted like the Bar, they would be urging every child to get cavities. There would be commercials to eat sugar and not brush your teeth. Just think about it. It is terrible. A patient walks into a doctor's office. They should both be on the same team, fighting the disease, and there is a lawyer running an ad that says, "Why don't you walk in there as a potential plaintiff and see if you can't find a good excuse to sue?" It is culturally sick to have this kind of litigation, conflict-ridden system. We take the first step down the road.

If the President sends up a veto signal, maybe we would have to back down. But we want a chance to convince him this is wrong to favor the trial lawyers over the patients and the doctors.

But all I would say to my friends is, the substitute is well-meaning, but it is inadequate. It is too little, it is too narrow, it is too small. We can do better.

We have listened, and we are doing better. This is a better bill than Kennedy-Kassebaum. This is a more complete bill. This offers better access. It is more affordable, and it guarantees greater accountability, and it is worthy of your consideration.

I will just close with this point: Five major leaders in the Senate yesterday announced their endorsement of this bill. And this bill will almost certainly be offered in the Senate as the substitute for the earlier well-meaning, but weaker, bill that Kennedy-Kassebaum introduced, and, with our help, we can send a signal to the Senate. Let us get the job done a lot better, and let us do it for a lot more people. That is why we should vote "no" on the substitute and "yes" on final passage.

Mrs. MINK of Hawaii. Mr. Speaker, I rise to speak in favor of the Democratic substitute to H.R. 3103.

Why are we considering H.R. 3103? H.R. 3103 was reported with only nine cosponsors. The Roukema bill, which the Democratic substitute is based on, has 193 cosponsors. Seldom do we have legislation with such widespread support. Instead of hearing the Roukema bill, we are spending time on legislation loaded with controversy and doomed to fail.

We now have before us an opportunity to provide relief for hardworking Americans enslaved to their health care policies.

The core of the Democratic substitute is twofold. First it will guarantee individuals leaving a job, where they are covered by group insurance, to be able to obtain group or individual insurance at their next job; and second, it will forbid insurance companies from denying coverage because of preexisting conditions. These are two very simple concepts with little opposition and if implemented would result in enormous social benefits.

In addition, both the Republican bill and the Democratic substitute increase the permitted health insurance tax deduction for self-employed individuals. The levels allotted in the Democratic substitute, however, are significantly higher. Health insurance costs for the self-employed are often a heavy burden. Tax deductions at the levels proposed in the Democratic substitute would ease this burden.

H.R. 1303 on the other hand contains many provisions which are not well thought out and will be harmful to the overall health care objectives.

One of these proposals relates to medical malpractice. Congress should not set maximum monetary amounts that can be awarded for pain and suffering, and for punitive damages. I cannot support this anti-consumer provisions.

With respect to Medical Savings Accounts, I took a hard look at this proposal. It seemed like a good idea to give individuals the option to contribute to a tax deductible savings account which must be used for medical purposes and also require them to enroll in a catastrophic health care plan with relatively lower premiums and a high yearly deductible.

Two questions came to mind: First, will this reform help the uninsured; and second, will this reform divide the pool of insured resulting in the systematic breakdown of the insurance system.

Medical Savings Accounts would not be attractive for the high risk and the poor, those who need health care the most, because they would be unable to afford the high yearly deductible over a extended period of time. If the poor did enroll in this plan they would be unlikely to obtain preventive care because it would have to be paid for from their account or from their own pocket.

Meanwhile, the healthy and wealthy, who do not have a problem obtaining health insurance, would be more likely to choose a Medical Savings Account because they can afford the high deductible. The different choices of these demographic groups will result in the healthy vacating the traditional insurance pool leaving only high-risk individuals remaining. The pool will be concentrated with high-risk individuals and costs will rise causing insurance to be unaffordable for many. Fewer people who need coverage will be insured. The Republican proposal for Medical Savings Accounts will divide the insurance pool leading to an insurance system breakdown.

Moreover, I feel compelled to speak out against the multiple employer welfare arrangement [MEWA] provisions contained in this bill. I am concerned that the federal regulation provided will not be adequate and that by preempting established State systems, programs will be harmed.

As a result of these new MEWA provisions, I am concerned that Hawaii may no longer be granted an ERISA exemption for the Hawaii Prepaid Health Care Act. Majority committee staff indicated that Hawaii's ERISA exemption was included in the bill reported out of the Committee on Economic and Education Opportunities. However, due to the extreme handicap of having to evaluate, debate, and vote on a bill mere hours after it is printed and made public, I have been unable to confirm whether or not Hawaii's exemption was preserved. The Federal Government will not be able to take on this new responsibility, liability, and expense. The retention of State authority is critical. Not to do so is a fatal flaw.

Mr. Speaker, the Democratic substitute focuses solely on insurance portability and prohibiting denial of coverage due to preexisting conditions. We must not load up this bill with controversial provisions that will incite opposition and thwart the enactment of valuable and the noncontroversial provisions in this bill.

This substitute will not overhaul the health care system but will provide greater health security and make a positive difference in the lives of millions of Americans. We must not allow this opportunity to slip through our fingers.

I urge a yes vote for the Democratic substitute.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today as a member of the health profession to encourage my colleagues to support a comprehensive health care reform measure that would make appropriate health care accessible for all Americans. As we consider H.R. 3103, the Health Coverage Affordability and Availability Act, it is important that we realize that there is no clear consensus on the best means to attain universal coverage. Limitations on exclusions for preexisting conditions and guarantees for portability will help millions of Americans move away from job-lock and the terrifying prospect of losing health care coverage that comes with job loss or change brought about by corporate downsizing and other market forces.

As a nurse, it is my opinion that this Congress needs to continue to foster high standards in the health care industry and promote the economic and general welfare of Americans in the workplace. All year we have heard that the Medicare hospital trust fund is about to go bankrupt and therefore we have to make massive cuts in Medicare to save it. Now they propose taking the easiest money in Medicare—the money gained from fighting fraud—and spending it to give medical savings account tax breaks to younger people who are likely to be in the highest tax brackets and the healthiest members of our society.

Mr. Chairman, while considering health care legislation today, we as a Congress must keep the process simple. There is no place for adding on special interest amendments and pay backs that will sabotage the passage of good reforms. We must also remember the working poor of this Nation that are effectively priced-our of the health insurance market.

Mr. Chairman, I encourage my colleagues to support the Democratic substitute to H.R. 3103 because the substitute does not contain any of the bill's highly controversial provisions—such as medical savings accounts—that would jeopardize any possibility of enacting health insurance reform this year. The Kassebaum-Kennedy-Roukema bill, which assures health insurance portability, enjoys broad bipartisan support in both Chambers,

VOL
142
PT
5
MR
21
—
29
1996
UMI

and the President has endorsed it. We should not let this opportunity for enacting meaningful health reform slip away by loading down this bill with a number of controversial provisions. The only way to enact health reform is to support the Kassebaum-Kennedy-Roukema alternative which the substitute embodies.

I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I rise today to oppose the bill and support the Democratic substitute on this important issue of health insurance reform.

It is clear that there are serious problems with our current health care system. In 1994, Congress was working to address these problems and implement broad health care reforms, expanding access to health care coverage and reining in escalating health care costs. Those efforts were stymied, and during the past year and a half Republicans have mostly concentrated on cutting back on health care, by attempting to slash Medicare and Medicaid. In fact half the specified savings in the GOP reconciliation plan were from health care, that is, Medicare and Medicaid cuts.

In the absence of broader health care reforms, Americans are relying on us to at least enact some limited but important insurance reforms. There is some bipartisan support for many of the provisions before us today, but unfortunately, the Republican leadership is polarizing and threatening the enactment of these modest reforms. The GOP House leadership is seriously jeopardizing the bill by loading it up like a Christmas tree with controversial ornaments, like medical savings accounts and medical malpractice reform. These ornaments are a distraction from the issues and while they may be pretty to look at, we should certainly examine and consider these provisos separately, not as part of the basic agreed upon reforms.

In our dysfunctional health care system, insurance companies have too often taken steps to shift costs and deny health care coverage to people in order to lower their risk and increase their profit margin and competitiveness. The Democratic substitute is the best alternative today. It prohibits insurers and employers from limiting or denying coverage because of a preexisting condition. It would prohibit insurers from denying coverage to employers and prevent health plans from excluding any employee on the basis of health status. Health plans would be required to renew coverage for groups and individuals as long as premiums are paid. The Democratic substitute would also guarantee that individuals who leave group coverage will be able to purchase individual health insurance policies.

Millions of Americans would benefit from such legislation. It would allow people who want to change their jobs to take their health insurance with them, ending the phenomenon of job lock. It would end the unfair insurance practice of employing preexisting conditions clauses to avoid coverage of categories of persons. These changes proposed in the Democratic substitute are needed to increase health care security for working American families.

However, the Republican proposal is disingenous and demonstrates today their policy path; solve health care problems by changing the topic. They have included a provision in their bill to establish medical savings accounts which will in essence drive health care costs up for most and balloon the deficit. This proposal will weaken the overall health system as healthier and wealthier people leave the traditional insurance risk pool. First of all most Americans cannot afford to put aside $2,000 a year into a tax-free account. People with existing health problems and without savings income would be left in the traditional insurance pool and will find it more difficult to afford escalating health care costs. I do not believe that this is the kind of change in the health care system that the American people want. This will further polarize and divide the concept of community rating. In fact, the main beneficiaries of this proposal will be the insurance companies.

For months, Republicans have delayed consideration of this bill until they were embarrassed into bringing it to the floor by the President's State of the Union statement. Now the Republicans are going to burden the bill by overloading the vehicle so that it will sink. The Republican political agenda apparently takes precedent over good people policy. The special interests wish list that the Republican leadership tries to satisfy threatens the passage of the core insurance reforms necessary to secure health care coverage for millions of Americans. This is wrong and should be rejected.

Congress must respond to the needs of the American people and enact responsible health insurance reform, not sidetrack the issue and leave the American people in the lurch. I urge my colleagues to oppose the controversial provisions of the bill and support the Democratic substitute.

Mr. RICHARDSON. Mr. Speaker, voting for this substitute means that you are serious about allowing your constituents to have access to health insurance.

This substitute is simple policy. If you want to tell insurance companies they cannot deny Americans who have beat a life-threatening disease or condition insurance coverage, vote for this substitute.

If you want to allow hard working families in your district to keep their health care when they change jobs, vote for this substitute.

If you want to help small businesses and entrepreneurs afford health care, vote for this substitute.

This substitute is a bipartisan effort. Republicans and Democrats in the Senate agree on it.

A Republican Member introduced this bill in the House and over 170 Democrats have cosponsored it.

Mr. Speaker, this is not about partisan politics. It is about doing what is right for the American people. About giving working American families access to insurance coverage for themselves and their families.

The SPEAKER pro tempore (Mr. COMBEST). Pursuant to House Resolution 392, the previous question is ordered on the bill as amended.

The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. DINGELL].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BENTSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 192, nays 226, not voting 14, as follows:

[Roll No. 104]

YEAS—192

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Duncan
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Roberts
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NAYS—226

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady

Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Rogers
Rohrabacher
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Bryant (TX)
Coleman
Collins (IL)
Dooley
Eshoo
Fields (LA)
Fowler
McNulty
Neal
Ros-Lehtinen
Smith (TX)
Smith (WA)
Stokes
Weldon (PA)

□ 2225

Messrs. HILLEARY, NUSSLE, and STOCKMAN changed their vote from "yea" to "nay."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. COMBEST). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 2230

MOTION TO RECOMMIT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. COMBEST). Is the gentleman opposed to the bill?

Mr. PALLONE. Yes, Mr. Speaker, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. PALLONE moves to recommit the bill, H.R. 3103, to the Committee on Ways and Means with instructions that the Committee report the bill back to the House forthwith with the following amendment:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Insurance Reform Act of 1996".

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

TABLE OF CONTENTS OF TITLE

Sec. 100. Definitions.

Subtitle A—Group Market Rules

Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.

Subtitle B—Individual Market Rules

Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.

Subtitle C—COBRA Clarifications

Sec. 121. Cobra clarification.

Subtitle D—Private Health Plan Purchasing Cooperatives

Sec. 131. Private health plan purchasing cooperatives.

Subtitle E—Application and Enforcement of Standards

Sec. 141. Applicability.
Sec. 142. Enforcement of standards.

Subtitle F—Miscellaneous Provisions

Sec. 191. Health coverage availability study.
Sec. 192. Effective date.
Sec. 193. Severability.

SEC. 100. DEFINITIONS.

As used in this title:

(1) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof;

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

VOL
142
PT
5
MR
21
—
29
1996
UMI

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) HEALTH STATUS.—The term "health status" includes. with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(10) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(11) PLAN SPONSOR.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(12) SECRETARY.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(13) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle A—Group Market Rules

SECTION 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium; contribution requirements under the terms of such plan, except that such requirements shall not be based on health status (as defined in section 100(9)).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium; discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(c) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing is this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARTICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments.

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this title.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan. A group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan, and

(ii) all group health plans issued or delivered for issuance in the State or discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treatment of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan;

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnancy.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries who coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation or such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may be excluded except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse section as approved by the applicable certifying authority (as defined in section 142(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITIONS.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUER.—

VOL 142 PT 5 MR 21 — 29 1996 UMI

(1) In general.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates.

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) Exception.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) Construction.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) Disclosure of Information to Participants and Beneficiaries.—

(1) In general.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) Plan description and summary.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and title I of the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) Limitation on Requirements.—

(1) In general.—Except as provided in subsections (b) and (c), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to such individual, or deny enrollment to such individual based on the health status of the individual; or

(B) impose a limitation or exclusion of benefits otherwise covered under the plan for the individual based on a preexisting condition unless such limitation or exclusion could have been imposed if the individual remained covered under a group health plan or employee health benefit plan (including providing credit for previous coverage in the manner provided under subtitle A).

(2) Health promotion and disease prevention.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) Health plan issuer.—A health plan issuer described in this paragraph in a health plan issuer that issues or renews individual health plans.

(4) Premiums.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) Definition of Eligible Individual.—As used in subsection (a)(1), the term "eligible individual" means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans, employee health benefit plans, or public plans established under Federal or State law, for not less than 18 months (without a lapse in coverage of more than 30 consecutive days) immediately prior to the date on which the individual desired to enroll in the individual health plan.

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, accepted and exhausted the maximum required period of continuous coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under an equivalent State program.

(c) Applicable of Capacity Limit.—

(1) In general.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) First-come-first-served.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) Market Requirement.—

(1) In general.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) Conversion policies.—A health plan issuer offering group health plans to group purchasers under this title shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) Marketing of plans.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) In General.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) Termination of Individual Health Plans.—

(1) Particular type of individual health plan not offered.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan.

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of particular individuals.

(21) Discontinuance of all individual health plans.—In any case in which a

health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) Prohibition on market reentry.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) Treatment of Network Plans.—

(1) Geographic limitations.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status of particular individuals.

(2) Network play.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) In General.—With respect to any State law with respect to which the Governor of the State notifies the Secretary of Health and Human Services that such State law will achieve the goals of sections 110 and 111, and that is in effect on, or enacted after, the date of enactment of this Act (such as laws providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, or mandatory conversion policies), such State law shall apply in lieu of the standards described in sections 110 and 111 unless the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(b) Determination.—

(1) In general.—In making a determination under subsection (a), the Secretary of Health and Human Services shall only—

(A) evaluate whether the State law or program provides guaranteed access to affordable coverage to individuals described in sections 110 and 111;

(B) evaluate whether the State law or program provides coverage for preexisting conditions (as defined in section 103(e)) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(C) evaluate whether the State law or program provides individuals described in sections 110 and 111 with a choice of health plans or a health plan providing comprehensive coverage, and

(D) evaluate whether the application of the standards described in sections 110 and 111 will have an adverse impact on the number of individuals in such State having access to affordable coverage.

(2) Notice of intent.—If, within 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that the State intends to enact a law, or modify an existing law, described in subsection (a), the Secretary of Health and Human Services may not make a determination under such subsection until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) Notice to state.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making a final determination under subsection (a).

(c) Adoption of NAIC Model.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, adopts a model standard or standards for reform of the individual health insurance market, and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC standard or standards, that such standards comply with the goals of sections 110 and 111:

a State that elects to adopt such model standards or substantially adopt such model standards shall be deemed to have met the requirements of sections 110 and 111 and shall be subject to a determination under subsection (a).

SEC. 113. DEFINITION.

(a) In General.—As used this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) Arrangements Not Included.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital of fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) Public Health Service Act.—

(1) Period of coverage.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996", and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(2) Election.—Section 2205(1)(C) of the Public Health Service Act (42 U.S.C. 300bb–5(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof.

(B) in clause (ii), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 2202(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) Notices.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb–6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(4) Birth or adoption of a child.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb–8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) Employee Retirement Income Security Act of 1974.—

(1) Period of coverage.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual." after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month

VOL 142 PT 5 MR 21 — 29 1996 UMI

period of continuing coverage under this part".

(B) in subparagraph (D)(i), by inserting before, ", or" the following ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) ELECTION.—Section 605(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof;

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 602(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) ELECTION.—Section 4980B(f)(5)(A)(ii) of the Internal Revenue Code of 1986 is amended—

(A) in subclause (I), by striking "or" at the end thereof;

(B) in subclause (II), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new subclause:

"(III) in the case of an qualified beneficiary described in the last sentence of paragraph (2)(B)(i), the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring on or after the date of enactment of this Act for plan years beginning after December 31, 1997.

(e) NOTIFICATION OF CHANGES.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this title, the term "health plan purchasing cooperative" means a group of individuals or employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) CERTIFICATION.—

(1) IN GENERAL.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion. Each such cooperative shall also be registered with the Secretary.

(2) STATE REFUSAL TO CERTIFY.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this title, the Secretary shall certify and oversee the operations of such cooperative in such State.

(3) INTERSTATE COOPERATIVES.—For purposes of this section a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a board cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of individual health plans or group health plans may not hold or control any right to vote with respect to a cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(3) CONFLICT OF INTEREST.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant of, be a member of the board of directors or, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first-come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries may not be established on the basis of health status of the populations that reside in the area.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible.

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State.

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this title, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers, and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers.

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this title.

(g) LIMITED PREEMPTIONS OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—With respect to a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section. State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) EXCEPTION.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new rating period that is in excess of that which would be permitted under State rating laws.

(C) BENEFITS.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category or care, or services of any class or type of provider.

(D) EXCEPTION.—In those states that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives.

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State.

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans, or

(6) confer authority up a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health pan purchasing cooperative as if such plan were an employee welfare benefit plan.

SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS

SEC. 141. APPLICABILITY.

(a) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this title on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title. In the case of a group health plan offered by a healtn plan issuer in connection with an employee health benefit plan, the requirements of standards imposed under the title shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official of officials designated by the State to enforce the requirements of this title.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a Sate enforce the requirements or standards of this title as they relate to employee health benefit plans.

(2) PREEMPTION OF STATE LAW.—Nothing in this title shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this title; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this title and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) CONTINUATION.—Nothing in this title shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this title pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement law.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this title in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this title in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term "applicable certifying authority"means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved; and

(2) an employee health benefit, plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this title.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security

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Act of 1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1996" before the period.

Subtitle F—Miscellaneous Provisions

SEC. 191. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conclude a two-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a nongroup basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 192. EFFECTIVE DATE.

Except as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997, and

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 193. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Mr. ARCHER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PALLONE. Mr. Speaker, I have offered this motion to recommit with instructions with my colleague from Missouri [Ms. MCCARTHY] because I am concerned that we are about to go down a perilous path of ending any chances of health insurance reform. Our motion to recommit incorporates the Kennedy-Kassebaum-Roukema provisions without any additons. It would make it easier for workers who lose or change jobs to buy health coverage. It would limit the length of time that insurers could refuse to cover an applicant's preexisting medical problems.

Mr. Speaker, there are two distinct choices that we can make with this next vote. This House can make the decision to support this motion and do the right thing for the American people, or the House can vote against this motion and tell the American people that it is more important to keep promises with various special interests.

The Kennedy-Kassebaum-Roukema bill is crafted to keep premiums affordable, because it would not impact the insurance risk pool by encouraging healthy individuals to drop their coverage. It has bipartisan support in both the Senate and the House of Representatives. The President has indicated that he will support the Roukema bill. The motion to recommit will ensure that this legislation is enacted into law.

Mr. Speaker, why does the Republican leadership insist on messing up this legislation with controversial poison pill amendments? One of the provisions that the Republican leadership insists on including is the medical savings accounts, which will favor the wealthy and healthy. MSA's will be just another tax shelter for the rich. Americans who do not choose to join the MSA's because of the high risks involved will see their health insurance premiums increase. The MSA's, among other extraneous provisions, will guarantee the failure of any health insurance reform in this Congress. We all know this, Mr. Speaker. The gentlewoman from New Jersey [Mrs. ROUKEMA], who courageously took this floor tonight, has said as much. So has her counterpart in the other body, Senator KASSEBAUM. These women should not be vilified tonight. Instead, they should be thanked for doing the right thing for the American people.

Mr. Speaker, let us all do the right thing tonight. I urge a "yes" vote on the motion to recommit if Members want health insurance reform this year.

Mr. Speaker, I yield to the gentlewoman from Missouri [Ms. MCCARTHY].

Ms. MCCARTHY. Mr. Speaker, I join with the gentleman from New Jersey in moving to recommit this bill to committee with instruction to report the Roukema bill, H.R. 2893, for final passage. Kennedy-Kassebaum-Roukema has supported from the White House, from the American public, from the health care industry, and bipartisan support in the Senate. It is legislation which can be signed into law tonight.

To recommit puts sound public policy above special interests. To recommit assures American families of security by providing genuine health care reform. In a Congress that touts fiscal responsibility, to vote against this motion is fiscally irresponsible. I urge my colleagues to vote "yes" on this motion, to stand for true reform, to stand against special interests, to stand for the American people. Vote "yes" to recommit.

Mr. ARCHER. Mr. Speaker, I rise in opposition to the motion to recommit.

I yield to the gentleman from California [Mr. THOMAS], chairman of the Subcommittee on Health of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I really do not know who to direct my remarks to, because apparently this motion to recommit is Dingell minus the increase for the self-employed. Two of our colleagues on the other side, the gentleman from North Dakota and the gentleman from Illinois [Mr. DURBIN], took the well and talked about how much better the Democrat substitute was because it did better for the self-employed. Now what we have here is Dingell lite.

Mr. Speaker, is it not interesting and, by the way how, cynical they were more for the self-employed if it was honey to attract people to the Democratic substitute, and so I guess I am addressing my remarks to the 10 Republicans who went for the improvement of Kassebaum because of the self-employed provision. That is out. It lasted 5 minutes. Show your commitment, it did not draw enough, so it is gone. It is not there because they believe in the self-employed and want to increase the deductibility, it was there to attract people. Since it did not get anybody, they pulled it out.

If you did not like Dingell, they will not like Dingell lite. Vote "no" on the motion to recommit.

Mr. ARCHER. Mr. Speaker, as I listen to this debate, I must say that I am puzzled by the reluctance of some Democrats to support a bill that will provide millions of Americans with increased access to health care insurance at a more affordable price. What a strange turnaround from 2 years ago when my friends across the aisle stood up and fought for a big government takeover of our nation's health care system. Here is a description of that plan that they offered and that they supported 2 years ago.

But tonight, they claim ours is too far-reaching, it should be shaved back. The same people who presented this to us in 1994. It is broken, they said. Health care is in crisis. We must fix it. The President and Hillary Clinton know just how to get that done. Well, the big government Democrat prescription for our Nation's health care ills was rejected by the American people and properly so.

Mr. Speaker, America has the best health care system in the world, no thanks to government, but thanks to our Nation's great private sector. The answer does not lie in a big-government takeover of health care. Rather,

the way to provide the American people with health care that is more available and affordable is through a targeted measure that relies on the strength of the private sector, not the government, and that is what this bill does.

It is a strong bill, a solid bill, a bill that will bring help to millions of needy Americans, and it does it by relying on the private sector, not the Government. It is exactly the right dose of medicine to cure our health care ills. So why do some, thankfully not all, but some Democrats oppose it?

Mr. Speaker, I conclude the reason the Democrat leadership opposes this bill is because their big-government version of health care reform failed and they do not want to see the Republicans move forward with one that will succeed. They know that the American people support each and every one of the targeted reforms that we have proposed, but the Democrat leadership and their trial lawyer friends have rejected a bipartisan approach to health care reform and instead offer only obstruction and opposition.

The Democrat opposition stems from sour grapes and special interests. Mr. Speaker, sour grapes and special interests. The bill we have today before us is a landmark. It is a bill that brings me great pride and satisfaction, and this is a very proud day for the House and for the Nation. Health care reform is moving forward, and I predict it will be signed into law. We look forward to working with the President and the Senate on this bill. It will be our only chance to improve America's health care system. We must be careful not to let it slip away, without making as many changes as we can reasonably on behalf of the American people.

Too much medicine is bad for the patient, but too little will not help the patient get better. This bill is the right does of medicine. Vote "no" on the motion to recommit and "aye" on the bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. PALLONE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the question of final passage.

The vote was taken by electronic device, and there were—ayes 182, noes 236, not voting 13, as follows:

[Roll No. 105]

AYES—182

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NOES—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Bryant (TX)
Collins (IL)
Eshoo
Fields (LA)
Fowler
Martinez
McNulty
Neal
Ros-Lehtinen
Smith (TX)
Smith (WA)
Stokes
Weldon (PA)

☐ 2257

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. COMBEST). The question is on the passage of the bill.

Pursuant to House Resolution 392, the yeas and nays are ordered.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 267, nays 151, not voting 14, as follows:

[Roll No. 106]

YEAS—267

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle

VOL
142
PT
5
MR
21
—
29
1996
UMI

Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth

Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker

Pastor
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Studds
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—151

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)

Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon

Doggett
Doyle
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson

Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton

Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Miller (CA)
Mink
Moakley
Mollohan
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roukema
Roybal-Allard

Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stupak
Tejeda
Thompson
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Bryant (TX)
Collins (IL)
Dornan
Eshoo
Fields (LA)

Fowler
McNulty
Neal
Ros-Lehtinen
Skelton

Smith (TX)
Smith (WA)
Stokes
Weldon (PA)

☐ 2305

Mr. KENNEDY of Massachusetts and Mr. FOGLIETTA changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DORNAN. Mr. Speaker, on rollcall No. 106, Passage of the Health Coverage Availability and Affordability Act, I was just outside the main door discussing a compromise with appropriators. Unfortunately, I missed the vote. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. SKELTON. Mr. Speaker, on Thursday, March 28, I was unavoidably detained and missed rollcall vote No. 106. I would have voted "no" on rollcall No. 106, final passage of H.R. 3103, the Health Coverage Availability Act.

RESIGNATION AS CONFEREE AND APPOINTMENT OF REPLACEMENT CONFEREE ON H.R. 3019, BALANCED BUDGET DOWNPAYMENT ACT, II

The SPEAKER pro tempore laid before the House the following resignation as a conferee:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 28, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, H232,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: Effective immediately, I hereby resign from the conference of H.R. 3019, the Omnibus Appropriations Act for Fiscal Year 1996, Conference Report.

Sincerely,

LOUIS STOKES,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted and without objection, the Chair appoints the gentleman from Maryland [Mr. HOYER] to fill the resulting vacancy among the primary panel of conferees.

There was no objection.

The SPEAKER pro tempore. The clerk will notify the Senate of the change in conferees.

PARLIAMENTARY INQUIRIES

Mr. FAZIO of California. Mr. Speaker, I have a parliamentary inquiry. I have a question about the rule that is about to be brought before us on the farm bill.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. FAZIO of California. Mr. Speaker, I would ask, is there a waiver in this rule of the unfunded mandate provision?

The SPEAKER pro tempore. When the rule is read, the gentleman will under stand it. There is a waiver of all points of order in the resolution.

Mr. FAZIO of California. Among all those points of order that were waived, is one of them the unfunded mandate provision, Mr. Speaker?

Mr. SPEAKER pro tempore. The gentleman will understand when the resolution is read.

Mr. FAZIO of California. Further parliamentary inquiry, Mr.Speaker. Is there an analysis available to the Members from the Congressional Budget Office that would inform us as to whether this was in fact an unfunded mandate that would require——

Mr. SOLOMON. Mr. Speaker, yes there is.

The SPEAKER pro tempore. The gentleman should address that question to the Committee on Rules.

Mr. SOLOMON. Yes, there is.

CONFERENCE REPORT ON H.R. 2854, FEDERAL AGRICULTURE IMPROVEMENT AND REFORM ACT OF 1996

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on rules, I call up House Resolution 393 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 393

Resolved, That upon adoption of this resolution it shall be in order to consider the

conference report to accompany the bill (H.R. 2854) to modify the operation of certain agricultural programs. All points of order against the conference report and against its consideration are waived.

SEC. 2. Senate Concurrent Resolution 49 is hereby agreed to.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman form Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, I would say to the Members, if I could just have their attention, we will dispose of this rule in 10 minutes, at the most, with no vote necessary, since it is not controversial. So let us get on with it.

Mr. Speaker, the rule before the House today is necessary to permit the House to consider the conference report on the Federal Agriculture Improvement and Reform Act, or FAIR Act.

The rule waives all points of order against the conference report and against its consideration. The waivers are necessary in large part because the Senate passed a much broader bill than the House.

For example, the Senate bill and the conference report contain an extension of the Food Stamp Program, while there was no such provision in the original House bill.

The rule also provides for the adoption of a Senate concurrent Resolution which directs the enrolling clerk to correct an error in the conference report as filed.

Mr. Speaker, this conference report represents the culmination of a long effort to change the way farming is done in America.

Instead of having farmers produce to meet the requirements of Government programs, this bill is designed to move the Government out of the farming business, and let farmers start producing to meet the needs of consumers.

In the long run this will result in lower cost to the taxpayers, and more efficient production of food for the market.

Were it not for the dogged determination and strong leadership of the chairman of the Agriculture Committee, the gentleman from Kansas [Mr. ROBERTS], this bill might never have materialized in its present form.

Because this bill represents a change in 60 years of Federal farming policy, it has been one of the toughest farm bills ever in the history of this House to manage.

The distinguished gentleman from Kansas, who used to serve in the U.S. Marines, I will note, has demonstrated the guts to get it through. We are all in your debt, Mr. Chairman.

I would also like to commend the ranking minority member of the Agriculture Committee, the gentleman from Texas [Mr. DE LA GARZA], and the other members of the committee for the long hours of work they have put into working out this final product.

We have ended up with a bill that the President has said he is going to sign, and this is an indication of the degree to which concerns on both sides of the aisle have been taken into consideration.

Putting this all together required not only bipartisan cooperation, but also a willingness to work out differences between the House and the Senate.

Senator LUGAR, the chairman of the Senate Agriculture Committee, proved an able Representative of the other body during long negotiations.

Finally I would like to thank the staff members on both sides of the hill who worked on this conference agreement. Much of their work is not seen on the outside, but we who know how hard they work appreciate their efforts.

Mr. Speaker, as many of you know the dairy provisions in this conference agreement have been of particular concern to me, since I represent one of the largest milk producing districts in the Nation. We have ended up with a fair and workable dairy program, one that ends Government subsidies to processors of milk products, like butter, powder, and cheese, but continues a non-taxpaying funded liquid milk price stabilization program that will guarantee small dairy farmers a fair and reasonable price for their milk.

Finally, Mr. Speaker, we need to remember that the planting season is about to begin in some parts of the country, and that means that farmers need to know what the Government's farm policy is going to be. This bill provides the answer to that question. And in order to consider this conference report, it is necessary to adopt this rule. Therefore, I ask for a "yes" vote on the rule and a "yes" vote on the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution, House Resolution 393, makes in order to consider the conference report on H.R. 2854, the Federal Agriculture Improvement and Reform Act, and it waives all points of order against the conference report.

The conference report on H.R. 2854 reauthorizes farm programs for 7 years. It replaces the current Federal programs for major crops with a new system of fixed annual cash payments that would eventually be phased out. The measure is a dramatic overhaul of our Nation's farm laws, and if successful, it will cut Federal spending on agriculture, at the same time giving farmers greater flexibility in choosing which crops to plant.

The conference report also reauthorizes various overseas food assistance and export programs of the Department of Agriculture. This includes a 7-year reauthorization of the Food for Peace Program, which is known as Public Law 480.

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This is a very important program that feeds millions of people around the world. I have seen the food being delivered, I have seen it being used, and I have seen it save lives.

During House consideration of the bill, I worked to include an amendment to make useful changes in the Public Law 480 program, and most of those changes were adopted by the conferees.

Mr. Speaker, I do regret that the technical change in the conference report made by the rule might reduce the ability to implement the program in the period near the end of the fiscal year, and I hope that Congress will monitor-the effect of this change and be prepared to make any additional changes to ensure the smooth operation of the program.

The conference report sets payments for farmers for the next 7 years, but I also regret that it only reauthorizes the food stamp program for 2 years. The food stamp program is a lifeline to the hungry in America and one of our most successful antipoverty programs. I believe that they should be given the same kind of long-term assurance that the farmers receive.

Mr. Speaker, it is essential that Congress approve a farm bill quickly before the spring planting season begins, and I urge the adoption of the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, with all due respect to the Members on this side, we are going to ask them not to speak. We are going to have one unanimous consent statement and 1 minute to the distinguished Chairman of the Committee on the Budget, and that is going to be it. We are going to roll this thing.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS], of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I rise in strong support of this brilliant, fair rule.

I thank the gentleman from Glens Falls for yielding me this time, and I rise in support of the rule for the farm bill conference report. This is a fair rule, and it follows standard House procedure for the consideration of conference reports while fixing an important technical mistake. However, Mr. Speaker, I do have some concerns with the underlying bill. It is clearly a mixed bag for southwest Florida. On the one hand, we have seen a real breakthrough in Federal efforts to restore the Everglades—the $200 million in this conference report, in conjunction with the additional land

VOL
142
PT
5
MR
21
—
29
1996
UMI

swap authority added in conference, provides a jump start to the joint efforts by the State, the Federal Government, and the south Florida water management district to restore the everglades. This is a serious commitment, and a necessary one. We have not been good stewards of the Everglades and Florida Bay—a series of actions by the State, the federal government, agricultural interests and others has transformed a unique 50-mile wide freshwater river and its surrounding ecosystem—and not for the better. The periodic sheetflow of fresh water has been reduced, rechannelled and regulated for the convenience of agricultural interests and residential developments—causing a rapid loss of habitat necessary to sustain fisheries, waterfowl, and other wildlife. The nutrient pollution of this water has further degraded what habitat is left. Downstream, Florida Bay is dying. These situations have damaged resources that are vital to the economy and quality of life in Florida. We now understand that the once prevalent view that the Everglades is just a swamp is somewhat akin to looking at the grand canyon as just a big pothole.

There has been a renewed interest in the Everglades system over the past few years, and we've seen several smaller-scale efforts toward restoration, but it is time to get the ball rolling on a comprehensive, coordinated plan to save what remains of this national treasure. And $200 million is a responsible sum to allocate. I do wish that we were more specific in identifying a funding source or sources for this money. Some of my Florida colleagues have suggested an assessment on agricultural interests that have benefited from the changes in the Everglades, and I think this idea should be given serious consideration. The taxpayers in southwest Florida are already paying more than their fair share in State taxes and extra water fees. The State has agreed to match Federal funds 50–50. Still, while I think we have some work to do in finding an offset, I strongly support the Everglades provision in this bill and I congratulate the conferees for their hard work.

Unfortunately, Mr. Speaker, I cannot support other aspects of this bill. For instance, the continuation of many large subsidy and price support programs concerns me. I recognize the difficulty involved in making significant changes in these programs. And there are some victories here—for instance, under this bill the dairy subsidy will be phased out over a 5 year period. But, the minor reforms in most of the price support and subsidy programs just aren't enough. I am disappointed that Congress has missed this opportunity to remove the heavy hand of Government from the agricultural marketplace. I do not believe it makes much sense to lock in place these special benefit programs over the next 7 years when we are committed to phasing out unnecessary Government spending and involvement in private enterprise.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. KASICH], chairman of the Committee on the Budget, to give some accolades to somebody we know.

Mr. KASICH. Mr. Speaker, I want to thank the gentleman, and I think the Members here tonight should realize that, even though the hour is late, we are about to do something that is truly historic. That is to have the most sweeping change in the farm bill in over 40 years.

Basically, when people across this country say they could never understand why we pay people not to do anything, not to plant anything, this will make such a major reform of the crops that they will not ever have to ask that question again at the end of the day.

I think that the move towards the free market is where we ought to go; I think we could have saved a few more dollars; I think we could have reformed a few more crops, but I want to recommend that the freedom to farm act is a very positive step. The New York Times just the other day commended the committee for the most sweeping reform based on the free market that we have seen. I think it is an appropriate bill as we head into the 21st century. I want to congratulate the distinguished Chairman of the Committee on Agriculture [Mr. ROBERTS] who has done a yeoman's job and walked over an awful lot of hot coals in order to see this day actually happen. So I want to congratulate him, congratulate Members on both sides of the aisle and to say I think the American people, when they understand what is in this bill, are going to give accolades to this Congress for having the courage to move the farm bill into the 21st century.

Mr. SOLOMON. Mr. Speaker, the majority is prepared to yield back all of its time and ask for a nonrecorded vote as soon as the minority yields back their time.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I know that the hour is late, and I do not oppose this bill. My point in speaking at this late hour is simple. Earlier today when the gentleman from Michigan [Mr. BONIOR] made a motion which would address the issue of a minimum wage for the American worker, the majority decided to invoke a rule that would strike that motion on the premise that it somehow was an unfunded mandate.

CBO has now ruled of course that that motion did not constitute an unfunded mandate. But in this bill, there is an unfunded mandate, and of course the rule waives that. Now, that is not the first time. I am sure the majority will use its power whenever it so wishes to deem something an unfunded mandate and then ignore another unfunded mandate and present the Members with a fait accompli.

This was also typical of the three-fifths rule on tax increases. I cannot remember how many times we have waived that rule which we so proudly adopted on the opening day of this session.

My reason for speaking is not to the substance of this bill but a constant attention to the majority's propensity to constitute whatever rules it wishes in violation of whatever standards it has adopted, even in this Congress where it took so much credit for changing the way we do our business here. Many Members on both sides of the aisle, the gentleman from California [Mr. CONDIT], certainly the leader, decided that the unfunded mandate issue needed to be addressed.

Well, here, once again, we get the headline, and then when it comes down to implementation, we reject taking any action on this unfunded mandate. Yet we use it as an excuse when we do not want to deal with an issue that is unpopular for the majority but overwhelmingly popular in the country.

So, Mr. Speaker, I simply have to rise in protest over the continuing misuse of the rules by the majority.

Mr. Speaker, I rise in reluctant support of the conference report to the bill H.R. 2854, the Federal Agricultural Improvement and Reform Act, better known as the 1996 farm bill.

In considering this legislation today, it is important to put it in some perspective, because as we all know, this was supposed to have been the 1995 farm bill.

Since 1965, we have passed multiyear farm bills to reauthorize a wide variety of commodity, trade, research, conservation, rural development and nutrition programs.

We passed farm bills in 1965, 1970, 1973, 1977, 1981, 1985, and 1990. The most recent two farm bills were passed with overwhelming bipartisan majorities.

But when 1995 came and the Republicans took over control of the House and Senate, they decided to adopt a different tact. They abandoned what in past years was a broad-based, bipartisan bill based on open debate about our national agriculture policies and priorities.

You might say that in their first year behind the plow, the GOP leadership used a new kind of fertilizer: partisan politics—to cultivate their favorite crop—political points.

Instead of debating this legislation in a systematic fashion throughout the year, the Republicans waited until late in the year when appropriations bills, continuing resolutions, and debt ceilings held center stage. Then and only then, in a budget-driven exercise, GOP leaders decided to tie the farm bill's fate to controversial budget reconciliation legislation about which Democrats and President Clinton had expressed severe reservations.

The chairman of the Agriculture Committee could not even muster a majority of votes within his committee and was forced to use special procedures to have the Budget Committee report the so-called farm bill as part of the reconciliation bill.

Once the reconciliation bill was vetoed and the GOP strategy was shown to be flawed, farmers and consumers across the country watched the important authorizations for these programs expire. Farm fill consideration was forced to start from ground zero.

This is not the way to make national agriculture policy.

This is not the way to treat our largest industry, the United States' biggest employer, and our biggest export earner.

In short, this is not the way to treat American farmers and the millions of Americans who depend upon them.

These legislative tactics caused needless anxiety across the country, and to what end?

The end is the conference report we consider today—a bill in better balance—similar to those we have always brought forward in the past—that will move agriculture production forward in the years to come. But it is a bill we should have considered and passed into law many months ago.

The conference report contains all the traditional titles included in the farm bill in the farm bill in addition to the commodity titles—rural development, export promotion, foreign food assistance, domestic nutrition programs, and conservation.

I think the GOP leadership needs to ask itself what might have happened last year if they had approached this crucial legislation in the same spirit as reflected by the conference report today. My sense is you would have a very similar product but you would have avoided the specter of partisanship. Better yet, you would have saved our farmers months of needless anxiety.

Perhaps the GOP leadership considered the freedom to farm concept to be too controversial for any but heavy-handed and partisan tactics.

But farmers in California understand that we must move to a market-based farm economy. In fact, agriculture producers across the country have been positioning themselves, as we have in California, to take advantage of increased trade opportunities from NAFTA and GATT. Agribusiness has been making the investments necessary to respond to a growing, yet demanding and sophisticated world market.

However, for my part, I believe there are two flaws in this bill that require attention, even if they are not sufficient to require a "no" vote today.

First, the Senate voted down and the conference turned its back on a simple requirement that farmers plant a crop in order to qualify for a freedom to farm payment. Certainly, most farmers will continue their historic pattern of farming while using the expanded flexibility in this bill to boost production and pursue new marketing opportunities. But there will be many marginal farmers who will view payments not linked to planting as a one-time opportunity to take the money and run. The horror stories of farm welfare in the years to come are easy to anticipate, and they will represent a black eye for American agriculture, which is already not well understood by many Americans. It is a black eye that easily could have been avoided.

Second, in moving to a market-oriented economy, we effectively have eliminated a safety net program for our program crop farmers that is linked to prices. Prices are high now, and trade is booming. But not every future year will turn out that way, and there are always special problems that arise affecting individual commodities. I am concerned that trade wars or other unpredictable events in future years will wash away farmers who otherwise might have weathered the storm if a safety net program were in place.

The conference has wisely included various conservation, export, research, credit, and promotion programs. These agriculture programs often receive less attention than commodity programs, but they are at the heart of American agriculture's success. Leaving them out of the House bill was a major mistake—one of the reasons I opposed the House version of this bill—and I'm pleased the conference has put them back in.

In the final analysis, this bill is not perfect, and lacking perfection, it is a bill we could have arrived at many months ago. Ultimately, the GOP leadership must ask themselves if their partisan tactics have produced an improved product—I think the answer is a resounding no.

Has the GOP leadership positioned Congress well to weather the charges of welfare for farmers that are likely to arise?

Could the GOP's quest for budget savings have been accomplished much more easily by providing price-based safety net programs and being far more generous to research and trade promotion programs?

Only time will answer these questions as we watch the effects of the bill we consider today in the years to come.

While I cast a reserved "yes" vote for the farm bill conference report today, I unreservedly reaffirm my commitment to a strengthened American agriculture in the years to come. Congress must monitor the effects of this legislation carefully and be prepared to act again if necessary to ensure that American agriculture retains its preeminent position in the world.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I want to begin by not apologizing at all for speaking on a major piece of legislation in the House of Representatives. The majority's manipulation of the schedule is outrageous enough, but now to say that this major piece of legislation, which the House majority leader a few years ago described I think aptly, he predicted welfare for farmers as he said in his Heritage Foundation piece. And I would not necessarily mind welfare for farmers, but they get 7 years of welfare, the AFDC recipients get 5, and of course there is no work requirements.

But for the House to spend so much time doing so little for so long, and then take up a major piece of legislation, and the leadership decides it will come up late at night and then to say oh, well, it is late at night, you cannot debate it. That is like the kid who kills his parents and say, have mercy, I am an orphan.

As the gentleman from California pointed out, before we were told that something is not an unfunded mandate, could not even be debated, the minimum wage, but this bill, according to CBO, has five unfunded mandates. And when it came before us as a bill, the Committee on Rules waived it. They would not even vote on that. So we get a bill with a lot of unfunded mandates.

The first test of the new rule on unfunded mandates, they do not pay any attention to. They now are trying to browbeat the House into ignoring all of these important substantive issues, give the farmers welfare, spend billions of dollars, let us have some unfunded mandates, but it is 11:30, let us go home. Well, if my colleagues do not want to debate things at 11:30, they control the House, schedule them at a reasonable hour. But to take a major piece of legislation like this and then so manipulate the schedule that they want to sneak it through without adequate debate is unworthy of the House.

Mr. Speaker, we ought to debate these unfunded mandates. We ought to debate the fact that farmers get billions of dollars for years for doing absolutely nothing whatsoever. I hope that the House will in fact repudiate these tactics.

Let us debate this. My colleagues have waited a very long time. We could pick an- appropriate time of the day and debate it honestly and fairly, and do not come here, deliberately work the schedule this way and then say, oh, but we want to be nice to everybody, let us go home. If Members want to go home, let them go home and let the rest of us stay here and do the business that we are paid to do.

Mr. HALL of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I just want to tell the gentleman from Boston that this bill guarantees the people of Boston are going to have fresh milk for the next 7 years.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The text of Senate Concurrent Resolution concurred in pursuant to House Resolution 393 is as follows:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs, shall make the following corrections:

In section 215—

(1) in paragraph (1), insert "and" at the end;

(2) in paragraph (2), strike "; and" at the end and insert a period; and

(3) strike paragraph (3).

Mr. ROBERTS. Mr. Speaker, pursuant to House Resolution 393, I call up the conference report on the bill (H.R. 2854) to modify the operation of certain agricultural programs.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. OXLEY). Pursuant to House Resolution 393, the conference report is considered as having been read.

VOL
142
PT
5
MR
21
—
29
1996
UMI

(For conference report and statement, see proceedings of the House of March 25, 1996, at page 6121.)

The SPEAKER pro tempore. The gentleman from Kansas [Mr. ROBERTS] and the gentleman from Texas [Mr. DE LA GARZA] each will control 30 minutes.

Mr. VOLKMER. Mr. Speaker, I rise in opposition to the conference report. It is my understanding that the gentleman from Kansas [Mr. ROBERTS] and the gentleman from Texas [Mr. DE LA GARZA] are both proponents of it, and I would like to claim time in opposition.

The SPEAKER pro tempore. Is the gentleman from Texas opposed?

Mr. DE LA GARZA. I am not opposed.

The SPEAKER pro tempore. The gentleman is not opposed. If the gentleman from Texas is not opposed, the gentlemen from Kansas and Texas and Missouri will each be recognized for 20 minutes. The gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. VOLKMER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

The House has before it today a historic conference report, H.R. 2854, the Federal Agriculture Improvement and Reform Act of 1996. I call it historic because the Committees on Agriculture have produced a farm bill that represent a major departure from the past and a bold plan in regard to the future.

Mr. Speaker, I have some 16 pages of very pertinent comments in regard to the Freedom to Farm concept that we have passed, but I am going to revise and extend my remarks and we are going to hope to try to conclude this.

The Senate has passed the similar conference report 74 to 26, and the reason that we are trying to expedite this bill is to get it to the President as fast as possible. We have assurance from the Secretary of Agriculture that the President will sign it, and farmers have been waiting and waiting and waiting. And so as soon as we conclude this debate, we will try to make it just as short as possible to accommodate not only every farmer and rancher of America, but my colleagues here who I know wish to go home.

Mr. Speaker, the House has before it today an historic conference report—H.R. 2854—the Federal Agriculture Improvement and Reform Act of 1996. I call it historic because the Agriculture Committees have produced a farm bill that represents a major departure from the past and a bold plan for the future.

Embodied in the Conference Report before us today is what is commonly referred to as the Freedom to Farm concept that I, along with Congressman Barrett of Nebraska, introduced last August. Freedom to Farm was developed after the Committee conducted 19 field hearings and traveled over 60,000 miles last spring listening to over 10,000 farmers, ranchers, and the agribusiness community.

The original New Deal farm programs, over 60 years, ago were based on the principal of supply management. Control supply and raise prices. Over the last 20 years the principal justification for the programs has been that farmers receive federal assistance in return for setting aside a portion of their acreage. That assistance was largely in the form of deficiency payments to compensate farmers for prices below a government-set target price for their production.

Today that system has collapsed as an effective way to deliver assistance to farmers. Worldwide agricultural competition usurps markets when we reduce production. World demand (along with the Conservation Reserve Program) has tightened supplies so that there have been no set-asides in wheat for five years—and none are projected in the foreseeable future, eliminating that justification for the programs. In short, the supply management rationale not only fails under close scrutiny by the many critics of agriculture policy, it has enabled our competitors to simply increase their production by more than we "set aside," thereby causing significant impact on American farmers through lost market shares.

The budget cuts of the last ten years have produced greater and greater bureaucratic controls on farmers. In fact, decoupling of the payments from production actually occurred ten years ago when Congress froze payment yields to save money. In 1990 the concept of "unpaid flex acres" was introduced to further weaken and devalue the programs in a budget-cutting move. For the last ten years, in effect, Congressional farm policy has been driven almost completely by budget reduction, and the 1995 debate reaffirmed the budget as the driving force for program policy.

Most in the agricultural community have come to the realization that annual set-asides are counter-productive and only encourage our competitors to plant more and steal market share. However, to eliminate the Secretary of Agriculture's reliance on set-asides would cost either the taxpayers or the farmers $6.6 billion under the present farm program according to the Congressional Budget Office (CBO).

The Freedom to Farm Act [FFA] was born of an effort to create a new farm policy from an entirely new perspective. Acknowledging that budget cuts were inevitable, FFA sets up a new set of goals and criteria for farm policy; Get the government out of the farmers' fields; return to farmers the ability to produce for the markets, not government programs; provide a predictable and guaranteed phasing down of federal financial assistance.

By removing government controls on land use, FFA effectively eliminates the No. 1 complaint of farmers about the programs: Bureaucratic redtape and government interference. Complaints about endless waits at the county office would end. Hassles over field sizes and whether the right crop was planted to the correct amount of acres would be a thing of the past. Environmentalists should be pleased that the government will no longer force planting of surplus crops and monoculture agriculture. Producers who want to introduce a rotation on their farm for agronomic reasons will be free of current restrictions. Allowing farmers to rotate their crops will allow them to reduce the use of pesticides, herbicides and fertilizer. This sample fact makes this bill the most "green" or environmentally friendly farm bill in my memory.

Under FFA, farmers can plant or idle all of their acres at their discretion. The restrictions on what they can plant are greatly reduced. Response to the market would assume a larger role in farmer planning. Divorcing payments from production (a process already begun when yields were frozen in 1985) will end any pressure from the government in choosing crops to pursue. All production incentives in the future should come from the marketplace.

The guarantee of a fixed (albeit declining) payment for seven years will provide the predictability that farmers have wanted and provide certainty to creditors as a basis for lending. The current situation in wheat, corn and cotton under which prices are very high, but large numbers of producers have lost their crops to weather or pests would be corrected by FFA. Those producers last year could not access the high prices without crops, and instead of getting help when they need it most, the old system cuts off their deficiency payments and even demands that they repay advance deficiency payments. FFA insures that whatever government financial assistance is available will be delivered, regardless of the circumstances, because the producer signs a binding contract with the Federal government for the next seven years.

Some of my colleagues have expressed reservations about making high payments during period of high prices. First, the payments will not be high. You can't cut the amount of money we have cut out of agriculture spending over the last 20 years and still have "high" payments. No farmer is likely to take his market transition payment and retire. Farmers will continue to farm.

Second, under FFA, the payments made to producers must be looked at from a new perspective. It is a transition to full farmer responsibility for

his economic life. Just as farmers will need to look to the market for production and marketing signals, the FFA will require that farmers manage their finances to meet price swings. It is true that when prices are high, farmers will receive a full market transition payment. It is equally true that if prices decline, farmers will receive no more than the fixed market transition payment. That means the farmer must manage all his income, both market and government, to account for weather and price fluctuations.

In short, the FFP authorizes Transition Payments to farmers—as opposed to the current program's deficiency payments—to serve as a form of compensation as we move U.S. agriculture from an economy heavily influenced by the federal government to one in which the government's role is substantially reduced and the primary influence is the market place.

The old program provided market insulation for each bushel of production, but that system is collapsing under the weight of budget cuts. The FFA enhances the farmer's total economic situation—in fact, FFA results in the highest net farm income over the next 7 years of any of the proposals before Congress. This allows the farmer to become accustomed to saving when times are good and using those savings when times are tough. With government assistance declining, it is imperative that producers assume total responsibility for their economic futures. In the years that prices are strong and the farmer receives a payment, it will be his personal responsibility to save that money for the bad year or pay off debt so he can weather the bad years.

The severest critics of farm programs at the New York Times, the Washington Post, the Economist, and a host of regional newspapers have hailed FFA as the most significant reform in ag policy since the 30's. Many congressional critics have also decided that FFA represents the kind of reform they can support. If the "welfare" charge was to be leveled, it should have come from this corner. Instead, they believe FFA is the kind of reform that is needed. Nearly every agricultural economist who has commented on FFA has supported it structure and its probable effect on farmers and the agricultural sector.

The only people who are worried about it being classed as "welfare" are those populists who want to keep the status quo, some farm groups and others who are supportive of the old farm programs. Agriculture is now at a crossroads. It can either sink deeper into government controls and rapidly sagging government support, or it can strike out in a new direction that at least holds out the prospect of an assisted transition to the private marketplace. H.R. 2854 and the Freedom to Farm Act is that new direction and Congress needs to seize it.

Never before has a farm program proposal enjoyed such broad and diverse support as this one. From the Ivory Towers of academia and the think tanks to the editorial board rooms of our nation's newspapers to a broad spectrum of farm, commodity and agribusiness groups, support for this proposal is strong. Most importantly, Freedom to Farm enjoys widespread support among individual farmers across the country who are fed up with convoluted government programs, and exploding government debt.

The following groups or individuals have endorsed either the Freedom to Farm Act or that concept as contained in H.R. 2854. I ask unanimous consent to insert in the record at this point a list of groups, organizations, and newspapers who have endorsed the Freedom to Farm concept:

FARM AND TRADE ORGANIZATIONS

American Farm Bureau Federation, National Corn Growers Association, National Grain Trade Council, National Grain & Feed Association, American Cotton Shippers, Iowa Farm Bureau Federation, Iowa Corn Growers Association, Iowa Cattleman's Association, Kansas Farm Bureau, Kansas Association of Wheat Growers, Kansas Bankers Association, Kansas Grain & Feed Association, Kansas Fertilizer & Chemical Association, North Dakota Grain Growers Association, the Minnesota Association of Wheat Growers, the National Turkey Federation, the National Sunflower Association, National Food Processors' Association, Agricultural Retailers Association, American Feed Industry Association, American Frozen Food Institute, Biscuit & Cracker Manufacturers' Association, National Oilseed Processors Association, Millers' National Federation, and the Coalition for a Competitive Food and Agricultural System (representing 126 members).

PUBLIC INTEREST ORGANIZATIONS AND REPRESENTATIVES

U.S. Chamber of Commerce, Citizens Against Government Waste; John Frydeniund—The Heritage Foundation; Paul Beckner—Citizens for a Sound Economy; David Keating—National Taxpayers Union; Grover Norquist—Americans for Tax Reform; Fran Smith—Consumer Alert; Ed Hudgins—The Cato Institute; Jonathan Tolman—Competitive Enterprise Institute.

A SAMPLING OF NEWSPAPER ENDORSEMENTS

Wall Street Journal, New York Times, Washington Post, Des Moines Register, USA Today, Dallas Morning News, Chicago Tribune, Minneapolis Star Tribune, Denver Post, Kansas City Star, Wisconsin State Journal, The Daily Oklahoman, The Wichita Eagle, The Indianapolis News, The Hartford Courant, The Louisville Courier Journal, Washington Times, The Garden City Telegram, The Manhattan (KS) Mercury. Also, Feedstuffs, Farm Journal, New England Farmer.

ECONOMISTS

Prof. Willard W. Cochrane, University of Minnesota, Director Agricultural Economics, USDA, Kennedy Administration; Dr. Lynn Daft, Abel, Daft, Earley & Ward International, Agricultural Counselor, White House, Carter Administration; Dr. Bruce Gardner, University of Maryland, Assistant Secretary for Economics, USDA, Bush Administration; Dr. Dale Hathaway, National Center for Food & Agricultural Policy, Under Secretary for Economics, USDA, Carter Administration; Dr. Robert Innes, University of Arizona, Council of Economic Advisors, Clinton Administration; Dr. D. Gale Johnson, University of Chicago; Dr. William Lesher, Russell and Lesher, Assistant Secretary for Economics, USDA, Reagan Administration; Dr. Lawrence W. Libby, University of Florida; Dr. Don Paarlburg, Purdue University, Special Assistant, President Eisenhower, Director of Agriculture Economics, Assistant Secretary of Agriculture, USDA, Nixon-Ford Administrations; Dr. Robert Paarlburg, Wellesley College and Harvard University; Dr. C. Ford Runge, University of Minnesota; Dr. John Schnittker, Schnittker Associates, Under Secretary of Agriculture, USDA, Johnson Administration; Mr. Daniel A. Sumner, University of California—Davis, Assistant Secretary for Economics, USDA, Council of Economic Advisers, Bush Administration; Dr. Robert L. Thompson, Winrock International, Assistant Secretary for Economics, USDA—Reagan Administration; Dr. Luther Tweeten, The Ohio State University; and Dr. Barry Flinchbaugh, Kansas State University.

Clearly the support for the concept of Freedom to Farm is widespread. But this bill is more than just Freedom To Farm. There are other major reforms contained in this package. This bill reforms the dairy industry. It instructs the Secretary to reduce the number of milk marketing orders in the nation. It phases out the price support. This bill provides regulatory relief for farmers in terms of conservation compliance and wetlands by injecting a little common sense into the process.

This bill has a very strong trade title. It has strong embargo protection language that reminds the President we can't have a market-oriented farm policy and allow the State Department to destroy those markets through foreign policy embargoes. The American farmer remembers the Soviet Grain Embargo of 1980—that nearly wiped out a generation of farmers. We can't go down that road again and this bill makes it more difficult for a President to choose that path.

This bill also contains the Commission on 21st Century Agriculture. As I have alluded to, this is a transition bill. But many farmers have raised the question of a transition of what? This bill charges the Commission to look at where we have been and where we should head and report to Congress on the appropriate role of the Federal government in production agriculture after 2002.

This bill also authorizes existing research programs for two years while Congress can undertake an extensive review of the $1.7 billion we spend on agricultural research. The House Agriculture Committee has sent out 57 questions to the research community stakeholders asking them for their guidance and input. On Wednesday, we began the hearing process that will hopefully lead to reform legislation that moves agricultural research in the

VOL
142
PT
5
MR
21
—
29
1996
UMI

direction of helping our farmers compete in a global marketplace against very tough competitors.

This bill takes a small stab at reforming the way USDA goes about buying its computers. In the past, the USDA through the Commodity Credit Corporation has spent hundreds of millions of dollars on computers and information systems, often without very much Congressional oversight. The result has been the various agencies of the USDA all have different computer systems with little ability to communicate. Several years ago the USDA embarked upon Infoshare supposedly to better manage its computer and information systems. The Clinton administration abandoned that and is proposing to spend $175 million next year on yet another computer purchasing extravaganza. This bill attempts to get a Congressional grip on those purchases and make them subject to greater Congressional review and accountability.

This bill reforms and streamlines the current rural development system by establishing the Rural Community Advancement Program [RCAP], which authorizes the Secretary to provide grants, direct and guaranteed loans and other assistance to meet rural development needs across the country. The new program provides greater flexibility, state and local decision making and a simplified, uniform application process.

In summary, this bill is truly reform. It moves agricultural program policy into the 21st Century. I urge my colleagues to support it.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I rise in support of this conference agreement.

Mr. Speaker, I say to my colleagues that we bring them the most difficult title of this conference report, the dairy title. It has been the most acrimonious, but I think we bring a consensus package today which represents the most comprehensive reform of dairy policy in the last 50 years.

What it does is first and foremost prepares us to deal with the inequities of dairy pricing across this country over the next 3-year period; and secondly, it allows us over the next 4 years to prepare for the American dairy farmer to successfully participate in the post-GATT world dairy economy.

This is significant legislation, and I would encourage everyone to support it.

Mr. Speaker, I would now like to take just a few moments go through the dairy chapter of the conference report section by section to describe the improvements the conference report has made in the House-passed bill.

Section 141 retains the dairy price support program for 4 years, but eliminates the budget assessment on producers immediately. The support price will be set at $10.35/cwt in 1996, $10.20/cwt in 1997, $10.05/cwt in 1998, and $9.90/cwt in 1999. This level of support is higher than that provided by the Solomon-Dooley language in the House-passed bill, thereby assuring producers a higher income in those years.

During this period, the Secretary is authorized to alter how the support price is allocated between butter and nonfat dry milk in an effort to minimize price support program purchases and maximize exports of those commodities.

This section also terminates the dairy price support program on December 31, 1999, rather than on December 31, 2000, as the House-passed bill would have done. This will allow the U.S. dairy industry to become competitive in the world market a full year before Solomon-Dooley would have. This is absolutely critical to the future of the industry because the Uruguay Round will free up about 25 percent of the world market for butter, nonfat dry milk, and cheese from subsidies by the end of the century.

Section 142 replaces the dairy price support program with a recourse loan program for processors of cheddar cheese, butter, and nonfat dry milk at a rate of $9.90/cwt of milk equivalent on a 3.67 butterfat basis. This marketing tool will be an important stabilizing tool as it enters the world market. It also serves a secondary purpose of maintaining a budget baseline for dairy commodity program outlays in the last 3 years of our 7 year budget cycle.

Section 143 provides for milk marketing order consolidation and pricing reform to be completed by USDA during the 3 years that follow the enactment of the bill. This is 2 years faster than the 5-year period proposed by the Solomon-Dooley language in the House-passed bill.

In completing the consolidation of the current 33 Federal milk marketing orders into not less than 10 nor more than 14 orders, the Secretary will have to redesign the entire price surface for milk in this country from the basic formula price for manufacturing milk to any differential for fluid (beverage) milk. Uniform component pricing for milk is specifically mentioned.

The bill language also specifically prohibits the Secretary from using the current fluid milk differentials in any way to achieve that new price surface. Rather, it suggests that he review utilization rates and multiple basing points, among other issues, when designing that new fluid milk pricing system. This will undoubtedly result in a flatter price surface for fluid milk and a more level playing field nationally.

All of the issues related to consolidation and pricing reform will be addressed through the information rulemaking process, assuring their completion within 3 years of the enactment of the legislation. There is a further safeguard to assure the timely completion of this reform in that, if the Secretary fails to complete these tasks within the allotted period of time, he will lose his authority to assess producers and handlers for marketing order services and administrative costs until those reforms are, indeed, completed.

Section 144 is offered in an attempt to exempt California from existing Federal standards for the solids not fact content in Class I (fluid) milk. Regrettably, this section is drafted in such a way that the State standards would become a barrier to interstate commerce in fluid milk and, as a result, will likely spawn years of additional lawsuits on this issue.

Section 145 resolves the so-called "section 102"—(California make allowance—issue which has, similarly, been the subject matter of frequent, contentious litigation. Specifically, section 102 of the 1990 farm bill is repealed and replaced, for a 4-year period, with a ceiling on State manufacturing allowances of $1.65/cwt for butter/nonfat dry milk and $1.80/cwt for cheese.

The section further clarifies that these ceilings are the numbers which result from a State's yield and product price formulas, not the numbers which are plugged into and, then, adjusted by these formulas. If a manufacturing allowance resulting from the yield and pricing formulas of a State milk marketing order exceed these ceilings, processors in that State are precluded from selling surplus commodities to the Commodity Credit Corporation under the dairy price support program.

Section 146 extends the fluid milk promotion program through the year 2002. The House reluctantly accepted this provision even though we have not had hearings on this reauthorization to date. We will, in fact, have those hearings later this spring.

Section 147 relates to the Northeast Interstate Dairy compact. While this interstate agreement has little support on the House side, we were confronted with a situation in conference that threatened the entire farm bill process if the Northeast compact were not among the provisions of the conference report. Given the delay that the Reconciliation process already imposed on a new farm bill and the prospect of farmers beginning their planting season without a farm bill, the House conferees reluctantly agreed to include the Northeast compact among the other farm bill provisions only after its proponents had agreed to the following limitations.

First of all, consent is granted to the compact only if the Secretary of Agriculture finds that there is a compelling public interest for the compact in the region. Second, any consent will be terminated when the Secretary implements the consolidation and pricing reforms required by section 143.

Further, the compact over-order price would be applicable only to fluid milk, and the CCC would have to be reimbursed for any additional purchases of milk and the products of milk resulting from any increased milk production in the compact region in excess of the increase in milk production nationally.

Most importantly, the compact and its over-order price are not allowed to create a domestic trade barrier to milk and milk products coming into the compact region from other production areas around the country. While the mere establishment of an over-order price by the Compact Commission for use within the region itself will not be considered a prohibition or limitation on interstate commerce or the imposition of a compensatory payment, the Commission cannot require handlers bringing fluid milk into the region, either in bulk, packaged, or producer form, to add a compensatory payment or other up-charge to that milk.

In this regard, the language in condition number seven is clear and unambiguous—the

Compact Commission cannot prohibit or otherwise limit milk or milk products from other regions of the country from entering the region, it must abide by the rules and regulations that Federal orders have set up with respect to the classification of milk and the allocation of the proceeds from inter-order sales of milk, and it cannot use compensatory payments under section 10(6) of the compact.

In short, Mr. Speaker, the legislation prevents the Northeast to use its compact in any way that could lead to the economic disadvantage or detriment of producers and processors in other regions of the country.

Section 148 requires the full funding of the Dairy Export Incentive Program [DEIP] to Uruguay Round limits and gives the Secretary of Agriculture the sole discretion over the program to eliminate interagency disputes over the use of this program in the future.

Sections 149 and 150 authorize the Secretary to assist the American dairy industry in establishing one or more export trading companies autonomous of the U.S. government and to find sources of funding for their activities. These entities would, then, assist U.S. companies in entering and remaining competitive in the world market. -

Section 151 requires the Secretary to study and report to the Congress on the impact that the new access cheese that our negotiators agreed to during the Uruguay Round proceedings will have on producer income and government purchases of cheese under the price support program.

Finally, section 152 re-emphasizes the authority the National Dairy Board already has to use a portion of its annual budget to promote American dairy products internationally.

As you can see, Mr. Speaker, this is a good dairy bill. Not only does it get us into the world market for dairy faster and provide greater marketing tools for the dairy industry than the Solomon-Dooley provisions, but is also kinder to producer income and gets us order reform and a more level domestic playing field faster than those Solomon-Dooley provisions. Accordingly, I recommend its adoption by my colleagues.

Mr. ROBERTS. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I would like to engage in a colloquy with the gentleman from Kansas regarding Section 892 of H.R. 2854, currently entitled "Use of Remote Sensing Data and Other Data to Anticipate Potential Food, Feed, and Fiber Shortages or Excesses and to Provide Timely Information to Assist Farmers with Planting Decisions." The gentleman from Michigan, Mr. Smith, and I worked out some language on how we can encourage the use of remote sensing data to aid farmers across this country, but the language contained in Section 892 of H.R. 2854 differs from what we agreed on and might be interpreted differently than is intended.

First of all, the title of the section conveys a different meaning than intended. It should indicate that the federal government's role in this area is to assist farmers in using remote sensing data, not to provide the data directly. Subparagraph (b) of Section 892 directs the NASA Administrator and Secretary of Agriculture to work with the private sector to provide information, through remote sensing, on crop conditions, fertilization and irrigation needs, pest infiltration, soil conditions, projected food, feed, and fiber production, and any other information available through remote sensing. Some might interpret that to mean that NASA should provide data directly to farmers, even if private remote sensing firms can already meet those needs. That is not what is intended by this paragraph.

Mr. ROBERTS. You are correct. That is not the intention of this language. There are excellent capabilities within NASA and the private sector to use remote sensing data for crop forecasting, precision agriculture, and projecting food yield. We do want to find innovative ways of bringing these capabilities to the benefit of the American farmer. Under Subparagraph (b), NASA and the Secretary of Agriculture should work with the private sector to teach farmers how to obtain and use remote sensing data from commercial data providers for the purposes you mentioned. The NASA Administrator or the Secretary of Agriculture should not interpret this to mean that they are to provide farmers with remote sensing data that the private sector is making available on the market.

Mr. WALKER. The NASA Administrator and the Secretary of Agriculture, then will not be allowed to compete with the private sector in providing earth remote sensing data, interpretation services, or tools to the agricultural community. It is also intended that NASA's efforts under this provision be managed by the Earth Observation for Commercial Application Program [EOCAP], based the Stennis Space Center in Mississippi.

Mr. ROBERTS. Well, the gentleman is absolutely correct. The intention of this subparagraph is for the NASA Administrator and the Secretary of Agriculture to help the commercial remote sensing industry better meet the needs of the agricultural community through development of new pre-commercial remote sensing technologies and interpretive tools. That way, we will ensure a steady steam of services and products that benefit American agriculture without adding to government expenditures or making American farmers dependent on the provision of government services. The EOCAP (E–OH–CAP) program has the most expertise in bringing these diverse requirements and capabilities together.

Mr. WALKER. Subparagraph (c) also calls on the Secretary of Agriculture and the NADA Administrator to jointly develop a proposal to provide farmers and other prospective users with supply and demand information about food and fibers. We do not intend that this section shall require or direct the NASA Administrator to conduct a program within NASA that does crop forecasting.

Mr. ROBERTS. The gentleman has hit the nail on the head again. This subparagraph is intended to urge the NASA Administrator to provide to the Secretary of Agriculture remote sensing data or interpretative tools that it develops under its normal activities, if and when such data and tools may be helpful in understanding the supply and demand for food and fibers. This is not intended to place any requirements for programs or research efforts on the NASA Administrator that add to NASA's current responsibilities.

□ 2330

Mr. Speaker, I reserve the balance of my time.

Mr. VOLKMER. Mr. Speaker, I yield myself such time as I may consume.

Before I yield to the gentleman, I would just like to observe that the little Mutt and Jeff or whatever kind of show that went on was quite a joke, and this bill is quite a joke.

Mr. Speaker, I yield 5 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me this time.

I would observe I have never heard my colleagues more eloquent.

I want to tell you at the outset that I feel badly all of you have to remain tonight for the debate preceding the vote. We asked the chairman to roll the vote. We are going to be here tomorrow. We might have had an extended debate, not inconveniencing you, but a full debate before the vote tomorrow.

The chairman refused the request to roll the vote, and that is why you will participate in the debate. We will not be rushed in our effort to get on the record our reservations about this bill. And I do not care what tactics they use to put us in an awkward situation debating the bill at 11:30 at night.

You are going to hear tonight a lot of thumping of the chests, a lot of patting on the back. We are passing a farm bill. You know, it is as though they did not realize the last farm bill expired at the end of 1995. We have had farmers all across the country considering very difficult decisions in terms of what to plant, what financing to get in place, not just the farmers but lenders, agribusiness men, all wondering about the actions of this Congress. As far as I am concerned, the House Ag Committee had one thing and one thing only to do in 1995, and that is get a farm bill passed. And the House Committee on Agriculture failed to do it.

Come 1996 January came and went, come February, against a vote that all of us opposed on this side of the aisle.

VOL
142
PT
5
MR
21
—
29
1996
UMI

The House voted to adjourn and went home, leaving several opportune weeks to get a farm bill in place wasted, as Members went back to their districts. Come March, the weeks start to toll, and now here, on March 28, and the chairman says we have to remain in session until sometime near midnight so we get a farm program in place for farmers.

I think it has been an absolutely shameful debacle of a process that has brought this bill that left the last farm bill expiring before we had a new program in place for our farmers, and that is just the start of my reservations about this particular farm bill before us.

I do not deny for a minute that the guaranteed payments, especially in the early going under the so-called freedom to farm bill we will be passing tonight, will be helpful to the farmers of North Dakota and across the country. It is what the farmers have been asked to give up for these early upfront payments that give me the most heartburn about this bill.

For decades we have preserved the safety net for family farmers, recognizing that they expose enormous amounts of capital, but have their fate turning largely upon market prices over which they have no control whatsoever.

We have provided a backstop when prices collapsed. We have given farmers a floor so that we do not drive them off their land, and this bill eliminates that hallmark of traditional family farm programs maintained by past Congresses.

What makes this bill even more troubling is that American farmers were assured in exchange for giving up this long-term safety net they would have regulatory relief. Well, there is a good deal in there about planting flexibility, and I think those are positive components of this bill. But if falls far short of regulatory relief. In conference committee the conference adopted an amendment proposed by the gentleman from South Dakota [Mr. JOHNSON] and myself to reform the swampbuster legislation. I think more reform was needed here. And yet, without question, farmers will find the increased flexibility somewhat helpful. More should have been done. The promise of regulatory relief really, I think falls short in delivery than what was promised. In many other ways, this bill is still superior to the freedom to the farm package that was before the House at the end of February. It contains an oilseed marketing loan and a fund for rural America, both provisions that we offered in the House agriculture committee, but they were defeated by the Republican majority Members. Now they are in the final report. It makes it a better bill. It does not make it a bill worthy of passage.

The debate on this bill has been long and contentious. It is unfortunate we did not have more of an opportunity for honest give-and-take in the terms of trying to resolve our differences. I think once the farmers of our Nation get a good look at this program, they will see that at the end of 7 years, they are left without a safety net, they are left without the freedom to farm payments, and they will realize that this deal has been a bad deal for rural America.

My sincere hope is that the Congress will have the chance to review and correct the grievous mistakes it is making in passing this legislation before the last family farmers in America are finally run out of business.

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Nebraska [Mr. BARRETT], the coauthor of the Freedom to Farm Act.

Mr. BARRETT of Nebraska. Mr. Speaker, I thank my chairman for yielding me this time.

Mr. Speaker, I do rise tonight in support of the conference report on H.R. 2854. I want to thank the chairman of the full ag committee for yielding to me and for his leadership in bringing this historic piece of legislation to this point.

I am pleased that Congress will pass the conference report tonight. It will unleash agriculture, the Nation's single largest industry, from antiquated programs, and excessive Federal control.

As the largest newspaper in Nebraska said on yesterday, it will allow farmers to, and here I quote, "throw away the crutch of government subsidies and break free from the unending flow of dictates from Washington."

Mr. Speaker, in the interest of time and because of the lateness of the hour, I will conclude my remarks at this time and insert a longer statement in the RECORD.

Mr. Speaker, I rise today in support of the conference agreement on the Federal Agricultural Improvement Act.

As chairman of the General Farm Commodities Subcommittee, I traveled across the country last spring to receive testimony on our Nation's farm policy. I chaired a total of eight different hearings. The full committee held many more. Farmers, bankers, producer groups, and agribusinesses all had a chance to be heard.

Mr. Speaker, there was a common theme running through that testimony the theme was give farmers the freedom to plant what they need to plant for the market, and give them the tools to do it. I'm pleased and even excited, that the 1996 farm bill does just that.

As I travelled my district this past weekend, listening to the excitement in farmer's voices as they discussed their planting options, I couldn't help but think of all the changes that have occurred in agriculture in America over the past few decades, and wonder why it ever took so long to reform farm policy.

Today, on farms across the country, computers and cellular phones are almost as common as tractors. Satellites, once used only at the Department of Defense, are now used to forecast weather, and track crop conditions. On the other hand, federal farm programs have not changed. They have not adapted to changing markets and advances in technology.

Since the Great Depression, the federal government has attempted to maintain a federally determined income standard for farmers. The government offered loans, price supports, cash payments, and even placed restrictions on the use of agricultural land.

Our economy is based on risk taking and competition—with few restrictions. These programs have made American agriculture run counter to most other sectors of our economy. Unfortunately, agriculture in America has not been market oriented.

I'm pleased that the House has before it today, a Farm Bill conference report that would allow producers to plant for the market, to make choices, to weigh risk, and to be in charge of their future. The FAIR Act reforms agriculture the American way, and I urge my colleagues to support the conference report.

Mr. VOLKMER. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in opposition to this conference report. Proponents of H.R. 2854 say that it represents reform of our antiquated federal agriculture policy. But I say it is business as usual.

Proponents of the bill say it reforms the peanut program—one of the most glaring examples of misguided agriculture policy. But that is simply not true. The cosmetic reforms included in this bill do not sufficiently address my concerns with this program.

The peanut program supports peanut quota holders at the expense of 250 million American consumers and taxpayers. The GAO has estimated that this program passes on $500 million per year in higher peanut prices to consumers.

The bill also lacks real reform of the sugar program. Like the peanut subsidy, the sugar program artificially inflates the price of sugar in America for the benefit of a handful of sugar growers. American consumers pay $1.4 billion more each year for products with sugar in them as a result of this program. That is a total consumer price tag of almost $2 billion for these two programs.

This conference report also includes a provision that was placed in the bill during conference without having been debated or amended on the floor. The bill creates the mis-named Safe Meat and Poultry Inspection Panel to review and evaluate food safety procedures, adding another hurdle to the Food Safety and Inspection Service's efforts to protect the U.S. food supply.

Mr. Speaker, this is an outrage. There are 4,000 deaths and 5 million illnesses annually in the U.S. as a result of food-borne pathogens. FSIS is trying to cut down this number, but they have been facing opposition every step of the way. This provision is another in a series of attempts to hinder their efforts. It was not in the House or Senate versions of the Farm Bill. It was not debated. It was not amended. Yet here it is in the conference report. This is no way to legislate.

Just last week Mike Taylor, the Undersecretary of Agriculture for Food Safety, came before the Agriculture Appropriations Subcommittee and told us how difficult it is for his agency to accomplish its goals of protecting our food supply with the limited budget it has been given. Now we are going to shoulder them with the fiscal burden of this panel. Unacceptable!

Mr. Speaker, this conference report is filled with provisions that send our agriculture policy in the wrong direction. We can do much, much better. I urge my colleagues to defeat this bill.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. POSHARD], our distinguished colleague.

Mr. POSHARD. Mr. Speaker, I rise today in strong support of the Federal Agricultural Improvement and Reform Act conference report, because I believe this legislation is good for our farmers, environment, and rural communities. The bill also moves us closer toward our goal of balancing the Nation's budget while allowing our farmers to provide consumers with high quality and low-cost food products.

This conference agreement provides our farmers with the flexibility they need to meet growing and changing market demands. Under the bill, farmers can plant most any crop on acreage subject to a production flexibility contract. In addition, these new production contracts will greatly lessen the amount of paperwork and time required of farmers who enrolled in farm programs of years past.

The conference report provides for continued marketing assistance loans to producers of program crops, as well as soybeans. In fact, the agreement includes an increase in the loan rate for soybeans that I am proud to say was added to the Senate bill by my Illinois colleague, Senator CAROL MOSELEY-BRAUN. The bill also reauthorizes the farm lending program, which has assisted many farmers and their families in my congressional district.

The conference agreement reauthorizes two very important programs that assist our Nation's farmers in continuing to be good stewards of our environment and lands, the Conservation and Wetlands Reserve Programs. These two programs have been very successful in making it cost-effective for farmers to set aside environmentally sensitive lands. While the conference report caps enrollment in the programs, it allows new acreage to be enrolled as idle land is taken out of the programs. The bill also provides $200 million annually for a new Environmental Quality Incentives Program which will provide technical and financial assistance to livestock producers and farmers to improve water quality.

The bill authorizes a new USDA Rural Community Advancement Program to provide grants, loans and loan guarantees to meet the rural development needs of our local communities. The agreement provides $300 million over 3 years for a fund for rural America which will be available for rural development and competitive research activities. In addition, the conference report reauthorizes USDA's rural water programs.

I am pleased the agreement reauthorizes various Federal agricultural research, extension, and education programs. These programs are essential to the future of our Nation's agricultural community and its future in the global marketplace. In Illinois, research and extension programs have played a major role in the Illinois agricultural community's success as a domestic producer and exporter of farm commodities.

I thank the conferees for working swiftly on the conference report so that our farmers can begin planning and planting this year's crops. This bill provides our farmers with flexibility, our environment with effective and reasonable protections, and rural communities with new and expanded ways to invest in needed infrastructure and economic development. I truly believe this legislation is a step in the right direction for our agricultural and rural communities, and I urge my colleagues to join me in supporting this agreement.

Mr. VOLKMER. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi [Mr. TAYLOR], who is an outstanding legislator and knows a little bit about agriculture, quite a bit.

Mr. TAYLOR of Mississippi. Mr. Speaker, gentlemen and ladies, last year, during the welfare debate, I heard speaker after speaker come to this floor and say that we had to end the practice of paying people to do nothing, that we should no longer pay people not to work.

□ 2345

Something remarkable happened that day. Every single Member of this body voted to no longer pay people for not working. Many of us supported the coalition plan, the rest of the folks supported the Republican plan, but everyone supported at least one plan that would stop paying people for doing nothing. And it was remarkable, and it was a good thing.

Unfortunately, in this bill there is a plan to pay people up to $80,000 a year per individual for 7 years to do nothing. You do not have to plant a crop, you do not have to work a field, you do not have to work fences, you do not have to start the tractor, you do not have to do anything. You do not even have to try to farm, and you get $80,000 a year.

Earlier today this body by a majority voted to raise the debt limit up to $5.5 trillion. We are spending $2 million every 4 minutes on interest on the national debt. Where do we stop?

I am not going to criticize the whole bill, but I can tell you, freedom to farm is a bad idea, because you can never wean people off Government dependence by paying them to do nothing, whether they are a welfare mother or whether they are a father who happens to be a farmer. It does not work. It does not work with welfare, and it will not work with farming.

Please vote against this bill.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I would like to point out to the House it is not just $80,000 to big investors that do not even live on the farm, they are in New York and Chicago and other places, they are getting the $80,000. They have not even been to the farm, and they are going to get the $80,000. But it is $36 billion, $36 billion over 7 years, to people that do not want to farm. That is right. Not $80,000; $36 billion. That is how much you are talking about, folks. Let us get the real numbers, Yes, $36 billion.

Mr. TAYLOR of Mississippi. Mr. Speaker, reclaiming my time, the new majority came to town promising to balance the budget, and yet this year's budget according to the Congressional Budget Office, will spend $270 billion more than we collect in taxes. If we can cut out anything, let us start with a program that pays people up to $80,000 a year not to go to work. Please vote against this bill.

Mr. VOLKMER. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I was sorry the gentleman from New York would not yield to me. He said there was a glass of milk here from Massachusetts. Yes, there is a dairy compact from New England, which I opposed, which I think will hurt the consumers which was not in the House bill or the Senate bill. As I understand it, it shows up in the conference report. Typical. If people want to know what contempt of Congress means, it is the way the House has been treated recently on major issues, with the minimum debate the rules of the House allow. And now I can understand why they do not want to debate this.

The gentleman from Mississippi talked about this program. This is the biggest welfare program we have left. It will be bigger than AFDC from the

VOL 142 PT 5 MR 21 — 29 1996 UMI

Federal dollar standpoint. What we are saying is, farmers will get welfare payments. There is a difference, however.

By the way, I am not the only one who first thought of this. I must give credit where credit was due. In 1990, RICHARD ARMEY, writing in the Heritage Foundation, said "If the goal of our farm programs is to help needy farmers, we should do so directly with welfare payments rather than with the complex and costly system of price supports. That would only cost $4 billion a year, rather than $12 billion."

Mr. ARMEY was a prophet, and that is what we are doing. We are giving to welfare to farmers because they are in need, rather than costly price supports. But the majority leader Mr. ARMEY is a little more expansive than the critic Mr. ARMEY, because we are going to do $35 billion over 7 years, so it is $5 billion a year rather than $4 billion.

Note it is 7 years. If you are a 3-year-old whose mother has not done everything she should have done, you get cut off after 2 years, as I understand it, in the bill. So the farmer's welfare lasts for 7 years.

Also if you are a 3-year-old, your parent has a work requirement. There is no work requirement in here for the farmers. There is not even, as I understand, it is a life requirement. If I am correct, under this bill a farmer who dies may pass on his share of these billions of dollars to his or her heirs.

So at the same time we talk about how tough we are going to be on the dependent children, we are going to cut them off after 2 years. We are going to have a work requirement. Very late at night, in the hopes there will be no debate, we are going to give $35 billion to able-bodied working people. As the majority leader said, "let's give them welfare instead of requirements," and they will simply get that $35 billion.

The inconsistency between the toughness that is meted out to the poor and the lavish and gentle treatment that goes to the favored political few is outrageous. What right do people have morally to condemn the poorest people in this country, to not even allow them to debate the minimum wage, to cut welfare, to cut Medicaid, to cut everything else. But the farmers, apparently free enterprise has no real meaning here.

Let us take $35 billion of deficit spending and simply give it to farmers because they happen to be farmers over the next 7 years. That is what is in the majority's bill, and that is why they are trying to burp this discussion and have it late at night and hit and run, and not have it talked about.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I would like to point out to the House that to get this money, all you have to do was be in the program 1 year out of the last 5 years. If anybody would come to this House and say that I have been on welfare, I have been on AFDC, or on food stamps once in the last 5 years, and therefore I am entitled to 7 more years of it, we would say they are crazy, they are lunatic, that is crazy. But that is what this is. That is identical to what this is.

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, let me just say, of course there is no foolishness in here about States rights. This is a pure, 100 percent unadulterated Federal entitlement. So we have fiscal discipline and toughness and harshness and work requirements and strict time limits for the very poor, but for those who can vote and those whose support politically is important to the majority, all of these hifalutin principles go out the window, and they are treated with a degree of consideration and care that the poor never get.

Mr. DE LA GARZA. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, we spend over $26 billion a year for food stamps, we provide additional monies for school lunch, for school breakfast, for temporary emergency food assistance, and for other assistance programs for migrants. No one can say that we are not attempting to care for the poor. Yet even as we try to provide assistance to the poor, we have managed to reduce expenditures in Agriculture programs in order to balance the budget.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in support of H.R. 2854

Mr. Speaker, it is with some considerable reservation that I stand here tonight encouraging my colleagues to vote "yes" for the 1996 [FAIR] Federal Agricultural Improvement and Reform Act. However, I suggest to you all that we must put philosophical differences aside and think clearly and with conscientious conviction about who, not what we are supporting. Today's vote is for American farmers and the communities with families who sustain them. If this were March 1995 and we were debating future farm policy, but had functional farm laws in place, I would be adamant in my opposition to this legislation because it removes the safety net from under these peoples' lives. Unfortunately, we don't have that luxury today. At this stage in the game, with planting and credit decisions still in limbo, we must believe that any further delay only imperils the livelihoods of millions of people. Even with all it's potential shortcomings and pitfalls, I have to accept this legislation as the best we can provide at this time. I would not have authored it, but the majority's views prevailed. Although I believe many of the aspects of this bill will come back and haunt us, our debate, limited as it was, is over for now. We must move forward and provide some degree of predictability and assurance to our agricultural producers.

If we force ourselves to stand back, remove emotion, and objectively view farm programs and their overall effects on society, it's apparent to me that the level of stability offered to markets by our support has allowed the American farmer to become the envy of the world. No farm programs that exist today are perfect; they never will be. From a long view though, they have been successful. It may be the time to embark on new social experiments but we cannot ignore or forget what has worked in the past.

The current leadership believes in a textbook free market, but this completely ignores the role of other governments that don't practice free trade. The recent GATT accord has not changed this. The European Union, for example, over the past 5 years outspent the United States 6 to 1 in terms of export subsidies, $10.6 billion versus less than $2 billion by the United States, and will be able to maintain its historical advantage under the GATT Agreement. American farmers cannot unilaterally disarm in an international marketplace. I don't know of a single farmer who wouldn't rather receive his income from the marketplace, but the real world is subsidized agriculture. This is one of the areas where our Government must stand shoulder to shoulder with us. We must use all our tools to boost commodity export: first, programs to help U.S. exporters compete in terms of price; second, programs to help importers obtain credit needed to purchase U.S. commodities; and third, programs to provide U.S. farm products as food aid.

All our efforts will be wasted however, if we neglect the infrastructure of rural America. We must continue to provide critical resources for rural communities as they work to address unmet needs at the local level. Water and sewer requirements alone cannot be met with the money that have been authorized. Research, education, extension, and seed money to develop value added programs are essential too, for rural economies to diversify and position themselves to compete in a rapidly changing global economy. Without public investment in stabilizing agriculture, you will witness further declines in rural America's security and strength.

The provisions of the FAIR Act will result in dramatic adjustments in U.S. policy and continues cuts in spending. Overall, numerous challenges confront U.S. agriculture—challenges of first, responding to competition in the global marketplace; second, ensuring a profitable, sustainable food and agriculture sector; third, safeguarding natural resources and the environment; fourth, ensuring balanced nutrition and a high-quality food supply; and revitalizing rural America. The stakes are high, but the opportunities and rewards are unlimited. Whether the agriculture industry continues its move forward or falls behind is largely dependent upon the vision and imagination of its participants. More importantly, we cannot be afraid to re-examine any policy as it relates to the vitality and stability of the sector it is meant to serve. With that in mind, I urge you to vote "yes" and put our farmers back to work.

Mr. VOLKMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to comment to the ones yelling "vote," I am the one that tried to get the chairman to roll the vote so you would not have to be here.

Mr. Speaker, I first would like to point out to the House, as the gentleman who started this debate on our side from North Dakota pointed out, that we are here tonight in a hurry to do something that should have been done last year in regular time, but it was not done, and it is not the fault of those of us on this side. It is the fault, no question about it, of those that are in the majority that did not do their job.

Now, the next thing, the decoupling that has taken place between asking farmers to do things to help provide a food supply for this country is gone. It is no longer in this bill. The farmer does not have to plan at all, and in some parts of this country this year you are going to see less planting, you are going to see less rice, I will guarantee you, than we have ever had for years, and you are going to see other things happen.

I talked to some agricultural economists about this problem. Mr. Speaker, what you are going to see in the future, right now we have shortages, so you have good prices, so you are going to see production. You are going to see all-out production. In about 2 years, with good crops, we are going to have overproduction, we are going to have oversupply. The price is going to drop, and the loan rate is capped in this bill, which means a lot of farmers out there are not going to make money.

All farmers do not get this payment. Let me remind you of that. In my district, 60 percent of the farmers get nothing from this bill. The gentleman from Kansas, the chairman of the committee, in his district 85 percent of the farmers get $30,000 a year, on average. My farmers, even those 40 percent, only get $3,500. Down in parts of Texas, cotton country, you get up to $80,000. In parts of rice country, you get around $60,000 to $70,000.

There is no longer going to be a Federal crop program. It is gone, as good as gone. So when you look at that adequate food supply, you are going to see fewer farmers, you are going to see shortages, you are going to go back to the time, it is all history, you are going to go back to the time when there were no Government programs basically, and the big cycle starts, not only in prices, but in food supply. Yes, in food supply. You are going to have ups and downs. And when you have the down, you understand, then you are going to have problems with people having food.

That is what you are getting out of this program. In the meantime, yes, big investors, bit people, 22 percent of that $36 billion is going to go to 2 percent of the farmers, and most of those people have never been on a farm. They are investors, most of them. Investors own farmers. They are going to get the big bucks.

I do not know why we cannot learn from history. I do not know why we have to go back to the days of old and go through the same problems with agriculture, but that is basically where this program leads you. In 7 years, they say we are going to wean them off after 7 years. I do not believe so. But there is going to be no incentives in this program for farmers to produce, as we do in our regular programs when we had the safety net.

We also have mechanisms to get people to produce certain crops so we can have additional crops if we need those crops. That is no longer here. That is gone. We have completely decoupled the programs of even what we call supply management from this bill completely. That is gone, folks. It is not in here anymore.

And this all is not new, this whole program is not brand new. But what is really interesting to me is to find that when this freedom to farm, they call it, I call it freedom not to farm, first surfaced last summer, overwhelmingly rejected by most people, especially on this side.

Well, I will say this to you, the gentleman from Kansas, Mr. Chairman, you have been persistent. You have wore them down. You have not worn me down. I said then and I will say now it is the wrong way for agriculture, it is a disaster for this country, and I say vote against H.R. 2854.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, I thank the chairman for yielding me time. I rise in strong support for this conference report, the most comprehensive reform of agriculture in my lifetime, the Federal Agricultural Improvement and Reform Act.

Mr. Speaker, I rise in strong support of this conference report and would like to congratulate my full committee chairman, Mr. ROBERTS and subcommittee chairman Mr. GUNDERSON for all their time and hard work.

For the first time Washington has seen fit to give producers the flexibility they have been demanding for years. The Federal Agricultural Improvement and Reform [FAIR] Act finally allows our farmers and ranchers to produce for the market instead of the Government.

The FAIR Act accomplishes the three goals that were set for this legislation: it transitions our agriculture sector towards the 21st century global economy; it saves the taxpayers billions of dollars; and it protects the environment.

The FAIR Act represents the most sweeping reform in agriculture policy in 60 years. It puts farmers, not the Government in charge of planting decisions. Farmers are no longer required to plant the same crops year after year to receive assistance, allowing greater crop rotation and less dependence on synthetic fertilizers and pesticides.

In addition to this the FAIR Act targets $1.2 billion over 7 years to assist crop and livestock producers with environmental and conservation improvements on the farm. Assistance can be used for animal waste management facilities, terraces, waterways, filterstrips, or other structural and management practices to protect water, soil, and related resources.

Producers, the first and best stewards of the land, are given enhanced flexibility to modify conservation practices if they can demonstrate that the new practices achieve equal or greater erosion control. It also takes measures to ensure the protection of the Florida Everglades, a national treasure.

This is the most environmentally friendly farm bill in history. We enhance the protection of the environment without new mandates, regulations, requirements and redtape. It makes the Federal Government a partner with producers in addressing environmental challenges, rather than an adversary. It is voluntary and incentive-based. Most importantly, it works.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I give strong compliments to the chairman, Mr. ROBERTS, and Senator DOLE for their leadership on this excellent farm bill we are about to pass. I rise today in strong support of the conference report to accompany H.R. 2854, the Federal Agricultural Improvement and Reform Act, historic legislation to completely overhaul this Nation's farm policy. Yet, as we move toward a more market-oriented agricultural policy in this Nation, one fact is easily overlooked in this entire farm bill debate—and that is Congress is about to pass the most environmentally sensitive farm bill ever. All of this is done without any new mandates, regulations, requirements or bureaucratic redtape. It makes the Federal Government a partner with agricultural producers in addressing agricultural changes, rather than an adversary.

In particular, I am especially pleased that this conference report contains $200 million for funding of land acquisition and environmental restoration activities in one of our true national treasures—the Florida Everglades. Additionally, the bill does something that we should be all proud to support. It allows the Federal Government to dispose of surplus lands, up to $100 million, within the State of Florida for the purpose of acquiring additional environmentally sensitive lands in the Everglades.

As the author of this provision in the House, I would like to take this time to thank those Members of Congress who worked so hard on finalizing this issue. First of all, I would like to thank Representative RICHARD POMBO from California, who was thrust into the role of attempting to reshape the legislation in conference and did an outstanding job in that role. Second, many thanks go to the House and Senate majority leadership—in particular Speaker NEWT GINGRICH who was especially instrumental in the role of discussing the idea of surplus land disposal for the purpose of environmental restoration.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Senator BOB DOLE played a vital role in inserting this language in the Senate bill when it was originally considered earlier this year. Special thanks go to my colleagues from Florida, especially the State's two outstanding Senators, MACK and GRAHAM—both who worked in a bipartisan fashion to craft an acceptable provision to work on behalf of the Florida Everglades. Finally, thanks to my 299 Members of Congress who originally gave their stamp of approval to my amendment on February 29, 1996.

Since there is no report language accompanying the Everglades provisions, I would like to further take this opportunity as the author of the House provision to explain in greater detail some of the background behind this measure.

The Everglades ecosystem is a unique national treasure that includes the Kissimmee River, the Everglades, and Florida Bay. Its long-term viability is critical to tourism, fishing, recreational activities, and agricultural industries as well as to the water supply, economy and quality of life for south Florida's population of more than six million people. Additionally, the restoration of the Everglades will have direct benefits to the Federal Government in that the Everglades ecosystem includes the Loxahatchee Wildlife Refuge, and two National Parks, Everglades National Park and Biscayne Bay National Park.

The State of Florida, in particular the State legislature has a long standing commitment to address the complex problems of the region and to restore this precious resource. Additionally, the agricultural industry south of Lake Okechobbee has committed up to $320 million for Everglades restoration as part of the 1993 Everglades Forever Act. While many would seek to find a single scapegoat for problems in the Everglades, I find this to be lacking in commitment to acting to preserve this precious resource. Therefore, today, it is important to remember that because south Florida is home to 7 of the 10 fastest-growing metropolitan areas in the country, restoration is clearly on a critical path.

It is clearly understood by all who are involved in the efforts to restore the Everglades that there is a significant gap in or scientific knowledge about ultimate ecological and water management needs of south Florida, and this necessitates continued detailed study. Yet, the framework for restoration and the design of major projects for land acquisition, water storage and restored hydrology is clear.

Restoration of one of the largest functioning ecosystems in the world is a massive undertaking, and success will depend upon the Federal Government, the State of Florida, and all local, regional, and tribal interests working in tandem. As the author of this language in the House, it is not my intent that these funds supplant any previous funds committed to south Florida for the purpose of Everglades restoration. However, it is my intent that the purchasing agents give the absolute highest priority to those lands owned by willing sellers but taxpayer dollars should not be wasted by paying more than fair market value for lands purchased with these funds. This underscores importance of the annual report to Congress by the Secretary of Interior describing all activities associated with the expenditure of these funds.

Mr. Speaker, this is a historic day for the Hose of Representatives, and a historic day for the Everglades. I'm proud to be the sponsor of this original language, and I now would encourage my colleague to support the final passage of this bill and urge the President to quickly sign this bill into law.

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Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. BOEHLERT], who has been such a help to us on the environmental section of the bill.

Mr. BOEHLERT. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I rise in strong support of this farm bill—a bill that is good for farmers, good for consumers, good for taxpayers, and good for environmentalists—categories that, I hasten to add, are hardly mutually exclusive.

I want to focus on two aspects of the bill, in particular—first, the dairy provisions. This bill eliminates the assessments farmers pay, phases out price supports, funds export promotion, and consolidates milk marketing orders. The bill, in short, saves farmers and taxpayers money without imposing new burdens on consumers or creating chaos for Northeast dairy farmers. I want to thank the farmers in my district and throughout our region for their patience, their time, and most of all their critical guidance during this protracted debate. They worked closely with my colleagues and me in the Northeast ag caucus, which I am privileged to cochair, and together we fashioned responsible legislation.

Now, let me turn to the conservation title of this bill, which is another cause for celebration.

This week the Washington Post has run a series of spirited editorials critical of Republican environmental initiatives. I hope the Post and others take notice of the revolutionary conservation measures included in the 1996 farm bill.

The 1996 farm bill is not only the greenest farm bill in the history of the Republic, it is the most significant environmental legislation passed in this Congress or the previous Congress, which by the way was Democrat controlled.

The over $3 billion provided in the farm bill for the Wetlands Reserve Program, the Conservation Reserve Program, the Environmental Quality Improvement Program, and the restoration of the Everglades will do more to improve water quality and wildlife habitat in this country than any bill proposed by the Clinton administration in the past 4 years. Millions of acres of environmentally sensitive lands across the nation will be protected.

Two weeks ago a conservation amendment to the farm bill, an amendment I authored, was adopted on the House floor by a vote of 372 to 37. A Republican amendment on the environment involving millions of acres of land and billions of dollars was approved with resounding bipartisan support.

Republicans have gotten the message on the environment, and unlike many in this town, we are responding with sensible, proenvironment, legislation like the 1996 farm bill.

The Republican Party is returning to its roots, as the party of conservation and sensible environmental protection. Teddy Roosevelt would be proud of the conservation initiatives being advanced in the 1996 farm bill.

I urge all my colleagues to support this proenvironment, profarmer legislation.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. ALLARD], a valued member of the committee.

Mr. ALLARD. Mr. Speaker, I rise in support of H.R. 2854. This is the most market-oriented environmental farmer friendly bill we have ever passed.

It balances the needs of producers and the needs of the environment, while providing significant regulatory relief to producers.

We reauthorize the Conservation Reserve Program which provides incentives to producers to idle environmentally sensitive land. The new CRP takes into account water quality needs important to midwestern states and soil erosion and wildlife habitat concerns of the Great Plains. The conference committee did a remarkable job of balancing the needs of different regions so we can all claim to be winners.

The conference report also provides money for the restoration of the Everglades. The provisions that we included will protect the Everglades and hopefully provide a model for restoration of other environmentally sensitive areas.

The conference report also establishes a new account that will provide mandatory money for cost share practices to reduce soil erosion and protect water quality. This program incorporates provisions from the legislation I introduced earlier this year, but expands it to include more money and more practices. It is an important program that will provide tremendous environmental benefits in rural and urban areas.

Also, the conference committee included language that will place a moratorium on actions by the Forest Service that have the effect of denying owners of water the use of that water through regulatory action. During the time this moratorium is in effect experts in the fields of public land law and Western water law will study this issue and issue a report on how to avoid the illegal taking of water from agricultural and municipal users. I am happy to have this provision in law, but want to make clear that it in no way recognizes the legality of recent Forest Service actions. The language in the conference report is an attempt to stop the Forest Service from taking actions that run counter to law and allow them to find alternatives to imposing by-pass flows and avoid law suites they would surely lose.

Finally, this legislation incorporates other important reforms that we can be proud of, such as; making the USDA loan process more responsible and allowing the Department to more quickly release inventory property. Reform of Conservation Compliance that will allow the Department and the producer to work in a more cooperative manner while reducing regulatory burdens on the producer.

This is groundbreaking legislation that I hope all of my colleagues can support.

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. EWING], chairman of the Subcommittee on Risk Management and Specialty Crops.

Mr. EWING. Mr. Speaker, I thank the chairman for a job well done.

I would just like to say a couple things about the peanut and sugar program, which were under my subcommittee. First, these programs will not cost the taxpayer one dollar. Yes, without these programs, you might have a lot more cost to the consumers in this country. I would remind the gentlewoman from New York, who was so critical of these programs, that these programs were so bureaucratic after decades of being controlled on that side of the aisle in farm programs that it would have truly been unfair to the people who farm and grow peanuts and sugar in America, a lot of little people, had we cut their legs off at the knees and expected them to go out of these programs immediately. These are a good transition to the marketplace.

Mr. ROBERTS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, all over this country, family farms have been disappearing in great numbers as a result of the failure of our current agricultural policy. In Vermont, in 1977, we had 3,300 farms. Today we have less than 2,000. All over the country this is happening. This is an American tragedy.

In 1989, some people in New England got together to figure out how we could save the family farm in our region, and they came up with a concept called the Northeast Dairy Compact. This compact could provide dairy farmers in New England finally with a fair price for their product, a fair price which they are not getting today. It is an opportunity to save the family farm. All six legislatures in New England overwhelmingly approved the compact; all six Governors, liberal and conservatives, approved the compact.

Mr. Speaker, originally when we voted on the bill, the compact was not in the farm bill, but today it is in the farm bill as a result of the work the conferees did. Mr. Speaker, the Northeast Dairy Compact could become a model for farms all over this country for regions all over this country. It is good for New England. It is good for America.

There is a lot in this bill that I do not support, but I certainly fervently support the Northeast Dairy Compact section.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I rise in support of this bill, the origins of which are partly in the Iowa plan.

Whether we call it the Fair Agriculture Improvement and Reform Act, the Agricultural Market Transition Act, or my favorite, the freedom to farm act, this is truly an evolutionary piece of legislation.

For the first time since the 1930's when Federal farm policy took shape, we will begin to remove the inside-the-beltway, Washington bureaucrat from the backs of the American farmer.

Although we had to wait until 1996, nearly an entire lifetime, I am pleased that this body has come to the realization that farmers, out in the fields, actually know more about farming than the bureaucrats in Washington do. In no small part do we owe our thanks to Chairman ROBERTS for bringing us to this enlightened state.

This is a good bill. It saves taxpayers money. It provides long needed flexibility. It makes good free-market sense. It is proenvironment. And it stops paying farmers not to plant.

Under the freedom to farm approach in this bill, we provide flexibility and develop a true safety net for our farmers. That is why the Iowa Farm Bureau Federation, the Iowa Corn Growers Association, the Iowa Soybean Association, the Iowa Pork Producers, the Iowa Cattlemen Association, and the Iowa Agribusiness Association all support this bill.

Those in opposition to this legislation will say that it either ends the safety net for our farmers or its is a free handout just like welfare. This is simply not true.

Opponents of this bill have a vested interest in maintaining the status quo. They want to continue to force the agricultural community to come to Washington, hat in hand. They want to continue the micromanagement of the farm. They want to continue to hamper development of robust export markets with top-down we-know-best policies.

A vote for this bill is a refjection of those failed policies of the past. A vote for this bill is a vote for reform. A vote for this bill shows the farmers of this country that this Congress truly cares about bringing agriculture policy into the 21st century. I commend Chairman ROBERTS for his efforts and I strongly urge my colleagues to support this bill.

Mr. ROBERTS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, taken as a whole, this is a good bill. There are a number of essential programs. For example, one-fifth of all the $210 billion global trade in agriculture belongs to the United States, and we have to protect ourselves. But our leadership in this area is under assault from all our competitors, whether it is Asia, Europe, wherever it might be. We must fight these unfair trade practices in agriculture and this bill does that.

This bill makes the first real reform in dairy policy in over a decade. This legislation is long overdue, and the reforms in here are long overdue, especially in the milk marketing order. The current milk marketing order is totally out of date. It is a relic of a bygone era when raw milk had to be transported great distances for processing. Today our dairy industry is highly efficient.

Mr. Speaker, while I support the overall bill, I must register my serious concerns about the provisions which establish a special dairy system for the New England region. In essence, this is Government-mandated protectionism for one segment of our Nation's dairy industry. When this bill is going toward a free market system, this particular provision takes us in the totally different direction.

Nevertheless, this is a good bill. Overall, it is a good bill. It makes major reforms that will help our farmers and our exporters. It will contribute to a stronger, more competitive and expanding agricultural sector, and it will help the United States remain the world's leader in agriculture in the 1990's and the 21st century. Remember, of the $210 billion export market in agriculture, one-fifth belongs to the United States, and we want to make sure we continue in that direction and this bill does that.

Mr. Speaker, taken as a whole, this farm bill is good legislation and should be passed. Let me address three provisions of the bill which I have worked on. Title 2 reflects the amendment which I offered along with Mr. BEREUTER, Mr. HAMILTON and Mr. HALL on February 29. This title reauthorizes and strengthens our agricultural trade programs.

These programs are essential to the competitive position of American agriculture in world markets.

Currently the United States has one-fifth of the $210 billion global trade in agricultural goods.

But our leadership is under assault, by our competitors in Europe, and Asia and Latin America.

In my Subcommittee on International Economic Policy and Trade, we carefully examined the competition in world agriculture.

The reality is, every major trading nation has programs to help their exporters take sales away from Americans.

We have to meet this competition. The amendment I offered, which is now part of this final bill, reflects the recommendations of every major farm group in the country.

This title extends our export credit programs for farm goods.

These programs support $3 billion in farm exports.

This title also improves our programs to combat unfair trading practices in agriculture.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Without these programs, we would have no defenses against the predatory financial inducements that other countries use to undercut American farmers and exporters.

This title also reauthorizes and reforms our food assistance programs, which are vital to the relief of starvation and suffering around the globe.

In our domestic farm programs, this bill makes the first real reforms in U.S. dairy policy for more than a decade. In particular, this bill requires long-overdue reforms in the milk marketing order system.

The bill incorporates the approach I recommended in legislation which I have sponsored for a number of years. The current milk marketing order system is an out-of-date artifact of a bye-gone era when raw milk had to be transported great distances for processing.

Today, our dairy industry is highly efficient, but the old pricing system remains. Efficient dairy farmers in Wisconsin and other Great Lakes States are penalized under this unfair system.

This legislation is a major step toward reform.

While I support this bill overall, I must register my serious concern about the provisions which establish a special dairy system for New England regions.

In essence, this is Government-mandated protectionism for one segment of the Nation's dairy industry.

It goes against the rest of the bill, which moves American agriculture toward a more market-oriented system.

Nevertheless, this is a good bill overall.

It makes major reforms that will help our farmers and our exporters.

It will contribute to a stronger, more competitive and expanding agriculture sector.

And it will help the United States remain the world's leader in agriculture into the 21st century.

Therefore, I urge my colleagues to join me in voting for this landmark legislation.

Mr. DE LA GARZA. Mr. Speaker I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I voted against this bill the first time it came before the House of Representatives and voted against it in committee. I had serious reservations then and still I have some reservations now. But, I will take comfort in the fact that this conference report is the best legislation for our farmers and ranchers that we can achieve at this point in time. I am certain though that we will revisit this topic in the near future.

It is obvious that this legislation is greatly improved from when it left the House. Cognizant of that fact, I will reluctantly support this bill. The conference report now includes funds for nutrition programs that were not present in the House version, funds for environmental improvement programs, and conservation programs and funds for rural development; however, I do not believe that the rural development funds are sufficient to meet the existing needs in our communities.

I believe so strongly in funding rural development properly that I introduced an amendment in the Agriculture Committee that asked for $3.5 billion for the Fund for Rural America. However, the amendment was defeated in committee by a party-line vote. It was then reintroduced as an en bloc amendment by the ranking minority member KIKA DE LA GARZA during floor consideration. Even though the amendment was again defeated in a roll call vote, the Senate version of the bill included the $3.5 billion for Rural Economic Development. Ultimately, the final figure was wheedled down to $300 million during the conference deliberations—only a drop in the bucket. But, I do think that these limited funds are a step in the right direction and will be well spent on the infrastructure and research needs of rural America.

I realize that small family farmers still need help while many of the traditional safety nets are being removed. After lengthy deliberation I have decided that farmers must have some protection and ability to farm their land.

We are fast approaching the planting season and need to begin to identify ways in which we can help our farmers put their crops in the ground.

I was also heartened that the conference report retains permanent agricultural authorization law, thereby reducing the chances that farmer programs would end altogether after the year 2002, when the authorization for the production flexibility contracts expires.

In addition, I was pleased to see that the peanut program was not abolished outright, but instead reformed substantially.

The conference report was also stengthened as it retained the Senate language for the new Environmental Quality Program [EQIP], which would provide payments to livestock producers and farmers for nutrient and manure management to improve water quality.

I urge my colleagues to join me in supporting this conference report.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. FARR],

Mr. FARR of California. Mr. Speaker, I rise this evening in support of this farm bill. It is not perfect. Freedom to farm certainly deserves a lot of debate. But this bill is better than no bill. California farmers in my district are the most productive specialty crop growers in the world. They produce $2.5 billion worth of fresh vegetables a year without any Federal price supports or even Federal water. But even market-driven agriculture needs a national farm policy and a vision toward the future. Conservation, research, rural development and market promotion are areas that need a Federal partner.

Mr. Speaker, I am happy that this farm bill is a major step in building this new national agriculture policy. This bill begins to draw the line, the green line, to stop urban sprawl from paving over prime ag lands, and I am particularly happy that this bill makes the Federal Government a partner with the States in efforts to protect prime farm land from urban sprawl.

I am also glad that this bill allows the Secretary to provide seed money grants to private food programs that bring fresh, healthy food to low-income communities. I urge the support of this bill.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is not perfect legislation, but I feel that we should approve it because it addresses all of the areas of concern to rural America; from feeding the poor to making affordable improvements out in the rural areas.

Mr. Speaker, let me say that in 1981, I managed my first farm bill. This is the fourth time that I rise to support a farm bill and it will be my last time that I do so. I stated then that it was a long, long way from the banks of the Rio Grande to Washington, DC. A poor boy shining shoes in the streets of Mission, TX, to managing a farm bill. It is with great pride now that I do so. This will be the fourth time I have managed a farm bill, this is the greatest number of anyone who has served in this House.

I ask you to support this legislation, not because of myself or what I have done, but because it is the art of the possible. Legislating is the art of the possible. What is possible now may not be possible 1 hour from now. It addresses human needs. It addresses the issues of the poor.

We are the best fed people in the world, in the history of the world, for the best amount of disposable income per family. We have the best quality food in the world. A lot of the costs that people complain about are for the many other areas in agriculture such as meat inspection and poultry inspection. That is not to say that agriculture programs are perfect. Now and then you have a fault, but the intent is to help farmers provide reasonable, safe, and affordable food. We have gone, I think, Mr. Speaker, a long, long way in helping ensure that we are the best fed people in the world in the history of the world.

Mr. Speaker, I would like to thank the chairman for his kindness to me; his working with me. This is not perfect legislation. I have never said that any bill that I brought to the floor was perfect legislation. If there are flaws in this bill, they may yet be corrected in the future. We have reduced the budget deficit. Agriculture has reduced the deficit over $60 billion in the past 10 years. If every committee in the House had done that, we would not be worried about a balanced budget. We have reduced that, but we have done it quietly. We have done it with a scalpel, not with a meat ax. You should be proud of what agriculture has done and what we have worked for and what we will continue to work for. But for me today, this is my last hurrah.

Mr. Speaker, I yield to the gentleman from Kansas [Mr. ROBERTS], my chairman.

Mr. ROBERTS. Mr. Speaker, I thank the chairman emeritus of the Committee on Agriculture for yielding to me.

Note for my colleagues in the House, I know the hour is late, but note that I said the chairman emeritus of the House Committee on Agriculture. The gentleman from Texas, Mr. KIKA DE LA GARZA, is not the ranking member. He has been our leader, and in words that I cannot describe, the real chairman emeritus of the committee.

The fourth farm bill. He has seen us through the despair and the farm crisis days of the 1980's. He has seen us during unprecedented good times in the modern miracle of agriculture. He is without question the international secretary of state of agriculture. He has led the committee with comity, with leadership, with decency and always with a revering institutional memory of our committee. I think it is time that the House of Representatives rise and a thank you and a tribute to KIKA DE LA GARZA.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, I accept your ovation on behalf of all of those who were the wind beneath my wings when we flew.

Mr. Speaker, let me say that I thank all of my colleagues, and one final time, let me say that a long time ago I went on a submarine. I asked the commander how long he could keep that submarine underwater. We knew that the other side knew where our troops were, where our ships were, where our planes were. The only thing the other side did not know was where that submarine was under the ice cap. Because of this deterrent peace and democracy came out the winner throughout the world.

When I asked the commander how long, he said, "As long as I have food for my crew."

Mr. Speaker, it was farmers and ranchers of America for whom we worked tonight that brought the peace, that brought democracy, that made us the leader in the world we are today, and I dedicate this, my last words, to them who have kept us fed—the best fed people in the world.

Mr. Speaker, I support the conference report on H.R. 2854. I do this with the recognition that this conference report is not perfect. Most legislation that we pass in Congress is not perfect.

As I have said before, legislation is the art of the possible, and what is possible at this moment may not be possible 1 hour from now. However, as with any legislation, we as elected representatives must evaluate and decide whether or not, in its entirety, a specific piece of legislation addresses the concerns of our constituents. I have decided that this bill does just that.

When the Agriculture Committee started the legislative process on H.R. 2854 we were very much divided, not only along regional lines, as most farm legislation is, but also along partisan lines. I am glad to report that the partisan differences have disappeared and we were able to come together as a body to do what is best for American agriculture.

When we started this process, I had three major areas of concern. First was the lack of recognition that agriculture has contributed more to deficit reduction than any other major entitlement program—and continues to do so. Yet, we were being asked to cut more than any other sector. This bill saves over $2 billion from the December baseline, and we are proud of the fact that agriculture is the only entitlement program to enact real budget deficit reduction this Congress.

Clearly, agriculture has more than met its responsibility to budget deficit reduction. Indeed, with this bill, agriculture—once again—continues to contribute more than its fair share to budget deficit reduction. Once again, agriculture leads the way to a balanced budget.

My second concern was centered on the lack of a safety net for farmers and therefore for consumers. Let everyone understand, to the extent that there is volatility in commodity prices, consumers will pay. We tried to design agricultural programs in the past that would ameliorate wide fluctuations. Were the programs perfect? No. Is this program perfect. No. However, this bill does go a long way in addressing flexibility and commodity distortions. Still, I am concerned that the loan rates may be too rigid in times of low prices.

We are able to maintain the 1949 Act as permanent law. Although most would not advocate implementing the 1949 Act, it is important in that it reaffirms our future commitment to farmers and it will give us the impetus needed in 7 years to actively address agricultural programs.

Frankly, I am concerned about the political ability to maintain these guaranteed contracts in times of high prices or record farm income. However, I must trust that future Congresses will have the wisdom to do what is best for agriculture.

My third concern was that the House bill failed to address the totality of circumstances in rural America. Gone is the time when we as policymakers could rely on farm programs alone to provide rural development. The country is much more complex than that today. People need telecommunications and business and industrial development in addition to the very basic infrastructure development of water and waste water facilities.

The Fund for Rural America goes a long way in addressing these rural development needs. By providing additional money for research it provides resources for the future of agriculture. It is through research that we will maintain our status as the premier food production system in the world.

In addition, by reauthorizing the nutrition programs we ensure that our less fortunate neighbors are not left out. To those who want welfare reform, reauthorizing the programs for 2 years still allows us to do what we need to do to get people to self-sufficiency while at the same time providing certainty to the beneficiaries of the continuation of the programs.

Once again, I support this bill. On the whole, it addresses my concerns regarding rural America, and I am hopeful that it will meet the needs of American agriculture and our Nation as we move into the 21st century. To the extent that problems arise during the next 7 years, I am confident that corrective action can be taken to address any such problems.

Mr. Speaker, I yield back the balance of my time.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

I would like to entertain a colloquy with the distinguished chairman of the Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE]. I would ask the sponsor of the just-passed Congressional Review Act of 1996, the gentleman from Illinois and chairman of the Committee on the Judiciary [Mr. HYDE], whether the bill, if signed by the President this week will apply to the Department of Agriculture's rules that will be promulgated under the Federal Agricultural Improvement and Reform Act.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, yes, I will inform my colleagues that all Federal agency rules will be subject to congressional review upon enactment of the Congress Review Act.

Mr. ROBERTS. Mr. Speaker, obviously the rules implementing the Federal Agriculture Improvement and Reform Act will have a large economic impact on the agricultural community and farmers. I ask the distinguished chairman of the Committee on the Judiciary, if the Department of Agriculture were to issue major rules under the Federal Agriculture Improvement and Reform Act, will they be held up for 60 calendar days by the Congressional Review Act?

Mr. HYDE. Mr. Speaker, if the gentleman will continue to yield, yes, my colleague is correct. If any Federal agency issues what the Congressional Review Act defines as major rules, those rules would not be allowed to go into effect for at least 60 calendar days. However, I advise my colleague that the President, by executive order, may declare a health, safety or other emergency, and that particular major rule would be exempt from the 60-day delay. I would add that the President's determination of whether there is an emergency is not subject to judicial review.

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Mr. ROBERTS. As the chairman of the Committee on the Judiciary may know, we in the conference on H.R. 2854 did not contemplate such prompt enactment of the congressional review bill. I would inform the chairman that H.R. 2854 requires that the Secretary of Agriculture, within 45 days of enactment, offer market transition contracts available to eligible producers. These contracts must not be further

VOL
142
PT
5
MR
21
—
29
1996
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delayed, or they will not be effective for the 1996 planting season. Moreover, these contracts are worth billions of dollars, and they are certainly going to qualify as major rules under the Congressional Review Act.

Would the chairman agree that these major rules are the type that are contemplated by his committee as qualifying for the emergency exemption available to the President?

Mr. HYDE. Yes, I agree with the chairman of the committee that the other emergency exception from the 60-day delay of major rules was included for this kind of circumstance. Certainly, it would be totally appropriate for the President to determine by Executive order that the market transition contract rules promulgated this spring under the Federal Agriculture Improvement and Reform Act are emergency rules that would not be subject to the automatic 60-day delay.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman from Illinois [Mr. HYDE].

Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Ohio [Mr. BOEHNER], a valued member of the committee.

Mr. BOEHNER. Mr. Speaker, we are here, and over the last year I think all my colleagues know that none of us at any time thought we would ever get here, but I want to congratulate the chairman of the committee, Mr. ROBERTS, for the work that he has done to guide this bill throughout the last year. He has done a marvelous job, along with the members of our committee.

Let me also say to the gentleman from Texas [Mr. DE LA GARZA] and to the gentleman from Texas [Mr. STENHOLM], who were great partners along the way, sometimes difficult moments, but they were a great help to us in the conference. This is an effort that was a team effort, and all of us are to be congratulated for the job we have done on behalf of American agriculture.

Mr. ROBERTS. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I thank the distinguished chairman of the committee for yielding this time to me, and I first want to commend him for the outstanding job of leadership that he has provided us during this most difficult year as we have undertaken agricultural restructuring in a legislative sense. He is to be highly commended for his patience and his many enduring qualities including his patience with me.

I finally want to say hail and farewell in just this momentary sense to our dear friend, the gentleman from Texas [Mr. DE LA GARZA]. I would like to associate myself with his remarks here this evening. Our chairman emeritus has always spoken with the most deeply felt passion about America's No. 1 industry, agriculture, and his voice will continue to be heard, I am sure, even though after this year he will no longer be speaking from this Chamber.

So, I say to the gentleman, "KIKA, God bless you, and thank you for all the great efforts that you have made over the years. You have been truly an inspiration."

Finally, Mr. Speaker, I rise in support of the measure before the House.

Mr. SPEAKER, I rise in support of H.R. 2854, the Federal Agriculture Improvement and Reform Act of 1996. This conference agreement will provide American farm producers with a definitive farm program plan as they begin planting the 1996 crop and prepare for a new crop marketing year. This bill gives farmers the direction they need while also delivering the U.S. taxpayer a program that represents budgetary savings over the next 7 years.

For many years now, the American consumer has enjoyed the most abundant and affordable supply of food and fiber in the world. Our Nation's Federal agricultural policy is responsible, in part, for this success and it is on that foundation that we must work toward the future.

The world around us has evolved over the past 6 years and now our agricultural livelihood must evolve in response to those changes. As we prepare for the next millennium of American agriculture, we will look to the future and see a global market that is more critical to the American producer than ever before. Moreover, in some reaches of the globe, the outlook has never looked so promising.

This conference agreement before us today is a step forward in the evolution of farm policy. H.R. 2854, the Federal Agriculture Improvement and Reform Act, includes budgetary saving provisions contained in the Balanced Budget Act of 1995. It represents sweeping change in farm policy by presenting farm producers with greater flexibility to pursue profits from the marketplace, but retains elements of the policy that has served us so well over the years such as the nonrecourse marketing loans.

This measure also contains improvements to the widely supported Food for Peace Program, which build on the successful aspects of the program by making modifications to refine and update the existing structure.

The Federal Agricultural Improvement and Reform Act represents compromises made to help ensure that producers in all regions of the country will make a smooth transition to a more market-oriented program. Most importantly, it offers the regulatory reform and flexibility that farmers have been seeking to help them plant for the world market rather than the U.S. Government. Moreover, H.R. 2854 moves future farming generations toward a more secure financial future by helping attain our responsible balanced Federal budget goals.

Today, we have the opportunity to get our Federal fiscal policy and farm legislation back on the right track through the passage of this conference report—I strongly urge its adoption.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I say to the gentleman from Missouri, "Mr. EMERSON, we love you, man."

And to Mr. POMEROY and Mr. TAYLOR and Mr. VOLKMER, good friends of mine all, I have a lengthy, lengthy refutation as to why freedom to farm is not welfare, and how we have halved the budget in regards to agriculture and saved $10 billion. But I am just going to autograph what I have down here, and turn it in, and revise and extend.

THE MARKET TRANSITION PAYMENT AND THE WELFARE MYTH

The political rhetoric: Currently within the agricultural community there are some who seem to be concerned with the appropriateness of federal payments—"market transition payments" under the Agricultural Market Transition Act—for farmers during periods of high prices. Some even liken market transition payments to welfare. Agriculture Secretary Dan Glickman, in recommending a Presidential veto of the Balanced Budget Act, restated this position:

> . . . As we move to balance the budget, farmers should not receive windfall payments when market conditions are good. They should receive assistance when in greatest need—when prices are low, as provided for by the current structure of programs. . . .

I have highlighted "market conditions" and "low prices." This statement may reflect the Secretary's thinking, but is the statement accurate in the real world of agriculture? First, farm programs are not welfare and partisan statements equating farm programs with welfare do a disservice to farmers and ranchers.

Check Webster's—Agriculture doesn't fit the definition of welfare: One of the most unfair arguments against farmers is to say that agriculture payments—of any kind—are welfare payments. Under current law, to receive "welfare," whether it's food stamps or Aid to Families with Dependent Children (AFDC), an individual simply meets the definition of "disadvantaged" to receive government assistance. In total contrast, farmers work on their land, and receive a payment for agreeing to a variety of conditions. FIRST, farmers must adhere to environmental mandates—conservation compliance and wetlands requirements—in return for a federal payment. There is a clear exchange of beneficial environmental practices for benefits received by farmers in the program. Second, the federal payment helps to offset unfair trading practices under which farmers live. Farmers are at the mercy of many trade restrictions. Major markets in the Middle East such as Iran and Iraq are under export embargoes. Threats to continued trade with China also pose significant concern in American agriculture. And finally, due to federal assistance, U.S. farmers can ensure a stable and affordable food supply for American consumers. A federal payment is a small price for a national food supply that guarantees the basic staples of bread, meat and milk at the lowest prices in the world.

What about "high and low prices" and farm income: Those who call a market transition payment "welfare" follow the basic proposition that Congress cannot justify paying farmers when prices are high because they would get an enormous "windfall." For this scenario to work, farmers must be selling above average quantities of commodities at very high prices. But, does that often happen? The answer is no.

Here's how it really works: Think of the basics of supply and demand: When supplies are tight, prices go up; when supplies are excessive, prices drop. Supply—tight or excessive—usually determines a windfall profit. Farmers receiving a windfall through a market transition payment during periods of high commodity prices, as Secretary Glickman indicates, depends upon whether farmers actually have a commodity to sell.

Follow this example: Consider the two following scenarios that a wheat farmer could face:

High prices: Wheat: $5.00 per bushel; average production: 15/bu./acre; Gross Revenue acre: $75/acre.

Low Prices: Wheat: $3.00 per bushel; Average Production: 40 bu./acre; Gross Revenue/Acre: $120/acre.

Who's right?: Under the current government program in the situation outlined above, the farmer should receive a payment in the year of relative low prices even though his income is higher. In fact, those who complain about giving a payment when prices are high cannot justify their view when you compare farmers' gross revenues. When you actually look at the real world facts, the rhetorically-popular "welfare" argument no longer hold up.

Market transition payments allow farmers to manage their own destinies: A market transition payment gives the farmer responsibility for his own economic life. Just as farmers will need to look to the market for production and market signals, the Agricultural Market Transition Program will require farmers to manage their own finances to meet market swings. Government is out of the business of running the farm.

Don't believe us—check with the economists: The economic consulting firm of Abel, Daft, Earley and Ward looked at the calculations and agreed. They said, "variations in production more than offset variations in market price, usually in the opposite direction. While market prices typically are lower with a larger crop, the positive impact of an increase in crop size on crop value more than offsets the negative impact of a lower market price. And, the reverse is true as well. The increase in market price associated with a small crop is typically not sufficient to offset the negative effect a small crop has on crop value."

How to avoid a $2 billion payback disaster: The facts prove that the market transition payment is NOT welfare for farmers. Indeed, it actually corrects a major flaw in the present target price system. High prices, but no crop, means farmers have to pay back their advance deficiency payments. Without a crop or federal payment, farmers have repeatedly called for disaster assistance in the past—which costs billions of dollars. That's why the market transition payment is a sound basis for the transition out of a 60-year-old government-run farm program. The key in looking at the policy options is to consider farm income, not high price.

What about "market conditions": Market conditions involve much more than price. One "market condition" could be the circumstance of weather-related factors. The market transition contract will provide payments in lean years as well as in a year such as this when production is down in various regions of the country, but prices are strong. One thing is very clear: The market transition payment is not a welfare payment.

THE FEDERAL AGRICULTURAL IMPROVEMENT AND REFORM ACT IS RESPONSIBLE TO TAXPAYERS

1. Average expenditures for commodity and export programs in this farm bill are significantly less than previous farm bills.

Average expenditures for commodity and export programs (CCC expenditures): 1985 Act–$15.5 billion per year; 1990 Act–$10.6 billion per year; HR 2854–$6.7 billion per year.

2. Budget Certainty. Expenditures are capped so that ag program spending is no longer an open-ended entitlement.

CBO is the 1985 farm bill would cost $55 billion over 5 years—it cost nearly $80 billion.

The 1990 farm bill was supposed to cost about $41 billion—instead it cost $56 billion.

Under this bill there is budget certainty—expenditures will not exceed $47 billion on farm programs and ag. export promotion programs.

3. Payment limitation is reduced by 20 percent, to $40,000 from the current level of $50,000.

4. Part of the payments are really to compensate producers for the fact that deficiency payments have been capitalized in land values. The transition payments will buffer any shocks to land values that may come about as we move to a more market-oriented agriculture.

5. The Market Transition Payment recognizes the fact that high prices do not translate into high income levels. Often the reason prices are high is because farmers didn't have a crop and a high price times no crops does not equal high income.

6. Payments are based on 85 percent of each farm's former base acres and program yield multiplied by the per bushel payment. Estimated average payments are corn: 36 cents per bushel, wheat: 63 cents per bushel, upland cotton: 7.3 cents per pound and rice: $2.43 per cwt.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, March 20, 1996.

Hon. PAT ROBERTS,
Chairman, Committee on Agriculture,
Washington, DC.

DEAR MR. CHAIRMAN: Although the Speaker declined to name members from the Committee on Resources as conferees on the House and Senate farm bills, both measures do contain provisions which fall within the Committee on Resources' jurisdiction. I am sending this letter to confirm our continued jurisdictional interest in these provisions and hope that you will take our views into consideration during the conference on S. 1541 and H.R. 2854.

Senate bill (S. 1541)

Section 313, Wetlands Reserve Program. Section 313 of the Senate bill amends the wetlands reserve program of the Food Security Act. As the primary successor in interest to the Merchant Marine and Fisheries Committee, the Resources Committee received its jurisdiction over "fisheries and wildlife, including restoration and conservation". The Merchant Marine and Fisheries Committee has successfully argued that the crucial role that wetlands serve as habitat for migratory waterfowl, their contribution to the nutrient base and habitat for many species of fish and wildlife (including endangered species) at critical stages in their development and their function in shoreline protection and flood protection all gave that Committee a strong jurisdictional interest in legislation affecting wetlands. The Merchant Marine Committee's jurisdiction over bills affecting wetlands, including those amending or affecting the Food Security Act, have long been recognized, with the Committee receiving sequential referrals on the wetlands provisions of the farm bills in both 1985 and 1990. The 1985 Food Security Act report (H. Rept. 99-272, Part II) states "(t)he Merchant Marine and Fisheries Committee's jurisdiction over fish and wildlife, including habitat, provides the basis for Committee jurisdiction over legislation affecting wetlands". Most recently, the Merchant Marine Committee was also represented on the 1990 conference on the Food, Agriculture, Conservation and Trade Act. Finally, the Resources Committee itself has received referrals of wetlands bills in the past (see H.R. 1203, a bill to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of wetlands by the acquisition of wetlands and other essential habitat, referred to the Committee on Interior and Insular Affairs in the 99th Congress).

The changes proposed to the wetlands reserve program in section 313 of the Senate bill will enhance benefits for fish and wildlife while also recognizing landowner rights. We have no objection to including the measure in the conference report as long as our jurisdictional interests in this matter continue to be recognized.

Section 545. Cooperative Work for Protection, Management, and Improvement of the National Forest System. The Committee on Resources has jurisdiction over "forest reserves . . . created from the public domain". This provision would affect the operation of these forests. With this understanding of our jurisdictional interest, however, we have no objection to having the provision included in the conference report.

Section 554, Wildlife Habitat Incentives Program. This section establishes a $50 million Wildlife Habitat Incentive Program overseen by the Secretary of Agriculture. The program will provide payments to landowners to develop "upland wildlife, wetland wildlife, threatened and endangered species, fisheries and other types of wildlife habitat approved by the Secretary."

We are sympathetic to the policy underlying this measure, which is similar to provisions included in H.R. 2275, reauthorizing the Endangered Species Act of 1972. However, we also believe that, based on the arguments outlined above, the Committee on Resources would be the primary committee of jurisdiction should this provision be introduced as a separate bill. We have no objection to its inclusion in the conference report, but will fully exercise our jurisdiction over the implementation of the program in the future.

Section 557, Clarification of Effect of Resource Planning on Allocation or Use of Water. Section 557 amends the Forest and Rangeland Renewable Resources Planning Act and the Federal Land Policy and Management Act to ensure that private property rights, including water rights, will be recognized and protected in the course of special use permitting decisions. The Committee on Resources shares jurisdiction over these laws based on its jurisdiction over "forest reserves and national parks created from the public domain". Section 557 would affect the management of National Forests created from the public domain.

We agree with the policy underlying these amendments and would have no objection to including the provision in the conference report with this recognition of our shared jurisdiction.

Section 824, Aquaculture Assistance Programs. The Committee on Resources enjoys jurisdiction over aquaculture, as outlined in

VOL
142
PT
5
MR
21
—
29
1996

the discussion below. The amendments made by this section to the National Agricultural Research, Extension, and Teaching Policy Act of 1977 implement the National Aquaculture Act referenced below for the Department of Agriculture. Although we prefer that all aquaculture activities take place as part of the larger aquaculture plan developed under the National Aquaculture Act, the amendments made by this section are acceptable and we have no objection to including this provision in the final conference report.

Section 872, Stuttgart National Aquaculture Research Center. This provision is a slightly modified version of H.R. 33, a bill introduced in the 104th Congress by Congresswoman Lincoln to transfer a fish laboratory in Arkansas from the Department of the Interior to the Department of Agriculture. The bill was referred solely to the Committee on Resources, and passed by the House of Representatives on December 18, 1995, by voice vote under Suspension of the Rules.

With this understanding of our jurisdiction, we have no objection to including this measure in the conference report, with one change. We noticed after passage in the House that the bill contains a typographical error: it refers to "station and stations"; it should be "station or stations" to execute properly.

Section 873, National Aquaculture Policy, Planning and Development. This section amends the National Aquaculture Act of 1980. The bill creating that Act (H.R. 20, 96th Congress) was referred originally to the Merchant Marine and Fisheries Committee. I was an original cosponsor of the measure. After it was reported, it was sequentially referred to the Committee on Agriculture. The reauthorization of the law in 1984 was provided for in H.R. 2676 (98th Congress); the referral pattern is the same. The law was again reauthorized in 1985 as part of the Food Security Act of 1985, which incorporated the National Aquaculture Act reauthorization measure H.R. 1544, a bill referred originally to Merchant Marine and sequentially to Agriculture. Finally, the Act was reauthorized in 1990 in the Food Security Act of 1990. As stated earlier, the Merchant Marine Committee received a sequential referral of the 1990 and 1985 farm bills, including a referral of sections of the bills dealing with aquaculture.

In addition, in the 103rd Congress, Congressman Studds introduced H.R. 4853, which amended the National Sea Grant College Program Act and the Coastal Zone Management Act to enhance marine aquaculture in the United States. This bill was referred solely to the Merchant Marine and Fisheries Committee. Mr. Studds also introduced H.R. 4854, which amended the National Aquaculture Act of 1980; that bill was jointly referred to the Merchant Marine and Agriculture Committees. Finally, in the 103rd Congress, Congresswoman Lambert introduced H.R. 4676, a bill which looks remarkably similar to Section 873. This bill was also jointly referred to Merchant Marine and Agriculture Committees. It is very clear that the Committee on Resources has a substantial jurisdictional interest in aquaculture.

Section 873 makes radical changes to the National Aquaculture Act, including changing the definition of "aquaculture" to exclude private ocean ranching of Pacific salmon in a State where such salmon is prohibited by law. In addition, the section adds a definition of "private aquaculture" to include the activities of "the Federal Government, any State or local government, or any Indian tribe recognized by the Bureau of Indian Affairs." Most importantly, the amendments to the National Aquaculture Act strips the co-equal decision making authority of the Secretaries of Interior, Commerce and Agriculture in developing Federal aquaculture policy, and gives this authority to the Secretary of Agriculture, with a mere consultative role for the other Secretaries. In short, if adopted, these proposed amendments would cede authority for all forms of aquaculture, both onshore and offshore, to the Department of Agriculture.

This is a major policy departure from the original Act. In the 1980 law, it is clear that all three Departments will have equal status in developing policy, regulations and the continuing assessment of aquaculture in the United States. In fact, the Act authorizes equal funding for the three Departments for Fiscal Years 1991, 1992 and 1993.

While changes to the National Aquaculture Act may be warranted, we have not addressed this issue during the 104th Congress. Therefore, until the Committee on Resources has had an opportunity to examine the need for change in United States aquaculture policy and these specific changes, we ask that you drop this provision from any conference agreement at this time.

HOUSE BILL (H.R. 2854)

Section 507, Everglades Agricultural Area. Section 507, as added on the House Floor, provides $210 million to the Secretary of the Interior for restoration of the Florida Everglades. Even under a very restrictive view of the Rules of the House, the Committee on Resources would have primary jurisdiction over this provision as it affects the Everglades National Park, several National Wildlife Refuges, the Florida Keys National Marine Sanctuary and the restoration of the Everglades for the benefit of fish and wildlife.

One of the House conferees on this section, Congressman Richard Pombo has been working extensively with me and my staff to see that protections for the Everglades are effective, reasonable and in the public interest. Therefore, I would support the inclusion of an Everglades acquisition provision in the final conference report IF the provision is acceptable to Congressman Pombo.

New Provision. We understand that the conference committee may include a measure similar to section 872 of the Senate bill which transfers a fish culture laboratory in Marion, Alabama, from the Department of the Interior to the Department of Agriculture. This provision is taken from H.R. 1205, the Marion National Aquaculture Research Center Act of 1995, introduced by Congressman Hilliard. The bill was referred to both resources and Agriculture Committees.

Although we do not have the benefit of a hearing record on this measure (as with the Stuttgart fish laboratory transfer), we know of no reason why the laboratory should not be transferred between the departments. Therefore, with this recognition of our jurisdiction, we have no objection to this discretionary measure being included in the conference report.

I appreciate your consideration of these recommendations (which affect what I hope are noncontroversial provisions in the historic Agricultural Market Transition Act) and ask that you include this letter in the conference report on the bills. You and your staff should be congratulated on the reforms you are trying to accomplish in the text of these bills.

Sincerely,

DON YOUNG,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC, March 27, 1996.

Hon. PAT ROBERTS,
Chairman, Committee on Agriculture,
Washington, DC.

DEAR CHAIRMAN ROBERTS: I am writing to clarify the legislative history associated with the termination of the Agricultural Weather Service which you reference in the Joint Explanatory Statement of the Committee of Conference on H.R. 2854, the Federal Agriculture Improvement and Reform Act of 1996. As you are aware, under Rule X (n)(11) of the House of Representatives, the National Weather Service (NWS) and all its programs are within the jurisdiction of the Science Committee.

Last year, during consideration of the fiscal year (FY) 1996 authorization of the NWS' programs, the Science Committee amended the NWS Organic Act to forbid the NWS from continuing specialized weather services that can be provided by the private sector including the Agricultural Weather Service. The Committee also included report language which specifically addressed the issue of the Agricultural Weather Service. Report 104–237 (Part 1) reads:

"* * * The Committee supports terminating the National Weather Service Agricultural and Fruit Frost specialized weather forecast programs in fiscal year 1996. The Committee notes that concerns have been raised about terminating the programs on October 1, 1995. The Committee believes that the Secretary of Commerce should have flexibility to continue the programs beyond October 1, 1995 if he finds that the private sector is unwilling or unable to provide replacement services. Under no circumstances should such an extension last beyond April 1, 1996.

"* * * No additional money has been authorized for the continuation of existing Agricultural and Fruit Frost services and any expenses associated with these services, if necessary, should come from National Weather Service's operating budget * * *"

The Committee's NWS authorization passed the House on October 12, 1995 as part of H.R. 2405, the Omnibus Civilian Science Authorization Act of 1995. On March 4, 1996, the National Oceanic and Atmospheric Administration (NOAA) printed notice of its intent to terminate specialized weather services including the Agricultural Weather Service on April 1, 1996 in the Federal Register.

The Science Committee continues to support the privatization of specialized weather services such as the Agricultural Weather Service. The Committee expects the service to be terminated on April 1, 1996. Further, the Committee has not authorized appropriations for Agricultural Weather Service for FY 1996 or FY 1997, and no money should be appropriated for its continuation.

I hope this letter helps clarify the legislative history associated with the Agricultural Weather Service. Please let me know if I can provide you with any additional information on the subject.

Cordially,

ROBERT S. WALKER,
Chairman.

Hon. ROBERT S. WALKER,
Chairman, Committee on Science,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter. As you indicate, under Rule X of the House of Representatives, the National Weather Service and all its programs fall under the primary jurisdiction of the Committee on Science. The statement of the Joint Explanatory Statement of the Committee of Conference on H.R. 2854, the "Federal Agriculture Improvement and Reform Act of 1996", was intended as an expression of support for a program within the Science Committee's jurisdiction and this Committee's concern that weather service be provided to rural areas and that those involved in agriculture continue to have adequate collection and dissemination of weather data.

Thank you for providing me with the historical context under which the Department of Commerce has recommended terminating the agricultural weather service.

Sincerely,

PAT ROBERTS,
Chairman.

Ms. KAPTUR. Mr. Speaker, I must express my strong opposition to language inserted in the bill during the conference which will severely impact our ability to move to a modern science-based meat and poultry inspection system.

Section 918 of this bill establishes a permanent advisory committee to evaluate and review meat and poultry inspection programs. This proposal is similar in effect to the proposal made last summer in the Appropriations Committee to slow meat and poultry inspection reform by forcing USDA to undertake negotiated rulemaking at a late point in the regulatory process.

Section 918 was never subject to public hearings and was not included in the Senate or House passed bills.

This advisory committee would review every decision made by the Food Safety Inspection Service, including inspection procedures, labor relations, employee work rules, food safety practices in meat and poultry plants and approval of new technologies. This could delay the implementation of the new Hazard Analysis and Critical Control Points [HACCP] inspection system, a science-based system endorsed by both industry and consumers.

Further, this panel will be able to meet in secret and conduct its deliberations outside of public scrutiny because it is specifically exempt from the requirements of Federal Advisory Committee Act.

Mr. Speaker, last year there were five million foodborne illnesses and 4,000 deaths in our Nation. Section 918 has no place in this bill and we should take no actions which will decrease public confidence in the healthfulness and safety of our meat and poultry products. Have we learned nothing from the recent British experience?

Mrs. MORELLA. Mr. Speaker, the conference report of the farm bill, which is before us today, will benefit farmers, rural communities, and taxpayers. I congratulate the members of the conference committee for their diligence in crafting an innovative bill that will continue to provide Americans with an affordable food supply.

I am particularly pleased that the final report contains a provision that will provide Federal funding for State farmland protection efforts. This provision will make the Federal Government a partner in State efforts to gain long-term protection of important agricultural resources. The measure will help to counter the loss of millions of acres of productive farmland to urbanization.

It has come to my attention, however, that a provision has been added to the bill in conference that threatens consumer confidence in the safety of meat and poultry in the United States. Constituents have advised me that language has been included in the conference report to establish a meat and poultry inspection panel to review every decision made by the Food Safety and Inspection Service [FSIS]. This panel could delay the implementation of the new Hazard Analysis and Critical Control Points [HACCP] inspection system and undermine the authority of the FSIS.

The language calls for two new Federal Register publication steps in the decision process which would add delays to the existing decision-making process. Moreover, the provision was not subject to hearings or public debate, and it has been my experience over the years that meat and poultry inspection issues have been considered separately, not as part of past farm bills.

It is my understanding that FSIS is underfunded, and that both meat and poultry producers have complained about the shortage of inspectors. The agency simply cannot afford to pay for another advisory panel.

The Centers for Disease Control and the Department of Agriculture point out that contaminated meat and poultry cause five million illnesses and four thousand deaths every year. The purpose of the meat and poultry inspection program is to protect human health. If this provision is implemented, public confidence in the safety of meat and poultry products could erode, which will not be beneficial to either consumers or the industry.

I appreciate the opportunity to add my comments regarding this innovative and important farm bill.

Mr. LATHAM. Mr. Speaker, I am pleased that the conferees agreed to include a provision in the bill that I originally sponsored in the House regarding revenue insurance. I believe, as do farmers in Iowa's 5th District, that revenue-based risk management tools are a vital resource for today's and tomorrow's American farmer as the weather, market, and global trading patterns continue to fluctuate and pose often unpredictable risks for farmers worldwide.

The FAIR Act would require the Federal Crop Insurance Corporation to offer pilot revenue insurance programs for a number of crops for crop years 1997 through 2000 so that by 2002—when the production flexibility contracts expire—we will have well-tested revenue based risk management products available for farmers.

It is very important to note, however, that it was never my intent to restrict the authority of the Federal Crop Insurance Corporation as it currently exists under law to conduct pilot programs. There are two revenue insurance pilot programs currently operating for crop year 1996. I don't, and I don't believe the Conferees, intend for this new language in any way to interfere with the operation or expansion of these existing programs to other crops under the same terms and conditions under which they are currently operating—for example, on a whole state basis. Rather, my intent was to encourage the Corporation to expand current efforts to other crops and speed the development of such products for the American farmer.

I strongly urge the Corporation to further experiment with revenue-based insurance products and to do so under similar terms and conditions represented by the 1996 crop year revenue insurance programs.

I wish to state for the RECORD that I fully agree with Representative LATHAM that the FAIR Act is not intended to restrict the existing authority of the FCIC to approve pilot programs under similar terms as the 1996 revenue pilot programs. The language agreed to by the Conferees is intended to be liberating, not restricting, in terms of FCIC authority.

Mr. BUYER. Mr. Speaker, the Federal Agricultural Improvement and Reform Act [FAIR] is truly an historic opportunity for farmers and for rural communities. This legislation seeks to reform Federal agriculture programs that begin to wean farmers off government subsidies and move them toward more market oriented principles. In addition, it consolidates existing grant and loan authorities and places primary administrative responsibility with the states and is the most environmentally friendly farm bill in 60 years. This legislation is a giant step in the right direction and I enthusiastically support it.

Hoosier farmers will be the beneficiary of such incremental steps to move the farmer into the next century and be able to plant for the market. Washington bureaucrats have told farmers for far too long what to plant, when to plant, and where to plant. The result has been ineffective farm policy.

The weaning of farmers off government subsidies is important to our country's financial health. Government should not be in the business of subsidizing inefficient operations.

Technology is ever so important to farmers. If Indiana farmers are to successfully move into the next century and compete in the world marketplace, we must continue the public/private research initiatives. This legislation will aid in the transition into the market-oriented farm policy of the future.

Furthermore, this legislation reduces the regulatory burden on farmers. Every time I meet with Hoosier farmers, the discussion quickly turns to regulatory relief. The regulatory demands on time and resources upon the family farmer is too great. This bill is the beginning of the end of needless, overbearing regulations.

The FAIR Act continues our commitment to rural communities. Indiana, and particularly the Fifth District, have benefited tremendously over the years from rural development programs. Many rural communities throughout Indiana need assistance to meet needs which include rural housing, rural water supply and wastewater infrastructure, and rural economic development.

There are several Federal programs to assist rural communities in meeting their needs through a combination of loan and grant funds. It is this position that streamlines and consolidates a variety of existing rural development programs, in order to provide a more focused federal effort and encourage additional decision-making at the state level.

It is important that we address rural programs that: First, provide assistance to attain basic human amenities; second, alleviate health hazards; third, promote stability of rural

VOL
142
PT
5
MR
21
—
29
1996
UMI

areas by meeting the need for new and improved rural water and waste disposal systems; fourth, meet national safe drinking water and clean water standards. Most very small systems have no credit history and have never raised capital in financial markets. Increasingly, many small communities are being forced to install or remodel water and wastewater systems in order to meet state and federal water quality standards. It is these smaller, mostly rural communities that have the most difficulty in complying with drinking water regulations and securing the financial resources to meet their needs.

This legislation seeks to authorize a new delivery system for rural development programs called the Rural Community Advancement Program. It would consolidate existing grant and loan authorities and place primary administrative responsibility with the state directors of USDA's RECD offices. Existing rural housing, development, and research programs would receive $300 million in mandatory funding.

The demand by local communities in Indiana's 5th Congressional District facing these funding concerns during my three years in office have included, Medaryville, Francesville, Goodland, Bass Lake, Lake of the Woods, Monticello, Buffalo, New London, Lowell, Cedar Lake, Cayuga, Wheatfield, DeMotte, Kewanna and Fowler. All of these communities are small towns with limited resources. Municipal water supplies and wastewater treatment facilities not only help protect the environmental resources of these communities, but they also form the infrastructure framework necessary to attract economic development.

Rural development is an integral part of the farm bill. Rural America must have access to the economic infrastructure to enable it to compete, including clean water, adequate housing, and good/low cost sewage infrastructure; all of which are prominent issues to Hoosiers in rural America.

The FAIR Act marks the most environmentally friendly farm bill in 60 years. It lifts the requirements that tie farmers to the same crop year after year, which will allow them to maintain soil health and fertility through crop rotation. Thus, farmers will rely less on chemical fertilizers, herbicides and pesticides to maintain yields.

The FAIR Act promotes soil conservation and wetlands protection by requiring all regulations of such, to be met in order for farmers to qualify for payments. Additionally, it reauthorizes for seven years two successful programs, the Conservation Reserve Program and the Wetlands Reserve Programs, creates the Quality Incentives Program, and protects wetlands, water quality, and fights erosion.

Hoosiers will be the beneficiary of this legislation. Weaning farmers off government subsidies and lessening government involvement will provide America's agri-businesses the opportunity to continue to be the most productive and the most cost effective in the world.

Mr. Speaker, the Federal Agricultural Improvement and Reform Act is an historic opportunity for farmers and for rural communities. The FAIR Act reforms programs designed in the depression area and moves them into the next century. This bill gives Hoosier farmers the opportunity to do what they do best—farm the land with minimal government control and provide the resources to improve the quality of life in rural communities. I strongly support the FAIR Act.

Mr. RICHARDSON. Mr. Speaker, farmers in my district are in desperate need of some type of farm legislation now.

Although I am not totally sold on the freedom to farm concept, I fully support this conference report which will provide our nation's producers with some direction immediately.

I think the House and Senate Agriculture Committees have done a good job of shaping a bill with peanut program reforms that will make it no-net costs.

I believe the conservation programs contained in this bill are the strongest that we have ever reported out in a farm bill. This bill retains our commitment to help farmers as the stewards of America's land.

I am also pleased to see that the conference committee chose to include the fund for rural America. This fund will give small towns in rural America the tools through research and economic development activities to provide their citizens with safewater and sewer systems and the basic infrastructure to survive.

When we talk about reforming agriculture policies we must also talk about the needs of rural communities whose economies rely heavily on agriculture production.

Mr. Speaker it is time to send the President this agreement on farm policy.

Mr. SKAGGS. Mr. Speaker, I want to focus briefly on one section of this conference report that's particularly important for Colorado and other western States where municipal water supply facilities are located on or above National Forest lands.

During its consideration of this bill, the Senate adopted an amendment by Colorado's senior Senator that would have amended existing laws applicable to the National Forest System. The amendment was explained as a response to Forest Service proposals that renewal of permits for water facilities serving several Colorado municipalities be accompanied by changes in the management of those facilities that would result in smaller diversions from streams on National Forest lands.

In arid States like Colorado, Mr. Speaker, no issues are more sensitive and important than those relating to water. So, even though I had very serious concerns about how his amendment would affect management of the National Forests, I understood why Senator BROWN attached such importance to this matter.

But I was disappointed to note that in his explanation of the amendment, the Senator referred to Boulder, a city located in my congressional district. It seems to me that this could have lead some to mistakenly think there's a need for new legislation to resolve a dispute between that city and the Forest Service. In fact, however, that is not the case. It's true that the city of Boulder wants to replace a water supply pipeline that now brings water across National Forest lands. But the city and the Forest Service are not in deadlock. Rather, they are both acting in accordance with agreements, worked out with my direct participation, establishing the terms and conditions of an easement for the pipeline and the procedure to be followed in determining its route. Furthermore, Boulder has reached an agreement with the State of Colorado regarding continued in-stream flows, and the Forest Service has determined that this meets relevant requirements, so that there is no need for the city to take further steps to maintain bypass flows.

So, in addition to other serious reservations about Senator BROWN's amendment, I was concerned that its enactment might undermine the progress that Boulder and the Forest Service had made in connection with the pipeline project.

I also was concerned that a letter from Boulder's city manager to Senator BROWN regarding the amendment might have the inadvertent effect of creating confusion about the Boulder pipeline project. To clarify matters, I've both met and corresponded with the city manager, who confirmed that the city was continuing to work toward a successful outcome to the pipeline project. For reference, I am attaching my letter to the city manager and his reply as part of this statement.

For all these reasons, I'm glad that the conference report drops the original language of the Brown amendment and instead provides for an 18-month moratorium on certain Forest Service decisions while a special task force develops recommendations for possible ways to address this subject in the future.

I also am very pleased to note that the conferees, in the statement of managers regarding section 389, make it clear that "the moratorium imposed by this section is not intended to interfere with the ability of the Forest Service to negotiate or comply with the requirements of voluntary agreements concerning the use of National Forest land for water supply facilities."

In other words, Mr. Speaker, enactment of section 389 of this conference report will neither rewrite the laws applicable to management of the National Forests nor interfere with continued progress in connection with Boulder's pipeline. The Forest Service will be able to proceed with issuance of a draft environmental impact statement concerning possible routes, and the terms and conditions of an easement across National Forest lands will be as provided in the existing agreement between the Forest Service and the city of Boulder.

Therefore, I can support this part of the conference report.

U.S. HOUSE OF REPRESENTATIVES,
March 26, 1996.

Mr. STEPHEN T. HONEY,
City Manager, City of Boulder, Boulder, CO.

DEAR TIM: I'm glad to have had the chance to briefly discuss with you the status of Boulder's application or renewal of the permit for the Lakewood Pipeline. I also appreciate your providing me a copy of your February 16 letter to Senator Brown expressing support for his amendment to the farm bill dealing with water facilities on national forest land.

Your letter repeats some of the city's previously expressed complaints about the U.S. Forest Service's approach to permitting renewal for the Lakewood Pipeline, and it provides a separate historical outline that includes description of more recent negotiations, agreements, and environmental reviews in which the city and the Forest Service are engaged.

Frankly, I was a little surprised by the letter's emphasis on problems the city feels it has had in the past with this process since I had believed that, through negotiations I was pleased to sponsor, most of those problems had been resolved or set aside.

In particular, the city and the Forest Service agreed to language for a water conveyance facility easement for the pipeline. That language does not, as I understand it, negate the city's claim to a permanent right-of-way for the pipeline, but rather postpones an assertion of that right while the negotiated easement is in place.

I was also pleased that we were able to secure in the easement negotiated with the Forest Service its acknowledgement that the city's instream-flow agreement with the State of Colorado is sufficient for forest management purposes.

Also, as you know, the city and the Forest Service have entered into a memorandum of understanding that is now guiding formal and public consideration and comparison, under the National Environmental Policy Act (NEPA), of alternate locations for the rebuilt pipeline. While these agreements are described in the background paper attached to the letter, the letter itself seems to suggest that there has been a lack of cooperation and effort on the part of the Forest Service toward fulfillment of these agreements.

The letter, for example, speaks of the city's difficulty with another provision in the easement language agreement, relating to compliance with Forest Management Plan standards and guidelines. Is there some chance that the city intends to withdraw from that portion of the agreements? If so, I'd like to know more about that.

The letter also includes a discussion of projected problems with alternatives being considered in the NEPA review, including statements that I would have expected to be made in the form of comments on the imminently forthcoming draft Environmental Impact Statement.

As you know, I have believed that issues surrounding the Lakewood Pipeline permitting process can and should be settled locally through negotiations and without resorting to the expense and trouble of litigation or to legislation that would revise one or more of the laws applicable to the National Forest System. Because I believed that the Forest Service and the City of Boulder were making progress along those lines, I found it surprising that Senator Brown cited Boulder's experience in connection with the Lakewood Pipeline as demonstrating the need for new legislation.

I assume the city hasn't changed its position regarding the desirability of resolving this matter through the existing agreement with the Forest Service. And, if the city believes that the Forest Service is failing to fulfill its obligations under the memorandum of understanding or other agreements, I would like to know more about that failure and what steps I could take to assist to rectify the situation. In any case I'd appreciate an update about progress made and work completed under the framework of the existing agreements.

Thanks again for your continuing efforts to keep me informed and, where I can be useful, involved on this matter. I look forward to continuing to do what I can toward a successful outcome.

Sincerely yours,
DAVID E. SKAGGS.

CITY OF BOULDER, OFFICE OF THE CITY MANAGER,
March 26, 1996.

Hon. DAVID SKAGGS, LONGWORTH H.O.B.,
WASHINGTON, DC.

DEAR CONGRESSMAN SKAGGS, I am pleased to respond to your March 26th letter and your request for clarification on specific issues surrounding the Lakewood Pipeline Environmental Impact Statement (EIS).

Please keep in mind that as of today, March 26th, a draft EIS has not been released by the Forest Service. Although we have been working with the Forest Service staff in supplying information for them to review and possibly use in the EIS, we have not received any final, written documents from the Forest Service as to their assessment of the issues. Their preliminary assessment will be included in the draft EIS and their record of decision is scheduled to be implemented in November, 1996. As such, perhaps my February 16th letter was more an expression of the frustration about the timeliness for this project than the integrity of the project. If so, I apologize for that.

You are correct that the language for the water conveyance facility easement does not negate the City's claim to a permanent right-of-way, but rather postpones a decision on that right while the easement is in place. If the EIS contains all this information and an easement is executed, then this concern will be resolved.

With regards to the City's in-stream flow agreement with the State of Colorado, I did not mean to imply that the Forest Service doesn't recognize and support this program. In fact, it is our understanding that the Forest Service has evaluated and determined that the in-stream flow program does meet the Forest Management Plan standards and guidelines and no additional bypass flows will be required, and I expect that the draft EIS will reflect this.

With respect to compliance with the Forest Management Plan, the MOU indicates that the EIS will analyze the information in compliance with the National Forest Management Act of 1976, as well as other applicable statutes, regulations and Forest Service Manual direction. In addition, the MOU says the Forest Service will assure compliance with all federal and state laws and regulations. There is not specific statement about the Forest Management Plan standards and guidelines. At this point, we don't know if there will be any difficulty in complying with the Forest Management Plan until the draft EIS is released and the Forest Service's analysis is reviewed by the public. Between the time I signed the MOU and the decision is implemented, more than 2 years will have passed, and some changes to the Forest Management Plan may have occurred. At this point, I just don't know what the impacts of these changes may mean.

My previous letter included a discussion about some of the alternatives. We do intend to fully and carefully comment on the draft EIS when it is released, but the comments may change depending upon the content of the draft EIS. I believe it is important for the City to discuss the issues throughout the process, but I apologize for any confusion which may have resulted from our concerns about what may appear in the draft EIS.

The City continues to work toward a successful outcome for this project. Your assistance and leadership in this project has been essential, and the City greatly appreciates your commitment to achieving the goals set forward in our joint MOU with the Forest Service.

Sincerely,
STEPHEN T. HONEY,
City Manager.

Mr. LIPINSKI. Mr. Speaker, I rise today to express my opposition to the safe meat and poultry inspection panel provision which was added at the last minute, with no hearings or public debate, to the farm bill. Although its title suggests otherwise, the safe meat and poultry inspection panel will actually hamper consumer protection efforts by delaying meat and poultry inspection reform.

The seven-member panel, consisting primarily of meat scientists, poultry scientists, and food scientists, would be responsible for reviewing every decision made by the USDA's Food Safety and Inspection Service [FSIS]. This industry-friendly panel would have broad authority over USDA decision making in such matters as inspection procedures, labor relations, employee work rules, food safety standards, food safety practices in meat and poultry plants, and approval of new technologies. Such broad authority gives tremendous power to a part-time panel that does not necessarily include public health doctors. Yet, even if the panel met full time year round, it could not meaningfully address the large volume of decisions made regularly by the USDA's FSIS. It is obvious that the safe meat and poultry inspection panel would quickly cause a bottleneck in the FSIS decision making process. The FSIS food safety reform agenda would be substantially delayed, if not entirely blocked, by this panel.

In fact, the safe meat and poultry inspection panel is actually an attempt at back door regulatory reform. It puts additional regulatory review power in the hands of industry-friendly panel members. This panel provision also adds two new Federal Register publication steps to the existing decision process. In other words, it creates another regulatory hurdle to delay implementation of additional safeguards. However, each delay in the reform process further undermines the public's confidence in the meat and poultry inspection system and food supply.

In these times of severe budget constraints, the Food Safety Inspection Service is struggling to simultaneously meet its current inspection responsibilities and make needed food safety reforms. The agency certainly cannot afford to pay for another advisory panel; yet, this provision provides no new funds to finance the panel. I cannot believe that at a time when Americans want less Government, the Congress is creating an unfinanced panel that actually duplicates the work of the existing National Advisory Committee on Microbiological Criteria for Food [NACMCE], which has a diverse membership and has worked closely with the FSIS since 1987.

The safe meat and poultry inspection panel is not needed and would actually work against the consumer protection mission of the FSIS. It has no place in this otherwise fine farm bill compromise. Mr. Speaker, I appreciate this opportunity to express my opposition and greatly urge my colleagues to join me in opposition to the safe meat and poultry inspection panel.

Mrs. KENNELLY. Mr. Speaker, I rise in support of the conference report on the farm bill.

VOL
142
PT
5
MR
21
—
29
1996
UMI

I voted against this legislation when it was first addressed by the House, because I was concerned that the legislation did not address reauthorization of nutrition programs and did not include the northeast dairy compact. I am pleased that the conference committee saw fit to include these provisions in the conference report.

The northeast dairy compact was approved by all six New England and will play a significant role in boosting farm income and stabilizing the dairy industry in the northeast through interstate cooperation. It is my hope that this compact will serve as a model partnership between farmers and consumers to maintain stable milk prices.

I am also pleased that in reauthorizing many nutrition programs, the conference committee included the Community Food Security Act which will provide a one-time infusion of funds for projects designed to meet the food needs of low-income people. This vital assistance will help to make good quality, and reasonably priced food available to many low-income communities like those in my home city of Hartford.

While I believe that this farm bill conference report is greatly improved, I remain concerned about the seven year market transition, which would make payments to farmers without requiring them to farm at all. But I believe that the reauthorization of nutrition programs, strong conservation provisions, and the inclusion of the Community Food Security Act and the northeast dairy compact has greatly improved this legislation and I urge my colleagues to support passage of this legislation.

Mr. GOODLING. Mr. Speaker, I am pleased the House and Senate conferees for S. 1541, the Agricultural Market Transition Act of 1996, included a provision to protect horses during transport to slaughterhouses. In particular, I would like to thank Congressman STEVE GUNDERSON and Chairman PAT ROBERTS for their support.

Last year, I introduced H.R. 2433, the Safe Commercial Transportation of Horses for Slaughter Act, intended to improve the handling, care, and equipment requirement for the safe transportation of horses to slaughterhouse facilities. My colleague, Senator MITCH MCCONNELL, introduced similar legislation in the Senate. Since then, my office has received tremendous support for introducing this legislation from the public and Members of Congress who have large horseman populations in their congressional districts.

Two years ago, I sent a dear colleague to Members bringing their attention to an article I read in "equidae," the National Horseman's Inc. publication, that exposed the inhumane treatment of horses transported for slaughter. Two constituents in my district visited a horse auction in New Holland, PA and described the horrible conditions to which these horses are subjected. Imagine injured, pregnant, and ill horses crammed into cattle cars with combative stallions and other horses to be shipped on long journeys to slaughterhouses with no dividers separating them. Often, these horses travel for days without food or water. As a thoroughbred owner, I find this appalling.

While Americans traditionally view horses as pets or companions, the reality is that many of our beloved friends are sent to slaughterhouses for consumption in European, Asian, and Latin countries. Horses have a unique, trusting relationship with people and deserve to have a humane and dignified end to their lives as other household pets.

Fortunately, through the hard work of Senator MITCH MCCONNELL, Congressman GUNDERSON and other members of the House and Senate Agriculture Committee, the conference committee was able to come to a compromise on language that will ensure the safe transportation of horses for slaughter while protecting other livestock and poultry for slaughter from regulation. The language provides authority to the Secretary of Agriculture to authorize guidelines for the regulation of persons engaged in the commercial transportation of horses for slaughter. The Secretary shall consider in carrying out this section of the bill food, water, rest, and the segregation of stallions from other horses during transportation.

I am hopeful these guidelines will be issued in timely manner to protect the thousands of horses sent to slaughter each year. I would suggest the Secretary consider requiring horses be rested and provided food and water after traveling no longer than 10 hours, vehicles be required to be in sanitary condition and provide at least 7 feet, 6 inches of headroom, and provide for the separation of stallions from other horses.

This legislation has the full support of the horse industry and animal feed industry including the American Horse Council, the American Horse Protection Association, the Humane Society of the United States, the American Association of Equine Practitioners, American Horse Shows Association, American Veterinary Medical Association, Pennsylvania Horse Breeders Association, the American Feed Industry Association, and the National Pork Producers.

Once again, I would like to thank the Members of the House and Senate conference committee for their compassion and hardwork. I am sure this legislation will go a long way in protecting horses transported for slaughter and provide incentive for those in the industry to treat horses with greater care and respect.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of the conference report for H.R. 2854, the "Agricultural Market Transition Act." This measure reforms numerous laws affecting the business of farmers, including dairy farmers. In modifying laws that pertain to dairy farmers, H.R. 2854 has the effect of amending the Food Drug and Cosmetic Act [FFDCA] as it pertains to standards of identity and nutrition labeling requirements for fluid milk under milk marketing orders. As Chairman of the Committee on Commerce Subcommittee on Health and Environment, I would like to note the jurisdictional interest of both the full Committee and my Subcommittee in these modifications of our country's dairy program.

Portions of the language in the conference report regarding dairy programs supersede certain provisions in the FFDCA by making them inapplicable in some circumstances. The FFDCA is a statute within the exclusive jurisdiction of the Committee on Commerce. Therefore, the amendment to the FFDCA in the conference report for H.R. 2854 is also within the exclusive jurisdiction of the Commerce Committee. In accordance with rule X of the rules of the House, I look forward to continued exercise of our legislative jurisdiction in this area.

Mr. ROBERTS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. OXLEY). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 318, noes 89, not voting 24, as follows:

[Roll No. 107]

AYES—318

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foley
Forbes
Franks (CT)
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Maloney

Manton
Manzullo
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Meek
Metcalf
Meyers
Mica
Mink
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Olver
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Royce
Rush
Salmon
Sanders
Sawyer
Schaefer
Schiff
Schumer
Scott
Seastrand
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torres
Torricelli
Towns
Upton
Vucanovich
Waldholtz
Walker
Walsh
Ward
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)
Zeliff

NOES—89

Andrews
Baesler
Barrett (WI)
Becerra
Blute
Bonior
Borski
Brown (CA)
Cardin
Chabot
Clay
Collins (MI)
Conyers
Coyne
DeFazio
Dellums
Dicks
Doggett
Dooley
Doyle
Engel
Fattah
Filner
Foglietta
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gephardt
Goss
Green
Gutierrez
Hoke
Jackson (IL)
Jacobs
Johnson (SD)
Johnston
Kaptur
Kennedy (MA)
Kleczka
Levin
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Markey
Martini
McCarthy
McDermott
McKinney
Menendez
Miller (CA)
Miller (FL)
Minge
Moakley
Moran
Nadler
Oberstar
Obey
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (MN)
Pomeroy
Rivers
Roybal-Allard
Sabo
Sanford
Saxton
Scarborough
Sensenbrenner
Serrano
Skaggs
Stark
Taylor (MS)
Torkildsen
Traficant
Velazquez
Vento
Visclosky
Volkmer
Wamp
Waters
Williams
Zimmer

NOT VOTING—24

Beilenson
Bryant (TX)
Coleman
Collins (IL)
Eshoo
Fowler
Gibbons
Hayes
Lantos
Martinez
McNulty
Meehan
Neal
Ros-Lehtinen
Rose
Roukema
Schroeder
Smith (TX)
Smith (WA)
Stokes
Studds
Waxman
Weldon (PA)
Yates

□ 0036

Mr. FOX of Pennsylvania changed his vote from "aye" to "no."

Mr. TORRES changed his vote from "no" to "aye."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. ROS-LEHTINEN. Mr. Speaker, it was necessary for me to return to my district on Thursday, March 28, before the final vote of the day was taken. I would have voted "no" on the procedural motion to H.R. 3136; "yes" on the final passage of H.R. 3136, "yes" on ordering the previous question on the modified closed rule (H. Res. 392) for H.R. 3103; "no" on the amendment in the nature of a substitute (H. Res. 392) to H.R. 3103; "no" on the motion to recommit H.R. 3103; "yes" on passage of H.R. 3103; "yes" on agreeing to the conference report on H.R. 2854.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 2854 just passed.

The SPEAKER pro tempore (Mr. OXLEY). Is there objection to the request of the gentleman from Kansas?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was grant to:

Mrs. SMITH of Washington, (at the request of Mr. ARMEY) for today, on account of illness.

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today after 2:15 p.m. and the balance of the week, on account of death in the family.

Ms. ESHOO (at the request of Mr. GEPHARDT) for today after 8:30 p.m. and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. JEFFERSON) to revise and extend their remarks and include extraneous material:)

Mr. SKELTON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. PETE GEREN of Texas, for 5 minutes, today.

Mr. BROWDER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. MOAKLEY, and to include extraneous material, after debate on the unfunded mandate motion to recommit H.R. 3136 today.)

(Mr. FAWELL and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,742.)

(Mr. MCINNIS (at the request of Mr. KOLBE), and to include extraneous material on the reconciliation rule of last year.)

(The following Members (at the request of Mr. JEFFERSON) and to include extraneous matter:)

Mr. TORRES.
Mr. STARK.
Mr. NEAL of Massachusetts.
Mr. POSHARD.
Mr. WARD.
Mr. MILLER of California.
Mr. FROST.
Mr. JACOBS.
Ms. ESHOO.
Ms. FURSE.
Ms. EDDIE BERNICE JOHNSON of Texas.
Mr. MONTGOMERY.
Mr. BROWDER.
Mrs. LOWEY.
Mr. SKAGGS.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. BUNNING of Kentucky.
Mr. SHUSTER.
Mr. SOLOMON.
Mr. COMBEST.
Mr. FLANAGAN.
Mr. DAVIS.
Mr. FORBES.
Mr. CAMP.
Mr. ROGERS.
Mr. WELDON of Pennsylvania.
Mr. GANSKE.
Mr. MOORHEAD.
Mr. EWING.
Mr. CUNNINGHAM.
Mr. RIGGS, in two instances.
Mr. SMITH of Michigan.
Mrs. KELLY.
Mr. OXLEY.
Mr. HORN.
Ms. MOLINARI.
Mr. CLINGER.
Mr. GILMAN.
Mr. BUYER.
Mr. PACKARD.
Mr. BUNN of Oregon.
Mrs. MYRICK.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the 104th Congress.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

VOL 142 PT 5 MR 21 — 29 1996 UMI

S. 4. An act to give the President line item veto authority with respect to appropriations, new direct spending, and limited tax benefits.

ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 42 minutes a.m.), the House adjourned until today, Friday, March 29, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2311. A letter from the Secretary of Defense, transmitting the Department's report entitled "Annual Report to the President and the Congress, March 1996," pursuant to 10 U.S.C. 113 (c) and (e); to the Committee on National Security.

2312. A letter from the Comptroller General of the United States, transmitting the list of all reports issued or released in February 1996, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

2313. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting a report entitled "Report on the Mayor's District of Columbia FY 1997 Budget and Multiyear Plan" adopted by the District of Columbia Financial Responsibility and Management Assistance Authority on March 21, 1996, pursuant to section 202(d) of Public Law 104-8; to the Committee on Government Reform and Oversight.

2314. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2315. A letter from the Commissioner, Social Security Administration, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GOODLING: Committee on Economic and Educational Opportunities. H.R. 3055. A bill to amend section 326 of the Higher Education Act of 1965 to permit continued participation by Historically Black Graduate Professional Schools in the grant program authorized by that section (Rept. 104–504). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING. Committee on Economic and Educational Opportunities. H.R. 3049. A bill to amend section 1505 of the Higher Education Act of 1965 to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development (Rept. 104–505). Referred to the Committee of the Whole House of the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 2337. A bill to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections; with an amendment (Rept. 104–506). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2501. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes; with an amendment (Rept. 104–507). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2630. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois; with an amendment (Rept. 104–508). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2695. A bill to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania; with an amendment (Rept. 104–509). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2773. A bill to extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes; with an amendment (Rept. 104–510). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2816. A bill to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes (Rept. 104–511). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2869. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky; with an amendment (Rept. 104–512). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FROST:

H.R. 3180. A bill to increase penalties for sex offenses against children; to the Committee on the Judiciary.

By Ms. ESHOO:

H.R. 3181. A bill to prohibit providers of cellular and other mobile radio services from blocking access to 911 emergency services; to the Committee on Commerce.

By Mr. EWING (for himself, Mr. POSHARD, Mr. WELLER, Mr. LAHOOD, and Mr. EMERSON):

H.R. 3182. A bill to amend title 49, United States Code, relating to alcohol and controlled substances testing of operators of motor vehicles used to transport agricultural commodities and property for small local governments; to the Committee on Transportation and Infrastructure.

By Mr. MONTGOMERY:

H.R. 3183. A bill to amend title 38, United States Code, to limit the amount of recoupment from veterans' disability compensation that is required in the case of veterans who have received certain separation payments from the Department of Defense; to the Committee on Veterans' Affairs.

By Mr. HORN (for himself, Mr. CLINGER, Mr. DAVIS, Mrs. MALONEY, and Mr. PETERSON of Minnesota):

H.R. 3184. A bill to streamline and improve the effectiveness of chapter 75 of title 31, United States Code—commonly referred to as the Single Audit Act; to the Committee on Government Reform and Oversight.

By Mr. DINGELL (for himself, Mr. BENTSEN, and Mr. SPRATT):

H.R. 3185. A bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, to increase the deduction for health insurance costs of self-employed individuals, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CLAY:

H.R. 3186. A bill to designate the Federal building located at 1655 Woodson Road in Overland, MO, as the "Sammy L. Davis Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. CLYBURN:

H.R. 3187. A bill to amend title 49, United States Code, to provide protection for airline employees who provide certain air safety information; to the Committee on Transportation and Infrastructure.

By Mr. COMBEST:

H.R. 3188. A bill to amend title 49, United States Code, to limit the applicability of hazardous material transportation registration and fee requirements for persons who offer crude oil and condensate for transport in commerce, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. DAVIS (for himself, Mr. ENGLISH of Pennsylvania, and Mr. MORAN):

H.R. 3189. A bill to delay the privatization of the Office of Federal Investigations of the Office of Personnel Management in order to allow sufficient time for a thorough review to be conducted as to the feasibility and desirability of any such privatization, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. FRANKS of Connecticut:

H.R. 3190. A bill to prohibit Federal agencies to require or encourage preferences based on race, sex, or ethnic origin, in connection with Federal contracts; to the Committee on Government Reform and Oversight.

By Mr. KLINK:

H.R. 3191. A bill to authorize a program of grants to improve the quality of technical education in manufacturing and other vocational technologies; to the Committee on Economic and Educational Opportunities.

By Mr. MOORHEAD:

H.R. 3192. A bill to make amendments to section 119 of title 17 of the United States Code; to the Committee on the Judiciary.

By Ms. PELOSI:

H.R. 3193. A bill to recognize the significance of the AIDS Memorial Grove, located in Golden Gate Park in San Francisco, CA,

and to direct the Secretary of the Interior to designate the AIDS Memorial Grove as a national memorial; to the Committee on Resources.

By Mr. PICKETT:

H.R. 3194. A bill to provide that the property of innocent owners is not subject to forfeiture under the laws of the United States; to the Committee on the Judiciary.

By Mr. SANFORD (for himself, Mr. BREWSTER, and Mr. LARGENT):

H.R. 3195. A bill to amend title 23, United States Code, to modify the minimum allocation formula under the Federal-aid highway program, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SHAYS:

H.R. 3196. A bill to increase the penalty for trafficking in powdered cocaine to the same level as the penalty for trafficking in crack cocaine, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARTON of Texas (for himself, Mr. PETE GEREN of Texas, Mr. ARCHER, Mr. SHADEGG, and Mr. HALL of Texas):

H.J. Res. 169. Joint resolution proposing an amendment to the Constitution of the United States relating to taxes; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause I of rule XXII,

Mr. PICKETT introduced a bill (H.R. 3197) for the relief of Emma W. Todd; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 244: Mr. HOKE.

H.R. 452: Mr. INGLIS of South Carolina.

H.R. 580: Mr. COX.

H.R. 894: Mr. ACKERMAN.

H.R. 895: Mr. BONILLA, Mr. GENE GREEN of Texas, Mr. DUNCAN, Mr. HOEKSTRA, Mr. NEAL of Massachusetts, Mr. BONO, Mr. CUNNINGHAM, Mr. STUPAK, Ms. PRYCE, Mr. DEFAZIO, Mr. THORNBERRY, and Mr. VISCLOSKY.

H.R. 1044: Mrs. MYRICK.

H.R. 1363: Mr. BRYANT of Tennessee and Mr. HEINEMAN.

H.R. 1496: Mr. SAXTON.

H.R. 1560: Mr. MENENDEZ and Mrs. THURMAN.

H.R. 1619: Mr. TORRES.

H.R. 1625: Mr. QUILLEN.

H.R. 1627: Mrs. ROUKEMA.

H.R. 1755: Mr. CAMP and Mr. BARCIA of Michigan.

H.R. 1893: Mr. RAHALL, Mr. EVANS, Mr. EHRLICH, and Ms. DELAURO.

H.R. 1963: Mr. HILLIARD.

H.R. 2089: Mr. WHITE, Mr. MCDERMOTT, Mr. DICKS, and Mr. PETERSON of Minnesota.

H.R. 2200: Mr. ZELIFF, Mr. BONIOR, Mr. HOSTETTLER, and Mr. MONTGOMERY.

H.R. 2240: Mr. REED.

H.R. 2320: Mr. MARTINI, Mr. MCKEON, Mr. ENGLISH of Pennsylvania, Mr. NUSSLE, Mr. MATSUI, Mr. THOMAS, and Mr. MANTON.

H.R. 2471: Mr. BARRETT of Wisconsin.

H.R. 2508: Mr. KILDEE, Mr. LIVINGSTON, Mr. BARR, Mr. CALLAHAN, Mr. CANADY, and Mr. WISE.

H.R. 2531: Mr. WELLER and Mr. SCHAEFER.

H.R. 2566: Mr. KLECZKA.

H.R. 2579: Mr. SAWYER, Mr. BURR, and Mr. WHITE.

H.R. 2651: Mr. BILIRAKIS, Mr. MCHALE, and Mr. SOLOMON.

H.R. 2697: Mr. GUTIERREZ and Mr. ABERCROMBIE.

H.R. 2745: Mr. KASICH.

H.R. 2820: Mr. COLLINS of Georgia, Mr. LAUGHLIN, Mr. TALENT, and Mr. MCCRERY.

H.R. 2864: Mr. VENTO.

H.R. 2892: Mr. CLEMENT, Mr. CALVERT, Mr. OLVER, Mr. ABERCROMBIE, Mr. BAKER of Louisiana, and Mr. LIPINSKI.

H.R. 2912: Mr. KLECZKA, Mr. HILLIARD, Mr. RAHALL, Mrs. THURMAN, and Mr. KILDEE.

H.R. 2925: Mr. BONILLA.

H.R. 2928: Mr. METCALF, Mr. WELLER, and Mr. COBURN.

H.R. 2930: Mr. WATTS of Oklahoma.

H.R. 2938: Mr. DURBIN, Mr. EHLERS, Mr. SMITH of New Jersey, Mrs. JOHNSON of Connecticut, and Mr. BILBRAY.

H.R. 2959: Mr. LEACH.

H.R. 3011: Mr. TATE, Mr. MCINTOSH, and Mr. FRANK of Massachusetts.

H.R. 3067: Mr. CONDIT, Mr. MANTON, Mrs. THURMAN, and Ms. DANNER.

H.R. 3095: Mr. KOLBE.

H.R. 3142: Mr. STEARNS, Mrs. SEASTRAND, Mr. SAWYER, Mr. GORDON, Mr. COX, Mr. DORNAN, Mr. FARR, Mr. OBERSTAR, and Mrs. SMITH of Washington.

H.R. 3159: Ms. BROWN of Florida.

H.J. Res. 70: Mr. TEJEDA, Mr. BERMAN, and Mr. SANDERS.

H. Con. Res. 26: Ms. MOLINARI.

H. Con. Res. 47: Mr. HUNTER.

H. Con. Res. 152: Mr. NETHERCUTT, Mr. ORTIZ, Mr. MCHUGH, Mr. BONILLA, and Mr. STUPAK.

H. Con. Res. 155: Mr. PAYNE of New Jersey, Mrs. CLAYTON, and Mr. GILMAN.

H. Res. 123: Mr. RAHALL, Mr. PACKARD, and Mr. DORNAN.

H. Res. 285: Mr. BONIOR.

H. Res. 359: Mr. FRAZER, Ms. MOLINARI, Mr. ANDREWS, Mrs. KENNELLY, Mrs. MEEK of Florida, Mr. VENTO, and Mr. MCINNIS.

H. Res. 381: Mr. DEFAZIO, Mr. KENNEDY of Rhode Island, Mr. UNDERWOOD, Mrs. SEASTRAND, Mr. HORN, and Mr. STOCKMAN.

H. Res. 385: Mrs. MORELLA, Mr. RANGEL, and Mr. ORTON.

VOL
142
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1996
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EXTENSIONS OF REMARKS

STEVEN REDDINGTON'S WINNING ESSAY

HON. MICHAEL PATRICK FLANAGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. FLANAGAN. Mr. Speaker, the winner of the first annual Fifth Congressional District essay contest is Steven Reddington, a student in the Saint Priscilla School at 7001 West Addison Street in Chicago. The principal of the school, Sister Joyce Roehl, is to be commended for allowing her students to participate in the contest.

Evidently, Steven Reddington has learned the lessons of his English faculty adviser, Ms. Corinne Schade, well. The contest asked students to write about an American invention of the student's choosing and describe how that invention impacted society. Over 100 schools in the Fifth District were invited to participate in the essay contest and my office received an overwhelming response. Out of all the essays received, Steven's was the only one that was written from the perspective of the inventor. He chose to write about Thomas Edison and his electric light bulb. Steven entitled his imaginative and inventive essay, "The Quest for Light."

I urge my colleagues to read Steven's essay. If you do, you will find a fine example of creative writing by a young man who may well make a mark in American literature in the 21st century. Steven Reddington's essay follows:

THE QUEST FOR LIGHT

(By Steven Reddington)

As the sun begins to set, the light in my laboratory grows too faint to work any longer. I must put away my work until tomorrow. Out on the street the arc lamps are lit to burn until the sun rises again. I have thought long about finding an artificial light, and each day my endless research takes me closer to my goal.

How the world would change with my invention. I can only imagine what it would be like to have light twenty-four hours a day. Life in the home would change dramatically. There would be no more going to bed when the room became too dark for seeing. Now I could read the morning newspaper in the evening while my children study or play games. One day would be so much longer. The economy would flourish. Factories could run all day and night producing more goods and employing new workers. In turn these workers would have more money to spend, and more time to spend it. This would open up a whole new world of nightly entertainment for people to enjoy. Now we could attend social gatherings and church services that before would only take place during daylight hours.

Picture what Grand Central Station would be like with thousands of glowing lights as passengers board the midnight trains to Boston. Hospitals could care for the sick, and perform life saving operations without the use of dim light given off by oil burning lamps. Fires from these type of lamps would no longer be a concern. All the lives and homes that would be spared if a new source of light could be produced. The benefits and use to humanity would certainly be worth all the painstaking hours of work that I have dedicated to this project. As I've always said, "One-percent inspiration and ninety-nine percent perspiration!".

It is now October of 1874, I believe I have finally realized my dream. At my laboratory in Menlo Park, New Jersey, I have before me a glass tube with a wire thread inside of it. Next, electricity flows through a wire and into the glass tube. The wire thread glows with heat, and the room is illuminated with a soft light. As I gaze with pride, I understand the effects this will have on the future of our everyday lives.

Now if I could give it the proper name. Maybe I should call it the Thomas Edison, or perhaps the Edison Bulb. No, I have it! I'll call it the light bulb. That would be a most fitting name!

TRIBUTE TO LT. COL. WILLIAM JOHN NICHOLS, U.S. AIR FORCE

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. COMBEST. Mr. Speaker, I rise to recognize the dedication, public service, and patriotism of Lt. Col. William John Nichols, U.S. Air Force, on the occasion of his retirement after a career of faithful service to our Nation. Col. John Nichols' strong commitment to excellence will leave a lasting impact on the vitality of our modern warfighters, commanding admiration and respect from his military colleagues and Members of Congress.

Colonel Nichols, a 1977 graduate of Cornell University and the Reserve Officer Training Corps, is serving his last day of a 15-month assignment as the special assistant for space, command, control, communications, and intelligence, and special operations programs, with the Office of the Assistant Secretary of Defense for Legislative Affairs.

Colonel Nichols' first duty assignment was to the 6931st Electronic Security Squadron, Iraklion Air Station, Crete, Greece, as a flight commander, from April 1978 through July 1980. John was then sent to Osan Air Base, Korea, where he headed intelligence collection operations in support of U.S. Forces in Korea. He was also responsible for U–2 intelligence collection operations during this 1-year remote assignment. In August 1981, John was reassigned to Headquarters Electronic Security Command in San Antonio, TX, where he managed tactical intelligence collection assets. Next Colonel Nichols was assigned to 13th Air Force at Clark Air Base, Philippines, from January 1983 to October 1984, where he was responsible for electronic combat programs throughout the Pacific region. In this capacity, John orchestrated the first ever involvement of electronic combat and intelligence assets into Cope Thunder air combat training exercises.

Colonel Nichols was next assigned as detachment commander for the 6947th Electronic Security Squadron in Key West, FL, where he led a 70-person intelligence operation providing key support to operations in the Caribbean Basin. After almost 3 years in this position John was assigned to RAF Mildenhall, England, in July 1987 as the operations officer for the 6988th Electronic Security Squadron. In this job he led a 200-person RC–135 airborne reconnaissance operation in support of theater and national intelligence collection requirements. In July 1990, he was reassigned to Air University in Alabama where he was a distinguished graduate and top performer at Air Command Staff College and where he earned a master of airpower art and science degree as a student in the first class of the School of Advanced Airpower Studies.

In July 1992, Colonel Nichols was assigned to the intelligence staff at Headquarters U.S. Air Force in the Pentagon. He quickly moved to the Air Force Secretariat where he was assigned to the Office of Legislative Affairs. After serving for a year and a half in this capacity he moved to the Office of the Secretary of Defense for Legislative Affairs where he ably represented the Department of Defense on important intelligence issues until his retirement today. John's support of the Congress and in particular to the House Permanent Select Committee on Intelligence, which I chair, has been commendable. We understand the importance of the challenges imposed by legislative liaison. Colonel Nichols met them with frankness and aplomb. His expertise will truly be missed.

Colonel Nichol's military awards include the Defense Superior Service Medal, the Meritorious Service Medal, the Air Medal, the Aerial Achievement Medal, the Air Force Commendation Medal, the Air Force Achievement Medal, the National Defense Service Medal, the South West Asia Service Medal with campaign star, and several unit commendations and service ribbons. John is married and resides with his wife Wil and daughters Sarah and Rachel In Woodbridge, VA.

Our Nation, the Department of Defense, the U.S. Air Force, and his family can truly be proud of the colonel's many accomplishments. A man of extraordinary talent and integrity is rare indeed. While his honorable service will be genuinely missed in the Department of Defense, it gives me great pleasure to recognize Col. John Nichols before my colleagues and wish him all of our best wishes in his new and exciting career.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TRIBUTE TO JIMMY F. BATES

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. SHUSTER. Mr. Speaker, I want to bring to the attention of my colleagues the achievements of Mr. Jimmy F. Bates, the Deputy Director of Civil Works for the headquarters of the Army Corps of Engineers. After more than three decades of public service, Mr. Bates is retiring from the Corps.

As the Deputy Director of Civil Works, a registered professional engineer, and the senior civilian in the Corps of Engineers' water resources program, Jimmy's responsibilities include managing, directing, and providing stable leadership for the Nation's premier engineering and water resources agency. The Civil Works Program, with a total annual responsibility of about $3.5 billion, provides water infrastructure that is essential to America's safety, well-being and economic growth. This thoughtful leader has devoted a career to improving the development and implementation of comprehensive water policy and water infrastructure, ranging from the development of projects to reduce damages from devastating floods and improvements to the national system of inland waterways to the implementation of new environmental authorities provided by Congress.

A native of Tennessee, Jimmy began and spent most of his Federal career with the Corps' Nashville District. He also served in the agency's Ohio River Division in Cincinnati, OH, as well as in the Washington headquarters. In addition, Jimmy had a distinguished career in the Army Reserve, rising to the rank of major general.

Through his extensive experience in the planning and engineering aspects of water resources projects and his numerous leadership assignments, he has earned a reputation of a seasoned professional and an expert in Federal water policy. More important, his dedication, loyalty, and character make him one of the most respected and emulated leaders in government. Although the Corps of Engineers is losing a paragon of leadership and integrity, the Nation will long benefit from the contributions Jimmy has made to water infrastructure and the development of Federal water policy. He has been a model citizen, soldier, and public servant throughout his career.

As Jimmy leaves Federal service, we extend best wishes to him, his wife Sharon, and their children.

THE ACCESS TO EMERGENCY SERVICES ACT

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Ms. ESHOO. Mr. Speaker, today I am introducing the Access to Emergency Services Act. This legislation would require the FCC to establish a framework which would prohibit the blocking of 911 calls placed by cellular and wireless users.

Why is this legislation necessary? In many markets, cellular phone users have been put in jeopardy because they are unable to access emergency 911 help when they were not subscribed to the local cellular company. Fortunately, cellular companies in California no longer block emergency 911 calls.

However, this change in policy did not happen soon enough for a California woman who, in December 1994, was shot and robbed because her calls to 911 on her cellular phone were blocked by the local cellular company.

The irony is, of course, that many cellular customers purchase cellular phones for just these emergency situations. Would they have become customers if they realized they might not be able to reach 911 when necessary?

The FCC is currently conducting a rulemaking on wireless 911 services. I hope the FCC will do the right thing, and address this issue in its rulemaking.

I am introducing this legislation because this issue is too important to cellular users to leave to chance. We must ensure that no one is victimized because he or she was unable to reach 911 on their cellular phone.

These cellular licenses were given to cellular companies in order to develop a new service for the American people. As a member of the Commerce Committee, I take very seriously my responsibility to ensure that the public's airwaves are put to good public use. At the very least, cellular users deserve access to local 911 emergency services.

I urge my colleagues to support this legislation.

WESTMORELAND COUNTY ATTORNEYS DO PRO BONO WORK

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. KLINK. Mr. Speaker, I rise today to congratulate the many attorneys who perform pro bono work in Westmoreland County. These men and women take time out of their busy schedules to help those less fortunate with legal representation.

Pro bono work is essential in our communities. Many people who need representation in this country cannot afford it. Legal service organizations can only help on a limited basis. This is due to a lack of funding which leaves them overworked and underpaid.

Many legal organizations have realized the need for pro bono work and have actively influenced their members to participate. Some States have considered adding pro bono work to continuing legal education requirements.

Pro bono work reflects what is great about our country, giving back to our community—62 attorneys in Westmoreland County are doing just that.

With that in mind, Mr. Speaker, I along with my colleagues in this House would like to show our appreciation to those 62 attorneys for their efforts.

They are as follows:

A.C. Ansani; Bruce A. Antowiak; Brian D. Aston; Lawrence F. Becker, III; H. Reginald Belden, Jr.; Alan K. Berk; Eric E. Bonomi; William D. Boyle; Jennie K. Bullard; David A. Colecchia; James B. Crowley; Sandra E. Davis; Anthony W. DeBernardo, Jr.; Patricia A. DeConcilis.

Rhonda Anderson Marks; James A. Meade; Scott O. Mears; James R. Michael; Paul S. Miller, Jr.; David J. Millstein; John M. Noble; Jeffry A Pavetti; Richard F. Pohl; Dwayne E. Ross; William A. Ryan; Thomas R. Shaner; Mark J. Shire; Bernard S. Shire.

Michael J. Drag; James M. Duffy; Paul J. Elias; Scott A. Fatur; Karen L. Ferri; Henry B. Furio; William C. Gallishen; Mark S. Galper; Edward E. Gilbert; Barry B. Gindlesberger; Abby S. Harrison; Thomas A. Himler, Jr.; Stuart J. Horner, Jr.; Carl P. Izzo, Jr.; Richard L. Jim; Robert I. Johnston; K. Lawrence Kemp.

Lawrence D. Kerr; Randall G. Klimchock; Maureen S. Kroll; Stephen Langton; Marceline A. Lavelle; Wm. Jeffrey Leonard; Larry D. Loperito; Irene Lubin; Robert H. Slone; Thomas W. Smith; Marvin D. Snyder, Jr.; Mark L. Sorice; Margaret A. Tremba; R.E. Valasek; James A. Wells; Ronald J. Zera; Susan M. Zydonik.

A TRUE AMERICAN HERO

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. RIGGS. Mr. Speaker, I rise today to recognize and honor a true American hero, Mr. Arthur E. Lewis. Arthur Lewis now resides at the Yountville Veterans Home of California.

During the trying years of World War Two, Seaman "Art" Lewis was assigned aboard the U.S.S. *Balch*. In the spring of 1942, the U.S.S. *Balch* sailed with Task Force 16. Task Force 16 was a group of ships that launched the successful daylight bombing raid on Tokyo by General Doolittle and his sixteen Army B–25 bombers. The Doolittle raids were an enormous boost to the morale of the American people in the first months of the war following the tragic Japanese surprise attack on Pearl Harbor.

Not long after this important mission, the U.S.S. *Balch* was to again engage the enemy in the pivotal battle of Midway Island. Aboard the U.S.S. *Balch*, Art Lewis demonstrated his gallantry and bravery under adverse and treacherous conditions.

The Battle for Midway would result in a resounding victory for the United States Navy. However, the battle did not end without exacting a substantial toll on the American forces. In the concluding hours of the historic sea battle, the aircraft carrier *Yorktown* was mortally damaged. Its crew abandoned ship in the shark-infested waters of the South Pacific. The sailors of the *Yorktown* were scattered about the ocean, wounded, exhausted, and oil-soaked. They were in danger of being lost if immediate assistance was not forthcoming. Seaman Lewis, with disregard for his own safety, took immediate action to save the lives of his fellow sailors by carrying buoyed lines 300 to 400 years out to exhausted swimmers.

Uncertain whether the Japanese would strike again, all ships in the vicinity were under

VOL
142
PT
5
MR
21
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29
1996
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orders to make full speed in the event of another air attack. Despite this possibility, Seaman Lewis continued to save the lives of his comrades.

Fortunately, the Japanese did not launch a second attack, and 9 hours after the sinking of the *Yorktown*, the rescue operations were complete. Art, along with others had saved the lives of 2,270 Americans on that historic day in June, 1942.

Art's story of gallantry is not a fading memory of an aging veteran. Along with many military historians, Adm. Chester Nimitz made note of Art's bravery in his written accounts of the Battle of Midway.

Despite these facts, Art was never officially recognized for his acts of bravery. Because of the length of time since the Battle of Midway, military regulations make it impossible to award Seaman Lewis with the Bronze Star, the medal he would have received during World War Two for his actions.

While the Pentagon cannot bestow Mr. Lewis with a Bronze Star, I feel it is incumbent upon me and all Americans to make note of Mr. Lewis' brave acts. At the very least, it is important to make record of Mr. Lewis' dedication and courage. Mr.Speaker, on behalf of the American people, I convey–our gratitude and thanks to a true American hero, Seaman Art Lewis.

IN RECOGNITION OF ARLENE GIBEAU

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. BUNNING of Kentucky. Mr. Speaker, I would like to take this opportunity to recognize the fine efforts of one of my constituents, Arlene Gibeau of Covington, KY.

In northern Kentucky, Arlene's name is synonymous with the arts. For the last 13 years, she has served with distinction as a volunteer and then executive director of the Northern Arts Council. Through her dynamism and determination, she has helped build the council and its home, the Carnegie Center for the Arts, into the most respected showcase for the arts and culture in the Cincinnati area.

Along with all of her other activities, Arlene has also managed to find time to help run our Artistic Discovery Competition in the Fourth District. Every year she has always done a first-rate job, and I have no idea how we could have done it without her.

A dancer and musician, Arlene came from an artistic family. She established her own dance company at the age of 14 and ran it until World War II broke out. Widowed by the war, she raised her two daughters on her own until she remarried 3 years later. She eventually had two more daughters and a son.

Her children carry her love of culture. Two of her daughters are writers and one son works in movies. A granddaughter performs as a Shakespearian actress.

As an artist, Arlene's greatest strength has always been her determination that no student should be deprived of the joy of learning about the arts. When she worked at the Carnegie Center, she organized arts programs for children that really made a difference in many young lives. Over the years, word spread and kids literally walked in off the street. Arlene always found for each youngster an art project to help teach and enhance their lives.

Being married to an artist myself, I think that I understand some of Arlene's passion for culture and how the arts can enrich our lives. She has helped make our corner of the world more beautiful and enjoyable.

She has made a difference.

Mr. Speaker, Arlene Gibeau deserves our recognition and respect for all of her efforts on behalf of the arts. I know that the city of Covington and northern Kentucky are certainly all the more rich because of her good works.

WOMEN'S HEALTH ENVIRONMENTAL FACTORS RESEARCH ACT

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Ms. FURSE. Mr. Speaker, today's introduction of the Women's Health Equity Act is extremely important. This landmark legislation holds much promise for the women of our great Nation.

I authored one piece of it, the Women's Health Environmental Factors Research Act, and will introduce it soon as its own freestanding bill. This act calls for the National Institute of Environmental Health Sciences to do two things. First, NIEHS is to compile a status report on what we already know about the effects on women's health of environmental exposure and then, NIEHS is to outline a research agenda to fill in the gaps.

We need more information about the impact of certain environmental factors on women's health. Breast cancer, immune dysfunction, and other women's health issues may be partially the result of environmental factors.

Many chemicals in our environment today are compounds that mimic human estrogen. For many years, risk assessment research inadvertently excluded gender-specific problems from the studies. It is quite possible that some chemicals affect women differently than men.

We must put women's health research back into the equation.

I look forward to working with my colleagues on the Women's Health Environmental Factors Research Act, as well as the entire Women's Health Equity Act.

HONORING THE PAINTSVILLE HIGH SCHOOL TIGERS

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. ROGERS. Mr. Speaker, I rise today to honor the 1996 Kentucky Boys High School basketball champions—the Paintsville High School Tigers.

High school basketball holds a special place in the heart of every person in eastern Kentucky. This is especially true in the city of Paintsville.

The 1995–96 Paintsville Tigers beat the odds and captured the State championship with hard work and determination. The Tigers began the year with a rigorous schedule against some of the toughest competition available.

Head Coach Bill Mike Runyon and Assistant Coach David VanHoose guided the Tigers through a tough regular season which included Lexington Catholic, Harlan, and Boyd County. These regular season tests would prove critical in preparing the Tigers for their eventual showdown in Rupp Arena.

Paintsville's road to the sweet sixteen was paved with hard-won victories. The Tigers defeated longtime rival Magoffin County to win the district crown. The two teams faced each other again in the 15th region final, with Paintsville winning again.

After a trip down the Mountain Parkway to Lexington, the Tigers were ready to face Kentucky's best teams. Paintsville defeated Owensboro, Allen County-Scottsville, and Lexington Catholic to advance to the Saturday night final. The Tigers cruised to victory in the title game with a resounding defeat of Ashland. –

Paintsville's team was rich in talent and size. They were led by sophomore sensation J.R. VanHoose. The 6′10″ center set a new, single-game, tournament record for rebounds—breaking the old record held by NBA great Wes Unseld. VanHoose was also named the tournament's most valuable player.

Joining VanHoose were seniors Craig and Matt Ratliff, Todd Tackett and Josh McKenzie completed the Tigers' primary lineup. Other members of the varsity squad included: Danny Scott, Kyle Adams, Josh Greiner, Jason Conley, Kyle Kretzer, Devon Pack, Jeremy Watkins, Mike Short, Mikie Burchett, Mark Grim, and Eric Addington.

Mr. Speaker, the Paintsville Tigers have made the people of Johnson County and eastern Kentucky very proud. They now have their own chapter in Kentucky's renowned history of high school basketball.

TRIBUTE TO GEORGE GAZMARARIAN

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize Mr. George Gazmararian of Alma College, as he celebrates his retirement as emeriti professor of business administration. During his 30-year career at Alma College, Mr. Gazmararian has touched many lives. He has served as an extraordinary leadership figure to numerous students who are striving to learn and grow at Alma College. He has instilled in them courage and self-confidence as they entered into the professional world. He has prepared his students for extraordinary community leadership and involvement by promoting the essential attributes of integrity, ambition, and initiative. Mr. Gazmararian has set the standards

for conscientious attention to student needs, teaching the practical application of business principles and encouraging lifelong learning for his mentorees.

Through his strong commitment to educating and promoting excellence in others, he has served as an example to fellow professors and community leaders. He established longstanding relationships with his students, enabling him to serve as a motivator, counselor, and educator.

Professor Gazmararian is a great instructor and strong advocate of education. I know you will join me in recognizing him for all that he has done as he celebrates his retirement from the staff of Alma College.

THE VILLAGE TIMES NEWSPAPER CELEBRATES 20TH ANNIVERSARY

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. FORBES. Mr. Speaker, I rise today to pay tribute and to congratulate "The Village Times" and its founder, Leah S. Dunaief, for 20 years of dedicated service to the people of Suffolk County.

On April 8, 1976, as Americans were getting ready to celebrate the 200th Birthday of their Nation, Leah S. Dunaief founded The Village Times as a weekly newspaper to cover the historic Three Village area of Long Island's North Shore. Starting off with little more than the notion that a newspaper should devote itself fully towards serving the community it covers, while always maintaining the highest journalistic ideals, Dunaief's business grew into a six-newspaper chain with a circulation of over 30,000, covering the entire North Shore area from Wading River to Smithtown.

During her 20 years in the weekly community newspaper business, Dunaief has never wavered from that original mission. While other newspapers and television news outlets may have chased sensationalistic stories in the pursuit of a profit, Dunaief's Times/Beacon/Record chain has maintained what she terms "that starry-eyed commitment to serving this community." That commitment has often meant stepping outside the traditional role of journalists as observers and becoming active participants in the events of their hometown. A recent example of Dunaief's commitment to her hometown was having her newspapers cosponsor, with John T. Mather Hospital of Port Jefferson, the Cardio-Wise Cafe, a workshop at the hospital that taught local residents how to adopt heart-healthy lifestyles and nutritional habits.

The Cardio-Wise Cafe is just one example of the projects and involvements that have helped Times/Beacon/Record Newspapers become an integral part of the foundation of the communities they serve. Each of the six newspapers were built by Dunaief from the ground up, growing into respected members of the Long Island, New York and National journalism community. Along the way, they have garnered journalism awards too numerous to list in full. "Excellence" is the motto of the Times/Beacon/Record newspaper company, and judging by the opinion of other journalists who have assessed the work of Dunaief's reporters and editors, "Excellence" is the word to which they are committed.

Among the many honors bestowed upon Times/Beacon Record journalists by their peers are the National Newspaper Associations' awards for Best Investigative Reporting and for Feature Photography. The New York Press Association consistently honors Dunaief's newspapers with top prizes, including the prestigious Stuart Dorman Award for General Excellence for the best overall community newspaper in the state. Other New York Press Association awards include top honors for Community Service, Editorial Excellence, Best Front Page, Best Editorial Page, Best Advertising Campaign and Best Looking Advertisement and Dunaief herself has been honored for Best Column. Additionally, the University of Missouri Journalism School has awarded Times/Beacon/Record Newspapers with its Penny-Missouri Award for Best Lifestyle Section. Locally, the Long Island Press Association has honored Dunaief's reporters and editors with numerous awards for journalistic Excellence.

After 20 years in the weekly newspaper business, Dunaief's newspapers have become vital members of the North Shore communities they serve, along the way earning the respect of readers and peers alike. In this age of rapidly emerging technologies, where news and other information are readily available via computer and the Internet, a weekly newspaper is still the only medium that can ably chronicle the happenings and define the character of an entire community. Every Thursday for the past 20 years, The Village Times has done an extraordinary job of offering its readers the kind of news, insight, and guidance that simply isn't available anywhere else. The Times/Beacon/Record Newspapers are the paradigm of what community journalism should be, garnering success and glory by always putting its readers' interest first and always striving for "Excellence."

Congratulations to Leah Dunaief and her able team at "The Village Times." May you continue to serve the community for many years to come.

CLINTON'S DAMAGE TO U.S. FOREIGN POLICY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. SOLOMON. Mr. Speaker, I insert for the record two articles which point out the depths to which the Clinton administration has brought U.S. foreign policy. The first is an oped by Charles Krauthammer, detailing the administration's obsequious appeasement of Communist China, which seems more like a parody with each passing day.

The second is a Washington Times article revealing President Clinton's offer to help Boris Yeltsin get reelected in Russia, in exchange for Russia dropping a recent ban on United States chicken imports. Of course, this ban severely impacted some of President Clinton's friends back in Arkansas.

What is so pathetic is that after Russia imposed this absurd chicken import ban, the Clinton administration's response was not to use our enormous leverage with Russia due to the fact that we provide them with billions of dollars of taxpayer aid. Instead, the President offered to help Yeltsin get reelected, which means making more concessions on matters of national security such as NATO expansion and missile defenses.

Mr. Speaker, China and Russia are two nuclear armed giants that grow more adversarial by the day, and this administration is doing nothing about it. In fact, they are openly encouraging this dangerous trend, and voters should do something about it this November.

[From the Washington Post, Mar. 22, 1996]

CHINA'S FOUR SLAPS—AND THE UNITED STATES' CRAVEN RESPONSE

(By Charles Krauthammer)

The semi-communist rulers of China like to assign numbers to things. They particularly like the number 4. There was the Gang of Four. There were the Four Modernizations (agriculture, industry, technology and national defense). And now, I dare say, we have the Four Slaps: four dramatic demonstrations of Chinese contempt for expressed American interests and for the Clinton administration's ability to do anything to defend them.

(1) Proliferation. The Clinton administration makes clear to China that it strongly objects to the export of nuclear and other mass destruction military technology. What does China do? Last month, reports the CIA, China secretly sent 5,000 ring magnets to Pakistan for nuclear bomb-making and sent ready-made poison gas factories to Iran.

(2) Human rights. Clinton comes into office chiding Bush for "coddling dictators." In March 1994, Secretary of State Warren Christopher goes to China wagging his finger about human rights. The Chinese respond by placing more than a dozen dissidents under house arrest while Christopher is there, then declare that human rights in China are none of his business. Christopher slinks away.

(3) Trade. The administration signs agreements with China under which it pledges to halt its massive pirating of American software and other intellectual property. China doesn't just break the agreements, it flouts them. Two years later the piracy thrives.

(4) And now Taiwan. For a quarter-century, the United States has insisted that the unification of Taiwan with China must occur only peacefully. Yet for the last two weeks, China has been conducting the most threatening military demonstration against Taiwan in 40 years: firing M–9 surface-to-surface missiles within miles of the island, holding huge live-fire war games with practice invasions, closing shipping in the Taiwan Strait.

Slap four is the logical outcome of the first three, each of which was met with a supine American response, some sputtering expression of concern backed by nothing. On nuclear proliferation, for example, Clinton suspended granting new loan guarantees for U.S. businesses in China—itself a risible sanction—for all of one month!

"Our policy is one of engagement, not containment," says Winston Lord, assistant secretary of state for East Asian and Pacific affairs. This is neither. This is encouragement.

Two issues are a stake here. The first is the fate of Taiwan and its democracy. Taiwan is important not just because it is our eighth-largest trading partner. With its presidential elections tomorrow, Taiwan becomes the first Chinese state in history to

VOL 142 PT 5 MR 21 — 29 1996 UMI

become a full-fledged democracy. It thus constitutes the definitive rebuff to the claim of Asian dictators from Beijing to Singapore that democracy is alien to Confucian societies. Hence Beijing's furious bullying response.

The second issue has nothing to do with Taiwan. It is freedom of the seas. As the world's major naval power, we are, like 19th century Britain, its guarantor—and not from altruism. Living on an island continent, America is a maritime trading nation with allies and interests and commerce across the seas. If the United States has any vital interests at all—forget for the moment Taiwan or even democracy—it is freedom of navigation.

Chinese Premier Li Peng warns Washington not to make a show of force—i.e., send our Navy—through the Taiwan Strait. Secretary of Defense William Perry responds with a boast that while the Chinese "are a great military power, the premier—the strongest—military power in the Western Pacific in the United States."

Fine words. But Perry has been keeping his Navy away from the strait. This is to talk loudly and carry a twig. If we have, in Perry's words, "the best damned Navy in the world," why are its movements being dictated by Li Peng? The Taiwan Strait is not a Chinese lake. It is indisputably international water and a vital shipping lane. Send the fleet through it.

And tell China that its continued flouting of the rules of civil international conduct—everything from commercial piracy to nuclear proliferation, culminating with its intimidation of Taiwan—means the cancellation of most-favored-nation trading status with the United States.

Yes, revoking MFN would hurt the United States somewhat. But U.S.-China trade amounts to a mere two-thirds of one percent of U.S. GDP. It amounts to fully 9 percent of Chinese GDP. Revocation would be a major blow to China.

Yet astonishingly, with live Chinese fire lighting up the Taiwan Strait, Treasury Secretary Robert Rubin said Tuesday that the Clinton administration supports continued MFN for China. He did aver that Congress, angered by recent events, would probably not go along.

This is timorousness compounded. Revoking MFN is the least we should do in response to China's provocations. Pointing to Congress is a classic Clinton cop-out. The issue is not Congress's zeal. It is Beijing's thuggery.

Quiet diplomacy is one thing. But this is craven diplomacy. What does it take to get this administration to act? The actual invasion of Taiwan? you wait for war, you invite war.

[From the Washington Times, Mar. 27, 1996]

Clinton Vows Help for Yeltsin Campaign—Arkansas' Interest in Poultry Dispute Discussed at Antiterrorism Summit

(By Bill Gertz)

President Clinton, in a private meeting at the recent anti-terrorism summit, promised Boris Yeltsin he would back the Russian president's re-election bid with "positive" U.S. policies toward Russia.

In exchange, Mr. Clinton asked for Mr. Yeltsin's help in clearing up "negative" issues such as the poultry dispute between the two countries, according to a classified State Department record of the meeting obtained by The Washington Times.

Mr. Clinton told Mr. Yeltsin that "this is a big issue, especially since about 40 percent of U.S. poultry is produced in Arkansas. An effort should be made to keep such things from getting out of hand," the memo said.

White House and State Department spokesmen confirmed the authenticity of the memo but declined to comment on what they acknowledged was an extremely sensitive exchange between the two leaders.

The memorandum on the March 13 talks in Sharm el-Sheikh, Egypt, does not quote the two presidents directly but paraphrases in detail their conversation.

According to the classified memorandum, Mr. Yeltsin said "a leader of international stature such as President Clinton should support Russia and that meant supporting Yeltsin. Thought should be given to how to do that wisely."

The president replied that Secretary of State Warren Christopher and Russian Foreign Minister Yevgeny Primakov "would talk about that" at a meeting in Moscow. The meeting ended last week.

Mr. Clinton told Mr. Yeltsin "there was not much time" before the Russian elections and "he wanted to make sure that everything the United States did would have a positive impact, and nothing should have a negative impact," the memo said.

"The main thing is that the two sides not do anything that would harm the other," Mr. Clinton said to Mr. Yeltsin. "Things could come up between now and the elections in Russia or the United States which could cause conflicts."

The memorandum, contained in a cable sent Friday by Deputy Secretary of State Strobe Talbott, was marked "confidential" and was intended for the "eyes only" of Thomas Pickering, U.S. ambassador to Russia, and James F. Collins, the State Department's senior diplomat for the former Soviet Union.

The memo said Mr. Clinton suggested that the chicken dispute and others like it could be made part of talks between Vice President Al Gore and Russian Prime Minister Victor Chernomyrdin.

Mr. Gore announced Monday that Russia has lifted the ban on U.S. chicken imports that had been imposed out of concern that the chicken was tainted with bacteria.

The Washington Times reported March 8 that Mr. Clinton intervened personally in the poultry dispute late last month.

The president's directives to his staff to solve the problem right away benefited powerful Arkansas poultry concerns. Among them is the nation's leading producer, Tyson Foods Inc., whose owner, Don Tyson, has long been a major contributor to Mr. Clinton's campaigns.

U.S. poultry exports made up one-third of all U.S. exports to Russia and are expected to total $700 million this year.

Asked about the memo on the Clinton-Yeltsin meeting, White House Press Secretary Michael McCurry said yesterday that it is "inaccurate" to say Mr. Clinton promised to orient U.S. policy toward helping the Russian leader's political fortunes. Rather, he said, the president wanted to make sure that issues in the two countries do not hamper good relations. The poulty issue was raised in that context only, the press secretary said.

Mr. McCurry, who said he was present at the meeting, also said the president was referring to "positive relations" between the two countries and not political campaings.

Those present at the meeting included Mr. Christopher, CIA Director John Deutch, National Security adviser Anthony Lake and, besides Mr. Yeltsin, four Russian officials, including Mr. Primakov and Mikhail Barsukov, director of the Federal Security Service.

During the discussion, Mr. Yeltsin outlined his political strategy for winning the June presidential elections and said he still had doubts about running as late as last month.

"But after he saw the Communist platform, he decided to run," the memo said. "The Communists would destroy reform, do away with privatization, nationalize production, confiscate land and homes. They would even execute people. This was in their blood."

Mr. Yeltsin said he will begin his campaign early next month, traveling throughout Russia for two months to "get his message to every apartment, house and person" about his plan to strengthen democracy and reforms.

"The aim of Yeltsin and his supporters would be to convince the candidates one by one to withdraw from the race and to throw their support behind Yeltsin," the memo said.

Russian Communist Party leader Gennady Zyuganov is "the one candidate who would not do this" because he is "a die-hard communist," and Mr. Yeltsin noted that he "would need to do battle with him."

Mr. Yeltsin dismissed former Soviet President Mikhail Gorbachev as "not a serious candidate."

"He had awaken one morning and decided to run and would wake up another morning and decide to withdraw his candidacy," Mr. Yeltsin said of his predecessor. "This would be better for him because he now had some standing and if he participated in the elections, he would lose any reputation he had left."

CONTRACT WITH AMERICA ADVANCEMENT

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. PACKARD. Mr. Speaker, the American people overwhelmingly supported our Contract With America. Today we take another step toward implementing the commonsense reforms the American people support.

The measure before us today goes a long way toward ensuring the American dream. It raises the Social Security earnings limit to $30,000 by 2002. The current law punishes our seniors who chose to remain productive beyond age 64. Seniors lose $1 in Social Security benefits for every $3 they earn above $11,250. Today's seniors have a lot to offer and the Government should not penalize them for it.

One of the greatest things this country has to offer is its entrepreneurial spirit. Yet ironically, it is the vehicle for this entreprenuerialism—small business—that bears the burden of overwhelming regulatory machinery. The small business items in the contract return common sense to the regulatory process and gives small businesses the advantages they need to succeed. Small business is the engine that drives this country. When small business succeeds, America succeeds.

Finally, we have the opportunity to implement one of Ronald Reagan's great visions—the line-item veto. This provision would allow the President to selectively weed out wasteful

pork-barrel spending in a bill. It ensures Government spends hard-working American's tax dollars wisely.

Mr. Speaker, the Contract With America outlines a vision for our country based on the values that our Nation holds dear—individual liberty, economic opportunity, and personal responsibility. Our vote today puts us another step closer to making this vision a reality.

HONORING ROBERT P. HARTZELL

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. RIGGS. Mr. Speaker, I rise today to pay special tribute to Robert P. Hartzell, the outgoing president of the California Association of Winegrape Growers [CAGW].

The wine and winegrape industries are extremely important to my district and to the State of California. Let me share with my colleagues some figures to illustrate this point:

At $1.7 billion, grapes are the second highest-ranked California commodity based on farm gate value.

The State's wine industry generates over $10 billion in annual revenue.

In 1995, over 3 million tourists visited California's wineries.

The California industry produces over 90 percent of the wine produced in the United States.

More than 2.6 million tons of grapes are crushed annually for use as wine and concentrate.

These numbers clearly demonstrate the beneficial impact of this important industry on California's economy.

Mr. Hartzell, who has served as CAWG's president since 1978, recently announced his retirement from the association. Prior to his tenure at CAWG, Mr. Hartzell served as deputy director of the California Department of Food and Agriculture under then-Governor Ronald Reagan.

Mr. Hartzell's 17 years of hard work and dedication has contributed to the success of California's winegrape growers in developing a successful and profitable industry. In the mid-1970's, grape growers faced extremely difficult economic times. During those years, Mr. Hartzell was instrumental in the development of a statewide winegrape grower group created to assist the industry.

Mr. Hartzell also is credited with increasing the industry's ability to compete in international markets through his extensive efforts to fund viticulture, consumer, and marketing research. As this industry grows, the development of new export markets becomes increasingly important. Mr. Hartzell recognized the importance of exports long before many others in the wine and winegrape industry.

Over the years, Mr. Hartzell has served as a diplomat for California's winegrape industry, and his efforts have earned the industry respect in the United States and throughout the world.

I commend Mr. Hartzell for his years of service on behalf of the winegrape growers. His efforts will be greatly missed by the entire industry. I wish him the best of luck in his future endeavors.

PORNOGRAPHY ON THE INTERNET

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. SMITH of Michigan. Mr. Speaker, I am concerned about recent stories of children accessing pornographic material on the Internet. This does not, however, mean that there is a problem with the Internet, rather it tells us how much the moral fiber of America has decayed. In short, this material is available because people are demanding it.

When a product is in demand, such as pornographic material on the Internet, there is no system more powerful in delivering these demands than our free market. Therefore, we must focus on strengthening our families' and citizens' morality, so it is no longer acceptable to transmit or possess this material. The Government cannot prevent the market from delivering its product to a want in consumer. We must change the focus of the debate from Government prevention, back to the family responsibility.

Short of this, the Government can only hope to help business by allowing them to be responsible and close off children's access to this material. That's why I supported Representative CHRIS COX'S amendment in the House, which allowed business to filter material without threat of a lawsuit.

A TRIBUTE TO MY MOTHER

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. WELDON of Pennsylvania. Mr. Speaker, I am saddened today to bring to your attention the recent passing of one of this Nation's finest, most caring, and gentlest women—my mother.

Catherine C. Weldon, as she is known to others, was a devoted mother. And devoted she had to be to be put up with raising myself, my six brothers, and my two sisters. Yet she cared for each of us as if we were an only child, giving every one of us the individual attention that children need from their mother. And she did so happily and from the bottom of her heart.

One would think that simply raising the nine of us would have been a full-time job, yet she still found time to become an activist in our church. There she volunteered her time at the Sunday school and various other church activities. She also was the founder and leader of the Pioneer Girls of Marcus Hook Baptist Church.

My mother served her community in other ways as well. She was a regular volunteer for the Red Cross and their local bloodmobile. Additionally, she served on the Parent-Teachers Association at Marcus Hook Elementary School, the school my brothers, sisters, and I attended.

She was married to the late Stephen Weldon, Sr., mother of 9 children: Harry Weldon, Dick Weldon, Kay Weldon Nass, Don Weldon, Betty Weldon Doyle, Bob Weldon, Paul Weldon, myself, and the late Steve Weldon, Jr; 37 grandchildren: Stephen W. Weldon III, Lillian Weldon Speakman, Doris Weldon, Catherine Weldon LeMand, John Weldon, Jennifer Weldon Higgins, Harry Weldon, Jr., Earl Weldon, Lisa Weldon Cowper, Paula Weldon Chaplin, David Weldon, Richard Weldon, Jr., Kerry Weldon McDermott, Timothy Weldon, Craig Weldon, Robert Nass II, Curt Nass, Scott Nass, Tracy Nass Brown, the late Christopher Nass, Donald Weldon, Jr., Glen Weldon, Sandra Doyle Moon, Sharon Doyle Freeman, the late Robert Weldon II, Jeff Weldon, Greg Weldon, Julie Weldon, Clay Weldon, Clint Weldon, Chad Weldon, Christie Weldon, Karen Weldon, Kristin Weldon, Kimberly Weldon, Curt Weldon, Jr., and Andrew Weldon; 54 great-grandchildren, and 2 great-great grandchildren.

Her funeral service will be held at Marcus Hook Baptist Church, in Linwood, PA, on April 2, 1996, at 11 a.m. Friends may call from 9:30 a.m. until 11 a.m. at the church. Internment will follow the service at Lawncroft Memorial Cemetery in Linwood. The Catherine Weldon Christian Education Fund has been setup to receive donations in lieu of flowers. Contributions will be used to provide educational funding for children of families throughout the area. Donations can be sent to the Catherine Weldon Christian Education Fund, c/o the First National Bank of West Chester, P.O. Box 523, West Chester PA 19381.

My mother was truly a remarkable woman. Words cannot express how deeply she will be missed by her friends, neighbors, and relatives.

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150 YEARS FOR THE FIRST UNITED METHODIST CHURCH OF DALLAS

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to celebrate the sesquicentennial of the First United Methodist Church of Dallas. This church has seen the city of Dallas grow from the small town that Dallas was in the late 1860's to the booming metroplex of today.

The history of the First United Methodist Church of Dallas begins in 1846 when the Methodist Church sent a minister to the small town of Dallas. The population of the city was about 200. The reverend from the Methodist church met with several resident, formed a small congregation and proceeded to build Dallas' first church on the corner of Commerce and Lamar. In 1879, the church was destroyed by fire. The second church resided at the corner of Commerce and Prather from 1894 to 1916. Then, the church purchased land on the corner on Ross and Harwood and began the construction of the church we know today. It was not completed until February 7, 1926, exactly 80 years after its formation.

During the 1960's, the church was a meeting place for civil rights activists in downtown

VOL
142
PT
5
MR
21
—
29
1996
UMI

Dallas. No other church would let blacks meet in Dallas, but the First United Methodist Church has never discriminated and has always allowed groups to congregate nonviolently within their walls. They believe in accepting people into their church and not turning away people who need their help.

The First United Methodist Church of Dallas, today, is a downtown church which has a distinct identity and culture all of its own and has been able to flourish. People come from as far as north Texas and Waco making the trek downtown, and they pass more convenient churches along the way. Music and the arts are the First United Methodist Church's outreach to its congregation. Many people attend the other activities at the church during the week as well as on Sunday. On Wednesday, the church holds a weekly midday music program where the music is free and a hot home-cooked meal is provided for $5.

While downtown churches in many cities are shutting their doors, and are experiencing a decline or moving to the suburbs, the First United Methodist Church of Dallas is holding its own with no plans of abandoning its home in the inner city.

The church is a spiritual landmark for anyone who has lived in Dallas, and everyone has come to know the First United Methodist Church of Dallas and the people who work there as friends. It provides a wealth of services in support to the community and should truly be congratulated for its commitment to Dallas and the people who attend this church. This 150th anniversary celebration recognizes all that the church has given to Dallas, and now it is our turn to give back to it. We wish the First United Methodist Church of Dallas a happy 150 years and many more.

TRIBUTE TO AMERICA'S VOLUNTEER FIREFIGHTERS

HON. GLEN BROWDER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. BROWDER. Mr. Speaker, I rise to pay special tribute to the 1.7 million men and women across America who serve as firefighters. They risk their own lives each day to protect our communities from the destruction that fire causes. They are truly American heroes.

Our Nation, rich in so many things, cannot escape fire's grasp. The United States has a higher incidence of death and property loss due to fire than any other industrialized nation in the world. Each year, we are painfully reminded of the death and destruction fire can cause. Last year alone, 4,275 people died in fires—an average of one death every 2 hours. Fires injured over 27,000 others.

Specifically, I rise today to commend our volunteer firefighters for the excellent job they do in protecting our country's and my State's rural areas. These special people take their own free time, after working long hours on their regular jobs, and volunteer so that others might rest assured that they are well protected. They give everything and expect nothing.

Almost 90 percent of our Nation's fire service is volunteer. In my State of Alabama, 30,000 men and women proudly serve as volunteer firefighters. These dedicated volunteers often must overcome more than just deadly fires. Their fire departments often operate on small budgets, using old equipment, and with small water supplies.

The value of volunteer fire departments extends beyond fire and safety protection. In Alabama's small communities, the building often serves as the community center. Firefighters bind communities together, and they truly embody the idea of people helping other people.

Last fall, after Hurricane Opal's destruction came through Alabama, I accompanied the volunteer department in Gold Hill one Sunday cleaning up the yard of an elderly woman. A huge tree lay across her driveway. We spent several hours removing the limbs and debris from the blocked driveway, clearing a path for her in case of a medical emergency. Being part of such a show of community spirit after such a devastating storm was truly remarkable.

On the way home that evening, I spoke with a crew of power company employees who had just returned from their job of restoring power to homes. One employee told me that were it not for the thousands of volunteer firefighters who began clearing downed trees from the road, it would have been impossible for the power company to reach many of Alabama's hardest hit areas and restore electricity.

Finally, Mr. Speaker, I rise to pay tribute to the three Alabamians who were among the Nation's fallen firefighters. There names were inscribed on the Fallen Firefighters Memorial in Maryland last fall. Jay Boothe, a 17 year old from Shelby County, Bedford Cash, a member of the U.S. Forest Service in Tuskegee, and Herbert Smith, also of Shelby County, paid the ultimate price—giving their lives in the line of duty. In the January edition of the Volunteer, the newsletter of the Alabama Association of Volunteer Fire Departments, Linda Boothe, the mother of Jay Boothe, wrote about the memorial dedication:

> The honor and tributes paid to these fallen heroes is a wonderful display of how a country does care and remember its other heroes—those who serve their country in their own communities and fight the war against the fiery dragon that threatens through carelessness. The monumental plaque with the names of the firefighters that died in 1994 now stands at the monument site so that others can read these heroes' names for years to come.

That, Mr. Speaker, truly sums up the valuable role these volunteers play in so many lives each and every day across this great country. On behalf of the U.S. Congress and a grateful Nation, I say Thank you and God bless you.

INTRODUCTION OF THE SATELLITE HOME VIEWER PROTECTION ACT OF 1996

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. MOORHEAD. Mr. Speaker, the Satellite Home Viewer Protection Act of 1996 seeks to break the logjam in negotiations between the satellite TV industry and network broadcasters created by the Satellite Home Viewer Act of 1994, and to provide subscribers with rights and remedies with respect to reception of satellite-delivered network signals. The Home Viewer Protection Act accomplishes these goals in several ways.

The bill adds new section 119(a)(2)(D) which requires satellite carriers to notify their new and existing subscribers of the network signal restrictions of the 1994 Home Viewer Act. Many subscribers have complained that they have spent hundreds of dollars on satellite equipment without being told that they may not be eligible for service of certain network signals. Further, existing subscribers have had their network service turned off with little or no explanation or information from their satellite carriers. The bill will resolve this problem by placing an affirmative duty on satellite carriers to inform their potential subscribers of the network restrictions prior to their providing service, as well as inform their current subscribers of the restrictions by a date certain.

The bill also provides subscribers, whose service of network signals is challenged by their local network affiliates, a direct means of determining whether they are still eligible for service. If a local affiliate challenges a subscriber in its local service area under the 1994 act, the satellite carrier must inform the subscriber of the challenge in writing. The subscriber then has 30 days to request the satellite carrier to conduct a signal intensity measurement at his household to determine if he is eligible for service of the network signal that is the subject of the challenge. If the subscriber does not make a timely written request, then the satellite carrier must terminate service. The limits placed on the number of measurements that the satellite carrier must conduct, established in the 1994 act, are retained.

If the signal intensity measurement determines that the subscriber is an unserved household, then the local network affiliate must reimburse the satellite carrier for the cost of the survey. If the measurement reveals that the subscriber does not reside in an unserved household, then subscriber must reimburse the satellite carrier.

In order for the new signal intensity measurement procedure to work, there must, of course, be accepted standards for the measurement. Both satellite carriers and broadcasters agreed in 1994 that they would work out the parameters of the measurement under the current law, but they have been unable to do so. The bill provides both sides with a short negotiation period in which to voluntarily agree to terms and conditions, followed by binding arbitration. Arbitration would be governed by the provisions of title 9 of the United States Code. Whether the signal intensity measurement standards are developed through agreement or arbitration, they must be deposited with the Register of Copyrights for public inspection and copying.

Finally, the bill makes two additional changes regarding the signal intensity measurement. By deleting section 119(a)(8)(D), the measurement is confined to only those subscribers residing within the predicted grade B contour, local service area, of the network affiliate station issuing the challenge. Under the current law, the network has the option of challenging and testing subscribers outside their local service area. As a practical matter, however, most broadcast stations' advertising rate cards are based upon viewers residing within the stations' local service area, so loss of viewership resulting from subscribers outside the local service area does not economically harm broadcasters. Consequently, there is no reason to vest broadcasters with the ability to issue challenges against, and terminate the service of, subscribers who do not reside within their local service area.

The signal intensity measurement procedures of the current law are scheduled to expire at the end of this year. Because of the lack of industry agreement, the procedures have not functioned as envisioned in 1994. Consequently, the bill extends the procedures by an additional year, so that the network challenge and signal intensity measurement regime will not expire until December 31, 1997. I intend to announce a hearing date and a date for markup after the Easter/Passover break.

CONGRATULATIONS TO COLETTE JOHNSON

HON. GREG GANSKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. GANSKE. Mr. Speaker, I would like to bring your attention to the excellent work and accomplishment of Colette Johnson for being a national winner in the Voice of Democracy contest sponsored by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary. Colette is a senior at Abraham Lincoln High School in Council Bluffs, IA.

I want to offer my congratulations to Colette and to VFW Post 737 in Council Bluffs for sponsoring her in this contest. Following is Colette's inspirational essay "Answering America's Call."

ANSWERING AMERICA'S CALL

(By Colette Johnson)

It's time to put the phone back on the hook. She's been trying to get through to you. You took the phone off to forget about your responsibilities. But it's an urgent call. She's been trying to get through. She needs your help. She's calling now. America's calling. You need to answer her call.

Who's calling? America? Your country. But without people she's just a name. A country isn't great because of its land. A country isn't great because of its buildings or cars or weapons. The only thing that can make a country great is its people—people who care, people who are willing to give of themselves, because they have a dream bigger than themselves—a dream of what America should be. America needs dreamers. She needs people who see a land free from the destruction of pollution, where the beauty of nature is cherished and protected. She needs people who see a land free from the shame of pornography, where women and children are never exploited, but are respected. America needs people who see a land where every home is safe from drug abuse and alcoholism, where it is safe to drive through every neighborhood, where every child is free from the fear of abuse and kidnapping, where no one is discriminated against because of their age or color or disability, where all men are brothers, and all brothers are kind. America needs dreamers.

But America needs dreamers who will wake up and do something. It's not enough to dream. America needs people who will make their dreams a reality. She needs people who will do what they should do and not just what is easy to do. America needs dreamers who will plant trees, conserve water, ride bikes, people who will protest pornography and protect its victims. She needs dreamers who will provide foster homes and adopt and love unloved children. America's dreamers need to work with drug and alcohol rehabilitation. America needs dreamers who will look beyond age and color and disability and love all people.

Be a dreamer. America needs dreamers. But more importantly, be a dreamer who makes a dream a reality. As Henry David Thoreau said, "If one advances confidently in the direction of his dreams, and endeavors to live the life which he has imagined, he will meet with a success unexpected in common hours." Don't leave the phone off the hook any longer. Answer America's call. She needs you.

ELIMINATE DOUBLE TAXATION OF LUMP SUM SEPARATION BENEFITS FOR VETERANS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. MONTGOMERY. Mr. Speaker, I am introducing legislation today, H.R. 3183, which would eliminate double taxation of lump sum separation benefits for a veteran who is subsequently determined to be entitled to compensation for a service-connected disability.

This bill would not only do equity, it would correct a legislative oversight.

Prior to 1981, the Department of Veterans Affairs was required to recoup only 75 percent of the total amount of the military separation payment by withholding disability compensation. This provision was intended to account for the inequity of recouping taxable separation pay with nontaxable compensation.

The enactment of 10 U.S.C. 1174(h) eliminated the percentage recoupment and established total recoupment of separation pay. The effect is to require the veteran who has paid income tax on the total separation pay to, in effect, pay that tax again, out of his disability compensation.

H.R. 3183 would correct this inequity by limiting future recoupment of separation pay to no more that 75 percent of the benefit received.

I urge my colleagues to join me in cosponsoring this legislation.

RETIREMENT OF JAMES E. SULLIVAN

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. NEAL of Massachusetts. Mr. Speaker, today I would like to congratulate Mr. James E. Sullivan of Springfield, MA, on his retirement from the Massachusetts Turnpike Authority after more than 20 years of diligent service. Mr. Sullivan, or Jimmy, is a lifelong resident of Springfield and hails from a family with a strong tradition in public service. The youngest of five brothers, James answered the call to public service shortly after his graduation from Cathedral High School in 1949 when he joined the 104th Air National Guard. Jimmy served the Guard dutifully for 9 years, handling supplies and public relations for the 104th. Following his honorable discharge, James began a distinguished working career in a wide variety of occupations including finance, sales, media, and ultimately transportation. It was in this final area that James excelled, working his way up the ladder of the Massachusetts Turnpike Authority from a toll taker to an assistant superintendent, a position he held for the past 17 years.

In addition to his outstanding work for the MTA, Jimmy was extremely active in a host of community activities. He served as president of the Sacred Heart Holy Name Society and is currently a lecturer and a eucharistic minister at Our Lady of Hope Parish in Springfield. He was also a member of several organizations that have made tremendous contributions to the Springfield community. Among these organizations are the Knights of Columbus, the Archbishop Williams Council, and the Springfield Elks Lodge. James also served as the chairman of the Ward 2 Democratic Committee in Springfield. It was also from this position that he offered tremendous support for the many area politicians who hailed from ward 2, including myself.

In addition to these other activities, Jimmy has been tremendously active in Irish affairs both at home and abroad. As a member of the John Boyle O'Reilly Club and the host of an Irish radio program for 25 years, he is intensely proud of his Irish heritage. These two activities have provided him with an ideal vehicle to expose several generations of Irish-Americans, in the Springfield area, to the rich traditions of song and history that Ireland enjoys. He has also been a longtime advocate of the peace process and I know he has done much to promote this sentiment throughout our region.

I would like to congratulate Jimmy on a wonderful career and I wish him all the best as he enjoys his retirement with his wife Peggy, his children Margaret, Sean, and Thomas, and his granddaughter Kaila. While this retirement is a tremendous loss for the MTA, I know that it will enable him to devote even more time to a family he cares for deeply.

VOL
142
PT
5
MR
21
—
29
1996
UMI

I would also like to salute Jimmy Sullivan as a true public servant. His devotion to his family, his church, his job, his country, and his heritage have enabled him to enrich the lives of all who know him. As his Congressman, fellow Democrat, and personal friend, I join the citizens of the Second Congressional District in offering Jimmy our heartfelt congratulations. His life and service to his community are an inspiration to us all and I thank him for all that he has done.

GROWING SUPPORT FOR MINIMUM WAGE INCREASE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. STARK. Mr. Speaker, the last minimum wage adjustment made in 1989 has been completely eroded by inflation. However, we can learn from the experience of that last increase to help assuage the fears that another increase will be detrimental to employment opportunities.

According to analysis by Richard B. Freeman, the preeminent labor economist from Harvard University, studies done on the 1989 minimum wage increase show "that moderate increases in the minimum (wage) transferred income to the lower paid without any apparent adverse effect on employement. * * *"

Translation: the 1989 minimum wage increase did not cost jobs; it did boost the incomes of affected workers.

Mr. Speaker, the 1989 increase was overwhelmingly supported on a bipartisan basis in both the House and the Senate before being signed into law by President Bush. It is time for this Congress to address the wage erosion for low-wage workers with a meaningful minimum wage increase. It is time that the people's House began addressing the real concerns of people.

CONTRIBUTIONS TO THE AMERICAN HERITAGE CLUBS OF NORWALK-LA MIRADA AND CARSON, CA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. TORRES. Mr. Speaker, I rise today to recognize a special group of individuals who have generously supported the American Heritage Clubs of Norwalk-La Mirada and Carson, CA. It is through these contributions of time, energy, and unwavering dedication, that the young people of our community receive the educational opportunity they deserve. The kindness of the following individuals is greatly appreciated:

Roger Leue, for three decades of dedication to Carson's youth; Ted Kimura's support of the 1995 tour of our Nation's Capital; Dr. Caroline Hee for her continuous support and her special floral arrangement at the 1995 Luau; the leadership Elito Santarina displayed in organizing the Carson High American Heritage tour of Washington, DC; the financial support of Dr. Dhyan Lal for the 1994–95 trip; to our 1996 grand marshall, Jesse Sapolu and the fine example he sets for not only the youth of the Pacific Islands, but for all Americans; and the financial support provided by Mayor Don Dear greatly contributed to the success of the Washington, DC, tour for students of Stephen White Middle School.

In addition, we owe a debt of gratitude to Peggy Flores for her guidance and smiling face; Cheri Webster for her willingness to always rise to the challenges that the Washington tours present; Desiree Sullenger for her tireless work on numerous fundraisers; Jim and Bette Hannum, Bev Thies and Marianne Estes, your presence on the trips to Washington was immeasurable; Ernie and Jolinda Marquez and Joe and Mary Mendoza, concerned and caring parents are the foundation of the American Heritage Clubs.

Mr. Speaker, I ask my colleagues to join me in paying tribute to these special individuals. Their commitment enables the youth of Norwalk-La Mirada and Carson to make these annual historic and educational trips to Washington, DC. The youth in our community will be forever grateful to each of these caring individuals for helping with this extremely valuable experience.

THE INDIANA REGIONAL MINORITY SUPPLIER DEVELOPMENT COUNCIL IS VERY GOOD NEWS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. JACOBS. Mr. Speaker, thank God there is good news as well as bad.

The Indiana Regional Minority Supplier Development Council is very good news because it plays a positive and effective role in building up the backbone of American enterprise, small business.

For nearly 20 years the council has brought together large majority businesses with small minority business suppliers in the State of Indiana. And the result has been a very happy one both for the large and small corporations.

In 1976 the Indiana Regional Minority Supplier Development Council was responsible for generating about 6 million dollars' worth of business between the large and small companies. By 1982 that figure had grown to $38,800,000. All this meant expanding employment opportunities and expanding businesses which have proved their capacity to endure and continue contributing to our economy.

All Hoosiers and, in a larger sense, all Americans are the beneficiaries of this fine organization which under the leadership of Donald Jones is obviously here to stay and one more reason why the American free enterprise system is also here to stay.

CITIZENS FROM FORT WORTH EARN EDUCATIONAL HONORS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. FROST. Mr. Speaker, I would like to take this opportunity to acknowledge two outstanding citizens from the city of Forth Worth who have won national education honors and made themselves shining examples to their community.

When Shirley Knox-Benton, who is the principal of Dunbar High School in Fort Worth, first arrived at the school she encountered a situation where students were unable to learn. Gang violence was rampant, trash was everywhere, and good students were afraid to shine.

Mr. Speaker, along with the invaluable help from some dedicated parents, Mrs. Knox-Benton turned Dunbar High around. That success has not gone unnoticed, as this week Mrs. Knox-Benton was notified that she had won a 1996 Reader's Digest American Hero in Education award along with a $10,000 check for Dunbar High and $5,000 for herself.

Mr. Speaker, Mrs. Knox-Benton is the first Fort Worth winner in this 8-year program. She was chosen from a pool of 650 nominees nationwide. Her commitment to excellence, and her leadership at this critical time in our Nation's education system both deserve the highest honor.

Mr. Speaker, I also want to honor a student at Dunbar High, senior Kim Wood. Mr. Wood is the only student in the Fort Worth school district to win a National Achievement Scholarship for Black Americans.

Mr. Wood won the award by scoring in the 98th percentile among all juniors nationwide and in the top 3 percent among black students on the Preliminary Scholastic Assessment Test.

Mr. Speaker, by winning these national honors, Mrs. Knox-Benton and Mr. Wood have held themselves up as shining examples of what can be accomplished through hard work and a dedication to success. I wish them both the best in their future endeavors.

NATIONAL INVASIVE SPECIES ACT OF 1996

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. MILLER of California, Mr. Speaker, I am pleased to be an original cosponsor of the National Invasive Species Act of 1996 which is being introduced today by Congressman STEVEN LATOURETTE and Senator JOHN GLENN to establish a national voluntary ballast management program for vessels visiting U.S. ports. In addition to ballast management, this legislation will provide for research, education, and new technology to investigate and prevent species introduction in coastal and inland waters.

Aquatic species invasion is of tremendous concern in the San Francisco Bay/Delta Estuary. According to a recent report, the San

Francisco Bay and the entire Delta is now considered "the most invaded aquatic ecosystem in North America."

Current estimates indicate that an average of at least one new species is established every 12 weeks in the Bay, posing serious threats to the Bay ecosystem and economy. Hundreds of thousands of dollars are spent on controlling introduced species, and there are other expenses, such as reduced shipping efficiency due to hull fouling species and damages to piers from wood boring species.

The most disturbing cost of introduced species is the extinction or regional eradication of native species in the Estuary through competition and predation from introduced species. Introduced species have contributed to the extinction of some species of California freshwater fish and are now strongly contributing to the further demise of some endangered marsh birds and mammals. One introduced species, the Chinese mitten crab, can multiply so prolifically that it poses a threat to the Bay-Delta Estuary's ecology, agriculture, and water agencies. The presence of this species and other introduced species have lead to increasing restrictions on channel dredging, levee maintenance, water diversions, and other economic activities in and near the Estuary, with costly implications for the whole of California's economy.

The ballast water of commercial vessels is a leading vector by which nonindigenous species enter U.S. waters. Cargo vessels arrive with thousands of tons of ballast water used to achieve the necessary trim and stability for ocean voyage. The ballast water contains eggs, larvae, and other marine organisms which are released in port depending on a vessel's cargo-loading requirements. One vessel could discharge tens of millions of viable organisms in San Francisco Bay. Hundreds of cargo vessels arrive each year in the Bay, establishing essentially a "biotic corridor" for species invasions in this coastal area. Ballast exchange can reduce the probability of ballast transfers of these non-native species.

There is tremendous support for Mr. LATOURETTE's bill among environmental groups, water agencies, and state and federal agencies in the Bay Area and throughout the country. Understanding the patterns of species invasions and reducing the occurrence of those invasions is imperative in promoting the economic and ecological health of our coastal resources. I encourage members to join me in supporting this legislation.

CELEBRATING THE RETIREMENT OF BETTY BOYER

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to Mrs. Betty Boyer, a legend in Illinois journalism who is retiring this month. In 1966, she started her own newspaper, the Coles County Daily Times, in Charleston, IL, because she was not satisfied with the quality of local news reporting. You can imagine what the reaction was to such an enterprise at that time. Despite her detractors, Betty not only survived, but thrived, and in the process raised the standard for news coverage in the area. I would like to congratulate her on a distinguished career, and also thank her for her contributions to the quality of life in the 19th District.

Betty started her journalism career working for the other paper in town, The Courier-News. After a couple of years with the Times, Betty purchased the competition, and in 1969 formed the Times-Courier. She sold the paper to Howard Publications in 1972, but remained there to run the show, same as before. Perhaps Betty's most extraordinary quality is her diverse character. Regarded by all as sweet-natured, she is a loving wife and mother of three, and also has six grandchildren. She is equally known for her tough stances in dealing with city officials who objected to her straight-ahead style of journalism. Add to that the talented and professional staff who worked for her, many of whom moved on to larger arenas, that still consider her a magnificent boss, if not a surrogate mother. The stories of Betty desperately seeking bank loans or saving the paper supply from a flooded basement have joined a canon that encompasses a career of over 30 years. In addition to her journalistic accomplishments, Betty was named the "Outstanding Citizen" in 1982 by the Charleston Area Chamber of Commerce and has been a patron of the local arts.

Mr. Speaker, conventional wisdom says that you cannot believe everything you read. Regular readers of the Times-Courier beg to differ. Thankfully, the quality Betty has worked so hard to achieve will be with us for a long time. It has been an honor to represent Betty Boyer in the U.S. Congress, I wish her every happiness as she enters this new stage of her life.

TRIBUTE TO LOUIS PATAKI

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mrs. KELLY. Mr. Speaker, the Hudson Valley and the people of my congressional district sustained a tremendous loss this week when Louis Pataki, father of New York Governor George Pataki, passed away.

A life-long resident of the Hudson Valley, Mr. Pataki was born in Peekskill, NY, into a family of Hungarian immigrants. It was in Peekskill that he raised his own family and continued to operate the family farm for many years. Mr. Pataki was a beloved father and grandfather whose devoted care shaped the lives of his children and grandchildren.

Louis Pataki was also devoted to his community and to his country. He worked as a mailman and retired as assistant postmaster in Peekskill after 30 years of service. For more than 50 years, he also served as a volunteer fireman who protected the lives and property of his neighbors.

Speaking on behalf of the Pataki family, the Governor said "* * * no one cared more or did more for his family and community than our father. We owe everything to him, and we will miss him enormously." What better tribute to family values has any of us ever heard?

Mr. Speaker, we have sustained a great loss and we reach out to the Pataki family in their grief. But even so, the spirit and integrity of Louis Pataki continues on in his wonderful family, and in the memory of his many friends whose own lives were enriched by him.

THE MARCH OF THE LIVING PROGRAM

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mrs. LOWEY. Mr. Speaker, next month thousands of young people will participate in the March of the Living Program. I would like to take this opportunity to commemorate the participants and organizers of this very special program.

Since 1988, the March of the Living Program has provided over 20,000 young people from around the world with an extraordinary method of Holocaust education. Participants of the program are taken to visit the concentration camps in Poland to view the sites of Nazi atrocities. They are shown the gas chambers, crematoria, and piles of personal articles confiscated from the children who perished in the camps. From there, the participants go to Israel to see the great triumph of those who survived the Holocaust and went on to create a nation.

Although this program will be a unique and wonderful opportunity for the participants, it will not receive the support of the Austrian Government. The Austrian Government has chosen not to participate in the program, and is thereby passing up an opportunity to affirm its commitment to the preservation of Jewish heritage. I am very disappointed in this decision, and have written to the Austrian President and Ambassador asking them to reconsider this decision.

The March of the Living will go forward this year, and it will be a profound experience for all those participating. It will be truly unfortunate, however, if the Austrian Government is not one of those participants.

TRIBUTE TO TRUMAN KOEHLER ON HIS RETIREMENT FROM SANDOZ CORP.

HON. SUE MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mrs. MYRICK. Mr. Speaker, in a time when America so desperately needs clear leadership; in a time when America so desperately needs ethical leaders; in a time when America needs to rally all of our best resources to find effective and fair ways to make crucial business, community and government decisions, I am pleased to bring to your attention an excellent role model for all of us.

The exemplary business leader to whom I refer is Truman L. Koehler. Truman currently serves Sandoz Corp. as the president of Master Builders, Inc., based in Cleveland, OH, and

VOL
142
PT
5
MR
21
—
29
1996
UMI

as a member of the executive committee for Sandoz Corp., based in New York. But he plans to retire from these positions on May 1 to return to his home since 1981 in my favorite city, Charlotte, NC.

This is good news for Charlotte, for North Carolina, and for America. For during all of his business life, Truman has used his time, mind, and leadership talents to improve the quality of life on local, State, and national levels. With time away from daily management duties, I fully expect us to benefit from Truman's leadership in many ways on all of these levels.

Truman prepared himself for industry by earning a bachelor's degree in chemistry from Muhlenberg College in Allentown, PA. He continued to prepare himself for business leadership by earning a master's degree in experimental statistics from Rutgers University in New Brunswick, NJ, while working in quality control for Sylvania Electric Products, Inc., from 1952 to 1957. His keen mind and straight-forward manner were great assets to American Cyanamid Corp. in a wide variety of technical, marketing, and management assignments from 1957 to 1981. While taking on increasing management responsibility, Truman took time to develop and teach a series of evening courses in applied_statistics in areas such as biology, agriculture, and ecology.

Truman came to Charlotte in 1981 as president and chief executive officer for the Sodyeco Division of Martin Marietta Corp. When Sandoz Ltd. of Basel, Switzerland, purchased Sodyeco in 1983, and later merged it with Sandoz United States dyes and chemical businesses, Sandoz worldwide executives selected Truman to continue to run the new company, Sandoz Chemicals Corp. As president and chief executive officer of these businesses for 10 years, Truman led State and local initiatives that brought community and business interests together for the benefit of all our citizens.

For example; during his 10 years in Charlotte, Truman chaired the mayor's Blue Ribbon Committee that recommended and then guided the development of an emergency response system for the city; served as a director Executive Committee member and a leader of the nationally acclaimed Environmental School for the Charlotte Chamber of Commerce; encouraged the development of a Manufacturer's Council to assure a steady and effective partnership among manufacturing merchandising and service members within the Charlotte Chamber; and to represent manufacturing interests in the community; served the community as a trustee of Science Museums of Charlotte; served all of the citizens of the State as chairman of the North Carolina Governor's Commission on Hazardous Waste Disposal; and continued to serve his alma mater as a trustee of Muhlenberg College on Allentown, PA.

During that time, Truman also served our Nation by using his commitment to intelligent and safe management of safety and environmental issues to help set standards and policies for the professions and industries he has served. He is a Fellow of the American Society for Quality Control and has served as director of the National Association of Manufacturers, the Chemical Manufacturers Association, and the National Paint and Coating Association.

Truman is recognized by his professional colleagues as a strong example of the best in American management. They know him to be an able and talented manager with a sincere concern for the financial and safety welfare of his employees; committed to safety and environmental responsibility; and an intelligent business executive who cares about the quality of life for his employees and his communities.

Charlotte enthusiastically welcomes back one of our most progressive and effective business civic leaders.

TRIBUTE TO EDDIEMAE LIVINGSTON, A "CAN DO" WOMAN

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to introduce my colleagues to Ms. Eddiemae Livingston. Ms. Livingston is a true "can do" woman. I have known her for 30+ years and I still marvel at her compassion, passions, and competence.

Eddiemae Livingston was born in Newberry, SC. She was the valedictorian of her high school graduating class and graduated cum laude from Benedict College in 1942. She was employed for nearly 5 years by the Federal Government in Washington, DC, and Newark, NJ. The city of Newark benefited from Ms. Livingston's expertise for more than 40 years. She served in a variety of positions from clerk-typist to assistant chief clerk, and executive secretary.

Ms. Livingston has a passion for perfection. This quality is evident in her professional, civic, social, and religious activities. She is active in many organizations and her skills and leadership have been recognized by all.

She has been active as a girls' counselor at the Newark YMWCA. Her work with the Newark Branch NAACP has been extraordinary. She served as an executive board member for 12 years. She now holds the title of Board Member Emeritus. She holds two NAACP life memberships and two NAACP Golden Heritage memberships. Her membership with the Hopewell Baptist Church began in 1963. She has served as its financial secretary for more than 12 years. Ms. Livingston has been a board member of the Newark Community Health Centers for 7 years and a member of the Mayor's Commission on the Status of Women.

Eddiemae Livingston enjoys bridge and poetry writing. In 1989, I was deeply honored when Ms. Livingston read one of her original compositions at the swearing-in reception for my first term in Congress. She has written two books, "Poems and Reflections For All Occasions" and "Bridge Reflections in Rhyme."

Mr. Speaker, I am honored to commend to the permanent record of the U.S. Congress the life and works of Ms. Eddiemae Livingston.

COLORADO UNIVERSITY ATOMIC PHYSICS PROGRAM IS NO. 1

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. SKAGGS. Mr. Speaker, I rise to congratulate the Atomic and Molecular Physics Program at the University of Colorado, which was recently ranked first in the Nation by U.S. News and World Report.

Coloradans are very proud of these CU scientists, who this year won a ranking above such great institutions as Harvard, MIT, Stanford, and the University of California, in gaining this recognition.

The 8 professors and 40 graduate students in this small but powerful program have reason to be proud. The No. 1 ranking was based on a survey of department heads and directors of graduate schools who rated the institutions on the excellence of scholarship, curriculum, and quality of both faculty and graduate students.

Special recognition goes to CU physicists Eric Cornell and Carl Weiman and graduate students Jason Ensher and Michael Matthews who gained headlines last year when they created a new state of matter that was first predicted by Albert Einstein. This team, in a cooperative effort with the National Institute of Standards and Technology [NIST], created a new state of matter by cooling rubidium atoms to less than 170 billionths of a degree above absolute zero. At that temperature, atoms lose their individual identity and combine into a superatom form. For more than 25 years, scientists have been working to create this effect.

I've been watching the achievement of this great program for years and I am thrilled that they are finally getting the recognition they deserve. I join Chancellor Roderic Park, the faculty, students, and alumni at CU and physicists everywhere in celebrating the achievements of this great program.

HONORING GREEK INDEPENDENCE DAY

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Ms. MOLINARI. Mr. Speaker, last week marked a monumental day for the thousands of Greek-American residents throughout our country. As you know, the very democratic principles which our American Founding Fathers were inspired by in creating our independence were originally born in ancient Greece. This past March 25, we celebrated the 175th anniversary of the independence of the nation of Greece.

In more modern times, the Greek-United States relationship has grown especially strong. In fact, Greece is one of only three countries in the world which allied itself with the United States in every major international conflict in this century.

Our celebration this day was unfortunately tempered by the pain and outrage felt by Cypriots who have lived with 20 years of occupation and horrible human rights abuses. We must keep in mind how essential it is for the United States to: First, keep the pressure on Turkey, second, to address these terrible atrocities, third, to further help the people of Cyprus, and finally fourth, to do all we can to stabilize relations between Turkey and Greece.

In closing, Mr. Speaker, let me mention that this weekend many of my friends and colleagues—including several constituents from the Holy Cross Greek Orthodox Church in my district—will be marching up Fifth Avenue to celebrate this historic event. I join with them, and the over 1 million American citizens who are of Greek ancestry, in celebrating this very special occasion. I look forward to many more years of fostering the close relationship which exists between America and Greece.

VOL
142
PT
5
MR
21
—
29
1996
UMI

SENATE—*Friday, March 29, 1996*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord God, Sovereign of this Nation, we praise You for the gift of authentic hope. More than wishful thinking, yearning, or shallow optimism, we turn to You for lasting hope. We have learned that true hope is based on the expectation of the interventions of Your spirit that always are on time and in time. You are the intervening Lord of the Passover, the opening of the Red Sea, the giving of the Ten Commandments. You have vanquished the forces of evil, death, and fear through the cross and the Resurrection. All through the history of our Nation, You have blessed us with Your providential care. It is with gratitude that we affirm, "Blessed is the Nation whose God is the Lord."—Psalm 33:12.

May this sacred season culminating in the Holy Week before us, including Passover, Good Friday, and Easter, be a time of rebirth of hope in us. May Your spirit of hope displace the discordant spirit of cynicism, discouragement, and disunity. Hope through us, O God of hope. Flow through us patiently until we hope for one another what You have hoped for us. Then Lord, give us the vision and courage to confront those problems that have made life seem hopeless for some people. Make us communicators of hope. We trust our lives, the work of the Senate, and the future of our Nation into Your all-powerful hands. In the name of the Hope of the World. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. For the information of all Senators, this morning the Senate will conduct a period for morning business until 12:30 p.m., to accommodate a number of requests on both sides of the aisle. It is still the hope that the omnibus appropriations conference report will be available for consideration today. Senators should be aware that rollcall votes are possible throughout today's session of the Senate. The Senate may also consider any other legislative or executive items that can be cleared for action. At this time I think it is safe to say we just are not sure whether or not action will be completed on the omnibus appropriations bill, and if not, what other action may be taken; but I am sure that the appropriators will be meeting and working on this problem and trying to find a solution. As soon as information is received on that, it will be conveyed to the Senators.

Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wyoming [Mr. THOMAS] is recognized to speak for up to 30 minutes.

Mr. THOMAS. Thank you, Mr. President. I ask unanimous consent that in that 30 minutes, I be permitted to speak for about 10 minutes, the Senator from Georgia for about 10 minutes, and the Senator from Texas for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUNDAMENTAL CHANGE IN THE FEDERAL GOVERNMENT

Mr. THOMAS. Mr. President, we are now well into this year, the second year of this congressional session, preparing to go on a recess, to go back to our districts, do our business. So it is sort of interesting to reflect a bit on where we are and I guess more importantly where we go.

It seems to me that this has been an extraordinary year, a year in which for the first time in 30 years, there has been a great effort to bring about a fundamental change in the operation of the Federal Government. Much of it, I think, results from the fact that the 1994 elections, at least to most of us, had a message. The message was, the Federal Government is too large, costs too much, and it is overregulated. And there are consequences, there are consequences to that.

Obviously, the consequence of being overregulated, one of them, is to keep a damper on the growth of the economy. It has to do with jobs, it has to do with wages. And we all want to change that.

The idea of overspending, of course, has a couple of consequences. One of them is that we enjoy the benefits, we continue to add cost to Government without paying for it, to put it on the credit card—on your credit card. And you will be paying for it.

The other is, of course, it takes more and more money from families, money that was earned by families, sent to the Government when more of it could be used by families themselves.

What has really happened over the 30 years is we tended to go ahead with the Great Society programs in the social arena. We tended to simply discuss here how much more do we put into the programs that have been there for a very long time. They are not all bad programs. But certainly after a number of years, there needs be to be a real look at whether or not those programs need to be there, whether, those, programs can be done more efficiently, whether, indeed, those programs can be transferred to local governments, closer to those who are governed, whether they need to be discontinued.

So I am very pleased, frankly, with this year, even though we have not come to closure on as many things as I hoped we would have. We still have an opportunity in this week. And this week has been a good week for that.

Nevertheless, the debate has changed entirely. The debate has changed from one of how much more money do we put into the program, to a real analysis of the program, a real change. Frankly, I guess being a freshman here makes it a little more exciting to help bring about that change, as the Presiding Officer would agree.

But it is something that I think most of us want to do, and we intend to continue to do that. I had the good opportunity this last week, Mr. President, as I often do, to go to schools in my district. I went to CY Junior High in Caspar, WY. They asked me to come and talk a little bit about politics and particularly the primary. I am always happy to do that. I am happy to do it for a couple reasons.

One is, of course, even though we sort of despair about politics and we call them politicians and all those things, politics is the way we govern ourselves. Politics is the way people in Caspar, WY, in my precinct where I am a precinct chairman, have input into what is done in this country, regardless of the party that they are in. So that is what politics is about. Obviously, I have urged young people to learn about it and become involved in it.

The other, of course, is the primary, which is a very interesting aspect of our society, particularly when we generally have two parties, a two-party

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

system. So there is in general a difference between the parties. Indeed, there should be. It is legitimate that there be that. That is what gives people a choice on how they govern themselves.

Of course, generally, Republicans have been more conservative, the Republicans have been for less government, the Republicans have been for moving more government to the States. The Democrats, on the other hand, have generally supported more Federal Government and making more of the decisions there. Both of these are legitimate views. I happen to feel rather strongly about my view. I do not insist, however, that it is always correct.

But it has been interesting this week, I think, Mr. President, to see how many of the things we have talked about just in the last couple of days would tend to show that that is indeed the case.

The farm bill, we talked about the farm bill yesterday. It was a pretty clear choice as to where we go in the future. The choice is basically whether we continue to have a farm program—and I happen to come from a background of agriculture, and I can recall people, when I first got into agriculture in the 1960's, people saying, "Hey, we have got to get out of this farm program. We have to get so we're producing for the market. We have got to get to doing something where farmers have more choices for themselves." We have not done that until now. Now we have an opportunity in this farm bill to move out over a period of adjustment into the marketplace, where we ought to be. It is pretty clear, a pretty clear division. We could see it on the floor yesterday.

Health care—we will work today, we will work this week, we have worked for a very long time on health care. There are some very clear definitions there as to whether we want to deal with health care in the private sector, where people can make their choices, where we have IRA's for health care, where we do something about private insurance, or whether we move, as the administration sought to, 2 years ago, to a Government-controlled program. It is pretty clear.

I think it is really important that we do understand that there are some philosophical differences here that have impact. I used to debate a Congressman from California, Mr. GEORGE MILLER, on issues about land and the environment, but we had to make it clear to begin with that we had a great difference of philosophy, because often we were not really arguing about the bill but arguing about philosophy. GEORGE MILLER would like to have the Government own more land. I tend to say there ought to be a limit, and private ownership ought to be sustained.

Jobs and wages—I think all of us are concerned about that. We see two very different approaches taking place. One is to encourage the private sector. The Republicans are saying we should do something about that, do something about capital gains so people are encouraged and given incentives to invest, to create jobs, do something about overregulation; on the other hand, our friends with a little different point of view, different philosophy, say, "Look, we ought to get the Government involved here and put these corporations in different categories, and if they behave properly with respect to Government regulations, then we give them some sort of preference."

I guess, Mr. President, what I am saying is, we talked a bit about differences, about choices. Obviously, no one agrees entirely with everything their party is for, but they find the party that most closely represents their point of view. That is what primaries are about. That is what elections are about. People ought to see where they are—the 10th amendment, the idea of involving the States more.

Mr. President, I think this has been an exciting year. I look forward to completing more of that fundamental change that has been brought about here. One of the final comments I make, it was interesting that the Chief of Staff of the White House was indicating the other day it is up to the Congress to deliver to the President the kind of bill that he wants. Let me suggest that is not exactly the way it is set up, in my view.

Under the Constitution, there are three equal divisions of the Federal Government—judicial, legislative, and executive. Each of them has the authority to make some decisions for themselves, and, indeed, the President has the perfect right to veto, and he should veto. That is his constitutional privilege. To veto does not mean the Congress has to continue to bring everything back until it meets his particular point of view. This is not a unilateral decision. This is a joint decision.

My only point is the White House needs to make some accommodations, as well. The way you make that work is after a couple vetoes, you do not send any more, and there is no opportunity for the President to work.

I hope we do come together. Certainly, we never will all agree. We do have the responsibility to move forward. We do have the responsibility to make the system work.

Mr. President, I hope that we can move on some of those things. We have passed a great number of items in this Congress, all of which have met the same fate at the White House. We will change that. We will have to change that, so that we can move forward and respond to those voters who spoke very clearly in 1994.

I yield to the Senator from Georgia.

Mr. COVERDELL. Mr. President, I appreciate the remarks of my distinguished colleague from Wyoming. Many of my remarks will reinforce the point he is making. Sometimes we need to step back from the fray to sort of size up the situation we are in.

Here in the waning days of March 1996, over 3 years after the election of President Clinton, I think we can come to the conclusion that the President does not want a balanced budget. He does not want a balanced budget.

Those that might be listening would say, "Well, how do you come to that conclusion?" First, this recent budget we received from the President is his ninth attempt—ninth. He promised the American voters in 1992 that he would balance the budget within 5 years. He has yet to take an affirmative step to do that. In the first 2 years, he raised taxes in an unprecedented level—over 200-plus billion dollars. And the first effort he made was to add $20 billion to the deficit. That was his first financial overture to the people of the United States.

Well, we wrangled over that for a period of time, and finally the 104th Congress, this Congress, sent the President a balanced budget, and he vetoed it. This Congress tried to pass a balanced budget amendment to the Constitution, and he rose in opposition and defeated it. He caused six Members of his own party who voted for the exact proposition the year before to change their votes because he did not want a balanced budget amendment to the Constitution, a discipline that would cause America to have to live within its means.

At the time he and his colleagues said, "Well, we just have to have the will. We do not need an amendment to the Constitution. Congress just has to have the fortitude and utilize its own jurisdictional powers and pass a balanced budget." Lo and behold, we did. And he vetoed it, and he opposed the balanced budget amendment. Then he would not submit a balanced budget. Then the Government closed down twice.

Now we have the latest attempt in his last year of office under this term. He submits his ninth attempt. What does it do? Well, the first thing that happens is that 70 percent of the savings that theoretically would produce a balanced budget occur after he leaves office, if he is elected the second time. So all the work has to occur when he is long gone. As a world statesman, it is sort of like, "Here, you handle it, America. You take care of it." Mr. President, 70 percent of the correctional devices occur after he is out of office.

It makes no structural adjustments in the area of Medicaid and Medicare. In the case of Medicare, he totally ignores his own trustees who have told the President, they have told the Presiding Officer, they have told me, our colleagues in the Nation, that Medicare

VOL 142 PT 5 MR 21 — 29 1996 UMI

will write its last check in 5 years. This budget ignores that crisis, and therefore is ignoring all those senior citizens dependent upon that program. Once again, "Here, you handle it—later. We will look at that after the next election."

Mr. President, these budgets talk of big, big numbers. They are hard to follow, even if you work on it every day, much less if you are trying to do the things that you are responsible for at home—get the kids up, get them fed, get them to school, get to the job, leave the job, someone is sick, get to the school, to the doctor, back home, one of the parents comes—we know the routine very well, Mr. President. Those families are the ones that are most impacted by the failure of this budget.

What it does to that family, that average Georgia family at home, is it leaves enormous burdens right on their shoulders and backs. That family today makes about $40,000. Both parents work, as I just described, and they have two kids. Under this plan that the President has given us, they are going to take about 20 to 25 percent of the total earnings—gross earnings—of that family and ship it up here to Washington. Another 10 percent—$3,000 to $4,000—comes out to take care of State and local government. This is an interesting figure: Out of the $40,000 they make, they will contribute $6,500 for the regulatory apparatus we have set up in America.

Under this President, it is going up. Just since he has been President, the bill for the regulatory apparatus has gone up $688 in the last 36 months. They are going to get to pay about $2,000 as their share of the interest on our debt, which we just increased last night.

When you add it all up, how much do they have left to do what we have asked them to do for the country? Remember what we asked them to do, Mr. President? We said raise the country, educate the country, feed it, house it, transport it, see to its health. What does this budget that the President has just given us leave for that family to do its work? About half. They have $20,000 to $22,000 to do all the work we have asked them to do and to build their dreams—to build their dreams. That is what this President's budget leaves for them.

When he vetoed a balanced budget, in effect, he took $3,000 out of their checking account—$3,000. Just think what that family could do with that. That is the equivalent of a 10- to 20-percent pay raise in that family. But this President thinks that the $3,000 is better used up here than in their checking account. Sometimes we wonder why people are so frustrated.

When we took that $3,000 out of their account and brought it up here, it reminds us that when they sent Secretary O'Leary and her aides and friends all over the world, flying first class, staying in the best hotels, it cost $3.7 million, which took 739 Georgia families to pay for that travel bill. It took all that they sent up here to pay for that travel bill. To send her to China took 170 Georgia families, my neighbors, just to get her to China. No wonder they are furious. To send her to India, it took 144 Georgia families—everything they have earned and worked for and sent up here went to get her to India. It took 140 families to get her to South Africa.

When the First Lady and her entourage went to Beijing, that took 499 Georgia families to pay for that. Here is the whopper: To send Commerce Secretary Ron Brown and his aides around the country and the world, it took 13,700 Georgia families. We ask them to raise the country, feed the country, house the country, educate the country, prepare the country for the future. And here we have 17,000 Georgia families, and everything they earn, all that hard sweat that came up here just to fund this kind of foolishness. This budget that we just got from the President leaves all that burden and all that apparatus right in place, and it leaves all that pressure on those families. And it is not right.

Sooner or later, the demand for balanced budgets, which leaves those resources in those families, will prevail, despite the opposition of this President.

Mr. President, I yield to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President. What is the order?

The PRESIDING OFFICER. The Senator has up to 10 minutes.

Mrs. HUTCHISON. Thank you, Mr. President. I want to commend the Senator from Georgia. He really talked about the effect on people of wasteful, big Federal Government. He did not just talk about numbers on a page that do not relate to anything. He talked about how much it costs to have a bureaucrat waste taxpayer dollars, how many Georgia and Texas families it takes to pay for the waste in Government, families that do not have the ability to waste money because they are working so hard to do the things for their children that they would hope to do. So I thank the Senator from Georgia for bringing this into a debate about people and the effect on people's lives.

Balancing the Federal budget is not about the runaway Federal deficit, or the debt ceiling, or even about temporary Government shutdowns. It is about the future of our country, about what America will be like tomorrow and the next day and a generation from now.

Most Americans believe they are better off than their parents. But it is amazing how many Americans do not believe their children will be better off than they were. The American dream has always been about progress, about growth from one generation to the next, about generational improvements, that our children will have more opportunities, more choices, better lives than their parents. Why is it, for the first time in history, that a generation of Americans have lost hope, have lost confidence in our future? The answer is that too many people are in Washington, DC, making decisions about how to spend our money. For too long, Washington has spent more than it takes in.

I was listening to the radio this morning, and a man called in and he said, "I remember a quote about Thomas Jefferson." Thomas Jefferson was brought the Federal budget, and his budget advisers put it on his desk. Thomas Jefferson had one simple question: "Do we take in more than we spend? That is the only question that matters because if we do not take in more than we are spending, take it back, do something with it, that is the only question that you have to answer right."

Thomas Jefferson said what we should be saying today instead of too many people in Washington spending our tax dollars the way they see fit and many times for the wrong reasons.

The President's budget proposal asks for $600 million for increased audits and enforcement and $850 million, on top of the $4 billion already spent, to improve tax collection procedures. Americans want the Federal Tax Code to be made simple, fair, and uniform. But they really do not want billions more to be spent on IRS bureaucrats.

The President's budget fails to institute real work requirements for welfare recipients. It also guarantees that illegal immigrants will be able to receive food stamps. By refusing to sign the welfare reform legislation that Congress has sent to him twice, the President guarantees that welfare dependency will continue in the country and that the American people will continue to foot the bill. The working American will continue to foot the bill.

I believe that is why Republicans were elected in 1994—to end politics as usual. For decades, politicians came to Washington and put Band-Aids on a bad situation until the next election.

That is not what we are here for. We were sent here to offer real long-term solutions—not for the next election but for the generation.

That is why we are trying hard to do what we said we would do and balance the budget. It is why we sent a balanced budget to the President. But he has vetoed that balanced budget. The balanced budget is not about numbers. It is about people just as the Senator from Georgia was just saying.

I think of parents with children in high school afraid their children will not be able to attend college because they cannot afford the interest rates for college loans. I think of the newly married couple that wants to buy their piece of the American dream—a new home—but they are not going to be able to afford the interest rates on the mortgage. I think about working people in their forties and fifties who are trying desperately to set aside that little bit of extra money they are earning for their retirement security. And yet in the budget that the President has submitted it does not even allow homemakers to set aside $2,000 a year for IRA's like those who work outside the home are able to do. They are not even thinking about one-income earner couples that are sacrificing so that one spouse—the homemaker—will stay home and raise children. And I think of senior citizens who are depending on Medicare but are afraid that it may not be there when they really need it.

These are real people with real concerns and real fears. Unfortunately, instead of hope, President Clinton hyped the status quo. Instead of inspiring Americans to have confidence in their future, instead he incites fear.

It is wrong to ask that American people live within their means but not ask the Federal Government to do the same. Is it wrong to demand that Washington stop wasting taxpayer dollars? Is it wrong to demand an end to politics as usual?

That is what we are demanding—a return to principle instead of politics; a commitment to the next generation instead of the next election.

We are 4 years away from a new millennium. The year 2000 should be a new beginning. Where will we be in the year 2000? As we look forward to the year 2000, where will we be starting with what we need to do today?

As that ball drops in Times Square, and people all over our Nation are celebrating a new beginning, will we be firmly on the path to a balanced budget, and a growing economy? Or will the deficit still be eating away at the working people's livelihood in this country? Will we have reformed the welfare system, or will it continue to undermine the work ethic destroying families and ruin the very lives of people who are receiving welfare? Will we have reduced the excessive tax burden on the American family leaving them with more of their money in their pockets or will we continue to have taxes that takes people's extra money so they cannot put it away for saving for their retirement? Will we have reformed Medicare so that our future generations will know that it will be there for them so that it will be stronger? Or will we have continued on the path that we are on now? And will Medicare be 2 years away from going out of business so that seniors in this country really will have to fear whether it is going to be there for them?

In short, Mr. President, will we have continued business as usual for these 4 years that we have been elected to make change, or will we have kept the promise that we made to the American people?

I hope that in the year 2000 we will have said this year there is no more politics as usual, no more excuses, that we kept our promises in 1996 so that in the year 2000 when we are celebrating a new beginning we will indeed have a strong and thriving economy, and that we will have American families with the hope that their children will be able to have a better life than they have had just as so many generations in the past have been able to hope.

Mr. President, the time to prepare for a new beginning in a new millennium is right now, and we are missing that opportunity with a budget by the President that does not speak to tax fairness and equity for the working families of this country. We are trying to make a difference.

The President has vetoed welfare reform. He has vetoed a balanced budget. He has vetoed middle-class tax cuts. All of the things that he promised and all of the things that we promised—and we are trying to deliver—have been vetoed by the President.

The time is now for us to put partisanship aside and do what all of us said we would do for the American people—balance the budget. That is our commitment. And, Mr. President, we have a chance to keep our promise. And that is what we are trying to do.

Thank you, Mr. President.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized to speak for up to 20 minutes.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for as much time as I need.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ROLE OF GOVERNMENT

Mr. DORGAN. Mr. President, this is, it seems to me, a time to talk about change in this country. I think the central question is what kind of change will make this a better place in which to live?

We have had a lot of struggles in our history in this country about what the role of government is. Is there a role for government? What kind of government, and how much government do we want? We have struggled over the decades with that question.

I go back to the early 1900's which relates to the struggle we had over the question of food inspection. I have told my colleagues this before. Some know it because of the readings they have done. But even then we began the struggle over all of these issues.

On the issue of food inspection, Upton Sinclair wrote a book at the turn of the century. He did an investigative book on his discoveries in the meat packing plants, I believe in Chicago, where he discovered that in the meat packing plants they had rats running around the plants. And they were trying to, of course, control the problem of rats in the meat packing plants. That is a pretty big problem. So they would put out bread laced with arsenic and lay it around the meat plants. And the rats would eat the bread, and die. And they would throw the rats and the bread and the meat down the same chute, and out comes mystery meat on the other side sold as sausage in some location somewhere in America to an unsuspecting consumer. Rats, arsenic, poison bread, meat and sausage.

Upton Sinclair wrote about that—about the outrage of that, about the threat to this country's health as a result of that. And guess what happened? The debate in this country turned quickly to the question of how to stop that. How do we prevent that? How do we assure ourselves that our food supply is safe?

We created in this country a level of government that says we are going to inspect food so that when you eat food you are not going to eat mystery meat laced with bread and arsenic that was used to poison rats. Even then we had people who said it is none of government's business; let the private sector decide. Well, arsenic and rats in meat are the public's business.

Oh, we have gone several stages from that. And in the mid-1960's half of America's senior citizens had no health care. They reached an age where they were not working. They reached retirement age, and did not have any money; nothing really to speak of. And they had no health care coverage.

I remember driving one fellow to the hospital some 55 miles away when I was a teenager—an old fellow that lived by himself, had no one, had nothing, had no insurance, and was very sick. And my father, who could not take him, asked me to take him to the hospital. I drove him there. They said, "Do you have money, or insurance?" Of course not. They took him in anyway.

But back then half of American seniors had no health coverage at all. In the mid-1960's we had a discussion about that in this country, and we decided that we would develop a Medicare Program.

A lot of people—90 percent of the majority party now—in Congress voted against it and said we do not want Medicare the first time we voted on it. Some are still bragging they voted against it.

Do you know something? Ninety-nine percent of American senior citizens are now covered by health care. I am proud of that.

Do we have some problems with Medicare? Yes, we do. Should we fix it? You had better believe it.

VOL 142 PT 5 MR 21 — 29 1996 UMI

But should we decide to retreat on the things we have done to make this a better country—food inspection and health care and dozens of other areas? I do not think so. I do not think it really does much good to suggest that somehow all of government is unhealthy or unholy and does nothing to protect people. Government is our teachers. Government is our police force. Government is our fire department. Government is the food inspectors, the air traffic controllers. A lot of folks do a lot of good work.

Now, we are reducing the size of government, and we should. There are fewer people working for the Federal Government today than have been at any time since John F. Kennedy. Why? Reinventing Government, headed by AL GORE, the Vice President, developed by Bill Clinton. Reinventing government is reducing the size of government. Do not believe me? There are 200,000 less people working for the Federal Government now than there were 4, 5 years ago. We have program after program after program that has been abolished or disbanded because it did not work. Other programs are reduced. Some programs that are important are expanded.

That is what we ought to do. We ought to use good judgment to see what works and what does not. Let us get rid of what does not work. We ought to ask two questions about everything we do in Congress: Do we need it? Can we afford it? And if the answer is yes, let us go and do it as a country.

I am a little confused, I guess, about some of the things that I have heard in some discussion today, and I have certainly heard a lot of it previously, about what an awful place this is, America has gone to hell in a handbasket. Gee, this country is just in terrible shape. And then we have folks out running for President who want to build a fence between the United States and Mexico and keep the Mexicans out. And we have folks from every other country of the world who want to come to this country. We have a serious immigration problem.

Why would that be? Is it because this place is such an awful place to live? No, it is because this place is still a remarkable country, a country filled with people with enormous strength and vitality and interest to make this a better place.

How do we make it a better place? Do we make it a better place by calling for changes that say, well, let us decide to retract our commitment to Medicare; let us decide it is not important for a poor kid to have an entitlement to a hot lunch in the middle of the day at school; let us decide that is not important; let us decide that what we really need to do is cut the Star Schools Program which is designed to try to boost our country in math and sciences and education; let us cut Star Schools by 40 percent, and let us increase the star wars program by over 100 percent because we want to build more missiles and put an astrodome over America with missile defense and we want to do it much faster with much more money than the generals and admirals think is appropriate because these folks know better about that, so increase that spending 100 percent and cut Star Schools investments by 40 percent. Does that advance this country's interests? I do not think so.

Maybe build some orphanages, as a welfare solution. Maybe give every poor kid a laptop, take their lunch away but give them a laptop. And the other one is term limits. If you can just have term limits, you would solve all the problems. I tell you, it is hard not to laugh out loud to see people walk in this Chamber who served here 30 years and vote for term limits and say, "Yes, the problem is I have served here too long so stop me before I run again, except the term limit I want to vote for will not apply to me."

That is what they say. It is hard not to laugh out loud when you see that. They do not believe that. And it is wrong not to deal with the real issues.

Do you know what the real issues are, in my judgment? The real issues I think you can categorize in about three areas. Kids. That is our future. Jobs. There is no social program in this country more important than a good job that pays well. Jobs. How do we get jobs? How do we expand jobs and create jobs and have an economy that provides more opportunity? Kids, jobs, and the other issue is values.

Those are the core issues I think we have to address. We can run around on dozens of other issues. I just heard discussions about the balanced budget amendment. We ought to pass a balanced budget amendment. But anybody who thinks they are going to get a balanced budget through this Chamber that loots the Social Security system by taking the Social Security trust funds to the tune of nearly $700 billion in 7 years is dreaming.

I am not going to vote for that. I did not come here to vote to loot the Social Security trust funds. We ought to balance the budget honestly. The Social Security trust funds are dedicated only to be used for Social Security, and to use them for other purposes is dishonest budgeting. To those who say, well, we could not get it through the Chamber of the Senate, I say I voted for a constitutional amendment to balance the budget, one that said the Social Security trust funds will have a firewall; you cannot use Social Security trust funds as operating budget revenues because it is dishonest. Guess what. The folks who said they wanted a balanced budget voted against that because they wanted a balanced budget amendment in the Constitution that created a constitutional opportunity for them to misuse $1.2 trillion in Social Security trust funds over 10 years.

No wonder it did not get through the Senate. It is the goofiest idea I ever heard—tell people we are going to take money out of your paychecks, called Social Security taxes; we are going to put it in a trust fund; and we promise we will get it in a trust fund dedicated only for that use. But now we have decided to put in the Constitution a provision that says we are going to use hundreds of billions of dollars of the trust funds as offsets against other operating revenue. And by the way, what are our priorities for the revenue and expenditures on the rest of the budget? Well, we say, while we balance the budget let's provide a tax cut. Let's provide a very large tax cut for people with very large incomes and let's provide a minuscule tax cut for all the rest. It seems to me maybe people are bound to be a little skeptical about that.

So what do you do about the central issues that I think really relate to people's lives? Kids, what about our kids, jobs and values? When people in my hometown sit down to have supper—we call it in Regent, ND; we sit down for supper—and you talk about your circumstances, what is important? What is important is how are your kids doing. What kind of opportunities are your kids going to have. It is also important, how are we doing? Do we have more income now? We are working harder. Are we making more? How are we doing? What kind of economic opportunity will we have?

And then the issue of values. There is a collapsing kind of value system, coarsening language, difficulty with what our children see on television, more crime, and a whole series of related issues that I think fall under the heading of values. But let me talk just for a moment about kids.

The first issue with kids that matters most to this country, in my judgment, is not all the peripheral antigovernment nonsense. It is, do you have in this country the best education system in the world or do you not? Because if you do not, we will not win. Our country ought to dedicate itself at every single level of Government, and we ought to dedicate ourselves in every home with every set of parents and in every school that America is going to have the best education system on the face of the Earth. American kids are going to be the best educated kids in the world. That ought to be the central debate.

Now, most of education is run by State and local governments. It is not run by the Federal Government. We play a peripheral role. We play a role of providing financial aid to college students largely, plus we have some title programs—title I which moves some money to school districts to help some of the disadvantaged kids. But education is largely a function of State and local government. We must, it seems to me, as a country, not necessarily with a central plan but as a country in which all of us work together, decide our goal is to have the finest education system on the face of the Earth. That is the way this country will succeed and win in the future.

I have told my colleagues before, and I am going to again because I think it is so illustrative, the first week I came to Congress some years ago I walked into the office of the oldest Member of the House, Claude Pepper, and I will never forget what I saw on the wall behind his chair. Two pictures. One was Orville and Wilbur Wright making the first airplane flight down at Kitty Hawk, and Claude was an old fellow, wonderful old fellow at that point. He had an autographed picture of Orville Wright making the first flight autographed to Congressman Claude Pepper, an autographed picture to him before he died, and then he had a picture of Neil Armstrong walking on the Moon autographed to Congressman Claude Pepper. I thought to myself, here is the person who has an autograph of the first American to leave the ground and fly and the first person to step on the Moon. What is the significance of leaving the ground to fly, and flying to the Moon? Education, massive investments in education, so that this country led the world in technological achievement in dozens of areas from airplanes to television to medicine—you name it. Education; it is the key to this country's future.

Second, with respect to kids, is welfare. I know people talk about welfare in this Chamber with respect to able-bodied people who will not work. Able-bodied people on welfare ought to go to work. We offered a program called Work First, which I am enormously proud of, that says to people, "If you are down and out and disadvantaged we will give you a hand up and a helping hand, but your obligation is to get up and out and get a job."

But understand the reality of welfare. Two-thirds of the welfare payments in this country go to kids under 16 years of age. A young boy named David spoke at a hearing I went to some years ago, a 10-year-old boy from New York who lived in a homeless shelter. He said, "No 10-year-old boy like me ought to have to lay his head down on his desk in the middle of the afternoon at school because it hurts to be hungry." Welfare largely relates to America's children as well. One in four children in America under the age of 3 is living in circumstances of poverty. We must have a welfare system that says to able-bodied people, "We are going to help you get a job because you cannot, as able-bodied persons, remain on welfare indefinitely."

But we must also have a welfare system that understands kids and the needs of kids. It is not their fault they were born in circumstances of poverty. And those who parade around these Chambers and say, "By the way, let us retract the entitlement for a poor kid to be able to get a hot lunch in the middle of the day of school," do no service for children. Let us care about kids, educate them, help them become better educated citizens for the future of this country.

With respect to jobs, we can talk about a hundred other issues but there is no social program that we will discuss in the 104th Congress that is as important to this country and as important for Americans as a good job that pays a good income.

We have seen what causes the anxiety. The chief executive officers of America's corporations increased their compensation 23 percent last year; last year alone, a 23-percent increase for the people at the top. But guess what? For 60 percent of the American families now, when they sit down for supper at night and talk about their lot in life after 20 years, they are working harder and they are making less money. When you adjust their income for inflation they have less purchasing power now than they had 20 years ago.

How can all that have happen? Last year we had the largest trade deficit, merchandise trade deficit in the history of this country; the largest merchandise trade deficit in history. That means jobs are leaving, not coming. It means we are competing with 2 or 3 billion other people in the world, some of whom will make 12 cents, 18 cents, 50 cents, or $1 an hour, working in unsafe plants that are dumping pollution into the air and water. That is not fair competition and we should not have to deal with it. We must deal with the issue of jobs and do it now. We must bring jobs issues to the floor of the Senate and respond in a real way.

Those who come to the floor talking about helping people do no service, especially to working people at the bottom of the ladder, when they also embrace policies that will pull out the rug from under those people on the earned income tax credit, because that is the kind of policy designed to help working people at the bottom of the economic ladder.

Finally, on the issue of values, I think there is general agreement in this Chamber, between Republicans and Democrats, that there is a collapsing of values in this country that is troublesome. There are, perhaps, many reason for it. But the restoration of values starts in the home, in the neighborhood, in the community. It starts with all of us. Television is too coarse, language is too coarse during times when children are watching. There is too much violence on television. America has become too violent a country. We are the murder capital of the world. We are the cocaine capital of the world. We have 23,000 murders and 110,000 rapes every year, and we must respond to it. And that is one of the areas, I think, in which Republicans and Democrats have joined in trying to respond in a significant way. But we must understand the collapsing of values in this country is also causing significant concern.

Let me, finally, point out about those who spend a lot of time talking about how awful Government is—and there are plenty of areas of Government that have gone awry, that we must rein in and correct—I applaud those and join them when they want to do that. I would also say it is important for us to talk about what works and what is right. Do you know we now use twice as much energy as we did 20 years ago, but we have less water pollution and less air pollution? We have cleaner air and water than we did 20 years ago, despite the fact we have doubled our energy use. Is that accidental? No, it is not. It is because this Congress decided we are going to start penalizing people who pollute; there is only one Earth to live on, and we want the environment to be clean.

I urge my colleagues to understand, there is a lot of what has been done by people of this country in public policy, ranging from cleaning up our air and water to providing health care for senior citizens, intervening in the lives of young children to provide education and to deal with hunger and nutrition issues, and many other areas that have made this a better country.

As I conclude, let me just say I had a town meeting in which I said to people who, I am sure, listen to all of the talk shows—and everyday in every way we have all these shows that talk about what is wrong with America. They hold up this little thing and say, "Isn't this ugly? See this? Is this not awful?" I understand, it is what entertains.

I said, "Why don't we talk about what works? Let us be positive for a half-hour. Let's talk about only what works in our lives." It was a remarkable transformation, because a lot of people talked about a lot of good things in their lives, a lot of things that are improving, a lot of things that are working. Then from that we discovered what is left, what is left for us to do as a people together to make this a better country.

I hope, in the coming months, the challenges that were discussed by the Members of the majority party today and myself and others are challenges we will decide to embrace quickly and debate in a thoughtful way. What about the future of our children? What about our kids? What kind of jobs and opportunities will we have in the future? How do we address the issue of collapsing values in our country? Those are the central challenges I think we face in our country today.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

VOL
142
PT
5
MR
21
—
29
1996
UMI

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, my understanding, I say to my colleagues, is that I have 10 minutes in morning business. I will not exceed that. I will be very brief.

The PRESIDING OFFICER. That is correct.

NATIONAL DOMESTIC VIOLENCE HOTLINE

Mr. WELLSTONE. Mr. President, for the past 2 weeks I have tried to come to the floor every day, whenever my colleagues would generously allow me a few minutes, to announce the realization of another component of our initiative to prevent violence against women, which the Senator from Utah has been a very, very strong leader in, the national domestic violence hotline. The hotline, which officially opened on February 24, signifies the realization of the key provision of the Violence Against Women Act, passed by the Congress as part of the 1994 crime bill.

The toll free number—I have tried to announce this on the floor over the last several weeks—is 1–800–799–SAFE. This will provide immediate crisis assistance and counseling and local shelter referrals to women across the country, 24 hours a day. There is also a TDD number for the hearing impaired, and that number is 1–800–787–3224.

Today, on the last day of the 2-week period in which I promised to highlight the hotline, I want to take the opportunity to stress how much work still has to be done to fight domestic abuse in our country. On Tuesday of this week, the chief prosecutor in Alexandria, VA, John Kloch, called for tougher strategies against domestic violence in response to a murder of a local schoolteacher, Karen Mitsoff, who was killed early Monday of this week by an ex-boyfriend who had been stalking her.

Miss Mitsoff's former boyfriend, Mr. Senet, reportedly broke into her apartment on March 10 and threatened to kill her and himself. Senet was charged with burglary and then released on a $2,500 bond in a routine hearing.

This past Monday, 1 week after his arrest, he apparently broke into Miss Mitsoff's apartment and fatally shot her before killing himself. Commonwealth Attorney Kloch was quoted as saying:

> This case shows that there are holes in the system. Somehow we failed to stop this. This case clearly illustrates that in many instances, potential threats to women are not addressed with enough urgency.

Let me explain just how urgent these threats to the safety of women and children are.

Every 12 seconds, a woman is beaten by a husband, boyfriend, or partner in the United States of America—every 12 seconds;

Over 4,000 women are killed every year by their abuser;

Every 6 minutes in our country, a woman is forcibly raped;

Severe repeated violence occurs in 1 out of every 14 marriages, with an average of 35 incidents before it is reported;

Roughly 1 million women are victims of domestic violence each year, and battering may be the most common cause of injury to women, more common than auto accidents, muggings, or rapes by a stranger.

According to the FBI, Mr. President, one out of every two women in America will be beaten at least once in the course of an intimate relationship. Let me repeat that. According to the FBI, one out of every two women in America will be beaten at least once in the course of an intimate relationship.

It is estimated that the new hotline, that we have shown and brought out to the floor of the Senate as often as we could over the last 2 weeks, will receive close to 10,000 calls a day.

The first day I came to the floor to talk about the hotline, I shared a story told to me by my wife, Sheila, while she was speaking in southern Minnesota 2 days before the hotline opened. I would like to tell the story again of a courageous woman in danger whose story illustrates how crucial the existence of a national domestic violence hotline will be in saving the lives of women and children in danger.

This woman had been living in New York with her abusive husband and a 5-month-old child. Her husband had moved to New York following their marriage, and he kept his wife and child very isolated there. The husband was very controlling and made it impossible for his wife to socialize, to make friends, or have a job. He checked on her all the time to make sure that she was at home with her baby.

In addition to beating her routinely and savagely, he took out a life insurance policy on her, so she lived in constant fear of being killed.

This woman told my wife, Sheila, that every time she opened the apartment door, she was sure someone would be on the other side with a shotgun.

Her husband had a one-time, out-of-town business deal. He left in the afternoon and planned on returning the following morning. After he left, she decided that it was her only chance to get away. Panicked and pressed for time, she called a local hotline number but found it was disconnected. She was devastated. She called the Legal Aid Society in New York City and was initially told that they could not help her.

Out of sheer desperation, she persisted with Legal Aid and was finally given a local agency phone number. Calling the local agency, the woman informed them she wanted to return to Minnesota. They were able to access a computer and put her in touch with a battered woman's shelter in Minnesota in her hometown. She and her baby were on a plane the next morning before her husband got home.

Mr. President, this woman was lucky; she was able to obtain the information she needed. But how much better it would be if that hotline had been up and running to give her the information immediately. Unfortunately, some women might not have the whole day to track down information. I think this shows how crucial a national network, like the hotline, will be for keeping women and children safe, literally saving their lives.

So today, I ask everyone listening to honor the memory of Karen Mitshoff of Alexandria, VA, as well as all the other women who lose their lives every year at the hands of a husband or a boyfriend or a partner.

I also ask you to honor all of the women who have been hurt at the hands of someone with whom they have had an intimate relationship. Chances are you already know one of those women—a coworker, a sister, a mother, a daughter, or a friend.

I commend innovations like the national domestic violence hotline. I want to support more creative solutions to stopping this family violence. I want all of us to do that, Democrats and Republicans alike. But most important, today I want to remember Karen Mitshoff who lost her life on Monday, and remind everyone that these efforts to stop this violence in our homes must be ongoing.

Mr. President, once again, at the end of this 2-week period, I want to one more time talk about the hotline number. The toll free number of the national domestic violence hotline is 1–800–799–SAFE and 1–800–787–3224 for the hearing impaired.

Everyone has the right to be safe in their own home. Share the number today, those of you who are watching, and maybe you will help someone make themselves safe.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). Under the previous order, the Senator from Utah, Senator HATCH, is recognized to speak for up to 20 minutes.

JUDICIAL SELECTION

Mr. HATCH. Mr. President, I rise to address a subject that I have discussed several times in the past few weeks, and that is the issue of judicial selection. As I said in those speeches, differences in judicial philosophy can have real and profound consequences for the safety of Americans in their neighborhoods, homes, and workplaces. Sound judging is every bit as much a part of the Federal anticrime effort as FBI and DEA agents and prosecutors.

It does the Nation little good to put more cops on the beat if judges put the criminals back on the street. And, I might add, the President overstates the number of police that the Federal Government is helping put on the street.

I see that the President has attempted this week to respond to my speeches through his subordinates. One argument, made by his former White House counsel, maintains that it is really the home State Senators who appoint judges. This argument is just another example of the President attempting to hide from the consequences of his decisions. The last time that I looked in the Constitution, it stated that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges." Presidents may look to individual Senators to recommend good nominees in each State, but the Constitution itself makes clear that the choice of judges is the President's responsibility and the President's alone.

I do agree with one thing that Lloyd Cutler said in his Washington Post oped. It sometimes is difficult to predict what nominees will be like once they ascend to the Federal bench. While the executive branch, as Mr. Cutler said, has "an extensive vetting process," we in the Senate do not. For the most part, a President's nominees usually are confirmed by the Senate. When the people elect a President, they put into office with him his judicial philosophy and the judges he will appoint. But perhaps the Senate does need to spend more resources vetting nominees. Perhaps the Senate should interview each and every judicial nominee as a matter of routine, if Lloyd Cutler is right.

Another argument made by President Clinton's current White House counsel, Jack Quinn, is that there are soft-on-crime decisions by judges appointed by Presidents Reagan and Bush. As I said on Monday, I do not agree with every decision by a Republican-appointed judge or disagree with every decision by a Democrat-appointed judge. Moreover, we all know that prosecutors and police sometimes go over the line, and that it is the job of state and federal judges to correct those mistakes. Unfortunately, sometimes those decisions will benefit criminals that we all know to be guilty.

But what we are talking about here are not a few isolated cases or incidents. We are talking about track records: about the fact that judges appointed by Democrat Presidents, and President Clinton in particular, generally will be softer-on-crime and will be more likely to follow an activist judicial philosophy than judges appointed by Republican Presidents. Just as President Johnson appointed Judge J. Skelly Wright to the D.C. Circuit, a notorious judicial activist, and President Carter appointed, among many others, Judge Stephan Reinhardt of the ninth circuit, a judge who is so activist that the Supreme Court regularly overturns his decisions, so has President Clinton appointed judges such as Judges Baer and Beaty, Judges Michael and Calabresi, and Judges Sarokin and Barkett, whom I will discuss today.

The President seems to think that it is wrong to evaluate the decisions of these judges. "The point is that it is unfair to evaluate any judge on the basis of any single case," writes his counsel in the Wall Street Journal. I disagree. It is only by reading the opinions of these judges that we can make a determination of the kinds of men and women that President Clinton has chosen to send to the Federal bench. Let me also be clear that it is not the result of an individual case that is the problem. The problem with these Clinton judges is the way they reach their decisions—their willingness, perhaps even eagerness, to stretch the law, to expand criminal rights at the expense of the community, to seize on petty technicalities to release defendants, to find new constitutional rights where there were none before. Many of these judges are activists who simply cannot understand that their role as is to interpret the law, not to make it.

But the President's approach—that once a judge is on the bench, and you cannot read his or her opinions—is a convenient one. It is the only way that he can explain his decision to appoint Judge H. Lee Sarokin to the U.S. Court of Appeals for the Third Circuit and Judge Rosemary Barkett to the U.S. Court of Appeals for the Eleventh Circuit. These were judges with crystal-clear track records of being liberal, soft-on-crime activists, when President Clinton appointed them. These two judges, who sit on the second most powerful courts in the land, have displayed an undue and excessive sympathy for the criminals who are destroying our society and who are all too willing to impose their own moral beliefs onto the law and onto our communities.

I led the fight to oppose the confirmation of these two judges because their judicial records indicated that they would be activists who would legislate from the bench. Senators from both sides of the aisle joined me in that fight. I regret to conclude that we have been proven right in our predictions of their activism on the Federal bench.

Let us look at what Judge Sarokin has been up to since President Clinton chose to elevate him in 1994. The Senate confirmed his nomination 63–35—a pretty large vote against him—on October 4, 1994. I think that it is safe to say that no Republican President would have nominated a judge like Judge Sarokin, and that if the Republicans had control of the Senate in 1994, Judge Sarokin would never have been confirmed.

Let me tell the American people about the cases of William Henry Flamer and Billie Bailey, which were heard by the third circuit late last year. Delaware versus Flamer; Delaware versus Bailey. This was a case involving two multiple murders in which Judge Sarokin voted to overturn a jury's imposition of the death penalty.

In the Flamer case, on a snowy February 7, 1979, at 8:00 a.m. in the morning, Arthur Smith, the 35-year old son of Alberta and Byard Smith, walked across the street to his parents' house in Delaware. He found them sprawled on the living room floor obviously murdered in cold blood. Both parents died of multiple stab wounds in the head and neck. The medical examiner counted 79 wounds on Mr. Smith's body and 66 wounds on Mrs. Smith's body.

Their car was stolen, a television was missing, chairs were overturned, bags of frozen food were strewn about, and Mr. Smith's pockets were turned inside out. The son—can you imagine what it must be like for a son to discover such violence to his parents in their own home—called the police.

Eyewitnesses indicated that William Henry Flamer, whose mother was Mrs. Smith's half-sister, might be the killer. Police went to his family's residence and found the missing television, frozen food similar to that strewn about the Smiths' home, and a bayonet with dried blood stains on the blade. When police arrested Flamer, they found blood on his fingernails and coat and fresh scratches on his neck and chest.

After he had been read his Miranda rights numerous times and after his arraignment, Flamer confessed. He told police that he and another man brought a knife, the bayonet, and a shotgun, and that he had told Mrs. Smith, his aunt, that his grandmother had experienced a stroke and was missing in order to gain entrance to the Smiths' home.

In early 1980, a jury convicted Flamer of two charges of intentionally causing the death of another person and two charges of felony murder. A jury then sentenced Flamer to death because of several aggravating sentencing factors, such as Flamer's prior criminal record, the age of his two victims, the frailty of his aunt Mrs. Smith, and his exploitation of his aunt and uncle's trust in order to gain entrance to their home.

Flamer had the opportunity to challenge both his conviction and his sentence on direct appeal. The Delaware Supreme Court rejected his appeal and the U.S. Supreme Court denied certiorari in his case twice. Flamer filed for post-conviction relief in State court, but his petitions were denied. Nevertheless, Flamer filed a habeas petition in Federal district court alleging a number of trial errors. Judge Joseph Farman of the U.S. District Court for the District of Delaware, who was appointed by President Reagan in 1985,

VOL
142
PT
5
MR
21
—
29
1996
UMI

dismissed the petition. Flamer appealed to the Third Circuit Court of Appeals.

The third circuit consolidated Flamer's appeal with that of Billie Bailey, another multiple murderer convicted by the Delaware state courts.

Bailey had been assigned to a work release facility in Wilmington, but he escaped and then proceeded to rob a package store at gunpoint. He received a ride to Lambertson's Corner, 1½ miles away from the store. Bailey then entered the farmhouse of Gilbert Lambertson, who was 80 years old, and of his wife, Clara Lambertson, who was 73. Bailey shot Mr. Lambertson twice in the chest with his pistol and once in the head with the Lambertsons' shotgun. He shot Mrs. Lambertson in the shoulder with the pistol and in the abdomen and neck with the shotgun. Both Lambertsons died. Bailey fled from the scene but was spotted by a police helicopter. He shot at the helicopter, but was apprehended.

Bailey was convicted of murder and was sentenced by a jury to death. The jury found that two factors—that the defendant's conduct had resulted in the deaths of two persons where the deaths were a probable consequence of the defendant's conduct; and that the murders were outrageous or wantonly vile, horrible, or inhuman—and they in turn supported the imposition of death. Bailey appealed, but the Delaware Supreme Court affirmed the conviction and the sentence, and the U.S. Supreme Court denied certiorari.

Like Flamer, Bailey filed a writ of habeas corpus in Federal district court, claiming that the jury had considered improper factors when imposing the death sentence. Judge Roderick McKelvie, a Bush appointee, denied the writ.

On appeal before the entire third circuit sitting en banc, Flamer and Bailey argued that the imposition of the death penalty was unconstitutional because the juries had considered an invalid factor: whether the murders were wantonly vile, horrible, or inhuman. It is true that the Supreme Court had held that such a factor is so vague as to be unconstitutional. But in the case of *Zant* v. *Stephens* in 1983, 462 U.S. 862 (1983), the Supreme Court also held that so long as the jury's capital sentence was also based on other, legitimate considerations, then the death penalty is not unconstitutional.

This, of course, was precisely the case with both Flamer and Bailey. In both situations, the juries had found that other factors, such as Flamer's commission of the murder in the course of a robbery, also justified the death penalty. As a result, a majority of the third circuit affirmed the convictions.

Let me add that no one challenged the finding that either Flamer or Bailey committed the horrendous murders. No one showed that either jury was biased or had reached the wrong result. Instead, the defendants were using the writ to raise technical objections in the hopes of delaying the rightful execution of the death penalty. It is abuses of the writ such as these that lead the American people to believe that something is wrong with our courts. It is abuses like these that lead the American people to demand habeas corpus reform.

The American people's belief would only be confirmed if they read the Flamer and Bailey case, because Judge Sarokin was in dissent. Judge Sarokin believed that the defendants had received an unfair trial, even though they had both had the opportunity to fully appeal all the way to the U.S. Supreme Court. He argued that the judge's instructions and interrogatories asking the jury what factors they relied upon in reaching their decision had "shifted the neutral balance contemplated under the statute and with it, the scales of justice as well."

According to Judge Sarokin, State judges cannot ask juries why they imposed the death penalty, even though judges do this to ensure that the juries were unbiased. In Judge Sarokin's mind, for judges to ask jurors this commonsense question renders the whole process unconstitutional.

The eighth amendment says only that "Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted."

Further, Judge Sarokin argued that allowing juries to consider the invalid vile, horrible, and inhuman factor—and who can doubt that these murders were utterly heinous—so infected the juries' considerations as to render them unconstitutional. He reached this conclusion despite the Supreme Court's clear holding in Zant that consideration of one invalid factor does not make the whole decision unconstitutional.

By a 10 to 4 vote, the majority on the court reached the right result, because the Constitution guarantees a fair trial, not a perfect one. Allowing defendants to win reversals on technicalities even when no one disputes that the defendant is guilty and deserves the death penalty would truly undermine the public's faith in our criminal justice system. As the Supreme Court has said many times, and as the majority recognized in Flamer, a harmless error does not render a trial unconstitutional, and there was no showing in this case that any error had influenced the jury's verdict or caused the defendant's any prejudice.

If one needed any more confirmation that Judge Sarokin was wrong, one need only look to the epilogue of the Flamer and Bailey story. Both defendants appealed directly to the U.S. Supreme Court again. The Court refused to grant certiorari in either the Bailey or the Flamer cases, and the Court refused to stay their executions. Both men were executed in late January 1996. Certainly the U.S. Supreme Court thought little of Judge Sarokin's dissent. Unlike Judge Sarokin, the Justices of the Supreme Court thought enough was enough and that it was time to allow the State of Delaware to operate its own criminal justice system.

But Judge Sarokin was willing to overturn the considered judgments of the juries, of the Delaware Supreme Court, of the U.S. Supreme Court, of two Federal district court judges, and of the majority of his colleagues, because the jury did not think about the death penalty the way he wanted them to, and because the judge asked the jury a question. Judge Sarokin believes that Federal judges have a roving mandate to interfere in the operation of the State criminal justice system, just because he found a technicality that no one showed had any influence on the outcome of the trial.

Judge Sarokin suffers from the same problem that Judges Beaty and Baer do—an inability to understand their role as judges. They have not been appointed as Federal judges to legislate from their benches or to act as philosopher-kings. If Judge Sarokin does not like the way that Delaware has chosen to operate its criminal justice system, then he should be running for Governor of the State—but the last place he should be imposing his policy views is from the Federal bench.

Of course, as I said earlier, judicial activism of this sort is not restricted solely to judges appointed by Democratic Presidents. In the Flamer case, Judge Timothy Lewis, who was appointed in the waning days of the Bush administration, also argued that the capital sentences should be overturned. Judge Lewis agreed with Judge Sarokin that the consideration of the invalid factor had an injurious effect on the defendant, even though no such influence on the verdict was shown, and that the judge's interrogatories prejudiced the jury. Judge Lewis also questioned why, quoting Justice Blackmun, "We should no longer tinker with the machinery of death." He called the Nation's system of capital punishment cluttered and confusing and ultimately questioned whether it comported with fundamental principles of liberty and due process.

While one Reagan judge, Judge Carol Mansmann, also joined Judge Lewis, it should be noted that the rest of the Reagan-Bush appointees, joined by one Carter judge, correctly upheld the imposition of the death penalty. The two judges appointed by President Clinton—Judges Sarokin and McKee—did not. I believe that Judges Lewis and Mansmann were wrong, just as Judge Sarokin was wrong. But I believe that their mistake is not representative of a

pattern and practice of activism, as it is on the part of Judge Sarokin.

If there can be any more doubt about the activist character of Judge Sarokin, one can find proof in his other opinions. Although I do not have the time to discuss other decisions in detail, I would just note the case of *United States* v. *Baird* [63 F.3d 1213 (CA3 1995)].

In Baird, Judge Sarokin, dissenting, argued that administrative forfeiture of drug proceeds preclude criminals from being prosecuted under the double jeopardy clause. That case involved the seizure of a criminal's drug factory, drug stockpiles, and ill-gotten drug proceeds, in the amount of $2,582. The Drug Enforcement Administration carried out an administrative forfeiture of the drug proceeds.

Following the DEA's administrative forfeiture, Baird was then indicted for a variety of Federal drug and drug-related crimes. For Judge Sarokin, the administrative forfeiture was enough to opine that if Baird, the drug-producer, had owned the money, then the first proceeding was enough to bar the Government from prosecuting him for the drug crimes.

Judge Sarokin relied on a Supreme Court case, Austin versus United States, that did not even apply to the double jeopardy context. Judge Sarokin showed a willingness to stretch Supreme Court precedent beyond its proper bounds and to read the double jeopardy clause expansively at the expense of law enforcement, and to the benefit of illegal drugmakers and dealers. Incidentally, Baird never even claimed ownership of the money, making Judge Sarokin's result all the more strange.

In Judge Sarokin's strange universe, if the Government convicts a criminal of drug selling, it cannot require the criminal to forfeit the money made through his illegal activity; but if the Government first tries to forfeit the proceeds, then it cannot prosecute the drug seller. Again, Judge Sarokin has shown a willingness to interpret the Constitution expansively to defeat society's legitimate interest in combating crime and maintaining public health and safety.

Judge Sarokin, who I understand will soon be taking senior status, is perhaps second only to Judge Barkett in his continuation of an activist, soft-on-crime approach upon reaching the Federal bench. In 1994, by a vote of 61 to 37, the Senate confirmed Judge Barkett—a nominee that no Republican would have appointed to the Federal bench. I opposed her nomination because, time and again, Judge Barkett as a member of the Florida Supreme Court erroneously had favored lawbreakers and criminals over the interests of the police and of the community to enforce the law. The full record of my concerns is set forth in the March 22, 1994, CONGRESSIONAL RECORD. As I declared there, there were just too many cases, across too wide a range of subjects, where Judge Barkett had stepped beyond the line of responsible judging.

In particular, I warned that Judge Barkett should not be confirmed because of her unduly restrictive view of the fourth amendment that would hamstring the police, especially with regard to controlling drugs. I highlighted the case of Bostick versus State, a case involving cocaine trafficking, in which Judge Barkett adopted an across-the-board per se ban on bus passenger searches, even though Supreme Court precedent clearly called for an analysis of the search based on the particular circumstances present. The Supreme Court of the United States had to grant certiorari and reverse Judge Barkett's soft on crime decision.

I am sorry to say that Judge Barkett's misunderstanding of search and seizure law has only continued. Only now, thanks to President Clinton, her opinions apply to all prosecutions brought in Georgia and in Alabama as well as in Florida. Her ongoing willingness to raise groundless fourth amendment arguments to prevent our Nation from combating the damage that drugs are causing our society is evident in two recent opinions, Merrett versus Moore [Feb. 26, 1996], in which Judge Barkett dissented from denial of en banc review, and in Chandler versus Miller, [73 F.3d 1543 (CA11 1996)], in which Judge Barkett again dissented.

In Merrett, Florida law enforcement officials and the Florida Highway Patrol set up roadblocks on four Florida highways for the chief purpose of locating illegal drugs. On two successive days from 4 p.m. to 10 p.m., Florida police briefly stopped vehicles, checked for obvious safety defects, and examined drivers' licenses and vehicle registrations. While this examination was undertaken, the police used dogs to sniff the outside of each car for illegal drugs. If a dog alerted to the presence of drugs, the car was pulled out of line. As Judge Edmonson, a Reagan appointee, noted for the majority, these searches were minimal and the entire encounter between police and the motorist lasted only a few minutes. Police also moved traffic through without stopping cars when long backups developed.

Of the 2,100 vehicles that passed through the checkpoints and of the 1,300 vehicles stopped, there were few long delays, one car overheated, one minor accident occurred, the dogs scratched a few cars, and one person was bitten by a dog. Judge Edmonson, joined by Judge Birch, a Bush appointee, and Judge Hill, a senior judge appointed by President Ford, properly held that the roadblocks were reasonable under the fourth amendment's search and seizure clause. The intrusion of the search was minimal and was far outweighed by the State's interest in enforcing its traffic laws and in preventing the flow of drugs into our Nation. Indeed, recognizing these facts, the Supreme Court has approved reasonable roadblock searches before for the purpose of checking sobriety, [see *Michigan Department of State Police* v. *Sitz* [496 U.S. 444 (1990)], and for border patrols [see *United States* v. *Martinez-Fuerte*, 428 U.S. 543 (1976)].

But the persuasive reasoning of Judge Edmonson and his colleagues, the decisions of the Supreme Court, and the need to stem the flow of destructive drugs into our society were not enough for Judge Barkett. Judge Barkett voted to grant review of the decision before the entire eleventh circuit, and she wrote a dissent joined by Judges Kravitch and Hatchett, both Carter appointees, when she lost. Fortunately, the six Reagan-Bush appointees, the one Ford appointee, and one Carter appointee voted to keep Judge Edmonson's ruling in place.

Continuing her unduly restrictive view of the fourth amendment's application to drug searches, Judge Barkett declared:

> In my view, permitting law enforcement to stop every vehicle at a roadblock based on the mere possibility that one or more of the vehicles passing through will contain illegal drugs—evidence of a crime completely unrelated to highway safety—is * * * intolerable and unreasonable.

I would have thought that drug use would be a great threat to highway safety, and as I have noted, the Supreme Court has already held that sobriety checkpoints—alcohol is, after all, a drug—are constitutional.

Judge Barkett and her dissenting colleagues also should examine the text of the fourth amendment, which she never even quoted in her opinion. The fourth amendment states that "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." Unlike the judges in the majority, Judge Barkett never asked whether the roadblock searches were reasonable. Instead, she sought vainly to say that using roadblocks to search for drugs was patently illegal. But most judges of the courts of appeals, most Justices of the Supreme Court, and, I think, most of the American people, would agree that the minimal search involved here—a stop for a few minutes combined with a sniff by a dog—is certainly reasonable, especially when balanced against the need to combat the influx of destructive drugs in our society.

Judge Barkett also continues to remain suspicious of the efforts of police to defend our communities against crime and against drugs. In Merrett, she declared that she believed that Florida's claim that the roadblock was

VOL 142 PT 5 MR 21 — 29 1996 UMI

also used to check for traffic violations was only a pretext for an illegal search for drugs. In Judge Barkett's mind, this raised the fundamental concern that officers will attempt to evade the requirements of the fourth amendment by using a traffic stop to detain someone for a purpose that would not lawfully support a detention.

I believe that our police officers are good people who are laying their lives on the line to protect our lives, our families, and our communities. Like Judge Baer, Judge Barkett sees our law enforcement officers as using any pretext they can to conduct illegal searches. I see them asking for a minimal amount of time to ensure that drugs are not being transported for distribution to our children and to our poor. Judges like Judge Barkett and Judge Baer are all too willing to place legal technicalities as obstacles before our law enforcement officers, who are only trying to take criminals off of the street.

Furthermore, as the majority in the original case noted, and as the Supreme Court has made clear before, roadblocks are often more respective of fourth amendment values because they are random. They do not rely upon the discretion of the police officer to choose whom to stop and search—all are treated the same. Roadblocks, in the Supreme Court's words, avoid the standardless and unconstrained discretion present in individual stops. [*Delaware* v. *Prouse*, 440 U.S. 648, 661 (1979).]

I presume that Judge Barkett also would find fault with the metal detectors at airports and government buildings, or stops at the border, or customs searches, because even though they are all minimal intrusions into an individual's privacy, they subject everyone to a search without a warrant. Fortunately, Judge Barkett's feelings on this point conflict with Supreme Court precedent, and even though Judge Barkett seems to have always had trouble following the precedent of the Supreme Court, most other Federal judges do not, including the Republican-appointed judges on the eleventh circuit.

Merrett is not the only case in which Judge Barkett has been willing to place obstacles before our Nation's war on drugs, a war in which the administration has been AWOL—absent without leadership. In Chandler versus Miller, a January 1996 case, Judge Barkett again dissented in a case involving drugs and search and seizure. Georgia passed a statute requiring drug testing of political candidates and nominees for State offices. In cases such as *National Treasury Employees* v. *Von Raab* [489 U.S. 656 (1989)], *Skinner* v. *Railway Labor Executives' Association* [489 U.S. 602 (1989)], and last Term's *Vernonia School District* v. *Acton* [115 S.Ct. 2386 (1995)], the Supreme Court has declared that courts must balance the individual's privacy expectations against the Government's special interests in preventing drug use in that area.

In these cases, the Supreme Court has upheld drug testing of drug agents, of railway workers, and of high school athletes. For Judge Barkett, however, these were all narrow exceptions to a general rule in her own mind that no one should be subject to drug testing, including candidates for high public office. In her mind, controlling drug use among the highest public officials involves no immediate or direct threat to public safety, and that there is no showing that waiting to obtain a warrant based on individualized suspicion would cause any dire consequences. In Judge Barkett's words, "[t]here is nothing so special or immediate about the generalized governmental interests involved here to as to warrant suspension" of the warrant requirement.

But as the majority correctly held, the Government's interest in preventing drug use among its highest public officials is a powerful one. In the majority's words, the people of a State place their most valuable possessions, their liberty, their safety, the economic well-being, ultimate responsibility for law enforcement, in the hands of their elected and appointed officials, and the nature of high public office demands the highest levels of honesty, clear-sightedness, and clear-thinking. We permit drug testing of drug agents; we permit drug testing of railroad engineers; we even permit drug testing of high school athletes. Judge Barkett would have us believe that the damage that would be caused by drug use in these situations is far greater than that caused by drug use by legislators, by executive branch officials, and by judges. Judge Barkett's reasoning strikes me as unreasonable, and her efforts again appear designed to restrict the tools that our society can use to combat drug use, even in the face of contrary Supreme Court precedent.

Perhaps Judge Barkett's position on the fourth amendment in Chandler was a reasonable one. But no one can claim that her further statements in that case had any grounding in Federal constitutional or statutory law. Not only did Judge Barkett argue that the Georgia statute was an illegal search, she also argued that it was a violation of the candidates' first amendment rights.

I am not making this up.

If you don't believe me, Mr. President, listen to her own words. "This statute is neither neutral nor procedural, but, * * * attempts to ensure that only candidates with a certain point of view qualify for public office." Judge Barkett interprets the drug testing requirement as an attempt to "ban[] from positions of political power not only those candidates who might disagree with the current policy criminalizing drug use, but also those who challenge the intrusive governmental means to detect such use among its citizenry."

Such reasoning reeks of the very worst of the moral relativism that characterizes liberal judicial activism. Judge Barkett appears to believe that if one is in favor of drug legalization or against drug testing, why, one must be a drug user. In fact, Judge Barkett appears to believe that drug use is an ideology and that drug testing is, in her words, "a content-based restriction on free expression." If that is so, then does Judge Barkett believe that any effort to prevent drug use is an attempt to suppress the first amendment rights of drug users, and that drug use itself is a form of expression?

Mr. President, this is the 1990's, not the 1960's; America has not been transformed into a Woodstock from sea to shining sea. The first amendment does not protect illegal, harmful conduct, and it does not permit people to plan and encourage illegal conduct. Although this administration has been absent without leadership in the drug area, the American people and the Congress are not. We are determined to prevent drugs from ruining the lives of our young people, and the tolerant attitude of some of the Clinton administration's nominees, who equate drug use with protected first amendment expression, will not stand in our way.

Why is this so important? As a practical matter, the Senate gives each president deference in confirming judicial candidates. A Republican President would not nominate the same judges that a Democrat would, and vice versa. The President has been elected by the whole country and, while this President has been unable to put all of his choices on the bench, there are hundreds of judgeships to fill in order to keep the justice system functioning.

Indicia of judicial activism or a soft-on-crime outlook are not always present in a nominee's record. But, in the cases of Judge Sarokin and Barkett, there were crystal clear signs of their activist mindsets. Yet the President appointed these two judges and pushed hard successfully to get them through the Judiciary Committee and the Senate, despite opposition, largely on this side of the aisle.

We can now view the products of the President's choices. We do not just have two trial judges, Judges Baer and Beaty, who have trouble understanding the role of the Federal courts in law enforcement and in the war on crime. We now can see that President Clinton has sent liberal activists to the Federal appellate courts, where their decisions bind millions of Americans.

Judge Sarokin's opinions, if they garner a majority, are the law in Pennsylvania, New Jersey, and Delaware. Judge Barkett's opinions, if they garner a majority, are the law in Florida, Georgia, and Alabama. Criminals

whom they would set free on technicalities can strike again, anywhere, anytime. This makes all Americans potential victims of these judges and their soft-on-crime outlook.

The general judicial philosophy of nominees to the Federal bench reflects the judicial philosophy of the person occupying the Oval Office. We, in Congress, have sought to restore and strengthen our Nation's war on crime and on drugs and to guarantee the safety of Americans in their streets, homes, and workplaces. For all of the President's tough-on-crime talk, his judicial nominations too often elevate the rights of the criminal above the rights of the law-abiding citizen, and undermine safety in our streets, in our homes, and in our workplaces.

The PRESIDING OFFICER. Under the previous order the Chair now recognizes the Senator from North Carolina to speak for up to 10 minutes as in morning business.

Mr. FAIRCLOTH. Mr. President, I thank the Chair.

(The remarks of Mr. FAIRCLOTH pertaining to the submission of Senate Resolution 237 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

PRIVILEGE OF THE FLOOR

Mr. GLENN. Mr. President, I ask unanimous consent that Allegra Cangelosi and Patricia Cicero be permitted privileges of the floor while I introduce this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. GLENN and Mr. LEAHY pertaining to the introduction of S. 1660 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska is recognized to speak for up to 15 minutes.

THE FOREIGN RELATIONS REVITALIZATION ACT RELATING TO TAIWAN

Mr. MURKOWSKI. Mr. President, last night we had several hours of debate and that debate was around the issue of the Foreign Relations Revitalization Act relating to Taiwan. As we addressed the disposition of the conference report, this particular portion received a good deal of scrutiny. There were a lot of words spoken, a lot of technical interpretations. What I am going to do today is simplify that debate by referring to the Taiwan Relations Act as the law of the land. I will also give a brief explanation of the section that was the subject of the debate, but I will use the actual factual language, as well as definitions, not just personal interpretations.

I was surprised by the debate surrounding one provision in particular, and that was section 1601, which states that sections 3(a) and 3(b) of the Taiwan Relations Act supersede any provision of the 1982 joint communique between the United States and China.

I was surprised by the debate because, obviously, a number of people seem to be cloudy on just what "supersede" means. Allow me to clear up any misconceptions of that term. The Oxford dictionary refers to the term "supersede" specifically as "overrides, takes precedence over." That definition seems pretty clear to me, Mr. President.

The administration indicated it is going to veto the entire conference report, in part because of opposition to section 1601, even though that section only restates reality.

In order to enlighten some of my colleagues on this issue, I have a chart here. I would like to refer to the chart. This is April 10, 1979, section 3(a):

> . . . [T]he United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability."

Section 3(b):

> The President and the Congress shall determine the nature and quantity of such defense articles and defense services based solely upon their judgments of the needs of Taiwan. . . .

It could not be any clearer, "solely on their judgments of the needs of Taiwan." That is to say, the President and the Congress shall determine the nature, quantity of such defense articles, et cetera. It is crystal clear. The issue is the interpretation of the United States-China joint communique. The previous reference was the law of the land. This is a communique. In the communique, August 17, 1982, the administration pledged, "to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution." Paragraph 6.

This pledge to reduce arms sales over time, for those of us who have labored in this vineyard and those in the defense community, we recognize this as the "bucket," so to speak; that is, after the executive branch implemented the pledge by decreasing the amount of defensive goods and services that would be sold to Taiwan. That is readily understood. That was the specific intent.

This is the communique, the other is the law of the land. But you can see the difference. Congress, and the President, clearly have the authority under the law of the land to designate and determine the nature and quantity of defensive arms provided to Taiwan.

Yesterday in the debate, several of my colleagues claimed that section 1601 nullified the entire basis of United States-China policy.

This simply is not true, Mr. President. I should know, this was my legislation. I know what the legislative intent was. As the original author of this legislation, I know the intent of the legislation is simply to reassert the legal primacy of the Taiwan Relations Act as public law over a statement of policy, such as the joint communique.

It is this intent that so many of my colleagues on the other side, and evidently the State Department, are missing. It reasserts the legal primacy of the Taiwan Relations Act as public law over a statement of policy, such as the joint communique, if the two are in conflict. That puts the burden on the President and the Congress where it belongs.

For example, if the threat to Taiwan is increasing, defensive arms sales may need to go up, and this should not be arbitrarily limited by the bucket. It has not been in the past. The bucket is whether it is inside or outside, and we have seen sales outside. Prior administrations have followed the principle and practice, such as President Bush's decision to sell the F-16's to Taiwan, even though they were outside the dollar limits and, therefore, outside that bucket. It is referred to, basically, as decreasing in the amount of collective arms sales to Taiwan.

The point I want to make today is, more important, that Secretary Christopher, in a letter dated April 22, 1994, to me assured me that this administration's position is as previous administrations; the Taiwan Relations Act as public law takes legal precedent over the 1982 Joint United States-China Communique. That is the issue, does it take legal precedent or does it not? The Secretary of State said it did.

Let me make one more distinction, Mr. President. That communique I referred to, has never been ratified by Congress. The Taiwan Relations Act is the law of the land.

In referring to this letter of April 26, 1994, the Secretary provided that letter and asked me not to release it for the RECORD. I am going to honor that commitment.

But now the administration seems to say it is ready to veto the entire conference report, and one of the reasons, in part, is because of a provision that simply acknowledges their prior position. If they are going to veto it, that is their own business, but let us be up front about the veto, if other rationale is the driving force.

Why is this being selected? I do not know. Has the administration been pressured to change some of its positions? I am sending a letter to Secretary Christopher today asking him to clarify his position: Does the administration stand by the April 22, 1994, letter or not? If not, then why not? It is my hope to share that answer with my colleagues.

This is important, because many on the other side are very uncomfortable now as they recognize what the law of the land says and the fact the law of

VOL
142
PT
5
MR
21
—
29
1996
UMI

the land supersedes the communique if the two are in conflict. Very few people seem to have picked up on that difference and it's significance.

Some of my colleagues have asked why this provision was necessary and if it was. My response is simply this: it sets legal precedent. This is a reason I think my colleagues on both sides of the aisle will appreciate. Sometimes it is necessary to remind the executive branch that the Executive policies cannot ignore the law of the land, and that is where we are today. The Taiwan Relations Act is the law of the land.

So, Mr. President, this administration cannot ignore Taiwan's defensive needs nor the role of Congress in determining these needs, even if some in China demand it. That is what this legislation is really all about.

Some of my friends in this body may imply that this language somehow suggests that former President Reagan was wrong when he signed the communique. That is certainly not my interpretation, nor my my intention. But the reality is, this is 1996, not 1982, and this language dictates that if the threat to Taiwan is greater now than in 1982, arms sales may go up accordingly.

So that is where we are, Mr. President. I hope that sheds some light on the debate over this language. I simply stated what was actually written, and hope my colleagues on the other side of the aisle will recognize this.

(Mr. CRAIG assumed the chair.)

THE BUDGET

Mr. MURKOWSKI. Mr. President, I would like to make reference, in my remaining time, to some facts on the budget.

It is rather curious, but in the last 13 months, President Clinton has sent up to the Congress nine separate budget bills. We have one now, like the others, containing, in my opinion, some fairytale numbers, some rosy scenarios. They propose economics and delays into the next century when the spending cuts are actually going to take place, when it will be reduced.

Mr. President, 60 percent of the President's spending cuts are in the years 2001 and 2002 when we know, regardless of what happens this year, President Clinton will not be in office.

Spending will increase 25 percent from $1.5 trillion this year to $1.9 trillion in the year 2002. Spending will increase 25 percent, and the national debt will rise by more than one-third, from $4.9 to $6.5 trillion.

Think about that, Mr. President. From $4.9 trillion to $6.5 trillion we are increasing the debt. That is like increasing the balance on your credit card or increasing the overdraft, if your bank holds such an overdraft.

Although the deficit drops to $158 billion this year under the President's proposed reelection budget, the deficit goes up to $164 billion next year. This is our annual deficit. This means every year we are spending more than we are generating in revenue. We will spend $164 billion more than we generate in revenue, yet we mandate the American public balance their checking accounts. The Federal Government goes through a budget process. Everything it needs, beyond what it generates in revenues, it gets by adding to the deficit to the tune now of increasing it from $4.9 trillion—that is the total accumulated debt that has arisen as a consequence of the debts each year—we are going to increase that up to $6.5 trillion.

I spent a little bit of time in the banking business before I got in the business of being a Senator from the State of Alaska. Interest costs are, I think, one of the most interesting and underrated considerations in this process, certainly among the more deceptive elements of the President's budget.

This year we are going to spend 14 cents of every $1 of Federal spending on our $235 billion interest bill—14 cents out of every $1 of Federal spending. That costs us $235 billion. Next year the interest costs are going to rise to $238 billion. That is about 14.5 percent of the budget.

Interest is like having a horse that eats while you sleep. It continues throughout the night eventually eating faster than you can feed it. Interest does not employ anybody, does not provide any new jobs, and does not pay any taxes in that sense. It has to be addressed if you have debt. The United States has debt.

There is a rather curious process going on here. I will try and wind this up because I see my friend from Tennessee is on the floor as well. But the administration says that by the year 2002, interest costs are only going to be 12 percent of the budget and interest spending will be down to $223 billion. How is it possible for debt service costs to go down while the debt goes up from $4.9 trillion to $6.5 trillion? Is it lower interest costs? The President assumes flat interest rates at 5 to 10 percent on 10-year notes. So that is not it.

As I said, I used to be a banker. It does not take a rocket scientist to figure out that if the size of your debt rises by a third and interest rates are flat, the amount of interest you are going to pay has to go up.

Why does that not happen under President Clinton? I wonder if we have rejected some of the principles of mathematics. The answer, Mr. President, is hidden in the back of the President's budget. I think this deserves the light of day. During the next several years, trust fund surpluses, especially the surpluses in the Social Security trust fund, rise by nearly $1 trillion. For every $1 of surplus, the Federal Government issues a special debt note—a debt note—to the trust fund that is not counted as interest under our budget rules. I would ask the Chair why. I am sure the Chair would have the same difficulty in explaining it.

But for every $1 of that Social Security trust fund, which is going to be somewhere in the area of $1 trillion, for every $1 of surplus, the Federal Government issues a special debt note to the trust fund that is not counted as interest under our budget rules. That is $1 trillion of debt service not counted in the President's budget.

If you counted the interest we will pay the trust fund on the $1 trillion in new debt we owe the trust fund, as a consequence of that, going into the interest formula, the real interest figure would look more like $350 billion as interest on the debt in the year 2002 instead of $225 billion, which is what the administration would have us basically accept or believe in this proposal.

My point is, Mr. President, the administration projects the interest at 14.5 percent, or 14.5 cents on the dollar, when in reality it is 18 percent as a consequence of borrowing from the trust fund.

Mr. President, I will attempt to pursue this after the recess with some charts that I think will more visually show just what is going on here. The American public better be concerned because, as we look at greater portions of our total budget going for interest on the debt, we recognize we are going to have less for social needs and other priorities in our country.

This must come to a halt. It could only come to a halt by adopting a balanced budget. We still have not been able to convince the White House of the realism of a real balanced budget that will actually cut spending.

I thank the Chair and wish the Chair a good day.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

ORGAN DONOR AWARENESS

Mr. FRIST. Mr. President, I rise today to bring attention to an issue that is literally an issue of life and death. Mr. President, any one of the Senators here today or any member of our families, whether through accident or misfortune, could find ourselves needing a life-saving organ transplant operation tomorrow. If that should happen, we would be placed on a waiting list to join about 43,000 other Americans who right now, this very second, are waiting their turn—or their death if they never get that turn.

Since 1990, the number of people diagnosed as needing an organ transplant has doubled. Today, every 18 minutes a new name is added to this list of people waiting. By the end of this year, the list of people waiting for a transplant

will be over 50,000 people long. But those are just the people that we know about, people who are lucky enough to have made it into the medical system, who have jumped through the financial hurdles of diagnosis and have been recommended to a transplant center.

The real numbers are even more staggering: Approximately 100,000 people—100,000 people—need an organ transplant this very year. Yet, only a small fraction of that 100,000 people will receive a transplant to live or to have a better quality of life.

In fact, every day eight people die because a donor, an organ donor, does not become available. We have 100,000 people that could benefit from transplantation, yet only one in five, about 20,000, will actually receive a transplant.

Why? Is it because donors must be a certain age or race or blood type or physical condition? Is it because of outdated State laws or Federal regulations? Or is it because it is difficult to qualify or to designate one's organs for donation? The answer to all three of those questions is no.

The reason can be summed up in four simple words: lack of public awareness. There are no limits for organ donation for any of the reasons I just mentioned. Every person is potentially a donor. Even those under the age of 18 can sign up with a parent's permission. Yet, tragically, there are only about 5,000 actual donors every year. Experts estimate that organ donation could be increased by 80 percent simply through better public education and awareness.

I began my training to become a heart and lung transplant surgeon 22 years ago. At that time, I could only dream of the science and the technology and the medical know-how that today is routinely used to save people's lives through transplantation or to give people a better quality of life. It is no longer an experimental procedure, but a life-saving, life-improving medical operation that is performed routinely in centers all over this country. Yet, today, for people who need a heart transplant, about one out of four die needlessly, senselessly because an organ donor is not available.

Now I am a U.S. Senator, now in a position to change and help people save lives through public awareness; and that is my goal, to bring public awareness in line with the advances in medical science and technology that we have today.

Together with my colleagues, Senator SIMON, Senator DEWINE, and Senator LEVIN, we have just launched a drive to focus congressional attention on organ transplantation and to encourage every Member of Congress to consider signing up as an organ donor. We ask them to do three things: First, learn the benefits of transplantation; second, consider signing an organ donor card; and third, and probably most importantly, discuss their decision with their next of kin and loved ones.

So far, more than a third of my colleagues in the U.S. Senate have done so, and more are adding their names to this list every day. On the House side, Congressman JOE MOAKLEY of Massachusetts is urging his colleagues to do the same. We must continue to do this because just as our list is growing, so too is that list of children and men and women who are waiting for that transplant procedure.

I want to urge today every one of my Senate colleagues and every Member of the House to perform that heroic, lifesaving act, which is selfless, unselfish, and sign an organ donor card to give others a new chance at life. Our goal is 100 percent congressional participation.

The week of April 21 through the 27th is National Organ and Tissue Donor Awareness Week.

That is one month from now. On Tuesday of that week we will be having hearings in the Senate Committee on Labor and Human Resources, dedicated to this issue of public awareness surrounding organ donation, tissue donation, and transplant patients. We can start right here by recognizing that public policy—and we, as legislators—can only do so much. The problem is the shortage of organs. The solution is public awareness. Doing our part, here today, and over the coming months to raise public awareness will go a long way in helping us achieve our policy goals, as well.

The 104th Congress has been unparalleled in the amount of attention that we have been able to focus on the important issues now before our Nation. This is one of them. We have the opportunity to give the most important service you will ever give to fellow Americans. Be a hero. Join the fight, and save a life.

Mr. President, I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

ENVIRONMENTAL POLICY

Mrs. HUTCHISON. Mr. President, over the last 30 years, we have greatly improved the environment in the United States. Our air and water in this country is the cleanest it has been in 40 years. Now we are at a crossroads in environmental policy. We can preserve all of the environmental gains of the past three decades and move forward to assure our children a safer, cleaner, and healthier environment. But we will not be able to do it under the old top-down, command and control solutions from Washington, DC.

This approach is outdated and counterproductive. Rather than advancing our important environmental goals, the Washington bureaucracy and its extremist allies are actually harming the environment. Timber growers have been known to cut trees on the basis of even a rumor that their property might have an endangered species to be listed. Why? In order to avoid having Washington bureaucrats tell them they cannot cut down a tree that they have spent their lifetime harvesting.

In central Texas, the Fish and Wildlife Service originally suggested setting aside an area the size of the State of Rhode Island to protect the golden-cheeked warbler. In order to do that, they told the property owners they could not cut cedar trees. Now, cedar trees have another harmful impact on the people who must have water for our cultivation of lands and to drink, because cedar trees absorb water to a greater extent than most other trees. If you do not cut cedar trees, which our farmers and ranchers are trying to do as much as they can, the water supply dries up, and it affects the water supply of the city of San Antonio and affects the ability of farmers and ranchers to use their land. The size of the area is a ridiculous amount—the size of the State of Rhode Island for one bird, when we could have set aside a reasonable number of acres for its preservation.

In the Texas Panhandle, protecting a bait fish called the Arkansas river shiner may keep both the agricultural producers and municipal utilities from being able to have access to an adequate supply of water, even though there is a thriving population of the Arkansas river shiner in the State of New Mexico. Now, many of my constituents are a little fed up with a Government that gives snakes and salamanders priority over human beings and constitutional rights.

The Endangered Species Act has worked well as a means of focusing attention on the need to preserve plants and animals from extinction. There have been many successes for high-profile species, but the heavyhanded means that are being employed to preserve hundreds of subspecies are increasingly counterproductive. If we cannot rely on the support and cooperation of the people who live with the animals that we want to save, I think those animals chances of survival are not very good. That is why I am making a priority of reforming the Endangered Species Act. We need to forge a new consensus about saving endangered species and making private property owners stakeholders, not adversaries in the process.

The Superfund was created to identify and clean up hundreds of hazardous waste sites around the country, but the regulations written in Washington to govern cleanup are so complicated and cumbersome that almost no cleanup is getting done. Only 291, or about 25 percent, of the 1,238 worst hazardous waste sites have actually been cleaned up.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Where is the money going? Billions of dollars have gone into this. The money has gone to lawyers, consultants, and bureaucrats in Washington. That is where the money has gone that should have been going to clean up these hazardous waste sites. Companies contributing to the cleanup have spent 39 percent of their money on lawyers, 20 percent on negotiations, 9 percent on studies, and 15 percent on cleanup.

It is not just business that is being sued. The Catholic Archdiocese of Newark has been sued for a landfill in New Jersey. The archdiocese purchased land to expand its Holy Name Cemetery and inadvertently became potentially responsible for its cleanup. One landfill site in New York has 600 defendants, including an Elks Club, an exercise gym, two nursing homes and a kennel, which has a septic tank that needs to be cleaned.

Something must be done. We must put the money where it will benefit the public and the environment. This waste will go on and on unless we reopen the Superfund law and put some common sense back into it. Hazardous waste sites are local problems. We want to have a voice at the local level to be sure that the waste site in a town is cleaned up and made safe.

Unlike other major environmental laws, it is all handled by Federal bureaucrats, not the State and local representatives. While the lawsuits have gone on for years and years and the consultants and the bureaucrats argue endlessly about how many parts per million is acceptable, our children are at risk.

The Clean Air Act requires States and localities to meet a series of ambitious new pollution reduction targets in the years ahead. Achieving these goals will make the air we breathe cleaner and healthier. But the Washington bureaucrats have not been content just to set the standards. They are also trying to dictate how to achieve the goals, down to the smallest detail. In order to reduce auto pollution, emission testing requirements are part of the Clean Air Act. Rather than allowing States to decide, Federal regulators have been using threats to force States to set up entirely new automobile inspection networks, completely separate from the existing State auto inspection systems, and it is costing our consumers millions of dollars.

What we need to do, Mr. President, is achieve better protection of human health and the environment by regulating smarter. The fact is, businesses—big and small—private property owners, and commuters, are spending too much time, too much money, trying to comply with too much paperwork and too many regulations from too many Washington bureaucrats.

If we are going to move forward for a safer, cleaner, healthier future, we must change the way Washington regulates. States and communities should be allowed and encouraged to take a greater role in environmental regulations and oversight. But the improvements we need in Washington go far beyond State and local involvement. We need to plan for the future, not just for today.

Science and technology are constantly changing and improving, but the Federal Government is not keeping up with these changes, and the old regulations are outdated. Extremists in the environmental lobby are trying to keep the status quo. What we want are some immediate changes that will give us better regulations for the environment, to preserve it, and allow people the freedom to use their private properties and cultivate the land at the same time.

Mr. President, I know my time has expired.

Mr. COHEN. Mr. President, I ask unanimous consent that the period of morning business be extended until the hour of 1:30, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I will have 3 or 4 more minutes.

Mr. President, here are the things that I would like to see done to change the regulatory harassment from Washington, DC. Let us put some common sense into the regulation. Let us do a thorough review of the environmental regulations that are now in place to determine what we need, what we do not, and make sure we do not add any new unnecessary, unproductive regulations.

Washington should be required to disclose the expected costs of current and new environmental regulations. I think the public has a right to know how much they are going to cost, and whether they are going to get their money's worth.

Three, in trying to make regulatory decisions involving the environment, the Federal Government should use best-estimate and realistic assumptions, rather than worst-case scenarios advanced by environmental extremists.

Fourth, new regulations should be based on the most advanced and credible knowledge available—in other words, good science. We have a situation where we have seen the devastation of the timber industry in the Northwest. It has cost thousands of people their jobs. Their families and their livelihoods have depended on the timber industry. It has cost every person in America that has built a new home more because timber prices have increased. Why? To protect a spotted owl.

Mr. President, what has happened is that reports have come back that, in fact, the spotted owl is not going into extinction, that it has been spotted in places nearby. So we have had a devastation of an industry, a devastation of people's lives and their livelihoods, their jobs, and whole communities have been ruined, when we did not even have good, sound science.

In Texas, in the city of Big Springs, 15,000 people had to move a reservoir to protect a conclo snake that was later determined to be prolific in a county nearby. They spent $6 million in taxpayer money—the money of hard-working people—to move a whole reservoir in order to accommodate a snake that was not really endangered.

So, Mr. President, it is time to restore common sense to environmental law. This is how we would move forward for a cleaner, safer future for our country, and to protect private property rights and jobs as we do it. We can work together to keep endangered species, to clean air and water, and clean hazardous waste sites. We can do all of these things and still have a thriving economy.

Mr. President, that should be our goal, and that is why we are trying to reform Superfund, reform the Endangered Species Act, and make the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act good for people as well as animals and the environment. We need to work together so we can live together in safety.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized to speak for up to 15 minutes.

APPOINTING MEMBERS TO CERTAIN SENATE COMMITTEES

Mr. COHEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 236, submitted earlier today by Senator DOLE and Senator DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 236) appointing Members to certain Senate committees.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. COHEN. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 236) was agreed to, as follows:

S. RES. 236

Resolved, That, notwithstanding the provisions of the Standing Rules of the Senate, the following Members are hereby appointed to the following Senate committees:

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS: Mr. Bennett and Mr. Wyden.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION: Mr. Abraham and Mr. Wyden.

COMMITTEE ON THE BUDGET: Mr. Grams and Mr. Wyden.

SPECIAL COMMITTEE ON AGING: Mr. Warner and Mr. Wyden.

THE PASSING OF DAVID PACKARD—INDUSTRIAL GIANT

Mr. COHEN. Mr. President, last Tuesday, an industrial giant died, David Packard, a former Deputy Secretary of Defense during the Nixon administration. I have a letter sent to me as chairman of the Seapower Subcommittee by the Secretary of the Navy.

I ask unanimous consent that this letter to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, DC, March 27, 1996.

Hon. WILLIAM S. COHEN,
Chairman, Subcommittee on Seapower, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, David Packard passed away Tuesday, March 26, 1996. I would like to submit the following statement for the Congressional Record.

We are deeply saddened by the passing of a great American and a true friend of the Department of the Navy, David Packard.

David Packard, together with his friend and Stanford University classmate, Bill Hewlett, sparked the development of the high technology industry from a one car garage back in 1938, to a giant in the electronics industry as the Hewlett-Packard Company. He set a new standard in management style that became known as "the HP Way", which emphasized "management by objective, rather than by directive" and encouraged employees to work toward common goals by giving them a wide range of freedom in which to operate. He created more than just a company, he created an industry and a management philosophy.

Mr. Packard served as Deputy Secretary of Defense under Secretary Melvin Laird where he developed a reputation for candor and independent thinking and a tendency to challenge political influence on defense decisions. He was part of a team that is considered by many to be one of the strongest teams ever to run the Defense Department.

A decade ago he made another huge and enduring contribution to good government. He chaired the Packard Commission, which recommended a revolution in defense procurement procedures through the application of standard business practices. His recommendations are still being implemented today. They enable the military to modernize more quickly and at a lower cost.

Although he was one of the richest men in America, he lived modestly. He donated the bulk of his wealth to a foundation that has given hundreds of millions of dollars to Stanford University, the Monterey Bay Aquarium, and other charitable causes.

David Packard was a giant in industry, in public service and philanthropy. We will miss him greatly.

Sincerely,

JOHN H. DALTON,
Secretary of the Navy.

THE PASSING OF EDMUND S. MUSKIE

Mr. COHEN. Mr. President, last Tuesday, the State of Maine and the entire Nation mourned the loss of a political giant, Edmund S. Muskie.

From Maine to California, the newspapers are filled with long stories detailing and encapsulating the life and times of Ed Muskie and his accomplishments. There were columns that appeared in the New York Times, the Washington Post, the Boston Globe, the Bangor Daily News, the Portland Press Herald—all across the country.

While each of the articles was written from the unique perspective of the authors, there were common elements in each one of them. The articles spoke of Senator Muskie's intellect, which indeed was muscular. They spoke of his integrity, which was unquestioned. They spoke of his candor, which was unmatched. They spoke of his courage, which I think was incomparable.

He took on some of the most powerful interests in this country and, never once, did he ever flinch, he never sought favor, and never acted out of fear. He was indeed a brave heart.

He was careful, and some say he was cautious.

I read a tribute recently, which I will quote:

> Perhaps the strongest feature in his character was prudence, never acting until every circumstance, every consideration, was maturely weighed; refraining when he saw doubt, but when once decided, going through with his purpose whatever obstacles opposed. His integrity was the most pure, his justice the most inflexible I have ever known, no motives or interest or consanguinity, or friendship or hatred being able to bias his decision. He was indeed, in every sense of the words, a wise, a good, and a great man.

These words were not about Ed Muskie. These are the words of Thomas Jefferson assessing the character of George Washington. But they might just as well have been said about Ed Muskie.

In Ecclesiastes, the question is asked, "What is best for men to do during their few days of life under the sun?"

Well, it was clear from the very beginning what the answer was for Ed Muskie. He was not born to be a spectator or a bystander. He did not come into this world to sit in a darkened theater and express his approval or rejection of those on stage.

He knew, as Justice Holmes before him knew, that "Life is action and passion, and we must share in that action and passion at the risk of being judged not to have lived."

Ed Muskie was at the very center of the action of his days—whether it was on the civil rights legislation, or protecting the environment, or waging the fight to control the budget, as chairman of the Budget Committee, or promoting America's role in a dangerous world, as the Secretary of State.

When he was on the Senate floor in full-throated debate, and when he blended that magnificent mind of his with the rhetorical power and grace of the orator, then he became one with the poet Hopkins, who said, "What I do is for me; for this I care."

Dr. Robert Sheehan once wrote, "The world belongs to those who laugh and cry. Laughter is the beginning of wisdom, the first evidence of the divine sense of humor. Those who know laughter have learned the secret of living."

Well, Ed laughed a lot. He had a wry, down-east Yankee wit. He loved a good cigar, a good story, and he loved a good joke.

While passion was his virtue, it was also said to be his vice. He had a cool, cerebral intellect, but he also had a quick and, some would say, also Vesuvian temper, particularly when he witnessed an injustice being done, an act of hypocrisy or unfairness being inflicted. He had little tolerance for character assassination.

We are all familiar with that fateful moment in New Hampshire when he was standing on a flatbed during a snowfall. Ed Muskie decided that he had enough of the dirty tricks that were being practiced upon him at that time, enough of the daily diatribes that appeared in one of New Hampshire's newspapers. But, of course, he was not the only object of attack that week. He rose on that day to denounce the attacks against his wife, Jane, as being mean and cowardly. There was one prominent journalist, David Broder, who wrote that Senator Muskie appeared to be crying during that time—although, to this day, there is some question as to whether they were actually snowflakes falling or streaming down his cheeks, as opposed to tears.

But it was a moment in history—a turning point in his campaign for the Presidency because many, after that moment, judged him to be too passionate to be President.

There is some irony in the retelling of this story and this event because, some 16 years later, another Democratic candidate for the Presidency was thought to be too cool, too bland, and bloodless in his response to a question about what he would do if his wife had been raped.

So we have come to learn that politics is not a sport where the rules are always well defined, or indeed consistent.

Some people who have run unsuccessfully for the Presidency are broken by the experience. Defeat never shattered Ed Muskie's love of politics and his love for this institution. He possessed an inner self-confidence and self-awareness of his place in the uncompleted puzzle of existence. It was a serenity which permitted him to continue to serve nobly in the Senate and then later as Secretary of State.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. President, back in 1976, I had given consideration to running against Senator Muskie. I was then a young Congressman from the Second Congressional District of Maine. I was being urged, indeed, to run against Senator Muskie. I was pondering. I thought about it for a long time. I retreated to Sugarloaf Mountain in Maine to contemplate whether or not I would take this great step. I had with me at that time a book called "Zen and the Art of Motorcycle Maintenance" written by Robert Pirsig. It was one of the most intellectually challenging books I think I had read at that time.

As I was reading through the book, the decision really clicked into my mind. I came across the words of Pirsig when he said:

> When you try to climb a mountain to prove how big you are, you almost never make it. And even if you do, it's a hollow victory. In order to sustain the victory you have to prove yourself again and again in some other way, and again and again and again, driven forever to fill a false image, haunted by the fear that the image is not true and someone will find out. That's never the way. . . .

I knew, upon reading these words, that I was in danger of letting my own ambition race beyond my abilities and that even if I could defeat Ed Muskie—and the polls showed me doing that—I knew in my heart that I would need a fistful of four-leaf clovers and a whole lot of money. Even then in my heart of hearts I knew that it would be a tough race for me to run, and that, even if I were to win—which was always in doubt—the State of Maine and this country would not have been well served. He was by far a superior man, and history has proven that to be the case.

So I declined to enter the race. I called Ed Muskie and told him of my decision—never revealing at that time that I had been reading "Zen and the Art of Motorcycle Maintenance" which helped me reach that conclusion.

John Kennedy once remarked that when the high court of history sits in judgment on each of us, recording in our brief span of service whether we fulfilled our responsibilities, our success will be measured by the answers to four questions:

First, were we truly men of courage?

Second, were we truly men of judgment?

Third, were we truly men of integrity?

Fourth, were we truly men of dedication?

As history judges Ed Muskie, the answer to each of these questions is an unqualified "yes." These are the very qualities that characterized his service in Government. He will be remembered as one of the finest public servants to ever have graced the Governor's Mansion in Maine, the U.S. Senate, and the Office of Secretary of State.

Tomorrow when he is laid to rest in Arlington National Cemetery, Ed Muskie will be in the hearts and in the minds of the people of Maine and this country and shall remain there for generations to come.

Mr. President, I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

WELFARE REFORM

Mr. ROTH. Mr. President, it has been 37 months since President Clinton outlined his welfare reform goals. On February 2, 1993, he told the Nation's Governors he would announce the formation of a welfare reform group within 10 days to work with the Governors to develop a welfare reform plan. But welfare reform was not enacted that year nor the following year.

Fourteen months ago, President Clinton declared at a joint session of Congress that, "Nothing has done more to undermine our sense of common responsibility than our failed welfare system. It rewards welfare over work. It undermines family values."

In response, the new Congress passed welfare reform twice in 1995. H.R. 4, the Personal Responsibility and Work Opportunity Act of 1995, received bipartisan support in both the House and Senate as it was being drafted. Yet, 10 weeks ago, President Clinton vetoed welfare reform for a second time. With a stroke of his pen, President Clinton wiped out the welfare reform American families need and expect. By vetoing welfare reform, President Clinton has accepted the status quo in which millions of children are trapped in a vicious cycle of dependency.

Two weeks after he vetoed H.R. 4 President Clinton once again pledged his support for welfare reform in his 1996 State of the Union Address.

The President also declared that, "the era of big government is over." But his actions contradict his words.

On February 6, the Nation's Governors issued their own bold challenge to reform the welfare state. The Governors' unanimously adopted a bipartisan—I emphasize "a bipartisan"—blueprint for returning the power and authority over the welfare system, including Medicaid, to the States. Since then, the Finance Committee has held three hearings on the welfare and Medicaid proposals forwarded by the National Governors' Association. The Governors specifically built upon the welfare reform conference report rejected by the President.

On February 28, Secretary Shalala testified for the administration on the Governors' proposals. Once again, we found that the administration has an incredible capacity to blow hot and cold air at the same time. While lauding the Governors for their effort, Secretary Shalala opposed every major provision of the bipartisan proposals.

The Nation's Governors assembled again this week, this time in Palisades, NY, for a National Education Summit. The purpose of this meeting was for the States to share their ideas and strategies for introducing new technologies, standards, and assessments to improve the education of our children.

The Governors invited the business leaders who will help develop the new learning systems which will combine education and technology. The Governors also invited President Clinton to address the summit and, who no doubt, pledged his support and commitment to our children's future.

But among all of the dignitaries, there was an uninvited and unwelcome guest at the banquet. Medicaid, the uninvited guest, will consume much of the necessary resources intended for education and will leave only scraps for the education of our children.

The insatiable appetite of Medicaid spending is limiting the ability of the Governors to fully fund education as they wish as Medicaid's share of State spending has nearly doubled in just 7 years. Its share has grown from 10 percent of State spending in 1987 to 19.4 in 1994.

During this same time, the share of State spending for elementary and secondary education dropped from 22.8 to 20.3 percent. Higher education's share dropped from 12.3 to 10.5 percent.

In 1990, Medicaid spending replaced higher education as the second largest State spending category, exceeded only by elementary and secondary education.

If present trends continue, Medicaid will soon pass elementary and secondary education as well. As shares of total State spending, both elementary and secondary education and higher education are at their lowest point in memory.

Between fiscal years 1993 and 1994, elementary and secondary education grew by just 2 percent. In comparison, Medicaid grew by more than 12 percent.

These alarming trends have consequences in other vital services as well. Transportation's share has dropped from 10.6 percent of State spending to 8.9 percent. The broad category of all other which includes public safety, investment in infrastructure, and many other services has declined 3 percentage points.

Another hidden threat of Medicaid is how State government is funded. Medicaid forces States to borrow more to finance the cost of education.

States cannot sell bonds to finance Medicaid, so the cost and burden of borrowing is passed on to other budget categories.

In 1987, 6.4 percent of bonds issued were to finance higher education. In 1984, 19.2 percent of bonds were used to fund higher education. This debt, of course, is ultimately passed on to our children. Even worse, as Medicaid spending consumes even greater shares of spending, leaving less for education,

the cost of education may well rise beyond the ability of many families to spend their children to college to all.

The consequences of the failed welfare system are realized in many ways. It spreads its ill effects throughout society.

Now we find that unlimited entitlement spending threatens our democratic institutions as well. Mandatory Medicaid spending is draining State and Federal budgets. Governors and State legislatures are no longer in control of their State governments—they are being held hostage by the demands of Federal bureaucrats.

Mr. President, if we truly care about the education and future of our children, we must enact authentic welfare reform. Medicaid is the largest welfare program and the threat of its uncontrolled growth is spreading. Without welfare and Medicaid reform, whatever President Clinton promised for education last Wednesday in New York, is certain to be consumed by Medicaid tomorrow.

Mr. President, I yield back the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent for roughly 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PACIFIC NORTHWEST SALMON RESTORATION

Mr. GORTON. Mr. President, the Columbia River is the crown jewel of our Pacific Northwest. Its waters passing through our dams light our cities and towns. Its waters held back at times by those dams have saved thousands of lives from destructive floods. Its waters spread on our dry land have made the desert bloom and provide food for millions of people around the world. At the same time, that magnificent Columbia River has been the home to the most munificent runs of salmon anywhere in the lower 48 States of the United States of America.

Now that very civilization that has built those dams and used these waters so constructively threatens the future of these wonderful salmon runs. What should we do? How should we see to it that we both have the benefits of power and of irrigation and flood control and at the same time preserve and strengthen and restore these wonderful runs of salmon?

I think it is becoming more and more evident what we should not do. In the last 5 years, Federal bureaucrats here in Washington, DC, have billed us in the Pacific Northwest $1.5 billion for salmon restoration, half a billion dollars last year alone, and we have not seen any positive results at all. In spite of this investment, an investment the people of the Pacific Northwest have not begrudged, the results are nothing. The results are a continued decline in our salmon runs. These costs are welcomed by the people of the Pacific Northwest, but the results are not.

I am convinced that this failure of Washington, DC, bureaucrats means that we cannot succeed if we continue to do business in the same way that we are doing it at the present time. I believe, and I believe firmly, that we can do a far better job in the Pacific Northwest if we are allowed to make the decisions that affect our lives and affect our resources.

Personally, I am totally committed to restoring an abundant salmon fishery in the Columbia and the Snake Rivers. Healthy and strong salmon runs are vitally important to our economy, to thousands of people whose livelihoods rest on them. But there is something more important even than those who are professionals in these fields. Salmon are a distinct part of our society and of our culture. Everyone who grows up in the Pacific Northwest has his favorite stories—his or her own big catch, the thrill of the child catching that first salmon, or just of a summer cookout with the family with salmon on the grill. I would find it unacceptable that my grandchildren would not have in their lifetime the same opportunities that I have had.

I have also to confess that my thinking, along with that of many in the Pacific Northwest, has grown and expanded over the years to emphasize the vital importance of native salmon runs. We have spent much of our time building hatcheries and creating artificial runs where native runs once existed. Those hatcheries are important. They are an important supplement. But we now recognize that it is vital that we strengthen the native runs and help restore them at the same time.

I am convinced that the people of the Pacific Northwest are willing to pay money, money literally in the hundreds of millions and billions of dollars that has already been wasted, in order to restore these salmon runs, but at the same time the people of the Pacific Northwest want that money to be spent effectively. They also want the amount of money they are going to spend to be predictable, and they want it to be spent in a scientifically credible fashion.

Last November, the National Academy of Sciences, the most prestigious institute of science in the free world, came up with a set of reports indicating what we know and what we do not know and suggesting some courses of action. That report has been almost totally ignored by the Federal bureaucrats who are in charge of spending our money and telling us what to do.

So I believe we need a change. I think we need to change a system that has failed and come up with a system that will work. I believe that that system is most likely to be developed by the people who are going to pay the bills and benefit from any success and pay the penalty for any failure.

Mr. President, do you not agree that the people of our region are better capable of answering these questions than the bureaucrats here in Washington, DC? Should not authority over how we deal with these runs be turned over to us, collectively—our sportsmen, our commercial fishermen, our citizens in cities and towns, our irrigators and farmers, our Indian tribes? Are they not going to be able to come up with a better answer to this question than we have gotten so far from Washington, DC?

Mr. President, I am convinced that is the case. I am convinced that this Congress should require a significant amount of money to be spent on the restoration of our salmon runs, should allow our people to spend more, if they wish to do so, should allow us to come up with a predictable number of dollars for this effort, and then, most vitally, should allow us, using the best science we can possibly find through these wonderful national and international scientists, to decide how best to spend that money so that we, you and I and all of us from the Pacific Northwest, may be able to pass on to our children and grandchildren the wonderful heritage of an abundant fishery at the same time that we preserve power for our cities and towns, water for our farms, rivers for our recreation, and safety for our citizens.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Texas.

Mr. GRAMM. Mr. President, I ask unanimous consent to proceed as in morning business for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIG GOVERNMENT OVER? NO, BIGGEST GOVERNMENT EVER

Mr. GRAMM. Mr. President, we have received last week the President's official budget for 1997 and for the next 6 years thereafter. I would like to take some time this afternoon not to do the standard presentation that we all make, where we take the President's budget and say what in it is phony, what is smoke and mirrors, and what in it has no hope of coming true?

If people took the President's budget this year and did that, I think they could make a magnificent presentation because the President's budget is based on optimistic assumptions that things are going to get better without any change in policy to make them better.

But that is not what I want to do this afternoon. What I want to do this afternoon is to talk about the President's budget proposal from a point of view that we don't use enough, and that is, if we assume that everything in

VOL
142
PT
5
MR
21
—
29
1996
UMI

the President's budget is valid. if every word in here is backed up by sound policy, if everything the President assumes will happen will happen, if we grant the President every benefit of the doubt, then let us look historically at the kind of America that this budget will produce. That is what I would like to do for a few moments here this morning.

I would like to set it in historical perspective by using a series of charts. On this first chart I compare expenditures on national defense starting the day that World War II ended. So I look at the decade of the 1940's after World War II, the decade of the 1950's, 1960's, 1970's, 1980's, and then I look at the Clinton budget as projected for the next decade, in his own numbers.

To simplify the comparison and avoid the impact of inflation or overall growth in the economy, I have decided to look at budget expenditures as a percentage of the total production of the American economy. So when I am going through these numbers, think of it as the Nation's overall income, the value of everything we produce and sell, and how much of that is going for these particular purposes.

Looked at in this way, this chart shows that in the second half of the 1940's, from 1945 to 1950, 7.9 cents out of every dollar earned by every American was spent on national defense. As the cold war accelerated, that grew to 10.6 cents out of every dollar. It fell off some in the 1960's to 8.9 cents out of every dollar. In the 1970's and 1980's, it was 6 cents out of every dollar.

If President Clinton's budget is adopted exactly as it is written, if every word in it turns out to be backed up by sound policy, and if everything it assumes will happen happens, under his policy we will, in the decade of the Clinton budget, be spending 3.4 percent of the Federal budget on national defense.

There are several important points here. First of all, that is the lowest expenditure on national defense—3.4 cents out of every dollar earned by every American going to national defense—since the 1930's.

Second, that is 43 percent less than we spent in the decade of the 1980's, and if every penny that has been cut out of defense had gone to deficit reduction, we would have a balanced Federal budget today.

Let me state it in another way. The whole peace dividend for winning the cold war, which allowed us in real terms to spend about $150 billion less on defense every single year, every penny of the peace dividend has been seized and spent by Government. This is the first major victory in the history of America where the fruits of that victory—whether it was the Civil War, World War I or World War II—this will be the first time in American history that when the conflict ended we did not give the money back to the people we took it from to fight the conflict. Every penny of the peace dividend will have gone to Government and will have been spent on nondefense programs.

The second point I want to make is about social spending. Again, beginning the day World War II ended and for each of the decades, I have the percentage of all of the income in America that was spent by Government on nondefense programs, basically social programs with the overwhelming preponderance entitlement programs. Again, the level was 7.4 percent in the 1950's, it rose to 10.2 percent in the 1960's, rose to 14.6 cents out of every dollar earned by every American spent by Government on social programs in the 1970's. That rose to 17.1 percent in the 1980's and, under President Clinton's budget, if we met every savings proposal that he has, if all of his assumptions came true about saving money—and it would be the first budget in history where that ever happened—even under the best scenario, President Clinton has promised the largest expenditure on social programs in the history of the United States of America. By his own numbers he will spend 17.3 cents out of every dollar earned by every American in Washington DC, through the Federal Government, on social programs.

So, when our President says the era of big Government is over, and when we are trying to assess what that really means, I do not know what he means when he says it but his budget spends 69 percent more on social programs, as a percentage of the income of all Americans, than we spent during the decade the great society programs began under Lyndon Johnson.

Taxes: Beginning the day that World War II ended, the American people have borne the following tax burdens. From 1945 to 1950, on average, Americans paid 16.5 cents out of every dollar they earned in taxes to the Federal Government. That has steadily risen, and under President Clinton's budget, if fully implemented, we would have the highest Federal tax burden in the history of the United States of America.

Under President Clinton's budget, if implemented, Americans would send 19.3 cents out of every dollar earned by every American, on average, to Washington to be spent by the Federal Government.

Let me sum this up on these three charts. President Clinton's budget calls for the lowest level of expenditure on defense since World War II—since the 1930's, the highest level of expenditures on social programs in the history of the United States of America, almost 70 percent higher as a percentage of our national income than we had in the mid-1960's at the peak of the Great Society, and Clinton's own budget calls for the largest tax burden in American history.

This is what the tax burden looks like if you plot it out, adding up State and local government. What you see by this chart is that, if implemented, President Clinton's budget would give us the largest tax burden ever borne by Americans at any time in the history of our country.

The President talks about a tax cut in his budget, but what really happens in his budget is that the tax cut is sunsetted and ends while the tax increases continue. By the time you get to the year 2001, we have actually a tax increase in the Clinton budget.

But now, to get down to why all this is relevant. What difference does it make that the Clinton budget has the highest social spending in American history? What difference does it make, other than to the taxpayer, that it has the highest tax burden in American history?

What I have plotted here is economic growth. This represents the rate of growth in the production of income and opportunity and jobs in America. These numbers are very revealing.

In the 1950's, the American economy grew at 4 percent a year on average. What that means is that in the aggregate, the average family in America was seeing its income grow by roughly 4 percent a year.

In the decade of the 1960's, that grew to 4.4 percent, most of that growth in the first half of the 1960's.

By the 1970's, it was down to 3.2 percent.

In the 1980's, it was down to 2.8 percent, and in President Clinton's own optimistic assumptions, with his Government spending burden and his tax burden, his own budget concludes that, on average, for the next 10 years, we would have 2.3 percent economic growth, meaning that, whereas in the 1960's the average family could look forward to its income growing at 4.4 percent a year, under the President's program of taxing and spending, the average American family will be able to look forward to economic growth at roughly half the rate that we experienced in the 1960's.

Why is that relevant? Let me give you a figure. If the American economy for the next 20 years grew at 4 percent a year, which is about the rate it grew in the fifties and sixties, rather than at the rate that it will grow under the Clinton budget by his own assumptions, that would mean that the average family of four in America 20 years from now, would have $40,157 more of income than they will have at President Clinton's growth rate.

Why is this budget proposed by the President so destructive? It is so destructive because it is giving America a future that is shortchanging the people who do the work and pay the taxes and pull the wagon in America. It is giving American families an economy that is growing at roughly half the rate it grew in the 1950's and the 1960's.

What that means is that when families sit down around their kitchen table every night and they dream the American dream and they make hard choices to make it come true, only roughly half as many families are going to achieve the American dream under the Clinton budget as would have achieved the American dream if we could go back to the kind of economic growth that we had for the first 20 years after 1945.

What really happened in the 1960's, and it happened roughly in 1965 when you look at the figures, is that America made a decision—a decision that was never debated and that there never was one single vote on it—but we made a decision that has profoundly affected our country. Prior to that point, for all of the 20th century, the American economy had grown at over 3 percent a year. From 1950 to 1965, the American economy had grown at over 4 percent a year. But beginning in the mid-1960's, we traded in an economy growing at 4 percent a year for a Government that has grown at 9 percent a year ever since.

Since the mid-1960's, the American Government has grown twice as fast as the income of the average American family and, in recent years, three times as fast.

The net result is we have had a decline in jobs, in growth, and opportunity. When you ask Americans, "Are you confident your children are going to have a brighter future than you had?" and when over 60 percent say no, they clearly perceive what is happening in America.

I am opposed to the President's budget. I intend to work to defeat it. I intend to adopt an alternative, because I do not want the highest growth rates in American history for social programs. I do not want the highest tax burden in American history, and I do not want the lowest level of opportunity for working people in this country that we have ever had in the history of the United States of America. That is what this budget promises.

Budgets represent a vision for the future. They define a relationship between the Government and the people. The relationship that is defined in the Clinton budget is a relationship of Government getting bigger, of Government spending getting larger, of taxes getting higher and of opportunity getting smaller. That is not the future that I want.

Let me conclude by reminding my colleagues and anyone who might be listening that the President earlier this year vetoed a budget that balanced the Federal budget. The President vetoed a budget that, because it balanced the Federal budget, would have brought interest rates down by 2 percent, that would have saved the average family in my State in Texas $2,754 a year on their mortgage payments because of lower mortgage rates, and would have given an average family of four a tax cut of $1,000 a year which they could have invested in their own family, in their own future. If we had adopted that budget, we would not be looking at the lowest economic growth rate in American history.

I think it is vitally important, Mr. President, that we reject the Clinton budget, not because it is phony, not because most of its figures are made up, not because the numbers do not add up—all that is true—but the reason we should reject that budget is because it does not paint a future that America wants. Americans do not want higher Government spending, higher taxes and less growth. They want less Government. They want more freedom.

Our job is to see they get it. That is why I am opposed to the Clinton budget. That is why I am in favor of balancing the Federal budget by cutting spending. I thought it was important to come over today and talk about these numbers and give this speech because later this afternoon we are going to be voting on a spending bill that spends $4 billion more than we set out in our appropriations earlier this year. The President is saying that he is going to veto this bill because it does not spend $8 billion more than we set out in our appropriations earlier in the year.

Somehow there is a disconnect between what we are saying in Washington and what we are doing. If we want the return of jobs, growth and opportunity—if we want to restore the kind of opportunity that was routinely available to America when the Presiding Officer of the Senate was growing up and when I was growing up—we are going to have to change the way we do business.

We are going to have to spend less of the taxpayers' money in Washington, so that the taxpayer can keep it, so the taxpayer and the taxpayer's family can spend it, so that they can invest it in their future and, therefore, America's future. That is the difference between the Clinton vision and the vision of Republican Members of the House and the Senate.

I yield the floor, and I thank my colleague. I want to apologize to him. During the speech of our colleague, Senator GORTON, I had walked into the anteroom, and he did not see me here on the floor. I am sorry for the inconvenience.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from Texas for those comments. We try on the floor to respect those who have arrived earlier. I had not known that the distinguished Senator from Texas had been awaiting recognition. I walked in; he was not on the floor. But I learned a little by listening to Senator GRAMM, which I do when I listen to Senator GRAMM. I have had occasion to listen to Senator GRAMM a great deal over the past year and have learned from the Senator over the course of the last year in other activities I have undertaken.

THE OMNIBUS APPROPRIATIONS BILL

Mr. SPECTER. I have sought recognition, Mr. President, to express my chagrin and disappointment that we are apparently not going to have an omnibus appropriations bill, but later today are going to proceed with another continuing resolution. Perhaps it is appropriate on April 1, on April Fool's Day, that Washington, DC, again looks like a collective group of April fools unable to pass a budget, and on April Fool's Day unable to finish the business of the preceding year, 1995.

Within the past hour I have come from the conference of the House and Senate where very strenuous efforts have been made for the past several days to find a compromise on appropriations.

I have the honor to chair the Senate Subcommittee on Labor, Health and Human Services. Perhaps I use the wrong word when I say it is an "honor." It has been really an embarrassment that we have not been able to bring a bill, the legislation, to fruition for funding which should have been in place by last October 1. But that bill has been tied up for a variety of reasons, with equal blame apportioned on both sides of the aisle, while we have been in gridlock on a number of matters.

For many, many weeks I have been pressing very hard to try to get the matter resolved, have been working with Chief of Staff Leon Panetta to find offsets, have scheduled a series of hearings with the Secretaries of the three Departments—Labor, Health and Human Services, and Education—and we finally brought the bill to the Senate floor and finally got it passed by a very substantial number, 79 to 21.

The key part of that bill was a bipartisan amendment worked out by the distinguished Senator from Iowa, Senator HARKIN, and myself, Senator HARKIN being the ranking member of the committee. We passed that amendment 84 to 16. During about 20 hours of conferencing, Mr. President, I think we had been able to finally thread the needle to find a bill which would probably have been signed by the President and which was acceptable to the House of Representatives.

That is pretty hard to do in Washington, DC, today. There is considerably more flexibility in the U.S. Senate in trying to arrive at accommodation. We passed the bill which had the amendment which Senator HARKIN and I had constructed and fashioned, which added

VOL
142
PT
5
MR
21
—
29
1996
UMI

$2.7 billion to some very important functions, to education, worker safety, and to health and human services.

Notwithstanding that addition, the President had sent word that he wanted some $484 million more. Well, we were at the break point with the bill which we conferenced with the House of Representatives when we had called for $2.7 billion more in spending.

Let me point out that that $2.7 billion was endorsed by both leaders, Senator DOLE and Senator DASCHLE, 37 out of the 53 Republicans voted for the amendment, 37 Republicans voted for it and 16 voted against it, more than two-thirds of our Republican body voted for it, which is a very, very strong showing, given the constituency of our Senate caucus, and the amendment received all of the 47 Democratic votes. So, when we went to conference with this bill I thought, Senator HARKIN thought, Senator HATFIELD thought, that we were within range to have it signed by the President. We were not sure, but we thought we were within that range.

We also constructed the bill so that it would be agreed to by our House colleagues. We were not sure about that either. It was very, very tough on negotiations. Finally, the House Labor, Health and Human Services conferees approved the bill by a vote of 6 to 5. You cannot get any closer than 6 to 5. But what we were veritably doing is running between the raindrops in a hurricane to find something which would satisfy our House colleagues and something which might be signed by the President.

Regrettably, that is all for naught or mostly all for naught—mostly for naught or probably for naught—because when we do not get the bill and have a 3-week hiatus, it all unravels.

Senator Baker was the majority leader when I first came to this body. I learned a great deal from Senator Baker. One of his famous statements—we were here at 11:30 one night. We were on the finance bill. There were 63 amendments pending. Senator Baker said, "We're going to proceed and finish this bill because amendments, like mushrooms, grow overnight." We stayed through until 6:30 in the morning. We had some accepted. We had half a dozen votes. Many dropped by the wayside. We finished the bill.

The dynamism in the U.S. Senate and the House is, if you do not push to get it through, it all unravels. We were on the verge of getting it through. I compliment our distinguished colleague, Senator HATFIELD, for his prodigious work in shepherding this matter through and would note his consternation and amazement when he heard last night that we were going to have a continuing resolution. That was not known by the chairman of the Senate Appropriations Committee, who was chairing the conference.

I think it is very regrettable because, if we were going to have the time to present this bill on the floor today, or perhaps tomorrow—it would not be unheard of or out of line for us to work on a Saturday, even if it would mean a day less of the recess. That has happened before.

These matters just do not coalesce until the very last minute. If there is more time for argument, more time for discussion, and more time for disagreement, when we finally work it out, it is an accommodation and a compromise. Nobody is really happy, and if you have more time to argue it some more, you expected to be in session last night until past midnight and then again today.

With that pressure on, we were on the verge of having an omnibus appropriations bill, which I think would have concluded the matter. It is with considerable chagrin and considerable disappointment, speaking for myself, that we are not finishing. I think it is with considerable chagrin and considerable disappointment that the American people are watching the process and seeing April 1 come and seeing a bunch of "April fools" in Washington, DC, at both ends of Pennsylvania Avenue, unable to get the matter done. There is a responsibility in both Houses, a bicameral responsibility, and a responsibility on both sides of the aisle—Republicans and Democrats are equally at fault—and responsibility at both ends of Pennsylvania Avenue, because there is no easy compromise and no meeting of the minds without an elaborate, inordinate thrashing process where the White House always wants more and some here always want less. We are on the verge of getting it done. I think it is very regrettable we did not conclude it.

Mr. President, when we added the $2.7 billion included in the Specter-Harkin amendment, we were able to add to some very, very important programs on education—that is a priority, second to none—and important matters on worker safety, important matters on Health and Human Services.

I know my distinguished colleague from Rhode Island is on the floor waiting to speak, and I will not go through the detail which I would have. Sometimes on Friday afternoon at 1:30 there is nobody seeking recognition on the floor. Instead, I will have printed in the RECORD this chart which shows a comparison, a transition, as to where the appropriations process had been, how we made the additions, how we came to the accommodations and compromises, and finish within $20 million, which is a small fraction of the $2.7 billion, we came in $20 million under the $2.7 billion, and actually only $14 million, because a $6 million addition was added by Congresswoman PELOSI on an education program, which I thought was fine.

So we did the job. Regrettably, it is not altogether finished. Hopefully, a good part of this work will last, and we will be able to build on this when we come back, to finish this omnibus appropriations bill.

There are a few outstanding matters on language and a few other outstanding issues, but I think they would have been resolved fairly quickly had the pressure been maintained to finish this, without the talk of a continuing resolution.

I ask unanimous consent that this chart be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

	Fiscal year 1995	House	Specter/Harkin floor amend.	Senate	Conference, proposal, 3/27/96	Conference 3/27/96 vs. Senate	Conference, proposal, 3/28/96	Conference 3/28/96 vs. Senate
Labor:								
School to Work	$122,500	$95,000	$91,000	$186,000	170,000	(16,000)	170,000	(16,000)
Dislocated Workers	1,228,550	867,000	333,000	1,200,000	1,100,000	(100,000)	1,100,000	(100,000)
One-Stop Career Ctrs.	100,000	125,000	18,000	110,000				
Summer Youth Jobs	867,000	0	635,000	635,000	635,000	0	625,000	(10,000)
Adult Training	996,813	830,000	154,300	900,000	850,000	(50,000)	850,000	(50,000)
OSHA	311,660			289,000	289,000	0	289,000	0
Total, Labor	3,626,523	1,917,000	1,231,300	3,320,300	3,044,000	(166,000)	3,034,000	(176,000)
HHS:								
HRSA:								
Consolidated Health Centers	756,518	756,518		759,623	759,623		759,623	0
Natl Health Service Corps	120,185	120,185		115,000	115,000	0	115,000	0
Health Professions	278,977	278,977		235,669	260,162	24,493	260,162	24,493
Pediatric Emergency	10,000	11,000		10,500	11,000	500	11,000	500
Ryan White, Title II	198,147	250,147		198,147	250,147	52,000	250,147	52,000
Health Care Facilities	10,000	10,000		10,000	20,000	10,000	20,000	10,000
SAMHSA	2,180,668	1,883,715		1,800,469	1,859,146	58,677	1,859,146	58,677
AHCPR	135,290	94,186		65,390	94,186	28,796	94,186	28,796
HCFA Medicare Contractors	1,604,171	1,604,171		1,584,767	1,604,171	19,404	1,604,171	19,404
ACF:								
Head Start	3,534,129	3,397,429	136,700	3,534,129	3,570,129	36,000	3,570,129	36,000
Social Services BG	2,800,000	2,520,000		2,310,000	2,420,000	110,000	2,311,000	1,000
Child Welfare Services	291,989	277,389		268,629	277,389	8,760	277,389	8,760
Admin. on Aging:								
AOA Research	25,630	0		4,991	2,850	(2,141)	2,850	(2,141)
HHS Office of the Secretary:								
HHS Gen'l Dept. Mgt.	88,150	95,439		96,439	98,439	2,000	98,439	2,000
Office of Minority Health	0	27,000		20,000	27,000	7,000	27,000	7,000
Inspector General	89,456	73,956		79,162	79,162	0	79,162	0
Total, HHS	12,123,310	11,401,112	136,700	11,092,915	11,448,404	355,489	11,339,404	246,489
Education:								
Goals 2000	371,870	362,000	60,000	350,000	350,000	0	350,000	0
Title I (Total)	7,228,116	7,010,113	814,489	7,328,000	7,228,116	(99,884)	7,228,116	99,884
Basic Grants	(5,968,235)	(5,405,895)	(700,228)	(5,960,089)	(5,792,897)		(5,968,235)	
Concentration Grants	(663,137)	(1,044,945)	(114,261)	(805,459)	(905,459)		(663,137)	
BIA Set-Aside	(66,984)	(65,160)		(68,339)			(66,984)	
Drug Free Schools	465,981	200,000	200,000	400,000	366,000	(34,000)	400,000	0
School to Work	122,500	95,000	91,000	186,000	170,000	(16,000)	180,000	(6,000)
Charter Schools	6,000	8,000	8,000	16,000	16,000	0	18,000	2,000
Ed. Technology	22,500	25,000	10,000	35,000	48,000	13,000	48,000	13,000
Voc. Ed Basic Grants	972,750	890,000	82,750	972,750	953,105	(19,645)	972,750	0
Perkins Loans	158,000	0	58,000	158,000	75,000	(83,000)	93,297	(64,703)
SSIG	63,375	31,375	32,000	63,375	31,375	(32,000)	31,375	(32,000)
Impact Aid	728,000	693,000		691,159	693,000	1,841	693,000	1,841
Bilingual Education	206,700			150,000	167,000	17,000	175,000	25,000
Prison Literacy	5,100	4,345		5,100	4,723	(377)	4,723	(377)
Pell Grants	6,178,680	5,423,331		4,814,000			4,967,446	153,446
Max Grant		(2,440)		(2,500)			(2,470)	
Howard University	204,663	174,671		174,671	182,348	7,677	182,348	7,677
Ellender	3,000	0		2,760	1,500	(1,260)	1,500	(1,260)
Libraries	144,161	131,505		131,505	132,505	1,000	132,505	1,000
Total, Education	16,734,235	14,916,835	1,356,239	15,344,055	10,284,667	(245,388)	15,344,055	0
Related Agencies:								
Corp Natl Comm Service	214,624	196,270		201,294	198,393	(2,901)	198,393	(2,901)
Fed Med Conciliation Service	31,344	32,896		32,396	32,896	500	32,896	500
Social Security Admin	3,125,356	2,946,197		2,785,875	2,760,875	(25,000)	2,736,375	(49,500)
Railroad Retirement Board	90,816	90,815		89,094	89,955	861	89,955	861
Total, Related Agencies	3,462,140	3,266,179		3,108,659	3,082,119	(26,540)	3,057,619	(51,040)
Scorekeeping Adjust:								
1% Cap Perf. Awards	(30,500)	0		(30,500)	0	30,500	(30,500)	0
Direct Loans Admin				460,000			420,000	(40,000)
Totals	35,915,708	31,501,127	2,724,239	33,295,129	27,859,193	(51,939)	33,164,578	(20,551)

Mr. SPECTER. I yield the floor.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that morning business be extended until the hour of 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN MEMORY OF DAVID PACKARD

Mr. CHAFEE. Mr. President, 3 days ago in Palo Alto, CA, a very remarkable and truly great American died, David Packard. David Packard deserves ranking with the most innovative and outstanding builders and manufacturers in our Nation's history.

He and his partner, Bill Hewlett, were the fathers of the electronic industry in Silicon Valley. Starting just 60 years ago, literally, in a garage, David Packard and Bill Hewlett began building an innovative audio oscillator under the name of the Hewlett-Packard Co. How did they choose the name Hewlett-Packard? To decide whose name came first, they flipped a coin, and Dave lost. His name came second. From that humble beginning, just 60 years ago, grew a company that today has more than 100,000 employees and sales last year of $31.5 billion. It is a worldwide leader in the electronics industry.

What a success story. A great part of the success, Mr. President, of Hewlett-Packard has come about because of the management style which could be called managing by objective, namely, setting goals and giving employees wide latitude in achieving those goals. This was the style that Dave Packard believed in deeply. Obviously, it works.

But David Packard's achievements went beyond his success with Hewlett-Packard. He was a philanthropist who did much more than write out a check. He became deeply involved with the projects to which he contributed.

A case in point: The Lucile Salter Packard Children's Hospital in Palo Alto, which the Packard family gave to Stanford University Medical School and which I have had the privilege of visiting. This is a children-friendly hospital, built for children, and one in which children can feel safe at home. Dave and Lucile Packard made sure that was the way it was built. Let me give an illustration: The registration desk in this hospital when you come in—usually, a very forbidding structure—has peepholes in it at a child's level, so when a child comes in with his or her parent, the child can look through the peephole and see what is going on behind this forbidding desk.

The Packards founded and funded the Monterey Bay Aquarium, first opened 11 years ago, in 1985. Dave Packard was deeply involved with the innovations at that aquarium. He designed and built, in his own workshop, some of the wave-generating equipment that is in that marvelous aquarium. The Monterey Bay Aquarium, with an annual attendance of over 1.5 million people every year, is the second-most popular aquarium in the United States of America.

In his book called "The HP Way," Dave wrote the following: "The word 'philanthropy' is derived from a Greek word that means 'lover of mankind.'" I think this is the phrase that best describes David Packard. It was his enduring belief that his efforts, both individual and corporate, could make this world a better place for all to live in.

In 1969, David Packard became Deputy Secretary of Defense, and that is when I came to know him, because I was, at the time, appointed Secretary of the Navy. My distinguished colleague from Virginia also came to know Dave Packard at the same time, when the distinguished Senator from Virginia was appointed Under Secretary of the Navy. For 3 years I had the privilege of working with Dave Packard and came to admire him greatly. He had the ability to cut right to the heart of a problem. He was laconic. He was not a great talker or backslapper. Indeed, he had a semi-gruff-appearing visage, but he was extremely fair, and he was helpful if one ran into a problem. Most of all, he

VOL
142
PT
5
MR
21
—
29
1996
UMI

wanted to see the job done and done well.

He made extremely valuable contributions to our Nation as Deputy Secretary of Defense, especially in the procurement area. During the years we were together in the Defense Department, my wife Ginny and I came to become friends with David and Lucile Packard. It was a friendship we greatly valued. They were truly a team—and a wonderful one. Lucile was a lovely lady in every way.

Dave was always a bit bemused by the abundance of aides and assistants one had in the Pentagon. I remember him commenting that he and Bill Hewlett ran Hewlett-Packard Co. sharing one secretary and one office.

Always a good athlete and an outdoor sportsman, Dave played basketball and football at Stanford, and later, while working for General Electric in Schnectady, NY, in the depths of the Depression, in 1935, he made a few extra dollars a week playing professional basketball. A hunter and fisherman since boyhood, he maintained those interests throughout his life, and was a major contributor to conservation organizations.

Dave Packard was an extremely thoughtful person and would go out of his way to help an individual. I was the beneficiary of his kindness in many areas, many times, including a special tour for Ginny and me of the aquarium, by he and Lucile, contributions of his, and his personal appearances at various political fundraisers for me in San Francisco and hospitality at his Palo Alto home.

In his death, I feel like a great oak tree has fallen in the forest. I have lost a real friend, and our Nation has lost a unique and extraordinarily constructive and thoughtful patriot.

Mr. WARNER. Mr. President, I add my comments to those of my distinguished colleague and my former boss in the Department of the Navy, Secretary JOHN CHAFEE of Rhode Island. Those are days that neither of us will ever forget.

It is interesting to go back in history. When President Nixon was searching for a Secretary of Defense—and I will test the recollection of my colleague—there was much thought about one of the most famous Members, contemporary Members of the Senate, Scoop Jackson, taking the post. Senator Jackson did consult with the President, but there came a time when Jackson felt he could fulfill his goals with the Senate. They were extraordinary goals, which, indeed, he did fulfill, and that is by continuing in the Senate. But Jackson pointed this out to Secretary Laird, then-Congressman Laird from Wisconsin, ranking member of the Defense Subcommittee on Appropriations. I remember Laird saying that it was difficult for him to give up a life in the House of Representatives and in the Congress and representing his State, which he loved so dearly. But he did it.

But, as a condition, he said, "Mr. President, I want to pick my team in the Department of Defense," thereby deviating—and at that time I was in the transition office of President Nixon—from the White House sort of selecting the principal deputies. It was Melvin Laird who selected David Packard, and it became known as the Laird-Packard team. We must also remember that, at that time, our Nation was engaged in the peak of the war in Vietnam, and the responsibilities on the leadership in the Department of Defense were enormous, particularly that of Secretary Laird, who had to be before the Congress with great frequency, and all across the Nation, to answer the question, "Why must we continue in this war?"

I spoke briefly today with Secretary Laird. He remembers that Dave Packard and Melvin Laird were the architects of Vietnamization under the guidance of President Nixon. That was the first time this Nation began to focus on how, with honor and dignity, we could begin to allow the Vietnamese people—South Vietnam—to assume the burden of the war and to begin the withdrawal of the American forces.

I remember so well Secretary Laird telling me, when he arrived at the Pentagon, that there was not a single plan as to how, eventually, the United States could turn over the burden of that war to others. They worked together. The responsibilities on Dave Packard were greater than on any Deputy Secretary of Defense, because of the war. It was a team. As was mentioned, Packard was awesome. He was awesome in size—over six-foot-four, in perfect physical condition, proportionately. He was awesome not only in physical stature but in intellectual ability. His hallmark was humility. Would the Senator not share that opinion?

Mr. CHAFEE. Yes. He certainly was awesome. He was a big six-foot-four. He took charge. He had what you might call "command presence."

Mr. WARNER. That is correct.

Mr. CHAFEE. I remember, when I first got in the Pentagon, the phone rang from Mr. Packard, and I stood up before I answered it.

I would like to say one other thing. I remember Secretary Laird saying this when he was seeking a deputy. He asked all through the business world, and he knew what he wanted. He wanted somebody who could handle the procurement side of the Pentagon. Mel Laird and David Packard worked out what you might call a "Mr. Inside and Mr. Outside" team, in which Mel Laird would deal with the Congress. He knew George Mahon, head of the Appropriations Committee, intimately. He knew Senator "Scoop" Jackson, and so forth—

Mr. WARNER. And Senator Stennis, of course.

Mr. CHAFEE. Senator Stennis, of course. Mel Laird would handle the legislative side of matters, the appropriations, the relationships with the White House and with the Congress. That is no easy job. Dave Packard was assigned what you might call the inside of the Pentagon. He was the man that we would consult with on procurement problems. We were deep into procurement problems—the F-15, the F-14, the 963 destroyers, the 688 class submarines, and on and on it went. Those are the matters we would report to David Packard on. He would watch over how we were doing and whether we were coming in on cost, whether we were meeting our milestones in the construction, and the whole process.

Mr. WARNER. On that, we also want to mention Senators THURMOND, Tower, and Goldwater.

Mr. CHAFEE. Yes, and Margaret Chase SMITH.

Mr. WARNER. Who all had great reverence for him. I remember one contract very clearly. It was a contract for the new antisubmarine aircraft, the S-3. At that time, the contractor was having severe financial difficulties. Packard called me in and he said, "Look, we are not going to award this contract until you determine that there is a financial program by which this contractor can go through and assume the enormous responsibilities of the carrying costs of this contract." I worked under the tutelage of Dave Packard for some several weeks, and, finally, we made the decision to give that contractor the opportunity to build it. They did build that plane, and it became a workhorse of the U.S. Navy. That contractor today, although merged, is still one of the major contractors in national defense. But he wanted to give the opportunity to the industrial base to prove itself. He held them accountable, I say to my friend from Rhode Island, in those days.

I ask unanimous consent to have printed at the conclusion of our colloquy today a statement by the former Secretary of Defense, a former Member of the U.S. Congress, Melvin Laird, who contributed quite a documentary on Dave Packard upon learning of his death.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. Mr. Laird told me today, in a saddened voice, that he had just talked to Dave not more than a week ago, as they did almost every week of their lives after leaving the Pentagon. They were like brothers. That is one of the rich heritages of those privileged to have served in Federal service—bringing, from all across America, people to work in the departments and agencies of the Federal Government, and the forming of lifetime friendships as a basis for that public service.

So I say to my friend, I am privileged to join with him. I think the Senator covered his contributions in the field of health and, indeed, the military services. They have their own educational facility now for the purpose of preparing young men and women for doctors and medical assistants.

Mr. CHAFEE. Actually, I did not touch on that.

Mr. WARNER. That is an important contribution.

Mr. CHAFEE. I failed to mention that. The Uniformed Services Medical College.

Mr. WARNER. That was his dream.

Mr. CHAFEE. It came from Dave Packard. He was the principal proponent of it. He felt we were having trouble getting physicians in the military service forces, and that we had these major research hospitals and outstanding hospitals, Walter Reed and Bethesda, and we needed our own medical school, which we did get.

Mr. WARNER. You touched on the procurement reform. Each time Congress goes back in an effort to try to strengthen procurement reform, they go back time and time again to that report.

I want to conclude with a personal note. Back to the word "awesome." There was a certain amount of trepidation each time we had to encounter David Packard. One of the principal avenues to soften him was his lovely wife, who was called Lou. She was a statuesque, beautiful woman, and very quiet and dignified. She, and she alone, could handle Dave Packard. That is my recollection.

Mr. CHAFEE. Well, the Senator is absolutely right. There was a certain trepidation when you got a call that "Mr. Packard wants to see you in his office." I would hustle around to see if I missed out somewhere, or if I left something undone that I ought to have done. It was sort of like when you were in school and being called to the principal's office. I tell. It kept you on your toes.

Mr. WARNER. Indeed it did.

We should also mention that the concept of the All-Volunteer Force originated under Secretaries Laird and Packard. We accept it today, and it has worked far beyond the expectations of any of us. But there was a lot of concern when we initiated that. Would we see a precipitous dropoff in the ability of the United States to attract quality young men and women to the uniformed services? They were the men that had the vision to give us the opportunity to prove it, and it has worked. And it has worked well.

So the achievements of the Laird-Packard team were monumental and—with the exception of the present company of the Senator and myself—they were able to draw from all quarters of the United States the finest to come and serve in the Department of Defense in the three military departments. The introduction of greater responsibility for women in the military services indeed was during that period of time. They laid the foundation for the service academies being opened to women.

As I remember, as I succeeded Senator CHAFEE, one of the last things on my watch was opening up Annapolis to women. And that has worked exceptionally well.

So, Mr. President, it is a privilege for me to join with my former boss and dear friend to say these brief remarks on behalf of our lost company.

I thank the Chair. I thank the Senator.

Exhibit 1

Remarks of Former Secretary of Defense Melvin Laird

A giant of a man in every way, David Packard helped me in the '50s as a young congressman when I was ranking member of health, education, and welfare and labor developing the university programs for NIH, Health and Education research. He also helped me as my deputy while I was serving as Secretary of Defense. His contribution in both cases was monumental.

We established the draft lottery system and created the All Volunteer Service, ending the draft, managed the orderly withdrawal from Vietnam, an organized the Defense Department procurement policies.

His contribution to our nation and the world will be an everlasting memorial to him.

He was a true friend, a great contributor to the best things our nation stands for. We all will be forever in his debt, a true friend for whom I will always have the deepest love.

Mrs. FEINSTEIN. Mr. President, David Packard is a legend in California, and will forever remain a treasured part of California's proud history.

A man of humble beginnings, through sheer ingenuity and determination, David Packard became one of the most influential entrepreneurs in American business.

One of the original cofounders of computer giant Hewlett-Packard, he was considered the patriarch of hi-tech's famed Silicon Valley. His innovation sparked the technology revolution that put California on the map as the information leader of the world.

But it was his leadership that inspired generations of hi-tech wizards to break new ground and reach new heights. He truly believed that nothing was impossible if the spirit to succeed was there. And David Packard believed in the American spirit.

David Packard set a standard of excellence for business schools all over the world with his ideas of "management by objective" and "management by walking around."

And he put a human face on success by never climbing out of the reach of the people who worked for him. "The HP Way" broke barriers between management and employees, fostering teamwork and a pride of ownership that reached every level of his company.

David Packard also served his country as Deputy Secretary of Defense under President Nixon, and, with his wife Lucile, was unmatched as our Nation's most dedicated and generous philanthropist. The David and Lucile Packard Foundation last year distributed more than $116 million to more than 700 recipients.

His contributions to Stanford University, my alma mater, leave a legacy that will touch many future generations, who will stand on his shoulders and continue to lead this Nation to new heights of excellence, compassion, and greatness.

David Packard will be sorely missed.

Mr. BOND. Mr. President, I ask unanimous consent that I may be permitted to proceed as if in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHITEWATER

Mr. BOND. Mr. President, as we are working on many important matters, including wrapping up of the appropriations conference, on which we, unfortunately, are not able to close all sections today, we also are, I hope, going to resolve the issue of whether the Whitewater Committee is extended.

There have been a lot of questions asked. What has Whitewater found? Why are we here?

I have a very lengthy analysis which I will make available, because many people who have not had the pleasure and the privilege—as the occupant of the Chair and I have had—of sitting through the lengthy hearings may not appreciate what we have learned and how many more questions there are.

Mr. President, the investigation of the matters involving financial land transactions of the President, the First Lady and top officials in Arkansas, and subsequent actions by these officials, or their subordinates to interfere with, obtain information about, or delay investigations into those matters has come to be known generally as Whitewater.

From the beginning of this episode, we saw efforts to mislead Congress or to deny information. My first encounter with this matter came over 2 years ago when, before the Banking Committee, the Deputy Secretary of the Treasury misled us in answering my question as to when the White House was first advised of the significant nonpublic information that a criminal referral was pending in the investigation of the financial irregularities in Arkansas. He said they were not. They were.

The most recent example was the unexplained, mysterious reappearance of the critically important billing records of Mrs. Clinton's law firm, which, although subpoenaed more than 2 years

VOL
142
PT
5
MR
21
—
29
1996
UM

ago by the independent counsel and the Resolution Trust Corporation and this past fall by the Whitewater Committee, only found their way to all of us in January 1996.

Investigation of records further demonstrated that Mrs. Clinton—and other representatives of the White House—had not spoken truthfully about her involvement with the failed savings and loan in Arkansas and, in specific, her transactions involving one of the most egregious and costly land transactions utilized to loot the savings and loan known as Madison Guaranty in Little Rock, AR.

Throughout this process, many of us have had questions about why the administration has been so deeply involved in what appears to be improper efforts to cover up and interfere with the Arkansas activities investigation. Had the role of the President and the First Lady been limited solely to an investment in a failed land development—as the White House initially contended, and was contended in the campaign of 1992—it would not have made any sense for so many officials to risk charges of perjury or obstruction of justice. The cost to many of these individuals for activities involved in this coverup have been significant, as colleagues on the other side of the aisle have noted. The cost of legal counsel has been burdensome for many.

More important, however, is the fact that the broad Washington misconduct has led to resignations of the White House counsel, a Deputy Secretary of the Treasury, a general counsel of the Treasury, as well as a rapid turnover in the post of White House counsel ever since.

Indeed, the nature and extent of the activities directed by the White House toward the investigations in Arkansas made it incumbent upon us to determine what happened in Arkansas that was potentially so dangerous that they warranted these extensive coverups.

Although the committee is still reviewing the delayed production documents and has not been able to interview central figures in Arkansas, it appears that the Whitewater matter involves substantial abuse and misuse of gubernatorial power in Arkansas, the use of official positions for private gain, possible violations of Federal tax laws in the reporting of deductions, and active legal representation by the First Lady of individuals and institutions involved in fraudulent activity resulting in the significant losses to the savings and loan insurance fund and the rest of the taxpayers.

So far in Arkansas, there have been nine guilty pleas. These include guilty pleas by the real estate appraiser who appraised a fraudulent land value on land in one of the scam transactions; a judge who defrauded a Federal agency; two bankers who attempted to bribe a Federal loan agent; three Madison employees who made false statements to defraud a Federal agency; and a friend of the Clinton's who had concealed cash payments to the 1990 Clinton campaign.

In addition, as most of us know, there is, right now, a criminal trial underway against the Clintons' major fundraiser, who was also a former business partner and the President's key political ally, who is now the Governor of Arkansas. Indictments are pending against the Clintons' friend and former business partner and criminal indictments against two Clinton supporters for concealing cash payments to his 1990 campaigns.

Mr. President, we have learned this. We have learned this in the course of hearings. I set this out today not because the investigation or the hearings have concluded. We have not answered all of the questions that need to be answered. But some of my colleagues on the other side of the aisle in this body—and on the Whitewater Committee—have said we have not learned anything, that there is not anything there.

Well, Mr. President, there has been a tremendous amount of smoke with the recent revelations of the documents that just mysteriously have started appearing in the last several months. We have found out why they all hang together. The documents—the billing records of Mrs. Clinton at the Rose Law Firm—would have told us, would have enabled us to phrase our questions and come to an earlier resolution. These were taken out of the White House. Webster Hubbell had them and apparently gave them to Vince Foster, and then somehow, mysteriously, they just appeared in the book room, in the reading room of the White House in January. They were under subpoena. They were under subpoena. And, lo and behold, they just turned up.

The assistant in the White House who picked them up initially realized in January that these were records that had been subpoenaed, and she brought them forward. Notes of a never disclosed, heretofore secret meeting in the White House between White House lawyers and Government officials and the defense attorneys representing the Clinton's personally—notes from this meeting which told about so many interesting activities—all of a sudden started appearing from everybody's files 2 weeks before the hearings were to conclude.

Those memos, those notes, suggest possibly that the meeting engaged in efforts to obstruct justice by tampering with witnesses. The billing records themselves show that Mrs. Clinton and others did not speak truthfully about her role in Madison Guaranty representation and in her work on Castle Grande. We have been unable in the Whitewater Committee to interview central witnesses to these transactions because they have been subpoenaed to testify in the trial being conducted by the special prosecutor in Little Rock. I hope that we are near to an agreement to extend the life of this committee so that we can complete the analysis of all the documents that have just turned up, so that we can determine whether the author, Mr. James Stewart, of "Blood Sport," may have had access to relevant documents that we have been denied, so that we will be able to question people who may be able to give us direct testimony on many of the things that we have now seen by strong circumstantial evidence, though it is only circumstantial evidence. I believe there is clear evidence of wrongdoing. There is clear evidence that we have not been told the truth in political campaigns, in press statements by the White House, and in sworn testimony to us, to the committee, and to others.

Mr. President, I had a draft report prepared that represents my views of what we have learned as of the current time on the Whitewater Committee, and also listing the questions that must be answered by the committee before we can close this; questions like: Who placed Mrs. Clinton's subpoenaed records in the White House book room? Where were they for the years that they were under subpoena but not brought forward? Was there obstruction of justice by the White House officials who met and as a result of that meeting people visited a key witness in Arkansas? Did the White House improperly receive confidential information about the SBA investigation into certain wrongdoings in Little Rock? Was there witness tampering by the White House response team? Did some of the people who have in the past testified that they lied to their diary come up with other falsehoods that are totally inconsistent with written records?

These are questions that must be answered.

Mr. President, I send this report forward, and I ask if anyone would like to receive a copy of this report, please contact my office.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS—HOUSE JOINT RESOLUTION 170

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed

to the debate on House Joint Resolution 170, further that debate on the joint resolution be limited to the following, Senator HARKIN 15 minutes; Senator BYRD 15 minutes; Senator HATFIELD 15 minutes. I further ask unanimous consent that no amendments be in order, and that immediately following the expiration or yielding back of time, the joint resolution be read a third time, and that the Senate proceed to vote on passage of the joint resolution, with no intervening action, provided the following Senators be recognized to speak following the vote: Senator GRAHAM of Florida, this Senator, and Senator KENNEDY of Massachusetts.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Further, Mr. President, I ask unanimous consent that that agreement be in effect notwithstanding the receipt of the papers from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Let me indicate, I hope this can all be done by voice vote. I know there is one request on the other side for a rollcall vote. I think it is a simple extension. The appropriators worked all through the night. It is no one's fault they did not finish everything, because they have been working with the White House. I hope that we do not punish our colleagues who had to leave earlier in the day. So perhaps after the debate we could have a voice vote. But if necessary, I guess we will have a rollcall vote.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. HATFIELD. Thank you, Mr. President.

Mr. President, this joint resolution provides continuing appropriations until April 24, 1996, for the departments and agencies of the Federal Government normally provided for under the five appropriations bills that have not yet been signed into law.

Special provision has been made for a labor-management matter at the Federal Aviation Administration, for the Federal payments to the District of Columbia, for a matter relative to the Auburn Indian Restoration Act, and for economic assistance to Bosnia.

Adoption of this joint resolution will extend funding authority for the departments and agencies concerned for another 3½ weeks, enabling the appropriations committees, the joint leadership, and the White House to continue discussions on the omnibus appropriations bill now in conference, and reach agreement thereon. We have already made a great deal of progress on the omnibus bill.

Mr. President, most of our issues have been resolved and major portions of the bill have been closed. But there are still some significant matters requiring leadership attention that will need to be discussed during the recess and resolved when we resume the conference on April 15. I have indicated that I will convene that conference on that date, April 15, at some hour during that afternoon.

I am confident that our discussions will be fruitful and we will produce a bill that the President will endorse. That is our goal. I yield back the remainder of my time.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished chairman of the appropriations committee has made a most appropriate and eloquent and all-embracing statement concerning the conference report, concerning the continuing resolution.

Mr. President, this resolution will continue the operations through April 24, 1996, of those departments and agencies for which full-year appropriations for fiscal year 1996 have not yet been enacted. As Senators are aware, five of the regular thirteen appropriation bills have not been enacted: Commerce/Justice/State, the District of Columbia, Interior, Labor/HHS, and VA/HUD.

As Senators also know, an appropriations conference has been ongoing over the past several days on H.R. 3019, an omnibus appropriations act, which would provide full-year funding for all of these departments and agencies. That measure contains approximately 1,500 pages of bill language, and while I greatly credit Chairman HATFIELD, Chairman LIVINGSTON, and the other House and Senate conferees on the intensive effort that has been underway to complete action on this measure, several issues still remain in a number of the chapters which have caused us to reach the point of bringing this short-term continuing resolution to the Senate for its consideration.

In addition to the extension of the date of the present continuing resolution through April 24th, House Joint Resolution 170 would also provide the District of Columbia with its full payment for the entire fiscal year and, importantly, would provide the $198 million requested by the President in funds for assistance for Eastern Europe and the Baltic States. The need for these funds is immediate, and I support their inclusion in this short-term continuing resolution.

Mr. DASCHLE. Mr. President, the Senate should not be considering the 12th continuing resolution of this fiscal year. Congress should have completed work on the fiscal year 1996 budget last October, when it was supposed to have been completed. It is indeed unprecedented and outrageous that Congress has so utterly failed to address this year's budget in a timely fashion.

It is unprecedented in the history of this Nation to find ourselves 6 months into the fiscal year with four appropriations bills unfinished. This Senator finds it all the more outrageous that the Senate is considering another short-term continuing resolution when it could have easily completed its work this week.

Leaders were in the process of negotiating a number of difficult issues that would have led to a reasonable omnibus appropriations bill that the President could sign. Negotiations were progressing on this bill, and if they were permitted to continue for only a few more days, Congress might be able to complete all of the unfinished business in this year's appropriations process. Because much more work is needed, Congress should have stayed in this weekend or into next week to finish the fiscal year 1996 budget.

But the majority insists on leaving for a 2-week break.

The omnibus bill passed the Senate over a week ago. But the majority did not schedule its first meeting of the conferees until this Wednesday, more than a week after the Senate passed the bill. As a result, conferees found themselves working late into the night yesterday, actually until 1 a.m. this morning. Still, today they could not complete the people's business, so Congress is off for a 2-week recess.

Instead of working through the difficult issues remaining to be resolved in the fiscal year 1996 budget, the Republican leadership decided to delay with yet another stopgap measure. And the American people will pay the price.

Continued government by continuing resolution spells slow death on the installment plan for a number of critical Government programs. The funding levels are simply too low to adequately fund a number of basic functions of Government. In addition, the uncertainty facing Government agencies and the people they serve has undermined the effectiveness of programs designed to improve our children's education, clean up the environment, and put police on the streets.

Under the 12 continung resolutions this year, education is suffering drastic funding cutbacks. Schools can't plan. Children, teachers, and families are being shortchanged.

Environmental cleanup efforts have been slowed, and superfund sites left unattended.

Because of reductions in the COPS Program, fewer police are on our streets.

Having said that, it is important to note that this continuing resolution does accomplish several important goals that I fully support.

First, the District of Columbia is finally provided in this legislation the balance of its Federal payment for the rest of this fiscal year.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Another provision clarifies that Federal Aviation Administration labor representatives retain their statutory role.

Perhaps most important is the $200 million in reconstruction aid for Bosnia contained in this bill. This money is critically important if the Dayton Accord's peace plan is to be implemented successfully. Bosnia's infrastructure has sustained great damage in its years of war, and this aid is critically needed to help with the restoration effort. I am pleased it was included.

Nevertheless, on balance, this legislation does not deserve the support of this body. I will vote no on this continuing resolution, not because of what it includes, but because of what it does not include—the essential education, environment, and law enforcement services it fails to provide—and because of the mismanagement it represents. Congress should remain in session and finish the real work that should have been completed 6 months ago.

Mr. BYRD. Mr. President, I ask unanimous consent that Senator Harkin be recognized for his time following Senator Kennedy in the previous agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time has been yielded back. Without objection, the joint resolution is considered as having been read for the third time.

Mr. NUNN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on passage of the joint resolution. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from New York [Mr. D'Amato], the Senator from North Carolina [Mr. Helms], the Senator from Oklahoma [Mr. Inhofe], the Senator from Kansas [Mrs. Kassebaum], the Senator from Florida [Mr. Mack], the Senator from Kentucky [Mr. McConnell], the Senator from Wyoming [Mr. Simpson], and the Senator from Alaska [Mr. Stevens] are necessarily absent.

Mr. FORD. I announce that the Senator from West Virginia [Mr. Rockefeller], the Senator from Vermont [Mr. Leahy], the Senator from Arkansas [Mr. Bumpers], and the Senator from New York [Mr. Moynihan] are necessarily absent.

The result was announced—yeas 64, nays 24, as follows:

[Rollcall Vote No. 60 Leg.]

YEAS—64

Abraham
Ashcroft
Baucus
Bennett
Bond
Bradley
Breaux
Brown
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
DeWine
Dole
Domenici
Exon
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Hutchison
Inouye
Jeffords
Johnston
Kempthorne
Kohl
Kyl
Lieberman
Lott
Lugar
McCain
Mikulski
Murkowski
Nickles
Nunn
Pell
Pressler
Robb
Roth
Santorum
Sarbanes
Shelby
Simon
Smith
Snowe
Specter
Thomas
Thompson
Thurmond
Warner

NAYS—24

Akaka
Biden
Bingaman
Boxer
Bryan
Conrad
Daschle
Dodd
Dorgan
Faircloth
Glenn
Harkin
Hollings
Kennedy
Kerrey
Kerry
Lautenberg
Levin
Moseley-Braun
Murray
Pryor
Reid
Wellstone
Wyden

NOT VOTING—12

Bumpers
D'Amato
Helms
Inhofe
Kassebaum
Leahy
Mack
McConnell
Moynihan
Rockefeller
Simpson
Stevens

The PRESIDING OFFICER. With respect to the prospective passage of House Joint Resolution 170, the yeas are 64, and the nays are 24. And the joint resolution is deemed passed.

So the joint resolution (H.J. Res. 170) was deemed passed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the joint resolution was deemed passed.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I will take only a few moments. I know the chairman of the Appropriations Committee has pending business.

Mr. President, I wanted to comment a little bit on the continuing resolution that we just passed—and to express my dismay and perhaps a little bit of frustration at what has happened here in the last week or so, and with this continuing resolution.

I took the floor a couple of weeks ago. I said March madness is in full swing around the country with all of the basketball games going on with the men's final four and the women's NCAA. But beyond that, Mr. President, in school after school in Iowa and across this country school administrators and school boards are wrestling with the decision about which teachers will lose their jobs and which students will not get title I reading assistance.

They are contemplating what vocational educational activities will go by the wayside; how to deal with the cuts in the Safe and Drug-Free School Program. The list goes on.

In my State of Iowa, school districts must send the layoff notices by April 30, a mere 6 days after this resolution expires.

That means school districts will have less than a week to make important decisions about how many teachers they will be able to keep on the payroll, how many kids will be denied the opportunity to improve their reading and math skills. In the next 4 weeks, the uncertainty about the level of funding for our schools will cause problems for many families. Teachers and their families are worried about their jobs and parents are worried about their kids and about being denied the most basic help they can get.

Mr. President, I am not going to read the whole letter, but I have here a letter from a parent of a child who is in the title I program. The letter is dated March 7. These parents are saying that their son has had tremendous help and tremendous improvement because of title I, and she said:

> I wish you could personally follow our son's progress. This program has truly been a godsend for him and for us. We feel confident he can attend future grades with an excellent attitude toward school because of what title I has gained for him—most importantly, his self-esteem and attitude. Yes, he is still going to struggle some but not as severely as it would be without the aid of chapter 1.

For these parents and for our children and school boards and school districts across the country what we are doing today really is not much help.

I have here two articles that were in the newspaper in Cedar Rapids, IA, the Cedar Rapids Gazette. The first one is dated February 27, and it says "6 Schools To Lose Remedial Reading."

"Cedar Rapids district cites expected $350,000 cut in Federal funds," in the title I program. That is February 27.

Shortly after that, the Senate adopted the Specter-Harkin amendment, which was supported, I might add, on this floor with a strong bipartisan vote, 84 votes in favor of the Specter-Harkin amendment, to put the money back in for title I and other education programs. So now here is the followup article on March 14 in the Cedar Rapids Gazette. "Senate Restores Reading Funds." And it talks about the Specter-Harkin amendment, that it was approved 84 to 16.

Well, I guess tomorrow there will be another story in the Cedar Rapids Gazette; they will go right back to this: "Cedar Rapids To Lose Remedial Reading."

What kind of a yo-yo is this to these people? These are parents like the one who just wrote me this letter about their son who has been in title I, still in title I. What are they to think? What are the teachers to think? How about the school boards? Pink slips are going to be going out pretty soon.

I had the Farm Bureau in here this week. I talked at a breakfast to my Farm Bureau members. After it was over, I had a couple of the people who were there at the Farm Bureau meeting come up to me. They did not want

to talk about farm programs. They wanted to talk about what we are going to do about title I, because they serve on the local school boards and they saw what was happening to their funding cuts and how much they needed this program. Their basic question was, "What should we do?"

I had to answer, "Well, I thought we were going to get the appropriations bill through that would have the funding for you." I was confident we would do that. Well, today, with this short-term CR, we do not have it. We go back down to the lower levels on title I funding.

Mr. President, that is why I voted no on this—not that I wish to shut the Government down, but we were very close to having an agreement. This is the 12th CR of this year—the 12th one. It is a prescription for disaster for our kids. If the cuts in this bill are allowed to continue, the Iowa Department of Education estimates that across the State, 7,300 fewer students will get title I assistance; 200 teachers will be laid off. This scenario will be repeated in every single State and school district across the country: 40,000 teachers will be laid off nationwide as a result of this $1.1 billion cut in title I.

Mr. President, the sixth national education goal calls upon us to ensure that by the turn of the century every adult American will be literate and will possess the knowledge and skills necessary to compete in the global economy, but the deep cut in job training programs in this bill is a retreat from that goal. These cuts could not come at a worse time. You can hardly pick up a newspaper or turn on the evening news without seeing yet another story about downsizing some company, workers are put out of work, dislocations caused by downsizing.

Last year, JTPA assisted 105 workers who lost their jobs in the small town of LeMars, IA; 85 individuals employed in the small town of Sergeant Bluff, IA. The cuts in retraining for dislocated workers means that next year 300 fewer Iowans will benefit from such assistance.

In the Senate, we acted in a bipartisan manner to correct these problems. As I said, Senator Specter and I worked together with the assistance of Senator Hatfield. We crafted a bipartisan compromise to restore most of the cuts to these education and training programs. Again, as I said, the Senate passed the amendment 84 to 16. It was a powerful signal from this body on a bipartisan basis that we wanted to move ahead and fund these programs, get the money out, and send a clear signal to our schools, our teachers, and our parents across the country that we were going to fund these programs.

Well, we were meeting, and I must say that Senator Specter sat there day after day in meetings with our House counterparts. I would join him. We had already worked out our differences. We did not have any disagreements. But we could not quite seem to get over a lot of these hurdles.

Finally, we worked out our differences. We had our agreements made. But there were some riders that were attached, riders that more appropriately belong in the authorizing committees, not the Appropriations Committee, that held this up. Therefore, we could not reach an agreement. But we were very close.

Again, I wish to pay my respects and my thanks to the chairman of our Appropriations Committee. I was there last night. We were all dogged tired at about 1 a.m. in the morning, and he wanted to continue. He wanted to finish it, because I know the Senator from Oregon realizes how important these programs are. And he was reflecting the will of this body, the 84 votes that we had, to make sure that we reached an agreement and moved ahead.

I daresay, I do not know how many hours and how many days the Senator from Oregon put in in the last 2 or 3 weeks trying to get this thing put together, working, as I said, to the midnight hour and beyond last night, to make sure we did not have these draconian cuts. All of that work we have done, all the work that we did in a bipartisan fashion in the Senate, all of the work that Senator Hatfield has done has now been thrown overboard. All of us lost in this bill which continues the draconian cuts of the previous 11 continuing resolutions.

We were close. I am deeply disappointed. I heard last night—we had a break in our conference last night, and I heard some rumblings from people that there was going to be a short-term CR. So I expressed my opinion in the conference last night. I said: Here we are; we are working trying to reach these agreements, coming very close, but if the rug is going to be pulled out from underneath us by a short-term CR, then why are we here?

I feel that if we are going to continue like this, then what use is it of the Appropriations Committee to try to hammer out these agreements. These are tough negotiations. And yet we reached all the numbers. We had no problems with our numbers. We had agreed on all of the numbers. We had agreed on the offsets. We had a few items, as I said, some disagreements on riders which more appropriately belong with the authorizing committee, not the Appropriations Committee, and as the chairman of the Appropriations Committee knows, if the authorizing committees would do their work and get the authorizing down, we would not have the riders on our bill holding us up.

So I thank Chairman Hatfield for his doggedness and his determination, and I am just sorry that the rug got pulled out from underneath us. Those are not his words; those are mine. But that is exactly how I feel. I hoped before that that would be the last CR. I hope this is the last CR. If it is not, we are really going to be in tough shape, and I think a lot of our school districts around the country now are just going to throw up their hands in despair; they thought they were going to have the cuts. Then they thought they were going to be restored. I know from talking to people in Iowa that they thought they could now go ahead and plan for their schools next year because of that overwhelming vote we had in the Senate. Well, now they do not know what to do.

Mr. President, this is no way to run the Government. This is no way to govern. It is totally and absolutely irresponsible. And all I can say is, I sure hope this is the last short-term CR. I hope the good work we have done on appropriations we can hold onto, that when we come back from the Easter break, rather than starting all over again, we can pick up where we were and hopefully have this resolution done expeditiously so that we can get our funding out for education, worker training, dislocated workers, Head Start, and all the other programs so vital to the future of our country.

Mr. President, I thank you, and I yield the floor.

The PRESIDING OFFICER (Mr. Gorton). The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to express my thanks to the Senator from Iowa for his analysis of the situation we find ourselves in as the Appropriations Committee. I would also like to again reiterate that we have 13 appropriations subcommittees. In other words, we have 13 subcommittees with chairs for each of those subcommittees, ranking members for each one of those subcommittees. I think our committee is unique in that sense, because we do not bring a bill to the floor unless it has been a bill developed on a bipartisan basis within each of those subcommittees.

Mr. Harkin, our colleague from Iowa, was formerly chairman of the Labor-HHS Subcommittee of the Appropriations Committee, which now is chaired by Senator Specter, of Pennsylvania. So he brought into that partnership that kind of background and understanding, as we have on most every one of our subcommittees. The chair is now being occupied by the Senator from Washington State, who chairs the Interior Subcommittee. His ranking member is former chairman, Senator Byrd.

So, in effect, we have been jointly producing these bills; it is bipartisan, and giving the Senate a very strong position. Then, when we went to conference, we had 40 Democrats and 39 Republicans voting for the Senate product, including both the leaders, the Republican leader and the Democratic leader.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Sure, we knew we were going to be in tough negotiations, but, nevertheless, we had a great number of accomplishments. We had, as the Senator knows, 12 of our 13 subcommittees involved, most of them with language, but with 5 unresolved appropriation bills. We were able to reduce the five to two. In other words, we closed the chapters on three of them. We closed the chapter on a couple of the others that were in the language area. So that, in effect, when we come back on April 15 and we take up the unfinished business of the Labor-HHS, for which the Senator from Iowa is the ranking member, we will have the figures, the dollars, pretty well resolved, as the Senator has said. We are now talking about language, riders.

I wish we did not have them. I wish we would have those issues taken up by the authorizers where they belong. But there is a trend line upward, by the fact that the authorizing actions have become very, very slow. As an example, the Endangered Species Act; 4 years ago it expired. We, in the Appropriations Committee, have been keeping it funded and keeping it going.

I could say that when there was an effort made by a few of my colleagues to convince me, as chairman of the Appropriations Committee, that we should not fund expired authorization programs, I did not have any idea what the scope of that might be, so I went to CBO. I asked CBO to give us a quick analysis of the expired authorizations that we were continuing to fund. Mr. President, $95 billion is what they came up with for their estimate on expired authorizations; a goodly percentage of them in the Justice Department, and particularly those relating to fighting crime—expired authorizations.

So we, in effect, have almost taken on double our responsibility, of not only funding but, assuming that in that funding we authorize for that year, we extend the authorization that has expired. It is not a task that we have desired or we have asked for.

I like to always remind our colleagues, no other committee but the Appropriations Committee has to pass legislation. Every other committee can consider authorization, but there is no basic command to perform. Only the Appropriations Committee must keep the Government running. We have to pass a bill—in fact, 13 of them. So, lots of times, knowing that, we get piggybacked. Others who are finding an inability to either extend authorization or renew authorization or deal with authorizing items come and piggyback on the appropriations bill. We are taking on those duties, but I am saying to the Senator, there are a lot of reasons why this situation becomes increasingly difficult.

I thank the colleagues on the committee. I have never seen a more dedicated group working together on a bipartisan basis to do their duty as I have with the subcommittees of our Appropriations Committee and the staff. I just cannot pay too high a tribute to the staffs on both sides that assist the members. It is a collegial experience.

Mr. President, I ask unanimous consent to proceed as in morning business in order to introduce a bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. HATFIELD. I thank the Chair.

(The remarks of Mr. HATFIELD pertaining to the introduction of S. 1662 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Oregon yield the floor?

Mr. HATFIELD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Thank you, Mr. President.

SENATOR HATFIELD'S PATIENCE, DILIGENCE, AND SKILL

Mr. LAUTENBERG. Mr. President, I would just take 1 minute from my other remarks to say, though this may have been the last major appropriations conference the distinguished Senator from Oregon manages, with his fairly delicate but forceful touch, as I watched him as a member of the committee deal with a number of issues, a number of temperaments, always with his excellent eye on the mission, I marvel at Senator HATFIELD's patience and diligence and skill.

This is no time for eulogies or goodbyes, but he will be missed. That aisle does not separate our friendship in any way at all. As a matter of fact, few issues separate our friendship. But my respect for his ability, for his service to country will be a permanent thing. I hope that it is also recognized in this body of ours that too few times do we have an opportunity to work with someone who has the kind of compassion and concern that is essential if one is to render the best service possible to this country of ours.

I thank the Senator for his sacrifices, for his willingness to bend to the task, and his skill for getting the job done for so many years.

TRIBUTE TO KATHLEEN STANFIELD WEINSTEIN

Mr. LAUTENBERG. Mr. President, I rise today to honor the life of a constituent of mine whose name was Kathleen Stanfield Weinstein.

Unfortunately, she has been in the papers a lot in this last week. Her life was at once ordinary and extraordinary. She was a resident of a town called Tinton Falls in New Jersey. She was a wife to her husband, Paul, and the mother to their 6-year-old son, Daniel. Mrs. Weinstein taught special education classes at Thorne Middle School in Middletown Township in New Jersey.

She was a teacher, the kind of a teacher that we all wish our children had at some point in their education. She had begun a program in which children were given special recognition for committing "random acts of kindness," toward their fellow students and the community—random acts of kindness. Everyone knows that plays on other words. The other words will become clearer in focus as I discuss Mrs. Weinstein's end of life.

Today, Mr. President, the billboard in front of Thorne Middle School reads "Mrs. Weinstein, Thank You for Your Random Acts of Kindness. We Will Miss You."

She did not retire, Mr. President. Some days ago while on her way to take a test for a graduate school course, Kathleen Weinstein did what so many of us do ordinarily. She stopped at a local delicatessen in a shopping mall for a sandwich. When she returned to her car, a young man jumped in the car with her, threatened her, saying he had a gun, and abducted her with the car. Some time later, a day or so, her body was found in a wooded area where she had been smothered with her own coat.

Unfortunately, in these times, Mr. President, this kind of event does not seem extraordinary. Indeed, Kathleen Weinstein was an extraordinary woman. At some time during her ordeal she had the presence of mind to reach into her coat pocket and turn on a small tape recorder. She recorded the conversation that she had with her soon-to-be killer, capturing her final conversation.

Kathleen Weinstein pleaded for her life, but not until she had engaged her young—turned out to be 17-year-old—attacker, just turned 17, in what has been described as "a meaningful conversation about a great many things." They talked about the consequences for his young life, and there was still time, she cautioned him, to turn things around. They talked about "what happens by the decisions * * * that you make."

The young man did not take her advice. You see, he was about to become 17 years old, and in New Jersey [illegible]t is the age for a driving license. He [illegible]ted a car just like hers. So he took [illegible] In the process, he took her life—a despicable, horrible, outrageous act.

Mr. President, Kathleen Stanfield Weinstein's exceptional character and tragic death have touched the heart of Americans from around the country. It is ironic that a woman dedicated to

teaching random acts of kindness to our children should be taken by a single random act of violence. She was ordinary, yet extraordinary. The legacy of her life will continue to touch New Jerseyans for a long, long time to come.

I have an excerpt from a newspaper, the Cincinnati Post, that includes some of the conversation that she had with this young man. I will take the liberty of reading some parts of it.

> In a secretly recorded tape she hid in her coat pocket, the teacher is heard doing everything she can to reason with a teen-age carjacker, authorities said. Eventually she breaks down and begs in vain for her life.

She says to him, "You haven't done anything yet. All you have to do is let me go and take my car."

> The woman's miniature tape recorder clicked to a stop before she was smothered with her own coat and other pieces of clothing, officials said.
>
> She "valiantly and persistently used every skill and power she had to convince her attacker to simply take her car and not her life," [the prosecutor] said.
>
> This 24-minute recording provides the key piece of evidence against the 17-year-old suspect.

Through this article are accurate, precise statements that she made. The attack was described this way:

> After her attacker grabbed her from behind and forced his way into her car at gunpoint, she managed to turn on the voice-activated miniature cassette player hidden in a bag.

She said to him, before he killed her,

> Don't you understand, though, what kind of trouble you are going to get in? Don't you think they are going to find you? You haven't done anything yet. All you have to do is let me go and take my car. For my life, don't you think I should be concerned and let you take my car? For my life! Do you really want that on your head?

Mr. President I ask unanimous consent that the full article as it appeared in the Cincinnati Post be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> [From the Cincinnati Post, Mar. 20, 1996]
>
> TEACHER'S FINAL MINUTES TAPED SECRET RECORDING: SHE BEGS CARJACKER FOR LIFE
>
> When investigators found the body of Kathleen Weinstein, she was still able to tell them about her last moments alive.
>
> In a secretly recorded tape she hid in her coat pocket, the teacher is heard doing everything she can to reason with a teen-age carjacker, authorities said. Eventually she breaks downs and begs in vain for her life.
>
> "You haven't done anything yet. All you have to do is to let me go and take my car," Ms. Weinstein tells the boy.
>
> The woman's miniature tape recorder clicked to a stop before she was smothered with her own coat and other pieces of clothing, officials said.
>
> "I have no doubt Kathleen Weinstein spoke to us through that tape," prosecutor Daniel Carluccio said as he released transcripts of the tape Tuesday.
>
> She "valiantly and persistently used every skill and power she had to convince her attacker to simply take her car and not her life," he said.
>
> The 24-minute recording provides the key piece of evidence against the 17-year-old suspect-identified only as M.L.—who was caught Sunday driving the women's car. His first name, age and details about his past were on the tape.
>
> The prosecutor read some of Ms. Weinstein's comments but did not disclose any of the youth's taped comments.
>
> He was jailed on murder and carjacking charges. Carluccio said he would seek to have him tried as an adult.
>
> Ms. Weinstein, 45, of Tinton Falls, disappeared Thursday after staying home from her job as a special education teacher to study for a graduate school exam. She was en route to take the test when she stopped to buy a sandwich.
>
> After her attacker grabbed her from behind and forced his way into her car at gunpoint, she managed to turn on the voice-activated miniature cassette player hidden in a bag, Carluccio said. She later removed the tape and slipped it in her coat.
>
> her body was found Sunday in woods near a highway in Berkley Township. She leaves a husband and 6-year-old son.
>
> Text of fax box follows:
>
> A victim's final words
>
> Here are excerpts from the 24-minute recording made by Kathleen Weinstein, the teacher who secretly recorded her pleas to a teen-ager who police said stole her car and then killed her. Authorities provided only selected quotes:
>
> "Don't you understand, though, what kind of trouble you are going to get in? Don't you think they are going to find you?"
>
> "You haven't done anything yet. All you have to do is to let me go and take my car."
>
> "For my life, don't you think I should be concerned and let you take my car? For my life!"
>
> "Do you really want to have that on your head?"
>
> "Why don't you just tell me? Of course it's important, it's determining your whole life and the direction you're taking. It's important. We're here for a purpose. That's what happens by the decisions and things that you make."
>
> "Whatever trouble you're in, you didn't add to it yet, right?"
>
> "I'll make you a promise that I won't tell anybody. Because you won't be taking my car and you won't be hurting me. And maybe you can get away another way."
>
> "You can't have a life of crime like this. You'll wind up spending your life in prison if you don't get killed."
>
> On her plans to take in a foster child or adopt a child: "I want to give something to somebody, to give . . . to give something back."

Mr. LAUTENBERG. I make particular point of this horrible murder because it strikes a chord in all of us of our disappointment in the violence that threads our society, whether it is a young kid like this out to take a car or another youngster out to take a jacket—a senseless killing. Or like the killing recently here in Washington, DC, a 15-year-old boy, apparently a nice young man, good student, in trying to defend an argument between his younger sibling and another child—stabbed to death.

Mr. President, I ask a question that must go on in every home in everyone's mind in America: When will we stop this violence? How do we stop it? We sure do not stop it by a vote in the House of Representatives that says, "Take away the ban on assault weapons. Let them have their assault weapons. That is part of freedom in America." That is nonsense.

If I was not on public record I would use other words, perhaps, to describe it—to make sure that people could get their hands on weapons that are designed to kill people. That is what the vote was over there—some 230 votes for, and against, 170.

I fought in World War II, Mr. President. I was no war hero, but I carried a weapon that could fire less shots than these assault weapons. I was supposed to kill the guys on the other side of the line. I was not called on to do it and they did not do it to me, either. The fact of the matter is the weapons issued to me as a soldier in the European theater were far less menacing than the kind of weapons we want to make sure everybody in America has, because the National Rifle Association says that is what we ought to do—make sure we free people up so they can bear their arms against their fellow citizens. That is hardly a way for a civilized society to conduct itself. When will we be so sick of violence that we will say no, no, no, you just cannot get a gun because you want one, and you are going to have to wait and pass a test just like you do when you want to drive a car?

In my State, and in every State in this country, in the State of the distinguished occupant of the chair, there is a confrontation that could very well result in death and disaster. Lots of weapons are involved. In my State, a man walked into the post office in Montclair, my hometown, and shot four people. He is an ex-employee of the post office. At the Long Island Railroad out of New York City, a man shot and killed a number of people, one of them a young woman from New Jersey, whose parents I know. He did not know them, did not ever see them before.

We hear about children picking up guns and killing other children. We hear about despondent daughters or sons taking their father's legitimately owned gun and blowing their heads off. We had four kids commit suicide in New Jersey a couple of years ago. They got hold of weapons and killed one another. There are disgruntled employees, disappointed partners, and family members who kill everybody in the family.

We hear this trite old expression that makes me ill: "Guns do not kill people, people kill people." Well, how do people get the ability to kill other people? I never heard of a drive-by knifing.

Mr. President, one of these days, we are going to have to come to our senses about gun ownership, the proliferation

VOL
142
PT
5
MR
21
—
29
1996
UMI

of guns. I have legislation that I introduced the other day to reduce, on a Federal level, purchases of guns more than once a month. One gun a month, 12 guns a year. That does not sound like much of a restriction. But we have a fight on our hands. Maryland just passed it in one of the bodies of legislature there, in their Senate. It is predicted that it will go through with dispatch. Virginia has a one-gun-a-month program. Because Virginia has a limit of 1 gun a month—can you imagine, 12 guns a year are able to be purchased? They have reduced the gun presence in the Northeast of guns coming from the State of Virginia by 60-some percent by restricting gun purchases to one gun a month. The madness of it all. In order to protect those who demand an arsenal, they can buy 12 guns a year. It does not seem like that is a necessary thing to me.

But I am willing to take whatever steps I can to reduce the proliferation of guns in our society. I have become friends with Sarah and Jim Brady. I would not have before Jim was shot because we were in different parties and of different political or philosophical persuasions, because I never belonged to a gun organization. But Jim Brady was a good friend of the National Rifle Association, until someone attempted to kill President Reagan and shot Jim Brady in the attack. Jim Brady, who has been physically disabled, wheelchair bound since that time, has turned the opposite way, and so did his wife, when they saw what a terrible thing a gun could do. There are others I have met who used to support the National Rifle Association agenda, and when they suddenly see violence in their homes, they are opposed to gun ownership as randomly as it exists in this country.

I have also introduced legislation that says that anyone convicted of even a misdemeanor on domestic violence charges should not be able to own a gun. Right now, someone who has indicated that their rage is so impossible to control that they can come home and beat up their wife or kids and get convicted and stand in front of a judge in Baltimore County, and he says, "I cannot assign criminal penalties to someone who is not a criminal," after the man killed his wife. He gave him community service and, I think, 5 months in jail after he killed his wife. He does not call it a criminal act.

Now, Mr. President, we cannot do the job by simply building more jails. There was an editorial piece, an op-ed piece, in the New York Times the other day—and that is not gospel, but it was reporting facts—written by Anthony Lewis. He said that the biggest program for building in California was the building of jails. While the number of students per teacher increases, meaning less attention to the students' needs, jails are being built. I think criminals ought to be punished and punished hard. But I think we also ought to look at what it is that drives all these people to criminality with all of the penalties that we impose, each of them getting longer and larger and tougher. That has not curbed the violence problem. Maybe we ought to say, hey, perhaps there is a different way to do this and examine the alternative. I hope that we will, Mr. President.

If I sound agitated, I am. I think about this young woman, a devoted parent and teacher, a teacher of the type that we all respect and want in our schools. She was murdered by some young punk who decides he wants her car. He was encouraged by what he sees on television and what he sees in gun ownership. She is threatened by a gun and did not even know that it existed, but she knows when someone says they have a gun, very often that is the case.

I hope we will learn from this courageous woman's death, and many other murders around the country, that we ought to do something differently. I hope that police departments across the country will start to prepare some advisory so that women can protect themselves. I have heard—and I do not know whether this is true; I state it secondhand—that a woman is better off to resist in a public place than to permit herself to be taken out of the public limelight. I do not know whether it is true, but I hope police departments—I would like to see police departments across the country prescribe actions in response to an attack of that type, to do something to protect themselves, to thwart the intentions of somebody who wants to take their lives, or take their property first and, typically, then their lives, and often whether or not the property is gained.

Mr. President, I hope we do not have to keep on discussing these kinds of things in the U.S. Senate, or in the Congress, or in our Government, and that we can look forward to a more peaceful time within our society. We are all shocked and horrified by the prospect of military engagement in Bosnia and in other parts of the world, and we look with horror upon the period in Vietnam when so many of our young people fought bravely and gallantly against a bad policy decision. We lost 50,000 people in the period of years that the Vietnam war went on. Now we lose over 15,000 people a year in this country to gun murders. Unfortunately, it does not get a lot of attention.

Mr. President, I yield the floor.

CORRECTION OF THE RECORD

Mr. BYRD. Mr. President, I believe it was on March 21 that I spoke on this floor in reference to Senator SAM NUNN and the late Senator Richard B. Russell and their fine work on the Armed Services Committee of the Senate. I made a comparison in the course of those remarks of Mr. NUNN to Marshal Michael Ney, who was one of the top officers in Napoleon's army. I referred to Marshal Ney's having been separated from the army of Napoleon, but having fought his way back to join the army. He fought through thousands of cossacks and had come to the river Dnieper, D-n-i-e-p-e-r. He had lost all of his guns, but he crossed the river and rejoined the main forces of Napoleon's army.

I stated that Napoleon was overjoyed when he heard that Marshal Ney had escaped and rejoined the army. And he made the comment to other officers at that point—he said, "I have more than 400 million francs in the cellars," c-e-l-l-a-r-s, "of the Tuileries," T-u-i-l-e-r-i-e-s. "I would gladly have given them all for the ransom of my old companion in arms."

Well, I suppose I was talking like I had my mouth full of turnips, and the official reporter did not get the name of the river correctly spelled—D-n-i-e-p-e-r—Dnieper; the reporter substituted the name of the river Niemen, N-i-e-m-e-n. It was a river in White Russia. When I saw that name I thought, "My, I never heard of the name of such a river." So I went to Webster's dictionary and I found there, indeed, the name of a river called the Niemen River. So it sounded very much like the Dnieper River.

I make these remarks today, Mr. President, just to call attention to the error which was inadvertent on the part of the reporter and was really my fault. I ask unanimous consent that the permanent RECORD be shown to state that it was the Dnieper River, D-n-i-e-p-e-r, not the Niemen River, to which I referred in my remarks. I yield back the balance of my time.

UNANIMOUS-CONSENT AGREEMENT—H.J. RES. 170

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

THE CONTINUING RESOLUTION

Mr. GRAHAM. Mr. President, a little more than an hour ago, the Senate voted for the 12th time in this 6 months of the 1996 fiscal year for a short-term continuing resolution for many of our most important Federal agencies.

Mr. President, I voted for that continuing resolution as I have for its predecessors out of a sense of frustration and the absence of any other reasonable alternative. But, Mr. President, I am taking this occasion to announce that will be my last vote for such a continuing resolution because I believe that we are acting in a highly irresponsible and embarrassing—and adverse to the interests of the people of this Nation—manner by the way in which we are conducting the fiscal affairs of this great Nation.

When the Congress, or any other entity responsible for spending funds, sets out to enact a budget, one of those important goals of such enactment is to chart the future. The essence of budgeting is to carry out a plan with certain objectives and destinations. Budgets should be the means by which that plan is given life.

In a cruel irony, however, Mr. President, a perverse Washington twice has turned budgeting upside down. The current budget process frustrates—even prevents—effective planning and implementation. Instead of reducing uncertainty about the future, our current budget process—the one that we have followed for the last 6 months—enhances uncertainty.

How, we would ask, did this happen? We are in the 6th month of the Federal fiscal year, but we have still not approved a budget for nine of the most important departments of the Federal Government and numerous other Federal agencies. Instead of approving an annual budget for these nine Cabinet departments and Federal agencies, Congress has passed now 12 separate continuing resolutions to operate parts of the Government at 75 percent of funding levels for brief periods of time.

Mr. President, this is Band-Aid budgeting, and it is a Band-Aid that hurts. These Band-Aid budgets are hurting the very people our Government is trying to help. And just as important, our failure to pass a final—a real—budget for 1996 makes planning difficult, if not impossible, for those charged with carrying out the mission of assisting our people through or with the financial support of the Federal Government.

To that lament, some might say, "So what?" So what if Government is inconvenienced by an uncertain budget process. So what if bureaucrats have to survive with a certain amount of anxiety, uncertainty, and closely bitten nails. To those who say "So what," I offer the simple truth that the way we are doing business with these Band-Aid budgets is bad business.

When managers cannot plan, when contracts cannot be honored, when commitments cannot be fulfilled, that, Mr. President, is bad business.

Today I want to highlight just a few examples of the impact of our Band-Aid budgeting. In my State of Florida, we are on the verge of shutting down substance abuse programs.

Let me repeat that. If we do not straighten out this budget mess within the State of Florida, there will be a termination of substance abuse programs.

It is ironic that possibly in the next few weeks we may be considering the question of whether the United States should punish through decertification certain countries that we consider to be inadequate in their commitment to the fight against the supply of drugs coming into the United States. The irony is that those same countries look north, and they say the reason that there is this supply of drugs is because the United States of America is such an overwhelming and inordinate user of drugs; it creates such an enormous demand for these illegal substances. If we were to send the message to these countries that we are now about to cut off our programs that are intended to deal with the prevention and treatment of substance abuse, they might be inclined to say they should decertify us because we were not using our full efforts in order to deal with this scourge.

What is it going to mean in Florida for 150 agencies which are providing substance abuse services—150 agencies and nonprofit groups which depend in whole or in part on Federal funds for their ability to provide these services?

The range of services which will be terminated include detoxification, drug rehabilitation for children, adolescents, and adults, in-jail services, and substance abuse prevention.

In Florida, 27,000 people a year are referred to detoxification centers. The typical per-day cost of these facilities is $123. If we shut down the detoxification centers, we would have some options—more expensive options. We could send these people to jail. We could send these people to a hospital. If we sent them to a hospital, the average per-day cost is $450 for detoxification services.

One way we deal with heroin addiction in this society is methadone treatment. Many people on methadone are able to live a reasonably normal life and hold down a self-sustaining job. What happens when you shut down the methadone programs? People go into withdrawal. The odds go up that these expensive, negative results will occur. There will be a relapse to heroin or other drugs. There will be the use of dirty needles that spread HIV. Jobs will end, and crime will begin.

Mr. President, those are some of the consequences in the area of substance abuse treatment, education, and prevention that is about to occur because of the Band-Aid budgeting in which we are engaged.

The problem does not, however, end with substance abuse. What about education? In Dade County, Miami, FL, our educators are so uncertain about the next year's school budget that they do not know whether they should retain some 1,000 teachers and aides who are currently providing educational services.

What is the reason for this uncertainty? The reason is that these teaching positions are funded by title I Federal grant dollars. These are funds which are used to provide educational services to the most at-risk and to the most at-need children.

Dade County received approximately $59 million in title I funding last year. How much will Dade County schools receive next year? Mr. President, your guess is as good as mine because we still do not have a budget.

In Fort Myers, I recently visited the Salvation Army. The Salvation Army in Fort Myers, as its counterparts across the country, performs a wide variety of valuable services. In southwest Florida, these services include feeding and housing the homeless, operating a minimum security prison, a small hospital, and offering drug and alcohol treatment programs.

To provide these services, the Salvation Army in Fort Myers relies on the Federal Government for up to 35 percent of its budget.

Let me give you one example of a problem Salvation Army officials are facing in Fort Myers, FL.

In an ordinary year, the Salvation Army will receive emergency food and shelter funds from the Federal Emergency Management Agency in October. As you are aware, Mr. President, this October was no ordinary October. This has been no ordinary year.

As a result of the budget impasse, the emergency funds for food and shelter to the Salvation Army did not arrive in Fort Myers in October. The funds did not arrive in November either. December came and passed; there were no funds—and January. It was not until February that the Salvation Army received the first allotment of its funds which were supposed to have arrived in October.

Now the Salvation Army is waiting once again to receive the remainder of its funds for a fiscal year that is now halfway over. Without this money, the services provided by the good people at the Salvation Army in Fort Myers will be severely hampered and the organization may experience a major deficit.

In many instances, organizations have not only had to reduce services, but they have had to suspend them altogether.

Let me give you another example. This situation was experienced by the Florida Division of Vocational Rehabilitation. The division of vocational rehabilitation awards contracts to nonprofit organizations to provide rehabilitative services to the disabled. For many individuals, these services offer the only chance to become skilled, productive, independent citizens. Due to the Government shutdown, two organizations in Florida which provide these rehabilitative services for disabled citizens, Goodwill and Easter Seals, had to close their doors to the disabled.

Let me repeat that, Mr. President. The shutdown caused Goodwill and Easter Seals to close their doors to people who are striving to better themselves so that they can find gainful employment. These are the practical effects to human beings in the communities, consequences of the Band-Aid budgeting in which we have been engaged.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. President, I say enough is enough. Twelve times in six months is enough for us to limp along day to day, week to week. This process is having severe, embarrassing, and hurtful consequences on innocent people. Twelve times we have resorted to these short-term extensions. Enough, Mr. President, is enough.

Let us commit ourselves to the completion of the 1996 budget at the earliest possible date. Then let us recommit ourselves not to repeat anything like this in 1997 or ever again.

Mr. President, enough is enough.

PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator in New Mexico.

Mr. DOMENICI. I have been asked by the leader to make this unanimous-consent request. It has been cleared on the other side.

I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 157 just received from the House.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> A concurrent resolution (H. Con. Res. 157) providing for an adjournment or recess of the two Houses.

Mr. DOMENICI. I ask unanimous consent that the resolution be considered and agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 157) was agreed to.

Mr. DOMENICI. Mr. President, I will speak for just a few moments. I understand there is still another Senator who wishes to speak, but I will not take very long.

MEDICARE FINANCING CRISIS

Mr. DOMENICI. Mr. President, I wish to speak for a moment about the Medicare Program which our senior citizens are very concerned about and most Americans are very concerned about.

Last year, the Medicare trustees told the President and the Congress that the Medicare Program is in financial crisis. Specifically, they said, and I quote, "The Federal hospital insurance trust fund which pays inpatient hospital expenses will be able to pay benefits for only about 7 years and is severely out of financial balance in the long run."

The Medicare trustees were even more blunt. "The Medicare Program is clearly unsustainable in its present form," they said. "The hospital insurance trust fund continues to be severely out of financial balance and is projected to be exhausted in 7 years."

That is what they said last year—7 years. In 1995, the trustees were telling us we have 7 years before the part A trust fund ran out of money. Last year's report projected that this fund would be insolvent in the year 2002. Based on the same data, I made a more precise prediction that bankruptcy would occur in early February 2002.

Very soon, we are going to receive from the Medicare trustees an annual update to this report. I have looked at the data that the trustees used to generate their report, and I can say now that last year's projections were too optimistic. This year's report will show that the hospital trust fund is going bankrupt in the year 2001—not 2002. The projections were too optimistic last year.

A year ago my colleagues and I were urging the Senate and the President to follow the trustees' recommendation and address the Medicare financing crisis. This is why the reforms in Medicare were proposed last year. This Congress had a choice in 1995, and the choice was to address the Medicare financing crisis, restructure Medicare for the next century by providing seniors with more choices and containing costs to providers, or to ignore the crisis and let the problem languish for another year.

This Congress chose to act to try to save Medicare from the pending bankruptcy. When we made the choice, we had a 7-year window available to us and to the American people—7 years before part A would be bankrupt, without sufficient money to pay its bills.

Mr. President and fellow Senators, that is now down to 5 years. We spent a year trying to reform Medicare, only to have the reform fail and to have the President veto the reform measures. And we will soon officially hear from the trustees that we lost another year.

Last year we were told that we had until 2002. Now we will learn that we have until 2001. The Medicare part A problem is now worse than it was a year ago. Based on the data the trustees will be using in their annual report, which we have now had an opportunity to review, I can predict for the Senate and for those who are interested, the seniors across America, that the Medicare part A trust fund will be without sufficient funds to pay its bills in late May of 2001. Essentially, it will be bankrupt in May of 2001 instead of 2002. This is 5 years and 2 months from now—5 years and 2 months, not 7 years.

It is important to remember that while attention has focused on the impending bankruptcy of part A, the hospital plan, the underlying problem is the uncontrolled spending and the growth of the entire program.

Last year, the Congressional Budget Office projections showed that Medicare part A spending was growing at 8 percent a year, and it showed that part B spending was growing at 14 percent a year. There is no question that if we can slow the growth by reform, if we can make both part A and part B more streamlined and in touch and in tune with the modern delivery of health care, we can slow the growth. Our present spending is just not sustainable. Simply put, the trust fund will be bankrupt in 5 years and 2 months. The remainder is growing at 14 percent a year.

When we pursue that goal of making it sustainable, of slowing Medicare spending, one result will be that we will save the part A trust fund, the hospital trust fund. The Balanced Budget Act passed this year by Congress—that is last year, in this year's cycle—and vetoed by the President, would have extended the life of part A past the year 2010. That same Medicare reform took the necessary steps toward addressing our long-term entitlement problem. Unfortunately, it, too, was vetoed when the Balanced Budget Act was vetoed.

I do not relish being the bearer of bad news. No one likes to hear that a program as valuable and as important as Medicare is in financial trouble. But we cannot simply bury our heads and hope that the problem will go away. It will not. We spent a year trying to address a problem here in the Congress, and now it appears that that effort may fall victim to a Presidential election. If we wait another year to address Medicare, we will be 4 years, if not shorter, from bankruptcy. I am concerned that 1 year from now I will be standing here on the floor of the Senate, reporting on the impending bankruptcy of the part A trust fund, and we will have spent a year doing nothing to address it.

I hope that is not the case. But I hope that more Senators and more leadership in this country will understand that if we do not change some things about the program there will be no program—not for the younger generation, but for seniors who are on the program right now. Because there are many senior citizens who are on the program right now who will still need hospitalization in the year 2001, 5 years from now. Unless we choose to do something now, it will not be available to them. We will have spent the money in the trust fund and the bills will be coming in faster than the revenue, and that equals bankruptcy.

So, I thought, today, after a careful study of the facts, that I would share this news, bring it to the floor and share it right now. I thought, as soon as I had it, I ought to share it with everyone. I believe what I am saying is correct. I believe I am slightly ahead of the trustees, but I know the information they have, and their experts, for that is shared information. There is no question in my mind the fund is going bankrupt faster than was estimated last year, and we are now 5 years and 2 months away from the fund not having money to pay the bills of senior citizens who are in hospitals.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Massachusetts.

Mr. KENNEDY. Are we in morning business at this time?

The PRESIDING OFFICER. We are.

Mr. KENNEDY. I ask unanimous consent I might be able to proceed in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FDA REFORM MARKUP

Mr. KENNEDY. Mr. President, today when Americans get up in the morning and brush their teeth, they do not think about whether the toothpaste they are using is safe. When they eat their breakfast they do not think about the safety of the food they are eating. When they take a pill to treat an illness they do not worry about whether the drugs are safe. They do not worry about whether those drugs work. Americans have confidence in all of these products because the Food and Drug Administration is an independent agency with enormous credibility.

Yesterday, the Senate labor and human resource committee approved a FDA reform bill, S. 1477, that will destroy that confidence. S. 1477 will cripple the FDA, and turn many of its functions over to private industry.

The history of food and drug legislation is that we have learned from the tragedies of the past. The United States was fortunate to avoid the Thalidomide tragedy in the 1950's. But in the 1950's and 1960's, we did not avoid the tragedy of DES, Diethylstilbestrol, which causes cancer in the daughters of women who took it.

In the 1970's we did not avoid the tragedy of the Dalkon Shield, which caused thousands of cases of infertility in women who used it. In recent years we did not avoid the tragedy of the Shiley Heart Valve which broke and caused many deaths.

As a result of the Thalidomide tragedy, we strengthened our drug laws in 1962. As a result of the Dalkon Shield tragedy we strengthened our medical device laws in 1976 and we strengthened them again in 1990 after the Shiley valve tragedy.

Most recently, we reduced the delays in approving prescription drugs with user fees. As a result, we are now approving drugs faster than the United Kingdom. We have fixed the drug lag. In fact, the United States approves more important new drugs faster than any other country in the world.

But equally important, we have the best record in the world of blocking the approval of unsafe or ineffective drugs that have to be withdrawn after patients have been killed or injured.

The bill reported from the committee goes in the wrong direction. The lessons of the past have been turned on their heads, and those who have failed to learn from the history of Thalidomide, Dalkon Shield and DES, will condemn the American public to new device and drug tragedies. The basic theme of the legislation the committee approved is privatization. It says, "let us return to the days when drug manufacturers decided what was safe and effective." It says, "let device manufacturers pay private bodies to determine if their heart valves and pacemakers will help or harm patients, instead of relying on the scientists at the FDA, who have no interest except the public interest." If this bill is enacted into law, the Food and Drug Administration will no longer have the principle responsibility for making critical decisions about the safety of the food supply and the safety and effectiveness of drugs and medical devices. Instead, those decisions will be made by private companies.

In the cases of medical devices, those companies will be selected and paid by the medical device industry to decide the safety and effectiveness of the products. No company that is paid to do product reviews can be objective, if future business depends on whether it grants a favorable decision. And to make the conflict of interest even more blatant, it will be up to the regulated industry to determine how much compensation the regulator will receive for the review.

Do you get this? That the medical device company will make the judgment as to which individual will come and inspect their particular medical device, and they, the inspector and the company, will work out the terms of payments.

If you were one of those inspectors, how long do you think you will make adverse judgments against those companies if you ever expect to get paid or hired again? You have a basic, fundamental conflict of interest. Compare this with the current situation where an inspector has no financial interest in making the judgment and bases decisions only upon pure science. That is how we do it at the present time.

As I said, we do it very successfully with regard to drugs and biologicals. It is slower with regard to medical devices, and various animal vaccines. We grant the FDA has not done well enough. But over the 30 years that our committee has been reviewing how to speed up the FDA, we have only been successful with one major change and that is when we put on the user fees, with the support of the pharmaceutical industry, with the support of President Bush, and with the support of Congress. And we have seen a dramatic change in terms of performance, in the approvals; significant reductions in terms of the considerations of those items. It has been successful. Now we are about to tamper with that particular effort, which has been reviewed by GAO, and by the Tufts Medical School, which has been constantly critical of the FDA, but all of them say that this is a program that is working.

It is not working as well in the device areas, as I mentioned, but what we are doing, I believe, is putting seriously at risk the successful programs that have been enacted in recent times.

In Britain in the last few weeks, we have had a stark demonstration of what can happen when the regulatory body charged with protecting the public interest has a conflict of interest.

Britain is in a food safety crisis over the meat from cattle with mad-cow disease because the Government paid too much attention to commercial interests and not enough attention to the health of consumers. Now, because there is growing concern that mad-cow disease can be linked to a fatal disease in humans, British meat is being banned in every country in the world.

In Britain, the public is demanding to know why there is no independent body like America's Food and Drug Administration to protect the public. That is the question on the minds of British consumers.

How ironic that just a few days after the mad-cow disease disaster came to light, legislation was approved by our committee to dismantle the regulatory agency that is universally recognized abroad as the gold standard for the world. The FDA is our strongest defense against this kind of crisis in the United States. We have the safest food supply and the safest medical products in the world. We should not take any steps that jeopardize the confidence of American consumers in the safety of food and medical products. Yet this bill would seriously weaken current protections.

In addition to privatizing review of medical devices, this bill tells the public to trust drug manufacturers to make changes in the manufacturing process without FDA review to determine whether the changes affect safety or effectiveness. Companies under pressure to increase profits sometimes put profits first or simply sometimes make mistakes. In fact, most experts believe that mad-cow disease spread throughout Britain by a change in the manufacturing process of animal feed by some companies, the kind of change that S. 1477 leaves up to American companies to decide on their own.

Under this legislation, no change in the manufacturing process would require prior approval from the FDA. Yet, a change in the manufacturing process can determine whether a polio vaccine prevents polio or causes it. A change in the manufacturing process can determine whether a blood transfusion is life saving or whether it transmits AIDS or hepatitis to the patient. An independent FDA is needed to

VOL
142
PT
5
MR
21
—
29
1996
UMI

protect the public against these tragedies. Commercial interests should not prevail.

Further, the bill sets excessive time limits for review with no additional resources. The FDA will be unable to meet these requirements and do its job.

Even worse, the bill sets the wrong priorities so that every "me-too" drug of little additional therapeutic value receives the same priority as urgently needed new cures, and if FDA cannot meet the unrealistic time limits in the bill, the agency is required to contract its responsibility out, leading to further unacceptable privatization.

What did we do in the earlier legislation? We said on the priority drugs, we are going to make sure that these are going to be addressed within the first 6 months and then those that are of lesser significance and importance within 12 months. Therefore, the FDA is able to use some discretion in the areas of breakthrough drugs. The last drug on AIDS was only about 2½ months under review because FDA had worked with the company further up the line to accelerate the consideration and the whole development time.

So FDA has been moving in the area of priority drugs. Now what does the legislation say? The legislation says you have to examine all of them, all of the drugs within the 6 months. The fact of the matter is, as anybody who understands what goes on out at the FDA knows, the vast majority of those other drugs are "me-too" drugs, not the breakthrough drugs.

So now instead of bringing focus and attention of the gifted and able scientists out at FDA on those drugs that could be breakthrough drugs in cancer, in AIDS, in hepatitis, in all kinds of diseases, we are going to divert their attention to looking after the "me-too" drugs that can make extra bucks for the pharmaceutical companies. Is the public interest served there? It is not.

This is a direct result of the pharmaceutical companies wanting to get some additional attention so that they can put on the market and promote and advertise and make additional profits from those "me-too" drugs. This is unwise, ill-conceived, and bad health policy. Mr. President, we all know that when the Congress previously acted in a bipartisan way with the Executive together with the pharmaceutical companies, all of them working together, setting the goals, setting the standards, setting the accountability on what the FDA should do—96 percent of the goals that were established were achieved, and now we are saying, "Well, that isn't good enough. That isn't good enough even though the GAO says we are the best in the world. That isn't good enough, and we are going to change that system," alter that system in a way which I think diminishes the efficiency of the FDA and could very well diminish the opportunities of moving the breakthrough drugs to the consumer in a more orderly, effective, and rapid way.

Mr. President, I was talking about the changes in both time limits for the consideration of priority drugs and also about the changes in the manufacturing processes that do not have to have prior approval by the FDA.

FDA is the most respected regulatory agency in the world. With too few resources now, FDA still gives us the safest food supply in the world and the best medical products. The FDA seal of approval is accepted with confidence and trusted worldwide. American companies benefit immensely from that confidence. This bill will turn that seal of approval into a label that cannot pass the truth-in-advertising test. Whether the product is heart valves or blood derivatives or vaccines or food, the American people will be at risk.

There are ways that FDA should improve. Some products do need to get to market faster. FDA should collaborate as much as possible with companies and researchers to reduce the time of bringing safe and effective products to market. They are doing a good job now; they ought to do a better one. But we should not gut FDA's independence or the laws that give it that independence.

This legislation puts the commercial interests of companies ahead of the best interest of consumers. I am hopeful, Mr. President, that the provisions of S. 1477 that undermine health and safety can be revised before the bill comes to the floor. I know that Senator KASSEBAUM is committed to working with all interested Senators, and I pay tribute to Senator KASSEBAUM. She has spent an enormous amount of time herself on this issue. She has listened to different positions taken by those who are committed to the public health interests. She has listened to Members of the Senate.

I have the highest regard for her and the way that she has conducted the hearings and the leadership she has provided in this area, but I do find that I come out on a different side than she does with regard to the bill itself.

The present bill would destroy the safeguards protecting the American people that have been built up over the decades. It will cripple the world's best regulatory agency. It would be tragic if it became law. When the American people understand what is in it, I believe they will reject it.

Mr. President, I yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

READ AND SUCCEED—MEETING THE CHALLENGE OF ILLITERACY IN AMERICA

Mr. INHOFE. Mr. President, I rise today to share some thoughts on a subject of growing concern to many Americans, particularly to parents who seek a better and brighter future for their children through education.

It is that we are failing to teach our children to read effectively. In 1940, the literacy rate in the United States was 97 percent. It has now plunged to 76 percent—a rate which is lower than that of over 100 other nations.

To me, this is intolerable. America's future depends on restoring the reading skills of its people.

If we value our responsibility for leadership; if we seek to stay competitive in the world economy, we must address the problem of illiteracy in America.

We cannot stand by and watch our children sentenced to a life of mediocrity and illiteracy.

This problem exists in spite of the good intentions of Government and the expenditure of billions of taxpayer dollars over many years.

Reading is the most basic skill every child needs to achieve individual success and happiness—both in work and in life. Yet in failing to impart this skill effectively, we are directly undermining the success our children seek and deserve.

The evidence of our failure is all around us. Teachers and administrators see it in our schools, where 60 percent of entering college freshmen find themselves in need of remedial courses in reading or math.

Employers and businesspeople see it in the workplace, where industry spends exorbitant amounts on employee remedial training in basic verbal skills. Researchers and scholars detect it in their studies.

Hardly a week goes by that we do not see stories in the media about declining test scores or startling accounts of the growing problem of lagging reading skills in America. For example:

According to the U.S. Department of Education report known as the National Assessment of Education Progress [NEAP], "the average reading proficiency of 12th grade students declined significantly from 1992 to 1994."

This important study is widely considered to be one of the best barometers of overall student achievement. It reported that "70 percent of 4th graders, 30 percent of 8th graders, and 64 percent of 12th graders did not attain a proficient level of reading." In other words, these students did not reach a minimum skill level in reading which is considered necessary to do the work at that grade level.

According to a recent 5-year study, entitled "Adult Literacy in America," conducted by the National Center for Education Statistics, similar startling results were found. It stated that: 42 million Americans, 22 percent of the population cannot read; 50 million, 27 percent, can recognize so few printed words they are limited to a fourth or fifth grade reading level; 55 to 60 million, 30 percent, are limited to sixth, seventh, or eighth grade reading levels; only 30 million, 16 percent, have ninth and tenth grade reading levels; only 6 to 7 million, 3.5 percent, demonstrated skills necessary to do college level work.

SAT scores have declined steadily for most of the last 35 years. Verbal achievement has declined by nearly 90 points since 1960.

A U.S. Department of Labor study found that 20 percent of U.S. high school graduates could not even read their diplomas.

Mr. President, this is serious. All of this has consequences—in our economy, in our standard of living, in our competitive position in the world, and in our national security. For example:

The lower the literacy rate: the less productive our economy becomes, the less hours are worked and the less money they make in the form of wages and income, the higher the incidence of crime and welfare and their costs to society, the less effectively we are able to compete in world markets, the less capability we will have in our Armed Forces which are increasingly dependent on advanced technology and highly trained personnel as opposed to just sheer numbers.

Clearly, our level of literacy is closely linked to our success in the world. If we fix this problem, the benefits will spread through our entire society. I firmly believe that if we know how to read, we will know how to succeed.

Secretary of Education Richard Riley recently confirmed the problem when he said:

> Our Nation's reading scores are flat and have been flat for far too long . . . Too many of our young people are groping through school without having mastered the most essential and basic skill.

Riley said that "the most urgent task" facing American schools is to improve reading instruction. So we know the problem exists. We can rejoice there is a solution.

Right now, we can take a giant step forward simply by doing what we can to demonstrate and celebrate what works when it comes to basic reading instruction.

Mr. President, we know what works in teaching children and adults to read. We can point to evidence backed by more than 60 years of educational research and experience.

What works is when our teachers and administrators return their emphasis to the use of phonics as the basis of reading skills instruction. Phonics refers to that body of knowledge which allows us to break down the letters of the alphabet into sounds so that words can be deciphered and sounded out according to simple rules.

With phonics-based programs, students learn not by memorizing huge numbers of whole words, but rather by mastering the very limited number of sounds and corresponding letter combinations which are the building blocks of all words. With this essential grounding, they are better equipped to move ahead to learn more advanced reading skills and techniques.

I do not argue that phonics is the only answer to the many problems faced by today's teachers in improving reading skills. The breakdown of the family, the impact of television, the force of popular culture—all of these and more pose challenges which were unheard of a generation ago. But clearly it is time for the pendulum in emphasis to swing back toward phonics—and not away as we have been moving more and more in recent years.

Phonics-based programs work. History and statistics have proven it. Now, similar grassroots evidence is sprouting up in more and more parts of the country.

For example, in one of the poorest districts in Houston, TX, there is a success story from which all of us can learn. There at the Wesley Elementary School, its principal, Dr. Thaddeus Lott, has encouraged teachers to use proven methods such as phonics in a concentrated effort to improve reading skills. The program is working.

Students are leaving this school reading at two or three levels above their grade. Many go on to private academies because their achievement levels are so far beyond the public schools they would otherwise attend.

Now, Dr. Lott has been appointed to a blue ribbon committee in the Houston Independent School District to expand his quality education techniques to other schools in this, the seventh largest school district in the Nation. It worked in Houston and it is working elsewhere.

Near one of Chicago's low-income housing projects, Mrs. Marva Collins of the Westside Preparatory School is making a real difference. Her phonics-based methods are helping all her students learn to read by the end of first grade. By the time her students reach third grade, they are memorizing poetry, discussing Shakespeare, and talking about early American history.

In Inglewood, CA, similar targeted programs have also proven highly successful.

Now, as the Washington Post reported last week, the State of California is urging all of its 7,700 school district "to place more emphasis on phonics" in order to reverse the dismal results they have been seeing on their statewide reading exams.

These are just a few recent examples—out of many—which show that the trend back to a renewed emphasis on phonics is growing. But much more needs to be done.

To help foster similar successful programs and to help focus public attention on what can and should be done, I propose to take the initiative in my home State of Oklahoma.

In the near future, I plan to help establish a limited in scope, privately funded, reading foundation in Oklahoma City.

Its purpose, broadly stated, will be to identify children, as well as adults, in need of enhanced reading instruction and to help them take advantage of a good phonics-based reading program that works.

If this limited demonstration project is successful, I would hope to expand it to Tulsa and perhaps to other cities throughout Oklahoma.

The goal is to show through private voluntary efforts that we as concerned citizens can address this one serious problem constructively, without resorting to Government mandates or vast infusions of Federal tax dollars which obviously have not worked.

Indeed, I want to make it very clear that I do not seek to establish a new Federal program, nor do I seek any new expenditure of taxpayer dollars. I propose no new legislation or Government mandate.

At the same time, I seek no direct intrusion into the day-to-day business of the public schools. I have long been opposed to Federal control of local education and I am not about to change my position now.

Rather, what I am talking about is fostering voluntary and cooperative efforts through the use of private funds, through persuasion, through example, and through a genuine concern for helping our young people and others achieve success in life.

This is a good cause. I intend to demonstrate that what works in Dr. Lott's school in Houston and Mrs. Collins' school in Chicago can and will work in Oklahoma City. When it does, we will offer it throughout the State.

Mr. President, there is absolutely no excuse for us in the United States of America to lag behind other industrialized nations in our reading skills—we are going to take the initiative and correct it.

AN ANNIVERSARY TO REMEMBER

Mr. INHOFE. Mr. President, this past Saturday, March 23, marked the 13th anniversary of President Ronald Reagan's address to the Nation in which he outlined a vision of the future based on the common sense wisdom of developing a national defense against missile attack.

To commemorate this occasion, I ask unanimous consent that a transcript of President Reagan's remarks on missile defense from this historic speech be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INHOFE. Mr. President, on that day in 1983, President Reagan announced his decision to begin the long

VOL 142 PT 5 MR 21 — 29 1996 UMI

march away from the suicidal defense doctrine known as mutual assured destruction. In one bold stroke, he singlehandedly committed the Nation to an intense research and development program designed to harness our technology to the task of countering the threat posed by ballistic missiles, and to do it with measures that are defensive. Wouldn't it be better, he asked, "to save lives rather than to avenge them?"

In retrospect, we can see that it was a speech that truly rocked the world. In the context of the closing strategy of the cold war, it posed the decisive final challenge to the Soviet Union. Three years later, at the Reykjavik Summit, extraordinary Soviet efforts to deter Reagan from his commitment to missile defense failed. As a result, the evil empire's days were numbered and Soviet leader Gorbachev knew it.

In the context of domestic politics, Reagan's 1983 speech ignited a passionate debate over defense policy which still continues today. Within just hours after the speech, one of our distinguished colleagues in this body coined the term star wars. Opponents claimed Reagan's idea was a fantasy, that he wanted a perfect astrodome defense which would cost trillions of dollars.

Despite such rhetoric, in the context of science and technology, the speech helped focus inquiries on numerous fronts which led to remarkable breakthroughs. Is it technically feasible, at an affordable cost, to "intercept and destroy strategic ballistic missiles before they reach our own soil or that of our allies?" In 1983, many critics answered "no." Today, such questions are themselves—as Reagan would say—largely "impotent and obsolete."

But still, 13 years later, America has not deployed, nor is it committed to deploy, any national missile defense system. Why? In a fundamental sense, the answer lies in the triumph of politics over science. The real technological barriers have been broken. We have the know-how. Even funding is no longer the real issue.

Rather, it is the many political barriers that remain, and they are formidable. The Soviet Union is gone, and with it, the perceived threat posed by its awesome missile arsenal. Proliferation of missiles to other countries continues, but we are told that any real concern about it is premature. Today's Democrat President, like the Democrat Congresses before him, argues strenuously that the 1972 Anti-Ballistic Missile Treaty should remain as the "cornerstone" of U.S. strategic defense policy. It prohibits the deployment of effective defenses on the theory that deterrence should rest solely on threat of instant retaliation—the same theory President Reagan sought to transcend.

So the struggle for national missile defense continues. "It will take years, probably decades, of effort on many fronts," President Reagan said, and he was right.

Today, I stand proudly with those who remain committed to the moral vision articulated by President Reagan: "That the human spirit must be capable of rising above dealing with other nations and human beings by threatening their existence."

We will continue the efforts President Reagan began. And I hope, that in marking this anniversary, we can take increased devotion to the cause of world peace and freedom—that we can learn from the wisdom, the foresight, the courage and the example of President Reagan.

Like Ronald Reagan before us, we pursue this cause not because some public opinion poll told us it was the popular thing to do. We act because we know it is the right thing to do for our country and for future generations.

EXHIBIT 1

ADDRESS TO THE NATION ON NATIONAL SECURITY BY PRESIDENT RONALD REAGAN, MARCH 23, 1983

The calls for cutting back the defense budget come in nice, simple arithmetic. They're the same kind of talk that led the democracies to neglect their defenses in the 1930's and invited the tragedy of World War II. We must not let that grim chapter of history repeat itself through apathy or neglect.

This is why I'm speaking to you tonight—to urge you to tell your Senators and Congressmen that you know we must continue to restore our military strength. If we stop in midstream, we will send a signal of decline, of lessened will, to friends and adversaries alike. Free people must voluntarily, through open debate and democratic means, meet the challenge that totalitarians pose by compulsion. It's up to us, in our time, to choose and choose wisely between the hard but necessary task of preserving peace and freedom and the temptation to ignore our duty and blindly hope for the best while the enemies of freedom grow stronger day by day.

The solution is well within our grasp. But to reach it, there is simply no alternative but to continue this year, in this budget, to provide the resources we need to preserve the peace and guarantee our freedom.

Now, thus far tonight I've shared with you my thoughts on the problems of national security we must face together. My predecessors in the Oval Office have appeared before you on other occasions to describe the threat posed by Soviet power and have proposed steps to address that threat. But since the advent of nuclear weapons, those steps have been increasingly directed toward deterrence of aggression through the promise of retaliation.

This approach to stability through offensive threat has worked. We and our allies have succeeded in preventing nuclear war for more than three decades. In recent months, however, my advisers, including in particular the Joint Chiefs of Staff, have underscored the necessity to break out of a future that relies solely on offensive retaliation for our security.

Over the course of these discussions, I've become more and more deeply convinced that the human spirit must be capable of rising above dealing with other nations and human beings by threatening their existence. Feeling this way, I believe we must thoroughly examine every opportunity for reducing tensions and for introducing greater stability into the strategic calculus on both sides.

One of the most important contributions we can make is, of course, to lower the level of all arms, and particularly nuclear arms. We're engaged right now in several negotiations with the Soviet Union to bring about a mutual reduction of weapons. I will report to you a week from tomorrow my thoughts on that score. But let me just say, I'm totally committed to this course.

If the Soviet Union will join with us in our effort to achieve major arms reduction, we will have succeeded in stabilizing the nuclear balance. Nevertheless, it will still be necessary to rely on the specter of retaliation, on mutual threat. And that's a sad commentary on the human condition. Wouldn't it be better to save lives than to avenge them? Are we not capable of demonstrating our peaceful intentions by applying all our abilities and our ingenuity to achieving a truly lasting stability? I think we are. Indeed, we must.

After careful consultation with my advisers, including the Joint Chiefs of Staff, I believe there is a way. Let me share with you a vision of the future which offers hope. It is that we embark on a program to counter the awesome Soviet missile threat with measures that are defensive. Let us turn to the very strengths in technology that spawned our great industrial base and that have given us the quality of life we enjoy today.

What if free people could live secure in the knowledge that their security did not rest upon the threat of instant U.S. retaliation to deter a Soviet attack, that we could intercept and destroy strategic ballistic missiles before they reached our own soil or that of our allies?

I know this is a formidable, technical task, one that may not be accomplished before the end of this century. Yet, current technology has attained a level of sophistication where it's reasonable for us to begin this effort. It will take years, probably decades of effort on many fronts. There will be failures and setbacks, just as there will be successes and breakthroughs. And as we proceed, we must remain constant in preserving the nuclear deterrent and maintaining a solid capability for flexible response. But isn't it worth every investment necessary to free the world from the threat of nuclear war? We know it is.

In the meantime, we will continue to pursue real reductions in nuclear arms, negotiating from a position of strength that can be ensured only by modernizing our strategic forces. At the same time, we must take steps to reduce the risk of a conventional military conflict escalating to nuclear war by improving our nonnuclear capabilities.

America does possess—now—the technologies to attain very significant improvements in the effectiveness of our conventional, nonnuclear forces. Proceeding boldly with these new technologies, we can significantly reduce any incentive that the Soviet Union may have to threaten attack against the United States or its allies.

As we pursue our goal of defensive technologies, we recognize that our allies rely upon our strategic offensive power to deter attacks against them. Their vital interests and ours are inextricably linked. Their safety and ours are one. And no change in technology can or will alter that reality. We must and shall continue to honor our commitments.

I clearly recognize that defensive systems have limitations and raise certain problems

and ambiguities. If paired with offensive systems, they can be viewed as fostering an aggressive policy, and no one wants that. But with these considerations firmly in mind, I call upon the scientific community in our country, those who gave us nuclear weapons, to turn their great talents now to the cause of mankind and world peace, to give us the means of rendering these nuclear weapons impotent and obsolete.

Tonight, consistent with our obligations of the ABM treaty and recognizing the need for closer consultation with our allies, I'm taking an important first step. I am directing a comprehensive and intensive effort to define a long-term research and development program to begin to achieve our ultimate goal of eliminating the threat posed by strategic nuclear missiles. This could pave the way for arms control measures to eliminate the weapons themselves. We seek neither military superiority nor political advantage. Our only purpose—one all people share—is to search for ways to reduce the danger of nuclear war.

My fellow Americans, tonight we're launching an effort which holds the promise of changing the course of human history. There will be risks, and results take time. But I believe we can do it. As we cross this threshold, I ask for your prayers and your support.

Thank you, good night, and God bless you.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUARTERLY REPORTS—1996 APRIL

The mailing and filing date of the April quarterly report required by the Federal Election Campaign Act, as amended, is Monday, April 15, 1996. All principal campaign committees supporting Senate candidates in the 1996 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116. Senators may wish to advise their campaign committee personnel of this requirement.

The Public Records office will be open from 8 a.m. until 7 p.m. on April 15, to receive these filings. For further information, please contact the Office of Public Records on (202) 224-0322.

REGISTRATION OF MASS MAILINGS

The filing date for 1996 first quarter mass mailings is April 25, 1996. If a Senator's office did no mass mailings during this period, please submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116.

The Public Records office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office on (202) 224-0322.

COAST GUARD AUTHORIZATION ACT OF 1996

Mr. LOTT. Mr. President, I support the motion to go to conference on S. 1004, the Coast Guard Authorization Act of 1996. Both the House and the Senate have passed versions of this bill. The House called for a conference with the Senate to resolve differences in the bill and appointed conferees. The Senate must respond to this request. We need to do this before the recess so staff can meet and have issues ready for the conferees to vote on in early April.

My colleague from South Carolina opposes going to conference on this bill. I do not understand why he is so opposed to going forward with this basic process. Last time I checked, conference is the process to resolve differences between the House and the Senate. The House has its bill. We have the Senate bill. Conferees sit down together to iron out the differences. Why should he object?

I know there is a provision in the House-passed Coast Guard bill that my colleague opposes. Each year, hundreds of foreign crewmembers file suit in U.S. courts against foreign ship owners in U.S. courts. Since 1989, 724 of these cases have been filed in one Florida county alone. The House bill includes a provision that would address this flood of nonresident crew cases against ship owners being brought in the United States. The House passed this provision as part of the Coast Guard bill twice.

Mr. President, I happen to agree with the House provision. There is no public or private policy reason to litigate these cases in the U.S. legal system.

These cases: Contribute to the overcrowding of court dockets, frustrate the ability of U.S. citizens to obtain timely resolution of their claims, and require citizens to serve as jurors on cases which do not affect U.S. public or private interests.

In Dade County, FL, it costs about $3,000 a day to conduct a jury trial. The U.S. taxpayer and consumer should not bear the cost of litigating these cases in our courts.

Of course we know who opposes this provision—the trial lawyers. There is no reason for these foreign cases to be heard in U.S. courts at the expense of the U.S. taxpayer, but a small handful of trial attorneys enriched by these cases resist any change. The trial lawyers as a group resist this tiny change because they see it as the camel's nose under the tent.

We have seen this from the trial lawyers before:

We saw it with reform of the general aviation liability laws. The lawyers nearly wrecked a whole industry before Congress was able to enact a very modest reform.

We saw it with modest efforts to reform securities laws. The President vetoed this measure at the urging of the trial lawyers and sustained his first veto override.

We saw it as recently as last week with efforts to oppose reasonable product liability laws. The trial lawyers may prevail on the President to veto this as well.

To take a quote from a former candidate, the trial lawyers will oppose any legal reform until hell freezes over, and then they will fight on the ice. That is what is happening here.

The trial lawyers do not care what is good for the country, what makes sense for consumers and businesses, what the burden is to the taxpayer. They only care if it enhances their ability to rake in huge contingency fees. If a change affects that ability, they will oppose it no matter how reasonable or meritorious.

A recent Florida Supreme Court case highlighted the problem created in Florida by lawyers using its courts for the whole world's litigation. In Kinney System, Inc. versus The Continental Insurance Co., the Florida court noted that the growing trend of lawyers filing suit in the United States for injuries occurring outside the United States was growing to abusive levels. The court was concerned about the burden these cases impose on trial courts. The court concluded, "(n)othing in our law establishes a policy that Florida must be a courthouse for the world, nor that the taxpayers of the State must pay to resolve disputes utterly unconnected with this State's interests." I agree.

Mr. President, the forum selection provision in the House Coast Guard bill is a reasonable legal reform that attempts to address part of the problem described in the Kinney case.

The provision will: Help assure the U.S. courts are available for U.S. citizens, provide an alternative to devoting scarce judicial resources to cases utterly unconnected to the Nation's interests, and assure that nonresident alien seamen receive fair treatment.

It does not affect the ability of U.S. citizens or permanent resident aliens to bring suit in U.S. courts.

It does not leave foreign crewmembers without a remedy. The provision would honor forum selection provisions in foreign employment contracts where there is an adequate remedy available to the seaman. And these

VOL
142
PT
5
MR
21
—
29
1996
UMI

remedies are available in other countries. Contrary to what the trial lawyers may want to believe, the United States is not the only civilized nation in the world. I have a whole stack of letters from different countries outlining the remedies available to seamen: Jamaica, Canada, Greece, Italy, Norway.

Mr. President, I could go on, but this issue should be resolved in conference. Its in the House bill—its not in the Senate bill. We need to resolve the differences between the House and the Senate on this important bill and go on and send it to the President. The only way we are going to do this is agree to the House request for a conference and appoint conferees. I urge my colleagues to do that and let the Senate get on about its business.

TRIBUTE TO SENATOR RUSSELL AND SENATOR NUNN

Mr. BYRD. Mr. President, I want to comment on two very distinguished Senators from Georgia, Senator Richard Brevard Russell and his successor, the very able Senator SAMUEL AUGUSTUS NUNN. On January 24, 1996, I had the great pleasure of taking part in the dedication of a statute of Senator Russell in the rotunda of the Russell Senate Office building. The unveiling of Senator Russell's statue last month occurred 25 years after Senator Russell's death in 1971. I was very pleased to be a part of this ceremony, because of my own high regard and esteem for Senator Russell. Twenty-four years ago, in 1972, I offered the resolution to rename the "Old Senate Office Building," as it was then known, in honor of Senator Russell. The grandeur embodied in both the building and the statue are fitting monuments to the very great legacy of statesmanship bequeathed to us by Senator Richard Brevard Russell.

The statue of Senator Russell stands in front of the entry to the Senate Armed Services Committee, where Senator Russell served as chairman for fifteen years during his 38-year Senate career, and where Senator NUNN has served as chairman and ranking member for ten years. Senator SAM NUNN is a worthy successor to Senator Russell's great legacy on national defense. He was first elected to the Senate on November 7, 1972, to complete the unexpired term of Senator Russell, and has since won reelection three times. Together, Senator Russell and Senator NUNN have provided 62 years of remarkable service to the Senate and the Nation, and 20 years of consummate leadership on national defense. If we add to that number the leadership on national defense offered by Senator NUNN's granduncle, Representative Carl Vinson, who for many years was chairman of the House Armed Services Committee, this record of leadership is even more remarkable. Senator NUNN's legacy on defense matters, and his service to the State of Georgia, is equally distinguished.

Like Senator Russell and Representative Vinson before him, Senator NUNN has devoted himself to sustaining and improving the military strength of the United States. He was instrumental in crafting the 1986 Defense Reorganization Act that has shaped the forces that the United States deploys today. He has dedicated himself to ensuring the quality of the all-volunteer force, and to seeing that these men and women are adequately compensated and cared for. He has also fought the Pentagon to preserve systems that DoD did not always want, but which ultimately proved their worth. One such system was the F–117 Stealth fighter, which was invaluable during Desert Storm. Since that fight, Senator NUNN has pushed to spread the benefits of stealth technology to the next generation of fighters, including the F–22. Finally, Senator NUNN has demonstrated his leadership in strengthening and preserving the NATO alliance, complementing U.S. military strength with the seamless and coordinated combined strength of our European allies.

He has become, in the process, a leader in U.S. foreign policy as well. Senator NUNN will be remembered for championing the Nunn-Lugar program to effectively reduce the Soviet nuclear threat to the United States, for his efforts to address and counter the proliferation of weapons of mass destruction, and for his role in shaping and defining the use of U.S. military force. He has been an integral part of every debate concerning the use of U.S. military forces, from Vietnam, to Lebanon, to the Persian Gulf War, to Somalia, Haiti, and Bosnia. I respect the cogent and well thought out arguments that Senator NUNN invariably brings to the discussion. He brings to these difficult debates a mature understanding of the subtleties of each situation and a clear vision of the strategic interests of the United States. To each debate, his talents for achieving a compromise are tested and proven anew. This ability surely will be missed after his departure from the Senate.

Mr. President, the State of Georgia has offered to the Congress and the nation statesmen and leaders of remarkable ability and durability during this century. The Congress and the nation have been the better and the stronger for the service of these sons of Georgia, from Carl Vinson, to Richard Brevard Russell, to SAMUEL AUGUSTUS NUNN. The legacy of these three men alone, and on national defense and security issues alone, is a remarkable testament. I am honored to have served with all three. As I have said before, Senator NUNN stepped into big shoes when he came to the Senate. With his retirement this fall, he will leave an equally large pair of shoes to fill.

Mr. President, I ask unanimous consent that a letter to me from Senator NUNN, along with the transcript of the ceremony, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, February 14, 1996.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: Please find enclosed a transcript of the Richard B. Russell Statute Dedication Ceremony of January 24, 1996. Your active participation in planning and chairing the dedication ceremony ensured its success.

I believe it would be a fitting tribute to Senator Russell for these proceedings to be a part of the historical record honoring his distinguished career. If you deem it appropriate, I would be honored for you, in your role as chairman of this special event, to insert the transcript into the Congressional Record.

I know your heartfelt remarks at the dedication ceremony meant a great deal to Senator Russell's family, friends, and former colleagues. Your personal remarks about my own service in the Senate at the ceremony and later, after my 10,000th vote, will always be among the most meaningful memories of my career in public service.

Sincerely,

SAM NUNN.

Enclosure.

SENATOR RICHARD RUSSELL STATUE DEDICATION, JANUARY 24, 1996, RUSSELL SENATE OFFICE BUILDING ROTUNDA

PROCEEDINGS

Senator NUNN. Our beloved Senate Chaplain, Dr. Lloyd John Ogilvie, will give the invocation.

Chaplain OGILVIE. Let us pray. Almighty God, sovereign of our beloved nation and Lord of our lives, we praise you that you call leaders to shape the course of history.

We have gathered here today to thank you for the impact on history of Senator Richard Russell. Here in this building that bears his name we place this statue of his likeness. May this statue call all of us to the excellence that distinguished his career, the nobility of his character that made an indelible mark on history, and his faith in you that gave him supernatural gifts of wisdom and discernment and vision.

Thank you for the lasting impact of the rare blend of humility and stature, patriotism and statesmanship, that made him a legend in his own time—Georgia's pride, a lodestar leader, a senator's senator for 38 years, and a truly great American. May we measure our commitment by his indefatigable faithfulness and set as a benchmark for our lives his belief that work in the government is one of the highest callings.

In this spirit of dedication to your best for America and in affirmation of this giant of history, we renew our commitment to serve you in the name of Jesus Christ our Lord. Amen.

Senator NUNN. Ladies and gentlemen, please be seated.

Charlie Campbell, the president of the Russell Foundation, will give more elaborate introductions, but let me begin by welcoming the members of the Russell family here today. I understand there are about 100 of you. We are very, very proud to have each and every one of you here.

The Russell trustees and supporters, we welcome you, and we thank you for all of your efforts in making this historic day possible; past and present members of the United States Senate who will be introduced later; and friends and admirers of Richard B. Russell.

This is indeed an important event in the life of the United States Senate. Every day since I have been serving in this unique legislative body, I have considered it a great honor to be the temporary holder of what I think of as the Russell seat in the Senate.

I am also proud that I had the opportunity to follow Senator Russell's footsteps as chairman of the Senate Armed Services Committee, which he chaired so ably for 15 years during the Cold War, the Korean War, the Cuban Missile Crisis, and the construction of the Berlin Wall.

I will never forget when I was a 23-year-old lawyer sitting in the back of the Senate Armed Services Chamber right down the hall as Congressman Carl Vinson of Georgia, the chairman of the House Armed Services Committee, presented the House position on a legislative matter to Senator Richard Russell at the other end of the table, also of Georgia and chairman of the Senate Armed Services Committee. Those were the days for Georgia and for our nation.

Twenty-seven years later, as chairman of the Senate Armed Services Committee, I watched with the rest of the world as the Berlin Wall was torn down, Eastern Europe regained its freedom, and the Soviet empire disintegrated. I have often thought that this occurred without a nuclear war and without worldwide destruction in considerable part because of the wise leadership of Richard Russell and Carl Vinson in building a strong United States and a strong NATO alliance.

[Applause.]

Senator NUNN: When this historic building was named in honor of Richard Brevard Russell in 1972, the powerful imprint of his record of service was still very fresh in the memory of the Senate and of our nation. Today, with the dedication of this magnificent statue, we have occasion to remember why Richard Russell made such an indelible imprint on the history of Georgia, the U.S. Senate, and our nation.

Although our nation is very different today than it was at the time of Senator Russell's election in 1932, or even at the time of his death 25 years ago, his service and his example are more instructive now than ever before.

In this context, no one is better suited to begin this ceremony of remembrance, recognition and dedication than our next speaker. Like Richard Russell, Vice President Al Gore was molded by his southern heritage and by a loving family that encouraged and supported his early and energetic and total commitment to public service.

Like Richard Russell, Al Gore is the son of a prominent political father. Indeed, Al Gore, Sr., served in the Senate with Richard Russell and with many in attendance here today. Richard Russell's own father was Chief Justice of the Georgia Supreme Court, and in that capacity, administered the oath of office when his son became Governor Russell of Georgia.

Just as our vice president was known as "Young Al" when he began his political career, Richard Russell was known as "Young Dick." Like Richard Russell, Al Gore spent a lot of time on the family farm, and as young boy these youthful experiences gave both men a special understanding of people who work with their hands, work in manual labor, as well as an abiding appreciation of conservation and the environment.

Like Richard Russell, Al Gore served on the Senate Armed Services Committee and devoted a considerable portion of his time to building a stronger America and a safer world. Like Richard Russell, Al Gore was elected as a very young man to Congress, and he has dedicated his life to the people of his state and to the people of our nation.

Ladies and gentlemen, please help me welcome the Vice President of the United States.

[Applause.]

Vice President GORE: Thank you.

[Continuing applause.]

Vice President GORE: Thank you very much. Thank you. Thank you very much, ladies and gentlemen.

And, Senator Nunn, thank you for your very kind words of introduction. One of my greatest honors in the time I served in the United States Senate was serving under your chairmanship in the Armed Services Committee, and thank you so much for your kind words.

Senator Byrd and Senator Stevens, two close friends and great leaders of this institution, other members of the Senate who are present—forgive me for not even attempting to single out individual senators because there is such a great turnout and such a large presence here at this event—former members of the Senate who are here, as well.

Governor Zell Miller, thank you for honoring us and this occasion with your presence here, and thank you for your leadership in Georgia and in our country.

To Charles Campbell, Chairman of the Richard B. Russell Foundation; to Frederick Hart, the sculptor; and to Chaplain Ogilvie—thank you for your invocation; to members of the family of Senator Russell—Carolyn Nelson and Pat Peterson especially, sisters of Senator Russell; to all of the other family members who are here.

It is an honor to him that so many of you are present. This really is a very, very special day, and to hear Sam Nunn introduce me with even slight comparisons is beyond what I can—that sets off my hubris alarm, Sam, because Senator Russell is rightly regarded as a legend, and all who had the privilege of serving with him understand that.

Incidentally, not too many days ago some tourists remarked to an acquaintance of mine from Tennessee that they had seen the Al Gore statue on the White House lawn, and I said, "What day was that?"

[Laughter.]

Vice President GORE: It's been so cold here recently people who don't know me thought I was frozen stiff. But in any event, ladies and gentleman, from this day forward, in the Rotunda of this majestic building named in his honor, a statue of Richard Brevard Russell will stand sentry. Georgia's senator, America's senator, a legendary figure in American politics will gaze over us—a fitting tribute to a towering presence.

I knew Senator Russell when I was a young man. I did not have the opportunity to serve in the Congress during his time of service, but my father's service in the Congress overlapped with his for 32 years. These two men had a great deal in common. Eighteen of those years my father served in the Senate with Senator Russell. Both were sons of the South and both provided shoulders on which a new generation of Democrats now stands.

Both believed that public service was an honorable calling that demanded common courtesy and rewarded basic decency. Both marched in the direction pointed by the compass of their conscience, no matter the prevailing winds or the calls to shift their course.

I remember often hearing my father say that whatever their occasional disagreements—and they did have some; on occasion they stood toe to toe, but when it came to certain core ideals; love of country, devotion to duty, respect for principles, they always saw eye to eye. But whatever the occasional disagreements, on one matter my father was resolute whenever he spoke about Senator Russell. Dick Russell had a heart of gold and was one of the most honorable individuals ever to serve in the United States Senate throughout its more than 200-year history.

To six United States presidents, Richard Russell was a mentor and an occasional menace. He stood up for Franklin Roosevelt at the 1932 Democratic Convention, nominating him for president when some people thought Roosevelt couldn't win. And then he stood up to Roosevelt a few years later, casting a deciding vote against his court-backing plan when some people thought Roosevelt couldn't lose.

He challenged Harry Truman for the presidential nomination in 1948, but he challenged the nation to honor Truman's authority as Commander-in-Chief when he presided over the Senate's Army MacArthur hearings three years later.

President Johnson knew him best among all the presidents served by Richard Russell, and the relationship between Richard Russell and Lyndon Johnson began as so many of his relationships had. Johnson was the student, and Russell was the teacher.

They became very, very close friends, even though they too had occasional disagreements and feuded from time to time. And Johnson owed much of his rise to the benevolence and wisdom of the Georgia Giant.

Senator Russell, we all remember, was an austere man, and, ironically, Johnson lavished him with gifts from time to time-fancy neckties, glass bowls, one time a watch just like the one that President Johnson wore. And, as the story goes, one Christmas Johnson gave Senator Russell a beautiful Christian Dior handkerchief. The Senator thanked him, and he said, "Now, Lyndon, I'm going to have to buy a new suit to go with this."

When Johnson was vice president, he hosted a dinner in Senator Russell's honor, which was a grand affair swarming with cabinet officers, elected officials and Washington's elite. And at that dinner, Johnson told the assembled gathering that if he were able to personally choose the president of the United States, he would select Richard Russell.

Richard Russell was indeed a president's senator and a senator's senator. And if things had gone a little bit differently, if the South had been a little bit different, if other things had been just a little bit different, he might have been a senator's president.

On some things Senator Russell was way ahead of his time, a little bit like that great Barbara Mandell song "I Was Country Before Country Was Cool." For example. Richard Russell was reinventing government before reinventing government was cool.

We're still in that period before reinventing government is cool.

[Laughter.]

Vice President GORE: As governor, he reduced the number of state bureaus, commissions and agencies from 102 to 17. He cut the cost of government 20 percent, saved the state the then-astronomical sum of a million dollars. He knew that a government that didn't spend money as wisely and carefully

VOL
142
PT
5
MR
21
—
29
1996
UMI

as a family could never earn any family's respect.

On national security, of course, Senator Russell had no peer. He championed a robust national defense, and he helped build a Pentagon that was the envy of the world. He also influenced all of those who came after him. Many members of the United States Senate today owe something of their bearing and approach to the job to their learning experience in watching Senator Russell.

In fact, I have sometimes though—and I dare say I'm not the only one—in watching the level of excellence brought to the job of chairman of the Armed Services Committee and now ranking member by Sam Nunn—that his experience, along with others, in watching Senator Russell was an important factor in giving our nation the degree of commitment to public service that we find from so many who watched Senator Russell carefully.

But perhaps his most lasting influence was on matters that were less explosive and less immediately tied to life and death, less immediately newsworthy—bringing electricity to rural America, getting loans for Georgia's farmers, making sure that poor children could eat a decent lunch at school. And there was always that reverence to his life, his spartan apartment, his utter devotion to the Senate as an institution, his enduring selflessness that inspired even those with whom he disagreed.

I do understand that more than 100 members of the Russell family are here this afternoon, and we all thank you for sharing your outstanding brother, uncle, cousin with the United States of America.

I guess we all should have expected, however, that even at the dedication of his statue, Senator Russell would make certain he had the votes to come out on top in case any question was put.

[Laughter.]

There's no need to worry about that this afternoon. Today and forever, this leader, this patriot, this legend, remains where he belongs—in the Senate standing tall.

[Applause.]

Senator NUNN. Thank you very much, Mr. Vice President. Richard Russell was an astute judge of the character and the quality of his fellow senators. He made his judgment, not only on the basis of their words, but also on the basis of what he observed—their deeds. When Richard Russell determined that you were a man or woman of honor, he was your champion for life.

One young senator who met this Russell test was Robert Byrd. The last vote Senator Russell cast before he died was cast from his hospital bed in favor of Robert Byrd's bid to become the majority whip of the Senate in 1971.

Senator Russell was an advisor and confidant to six presidents. He served under seven, but only a brief time under one. He had the deepest respect for the office of President, so much so that he never called any sitting president, even his old friend and protege Lyndon Johnson, anything but Mr. President.

With a similar respect, Senator Byrd never called Senator Russell anything but Senator Russell. Senator Russell believed strongly in the independence and coequal role of the Congress of the United States, and he insisted on more than one occasion that he had not served under six presidents, Al, but, rather, he served with six presidents—a real difference.

Like Richard Russell, Robert Byrd reveres the Senate of the United States, not just because he serves in it, but because of his respect for its role in the history of our nation and the world. Like Richard Russell in his day, Robert Byrd by the power of his intellect, by the depth of his understanding of history and the Senate rules, by the strength of his character and by his faith in God, is today the custodian of the Senate ideals that go back, not only to the founding fathers but, indeed, to ancient Rome.

Like Richard Russell, Robert Byrd embodies the traditions, the dignity, and, indeed, the honor of the United States Senate. It is my great privilege to introduce the honored friend of Richard B. Russell, Robert C. Byrd.

[Applause.]

Senator BYRD. Thank you.

Mr. Vice President, my colleagues, fellow Americans, ladies and gentlemen.

If I appear today to wear a pained expression, that's because I have some pain. If any of you have ever had the shingles, you know what I'm talking about. Although a great number of people think I wear that expression all the time.

[Laughter.]

And they're not far wrong.

I want to thank, first of all, the Senate Chaplain, Dr. Ogilvie, who performed the most important part in the program. I thank Mr. Campbell for inviting me to participate in this program. And I thank Sam Nunn. He stepped into some big shoes when he came to the Senate, and those shoes fit today.

[Applause.]

The Duke of Wellington once said that the presence of Napoleon on the field was worth 40,000 men in the balance. And so it is when Sam Nunn speaks on the subject of our national defense. He has no peer in the Senate, and everybody listens.

Let me say that I'm very grateful for the presence of so many of our colleagues here today. My eyes are growing dim, but I had the pleasure of personally greeting some of my colleagues before I came up here. So I want to thank John Warner and Danny Inouye and former Senator and former Judge Mr. Griffin; Thad Cochran and Jesse Helms, Mark Hatfield and Paul Sarbanes; and the only man in the Senate who has served longer in the Senate than I have. Strom Thurmond.

[Applause.]

Senator Byrd. That is in the Senate.

My tenure on the Hill is a little bit more than Strom's. Claiborne Pell. And our old friend Russell Long.

[Applause.]

Senator Byrd. Our great friend Mac Mathias, Paul Coverdell. I think I see Ted Moss and Wyche Fowler. There may be others. You'll forgive me if I can't see you from here, but thank you for coming.

When I first came to the Senate in January 1959, my office was in Room 342 of this building, then known as the Old Senate Office Building. That was still 13 years before the Senate would adopt the resolution that I offered renaming the building in honor of Senator Richard Brevard Russell.

Yet even though his name was not yet affixed to the wall of the building, it might well have been because he was the senator, the uncrowned king of the southern block, and he was as truly a Senate man as was Henry Clay or Daniel Webster or John C. Calhoun or Thomas Minton or any of the other giants who had preceded him.

Back in January 1959, I was the other relatively young senator of 41. Twenty years my senior, Senator Russell had already served over a quarter of a century in the United States Senate. He was a patrician in all aspects of the word, and of all the senators with whom I have served over these past 37 years, he was the only senator whom I never addressed by his first name when speaking to him personally. That was the measure of my respect and admiration for Senator Richard Russell.

On many occasions I sought his opinion and advice, and I always found him courteous and easy to talk with. He was urbane and scholarly, courtly and polite, a statesman by every definition.

His arrival in Washington in 1933 coincided with the start of Franklin Delano Roosevelt's New Deal Administration. Recognizing the severity of the Great Depression, Senator Russell gave loyal support to President Roosevelt whom he viewed as a great leader who sympathized with the problems of ordinary citizens. Russell's colleagues quickly recognized the talents and the abilities of this young senator. As a freshman, he won an almost unheard of appointment to the Senate Appropriations Committee.

Richard Russell never married. We used to say he was married to the Senate. Governor Miller, he studied its traditions and its customs, its rules, its history and its practices assiduously. Ted Stevens, Senator Russell avoided speaking often on the floor but preferred to do his work quietly in the committee rooms.

Senator Russell's philosophy of government was rooted in constitutionalism. His belief in the limits of federal power and the separation of powers among the three equal branches of government was the main force behind his opposition to what were popularly known then as civil rights acts. His attitude toward the role of government he summed up once by saying, "I am a reactionary when times are good; in a Depression, I'm a liberal."

He was always regarded as one of the most fair and conscientious members of this body. The truth of this was clearly demonstrated during the Senate inquiry of President Truman's dissmissal of General Douglas MacArthur from his command in Korea. Senator Russell presided over those hearings from May 3 to June 27, 1951. During that time, he was unfailingly courteous and was particularly solicitious of the General's views. In hindsight, it has been claimed that his judicious handling of this volatile event did much to diffuse an explosive situation.

Through it all he served his nation well. Richard Russell followed his own star. He did not pander. His confident was his conscience. He was always the good and faithful servant of the people. He was good for the Senate, and he loved it dearly. I can say without any hesitation that he was a remarkable senator, a remarkable American, a remarkable man who enjoyed the respect and the affection of all who served with him.

In the death of Senator Russell, I felt a great personal loss. From my first days in the Senate, I looked upon him as my mentor, and he was the man I most admired in Washington, a man of great intellect, the finest of public servants, and his patriotism of love, of country, will never be excelled.

"I saw the sun sink in hte golden west. No angry cloud obscured its latest view. Around the couch on which it sank to rest shone all the splendor of a summer day and long the lost of view its radiant light reflected from the skies delayed the night. Thus, when a good man's life comes to a close, no doubts arise to cloud his soul with gloom, but faith triumphant on each feature glows, and benedictions fill the sacred room. And long do men his virtues wide proclaim, while generations rise to bless his name."

And so to his kinspeople, to his kinspeople and his host of friends, I say, I am honored indeed to have been invited to participate in this ceremony in which we dedicate this handiwork of the sculptor to the memory of Richard Brevard Russell, late a senator from the state of Georgia. How poor this world would be without the memories of its mighty dead. Only the voiceless speak forever, the memory of this noble man will ever be like a star which is not extinguished when it sets upon the distant horizon. It but goes to shine in other skies and then reappears in ours as fresh as when it first arose.

[Applause.]

Senator NUNN. The distinguished senator we will hear from next also served with Senator Russell, but from across the table. Like Richard Russell, Ted Stevens' record of supporting his state's concerns and his record on national and international issues have made him a formidable force in his own home state and throughout the nation. In his own state of Alaska, his record discourages most potential opposition and crushes those who are daring enough to run against him.

Like Richard Russell, Ted Stevens has chaired the Defense Appropriations Subcommittee and has been an effective proponent of a strong national defense. Like Senator Russell, Ted Stevens is a champion of both our veterans and our men and women in uniform, and he fights to see that our troops have the weapons and the equipment they need to prevail in combat.

Like Richard Russell, Ted Stevens believes that when our flag is committed, it is time to transcend partisan politics and to support our troops. Richard Russell once described the legislative process well when he said, quoting him, "Only through a meeting of the minds and by concessions can we legislate."

Like Richard Russell, Ted Stevens understands that the legislation requires cooperation and coalition building in both political parties, not only to pass but to last.

Ted, to you and to my good friend and colleague Paul Coverdell, one message to majority leader Bob Dole who wanted to be here today but had other pressing commitments. In Georgia, we have a small town that might remind Bob Dole of home in case he ever has any reason in the next few weeks or months to wander into our territory, and it's called Russell, Georgia. We'll be proud to have him there at any time.

I am proud to present to you the distinguished senator from the state of Alaska, a friend of Richard Russell, the Honorable Ted Stevens.

[Applause.]

Senator STEVENS. Thank you very much, Senator Nunn. You embarrassed me with that introduction. I am delighted to be able to pinch-hit for Senator Dole and to be here with this distinguished group.

After listening to my good friend—and he is my great friend—Senator Byrd, I am reminded of a friend of mine that told me when he was ready to make a speech he felt like Lady Astor's seventh husband. He knew what he had to do, but he didn't know how to make it interesting.

[Laughter.]

Senator STEVENS. After a speech such as Senator Byrd's and the vice president's, I'm humbled to be here. But I am delighted to be here, Sam, because as you said, Senator Russell was the Chairman of the Subcommittee that I've been chairman of twice now, and that's the Defense Subcommittee, and I really feel greatly the responsibility of that position.

Because he spent half of his lifetime in the Senate and enjoyed relationships with every president from Franklin Roosevelt to Richard Nixon, as you've heard, Senator Russell had a deep understanding of the nation and a deeper understanding of how our government works, more so than most Americans.

He was very generous in sharing his wisdom and insight with new senators regardless of their political affiliation. That legacy lives on today, and I am one of the beneficiaries as Senator Nunn mentioned. Senator Henry "Scoop" Jackson and Senator Mansfield, Senator Stennis are people who served with him. They served as mentors for me and others, regardless of politics.

When we came to the Senate, and I came to the Senate 28 years ago, we were the recipients of the attention of Senator Russell, and we were guided by the senators that he had so well instilled with the love of this institution. As they took us under their wing, as Senator Russell had done to them, they counseled us in our first years in the Senate. Those were years when senators were seen and not heard for a few years, but I was an appointed senator so they sort of made an exception because they weren't sure I'd be back.

I think that there was no question that at that time we all recognized that we were serving with the foremost congressional authority on our nation's defense, and really the architect of our nation's security. He was chairman of the Armed Services Committee and chairman of the Defense Appropriations Subcommittee at the same time as I recall. I always remember that because I'm sorry that I can't enjoy that same circumstance. Senator Hatfield will understand that.

But it is something for all of us to remember that he worked primarily to assure that this nation remained strong. And he was very bipartisan in dealing with that, and I'm very serious about saying he took time with young senators to explain his understanding of defense and why it was so necessary to keep such a firm foundation.

I think he played a greater role than any other senator in shaping the defense establishment of our post-World War II period here in America. President Nixon said this of Senator Russell: When the security of the United States was at issue, six American presidents leaned upon this great patriot, Richard Russell. He never failed them.

By remaining bipartisan, Senator Russell kept our nation from retreating into isolationism during a period that was very essential to our history, the period right after World War II.

Long before Dwight Eisenhower became president, Senator Russell and Ike were great friends. Their friendship continued and grew after Eisenhower was in the White House.

In testimony to America's spirit of democracy throughout the world, Senator Russell showed our nation the importance of rebuilding, rebuilding not only our nation but our enemies'—Germany and Japan—after World War II.

Ensuring that the Marshall Plan became a reality was one of Dick Russell's real goals, and he was most successful. And while he was a tower of strength for our national defense, I am sure you know, Sam and the senators here from Georgia, he was a faithful representative of the people of Georgia. He saw better than others the future of the burgeoning discoveries in science and ensured that funds would be available for research in new technologies in medicine, agriculture and in conservation.

I feel truly honored to have been able to serve with Richard Russell, and I am deeply honored to my friend Robert Dole for being elsewhere so I could say it here today. Twenty-five years ago, just a few years after his death, I was a young senator, but I joined other senators in paying tribute to our departed friend.

Let me just repeat now what I said then. He never sought publicity nor attempted to impress his colleagues with flashy rhetoric, but that is not to say he was not a forceful advocate and a fierce adversary. I am confident that history will mark him as a consummate statesman who transcended regional boundaries to become a senator for all here in the United States. He was a paragon worth emulating by those who would pursue a life in public service.

Nothing has changed in the 25 years since I said those words. Russell is still a great influence, his legacy is alive today as it was then, his achievements and unique abilities will never be forgotten as Senator Byrd has so ably said, and I'm pleased to be here to be part of the dedication of this statue and pleased even more, as I said, to have been fortunate enough to have been able to serve with this great man, Richard Russell.

Thank you very much.

[Applause.]

Senator NUNN. Like Richard Russell, our next speaker has dedicated his life to public service, and has recognized that political leadership is an honorable calling. Like Richard Russell, Zell Miller comes from north of what we in Georgia call "The Gnat Line," the geological fall-line that separates north Georgia from south Georgia, with 90 percent of the gnats on the southern side of the line where I live.

Many north Georgia politicians never get elected because they never master a vital skill; that is, to be able to blow away the gnats and talk at the same time.

[Laughter and applause.]

Senator NUNN. Like Richard Russell, Zell Miller clearly mastered this skill despite his geographic disadvantage.

Like Governor Richard Russell and Senator Richard Russell, Governor Zell Miller has been a champion of job creation and fiscal responsibility.

Like Richard Russell, Zell Miller has a powerful commitment to the education of all of our children. As governor of Georgia, Richard Russell recognized and reorganized higher education. He established the Board of Regents and paved the way for Georgia's top institutions to become leaders in our nation.

In Washington, Senator Russell was the father of the school lunch program, one of his proudest accomplishments.

As governor, Zell Miller established the HOPE Scholarship Program which enables every student in Georgia who achieves a B average in high school to receive free tuition in college for as long as they maintain a B average. Currently, over 105,000 Georgia students are being helped by this program.

[Applause.]

Senator NUNN. As governor, Zell Miller is the father also of Georgia's pre-kindergarten program, the most comprehensive program for four-year-olds in the entire nation, one of his proudest accomplishments.

Ladies and gentlemen, I am proud to introduce the Governor of Georgia, my good friend, the Honorable Zell Miller.

[Applause.]

Governor MILLER. Thank you.

Thank you very much, Senator Nunn, for that introduction, but, most importantly,

VOL
142
PT
5
MR
21
—
29
1996
UMI

thank you for all that you have done for our state of Georgia and for this nation.

[Applause.]

Governor MILLER. Mr. Vice President, Senator Byrd, Senator Stevens, Senator Coverdell, other members of the U.S. Senate present and past, members of the Georgia Congressional Delegation past and present, Russell Foundation Chairman Charles Campbell, former Georgia Governor Ernest Vandiver, and Mrs. Betty Russell Vandiver and all the members of the Russell family——

[Applause.]

Governor MILLER [continuing]. Distinguished guests and ladies and gentlemen.

It is certainly a great honor to be on this platform and to have this opportunity to speak on behalf of the state of Georgia at this ceremony. Although it has now been 25 years, a quarter of a century, since his passing, many of us knew and still vividly remember Richard Russell.

Some knew him as a senator's senator whose knowledge and reverence of the United States Senate as an institution was so deep that even his colleagues who opposed him on the issues or bad conflicting philosophies of government had a level of respect for him that bordered on reverence.

Others knew Richard Russell as a president's senator, personal advisor, as we have known, to six Presidents beginning with Franklin Roosevelt. It was often said that the only power that the president had that Dick Russell didn't have was the ability to push the button. And no president would have thought of pushing that button without first consulting with Senator Russell.

But back home in Georgia we knew him as our senator, and when we sent him to Washington in 1933, it was because we already knew what a remarkable leader this man was.

Dick Russell became the youngest member of the Georgia Legislature when he was elected state representative at the age of 23, and he became Speaker of the House of Representatives in Georgia while he was still in his 20s. He was elected the youngest governor in Georgia's history at the age of 33. During those early years in state government, he honed the leadership skills that served him so well in Washington.

He was open, he was honest in his dealings, he was always fair and civil to both sides in an argument, and once he had given his word he stood by it without equivocation.

He was a genuine representative of the people who shunned political labels and special interests, and he was scrupulous about doing his homework on the issues, so that when he spoke, it was from personal understanding.

The Dick Russell we Georgians knew regarded public service as his life and his work and devoted himself unstintingly to it. He worked 12-hour days, cooked his own meals, washed his own socks in an austere bachelor apartment. He cared deeply about his large family, and his only indulgence was frequent visits with his kinfolk at the Russell family home in the little town of Winder, Georgia.

Many of you, of course, remember him as Mr. Defense, the powerful chairman of the Senate Armed Services Committee. And in Georgia, we still feel the positive economic impact of the many federal facilities be brought to our state.

In Georgia, we also remember, however, that by his own measure, as Senator Nunn mentioned awhile ago, in his own mind the highest accomplishment of his career and the only piece of legislation for which he jealously guarded his authorship, was the school lunch program.

Here in Washington, his name lives on in this impressive Senate Office Building. In Georgia, the infrastructure is a little less imposing. The post office in Winder is named for him, as is an elementary school in Cobb County, an agriculture research center in Athens, the federal district courthouse in Atlanta, an Army Corps of Engineers reservoir, and a scenic stretch of north Georgia highway.

But we really remember him better through ideas and intellect, the Russell Chair in American History at the University of Georgia; the Russell All-State High School Debate Championship; the Russell Teaching Awards; the Russell Leadership Program for Outstanding College Students; the Russell Public Policy Symposium; and the Russell Library for Political Research and Studies.

These activities are supported by the Richard B. Russell Foundation, which also commissioned this statue to bring a remembrance of the man himself into this building that honors him.

But at the same time that we always remember Richard Russell as Georgia's senator, the unfailing champion in Washington of our interests and our state, at the same time we remember that, as another great Georgia Senator by the name of Sam Nunn pointed out, Richard Russell was a statesman.

And these are Sam Nunn's words: He understood the simple and powerful truth that the best way to serve your state is to do the best job you can in serving your nation.

And that is what made him a senator's senator and a president's senator and a Georgia's senator, and a senator for the ages.

[Applause.]

Senator NUNN. Ladies and gentlemen, to conclude our program and acknowledge our special guests and, in particular, the Russell family, I would like to call on Mr. Charles Campbell.

Charlie served on the staff of Senator Russell during the last six years of his life and was his administrative assistant at the time of Senator Russell's death. Senator Byrd will recall that Charles was with Senator Russell when he cast his last vote that I mentioned earlier and that Senator Byrd mentioned—his vote by proxy from his hospital bed in 1971 for Senator Byrd to be majority whip.

It is my pleasure to introduce the Chairman of the Richard B. Russell Foundation and someone who must have been the youngest administrative assistant in the history of the United States Senate, Mr. Charlie Campbell.

[Applause.]

Mr. CAMPBELL. Thank you, Senator Nunn. Vice President Gore, Senator Byrd, Senator Stevens, Senator Nunn, Governor Miller, other distinguished guests, friends and family of Senator Russell, ladies and gentlemen.

On behalf of the Russell Foundation, it is my pleasure to welcome you to the dedication and unveiling of the Russell statue and to thank you for your attendance.

There are so many distinguished guests present that we cannot hope to recognize all of them, but I know Senator Russell would be particularly pleased with the large number of currently serving and former members of Congress in the audience. And I would like to ask all of the currently serving and former members of Congress, both House and Senate in attendance, to please stand and let us recognize them.

[Applause.]

Mr. CAMPBELL. I want to recognize individually the senators who are here and who served with Senator Russell. You have already met Senator Byrd and Senator Stevens. The other senators who served with Senator Russell and who are present today and still serving in the Senate are:

Senator Mark Hatfield of Oregon.

Senator William Roth of Delaware.

Senator Strom Thurmond of South Carolina.

Senator Claiborne Pell of Rhode Island.

And Senator Daniel Inouye of Hawaii.

I'd like to ask them to please stand and be recognized.

[Applause.]

Mr. CAMPBELL. We are also delighted to have present certain former members of the Senate who served with Senator Russell, some for extended periods of time. I would now like to recognize these senators:

Senator Vance Hartke of Indiana.

Senator Birch Bayh of Indiana.

Senator Charles Mathias of Maryland.

Senator Robert Griffin of Michigan.

Senator Russell Long of Louisiana.

Senator Mike Mansfield of Montana.

Senator George McGovern of South Dakota.

Senator Frank Moss of Utah.

Senator William Proxmire of Wisconsin.

And Senator Harrison Williams of New Jersey.

I'd like to ask these senators to stand, please, and be recognized.

[Applause.]

Mr. CAMPBELL. As many of you know, Senator Russell was one of 13 brothers and sisters, and the Russell family is an exceedingly large family. It is well-represented here today. I would like to ask each member of the Russell family in attendance to please stand.

[Applause.]

Mr. CAMPBELL. We also have with us a number of the members of Senator Russell's staff or the staff of the committees which he chaired or on which he served, and I would like to ask the members of the Russell staff who are in attendance to please stand.

[Applause.]

Mr. CAMPBELL. The Russell Foundation, of which I am honored to serve as Chairman, is fortunate to have a dedicated Board of Trustees, the names of whom are published in your program. A number of the Russell trustees are in attendance today, and I would like for them to stand and be recognized.

[Applause.]

Mr. CAMPBELL. Each of the donors who contributed $5,000 or more to the Russell statue are listed in your program, and I would like to ask the individual contributors or representatives of corporate contributors who are in attendance today to please stand and be recognized.

[Applause.]

Mr. CAMPBELL. A project such as the Russell statue could not be accomplished without the assistance of a lot of people. I particularly want to thank Senator Sam Nunn and his staff for the many things they have done to bring this project to fruition, and I also can't let the occasion pass without saying, Senator, particularly in light of your retirement now, how much we appreciate your 24 years of Richard Russell-type service in the United States Senate.

[Applause.]

Mr. CAMPBELL. Senator Paul Coverdell and his staff have been of immeasurable assistance to us in putting on this program, and I want to ask Senator Coverdell to please stand and be recognized.

[Applause.]

Mr. CAMPBELL. Senator Russell's close friend, Senator Robert Byrd, has served as the official sponsor of the dedication of the Russell statue and the reception that will follow in the Caucus Room on the third floor of the Russell Building, to which you are each invited. I would like to thank Senator Byrd and his staff for all of the help they have given us with the Russell statue dedication.

[Applause.]

Mr. CAMPBELL. With respect to the Russell statue itself, we are indebted to the stone carver and the sculptor. As you will see when the statue is unveiled in a few minutes, the master stone-carver at the National Cathedral, Mr. Vincenzo Palumbo, who carved the Russell statue from a large block of white Italian marble using the model developed by the sculptor, did an outstanding job. I would like to ask Mr. Palumbo and his family to stand and be recognized.

[Applause.]

Mr. CAMPBELL. We were particularly blessed to have a talented sculptor who had a special interest in this project. The Russell Foundation selected Frederick Hart from a number of sculptors who were interviewed. We were particularly impressed by some of his public works, including the soldier figures at the Vietnam Memorial, and the Creation sculptures at the entrance to the National Cathedral here in Washington.

Frederick Hart is a native of Atlanta, Georgia, and he was already well-acquainted with Richard Russell's career before commencing his work on the Russell statue. In fact, his father was in the television business and was active in the 1952 campaign for the Democratic presidential nomination on behalf of the late Senator Estes Kefauver of Tennessee who was a candidate for president that year.

Senator Russell was himself a candidate for president in the 1952 Democratic Presidential Primaries.

Frederick Hart is not only an excellent sculptor, but was a pleasure to work with on the Russell statue. I would like to ask Rick and his wife and two sons who are in the audience to please stand and be recognized at this time.

[Applause.]

Mr. CAMPBELL. And before we unveil the Russell statue, I would like to make a request of three groups, if they would, to, after the dedication is over, come down front so we can have some photographs made of these groups with the statue.

The first ones are senators here who served with Senator Russell, both currently serving senators and former senators.

Secondly, the Russell trustees.

Third, the Russell staff.

If you would come down after the dedication is over to the front so we can have some photographs made with the statue.

Now, for the unveiling of the statue. I would like to ask the sculptor, Frederick Hart, and Senator Russell's two surviving sisters, Mrs. Pat Peterson and Mrs. Caroline Nelson, who are seated over here, to come forward to unveil the statue.

[The statue is unveiled.]

[Sustained applause.]

Mr. CAMPBELL. Rick, I think that Senator Russell, who was known to be quite a critic of portraits and likenesses, would say that it's a great job, and thank you so much.

That concludes our program. Everyone is invited to the reception up on the third floor in the Caucus Room, and thank you very much for attending.

[Applause.]

[Whereupon, the ceremony was concluded.]

DR. VERNE CHANEY

Mr. PELL. Mr. President, before entering the Senate I was closely associated with the International Rescue Committee [IRC], serving as a vice president in charge of IRC's Washington office. During my time with IRC, I had the privilege of knowing the legendary Dr. Tom Dooley, who helped to found Medical International Cooperation [MEDICO] as a division of the IRC with the goal of providing medical assistance to the underserved in Southeast Asia.

In 4 short years with MEDICO, Dr. Dooley established 17 medical programs in 14 countries and raised millions of dollars for their support. Dr. Tom Dooley truly became a legend in his own time.

Tragically, Dr. Dooley died of cancer in January 1961, one day after his 34th birthday. However, Mr. President, Dr. Dooley's magnificent work did not cease with his death. A dedicated colleague, Verne Chaney, M.D., gave up a lucrative private practice of thoracic surgery in Monterey, CA, to establish the Dooley Foundation. This year marks the 35th anniversary of the Dooley Foundation and Dr. Chaney has served as its president throughout the 35 year of its existence.

I want to take the occasion of this anniversary to recognize and pay personal tribute to the outstanding contribution which Verne Chaney has made in fighting disease, ignorance, and suffering in so many underserved areas of the world.

Dr. Chaney, a native of Kansas City, MO, and an honor graduate of the Virginia Military Institute, developed an interest in medical assistance work very early in his career. Even before graduating from the Johns Hopkins Medical School in 1948, he spent two summers in Newfoundland and Labrador as a volunteer assisting local doctors in small cottage hospitals. One day after the Korean war broke out on June 25, 1950, Dr. Chaney resigned his position as resident in surgery at the Johns Hopkins Hospital to volunteer with the Army Medical Corps.

He was assigned to a Mobile Army Surgical Hospital [MASH] in Korea. He then volunteered for assignment to a battalion aid station with the 23d Regiment of the 2d Infantry Division where he served for 13 months. Captain Chaney was highly decorated, receiving the Silver Star, Bronze Star (V), Purple Heart, and the French Croix de Guerre.

After an honorable discharge, he continued his residency in thoracic surgery at the Johns Hopkins Hospital and the University of North Carolina. Soon after completing his residency, Dr. Chaney volunteered to work at the Hospital Albert Schweitzer in Haiti as chief of surgery. After 15 months, Dr. Chaney returned from Haiti and entered into the private practice of thoracic surgery in Monterey, CA.

A defining moment in Dr. Chaney's life occurred in the summer of 1960, when he met Dr. Tom Dooley. Dr. Dooley was recruiting for MEDICO and asked Dr. Chaney to volunteer for 3 months in Cambodia and Vietnam to perform surgical procedures and to train host country health personnel. Dr. Chaney quickly agreed and was assigned to work in a hospital in Kratie, Cambodia, and at a tuberculosis hospital in Quang Ngai, South Vietnam. He was also asked to provide clinical services at the An-Lac Orphanage in Saigon.

After finishing his first assignment with MEDICO, Dr. Chaney returned to private practice in Monterey, CA. On the night of Tom Dooley's death he was asked by Tom's brother, Malcolm, to accept the position of medical director for MEDICO's projects in Asia. Taking a leave of absence from his practice, Verne Chaney spent the next year overseeing medical programs in Afghanistan, Cambodia, Hong Kong, Laos, Malaysia, and Vietnam.

In the fall of 1961, MEDICO had a severe financial problem; and was forced to cut back its overseas projects, later becoming a division of CARE. However, Dr. Chaney was determined to continue independently the overseas projects started by Tom Dooley and in September 1961, he established the Dooley Foundation in San Francisco, CA. Under the aegis of the Dooley Foundation, medical assistance projects were continued in Cambodia, Hong Kong, Laos, Vietnam, and with Tibetan refugees in northern India. In spite of his heavy responsibilities with the Dooley Foundation, Dr. Chaney, in 1965, volunteered to work for several months with Dr. Albert Schweitzer in Lambarene, Gabon, to provide medical and surgical services.

With the end of the Indochina war in December 1975, and the takeover by the Communists, the Dooley Foundation was forced to leave the region. However, the foundation found new opportunities for service.

Over the years, project activities have included the training of nurses and physical therapists in Nepal; assistance to refugees from Laos and Cambodia in Thailand; medical and educational assistance to Tibetan refugee children in India; medical assistance to a clinic for nomads in Niger; and medical assistance to refugees and internally displaced persons in El Salvador, Honduras—partially financed by a contract with USAID—Nicaragua and Afghan refugees in Pakistan. New medical assistance projects are pending in Laos, Cambodia, and Mongolia.

Mr. President, as Dr. Chaney looks back on his 35 years of service with the Dooley Foundation, he can indeed take

VOL
142
PT
5
MR
21
—
29
1996
UMI

great satisfaction in the accomplishments of the foundation. However, it is also appropriate to note that the need to serve the world's underprivileged continues. So long as there are children and villagers in the developing nations of the world who are without adequate nutrition, sanitation, and clean water; so long as immunizations against preventable diseases are lacking; so long as mothers are ignorant of proper hygiene and nutrition, there is need for the person-to-person humanitarian care which has been provided by the Dooley Foundation and for the inspiring leadership and service of physicians like Verne Chaney.

In closing Mr. President I want to quote Dr. Chaney directly: "but the task is never done—though battles are won—the war against hunger, disease, and ignorance is unending and must be fought by men and women united by a consciousness of the brotherhood of man." As Edmund Burke said, "The only thing necessary for the triumph of evil is for good men to do nothing."

Mr. President, our country has always been very proud of the American tradition of selfless humanitarian service to the less fortunate of the world—which dedicated Americans like Tom Dooley and Verne Chaney so beautifully exemplify. Their devotion to serving others is an inspiration for all of us.

CONGRATULATING THE FORT HAYS STATE MEN'S BASKETBALL TEAM

Mr. DOLE. Mr. President, once again, the 1995–96 basketball season has shown the Nation that when it comes to basketball, the State of Kansas is head and shoulders above the rest. I would like to congratulate the University of Kansas men's and women's basketball teams for once again making it to the NCAA tournament, and I would like to congratulate Kansas State University on their season and entry into the NCAA tournament. While both of these schools had great seasons, the year belongs to Coach Gary Garner and the Fort Hays State Men's Basketball Team for their outstanding 1995–96 season, which they capped off by winning the NCAA II Men's National Basketball Championship. Their effort is certainly one that all Kansans can be proud of.

The Tigers of Fort Hays State completed a 34 to 0 season this year by defeating Northern Kentucky University 70 to 63 in the championship game. En route to their championship victory and outstanding season, the Tigers entered elite company, by becoming the third unbeaten team to win the tournament in NCAA II History. Fort Hays State finished the season ranked No. 1 and currently holds the Nation's longest winning streak. This has been an amazing season for Coach Garner and his team. I am proud to recognize their effort, and I look forward to next season, when the State of Kansas will once again make its presence known to the basketball world.

PROPOSED UNION PACIFIC-SOUTHERN PACIFIC MERGER

Mr. DOLE. Mr. President, I would like to comment on a situation that much of the country is following very closely. I am speaking of the proposed merger between the Union Pacific and Southern Pacific Railroads.

I have been contacted by various groups and organizations regarding this merger. I realize that there are concerns regarding the effects of the merger, and I have encouraged any person or group having concerns to participate in the open-comment period of the Surface Transportation Board, which ends today. The Surface Transportation Board, the Government agency now responsible for overseeing railroad mergers since the elimination of the Interstate Commerce Commission, will review all information and make the appropriate decisions regarding the merger.

I also want to acknowledge that there are a number of individuals involved in the merger who are active supporters of my Presidential campaign. In order to avoid any appearance of conflict of interest, this Senator wants to make clear his intention to not become involved in any discussion related to the proposed merger.

TRIBUTE TO DAVID PACKARD

Mr. NUNN. Mr. President, I rise today to pay tribute to David Packard, whose death on March 26 ended the distinguished career of one of America's most innovative, visionary, and generous business leaders.

David Packard was an outstanding public servant as well. He was Deputy Secretary of Defense under Secretary Melvin Laird, 1969–71, in what many consider one of the strongest teams ever to head the Department of Defense. His understanding of both broad issues and nuts and bolts of management was the ideal complement to Laird's knowledge of the Pentagon and Washington.

More recently, Packard chaired the President's Blue Ribbon Commission on Defense Management under President Reagan—generally known as the Packard Commission. The Commission's study of the Department's procurement process led to the establishment of the position of Undersecretary for Acquisition and to the streamlining of military buying practices. He testified on a number of occasions before the Armed Services Committee and provided valuable advice on organization and buying procedures. He was always extremely helpful to the committee and to me whenever we called on him.

A few years after their graduation from Stanford during the Great Depression, David Packard and William Hewlett borrowed $538 from a former professor and launched Hewlett-Packard in the garage of Packard's rented house. It is one of the great American success stories.

"We weren't interested in the idea of making money. Our idea was if you couldn't find a job, you'd make one for yourself. Our first several years we made 25 cents an hour." Today his company is our Nation's second largest computer company and Silicon Valley's biggest employer, with 100,000 employees around the world and $31 billion in sales last year.

Packard became one of the richest men in America, but he lived modestly to the end, using his great wealth to follow, on a broader scale, the principles that guided him in managing the company—encouraging individual creativity, providing opportunity for development of knowledge and skills, fostering mutual respect and trust.

The key to his business success was the key to his character as well. The important thing was to make or do something useful. He had no patience with ostentation in corporate executives, nor with those who made short-term profits made by cutting long-term investment in research, new product development, customer services, or facilities and equipment.

David Packard's management philosophy and methods became models for other companies. He viewed his employees as colleagues with ideas, skills, loyalty, and understanding he valued. He practiced management by walking the factory floor and insisted on an open-door policy in executive offices. Workers called him Dave and he encouraged them to come to him with their gripes as well as their ideas for improving products and operations. In return, they gave him undying loyalty and the benefit of their best efforts and creative ideas.

He was semiretired through the 1980's, but he and William Hewlett returned to the company in 1991 when it experienced a financial slump. Packard was the driving force behind the reorganization that revitalized the company.

When Packard retired as chairman for a second time in 1993, someone asked him what was his proudest moment. Instead of pointing to one of his many accomplishments, David Packard said simply, "Do something useful, then forget about it and go on to the next thing. Don't gloat about it."

That accurately described his own approach throughout a long and imminently successful life. Whenever he finished doing something useful, he looked for something else useful to do.

A Phi Beta Kappa, football and basketball player at Stanford, he was a dedicated outdoorsman all his life, and a staunch Republican. He made major gifts over the years to Stanford, the Monterey Bay Aquarium, and the Wolf Trap Foundation.

One of his last acts, not long before he died, was to give a generous donation to the Paralympics that will be held in Atlanta this summer, the week after the Centennial Olympic games. It was typical of David Packard that, at 83, he was thinking about ways to encourage individual excellence, helping to provide talented athletes from disabled community the opportunity to participate in international competition.

Our Nation is a better place because of his innovations, his philosophy, his example, and his dedication to both making and doing something useful. David Packard's character matched his physique—he was a giant of a man.

His beloved wife, Lucille Laura Salter Packard, died in 1987. I know the Senate joins me in expressing our deepest sympathy to his children, who were at his side when he died: David Woodley Packard, Nancy Ann Packard Burnett, Susan Packard Orr, and Julie Elizabeth Packard.

TRIBUTE TO EDMUND S. MUSKIE

Mr. NUNN. Mr. President, I rise to join with my fellow Senators in mourning the death of former Senator Edmund S. Muskie of Maine, and in paying tribute to one of the most distinguished and influential Members of this body during a turbulent period in our history.

Ed Muskie worked his way through Bates College, where he was a Phi Beta Kappa, and earned a scholarship to Cornell's law school. After serving in the Navy on destroyer escorts during World War II, he was elected to the Maine House, where he served as minority leader. He won the Governorship of Maine during the Eisenhower years when no Democrat had held the office in 20 years, and was easily re-elected. He revitalized the State party and was elected and re-elected to the U.S. Senate until his resignation to become Secretary of State in 1980 during the last difficult months of the Iran hostage crisis. It was a time of great tension following the Soviet invasion of Afghanistan, during which the United States boycotted the Olympic games in Moscow.

Ed Muskie was Hubert Humphrey's Vice-Presidential running mate in 1968. Few people remember how close that election was, and one reason it was so close was the strength Ed Muskie brought to the ticket. He started out the frontrunner, but his own campaign for the Presidential nomination in 1972 was unsuccessful, damaged by the dirty tricks the Nation would only learn about only later. It is ironic, but a tribute to the man, that the most damaging thing his enemies could point to in his conduct was that he loved his wife enough to lose his usual control when they attempted to slander her.

Senator Muskie returned to the Senate and in 1974 became the first chairman of the Budget Committee. I had the privilege of serving with him on the committee during my formative early years in the Senate. He was a strong voice for budget stability. The processes he established for monitoring Federal spending, and his insistence on holding down spending across a broad range, including the areas of his own major concerns. This is the same process being used today in our attempt to achieve a balanced budget by 2007.

Senator Muskie deserves major credit for most of the important early environmental legislation. He held together fragile coalitions of liberals and conservatives in budget battles, challenged Presidential policies and his own wing of the Democratic party for its failure to change. Through it all, he earned the respect of both allies and foes.

After his stint as Secretary of State, he retired to private law practice. He returned briefly to public service in 1987 on the Special Review Board on the Iran-Contra Scandal, also known as the Tower Commission.

Ed Muskie was a big man, big enough to still the voices of hecklers by inviting them up on the platform with him, big enough early in his Senate career to stand up to majority leader Lyndon Johnson at the height of his power, and big enough to gain the respect of his fellow Senators, and of Johnson himself. He believe in what he called a politics of trust, not of fear.

Ed Muskie was often described as "Lincolnesque." His middle name, Sixtus, was the name of five Popes during the 15th and 16th centuries. His last name had been shortened by immigration officials from what they considered the unpronounceable Polish name of his forefathers when his father arrived at Ellis Island. But whatever people called him, wherever his names came from, Ed Muskie was his own man.

What we remember is not the occasional flash of temper but his modesty, moderation, and self-deprecating humor, and his capacity for bridging differences. He was a man of great humanity who stood for reason and reconciliation in a time of division and disunity.

Ed Muskie graced this body with his healing and imposing presence, his self-deprecating humor, and his personal integrity for 21 years. He served his State and country courageously for more than three decades. I am honored to have served with him, and want to express my deepest sympathy, and that of this body, to Jane, his wonderful wife of 48 years, and to their children Stephen, Ellen, Melinda, Martha, and Edmund, Jr.

CHILD CARE PROVIDERS WEEK

Mr. PRESSLER. Mr. President, every morning, millions of parents kiss their children goodbye as they trade the hat of parent for the hat of teacher, police officer, waitress or doctor. When they leave home to work, they must leave their precious young ones in the care of someone else. Sometimes, parents find a relative. More often, they rely on strangers. As a parent myself, I know how difficult it can be to trust someone else with the well being of your child. Fortunately, most parents have reliable child care providers to depend on. We hear occasional horror stories of abuse and mistreatment by child care providers, but the majority of child care workers always have the best interests of the child at heart. April 21–28 will be the Week of the Young Child. During this important week, South Dakota will recognize Child Care Provider's Day on April 22. I would like to take this opportunity to recognize these hard working child care providers who support millions of American families each day.

My State has a claim to fame that most Americans would not guess. According to the most recent census data, 71 percent of mothers with children under the age of six are working moms. The national average is less than 60 percent. This means that reliable, quality child care is an issue not just for parents in urban areas. Families in rural States must search for adequate child care, too. For families who live in remote areas of South Dakota, this may mean driving to the next town to find day care services.

Child care providers do not have an easy task. A child's formative years are crucial. Caretakers must provide a stimulating environment for growth and learning. They do not merely babysit. Each child must be reached individually to develop language, reasoning and motor skills. Only a secure and nurturing environment can allow this to happen. In creating a home away from home, child care workers are providing American families with a very valuable service. For most families, success at work and stable home relationships hinge on professional child care.

Congress has been working hard over the last year to reform the Federal child care system. I wholeheartedly support efforts to end overlap of programs and needless bureaucracy. Child care should be affordable, accessible, and reliable. I will continue working in Washington to ensure quality child care for all American families.

Many thanks to the child care workers who daily provide for our children. They keep our families and workplaces on track. They should receive special recognition during the Week of the Young Child.

VOL
142
PT
5
MR
21
—
29
1996
UMI

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, March 28, 1996, the Federal debt stood at $5,071,791,748,467.89.

On a per capita basis, every man, woman, and child in America owes $19,173.26 as his or her share of that debt.

GATT

Mr. PRYOR. Mr. President, yesterday I spoke briefly about our failure to correct a loophole in the GATT legislation which gives a handful of companies unprecedented and unintended special treatment. Our distinguished colleague, Senator HATCH, raised a few points which my distinguished colleague, Senator CHAFEE and I feel deserve clarification.

For several months, we have sought an opportunity to remedy the mistake made by Congress and the administration when the GATT implementing legislation was enacted. The legislation's grandfather provisions were meant to apply to every person, product, company, and industry in the country. But the final GATT legislation accidentally excluded the prescription drug industry because it lacked a conforming amendment to the Food, Drug and Cosmetic Act. As a result, the prescription drug industry is the only industry in the country which received the patent extension but is unfairly exempted and shielded from competition. Because of this mistake, consumers and taxpayers are paying billions of dollars far too much for a handful of drugs, including Zantac, the world's best-selling drug.

Mr. CHAFEE. Mr. President, I agree entirely with my colleague, Senator PRYOR, and wish to raise one simple but important point. It should be noted clearly and conclusively that there is an extensive record of evidence from the U.S. Trade Representative, the Patent and Trademark Office, and the Food and Drug Administration that a mistake was made by both the Congress and the administration. There is absolutely no question as to this fact. To dispel any doubts, I would like to submit for the RECORD an excerpt from Ambassador Mickey Kantor's testimony to the Senate Judiciary Committee on February 27:

> The Congress and the Administration did not, however, take into account the technical interrelationship between the Patent Act and the regulation of pharmaceutical products by the Federal Food, Drug and Cosmetic Act. In fact, no one—including those in the private sector who watched these developments closely—took this interrelationship into account. This [Senate Judiciary] Committee and the House Judiciary Committee held a joint hearing on August 12, 1994, to review the intellectual property provisions of the URAA and not a single reference was made to this system. In all this time, not a single reference was made to the fact that pharmaceuticals may be treated differently than other forms of technology, not even by Gerald Mossinghoff of the Pharmaceutical Research and Manufacturers of America, who testified in support of this legislation without referring to this provision . . . We did not intend for this to happen and we support the correction of this oversight through the appropriate amendments to the Food, Drug and Cosmetic Act and the Patent Act.

Mr. PRYOR. Mr. President, I concur wholeheartedly with Senator CHAFEE. Let me add that for a number of months, we have sought an opportunity to vote on the missing conforming amendment. In December, a primary argument against acting on the amendment was the alleged need for a committee hearing. The February 27 hearing was never sought by us and, in fact, it did not add a single additional fact to the public record on this issue. The hearing simply reinforced the substantial body of evidence which proves a costly and inequitable mistake was made and is in urgent need of correction.

Nor has a markup in any committee ever been an objective of those seeking to correct this congressional mistake. As chairman of the Judiciary Committee, Senator HATCH promised a markup on this issue by the end of March. That apparently was not possible. My colleagues, Senators CHAFEE and BROWN, and I believe very strongly that any further delay in remedying this clear and costly congressional error will only benefit a handful of companies at the expense of their competitors and the American public.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 11:59 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3136. An act to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

At 3:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2854) to modify the operation of certain agricultural programs.

The message also announced that the Speaker appoints Mr. HOYER of Maryland to fill the vacancy occasioned by the resignation of Mr. STOKES of Ohio in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

The message further announced that the House has passed the following joint resolution, in which it request the concurrence of the Senate:

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in it requests the concurrence of the Senate:

H. Con. Res. 157. Concurrent resolution providing for an adjournment or recess of the two Houses.

ENROLLED JOINT RESOLUTION SIGNED

At 4:35 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore [Mr. THURMOND].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1271. A bill to amend the Nuclear Waste Policy Act of 1982 (Rept. No. 104–248).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Ms. SNOWE (for herself and Mr. LEAHY):

S. 1655. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decision making at the National Cancer Institute; to the Committee on Labor and Human Resources.

By Ms. SNOWE:

S. 1656. A bill to permit individuals to continue health plan coverage of services while participating in approved clinical studies; to the Committee on Labor and Human Resources.

By Mr. FAIRCLOTH:

S. 1657. A bill requiring the Secretary of the Treasury to make recommendations for reducing the national debt; to the Committee on Finance.

By Mr. MCCONNELL:

S. 1658. A bill to amend the Internal Revenue Code of 1986 to provide improved access to quality long-term care services and to provide incentives for the purchase of long-term care insurance, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1659. A bill to declare a portion of Queens County, New York, to be nonnavigable waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GLENN (for himself, Mr. LEAHY, Mr. JEFFORDS, Mr. JOHNSTON, Mr. LEVIN, Mr. D'AMATO, Mr. SARBANES, Mr. INOUYE, and Ms. MIKULSKI):

S. 1660. A bill to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PRESSLER (for himself, Mr. BURNS, Mr. INHOFE, Mr. DASCHLE, and Mr. BAUCUS):

S. 1661. A bill to specify that States may waive certain requirements relating to commercial motor vehicle operators under chapter 313 of title 49, United States Code, with respect to the operators of certain farm vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATFIELD:

S. 1662. A bill to establish areas of wilderness and recreation in the State of Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD (for himself and Mr. HARKIN):

S. 1663. A bill to amend the Internal Revenue Code of 1986 to improve revenue collection and to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nonmilitary purposes, to create the United States Peace Tax Fund to receive such tax payments, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 236. A resolution appointing Members to certain Senate commitees; considered and agreed to.

By Mr. FAIRCLOTH:

S. Res. 237. A resolution to express the sense of the Senate regarding reduction of the national debt; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged.

By Mr. HELMS (for himself, Mr. ROTH, Mr. LOTT, Mr. D'AMATO, Mr. NICKLES, Mrs. HUTCHISON, Mr. FAIRCLOTH, Mr. BREAUX, Mr. SHELBY, Mr. BENNETT, and Mr. SANTORUM):

S. Res. 238. A resolution expressing the sense of the Senate that any budget or tax legislation should include expanded access to individual retirement accounts; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August, 4, 1977, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 239. A resolution to authorize representation by Senate Legal Counsel; considered and agreed to.

By Mr. WARNER (for himself and Mr. FORD):

S. Res. 240. A resolution to authorize representation by Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself and Mr. LEAHY):

S. 1655. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decision making at the National Cancer Institute; to the Committee on Labor and Human Resources.

By Ms. SNOWE:

S. 1656. A bill to permit individuals to continue health plan coverage of services while participating in approved clinical studies; to the Committee on Labor and Human Resources.

BREAST CANCER LEGISLATION

Ms. SNOWE. Mr. President, I introduce two important pieces of legislation which promise to be of great significance to women with breast cancer: the Consumer Involvement in Breast Cancer Research Act of 1996, and the Improved Patient Access to Clinical Studies Act of 1996.

Breast cancer is a national health crisis of enormous proportions. Each year, breast cancer strikes approximately 182,000 women, resulting in 46,000 deaths. It has become the most common form of cancer and the second leading cause of death among American women. An estimated 2.6 million women in the United States are living with breast cancer, 1.6 million have been diagnosed with the disease, and an estimated 1 million women do not yet know they have breast cancer.

Some 1 out of 8 women in our country will develop breast cancer in her lifetime, up from one out of 14 in 1960. In fact, this year, a new case of breast cancer will be diagnosed every 3 minutes, and a woman will die from breast cancer every 11 minutes.

Breast cancer is a crisis that has tragically claimed the lives of almost 1 million women of all ages and backgrounds since 1960. It has become the leading cause of death for women age 40 to 44, and the leading cause of cancer death in women age 25 to 54.

In 1994, 900 Maine women were diagnosed with breast cancer. This is the most commonly diagnosed form of cancer among Maine women, and represents more than 30 percent of all new cancer among women in Maine.

Over the past few years, we have made significant gains in funding for breast cancer research. In fiscal year 1991, Congress spent $92.7 million on breast cancer research at the National Institutes of Health. By fiscal year 1995, spending had increased to $308.7 million. Moreover, the Department of Defense has received $460 million over the past 3 years to undertake breast cancer research.

However, funding alone is not enough. We must work to ensure that the most worthy and innovative projects are pursued and funded. This means funding projects which victims of breast cancer believe are important and meaningful to them in their fight to live with this disease.

Over the past 3 years, the Department of Defense has included lay breast cancer advocates in breast cancer research decision making. The involvement of these breast cancer advocates has helped foster new and innovative breast cancer research funding designs and research projects. While maintaining the highest level of quality assurance through peer review, breast cancer advocates have helped to ensure that all breast cancer research reflects the experiences and wisdom of the individuals who have lived with the disease. In addition, breast cancer advocates provide a vital educational link between the scientific and lay communities.

My bill, the Consumer Involvement in Breast Cancer Research Act of 1996, urges the National Institutes of Health to follow the DOD's lead. It urges NIH to include breast cancer advocates in breast cancer research decision making, and to report on progress that the Institute is making next year.

I believe that this legislation provides the critical next step in making breast cancer research more responsive to the needs of millions of American women living with breast cancer.

But it is not the only step we need to take. People suffering from diseases with no known cure often have access to the latest, most-innovative therapies only through clinical trials. This is often the case for women with breast cancer. Yet insurance companies regularly deny coverage for such treatments on the basis that they are experimental or investigational.

As a result, many patients who could benefit from these potentially life-saving investigational treatments do not

VOL 142 PT 5 MR 21 — 29 1996 UMI

have access to them because their insurance will not cover the costs. Denying reimbursement for these services also impedes the ability of scientists to conduct important research, by reducing the number of patients who are eligible to participate in clinical trials.

The second bill I am introducing today, the Improved Patient Access to Clinical Studies Act of 1996, addresses this problem. This bill would prohibit insurance companies from denying coverage for services provided to individuals participating in clinical trials, if those services would otherwise be covered by the plan. This bill would also prevent health plans from discriminating against enrollees who choose to participate in clinical trials.

Mr. President, March is Women's History Month. We should take this opportunity to celebrate the important gains we have made over the past few years in the area of women's health research. At the same time, we must also recognize how far we still have to go. I believe that the bills I have introduced today represent continued progress in the fight against breast cancer, and I urge my colleagues to support them.

By Mr. McCONNELL:

S. 1658. A bill to amend the Internal Revenue Code of 1986 to provide improved access to quality long-term care services and to provide incentives for the purchases of long-term care insurance, and for other purposes; to the Committee on Finance.

THE FAMILY CHOICE IN LONG-TERM CARE ACT

• Mr. McCONNELL. Mr. President, the graying of America means significant changes for our Nation's families. Traditionally, a family member, most likely a wife or daughter, has cared for an ailing spouse or parent at home. However, today's pressures of work, child-rearing, and family mobility greatly restrict the ability of adult children to administer to the day-to-day needs of a chronically ill parent. In addition, the rigors of home-based care can have a debilitating impact on the health and well-being of a caring spouse.

Few families are fully prepared for the physical, emotional, or financial demands of long-term care. For too many, this difficult journey begins with a unexpected jolt from a sudden accident, the death of a spouse or parent, or the diagnosis of a debilitating, long-term illness.

As America's population ages, the need for long-term care increases. In 1993, almost 33 million Americans were over the age of 65, and by 2011, the elderly population is estimated to number close to 40 million. While the opportunity for a happy and healthy retirement is better than ever, an October 1995 long-term care survey by Harvard/Harris revealed that 1 in 5 Americans over age 50 is at high risk of needing long-term care during the next 12 months.

Today, a variety of long-term care services are available, from help in cleaning one's home and getting groceries to skilled nursing care with 24-hour supervision. However, the means to pay for long-term care are still very limited and the expense can be overwhelming. For example, $59 billion was spent on nursing home care for the elderly in 1993, and 90 percent was covered by out-of-pocket payments and Medicaid.

The cost of paying out-of-pocket for 1 year in a nursing home is more than triple a senior's average annual income. Long-term care expenses put a lifetime of work and investment at risk. To gain Medicaid coverage, seniors must spend down their assets in order to meet State eligibility requirements. While Medicare takes care of hospital costs and home care, it provides only limited coverage for short-term stays in skilled nursing facilities.

The medical side of long-term care has seen enormous advances over the years in new technologies, facilities, treatment methods, and even psychological studies of the effects of long-term care on patients. But the financing side of long-term care has simply failed to keep up, and as a result it is ill-prepared for seniors' future needs. Today, private insurance pays for less than 2 percent of long-term care costs. As Federal mandates for Medicaid coverage have increased, States have attempted to contain costs by restricting services for the elderly. State-imposed caps on the number of Medicaid-sponsored nursing home beds has separated families from their loved ones because the only Medicaid beds available were hundreds of miles away from their community. Most disturbingly, the remaining assets of a deceased elderly couple can be tapped through an estate recovery action to compensate the State for the couple's Medicaid expenses.

Since 1990, Medicaid expenditures for long-term care have been increasing by almost 15 percent annually, causing costs to double every 5 years. Medicaid's service as the sole long-term care safety net for middle class seniors may seriously impair the program's ability to serve the underprivileged. While low-income families accounted for 73 percent of Medicaid's beneficiaries in 1993, nearly 60 percent of expenditures went to nursing home care and other long-term care services. For example, in 1993, Kentucky's Medicaid spending per enrollee for children was $964; while the cost for elderly beneficiaries was $6,540. Without relief, a harsh battle between generations may emerge.

Mr. President, I rise today to introduce the Family Choice in Long-Term Care Act, a bill that would alleviate dependence on Medicaid by enabling families and seniors to plan ahead for their long-term care needs. Currently, our tax code does not define long-term care as a medical expense. My proposal would end this discrimination and allow long-term care expenses and policy premiums to be tax deductible.

Like health care insurance, payments under long-term care insurance would not be taxable when received. Children would be able to purchase policies on behalf of their parents. In addition, employer-based plans would be treated like accident or health policies. Individuals could convert a life insurance contract in favor of a long-term care policy without suffering a tax penalty. Under my bill, terminally or chronically ill patients could receive accelerated death benefits to pay for their long-term care needs. And my legislation would also permit qualified withdrawals from individual retirement accounts of 401(k) plans for the purchase of a long-term care policy.

Interest in long-term care insurance is growing. According to the American Health Care Association, the average growth rate in long-term care policy sales has averaged 27 percent annually since 1987. In 1993 alone, a total of 3.4 million insurance policies were sold. A study conducted by the research firm of Cohen, Kumar & Wallack found that it is not just higher-income seniors who are interested in long-term care insurance. The study showed that 30 percent of surveyed long-term care policy-holders earned less than $20,000 annually.

While tax clarifications will make long-term care plans more affordable to seniors and families, attention must be paid to assure investment quality and security. My proposal would establish the National Long-Term Care Insurance Advisory Council to advise Congress on the market's development and promote public education on the necessity of long-term care planning and the options available. The bill also outlines consumer protection standards for policies as recommended by the National Association of Insurance Commissioners.

Finally, my proposal would require the Secretary of Health and Human Services to develop and distribute a summary of recommended health care practices to Medicare beneficiaries. As always, prevention is the first step in curtailing the demand for high-cost medical care.

While there has been a great deal of rhetoric about tax cuts lately, long-term care tax clarification benefits everyone. Seniors can invest in a quality long-term care plan without fear of losing everything they own, and families will have access to the support they feel is most appropriate for their loved ones.

In addition, Medicaid will continue to provide long-term care services for seniors in need. A 1994 study published in Health Affairs estimates that Medicaid would save $8,000 to $15,500 on each nursing home entrant who held a long-

term care policy. Also, the probability of a senior's spending down to Medicaid eligibility would be reduced by 40 percent. Private long-term care insurance would preserve the medical safety net for seniors and benefit other Medicaid recipients, particularly low-income children and the disabled.

Mr. President, in sum, private long-term care insurance translates into quality, flexible care for seniors, more Medicaid funds for low-income families and the disabled, and essential support for families who want their loved ones to be safe and secure. These are priorities that all Members of Congress share. We should not miss this opportunity to help America's families prepare for the challenges of long-term care.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1659. A bill to declare a portion of Queens County, New York, to be nonnavigable waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

THE QUEENS-WEST WATERFRONT DEVELOPMENT ACT OF 1996

Mr. MOYNIHAN. Mr. President, I rise to introduce, with my esteemed colleague Senator D'AMATO, a bill to eliminate an impediment to an important economic development project in Queens. The Queens West development is 12 years in the making. Construction of the first apartment tower should create 1,000 construction jobs, and the entire project should ultimately create 14,000 construction jobs and 10,000 permanent jobs. This in a county with unemployment two points higher than the State average.

With the financial parties ready to go to closing this month, the title search turned up an impediment that threatens to make the entire project uninsurable, and therefore untenable. A portion of the development would be built on an area that in the last century was on the watery side of the historical high water mark of the East River. Since then it has been filled, bulkheaded, or otherwise developed. The Federal Government, however, retains the right of navigational servitude, which means the Government can condemn the area because it is still navigable in law, if not in fact.

The only solution is for Congress to declare the area nonnavigable. This bill does so. The declaration of nonnavigability would apply only to areas that "will be bulkheaded, filled, or otherwise occupied by permanent structures or other physical improvements"—including parklands. The declaration would expire in 20 years if the area is not occupied by permanent structures.

Mr. President, I believe this is a commonsense effort to allow an important project to go forward. We will not need to resume navigating this portion of the East River. We do need the economic development that the Queens West project will bring. Senator D'AMATO and I ask for the support of our colleagues.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1659

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DECLARATION OF NONNAVIGABILITY FOR PORTION OF QUEENS COUNTY, NEW YORK.

(a) DESCRIPTION OF NONNAVIGABLE AREA.—Subject to subsections (b) and (c), that portion of Long Island City, Queens County, New York, which is not submerged and lies between the existing southerly high water line of Anable Basin (also known as the 11th Street Basin) and the existing northerly high water line of Newtown Creek and extends from the existing high water line of the East River to the original high water line of the East River is declared to be nonnavigable waters of the United States.

(b) REQUIREMENT THAT AREAS BE IMPROVED.—

(1) IN GENERAL.—The declaration of nonnavigability under subsection (a) shall apply only to those portions of the areas described in subsection (a) that are or will be bulkhead, filled, or otherwise occupied by permanent structures or other permanent physical improvements (including parklands).

(2) APPLICABILITY OF FEDERAL LAW.—The work to meet the requirements of paragraph (1) shall be subject to applicable Federal laws, including—

(A) sections 9 and 10 of the Act of March 3, 1899, commonly known as the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 401 and 403);

(B) section 404 of the Federal Water pollution Control Act (33 U.S.C. 1344); and

(C) the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.).

(c) EXPIRATION DATE.—The declaration of nonnavigability under subsection (a) shall expire with respect to a portion of an area described in subsection (b), if that portion—

(1) is not filled or otherwise occupied by a permanent structure or other permanent physical improvement (including parkland) in accordance with subsection (b) by the date that is 20 years after the date of enactment of this Act; or

(2) requires work described in subsection (b)(2) that is subject to a permit under an applicable Federal law, and that work is not commenced by the date that is 5 years after the date of issuance of that permit.

Mr. D'AMATO. Mr. President, I rise today to join with my friend and colleague, Senator MOYNIHAN, in introducing legislation that will allow for the commencement of a project of immense economic significance in the city of New York and the Borough of Queens. This project, which has been named Queens West, will produce a myriad of waterfront apartment buildings, parkland, hotel, and commercial space and will create 14,000 construction jobs as well as 10,000 permanent jobs. This ambitious project will rejuvenate this section of New York and add to its vitality for countless generations to come.

As I am sure many of my colleagues can understand, there is a great deal of excitement about the Queens West project. However, with the parties ready to close, a single issue has emerged that could delay the financing and disrupt the timing of this project. Some of the land upon which Queens West is to be built falls within the historic, unobstructed high water mark of the East River that was established in the 1800's. However, a bulkhead has since been established in this particular area and industrial development has occurred there for many years. Nevertheless, this area still remains defined as "navigable in law" which allows the Federal Government to retain a right to navigational servitude. Because of this glitch, the project may not be insurable and may not therefore commence in a timely fashion.

The legislation that Senator MOYNIHAN and I are introducing will rectify this situation. Simply, it will declare this portion of the land nonnavigable and thus take the property out of navigational servitude. Should no permanent structure be built on this site within 20 years, the area reverts to its current status. Once this bill is passed, the Borough of Queens and indeed all of New York will receive a vital economic boost. This legislation is identical to H.R. 2987, which Congressman TOM MANTON introduced in the House of Representatives, and enjoys support from State and city officials.

Mr. President, the thousands of jobs, the housing, the recreational opportunities, and the commercial benefits created by the Queens West project are urgently needed. I urge my colleagues to join Senator MOYNIHAN and I in supporting speedy passage of this legislation.

By Mr. GLENN (for himself, Mr. LEAHY, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. SARBANES, Mr. JOHNSTON, Mr. INOUYE, Ms. MIKULSKI, Mr. D'AMATO, and Mr. LEVIN):

S. 1660. A bill to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

THE NATIONAL INVASIVE SPECIES ACT OF 1996

Mr. GLENN. Mr. President, today I rise to introduce the National Invasive Species Act of 1996 with my colleagues Senators LEAHY, JEFFORDS, MOYNIHAN, SARBANES, JOHNSTON, INOUYE, MIKULSKI, and LEVIN. This act is a reauthorization and expansion of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. I am pleased that my Ohio colleague, Congressman LATOURETTE and 18 of his colleagues in the House of Representatives also are introducing this act today.

VOL
142
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29
1996
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Picture a pollution spill in the waters of your region that simply will not go away. Government and industry teams work to disperse it with chemicals and mechanical barriers, but as soon as the treatments stop, the pollution resurges. Worse yet, the spill spreads and concentrates in connecting water ways, and is further seeded by unintentional transport overland. Municipalities, manufacturers, and agriculture experience degraded water supplies and higher operating costs. Shell fisheries and fin fisheries permanently decline.

This scenario seems like a nightmare, yet it closely approximates the result of unintentional releases of nonindigenous species, or biological pollution, into U.S. waters. As a Senator from the Great Lakes region, where we spend many millions of dollars annually to battle sea lamprey and zebra mussel infestations, I can attest that such biological spills can and do happen, their impacts on the receiving system are additive, and the resource degradation is permanent.

As shown in the display map, the zebra mussel, a native species of eastern Europe, has spread throughout the United States from the Great Lakes where it was unintentionally introduced in ballast water of commercial vessels around 1986. Wherever it becomes established, the zebra mussel threatens both economic and environmental well-being. It clogs intake pipes, fouls drinking water, and covers swimming beaches with sharp shells. The zebra mussel also has led to the loss of many highly valued native species of freshwater mussel in both the Great Lakes and the Mississippi River.

I remember when Allegra Cangelosi, who is with me on the floor today, first came into my office and talked about zebra mussels in the 1980's. She had a bottle of these critters and set them on my desk and said, "Here is what they are." And they multiply—each zebra mussel lays about 30,000 eggs a year. Eggs that are laid early in the season mature into adult zebra mussels by the end of the season.

Zebra mussels and other nonindigenous species can survive in ballast water transported into our nations waters largely because we now have faster sea transportation. Ironically, some of our own waters in this country are cleaner, allowing the species to become established.

The Great Lakes are not the only entryway for invasive species into U.S. waters. Last week, I hosted a National Forum on Nonindigenous Species Invasions of U.S. and Fresh Waters in cooperation with the Northeast-Midwest Institute. At the day long event, experts and natural resource stakeholders from around the country cited invasion impacts in just about all of America's fresh and marine waters. Biodiversity and economic well-being are suffering due to invasions of nonindigenous species in San Francisco Bay, the Pacific Islands, the Gulf of Mexico, the Mississippi River, the Northeast and Southeast Atlantic coasts, the Great Lakes, and Lake Champlain.

In 1990, I authored and gained enactment of the Nonindigenous Aquatic Nuisance Prevention and Control Act to begin to address the tremendous problem of unintentional invasions of aquatic species into the Great Lakes and other U.S. waters. The 1990 act consisted of two basic parts: One which focused on prevention of new introductions of species into the Great Lakes by the ballast water of vessels; and the other which established a national program of prevention, monitoring, management, and control of invasive species already established in U.S. waters. All of the many vectors of aquatic species transfers fell under the purview of this portion of the act. Most of the revisions contained in the bill which I am introducing today with my Senate and House colleagues pertain to the prevention portion of the program.

With respect to prevention, the 1990 act focused on ballast water of vessels. This water is the leading vector for unintentional transfers of nonindigenous species into United States waters. Ships carry ballast water to maintain trim when they are empty or partially empty of cargo. They discharge this water at their ports of call. Currently, there is practically nothing to prevent the uptake, transfer, and discharge of organisms along with that water.

An estimated 21 billion gallons of ballast water from vessels from foreign ports is discharged into U.S. waters each year. That's 58 million gallons per day, and 2.4 million gallons per hour. This ballast water contains just about everything and anything that was in the harbor from which the water was drawn. It is estimated that 3,000 species of aquatic organisms are in transit in ballast tanks around the world in any given 24-hour period. Most of these organisms will come to nothing in the receiving ports, but any one of them could cause billions of dollars of damage. It's a huge gamble. Even human cholera is transported unintentionally in ballast water and has been detected in ships visiting Mobile Bay and the Chesapeake, among other regions.

Fortunately, a ballast management practice known as high seas ballast exchange greatly reduces the transfers of dangerous organisms through ballast water. This technique is not applicable in all circumstances; it cannot be employed in stormy weather and with some types of vessels. However, where it can be employed safely, it results in a substantial reduction in the risk of invasive species transfers. It is for this reason that the Australian Government among other nations, and the International Maritime Organization, already encourage ballast management practices for commercial vessels.

The 1990 law included a voluntary ballast management program for the Great Lakes which automatically became regulatory in 1992. The act assigned the Coast Guard the task of consulting with the maritime industry and Canada to develop voluntary guidelines, conducting education and outreach, and, after 2 years, promulgating regulations to help reduce the probability of new introductions of alien species by commercial vessels into the Great Lakes.

The 1990 act also included several studies to help build information on the threat and impacts of ballast discharge on other U.S. waters. These studies, now complete, provide strong evidence that unmitigated ballast water exchange is a serious economic and environmental threat in regions outside the Great Lakes. In particular, the biological study conducted pursuant to the act found that a new species of aquatic organism invades San Francisco Bay every 12 weeks. Serious risks of invasion to the Chesapeake Bay and Florida coasts have also been documented. A crab which is the host of a dangerous human parasite has been found in United States waters within the Gulf of Mexico, fortunately not yet established.

In light of this information, and based on the successful experience with the Great Lakes voluntary ballast management program, my 1996 proposal establishes a national voluntary ballast management program to begin to address concerns of other United States coastal regions. The Coast Guard is directed to issue voluntary ballast management guidelines for all vessels visiting U.S. ports after operating outside the exclusive economic zone. Consistent with the Great Lakes program, I want to stress, Mr. President, that this program puts safety first. The guidelines will protect the safety of vessel and crew, whatever that may entail, including waiving the requirement where necessary.

While there will be no penalty against vessels which do not participate in the national program, record keeping by vessels to document participation is required. In the interest of maintaining a level playing field, the Coast Guard has authority to issue the same guidelines as regulations in regions where a review of ship records reveals poor cooperation with the voluntary approach. Importantly, the maritime industry would see only one set of rules nationally. However, over time, there may be enforcement mechanisms associated with the guidelines in certain regions. Of great interest to the Great Lakes community, the successful Great Lakes regulatory program remains in place. For better prevention of invasions in the future, a ballast water management demonstration program is established in the Act. This project will demonstrate promising ballast technologies and practices

to prevent the introduction and spread of nonindigenous species through ballast water.

Other changes to the 1990 program which are contained in our National Invasive Species Act of 1996 include: First, the authorization of research in several coastal regions—including the Chesapeake Bay, Lake Champlain, the Mississippi River and the Gulf of Mexico—which are at particular risk of degradation by species invasions; second, voluntary guidelines to help recreational boaters to prevent unintentional transfer of zebra mussels; and third, provisions to encourage more regions to set up coordinating panels and develop State management plans for invasive species prevention and control. Though now much broader in scope, I am proud to announce that the overall cost of the National Invasive Species Act of 1996 does not exceed that of the 1990 law.

I would like to close by pointing out that species invasions that originate anywhere on the continent have the potential to affect all of us. Once established on the North American continent nonindigenous invasive organisms will make their way to the far reaches of their potential range. Just as the zebra mussel has expanded its range from the Great Lakes to the entire Mississippi River and has been found on recreational vessels entering California, the east coast marine resources could be harmed by invasions on the west coast and vice-versa. Moreover, biological pollution of U.S. waters, so far, has not had serious public health implications. But the 1992 transfer of human cholera from South American ports to the shellfish beds of Mobile Bay via ballast water of commercial vessels reminds us that our luck may not hold forever. It is in everyone's interest to improve our Nation's precautions against invasions of aquatic nuisance species. Mr. President, I will ask unanimous consent that an updated version of a Northeast-Midwest Economic Review article be printed in the RECORD following my remarks. This article provides further background on the context, history, and content of the National Invasive Species Act.

I am personally quite excited about the progress that we can make in protecting the economy, the environment, and the biodiversity of our coasts through passing the National Invasive Species Act this year. Unusual in the environmental arena, this issue offers us low-hanging fruit and bipartisan enthusiasm. I am grateful to my colleagues, Senators LEAHY and SARBANES for authoring legislation last year which helped draw attention to the national scope of the invasive species problem, and to my other colleagues for joining us in support of the National Invasive Species Act. I look forward to working closely with them to gain its enactment. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, along with the article previously mentioned.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BIOLOGICAL INVASIONS: CONGRESS TAKES A SECOND LOOK

(By Allegra Cangelosi, Senior Policy Analyst of the Northeast-Midwest Institute.)

[From an Updated Version of an Article That Appeared in the Northwest-Midwest Economic Review, September 1995]

Five years into implementation of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA), there is new awareness of the magnitude of the exotic species problem and the difficulty of the management task. As Congress prepares to reauthorize the Act, it faces pressure to broaden the prevention program to include coastal areas in addition to the Great Lakes, while keeping the burdens of regulation to a minimum.

THE LIFE AND TIMES OF NANPCA '90

In 1989 and 1990, the zebra mussel infestation of the lower Great Lakes exploded before the startled eyes of the region's natural resource managers and industrial water users. Mussel encrustation of intake pipes shut-down the Monroe, MI city water supply for two-days, bringing the impact of the zebra mussel (Dreissena polymorpha) directly to the homes of basin residents. Meanwhile, a population of Eurasian ruffe (Gymnocephalus cernuus), a small forage fish native to Eastern Europe, staged in Duluth/Superior Harbor, preparing for an all but inevitable migration from the cold waters of Lake Superior to the more habitable lower Great Lakes.

For fishery and biodiversity experts, the appearance of both the zebra mussel and the ruffe implied permanent degradation of the Great Lakes ecosystem. Over time, the two alien species were expected to spread to all five Great Lakes and most of the U.S. freshwater system. Irreversible loss in biological diversity was inevitable; the only question was whether the degradation would be cataclysmic, or gradual and insidious.

These concerns arose from hard experience. The sea lamprey (Petromyzon marinus), native to the Atlantic, caused a near collapse of the Great Lakes fishery in the 1950s. A fortuitous discovery of a chemical lampricide is the only reason the fishery is once again abundant. But lampricide treatments, even coupled with vigorous fish stocking efforts by the States, have been effective only at restoring the rough appearance of the pre-lamprey fishery. They cannot restore the system's previous structure, composition or self-sustainability. Moreover, without annual treatments with the lampricide, the populations of lampreys would quickly rebound. The annual battle to continue funding for the lamprey control program provides Great Lakes fishery experts constant incentive to avert the costly and enduring impacts of further exotic species invasions.

The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA) originated in draft in 1989 in response to concern over the potential impact of the Eurasian ruffe on the Great Lakes fishery. But the zebra mussel infestation ultimately filled its political sails, to reach final enactment in just a year.

The Act, championed by Senator John Glenn of Ohio, enjoyed enthusiastic support of the bipartisan Great Lakes delegation in both chambers, and several federal agencies, especially the Fish and Wildlife Service. It also benefitted from the commitment of environment committee leadership from outside the basin.

NANPCA set forth a national program for preventing, researching, monitoring and controlling infestations in U.S. waters of alien aquatic species. It set up a standing multi-agency task force (the Aquatic Nuisance Species Task Force), chaired by NOAA and the Fish and Wildlife Service, to develop and oversee the program, a policy review of the impacts of intentional introductions of exotic species (such as for sport fishing or biological pest control), a zebra mussel demonstration project, and state aquatic nuisance management planning. It created a Great Lakes Aquatic Nuisance Species Panel to help coordinate federal, state, local and private sector activities to prevent and control exotic species within the Great Lakes basin. Other provisions addressed the brown tree snake, research protocols to prevent the spread of exotics by research and risk assessment.

Most importantly, the Act assigned the Coast Guard the task of promulgating voluntary guidelines and, after two-years, regulations to help reduce the probability of new introductions of alien species by commercial vessels. The ballast water of commercial vessels is a leading vector by which alien aquatic species enter U.S. waters. The zebra mussel and the ruffe, along with the spiny water flea (Bythotrephes cederstroemi), and many of the hundred-plus other alien organisms that currently complicate the Great Lakes ecosystem were transported to the Great Lakes in the ballast holds of transoceanic vessels. Red tide, human cholera, and the brown clam (Perna perna), are examples of ballast stow-aways that have been discharged into U.S. marine coastal environments.

The 1990 Act underwent many changes as it moved through the Congressional process to enactment. Perhaps the most significant such change was the decision by the Senate Commerce Committee to reduce the scope of the Coast Guard prevention program from national to Great Lakes-only. Besides fiscal concerns of the Coast Guard, the political rationale for such a change was clear. The maritime community had no choice but to acknowledge the obvious though unintended impacts of its ballasting practices on the Great Lakes environment. Moreover, as residents of the basin, Great Lakes port operators and the laker association members shared concern over the condition of the Great Lakes ecosystem. But in areas other than the Great Lakes, there was less awareness of exotic species impacts and the broader maritime community was under less pressure to change its ballasting practices.

TODAY'S CONTEXT

Today, six years after initial passage of the Act, there is growing interest in reforming the measure to better address other U.S. waters. The zebra mussel has become established in much of the freshwater systems of the eastern United States, including the upper Mississippi River, where it has degraded an economically valuable commercial mollusk fishery. Similarly, there is new awareness of the threat of nonindigenous species to marine coastal areas. Perna perna, native to the Indo-Pacific region, invaded South America via ballast discharge years ago, and was transported to the Gulf of Mexico near Galveston, Texas, more recently. The non-native mussel threatens Mangrove

VOL
142
PT
5
MR
21
—
29
1996
UMI

communities, coats hard surfaces and could compete with native oysters.

In some cases, concern over the impact of exotic species on aquatic systems beyond the Great Lakes has been elevated to the Congressional level. In 1995, Senator Sarbanes (MD) introduced the Chesapeake Bay Ballast Water Management Act of 1995, S. 938, to assure that the reauthorization of NANPCA broadens the Coast Guard's ballast management program to include saltwater coasts. In response the mussel's spread to Vermont, Senator Leahy introduced a measure, the Lake Champlain Zebra Mussel Control Act, S. 1089, to focus the reauthorization on the needs of Lake Champlain.

Both legislative measures are firmly rooted in the expressed interests of local constituencies. For example, the Sarbanes bill is a response to resolutions passed by the Maryland, Virginia and Pennsylvania general assemblies urging action to prevent future introductions of nonindigenous aquatic species into the Chesapeake Bay through ballast management. A report developed by a wide range of stakeholders and endorsed by the Chesapeake Bay Commission further spells out the recommendations of the States. While the Sarbanes bill proposes national voluntary guidelines for ballast management, the Chesapeake Bay proposal urges a follow-on regulatory system nationally within 24 months if participation or effectiveness of the voluntary system is inadequate.

NATIONAL INVASIVE SPECIES ACT OF 1996

Senator Glenn, author of the 1990 NANPCA, is the lead sponsor of the National Invasive Species Act of 1996 (NISA) which reauthorizes and expands the 1990 Act. A bipartisan group of Senators from in and outside the Great Lakes region has joined him in sponsoring the measure. Congressman LaTourette and his colleagues are the sponsors of a companion bill in the House of Representatives. As in 1990, the Senate Commerce Committee is expected to have jurisdiction over the prevention portion of the measure, while the Environment and Public Works Committee will consider the remainder of the bill. Both the Resources Committee and the Committee on Transportation and Infrastructure will likely have jurisdiction over part or all of the House measure.

In the stark light of 1995–1996 budget fights, a national regulatory ballast management program such as the one proposed in the original 1990 bill appears impractical and unaffordable. To implement such a scheme, the Coast Guard would have to monitor compliance with regulations at each harbor, stretching human and monetary resources beyond their limits. On the other hand, if the Coast Guard were to simply issne national voluntary guidelines, the effort would lack accountability, providing little additional protection for regions eager for change such as the Chesapeake Bay.

NISA 1996 finds a middle ground. It emphasizes a voluntary approach in light of the positive response of the shipping community to the voluntary phase of the Great Lakes program. But it reserves authority for the Coast Guard to promulgate the same voluntary guidelines as regulations in coastal regions where recordkeeping or compliance with the voluntary system seem to be lacking. Such an approach gives shippers and ports both the opportunity and incentive to cooperate with voluntary guidelines, while conserving Coast Guard resources for regions with special needs.

Whether voluntary or not, a national ballast management program which employs existing port inspection infrastructure will hold the additional hassle for ports, shippers and the Coast Guard to a minimum. NISA 1996 urges a cooperative approach between the Coast Guard and the Animal and Plant Health Inspection Service (APHIS), which already boards vessels to inspect for crop pests. The addition of just a few items on the questionnaire that APHIS routinely distributes to vessel masters could meet new ballast-related reporting needs.

Among other changes that are included in NISA 1996 are: Ballast technology demonstrations: A bill introduced in the 103rd Congress (and passed in the House) to create a demonstration program for ballast technologies that can be installed or designed into commercial vessels to prevent the unintentional transfers of exotic species is incorporated into NISA 1996.

Naval ballast management: A provision from the Sarbanes bill (S. 938) to incorporate ballast management procedures into naval operations is included.

Ecological surveys, ballast discharge surveys: The package authorizes the National Aquatic Nuisance Species Task Force to undertake ecological and ballast discharge surveys for selected harbor areas to assess the risks and impacts of invasions by exotic species.

Voluntary guidelines for recreational boaters: The recent discovery of live zebra mussels on the hull of a recreational vessel ready to enter California waters underscores the role of recreational boating in spreading exotic species infestations. A provision of Senator Leahy's legislation (S. 1089) to create national voluntary guidelines for recreational boaters to prevent the spread of zebra mussels is included in NISA 1996.

Regional coordination: The reauthorization package includes a provision to encourage the establishment of regional coordinating panels for other regions of the country in addition to the Great Lakes.

While the U.S. government invests over $100 million annually to prevent new invasions of exotic agricultural pests, less than $1 million is being invested to prevent new introductions of nonindigenous aquatic organisms as devastation as the sea lamprey. NISA 1996 offers Congress an important opportunity to better protect the nation's valuable marine and freshwater resources from exotic pests. But only support from a broad political spectrum and diverse geographic regions can assure enactment.

Mr. SARBANES. Mr. President, I am pleased to join as an original cosponsor of the National Invasive Species Act of 1996, to address the serious threat posed by nonindigenous aquatic species entering the U.S. waters from the exchange of ballast water. I want to thank and commend my colleague, Senator GLENN, for his leadership in crafting this very important legislation.

The introduction of nonindigenous species through the exchange of ballast water is a serious national and international problem with potentially profound economic and environmental consequences. These invasive species, such as the zebra mussel, have already caused millions of dollars in damage to municipal and industrial water intake pipes, and valuable fisheries throughout the United States and Canada. By the turn of the century, damage to aquatic ecosystems and public and private infrastructure is expected to be in the billions of dollars from the zebra mussel alone.

In the Chesapeake Bay, our Nation's largest estuary, the threat of these invading species is particularly acute due to the extensive release of ballast water from foreign ports. Over 3 billion gallons of ballast water a year—more than any other east or west coast port—is released into the bay from ships calling at the ports of Baltimore and Norfolk. This water originates from 48 different foreign ports. An ongoing study by the Smithsonian Environmental Research Center, one of foremost authorities on this issue, found that nearly 90 percent of the vessels sampled arriving at Chesapeake Bay ports had living organisms in their ballast water, placing the bay at very high risk from these potentially harmful species. Indeed, some scientists speculate that the diseases that devastated oyster stocks in the bay were introduced through the exchange of ballast water. It is estimated that there more than 100 exotic species now established in the bay, some of which are recent arrivals via ballast water discharge.

The interstate and international nature of ballast-mediated invasions make it impractical for the individual States of the Chesapeake region to address this risk alone. Various interests in the Chesapeake Bay community, as well as the State legislatures of Maryland, Pennsylvania, and Virginia, are, in fact, seeking increased Federal action to address this important concern. I want to particularly commend the Chesapeake Bay Commission for focussing attention on this very important issue.

Mr. President, this measure is an important step forward in understanding and managing the risks of ballast-mediated invasions. It incorporates provisions of legislation I introduced last year, S. 938, to study and manage ballast water releases in the Chesapeake Bay. It establishes national voluntary guidelines for vessels entering U.S. waters to reduce the probability of ballast transfers of these exotic species. It authorizes research, demonstration, and education programs to help prevent the introduction and spread of these species into our lakes, rivers, and bays. I urge my colleagues to join with us in support of this important legislation.

Mr. LEAHY. Mr. President, I am proud to join my colleagues in introducing the National Invasive Species Act of 1996. This comprehensive bill includes the provisions of my Lake Champlain Zebra Mussel Control Act and is the vehicle which can help Vermont and other States wage war on exotic nuisance species like the zebra mussel.

Mr. President, a tiny mussel the size of my thumbnail threatens to choke off

25 percent of Vermont's drinking water, clog our hatcheries, and unravel the Lake Champlain ecosystem. It was only three summers ago when the mussel was first discovered in the South Lake near Orwell, VT, by a young boy. Two years later, zebra mussel densities has reached 134,000 larvae per cubit meter. The end is not in sight.

We did not ask for them, but we got them. Now Vermont has to face the consequences of a problem that Vermont has been powerless to stop. The zebra mussel problem in Lake Champlain deserves immediate and swift action. This exotic pest poses a serious risk to the water resources throughout Vermont, economic opportunities along the lake, and the health and safety of the people of Vermont.

This bill we are introducing today addresses a number of issues that can only be resolved through Federal coordination and cooperation. Millions of gallons of water are imported each day from foreign ports throughout the globe. One gallon can contain the seeds of an invasive species epidemic that can wipe out domestic species, ecosystems, and economic resources. Vermonters know this well through our experience with lampreys on trophy sportfish, millfoil throughout our lakes, and zebra mussels in Lake Champlain.

The United States needs this bill now. Our inland and marine seaports are a ticking time bomb. The heart of this bill is a nationwide effort to control the transportation and discharge of ballast water from international cargo ships. One seaport cannot tackle this problem alone without risking their economic base. However, if every port works together, we can protect fisheries, marine resources, and ultimately taxpayers from the enormous cost of fighting an exotic nuisance species.

The other major theme in this bill is a concerted effort to control exotic species once they have arrived and multiplied. This second theme is based largely on my bill, the Lake Champlain Zebra Mussel Control Act. In addition to highlighting the specific needs of Lake Champlain, my bill—and this bill—includes a three point plan for tackling exotic species.

First, establishes national voluntary guidelines for recreational boaters who are a major mechanism for the spread of zebra mussels and other exotics within the United States freshwater bodies.

Second, allows states to work cooperatively on watershed approaches to attack this problem. If Vermont devotes millions of dollars to this effort and our neighbors do nothing, the effort will be futile.

Third, reauthorizes and enhances the Federal authority for agencies to fight exotics. The nuisance species problem crosses many jurisdictions. Therefore, the comprehensive strategy set forth in this bill includes the Army Corps of Engineers, the Environmental Protection Agency, the Department of the Interior, the Department of Commerce, the Coast Guard, the Smithsonian, and other Federal efforts. As our Federal foot soldiers in this war against the zebra mussel and other species, all of these departments and agencies need the authority, resources, and flexibility to win the battle.

Mr. President, every minute that we delay an effort to stop the zebra mussels, the mussels multiply exponentially and risk the physical and economic health of Vermont. While my colleagues may not know first hand the scourge of zebra mussels or other exotic species, let me assure them that the ounce of prevention in my bill will save them pounds of cure. To turn our backs on this problem of national significance only guarantees that it gets much worse. Mr. President, I hope we can move this bill quickly.

By Mr. PRESSLER (for himself, Mr. BURNS, Mr. INHOFE, Mr. DASCHLE, and Mr. BAUCUS):

S. 1661. A bill to specify that States may waive certain requirements relating to commercial motor vehicle operators under chapter 313 of title 49, United States Code, with respect to the operators of certain farm vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CUSTOMER HARVESTERS LEGISLATION

Mr. PRESSLER. Mr. President, earlier this year the U.S. Custom Harvesters held their annual meeting in Sioux Falls, SD. South Dakotans put out the welcome mat for custom harvesters throughout the country, and the annual meeting was a resounding success.

During that meeting it was brought to my attention that custom harvesters were not granted equal treatment as farmers and farm workers under Federal laws requiring commercial driving licenses [CDL]. Presently, States can grant waivers to the Federal CDL requirement to farmers and farm workers. Those same waiver requirements are not afforded to custom harvesters.

In many parts of the country, including South Dakota, custom harvesters are a crucial component in agricultural production. The bill I am introducing today simply grants States the right to waive CDL requirements for custom harvesters similar to those waivers currently afforded farmers and farm-related businesses. Joining me in this effort are Senators BURNS, INHOFE, DASCHLE, and BAUCUS.

Mr. President, customer harvesters normally drive less than 5,000 miles per year. They drive mostly on roads leading to and from farms and to the local grain elevator. Little time is spent on highways. Generally, custom harvesters drive less that 500 miles annually on interstate highways. It is a simple matter of fairness that they be treated equally.

My bill would provide relief to custom harvesters from onerous and costly CDL requirements. Under the waivers, family members can take an active role in custom harvesting and drivers with experience and trust can be hired to drive custom harvesting vehicles.

Custom harvesting involves many small, family owned companies. Custom operators account for nearly 40 percent of the total wheat acreage harvested annually. Their equipment must be utilized properly, kept in tip-top working conditions and safe in order to provide quality services. These harvesters go the extra mile to maintain equipment, train employees, and operate in the safest way possible.

In 1988, States were provided the authority to waive CDL requirements for farmers. In 1991, the Senate passed a bill to provide the authority to individual States to provide the same exemption to custom harvesters. Unfortunately, that bill never passed and custom harvesters are still burdened with CDL requirements. My bill is similar to the measure passed in 1991. Given past Senate support for this measure, I am hopeful adoption of this bill will occur soon. I thank those Senators who have joined me in this effort and urge the Senate to adopt this bill.

By Mr. HATFIELD:

S. 1662. A bill to establish areas of wilderness and recreation in the State of Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

THE OPAL CREEK WILDERNESS AND OPAL CREEK SCENIC RECREATION AREA ACT OF 1996

Mr. HATFIELD. Mr. President, the natural resources of my State are indisputably among the most significant and spectacular in the world. It has been almost 30 years since the enactment of the Oregon wilderness bill—the massive, 100,000-acre Mt. Jefferson Wilderness in central Oregon. I sponsored that bill and two other comprehensive pieces of legislation in 1978 and 1984, which increased Oregon's wilderness system fourfold, from 500,000 acres to 2.1 million acres.

Throughout my years in the Senate I have attempted to protect Oregon's resources by following the philosophy of the one of our Nation's first and foremost conservationists, the original U.S. Forest Service Chief, Gifford Pinchot. Gifford Pinchot said:

> The conservation of natural resources [in this country] is the key to the future. It is the key to the safety and prosperity of the American people. Conservation is the greatest material question of all.

This principle of conservation has led me to sponsor numerous land protection bills over the years.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Let me say, as I list this record of legislation, I want it clearly understood that, like anything else that happens in this Senate and in the legislative body, it was a team effort. It was a group effort. We had the advocates in the population and communities, we had the organizations sponsoring such issues in the public, and I had colleagues, colleagues not only in the Senate but colleagues in the House of Representatives, who were all part of this record that I am reciting today. In addition to that is the staff, the staff that serves these committees with such dedication, such expertise. None of it could have happened solely on the energy or effort of any one Member.

I have also sponsored legislation enacting the Columbia River Gorge National Scenic Area, the Oregon Dunes National Recreation Area, the Hells Canyon National Recreation Area, Yaquina Head and Cascade Head on the Oregon coast, the John Day Fossil Beds National Monument, the Newberry Crater National Monument, and the Oregon Wild and Scenic Rivers Act, which includes protection of 42 Oregon rivers, more than any other State in the Union.

In fact, the next highest State is California with 11.

To put Oregon's 42 wild and scenic rivers into context, having just made that statement about California, Alaska has displaced California. Alaska now has 25 rivers. Next comes Michigan, with 16. California now has 13 and Arkansas 8. I am proud that Oregon has led the way in protecting our wild and scenic rivers. Again, having stated the figures of those other States, Oregon is 42.

Each time I have labored to protect these special areas, I have been forcefully reminded that I represent a State that is often sharply divided on natural resource issues. These divides generally reflect the difference between the urban and the rural way of life. During the decades I have devoted to public service, I have sought to bridge the chasm that has formed between the urban and rural citizens of my State and bring some order and balance to natural resource conflicts by addressing both sides of the debate.

Today, in a sense, I am coming full circle to where I started with the 1968 Mt. Jefferson Wilderness Act. Today, I am introducing legislation to, once again, increase Oregon's wilderness system and protect one of Oregon's most important low-elevation old growth forests, Opal Creek. This legislation, called the Oregon Resources Conservation Act, also includes solutions to two other natural resource issues in my State on which I have been working for many years: protection of the Mt. Hood corridor; and promotion of consensus-based working groups in the Klamath and Deschutes River Basins. I am also including a so-called placeholder title for the Coquille Forest proposal, which will require a significant amount of public input prior to the introduction of any legislation.

Title I of the Oregon Resources Conservation Act creates a 25,800-acre Opal Creek Wilderness and National Scenic-Recreation Area. Opal Creek is truly one of Oregon's ecological crown jewels. It is one of the last remaining intact, low-elevation old-growth forest areas in western Oregon. Portions of Opal Creek are literally blanketed with majestic old-growth forests and crystal clear, stair-stepping waters.

I have always felt this area should be protected in perpetuity from commercial timber harvesting and mining. In fact, I included it in the original versions of both my 1984 Oregon Wilderness Act and my 1988 Oregon Wild and Scenic Rivers Act. Each time, however, the area was removed from these bills at the request of the State's Governor.

In 1991, I sponsored additional Opal Creek protection legislation when I included a provision which was enacted as part of the fiscal year 1992 Department of Defense appropriations bill to to facilitate the issuance of a patent on the key access property to Opal Creek. This provision was necessary to facilitate a large charitable donation of land and mineral interests by a mining company to the Nature Conservancy for the protection of the area. Unfortunately, the Nature Conservancy was forced to reject this donation due to its concerns about potential liability for an existing contaminated abandoned mining site in the Opal Creek area. Subsequently the Friends of Opal Creek, a local conservation group, stepped forward to accept this large charitable donation.

In 1994, there was another Opal Creek protection bill before the Congress. The bill, sponsored by my good friend, then-Representative Mike Kopetski of Oregon, passed the House of Representatives under his fine leadership and was referred to the Senate Committee on Energy and Natural Resources in the final days of the 103d Congress.

In fact, Mr. President, I invited my former colleague, Congressman Mike Kopetski, to be here today on this very historic occasion to share in the results of many of his long years of commitment and his dedicated effort.

The Senate was unable to take final action on this legislation in the few remaining weeks prior to sine die. These difficulties were enhanced by the administration's initial opposition and ambivalence toward the proposal.

I called for and chaired a hearing before the the Senate Committee on Energy and Natural Resources on October 5, 1994, which examined the concerns with the bill and sought to build momentum for a working group process at the local level which would attempt to build consensus and bring divergent parties together on this controversial issue.

This hearing did, indeed, create the momentum necessary for the formation of an Opal Creek working group, and on September 1, 1995, the first meeting of the group was held in Salem, OR. The Willamette University Dispute Resolution Center agreed to facilitate the meeting and attempt to build a consensus on the issue. The group, with the benefit of the outstanding facilitation skills of Prof. Richard Birke, met from September 1995 to March of this year and has developed a several-hundred page report summarizing its deliberations. I believe the group has done an excellent job discussing difficult issues and working together to find a solution. Mind you, this was a very broadly based group representing industry, local officials, environmental organizations, user groups and so forth. While no clear-cut consensus emerged from the group, their report has given me a strong understanding of the existing natural values of the area, the issues involved in protection of the area and the positions of all groups involved in the debate. Indeed, this report has greatly assisted me in developing the legislation I am introducing today.

As many of my colleagues know, we have a political environment in Oregon and the Pacific Northwest that is as splintered as any I have seen in my political career. This environment is characterized by a lack of trust on all sides of the political spectrum and extreme polarization. The Opal Creek working group, therefore, is a great success in bringing parties together in an attempt to heal old wounds and build new partnerships. The group also represents in my mind a great success in addressing one of my major concerns with the House's legislation from 1994, which was the general lack of agreements and limited dialog regarding protection of this forested area. I thank each and every member of the group of their dedication to this 6-month process and to resolving this difficult issue.

Again, I want to say, parenthetically, that one of the outstanding members of that group is former Congressman Mike Kopetski who, again, was able to give leadership from some of his experience in giving his life effort to the development of Opal Creek.

The legislation I am introducing today also addresses another major concern I had with the 1994 Opal Creek bill, its lack of ecosystem watershed management principles. The 1994 bill would have protected approximately 22,000 acres in the Opal Creek area. My bill protects 25,800 acres, including the creation of approximately 12,800 acres of new wilderness. Each and every one of the sub watersheds—we took a map, and we looked at that map as an ecosystem. We looked at that map as a

great basin, a watershed. So we took from that map, with concern for protection of the entire ecosystem. Each and every one of those sub watersheds in the Little North Fork Santiam River drainage are addressed in some way in my legislation, either through a wilderness or a national scenic recreation area designation.

By doing this, we have attempted to protect the outstanding resource values in each of these sub drainages, while at the same time addressing the area comprehensively as an intact ecosystem.

In addition to addressing the protection of the entire watershed, the Opal Creek title of this bill maintains recreation at existing levels and allows for growth in uses where appropriate. The bill also calls for historical, cultural and ecological interpretation in the newly-created area to be conducted in a balanced and factually accurate manner. Motorized recreation will be prohibited except on the existing road system and nonmotorized use will be permitted throughout the area, except, of course, in the wilderness. The existing road system will be analyzed and evaluated through a management planning process, which will decide which roads to close and which to leave open. No new water impoundments will be allowed in this area. No new mining claims will be allowed to be filed under the 1872 mining law, and no existing claims will be allowed to be patented. In addition, the bill calls for the creation of an advisory council composed of members of the local community, industry, environmental groups, locally elected officials, the Forest Service and an appointee by the Governor. Finally, the bill will not allow commercial timber harvesting of any kind in the Opal Creek area except to prevent the spread of a forest fire or to to protect public health and safety. It is important to note that the lands covered by my legislation are not included—not included—in the timber base and are not open to commercial harvest today.

The final element of the Opal Creek package, Mr. President, was an important part of the working group's discussions. I am referring to an economic development package for the Santiam Canyon, which includes the communities immediately adjacent to the Opal Creek area. This package is based, primarily, on a set of infrastructure improvements developed by these communities in conjunction with the State Economic Development Office, which are designed to improve the water quality and delivery systems of the communities in the area.

I have made the first downpayment on this economic commitment package by including a $300,000 appropriation in the fiscal year 1996 Omnibus Appropriations Act to help begin the clean up of the contaminated Amalgamated Mill site at Jawbone Flats in Opal Creek.

Throughout the coming fiscal year 1997 appropriations cycle, I will work closely with Oregon's Gov. John Kitzhaber, and my colleague on the House Appropriations Committee from Oregon, JIM BUNN, to further refine this package and provide additional funding, as needed, for the Amalgamated Mill cleanup and for the critical community infrastructure projects designed to allow these former timber communities to diversify their economic bases and improve their water systems.

In short, the Opal Creek title of this bill attempts to address every issue raised both in the 1994 hearings on Opal Creek and in the working group process conducted out in Oregon. This is an issue I have worked on for almost 20 years. I am extremely pleased that, with this legislation and accompanying infrastructure development package, we will finally be able to address the protection of Opal Creek and the adjacent portions of the Little North Fork Santiam Watershed, as well as improvements to the water quality and delivery systems of nearby, timber-dependent communities.

Mr. President, the Oregon Resources Conservation Act also contains two other titles. The first is a relatively noncontroversial provision which promulgates a land exchange in the Mt. Hood Corridor between the Bureau of Land Management and the Longview Fibre timber company in the State of Washington. Both parties are willing participants in this process, which seeks to protect the viewshed along the Highway 26 corridor on the way to Mt. Hood, the highest mountain peak in my State.

Longview Fibre owns approximately 3,500 acres of timber land in the scenic Mt. Hood corridor, which are interspersed with BLM lands in a checkerboard fashion. Longview would like to harvest these lands within the next 5 years, but is sensitive about the public perception regarding these clearcuts along such a heavily traveled route. I agree with Longview Fibre and feel harvesting these trees along Highway 26 would be a disaster both for the ecological and visual characteristics of the resource. Longview, to their credit, has been extremely interested in working with local planning and environmental groups to identify BLM parcels elsewhere in western Oregon that could be traded for the Longview Fibre lands in the corridor.

This proposal is a unique opportunity to forge ahead with a plan that has been built at the local level over the past 5 years and which has virtually unanimous support, including the local county government, local businesses, the timber industry, and local environmental groups.

The third, and final, title of the Oregon Resource Conservation Act includes the establishment of a 5-year pilot project for two, consensus-based natural resource planning bodies now working in Oregon's Klamath and Deschutes Basins. Both of these bodies are already in place and have been working to provide the Federal agencies with recommendations about how best to prioritize spending for ecological restoration, economic health, and reducing drought impacts.

I called for the creation of the Upper Klamath Basin working group in 1995. This group is citizen-led and includes environmentalists, irrigators, local business leaders, locally elected officials, educators, the Klamath Tribes, and Federal land management agencies in an advisory capacity. This group was charged with developing both short- and long-term recommendations for restoring ecological health in the Klamath Basin. They were successful in developing short-term funding recommendations ranging from riparian and wetland restoration, to fish passage and the coordination of geological information systems in the basin. I followed through on these recommendations and was able to obtain either funding or direction to the pertinent agencies in the fiscal year 1996 appropriations process.

The group has also developed a long-term recommendation which includes a formal registration of the group as a State-sanctioned foundation and congressional legislation enabling them to help land management agencies set priorities for how money is spent in the basin on various ecological restoration and economic stabilization projects.

The legislation I am introducing today addresses their long-term recommendation by creating a 5-year pilot project to allow the Upper Klamath Basin Working Group-Foundation, in conjunction with the Federal land management agencies in the basin, to develop funding priorities for ecological restoration in the basin. It will provide $1 million per year to be spent consistent with these priorities. This money will be administered by the agencies and matched by an equal amount of non-Federal dollars.

The Deschutes Basin in central Oregon would also be allowed to develop a similar regime using, as its base, a group formed by the Warm Springs Tribes, the Environmental Defense Fund, local irrigators, and locally elected officials. This group has been meeting and collaborating on projects in the basin for several years.

Recently, both of these working groups have been able to make significant progress in building coalitions and consensus on natural resource management challenges that, not too long ago, many felt were insurmountable. By given them more authority to temporarily assist Federal agencies with setting policy priorities using a finite amount of money, I hope we can begin to enter a new era of more local control and greater public input regarding

VOL
142
PT
5
MR
21
—
29
1996
UMI

resource management decisions. I also hope these groups, and others that may follow, will continue to use the consensus-based management approach to return resource management decisions to a collaborative, inclusive process rather than divisive, litigious morass in which we find ourselves today.

Mr. President, today I had also planned on introducing a bill to create a 59,000-acre Coquille Forest as part of the federally-recognized Coquille Tribes' economic self-sufficiency plan. However, because of a number of unresolved issues, including the apparent lack of agreement, understanding or consensus at the local level, I am withholding my introduction of this bill until after I have had an opportunity to gather more public input through the congressional hearing process. And also there is a local election that is being held in May concerning this issue.

I am extremely pleased with this bill. It protects two of Oregon's most important natural resource areas, Opal Creek and the Mt. Hood Corridor, and it promotes consensus-based, watershed planning at the local level in the Klamath and Deschutes Basins. I have worked many years to protect Oregon's magnificent natural resources. I am pleased that in this, my last year in the Senate, I will be able to continue this legacy of protecting Oregon's beauty for the enjoyment and use of future generations.

I look forward to speedy hearings on the Oregon Resources Conservation Act, of which I have been promised by the chairman of the committee, Senator MURKOWSKI of Alaska. We will have that hearing later in the month of April.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD. This bill is ready to be sent to the House.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Oregon Resource Conservation Act of 1996".

TITLE I—OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA

SEC. 101. SHORT TITLE.

This title may be cited as the "Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996".

SEC. 102. DEFINITIONS.

In this title:

(1) BULL OF THE WOODS WILDERNESS.—The term "Bull of the Woods Wilderness" means the land designated as wilderness by section 3(4) of the Oregon Wilderness Act of 1984 (Public Law 98–328; 16 U.S.C. 1132 note).

(2) IMMEDIATE FAMILY.—The term "immediate family" means, with respect to the owner of record of land or an interest in land, a spouse, sibling, child (whether natural or adopted), stepchild, and any lineal descendant of the owner.

(3) OPAL CREEK WILDERNESS.—The term "Opal Creek Wilderness" means certain land in the Willamette National Forest in the State of Oregon comprising approximately 13,212 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic-Recreation Area", dated March 1996.

(4) SCENIC RECREATION AREA.—The term "Scenic Recreation Area" means the Opal Creek Scenic Recreation Area established under section 103(a)(3).

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 103. ESTABLISHMENT OF OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.

(a) ESTABLISHMENT.—On a determination by the Secretary under subsection (b)—

(1) the Opal Creek Wilderness shall become a component of the National Wilderness System and shall be known as the Opal Creek Wilderness;

(2) the part of the Bull of the Woods Wilderness that is located in the Willamette National Forest shall be incorporated into the Opal Creek Wilderness; and

(3) the Secretary shall establish the Opal Creek Scenic Recreation Area in the Willamette National Forest in the State of Oregon, comprising approximately 13,013 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic-Recreation Area", dated March 1996.

(b) CONDITIONS.—Subsection (a) shall not take effect unless the Secretary makes a determination, not later than 2 years after the date of enactment of this Act, that the following have been donated to the United States in an acceptable condition and without encumbrances:

(1) All right, title, and interest in the following patented parcels of land:

(A) Santiam number 1, mineral survey number 992, as described in patent number 39–92–0002, dated December 11, 1991.

(B) Ruth Quartz Mine number 2, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991.

(C) Morning Star Lode, mineral survey number 993, as described in patent number 36–91–0011, dated February 12, 1991.

(D) Certain land belonging to the Times Mirror Land and Timber Company located in section 18, township 8 south, range 5 east, Marion County, Oregon, Eureka numbers 6, 7, and 8, and 13 patented mining claims.

(2) A public easement across the Hewitt, Starvation, and Poor Boy Mill Sites, mineral survey number 990, as described in patent number 36–91–0017, dated May 9, 1991, or any alternative route for the easement that may be available.

(c) EXPANSION OF SCENIC RECREATION AREA BOUNDARIES.—On acquiring all or substantially all of the land located in section 36, township 8 south, range 4 east, of the Willamette Meridian, Marion County, Oregon, by exchange, purchase, or donation, the Secretary shall expand the boundary of the Scenic Recreation Area to include the land.

SEC. 104. ADMINISTRATION OF THE SCENIC RECREATION AREA.

(a) IN GENERAL.—The Secretary shall administer the Scenic Recreation Area in accordance with the laws (including regulations) applicable to the National Forest System.

(b) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of establishment of the Scenic Recreation Area, the Secretary, in consultation with the advisory committee established under section 105(a), shall prepare a comprehensive management plan for the Scenic Recreation Area.

(2) INCORPORATION IN LAND AND RESOURCE MANAGEMENT PLAN.—On completion of the management plan, the management plan shall become part of the land and resource management plan for the Willamette National Forest and supersede any conflicting provision in the land and resource management plan.

(3) REQUIREMENTS.—The management plan shall provide a broad range of land uses, including—

(A) recreation;

(B) harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets; and

(C) educational and research opportunities.

(4) PLAN AMENDMENTS.—The Secretary may amend the management plan as the Secretary may determine to be necessary.

(c) CULTURAL AND HISTORIC RESOURCE INVENTORY.—

(1) IN GENERAL.—Not later than 1 year after the date of establishment of the Scenic Recreation Area, the Secretary shall review and revise the inventory of the cultural and historic resources on the public land in the Scenic Recreation Area that were developed pursuant to the Oregon Wilderness Act of 1984 (Public Law 98–328; 98 Stat. 272).

(2) INTERPRETATION.—Interpretive activities shall be developed under the management plan in consultation with State and local historic preservation organizations and shall include a balanced and factually-based interpretation of the cultural, ecological, and industrial history of forestry and mining in the Scenic Recreation Area.

(d) TRANSPORTATION PLANNING.—

(1) IN GENERAL.—To maintain access to recreation sites and facilities in existence on the date of enactment of this Act, the Secretary shall prepare a transportation plan for the Scenic Recreation Area that evaluates the road network within the Scenic Recreation Area to determine which roads should be retained and which roads closed.

(2) ACCESS BY PERSONS WITH DISABILITIES.—The Secretary, in consultation with private inholders in the Scenic Recreation Area, shall consider the access needs of persons with disabilities in preparing the transportation plan for the Scenic Recreation Area.

(3) MOTOR VEHICLES.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and in the transportation plan under paragraph (1), motorized vehicles shall not be permitted in the Scenic Recreation Area.

(B) EXCEPTION.—Forest road 3209 beyond the gate to the Scenic Recreation Area, as depicted on the map described in section 103(a)(3), may be used by motorized vehicles for administrative purposes and for access to a private inholding, subject to such terms and conditions as the Secretary may determine to be necessary.

(4) ROAD IMPROVEMENT.—Any construction or improvement of forest road 3209 beyond the gate to the Scenic Recreation Area may not include paving or any work beyond 50 feet from the centerline of the road.

(e) HUNTING AND FISHING.—

(1) IN GENERAL.—Subject to other Federal and State law, the Secretary shall permit hunting and fishing in the Scenic Recreation Area.

(2) LIMITATION.—The Secretary may designate zones in which, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment.

(3) CONSULTATION.—Except during an emergency, as determined by the Secretary, the Secretary shall consult with the Oregon State Department of Fish and Wildlife before issuing any regulation under this section.

(f) TIMBER CUTTING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall prohibit the cutting of trees in the Scenic Recreation Area.

(2) PERMITTED CUTTING.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may allow the cutting of trees in the Scenic Recreation Area—

(i) for public safety, such as to control the spread of a forest fire in the Scenic Recreation Area or on land adjacent to the Scenic Recreation Area; or

(ii) for activities related to administration of the Scenic Recreation Area.

(B) SALVAGE SALES.—The Secretary may not allow a salvage sale in the Scenic Recreation Area.

(g) WITHDRAWAL.—Subject to rights perfected before the date of enactment of this Act, all land in the Scenic Recreation Area are withdrawn from—

(1) any form of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under the mineral and geothermal leasing laws.

(h) WATER IMPOUNDMENTS.—Notwithstanding the Federal Power Act (16 U.S.C. 791a et seq.), the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work in the Scenic Recreation Area.

(i) RECREATION.—

(1) RECOGNITION.—Congress recognizes recreation as an appropriate use of the Scenic Recreation Area.

(2) MINIMUM LEVELS.—The management plan shall accommodate recreation at not less than the levels in existence on the date of enactment of this Act.

(3) HIGHER LEVELS.—The management plan may provide for levels of recreation use higher than the levels in existence on the date of enactment of this Act if the levels are consistent with the protection of resource values.

(j) PARTICIPATION.—In order that the knowledge, expertise, and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Scenic Recreation Area and its various subareas for the benefit of the public:

(1) ADVISORY COUNCIL.—The Secretary shall consult on a periodic and regular basis with the advisory council established under section 105 with respect to matters relating to management of the Scenic Recreation Area.

(2) PUBLIC PARTICIPATION.—The Secretary shall seek the views of private groups, individuals, and the public concerning the Scenic Recreation Area.

(3) OTHER AGENCIES.—The Secretary shall seek the views and assistance of, and cooperate with, any other Federal, State, or local agency with any responsibility for the zoning, planning, or natural resources of the Scenic Recreation Area.

(4) NONPROFIT AGENCIES AND ORGANIZATIONS.—The Secretary shall seek the views of any nonprofit agency or organization that may contribute information or expertise about the resources and the management of the Scenic Recreation Area.

SEC. 105. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—On the establishment of the Scenic Recreation Area, the Secretary shall establish an advisory council for the Scenic Recreation Area.

(b) MEMBERSHIP.—The advisory council shall consist of not more than 11 members, of whom—

(1) 1 member shall represent Marion County, Oregon, and shall be designated by the governing body of the county;

(2) 1 member shall represent the State of Oregon and shall be designated by the Governor of Oregon; and

(3) not more than 8 members shall be appointed by the Secretary from among persons who, individually or through association with a national or local organization, have an interest in the administration of the Scenic Recreation Area, including representatives of the timber industry, environmental organizations, and economic development interests.

(c) STAGGERED TERMS.—Members of the advisory council shall serve for staggered terms of 3 years.

(d) CHAIRMAN.—The Secretary shall designate 1 member of the advisory council as chairman.

(e) VACANCIES.—The Secretary shall fill a vacancy on the advisory council in the same manner as the original appointment.

(f) COMPENSATION.—A member of the advisory council shall not receive any compensation for the member's service to the advisory council.

SEC. 106. GENERAL PROVISIONS.

(a) LAND ACQUISITION.—

(1) IN GENERAL.—Subject to the other provisions of this subsection, the Secretary may acquire any lands, waters, or interests in land or water in the Scenic Recreation Area or the Opal Creek Wilderness that the Secretary determines are needed to carry out this title.

(2) PUBLIC LAND.—Any lands, waters, or interests in land or water owned by a State or a political subdivision of a State may be acquired only by donation or exchange.

(3) CONDEMNATION.—Subject to paragraph (4), the Secretary may not acquire any privately owned land or interest in land without the consent of the owner unless the Secretary finds that—

(A) the nature of land use has changed significantly, or the landowner has demonstrated intent to change the land use significantly, from the use that existed on the date of the enactment of this Act; and

(B) acquisition by the Secretary of the land or interest in land is essential to ensure use of the land or interest in land in accordance with the management plan prepared under section 104(b).

(4) RIGHT OF FIRST REFUSAL.—

(A) IN GENERAL.—The following privately owned lands, interests in land, and structures may not be disposed of by donation, exchange, sale, or other conveyance without first being offered at not more than fair market value to the Secretary:

(i) The lode mining claims known as the Princess Lode, Black Prince Lode, and King Number 4 Lode, embracing portions of sections 29 and 32, township 8 south, range 5 east, Willamette Meridian, Marion County, Oregon, the claims being more particularly described in the field notes and depicted on the plat of mineral survey number 887, Oregon.

(ii) Ruth Quartz Mine Number 1, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991.

(B) ACCEPTANCE PERIOD.—The Secretary shall have not less than 120 days in which to accept an offer under subparagraph (A).

(C) ACQUISITION.—The Secretary shall have not less than 45 days after the end of the fiscal year following the fiscal year in which an offer was accepted under subparagraph (B) to acquire the land, interest in land, or structure offered under subparagraph (A).

(D) PROHIBITION OF CHEAPER SALES.—Any land, interest in land, or structure offered to the Secretary under subparagraph (A) may not be sold or conveyed at a price below the price at which the land, interest in land, or structure was offered.

(E) REOFFER.—

(i) IN GENERAL.—Subject to clause (ii), any land, interest in land, or structure offered to the Secretary under subparagraph (A) may not be reoffered for sale or conveyance unless the land, interest in land, or structure is first reoffered to the Secretary.

(ii) IMMEDIATE FAMILY.—Clause (i) shall not apply to a change in ownership of land, an interest in land, or a structure within the immediate family of the owner of record on January 1, 1996.

(F) PROCEEDS.—The proceeds of any sale to the Secretary under this paragraph may be used only for—

(i) trail, road, and bridge maintenance;

(ii) elementary, secondary, undergraduate and graduate level interpretive, research, and educational programs and activities, such as public school field study programs, laboratory studies, workshops, and seminars; and

(iii) construction of visitor facilities, such as restrooms, information kiosks, and trail signage.

(b) ENVIRONMENTAL RESPONSE ACTIONS AND COST RECOVERY.—

(1) RESPONSE ACTIONS.—Nothing in this title shall limit the authority of the Secretary or a responsible party to conduct an environmental response action in the Scenic Recreation Area in connection with the release, threatened release, or cleanup of a hazardous substance, pollutant, or contaminant, including a response action conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(2) LIABILITY.—Nothing in this title shall limit the authority of the Secretary or a responsible party to recover costs related to the release, threatened release, or cleanup of any hazardous substance or pollutant or contaminant in the Scenic Recreation Area.

(c) MAPS AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a boundary description for the Opal Creek Wilderness and for the Scenic Recreation Area with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) FORCE AND EFFECT.—The boundary description and map shall have the same force and effect as if the description and map were included in this title, except that the Secretary may correct clerical and typographical errors in the boundary description and map.

(3) AVAILABILITY.—The map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 107. DESIGNATION OF ELKHORN CREEK AS A WILD AND SCENIC RIVER.

Section 3(a) of the Wild and Scenic Recreation Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

"( ) ELKHORN CREEK.—Elkhorn Creek from its source to its confluence on Federal land, to be administered by agencies of the Departments of the Interior and Agriculture

VOL
142
PT
5
MR
21
—
29
1996
UMI

as agreed on by the Secretary of the Interior and the Secretary of Agriculture or as directed by the President. Notwithstanding subsection (b), the boundaries of the Elkhorn River shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.".

SEC. 108. SAVINGS CLAUSE.

Nothing in this title shall—

(1) interfere with any activity for which a special use permit has been issued (and not revoked) before the date of enactment of this Act, subject to the terms of the permit; or

(2) otherwise abridge the valid existing rights of an unpatented mining claimant under the general mining laws of the United States.

TITLE II—UPPER KLAMATH BASIN

SEC. 201. UPPER KLAMATH BASIN ECOLOGICAL RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ECOSYSTEM RESTORATION OFFICE.—The term "Ecosystem Restoration Office" means the Klamath Basin Ecosystem Restoration Office operated cooperatively by the United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, and Forest Service.

(2) WORKING GROUP.—The term "Working Group" means the Upper Klamath Basin Working Group, established before the date of enactment of this Act, consisting of representatives of the environmental community, Klamath Tribes, water users, local industry, Klamath County, Oregon, the Department of Fish and Wildlife of the State of Oregon, the Oregon Institute of Technology, the city of Klamath Falls, Oregon, and the United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Forest Service, Natural Resources Conservation Service, and Ecosystem Restoration Office.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(b) COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with the Working Group under which—

(A) the Working Group through the Ecosystem Restoration Office, with technical assistance from the Secretary, will propose ecological restoration projects to be undertaken in the Upper Klamath Basin based on a consensus of interested persons in the community;

(B) the Working Group will accept donations from the public and place the amount of any donations received in a trust fund, to be expended on the performance of ecological restoration projects approved by the Secretary;

(C) on continued satisfaction of the condition stated in subsection (c), the Secretary shall pay not more than 50 percent of the cost of performing any ecological restoration project approved by the Secretary, up to a total amount of $1,000,000 during each of fiscal years 1997 through 2001;

(D) funds made available under this title shall be distributed by the Department of the Interior, the Fish and Wildlife Service, and the Ecosystem Restoration Office;

(E) the Ecosystem Restoration Office may utilize not more than 15 percent of all funds administered under this section for administrative costs relating to the implementation of this title; and

(F) Federal agencies located in the Upper Klamath Basin, including the Fish and Wildlife Service, Bureau of Reclamation, National Park Service, Forest Service, Natural Resources Conservation Service, and Ecosystem Restoration Office shall provide technical assistance to the Working Group and actively participate in Working Group meetings as nonvoting members.

(c) CONDITIONS.—The conditions stated in this subsection are—

(1) that the representatives and interested persons on the Working Group on the date of enactment of this Act continue to serve, and in the future consist of not less than—

(A) 3 tribal members;

(B) 2 representatives of the city of Klamath Falls, Oregon;

(C) 2 representatives of Klamath County, Oregon;

(D) 1 representative of institutions of higher education in the Upper Klamath Basin;

(E) 4 representatives of the environmental community;

(F) 4 representatives of local businesses and industries;

(G) 4 representatives of the ranching and farming community;

(H) 2 representatives of the State of Oregon; and

(I) 2 representatives from the local community; and

(2) that the Working Group conduct all meetings consistent with Federal open meeting and public participation laws.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1997 through 2002.

SEC. 202. DESCHUTES BASIN RESTORATION PROJECTS.

There is hereby authorized the Deschutes Basin Working Group to be constituted in the same manner, with the same membership, provided with the same appropriations and provided with the same ability to offer recommendations to Federal agencies regarding the expenditure of funds as the Klamath Basin Group.

TITLE III—MOUNT HOOD CORRIDOR

SEC. 301. LAND EXCHANGE.

(a) AUTHORIZATION.—Notwithstanding any other law, if Longview Fibre Company (referred to in this section as "Longview") offers and conveys title that is acceptable to the United States to the land described in subsection (b), the Secretary of the Interior (referred to in this section as the "Secretary") shall convey to Longview title to some or all of the land described in subsection (c), as necessary to satisfy the requirements of subsection (d).

(b) LAND TO BE OFFERED BY LONGVIEW.—The land referred to in subsection (a) as the land to be offered by Longview is the land described as follows:

(1) T. 2 S., R. 6 E., sec. 13—E½SW¼, W½SE¼, containing 160 record acres, more or less;

(2) T. 2 S., R. 6 E., sec. 14—All, containing 640 record acres, more or less;

(3) T. 2 S., R. 6 E., sec. 16—N½, SW½, N½SE¼, SW¼SE½, containing 600 record acres, more or less;

(4) T. 2 S., R. 6 E., sec. 26—NW¼, N½SW¼, SW¼SW¼, NW¼SE¼; (and a strip of land to be used for right-of-way purposes in sec. 23), containing 320 record acres, more or less;

(5) T. 2 S., R. 6 E., sec. 27—S½NE¼NE¼, NW¼NE¼, SE¼NE¼, NW¼NW¼, containing 140 record acres, more or less;

(6) T. 2 S., R. 6 E., sec. 28—N½, Except a tract of land 100 feet square bordering and lying west of Wild Cat Creek and bordering on the north line of Sec. 28, described as follows: Beginning at a point on the west bank of Wild Cat Creek and the north boundary of sec. 28, running thence W. 100 feet, thence S. 100 feet parallel with the west bank of Wild Cat Creek, thence E. to the west bank of Wild Cat Creek, thence N. along said bank of Wild Cat Creek to the point of beginning, containing 319.77 record acres, more or less;

(7) T. 2 S., R. 7 E., sec. 19—E½SW¼, SW¼SE¼, Except a tract of land described in deed recorded on August 6, 1991, as Recorder's Fee No. 91-39007, and except the portion lying within public roads, containing 117.50 record acres, more or less;

(8) T. 2 S., R. 7 E., sec. 20—S½SW¼SW¼, containing 20 record acres, more or less;

(9) T. 2 S., R. 7 E., sec. 27—W½SW¼, containing 80 record acres, more or less;

(10) T. 2 S., R. 7 E., sec. 28—S½, containing 320 record acres, more or less;

(11) T. 2 S., R. 7 E., sec. 29—SW¼NE¼, W½SE¼NE¼, NW¼, SE¼, containing 380 record acres, more or less;

(12) T. 2 S., R. 7 E., sec. 30—E½NE¼, NW½NE¼, Except the portion lying within Timberline Rim Division 4, and except the portion lying within the county road, containing 115 record acres, more or less;

(13) T. 2 S., R. 7 E., sec. 33—N½NE¼, E½NW¼NW¼, NE¼SW¼NW¼, containing 110 record acres, more or less;

(14) T. 3 S., R. 5 E., sec. 13—NE¼SE¼, containing 40 record acres, more or less;

(15) T. 3 S., R. 5 E., sec. 25—The portion of the E½NE¼ lying southerly of Eagle Creek and northeasterly of South Fork Eagle Creek, containing 14 record acres, more or less;

(16) T. 3 S., R. 5 E., sec. 26—The portion of the N½SW¼ lying northeasterly of South Fork Eagle Creek, containing 36 record acres, more or less; and

(17) T. 6 S., R. 2 E., sec. 4—SW¼, containing 160.00 record acres, more or less.

(c) LAND TO BE CONVEYED BY THE SECRETARY.—The land referred to in subsection (a) as the land to be conveyed by the Secretary is the land described as follows:

(1) T. 1 S., R. 5 E., sec. 9—SE¼NE¼, SE¼SE¼, containing 80 record acres, more or less;

(2) T. 2 S., R. 5 E., sec. 33—NE¼NE¼, containing 40 record acres, more or less;

(3) T. 2½ S., R. 6 E., sec. 31—Lots 1-4, incl. containing 50.65 record acres, more or less;

(4) T. 2½ S., R. 6 E., sec. 32—Lots 1-4, incl. containing 60.25 record acres, more or less;

(5) T. 3 S., R. 5 E., sec. 1—NE¼SW¼, SE¼, containing 200 record acres, more or less;

(6) T. 3 S., R. 5 E., sec. 9—S½SE¼, containing 80 record acres, more or less;

(7) T. 3 S., R. 5 E., sec. 17—N½NE¼, containing 80 record acres, more or less;

(8) T. 3 S., R. 5 E., sec. 23—W½NW¼, NW¼SW¼, containing 120 record acres, more or less;

(9) T. 3 S., R. 5 E., sec. 25—The portion of the S½S½ lying southwesterly of South Fork Eagle Creek, containing 125 record acres, more or less;

(10) T. 3 S., R. 5 E., sec. 31—Unnumbered lot (SW¼SW¼), containing 40.33 record acres, more or less;

(11) T. 7 S., R. 1 E., sec. 23—SE¼SE¼, containing 40 record acres, more or less;

(12) T. 10 S., R. 2 E., sec. 34—SW¼SW¼, containing 40 record acres, more or less;

(13) T. 10 S., R. 4 E., sec. 9—NW¼NW¼, containing 40 record acres, more or less;

(14) T. 10 S., R. 4 E., sec. 21—E½SW¼, containing 80 record acres, more or less;

(15) T. 4 N., R. 3 W., sec. 35—W½SW¼, containing 80 record acres, more or less;

(16) T. 3 N., R. 3 W., sec. 7—E½NE¼, containing 80 record acres, more or less;

(17) T. 3 N., R. 3 W., sec. 9—NE¼NE¼, containing 40 record acres, more or less;

(18) T. 3 N., R. 3 W., sec. 17—S½NE¼, containing 80 record acres, more or less; and

(19) T. 3 N., R. 3 W., sec. 21—Lot 1, N½NW¼, SW¼NW¼, containing 157.99 record acres, more or less.

(d) EQUAL VALUE.—The land and interests in land exchanged under this section—

(1) shall be of equal market value; or

(2) shall be equalized using nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(e) REDESIGNATION OF LAND TO MAINTAIN REVENUE FLOW.—So as to maintain the current flow of revenue from land subject to the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the state of Oregon", approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary may redesignate public domain land located in and west of Range 9 East, Willamette Meridian, Oregon, as land subject to that Act.

(f) TIMETABLE.—The exchange directed by this section shall be consummated not later than 2 years after the date of enactment of this Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE IV—COQUILLE FOREST ECOSYSTEM MANAGEMENT PLAN

[To be supplied.]

By Mr. HATFIELD (for himself and Mr. HARKIN):

S. 1663. A bill to amend the Internal Revenue Code of 1986 to improve revenue collection and to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nomilitary purposes, to create the U.S. Peace Tax Fund to receive such tax payments, and for other purposes; to the Committee on Finance.

THE U.S. PEACE TAX FUND ACT OF 1996

Mr. HATFIELD. Madam President, As tax day approaches, I once again come before the Senate to introduce the United States Peace Tax Fund. I am joined in this effort by the Senator from Iowa, Senator HARKIN, who has been a longtime original cosponsor of this bill.

I first introduced the Peace Tax Fund during the 95th Congress, nearly 20 years ago. I have reintroduced the Peace Tax Fund in every Congress since then because I believe it is important legislation.

Since 1945 eligible conscientious objectors have been excused from combat. Although our Nation long has recognized moral and religious opposition to war, it has failed to address the depth and scope of such objections. Our tax laws do not recognize that conscience not only prohibits participation on the battlefield, but also in the preparation for war through payments to the military. CO's may withhold their bodies but not their money.

The Peace Tax Fund Act, if enacted, would allow complete participation in our Federal Government by all citizens without many being forced to compromise deeply held beliefs of any citizen.

Over the years I have received many letters from constituents describing their disapproval of military taxes and their desire to have the Federal Government respect such objections. Some citizens write of their decision to set aside their beliefs and pay their taxes in full, despite the anguish such payment causes. Others, perhaps following Albert Einstein's advice, "Never do anything against conscience even if the State demands it," refuse to pay a portion of their taxes. Some Americans purposefully keep their income below the taxable level, so that they can avoid the decision altogether.

It is important to point out what the Peace Tax Fund legislation is not. The Peace tax Fund is not a method by which a citizen may lodge protest over wasteful defense programs. Nor is it a tool to circumvent foreign policy initiatives. Tax liabilities cannot be reduced through participation in the Peace Tax Fund. The Peace Tax Fund Act was developed not for those individuals seeking to alter national policy, but rather to allow certain individuals to fully uphold Federal law without violating their consciences.

The Peace Tax Fund would allow these sincere conscientious objectors the opportunity to pay their Federal taxes in full. Those who qualify may choose to have that portion of their taxes which would go to military activities instead be diverted to a special trust fund—the Peace Tax Fund—and then disbursed to two Federal programs: Head Start and WIC. The bill would not reduce the amount of funding for military activities. Nor would it result in any significant loss of revenue, according to the Joint Committee on Taxation.

As defined by the Peace Tax Fund Act, an eligible conscientious objector is anyone who has obtained this status under the Military Selective Service Act. Others may submit a questionnaire to the Secretary of the Treasury certifying his or her beliefs and how those beliefs affect that individual's life.

In the 20-plus years that this issue has been debated, only two hearings have been held. The last hearing was held by the House Ways and Means Committee in 1992. The Senate has never held hearings on the Peace Tax Fund. It is my hope that before I leave the Senate the Finance Committee will hold a hearing on this issue.

The Peace Tax Fund has had the support of many committed religious and peace organizations throughout the years. I ask unanimous consent that a partial listing of the organizations endorsing the Peace Tax Fund be included in the RECORD.

I urge my colleagues to join me in support of this legislation so important to the protection of personal and religious beliefs of many citizens who find themselves each tax season torn between the law and conscience.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PARTIAL LISTING OF ORGANIZATIONS ENDORSING THE PEACE TAX FUND

1. American Arab Anti-Discrimination Committee.
2. American Friends Service Committee.
3. Baptist Peace Fellowship of North America.
4. Buddhist Peace Fellowship.
5. Catholic Committee of Appalachia.
6. Central Committee for Conscientious Objectors.
7. Church of the Brethren.
8. Consortium on Peace Research Education and Development.
9. Episcopal Peace Fellowship.
10. Evangelicals for Social Action.
11. Fellowship of Reconciliation.
12. Franciscan Federation of Brothers and Sisters.
13. Franciscans Sisters of the Poor.
14. Friends Committee on National Legislation.
15. Friends United Meeting.
16. Fund For Peace.
17. General Conference of the Mennonite Church.
18. Grandmothers for Peace.
19. Jewish Peace Fellowship.
20. Leadership Conference of Women Religious—Peace/Disarmament Task Force.
21. Lutheran Campus Ministry.
22. Lutheran Peace Fellowship.
23. Mennonite Central Committee.
24. Mennonite Church General Board.
25. Mercian Orthodox Catholic Church.
26. National Assembly of Religious Women.
27. National Council of Churches Ecumenical Witness Conference.
28. National Federation of Priests' Councils.
29. National Interreligious Service Board for Conscientious Objectors.
30. National Jobs with Peace Campaign.
31. NETWORK—A National Catholic Social Justice Lobby.
32. New Call to Peacemaking.
33. Nonviolence International.
34. Nuclear Free America.
35. Pax Christi USA.
36. Presbyterian Church USA.
37. Presbyterian Peace Fellowship.
38. Project for Conversion of Johns Hopkins Applied Physicis Laboratory.
39. School Sisters of St. Francis.
40. Society of the Sacred heart—US Province Provincial Team.
41. Sojourners.
42. Unitarian Universalist Association.
43. United Church of Christ.
44. United Methodist Church.
45. US Province Office of the US Provincials.
46. Veterans for Peace.
47. War Resisters' League.
48. Women Strike for Peace.
49. Women's International League for Peace and Freedom.
50. World Peacemakers.

ADDITIONAL COSPONSORS

S. 491

At the request of Mr. BREAUX, the name of the Senator from New Mexico

VOL
142
PT
5
MR
21
—
29
1996

[Mr. BINGAMAN] was added as a cosponsor of S. 491, a bill to amend title XVIII of the Social Security Act to provide coverage of outpatient self-management training services under part B of the Medicare program for individuals with diabetes.

S. 605

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 605, a bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

S. 864

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 864, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 953

At the request of Mr. DOLE, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 969

At the request of Mr. BRADLEY, the names of the Senator from Tennessee [Mr. FRIST], the Senator from Delaware [Mr. BIDEN], and the Senator from Minnesota [Mr. GRAMS] were added as cosponsors of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1028

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1039

At the request of Mr. ABRAHAM, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 1039, a bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes.

S. 1178

At the request of Mr. CHAFEE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1178, a bill to amend title XVIII of the Social Security Act to provide for coverage of colorectal screening under part B of the Medicare program.

S. 1373

At the request of Mr. DOLE, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1373, a bill to amend the Food Security Act of 1985 to minimize the regulatory burden on agricultural producers in the conservation of highly erodible land, wetland, and retired cropland, and for other purposes.

S. 1506

At the request of Mr. ABRAHAM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1506, a bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. HELMS, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1619

At the request of Mr. HATCH, the name of the Senator from Tennessee [Mr. THOMPSON] was added as a cosponsor of S. 1619, a bill to amend the provisions of title 17, United States Code, to provide for an exemption of copyright infringement for the performance of nondramatic musical works in small commercial establishments, and for other purposes.

S. 1635

At the request of Mr. DOLE, the names of the Senator from Texas [Mr. GRAMM], the Senator from Missouri [Mr. ASHCROFT], and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 1635, a bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes.

S. 1654

At the request of Mrs. BOXER, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1654, a bill to apply equal standards to certain foreign made and domestically produced handguns.

SENATE RESOLUTION 217

At the request of Mrs. KASSEBAUM, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from South Dakota [Mr. DASCHLE], the Senator from New York [Mr. D'AMATO], the Senator from Tennessee [Mr. FRIST], the Senator from Michigan [Mr. LEVIN], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Resolution 217, a resolution to designate the first Friday in May 1996, as "American Foreign Service Day" in recognition of the men and women who have served or are presently serving in the American Foreign Service, and to honor those in the American Foreign Service who have given their lives in the line of duty.

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from South Carolina [Mr. THURMOND], the Senator from Alabama [Mr. HEFLIN], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week."

SENATE RESOLUTION 236—APPOINTING MEMBERS TO CERTAIN SENATE COMMITTEES

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 236

Resolved, That, notwithstanding the provisions of the Standing Rules of the Senate, the following Members are hereby appointed to the following Senate committees:

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS: Mr. Bennett and Mr. Wyden.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION: Mr. Abraham and Mr. Wyden.

COMMITTEE ON THE BUDGET: Mr. Grams and Mr. Wyden.

SPECIAL COMMITTEE ON AGING: Mr. Warner and Mr. Wyden.

SENATE RESOLUTION 237—RELATIVE TO THE NATIONAL DEBT

Mr. FAIRCLOTH submitted the following resolution; which was referred to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged:

S. RES. 237

Whereas, the United States national debt is approximately $4.9 trillion;

Whereas, the Congress has authorized the national debt by law to reach $5.5 trillion;

Whereas, the 104th Congress and the President have both presented plans to balance the budget by the year 2002, by which time our national debt will be approximately $6.5 trillion;

Whereas, this accumulated debt represents a significant financial burden that will require excessive taxation and lost economic opportunity for future generations of the United States;

Resolved, That, it is the sense of the Senate that any comprehensive legislation that balances the budget by a certain date and that

is agreed to by the Congress and the President shall also contain a strategy for reducing the national debt of the United States.

NATIONAL DEBT REDUCTION

Mr. FAIRCLOTH. Mr. President, today I am introducing legislation that will require the Treasury Secretary to prepare a report for Congress on recommendations to reduce the national debt. Further, Mr. President, I am submitting a sense-of-the-Senate resolution that if we enact a balanced budget plan this year, such legislation should also contain a strategy for reducing the national debt.

Yesterday, the Congress raised the national debt to $5.5 trillion, a figure beyond the comprehension of most people. By most estimates, we will not even begin to balance a budget until the year 2002, at which point the national debt will, of course, be even larger—$6.5 trillion.

Mr. President, I am concerned about this debt burden that we have placed on our children, grandchildren, and children yet born. We continue to spend money we do not have on day-to-day needs—not investments—just simply for day-to-day needs—we spend money we do not have. However, if we continue this irresponsible pattern, we will bring great harm to future generations. We talk about doing something for our children, and, yet, we could do them few greater services than to leave them a debt-free country.

It took this country nearly 200 years to accumulate a debt of $1 trillion. In the last 16 years, however, the debt has increased fivefold. This Republican Congress has attempted to move the budget toward balance. This Congress has tried to stop the flow of red ink. The President has, regrettably, vetoed our Balanced Budget Act.

Indeed, most of our time has been spent just trying to stop deficit spending, and we have worked to move toward a balanced budget in the year 2002. We still have not succeeded in doing this.

Beyond the plan to put this country on the track toward a balanced budget, however, we have no plan—no plan whatsoever—and no thought has been given to how we will reduce the national debt. We merely have been trying to slow the train. Even if we balance the budget 7 years from now, Mr. President, we have no plans to reduce the $6.5 trillion debt that we will have accumulated.

This $6.5 trillion debt represents a tremendous amount of money—an incomprehensible amount of money to practically all of us—but what does it mean in real terms to the average working person? Six-point-five trillion dollars would build 50 million houses and finance 187 million college educations. It would buy 310 million tractors. It would buy 433 million automobiles.

Permit me to put that in perspective. Fifty million new homes—built at the average price of $130,000 each—would mean a new house for every married couple in America. If housing is an important goal, we could have bought everyone a new house. Six-point-five trillion dollars would pay the full 4-year college tuition of every American over the age of 18. If education is an important goal, we could have sent every American adult to college.

Six-point-five trillion dollars would buy 310 million farm tractors. It would buy 433 million automobiles. We started producing automobiles in this country around 1900 or immediately thereafter. Since then, we have not come close to producing 433 million cars. Mr. President, our debt would buy every automobile ever produced in this country, and it probably would still carry us through another couple years.

These illustrations underscore the massive spending spree that we have been on for the last 20 years. Mr. President, it is important to remember that 80 percent of this debt has been accumulated since 1980, so a great part of these examples could have been accomplished in just the last 20 years.

Perhaps the most startling fact is how interest costs are consuming us. Over 40 percent of the personal income taxes paid this year—40 percent of the personal income taxes collected in this country this year—will be used to pay the interest on the debt.

In terms of spending per person, the numbers are astonishing, and they are shocking. Interest on the national debt is the third most expensive budgetary category per person behind Social Security and defense. We spend more on interest than on Medicare, other health expenditures, education, housing, environment, and agriculture—all these eclipsed by just interest.

These are things that are important to the American people, and, yet, there is less to spend because we insist on spending more than we have. And we are adding to this debt every day. Every day we add to this debt somewhere close to $350 million.

Mr. President, the average 21-year-old will face a lifetime tax burden of $115,000 just to pay the interest on the national debt. As graduation season approaches, every college graduate looks forward to receiving a diploma, but that diploma will be accompanied by a bill from the U.S. Government for $115,000 as his or her part of the interest on the debt. So inside each diploma should be a bill from the Federal Government for $115,000.

If we had been responsible here in Washington and were really concerned about the future of the young people of this country—rather than just making platitudes about being nice to them—their future would look different. The $115,000 that the IRS will demand from our children could have been better spent. Four years of college, a new car, the down payment on a house, and, Mr. President, each would still have $60,000 left over. But, no, they are going to receive a $115,000 interest bill on the day we hand them a diploma.

Further, their future would be brighter because we would have reduced interest rates significantly, without the Government taking $350 million a day from the lending pool in this world. Interest rates would be down, and down considerably.

President Clinton likes to make much of the fact that he is young, that he appeals to young voters, and that his wife is active in the Children's Defense Fund. But how concerned is he really about America's young people? How concerned, really, is he? When he leaves office in 1997, America will be another $1 trillion deeper in debt than we were when he came. It took him 3 years into his Presidency to submit a balanced budget, and it was really not a balanced budget. It did not balance the budget, in fact, and it was just a pretense of a balanced budget. It took him 3 years of "amateur night" before he came up with a proposal that he could even pretend was a balanced budget, and, really, he did it after he was driven to do it by a Republican Congress.

If they are interested in doing something for the children, it is my belief that the best Children's Defense Fund is a national debt with a zero balance.

Mr. President, let me conclude by saying that the two bills I am introducing are a small step in a long journey to reduce our debt. We must develop a plan to bring down the debt. One idea is to establish a national debt reduction fund much like the Presidential campaign fund. Perhaps there are other ways we can use incentives to reduce the debt.

It is important to consider methods to reduce the debt, and this is a critical issue, but, Mr. President, this Congress must muster the fortitude to stop spending. And, so far, we have not managed to do that.

If we do not begin now, if we do not start now, when will we? If we do not do it in this Congress, if the people now here do not do it, who will do it?

Mr. President, I yield the remainder of my time. I thank you.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio is recognized to speak as if in morning business for up to 15 minutes.

Mr. GLENN. I thank the Chair.

Mr. President, I did not come to speak on this particular subject that was just addressed by Senator FAIRCLOTH, but I wanted to set some facts straight in the interest of fairness.

The facts are that when President Reagan took office, the national debt was at $1 trillion—the result of a build-up through all of the Presidents since George Washington through Jimmy Carter. During the Reagan-Bush years,

VOL
142
PT
5
MR
21
—
29
1996
UMI

we added $3.9 trillion. Currently, the national debt is about $5 trillion.

In the summer of 1993, President Clinton announced the reconciliation bill that he put forward with his economic policies. We passed the bill in the U.S. Senate without a single Republican vote—not one. It resulted in the first 3 years of budget deficit reduction since Harry Truman was in office. We went from a budget deficit of $292 billion in the year we passed the reconciliation bill in 1993, down to approximately $240 billion in 1994 and $163 billion in 1995. This year the budget deficit is estimated to be $142 billion. There are several estimates on that amount, including CBO. For the first time since Harry Truman, we have had a steady reduction of the Federal deficit over a 3-year period. We worked for a balanced budget, and we are on the road to attaining it.

SENATE RESOLUTION 238—RELATIVE TO BUDGET OR TAX LEGISLATION AND EXPANDED ACCESS TO INDIVIDUAL RETIREMENT ACCOUNTS

Mr. HELMS (for himself, Mr. ROTH, Mr. LOTT, Mr. D'AMATO, Mr. NICKLES, Mrs. HUTCHISON, Mr. FAIRCLOTH, Mr. BREAUX, Mr. SHELBY, Mr. BENNETT, and Mr. SANTORUM) submitted a resolution which was referred to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged:

S. RES. 238

Whereas the Congress recognizes that an increased saving rate would be beneficial for the American economy, providing much needed capital for investment which leads to economic growth and increases in jobs and wages;

Whereas the personal saving rate in America averaged between 6 percent and 8 percent from 1950 through 1980, but dropped below 5 percent in the late 1980's, where it remains today;

Whereas the United States now has the lowest saving rate of all other industrialized nations in the world and this results in deficit financing and foreign borrowing to finance our consumption and investment;

Whereas when the deductibility of contributions to individual retirement accounts ("IRAs") was significantly curbed in 1986, deductible contributions to IRAs dropped from almost $40,000,000,000 in 1985 to a low of about $7,000,000,000 in 1993;

Whereas millions of people are currently precluded from making fully deductible IRA contributions, and they are relying on Congress to increase the current income limit on individuals eligible to contribute to IRAs and to create a new nondeductible IRA so all Americans can utilize IRAs to save for their futures;

Whereas the time has come to allow spouses working at home to have an equal opportunity to invest in an IRA since out of the 53,000,000 households with married couples, at least 35 percent have only one wage earner in the household, thereby illustrating the need for IRAs for spouses working at home;

Whereas because of the current restrictions on IRAs, only around 8 percent of American workers invest in them;

Whereas unless remedial action is quickly taken to increase the saving rate, millions of American will be lacking in sufficient resources to fund their retirement needs;

Whereas 50 years ago 42 workers contributed Social Security taxes for every beneficiary, today there are fewer than 4 workers per beneficiary, and by 2025 the ratio will have dropped to only 2.2 workers per beneficiary;

Whereas if an expanded individual retirement package is included in any budget agreement or appropriate to measure, it will give millions of American the opportunity to use IRA funds to provide for retirement, buy a first home, pay for children's college education, or protect themselves in the event of extended unemployment—all without incurring any penalty; and

Whereas if an expanded individual retirement accounted package is included in any budget agreement or appropriate tax measure, millions of Americans can immediately begin using IRAs to save for their futures, reducing dependence on government, and millions of unemployed or underemployed Americans can pursue the American Dream: Now, therefore, be it

Resolved, That it is the sense of the Senate that any budget agreement or appropriate tax measure coming before Congress this year shall include expanded access to individual retirement accounts so that the saving crisis in America can be reverse, new jobs can be created, economic growth can be increased, and the American Dream can be restored.

Mr. HELMS. Mr. President, in 1981 President Reagan proposed that individual retirement accounts be expanded to allow all workers to supplement their employer pensions with individual, tax-deferred savings. You see, Mr. President, Ronald Reagan understood the importance of increased national savings; he correctly perceived that the expanded use of IRA's would result in additional savings by families and individual citizens.

The year President Reagan proposed the IRA expansion, citizens across America invested $4.8 billion in tax-deferred IRA accounts. Three years later, in 1984, the amount of contributions to IRA's had increased to more than $35 billion.

And this past year, Mr. President, IRA contributions dwindled to about $7 billion—due in large part to the ramifications of the Tax Reform Act of 1986, which limited tax-deferred IRA contributions only to workers having no employer-sponsored retirement plans in which to invest and save—and to those citizens meeting an income test. Not surprisingly, these unwise restrictions diminished IRAs as an effective way to save for broad segments of society.

It's high time that the Federal Government's tax policy again encourage the American people to save through tax-deferred IRA's. So, Mr. President, I'm introducing a resolution expressing the sense of the Senate that, if a budget agreement is reached this year, it should include expanded access to IRAs.

The distinguished chairman of the Finance Committee, Senator Roth, along with the Senator from Louisiana, Mr. BREAUX, have introduced an effective bill (S.12) to encourage savings and investment through IRAs. This legislation gradually restores the universal availability of the tax-deductible IRA. It also establishes the back-end IRA, a new investment instrument in which contributions are not tax deductible, but earnings are not taxed at withdrawal.

The Congress should make certain that all Americans, including those who choose to work at home, have the opportunity to participate fully in IRA savings. Moreover, the tax system should allow investors to withdraw savings for a limited number of contingencies For example, families should be allowed to make penalty-free withdrawals for certain education expenses, first-time home purchases, catastrophic illness and long-term unemployment. These commonsense proposals must be included in any budget agreement struck this year, or any appropriate tax measure considered by the Senate.

Mr. President, the saving rate in America has declined significantly in the past two decades. In the 1970's, Americans saved 8 percent of average disposable income. By 1994, that figure had dropped to 4 percent. The saving rate in Japan, for example, is three times that in America; Canadians save twice as much as Americans. According to the Federal Reserve Board Chairman, Alan Greenspan, reversing the low saving rate is one of the most important long-term economic challenges in America.

If the availability of IRAs is expanded, savings will increase, and that will benefit the entire economy. A boost in savings will fuel added investment spending, which in turn drives the engine of economic growth and job creation. Likewise, it will reduce our reliance on foreign investment.

The importance of individual savings has never been greater, Mr. President, as the current demographic situation makes clear. The population as a whole is aging and the ratio of retirees to workers is increasing in the 1940's, for example, approximately 40 workers contributed to Social Security for every beneficiary of Social Security. Today, there are fewer than four workers per beneficiary, and by 2025 the ration will have dropped to only 2.2 American workers per retiree. This is certain to place enormous stress on the public pension system in America.

Younger workers, especially, should be encouraged to save for their retirement needs. Personal responsibility and personal savings are the wave of

the future, Mr. President. The Senate should, therefore, include expanded savings opportunities in any future budget agreement, or in any appropriate tax measure to come before the Senate.

Mr. LOTT. Mr. President, I am very pleased to be a cosponsor of Senator HELMS' sense of the Senate resolution that an expanded IRA should be included in any budget agreement we are able to reach.

I am still hopeful that we will be able to reach an agreement this year. Some say I am the eternal optimist. But, I truly believe it is in the best interest of our country to enact the changes necessary to put us on the path to a balanced budget. And, I hope that, in the end, this will prevail.

I also believe that tax relief should be included in any final agreement. It is critical that we provide incentives for economic growth and relief to families.

The tax cuts in the 1980's led to significant increases in real savings and real net worth of U.S. households; they also attracted huge influxes of foreign capital. All of this helped finance vigorous economic growth.

To the contrary, the increase in marginal taxes in 1990 and 1993 have suppressed private-sector savings and led to stagnation in investment in the United States by foreign investors. To increase the U.S. economy's capacity to expand, we must reverse the tax rate increases of the past 4 years.

There are two aspects to our national savings problem:

First, public dissaving in the form of large Federal deficits, and

Second, a decline in private savings, especially for retirement.

We addressed both of these in the Balanced Budget Act of 1995 which the President vetoed last December.

Our national savings rate is alarmingly low: It has fallen 50 percent since 1970. Americans are saving less today than at almost any time since World War II.

From 1993 to 2020, the percentage of Americans over 65 years old will increase by 64 percent. The Baby Boom generation is aging, and people are spending more years in retirement than ever before. Yet, studies show that Baby Boomers are only saving one-third of what they need for an adequate retirement.

The ratio of those paying into Social Security versus those drawing it is shrinking. People must realize this trend and acknowledge that their Social Security benefits should only be the foundation for their retirement: They must also take personal responsibility.

The personal savings rate has plummeted from 8 percent of disposable income in 1970 to only 4 percent in 1994. This represents a loss of roughly $200 billion in capital that could have been put to work in our economy.

Our savings rate is lower than any industrialized country. For example, Japan's savings rate was 14.8 percent in 1994, compared to ours of just over 4 percent.

Low rates of savings and investment have limited productivity growth and employment opportunities for more than two decades. This has held back investments and kept the United States at sub-par growth levels.

We must address this long-term problem, realizing the importance of savings to the economy and the well-being of current and future generations.

If we do not take steps now to increase private savings, our deficits will preempt all projected private savings early in the next century.

Expanded IRA's will provide the incentive people need to save.

I have always been an advocate of IRA's. Contributions to IRA's grew from $5 billion in 1981 to about $38 billion in 1986, accounting for 30 percent of the total saving by individuals that year. IRA's were working as they were supposed to.

I thought it was wrong in 1986 to limit the deductibility of contributions. As a result, by 1990 annual contributions to IRA's fell to less than $10 billion, and participation fell from more than 15 percent of income tax filers in 1986 to only 4 percent in 1990.

We have made several efforts since then to restore the deduction, but to date have not been able to accomplish this. We were close this year. The Balanced Budget Act would have allowed penalty-free withdrawals from IRA's for first-time home purchases, medical expenses, education expenses and unemployment. Individuals would have been allowed to withdraw for themselves and members of their families.

In addition, the bill would have allowed for a super IRA and spousal IRA's. It blows my mind that women who work in the home are not allowed to contribute but $250 to an IRA; this is just basically unfair.

I believe expanded IRA's will serve as an incentive to Americans to save for their own retirement. Studies show that approximately one-third of Americans have put away almost nothing for their retirement. While saving for retirement is important for social reasons, there is an added benefit: Increased IRA savings will allow capital investment which will, in turn, spur economic growth.

So, in conclusion, I would urge my colleagues to support this sense of the Senate resolution. And, I would urge them to continue to support legislation to make investment in IRA's possible for all Americans.

Let's give people the opportunity to take control of their own lives and retirements and restore the American dream.

SENATE RESOLUTION 239—RELATIVE TO THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. DASCHLE) submitted a resolution; which was considered and agreed to:

S. RES. 239

Whereas, in the case of *Robert E. Barrett* versus *United States Senate, et al.*, No. 96CV00385 (D.D.C.), pending in the United States District Court for the District of Columbia, the plaintiff has named the United States Senate as a defendant;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1) (1994), the Senate may direct its counsel to defend the Senate in civil actions relating to its official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the United States Senate in the case of *Robert E. Barrett* versus *United States Senate, et al.*

SENATE RESOLUTION 240—TO AUTHORIZE REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. WARNER (for himself and Mr. FORD) submitted the following resolution; which was considered and agreed to:

S. RES. 240

Whereas, in the case of *United States* versus *Byron C. Dale, et al.*, Civil No. 95-1023, pending in the United States District Court for the District of South Dakota, Northern Division, the defendants have named Senator Robert J. Dole as a codefendant in a counterclaim against the United States;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1) (1994), the Senate may direct its counsel to defend its Members in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Dole in the case of *United States* versus *Byron C. Dale, et al.*

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Energy Research and Development.

The hearing will take place Tuesday, April 16, 1996, at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1646, a bill to authorize and facilitate a program to enhance safety, training research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please

VOL
142
PT
5
MR
21
—
29
1996
UMI

call Judy Brown or David Garman at (202) 224–8115.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing chaired by Senator Warner on Small Business and Employee Involvement. The TEAM Act Proposal on Thursday, April 18, 1996, at 9:30 a.m., in room 428A of the Russell Senate Office Building.

For further information, please contact Melissa Bailey at 224–5175.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a field hearing in Salem, OR, before the Subcommittee on Forests and Public Land Management on S. 1662, the Omnibus Oregon Resources Conservation Act.

The hearing will be held on Thursday, April 12, 1996, 1 p.m.–4 p.m. at the Willamette University, College of Law, 245 Winter Street, SE., Salem, OR 97301. Testimony will be received on the two major titles of the bill: Opal Creek Wilderness and Scenic-Recreation Area and Coquille Forest Proposal.

Because of the limited time available, witnesses may testify by invitation only. Written testimony will be accepted for the record. Witnesses testifying at the hearing are requested to bring 10 copies of their testimony with them on the day of the hearing. In addition, please send or fax a copy in advance to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. Fax to 202–228–0539 and fax a copy to Dave Robertson with Senator Hatfield at 503–326–2351.

For further information, please contact Mark Rey, Energy and Natural Resources Committee, at 202–224–6170 and Dave Robertson with Senator HATFIELD at 503–326–3386.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND

Mr. CRAIG. Mr. President, I would like to announce for the information of the senate and the public the scheduling of a hearing before the Subcommittee on Forests and Public Land Management on S. 1401, Surface mining Control and Reclamation Amendments Act of 1995.

The hearing will take place on Tuesday, April 23, 1996 at 9:30 a.m. in room SD 366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Michael Flannigan of the Subcommittee staff at 202–224–6170.

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Oversight and Investigations Subcommittee of the Energy and Natural Resources Committee to review the socioeconomic impacts of the Department of the Interior's regulatory requirements and planning process.

The hearing will take place on Saturday, April 13 at 9 a.m. in Rock Springs, WY. The exact location to be announced at a later date.

Those wishing to testify or submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Kelly Johnson or Jo Meuse at (202) 224–6730.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, April 17, 1996, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 128, a bill to establish the Thomas Cole National Historic Site in the State of New York; S. 695, a bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas; and S. 1476, a bill to establish the Boston Harbor Islands National Recreation Area.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and National Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GOHEN. Mr. President, I ask unanimous consent that the Strategic Forces Subcommittee of the Committee on Armed Services be authorized to meet at 11 a.m. on Friday, March 29 in open session, to receive testimony on arms control, cooperative threat reduction program, and chemical demilitarization in review of the defense authorization request for the fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GOHEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Friday, March 22, 1996, at 10 a.m. in SH216.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND FORCES

Mr. GOHEN. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces be authorized to meet at 9 a.m. on Friday, March 29, 1996, to receive testimony on Army and unmanned aerial vehicle [UAV] modernization efforts in review of the defense authorization request for fiscal year 1997 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. GOHEN. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, March 22, 1996, to hold hearings on the Global Proliferation of Weapons of Mass Destruction, Part II.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MINIMUM WAGE AMENDMENT

• Mr. ABRAHAM. Mr. President, I wanted to take just a minute to comment on the amendment offered by Senators KERRY and KENNEDY to raise the minimum wage from $4.35 an hour to $5.15 an hour over the next 2 years and why I oppose closing debate on this amendment at this time.

In my mind, few issues better define the differences between Republicans and Democrats than efforts to raise this starting wage. On the one hand, members of the Democratic Party seek to increase living standards through a Government mandate. On the other, Republicans are seeking to increase family incomes by cutting Federal taxes, reducing regulatory burdens, and increasing job opportunities. Democrats believe in Government while Republicans place their faith in families and individuals.

The case for the minimum wage has been refuted time and again. Far from raising living standards, studies show the minimum wage actually hurts the very workers its supposed to help. Harvard economist Robert Barro argues that "the minimum wage misses the mark because it worsens the status of most disadvantaged youths."

Economist David Neumark of my alma mater, Michigan State University, and William Wascher of the Federal Reserve have concluded that raising the minimum wage to $5.15 an hour

would result in over 500,000 lost job opportunities for teenagers and young adults. Fully 77 percent of the members of the American Economic Association believe an increase in the minimum wage eliminates entry-level jobs.

Mr. President, under President Clinton's tenure, American families have seen their incomes stagnate while their tax burden have gone up. This Clinton crunch is forcing millions of families to get by with less. That's why the Republican Congress offered hard-working American families tax cuts like the $500 per child family tax credit, marriage penalty relief, and expanded individual retirement accounts. We wanted to let families keep more of what they earn, so they could finance their own priorities, not the Government's. These efforts were cut short when President Clinton vetoed the bill.

Now, the President and his party are pressing forward to mandate higher standards of living through Government action. This effort is misdirected and destructive. Furthermore, its timing is suspect. I am troubled that the same week this issue is raised on the Senate floor, the AFL–CIO has pledged to raise and spend $35 million through November to defeat Republican candidates.

If this issue is so pressing, why did President Clinton and congressional Democrats fail to bring it up in 1993 and 1994, when they controlled both the White House and the Congress? They joined hands to raise taxes on American families in 1993, but at no time during the last Congress did they ever consider raising the minimum wage. Now, with a Republican majority in Congress and the labor unions pledging them record financial support, raising the minimum wage becomes a priority.

Mr. President, I am unwilling to turn my back on low-skilled workers or to sacrifice their interests for an ideological and political agenda. Nor am I willing to impose another unfunded mandate on small business men and women across the country. For that reason, I oppose closing debate on this amendment at this time, and I call on my colleagues from both sides of the aisle to assist all working families by reducing the real barriers to higher wages and living standards—excessive taxes and regulations.•

GREEK INDEPENDENCE

• Mr. SARBANES. Mr. President, I rise today to salute the Greek people, who on March 25 commemorated the 175th Anniversary of the beginning of their struggle for independence from nearly four centuries of Ottoman Turkish rule. Against great odds, Greek patriots reestablished freedom and self-government in the country that gave birth to democracy.

This decade-long struggle attracted the attention of freedom-loving peoples throughout the world but enjoyed particularly strong support from the young American Republic. Americans held rallies in support of the Greek cause and sent both supplies and volunteers to aid the independence effort.

From that time, the American and Greek peoples forged an alliance for democracy which has stood the test of time and political change. In both World Wars and through the cold war period, America and Greece remained steadfast in their commitment to freedom and together fought successfully against the forces of modern tyranny and totalitarianism. In all of these struggles, the Greek people fought valiantly and at great sacrifice to their land and lives. It can be rightly said that no land so small gave so much to the modern cause of freedom.

As the challenges and opportunities of the post-cold-war world begin to emerge, the resourceful people of Greece are poised to join with America and other democracies in encouraging new hopes for freedom and democracy in Eastern Europe and the former Soviet Union. Greece, as one of the oldest continuing democracies of the modern period, has the experience in self-government to be of enormous assistance to nations struggling to develop open societies.

Greece is also the only country in the Balkans and Eastern Mediterranean region with membership in the European Union. This fact equips Greece to play a special role in the economic and political reconstruction of those regions. From the dawn of history, Greek travelers and traders have lived and worked in these areas developing relationships that can promote peace and prosperity in this new era.

Mr. President, the significance of the longstanding and close partnership between the United States and Greece is being reinforced by the exchange of official visits and by representatives of our two countries. As I speak, Hillary Clinton, our First Lady, is in Greece participating in the lighting of the Olympic Torch, which will eventually make its way to Atlanta, GA, for the centennial of the modern Olympics. Mrs. Clinton's presence at this important event reflects America's respect for and recognition of Greece's historic role in establishing these games and promoting friendly competition and cooperation among nations.

Within days, the Honorable Costas Simitis, newly installed Prime Minister of Greece, will visit Washington for a series of meetings with President Clinton and other administration officials. Prime Minister Simitis represents a new generation of Greek political leadership which promises to build on the strength of the existing United States-Greek relationship while seeking new areas of cooperation. In early May, Greek President Costas Stephanopoulos will also visit Washington for an official state visit. This again will offer an opportunity for renewing and reinforcing the ties between the citizens of these two democratic countries. We look forward to these visits and express warm appreciation to President Clinton for extending these invitations.

These are occasions also for the leaders of both America and Greece to recognize the impressive contributions that Greek-Americans have made to the strength and progress of democracy in both nations. The ties between our two countries have been tangibly strengthened by the constructive involvement of Greek-Americans in virtually every sphere of American life.

As we celebrate the bravery of the heroes and heroines of March 25, 1821, we recall with pride their unshakeable devotion to freedom. It is a commitment they have honored with their blood and tears over two centuries and an undertaking which has always found them in alliance with the American people and all those who value democracy and the rule of law. As we enter this new post-war period, I am confident that America and Greece will work together in the great effort to build and expand democracy. That will be the highest tribute to the spirit of Greek Independence first proclaimed on March 25, 1821.•

BREAST CANCER

• Mr. SMITH. Mr. President, I rise before you today to plea for the support of the world's wives, daughters, mother, and loved ones who prevail under a merciless dark shadow we've come to know as breast cancer. Over the past two decades, the risk of acquiring breast cancer has nearly tripled; from 1 in 20, to 1 in 8. Breast cancer alone is predicted to murder over 184,300 American women this year. To date, researchers have not been able to locate its cause or find a technique to eradicate it.

Paramount in our struggle to save our loved ones is the frequent inspection to detect possible irregularities. Caught early, measures can be undertaken to lower the risk of a further contamination of the body. However, the postponing of medical attention could result in the cancer expanding into the bloodstream, carrying tumor cells to the liver, lungs, and bones. Once diagnosed, the style of treatment is decided between the patient and the physician after considering the stage and type of cancer in question. Most often, a modified mastectomy—the removal of only the breast tissue—or a lumpectomy—the local removal of the tumor—followed by radiotherapy is the standard method. Unfortunately, the pain and suffering do not end after surgery. Once involved in therapy, the real struggle to return to a life lost begins.

VOL
142
PT
5
MR
21
—
29
1996

What is commonly overlooked in the rehabilitation of a breast cancer victim is the unrestrictive support by loved ones as a means of therapy, and in most cases, this is vital to their recovery. Families facing cancer are severally challenged as their lives become increasingly complex. Psychosocial research has shown that the stress of adopting new roles, relating to and communicating with others, self-care responsibilities, and the over all nature of the cancer experience can cause unrest in the family unit. This in turn, greatly influences and in most cases, hinders the complete healing process. On the other hand, families that have stood by and supported relatives by educating themselves and responding properly tot he needs of the victim were able to significantly add to the recovery process. Therefore, I believe that as we work toward advancements in treatment, cure, and diagnosis of breast cancer, our programs must also stress involvement by family members in the care and support of loved ones.•

DAVID PACKARD

• Mrs. BOXER. Mr. President, I was deeply saddened to learn of the death of David Packard yesterday. My heartfelt thoughts and prayers go out to his family as people around the Nation pay tribute to his remarkable life and mourn his passing.

Untold numbers of people's lives were touched by David Packard or changed by the advent of his innovations. Not only will he be remembered for his pioneering work in the area of electronic and computer technology, but also his progressive management philosophy promises to remain fundamental in the high-tech industry in particular and American business in general.

Although his work at Hewlett-Packard was best known to the public, he found time to donate his valuable energy and resources to his country and many organizations and causes which are now an integral part of California's communities and elsewhere. The Monterey Bay Aquarium and the Lucile Salter Packard Children's Hospital at Stanford University are just two of his most visible contributions. His generosity, as most clearly manifest by the continuing work of the David and Lucile Packard Foundation, will long be remembered as the living legacy of a departed friend.•

TRIBUTE TO LOUISVILLE MALE HIGH SCHOOL

• Mr. McCONNELL. Mr. President, on April 27 to April 29, 1996, more than 1,300 students from 50 States and the District of Columbia will be in Washington, DC to compete in the national finals of the We the People . . . The Citizen and the Constitution program. I am proud to announce that a class from Male High School in Louisville will represent Kentucky. These young scholars have worked diligently to reach the national finals by winning local competitions in our home State.

The distinguished member of the team representing Kentucky are: Abby Alster, Jil Beyerle, Lori Buchter, Adam Burns, Melissa Chandler, Sienna Greenwell, Patrick Hallahan, Nicole Hardin, Tony Heun, Michelle Hill, Patricia Holloway, Cammie Kramer, Kevin Laugherty, Anne-Marie Lucchese, Astrud Masterson, Kimberly Merritt, Tiffany Miller, Matthew Parish, Angela Rankin, Dana Smith, Danielle Vereen, Maleka Williams, Jamie Zeller.

I would also like to recognize their teacher, Sandra Hoover, who deserves a lot of credit for the success of the team. The district coordinator, Diane Meredith, and the State coordinators, Deborah Williamson and Jennifer Van Hoose, also contributed a significant amount of time and effort to help the team reach the national finals.

The We the People . . . The Citizen and the Constitution program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the We the People . . . program, now in its 9th academic year, has reached more than 70,400 teachers and 22,600,000 students nationwide at the upper elementary, middle, and high school levels. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers.

The We the People . . . program provides an excellent opportunity for students to gain an informed perspective on the significance of the U.S. Constitution and its place in our history and our lives. I wish these students the best of luck in the national finals and look forward to their continued success in the years ahead.•

CONFIRMATION OF FEDERAL JUDGES

• Mr. LEAHY. Mr. President, I take our advice and consent function very seriously and especially so when it comes to the confirmation of Federal judges who are given lifetime appointments. In our system of Government, with coordinate branches and separation of powers, that is our responsibility in the Senate. But once a Federal judge is confirmed, our role is concluded.

I have voted to confirm some judges who rendered decisions with which I strongly disagreed and have voted against a few who have surprised me by turning out to be better judges than I predicted. Whenever I disagreed with a particular ruling in a particular case, after a Federal judge was nominated, examined and confirmed, I have not attacked that judge or tried to influence that judge's consideration of an ongoing matter.

If we disagree with the result in a case, we can determine whether the law needs to be amended or new law needs to be enacted. If a judge decides a case incorrectly, the remedy in our system is through judicial appeal. Indeed, the reason the Founders included the protections of a lifetime appointment for Federal judges was to insulate them from politics and political influence.

I ask that a statement from a group of distinguished judges from the U.S. Court of Appeals from the Second Circuit and an editorial from the Washington Post on this subject be made part of the RECORD.

The material follows:

JOINT STATEMENT

The following is a joint statement of Jon O. Newman, J. Edward Lumbard, Wilfred Feinberg, and James L. Oakes, who are respectively, the current and former chief judges of the United States Court of Appeals for the Second Circuit:

The recent attacks on a trial judge of our Circuit have gone too far. They threaten to weaken the constitutional structure of this Nation, which has well served our citizens for more than 200 years.

Last Friday, the White House press secretary announced that the President would await the judge's decision on a pending motion to reconsider a prior ruling before deciding whether to call for the judge's resignation. The plain implication is that the judge should resign if his decision is contrary to the President's preference. That attack is an extraordinary intimidation.

Last Saturday, the Senator Majority leader escalated the attack by stating that if the judge does not resign, he should be impeached. The Constitution limits impeachment to those who have committed "high crimes and misdemeanors." A ruling in a contested case cannot remotely be considered a ground for impeachment.

These attacks do a grave disservice to the principle of an independent judiciary, and, more significantly, mislead the public as to the role of judges in a constitutional democracy.

The Framers of our Constitution gave federal judges life tenure, after nomination by the President and confirmation by the Senate. They did not provide for resignation or impeachment whenever a judge makes a decision with which elected officials disagree.

Judges are called upon to make hundreds of decisions each year. These decisions are made after consideration of opposing contentions, both of which are often based on reasonable interpretations of the laws of the United States and the Constitution. Most rulings are subject to appeal, as is the one that has occasioned these attacks.

When a judge is threatened with a call for resignation or impeachment because of disagreement with a ruling, the entire process of orderly resolution of legal disputes is undermined.

We have no quarrel with criticism of any decision rendered by any judge. Informed comment and disagreement from lawyers, academics, and public officials have been hallmarks of the American legal tradition.

But there is an important line between legitimate criticism of a decision and illegitimate attack upon a judge. Criticism of a decision can illuminate issues and sometimes point the way toward better decisions. Attacks on a judge risk inhibition of all judges as they conscientiously endeavor to discharge their constitutional responsibilities.

In most circumstances, we would be constrained from making this statement by the Code of Conduct for United States Judges, which precludes public comment about a pending case. However, the Code also places on judges an affirmative duty to uphold the integrity and independence of the judiciary. In this instance, we believe our duty under this latter provision overrides whatever indirect comment on a pending case might be inferred from this statement (and we intend none).

We urge reconsideration of this rhetoric. We do so not because we doubt the courage of the federal judges of this Circuit, or of this Nation. They have endured attacks, both verbal and physical, and they have established a tradition of judicial independence and faithful regard for the Constitution that is the envy of the world. We are confident they will remain steadfast to that tradition.

Rather, we urge that attacks on a judge of our Circuit cease because of the disservice they do to the Constitution and the danger they create of seriously misleading the American public as to the proper functioning of the federal judiciary.

Each of us has important responsibilities in a constitutional democracy. All of the judges of this Circuit will continue to discharge theirs. We implore the leaders of the Executive and Legislative Branches to abide by theirs.

[From the Washington Post, Mar. 26, 1996]

LIFE TENURE FOR A REASON

In an angry and misguided response to an unpopular judicial ruling in New York last month, the White House let it be known that it was considering asking for the resignation of the federal judge in question. Within days of this thinly veiled and constitutionally empty threat, however, cooler heads prevailed. In a letter to a member of Congress who had called for resignation, the president's counsel, Jack Quinn, took the right tack, declaring that "the proper way for the executive branch to contest judicial decisions with which it disagrees is to challenge them in the courts, exactly as the Clinton administration is doing in this case."

At issue is a decision by Judge Harold Baer, a Clinton appointee, to suppress evidence in a multimillion-dollar drug case because the police did not, in his opinion, have probable cause to stop and search the car being used to transport the drugs. Such a ruling is always unpopular, especially in a case like this, in which a defendant at risk of a life sentence will go free if the evidence is inadmissible. But Judge Baer unfortunately used this opportunity to take a gratuitous swipe at the police. It was reasonable, he wrote, for the men involved in this crime to run from the police, because in their neighborhood officers have a reputation for corruption and violence.

The public uproar has caused Judge Baer to reconsider his ruling. But whether he is correct on the law is of secondary interest. Because this evidence is crucial to the case, the government can appeal an adverse decision and get a ruling from a higher court before the trial proceeds.

What is notable about the case is the eagerness of elected officials to demand the ouster of the judge, not because of corruption but because they did not agree with his ruling in one case. It is exactly this kind of situation that the Framers of the Constitution sought to avoid by providing life tenure for judges. Because of their wisdom, a judge acting in good faith who makes an unpopular call—protecting the free speech of political dissenters, for example—cannot be removed from office. The president, members of Congress and the public in general can demand his resignation until they are blue in the face, but a judge cannot be personally punished for taking an unpopular position. He can be removed only by impeachment.

An election-year assault on the judiciary is already in full swing. There will be the expected claims that one side will pack the courts with turn-'em-loose liberals and the other will nominate only right-to-life stalwarts. Fortunately for the country, judicial officers are sufficiently insulated from the political process that they are able to do the right thing even when the majority objects. Their mistakes can be reversed. Their independence from political pressure must be preserved.•

RESTRICTION OF FREEDOM OF EXPRESSION IN LEBANON

Mr. D'AMATO. Mr. President, I rise today to address some of the human rights violations that the Lebanese government is guilty of committing. In testimony to the Senate Foreign Relations Committee, a representative of the Independent Communications Network (ICN) explains the repeated limitations that the Lebanese Government places on the freedoms of speech and press. While I disagree with ICN's recommendation concerning the lifting of the State Department's travel ban to the country, I believe that ICN raises some valid points.

ICN's testimony details some of the measures taken by the government to repress any political opposition. They are unwilling to allow any form of free and open political debate, and they are vigilant about ensuring that radio and TV airwaves are strictly limited and under their control. The example of the hardships that ICN has had to endure show the oppressive policies of the Lebanese government.

As a country that firmly believes in the freedoms of speech and press, we can not sit idly by and tolerate these gross injustices. We must do what is possible to restore a sense of freedom to the country. It is in this spirit that I ask that ICN's testimony to the Senate Foreign Relations Committee be entered into the CONGRESSIONAL RECORD in its entirety. The testimony follows:

TESTIMONY SUBMITTED FOR THE RECORD BY THE INDEPENDENT COMMUNICATIONS NETWORK, FEBRUARY 27, 1996

Mr. Chairman. Thank you for this opportunity to testify to this distinguished committee. The Independent Communications Network [ICN] is an independent television broadcaster in Beirut committed to an independent Lebanon.

We are philosophically as well as professionally committed to freedom of speech and freedom of the press, two fundamental rights which we believe are threatened in our country.

We know you have no jurisdiction in Lebanon, but what you say and do here in Washington and in this respected and influential committee has an impact in Beirut and beyond.

The immediate issue before you today is United States ban on travel to Lebanon. We understand the Department of State will announce its decision tomorrow. Such decisions are not and cannot be made in a vacuum. It is with that in mind that we urge you to replace the lifting the travel ban with a strong advisory that not only warns travelers but also makes it clear to the Lebanese government that the United States government expects it to make a concerted effort to improve its efforts to assure the personal security of visitors to Lebanon as well as to secure human rights and freedom of speech for all Lebanese.

Lebanon is a unique country in the Middle East, and it has historically chosen a unique mission: spreading the liberty and freedom of speech in our part of the world. This mission, which we share with America, is threatened by a government which seems intent on turning Lebanon into a police state.

Before 1990, the Muslims in Lebanon were demanding a fair share of power. Lebanon has been governed since 1943 by a National Pact dividing power between Christians and Muslims on a six-to-five basis in favor of Christians. In 1990, Lebanese parliamentarians met in the Saudi summer resort town of Taif, and under American, Saudi and Syrian auspices developed a "peace plan" that shifted the imbalance to the favor of the Muslims this time.

This situation has led to an unbalanced government. General elections were boycotted by most Lebanese, leading to a parliament representing no more than 13 percent of the country. We are sliding more and more towards dictatorship and a "savage ownership" of the country and the media by the multi-billionaire who is currently prime minister, Sheikh Rafiq Hariri.

Today the fundamentalists are gaining influence in our country, taking advantage of a collapsing economy and the government's efforts to gag the media.

The government is seeking to stifle dissent by limiting the number of radio and television stations permitted to operate in Lebanon. Those that remain are becoming little more than political booty for the prime minister and his friends and a club to silence the opposition. The government already has approved legislation permitting only six television and 12 radio stations for the entire country.

Of those six permitted television stations, one belongs to the Speaker of the Parliament, Nabih Berri; another to the Minister of the Interior, Michel Murr and a third to Prime Minister Hariri.

ICN, as its name implies, is an independent voice not beholden to the government or any political party. It is no coincidence that it is not among the six stations sanctioned by Mr. Hariri and his government.

The government has ignored the petition of more than 40 members of Parliament asking to review and restudy this unjust law. It also has ignored demonstrations in the

VOL
142
PT
5
MR
21
—
29
1996
UMI

streets of Beirut protesting the law and more are scheduled later this week.

Mr. Chairman, we wish to share with you an example of the current state of freedom and democracy and respect for human rights in a country that is slaughtering freedom.

Earlier this month, ICN was broadcasting live a roundtable discussion with several parliamentary deputies from the opposition who were critical of the government's attempt to parcel out television channels to its supporters. State security forces sealed off the ICN building in Beirut, and the host of the show and some participants were threatened by plainclothes security men about what they were doing and saying.

The State Department Report on Human Rights, the Middle East Watch report on human rights and other groups have been critical of the policies of the Lebanese government regarding human rights and freedom of speech.

In 1993 the government banned ICN for nine months until a resolution passed by the United States Congress urged that it be allowed to reopen. But the government did not cease its efforts to silence INC, even after the courts found ICN innocent of the trumped up charges made by the government. The Hariri government continues attempting to promulgate what can only be called unconscionable efforts to silence all opposition and criticism.

This unbearable political and economic situation has led the Lebanese Workers Union to call for a national strike and demonstrations on February 29. It is no coincidence that threat came from Interior Minister Murr, the owner of one of the six sanctioned television puppet stations.

It is important to note that the basis of the Lebanese government's demand that the United States lift the travel ban is its repeated claim that it is in full control of national security. It is also asking the United State and the United Nations to force Israel to withdraw from South Lebanon; President Elias Hraoui contends that the Lebanese Army is ready to deploy and maintain security there.

If the government is as strong as it claims, how can it turn around and say it is banning the constitutional right of demonstration to the workers because security is still fragile and that such demonstrations could jeopardize the national security.

They can't have it both ways.

We urge the Congress to see for itself by dispatching a fact finding mission to Lebanon to look into what the government is doing to protect human rights and freedom of speech.

The first stop for that delegation should be the U.S. Embassy, where you and your colleagues can ask America's new ambassador, Mr. Richard Jones, why, if the government has the security control it contends, he had to secretly land in Beirut and clandestinely head to the Embassy earler this month to take up his new post. And ask why it is American officials can only use the "helicopter bridge" into Beirut, not their automobiles.

In conclusion, Mr. Chairman, we support replacing the travel ban with an advisory, but its continuation should be linked not only to the government's ability to protect public safety and the security of American visitors but also to the government respect for the fundamental rights of its citizens.

Mr. Chairman, we appreciate this opportunity to testify before you and this distinguished committee. Thank you.●

TAIWAN RELATIONS ACT

● Mrs. FEINSTEIN. Mr. President, this morning, the distinguished Senator from Alaska, Senator MURKOWSKI, was on the floor speaking about a provision in the State Department Authorization conference report that was voted out last night.

The provision was section 1601, which declares that the provisions of the Taiwan Relations Act supersede provisions of the United States-China Joint Communique of August 17, 1992.

His basic point was that the provision was written not to be a wholesale repudiation of the 1982 Joint Communique, but rather to say that where the two conflict, specifically with respect to arms sales to Taiwan, the Taiwan Relations Act, as the law of the land, must override the communique. He referred to an April 22, 1994 letter he received from Secretary Christopher saying that the Administration agrees that the Taiwan Relations Act takes legal precedence over the communique.

Indeed, it is true that the Taiwan Relations Act takes legal precedence over the 1982 Joint Communique. One is the law of the land, and the other is a diplomatic agreement not ratified by Congress.

But that is precisely what makes this provision superfluous. If the intent is to say that the law of the land takes legal precedence over other documents, it is absolutely unnecessary. If we add this language to the Taiwan Relations Act, we may as well add it to every other law we pass: "The provisions of this act supersede the speech made by the President on a similar topic on such-and-such a date."

The Senator from Alaska says the meaning of the word "supersede" is that the Taiwan Relations Act overrides the Communique only if their provisions conflict. He cites the Oxford English Dictionary's definition of "supersede." But, according to Webster's Third New International Dictionary, the word "supersede" also means "to make obsolete," "to make void," " to annul," "to make superfluous or unnecessary," and "to take the place of and outmode by superiority."

Therefore, regardless of the provision's intent, it has the appearance of Congress issuing a wholesale repudiation of the 1982 Joint Communique.

This Joint Communique includes not just a paragraph on arms sales, but a reaffirmation of the One-China policy and the principles of sovereignty and territorial integrity as espoused in the two previous Joint Communiques of 1972 and 1979. By saying we supersede the 1982 Joint Communique, we give the impression that we might be repudiating it outright. To do this would shake United States-China relations to their very core. The fundamental basis of the relationship would be called into question.

Under any circumstances, this would be a dangerous course of action, but it is especially so at this extremely sensitive time in relations between the United States, China, and Taiwan.

Congress needs to be exceedingly careful not to take actions that will have farther-reaching effects than we intend. We should not underestimate how seriously this provision—which may seem harmless to us—would be viewed not just in Beijing, but also in Taipei.

It seems particularly foolhardy to take such a risk over an unnecessary provision, which essentially says nothing more than that the law of the land is the law of the land, which of course it is.●

SOCIAL SECURITY EARNINGS TEST

● Mr. SMITH. Mr. President, last night, the Senate passed the "Contract With America Advancement Act." I rise to speak to one provision of that legislation, which I believe is a significant achievement for senior citizens. That is the "Senior Citizens' Right to Work Act of 1996." This legislation raises the Social Security earnings limit to $30,000 by the year 2002, more than double what it would be under current law.

Every year, the earnings limitation test takes $1 of every $3 that Social Security beneficiaries 65 to 69 years old earn above $11,280. I hear from hundreds of senior citizens every year complaining that this test is unfair. And they are correct. In fact, the earnings test affects an estimated 1.4 million beneficiaries each year.

More importantly, Mr. President, the earnings test flies right smack in the fact of the most basic principles we teach our kids in grade school economics. Specifically: no work, no pay. Can you imagine trying to explain a system that pays people not to work? Well, that is what our Social Security system does with the earnings test.

You might argue that our welfare system has similar disincentives, and you would be absolutely right. The Republican Congress is trying to fix that. If only we could overcome the little obstacle of President Clinton's veto pen, we would be well on our way to real welfare reform.

But, the earnings test takes this perverse concept one step further. And this is where we really get into the fairness issue. It says that if you are wealthy and you get your income through interest or dividends, you get full benefits. But, if you are poor and need to work to supplement your income, you get penalized. Seniors have been waiting a long time for this reform. It was in the Contract With America, and it is a part of the Republican Party Platform. I am pleased that we are about to make good on our promise to America's seniors.●

TRIBUTE TO JUDGE KING OF FLORIDA

● Mr. GRAHAM. The State of Florida has produced some of the finest legal minds in America's judicial system. The personification of that standard of excellence is U.S. District Judge James Lawrence King of Miami.

As a native of the Miami community, I am honored to be part of the effort to name the Federal justice building in Miami, FL, for Judge King.

Judge King's distinguished tenure on the bench has spanned four decades, during which our judicial system has faced some of the most challenging disputes in the history of our Nation.

In 1964 Mr. King was appointed circuit judge for the 11th Judicial Circuit of Florida. In 1970, President Nixon appointed Judge King as a U.S. district judge for the Southern District of Florida. In 1984, he became chief judge of the U.S. district court for the Southern District of Florida. During his outstanding career, Judge King has had more than 200 published opinions.

In addition to his contributions to our judicial system from the bench, Judge King has been an effective advocate for improved judicial administration. Judge King served as 1 of 23 members on the Judicial Conference of the United States. He was also a member of the Judicial Counsel of the 11th Circuit Administrative Conference, the Judicial Ethics Committee and the Long Range Planning Committee for the Federal Judiciary, serving all with distinction.

While fulfilling his duties, Judge King foresaw the need for new courtroom and administrative facilities to accommodate the growing needs of the district and the law enforcement community. He began contacting community leaders to share his vision. After years of tireless effort, Judge King's vision became a reality.

The Federal justice building was built by the city of Miami with city bonds backed by a long-term lease from the General Services Administration. Today, this state-of-the-art facility houses the U.S. attorneys' office and will be home to six district judges, an 11th circuit judge and complete trial and appellate courts.

While many community leaders worked to complete the Federal justice building, Judge King was the guiding force behind its creation. This building should be named as a tribute to Judge King for his vision, leadership and effective stewardship of justice.●

CONGRATULATING KIEREN P. KNAPP, D.O.

● Mr. SANTORUM. Mr. President, I rise today so that I might call attention to a special honor bestowed upon Dr. Kieren P. Knapp of Seven Valleys, PA.

Mr. President, I would like to congratulate Dr. Knapp on his upcoming installation as the 81st president of the Pennsylvania Osteopathic Medical Association. Dr. Knapp will be installed as president at the 88th Annual POMA Clinical Assembly in Philadelphia on April 26, 1996.

I would like to call attention to this distinction by asking that a proclamation honoring Dr. Knapp be printed in the RECORD.

The proclamation follows:

PROCLAMATION

To honor Kieren P. Knapp, D.O., on his installation as the 81st President of the Pennsylvania Osteopathic Medical Association.

Whereas, Kieren P. Knapp has been Vice-President and delegate to the Pennsylvania Osteopathic Medical Association, and is a member of the House of Delegates to the American Osteopathic Association;

Whereas, Kieren P. Knapp has served on the Board of Trustees of the Pennsylvania Osteopathic General Practitioners Society;

Whereas, Kieren P. Knapp is a graduate of Iowa State University and the College of Osteopathic Medicine and Surgery in Des Moines, Iowa: and

Whereas, Kieren P. Knapp has distinguished himself as a dedicated physician continuing the osteopathic tradition of providing quality and compassionate health care to his community;

Now, therefore, the Senate congratulates Kieren P. Knapp, D.O., on his installation as the 81st President of the Pennsylvania Osteopathic Medical Association, and wishes him the best for a successful and rewarding tenure.

Again Mr. President, this is a special achievement for Dr. Knapp, and I would like to congratulate him on this honor and extend my best wishes to the Pennsylvania Osteopathic Medical Association on a successful conference.●

THE CALIFORNIA ENTERTAINMENT INDUSTRY

● Mrs. BOXER. Mr. President, today we received some disturbing reports on America's balance of trade. The trade deficit—the difference between the value of our exports and the value of imports—soared to 10.27 billion in January, a stunning 48 percent increase over December, 1995.

Congress and the President must not ignore this report. While the balance of trade is only one measure of economic health, in this increasingly global economy, I believe that it is a measure that should be given great weight in deciding whether we are doing enough to promote healthy economic growth. The reports today should prompt Federal policy makers to renew their commitments to promoting American business and products overseas, and making our trading partners play fair by living up to the trading agreements they have entered into willingly with us.

The bright side of this picture is that the U.S. continues to be the most dynamic economy in the world. We are the most productive and we make the best products.

In my own State of California, there is one industry which I wish to single out today that is one of the key reasons for American economic dominance—the entertainment industry.

The movie and television industry in California has a payroll of $7.4 billion. Motion picture production alone counts for more than 133,500 jobs in California. American made entertainment products are the most popular and broadly distributed on the globe, and they constitute a large part of America's balance of trade. Foreign sales of copyrighted products amounted to $45.8 billion in 1995.

Unfortunately, the entertainment industry is a victim of one of the most egregious foreign trade practices—illegal duplication of copyrighted material—or "piracy."

The United States has signed agreements with many other countries which obligate their governments to take steps necessary to protect U.S. copyrighted material from piracy. In the case of the People's Republic of China, however, despite the fact that they have willingly signed several such agreements, rampant piracy of American entertainment products by Chinese factories has continued. It is estimated that U.S. companies lose approximately 1 billion dollars a year in sales because of China's failure to protect U.S. intellectual property.

In February, 1995, the United States and the People's Republic of China signed an agreement that obligated China to strengthen its patent, copyright and trade secret laws, and to improve the protection of U.S. intellectual property. Since that time, however, according to reports by the U.S. trade representative, only one of the 27 piracy plants in China has closed.

I know that trade representative Mickey Kantor has been very, very supportive of the U.S. entertainment industry in pressing the Chinese to live up to the agreement they signed. I applaud his decision to send his deputy Charlene Barshevsky to China on April 5 to raise the profile of the problem directly with Chinese officials.

I hope that in their meetings, our U.S. officials will emphasize that China is legally obligated to comply with the terms of the agreement they signed last year. It's not just a policy; it's the law.

Our delegation should make it clear to the Chinese that the terms of the agreement must be met by a date certain. Whether that's May 1, June 1, or after—doesn't matter. But it should be made clear to them that we will hold them to their promises. If they don't fulfill them, the U.S. Government will take all appropriate and legal steps.

In addition, I strongly urge other members of the Clinton administration in the Departments of State, Treasury, Commerce and others, to support the trade representative's efforts wholeheartedly. They should know that it's

VOL 142 PT 5 MR 21 — 29 1996 UMI

not just a question of one industry and one trading partner; if we allow the agreement we signed just a year ago to be ignored, what kind of signal will that send to our other nations about the will and strength of the United States in international relations?

Mr. President, I would also like to take this opportunity in speaking about our extraordinary entertainment industry to praise the leaders of that community for their historic actions with respect to the television violence issue.

They have shown real leadership and responsibility in responding to this important social concern by announcing that they will institute a voluntary rating system for all television programs. In my view, this will give parents the information they need in order to make appropriate decisions about the programs their children watch.

In light of the forthrightness of the industry in coming forward with plans to voluntarily rate its programs, I believe that now is not the time to bring up other content-related measures. I have, in fact, informed the Democratic leader and others that I would oppose any attempt to bring up such measures for debate in the Senate.

Finally, Mr. President, I would like to talk about another issue of great importance to California's entertainment industry—copyright term extension. Legislation is pending in both the House and Senate to extend the current copyright in the U.S. to "life plus 70 years". This change would harmonize our laws with those of the European union which extended terms to life plus 70 last July. Without the change, our copyright holders—including California's movie, television, video, and audio producers—would be unable to take advantage of the longer term of protection in Europe. American copyright owners and their heirs will suffer economic hardship and the U.S. balance of trade will be further exacerbated.

Congress should pass this bill now. It has no opposition that I am aware of. I strongly urge the parties involved in negotiations on this measure to move quickly on it and send it to the President so that it can be signed into law. Copyright extension can pass quickly and be signed into law.●

TRIBUTE TO SULLIVAN COLLEGE

● Mr. McCONNELL. Mr. President, I rise today to congratulate Sullivan College in Louisville, KY on their championship victory in the National Junior College Athletic Association [NJCAA] National Championship Tournament. I would also like to congratulate Sullivan coach Gary Shourds on being selected the National Junior College Coach of the Year and player Eric Martin on being named tournament Most Valuable Player.

The Sullivan Executives, which were unranked going into the tournament, defeated the No. 1, No. 5, No. 7, and No. 15 ranked teams in the country. The Executives clenched the title in Hutchinson, KS after a 104–98 overtime victory over Allegheny College of Maryland.

As the Courier-Journal reported, when asked if he ever thought the Executives would win the title, Sullivan college President A.R. Sullivan responded, "Never. Not with this team this year." The Executives had the worst record (23–10) in the 16-team field. However, out of their last 24 games, they won 22 of them. "This team did not come together as a team until the regional final in Gallatin, Tennessee," Mr. Sullivan told the Courier-Journal. "[I]t took a personality like (coach) Gary Shourds to get them to play together."

Shourds is a first-year Sullivan coach who played for the Executives from 1982 to 1984. He told the Courier-Journal, "I'm really a teacher. I do this (coaching) on the side. It ends up taking more time than teaching, but that's my choice."

Mr. President, I ask you and my colleagues to join me in paying tribute to Sullivan College and Coach Gary Shourds and congratulating the entire team on their National Championship victory.●

TRIBUTE TO VICTOR CRAWFORD

● Mr. SARBANES. Mr. President, I rise today to join the citizens of Maryland in honoring a distinguished public servant, an accomplished trial lawyer, and, above all, a courageous man, Victor Crawford, who died earlier this month after a long battle with cancer.

I first met Vic in January 1967 as a newly elected member of the Maryland House of Delegates. He was an articulate and skilled master of the legislative process who, throughout his years in the Maryland Legislature, enjoyed a deserved reputation as a dazzling orator and tenacious advocate for the people of Maryland.

But Vic's crowning achievement came not in the legislative arena, but in his nationally acclaimed battle for stronger antismoking laws. After years as a heavy smoker and a period spent as a lobbyist for the tobacco industry, Vic became a staunch and vocal advocate for antismoking legislation and education and prevention efforts. Vic dedicated himself wholeheartedly to this important mission which he conducted with the same skill and determination that characterized his legislative career.

Vic's indomitable efforts in this area brought him to the attention of President Clinton who believed Vic's strong antismoking message should be shared, not just with Marylanders, but with all Americans, and invited him to address the Nation on his weekly radio broadcast. It was among his finest hours and Vic's words inspired citizens throughout the Nation to work for stronger antismoking laws.

His last years were not easy, but with humor and determination Vic lived out his life in dignity and exhibited the same courage and strength we had all come to expect from this remarkable man. Vic Crawford was a good friend and a valued counselor. I would like to take this opportunity to extend my deepest and heartfelt sympathies to his wife, Linda, and to his children, Charlene and Victor Junior.

Mr. President, in testimony to Vic's exceptional service on behalf of all Americans, I request that obituaries from the Baltimore Sun, the New York Times, and the Washington Post which pay tribute to this respected and honorable man, be printed in the RECORD.

The obituaries follow:

[From the Washington Post, Mar. 12, 1996]

FORMER LAWMAKER, LOBBYIST IS REMEMBERED BY FRIENDS; GLENDENING EULOGIZES ANTISMOKING ACTIVIST

Victor L. Crawford, the former Maryland legislator and tobacco lobbyist who turned into a national voice against smoking after he was found to have throat and lung cancer, was honored yesterday at a memorial service in College Park attended by nearly 1,000 mourners.

Crawford, who died March 2 at age 63 after a two-year bout with cancer, was remembered fondly by people who had contact with him at various points of his life, from Maryland Gov. Parris N. Glendening to Carl Nuzman, 23, a student at the University of Maryland who is attending classes on a scholarship Crawford helped establish during his years in Annapolis.

The service at the nondemoninational University of Maryland Chapel drew a host of state legislators and politicians from Montgomery County, which Crawford represented in the House of Delegates and Senate for 16 years. Even the pastor, the Rev. Charles W. Gilchrist, was a former Montgomery County executive. Crawford also was remembered as a skillful lawyer who could charm juries with his smile and affable nature.

"Vic's legacy was that he had the boldness to do something that many of us find difficult," Glendening said during his eulogy. "That is, he came out and he said that he had made a mistake in his life. He took personal responsibility for that."

But it was his unyielding crusade against smoking that everyone recalled with the greatest admiration. After spending several years of his post-legislative career working as a lobbyist for the Tobacco Institute, Crawford, a longtime smoker, was found to have terminal cancer two years ago.

Knowing death was coming, he spent those two years using his skills as a politician and a lawyer to fight the very people he once represented, even though he had been severely weakened by the disease.

"I got the sense that he'd never felt so close to his own mortality before," said Gail Ewing (D-At Large), president of the Montgomery County Council, recalling the day Crawford told her about his cancer. "He really wanted to do something that mattered."

County Executive Douglas M. Duncan said: "He was a great senator for Montgomery County. He was one of the few who could influence the state on important issues. If you wanted something done in Annapolis, he was the one you called."

And although his political career never left Maryland, he took his last battle across the country by lobbying in many states and appearing on network television.

Despite the sadness of the occasion, the service had an air of Crawford's good-natured spirit about it. As the gathering assembled, Dixieland music filled the vaulted chapel, and sunlight streamed through the windows.

"I walked up the steps, and I heard music. I walked to the door, and I said, 'This must be the place,'" said Mississippi Attorney General Mike Moore, who became friends with Crawford during his campaign against the tobacco industry. "Every time I saw Vic Crawford, I felt good about myself. Today I was feeling kind of down, but I felt better when I walked in the door."

It was that same ability to make people feel good about themselves that Wendy Satin, a Rockville lawyer who began her career under Crawford's tutelage, remarked upon in her recollection of a law career that grew to fabled dimensions within Rockville's legal circles.

She remembered how Crawford's good nature would win juries over to his side. "The jurors felt that they knew him because, by the end of the trial, they did. They were charmed by him, and they wanted to be on his side. The lesson," she said, "is to always be yourself."

[From the New York Times, Mar. 10, 1996]

VICTOR CRAWFORD, 63; OPPOSED SMOKING

BALTIMORE.—Victor Crawford, a former tobacco lobbyist who became a crusader against smoking after his throat cancer was diagnosed, died on March 2, 1996 at Johns Hopkins Hospital here. He was 63 and lived in Chevy Chase, MD.

Mr. Crawford, a former Maryland legislator, was a lobbyist for the Tobacco Institute for six years until his cancer was diagnosed in 1991. He then began speaking out against smoking, was featured on the CBS News program "60 Minutes," and spoke on President Clinton's weekly radio address.

"I told politicians that there was no evidence that smoking causes cancer," he said in a 1995 interview. "If that's not lying, I don't know what is. I'm just trying to undo some of the damage I've done."

Mr. Crawford, a Democrat, was elected to the House of Delegates in 1966 and appointed to the State Senate in 1969 to fill a term. He retired from the Senate in 1983.

Mr. Crawford is survived by his wife, Linda; a daughter, Charlene, and a son, Victor Jr.

[From the Washington Post, Mar. 4, 1996]

VICTOR L. CRAWFORD, MARYLAND, ANTISMOKING ACTIVIST, DIES

Victor L. Crawford, 63, a former Maryland state legislator who had lobbied for the tobacco industry before a diagnosis of cancer turned him into an antismoking activist, died March 2 at Johns Hopkins Hospital in Baltimore.

A veteran trial lawyer and a flamboyant figure in Annapolis during a 26-year career representing eastern Montgomery County, Mr. Crawford employed his skills at persuasion and vivid presentation in recent months to warn in high-profile media appearances against the hazards of smoking.

His stark message appeared in Ann Landers's syndicated newspaper advice column, on the "60 Minutes" television show, in public-service radio ads and in a broadcast from the Oval Office last summer with President Clinton.

"It's too late for me, but it's not too late for you," he advised listeners throughout the nation Aug. 12 on the president's weekly Saturday morning broadcast.

"I fooled a lot of people," he said. "And kids, I fooled myself, too."

In printed interviews and in raspy-voiced on-the-air statements, Mr. Crawford told how cancer was discovered in his throat and lungs after years of heavy smoking that began when he was 13.

After leaving the legislature, he spent six years in the late 1980s as a contract lobbyist for the Tobacco Institute, receiving about $20,000 in fees.

"I was in it for the money," he said in a 1995 interview, "and I was never concerned if people were dying." He said his job was to kill bills that would discourage smoking and advance those that would encourage it.

"Now I'm trying to make amends," he said, "to stop people from smoking so they won't suffer like I have."

Mr. Crawford was born in Richmond and raised in New York and in the Trinidad area of Northeast Washington.

Two years after graduating from Georgetown University Law School, he helped defend Joseph E. Johnson Jr., a black Montgomery County man who was sentenced to death in the rape of a white teenager, in a controversial case that attracted national attention. Johnson was convicted, but he later was pardoned by the governor after it was shown that prosecutors had withheld evidence.

In 1992, he summarized a career of 1,000 trials by describing himself as "the court of last resort," the only barrier between a defendant and the power of the state.

"Whenever I see a guy getting a raw deal, particularly if racism has permeated the trial, no matter whether it's one side or the other, it gets my Irish dander up."

Mr. Crawford was elected to the state House of Delegates in 1966 to represent Silver Spring, went on to the state Senate 16 years later and decided against seeking reelection in 1982.

Offering a swashbuckling image to statehouse colleagues that led some to liken him in dress and demeanor to a riverboat gambler, Mr. Crawford was remembered for the fine clothes, unpredictable floor antics, a large mustache and cigars.

Survivors include his wife, Linda, of Chevy Chase, and a daughter, Charlene, and a son, Victor Jr., both of Berwyn Heights.

[From the Baltimore Sun, Mar. 4, 1996]

VICTOR CRAWFORD, CRUSADER AGAINST SMOKING, DIES AT 63; CANCER VICTIM ONCE WAS TOBACCO LOBBYIST

Victor L. Crawford, a debonair former Maryland legislator who achieved national prominence in recent years for his conversion from tobacco lobbyist to anti-smoking crusader, died Saturday night at Johns Hopkins Hospital after a prolonged battle with cancer. He was 63.

Mr. Crawford, a resident of Chevy Chase, was an accomplished trial lawyer who represented eastern Montgomery County in the General Assembly for 16 years. It was there that he earned the nickname of "the Riverboat Gambler" because of his pinky ring, vest, gold watch—and cigars.

His smoking—2½ packs of cigarettes at first, then cigars and pipes—led to the passion of the final two years of his life, as an outspoken foe of smoking. While battling cancer, he lobbied state legislatures, gave interviews and spoke out on the dangers of tobacco and the industry on whose behalf he had worked.

"It's too late for me, but it's not too late for you," Mr. Crawford said during one of President Clinton's weekly nationwide radio addresses last summer. "I smoked heavily, and I started when I was 13 years old. And now, in my throat and in my lungs, where the smoke used to be, there is a cancer that I know is killing me. Use your brain. Don't let anybody fool you. Don't smoke."

After retiring from the Senate, Mr. Crawford had worked for the Tobacco Institute for six years, lobbying his former legislative colleagues to kill or weaken smoking restrictions. Then, in 1991, he was diagnosed with cancer. He went public with his disease and his appeal to stop smoking in 1994, appearing at a hearing in Annapolis on proposed regulations to limit smoking in the workplace.

"He didn't mince words, and he didn't spare himself," recalled former state Sen. Howard A. Denis, a Montgomery County Republican who was a close friend. "He didn't blame anyone but himself for his problems. All he wanted to do was teach others to avoid the mistakes he had made."

Mr. Crawford later went nationwide with his message, appearing on the CBS newsmagazine show, "60 Minutes" and writing to syndicated advice columnist Ann Landers, among others. He lobbied on behalf of antismoking legislation in Florida and campaigned to block a smokers' rights referendum in California, said his wife of 14 years, Linda.

"He made a difference," said Mr. Denis. "This was one of the things that kept him going in the last five years. He knew he was influencing young lives."

"He worked until the day he went into the hospital," Mrs. Crawford said. She said she drove him to Hopkins on Feb. 2 only after he had appeared in court. "He went fighting," she added.

Mr. Crawford was born in Richmond, Va., but grew up in New York City and Washington, D.C. He was a graduate of Georgetown University Law School.

He was elected to the House of Delegates as a Democrat in 1966, then appointed to the state Senate in 1969 to fill the term of Blair Lee III, who had been appointed secretary of state by then-Gov. Marvin Mandel.

One of the legislative accomplishments of which Mr. Crawford was proudest, said Mr. Denis, was creation of the Distinguished Scholar Program, which provided financial aid to academically talented but needy students to attend college or graduate school in Maryland.

Mr. Crawford's legal career spanned 30 years and he represented a black Montgomery County man in 1962 accused of raping a white teen-ager in a case that drew civil rights protests and national attention.

A memorial service will be held at 1 p.m. March 11 in the chapel at the University of Maryland College Park campus.

Other survivors include a daughter, Charlene; and a son, Victor Jr., both of Berwyn Heights.●

TRIBUTE TO THE EMPLOYEES OF RAYTHEON ELECTRONIC SYSTEMS DIVISION, ANDOVER, MA

● Mr. SMITH. Mr. President, I rise today to pay tribute to some unsung heroes of the United States: the employees of Raytheon Electronic Systems Division in Andover, MA.

VOL
142
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Each year, the Congress evaluates the military requirements of our Nation and the pros and cons of various weapons systems. We routinely make decisions that affect the livelihoods of literally thousands of American workers. While we strive to be objective and to make sound judgments, this human component does not always get the attention it deserves.

Today I want to take this opportunity to honor the men and women of Raytheon who devote their lives to the defense of this Nation. They do not often get a lot of publicity or see their names in the paper, but they are a collection of true American heroes. They deserve our respect and admiration.

As a member of the Armed Services Committee, I have the unique responsibility of overseeing the development and acquisition of the systems needed to defend our Nation. I see first hand the contribution these employees make to our national security. It is enormous.

Whether building key components for the Patriot missile system, or the AMRAAM, or the ground based radar, these workers are constantly striving to expand the state-of-the-art, and to deliver the best possible product at the most efficient cost. They are a family, these workers from New Hampshire and Massachusetts, committed to a noble calling. And the fruits of their labors are the freedoms and security that we hold so dear.

As we prepare for the upcoming authorization and appropriations processes, I ask my colleagues to reflect for a moment upon these great patriots. They were the backbone of our military in the cold war and Desert Storm. They are the ones whose innovations and dedication are helping to preserve our prosperity in the future. Their service is an inspiration for those of us who are privileged to represent them here in Washington.

In an uncertain and dangerous world, we can take much comfort in the knowledge that the men and women of Raytheon Electronic Systems Division are on the job, each and every day, tirelessly striving to produce the technologies and systems to defend this great Nation.•

RESTORATION OF THE FLORIDA EVERGLADES

• Mr. LEAHY. Mr. President, yesterday the Senate gave final passage to the 1996 farm bill. With House action, the bill will be sent to President Clinton who is expected to sign it.

The farm bill contains many important environmental and conservation provisions. One of these provides for the spending of up to $300 million by the Secretary of the Interior to help restore the Florida Everglades. This rapid and significant infusion of funds—$200 million of which will be available in less than 100 days—is a critical first step to implement the administration's ambitious $1.5 billion proposal to save one of the world's most unique ecosystems. The farm bill conferees intend that this national treasure receive immediate attention.

Prior to the 1940's the Everglades ecosystem covered most of south Florida, from its headwaters in the Kissimmee River basin to the coral reefs of Florida Bay. Because of man's alterations, the once "river of grass" is now fragmented and deteriorating, threatening not only the wildlife of the ecosystem, but also the water supply, economy, and quality of life for the people who live in Florida.

Throughout the system, clean, fresh water has been replaced by murky, nutrient-laden water that does not support native plant and animal species. Years of water diversion and pollutants have degraded not only the Everglades, but also Florida Bay, one of the most important estuaries and fisheries in America. The bay is suffering from a lack of fresh water that had led to algal blooms and contributed to the extinction of North America's only native coral reef. As a consequence, this once teeming estuary now is closed to commercial fishing, and the tourism industry of the region is threatened.

We must not let the Everglades die. Although the decline of the ecosystem continues, it is reversible.

To speed the Everglades restoration, the farm bill conferees created a $200 million entitlement, to be available in less than 100 days, for this important project. The conferees also approved an additional $100 million of spending for Everglades restoration which will come from the sale of surplus Federal lands in Florida that have not been set aside for conservation purposes or are not environmentally sensitive.

To have the maximum impact on Everglades restoration, the conferees intend that funds provided for in this legislation be used in priority areas. Prior to acceptance of the Everglades provisions, discussions among conferees focused on the importance of acquiring and restoring land in the Everglades Agricultural Area. The conferees expected that the Secretary of the Interior would give priority to acquiring and restoring lands within the Everglades Agricultural Area, including the Talisman tract, in order to make those lands available for water storage and delivery. Both the House and Senate bills used identical language to make this point as well:

> The Secretary of the Interior * * * shall use the funds to conduct restoration activities in the Everglades ecosystem which may include acquiring private acreage in the Everglades Agricultural Area including approximately 52,000 acres that is commonly known as the Talisman tract.

At the meeting of conferees, I pointed out that the greatest need for restoration is in the over 130,000 acres of the Everglades Agricultural Area which includes much of the land that makes up the Talisman tract. I intend to monitor this issue closely to make certain that the funds are properly spent.

This small down payment will be insufficient for total restoration. It is only part of the Federal Government's share of this coordinated restoration effort. More important, it in no way relieves others—particularly the sugarcane industry that has benefited from the alteration of the system and continues to pollute it—of its obligation to contribute to restoration costs.

Senator LUGAR and I have proposed that Florida sugar producers contribute for restoration purposes a 2-cent per pound assessment on sugar grown in the Everglades. The administration supports a 1-cent assessment. These proposals have widespread support in Florida.

On March 25, Mary Barley, chair of the citizens group, Save Our Everglades, announced the launching of a ballot initiative to protect and restore the Everglades. She said that "we are facing a crisis and time is running out." In proposing a "Penny for the Everglades," Mrs. Barley spoke eloquently about her late husband, George, who devoted the last years of his life to restoring this national treasure.

At that announcement, Mary quoted George who had said:

> Long after we are gone, the Everglades ecosystem will be our legacy—to our children and the rest of the nation.

George Barley was right then and Mary Barley is right today. Congress and the administration must follow their lead and require sugar growers in the region to pay their fair share to restore the Everglades.•

RELEASE OF THE REPORT BY THE TASK FORCE ON NATIONAL DRUG POLICY

• Mr. D'AMATO. Mr. President, this bicameral task force was established for one reason: To closely examine the current state of affairs of our national drug policy. Along with my Senate and House colleagues, I am distressed that the problem has escalated to this present level.

The one startling and depressing fact revealed by the report released yesterday is that drug use among teenagers is actually on the rise, after years of decline.

There is no disputing the rise in illicit drug use by adolescents. Studies have shown that 2.9 million teenagers used marijuana in 1994, an increase of 1.3 million just from 1992. This alarming trend shows that one in three high school seniors smoke marijuana. Since 1992, drug use by 10th graders has risen nearly two-thirds. Drug use by eighth graders has nearly doubled since 1991. Of a class of 30 students in a New York City high school or junior high, approximately 5 use marijuana or other illicit drugs heavily.

The rise in marijuana use has serious implications. The Center on Addiction and Substance Abuse indicates that teenagers who use marijuana are 85 times more likely to use other dangerous drugs in the future, such as cocaine. Obviously, the use of drugs cannot be pushed aside but must be placed on the national agenda and confronted. Real efforts must be made to reverse this trend.

Ignoring these numbers is destructive to our children. A report by the Senate Judiciary Committee notes that, "If such increases are allowed to continue for just 2 more years, America will be at risk of returning to the epidemic drug use of the 1970's."

The impact on our Nation's cities will be just as detrimental. The Center on Addiction and Substance Abuse at Columbia University in New York released a report showing the costs related to substance abuse were $20 billion in the city of New York. These costs take into account all types of substance abuses and reflect the amount spent in terms of crime, violence, health care, emergency services, abuse, social programs, and business costs. If drug use is rising among teenagers, the cost to New York City will skyrocket as they get older.

Even more frightening is the fact that the authors of the study state that "Among 15- to 24-year-olds, substance abuse, in the form of AIDS, homicides, and drug and alcohol overdoses, accounts for 64 percent of deaths." Those deaths could have been prevented.

Our law enforcement agencies are feeling the rise in drug use. The March issue of Police Chief, which is dedicated to the war on drugs, describes the growing presence of illegal drugs and the ever-increasing rise in violence that accompanies it. The result is a scared populous and an overextended law enforcement, including local law enforcement. An article coauthored by Chief Bob Warshaw of the Rochester Police Department in New York and DEA Assistant Administrator Paul Daly describes the feeling across the Nation: "The distribution and abuse of powder and crack cocaine have resulted in an unprecedented wave of violence across our country, the debiliating effect of which has been seen in cities and towns, large and small, throughout the United States."

It is our obligation, and the responsibility of the administration, to find the reason for the increase in teenage drug use and to tackle it forcefully. We must start taking an aggressive action against this drug epidemic.

The Clinton administration, however, has become complacent and that is reflected in their lack of attention to the illicit drug trade. The number of Federal prosecutions dropped by 12 percent within 2 years. Overall, transit zone seizures, or disruptions, decreased more than 50 percent, from 1993 to mid-1995. Budget priorities were shifted in the Customs Service, the Department of Defense, and the U.S. Coast Guard away from counternarcotics.

With drug use on rise with teenagers, the administration has to start allocating adequate resources in order to reduce the presence of narcotics in the United States. But instead, when President Clinton took office, he cut the Office of National Drug Control Policy from 147 to 25, an indication of the President's priorities. When faced with criticism of a failed drug strategy, President Clinton has found the need to restaff the drug czar's office.

While the administration prefers to ignore the statistics, the task force has taken matters into its own hands and compiled a list of recommendations that will help to reverse the disturbing trend of teenage drug use.

By using state-of-the-art technology at U.S. ports of entry, narcotics can be intercepted at the border, before it ever reaches children. This also means a shift in focus for agencies at our borders and airports that are primarily responsible for drug interdiction.

In addition, the United States must do all it can to convince foreign countries to cooperate on the counternarcotics effort. Certification must be strictly applied, and sanctions imposed. When a country fails to cooperate with the United States to combat drug trafficking, the President who has the obligation to accurately report on the certification status of a targeted country, must apply those sanctions accordingly. Unfortunately, this certification process has not been taken seriously.

Despite the administration's awareness that 60 to 70 percent of the illegal drugs flowed from Mexico into the United States, and that 75 percent of the cocaine in the United States comes from our neighbor to the South, the administration certified Mexico as fully cooperating in the counternarcotics efforts. Sanctions must be applied, we can no longer pay lipservice to the certification process.

And efforts must be stringent in the United States. Drug traffickers and drug-related violent criminals must serve their full sentence. Drug awareness programs must be accountable. Throwing money at the problem does not solve it.

All aspects of drug control strategy must be defined: "public disapproval, information, law enforcement, interdiction, and treatment." While treatment is merely one component of the effort to combat the drug epidemic, it cannot be the sole solution. Alone, it will not work. One clear indication of the failure of treatment alone is the emergency room rate for cocaine and heroin-related cases, as studied by the Drug Abuse Warning Network. Heroin episodes in emergency rooms rose 66 percent in 1993. Evaluations should be conducted so that only effective programs will be maintained.

Ninety percent of the American public sees the drug problem as a top priority. It is time the administration does the same. This is our clear, undeniable message: If the administration refuses to be a leader on this issue, then we will. This report was our first step to put a tough drug strategy on the national agenda.•

CALIFORNIA YEAR OF THE ALUMNI

• Mrs. BOXER. Mr. President, on April 11, 1996, graduates of the California State University will gather in Washington, DC, to celebrate 1996 as "California Year of the Alumni". Today I wish to recognize the achievements and contributions of the more than 2.1 million alumni of that great institution.

The California State University is a vibrant, important part of California's public university system. Its graduates are an integral part of the many communities which comprise our great State. An estimated 10 percent of the workforce in the State of California are alumni of the California State University. Their contributions, both separate and collective, are evident in all aspects of life in my State.

CSU graduates are active in the arts, commerce, the professions, government, and elsewhere. Proud of an educational experience made possible by the foresight of Californians who came before them, CSU alumni are committed to maintaining first-rate educational institutions in California.

The alumni of the California State University promote and support campus environments where today the values of scholarship, citizenship, and self-development are shared and nurtured by more than 300,000 students and faculty on 21 campuses. Additionally, thousands of graduates volunteer their time, energy, and resources to myriad other causes, providing themselves daily as ambassadors and stewards of positive change.

It is my great pleasure to honor the alumni of the California State University on the floor of the U.S. Senate today as they celebrate the "California Year of the Alumni."•

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT

• Mr. BOND. Mr. President, on March 19th by a vote of 100 to 0, the Senate passed S. 942, the Small Business Regulatory Enforcement Fairness Act, legislation to implement some of the most important recommendations of the

VOL
142
PT
5
MR
21
—
29
1996
UMI

White House Conference on Small Business. Yesterday, the House passed H.R. 3136, the Contract With America Advancement Act of 1996 which incorporates the Small Business Regulatory Enforcement Fairness Act as amended in the House by the Hyde amendment. The Senate has now approved H.R. 3136 by unanimous consent and Senator BUMPERS and I would like to take this opportunity to further explain the purpose of the act. On March 15, we gave a detailed explanation of the managers amendment adopted by the Senate prior to passage of S. 942. The amendment offered by Representative HYDE is substantially similar to S. 942 as passed by the Senate.

Three changes are worth noting. First, the amendments to the Equal Access to Justice Act were revised by the House to take into account some of the concerns raised by the administration in the Statement of Administration Position. The new language embodies the intent of our managers amendment but clarifies that attorneys fees would be awarded when there is an unreasonably large difference between an agency demand and the final outcome of the case. Second, the House dropped the second phase of the Small Business Advocacy Review Panels. Thus the panels now only apply at the proposal stage of EPA and OSHA rulemakings. Finally the time period for the congressional review of regulations, adopted as part of the Nickles-Reid amendment, was extended from 45 to 60 days. We expect the authors of the Nickles-Reid amendment will have a detailed explanation of the Congressional Review Subtitle.

In order to provide additional guidance for agencies to comply with the requirements of the Small Business Regulatory Enforcement Fairness Act, I ask to have printed in the RECORD a section-by-section analysis of the subtitles A through D of act as modified by the Hyde amendment. Since there will not be a conference report on the act, this statement and a companion statement in the House should serve as the best legislative history of the legislation as finally enacted.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT—JOINT MANAGER'S STATEMENT OF LEGISLATIVE HISTORY AND CONGRESSIONAL INTENT

I. SUMMARY OF THE LEGISLATION

The Hyde amendment to H.R. 3136 replaces Title III of the Contract with America Advancement Act of 1996 to incorporate a revised version of the Small Business Regulatory Enforcement Fairness Act of 1996 (the "Act"). This legislation was originally passed by the Senate as S. 942. The Hyde amendment makes a number of changes to the Senate bill to better implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations, including judicial review of agency actions under the Regulatory Flexibility Act (RFA). The amendment also provides for expedited procedures for Congress to review agency rules and to enact Resolutions of Disapproval voiding agency rules.

The goal of the legislation is to foster a more cooperative, less threatening regulatory environment among agencies, small businesses and other small entities. The legislation provides a framework to make federal regulators more accountable for their enforcement actions by providing small entities with an opportunity for redress of arbitrary enforcement actions. The centerpiece of the legislation is the RFA which requires a regulatory flexibility analysis of all rules that have a "significant economic impact on a substantial number" of small entities. Under the RFA, this term "small entities" includes small businesses, small non-profit organizations, and small governmental units.

II. SECTION-BY-SECTION ANALYSIS

Section 301

This section entitles the Act the "Small Business Regulatory Enforcement Fairness Act of 1996."

Section 302

The Act makes findings as to the need for a strong small business sector, the disproportionate impact of regulations on small businesses, the recommendations of the 1995 White House Conference on Small Business, and the need for judicial review of the Regulatory Flexibility Act.

Section 303

The purpose of the Act is to address some of the key federal regulatory recommendations of the 1995 White House Conference on Small Business. The White House Conference produced a consensus that small businesses should be included earlier and more effectively in the regulatory process. The Act seeks to create a more cooperative and less threatening regulatory environment to help small businesses in their compliance efforts. The Act also provides small businesses with legal redress from arbitrary enforcement actions by making federal regulators accountable for their actions.

Subtitle A—Regulatory Compliance Simplification

Section 311

This section defines certain terms as used in the subtitle. The term "small entity" is currently defined in the RFA to include small business concerns, as defined by the Small Business Act, small nonprofit organizations and small governmental jurisdictions. The process of determining whether a given business qualifies as a small entity is straightforward, using thresholds established by the SBA for Standard Industrial Classification codes. The RFA also defines small organization and small governmental jurisdiction. Any definition established by an agency for purposes of implementing the RFA would also apply to this Act.

Section 312

The Act requires agencies to publish "small entity compliance guides" to assist small entities in complying with regulations which are the subject of a required Reg Flex analysis. The bill does not allow judicial review of the guide itself. However, the agency's claim that the guide provides "plain English" assistance would be a matter of public record. In addition, the small business compliance guide would be available as evidence of the reasonableness of any proposed fine on the small entity.

Agencies should endeavor to make these "plain English" guides available to small entities through a coordinated distribution system for regulatory compliance information utilizing means such as the SBA's U.S. Business Advisor, the Small Business Ombudsman at the Environmental Protection Agency, state-run compliance assistance programs established under section 507 of the Clean Air Act, Manufacturing Technology Centers or Small Business Development Centers established under the Small Business Act.

Section 313

The Act directs agencies that regulate small entities to answer inquiries of small entities seeking information on and advice about regulatory compliance. Some agencies already have established successful programs to provide compliance assistance and the amendment intends to encourage these efforts. For example, the IRS, SEC and the Customs Service have an established practice of issuing private letter rulings applying the laws to a particular set of facts. This legislation does not require other agencies to establish programs with the same level of formality as found in the current practice of issuing private letter rulings. The use of toll free telephone numbers and other informal means of responding to small entities is encouraged. This legislation does not mandate changes in current programs at the IRS, SEC and Customs Service, but these agencies should consider establishing less formal means of providing small entities with informal guidance in accordance with this section.

The Act gives agencies discretion to establish procedures and conditions under which they would provide advice to small entities. There is no requirement that the agency's advice to small businesses be binding as to the legal effects of the actions of other entities. Any guidance provided by the agency applying statutory or regulatory provisions to facts supplied by the small entity would be available as relevant evidence of the reasonableness of any subsequently proposed fine on the small entity.

Section 314

The Act creates permissive authority for Small Business Development Centers (SBDC) to provide information to small entities regarding compliance with regulatory requirements. SBDC's would not become the single-point source of regulatory information, but would supplement agency efforts to make this information widely available. This section is not intended to grant an exclusive franchise to SBDC's for providing information on regulatory compliance.

There are small business information and technical assistance programs, both federal and state, in various forms in different states. Some of the manufacturing technology centers and other similar extension programs administered by the National Institute of Standards and Technology are providing environmental compliance assistance in addition to general technology assistance. The small business stationary source technical and environmental compliance assistance programs established under section 507 of the Clean Air Act Amendments of 1990 is also providing compliance assistance to small businesses. This section is designed to add to the currently available resources to small businesses.

Compliance assistance programs can save small businesses money, improve their environmental performance and increase their competitiveness. They can help small businesses learn about cost-saving pollution prevention programs and new environmental

technologies. Most importantly, they can help small business owners avoid potentially costly regulatory citations and adjudications. Comments from small business representatives in a variety of fora support the need for expansion of technical assistance programs.

Section 315

This section directs agencies to cooperate with states to create guides that fully integrate federal and state requirements on small businesses. Separate guides may be created for each state, or states may modify or supplement a guide to federal requirements. Since different types of small businesses are affected by different agency regulations, or are affected in different ways, agencies should consider preparing separate guides for the various sectors of the small business community subject to their jurisdiction. Priority in producing these guides should be given to areas of law where rules are complex and where businesses tend to be small. Agencies may contract with outside entities to produce these guides and, to the extent practicable, agencies should utilize entities with the greatest experience in developing similar guides.

Section 316

This section provides that the effective date for the subtitle is 90 days after the date of enactment. The requirement for agencies to publish compliance guides applies to final rules published after the effective date. Agencies have one year from the date of enactment to develop their programs for informal small entity guidance, but these programs should assist small entities with regulatory questions regardless of the date of publication of the regulation at issue.

Subtitle B—Regulatory Enforcement Reforms

Section 321

This section provides definitions for the terms as used in the subtitle.

Section 322

The Act creates a Small Business and Agriculture Regulatory Enforcement Ombudsman at the SBA to give small businesses a confidential means to comment on the enforcement activity of agency enforcement activities. This might include providing toll-free telephone numbers, computer access points, or mail-in forms allowing businesses to comment on the enforcement activities of inspectors, auditors and other enforcement personnel. As used in this section of the bill, the term "audit" is not intended to refer to audits conducted by Inspectors General. This Ombudsman would not replace or diminish any similar ombudsman programs in other agencies.

Concerns have arisen in the Inspector General community that those Ombudsmen might have new enforcement powers that would conflict with those currently held by the Inspector Generals. Nothing in the Act is intended to supersede or conflict with the provisions of the Inspector General Act of 1978, as amended, or to otherwise restrict or interfere with the activities of any Office of the Inspector General.

The Ombudsman will compile the comments of small businesses and provide an annual evaluation similar to a "customer satisfaction" rating for different agencies, regions, or offices. The goal of this rating system is to see whether agencies and their personnel are in fact treating small businesses more like customers than potential criminals. Agencies will be provided an opportunity to comment on the Ombudsman's draft report, as is currently the practice with reports by the General Accounting Office. The final report may include a section in which an agency can address any concerns that the Ombudsman does not choose to address.

The Act states that the Ombudsman shall "work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel." The SBA shall publicize the existence of the Ombudsman generally to the small business community and also work cooperatively with enforcement agencies to make small businesses aware of the program at the time of agency enforcement activity. The Ombudsman shall report annually to Congress based on substantiated comments received from small business concerns and the Boards, evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency. The report to Congress shall in part be based on the findings and recommendation of the Boards as reported by the Ombudsman to affected agencies. While this language allows for comment on the enforcement activities of agency personnel in order to identify potential abuses of the regulatory process, it does not provide a mandate for the boards and the Ombudsman to create a public performance rating of individual agency employees.

The goal of this section is to reduce the instances of excessive and abusive enforcement actions. Those actions clearly originate in the acts of individual enforcement personnel. Sometimes the problem is with the policies of an agency, and the goal of this section is also to change the culture and policies of Federal regulatory agencies. At other times, the problem is not agency policy, but individuals who violate the agency's enforcement policy. To address this issue, the legislation includes a provision to allow the Ombudsman, where appropriate, to refer serious problems with individuals to the agency's Inspector General for proper action.

The intent of the Act is to give small businesses a voice in evaluating the overall performances of agencies and agency offices in their dealings with the small business community. The purpose of the Ombudsman's reports is not to rate individual agency personnel, but to assess each program's or agency's performance as a whole. The Ombudsman's report to Congress should not single out individual agency employees by name or assign an individual evaluation or rating that might interfere with agency management and personnel policies.

The Act also creates Regional Small Business Regulatory Fairness Boards at the SBA to coordinate with the Ombudsman and to provide small businesses a greater opportunity to track and comment on agency enforcement policies and practices. These boards provide an opportunity for representatives of small businesses to come together on a regional basis to assess the enforcement activities of the various federal regulatory agencies. The boards may meet to collect information about these activities, and report and make recommendations to the Ombudsman about the impact of agency enforcement policies or practices on small businesses. The boards will consist of owners, operators or officers of small entities who are appointed by the Administrator of the Small Business Administration. Prior to appointing any board members, the Administrator must consult with the leadership of the Congressional Small Business Committees. There is nothing in the bill that would exempt the boards from the Federal Advisory Committee Act, which would apply according to its terms. The Boards may accept donations of services such as the use of a regional SBA office for conducting their meetings.

Section 323

The Act directs all federal agencies that regulate small businesses to develop policies or programs providing for waivers or reductions of civil penalties for violations by small businesses in certain circumstances. This section builds on the current Executive Order on small business enforcement practices and is intended to allow agencies flexibility to tailor their specific programs to their missions and charters. Agencies should also consider the ability of a small entity to pay in determining penalty assessments under appropriate circumstances. Each agency would have discretion to condition and limit the policy or program on appropriate conditions. For purposes of illustration, these could include requiring the small business to act in good faith, requiring that violations be discovered through participation in agency supported compliance assistance programs, or requiring that violations be corrected within a reasonable time.

An agency's policy or program could also provide for suitable exclusions. Again, for purposes of illustration, these could include circumstances where the small entity has been subject to multiple enforcement actions, the violation involves criminal conduct, or poses a grave threat to worker safety, public health, safety or the environment.

In establishing their programs, it is up to each agency to develop the boundaries of their program and the specific circumstances for providing for a waiver or reduction of penalties, but once establish, an agency must implement its program in an even-handed fashion. Agencies may distinguish among types of small entities and among classes of civil penalties. Some agencies have already established formal or informal policies or programs that would meet the requirements of this section. For example, the Environmental Protection Agency has adopted a small business enforcement policy that satisfies this section. While this legislation sets out a general requirement to establish penalty waiver and reduction programs, some agencies may be subject to other statutory requirements or limitations applicable to the agency or to a particular program. For example, this section is not intended to override, amend or affect provisions of the Occupational Health and Safety Act or the Mine Safety and Health Act that may impose specific limitations on the operation of penalty reduction or waiver programs.

Section 324

This section provides that the subtitle takes effect 90 days after the date of enactment.

Subtitle C—Equal Access to Justice Act Amendments

Sections 331 & 332

The Act amends the Equal Access to Justice Act to assist eligible small businesses in recovering their attorneys fees and expenses in certain instances when unreasonable agency demands for fines or civil penalties in enforcement actions are not sustained by the court or by an administrative law judge. While this is a significant change from current law, the legislation is not intended to

VOL 142 PT 5 MR 21—29 1996 UMI

result in the awarding of attorneys fees as a matter of course. Rather, the legislation is intended to assist in changing the culture among government regulators to increase the reasonableness and fairness of their enforcement practices. Past agency practice too often has been to treat small businesses like suspects. One goal of this bill is to encourage government regulatory agencies to treat small businesses as partners sharing in a common goal of informed regulatory compliance. Government enforcement attorneys often take the position that they must zealously advocate for their client, in this case a regulatory agency, to the maximum extent permitted by law, as if they were representing an individual or other private party. But in the new regulatory climate for small businesses under this legislation, government attorneys with the advantages and resources of the federal government behind them in dealing with small entities must adjust their actions accordingly and not routinely issue original penalties or other demands at the high end of the scale merely as a way of pressuring small entities to agree to quick settlements.

The Equal Access to Justice Act (EAJA) provides a means for prevailing parties to recover their attorneys fees in a wide variety of civil and administrative actions between eligible parties and the government. This bill amends the EAJA to create a new avenue for small entities to recover their attorneys fees where the government makes excessive demands in enforcing compliance with a statutory or regulatory requirement, either in an adversary adjudication or judicial review of the agency's enforcement action, or in a civil enforcement action. In these situations, the test for recovering attorneys fees is whether the agency or government demand that led to the administrative or civil action is substantially in excess of the final outcome of the case so as to be unreasonable when compared to the final outcome (whether a fine, injunctive relief or damages) under the facts and circumstances of the case.

The comparison called for in the Act is always between a "demand" by the government for injunctive and monetary relief taken as a whole and the final outcome of the case in terms of injunctive and monetary relief taken as a whole. As used in these amendments, the term "demand" means an express written demand that leads to an adversary adjudication or civil action. A written demand by the government for performance or payment qualifies under this section regardless of form, including an original fine, penalty notice, demand letter, citation or otherwise. In the case of an adversary adjudication, the demand would often be a statement of the "Definitive Penalty Amount." In the case of a civil action brought by the United States, the demand could be in the form of a demand for settlement issued prior to commencement to the litigation. In a civil action to review the determination of an administrative proceeding, the demand could be the demand that led to such proceeding. However, the term "demand" should not be read to extend to a mere recitation of facts and law in a complaint. The bill's definition of the term "demand" expressly excludes a recitation of the maximum statutory penalty in the complaint or elsewhere when accompanied by an express demand for a lesser amount. This definition is not intended to suggest that a statement of the maximum statutory penalty somewhere other than the complaint, which is not accompanied by an express demand for a lesser amount, is per se a demand, but would depend on the circumstances.

This test should not be a simple mathematical comparison. The Committee intends for it to be applied in such a way that it identifies and corrects situations where the agency's demand is so far in excess of the true value of the case, as demonstrated by the final outcome, that it appears the agency's assessment or enforcement action did not represent a reasonable effort to match the penalty to the actual facts and circumstances of the case.

In addition, the bill excludes attorneys fee awards in connection with willful violations, bad faith actions and in special circumstances that would make such an award unjust. These additional factors are intended to provide a "safety valve" to ensure that the government is not unduly deterred from advancing its case in good faith. Special circumstances are intended to include both legal and factual considerations which may make it unjust to require the public to pay attorneys fees, even in situations where the ultimate award is significantly less than the amount demanded. Special circumstances could include instances where the party seeking fees engaged in a flagrant violation of the law, endangered the lives of others, or engaged in some other type of conduct that would make the award of the fees unjust. The actions covered by "bad faith" include the conduct of the party seeking fees both at the time of the underlying violation, and during the enforcement action. For example, if the party seeking fees attempted to elude government officials, cover up its conduct, or otherwise impede the Government's law enforcement activities, then attorney's fees should not be awarded.

The bill also increases the maximum hourly rate for attorneys fees under the EAJA from $75 to $125. Agencies could avoid the possibility of paying attorneys fees by settling with the small entity prior to final judgement. The Committee anticipates that if a settlement is reached, all further claims of either party, including claims for attorneys fees, could be included as part of the settlement. The government may obtain a release specifically including attorneys fees under EAJA.

Additional language is included in the Act to ensure that the legislation did not violate of the PAYGO requirements of the Budget Act. This language requires agencies to satisfy any award of attorneys fees or expenses arising from an agency enforcement action from their discretionary appropriated funds, but does not require that an agency seek or obtain an individual line item or earmarked appropriation for these amounts.

Section 333

The new provisions of the EAJA apply to civil actions and adversary adjudications commenced on or after the date 14 days after the date of enactment.

Subtitle D—Regulatory Flexibility Act Amendments

Section 341

The bill expands the coverage of the RFA to include IRS interpretive rules that provide for a "collection of information" from small entities. Many IRS rulemakings involve "interpretative rules" that IRS contends need not be promulgated pursuant to section 553 of the Administrative Procedures Act. However, these interpretative rules may have significant economic effects on small entities and should be covered by the RFA. The amendment applies to those IRS interpretative rulemakings that are published in the Federal Register for notice and comment and that will be codified in the Code of Federal Regulations. This limitation is intended to exclude from the RFA other, less formal IRS publications such as revenue rulings, revenue procedures, announcements, publications or private letter rulings.

The requirement that IRS interpretative rules comply with the RFA is further limited to those involving a "collection of information." The term "collection of information" is defined in the Act to include the obtaining, causing to be obtained, soliciting of facts or opinions by an agency through a variety of means that would include the use of written report forms, schedules, or reporting or other record keeping requirements. It would also include any requirements that require the disclosure to third parties of any information. The intent of this phrase "collection of information" in the context of the RFA is to include all IRS interpretive rules of general applicability that lead to or result in small entities making calculations, keeping records, filing reports or otherwise providing information to IRS or third parties.

While the term "collection of information" also is used in the Paperwork Reduction Act (Title 44 U.S.C. Section 3502(4)("PRA"), the purpose of the term in the context of the RFA is different that the purpose of the term in the PRA. Thus, while some courts have interpreted the PRA to exempt from its requirements certain recordkeeping requirements that are explicitly required by statute, such an interpretation would be inappropriate in the context of the RFA. If a collection of information is explicitly required by the Code, the effect might be to limit the possible regulatory alternatives available to the IRS in the proposed rulemaking, but would not exempt the IRS from conducting a regulatory flexibility analysis.

Some IRS interpretative rules merely reiterate or restate the statutorily required tax liability. While a small entity's tax liability may be a burden, the RFA cannot act to supersede the statutorily required tax rate. However, most IRS interpretative rules involve some aspect of defining or establishing requirements for compliance with the Code, or otherwise require small entities to maintain records to comply with the Code, and would now be covered by the RFA. One of the primary purposes of the RFA is to reduce the compliance burdens on small entities whenever possible under the statute. To accomplish this purpose, the IRS should take an expansive approach in interpreting the phrase "collection of information" when considering whether to conduct a regulatory flexibility analysis.

The Act provides for judicial review of the RFA, and the courts generally are given broad discretion to formulate appropriate remedies under the facts and circumstances of each individual case. The rights of judicial review and remedial authority of the courts provided in the Act as to IRS interpretative rules should be applied in a manner consistent with the purposes of the Anti-Injunction Act (26 U.S.C. 7421), which may limit remedies available in particular circumstances. The RFA, as amended by the Act, permits the court to remand a rule to an Agency for further consideration of the rule's impact on small entities. The amendment also directs the court to consider the public interest in determining whether or not to delay enforcement of a rule against small entities pending agency compliance with the court's findings. In the context of IRS interpretative rulemakings, this language should be read to

require the court to give appropriate deference to the legitimate public interest in the assessment and collection of taxes reflected by the Anti-Junction Act. The court should not exercise its discretion more broadly than necessary under the circumstances or in a way that might encourage excessive litigation.

If an agency is required to publish an initial regulatory flexibility analysis, the agency also must publish a final regulatory flexibility analysis. In the final regulatory flexibility analysis, agencies will be required to describe the impacts of the rule on small entities and to specify the actions taken by the agency to modify the proposed rule to minimize the regulatory impact on small entities. Nothing in the bill directs the agency to choose to regulatory alternative that is not authorized by the statute granting regulatory authority. The goal of the final regulatory flexibility analysis is to demonstrate how the agency has minimized the impact on small entities consistent with the underlying statute and other applicable legal requirements.

Section 342

The bill removes the current prohibition on judicial review of agency compliance with the RFA and allows adversely affected small entities to seek judicial review of agency compliance with the Act within one year after final agency action, except where a provision of law requires a shorter period for challenging a final agency action. The prohibition on judicial enforcement of the RFA is contrary to the general principle of administrative law, and it has long been criticized by small business owners. Many small business owners believe that agencies have given lip service at best to RFA, and small entities have been denied legal recourse to enforce the Act's requirements.

The amendment is not intended to encourage or allow spurious lawsuits which might hinder important governmental functions. The one-year limitation on seeking judicial review ensures that this legislation will not permit indefinite, retroactive application of judicial review. The bill does not subject all regulations issued since the enactment of the RFA to judicial review. After the effective date, if the court finds that a final agency action was arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law, the court may set aside the rule or order the agency to take other corrective action. The court may also decide that the failure to comply with the RFA warrants remanding the rule to the agency or delaying the application of the rule to small entities pending completion of the court ordered corrective action. However, in some circumstances, the court may find that there is good cause to allow the rule to be enforced and to remain in effect pending the corrective action.

Section 343

The bill requires agencies to publish their factual, policy and legal reasons when making a certification under section 605 of the RFA that the regulations will not impose a significant economic impact on a substantial number of small entities.

Section 344

The bill amends the existing requirements of RFA section 609 for small business participation in the rulemaking process by incorporating a modified version of S. 917, the Small Business Advocacy Act, introduced by Senator DOMENICI, to provide early input from small business into the regulatory process. For proposed rules with a significant economic impact on a substantial number of small entities, EPA and OSHA would have to collect advice and recommendations from small businesses to better inform the agency's regulatory flexibility analysis on the potential impacts of the rule. The House version drops the provision of the Senate bill that would have required the panels to reconvene prior to publication of the final rule.

The agency promulgating the rule would consult with the SBA's Chief Counsel for Advocacy to identify individuals who are representative of affected small businesses. The Agency would designate a senior level official to be responsible for implementing this section and chairing an interagency review panel for the rule. Before the publication of an initial regulatory flexibility analysis for a proposed EPA or OSHA rule, the SBA's Chief Counsel for Advocacy will gather information from individual representatives of small businesses and other small entities, such as small local governments, about the potential impacts of that proposed rule. This information will then be reviewed by a panel composed of members from EPA or OSHA, OIRA, and the Chief Counsel. The panel will then issue a report on those individuals' comments, which will become part of the rulemaking record. The review panel's report and related rulemaking information will be placed in the rulemaking record in a timely fashion so that others who are interested in the proposed rule may have an opportunity to review that information and submit their own responses for the record before the close of the agency's public comment period for the proposed rule. The legislation includes limits on the period during which the review panel conducts its review. It also creates a limited process allowing the Chief Counsel to waive certain requirements of the section after consultation with the Office of Information and Regulatory Affairs and small businesses.

Section 345

This section provides that the effective date of the RFA amendment is 90 days after enactment. Proposed rules published after the effective date must be accompanied by an initial regulatory flexibility analysis or a certification under section 605 of the RFA. Final rules published after the effective date must be accompanied by a final regulatory flexibility analysis or a certification under section 605 of the RFA, regardless of when the rule was first proposed. Thus judicial review shall apply to any final regulation published after the effective date regardless of when the rule was proposed. However, IRS interpretive rules proposed prior to enactment will not be subject to the amendments made in this subchapter expanding the scope of the RFA to include IRS interpretive rules. Thus, the IRS could finalize previously proposed interpretive rules according to the terms of currently applicable law, regardless of when the final interpretive rule is published.●

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT

● Mr. BUMPERS. Mr. President, I want to associate myself with the remarks of the distinguished chairman of our committee and the principle author of S. 942. He and I, as well as our staffs, worked together on this bill in a true spirit of bipartisanship. The shortness of time between the markup of S. 942 and consideration on the floor did not permit the staff to prepare a full-blown report, as we usually do. Instead, we have offered this section-by-section analysis as a joint explanatory statement by the managers, even though there was not a formal conference on this bill. The House chose to amend S. 942 in several respects. The chairman and I were consulted about these changes, and we agree that they are helpful. It is our hope that anyone reading this statement will treat it exactly as they would a formal Senate committee report since it reflects the consensus views of many Senators on both sides of the aisle who have participated in completion of S. 942, which is now title III, in H.R. 3136.●

THE SWISS BANKS, THE NAZIS, AND HOLOCAUST ASSETS

● Mr. D'AMATO. Mr. President, I rise today to discuss the issue that I spoke about yesterday, namely that of the return, by Swiss banks, of assets deposited by European Jews and others in the years preceding the Holocaust.

Today, I would like to discuss the revelations disclosed in newly discovered documents by my staff. These documents explain the connections of certain wartime Swiss bankers with Nazi Germany. The documents are disturbing to read, especially when one considers the history of the times and the horrors that took place because of the murderous actions of the Nazi regime with which these men dealt.

One such declassified document, dated August 2, 1945, from the American Embassy in London, from which made up the American Occupational project, "Operation Safe Haven," details the membership of the board of directors of the I.G. Farben Co. I.G. Farben was, at the time, the largest chemical company in the world, and is known, quite infamously for the fact that one of its subsidiaries produced "Zyklon B," the poison gas used in the gas chambers in the Nazi extermination camps in Europe. While voluminous, the document provides short biographies of the directors.

At this time, I would like to ask unanimous consent that a portion of this document be printed in the RECORD at the conclusion of my remarks.

It is in this document that several Swiss nationals are listed and some are listed as owners or directors of Swiss banks. Following are the names of the bankers:

August Germann: Described as the "Director of the Bank Fuer Unternehmungen, Zurich."

Carlo Mollwo: Described as "A cover man for I.G. Farben formally holding 100 percent of the shares of the Swiss bank, Ed. Greutert & Cie. (Now H. Sturzenegger & Cie.)."

Hans Sturzenegger: Described as "A Swiss and relative of Greutert, became Managing Director of the Swiss Bank, Ed. Greutert & Cie. * * * In 1942,

VOL
142
PT
5
MR
21
—
29
1996
UMI

Sturzenegger was listed as the unlimited partner of the bank and Industrie Bank A.G. of Zurich was listed as the limited partner."

Theodor Wolfensperger: Described as the "President of Industrie Bank, Zurich. Known as a member of the I.G. clique."

Mr. President, I know that this is the stuff of history, but it serves to point out one vital factor in understanding how this controversy in Switzerland today, came about. Here we have Swiss owners, or directors of banks in Switzerland, which might well have been the place of deposit for funds of European Jews, and they are sitting on the board of I.G. Farben, clearly a notorious company, by any standard. These men, as you will see by the document, also headed companies which acted as fronts for the Nazis, and later perhaps helped get assets looted by the Nazis, out of Europe. My question is, if they would do all this for the Nazis, what would they do with the assets of Europe's Jews?

Mr. President, this is a disturbing question, and to one that I truly do not know the answer. Nevertheless, I fear the worst. Yet, when considering this question, it inevitably begs a further question. What role did the Swiss Government play in this regard?

To provide a possible answer to this question, I would like to introduce the now declassified report of Daniel J. Reagan, then Counselor of Legation for Economic Affairs at the U.S. legation in Bern, who wrote to the Secretary of State on October 4, 1945 concerning the lack of cooperation of the Swiss Government.

I would ask that the text of this report be inserted in the RECORD at this time.

Mr. President, this is a devastating indictment of the Swiss Government and it illustrates how the Swiss went out of their way to avoid cooperating with the Allies in breaking up the German war effort and its vast economic structure.

This is only the beginning of our inquiry. We are finding documents daily, and with each search, we find more evidence which, I hope will place us closer to the truth, namely the authoritative, accurate and final accounting of all assets that numerous Swiss banks continue to hold from this time period and to which the survivors and rightful heirs are entitled.

The report follows:

SECRET ATTACHMENT

Sponsor Agency: External Security Intelligence Coordinating Committee, Washington, D.C.

11. In Switzerland or Connected with the Swiss Business.

Fritz Fleiner—Member of the Board of I.G. Chemie.

Dr. Albert Gadow—I.G. Farbon's Swiss representative. Member of the Board of each chief figure in I.G.

Chemie, Basle. Brother-in-law of Hermann Schmitz.

August Gormann—Member of I.G. Chemie's Board of Directors, and Director of the Bank Fuer Unternehmungen, Zurich.

Paul Haefliger—(See IV. A.2.).

Anton Heinrich—(See IV. A.3.).

Ernst Huelsmann—(See IV. A.3.).

Felix Iselin—President of I.G. Chemie, Basle, replacing Hermann Schmitz in 1940. One of most important lawyers in eastern Switzerland, a colonel in the Swiss Army; and chief of its Intelligence Service. Also President of the Schweizerische Treuhand—Gesellschaft of Basle, the chartered accountant firm of the Swiss chemical concerns Ciba, Geigy, and Sandoz. A former colleague of Iselin's has stated that Iselin is a prominent representative of absolutely German interests, and that he goes to Berlin to take orders from Hermann Schmitz and then telephones them to New York from Basle, thus pretending to protect Swiss interests where he is really protecting the interests of I. G. Farben.

Gottfried Keller—Member of the Board of Directors of I.G. Chemie, Basle.

Carlo Mollwo—German by birth, married to a Swiss, Became a Swiss citizen. "A cover man for I.G. Farben" formerly, holding 100% of the shares of the Swiss bank, Ed. Greutert & Cie. (now H. Sturzenegger & Cie.). He was especially active for I.G. in the nitrogen cartel through Greutert & Cie. President of the Board of Administration of Societe Auxiliaire de Participations et de Depots S.A., and member of the Board of Directors of I.G. Chemie, Basle. Chief auditor for I.G. Chemie since 1929.

Karl Pfoiffer—(See IV. A.1.).

Hormann Schmitz—(See IV. A.2.) Resigned as President of I.G. Chemie in 1940 and was replaced by Felix Isolin.

Hans Sturzeneggor—A Swiss and relative of Groutort, became Managing Director of the Swiss bank, Ed. Greutert & Cio., upon the death of Greutort in 1939, and the name of the bank was changed to H. Sturzeneggor & Cio. He had been trained in the Frankfurt offices of Metallgesellschaft and in the Finance Dept. of I.G. In 1942 Sturzenogger was listed as the unlimited partner of the bank and Industrie Bank A.G. of Zurich was listed as the limited partner. He is a member of the Board of I.G. Chemie

Theordor Wolfensperger—President of Industrie Bank, Zurich, Switzerland. Known as a member of the I.G. clique. He has been used as a nominee for I.G. in other dummy holding companies, as for instance Mapro, an I.G. camouflaged holding company in the Dutch East Indies.

12. TURKEY

Widmann—Manger of Bayor; Turkey. His private funds and personal possessions insured for LT 85,000 are held by Dr. Feridun Frik, Istanbul, at the house of Salahettin Ozgen, Eskisohir.

13. LATIN AMERICAN

Johann Carl Ahrons—Nominal partner in A. Quimica.

Bayor Lda., Brazil, Probably a front for I.G. Farben.

Ernst Holmut Andreas—German radio engineer who operated a radio station, "Radio Bayer" in Managua, Nicaragua, from 1929 to 1940. It advertised Bayer products and in the later years its programs included Nazi propaganda. (In 1940 the station was sold to Joso Mondoza.) He was deported to the U.S. in 1942 and in 1945 was a soldier in the U.S. Army. Believed to be a Nazi and to have operated a secret transmission set in Managua.

BERN, *October 4, 1945.*

Subject: Transmission of statement from Swiss purporting to give an indication of results of census of German assets.

[Via air mail pouch—USA War Crimes Office, Oct. 26, 1945—Secret]

The HONORABLE
The SECRETARY OF STATE,
Washington.

SIR: I have the honor to refer to the Legation's telegram No. 4211 (Repeated to London as 1407 and to Paris as 692), September 25, 1945, wherein it was reported that despite repeated and joint efforts of the British, French and ourselves during the past six months to induce the Swiss to implement effectively the agreement of March 8, it now appears that the Swiss are failing to meet in certain respects their engagements under that agreement, indulging in procrastinating tactics and also undermining economic warfare measures. As evidence of this statement there is transmitted, in the original and in translation, a memorandum presented to the Economic Counselor by Mr. Kohli on behalf of the Federal Political Department, embracing what the Swiss describe as their interim report on the census of German assets as promised two months ago (Par. 4, Legation's telegram No. 3667, July 24). As it may be seen, this statement presents a mere description of the mode of operation of the Swiss Compensation office, the number of cases blocked without any indication of the results of the census. Mr. Kohli refused to indicate, moreover, when, if at all, any results of the census would be made available to the Allies. He did not contest the joint understanding of the British, French, and ourselves that the Swiss would make available at least the approximate value of interim blocked assets, but they have now failed to do so.

Early in August Mr. Schwab, Chief of the Swiss Compensation Office, informed the Economic Counselor that he had in the course of preparation what he intimated was a complete report which he was preparing for the Federal Political Department. Mr. Schwab stated at the time that he understood this report was intended for the Allies. Shortly afterwards Mr. Kohli, of the Federal Political Department, informed the Economic Counselor that he had received this report but that it was being translated from German into French for us. The Economic Counselor indicated that the German text would be satisfactory. Mr. Kohli stated he thought it more polite to transmit it in French. On August 23 Mr. Kohli was again reminded that we had not received this document. He stated that the translation had not yet been completed but that we would obtain it in the near future.

At a meeting on September 12 the Economic Counselor stated that he could not understand why this report, which had been in Mr. Kohli's hands for approximately a month, had not yet been transmitted. Mr. Kohli replied that after the translation had been made from German into French, the latter text had been submitted to Mr. Schwab of the Swiss Compensation Office for the latter's approval, but that Mr. Schwab had been on vacation for two weeks. The Economic Counselor informed Mr. Kohli that this statement was most remarkable, for members of his office had been in communication with Mr. Schwab by telephone several times during the preceding week. The Economic Counselor added that he had advised the Department of State of the promise to supply a report giving the pertinent information so far obtained on the census, but

that it now appeared that this report, although completed a month ago by the Swiss Compensation Office, had been held up by the Federal Political Department. He expressed the fear that its transmission to us was, for reasons unknown, no longer intended. Mr. Kohli thereupon gave instructions to his assistant to assure that the French text of the report be delivered to us on the following day, which it was. It should be observed that the Aide-Memoire enclosed herewith bears the date of August 27, although it was not delivered until September 13.

The foregoing incident has been recited in detail because it suggests that the report prepared by the Swiss Compensation Office and intended for this and the British Legation and the French Embassy was censored and a perfunctory resumé substituted therefor. The enclosed report, it is hardly necessary to state, represents a failure on the part of the Swiss to carry out their promise to acquaint us with the interim results of the census and was delivered two weeks after the census was technically closed on August 31.

This failure of the Swiss to respect their promises is of especial significance at this time. It would appear to be related to the neglect the Swiss have shewn *inter alia* for those provisions of the March 8 agreement which related to the prompt adoption of legislating necessary to facilitate the restoration of looted property and to the attempt made by the Swiss in the Viscose Suisse case, as reported in Legation's telegram 4211, September 25, to negate the influence of the Allied Proclaimed Lists. Reference must also be made by the belated response offered by the Swiss on September 25 (reported in Legation's telegram 4236 of September 28) to Legation's note of August 3 asserting title to German assets and to the Swiss failure to make any response to the Legation's note of July 12. The latter, as reported in Legation's dispatch 12188 of July 27, 1947, requested the Swiss to take steps, in accordance with the March 8 agreement, to assure that no disposition of German or German-controlled property in Switzerland would occur. As reported in Legation's telegram No. 4201 of September 24, 1945, despite this note and despite adequate notice from the Economic Counselor of this Legation that one such disposition was about to occur, the Swiss Government took no steps to intervene in the proposed sale of a German school at Davos.

From these incidents one inference is difficult to avoid: the Swiss Government is pursuing dilatory tactics designed to test the sincerity, firmness, and unity of the Allies with respect to the German assets in Switzerland and with respect to the commercial future of those Swiss enterprises and individuals whose pro-German activities were sufficiently notorious to merit inclusion on the Allied black lists. These tactics are being employed, it would appear, in the belief that, in the interim, the Allies will become so preoccupied with other affairs as to neglect to press for further execution of the March 8, agreement. If they are successful, the Swiss will thereby have escaped the proper and legitimate obligations which the majority of other neutrals have assumed, vis-a-vis the Allies, to put an end to the more important potentials for the continuation of Nazi activities.

In this connection, attention must be directed to recent discussions in the Swiss Parliament and the Swiss press. As reported in Legation's telegrams 4176, September 20 and 4186, September 21, 1945, Federal Councilor Stampfli, Chief of the Department of Public Economy, and Mr. Dutweiler, influential Swiss political leader, have violently attacked the Allies' listing policy. They have chosen deliberately to misrepresent the purposes and objectives of the Allies with respect to German and Japanese assets and the Proclaimed List. They have categorized these purposes and objectives as "economic warfare" directed against the Swiss economy, a statement so palpably false as to require no comment here. The significant point is that these responsible officials and influential spokesmen, supported by large sections of the Swiss press, choose this time to launch an offensive against our lists and the policy behind the lists. This campaign is mounting in scope and intensity. The conclusion here too is difficult to avoid: the Swiss officials are endeavoring to create a public opinion which will accept as proper and in the interests of Switzerland the failures of the Swiss Government to perform wholly in accordance with the provisions and spirit of the agreements made with the Allies.

Meanwhile, the concealment of German assets is facilitated by inadequate enforcement of existing inadequate legislation and Swiss nationals, in direct contravention of the March 8 agreement, are taking title to important German enterprises located here, steps which further complicate the detection of enemy property and the restoration of looted property.

Respectfully yours, For the Chargé d'Affaires a.i.

DANIEL J. REAGAN,
Counselor of Legation
for Economic Affairs.●

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration, en bloc, of Senate Resolution 239, a resolution submitted by Senators DOLE and DASCHLE and Senate Resolution 240, submitted by Senators WARNER and FORD; I further ask that the resolutions be agreed to, the motions to reconsider be laid upon the table, all en bloc, and that any statements relating to the resolutions appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolutions en bloc (S. Res. 239 and S. Res. 240) were agreed to.

The preambles were agreed to.

The resolutions, en bloc, with their preambles, are as follows:

S. RES. 239

Whereas, in the case of *Robert E. Barrett* v. *United States Senate, et al.*, No. 96CV00385 (D.D.C.), pending in the United States District Court for the District of Columbia, the plaintiff has named the United States Senate as a defendant;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1)(1994), the Senate may direct its counsel to defend the Senate in civil actions relating to its official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the United States Senate in the case of *Robert E. Barrett* v. *United States Senate, et al.*

Mr. DOLE. Mr. President, the plaintiff in Barrett versus United States Senate is a Federal prisoner in Michigan. He has brought a civil action in Federal district court in the District of Columbia, seeking, among other things, a declaration from the court that the U.S. Court of Appeals for the Seventh Circuit is unable to adjudicate his claims impartially because of its bias against prisoners.

The plaintiff has named the U.S. Senate, among others, as a defendant in his lawsuit. The Senate is not, however, a proper party to this suit. In fact, the plaintiff asserts no claim against the Senate. This resolution authorizes the Senate Legal Counsel to represent the Senate in this action.

S. RES. 240

Whereas, in the case of *United States* v. *Byron C. Dale, et al.*, Civil No. 95-1023, in the United States District Court for the District of South Dakota, Northern Division, the defendants have named Senator Robert J. Dole as a codefendant in a counterclaim against the United States;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1)(1994), the Senate may direct its counsel to defend its Members in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Dole in the case of *United States* v. *Byron C. Dale, et al.*

Mr. WARNER. Mr. President, the legal action United States versus Dale, currently pending in the U.S. District Court in South Dakota, was brought by the United States to foreclose two mortgages executed by the Farmers Home Administration of the U.S. Department of Agriculture on real estate in Corson County, SD, belonging to the defendants.

The defendants in that action have filed a counterclaim against the United States, naming as codefendants Speaker of the House NEWT GINGRICH, Federal Reserve Chairman Alan Greenspan, Treasury Secretary Robert Rubin, Secretary of Agricultural Dan Glickman, and the Senator majority leader. The counterclaim seeks a court order compelling televised congressional hearings regarding Federal farm and monetary policy and the enactment of legislation favored by the defendant.

Lawsuits alleging that citizens have been aggrieved by a Member's failure to act in accordance with the citizens' views have been filed against Members of Congress from time to time. As the Senate has noted previously in response to such lawsuits, every citizen has a constitutionally protected right to petition the Government for the redress of grievances. However, elected officials have the discretion to agree or disagree with communications they receive, and to decide how best to respond to the many points of view which are presented to them. This resolution authorizes the Senate Legal Counsel to represent the majority leader in this action.

VOL
142
PT
5
MR
21
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29
1996
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MEASURE PLACED ON CALENDAR—H.R. 1296

Mr. LOTT. Mr. President, I ask unanimous consent that calendar No. 300, H.R. 1296 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Executive Calendar nominations 515 and 516.

I further ask unanimous consent that the nominations be confirmed, en bloc, the motions to reconsider be laid upon the table en bloc, that any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

FEDERAL DEPOSIT INSURANCE CORPORATION

Gaston L. Gianni, Jr., of Virginia, to be Inspector General, Federal Deposit Insurance Corporation. (New Position)

DEPARTMENT OF COMMERCE

Stuart E. Eizenstat, of Maryland, to be Under Secretary of Commerce for International Trade, vice Jeffrey E. Garten, resigned.

NOMINATION OF STUART EIZENSTAT

Mr. HOLLINGS. Mr. President, I rise today to speak on behalf of the nomination of Stuart Eizenstat to be the Under Secretary of Commerce for International Trade. In Stu Eizenstat, President Clinton has chosen a real winner. Ambassador Eizenstat brings a wealth of experience and talent to the administration's economic policy team. In Ron Brown we have had the most energetic and effective Secretary of Commerce that has ever held office at the Hoover Building. And, with the selection of Stu Eizenstat, we finally will have an Under Secretary of Commerce for trade who will serve as an aggressive advocate for U.S. business overseas, and an individual who will help defend American business against unfair competition.

Ambassador Eizenstat is a native of Georgia and, in this period of March madness, I should also note that he developed quite a reputation as an exception basketball player. He is a graduate of the University of North Carolina and Harvard Law School.

As a young man Stu served in the White House under President Lyndon Johnson. And, from 1977–80 he served as President Carter's domestic policy advisor. Since leaving the White House, he has served as a lecturer at the John F. Kennedy School of Government at Harvard and as a guest scholar at the Brookings Institute. He is an expert in trade law and he made a name for himself in private practice in Atlanta and Washington. President Clinton named him to serve in Brussels as the United States Ambassador to the European Union. And, in that role he has championed the cause of U.S. business regarding tariff and nontariff barriers to work toward a level playing field for American business.

Stu Eizenstat is outstanding member of our Jewish American community. Throughout his life he has been very active in the Jewish community in Atlanta. While in Brussels, he also served as Special U.S. Envoy for Property Claims in Central Europe, seeking restitution of Jewish communal and private property confiscated by the Nazis during the Second World War.

Mr. President, the International Trade Administration is the cornerstone in our U.S. trade programs. It is the principal agency responsible for promoting U.S. business and exports overseas. It staffs the U.S. Trade Representative, conducts trade missions, and provides policy makers with necessary information on industry and trading partners. And, through the Import Administration and the Office of Textiles and Apparel, ITA is responsible for protecting our markets from unfair competition, like dumping. ITA has typically been the Commerce Secretary's right hand; it has been the most important bureau in Commerce, regardless of who holds office, whether Mac Baldridge or Bill Verity or Pete Peterson or Elliot Richardson. I have no doubt that Stuart Eizenstat will make ITA even more effective as he assumes command.

I have no doubt that Ambassador Eizenstat will hit the ground running when he gets over to the Commerce Department. I know his first objective will be to strengthen our trade enforcement activities. He intends to create a new center to monitor foreign countries compliance with trade agreements. Another principal goal of his is to get Asian nations to open their markets to U.S. products. During this recess, I will be reviewing his efforts to build a new American business center in Shanghai, China.

Mr. President, Stu Eizenstat is a man of superb intellect and high integrity. I can tell you that he knows how to get the job done. I know that he will be an effective leader at ITA and Commerce and I urge my colleagues to support his nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

ORDER FOR STAR PRINT—S. 969

Mr. LOTT. Mr. President, I ask unanimous consent that S. 969, the Newborns' and Mothers' Health Protection Act, be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, today I am pleased to join my colleagues, Senator NANCY KASSEBAUM and Senator BILL FRIST, in announcing a revised and improved version of S. 969, the Newborns' and Mothers' Health Protection Act of 1996.

This bill requires insurers to allow mothers and their newborns to remain in the hospital for a minimum of 48 hours after a normal vaginal delivery and 96 hours after a caesarean section. Shorter hospital stays are permitted, provided that the attending health care provider, in consultation with the mother, determines that is the best course of action.

S. 969 has garnered wide support and endorsements. Currently, 34 of our Senate colleagues, 21 Democrats and 13 Republicans are cosponsors. Major medical organizations such as the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Academy of Pediatrics have endorsed this legislation.

More than 83,000 Americans from every State in this Nation have communicated their support to my office.

Today, I ask unanimous consent that a summary of the clarifications and changes to S. 969 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT OF 1996

The following comments detail the clarifications and technical changes made to S. 969.:

1. The original bill did not comment on whether or not an attending health care provider would need to obtain authorization in order to keep a mother and newborn in the hospital for the 48/96 hours that are guaranteed for insurance coverage.

The re-introduced bill states that attending health care providers do not need to obtain authorization in order to keep mothers and newborns in the hospital for this period of time.

2. The original bill stated that a decision for early discharge (eg prior to the 48/96 hours) could be made by either the attending health care provider OR mother.

The re-introduced bill states that a decision for early discharge can be made by the attending health care provider in consultation with the mother.

3. The original bill did not address time parameters with regard to follow-up care.

The re-introduced bill states that follow-up care must be timely and must be provided within 24–27 hours following discharge.

4. The original bill did not specify a full range of health care providers.

The re-introduced bill specifies: physicians (obstetricians-gynecologists, pediatricians, family physicians, other physicians), nurse practitioners, nurses, nurse midwives, and physician assistants (where appropriate).

5. The original bill was ambiguous regarding preemption.

The re-introduced bill states that state laws that provide for a guarantee of insurance coverage for 48/96 hours OR have laws that guarantee care based on guidelines from the American College of Obstetricians—Gynecologist and the American Academy of Pediatrics AND have followed-up care consistent with federal law.

AUTHORITY FOR SUBMISSION OF STATEMENTS REGARDING THE DEATH OF EDMUND S. MUSKIE

Mr. LOTT. Mr. President, I ask unanimous consent that Senators have until April 20, 1996, to submit statements with regard to the death of the late Senator Edmund S. Muskie, and that the statements then be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. LOTT. Mr. President, I ask unanimous consent that the committees have between 10 a.m. and 3 p.m. on Wednesday, April 10, to file legislative or executive reported legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. LOTT. Mr. President, I now move to proceed to Senate Resolution 227, the Whitewater legislation, and send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the the motion to proceed to Senate Resolution 227, regarding the Whitewater extension.

Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, Bill Roth, Bill Cohen, Jim Jeffords, R.F. Bennett, John Warner, Larry Pressler, Spencer Abraham, Conrad Burns, Al Simpson, John H. Chafee, Frank H. Murkowski.

Mr. LOTT. Mr. President, I ask unanimous consent that the cloture vote occur at 2:15 p.m. on Tuesday, April 16, and that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I now withdraw the motion.

ORDERS FOR MONDAY, APRIL 15, 1996

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of the adjournment resolution until the hour of 10 a.m. on Monday, April 15; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and that there then be a period for morning business until the hour of 2 p.m., with Senators permitted to speak therein for up to 5 minutes each, except for the following: Senator HATCH, 20 minutes; Senator DASCHLE or his designee, 90 minutes; Senator COVERDELL, for 90 minutes.

I further ask unanimous consent that immediately following morning business, the Senate begin consideration of the illegal immigration bill reported by the Judiciary Committee during the adjournment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, following morning business on Monday, April 15, it will be the intention of the majority leader to begin consideration of the immigration reform bill. Amendments are expected to be offered to that bill. Therefore, I hope that any Senator who intends to offer an amendment will be available on Monday, April 15, to offer and debate their amendments.

Rollcall votes will not occur during Monday's session. However, if any votes are ordered on amendments, those rollcall votes would be ordered to occur during Tuesday's session of the Senate.

Also on Monday, the Senate may be asked to consider any other legislative or executive items that could be cleared for action. Senators should also be reminded that a cloture motion was filed today with respect to the Whitewater Special Committee. Therefore, the cloture vote will occur on Tuesday, April 16, at 2:15 p.m.

ADJOURNMENT UNTIL 10 A.M., MONDAY, APRIL 15, 1996

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the provisions of House Concurrent Resolution 157.

There being no objection, the Senate, at 5:13 p.m., adjourned until 10 a.m., Monday, April 15, 1996.

NOMINATIONS

Executive nominations received by the Senate March 29, 1996:

THE JUDICIARY

M. MARGARET MCKEOWN, OF WASHINGTON, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE J. JEROME FARRIS, RETIRED.

LAWRENCE BASKIR, OF MARYLAND, TO BE A JUDGE OF THE U.S. COURT OF FEDERAL CLAIMS FOR A TERM OF 15 YEARS, VICE REGINALD W. GIBSON, RETIRED.

COLLEEN KOLLAR-KOTELLY, OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA VICE HAROLD H. GREENE, RETIRED.

JOAN B. GOTTSCHALL, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS VICE JAMES B. MORAN, RETIRED.

FRANK R. ZAPATA, OF ARIZONA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA VICE RICHARD M. BILBY, RETIRED.

DEPARTMENT OF STATE

LESLIE M. ALEXANDER, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ECUADOR.

PRUDENCE BUSHNELL, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KENYA.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. RICHARD B. MYERS, 509-42-7092, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. JOHN P. JUMPER, 226-60-7457, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. RALPH E. EBERHART, 490-48-7375, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RONALD T. KADISH, 177-38-0901, U.S. AIR FORCE.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 29, 1996:

FEDERAL DEPOSIT INSURANCE CORPORATION

GASTON L. GIANNI, JR., OF VIRGINIA, TO BE INSPECTOR GENERAL, FEDERAL DEPOSIT INSURANCE CORPORATION.

DEPARTMENT OF COMMERCE

STUART E. EIZENSTAT, OF MARYLAND, TO BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

WITHDRAWAL

Executive message transmitted by the President to the Senate on March 29, 1996, withdrawing from further Senate consideration the following nomination:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

MARY BURRUS BABSON, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 1 YEAR (NEW POSITION), WHICH WAS SENT TO THE SENATE ON JANUARY 22, 1996.

VOL
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HOUSE OF REPRESENTATIVES—*Friday, March 29, 1996*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. GUNDERSON].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 29, 1996.

I hereby designate the Honorable STEVE GUNDERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, from whom comes every good gift, we thank You today for the gifts of our past, those moments in our history when justice flowed down like waters and righteousness like an everflowing stream. We are grateful that women and men from the years of our birth have been models of character and stood for truth. May their witness in their day encourage our witness in our day and may their commitment to justice encourage each of us to that same commitment, an obligation and duty that inspires and makes whole, a responsibility that blesses and gives life. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GENE GREEN of Texas. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GENE GREEN of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Washington [Mr. NETHERCUTT] come forward and lead the House in the Pledge of Allegiance.

Mr. NETHERCUTT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1561), an act to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for U.S. foreign assistance programs for fiscal years 1996 and 1997, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. In the interest of time, the Chair will receive five 1-minute speeches from each side.

Further 1-minutes will be allowed at the conclusion of legislative business for the day.

ONE GREAT LEGISLATIVE DAY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, let me say I just wanted to remind our Members, because we were so busy yesterday and it may not have been obvious, how much we got done in 1 day.

In 1 day this House sent to the President a landmark freedom-to-farm bill which revises 60 years and provides reform for a 60-year-old program.

We sent to the President a historic line-item veto bill which Presidents, beginning with Grant in the 1860's, requested from the Congress, and for the first time we passed it to send to the President.

We sent to the President an earnings limit increase for senior citizens so they could work without being punished by the Social Security Administration taking money away from them, something which every senior citizens' group has supported and which encourages people to stay active and be healthy.

We sent to the President real regulatory relief to help small businesses create jobs, helping the economy and reducing the amount of unnecessary redtape in this society.

We passed health care reforms to end job lock and make health care more affordable, the Health Coverage Affordability Act of 1996, which dramatically increases the ability to change jobs without worrying about preconditions, guaranteeing portability, which prevents health care fraud and abuse and establishes a senior citizen incentive to turn in fraud, which creates administrative simplification to save on redtape, which passes medical liability reform to reduce the number of lawsuits and increase the amount of care that is focused on health care rather than legal behavior, which has tax-related concerns that guarantee deductibility for long-term care and which establishes the deductibility of medical savings accounts.

All of those were done in 1 legislative day.

I think this Congress can be proud of its commitment to reform and the serious, practical, commonsense work we are engaged in to give the American people a better government at lower cost with better services.

THE CONTRACT WITH AMERICA IS ON TRACK

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, my colleagues may not have seen this, but today's Washington Post features a neat little chart showing the progress in the Contract With America.

Congressional compliance—signed into law; unfunded mandates—signed into law; Defense spending increases—signed into law; and on and on.

Mr. Speaker, just this week, Congress gave the President the line-item veto, we lifted the regulatory burden on small business, we started reversing the Clinton Social Security tax on the elderly, and we passed commonsense health care reform.

We have a solid record of achievement in the 104th Congress. Our Contract With America is on track—just like it says here in the Post—and, in addition, we have changed the terms of debate here in Washington.

It is no longer about should we do the right thing, it is about how we do the right thing. I am honored to be in the party that stands for America's values, not Washington's values.

THE PRIDE OF KENTUCKY

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, I stand before this body today to share my pride in Kentucky basketball. This past Saturday night, Sullivan College in my hometown of Louisville, won the National Junior College Athletic Association national championship basketball tournament in Hutchinson, KS—the first Kentucky team to win this championship since 1969. Sullivan defeated Allegheny College of Maryland by a score of 104 to 98 in overtime. All of us in Louisville are very proud of this team and their head coach, Gary Shourds, and president, A.R. Sullivan.

This has been a phenomenal year for Kentucky basketball. You know we are very proud of our basketball in Kentucky with the University of Louisville and the University of Kentucky both in the NCAA Division I tournament. This weekend UK, my alma mater, goes for the NCAA national championship in New Jersey. In addition, Georgetown College of Georgetown, finished second in the NAIA national tournament and Northern Kentucky University finished second in the NCAA Division II national championship.

I also share with pride that Coach Gary Shourds of Sullivan College has been selected as the National Junior College Coach of the Year and will receive his championship award at the National Basketball Coach's Association luncheon this Sunday in New York City.

So I raise this declaration to all present that Kentucky is still the grandest State for basketball in all of these United States.

MISMANAGEMENT OF USDA FOOD AND CONSUMER SERVICE

(Mr. NETHERCUTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NETHERCUTT. Mr. Speaker, last Wednesday, in the Agriculture appropriations hearing, I examined what can only be described as gross mismanagement in the agency that oversees our Nation's food programs. Without clear explanation, the USDA's Food and Consumer Service could not specifically account for $13.5 billion, one-third of their budget in 1994. We do know that the agency spent $500,000 on gourmet chefs to design food for kids and $400,000 for the Disney Corp. to promote "Lion King" commercials in the name of child nutrition.

While Republicans have been attacked for trying to make certain that Federal agencies use taxpayer money efficiently and effectively, the Food and Consumer Service has in fact had so much money they don't know where it went. The inspector general made such a finding. Every American should be outraged at this administration's mismanagement of these funds for children, and we better look at other agencies, too, to be certain about spending in efficiency in this administration.

WAKE UP TO JAPANESE TRADE DEFICIT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, 10 years ago the 10 biggest banks in the world were American banks. Today the 10 biggest banks in the world are Japanese banks, all 10. Even after the merger of America's 2 biggest banks, they did not even make the top 10.

Wake up, Congress. Japanese banks did not get fat on the yen. Japanese banks got fat pigging out on American dollars. The trade deficit just came out last month. It skyrocketed 48 percent, a 48-percent increase in 1 month, over $10.3 billion.

Japan takes, America gives; Japan protects, America counsels; Japan regulates, America negotiates.

Let us tell it like it is. If America's trade program was so good, why does Japan not try it?

We are getting our clock cleaned, and we are not even talking about it. Think about that.

INTRODUCTION OF CONGRESSIONAL CAMPAIGN FINANCE REFORM ACT

(Mr. BASS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BASS. Mr. Speaker, in the 104th Congress the new Republican majority has made great strides in reforming Congress and restoring America's faith in the honesty and integrity of this institution. Indeed, our accomplishments are a shining example of promises made and promises kept.

Although we can be proud of these changes, one more vital reform remains, and that is campaign finance reform.

Today I am introducing the Congressional Campaign Finance Reform Act to restore credibility and public confidence in elections. It includes provisions that bring elections back home by requiring a majority of campaign funds to be raised from in State sources, it emphasizes grassroots fundraising by reducing PAC contributions to $1,000 per election, and it controls the exorbitant costs of campaigns by allowing States to enact voluntary campaign spending limits as we have done in New Hampshire and in other States.

For those of my colleagues who want to complete the reform of Congress that we started so well a year and-a-half ago, let us move forward, and I urge everyone to cosponsor my legislation or any of the other bills. Let us get a vote after the April recess.

□ 1015

AMERICAN LIBERATION FROM FOREIGN OIL DEPENDENCE

(Mr. PETE GEREN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETE GEREN of Texas. Mr. Speaker, I rise today to join many of my colleagues in a month-long effort to bring attention to our growing dependence on foreign all. On the fifth anniversary of the end of the Persian Gulf war and the liberation of Kuwait, it is the logical time to reflect on our domestic oil production, which is at a 40-year low.

Today there are 85,000 fewer people working in the oil and gas industry in the United States than there were at the beginning of the gulf war. Everything that the United States had at stake at the beginning of the gulf war is still on the line, even more so. Americans consume 17 million barrels of oil a day, and today over 50 percent of that consumption is imported from foreign sources.

Last year, a Department of Commerce study revealed that the Nation's reliance on foreign oil was a threat to our national security, because it increases our vulnerability to oil supply interruptions.

Mr. Speaker, foreign oil dependency can be alleviated. One way would be to allow our Nation's industry more access to promising areas offshore. Our Government also must lift unnecessary and burdensome regulations that provide no environmental benefits but cost American jobs and drive our oil and gas industry overseas.

Congress must take the lead in developing a Federal energy policy that encourages rather than punishes domestic oil and gas production. As the world's leader, America must learn from history's mistakes rather than repeat them. This is a job's issue, it is a national security issue, and time is not on our side.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 142 PT 5 MR 21 — 29 1996 UMI

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro temore (Mr. GUNDERSON). The Chair will entertain three more 1-minutes on each side.

URGING SUPPORT OF THE ESSENTIAL AIR SERVICE, A PROGRAM IMPORTANT TO RURAL AMERICA

(Mr. BARRETT of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of Nebraska. Mr. Speaker, as we begin the fiscal year 1997 appropriations process, I'd like to call your attention to a small but important program to rural America—the Essential Air Service. EAS was created in the early 1980's to provide assistance to small communities, and to maintain an integrated, national air service network. Air service is vital to rural communities, it is their link to the rest of the world.

Over the past several years, funding for EAS has steadily decreased, falling victim to an urban-dominated Congress, and budget cuts.

Therefore, I've introduced an alternative to the EAS, the Small Community Air Service Act. My bill, H.R. 2881 would allow States to charge a small fee on passenger tickets to fund an EAS-type program. It would be designed by the State, and for the State. I believe my bill is a viable alternative to the current program.

I ask my colleagues to seriously consider H.R. 2881. And as we continue the appropriations process I ask for your support of EAS.

THE UNITED STATES MUST MINIMIZE ITS DEPENDENCE ON FOREIGN OIL

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr GENE GREEN of Texas. Mr. Speaker, 5 years after the Persian Gulf war, the United States still imports 9 million barrels of oil. In fact, our Nation is more dependent on foreign oil than ever before. More than 50 percent of our oil is imported, and about 20 percent comes from the Persian Gulf. While we may never completely eliminate our dependence on foreign oil, we must minimize our reliance on foreign sources from the volatile Middle East. We should look more toward our neighbors and trading partners in the Western Hemisphere, like Venezuela, which has made significant investment in the United States and recently opened its oil industry to investment by U.S. companies.

Mr. Speaker, I encourage my colleagues to move toward a policy that encourages domestic oil and gas exploration and production, to ensure a vibrant and healthy economy.

AMERICA MUST WORK TOWARD ENERGY INDEPENDENCE

(Mr. WATTS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATTS of Oklahoma. Mr. Speaker, on this historic fifth anniversary of the Persian Gulf war, the lessons seem clear: America must work toward energy independence. But, this Nation seems to be ignoring the lessons of the past and heading in exactly the wrong direction—toward over dependence on foreign energy sources.

As leaders, we must make every effort to help America's oil and gas industry thrive. By helping the American oil and gas industry thrive, we will create new jobs, more revenues and increased national security. But we must unleash this strategic industry from its regulatory noose. Currently, instead of cutting down on bureaucratic regulations, the administration and some in Congress have proposed more than $14 billion in new industry regulations that would take effect over the next 5 years.

My colleagues on the House Resources Committee seem to understand these costs. Today, they will markup a bill, the Oil and Gas Royalty Fairness and Implication Act, that makes sense. It cuts through the bureaucracy and provides certainty, simplicity, fairness and efficiency in royalty collection. This is something that industry and the administration can agree on. I hope we can too.

It is time to free America's oil and gas industry from over regulations so that this Nation can be free from its foreign oil dependency.

IT IS TIME SOME REPUBLICANS IN THIS BODY GOT RELIGION AND SUPPORTED EDUCATION

(Mr. JACKSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACKSON of Illinois. Mr. Speaker, I represent the Second Congressional District of Illinois, where education is considered sacred. This Nation should have no higher priority than to educate its populace. Senator DOLE and a majority of the Republicans in the Senate voted 84 to 16 on Tuesday to restore funding for key education and job training programs. Now that Senator DOLE is candidate DOLE, he has religion. Yet, in this body, there is still a majority in the majority who are determined to cut funding for basic education and math skills, cut funding for safe and drug-free schools, cut funding for vocational education, and that is wrong.

Mr. Speaker, education helps preserve family values. Education is the cornerstone of our democracy. It is good for business. It is good for meaningful, well-paying, and socially useful jobs. Education aids economic growth and keeps us competitive in the global marketplace, adds quality to a person's life, and enhances one's self-image. A mind, Mr. Speaker, is a terrible thing to waste. It is time some Republicans in this body got religion and supported the full funding of education.

PASO ROBLES MAKES TOP 50 LIST OF SMALL TOWNS TO LIVE IN

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, I rise today to pay tribute to Paso Robles, a beautiful small town on the central coast of California.

Recently in its April issue, Money magazine described Paso Robles as one of "America's 50 Hottest Little Boomtowns."

Paso Robles, a computer-age company town with tremendous growth potential—just a few miles north of California's commercial space port is considered one of the 50 best towns to live and work because of its growing promise of jobs in its electronics manufacturing and winery industry.

The Money magazine article ranked Paso Robles 43 out of 50 best places to live based on the city's projected population growth of 12 percent, its attractive median income and typical home cost.

I proudly salute Paso Robles and its citizens and encourage them to take pride in the fact that it is truly one of America's best kept secrets.

RESIST THE GOP'S CUTS IN EDUCATION: APPROVE A BUDGET THAT BRINGS FINANCIAL STABILITY TO EDUCATING TOMORROW'S LEADERS

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, in upper New York State, far from Washington's budget battles, an elementary school teacher named Theresa McAnaney has learned she may be laid off, because her school district does not know how much money it will receive from the Federal Government.

The plight of Ms. McAnaney and 15 colleagues facing layoffs is profiled in a recent New York Times story, but their case is not unique.

In my own State of Michigan, pink slip notices must be given to teachers by April 8, less than 2 weeks from today.

Across the Nation, 40,000 people face layoffs, because school districts cannot plan their budgets

The New York Times article goes on to say that, faced with uncertainty, school districts are also scrapping long-range plans.

Hurt most are programs in poor and urban school districts, dependent on Federal aid for remedial instruction in reading and math, drug-free School Zone, Head Start, and Title I.

Surveys from the Washington Post and the Wall Street Journal reveal that most people consider education their top issue, and favor the same level or increased spending for education.

Mr. Speaker, we must resist the GOP's cuts in education and approve a budget that brings financial stability to educating tomorrow's leaders.

URGING TREASURY DEPARTMENT TO UPDATE REGULATIONS TO TAKE FULL ADVANTAGE OF DOMESTIC OIL RESERVES

(Mr. McCRERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCRERY. Mr. Speaker, no single component of our national economy is more important than energy. Yet, today we find ourselves more dependent on foreign sources of petroleum than at any time since 1977. Right now, imported oil accounts for over 50 percent of domestic consumption. By the year 2015, the Department of Energy forecasts that America will only supply one-third of its domestic needs. That means our Nation will rely heavily on other countries to fuel our cars, heat our homes, and drive our economy.

I am concerned that we are not being sufficiently aggressive in our efforts to reverse this trend. In the United States, we have vast proven reserves in existing fields that can be accessed, but only with advanced oil recovery technologies. Since 1990, we have recognized that to reduce our dependence on foreign energy sources, certain new recovery technologies should be encouraged through the enhanced oil recovery credit. Unfortunately, the eligible technologies identified do not reflect the latest developments in this field.

To take full advantage of our domestic oil reserves, I urge the Treasury Department to use the specific authority Congress provided, to update the regulations to include new recovery technologies. Doing so will reopen access to much needed domestic oil and provide new skilled job opportunities in the domestic economy.

LET US REWARD WORK AND INCREASE THE MINIMUM WAGE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today's New York Times reports that 1995 was a very good year for the heads of corporations. According to the report, their median salary and cash bonuses rose to more than $2 million. That is $2 million a year in compensation.

Since 1990, corporate salaries have been rising at a fast clip of 9 percent per year, while wages and salaries of the Nation's workers are dead in the water, going nowhere. Hard-working families in America are scrambling to figure out how to find the money to pay their bills. Yesterday we had an opportunity to do something for those families, and instead, this House turned its back. At a time when corporate CEO's average $2 million a year, when Members of this Congress earn over $130,000 a year, House Republicans yesterday killed an attempt to raise the minimum wage by 90 cents, just 90 cents. It is shameful.

This Monday is the anniversary of the last increase in the minimum wage, which is now at a 40-year low. America needs a raise. Let us reward work and increase the minimum wage.

MAKING IN ORDER CONSIDERATION OF HOUSE JOINT RESOLUTION 170, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 170) making further continuing appropriations for the fiscal year 1996, and for other purposes when called up; and that it be in order at any time to consider the joint resolution in the House; that the joint resolution be debatable for not to exceed 1 hour, to be equally divided and controlled by myself and the gentleman from Wisconsin [Mr. OBEY]; that all points of order against the joint resolution and against its consideration be waived; and that the previous question be considered as ordered on the joint resolution to final passage without intervening motion, except one motion to recommit, with or without instructions.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. OBEY. Reserving the right to object, Mr. Speaker, let me simply say that I do not intend to object. The gentleman has consulted on this side of the aisle, and I think that the process which he has in mind for bringing up this resolution is the correct one. We do not necessarily like the result that flows from it, but I think it is in order to facilitate its consideration at a later point today, so I have no objection.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, so I can clarify, can the gentleman tell us when he plans to take up the legislation? I do not plan to object.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would tell the gentleman, this continuing resolution will continue the existing temporary funding laws in effect until April 24, which avoid any government shutdown and while it sounds like a long time, is really only 6 legislative days from today.

Mr. VOLKMER. Does the gentleman plan to take it up later today, this afternoon, Mr. Speaker?

Mr. LIVINGSTON. I am sorry, this CR will be brought up later today, after the product liability conference report.

Mr. VOLKMER. I thank the gentleman.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 956, COMMONSENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 394 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 394

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

☐ 1030

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 394 provides for the consideration of the conference report for H.R. 956, the Commonsense Product Liability Legal Reform Act of 1996, and waives all points of order against its consideration. The House rules allow for 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Judiciary Committee.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. Speaker, the struggle to craft bipartisan product liability reforms has been over two decades in the making, and we have before us legislation that will save segments of our economy and create new jobs across America.

Mr. Speaker, I do not wish to unleash partisan charges that the President is playing politics with this important reform measure. The assessment that the President is playing politics has already been sufficiently made by members of the President's own party. I want to begin by recounting just a few of these appraisals of the President's motives.

Senator JOSEPH LIEBERMAN, a Democrat, has stated that the "President is dead wrong about this bill" and Senator JAY ROCKEFELLER, a Democrat, stated that the President has "his eye on the electoral college." Senator ROCKEFELLER continued by stating:

> Special interests and raw political considerations in the White House have overridden sound policy judgment. I am extremely disappointed the President has taken such a shortsighted political view of a serious bipartisan effort that would restore common sense to the American legal system.

Mr. Speaker, in response to Senator ROCKEFELLER's charge that special interests and raw political considerations in the White House has overridden sound policy judgment—I must say that this is nothing new.

As has been the case with countless pieces of historic legislation that have passed both the House and Senate, the President has disavowed good public policy and embraced his special interest friends. In this case, we have reached bipartisan agreement on legal reform, and it appears that the only obstacles to these moderate reforms are the trial lawyers and an antireform, status quo President.

The President is—and has been—the one roadblock to the reforms that the public wants. In his shortsighted, political view of the Nation, the President plans to add a veto of legal reform to his two vetoes of welfare reform and the historic balanced budget bill.

The Commonsense Legal Reform Act will end many frivolous lawsuits which have imposed significant costs on small businesses and killed American jobs. These indiscriminate lawsuits have caused the withdrawal of products from the market, including medical devices and medication available in most of the world, sadly resulting in preventable deaths.

The President has professed that the bill would reduce product safety, which it will not. His real anxiety about this reform bill is that it would reduce the fees of the trial lawyers who now receive from 50 to 70 percent of every dollar spent on product liability litigation. The trial lawyers have bragged about Bill Clinton's commitment to terminate any legislative effort to end frivolous lawsuits. The Arkansas trial lawyer president boasted about the fact that Arkansas has had no tort reform and stated that—and I quote—"this success would not have occurred without Bill Clinton. I can never remember an occasion when he failed to do the right thing where we trial lawyers were concerned."

Mr. Speaker, the future of the country is more important than some payoff to the trial lawyers. Our competitiveness overseas is being undermined. Rather than deal with the product liability litigation problem, American firms have left markets to foreign competitors and decided not to develop new products, technologies, and medical breakthroughs. These losses are impossible to calculate, and it is clear to everyone except the President that thousands of American small businesses are just one lawsuit away from bankruptcy. The provisions included in this bill were greatly pared down from the much-needed and broader changes we passed in the Contract With America. The bill does not include everything that I would have wanted, but this Congress understands that sometimes you have to compromise, and this is a start down the right road.

This is about restoring fairness to the American legal system and this bill should not be a political issue. These are modest, but critically important, reforms that will benefit the American people. I urge my colleagues to support the rule and the reform legislation, and I urge the President to reconsider his unfortunate veto threat of commonsense legal reforms.

I want to close by quoting the Washington Post editorial page:

> The President's announcement over the weekend that he will veto product liability legislation has surprised and disappointed even senior Democrats in the Senate—and well it should. The decision is a terrible one. But the lawyers want the sky to be the limit. The President's decision to capitulate to their pressure is transparent, shortsighted, and wrong. The compromise should be accepted by both Houses and signed by the President.

Mr. Speaker, the Senate did their job by passing the bill by a 59-to-40 margin, and I expect the House to follow suit by passing this bill with equally overwhelming support. I urge the President to forgo politics and do his job.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this conference report and to the rule providing for its consideration. This conference agreement caps punitive damage awards to consumers who have been harmed because of the products they have purchased and used. This conference agreement removes any incentive that might currently exist which makes corporations and manufacturers keep those harmful products off the market.

In the name of competitiveness, the conference has proposed a new legal framework that truly lives up to the old adage, caveat emptor. Mr. Speaker, I cannot support any legislation which places profit ahead of responsibility, and which puts the bottom line ahead of public safety. This agreement, all in the name of reform for the sake of reform, takes away expected and necessary protections for workers and consumers. The American people deserve better.

I urge my colleagues to defeat this conference report. I do not understand why this House should be a party to creating a legal climate that would hurt consumers who have already been injured by the negligence of product manufacturers.

Mr. Speaker, the proponents of this legislation have used little hard evidence in their zeal to push for passage of this legislation. But, I submit there are real people whose real cases demonstrate precisely how the current system has improved public safety and has promoted responsible corporate behavior.

For example, what would the proponents of this legislation say to the parents of the 4-year-old girl whose pajama top caught fire and who suffered second- and third-degree burns all over her upper body? Would the proponents say that there should be a cap on punitive damages when the manufacturer of the child's pajamas was well aware of the flammability of those garments? So well, in fact, that one company official admitted that the company was always sitting on a powder keg, even though treating the pajamas with flame-retardant chemicals was economically feasible?

Well, Mr. Speaker, the scars on that little girl—both physical and emotional—are permanent and she bears those scars only because of the negligence of that company. The $1 million punitive damage award in that case was small recompense for that little girl and her family. And yet, this conference agreement would deny that little girl such an award. And, Mr. Speaker, it was that award that served as the prime motivator for removing those garments from the market.

Or, Mr. Speaker, let's talk about defects in cribs. Two years ago, a 5-month-old baby boy died from injuries suffered from a defective crib. He died in spite of the fact that the crib's manufacturer had ignored warnings 10 years before by the U.S. Product Safety Commission of just such defects. Or, let's talk about exploding Pintos, or asbestos insulation in office buildings and in schools, or tractors that suddenly self-shift gears. There have been court cases involving all these products that have resulted in punitive damage awards to those who have been injured, maimed, or killed by them. Those punitive awards have benefited us all, Mr.

Speaker, because they have forced companies to do the right thing—to fix, to recall, or to discontinue the manufacture and sale of products that injure, maim, or kill people.

And so, Mr. Speaker, we too have a chance to do the right thing today for American consumers. I encourage my colleagues to take a stand and to reject this conference agreement.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, at this time I have no requests for time, and I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

The SPEAKER pro tempore (Mr. GUNDERSON). The gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 6 minutes.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Texas and the gentleman from Georgia for yielding me this time.

I just want to say to Members, I certainly hope they help us defeat the previous question, because Members of this body have voted twice to do something that is now no longer in this piece of legislation, and I think Members are going to be really surprised when they find out that the Senate removed this.

What is this? Well, this is a very, very key component that, it is kind of like a Federal long arm statute, but it says that for any foreign manufacturer that wants to partake of the benefits of this law, the benefits of this law, they must subject themselves to discovery and to the jurisdiction of the U.S. courts.

Now, I think with the benefits go the responsibilities, and we are giving them a great benefit when we pass this. When we pass this bill, what we are doing is limiting their liability, allowing them to get away with all sorts of things. I think it goes way too far. But I just say to this body, if you are going to do that, and you are not going to have this provision dealing with foreign manufacturers, I think that we ought to strike the name of this. How can you possibly call it common sense? Because once again, you will be putting our manufacturers under one standard, but foreign manufacturers under an entirely different standard. They can limit their liability, they can do very well, but guess what? They do not have to be under the jurisdiction of U.S. courts and they do not have to be under the discovery proposals.

Twice this House voted by 256 votes for this proposal. The gentleman from Michigan, the esteemed ranking member, Mr. CONYERS, has pursued this and pursued this and pursued this, and convinced this body of this issue. Unfortunately, in the other body, it seems that foreign manufacturers have a lot more gravitas and something happened. It disappeared.

So if we can defeat the previous question, this side will be moving to try and put in that very key component so that this really is common sense, and what our manufacturers get, foreign manufacturers are going to get too, and they are going to have a level playing field. I just think the American people are going to be very distressed to find out one more time foreign manufacturers are given the wing-wing, or a better deal under this.

Now, I also have great trouble with the bill for one other reason. When we talk family values, we ought to mean family values, and we talk family values all the time. One of the things that this legislation does is it values a corporate paycheck way more than it does a person's reproductive capacity. If someone loses their reproductive capacity, that is considered noneconomic damage. Now, that may be noneconomic to some accountant, but to anybody with a heart and a soul, I think the loss of your reproductive organs is way, way more valuable than any economic damages you could ever have. What this bill does is that it puts punitive caps on that, and I just think that that is really wrong.

When you look at the history of women's experience, whether it is with silicon breast implants, the Dalkon shield, with all sorts of things such as DES, and so forth, that have been marketed, and then turned out to harm women's reproductive systems, now we really are capping what kind of value that has. I think people would be shocked to know that a Congress that speaks family values is going along with this. So I urge a no vote on the previous question.

Mr. HYDE. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Illinois [Mr. HYDE.]

Mr. HYDE. Mr. Speaker, with great respect I would like to advise the gentlewoman, there is no limitation on economic damages or noneconomic damages. It is punitive damages only that there is a limitation. That provision was taken out of the bill and there just is no limitation on economic or noneconomic damages.

Mrs. SCHROEDER. Well, Mr. Speaker, reclaiming my time, the gentleman, my esteemed chairman, is correct as far as he goes, but let us talk about joint and several and let us talk about punitive damages, and the punitive damages caps.

Mr. HYDE. Mr. Speaker, if the gentlewoman will continue to yield, I thought you were talking about economic and noneconomic. The punitive damages, yes, there are limitations.

Mrs. SCHROEDER. That is right. And when you look at the economic damages, they always weigh in a whole lot more. The noneconomic damages, and without the punitive add-on to it, and the joint and several, I really think women or men, for that matter, I think we are going to learn more and more about men losing their reproductive capacity. We do not know why, but we are starting to see more articles about this new disturbing trend.

Mr. VOLKMER. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I am curious. Maybe the gentlewoman can tell me what the economic loss is for the ability to have a child. What is the economic loss of the inability to have a child? I do not think you can put a dollar figure as an economic loss on that. So if there is no economic loss and no punitive damages, what damages are they then?

Mrs. SCHROEDER. Mr. Speaker, reclaiming my time, as the gentleman knows, this law would supersede the traditional common law, and it would eliminate joint and several liability for noneconomic damages such as pain and suffering. So obviously, the loss of reproductive organs is considered a noneconomic damage, and in the past, pain and suffering for that has been recognized, because common law recognized human beings and their pain. So when we supersede that, when we repeal that, that is my point.

Mr. VOLKMER. Mr. Speaker, if the gentlewoman would continue to yield, what I am trying to get across is what you are going to end up with is there is no damages, really, for a woman's loss of the ability to have a baby.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

The President has threatened to veto heart transplants, heart valves, brain shunts, knee joint replacement, hip joint replacements and 100 other medical devices that people are starving for, waiting for their lives to be helped with the implantation of these medical devices.

Title II of this bill provides for relief for biomedical suppliers who in the past have provided a little bit of plastic for a heart valve or a little bit of a gimmick for a brain shunt, and now the suppliers who have been hit with tremendous lawsuits are going out of the business of supplying these little bit of elements for much-needed medical devices.

□ 1045

So in title II, we solve that problem and we know the companies that have been heretofore supplying these medical devices are going to be back in business. If we allow this bill to be vetoed, and I hope it is not, what is going

VOL 142 PT 5 MR 21 — 29 1996 UMI

to happen is that the medical device developers and manufacturers will again be short of the materials they need to create these devices. We ought to pass the rule and pass the bill and then urge the President not to veto it.

Mr. Speaker, there are 8 million people in our country who today have some kind of medical device implant, pacemakers, as I said, brain shunts, all kinds of things, including hip joints and knee joints, which are part of the makeup of many of the Members of Congress. But if we do not pass this bill, then the suppliers of the basic elements required for these medical devices will simply not supply them because of the fear of massive lawsuits. That is what we are talking about.

When you talk about the consumer as being damaged by the passage of this bill, I am telling you that the person who is waiting for a heart transplant is being damaged by the failure to pass this legislation. The recipient of a brain shunt is being damaged by the failure to pass this legislation, and he is a consumer too.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. Stupak].

Mr. STUPAK. Mr. Speaker, I appreciate the opportunity to speak on this. I would urge that we defeat the previous question, and we oppose the rule under which this bill will be brought up today. The last speaker spoke about consumers, and that is what I would like to talk a little bit about here today and hope they do not get lost in this whole discussion.

Mr. Speaker, today we will hear from my friends on your side of the aisle that it costs so much more to do products, whether it is a medical device or a simple stepladder. It costs one-third more because of product liability insurance. We have heard a lot about especially the stepladder; it seems to be the one that is making the TV news. So I called my local hardware, Walter Brothers True Value up in Menominee, and I said, how much does it cost for a stepladder, an 8-foot aluminum stepladder? They said it is $130. So if one-third of it goes for product liability insurance, then we should be able to reduce that upon enactment of this bill by $43, so that stepladder should now only cost $87.

Mr. Speaker, I offered an amendment to do just that, to make sure that consumers are protected, not only for product safety but also protect their pocketbook and the cost that they say would be generated if we pass this legislation. Of course my amendment was rejected. So let us see who gets the money here and who gets protection here.

Will the manufacturers be required to reduce their costs by one-third underneath this bill? No. Will the product liability insurance companies be required to reduce their premium notices by one-third? No. Will the consumer be required to do anything in this bill? Yes.

They will be required to give up some rights. They will be required to bring action. They will be required to give up rights for punitive damages for faulty manufacture, for defective products, for inadequate warnings. So who is losing here? The consumer. The consumer.

From the fall on the ladder, the windfall goes not to the consumer but to the insurance company and the manufacturers. Not just stepladders, but the decrease in the cost of vaccinations, will that occur in this bill? Is there any requirement here? No. How about medical insurance? No. How about child safety seats? No.

Mr. Speaker, we are going to limit the rights of ordinary people to bring a cause of action for their injuries and damages, and it is a windfall for large corporations, manufacturers, and the insurance company. My amendment would have helped to ensure it would put some integrity into the system to make sure those cost savings are passed back to the American people and, unfortunately, my amendment failed and was not even considered by the majority.

So I have great reservations and hope we will oppose the previous question and hope we go back and get an equitable rule on this.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Does the gentleman consider a person who is waiting for a heart transplant a consumer that ought to be protected and should have the benefit of a heart transplant and should have laws in place that will facilitate the flow of materials to the medical device manufacturer, who will eventually be part of the heart transplant device? Does the gentleman favor legislation that would make it easier for a transplant recipient to receive that transplant?

Mr. STUPAK. Yes. I favor that the hear transplant be done safely for less money.

Mr. GEKAS. Of course.

Mr. STUPAK. for less cost.

Mr GEKAS. Of course.

Mr. STUPAK. And that the consumer be protected. That is not in this bill.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. I would like to tell the gentleman from Michigan that his amendment was not ignored by the majority. It was considered and found wanting.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri [Mr. Volkmer].

Mr. VOLKMER. Mr. Speaker, I am really truly amazed. I heard this morning when I came over the Speaker talk about what great things they had done yesterday with the legislation, but one of the things he did not mention in that legislation was the exemption of certain insurance policies under that health bill from State regulation. Now we do not have any Federal regulation. That is taking away States' rights from the majority.

Mr. Speaker, they always talk about States' rights, what States should be able to do, and then in this bill, right in this bill, one of the worst things I have ever seen proposed is that in product liability cases, in the future under this legislation, in the State court, we are not going to be able to follow State law. Never, never in the history of this country has that been done, never.

We cannot follow State law. We have to follow this law in State courts. It preempts all 50 State product liability laws as relates to suits by consumers. But if it is a suit by a commercial firm against a manufacturer, it is not preempted. Hey, wait a minute. Why? Well, that is business and business. It is OK for business and business, State law. But when it comes to consumers and manufacturers, then it is not.

Mr. Speaker, I thought that we should provide that if we want to do it for Federal courts and Federal law, that is one thing. But for this reason alone, the preemption of all State product liability laws, we are telling our State legislatures out there, our State courts that they do not know what is going on, they do not have the right to decide what laws should affect cases, not only in the State of Missouri, but the State of Wisconsin, the State of New York. No, we have to follow the Federal law in the State court. Never has that been done. For that reason alone, I urge the President to veto this legislation.

One other matter that I like to bring out that has not been discussed here, utilities out here, gas companies and others. There is strict liability on what they do. That means if they do it, and we prove that they did it, we do not have to prove gross negligence or anything else. Not anymore. Not under this bill. They have damage caps. We still have the strict liability. But damage caps are on it.

To give a little example, and these things happen not regularly but every once in a while throughout this whole United States. We have natural gas, which I use in my home, both up here and out in Hannibal, used in my office when I was practicing law back in Hannibal for heating, et cetera. Once in a while, there are gas leaks and there are explosions and people get hurt. Ok, so we get economic damages, we get our out-of-pocket.

But what happens when the utility has been notified, that gas company has been notified well in advance not one time, not two times, not three

times, but at least a dozen times over a period of 2 weeks and they do nothing and you have an explosion and people are killed and people are maimed for life and burned, disfigured. Two hundred fifty thousand dollars on punitive damages, that is it.

That is what we are telling the consumers out there. That is all they can get. That is it. We have to follow this. We cannot go to State court. We have to do it under Federal law. We have to do it under this law. Veto the bill, Mr. President.

Mr. LINDER. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. Cox].

Mr. COX of California. Mr. Speaker, not long ago we read about an arson that was committed at the DuPont Plaza Hotel, Puerto Rico. The place burned down, but it was an arson, so naturally the lawyers descended on the scene, and they did not sue the arsonist. They sued every manufacturer of anything that was contained in the hotel. They sued the manufacturer of the drapes and the beddings. They sued the manufacturer even of the casino dice.

The kind of feeding frenzy that occurs at the filing of these lawsuits and the attempt to get everyone to settle is really best described as extortion. The people that are getting extorted in the first instance of course are all the people who are being made to pay for something that they did not do. But in the end, the people who are being made to pay are all of our constituents; in fact, all of us.

Mr. Speaker, we pay more for things like our home insurance. We pay more for things like a new computer or even or common stepladder. We pay more certainly for our car insurance. All of these things are taxed by an unfair tort system that right now, because of excesses, not because of the substance of justice that we all want to preserve but because of excesses, has turned our civil justice system into a great wheel or fortune lottery.

In 1987, my home State of California was home to 107,000 lawyers. Now, we had some rough years for our State's economy thereafter, but over the next 5 years, while other things were suffering, the legal industry did quite nicely, thank you. California gained 28,000 lawyers on top of the 107,000 for an increase of more than 25 percent. Today, there are more than 143,000 lawyers in California. Few, if any industries in California, in our State, can claim that kind of growth rate.

As fast as the number of lawyers has been growing, legal fees, the revenues of the legal industry, have been growing faster still. In 1987, the California legal industry, lawyers' fees, took in $10.4 billion, or should we say took out from the economy $10.4 billion. But over the next 5 years, again when the economy was not doing that well, this amount grew to $16.3 billion. Those were the revenues of the legal industry, an increase of 57 percent.

That $16.3 billion in revenues for the California legal industry is more than we spend on auto repairs, on funerals, on tanning salons, on 1-hour photo finishers, video tape rentals, detectives and armored car guards, bug exterminators, laundry, day care, shoe repairs, septic tank cleaning combined. Combine all of those industries in California, you do not get as much as we shell out for lawyers. There is an excess and we are trying to scale it back.

Mr. Speaker, this is not loser pays. This is not some of the things that we watch our competitor nations around the world use to rein in these excesses. It is a very simple reform. It applies only to products and to charities, and it does not, I would like to make this very plain, cap punitive damages. It does not.

Everybody is complaining oh, my gosh, there is a $250,000 cap on punitive damages, but there is not at all. The cap on punitive damages in this bill is infinity. That is why it is so bipartisan. That is why everyone is willing to sponsor it. Technically, what we have said is that you can get as punitive damages the greater of $250,000 or twice compensatory damages. Compensatory damages is a lawyer's word for things like pain and suffering, emotional distress, injured feelings, and there is no limit whatever on that. Infinity is the limit on such damages, so they claim the sky is the limit there and multiply it by two and that is the limit on punitive damages in this bill.

This modest reform is supported, therefore, by Democrats and Republicans in both Chambers. It is as modest as we can get, and those who stand up and oppose it, I say, want no reform at all.

☐ 1100

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from West Virginia [Mr. Wise].

Mr. WISE. Mr. Speaker, I am trying to figure out why it is that the State of West Virginia cannot make its own decision in this regard as it has done since it became a State in 1863. I am trying to figure out why it is the State of California or Illinois or Texas or, whenever, Alaska cannot make its own decisions about how ti protects its own citizens as they each have done since they came into the Union.

I am trying to figure out why it is that in an era when we seem to be moving in and this Congress seems to be wanting to be moving toward deregulation, toward, quote, taking regulation off the backs of people, unquote, in which the Government tries to safeguard the population in safety and workplace safety and consumer product safety and other areas, at a time when regulation is being cut back because we want to encourage the individual, why it is then we are not letting the individual retain the individual's ability to protect themselves and to protect themselves against products that are created unsafe, that are used in the workplace or by consumers.

Regulation is going down at the same time you are going to tell individuals their ability to protect themselves is going down as well. Who is it that thinks you can stand up to a major international corporation and one person if you do not have the aspect that you are going to pay for what you do. Oh, I know the arguments that are going to be made. The argument is that, well, for compensable injuries where you can show the medical damages, no limit on that, and for noneconomic damages, that is pain and suffering, that is right, that means that you are in a wheelchair for the rest of your life and somebody is trying to put a dollar value on that. Good luck. However, they even limit that by saying joint and several liability, it would not be applied there. That means that if you have several defendants and one of them goes bankrupt, you cannot recover the full amount from the others. That would be eliminated.

I am trying to figure out why it is the State of West Virginia is not able to enact the laws to protect its own citizens. It seems to me, if there is a problem here, frivolous lawsuits are being filed, then it would seem to me the States would be the first ones to leave.

The gentleman from California who just spoke, I believe it was California that just defeated by referendum several so-called tort reform measures that go exactly to what is trying to be accomplished in this bill. You have got frivolous lawsuits, then, fine, there are sanctions against lawyers that can be taken. You want to stiffen those sanctions, that is fine; the States do that. In our State we elect our judges. Are judges giving away unfair, unruly verdicts? Fine, deal with those judges. Is there a problem that can be fixed by the legislature? Legislatures can each pass one of these pieces of legislation. Fine, deal with the legislature, and our people have an ability to get to that quickly at a time when the States are being the ones that are seen as closest to the people, and more power should be devolved upon the States. This seems to go in the opposite direction, does it not? It seems to say we do not trust the States to protect their own people. That is what I think is most offensive about this so-called product liability. I urge defeat of the rule and the bill.

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. Hyde], the chairman of the Committee on the Judiciary.

Mr. HDYE. Mr. Speaker, I thank the gentleman for yielding me this time

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. Speaker, I would like to say to my good friend from West Virginia and a more aptly named human being I do not know, Mr. WISE, that back in 1789 that argument made sense. Each colony could take care of its own. But today we have a mobile society, and over 70 percent of items that are manufactured get into interstate commerce and a patchwork of 50 different sets of laws having to do with product liability gives insurance companies nightmares trying to predict what rates to charge. It makes it very difficult to comply with all of the different patchwork laws. So because interstate commerce is so intimately involved in modern-day manufacturing and shipping, it was felt useful to have some standard to which manufacturers could repair, to which insurance companies who cover these incidents could repair, and even plaintiff's lawyers could repair. So that is really the reason. It is a concession to modernity.

Now, the gentleman who spoke before from Hannibal, who unfortunately had to leave the floor for one reason or another, or chose to, I would like to have informed him that his graphic example of the natural gas explosion is specifically excluded in the bill, and you know one of the problems I learned early in life is people know so many things that are not so, and reading the bill is a great idea. And if he had done that, he would have known that there is an exclusion. There are many exclusions, electricity, water, delivered by utility, natural gas or steam, water delivery; they are specifically excluded. So his example of the explosion that killed so many people and injured so many people, the sky would be the limit, would be a plaintiff's lawyers' dream.

So I just wanted him to know that.

Mr. FROST. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me this time and the member of the Committee on Rules and my colleagues from Texas.

Mr. Speaker, I think it is misconstruing the concern that is being raised today of the people, those of us who have risen to oppose the rule, as not having a general sense and appreciation for the concerns of small businesses and the concerns of those who would want to have an equal balance and fairness between litigants in the courtroom.

What disturbs me is the approach that this bill has taken. First of all, it refutes a basic principle that the Republicans have been espousing now for more than a year under the new Republican leadership, leave it to the States. My State, the State of Texas, has very adequately and very ably handled tort reform. It was a consensus effort between consumers and businesses alike, and they are now functioning under new State tort reform law signed by the Governor of the State of Texas. Yet this Congress now wants to tell my State that any law we pass today will preempt the consensus built over years and months of negotiation. That troubles me.

Then we find ourselves faced with an unfair attack on consumers, particularly those who are not as economically endowed as the chief of one of our corporate 500 companies or maybe one who is maybe independently wealthy. And so if you happen to be retired, or a housewife, or a student, then you do not have a basis for a reward that is attributable and equal to the injury that you have suffered because your economic losses would be low. That is unfair to consumers.

We find ourselves now passing legislation that will alter the standard of proof. For years this constitutional Nation has acted under a preponderance of the evidence in civil matters. Now we are asking consumers with little means to be able to go into court against major corporations and businesses with massive resources and now be required to prove clear and convincing evidence which would show a conscious, flagrant indifference to the rights and safety of those harmed. How unfair.

First of all, I think many of my colleagues will admit when you go into a civil court on any major tort litigation, you wind up being there for at least between 6 to 10 years. It may be even longer. There is no rush to settlement on these cases, and so you have got the injured family, the family of a deceased loved one, tragically having to mourn their loss and then deal with an elongated process in the courts. And now this legislation would require the plaintiff to prove clear and convincing, to climb over this hill beyond what is going on in other cases in civil suits.

Just take, for example, this provision that talks about older products, the older products provision that prohibits a course of action if the product is 15 years old. What about the playground equipment that a child may play on? Fifteen years is not very long. What if it is 15½ years? Does that severely injured child not have a remedy?

What about the provision 82 Republicans supported that would put foreign manufacturers under U.S. laws? We do not have that anymore. What about the provision that we tried to amend this particular bill to protect products used by women, affecting reproductive organs, causing fetal malfunction? We do not have that. This is not a good piece of legislation.

Let us leave it to the States. Let us resolve to find a way to be fair to the consumers of America.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, the ostensible justification for moving this legislation today is that our criminal justice system is overcrowded, sluggish, excessively costly. We have to do something about it. And if this bill did anything about it, I think that we could give some praise to the Republican Party.

However, what they have done here is avoid the real litigation explosion in our country. Product liability cases constitute only about 2 percent of all lawsuits filed in State courts and only about 3 percent of all civil jury trials. By comparison, 48 percent of the civil lawsuits filed in State courts and 18 percent of all the cases tried are disputes between businesses. These business-versus-business lawsuits accounted for 63 percent of the lawsuits since 1989 which resulted in a verdict or a settlement exceeding $50 million.

So what has the conference report done on these lawsuits? Absolutely nothing. The Committee on Rules would not even allow me to bring an amendment out here on the floor on this blight upon the law system of our country. The conference report actually contains provisions that explicitly exempt all civil actions brought for commercial lawsuits from any of the harsh new procedural substantive provisions in the bill.

Let us just consider some of the cases they do not want to deal with. McDonald's brought a temporary restraining order to prevent Burger King from airing ads comparing the Big Mac unfavorably with the Whopper. Walt Disney sued the Motion Picture Academy to force a public apology for an unflattering portrayal of Snow White at the Academy Awards ceremony. Advil sued Tylenol for such weighty legal issues as whether Tylenol was as effective as Advil for headache pain and whether Tylenol is unbeatable for a headache. Scott Paper sued Procter & Gamble, claiming it had allegedly misled consumers about the absorptive power of Bounty paper towels by claiming Bounty was the Quicker Picker-Upper.

Now, did they go after these cases in this bill? Absolutely not. Business suing business frivolously, and area after area? Which case do the Republicans want to take on? It is where an individual has been harmed by a product, where the lawnmower, where some consumer product has exploded in the face of a family member. Those are the people they are going to take on. Those are the people they are going to tell cannot sue any longer.

This is a disgrace. The real abuse in the courts are businesses suing businesses. That is 90 percent of the problem that we have got, frivolous case after frivolous case being brought. It is time that we brought the truth to these issues and rejected this conference report.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to take enough time to point out to the gentleman from Massachusetts that he did not bring his amendment to the Committee on Rules and we do not amend conference reports.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, clearly this bill is anticonsumer. It is antiaverage person because indeed it is putting the greater burden on those who trust and buy products. It is saying to those persons that we prefer to protect the businesses that make and purport to make it safe for your consumption.

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This is not a bill that is talking about frivolous cases. It is not frivolous, indeed, when there is an implant that destroys the life of a woman. It is not frivolous indeed when a mother buys a baby garment and that garment harms that child. These are not frivolous cases; these are cases about life and death.

So why would you even claim that when an individual is injured or is maimed or killed, that is frivolous? How is human life frivolous? It is frivolous to say that a mother or child is less valuable than with someone who works. To compute the $250,000 cap based on that, and that the award is based on their economic value, is to deny the individual worth of all individuals.

Mr. Speaker, this is a bad bill. Americans know this is a bad bill. This is a bill to award big business, to remove their liability for all the consumers. I urge the defeat of this rule and the defeat of the bill.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, strangely, this piece of legislation rejects the notion that I have heard so often voiced from this microphone about the concept of personal responsibility. It is OK to demand personal responsibility of the most disadvantaged, of the poorest people, of the most vulnerable people in our society. But, for some reason, it is the position of those who support this conference report that it is inappropriate to demand full personal responsibility of those who kill and maim and destroy the lives of their neighbors.

In many cases, the cases that generate the largest verdicts, that get talked about the most, result from those who place profits over safety, time and time again, when they had one report after another coming in from across America that people were being damaged, that they were being hurt, being killed by their products, and those reports were ignored and the lives of other Americans were endangered as a result. But that concept of personal responsibility is totally and completely disregarded by those who support this bill.

The second concept that has been talked about so much, as if it were a new invention, is that of States rights. What is wrong with the jurisdiction and the legislatures of these 50 United States addressing this issue? Why is it that from this microphone there is only support for State wrongs, but never support for States rights?

I say that the States ought to be able to address these issues themselves. I had a small business person in my office last week speaking generally in favor of this piece of legislation. Yet every one of the reforms that he thought were important to be implemented in this legislation had already been implemented by the Texas legislature.

Why not have these decisions made on Congress Avenue in Austin, TX, instead of up here on the Potomac in Washington? What is going to be the dividing line? If we are going to have the Congress of the United States interfere in States rights in this issue, why not in every other part of our life?

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the rule and of the conference report. Our out-of-control legal system is ruining the productivity of American manufacturing. Because the price of all of these crazy lawsuits and big judgments and product liability insurance premiums are all folded into our products that we try to sell, both at home and abroad, we end up being at a significant competitive disadvantage to our foreign competition, and specifically the British and the Germans and the Japanese.

This legislation is a significant step forward to bringing American manufacturing more competitive. When that happens, that is going to mean more jobs for American people. So we are not talking about protecting big business here, we are talking about creating jobs at home, rather than having our legal system destroy jobs at home and create jobs abroad.

Second, the original bill that passed the House contained medical malpractice insurance reform. It is no longer necessary to consider that issue in the context of this legislation, because the House took care of that issue last night when we passed the insurance reform bill with a medical malpractice reform component in it. So splitting off medical malpractice into other legislation has made this legislation easier to pass through reaching an agreement in the conference committee.

I want to commend the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary and chairman of the conference committee, for crafting a very good bill that will be in the public interest. I hope it passes by more than a two-thirds vote today, because that will send the White House a needed message to sign this legislation.

Mr. FROST. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I want to thank the gentleman from Texas [Mr. FROST] for his management of the rule in this matter, and bring to the attention of the Members the one reason that this rule should be rejected. That is because the provision that I put in the bill that would have helped American consumers by making it easier to obtain legal process and discovery against foreign manufacturers was quietly dropped in conference, at the insistence of foreign lobbyists. It was dropped, even though we then instructed the conferees to retain this provision in conference, overwhelmingly bipartisan.

So join me in rejecting the rule to have this amendment that would make foreign manufacturers liable like domestic manufacturers are for defective products.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I just rise in support of the rule. It is a long time in coming on this product liability. I know many of us were on what is called the old subcommittee on competitiveness in which we had an opportunity to have hearings on this, and this has been part of the Republican contract for America. But, more importantly, it has been an agenda which both Democrats and Republicans have had bipartisan support for. This support goes back to the 103d Congress where I had the opportunity to be the ranking member with the gentlewoman from Illinois [Mrs. COLLINS]. She and I passed a product liability bill out of our subcommittee which had bipartisan support. So I am in strong support of this rule, and I hope the bill will pass overwhelmingly.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. GUNDERSON). The gentleman from Texas is recognized for 1½ minutes.

Mr. FROST. Mr. Speaker, I urge a "no" vote on the previous question.

If the previous question is defeated I intend to offer an amendment to the rule which would provide that the House will have adopted a concurrent resolution directing the Clerk to correct the enrollment of this conference report by adding the Conyers foreign manufacturers amendment, section 107 of the House passed bill.

This amendment would level the playing field by subjecting foreign corporations to the same jurisdiction and

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142
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1996
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discovery rules that their U.S. counterparts face.

The text of my amendment as follows:

AMENDMENT TO RULE ON PRODUCTS LIABILITY CONFERENCE REPORT

At the end of the resolution, add the following:

"SECTION . Upon the adoption of this resolution, the House shall be considered to have adopted a concurrent resolution directing the Clerk of the House to correct the enrollment of H.R. 956 and consisting of the text contained in the next section of this resolution.

"SECTION . *Resolved by the House of Representatives (the Senate concurring)*, That in the enrollment of the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

At the appropriate place, add the following:

SEC. . FOREIGN PRODUCTS.

(a) GENERAL RULE.—In any product liability action for injury that was sustained in the United States and that relates to the purchase or use of a product manufactured outside the United States by a foreign manufacturer, the Federal court in which such action is brought shall have jurisdiction over such manufacturer if the manufacturer knew or reasonably should have known that the product would be imported for sale or use in the United States.

(b) ADMISSION.—If in any product liability action a foreign manufacturer of the product involved in such action fails to furnish any testimony, document, or other thing upon a duly issued discovery order by the court in such action, such failure shall be deemed an admission of any fact with respect to which the discovery order relates.

(c) PROCESS.—Process in an action described in subsection (a) may be served wherever the foreign manufacturer is located, has an agent, or transacts business.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just would like to point out for those coming to the floor to vote on this issue that nobody criticized the rule. It is a normal rule for a conference report. The debate throughout the whole last hour has been on the bill. We will have an opportunity to debate that in the next hour and vote on that.

I urge my colleagues to come to the floor and vote for the previous question, vote for the rule, and move on to the bill.

Mr. Speaker, I yield back the balance of time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 237, nays 173, not voting 21, as follows:

[Roll No. 108]

YEAS—237

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)
Zeliff
Zimmer

NAYS—173

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gonzalez
Green
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—21

Bryant (TX)
Collins (IL)
Coyne
de la Garza
Eshoo
Fields (TX)
Ford
Fowler
Gephardt
Goodling
Gutierrez
Hayes
McNulty
Serrano
Smith (TX)
Stokes
Torres
Velazquez
Weldon (PA)
Williams
Young (AK)

☐ 1142

Mrs. KENNELLY, and Messrs. PETERSON of Florida, BARRETT of Wisconsin, and RANGEL changed their vote from "yea" to "nay."

Mr. GORDON changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

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The SPEAKER pro tempore (Mr. GUNDERSON). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1972

Mrs. MINK of Hawaii. I ask unanimous consent that my name be removed as a cosponsor of the bill H.R. 1972.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2754

Mr. QUILLEN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill H.R. 2754.

The SPEAKER pro tempore (Mr. GUNDERSON). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question de novo of the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 323, noes 83, answered "present" 1, not voting 24, as follows:

[Roll No. 109]

AYES—323

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fields (LA)
Flake
Flanagan
Foglietta
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martinez
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (FL)
Zeliff

NOES—83

Abercrombie
Baldacci
Becerra
Bonior
Borski
Brown (CA)
Brown (FL)
Clay
Clayton
Coleman
Collins (MI)
DeFazio
Deutsch
Dingell
Durbin
Edwards
Engel
Fazio
Filner
Frost
Gephardt
Gibbons
Gillmor
Green
Gutknecht
Hall (OH)
Hastings (FL)
Hefley
Hilliard
Hinchey
Jacobs
Johnson, E. B.
Johnston
Kennedy (RI)
Kildee
LaFalce
Levin
Lewis (GA)
Markey
Matsui
McDermott
McHale
Meek
Menendez
Miller (CA)
Mink
Nadler
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Peterson (MN)
Pickett
Pombo
Richardson
Rush
Sabo
Sawyer
Schroeder
Scott
Skaggs
Slaughter
Spratt
Stark
Studds
Taylor (MS)
Thompson
Thurman
Torkildsen
Towns
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Wise
Yates
Zimmer

ANSWERED "PRESENT"—1

Harman

NOT VOTING—24

Bryant (TX)
Collins (IL)
de la Garza
Doggett
Eshoo
Fields (TX)
Ford
Fowler
Goodling
Gutierrez
Hayes
Kolbe
McNulty
Pelosi
Sanders
Seastrand
Serrano
Smith (TX)
Stokes
Torres
Velazquez
Weldon (PA)
Williams
Young (AK)

☐ 1159

Mr. DINGELL changed his vote from "aye" to "no."

Mr. BARCIA changed his vote from "no" to "aye."

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, this morning I was attending the funeral of a close friend. Regrettably, I missed rollcall vote 108, House Resolution 394, on ordering the previous question. I also missed rollcall vote 109 on approving the Journal. Had I been present I would have voted "yea" on both.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 159

Mr. GOSS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Joint Resolution 159.

The SPEAKER pro tempore (Mr. GUNDERSON). Is there objection to the request of the gentleman from Florida?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 159, TAX LIMITATION CONSTITUTIONAL AMENDMENT

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–513) on the resolution (H. Res. 395) providing for consideration of the joint resolution (H.J. Res. 159) proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 842, TRUTH IN BUDGETING ACT

Mr. GOSS, from the Committee on Rules, submitted a privileged report

VOL 142 PT 5 MR 21 — 29 1996 UMI

(Rept. No. 104–514) on the resolution (H. Res. 396) providing for consideration of the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1834

Ms. JOHNSON of Connecticut. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1834.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

CONFERENCE REPORT ON H.R. 956, COMMONSENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996

Mr. HYDE. Mr. Speaker, pursuant to House Resolution 394, I call up the conference report on the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to clause 2(c) of rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of March 14, 1996, at page 4784.)

The SPEAKER pro tempore. The gentleman from Illinois [Mr. HYDE] and the gentleman from Michigan [Mr. CONYERS] each will control 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 956.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield 15 minutes of my time to the gentleman from Virginia [Mr. BLILEY], chairman of the Committee on Commerce, and I ask unanimous consent that he may be permitted to control that 15 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield 15 minutes to the gentleman from Michigan [Mr. DINGELL], former ranking member of the Committee on Commerce, the Dean of the House, and I ask unanimous consent that he be permitted to yield time in blocks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise in support of the conference report on H.R. 956, the Commonsense Product Liability Legal Reform Act of 1996. This legislation is an important first step in the longstanding congressional effort to reform our legal system. Although the reforms contained in the conference report do not go as far as I and many in this Chamber would have liked, this legislation takes some important first steps in restraining the excesses of the current out-of-control legal system. It is a solid downpayment on long-needed reform.

When the House passed H.R. 956, the Commonsense Product Liability Legal Reform Act of 1995, in March of last year, we did so on a strong bipartisan vote of 265 to 161. That vote sent a message that the new Republican majority in Congress was resolute in its commitment to bring about broad-based legal reform and an end to lawsuit abuse. It has taken us more than a year to complete this process, but we now have before us a conference agreement which, while not as ambitious as the House bill, will for the first time in the history of Congress take aim at the inequities and inefficiencies of our legal system.

This is not only a first step in the direction we need to head, but it is a step which we can realistically enact this year. The Senate has already approved this measure by a vote of 59 to 40. Despite the fact that the agreement does not go far as reforms that the House voted for—notably extending relief to all civil actions—we must not lose sight of the fact that product liability reform is an historic accomplishment. It will unleash an American job creation boom and will translate into real growth for our economy.

I would like to take this opportunity to highlight several key provisions contained in the conference report.

STATUTE OF REPOSE

One very important part of this conference agreement imposes a uniform statute of repose of 15 years for cases involving durable goods. A statute of repose specifies the period of time after manufacture of a product during which a lawsuit relating to the product may be brought. The statute of repose addresses the unfairness that results when manufacturers are sued on the basis of products that left their control many years ago. This allows U.S. manufacturers to compete with foreign companies that have entered the marketplace in recent years and face no liability exposure for very old products.

Section 101(7) of the conference report defines the term durable good as meaning first, "any product or any component of any such product which has a normal life expectancy of three or more years" or second, any product which "is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986 and which is: (A) used in a trade or business; (B) held for the production of income; or (C) sold or donated to a governmental or private entity for the production of goods, training, demonstration or any other similar purpose." Thus, the agreement describes two distinct categories of products which will be covered by the statute of repose provision.

Under the first clause of the definition, a manufacturer of a product such as a machine tool, farm equipment, a bicycle or a ladder, a toaster or gas furnace, an elevator, or building materials such as plate glass, wall coatings, or roofing tiles could not be sued based on harm allegedly caused by that product more than 15 years after the product was first delivered. Thus, a product which has a normal life expectancy of 3 or more years need not meet any other criteria to qualify as a durable good.

Again, the second clause of section 101(7) covers products that are subject to allowance for depreciation under the Internal Revenue Code and used in a trade or business, held for the production of income, or sold or donated to a governmental or private entity for the production of goods, training, or similar purposes. These types of products would also be covered by the 15-year statute of repose adopted in the conference agreement.

Some have erroneously stated that the statute of repose in the conference report is confined to goods used in the workplace. That is not correct. The language of the conference agreement is clearly not limited in this manner, nor should it be.

In his eloquent statement in support of the legislation, Senator GORTON pointed out two examples—step ladders and football helmets—where a large proportion of the price of the product is accounted for by the cost of product liability actions and insurance. Senator GORTON's use of these examples underscores the irrationality of any workplace limitation on the statute of repose. A workplace limitation would make unjustified and unfair distinctions between products, and could produce wildly inconsistent results for manufacturers who may have no control over where, and under what circumstances, their products may be used.

For example, if the statute of repose were limited in such a manner, a manufacturer of a ladder used in the workplace would be protected 15 years after the ladder is sold; but if that same ladder is used in the home the statute of repose would not apply. A football helmet used in professional sports would be covered by the statute of repose; but one used in other settings would not be. There are numerous other examples of arbitrary distinctions and unequal treatment that would result from a workplace limitation. A manufacturer of a mower used by a farmer would be protected from lawsuits after 15 years, while one whose same product is used by a weekend gardener would not be. The conference report rightly eliminates these types of arbitrary and unfair distinctions.

The statute of repose provision contains certain exceptions. It does not, for example, preempt the 18-year statute of repose contained in the General Aviation Revitalization Act of 1994. Neither does it apply in a case involving a vehicle used primarily for hire, where the existing State statute of repose, if any, would continue to apply.

The conference agreement provisions will also not apply in the case where the manufacturer or seller has expressly warranted the safety or life expectancy of the product to be longer than 15 years. In those cases, the private agreement of the parties will control.

The statute of repose also includes a toxic harm exception, which has been the source of a great deal of confusion and uncertainty. This exception was included in the Senate-passed bill to address a concern which had been raised about products that cause physical injuries that are latent, that is, injuries that do not manifest themselves for many years after a person is first exposed to a product.

Because the term "toxic harm" was not defined in the Senate bill and is not defined in the conference report, I want to spend a few moments clarifying the congressional intent with respect to the scope of this provision. Numerous Federal statutes and regulations contain definitions of the word "toxic," and some of those definitions differ widely from others. Some of those definitions, if relied upon to interpret the "toxic harm" exception in H.R. 956, would broadly except from the statute of repose products where the alleged harm ranges from harm caused by excessive noise, cold, vibration, or repetitive motion—such as repetitive stress injury—to those in which the alleged harm is caused by chemical or other elements, to products like asbestos, where the injury to a person caused by the product may be latent for many years. The conferees did not adopt or incorporate these wide-ranging definitions.

The House-passed bill contained a provision which addressed the problem the Senate bill sought to address, but which used different words. The House provision excluded from the statute of repose products that cause latent harm, specifically, a "physical illness the evidence of which does not ordinarily appear less than 15 years after the first exposure to the product." Although the words used were different, the intent of the House and Senate provisions was the same: to except from the statute's time bar actions involving products alleged to cause latent illness.

The House, therefore, receded to the Senate bill's use of the "toxic harm" language, because it too is intended to provide an exception only for products that cause physical illness, evidence of which cannot be detected until long after exposure to the product, such as, harm that cannot be detected within a 15-year period.

Finally, it is important to note that the statute of repose contained in the conference agreement only preempts State statutes of repose which are longer than 15 years. It also does not limit a State statute of repose from extending beyond durable goods to other types of products. Thus, for example, a State statute of repose, which limits suits to those brought within 12 years of delivery of the product, and which covers all goods, would not be affected by the conference agreement.

PUNITIVE DAMAGES

The conference agreement generally adopts the Senate's language regarding a limitation on punitive damages. Punitive damages are intended for cases where the defendant's conduct has been particularly harmful—where the conduct involved gross negligence or intentional conduct. They should be awarded only in the most serious cases.

Punitive damages are generally limited to two times compensatory damages or $250,000 whichever is greater. This limitation will be imposed by the court in the event that a jury—which is not to be told of the cap—awards a higher amount. In the event that the cap operates to limit an otherwise higher jury award, the conference agreement allows the court to consider whether that cap is appropriate. If after reviewing the facts of the case the court finds that the amount of punitive damages allowed under the cap is inadequate, the court may increase the award, up to the amount of the initial jury punitive damage award level. In no event may the punitive damage award exceed the amount of the original jury verdict.

The limitation on the court's ability to award punitive damages in excess of the cap in no way suggests that the court will not have the normal discretion to review and decrease punitive damage awards in the proper circumstances. This power will continue to exist whether or not the initial jury award exceeds the limitation imposed under the conference agreement.

A special rule applies in the case of defendants with a net worth of $500,000 or less, or entities employing 25 or fewer full-time employees. For cases involving those defendants, the cap on punitive damages will be two times compensatory damages or $250,000, whichever is greater. For cases involving those defendants, the court may not increase the award beyond the statutory limit.

The limitations imposed by the section are to be applied defendant by defendant. Thus, in a case involving two or more defendants, the plaintiff could potentially obtain the maximum amount of punitive damages from each defendant. For purposes of calculating the limit for each defendant, compensatory damages will include only the percentage of damages for which that defendant is found liable.

The conference agreement permits a court to award additional damage under section 108(a)(3), but only in cases of egregious conduct. Egregious conduct in this context means conduct where the defendant against which the punitive damages are awarded specifically intended to cause the harm that is the subject of the action or acted with actual malice toward the claimant. Unless the defendant's conduct meets this standard, the provisions of section 108(a)(3) will not apply, and the court will have no authority to exceed the amount of punitive damages established in section 108(a)(1).

The provisions of the conference agreement in section 108(a)(3) which allow the court to exceed limitations on punitive damages are intended by the conferees to be treated as severable in the event a court determines that judges lack constitutional authority to award additional amounts of punitive damages. Should a court so find, the continued operation of the limitations otherwise imposed by section 108 will not be affected.

Section 108 does not preempt State laws which more narrowly limit the amount of punitive damages that may be awarded. Thus, if a State imposes a dollar limit on punitive damages which is less than the cap set forth in section 108(a)(1), the State law will apply, and the conference agreement's provision allowing for the award of additional damages by the court will not apply. Similarly, if the State law contains a provision for additur, but restricts the amount of additur permitted to less than the initial jury award, the provisions of the State law will prevail.

Thus, the punitive damage reforms of H.R. 956 are minimum standards and limitations designed to provide some measure of rationality; they would not displace the law of States with more restrictive punitive damage regimes. For example, many States have punitive damage limitations that do not allow the judge to override the statutory maximum. Nothing in the conference report displaces the laws of such States. Similarly, States are free to require higher standards of proof and to impose substantive requirements in addition to those in the conference report.

VOL 142
PT 5
MR 21 — 29
1996
UMI

The preemptive effect of the punitive damage reforms turns on three separate provisions of the conference report. First, the Federal law "supersedes State law only to the extent that State law applies to an issue covered by the Act." Second, the conference report provides that "punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant if the claimant establishes by clear and convincing evidence that conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action." Third, the conference report provides that the Act "does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages."

Mr. Speaker, the express preservation of State laws that further limit the award of punitive damages was part of the bill approved by the House in March, but it was not part of the amendment passed by the Senate. During the Conference, I led the House conferees in insisting that this provision be included. The conference report adopts the House preemption language—language that makes very clear the preemptive effect of the punitive damage reforms.

Taken together with the other provisions, this provision conclusively demonstrates that the Act would not expand liability for punitive damages, or increase the permissible amount of punitive damages, in any State. If State law imposes substantive or procedural requirements concerning the circumstances under which punitive damages may be awarded that are more stringent than the Federal law, the State law controls. Similarly, if the application of State law limits on the amount of punitive damages results in an award of punitive damages that is less than that permitted under the Federal law, the State law controls. Let me explain, Mr. Speaker, why this is the only interpretation that is consistent with the plain language of the conference report, as well as the intent of its drafters.

Consider, for example, more stringent State standards for the award of punitive damages. Everyone agrees that the act would not make punitive damages available in States, such as Washington, that do not currently allow the award of punitive damages. In such States, no award of punitive damages is permitted by applicable State law and the punitive damage provisions therefore do not come into play.

Likewise, the act would not lower the standards for awarding punitive damages in States such as Colorado—which requires proof beyond a reasonable doubt—or Maryland—which requires proof of actual malice. If a claimant meets the standard of proof in the Federal law but not the higher standard imposed by State law, no award of punitive damages is permitted by applicable state law. Again, the punitive damage provisions of the Federal statute simply do not apply to cases in which punitive damages would not otherwise be available under State law.

In addition, State laws that impose a higher standard of proof than the Federal act, or that provide for additional substantive requirements, further limit awards of punitive damages and therefore are not preempted by the act, which does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages. Any State law that would make punitive damages unavailable even if the Federal requirements are met, or that would result in an award of punitive damages lower than the Federal limitations, is one that further limits the award of punitive damages. Such laws expressly are not preempted.

It is also important to recognize, Mr. Speaker, that the act would not affect State caps on punitive damages. In most cases, the act would limit punitive damages to the greater of $250,000 or two times compensatory damages. At the same time, many States have limited punitive damages by providing a maximum dollar amount, a multiplier, or some other statutory limitation on the amount of punitive damages. In many cases, application of these State limitations would result in a lower punitive damage award than would application of the Federal limitations. In such cases, these State laws would remain in effect.

For example, Virginia has enacted an absolute cap of $350,000 for punitive damages. Illinois limits punitive damages to three times economic damages. Application of these limitations to a punitive damage award results in the maximum amount of punitive damages permitted by applicable State law. Even if the Federal law would allow a higher award of punitive damages, therefore, the State law limitations would control. By contrast, if the Federal limitations resulted in a lower amount, the Federal limitations would control.

Lest there be any doubt on this subject, the conference report expressly provides that the act "does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages." This provision can only mean that if application of a State limitation would result in a lower award of punitive damages than the Federal rule, the further limit of the State law controls.

COMMERCIAL LOSS

The conference revisions to H.R. 956 are intended to clarify congressional intent concerning claims for commercial loss. Commercial loss, as defined in section 101(5), means any loss or damage to a product itself, loss relating to a dispute over its value, or consequential economic loss. As further stated in the definition, any claim for any of these three types of loss is to be governed by the Uniform Commercial Code or State law versions of its provisions, or by contract law. This definitional requirement that all actions for commercial loss be governed by commercial or contract law is accompanied by the affirmative mandate in section 102(a)(2) that any civil action brought for commercial loss shall be governed only by applicable commercial or contract law. Congressional intent is to codify the historical approach that tort theories are not applicable to such claims, and may not be employed with respect to them.

The reforms contained in H.R. 956 are aimed predominantly at correcting certain abuses and providing some reasonable uniformity in the tort law of products liability. Claims for commercial loss traditionally do not fall in the tort realm, but are dealt with in accordance with the contractual agreement created by the parties themselves, or by the UCC. This economic loss rule is typified by the opinions of the California supreme court in Seely versus White Motor Company, and the U.S. Supreme Court in East River Steamship Corporation versus Transamerica Delavel. Despite limited judicial inroads by other courts that have sought inappropriately to engraft tort branches onto the commercial tree, the bill excludes commercial loss from the scope of its tort-related provisions. In so excluding commercial loss, Congress did not seek to carve out a category of loss undeserving of the bill's protections, but rather to recognize that there is a massive, extant body of commercial and contract law historically more suited to such claims. In order to assure that such claims are not subject to tort system abuses that the bill aims to rectify, the conference chose affirmatively to mandate that commercial loss claims be governed exclusively by commercial or contract law. Such a rule of law is necessary to promote uniformity and predictability, in the interests of interstate commerce and due process. This position is entirely consistent with the House Judiciary Committee report (H. Rept. 104–64), and codifies the common law rule.

This bill does not intend to disrupt or affect application of the economic loss doctrine. Congress fully supports the traditional rule that disputes that essentially involve failed commercial expectations, damage or loss to a product itself, or diminished product value, are not recoverable in tort. Exclusion of commercial loss from the bill is intended to protect the body of extant contract and commercial law, and while assuring that tort or other inappropriate causes of action are not engrafted onto that body of law.

DEFINITION OF PRODUCT

The definition of a product in section 101(14) of the conference agreement is not intended to include improvements to real property. A manufacturer is able to test its product and control quality in a way that is impossible on a construction site where a variety of systems are being coordinated to create a more complex structure. Each construction project is built from an extremely complicated and unique set of drawings and specifications involving interrelated systems and many individual products specified by a design professional and over which the constructor has little control. Forty-seven States have recognized this distinction between a product and an improvement to real property by enacting specific statutes of repose for improvements to real property. It was the intent of the conferees that the definition of product in H.R. 956 honor this distinction.

Mr. Speaker, after nearly two decades of effort to fashion a comprehensive set of product liability reforms, we have crafted a bipartisan consensus package of bottom-up reforms. These reforms are desperately needed to restore some fairness to our present system and to remove roadblocks to our country's economic growth and job creation. I urge my colleagues to join me in supporting the conference report to accompany H.R. 956.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a continuation of the war on public safety. We have before us a conference measure which would not only cap and limit the amount of damages an injured victim can recover, but would, in instances, completely cut off our consumers' and workers' rights to seek compensation, even in uncontested cases of negligence.

Mr. Speaker, this bill, the conference measure before us, in every conceivable way has been designed to disadvantage American consumers and benefit negligent corporations. The question that hangs over this discussion is why.

Remember, the Conyers amendment to get tough with foreign corporations, which we voted twice, was dropped in conference, to require the foreign corporations to subject themselves to the discovery and jurisdiction in the U.S. courts as a condition of doing business in this country, just like everybody else. What is wrong with this, and why did the conference committee specifically refute the judgment of the majority of Members, Democratic and Republican, about this provision?

To make matters worse, Mr. Speaker, we are considering the bill at the same time the majority leader of the House, the gentleman from Texas, Mr. ARMEY, is proposing to completely eliminate safety agencies like the Consumer Product Safety Commission, while simultaneously slashing and eliminating safety regulations. Why?

If Members do not think that the threat of private lawsuits can help keep dangerous products off the market, which is what we hope to continue to do in our legal system, just ask the parents of children who have been killed by flammable pajamas, or the women who have been maimed by the Dalkon shield. Both these products are now off the market, thanks to the threat of punitive damages.

Mr. Speaker, this bill will not reduce litigation, but will stack jury awards in favor of those with large incomes or that can afford powerful legal counsel, and it would remove the most important deterrence that stopped dangerous products from coming into our homes and communities. So the bill will not reduce litigation, Mr. Speaker, because, contrary to the myth, product liability suits represent a minute portion of litigation in the United States.

Is there a law student in any school in America that is not aware that product liability suits represent less than 2 percent of the litigation carried on in the U.S. courts? Is there anybody that does not know that? This is not a partisan fact, it is not a factoid: Less than 2 percent of all the suits in the country involve product liability; and also, that product liability premiums are going down.

Punitive damages is also a myth that must be addressed among lawyers and Members of Congress. There are only an average of 14 awards a year in punitive damages. Please, 14 awards a year in punitive damages. When they are awarded, they prevent against deadly dangers in the marketplace, asbestos cases, dangerous intrauterine devices. The cap of $250,000 on punitive damages is tragic. No Fortune 500 company, or some not even Fortune 500, will be deterred from placing dangerous products on the market because of a quarter of a million dollar threat of punitive damages. It will be factored into the pricing.

Mr. Speaker, I think more and more of us are aware of that, and are going to oppose this measure for those reasons.

Mr. Speaker, in this measure before us, a conference bill, we limit the victim's rights to recover what are known as noneconomic damages when they are joint tort feasors. So if a dangerous product induces a loss of reproductive capacity in a housewife, say, she may likely be limited in her recovery where there are joint tort feasors; but if a corporate executive of some expense is injured by the same product or a different one and loses his large salary, the bill ensures that he will be fully compensated.

Mr. Speaker, I appeal to Members on the sense of fairness. this is a one-way street of Federalism: Return power to the States, as long as it disadvantages consumers and working people.

Finally, do not forget about the special interest favors lurking in the bill. Gun sellers and bar owners have obtained special language limiting their potential liability for careless sales to third parties. Did Members know that was there? It is. Electricity, water, and gas utilities corporations have obtained a provision overruling liability laws in States which hold them strictly liable for utility disasters. Do Members know that is in the bill?

Like ministers, Congressmen can preach through little babies' cries. It does not bother me a bit.

There are other hidden favors. Mothers Against Drunk Drivers are opposed to the bill. Special interests have poured $26 million into it to see these special things occur. Mr. Speaker, this bill is of special interests, by special interests, and for special interests. The administration has indicated that it will veto it. It is going nowhere, again, so vote against this extremely damaging, discriminatory piece of legislation.

The following is a more detailed description of the final conference report, outlining my concerns with the bill.

Section 1. Short Title and Table of Contents

Sec. 2. Findings and Purposes.—Sets forth a number of findings, most notably that our nation is experiencing a litigation explosion which harms our competitiveness. What the conference report fails to note is that the most recent study by the Bureau of Justice Statistics found that product liability cases represent a mere 1.67 percent of civil cases. And the clear trend of product liability filings as well as damages awarded has been decreasing: according to the National Association of Insurance Commissioners, product liability insurance premiums have dropped more than 28 percent between 1989 and 1994. The incidence of punitive damages in product liability cases is far rarer yet: a study by Professor Michael Rustad, termed by the U.S. Supreme Court as the "most exhaustive study" ever, found an average of only 14 such cases per year from 1965–1990. The conference report also fails to note that the bill will have very little effect on American competitiveness, since the total of all product liability costs represent a mere one cent per five dollar purchase (according to a comprehensive study completed by the Consumer Federation of America). The one provision in the House bill which would have helped U.S. firms compete—by making it easier for American consumers to sue negligent foreign manufacturers on the same terms as American firms—was quietly dropped in conference, even though the Conyers Amendment on this matter passed by a bipartisan vote of 285–166, and the House later approved a motion instructing conferees to retain the provision by a vote of 256–142.

Section 101. Definitions.—The term "product" is defined to include (i) electricity, water and gas utilities which are ordinarily subject to a strict liability in tort, and (ii) human tissue, organs, and blood products (both categories of items which were specifically excluded from the House-passed bill). The utility provision has the effect of granting utilities in 44 States the benefit of the various damage caps and limitations in the

VOL 142 PT 5 MR 21 — 29 1996 UMI

bill. No rationale has been proffered for treating utilities in these states more beneficially than others.

Sec. 102. Applicability and Preemption.—The conference report preempts product liability law in all 50 states and the District of Columbia to the extent they are inconsistent with the report. This represents one of the most significant shifts ever in power from the states to the federal government. Despite the fact that 47 states have altered their product liability laws in the last decade, states will no longer be free to promulgate laws which protect their citizens from dangerous and harmful products (although the bill generally does not preempt states from having more restrictive anti-consumer laws). The bill does not apply to limit the product liability rights of businesses suing manufacturers because it includes a "commercial loss" exception. In other words, the bill only applies to limit the rights of workers and individual citizens, not corporations.

Sec. 103. Seller and Lessor Liability.—Provides that a seller or lessor may only be sued for breach of an express warranty, failure to exercise reasonable care, or intentional wrongdoing, unless the court determines the victim would be unable to enforce a judgment against the manufacturer in any state court. This could force victims to bring actions in out-of-state venues against outside manufacturers, rather than being able to bring suit against their instate seller who could then bring the manufacturer into the action. This section could also have the effect of eliminating a seller's common law liability for failure to warn a consumer about its unsafe characteristics and eliminate the doctrine of implied product warranties by sellers. Although this section does not apply to "negligent entrustment" actions, such as those relating to careless sale of liquor or guns, the provision is drafted in a manner so that such liquor and gun sellers would benefit from the other sections of the bill (e.g., relating to limits on punitive damages and joint and several liability). The definition of "manufacturer" is so narrowly written that the entity who assembled the product may in some instances not be included within its scope (*e.g.*, the assembler used the preexisting design of another party). In such an event there may be no responsible party for the injured victim to sue—the seller is relieved of liability and there is no "manufacturer."

Sec. 104. Defense Based on Claimant's use of Alcohol or Drugs.—Alters the common law rule of contributory negligence (under which a victim's damages are limited to the extent that his or her own negligence contributed to the accident in question) by specifying that it shall be a complete defense to a product liability action if the victim was intoxicated and was more than 50% responsible for the accident. Since the section provides for no exceptions, it can result in a number of unfair results. For example manufacturers of devices designed to protect against using a product while intoxicated—such as breathalyzers now installed on some cars—would appear to be fully immunized from liability.

Sec. 105. Misuse or Alteration.—Defendants may have their liability lessened by the percentage of liability attributable to any alteration or misuse of the product. This would even apply in cases where a third party (other than an employer) was responsible for the alteration.

Sec. 106. Time Limitations of Liability.—Section 106(a) provides for a nationwide two-year statute of limitations, preempting longer statutes in 25 states and the District of Columbia. Section 106(b) creates a new federal "statute of repose," barring *any* product liability action for certain goods not brought within fifteen years of the date of delivery. The statute of repose applies not only to business goods (such as machinery), but to consumer goods (such as bicycles and microwaves) having a life expectancy of three or more years. The statute of repose provision would result in many occasions where a defective product leads to harm that is totally non-compensable. The one-sided nature of the statute of repose provision is highlighted by the fact that it does not preempt state laws providing for a shorter statute of repose.

Sec. 107. Alternative Dispute Resolution Procedures.—Parties are encouraged to pursue alternative dispute resolution under applicable state law, but there are no penalties for parties who refuse to participate.

Sec. 108. Punitive Damages.—Would arbitrarily limit the maximum amount of punitive damages which may be awarded to the greater of two times compensatory damages or $250,000 (although the judge would have very limited discretion to allow an increased award based on a variety of very narrow extenuating factors). Lawsuits against individuals whose net worth does not exceed $500,000 and businesses with less than 25 full-time employees would be subject to a reduced punitive damages cap equal to the *lesser* of $250,000 or two times compensatory damages. The bill would also limit the award of punitive damages to only those cases where the victim had established by "clear and convincing evidence" that the injury was the "proximate cause" of conduct specifically intended to cause harm manifesting a "conscious, flagrant indifference to the rights and safety of others." Finally, the section would permit any party to request a separate proceeding to determine whether punitive damages should be awarded and the extent of such damages. Again, the punitive damages cap is written so it only preempts states with no punitive damage caps or higher caps, it does not preempt states with lower caps. (This could create confusion to the extent a state's cap is more lenient in some respects, and more restrictive in other respects than the federal standard.)

These changes would in large part eliminate the role of punitive damages in the product liability system, thereby reducing the system's overall deterrent effect. For a civil case, these proposed evidentiary and substantive standards come close to "criminalizing" tort law for purposes of punitive damages: in other words, an injured victim would almost have to show that a manufacturer acted with "criminal intent"—and not gross negligence. Moreover, the legislation creates a standard of "conscious indifference" which appears to be so narrow as to be mutually exclusive. Permitting parties to bifurcate proceedings concerning the award of punitive damages will lead to far more costly and time consuming proceedings, generally working to the disadvantage of harmed victims. The proposed caps largely eliminate incentives for manufacturers to remove life-threatening products from the market place, and instead allow defendants to substitute "cost-benefit" analyses based on the estimated value of lives. The exception for "small businesses" would insulate more than ⅗ of American businesses from significant punitive damages (according to Census Bureau data), and create perverse new incentives to avoid expanding employment opportunities. The "additur" procedure allowing the court to increase punitive damages above the statutory cap may well be held to be an unconstitutional violation of the defendant's right to a jury trial in federal court. *See Dimick* v. *Schiedt*, 293 U.S. 474 (1935).

Sec. 109. Liability for Certain Claims Related to Death.—This incorporates provisions from the Senate bill so that the punitive damages cap does not apply to a particular action brought in Alabama.

Sec. 110. Joint and Several Liability—Would supersede traditional state common law by eliminating joint and several liability for non-economic damages, such as pain and suffering. (The justification for the common law rule is that it is better that a wrongdoer who can afford to do so pay more than its share, rather than an innocent victim obtain less than full recovery; also, a defendant who pays more than its share of damages can seek contribution from the other defendants.) The provision has the effect of discriminating against groups less likely to be able to establish significant economic damages, such as women, minorities, seniors and the poor. Moreover, the elimination of joint and several liability would actually increase courts' caseloads and increase litigation costs, by discouraging settlements and requiring injured consumers to initiate multiple claims.

Sec. 111. Workers Compensation Subrogation—In addition to codifying certain state laws permitting employers to seek subrogation from their employees, this provision allows a responsible manufacturer to seek contribution from a negligent employer up to the amount of workers compensation benefits paid by the employer. (The provision also provides for reimbursement of the employer's legal fees by the manufacturer if the employer is wrongfully brought into an action.) Legal aspects of workers compensation are new issues that the House has never considered or debated before.

Title II—Limitation on Liability relating to Medical Implants—Suppliers of raw material and component parts used to assemble medical implants (such as breast implants) would only be liable under State law if a victim establishes the supplier failed to meet the contract requirements or specifications for the implant. The bill also specifies new rules for bringing suits against biomaterials manufacturers and sellers, provides for an expedited removal procedure for the biomaterials suits and provides for reimbursement of the defendant's legal fees if the victim's claim against it is found to be meritless. (No reimbursement mechanism is provided for the victim if the suit is successful, however.)

Title III—Limits on Application; Effective Date—Specifies that federal appellate court decisions supersede other court interpretations and the Act applies to lawsuits brought after the date of enactment.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in support of the conference report on H.R. 956, the Commonsense Product Liability and legal Reform Act of 1995. This is a projobs, procompetitiveness bill that will help to bring fairness and accountability back into our legal system.

Almost two decades ago, the Commerce Committee began a bipartisan effort to reform our product liability laws. Over the years, we have held dozens of hearings, receiving written and

oral testimony from hundreds of witnesses. Early last year, the committee reported legislation which is incorporated into the conference report before us now. And today, as part of the Contract with America, and with the leadership of the distinguished chairman of the Judiciary Committee, we stand ready to put some historic changes into place.

I regret that the conference report falls somewhat short of the reforms included in our earlier House bill, which passed the House by a wide, bipartisan margin. Nonetheless, the conference report contains a number of reforms which the Commerce Committee has worked on, and which will clearly help to relieve the burden of excessive litigation.

For example, the conference report still contains critical protections for biomaterials suppliers developed in our committee to ensure that consumers will have continued access to lifesaving and lifeenhancing medical devices. It also still contains provisions for reasonableness and balance in product liability punitive damage awards, and sets forth enumerated guidelines which should be considered before such awards are made. In addition, it includes important exceptions for environmental claims, and allows for reasonable limits on the life expectancy for products in the workplace.

These reforms are essential to the long-term competitiveness of the American economy, as we established in our work in the Commerce Committee over the past number of years.

Mr. Speaker, I include for the RECORD, relevant portions of the Commerce's Committee's report on H.R. 917, legislation which was incorporated in significant part into H.R. 956, the bill before us today.

EXCERPTS FROM HOUSE REPORT 104–63, PART 1

BACKGROUND AND NEED FOR LEGISLATION

For two decades, the Committee on Commerce has grappled with the issue of product liability reform. After developing an extensive record on the subject of product liability law, the Committee has concluded that the present system places an enormous burden on interstate commerce, inflates prices, stifles innovation, and subjects manufacturers and sellers to a capricious lottery where sanctions can exceed any found in criminal law. In light of these facts, Congressional action is long overdue.

Historically, injury caused by a defective product gave rise to a tort action in State courts. As transportation and communications systems developed, more products crossed State boundaries, increasing the volume of interstate commerce exponentially, creating more interstate product liability. From 1973 to 1988, product liability suits in Federal courts increased 1000%; in State courts the increase was between 300% and 500%. Meanwhile, tort doctrine in State courts evolved from fault-based standards to strict liability for manufacturers and sellers.

Tort costs have risen significantly as well, reaching an estimated $132 billion in 1991. (Tillinghast. (1992) tort Cost Trends: An International Perspective. New York: Tillinghast.) Products manufactured in one State are now sold in another and cause injury in yet others. Because each State has different rules governing recovery in tort, forum shopping is encouraged, common law is developed unevenly, and manufacturers are found liable for conduct in one State that would fail to give rise to a cause of action in another.

American manufacturers and sellers have found that, given the multiplicity of evidentiary standards in State tort law, products may be found defective even after full compliance with all applicable regulations. The vast majority of product liability cases are filed in State courts. This leaves manufacturers and sellers without the benefit of uniform standards on which to base conduct in the design, manufacture and sale of goods. Manufacturers are told that their products must be "safe," without being told what constitutes safety.

In many jurisdictions, liability on the part of a manufacturer for economic and punitive damages is found in the absence of negligence or malice. The doctrine of joint and several liability often compels a defendant to pay damages far in excess of his proportionate responsibility for the injury, and the plaintiff's Bar has become remarkably skilled at identifying and joining defendants with deep pockets who, despite limited responsibility for injury, would rather settle a case than face the costs and publicity associated with litigation.

Because over 70% of products manufactured in any one State cross State borders before the point of final sale, American manufacturers must contend with the uncertainty created by 51 different product liability jurisdictions in their own domestic market. The result is a de facto "liability tax" which chills interstate commerce and deprives consumers of product choice available to consumers in other nations throughout the world. Unfortunately, instead of encouraging the development of safer products, the present system often forces manufacturers to increase product prices or withdraw products from the market altogether. According to surveys reported to the committee by Pace University Professor of Law M. Stuart Madden, because of liability costs, 36% of American manufacturers have withdrawn products from the world market, 47% have withdrawn products from the domestic market, 39% have decided not to introduce new products, and 25% have discontinued new product research.

The case of Bendectin is illustrative: Bendectin is the only prescription drug in the United States ever approved for combating nausea and vomiting in pregnancy. Introduced in 1956, the drug was used in over 30 million pregnancies. In 1969, allegations that Bendectin could cause birth defects appeared in some scientific journals. Despite the fact that no causal relationship between Bendectin and birth defects was ever established (the Food and Drug Administration affirmed the drug's safety), nearly 1,700 product liability suits were brought against the manufacturer.

Almost all cases that went to court were decided in favor of the manufacturer, yet annual revenues from the sale of the drug barely exceeded legal fees and insurance premiums. The manufacturer voluntarily withdrew Bendectin from the market in 1983. While the rate of birth defects has not declined since Bendectin was withdrawn, the cost in the U.S. for treatment of severe nausea during pregnancy is now nearly $40 million per year.

Another example comes from the sporting goods industry. In a 1988 Forbes magazine article, author Peter Huber noted that product liability legal fees and insurance premiums accounted for 55% of the price of a football helmet. (Peter Huber. (Oct. 1988) Forbes "The Litigation Scandal.") In 1988, Rawlings Sporting Goods announced that it would no longer manufacture, distribute, or sell football helmets. Rawlings was the 18th company in 18 years to abandon the football helmet business due to liability exposure, joining Spaulding, MacGregor, Medalist, Hutch, and other manufacturers. As one commentator observed:

> "This situation is not what the crafters of product liability law intended. Product liability law was created to improve product safety and compensate victims of unsafe products. It was not meant to penalize conscientious companies that provide products and services vital to the U.S. economy."

(Frederick B. Sontag. (1994) Product Liability and Innovation. "Indirect Effects of Product Liability on a Corporation." National Academy of Engineering.)

In addition to driving products from the marketplace, raising prices, and draining capital, the patchwork of liability standards throughout the nation severely inhibits the competitiveness of U.S. industry. While it is true that a foreign company doing business in the United States is subject to the same liability laws as a U.S. company, most U.S. companies have had products in the marketplace for longer than their foreign competitors.

Since many states have no statute of repose, products which have been in use for 15 or more years can still expose a manufacturer to liability. The costs of insuring against product liability and legal fees spent in liability lawsuits are built into the cost of such products, creating a price disadvantage for domestic producers facing well financed foreign competition with far less liability exposure.

American industry's chief foreign competitors face no such handicap in their domestic markets. Both the European Community (EC) and Japan have uniform product liability regulations. The EC Directive establishing product liability standards was published in 1985, and differs significantly from product liability law in the United States in the following ways: first, a single definition of product "defect" applies; second, if a product complies with mandatory regulations issued by public authorities, the manufacturer has no liability exposure; third, noneconomic damages (pain and suffering) are limited; fourth, punitive damages are generally not allowed; fifth, most EC countries limit liability to known technical knowledge; and sixth, a 10-year statute of repose begins when the manufacturer puts a product into the stream of commerce. Operating under the provisions of this Directive, European manufacturers and sellers pay, on average, twenty times less for liability coverage than their American competitors.

The status quo also retards the ability of American firms to create jobs. A memorandum dated November 30, 1990, from the Office of Vice President Quayle to Members of Congressional Committees considering product liability reform legislation states that 40% of chief executive said product liability has had a major impact on their business; 36% stopped some manufacturing as a result; 15% laid off workers, and 8% closed plants. Almost 90% of American companies will be defendants in a product liability claim at least once according to a 1988 Rand Institute

VOL 142 PT 5 MR 21—29 1996 UMI

study. In the study, of 19,500 companies surveyed, 17,000 were lead defendants in at least one product liability suit.

In summarizing the background and need for H.R. 917, the Committee finds itself in agreement with the observations of Francois Castaing:

> "It is well understood that product liability laws have a purpose. They are supposed to compensate for injury, promote safety, and penalize gross negligence. If a corporation is irresponsible, it should be held accountable. But in the United States, the situation has gone beyond punishing gross negligence. Now punishment is meted out for many risks that simply cannot be avoided when a product is produced and sold to a public that has wide discretion in how it chooses to use that product. When no distinctions are made in assigning responsibility for risk and companies are held responsible (and penalized) for all risk—from those attributable to the vagaries of human nature to those truly within a company's aegis—the ability to innovate, engineer, and compete is compromised."

Francois J. Castaing. (1994) Product Liability and Innovation. "Automotive Engineering and Product Liability," National Academy of Engineering.

The present product liability system in the United States unfairly denies consumers the right of free choice in the marketplace and inflates prices for available products. For manufacturers and sellers, the system discourages innovation, retards capital formation, and creates a distinct competitive disadvantage in the world market.

The Committee has developed an extensive record on the negative impact of product liability on commerce in the United States, and has concluded that Congressional action is long overdue. Support for product liability reform within the Commerce Committee has always been bipartisan, and legislation has been reported from the Committee to the House under both Republican and Democratic Chairmen.

HEARINGS

During the 104th Congress, the Subcommittee on Commerce, Trade, and Hazardous Materials held one day of hearings on H.R. 917, the Common Sense Product Liability Reform Act, and related legislation, including section 103 of H.R. 10, the Common Sense Legal Reform Act. Additionally, since the 99th Congress, the Committee has held 12 days of hearings on the subject of product liability reform and that record contributed significantly to the Committee's consideration of H.R. 917.

On February 21, 1995, the Subcommittee on Commerce, Trade, and Hazardous Materials held a hearing on H.R. 917, the Common Sense Product Liability Reform Act and Related legislation. Testimony was received from Mr. Paul R. Huard, Senior Vice President, National Association of Manufacturers; Mr. Larry S. Stewart, President, Association of Trial Lawyers of America; Mr. Victor E. Schwartz, Esq., General Counsel, Product Liability Coordinating Committee; Mr. Daniel E. Richardson, Administrator, Latta Road Nursing Home, (testifying on behalf of the National Federation of Independent Business); Mr. Jeffery J. Teitz, Executive Committee, Vice-Chair, Assembly on Federal Issues of the National Conference of State Legislators; and Mr. James A. Anderson, Jr., Vice President of Government Relations, National Association of Wholesaler-Distributors.

During the 103rd Congress, the Subcommittee on Commerce, Consumer Protection and Competitiveness held three days of hearings on H.R. 1910, the Fairness in Product Liability Act, whose language is closely tracked by H.R. 917. The first hearing was held on February 2, 1994 and focused on the impact of product liability reform on the health care industry. The Subcommittee received testimony from Ms. Stephanie Kanarek; Mr. Ted R. Mannen, Executive Vice-President, Health Industry Manufacturers Association; Mr. Calvin A. Campbell, Jr., President and CEO, Goodman Equipment Corporation (testifying on behalf of the American Mining Congress); Ms. Lucinda Finley, Professor, State University of New York at Buffalo Law School; Mr. Victor E. Schwartz, Esq., General Counsel, Product Liability Coordinating Committee; and Mr. Bruce Finzen, Robins, Kaplan, Miller & Ciresi.

The second hearing sought a broad spectrum of opinion on the bill from consumers, manufacturers, and academics and was held on April 21, 1994. The Subcommittee received testimony from Mr. Marcus Griffith, President, The Hairlox Company (testifying on behalf of the National Association of Manufacturers); Ms. Dianne Weaver, Weaver, Weaver & Lipton; Ms. Norma Wallis, President, Livernois Engineering (testifying on behalf of the Association of Manufacturing Technology); Mr. Robert Creamer, Executive Director, Illinois Public Action; Professor Stuart Madden, Pace University School of Law; and Professor Andrew Popper, Deputy Dean, Washington College of Law, The American University.

The Subcommittee received testimony from victims of defective products and other interested parties on May 3, 1994, from Janey and Lawrence Fair; Amy Goldrich for Sybil Goldrich, Command Trust Network; Charles Ruhi (accompanied by Don Singer, Attorney); James L. Martin, Director, State & Federal Affairs, National Governors Association; Emmett W. McCarthy, Dreis and Krump Manufacturing Company; James Oliphant, President, Defense Research Institute; Liberty Magarian (testifying on behalf of the Product liability Coordinating Committee); and Larry R. Rogers, Power, Rogers, & Smith.

In the 100th Congress, the Subcommittee on Commerce, Consumer Protection, and Competitiveness held seven hearings on Federal product liability reform covering punitive damages reform, joint and several liability, workplace safety, the impact of product liability reform on the general aviation industry, state-of-the-art and government standards defenses, the effect of product liability reform on the affordability and availability of product liability insurance, and the issue of product liability reform in general.

Witnesses included: Representatives Jim Slattery and Al Swift; the Honorable Malcolm Baldrige, Secretary of Commerce; The Honorable Harry L. Carrico, Chief Justice, Supreme Court of Virginia; Mr. Robert H. Mallot, Chairman and CEO, FMC Corporation; Mr. Victor E. Schwartz, Esq., Crowell & Moring; Mr. John B. Curico, Chairman, President, and CEO, Mack Trucks, Inc.; Mr. Marcus M. Griffith, Hairlox Company; Mr. Joseph Goffman, Public Citizen; Ms. Pamela Gilbert, United States Public Interest Research Group; Mr. Gene Kimmelman, Legislative Director, Consumer Federation of America; Robert L. Habush, President, Association of Trial Lawyers of America; Mr. John T. Subak, Action Commission to Improve the Tort Liability System, American Bar Association; Mr. Stephen Daniels, Project Director, Punitive Damage Project, American Bar Foundation; Professor David G. Owen, University of South Carolina School of Law; Mr. Malcolm Wheeler, Esq., Skadden, Arps, Slate, Meagher & Flom; Mr. Bill Wagner, Esq., Wagner, Cunningham; Mr. George S. Frazza Esq., General Counsel, Johnson and Johnson Products, Inc.; Professor David Randolph Smith, Vanderbilt University School of Law; Professor Aaron Twerski, Brooklyn Law School; Senator Robert Frey, National Conference of State Legislators; Mr. Alfred W. Cortese, Jr., Esq., Kirkland & Ellis (representing Lawyers for Civil Justice); Mr. Robert Martin, Esq., Martin, Pringle, Oliver, Tripplett & Wallace (representing Beech Aircraft Corporation); Mr. Charles T. Hvass, Jr.; Mr. Frederick B. Sontag, President, Unison Industries; Mr. C.O. Miller, Safety Systems, Inc.; Mr. John S. Yodice, Esq., General Counsel, Aircraft Owners and Pilots Association; Mr. Jonathan Howe, President, National Business Aircraft Association; Mr. David M. Silberman, Associate General Counsel, AFL–CIO; Mr. John Mottley III, Director of Federal Government Relations, National Federation of Independent Business; Mr. Richard Duffy Director, Department of Occupational Health and Safety, International Association of Firefighters (accompanied by Cheryl Gannon, Legislative Assistant); Mr. Kent Martin, Chairman of Government Affairs Committee, National Printing Equipment and Supply Association (accompanied by Mr. Mark J. Nuzzaco, NPES Government Affairs Director); Mr. James A. Mack, Public Affairs Director, National Machine Tool Builders Association; Mr. Jonathan Reynolds, Esq., Cosco, Inc.; Mr. Clarence Ditlow, Executive Director, Center for Auto Safety; Mr. Geoffry R.W. Smith, Esq., McCutchen, Doyle, Brown, and Enerson; Dr. Sidney Wolfe, Health Research Group; Mr. R. David Pittle, Technical Director, Consumers Union; Professor Nicolas A. Ashford, Associate Professor of Technology and Policy, Massachusetts Institute of Technology; Mr. Howard M. Acosta, Esq., Rahdert, Acosta, and Dickson, P.A.; Professor Jerry Phillips, University of Tennessee School of Law; Richard A. Bowman, Esq., Bowman and Brook; Mr. Frank S. Swain, Chief Counsel for Advocacy, United States Small Business Administration; Professor Joseph A. Page, Georgetown University Law Center; Mr. Edward H. Southton, Deputy Commissioner for Company Supervision, Office of the Insurance Commissioner; Ms. Linda Matson, State Director, National Federation of Independent Business (accompanied by Ms. Mary Jane Norville, National Federal of Independent Business); Ms. Jean Stinson, Vice President, R.W. Summers Railroad Contractor, Inc.; Ms. Debra Ballen, Vice President for Policy Development and Research, American Insurance Association; and Mr. Thomas A. O'Day, Associate Vice President, Alliance of American Insurers (accompanied by Mavis A. Walters, Senior Vice President, Insurance Services Office).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title; Table of Contents.

This section provides the title of the Act and a table of contents.

Section 2. Preemption.

This section establishes the scope of the Common Sense Product Liability Reform Act, governing any product liability action in any State or Federal court brought against a manufacturer or product seller, on any theory, for harm caused by a product. It does not include actions for commercial loss. State law is only superseded to the extent

that State law applies to the same issue. The Act does not affect the sovereign immunity of the States, choice-of-law rules, venue, or environmental laws.

Section 3. Product Seller Liability.

This section sets forth the standard of liability for product sellers. A product seller is only liable for harm caused by its product where (1) the claimant establishes that the product was sold by the seller, that the seller failed to exercise reasonable care regarding the product, and that such failure was a proximate cause of the claimant's harm; (2) the seller made an independent express warranty, the product failed to conform to the warranty, and such failure caused the claimant's harm; or (3) the seller was engaged in intentional wrongdoing as determined under State law, and such wrongdoing was the proximate cause of the claimant's harm. Sellers are not required to inspect a product where there is no reasonable opportunity to inspect such product in a manner which would reasonably have revealed the aspect of the product which caused the claimant's harm. A seller would become liable, however, by stepping into the shoes of the manufacturer if the State where the action is filed would not be able to serve process against the manufacturer, or if the State determines that the claimant would be unable to enforce a judgment against the manufacturer.

Section 4. Alcohol and Drug Defense.

This section provides a defense to a liability action where a claimant is more than 50% responsible for the accident causing harm as a result of being under the influence of intoxicating alcohol or illegal drug. The determination of intoxication or whether the claimant is under the influence of alcohol or drugs shall be made according to the relevant State law. Illegal drugs include any controlled substances according to federal law.

Section 5. Misuse or Alteration.

This section allows a manufacturer or product seller to establish that a percentage of a claimant's harm was proximately caused by the misuse or alteration of a product in violation of an express warning or instructions, or by the misuse or alteration of a product involving a risk of harm which would be known by the typical consumer. The award of damages against the manufacturer or product seller would be reduced by such percentage of claimant's misuse or alteration. The manufacturer's or product seller's liability shall not, however, be reduced by the percentage of responsibility for the harm attributable to the misuse or alteration of a product by the claimant's employer or coemployees who are immune from suit by the claimant pursuant to State law applicable to workplace injuries. These provisions only supersede State law to the extent that State laws are inconsistent.

Section 6. Statute of Repose.

This section bars liability for a product liability action unless the complaint is served and filed within 15 years of the time of first retail purchase. This bar will only apply, however, if the claimant is eligible for workers' compensation for the harm, if the harm did not cause a chronic illness, and if the manufacturer or seller did not include an express written warranty as to the useful safe life of the product which was longer than 15 years.

Section 7. Punitive Damagers.

This section provides that where states allow punitive damages, such damages may be awarded where a claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by the product. The punitive damages awarded shall not exceed the greater of $250,000 or three times the economic injury.

A failure to exercise reasonable care in selecting among alternative product designs or warnings shall not by itself constitute conduct meriting punitive damages, and punitive damages may not be awarded unless compensatory damages have been awarded which are not merely nominal damages. A defendant may request a separate proceeding to determine an award of punitive damages, in which case evidence related only to the claim of punitive damages shall not be admissible in the proceedings to determine compensatory damages.

The trier of fact shall consider all relevant evidence in determining a punitive damage award, including the severity of harm, the duration, concealment, or profitability of the defendant's conduct, the number of products sold by the defendant which can cause such harm, previous punitive awards to similar claimants, prospective compensatory awards to other claimants, the criminal or civil penalties imposed on the defendant for the complained of conduct, and whether any of the foregoing have been presented in a prior proceeding involving the defendant.

Punitive damages shall not be awarded against a manufacturer or seller of a drug or device which caused the claimant's harm where such product was preapproved by the Food and Drug Administration (FDA) with respect to its formulation, performance, or adequacy of packaging or labeling, or where it is generally recognized as safe and effective pursuant to conditions established by the FDA. This bar on punitive damages shall not apply where the defendant, before or after FDA approval, intentionally and wrongfully withheld from or misrepresented to the FDA information which is required to be submitted concerning the drug or device, or if any illegal payment to FDA employees were made for the purpose of securing or maintaining drug or device approval.

The manufacturer and seller of a drug shall not be held liable for punitive damages for a product liability action for harm relating to the adequacy of the drug packaging or labeling, where the drug is required to have tamper-resistance packaging (and labeling) under regulations of the Secretary of Health and Human Services, unless the claimant establishes by clear and convincing evidence that the drug product is substantially out of compliance with such regulations.

Section 8. Several Liability for Noneconomic Damages.

This section provides that joint liability for noneconomic damages shall not be recognized. A separate judgment shall be rendered against each defendant for their several liability for noneconomic damages, which shall be in direct proportion to their individual percentage of responsibility for the claimant's harm, as determined by the trier of fact.

Section 9. Federal Cause of Action Precluded.

This section precludes any new Federal cause of action pursuant to a Federal question or Act Congress regulating commerce. It is intended to ensure that no additional jurisdiction is granted under this Act to the Federal courts.

Section 10. Frivolous Pleadings.

This section provides that the signing or verification of a pleading in a product liability action shall be considered a certification that to the signor's or verifor's best knowledge, information, and belief, formed after reasonable inquiry, the pleading is not frivolous. A pleading is defined as frivolous if the pleading is groundless and brought in bad faith or for the purpose of harassment or other improper purpose such as to cause unnecessary delay or needless increase in the cost of litigation. Groundless is defined as having no basis in fact or unwarranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

Within 60 days after a pleading in a product action is filed, a party may petition the court to determine the pleading is frivolous. In making this determination, the court shall consider the multiplicity of parties, the complexity of the claims and defenses, the length of time available to the party to investigate and conduct discovery, and the affidavits, depositions, and other relevant matters. If the court determines that a pleading is indeed frivolous, the court shall impose an appropriate sanction on the signatory or verifier of the pleading, which may include the striking of the offending portion or the entire pleading, the dismissal of a party, or an order to pay the reasonable expenses of an opposition party incurred because of the filing of the pleading, including costs, fees of attorneys, witnesses and experts, and deposition expenses. A general denial and the amount requested for damages shall not constitute a frivolous pleading.

Section 11. Liability of Biomaterials Suppliers.

This section provides that a biomaterials supplier is liable for harm caused by a medical device only if the claimant establishes that the biomaterials supplier's failure to meet contract specifications as set forth below was an actual and proximate cause of harm to the plaintiff. The biomaterials supplier is deemed to have failed to meet contract specifications if the raw materials or component parts delivered by the biomaterials supplier did not constitute the product described in the contract between the biomaterials supplier and purchaser, or they fail to meet any specifications that were provided to the biomaterials supplier and not expressly repudiated prior to acceptance of delivery of the supplies, or that were provided to the biomaterials supplier or to the manufacturer by the biomaterials supplier, or which are contained in a master file submitted by the biomaterials supplier to the Secretary of Health and Human Services (HHS) that is currently maintained by the biomaterials supplier for the purposes of premarket approval of medical devices, or specifications that were included in the submissions of the purposes of premarket approval or review by the Secretary of HHS and which have received such clearance and were not expressly repudiated by the biomaterials supplier prior to acceptance.

Section 12. Definitions.

This section provides definitions for the following terms: "biomaterials supplier," "claimant," "commercial loss," "harm," "manufacturer," "product," "product liability action," "product seller," and "State."

Section 13. Effective Date.

This section provides that the Act shall apply to actions which are commenced after the date of its enactment.

Mr. Speaker, I believe this information will help to establish the need for a number of the reforms contained in the pending conference report.

VOL
142
PT
5
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21
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29
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Mr. Speaker, we need commonsense legal reform that will put more power into the hands of the American people to make their own consumer choices, and bring some sanity back to our legal system. We need reforms that recognize responsible behavior, and put an end to the legal jackpot mentality. We need commonsense legal reforms today.

I urge support of this bill.

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Mr. DINGELL. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I will vote for the conference report today for three reasons. The first is that the context is relatively balanced and sound. The second, it is consistent with similar legislation which I have supported over the years. Third, it represents a complete and utter repudiation of the extremist Republican agenda, which included tacking on to the original House bill a host of special interest amendments stripping average Americans of the traditional legal rights for the benefits of the wealthy and the powerful few.

I take some measure of pride, Mr. Speaker, in having launched the original product liability reform movement in the Congress back in the late 1970's. So it is as one who is no John-Dingell-come-lately to this issue. I am pleased today for those people in America's manufacturing community who have worked with me for many years on this issue. I particularly want to single out one individual for special thanks, Dr. Victor Schwarz, an attorney, professor, casebook editor, and nationally renowned expert on tort law who, for nearly 20 years has helped guide this movement and its supporters in the Congress with sound advice, good judgment, and personal integrity.

But I have trouble mustering any great enthusiasm for today's events. The reason is simple. The process leading up to our having this legislation on the floor today has been an utter disgrace. The conference on this bill was a complete sham. At the one and only meeting which the conferees held in December, we were told that the conference would be open and bipartisan. Nothing was further from the truth. Instead, precisely the opposite occurred. The House Republicans proceeded to cut a secret deal in closed meetings with no participation by anybody else. There was no discussion, no consultation, and no conference meeting after that time.

Our staffs were presented with the final conference report on a take-it-or-leave-it basis late one evening after the Members had gone home. We were not even given the courtesy of being able to review the documents overnight. This is apparently the Republican definition of open and bipartisan. It may be open and bipartisan on the other side of the aisle, but it is not open and bipartisan, nor is it a process which follows the traditions of this House or which takes into consideration the concerns of the American people that the matters of this Congress should be done in an open and honorable fashion.

The House Republicans not only excluded Democratic conferees from all discussions and decisions, but they ignored the will of the House on one very important issue. Last year the House voted to include a provision ensuring that foreign companies that sell defective products to American consumers are treated the same way as American corporations. That amendment was adopted under the leadership of the distinguished gentleman from Michigan [Mr. CONYERS]. The House recently reaffirmed that commonsense position by voting to instruct the House conferees to insist on this provision in the conference. Despite two overwhelming and bipartisan votes, I note, the Republican conferees dropped the provision entirely. To my knowledge, the Republican Members never even raised this issue in the secret backroom discussions on this legislation.

I note that all eight House Republican conferees voted against the original amendment on the motion to instruct. Those few Members are entitled to their views, but those views get preferential treatment to foreign corporations to the disadvantages of American corporations. But that should not empower them to so brazenly disregard the expressed will of the House, the expressed will of the American people as clearly expressed by this House. The Republicans say they want to reduce Federal power, yet last year they were busy sticking the Federal snout into dog bite cases, accidents, and slip and fall disputes.

The bill that passed last year as a part of the contract on America amounted to a wish list of all manner of scoundrels and wrongdoers. That legislation protected drunk drivers, sexual predators, scoundrels, and others who prey upon the weak, defenseless, and infirm, and those who intentionally inflict great harm and damage. They treated cases involving intentional and gross misconduct as though they were simple negligence cases.

Fortunately, they are not going to get their way. I do not believe that the Republican leadership ever wanted enactment of this bill as public law. If they did, they would not have allowed it to languish for the best part of a year before even asking for a conference. If they did, they would not have included in the process a system which systematically excluded House Democrats like me who have for years supported product liability reform, and they would not have conducted the overall matter in the way in which they did. Instead, this will get what they really want, not a law, but a campaign issue.

We have reached the bottom of the barrel when for pure partisan games, Republicans will not let Democrats who agree with them work with them or participate in the legislative process. Once again, we have seen, as it has happened so many times in this Republican Congress, the constituents who need real action are getting just promises and press conferences and not real action. They will be the losers.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

I stand here today to plead for a special interest, I say to the gentleman from Michigan, who so quickly criticizes every manner and means of special interest. The special interest for which I make a plea are some 8 million Americans who this day contain in their bodies medical devices that have been implanted, which have saved their lives in many cases, and the supplies for which are being threatened by the massive lawsuits that have caused the suppliers of raw materials to withhold those materials from future medical devices, like heart transplants, brain shunts, heart valves, knee replacements, hip replacements.

That is a special interest, I say to the gentleman from Michigan, where we ought to be doing everything we can to make sure that those consumers who need replacements, who need heart valves, who need all of these medical devices for the sake of their health and their lives, we ought to give them the opportunity to have future medical devices available, access to them. And what title II does, of this piece of legislation, is to release a little bit of the raw material suppliers from that type of massive liability that makes no sense, that keeps them from supplying these raw materials to the manufacturers of these lifesaving medical devices.

When are we going to try to understand that special interests sometimes are those people who are victims of heart attacks, victims of disease that we can help if we simply relax a little bit on the restrictions on liability that some of the suppliers of these raw materials have to face.

I say it is time for us to encourage the President not to veto heart transplants, not to veto brain shunts, not to veto hip replacements, but rather to sign the bill into law that will acquire for the American people a balance and allow them to have access to all sorts of new and wonderful lifesaving medical devices.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds to remind my friend from Pennsylvania, Mr. GEKAS, that title II of the products liability conference report would prohibit most

women from recovering any damages from the supplier of silicone gel, despite evidence that the supplier misled women and many of their doctors about the safety of that product. It would also prohibit suits against suppliers of biomaterials used in the manufacture of medical implants.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. SCOTT], a distinguished member of the Committee on the Judiciary.

Mr. SCOTT, Mr. Speaker, there is no explosion in punitive damage products cases. This chart shows the total number of civil cases that are filed, now many are products liability cases. The products liability cases get decided by trial, and then when you get down to punitive damage awards in liability cases, it is in the millions; 391 million of the cases filed are punitive damage cases involving products.

Mr. Speaker, one study in 1995 of cases decided in 1992 could only find three punitive damage cases in the entire United States.

This bill is not balanced. It helps corporate wrongdoings at the expense of innocent victims. One is the limitation on punitive damages. Although they are rare, they have a deterrent effect. Those pajamas that the ranking member pointed out, for 3 cents per set of pajamas, they could have made them inflammable pajamas, and yet they wanted to make that extra 3 cents for every set of pajamas. It is only the punitive damages that took them off the market.

Mr. Speaker, another benefit for wrongdoers is the issue of joint and several liability. Most States allow the wrongdoers to figure out who has to pay the total damages. This bill forces the innocent victim to chase all the insolvent, out of town, and uncooperative defendants in order to get their full cooperation.

Another little benefit for the corporate wrongdoers is that only overturned State laws can benefit the consumers. The State laws are free to provide additional protection for the corporate wrongdoers, but not allowed to provide any more protection for the consumers.

Mr. Speaker, this hurts the consumer, it helps the corporate wrongdoers, it eliminates the deterrent effect, it benefits the wrongdoers and forces the plaintiff to chase around for the defendants, and I think we should defeat this bill and keep the State laws as they are today.

☐ 1230

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. STEARNS], a member of the committee.

Mr. STEARNS. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, I also rise in support of the conference report, and I was very glad to hear that the gentleman from Michigan [Mr. DINGELL], who is the former chairman of the Committee on Commerce, supports the bill. Also I want to recognize Victor Schwarz for all his long-term work on this project.

For almost two decades, Congress has been struggling to interject common sense into our product liability laws. I want to commend the conferees for their success in bringing balance and reasonableness to our legal system. Everyone has heard justice delayed is justice denied. Well, this legislation ensures legitimate plaintiffs finally have their day in court by ending the frivolous lawsuits that needlessly tie up our judicial system.

Mr. Speaker, these lawsuits have effectively prohibited individuals from pursuing legitimate grievances through the judicial system due to the fact that the dockets are overcrowded with meritless lawsuits. There are studies that indicate that fully half of the costs of our tort system are consumed in legal fees and expenses, while only one quarter goes to compensate actual economic losses. Attorneys are primarily the ones benefiting under the current system. This legislation encourages settlements out of court, thereby getting lawyers out of the way.

I urge all of my colleagues to support this conference report that emphasizes fairness and individual accountability while maintaining an injured party's fundamental right to restitution.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding time to me.

In this very serious and weighty debate, I cannot help but be a little amused that some of the same forces that come here and complain about the litigation explosion, about how our courts are too crowded are the same folks that I read about this week in USA Today who are going around the country making it against the law to speak ill of vegetables. Yes, if you bad mouth brussels sprouts, the USA Today reports, it could cost you, if you are opposed to onions, if you diss a kiwi. Now in 12 States, it is against the law to do that and you can be hauled into court.

So the same folks that come here and say there are too many lawsuits in our courts are going around the country, in fact they are trying to do it this week in Maryland, enacting laws to get us in trouble for speaking ill of vegetables. But if they turn us into a vegetable because of their disregard for safety and health in this country, then our rights will be limited.

Mr. Speaker, this is not about the litigation explosion, it is about limiting the rights of individuals whose health and safety is affected. What about the effect on cost and on jobs that we have heard so much about? Well, the folks that put out Consumer Reports, that is the magazine that a lot of us turn to when we have got to buy a refrigerator or television or some kind of service and we want to find out what the most cost effective alternative is, they report that over 30 million Americans each year are injured by consumer products and 29,000 are killed. Only a small fraction of those result in lawsuits, but the total cost to us of having assurance that there is protection in the event that there is harm caused by a defective product comes to about one penny one of a $5 purchase.

That is a very small price to pay for the assurance that someone who is burned and who will face one painful skin graft after another, to a young family whose infant is going to require care for the rest of that child's life, to a young child who is scarred for life, why deny rights to those people when the cost to America is 1 cent for a $5 purchase?

But we are told, of course, that this is a jobs bill, that it means more jobs. It is only anecdotal evidence that tells us that, but why then if it is a jobs bill are we replacing the concept of personal responsibility with giving foreign manufacturers an advantage over American manufacturers? We say that if you build your project in Taiwan, in Singapore, in Germany, you are going to have under this piece of legislation advantages that are not available to American manufacturers. I think that has got it all backward.

Just as this reliance on something other than personal responsibility has got it all backwards, just as the argument of States' rights, of letting our States resolve these issues, rather than turning them all over to the Federal Government to resolve, has got it all backwards.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from South Carolina [Mr. INGLIS].

Mr. INGLIS of South Carolina. Mr. Speaker, I thank the chairman for yielding me the time.

I rise in strong support of this conference report and with some observations. We have heard a lot about how this is going to impair the ability of those that are legitimately injured to recover, so I think it is important just to go through an example. Let us assume, as I did recently when I had an opportunity to discuss this bill at the Wilson Equipment Co. in Spartanburg, SC, that one of their John Deere tractors injures somebody.

Let us assume this scenario. Mr. Jones is cutting grass with a riding lawnmower. A rock is thrown out of the lawnmower, hits Mrs. Jones who is nearby tending the flower garden or something. Mrs. Jones is hurt badly. Let us say she is hurt real badly. Let us see what happens in this case. Well,

VOL
142
PT
5
MR
21
—
29
1996
UMI

of course the Jones are going to sue for the medical bills that Mrs. Jones incurred. They are also going to probably sue for pain and suffering, and they are going to sue for punitive damages, everybody does. So let us see what happens.

Economic damages, let us say she had medical bills of $200,000. Again, I am assuming that Mrs. Jones is really hurt. If she is really, really hurt, it is more than $200,000. But I am intentionally choosing a relatively low number, $200,000 economic damages. Now, let us assume that the jury awards Mrs. Jones $200,000 for pain and suffering. Mind you, it is very important to note this is not limited in this bill. Pain and suffering will not be limited so the jury is free to decide whatever they want. Mrs. Jones is really hurt and they give her $200,000 pain and suffering. She has $200,000 economic damages, $200,000 pain and suffering.

Now we come to the only limit imposed in the bill and that is of course punitive damages. The jury is instructed and here is what they can do. They can give her 200 plus 200 times 2, would be the maximum that they could give in this case. So Mrs. Jones here will get $400,000 potentially in punitive damages. So she has gotten $200,000 economic damages, plus $200,000 pain and suffering, plus $400,000 punitive damages. I am sorry, plus $800,000. She has 200 plus 200 times 2, so that is $800,000 punitive damage amount. So Mrs. Jones can recover 200 plus 200 plus 800, which is $1.2 million.

Now, that is a fair amount of money, but it does not really put Mrs. Jones back where she was, and we have to admit that. If she is really badly hurt, it is just a bad situation. She has gotten $1.2 million, but she would really rather not have the money. She would really rather have her health back. But we cannot put her health back, so we give her $1.2 million. That is our system operating rationally, I believe; $1.2 million for this hurt Mrs. Jones.

Now mind you, there is still plenty of money for the trial lawyers, and I realize a lot of people in this body defend trial lawyers as though they are the greatest folks in America. There is still one-third for them, so in this case the trail lawyers get $400,000. There is still plenty of money in the system for adequate recovery.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from California. [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Speaker, I rise in support of this bill.

I would like to take this time to comment on the issue of tort reform, and its ramifications on our business community, and especially upon California's Silicon Valley.

For years, the debate has raged over whether our country engages in excessive litigation. Some have offered the argument that lawsuits are socially useful in defusing workplace tension, deterring dangerous means of production, and compensating those who have been harmed. Others have as strongly maintained that lawsuits have siphoned off scandalous amounts of time and energy, caused many good ideas never to be commercialized, dried up capital for investment, and crippled America in competition with the world. So, who is right?

I have concluded that our civil liability laws are indeed in need of reform to stem the flood of frivolous lawsuits that have detrimentally affected productivity and overall employment not only in California but across the Nation. My position is based upon a study that I participated in, which showed conclusively that the more a State reformed its civil liability laws, the greater its productivity and employment increased.

Here are a few facts and statistics:

Frivolous strike suits, which allege fraud when stocks take inevitable dips, have hit every one of Silicon Valley's top 10 companies and more than 60 percent of the valley's high-technology firms.

According to one estimate, shareholder suits are a $1.4 billion a year business, with settlements averaging $11 million.

A suit brought against 60 computer monitor manufacturers alleges fraud on behalf of the manufacturers because monitors labeled as 15 inches have—due to the dark border characteristic of computer technology—an actual viewing space of 14¾ inches.

The accounting firm of Tillinghast-Towers Perrin reports that the tort portion of our legal system cost $152 billion in 1994—two and half times the industrialized world average.

What we need are reforms that will stem this explosion of tort litigation; reforms like placing caps on contingent fees and pain and suffering awards; allowing defendants to pay damages over time; constraining punitive damages; and modifying the joint-and-several-liability rule where a party only partly at fault can end up paying the entire damage award if the other parties at fault cannot.

I want to make clear that I seek only to bar frivolous lawsuits and not block those that have merit. A step in this direction was taken when Congress over-rode a Presidential veto and enacted the Securities and Litigation Reform Act of 1996. It reigns in frivolous class-action suits that victimize employers and investors across State lines. It provides, for example, protection to companies with solid records of rapid growth from lawsuits over a minor loss in a single quarter. And when legal costs can easily rise to the millions of dollars, mostly new, startup entrepreneurial high-technology firms are at greatest risk. This is especially true for Silicon Valley.

The litigation mess is not only affecting big business. It also prevents small businesses from expanding, causes new drugs and new products never to reach the market, and results in charities running short of volunteers.

Everyone today is a potential hostage to capricious and expensive lawsuits. National civil liability reform is needed to correct this broken system. I do not seek to sanction corporate irresponsibility, but merely to obtain reforms necessary to obtain fairness and common sense; with the result being more jobs and greater productivity in every State.

Finally, I was disturbed to learn that there is now an Internet web site which invites the public to invest in shares of lawsuit stock. Essentially what this outfit wants to do is publicly sell and trade stock based not on the performance of a corporation, but on the outcome of a lawsuit. I cannot view this approach in any other light than as another example of how out of control our tort system has become and how essential it is that we institute systemic reforms like the ones I have mentioned.

Mr. CONYERS. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, I remind the distinguished gentleman from South Carolina [Mr. INGLIS] that in his hypothetical, he used up 1 of the 14 punitive damages cases that occur annually in the U.S. courts.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BONIOR], the minority whip.

Mr. BONIOR. Mr. Speaker, I thank the gentleman from Michigan [Mr. CONYERS] for yielding me the time.

Let us be clear what this bill does. Let me put this in another perspective from the example that was just given by my friend from South Carolina. If you are a corporate CEO and you make $1 million a year and God forbid you should have an accident because of a product malfunction, this bill says that you can receive full recovery of your economic losses. But if you are a working mom and you make $15,000 a year and you are struggling to put a little away for your child's education and you should be injured by that same accident and that accident involves more than one wrongdoer and God forbid you should lose your ability to have children, you may never be fully compensated for pain and loss. Now that is what this bill does.

This bill says the lives of corporate CEO's and Wall Street bankers and the economic elite are more important and more valuable than the lives of the working men and women, and I think it is shameful. Mr. Speaker, we do not need a bill that tilts the balance away from victims of defective products and toward the big corporations who make them.

We certainly do not need a bill that gives foreign manufacturers a leg up on American companies. Even though 82 of my Republican friends supported an amendment that put America first, it was dropped in the conference committee by the Republicans. That too is shameful. Mr. Speaker, if we live in a country where 98 percent of the growth in income since 1979 has gone to the top 20 percent, the other 80 percent has gotten 2 percent of real income growth in this country. What is going on here?

Mr. Speaker, yesterday the Republican leadership, in both this body and in the other body, blocked efforts to raise the minimum wage, and once again we are here today trying to write special rules for the wealthy one more time. Mr. Speaker, enough is enough.

It is a tragedy when anybody is injured by a faulty product. Let us not make women and children and seniors pay a special price.

I urge my colleagues to vote "no" on this conference report. The President has indicated he will veto this bill because of the reasons and other reasons that have been given on this floor, the reasons that I gave and others have given, and we will need roughly 140-some votes to sustain his veto. So this is a very important vote this afternoon, and I urge my colleagues for economic justice for the people that we represent that we send this measure down to defeat this afternoon.

Mr. BLILEY. Mr. Speaker, could we get a report on how much time remains?

The SPEAKER pro tempore (Mr. GUNDERSON). The gentleman from Virginia [Mr. BLILEY] has 11 minutes remaining, the gentleman from Illinois [Mr. HYDE] has 8 minutes remaining, the gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 7 minutes remaining.

Mr. BLILEY. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in support of the conference report.

For almost two decades now, the House Committee on Commerce has grappled with the issue of product liability reform. After developing an extensive record on the subject of product liability law, the committee concluded that the present system places an enormous burden on interstate commerce, inflates prices, stifles innovation, and subjects manufacturers and sellers to a capricious lottery where sanctions can exceed any found in criminal law.

Last year, we worked with the Judiciary Committee to draft a joint legal reform bill to bring some common sense back into our legal system. We then worked with our Senate counterparts to help them move this critical legislation forward. While the final conference agreement falls somewhat short of the reforms passed in the House, it still represents a great achievement and far more than anyone might have hoped for just 2 years ago.

For the first time in our Nation's history, we will enjoy the protections of proportionality requirements for punitive damage awards. Damage awards for speculative noneconomic injuries will now be based directly on someone's actual responsibility for the harm, not on the depth of a defendant's financial pockets. Plaintiffs who harm themselves primarily through their own excessive use of drugs and alcohol will no longer be able to transfer the costs of their addiction to third parties, and frivolous claims against innocent product sellers and biomaterials suppliers will no longer be allowed.

These reforms will play a critical role in increasing the long-term competitiveness of American industry and thereby protecting American jobs. And they will create a renewed emphasis on fairness and accountability in our legal system, without undercutting the basic rights to restitution for consumers.

I recognize that the President has promised to veto this pro-jobs, pro-fairness bill. This is unfortunate. As Governor, President Clinton twice supported resolutions drafted and unanimously approved by the National Governors Association calling for Federal product liability reform.

Throughout the last year we have been working with Senator ROCKEFELLER's staff in the Senate to communicate with the President and modify the bill accordingly, deleting numerous stronger House reforms and adopting an extended additur provision for punitive damages which his own Cabinet helped to write. The administration's last minute bait-and-switch was subsequently decried by Senator ROCKEFELLER, who noted that "Special interests and raw political considerations in the White House have overridden sound policy judgment." This sort of trial lawyer protectionism and turnstile politics, revealed earlier on securities litigation reform, is beginning to ring very hollow.

Part of the premise of the Contract With America was to put an end to politics as usual in Washington. This legislation is a consensus solution, built on decades of bipartisan efforts by my Democratic colleagues and fellow Republicans, for bringing some balance and reasonableness back into our legal system. I ask your support in helping us bring this commonsense reform back into our legal system.

Let us pass this with an overwhelming vote and send it to the President and hope he changes his mind.

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Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in opposition to the conference report on the product liability reform. This bill benefits those who place profits above the health and safety of the American public, and it should be defeated.

Let's look at some of the real-life consequences that this ill-considered legislation would have.

Currently, there are approximately 1 million women who have silicone breast implants. To date 100,000 of them have suffered real harm from these devices. Although these women were told that the implants were safe, many began to leak and break—exposing the women to the silicone inside. If this bill is passed, implant manufacturers will be exempted from liability, and thousands of the women who are ill will be prevented from recovering damages.

This bill will hurt American women in other ways. The legislation eliminates joint and several liability for noneconomic losses—which means that if a housewife from my district and Donald Trump are both injured by the same defective product, Donald Trump will be able to recover much more money for injuries. That's wrong Mr. Speaker—we must not make it more difficult for women to recover damages from the companies of defective products.

I would also like to bring to my colleagues' attention a very shocking unintended result of this bill. Mothers Against Drunk Driving opposes this bill because it will cap punitive damages that can be enforced against those who serve alcoholic beverages to obviously intoxicated persons and minors.

Last year, this House passed a measure that I introduced that will finally get tough on underage drunk driving. That measure is now the law of the land and States that do not have zero tolerance policies for teens who drink and drive are in the process of adopting them. We must not now take away one of the biggest disincentives bar owners have to serving minors by passing this bill. We must not send a mixed message to Americans about drunk driving.

My colleagues, this bill says to companies that making defective products is just another cost of doing business. We must demand that companies take responsibility for their actions—just as we demand that individuals do. Those who put profits ahead of their fellow human beings do not deserve our protection.

Mr. HYDE. Mr. Speaker, I yield myself 30 seconds simply to say I have heard so many things about this bill that just are not so. There is nothing in the world inhibiting a woman who has a faulty breast implant from suing and getting full recovery, economic, noneconomic, and, if the case warrants, punitive damages, twice whatever the economic and noneconomic total up to. And if it is an egregious case, the judge can add more to it.

So I just do not know what I am hearing here. They are talking about some other bill that has not been written.

Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Speaker, I thank the gentleman for yielding me this time.

I, too, rise in strong support of this bill, this conference report, and think it is a very modest bit of reform.

As an attorney who practiced in the civil litigation area for a number of years, it is interesting to hear the debate on this floor. It is very different being in the courtroom where you can respond directly to statements that are made, sometimes outrageous statements that are made, sometimes

VOL
142
PT
5
MR
21
—
29
1996
UMI

misstatements that are made. And in the arena on this floor it is difficult to sit here and listen to some of these examples that are being thrown out as why this very good reform should not occur.

Let me tell you what, let me respond, I guess, in the best way I can to some of the allegations being made about this bill. The chart goes up and says, well, punitive damages cases are not that significant in number, very few are filed in a year, even less awarded.

Let me tell you in the real world how punitive damage cases affect you and I that cause a huge litigation tax on the average American citizen that is in the thousands of dollars each year that we all pay for in some way or another in direct or indirect costs of product liability lawsuits.

Every case that comes in that has punitive damages claims has to be assessed and has to be judged as to whether or not what that case is worth in terms of actual compensatory damages and what it is worth from a punitive damages standpoint. Many of these cases are settled before they even result in lawsuits. They are settled before a case is even filed. Those cases are not going to show up on this chart. Most cases are settled, once they are filed, out of court before they go to judgment. As you settle these cases wherever it is in the process, you have to take into account what is this case worth from a punitive damage standpoint. It affects very dramatically the cost of litigation. Cases that should be settled early should be settled quickly, that do not have to go through the long extensive litigation that costs everyone, are not settled because of this. If we place a cap, a reasonable cap, on punitive damages, it will help the consumer, it will help the injured plaintiff get quicker disposition of their lawsuit, quicker settlement, quicker money in their hands, quicker compensation. And I suggest to you it would be more fair to all concerned. It completely allows full recovery for compensatory damages. This bill is no way affects a person's right to recover for pain and suffering, permanent disability, lost time from work, future income, earning capacity diminished, medical bills. It affects that in no way. All it affects are punitive damages, and its gets some correlation, some relationship between this case and not a pie-in-the-sky figure that that particular jury feels like awarding that day, whether it is a McDonald's case or the BMW case or whatever. It makes the person responsible pay for the negligence they caused, their portion of the injury. If a defendant is found liable for 20 percent of the injury, they do not have to pay 100 percent of the damages. That is only fair. You only pay what you are responsible for causing. And we are hearing complaints about that.

We have heard about the special-interest groups here, and we are not really, I guess I should say that this debate really may even be moot because we have already been told by our President that he is going to veto this bill. He says he is for small business and for doing things to stimulate the economy and helping out the small people. But yet he is already saying he is going to veto this very modest bill that is supported by people on both sides.

This is not a Republican-Democrat issue.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN], a distinguished member of the Committee on the Judiciary.

Mr. BERMAN. Mr. Speaker, I rise in opposition to the conference report on what I would view as the Victim Compensation Depriving and Deterrence Weakening Product Liability Report.

I do not oppose this bill in the belief that American law on product liability is perfect. But like many other Members of this body, I found that my efforts, in committee and on the floor, to moderate the excesses of this legislation, and in so doing, to articulate the sorts of reforms I can support, were entirely shut out by a majority hell-bent on moving an industry agenda at the expense of American consumers.

Nor is it the notion of uniform Federal law on the subject of product liability which I oppose, even though this subject has traditionally been viewed as a matter for State law. States' rights is not my watchword, though I thought it was the operating principle for my colleagues in the majority, a principle they seem to set aside when expedience dictates.

But what we find in this conference report is not uniformity. Instead, what we have is Federal standards except where a State's law is worse in terms of consumer protection. So let there be no mistake about what this legislation is about. Uniform national standards? Hogwash. This is lowest common denominator justice for consumers.

I also want to express my very strong support for solving the problems faced by biomaterials suppliers. I am dismayed that their interests have been sacrificed to advance an extreme agenda I cannot support. If this bill is indeed vetoed, and that veto is sustained, I hope that we can move the biomaterials access reforms to solve that particular industry's problems for the benefit of all Americans.

Mr. Speaker, I cannot support legislation that deprives injured victims of fair compensation, and eliminates important deterrents to the design and manufacture of unsafe products in the first place. I oppose this conference report, and I urge my colleagues to do so as well.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from North Carolina [Mr. WATT], a member of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I rise today in opposition to House conference bill H.R. 956, the conference report on the Products Liability Reform Act.

Folks are on the floor today blaming lawyers for all the ills in America today. And this conference report is suppose to protect America from these greedy trial lawyers. Well, for the record I want you all to know that prior to coming to this place, I practiced law for 22 years and I'm proud of that and I'm proud of the contributions of the bar in shaping America and making it a better place for all of us.

People often quote the line from Shakespeare's "Henry VI," "First thing we do, let's kill all the lawyers." Sounds funny out of context. But they don't tell you about the scene. It's a scene where a corrupt king and his followers are trying to figure out how to suspend everybody's freedoms and rights and the only folks who could possibly stand in their way—you got it, the lawyers. Think about that the next time you're tempted to use this quote.

Calling someone a hypocrite might be funny too, if it's taken out of context. And yesterday, we spent an hour debating whether it was proper debate for one of my Republican colleagues to call Democrats hypocrites. Well, I want to be careful not to call any one or any party a hypocrite, even though the ruling of the Chair yesterday confirmed that I would be within my rights to do so. I would, however, like to pose the question in the context of this debate on product liability reform: Exactly who is being hypocritical?

Who is being hypocritical when they claim they want to stop the explosion of individual product liability claims so that you can alleviate the backlog on civil court dockets when, in fact, the backlog has been cased by an explosion of civil claims filed by big businesses against other big businesses over commercial disputes? My 22 years of practicing law showed me, and the statistics confirm it, that antitrust and commercial litigation is getting longer and longer, more and more complex and taking up more and more court time. At the same time, individuals are being squeezed out and priced out of courts. Courts are no longer for the people. They can't afford them.

Who is being hypocritical when they preach about personal responsibility for individual citizens but then absolve corporate citizens from responsibility for injuries they cause, even when the corporations make a calculated business decision to do so?

Who is being hypocritical when they claim to be champions of States' rights and a limited Federal Government on one hand, but then fight for this legislation, which would preempt the laws of 50 States which have developed over hundreds of years on the other hand?

Finally, who is being hypocritical when they claim to support individual rights even though they're supporting a bill that will severely limit an individual's access to justice? That's what this bill does.

Vote "no" on this bill. Fight hypocrisy.

Mr. CONYERS. Mr. Speaker, I yield 1 minute and 20 seconds to the gentleman from Massachusetts [Mr. FRANK], the ranking member of the Subcommittee on the Constitution of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, I had been undecided on this bill. I am now going to vote against it. It is a far better bill than the one the House previously did. I still have concerns about the unequal effects on women.

But I must tell you that I am very unprepared at this point to vote for one more piece of legislation that the corporate leadership of the country wants at a time when it has unfortunately been so resistant and unyielding to the cries many of us have made for some fairness and for some social justice.

A company in the city I represent, New Bedford, we just learned, has been bought up by a larger entity and a profitable company will be shut down, jobs will be lost, and it will be moved away. In the right overall mix, I am prepared to support product liability. But at a time when the minimum wage is stonewalled, when unions are, in effect, dismantled by the misuse of the law by employers, when corporate salaries go up and up and up and we get no sympathy whatsoever for the plight of workers, I am not prepared to provide one more thing on the shopping list of those who are already doing well.

On the merits, as part of an overall package, I could support this. I would hope it would be somewhat better drafted. But I will not at this point contribute, will not be part of furthering a public policy imbalance which says that those who own do better and better and those who work, unfortunately, are treated less and less fairly.

As part of an overall approach to fairness in America, I would be supportive of this, but not as simply one more gift to those who are already gifted.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE], a member of the committee.

Mr. GANSKE. Mr. Speaker, I would just like to address the gentleman from Massachusetts for a moment and ask that he strongly consider supporting this bill. I am going to deviate from my notes and speak to a prior speaker who had concerns about breast implants.

My mother had breast cancer when she was 24 years old. I can remember as a child her external implant falling out of her swimming suit. She has had a breast implant since then, and this has been a great thing for her.

As a physician, I have been involved with medical devices. I am concerned about the availability of these products for our patients. My wife had a sister who was born with a condition called hydrocephalus. This is where the cerebral spinal fluid does not get absorbed, and if there is not a cerebral spinal fluid shot, the head rapidly expands. Had that product been available to my wife's sister, she would still be alive today.

If we do not get a handle on product liability, we will not have the type of medical devices that will be necessary to protect the lives and health of our brothers, our sisters, our parents. This is a very reasonable and modest bill. I am glad that my colleague from Michigan [Mr. DINGELL], the ranking member of the Committee on Commerce, supports this bill.

I would urge the President to sign this bill. This is a bipartisan bill. This is not about politics. This should not be about politics. This bill is about providing products for people's health and their lives.

Mr. GANSKE. Mr. Speaker, this do-something Congress is working hard for the American people. Yesterday, we passed legislation to make health insurance more affordable. We passed a bill to allow senior citizens to retain more of their earnings if they remain in the work force. We passed a bill to give regulatory relief to businesses. We passed the line-item veto. And we gave final approval to legislation to modernize our Depression-era farm programs.

Today, we will send to the President product liability legislation to restore common sense in this area; to protect consumers and prevent abuse that unnecessarily raises the price of practically everything we buy. Amazingly, President Clinton has threatened to veto this modest bill that Mr. DINGELL supports.

Mr. Speaker, if the President vetoes this bill, the losers will be the American people, victims of a hidden lawsuit tax. They pay more for goods and services because businesses are forced to spend hundreds of millions of dollars in defending frivolous lawsuits.

Mr. Speaker, this is not partisan politics. A leading Democrat in the other body said "Unfortunately, special interests and raw political considerations in the White House have overridden sound policy judgment." That's a Member of the President's own party speaking.

I urge my colleagues to vote for this limited legal reform bill and to give it the votes necessary to override a threatened veto.

This bill isn't everything I think is important, nor is it everything my colleague from Michigan wants. But in the spirit of cooperation in order to move to a better solution, we are both supporting this bill. I urge Members of both sides to put aside partisan politics and support this bill.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I rise in strenuous opposition to this conference report.

Remember the famous Pinto automobile recall, the exploding gas tanks. Remember the fact that the manufacturer knew the gas tank in the back of the car would explode if hit in an accident. Remember the in-house memo that the manufacturer sent that admitted they knew the gas tank would explode, but made the cold-blooded decision it would not be cost-effective to recall the car? They said it would cost them too much money. Lives were lost. People were harmed.

How dare anybody suggest we dismantle our current product liability laws? Greedy corporations will increase their profits at the expense of the American people if we, as public policymakers, do not have enough backbone to stand up for the protections for our citizens. We do not deserve to be here if we cannot protect them. As many as 6,000 American lives were saved each year due to the current deterrent of product liability laws.

Mr. Speaker, this bill is a sham. It must be defeated.

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Mr. HYDE. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Virginia [Mr. GOODLATTE], a distinguished member of the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Speaker, I thank the chairman of the committee for yielding me this time.

Mr. Speaker, the other side and the President have a number of times said that this is an anticonsumer bill. Mr. Speaker, this is a proconsumer bill. This bill is very fair to those who may experience harm as a result of a defective product, but at the same time taking away from juries the opportunity to give unlimited amounts of awards that affect every consumer in this country by taking product off the market, as the previous speaker, the gentleman from Iowa [Mr. GANSKE], just indicated, and by increasing the cost of insurance and, as every corporation in this country does, spreading that increased cost to every consumer in this country with increased prices. This is a very fair bill. Juries should not be legislators. They are unelected. They should have the opportunity to determine the compensatory damages, to determine the pain and suffering award, and a reasonable amount of punitive damages in cases where they find it appropriate, but it should not be unlimited.

Mr. Speaker, I urge support of this report.

Mr. CONYERS. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. GUNDERSON). The gentleman from Michigan has 10 seconds remaining.

Mr. CONYERS. Mr. Speaker, I yield the balance of my time to the gentleman from Michigan [Mr. DINGELL], the dean of the House, and ask unanimous consent that he be allowed to allocate that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, on balance, this conference report is transparently unbalanced. It is bad where State laws would otherwise benefit consumers and victims, and it is good where State laws would benefit manufacturers. The problems for States, this law preempts States that wish to take action at the State level against product liability abuse.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Who does this conference report exclude the Conyers provision that would have held foreign manufacturers liable for damaging, injuring, killing American citizens?

Why does this conference report on the manufacturer of a defective elevator that might be 14 years, 364 days old, let that victim sue that manufacturer of that defective elevator, but the next day that same victim would not be able to sue because of a statute of limitations that would not allow that to occur?

Why does a victim of a manufacturer's product have to prove, through a higher burden of proof, the damage occurred or the injury occurred?

This is an unbalanced conference report. It does not deserve the support of this conference, because it does not support the American consumer. I urge a "no" vote.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. WHITE], a member of the committee.

Mr. WHITE. Mr. Speaker, until about a year and a half ago, for 15 years I practiced law in the city of Seattle. I have to tell you that anybody who has been involved in our legal system and has taken a fair and objective look at it knows that, unfortunately, our legal system is broken and badly needs to be fixed.

It does not have so much to do with the number of cases that are filed, the number of product liability cases that we have. It is the fact that every week we hear a new ruling that offends our fundamental sense of justice about what our system is supposed to produce. Every week we hear about the cup of coffee is spilled on someone when they are driving in their car and all of a sudden they can collect $2 or $3 million for that. We hear about the paint job that was not quite right on the BMW, and somehow that results in a judgment of multimillions of dollars.

Ordinary people and lawyers and all of us who hear these things get the impression that, unfortunately, it is becoming true that our legal system has turned into an elaborate game of chance, where if you play the game right, you have the right lawyers, you can hit the jackpot and make a lot of money.

That is the most pernicious thing about the developments we have seen in our legal system over the last several years. It is a tragedy when a child is killed or someone is injured because of using a product. But the fact is, no matter how much money we compensate that person for, we cannot bring back the child, we cannot bring back the arm that is cut off, or we cannot fully solve the damages. Unfortunately, our system seems to equate paying money to solving that problem. It is something we just cannot do.

This bill is a modest bill. This bill does not go far enough. There are many additional things that we should do to solve the problems in our legal system. But it is a modest step that we need to take.

Mr. Speaker, I urge my colleagues to vote for this, and I hope very much the White House will change its mind and sign this bill when we pass it in this Congress.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, the sad part of this whole debate is the fact that it attacks the confidence and credibility of an institution that has served Great Britain and the United States and our various States now for some 700 years, and that is the jury trial. Sure, juries are composed of humans, and you are going to find some cases that many people will disagree with the outcome of. Jessie James' brother, Frank James, for instance, was acquitted, even though there was hard evidence that he held up those banks. Many people disagreed with the outcome of the O.J. Simpson case. But overall, Mr. Speaker, the jury trial is a very basic institution. What this does is this takes it out of balance.

I had the opportunity through the years to participate in the American justice system by trying cases, by defending people accused in civil cases, by representing others. So I think we should do our very best maybe to look at this again in light of the fact that we have a very sound institution called the jury system.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I was shocked to learn that the jury system is somehow no longer applicable. That is news to me.

Mr. BLILEY. Mr. Speaker, it gives me pleasure to yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN], a member of the committee.

Mr. TAUZIN. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, let me first make a confession: I am a former trial lawyer. I still hold a law degree.

Let me also disabuse you all of a notion: This House is not composed of a majority of lawyers. Only 170 Members of this House admit or believe they have a law degree; 435 Members, 170, that means three-fifths of this House are not lawyers. That surprises most people. They think it is the other way around.

Many of the lawyers in this House rise as I do today in support of these commonsense legal reforms, and it is to the lawyers in the House I want to speak for a minute.

We have a responsibility to the legal profession. We were educated in it. Many of us practiced in it. Our obligation is to make sure that it is a good profession, that it works well, that justice arises out of it. And when the law and when the practice of the law is such that it encourages frivolous lawsuits, that it encourages the pursuit of deep-pocket defendants instead of responsible parties, when it does not make people personally responsible for their own actions, as this bill does when it says if you are drunk or on drugs and you have an accident and that is the real cause of the injury you ought not be able to sue someone and collect, when we in this body are prepared to write comonsense legal reform, lawyers ought to be the first ones to rise and say we are prepared to do it.

We did that on security litigation reform. We passed that bill by a two-thirds vote of this House and the other body. The President vetoed it. We overrode his veto. We passed good commonsense medical reform, malpractice reform yesterday in this House. I hope we see that through to finish.

If we pass this bill today and send it to the President, I hope he will do something very important. If lawyers in this House can say yes to commonsense legal reform, then the President ought to be able to say no to some of his trial lawyer friends, and he ought to sign this good bill when it hits his desk.

Mr. BLILEY. Mr. Speaker, it is a great pleasure to yield the balance of my time to the gentleman from Colorado [Mr. SCHAEFER], the chairman of the subcommittee.

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 2½ minutes.

Mr. SCHAEFER. Mr. Speaker, I thank the chairman of the committee for yielding time to me. I commend the work of the House conferees on this important legislation. This plan will bring some commonsense to our country's product liability laws.

Sadly, frivolous litigation has become a fact of American life. Too often, bringing people to court has taken the place of personal responsibility. People treat liability damages like a lottery. Urged on by attorneys with huge financial stakes, many people no longer look at themselves first for blame, but instead search out the easiest way for a big court settlement.

Frivolous suits cost our economy up to $80 billion every year. Thus, American companies have become hesitant to pursue technological innovation and product development for fear that their actions may result in never-ending court battles and financial ruin. This well-founded fear is costing jobs, consumer benefits and, if continued unchecked, it will cost America its competitive edge.

I would like to address one particular section, the biomaterials access provision. One of America's leading industries is the biomaterial device field. These products literally save and enhance lives every day. From pacemakers to artificial heart valves to

cataract replacements, the products afford miraculous opportunities for recovery, allowing people to continue their lives.

The suppliers of base materials oftentimes provide the manufacturer with elements of the device that are too costly to produce except in mass quantities, but alone have no implant value or purpose.

Unfortunately, in recent years, these suppliers have been named as codefendants in lawsuits against actual device manufacturers. In almost every case, they are cleared of any wrong-doing or negligence. Nevertheless, in the process, they are forced to spend vast financial resources to achieve exoneration.

This litigation risk has caused many supply companies to, quite simply, stop providing base materials for these life-savings devices. Consequently, the inability of device manufacturers to obtain the needed base supplies is causing the death of the biomaterials industry in America.

The biomaterials section addresses this tragic consequence of overzealous litigation. This language will assure that, quite simply, unless the supplier is negligent in the design specifications requested by the device manufacturer or if the supplier is also a party in the overall manufacture or marketing of the device, the supplier is cleared from liability.

This commonsense legal reform bill goes a long way toward ending this litigation madness, while preserving each individual's right to pursue just compensation for actual harm. I urge my colleagues to support this long overdue reform.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas, Mr. PETE GEREN.

Mr. PETE GEREN of Texas. Mr. Speaker, I rise in support of this conference report.

I believe the Commonsense Product Liability Legal Reform Act has become necessary to deal with our increasingly litigious society and the arbitrary and capricious nature of many punitive damage awards.

Today, in 1996, product liability unquestionably has become a major factor in interstate commerce. Less so 20 years ago, but today product liability determines what goods are available in what States and at what price. Further, liability laws have had the impact of sending the manufacture of goods overseas, taking American jobs with them, for example, as we've seen in the private aircraft industry.

There can be no doubt that the measures in this legislation—punitive damage reform, joint and several liability reform, and a provision similar to an amendment that I offered to the original House bill—that limits the liability of rental and leasing agencies for the tortious acts of another—fall well within this category of appropriate and much needed reform. The changes proposed in this bill will rearrange the legal landscape, but they will further the cause of commerce and competitiveness, reduce costs for consumers and create jobs across America.

The problems we address in this bill are national problems. American citizens, businesses, municipalities, and other charities across our Nation pay $80 billion a year as a litigation tax. And these costs are paid by all of us through increased costs in our goods and services. Today 30 percent of the price of a stepladder and over 95 percent of the price of childhood vaccines go to cover the costs of tort liability. Each new private aircraft made by American workers has a $100,000 litigation tax added to its cost. The present system costs jobs, costs lives, and burdens every citizen in America with a litigation tax that is unaffordable.

The time has come for sensible product liability reform. This legislation will strengthen the economy and the free market by removing the impediments to interstate commerce and encouraging innovation. This legislation provides a national solution to a national problem, and I hope my colleagues will join me in supporting it.

Mr. DINGELL. Mr. Speaker, I yield the balance of my time to the gentlewoman from Texas [Ms. JACKSON-LEE].

The SPEAKER pro tempore (Mr. GUNDERSON). The gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 2 minutes and 10 seconds.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am here to talk about people. I think that is what we have missed in this whole debate. Thirty million Americans are injured by consumer products, not including automobiles; 29,000 people are killed in tragedies that involve everything from medical devices to chain saws.

It is important that my colleagues realize that we should not draw the line in the sand amongst ourselves. This is in fact the people's House. Most do not care what side we are on. They only ask that we remedy a problem that exists for the American people.

I have heard my colleagues talk about frivolous lawsuits and moneys that are expended.

Mr. Speaker, may I share with my colleagues that the Department of Justice said that product liability cases represent only 1.6 percent of civil cases. May I say to my colleagues that we have only had 14 injury awards of punitive damages annually for the last 2 years. But allow me to tell Members a story of an American worker who may be injured by a product older than 15 years old. That injured worker may be injured by a product that explodes while he is trying to work for his family. That individual has no rights under this law. But yet his corporation or his factory could still go to court and charge that the product maker interfered with his business. But that injured employee can no longer go to the court under this legislation. Thirty million Americans are injured by devices.

I heard my colleague talk about breast implants. Let me respect his expertise and the acknowledgment of the progress that has been made in breast implants. But there are many, many women who have suffered under the present design. I want to make sure that the sons and daughters in the future will not suffer the pain of these women who are involved in present-day breast implant litigation.

That is what this House is here for. The people's House is here to ensure the people's rights. And this products liability bill is, in fact, what the New York Times said, it is the "Anticonsumer bill for 1996."

Remember the 30 million, remember the 29,000. Vote against this legislation.

Mr. Speaker, I rise today to express my concerns regarding the conference report on H.R. 956, the product liability reform bill. The proponents of H.R. 956 may have intended for this bill to level the playing field among consumers and manufacturers but it does not achieve this goal. The bill eliminates joint liability for noneconomic damages and caps punitive damages at $250,000 or two times compensatory damages, whichever is greater.

While most interested observers agree that some elements of the current product liability system need to be reformed, they do not believe that such reform is necessary because of a great explosion of product liability lawsuits. The Justice Department's Bureau of Justice Statistics indicates that product liability cases represent only 1.6 percent of civil cases. Another influential study on product liability lawsuits indicates that there have been only an average of 14 jury awards of punitive damages annually for the last two decades.

Contrary to arguments made by proponents of the bill, the current system is not discouraging capital investment or increasing the costs of developing new products. In fact, the General Accounting Office reports that insurance costs to businesses represent less than 1 percent of most businesses' gross annual receipts. Moreover, the National Association of Insurance Commissioners indicate that product liability insurance premiums have dropped by nearly 30 percent over the last 6 years.

President Clinton has already announced that he will veto this bill because it preempts State law when such law favor consumers and defers to State law when such provisions favor the manufacturers. I am surprised that many members of the majority party in the House support this bill's uniform, Federal product liability standards since these Members strongly favor granting more authority to State governments.

Specifically, I am concerned about the elimination of joint and several liability for noneconomic losses because of its potentially disproportionate impact on women, children, and the elderly. The bill retains joint and several liability for economic losses such as lost wages. Noneconomic losses such as disfigurement or loss of fertility deserve similar treatment by the legal system as economic losses such as lost wages. This particularly impacts the number

VOL
142
PT
5
MR
21
—
29
1996
UMI

of breast implant cases affecting women across America.

The provisions of the bill relating to punitive damages must be carefully examined because punitive damages provide a powerful incentive for manufacturers to make strong efforts to ensure that their products are safe. A cap of $250,000 on punitive damages would mean that some large companies may incorporate this figure as a cost of doing business as they implement their quality control procedures for manufacturing products. Moreover, a provision in the bill permits judges to award punitive damages exceeding $250,000 in egregious circumstances. The intent of the bill however, is that a judge would rarely exercise this discretion.

Additionally, I am concerned about the statute of repose provision that prohibits courts from awarding damages for injuries caused by durable goods that are 15 years or older. The definition of durable goods is narrow and excludes various consumer products.

During the recent elections in California, the voters of that State rejected various referenda that would have changed the tort liability system by restricting the rights of consumers.

Mr. Speaker, I urge the Members of the House to carefully review the provisions of this bill and consider its potential impact on millions of American consumers.

Mr. HYDE. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. MANZULLO].

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANZULLO] is recognized for 3 minutes.

Mr. MANZULLO. Mr. Speaker, today we have a great opportunity to move America forward by passing this conference report on products liability reform. This is not a perfect bill, but it is a fair bill. It is fair to the consumers in America, and it is fair to the companies that make the products.

One of the companies is Mattison Technologies of Rockford, IL. This is a company facing liability lawsuits involving products that are as old as the company itself. Madison is celebrating its 100th year of operation. That is correct, Mr. Speaker, Mattison Technologies have been manufacturing tools for one century.

Recently they were sued by a plaintiff in Ohio for a machine that was built in 1917. That is right, 1917, the same year Americans went to fight in the First World War, the same year the Bolsheviks were turning out Czar Nicholas. That is a long time for a machine tool to be functioning and too long for a company to be held liable for one of its products. Mattison has 150 employees and yet every 3 months the sheriff shows up with a brandnew summons bringing a brandnew lawsuit against the company.

I have a letter from Robert Jennings, the general manager. Listen to what he said: "The present product liability situation in this country has had a tremendous impact on our ability to successfully compete in the marketplace."

We are continuously defending lawsuits concerning machines built 30, 60, and even 70 years ago. "We are being penalized for building quality and longevity into our equipment, yet we believe this is what made in America is all about."

And what a bitter irony it is that current law keeps manufacturers from making better equipment or modifying it because that modification could be used to prove the initial design may not have been safe enough.

This bill would help rectify the problem. A 15-year statute of repose would stop such lawsuits on old products.

Mr. Speaker, a company being sued for a machine they manufactured in 1917. This is outrageous. This bill provides a balance. It protects the consumers. It protects the employers. And it also protects employees. Why are the 150 employees of Mattison Technologies the beneficiaries of this legislation? It is easy. Because if Mattison did not have to defend against these lawsuits, they could pour more into productivity, more into investment, more employees would be hired. They would become more competitive overseas.

Mr. Speaker, this is a good bill. It is a tough bill. It is a bill that is good for the economy of America. It is a bill that relates to one of the 1,800 companies in the district that I represent. I would encourage the Members of this body to vote in favor of the conference report.

MATTISON TECHNOLOGIES INC.,
Rockford, IL, March 28, 1996.

Re Common Sense Product Liability Legal Reform Act.

Hon. DONALD MANZULLO,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MANZULLO: On behalf of Mattison Technologies, Inc. and its 150 employees, I ask that you support the above referenced legislation.

The present product liability situation in this country has had a tremendous impact on our ability to successfully compete in the marketplace.

We are required to defend product liability claims against equipment that we built 50, 60, and yes, even 70 years ago.

We recently received a Complaint on a woodworking machine we built and shipped in 1917; that's 79 years ago!

We are being penalized for building quality and longevity into our equipment, yet we believe this is what "Made In America" is all about.

Among other sensible uniform product liability changes, this Act addresses the "forever liability problem" with a 15 year Statute of Repose.

The machinery manufacturing community, so vital to Illinois and the nation's economy, needs this reform.

Thank you for your support.

Sincerely yours,

ROBERT K. JENNINGS.

Mr. CARDIN. Mr. Speaker, I rise to express my disappointment with the conference report on H.R. 956, the Product Liability Reform Act. I have long been a supporter of legal reform and in particular, product liability tort reform. Unfortunately, some of the measures in this bill are too extreme and therefore, I must vote "no" on final passage.

I support a number of the provisions in the conference report including the abolishment of joint and several liability for noneconomic damages and the encouragement of alternative dispute resolution. In addition, the FDA defense proposed in the original House-passed bill was lifted in conference. Under the House bill, plaintiffs would have been barred from winning punitive damages for harm caused by products approved by the Food and Drug Administration.

The conference agreement also contains a more workable legal standard for punitive damages. Under the House bill, plaintiffs would be required to prove that a product was specifically intended to cause harm. The conference languages, which sets a standard of clear and convincing evidence for punitive damages, is a much more reasonable standard.

While the conference report improves on the House-passed legislation on punitive damages restrictions, I believe the language is still unacceptable. I support reasonable caps on punitive damages. However, the conference report allows a large number of businesses to be subject to an unreasonably low cap on punitive damages. In addition, an overall limit on $250,000, or two times compensatory damages, is also too low. I and many of my colleagues had suggested a cap of $500,000. I regret that the Conference Committee did not accept that recommendation.

The additur language was a good attempt to ease the impact of the punitive damage cap. It would allow a judge to award punitive damages above the cap if the judge determines the defendant's conduct was egregious. Although this provision is an improvement, it is subject to constitutional challenge, and would not apply to small business.

As I have indicated, I support many provisions in the conference report. However, there is much that I cannot support, including the preemption of States' rights, the statue of limitations, and lawsuit limits placed on victims of firearms violence.

I find particularly offensive the inclusion of negligent entrustment cases under the limits of this legislation. Sensible product liability reform should not subject cases involving gun or alcohol sales to minors to these new lower punitive damage limits or higher standards of proof.

Mr. Speaker, we can reform the legal system while still ensuring consumer protection. As a supporter of legal reform, I urge a "no" vote on this conference report so that it can be sent back to conference for further consideration.

Mr. BILBRAY. Mr. Speaker, I rise in strong support of H.R. 956.

Because of unwarranted product litigation, medical device manufacturers are in danger of being denied access to essential raw materials for the production of life-saving technologies. An alarming number of suppliers are refusing to sell these raw products to the manufacturers, for fear of being joined in a liability suit against the manufacturer.

Mr. Speaker, a full 32 percent of the Nation's medical device manufacturers are headquartered in California. A great number of these are in my San Diego district. These companies make pacemakers, heart valves, and other implantable medical devices which improve the quality of life and ease the suffering of innumerable patients. These companies depend on patented alloys and synthetics, such as Teflon and synthetic polymers, to ensure that these devices will be compatible with the patients who need them.

Under current law, the suppliers of these raw materials can be liable in product liability actions brought against device manufacturers, even though they have no role in the production or sale of the finished devices. As a result, many suppliers have announced plans to limit or discontinue sales of these raw biomaterials to device companies. This would drastically restrict the ability to provide these innovative devices to people who desperately need them.

This bipartisan conference report will reform this tragic situation, by allowing suppliers to resume sales to cutting-edge California device manufacturers, and in turn ensure that patients nationwide retain access to state-of-the-art technologies. This is about people, Mr. Chairman, and doing what we can to make sure patients in need are provided relief from their afflictions and suffering.

Mr. Speaker, this is a fair and bipartisan reform package, and I urge my colleagues to support it. Let us send H.R. 956 to the President, with the knowledge that Californians who need this reform are watching, as is the entire Nation. A veto of this bill, as promised by the President and supported by the Trial Lawyers Association, would be tragic; however, it would clearly demonstrate to the American people where the priorities of this administration truly lie.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in opposition to the conference report on H.R. 956, the so-called Commonsense Product Liability Legal Reform Act. The only relation this bill has to common sense is that it takes just a little common sense to see that it is designed to protect big business at the expense of U.S. consumers.

It pulls the rug out from under U.S. consumers by applying unfair limitations on the means through which they can seek relief if hurt by a faulty product. It is puzzling that the party who has screamed about States' rights for the last year chooses to impose a Federal standard when it comes to limiting the rights of consumers. While this bill sets a Federal standard for product liability cases it allows States to retain their own laws only when it benefits big business. Specifically it requires States to adhere to the cap placed on punitive damages by this bill, but it does not require punitive damages in States that currently do not have punitive damages.

The arbitrary cap on punitive damages at $250,000 or two times actual damages, which ever is greater, is based on highly inflammatory rhetoric about the explosion of unreasonable jury awards in product liability cases. Product liability cases make up less than 0.5 percent of all lawsuits in the Nation. Cases in which punitive damages were awarded are even fewer. In 1994, punitive damages were awarded in only 15 cases nationwide. And nearly 80 percent of these cases resulted in the withdrawal of the product, improved product design, or strengthened warnings. Punitive damages are meant to punish wrongful actions of manufacturers and to deter the future production of similar faulty products. A cap of $250,000 is hardly a deterrent for a mega-corporation.

For smaller businesses the cap is the lesser of $250,000 or two times actual damages. Utilizing a different standard for small business establishes a precedent that a person harmed by a small business is entitled to less, even though the loss, disfigurement, or pain is equal to or greater than an injury incurred by a product of a larger business.

Furthermore, the bill imposes a more difficult burden of proof in order for punitive damages to be awarded, further reducing the effectiveness of punitive damages as a deterrent. Punitive damages are allowed to be awarded only if the plaintiff proves clear and convincing evidence that the conduct of the defendant was a conscious flagrant indifference to the rights and safety.

The most offensive provision to me personally is the provision which discriminates against women, children, and the elderly by barring joint and several liability for noneconomic damages. Treating economic and noneconomic damages differently establishes a two-tiered system which hurts women, children and the elderly, who typically have damages not related to lost wages. Their damages are injury related and go to pain and suffering, disability and physical losses. Under this bill a high-paid corporate executive would recoup all of his economic, income, damages while a woman who stays home with her children, a person with little or no economic loss, would not. Equal justice should not be dependent on age, employment, and economic status.

The intent of this bill is to discriminate against women, children, and the elderly. Since women have been subject to so many faulty products and drugs, like DES, silicone breast implants, IUD's, and the Dalkon Shield, it is grossly unfair.

I am a DES mother who took this harmful drug. If this law had been in effect at the time of my lawsuit, it would have been very upsetting. My losses would not have qualified for access to joint and several liability. Such a bar to fair and equitable recovery is unconscionable. This bill must be defeated.

If we are going to move toward a national standard on product liability, let it be a fair standard. One that treats men and women the same, one that recognizes the value of noneconomic damages, one that applies fairly to all businesses, and one that does not arbitrarily limit punitive measures needed to curb the production of faulty products.

Mr. Speaker, I urge my colleagues to vote down this conference report.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of this measure and to express his pleasure that this legislation has advanced to this stage and is one step closer to becoming law.

This Member introduced the first product liability legislation in the Nebraska Unicameral Legislature in 1977. During this process this Member realized that this issue must be dealt with on the Federal level, because the vast majority of products and services move through interstate commerce. Addressing product liability at the State level is like patching 1 hole in a tire with 50 holes.

Mr. Speaker, all Americans are paying higher prices for consumer goods and services because this legislation has been delayed for so very long. The insurance costs incurred by companies protecting against and paying for outrageous product liability suits are passed along to the consumer each and every day, in each and every product and service purchased.

Perhaps even more outrageously, the current system unfairly imposes upon the American public product design standards, which are created in response to penalties awarded in a few States with the highest punitive and compensatory damages. Those States get to impose their juries' ideas of appropriate design and safety standards on the rest of the Nation. That is a perversion of federalism. National standards should be set by the national legislature. That is what this bill will do.

Mr. Speaker, this Member has been a longtime cosponsor of product liability reform, dating back to at least 1986 when this Member was an early cosponsor of registration introduced by his distinguished colleague, Mr. ROTH. This Member is pleased that this conference report is before the House for final approval and urges his colleagues to support it.

Mr. RAMSTAD. Mr. Speaker, as chair of the task force which crafted the legal reform plank of the Contract With America, I feel extremely gratified to see an important part of our efforts come so far in the process.

Although the reforms contained in the conference report are not as sweeping as those the House put forward last year, they are a vast improvement over the present legal system. Our present system results in higher prices for consumers, lost jobs, and stifled innovation.

I want to talk about a particular provision in this conference report which is more than just sound economic policy; it is sound health policy.

Over 11 million Americans rely on implanted medical technologies, ranging from artificial joints to complex mechanical devices such as cardiac defribrillators and drug infusion pumps.

Unfortunately, the spectre of product liability litigation has caused many raw material suppliers to restrict the use of their products in implanted medical devices. The lack of materials and components for these medical devices jeopardizes the well-being—and in some cases the very lives—of the millions of Americans who depend on these technologies.

The biomaterials access assurance provisions of H.R. 956 will help ensure that the threat of product liability litigation will not hurt patients who need access to implanted medical devices. H.R. 956 will prohibit claims against a biomaterials supplier unless the company acted irresponsibly and its mistake actually caused the harm.

It is also important to note what the biomaterials access assurance provisions will not do. Nothing will reduce the amount of money to which a person injured by a defective implant is entitled. Device manufacturers will design suitability and performance specifications

VOL 142 PT 5 MR 21 — 29 1996 UMI

for the raw materials, certified by the FDA, and suppliers will continue to be liable when materials or components do not meet the specifications.

But suppliers will not be responsible when their products meet the manufacturer's specifications. In these circumstances, the manufacturers will be responsible for any product defect. This commonsense approach protects the rights of injured plaintiffs, but at the same time prevents a biomaterials shortage our country just cannot afford.

I urge my colleagues to support this important bill.

Mr. BUYER. Mr. Speaker, I am pleased to support this legislation which will return common sense to our legal system as it applies to products. While these reforms do not go as far as I would like, they are essential to restoring balance to our legal system as we seek to protect consumers while providing predictability to manufacturers.

The bill establishes a 15-year limit on when a manufacturer may be held liable for its products. Product sellers will not be liable in cases where illegal drugs or alcohol contributed more than 50 percent toward the harm. In addition, producers will not be liable for the percentage of blame attributed to product misuse or alteration.

This measure makes clear that punitive damages should be awarded only in the most serious cases of egregious conduct. Punitive damage awards will be linked to the actual harm caused by allowing punitive damage awards of up to two times the compensatory damages or $250,000, whichever is greater. There are special rules for individuals of limited net worth and to small businesses.

Liability for noneconomic damages will be several, rather than joint, making defendants liable only for their proportionate share of the fault. This addresses the deep pocket syndrome.

The bill also addresses the unique difficulty faced by biomedical device manufacturers. Medical device manufacturers are quickly losing suppliers of materials due to litigation. Huge awards are often sought from suppliers even though they had no role in the design, manufacture, or sale of a device. The courts are not finding suppliers liable, yet millions of dollars and countless hours are spent on defense in court. This bill will provide expedited dismissal against suppliers in court and they cannot be sued unless they are a manufacturer or a seller of devices and as long as they have abided by the contract and supply specifications of the manufacturer. Biomedical device manufacturers in Warsaw, IN, BIOMET, Zimmer, DePuy, and Danek, are producing the needed devices, pacemakers, heart valves, artificial blood vessels, hip and knee joints, that add so much to the quality of life for countless individuals.

There are so many small businesses in the Fifth District of Indiana that will be helped by this legislation. These businesses will be able to concentrate on product development and expansion rather than fighting lawsuits. One such company is Whallon Machinery of Royal Center, IN, which manufacturers industrial material handling machines. In nearly 30 years of business, over 83 percent of all machines built are still in use. Prior to 1993, Whallon had no product liability claims. One customer had modified a Whallon machine. Had this legislation been in place then, Whallon Machinery may not have faced a fourfold increase in insurance premiums.

It is time to return a sense of reasonableness to ensure that injured parties are compensated in a manner that protects all consumers and America's competitiveness. This legislation is a very good start.

Mr. COSTELLO. Mr. Speaker, I rise today in strong opposition to the product liability conference report. This bill effectively condones egregious misconduct, carelessness, and greed of manufacturers which produce and sell defective products. This bill makes it cost-effective for some companies to put profits ahead of safe products. In my opinion, Mr. Speaker, this is wrong. The unfortunate victims of the repercussions of this legislation are the American consumers.

I object to the provisions in this bill which arbitrarily limit the amount of punitive damages injured person may recoup when harmed by faulty or dangerous products. Punitive damages should serve as a deterrent to manufacturers who knowingly build and sell dangerous products. Punitive damages force companies to fix dangerous products. For example, punitive damages have been effective in making safer children's pajamas and baby cribs, automobiles, and medical devices. Without the threat of these large damage awards, manufacturers have an incentive to settle with individuals hurt by dangerous products rather than correcting their wrongs. We cannot actively condone and promote such unconscionable business practice.

Proponents of this legislation argue for the need to limit punitive damages to $250,000 because without such caps juries have awarded ridiculously high punitive damage awards. This is simply not true. The National Center for State Courts reports that only 600 of the 1 million tort actions filed each year result in punitive damages. It should further be noted that most of those are reduced on appeal. It is easy to talk about the outrageous $2.7 million award to the woman who was burned by the hot coffee at McDonald's. However, let us examine the facts. This grandmother had to undergo extensive skin grafts for her burns. McDonald's had ignored 700 prior complaints about too-hot coffee and, in fact, the judge reduced the punitive damage award to $400,000. How many burns must it take to have a company change its harmful ways? The unfortunate fact remains that business usually comes down to dollars. Mr. Speaker, it cannot pay to make dangerous products. I urge my colleagues to defeat this bill.

Mrs. MEEK of Florida. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I strongly oppose the so-called Common Sense Product Liability Legal Reform Act.

There is no common sense in it.

What is the common sense of having Washington dictate to juries in each of the 50 States how to decide a case where someone has been injured by a dangerous product?

What is the common sense of having Washington dictate to the voters and State legislatures in each of the 50 States? The States are acting. For example, in 1988 Florida's voters rejected, by a vote of 57 percent to 43 percent, an amendment to the constitution that would have arbitrarily capped noneconomic damages in all tort cases at $100,000. Since 1986, 31 State legislatures have altered their product liability laws.

The Republican majority preaches federalism and returning power to the people. But its actions speak louder than its words. The Republican leadership wants to override what the States are doing because it does not like what the citizens of each State are deciding.

The Republican leadership preaches that individuals should be accountable for their actions. Why not apply the same standard to corporations that make and sell dangerous products?

Title II of this bill will prevent women who needlessly suffered from faulty breast implants from suing the company that negligently supplied the silicone gel. That is wrong.

Mr. Speaker, President Clinton is right when he said he will veto this bill. This conference report favors corporate profits over the health and safety of our citizens, and I urge my colleagues to vote against it.

Mr. KLECZKA. Mr. Speaker, I rise in opposition to the conference report on H.R. 956, product liability reform.

Last March, I voted in favor of this legislation because I believed there were problems in our product liability system which needed to be addressed. We have all heard stories of excessive awards, or juries granting vastly different awards for similar injuries. However, the conference report before us today and recent congressional action radically shift the balance against the consumers.

To get a better understanding how this new version of product liability reform would affect the buying public, I met with Mary Griffin from Consumers Union. She discussed with me a number of the conference report's provisions which would adversely impact consumers, including the 15-year statute of repose, pre-emption of State laws more favorable to plaintiffs, the combined effect of the bill and other deregulatory efforts, and the 2-year statute of limitations on filing lawsuits.

This legislation contains a number of provisions which, in my judgment, would place unreasonable restrictions on individuals' ability to receive compensation for injuries caused by faulty products. Taken together, these provisions cause the product liability system to tilt dramatically against consumers.

The bill establishes a false and unfair distinction between individuals and corporations by limiting the ability of the individual to collect damages in product liability cases. For example, the statute of repose is set at 15 years for durable products like heavy machinery and elevators. If a defective product is more than 15 years old, an individual may not sue the manufacturer for injuries the product caused. Companies, however, could still go to court to recover damages. As a result, if a 16-year-old defective furnace explodes in a factory and kills a worker, that individual's family cannot sue the furnace manufacturer. The employer, however, is still permitted to take the furnace company to court to collect compensation for lost production, repairs, and so on.

The State pre-emption provisions of the conference report also trouble me deeply.

State laws more favorable to consumers, such as higher or unlimited punitive damages, are pre-empted by this bill. At the same time, if the State standards are stricter, they are allowed to stand. This position is ironic to me given the current mood of Congress in returning authority to the States. Evidently, the congressional leadership is not confident that States will protect big business sufficiently. Under this legislation, companies would not have to go to the trouble of venue-shopping; Congress simply guarantees them the best possible deal. These pre-emption provisions have earned the bill the opposition of the National Conference of State Legislatures, the Conference of Chief Justices, Mothers Against Drunk Driving, and many other groups.

I am troubled by the apparent link between this product liability reform bill and the current congressional efforts toward deregulation. Congress is cutting the budgets of agencies like the Occupational Safety and Health Administration and the Consumer Product Safety Commission, which are responsible for overseeing the safety of products in the workplace and the home. It simply does not make sense to cut government safety oversight and, at the same time, slam the courthouse door on consumers who are injured by defective products.

Finally, I must object to the 2-year statute of limitations inserted by the conference committee. Under this provision, a person must file a lawsuit within 2 years of discovering their injury. Mr. Speaker, many of the ailments caused by these injuries are progressive in nature, developing over time. A person cannot possibly file a lawsuit when they have no idea how their condition may progress and what sort of medical treatment they may require in the future.

For these reasons, I cannot support the conference report on H.R. 956. I urge my colleagues to vote "no" on this legislation.

Mr. PALLONE. Mr. Speaker, I am strongly opposed to H.R. 956, the so-called Common Sense Product Liability Legal Reform Act.

H.R. 956 would pre-empt State law to require a $250,000 cap on punitive damage awards. Punitive damages are not compensation to a victim—through they serve that purpose—they are intended as punishment to businesses that are negligent. Punitive damage awards serve as a deterrent to bad actors in the market place who put explosive water heaters or automobiles on the market. It forces companies to be very careful and it forces them not to cut corners in an attempt to make a few dollars more.

It does not take a degree in math to realize that a $250,000 punitive damage award is hardly a deterrent to negligent Fortune 500 companies that rake in hundreds of millions or even billions of dollars each year. In fact, what this fixed figure does is allow companies to carefully calculate the costs and benefits of being negligent. Right now, because punitive damage awards are uncertain, the maker of a gas heater that has a faulty valve has no idea how much the company will lose as a result of successful suits against its faulty product. But under this bill, all that manufacturer would have to do is figure out how many of those heaters will explode, multiply by $250,000 and then compare that with expected profits. If profits outweigh damage awards, then you can bet that that deadly product will be out on the market.

This bill also does not contain language that I and 257 of my colleagues supported to hold foreign manufacturers to at least the same silly standards in this bill. So if you lose your sight, or your arms, or your children because of some negligent U.S. manufacturer, you can take some solace in the fact that you will get limited compensation, and the manufacturer will have to pay a little bit of money for being bad. But, if you lose a family member or your legs as a result of some faulty product from a foreign manufacturer, you get nothing. That company gets away scot-free, because H.R. 956 gives foreign manufacturers a free ride on the health, safety, and welfare of American consumers.

I also find it ironic that Republicans—who have harped on the issue of States rights for many years—have put together a bill that tramples on States rights. Currently, States enjoy the right to impose either ceilings or floors on punitive damages; however, this legislation would impose a ceiling while still allowing States to enact even lower damage caps. A similar situation exists with regard to the statute of repose which is capped at 15 years. In addition, a provision was recently added to the bill that would pre-empt the law in numerous States governing the liability of certain utilities, including gas pipelines.

The truth is time after time in this Congress, Republicans have put special corporate interests ahead of the needs of the average American. That is why I wrote to the President recently urging him to veto H.R. 956, and I ask that the text of my letter be made part of the RECORD.

This is just the latest in a series of efforts to undermine consumer protection at the expense of the health and safety of the average American. This undermining of American health and safety law represents a sea change from the consensus that reigned here for many years. But things have changed, and they have changed for the worse.

For example, early in the year, we passed a risk assessment bill that, if enacted, would have effectively repealed current statutory and regulatory standards designed to protect health, safety, and the environment. That bill contained language that in a mindless, sweeping way, would have wiped away decades of work done by Congress, and by State and Federal courts.

And just today, as we were considering H.R. 965, Republicans were telling us that the Consumer Product Safety Commission—which each year helps prevent millions of injuries due to negligent manufacturers or faulty products—had outlived its usefulness because the people were well protected by our Nation's product liability laws.

Mr. Speaker, we need to ensure public safety. We need to protect small children. But what we do not need is the H.R. 956 the corporate dollars and sense Product Liability Reform Act. I am sure the President will veto, and I hope my colleagues will sustain his veto and stop Republicans from gutting consumer protections for the benefit of corporate special interests.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 25, 1996.

Hon. WILLIAM J. CLINTON,
President of the United States,
Washington, DC.

DEAR PRESIDENT CLINTON: I am writing in support of your announced intention to veto H.R. 956, the Common Sense Product Liability Legal Reform Act.

H.R. 956 would pre-empt state law to require a $250,000 cap on punitive damage awards. Currently, states enjoy the right to impose either ceilings or floors on punitive damages; however, this legislation would impose a ceiling while still allowing states to enact even lower damage caps. A similar situation exists with regard to the statute of repose which is capped at 15 years. In addition, a provision was recently added to the bill that would pre-empt the law in numerous states governing the liability of certain utilities, including gas pipelines.

Also, it is clear that the threat of a $250,000 penalty is not a sufficient deterrent to irresponsible behavior in many instances. Nor is it adequate punishment for conduct that results in death or serious injury such as the loss of a limb. Coupled with the legislation's elimination of joint-and-several liability for noneconomic damages, this bill, if enacted, would definitively tip the balance against consumers and in favor of those who manufacture and market defective products.

Finally, it is important to note that this legislation is not being considered in a vacuum. The Republican majority in Congress continues to attack public health, safety and consumer protection laws both through the authorization process and by underfunding the agencies that enforce those laws. Enactment of extreme legislation, like H.R. 956, taken together with these other efforts will surely threaten the health, safety and well being of all Americans.

For these reasons, I urge you to veto H.R. 956.

Sincerely,

FRANK PALLONE, Jr.,
Member of Congress.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HYDE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 259, nays 158, not voting 14, as follows:

[Roll No. 110]

YEAS—259

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer

VOL 142 PT 5 MR 21 — 29 1996 UMI

Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennelly
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—158

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clyburn
Coble
Coleman
Collins (MI)
Conyers
Costello
Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Doyle
Durbin
Engel
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Green
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kildee
King
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pickett
Pomeroy
Poshard
Rahall
Rangel
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Stark
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Bryant (TX)
Collins (IL)
de la Garza
Eshoo
Fields (TX)
Ford
Fowler
Hayes
McNulty
Smith (TX)
Stokes
Torres
Weldon (PA)
Weller

□ 1343

The Clerk announced the following pair:

On this vote:

Mrs. Fowler for, with Mrs. Collins of Illinois against.

Mr. EDWARDS changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business for certain votes on Friday, March 29, 1996. Had I been present on the House floor I would have cast my votes as follows: Roll No. 108: Nay on ordering the previous question on H. Res. 394; Roll No. 109: Yes on approving the journal; and, Roll No. 110: Nay on agreeing to conference report H. Rept. 104–481.

PERSONAL EXPLANATION

Mr. WELLER. Mr. Speaker, on rollcall No. 110, H.R. 956, conference report on product liability reform, while I was present on the floor and inserted my voting card, it appears that my vote was not recorded. I do want to note that I voted in favor of H.R. 956 when it originally passed the House.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, pursuant to the order of the House, I call up the joint resolution (H.J. Res. 170) making further continuing appropriations for the fiscal year 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 170

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 104–99 is further amended by striking out "March 29, 1996" in sections 106(c), 112, 126(c), 202(c) and 214 and inserting in lieu thereof "April 24, 1996"; and that Public Law 104–92 is further amended by striking out "April 3, 1996" in section 106(c) and inserting in lieu thereof "April 24, 1996" and by inserting in Title IV in the matter before section 401 "out of any money in the Treasury not otherwise appropriated, and" before "out of the general fund"; and that section 347(b)(3) of Public Law 104–50 is amended to read as follows:

"(3) chapter 71, relating to labor-management relations;'; and that section 204(a) of the Auburn Indian Restoration Act (25 U.S.C. 1300*l*–2(a)) is amended by striking "shall" in the first sentence and inserting in lieu thereof "may".

SEC. 2. That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, and for other purposes, namely:

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

FUNDS APPROPRIATED TO THE PRESIDENT, AGENCY FOR INTERNATIONAL DEVELOPMENT

Assistance for Eastern Europe and the Baltic States

(Including Transfers of Funds)

For an additional amount for "Assistance for Eastern Europe and the Baltic States" for Bosnia and Herzegovina, including demining assistance, $198,000,000: Provided, That of the funds appropriated under this heading by this Act that are made available for the economic revitalization program in Bosnia and Herzegovina, not less than 87.5 percent shall be obligated and expended for programs, projects, and activities, within the sector assigned to American forces of the military Implementation Force (IFOR) established by the North Atlantic Council pursuant to the General Framework Agreement for Peace in Bosnia and Herzegovina and within the Sarajevo area: Provided further, That the preceding proviso shall not apply to any project that involves activities in both the American IFOR sector and other contiguous sectors: Provided further, That priority consideration should be given to projects and activities designated in the IFOR "Task Force Eagle civil military project list" in making available funds for the economic revitalization program: Provided further, That none of the funds appropriated under this heading by this Act shall be made available for the construction of new housing or residences in Bosnia and Herzegovina: Provided further, That none of the funds appropriated under this heading by this Act or under this heading in Public Law 104–107 may be made available for the purposes of repairing housing in areas where refugees or displaced persons are refused, by Federation or local authorities, the right of return due to ethnicity or political party affiliation: Provided further, That not to exceed $5,000,000 may be transferred to "Debt Restructuring" to be

made available only for the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees, notwithstanding any other provision of law: Provided further, That $3,000,000 shall be transferred to "Operating Expenses of the Agency for International Development" for administrative expenses: Provided further, That the additional amount appropriated or otherwise made available herein is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the provisions of section 515 of Public Law 104–107, and any similar provision of law requiring advance notification to the Congress, shall be applicable to funds appropriated under this heading, except that the requirements of those provisions shall be satisfied by notification five days in advance of the obligation of such funds: Provided further, That, effective ninety days after the date of enactment of this Act, none of the funds appropriated under this heading by this Act may be made available for the purposes of economic revitalization in Bosnia and Herzegovina unless the President determines and certifies in writing to the Committees on Appropriations that the aggregate bilateral contributions pledged by non-United States donors for economic revitalization are at least equivalent to the United States bilateral contributions for economic revitalization made by this Act and in Public Law 104–107: Provided further, That 50 percent of the funds appropriated under this heading by this Act that are made available for economic revitalization shall not be available for obligation unless the President determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has complied with article III of Annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between Iranian officials and Bosnian officials has been terminated: Provided further, That funds withheld from obligation pursuant to the previous proviso may be made available for obligation and expenditure after June 15, 1996, notwithstanding the previous proviso if the President determines and reports to the Committees on Appropriations that it is important to the national security interest of the United States to do so: Provided further, That the authority contained in the previous proviso to make such a determination may be exercised by the President only and may not be delegated: Provided further, That with regard to funds appropriated under this heading by this Act (and local currencies generated by such funds) that are made available for economic revitalization, the Administrator of the Agency for International Development shall provide written approval for grants and loans prior to the obligation and expenditure of funds for such purposes, and the Administrator shall receive the agreement of grantees that such funds shall be subject to audits by the Inspector General of the Agency for International Development: Provided further, That with regard to funds appropriated under this heading by this Act (and local currencies generated by such funds) that are made available for economic revitalization, the Administrator of the Agency for International Development shall provide written approval for the use of funds that have been returned or repaid to any lending facility and grantee under the economic revitalization program prior to the use of such returned or repaid funds: Provided further, That, notwithstanding any provision of law under this heading in Public Law 104–107, the provisions of section 532 of that Act shall be applicable to funds appropriated under this heading that are used under the economic revitalization program and to local currencies generated by such funds: Provided further, That such local currencies may be used only for program purposes: Provided further, That for the purposes of this Act, local currency generations under the economic revitalization program shall include the conversion of funds appropriated under this heading into currency used by Bosnia and Herzegovina as local currency and local currency returned or repaid under such program.

The SPEAKER pro tempore (Mr. GUTKNECHT). Pursuant to the order of the House today, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] will each control 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 170, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr LIVINGSTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I had hoped to stand before the House today and ask for the opportunity to present the final solution, if you will, for fiscal year 1996, the wrap-up bill, the omnibus bill, the bill that has plagued this House for the last 6 months. Unfortunately, that was not to be the case.

However, I am very pleased to tell the Speaker and our colleagues that we are really within hours of presenting that solution. Unfortunately, we cannot complete it before we go on break for the district work period. Therefore, Mr. Speaker, we have to come back in a few days after the recess and complete our business. In fact, I really do not think it will take very long. Assuming our leadership continues to work with the White House, and we get cooperation from all parties, we should be able to conclude the mighty bill.

The fact is most of the issues in the remaining appropriations bills have been resolved, but there are still a few of them that are uncompleted. We also have not quite resolved both the payment of the funding level for those bills and the "paid fors" anything that exceeds the House budget levels.

We are still working on offsets; we are still working on such problems as the HIV issue within the national security bill; the abortion issue within the foreign operations bill, ergonomics, and various other isolated issues. I want to compliment all of the conferees in both House and Senate, Republican and Democrat, Mr. Speaker, for pitching in, shoulder to shoulder, over the last few days and working diligently in the hopes that we could finalize our negotiations by this time today. It was not to be, but it was not for lack of a conscientious bipartisan effort. I am deeply grateful to all of the Members for pitching in.

Since that is the case, Mr. Speaker, I am compelled and pleased to present to the House the current bill, which extends all of the current continuing resolutions and all of the appropriations bills that are contained within those continuing resolutions, through April 24.

Tomorrow, Members will go back to their districts to hold town meetings, make appearances, and spend time with their families. This may be a change from the last few weeks, but the fact is that by the time they return, there will only be 6 legislative days before the end of the this current continuing resolution we're presenting to the House today.

Mr. Speaker, this bill also provides four separate items which we feel are of such an emergency status that we must address them. The first provides a full year Federal payment to the District of Columbia, of without which the District of Columbia would collapse and cease to function. Second, it appropriates $198 million for Bosnia and Herzegovina for economic revitalization, money that is needed today. It is needed with most urgency in order to help our troops complete their tasks and pull out of that troubled region. These funds would have been included in the conference agreement on H.R. 3019, but because of the urgent need, they are being advanced in this resolution.

Then, really, there are only two technical provisions. One amends the fiscal year 1996 Transportation Appropriation Act to clarify FAA personnel reforms, and the other simply amends the Auburn Indian Restoration Act to create discretionary authority for the Secretary of the Interior to accept lands into trust status on behalf of the tribe. These two items are technical in nature, and meet bipartisan consensus, and there is no objection to them.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me simply say that I am extremely disappointed that once again we are having to fund government on a stop-and-go basis, with yet, I believe, the 12th or 13th, maybe it is lucky 13, 13th CR or continuing resolution for this fiscal year.

I am extremely disappointed that more progress was not made this week in finishing action on the entire set of

VOL 142 PT 5 MR 21 — 29 1996 UMI

appropriation matters for the remainder of the fiscal year. What the situation is, is basically this: The Senate, in a constructive move, moved this process much closer to a possible White House signature by the changes that they made in the House appropriation bills when they were before the Senate, but as the White House has made quite clear, much as they welcome that movement in the Senate, they still require some additional movement in order to achieve a bipartisan compromise.

It is not just enough for the Members of the House to reach agreement with the Members of the Senate, or for Members of one party in the House to reach agreement with the Members of their party in the Senate. We also have to reach agreement between the leadership of the Congress and the leadership of the executive branch, which means the President of the United States. He has indicated he still is considerably concerned about remaining insufficiencies, especially in the area of education, worker training, and environmental protection.

So I think, Mr. Speaker, we will be focusing on those issues very firmly over the next 2 weeks. Meanwhile, the committee has again brought a short-term continuing resolution to the floor. This resolution is, regrettably, and in my view unnecessarily restrictive in terms of the funding levels that it provides for a number of areas, most especially including programs like chapter 1; and we know that we have some 40,000 school districts who are facing the prospect of having to lay off teachers if this is not resolved. That is why this must be resolved. But we are not quite there yet. I think we are moving a bit closer, but it is really going to require earnest negotiations over the next 2 weeks in order to put this matter to bed for the remainder of the fiscal year.

Let me simply say, Mr. Speaker, I know Members what to get out of here. I regret very much the fact that this resolution has such a restricted funding level, especially in the area of education, as I have said, but that is what we have before us. I would simply say that it is my determination to pursue every possible avenue of compromise over the next 2 weeks, so we can get the matter resolved. I thank the chairman of the committee for his assistance in dealing with issues on which we both agree and disagree.

Mr. Speaker, I yield back the balance of my time.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

I would just simply urge all our Members, Mr. Speaker, to keep the Government open, support this resolution, and have a happy Easter; and notice how I said that: Have a very happy Easter.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WELCOME TO WASHINGTON'S NEWEST REPUBLICAN, WILLIAM HANNA BOGER IV

(Mr. CRAPO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAPO. Mr. Speaker, I rise today to welcome to Washington the Nation's newest Republican, William Hanna Boger IV. William was born Tuesday, March 26 at 8:24 a.m., was 20 inches long and weighed 7 pounds, 7 ounces.

His proud parents are my executive assistant, Dorothy S. Boger of Morrow, LA and her husband William, of Columbus, OH, partner at the law firm of Wilkinson, Barker, Knauer and Quinn and a former staffer of my good friend Bob Livingston.

Although he was immediately registered as a Republican for the 2014 elections his parents extend their thanks to their friends on both sides of the aisle for the many expressions of support they received over the last few days.

Congratulations, Dorothy, Bill, and little Billy.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. CRAPO. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, would the child like some counseling about this registration, before he takes this very serious step?

Mr. CRAPO. Mr. Speaker, I would tell the gentleman, I would offer that to his parents, but I will tell him, I think I am in a good position, and I will provide that counseling, if he does not mind.

Mr. HOYER. Congratulations to the family.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM FRIDAY, MARCH 29, 1996, TO MONDAY, APRIL 15, 1996, AND ADJOURNMENT OR RECESS OF THE SENATE FROM FRIDAY, MARCH 29, 1996, OR THEREAFTER, TO MONDAY, APRIL 15, 1996

Mr. ARMEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 157) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 157

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Friday, March 29, 1996, it stand adjourned until 12:30 p.m. on Monday, April 15, 1996, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Friday, March 29, 1996, Saturday, March 30, 1996, or Sunday, March 31, 1996, pursuant to a motion made by the Majority Leader or his designee in accordance with this resolution, it stand recessed or adjourned until noon on Monday, April 15, 1996, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

Sec. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

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ELECTION OF MEMBER TO COMMITTEE ON WAYS AND MEANS

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 397) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 397

Resolved, that the following named Member be, and he is hereby, elected to the following standing committee of the House of Representatives:

Committee on Ways and Means: Mr. Hayes of Louisiana, to rank following Mr. Portman of Ohio.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I yield to the gentleman from Texas [Mr. Armey], the majority leader, for the purpose of inquiring of the schedule for when we are coming back and what the majority perceives to be the business as we come back.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, this marks the last vote for the day and the beginning of the April district work period. As the adjournment resolution indicated, we will

be back on April 15, and we expect to have votes after 5 p.m. on Monday, April 15. We would at that time be taking up for consideration H.J. Res. 159, proposed constitutional amendment to require a two-thirds vote to raise taxes, the taxpayer bill of rights; and H.R. 842, to provide off-budget treatment for transportation trust funds, both subject to a rule. During the course of that week we would consider these items. Of course, conference reports, if they are available. We would expect to be out by 6 p.m. on Thursday, with no votes on Friday.

I should also mention we will have some suspensions which we will make available to both the minority and majority Members on the first day back.

Mr. HOYER. I thank the majority leader and wish he and his colleagues the very best and hope that as we come back, we will come back to a productive session, particularly as it relates to getting the business of the CR completed and moving on to the budget for the coming fiscal year.

Mr. ARMEY. If the gentleman would yield again.

Mr. HOYER. I yield to my friend from Texas.

Mr. ARMEY. It has been my privilege to work with and to observe the extraordinarily hard work that has been put out by Members from both sides of the aisle, from both parties, on the appropriations process these past couple of weeks. I think we can all, the entire body can be proud of all of these Members for their willingness to work on that, and the effort made by the staff as well. I have every confidence that we will be able to come back in 2 weeks and see some renewed effort that will be fruitful.

Mr. HOYER. I thank the gentleman for his comments and wish him well.

PERMISSION FOR MEMBERS TO EXTEND THEIR REMARKS IN THE RECORD FOR TODAY

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that for today all Members be permitted to extend their remarks and to include extraneous material in that section of the Record entitled "Extension of Remarks."

The SPEAKER pro tempore (Mr. Gutknecht). Is there objection to the request to the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS, NOTWITHSTANDING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Monday, April 15, 1996, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, APRIL 17, 1996

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday, April 17, 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DESIGNATION OF THE HONORABLE BILL EMERSON TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH APRIL 15, 1996

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, DC,
March 29, 1996.

I hereby designate the Honorable Bill Emerson to act as Speaker pro tempore to sign enrolled bills and joint resolutions through Monday, April 15, 1996.

Newt Gingrich,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objections, the designation is agreed to.

There was no objection.

COMMUNICATION OF THE HONORABLE KENNETH E. BENTSEN, JR., MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable Kenneth E. Bentsen, Jr., Member of Congress:

House of Representatives,
Washington, DC, March 26, 1996.

Hon. Newt Gingrich,
Speaker of the House, House of Representatives,
The Capitol, Washington, DC.

Dear Mr. Speaker: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the United States District Court for the District of Columbia. This subpoena relates to her employment by a former Member of the House.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and procedures of the House.

With kindest personal regards,

Sincerely,
Kenneth E. Bentsen, Jr.,
Member of Congress.

UNITED STATES ON SLIPPERY SLOPE TOWARD EXTENDED DEPLOYMENT

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. SKELTON. Mr. Speaker, this is the fourth in a series of speeches I am giving on the status of the NATO peacekeeping mission in Bosnia.

Our troops continue to do an outstanding job. They are fully deployed. They are completing tasks according to schedule, although not always under optimum circumstances.

However, I have concerns about three conditions that may cause us to stay in Bosnia past our scheduled departure at the end of 1996. I outlined these three concerns in a letter I sent to the President this morning. I will place the letter into the Record at the end of my remarks.

First, the March 21 edition of the New York Times reported the United States and NATO are being urged to keep our forces in Bosnia after the end of the year. International civilian and military authorities are alleged to be pressing for continued NATO presence beyond our scheduled departure.

To keep American troops in Bosnia past the end of 1996 would be a major mistake. It flies in the face of a clear statement by Secretary of State Warren Christopher, who said:

> This is not a permanent commitment. This is approximately a 1-year commitment. If it can't be done in a year, perhaps it can't be done in a longer period of time.

Staying in Bosnia breaks faith with our American troops who are presently stationed in Bosnia, who expect to return to their families in 9 months. It also contradicts what the American people were told about the duration of the mission.

American forces are facing a difficult and challenging assignment in the NATO peacekeeping mission. The 1-year deployment was intended to provide an opportunity for peace, not a guarantee of it. The people of Bosnia must assume the responsibility of ensuring their own peace.

Second, American and NATO peacekeepers are being diverted from their original mission to the task of rebuilding Bosnia. This assignment shifts the focus of our military forces from peacekeeping to assisting in civil projects.

Third, and finally, by several accounts, a cornerstone of the Dayton agreement—the continuance of the Muslim-Croat federation—appears severely weakened. The U.S. and NATO could well be in a quandary if that alliance should crumble.

The push to keep United States and NATO forces in Bosnia, the expansion of mission assignments and the possible disintegration of the Muslim-Croat federation could compel us to extend our commitment in Bosnia. We

VOL
142
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MR
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29
1996
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are on a slippery slope toward a lengthy deployment of 5 or even 10 additional years.

Another issue that concerns me is the continued presence of Iranians in Bosnia who are training Bosnian Government soldiers. This is a clear violation of the Dayton peace agreement. Their presence also poses a threat to the safety of our troops, as some of these groups are opposed to our peacekeeping effort.

I commend Maj. Gen. William L. Nash, commander of the American sector of NATO forces in Bosnia, who stressed his determination to withdraw on schedule. He properly stated that the burden for peace is "on the shoulders of those folks that live here."

If the people of Bosnia truly want peace, 1 year is more than enough time to get it started.

Mr. Speaker, I urge the President to stick by the commitment and have our American troops home by Christmas.

Mr. Speaker, I ask to include a copy of my letter to the President in the RECORD at this point.

The letter referred to is as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 28, 1996.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The March 21 edition of the New York Times reported the U.S. and NATO are being urged to keep our forces in Bosnia after the end of the year. International civilian and military authorities are alleged to be pressing for continued NATO presence beyond our scheduled departure.

To keep American troops in Bosnia past the announced date of departure at the end of 1996 would be a major mistake. First, it flies in the face of a clear statement by Secretary of State Warren Christopher: "This is not a permanent commitment. This is approximately a one-year commitment. . . . If it can't be done in a year, perhaps it can't be done in a longer period of time." Second, it breaks faith with our American troops who are presently stationed in Bosnia, who expect to return to their families in nine months. Third, it contradicts what the American people were told abut the duration of the mission.

American forces are facing a difficult and challenging assignment in the NATO peacekeeping mission. The one-year deployment was intended to provide an opportunity for peace, not a guarantee of it. The people of Bosnia must assume the responsibility of ensuring their own peace.

Already, American and NATO peacekeepers are being diverted from their original mission to the task of rebuilding Bosnia. This assignment shifts the focus of our military forces from peacekeeping to assisting in civil projects.

Further, by several accounts, a cornerstone of the Dayton agreement—the continuance of the Muslim-Croat Federation—appears severely weakened. The U.S. and NATO could well be in a quandary if that alliance should crumble.

The push to keep U.S. and NATO forces in Bosnia, the expansion of mission assignments and the possible disintegration of the Muslin-Croat Federation could compel us to extend our commitment in Bosnia. We are on a slippery slope toward a lengthy deployment of five or even ten additional years.

I command Major General William L. Nash, Commander of the American sector of NATO forces in Bosnia, who stressed his determination to withdraw on schedule. He properly stated that the burden for peace is "on the shoulders of those folks that live here."

Mr. President, if the people of Bosnia truly want peace, one year is more than enough time to get it started.

Very truly yours,

IKE SKELTON,
Member of Congress.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE CHILDREN'S TELEVISION ACT RULEMAKING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MARKEY] is recognized for 5 minutes.

Mr. MARKEY. Mr. Speaker, in 1990 we passed in this body the Children's Television Act. In that act we set as a requirement that the Federal Communications Commission had to go into a rulemaking on the question of what the responsibilities of local broadcasters would be to have served the educational and informational needs of the children who live within the broadcast area of every television station in the United States. During the Bush years there was no real activity on this rulemaking that had to be undertaken, and there was a delay of almost a year before Reed Hunt was in fact confirmed as the new Chairman of the FCC in 1993.

The FCC is in a rulemaking right now on this issue, and it is I think about as important a debate as we can have in this country because, while the V-chip which we passed on the floor and is now law, as signed by President Clinton, gives to the parents of the country the ability to block out excessively violent, sexually material on their screen, and that will be a technology available to parents within the next couple of years, it still does not in any way ensure that there will be quality positive children's television that will enhance the educational and informational needs of children across the country. That is what the Children's Television Act rulemaking at the Federal Communications Commission is all about.

It is my belief that the Commission has to take a very strong stand on this issue. We know that children watch, on average, 4 to 7 hours of television every day. Now, would that it was not so, but we have moved from the 1950's in the era of "Leave It To Beaver" to the 1990's in the era of "Beavis and Butthead."

Increasingly, the broadcast stations in our country have reduced dramatically the amount of children's television of educational content that they put on the air, and instead, substituted the Flintstones or the Jetsons, and argued that in fact those are programs of educational quality because the Flintstones teach children about the archaeological age and the Jetsons will teach children about the future. But parents know that they really do not serve any educationally nutritious role in the development of young people's minds.

So this debate at the FCC is quite important. I am of the opinion that the FCC has to put on the books a requirement that a minimum of 3 hours per week, even that is embarrassingly low, but 3 hours per week be the standard, and that every broadcaster have to meet that minimal standard.

Now, we know that the good broadcasters are going to do that anyway, and they will far exceed the 3-hour minimum. But we will capture those broadcasters who think of their broadcast license as nothing more than an opportunity to print money, just take in the advertising dollars and to use it for whatever purposes they want, excluding children as a constituency. So this is very important, and it is my hope that all Members who are concerned about this issue will in fact join in the effort to advance this children's television agenda at the Federal Communications Commission.

In addition, and I want all Members to be aware of this, as part of the communications bill we also ensure that each one of the 51 public utility commissions in the United States has to go into a rulemaking to ensure that every school in the United States has access to advanced digital technologies.

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Now why is that important? Very simply, because as we pass GATT and NAFTA here on the floor of Congress, we are basically constructing a new compact with the people in our country. One, we are letting the low-end jobs go, and increasingly that is the case across this country. But secondly, we are also saying that we are going to try to tie it to high-end jobs, the high-technology jobs of the future so that they will be based here in the United States. Well, what kind of competitive people will we have if we have not thought through a strategy to ensure that every child in the country, not just the children of the upper and the upper-middle class in our country, but every child, including those in the bottom 40 percentile, have access to the skills they are going to need, have the skill sets that they are going to need in order to compete for these higher-end jobs?

That is why we have to give parents the weapon of blocking out the excessive violence and sexual material. That

is why we have to have more positive children's programming on commercial stations. That is why we have to ensure that the public broadcasting budget is kept high so that the quality programming of Sesame Street to Barney, right through the day remains on the air, and that is why we have to ensure that every child has access to these computer technologies in every classroom from K through 12 from the day they begin school.

PRESERVING THE ENVIRONMENT AND OUR NATURAL RESOURCES

The SPEAKER pro tempore (Mr. GUTKNECHT). Under a previous order of the House, the gentleman from Indiana [Mr. BUYER] is recognized for 5 minutes.

Mr. BUYER. Mr. Speaker, what I would like to do today is to address the House, and the subject is the environment and you, the environment and me, and the environment and us. I am one that believes in the preservation of our natural resources, to do that in a managed way. I also believe in clean water, our water quality, and clean air.

I want my colleagues to know that I grew up on the Tippecanoe River in Indiana. When you grow up on the river, you do not belong to anybody but the river itself. My father taught me a lot of valuable lessons on the river, not only to myself but to my brother, the same lessons that his father taught him and I am now teaching to my son. Dad bought a small little farm there on the river. Dad is kind of a Johnny Appleseed. He planned everything, from 3 acres of strawberries to all these fruit trees and an acre of vegetable garden, and that is what we did. We managed all of that since I was 9 years old. So he taught us about being good stewards of the land, and how you have to take care of the land for the preservation so that you can make sure you have good yields year in and year out. So I know what it is like to be on my hands and knees and weed 3 acres of strawberries without the use of pesticides. It is a lot of work.

The reason I took the moment to share that with you is the two issues I would like to discuss on the environment are the Superfund issue and that of out of State waste. Let me start though with out-of-State waste. I bring that up because in the Fifth District of Indiana, we receive two-thirds, almost in excess of 1 million tons of out-of-State waste is dumped into my congressional district. My constituents are forced to handle the millions of tons of waste generated by States and other localities that do not dump within their borders; they dump within our borders. And almost every day when I am on the road I get to witness, not far from the Tippecanoe River along the plains in Indiana is a mountain. This mountain is the largest thing that you could ever see, and it is a mountain of trash. It does not bother me that the trash is there. What bothers me is that in Indiana and States like Indiana who are trying to act responsibly on the issues of solid waste, and we create our solid waste districts and we minimize the amount of landfills that we have so that we can do things correctly and move toward proper management, the preservation of our environment, there are States that are not acting responsibly; all they want to do is take it and shove it into other States that are acting responsibly.

So basically what we have is in America we have a nonsystem. When you have a nonsystem, it begins to penalize States that have a system, and that is what we have here. So I am very concerned on the issue of the interstate waste. The Supreme Court has already stepped forward and says it is the Congress that has to decide this issue. Now, it seems session in, session out, the issue has come up, and this Congress has not acted. Those in the States of New York and New Jersey have made their effort to move on the flow control issue in this House, and it failed. It failed because the issues of interstate waste and flow control must move together in this House.

And I encourage this Congress to finally move with sensibility, with ration and reason and good thought with regard to how we manage our environment, and move a bill together to address the issues of flow control and interstate waste together in this House; because if we do not, we are not acting responsibly, like I think we should.

Let me address the issue of the Superfund. The reason I want to discuss the Superfund is because we are also looking at reforming the issue. Fifteen years after the Superfund toxic waste cleanup program began, over $25 billion have been spent and only 12 percent of the toxic waste sites have been cleaned. I have a Superfund site in my congressional district. I have to take a particular interest in it. That is only an average of five sites, though, a year are being cleaned up. I believe that we have to stop, I think, let us stop the frivolous spending of taxpayer money on litigation. That is what is happening.

This is an issue between those of us that want to preserve and clean up the environment versus those who want to line the pockets of the trial lawyers and the lawyer lobbyists. I think this game has got to end. So let us find a good balance here with regard to moving Superfund reform this year so we can stop it.

I know the President is playing the environmental game, saying, "I am an environmentalist, I want to do some Superfund reform," at the same time the trial lawyers are backing his Presidential run. You cannot have it both ways. So let us act responsibly again on the issue of Superfund, and let us act in a way that moves with our passion for how we want a healthier environment in this country, how we want not only the beauty and the spirit of what makes this country good, but also what makes us well.

YESTERDAY'S RULE VOTE WAS NOT IN ANY WAY, SHAPE, OR FORM AN UP-OR-DOWN VOTE ON THE LINE-ITEM VETO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 5 minutes.

Mr. MOAKLEY. Mr. Speaker, first of all, I would like to thank you for your patience in allowing me to put my matters together. I rise today to correct what I believe has been a serious misunderstanding of yesterday's rules vote. Yesterday, a number of news organizations erroneously reported that a vote on the rule, House Resolution 391, was in fact a vote on the line-item veto. Mr. Speaker, this is not the case. The vote on the rule was an extremely complicated vote on a procedural matter. It was most certainly not a place in which Members believed that they were registering either support or opposition to the line-item veto. In fact, there was not one single occasion yesterday when this House had an up-or-down vote on the line-item veto.

Anybody interested in finding a clean up-and-down vote on the line-item veto, and I want you to pay strict attention, anybody interested in finding a clean up-or-down vote on the line-item veto should read the CONGRESSIONAL RECORD from February 6, 1995, or they should look at some of yesterday's other votes. For instance, the vote on the motion to recommit was a vote either for or against making the line-item veto effective immediately as opposed to waiting until January 1997, after the Presidential elections.

Mr. Speaker, the rules of the House are very complicated, and yesterday's rule was one of the most confusing that I have seen in a long while. In fact, even if the rule had failed, line-item veto could still have proceeded on to the President. But I believe we in the House have a responsibility to explain those rules to the people we serve, rather than simplifying them to the point that they no longer reflect the realities of the House. So let me state again, Mr. Speaker, so that I may make myself perfectly clear: Yesterday's rule vote was not in any way, shape, or form an up-or-down vote on the line-item veto.

VOL
142
PT
5
MR
21
—
29
1996
UMI

CONTRIBUTION LIMIT TO SECTION 457 RETIREMENT PLANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, this Member rises to invite his colleagues to cosponsor legislation which he introduced this morning. The measure, similar to provisions in the Balanced Budget Act passed in December, raises the annual contribution limit that State and local government and nonprofit corporation employees may contribute to their section 457 retirement plans to equal that which their private-sector colleagues may contribute to their 401(k) plans and requires that these plans be held in trust.

Under the Tax Reform Act of 1986, State and local governments and nonprofit corporations were prohibited from offering 401(k) plans for their employees. Under the 1986 Act, section 457 plans were fixed or frozen at an annual contribution limit of $7,500 while the 401(k) limit was only $7,000 but was indexed for inflation. This indexing has increased the 401(k) limit to $9,240. This measure states that the limit for section 457 plans will mirror that of the 401(k).

Also, by placing the assets in trust the employees retirement funds will be protected against claims by general creditors. The financial woes of Orange County, CA, are a recent example of why this is prudent. Again, Mr. Speaker, this Member invites his colleagues to cosponsor this legislation.

GROWTH AND DEFICIT REDUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, today I would like to speak on growth, deficit reduction, balancing the budget and getting incomes up to a livable level, all a pretty big order in a 5-minute period. Let me talk about deficit reduction for a moment. You want to balance the budget, you want to do deficit reduction, there are a couple things we have got to realize. First of all, let us make sure we take into account what has been done. Deficit reduction is on a definite, positive trend. The deficit has been cut by one-half in the last 3 years. As to the deficit today is at its lowest point since 1979. It is at one-half of where it was in relation to our overall economy just 3 years ago. It is the lowest now in the industrialized world. It is coming in this year at even lower than was projected last year. That does not mean you let up but it means something positive is occurring. Because of that, I think we also have to make sure that in balancing the Federal budget we do not unbalance a lot of family budgets. I happen to believe that future generations should not be burdened with debt but they should not be burdened with ignorance, either. There is nothing more grievous or no more debt that is heavier than that. That the expenditures that are made today in education, whether it is title I, assistance in mast and reading for elementary school students, whether it is student aid, Pell grant and Stafford, student loans, whether it is VA loans, whether it is assisting research in our universities, whether we invest in infrastructure, the roads, the bridges, the airports, the sewer systems, the water systems, those things that bring us growth and bring back more over time than what up pay out, those things are positive investments and ought to be on the positive side of the ledger. There is something else that we can do for growth in the Federal budget and that is to move this budget to the same kinds of budget that every business has and every family has, and that is to have a capital budget. That is to say that those things that we are investing in that pay out over time, we will show on the books that way. Sandy and I, my wife and I cannot afford to pay for a house in one year. We have a mortgage, like most everybody else in this country. We pay that out over 20 or 30 years. So let the Federal Government show the roads, the highways, the physical infrastructure the same way. Many people do not know but your Federal Government does not do it that way. That needs to change. Other things we need to do is to recognize the importance of wage growth. Henry Ford had it right. He said: "I got to pay adequate wages so that my people can afford to buy my cars." Well, we are going in the opposite direction unfortunately in this country when 60 percent of the American workers are seeing declining wages over the last 15 years, not increasing wages.

☐ 1430

And so both at the private sector level and at the Government level we need to be encouraging that upward growth.

Let me tell you quite frankly, Mr. Speaker, the Republican party has it wrong and the White House, the Democrats in the White House, have it wrong. If you think that 2.5-percent growth is going to get us out of this, we can balance this budget in 7 years, we can have a 2.5-percent growth and we are going to have a deficit that is bigger than it is today.

We have got to focus on getting that 2.5-percent growth up to 3 or 3.5-percent growth, not an unrealistic level. But you cannot with a Federal Reserve that chokes back growth and insists to fight only the inflation war. You cannot do it with Government policies that do not stimulate the economy, that cause it to restrict. You cannot do it with a private sector afraid to make investments. And so we have to focus on growth.

Are you worried about Social Security? Social security improves as productivity and incomes improve. Do you want to focus on the family moving ahead? The family moves ahead as the family's income and opportunities improve.

The problem is that both parties, if you are focusing on 2.3- to 2.5-percent growth, are only going to put us down the road, not up the road. So that is the challenge that I believe is ahead of us in these many months to come. Declining incomes have to come up. The rising tide does lift all boats, but the tide has to start from the bottom, not from the top down.

I will return to visit this subject another day.

THE REST OF THE STORY; PAYING MORE AND GETTING LESS

The SPEAKER pro tempore (Mr. GUTKNECHT). Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker and my colleagues, I saw the President was in New York earlier this week. He was talking about improving education. Unfortunately, he really did not tell the rest of the story, as Paul Harvey would say. The President really did not take time to tell the American people about the U.S. Department of Education and the fact that it has 5,000 Federal bureaucrats who justify their existence primarily by pumping out and churning out mindless regulations for our teachers and our States.

President Clinton really did not tell the rest of the story when he did not tell the people that of those nearly 5,000 people in the U.S. Department of Education that three-quarters of them, about 3,500, are right down the street in Washington, DC, making over twice what our average classroom teacher is making in my district.

President Clinton did not talk about ending welfare as we know it, welfare, really which has destroyed our family structure, any sense of values, self-discipline, and respect and really any hope for education. President Clinton really did not tell the rest of the story about his failed drug policy that has raised youth drug use to all-time levels and made juvenile crime epidemic in this country.

You know, the debate going on, the debate today about funding the country, and we have just been in the process of passing a resolution to continue for 4 more weeks, a lot of people say, "Why can you not decide this?"

There are some fundamental differences about how we spend money on education, the environment, and these other issues. Most people would not know this. But, in fact, the Republicans have proposed from the beginning in their budget a vast increase in

spending in education, $25 billion more over the next 7 years.

But the real debate is over how those dollars are spent, again, whether we finance bureaucrats in Washington, whether we pay to continue to support programs where students cannot read their own diplomas, where students continue to score lower in their tests and we spend more money. My community college has entrants of which over 50 percent need remedial education. So the real question is how we spend our money.

I wanted to also cite for the House and the Speaker here a story from the Orlando Sentinel that cites a report on State education and job training programs. It says State and Federal Governments spend about a billion dollars in Florida on vocational education programs. What is the result? And this is from the report: The programs fail to produce graduates or workers who can earn a decent salary. In fact, only about 20 percent of those who enter these programs completed them, and then a small percentage, 19 percent, found a job after that, and then most of them got a low-paying job and were out of the job in a short period of time.

Lawmakers in Florida were astonished, this report says, when they heard the findings.

The report also indicated that money was wasted on duplicate programs. So this debate about education and environment is paying more and getting less, and that is what this is all about.

People have to understand, because this is important, it is not just how much money you throw at the program, it is how you spend it and do we improve these programs, do we provide a better education, do our students come out with a diploma they can read and then get a job where they can earn a decent living and be a productive and capable, independent citizen in this great Nation?

So that is what the debate is about, paying more and getting less.

Mr. Speaker and my colleagues, again, as Paul Harvey would say, that is the rest of the story.

APPOINTMENT AS MEMBERS OF THE BRITISH-AMERICAN INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore (Mr. GUTKNECHT). Without objection, and pursuant to the provisions of section 168(b) of Public Law 102–138, the Chair announces the Speaker's appointment of the following Members of the House to the British-American Interparliamentary Group: Mr. CLINGER, Pennsylvania, vice chair; Mr. BROWNBACK, Kansas; Mr. EMERSON, Missouri; Mr. LINDER, Georgia; Ms. MOLINARI, New York; Mr. PETRI, Wisconsin; and Ms. PRYCE, Ohio.

There was no objection.

THE MICHAEL NEW CASE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. TRAFICANT] is recognized for 5 minutes.

Mr. TRAFICANT. Mr. Speaker, it is an unusual thing for me to come over and do a 5-minute special order. I very seldom do that. Part of the reason that deals with the issue of Michael New, who was stripped of his position and discharged from the U.S. Army because as a military hero he was twice decorated, he refused to wear the blue beret and the shoulder patch of the United Nations. As some people say, Michael New should be thrown out. He was insubordinate, he did not listen. That is what the Army said in their court martial and their proceedings.

But I have a resolution in with the gentleman from Maryland [Mr. BARTLETT], a good friend of mine that says that the Congress of the United States should reinstate Michael New with his rank and back to the Army because he brings to the attention of the American people more than just this individual obstinacy. He said he took an oath to the U.S. Constitution, not to the charter of the United Nations. And, quite frankly, I agree with him, and I think we have taken this new world order business a little bit too far.

I think the Michael New case is more than about a soldier that has been thrown out of the Army. I think it is a microcosm of how we as a Nation have gone so far that we have our troops under foreign command wearing the uniforms of other identities. And, quite frankly, all the money we give the United Nations, I think they blow an awful lot of it. They should be doing more peacekeeping so we would not have to send in our troops in the first place.

I just wanted to come over here for the New family, because it was a special order that was put together by the gentleman from Maryland [Mr. BARTLETT], and I stand in support of Michael New and I oppose this new world order madness that has our troops under foreign command, wearing foreign uniforms, and I think Michael New is not an individual that has just gone off rebelliously. He is a twice-decorated veteran. He is a patriot, and I think he takes a stand that should become the subject of great debate here in the Congress of the United States.

So I thank you for belaboring that issue with me, and Mr. BARTLETT will give more information on the resolution itself because I just came over spontaneously and wanted to offer my support.

THE HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to speak to my colleagues about two items.

First, I wish to congratulate the House on the passage last evening of H.R. 3103, the Health Coverage Availability and Affordability Act. For the first time in this Congress we have passed legislation which will provide for 25 million Americans at least accessibility, affordability, and accountability in health insurance.

This legislation in its most pertinent parts provides portability. If you lose your job, you take the insurance with you. If you get a new job, you will take that insurance with you.

It also makes sure that no matter what preexisting medical condition you may have, you still qualify for health insurance.

It increases deductibility from 30 percent to 50 percent for the self-employed who provide health coverage for themselves and their employees. It will allow small businesses group coverage of insurance, will also provide medical savings accounts.

I am very hopeful the Senate will agree. This legislation is forward-thinking and positive.

TRIBUTE TO CHARLES REED

Mr. Speaker, I want to make a tribute to a fallen hero. U.S. FBI agent Charles Reed of my district was gunned down last Friday trying to do his job to win the war against drugs, and for 16 years served the people of the tristate area of Pennsylvania, Delaware, New Jersey, in making sure we eliminate the scourge of drugs in our country.

One of the most successful agents in the history of the country, he found leads where no one else could even tell there was evidence lurking, and he brought whole cartels of drug dealers down in his work, and he was dedicated. Every day he worked the longest hours, did the best job, and as Louis Freeh said, the FBI Director who came to his funeral in Montgomery County, PA, this week, he said this was a fallen hero, a man who is a role model for all FBI agents. He was the first FBI agent to be killed from the Philadelphia area in the history of the department. He is someone who is a great loss because he was a wonderful father, a loving husband, and a great community leader, and he epitomizes for me what is great about America.

The war against drugs will go on, and there will be awards named in his honor because as an American hero, I salute him, this Congress salutes him, and a grateful Nation says we will keep the fight up, we will prevail, because of the agents like Chuck Reed, who really make a difference and their lives have meant so much to so many. God bless you, Chuck Reed.

VOL
142
PT
5
MR
21
—
29
1996
UMI

A TRIBUTE TO PFC. FLOYD E. BRIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to reach out today to Mr. and Mrs. Floyd Bright of my community in Houston, TX, and speak to them on behalf of this Nation and this Congress to acknowledge that along with the entire Houston community this Nation is saddened and diminished by the loss of one of our finest young citizens, Pfc. Floyd E. Bright, who lost his life in the service of his country on March 22, 1996, while on duty in Bosnia and Herzegovina.

In behalf of myself, my congressional colleagues, and fellow Houstonians, I would like to express our heartfelt condolences and sympathy for the family of Private Bright and to say to them that we share their loss.

Neither his country nor the community will ever forget Private Bright's sacrifice, and we hold his memory in the highest honor.

We also honor and hold in the same high esteem the supreme sacrifice that has been made by his family. We share their grief and feel deeply what it means to lose a child, a shining light gone out far too soon. Private Bright was a graduate of Lamar High School in Houston and attended San Jacinto Community College. All who knew him would acknowledge him as a person of extreme curiosity, friendliness, and a willingness to serve. How lucky we are as Americans that we have the kinds of young people that will go forth and serve their country.

It reminds us of the very special and solemn responsibility of this Government, this President, this U.S. Congress to ensure in all times that we stand for what is right in this world, that we respect the fact that we must respect and love our young men and women and acknowledge that anytime that we can assist them in staying away from harm's way, we should take up the charge.

To the family of Private Bright, let me again say we honor you and respect you and love you, and we shall remain forever proud of him and so shall his country which he served so very well.

The entire Houston community is saddened and diminished by the loss of one of our finest young citizens, Pfc. Floyd E. Bright, who lost his life in the service of his country on March 22, 1996 while on duty in Bosnia and Herzegovina. On behalf of myself, my congressional colleagues, and fellow Houstonians, I would like to express our heartfelt condolence and sympathy for the family of Private Bright and to say to them that we share their loss. Neither his country nor this community will ever forget Private Bright's sacrifice, and we hold his memory in the highest honor. We also honor and hold in the same high esteem the supreme sacrifice that has been made by his family. We share their grief and feel deeply what it means to lose a child, a shining light gone out far too soon.

Private Bright was a graduate of Lamar High School in Houston and attended San Jocinto Community College. We shall remain forever proud of him, and so shall his country, which he served well.

□ 1445

THE MICHAEL NEW CASE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Maryland [Mr. BARTLETT] is recognized for 60 minutes as the designee of the majority leader.

Mr. BARTLETT of Maryland. Mr. Speaker, we want to spend a few minutes this afternoon looking at the very special case of Specialist Michael New. His name is out to a number of our people, but some may not be familiar with this case and the issues involved here.

Michael New is the son of missionary parents. He was home schooled. He volunteered for the military. He was stationed in Germany. The group he was with was being moved to Macedonia. As a part of that move, they were told that they had to wear the insignia of the United Nations.

Specialist New took the position that the oath he took when he entered the military was to defend and protect the Constitution of the United States; that he had not taken an oath to defend and protect the charter of the United Nations.

Now, in the helicopter accident over Iraq, when several of our military personnel were killed, the Vice President, AL GORE, went to their parents and told them they should be proud of their sons who died as U.N. soldiers. Specialist New had the conviction that if he were to wear the insignia of the United Nations, that he would become, as the Vice President indicated, he would become a U.N. soldier, and he thought that this was a violation of the oath he took to protect and defend the Constitution of the United States.

He would gladly have gone to Macedonia as a U.S. soldier assisting in a U.N. operation. Our military personnel did that by the thousands in Korea. We were there and lost many lives over a number of years, but not one of our soldiers there was a U.N. soldier. They were all U.S. soldiers.

What Specialist New was asked to do was something he felt was very different than this. He felt that he was being required to change his allegiance to the Constitution of the United States to the charter of the United Nations, and he was not willing to do this.

He was told in his training that he was not to obey an unlawful order. Let me read to you from the 1990 Army field manual. U.S. soldiers are instructed that, quoting from the manual,

> Moral courage is as important as physical courage. Do not ease the way for others to do wrong. Stand up for your beliefs and what you know is right. Do not compromise your professional ethics or your individual values and moral principles. If you believe you are right after sober and considered judgment hold your position.

This is precisely what Specialist New did. He had no problem in going to Macedonia. He would have willingly gone. As a matter of fact, he is a decorated soldier, once for saving the life of a comrade, and a second time for saving the eyesight of a comrade. So he was not trying to avoid a dangerous situation.

His concern was the concern of conscience, that he could not in good conscience transfer his allegiance from the Constitution of the United States to the charter of the United Nations. He was court-martialed for this, and it is now under review within the military, but he was court-martialed, and he is to be given a bad conduct discharge.

I have some charts here that will help us to understand how we got where we are. Let me put the first one up.

As you can see in this chart, this defines the relationship between the U.N. charter and the law that regulates or controls how we relate to the United Nations. This is the United Nations Participation Act of 1945.

In the U.N. charter, there are two chapters of relevance here. The first of those chapters is chapter 6. Chapter 6 relates to peace observations. It defines the role of the United Nations in peace observations. Chapter 7 defines the role of the United Nations in peace enforcement. There are significant differences between peace observation and peace enforcement.

Now, the United Nations Participation Act of 1995 is the law which determines how we as a country relate ourselves to these two chapters of the United Nations. Interestingly, the two sections of this law, the Participation Act, are section 6 and section 7. But as you can see from the chart here, section 6 relates to chapter 7, which is peace enforcement, and it clearly requires prior congressional approval.

Section 7 of the United Nations Participation Act, as you can see, relates to chapter 6, and this requires no congressional approval. But there are some limitations here. There cannot be more than 1,000 troops worldwide, and they have to be noncombatant troops.

Now, which was this operation? Macedonia is a part of the overall ex-Yugoslavia operation. There have been a number of U.N. resolutions relative to it. Which one was this?

This is a letter from the President, written by Bill Clinton to then Speaker of the House Thomas Foley, and this is justifying his order to deploy U.S. troops to Macedonia as a part of the overall effort in what used to be Yugoslavia, which, of course, includes Bosnia.

Here is the significant statement. The President said that this was under chapter 6 of the U.N. charter.

But let us look now at the position that the United Nations has taken relative to this. There have been 97 U.N. Security Council resolutions and 13 U.N. Secretary General reports that relate to the Yugoslavia situation and Bosnia and all of the missions, including Macedonia, which are associated with that. Of these 97 U.N. Security Council resolutions, 27 of these resolutions specifically refer to chapter 7. They say that it is a chapter 7 operation.

Interestingly, not one of them, not one of them refers to this operation as the chapter 6 that the President said it was. So we have now a major difference between what the President said it was and what 27 resolutions of the United Nations said this operation was.

Now, if it in fact was, and let me go back to the first chart here, if in fact it was a chapter 6 operation, then no congressional approval would be required. But the United Nations in their 27 resolutions said very clearly that it was a chapter 7, and if it was chapter 7, then it clearly requires prior congressional approval. There has been no congressional approval.

This next chart is from some of the specific resolutions, and this is language which makes it even clearer that they have not made an error in designating it a chapter 7, determined to ensure the security of UNPROFOR and its freedom of movement for all of its missions, and to these ends under chapter 7. So this is another clear indication from 1 of the 27 resolutions that I mentioned, a clear indication that the United Nations felt that this was clearly a chapter 7 activity.

We now go to several more of these. They used the kind of words that are consistent only with a militarized peace enforcement activity, or chapter 7. "Demilitarization, protect, interpose, prevent hostilities." These are not descriptions of an observation force. These are descriptions of an enforcement force. So it is very clear from all of these resolutions in the United Nations that the United Nations felt this was a chapter 7, not a chapter 6.

It is interesting that the administration has now admitted that it was a chapter 6, but they say, surprisingly, and let me go back to the first chart here, they say surprisingly it can be a chapter 6, but it can still relate to section 7 of this act. This, of course, is impossible. There is no way that you can construe section 6 of the United Nations Participation Act to be consistent with chapter 6 of the U.N. charter.

So here we have the basis of the problem, Specialist New taking the position that he should not have to wear the insignia of the United Nations, that that transfers his allegiance, and his problem with this order which has led to the larger question of whether or not this was a lawful order.

There are two levels of whether it is lawful. The first is even if it was a lawful mission, and it would appear that the President did not have the right to send the troops there because he had not had congressional approval and the United Nations said clearly it was a chapter 7, but even if he had the right to send the troops there, there is still the question of whether or not he could send our troops there as U.N. soldiers.

Now, this gets into a third area, which is a broader one and a very interesting one, and that is one which has needed resolution for quite a while now. The Congress tried to do this in the so-called War Powers Act.

There is in the Constitution the clear prescription of the responsibility of the Congress, and there is the clear prescription of the responsibility of the President. But between those two clearly defined areas there is a major gray area. I think that this has occurred because the Framers of our Constitution could not have anticipated the kind of world that we would be living in in 1996.

Let me read from the Constitution the responsibilities of the Congress, because I think it is well to go back to the original language. The responsibility of the Congress is to declare war. It is to raise and support armies. It is to provide and maintain a Navy. Then, very significantly, to make rules for the government and regulation of the land and naval forces. I am reading from article I, section 8 of the Constitution.

Now, if I go to the powers of the President, let me read the powers of the President relative to the military. They are taken from article 2, section 2. "The President shall be commander-in-chief of the Army and the Navy of the United States and the militia of the several states when called into actual service of the United States."

Now, there may be a grammarian's argument as to "when called into the actual service of the United States," what does that refer to? Does it refer to the Army and the Navy and militia, or is it restricted to the militia alone?

To determine what our forefathers had in mind, one needs to go back to put their statement in the context of the time. Remember when this was written, the fastest way one could travel on land was on horseback. Ordinarily armies marched. The fastest way to travel at sea was in a sailing boat. Clearly, nothing was going to happen very quickly in this kind of a world. I doubt that our forefathers ever envisioned that there would be a need to commit the troops before Congress had the opportunity to discharge its responsibilities.

Again, let me read the responsibilities of the Congress to discharge its responsibilities. Let me read the responsibilities of the Congress to declare war. Now, sending troops in harms's way, where a number of thousands of them, as happened in Korea, could be killed, I am sure, and were killed, I am sure our forefathers would have envisioned this as the equivalent of declaring war.

Now, to decide to send our troops to Macedonia in this operation there, I am sure they felt would come under either that declaration of war, or under to make rules for the government and regulation of the land and naval forces.

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So we have a problem today, and that problem is that our military today must act in a fashion that our forefathers could never have imagined that they would need to act. For example, if an enemy in Asia were to launch an intercontinental ballistic missile and we knew the moment they launched it, it would be here in half an hour, that is clearly not time for the Congress to be convened and to make a declaration of war. Clearly our President has to have the ability to respond to that threat.

Nobody wants to deny the President the opportunity to respond to that threat and others that may not be so severe and imminent but may not permit the Congress to convene and to go through the formal declaration of war.

But there are many activities that our troops have been engaged in in the past and are now being engaged in which fall in this gray area. Clearly, clearly it was no great urgency that we send our troops to Somalia, no great urgency that we send them to Haiti, no great urgency that would have precluded the Congress from meeting that we sent our troops to Macedonia or to Bosnia. Yet in each of these instances, the President felt as Commander in Chief that he had the authority to commit our troops there.

So this case of Specialist New has unearthed this much larger area, and that is what are the constitutional prerogatives of the Congress and what are the constitutional prerogatives of the President. This case is now going to foster a debate on this very important subject.

Mr. Speaker, there have been disagreements among Presidents and Congresses. When we had a Republican President and Democrat Congress, we had a disagreement. We have that same disagreement now that we have a Democrat President and a Republican Congress. So Specialist New unwittingly, I think, has opened up this larger venue, an issue that really needs to be addressed. The Congress has the responsibility of funding the military, to raise and support armies, to provide and maintain a Navy.

If the President can commit our troops to have expensive ventures, then it could be argued that he has wandered into the congressional area of responsibility because we cannot commit

VOL
142
PT
5
MR
21
—
29
1996
UMI

troops without committing the moneys that are necessary to support them. So these are some very important issues that need to be addressed.

Also there is another area of the Constitution that those who are pursuing legally the Specialist New case have mentioned. That is article I, section 9, which they think made the command that he got to put on the U.N. insignia not only a lawful command but a United States constitutional command.

Let me read that and my colleagues use their judgment as to what they think our forefathers meant by this. Let me read the whole paragraph. It is the last short paragraph in article I, section 9: No title of nobility shall be granted by the United States, and no person holding any office of profit or trust under them—that certainly includes the military—shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Specialist New made the argument, we will remember, that he felt that being required to put on the insignia of the United Nations and then fighting as a United Nations soldier and, as the Vice President has said, dying as a United Nations soldier if dying in that fight, that he transferred his allegiance from the oath he took to defend and protect the Constitution of the United States to the charter of the United Nations. He felt this to be an unlawful order. He felt that this was a violation, and those who are pursuing his case agreed, that this is a violation of article I, section 9 of the Constitution that prohibits this action without the consent of the Congress.

There has been no consent of the Congress.

Mr. Speaker, this case is now going through the military court process. It is going through the appeals there. It is now being reviewed by a senior officer who will indicate shortly whether or not he concurs with the decision that was made by the court-martial.

Let me mention, by the way, to make something very clear here that in this court-martial, the judge in the court-martial instructed the jury that it was beyond their pay grade to consider whether or not this was a lawful order. The word he used was that this had some political overtones and that this could not be decided in the military courts. So he instructed his jury that they had to consider that this was a lawful order.

Mr. Speaker, if we consider it was a lawful order, obviously he did not go by the order. So the court-martial was no great surprise once we have the prescription that the jury had to consider this a lawful order. But the judge has made the point, as I read earlier, that he is willing to hear this argument after it has gone through the military courts. It is not that he has rejected the argument of Specialist New. It is just that he does not think this is an appropriate time for this to be heard in the civilian courts, in the Federal court system.

As a matter of fact, in that last statement I read, he held the door open not just a little but he held the door open a great deal. He said, once the military proceedings are completed, and I would gather that he does not expect because of the position of the military that Sergeant New is going to get the kind of decision he wants, once the military proceedings are completed, Specialist New may either move to reopen this proceeding or file a new petition for a writ of habeas corpus.

He had earlier said in his conclusions, just the page before, that the court takes his allegations very seriously. The court has taken them seriously, he says.

So where we are now is that this case is proceeding through the military courts. It is now being reviewed by the senior officer. If that review, if he upholds the court-martial decision, then there is a formal appeals process and Specialist New's lawyers—who, by the way, are providing their services pro bono; they have recognized that this is a case that goes far beyond the heartfelt conviction of this young man—that this is a case that will be important in defining, helping to define the relationship between the President and the Congress and may go a long way to avoiding the kind of indiscriminate deployment of our troops around the country that many view are not necessarily in our vital national interest and would sap large amounts of money from the limited funds that we have to maintain a military that we desperately need to protect us against real enemies now and in the future.

I hope that in the military courts that Sergeant New gets satisfaction. If they continue to take the position that his order was lawful, then he will not get satisfaction there, and it will move in due time into the Federal courts. We need a dialog all across America. The great wisdom of the country is not the 545 people who are inside the Halls of the Congress here, inside the beltway. The great wisdom of the country is out all across America.

We need a dialog across America so that we have an input from our constituents in all of our districts across the country because we may need legislation in the Congress. We may need legislation here in the Congress to solve the problems that are brought out by Specialist New's courageous action. We would like our citizens to become very knowledgeable on this subject. We would like them to research the Constitution. We would like them to search their conscience, and we would like them to communicate with their legislators so that we have the advantage of an input from our constituents when we come to the point that we make a decision whether or not we are going to offer legislation and the kind of legislation that we are going to offer.

There is, apart from the legal arguments here, the recognition that here we have a brave young man, who has been twice decorated, once for saving the life of one of his fellows, and secondly for saving the eyesight of another. He is a medic, by the way. And he has now taken a position of conscience. In an America where increasingly anything goes and where we are more appalled each day by the kind of fare that we get over our radios and our televisions, we ought to stand up and applaud a young man who at great risk to his future takes a courageous position like this.

However this comes out, and I have to believe that not only is Specialist New going to be exonerated but that we are going to have the opportunity to enact some very important legislation that will define the roles of the Congress and the President so we do not have the kinds of misunderstandings that have come up not just during this administration but previous administrations as well, but whatever happens in this, I think that we need to remember that this is a brave young man who has taken a position of conscience.

Mr. Speaker, how many of us would have had the same kind of courage to risk a bright future by taking a position of conscience like this? He could have rationalized it: This is somebody else's problem. I am just a lowly specialist. I do not need to take, to dig my heels in and take this position.

He did not do that. He did what I hope more and more of us across the country do every day. That is to recognize that we have a responsibility.

Let me read again, let me read again from the Army field manual. I will close with this because I think this speaks the minds and the hearts of most of our people:

Moral courage is as important as physical courage. Do not ease the way for others to do wrong. Stand up for your beliefs and what you know is right.

America, we need more of this. Do not compromise your professional ethics or your individual values and moral principles. If you believe you are right after sober and considered judgment, hold your position.

Mr. Speaker, this was not only great advice for Specialist New and every other brave young person who has volunteered for our military, it is also great advice for all the rest of us. My hat is off to Specialist New and his position of courage.

I hope that everyone out there will become better informed about this and will convey to their Representatives

what they would like them to do in solving the problems that have been brought up by this very special case of Specialist New.

THE GOLDEN EAGLE AND VULTURE AWARDS "COME SHOP WITH ME CAMPAIGN" UPDATE

The SPEAKER pro tempore (Mr. GUTKNECHT). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 60 minutes as the designee of the minority leader.

Ms. KAPTUR. Mr. Speaker, a little over a year ago, our Jobs and Fair Trade Caucus brought together a small coalition of working women, consumer groups, and Members of Congress to launch what we have called the come shop with me campaign, a campaign to educate the American consumer about the link between the loss of U.S. jobs here at home, high prices, static wages, sweatshop working conditions in the developing world and even in some places here in this country and the record profits being made by certain multinational companies which keep U.S. prices high while relentlessly moving our jobs offshore.

We illustrated this link between loss of U.S. jobs and trade by targeting specific corporations, going to stores and checking prices, scouring annual reports and newspaper clippings, and most importantly, talking to consumers and workers, getting their side of the story.

Mr. Speaker, today we embark on a golden eagle campaign to recognize and reward fine U.S. companies that exemplify the best that is in us as a nation. Simultaneously, we will identify those companies and chief executive officers whose behavior is not exemplary and deserve to be labeled only as corporate vultures.

The corporate vulture label will be given to American corporations which are in need of vast improvement. These are the ones which exploit our marketplace yet have downsized their work forces, which have outsourced most of their production to foreign countries, which use sweatshop labor abroad and then import these transshipped goods back to the United States, keeping their prices high here at home and maintaining a shell company in our country, even while enjoying all of the benefits of being called an American company.

The vulture, a predator and a scavenger, is an appropriate symbol for identifying U.S. corporations that exploit foreign workers while getting fat on the backs of American consumers and giving back almost nothing in return.

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But let us begin on the positive side of the ledger with our first award, the Golden Eagle Award, and we will do one of these each month between now and the end of this fiscal year. This very prestigious Golden Eagle Award recognizes a U.S. firm and its chief executive officer who exemplified the best in business behavior. We are proud of them as citizens of this great country. The Golden Eagle Award will be presented to a U.S. firm that treats its workers with dignity while making decent profits, resists the tide of downsizing and outsourcing production, contributes to the strengthening of our communities, charges a reasonable price for its products, and remains and prospers in the United States of America.

I am very pleased to present the first Golden Eagle Award on behalf of our caucus, along with a new U.S. flag flown over our Capitol, to Malden Mills in Methuen, MA, and more specifically I would like to present the first Golden Eagle Award to Aaron Feuerstein, the 70-year-old owner of Malden Mills whom the local press there has hailed as the saint in New England.

On December 11 last year a major fire struck Malden Mills, the company Mr. Feuerstein's grandfather founded in 1906, burning down 3 of 9 buildings and idling 1,800 employees, three-quarters of the work force at that company. But instead of laying off his work force and pulling up stakes for Mexico, as so many other textile and apparel firms have done across this land, Mel Feuerstein promised he would pay the workers their wages and, even more incredibly, their health care benefits, for 30 days, and when it became obvious that more time was needed, he extended the period to 60 days and then to 90 days.

When asked why he did it, Mr. Feuerstein replied simply, "Because I consider the employees standing in front of me as the most valuable asset Malden Mills has. I don't consider them as just an expense which can be cut."

What makes Mr. Feuerstein's story all the more remarkable is that he stayed in Methuen, MA, even in the face of adversity while most of his much larger competitors, some of the names you will even recognize, Sara Lee, Fruit of the Loom, continue to close plants in this country and give pink slips to workers and move their production offshore.

Over the past 20 years 292,300 workers, mostly women, have lost their jobs in our Nation in the textile and apparel industries. Forty percent of that industry in our country is without a job. But Aaron Feuerstein, and he is not a multinational, has tried to hold out, treated his workers well and has continued to make a profit. He is a shining example of what it means to be a good corporate citizen in the United States and try to struggle uphill against the vultures of the mega corporations that would like to snuff him out of business.

Mr. Feuerstein truly deserves our praise as a patriotic citizen. Along with our first Golden Eagle Award, we will mail to him today this brand new flag flown in his honor and his firm's honor over this Capitol of the United States. Mr. Feuerstein, thank you, thank you for your decency and for your leadership as a corporate citizen of this Nation.

By contrast, we have chosen to designate the Nike Corp. as the first recipient of our corporate vulture label. Nike has shut down all of its production in this country. It does not even produce one athletic shoe in the United States of America, even while it earns billions in profits off this marketplace. In fact, their profits have quadrupled, gone up over 4 times over the past 5 years, by aggressively marketing, and I underline the word "marketing," many of their shoe products and marketing them to some of our most impressionable young people.

The company now commands over one-half, one-half of the men's athletic shoe market in this country. Not a bad racket if you are Nike, paying your women workers in Indonesia and China 12 cents an hour while charging our kids and our families $135 to $150 a pair for shoes, but not a good deal if you are a downsized American worker who used to make those shoes in Maine or in California, or a consumer who has to pay those high prices. Not a good deal for them. Or how about if you are an anonymous Chinese woman worker whose government makes its money off the sweat of your work? Not a good deal for you either.

Now Nike would like you to believe that they are a great American company. In fact, they have been spending $250 million a year out of the money they make off of you trying to convince you how good they really are. They bought so much advertising it is hard to turn on television without seeing it. Nike has virtually bought off the entire American sporting world to delude the American consumer about what is really going on here.

The truth of the matter is that all of Nike's 75,000 production workers, mostly poverty-stricken women and hungry girls, are in countries like Indonesia, Thailand, China, and South Korea, countries which are notorious for their sweat shop working conditions and bleeding all they can out of their people until they are finished with them. Then they throw them out the door, and there is another million people who are hungry, lined up to replace them to work for 10 cents an hour.

Now here at home Nike threatens to tear up our communities with their relentless marketing to our most vulnerable kids. You know what is happening. In some places in this country our children are killing one another for these shoes. As Phil Mushnick, a sports writer for the New York Post, courageously

VOL
142
PT
5
MR
21
—
29
1996
UMI

pointed out when he refused to endorse Nike shoes, he said, "I saw the prices going from $40 to $90 to $100 and then $150, and in full cognizance that people were dying for these shoes, inner city kids, too, the kids that Nike was targeting with their inner city role model marketing binge."

For this our caucus can think of no other company more deserving of the label "corporate vulture" than Nike Corp.

Now Mr. Philip Knight, the chairman of the board of that company and its chief executive officer, took home compensation of over $1.5 million last year, not including his stock bonuses and other benefits and perks. I often ask myself whether this type of individual has any conscience left or if he ever had any, to profit personally off the meager wages paid to Asian women and the U.S. workers he has sent to the unemployment lines. Mr. Knight and Nike, for you our caucus designates the "vulture" label.

Mr. Speaker, I also wanted to place in the RECORD this evening in our battle, continuing battle for job creation in this country to give our workers and our communities a fair shake in the international market, some information on a bill moving through this Congress that Members should know about. It concerns our patent laws, the very basis for our collective intelligence as a people, the foundation of our new products where the genius for America's future lies.

The U.S. patent system is under attack, and the United States, without question, has the largest body of intellectual property in the world, protected from the time of George Washington and created by the first Congress of the United States. If this system is weakened, and there are many who would like to see that it is, America's job creation capacity will be even more seriously eroded.

Today I rise to point out that one of the bills moving in this Congress is a grave threat to our traditional patent system; that bill number, H.R. 2533, with a very innocuous title, "The U.S. Intellectual Property Organization Act of 1995."

Why am I concerned about it? Because why should our Nation pass a law that puts us at a greater competitive disadvantage with our trade competitors around the world? H.R. 2533 is tantamount to selling off our national heritage bit by bit. H.R. 2533 would subject our patent examiners to undue pressure by special interests by removing their current civil service status.

You know, there ought to be some things in this town not for sale.

H.R. 2533 would undermine the Constitution of this country by removing the Patent Office as a core Federal function, and congressional oversight in that bill becomes almost nil.

I ask my colleagues to pay attention to this bill, oppose H.R. 2533, and support H.R. 359, which restores patent terms and gives our patent and inventors, the geniuses of our country who are inventing our future, the kind of protection and respect that the Government of the United States and the people of the United States owe them.

Let me say to my colleagues, do not be fooled by the wolves at the door, and let me say you might ask yourself the question, "Well, who would want to tamper with our patent system? In whose interests would it be to weaken the protections we give to our inventors?"

There is an article I am going to be placing in the RECORD called the National Security Report, lead article, "American Patent System Subject To Foreign Power Grab." There are plenty of powerful interests around the world that would like to own the competitive genius of this country, and they know the only way they can do that is by changing the laws.

In fact, the Constitution of the United States, and I quote from the article I am going to enter in the RECORD,

> In the war for global economic dominance, the fiercest battles today are over intellectual property. Where nations once fought for control of trade routes and raw materials, they now fight for exclusive rights to ideas, innovations and inventions.

The article referred to is as follows:

[From the ROA National Security Report, Sept. 1995]

AMERICAN PATENT SYSTEM SUBJECT TO FOREIGN POWER GRAB

(By Beverly Selby)

The recent book Patent Wars: The Battle To Own The World's Technology, best describes the reason for the current legislative struggle in the 104th Congress about intellectual property. It states, "In the war for global economic dominance, the fiercest battles today are over intellectual property. Where nations once fought for control of trade routes and raw materials, they now fight for exclusive rights to ideas, innovations and inventions."

In 1947, intellectual property comprised just under 10 percent of all U.S. exports; today, the estimate is that "intellectual property accounts for well over 50 percent of all American exports." The United States is a major player in the world community because it has the largest body of intellectual property in the world. Job creation opportunities are directly linked with the patent system which has been the secret of America's job creation and economic power for over 200 years.

Today, in the 104th Congress, the debate is about restoring the patent term, and other issues which will radically change the American patent system. Legislation has been introduced to restore the patent term, publish patent applications before a patent is issued, re-examine issued patents, and create a government Patent and Trademark Corporation.

On one side of the argument are multinational companies and foreign interests, and on the other are independent inventors, small businessmen, venture capitalists and universities. The major issue is the patent term. Several concerns have been raised about pending legislation and its effect on the American patent system.

Last year when Congress approved legislation implementing the General Agreement on Tariffs and Trade (GATT), a provision was included that dramatically changed the way the U.S. patents will be issued. Historically, patents have been awarded for a term of 17 years beginning when the Patent & Trademark Office (PTO) grants a patent to an applicant. However, beginning on 8 June of this year, the PTO will issue patents for a 20-year term beginning when the application was filed with the PTO.

The net effect of this change is to dramatically shorten the useful life of breakthrough patents held by emerging companies, which have led to the creation of entire industries. Patents of highly technical, cutting-edge discoveries take years to issue. Under current law, such a delay in inconsequential as the patent holder is assured a minimum patent term of 17 years because the time does not begin to tick until the patent is issued. Not so with the new 20 year standard, as it often takes the PTO eight to nine years or even longer to issue a patent, leaving the patent holder with only a few years of protection, if any.

Given the vast amount of capital needed to sustain many high growth companies, retaining exclusive use of the underlying intellectual property for a full 17 years is imperative if any emerging company is to recover its costs and provide a competitive rate of return to its venture investors.

Congressman Dana Rohrabacher (R-Calif.) has introduced legislation that would cure the problem of a shortened patent term. His bill, H.R. 359, would make U.S. patents valid for 17 years from date of issue, or 20 years from date of filing, whichever period is longer. During the course of the GATT debate last fall, United States Trade Representative Mickey Kantor agreed the Administration would not oppose legislation guaranteeing a minimum patent term of 17 years as it would not constitute a violation of the GATT agreement.

Many changes to the American patent laws were proposed in 1994. The patent term limitation was passed because it was piggybacked on the GATT-implementing legislation. This change in the patent term weakens the American patent system and penalizes the breakthrough patents. Also, these changes facilitate widespread copying of the more important inventions by foreign companies.

Three of these changes, when taken in combination, establish a disastrous scenario that clarifies the reason for the Japanese insistence that America adopt these changes. These three changes are (a) a patent term measured from the filing date (the GATT patent term), (b) publication in 18 months and (c) three party re-examination.

The scenario for important breakthrough (e.g. high-tech) patent applications is disturbing. The breakthrough patent application is filed and then it is published in 18 months. Because of its importance, large multinational companies rally to oppose the breakthrough patent by filing prior art, and most likely by filing arguments opposing the issuance of the breakthrough patent. Because of the significantly longer pendency for important patents, the breakthrough patent is far from issuing when the oppositions' are filed. The patent examiner, who is reluctant to issue a breakthrough patent having broad claims, enters new rejections based upon the prior art submitted by the opposition. This further increases the pendency time.

Currently, the patent officer permits the filing of multiple re-examinations in sequence. Therefore, to be consistent, the patent office will undoubtedly permit the filing of multiple oppositions in sequence, opposition after opposition, causing the examiner to enter new rejections as new art is cited, further delaying the issuance of the patent. Under the GATT patent term, the term of breakthrough patent applications is further reduced by the long pendency.

Because of the 18 month publication requirement, companies worldwide are able to copy and to develop the breakthrough technology while the patent application is still pending. As currently practiced in Japan, and as a direct result of the publication, competitive products begin to appear in the marketplace and large companies "flood" the PTO with multitudes of mundane improvement patents on the breakthrough technology. As in Japan, these mundane improvement patents are often issued before the breakthrough patent because of the prosecution delays inherent with such a breakthrough patent, and because delaying oppositions are not filed for mundane improvement patents.

When and if the breakthrough patent finally issues, much of the GATT patent term has expired, and its patent owner will be competing with mature products in the marketplace and "floods" of mundane improvement patents based upon the patent owner's originally published breakthrough technology. However, this is far from the end of the ordeal for the patent owner. Now the competitors file a sequence of re-examinations, one after another. A re-examination is a post-issuance opposition. The company behind the re-examination is kept secret, and an attorney is usually named as the re-examination requester. A re-examination can take more than five years. After a re-examination is completed, another, and another, and another, can be filed. A patent cannot be realistically enforced while a re-examination is in progress. Hence, a sequence of re-examinations further dissipates the effective term of the patent.

Now, new legislation is in progress to make re-examinations third party proceedings. Presently, a re-examination is conducted by the patent examiner. The requester can file initial papers but is not permitted to intervene in the re-examination. The new legislation permits the requester to participate in the re-examination. This will change a re-examination into a form of litigation with a team of opposing attorneys arguing issues, filing briefs, and performing many other complex litigation activities. The PTO has trouble hiring and training qualified patent examiners; now the PTO will have to train patent examiners to be litigation judges.

Even worse, many breakthrough inventions come from small companies and individual inventors with limited resources. Matching up such a patent owner against a team of attorneys from a large foreign company will usually end in devastation of the breakthrough patent. Even if the patent owner prevails, another re-examination will be requested by another large company citing a different stack of prior art references and the attack will start all over again.

In Japan the combination of conditions has resulted in important technologies being exposed and unprotected: a patent term measured from the filing date (the GATT patent term), publication after 18 months, and third party oppositions. This has resulted in Japan becoming a nation of copiers. Now, those seeking to copy American technology are demanding legislation to deprive America of its innovative talents. America must stand firm behind its inventors, small businesses, research universities, and entrepreneurs, and not permit its intellectual property to be copied with impunity.

Research universities also share a long-standing interest and an active involvement in intellectual property issues that affect higher education. Since the passage of Public Law 96–517 (The Bayh-Dole Act) in 1980, research universities have been actively engaged in establishing patent protection for university-developed technology and subsequently licensing their patents to industry and small business. Innovations resulting from university research are deemed largely responsible for the spectacular growth of the biotechnology industry, and of significant importance to the microelectronics, computer and health care industries. These innovations are culled from the fundamental scientific explorations of university faculty, students and research scientists and, as a result, tend to be at the cutting edge of scientific theory and practice. As a consequence, patent applications on university inventions have historically spent years in the PTO before ultimately issuing as patents.

University licensing programs are generally dependent upon patent protection to induce mature companies as well as small businesses and start-up company investors to take a financial risk on backing the further development of new, and often early-stage, technologies. Consequently, university technology transfer managers were indeed concerned to find that H.R. 5110, in implementing the GATT, had potentially shortened the long-established patent term of 17 years from date of patent issue, and had done so despite the fact that such action was not required by the GATT.

Our interests in enhancing the successful transfer of university technology, and in helping to keep the U.S. as a front-runner in commercially exploiting new technologies, are not well-served by potentially diminishing the useful life of our patents in an effort to reap an unquantified benefit from harmonization with potentially less innovative nations who stand to gain from shorter patent terms.

These are but a few of the concerns of the independent inventor, venture capitalists and universities who are relying on their patents for income and to create new industries. What must be remembered is the fact that the U.S. system is unique and was created by the founding fathers as a means of generating jobs and prosperity for the country. To date, the United States is leading the world in fundamental patents, which are most often cited in patent literature worldwide.

These patents are the way to chart the prosperity and future for a nation because the patent holder will derive income over a period of time. From those patents spring new industries. At stake in the legislation now before Congress is whether the patent system should be used to benefit the American taxpayer and voter, or the world at large. The choice of the future is ours.—NSR

NSR FOCUS

Experts warn that the current debate in Congress on patent regulations can have a serious impact on the national security of our nation. Critics of the new system, which resulted from GATT negotiations and a deal cut with Japan last year, contend that foreign firms will gain access to American inventions, ultimately weakening the international competitiveness of the United States.

Robert Rines, an inventor and prominent Boston lawyer, claims that the new system is going to wreak havoc with breakthrough inventions, which, historically, have come from individual inventors or small firms, not from large corporations.

The U.S. system awards patents to the original inventor, not the first to file, as in other countries. Under the new 20-month publication provision, key concepts of an invention become available to anyone before the inventor has a chance to refile and win protection. That is why Japan, the multinations and other big companies love it, and why, according to Rines, "the little guys are deathly afraid of it."

Beverly Selby's article is a fundamental document which clearly details the fear and concerns of the small businesses and American inventors, who, at the core of the U.S. innovative process, are faced with new patent provisions that fail to protect American technology and innovative small business—AACG

Ms. KAPTUR. I ask my colleagues again to support H.R. 359 and oppose H.R. 2533, and, Mr. Speaker, I would like to yield to the gentleman from New Jersey [Mr. PALLONE], who I understand has some remarks that he would like to make at this point.

☐ 1530

INDEPENDENCE FOR THE BELARUS REPUBLIC

Mr. PALLONE. Mr. Speaker, I appreciate the gentlewoman yielding me this time.

Mr. Speaker, I wanted to speak, if I could for a few minutes, on the issue of independence for the Belarus Republic.

Mr. Speaker, on March 22, 1996, Belarusan President, Aleksandr Lukashenka met with Russian President Boris Yeltsin to discuss a new union state. The following day, Lukashenka met with Russian Prime Minister Viktor Chernomyrdin to discuss the plan, which would politically, economically, and culturally tie Belarus with Russia.

The collapse of the Soviet Union humiliated and disgraced this former global superpower. The Russian Duma has recently voted to declare void the 1991 agreement dissolving the Soviet Union—a declaration which America must clearly not recognize as having any validity. Now, in an attempt to save face and regain some of the lost Soviet power, President Yeltsin and President Lukashenka are acting to reintegrate the independent Republic of Belarus with Russia. This new confederacy, open to all of the former Soviet Republics, would place Russia at its core. The two leaders discussed the possibility of one currency and a single constitution.

Belarus' geographical location puts it in a particularly vulnerable position for the reintegration plan. In addition, Belarusans were the last to leave the Soviet Union, while its government has been the most willing to rejoin forces with Russia.

VOL
142
PT
5
MR
21
—
29
1996
UMI

According to Prime Minister Chernomyrdin, the new union with Belarus and Russia would "be built from two individual countries that would remain separate."

In response to this new plan, last Sunday 15,000 members of the Belarusan Popular Front marched in the Belarusan capital of Minsk in opposition to the threat of reintegration. These marchers fear that President Lukashenka will in fact relinquish Belarus' current democratic sovereignty.

As a supporter of the American-Belarusan community, and of those members of the Popular Front, I strongly believe that we must act to prevent this new union of Russia and Belarus. Accordingly, I am drafting a concurrent resolution that expresses the sense of Congress that we recognize March 24 as the anniversary of the proclamation of Belarusan independence, express our concern over the Belarusan Governments' infringement on freedom of the press in direct violation of the Helsinki accords and the constitution of the Republic of Belarus, and state our misgivings about the proposed association between Russia and Belarus.

Mr. Speaker, it is particularly important at this moment in history that we proclaim our strong support for the Republic of Belarus and the other Newly Independent States of the former Soviet Union. Events in both Moscow and in Minsk itself raise serious concerns about the long-term viability of an independent Belarus state and nation.

Last Sunday, I had the opportunity to attend a commemoration of the establishment of the anniversary of the Belarusan Republic, sponsored by the Belarusan American Association of New Jersey and held in New Brunswick, NJ. How ironic that the very day on which Belarusan-Americans were celebrating their heritage, Belarusans in Minsk were protesting the new union between Russia and Belarus.

On June 23, 1994, Belarus held its first multiparty Presidential elections since its independence, with a run-off election on July 10, 1994. The winner, Aleksandr Lukashanka, was a former Communist Party official and former head of the parliament's Anti-Corruption Committee. The Helsinki Commission, which observed the elections, proclaimed that the elections were conducted in conformance with international practices and that the results reflected the freely expressed will of the electorate. Unfortunately, those results have left the country with a President and government that has not shown the degree of commitment to democratic values, nor the independence from Moscow, that Belarusan-Americans and their friends had hoped for.

Last fall, Belarus suddenly made it to page 1 news when an American hot-air balloon was shot down in what seemed like an event out of the cold war. For an American public clearly not overly familiar with Belarus, this incident clearly put the county in a very bad light. Belarusan-Americans condemned this action, just as they have condemned the anti-democratic excesses of the new government in Minsk.

Clearly, Belarus is at an important crossroads. The unique language and culture of Belarus, which courageous Belarusans preserved during the years of Soviet domination, is now under attack—from no less a source than the Government of Belarus itself. While it is inevitable that the people of Belarus should feel some cultural affinity with their Russian neighbors, and seek to promote good relations in trade and other areas, the overly pro-Moscow tendencies of President Lukashanka should be questioned.

Meanwhile, the ongoing Russian military action in Chechnya raises serious questions about the possibility of imperialistic designs by Russia on former nations under its empire—whether Czarist or Soviet. President Yeltsin, whose control over the situation seems to be less than secure, has bowed to nationalist and militarist forces in Moscow on the Chechnya question. Furthermore, President Yeltsin, whose health and popularity are both failing, may well be replaced by the Communist/Russian nationalist forces who have made no secret of their desire to reunite the old Soviet Empire.

While the official status of Chechnya as a part of the Russian Federation is different from the other independent former Soviet Republics, such as Belarus, Russian actions there are creating a very troubling precedent indicative of a desire by Moscow to reassert control over what the Russians call the near-abroad.

Since the collapse of the Soviet Union, the United States has sought to provide economic assistance to the Newly Independent States. Amid the pressures that many of these states are now under because of structural economic problems, ethnic tensions and the threat of Russian imperialism, we must maintain a strong commitment to helping these emerging nations achieve a democratic political system and a market economy. For nearly half a century, we devoted considerable sums to containing the Soviet threat. Now that the Soviet Union has collapsed, we have the opportunity, with much more modest levels of spending, to invest in the long-term stability of these formerly captive nations.

Unfortunately, events are working against us. On the one hand, neo-isolationist forces in Congress are trying to diminish the American commitment to supporting freedom and economic reconstruction in the former Soviet Empire. The Foreign Operations Appropriations bill that finally became law earlier this year, after a long delay over an unrelated issue, shows an obvious lessening of the enthusiasm for American involvement in the former Soviet Union that seemed so intense just a few years ago. On the other hand, the trends in Russia, Belarus and elsewhere against reform and towards the election of former Communists is giving our isolationist forces here strong ammunition.

March 25 is the actual date that Belarusans throughout the world salute the sacrifices and bravery of the members of the Council of the Belarusan Democratic Republic, who in 1918 liberated their country from the harsh and oppressive Czarist and Soviet rule. Representatives of the United Councils of the First Belarusan Convention, meeting in the capital city of Miensk (Minsk), issued a proclamation of independence of the Belarusan National Republic, adopted a national flag with three horizontal stripes—white, red and white—and received widespread international recognition. For the first time since 1795, the Belarusan nation re-emerged as an independent state. Despite the hardships from the First World War and the revolutionary turmoil in neighboring Russia, the Belarusan language, culture and national identity flourished.

Unfortunately, the freedom and independence of the Belarusan nation did not last long. In 1921, Russia's Bolshevik regime invaded and conquered the newly independent state and renamed it the Byelorussian Soviet Socialist Republic. For the next 70 years, the Belarusan people endured a totalitarian Communists regime, denied the most basic civil and political rights. Millions of Belarusan nationals were exterminated. Although the Byelorussian SSR was officially considered a member of the United Nations since 1945, the country was in fact politically and militarily dominated by Moscow, with the Belarusans' aspirations for self-government and independence completed subverted.

The Belarusan Parliament initially declared its independence back in July of 1990. Following the attempted coup against Soviet President Gorbachev in August of 1991, the Speaker of the Belarusan Supreme council, Stanislav Shuskevich invited Russian President Boris Yeltsin and Ukrainian President Leonid Kravchuk to Belarus in December 1991 to finally bury the moribund Soviet Union. In its place was established the Commonwealth of Independent States [CIS] with Miensk as its administrative seat. Although the Belarusan Parliament, as with many other emerging East European democracies, was dominated by former Communists, protections for Belarusan culture, as well as basic human rights, were enacted.

Since my wife Sarah is part Belarusan, I have had the opportunity to become particularly familiar with this proud people. The Sixth Congressional District of New Jersey, which covers most of Middlesex County, is home to a significant Belarusan-American community. Since the fall of the Soviet Union, Americans in general have had the opportunity to learn more about this distinct land and its culture. In 1994 President Clinton visited the Belarusan capital, and a variety of United States public and private sector initiatives have been launched in Belarus. Let us resolve to continue to improve the economic, security and cultural ties between the great peoples of the United States and the Republic of Belarus.

Mr. SPEAKER, I include for the RECORD the concurrent resolution.

The concurrent resolution referred to is as follows:

Whereas, the seedlings of an independent and democratic Belarus, for which generations of Belarusan patriots had fought and died, are now in danger of being swept away as a result of the policies of Belarusan President Alaksandr Lukashenka and the efforts of Russian nationalist leaders to reunite the Newly Independent States of the former Soviet Union;

Whereas, March 25 is the date that Belarusans throughout the world salute the sacrifices and bravery of the members of the Council of the Belarusan Democratic Republic, who in 1918 liberated their country from the harsh and oppressive Czarist and Soviet rule. Representatives of the United Councils of the First Belarusan Convention, meeting in Miensk (Minsk), on March 25, 1918, issued a proclamation of independence of the Belarusan National Republic, adopted a national flag with three horizontal stripes of white, red and white, and subsequently received widespread international recognition

Whereas, the Russian Duma in March 1996 has voted to declare void the 1991 agreement dissolving the Soviet Union;

Whereas, the Government of President Lukashenka has monopolized the mass media, undermined the constitutional foundation for the separation of powers, suppressed the freedom of the press, defamed the national culture, narrowed the educational basis for patriotic upbringing of youth, maligned the Belarusan language, and undercut the ground for all-Belarusan unity.

Now, therefore be it

Resolved by the House of Representatives, That it is the Sense of the House of Representatives that, March 25 be recognized as the anniversary of the declaration of an Independent Belarusan State;

Be it further resolved, That the United States press the Government of President Lukashenka to abide by the provisions of the Helsinki Accords and the Constitution of the Republic of Belarus and guarantee freedom of the press, allow for the flowering of Belarusan culture and enforce the separation of powers;

Be it further resolved, That the Congress of the United States join with the people of Belarus and Belarusans throughout the world in the defending the statehood and democracy of Belarus, sustaining the country's Constitution and preventing the loss by Belarus of its hard-won nationhood and its opportunity to survive as an equal and full-fledged member-state among the sovereign nations of the world.

COMMEMORATING THE ACCESSION OF THE UNITED STATES OF AMERICA TO THE PROTOCOLS OF THE SOUTH PACIFIC NUCLEAR FREE ZONE TREATY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I have just returned to Washington form the South Pacific, where I was privileged to be part of the U.S. delegation to the signing ceremonies for the Treaty of Rarotonga. I want to take this opportunity to inform our colleagues in Congress and the people of our great Nation of the historic event that took place this past Monday, March 25, 1996, in Suva, Fiji.

Mr. Speaker, on Monday, the Government of the United States of America signed the protocols of the South Pacific Nuclear Free Zone [SPNFZ] Treaty, also known as the Rarotonga Treaty, formally evidencing America's unequivocal support for the nuclear free zone in the South Pacific.

Mr. Speaker, this action by our Government constitutes a great and momentous development in the history of relations between the United States and the nations of the Pacific region. At the Suva ceremonies, the Governments of France and Great Britain joined us in signing the protocols of the SPNFZ Treaty.

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With this development, Mr. Speaker, all of the world's nuclear powers are now signatories to the South Pacific Nuclear Treaty.

I want to express my deepest heartfelt appreciation to the House Committee on International Relations chairman, the gentleman from New York [Mr. GILMAN] and the committee's ranking Democrat, the gentleman from Indiana [Mr. HAMILTON], for authorizing me to represent the Committee on International Relations and the U.S. Congress in this historic milestone achievement for the people of the Pacific. Coming from the Pacific, Mr. Speaker, I was deeply honored to have been extended this great privilege.

Mr. Speaker, for decades, the island nations have strived for U.S. accession to the SONFZ protocols, which symbolizes America's support of and respect for the South Pacific people's dream of a homeland free of nuclear weapons. To have played a small role in Washington over the past 8 years in bringing about the realization of these aspirations for the people of the Pacific has been a long and hard struggle, but indeed, a very worthy one.

At this time of celebration in the Pacific, I want to recognize and thank those who have contributed greatly over the years in a bipartisan spirit to this week's historic event. In particular, the following individuals must be recognized for their leadership, the former chairman of the House Foreign Affairs Subcommittee on Asian-Pacific Affairs, the gentleman from New York and former Congressman, the Honorable Stephen Solarz; former Congressman and revered champion of Pacific interests, the gentleman from California and my very good friend, the Honorable Robert Lagomarsino; and the greatly respected member of the Committee on International Relations, the gentleman from Iowa, currently chairman of the Committee on Banking and Financial Services, the Honorable JIM LEACH.

I also want to express appreciation to my colleagues and Members of this great institution—Congressmen BEN GILMAN, LEE HAMILTON, CHRIS SMITH, HOWARD BERMAN, Congresswoman CONNIE MORELLA, Congressmen GARY ACKERMAN, RON DELLUMS, DOUG BEREUTER, TOM LANTOS, PETE STARK, MATTHEW MARTINEZ, BOB UNDERWOOD, and the distinguished delegation from the State of Hawaii, Senators DANIEL INOUYE and DANIEL AKAKA, Congresswoman PATSY MINK, and my good friend, Congressman NEIL ABERCROMBIE—for supporting my efforts over the years for U.S. accession to the SPNFZ Treaty.

Mr. Speaker, I also want to recognize the tremendous leadership role that the Arms Control and Disarmament Agency [ACDA] has played in urging, since the Reagan administration, for U.S. support of the SPNFZ Treaty. ACDA has long been a crucial and vital part of several administrations' efforts to stop nuclear proliferation around the globe. While ACDA's mission is growing with greater importance—Start II implementation, chemical weapons convention ratification, and completion of the comprehensive test ban treaty negotiations and implementation—I find it an unfathomable tragedy that ACDA's funding is being butchered. Stopping proliferation of weapons of mass destruction must clearly be a top priority of our Government, and steps must be taken to ensure that ACDA will be given the resources necessary to accomplish this most urgent of missions.

Mr. Speaker, although we were not able to stop France from resuming their recent nuclear bomb detonations in the South Pacific, we should welcome the fact that Paris' irresponsible actions ignited worldwide protests and served as a catalyst for France to join the SPNFZ Treaty protocols.

Mr. Speaker, although we were not able to stop France from resuming their recent nuclear bomb detonations in the South Pacific, we should welcome the fact that Paris' irresponsible actions ignited worldwide protests and

VOL
142
PT
5
MR
21
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29
1996
UMI

served as a catalyst for France to join the SPNFZ Treaty protocols in an attempt to defuse international condemnation.

Mr. Speaker, the international community's strong and visceral opposition to French nuclear testing sent a strong message that we have entered into a new post-cold-war era where nuclear testing and nuclear weapons development are increasingly viewed around the world as an unnecessary evil for preserving peace, stability, and freedom. Perhaps this is a lesson we can all take to heart on the eve of the 21st century.

Mr. Speaker, it is about time that the three remaining nuclear powers have finally joined Russia and China, who ironically supported SPNFZ years ago, by acceding to the SPNFZ Treaty. The fact that all of the world's declared nuclear powers are now signatories to the treaty, establishing the South Pacific's vast nuclear-free zone, cannot but be perceived positively in Geneva, Switzerland, where the United Nations-sponsored Conference on Disarmament is under way. Joining the SPNFZ Treaty is proof of the nuclear powers' good faith commitment to progress on nuclear disarmament, that should bolster efforts to negotiate a genuine "zero-yield" Comprehensive Test Ban Treaty before the end of this year.

Mr. Speaker, a couple of observations, as I have followed the question of nuclear testing for the past 8 years and diligently pursued this issue with my colleagues while serving as a member of the House Committee on International Relations. We proved in World War II the devastating effect of nuclear weapons and their impact on human beings. The bomb the United States dropped on Hiroshima some 50 years ago killed and vaporized over 150,000 men, women, and children, and points to the stark reality of the devastation that nuclear weapons can wreak upon mankind.

Mr. Speaker, I am not one to quibble with the fact that we were at the height of a world war or that the axis powers were on the verge of oppressing all of the free people of the world and that our country was in the midst of this great war for democracy and freedom, but what basic lessons have we learned, Mr. Speaker, in perfecting how to destroy multitudes of fellow human beings by the creation of this great weapon, the atomic bomb? I wonder when we detonated what was known then in 1954 as the "Bravo Shot," where the United States was the first nation to explode a thermonuclear device, which was then known as the hydrogen bomb, what was gained for mankind while the people of the Marshall Islands suffered from these hydro tests in their homeland?

I also wonder, Mr. Speaker, at this point in time in our history whether nuclear weapons really provide security for the American people as well as the other nations of the world. I am concerned, Mr. Speaker, about the fact that we have perfected the use of nuclear weapons and their destructive powers, just as we have made, I am sure, earnest efforts to harness peaceful uses of nuclear energy to improve living conditions for mankind.

At the same time, Mr. Speaker, we are now capable of exploding a thermonuclear device 1,000 times more powerful than the atom bomb that we dropped on Hiroshima. What does that mean, Mr. Speaker? It means that we have perfected a device to hand down to generations to come so that we can kill other human beings by the destructive nature of the atom and hydrogen bomb.

I am concerned, Mr. Speaker, about the fact that the Western nuclear powers condemn China now for continuing its efforts to perfect its nuclear devices, while the United States, for example, allocates a tremendous amount of our military budget to maintain our distinct and unchallenged nuclear technology supremacy. I find this hypocritical, Mr. Speaker.

Mr. Speaker, while we harnessed nuclear energy for the benefit of our citizens to provide electricity for our homes, our Government also has to deal with the reality that it is going to take approximately $350 billion of the American taxpayers' money to clean up and store the spent nuclear waste that is in our own country. This is just in our own country. It does not even address the issue of other nations currently using nuclear energy for electrical production.

So we seem to be at a crossroad now, Mr. Speaker.

Mr. Speaker, where is it going to end, or when is it ever going to end? We need to bring the nuclear nightmare to an end and regain some sense of morality among nations of the world, so that peace can be attained in a constructive fashion. We cannot continue with this idea that we are going to win and they are going to lose if we press that nuclear button first.

Mr. Speaker, I submit whoever presses that nuclear button, it is going to be a lose/lose situation for all of the nations of the world. I sincerely hope that perhaps having nuclear-free-zones, like the South Pacific nuclear-free-zone, throughout the world will be a positive step for peace and stability in the world. We should all take a minute and say to ourselves, let us hold back, let us have a sense of better control of what we are doing, especially since we have already proven the destructive nature of nuclear weapons. We do not need to prove this again, as we did in World War II among the people that lived in Nagaskai and Hiroshima.

I pray, Mr. Speaker, that my colleagues will help in our efforts to see that perhaps the five nuclear nations and the other undetected nations who have the capability for nuclear destruction, will provide a very strong and binding commitment that we will not spread this evil cold danger to other nations of the world.

Mr. Speaker, I include the following material for the RECORD:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, May 27, 1993.
Hon. WARREN M. CHRISTOPHER,
Secretary of State, Department of State,
Washington, DC

DEAR MR. SECRETARY: We write to recommend an early review of U.S. policy toward signature of the Protocols of the South Pacific Nuclear Free Zone (SPNFZ) Treaty.

Such a review would appear to be appropriate not only in the context of non-proliferation policy but also because of the relevance of SPNFZ to U.S. relations with the South Pacific. SPNFZ is a significant non-proliferation measure and any support the U.S. can lend to it would strengthen the cause of non-proliferation in the region. It would also contribute to support for the extension of the Non-Proliferation Treaty in 1995. Given the importance of SPNFZ to South Pacific Forum members, U.S. accession to the Protocols would enhance U.S. influence and credibility in the South Pacific.

As we understand them, the provisions of the SPNFZ Treaty and its three Protocols do not appear to be inconsistent with U.S. national interests. The Treaty specifically respects states' rights under international law to freedom of the seas and leaves it up to individual signatories to decide whether to allow foreign ships and aircraft to visit or transit their territory.

We note that, at the hearing of the Foreign Affairs Committee on 18 May, you said the U.S. was not at odds with the basic thrust of SPNFZ. You did, however, express concern about the Treaty's possible impact on the U.S.'s operational flexibility and freedom in the South Pacific.

We would be interested in understanding the nature of the Administration's concerns about operational flexibility for U.S. forces in the South Pacific, and are interested in working with you in support of a policy regarding the SPNFZ Protocols that protects and promotes U.S. interests in the South Pacific and enhances U.S. non-proliferation objectives.

We are writing a similar letter to the Secretary of Defense.

With best regards,
Sincerely yours,
BENJAMIN A. GILMAN.
JIM LEACH.
LEE H. HAMILTON.
GARY L. ACKERMAN.
ENI F.H. FALEOMAVAEGA.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 24, 1995.
Ambassador RALPH EARLE II,
Head of Delegation, U.S. Delegation to the Nuclear Non-Proliferation Treaty Extension Conference,
New York City, NY.

DEAR AMBASSADOR EARLE: It is my understanding that, in conjunction with the Nuclear Non-Proliferation Treaty Extension Conference proceedings being held in New York, there shall be convened a working group focussing on nuclear-weapon-free zones.

As a member of the House International Relations Committee, I am writing to urge

that the U.S. delegation take an active role in those discussions and strongly support the use of nuclear-weapon-free zones as a non-proliferation tool.

Treaty-based nuclear-weapon-free zones with adequate verification safeguards have already proven effective in preventing spread of nuclear weapons and serve to assist efforts "rolling back" existing proliferation.

As you know, the U.S. has supported establishment of nuclear-weapon-free zones around the world, including those in Antarctica, the seabed and outer space. We are also a signatory to the Treaty of Tlatelolco, which prohibits nuclear weapons in Latin America. The White House has recently lauded the Latin America Nuclear-Weapon-Free Zone as a critical building block of peace and stability throughout the Western Hemisphere which reinforces the worldwide non-proliferation regime.

I have long urged that our government should also join the South Pacific Nuclear-Free Zone created by our allies through the Treaty of Rarotonga. The protocols to the Rarotonga Treaty are substantially identical to our commitments under the Latin America Treaty. In the post-Cold War era, the Soviet nuclear threat in the Pacific no longer exists, overcoming past justification for not joining the Treaty of Rarotonga.

At a time when it is crucial that the U.S. utilize all resources to forge a majority for indefinite extension of the NPT, joining the South Pacific Nuclear-Free Zone Treaty would materially enhance U.S. credibility, gain international goodwill and act as visible proof of America's commitment to nuclear arms controls.

Ambassador Earle, I wish you the very best in your discussions regarding nuclear-weapon-free zones and the benefits of their formation around the world, in particular in the Middle East, Southeast Asia, Africa, and the South Asia Subcontinent. I further commend you and the delegation for your efforts leading to permanent establishment of the NPT, a mission of utmost urgency and importance to our nation and the world.

With best personal regards,
Sincerely,
ENI F.H. FALEOMAVAEGA,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, September 20, 1995.
Hon. WILLIAM J. CLINTON,
President of the United States,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We write to recommend that the long-pending review of U.S. policy toward the South Pacific Nuclear Free Zone (SPNFZ) Treaty be brought to a close, and would strongly urge that our nation sign the Protocols to the SPNFZ Treaty.

The review was appropriate due to our non-proliferation policy and the relevance of SPNFZ to U.S. relations with the South Pacific. We feel SPNFZ is a significant non-proliferation measure and any support the U.S. can lend to it would strengthen the cause of non-proliferation in the region.

The provisions of the SPNFZ Treaty and its three Protocols are not inconsistent with U.S. national interests or present security practices. The Treaty specifically respects states' rights under international law to freedom of the seas and leaves it up to individual signatories to decide whether to allow foreign ships and aircraft to visit or transit their territory.

While the U.S. has yet to act on the SPNFZ Protocols, ironically, both China and Russia are signatories. The U.S. is, however, a signatory to the Protocols of the Latin America Nuclear Free Zone Treaty, substantively the same as SPNFZ, which your administration has lauded as a critical building block for peace and stability in our backyard, the Western Hemisphere.

Given the importance of SPNFZ to South Pacific Forum nations, U.S. accession to the Protocols would enhance U.S. influence and credibility in the Pacific. Moreover, U.S. accession to SPNFZ would bolster progress on global non-proliferation measures, including the indefinite extension of the Non-Proliferation Treaty and negotiation of a zero-yield Comprehensive Test Ban Treaty. In light of France's decision to support a zero-yield CTBT, the time is particularly right for the U.S. to accede to SPNFZ.

We thank you for your consideration of this request and urge timely action.

Sincerely,
ENI F.H. FALEOMAVAEGA.
LEE H. HAMILTON.
JAMES A. LEACH.
CHRISTOPHER H. SMITH.
ROBERT A. UNDERWOOD.
Members of Congress.

THE WHITE HOUSE,
Washington, November 7, 1995.
Hon. ENI F.H. FALEOMAVAEGA,
House of Representatives,
Washington, DC.

DEAR ENI: Thank you for your letter regarding the South Pacific Nuclear Free Zone (SPNFZ) Treaty.

On October 20, 1995, the United States, France and the United Kingdom jointly announced our intention to sign the relevant protocols of the SPNFZ Treaty in the first half of 1996. This announcement reflects a number of positive developments that have occurred recently, such as the extension of the Nuclear Nonproliferation Treaty indefinitely and without condition and progress on a Comprehensive Test Ban Treaty.

I appreciate your efforts in support of SPNFZ and look forward to working with Congress to achieve ratification of the SPNFZ protocols.

Sincerely,
BILL.

U.S. ARMS CONTROL AND
DISARMAMENT AGENCY,
Washington, DC, December 8, 1995.
Hon. ENI F.H. FALEOMAVAEGA,
Committee on International Relations,
U.S. House of Representatives.

DEAR CONGRESSMAN FALEOMAVAEGA: I wanted to convey my admiration for and congratulations upon your tireless efforts to achieve formal U.S. adherence to the Protocols of the Treaty of Rarotonga. As you know, the U.S. was able to declare its intention on October 20, 1995 along with the United Kingdom and France, to sign the Protocols in the first half of 1996.

The United States has always respected the goals and the spirit of Rarotonga. As we stated in 1987, our activities in the region were not inconsistent with the Treaty. That is, however, a long way from assuming the legal obligations of the Protocols and thereby conferring the full legal and political support of the United States. Now, the U.S., U.K. and France will sign the Protocols together, and at a stroke bring all five nuclear weapon states in accord with the solemn commitments and obligations undertaken by the states of the region.

I am extremely gratified that the United States of America can formally adhere to this important regional denuclearization treaty, and am pleased that my Agency was able to play a crucial role in this decision. Your efforts have contributed greatly to this momentous decision, and I again offer my congratulations.

Sincerely,
JOHN D. HOLUM.

THE WHITE HOUSE,
Washington, March 24, 1996.
Hon. ENI F.H. FALEOMAVAEGA,
House of Representatives,
Washington, DC.

DEAR ENI: Last fall I promised to keep you informed of developments regarding the South Pacific Nuclear Free Zone (SPNFZ) Treaty. I am pleased to advise you that on March 25 the United States will join France and the United Kingdom in signing the relevant protocols to this Treaty at a tripartite ceremony in Fiji.

Last year's NPT Review and Extension Conference agreed that internationally recognized nuclear free zones, based on arrangements fully arrived at among the states of the region concerned, enhance international peace and security. The Conference also agreed that the cooperation of all the nuclear weapon states and their respect and support for the relevant protocols are necessary for the maximum effectiveness of such zones.

Our decision to sign the SPNFZ protocols demonstrates our clear support for a nuclear weapons-free zone in the South Pacific, our commitment to nuclear nonproliferation and our determination to achieve a Comprehensive Test Ban treaty mandating a permanent end to nuclear testing throughout the world.

I appreciate your strong support for the important step we will be taking on March 25.

Sincerely,
BILL.

HOUSE OF REPRESENTATIVES, COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, March 28, 1996.
Hon. ENI F.H. FALEOMAVAEGA,
Washington, DC.

DEAR ENI: I am writing to congratulate you for the superb work you have done over the years on behalf of the South Pacific Nuclear Free Zone Treaty—work whose culmination we witnessed earlier this week when the United States joined France and Great Britain in signing the three SPNFZ protocols.

It was only fitting that you should have been in Suva to participate in this ceremony.

You have been an eloquent and impassioned voice on this issue, and all of us are very much in your debt.

So please accept my hearty congratulations for a splendid job and a successful conclusion to your labors.

I look forward to your leadership on many other issues in the days ahead.

With best regards,
Sincerely,
LEE H. HAMILTON,
Ranking Democratic Member.

H. CON. RES. 111

Whereas the nations of the South Pacific, which share with the United States a strong interest in nuclear non-proliferation, have negotiated and signed the Treaty of Rarotonga, establishing a South Pacific Nuclear Free Zone;

Whereas the Treaty of Rarotonga came into force on December 11, 1986, and has been ratified by 11 nations;

VOL
142
PT
5
MR
21
—
29
1996
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Whereas the Treaty of Rarotonga prohibits the testing, manufacture, acquisition, and stationing of nuclear weapons in the territory of parties to the treaty and the dumping of radioactive wastes at sea;

Whereas the 3 protocols to that treaty, which are open for ratification by nuclear-weapon states, require that those nuclear weapon states that ratify those protocols abide by the treaty's provisions in their territories in the region, not contribute to violations of the treaty or threaten to use nuclear weapons against its parties, and refrain from testing nuclear devices in the zone;

Whereas the Treaty of Rarotonga does not prejudice or in any way affect the rights of all nations to freedom of the seas under international law and leaves to each party policy decisions on visits or passage through its territory by foreign ships and aircraft;

Whereas the establishment of verified nuclear-weapon-free zones can reinforce the international norm of nuclear nonproliferation and build consensus for long-term extension of the Nuclear Nonproliferation Treaty (NPT) when reviewed for extension by its members in 1995;

Whereas the United States leadership to extend the Nuclear Nonproliferation Treaty would be further enhanced if United States signature and ratification of the protocols were part of an overall nonproliferation policy that included negotiations on a comprehensive nuclear test ban;

Whereas Article VII of the Nuclear Nonproliferation Treaty affirms "the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories," and state parties to the Treaty of Rarotonga have implemented a safeguards agreement for the region with the International Atomic Energy Agency;

Whereas it has been the policy of the United States to favor the establishment of effective nuclear-weapon-free zones in regions of nonproliferation concern and where such zones would enhance international stability and security;

Whereas the United States has set forth 7 criteria whereby the effectiveness of proposed nuclear-weapon-free zones will be judged, as follows: (1) the initiative is from the nations in the region, (2) all nations whose participation is deemed important participate, (3) adequate verification of compliance is provided, (4) it does not disturb existing security arrangements to the detriment of regional and international security, (5) all parties are barred from developing or possessing any nuclear device for any purpose, (6) it imposes no restrictions on international legal maritime and serial navigation rights and freedoms, and (7) it does not affect the international legal rights of parties to grant or deny others transit privileges, including port calls and overflights;

Whereas the United States has signed and ratified the protocols to the Treaty for the Prohibition of Nuclear Weapons in Latin America (the Treaty of Tlatelolco), establishing a nuclear-weapon-free zone in Latin America, whereby the United States committed itself not to test, manufacture, acquire, or store nuclear weapons in its territories in the region (namely Puerto Rico and the United States Virgin Islands), not to contribute to any violation of the treaty, and not to threaten to use nuclear weapons against the parties;

Whereas the United States is also a party to the Antarctic Treaty, the Seabed Arms Control Treaty, the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, which preclude nuclear weapons from these regions;

Whereas support for these nuclear-weapon-free zones does not prejudge United States policy with respect to other proposed nuclear-weapon-free zones, each of which must be judged on its individual merits in accordance with United States national interests;

Whereas in order to maintain the security of United States military forces and their ability to contribute to nuclear deterrence, the United States must preserve the principle of neither confirming nor denying whether particular United States naval vessels or other military forces possess nuclear weapons;

Whereas the protocols to the Treaty of Rarotonga do not conflict with the United States policy of neither confirming nor denying the presence of nuclear weapons on United States vessels or aircraft and do not prohibit any current or anticipated activities in United States territories in the South Pacific or elsewhere in the region; and

Whereas past administrations have stated that while the United States could not, under circumstances prior to the cessation of the Cold War, sign the protocols to the Treaty of Rarotonga, United States practices and activities in the South Pacific Nuclear Free Zone region, then and now, are consistent with the treaty and its protocols: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) it is the sense of the Congress that—

(1) the Treaty of Rarotonga is consistent with United States security commitments in the South Pacific since it does not prohibit port calls by naval vessels which are nuclear powered or may be carrying nuclear weapons and does not create other impediments to United States military operations in support of the Security Treaty between Australia, New Zealand and the United States (ANZUS Treaty);

(2) the Treaty of Rarotonga satisfies the 7 criteria, set forth in the preamble of this resolution, which have been established by the United States Government for judging the effectiveness of proposed nuclear-weapon-free zones;

(3) signature and ratification of the protocols to that treaty would be in the national interest of the United States by contributing to a comprehensive United States nonproliferation policy that would enhance prospects for extending the Nuclear Nonproliferation Treaty in 1995, particularly if such a policy were to include negotiations on a comprehensive nuclear test ban agreement; and

(4) signature and ratification of the protocols would not prejudge United States policy with respect to proposals for nuclear-weapon-free zones in other regions, such as those in which the presence of an effective nuclear deterrent has contributed to United States national security by enhancing stability.

(b) Noting that the executive branch has indicated that United States practices and activities in the region are consistent with the Treaty of Rarotonga and its protocols, it is therefore the sense of the Congress that the United States should sign and ratify the protocols to that treaty.

[From the Christian Science Monitor, Jan. 11, 1994]

ENSURING STABILITY IN THE PACIFIC

(By Eni F.H. Faleomavaega)

In the afterglow of the recently concluded Asia-Pacific Economic Cooperation meetings and the North American Free Trade Agreement, a new era of increased trade and economic growth is dawning. But the vision of Pacific prosperity is impossible to realize unless a foundation of peace and stability can be ensured. For half a century, the United States has provided this crucial element of security in the Asia-Pacific region, directly aiding the dynamic growth of Asia's economies. The US should build on this legacy by supporting the security arrangements necessary for economic prosperity.

Nuclear proliferation is a major threat to Pacific and US security, as exemplified by the crisis over North Korea. The Clinton administration has urged the indefinite renewal of the Nuclear Non-Proliferation Treat and negotiation of a Comprehensive Test Ban Treaty. To bolster US nonproliferation policy, the president also should build support for nuclear-weapon-free zones and join the existing nuclear-free zone in the South Pacific.

Eleven Pacific island nations are members of the Rarotonga Treaty, establishing the South Pacific Nuclear-Free Zone (SPNFZ), which bans the testing, stationing, or use of nuclear weapons in the zone. The treaty, a symbol for the peoples of the South Pacific, expresses their trepidation over nuclear weapons and the possibility of a nuclear holocaust in the region. With France and the US having detonated more than 100 nuclear bombs in the South Pacific, the nations there have gained a firsthand appreciation of the hazards of nuclear weapons.

Since the treaty took effect, the island nations have eagerly sought US support for a nuclear-weapon-free South Pacific. By refusing to sign the treaty, the US is increasingly perceived as indifferent to the aspirations and concerns of its South Pacific allies—many of whom fought at our side during World War I, World War II, the Korean War, and the Vietnam War, and supported America in the cold war. Ironically, Russia and China have signed the treaty.

The treaty would advance US nonproliferation objectives without undermining US security policy in the South Pacific, as past administrations have conceded when testifying before Congress. It was carefully drafted to accommodate US interests, including our policy to neither confirm nor deny the presence of nuclear weapons on US warships or aircraft; and it protects free transit through the zone by US vessels and planes carrying nuclear weapons.

The US already supports nuclear-weapon-free zones around the world, and has signed treaties prohibiting nuclear weapons in Latin America, the Antarctic, the ocean floor, and outer space. Furthermore, the US supports creating nuclear-weapon-free zones in South Asia, the Middle East, and Africa. With the end of the cold war, justification for much of America's reluctance to join the SPNFZ has evaporated. The Soviet nuclear threat in the Pacific no longer exists. Instead, the US and Russia are committed to keep reductions in their nuclear arsenals, the US has removed tactical nuclear weapons from its surface fleet, and all nuclear-weapon states except China are observing a nuclear-testing moratorium.

If the US is serious about promoting nonproliferation and free trade, then it should make use of nuclear-weapon-free zones that enhance the security that makes economic prosperity possible. Signing the Rarotonga Treaty would be an important step toward realizing the promise of a secure and prosperous "New Pacific Community."

PROTECT OUR AMERICAN TROOPS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN. Let me adjust my gig line here for this prestigious well of the world's greatest legislature, straighten my First Armored Division pin, still thinking about bringing the men and women home from Bosnia, where European men and women should be doing the miserable ground duty while we do everything else, like air power, sea power, all the airlift, 99 percent of it, 99 percent of the ships at sea, most of the hospital supplies, the food, the fuel, most of the munitions, and of course 100 percent of the intelligence from our satellite architecture down to unmanned aerial vehicles like the fantastic predator program.

□ 1600

Why do American men and women have to be on the ground missing Easter with their families as they missed Christmas? So I guess we can free up European young people to work on the assembly line at places like Ferrari and Fiat, Jaguar, Rover, Rolls Royce, and the big-five in Germany, Mercedes, Audi, BMW, Volkswagen, and who am I forgetting? Porsche. We do not want to take people from those assembly lines, shipping products over here.

Let us just bankrupt the American people and pour our money into Haiti. The money we sent to Rwanda, they are back killing one another. Somalia, the fighting goes on without the BBC or the CNN cameras. And in Bosnia, 19 young people have died, two of them Americans, one from an accident, one a hero, Sergeant Donald Dugan of—his initials are D-A-D, dad. He left four sons behind. Donald A. Dugan. First Sergeant of the First Squadron of the First Battalion of the First Cavalry of the First Brigade of the First Armored Division, and he was an A troop to boot and was one of the first Bradleys. A picture of him in the turret crossing the Sava River right after Christmas.

Mr. Speaker, his last words—I learned this in Bosnia about a few weeks ago. His last words were to some children. He did not know whether they were Muslim heritage children, who are really Serbians who adopted the Islamic faith so that the Turkish Ottoman empire would not confiscate their property. He did not know if they were Serbs of the Muslim faith or Serbs of the Orthodox Christian faith, or Croatian children of the Roman Catholic faith. He did not know what they were. He just knew they were children. His nickname was MacGyver, after the television series hero Richard Dean Anderson who played the swashbuckling expert with munitions, that was his proud name in the First Division, MacGyver. And Don Dugan, his last words to these children, he motioned them back, and he said mino, probably his own ethnic universal word for mine, mine. He says mino, boom, boom, boom, and then indicates get back. And the next boom was a real one tearing part of his face off.

And he had told his friends, they told me over there because I did not like the way the Clinton administration was putting a spin on this, that he had dome something wrong so do not blame Bill Clinton. He had told his friends, our job here is to make this battlefield safe for children. We are going to get rid of these mines.

Now, that is not what he was sent there for, and he did not die in vain if all the other young men and women there take Donald Dugan's heroic death to heart and stay on the roads and stay out of the mine fields. He had marked this mine earlier, cut a trip wire from the mine set waist high in a tree to a barricade. There were cattle in this field. Kids are out. He cut that, marked the mine with a white flag. But then this thought kept coming back to his MacGyver nature, and he went back to the mine while his friend was around behind a building answering nature's call. And when his friends came back around, there was Don in the prenatal position bent over. The mine he tried to disarm, almost instantly killed by the blast.

Now, why in the name of heaven other than campaigning was Miss Hillary and their beautiful teenage daughter, Chelsea, what were they doing in a dangerous combat theater, graciously received by our troops, of course, as the President was graciously received and the men telling me, is he not here just to get reelected? Are these photo ops for him? Well, she was there. It is election year.

And we have not seen the end of Air Force One at tremendous expense to the American taxpayers, all the administration does this is a bipartisan, shameful way. I think that during the election year, there should be a hired campaign plane, as BOB DOLE, the majority leader, does, not use a congressional airplane. He uses a fully paid for campaign airplane. And when Mr. Clinton is going out on a fully paid campaign trip, it should be a hired, safe, four-engine, two-engine 757, 767, paid for by the millions of dollars flowing into the Clinton coffers by Republican businessmen saying, just in case you win, do not hurt us too much with your socialist liberal beliefs.

It is outrageous that all he pays, Clinton, is a first-class air ticket, and his purely campaign staff pays a first class air ticket, like 750 bucks from here to California. But all the rest of the people on this 747, and he has five others, six 747's at the disposal of the President.

Mr. Speaker, I told Mr. Bush when we flew from Chicago to here that it was excessive. He agreed. I said you ought to dump these 747's. You should have one or two E–4's, command and control birds, and one 747 for international trips only kept at Andrews and for domestic flying. You should have a Presidential 747, 757, not going to buy a French Airbus, and you should use Lear jets. Not Lear jets, the Gulfstream. And President Bush said, well, that is my favorite airplane. I like to fly on the C–20 Gulfstream because then I do not have the press on the airplane with me all over my back. Let them charter their own DC–10 as they do as backup, but selected press at a first-class air ticket paid for by the networks that are all money machines. They make so much money, they all get on the airplane in favored status.

I remember when I went at the 50th anniversary in Omaha Beach and the Normandy D–day landings and first we went down to Anzio to the Anzio cemetery. BOB DOLE spoke there the next day because that is where a lot of his friends were buried. And here at the airport at Naples were to 747's nose to nose, that beautiful Air Force One paint job on both, filled with prepubescent staffers who never served in the military, ditch the ceremony at the Anzio cemetery and went into Naples.

Then the same thing up in France. Half of the 700 people that went with the Presidential group to Normandy, half of them went into Paris and never made it to the 50th anniversary of D–day. Another one of those photo opportunities using our fine young men and women in uniform. And they say now that the Clinton campaign plan is to surround him with uniforms, school children in uniform, police, law enforcement people in uniform, and to use our U.S. military forces to get him around people in uniform and then maybe the triple draft dodging issue will never come up. Not as long as I am alive, have my health and have this well and various other media outlets around the country.

Now, Mr. Speaker, a friend of mine, Owen Frisbee, passed me in the hall and said, did you hear Paul Harvey in the last few days? He said, here is something that he said on his radio show recently that I think is worth a House resolution, a Senate resolution, a joint resolution to let the whole country know this before all the 50th anniversaries of the end of World War II are gone.

This is the year of the anniversary of Winston Churchill's great speech at a small college in Missouri named after Westminster, England, Westminster College. It was there on my dad's birthday in March 1946, 50 years ago this month, that Churchill created that memorable sentence. He said the Communists have drawn a line from Stetyn in the Baltic down to Trieste on the Adriatic, an Iron Curtain has fallen. And fall it did. And more people died

VOL
142
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5
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21
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under the heel of Stalin before, during and after World War II times multiple factors than died under the tyranny of Hitler's vicious demonic 12-year Reich. Fifty-five million died because of the warlords in Japan, Mussolini's facism, Hitler's Nazism, but there were a lot of Americans naive enough to believe that Uncle Joe Stalin was not the fourth tyrant, creating the bloodiest century in all of civilization's history.

Here is what Paul Harvey said, for perspective. Hitler's Nazis must not be forgotten for their slaughter of some 6 million Jews. Six million other people, including Protestant ministers like Dietrich Bonnhover or Catholic priests like St. Maximillian Colby. I was there at the Vatican when he was elevated to sainthood, standing next to the man he saved in Auschwitz. Said to the German guards he spoke 10 languages, in German. Let me go, this man is married and has 10 children. His children were there with him. His wife was still alive. The man is still alive.

They said to Colby, the Nazi Gestapo guard was so taken aback, or SS guard, he said: Fine, you die in his place. And they put him in a cell. I went to that room. There is a beautiful bas relief, marble relief on the wall. There were some votive lights burning, a few aging flowers. The very bunker cell where they locked up Maximillian Colby, Father Colby and 10 others, and they allowed them to just starve over 10 days to 2 weeks. There were so skinny, it did not take the usual 3 weeks of you starving. And they came in and Father Colby was the last one still alive. And they injected him with air into his veins and he expired, dying in Christ's footsteps that he would give his life, John 15:13, so that another man may live.

While I am holding Mother Teresa's hand, I looked at this man. What day was that? October 10, 1982. Priest, priests, ministers, not just 6 million Jews were killed, 6 million other nonJews. But the Jewish slaughter has this ring of the Holocaust because they were targeted for death only because of what God had made them, people of Hebrew heritage. Unbelievable.

So I digress. Let me come back to Paul Harvey and start at the top. For perspective: Hitler's Nazis must not be forgotten for their slaughter of some 6 million Jews. For perspective, let history not forget that Russia's Communists, since the Bolshevik revolution of 1917, have killed over 100 million people, 6 million European Jews slaughtered by Hitler, men, women, and tiny little babies, children, 100 million, including women and children and little babies slaughtered by Russia's Communists.

So an effort is underway in Washington, DC, a memorial honoring Communism's victims and a reminder of another evil which free people must ever oppose, still oppose. Today in Russian, today in Vietnam, as I testified this morning, not to put another nickel into the U.S. embassy in Hanoi. Not another dime into our diplomatic mission there until the Communists in Hanoi account for our missing in action.

They can solve hundreds of cases out of the 2,140, hundreds of cases, 3,400 at a minimum this very day. They could solve these cases and bring instant relief to these heroes' families who are heroes themselves, the missing in action families, Communist Cuba. You notice the Communist Cubans out of Hanoi withdrew their protest at the United Nations that those three American aircraft were in Cuban waters. Not. They were in international waters. We proved it with hard copy from radar images and they withdrew their complaint, which means that Fidel Castro, through his officer corps of Communist officers, sell-outs, Judases every one. He ordered American aircraft, licensed in America, built in America, flown by Americans of Cuban birth and heritage, ordered them murdered.

That is the style of Castro, first degree murderer. And that is what Paul Harvey is saying to the largest radio audience on the planet Earth, a reminder of another evil, Communism, which people must ever oppose. In Point du Hoc, North Korea and that part of the Korean peninsula that they still crush with human rights violations, the sad little islands of Cuba, those 11 million people who bathe in sunlight and no freedom. And an emerging Communist Party crawling out from under the bloody rocks of most of this century of death trying to rebuild itself in Russia, and in a few other countries in that area. And the Communism of Vietnam and the Communism of the world's largest nation.

The United States will soon pass 266 million people. China has 266 million plus a billion. Five times the size of the United States. Go to a store at Disneyland or Disney World. Pick up the expensive china. Made in China, where china comes from. Pick up the tiniest little refrigerator magnet, made in China.

□ 1615

Pick up a pencil curled in Mickey Mouse's ears, China, China, China, the most expensive toys, the cheapest toys, the stuffed animals, the expensive sweaters, shirts. China, China, China, where women work at slave labor wages exactly like the worst scandals in Dickens's England or the turn of this century and child labor as bad as any of the worst periods of this century or during the industrial revolution in Europe. Excellent, excellent commentary, Mr. Harvey.

Then not to be commenting upon tragic world-sweeping issues, Paul Harvey delivers the following short essay that is worthy of repeating in the well of the U.S. House of Representatives. Paul Harvey, again, the new protection racket, I want to mimic that inimitable great style of his that has become an institution, he says, Mr. Harvey, fear-mongering is unforgivable, whether by pessimistic politicians or unscrupulous booksellers or by scientists. Anybody who tries to come between you and your money by scaring you is a con man.

The winter of 1996, unprecedented blizzards marched across our Nation. Vast areas disappeared under a blanket of white, and airports became refugee centers and firefighters had to locate fire hydrants with metal detectors. It was so cold in Minnesota, somebody used a frozen banana to pound a spike into 5/8ths plywood thickness, yet undoubtedly, some scientists were insisting that our planet is threatened with global warming.

If Mr. Harvey will allow me, the inimitable Jay Leno, closet conservative, opened his show in New York one night in the middle of the blizzard, saying, by the way, an announcement New York's global warming conference is canceled until further notice. Big laugh, of course, from the audience. Mr. Harvey continues, anybody involved with government grants or private foundation money is constantly besieged by the fear-mongerers. They have learned that if they can frighten us enough we will pay whatever it costs for protection.

Mr. Patrick Michaels is an exception, Virginia State climatologist, Mr. Patrick Michaels has researched global climate for many years. He expects that there will never be an agreement among scientists on anthropogenic climate change. He notes a 1990 report about global warming in which scientists were utterly unable to agree on why our Earth had warmed one half a degree Celsius over the past 100 years. Quote, they still cannot agree, unquote.

I hope my classmate, AL GORE, who served in this House for 8 years, I hope he is listening tonight. Vice Presidents sometimes have afternoons to kill, and maybe out of sheer nostalgia he tunes in the House floor or the Senate that he went off to 1984.

Satellite records, Mr. Harvey continues, are our present best way to measure the Earth's temperature. They, in use since 1979, show that our world has in fact been cooling further. The Arctic, which, by the way, I sailed under the North Pole with the aforementioned AL GORE when he was a lowly Senator just the two of us, on codel DORNAN, went up there. I put him in the cockpit of a B–1 at Grand Forks, ND. He had never seen one. He was described on Meet the press as an expert in strategic areas. I took him down into a missile ICBM silo. This was in 1989. He had never seen an ICBM armed, armed, cocked, fired ready to

go at some target on the other side of the Iron Curtain, and that I mentioned Churchill's description of what was behind the Evil Empire, and AL and I learned a lot on that Arctic trip.

So further, the Arctic, where scientists say most warming should be happening, has seen no warming whatsoever in the past 50 years. The polar ice caps are not, not is underlined for Harvey's emphasis, not melting.

Now, the disciples of global warming, unquote, to perpetuate their profitable false alarm, are trying to contend that this year's record cold and snow are actually the result of global warming. Now, how are they going to explain this? They say their computers show global warming causes blizzards and extreme cold. Well, Harvey says, any computer geek, expert or novice, knows that computers are programmed by people. They do what humans direct them to do, and because scientists are feeding their own measurements into the computers their predictions are no more accurate than their own fuzzy logic.

The science of global climate change is complex. We are still learning how parts of our atmosphere interact. Yet all human experience suggests that there would be fewer major snowstorms in a greenhouse world. Somewhere up the road ahead other scholars may decide that planet Earth is cooling instead, but presently they have far too much invested in global warming theories to let go. Fear begets money, money to fund hundreds of millions of dollars' worth of research work being done by universities, by environmental organizations, and Government Agencies with U.S. hard-working taxpayers' dollars. Their jobs depend on keeping you scared.

Al Capone's enforcers used fear to force shopkeepers to buy insurance. Should you, the taxpayer, refuse to pay, they might smash your knees with a baseball bat. Today, you pay protection money in research grants, organization dues, or taxes. You are threatened with an impending apocalypse.

Perhaps the most negative of the new protection rackets is the degree to which eventual public disillusion may discourage investment in more legitimate research. Excellent. Thank you, Mr. Frisbee, for giving me what I missed on Harvey's broadcast.

Ladies and gentlemen, if you saw Meet the Press last Sunday, you were stunned, as I was, the two main guests were our colleague here, JOHN KASICH of Ohio and Pat Buchanan. But at the end of it Tim Russert, who mercifully escaped the acid tongue of Don Imus, at the most peculiar banquet, roast or dinner ever held inside the Beltway. Somebody taped it for me. I can hardly wait to see it given some of the bloodthirsty descriptions of what New York City's longest-running talk show host did to everybody in both parties from the White House down to Tim Russert. He said Tim Russert's job, somebody told me when he worked for a Senator, it was to hide the booze bottle. House rules and good taste prevent me from repeating the name of my Senate friend in the other party, and they said his job for the former Governor of New York was to hide the bodies. He left no dignity, I guess, with Bill Clinton and NEWT GINGRICH sitting on one side. Imus, I understand, absolutely dumped a load of concrete all over the dais and the various Senators and media people in the audience. I understand he lectured one of the people on 60 Minutes that he was a newsman and not a pirate, so stop wearing an earring. I understand they laughed at that. But other than that they were pretty frozen by that point in the program. Anyway, he dumped on Russert more gently than others, I think. I think Tim Russert is probably one of the better hosts on Meet the Press that they have ever had. He is fair and a loyal Catholic, pro-life. I am a little prejudiced in his favor. At the end Mr. Russert says through an unidentified man, do we believe American values in some sense need reforming? He cuts to a very young Jerry Brown with a full head of dark hair, not the shaved head we see today in the prison denim shirt that is Jerry Brown's new image.

During the campaign for the Presidency, 4 years ago, it was white turtlenecks and a 900-number. Now it is a shaved head and a prison shirt, a bright guy, Jesuit-trained, just like yours truly. I must give you the date first: October 5, 1975, 20 years and 5 months ago. He says, I think American values need reassertion in terms of their fundamental roots. I think there has been an overemphasis on the ability of material comfort, on the ability of our economic machinery to provide human happiness. Sounds more like Pope John Paul or Billy Graham than the youngest Governor ever to serve in our biggest State, which had become the biggest State during the prior Governor, Ronald Reagan. Let us see, Jerry Brown was 36 when he got elected; he was in office 1 year. So he is 37 years old, he says, and I would not call it a reform in the sense it is something new, but it is a returning to a traditional view of human nature, that looks to fundamental principles, to right and wrong, to ethics, to morality, to a sense that human nature is constant. It, human nature, is weak. This is the reflection of our Jesuits in that period teaching us about original sin. It needs a type of government that recognizes that mankind is really brought down by its own instincts, and we ought to recognize that. Jerry Brown closes, "We are not going to create a new man or a new person in this country, and every civilization that has gone to a sensate, sensual culture has fallen." And I think that is a real possibility here, and to that extent I would like to see, here comes the rough Jerry Brown message, an austere, leaner commitment on the part of the people of this country. Yes, end of videotape. And Mr. Tim Russert, just a few days ago, comments, economic insecurity, fundamental values, sound familiar? The same issues raised two decades ago, and we hear them today. We will be right back.

Now, I am coming to the end of what I described in this well on February 7, 1995, the 40th anniversary of my getting that ring and my wings of silver in the Air Force 41 years ago. Now on February 7, 1995, I declared for the Republican nomination for President in this well. That is almost 14 months ago. That is a special date for me, February 7, because a quarter of a century ago, 26 years now, on the 15th anniversary of my getting my pilot wings, I pointed to this Montagnard, proper name, ethnic name is Hmong, Hmong people of the mountain people, the French called them, Montagnard is the French name, there long before the Vietnamese, the Lao, or the Yeo or any ethnic Chinese were there. I pointed to this bracelet on the very first Robert K. Dornan Show. I was 37 years of age, 36 years of age. I had just won two Emmys for a local show. My reward was 90 minutes live on Saturday night in the second biggest market on the planet, Los Angeles, and environs. I pointed to this bracelet and said I will wear this, to the first guest on my first show. I stayed on the air for 6 years straight, combining both shows. I said I will wear this for your heroes, for your missing-in-action, heroes, one Marine, three Air Force. They never did get back. They are heroes, those 4 wives and friends of mine who had just come back from a 5-week trip around the world, locked up in Moscow in an old hotel with no heat, 4 of us, including myself, became sick out of the 5. Bill Clinton was in Moscow that very week, January 1970, at a banquet called the Mir Banquet, same name of the Russian space satellite, that is up in the sky right now, Mir means peace, a peace banquet. The guest of honor was a Senator who lasted 12 years, Eugene McCarthy, otherwise a loyal Catholic, there he is in the Evil Empire in the heart of it, in Moscow, in the shadow of the Kremlin, literally across the street from the Kremlin in the National Hotel.

□ 1630

Twenty-three year old Bill Clinton ditching class at Oxford, where he never went to school, never earned his degree, just demonstrated against his country in a foreign land. He is in town. Ross Perot is in Copenhagen with a plane full of medicine for our POW's, which he had just flown in from Vientiane, Laos, home of the Montagnard people. He was told he could fly into

VOL
142
PT
5
MR
21
—
29
1996
UMI

Moscow if he would go into Copenhagen. Moscow keeps him on the ground, never does let him in.

I am under arrest with four wives, Pat Hardy, Pat Burns, Carol Hanson, now Carol Hanson Hickerson, and Connie Hessel, an African-American lady whose Colonel husband was head of academics at our gunnery school. Said he did not have to go. Did not have to go. Said it was his duty to go. Never heard from again. Direct hit from a SAM on his F-4 Phantom.

I am with these wives, locked in a hotel. Clinton is in town being wined and dined as one of the sympathetic students who had organized the fall offensive named by the Communists for sympathetic demonstrations in Finland, Stockholm, Oslo, Norway, Paris, Clinton ran the ones in London, New York, here in the District of Columbia, Los Angeles, San Francisco, and Chicago. All around the world, a huge pro-Communist outpouring of love and affection for the Communist killers in Hanoi who meant to conquer, and eventually did, the freedom-loving people in South Vietnam. What a week.

And I come home from that trip a month later, and God rewards me with the Robert K. Dornan Show, which led to me in the district that was the prime aerospace district in the country, represented then by the wealthiest man in the House, tough district, that show obviously gave me the name recognition to come to Congress 20 years ago.

So that date, February 7, the debut of the Robert K. Dornan Show, was special. So, of course, when it fell on a House day, in session, the 25th anniversary bracelet, 40th for my Air Force wings, I said "Today is the day I come to the well."

I do not live in the green room at "Meet the Press" like certain Senators. I did not have a nickel in the bank at that time. But I said, I think my words were, I am going to launch a mission that will be one of the great adventure of my life. And I am still a declared candidate. Buchanan, Jesuit educated Catholic, Keyes, the same, loyal Catholic, and DORNAN. And the winner, a hero of mine, BOB DOLE, always said he would win from day one. That is why I never raised much money. But I am still in.

It has been that great adventure I expected. I came in, announcing February 7, 1995, and then the formal announcement on Jefferson's birthday, April 13, at the Law Enforcement Memorial up here in Judiciary Square, to begin a trip up the east coast so that on Easter Sunday at the church where I was baptized, St. Patricks Cathedral, 7th biggest church on Earth, where my parents were married in 1929, I would renew my wedding vows, because it was my 40th anniversary, on my wife's birthday. I married her on her 21st birthday.

It was quite a day, ruined a little bit by Connie Chung and a weird show called "TV Nation," pretending they were the BBC, lying in my face, tracking us all day with cameras in our face, out to the Statue of Liberty, ruining a day with 9 grandchildren, now 10. And we went up to New Hampshire. went to the birthplace of the Republican Party, nine grandkids running all over, Sally and I in the glow of our 40th anniversary and Sally's birthday. It began the formal part of the campaign.

I announced at Jefferson's Memorial that I had a message for my country. It was very similar to Jerry Brown's message that man does not live by bread alone, we had a moral crisis in the White House, and that we had a moral crisis in our country. That we were heading toward financial bankruptcy, and that is what we have been debating here all day long and passed by voice vote, both sides are so exhausted and the White House is a little unsure of their polling numbers and their focus groups, by voice vote a few minutes ago, we continue the Government for another 2 or 3 weeks with a continuing resolution.

We still have half the Government unfunded by last year's authorization bill, and we are already into markup. I am the chairman of two subcommittees here, only two of us chair two subcommittees, because the two intelligence subcommittees do not count. That is the dark secret world. But I am the military personnel chairman, and I have had my hearings all jammed together and rushed in 6 weeks, and now I have to write, "markup" we call it, for next year's defense authorization.

Clinton signed this year's defense authorization on February 10. He took out three of the things that I worked on here for the last 20 years. He took out national missile defense, SDI is what Reagan called it, strategic defense initiative. Clinton took it out.

We are told by careful polling that 80 percent of the people who visit this Chamber, 80 percent of intelligent, educated, Americans across this country, do not know that if some radical state, a communist state like Cuba or Korea, or a terrorist state like Iraq or Iran, launched one, uno, O-N-E, one nuclear missile, we could track it from the time the heat appeared on the launch pad through its accelerating trajectory, its mid-course, and its final trajectory, to wiping out a total American city, a medium-sized city like Raleigh, Sacramento or Anaheim, or an entire megalopolis, like New York, this whole Beltway and all the surrounding suburbs and areas in Maryland and Virginia, or all of the whole Los Angeles area, with fallout killing people, depending on the winds, in Santa Barbara or San Diego. One missile, We can track it from launch to impact. And the death of more Americans than every earthquake, fire, down to a single home fire, every hurricane, every flood, every natural disaster, for the entire last 15,000 years, since Asia man came down the Alberta Channel between the glaciers and populated this whole hemisphere from the Bering Straits to Patagonia in Argentina. More deaths in one instant of a flash of radioactivity than every natural disaster in the history of this hemisphere, all put together, times 3 or 4. And we cannot stop that missile.

And Clinton and his Secretary of Defense, Dr. Perry, say it is too soon to defend ourselves. It is not ready yet. Let the next President do it after my second term.

Then he takes out the biggest applause standing-ovation trigger for any one of the 11 Republicans, when Wilson was hanging on and Forbes came in, they sort of replaced one another, we had 10 then, when we had 10 candidates, what I wrote for the Contract With America with JOHN DOOLITTLE of California, what was passed on this floor, what I helped put into the authorization bill, what Clinton vetoed, what we fought through two long arduous conference committees, and he finally demanded be taken out, was no U.S. troops under foreign command. When Governor Lamar Alexander said it, former governor, or Buchanan or Keyes, or Senate Leader BOB DOLE or me, it was an instant standing ovation from the crowd. No U.S. troops under U.N. or any foreign command.

Senator DOLE put it in on the other side, on the north end of this building. I put it in here. I used to sit there and somebody would whisper to me they are all taking credit for it, but you wrote it. I used to tell people, you know what Ronald Reagan had on his desk, a little sign that said if you do not care who gets credited, there is no end to what you can accomplish. But Clinton took that out, takes out defending our Nation.

By the way, we fought to get in theater missile defense. Now, what does that mean? That means that we are building a system to protect our men, now that we are putting women in combat, our women, in the field. And we also are going to protect our allies in the field as we send Patriot missiles to shoot down Scuds. You do not need to be told who is the good guys when the defense system is called Patriot and the evil system is called Scuds. But we gave that to Israel. We will protect, and Israel is working on a system we hope will work, called Arrow, a theater missile system, TMD, theater missile defense. He signed that. No, he is no fan of it, but he signed it. But he took out homeland defense.

So we defend allied foreign troops in the field, and we should, and our own troops, that is a moral obligation, but we do not defend their wives and their children or if it is a fighting mom, we do not defend Mr. Mom, who is taking

care of the kids back home. Or their parents, or their grandparents, or everybody else's family. That is naked to attack. That comes out. And then we put people under foreign command. He says that is his prerogative and constitutionally it is not.

Then the third one he takes out, just as unseemly as the others, is Bosnia, Haiti, and Somalia, where 19 better men than he ever dreamed of being, died, two of them winning the Medal of Honor posthumously, dying to save Michael Durant, giving two lives for his one life. Another man was captured alive and beaten to death, their bodies torn apart, horrible story.

Clinton thinks he can do that without this House weighing in or the Senate. Clinton believes in his mind he can send us to Tibet tomorrow, and we have no role. He thinks he can send the 82d Airborne to bail out Tibet and recapture the big temple there and send the Dalai Lama home.

Now, it sounds absurd. He is not going to do it. He probably never thought about it. But constitutionally, he thinks he can send the 101st Airmobile, a former paratrooper unit, back to Rwanda. He has not sent them there, but he thinks he can send them there again. He thinks he can go back to Somalia in an election year if he feels like it, to get rid of that 19-man death and the 104 others wounded in his adventure there when Bush said we are through, we are finished, we fed 3,050,000, we are out of there. Operation Hope is closed down. And Clinton said let us help the U.N., let us avenge the 29 Pakistanis who were disemboweled. Let us go back and arrest Aideed.

Two weeks after our heroes were killed. They would not dare ask Army men to defend him. Aideed was ordered to be defended by U.S. Marines, but put on an armed C-12 Beachcraft and sent down to a seminar in Addis Ababa, the man whose people just murdered and cut the bodies apart of 19 of our heroes, the helicopter crew with the five dragged through television, desecrated before our eyes. The worst, mercifully not shown on American or some European channels, showed the full horror of it.

What is it that he thinks he can do this, because of one line in the Constitution? One line in this small Constitution of ours that says no, that the President's job is the commander-in-chief, period. That means when we declare war, when we decide what foreign operation will be undertaken, a smart war hero Senator actually said, Jefferson set the precedent. He sent a naval force and Marines over to the Barbary Coast. The Marines still sing about going to the shores of Tripoli. The truth is 180 degrees the opposite. Get educated, U.S. Senate.

Our Congress ordered our second President, John Adams, our third President, the aforementioned Thomas Jefferson, and the following father of our Constitution, 5-foot dynamite James Madison, we ordered them from this Chamber and the U.S. Senate 10 times with public law, go get the Barbary pirates. Jefferson is recorded, you can find it in his own handwriting in the archives or our Library of Congress, where he says as President, No. 3, as President, I cannot order our military to do anything but defend these 13 colonies if attacked, unless the Congress orders me to do something else. And now I came across a story refreshing my memory that the dean of Washington reporters, I believe it was Sarah McClendon, said to President Lyndon Baines Johnson, you do not have the constitutional right to have 400 young men die every week in Vietnam. The Tonkin Gulf thing was a resolution. It is 6 years old. You cannot continue this. That was 1964, he was out by 1968. She said it is 3 years old.

□ 1645

You cannot continue this. He says, I have got the constitutional power. And that is what Clinton thinks. So he takes No. 3 out of the bill that he says that we infringed upon his constitutional power to demand that the U.S. Congress, under its constitutional authority, article I, section 8, says, we shall raise armies, build navies, and maintain them. Do you know that I am the chairman of the military personnel committee, Mr. Speaker? I know you know this. And Senator DAN COATES of Indiana, replaced Dan Quayle, is the military personnel chairman over there. Do you know we have the authority to change the color of the military uniforms, override the Joint Chiefs? We decide how much they will be paid, what their housing will be like, how big the units will be, how many ships will sail, whether we are going to buy the F-22, whether we are going to make more F-15's, 14's, 16's, 18's, what we are going to do with the Harrier, the AV-8B, the vertical take-off aircraft we are rebuilding, 10 to 20 of them, for night radar capability, an amazing system that after three decades walks away with every air show. We decide what kind of basic allowance for quarters. I just raised it 5.2 percent, got the Senate to go along with it and it is law now.

I put into the last bill that people who have the AIDS virus, are infected with the AIDS virus, and will probably die, not before 10 years, we hope, that is what we have extended it to if they live a clean life, exercise, and eat nutritious food, there are 1,049 in the military. They are not deployable. The three surgeons general said they must be brought home from Bosnia or Haiti or other misadventures. They can never be assigned to Korea, to Japan, to Europe. They cannot be a marine guard in an Embassy in any of the 191 nations in the world, 185 in the United Nations, including us, 7 others, 192 nations, including us, our status of treaty says that not a single nation in the world, 191, including the 6 not in the United Nations, that is like Taiwan, Switzerland, Tonga, Nauru, no nation wants an HIV-infected American citizen in uniform in their countries. And they will never go in combat again.

If a person tests HIV positive in Bosnia, he is brought home. He is grounded from his helicopter or his aircraft; he will never fly again. All of the technical schools, the training, it is all flushed. It is gone. Then we put out of the military, or do not recruit someone out of high school new, and give him the job of somebody we have let go who did not get infected with the HIV virus. It is an unbelievable story.

I passed it in the House, in subcommittee, committee. They would not debate it on the floor. Nobody would try to challenge me. They thought they would do it in the other Chamber. It got through two hard-fought conferences. And when Clinton vetoed the bill, he griped about national defense, stopping him from these adventures like Somalia, Bosnia, and Haiti, and United States troops under foreign command. He said that is his constitutional right. It is not. Even somebody as smart and as excellent a leader as BOB DOLE slipped and said, I know it is his constitutional right to send the troops to Bosnia. It is not. He said, but I do not think they should go. We should arm the Moslems. But even he did not understand fully the history of this. So when Clinton finally signed the defense authorization with 10 things in it that I had worked on, no more abortions in military hospitals. I won that battle. The staff did not even want me to do it. Do not, it is too contentious. We will lose on the floor. We won on the floor, 7 times. We won. The Senate tried to take it out. We beat them in conference twice. And Clinton with his own pen, I wish he would send me that pen, undid one of his five culture-of-death Executive orders. He had to undo it because of this Congressman from southern California. One down, four to go of the culture of death. They did not gripe about that one.

But guess what? Clinton says, you took out defending the homeland, the heartland of America or its big cities. I get to put people under U.N. foreign command. I get to send people to Bosnia, Somalia, Tibet, or any cockamamie place I darn well feel like, but I feel bad about this HIV thing. This is mean-spirited, bigoted. Goes on and on and then says, you people out there who want to sue this, sue the Government, sue the military, do it. My Justice Department, Janet Reno, will not counter it. You can sue with impunity. Meanwhile, homosexuals in the military, Janet Reno's Justice Department people are supporting the military policy, as screwed up and contradictory as it is, thanks to Les Aspin,

VOL
142
PT
5
MR
21
—
29
1996
UMI

Lord rest his soul and this confused President on this moral, cultural issue.

He is not going to, he is going to support the military orders there in this dumb mixed up policy on homosexuals in the military, but go ahead and sue on HIV.

So guess what, 3 hours ago, the conference of Senators and House Committee on Appropriations members still cannot decide whether they are going to try without a hearing, try without a hearing, without a bill, without an amendment on the Senate side, without any voting over there, they are going to try and strip out the Dornan language and keep HIV-AIDS-infected people on active duty who are jerked out of all their jobs that have anything to do with combat, even combat support, and who cannot go anywhere in the world, not even Hawaii or Alaska, let alone possessions like Puerto Rico, Guam, Samoa, the Virgin Islands, stay in the American States.

The figures here, most are in California and Virginia, two States with the highest land values and the highest tourist budgets. Unbelievable that he would make an issue out of that, February 10. But that is the constitutional power of Congress under article I, section 8, to decide the total parameters of the size, pay and composition, and equipment of our military.

Clinton thinks they are his toys to be used for photo ops. I will make a charge on the floor right now, Mr. Speaker, that I have been studying for months. The entire intelligence process at the highest levels in Haiti has been politically debauched and compromised. The Aristide government, this man that the Vice President, Mr. Clinton tried to lionize, Aristide, this defrocked cleric, this man who publicly, I have heard it on tape, bragged about how the smell of burning flesh was exciting, telling people to put tires around people's necks and burn them alive with those tires, this defrocked cleric Aristide ordered through his Interior Ministry the death, the assassination of competitors in the recent Presidential election down there.

We found out about these assassination threats. And through a political destruction, and I cannot go any further than this, because of certain responsibilities I have here, because in the politicizing of our intelligence, people died. There are still reports bottled up on Somalia and Bosnia, 17 men dead, NATO Allies, 15, 2 of them our people, dozens injured, land mine accidents, bobby trap bombs in the buildings in Sarajevo, which I drove through a few weeks ago, thinking about my trip there in 1991 on the eve of the dissolution of the Communist cobbled together 8 provinces of the former Yugoslavia. I could hardly recognize this beautiful city of Sarajevo, the Olympic city of the same year that we had the Olympics in my Los Angeles, the Winter Olympics of 1984. Went by the beautiful stadium where Scott won the gold medal, I forget his last name. Now he is a narrator for skating events. That whole stadium collapsed, became a graveyard, the Olympic areas and fields mass graves, unbelievable what they did to themselves there. But 3 years before we used the air power, which I supported, to stop this sniping of women and children, killing mothers in front of their sons or vice versa.

I told George Bush, put a helicopter raid on those concentration camps. Look at this cover of Newsweek, Mr. President. What is this, Auschwitz all over again? What about the ringing words from the Holocaust, "never again." Put about 20 Blackhawks in there. Give them 20 Apaches or Cobra gunships to give them cover. Shoot up the gun towers. They will all run for the tall grass when they see 20 Apaches coming over the nape of the land and put all those prisoners whether they are Moslem-, Bosnian-, or mostly Serbian-held prisoners, put them in helicopters and take them to Strasbourg, France, dump them on the steps of the European Parliament. Not dump them, with great dignity and respect, after we fed them and clothed them, "present" them is the word I want for the European Parliament. And tell them, you vowed never again, these are European human beings. What are you doing? Good idea, BOB, good plan. Cannot get involved. Not our deal.

I said, what are you going to do, wait for the Europeans until the death toll is so bad that we will have to get involved. Then Clinton fritters away 3 years. Now we are in there when there are so many blood debts built up over the last 4 years and they are still killing one another, still burning homes in the suburbs, that I drove through, of Sarajevo. Unbelievable that we are involved also on the ground to relieve what I said when I opened up, European young men and women to work in their industries, to build Airbus aircraft at Air France in Toulouse, France so they can sell them to our big airlines here.

Let me close, Mr. Speaker, on a few notes on the greatest health tragedy to ever hit the United States of America.

Mr. Speaker, nobody has made as many speeches on the floor of the House or on the floor of the Senate about AIDS as I have. Not Mr. Dannemeyer, who is retired, 4 years ago, not Mr. WAXMAN, when he was chairman of the Health Committee and Subcommittee of Commerce, no one has made as many speeches as I have.

My speeches have been rooted in mercy and compassion, and I have voted for every AIDS money appropriation in my last 10 years that I have been here because this is young people dying in their prime, where cancer and cardiac problems hit people generally at the later end of their life. Here are the new figures that I got out of the Atlanta Centers for Disease Ccontrol.

Mr. Speaker, you are an historian. You know that depending on your encyclopedia, 295,000 people died in combat in World War II or 312,000 is the high number. AIDS deaths, as of New Year's Eve, 315,928. We have 513,486 infected with AIDS and over 1 million positive with the human immunodeficiency virus, 1 million infected, half a million with AIDS and 62.3 percent dead. Let me add to that, children, almost 4,000, 3,921, for a cumulative total of 319,849.

You can add to that Dr. Koop, the former surgeon general, told me 30 to 40,000 who died in 1981, 1982, 1983, 1984, where the doctors, mercifully to protect the family, only put down the proximate cause of death, heart, lungs, pneumonia, cancer, and did not say it was caused by a breakdown in their immune system.

So the figure is closer to 350,000, 50,000 more than died in the jungles, the deserts, the Arctic, the sea, the air, all over this planet in World War II, Americans. Now we are heading toward the Civil War figure. We have already passed Civil War combat deaths, but pneumonia, disease, and Andersonville, the Auschwitz of its time, we lost 618,000, another half a decade and we will pass the Civil War death toll. Never has a disease ever cut down so many young Americans, and it has always been handled as a public relations problem, never as a pandemic, that is a worldwide epidemic, a pandemic killing plague, because people's reputations are more important than saving those innocent victims, those 4,000 children.

My heart goes out to the 1,049 people in our military. I am going to find out who is an innocent victim. I will prevail over Mr. Clinton again. During this break I am going to become a walking encyclopedia with visits to Walter Reed, Bethesda, and maybe to San Antonio's Wilford Hall, Air Force. I will not be beaten on this by Senator KENNEDY who does not have a clue of what this is all about.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; and

H. Con. Res. 157. Concurrent resolution providing for an adjournment or recess of the two Houses.

The message also announced that pursuant to Public Law 103–432, upon the recommendation of the majority leader, Jo Anne B. Barnhart of Virginia, Martin H. Gerry of Kansas, Gerald H. Miller of Michigan; and upon the recommendation of the minority leader, Paul E. Barton of New Jersey are

named to the Advisory Board on Welfare Indicators.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. GOODLING (at the request of Mr. ARMEY), for today until 1 p.m., on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOODLATTE) to revise and extend their remarks and include extraneous material:)

Mr. BUYER, for 5 minutes, today.

Mrs. CUBIN, for 5 minutes, today.

Mr. NORWOOD, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

(The following Members (at the request of Mr. WISE) to revise and extend their remarks and include extraneous material:)

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. MOAKLEY, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. TRAFICANT, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. FOX of Pennsylvania, for 5 minutes, today.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3136. An act to provide for enactment of the Senior Citizen's Right to Work Act of 1996, the Line Item Veto Act, And the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit; and

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. (Mr. BARTLETT of Maryland). Pursuant to the provisions of House Concurrent Resolution 157 of the 104th Congress, the House stands adjourned until 12:30 p.m. on Monday, April 15, 1996, for morning hour debates.

Thereupon (at 5 p.m.), pursuant to House Concurrent Resolution 157, the House adjourned until Monday, April 15, 1996, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2316. A letter from the Director, Test, Systems Engineering and Evaluations, Department of Defense, transmitting a letter notifying Congress of the intent to obligate funds for fiscal year 1996 Foreign Comparative Testing [FCT] Program, pursuant to 10 U.S.C. 2350a(g); to the Committee on National Security.

2317. A letter from the Assistant Secretary for Legislative Affairs and Public Liaison, Department of the Treasury, transmitting a copy of the 11th monthly report as required by the Mexican Debt Disclosure Act, pursuant to Public Law 104–6, section 404(a) (109 Stat. 90); to the Committee on Banking and Financial Services.

2318. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Turkey (Transmittal No. 16–96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

2319. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–238, "Retirement Reform Temporary Amendment Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2320. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–233, "Insurance Demutualization Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2321. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–238, "Insurance Redomestication Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2322. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–237, "Safe Streets Anti-Prostitution Amendment Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2323. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–236, "Human Remains Decisions Amendment Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2324. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–232, "Anatomical Gift Amendment Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2325. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–231, "Learner's Permit Amendment Act 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2326. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–230, "Insurance Industry Material Transactions Disclosure Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2327. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–229, "Merit Personnel Early Out Retirement Revisions Amendment Act of 1996," pursuant to D.C. Code, Section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2328. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–228, "Insurance Confidentiality of Information Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2329. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–227, "Henry J. Daly Building Designation Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2330. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–235, "Insurance State of Entry Act of Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2331. A letter from the Secretary of Veterans Affairs transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2332. A letter from the Chairman, Federal Election Commission, transmitting proposed FEC form 5, the form to be used by persons other than political committees to report independent expenditures, pursuant to 2 U.S.C. 438(d); to the Committee on House Oversight.

2333. A letter from the Administrator, Federal Aviation Administration, transmitting a copy of the updated aviation system capital investment plan [CIP], pursuant to 49 U.S.C. app. 2203(b)(1); to the Committee on Transportation and Infrastructure.

2334. A letter from the Chairman, Federal Election Commission, transmitting the Commission's fiscal year 1997 budget request justification and its fiscal year 1996 supplemental appropriation request, pursuant to 2 U.S.C. 437d(d)(1); jointly, to the Committees on Appropriations and House Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KASICH: Committee on the Budget. H.R. 842. A bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; adversely (Rept. 104–499, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. MCINNIS: Committee on Rules. House Resolution 395. Resolution providing for consideration of the joint resolution (H.J. Res.

VOL
142
PT
5
MR
21
—
29
1996
UMI

159) proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes (Rept. 104–513). Referred to the House Calendar.

Mr. QUILLEN: Committee on Rules. House Resolution 396. Resolution providing for consideration of the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund (Rept. 104–514). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2747. A bill to direct the Administrator of the Environmental Protection Agency to make grants to States for the purpose of financing the construction, rehabilitation, and improvement of water supply systems, and for other purposes; with an amendment (Rept. 104–515). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON BILLS INITIALLY REFERRED UNDER TIME LIMITATIONS

Under clause 5 of rule X, the following actions were taken by the Speaker:

H.R. 995. The Committee on Commerce discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

H.R. 3070. The Committees on Ways and Means, the Judiciary, and Economic and Educational Opportunities discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CALVERT:

H.R. 3198. A bill to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes; to the Committee on Resources.

By Mr. BURR (for himself, Mr. GREENWOOD, Mr. RICHARDSON, Mr. BILIRAKIS, Mr. TOWNS, Mr. BARTON of Texas, Mr. HALL of Texas, Mr. KLUG, Ms. ESHOO, Mr. UPTON, Mr. GORDON, Mr. BILBRAY, Mr. BREWSTER, Mr. COBURN, Mr. DOOLEY, Mr. GANSKE, Mr. MCHALE, Mr. OXLEY, Mr. PAYNE of Virginia, Mr. FIELDS of Texas, Mr. ROSE, Mr. PAXON, Mr. HOLDEN, Mr. TAUZIN, Mr. SCHAEFER, Mr. FOX, Mr. FUNDERBURK, Mr. CAMPBELL, Mr. MCINTOSH, Mr. COX, Mr. DREIER, Mr. HEINEMAN, Mr. WELDON of Florida, Mr. SHAYS, Mr. HASTERT, Mr. NORWOOD, Mr. BURTON of Indiana, Mr. FRAZER, Mr. STEARNS, Mr. FRISA, Mr. RAMSTAD, Mr. MARTINI, and Ms. DUNN of Washington):

H.R. 3199. A bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to facilitate the development and approval of new drugs and biological products, and for other purposes; to the Committee on Commerce.

By Mr. KLUG (for himself, Mr. GREENWOOD, Mr. TOWNS, Mr. BILIRAKIS, Mr. RICHARDSON, Mr. BURR, Mr. HALL of Texas, Mr. BARTON of Texas, Mr. GORDON, Mr. UPTON, Mr. BREWSTER, Mr. BILBRAY, Mr. PAYNE of Virginia, Mr. COBURN, Mr. DOOLEY, Mr. GANSKE, Mr. MCHALE, Mr. OXLEY, Mr. HOLDEN, Mr. FIELDS of Texas, Mr. PAXON, Mr. WHITFIELD, Mr. SCHAEFER, Mr. TAUZIN, Mr. FOX, Mr. CAMPBELL, Mr. MCINTOSH, Mr. COX, Mr. DREIER, Mr. HEINEMAN, Mr. FUNDERBURK, Mr. WELDON of Florida, Mr. SHAYS, Mr. HASTERT, Mr. NORWOOD, Mr. FRAZER, Mr. STEARNS, Mr. FRISA, Mr. RAMSTAD, Mr. MARTINI, and Ms. DUNN of Washington):

H.R. 3200. A bill to amend the Federal Food, Drug, and Cosmetic Act to increase access to nutritional information about foods, to increase the availability of safe food products, and for other purposes; to the Committee on Commerce.

By Mr. BARTON of Texas (for himself, Mr. GREENWOOD, Mr. RICHARDSON, Mr. BILIRAKIS, Mr. HALL of Texas, Mr. GORDON, Mr. BURR, Ms. ESHOO, Mr. COBURN, Mr. BREWSTER, Mr. KLUG, Mr. DOOLEY, Mr. GANSKE, Mr. MCHALE, Mr. BILBRAY, Mr. PAYNE of Virginia, Mr. OXLEY, Mr. HOLDEN, Mr. FIELDS of Texas, Mr. PAXON, Mr. SCHAEFER, Mr. TAUZIN, Mr. FOX, Mr. UPTON, Mr. CAMPBELL, Mr. MCINTOSH, Mr. COX, Mr. DREIER, Mr. HEINEMAN, Mr. FUNDERBURK, Mr. WELDON of Florida, Mr. HOSTETTLER, Mr. SHAYS, Mr. HASTERT, Mr. NORWOOD, Mr. BURTON of Indiana, Mr. FRAZER, Mr. STEARNS, Mr. FRISA, Mr. RAMSTAD, Mr. MARTINI, and Ms. DUNN of Washington):

H.R. 3201. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development, clearance, and use of devices to maintain and improve the public health and quality of life of the citizens of the United States; to the Committee on Commerce.

By Mr. DEFAZIO:

H.R. 3202. A bill to decrease military spending to a sensible level by reducing force structure, major weapons system procurement, and other programs; to the Committee on National Security.

By Mr. BILBRAY (for himself and Ms. DUNN of Washington):

H.R. 3203. A bill to require the administrative agency responsible for adjudicating claims under the workers' compensation provisions of title 5, United States Code, to follow certain procedures in seeking medical opinions; to the Committee on Economic and Educational Opportunities.

H.R. 3204. A bill to require the administrative agency responsible for adjudicating claims under the workers' compensation provisions of title 5, United States Code, to select board certified physicians to provide second opinions; to the Committee on Economic and Educational Opportunities.

H.R. 3205. A bill to change the appeals process in the workers' compensation provisions of title 5, United States Code; to the Committee on Economic and Educational Opportunities.

By Mr. CHRISTENSEN (for himself, Mr. HAYES, Mr. NEUMANN, Mrs. MYRICK, and Mr. FOX):

H.R. 3206. A bill to amend title 18, United States Code, with respect to Federal prisoners, and for other purposes; to the Committee on the Judiciary.

By Mr. BAKER of California (for himself, Mr. BEREUTER, Mr. BROWN of California, Mr. CALVERT, Mrs. CLAYTON, Mr. COX, Mr. DICKS, Mr. DELLUMS, Mr. EHLERS, Ms. ESHOO, Mr. FARR, Mr. FUNDERBURK, Mr. GENE GREEN of Texas, Mr. HASTERT, Mr. JACOBS, Mr. PARKER, Mr. ROGERS, Mr. ROYCE, Mr. ROTH, Mr. TAYLOR of North Carolina, Mr. TOWNS, Mr. WELDON of Florida, Mr. WILSON, and Mr. WISE):

H.R. 3207. A bill to amend the Communications Act of 1934 to facilitate utilization of volunteer resources on behalf of the amateur radio service; to the Committee on Commerce.

By Mr. BASS:

H.R. 3208. A bill to amend the Federal Election Campaign Act of 1971 to strengthen certain provisions relating to independent expenditures, and for other purposes; to the Committee on House Oversight.

By Mr. BEREUTER:

H.R. 3209. A bill to amend the Internal Revenue Code of 1986 to increase the maximum amount deferrable under a 457 plan for any year to the amount deferrable for such year under a 401(k) plan, and to require that amounts in 457 plans be held in trust; to the Committee on Ways and Means.

By Mr. CAMPBELL:

H.R. 3210. A bill to amend the Bank Holding Company Act of 1956 to clarify that the Board of Governors of the Federal Reserve System has full discretion with regard to the type and amount of information required to be included in an application to become a bank holding company or to acquire a bank, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. FAWELL:

H.R. 3211. A bill to amend the National Labor Relations Act to protect employer rights; to the Committee on Economic and Educational Opportunities.

H.R. 3212. A bill to amend the Fair Labor Standards Act of 1938 to provide a limited overtime exemption for employees performing emergency medical services; to the Committee on Economic and Educational Opportunities.

By Mr. FORBES:

H.R. 3213. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 relating to the dumping of dredged material in Long Island Sound, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. FRANKS of Connecticut:

H.R. 3214. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish a brownfield cleanup loan program; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HAYWORTH:

H.R. 3215. A bill to amend title 18, United States Code, to repeal the provision relating to Federal employees contracting or trading with Indians; to the Committee on the Judiciary.

By Mrs. JOHNSON of Connecticut (for herself, Mr. SHAYS, Mr. FRANKS of New Jersey, and Mr. HORN):

H.R. 3216. A bill to amend the Occupational Safety and Health Act of 1970 to require that inspections of construction sites carried out under that act shall be conducted by inspectors who have been trained pursuant to standards established by the Secretary of Labor; to the Committee on Economic and Educational Opportunities.

By Mr. LATOURETTE (for himself, Mr. SAXTON, Ms. LOFGREN, Ms. RIVERS,

Ms. KAPTUR, Mr. GILCHREST, Mr. STUPAK, Mr. QUINN, Mr. RAMSTAD, Mr. MILLER of California, Mr. OBERSTAR, Mr. MEEHAN, Mr. FRANKS of New Jersey, Mr. PETRI, Mr. HOKE, Mr. EHLERS, Mr. DINGELL, Mr. ENGLISH of Pennsylvania, and Mrs. MORELLA):

H.R. 3217. A bill to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LATOURETTE:

H.R. 3218. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate that a portion of their income tax refunds be retained by the United States for use for certain public purposes; to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, Commerce, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAZIO of New York (for himself, Mr. BEREUTER, Mr. HAYWORTH, and Mr. JOHNSON of South Dakota):

H.R. 3219. A bill to provide Federal assistance for Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. SALMON (for himself and Mr. STEARNS):

H.R. 3220. A bill to provide for the opportunity for the families of murder victims to attend the execution of the murderers; to the Committee on the Judiciary.

By Mr. SANDERS:

H.R. 3221. A bill to amend the Electronic Fund Transfer Act to prohibit the imposition of certain additional fees on consumers in connection with any electronic fund transfer which is initiated by the consumer from an electronic terminal operated by a person other than the financial institution holding the consumer's account and which utilizes a national or regional communication network; to the Committee on Banking and Financial Services.

By Mr. SANDERS (for himself, Mr. STARK, Ms. MCKINNEY, Mr. DELLUMS, Mr. HILLIARD, and Mr. FRAZER):

H.R. 3222. A bill to prohibit gag rule clauses, improper incentive programs, and indemnification clauses in health care insurance contracts and health care employment contracts, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHIFF (for himself, Mr. MCCOLLUM, Mr. COBLE, Mr. SKEEN, Mr. FROST, Mrs. MYRICK, and Mr. LATOURETTE):

H.R. 3223. A bill to amend title 18, United States Code, to provide mandatory life imprisonment for persons convicted of a second serious violent felony or serious drug offense; to the Committee on the Judiciary.

By Mr. SCHIFF (for himself and Mr. SHAYS):

H.R. 3224. A bill to improve Federal efforts to combat fraud and abuse against health care programs, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Government Reform and Oversight, Ways and Means, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAYS (for himself, Mr. SCHIFF, and Mr. BARRETT of Wisconsin):

H.R. 3225. A bill to amend title XVIII of the Social Security Act to expedite payment adjustments for durable medical equipment under part B of the Medicare Program based upon inherent reasonableness; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON (for himself and Mr. MILLER of California):

H.R. 3226. A bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 3227. A bill to amend title 23, United States Code, relating to the statewide planning process to provide for greater participation by elected officials having jurisdiction over transportation in nonmetropolitan areas, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. VELÁZQUEZ (for herself, Mr. GUTIERREZ, Mrs. KENNELLY, Mr. KENNEDY of Massachusetts, Mr. SERRANO, Mr. MENENDEZ, Ms. ROYBAL-ALLARD, and Ms. ROS-LEHTINEN):

H.R. 3228. A bill to require the Secretary of the Treasury to mint coins in commemoration of all the brave and gallant Puerto Ricans in the 65th Infantry Regiment of the United States Army who fought in the Korean conflict; to the Committee on Banking and Financial Services.

By Mr. VENTO:

H.R. 3229. A bill to require that wages paid under a Federal contract are greater than the local poverty line, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. LIVINGSTON:

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations.

By Mr. LANTOS:

H.J. Res. 171. Joint resolution proposing an amendment to the Constitution to permit the Congress to limit contributions and expenditures in elections for Federal office; to the Committee on the Judiciary.

By Mr. ARMEY:

H. Con. Res. 157. Concurrent resolution providing for an adjournment or recess of the two Houses; considered and agreed to.

By Mr. BROWDER:

H. Con. Res. 158. Concurrent resolution instructing the Architect of the Capitol to recommend measures to recognize, through the National Statuary Hall, the ongoing contributions of all American citizens, including women; to the Committee on House Oversight.

By Ms. VELAZQUEZ (for herself, Mr. GUTIERREZ, Mrs. KENNELLY, Mr. KENNEDY of Massachusetts, Mr. SERRANO, Mr. MENENDEZ, Ms. ROYBAL-ALLARD, Ms. ROS-LEHTINEN, and Mr. UNDERWOOD):

H. Con. Res. 159. Concurrent resolution expressing the sense of the Congress that the heroism of the brave and gallant Puerto Ricans in the 65th Infantry Regiment of the United States Army who fought in the Korean conflict should be commemorated; to the Committee on Veterans' Affairs, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARMEY:

H. Res. 397. Resolution electing Representative JAMES A. HAYES of Louisiana to the Committee on Ways and Means; considered and agreed to.

By Mr. ENGEL (for himself, Mr. GILMAN, Mr. NADLER, Mr. SAXTON, Mr. DEUTSCH, and Mr. MCNULTY):

H. Res. 398. Resolution condemning the construction of a shopping center within the internationally protected zone around the Auschwitz death camp in Poland; to the Committee on International Relations.

By Mr. PAYNE of New Jersey (for himself, Mr. CHABOT, Mrs. CLAYTON, Mr. CONYERS, Ms. MCKINNEY, Mr. BEREUTER, Mr. OWENS, and Mr. WYNN):

H. Res. 399. Resolution expressing the sense of the House of Representatives with respect to the promotion of democracy and civil society in Zaire; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. SCHAEFER.

H.R. 103: Mr. KLINK, Mr. DIAZ-BALART, and Mr. BRYANT of Texas.

H.R. 294: Mr. FATTAH and Ms. PELOSI.

H.R. 324: Mr. LUTHER and Mrs. CLAYTON.

H.R. 452: Mr. DIAZ-BALART and Mr. STUPAK.

H.R. 468: Mr. REGULA.

H.R. 500: Mr. DICKEY.

H.R. 528: Mr. TIAHRT.

H.R. 820: Mr. GOODLING and Mr. TRAFICANT.

H.R. 1023: Mr. DORNAN and Mr. LATHAM.

H.R. 1119: Mr. SANDERS.

H.R. 1171: Mr. MCCOLLUM and Mr. COX.

H.R. 1297: Mr. QUILLEN.

H.R. 1386: Mr. SCHAEFER, Mr. BONILLA, and Mr. BRYANT of Tennessee.

H.R. 1406: Mr. SPENCE.

H.R. 1492: Mr. WELDON of Florida.

H.R. 1514: Mr. BATEMAN, Mr. COSTELLO, Mr. SMITH of Texas, Mr. MCDADE, Mr. PORTER, Mr. BARRETT of Nebraska, Mr. LEWIS of Georgia, Mr. TORRES, and Mr. ALLARD.

H.R. 1552: Mr. FRELINGHUYSEN, Mr. BRYANT of Texas, Mrs. LOWEY, Ms. MCKINNEY, Ms. NORTON, Mr. CUNNINGHAM, and Ms. WOOLSEY.

H.R. 1661: Mr. HOSTETTLER, Mr. GORDON, Mr. ZELIFF, and Mr. WELDON of Pennsylvania.

H.R. 1662: Mrs. MEEK of Florida and Mr. CRAMER.

H.R. 1684: Mr. PARKER, Mr. GEPHARDT, and Mr. ENGLISH of Pennsylvania.

H.R. 1711: Mr. DOOLITTLE.

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H.R. 1802: Mr. BEILENSON.

H.R. 1953: Mr. BATEMAN.

H.R. 1972: Mr. YOUNG of Florida and Mr. COSTELLO.

H.R. 2011: Mr. BROWN of Ohio.

H.R. 2019: Mr. HUTCHINSON.

H.R. 2026: Ms. PELOSI, Mr. BEILENSON, Mr. GINGRICH, Mr. MASCARA, and Mr. FALEOMAVAEGA.

H.R. 2086: Mr. BEREUTER.

H.R. 2087: Mrs. CUBIN.

H.R. 2143: Ms. ESHOO and Mr. BERMAN.

H.R. 2178: Mr. GEJDENSON.

H.R. 2192: Mr. COSTELLO.

H.R. 2193: Mr. PETE GEREN of Texas, Ms. MCKINNEY, Mr. FOX, Mr. FALEOMAVAEGA, Mr. BONILLA, and Mr. STENHOLM.

H.R. 2247: Mrs. CLAYTON, Mr. FRANK of Massachusetts. Mr. FRAZER, Ms. ROYBAL-ALLARD, and Mr. WILLIAMS.

H.R. 2250: Mr. RIGGS.

H.R. 2391: Mr. SOLOMON and Mr. SHADEGG.

H.R. 2400: Mr. SPENCE.

H.R. 2421: Mr. TORKILDSEN, Mr. FLAKE, Ms. MOLINARI, Mr. QUINN, Mr. LAFALCE, and Mr. RANGEL.

H.R. 2470: Mr. COBURN.

H.R. 2489: Mr. BEILENSON, Ms. BROWN of Florida, Mr. BURTON of Indiana, Mr. COBURN, Mr. FOX, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JOHNSON of Connecticut, Mrs. LOWEY, Mrs. MALONEY, Ms. MOLINARI, Mr. OBERSTAR, Mr. PETRI, Mr. SMITH of New Jersey, Mr. TAYLOR of North Carolina, Mr. THORNBERRY, Ms. WATERS, and Mr. WELLER.

H.R. 2548: Mr. PAYNE of New Jersey and Mr. BILBRAY.

H.R. 2579: Mr. SPENCE.

H.R. 2690: Mr. FOGLIETTA, Mr. BERMAN, Mr. FALEOMAVAEGA, Mr. WATT of North Carolina, Ms. WOOLSEY, Mr. WAXMAN, Mr. NADLER, Mr. OBERSTAR, Mr. DAVIS, Ms. LOFGREN, and Mr. LUTHER.

H.R. 2699: Mr. DICKS, Ms. JACKSON-LEE, Mr. FALEOMAVAEGA, Ms. NORTON, Mr. DOYLE, Mr. JEFFERSON, Mrs. CLAYTON, Mr. PAYNE of New Jersey, Mrs. MEEK of Florida, Mr. TOWNS, Mr. CLAY, Mr. THOMPSON, Mr. BISHOP, and Mr. CHABOT.

H.R. 2727: Mr. HOSTETTLER.

H.R. 2741: Mr. BURR, Mr. PACKARD, and Mr. MOORHEAD.

H.R. 2757: Mr. PAYNE of Virginia, Mr. THORNBERRY, Mr. METCALF, and Mrs. CLAYTON.

H.R. 2823: Mr. TRAFICANT, Mr. RIGGS, Mr. ACKERMAN, and Mr. ALLARD.

H.R. 2875: Mr. WELLER and Mr. RANGEL.

H.R. 2900: Mr. FIELDS of Texas, Mr. EVERETT, Mr. UPTON, Mrs. SMITH of Washington, Mr. BURTON of Indiana, Mr. RAHALL, and Mr. SCHIFF.

H.R. 2919: Mr. LIPINSKI.

H.R. 2922: Mrs. THURMAN.

H.R. 2959: Mr. QUINN.

H.R. 2986: Mr. VENTO, Mr. NEY, and Mr. HINCHEY.

H.R. 3004: Mr. THORNTON and Mrs. CLAYTON.

H.R. 3022: Mr. FRAZER, Ms. NORTON, Mr. HILLIARD, Mr. PAYNE of New Jersey, Mr. YATES, Ms. MCKINNEY, and Mr. PALLONE.

H.R. 3030: Ms. WOOLSEY, Ms. MCKINNEY, Mr. HILLIARD, Mr. WAXMAN, Mr. TORRES, Mr. MATSUI, Mr. MORAN, Mr. DELLUMS, and Ms. LOFGREN.

H.R. 3050: Mrs. CLAYTON.

H.R. 3052: Mrs. LOWEY, Ms. NORTON, Mr. HILLIARD, Mr. FALEOMAVAEGA, Mr. DELLUMS, Mr. FROST, Mr. QUINN, Mr. FOX, Ms. MCKINNEY, Mr. FRAZER, Mr. BORSKI, Mr. FAZIO of California, Ms. LOFGREN, Mr. FARR, Mr. THOMPSON, Mr. WILSON, Mr. TORRES, Mr. GEJDENSON, and Mr. EVANS.

H.R. 3067: Mr. DEFAZIO and Mr. WATTS of Oklahoma.

H.R. 3079: Mr. KLECZKA.

H.R. 3081: Mrs. CLAYTON, Mr. FARR, Mr. PAYNE of New Jersey, and Mr. FROST.

H.R. 3089: Mrs. MORELLA, Mr. PALLONE, Mr. MATSUI, Mr. MILLER of California, and Mr. KLINK.

H.R. 3104: Mr. ENSIGN and Mr. GENE GREEN of Texas.

H.R. 3119: Mr. EDWARDS.

H.R. 3130: Mr. EVANS and Mrs. CLAYTON.

H.R. 3149: Mr. RAMSTAD and Mr. HERGER.

H.R. 3152: Ms. WOOLSEY, Mr. RIGGS, Mr. FAZIO of California, and Mr. ROHRABACHER.

H.R. 3170: Mr. MARTINI and Ms. MOLINARI.

H.R. 3173: Mr. KILDEE, Ms. ROYBAL-ALLARD, and Mr. KLINK.

H.R. 3177: Mr. KLUG, Mr. ROTH, Mr. PETRI, Mr. OBERSTAR, Mr. MILLER of Florida, Mr. BARRETT of Wisconsin, and Mr. FRANK of Massachusetts.

H.R. 3195: Mr. GRAHAM and Mr. SPENCE.

H.J. Res. 70: Mr. FRAZER.

H. Con. Res. 47: Mr. DEFAZIO, Mr. MORAN, Mr. TOWNS, Mr. WELLER, and Mr. STOCKMAN.

H. Con. Res. 95: Mr. WATTS of Oklahoma, Ms. PELOSI, and Ms. NORTON.

H. Res. 30: Mr. PETERSON of Florida, Mr. BRYANT of Texas, Ms. WATERS, Mr. SCHIFF, Mr. SCHAEFER, Mr. KILDEE, and Mr. BECERRA.

H. Res. 359: Mr. BARRETT of Wisconsin, Mr. RANGEL, and Mr. DELLUMS.

H. Res. 374: Ms. DELAURO, Mr. GREENWOOD, Mrs. ROUKEMA, and Mr. MCCOLLUM.

H. Res. 378: Mr. MANTON and Mr. LIPINSKI.

H. Res. 385: Mr. BEREUTER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1834: Mrs. JOHNSON of Connecticut.

H.R. 1972: Mrs. MINK of Hawaii.

H.R. 2754: Mr. QUILLEN.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

[Omitted from the Record of March 22, 1996]

Petition 12 by Mrs. SMITH of Washington on House Resolution 373: Glen Browder.

[Submitted March 29, 1996]

Petition 12 by Mrs. SMITH of Washington on House Resolution 373: Patricia Schroeder, David Minge, Thomas M. Barrett, William P. Luther, Glenn Poshard, Jack Reed, Bob Inglis, Edward J. Markey, and James A. Leach.

EXTENSIONS OF REMARKS

TENTH ANNIVERSARY OF THE CHERNOBYL REACTOR EXPLOSION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. GILMAN. Mr. Speaker, at 1:23 a.m. on April 26, 1986, a test conducted on reactor No. 4 at the nuclear facility at Chernobyl, Ukraine resulted in catastrophe. An explosion in the reactor core destroyed a large part of the reactor building. Since the entire facility had been built without any containment dome, there was no way for the reactor personnel to prevent the release into the atmosphere—and into the wind—of huge amounts of radioactive materials. The total amount of radiation released in the course of this terrible incident is estimated by many to exceed that released by the atomic bomb blast at Hiroshima, Japan in 1945.

For 2 weeks after the explosion, reactor personnel and firefighters fought to extinguish the fire, which was fed by the exposure of the reactor core to the atmosphere. Official records from the former Soviet Communist regime regarding the Chernobyl explosion state that 31 individuals, mostly plant personnel and firefighters, died during or immediately after the explosion. It is very likely, however, that a greater number died at that point, with the Soviet regime choosing to cover up the extent of the damage and loss of life caused by the explosion.

Mr. Speaker, I must take a moment to mention that a group of high school students from my district were visiting Belarus at the time of the Chernobyl explosion. As the radiation from Chernobyl spread north toward Belarus, we were all concerned for the safety of these young people and, after they cut short their trip and returned to the United States, I asked the Brookhaven Laboratories to check to ensure that they had not been exposed to radiation. In fact they had been exposed, but the radiation was limited to their shoes.

Since that time, however, an effort has been mounted by those students from Ramapo High School and their faculty instructor, Mr. Don Cairns, to collect and distribute medical and other supplies for the children who are victims of radiation exposure in Belarus. To date, the Ramapo Children of Chernobyl Fund has collected over $12 million worth of medicines and other materials for those innocent young victims. In June 1994, President Clinton commended this group and those young American students for all they had done and were doing to help these children in Belarus. Today, I want to again voice my commendation for their continuing good work.

Mr. Speaker, we are now approaching the 10th anniversary of this catastrophe, and I would like to provide my colleagues with some estimates of the damage caused over the last 10 years in the countries of Ukraine, Belarus, and Russia by the catastrophe of April 26, 1986:

Up to 125,000 individuals may have died due to radiation exposure, including 6,000 people who participated in postexplosion, cleanup activities;

Millions of residents of the countries of Ukraine, Belarus, and Russia live on lands contaminated by radiation;

Thyroid cancers have risen dramatically among children of the surrounding region;

Radiation continues to work its way into the food chain, and the danger of the further spread of radiation from the site of the destroyed reactor is growing—even now, the concrete sarcophagus surrounding the destroyed reactor is believed to be in danger of collapse.

Meanwhile, energy-starved Ukraine continues to operate the remaining three reactors, dependent on their electrical output to make it through the difficult time of economic transformation through which that country is now going. The danger of Chernobyl continues, however. As recently as November of last year, a serious radiation leak occurred when a nuclear fuel rod split open during refueling of reactor No. 1.

Mr. Speaker, this is a grave situation, and one that requires the world's attention and concern. On April 8–9 of this year, the Children of Chernobyl Fund, Columbia University's Harriman Institute, and Yale University's Center for Russian and East European Studies, will cohost a 2-day conference on the long-term impact of the Chernobyl explosion.

Mr. Speaker, I recommend to my colleagues' attention an article announcing this very important conference, printed in the March 17 Ukrainian Weekly, and I include the article in my statement at this point.

[From the Ukrainian Weekly, Mar. 17, 1996]

CHORNOBYL CONFERENCE SLATED FOR COLUMBIA AND YALE

NEW YORK.—On April 8-9, the Harriman Institute at Columbia University and the Center for Russian and East European Studies at Yale will co-host a two-day conference to examine the long-term impact of the Chornobyl nuclear accident and to address the broad spectrum of environmental and medical crises that continue to plague Ukraine, Belarus and neighboring countries.

The conference will bring together some of the leading international experts on Chornobyl's aftermath. Among these will be Prof. David Marples of the University of Alberta, Dr. Alexander Sich of the European Bank for Reconstruction and Development (EBRD), and Dr. Murray Feshbach, author of the groundbreaking treatise titled "Ecocide in the USSR."

The opening panel will also include Alla Yaroshinska, the award-winning journalist who uncovered secret internal memos from the Soviet Politburo which proved that the government covered up the widespread incidence of acute radiation sickness among thousands of Chornobyl victims. The "secret protocols" were published in Izvestiya and provided conclusive evidence that then President Mikhail Gorbachev was fully informed of the scope of the accident and that he deliberately tried to mislead the public and the Western news media about the severity of the threat to public health and safety.

The first day of the conference, from 9 a.m. to 3:30 p.m., will be held at the Luce Center for International Studies at 32 Hillhouse Ave., on the Yale Campus in New Haven, Conn.

On April 9 the conference will reconvene at 9 a.m. at Altschul Auditorium at the School for International and Public Affairs, 420 W. 118th St. (ground floor) at Columbia University.

"We hope that this will be much more than a retrospective on the events of 1986," said Prof. Mark Von Hagen, director of the Harriman Institute and a leading scholar on Ukrainian affairs. "The legacy of Chornobyl continues, and this conference is planned as a constructive step in the quest for solutions to the many problems still affecting the contaminated regions."

Titled "Chornobyl Challenge '96" the conference is part of the nationwide campaign being mobilized under the same name to commemorate the 10th anniversary of the Chornobyl accident.

"Chornobyl is one of the most daunting challenges confronting the scientific community and global policy-makers," said Alex Kuzma, coordinator of the Chornobyl Challenge '96 coalition and director of development for the Children of Chornobyl Foundation.

"Beyond the immediate need for medical relief, the nations of Ukraine and Belarus are facing the massive task of cleaning up thousands of acres of contaminated land and irradiated equipment left over from the 1986 emergency. They also need to reduce their dependency on Soviet-built reactors, which everyone agrees are dangerously substandard, and to develop benign energy alternatives," he added.

A special workshop on Ukraine's energy policy will explore the potential for greater energy efficiency in the industrial sector, biomass and other promising technologies.

"We hope to offer useful insights and perspectives based on the successes of Western environmental programs, and the initiatives of other developing nations," said Susan Holmes, program director for the conference at Columbia University. "We also need to remain sensitive to the unique circumstances surrounding Chronobyl and the unprecedented nature of this accident."

Numerous government officials from Ukraine and the United States are also scheduled to address the conference. These include U.S. Sen. Joseph I. Lieberman (D-Conn.) and Rep. Benjamin Gilman (R-N.Y.), chairman of the House Committee on Foreign Affairs. Both have been outspoken advocates of greater U.S. assistance to the Chornobyl region.

Also featured will be Deputy Volodymyr Yavorivisky, a prominent member of the Ukranian Parliament and a former commissioner for Chornobyl relief efforts, and Vice-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 142 PT 5 MR 21 — 29 1996 UMI

Prime Minister Vasyl Durdynets, chairman of humanitarian affairs in the Ukranian government's Cabinet of Ministers.

Principal funding for the conference has been provided by Columbia University with a supporting grant from the Shevchenko Scientific Society. The cost of admission to the conference will be $35 per person for both days, or $20 per day. Admission will be free for students and faculty with valid Columbia or Yale University identification.

For more information, contact Susan Holmes at the Harriman Institute, (212) 854–8487; Ellis Mishulovich at the Yale Center for East European Studies, (203) 432–3423, or the Children of Chornobyl Foundation, (201) 376–5140.

IN HONOR OF THE CHILD ABUSE PREVENTION COUNCIL OF CONTRA COSTA COUNTY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. MILLER of California. Mr. Speaker, on April 18, 1996, the Child Abuse Prevention Council of Contra Costa County, Inc. [CAPC] will be celebrating its 20th year of providing critical services to children and families in my congressional district. I would like to take this opportunity to congratulate CAPC and its staff and volunteers for their dedication, perseverance and significant contribution to the community. They truly have helped to make a difference in the lives of children and their families.

Founded in 1976 as part of an umbrella organization and incorporated in 1984 as an independent nonprofit corporation, the council serves as the county's clearinghouse for child abuse prevention information and referral, public education, and advocacy services.

The Council's message to "Stop Child Abuse" reaches over 70,000 county residents each year. As the only agency in Contra Costa County solely dedicated to child abuse prevention, the council provides a number of programs and services designed to educate, inform, and involve the general public in preventing child abuse. Also, by connecting victims, abusers and those at-risk for abuse with much-needed services, the council serves a critical function in stopping the vicious cycle of child abuse in our society at large.

The council recruits, trains and maintains an active roster of over 30 volunteers who participate in our Partnership for Prevention Program. This program is designed to provide educational presentations to colleges, schools, daycare and Headstart centers, shelters, community groups, professionals serving children, service clubs, churches, community service agencies, firefighters, and corporate employees. Its trained volunteers provide over 100 presentations throughout the county to over 5,000 people annually.

The council coordinates public and private agencies involved in the prevention, intervention and treatment of child abuse in Contra Costa County. In 1982, by order of the Contra Costa Board of Supervisors, CAPC was designated as the coordinating agency of the Interagency Child Abuse Systems Review Committee, an ongoing committee which identifies problems in the county's service delivery system and makes recommendations to the board of supervisors. In 1988, the council was also named as the coordinating agency for the Contra Costa County Child Death Review Multidisciplinary Team, which reviews deaths of children under the age of 18 years.

In 1992, the Council established the countywide Multidisciplinary Interview Advisory Committee for the purpose of providing planning for a future Multidisciplinary Interview Center in Contra Costa County. This center would provide a one-stop interviewing for child sexual abuse victims, and streamline investigation, and prosecution processes for child sexual abuse cases.

In 1982, the CAPC special needs fund was established—with assistance from the Oakland Tribune—to provide small cash grants to help meet the special needs of families in which childen may be in jeopardy and/or need. Each year the council disburses approximately 15 grants to families in Contra Costa County.

In 1985, an interagency task force was convened by the council to develop a comprehensive resources directory of primary prevention and support services available to residents of Contra Costa County. The directory, "Surviving Parenthood," is now in its 5th edition and has been established as the leading resource for families in crisis.

More recently, CAPC developed a "Kids: Instruction for Care" campaign which includes the distribution of T-shirts and bookmarks designed to highlight basic parenting skills. The bookmarks are distributed in daycare facilities, schools, and libraries throughout the county, and the T-shirts and now in more than 25 States and 11 countries.

Next month, the council will celebrate its 20th anniversary, and I am pleased to see that the council has as much energy today as when it first began. The council is expanding its programs to meet the growing needs of the county. This year the child abuse prevention council will be opening a second office in Richmond, CA, to provide more accessible services to families and children in west Contra Costa County.

Again, Mr. Speaker, I salute CAPC on its 20th anniversary and hope that they not only continue their important efforts but can serve as a model for other communities in their efforts to combat the scourge of child abuse.

CITIZENSHIP USA

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. GUTIERREZ. Mr. Speaker, on Monday, March 18, 1996, the INS announced the Chicago kickoff of Citizenship USA, a major nationwide initiative designed to help eligible immigrants become U.S. citizens. The goal of this worthwhile initiative is to ensure that by September 30, 1996, eligible persons who apply for citizenship will become citizens within 6 months. In Chicago alone the INS is expected to conduct more than 850 interviews each day, 4 days a week. This historic announcement was made before a crowd of 1,100 new citizens, representing 71 nations, who took the citizenship oath at the Navy pier ceremony.

As a proud participant of the development of this very important initiative in Chicago I would like to include in the CONGRESSIONAL RECORD my remarks during the Chicago Citizenship USA kickoff.

CITIZENSHIP USA

(By Luis Gutierrez)

I want to thank everyone who has worked so hard to make this day possible and make it such a success, and for giving me the opportunity to be with all of you today. I want to say a particular word of thanks to Mayor Richard Daley. In a time when far too many elected officials across our nation have found that exploiting people's fears and ignorance about the immigrant community can be the road to a few extra votes, our Mayor has demonstrated a consistent commitment to immigrants to our great city.

Mayor Daley, I thank you for that commitment. And most importantly, I thank all of you who are here before us today, allowing us to share in this very special day of accomplishment for all of you. The elected and appointed officials who are on this podium today have the easy part of the program. We are fortunate enough to be able to congratulate you and share in your success.

All of you have done the hard part. You have left family and friends in your native country. Overcome barriers of language and culture and custom. Endured the frustrations of government bureaucracy and paperwork and frequent indifference. And weathered the words and policies and efforts of some of us here in America who still, after 220 years of our nation growing and thriving because of the contributions of immigrants, who still don't want you in our land.

And yet, here you are, about to make our country stronger and greater and better by becoming citizens of the United States of America. For your effort, and dedication, and commitment to reaching your dream, I thank you. And today, as you make your dream come true, you are doing more than just taking a big step forward for you and your family. You are sending a message to the people of Chicago, the people of Illinois, the people of America.

Two days from now, I will go to Washington. And in Washington this week, we are debating H.R. 2202. It's a bill about immigration and naturalization. And the people who wrote that bill are blind to all of you who are here today. They are blind to your hopes and dreams and contributions and efforts to build a better America. And that blindness is reflected in one of the most horribly anti-immigrant bills to be introduced into Congress in our lifetime.

So we will debate in Washington this week just how many of these types of ceremonies we should really have in our country. The people who wrote that bill say a lot less. I say we should have a lot more. Because when we debate the question, "what should our immigration policy be," we are really asking ourselves something much more important.

We are asking. "what king of nation should we be?" "What kind of America should we be?" Should we be the proud, and confident, and vibrant America that has welcomed immigrants from across our globe, and grown better and stronger because of their contributions? Or should we be a small, and fearful, and declining America that shuts our borders and closes our minds and turns our back on people who want nothing more than to help make America great?

That is the real choice of our immigration debate this week. To listen to the red-hot rhetoric about the dangers of immigration, and about immigrants who are making our streets dangerous and taking away jobs and looking for a free ride, you might think that immigrant-bashing is a new invention. But the mindless immigrant-bashing we hear today from the Pete Wilsons and Pat Buchanans of America is as old as the Mayflower.

Politicians have always been ready to turn real fears and legitimate concerns about crime and health care and jobs into the imaginary belief that it is all the fault of those people—those immigrants, those suspect people who are somehow different from the rest of us.

Let me read you a quote. You guess who it's about. "It is hopeless to think of civilizing these new immigrants, or keeping them in order, except by the arm of the law." Sounds a lot like the speeches I hear on the floor of the House of Representatives. Or the rhetoric any where Pat Buchanan happens to be campaigning. But the quote is a little less recent, It's from the New York Times. In 1875. And they were writing about Italians.

Well, the immigrant bashers were wrong about Italians in 1875. And they are wrong about the immigrants to America today. Unfortunately, today's immigrant bashers are so busy closing their minds that they close their eyes to the reality of immigration and the contributions of immigrants. They don't see you. They don't see this swearing in. They don't see 1,000 people ready to work and sweat and toil to make their lives better and their families lives better. You are the reality of immigration today.

I wish the bashers and politicians and fear-mongerers would come to our city, and look at the reality of your faces. Maybe then, instead of closing their minds, they could open their hearts. When friends of mine who don't know Chicago come to town, Like to take them to one of the most vibrant, thriving, successful commercial strips in our city. Do I take them to State Street or Michigan Avenue? No, I take them to 26th Street, one of the most successful urban commercial strips in America.

An area rebuilt almost exclusively by immigrants from Mexico. Because of immigration, 26th Street is not another declining, nearly abandoned urban wasteland. It is an example of our city at its best. And look where we are today.

At Navy Pier, a historic reminder of a Chicago that has opened its streets and ports and neighborhoods to Swedes and Poles and Irish and Lithuanians and Italians and Germans and every person from every corner of the globe and because we opened our doors instead of closing our minds we live in the greatest city in the world. And now that great city has 1,000 more recruits who will open businesses and create jobs and build housing and work and sweat and contribute and stand on the shoulders of our immigrant brothers and sisters and lead Chicago into a new century.

I ask Mr. Buchanan and every person who wants to build a wall around our nation: Have you looked at the inner-cities being rebuilt by immigrants from Mexico? Have you visited the hospitals where doctors from Asia are healing our sick? Do you care about the new businesses and new jobs and new opportunities that are being created by newcomers to America from across the world?

In the past, America's answer has been: Yes we see, yes we care, yes we understand. And that must be our answer today. A recent study estimated that immigrants to our country are earning more than $240 billion per year. They are paying more than $90 billion in taxes. And they are collecting only five billion dollars in welfare benefits.

Almost 20 times more taxes paid than government benefits collected. Those are the facts of our immigrant community. I am honored and proud to serve a Congressional District that is filled with a diverse community of immigrants from throughout the world.

When I walk down Milwaukee Avenue, I still hear the languages of my neighbors from Mexico to Poland to Ukraine to Korea. Yet, no community is more American. More proud of our nation. This is the true story of the immigrant community.

I think the immigrant-bashing sweeping across our nation like a plague is a real threat to our future. Our country should remain strong and vibrant and confident. But we cannot do it if we turn our back on people who want to contribute.

What would Chicago look like today if we had closed our doors before the Irish arrived, or before the Germans arrived, before the Poles arrived? If we were to close our doors today, we will gain nothing, and lose something vital. We would become a broken city of missed opportunities. Of missed economic opportunities, the missed cultural opportunities, of missed opportunities to keep our city growing and thriving changing.

I see many faces here today that I have seen before. Your came to the workshops sponsored by the 4th Congressional District Citizenship Project. I'm very proud we were able to help you, yet I know that it was you who did the real work. You endured long lines and waits. You endured a backlog at the INS to have your application approved. Many of you studied hard for your test and worked to improve your English. I know it wasn't easy.

But the work of months will pay off today by beginning a lifetime of opportunity. Immigration is opportunity. All of you now have a greater opportunity for you to benefit from our nation. But America gets an even better deal. Our nation receives the opportunity to benefit from you.

As I speak on the floor of the House of Representatives this week, as people attack immigration and say we need fewer new American citizens, I will think of all of you today. And I will do my best to spread the word. The word of your dedication and commitment and what it means to our country. The word of how much our nation would lose if we stop having days just like today.

You've kept your end of the bargain by overcoming the obstacles and becoming citizens. I promise you, I'll do everything I can to make sure our government keeps their end of the deal.

Thank you again and congratulations to every one of you on your outstanding accomplishment.

CONGRATULATIONS TO LAWRENCEVILLE HIGH SCHOOL BASKETBALL TEAM

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. POSHARD. Mr. Speaker, I rise today to honor a special group of student-athletes from the 19th District of Illinois. The Lawrenceville High School basketball team recently completed their 1995–96 campaign by qualifying for the State tournament in Peoria. The Indians were knocked out in the elite eight, but even this loss could not tarnish such a stellar season. Highlighting their accomplishments is the fact that the team carries a 3.0-grade point average. I commend them on not only their title run, but their commitment to their studies and the excitement they brought to the community.

Lawrenceville is a senior dominated squad that has been together since middle school. As eight graders, this group won the Southern Illinois Class L State Tournament Championship with an undefeated mark of 24–0. Combined with an experienced crop of juniors and two underclassmen, it is easy to understand how the Indians competed with the best talent in the State. On the way to a 22–7 record, Lawrenceville won the Capital Classic and the North Egyptian Conference as well as regional, sectional, and super-sectional titles. Head coach Brian Stillwell and his assistants Lynn Gray, Jerry Scott, and David Hesher deserve praise for guiding this hard-working group through a long season. Significantly, Lawrenceville was the only high school in Illinois to have two sport teams qualify for their respective State tournaments, the wrestling team joining the cagers in this honor.

Mr. Speaker, high school sports teach our students many important lessons and are an excellent preparation for their future careers. In return, these fine players give back to their school and town with their uncompromising pursuit of success, both on the hardwood and in the classroom. They have done themselves proud, and I salute them. It is an honor to represent Lawrenceville in the U.S. Congress. The following are the team members: Curt Benson, Kevin Cochran, Mark Denison, Nate Ernst, Jason Goff, Ryan Gray, Stephen Muller, Matt Moorehead, Dusty Tredway, Gage Caudell, Matt Gardner, Jason Green, Josh Weger, Andy Denison, and Justin Wolfe. The managers are Josh Brown and Jared Smith.

HONORING THE LOWER MERION HIGH SCHOOL BOYS BASKETBALL TEAM

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to pay tribute to a group of student athletes who scaled the mountain of athletic success while keeping their feet firmly planted in the soil of educational excellence.

Recently, the boys basketball team from Lower Merion High School captured the class AAAA championship by beating a fine team from Erie Cathedral Prep 48 to 43. After streaking through a phenomenal season with a 31–3 record, the Aces captured their first State title since 1943.

This athletic achievement is a testament to their exceptional teamwork, commitment to excellence and their remarkable drive to achieve the finest in athletics. The hard work and dedication of Coach Gregg Downer, his staff and

VOL
142
PT
5
MR
21
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29
1996

the fine young men paid off as they achieved the ultimate success for a high school basketball team in Pennsylvania.

These young men are shining examples of the best and brightest in America. Among the team members is Kobe Bryant whose 33 point average per game and stellar abilities have made him the No. 1 high school basketball player in the Nation.

But this high school and the outstanding Lower Merion School District of which it is a part represent more than excellence in athletics. Six of the district's nine schools have received the national Blue Ribbon designation from the U.S. Department of Education. Lower Merion has a record number of National Merit Scholars and its students have just won their fifth consecutive State championship in the Academic Decathlon.

The achievements of the students and athletes of Lower Merion represent all that is good about our public education system. The school district and the students educated there are a monument to what can happen when local officials and parents work together to craft an educational and athletic program which provides a well-rounded background as these young men and women prepare for their adult lives.

Mr. Speaker, as the Representative who has been given the honor of serving the people of Lower Merion and the entire 13th Congressional District, I offer my congratulations to the student athletes of the Lower Merion Boys Basketball Team, their coaches, and families on the occasion of this great State championship. And I offer best wishes for a future I know has been forged in the fires of hard work, strengthened by the dedication to excellence, brightened by the light of potential and nourished by a caring community and family.

IN HONOR OF MS. LIDIA GIL-RAMOS FOR DISTINGUISHED AND DEDICATED SERVICE TO THE SENIOR CITIZENS OF NORTH HUDSON COUNTY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Ms. Lidia Gil-Ramos, an outstanding individual who has distinguished herself by her selfless commitment to the senior citizens of Hudson County. Ms. Ramos will be honored at the 22d anniversary dinner of Tertulias de Antano, a senior citizen recreational program she founded.

Ms. Ramos emigrated from Cuba and arrived in Union City, NJ in 1965. She is a woman who seems to have been born for social work and community service. In Cuba, she taught primary school during the day and volunteered her nights teaching elderly farm workers who never had the opportunity to attend school. Upon receiving her master's degree from the University of Havana, she became director of a large nursing home in San Miguel de los Banos, Matanzas in central Cuba.

Once in the United States, she found employment as an income maintenance specialist for the Food Stamp Program in Jersey City and undertook further training in working with elderly citizens. Her service to seniors began in the Cuban refugee program of Union City. During her service, she witnessed the dejection and solitude that many Cuban seniors experienced in their new surroundings. Determined to address and to improve the social environment of the Cuban senior community, she founded the Tertulias de Antano recreational program on October 13, 1974.

Ms. Ramos devotes much of her time to coordinating the details of the program, which provides seniors with information on health care issues, English-language programs, and social events within the community. Today, not only do seniors in the Cuban-American community praise the program, but so do seniors from other Latin American countries now living in Hudson County. All this is due to the vision and enduring commitment of one woman dedicated to the overall happiness of the senior community.

Ms. Ramos' commitment to the senior citizens of Hudson County exemplifies the true meaning of compassion and community service. For her outstanding work and leadership, I ask my colleagues to join me in honoring this wonderful individual. I am proud to have such a remarkable woman living and working within my district.

RECOGNIZING AARON MICHAEL EINBOND, 5TH PLACE WINNER OF THE 55TH ANNUAL WESTINGHOUSE SCIENCE TALENT SEARCH

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. RANGEL. Mr. Speaker, I rise today to recognize an outstanding young man, Aaron Michael Einbond of New York, NY. Aaron, a senior attending Hunter College High School in Manhattan was chosen on Monday March 11, 1996, as the fifth place winner in the prestigious Westinghouse Science Awards.

Since 1942, the Westinghouse Science Talent Search has identified and encouraged high school seniors to pursue careers in science, mathematics, and engineering. The search is sponsored by Westinghouse Electronic Corp. through the Westinghouse Foundation in partnership with Science Service, a nonprofit organization.

Over the years, more than 113,000 students from all over the country have entered projects into this prestigious competition. This year, 735 high schools from all 50 States submitted entries to the Westinghouse Science Talent Search. Only 40 students may participate in the final round of judging and from that pool of 40 students, only 10 finalists are awarded scholarships.

Aaron's project explored a new protein domain through the use of protein sequence database searches. It resulted in the isolation of two human genes.

Aaron is not new to winning awards. He is a three time winner of the Manhattan Borough Science Fair competition and a multiple winner of various school science fairs. This talented young man is also an award winning composer and gifted musician who plays the clarinet. This fall, Aaron will enroll as a freshman at Harvard University where he will have the opportunity to pursue his two loves: music and science.

I congratulate Aaron on his accomplishment of being awarded a Westinghouse Science Award and I salute the Westinghouse Science Talent Search and all the winners for acknowledging the hard work of young people like Aaron.

DAY OF NATIONAL HUMILIATION, FASTING, AND PRAYER

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. BARRETT of Wisconsin. Mr. Speaker, today I would like to submit excerpts from President Lincoln's proclamation for a day of national humiliation, fasting, and prayer which was intended to promote a national day of healing and reflection after turbulent times. Mr. Vern Ihm, a constituent of mine, brought President Lincoln's proclamation to my attention and thought President Lincoln's message is still relevant today. In keeping with the spirit of reflection I would like to enter excepts of President Lincoln's proclamation into the RECORD.

And whereas, it is the duty of nations, as well as of men, to own their dependence upon the overruling power of God, to confess their sins and transgressions, in humble sorrow, yet with assured hope that genuine repentence will lead to mercy and pardon; and to recognize the sublime truth, announced in the Holy Scriptures and proven by all history, that those nations only are blessed whose God is the Lord:

And, in so much as we know that, by His divine law, nations, like individuals, are subjected to punishments and chastisement in this world, may we not justly fear that the awful calamity of civil war, which now desolates the land, may be but a punishment inflicted upon us for our presumptuous sins, to the needful end of our rational reformation as a whole People? We have been the recipients of the choicest bounties of Heaven. We have been preserved these many years, in peace and prosperity. We have grown in numbers, wealth, and powers as no other nation has ever grown. But we have forgotten God. We have forgotten the gracious hand which preserved us in peace, and multiplied and enriched and strengthened us; and we have vainly imagined, in deceitfulness of our hearts, that all these blessings were produced by some superior wisdom and virtue of our own. Intoxicated with unbroken success, we have become too self-sufficient to feel the necessary of redeeming and preserving grace, too proud to pray to the God that made us! It behooves us, then, to humble ourselves before the offended Power, to confess our national sins, and to pray for clemency and forgiveness.

Now, therefore, in compliance with the request, and fully concurring in the views of the Senate, I do, by this my proclamation, designate and set apart Tuesday, the 30th day of April, 1863, as a day of national humiliation, fasting, and prayer. And I do hereby request all the People to abstain on the day from their ordinary secular pursuits, and to unite, it their several places of public worship and their respective homes, in keeping the day holy to the Lord, and devoted to the humble discharge of the religious duties proper onto that solemn occasion.

All this being done, in sincerity and truth, let us rest humbly in the hope authorized by the Divine teachings, that the united cry of the Nation will be heard on high, and answered with blessings, no less than the pardon of our national sins, and restoration of our now divided and suffering country, to its former happy condition of unity and peace.

TRIBUTE TO THE NEW JERSEY STATE POLICE UPON THEIR 75TH ANNIVERSARY

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. ANDREWS. Mr. Speaker, I rise today to congratulate the New Jersey State Police on their 75th anniversary. The service of the division of State Police is invaluable to the people of New Jersey.

On March 29, 1921, Gov. Edward I. Edwards signed legislation creating the New Jersey State Police, and appointed Col. H. Norman Schwartzkopf as the first Superintendent of the State Police on July 1, 1921. In December 1921, 81 troopers and officers left Trenton and took up their initial assignments as the first statewide police force in New Jersey.

In the 75 years since their creation, the New Jersey State Police has led the way in the field of criminal justice. Among the techniques that the State Police has pioneered include the Nation's first Underwater Recovery Unit, the Automated Fingerprint Identification System, and the DNA database and databank, which allows the inclusion of DNA records in the FBI's national identification index system. The police have shown their impressive skill in such historic events as the Lindebergh kidnapping, the Hindenburg zeppelin disaster, the Hall-Mills murder trial, and the Woodbridge train wreck.

Today 2,500 troopers valiantly serve New Jersey in many capacities. They patrol our roadways, including the New Jersey Turnpike, the Nation's busiest limited access nonstop toll road. They enforce the criminal, motor vehicle, marine, and alcoholic beverage control laws of New Jersey. They also maintain the State Police Museum and Learning Center as a tribute to the men and women who have served the State of New Jersey as State Police troopers and officers.

The people of New Jersey are indebted to the honor and dedication of the New Jersey State Police. Today I congratulate State Police Superintendent Maj. Carl A. Williams, Jr., and all of the ranks of the State Police on reaching this milestone, and look to many more years of continued service.

THE NATIONAL INVASIVE SPECIES ACT OF 1996

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. SAXTON. Mr. Speaker, Mr. LATOURETTE intends to introduce a bill that will curtail the spread of non-native aquatic species in our Nation's waters. As you know, I am from New Jersey and this issue is of particular importance to our State. Over 130 miles of coastline and with delicate estuary and river ecosystems, non-native aquatic species could destroy our environment. This is already happening in Mr. LATOURETTE's district on Ohio. New Jersey shares coast line with States that are already suffering the horrors of these forms of biological pollution.

In addition, these non-native species, such as the zebra mussel, tapeworms effecting trout in the Mississippi River, and the green clam which harms steamer clam production in the Gulf of Maine, cost us millions of dollars in lost revenue and increased costs to businesses.

This bill establishes national guidelines for the removal and cleansing of shipping ballast water to stop the accidental introduction of non-native aquatic species into ecosystems. This is important to my State which has extremely active ports in the Newark area as well as on the Delaware River, and since, by weight, 98 percent of all U.S. international commerce occurs by shipping, this is a problem about which every coastal and Great Lakes Member should be concerned.

This bill takes a pro-active approach to environmental legislation in its efforts to address potential environmental disasters before they begin. Pro-active solutions give us reasoned, scientifically sound, less expensive, more effective, and more efficient solutions than reactive measures. I urge your support for this important bill.

TRIBUTE TO THE EMPLOYEES OF MARE ISLAND

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. MILLER of California. Mr. Speaker, when the last workers leave Mare Island Naval Shipyard as it closes March 31, 1996, they will leave behind a facility rich with history and echoing with the voices of welders, painter, and engineers who built and serviced everything from copper-bottomed wooden ships to nuclear submarines. Hundreds of thousands of people have worked at or passed through the shipyard, from the first dozen shipwrights who arrived in 1892 to Mare Island's high point in World War II, when the shipyard population reached 46,000. These are the workers that made Mare Island the best naval shipyard in the country.

During its tenure as the Navy's oldest base on the west coast, Mare Island built 512 ships and repaired hundreds more. Those ships, both great and obscure, fought in every conflict since. Mare Island's first ship, the paddle-wheeled gunboat Saginaw, was launched before the Civil War, in 1859, and its last ship, the nuclear submarine U.S.S. *Drum*, was launched in 1970 when our country was divided over the Vietnam war. These vessels also included the small ferryboat *Pinafore*, which chugged between Mare Island and Vallejo for 30 years starting in the 1890's, and the battleship U.S.S. *California*, the only battleship built on the west coast.

It was during World War II that the shipyard quickly set a record that was never broken, building the destroyer U.S.S. *Ward*, in 17½ days. In addition to the *Ward*, Mare Island built 17 submarines, 4 subtenders, 31 destroyer escorts, 33 small craft, and more than 300 landing craft. In the 1960's the decision was made to build nuclear submarines at Mare Island. The U.S.S. *Sargo* was the first, with 16 more following, ending with the launch of the U.S.S. *Drum* in 1970.

To all of the workers over the generation that are a part of this proud history who have made so many significant contributions to the defense of the United States, I offer my thanks and that of this country.

A TRIBUTE TO DESIREE JONES

HON. WAYNE ALLARD

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. ALLARD. Mr. Speaker, all too often we hear speeches on this floor about our troubled youth and problems that teens face.

Today I want to share with my colleagues a positive example of a teenager in my district.

I want to commend Desiree Jones, a teenager from my district who acted selflessly and who helped save the life of another teenager, in fact, a complete stranger.

Last Friday, March 22, 14-year-old Janet Westover, an eighth-grader at Bill Reed Middle School in Loveland, was riding through town when she slumped over and her heart stopped. Her friend flagged down another car in which Desiree Jones was riding.

Desiree, a 15-year-old sophomore at Rocky Mountain High school in Fort Collins, stopped to help. She stayed with Janet and helped her until police and paramedics arrived.

This kind of action by Desiree Jones merits recognition from this body and gives us all hope.

A TRIBUTE TO EDWARD D. LEWIS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. JACOBS. Mr. Speaker, when the opposition likes someone, you know he's a pretty good fellow. Ed Lewis was a strong Democrat, but he was so interesting, so nice, so friendly that very few Republicans in Indiana did less than like him too. He leaves an empty place in the Hoosier State.

VOL
142
PT
5
MR
21
—
29
1996
UMI

[From the Indianapolis Star, Mar. 28, 1996]

EDWARD D. LEWIS WAS ATTORNEY WHO WIELDED POLITICAL CLOUT IN STATE

Edward D. Lewis, 73, Morgantown, an attorney known for his vast political influence in Indiana, died March 26.

He was the confidant and political mentor of Gov. Evan Bayh, was instrumental in appointments and recommendations for offices such as U.S. attorney and the Indiana Gaming Commission, and affected a myriad of other decisions on state business. His reputation included the title "godfather of judges."

Mr. Lewis, whose Downtown Indianapolis law office at 501 Indiana Ave. was dubbed the "Statehouse on the Canal," was an attorney for 40 years and a partner in the Lewis and Wagner law firm.

Bayh said in a statement: "Ed was much more than a friend to me; he was a trusted adviser, a man of great experience and wisdom and someone who I loved.

"His Hoosier roots were deep, his common sense was extraordinary and his loyalty and devotion to the people of our state was unmatched."

After losing races for Congress and a judgeship in the 1950s, Mr. Lewis confined his political career to being an insider, primarily in Democratic circles. He was closely aligned with former U.S. Sen. R. Vance Hartke, D-Ind.

He held no public or civic positions, and was described in a newspaper article as "probably the most influential person in state government about whom the least is known." And the Butler University journalism graduate did not talk to reporters.

Indiana Senate Finance Chairman Lawrence M. Borst, a Republican, said Mr. Lewis was "a special friend." We did a lot of traveling together and just had a good time.

"He was kind of like a hunk of glue. he had so many people he kept together. He liked people, he loved politics, he loved horses. We have one together now. He probably had as many friends as anybody I've ever known in my life."

Borst said Mr. Lewis dated to an era when political patronage was a young lawyer's key to survival. Mr. Lewis' first job, while in law school, was as a publicist for the Indiana Highway Department. Later, Borst said, law school friendships with people such as future Marion County Prosecutor Noble Pearcy and others got his legal and political career started.

One of Mr. Lewis' earliest political associations was with Hartke, of whom Borst said. "When Hartke wanted a new post office or other building in Indiana, he went through Ed Lewis." Borst said he and Mr. Lewis were on a western trip when Bayh ran for his first term as governor in 1988, "he would stop twice a day to call back."

Another close friend was former Indiana GOP Chairman Rex Early.

"We had common interests, not only in politics. He was a man's man, a veteran of the Second World War and a great storyteller," Early recalled. "His maturity, experience and good political instincts played an important role in a lot of administrations."

Mr. Lewis, Early said, "believed in his party and was respected by his party."

Mr. Lewis was a Navy veteran of World War II, a 1949 graduate of Butler and a 1956 graduate of Indiana University School of Law.

Memorial contributions may be made to Big Brothers & Big Sisters of Brown County, Nashville, or the Harmony School, Bloomington.

Memorial services: pending. Calling: none. G.H. Herrmann Madison Avenue Funeral Home is handling arrangements.

Survivors: wife Dorothy M. Pitt Lewis; children Lance L., Linda L., Lora Lynn Lewis; stepdaughter Paula Lawrence; brother Donald I. Lewis; five grandchildren.

A TRIBUTE TO SEDALIA MIDDLE SCHOOL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. SKELTON. Mr. Speaker, I rise today to pay tribute to an outstanding educational institution in my district. Sedalia Middle School has been chosen as one of 266 1994–96 Blue Ribbon Schools. After a rigorous and lengthy selection process Sedalia Middle School was selected as one of the most outstanding schools in the country. The award will be presented at a ceremony to be held in Washington, DC, in May. I ask my colleagues to join me in a salute to all of the teachers, parents, and students who worked so hard to achieve this extraordinary accomplishment.

RETIREMENT OF EMIL P. MOSCHELLA FROM THE FBI

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. DAVIS. Mr. Speaker, I would like to take this brief opportunity to recognize 28 years of dedicated Federal service by my constituent Mr. Emil P. Moschella from Vienna, VA. Today is Mr. Moschella's last day of work as a special agent in the Federal Bureau of Investigation [FBI]. He has dedicated a lifetime career to keeping America safe from crime and has done so in exemplary fashion. He will be dearly missed by his colleagues at the Bureau, and I commend him for a job well done.

Whether he was working the streets of Chicago, touring the country on the inspection and audits staff, working in the Bureau's congressional affairs office, representing the Federal Government in Leon, France, before a meeting of Interpol about freedom of information and law enforcement, or leading a team of lawyers in counseling the director of the FBI, Mr. Moschella has always performed his duties with dedication, loyalty, and integrity—the hallmarks of his outstanding career.

Mr. Moschella is a second generation Italian-American, who grew up in the Bronx in New York City. He was the first in his family to complete college and law school and he is a dedicated family man with four sons. He started his Federal service with the intention of doing something good for America—using his skill and talent to make his country a better place for all of us. He is the kind of civil servant of whom all Americans can be proud.

Mr. Speaker, on behalf of the House of Representatives and my constituents in the 11th Congressional District of Virginia, I want to thank Emil Moschella for his exceptional career of public service, congratulate him on this special occasion, and wish him all the best in retirement and all his future endeavors.

INTRODUCTION OF HOUSE JOINT RESOLUTION 171

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. LANTOS. Mr. Speaker, I have introduced in the House today House Joint Resolution 171 which proposes an amendment to the U.S. Constitution to permit the Congress to limit contributions and expenditures in elections for Federal office. This amendment—when it is approved by the requisite two-thirds majority of each house of the Congress and ratified by the legislatures of three-fourths of the States—clarifies that the Congress has the power to set limits on contributions and expenditures in support of, or in opposition to, any candidate for Federal office. This resolution is identical to one introduced earlier this year in the other body by the distinguished Senator from New Jersey [Mr. BRADLEY].

As a result of the U.S. Supreme Court ruling in 1976 in the case of Buckley versus Valeo, restrictions on wealthy individuals using their own money to—in effect—buy a political office have been held to be equivalent to restrictions on free speech. Efforts to restrict the independent expenditures of moneyed special interests for or against a particular candidate have likewise been held to be a restriction on free speech.

Mr. Speaker, my proposed amendment to the Constitution will reverse the ruling of the Supreme Court in Buckley versus Valeo. The effect of the Court's decision in that case was to equate money with free speech. The effect of this amendment is to make clear that money is not speech. In the very appropriate words of Senator BRADLEY, "A rich man's wallet does not merit the same protection as a poor man's soapbox."

The time has come, Mr. Speaker, for us to clarify through an amendment to the Constitution that simple possession of money does not mean you have the better argument. Possession of money does not mean you are the better candidate. The time has come for the Congress to have the authority to regulate political expenditures of millionaries—like Ross Perot or Steve Forbes or Michael Huffington in the political arena. In the case of these three men and others who have enjoyed the blessing of wealth, we applaud their ability to make money, we commend their business acumen, and we are delighted, in some cases, for their good fortune in having wealthy parents. At the same time, however, we do not think that any of those qualities entitles them to special access to the marketplace of ideas.

It is essential for the health and well-being of our democracy that the Congress have the ability to assure a level playing field in elections for Federal offices. The amendment to our Constitution that I am introducing today will assure that Congress can assure a level playing field.

One of the fundamental principles that is the basis of our democratic system of Government and our democratic Nation is the principle of freedom of speech.

The fundamental concept is that if all ideas and all points of view are subjected to the

same critical scrutiny in the marketplace of ideas, those ideas which are correct and true and superior will win out over those ideas which are inferior and erroneous and false.

Our firm commitment to the principle of freedom of the press in our country flows from this commitment to freedom of speech and freedom of expression. Although, I think, all of us at one time or another have questioned the accuracy or the impartiality or the dispassion of the American news media, all of us are firmly committed to the principle that there must be a free, unfettered press. The multiplicity of free voices of expression is absolutely essential to the functioning of our democratic Government.

In our democratic system, this principle of freedom of expression is a vital component of our process of electing Government officials. Only if there is full and open airing of the ideas for and against and about individual candidates for public office can we know which women and men are best able to represent us as President, Vice President, or as a Member of the Senate or the House.

The fundamental requirement, Mr. Speaker, is that all ideas, that all speech, have reasonably fair and equal access to the market place of ideas—that good ideas and bad ideas and foolish ideas and brilliant ideas have equal access to the American people.

Unfortunately, Mr. Speaker, the greatest threat to the application of the principles of free speech in our electoral process is the distorting effect of money. Under our present laws and the current interpretation of the Constitution and our laws by our Supreme Court, if you have money, your ideas—regardless of how good or bad they may be—have unfair access to the market place of ideas. It is important that we break this link between money and speech—money does not entitle someone to special access. Money is in fact the element which distorts free speech, and by distorting free speech it distorts the full and fair and informed intelligent decisionmaking.

Mr. Speaker, this constitutional amendment does not make the ultimate decision about how campaign financing should be reformed, but it is the essential first step in establishing beyond any doubt that the Congress has the authority to regulate spending on campaigns. I urge my colleagues to join me in cosponsoring this constitutional amendment. This is the vital first step that we must take, and for the future of democracy in our country it is essential that we take it as quickly as possible.

I ask, Mr. Speaker, that the text of House Joint Resolution 171 be placed in the RECORD:

H.J. RES. 171

Proposing an amendment to the Constitution to permit the Congress to limit contributions and expenditures in elections for Federal office.

Resolved by the Senate and House of Representatives of the United States of American in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE—

"Section 1. The Congress shall have the power to set limits on expenditures made by, in support of, or in opposition to the nomination or election of any person to Federal office.

"Section 2. The Congress shall have the power to set limits on contributions by individuals or entities by, in support of, or in opposition to the nomination or election of any person to Federal office.

"Section 3. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.".

WOMEN'S HISTORY MONTH: CONTRIBUTIONS TO A STRONGER, MORE PROSPEROUS ECONOMY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today, as we celebrate Women's History Month, to honor the contributions of women to our economy as part of the labor force and as business owners around the country and especially in the State of New Jersey.

In some ways, the facts speak for themselves. The number of women in the paid work force has almost doubled in the last 20 years. Women in the work force grew from 36.2 million in 1974 to 60.2 million in 1994.

There are many talented women that are making enormous contributions to business and industry in the State of New Jersey. During a recent series of visits to companies located in the 11th district of New Jersey, I had the opportunity to meet and speak with many women who have risen or are climbing to the top positions and management in their respective companies.

In addition to those outstanding women in corporations, the State of New Jersey is ranked ninth in the Nation in the total number of women-owned businesses with a recent total of 164,798. I am especially encouraged because this number increased in my own State by 40 percent over a period of 5 years.

Nationally, women are starting businesses at twice the rate of men and the Small Business Administration anticipates that women will own 50 percent of all small businesses in America in the 21st century. These women-owned businesses employ more people than all Fortune 500 firms combined. Women employers are also bringing more than their economic achievements to the workplace; they influence and change the workplace for all employees by being more likely to offer flexible work arrangements, child care and heath care benefits.

As women continue to make their mark in the workplace as employers and employees they face many challenges—access to child care, pay equity, educational opportunities, and access to capital and investors. Mr. Speaker, I rise today to honor these achievements. As our economy continues to change and we face new challenges as we enter the 21st century, I believe we can count on these entrepreneurs and executives to help lead the way to a stronger and more prosperous America.

LIVABLE WAGE ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. VENTO. Mr. Speaker, today I am introducing legislation intended to take a major step forward toward a livable wage for working men and women in our country. Too often American workers are forced to take jobs that pay substandard wages and have few or no health benefits. At a time when U.S. corporations are making record profits and the economy is strong and stable, it seems unreasonable that working families must struggle and cannot make ends meet. It is unconscionable for corporations to sacrifice fair wages for their workers in pursuit of inflated profit margins, and it is doubly so when these businesses are performing work on behalf of the Federal Government—when the workers' taxes which pay for Federal services and products perpetuate such depressed compensation.

My legislation is straightforward, simple and just; if you are a Federal contractor or subcontractor you will be required to pay wages to your employees that exceed the official poverty line for a family of four. This would be fair and equitable compensation achieved by law. When a business works for the Federal Government and benefits from working families' taxpayer dollars, at the very least it should be required to pay its employees a livable wage.

As of March 4, 1996, the official poverty line for a family of four is $15,600. This is obviously not an exorbitant wage. Imagine a family of four trying to live on this amount or less. It may not seem possible, but it is done everyday in this country. There is a serious problem in our society when hard-working men and women, holding down full-time jobs, cannot earn enough to bring their families out of the poverty cycle, while company executives earn an average of 70 times that of their average employee.

My bill does not attempt to alleviate this disparity throughout the business sector, but it does require those corporate entities receiving taxpayer dollars to be accountable to their workers. This is a reasonable and practical bill. It allows companies to count any benefits, such as health care, which they provide for employees as part of their wage determination, and it provides an exemption for small businesses and bona fide job training or apprenticeship programs.

I urge my colleagues to join me in supporting this legislation to help ensure the American worker receives a fair day's pay for a fair day's work.

REMOVE FEDERAL BARRIERS TO INNOVATIVE HIGHWAY FINANCING

HON. DAVID MINGE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. MINGE. Mr. Speaker, as an original cosponsor of the coalition's balanced budget plan, I am committed to balancing the Federal

VOL
142
PT
5
MR
21
—
29
1996
UMI

budget as soon as possible. However, I understand that in working to balance the budget, we cannot simply cut, cut, cut and leave the Nation to deal with the repercussions of lower Government spending. We must simultaneously make prudent policy changes to help empower the Nation during this fiscally trying time. One of those changes could be to allow the private sector of the transportation industry to use innovative financing methods to maintain our Nation's highways. Currently, there are barriers in Federal law that preclude such activity. I believe that innovative highway financing by the private sector could prove to be an important tool for preserving our transportation infrastructure. For information on this important subject, I commend to your attention the recent testimony of Robert Zauner, chairman of the Minnesota Transportation Group before the Joint Economic Committee. Mr. Zauner's testimony lays out an excellent explanation for why the private sector should be able to utilize innovative financing for maintaining our highways. I am submitting a copy of that testimony for printing in the RECORD.

TESTIMONY OF ROBERT ZAUNER BEFORE THE CONGRESSIONAL JOINT ECONOMIC COMMITTEE

Mister Chairman, my name is Robert Zauner. I am a registered professional engineer, vice-president of Hughes Transportation Management Systems (HTMS) and the chairman of the Minnesota Transportation Group (MTG). I have been involved in the transportation industry for twenty-five years. During the past six years I have been involved in the development of privatized toll highways. I have served as a member of the Board of Directors and as Vice President of the Highway Division of the Associated General Contractors of Minnesota. I also chaired its bridge committee. I currently serve on the Boards of Directors of the Minnesota Transportation Alliance, a transportation advocacy group, and the Intelligent Transportation Society of Minnesota, as well as the Advisory Council of the University of Minnesota's Center for Transportation Studies.

The MTG is a team of technology, construction, engineering, and financial companies that personifies the private sector's capability, desire and interest in the privatization of highway infrastructure. For the past six years we have worked with state legislators, local officials, and state departments of transportation in the development of enabling legislation, privatization programs and privatized highways. Our team members have been involved in privatization efforts in California, Washington, Arizona, Virginia, South Carolina, and Minnesota where we recently submitted proposals to develop three highway projects totaling over $700 million.

In my testimony today I would like to share several issues I have encountered in my efforts to privatize highways. Some are institutional barriers others are perceptions or prejudices created by the present funding system that are as difficult to overcome as institutional barriers themselves. They include:

1. Reconstruction and improvements to the interstate system are exempt from tolling.

2. State and local government see little benefit to privatizing or implementing toll financing due to their perception that they are receiving no additional funding for doing so.

3. The disparity between taxable and tax exempt financing.

4. Privately financed highways are at a disadvantage when competing for investor dollars.

5. Tolling represents double taxation.

6. Unrealistic expectations for low cost roads: Roads are free; Roads are paid for; My road is the most dangerous road in the state it should be fixed now; Its not fair, I paid for everyone else's road they should pay for mine; Toll roads mean toll booths and having to carry a jar of quarters in my car; Toll roads create safety problems at toll plazas; and We have waited long enough its our turn.

The Interstate Highway System is a critical link in the nation's transportation network. It is truly one of the greatest and most expensive public works projects ever undertaken. While the interstate system includes only 2.5% of our highway lane-miles more than 22% of our travel is on it. It will also require nearly a third of our annual capital expenditures to improve it in the future. Yet reconstruction or capacity expansions on the interstate system cannot be toll financed. The privatization and tolling provisions of ISTEA an the NHS Act should be expanded to allow the use of tolls on the Interstate System if a road, bridge, or tunnel, is reconstructed, substantially improved, or its capacity is expanded. This will attract the investment and expertise of the private sector to complete needed, major reconstruction projects, improvements, and expansions to the system faster and at less cost. It will also relieve the large financial burdens these projects place on many State Departments of Transportation.

State and local governments have not yet accepted private equity as additional money to meet their transportation needs. I believe Congress could create a better environment for the private sector by requiring that alternative financing, including but not limited to tolls, congestion pricing, mileage pricing, and public-private partnerships, when the cost exceeds $10,000,000. Such a provision would make it more likely for government entities to pursue alternative financing.

The private sector is at a disadvantage to government in financing infrastructure due to the disparity in rates between taxable and tax exempt financing. The federal government also loses tax revenue when tax exempt bonds are used to finance improvements. eliminating this disparity would make taxable financing more competitive and the federal government would increase its tax revenues.

Unlike the power and telecommunications industries there is no clear track record of private involvement in the delivery of transportation infrastructure. As a result, the financing of such investments can be difficult to close. By making the unobligated balance in the Highway Trust Fund available as a guarantee for transportation infrastructure loans, financing would be more easily obtained and investment of private equity in transportation projects would increase. Regarding this provision the Office of Management and Budget has advised the Federal Highway Administration that portions of the unobligated balance in the trust fund actually committed as a debt reserve would be scored at ten cents on the dollar for budget purposes. Such use of the unobligated balance would have a minimal effect on the deficit.

The payment of tolls to finance specific projects does not constitute double taxation. the situation is similar to a homeowner who needs or desires to make repairs or improvements to his, or her, home. A homeowner's monthly mortgage payment allows him, or her, to live in a home while it is being paid for. Similarly, the gas tax is being used to maintain and make limited improvements to our existing road system. If a homeowner desires to make repairs or improvements additional funds outside his monthly payments are needed. Similar to the homeowner, if we want to make specific improvements to our road system we must find an additional source of funds. By using tolls, the revenue raised is targeted to a specific need. A need created by a specific demand and the investment made is tailored to meet that need. This is an efficient and equitable way of making investments. It introduces market forces into transportation infrastructure investments. The improvements made are also paid by those who benefit most from the improvement. This a fair and equitable means of paying for improvements.

The public's unrealistic expectation that traditional transportation funding can meet their needs is evidenced by the statements listed above. The current system is unable to meet those expectations due to major changes in automobiles and our travel patterns. Increased fuel efficiency and life-span of vehicles coupled with increases in the number of trips and trip length has contributed greatly to our current funding situation. Neither the gas tax nor license fees is increasing. Moving away from these funding mechanisms to charging for the space used on a road would help change these expectations. Charging for highway travel by the mile would make us more aware of the cost of travel and would assess costs to the largest users. This would result in more prudent use of highway capacity. Such a move would also permit the introduction of congestion pricing to highway travel. Most commodities are paid for in this fashion. Introducing it into highway travel would improve utilization of the existing system and lessen demand for additional capacity.

Drivers have not liked paying tolls because they do not like fumbling for quarters, stopping and paying the tolls. This is no longer necessary. My company, Hughes Transportation Management Systems, has adapted defense-related technology to collect tolls at freeway speeds on the open road without toll plazas. Eliminating toll booths and stopping to pay tolls eliminates most driver's objection to toll financing.

In closing, I would like to state that I am very positive on the opportunities and benefits of highway infrastructure privatization. This optimism is buoyed by continued bipartisan support of the Minnesota legislature, business, and labor. We are continuing our efforts despite the fact that we are charging a fee for a service that our competition, government, is giving away "free". We would like to participate more fully. Addressing the issues I have outlined today would improve the competitive disadvantage we now face. I would be happy to answer your questions.

PROMISES MADE

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. BAKER of California. Mr. Speaker, today I wish to submit for the RECORD a section of the public law which enumerates the statutory obligations the Department of Energy has toward its employees at defense nuclear facilities, concerning workforce restructuring.

The Department of Energy faces some tough budgetary and programmatic decisions

in the coming weeks and months. Many of these decisions will no doubt be important to our Nation in safeguarding our nuclear stockpile, in ensuring our energy security in the future, in advancing the pace of energy sciences, and in stewarding our national resources. It is this stewardship role I speak of today, specifically the stewardship of the valuable, competent employees at DOE's nuclear facilities.

Mr. Speaker, these workers are truly national assets. They work on the cutting edge of science and engineering, bolstering our Nation's security status and it energy future. These men and women do yeoman's work for our country in areas of science you and I can barely comprehend. Though perhaps rarely appreciated or understood by the average American taxpayer, these people give their all at national laboratories like Sandia, Lawrence Livermore, and Los Alamos. Our Nation is the richer for their sacrifice and commitment to our collective good.

In light of recent statements by DOE officials indicating an intention to downsize workforces at some national laboratory sites in the coming months, it is essential that the bureaucracies that administer our Government's policies respect the value these workers add to Government service. While budgetary bottom lines may sometimes seem cold, a responsible government treats its workers as national assets to be valued and esteemed.

And it is to no less than this level of appreciation that the Department of Energy is legally obligated.

As we look toward the uncertain future, it is reasonable that we remind ourselves of our past commitments, of our promises made. In this context, I wish to submit for the record the very promise made by the Federal Government to DOE workers who do our Nation's work at the defense nuclear facilities across our Nation.

The reference is a law passed in the second session of the 102d Congress, Public Law 102–484, the DOD Authorization Act, Subtitle E, Section 3161:

Subtitle E—Defense Nuclear Workers

SEC. 3161. DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES WORK FORCE RESTRUCTURING PLAN.

(a) IN GENERAL.—Upon determination that a change in the workforce at a defense nuclear facility is necessary, the Secretary of Energy (hereinafter in this subtitle referred to as the "Secretary") shall develop a plan for restructuring the work force for the defense nuclear facility that takes into account—

(1) the reconfiguration of the defense nuclear facility; and

(2) the plan for the nuclear weapons stockpile that is the most recently prepared plan at the time of the development of the plan referred to in this subsection.

(b) CONSULTATION.—(1) In developing a plan referred to in subsection (a) and any updates of the plan under subsection (e), the Secretary shall consult with the Secretary of Labor, appropriate representatives of local and national collective-bargaining units of individuals employed at Department of Energy defense nuclear facilities, appropriate representatives of departments and agencies of State and local governments, appropriate representatives of State and local institutions of higher education, and appropriate representatives of community groups in communities affected by the restructuring plan.

(2) The Secretary shall determine appropriate representatives of the units, governments, institutions, and groups referred to in paragraph (1).

(c) OBJECTIVES.—In preparing the plan required under subsection (a), the Secretary shall be guided by the following objectives:

(1) Changes in the work force at a Department of Energy defense nuclear facility—

(A) Should be accomplished so as to minimize social and economic impacts;

(B) should be made only after the provision of notice of such changes not later than 120 days before the commencement of such changes to such employees and the communities in which such facilities are located; and

(C) should be accomplished, when possible, through the use of retraining, early retirement, attrition, and other options that minimize layoffs.

(2) Employees whose employment in positions at such facilities is terminated shall, to the extent practicable, receive preference in any hiring of the Department of Energy (consistent with applicable employment seniority plans or practices of the Department of Energy and with section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1682)).

(3) Employees shall to the extent practicable, be retrained for work in environmental restoration and waste management activities at such facilities or other facilities of the Department of Energy.

(4) The Department of Energy should provide relocation assistance to employees who are transferred to other Department of Energy facilities as a result of the plan.

(5) The Department of Energy should assist terminated employees in obtaining appropriate retraining, education, and reemployment assistance (including employment placement assistance).

(6) The Department of Energy should provide local impact assistance to communities that are affected by the restructuring plan and coordinate the provision of such assistance with—

(A) programs carried out by the Department of Labor pursuant to the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(B) programs carried out pursuant to the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (Part D of Public Law 101–510; 10 U.S.C. 2391 note); and

(C) programs carried out by the Department of Commerce pursuant to title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241 et seq.).

(d) IMPLEMENTATION.—The Secretary shall, subject to the availability of appropriations for such purpose, work on an ongoing basis with representatives of the Department of Labor, work force bargaining units, and States and local communities in carrying out a plan required under subsection (a).

(a) PLAN UPDATES.—Not later than one year after issuing a plan referred to in subsection (a) and on an annual basis thereafter, the Secretary shall issue an update of the plan. Each updated plan under this subsection shall—

(1) be guided by the objectives referred to in subsection (c), taking into account any changes in the function or mission of the Department of Energy defense nuclear facilities and any other changes in circumstances that the Secretary determines to be relevant;

(2) contain an evaluation by the Secretary of the implementation of the plan during the year preceding the report; and

(3) contain such other information and provide for such other matter as the Secretary determines to be relevant.

(f) SUBMITTAL TO CONGRESS.—(1) The Secretary shall submit to Congress a plan referred to in subsection (a) with respect to a defense nuclear facility within 90 days after the date on which a notice of changes described in subsection (c)(1)(B) is provided to employees of the facility, or 90 days after the date of the enactment of this Act, whichever is later.

(2) The Secretary shall submit to Congress any update of the plan under subsection (e) immediately upon completion of any such update.

TRIBUTE TO BENICIA MIDDLE SCHOOL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. MILLER of California. Mr. Speaker, I rise today to pay tribute to Benicia Middle School, in Benicia, CA, for receiving the National Blue Ribbon Award for excellence from the U.S. Department of Education. This is the highest honor that a public or private school can receive in recognition of academic excellence and attaining national educational goals. Benicia Middle School was chosen from among 500 nominations nationwide, and is only one of 87 middle schools honored with this prestigious award.

I would like to commend the hard work and dedication of the parents, teachers, and students of Benicia Middle School and the Benicia community for their efforts in attaining national, State, and local educational goals. Benicia Middle School started on the blue ribbon path in 1994 when the California Department of Education recognized them as a California distinguished school. This marked them as the top 2 percent of all middle schools and high schools in the State of California. In 1995, the California Department of Education nominated Benicia Middle School for the National Blue Ribbon School Award. The school underwent an intensive application and interview process before being selected for this honor.

Benicia Middle School can now proudly say that they are among the best in the Nation. They can attribute their success to team effort and a commitment to excellence that they have demonstrated in their academic program. They educate the students at Benicia Middle School as strong leaders in a safe, supportive, and drug-free environment. I am proud of the commitment of the Benicia community toward preparing our youth for the future.

I would like to share with my colleagues the attached article from the Solano Times, Thursday, February 22, 1996: "School Is a Blue Ribbon Winner."

[From the Solano Times, Feb. 22, 1996]

SCHOOL IS A BLUE RIBBON WINNER

(By Catherine D. Jacobson)

Benicia Middle School is one of the best schools in the nation.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Recently named a National Blue Ribbon School by the U.S. Department of Education, the school received the announcement 17 months after the initial application.

"We are honored and we are proud," said Carole Hiltman, Benicia Middle School principal. "To earn this kind of prestigious recognition from a national review is exciting and validates our hard work. These schools become models."

The blue ribbon status recognizes both public and private schools based on their effectiveness in meeting national education goals and standards of quality.

Each school's success in furthering intellectual, social, physical and moral growth of all students, including those with disabilities, is emphasized.

Through a 30-page application and a site visit, Benicia Middle School administrators presented evidence to Department of Education officials that students are developing a solid foundation of reading, writing and math, in addition to reasoning and problem-solving skills.

Hiltman said hundreds of hours were spent in researching, writing and assembling the application, submitted in September 1994.

"This has been a long effort, and it's nice to see the uplifting spirit," she said, noting the honor is especially rewarding given the disruption of the campus during major construction renovations.

Benicia Middle School will be rewarded with a bronzed plaque to be placed at the campus. It is one of 87 middle schools across the nation to receive the prestigious honor this year.

The road to the National Blue Ribbon award started in 1994, with Benicia Middle School being named a California Distinguished School. State officials then nominated the school for the national award.

Benicia Middle School was one of 27 middle schools and 17 high schools nominated in the state, representing the upper 2 percent of all junior and senior high schools in California.

Jim Krouscas, a physical education teacher and president of the site council at the middle school, attributed the blue ribbon award to the community and parental support, students, and, particularly, veteran teachers.

"This award started 20 years ago when these teachers decided Benicia Middle School would be a school of excellence and not mediocrity," said Krouscas.

Superintendent Annette O'Connor said, "Everyone contributed to making Benicia Middle School the fine institution of learning it has become.

"I am proud of the whole staff and pleased to show the community that we are recognized as exemplary wherever we are reviewed."

Mayrene Bates of the Solano County Office of Education said the blue ribbon selection is due to the people behind the scenes.

"Things like this don't just happen," she said.

Hiltman hopes the honor leads to an even stronger support for the school, through financial or technical assistance.

"We'd like to attract a large corporation to form a blue ribbon partnership to support the school," she said.

The entire middle school staff participated in the application, although principal writers were Hiltman, Linda Cole, district director of instructional services, and teachers Russell Ho, Sherry Knight, Kathy Maloney, Rami Muth, Greg Reed, and Kathy Wright.

CONGRATULATIONS TO THE LAWRENCEVILLE HIGH SCHOOL WRESTLING TEAM

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to the Lawrenceville High School wrestling team, which grappled its way to a stellar 22–3 record and the State finals. Despite not taking the title, the season was a remarkable success, as the wrestlers combined with the school's basketball team to be the only high school in Illinois to have two teams participate in their respective State tournaments. I would like to congratulate the wrestling squad on a job well done. They carried themselves with dignity and are outstanding representatives of their community.

Wrestling is a team sport that is comprised of numerous individual battles. The mental discipline required is monumental, for not only must the athlete concentrate on his opponent, but he must be aware of his team's standing in the meet. Combined with the rigors of having to make weight and the intense conditioning required to participate, these student-athletes are a truly dedicated unit. The Indians captured titles at the Lawrence County, Cumberland Holiday, Argenta Oreana, and Mattoon tournaments before claiming the North Egyptian conference and sectional crowns. Led by a strong corps of seniors, Lawrenceville returns four juniors as well as four sophomores, and should be primed to make another run at the State championship next season. Head coach Jim Dunn prepared his team expertly, and was ably assisted by coaches Terry Hoke and Keeley Meek.

Mr. Speaker, Lawrenceville has a fine athletic tradition that is embodied by its wrestling team. I am glad that these students have gotten to participate in such a first-rate program, and that they have worked hard to maintain these high standards and fulfill their potential. That is the true measure of success. I am proud to represent Lawrenceville in the U.S. Congress. The 1995–96 Lawrenceville High School wrestling team: Jeremy Harrington, Cory Jones, Chris Seed, Ryan Seitzinger, David Stanker, Alan Couch, Oliver Glenn, Cohn Cognat, Chris Gray, Nathan Hill, David Sechrest, Eric Seitzinger, and Sam Sanders. Statisticians are Jamie Dunn, Jodi Taylor, and Lisa Weyer.

HONORING CONTINENTAL NEWSPAPER FOR 13 YEARS OF SERVICE TO THE HISPANIC COMMUNITY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Continental newspaper on its 13th anniversary of dedicated service and commitment to the U.S. Hispanic community.

Under the direct influence of its main advisors, Mario Ciria Jr. and Ofelia Dones, the paper has emerged as one of the Nation's leading information sources for the Hispanic community. Ms. Dones is the only female publisher of a weekly Hispanic newspaper in the New York-New Jersey metropolitan area. Together, Mario, Ofelia, and their gifted staff have worked to produce a highly enlightening and entertaining source of information for members of the Hispanic community on a weekly basis.

Continental has established a strong and diverse base of support, and it serves a vast area that covers New York, New Jersey, Connecticut, Florida, and Pennsylvania. Continental's reporting efforts center around its main office in Union City, NJ. However, the paper is widely read in New York City and the paper's roots are a product of the city's interest.

Continental prides itself on its fair and accurate coverage of events and issues of interest to its readers. The newspaper's editorial section has frequently taken a bold stand against the brutal dictatorship now enslaving the island of Cuba. Many of its journalists have uncovered horrifying stories of human rights violations by the Castro tyranny and thus have incorporated a strong stand against the Castro regime.

Moreover, Continental has long been dedicated in its effort to convey essential information to members of the Hispanic community. It is because of this dedication and public service that I am proud to honor this very deserving news source.

NATIVE-AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise today to express my strong support for the Native American Housing and Self-Determination Act introduced by Housing Subcommittee Chairman LAZIO. I am an original cosponsor of this bill because I believe there is a pressing need to assess and reorganize native American housing programs in this country. Chairman LAZIO's bill is a strong step in the right direction. However, my primary concern in adding my name to this bill is to insure that the needs of native Americans in my State and across the country are given serious attention and consideration, and that Indian tribes have a leading role in the development of this lasting legislation.

There are nine federally recognized tribes in South Dakota, whose members collectively make up one of the largest native American populations in any State. At the same time, South Dakota has 3 of the 10 poorest counties in the Nation, all of which are within reservation boundaries. Unemployment on these extremely rural reservations averages about 50 percent. Yet economic depression on rural Indian reservations is not unique to my State. I believe strongly that housing is an integral and most basic component to economic development for Indian and non-Indian communities alike.

Federal expenditures for social programs continue to exceed investments for economic growth in Indian country. Tribal leaders in my State and elsewhere have struggled to break the cycle of dependence upon the Federal Government. In keeping with this Nation's special trust responsibility to sovereign Indian nations, I believe Federal programs must promote the self-determination and self-sufficiency of Indian communities. I support the premise of the Native American Housing Assistance and Self-Determination Act because Congress must prioritize programs which develop infrastructure on reservations and enhance economic growth for tribal communities. Additionally, the extreme health problems that many Indian communities face can be linked directly to inadequate housing, problems that can begin to be addressed through this Indian self-determination legislation.

I agree with Chairman LAZIO and the Native American Indian Housing Council that Indian housing should be divorced from public housing programs because of the unique needs of Indian country and the many economic challenges that must be overcome. I am particularly supportive of the funding initiative outlined in this legislation which is based on the section 108 loan guarantee for Community Development Block Grant funds. The flexibility in funding and in the administration of housing programs that this bill promotes is the key to tribal self-sufficiency and self-determination in housing management. Ultimately, this self-determination will result in increased access to safe, affordable housing for native American people nationwide.

The unique housing needs of Indian country warrant a continued Federal commitment to successful tribal housing programs. I look forward to working with Chairman LAZIO, my colleagues, and Indian tribes nationwide to make the Native American Housing and Self-Determination Act a reality, with the health and welfare of Indian tribes our foremost priority.

WOMEN'S HISTORY MONTH

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. HOYER. Mr. Speaker, I rise today to join my colleagues in recognition and celebration of the outstanding contributions of women to the history of this Nation and to society as a whole. I appreciate the opportunity to participate in this special order and to add my voice to the chorus of praise for those women who have contributed so much.

In primary and secondary schools across the country, young women and young girls are being exposed to the accomplishments of notable women of history. While they can appreciate the heroism and the ingenuity of these women, they may not yet fully understand that many of these accomplishments came at great individual sacrifice, were not fully appreciated at the time they occurred, and were often the result of long struggles to gain the opportunity to excel at their chosen pursuit.

Women's History Month also provides an important lesson to our young men and young boys in those same classes. They learn to recognize that their classmates, their sisters, their mothers, and all women have dreams similar to their own of careers and contributions. These boys can then better appreciate that women are equally valuable and equally capable of leading society in the next breakthrough in whatever field one chooses to pursue.

At the same time, we adults are reminded that while great progress has been made, particularly within our lifetimes, sufficient progress remains illusive. Too often our wives, daughters, and friends share with us the frustrations of obstacles to their careers rarely faced by males. These challenges come in the form of harassment, doubting of ability, and unfair choices placed on women concerning family objectives as opposed to career objectives that are not similarly placed upon men.

The children in our classrooms today need to enter a work force that is free of harassment, free of bias, and full of respect, full of opportunity and full of challenge. As our children enter and succeed in the workplace they need to look back at the contributions of the women who broke ground in their particular field. In so doing, they will appreciate not only the contributions of these women but also the barriers that have been removed to women as a result of their persistence.

There are no career fields in which we, as a Nation, can afford to restrict the contributions of talented, motivated workers. Our society cannot afford the disruptions caused by the lack of respect shown towards successful women in the work place.

Similarly, our society can not afford to minimize the contribution of women who choose to interrupt, delay, or forego their careers in order to tend to the needs of their families. Whether single or married, women today bear a disproportional share of the work involved in keeping our families strong and on a positive track. The struggles of mothers today, who seek to raise their children in a safe and moral environment, are unlikely to be the subject of the history lessons but are of historic proportions.

As we consider and honor the notable figures of the distant and recent past, we should also go home today and honor the historical women of the future and encourage their pursuits.

TRIBUTE TO JOHN W. TAYLOR

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. BORSKI. Mr. Speaker, today I join with the family and many friends of John W. Taylor to offer congratulations on his retirement as the Director of the United Auto Workers and good luck to a man of courage and vision who has devoted his life to helping the working people of America.

Throughout his four decade career with the labor movement, John has displayed unmatched leadership and integrity. His legacy is one of numerous, outstanding, and long-lasting contributions on behalf of the working people of America.

John established himself as a man of true courage in 1982 when he bucked the vested interests in the United Auto Workers as well as the machine of an incumbent Member of Congress to support the long-shot candidacy of an underdog challenger. John recognized that I would help give Philadelphia's working people a voice in Washington and he was willing to put his career on the line to be one of the first to give me the help I needed.

Despite strong pressure from the establishment, John stood his ground because he had the people's interests at heart. It was his strength, determination, and tenacity that brought me an endorsement from the United Auto Workers—a key factor in a tight election which I won by less than one percent of the vote.

A born-and-raised citizen of Philadelphia, John W. Taylor, worked hard to strengthen the aircraft unions in the Philadelphia metropolitan area. Originally a volunteer organizer for Piasecki Aircraft—now known as Boeing Helicopter Company—John was the first elected chief organizer by his fellow workers in May 1956. John was then elected to the union's first executive board and through the years served as the local union's editor and recording secretary before becoming president in 1967.

In 1967, John had become the president of the largest local union—the UAW's region 9—which consisted of 7,200 acting members. As president, he successfully administered such a large organization with five locations and supervised the construction of the union's $250,000 Walter P. Reuther Memorial Building in Eddystone. PA.

Soon after becoming president of UAW's region 9, John was assigned to the region 9 servicing staff, where his major duties included collective bargaining, arbitration, mediation and all forms of dispute settlements until 1980. Also in 1972, John was appointed to the staff of the international union, UAW, by then president, Leonard Woodcock, and regional director, Martin Gerber. He was selected to coordinate the activities in the UAW's Community Action Program [CAP].

In recognition of his loyalty and hard work, John was appointed to a transition team by then Governor-Elect Robert Casey in 1986. This important position led to a labor friendly Labor and Industry Department for the 8 years of the Casey administration. Finally, in 1987, Governor Casey selected John to represent labor and the UAW on the Pennsylvania State Job Coordinating Council [SJTCC] which was established under the Federal Job Training and Partnership Act [JTPA]. This position has been directly responsible for the securing of hundreds of thousands of dollars in job training funds into UAW programs and to UAW members. He continues to hold this position under Governor Tom Ridge.

Personally, this tribute is only a small token of my gratitude for John and his accomplishments over the years. His work with the UAW and the citizens of the Philadelphia region is greatly appreciated and will be missed by all. John's valued judgment has been an asset not only to me but to all people associated with him as well. I am proud to say that John W. Taylor has become a close personal friend of mine and I wish him well on a richly deserved retirement.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Mr. Speaker, I join John's wife Jean and his family and friends in congratulating him for a lifetime of service, dedication, and hard work on behalf of the United Auto Workers and the working people of America.

MAJ. GEN. (SEL) RONALD C. MARCOTTE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. SKELTON. Mr. Speaker, I rise today to pay tribute to a great American, an outstanding Air Force officer, and an exceptional individual: Maj. Gen. (sel) Ronald C. Marcotte. On March 26, 1996, Ron Marcotte handed over command of the 509th Bomber Wing at Whiteman Air Force Base after serving as its commander from the beginning of its operational status—April 1, 1993. Major General Marcotte will be the new director, strategic target plans (J–52) and deputy director, plans and policy (J–5), at U.S. Strategic Command, Offutt Air Force Base, NE.

During his command of the 509th, Major General Marcotte was responsible for the oversight and successful completion of the facility construction as well as the beddown of the B–2 fleet. His accomplishments, as expected, went far above and beyond his described duties. I ask my colleagues to join me in wishing Major General Marcotte a fond farewell from the 509th Bomber Wing at Whiteman Air Force Base. Missouri will truly miss him.

SALUTING PUBLIC BROADCASTING EXCELLENCE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. FIELDS of Texas. Mr. Speaker, it was a privilege for me to recently address the Association of America's Public Television Stations' [APTS] annual meeting of member stations to discuss my proposal to privatize funding for public broadcasting. I am among those working to reduce Federal spending, without sacrificing the high quality of television programming available to all Americans from the Public Broadcasting System.

Public broadcasters have for many years provided Americans—particularly young Americans—with programming of exceptional educational value. My own 6-year-old daughter enjoys watching "Barney and Friends," "Sesame Street," and other children's shows produced by public broadcasters. And as a student of the Civil War, I believe that "The Civil War" may have been the finest television series ever aired on public, or commercial, television.

During the APTS annual meeting, two public broadcasters in Texas were recognized for excellence in their fields. Rodney Zent of KAMU–TV in College Station was named one of seven "Visionary Public Broadcasters" and was presented with the 21st Century Award for his outstanding contributions to the public television system. And Leon Collins of KUHT–TV in Houston was one of eight recipients nationwide to receive the Grassroots Advocacy Award, presented to those individuals and public broadcasting stations who work to garner support for public television in their communities.

I salute Mr. Zent and Mr. Collins for their past efforts to enhance the future of pubic television.

Mr. Zent has spearheaded Texas A&M University's efforts to impose its distance learning program. On April 3, KAMU, in partnership with GTE, will unveil the Center for Distance Learning Research, which will offer training in distance learning and cutting-edge telecommunications technology. Last year, KAMU coordinated 3,400 videoconferences on its TRANS–TEX Videoconferencing Network, which provides real-time, two-way video, data and Internet services to 44 locations throughout Texas.

Mr. Collins at KUHT has enlisted his staff, the University of Houston, and supportive volunteers on behalf of public television. Due to his efforts, the University of Houston's newsletter now features a column containing legislative news from Capitol Hill, and the station's legislative needs are a high priority on the university's agenda. It is precisely this type of local, community support, that will be key to public broadcasting's future, and I salute him for his efforts.

Mr. Speaker, as the chairman of the House Telecommunications and Finance Subcommittee, I want to reiterate my support for public broadcasting—and reiterate my desire that future generations of Americans benefit from the fine, educational programming it makes available to all our citizens.

Individual efforts by persons like Rodney Zent and Leon Collins—together with enhanced local support for outstanding public broadcasters like KAMU and KUHT—will ensure that this valuable public resource will remain with us for many years to come.

YOUTH ART MONTH

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. KENNEDY of Rhode Island. Mr. Speaker, this month we have celebrated Youth Art Month, a valuable advocacy program that cultivates and emphasizes the importance of art and of quality art education in the lives of today's children.

In today's world, filled with harsh realities and ambiguity, children often lose touch with themselves and their surrounding environment creating a damaging gap. Since art is not only a representation of life in its physically, emotionally, and spiritually, it provokes self introspection and, in turn, helps to bridge this gap. Youth Art Month reminds us that this importance should never be taken for granted, for art is one of the most integral components in the development of a child's imagination and cognitive mind. Art adds a new dimension to a child's personality—a dimension of imaginative thought, subjective interpretation, and perhaps most important—individuality.

My uncle, the Late Robert F. Kennedy extolled the importance of creativity in our children's lives. "Too often, the arts have been thought of as nice, but rather non-essential part of education. When we give our children the chance to explore and develop their own creativity, we encourage the sensitivity and ability for self-expression that is so crucial a part of the well-informed, well-educated person."

I commend the Council for Art Education for creating Youth Art Month and for its efforts to instill in America an appreciation for art and art education. I sincerely hope that our children and future generations will cherish and celebrate art and the enormous contribution its forms have made to this great Nation.

CONGRATULATIONS TO DAN WHITTLE ON THE SUCCESS OF WHITTLEMANIA

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. GORDON. Mr. Speaker, I rise today to recognize the tremendous contribution Dan Whittle has made to the success of Habitat for Humanity in Rutherford County.

In 1993, Dan and the community joined together to host a bean dinner to raise money for cancer patient Ben Webber's family. Ben Webber left a wife and child when he succumbed to cancer. His lifelong dream of owning a house was realized for his family through the money Dan and Habitat raised. The Webber dinner was the forerunner of what has come to be known as "Whittlemania."

This year, the Second Annual Whittlemania for Habitat was a tremendous success. Demos' and Toot's restaurants served over 1,000 meals and owners Jim and Doris Demos donated the $6 ticket price to Habitat. Whittlemania made more than $7,000, quadrupling last year's results.

The community pulled together, and the following businesses and individuals made Whittlemania happen: Demos' and Toot's restaurants, the Daily News Journal, Whittlemania chairman Darwin Colston, Garden Plaza Hotel, the Printing Department, city employees of Smyrna and Murfreesboro, Tennessee General Services Commissioner Larry Haynes, Fant Smith and Outdoor Communication, and Dan's wife, Pat.

Dan is a reporter and columnist for the Daily News Journal, a Murfreesboro newspaper. In his February 8th column on Whittlemania, he says, "It is mind-boggling and heartwarming personally to have a community-wide, charitable, fund-raising event named for you and for that, I am thankful. I love this community that cares so much for people."

Well, Dan, Rutherford County is thankful to you. Its people know how much you care. You have shared your personal story of homelessness with us, but more than that, you have reached out, time and time again, to help friends and strangers. It has been said that

the success of a man can be gauged by how many lifes he's touched. Congratulations on your success and the success of Whittlemania.

BALANCE THE BUDGET

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. PACKARD. Mr. Speaker, President Clinton has proven time and time again that he is big Government's little buddy. He is a tax and spend liberal though his rhetoric would have the American people believe otherwise.

My Republican colleagues and I have a proven track record when it comes to our commitment to downsize Government and the Federal deficit. To date, the Appropriations Committee has cut $22 billion and terminated 175 wasteful programs and we continue to make real cuts that are necessary to put us on the Glidepath to a balanced budget.

The President keeps telling the American people that he wants a balanced budget too. He says the era of big Government is over. Well, we have seen no evidence of it. In fact, he is now asking Congress for an additional $8 billion in social spending without trying to find savings elsewhere to help offset their cost. Any family that has ever tried to balance their own budget knows it will not balance if you keep spending in every direction and not cutting somewhere.

Mr. Speaker, we have the opportunity to make a down payment on a balanced budget and the future of our children. We have the opportunity to make Government smaller and more cost effective we will do what is right for America's hard-working taxpayers. The President must do the same.

THE CARIBBEAN BASIN INITIATIVE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. RANGEL. Mr. Speaker, One of the legislative accomplishments of which I am most proud is my association with the passage of the Caribbean Basin Initiative [CBI] in 1982. The CBI was truly bipartisan legislation, introduced by President Ronald Reagan and embraced by the Democratic Congressional leadership led by former Chairman Dan Rostenkowski of the House Committee on Ways and Means.

The CBI has been truly a success story, a great example of what President Reagan called friends helping friends in the letter that he sent me after signing the legislation to provide our Caribbean neighbors with greater access to our market in the United States. I don't believe that we fully appreciated at that time how much mutual benefit there would be over the years in CBI. Now the Caribbean has become a significant purchaser of goods and services from the United States, helping to create jobs here at home.

The CBI has been responsible for a decade of unparalleled growth in trade between the United States and the Caribbean, acting as a catalyst for exports, investment and employment creation in the economies of the United States and the Caribbean. As the growth process in CBI economies has been strengthened by increased United States investment in increased purchases of United States goods and services. Each dollar spent by the Caribbean generates 60 cents per dollar of United States exports. Jamaica, for example, purchases more than 65 percent of its imports from the United States. Trinidad and Tobago purchases more than half of its imports from the United States.

In 1991, the last year prior to the embargo, Haiti purchased 61 percent of its imports from the United States. Restoring the economy of the new Haiti, therefore, is not a matter of charity or foreign assistance, it is a policy that is rooted in the realization that there is mutual self-interest for Haiti and the United States in making the Haitian economy viable. The Caribbean is a significant market for United States exports and these exports produce jobs in the United States.

Ambassador Bernal, in his editorial, addresses this reality and challenges us to keep the United States-Caribbean trade relationship vital by providing parity to access to the United States markets to that provided by our trading partners in NAFTA. As one of the original cosponsors of the Caribbean parity legislation which was reported out of the Ways and Means Committee Subcommittee on Trade last year, I am looking forward to working with Chairman CRANE and the administration to achieve its passage in the present Congress.

[From the Wall Street Journal, Mar. 22, 1996]

A JAMAICAN'S CASE FOR TRADE PARITY WITH NAFTA

(By Richard L. Bernal)

U.S.-Caribbean commercial links have generated American jobs at a rate of nearly 17,000 a year since the mid-1980s. U.S. overall exports to the Caribbean have expanded by more than 100%, and Caribbean exports to the U.S. have climbed by roughly 50%. By the end of 1994, combined U.S.-Caribbean trade stood at $24 billion.

The 24 nations of the Caribbean Basin—among them Jamaica, Trinidad, the Dominican Republic and all Central American countries—have enjoyed these strong economic and trade relations during the past dozen years largely through the mechanism of the Caribbean Basin Initiative (CBI). But recent changes in U.S. trade law have put the long-term viability of this relationship in jeopardy. Under the North American Free Trade Agreement, for example, Mexican exports now enjoy access to the U.S. market exceeding that accorded to Caribbean exports. The General Agreement on Tariffs and Trade implementing act has exacerbated these effects by phasing out a program that regulated the importation of textile and apparel products from all countries.

As a result, Caribbean countries are now forced to compete in their largest market at a substantial competitive disadvantage. In the two years that Nafta has been in effect, there has been a steady diversion of trade and investment away from the Caribbean Basin nations. In the textile and apparel sector alone, Mexico has displaced other Caribbean countries. It is now the single largest source of U.S. garment imports from this hemisphere. Such diversion has begun to erode U.S.-Caribbean trade relations, weakening the employment base of hundreds of thousands of Americans who depend upon strong U.S.-Caribbean trade links.

During a visit with Central American leaders last month, Secretary of State Warren Christopher announced that President Clinton will include in his fiscal year 1997 budget request a key proposal to strengthen U.S.-Caribbean Basin economic relations. Coming on the heels of Cuba shooting down two unarmed civilian planes. Mr. Christopher's announcement underscores the compelling U.S. national and security interests in maintaining strong economic links with the Caribbean region.

Secretary Christopher's announcement advances a bipartisan proposal currently before the Congress that will correct the unintended adverse effects of Nafta on the Caribbean Basin. The prospect of enhanced U.S.-Caribbean trade links enjoys wide-spread support, and has been endorsed by many Carribbean heads of government and countless business and community leaders, both in the U.S. and in the Caribbean.

As currently envisioned, the proposal will insure that Caribbean and Mexican exports enjoy equal access to the U.S. market during the next 10 years. During this transitional period of "Nafta parity," Caribbean countries will be required to take reciprocal steps to expand market access for U.S. products, strengthen investment guarantees, expand worker's rights, and improve intellectual property protection. By the end of the 10-year period, the U.S. will have strengthened its commercial relationship with the Caribbean region while the CBI countries will be in a better position to join a hemispheric-wide free Trade Area of the Americas.

The benefits of Nafta parity would be felt strongly over the next few years in both the Caribbean and in the U.S. Presently, the U.S.-Caribbean commercial relationship supports more than 260,000 jobs in the U.S. and countless more throughout the Caribbean. The Caribbean Basin is now the 10th-largest export market for the U.S. and one of the few regions in the world where U.S. exporters maintain trade surpluses. Nafta parity will build on this framework as elevated trade levels generate thousands of new jobs each year in the U.S. and the Caribbean.

The benefits to U.S. industry for this program are clear as well. Nafta parity will enhance international competitiveness of the U.S. textile and apparel industry by building on the productive relationship already enjoyed by U.S. and Caribbean firms. Since Caribbean garment exports rely upon U.S. components and labor for as much as 70% of their value-added, and expansion of the Caribbean garment industry directly benefits U.S. firms and workers. Many Caribbean governments already operate programs that successfully fight illegal textile transhipment from East and South Asian countries, so Nafta parity will strengthen a framework that protects the domestic industry from quota violations. Finally, as Caribbean governments take steps to strengthen intellectual property and investment protections—as Jamaica has already done—many other U.S. industries will gain.

This trading relationship means that overall economic growth and development in the Caribbean Basin can directly translate into expanded export opportunities for the U.S. Roughly 60 cents of each dollar the region earns from exports to the U.S. market is spent in the U.S. buying American-made consumer goods, food products, raw materials and capital equipment.

VOL
142
PT
5
MR
21
—
29
1996
UMI

In this context, Nafta parity has emerged as a cost-effective economic and foreign policy instrument to promote regional development. Increased trade activity will provide many additional commercial opportunities, which are so crucial for healthy economic growth in cities and rural areas throughout the U.S. Stronger trade links will inevitably lead to better cooperation in other areas, such as narcotics interdiction, anticorruption activities, and efforts to fight terrorism and international crime. Moreover, as Caribbean economies prosper, they will become less dependent on U.S. foreign aid at a time when foreign assistance is getting close scrutiny. In many ways, therefore, Nafta parity represents a tangible "trade, not aid" approach, which has taken on new importance in light of the U.S. budget debate.

Numerous studies have shown that strong regional economic links are crucial not only in creating economic opportunities throughout the U.S. and the Caribbean Basin but also in supporting stable and mutually beneficial security relationships. Congress should advance U.S. national security interests in the region by moving quickly to enact Nafta parity.

SALUTE TO J. DOUGLAS BALCOMB AND HIS CONTRIBUTIONS TO RENEWABLE ENERGY

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. SCHAEFER. Mr. Speaker, this morning the Department of Energy awarded the John Ericcson Award in Renewable Energy to Dr. J. Douglas Balcomb of the National Renewable Energy Laboratory in Golden, CO.

A pioneer in the field of solar energy research for 17 years, Dr. Balcomb received his Ph.D. in nuclear engineering from the Massachusetts Institute of Technology in 1961. One of his earliest notable offerings was the solar load ratio technique for qualifying the energy performance of passive and active components and mixed systems. This accomplishment gave the solar energy design community a direct, verifiable method of evaluating solar features—a method that is now used worldwide and has led to the development of many passive-design tools. The American Society of Heating, Refrigeration, and Air Conditioning Engineer's design manual, Passive Solar Heating Analysis, is an outgrowth of the method.

Dr. Balcomb's involvement in design has led to a collaboration with the Passive Solar Industries Council and the National Association of Home Builders. The collaboration has produced Builderguide, a user-friendly computer-based spreadsheet that calculates locale-specific energy performance and comfort. Dr. Balcomb is now adjusting his basic methodology for residential design to small commercial buildings, thus making the technology widely available in the private sector.

Dr. Balcomb has published over 100 technical papers and lectured in 26 countries on effective passive design and is a past chairman of the American Solar Energy Society.

I congratulate Dr. J. Douglas Balcomb as he receives the prestigious John Ericcson Award in Renewable Energy today for his important work in helping to secure our country's energy future.

NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. LAZIO of New York. Mr. Speaker, I am very proud to come to this floor today to introduce the Native American Housing Assistance and Self-Determination Act of 1996.

This is the most important piece of legislation this body has ever considered with regard to Indian housing. This bill heralds a new era in the relations between Congress and Indian tribes, one marked by mutual respect, consensus, and accountability on all sides.

Indian communities suffer from some of the worst housing conditions in the country, a situation we will no longer tolerate. New partnerships between the Federal and tribal governments and the private sector will give local Indian communities the tools they need—and have been asking for—to build a better life for themselves and their members.

Indian housing programs began in the early 1960's as a result of memorandums between the Public Housing Administration, the predecessor to the Department of Housing and Urban Development, and the Department of Interior. Housing on Indian reservations was considered just a derivation of public housing, the same as you would find in Seattle, or Miami, or in the town of Isilp, N.Y. Indian housing is not public housing. This bill recognizes that fact and creates a single, flexible block grant to tribes or their tribally designated housing entity to provide housing assistance.

Because of the unique government-to-government relationship between Indian tribes and the American Government, as well as the value of having local communities solve local problems. Indian housing authorities should have greater flexibility in providing assistance to their members.

Tribal governments and housing authorities should also have the ability and responsibility to strategically plan their own communities' development, focusing on the long-term health of the community and the results of their work, not over burdened by excessive regulation. Providing the maximum amount of flexibility in the use of housing dollars, within strict accountability standards, is not only a further affirmation of the self-determination of tribes, it allows for innovation and local problem-solving capabilities that are crucial to the success of any community-based strategy.

Involving private markets and private real estate entities must be a part of a successful strategy to improve economic conditions in Indian country. Simply put, we need more bang for our buck if we hope to address the needs of Indian communities in a meaningful way.

The formula-driven block grant allows us to implement a new affordable housing loan guarantee, based on the very successful section 108 loan guarantee for Community Development Block Grant funds. Under this new model, tribes can borrow capital from existing financial organizations and markets to expand the number of new units that can be constructed. This helps alleviate the serious need for new housing units in Indian country and at the same time lets private capital and investors take up the slack where Federal funding cannot, decreasing the dependence on direct subsidies.

While discussion and debate are underway on other legislative initiatives such as NAFSO, the Native American Financial Services Organization, we can take steps now to ensure public dollars going to tribes for housing can be used to leverage private dollars.

The bill also lengthens leases on trust-held land to 40 years. While it may not seem important, it is crucial to the secondary mortgage market to have lease terms long enough to support a 30-year mortgage. This kind of involvement by the private sector—supporting homeownership—is precisely the kind of efforts this Congress must support and it's one of the reasons this bill is so important to Indian country. Fannie Mae is just beginning to become involved in Indian country through the purchase of section 184 loans; Freddie Mac is poised to do the same. I believe this provision will give them added incentive to increase their presence in Indian communities.

I would like to thank my colleagues, Mr. BEREUTER, the distinguished vice-chairman of the Housing Subcommittee, my good friend Mr. HAYWORTH, and our colleague from the other side of the aisle, Mr. JOHNSON of South Dakota. Their efforts are much appreciated and I look forward to their continued input on this bill.

Mr. Speaker, this is only the beginning. As the bill moves forward, we expect to receive even more input from people who benefit from and run housing programs and, most importantly, to consult with tribal leaders. I am confident that the administration and the other body will support this bill and I look forward to working with them to make sure we can have the best possible legislation.

HONORING FBI AGENT CHARLES L. REED

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to pay tribute to a hero in the war on drugs from my home district in Montgomery County, PA.

Recently, FBI special agent Charles L. Reed was laid to rest after giving his life to free our community from the yoke of drug abuse. Thousands of State troopers, police officers from throughout the region, park rangers, and transit police joined the friends, family, and colleagues to thank agent Reed, offer condolences from a grateful community to his family, and bid farewell to an exemplary public servant.

The outpouring of grief for this fallen hero was tremendous in a community which knew the benefit of the good work he did on behalf

of the people. Hundreds of FBI agents, their badges draped in black, filled the parking lot of the church in tribute to their fallen comrade who was killed recently in a shootout with a drug dealer.

Six young pallbearers, all relatives of agent Reed, carried his body to its rest with the mournful wail of bagpipes in the background. That languished sound of the bagpipes reflected the mood of the entire Delaware Valley community over the death of this 45-year-old hero. The pain reflected on the faces of agent Reed's wife and three young sons was etched in the spirit of our entire community. For a great man died in defense of his community, locked in a mortal struggle against the specter of drugs which has ravaged this Nation for so long.

Agent Reed was not just a dedicated law enforcer, he was a devoted, loving, and proud husband, father, and friend who loved his community so much he was willing to risk his life in its service.

At the funeral, Gerald Loke who worked with agent Reed for 12 years at the FBI office in Lansdale, Montgomery County said: "The FBI gave Chuck the title of special agent. Today, I want to give him the title of special husband, special father, and special friend."

FBI Director Louis Freeh recounted a story agent Reed often told about a Vermont milkman he knew growing up. The milkman's hands were deformed by his work, but he continued the job he loved. Agent Reed often compared his passion for FBI work to the milkman's. He even named his youngest son, Kelley, 17, after the milkman.

Director Freeh told agent Reed's three sons, Joshua, 21, Todd, 18, and Kelley that they should remember their father as a hero. His wife, Susan, became a source of strength for his bereaved colleagues, knowing the impact this loss would have on them. Her courage matched his own.

Mr. Speaker, the tragic impact of drugs on this Nation is never made more clear than when a community loses one of its own. The children who become hooked and die with an overdose in their veins; the innocent bystanders who lose their lives as a result of the crime which follows this plague. These are the people agent Charles Reed died for. These are the tragedies he worked so hard to prevent. In the end, the war on drugs would claim another soldier. But despite his death, his message lives on in the dedication of his coworkers, in the love of his wife, in the future of his children, and in the appreciation of a community clothed in grief.

I rise today to honor agent Charles L. Reed—a hero to his community, a role model to his coworkers, and martyr in the war on drugs. May we never again lose such a man to this insidious tragedy. Thank you, Mr. Speaker.

CONGRATULATIONS TO BROCK SANDERS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. GORDON. Mr. Speaker, I would like to take this opportunity to congratulate Mr. Brock Sanders of Murfreesboro, TN on his upcoming retirement as executive director of the United Way of Rutherford County. After 15 years of dedicated service, Brock will retire on April 15, 1996.

Brock has spent his entire life in positions of public service. After playing football at the University of Tennessee at Knoxville and graduating in 1956, Brock was commissioned a second lieutenant in the U.S. Air Force through the ROTC program. During the next 20 years, Brock held many positions which were instrumental in leading our country to victory in the cold war. From his service in Vietnam to his time as an instructor at the U.S. Air Force Academy, Brock was an invaluable officer in our Nation's service.

After retiring in 1980 as a colonel from the Air Force, Brock retired to his home to Murfreesboro, only to continue serving his community. As executive director of the United Way of Rutherford County, he saw a remarkable increase in pledges. During a time in which the national average for increase in United Way pledges was 105 percent, Brock Sanders oversaw an increase of 849 percent. The United Way of Rutherford County has been recognized numerous times for having one of the strongest bases of support in the nation. This success has been due in large part to the leadership of Brock Sanders.

I want to thank Brock for his many years of service, congratulate him on a job well done, and wish him the best in his retirement.

RUTHERFORD COUNTY AND
CANNON COUNTY CIRCUIT COURT,
Murfreesboro, TN, March 14, 1996.

Representative BART GORDON,
Murfreesboro, TN.

DEAR BART: Thank you for your help with the presentation of the resolution for Brock Sanders. Enclosed please find a biographical sketch regarding Brock and his accomplishments. If I can provide additional information, please contact me.

With kindest regards,

DON R. ASH,
Circuit Judge.

Enclosure.

James Brockman Sanders, Jr., was born in Rutherford County Hospital on December 23, 1933 and later taken to his childhood home at 107 2nd Avenue in Murfreesboro. Brock came home to two sisters, Jean Sanders (Beard) and Trudy Sanders (Guinee) and one dog, Buster. His dad was owner of Sanders Auto Service on the corner of Vine and Walnut. His mother was a household engineer.

In September of 1940, Brock entered first grade at Training School (Now Campus School). He completed eight years at Training School.

In September of 1948, Brock entered Central High School. He earned four letters in basketball and three in football under, according to Brock, "the greatest high school coach in the world", Mr. Lee Pate. Brock won mid-state and state honors in football and was a member of the 1950 state champion football team. He was a class officer each year, a member of SPO fraternity and served as president of the Key Club. Was also named "Most outstanding" Key Club member in the Tennessee-Kentucky district. For three years Brock dated the "sweetest and prettiest girl at Central", Fran Summar. He graduated from Central in 1952.

Brock entered the University of Tennessee on a football scholarship in September of 1952. During Brock's football career at U.T., he made sure the bench stayed warm. He was called "Midg" by General Robert Neyland because he stated that Brock was the "world's largest midget". Brock was a member of Sigma Chi fraternity and was an Air Force ROTC cadet Wing Commander.

In August of 1954 Brock married his high school sweetheart, Fran Summar at the First Baptist Church in Murfreesboro.

Brock graduated from the University of Tennessee in September of 1956. He was commissioned 2nd Lieutenant in Air Force through the ROTC. From 1956 to 1957, Brock coached football and basketball at Central High School under his high school coach, Lee Pate.

In March of 1957, James Brockman Sanders, III, was born in the Rutherford County Hospital. He is now the minister of First Methodist Church of Troy, Alabama. He has a lovely wife, son and daughter.

In May of 1957, Brock entered the Air Force at Navigator Training in Harlington, Texas. From 1958 to 1963, Brock was a C-124 Worldwide qualified Navigator and Flight Examiner in Dover, Delaware.

Stephanie Paulette Sanders was born in Dover, Delaware in July of 1959. She is now an educator and household engineer in Atlanta. She and husband Rob Corley have a brilliant son and daughter.

From 1963 to 1966, Brock was Section Commander at Air University, Squadron Officer School in Montgomery, Alabama. In 1966 and 1967, he was a student and graduate of Air Command and Staff College. From 1967 to 1971, Brock was Chief of Space Navigation Division at the U.S. Air Force Academy in Colorado. In 1971 and 1972, he served as a briefing officer in Saigon, Vietnam.

Brock was then Director of Student Operations at Air University, Squadron Officer School, in Montgomery, Alabama from 1972 to 1976. In 1977, he was a student and graduate of Air War College. From 1977 to 1980, Brock was a staff officer at Headquarters Air University in Montgomery, Alabama. In June of 1980, Brock Sanders retired as a Colonel of the U.S. Air Force.

Brock returned to Murfreesboro and in 1981 became the Executive Director of the United Way of Rutherford County. In the last fifteen years under his direction, the pledge for the United Way of Rutherford County has increased by 849% (other United Way chapters have increased by 105%). The United Way of Rutherford County has been recognized numerous times for having the highest percent increase in pledges in the nation.

After 15 years of dedicated service, Brock Sanders will retire on April 15, 1996. He looks forward to spending more time with his lovely wife and their family, as well as working on his golf game.

COMMENDATION FOR LINCOLN-WAY HIGH SCHOOL DISTRICT 210

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. WELLER. Mr. Speaker, today I'd like to honor the great achievement of Lincoln-Way High School District 210 and its outstanding recognition by Money magazine and Redbook magazine.

This national commendation demonstrates the excellence of Lincoln-Way High School—something in which this community prides

VOL
142
PT
5
MR
21
—
29
1996
UMI

itself. The parents, teachers, students and community all deserve a thanks for their hard work and dedication to providing a quality education and for producing young people who are mentally ready to meet their next challenge.

Redbook honors Lincoln-Way High School as part of its America's best schools project. And, in the category of excellence in parenting/community involvement, Lincoln-Way was the only school from Illinois chosen. This in itself is very impressive and I am very proud to represent a community where academic excellence is a high priority.

Nearly 400 schools were nominated for recognition in one of six categories and a panel of judges chose only 155 winners. Truly this is an honorable distinction for Lincoln-Way High School and those involved.

I would like to congratulate everyone associated with Lincoln-Way High School—this award is well deserved and should be shared by all. It is my great honor to represent a community that is so involved in the education of its children.

GEORGE DUTCHIE MINER HONORED

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I am proud to pay tribute today to my good friend and constituent, Mr. George Dutchie Miner on the occasion of his retirement, March 29, 1996, following 55 years of service to Northrop Grumman and its corporate predecessors—including among other company names Hamilton, Chance Vought, Ling Tempco Vought and Vought. Mr. Miner started with the company on March 7, 1941, making aircraft propellers for what was then a division of United Aircraft. He made propellers from scratch out of aluminum alloy. Throughout his career, Mr. Miner has made dies for all of the company's aircraft, for Boeing programs and for military subcontracts. Most recently, as a die finisher, he has prepared 17,000 pound dies for use in creating components for the B–2 Stealth bomber.

During World War II, Mr. Miner earned about 50 cents an hour as a tool and die maker, $28 dollars a week with overtime on the weekends. But he as able to provide for his family and put his two sons through college. He now enjoys the love and affection of three grandchildren. During a portion of his career, he served as the State vice president of his labor union. He also served as a Democratic precinct chairman for many years and a community leader extraordinaire.

Congratulations Dutchie, Northrup Grumman and the country are grateful for your many years of service. I salute you for a job well done.

LIMITED OVERTIME EXEMPTION

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. FAWELL. Mr. Speaker, today I am introducing legislation to provide a limited overtime exemption from section 7(k) of the Fair Labor Standards Act [FLSA] for public sector employees who provide emergency medical services [EMS]—the same FLSA exemption afforded to fire protection personnel. Without this change in law, there will continue to be circumstances in which EMS personnel are working the same tours of duty as either fire protection or law enforcement personnel, but most be paid overtime for any hours worked in excess of 40 hours during any workweek.

In some localities, such as Burke County, NC, EMS functions are entirely separate from fire protection and law enforcement activities, but their job duties are identical. There should be no difference in the treatment of EMS personnel under the FLSA simply because of the manner in which emergency services are provided by local communities. Furthermore, in many jurisdictions, the majority of emergency calls are medical emergencies. The current situation is very expensive for State and local governments and intrudes on their management of fire protection and law enforcement activities.

Section 7(k) of the FLSA provide a partial exemption from overtime for those employees engaged in fire protection and law enforcement activities. Employers are allowed to establish work periods of up to 28 days, and overtime compensation is not owed until fire protection employees have worked more than 212 hours and law enforcement personnel exceed 171 hours of work. There have been conflicting ruling by Federal courts of appeal on the issue of whether EMS personnel are covered by section 7(k). There also have been different interpretations by the courts of the regulations on this subject. This has led to confusion and large financial liability on the part of State and local governments. The bill I am introducing today revises section 7(k) so that these EMS personnel qualify for the same partial exemption from overtime as fire protection personnel.

Mr. Speaker, the FLSA, passed in 1938, mandates a rigid interpretation of the 40-hour workweek and its worker classification and compensation requirements are not reflective of the contemporary workplace. Contradictory court interpretations of the FLSA have provided windfall judgements for some employees. These costly judgments against public sector employers have a direct impact on budgets supported by taxpayer dollars and also affect public safety services. The existing liability for many States and localities is estimated to be in the millions of dollars, and the potential for future liability creates tremendous fiscal uncertainty. I urge my colleagues to support this legislation which promotes the mandate of public accountability and fiscal responsibility to which State and local governments must adhere.

LARRY LEIBOWITZ CELEBRATES 50TH BIRTHDAY

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. DUNCAN. Mr. Speaker, I would like to congratulate Mr. Lawrence Paul Leibowitz, a longtime resident of the Second Congressional District of Tennessee, on his 50th birthday. Larry Leibowitz celebrates this joyous occasion surrounded by his loving family and friends.

Mr. Leibowitz was born in 1946 in Knoxville, TN and has lived there his entire life. He earned his undergraduate degree from the University of Tennessee and is also a graduate of the University of Tennessee Law School. Larry proudly served in the U.S. Army Reserve for 7 years. He married Kay Shamitz, has three children, and is blessed with the addition of his first granddaughter, Rebecca Asher.

Larry has been a close personal friend of mine for over 20 years. The very first major jury trial that I tried as a young lawyer in criminal court in Knoxville was done with Larry as my cocounsel and mentor.

I tried other cases over the years with Larry, and he tried many important cases in my court after I became judge, including one very difficult death penalty murder case in which he saved a young man from the electric chair. I have learned very much over the years from Larry Leibowitz, and I think that he is one of the finest men I know.

Larry Leibowitz is also a leader in the Knoxville Jewish community and has served as the vice president and chairman of the board of Heska Amuna Synagogue. In addition, he has served as the vice president of the Knoxville Jewish Community Center. Larry is active in the American Israel Public Affairs Committee and the Jewish Federation of Knoxville.

Mr. Leibowitz is a member of the Master's Lodge 242 in Knoxville and is a 32d degree KCCH of Scottish Rite. He currently serves as counsel for the Knoxville Bar Association and is involved with the Knoxville Museum of Art and the East Tennessee Opera Guild. Politically active for many years, Larry chairs the 46th ward in Knoxville. Larry was recently appointed by Governor Sundquist to the Tennessee-Israel Friendship Subcommittee on Economic Development.

As you can see, Lawrence Paul Leibowitz leads an active life and contributes much of his time to his family and community. Mr. Speaker, today, it gives me great pleasure to honor my friend who has served his community so well. I wish him many more happy and healthy years to come. Happy birthday, Larry.

TRIBUTE TO STOKELY CARMICHAEL

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. CLAY. Mr. Speaker, I rise to pay tribute to a civil rights icon, Stokely Carmichael—also

known as Kwame Ture. I had the pleasure of developing a close personal relationship with Stokely during the civil rights movement and have for years admired his strength and fortitude. He is a national hero who might have antagonized whites but rallied blacks when a large dose of both was badly needed. His powerful words unified blacks and helped to instill pride in our race.

Although Stokely is now battling cancer, he has not retired from the battle. He continues to be an active and forceful voice in the eternal struggle for civil rights and equality. I submit his story as recorded by columnist Lee Payne in a commentary entitled "Ready for the Revolution" in the March 21, 1996, edition of the St. Louis American. It is my hope that my colleagues will join me in wishing Stokely well.

READY FOR THE REVOLUTION

> With the familiar flame burning in his dark eyes. Stokely Carmichael still holds forth in the mellifluous voice that once put dread in white America and high resolve in black youth.
>
> His old comrades are trekking to a Harlem apartment more to console him than to reminisce. "Now that I have cancer, I get to see friends I haven't seen in years," he said Thursday with an impervious smile. Under the eyes of his doctor and his mother, he is coping with prostate cancer, gathering strength to head off next month to Cuba and then back home to Guinea, where years ago President Sekou Toure renamed him Kwame Ture.
>
> As Stokely Carmichael, he was the most eloquent and incendiary of the street speakers of the civil rights movement. As chairman of the Student Nonviolent Coordinating Committee, he helped wage a dangerous struggle to get Negroes the vote in the Black Belt states of Alabama, Georgia and Mississippi. At the end of a speech in May 1966, he issued a clarion call for black liberation with a phrase explosive for the times: "Black power!"
>
> These two simple words rocked the foundation of race relations in the republic. Carmichael didn't invent "black power" Richard Wright in 1954 had written a book by that title and Harlem's Rep. Adam Clayton Powell, with some justification, later claimed that he coined the expression a generation earlier.
>
> Carmichael had polished the phrase among black focus groups before springing it on the media. "It's time we stand up and take over," Carmichael warned both older Negro leaders and the whites he decided as "honkies," "Move on over or we'll move on over you."
>
> "Dr. (Martin Luther) King told me that he wouldn't use the term. He even tried to get me to use "black consciousness," which came out later in South Africa." But, adds Carmichael, "he never denounced it."
>
> An unyielding J. Edgar Hoover unleashed the monstrous powers of the state against the proponents of black power, using the FBI's counter intelligence program, known as COINTELPRO.
>
> Carmichael, along with H. Rap Brown and countless other civil rights participants, was jailed and beaten dozens of times. In one of his closer brushes with death, the sheriff of Liberty, Miss., held a pistol to Carmichael's head. "The enraged old man was shaking the gun, shaking, shaking. I was thinking that he might shoot me by accident, so I'd decided to go for the gun." But Carmichael hesitated, and the incident was defused without violence. "I've forgotten the sheriff's name," he said. "So many of them have whupped on my head that I can't remember their names."
>
> After King's assassination in 1968, Carmichael, with Hoover's COINTELPRO working full-blast, moved to Guinea. There, Kwame Nkrumah, the deposed as president of Ghana, invited him to help organize the Pan-African movement.
>
> Ture, who considers himself a "Pan-Africanist revolutionary," acknowledges that the civil rights struggle won the black vote in the South, which led to the proliferation of black elected officials. However, he admits to no fundamental change in American racism.
>
> "Racism is a question of power," he said. "If I sit next to a white man on a bus and he doesn't like it, that's his problem. If he has the power to remove me, that's my problem. You have to have (state) power to impose racism. Since whites still have the power (and) we don't have the power, nothing has changed. There's some little cosmetic changes: 'Let them have a mayor here, a mayor there; let them have whatever (rank) in the army to confuse them.'"
>
> "There are some changes in attitude, but racism is not a question of attitude. It's a question of power."
>
> At the end of our chat, a hoarse Ture limped painfully to the door and uttered his patented greeting and salutation: "Ready for the revolution."

INCOME GAP IN AMERICA

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. SABO. Mr. Speaker, I have frequently urged my colleagues to address the widening income gap in America. Today, this House had an opportunity to do just that by increasing the minimum wage. Unfortunately, the majority continued its pattern of ignoring the plight of working American families by rejecting even a vote on such an increase, which would have raised the wages of over 12 million working Americans.

The facts in favor of raising the minimum wage are overwhelming. Over 4 million American workers earn at or below the minimum wage, which provides an annual income of only $8,840. This amount is well below the poverty line for a family of four, and it does not even support a family of two above the poverty line. In fact, the Center for Budget and Policy Priorities estimates that one in five minimum wage workers live in poverty. The buying power of the minimum wage has dropped by 27 percent since its average in the 1970's, and is now at its second lowest in four decades.

My Republican colleagues have paid a great deal of lip service to the value of work and to getting people off Government support. One might think that they would embrace efforts to help working Americans support themselves. A higher minimum wage enables workers, most of whom are adults, to support themselves without turning to Government. Today, however, the majority flatly rejected a higher minimum wage.

The Republican majority speaks often of putting more dollars in Americans' pockets. One might think that instead of advocating tax cuts that benefit our Nation's most affluent, they would support a higher minimum wage, which gives working Americans more money every month for groceries, health insurance, heating bills, bus fare, and rent. Today, however, they not only rejected an increased minimum wage, they blocked the House from even voting on the matter.

The majority would have us believe that an increased minimum wage would, without a doubt, increase unemployment. According to many studies, however, this is not true. In fact, over 100 leading economists, including three Nobel Prize winners, have urged an increase in the minimum wage.

If Congress truly cares about working Americans, it will raise the minimum wage. Doing so would raise standards of living for many Americans, and would also be a significant step toward closing the income gap that threatens to do great damage to American society. As part of my continuing efforts to understand and combat this income gap, I am hosting a forum on April 12 at the Minnesota State Capitol in St. Paul, MN. The forum is entitled "Renewing the Social Contract," and will address the questions of why working American families are struggling in today's economy. My special guest at this forum will be AFL–CIO president John Sweeney. Mr. Sweeney has been a tireless advocate on behalf of American workers, pushing for fair wages, good benefits, and honest labor-management cooperation.

The forum will explore what Government and business can do to ease economic anxiety, lessen income inequality, and increase job security. In addition to Mr. Sweeney, I will be welcoming representatives of business and academia, as well as workers who know what it is like to struggle for low wages and who have experienced the difficult search for livable-wage jobs.

I am hopeful that this event will shed additional light on the income gap, and will produce ideas for cooperation between Government, labor, and business that will enable all Americans to share in our growing economy.

A TRIBUTE TO CHAD THOMPSON

HON. WILLIAM M. "MAC" THORNBERRY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. THORNBERRY. Mr. Speaker, I rise today to pay tribute to Chad Thompson of Amarillo, TX who is the State winner of the Voice of Democracy broadcast script writing contest, administered by the Veterans of Foreign Wars of the United States. His essay is a reflection of our American heritage, to do what we can for our neighbors, community, and our Nation:

> The great red sun peeked over the blue horizon. Just as dawn broke a young woman was strolling barefoot along the beach. She breathed in the cool morning air and felt the sand between her toes. The uniform stretch of beach was broken only by starfish washed in by the tide. There were thousands of them covering the beach.

VOL
142
PT
5
MR
21
—
29
1996
UMI

Too bad, the young woman thought, that all of them would dry up and die before long. Starfish thrive in shallow water, but once they are beached there is no other option but death. She picked up one of the starfish, took a long look at it, and threw it far back into the ocean, giving it a second chance at life. Then she picked up another and hurled it back into the water too.

She had been doing this for a while when a casual jogger passed by and asked, "Are you crazy? Do you realize there are millions of starfish here? You can't make a difference." She looked up at him, propelled another starfish to safety and replied, "I made a difference to that one."

Behind this simple story lies the solution to answering America's call. I believe America's call is for its citizens to love their country, to cherish its traditions while making room for new ones, and to work for the betterment of their fellow countrymen. Each person can make a tremendous difference—whether to the nation as a whole, their state, their community, or in their own neighborhood. The time is now for Americans to respond. Every American should realize large problems can be surmounted—that for every Goliath of society, there is a David who, with the courage to act, can solve what seemed to be an impossible task. David was able to conquer the huge giant Goliath with just one stone, in the same way we can eradicate any problem in America with a positive attitude and willingness to work hard.

I believe that cherishing America is to show pride in its symbols. For example, last summer, as I stepped out of my house early on July 4th to jog, something seemed a little strange. It wasn't anything that could hinder me physically, but it wounded by sense of patriotism. The problem was that no one had the American flag displayed.

Before I ran to the end of the street, I turned around, walked back in to my home, found the fabric of our nation, and proudly put it in its place in our yard. Afterwards I continued my job, but when I returned a smile came across my face, for the neighborhood was now splashed with red, white, and blue.

You see, as everyone around the block saw the flag in our yard, they put theirs out as well. This incident shows how the power of one small act can cause a chain reaction that makes a big difference. Independence day in my neighborhood was a little brighter which in turn made me proud to be an American.

In April of 1995 tragedy ate at America's heart. When the Alfred Murrah Federal building in Oklahoma City was bombed, it created a black hole that pulled everyone to its center. Everyone pulled together in the terrible tragedy that took so many lives. There were no problems to race, religion or politics—just fellow humans who needed help and the people of the community responded. Soon offers of help poured in from all quarters of the country. Americans took off work across the country in hopes of helping the victims. Some were only able to offer teddy bears for the wounded children, while others could offer free intensive care; either way though, the lives of all Americans were altered in some form or fashion from that senseless act.

Captain Scott O'Grady knows what it takes to make a difference. His fighter plane was downed over Bosnian territory, and while the nation feared he was dead or captured, he lay hidden in bushes surviving on ants and rainwater. His life was saved because his fellow soldiers kept listening for him long after common sense told them to give up. The United States military was flawless in his rescue. His willingness to survive as an American played an extremely important role, but the unsung heroes were the men who answered America's call by serving in the Marines. Just by his will to live and to return home, Scott O'Grady made a difference by focusing America's attention on the honor, strength and determination held by our servicemen.

America's call can be answered by young and old, by a small act such as helping a child learn to read, the heroic deeds of a fireman saving a life or a soldier defending the nation in war. Anything positive counts. It is up to every American to take part in this government. Make a difference, and fill out that ballot. Remember it is your obligation to do something.

It is time now to answer America's call. Like the woman on the beach saving one starfish at a time, decide today to be that person who can make a difference.

FIFTH ANNIVERSARY OF PERSIAN GULF WAR

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. TAUZIN. Mr. Speaker, this year marks the fifth anniversary of the Persian Gulf war—a war fought over oil in foreign lands. Although the U.S. troops and our allies displayed remarkable sophistication and prowess in bringing Sadam to his knees, our national security concerns remain and our position has weakened. In 1991, America imported 45 percent of the U.S. demand for oil; 5 years later our dependence has grown. Today we import over half, 52 percent of our annual consumption. The time has come for the Nation to decide to give our young men and women the option to take U.S. jobs on U.S. soil or go to war to protect foreign oil on which we are so dependent.

Our first commitment should be made to the Strategic Petroleum Reserve and its mandated 1 billion barrel mark. The mere threat of drawing down these reserves calmed the oil and gas markets and stabilized the price during the Persian Gulf war crisis. Instead of preserving this stockpile we have reduced the minimum fill level, ceased the purchase of new oil, decided to sell 7 million barrels of oil, maybe as many as 100 million barrels, and lost the use of a 75 million barrel facility at Weeks Island which is in my district. It is time to move in the other direction.

We must create incentives to produce domestically and keep jobs at home instead of driving companies and employees abroad. I encourage Congress and the administration to move forward with the technical suggestions that the oil and gas caucus presented to President Clinton, as well as, sign in to law a commonsense regulatory reform bill, the royalty simplification and fairness bill, and the Coast Guard authorization bill which contains important language dealing with OPA '90's financial responsibility section.

In addition, we should reject the EPA's efforts to expand the toxic release inventory to include certain oil and gas wastes, speak out against efforts to increase taxes on oil and gas production and reject mandating an OCS moratorium.

I ask that you join me and many Members in both bodies to enact these legislative and regulatory changes. We must send the message that America's dependence on foreign oil comes at the price of U.S. lives and U.S. jobs.

STEPHEN GEPPI, THOMAS D'ALESANDRO, JR., GOOD CITIZEN AWARD WINNER

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Ms. PELOSI. Mr. Speaker, I rise to honor Stephen Geppi, the 1996 winner of the Thomas D'Alesandro, Jr., Good Citizenship Award. Named for the late, great Mayor Thomas D'Alesandro, this recognition is bestowed upon Mr. Geppi for his contributions to the Italian-American community.

Born in Baltimore, Mr. Geppi learned at an early age the importance of hard work when he had to leave school to support his mother. His first job, at age 9, was bundling comic books and magazines. He opted to take part of his wages in comics.

Even when, as an adult, he took a job with the U.S. Postal Service, his interest in comic books did not wane. He began asking customers on his mail route for old comic books to sell or trade, and soon earned more buying and selling comics than he did delivering the mail.

Mr. Geppi opened Geppi's Comic World in Baltimore in 1974, and soon expanded to four stores. By 1982, he moved into comic distribution, and in just over 10 years time he expanded his distribution business to over 28 cities across North America and Europe. In addition to distribution, he branched out to publishing, and 1 year ago opened Diamond International Galleries, devoted to comics, comic collectibles, and related art which draws visitors from all over the world.

Mr. Geppi's extraordinary professional success has not prevented him from active involvement in his community. In 1993, he was one of the consortium of local investors who brought the Baltimore Orioles back to local ownership. He has actively served on civic boards or committees with a number of local organizations, including the Maryland Science Center, the Baltimore Zoo, the Johns Hopkins Children's Center, the College of Notre Dame, the International Museum of Cartoon Art, and the Cystic Fibrosis Foundation.

This is not the first time Mr. Geppi has been honored for his many accomplishments. Most recently, he was named "Business Owner of the Year" by the Baltimore County Chamber of Commerce.

Mr. Speaker, I am pleased to salute Stephen Geppi for the honor he has brought to the Italian-American community by his many accomplishments and commitment to the community. He deserves this award for the contributions he has made in the spirit and tradition of its namesake, Thomas D'Alesandro.

A BILL TO AMEND THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise to introduce a bill, for myself, Representative SHAYS of Connecticut, Representative FRANKS of New Jersey and Representative HORN of California, to amend the Occupational Safety and Health Act of 1970 to require that OSHA inspections of commercial and residential construction sites be conducted by inspectors who have been specifically trained for such work by the Department of Labor.

My proposal will require that inspectors of commercial and residential construction meet certain experience and training requirements and be specifically certified to perform construction site inspections. Although many construction inspectors take courses offered by OSHA, they are not required to do so, allowing many to perform this important work with little or no formal training in the often complicated procedures used in the construction industry.

Construction site inspections comprise nearly half of all inspections done by OSHA. More seriously, the rate of accidents in the construction industry is significantly higher than in other industries. Based on 1994 Bureau of Labor Statistics data, the rate of nonfatal injuries per 100 full-time workers is 11.8 percent for the construction industry compared to 8.4 percent for all private industry. Total deaths from occupational accidents in 1994 were 6,588 or 5.3 per 100,000 employed, but there were 1,027 deaths or 14.8 per 100,000 in the construction industry. Therefore, I believe that it is not only prudent and sound public policy to make sure that those who do construction site inspections are well qualified, but that this reform is overdue.

Under current OSHA rules, OSHA inspectors can go from inspecting beauty salons to inspecting high-rise steel structures on a daily basis. Since most work-related deaths occur in the construction industry, I believe that my proposal will significantly improve the quality of OSHA inspections, the overall effectiveness of OSHA, and save lives.

I urge my colleagues to join in support of this important effort to improve the way OSHA construction inspections are performed.

CORTLAND ZONTA CLUB NAMES WOMAN OF THE YEAR

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. WALSH. Mr. Speaker, I ask that my colleagues join me today in congratulating Ute Gomez from Cortland, NY, who will be honored on Sunday, April 14 as the Zonta Club of Cortland Woman of Achievement for 1996.

My personal esteem for Mrs. Gomez is based upon her positive attitude in a dire situation. She turned a personal health scare into a learning experience for many other women. In 1992, she was diagnosed with breast cancer after a self-exam and mammography. Since then she has created a support group and counseled scores of women with breast cancer.

Three-and-a-half-years-later, after a lumpectomy, a modified radical mastectomy, chemotherapy, countless visits to homes and hospital rooms, Mrs. Gomez was quoted in the Cortland Standard about being named the Zonta Woman of Achievement:

"I am embarrassed by this," she said. "Not my breast cancer, but being honored. But if one woman can see this and do a self-exam, or get a mammogram done, or reach out for help, I feel I've accomplished something."

Ute Gomez is an outstanding civic leader who meets that definition by caring for others and putting that love to work. She is involved with the Breast Health Partnership Committee of Cortland County, a State and federally funded program. She has taken it upon herself to arrange mammograms, counsel, and otherwise assist women who need her help.

My mother died a victim of breast cancer. I have tried in my public and private life to help in eradicating the disease and bringing comfort to those who suffer with it. I pledge further help now, and look forward to continuing to work toward those goals with Mrs. Gomez and others who have given so selflessly of their time and spirit.

A TRIBUTE TO THE CITY OF COALINGA ON ITS 90TH ANNIVERSARY

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. DOOLEY. Mr. Speaker, I rise before my colleagues today to recognize the city of Coalinga. On April 6, 1996, the city will celebrate its 90th anniversary, and I would like to honor the people of Coalinga by recounting a few of the highlights of the city's history.

Coalinga came into existence as an oil and coal mining town in the late 1880s. At the base of the coastal mountain range on the west side of the San Joaquin Valley, the town started out as little more than a coaling station for the Southern Pacific Railroad line that connects Los Angeles and San Francisco. The name apparently derives from its designation as Coaling Station A.

The mining of coal, and later oil, caused an economic boom at the turn of the century. By 1910, 4 years after the city incorporated, the Coalinga oil field was the largest in California. Oil continues to be one of the city's economic mainstays, along with agriculture.

As a relatively isolated settlement, Coalinga survived the aftermath of the boom years by relying on a tight-knit community. This close cooperation among its citizens was used to establish a drinking water supply in an area beset by hard water, to establish city-operated natural gas utility in a rural community ignored by the corporate utilities, and to establish a school and a library. This little community also had a strong patriotic element—it was World War I veterans from Coalinga who started the push to establish the American Legion in California in 1919. Coalinga is the home to American Legion Post 2, designated as the "Mother Post" of the California American Legion.

This sense of community was put to the test in 1983, when Coalinga was devastated by a 6.7 earthquake that leveled a significant portion of the business district and caused over $31 million in damages. There was open speculation that Coalinga would not survive this disaster.

Instead of surrendering to this speculation, the citizens rolled up their sleeves and rebuilt. In fact, the earthquake served as a stimulator, with the town leaders using the rebuilding effort as an opportunity to develop a new revitalization plan. That plan has resulted in the placement of a State prison near Coalinga—a $36 million industry—the development of a 40-acre industrial park, and the building of an $8 million airport facility.

I am certain Coalinga will continue to persevere and to prosper into the future. It has 90 years of history to call on when facing the challenges of the years to come.

A TRIBUTE TO ROMAN MYCYK

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. GUTIERREZ. Mr. Speaker, I rise today to pay tribute to an individual who spent his life serving the people of the Ukraine and the people of Chicago. Roman Mycyk was one of the founders of the Self-reliance Ukrainian Federal Credit Union, which was chartered on July 2, 1951. He served as president of the Board of Directors, bringing leadership to the members of the Self-reliance FCU.

The Self-reliance FCU has 12,660 members and assets totaling more than 187 million dollars. Roman Mycyk's leadership touched the lives of all those who came in contact with him and brought unheralded success to the Self-reliance.

Mr. Mycyk was born in the Ukraine on April 10, 1909 and made his mark in his homeland as a scholar, achieving a Masters Degree in economics from the University of the Ukraine.

He was very active on behalf of Ukrainian independence from the Soviet Union. His belief in freedom for his people and his country led to his imprisonment for 7 long years.

Throughout his life, Roman Mycyk has worked with a number of Ukrainian community groups to enable immigrants to assimilate into American society. His work was proven invaluable in integrating thousands of Ukrainian immigrants into our Nation's political and economic life.

I take this time today, so that the memory of Roman Mycyk will be commemorated on March 31, 1996. I would also like to pay my respects to Mr. Mycyk's family, in particular his daughter Christine and son Roman Jr.

VOL
142
PT
5
MR
21
—
29
1996
UMI

A TRIBUTE TO JOHN CLARK

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. QUILLEN. Mr. Speaker, I am honored to have this opportunity to pay tribute to one of my fellow Tennesseans, John Clark from Elizabethton, TN. I respectfully submit the article that appeared in the Elizabethton Star, reporting his prisoner of war experiences during World War II. Mr. Clark is truly a fine man and a great American.

As time elapses, we often forget the many sacrifices made by Americans who fought against tyranny and for our fundamental values of democracy during World War II. The hardships encountered by Mr. Clark as a prisoner of war in Germany are to be studied for lessons in faith, courage, honor, duty, and fortitude.

I encourage my colleagues to read the account of this brave man who endured so much for our freedom, yet kept his love of our country and his religious faith inviolate.

All Americans are grateful to Mr. Clark, and we salute him for his valor and for his service to his country, and his generosity in sharing this personal history with us and others.

AFTER 50 YEARS, FREEDOM STILL SPECIAL FOR EX-POW

(By John Thompson, Star Staff)

Friday the 13th was the luckiest day in the life of John Clark. One that day in April, 50 years ago, American soldiers liberated the young Carter Countian and a group of other prisoners of war from the small town of Horsinger, Germany.

He remembers the scene vividly. Armored vehicles approaching, the roaring noise of the motors, the American flag flying in the wind.

"That American flag was the most beautiful thing I ever saw," Clark recalls a half century later.

That flag was a sight Clark had longed to see. He had heard allied machine guns the day before but he was not sure he would live long enough to see the men who were firing the guns. When he went to bed on April 12, 1945, he did not know if he had the strength to live through the next day.

Clark and his fellow prisoners had been forced marched 600 miles since February, staying one step ahead of the advancing Russian Army. The prisoners marched as much as 32 kilometers a day with little or no food.

Hungry prisoners who stole an egg or a potato from a German farm risked being shot. Clark saw prisoners executed this way. Others, who had lost the strength to go on were also shot when they staggered out of the formation.

Clark had been in perfect health and weighed 198 pounds when he was captured. By the time he reached an American hospital three days after his rescue, Clark, who is 5 feet, 11 inches tall, weighed only 127 pounds.

In addition to his malnutrition, Clark was also facing another threat to his life. The month before, Russian POWs had stolen one of his boots. His best friend, Bill Furay, had the opposite boot stolen. Since Clark wore size 9½ and Furay wore size 9, Clark gave Furay his other boot.

Clark marched for days without shoes. He finally got a pair of old galoshes and stuffed them with rags.

Worse was to come. After marching for several days in the galoshes, the Germans gave him a pair of new shoes. He had to break them in by marching 25 kilometers that day and 27 kilometers each of the next two days.

"My feet were solid blisters," Clark remembers.

Each day the agony of his starvation diet and his mangled feet only seemed to get worse. He shared his agony with Furay, not only his best friend but a buddy he had been with since basic training. They had remained in the same unit for their entire service, and had even been captured together.

The two had marched side by side from France to the prison camps and now were together on this forced march.

"The day before I was liberated I told Bill that I just did not think I could make it another day." He knew the Germans would shoot him if he did not keep up.

That is why that American flag looked so wonderful to the haggard prisoner and why Friday the 13th will always be special to him. He remembers that shortly after the rescue, he stooped over and blacked out from his hunger and pain. If he had done that while still with the German guards it would have meant certain death.

Clark's hardship had begun when he was captured during the Battle of the Bulge. He was a squad leader in the 106th Infantry Division. It was a new division, thrown together from replacement and green troops during the past few months. The unit had only been able to train together for a month in England before being committed to the front lines.

The Germans knew the 106th was green, and, naturally, it was a prime target in Hitler's desperate last gamble to reverse the tide of war.

The Germans attacked at 5:30 a.m. on Dec. 16.

Clerk's unit got the word to fall back. His platoon was the lead element. As they were retreating, German artillery caught them in the open. His platoon was able to keep going while the rest were pinned down. They were soon captured.

It was part of the greatest mass surrender in American history.

Clark was not yet one of them. He struggled on with fragments of the shattered division until they reached the middle of the storm: Hill 576.

A perimeter was established. More men kept coming until they were 500 strong. They would come to be known as "The Lost 500."

But 500 men could not hold out for long against the massive German offensive. Clark and the other men were told to destroy their weapons and surrender on Dec. 21.

As their German captors marched them away, Clark said he saw more Tiger tanks lined up against them than he had ever seen. There was not way the 500 could have survived against such firepower.

At the time, Clark said the men felt they had made the right decision to surrender. "If we had known what was in the future, we would have stayed and fought to the death.

Clark's ordeal began with a three day march from St. Vith, Belgium to Prum, Germany. They were given no food during the march.

Finally, they reached a railhead, where they were loaded onto box cars, headed for POW camps. They had only been on the train for a part of the day before it had to stop because the American Air Force had bombed the trestles.

The boxcars were moved to a siding. Later, an American P-51 shot up the train, killing six and wounding 47. The soldier sitting on Clark's left and the one sitting on his right were both killed.

Clark said the prisoners then broke the doors down and laid in the snow, linking their bodies together to form the words "USPW."

"The plane came back and rolled its wings (in salute). This was the day before Christmas. We spent the night back in the rail cars. On Christmas, we got a half-loaf of bread and a spoon of jam. This was for two days."

After marching for three days, they were put on another train. Again, they were bombed by their own planes but finally reached the prison camps.

During inprocessing, a German officer took all of Clark's possessions, handing him a receipt for the few dollars and francs he carried. Clark managed to hide two things from the officer which would become crucial to him as times got tougher.

Inside the pocket of his field jacket, Clark hid a tiny note pad he had picked up at a USO canteen. He used this note pad to keep a diary of his captivity and record his thoughts during his ordeal.

He also managed to hide a small New Testament.

With the Russians advancing from the east, the Germans began to move their POWs westward. Clark's camp was evacuated on Feb. 14.

At the end of each day's march, Clark and his fellow prisoners might expect a cup of "grass" soup and some bread.

Clark and the other prisoners sometimes managed to steal an egg or some potatoes from a German farm. If they were caught, they would be shot, and some were.

Each night, Clark recorded how far they marched that day and the name of the town where they stopped. Clark was able to record the distances by remembering the mileage on the road signs.

Cark also recorded occasional comments. On March 3, he wrote, "Lined up to be shot because one of our group stole a chicken. They shot 3 prisoners the night before for stealing from a garden."

On March 21, he wrote, "Got out of line for water—dog turned loose on us."

Other than these short notes, Clark's focus on the world got narrower and narrower. Finally, all that was on his mind was survival and food.

"I blocked stuff out of my mind. When I was liberated, the only thing I thought of was food and I thought about Christ and dying," Clark remembered. "I could not get the thought of food out of my mind."

Indeed, his diary is filled with page after page devoted to fantasies about food. There are pages on exotic recipes, undoubtedly gathered from his fellow prisoners from all parts cf the country. New England recipes, country recipes, seafood recipes.

One page is devoted to a lavish meal he planned to eat when he was liberated. It was filled with meats, vegetables, fruits, desserts, breads and salads.

Finally, on April 12, he wrote, "Germans told us President Roosevelt died—first true thing they told us." The next day he made another brief note: "Freedom at 10 a.m."

Freedom meant many things to Clark, but one thing it certainly meant was food.

He stuffed himself on five or six meals a day during his first weeks of freedom. Unfortunately, he was not able to gain weight because of a severe case of dysentery.

The medical stations served the former POWs Paregoric by the bottle. Clark took

doses as often as he could. Finally, his feet and his body began to heal as he loaded onto a ship for a trip across the Atlantic and home.

Ironically, his mother did not learn he had been captured until after he was freed. The first notice she received was a telegram from the War Department on April 18, that Clark was a prisoner. She had received an earlier telegram on Jan. 12, informing her that he had been missing in action since Dec. 16.

Finally, on May 10, Mrs. Clark got the good news that her son had been liberated. Four days later, she received another telegram. It said "Back in States feeling fine furlough soon—LOVE—S/SGT John R. Clark."

Clark does not remember sending the last telegram. He thinks it may have been sent by the Army in his name. What he does clearly remember is a telephone call he made to his mother once he got back to the states. When they answered the phone, they mistook him for his brother. He learned that his brother had been severely wounded in the Pacific and was now in a hospital near him.

Clark had a reunion with his brother in the hospital. His brother never completely recovered from the wounds and lost an eye. He passed away a few years ago.

Sadly, Clark was never reunited with his old friend Bill Furay. He tried to look him up when he was in Colorado but learned he had died a few years before.

For over 30 years, Clark kept his memories to himself. He felt he had no one to talk to. Who in Carter County could understand what he had gone through? He simply blocked out his memories and tried to live like everyone else.

Then in 1976, a group of local ex-POWs came together to share their memories. For the first time, Clark had a chance to talk to others who could understand what he was saying. It took a long time to open up.

"I could not sit here and talk about it before I joined that group. I didn't need sympathy and I didn't need pity, and chances are no one would believe half the stuff we went through."

Nowadays, Clark shares his memories and experiences with those who are interested. He frequently talks to school children about what it would be like to lose their freedom. He hopes they come away with a renewed appreciation of their freedom.

He also remembers how important his old tattered New Testament was to him in his captivity. That memory has led him to an active career in the Gideons. He hopes that someone else in pain may have the same comfort he had.

Unlike most Americans, Clark's memories mean that he has never taken for granted his freedom or his faith in God.

SEIZED IRAQI OIL PROCEEDS SHOULD GO TO U.N. ESCROW ACCOUNT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. HAMILTON. Mr. Speaker, on September 8, 1995, I initiated an exchange of correspondence with the Department of State concerning proceeds from the sale of seized Iraqi oil. According to U.N. Resolution 778, all such proceeds are supposed to be turned over to the U.N. escrow account, which funds such activities in Iraq as humanitarian assistance, the U.N. Special Commission [UNSCOM] which carries out the destruction of Iraq's weapons programs, and the Compensation Fund, which was established to pay the claims of victims of Iraqi aggression.

According to this exchange of correspondence, Kuwait, the United Arab Emirates and Saudi Arabia have yet to transfer all such proceeds from the sale of Iraqi oil to the U.N. escrow account. Saudi Arabia, in particular, has not provided what may be large sums of money to that account.

Unless the governments most at risk from Iraqi aggression are committed to provide funds, in accordance with U.N. Resolutions, to support the U.N.'s important work in Iraq, other governments are unlikely to support U.N. efforts in Iraq, either. This is detrimental to the United States national interest in pressing for Iraq's full compliance with U.N. Security Council resolutions.

At a hearing of the International Relations Committee this morning, I asked United States Ambassador to the U.N. Madeleine Albright to keep me informed on this issue.

The text of my correspondence with the Department of State follows:

CONGRESS OF THE UNITED STATES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, September 8, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: I write regarding the disposition of oil and of the proceeds of the sale of the oil from ships coming out of Persian Gulf ports with embargoed Iraqi oil.

It is my understanding that the United States has interdicted and impounded ships with Iraqi oil and has removed the oil cargo before releasing the ships and crews. I would like to know what we have done with the oil and with the proceeds from its sale and if all the funds obtained have gone into the compensation and escrow fund the United Nations administers pursuant to U.N. resolutions adopted at the conclusion of the Gulf War.

I appreciate your consideration of this matter and look forward to your reply.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

U.S. DEPARTMENT OF STATE,
Washington, DC, November 28, 1995.

Hon. LEE H. HAMILTON,
House of Representatives,
Washington, DC.

DEAR MR. HAMILTON: I am writing in response to your letter of September 8, 1995 regarding the disposition of diverted Iraqi oil and proceeds of the sale of oil from ships diverted by the Multinational Interception Force (MIF).

The United States is participating in MIF operations with the United Kingdom, Belgium, Canada, New Zealand, and Italy to enforce United Nations sanctions against Iraq authorized under U.N. Security Council Resolution 661. During the October 1994-November 1995 MIF operating period, ships of the MIF intercepted and diverted 27 vessels carrying illicit cargoes: 8 carrying Iraqi petroleum products and 19 carrying valuable Iraqi date cargoes. Under UN guidelines, non-oil shipments, such as dates, may be dumped, sold, or given away so as to deny the proceeds or benefits to Iraq.

The petroleum cargo vessels were turned over to the United Arab Emirates, Kuwait, and Saudi Arabia governments. The vessels carried approximately 30,000 metric tons of Iraqi gasoil cargo valued at about $6.00 million dollars. By accepting these vessels, the Gulf governments have assumed responsibility for carrying out sanctions enforcement measures. American responsibility concluded after the vessel interdiction and transfer to these states.

Regarding the disposition of oil and proceeds of the sale of the oil, UN Security Council resolution 778 invites Gulf government's to transfer the proceeds from the forfeiture and sales of Iraqi petroleum and petroleum products into an escrow account established by resolution 706, as provided for in resolution 778.

We understand that the UAE has sold approximately 20,000 metric tons of seized oil cargo and deposited the proceeds in a UAE special account awaiting further instructions from the UN Iraq sanctions committee. Kuwait has also sold approximately 5300 metric tons of seized oil cargoes and has deposited the proceeds locally pending transfer to the UN escrow account. Saudi Arabia is preparing to sell approximately 400 metric tons of seized oil.

We share your concern regarding the disposition of oil proceeds diverted by U.S. ships participating in the MIF. The UN sanctions committee continues to examine embargoed vessel seizures and oil proceed disposition. The UN Compensation Commission, which decides Gulf War compensation cases, is also helping to coordinate the receipt of the 30 percent share in sales revenue from the sale of the oil proceeds by Kuwait, Saudi Arabia, and the UAE.

If we can be of further assistance in this or any other matter please do not hesitate to contact us.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

CONGRESS OF THE UNITED STATES,
COMMITTEE ON INTERNATIONAL RELATIONS, WASHINGTON, DC,
DECEMBER 18, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: I write to follow up your letter of November 28, 1995 in reply to my letter of September 8, 1995 regarding the disposition of proceeds of intercepted Iraqi oil.

Your letter indicates that the Governments of Saudi Arabia, the United Arab Emirates (UAE), and Kuwait have not yet transferred all proceeds from intercepted Iraqi oil to the U.N. escrow account. As I understand it, all States are obligated to transfer such proceeds as soon as possible to the U.N. escrow account, according to Security Council Resolutions 706 and 778. Paragraph 2 of Security Council Resolution 778 states:

". . . all States in which there are petroleum products owned by the Government of Iraq, or its State bodies, corporations, or agencies, shall take all feasible steps to purchase or arrange for the sale of such petroleum or petroleum products at fair market value, and thereupon to transfer the proceeds as soon as possible to the escrow account provided for in resolutions 706 (1991) and 712 (1991)."

I would appreciate your clarification as to why Saudi Arabia, the UAE and Kuwait have

VOL 142 PT 5 MR 21 — 29 1996 UMI

not transferred all proceeds to the U.N. escrow account.

You further indicate in your response that the U.N. Compensation Commission is "helping to coordinate the receipt of the 30 percent share in sales revenue from the sale of the oil proceeds by Kuwait, Saudi Arabia, and the UAE". I do not understand why the U.N. Compensation Commission is coordinating the receipt of a 30 percent amount, when the States are obligated to pay the full 100 percent of revenues to the U.N. escrow account. I would appreciate your clarification of this point as well.

Since my September 8 letter to you, I have received additional information which raises further concerns about this matter. I have been told that Iraqi oil intercepted by the United States and turned over to the Government of Saudi Arabia was sold by that Government in May, 1993 for almost $350 million, but that only $40 million of that sum was returned to the U.N. escrow account. I would like to know if this information is accurate and what is United States policy on the appropriate disposition of these funds.

In order to understand the full scope of activities related to the U.N. escrow account, I would appreciate answers to the following questions:

1. Since the inception of the Multinational Interception Force (M.I.F.), what is the total amount and estimated value of intercepted Iraqi oil that has been turned over to each of the Gulf States?

2. To your knowledge, how much of this oil has been sold by the Gulf States, by country, since the inception of the M.I.F.?

3. To your knowledge, how much of the proceeds from the sale of oil has been transferred to the U.N. escrow account, by country, since the inception of the M.I.F.?

4. Have you demarched Gulf States which have not transferred all proceeds to the U.N. escrow account? If so, what has been the response?

The integrity of the sanctions regime depends on cooperation between the M.I.F. and the Gulf States in transferring intercepted oil proceeds to the U.N. escrow account. If these funds are not in fact being transferred to the escrow account, it undermines the entire integrity of the sanctions regime, and calls into question the utility of the complex and costly M.I.F. effort.

I appreciate your consideration of these matters and look forward to your reply.

With best regards,

Sincerely yours,

LEE H. HAMILTON

Ranking Democratic Member.

U.S. DEPARTMENT OF STATE,
Washington, DC, March 28, 1996.

Hon. LEE H. HAMILTON,
House of Representatives,
Washington, DC.

DEAR MR. HAMILTON: I am writing in response to your letter regarding the disposition of Iraqi oil intercepted by ships of the Multinational Interception Force (MIF).

The MIF has been a highly successful operation by any standard. Iraq first attempted to export large amounts of oil from its Gulf ports in the fall of 1994 (after these ports were restored to working condition). The MIF intercepted the first and only two tankers which attempted to smuggle Iraqi oil from these ports. Since the interceptions and the penalties imposed on the vessels by the nations to which the vessels were diverted (Kuwait and the U.A.E.), Iraqi efforts to smuggle large cargoes of oil from the southern ports ceased. The MIF is not only responsible for stopping Iraqi exports. It also has successfully prevented the import into Iraq of non-humanitarian goods which smugglers attempted to bring to Iraq disguised as permitted humanitarian cargoes.

Vessels carrying Iraqi oil have been diverted to ports in the United Arab Emirates, Kuwait, and Saudi Arabia. Altogether, these smugglers carried approximately 30,000 tons of petroleum products with a value in excess of $6 million.

The U.A.E. sold approximately 20,000 tons of seized oil and deposited the proceeds in an escrow account in the U.A.E. while awaiting final instructions on disposition from the UN Iraq Sanctions Committee. Kuwait has sold approximately 5300 hundred tons of Iraqi oil and deposited the proceeds ($615,000) in the UN escrow account. Kuwait continues to hold the proceeds from a larger cargo seized from the tanker "al Mahrousa." The Kuwaiti government is still awaiting payment from the ship's owner, of expenses relating to the diversion. Saudi Arabia has sold approximately 4,000 tons of seized oil and is preparing to transfer the proceeds to the UN escrow account. (States are permitted to deduct expenses related to the disposal of the seized oil from the proceeds of their sale.)

In your letter, you question why the UN Compensation Commission is coordinating receipt of only thirty percent of these proceeds rather than the entire amount. Under U.N. resolutions, all of the proceeds from sale of these oil cargoes (less expenses) are to be deposited to a U.N. escrow account, with the U.N. Compensation Commission entitled to thirty percent of this sum. The remainder goes to fund U.N. operations regarding Iraq (the northern Iraq relief program, the U.N. Special Commission, etc.).

At the time sanctions were imposed against Iraq, there was a substantial amount of Iraqi oil in the Iraq-Saudi Arabia oil pipeline and in storage at the pipeline's outlet at the Saudi port of al-Mu'ajjiz. Saudi Arabia subsequently sold this oil. According to Saudi Arabia's interpretation of its obligations under the UN resolutions, it deposited $40 million from the sale into the UN escrow account. While we have requested the Saudi government to reopen its accounting of this sale with a view to increasing the contribution to UNSCOM, the Saudi position remains that the $40 million deposit fully satisfied the requirements of the UN resolutions. We will continue to press the Saudis on this important matter.

Please feel free to write us in the future if we may be of further assistance.

Sincerely,

BARBARA LARKIN,
Acting Assistant Secretary,
Legislative Affairs.

EFFECTS OF ALCOHOL

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. KENNEDY of Massachusetts. Mr. Speaker, the American Medical Association recently reported findings of a survey that should shake our complacency about alcohol problems among young people in this country. That survey dramatizes the extent of heavy, dangerous drinking by persons ages 18 to 30 years.

Some of these findings paint a disturbing picture of alcohol abuse among young adults: 15 percent said they drink six or more drinks a night, and nearly one in five is a frequent binge drinker—with males consuming five or more drinks and females four or more—and 7 percent say they drink this much every time they drink. As a result of these findings, the AMA has put us on notice that the most significant drug problem affecting young people is alcohol. Alcohol is the most widely used and abused drug by young and old alike.

Despite alcohol's crippling effect on young people, beer, wine, and liquor marketers position their products as if they are harmless, essential ingredients of a healthy, active lifestyle. Young people deserve a more responsible, balanced message about a drug that destroys so many young lives and careers.

For that reason, I rise today to salute John Soriano, a high school senior scholar-athlete from North Caldwell, NJ, for his contribution to balancing the messages that young people get about alcohol. John is the winner of a national writing contest, cosponsored by *Scholastic Choices Magazine* and Center for Science in the Public Interest. That contest asked teenagers to "Talk Back to Alcohol Advertisers." His poem "JoAnn," poignantly describes the disbelief, pain, and loss following a drinking-related car crash.

John Soriano's poem provides a message that most beer ads bury beneath endearing, animated animals or in their hype about how the brew will make you a man, help you win a girl, or make you a success in life. John's winning entry sends a message to advertisers that kids' lives are constantly threatened by alcohol, that the sanitized ads are misleading, and that more of the real story needs to be told.

We cannot continue to ignore how the promotion of drinking to young people—on television, on campus, in youth-oriented magazines, on billboards and transit signs, at rock concerts and sporting events, almost everywhere—helps disrupt futures and destroys young lives and robs our Nation of too many of its most important resources. We need to go beyond passing laws that criminalize young people for illegal possession of alcohol; we need to do more than support school-based education that has little chance of competing with over $1 billion of alcohol advertising that offers tantalizing personal rewards for drinking. We need to follow John Soriano's lead, and begin to "talk back to alcohol advertisers."

JOANN

Young and immune and I knew what was best.
I knew that I wouldn't end up like the rest.
JoAnn knew it too and she stayed by my side,
Through the times that we laughed and the times that we cried,
Social Distortion—we wouldn't give in,
This was never a battle that we couldn't win,
Future was bright, both of us knew,
We could handle it all, we thought this was true,
But a night and a dream that never would end
We decided to spend it with a drink and a friend,
A few bottles went by, to us it was fun,
We left for her home at a quarter to one.
Five years have gone by and I still feel the wheel,
But now I live on in a chair made of steel,

Thousands of times the pain has amassed,
When I think of my life and opportunities past,
I still see JoAnn about once a week,
And I usually end up in tears at her feet,
She talks to me softly but I don't hear a sound,
And the tears of my conscience fall hard to the ground,
As I lie on the grass moving up with my hands,
We talk about futures, our loves, and our plans,
I stay there and cry and talk for an hour,
When I'm ready to leave, I leave her a flower.
My soul is still trapped in the bottles that passed,
And the sorrow I carry is certain to last,
JoAnn says' she loves me and that should make me brave,
But I lose it each week when I visit her grave,
And the drinks and the dream and the one fateful night,
I love you JoAnn, I'm sorry; Goodnight.

A TRIBUTE TO ANGELA DENISE DILLARD

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. CONYERS. Mr. Speaker, I rise today in tribute to Dr. Angela Denise Dillard, assistant professor of history and Afro-American and African studies at the University of Minnesota. A native of Detroit, Dr. Dillard recently received her Ph.D. in American culture from the University of Michigan. I take particular pride in offering this tribute because Dr. Dillard's family and mine long have been active in the struggle for justice, jobs, and opportunity. Dr. Dillard's mother, Marilynn Dillard, and my father, the late John Conyers, Sr., were among the earliest members of the Trade Union Leadership Council, an organization formed in the 1950's to combat racism in management and unions. Marilynn Dillard served as secretary of TULC. Dr. Dillard's father, Paul Dillard, is a probation officer with the State of Michigan.

In the 1960's the Dillard household was a gathering place for activities. The heated political and social discussions there left a lasting impression on Dr. Dillard and on her older brother, the Rev. Paul Anthony Dillard, Jr., who worked in my Detroit office as a congressional aide in the 1980's. The Rev. Dillard's premature death last year at the age of 36 ended an outstanding career as an advocate for the disadvantaged and the oppressed. At the time of his death, he was dean of the Imani Temple Cathedral in Washington, DC.

Dr. Dillard recalls that the conversations she heard as a child whetted her curiosity and shaped her professional life. "I developed an early interest in the history of ideas, and how ideas influence political and social life, culture and race relations...people's day-to-day existence," she says. "My family and my family's friends talked about these issues constantly. Years later I started to remember all the old stories I had heard, and I decided, "Wow, that would make a wonderful project."

Her doctoral dissertation, "From the Reverend Charles A. Hill to the Reverend Albert B. Cleage, Jr.; Patterns of Change and Continuity in the Patterns of Civil Rights Mobilization in Detroit, 1935–1967," was a result of those discussions. The late Reverend Hill of Hartford Avenue Baptist Church was a community activist who formed broad-based religious and ethnic coalitions to bring about social change. The Reverend Cleage, of the Shrine of the Black Madonna, eventually discarded integrationist tendencies and turned to black nationalism and black theology in the 1960's.

Dr Dillard argues that Detroit underwent "two major phases in its civil rights mobilizations, sustained by two distinct communities of protest. The first phase (and community) was generated by migration, depression, and the logic of industrial unionism; the second was generated by the rise of the southern civil rights movement and by the social and economic environment of post-World War II Detroit." Dr. Dillard's study emphasizes the tension, discontinuities, false starts, and realignments among those constituting and often reconstituting the city's civil rights-oriented left.

A graduate of Immaculata High School, Dr. Dillard received her B.A. in 1988 from Michigan State University's James Madison College where she majored in justice, morality and constitutional democracy. In 1991, she received her M.A. in political science from the New School for Social Research; the next year she received an M.A. in American culture from the University of Michigan. In 1995, she received her Ph.D. in American culture from the University of Michigan.

Dr. Dillard became an assistant professor at the University of Minnesota in September 1995. She taught African-American Political Thought in 1994 at James Madison College and she taught Tradition and Resistance: National Narratives and American Values, in 1993 at the University of Michigan. In 1991, she taught Political Implications of the "Harlem Years." 1920–1935, at the New School for Social Research's Eugene Lang College.

Numerous organizations have recognized her outstanding ability by awarding her a variety of grants and fellowships. In 1996, the University of Minnesota awarded her the McKnight Summer Research Fellowship. In 1994–95, she received the Committee on Institutional Cooperation Dissertation Fellowship, and in 1994 the University of Michigan nominated her for the National endowment for the Humanities Dissertation Fellowship.

In addition to her dissertation, her papers and presentations include "Rumblings on the right: Black Conservative Thought and the Lincoln Review," which was delivered at the Graduate Student Conference held at the University of Michigan's Center for African and African-American Studies in February 1994, and "Sports, Race and African-American Autobiography," which was delivered at the Midwest Modern Language Association in November 1993. Her Master's thesis at the New School for Social Research was "The Negro Problem and the Problem with 'Negro': Name Changes in the Black/African-American Community.

Through her scholarship and her teaching, Dr. Angela Denise Dillard keeps alive her family tradition of activism by focusing attention on the gallant struggles African-Americans have made for jobs, justice, and opportunity.

UNION SALTS

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. FAWELL. Mr. Speaker, in two separate hearings last year, the Committee on Economic and Educational Opportunities heard from witnesses who shared their experiences with the union organizing tactic known as "salting." Their testimony included stories about union organizers and agents who sought or gained employment with a non-union employer when, in fact, they had little if any intention of truly working for that company. In many cases, the organizers and agents were there simply to disrupt the employer's workplace or to increase the cost of doing business by forcing the employer to defend itself against frivolous charges filed with the National Labor Relations Board [NLRB]. For most of these companies—many of which were smaller businesses—the economic harm inflicted by the union's "salting" campaigns was devastating.

Equally troubling, Mr. Speaker, is the fact that union "salts" are often brazen in their efforts to inflict economic harm on non-union employers. Indeed, most union "salts" make clear when they apply for a job that their loyalties lie elsewhere and that they have little interest in working to promote the interests of the company.

Obviously, one might ask why any employer would hire an individual that he knows is there to hurt his company. The complicated answer to this question, Mr. Speaker, lies in broad interpretations of who is covered by provisions of the National Labor Relations Act [NLRA] that prohibit employers from discriminating against employees because of their union interests or activities. These interpretations have had the practical effect of presenting employers with a Hobson's choice: either hire the union "salt" who is sure to disrupt your workplace or file frivolous charges resulting in costly litigation; or, deny the "salt" employment and risk being sued for discrimination under the NLRA. Either way the employer is faced with a hiring decision that may threaten the very survival of his or her business.

To remedy this situation, I am pleased today to introduce the Truth in Employment Act of 1996. This legislation would amend section 8 of the National Labor Relations Act to make clear than an employer is not required to hire any person who seeks a job in order to promote interests unrelated to those of the employer. If enacted, the bill will help restore of the balance of rights that "salting" upsets and that is fundamental to our system of collective bargaining.

I want to make it clear, Mr. Speaker, that this bill is in no way intended to infringe upon any rights or protections otherwise accorded employees under the NLRA. Employees will continue to enjoy their right to organize or engage in other concerted activities protected under the Act. And, employers will still be prohibited from discriminating against employees on the basis of union membership or union activism. The bill merely seeks to alleviate the legal pressures imposed upon employers to

VOL
142
PT
5
MR
21
—
29
1996
UMI

hire individuals whose overriding purpose for seeking the job is to disrupt the employer's workplace or otherwise inflict economic harm designed to put the employer out of business.

Mr. Speaker, the aggressive "salting" campaigns being waged in today's workplace are relatively new and were not contemplated when the National Labor Relations Act was first enacted. Surely, Congress could not have intended the NLRA to be used as the legal shield that union "salts" now commonly invoke in defense of their abusive behavior. Moreover, common sense tells us that employers should be entitled to some measure of confidence when making hiring decisions that the job applicants they consider are motivated by their desire for work for that employer.

The Truth in Employment Act will help instill that confidence, Mr. Speaker, while at the same time protecting the rights of employees and their union representatives. I urge my colleagues to support its passage.

SPRING MULTICULTURAL FESTIVAL

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. VISCLOSKY. Mr. Speaker, it is my great honor to call attention to the School City of Hammond and the Parent Advisory Council of the bilingual education program for holding its Spring Multicultural Festival. This year's festival, entitled "Linking Worlds," will be held today, March 29, 1996 at the Dynasty Ballroom and Conference Center in Hammond, IN.

The School City of Hammond possesses a population that is rich in diversity of backgrounds and languages. This is reflected in the growth of families with a native language other than English. From 1970 to 1990, the number of students from non-English-speaking homes has grown from 977 to 2,306. To meet the needs of these students, the School City of Hammond proposed and received a grant from the U.S. Department of Education, which was implemented in September, 1991.

The mission of the School City of Hammond Bilingual Education Program is to provide a quality education for all students requiring language skill development. The program implements individualized instruction with an emphasis on reading and language arts in the English language. All skills are reinforced by computer. While the focus of the School City of Hammond is English instruction, the bilingual education program also provides the opportunity to learn up to 33 other languages.

I would like to recognize the following administrators and board members who make this incredible program possible. The Hammond School Board of Trustees includes: Mrs. Rebecca Ward, president; Mrs. Albertine M. Dent, vice-president; Mrs. Linda C. Lawson, secretary; Dr. David O. Dickson, superintendent; Mr. Gerald J. Mazur; and Mr. Jay K. Potesta.

The School City of Hammond Bilingual Education Program staff includes: Ms. Peggy Dellahoussaye-Kroc, director, Ms. Elena Rivera-Cruz; resource coordinator; Ms. Graciela Kamer, parent coordinator; Mr. Piedad Kerr, language assessor; and Ms. Nilsa Santiago, divisional secretary.

The Parent Advisory Council includes: Ms. Rosa Leyva, president; Ms. Teresa Turrubiates, secretary; Ms. Josefina Acosta, assistant secretary; Ms. Agustina Alcantar, treasury; Ms. Norma Solis and honorary members, Ms. Norma Solis, and Mr. Guadalupe Turrubiates.

The success rate of the bilingual program has been phenomenal. Within 3 years, the program has expanded from serving 2 schools to 13 schools. Moreover, the School City of Hammond now has the largest limited English proficient population in northwest Indiana, and the bilingual program has prompted an outpouring of support from the Hispanic community for student activities, including a small folklore dance group. Furthermore, the program has collaborated with businesses, including American Maize, and NBD and Calumet National Banks.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in a heartfelt message of congratulations to the School City of Hammond and the Parent Advisory Council for their celebrated success with the bilingual education program. This truly shows that a school system and parental group can work harmoniously together to produce a beneficial program for everyone in Indiana's First Congressional District. The members of this collaborative project should be proud of their efforts to successfully preserve all ethnic cultures.

REPEAL THE TRADING WITH INDIANS ACT

HON. J.D. HAYWORTH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. HAYWORTH. Mr. Speaker, today I am introducing legislation to repeal the Trading with Indians Act.

The Trading with Indians Act was originally enacted in 1834, and at that time it served an important purpose: to ensure that Federal employees did not improperly influence native Americans. However, today this law is unnecessary and unproductive. It establishes a prohibition against commercial trading with native Americans by employees of the Indian Health Service [IHS] and Bureau of Indian Affairs [BIA]. In-many cases, this prohibition also extends to transactions undertaken by the spouse of a Federal employee.

The penalties for violations include a fine of not more than $5,000, or imprisonment for not more than 6 months, or both. The act further provides that any employee who is found to be in violation should be terminated from Federal employment.

Enforcement of this outdated law has caused great difficulties for many native American families. It has also made it more difficult for IHS and BIA to retain quality Federal employees in certain facilities located on remote parts of reservations.

Both Health and Human Services Secretary Donna Shalala and Interior Assistant Secretary Ada Deer have expressed support for repealing the Trading with Indians Act. The Senate has already approved legislation identical to the bill I am introducing today.

Mr. Speaker, repeal of the Trading with Indians Act is long overdue. I hope that my colleagues will join me in supporting this commonsense legislation.

VOL
142

PT
6

AP
15
—
24

1996

UMI

UMI

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VOL
142
PT
6
AP
15
—
24
1996
UMI

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

SENATE—*Monday, April 15, 1996*

The Senate met at 10 a.m., and was called to order by the Honorable THAD COCHRAN, a Senator from the State of Mississippi.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we return to the work of the Senate this morning with our hearts still at half-mast. We share a profound grief over the tragic and untimely death of Secretary of Commerce Ron Brown. Our grief is mingled with the acute pain of loss for our Nation, the President, the President's Cabinet, and the Democratic Party. We ask You to continue to comfort and strengthen the Secretary's family with the assurance of eternal life. Our hearts also are heavy with the memory of the deaths of members of staff and the leading business leaders who were with the Secretary on his crucial mission of rehabilitation.

So, Lord, as we resume our responsibilities today, give us a renewed sense of the shortness of time and the length of eternity. Help us to live this day to the fullest as if it were our last day. May we never take for granted the gift of life or the privilege of serving You by giving our best to the tasks and challenges we will face today. Grant us Your grace to endure, Your wisdom to make creative decisions, and Your power to offset the pressures of the demanding life we are called to live. God, bless America. In the Lord's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 15, 1996.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THAD COCHRAN, a Senator from the State of Mississippi, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. COCHRAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader.

Mr. LOTT. Thank you Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will conduct a period for morning business until 2 p.m. with Senators permitted to speak for up to 5 minutes each except for the following:

Senator HATCH will be allowed 20 minutes;

Senator DASCHLE, or his designee, for up to 90 minutes; and

Senator COVERDELL for up to 90 minutes.

At 2 p.m. the Senate will begin consideration of S. 1664, the illegal immigration bill.

No rollcall votes will occur during today's session. However, Members are expected to debate and offer amendments to the measure today. If any votes are ordered on these amendments, they will occur during Tuesday's session at a time to be determined by the two leaders.

Also, as a reminder, there will be a cloture vote at 2:15 p.m. tomorrow on the motion to invoke cloture on the motion to proceed to the Whitewater resolution.

IN TRIBUTE TO SECRETARY OF COMMERCE RONALD H. BROWN AND OTHER AMERICANS

Mr. LOTT. Mr. President, today, the Senate returns to session for the first time since the tragic accident on April 3 that took the lives of Secretary of Commerce Ron Brown and 32 other Americans.

The majority leader, with agreement of the Democratic leader, has requested that the first action of the Senate be the reading of a resolution honoring Secretary Brown and those lost in the accident.

At this time, Mr. President, I send a resolution to the desk and ask that it be read for the information of the Senate.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

S. RES. 241

In tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia.

Whereas, Ronald H. Brown served the United States of America with patriotism and skill as a soldier, a civil rights leader, and an attorney;

Whereas, Ronald H. Brown served since January 22, 1993, as the United States Secretary of Commerce;

Whereas, Ronald H. Brown devoted his life to opening doors, building bridges, and helping those in need;

Whereas, Ronald H. Brown lost his life in a tragic airplane accident on April 3, 1996, while in service to his country on a mission in Bosnia; and

Whereas, thirty-two other Americans from government and industry who served the Nation with great courage, achievement, and dedication also lost their lives in the accident; now, therefore, be it

Resolved, That the Senate of the United States pays tribute to the remarkable life and career of Ronald H. Brown, and it extends condolences to his family.

SEC. 2. The Senate also pays tribute to the contributions of all those who perished, and extends condolences to the families of: Staff Sergeant Gerald Aldrich, Duane Christian, Barry Conrad, Paul Cushman III, Adam Darling, Captain Ashley James Davis, Gail Dobert, Robert Donovan, Claudio Elia, Staff Sergeant Robert Farrington, Jr., David Ford, Carol Hamilton, Kathryn Hoffman, Lee Jackson, Steven Kaminski, Katheryn Kellogg, Technical Sergeant Shelley Kelly, James Lewek, Frank Maier, Charles Meissner, William Morton, Walter Murphy, Lawrence Payne, Nathaniel Nash, Leonard Pieroni, Captain Timothy Schafer, John Scoville, I. Donald Terner, P. Stuart Tholan, Technical Sergeant Cheryl Ann Turnage, Naomi Warbasse, and Robert Whittaker.

SEC. 3. The Secretary of the Senate shall transmit a copy of the resolution to each of the families.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, it is the intention of the majority leader to bring the resolution up for final passage sometime after tomorrow's policy luncheons. That will allow those Members who desire to come to the floor and pay tribute to Secretary Brown and other public servants and industry leaders who lost their lives.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under a previous order, the Senator from Utah [Mr. HATCH] is recognized to speak for up to 40 minutes.

Mr. KENNEDY. Mr. President, will the Senator yield for a consent request?

Mr. HATCH. I am delighted to.

Mr. KENNEDY. Mr. President, I requested through our leadership to be also included on the list. I ask unanimous consent to be recognized after Senator HATCH for 20 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. I thank the Senator. I thank the Chair.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given an additional 2 minutes so that I can personally pay my respects to Ron Brown and his family.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I will not say much here today except that I knew Ron Brown very well. I thought he was one of the finest people in this town. I knew him when he was a leader on the Judiciary Committee under Senator KENNEDY, and we were friends ever since.

Many times I have lamented that we did not have as competent and tremendous a leader in our party as then Chairman Brown was. We had good people. We can be proud of them. But Chairman Brown did one of the best jobs I have ever seen done in a national election.

I also have traveled around the world and have seen some of the work that he has done with regard to the Commerce Department's work and opportunities, and he did a terrific job. He was well recognized all over the world as somebody who advanced America's business.

I personally want to send a message to his family and to those who loved Ron Brown that I did, too, and I had cared for him. Had I not been in the Balkans during that time—we left the day after the accident—with the minority leader and Senator REID, I would have been at his funeral to pay my respects to him and his family. Of course, I am very grieved and hurt by this tragic accident.

I also want to extend my sympathy to all of the families of those who died in that tragic accident. Having traveled over there, I can see how that could occur. I can see how difficult that must have been for all of those families who lost loved ones as a result of that tragic crash.

I could not speak more highly of a person than I am presently speaking of Ron Brown.

I knew some of the others on the plane. I actually met with some of the people who were friends of the crew who flew the plane. We had a crew that flew us into Sarajevo and into Tuzla who basically had worked day in and day out with all of the members of that crew.

I know that I speak for everybody in the Senate and across this country in extending our sympathy to all those folks who lost their lives. I hope Ron's wife, Alma, will be comforted, and I hope that the family will be comforted as well. He has my respect, and I am very happy to have had this time to pay my respects this morning.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Massachusetts is recognized to speak for up to 20 minutes.

Mr. KENNEDY. Mr. President, I would like to read into the RECORD a tribute to Ron Brown which I gave last Tuesday evening at the Metropolitan Baptist Church here in Washington. There were a number of speakers who reflected on Secretary Brown's very considerable life, from early beginnings to really an outstanding distinguished career, and spoke with great tenderness and sensitivity and thoughtfulness, not only about Ron but also about his family.

I would like to take just a few moments of the Senate's time today to read those remarks into the RECORD:

Alma, Tracey, Michael and Tami, Gloria Brown, friends and fellow mourners:

I speak this evening in tribute to Ron Brown, because I knew him well and loved him dearly. But I join as well in tribute to the thirty-four others we have lost, who have now given the last full measure of devotion. Our hearts are breaking now. Our minds can hardly conceive the loss, or compose the words to express the depth of what we feel.

The poet could have been thinking of Ron Brown when he wrote of another who died too young, in words used about my brothers too: "What made us dream that he could comb gray hair?"

Ron and I were supposed to have lunch this Friday. It had been too long. We wanted to catch up. The Senate would be in recess, and Ron would be back from Bosnia.

He said he wanted to show me the large fish tank in his office. When he and Alma were at our home one evening, I had shown them the modest tank we have. He winked at me and told Vicki and our two children: "Come on over to my office—and bring Curran and Caroline too. I'll show you a real fish tank. I'll even tell Ted where you can get one." That was Ron—always the best in everything he did, and wanting it for everyone else too.

We also had a few items of business to discuss. Ron was Chairman of the Senior Advisory Committee of the Institute of Politics at the Kennedy School of Government at Harvard. For him, it was a long and lasting labor of love. As he had been inspired in his youth, so he always found time for the next generation. While he was busy electing a President in 1992, he was never too busy for those whose election would come in 2012. He was there, year in and year out, for every meeting at the Institute of Politics. He would stay overnight in President Kennedy's room at Winthrop House and eat and talk with the undergraduates. He inspired students as he inspired CEOs. He was equally at home in the classroom and the boardroom, in Harlem and at Harvard.

So at lunch on Friday, we were to discuss the meeting in Cambridge that was coming up later this month. The committee had a couple of vacancies to fill. And now there is an unfillable new vacancy.

Ron was first in so many things—his career was so brilliant and conspicuous—that he was almost certainly bound to be a target for some as surely as he was a role model for others. He was prepared to pay that price to advance his country and his beliefs. And something now demands to be said. This, my friends, was a man of great honor who proved anew my brother's ideal that public service is a great and honorable profession.

I first came to know Ron almost half a lifetime ago during his years at the Urban League. He was in the vanguard of the new generation of civil rights leaders.

He already had then what he would later bring to the highest places of power—a rare quality of double vision in public life, which enabled him to see the issues clearly and see the politics just as clearly too. He knew how to steer by the stars, not just by the fading signals of each passing ship.

He honored me by becoming part of my campaign for President in 1980. He came on board as deputy campaign manager for civil rights, and soon became deputy for everything else as well. He was Will Rogers in reverse. I never met a person who didn't like Ron Brown.

In 1980, I lost the nomination. But in Ron, I gained another brother.

He was irrepressible and undefeatable. For him, "no you can't" always became "yes you can." You can integrate that college fraternity. You can win the California primary. You can rebuild the Democratic Party and elect a President in a year when almost no one else thought it could happen. Then you can reinvent government and invent a new commercial diplomacy for a new post-Cold War world. You can make the Commerce Department work—and if you'll pardon a partisan note today, don't let anyone on Capitol Hill tell you you can't.

Ron believed in government and all of you and in public service. He detested cynicism and the shameful politics of running for office by trashing the institutions you seek to lead. He helped to write history, and not a single word he wrote was petty or mean.

I have been through other moments like this, and I know how tightly we grasp the memories in order to keep the man. We recall what was only yesterday, and smile through our tears.

I still see Ron, coming to play tennis on early mornings before work. He'd arrive with three rackets, dressed to the nines, looking like he was ready to play at Wimbledon. He always won, and that's why I always made sure he was my partner in doubles.

He had a style and a soaring spirit. He had a host of friends who were honored to serve

with him—many of us assembled here today—those who were with him on his last journey—and one other I must mention who was with him on that remarkable journey to victory at the DNC—his sidekick, Paul Tully. Ron, of course, never had his tie out of place, while Paul never had his shirt tucked in. What a marvelous combination they were for their party and their country. Ron saw and called on the best in Paul, and in all of us.

The great physicist Lord Rutherford was once asked how he always happened to be riding the crest of the wave, and he replied, "Well, I made the wave, didn't I?" That's how I felt about Ron Brown. He was one of those few who make the waves that carry us to a better distant shore.

For his nation, Ron was more than an ambassador of commerce. His missions were pilgrimages of peace, of economic hope and democracy's ideals.

For his party and his President, he was close to the indispensable man.

For his friends, he was a Cape Cod day and a cloudless sky.

For his family, he was everything—as they were for him. Sometimes, I'd call during the day to see if he and Alma could drop by that evening. He'd call back and ask for a rain check. Michael and Tami were going out, and Ron and Alma were babysitting for their twins. How he loved those two young boys, Morgan and Ryan. His whole face would light up when he talked about them.

And how proud he was and how much he loved his children, Michael and Tracey. Everyone who knew Ron knew how special they were to him, how much pride he took in their accomplishments, how close he was to them.

And Alma, dear Alma, how he loved you. I remember vividly one time when Vicki and I were talking to Ron and we saw Alma across the room. I mentioned how beautiful she looked, how extraordinary she was. Ron's face lit up with that sparkling trademark smile, and he said, "She's pretty spectacular, isn't she?" That said it all, and the word "spectacular" was made for Ron Brown too.

Now Ron's journey of grace has come to an incomprehensible end. But for this generation and generations to come, he is spectacular proof that America can be the land of opportunity it was meant to be.

We love you and we miss you Ron—and we always will.

Mr. MACK. Mr. President, I offer my heartfelt condolences and prayers to the family of Commerce Secretary Ron Brown and to all of the other families who have lost a loved one in this terrible tragedy.

It is never easy to lose someone close to you. Yet I believe those that Commerce Secretary Brown left behind—his wife Alma, his daughter Tracey, and his son Michael—can be comforted and given strength by the knowledge that Ron Brown died doing what he loved: Representing the President as Commerce Secretary and serving America by promoting American economic interests abroad.

Secretary Brown will be remembered for his commitment to our democracy, his charisma, and the enthusiasm with which he embraced new ideas and challenges. I will keep Alma, Tracey, Michael, and all others who are mourning this great loss, in my thoughts and prayers during their time of grief.

I would also like to offer my condolences at this time to the family of Barry L. Conrad who was accompanying Secretary Brown on his trip to the Balkans. Mr. Conrad was the founder of the Barrington Group, a dynamic hotel company in Miami, and had previously headed Burger King's U.S. franchise operation.

In addition to being a successful businessman, Mr. Conrad was a very prominent and well-respected member of the south Florida community. This is a great loss not only for the family and friends of Mr. Conrad but for the entire State of Florida.

I am praying for the Conrad family, and all others who are mourning as a result of this tragedy.

CIVIL RIGHTS POLICY AND THE NATION'S FUTURE

Mr. HATCH. Mr. President, our country stands at a crossroads in the path it travels in relations among the different races and ethnic groups that make up the American people. Down one path is the way of mutual understanding and goodwill; the way of equal opportunity for individuals; the way of seriously and persistently addressing our various social problems as America's problems. It is the way, ultimately, of greater unity among our people. Down the other path is the way of mutual suspicion, fear, ill will, and indifference; the way of group rights and group preferences. On this path we march toward greater division. And, on this path, the signpost is marked: equal results for groups, not equal rights for individuals.

This is a time when our national leadership needs to lead us down the proper path. I am concerned, however, that the President views this subject too much as a political issue. It has been an issue which he has sought to manage in order to avoid an intraparty challenge or independent candidacy from his left, rather than simply base policy solely on the merits. Thus, he has firmly and resolutely defended, in principle, the current racial, ethnic, and gender preference regime in this country. And, in practice, he has preserved the vast bulk of the actual preferential programs, of which there are dozens at the Federal level and many more at other levels of government, that make up this regime. At the same time, he apparently believes he can nibble at the edges of this problem of preferences, to look like he is doing something meaningful about it.

We must start with a genuine dialog on race, ethnicity, and how public policy can be changed for the better.

In my opinion, the discussion of this issue must begin with the understanding of this country's history of discrimination against some people because of their membership in a particular racial, ethnic, or gender group.

Indeed, one aspect of this history, the continued subjugation of people enslaved because of the color of their skin, is not merely an unspeakable evil that mocked our principles and ideals; in fact, slavery, together with the continuing discrimination following its eradication, still has consequences today.

I think many members of the white majority in this country have difficulty appreciating just how significantly different and less hospitable an experience black people, and members of other nonwhite minorities, have had in our country. This does not mean, of course, that Irish, Italian, Eastern European, and other peoples in the white majority did not suffer discrimination in America, or that religious minorities in America, such as Catholics, Jews, and Mormons, have not been victimized because of their religion. Some of this discrimination, regrettably, still occurs. But the color line in this country, was, and is, one of the harshest lines that has ever confronted our people.

It was not so long ago that State Governors stood in schoolhouse doors to bar black students from entering. Black and Hispanic youngsters were discriminated against at all levels of education in many parts of the country. It was not so long ago that U.S. marshals and Federal troops had to protect public school children and college students in exercising their constitutional rights. People were murdered because of their black, brown, and yellow skin—a crime still committed in our country in recent years. And people lost their lives in trying to remove the color line in our law.

It was not so long ago that Americans of black and brown skin could return from service in our Armed Forces, be able to afford an apartment or house, yet be lawfully turned away because they were regarded as the wrong color for the neighborhood. Many of the basic necessities of life—jobs, housing, public accommodations, the right to vote—were legally denied or curtailed because of race, color, and ethnicity.

We will never go back to those days. But we must never forget them. And it is necessary for white Americans to have understanding in their hearts, empathy in their actions and attitudes, and a willingness to address social problems in this country—not just the problems they and their neighbors face, but problems all of our people face.

We need, in my view, a mutual understanding among the races that the legacy of past and present-day discrimination, and its social effects, must be addressed, and that our actions and remedies addressing these problems must be fair and must avoid penalizing innocent persons. We can do this.

This mutual understanding might be summed up this way: The legacy of distant discrimination, committed beyond

VOL 142 PT 6 AP 15—24 1996 UMI

the statute of limitations of our civil rights laws, must be treated as a socioeconomic problem, and not as a problem calling for preferences against innocent persons today. Further, present-day violations of our civil rights laws, of course, must be vigorously pursued; but, again, persons not victimized by present-day violations should not be preferred over innocent persons in any remedy.

One way to illustrate this point is this: While title VII, which prohibits discrimination in employment, can ensure that the best qualified person not be denied a job because of race, ethnicity, or gender, title VII does nothing to help anyone become the best qualified person for a job.

We need a mutual understanding that our pride in our racial, ethnic, and religious backgrounds in America is exactly that, pride in an important part of ourselves, and hostility to no other person on its account.

We need a mutual understanding that we live in a free and good society, with all of its flaws, where opportunity and the ability to dream big dreams remain open to us, where progress has been made in making the great possibilities of America available to all, and where we are not yet finished.

Indeed, I say to my fellow Americans, we are not ultimately defined by our race, ethnicity, or color, but by our common humanity and our common citizenship. American values, American principles, American ideals must be our guide. Our Declaration of Independence says it well: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights * * * ." We had to learn that this included women and men other than white men, but we have learned it. We must make it work in every generation. We are in life's journey together. We are inextricably bound together by our God-given humanity, common citizenship, and common heritage as Americans.

Over 200 years ago, a very wise member of our founding generation, Benjamin Franklin, referred to his fellow ragtag rebels in 13 discordant, often quarreling colonies fighting the world's greatest superpower and said: "if we do not hang together, we will all hang separately."

Today, I say, if we Americans do not progress together as a people, we will surely decline in our own separate, squabbling groups.

Today, Americans face many challenges: world economic competition; instability in parts of the world, hostility in others; international and domestic terrorism; crime in our streets; improving our educational systems. We must face these challenges together.

Some things must come from within the individual, and from within our families, our neighborhoods and communities. These are clearly the places where our work must begin and where our progress must occur. But we must help each other and work together.

While we cannot, and should not, compel people to associate with one another socially, if all we have done is replace a government imposed color line with a voluntary color line imposed by our indifference, fear, mistrust, or superior attitudes, we will all be the losers. And, if all we have done is replace one set of discriminatory practices with another, in the name of nondiscrimination no less, we will never reach our full potential as a united people.

I think it is useful to pose this fundamental question: What is it our fellow citizens whose skin color is other than white really want?

I claim no special expertise. I speak for myself only as a citizen and public servant, to offer this observation: Americans who are part of a racial or ethnic minority group want decent and secure jobs; good schooling for their children; safety in their streets and neighborhoods; decent housing; a chance to go as far as their abilities and drive take them; a chance to earn some of the finer things in life.

Am I not describing the very same things the white majority in this country wants? As different as our experiences may be, and as different as our skin color may be, are we Americans really so very much different from one another? My answer is no.

If I am right, two things follow. First, sound general public policies that help all of our citizens are needed. These include policies to strengthen and nurture families. These policies include an emphasis on traditional values such as honesty, hard work, individual responsibility, compassion, and respect for others. I believe that religious institutions must play a vital role in helping foster these values in our young people and that government should encourage such a role, not place needless obstacles in the way. Sound general policies include tough anticrime and antidrug strategies. They include welfare reform aimed at fostering greater independence and self-sufficiency. They include sound policies for generating economic growth and job creation, including job training; improving our schools; and policies favoring housing construction and low interest rates. Reducing trade barriers, reducing taxes, lightening the regulatory burden, creating and sustaining a growing economy—all of this is the foundation of our progress as a people. To borrow what has become a familiar phrase—a rising tide lifts all boats.

But second, Americans must understand, that for the descendants of slaves and for others whose history in this country includes a color barrier, there are special problems in achieving their piece of the American dream. These problems require acknowledgment and response. A mix of focused private and public action, guided by fair play for all, is called for.

It is to this second point I now wish to turn.

Racial, ethnic, and gender discrimination, of course, regrettably, continues down to the present day.

Fortunately, this Nation finally adopted an array of civil rights laws aimed at eradicating discrimination based on race, ethnicity, color, disability, and gender. Our civil rights laws should be vigorously and sensibly enforced.

But, Mr. President, there is danger and risk as we address problems stemming from past and present discrimination. You don't put out a forest fire by pouring gasoline on it, and you do not cure discrimination—past or present—with more discrimination.

Every individual is made in God's image and should be treated in the workplace, the business world, schools, public accommodations and the like without regard to race, ethnicity, or gender. If we cannot stand as a nation for that simple, powerful, yet historically elusive principle today, when will we ever stand for it? And what do we stand for, as a nation, if we do not stand for equal opportunity for every individual?

I stand for the primacy of the individual. Our rights as Americans do not turn on the color of our skin, our ethnic background, or our religious faith. Just as we should never forget that America has often departed from her founding principles and ideals of equal opportunity for individuals, we should never forget that those are the principles and ideals we should ever be striving to fulfill. And in our necessary effort to right old wrongs, let us not create new wrongs.

A person denied a job, a promotion, a contract, a training program, or admission to school because of race, ethnicity, or gender should be made whole. In the case of employment discrimination, for example, back pay and the next available job with retroactive seniority should be made available to the victim of discrimination. The discrimination should be enjoined.

But, no innocent third party should be forced to lose or delay a job, a promotion, a training opportunity, or be laid off in favor of a person not victimized by discrimination because that person is the same color as someone who was, in fact, discriminated against. That is the difference between a policy of individual rights versus group rights.

President Clinton, in defending policies of group rights that are one significant part of the modern day affirmative action structure says, mend it, don't end it. I say, with respect to the preferences that are a significant part

of affirmative action, two civil wrongs do not make a civil right.

Affirmative action that utilizes or encourages preferences on the basis of race, ethnicity, or gender in actual selection decisions—hiring, promotion, layoff, contract awards, school admissions, scholarship awards, government benefits—whether labeled goal, quota, or otherwise, is wrong and should be ended. These preferential devices are merely another form of discrimination. I stress that preferences come in many forms—not just quotas and not just in numerical formulations.

It is acceptable, in contrast, for an employer to engage in affirmative action that calls for reviewing personnel practices to ensure they are free of discrimination. It is acceptable for employers to make an effort to recruit applicants from among those who traditionally do not apply for the job—or in other contexts, for a contract, or school admission—after which the selection is made without regard to race, ethnicity, or gender. In appropriate circumstances, other affirmative steps, targeted to disadvantaged persons, but open to all on a nondiscriminatory basis, are acceptable. Thus, a job training program aimed at the chronically unemployed, or the urban unemployed, is fine, so long as no one is ever turned away because of race, ethnicity, or gender. If such a job training program is established in New York City or Washington, DC, for example, no doubt many racial and ethnic minorities should be able to take advantage of it. But nonminorities also live in these cities and if they otherwise qualify for the program, they should not be denied entry because of race or be subject to express or implied numerical limitations. Former New York City Mayor Ed Koch testified on October 23, 1995, before the Subcommittee on the Constitution, that he was unhappy at one point with the low numbers of minorities passing police exams in New York City. He put a training course in Harlem—open to all. That is affirmative action in the right sense.

Instead of government setting aside a percentage of contracts on the basis of race, ethnicity, or gender, why not establish and foster a mentor program whereby established, experienced contractors provide advice, guidance, and contacts to new or small businesses, regardless of the race, ethnicity, or gender of their owners? This will benefit minority- and women-owned businesses without denying anyone such help. State and local governments, instead of trampling on equal opportunity by setting racial numerical requirements or goals, could sponsor seminars about the contract bidding process, methods of obtaining bonding, and so on—open to all, but located where they can benefit minority- and women-owned businesses. Rather than discriminate, why not enhance people's abilities to compete? This is what the Federal Government should be encouraging State and local governments to do.

The September/October 1995 issue of The American Enterprise mentions an Austin, TX nonprofit organization called the National Council of Contractors Association [NCCA]. It was formed with a small grant from the city of Austin. It is 2 years old, and its help is available to all small businesses, though most of the businesses it helps are minority or women owned. NCCA provides firms with expert advice on how to win contracts, donates accounting services, and helps them win bonding. In a year and a half, NCCA helped 83 firms win 171 contracts. We should encourage such programs, open to all, but located where they can benefit minority and women owned businesses.

I think we ought to take some calculated risks to help small businesses. I am willing to support a small pilot program at the Small Business Administration, where the Government insures the bonding of new, small companies owned by persons of any race or gender—with less net worth, fewer capital reserves, and less experience than current programs require. I am willing to see whether such an approach, especially if coupled with technical assistance, can make a difference in getting new small businesses off the ground and able then to compete in the marketplace. If it turns out that reducing current requirements in providing this help does not work, and these businesses do not successfully perform, we should then drop the program. If it does make a difference, we can expand it in an orderly way. But we have to try approaches that get us away from race and gender lines.

Government can look for more opportunity to contract out some of its services—creating more opportunity for businesses, at less cost.

Instead of racially exclusive scholarship programs operated by colleges, colleges could make aid available based on need, without racial preference. Instead of preferences in college admissions based on race, we need to strengthen elementary and secondary education so children are better able to perform pursuant to the same standards. Of course, taking into consideration an applicant's overcoming poverty or other barriers to success, as one part of the evaluation of an applicant, is acceptable in college admissions so long as those criteria are applied equally to all races, and are not thinly veiled proxies for race. But we need to start earlier than that. Then New York City Schools Chancellor Cortines proposed a math and science institute for 350 seventh and eighth graders to help prepare them for the difficult examinations for admission to three academically selective high schools. Students of all races and all parts of the city are eligible under that proposal, but the emphasis would be on those parts of the city that send the fewest kids to those high schools. Mostly black and Hispanic kids would benefit from the extra preparation. And the standards for admission for the three high schools would not be altered. As I understand it, there is to be no racial or ethnic preferences for admission to the preparatory program or to the three high schools—but an effort to improve people's abilities in this urban school district.

We need to evaluate the concept of public and private school choice, through vouchers or similar programs. Businesses need to lend a hand to our public schools. It is in everyone's interest. Businesses need workers who can perform, or they lose out in this global economy.

I received in the mail a report of the Lindahl Foundation, founded in 1991 and privately endowed by the chairman of State Industries, Inc. of Tennessee, the largest manufacturer of water heaters in this country. John R. Lindahl established the foundation to ensure that any child of his employees has the financial aid to get an education after high school. He expanded it to other students in the county. It is based on need, aimed at academically worthy kids who may not be scholastic superstars, but who could do the work in college or vocational school, if only they could afford it. Nearly 350 young people have received awards of $1,000 to $4,000 as a result of this patriot's effort. The brochure has pictures and words of thanks from grateful young men and women, black and white, including one young woman who was able to fulfill her dream of attending Brigham Young University.

Our public schools need to improve. The August 20, 1994, New York Times carried a statement from Albert Shanker, president of the American Federation of Teachers. He tells the story of the principal of an inner-city elementary school in Baltimore. The principal eventually prevailed upon the Baltimore school system to use a private school's model for teaching. The model is conservative in both educational philosophy and curriculum, with a strong emphasis on reading and writing, and specific week by week, year by year benchmarks of what the children should learn. The performance of the kids at this school is way up—a school which is 94 percent minority and where 82 percent of the kids are eligible for free or reduced price lunches.

Prof. Susan Estrich has written about the efforts of the new California Superintendent of Education. I'll summarize the gist of the column by citing its title: "A Novel School Plan: Back to Basics."

Some of us believe at least part of the answer also lies in reducing government barriers. This should include a meaningful entry level training minimum wage for teenagers, enterprise

VOL
142
PT
6
AP
15
—
24
1996
UMI

zones, repeal of the Davis-Bacon Act, and encouragement of private sector initiatives for everything from job training and mentoring young people from disadvantaged backgrounds, to ways of strengthening the family.

Local and State governments need to remove barriers to entry into different occupations.

I do not claim to have all the answers. I expect others have different ways of looking at these issues, and different solutions. But I do believe we need to talk about this in a civil and serious way.

And I believe that a stubborn defense of preferences sidetracks us from finding better, fairer solutions. I will have more to say about this in later remarks.

But, let us engage in this dialog. Let us examine the ramifications of our choice of the road to take. And let us not sweep these issues under the rug in our national debate. Let us deal openly with these issues and help lead our country down the road to a more united people.

(The remarks of Mr. KENNEDY pertaining to the introduction of S. 1668 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield myself 20 minutes from the time allotted to the minority leader.

The PRESIDING OFFICER. The Senator is recognized for 20 minutes.

THE MINIMUM WAGE

Mr. DORGAN. Mr. President, we will be dealing with some interesting and very important issues here in the U.S. Senate this week. This follows a break during which, in the intervening couple of weeks, most of us spent time in our States. I was in North Dakota, and I met a wonderful man in North Dakota who was our State's oldest citizen, 110 years old. His name is Nels Burger. He is a wonderful Norwegian man who grew up and lived on a farm in North Dakota. He has a vivid recollection and memory of farming in North Dakota all those many years.

I was thinking, as I was preparing to come to the floor today, of the things that have changed during the lifetime of Nels Burger. It you think of what has changed in 110 years in this country, it is really quite remarkable. Nels was born in 1885. There was once a story about an old fellow being interviewed by a radio interviewer, and the interviewer said to him—he was 85, 90 years old—"You must have seen a lot of changes in your life." The old fellow said, "Yep, and I was against every one of them." Well, there are people like that. They are against every change as it is proposed. Yet, a series of changes have made life better in this country.

We are going to talk this week about the minimum wage. Some say, well, we ought not have the minimum wage at all. Others say we ought to have a minimum wage. For those that are working at the minimum wage, they ought to at least be able to keep pace with inflation.

We will have all kinds of economists weigh in on this subject. We have economists on one side and economists on the other side. It makes you yearn for the old days when Roman priests in ancient Rome were called augurs, performing something called augury, which was the body of knowledge we now know as economics. Augury. They would read the entrails of sacrificed cattle, or read the flights of birds, and from that portend what the future may or may not hold. Actually, the science of economics or the field of economics is probably not much more accurate than augury, but we will have plenty of economists weigh in on both sides of this issue.

It seems to me that the issue of the minimum wage ought to be simple for this Chamber. It ought to ask two questions: One, should there be a minimum wage? Some will answer no, but I think the prevailing mood in the Congress would be yes. We have had a minimum wage in our country for a long time. It has benefited those at the lower end of the economic ladder. Should we have a minimum wage? If the answer is yes, then the question is, What should it be? We now have a minimum wage that is about $4.25 cents an hour. Eleven States have a higher minimum wage than the Federal Government has. There are a few States that have a lower minimum wage. Most of the States have a State minimum wage that is exactly the same as the Federal minimum wage.

If one thinks there ought to be a minimum wage in our country, then the question is, What should it be? Or, should it ever be changed? Should we decide that the minimum wage shall remain where it is, while others on the economic ladder in this country move up? During the past year, there was a story in the newspaper that said CEO's at major corporations got a 23-percent raise in 1995. The average salary has increased to $991,000, but that was only a quarter of their earnings. The average stock option was $1.5 million. The average bonus was $1.2 million. So, they received a salary of $991,000, a stock option of $1.5 million, and a bonus of $1.2 million. That is a 23-percent jump in compensation in 1 year. These are the folks at the top of the economic ladder.

Now, the question is, What about the people at the bottom of the economic ladder? It is interesting, when we discuss topics here in the Chamber, that there is a room off the Chamber called the reception room, where visitors come and where people who are interested in legislation will congregate. I can recall when we passed the telecommunications legislation, it was full. It was a traffic jam in the reception area in the hallway outside the Chamber of people who were interested in this legislation and of companies that had an interest in this legislation. When we passed the defense authorization bill, the hallways were jammed with people who had an interest in that legislation. Even when Senator BUMPERS and I brought to the floor a proposal to eliminate the National Endowment for Democracy, we had a "Who's Who" in corporate America, a "Who's Who" in the Republican Party, a "Who's Who" in the Democratic Party, a "Who's Who" in the chamber of commerce, and the AFL–CIO all sitting out there trying to kill our amendment because they all got money from the National Endowment for Democracy. So, there was a traffic jam outside this Chamber. All kinds of people who had an interest in the legislation were hanging around.

It is interesting, when we talk about the minimum wage, there is no one outside this Chamber. No one is waiting, no one is lobbying—except against it—no one is out there saying, "We have some people who get up in the morning and make breakfast for a couple of kids, and then work for 8 or 10 hours at $4.25 an hour, and come home and try to figure out how far that stretches, how much milk can you buy with that." Will it pay for the medicine, the milk, and the diapers? They do not have time to come out here and lobby. They do not have the capability. They do not have the money.

So, there is not a traffic jam out in the hallways when we talk about minimum wage because no one is speaking for the people who do not seem to have much of a voice in this system of ours. At least, not many are speaking for them. We have people in this Chamber who would not know the price of diapers or milk or bread who tell us $4.25 is just fine. Never mind the fact that inflation means that $4.25 purchases less than it did 6 years ago. It does not matter to us, they say. Never mind the fact that the top of the economic ladder gets a 23-percent pay raise. Let us freeze the bottom of the ladder, they say. Well, it may not matter to some people in here, but it matters to millions of people around the country who are trying very hard to go to work and to care for their families.

The vast majority of the people working for minimum wage are adults. Sixty percent of them are adult women. Forty percent of the people on minimum wage are providing one-half of their families' income, and there are more than 1 million working for the minimum wage who are providing the sole support for themselves and their children.

I know some who will say minimum wage is for kids. That is not true. We ought to at least debate the facts. There are kids working for the minimum wage. I understand that. I accept that. But there are plenty of people who have nothing who are out there trying every day in every way to make a living on $4.25 an hour, and after 6 years their wages have been decreased because $4.25 an hour buys less. The question is, Who will speak for them? Who will stand up for their interests? This is our job.

Our responsibility is not to decide that the market system does not work. The market system does work. This is a wonderful country with a market system that has produced the richest capitalistic society that very few people could ever have imagined. I pay great tribute to the men and women who risk their resources, who work long hours in the day and night to start a business and try to make a go of it. I understand that as well. We have also understood that part of this system requires some rules and that we are the referee in this system.

Someone stood up at a luncheon meeting I attended the other day and said, "How do you justify speaking on behalf of the minimum wage?" I said, "Do you not support a minimum wage?" He say, "No." I said, "Do you think there is not a minimum at all?" He said, "That is exactly the case." He said, "I don't think you ought to interfere with the market system in any way. There should be no minimum wage in America." Then I asked, "Should you be able to hire 12-year-olds and work them 12 hours a day? Should you be permitted to do that?" The Government has said with child labor laws that there are certain things that are not appropriate. We used to have 6-, 8- 10-year-olds working in textile mills in this country. We said, "That is not appropriate." So we passed child labor laws. Even then we had people that said it is not appropriate for us to interfere with the market system, that children ought to be able to work, that people ought to be able to employ 10- or 12-year-olds in the mill. But we thought through that issue a little bit as a country and we decided no. The better part of judgment was to decide that there are certain rules within this market system which represent basic fairness. And among those rules was the minimum wage.

I am not here to suggest that there is anyone in here that does not care about people at the bottom of the economic ladder. I do not want to be judgmental about that. I do hope, however, that all of us in the Senate—and in the House—will understand a little bit about what it is like to be on the bottom of the economic leader.

I encourage everyone in the Senate to some morning before we vote on the minimum wage again to get up and go downtown to a homeless shelter and talk to a young woman whose husband left her, who has two or three children, who has no skills, who has no money, and who has no place to live. Talk to her about her experience working at minimum wage. When she works she loses AFDC. When she works she is told she cannot save any money to prepare for her first month's rent and 1-month security deposit. There is not any way she can save money to try to get an apartment to shelter her and her kids. After you have talked to her for a bit, think, "If it were me, how would I get out of this circumstance?" I will bet you that you would have, as I did, a difficult time understanding how you pull yourself up and out of that kind of circumstance.

I ask everybody in this the Senate as they think about the minimum wage to think about the people who are struggling to try to make a living every single day and who find now that their $4.25 an hour buys a whole lot less than it did 6 years ago. We are now near in terms of purchasing power a 40-year low in the minimum wage. And we ought to pay as much attention to the needs of those at the bottom of the economic ladder as we seem to day after day to pay for those at the top of the economic ladder. My hope is that we will—Republicans and Democrats—understand that there are people who have no voice out there, or who feel they have no voice, and that we should raise our voices on their behalf. There are people out there who work hard but still feel they have no hope. We ought to offer hope to those people. That is what we ought to be about.

The easiest thing in the world is to be negative. The easiest thing in the world is to oppose and reject. The hardest thing in the world is to be a builder and to try to understand what is right and what improves life in this country. I hope we can decide in a bipartisan way to do that in the coming day or two, or week, when we discuss once again the minimum wage.

THE ISSUE OF TAXES

Mr. DORGAN. Mr. President, on the issue of taxes, today is tax day, April 15. And there will be a lot of discussion—I think even later this morning—on the floor about taxes. I do not think anyone in this country particularly likes to pay taxes. I understand that. I personally take great pride in paying taxes to help create wonderful schools that will educate our children. All of us ought to beam a little about that. We created opportunities in our country—building roads, building schools, doing a lot of things that have made life better in our country. So I understand that. But I understand that on tax day most people would prefer to pay a lesser amount of taxes, and most people do not very much like the Tax Code that we have. It is too complicated. It is sometimes unfair. And there is not any reason that we ought to have a Sears Roebuck-style catalog in order to try to have to read through and understand the rules of our Tax Code. We ought to be able to do this simpler than that. I hope working together that we will find a way to do it.

But I want to focus on a couple of things in the Tax Code that kind of relates to what I was talking about on the minimum wage. There is always a way for the bigger interests to fill the hallways out here with really smart people who conceive of ways themselves to avoid paying taxes, or of ways for someone else to pay a little less in taxes. I will give you some examples of that. We have a provision in our Tax Code that I have talked about half a dozen times that says to companies close your plants in America, move it and your jobs overseas, get rid of your American workers, hire foreign workers, get a foreign plant and foreign work, produce the same product, and then ship it back to our country and we will make you a deal. If you do that, we will give you a tax cut. Most people would think that cannot be the case. Anyone who proposed that would have about a 2-second political life. No. That is true. It is in the Tax Code. I have tried to get it out of the Tax Code. I lost last year by a 52 to 47 vote on the Senate floor. We are going to vote on that again this week. I am going to offer an amendment to the immigration bill that proposes that we shut down the insidious tax loophole that encourages somebody to shut their American plant, move their U.S. jobs overseas and then produce the same product and ship it back into our country. We will have another vote this week on that.

We also have had this debate about the budget balancing proposal that was vetoed by the President. And it is interesting. When you take a look at some of these details that are put into these large pieces of legislation, which by the way alters in favor of the line-item veto which I supported—I am delighted the President will now have that—but in that big budget bill there a number of little provisions. Let me cite one of them.

One was a provision which called to repeal section 956(A) of the Tax Code. There are not two people awake in America who understand what that is except the companies who are going to benefit from it. That was a little provision stuck in the bill that was supposed to balance the Federal budget that went to the President and he vetoed it, a little provision that says, by the way let us spend $244 million making it more attractive on top of the already perverse incentive we have in the Tax Code to move your jobs overseas—repeal of section 956(A). I have asked on

VOL 142 PT 6 AP 15 — 24 1996 UMI

four or five occasions, is there someone in the Chamber of the Senate—of course, there is no one here now because we are not having votes today—when everyone gets here who would stand up and raise their hand and say, "Yes, I support that. That is my provision. I sure like that notion. Let us provide more benefits to people who move their jobs overseas?" Do you know something? I could not find one Senator who would stand up and support it. It is like the blimps in the defense bill. We wrote in $60 million to buy blimps in the defense bill.

So I said, "Will anyone in the Chamber tell me who thought we should spend money in the defense bill to buy blimps?" I could not find a one. It is funny how difficult it is to find people in the Senate when you discover a provision in law or a provision that is proposed in the Balanced Budget Act that would actually reward, above the current incentive, companies for moving their jobs overseas.

Most of us understand what has happened to American jobs. There have been some jobs created in the service sector, but we have lost about 3 million good-paying manufacturing jobs in this country since 1979—3 million manufacturing jobs. When you talk about manufacturing, then you are not talking about minimum wage. Manufacturing represents the seed bed of good jobs with good income in this country, and that is why I have talked again and again in the Chamber about measuring America's economic progress not by what we consume but by what we produce, because what we produce is what matters. That is what economic health is about. Do we retain a strong manufacturing sector in this country? Do we retain strong jobs that pay well in this country?

At the same time we are all talking about wanting to do that, we have in the Tax Code—and I bring it to the attention of the Senate on tax day—a provision that says we would like to reward you if you leave America. Take your jobs and go, take your plant and run, and we will give you a reward. In fact, all the rest of the American taxpayers will pay for it; $2.2 billion is the reward for companies that move their jobs overseas—$2.2 billion.

That does not come from me. That comes from the Joint Tax Committee. That is their estimate of how much revenue is lost in this country because we provide an incentive for those who would close their American plants and move their American jobs overseas, produce the same product they used to produce here and then ship it all back to United States. And what has happened? The only thing that has happened is that we no longer have the jobs in America. Somebody overseas has those jobs, and someone who controls those jobs makes more money and pays no taxes.

In my judgment, that is no way on tax day to celebrate. What we ought to do on tax day is talk about things we all talk about—complexity, yes. Let us simplify the Tax Code. Let us make it more fair even as we make it more simple. But at the same time let us decide that that Tax Code ought to be neutral on the subject of moving jobs. The Tax Code ought not be tilted in favor of taking your jobs and leaving the United States of America.

Those are the kinds of issues that I think we as a Senate will have to confront in the rest of 1996. I know it is an election year, and I know some predict that not much can be done because we have all the tensions, and so on. The businesses of this country will not wait for an election. We will be hard pressed to explain to someone who is struggling out there at the minimum wage that, well, we cannot really deal with this now because there is an election coming. That is just something we cannot deal with. There is too much controversy, and we just are not able to do it. That is going to be lost on a lot of people who are trying very hard to make a living day after day.

There is not in this Senate one side of the aisle that cares a lot about people and the other side that does not. That is not the case I am trying to make. But there has been a confluence of public policies in the last year and a half that represent a more extreme view of where we ought to head—the notion that somehow the only thing that makes the American engine work is if you pour in some petroleum from the top. It is classically the old trickle-down approach; if you help everybody at the top, somehow everybody at the bottom gets damp or somebody at the bottom benefits.

Hubert Humphrey, who was our neighbor over in Minnesota, a wonderful man, said, "I have a different view of this. My view is the 'percolate up' theory in our country. You give everyone in this country a little opportunity to be able to do well and things percolate up and make this American engine run." He said "This trickle down, that is the approach where if you give the horse some hay, at some point maybe the sparrows will have something to eat."

We ought to understand in this country that the American economic engine works best when all of the American people are working. The incentive in the minimum wage is to try to be fair to those at the bottom of the economic ladder. And it is not fair to say after 6 years, 6 years of freezing you, because you lose purchasing power year after year, that we are going to continue to do that. That is not fair. And it is not fair to those on the minimum wage that our Tax Code on tax day contains a provision that says, "By the way, the job you aspire to"—you are on minimum wage, but you aspire to a better job, a manufacturing job perhaps—"is gone, because in our Tax Code we paid somebody to take it out of America." That is not fair either.

There are provisions, it seems to me, that we can and ought to agree on as Democrats and as Republicans that represent a fair economic approach which would benefit this country, all people of this country, even those who do not have the capability of sending an army of special interest folks to surround this Chamber as we debate their favorite issue.

Mr. President, we will have a great deal of discussion on these issues this week, I am certain, and my hope is that we will, on the first question I asked today, answer with reasonable unanimity: Should there be a minimum wage? I hope most Members of this Chamber will answer yes.

And if they answer yes, then let us spend the rest of the time asking the question: If there should be a minimum wage, then what is a fair level for that minimum wage? Is it fair having it frozen for 6 years? When the top of the economic ladder gets a 23 percent pay increase to an average $3 million a year, is it fair then to say to the bottom, at the lowest rung of the economic ladder, "By the way, we will freeze your pay for 6 years?" I do not think that is the answer most people would come to if you think about it reasonably and you think about it in the context of what would be best for the millions of people in this country at the bottom who are struggling very hard to make ends meet.

I yield the floor.

Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. RES. 241

Mr. COVERDELL. Mr. President, I ask unanimous consent that Senate Resolution 241 be temporarily set aside until Tuesday, April 16, at a time to be determined by the majority leader after consultation with the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, under the previous order, I am recognized during morning business for a period of 90 minutes. I ask unanimous consent that during this period I be permitted to yield portions of my time to other Members without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX DAY

Mr. COVERDELL. Mr. President, if he were still alive, President Roosevelt would say April 15 is "a day that will live in infamy." We have all come to know this very special day as one of great dread in our country, as we come to grips with the enormous burden every American family, every Georgia family, every citizen comes face to face with—the direct burden of Government and the enormous consumption of the wages of labor that are consumed by the U.S. Government and government in general.

Depending on what you count, today Americans work from January 1 until about June 31 for the Government before they are able to keep the first dime for themselves, their families, their educations, their dreams. I think Thomas Jefferson must surely have many times rolled in his grave because he could never, ever have anticipated that there would come a time that nearly half the resources of those who labor for it are removed from those families and those individuals and sent to some government to redetermine what ought to be done with the wages of the person who earned it.

To just quickly summarize—and I am going to yield to my good colleague from Tennessee—but in my own State, I have asked that a picture be made of the average Georgia family. This is the perfect day to reveal what that picture looks like—April 15. That average family earns about $40,000 a year. Both spouses work and they have two children. Remember, now, they earn around $40,000 a year. They spend $4,183 in Federal income tax liability of the $40,000. They spend $3,118 in FICA taxes. They spend another $844 in other direct and indirect Federal taxes. They forfeit $5,061 in local taxes, State and local. This family's share of the new regulatory apparatus we have been building for the last some 30-odd years—this is an unbelievable figure—is $6,615. This family's share of added interest costs because of our $5 trillion national debt is $2,957. That comes to $22,778, 51 or 52 percent of all wages. Every average family in Georgia is working half time for somebody else—the Government.

America depends on these families to raise the country. We ask them to house the country, to educate the country, to feed it and clothe it, transport it, and see to its health. But we only leave them half of all their earnings to do this great work that we have depended upon for so long. The end result is middle America, the average hard-working family, has been marginalized, has been literally pushed to the wall because of the consumption, the insatiable consumption of Government.

I would have to say this is also the result of certain elitists in our country that have concluded that this average family in Georgia is unable to make decisions for itself and that decisions about its future, its health, its welfare are best made by some Washington wonk in the belly of one of these buildings in the Capital City, and it is better that their wages come here so that some bright person can determine how best this family ought to be preparing for its future and its needs.

I reject that theory outright and I believe America does too. I did not believe I would ever be standing on the floor of the U.S. Senate, talking about average families in my State forfeiting nearly half their earned wages to support this burgeoning, growing, unfettered consumption by Federal and other governments.

With that opening statement on this infamous day of April 15, 1996, I yield to the good Senator from Tennessee up to 10 minutes.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, in recent years the words "tax and spend," have been used together so often that, today, rarely do you hear one word, "tax," without hearing the other word, "spend." The phrase has become so common, so acceptable, so recognizable it approaches the use of words such as "hand in glove" or "horse and buggy." It is just when you think of taxes, you think of spending.

Like cliches that become popular because they deliver the truth with clarity and simplicity, "tax and spend" boils the point down to its essence. There is only one reason for raising taxes and that is spending more.

We just heard my distinguished colleague from Georgia boil down this tax burden to the effect on an individual family. That tells the whole story. But I cannot help but to share with you this morning a conversation at breakfast, as I sat around the table with my wife and three boys, Jonathan, 10; Bryan, 8; and Harrison, 12.

Jonathan said, "You are coming back from recess, dad. What are the issues? What are you going to be talking about?"

I said, "Today is a big day for the American people. It is tax day."

And Jonathan said, as any young child does quite innocently, "What is tax day? What does that mean?"

I said, "Jonathan, it has an impact on every, every family in this great country."

He said, "What sort of impact?"

I said, "Today, people will be writing checks, where a huge portion of what they earn goes to Washington, DC, to the Federal Government."

He said, "What do you mean?" He said, "Don't you pay sales taxes?"

I said, "Yes."

And he said, "How much?"

And I said, "About 38 percent, on average, around this country, of income, of money that you take in, goes to government at the State, local, and Federal level, 38 percent; 38 cents on the dollar," I said.

He looked up again with those innocent eyes and said, "Well, why does anyone work if you have to give 38 cents away?"

Clearly, it is much more complicated than that, but through those innocent eyes of a child, it does bring us to that real question of, why do we tax so much and spend money so extravagantly?

Mr. President, unlike the current occupant of the Oval Office, President Calvin Coolidge was a man of few words. However, the thoughts he expressed when he chose to speak were quite precise; it hit the nail on the head.

On the subject of Government spending, he once, very accurately, observed, "Nothing is easier than spending public money—it does not appear to belong to anyone."

Apparently not.

Federal spending has risen steadily and continuously over the last 40 years, and to pay for it, so has the burden on the American taxpayer.

Thirty-eight percent of a family's income is paid in Federal, State, and local taxes and, as we just heard, in Georgia it is even higher than that. But, on average, 38 percent. And the problem is getting worse. It was only 28 percent in 1955. Today, a taxpayer has to work more than 3 hours out of an 8-hour day just to get enough funds to pay the tax man.

And if paying taxes were not bad enough, to add insult to injury, the Government makes it as hard as possible for everyone to comply. There are now 555 million words in the Tax Code with 4,000 changes made just in the last 10 years. There are 480 different tax forms provided by the IRS, and there are another 280 forms just to tell us how to fill out those 480 forms.

Every year, in fact, the IRS sends out 8 billion pages of forms and instructions to 100 million taxpayers. This feat alone requires the pulp of 293,760 trees just to accomplish.

This year, individuals will spend 1.7 billion hours filling out their taxes. Businesses will spend another 3.4 billion hours to fill out their taxes, and complying with tax laws will cost all of us about $200 billion above and beyond the taxes themselves.

But for some people, enough is never enough. In the first major action that President Clinton took, you guessed it, he raised our taxes, and when Republicans cut taxes as part of the Balanced Budget Act last December, the President vetoed the bill. Why? You guessed it, because he wanted to spend another trillion dollars on Government, not the people's, priorities.

Tax and spend—one cannot live without the other.

And what are those priorities of the American people? Today, all across

VOL
142
PT
6
AP
15
—
24
1996
UMI

America, the problems of crime, drug trafficking, and illegal immigration are out of control. Yet, while we have 24,000 FBI agents or 6,700 DEA agents or 5,900 Border Patrol personnel, we have 111,000 people working for the IRS. The Government cannot stop illegal drugs or illegal immigration, but it sure knows how to collect your money, even if it cannot manage its own.

This month, the GAO audited the IRS. What it found was truly astounding. The General Accounting Office found that the IRS could not account for $10 billion it says it collected. The IRS could not fully explain $2 billion in expenses, and it could not use the sophisticated new computer equipment that cost taxpayers more than $3 billion. So it is still using the old recordkeeping and billing system designed in the 1950's.

Perhaps that is why when Money magazine hired 50 tax experts to prepare the return of a hypothetical typical American family it got 50 different results. They found the Tax Code to be so vague, so confusing, so contradictory that, as Money's editor put it, "The typical taxpayer has no way of knowing how much they actually owe."

Mr. President, it is time that Americans pay less taxes, not more. It is time Congress simplified the maze of regulations, penalties, deductions and credits that make compliance so difficult. And it is time we made it harder for the IRS to make hard-working Americans pay for its mistakes. That is why I have cosponsored the Taxpayer Bill of Rights 2.

Among its more than 30 provisions, the Taxpayer Bill of Rights will waive interest charges when the IRS, not the taxpayer, is at fault. It will allow taxpayers to sue the IRS for up to $1 million for reckless or negligent collection actions. It will prohibit the IRS from issuing retroactive regulations.

Yes, the era of big Government is over. So is the era of tax-and-spend. For, as Calvin Coolidge also so accurately observed, "The appropriation of public money is always perfectly lovely until someone is asked to pay for it."

He continues: "I favor the policy of economy, not to save money, but to save people. The men and women of this country," he continues, "who toil are the ones who bear the cost of Government. Every dollar we carelessly waste means that their life will be so much more the meager. Every dollar that we prudently save means that their life will be so much more the abundant."

Mr. President, when Ronald Reagan was President of the United States, the portrait of Calvin Coolidge hung in a place of honor in the Cabinet room as one of the Presidents Mr. Reagan admired the most. Mr. Clinton has borrowed much from Ronald Reagan. Perhaps he would do well to borrow President Reagan's appreciation of Calvin Coolidge as well.

Mr. President, I thank the Chair and yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, a moment ago, as we began this discussion, I outlined the impact of Government and regulations and the costs on an average family in my State. As I said, it comes to almost 50 percent.

I think it might be interesting, and I am going to yield in just a moment to my good colleague from Idaho, but I would like to make a point about what has been the impact on this average family of this administration.

On the Federal income tax liability, I said that we are currently paying $4,183, but if we had not put in place the policies of this current administration, that is, the largest tax increase in American history in August—that hot August—of 1993, then that tax burden would be considerably less. It would be $3,656.

FICA would be $2,754 instead of $3,118. The regulatory costs, Mr. President, are considerably different, as well. They would be paying $5,892 instead of $6,615.

The bottom line is that without the policies of this administration of taxing and growth and regulation, the total tax burden would have been $20,112 instead of $22,778 or, bottom line, this administration has added almost $3,000 of new costs to this average family.

If you are making gross about $40,000 and you have a new $3,000 bill to send to the Government, it is a wake-up call. That is 15 percent of lost disposable income as a direct result of the policies of this administration. It is incredible.

As I recall, during the debate we were only going to affect the wealthy. I do not believe any family making $40,000 a year considers themselves in the league of wealth, but their contribution—we remember that—the contribution that they would be asked to make is almost another $3,000 for every average working family in my State.

Mr. President, I yield up to 10 minutes to my good colleague from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, thank you very much.

Let me thank my colleague from Georgia for yielding me time, but especially for taking out this special order on this very important day in the lives of every working man and woman in the United States, the day when your Federal taxes are due.

I say that because it is also an important day for us to pause and recognize what paying your taxes means and the kind of impact that it has on us as a society. Obviously, my colleague from Georgia has spoken about how it impacts his State. And let me also congratulate him on his constitutional amendment to prohibit retroactive taxation. I am a cosponsor of that. I appreciate him leading in those areas something that our Founding Fathers were very, very clear on, while this Government seems to have been a bit confused on it.

Also, today, the House, our neighboring body, will take up the two-thirds majority to raise taxes as a requirement of our Constitution. Some would argue that is putting economics in the Constitution that should not be there. I disagree with that. I think it is the appropriate thing to do because, clearly, within the Constitution we have required two-thirds votes on other procedures that are required.

Obviously, they are proposing an amendment today. That amendment requires a two-thirds vote. Somehow nobody suggests that that is the wrong thing to do or that is the wrong test that ought to be made. So I hope the House is successful today both in their debate and in their vote to require a supermajority to raise taxes. I think it is high time that we in this body and in the Congress of the United States become as sensitive to taxation as the taxpayers of this country that we suggest that we represent on a regular basis.

My guess is that if you vote for increased taxes in this body, you are not representing taxpayers very well because the taxpayers of our country have consistently said for a long while that they are being overtaxed. A recent poll in the Readers Digest suggests that the average citizen believes that taxes ought to be no higher than about 25 percent of their income, and they would even say in this poll that if somebody was paying 40 percent, even though they might be making more money, they were probably being taxed too much. Even the poorer of our society would suggest that those that are being taxed at a higher level ought to be taxed at a lower level because, for some reason, higher taxation was just blatantly unfair. I have to agree that that is the case.

Today, as mentioned, is April 15. Americans will work until May 7 of this year just to pay their taxes. And, as we all know, that day just keeps increasing. I am talking about January 1 to May 7 of every year now for the average taxpaying working American to meet their tax requirement. If you went to work at 8 o'clock this morning, the first 2 hours and 47 minutes of your 8-hour working day were worked just to pay your Federal tax requirement.

Obviously, you live in another taxing district besides the Federal tax realm. You live in a State tax realm. Probably you would work another 35 minutes to an hour just to pay your State taxes.

So it all adds up, and the average working person out there is going to spend the first 3-plus hours of their working day not putting one dime in their own pocket, not putting one dime to the purchase of a loaf of bread for the toast for the family breakfast, not putting one dime in the savings account that they are building to send their child to college, not putting one dime against the purchase of a new car or a new house, because for the first 3 hours, on the average, they will be putting all of those dimes either in the Treasury of the U.S. Government or the treasury of State government.

That is why most every American agrees that they are overtaxed. That does not mean that Americans are antitax. I cited the poll a few moments ago where I think all Americans recognize the importance of some government, the importance of the basic services of government, and the need to pay for it, and the need to have budgets balanced. But what they cannot understand is why the average two-wage-earner family, a family of four, pays 38 percent of all of their income to pay taxes for all levels of government. It is simply too high, and we know it. And Americans know it more, I think, than we do.

This last week during the Easter recess I had a rare privilege of taking my parents, who were here visiting, my wife and I to Williamsburg. I have been a student of Jefferson and Washington and Madison, as I hope many Senators have been on this floor. We visited the colonial capital of the colony of Williamsburg, better known as the House of Burgesses. Again, it was a remembering of why this country went through a revolution, why our Founding Fathers finally said, enough is enough, why they put their lives and their property on the line, simply saying they could not tolerate an oppressive Government, primarily because of the level of taxes that that Government was levying against a society of people who did not have a vote, who had, as we now know, taxation without representation.

Of course, as mentioned in several of the books I have read about Thomas Jefferson, following the great revolution and a new country and an America under a Constitution in which we had representation, he was visiting in Europe and a British parliamentarian said, "Well, you went to war because you had taxation with no representation. Now what do you think? You have got taxation with representation."

I think we all recognize by that statement and 208 years of history that central Government, if not controlled, can become oppressive, and the greatest tool of oppression on the rights and freedoms of an individual, of family, a working person, is the ability of Government to tax.

Since this country instituted the income tax and since we instituted automatic withdrawal from our wages of the Government's share of those taxes, we all know that that 38 percent that gets taken out of the average family of four's salary, while it seems to go very easily and we forget about it being in or having been there, we fail to recognize the tremendous purchasing power that that would have or the additional freedoms that that could afford the individual family that is now taken away from them and, therefore, the freedom to choose, the freedom to be financially independent, the ability to make for themselves and their children a better life. All of that is part of why Americans become increasingly frustrated when they see a government that progressively adds taxes to their ability to earn money.

In 1992, as we all know, President Clinton talked about a middle-class tax cut. He was the champion during that Presidential year of wanting tax cuts for middle-income Americans. Somehow this President forgot or lost his way. We know what happened just a year later, in 1993, when he pushed through the largest tax increase in the history of this country.

Oh, I know argumentatively he played class-war politics by suggesting it would only go on the backs of the rich, but, as my colleague from Georgia has so clearly pointed out, it did not go on the backs of the rich; it went on the backs of everybody. It went on the backs of middle-income wage earners in his State of Georgia, in my State of Idaho. It hit all levels. And when it hits all levels, it hurts all levels of our economy and the ability of families today to make their own way.

So we now have taxation with representation. But at the same time, what I think we, those who are the agents of representation, have failed to recognize is the real impact that taxes have on the ability of the wage earner to function for himself, herself, or for their family, or even the incentive in a society.

You know, I talked about that first 2 hours and 47 minutes of work to pay the Government. If you decide you will not work that 2 hours, 47 minutes because that money goes to the Government, think again. It does not work that way. What I am suggesting by that is that it has become, by increased rates of taxation, a blight on the ability of our economy to produce and the right of the individual to produce.

Why can we not get above about 1.5-percent growth in our economy? Remember, growth is a factor of job creation, greater opportunity, upward mobility for wage earners starting at lower levels to move to higher levels, to provide for themselves and their families to have a better home, a better car, to seek a better education, to put a better coat on their back. If you deny growth in the economy, you deny those kinds of opportunities that have been historically true in our society.

Taxation is a factor that puts that kind of blight against economic growth, dampers it down and, of course, as we all know in a society today, in an economy where we do not compete just with our neighbor down the street, we compete with our neighbor in China, our neighbor in Japan, if we and our level of taxation is not similar, certainly our ability to produce is less.

I have talked about income tax and its impact on the family. If I could for just a moment move to something else that I think is grossly unfair, but it fits into all of this element of taxation. That is the issue of estate taxes. Somehow we have developed an attitude in our country, Mr. President, that if you collect wealth during your productive years, you work hard, maybe you do not work the 8-hour day, maybe you work the 12-hour day, maybe you work a 14-hour day and you accumulate wealth, you own a home free and clear, you have money in a bank, you have a savings account, you have stocks and bonds, you are not allowed to move those through to your children when you die, or not all of them.

Again, the Government steps in and says, "No, we will take that away from you." That is an estate tax that I have for so many years believed to be so wrong. I have watched farmers and ranchers in my State work for a lifetime to pay off a mortgage, to own something, only to sell it and find out that they have to give a high percentage of it back to the Government. Why? The Government did not earn it. It is not the Government's right to have it. Somehow that is something that our country has slipped into and something that April 15 of every year reminds me is just fundamentally wrong.

I hope today is a day of reckoning, a day of better understanding. It appears I am out of time. Could I have an additional 2 minutes yielded to me?

Mr. COVERDELL. The Senator is yielded 2 additional minutes.

Mr. CRAIG. I hope today is a day of reckoning. Again, a time when we all awaken to the fact of what our Government does to us—not for us. There are many things that Government can do for us, but this is an instance where I believe Government takes too much of our money and spends it unwisely.

That is why, along with the amendment that the House will be voting on today to require a two-thirds supermajority to raise taxes, why the amendment by my colleague from Georgia dealing with retroactivity in taxation, why the $500 tax credit that we have offered in our balanced budget bill that we sent down to the President, that he vetoed, is so important. Why trying to deal with a capital gains tax, trying to deal with an estate tax, reducing those rates, creating less impact on hard-working, saving, earning

VOL
142
PT
6
AP
15
—
24
1996
UMI

Americans is what this day ought to be about.

I thank my colleague, the Senator from Georgia, for leading Members in this important debate on this important day. I hope other colleagues would join with us and come to the floor, talking about how all of this impacts their States and their citizens' lives. It truly does. When you watch that kind of money, whether it is 38 or 40 percent that you earn being taken away from you for purposes that in many instances you find unnecessary, it is a question that that has to be on a monthly, daily basis, brought before this Congress.

I thank my colleague from Georgia for bringing this matter to our attention.

Mr. COVERDELL. Will the Senator yield?

Mr. CRAIG. I am happy to yield to the Senator.

Mr. COVERDELL. Mr. President, in my opening comments I was talking about an average Georgia family, and I alluded to the fact that virtually half their income has been absorbed by one government or another. You and the Senator from Tennessee have used the figure 40 percent. I thought we might clarify that a bit.

Would the Senator agree that a family's interest payments that are a direct result of our national debt should also be added into what is being taken from them?

Mr. CRAIG. Absolutely. I think it is clearly the appropriate day to debate what is the total impact of our current Government's need based on net, based on taxation on the lives of the average citizen. When you do that, I think that is absolutely right. It gets well past the 40 percent mark in many instances. You have to factor in, as I think you have, and when I talk abut 38 percent I am not factoring in State government in many instances, but you are doing so, I think, and that is a very important part.

Mr. COVERDELL. Would the Senator also agree, the impact that families share of the regulatory costs, those have to be paid by that family, are also a factor that have to be weighed in as to what the total impact is on our working family?

Mr. CRAIG. No question about it. That is something that you and I have struggled on for a good many years. We busily write an awful lot of laws around here with no sense of the kind of cost that it will have on the average citizen through regulatory compliance or making sure their businesses operate within the framework of those regulations. Those are real costs, and they get passed on to the consuming taxpayer, and ultimately that is a form of taxation.

Mr. COVERDELL. I have enjoyed the Senator's remarks immensely, but I conclude by saying that in our colloquy, that the effect of all of this is that you have essentially removed half the earning wages of our working families, no matter where they are.

I am reminded here, because it has been brought up several times, of a statement that the President made in a campaign commercial on January 16, 1992, Mr. President. It said, "I'm Bill Clinton, and I think you deserve a change. That's why I have offered a plan to get the economy moving again, starting with a middle-class tax cut." However, 1 month into his Presidency, that promise was dramatically altered. The message in the State of the Union speech that was made by the President on February 17, 1993, said, "To middle-class Americans who have paid a great deal over the last 12 years and from whom I ask a contribution tonight."

Mr. President, that contribution turned into a $250 billion tax increase which resulted in every working family paying a lot more money to Washington and having a lot less in their checking account to take care of their own needs.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Wyoming.

Mr. COVERDELL. I yield 10 minutes to my colleague from Wyoming.

Mr. THOMAS. I thank my friend from Georgia for organizing an effort to talk about something that we especially are aware of on tax day, on April 15, but certainly should be talked about every day. Unfortunately, I think not many of us often recognize the fact that nearly 40 percent of our revenue, of our income to our families, is taken in taxes.

It has been talked about here today, that we work more than 3 hours a day out of our 8-hour day simply to pay taxes.

Although I am quite sure that will not become the tax system, some believe—and perhaps there is merit in it—if we had this sales tax, we would be more aware of the level of payment that we make, where now much of it is withheld. We talk about our wages after taxes, and so it sort of disappears and fades off. So I think it is appropriate that we talk about it today.

It seems to me that there are at least two important areas that need to be talked about. One, of course, is money—dollars. What does it mean to us and our family income? We probably ought to ask the question, of course, who should spend it? We work to support our families. Who should spend that money that we earn? Obviously, we would expect to be taxed if we want public activities to continue. Then we ask ourselves, how much is enough? How much should go? Is 40 percent too much? It seems to me that perhaps it is.

Then, of course, there is a direct relationship between taxes and the amount of Government we have. It seems to me that is a principle we ought to talk about. Many of us believe—and I am one of those—we ought to have a limited Government at the Federal level, that we ought to, as it describes in the Constitution, do those things that are described in the Constitution and leave to the States and to the people those other activities. Taxes have a great deal to do with that.

There is a relationship between the size of Government and spending. Of course, if we are responsible at all and we want to do this spending, then we should pay for it. That is where taxes come in. Unfortunately, we have not done that very well. We have wanted to do the spending, but we put it on the credit card for our kids. We need to change that, and we are in the process, hopefully, of doing it. The real measurement is not what Government can do for people but the kind of environment that can be set that allows people to do for themselves. So when we talk about taxes, we are also talking about the size of Government that we envision.

I think we should talk about where we are now. As Paul Harvey says, "What is the rest of the story?" We are beginning to hear a lot about how "the deficit is down, the economy is up, and we are saving taxes," and so on. The fact is that Washington has never spent more on the Federal bureaucracy than we are and have under this administration. The fact is that we are spending less on defense, and that may be right or wrong. But it means we are spending more, then, in the nondefense areas, these programs that simply continue to grow. America's tax burden, State, Federal, and local combined, has never been higher than it is under this administration. It has never been higher as a percentage of GDP. Americans will pay more than one-half trillion dollars more in taxes as a result of the President's tax increase of last year.

So despite what we hear and what we heard in the State of the Union Address on January 23, part of which said, "We know big Government does not have all the answers"—I am quoting the President—"We know there is not a program for every problem, and we know we have to work to give Americans a smaller, less bureaucratic Government in Washington, and we have to give the American people one that lives within its means." He said, "The era of big Government is over." Yet, we have the largest expenditure for Government that we have ever had under this administration.

So, Mr. President, this is tax day. It has already been noted that the typical family spends more than 38 percent of its income on taxes—more than it spends for food, clothing, and shelter combined. It has been mentioned that more than 3 hours of our 8-hour day is spent to produce taxes. It is also mentioned, I think importantly, that there are more than 100,000 employees at

IRS, which is more than at the FBI, DEA, and Immigration Service combined. There is something wrong with that, when you take a look at the billions of dollars that are spent simply to prepare the forms that we have to use.

It is also interesting, in terms of spending, that for every dollar in new taxes, the Government spends $1.59. The rest of it goes on the credit card. So what we have had, of course, is what we might call "the Clinton crunch." The President has promised a tax cut and delivered a tax increase, which is very difficult on small business, and it holds down the creation of new jobs. It is difficult for senior citizens on fixed incomes. There was a tax increase for everyone, among them a gas tax, which hits my State of Wyoming very hard. The new budget contains $60 billion in new taxes.

So we have not moved toward the end of big Government. On the other hand, I think that in this session of Congress the majority party has made a real effort to do that. We passed tax cuts last year, a $500 per child tax credit, marriage penalty, capital gains tax, expanded IRA's, adopted tax credits, student loan interest deduction—all, of course, which was vetoed.

Today the tax limitation amendment will be considered in the House. I happen to think it is a good idea. It is like saying we do not need to amend the Constitution. It is the same thing I heard when we were talking about a balanced budget amendment. Everybody stood up, and before they began to talk, they said, "I want to balance the budget, but we do not need an amendment to do that." Maybe we ought to remind them that it has been 25 years since we balanced the budget. And 43 States have that amendment. In my State, the legislature cannot spend more than it takes in. I think, similarly, we need that same kind of amendment on spending. There is no reason why, if spending is important, you cannot generate more support than 50 percent to do that.

So, Mr. President, I think it is an issue we ought to talk about every day, and it is appropriate on tax day. Keep in mind, it is not only dollars. It is also how much Government do you want? I think that is a question that each of us, as citizens, ought to ask ourselves. Unfortunately, we do not have the kind of cost-benefit measurement in the Federal Government that we do at home. If the school district thinks they need a new school building or a sign, they say, "Here is what it costs and here is what you have to pay," and you make a decision as to whether it is worth it. That is not what happens on the Federal level. We send in an amount of money, and we do not even know what it is really being spent for. We do not make any real decisions in terms of those programs that are funded.

I am persuaded that we can have a much leaner Government and still provide for the things that most of us believe are necessary for the Government to perform. Remember, the measure of good Government is not what the Government can do for the people, but the kind of environment it sets so that we can do for ourselves. That is what the tax system, tax amendments, and being concerned about taxes is all about.

I thank my friend from Georgia for organizing the time to talk about this important issue. I look forward to our doing something about it as a followup.

I yield the floor.

Mr. COVERDELL. Mr. President, I thank my colleague from Wyoming. He made an interesting observation. Not only did he talk about the effect of the tax increase of this administration, but he began to talk about the advantages that would have accrued to working families if the Balanced Budget Act that was sent to the President—which he vetoed—had passed.

A moment ago, I was talking about this average Georgia family paying almost $3,000 more because of the policies of this administration. The Senator from Wyoming reminded me that if the Balanced Budget Act had been signed by the President, the immediate effect to this average family would have been to return to their checking account $3,000 a year, or thereabouts. Here is a family making $40,000, and they would have $3,000 in additional income in their checking account—not on April 15 being shipped to Washington. Think what they could do with that. That is the equivalent of a 10- to 20-percent pay raise, Mr. President. It is not insignificant.

Mr. President, I yield to the Senator from Iowa up to 10 minutes.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I thank the Senator from Georgia for his leadership on this very important day, April 15, the day taxes are due for American citizens. I appreciate the opportunity to discuss the issue of the high-tax policies of the President Clinton administration. The high-tax policies of this administration are policies toward the highest taxes in the history of the country. More money is coming in from taxes now than ever before in history, and of course, that money comes from the people.

The tax bill which we find so burdensome is President Clinton's tax bill of 1993, which passed this body. But even all the Democrats would not vote for it, and there was a tie-breaking vote by Vice President GORE. The President's 1993 tax bill, OBRA 1993, was very controversial. President Clinton raised everyone's taxes by a record amount—again, the biggest tax increase in the history of our country.

It also happens that the President had misgivings about his tax increase legislation. He was speaking in October of last year to the attendees at a Clinton fundraiser in Texas when he said that he thought that he raised taxes too much in 1993. I agree with the President.

I want to remind everybody, as the Senator from Georgia does, of the various ways in which the President went about raising taxes at the highest level that they have ever been raised in one tax bill.

He increased the tax on Social Security benefits. Some Americans have to report 85 percent of their Social Security income so it can be taxed again after they have already paid tax on it once.

In addition, he added a new and higher income tax rate which also set the situation in order, which we call the marriage tax penalty, exacerbating it so that people are going to pay a lower tax living together than being married.

He also added new and higher estate and gift tax rates.

He decreased the business meals deduction for the truck driver and for the small business people of America. He hit farmers, truck drivers, and everyone who drives a car or truck with a 4.3-cent-per-gallon increase in the gasoline tax.

In Iowa—I do not know about the rest of the country—this Clinton gas tax costs every two-driver family an average of an extra $53.32 per year.

For small business people, the President hosted a White House conference on small business. He waxed eloquently on the need for expensing deductions, for creating IRA's, for pension simplification, and for estate tax reductions, to name a few. But when Congress passed legislation on those very same issues, President Clinton vetoed not one, not two, but every one of those ideas that he spoke eloquently about at his conference.

For education, he talked about a new tax deduction. But when Congress sent the President my new student loan interest deduction last fall, President Clinton vetoed it, again contrary to what he said he wanted to do. He even hurt families trying to relocate to new jobs by decreasing their deductible moving expenses.

These, Mr. President, are just a few among many of the new, unpopular, and economically hurtful Clinton tax increases.

The troublesome irony is that the President has many people still paying their extra 1993 Clinton income tax increases. People are still paying their 1993 income taxes because the President accomplished something that no other President had done before him. The President managed to raise taxes even before he was sworn into office because the tax rate increase of 1993 was made retroactive at his request.

So those with the mind of softening the blow on people who would have to

VOL
142
PT
6
AP
15
—
24
1996
UMI

pay a retroactive tax increase insisted the President at least allow taxpayers to pay the retroactive portions of their 1993 taxes in three separate installments. The first installment was due in 1994. The second was due in 1995. And people just paid their third and final installment of their fiscal 1993 Clinton tax increase today, Monday, April 15, 1996.

So, in October 1995, when the President testified in Texas at his fundraiser that he had raised people's taxes too much, perhaps he meant that he would feel their pain again on April 15, 1996. This is because today the President has given many taxpayers the unique opportunity to be taxed on income of three different years.

Today many taxpayers will pay the last installment of their fiscal 1993 taxes, the balance due on their now higher regular 1995 taxes, and their first quarter estimated taxes for 1996.

Indeed, the only taxable year of the Clinton Presidency that President Clinton is not taxing this very day is 1994. Fortunately, Mr. President, no one is perfect. Even though President Clinton has done his best to raise taxes in a Democratic Congress, and to keep them just as high in a Republican Congress. He did this by vetoing efforts of the new Republican Congress to reduce taxes, particularly the tax deduction that gives a family of four with two children an additional $1,000 more in their pocket to spend.

I believe that we should credit public servants for their good deeds and hold them responsible for their harmful ones.

Apparently, President Clinton must love to raise taxes almost as he loves to deficit spend.

Do not forget Mr. President, that he sent Vice President GORE to this very Chamber to cast that tie-breaking vote on the 1993 tax increase because even all the members of his own party would not go along with it. The voters remember it mostly because they are still paying for it, and will continue to pay for it every day.

In addition, we passed last year a taxpayers bill of rights so that the taxpayer will not have to be intimidated by the IRS during audit, and the President even vetoed the taxpayers bill of rights.

So, Mr. President, annually, this day April 15 brings to mind the complexities and the enormities of the Tax Code.

April 15, 1996 of this year further serves to remind us of the dangerous precedent that President Clinton set with his 1993 tax increase, the biggest tax increase in the history of the country, and the only one retroactive to a period of time before the President was sworn into office.

With his retroactive tax increase, President Clinton is the first President in the history of the Nation to have raised taxes before, during, and after his term of office. Of course, if we are not careful in the future, this may prove to be one of the most memorable and dangerous of the Clinton legacies.

In addition to increasing taxes at the highest level in the history of the country with that tax bill of 1993, the President set in motion an economic situation in which money that would be invested for job creation has created less jobs than during the period when the country was recovering from the recession of 1991 to 1992 by some 3 million jobs.

So, somewhere out there, even though we do have a high level of jobs being created, there are 3 million more people who could be employed if the tax increase of 1993 had not stymied the economy to the point that the people who create jobs were afraid to do it to the tune of 3 million jobs.

I yield the floor.

Mr. COVERDELL. Mr. President, I appreciate the kind remarks of the Senator from Iowa.

As a former native son of Iowa, I always enjoy listening to him address this Chamber.

A moment ago, I was talking about the effect of the President's tax increase on the average citizen in our State, but just for the general record I think it worthwhile acknowledging what some of the impacts of that tax were. That tax increase created a 4.3-cent per gallon gas tax increase levied on all Americans. Once again, when we heard the debate to impose the tax increase, which was only passed by one vote, the Vice President casting the deciding vote here in the Chamber late in August 1993, it was just supposed to affect the wealthy. But a 4.3-cent-gallon tax affects every farmer, trucker, every family, every carpool, every business—everyone. Under the provisions of that tax increase, senior citizens making as little as $34,000 a year—I guess that is another rich person—found their taxes hiked as a result of a 70-percent increase in the taxable portion of their Social Security benefits. We all can hear people on the other side of the aisle talking about their concern for protecting Social Security benefits. One of the first things the administration did was to tax them.

Small businesses were clobbered by the Clinton tax hike. More than 80 percent of small businesses file their returns as individuals. As a result, small businesses were forced to pay the higher individual rates of up to 44.5 percent. I repeat, Mr. President, 44.5 percent. That is much higher than the 35-percent rate for big businesses. If you had to point to one sector of our society that was the most ravaged by that huge $250 billion tax increase, it would be small business. And this is the reason why. Because of paying taxes as individuals, they really got their marginal rate pushed up.

As a result of Clinton's tax increase, the local hardware store in our State must pay a higher tax rate than a corporation like General Motors. Now, think about it. Most corporations in America, 60 percent of them, have four employees or less, and they were the fixed target of this tax increase. It was just like a Mack truck coming down the highway, bowling over them and left the situation where these smaller corporations are paying higher tax rates than, of all things, corporations like General Motors.

The National Federation of Independent Businesses, the Nation's largest small business organization, called Clinton's tax increase "about as antismall business as you could ever see." That was published in the White House bulletin on June 18, 1993.

I have focused a lot of my attention on the effect of taxes on the average family. I would like to visit that just a bit more, if I might.

I have often referred to the quintessential average family in the 1950's. I refer to the television family that we saw so often, "Ozzie and Harriet." They were the picture of what we all thought the American family ought to be. At that time, Ozzie was sending to the Federal Government 2 cents—2 cents, Mr. President—out of every dollar he earned. If Ozzie were here today, he would be sending 24 to 25 cents out of every dollar to Washington.

It is hard to envision or believe. When I was growing up, I was told that the single largest investment any American would ever make would be the purchase of a home. That is not true anymore. The largest single investment that any American or American family will make today is in the Federal Government, not the home.

In fact, the Federal Government's consumption from the wages of this average working family equates to housing, food, and clothing combined. Who would have ever thought that working families in this country would be faced with this sweeping hand of the Federal Government coming through families and removing over a quarter of their income, removing more resources from the family than it took to build their home or buy their home or rent or to feed the family or to clothe it combined; that the Federal Government alone would come in and sweep more out of that family's checking account than all those fundamental functions we count on that family to do for America.

I became very curious about this about a year ago because in the 1950's the typical family had one parent working and one parent at home with the family, doing the business of raising the family. As you know, today that has been turned upside down.

I mentioned a little earlier this average family in Georgia. It requires both parents to work. I got curious about

that, and I wondered at what pace families started to have both spouses out in the workplace. If they had one in the workplace and one at home in 1950, just how quickly did it get to the point we are now where the majority of them have both parents in the workplace.

So we tracked it on a chart from 1950 to 1990, the percentage of families for which both spouses were working. It is really interesting. If you take that line of the number of families where both spouses now work, as it grew over the last 40 years, and you take another chart and you map out the increases from the 2 cents to 25 cents that they are paying in taxes, those two lines are within 6 percentage points of each other all the way.

What does that mean? It means that as the Government took more and more and more out of that working family, the Government was making the decision that for the family to keep fulfilling their needs in housing, education, et cetera, they had to send the second spouse out. And each year as that tax increase grew, many more families had to make that tough decision.

It is incredible. There is no institution that has had a more profound effect on the behavior of the working family in America than the Government. It is not even Hollywood. We all talk about Hollywood and the violence in films, and I am sure that has had an effect, but it does not compare to the effect of the Federal Government taking more and more and more away from the family, leaving it with no option but to produce another worker, often even more.

I said that those lines track each other; the number of working families that had to put both spouses in the workplace followed identically the increase in the tax burden. There is another way to look at it. How much had the tax burden increased over that period of time? It comes out about $10,000 to $12,000 per family. It is interesting that the average income of the second spouse is within $1,000 of the increased tax burden. In other words, we made the second spouse work so that they could pay the added tax burden. That is what they are doing in the workplace.

Obviously, there have been other changes. There have been people who have made a choice about their careers. That is fine. But when you survey the second spouses in the workplace and ask them their choices about it, 85 percent would make a choice different than it is now. A third of them would not work at all. A third of them would work part time. And a third of them would direct their work at charitable activity instead of the necessity to be out in the workplace, just to pay Uncle Sam another tax bill so we can redistribute these resources from Washington. Back to the point I made a little earlier, Mr. President, we have a school of thought here that it is better for the wages to come to Washington because Washington can determine more effectively where those priorities for that family ought to be.

That reminds me of a story that Senator GRAMM, the senior Senator from Texas, often tells. He was in a debate in Texas with somebody from the Education Department and they were going back and forth about the priorities of education. Senator GRAMM finally, in frustration, turned to the person and said, "Hey, look, I love my children more than you." Whereupon the representative from the Education Department said, "No, you don't." And then Senator GRAMM said, "Well, OK, you tell me their names."

It is not a question of spending, it is a question of who is going to do it. Is the family more equipped to make these choices about education, housing, where to live, how to expend those resources? Or should we continue this idea of moving it up here so somebody who does not even know that family can be determining where those resources go?

Mr. President, I am prepared to yield up to 10 minutes for the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Georgia for yielding me this time. I thank him for making arrangements to have this time to talk today about the tax burden on the American people. It is appropriate that we talk about this issue today, April 15.

When the poet T.S. Eliot wrote, "April is the cruelest month," he had in mind something other than the income tax deadline of April 15, I am sure. But for most Americans, the middle of this month, despite all its beauty, is a time of resentment and disaffection. Over this past weekend, over the past weeks, maybe over the past couple of months, maybe even today, there are people all over America who are scrambling to try to figure out their "simplified" tax forms.

That is always good for a laugh when I am home in Mississippi, speaking about how we developed simplified income tax return forms. They get more complicated every year. The average person is just not able to do it by himself or herself. It is a hodgepodge of 3 million words in the law and in regulations and requirements with regard to our Tax Code. It is a mess. It is unfair. It is cumbersome. It is unmanageable. And something must be done about the tax burden on the American people.

It might be argued that the tax burden on the American people is not all that great compared with some of the other countries around the world. But this is not other countries around the world. This is America. As a matter of fact, there are some countries that have a higher tax burden than us, others less. But I understand the average American pays about 37 to 40 percent of his or her income for taxes.

Some of them obviously go much higher than that. It gets in the range of 50 percent or more when you figure all the taxes: Federal income tax, the FICA tax, the State tax, the local property tax—all the taxes that are heaped on the American people—even the cruelest of all, I think, the estate tax. That is one where we tax people's death. I wonder how we ever came to that, where we put American people in the situation where they worked all their lives to build a small business, perhaps they are third generation farmers, and when they die and they want to pass on their estate to their children, many times they wind up having to sell it because they cannot pay the taxes on this farm that has been in their family for many, many years. Or, because they cannot pay the taxes on the small business that they worked hard for, labored for, and built up, then they wind up having to sell it because of the tax burden.

So, this is a cruel time. I understand, now, the average American also has to work until May 7 to pay the taxes that he or she owes. Way back in the beginning of this country it was only until January 31 that you had to work to pay the taxes for the year. Then it was February, March, right on through April. Now, average Americans work over 4 months just to pay the tax burden that they are faced with today. Something must be done about this. There must be a way to have a fairer Tax Code. Changes should be made to make it more fair and changes should be made to provide, I think, overall basic reform.

It is not that most of the American people do not want to pay any taxes. People understand they get a tremendous benefit from Federal Government, from State government. There are certain guarantees that we want. We do want the shores to be defended. We do have an obligation to support a strong national defense. We do need infrastructure. We do need the Interstate Highway System. There are some things the Federal Government can do to help with education. So there are some positive things that the Government can run, where it can be helpful, and we want that to continue.

But I remember the days not so many years ago that most taxpayers signed their IRS returns with a kind of pride, a self-satisfaction that, by golly, you are getting a good deal, you are doing your part, you are pulling your weight. Sure we always griped about taxes and joked about them, but we knew that, while there was a price to be paid, there was some benefit that we all basically supported coming from that.

I believe that has changed in many respects now, and not for the better.

VOL
142
PT
6
AP
15
—
24
1996
UMI

With a steady expansion of Government, both at the State and Federal level, the percentage of family income going for taxes has grown tremendously. For most households today, taxes are the largest single outlay in their budgets. I hate to think how many families now have two earners these days, both mom and dad, in order to compensate for the lost income siphoned off by official Washington. That is why the Republican Contract With America last year promised tax relief for families. That is why majorities in both the House and the Senate translated the contract's promises into carefully crafted legislation.

We all know what happened to it. Tax relief for families with children was vetoed by President Clinton, along with many other revenue provisions that would have curbed Washington's appetite for the public's earnings. Today, April 15, is an appropriate time to remember that outcome and to consider why it occurred. It happened because there are still too many elected officials who believe they know best how to spend the people's money. They believe that big Government can take care of families better than they can take care of themselves and of their children. And it takes cash, hundreds and hundreds of billions of dollars to do that, if you are going to let Washington look after all these problems.

That attitude is fading fast over most of the Nation. I found it is fading, certainly, in my home State while I was home during the Easter recess break. But it persisted in many high places here in this city. Only in official Washington is it called a tax expenditure when you allow people to keep their own money. That was a bit of ingenious wordsmithing, some few years ago. I think it really started in the 1970's, when we started calling it a tax expenditure. Only inside the beltway is a tax cut considered a loss. Only within the shrunken ranks of Federal dogmatists is broad-based tax relief called a tax cut for the rich.

It is almost as if the opponents of tax reduction disbelieve in the American dream of hard-earned success. It is as if they think people who strive and contribute are bad, while those who depend on Government should be encouraged to stay that way. More than any other factor, I believe that attitude, that set of ideological blinders, accounts for last year's opposition to the tax provisions of our Contract With America.

Let me just mention, again, the major provisions in that tax package that we considered last year, but the President vetoed. We eliminated the marriage penalty. How many years have we been talking about how it is unfair, when a young couple—or couple, not even necessarily young—gets married, if they both work, when they get married they pay more taxes even though their income does not go up? There is nobody who can defend the marriage penalty.

How about the spousal IRA? Why is it that the only group in America that cannot have an IRA is a spouse working in the home? Should we allow that? Should we encourage the spouse in the home to be able to save a little bit for his or her retirement days? Absolutely we should do that.

Another thing that we included in that tax package was relief for our seniors who still want to work. We would raise the limits on the earnings that you can have and still get Social Security. Why should people just between 65 and 70 lose part of their income if they make over $11,500 a year? Thank goodness we have now passed separate legislation to do that, but that is another example of what was included in our package.

Certainly, we should provide families the $500 tax credit if they have children. Some people argued, "Oh, what difference would it make to a family with one or two children?" Let me tell you, in my State, for a couple making $30,000 a year with two children, a $1,000 tax credit would make a significant difference, and then they could decide what their children needed most instead of the Federal Government.

Finally, and not least, it did provide a capital gains tax rate cut. If you are going to reduce the deficits, you can only do it by three ways fundamentally: by controlling spending, by raising taxes or, hopefully, by doing some things with Government and regulatory relief and by changing the Tax Code to provide growth in the economy. The capital gains tax rate cut would do that.

In my State of Mississippi, if we cut the capital gains tax rate on timber and on timberlands, there would be an explosion of activity in the turning over in the timber area. It is probably the biggest industry we have in our State. Yet, people are hesitant to sell that timber, to sell that land because so much of it is taken in capital gains. It is just, basically, not fair.

So those are the things we had in our tax package last year. It would have provided some relief to families with children and to individuals when they are newly married and to a spouse working in the home. Tell me that is helping one group over the other. That helps everybody.

Our tax package was not a giveaway to the rich. It was a give-back to hardworking people, and there is a big difference. If President Clinton had signed, instead of vetoed, the Republican tax package last December, 88 percent of its tax relief would have gone to families with incomes under $100,000 and 72 percent would have gone to families with incomes under $75,000. That is certainly not rich. That is families in which both husband and wife are maybe schoolteachers. It is a family whose sole breadwinner is perhaps an auto worker in Detroit or a shipyard worker in Pascagoula, MS. It is the self-employed, heads of households. It is the men and women starting up small businesses. It is the parents who could well use that $500 tax credit for their children, which was all vetoed by the President. After all, in the private sector, this $500 can go a long way toward clothing, food, and education of our children.

The hopes of those middle-income taxpayers were splattered by ink with that veto last year. But they should not give up hope. There is still an opportunity for this Congress this year to make some needed changes in our Tax Code that will help middle-income Americans and others, also.

But now to the heart of the matter. Just what is the price that has been paid?

Mr. President, I ask the distinguished Senator from Georgia if he will yield me just another minute to finish up.

Mr. COVERDELL. I will be glad to yield another minute to the Senator from Mississippi.

Mr. LOTT. Mr. President, why could the President and his allies not accept tax relief for the American people? The answer is profamily, progrowth tax reform puts a crimp in Government spending. If you allow the people to keep more of their money, it is a little less the Government would have had to gobble up and to spend. It makes it harder for practitioners of business as usual around this institution to provide favors to their constituents. It slows down the Government spending machine.

That is why most Americans have paid more in Federal taxes than they should have paid. Big government in Washington needed their money to stay big and to grow bigger. I really believe that by giving some tax relief to the people, in many instances—in fact in most instances—you can actually wind up getting more revenue coming into the Government because the people are given more incentives to work hard, keep their own money, pay taxes, and everybody benefits from that.

As of midnight tonight, tax year 1995 will be history. It is maybe too late to lessen the burden on that year, on the past, but we can, indeed, do something about the future in the hope that on this same day next year, taxpayers will be able to celebrate the tax give back that they so justly deserve.

Mr. President, I yield the floor.

Mr. COVERDELL. Mr. President, I appreciate the remarks of the Senator from Mississippi, as always. I am going to yield our time until 1 o'clock to the Senator from Arizona, with this logistical comment: If the senior Senator from Georgia has not arrived at 1, I will ask unanimous consent to extend

our time another 10 minutes so that the Senator from Arizona will have sufficient time to complete his remarks. I think we can achieve that. I will not know until 1 o'clock.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Arizona.

Mr. KYL. Mr. President, I begin by thanking the Senator from Georgia for conducting this particular discussion on tax policy on this day, a day which we might paraphrase will live in infamy at least in the lives of many Americans. By midnight tonight, millions of Americans will have completed their tax returns and may agree with T.S. Eliot who characterized April as the cruelest month of all. I am not sure this is what he had in mind, but perhaps it applies.

According to estimates by the Internal Revenue Service, individuals will have spent about 1.7 billion hours on tax-related paperwork. Businesses will have spent another 3.4 billion hours to comply with their Tax Code preparations this year. The Tax Foundation estimates that the cost of compliance will approach $200 billion.

If that is not evidence that our Tax Code is one of the most inefficient and wasteful ever created, I do not know what is. Money and effort that could have been put to productive use solving problems in our communities, putting Americans to work, putting food on the table, or investing in the Nation's future are instead devoted to wasteful paperwork.

It is no wonder that the American people are frustrated and angry, as I found in the townhall meetings and other visits with constituents in the last 2 weeks in Arizona. They are demanding real change in the way their Government taxes and spends.

There are, of course, a number of proposals that have been generated for comprehensive tax reform. Senator RICHARD SHELBY and House Majority Leader DICK ARMEY have proposed a flat tax. Versions of the flat tax have also been suggested by Steve Forbes and Senator PHIL GRAMM. Former HUD Secretary Jack Kemp has issued a report at the request of Speaker GINGRICH and Majority Leader DOLE which recommends a single rate simpler tax system. The chairman of the House Ways and Means Committee has recommended that the income tax be pulled out by its roots and replaced with a national sales tax. Senator LUGAR has proposed a sales tax as well.

The Senate Judiciary Committee just concluded a hearing on a proposal to change whether we move to some version of a flat tax or sales tax or some other alternative. Indeed, it is a change that should be made whether comprehensive tax reform occurs or not. I am talking about a change that requires a two-thirds vote in both the House and Senate in order to approve tax increases. The House of Representatives is scheduled to vote on its proposal later on this evening.

The tax limitation amendment it is called. The tax limitation amendment, which I proposed in the U.S. Senate, with the support of 20 other Senators, would require a two-thirds vote of approval in both the House and the Senate in order to increase the tax base or to increase any tax rate.

The two-thirds supermajority that many of us believe should be added to the U.S. Constitution was recommended by the National Commission on Economic Growth and Tax Reform, as I said, appointed by Senate Majority Leader DOLE and Speaker GINGRICH and chaired by former HUD Secretary Jack Kemp who testified at this Judiciary Committee hearing this morning, along with former Governor of Delaware Pete du Pont and a host of other experts on tax policy.

This Commission that Secretary Kemp chaired advocated the supermajority requirement in its report on how to achieve a simpler single tax rate to replace the existing maze of tax rates, deductions, exemptions, and credits that make up the Tax Code as we know it today.

In fact, in the words of the Commission, and I am quoting:

> The roller-coaster ride of tax policy in the past two decades has fed citizens' cynicism about the possibility of real, long-term reform, while fueling frustration with Washington. The initial optimism inspired by the low tax rates of the 1986 Tax Reform Act soured into disillusionment and anger when taxes subsequently were hiked two times in less than 7 years. The commission believes that a two-thirds super-majority vote of Congress will earn Americans' confidence in the longevity, predictability, and stability of any new tax system.

That is the end of the quotation from the Kemp Commission report.

In the 10 years since the last attempted comprehensive tax reform, the Congress and the President have made some 4,000 amendments to the Tax Code—4,000 amendments. In the future, without the protection of the tax limitation amendment, taxpayers will be particularly vulnerable to tax rate increases, particularly if the tax reform eliminates many of the deductions and exemptions and credits in which they sometimes find refuge today.

In short, Mr. President, the tax limitation amendment will make it more difficult for Congress to raise taxes, and it will also help restore confidence, stability, and predictability to the Tax Code.

Mr. President, I have more of the statement which I would like to present. I wonder if, in view of the hour, it would be appropriate for the Senator from Georgia to ask for an extension of time.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. I ask unanimous consent that our side be granted an additional 10 minutes.

The PRESIDING OFFICER. Is there objection? Hearing none, without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I yield an additional 5 minutes to the Senator from Arizona.

Mr. KYL. I thank the Senator from Georgia.

Ideally, Mr. President, the tax limitation amendment would be put into place after comprehensive tax reform is accomplished. This is because tax reform necessarily aims to broaden the tax base, eliminating the maze of deductions and exemptions and credits that make up the Tax Code today, and then apply one low tax rate to whatever amount of income is left. So a two-thirds majority vote requirement would make comprehensive tax reform more difficult.

I would note parenthetically that the Tax Reform Act of 1986 would have met the two-thirds test because it passed both the House and the Senate with more than a two-thirds majority. So advocacy of tax reform is not necessarily a reason to oppose the tax limitation amendment at this time. But in any event, it is important that this debate begin now, Mr. President, because of course, constitutional amendments such as this are going to take a long time to get adopted.

It probably will not be approved this year in the House or the Senate. It would require a two-thirds vote in both the House and Senate, and then three-fourths of the States to approve it. So the last thing I am worried about is that we will accomplish this constitutional amendment before we accomplish fundamental tax reform. I think we need to begin the debate now on the constitutional amendment, and by the time we get finished with fundamental tax reform, perhaps the constitutional amendment can then be put in place to make it difficult thereafter to change the Tax Code.

I think it is also important to make three other quick points. First, the tax limitation amendment cuts no taxes. It only raises the bar on passing future tax increases. Many people, including myself, already believe that taxes are far too high. This amendment in effect says, "Enough is enough." It makes Congress find a way to meet its obligations without taking more from the pockets of the American people.

Understand that the average family today pays more in taxes than it does on food, clothing, and shelter combined. I would refer you to the chart, Mr. President, entitled "Family Budget 1995" in which you can see the amount spent on savings; recreation; transportation; medical needs; then food, shelter, and clothing; and then, finally, Federal, State, and local taxes. We pay more in Federal, State, and

VOL
142
PT
6
AP
15
—
24
1996
UMI

local taxes than we do on food, shelter, and clothing all combined. Clearly, this tax burden on the average family is too high.

Let me also note that it has obviously been fairly easy for Congress to raise taxes. Here is the Federal tax burden per capita just in the last 15 years, the years 1980 through 1995. You can see that in 1980 it was about $2,286 per capita. Today it is over $5,000 per capita. Clearly, it is not hard to raise the tax burden on taxpayers. We need to make it harder.

If you want to look at the macrochart, the chart that shows the Federal Government revenues from taxes since 1950, look at this chart. It clearly shows that tax increases have skyrocketed. It is not hard to raise taxes. It is too easy to raise taxes. That is why we need a two-thirds supermajority to raise taxes. What the tax limit amendment says is that it ought to be harder to raise taxes, that we are already taking too much from working American families and therefore we ought to take less.

I also note that our Constitution already provides several—10 specifically—supermajority requirements. My guess is that that is because the Framers wanted a consensus to be developed to make really important changes. That is why it takes a two-thirds vote to override a President's veto, for example. My guess is the Framers would say today this is out of control. It is important enough that a broader consensus than a mere simple majority should be required in order for us to raise taxes.

Mr. President, there is no small irony in the fact that it will take a two-thirds vote for us to cut taxes since the President has vetoed our tax cut proposal and yet the largest tax increase in the history of the country in 1993 was passed not even with a majority, technically, because the Senate vote was tied 50 to 50, and it took the vote of the Vice President to break that tie.

It ought to be as hard to raise taxes as it is to cut them. The amendment will make it harder to raise taxes. That is the point. I know that is the objection of the opponents, but that is the whole point here. I think we would all agree that a lower tax rate would be more beneficial, not only for the American family, but for our economy. As a matter of fact, lower tax rates, research shows, results in more taxable income, more taxable transactions, and eventually more tax revenues to the Treasury. So we actually are benefited by reductions in tax rates, not increases in tax rates.

The tax cuts of the early 1980's are a case in point. They spawned the longest peacetime economic expansion in our nation's history. Revenues to the Treasury increased as a result—from $599.3 billion in fiscal year 1981 to $990.7 billion in fiscal year 1989, up about 65 percent.

High tax rates, on the other hand, discourage work, production, savings, and investment, so there is ultimately less economic activity to tax. That is precisely what Martin Feldstein, the former chairman of the President's Council of Economic Advisers, found when he looked at the effect of President Clinton's 1993 tax increase. He found that taxpayers responded to the sharply higher marginal tax rates imposed by the Clinton tax bill by reducing their taxable incomes by nearly $25 billion. They did that by saving less, investing less, and creating fewer jobs. The economy eventually paid the price in terms of slower growth. So increases in tax rates do not usually translate into more tax revenue.

It is interesting to note that revenues as a percentage of gross domestic product [GDP] have actually fluctuated around a relatively narrow band—18 to 20 percent of GDP—for the last 40 years. Revenues amounted to about 19 percent of GDP when the top marginal income tax rate was in the 90 percent range in the 1950's. They amounted to just under 19 percent when the top marginal rate was in the 28 percent range in the 1980's. Why the consistency? Because tax rate changes have a greater effect on how well or how poorly the economy performs than on the amount of revenue that flows to the Treasury relative to GDP.

In other words, how Congress taxes is more important than how much it can tax. The key is whether tax policy fosters economic growth and opportunity, measured in terms of GDP, or results in a smaller and weaker economy. Nineteen percent of a larger GDP represents more revenue to the Treasury and is, therefore, preferable to 19 percent of a smaller GDP.

Requiring a supermajority vote for tax increases is not a new idea. It is an idea that has already been tested in a dozen States across the country. In 1992, an overwhelming majority of voters in my home State of Arizona—72 percent—approved an amendment to the State's constitution requiring a two-thirds majority vote for tax increases.

There is a reason that the idea has been so popular in Arizona and other States. Tax limits work. According to a 1994 study by the Cato Institute, a family of four in States with tax and expenditure limits faced a State tax burden that was $650 lower, on average, 5 years after implementation than it would have been if State tax growth had not been slowed.

The tax limitation amendment will force Congress to be smarter about how it raises revenue. It will force Congress to look to economic growth to raise revenue, instead of simply increasing tax rates. It will protect taxpayers from additional tax increases.

We are going to have to confront this issue of raising taxes sooner or later because the burden on the American family is simply too high. It seems to me this is a good time to do it. Starting this debate on tax day, April 15, is a propitious time when people's attentions are focused on the issue. I hope that the House of Representatives later today approves the tax limitation amendment pending there. I hope that Leader DOLE will be able to schedule this amendment sometime soon on the Senate floor for a vote here.

I appreciate the chairman of the Judiciary Committee making time available for our hearing this morning. It was an informative hearing which certainly sustained the case that the time for a tax limitation amendment is upon us and an amendment that would make it hard to raise taxes by requiring a two-thirds vote in both the House and the Senate.

Mr. President, again, I commend the Senator from Georgia for making this time available. I hope that we can get on with this prospect of making Americans' lives a little bit easier by taking less of their hard-earned income.

Mr. COVERDELL. I thank the Senator from Arizona. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Georgia has 5 minutes.

Mr. COVERDELL. Thank you, Mr. President.

I want to commend the Senator from Arizona for his legislative efforts to make it only possible to pass new burdens on the American people with a two-thirds vote. I think there should be an extra burden on any legislative chamber before it has the right to pass on even greater burdens.

We have spent the entire morning here talking about the size of the burden which is just—I am convinced, if any of our Founders were here today, Jefferson in particular, they would be absolutely stunned at the scope of the amount of wages that a laborer must forfeit to the Government. He said we needed a frugal Government which did those things that absolutely had to be done, but other than that, the fruits of labor should be left to those who earn it, and allow them to choose their own pursuit of happiness.

We have talked a lot this morning about the scope of the tax increase this administration put on the American people. The effect and burden it added, in our case, is almost $3,000 for the average family annually that they are having to forfeit from their wages, preventing them from doing the things they ought to do.

But I want to close with one piece that is particularly egregious about that tax increase. That tax increase which was passed in August 1993 changed the Tax Code backward even beyond the administration taking office. For the first time in history, it changed the Tax Code all the way back into a former administration, the Bush administration, January 1993.

Mr. President, the Russian Constitution does not allow you to tax retroactively. It is wrong. It is morally incorrect. Families and businesses and communities have to know what the rules of the road are. They have to be able to plan their lives, plan their families, plan their tax burdens in advance. They cannot get to the end of the year and have a Congress of the United States and President come forward and say, "Whoops. We're changing all that to take effect back a year earlier. So all your planning was for naught. We don't care."

Mr. President, that is wrong. When I leave this Chamber, I will be going to a hearing on a constitutional amendment which I and others are sponsoring that, like the Russians', would prohibit Americans from being subjected to retroactive taxation.

Whenever I speak to any American group—it does not matter where they are, my State or any other—and you talk about retroactive taxation, there is a unanimity that that is wrong. Our Government has all too frequently in current years gotten into the business of changing the rules midstream. It has had a very deleterious effect on the planning of our families, planning for our businesses, particularly small businesses.

This retroactive tax that was dumped on the American people by the President's last tax increase, I believe, is horribly wrong, and has had a terribly negative impact. We ought to do everything we know to do to assure that it never happens again—not in the United States of America.

I yield back any remaining time.

WORKER TRAINING AND THE BOSTON HARBOR CLEANUP

Mr. KENNEDY. Mr. President, Ben Franklin once said that "an investment in knowledge always pays the best interest." The same can be said about an impressive initiative on worker training undertaken in recent years by the Massachusetts Water Resources Authority as part of the current environmental cleanup of Boston Harbor.

In replacing outdated and obsolete water treatment plants with new state-of-the-art facilities, MWRA invested in retraining its existing work force in the skills needed to operate the new facility, rather than lay off hundreds of employees and recruit new workers with the needed skills. The strategy worked, and has led to lower costs for the new plant, lower costs for ratepayers, and a newly skilled work force with high employee morale.

I commend MWRA for this practical demonstration of the effectiveness of job retraining and the wisdom of tapping the untapped potential of its experienced work force.

Too often, such retraining initiatives are the exception, not the norm. We live in an era when workers are too easily under-valued and under-appreciated by employers. The MWRA example can be a lesson to the Nation that a wise course is available. I ask for unanimous consent that an article by Douglas B. MacDonald, executive director of MWRA, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Mar. 19, 1996]

EVERYDAY HEROES OF DEER ISLAND

(By Douglas B. MacDonald)

The first phase of the new Deer Island sewage treatment plant has been up and running for a year. The "filthiest harbor in America" is quickly succumbing to visible signs of environmental recovery; seals and porpoises in the water, swimmers at the beaches, fishermen on the shore. Those are striking testimony that the new infrastructure of pumps, valves and tanks really can retrieve our environment from the careless ravages of a neglected sewer system. Within the new plant there is another less publicized but equally inspirational, success story; the workers themselves.

When the MWRA began design and initial construction of the new Deer Island treatment facilities in the late 1980s, it wrestled with the question of how more than 200 workers at the old Deer Island and Nut Island plants would fit into the new plant. Those workers, experienced only in operating treatment facilities with antiquated technology, might have been considered as obsolete as the old plants themselves.

Happily, neither MWRA management nor its workers ever accepted that fatalistic view. The workers were challenged, and they challenged themselves, to staff the 21st century facility arising in their midst.

The old plants were decades past their prime, underfunded and neglected. Workers had to almost hand-process raw sewage. They kept the old plants functioning with little more than their own dedication.

But from their years of working with outmoded and failing equipment, the workers had become pros at troubleshooting the nuances and complexities of the MWRA's sewer system, which takes in over 400 million gallons of wastewater each day from 43 communities. They managed to operate the old plant with countless jury-rigs, even bringing in their own tools to keep the plants functioning. Collectively, the old plant workers has over 4,000 years of experience. Their knowledge was an enormous potential asset.

Still, decisions about staffing the new plant were difficult. Managers and collective bargaining units wrestled with how to mesh the workers' pride and old-plant experience with yet-to-be-attained technological skills and computer literacy. Discussions were candid and sometimes heated.

Slowly, however, trust took root. MWRA management agreed that existing workers would be the core of the new work force. Workers who upgraded their abilities were promised jobs in the new plant. The notion that a new generation of technology must make redundant a generation of workers was rejected outright.

Armed with this guarantee, each worker developed a training plan, and MWRA invested several million dollars in courses, workshops and support for outside schooling. Programs covered everything from basic reading and math skills to advanced computer training.

Giving workers a sense of ownership in the new plant was another important step, and began with plant familiarization tours of each new building at the earliest points of construction. As the new plant was being designed, plant staff provided engineering firms with "will it work?" critiques, relying on their own knowledge of the idiosyncrasies of the old system.

Today the human side of the new Deer Island treatment plant is a remarkable story, and underscores the resilience of the American worker. For example, a 20-year veteran worker staffs a three-screen computer console, clicking the mouse like a kid playing a video game. Three years ago this man feared that computer illiteracy would land him outside the plant gate. But he and his computer-trained coworkers know from experience exactly what the computer tells them is going on with a valve 500 yards away.

This new productivity benefits MWRA and its rate-payers. Three years ago, cost projections foresaw 500 workers as the necessary staffing level for the Deer Island plant. Today, MWRA plans to run that plant with about 400 workers.

For all the money spent on the new tanks, valves and pumps, the best time and money expended to date on the Boston Harbor Project has been invested in the workers who are running our facilities. For the public we serve and for the people we employ, it was the smart thing to do and it was the right thing to do.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, April 12, 1996, the Federal debt stood at $5,145,722,307,691.76.

On a per capita basis, every man, woman, and child in America owes $19,444.53 as his or her share of that debt.

RON BROWN: A TRIBUTE TO PUBLIC SERVICE

Mr. HOLLINGS. Mr. President, now that the initial shock of the horrific jet crash in Croatia has passed, we are forced to accept the fact that my friend Commerce Secretary Ron Brown and 34 other talented professionals have perished. Today, almost 2 weeks later, it's still hard to describe the echoing sense of loss and deep sinking sorrow that still remains in all of us—man, woman, black, white, Republican, Democrat.

There has been much written and said about Ron Brown over the last few days, and that is fitting, because there is so much to say. He was many things: key strategist, mesmerizing speaker, wily politician, savvy businessman, superb lawyer. Most of all, he was an exemplary public servant for this country. On his last day, he was on the road in a faraway place aggressively promoting U.S. business interests abroad. And, in this case, he was trying to bring peace and economic recovery to the war-weary Bosnian people. He took very seriously his responsibility to preserve the American dream for the next

VOL
142
PT
6
AP
15
—
24
1996
UMI

generation of Americans, so that they will have economic opportunity rather than a declining standard of living. To him, championing the economic interests of the United States was tantamount to championing the people of the United States, and so, in a very literal way, he died serving his country.

Ron Brown was the most effective Secretary of Commerce I have known in my years in the Senate. It is fair to say that he was the most energetic and outstanding individual to ever serve in that post. Throughout his distinguished career in private industry, politics and the executive branch, Ron Brown served as a role model for all Americans. With the fall of the Berlin Wall, international business has become the new realm for competition. Ron Brown understood that and worked tirelessly to promote U.S. exports and business overseas. It was quite typical for Secretary Brown and me to meet after he had returned from a long trip abroad. Lack of sleep and shifting time zones never set him back. Jet lag wasn't in his vocabulary. It just was not in Ron's nature to take time to rest up.

Ron Brown was an especially strong role model for African-Americans. He never forgot his roots, and he took special pride in his efforts to make Commerce Department programs more inclusive and to provide equal opportunity in the work force. He took pride in his efforts to revitalize the Minority Business Development Agency and the Economic Development Administration. Most of all, he set an example for those who would follow in his footsteps with his determination, his intelligence and his optimism.

Secretary Brown came into the Commerce Department with a tremendous task: to shake one of the Government's largest and most diverse departments out of its dormancy, and turn it into forceful, focused, and effective agency. At his confirmation, he expressed the following among his priorities for the Department of Commerce: "Expanding exports, promoting new technologies, supporting business development—these all require integrated action, crossing old lines between business, labor and government." Ron Brown was an expert in crossing old lines, whether racial or bureaucratic, whether he was rejuvenating the Democratic Party or reinvigorating the Department of Commerce. He could see potential where others couldn't, and he had that unbeatable combination of vision and determination that was contagious. He inspired those around him.

In addition to his political acumen and leadership abilities, Ron Brown was extremely likable. I remember walking down the corridors in the Hoover Building seeing signs on employees' office doors that read "Ron Brown Fan Club." Even those misguided few in Congress who spent the last year trying to abolish the Commerce Department found their efforts thwarted by the simple fact that so many businessmen and Members of Congress not only believed in the importance of Commerce—but also that everyone simply liked Ron Brown.

This is a tragedy that hits home for me, Peatsy, and my staff. Ron Brown was a good friend. Our heartfelt sympathies go out to Alma, his children, and all the families of the passengers and crew of the aircraft.

Mr. President, let's all remember Ron Brown for his firebrand style of engaged public service. We'll all miss him. I wish we had more like him.

TRIBUTE TO DR. THOMAS F. WEAVER

Mr. PELL. Mr. President, I rise to pay tribute to Dr. Thomas F. Weaver, a man who devoted his life to ideas and to education. Tom died earlier this month at home in Rhode Island and his sudden passing came as a shock to all who knew him.

Although he was in his midsixties, Tom was an active athlete and an inspired educator. As chairman of the department of environmental and natural resource economics at the University of Rhode Island [URI], his aggressive intellect, his warm spirit, and his enthusiasm all reflected the energy of a much younger man.

Tom worked closely with my staff for more than a decade in planning the $24 million construction of buildings that will comprise URI's Coastal Institute on Narragansett Bay. Indeed, the building to be erected on the university's main campus will include a policy simulation laboratory that would have been his pride and joy.

Although the Coastal Institute will be the result of work by many talented and committed individuals, Tom stood out as the workhorse who followed every development. He helped nudge the process along to assure that USDA matching construction funds were secured. My staff and I were only too glad to help.

The University of Rhode Island is now perfectly positioned, as both a land grant and a sea grant college, to develop the Coastal Institute. It is my hope, and a hope I know Tom shared, that these closely related natural resources disciplines will meet and grow at the Coastal Institute.

The University of Rhode Island's Coastal Institute went though the most rigorous USDA feasibility review, including a peer review. Its funding has been approved step by step in a painfully rigorous appropriations process that began in the 1980's.

Tom was there every step of the way, providing information, drafting testimony, and helping me to pave the way for approval.

As I advised Congress, using information that Tom polished with my staff, the primary mission of the Coastal Institute will be to carry out research and analyze policies to better enable society to manage its coastal resources wisely.

In Tom's words:

> The strength of the Coastal Institute will be multidisciplinary teams addressing complex problems in a holistic manner. The Institute will take advantage of the information superhighway and long distance interactive communication.

The Rhode Island-funded half of the Coastal Institute facilities are nearing completion of URI's Narragansett Bay campus. The federally funded half are in the bid preparation stages for buildings there and on URI's Kingston campus.

I am deeply saddened that Tom did not live to see the completion of the Coastal Institute. It will be an institution that is unique in the world and will include, housed in the building on the Kingston campus, a policy simulation laboratory that also will be unique.

The private sector has been involved almost from the start, thanks to Tom, in the concept and design of the policy simulation laboratory. When the lab is up and running, the private sector is expected to be an active participant in its programs.

The policy simulation laboratory will represent, more than anything else at the Coastal Institute, the vision of Tom Weaver. He conceived it, helped design it, and looked forward to running it as a unique resource for educators, businessmen, and government officials.

The Coastal Institute represents an extraordinary mix of scientists and researchers from disparate academic disciplines. As I mentioned, it combines two of the greatest strengths of the university—which has an international reputation for both land grant and sea grant programs.

Anyone who knows of academic politics at the university level can imagine how difficult it must have been to forge that alliance. With help from countless friends and diplomatic guidance from colleagues, Tom's determination was one of the forces that made it happen.

I have focused on Tom's work on the Coastal Institute, simply because I shared his enthusiasm for the academic adventure, the scientific possibilities, and the very real benefits that it will provide. But he was a far more complex man.

My staff and I noticed that Tom, who always kept his eye on the goal, could be stunned by a well-deserved compliment. He was so busy driving toward his objective and encouraging others, that he never seemed to notice the excellence of his own hard work and leadership.

I know he will be missed by all who knew him or were touched by his teaching, but I hope everyone who uses the policy simulation laboratory will remember him. They will be there working side by side with his determined spirit.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACCOLADES TO LANE KIRKLAND

Mr. NUNN. Mr. President, I rise today to pay tribute to Joseph Lane Kirkland, who last summer announced he would not seek reelection as president of the AFL–CIO. Lane Kirkland has been a friend since I arrived in Washington in 1972. He and his wife, Irena, are a great partnership, a great team, and my wife Colleen and I have been very honored to be their friends.

Lane Kirkland is the son of the modern South. Born in 1922 in South Carolina, he is the son of a cotton merchant and was raised in the textile town of Camden. As a child in the 1930's, Lane Kirkland had classmates who lived in mill villages and worked as sweepers in the mills after school. Seeing the conditions under which they lived and worked convinced Lane that unions were needed to protect workers. He held that view and still holds that view. He certainly devoted his life to that view.

Like some of his childhood friends, Lane's wife, Irena, endured a painful, indeed, a traumatic and tragic ordeal early in her life. Irena survived the concentration camps of World War II, and when the Communists took over her native Czechoslovakia, she was imprisoned just before she escaped the country. Irena's firsthand experience of oppression and, indeed, terrible, terrible tragedy, deepened Lane Kirkland's already strong concern for the freedom of people all over the world. Irena has been a strong partner in the Kirklands' dedicated quest for freedom of people behind the Iron Curtain and indeed throughout the world.

Upon conclusion of high school, Lane was a student at Newberry College. He later graduated from the United States Merchant Marine Academy in 1942. During World War II, Lane served as a deck officer on a number of merchant marine vessels that transported ammunition for our troops on the front lines. After his service in the merchant marine, Lane enrolled in the Georgetown University School of Foreign Service.

Following his graduation from Georgetown in 1948, Lane began his work as a researcher for the American Federation of Labor and rose through the ranks serving as an assistant to the late George Meany, and was elected as Secretary-Treasurer of the AFL–CIO in 1969. Ten years later, he was elected president of the AFL–CIO, a post he held for the next 16 years.

During Lane's almost three decades in the highest ranks of labor leadership, he played a critical role in unifying what he termed the "House of Labor." Under his leadership, the International Brotherhood of Teamsters, the United States Automobile Workers, the International Longshore and Warehouseman's Union of the West Coast, and the United Mine Workers of America came back into the overall AFL–CIO fold.

Although I certainly did not vote for labor's legislative position as often as Lane would have liked, I always respected his views. He presented those views to Capitol Hill with courage, with conviction, and with honesty and integrity. Lane was tough, erudite and unwavering in his promotion of workers rights. Lane Kirkland never lost sight of the needs of America's workers, but his concern also included workers around the globe, particularly those behind the Iron Curtain. Lane Kirkland has been a stalwart advocate of human rights and he led the American labor movement by providing critical practical help at crucial moments.

In my view, Lane Kirkland has done as much as any living American to hold America to a steadfast course during the long cold war and to encourage freedom throughout Eastern Europe and throughout the world. Lane was the stalwart supporter of a strong national defense. He never wavered in his conviction that a strong America was essential not only to protect America but to promote freedom across the globe.

Mr. President, when I first came to the Senate, the defense budget, the whole idea of a strong national security, was under severe attack. We were coming out of the Vietnam War. We had been disillusioned by our participation in that conflict. The defense budget itself, indeed, America's national security, was under very severe scrutiny and attack. Lane Kirkland stood up many, many times, many times quietly but effectively making sure that his support for strong national security was known by people on Capitol Hill. That made a big, big difference in a period of time where our military forces needed strong voices and courageous voices.

We need only also recall Lane's effort in the early days of the Solidarity movement in Poland. As an editorial in last summer's Detroit News so accurately recounted:

> When the trade union Solidarity bravely emerged in the 1980s to fight the Polish communist regime, Mr. Kirkland and other labor officials smuggled money, printing presses and even electronic equipment to keep the fledgling anti-communist movement alive. . . . When it came time to confront the gravest security threat this country has ever faced, Mr. Kirkland did not flinch. He fought communism and supported fledgling democratic movements that contributed to the demise of many totalitarian regimes. For that effort, he deserves everyone's appreciation.

Mr. President, I certainly endorse that editorial.

Lane Kirkland truly deserves America's appreciation. He has devoted his life to improving the lives of all Americans and to extending our democratic values throughout the world. Lane Kirkland is an able and courageous individual whose leadership at the head of the labor movement will be sorely missed. I am confident that he will continue to make a very strong national security contribution as well as a contribution to the well-being of workers here in America and, indeed, people all over the world. I am confident that he and Irena will continue to serve their country, the workers of America, and the cause of freedom in whatever they undertake. I extend my sincere thanks to both the Kirklands, Lane and Irena, for their devotion to their fellow man, and I wish them the very best in all of their future activities.

THE UNLIMITED SAVINGS ALLOWANCE TAX PROPOSAL

Mr. NUNN. Mr. President, much attention has been paid in recent days to proposals for fundamental tax reform. By fundamental tax reform, I mean the replacement of the current tax on individual and business income with a better alternative.

A significant share of the debate over fundamental tax reform has occurred in Congress. Last year, Senator DOMENICI and I introduced, along with Senators KERREY and BENNETT, S. 722, the unlimited savings allowance tax, or the USA tax. Senator SHELBY and Congressman DICK ARMEY have introduced legislation proposing a flat rate tax. We have all heard considerable debate about that in the Presidential campaign. Senator LUGAR and Congressman ARCHER have argued for a national sales tax. Other proposals, perhaps variations on these ideas, will appear in the coming months.

If we are to have fundamental reform, this sort of congressional debate and activity is absolutely necessary—necessary, but not sufficient. The American people must be involved in this discussion, and the sooner the better. They must decide this matter in the long run because they and their children will live with the results.

None of us can be absolutely certain what our fellow Americans would choose if fully aware of the various tax reform proposals now before the Congress. Not enough debate has occurred for that awareness to take place throughout our country, and certainly there has not been enough publicity

VOL
142
PT
6
AP
15
—
24
1996
UMI

giving the details and analyses of these various proposals. It may be that after inspecting alternative ideas, in spite of being frustrated with the existing Tax Code, Americans may decide to stick with the current tax regime regardless of its serious faults. I hope not.

But whatever the decision, one must be made. Public apathy and its close relative, public cynicism, are not appropriate to the challenge of fundamental tax reform, which I, for one, believe is essential for the Nation.

If citizens are to make a reasoned judgment about the merits of various proposals, they must have recourse to a set of constant standards upon which to rely. This is the only commonsense approach that is possible and effective, and it applies to the evaluation of tax reform proposals even more than to other areas.

When the summer Olympics comes to Atlanta this year, athletes from all over the world will be competing against each other and against the record book. It would really not matter if, say, the pole vault event were measured in feet or in meters, provided the standard of measurement is consistently applied, and applied to all. But an athlete would have every right to cry foul or unfair if his pole vaults were measured in meters while the vaults of his rivals were measured in feet. The standard has to be the same. That is how you determine the best.

So it is with tax reform. If the American people are to evaluate the varying proposals that have been presented, they need us to talk with them about our ideas in a way that makes those ideas readily comparable. If proponents of reform and the media covering this debate do not do that, then citizens will be trying to compare apples with oranges, rather than apples with apples. I am afraid that is what has occurred thus far in this debate.

Let me offer several examples about what I mean.

First, for purposes of fair comparison, all tax reform proposals should be designed to raise the same amount of money. That amount should equal what is now raised by the part of the Tax Code that reformers want to replace. In other words, all the proposals should be revenue neutral compared to the current code.

This is an important discipline. Indeed, it is a very critical discipline. Low rates are attractive. Accordingly, some reformers assume heroic cuts in Federal spending and Federal tax requirements when they calculate their proposed tax rates. By doing so, they can present proposals with rock-bottom rates. If one proposal is going to have that advantage, then every one should have that. Why not propose a 10-percent flat rate instead of a 17-percent?

It is easy to see how we would have debate that completely obscures and, I think, brings no clarity to the issue if we do not have the same rules. This strategy is like selling a suit three times too small on the assumption that the customer will lose 30 pounds. Maybe the diet will work, but if it does not, or even if it is not quite as successful as hoped, the suit will not fit and the customer will be unhappy.

All of us believe that our proposals will accelerate economic growth and the standard of living of the American people, or we would not be promoting fundamental change. But if the proponents of one plan are permitted to use dynamic estimates even in their debate and presentations to the public, and the resulting lower tax rates, while other areas use conventional estimates and the result is higher tax rates, then this is not real debate. Rather, it is an exercise in creative arithmetic.

I have long worked for reductions in Federal spending. I hope the current budgetary impasse can be broken. We can and we should put the Nation on a path toward a balanced budget. But this process, as I view it, must be separated from tax reform. It is imprudent to model a tax reform plan based on rosy revenue assumptions that have yet to be put into place.

There is also the matter of what share of the tax should be collected from individuals and what share should be collected from businesses. I believe that all tax reform proposals should be modeled to collect from business and individual revenues in the same proportion as what the current code extracts from both.

There is nothing magical about that proportion. From an apples-to-apples perspective, however, we must guard against the temptation, in modeling tax reform proposals, to shift the tax burden from individuals to businesses, or vice versa, in order to play shell games with the rates. You can make a tax proposal sound very attractive if you lower the individual rates dramatically and increase the rates on business. But that, in my view, unless it is clearly spelled out as to why you are doing it and what the philosophy is and why that is going to improve the lives of the American people, it makes no sense.

Just as all the tax reform proposals should be revenue neutral, so too should they provide enough detail to allow people a fair chance to assess them in their entirety. Architects of fundamental tax reform plans need not draw up a complete set of blueprints with every single detail. The goal is to furnish enough of the foundation and framework to permit citizens to understand how the entire structure would function and to suggest ideas for its improvement.

Often when a proposal seems simple in concept, it does so because its advocates have not explained how it would apply to the many economic transactions that occur every day in our very complicated and complex economy.

Transition issues are a good illustration. Replacing much of the current code with an alternative system will entail more than just a one-time transition cost. Over many years and using after-tax dollars, Americans have amassed trillions of dollars in savings. Businesses have invested trillions of dollars in plant and equipment. That has already been done.

If and when we move to a new tax system, what will happen to that savings and investment? Some tax reformers are silent on that issue. Does their silence mean that senior citizens, our best savers, will find their savings taxed yet again under the new regime? Suppose somebody saved all of their lives and they have $100,000 in liquid assets, and they are in their golden years and plan to retire. If you pass a 20-percent sales tax and do not have a fundamental transition, then you have said to that senior citizen, "You have $100,000 which you saved all your life, and you paid taxes on it. These are after-tax dollars, but now, as you spend that money, we are going to levy a 20-percent tax on everything you spend in the latter years of your life." Does anybody really believe that is fair? Yet, those matters have not yet been discussed by many of the proponents of some of the plans.

Will businesses that invested in productivity-enhancing equipment be penalized for their foresight because they will be unable to amortize fully these investments? Is that the way we want to increase new productivity, by penalizing previous modernization efforts for productivity that have been made without a new code?

When Senator DOMENICI and I drafted our USA tax proposal, we devoted much of our attention to solving the transition problems. I do not claim we have solved every one of them, but we have gone a long, long way. Under the USA tax, pre-transition savings would not be taxed and businesses would be given an opportunity to write off their previous investments.

Proponents of other reform plans have criticized the USA tax's transition rules as overly complicated. That is easy to do if you do not have any in your own proposal, and if you have not thought about the results of not having any. Perhaps so; we welcome any suggestions for improvement. But, to use an old poker expression, you can't beat something with nothing. Proposals for fundamental tax reform that do not address transition are not simple—they are simplistic because they are not complete. They have avoided the hard questions and the hard work which are essential for meaningful tax reform.

Transition is only one of the many details that require elaboration. Farmers must know how tax reform proposals will treat cooperatives. Bankers and insurance companies will ask how financial and service organizations are to be taxed. When you give them an answer and you have not really thought about that, and you say, "Well, we will have to have a transition rule," that means your proposal is going to get more complicated and more complex. That is inevitable. But when you have not thought about these issues, it makes comparisons for the public—and even for the news media people who follow it on a regular basis—almost impossible.

Wage earners will wonder if fundamental tax reform will address the very regressive payroll tax, which is one of our most regressive taxes and is one of the reasons why our American average working person has been hit so hard in the 1980's and even in the 1990's while people get up and talk about the overall rates having come down. Yes, income tax rates have come down. Of course, they came back up again 2 years ago. But they have come down substantially when measured over the last 10 or 12 years—very substantially. But guess what has happened during the same time? The Social Security tax, which has more effect on many of our working people making lower incomes, that tax rate has gone up dramatically, and, therefore, many working people, during the Reagan years where everybody talked about taxes going down, many working people have seen their taxes go up.

Wage earners will not be the only ones who ask about that. There is not a small business person in America who is not vitally interested in the same issue because the payroll taxes for small businesses have also gone up dramatically in the last 10 or 15 years.

Advocates of fundamental tax reform must address these and many more matters openly and early-on. The pass-it-now-and-fix-it-later philosophy of tax legislation will not work. A lack of candor at the beginning of the process invites precisely the public cynicism that now surrounds the current Tax Code.

This issue of candor and thoroughness brings me to the final and most important apples-to-apples issue. Those of us calling for fundamental change must explain why we think the Nation should embark upon such a large project. Only by knowing our motives and why we think change needs to be made can citizens evaluate fairly whether our plans are likely to succeed.

My own sense is that the authors of the various tax reform plans have many goals in common. Those goals have little to do with tax rates and even allowable deductions. I am not saying tax rates and deductions are unimportant. They are of course important. But changing the tax rates or altering the number of deductions does not require fundamental reform.

In 1986, Congress lowered tax rates and eliminated certain deductions without replacing the Tax Code. If it so chooses, Congress could today enact a flat or single rate individual income tax with minimal tinkering with the rest of the tax system. As a matter of fact, while Senator DOMENICI and I have offered a fundamental tax reform plan with a progressive rate structure, we could easily adapt our proposal to a flat rate system if citizens so demanded without changing our essential purpose.

Mr. President, the debate on flat tax loses a great deal in terms of the understanding that is required. You could take the current Tax Code with all of its headaches, with all of its deductions, with all of its complexities, with all of its perceived unfairness, and you could apply a national flat income tax rate to the current code. It is just a matter of arithmetic. You take the amount you need to produce a break-even with the current revenue today, you take the rate that would be required to apply to the taxable income, and you apply it. Instead of having four, five, or six individual income tax rates, you could have one. That could be done in just a few hours. You could have a national flat tax rate with the current code. But you would not have solved the problem that is frustrating the American people in terms of complexity, unfairness, and the problem that bothers so many of us because you would not have changed the basic disincentives to save and invest which are required if we are going to increase productivity and if we are going to increase the average income for our American citizens.

Our essential purpose is to change what we tax. This is true for the flat tax and the national sales tax as well as the USA tax and all the other proposals based on these models.

All of these plans aim to correct the bias in the current code against saving and investment. Marginal changes in the Tax Code cannot eliminate that bias. It is ingrained in our current system. If you want to remove the bias in the tax base, you have to replace large parts of the code.

What do we mean by bias some ask? Here is a simple example. If you take $200 and buy a television set, you are not again taxed for whatever enjoyment or enlightenment you may receive by watching it. If, however, you take that $200 and put it in a college savings account for your children to go to school, all the interest you earn is subject to tax.

The act of consumption—using the $200 to purchase a television set—is taxed once, as income. The act of saving—putting the $200 away for future education expenses—is taxed twice. The original $200 has already been taxed as income. The returns to that $200, in this case, interest, is taxed again. Saving $200 for tomorrow is more expensive than consuming it today.

So we have an inherent bias built into our tax system that tilts us toward consumption and away from savings and, therefore, away from investment, productivity, and a higher growth standard with higher income.

Millions of middle-class Americans own stock or shares in mutual funds that own stock. They rely on this saving for retirement, health care, and other future expenses.

I wonder if most realize how double taxation reduces the return on their investments. Because our tax law regards corporations and their investors as separate entities, it taxes corporate earnings twice: once as corporate income and again as dividends received by individuals. In contrast, because corporations may deduct interest payments if they borrow, holders of corporate bonds are not penalized by double taxation.

The current Tax Code says to citizens: faced with a choice between buying today or saving so that you can buy more tomorrow, then you should buy now. It says to corporations: faced with the choice of building a strong foundation through equity financing or borrowing to the hilt, borrow to the hilt.

This bias against saving is a bias against our future. We see its crippling influences in our economic data. The saving rate in this country is at historically low levels. Because our savings are low, our investment has been correspondingly low. Continued low saving inescapably means continued low investment. Low levels of investment mean low productivity gains. Low productivity gains means stagnant wages and, therefore, little or no growth in our standard of living. We have been on this treadmill for long enough—too long.

All of the major proposals for fundamental tax reform—the national sales tax, the flat tax, and the USA tax of Senator DOMENICI and myself—would rid the Tax Code of its bias against saving. That is their central, core characteristic. While we debate the differences, this core characteristic should not be overlooked. It is this focus upon the tax base that distinguishes fundamental reform from the incremental changes of previous years.

Although many of the details of the national sales tax proposal remain sketchy, its basic mechanism is familiar to most Americans. The sales tax is paid on purchases. Saving remains untaxed until spent. In theory, every dollar of wages or salary is taxed once and only once at the point of consumption.

The flat tax would be administered in much the same way as the current income tax. The key difference is that capital income—that is, money earned

VOL
142
PT
6
AP
15
—
24
1996
UMI

as the result of saving and investment—is not taxed at the individual level.

For example, citizens would not be taxed on interest earned on a bank savings account. Nor would they be taxed on income from dividends, interest on corporate paper, or capital gains. Corporate income would still be taxed at the corporate level; by not taxing it again at the individual level there would be no double taxation. While I certainly understand the theory behind this proposal, I would have a hard time ever explaining why the wealthy owner of a yacht living off of investment income would have to pull up to shore to let his captain off to file an income tax return each April 15 while the owner remains on-board watching television and playing cards.

That is a burden I do not want to assume. So the theory has validity, but the application seems to be, and I think would be perceived to be, very unfair.

Senator DOMENICI and I took another tack. Like the flat tax, our USA tax proposal is administratively similar to the current income tax. Some people, of course, do not like that. But our method for relieving the current code's burden on savings and investment departs in considerable and very significant degree from the flat-tax approach.

A major, perhaps insuperable, problem with the flat tax is the failure to treat all income alike. An individual with only wage income would file a tax return while his neighbor, with only capital income, would not.

Now, it is true that the capital income would already have been taxed at the business level. Dividends, for example, would have been taxed at the business level as corporate income, but I am afraid that would be far from obvious to the wage-earning neighbor. Such a lack of clarity would inevitably lead to a lack of public confidence.

When we designed the USA tax, we wanted to make the proposal as understandable and fair as possible so we chose to avoid the complex and confusing distinction between wage and capital income.

The USA tax is indifferent to the source of income. It is concerned with how the income is used. In every taxable year, the amount of money a taxpayer chooses to save would not be taxed. The taxpayer would be taxed only on the amount he or she spent during the year. This removes the double taxation of savings. Note, too, that no dollar ever escapes taxation. Over a lifetime, every dollar would be taxed once and only once in the year it was spent.

The USA tax grants to all America a power that today is reserved only for the wealthy: the ability to lower their tax obligations. Exercising that power does not require an army of tax lawyers to ferret out loopholes in the tax system. Merely by saving, taxpayers can reduce how much of their wages is subject to tax in any given year.

Under the USA tax, everyone will have the tools to take greater economic responsibility for themselves and for their families. At a time when we must moderate the growth of entitlement programs, this sort of change, I believe, is absolutely essential.

I know that many of us in America do not think we can afford to save. My response is that we have no real choice. Savings must become a greater priority in every household budget, just as it must in the Federal budget by lowering the deficit. It is Government's responsibility to help our citizens by providing a tax code that does not penalize them when they try to do what is best for their future and for their children's future.

Mr. President, I believe the U.S.A. tax offers a superior path to fundamental tax reform. Its savings deduction is understandable and equitable. Those who take the time to acquaint themselves with our legislation—which we tried to write in plain English in the hope that Americans will read it—will also see how the U.S.A. tax would simplify both the business and individual tax; encourage American exports by offering a tax rebate on sales or exports from this country; it would include vital deductions for education, charitable giving and retain the home mortgage interest deduction; and it would provide taxpayers and businesses with a credit for the payroll tax they must pay, which is enormously important to our small business community and, most of all, to our average working people.

Ultimately, however, neither Senator DOMENICI nor I see ourselves in some sort of fundamental win-or-lose conflict with advocates of the flat tax or a national sales tax. Fundamental tax reform must be a collaborative process. There are tremendous forces in favor of keeping the Tax Code as it is. They are already well along in their job of scuttling change. We assist these defendants of the status quo when we focus only on our differences and neglect what we have in common.

For all the conferences, column inches, research reports, and speeches devoted to fundamental tax reform over the last year or so, the truth of it is that those of us who want fundamental change stand at the beginning of a very long road. We must begin to travel that road together. We have to speak with the American people regarding what is really at stake in fundamental reform. We must solicit their views rather than stir up their passions. We must challenge our critics to help improve our work, and when we offer proposals for reform, we must employ similar revenue estimates and provide a comparable degree of detail about what we wish to do. We must begin to make apples-to-apples comparisons if people are going to be able to understand the debate and participate in it. Then and only then can the people of America decide, and the people will have to decide in the long run.

As we enter the Presidential election cycle, it is evident that the American people are restive and uncertain about our collective future. They wonder about which direction our country should take.

At another time of great national uncertainty, Abraham Lincoln offered some very practical advice. Quoting him, "If we could first know where we are and whither we are tending, we could then better judge what to do and how to do it."

Those of us who believe that fundamental changes in the Tax Code are one important element, a very important element, in getting the country's house in order should heed Lincoln's advice. Let us work together to encourage a public understanding of where we are economically and how our current Tax Code constrains us and prevents us from fulfilling the American dream of a better life for all of our citizens. If we can do that, we may safely leave it to the public to judge what to do and how to do it.

Mr. President, I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, before I proceed with my remarks, let me just offer my thanks and appreciation to my dear friend and colleague from Georgia for the statement he has made, for the leadership he has given on this issue. He is known best, I suppose, for the extraordinary leadership he has given on matters of national security now for more than two decades in the Senate, but he has been a courageous leader in other areas, including this one of tax reform. It reminds us about why we will miss him next year and why I hope he will continue to push us in the direction of reform from the private sector. I thank my friend for his superb words.

Mr. NUNN. I thank the Senator.

COMMERCE SECRETARY RONALD H. BROWN

Mr. LIEBERMAN. Mr. President, as we return to session today it is spring in Washington. The blossoms are out. It is a beautiful time, and yet I am sure the experience I had in flying back with my family yesterday was similar to what others returning yesterday experienced: It brought home the terrible tragedy that occurred while we were away—the plane that went down in Croatia carrying Secretary of Commerce Ron Brown and so many others. It filled me with a sense of loss again yesterday and today.

I am proud that I had the chance to work with Ron Brown during his all too short tenure at the Commerce Department. I enjoyed working with Ron Brown at various stages of his career—as an attorney, as a leading Democratic activist, as chairman of the Democratic National Committee, and most closely and, I think, most creatively in these last 3 years as Secretary of Commerce. I am honored that I can call him a friend. We are all going to miss him—it's painful to think that my staff and I won't have the sheer fun of working with him again—and the country will miss him even more. I have the greatest respect for him, as have so many others, as a wonderful, warm human being and as a leader who had a clear-eyed vision of how to make our people and our country better.

You never think of a man in the prime of life not being here. In a way, it is death that forces you to appreciate even more the great skills and the service that Ron Brown, displayed for our benefit.

Ron Brown truly loved the job he had at Commerce. He always managed to fit himself well to the tasks he undertook, wherever he was, but this job really did fit him like a glove, from the moment he took it. He understood as soon as he started the job that the mission of the Department of Commerce is to promote economic growth, that it is job creation. He understood from his own experience the wide-open nature of our market system and that the market and its upward mobility was the unique way America had for creating opportunity for its citizens.

Ron Brown never saw the business community as an enemy, he saw it as an ally in expanding opportunity, and he threw himself into this job with a single-mindedness and joyous commitment to moving the system, the economic system, so that it would deliver for all Americans.

Against this background, I want to talk about two efforts he spent his time on at Commerce that I think were critical. I believe that they were truly extraordinary, and set a new performance standard for our Government's relationship with the private sector.

EXPORTS

The first has been written about extensively in the days since his death, and even over the preceding 3 years: The incredible export promotion operation he put together at Commerce. But I do not think that enough has been said about why it was so important.

Until the mid-1970's, the United States economy was on top of the world, dominating it. While our economic rivals, led particularly by Japan, were figuring out that selling advanced manufactured goods for export was the key to economic growth and raising the living standards of people back home, our Government was coasting on our success. We were not paying attention to the emerging economic message.

Other countries built export promotion machines—and they were machines—through the most intimate and comprehensive alliances between business and government, the private sector and the public sector. But our Government paid too little attention to the need to build these alliances. American businesses—and I heard this repeatedly from business executives in Connecticut—would go abroad to compete, and they would see what the business-government alliances of our competitors were doing for export promotion.

I remember being told a story by the executive of one of the companies in Connecticut; his firm was competing against two other companies, one from Asia and one from Europe, for a very large order in a foreign country. He went over there to participate in simultaneous bidding among the three business competitors. This company from Connecticut, a big company, had its executives and lawyers in one room. But in the other two rooms, the executives and representatives of the Asian company and of the European company were teamed up with a representatives of the Asian government and of the European government, respectively. The government representatives were combining with their companies to enhance their firms' offers. It made the contest unequal. The Connecticut company did not get the contract. We lost an opportunity and jobs.

The State Department, I am afraid, continued to treat American business as if it had to be held at arm's length. Too many administrations went along with that distant attitude. Preoccupied with the end of the cold war and retaining the political alliances required for it, the State Department embraced a traditional and outmoded notion of what foreign policy was all about, of what mattered to people here at home. It missed what was happening in both the world economy and the American economy, which has been a grave error. It made export promotion a low priority, while our rivals made it the top priority. The State Department treated U.S. business like pariahs, it was "Upstairs-Downstairs"—trade was beneath our diplomatic priorities.

This hasn't ended. A Business Week editorial this week notes that, "The U.S. foreign policy and security elite believe security should be divorced from economic issues. Some go so far as to suggest that providing security is a perk of global power." It concludes, "We don't. American workers can't be expected to suffer economically to protect [other nations] from one another." Ron Brown shared this view, and he was the new momentum for bringing our economy into foreign relations. The President was his staunch ally on this effort, and helped him force change in this area.

Ron Brown, working with President Clinton, understood that we had to create a central position in our foreign policy for our economic policy. Export promotion had to be at the core of our international outreach. It was not a bad thing, but, in fact, it was a very good thing, if the President visited a foreign country with the Secretary of Commerce and the issues they discussed with the leadership of that foreign country included buying American goods.

I come from a very export-oriented State. In fact, it has the highest level of exports per capita of any State in the country. We know that exports create jobs, high-paying manufacturing jobs, and that each manufacturing job has an economic multiplier effect, creating a chain of goods and services behind it, longer by far than other types of jobs.

The sad fact is that we have been disinvesting in manufacturing since the mid-1970s, even though we need these kinds of jobs more than ever to develop a strong economy and a better standard of living for our people which will continue America as the land of opportunity. Ron Brown, as Secretary of Commerce, understood this from the beginning of his service.

When he began his export promotion effort, within days of arriving at the Commerce Department, the leaders of the American business community that I spoke to—and I particularly heard this from heads of firms in Connecticut—were in disbelief. Someone was finally paying attention to their priorities. Somebody was finally trying to help them pull together an American governmental countermovement to the vast efforts rival countries and their businesses had been mounting for decades, to take jobs and exports away from us. Finally, someone with real power, the Secretary of Commerce, understood the problem. At the same time, in the beginning, many in the business community were skeptical whether Ron Brown could make all this happen.

But he proved them wrong, to their delight. He was great at this. Trained as a lawyer and always a superb advocate, he used those skills on behalf of American businesses throughout the world. He knew how to run campaigns, and he ran this export operation like a campaign, which is exactly what it is. Nobody had ever done this before in the way that Secretary Brown did, and our country has never benefited as much before as we did from his service.

He even set up, in the Commerce Department, something like a campaign war room, where he would get reports on economic opportunities opening up around the world to sell American products and create American jobs—an early warning system. Then the letters

VOL
142
PT
6
AP
15
—
24
1996
UMI

and the phone calls would start flying—Ron Brown was a phone wizard, it was a technology invented for him, he was forever reaching out to touch some business leader or a head of State abroad. He followed those calls with visits, such as the one he was on when his life ended. He was so enormously skilled, he was so hard working, he so absolutely and irresistibly likable, he had such a great smiling charm, such sharp intelligence, he was such fun, he had such energy.

The customers loved his performance. They all knew he spoke directly to and for the President of the United States, and that he would relay their messages back to the White House. Even our friends in Japan, who have systematically been denying entry for too many United States products for too long, liked him, as he worked very hard at breaking down their barriers.

U.S. business strongly appreciated his commitment to them, his accomplishments. He was a terrific political operator in the very best sense of this phrase—he was mobilizing the political system to serve the public's needs. The business community understood this and respected it deeply—I've heard this again and again from U.S. companies. Ron Brown was a new kind of life force to them and they had great affection for him.

Ron Brown and his team's export success was only beginning when he left us, because the historic changes he was starting are a long-term project. But this new direction was a very important accomplishment for America. A major job for Secretaries of Commerce from now on will be to promote U.S. goods, not just in the offhanded, random way of the past, but with all the force of Ron Brown's campaigns, or they will be judged failures. From now on, the Federal Government is going to have to get down and get to work with business selling our economy. It's about time, but it took Ron Brown to show us how to do it. Ron Brown has set an entirely new standard for the country by which all that come after him will be judged.

INNOVATION

A second remarkable thing he did as Commerce Secretary was to fight for innovation. This has been almost nowhere mentioned in the press, and it is not well understood by the public or the fourth estate or Congress. But Ron Brown understood that for the American dream of opportunity to be sustained for a new generation, a higher level of economic growth was crucial. In addition to exports, he concentrated on another ingredient of that strategy, innovation. Even before he was sworn in as Commerce Secretary, his friend George Fisher, then president of Motorola and now of Kodak, invited him to speak to a leading group of business thinkers, the Council on Competitiveness. Ron Brown set out in that speech an aggressive agenda of technology development and promotion. He recognized that innovation has been the great American competitive advantage for generations, that it is now under attack as our competitors expand, and that it has to be renewed if we are going to keep expanding our economy. Economists estimate that technology development—coupled with a technologically trained work force—has accounted for 80 percent of the increase in United States productivity and wealth for most of this century.

INNOVATION IS OUR BREAD AND BUTTER.

Brown understood that since the Second World War, the Federal Government has backed most of the long term research and development and applied R&D that has gone on in the U.S., while business focused on shorter term product development. That is an economic reality—the risk and cost of R&D means that the private sector must focus on what it can raise capital for—shorter term products. It's a classic market failure problem, and until recently Congress on a bipartisan basis has supported the need for governmental support of innovation. Brown picked up a series of small technology and technology extension programs that had been quietly started at Commerce in previous administrations, and made them a central focus. With an able team around him, he made the Commerce Department the administration's leader in civilian technology development, and supported a new system of cooperative R&D development with business, requiring business to match Federal funding to ensure sounder Government R&D investments and leveraging Federal research dollars. He also helped expand a new system of manufacturing extension centers around the country, now in over 30 States, to bring advanced manufacturing techniques and technology to smaller and mid-sized manufacturers desperately in need of it to be able to compete with global competitors. In a time of budget cutting, he successfully found the resources to build these programs. He was also head of the administration's Information Infrastructure task force, formulating policies on the new information highway and how to expand our population's access to it.

He was both an innovator and an innovation supporter, and was moving quickly toward making the Commerce Department what it long should have been: A department for trade and technology, where each of these two sides of the department provides synergy for the other. It was becoming an agency which provided governmental leadership in these two areas in support of the private sector, not trying to dominate it, and much stronger because of this.

Ron Brown's clear success, of course, led to the usual Washington political reaction against signs of creativity. Unfortunately, for too much of this past year he had to spend time deftly deflecting attacks on the existence of the Commerce Department. But he had helped make it into an instrument for growth and job creation, and his efforts had strong support among business and work force constituencies. He had begun the process to put the Commerce Department on the map as a unique American engine to support opportunity and growth in America. He had a great dream for his agency, and I respect that dream very much. I, for one, pledge to him that I am not going to sit here in this body and let it get dismantled.

BARRIERS

I have discussed his innovations at Commerce, but I want to raise an additional subject. Much was said in the aftermath of Ron Brown's tragic death about his role as a bridge builder. I say he was also a barrier breaker. I think sometimes about Chuck Yeager and how he felt piloting his X-1 rocket plane when he first broke the sound barrier. Ron Brown was a great barrier-breaker, too, our first African-American to achieve many things. While Chuck Yeager's courage enabled him to break his barrier, the sound barrier remained and had to be broken again by countless other pilots. Ron Brown's barrier-breaking was different. It also required courage, but he had a way of breaking barriers that began to erase them. He would get through a barrier in his wonderful, excited, buoyant way, and he would make everyone who watched him think, there goes another one, and why didn't we do that long ago? When Ron Brown became Commerce Secretary, many were expecting the President to name an experienced business leader, and were disappointed when he named a friend and politician. Ron Brown's outstanding performance as Commerce Secretary, and the depth of support he built in the business community, was unlike anything any Commerce Secretary has been able to do before. We watched and thought, there he goes through another barrier, the biggest he had ever faced.

In so doing, Ron Brown broke an even bigger barrier. America has been blessed with a long line of outstanding African-American leaders. Many of those leaders have been seen as leaders of the African-American community. Ron Brown was intensely loyal to his African-American roots, but, like Colin Powell, he was also a national leader, an American leader who was clearly understood, in his great energetic way, to be battling for the well-being of every American.

In his struggle to save the Commerce Department over the last year, Ron Brown often compared the abolition of the Department to unilateral disarmament in the international economic wars of today. In closing, I note that all around our city of Washington are

statues of our great military heros. Now we are engaged in a different kind of global conflict: an economic global conflict. If we ever start building statues for those who have served courageously and with great success in this economic battle for the opportunity and the well-being of our people, we ought to erect a statue to Ron Brown as one of the finest of those leaders.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The PRESIDING OFFICER (Mr. STEVENS). Under the previous order, the clerk will report calendar No. 361, S. 1664.

The assistant legislative clerk read as follows:

> A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The acting majority leader.

Mr. LOTT. Mr. President, I ask unanimous consent that no amendment relative to the minimum wage be in order to the immigration bill during today's session of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I yield the floor, Mr. President.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I want to thank the chairman of the Judiciary Committee, Senator HATCH, for his superb work in this area. I have not always agreed with my good friend from Utah with regard to immigration issues, legal and illegal. And I say, too, to his fine staff after some early misunderstandings, they have certainly been excellent to work with. I appreciate that. To Senator Strom THURMOND who was chairman when I started this rather unique work, always helpful, always supportive, always there; to my old friend companion and colleague from Massachusetts, Senator KENNEDY, who served as chairman of the committee when I came here in 1979, who then served as the ranking member, then as chairman, then as ranking member, and it certainly is much more fun having him as ranking member than as chairman! I have thoroughly enjoyed the experience and have the greatest regard personally for him. We have worked together on these issues doggedly and persistently for 17 years.

It is a case of, in some ways, new players on an old field of battle. During my 17½ years in the Senate, I have literally spent weeks on the floor of this historic Chamber debating immigration reform legislation. Whether it was legislation to provide legalization for long-term illegals or to prohibit the knowing employment of undocumented workers, legislation I sponsored and which this body debated in the mid-eighties, or whether it was legislation Senator KENNEDY and I sponsored to increase immigration by nearly 40 percent in 1990, it has always been a terribly difficult issue for all the Members of this body. We know that no matter how we vote on immigration issues, we are going to assuredly upset and create anguish among segments of our constituencies.

But immigration policy is a critically important national issue, and Congress must deal with it. It is not for the States to deal with.

Immigration accounts for 40 percent, or more, of our population growth, which pleases some and distresses others.

Immigrants come here and work hard and they work cheap, which pleases some and distresses others.

Immigrants bring cultural diversity, which pleases some and distresses others.

And that is the nature of the immigration policy debate. Powerful, powerful forces tear at the country.

There are some members of our society who believe immigration is an unalloyed good. They consider it maybe something like good luck; you simply cannot have too much.

Other segments of the population believe that immigration should be severely restricted, if not eliminated altogether. They see America changing in ways that they particularly—to them—do not wish to see.

I deeply believe that immigration is good, it is good for America, but I firmly believe that this is not an eternally inevitable result. It depends upon those of us in the Congress and in the other branches of Government to make it work. Immigration policy must be designed and administered to promote the national interest or it may not have that effect.

So Congress created the U.S. Commission on Immigration Reform in the 1990 act. The Commission was chaired by that remarkable woman, Barbara Jordan, a powerfully articulate and splendid woman of such great good common sense and civility and intelligence.

That Commission is composed of a truly impressive group of immigration experts. Lawrence Fuchs, who was the executive director of the Select Commission on Immigration when I started in this field, along with Senator KENNEDY, Senator Mathias, Senator DeConcini on that select commission. The other names are people who are deeply respected in the United States: Michael Teitelbaum, Richard Estrada, Robert Charles Hill, Nelson Merced, Harold Ezell, Warren Leiden, and Bruce Morrison, a former Congressman.

That Commission had labored for more than 4 years, holding a very large number of hearings and consultations around the United States of America, and issuing two reports—two reports—one on controlling illegal immigration and one on reforming legal immigration.

I have heard some people in the debate and in the country say, "Where did all of these disturbing ideas come from? Where did this issue come from, this discussion about the preference system and this one about chain migration?" and about a verification system, as if it were all some scheme that was presented by some of the fringe elements of American society. Each and every one of the proposals in each and every one of the bills presented has come from or out of the Select Commission on Immigration and Refugee Policy or the Jordan Commission.

They are not disturbing, they are not sinister; they are real. They come from a group of people that I have just described who I think you could surely say are very mainstream Americans. They are from both sides of the issue.

The Commission labored and found that—and I quote—"a properly regulated system of legal immigration is in the national interest of the United States." The Commission also noted, however, that there are negative impacts. It proposed a reduction—a reduction—in the total level of immigration. That is who is suggesting the reduction.

The Jordan Commission strongly recommended that the family immigration visas go to those who are of the highest priority in order to promote a strong and intact "nuclear family." A "nuclear family"—would that we could have a better description than "nuclear family"—but it is the one we think of as the tight-knit family; the spouse and minor children. Surely we want to be certain that we unite those people, but that we also have measures adopted to ensure that family reunification does not create financial burdens on the taxpayers of this country.

I thoroughly support those findings and recommendations. I have tried to follow them very carefully and very honestly in the legislation that I have sponsored.

Regarding the issue of control of illegal immigration, the Commission reported—and I quote:

> The credibility of immigration policy can be measured by a simple yardstick; people who should get in, do get in—people who should not get in, are kept out—and people who are judged deportable are required to leave.

That seems pretty sensible, pretty darn clear, actually. Pretty Jordan-like, I think.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. President, I am pleased to report that the committee bill will measure up very well by that standard, by that yardstick. S. 1664 will provide additional enforcement personnel and detention facilities. It will authorize a series of pilot projects on systems to verify eligibility to be employed and to receive public assistance. It will also make improvements in both birth certificates and drivers licenses in order to reduce fraud.

The bill will provide additional incentives, additional investigative authority, and heavier penalties for document fraud and alien smuggling. It will streamline exclusion and deportation procedures. It will establish special procedures to expedite the removal of criminal aliens. There are additional enforcement-related provisions. It is a good illegal immigration control bill. I urge my colleagues to support it.

The committee has also reported a legal immigration reform bill which, I regret to say, does not carry out the major recommendations of the Commission on Immigration Reform chaired by Barbara Jordan and does very little to address the problems and weaknesses in our present legal immigration policy. There might have been some great expectations of that at one time.

I am reminded of a story of my good friend Senator HOWELL HEFLIN, who is certainly wont to tell a story or two from time to time, especially the "Notie" Hawkins variety stories and others that I am sure we have all heard from time to time and that we never tire of. At least I do not. So one has to give credit when you have heard and retell a good story, but you only do that once. The second time you just do not say anything. And the third time you claim it for yourself.

So the story is that this attractive elderly couple, both of whose spouses had passed away, were on a long airline flight together, very long. They were sitting there enjoying visiting with each other. They were in their late seventies. They talked about their children and grandchildren and their interests and things that excited and spurred them both on to a full life. And they had dinner, and they visited some more. And after a highly convivial evening and long flight, they landed. The lady reached over and patted the gentleman on the knee and said, "You know, it has been wonderful. You remind me of my third husband." And he said, "How many have you had?" She replied sweetly, "Two." You can think about that one when you get home. But that is called great expectations.

That is what was there with regard to legal immigration reform, at least in accordance with what Barbara Jordan and her commission had reported to us.

Yet what we have here is something that will not solve our problems with regard to legal immigration. These are the most vexing and the most troubling results. These deficiencies are the ones that give rise to proposition 187, ladies and gentlemen. These are the omissions that will see proposition 187's come to life in every single State in the Union unless we "do something" at the Federal level. We are doing very little in the area of legal immigration and badly need changes there.

Then you want to observe the various proposals passed either incrementally or on immigration reform measures which allow States to deny or impose charges for elementary and secondary public education for illegal alien students. These will also be part of a very vexatious debate. Do we continue to give support to the illegal community and deny it to the American citizen community? That will be a good test. If you want to be sure that we provide various things to mothers who are here illegally, then where is the money coming from that offsets that? Who is paying for that? If you want to relieve in a compassionate way a sponsor from having to pay for the person they bring over here and we sometimes say we cannot do that—heavens no, for the fellow cannot afford that.

But, you see, ladies and gentlemen, you have to remember that you cannot bring an immigrant legally to the United States unless the sponsor agrees, and also the immigrant, that they will not become "a public charge." That has been on our books since 1882—1882.

This bill, these bills, tighten that singular requirement in an excellent way. We do say now that the affidavit of support has teeth and, indeed it does. That is a very excellent step. What we find in at least half a dozen or more States of our Union —and yet we just cannot say that is for six States alone to deal with; or that we do not need to do a national bill; no, that would be a true flight from reality. In half a dozen or more States, current high levels of immigration are perceived as causing, rightly or wrongly, some very serious social and governmental problems.

Do they take more out than they put in? Do they leave more in than they take out? Well, it depends on what side you are on. Do they pull their share? Do they really take the jobs Americans do not want, or with millions lesser employed in the United States, and having done a welfare reform bill, will there not be many people looking for work—all questions that will never go away, ever.

We are informed that in the California public school system subjects are taught in 100 different foreign languages. California must construct a new school building every day to keep up with immigrant student enrollment. It is not only illegal immigration, which is about 300,000 entries a year, but also our historically high level of legal immigration, about 1 million a year in the current years, that have given credence and impetus to the widespread view that immigration is out of control—perhaps even more tragically, beyond our control.

I do sincerely believe that if Congress fails to act to address these very real and reasonable concerns of the American people, there is a very strong possibility—and we have all been warned about this by the select commission, and by the Jordan Commission—we will lose our traditionally generous immigration policy. The American people will demand a halt to all immigration. They will not stand still for the Congress-knows-best approach, as some would have us take this route on this burning issue.

For these and other reasons, I will, at an appropriate time, offer an amendment to provide a modest, temporary reduction in legal immigration. It matters not one whit to me what the vote is on that, but we will vote on that issue. It will attempt to reduce immigration to a level approximately 10 percent below current level and hold it at that level for 5 years—a breathing space, if you will. For the first time in more than 50 years, there will be no increase in legal immigration over a 5-year period. At the end of the 5 years, the numbers and the priority system will return to exactly what they are under the present law—no change, back to business as usual.

During this 5-year breathing space, the visas will go first to the closest of family members of citizens of the United States of America. They will go first to citizens. Then they will go to the closest family members of permanent resident aliens, and then to other immigrants. Any that remain will fall down logically to the lowest priority of family immigrants. We can expect many amendments and several days of debate and much disagreement, but despite the emotion, fear, guilt, and racism that is involved in the immigration issue, we have always—historically, at least—had a good, clean, honest, civil debate on immigration in this body. I trust it will be no different this week.

Republicans will disagree among themselves, I can assure you. Democrats will disagree among themselves, I assure you. I will have serious disagreements with my friend TED KENNEDY, and my friend, Senator SPENCER ABRAHAM of Michigan, who is a fine addition to this body and adds greatly to the debate of this issue. This is not and never should be and never has been a partisan issue. Anyone taking it to that level is making a serious mistake. You will find that in the rollcall votes. There is no partisanship involved in immigration reform.

I want to commend the new members of the Judiciary Committee and the

subcommittee of both parties, Senators KYL, FEINSTEIN, ABRAHAM, DEWINE, FEINGOLD, and THOMPSON. They bring a special vigor, intelligence, energy, and passion to the game. I like that.

Just a couple of things, and then we will go forward and proceed with our work. I want everyone to be aware of the usual fare that will be presented as the menu is spread before the Senate in this debate. First, the Statue of Liberty—that will always be a rather thorough, impressive, rich debate, but we are not talking about the Statue of Liberty, because the words of Emma Lazarus, do not say on the base, "Send us everybody you have, legally or illegally." That is not what it says. We hear that. I hope the American people can hear that one and remember that we are seeing in this country groups of people who are in enclaves where they never learn or speak any other language. They are in New York, they are in San Francisco, they are in Los Angeles. We read about those things daily. That will not be improved by doing nothing.

Then we will hear—this is always a rich tapestry in itself—that we are all children and grandchildren of immigrants. We will all hear that. I can tell my story and everybody in this Chamber can tell theirs. We are not talking about that. We are not talking about populating a country and settling the West. We are talking about people in the United States who are brooding about illegals in their midst and show it in every poll, and then show it at the polls.

We had a man running for the Presidency of the United States who, perhaps if he were in the race, would pick up 17 to 20 percent of the vote based on a lashing out about immigration or a move toward xenophobia, just as has happened in Germany, with a person receiving 17 to 20 percent of the vote, or in France, with another man with such views garnering 17 percent to 20 percent of the vote. Those things are out there. There is no question about them being out there.

My grandfather came here from Holland. His parents died at the age of 6. He was orphaned. He was a ragamuffin in the streets of Chicago with a tin cup, as far as I can find. Every one of us can tell that kind of story. Then he went to work as a clerk for the railroad, and he went west. Horace Greeley was right, "Go West, young man." He did. He not only ended up working on the railroad, he ended up running and owning a coal mine in a little town named Kooi, WY—named after him. He was, in every sense, an American success. He died a very happy man after giving birth to my mother, and assuring the wonderful heritage I have. We can all tell those stories, and we can go on to the Irish relatives, the German relatives. All of us can tell these stories—the stories of persecution, the stories of horror, the stories of pogroms. Those are real. Those are stories of inspiration of which we can take—I think we shall call "judicial notice."

One other thing we should take judicial notice of, we are the most generous country on Earth. I have heard the phrase, "why, why would we turn inward? What are we doing?" What is American about that? Mr. President, we take more refugees in than all the rest of the world combined. We take in more immigrants than all of the rest of the world combined—combined. All immigrants, refugees, the whole spectrum.

Then we will see on the menu, passionate words about some national ID card, which has never escaped the menu, as far as I have ever known in my 17 years here. Some have played that card with a better look at a poker hand than any I can remember. I remember particularly a Congressman from California who was certainly vigorous in his pursuit of his feelings and the depth of his internalization of that. We have never talked about a national ID card in the entire time I have been working on this issue. I have put it in every single bill, that there would not be a national ID card, under no circumstances. Yet, I still hear it bandied about.

In fact, one group of worthies has even spread a curious little packet about which describes the Smith-Simpson bar code tattoo, which is certainly a grisly looking thing. But that chap must, I think, keep his day job, for he has wasted a lot of energy to try to put that kind of tilt on what we are trying to do.

We all know why employer sanctions did not work in the 1986 bill. Employer sanctions did not work because so many engaged into a cottage industry of making phony documents. We have employer sanctions but we did not want to put the burden on the employer. So we said, whatever document you are shown, the employer, cannot be responsible for the validity of it. So they just took them. I always love to explain my own here because it costs 100 bucks. We picked it up on the streets of Los Angeles. ALAN KOOI SIMPSON, Turlock, CA, a very distinguished person of less than hirsute appearance reflected here on the card. And here is my phony Social Security card. I do not know what other poor soul shares the same number with me—maybe none. But that is why nothing worked. That is why, in this bill, something will work.

I think we will keep those provisions—I hope so—because we are not talking about national tattoos. We are not talking about Nazi Germany. We are not talking about an error-filled national data base. We are not talking about a mess of an administration in some other agency of the Government. We are talking about "doing something" about illegal immigration. And the oddest thing to me is that the people who seem to really want to do something to illegal, undocumented people—other than thumb screws or the rack—as I often hear them speak, have failed to realize that the one thing you can do that does work and is humane is a more secure counterfeit-resistant card, or verification, or something like a telephone verification, where you slide it through some kind of electronic device, some type of computer link, or similar process. All of that can be studied under this bill in the form of pilot programs.

I will try to make an amendment that those pilot programs not simply be authorized, but that six or seven of them be required to be looked at, and then "of course" a vote before they would ever go into effect. We cannot get there without this. You cannot do something with illegal immigration and moan and whine and shriek about it day and night and not do something appropriate with some kind of counterfeit-resistant, tamper-resistant card, and also doing something with imposters who use the card and those who are gaming the system. That, I hope, will become a very clear fact of this debate.

And then I hope we do not hear too much about the "slippery slope," because I have not seen any editorials about the fact that when you go to drop your bags at the airport, somebody asks you for a picture ID. It is not even an agent of anybody, I would guess, except the airline. But I have not seen any editorials that that is the first step, the first slide down the slippery slope toward a national ID. So it is with the American public—at least in airline travel. I do not know what it is on the bus lines, but I have a hunch that not many people here ride the bus lines. Maybe they do, but I wonder if they ask that there. If they do or if they do not, is that the first step? Is that the slippery slope toward a national ID? I think people choose to hear only what they will with regard to that.

Finally, we will hear about placing the burden on the employers. Why the argument, "Are we doing this to the employers of America? How can we do this and make them the watchdogs of America and make them do the work of a failed Federal Government?" Fascinating. Without employers, we would have no ability to administer the Internal Revenue resources, because the employer gathers up the withholding tax. I have not seen any editorials on that as to the burden on employers.

And now it is curious to me that I also saw an editorial the other day that said that what will happen if the bill is passed is that the American employers will find out they will have to ask somebody whether they are authorized to work. I tell you, that editorial writer has to have drilling rock

VOL
142
PT
6
AP
15
—
24
1996
UMI

instead of brain, because that one is on the books already. Since the 1986 bill, you have had to present to the employer the fact that you had an I–9, which is a one-page form authorizing you to work in the United States of America. It has been on the books now for 9 years. Did anybody miss that? I think not.

So you are going to find that that is exactly what employers already have been doing. We are trying to say—and I hope we can get this in; we will see—that if we go to a pilot program and the Attorney General finds that it is accurate and it works, and it is reliable, you will then not need to do the I–9. Skip it right there. Throw it out. But employers are the core of anything we can do with regard to immigration. We are trying to lessen the burden on employers.

The occupant of the chair cited to me a case of an employer in Alaska several years ago who asked the person in front of him for additional documents and therefore was charged with discrimination. We have corrected that completely. Not only that, we do not let them ask for 29 different documents. We have it down to six. And we say there has to be an intent to discriminate before you get nailed for it simply by asking someone for an additional document. And remember—I hope you can hear this in the clatter of the debate—that whatever we do in the way of the identifier, or more secure system, or whatever it is, will be used only twice in the course of human life—when you get a job, or when you go on some kind of public assistance, period. Whatever we have will not be carried on the person, will not be used for law enforcement, will not be any part of any other nefarious Big Brother scheme. That gets lost in the process along with so much that gets lost in the process. What we are trying to do is relieve the burden on employers. We think we can do that.

Then we do something with birth certificates. I hope we can retain that. I think we have a good amendment which will offset the cost of that so we do not make that an unfunded mandate, because the birth certificate is the breeder document of the first order. You get the birth certificate and, with that, you go on to get the driver's license, Social Security card. You can check the obituary columns and find out the death and go get the birth certificate. These things must be corrected.

Legal immigration reform is certainly not the most popular cause that I have been involved in in my 17½ years, yet I have often been involved in such causes. What we are trying to do there is simply stop the phenomenon of chain migration. Chain migration is rather simple as you define it. There is a preference system. Remember that if you are a U.S. citizen, you can bring in your spouse and minor children, and they are not any part of a quota system. Yet they are computed in the entire scope of how many come to the United States. And then you can bring in adult, unmarried children. And also adult, married children. And then we have minor children and spouses of permanent resident aliens. Then we have brothers and sisters of U.S. citizens.

What we are saying is let us take in the spouses and minor children first, and not let somebody bring in on a single-person petition 30, 40, 50, 60, or 70 relatives—all from one U.S. citizen. That is called "chain migration."

I commend the Jordan Commission report to those of you who wish to read about that phenomenon, and see whether you would "join in" in doing something about that.

As I say, it is not a partisan issue. None of these tough ones will be partisan issues. I am sure the Democrats will caucus, and the Republicans will caucus, and we will pound each other around, and at the end of it we will realize that it is the Nation's business, and that it is always very difficult.

But one thing I want to make very clear. I note that since I will be exiting the Chamber at the end of this year, some will speak of this as "SIMPSON's swan song." This bird has never looked like a swan—neither me nor the legislation. It is about a corollary of legislative activity that my friend from Massachusetts has learned well through the years. Any time you look obsessed about a piece of legislation, you are history. I can tell you that. Yet we have come further in these two bills than we have in 10 years. There are people on my side in this one who, if I had said those things 10 years ago, or 5, they would have run me out of town on a rail.

So we have some good things there. But I can assure you of this: Win, lose, or draw, up or down, I did not come here simply to have my name attached to immigration legislation. That is about the biggest political loser in the history of man. It never helped me get a single vote in three races for the U.S. Senate. In fact, people said, "What are you doing? What are you up to? Forget it. It does not affect us."

But it does fall upon those of us from the smaller States and districts, from areas such as Senator McCarran of Nevada, and Representative Walters of the 16th District of Pennsylvania, or Senator SIMPSON, and Mazzoli of Kentucky. The KENNEDYs of this body cannot handle this issue; the FEINSTEINs of this body cannot handle this issue; the Wilsons—when he was here—cannot handle this issue because their constituents will not allow them to do it. Yet this is one issue, one burning issue, that will not go away.

So be assured that your angular, western representative will not be chagrined in any sense with whatever this eventually looks like. But we are surely going to have a good debate. We are going to throw it all in there, get it mashed around. And if I come up with a vote of 92 to 8 on the losing side, that is fine with me. But we are going to have a vote, and we are going to have a debate. We are going to talk about things that the American public is talking about. And that is, "What are you going to do about illegal immigration so that our social systems are not overwhelmed?" And answer their question, "You told us the first duty of a sovereign nation was to control its borders, and you did not do it. Why? You told us that you would do things in the national interest, and you did not do it. Why?" And also watch what they do for themselves. People from States that do not have any real tough immigration problems at all are thinking about proposition 187 type laws. And that is disturbing.

So I hope that we pay careful attention, have a good, rich debate, and not think of swans but maybe of turkeys, or of eagles, because there is a little of each of them in all of this. There are some soaring like-eagle parts in this. And there are some things that do not match any kind of other bird activity.

But this is one that will not go away. It seems to me it is best that we address it while we are all here and in a knowledgeable, civil way, and I look forward to the debate. I look forward particularly to working with newer members of the committee, the subcommittee, and with my friend, TED KENNEDY.

I think it was either Henry James or William James who said, "To do a thing be at it." And we are at it. It is an election year. But anyone who wants to use this one for pure partisan political advantage is making a most serious mistake, it is much bigger than that.

I thank the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that legislative fellows Tom Perez, Bill Fleming, and Liz Schultz be granted floor privileges during the debate on the immigration bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that John Ratigan be granted floor privileges during the pendency of S. 1664.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I would be glad to yield for a moment to the Senator from North Dakota.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 3667

(Purpose: To express the sense of the Senate that a balanced budget constitutional amendment should protect the Social Security system by excluding the receipts and outlays of the Social Security trust funds from the budget)

Mr. DORGAN. Mr. President, first of all, I understand the Senator from Massachusetts wishes to give an opening statement. I appreciate his indulgence. My son is having a birthday party in about 20 minutes. I promised I was going to be there, and I intend to keep that promise.

I wish to offer a sense-of-the-Senate resolution and want to do that. But before I do that, if the Senator from Massachusetts would indulge me for about 3 minutes, let me say that the Senator from Wyoming has done extraordinary work in the Congress over these years. The Senator from Wyoming mentioned SIMPSON and Mazzoli. He is talking about himself, ALAN SIMPSON, and Romano Mazzoli, with whom I worked in the House of Representatives. They have left their mark on immigration and will again with this legislation. Much of what the Senator from Wyoming has done with respect to illegal immigration is going to be very, very important, and I commend him for his work.

We will have, of course, difficult amendments. But we will work through those. And I hope at the end of the day we will pass some legislation that moves in this direction that will be good for this country.

Now that I have said nice things about the Senator from Wyoming, he will probably now be upset with me for offering a sense-of-the-Senate amendment. But let me tell him that I will certainly agree to a time limit that is very short. I expect tomorrow we will have a vote on this.

The only reason I am constrained to offer this on behalf of myself, Senator DASCHLE, Senator REID, Senator HOLLINGS, Senator FORD, Senator CONRAD, and Senator FEINGOLD is because this will be the only opportunity to do so prior to the majority leader bringing up a constitutional amendment to balance the budget.

The majority leader has announced that he intends to take up his motion to reconsider the vote by which the balanced budget amendment was defeated. Some have said he will do it this week; if not this week, perhaps next week. Under the rules, there will be no debate on the balanced budget amendment this time around.

So in order to have the Senate go on record on this issue prior to that, it was required that I offer a sense-of-the-Senate amendment. My amendment is very simple. I will send it to the desk. It simply indicates:

> It is the sense of the Senate that because Section 13301 of the Budget Enforcement Act prohibits the use of the Social Security trust fund surplus to offset the budget deficit, any proposal for a constitutional amendment to balance the budget should contain a provision creating a firewall between the receipts and outlays of the Social Security trust funds and the rest of the federal budget, and that the constitutional amendment should explicitly forbid using the Social Security trust funds to balance the federal budget.

Because of the circumstances, there would have been no intervening opportunity to discuss this. I will offer this amendment, ask that it be sent to the desk, and that it be immediately considered by the Senate.

Before the clerk reads it, let me say that I do not intend to hold up the immigration bill, and I intend to agree to any reasonable short time agreement. Understand that this does not relate to the underlying bill, but also understand that this will be the only opportunity prior to a vote that Senator DOLE has already announced to the Senate and the country that he intends to require of us. It will be the only opportunity prior to that time for us to register on this question.

Mr. President, I ask for the immediate consideration of my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from North Dakota [Mr. DORGAN], for himself and Mr. DASCHLE, Mr. REID, Mr. HOLLINGS, Mr. FORD, Mr. CONRAD, and Mr. FEINGOLD proposes an amendment numbered 3667.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place, add the following new section:
>
> **SEC. . SENSE OF THE SENATE ON A BALANCED BUDGET CONSTITUTIONAL AMENDMENT.**
>
> It is the sense of the Senate that because Section 13301 of the Budget Enforcement Act prohibits the use of the Social Security trust fund surplus to offset the budget deficit, any proposal for a constitutional amendment to balance the budget should contain a provision creating a firewall between the receipts and outlays of the Social Security trust funds and the rest of the federal budget, and that the constitutional amendment should explicitly forbid using the Social Security trust funds to balance the federal budget.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, as we begin to consider reforms in our Nation's immigration laws, our thoughts also are with our Immigration Commissioner, Doris Meissner, and her children, Chris and Andy, as they cope with the loss of a husband and father. Chuck Meissner was serving ably as the Assistant Secretary of Commerce and he was on Secretary Brown's plane when it crashed in Croatia just 10 days ago. I know that the thoughts and prayers of all of us in the Senate go out to the Meissner family during this very difficult time.

At the outset of this debate on immigration reform, I commend the chairman of the Immigration Subcommittee, Senator SIMPSON, for his able leadership on this landmark legislation, as well as for his able leadership over many years on the many difficult issues involved in immigration.

Senator SIMPSON has always approached these issues thoughtfully and fairly and with an open mind. He is steadfast in his commitment to what he believes is best for America. And I know that all Senators of both parties join in expressing admiration and appreciation for his efforts.

As we consider immigration reform today, we must be mindful of the important role of immigration in our history and our traditions. Immigrants bring to this country a strong love of freedom, respect for democracy, commitment to family and community, fresh energy and ideas, and a strong desire to become a contributing part of this Nation.

As President Kennedy wrote in 1958 in his book, "A Nation of Immigrants":

> There is no part of our nation that has not been touched by our immigrant background. Everywhere immigrants have enriched and strengthened the fabric of American life

Those ideals are widely shared and bipartisan. As President Reagan said in his final speech before leaving the White House:

> We lead the world because, unique among nations, we draw our people—our strength—from every country and every corner of the world. . . .
>
> Thanks to each wave of new arrivals to this land of opportunity, we're a nation forever young, forever bursting with energy and new ideas, and always on the cutting edge, always leading the world to the next frontier. This quality is vital to our future as a nation. If we ever closed the door to new Americans, our leadership in the world would soon be lost.

Across the years, both Republicans and Democrats have been true to these ideals.

Three decades ago, I stood on this floor to manage one of my first bills, which became the Immigration Act of 1965. I believed strongly then, as I do now, that one of the greatest sources of our success as a country is that we are a nation of immigrants. And I remain as convinced today as I was then that immigration under our laws is as beneficial and as needed in America today as it was in 1965 or at any other time in our history.

VOL
142
PT
6
AP
15
—
24
1996
UMI

In 1965, it was clearly time for change in our immigration laws. We eliminated the vestiges of the racist and discriminatory national origins quota system that had denied immigration opportunities to so many for so long based on where they came from.

In the years since then, we have acted several times to strengthen and reform the immigration laws to deal with changing times, changing problems, and changing circumstances.

Congress also passed important reforms in 1986 and 1990. In 1986, the Immigration Reform and Control Act of 1986 set us on the course of removing the job magnet for illegal immigration. That landmark law, sponsored by Senator SIMPSON, made it illegal for the first time for employers to hire illegal immigrants. The reforms that we will consider today build upon that historic change in our immigration laws. And it legalized the status of over 2.7 million undocumented immigrants who had set down roots in America.

The Immigration Act of 1990—which Senator SIMPSON and I sponsored together—was the most sweeping reform of our immigration laws in 66 years. It overhauled our laws regarding legal immigration, the bases for excluding and deporting aliens, and naturalization.

THE CURRENT PROBLEM OF ILLEGAL IMMIGRATION

Today, the paramount problem we face is to deal with the continuing crisis of illegal immigration. As Barbara Jordan reminded us, "We are a country of laws. For our immigration policy to make sense, it is necessary to make distinctions between those who obey the law, and those who violate it." And that's what we must do today.

The Immigration Service estimates that the permanent illegal immigrant population in the United States is now about 4 million, and that the number increases by 300,000 each year. That number is a net figure. The INS estimates that over 2 million illegal immigrants cross our borders each year. About half of them enter legally as tourists or students, but then stay on illegally, long after their visas have expired.

About 1.7 million of the 2 million illegals remain only briefly in this country to work or visit friends and relatives. But 300,000 stay on as part of the remnant illegal alien population.

The illegal immigrants are easily exploited. They tolerate low pay and poor working conditions to avoid being reported to the INS. Their presence depresses the pay and working conditions of many other Americans in the work force. They compete head-to-head in the job market with Americans just entering the work force and with working American families struggling to make ends meet.

Part of the answer to this problem is the increased support in this bill for border patrols in order to prevent the entry of illegal aliens.

But jobs are far and away the biggest magnet attracting illegal aliens to the United States, and we cannot turn off that magnet at the border. We must do more to deny jobs to those who are in the country unlawfully. The most realistic way to turn off the magnet is contained in the provisions that Senator SIMPSON and I sponsored which require the President to develop new and better ways of identifying those who are eligible to work in the United States.

After 3 years of pilot tests, the President is required to present a plan to Congress for a new approach that will deny jobs to illegal immigrants, will be easy for employers to use, will not cause increased employment discrimination, and will protect the privacy of American citizens.

Our provisions state clearly that this system will not involve a national ID card. And our provision provides added insurance by requiring that any plan the President develops must be approved by Congress before it can go into effect.

REFUGEES AND ASYLUM

A further goal for immigration reform is to provide safe haven for refugees fleeing persecution. We should not place arbitrary caps on the number of refugees we decide to bring to the United States for resettlement. The Immigration Subcommittee chose instead to let this number to continue to be set annually, under the terms of the Refugee Act of 1980, and in cooperation with other governments. I was pleased to join with Senator GRASSLEY in addressing this issue in the subcommittee.

We should also oppose arbitrary limits on how long those fleeing persecution can wait before applying for asylum after they enter the United States. The Immigration and Naturalization Service has already made dramatic progress in addressing the abuses that have plagued our asylum system in recent years. In the past year alone, the number of asylum applications has dropped by 57 percent.

Mr. President, this chart indicates what progress has been made in the very recent years. Going back to 1994: asylum claims, 120,000; the completed cases, 60,000.

This year, in 1995, INS received 53,000 new asylum claims and completed 126,000 cases. This is as a result of a variety of different, very constructive actions that have been taken by the INS.

The blue line represents those completed cases. The red lines represent the new claims. So, clearly we see the asylum claims decline by 57 percent as productivity doubles in 1995. Clearly we are making important progress in this area. It has been as a result of a great deal of time consuming, exacting, hard work that has been initiated by the INS. Enormous progress has been made.

We will hear this issue debated. It seems to me we are on the right track already with the INS reforms, and the kinds of suggestions that have been included in the current legislation should give many of us pause.

I commend, in particular, Senator DEWINE, who made a strong case that a 30-day asylum application deadline, originally proposed in the legislation, would exclude those who face the gravest persecution. They are the ones who take many months to organize their affairs, contact an attorney, and gain the confidence to approach the INS with their painful and tragic stories. I believe the 1-year deadline adopted by the committee is a reasonable way to accommodate such humanitarian cases.

The bottom line is that the cases where there appears to be the greatest validity of the persecution claims—the ones involving individuals whose lives would be endangered by a forced return to their particular countries—are often the most reluctant to come forward. They are individuals who have been, in the most instances, severely persecuted. They have been brutalized by their own governments. They have an inherent reluctance to come forward and to review their own stories before authority figures. Many of them are so traumatized by the kinds of persecution and torture that they have undergone, they are psychologically unprepared to be able to do it. It takes a great deal of time for them to develop any kind of confidence in any kind of legal or judicial system, after what they have been through, and to muster the courage to come forward.

That conclusion has been reached by a number of those who have been studying this particular problem. The initial proposal of requiring that there be action taken within 30 days of the person's arrival in the United States failed to understand what the real problem is—and fails to understand the remarkable progress that INS has made in this particular area.

I remain concerned that the so-called expedited exclusion procedures in the legislation will cause us to turn away true refugees. Under this procedure, when a refugee arrives at a U.S. airport with false documents and requests asylum, that person can be turned away immediately if the INS officer believes the person does not have a credible claim. There is no hearing, no access to counsel, not even a requirement for an interpreter.

If it were not for the courageous efforts of Raoul Wallenberg in providing false documents to Jews fleeing Nazi Germany during World War II, many thousands of persecuted refugees would have had no means of escape. This provision runs the risk of turning away all those whom the Raoul Wallenbergs of the future seek to assist.

All we have to do is review the recent history in El Salvador and Nicaragua, and be reminded of some of the egregious kinds of circumstances have been revealed here in the last week or 10 days by members of the religious community, to understand what the real conditions were. To think that an individual who might be able to get out of that oppressive atmosphere with some false documents, with a very legitimate fear of persecution, and come to the airports of this country and be turned away summarily and sent right back on the next plane, is something that I think deserves reevaluation during the course of this debate.

PUBLIC ASSISTANCE

In addition, the immigration reforms in this bill will reduce access to public assistance by illegal immigrants. Illegal immigrants should have access to assistance only in limited situations, where the public health or similar overriding public interest clearly requires it. For example, they should have emergency medical care, immunization, treatment for infectious diseases. These benefit all, because they relate to the public health and are in the public interest. Where the public interest is not served, we should not provide the public assistance to illegal immigrants.

A main issue, however, is how to deal with public assistance for illegal immigrant children in public schools. In an extraordinarily unwise and inhumane action, Republicans in the House, at the urging of Speaker GINGRICH, voted to give States the option to expel such children from their schools. We all know why illegal immigrants come here. As I have said, the magnet is jobs. It is ludicrous to argue that anyone would uproot their family, pay exorbitant sums to a smuggler to cross the border and risk their lives in the effort, all so their children can attend public schools in the United States.

A study by the Committee on Illegal Aliens during the Ford administration concluded that "the availability of work and the lack of sanctions for hiring illegal aliens is the single most important incentive for migration." That has been the conclusion of the Ford administration, the Jordan Commission, the Hesburgh Select Commission on Immigration and Refugee Policy—all have found that the magnet is jobs. That is what we ought to focus on. That is where we ought to give our attention.

As I indicated, this finding was confirmed by the Hesburgh Commission in 1981, and again more recently by the Jordan Commission, which found that "employment opportunity is commonly viewed as the principal magnet which draws illegal aliens to the United States."

We are making steady progress in finding new and better ways of denying jobs to illegal immigrants. It is a serious mistake, and hypocritical, for Republicans in Congress to oppose or weaken this bill's requirement on employers, who are at the heart of the problem, and then punish innocent children, who are not the problem, by expelling them from school. So, I urge the Senate to reject the Speaker's attempt to make Uncle Sam the bully in the schoolyard.

That kind of policy is not only cold and cruel, it is also shortsighted and counterproductive. It may cost money for those children to attend school. But, if they do not, society will end up paying for it in other ways. Police will have major new crime problems on their hands from children out of school and on the streets and into gangs. Teachers will have to start checking the papers of all pupils, whether they are citizens or not. Before starting school each year, children across America would be required to bring documents to school to prove they are American citizens or legal immigrants.

All across America, teachers will have to learn to distinguish between the new green card and the old invalid ones. They must know what refugee documents, passports and valid Social Security cards look like.

School administrators and police have already spoken strongly against this proposal. They are the ones who must deal with the crime and other social problems that will inevitably develop.

What we are basically doing is requiring our schoolteachers, in many different school districts, to turn into police officers and truant officers. Teachers are there to teach children. They have enough challenges to face every day without adding this burden to them. Now, to put the burden on every one of these schoolteachers to become truant officers, and effectively policemen, is unacceptable public policy.

The case has been made by the law enforcement officials, who say you are either going to pay one way or the other. You are going to pay for the students who are going to the schools or you are going to pay for it in terms of crime and a host of other social problems if they do not go to school.

You can imagine, too, Mr. President, a mother who comes over to this country with a child who is a toddler. She brings the child here, then has a baby here in the United States who is an American citizen. That American citizen child goes to the school and his older brother or sister, who is an illegal immigrant, does not. That child is out on the street. That is a wonderful situation, which we are going to absolutely face in this kind of proposal.

The parents would not leave America just because their children cannot go to school. The parents have no choice. They came here because they could not find work at home and they will not go away as long as they can get away with working here illegally and I urge the Senate to reject any such cruel and mindless attempt to punish the children for the sins of the parents.

CONSIDERING ILLEGAL AND LEGAL IMMIGRATION SEPARATELY

In general, this bill does not address the issues of legal immigration. The Senate Judiciary Committee voted 12 to 6 to consider those issues separately and the House of Representatives voted 238-to-183 to do the same. I expect we will have a vote on legal immigration matters later in the debate. I plan to oppose such a move. We must not allow our rightful concerns about illegal immigration to create an unwarranted backlash against legal immigrants who enter under our laws, play by the rules, raise their families, pay their taxes, and contribute to our communities. Combining these issues in a single bill creates precisely that unacceptable possibility. Addressing these matters separately does not mean deferring legal immigration reforms indefinitely. Reforms are required in legal immigration. It is my hope that we can address them soon, but separately.

SAFETY NET FOR LEGAL IMMIGRANTS

In fact, this bill does contain certain provisions relating to legal immigration, and I voted against the entire bill in the committee because of these provisions. They go too far in denying a safety net to legal immigrants. These legal immigrants enter under our laws, play by the rules, pay taxes, contribute to our communities and also serve in the armed services. They deserve a safety net when they fall on hard times.

The record is very complete, Mr. President, that those who are the legal immigrants do not have a greater dependency in terms of these supportive programs than Americans, with the exception of the SSI Program for the elderly. But in these other areas, I can give as many studies that demonstrate that legal immigrants make greater contributions—in terms of paying taxes, by participating in the community, by payroll taxes, by sales taxes, by all of the other factors—than they absorb from the system. If we need to, we will have an opportunity to examine the various studies when we come to the particular amendments. But I do believe the legal immigrants deserve a safety net when they fall on hard times, and I support the provisions in this bill to make sponsors more accountable for the immigrants that they sponsor.

Senator SIMPSON is right not to ban legal immigrants from any program. Instead, the bill's deeming provisions count the immigrant sponsor's income as part of the immigrant's own income in determining whether the immigrant meets the eligibility guidelines for public assistance. For the first time, however, the deeming provision would be broadened by the bill to apply to every means-tested program.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Under the current law, deeming applies only to SSI, AFDC, and food stamps. But under this bill deeming would apply to scores of other programs including school lunches, homeless shelters, community clinics, and even one of the most important means of protecting the public health, the Medicaid Program. Under this bill, illegal immigrants get emergency Medicaid, immunization, treatment of communicable diseases, disaster assistance, and certain other types of aid—no questions asked. But legal immigrants who come here under our laws and play by the rules can get this assistance only after they go through the complicated deeming process. That gives illegal aliens a benefit that legal immigrants cannot receive. It is unfair, and I intend to offer an amendment to correct this injustice.

I am also concerned with the denial of Medicaid to legal immigrants unless they overcome the deeming hurdle. As a practical matter, deeming means that virtually no legal immigrant will get Medicaid assistance. Experience has shown that deeming is very effective in denying access to public assistance programs. I am particularly concerned that this will hurt children and expectant mothers.

I also believe legal immigrants who have served in our Armed Forces should also have a Medicaid safety net for their families in hard times.

Legal immigrants can join the Armed Forces. We have over 20,000 legal immigrants in the Armed Forces today. That young person, who might not have been able to get into college, comes back from Bosnia and wants to go to college and then makes an application and goes to that college and gets a Pell grant for 1 year—for 1 year. And then that young person graduates. He might have been a 19- or 20-year-old kid that for 1 year took the Pell grant. And as a result of that single action, for the rest of his life, he is subject to deportation—immediate deportation. This could occur even after he had served honorably in the Armed Forces.

There may be a lot of heat about doing something about illegal immigration, Mr. President, but that is one of the most extraordinary positions for this country to take. We have a Volunteer Army, certainly now, but when we did not have a Volunteer Army, we had the draft. Legal immigrants are subject to the draft. Some had gone to Vietnam. A number of them were actually killed. Now we are saying if, at any time in the future, they have any particular need, in order to get a benefit, they are going to have the deeming process for the purposes of that particular program.

That is going to be true with regard to the Stafford loans as well. These are programs that are repaid. These are not considered to be welfare programs. They are education programs. We will come back to that issue later in the discussion. These are matters that need attention and focus and amendments.

FAMILY IMMIGRATION

Our immigration laws must continue to honor the reunification of families. I agree it is necessary and appropriate to reduce the number of legal immigrants coming to the United States each year. Obviously, the door is only partly open now and can fairly be closed a little more without violating the Nation's basic ideals of our immigrant heritage and history.

But in achieving such reductions, we must keep certain fundamental principles in mind. We must continue to reunite families. We must remain committed especially to the reunification of immediate family members. Spouses and minor children and parents should be together.

I also believe our citizens should have the ability to bring their adult brothers and sisters to America. We should act to reduce the troubling backlogs that have kept husbands, wives and children separated for many years.

The Judiciary Committee adopted an amendment, which Senator ABRAHAM and I proposed, to reduce overall legal immigration, to establish new priorities for family-based immigration. Our proposal would make visas available to more distant family members only if the more immediate family categories do not need them. For example, brothers and sisters would not get visas as long as there are backlogs of spouses and children.

In this way, we address the concern raised by many about chain migration, the ability of a citizen to bring in a brother, who in turn brings in his wife and children. Once his wife is a citizen, she can then bring in her parents and other family members, and there is an endless chain of immigration. We ought to address that issue.

We believe the amendment that was accepted by the Judiciary Committee recognizes the important recommendations by the Jordan Commission that said give focus and attention to the immediate families. We have done that. We have defined that in a way that we think also includes clearing up of the backlog before there can be any consideration of reunification by the brothers and sisters.

The Kennedy-Abraham proposal solves the problem of family categories that create these chains. These are categories that Senator SIMPSON proposed for total elimination. Our proposal says that these categories remain, but they get visas only if the closer family categories do not need them. And our proposal reduces the level of legal immigration below current law.

After the committee's adoption of the Kennedy-Abraham amendment, the Immigration and Naturalization Service released higher projections of the number of family immigrants expected to enter this country over the next few years. Even under these new projections, our amendment reduces the total immigration below current law. However, we will modify our proposal to provide added insurance that it does fall below the current law.

Mr. President, some in this debate will praise the contributions of immigrants with one breath and then propose to slash family immigration in the next breath.

They say, "We want your skills and ingenuity, but leave your brothers and sisters behind. We want your commitment to freedom and democracy, but not your mother. We want you to help us rebuild our inner cities and cure diseases, but we do not want your grandchildren. We want your family values, but not your families." I urge the Senate to reject this hypocrisy and treat immigrant families fairly.

DIVERSITY IMMIGRATION

Mr. President, reforms in legal immigration also must retain the diversity program established in the Immigration Act of 1990. This small but important program provides visas to countries that have low immigration to the United States and are shortchanged by our immigration laws. A number of countries made good use of this program in the past 6 years. These countries otherwise would have little or no immigration to the United States, such as Poland, South Africa, and Ireland. The Judiciary Committee agreed to retain the program, but reduced the number of visas available each year from 55,000 to 27,000.

PROTECTING AMERICAN WORKERS

Increasingly, Mr. President, in recent years we have come to realize that our immigration laws do not adequately protect working families in America. Reforms are urgently needed here. I intend to offer them at the appropriate time. In spite of the net creation of more than 8 million new jobs in the economy over the past 3 years, and in spite of continued low unemployment and inflation, and in spite of steady economic growth—job dislocations and stagnant family income are leaving millions of American working families anxious and unsettled about their future.

Since 1973, real family income has fallen 60 percent for all Americans. More than 9 million workers permanently lost their jobs from 1991 to 1993. Even as new jobs are created, other jobs have been steadily disappearing at the rate of about 3 million a year since 1992.

In the defense sector alone, more than 2 million jobs have been lost since the end of the cold war. About 70 percent of laid-off workers find another job, but only a third end up in equally paying or better jobs. What we are witnessing is a wholesale slide toward the

bottom for the American worker. According to Fortune Magazine, the percentage of workers who said their job security was good or very good declined from 75 percent in the early 1980's, to 51 percent in the early 1990's. In a 1994 survey of more than 350,000 American workers, the International Survey Research Corp. found that 44 percent of American workers fear they may be fired or laid off. In 1990, the figure was only 20 percent.

For the first time ever there are more unemployed white-collar workers than blue-collar workers in America. Yet most of the foreign workers who come in today under our immigration laws are for white-collar jobs. With corporate downsizing and outsourcing, a quarter of the American work force is dependent on temporary jobs for a living. Yet under the immigration laws, we admit hundreds of thousands of foreign workers for so-called temporary jobs which are defined in the immigration laws as jobs that can last up to 6 years.

As working families in America try to put food on the table, employers are bringing in hundreds of thousands of foreign workers into good, middle-class jobs. Yet in most cases they are not even required to offer the jobs to Americans first. We understand that they are bringing in the foreign workers from overseas without even the requirement to offer those jobs to Americans first.

As American workers become increasingly concerned about job security and putting their children through college, it is perfectly legal under the immigration laws for employers to lay off qualified American workers and replace them with foreign workers and offer them a lower wage.

A new study released last Friday by the Labor Department's inspector general proves that the current means of protecting American workers under the immigration law simply do not work. Charles Masten, the inspector general, reported to Labor Secretary Reich:

> The programs do not protect U.S. workers' jobs or wages from foreign labor. Moreover, we found [that the] Department of Labor's role under the current program design amounts to little more than a paper shuffle for the program and a rubber stamping of applications. We believe program changes must be made to ensure that U.S. workers' jobs are protected and that their wage levels are not eroded by foreign labor.

The report of the inspector general is astounding. He found that 98.7 percent of workers whom employers are supposedly bringing into the United States are in fact already here. So when employers go through the charade of trying to recruit Americans first, the foreign worker is already here 98 percent of the time. And 74 percent of those foreign workers were already on the employers' payroll at the time the employer was supposedly required to recruit for American workers first. Do we understand that? So 74 percent of the foreign workers were already on the employers' payroll at the time the employer was supposedly required to recruit for American workers first.

Among workers that employers sponsor as immigrants, 10 percent never worked for the sponsoring employer. Once they got their green card, they immediately went to work for someone else. Of those who did actually work for the sponsoring employer, fully one-third left the job within 1 year. In effectively 60 percent of the cases, employers do not even bother to fill the job again once the immigrant leaves. In most cases in which the employer does refill the job, an American is hired 75 percent of the time.

These figures prove that the jobs are offered as a sham to get a particular immigrant a green card once they go through this hocus-pocus. That is a sham. They already have the worker in place. As I will point out later, only 5 Americans out of 28,000 that have applied for these jobs, if they were basically offered them, have ever gotten the job. So they are filled with foreign workers. There is a reasonable chance that they have fired American workers previously.

Then once those workers are working and have gone through this process, they leave. They leave the employment, and then the employer goes out and gets somebody else. It is basically a sham. It places American workers at an enormous disadvantage. The inspector general says that over the period of his audit, the employment service referred 28,000 U.S. workers for interviews for 10,000 jobs that employers wanted to give to immigrants, and only five U.S. workers got the jobs. That is outrageous. These figures apply to the category of "permanent immigrant workers."

But the inspector general also found rampant abuse of American workers in the temporary worker program. There are two programs, Mr. President. There is the permanent program, where we have the authorization of up to 140,000 of what will be called the best and the brightest. I am going to come back to that. A more modest figure was approved here in 1990, but came out of the conference at the 140,000.

Some of those entering—for example, the Nobel laureate types—really are the best and the brightest. They can come into the United States without any requirement by the employer to recruit U.S. workers first. That is defined currently into law. I support that program.

All other permanent employment-based immigrants have go through the labor certification process—a procedure of reaching out to American workers.

That whole process is a sham. That whole process is a sham. That is what the IG report has pointed out—that 97 percent of the workers are already in their jobs and that they have been working there already for some period of time. Out of 28,000 applications, only 5 Americans got the job. And once the foreign workers get their permanent status, they can then leave because they effectively have their work permit, their green card. They can go for some other job. It is a revolving door. It is a sham in terms of protecting American workers.

The second program is for what is called the temporary workers. Up to 65,000 come in each year, though the number varies from year to year. For those individuals to enter—all we need is an employer to say that this individual has either the equivalent of a college education or 2 years of work experience. They do not have to go out or even go through the process to try to get American workers. Once they are in there, they can be in there for 6 years. That is a temporary job. What happens is they come in on a temporary worker visa, they stay for the 6 years allowed, they want to be here permanently, so they ask their employer, "Look, I've been 6 years in my job. Will you go for one of the permanent ones for me?" The employer says, "OK. I know you have worked for us. I will make that application." Once they get it, they get the green card and go out the door.

That is effectively what is happening. It is a sham protection, something which is absolutely wrong and has to be redressed.

Now, Mr. President, I want to just take a moment of the time of the Senate to really get into where we are on these issues of the permanent work force and the temporary work force. This chart shows the permanent work force, the provision that said we need to open up the work force to let these best and the brightest come on into the United States of America. I remember that debate very clearly here. I believe it was the Senator from Pennsylvania, Senator SPECTER, who offered it at that time as part of the Immigration Act of 1990.

The Department of Labor did surveys of which industry employees could help energize the American economy at that time. Those would be individuals who, when placed in a particular industry, could multiply jobs because they were the best minds, and had special training and ability, and could add that special kind of insight, expertise, knowledge, and creativity to expand employment. It was perceived at that time, according to the National Science Foundation, that we were going to have critical shortages of scientists during that period of time. That is why Congress adopted the 140,000 number.

Now, looking at who has been included under the "Best and the Brightest" under this chart. As this chart reveals, very few are actually the best

VOL
142
PT
6
AP
15
—
24
1996
UMI

and brightest—the Nobel Laureate-type or some unique type of academician or expert. These are let in without labor screening.

The rest are let in here through the sham process of requiring employers to recruit U.S. workers first.

We took the time to go and see who these are. It is very interesting who they are: 12.9 percent are cooks; 10 percent are engineers on this chart; professors, 7.3 percent; also includes accountants and auditors, auto repair, tailors, jewelers. The area of "computer-related" is 17.8 percent; 31 percent are all less than 1 percent of those coming in here.

Mr. President, we have seen, as most recently the National Science Foundation has pointed out, the figures of 6 or 8 years ago, having shortages in various skills, they now find did not come about. Today, we have 60,000 qualified unemployed American engineers. Yet about 6,000 foreign engineers came in as immigrants. We have 60,000 Americans who are qualified for that position. They are never given the opportunity to really try for that position.

What is wrong with American workers? What is wrong with those? Nonetheless, we have heard the power of many of the business interests who said, "Do not tamper with that particular provision. Do not tamper with it because it will effectively stop our economy."

Mr. President, we ought to look and see that today under the more recent studies that have been done all indicate that with the exception of that very small group of the best and brightest—that amounts to about 20,000, which includes their families—we really do not need the sham recruitment requirement that is in current law. We certainly ought to establish a way to make sure that we will ask and find out if there are Americans ready, willing, and able to do this job before we bring in the foreign workers.

Now, Mr. President, looking at the other provision, where we talk about the temporary workers—the alleged temporary worker provision; 65,000 can come in each year under the immigration law. This chart gives an idea, in the black, which are the temporary workers, of the salaries they make. Look at the salaries they are making. If you take the two columns together, which is about 85 or 90 percent of all of the workers that come on in here as the temporaries, they are making less than $50,000.

Where are all the geniuses? Where are the Albert Einsteins that keep coming in here? Where are all of these people, when close to 90 percent of them are making less than $50,000? It is only the small numbers that come in up at this level that are the ablest and most gifted, the ones that really provide the impetus in terms of the American economy. They ought to be able to come on in to this country and provide their skills.

Mr. President, when we get down to it, we find that the great numbers are basically white-collar kinds of jobs—$50,000—that is a good salary. And they are effectively displacing the Americans from these solid, good, middle-class jobs.

Mr. President, let us look now at who is coming in under the temporary worker program. These are individuals where all the employer has to say is that the individual coming over has completed college or had 2 years of experience, and the employers provide what are called "attestations" that they will pay them a reasonable wage. These are the temporaries. Half of them are physical therapists. Mr. President, 50 percent of them are physical therapists. It was true that we had a shortage of physical therapists at one time. But our labor market is recovering now.

Mr. President, 23 percent are computer-related. The rest fall into a wide variety of different categories.

Mr. President, when we have 50 percent in this program who are physical therapists when so many community colleges and other fine schools and State universities are producing them today, individuals who want and deserve to be able to have a crack at the job, and we are bringing that kind of percentage in here, it does not make sense. It does not make sense, Mr. President. We are effectively denying good, decent jobs to Americans that want to work, can work, have the skills to be able to work, so that others—foreigners—can come in.

What happens, Mr. President, is that those who come in under this program that I just mentioned here, the H–1 Program, are exploited. Why? Because they cannot leave the job that they are on. If they leave, they are illegal. So once they sign up, they are stuck with that employer for the whole 6 years, with no guarantee that they will have to receive any level of wages. Once you bring that person in, you can lower their wage—absolutely lower their wage—and get away with it. You can deny them any benefits at all.

What we will hear from the other side is that there can be an investigation of their conditions on being exploited. The only thing you have to do is get a complaint from someone. Well, who in the world is ever going to complain when they know once they complain they can be thrown out of the country? Under the Republican proposal, the Department of Labor cannot interfere even if they have reason to believe there is exploitation on this, unless they receive a complaint. Anything else has been prohibited under the Republican proposal.

Mr. President, this is a matter, I believe, of importance and consequence to working families. These are important jobs where Americans are available. In each of these categories, except at the very top level of immigration, there are more than enough Americans who are available for those jobs, and who want those jobs. Those are good jobs. Still, we find that they are unable to compete. I think that is wrong.

No piece of legislation ought to go through here that has that kind of depressing effect on wages, because, as I mentioned before, once someone enters under the H–1B program, they can drive the wages right down. They can replace American workers. Once employers get the foreign worker in, they can drive the wages down, which they more often do than not. We have had testimony in our Subcommittee that supports that. We had the testimony of a small businessman down in southern Texas that supplied workers for a number of companies in Texas who came up and asked him to replace his American workers with foreign workers in order to drive his costs down. It is absolutely wrong. We will have a chance on this legislation to work it through.

I see others that want to speak on the measure. Let me move toward a final item. Mr. President, with regard to the employment programs, as I mentioned before, both the IG from the Labor Department and the testimony is really quite complete. This is an area that ought to be addressed because of its impact in terms of American workers and the fact that it really, when we look behind the curtain of these programs, you find out there are good jobs that Americans are qualified for and that they deserve.

There are two, and only two, legitimate bases for employment-based immigration.

First, it can bring the world's best and brightest into our country to create jobs and improve our competitive position. We should welcome legitimate scientists, legitimate business leaders, legitimate artists and performers without hesitation. They enhance our economy, create jobs for U.S. workers, enrich our cultural life, and strengthen our society.

Second, employment-based immigration can meet skills shortages that arise in a growing economy, particularly an economy like ours that relies heavily on scientific and technological innovation for its growth and success. In certain circumstances, an employer's demand for skills cannot be met with sufficient speed or in adequate quantity by U.S. workers. In these circumstances, foreign workers can fill the skills gap, while the domestic labor market and the education and job training system adjust to the rising demand for workers with new or different skills.

Clearly, there are legitimate purposes for employment-based immigration. But we must also recognize that

allowing employers to bring in foreign workers has an adverse effect on U.S. workers. Remaining globally competitive should never mean driving down the wages of U.S. workers and increasing their growing sense of insecurity in the workplace.

Instead, in reforming the employment-based immigration programs, we must assure that U.S. workers have a fair opportunity to get and keep good jobs and raise their family incomes. Four changes in the current system are needed to give U.S. workers this assurance of fairness and opportunity.

First, we must protect U.S. workers who already have good jobs from being laid off and replaced with foreign workers. With all the talk of job insecurity, corporate and defense downsizing, and stagnant family income, working families have a right to know that the immigration laws are not being abused to take away their jobs.

Second, we must give U.S. workers who have the skills and are willing, available, and qualified for these jobs a fair opportunity to be recruited for those jobs. Maintaining a strong and growing economy requires that U.S. workers obtain the training they need to merit global competition, and that they have a fair opportunity to use their skills in high-wage, high-skill jobs. We cannot expect working families to improve their economic status if we post "Road Closed" signs on the road to higher standards of living.

Third, when a job can be filled by a U.S. worker with a reasonable amount of training within a reasonable period of time, we must assure that the U.S. worker has a fair opportunity to obtain that training and get that job.

Fourth, and more generally, we must give U.S. workers a better chance at getting high-wage, high-skill jobs, without shutting off the safety valve of access to foreign labor markets that some employers may need to meet demands that U.S. workers cannot supply in sufficient quantity or with sufficient speed.

THE PERMANENT IMMIGRANT WORKER PROGRAM

There are two ways for employers to obtain foreign workers for jobs in the United States. The workers can be admitted permanently and become lawful permanent residents through the permanent immigrant worker program. Or, they can be admitted temporarily through one of several temporary, or nonimmigrant, worker programs.

Under current law, 140,000 foreign workers can be admitted into the United States each year through the Permanent Immigrant Worker program. These workers can run the gamut in skills from the most advanced Nobel Prize scientist to unskilled housekeepers and busboys.

One of the most significant changes we made in our system of legal immigration in 1990—the last time we attempted to reform employment-based immigration—was to increase by nearly threefold the numerical ceiling on employment-based immigrants. The number rose from 54,000 to 140,000 each year, and the changes also favored higher skilled immigrants. We did so because of dire warnings of serious high-skill labor shortages that we were all concerned would harm our economic growth, global competitiveness, and our potential to create high-skill, high-wage jobs for U.S. workers.

But these labor shortages never developed. In fact, actual use of the employment-based immigrant program for skilled workers has never come close to reaching the new ceiling level, and it has declined in the last 2 years. The closest we came to the ceiling was in 1993 when nearly 27,000 visas were used for Chinese students under the now-expired Chinese Student Protection Act. Another 10,000 visas were used for unskilled workers.

Use of the employment-based immigrant program for skilled workers and unskilled workers over the last 5 years has been well below the ceiling. In 1993, we admitted a total of 110,130. In 1994, we admitted 92,604, a 16-percent reduction from the previous year. In 1995, we admitted 73,239, a 21 percent reduction from the previous year. In sum, the numbers are well below the cap, and they have also been declining in each of the past several years.

At a time when we are seeking moderate reductions in legal immigration and reducing the visas available for reunifying families, we should also be reducing the employment-based immigration—especially when the positions are not being used and the trend-line is down. It is not fair that the whole weight of the reductions in the number of legal immigrants should be borne by families and diversity immigrants.

Reducing the ceiling on employment-based immigration is not the same as cutting employment-based immigration. In fact, the reform I intend to propose—adjusting the cap on employment-based immigration from 140,000 to 100,000—would allow actual employment-based immigration to grow by one-third in future years—from 75,000 in 1995 to 100,000. Under current law and the pending bill, the program would nearly double in size.

It is clear that we went too far in 1990 when we increased the ceiling on employment-based immigration to 140,000. The three-fold increase was not needed and has not been approached by actual use. We should pare it back to the more reasonable number of 100,000, as recommended by the Jordan Commission and the Clinton administration. That line still allows reasonable growth in this category, and it also protects our national interest in economic growth, global competitiveness, and domestic job creation.

But immigration is about a great deal more than numbers. It is fundamentally about people. When we consider employment-based immigration, we must have a clear understanding of the kind of people we are admitting to our country and what skills and abilities they are bringing in with them.

Under current law, we divide permanent immigrant workers into two categories: immigrants who are subject to labor certification and immigrants who can be admitted without labor certification.

Labor certification is supposed to serve as a requirement that employers first recruit U.S. workers for a job, before seeking immigrant workers. Some workers are so exceptional that we should admit them regardless of the state of the domestic labor market. But employers should be permitted to obtain other foreign workers only if no U.S. workers with similar skills are willing, available, and qualified for the jobs into which the immigrant workers will be placed.

Those who are not subject to labor certification fit into the best and brightest category. In 1995, the category included 1,200 aliens of extraordinary ability, including recipients of major honors, great commercial success, or leadership positions in their field; more than 1,600 outstanding professors and researchers; almost 4,000 multinational executives and managers; and almost 3,000 special immigrants, who are primarily outstanding clerics.

The best and brightest are the job creators, men and women whose contributions to our country will undoubtedly be dramatic and substantial. We should welcome them without hesitation. Current law permits it, and should remain unchanged.

The workers subject to labor certification, on the other hand, are rarely the best and brightest. They are skilled workers, workers with advanced degrees or baccalaureate degrees. Under current law, up to 10,000 of them can be unskilled workers.

There is no reason for employers in this country to bring in unskilled immigrant workers. There is an abundance, even an overabundance, of unskilled U.S. workers looking for work. The Judiciary Committee supported my amendment almost unanimously to delete the unskilled category from the permanent immigrant worker program. Plainly, unskilled immigrants do not fit into either of the two categories of workers who should be welcomed into our country—the best and brightest and workers needed to fill skills shortages.

Apart from unskilled workers, the immigrants subject to labor certification are professionals with advanced degrees, professionals with baccalaureate degrees, and skilled workers. They may be needed to satisfy skill shortages. But employers may also put these workers in competition with

VOL
142
PT
6
AP
15
—
24
1996
UMI

thousands of U.S. workers for jobs that could be filled from the domestic work force.

Employers use these permanent immigrant workers to fill many positions—cooks, computer programmers, engineers of all types, teachers, retail and wholesale managers, accountants and auditors, biologists, auto repair mechanics, university professors, and tailors.

One useful measure of the skill level of these workers is their salaries. Employers tell the Labor Department how much they plan to pay the skilled immigrants they are seeking. Eighty percent of the jobs for foreign workers subject to labor certification pay $50,000 a year or less. Fewer than 3 percent of these jobs pay $80,000 or more.

A small number of employers use this employment-based immigration program to seek out the best and brightest, but it is clearly the exception, not the rule. A large number of working families in Massachusetts and across the United States would be gratified to have an opportunity to earn $50,000 a year working in computer programming. It is vitally important that we make certain that employers use this immigration program only to fill jobs for which qualified U.S. workers are not available.

We must have a labor certification process which actually results in employers successfully recruiting U.S. workers for these skilled jobs. At present, the Department of Labor certifies an employer's application for an immigrant worker based on a complex, labor-intensive, and expensive preadmission screening system. The current system does not and cannot assure that the conditions required for certification are actually achieved when the immigrant worker is employed. The Commission on Immigration Reform estimated that labor certification costs employers $10,000 per immigrant for administrative, paperwork, and legal costs.

To bring in these skilled immigrants, an employer must demonstrate that it was unsuccessful in finding a qualified U.S. worker to do the job, and that the job will pay at least the locally prevailing wage. Any employer who uses this employment-based immigration system will tell you that it takes a long time and an excessive amount of documentation.

The basic problem with this labor certification system is not that it is expensive and time consuming, but that it does not assure that able, available, willing, and qualified U.S. workers get the jobs. In fact, there is very little genuine recruitment.

Consider the case of Tony Rosaci and the members of his local union. Tony is the secretary-treasurer of Iron Workers Local Union No. 455 in New York City. The members of this local union helped build New York. They were the backbone of the effort to rehabilitate the Statue of Liberty. But when well-qualified members of the local union responded to more than 65 help wanted ads placed in New York newspapers by employers seeking permanent immigrant workers, they were rejected each time in favor of foreign workers. There were 65 referrals of qualified U.S. workers, and 65 rejections.

The story of Tony Rosaci's union members is not the exception. The Labor Department inspector general found that in all of the cases where employers complete the labor certification process, their recruitment efforts do not result in a U.S. worker getting the job in 99.98 percent of the cases—99.98 percent. That means a U.S. worker gets hired only 1 in 5,000 times. The system isn't working. It is badly broken.

U.S. workers do not have a fair opportunity to get these jobs because, in the overwhelming majority of cases, there is already a foreign temporary worker in the job who is trying to adjust to permanent status. The image that we all have of foreign workers waiting in their home countries until they are admitted to the United States under the employment-based immigration system is a fallacy.

In 1994, 42 percent of labor certified workers who gained permanent admission came directly from the temporary worker program. Some unknown additional number are either working illegally for their employer, or simply leave the country for a short period of time to expedite their application for permanent admission to the United States.

The Labor Department estimates that as many as 90 percent or more of the foreign workers admitted permanently to the United States have worked for the same employer who is helping the worker adjust to permanent status. Simply put, U.S. workers cannot get these jobs, because foreign temporary workers or illegally employed foreign workers are already in these jobs.

Employers use the labor certification system to make it look as though they are engaging in genuine recruitment. In reality, they intend all along to keep the foreign workers who are already working for them. Employers frequently create position descriptions for which only the incumbent worker can qualify. As a result, referrals of well-qualified U.S. workers in response to advertisements for these jobs—the humiliating experience shared by the members of Tony Rosaci's local union and thousands of other U.S. workers—waste everyone's time and add insult to injury for U.S. workers.

This system is a sham. It must be changed to give U.S. workers the fair opportunity they deserve to get these high-wage, high-skill jobs, and assure the public that the employment-based immigration system serves its stated purpose.

U.S. workers deserve a fair and genuine opportunity to get and keep high-wage, high-skill jobs before they are filled by the foreign temporary workers who will later become permanent immigrant workers. The best opportunity for U.S. workers to get these good jobs is at the front end of employment-based immigration—before foreign temporary workers fill the vacancy.

To achieve this goal, we must reform the temporary worker program—the principal path through which foreign skilled workers are admitted to the United States. We must add a requirement that employers recruit U.S. workers, before the jobs can be filled with foreign temporary workers.

But we must also change the permanent program. Instead of requiring the Department of Labor to conduct meaningless labor certification for every employer, the Department's Employment Service should instead target its enforcement to the employers most likely to present a problem. In this way, employers who play by the rules or who are not in a problem industry would not be subjected to labor certification. Employers who seek to adjust a worker's status from temporary to permanent, and who demonstrate that they engaged in a bona fide but unsuccessful recruitment effort before filling the job with a foreign temporary worker, would not be required to go through labor certification.

These reforms, combined with effective enforcement by the Labor Department, should help give U.S. workers a fairer chance at these jobs, and free employers from participation in a sham labor certification process.

UNDERSTANDING THE TEMPORARY WORKER PROGRAM

In order to fully understand the permanent immigrant program, it is necessary to understand the principal nonimmigrant employment-based program, called the H–1B Program. This program permits U.S. employers to bring into the United States skilled workers with college or higher degrees. The program is capped at 65,000 new visas each year, but employers can keep such workers in the United States for up to 6 years. Thus, there can be almost 400,000 H–1B workers in the United States at one time.

The program was originally conceived as a means to meet employers' temporary needs for unique, highly skilled professionals. But many employers use the program to bring into the United States relatively large numbers of foreign temporary workers with little or no formal training beyond a 4-year college degree. The typical foreign temporary worker is not a one-of-a-kind professor or a Ph.D. engineer as some news stories suggest and the business lobby would have us believe.

For fiscal year 1994, employers' applications for health care therapists—primarily physical therapists and occupational therapists—accounted for one-half—49.9 percent—of all H–1B jobs. Computer-related occupations accounted for almost one-quarter—23.9 percent—of these jobs. As with the permanent program, wage data from H–1B applications indicate that almost two-thirds—65 percent—of H–1B jobs pay $40,000 or less, and almost 3 out of 4—75 percent—jobs pay $50,000 or less.

Under current law, there is no obligation for employers to try to recruit qualified U.S. workers for these jobs. The only thing the employer must do is submit a one-page form. Employers must give the title of the job, the salary they intend to pay, and attest to four facts: First, they will pay the higher of the actual wage paid to similarly employed workers or the prevailing wage; second, they are not the subject of a strike or lockout; third, they have posted the requisite notice for their U.S. workers; and fourth, the working conditions of similarly employed U.S. workers will not be adversely affected.

This form is the only requirement. No other documentation is required of the employer. Current law gives the Labor Department 7 days to review these one-page forms, and prohibits the Department from rejecting the forms unless they are incomplete or have obvious inaccuracies. In simple terms, the H–1B Program is an open door for 65,000 skilled foreign workers to enter the United States each year.

This is one reason why Americans are so cynical about our immigration laws. This system is intended to help U.S. employers remain competitive in the face of technological change and competitive global markets. Instead, the system permits employers to bring in foreign temporary workers regardless of whether qualified U.S. workers are available, or even if U.S. workers are currently holding the jobs into which the foreign temporary workers are going to be placed. We must reform the H–1B Program.

S. 1665 "REFORMS" TAKE US IN THE WRONG DIRECTION

Unfortunately, the reforms currently contained in the legal immigration bill are inadequate if our goal is to assure U.S. workers a fair opportunity to get and keep high-wage, high-skill jobs.

Over my objections and those of many other Democratic Members, the Judiciary Committee stripped out many sensible reforms to the employment-based programs. The Judiciary Committee then made changes for foreign temporary professional workers. The changes were touted by their sponsors as providing layoff protection to American workers, and as giving the Department of Labor latitude in investigating companies that rely on temporary foreign workers.

The current bill does neither of these things. In fact, anyone who looks carefully at the current bill will conclude that it does just the opposite.

S. 1665 embraces the agenda of corporate America at the expense of American workers. The changes in the H–1B Program would have the overall effect of further weakening protections for U.S. workers from unfair competition with foreign workers, even though the protections in the existing program are already demonstrably inadequate. Current law does not require U.S. employers to recruit in the domestic labor market first, nor does it prohibit employers from hiring foreign workers to replace laid off U.S. workers in the same job.

To the contrary, S. 1665 provides no protection from employers who fire U.S. workers and hire foreign workers. In fact, S. 1665 is an endorsement of laying off U.S. workers in favor of foreign workers. We must strengthen current law to stop this from happening—not weaken current law and invite it to happen more.

The failure to protect U.S. workers from layoffs is not the only area in which this bill fails to protect U.S. workers. If S. 1665 becomes law existing worker protections would not apply to the large majority of employers who use the H–1B program;

Employers would be subject to lower wage payment requirements for foreign workers; and,

The Labor Department's enforcement ability to protect U.S. workers and foreign workers would be sharply curtailed.

In sum, the bill goes in exactly the wrong direction by making an already troublesome H–1B program even worse.

Instead, we need genuine reform of the H–1B program to protect U.S. workers and give them a fair opportunity to get and keep high-wage, high-skill jobs.

First, as with the program for permanent immigrants, we should make it illegal to lay off qualified American workers and replace them with temporary foreign workers.

Recent case histories have gained wide public attention because they are shocking to all of us. Syntel, Inc., is a Michigan company with more than 80 percent foreign temporary workers, primarily computer analysts from India. In its business operations, Syntel contracts to provide computer personnel and services to other companies. In New Jersey, Syntel contracted with American International Group, a large insurance company, to provide computer services. Linda Kilcrease worked for AIG.

One day, without notice, AIG fired Linda along with 200 of her co-workers and replaced them with foreign temporary workers from Syntel. Adding insult to injury, Linda and her coworkers were forced to train their replacements during their final weeks on the job.

David Hoff was a database administrator in Arizona with Allied Signal, a defense contractor. David was asked to train two foreign workers to do his job. When he realized the company was about to replace him, he left the job and refused to train his foreign replacements.

Julie Cairns-Rubin worked for Sealand Services, a major shipping and trucking company, writing and maintaining computer software systems for the company's finances. She worked during the day and took night classes for advanced computer skills. Her training, hard work, and dedication were supposed to give her greater job security. Instead, Sealand fired Julie and replaced her with a foreign worker. Now Julie is unemployed.

Julie Cairns-Rubin, David Huff, and Linda Kilcrease should be rewarded for their skills and working hard for their employers. They are supposed to live the American dream. But the H–1B program under current law turns the American dream into the American nightmare, and S. 1665 makes this nightmare even worse.

John Martin owns a high-technology firm in Houston. He has been under pressure from clients to lay off his U.S. workers and bring in cheaper foreign workers at lower wages in order to cut costs. He refused, and has lost contracts to cheaper, H–1B firms as a result. John is an employer trying to play by the rules. But he can't compete with firms bringing in cheaper foreign labor.

Our law permits and encourages this behavior. Public outrage at such widely publicized layoffs are tarnishing our entire immigration system and adding to the growing sense of insecurity felt by U.S. workers. There is no legitimate justification for laying off U.S. workers and replacing them with foreign workers, and our immigration laws should prohibit it.

A second needed reform is to require employers to recruit for U.S. workers first, before being allowed to apply for a temporary foreign worker. Current law does not contain this simple, common sense principle—and it should.

Most employers who use the H–1B program say they are continuously recruiting in the domestic labor market, and would prefer hiring U.S. workers. So this change should not impose any hardship or additional burden on these employers.

This reform is simple and straightforward. Employers applying for a foreign worker under the H–1B program would have to check one additional box on their application form attesting that they have taken and are taking steps to recruit and retain U.S. workers—which employers assure us they are already doing.

The employer would attest that it had recruited in the domestic labor market using industry-wide standard

VOL
142
PT
6
AP
15
—
24
1996
UMI

recruitment procedures. Government would not mandate this standard.

If high-technology industries recruit quickly to win business, then that's the industry-wide standard that should be recognized under the immigration laws. This step will not delay firms which need workers quickly. But it will make sure that American workers get first crack at these good jobs.

The employer would also confirm that its recruitment offered the locally prevailing wage or the wage it actually pays similar workers, whichever is higher. Employers hiring foreign workers are already required, under current law, to pay these workers the higher of the actual or locally prevailing wage, so this reform imposes no new wage obligation. The reform would merely establish that the employer recruited U.S. workers by offering the same wages and other compensation that it would be obligated to pay to its foreign workers. That's only fair to U.S. workers.

This reform does not establish any new prevailing wage system. Under current law, employers must ascertain and promise to pay at least the locally prevailing wage. Employers can go to their State employment security agency to get the prevailing wage. Or, under current law, employers can rely on an "independent authoritative source" or another "legitimate source" for prevailing wage data. They are not required to come to the government to get this information under current law, and nothing I intend to propose would change that.

The employer would also attest that its domestic recruitment was unsuccessful. In other words, the employer need only state that it could not find a qualified U.S. worker for the job. Employers already tell us they face the problem of being unable to find available U.S. workers. It is this failure in the domestic labor market that the H–1B Program is supposed to address.

There are certain circumstances in which we would all agree that an employer should not be required to seek a U.S. worker. Existing law exempts from labor certification—and thereby from any recruitment requirement—foreign workers of extraordinary ability, outstanding professors and researchers, certain multinational executives and managers, and renowned clerics. These are truly the best and the brightest. They are Nobel-level scientists, the tenure-track professors, and top researchers. They should be admitted to the United States because they are unique and because there is no dispute that they will improve our society and increase our competitiveness. If we can get them, we should admit them.

If H–1B workers qualify under the permanent worker program as individuals with "extraordinary ability" or an "outstanding professor or researcher," the employer could also hire them and bring them into the United States as H–1B workers, without having to engage in domestic recruitment. This is a reasonable accommodation of the concerns expressed by the business community, without jeopardizing U.S. workers.

In every other case, however, we are short-changing U.S. workers and our own national interests if we don't expect employers to recruit in the U.S. for jobs for which they are seeking foreign workers.

The third and final change I propose to the H–1B Program is to reduce the term of the visa from 6 years to 3 years. This is supposed to be a temporary visa, but most Americans would call it a permanent job. In fact, Americans from 25 to 34 years of age change jobs every 3½ years. Those age 35 to 44 change every 6 years.

Importing needed skills should usually be a short-term response to urgent needs, while adjusting to quickly changing circumstances.

Reducing the terms from 6 years to 3 years will also reduce the maximum number of foreign temporary workers in the country at any one time from about 400,000 to about 200,000. The 3-year period will also assure that these temporary workers are, indeed, temporary.

This change is important not only for U.S. workers who already have the skills for good jobs, but also for those who would like to acquire the necessary skills. The labor market will correct imbalances in the demand and supply of needed skills if it receives the proper signals. Allowing foreign temporary workers to stay in the United States for 6 years sends the wrong signal. The only valid, long-term response to skills shortages is training U.S. workers. A 3-year stay will promote skills training and job opportunities for qualified U.S. workers, and help overcome the wage stagnation affecting so many working families.

GIVING THE LABOR DEPARTMENT THE ENFORCEMENT AUTHORITY IT NEEDS

I have discussed a long list of reforms that are needed in the permanent worker program and the H–1B Temporary Worker Program. These reforms can help assure that employment-based immigration is fair to U.S. workers. It is vital that we enact these reforms. But they will be nothing more than empty words in the United States Code if the Labor Department does not have the enforcement authority to assure widespread compliance.

We must end the current mismatch of enforcement authority. The Department of Labor has the power to respond to complaints, initiate investigations, and conduct audits under the temporary worker program, although S. 1665 would unwisely curb these powers. However, under the permanent program, the authority of the Department ends once the immigrant arrives on our shores. After the worker is here, there is little the Department can do to ensure that employers pay the prevailing wage and meet other terms and conditions of employment.

We must give the Department essentially the same post-admission enforcement powers for permanent foreign workers that it already has for temporary workers. Often, the temporary workers become permanent workers. The Department of Labor ought to have the same power to assure compliance after the workers convert to permanent resident status as before.

Such enforcement powers are important as a safeguard for workers' rights. They also ensure that the recruitment mechanism functions properly. To ensure that these requirements are met, the Labor Department must have the ability to seek out and identify employers that violate the law, assure that U.S. and foreign workers are protected or made whole, and impose penalties that will deter future violations and promote compliance.

Finally, we should also require payment of additional fees to cover the Labor Department's costs of administering the certification requirements and enforcement activities. Taxpayers should not have to foot the bill for the cost of providing employers with foreign workers.

Immigration has served America well for over two centuries. Its current troubles can be cured. If we fail to act responsibly the calls for Buchananism and Fortress America will only grow louder and more irresponsible. To protect our immigrant heritage, we must stop illegal immigration. We must end the abuses of American workers under our current immigration laws, and enact the many other reforms needed to strengthen this vital aspect of our history and our future.

Mr. President, I yield the floor at this particular time.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I have a unanimous-consent request.

I ask unanimous consent that a letter from the Congressional Budget Office addressed to me as chairman of the Subcommittee on Immigration, dated April 15, 1996, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 15, 1996.

Hon. ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As requested by your staff, CBO has reviewed a possible amendment to S. 1664, the Immigration Control and Financial Responsibility Act of 1996, which was reported by the Senate Committee on

the Judiciary on April 10, 1996. The amendment would alter the effective date of provisions in section 118 that would require states to make certain changes in how they issue driver's licenses and identification documents. The amendment would thereby allow states to implement those provisions while adhering to their current renewal schedules.

The amendment contains no intergovernmental mandates as defined in Public Law 104–4 and would impose no direct costs on state, local, or tribal governments. In fact, by delaying the effective date of the provisions in section 118, the amendment would substantially reduce the costs of the mandates in the bill. If the amendment were adopted, CBO estimates that the total costs of all intergovernmental mandates in S. 1664 would no longer exceed the $50 million threshold established by Public Law 104–4.

In our April 12, 1996, cost estimate for S. 1664 (which we identified at the time as S. 269), CBO estimated that section 118, as reported, would cost states between $80 million and $200 million in fiscal year 1998 and less than $2 million a year in subsequent years. These costs would result primarily from an influx of individuals seeking early renewals of their driver's licenses or identification cards. By allowing states to implement the new requirements over an extended period of time, the amendment would likely eliminate this influx and significantly reduce costs. If the amendment were adopted, CBO estimates the direct costs to states from the driver's license and identification document provisions would total between $10 million and $20 million and would be incurred over six years. These costs would be for implementing new data collection procedures and identification card formats.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

Mr. SIMPSON. Mr. President, I ask unanimous consent that a document from the Congressional Budget Office setting forth the estimated budgetary effects of the pending legislation be printed at this point in the RECORD, and I further note that the reference in this letter to S. 269, as reported by the Senate Committee on the Judiciary on April 10, 1996, means that these estimates apply to the legislation pending before the Senate as S. 1664.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 12, 1996.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed federal, intergovernmental, and private sector cost estimates for S. 269, the Immigration Control and Financial Responsibility Act of 1996. Because enactment of the bill would affect direct spending and receipts, pay-as-you-go procedures would apply.

The bill would impose both intergovernmental and private sector mandates, as defined in Public Law 104–4. The cost of the mandates would exceed both the $50 million threshold for intergovernmental mandates and the $100 million threshold for private sector mandates specified in that law.

CBO's estimate does not include the potential cost of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens. As noted in the enclosed estimate, the drafting of this provision leaves many uncertainties about how the program would work and therefore precludes a firm estimate. The potential costs could, however, be significant.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 269.

2. Bill title: Immigration Control and Financial Responsibility Act of 1996.

3. Bill status: As reported by the Senate Committee on the Judiciary on April 10, 1996.

4. Bill purpose: S. 269 would make many changes and additions to Federal laws relating to immigration. Provisions having a potentially significant budgetary impact are highlighted below.

Title I would:

Direct the Attorney General to increase the number of Immigration and Naturalization (INS) border patrol agents by 700 in fiscal year 1996 and by 1,000 in each of the fiscal years 1997 through 2000; in addition, the number of full-time support positions for border patrol agents would be increased by 300 in each of the fiscal years 1996 through 2000;

Authorize appropriations of such sums as may be necessary to increase the number of INS investigator positions by 600 in fiscal year 1996 and by 300 in each of the fiscal years 1997 and 1998, and provide for the necessary support positions;

Direct the Attorney General and the Secretary of the Treasury to increase the number of land border inspectors in fiscal years 1996 and 1997 to assure full staffing during the peak border-crossing hours;

Authorize the Department of Labor (DOL) to increase the number of investigators by 350—plus necessary support staff—in fiscal years 1996 and 1997;

Direct the Attorney General to increase the detention facilities of the INS to at least 9,000 beds by the end of fiscal year 1997;

Authorize a one-time appropriation of $12 million for improvements in barriers along the U.S.-Mexico border;

Authorize the Attorney General to hire for fiscal years 1996 and 1997 such additional Assistant U.S. Attorneys as may be necessary for the prosecution of actions brought under certain provisions of the Immigration and Nationality Act;

Authorize appropriations of such sums as may be necessary to expand the INS fingerprint-based identification system (IDENT) nationwide;

Authorize a one-time appropriation of $10 million for the INS to cover the costs to deport aliens under certain provisions of the Immigration and Nationality Act;

Authorize such sums as may be necessary to the Attorney General to conduct pilot programs related to increasing the efficiency of deportation and exclusion proceedings;

Establish several pilot projects and various studies related to immigration issues, including improving the verification system for aliens seeking employment or public assistance;

Provide for an increase in pay for immigration judges;

Establish new and increased penalties and criminal forfeiture provisions for a number of crimes related to immigration; and

Permit the Attorney General to reemploy up to 100 federal retirees for as long as two years to help reduce a backlog of asylum applications.

Title II would:

Curtail the eligibility of non-legal aliens, including those permanently residing under color of law (PRUCOL), in the narrow instances where they are now eligible for federal benefits;

Extend the period during which a sponsor's income is presumed or deemed to be available to the alien and require deeming in all federal means-tested programs, not just the ones that currently practice it;

Deny the earned income tax credit to individuals not authorized to be employed in the United States; and

Change federal coverage of emergency medical services for illegal aliens.

5. Estimated cost to the Federal Government: Assuming appropriation of the entire amounts authorized, enacting S. 269 would increase discretionary spending over fiscal years 1996 through 2002 by a total of about $3.2 billion. Several provisions of S. 269, mainly those in Title II affecting benefit programs, would result in changes to mandatory spending and federal revenues. CBO estimates that the changes in mandatory spending would reduce outlays by about $7 billion over the 1996–2002 period, and that revenues would increase by about $80 million over the same period. These figures do not include the potential costs of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens; these costs could amount to as much as $1.5 billion to $3 billion a year.

The estimated budgetary effects of the legislation are summarized in Table 1. Table 2 shows projected outlays for the affected direct spending programs under current law, the changes that would stem from the bill, and the projected outlays for each program if the bill were enacted. The projections reflect CBO's March 1996 baseline.

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 269

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATIONS ACTION							
Authorizations:							
Estimated authorization level	0	709	472	580	596	615	633
Estimated outlays	0	286	467	663	580	600	621

VOL
142
PT
6
AP
15
—
24
1996
UMI

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 269—Continued

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
MANDATORY SPENDING AND RECEIPTS							
Direct spending:							
Estimated budget authority	0	−450	−927	−1,237	−1,427	−1,409	−1,549
Estimated outlays	0	−450	−927	−1,237	−1,427	−1,409	−1,549
Estimated Revenues	0	14	13	12	13	13	13

Note.—Estimates do not include potential costs of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens. These costs could amount to as much as $1.5 billion to $3 billion a year.

The costs of this bill fall within budget functions 550, 600, 750, and 950.

TABLE 2.—ESTIMATED EFFECTS OF S. 269 ON DIRECT SPENDING PROGRAMS

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
PROJECTED SPENDING UNDER CURRENT LAW								
Supplemental Security Income	24,510	24,017	27,904	30,210	32,576	37,995	34,515	40,348
Food Stamps [1]	25,554	26,220	28,094	29,702	31,092	32,476	33,847	35,283
Family Support Payments [2]	18,086	18,371	18,800	19,302	19,930	20,552	21,240	21,932
Child Nutrition	7,465	8,011	8,483	9,033	9,597	10,165	10,751	11,352
Medicaid	89,070	95,737	104,781	115,438	126,366	138,154	151,512	166,444
Earned Income Tax Credit (outlay portion)	15,244	18,440	20,191	20,894	21,691	22,586	23,412	24,157
Receipts of Employer Contributions	−27,961	−27,025	−27,426	−27,978	−28,258	−29,089	−29,949	−31,025
Total	151,968	163,771	180,827	196,601	212,994	232,839	245,328	268,491
PROPOSED CHANGES								
Supplemental Security Income	....	0	−100	−340	−500	−570	−500	−560
Food Stamps [1]	....	0	−10	−30	−40	−45	−45	−70
Family Support Payments [2]	....	0	−10	−15	−15	−20	−20	−25
Child Nutrition	....	0	0	0	−5	−20	−20	−25
Medicaid [3]	....	0	−115	−330	−460	−550	−600	−640
Earned Income Tax Credit (outlay portion)	....	0	−216	−214	−218	−222	−224	−229
Receipts of Employer Contributions	....	0	1	2	1	0	0	0
Total	....	0	−450	−927	−1,237	−1,427	−1,409	−1,549
PROJECTED SPENDING UNDER S. 269								
Supplemental Security Income	24,510	24,017	27,804	29,870	32,076	37,425	34,015	39,788
Food Stamps [1]	25,554	26,220	28,084	29,672	31,052	32,431	33,802	35,213
Family Support Payments [2]	18,086	18,371	18,790	19,287	19,915	20,532	21,220	21,907
Child Nutrition	7,465	8,011	8,483	9,033	9,592	10,145	10,731	11,327
Medicaid [3]	89,070	95,737	104,666	115,108	125,906	137,604	150,912	165,804
Earned Income Tax Credit (outlay portion)	15,244	18,440	19,975	20,680	21,473	22,364	23,188	23,928
Receipts of Employer Contributions	−27,961	−27,025	−27,425	−27,976	−28,257	−29,089	−29,949	−31,025
Total	151,968	163,771	180,377	195,674	211,757	231,412	243,919	266,942
Changes to Revenues	....	0	14	13	12	13	13	13
Net Deficit effect	....	0	−464	−940	−1,249	−1,440	−1,442	−1,562

[1] Food Stamps includes Nutrition Assistance for Puerto Rico. Spending under current law includes the provisions of the recently-enacted farm bill.

[2] Family Support Payments includes spending on Aid to Families with Dependent Children (AFDC), AFDC-related child care, administrative costs for child support enforcement, net federal savings from child support collections, and the Job Opportunities and Basic Skills Training program (JOBS).

[3] Estimates do not include potential costs of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens. These costs could amount to as much as $1.5 billion to $3 billion a year.

Notes.—Assumes enactment date of August 1, 1996. Estimates will change with later effective date. Details may not add to totals because of rounding.

6. Basis of estimate: For purposes of this estimate, CBO assumes that S. 269 will be enacted by August 1, 1996.

SPENDING SUBJECT TO APPROPRIATIONS

The following estimates assume that all specific amounts authorized by the bill would be appropriated for each fiscal year. For programs in the bill for which authorizations are not specified, or for programs whose specific authorizations do not provide sufficient funding, CBO estimated the cost based on information from the agencies involved. Estimated outlays, beginning in 1997, are based on historical rates for these or similar activities. (We assumed that none of the bill's programs would affect outlays in 1996.)

The provisions in this bill that affect discretionary spending would increase costs to the federal government by the amounts shown in Table 3, assuming appropriation of the necessary funds. In many cases, the bill authorizes funding for programs already authorized in the Violent Crime Control and Law Enforcement Act of 1994 (the 1994 crime bill) or already funded by fiscal year 1996 appropriations action. For example, the additional border patrol agents and support personnel in title I already were authorized in the 1994 crime bill through fiscal year 1998. For such provisions, the amounts shown in Table 3 reflect only the cost above funding authorized in current law.

In the most recent continuing resolution enacted for fiscal year 1996, appropriations for the Department of Justice total about $14 billion, of which about $1.7 billion is for the INS.

TABLE 3.—SPENDING SUBJECT TO APPROPRIATIONS ACTION

[By fiscal years, in millions of dollars]

	1997	1998	1999	2000	2001	2002
Estimated authorization levels:						
Additional Border Patrol agents	....	....	97	97	100	103
Additional investigators	97	152	159	165	171	178
Additional inspectors	24	32	34	35	37	39
Additional DOL employees	27	29	30	31	33	34
Detention facilities	418	187	187	194	198	204
Barrier improvements	20	....	....	....	....	....
Additional U.S. Attorneys	23	46	48	49	51	52
IDENT expansion	87	22	22	22	22	22
Deportation costs	10	....	....	....	....	....
Pilot programs	2	3	2	2	2	....
Pay raise for immigration judges	1	1	1	1	1	1
Total	709	472	580	596	615	633
Estimated Outlays	286	467	663	580	600	621

REVENUES AND DIRECT SPENDING

S. 269 would have a variety of effects on direct spending and receipts. The most significant effects would stem from new restrictions on payment of federal benefits to aliens, in Title II of the bill. That title would curtail the eligibility of non-legal aliens, including those permanently residing under color of law (PRUCOL), in the narrow instances where they are now eligible for federal benefits. It would require that all federal means-tested programs weigh sponsors' income (a practice known as deeming) for a minimum of 5 years after entry when gauging an immigrant's eligibility for benefits, and would require an even longer deeming period—lasting 10 years or more after arrival—for future entrants. It would make sponsors' affidavits of support legally enforceable. These provisions would save money in federal benefit programs. Partly offsetting those savings, the bill proposes one major change that could add to federal costs—a provision that is apparently intended to require the federal government to pay the full cost of emergency Medicaid services for illegal aliens. However, ambiguities in the drafting of that provision prevent CBO from estimating its effect. Although the provisions affecting benefit programs dominate

the direct spending implications of S. 269, other provisions scattered throughout Titles I and II would have small effects on collections of fines and penalties and on the receipts of federal retirement funds.

Fines. The imposition of new and enhanced civil and criminal fines in S. 269 could cause governmental receipts to increase, but CBO estimates that any such increase would be less than $500,000 annually. Civil fines would be deposited into the general fund of the Treasury. Criminal fines would be deposited in the Crime Victims Fund and would be spent in the following year. Thus, direct spending from the fund would match the increase in revenues with a one-year lag.

Forfeiture. New forfeiture provisions in S. 269 could lead to more assets seized and forfeited to the United States, but CBO estimates that any such increase would be less than $500,000 annually in value. Proceeds from the sale of any such assets would be deposited as revenues into the Assets Forfeiture Fund of the Department of Justice and spent out of that fund in the same year. Thus, direct spending from the Assets Forfeiture Fund would match any increase in revenues.

Supplemental Security Income. The SSI program pays benefits to low-income people with few assets who are aged 65 or older or disabled. According to tabulations by the Congressional Research Service (CRS), the SSI program for the aged is the major benefit program with the sharpest contrast in participation between noncitizens and citizens. CRS reported that nearly one-quarter of aliens over the age of 65 receive SSI, versus about 4 percent of citizens. The Social Security Administration states that about 700,000 legal aliens collect SSI (although some unknown fraction of those "aliens" are really naturalized citizens, whose change in status is not reflected in program records). About three-quarters of alien SSI recipients are immigrants legally admitted for permanent residence, who must serve out a waiting period during which their sponsor's income is "deemed" to them before they can go on the program. That waiting period was lengthened to 5 years in 1994 but is slated to return to 3 years in October 1996. The other one-quarter of alien recipients of SSI are refugees, asyelees, and PRUCOLs.

S. 269 would prevent the deeming period from returning to 3 years in October 1996. Instead, the deeming period would remain at 5 years (for aliens who entered the country before enactment) and would be lengthened to 10 years or more for aliens who enter after the date of enactment. Specifically, for a future entrant, deeming in all federal means-tested programs would last until the alien had worked for 40 quarters in Social Security-covered employment—a condition that elderly immigrants, in particular, would be unlikely ever to meet. By requiring that all income of the sponsor and spouse be deemed "notwithstanding any other provision of law," S. 269 would also nullify the exemption in current law that waives deeming when the Social Security Administration (SSA) determines that the alien applicant became disabled after he or she entered the United States.

Data from SSA records show very clearly that many aged aliens apply for SSI as soon as their deeming period is over, though such a pattern is much less apparent among younger aliens seeking benefits on the basis of disability. CBO estimates that lengthening the deeming period from 3 years to 5 years (or longer), and striking the exemption from deeming for aliens who became disabled after arrival, would save about $0.1 billion in 1996, and $0.3 billion to $0.4 billion a year in 1997 through 2002. Nearly two-thirds of the savings would oome from the aged, and the rest from the disabled.

S. 269 would also eliminate eligibility for SSI benefits of aliens permanently residing under color of law (PRUCOLs). That label covers such disparate groups as parolees, aliens who are granted a stay of deportation, and others with various legal statuses. PRUCOLs currently make up about 5 percent of aliens on the SSI rolls. CBO assumes that some would successfully seek to have their classification changed to another category (such as refugee or asylee) that would protect their SSI benefits. The remainder, though, would be barred from the program, generating savings of about $0.5 billion over 7 years.

Food Stamps. The estimated savings in the Food Stamp program—$0.2 billion over 7 years—are considerably smaller than those in SSI but likewise stem from the deeming provisions of S. 269. The Food Stamp program imposes a 3-year deeming period. Therefore, lengthening the deeming period (to 5 years for aliens already here and longer for future entrants) would save money in food stamps. S. 269 contains a narrow exemption from deeming for aliens judged to be at immediate risk of homelessness or hunger. Because the Food Stamp program already denies benefits to most PRUCOLs, no savings are estimated from that source.

Family Support. The provisions that would generate savings in SSI and food stamps would also lead to small savings in the AFDC program. The AFDC program already deems income from sponsors to aliens for 3 years after the alien's arrival. S. 269 would lengthen that period to at least 5 years (longer for future entrants). The $0.1 billion in total savings over the 1997–2002 period would stem overwhelmingly from the lengthening of the deeming period. Savings from ending the eligibility of PRUCOLs are estimated to be just a few million dollars a year.

Child Nutrition. S. 269 would require that the child nutrition program begin to deem sponsors' income to alien schoolchildren when weighing their eligibility for free or reduced-price lunches. Child nutrition does not employ deeming now. It does, however, take parents' income into account when determining eligibility. CBO therefore assumed that savings in child nutrition would stem mainly from the minority of cases in which a relative other than a parent (say, a grandparent or an aunt) sponsored the child's entry into the United States. CBO assumed that it would take at least two years to craft regulations and implement deeming in school systems nationwide, therefore precluding savings until 1999. Savings of about $20 million a year would result once the deeming provision took full effect.

S. 269 explicitly preserves eligibility for the child nutrition program for illegal alien schoolchildren. CBO assumed, however, that the stepped-up screening that would be required to enforce deeming for legally admitted children would lead some illegal alien children to stop participating in the program, because their parents would fear detection.

Medicaid. S. 269 would erect several barriers to Medicaid eligibility for recent immigrants and future entrants into this country. In most cases, AFDC or SSI eligibility carries Medicaid eligibility along with it. By restricting aliens' access to those two cash programs, S. 269 would thereby generate Medicaid savings. Medicaid now has no deeming requirement at all; that is, program administrators do not consider a sponsor's income when they gauge the alien's eligibility for benefits. Therefore, it is possible for a sponsored alien to qualify for Medicaid even before he or she has satisfied the SSI waiting period. S. 269 would change that by requiring that every means-tested program weigh the income of a sponsor for at least 5 years after entry. Under current law, PRUCOLs are specifically eligible for Medicaid; S. 269 would make them ineligible.

To estimate the savings in Medicaid, CBO first estimated the number of aliens who would be barred from the SSI and AFDC programs by other provisions of S. 269, CBO then added another group—dubbed "noncash beneficiaries" in Medicaid parlance because they participate in neither of the two cash programs. The noncash participants who would be affected by S. 269 essentially fall into two groups. One is the group of elderly (and, less importantly, disabled) aliens with financial sponsors who, under current law, seek Medicaid even before they satisfy the 3-year wait for SSI; the second is poor children and pregnant women who could, under current law, qualify for Medicaid even if they do not get AFDC. CBO multiplied the estimated number of aliens affected times an average Medicaid cost appropriate for their group. That average cost is significantly higher for an aged or disabled person than for a younger mother or child. In selecting an average cost, CBO took into account the fact that relatively few aged or disabled aliens receive expensive long-term care in Medicaid-covered institutions, but that on the other hand, few are eligible for Medicare. The resulting estimate of Medicaid savings was then trimmed by 25 percent to reflect the fact that—if the aliens in question were barred from regular Medicaid—the federal government would likely end up paying more in reimbursements for emergency care and for uncompensated care. The resulting savings in Medicaid would climb from $0.1 billion in 1997 to about $0.6 billion a year in 2000 through 2002, totaling $2.7 billion over the 1996—2002 period.

One of the few benefits for which illegal aliens now qualify is emergency Medicaid, under section 1903(v) of the Social Security Act. Section 212 of S. 269 is apparently intended to make the federal government responsible for the entire cost of emergency medical care for illegal aliens, instead of splitting the cost with states as under the current matching requirements of Medicaid. However, the drafting of the provision leaves several legal and practical issues dangling. S. 269 would not repeal the current provision in section 1903(v). It would apparently establish a separate program to pay for emergency medical care. Although it stipulates that funding must be set in advance in appropriation acts, it also provides that states and localities would therefore have an open-ended right to reimbursement, notwithstanding the ceiling implied in an appropriation act.

S. 269 orders the Secretary of Health and Human Services (HHS), in consultation with the Attorney General, to develop rules for reimbursement. Emergency patients often show up with no insurance and little other identification; therefore, if HHS drafted stringent rules for verification, it is possible that very few providers could collect the reimbursement. On the other hand, if HHS required only minimal identification, providers would have an incentive to classify as many patients as possible in this category because that would maximize their federal reimbursement. S. 269 does not state whether

VOL
142
PT
6
AP
15
—
24
1996
UMI

reimbursement would be subject to the usual limits on allowable charges in Medicaid, or whether providers could bill the federal government for their full cost. Nor is it clear whether the program would use the same definition of emergency care as in Medicaid law.

Although the budgetary effects of Section 212 cannot be estimated, some idea of its potential costs can be gained by looking at analogous proposals for the Medicaid program. CBO estimates that modifying Medicaid to reimburse states and localities for the full cost of emergency care for illegal aliens would cost approximately $1.5 billion to $3 billion per year. That estimate assumes that Medicaid would continue to use its current definition of emergency care and its current schedule of charges. It also assumes that states would seek to classify more aliens and more services in this category, in order to collect the greatest reimbursement.

Similarly, section 201 of the bill is meant to qualify certain mothers who are illegal aliens for pre- and post-partum care under the Medicaid program. In general, poor women who are citizens or legal immigrants can now get such care through Medicaid, but illegal aliens cannot. Although the bill would authorize $120 million a year for such care, the new benefit would in fact be open-ended because of the entitlement nature of the Medicaid program. CBO does not have enough information to estimate the provision's cost, which would depend critically on the type of documentation demanded by the Secretary of HHS to prove that the mothers met the requirement of 3 years of continuous residence.

Earned Income Tax Credit. S. 269 would deny eligibility for the Earned Income Tax Credit (EITC) to workers who are not authorized to be employed in the United States. In practice, that provision would work by requiring valid Social Security numbers to be filed for the primary and secondary taxpayers on returns that claim the EITC. A similar provision was contained in President Clinton's 1996 budget proposal and in last fall's reconciliation bill. The Joint Committee on Taxation estimates that the provision would reduce the deficit by approximately $0.2 billion a year.

Other programs. Entitlement or direct spending programs other than those already listed are estimated to incur negligible costs or savings over the 1997–2002 period as a consequence of S. 269. The foster care program does not appear on any list of exemptions in S. 269; but since the program does not employ deeming now, and since it is unclear how deeming could be made to work in that program (for example, whether it would apply to foster care children or parents), CBO estimates no savings. CBO estimates that the bill would not lead to any significant savings in the student loan program. The Title XX social services program, and entitlement program for the states, is funded at a fixed dollar amount set by the Congress; the eligibility or ineligibility of aliens for services would not have any direct effect on those dollar amounts.

S. 269 would have a small effect on the net outlays of Federal retirement programs. Section 196 of the bill would permit certain civilian and military retirees to collect their full pensions in addition to their salary if they are reemployed by the Department of Justice to help tackle a backlog of asylum applications. CBO estimates that about 100 annuitants would be affected, and that net outlays would increase by $1 million to $2 million a year in 1997 through 1999.

CBO judges that S. 269 would not lead to any savings in Social Security, unemployment insurance, or other federal benefits that are based on earning. S. 269 would deny benefits if the alien was not legally authorized to work in the United States. Since 1972, however, the law has ordered the Social Security Administration to issue Social Security numbers (SSNs) only to citizens and to aliens legally authorized to work here. A narrow exception is "nonwork" SSNs, granted for purposes such as enabling aliens to file income taxes. Since all work performed by aliens who received SSNs after 1972 is presumed to be legal, and since verifying the work authorization of people who received SSNs before 1972 is an insuperable task, CBO estimates no savings in these earnings-related benefits.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. Because several sections of this bill would affect receipts and direct spending, pay-as-you-go procedures would apply. These effects are summarized in the following table.

[By fiscal years, in millions of dollars]

	1996	1997	1998
Change in outlays	0	−450	−927
Change in receipts	0	14	13

Note.—Estimates do not include potential costs of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens. These costs could amount to as much as $1.5 billion to $3 billion a year.

8. Estimated impact on State, local, and tribal governments: See the enclosed intergovernmental mandates statement.

9. Estimated impact on the private sector: See the enclosed private sector mandates statement.

10. Previous CBO estimate: On March 4, 1996, CBO provided an estimate of H.R. 2202, an immigration reform bill reported by the House Committee on the Judiciary. (The bill was subsequently passed by the House, with amendments.) That bill had many provisions in common with S. 269. However, the deeming restrictions proposed in H.R. 2202 applied exclusively to future entrants; aliens who entered before the enactment date would not have been affected. Therefore, S. 269—which would apply deeming to aliens who entered in the last 5 years as well as to future entrants—would result in larger savings in many benefit programs. Also, projected discretionary spending under S. 269 would be less than under H.R. 2202.

In 1995, CBO prepared many estimates of welfare reform proposals that would have curtailed the eligibility of legal aliens for public assistance. Examples include the budget reconciliation bill (H.R. 2491) and the welfare reform bill (H.R. 4), both of which were vetoed.

11. Estimate prepared by: Mark Grabowicz, Wayne Boyington, Sheila Dacey, Dorothy Rosenbaum, Robin Rudowitz, Kathy Ruffing, and Stephanie Weiner.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

Congressional Budget Office Estimate of Costs of Private Sector Mandates

1. Bill number: S. 269.

2. Bill title: Immigration Control and Financial Responsibility Act of 1996.

3. Bill status: As reported, by the Senate Committee on the Judiciary on April 10, 1996.

4. Bill purpose: S. 269 would make changes and additions to federal laws relating to immigration.

5. Private sector mandates contained in the bill: Several provisions of the bill would impose new requirements on the private sector. In general, the private sector mandates in S. 269 lie in three areas: (1) provisions that affect the transportation industry, (2) provisions that affect aliens within the borders of the United States, and (3) provisions that affect individuals who sponsor aliens and execute affidavits of support. The estimated impacts of these mandates do not include any costs imposed on individuals not within the borders of the United States.

6. Estimated direct cost to the private sector: CBO estimates that the direct costs of private sector mandates identified in S. 269 would be less than $100 million annually through 1999, but would rise to over $100 million in 2000 and $300 million in 2001. In 2002 and thereafter, the direct costs would exceed $600 million annually. The large majority of those costs would be imposed on sponsors of aliens who execute affidavits of support, such costs are now borne by the federal government and state and local governments for the provision of benefits under public assistance programs. Assuming enactment of S. 260 this summer, CBO expects that the mandates in the bill would be effective beginning in fiscal year 1997.

Basis of estimate

Title I, subtitle A—Law enforcement

Section 151 would impose new mandates on the transportation industry—in particular, those carriers arriving in the U.S. from overseas. Agents that transport stowaways to the U.S., even unknowingly, would be responsible for detaining them and for the costs associated with their removal. This mandate is not expected to impose large costs on the transportation industry. Over the last two years a total of only about 2000 stowaways have been detained.

Section 154 would require aliens who seek to become permanent residents to show documented proof that they have been immunized against a list of diseases classified as "vaccine-preventable" by the Advisory Committee on Immunization Practices. That requirement would impose costs on aliens who were not immunized previously or were unable to document that they had been immunized. Some of the costs might be paid for by state and local governments through public clinics. The total cost of the mandate to aliens residing in the United States would be expected to be less than $40 million a year.

Section 155 would impose two new requirements on aliens in the U.S. who seek to adjust their status to permanent resident for the purpose of working as nonphysician health care workers. First, those aliens would be required to present a certificate from the Commission on Graduates of Foreign Nursing Schools (or an equivalent body) that verifies that the alien's education, training, license, and experience meet standards comparable to those required for domestically trained health care workers employed in the same occupation. Second, those aliens would be required to attain a certain score on a standardized test of oral and written English language proficiency.

The aggregate direct costs of complying with the new requirements imposed on nonphysician health care workers would depend on several factors: the number of aliens that attempt to adjust their status to permanent resident for the purpose of becoming a nonphysician health care worker; the costs of obtaining proof of certification and of taking an English language test; and the cost of conforming to the higher standard for those not initially qualified who would attempt to do so. At this point CBO does not have quantitative information on these factors but we do not believe that the aggregate direct costs of these mandates would be substantial. Nevertheless, for certain individuals the cost of meeting these requirements would be large.

Title II—Financial responsibility

Title II would impose new requirements on citizens and permanent residents who execute affidavits of support for legal immigrants. At present, immigrants who are expected to become public charges must obtain a financial sponsor who signs an affidavit of support. A portion of the sponsor's income is then "deemed" to the immigrant for use in the means-test for several federal welfare programs. Affidavits of support, however, are not legally binding documents. S. 269 would make affidavits of support legally binding, expand the responsibilities of financial sponsors, and place an enforceable duty on sponsors to reimburse the federal government or states for benefits provided in certain circumstances.

Supporting aliens to prevent them from becoming public charges would impose considerable costs on sponsors, who are included in the private sector under the Unfunded Mandates Reform Act of 1995. CBO estimates that sponsors of immigrants would face over $20 million in additional costs in 1997. Costs would grow quickly, however. Over the period from 1998 to 2001, assuming that affidavits of support would be enforced, the costs to sponsors of immigrants would exceed $100 million annually and would total about $500 million during the first five years that the mandate would be effective.

Other provisions

Several other provisions in S. 269 would impose new mandates on citizens and aliens but would result in little or no monetary cost. For example, Title II contains a new mandate that would require sponsors to notify the federal and state governments of any change of address. CBO estimates that the direct cost of these provisions would be minimal.

Section 116 of Title I would change the acceptable employment-verification documents and authorize the Attorney General to require individuals to provide their Social Security number on employment forms attesting that the individual is not an unauthorized alien. CBO estimates that the direct costs of complying with that requirement would also be minimal.

Section 181 of Title I would add categories of aliens who would not be permitted to adjust from non-immigrant to immigrant status. Any alien not in a lawful immigrant status would not be allowed to become an employment-based immigrant. Also, aliens who were employed while an unauthorized alien, or who had otherwise violated the terms of a nonimmigrant visa, would not be allowed to become an immigrant. Although these provisions would have significant impacts on certain members of the private sector, there would be no direct costs as defined by P.L. 104-4.

7. Previous CBO estimate: On March 13, 1996, CBO prepared a private sector mandate statement on H.R. 2202, the Immigration in the National Interest Act of 1995, which was ordered reported by the House Committee on the Judiciary on October 24, 1995.

8. Estimate prepared by: Daniel Mont and Matt Eyles.

9. Estimate approved by: Joseph R. Antos, Assistant Director for Health and Human Resources.

Congressional Budget Office Estimated Cost of Intergovernmental Mandates

1. Bill Number: S. 269.

2. Bill title: Immigration Control and Financial Responsibility Act of 1996.

3. Bill Status: As reported by the Senate Committee on the Judiciary on April 10, 1996.

4. Bill purpose: S. 269 would make many changes and additions to federal laws relating to immigration. The bill would also require changes to the administration of state and local transportation, public health, and public assistance programs. Demonstration projects for verifying immigration status and for determining benefit eligibility would be conducted in a number of states, pursuant to agreements between those states and the Attorney General. Section 118 would require state and local governments to adhere to certain standards in the production of birth certificates, driver's licenses, and identification documents. Sections 201 and 203 would limit the eligibility of many aliens for public assistance and other benefits. In addition, Title II would authorize state and local governments to implement measures to minimize or recoup costs associated with providing certain benefits to legal and non-legal aliens.

5. Intergovernmental mandates contained in bill:

State and local governments that issue birth certificates would be required to use safety paper that is tamper- and counterfeit-resistant, comply with new regulations established by the Department of Health and Human Services (HHS), and prominently note on a copy of a birth certificate if the person is known to be deceased.

State agencies issuing driver's licenses or identification documents would be required either to print Social Security numbers on these items or collect and verify the number before issuance. They would also be required to comply with new regulations to be established by the Department of Transportation (DOT).

State employment security agencies would be required to verify employment eligibility and complete attestations to that effect prior to referring an individual to prospective employers.

State and local agencies administering public assistance and regulatory programs would be required to:

Deny eligibility in most state and local means-tested benefit programs to non-legal aliens, including those "permanently residing under color of law" (PRUCOL). (PRUCOLS are aliens whose status is usually transitional or involves an indefinite stay of deportation);

Weigh sponsors' income (a practice known as deeming) for 5 years or longer after entry when gauging a legal alien's eligibility for benefits in some large federal means-tested entitlement programs;

Request reimbursement from sponsors via certified mail and in compliance with Social Security Administration regulations if notified that a sponsored alien has received benefits from a means-tested program;

Notify, either individually or publicly, all ineligible aliens who are receiving benefits or assistance that their eligibility is to be terminated; and

Deny non-legal aliens and PRUCOLs the right to receive grants, enter into contracts or loan agreements, or receive or renew professional or commercial licenses.

State and local governments would be prohibited from imposing any restrictions on the exchange of information between governmental entities or officials and the Immigration and Naturalization Service (INS) regarding the immigration status of individuals.

6. Estimated direct cost of mandates on State, local, and tribal governments:

(a) *Is the $50 Million Threshold Exceeded?* Yes.

(b) *Total Direct Costs of Mandates:* CBO estimates that these mandates would impose direct cost on state, local, and tribal governments totaling between $80 million and $200 million in fiscal year 1998. In the four subsequent years, mandate costs would total less than $2 million annually. State, local, and tribal governments could face additional costs associated with the deeming requirements in each of the 5 years following enactment of the bill; however, CBO cannot quantify such costs at this time.

S. 269 also includes a number of provisions that, while not mandates, would result in significant net savings to state, local, and tribal governments. CBO estimates these savings could total several billion dollars over the next five years.

(c) *Estimate of Necessary Budget Authority:* Not applicable.

7. Basis of estimate: Of the mandates listed above, the requirements governing birth certificates and driver's licenses would impose the most significant direct costs. The bill would require issuers of birth certificates to use a certain quality safety paper when providing copies to individuals if those copies are to be acceptable for use at any federal office or state agency that issues driver licenses or identification documents. While many state issuers are adequate quality safety paper, many local clerk and registrar offices do not. The bill also requires states either to collect Social Security numbers from driver's license applicants or to print the number on the driver's license card. While a significant number of states currently use Social Security numbers as the driver's license number, the most populous states neither print the number on the card nor collect if for reference purposes.

For the purposes of preparing this estimate, CBO contacted state and local governments, public interest groups representing these governments, and a number of officials from professional associations. Because of the variation in the way state and local governments issue birth certificates, we contacted clerks and registrars in eleven states in an effort to assess the impact of the birth certificate provisions. To estimate the cost of the driver's license requirements, we contacted over twenty state government transportation officials. Most state and local governments charge fees for issuing driver's licenses and copies of birth certificates. Those governments may choose to use revenues from these fees to pay for the expenses associated with the mandates. Under Public Law 104-4, however, these revenues are considered a means of financing and as such cannot be counted against the mandate costs of S.269.

Mandates with significant costs

Birth Certificates. Based on information from state registrars of vital statistics, CBO estimates that 60 percent of the approximately 18 million certified copies of birth certificates issued each year in the United States are printed on plain bond paper or low quality safety paper. CBO assumed that state and local issuing agencies needing to upgrade the quality of the paper would spend, on average, about $0.10 per certificate. In addition, CBO expects the bill would induce some individuals holding copies of birth certificates that do not conform to the required standards to request new birth certificates when they would not have otherwise

VOL
142
PT
6
AP
15
—
24
1996
UMI

done so. CBO estimated that issuing agencies across the country would experience a 20 percent increase in requests for copies of birth certificates for at least five years. On this basis, CBO estimates that the birth certificate provisions in the bill would impose direct printing and personnel costs on state and local governments totaling at least $2 million per year in each of the five years following the effective date of the provision. In addition, some state and local governments would have to replace or modify equipment in order to respond to the new requirements. CBO estimates these one-time costs would not exceed $5 million.

Driver's Licenses. Less than half of the states include Social Security numbers on all driver's licenses or perform some type of verification with the Social Security Administration. In fact, the states with the highest populations tend to be the states that do not have these requirements, and some state laws prohibit the collection of Social Security numbers for identification and driver's license purposes. CBO estimates that of the 185 million driver's licenses and identification cards in circulation, less than 40 percent would be in compliance with the requirements of S. 269. Any driver's license or identification card that does not comply with those requirements would be invalid for any evidentiary purpose.

Given the common use of these documents as legal identifiers, CBO assumed that at least half of those individuals who currently have driver's licenses or identification cards that do not meet the requirements of S. 269 would seek early renewals. CBO assumed that states would face additional printing costs of between $0.75 and $1.20 per document, increased administrative costs resulting from the influx of renewals, and, for some states, one time system conversion costs. We estimate that direct costs, assuming a limited number of additional renewal requests, would total $80 million in the first year. If more people sought early renewals, total costs could easily approach $200 million in the first year.

The driver's license provisions in the bill would be effective immediately upon enactment. Because of the significant processing and administrative changes that states would face under these requirements, CBO has assumed that states would establish procedures for compliance in the year following enactment. Consequently, the additional expenditures resulting from reissuing licenses and identification cards would occur in 1998.

Provision of Public Assistance to Aliens. It is possible that the administrative costs associated with applying deeming requirements to some federal means-tested entitlement programs would be considered mandate costs as defined in Public Law 104-4. In entitlement programs larger than $500 million per year, an increase in the stringency of federal conditions is considered a mandate only if states or localities lack the authority to modify their programs to accommodate the new requirements and still provide required services. In some programs—such as Aid to Families with Dependent Children (AFDC) and Food Stamps—some states may lack such authority and any new requirements would thus constitute a mandate. Given the scope and complexity of the affected programs, however, CBO has not been able to estimate either the likelihood or magnitude of such costs at this time. These costs could be significant, depending on how strictly the deeming requirements are enforced by the federal government. Any additional costs, however, would be offset at least partially by reduced caseloads in some programs.

Mandates with no significant costs

Many of the mandates in S. 269 would not result in measurable budgetary impacts on state, local, or tribal governments. In some cases—eligibility restrictions based on non-legal status and death notations on birth certificates—the bill's requirements simply restate current law or practice for many of the jurisdictions with large populations and would thus result in little costs or savings. In others—sponsor reimbursement requests and preemption of laws restricting the flow of information to and from the INS—the provisions would result in minor administrative costs for some state and local governments, but even in aggregate, CBO estimates these amounts would be insignificant.

The provision requiring agencies to notify certain aliens that their eligibility for benefits has been terminated would impose direct costs on state and local governments. CBO estimates such costs would be offset by savings from caseload reduction resulting from the notifications. Another provision—state job service verification of employment eligibility—may result in significant administrative costs; however, those costs are funded through federal appropriations.

8. Appropriation or other Federal financial assistance provided in bill to cover mandate costs: None.

9. Other impacts on State, local, and tribal governments: S. 269 contains many additional provisions that, while not mandates or changes to existing mandates, could have significant impacts on the budgets of state and local governments. On balance, CBO expects that the provisions discussed in this section would result in an overall net savings to state and local governments.

Means-tested Federal programs

S. 269 would result in significant savings to state and local governments by reducing the number of legal aliens receiving means-tested benefits through federal programs, including Medicaid, AFDC, and Supplemental Security Income (SSI). These federal programs are administered by state or local governments and have matching requirements for participation. Thus, reductions in caseloads would reduce state and local, as well as federal, outlays in these programs. CBO estimates that the savings to state and local governments would exceed $2 billion over the next five years. These are significant and real savings, but in general, the state and local impacts of these federal programs are not defined as mandates under Public Law 104-4.

S. 269 would reduce caseloads in means-tested federal programs primarily by placing stricter eligibility requirements on both recent and future legal entrants. The bill would lengthen the time sponsored aliens must wait before they can go on AFDC or SSI, and, most notably, apply such a waiting period to the Medicaid program. S. 269 would also deny many means-tested benefits to PRUCOLs. Illegal aliens are currently ineligible for most federal assistance programs and would remain so under the proposed law.

Means-tested State and local programs

It is likely that some aliens displaced from federal assistance programs would turn to assistance programs funded by state and local governments, thereby increasing the costs of these programs. While several provisions in the bill could mitigate these costs—strengthening affidavits of support by sponsors, allowing the recovery of costs from sponsors, and authorizing agencies to deem in state and local means-tested programs—CBO expects that such tools would be used only in limited circumstances in the near future. At some point, state and, particularly, local governments become the providers of last resort, and as such, we anticipate that they would face added financial pressures on their public assistance programs that would at least partially offset the savings they realize from the federal programs. Because these state and local programs are voluntary activities of those governments, increases in the costs of these programs are not mandate costs.

Medicaid

Emergency Medical Services. Section 212 of S. 269 is apparently intended to offer state and local governments full reimbursement for the costs of providing emergency medical services to non-legal aliens and PRUCOLs on the condition that they follow verification procedures to be established by the Secretary of Health and Human Services, after consultation with the Attorney General and state and local officials. Existing law requires that state and local governments provide these services and, under current matching requirements, pay approximately half of the costs. Ambiguities in the drafting of the provision prevent CBO from estimating its effect.

While no reliable totals are available of the amounts currently spent to provide the services, areas with large alien populations claim that this requirement results in a substantial drain on their budgets. For example, California, with almost half the country's illegal alien population, estimates it spends over $350 million each year on these federally mandated services. Although CBO cannot estimate the effects of Section 212 on state and local governments, some idea of its potential effects can be gained by looking at analogous proposals for the Medicaid program. CBO estimates that modifying Medicaid to reimburse states and localities for the full cost of emergency care for illegal aliens would increase federal Medicaid payments to states by $1.5 billion to $3 billion per year.

Pre- and Post—Partum Care. The bill would allow certain mothers who are non-legal aliens to qualify for pre- and post-partum care under the Medicaid program. CBO does not have enough information to estimate the potential budget impacts to state and local governments of this provision. Such impacts would depend critically on the type of documentation demanded by the Secretary of HHS to prove that the mothers met the requirement of 3 years of continuous residence in the United States.

10. Previous CBO estimate: On March 13, 1996, CBO prepared an intergovernmental mandates statement on H.R. 2202, an immigration reform bill reported by the House Committee on the Judiciary. (The bill was subsequently passed by the House, with amendments.) That bill had many provisions in common with S. 269. H.R. 2202 did not, however, include any of the requirements relating to driver's licenses, identification documents, or birth certificates that appear in S. 269. In addition, the deeming restrictions in H.R. 2202 applied exclusively to future entrants; aliens who entered before the enactment date would not have been affected. Therefore, S. 269—which would apply deeming to aliens who entered in the last five years as well as to future entrants—would produce larger net savings in many benefit programs.

11. Estimate prepared by: Leo Lex and Karen McVey.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

Mr. SIMPSON. Mr. President, I yield to the Senator from Ohio.

Mr. DEWINE. Mr. President, let me first state that I want to congratulate my colleague from Wyoming, as well as my colleague from Massachusetts, for not just the work they have done on this bill, but, frankly, for the work they have done over the years on this very tough, very contentious, very difficult, but very important issue of immigration.

I have heard my colleague from Wyoming say on several occasions, as we have debated this bill in committee, that this is not really a bill or an issue that anyone gets a lot out of politically, and certainly not someone from the State of Wyoming. I certainly concur in that and understand that. I want to congratulate him for really doing the tough work of the U.S. Senate—work that began in the 1980's with the previous bill and continues on today. It is work that is many times not rewarded politically, certainly not appreciated many times, and is many times very controversial. I congratulate him for that.

This has been a contentious bill. We have had contentious debate in committee. The Senator from Wyoming and I have agreed on some issues and disagreed on other issues. I imagine that agreement and disagreement is probably going to continue on the floor today, tomorrow, and maybe for the rest of the week. Let me state that I do appreciate very much his tremendous work, as well as the work of Senator KENNEDY and, frankly, the work of all of the members of the subcommittee, some of whom have been involved in this task now for well over a decade.

Mr. President, we are here on the floor today to discuss a fundamental issue, a fundamental issue affecting the future of our country. Unlike most bills that come before Congress, this immigration bill really gets to the question of our national identity. Unlike most bills, this bill really speaks to who we are as a people, who we are as a nation. Quite frankly, also unlike most bills we deal with, the impact of this bill is going to be felt in 2 years, 5 years, 10 years, 20 years, and 30 years, because when you make a determination of who comes into this country and who does not come into this country, the consequences are profound, they are everlasting, and we have seen that, frankly, throughout the long history of our country.

Mr. President, in the darkest days of the cold war, back when Brezhnev was still ruling what was then known as the Soviet Union, Ronald Reagan gave a historic address to the British Parliament. It was in that famous speech in June 1982 that President Reagan predicted, "The march of freedom and democracy will leave Marxism and Leninism on the ash heap of history." Many of us remember how controversial that statement was at the time. Some in this country considered it unnecessarily provocative, and thought that it would inflame our enemies for really no good purpose. Mr. President, it may have been provocative, but it was absolutely, beyond a shadow of a doubt, prophetic. It was true. In that speech, Ronald Reagan was trying to unify the West. He wanted to unify the forces of freedom for what he knew, as others did not, would be the climactic days of the struggle against communism.

In the last resort, what President Reagan appealed to in that speech was really our sense of identity, who we were, who we are. This is what he said:

> Let us ask ourselves: What kind of a people do we think we are? And let us answer: Free people, worthy of freedom and determined not only to remain so, but to help others gain their freedom, as well.

Ronald Reagan expressed, better than any political leader of my lifetime, a sense of what America really is—"the city on a hill, the land, the country of the future." When Ronald Reagan was a boy growing up in Illinois, he could still find Civil War veterans to talk to. In our time, over a century after the death of Abraham Lincoln, Ronald Reagan reminded us that America was still the last best hope of Earth. We must never, never forget this, Mr. President.

To turn our backs on this legacy—this legacy of hope, optimism, openness to the future—would be more than a mistake in policy. It would, I believe, Mr. President, truly be a diminution of who we are as a people. That is what I believe this immigration debate is all about. It is the same question Ronald Reagan asked to the British Parliament: "What kind of people do we think we are?"

Mr. President, America's immigration policy defines who we are. It defines who gets into this country and who does not get in. In the process, it says a lot about our national values. Mr. President, we have been working on this bill in the Senate Judiciary Committee for a number of weeks. I believe we made some progress in revising the bill to reflect what I believe are the basic American values. First, the committee split the portions of the bill dealing with illegal immigration. An amendment was offered by Senator ABRAHAM, myself, Senator KENNEDY, Senator FEINGOLD, and others, to split the bill. The committee did, in fact, split the bill. It divided the bill into those sections dealing with the treatment of persons who are in the United States illegally from those provisions that cover legal immigration. I support this split because I believe that the problem of illegal immigration is substantially different from the issues raised by our legal immigration policy. And, therefore, these two issues, in my opinion, should be treated separately. They are distinct. I intend later on to say more about this important issue.

Mr. President, in considering the illegal immigration bill, I voted for tough penalties for those who violate our immigration laws, and I voted to expedite the deportation of those violators. I am also proud to say that I sponsored an amendment to block the imposition of unreasonable time limits on persons seeking asylum from repressive and often life-threatening foreign regimes. Our amendment sought to restore the status quo.

Today, immigration authorities cannot enter farm property without a search warrant. The bill before the committee would have changed that and would have allowed them to enter property—to enter a farm—without that search warrant. I sponsored an amendment to make sure they did not get that evasive new power.

Further, Mr. President, I cosponsored an amendment with Senators ABRAHAM and FEINGOLD that would have removed from the bill a provision that establishes a national employment verification system and a national standards for birth certificates and driver's licenses. I believe that these provisions are unduly intrusive. And, quite frankly, I believe they are unworkable. I further believe they would cost taxpayers millions and millions and millions of dollars. Again, Mr. President, I intend to say a great deal more about this later on.

Let me turn to the legal immigration bill. On the legal immigration bill, with Senators ABRAHAM and KENNEDY, I cosponsored an amendment to allow legal immigrants to bring their families to join them here in the United States. The bill, as originally written, tried to change the law allowing U.S. citizens to bring their families to America. The bill would have permitted, as written, U.S. citizens to bring in only their spouses, minor children, and in rare cases their parents. Under that provision, as the bill was written before the amendment—I bring this up because I am sure this issue is going to come back again—a U.S. citizen under that provision of the bill as written would have been permitted to bring some children in but not others. I believe that is bad national policy. It undermines the family structure. And, frankly, in the history of civilization there has never been a stronger support structure than the family.

I also supported amendments that would continue to allow universities and businesses to bring in the best and the brightest to enrich our country. I intend to return to that issue as well later.

Mr. President, in all of our deliberations in the Judiciary Committee, I have stressed one key fact about America—the fact that throughout our national history, throughout our history, the effect of immigration on this country has been positive. Immigration has

VOL
142
PT
6
AP
15
—
24
1996
UMI

helped form the basis for our prosperity and our national strength. It has made our country and the world a better place.

I tried to approach these difficult issues keeping in mind that a fair, controlled but open immigration policy is in our national interest. I believe we have made the first significant steps in this bill in the committee, in the amendment process, toward that goal.

Mr. President, even though we managed to improve the bill in a number of ways, I still have some problems with the present bill. In the name of protecting our borders, this bill would impose serious burdens on law-abiding American citizens, and it would move America away from its extremely valuable centuries-old tradition of openness to new people and new ideas.

Let me now go through the bill and lay out some of the particular concerns I have about the bill as it is currently before us today.

First, let me start with the very contentious issue of verification—the verification of employment. To begin with, the bill would create a massive time-consuming and error-prone bureaucracy. As originally written, the bill called for a process under which every employer would have to contact the Immigration and Naturalization Service and Social Security Administration to verify the citizenship of every prospective employee. My colleague from Ohio, Congressman STEVE CHABOT, called this 1-800-BIG-BROTHER. I think he is right. We did succeed in taking that provision out of the bill, or at least taking part of it out of the bill. But the long-term plan remains the same. In fact, the bill now contains a provision calling for numerous entitlement programs to do the very same thing.

I have had some experience in dealing with this kind of extremely large computerized database. My experience is from my time as Lieutenant Governor in Ohio when we were dealing with the criminal record system database. I contend that what I have learned from trying to improve, correct, and refine the criminal database is very applicable and very relevant to this whole discussion about our attempt to create a database for employees and employers.

When I was Lieutenant Governor, I was responsible for improving Ohio's criminal database so that the police could have ready access to a suspect's full criminal record history. When I started on this project, I was shocked to discover that in the State of Ohio—these figures are true in most States—only about 5 percent of the files, 5 percent of the computer information you got in a printout when you talked about a suspect, it put a suspect's name in and only about 5 percent of the information was accurate in regard to important facts—5 percent.

In criminal records, we are dealing with a database that we all know is important, that the people know is important, that we take a great deal of care in maintaining, and that is limited to the relatively small number of citizens who are actually criminals. In fact, when we deal with the criminal record system, we know that literally life and death decisions are being made based on the accuracy of that criminal record system, and we have spent hundreds of millions of dollars to bring it up to date, to make it more accurate, and yet we still know that it is highly error prone. We still know the accuracy level is very, very low.

Mr. President, I shudder to think what the inaccuracy rate will be in a database big enough to include every single citizen and noncitizen residing in this country. I shudder to think of what the accuracy or the inaccuracy level will be when we are dealing with a database where life and death decisions are not actually being made but, rather, where employment decisions are being made. The database will be unreliable. It would be time consuming, and it would be expensive.

In fact, the only way to make a database more reliable is frankly to make it more intrusive, and that clearly is what will happen. Once the pilot projects are running and we determine how inaccurate that information is, once the complaints start coming in from prospective employees and from employers who are dialing the 1-800 number, or putting the information in and we find out how inaccurate that is, there will be pressure to change it. And the pressure will be to make it, frankly, more intrusive—more information, more accurate. I believe that it would clearly lay the groundwork for a national system within 3 years.

Let me turn, if I can, Mr. President, to my second concern about this bill. That concerns the national standards for birth certificates and drivers' licenses. Yes, you have heard me correctly. In this Congress where we have talked about returning power to the States, returning authority to the States, this bill calls for national, federally imposed and federally enforced standards for birth certificates and drivers' licenses. Here is what the bill says as written, as it is on the floor today.

> Section 118. Improvements in Identification-Related Documents.

(a) Birth certificates.

> 1. Limitation on Acceptance. (A) No Federal agency, including but not limited to the Social Security Administration and the Department of State—

Listen to this:

> and no State agency that issues driver's licenses or identification documents, may accept for any official purpose a copy of a birth certificate, as defined in subparagraph (5), unless it is issued by a State or local government registrar and it conforms to standards described in subparagraph (B).

Continuing the quote:

> (B) The standards described in this subparagraph are those set forth in regulations promulgated by the Secretary of Health and Human Services, after consultation with the Association of Public Health Statistics and Information Systems, and shall include but not be limited to.
>
> (i) certification by the agency issuing the birth certificate, and.
>
> (ii) use of safety paper, the seal of the issuing agency, and other features designed to limit tampering, counterfeiting, and use by impostors.

Mr. President, I am going to talk about this later, but I think it is important to pause for a moment and look at what this section does because it does in fact tell each State in the country, each local jurisdiction what it has to do in regard to issuing birth certificates. It in essence says for the 270 million people in this country the birth certificate you have is valid; you just cannot use it for anything. It is valid, it is OK, but if you want to take a trip and you want to get a passport, you have to go back to wherever you were born and have them issue a new birth certificate that complies with these national standards.

Think about it. Think about what impact this is going to have on the local communities, the cost it is going to have. Think about the inconvenience this is going to bring up for every American who uses a birth certificate to do practically anything—getting a driver's license, for example. And look at the language again. Not just no Federal agency may accept for any official purpose a copy of a birth certificate unless it fits this requirement but then the language goes on further and says no State agency.

So here we have the Federal Government saying to 50 States, no State agency shall be allowed to accept a birth certificate unless it fits the standards as prescribed by a bureaucrat in Washington, DC. Tenth amendment? Unbelievable, absolutely unbelievable. There are clear constitutional law problems in regard to this. Senator THOMPSON, who is on the committee, raised these issues in the committee and it is clear that this section has some very major constitutional law problems.

Here is in essence what this means. The Federal Government will tell every citizen that his or her birth certificate is no longer good enough for any of the major purposes for which it is used—not good enough for traveling, not good enough for getting married, not good enough for going to school, not good enough for getting a driver's license. How about constituent problems? We are all going to have to hire more caseworkers back in our home States when this goes into effect just to answer the phone and listen to people complain about this. How many people every year turn 16 and get their driver's license? How many people

every year want to travel overseas, want to get a passport? Try telling them that birth certificate you got stuck in the drawer back home you used 5 years ago for something else, "Yes, it is still OK, you cannot use it, you have to go get a new one." Absolutely unbelievable.

(Mr. CRAIG assumed the chair.)

Mr. DEWINE. This bill would require every local county to redo its entire birth certificate system in a new federally mandated format. The Federal Government will be telling Greene County, OH, everything to do with the certificate right down to what kind of paper to use. And the bill goes even further. Not only does it deal with birth certificates, it also deals with driver's licenses, and here is what the bill says. Let me quote.

> Each State's driver's license and identification document shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation.

It continues.

> Neither the Social Security Administration nor the passport office or any other Federal agency or any State or local government agency may accept for any evidentiary purpose a State driver's license or identification document in a form other than the form described in paragraph (3).

That means every State will have to issue federally mandated driver's licenses. It is my opinion this whole section of the bill, section 118, should be deleted.

Now, I understand what my friend from Wyoming is trying to accomplish here. And it is a laudable goal. I understand what other proponents are trying to accomplish. Most States would have no problem I think with an attempt to improve their driver's license. In fact, in my home State of Ohio we have come up in the last several years with a process that was put in place when I was Lieutenant Governor, with a brand new driver's license system, so when your license comes up for its normal renewal you have what we believe at least is a tamperproof driver's license. I understand, and I think most States want to move in that direction, most States are in fact moving in that direction, but to mandate this from Washington with the tremendous costs, and not just the costs but the unbelievable disruption and inconvenience I think is just a serious mistake. There is some great irony that this Congress, which has very legitimately and correctly been so concerned about turning power back to the States, should in this case be saying not only are we not turning power back to the States, we are taking power; we are taking a basic ministerial function of government, issuing a birth certificate, a basic function of State government and county government, local government, and saying, "We are going to tell you how to do it, and if you don't do it our way, you can't use that document even for State purposes." To me that is just wrong. It is taking us in the wrong direction.

Mr. President, this Congress has revived this great tradition, American tradition of State and local and individual freedom as enshrined in the 10th amendment.

To impose this huge new burden on individuals and on local communities will surely violate that principle. In fact, if we can think back that far, 15, 16 months ago, one of the first bills passed by this Congress was legislation to try to limit unfunded mandates. If this provision is not an unfunded mandate, I do not know what is. It is going to cost the States a lot of money to comply. And it is going to cost taxpayers, both through what it has cost the States, but also through what it is going to cost them in getting new birth certificates, new drivers' licenses.

According to the Congressional Budget Office, these mandates would impose direct costs on States, direct costs on States and local communities of between $80 million to $200 million. Those of us who used to work at State and local government know that $80 to $200 million is an awful lot of money. It is real money.

Finally, leaving decisions regarding what features these documents should contain to Federal bureaucrats—and that is what this bill does, not to Congress but to Federal bureaucrats—I believe is unwise and potentially dangerous. Under the current language of this bill, as we consider it today, the Department of Health and Human Services and the Department of Transportation could develop standards even more intrusive and even more costly than those spelled out in the original legislation, because, really, the way the bill is written today, they have more freedom, more flexibility—the bureaucrats do.

I do not believe the setting of standards like these should be left to the Federal bureaucracy with nothing more than a requirement that they consult with outside groups. The bill does not provide for any congressional review of the standards, nor does it impose any limit on what HHS and DOT can mandate. The provision is ill-conceived and contrary to any reasonable concern for our liberties. I will urge it be deleted.

Let me turn now to another area of concern. That has to do with the issue of asylum. The bill, as written, says something to people who want to apply for asylum in America, and says it, really, for the first time in our history. I want to emphasize this. For the first time in our history, this is what we will be saying to people who apply for asylum: You must now apply for asylum within a set period of time.

That may sound reasonable. First of all, it is contrary to what we have done previously in the long history of this country. And, I think, on closer examination, as we go through this, it will become clear why this seemingly innocent provision will inevitably lead to some very, very great hardships for some of the most abused people in the world. It says that an asylum seeker must apply within 1 year of arriving in this country or else get a special exception from some bureaucrat for "good cause." You get an exception for good cause. What constitutes good cause for an exception is, again, up to the Federal bureaucracy to define.

I think this is a terrible solution. It is a solution for a problem that does not exist. I will talk about this in a moment. But, if we had been on the floor a few years ago, no one could say there was not a problem with the processing of asylums, with the number of applications for asylum, because there was. But, frankly, changes have been made in the system, changes which have corrected the problem. There is not a massive influx of asylum seekers into America and there is already a reasonable judicial process to determine which applicants are worthy of admission. Only about 20 percent of asylum seekers get in, one of five gets in anyway, through this normal, regular process. The system, frankly, is not broken, and trying to fix it could and would, in my opinion, do serious harm to people who are trying to escape oppression, torture, and even death in their native lands.

If you talk, as I have, to people in the asylum community, people who deal with these issues and who deal with these people every day, they will tell you that some of the most heart-wrenching cases involve people who are so emotionally scarred by torture that it takes them more than a year to come forward and seek asylum. Under the original bill, aliens seeking asylum would have been required to file for such asylum within 30 days of arriving in the United States. Along with Senators KENNEDY, FEINGOLD, ABRAHAM and others, I worked to defeat this provision during our work in the committee. We were able to do that and to change it and to extend it to 1 year. This 1-year provision still causes problems. Let me talk about that.

First, since the Immigration and Naturalization Service imposed new asylum application regulations in late 1994, the flagrant abuses of the asylum process have been substantially reduced already.

Second, it turns out that it is the people most deserving of asylum status, those under threat of retaliation, those suffering physical or mental disability, especially when abused resulting from torture, who would most be hurt by the imposition of any filing deadline.

The committee did make the change. It made the change to strike the 30-day provision by a vote of 16 to 1. But I believe we do need to go further and we

VOL
142
PT
6
AP
15
—
24
1996
UMI

need to restore the bill and the law to the status quo. The committee passed an amendment by the distinguished Senator from Colorado [Mr. BROWN]. Senator BROWN's language is currently in the bill, and I believe, as I said, it is far better than the original 30-day limit. But I do remain convinced the arguments that were so simple and compelling against the 30-day time limit are equally compelling against the provision as it stands now. Let me talk about that.

First, because the asylum system works, and works pretty well—I do not think there is any dispute about that—we simply do not need a time limit for asylum seekers. As I stated, we acknowledged several years ago the asylum system was in fact broken and there were serious problems. Under the old system, people could get a work authorization simply by applying for asylum. That is what they did, and that was the hole.

This opportunity became a magnet, even for those who had absolutely no realistic claim for asylum. But the INS changed this. When the INS changed its rules in late 1994, it stopped automatically awarding work permits for those filing for asylum, and it got rid of a great deal of the problem. The INS then began to require an adjudication of the asylum claim before it awarded work authorizations. It also, at the same time, began resolving asylum claims within 180 days.

The results are significant. According to the INS, in 1994, before the new rules were put in place, 123,000 people claimed asylum. In 1995, after the new rules were established, only 53,000 people even applied for asylum. Instantly you went from 123,000 who applied one year, the next year down to 53,000; that is a 57 percent decline in just 1 year.

Also, the INS reports it is now completing 84 percent of the new cases within 60 days of filing and 98 percent, virtually all new cases, within 180 days of filing. Maybe that is why the administration, the INS, opposed any time limit on filing. The new system works. It is not broken. It does not need to be fixed.

The new system works, and the new deadlines would—and here I quote the INS Commissioner. Here is what she says. The new proposal would "divert resources from adjudicating the merits of asylum applications to adjudication of the timeliness of filing." So what the INS is saying is that we fixed this problem, it is working, do not give us another mandate. Do not shift us over here, so we have to have separate adjudications about the timeliness and then go over and adjudicate the merits. Let us proceed the way we are doing today. It is working.

Point No. 2, why we really should not have this time limit. This, to me, is the most compelling, because the facts are the most worthy cases for asylum would be excluded if we impose a deadline.

Among those excluded would be cases of victims of politically motivated torture and rape, the very people who need more time to apply, the very people who deadlines would hurt the most. These are the people who have suffered a great trauma that prevents them from coming forward. These are the people who fear that coming forward for asylum would threaten their families and friends in their home countries. These are the two types of people, Mr. President, for whom time is important.

Time can cure the personal trauma and culture shock that prevents them from seeking asylum. Time can allow conditions to change back home. A time limit—any time limit—will place these people at risk.

Let us talk now about some real people.

One man, whose name is Gabriel, had a father who was chairman of a social democratic party in Nigeria. His father was arrested many times. His half-brother was executed for opposing the military regime. Gabriel participated in a student demonstration. He was arrested and imprisoned back home for 8 months. He was tortured by guards who carved the initials of the ruling general into his stomach and then sprayed pepper on the wounds. They whipped him, and they forced him to drink his own urine.

Gabriel fled to the United States and, understandably, he was terrified that if he applied for asylum, he would be sent back to Nigeria where he could be murdered. He only applied for asylum after he was arrested by the INS, 5 years after coming to America.

Let me give another example—and the list goes on. Another man was a member of his country's government in exile, elected in a democratic election that was later annulled. When the military took over his country, many of the members of the government were tortured and imprisoned. This particular man fled his country and came to the United States where he sought the United Nations' help in restoring democracy at home. He sought residence in other countries, and he was concerned that application for asylum in this country would be used for propaganda purposes by the military at his home country.

Fifteen months after arriving in the United States, he did seek asylum. Although he was highly educated, although he was proficient in the English language, it took this man over 2 months to file that application. He was finally granted asylum in the United States, but to this day, he has asked that his name, that his home country and the fact that he sought asylum be held in the strictest confidence. He is still fearful.

A third example. Another man was a political dissident against the regime in Zaire. He published an article about the slaughter of students who had demonstrated against the regime, and that was one of the political offenses that ultimately landed this man in jail. In prison, the guards beat him, the guards raped him. When he came to the United States, he was simply unable to talk about his story. His Christian beliefs did not permit him to use the words necessary to describe the terrible tortures he had undergone. It was only after many meetings with legal representatives that he was finally able to tell his story. He finally applied for asylum over a year after entering the United States.

Those are just three examples, Mr. President. There really is practically no end to these examples, practically no end to worthy cases that would be foreclosed should we decide to apply deadlines. I know proponents of a time limit will argue that the bill does contain an escape clause, and it does on paper, the good-cause provision. But I think it is significant to point out that under this good-cause provision, the burden is on the applicant to show good cause. And the question of what constitutes good cause is really another problem with the bill.

In the report language, it says good cause "could include"—note that, Mr. President, not "must" or "should" but "could" include—"circumstances that changed after the applicant entered the United States"—I am quoting now—"or physical or mental disability, or threats of retribution against the applicant's relatives or other extenuating circumstances."

The report, as written, would allow the issuance of Federal regulations that might exclude the very type of applicants that the committee specifically intended to include. I believe that we should reject the time limit outright. We are not really talking about mere legalisms here. I think what is at stake is a fundamental reassertion of a truly basic, bedrock value of America: the opportunity to apply for asylum, the opportunity to use this country as a refuge.

I think it is important to note, as I did a moment ago, that there is not a problem. The INS has already taken care of this problem. What this bill does is create a problem—not for us, but what it will do is create a problem for people who are among the most abused, who have suffered the most and who seek freedom in this country.

I am reminded in this context of another story that President Reagan used to tell. He said, "Some years ago, two friends of mine were talking with a Cuban refugee who had escaped from Castro. In the midst of the tale of horrible experiences, one friend turned to the other and said, 'We don't know how lucky we are.' One Cuban stopped and said, 'How lucky you are? How lucky you are? I have someplace to escape to.'"

At this point, as he told the story, President Reagan looked out at America and drew his conclusion, and this is what he said: "Let's keep it that way."

Mr. President, let us keep it that way. Let us keep the light on over the door of America for some people who very desperately need that light, who need that hope.

Let me turn to another issue, and that is amendments that we may see on the floor concerning family. I want to turn now to some other provisions in the original bill that we managed to alter and change in committee but that may come up on the floor as amendments.

One of the most important of these issues had to do with the meaning of family. The original bill fundamentally changed the definition of a nuclear family. The original bill said to U.S. citizens that they could continue to bring their children to America but only—this is to U.S. citizens now, said to U.S. citizens—they could continue to bring their children to America but only if the children are under 21, and they could only bring their parents to America if the parents are over 65 and the majority of their children live in America.

The original bill even went so far as to say that if a child was a minor but that child was married, that child could not come to this country either. You could not bring that minor child to the country if he or she decided to get married.

Mr. President, in a time when everyone agrees that the fundamental problem in America is a family breakdown—I do not think anyone on the floor disagrees with that—I think it is senseless to change the law to help break up families.

In the committee I kind of related this to my own life and my own experience and pretended for a moment with my family situation, if I was a new citizen in this country, if I had come from another country and was a naturalized citizen. Frankly, Mr. President, in my situation I have trouble saying that my 4-year-old daughter Anna—or Anna who is going to in 2 days become 4 years old—is a central part of my nuclear family, but my 28-year-old son Patrick is not; he is now part of my extended family; my 27-year-old daughter, Jill, she is not part of my nuclear family anymore, she is part of my extended family. That is what the bill had originally said.

Finally, the bill also originally said—I cannot understand this either—that MIKE DEWINE, as an only child I could bring my parents into the country if they are over 65, but my wife Frances DeWine could not bring her parents into the country because she is one of six. She, as one of six, she could not bring her parents into the country—only if a majority of her siblings actually lived in the United States and were citizens in the United States. Again, it does not make any sense. I think we are going to end up revisiting this issue. I think it is going to come back up.

Mr. President, at a time when Congress has acted to rein in public assistance programs, I do not believe we should deprive people the most basic support structure there is, their immediate family. It just does not make sense. Mr. President, we took these family limitation provisions out of the bill in committee. I hope that we will be able to sustain this on the floor and we will not change this.

Let me turn finally to one more issue, that has to do with the linkage of this bill. I believe it was a mistake in the original bill to combine the issues of legal and illegal immigration. For my colleagues watching on TV or on the floor who are not on the committee, we separated this in committee. What you have before you are two separate, distinct bills. I think it should stay that way because the issue of illegal immigration is decidedly distinct from the issue of legal immigration.

I think that the biggest mistake of the original bill was to combine the issues of legal and illegal immigration. Illegal immigrants are lawbreakers. That is the fact. Frankly, Mr. President, no society can exist that allows disrespect for the law.

On the other hand, legal immigrants are people who follow the law. They are an ambitious and gutsy group. They are people who have defined themselves by the fact they have been willing to come here, play by the rules, build a future, and take chances. To lump them in, Mr. President, legal immigrants, with people who violate the law is wrong. We simply should not do it. Historically Congress has treated legal immigration and illegal immigration separately. Father Hesburgh in his 1981 report indicated that Congress should control illegal immigration, while leaving the door open to legal immigration.

Congress has in fact done this over the years and kept the issue separate. In 1986 Congress dealt with illegal immigration. In 1990 Congress dealt with legal immigration. In fact, Mr. President, the very immigration bill that is before us today started its legislative career as a piece of legislation separate from the bill covering legal immigration. It was only late in the subcommittee markup that the bills became joined.

These issues, Mr. President, have been treated separately for many years. They have been treated separately for one simple reason—they present different issues. They are different. To treat them together is to invite repetition of numerous totally false stereotypes. The combining of the bills leads, I think, to the merging of the thought process into a great deal of confusion.

Let me give an example. Say, for example, that aliens are more likely than native-born Americans to be on welfare and food stamps or Medicaid. But the fact is, Mr. President, this generalization is not true about legal immigrants. The statement I just made is wrong in regard to legal immigrants. If you separate out the legal immigrants, you find when you are talking about legal immigrants that they are no more likely than native-born Americans to be applicants of social welfare services. In fact, legal immigrants who become naturalized citizens are less likely—let me repeat—less likely to go on public assistance than native-born Americans. That is what the facts are.

Now, a recent study, Mr. President, points to the same fact. It found that foreign-born individuals were 10 to 20 percent more likely than native-born Americans to need social services. That is an alarming statistic, if you just stop there. But if you go further, and if you exclude refugees from the total, the foreign-born individuals are considerably less likely to do so than native-born citizens. Again, the point I made a moment ago.

Let us turn, Mr. President, to another dangerous stereotype frequently asserted. That is, that one-half of our illegal immigration problem stems from people who first came here legally. Let me repeat it. Let me repeat this. The statement is made that one-half of our illegal immigration problem stems from people who first came here legally. Well, that is true.

That is a true statement. But it is only true as far as it goes. In fact, Mr. President, it is a very misleading statement. What the people who say this are talking about is not legal immigrants who stay here and somehow become illegal; they are talking instead about students and tourists who had the right to visit America legally. They never were legal immigrants in the classic sense. They had the legal right to be here, but they were not legal immigrants. These are students, tourists who come here legally, and then who stay and do not leave when they are supposed to leave. That is a huge problem in this country. But it is not a problem of legal immigrants.

These people who are creating this problem were never legal immigrants. By definition, Mr. President, legal immigrants are people who are allowed to stay. Legal immigrants by definition are here legally. They are not the problem.

Mr. President, this is also an important source of confusion on the question of whether immigration is rising rapidly. Some people claim, for example, that legal immigration is skyrocketing. They base their contention on INS numbers that include as legal immigrants illegal immigrants who are

VOL
142
PT
6
AP
15
—
24
1996
UMI

made legal by the 1986 Immigration Reform and Control Act.

Mr. President, if you take the total number of legal immigrants and subtract those that were illegal before the 1986 act, you find that legal immigration has been holding at fairly constant levels. That is what the facts are.

Let me just give an example, Mr. President. In the 1990's, we have had about 2.8 immigrants for every 1,000 Americans. Is that a lot? Well, we could judge for ourselves. The first two decades of the century, to make a comparison, the rates were 10.4 per 1,000 and 5.7 per 1,000.

Mr. President, I do not think knowing what we know now, that it would have been wise to say in 1910 that there were too many immigrants coming into America. It was precisely that generation of immigrants at the turn of the century that coincided with America's transition from the periphery of world events to the status of a global superpower.

Mr. President, let me stop. I have almost concluded, but let me stop at this point to yield to my friend, Senator SIMPSON from Wyoming.

Mr. SIMPSON. Mr. President, I appreciated very much my friend, the Senator from Ohio, yielding. I certainly would yield additional time. But we have a time constraint with the ranking member and would like to, at the direction of the majority leader, present some amendments for disposition tomorrow. So, with that explanation, let me proceed.

AMENDMENT NO. 3669

(Purpose: To prohibit foreign students on F-1 visas from obtaining free public elementary or secondary education)

Mr. SIMPSON. Mr. President, I submit to the desk Simpson amendment No. 1 and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from Wyoming, [Mr. SIMPSON], proposes amendment numbered 3669.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) After sec. 213 of the bill, add the following new section:

"SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'; and

"(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The Dorgan amendment is set aside.

Mr. SIMPSON. Mr. President, let me describe the amendment briefly. It is intended to prevent foreign students coming to the United States to obtain a free taxpayer-financed education at a public elementary or secondary school. This is a growing problem. Children are coming to the United States and staying with friends or relatives or even strangers to whom they pay a fee and attending public schools as residents of the school district.

The amendment prohibits counselor offices issuing visas for attendance at such public schools or the INS approving such cases unless the foreign student can demonstrate they will reimburse the school, public elementary or secondary school, "for the full, unsubsidized per capita cost" of providing such education, or unless the school waives reimbursement.

The amendment also provides for the exclusion and deportation of students who are admitted to attend private elementary or secondary schools but who do not remain enrolled at such private schools for the duration of their elementary or secondary study in the United States. This provision is designed to prevent students from obtaining admission to a private school and then switching to a taxpayer-funded public school soon after arrival in the United States.

It would not prevent those children who are validly in the United States as dependents of persons lawfully residing here from applying for admission to public schools, nor would it prevent public schools from hosting foreign exchange students who would continue to be admitted as exchange visitors on "J" visas.

The amendment is designed, however, to deal with the problem of the "parachute kids" which Senator FEINSTEIN dealt with previously—which has received rather thorough attention—those who come here to receive a U.S. education at taxpayer expense.

Mr. KENNEDY. Mr. President, as the Senator has pointed out, this was in the initially proposed legislation. It is, I think, a justified and wise amendment.

And I understand that the Senator will also be offering shortly a pilot program for ensuring that foreign students here on student visas are actually enrolled and attending our schools. It is obviously an important opportunity for students to be able to come to the universities here in the United States. They should be welcomed. They should have an opportunity to be in compliance with the university rules.

This is really, first, a pilot program and, second, an attempt to find out what happens to these students when they are here and also what happens to them afterward. We do not have that kind of information. There are reports that individuals just get the permission to come here, maybe take one course, and effectively are "gaming" the system to circumvent other provisions of the legislation. That clearly was never the intention.

It seems to me this is a worthwhile program. It is targeted. It is limited. There is an important need to understand exactly what is happening with many of these students. I support the program.

I just wondered if I could ask the Senator a question. In the amendment, it says that students must be making "normal progress" toward a degree in order to keep the visa. Do you agree with letting the universities themselves make a decision about whether

the student is in good academic standing or make a reasonable attempt to define that in a reasonable way?

Mr. SIMPSON. In connection with that amendment, that is correct.

Mr. KENNEDY. I thank the Senator. I hope that we will pass this.

Mr. President, I understand the amendment is going to be one of the amendments that will be offered, and now the one we have before the Senate prohibits kids on the student visas from attending public schools—our elementary and secondary schools—at the taxpayers' expense unless it is part of an exchange program. That is a wise amendment.

As I pointed out, if one games—a student is to attend a private school and then circumstances change. They should not undermine the basic reason that they were able to get here, and that was to attend the private school and pay the normal tuition, and to change to a public school at the public's expense. I think that is certainly consistent with fairness to taxpayers in that local community. I think it makes sense. I intend to support that amendment.

Mr. SIMPSON. Mr. President, I ask that amendment be submitted tomorrow. I ask for the yeas and nays and that the vote be held at a time convenient to the majority and minority leaders.

I withhold that request, Mr. President.

Mr. KENNEDY. As I understood, it is the intention in terms of expediting the consideration of the legislation on these three amendments—there may be those who are returning to the Senate who may want to have an observation about it so as to protect their interests—that the Senator was going to ask unanimous consent that the time for the votes on these measures be set by agreement by the majority and minority leaders, that the schedule for the particular votes on all three would be set by the majority and minority leaders at an appropriate time for the leadership. That seemed to be a reasonable request. These are amendments that are related to the legislation and which the committee had some opportunity to review before. It is just an attempt to move this process along that we are trying to devise a path so we could begin to consider the legislation.

We temporarily set aside the Dorgan amendment. That can always be called back at any time. What now is being asked is that these three amendments would appear, one amendment after another, temporarily setting it aside, and it would be the intention of the Senator from Wyoming to ask for the yeas and nays on all three and to have the votes stacked in the order which the majority and minority leaders care to have.

Mr. SIMPSON. Mr. President, to expedite the process, let me withhold further action on amendment No. 1 and submit amendment No. 2 and amendment No. 3, speak on all three of them together, the purpose being that the majority leader had requested our assistance in bringing appropriate amendments before the body tomorrow, stacking those amendments. These are three amendments that are submitted. There may be controversy that is not expressed today. If that is so, set a time limit tomorrow to do that.

The purpose is to submit these three amendments, move them forward with the yeas and nays, let the majority leader and minority leader define in the context and the time limit as to what they wish to do with them tomorrow. That is the purpose.

AMENDMENT NO. 3670

(Purpose: To establish a pilot program to collect information relating to nonimmigrant foreign students)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3670.

Mr. SIMPSON. Mr. President, I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) IN GENERAL.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not lees than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) INFORMATION TO BE COLLECTED.

(1) IN GENERAL.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) PARTICIPATION BY COLLEGES AND UNIVERSITIES.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15)(F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months

VOL
142
PT
6
AP
15
—
24
1996
UMI

after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

Mr. SIMPSON. Mr. President, this is the amendment, amendment No. 1 and No. 2, that Senator KENNEDY addressed, to enable the INS to keep track of foreign students studying in the country. The amendment provides a source of funding for INS to establish a very basic system for keeping track of foreign students. It is a measure supported by the FBI Director, who expressed concerns at our ability to track such students in a 1994 memorandum regarding possible tariffs. It is not an intrusive provision. I answered a question of Senator KENNEDY to indicate that.

Colleges and universities are already required to provide this sort of information to the INS. The problem in the past has been that the INS has not devoted such resources to this activity to create a body of reliable information. The amendment's aim is to provide the funding so the INS can implement a system to keep track of foreign students studying here, and it seems reasonable such funding should come from the students themselves and not from the taxpayers.

A student who is willing to pay $10,000 or $20,000 in this country, or $80,000 to $100,000 through the entire curriculum, is not likely to be seriously concerned about paying the additional fee of $50 or $100 for the issuance of the student visa in accordance with this amendment.

I ask unanimous consent that the amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3671

(Purpose: To create new ground of exclusion and of deportation for falsely claiming U.S. citizenship)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3671.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After section 115 of the bill, add the following new section:

"SEC. 115A. FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

Mr. SIMPSON. Mr. President, this amendment would add a new section to the bill. The section would create a new ground of exclusion of deportation for falsely representing oneself as a U.S. citizen.

This amendment is a complement to another that I will be proposing. The other amendment would modify the bill section which applies and provides for pilot project systems to verify work authorization and eligibility to apply for public assistance. One of the requirements of that other amendment is that the Attorney General conduct certain specific pilot projects, including one under which employers would be required to verify the immigration status of aliens, but not persons claiming to be citizens. Such citizens would be required only to attest as being citizens. That was discussed in committee. If you are a U.S. citizen, why should you have to go through these procedures? Well, obviously, I concur with that.

The major weakness in such a system is the potential for false claims of citizenship. That is why I offered the present amendment which will create a new major disincentive for falsely claiming U.S. citizenship. Lawful permanent aliens, or residents who falsely claim citizenship, risk deportation and being permanently barred from entering the United States. Since they are work-authorized, they would have little reason to make a false claim of citizenship.

Illegal aliens, on the other hand, would know that they could not be verified if they admitted to being aliens and the verification process were conducted. Yet, they would also know, if they falsely claim to be citizens and were caught and apprehended, they would be deported and permanently barred. Thus, the risk involved in making the false claims would be high for them indeed. If the present amendment were enacted into law, that would be the case. If the amendment were enacted and the project involving citizen attestation were conducted, a significant number even of illegal aliens may well be deterred from seeking jobs in the United States. That is the basis of the third and final amendment, which I submit this evening.

Mr. KENNEDY. Mr. President, I think this is a good amendment. It is instructive to put it in at this time because I think this might be able to add a dimension in being more effective in terms of protecting Americans in job situations. I think, first, as the Senator pointed out, if the person represents that they are a citizen and they are not and they get the job, they are undermining the ability of the American to have the job.

Second, if they do it in terms of the welfare provisions, they are basically undermining the American taxpayers and doing it for fraudulent reasons. The penalty would be deportation or exclusion, as I understand the amendment. So it seems to me to make a good deal of sense from any point of view. I hope tomorrow we will accept the amendment.

Mr. SIMPSON. Mr. President, I ask unanimous consent that amendments numbered 3669, 3670, and 3671 be temporarily laid aside in the order in which they were offered and that they be made the pending business at the request of the majority leader after notification of the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. I further ask that it be in order for me to ask for the yeas and nays on the three amendments, with one showing of seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3667

Mr. SIMPSON. Mr. President, I now ask unanimous consent that the Dorgan amendment recur as the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3672 TO AMENDMENT NO. 3667

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3672 to Amendment No. 3667.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "Sec." and insert the following:

(1) social security is supported by taxes deducted from workers' earnings and matching deductions from their employers that are deposited into independent trust funds;

(2) over 42,000,000 Americans, including over 3,000,000 children and 5,000,000 disabled workers and their families, receive social security benefits;

(3) social security is the only pension program for 60 percent of older Americans;

(4) almost 60 percent of older beneficiaries depend on social security for at least half of their income and 25 percent depend on social security for at least 90 percent of their income;

(5) 138,000,000 American workers pay taxes into the social security system;

(6) social security is currently a self-financed program that is not contributing to the Federal budget deficit; in fact, the social security trust funds now have over $400,000,000,000 in reserves and that surplus will increase during fiscal year 1995 alone by an additional $70,000,000,000;

(7) these current reserves will be necessary to pay monthly benefits for current and future beneficiaries when the annual surpluses turn to deficits after 2018;

(8) recognizing that social security is currently a self-financed program, Congress in 1990 established a "firewall" to prevent a raid on the social security trust funds;

(9) raiding the social security trust funds would further undermine confidence in the system among younger workers;

(10) the American people overwhelmingly reject arbitrary cuts in social security benefits; and

(11) social security beneficiaries throughout the nation deserve to be reassured that their benefits will not be subject to cuts and their social security payroll taxes will not be increased as a result of legislation to implement a balanced budget amendment to the United States Constitution.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any legislation required to implement a balanced budget amendment to the United States Constitution shall specifically prevent social security benefits from being reduced or social security taxes from being increased to meet the balanced budget requirement.

Mr. KENNEDY. Mr. President, I was reading that it be made the pending business at the request of the majority leader after notification of the Democratic leader. I am sure that will all be done in good faith. But I understand that notification of the Democratic leader includes that if a Member of our party would like to speak and address those amendments, I assume that would be respected. I make that assumption.

Mr. SIMPSON. Mr. President, I certainly make that assumption. I understand it to be notification and agreement by the Democratic leader.

Mr. KENNEDY. I thank the Chair. As far as the discussion then on that measure, I know there are other Members that want to address the Senate on other matters. I see the Senator from South Carolina, who wanted to speak, as well, on the issue of Senator DORGAN's amendment.

Mr. SIMPSON. If I may, I believe Senator DEWINE had not concluded his remarks when I requested the floor. I appreciate very much his willingness to do that so we could get those amendments before the body. How much more time does Senator DEWINE need?

Mr. DEWINE. I probably have 6, 7, or 8 minutes.

Mr. SIMPSON. I appreciate that. Then we will yield to Senator HOLLINGS for a discussion on the Dorgan amendment and temporarily go off of this measure. I thank the Senator from Ohio very much for his courtesies in enabling us to go forward with an agenda for tomorrow.

Mr. DEWINE. Mr. President, let me conclude my general comments about this bill today. I think America's greatness has been created, generation after generation, by driven self-selected individuals who came here as legal immigrants. We can think of names such as Albert Einstein, from Ohio, someone like George Olah who came here from Budapest in 1957 and taught at Case-Western Reserve, and won the Nobel Prize for chemistry in 1994. The original bills as introduced actually said to people like Einstein and Olah, "Get lost, you can come to the U.S., but only if you jump through a whole bunch of bureaucratic hoops from the State Department and the Labor Department."

A lot of these provisions were, in fact, changed in committee. Mr. President, I think we really do not need to be making it any harder for these talented, energetic people to come and help us build our great country. In fact, Mr. President, we became the richest, most powerful nation in the history of the world by doing exactly the opposite—by encouraging them to come.

No, Mr. President, America's immigration problem is not the high-quality researchers and professors wading the Rio Grande in the dead of night or scrambling over a fence to avoid the Border Patrol.

We should and can crack down on illegal immigration. That is a law enforcement issue. We should not allow that effort to serve as a Trojan horse for other measures—measures that would hurt America's future by rejecting the very finest and most noble traditions of America's past.

To reverse course on immigration, as some might recommend, is to say that America from now on will define itself as a country that is fearful of change, afraid of competition, and convinced that her best days are past. That is not the attitude that made America the greatest country the world has ever seen. An America that thinks itself as weak and threatened is not the America that I see. It is not the America that we Americans believe in. It is not the America that a dirt poor Irishman named Dennis DeWine saw—saw in his dream as he left County Galway 150 years ago to escape the potato famine in Ireland. We do not know a lot about my great-great-grandfather. All we know for sure is that he came over to America from Galway. It is pretty clear, though, that Dennis DeWine came here with guts and with ambition, but probably with very little else. He took a chance on America, and America took a chance on him because America back then thought big thoughts about itself and what great riches lay in the ambition—in the ambition of people who are willing to take risks. That is the kind of America we need to be, not a closed America that views itself as a finished product but an America that is open to new people, new ideas, and open to the future.

Mr. President, I began this speech by talking about how Ronald Reagan expressed better than any other political figure of our era the truest sense of what America stands for. I think it would be appropriate for me to conclude these remarks about America's immigration policy and about America's identity with another great story, one that President Reagan recounted more than once in his Presidency. In fact, he found it so moving that he even included it in his farewell address 9 days before he left the White House. Here is the way Ronald Reagan told the story.

> I have been reflecting on what the past 8 years have meant, and mean, and the image that comes to mind, like a refrain, is a nautical one—a small story about a big ship and a refugee and a sailor. It was back in the early 1980's at the height of the boat people, and a sailor was hard at work on the Carrier *Midway* which was then patrolling the South China Sea. The sailor, like most American servicemen, was young, smart, and fiercely observant. The crew spied on the horizon a leaky little boat, and crammed inside were refugees from Indochina hoping—hoping to get to America. The *Midway* sent a small launch out to bring them to the ship and to safety. And as the refugees made their way through the choppy seas, one of them spied the sailor on deck. He stood up and called out to him. He yelled, "Hello, American sailor. Hello, freedom man"—a small moment with a big meaning, a moment a sailor could not get out of his mind. Neither could I, because that is what it is to be an American.

Mr. President, as we debate this bill, I think we will need to remind ourselves that that still is what it means to be an American. It always was, and let us pray that it always will be. Even at the very beginning of our history, back when we were a very small country, we were always a country with a very big meaning, a country whose future was unlimited, a country that believed in people and believed in their capacity to make the world a better place. What a legacy, what an awesome responsibility, a responsibility for our generation and for every generation.

I, along with some of my other colleagues, will be working to make sure that our immigration reform bill remains true to this legacy and true to

VOL
142
PT
6
AP
15
—
24
1996
UMI

the values that made America a beacon for all humanity.

Mr. President, I will conclude these remarks at this point, and again thank my colleague from Wyoming for his courtesy and for his work not only on this bill, but on this issue now for well over a decade.

Mr. SIMPSON. Mr. President, I thank the Senator from Ohio. He has been very involved, very articulate, and I appreciate the participation very much.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me thank the distinguished chairman of our committee, the Senator from Wyoming.

I say a word about immigration in that we opened up a school this morning for some 525 additional Immigration and Naturalization agents—the plan and plot as we work in the appropriations side of this particular problem. And I serve on the what we call the State, Justice, Commerce Subcommittee of Appropriations. For the past 25 years we have been trying to keep up with the problem as we have seen it. We work with the leadership of the Senator from Wyoming, the Senator from Massachusetts, Senator KENNEDY. And this morning, as I say, we opened up that school for some 525 agents at the old Navy yard facility in Charleston that we closed a couple of years ago.

A word should be said about our distinguished Commissioner of Immigration and Naturalization, Doris Meissner. She could not be with us, of course, because of the loss of her husband in that fatal crash going into Dubrovnik last week. Chuck Meissner, the Assistant Secretary of Commerce in charge of International Trade, was on that plane, that tragic loss. I talked to Commissioner Meissner and said that I know we have the scheduled opening of the school, but we ought to call that off. She said, "No, it is really an emergency situation. While I cannot be there, I will be represented by Ms. Sale, Chris Sale, the Deputy Commissioner, and the other authorities, and we are ready to go, and we want to make sure that we have at least these agents trained and ready to go to work by August." Chris Sale was there, and we opened the school in the most adequate fashion.

The American public and the U.S. Senate should understand that this problem is much like trying to drink water out of a fire hydrant. Go down to San Ysidro, CA, down there by San Diego where 46 million automobiles and 9 million pedestrians were stuck and inspected by the Immigration and Naturalization Service last year. We are totally understaffed for the problems of the illegal immigrants coming into the Nation and making their demands upon State and Federal spending.

So it is not a casual commendation that I give to the leadership of the Senator from Wyoming because I worked with him on the Simpson-Mazzoli bill years back. He has been in the trenches working for years trying to bring the National Government ahead and on to the problem, so that it would not increase into this emergency, more or less, at this particular time.

Having said that, Mr. President, let me say a word about an underlying amendment of Senator DORGAN from North Dakota, myself, and others relative to spending Social Security trust funds. I can go into detail which I will to make the record here, but let me bring it right up to the spending habits of the National Government with respect to trust fund amounts. When we passed in 1983 the increase in Social Security taxes, we could not have possibly voted that tax increase save and excepting to maintain the integrity of the Social Security trust fund. In fact, the intent was not only to maintain its integrity but to maintain a surplus. We talked openly, and you refer back to the record, of the Greenspan commission report, that if these increases in taxes were carried out, we would have a surplus that would easily take care of the baby boom generation into the year 2050.

But otherwise has occurred. What we have been doing, in a shameless fashion, is spending the Social Security trust moneys on the deficit. We have been obscuring the size of the deficit by the use of those trust funds. It was $63 billion last year, if I remember correctly. Last year the CBO report was a $481 billion surplus. So if you add the $63 billion I guess it would be in the terms of a $544 billion surplus, over one-half trillion surplus funds in the Social Security trust. But, ah, now we have today's, or last week I should say but it is dated April 15, Time magazine, and I wish to quote because here is what really happens to the so-called trust funds. It is on page 27 of April 15, 1996, Time magazine, entitled "Odyssey of a Mad Genius." I refer to the article on page 27, "Beltway Robbery." This has to do with highway trust funds, not Social Security, but the similarity is so stark in its reality that it must be brought to the attention of my fellow Senators here this afternoon. I quote:

> In a Washington out to cut Federal spending, 12-term Congressman Bud Shuster is an unrepentant pork barrel spender. Now it appears the Chairman of the House Transportation and Infrastructure Committee has converts. More than half his colleagues including a heavy majority of those reform-minded GOP freshmen, are backing a bill that would lift constraints on highway and airport projects. If the trust and budgeting act is passed by the House next week, it would give Shuster's committee great latitude to tap some $33 billion in transportation trust funds. The measure has mobilized a formidable lobbying coalition, uniting organized labor and big and small business, State and local governments, and such an esoteric trade association as the Precast-Prestressed Concrete Institute. Their goal is not only to pass it but also a vetoproof 289 votes. Supporters argue rightly that the money would go where it was intended—building roads and upgrading the airports. But the supposedly untapped funds are actually an accounting figment. Using them would increase the deficit or force greater cuts in other programs. Budget Committee Chairman John Kasich and Appropriations Chairman Bob Livingston are vehemently opposed. Attempts by Newt Gingrich to reconcile them and Shuster have come to naught. Meanwhile, Federal Chairman Alan Greenspan broke with his custom of staying neutral to advise against passage.

Now, is that not a remarkable report? One line in there, and I quote it again:

> But the supposedly untapped funds are actually an accounting figment.

This is exactly what Senator Heinz and I were fighting against when we had enacted section 13301 of the Budget Enforcement Act on November 5, 1990, signed into law by President George Bush, voted by a vote of 98 to 2 in this Senate. We did not want Social Security trust funds to become an "accounting figment." That is what they do when they continue to use funds.

When we try to debate it in the Chamber, it does not matter; we have the money there, but it has to be used by the Government somewhere so we will just borrow the moneys there and everything else of that kind and tell the youth of America do not worry—well, do worry, it is going broke—when it is not going broke and when we got the moneys there and run around about going broke because in their mind it has become an accounting figment.

Now, let me mention a book by James Fowler. It is called "Breaking The News."

This is the problem in Government today. Years back, none other than Thomas Jefferson as between a free Government and a free press, he would choose the latter, and why? Because he said and reasoned that you could have a free Government but would not remain free long unless you had a free press to keep us politicians honest.

What has happened is that the free press no longer keeps the politicians honest. They in turn have joined into the dishonesty. Here it is. I read again. One sentence:

> But the supposedly untapped funds are actually an accounting figment.

Thirty-three billion in the highway trust funds. The article quotes it. It is not an accounting figment. And instead of keeping the trust for highways, who comes out against spending highway moneys for highways? The chairman of the Budget Committee, the chairman of the Appropriations Committee, and of all people, the head of the Federal Reserve because he is part and parcel of the conspiracy for a so-called unified budget.

Now, let's go to unified. Wall Street and Alan Greenspan love unified budgets so long as the Government is not coming in to the bond market with its sharp elbows borrowing. Then they can make more money on stock sales. Bond sales, their interest rates stay down so borrow from yourself.

Well, that is pretty good for the irresponsible business leadership but for the public servant down here in Washington that has to do his job, he is going to meet himself coming around the corner and today we have met ourselves coming around the corner.

> But the supposedly untapped funds are actually an accounting figment.

That is the charade and fraud that has been going on. I more or less dedicated myself to paying the bill. Earlier today when we were opening up this school, I said when we handled this Justice Department budget back in 1987, 1988, it was only about $4.2 billion. Now, this year, it is $16.7 billion. It has gone up, up and away, and we do not pay for it.

I cited an editorial in my own hometown newspaper about April 15, here we were, the day to pay taxes, and up, up and away was the national debt to $5 trillion. And they said: You know the reason for this was entitlement funds. They said that it was the military retirement, the Social Security, the Medicare.

Wait a minute, Mr. President. Let us go to these so-called entitlement funds. As I mentioned a moment ago, Social Security is over one-half trillion dollars in the black. Medicare, everybody agrees, is in the black. They are talking about going broke in 7 years, but many adjustments can be made and should be made and will be made. We will keep Medicare solvent. We do not have to cut it to get a tax cut to buy the vote for November. I have opposed that.

Similarly, with the military and civil service retirement fund, it is in the black. It is not these entitlements, it is paying for the immigration border patrol, the immigration inspectors, all the other things; the Justice Department, FBI, for the defense, for all these things for 15 years. We have not been paying for general government. Oh, this cry over entitlements started in the Appropriations Committee when my friend Dick Darman came in there, talking about "entitlements, entitlements, entitlements." And you have that same Concord Coalition, "entitlements, entitlements, entitlements," and my friend Pete Peterson up there in New York, "entitlements, entitlements, entitlements."

Let us talk about general government. I was a member of the Grace Commission against waste, fraud, and abuse. And we have constituted the biggest waste, the biggest fraud, the biggest abuse in the last 15 years by spending $250 billion more each and every year, on an average, without paying for it. That is why the debt has gone to $5 trillion. That is why the interest cost has gone to over $350 billion. We will get a CBO estimate here on Wednesday. Today is Monday. But let me tell you what the estimate was earlier in the year. I will ask unanimous consent later that this be printed in the RECORD. The estimated 1996 interest cost on the national debt, gross interest paid is $350 billion.

Interest has gone up since then, so it is going to be over $1 billion a day. When President Reagan took over, the gross interest cost was exactly $74.8 billion. Get into a little arithmetic. Subtract $75, in round figures, $75 billion from $350 billion and you get $275 billion. Mr. President, 275 billion extra dollars spending for nothing, for nothing.

I remember President Reagan. I will show the talks, if you want me to put it in the RECORD. He was going to balance the budget in 1 year. Then he came to town and said, "Oops, 3 years." Then we had the Gramm-Rudman-Hollings Act, 5 years. Now they have proposed 7 years. If they get past the November election, the next crowd will say 10 years. As long as they can continue the charade, as long as the press fails to keep us honest and fails to engage the public in the truth, it continues the charade, calling it truth in budgeting.

Mr. President, the actual cost of domestic discretionary spending at this minute is $267 billion. But the increase in spending for interest on the debt has been $275 since President Reagan took office. Point: We have doubled domestic discretionary spending without getting a double Government. We could have two Presidents, two Senates, two Houses of Representatives, two Departments of Justice, Agriculture, Commerce, Interior. Domestic discretionary—we could have two for the money we are spending. But we are not getting it.

Talk about increased spending? "I am against increased spending." They are all running around in this Congress saying, "I am against increased spending." Well they have increased spending $1 billion today, on account of this fraud, this charade. Or, like taxes, for April 15 they have sent their minions all around the land, talking about tax day, "Let us have a special bill over in the House." It is all theater. And we will have that, "You have to have a two-thirds vote in order to increase taxes." Increase taxes? You cannot avoid death. You cannot avoid taxes. And you cannot avoid interest costs on the national debt. Interest is like taxes. You have already increased taxes today of $1 billion and you will increase taxes tomorrow, and on Saturday, and on Sunday and on Christmas Day, every day this year—not on increased program spending, but on interest on the debt. The crowd that says they are against increasing taxes is increasing taxes and not wanting to do a thing about this central problem.

I tried and I am going to continue. They are not going to get rid of me. I came here with a AAA credit rating for my State. I increased taxes to get it. I knew as a young Governor I could not go to those industry leaders in New York and ask them to come down and invest in Podunk. I had to have a solvent operation. So we did balance the budget and we put in a little device, which later, in the Federal Government, was called Gramm-Rudman-Hollings. It was cuts across the board.

I went to the distinguished Senator from Texas. I said, "This device that you have that cuts Social Security, it will not get to first base." I said, "Speaker O'Neill and Congressman Claude Pepper will run us off the Capitol steps. We have not got a chance. Forget it. Let us talk sense." I helped write Gramm-Rudman-Hollings sensibly, and we enacted automatic cuts across the board.

Then, when, as they say, the rubber hit the road in 1990, we abolished the cuts across the board. On October 19, at 12:41 a.m., I raised the point of order, and my distinguished colleague from Texas voted to abolish the cuts across the board of Gramm-Rudman-Hollings.

Do you know what they did? They went for spending caps. Well, this place has a ceiling, but the spending caps have not. Spending has gone up, up and away and that is why poor President Bush lost his reelection. There is no kidding around.

I mean, we were up to $400 billion deficits at that particular time. The exact figure, according to the schedule here of the real deficit was $403.6 billion. So they said we will try this little Governor from Arkansas. He has balanced the budget for 10 years. Give him a try.

I voted for a balanced budget under Lyndon Johnson. Under Lyndon Baines Johnson, the interest costs on the national debt in his last year, when we voted that balanced budget, was $16.6 billion. Now it is over $350 billion, over $1 billion a day. That is the biggest waste consciously caused by us.

I have been a party to it. Yes, I tried to enact a freeze. Then I tried Gramm-Rudman-Hollings. Then, even in the Budget Committee I had a value-added tax. It was bipartisan. I had the distinguished Senator from Missouri join me. The distinguished Senator from Minnesota joined. We had eight votes for a value-added tax of 5 percent allocated to ridding us of the deficit and debt so we would not have this increased spending on automatic pilot.

But, somehow, somewhere along the line, we have gotten into a contract of nothing but procedural nonsense. We have gotten into term limits, when the Constitution already says I have to run

VOL
142
PT
6
AP
15
—
24
1996
UMI

for every 6 years. Incidentally, I have been elected to the U.S. Senate six times.

We have procedural talk about unfunded mandates, line-item vetoes, anything except enacting a balanced budget. We are not providing; the size of the Federal work force is smaller now than it was 10 years ago. We are spending more and getting less. No wonder the body politic is disillusioned with their Government in Washington. Somehow, both Republican and Democrat, keep on spending more and more while we get less and less. And they all give us this same pollster pap of, "I am against taxes and for the family. I am against crime and for jobs." You know, get the hot button items and try to fool the people. And that is why the distinguished Senator from North Dakota has offered this amendment, which states:

> It is the sense of the Senate that because section 13301 of the Budget Enforcement Act prohibits the use of the Social Security trust fund surplus to offset the budget deficit, any proposal for a constitutional amendment to balance the budget should contain a provision creating a firewall between the receipts and outlays of the Social Security trust funds and the rest of the federal budget, and that the constitutional amendment should explicitly forbid using Social Security trust funds to balance the federal budget.

Mr. President, if acted on that idea, we would have passed the balanced budget amendment to the Constitution by at least 5 votes in March of last year—March of last year.

Again, about 6 weeks ago, I tried to bring it up, and they raised a technicality that it was not relevant. Five Senators wrote a letter to Majority Leader DOLE. We went on record in favor of the balanced budget amendment to the Constitution as long as it did not repeal section 13301. But they want that unified budget. Keep spending the billions and billions and billions from the Social Security trust fund and then come around at the end of the day when my children and the distinguished Presiding Officer's children and grandchildren come for their particular retirement, and they are going to say the untapped funds are actually an accounting figment.

Who in the year 2002 is going to raise a trillion dollars in taxes to make good on the IOU's in the Social Security draw? Nobody, nobody, and they do not have any idea of doing it. But "I'm against taxes," they say. Oh, it is a wonderful luxury to run around and fool the American people, and who allows it? The American free press. Read "Breaking the News" by James Fallows, an authoritative writer. He has been up here. He has watched the operation. I can tell you, time and time again, it has been a very, very difficult fight.

Let me give credit to the late Senator from Pennsylvania, John Heinz. John Heinz and I worked on taking the Social Security trust fund off budget. It was bipartisan. It was called the Heinz-Hollings amendment—we wanted him to lead it at the time because the Republicans were in control—and we called it the Heinz-Hollings-Moynihan amendment.

Our distinguished Senator MOYNIHAN had been the ranking member on the Finance Committee and, admittedly, is still the authority on Social Security in this body.

But on October 18, 1990, Senator John Heinz said:

> Mr. President, in all the great jambalaya of frauds surrounding the budget, surely the most reprehensible is the systematic and total ransacking of the Social Security trust fund in order to mask the true size of the deficit.

Another quote on October 18, 1990 by Senator John Heinz:

> Since 1983, when we may have saved the Social Security goose, we have systematically proceeded to melt down and pawn the golden egg. It does not take a financial wizard to tell us that spending these reserves on today's bills does not bode well for tomorrow's retirees.

I make these quotes to the body this afternoon for the simple reason that it is bipartisan, and I am appealing to the Senators on the other side of the aisle, the Republican colleagues, because I know the chairman of our Budget Committee, the distinguished Senator from New Mexico, does not believe in busting the budget. He got caught off base last November when he held up the good housekeeping award and said, "Here's a balanced budget certified by the Director of the CBO."

Then 2 days later, "CBO said, as you were, "we have a deficit of $105 billion." It was not balanced at all. Let us not go through that charade again. We can pass a balanced budget amendment to the Constitution.

Senator DOLE is put under tremendous pressures with the goofy right that he has to respond to in order to get the nomination. But now that he has it, he should revert to the old DOLE, as he was as chairman of the Finance Committee when he joined in the sentiment of George Bush who called Reaganomics voodoo, and former Republican majority leader, Senator Baker, who said it was a riverboat gamble.

I know Senator DOLE. I have tremendous respect for him, and I know he is solid on paying bills. But he has a crowd that runs rampant saying, "We don't want to pay the bill."

Remember what happened to Fritz Mondale? He was honest enough to come out and say we are going to have to have an increase in taxes in order to pay the bills, but he did not add "in order to pay the bills." He said, "Yes, it looks like we are going to have to increase taxes." He had ahead of time said, "By the way, I'm a Democrat in the image of Hubert Humphrey." When he said he was a Democrat in the image of my friend Senator Humphrey from Minnesota, everybody took it to mean we really were going to start some spending.

I understand the call that has been put out to call the Democrats tax-and-spend, tax-and-spend.

Let me enter something in the RECORD now for President Clinton. In all of these 15 years, the only time the deficit has been decreased is under President Clinton. He came to town and cut spending $500 billion. He came to town and with a $500 billion deficit reduction plan—equally split between spending cuts and taxes. I voted for it in order to try and get on top of these interest costs, this waste.

He came to town and cut $57 billion out of Medicare and had proposed another $124 billion. But there was no $250 billion for a tax cut. So he was acting responsibly until the Post and you folks just pulled him off base, and then he came for a tax cut, too, which nobody can afford.

That is one grand fraud on the American people. We do not have any taxes to cut. We have been cutting the spending. Eliminate the domestic discretionary spending. Eliminate welfare, eliminate foreign aid and the entire domestic discretionary spending and not cut it, and you still have a deficit. That is the serious problem.

The ox is in the ditch, and we have to sober up in this Government of ours and quit talking pollster politics games which the press joins in: who is up and who is down and who is silly enough.

I recommended a value-added tax in the Finance Committee. I want to pay for new immigration inspectors. I want to pay for 5,000 new border patrol. I want to pay for the extra FBI, the crime bill. I want to pay for the commitment in Bosnia. But this crowd comes up here and gets away with the worst I have ever seen.

I hope that we can salve the conscience, if there is one left amongst us, where we adopt the amendment of the distinguished Senator from North Dakota, the sense of the Senate that we not use Social Security trust funds to balance the Federal budget.

That was not the intent when we adopted those taxes, but you can see from the way they are treating highway trust funds—I would like to do it for the highway trust funds. I would like to do it for airport and airway trust funds. Out there in Colorado, we need some new airports, but we have not been spending the money on airports, we have been spending them instead on masking the size of the deficit, sacrificing future investment for present consumption.

I would like to spend these moneys for their intended purpose. I would like to pay the bill so that we will not saddle the next generation with our excesses. Where all they can do in Washington and is to pay for a little bit of

defense, a little bit of domestic discretionary, cannot promote technology, cannot promote any competitiveness, cannot have any research and health care, and everything else that Government is supposed to do.

I believe in Government. I do not think Government is the problem. I think this charade is a problem. I think they know it is a problem. But they go along with this silly contract and its procedural nonsense, guaranteed every day to put on a show here. "Here is April 15. Here is tax day. Let's remind them about a tax cut that they could have gotten." So they automatically call it a President Clinton tax cut that you did not get, and all those kinds of things, when they could not give it to save their souls.

They do not have taxes to cut. In fact, their solution is Reaganomics and growth—please do not come back here with that growth. Senator Mathias on the Republican side and I were 2 of 11 votes against Reaganomics and that mantra of growth, growth, growth. The only thing that has grown is the deficit and spending, spending on automatic pilot of $1 billion a day—$1 billion a day. And nobody wants to talk about it. They want to talk about tax cuts. It's like saying, "I want to buy your vote."

Campaign financing. The biggest fraudulent campaign financing occurs on the floor of the U.S. Congress, because we mislead the American people that their Government is being paid for. We act like all we need to do is cut back a little on welfare and on foreign aid eliminate the Commerce Department.

Yes. Since I have the time—I talked the week before last with former Secretary Ron Brown. He and I were trying to work votes, in all candor, over on the Republican side. We were having a difficult time. We did not know whether or not the administration was going to veto the bill, should it pass. I take it now that the distinguished President would not hesitate in vetoing it because the Commerce Department is not a grab bag.

I have been through over a dozen Secretaries of Commerce, and I am laying it on the line. Ron Brown was the one Secretary of Commerce that did the work. Maurice Stans up to Mosbacher, all they did was collect money.

But here was a fellow out hustling business rather than funds for the campaign, actually doing an outstanding job. When I heard of the recent tragedy, I had just with the distinguished Senator from Maine, Senator COHEN. We were in Beijing at the time of the plane crash. They did not ask about the President because he has never been to the largest and perhaps one of the most important countries in the entire world. In fact, the Secretary of State, he has been 34 times to the Mideast but only one visit to Beijing. They did not ask about the Secretary of State.

They asked about Ron Brown. He made a wonderful, favorable impression. I really believe, Mr. President, that we can really bring about more human rights through capitalism and market forces than we can through sanctions.

I have learned the hard way, as we did back in the old days at the beginning of the war and the artillery. There was a saying then that no matter how well the gun was aimed, if the recoil was going to kill the gun crew, you did not fire the gun. The recoil of sanctions has killed the gun crew. It is killing off our business.

Just recently, France picked up a $1.2 billion Airbus contract rather than the United States of America. Well, we all believe that the Government should take a stand. But the way we have taken it is in a general loud-mouth fashion without any result. We should have targeted sanctions, clearly understood in the first instance. Let our businesspeople go and prosper and bring about more capitalism over communism. That is how we really defeated it in Eastern Europe and the Soviet Union, with capitalism itself.

What we are doing is taking the largest, most important nation in the Pacific—I can see that front cover of another magazine, "Friend or Enemy?" We are making them an enemy. There is not any question about it. They like America. They like our technology. They have 100,000 Chinese students. They know we stand for freedom and everything else.

I was on an aircraft carrier in the Gulf of Tonkin in 1966, the *Kitty Hawk*. We could not control 20 million North Vietnamese. I do not know how an aircraft carrier running around the Straits of Taiwan is going to control 1.2 billion Chinese. We need to sober up.

Government—the art of the possible. not responding to these pollster pap things. "Are you against Red China?" or "Are you against communism?" and all those things. You have to live in the real world. You have to get the best results you can. I am absolutely persuaded you are going to do it through capitalism and not through running around confronting on every turn and letting that other crowd pick up the marbles.

If you could do it unilaterally, fine business. But you cannot. So the French go in and the Germans go in or the Japanese, and they pick up our marbles and we are left behind.

If I put myself in control—if I had to control 1.2 billion, the one concern I guess I would have to have would be Taiwan. They are moving toward democracy. They have, after 48 years, a free election for a President for the first time. But having had it, the more they talk about democracy and independence, coming to Cornell and asking for diplomatic recognition. But we need to be honest, Mr. President, about what that means in China. Any strong movement toward democracy right is a sensitive subject because if the Taiwan get democracy, then some crowd down in Guangzhou, will want democracy and everything else. Give me one man one vote today in Beijing and I have chaos.

But the politician here in the National Government does not stop looking, listening, or thinking about it. I do not believe that the rulers in Beijing have any idea of continuing so-called Communistic government.

Some call it Market-Leninism rather than Marxist-Leninism. I do not know what it is, but I do know, having been there in 1976 and 1986 and now in 1996, that they have brought about 180 million into the middle class.

I would daresay, if I were Nick the Greek and had to bet, that I would bet that 10 to 20 years from now you are going to find more hungry fed in China than you are going to find in democratic India. I think that is a mistake in Russia, and that is why the President is going to be there the day after tomorrow.

Why? Because they gave political rights before they gave economic rights.

We in the U.S. Senate ought to stop looking and listening to those pollsters who have never served a day in government. They are wonderful. I have the best. I trust their polls and predictions, and they have been on target, but they still really do not know government. They never have thought about doing things in the long term. They are only thinking bam, bam towards the next election. I could fault us all. We are all looking to November. Nothing will happen in this body this year. Why? On account of November. Each day we are trying to find out who is on top in the 7 o'clock news.

Irrespective of who is on top, I ask unanimous consent to have printed in the RECORD these tables, since President Truman, 1945 to 1996, of the U.S. budget outlays in billions, the trust funds, the real deficit, the gross Federal deficit, and the gross interest.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

President and year	U.S. budget (outlays in billions)	Trust funds	Real deficit	Gross Federal debt (billions)	Gross interest
Truman:					
1945	92.7	5.4	———	260.1	(1)
1946	55.2	3.9	−10.9	271.0	(1)
1947	34.5	3.4	+13.9	257.1	(1)
1948	29.8	3.0	+5.1	252.0	(1)
1949	38.8	2.4	−0.6	252.6	(1)
1950	42.6	−0.1	−4.3	256.9	(1)
1951	45.5	3.7	+1.6	255.3	(1)
1952	67.7	3.5	−3.8	259.1	(1)
1953	76.1	3.4	−6.9	266.0	(1)
Eisenhower:					
1954	70.9	2.0	−4.8	270.8	(1)
1955	68.4	1.2	−3.6	274.4	(1)

VOL
142
PT
6
AP
15
—
24
1996
UMI

President and year	U.S. budget (outlays in billions)	Trust funds	Real deficit	Gross Federal debt (billions)	Gross interest
1956	70.6	2.6	+1.7	272.7	(1)
1957	76.6	1.8	+0.4	272.3	(1)
1958	82.4	0.2	−7.4	279.7	(1)
1959	92.1	−1.6	−7.8	287.5	(1)
1960	92.2	−0.5	−3.0	290.5	(1)
1961	97.7	0.9	−2.1	292.6	(1)
Kennedy:					
1962	106.8	−0.3	−10.3	302.9	9.1
1963	111.3	1.9	−7.4	310.3	9.9
Johnson:					
1964	118.5	2.7	−5.8	316.1	10.7
1965	118.2	2.5	−6.2	322.3	11.3
1966	134.5	1.5	−6.2	328.5	12.0
1967	157.5	7.1	−11.9	340.4	13.4
1968	178.1	3.1	−28.3	368.7	14.6
1969	183.6	−0.3	+2.9	365.8	16.6
Nixon:					
1970	195.6	12.3	−15.1	380.9	19.3
1971	210.2	4.3	−27.3	408.2	21.0
1972	230.7	4.3	−27.7	435.9	21.8
1973	245.7	15.5	−30.4	466.3	24.2
1974	269.4	11.5	−17.6	483.9	29.3
Ford:					
1975	332.3	4.8	−58.0	541.9	32.7
1976	371.8	13.4	−87.1	629.0	37.1
Carter:					
1977	409.2	23.7	−77.4	706.4	41.9
1978	458.7	11.0	−70.2	776.6	48.7
1979	503.5	12.2	−52.9	829.5	59.9
1980	590.9	5.8	−79.6	909.1	74.8
Reagan:					
1981	678.2	6.7	−85.7	994.8	95.5
1982	745.8	14.5	−142.5	1,137.3	117.2
1983	808.4	26.6	−234.4	1,371.7	128.7
1984	851.8	7.6	−193.0	1,564.7	153.9
1985	946.4	40.6	−252.9	1,817.6	178.9
1986	990.3	81.8	−303.0	2,120.6	190.3
1987	1,003.9	75.7	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−255.2	2,601.3	214.1
Bush:					
1989	1,143.2	114.2	−266.7	2,868.0	240.9
1990	1,252.7	117.2	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−403.6	4,002.1	292.3
Clinton:					
1993	1,408.2	94.2	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−292.3	4,643.7	296.3
1995	1,514.4	113.5	−277.3	4,921.0	332.4
Est. 1996	1,595.0	105.8	−277.8	5,198.8	350.0

[1] Budget tables: Senator Hollings.

Note: Historical Tables, Budget of the U.S. Government FY 1996; Beginning in 1962 CBO's 1995 Economic and Budget Outlook.

Mr. HOLLINGS. Mr. President, I also ask unanimous consent to have printed in the RECORD Public Law 13301, status of the Social Security trust funds.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Subtitle C—Social Security

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

SEC. 13302. PROTECTION OF OASDI TRUST FUNDS IN THE HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—It shall not be in order in the House of Representatives to consider any bill or joint resolution, as reported, or any amendment thereto or conference report thereon, if, upon enactment—

(1)(A) such legislation under consideration would provide for a net increase in OASDI benefits of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, and (B) such legislation under consideration does not provide at least a net increase, for such 75-year period, in OASDI taxes of the amount by which the net increase in such benefits exceeds 0.02 percent of the present value of future taxable payroll for such 75-year period.

(2)(A) such legislation under consideration would provide for a net increase in OASDI benefits (for the 5-year estimating period for such legislation under consideration), (B) such net increase, * * *.

Mr. HOLLINGS. Mr. President, I also ask unanimous consent that the Hollings-Heinz amendment Social Security trust funds budget deficit vote of October 18, 1990, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE VOTING RECORD—NO. 283

YEAS (98)

Democrats (55 or 100 percent): Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Boren, Bradley, Breaux, Bryan, Bumpers, Burdick, Byrd, Conrad, Cranston, Daschle, DeConcini, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Graham, Harkin, Heflin,

Hollings, Inouye, Johnston, Kennedy, Kerrey, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Pell, Pryor, Reid, Riegle, Robb, Rockefeller, Sanford, Sarbanes, Sasser, Shelby, Simon, and Wirth.

Republicans (43 or 96 percent): Bond, Boschwitz, Burns, Chafee, Coats, Cochran, Cohen, D'Amato, Danforth, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatch, Hatfield, Heinz, Helms, Humphrey,

Jeffords, Kassebaum, Kasten, Lott, Lugar, Mack, McCain, McClure, McConnell, Murkowski, Nickles, Packwood, Pressler, Roth, Rudman, Simpson, Specter, Stevens, Symms, Thurmond, Warner, and Wilson.

NAYS (2)

Republicans (2 or 4 percent): Armstrong and Wallop.

Mr. HOLLINGS. I will have other things to be printed in the RECORD tomorrow when we debate this. This is not a casual thing. This is not a political thing. I will vote for Senator DOLE's Senate Resolution No. 1, if he will not repeal, just do not repeal the present law.

At least we have it into law. But the media disregards the law. The media quotes a unified budget, but sometimes the media does show some sense—instead of unified, saying the money is all in the Federal Government, they say, and I finally close in the sentence here on April 15, 1996, Time magazine, "But the supposedly untapped funds are actually an accounting figment."

Tell that to the media. From now on, that is what they call it, an accounting figment. We ought to have truth in budgeting. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERM LIMITS

Mr. ASHCROFT. Mr. President, I rise today to speak about an important project. In the next couple of weeks, the Senate will vote for the very first time in history on a proposed constitutional amendment to limit the terms of individuals in the U.S. Congress. This is, indeed, historic. While people are familiar with term limits, because they have applied to the President since the 1950's, and while 40-some States have term limits as it relates to other public officials, the U.S. Congress has never been term limited.

It is an exciting opportunity to know that the Judiciary Committee of this Senate for the first time in history has sent to the floor of the Senate, with bipartisan support, a proposed amendment to the Constitution of the United States that would provide the States with the chance to add to the Constitution, limits on Members' terms in the U.S. House and Senate.

People might say, why is that important? I think it is important from a number of points of view. I think that the biggest perk of all in Government is the perk of incumbency. The No. 1 campaign reform ought to be to level the playing field every couple of terms for Members of the Senate and every several terms for Members of the House and let new people have an opportunity to bring their fresh approach and their recent experience into Government from the private sector.

Steven Moore of the CATO Institute eloquently phrased the results of his study. He indicated clearly that if we were to have had term limits we already would have passed a balanced budget amendment to the Constitution of the United States. It would have passed the House and Senate in the years 1990, 1992, and in the year 1994. We would have had at a much earlier date the therapeutic value of the line-item veto, major reforms that encounter the resistance of career congressional individuals who have been passed long ago.

It is interesting to note that this study also indicated that there are several things that did pass which would not have passed, had there been term limits. Moore, of the CATO Institute, indicates that the last two pay increases for Congress would not have

passed had we had term limits, and the last two tax increases on the people of this great country would not have passed, had we had term limits.

It is time for this body, along with the House of Representatives, to vote to allow the American people, through their States, to embrace term limits for the Congress if they choose to. The U.S. Senate and the U.S. House cannot enact term limits. But we can offer the opportunity to the States through a proposed constitutional amendment. We should do that and do it now. It is a way of inviting the people into the process of Government. For too long the Congress has slammed shut the door of self-government in the face of the American people. It is time to welcome them back.

In conjunction with the vote later this month on term limits, I am pleased to announce an exciting experiment in online democracy. It is the first ever congressional online petition. This is a way for the people of the United States of America to register their views on term limits with the U.S. Senate, and to do so at a place through electronic mail. I refer Members to the chart entitled "Term limits" at "jashcroft.senate.gov." which is the address for term limits on e-mail.

In addition to the e-mail address, you can also register your feelings on term limits by going to any number of home pages which will refer you to the term limits home page here in the Senate. For instance, the CNN home page, the C–SPAN home page, the America online home page, the netscape home page, the politics USA home page will all allow individuals to click to the term limits petition, where individuals can express themselves to the U.S. Congress.

This is an unusual petition made possible by the technology. I quote one of our first signers of the petition, Matthew Lovelace, who says, "Your project puts power in the hands of the people, power that bureaucracy and big Government have taken away." He is one of about thousands upon thousands of individuals that have already signed the term limits petition that is online and available to people all across the United States of America. It is not a petition for registration. It will not cause any specific election to happen. It is a petition of communication to send a message from the American people to the Members of this Congress. It began last Wednesday and it is fully underway now.

The new technology has the potential to help us redefine the way citizens and communities participate in our democracy. Normally, a petition is an event that you sign and say, "So long." You never see it again. You are not part of it in any sense, other than your name. The term limits petition, however, is one electronically that can allow you to see on a regular basis how many people have signed up, where Members of the Senate are in terms of the petition, and get views of public officials and others who have stated their views and written about term limits as a concept. Further, there can be updates through e-mail to individuals who request updates on the term limit petition.

The U.S. News reports that there are close to 300,000 Worldwide Web sites, and to have a term limits Worldwide Web site is just a way of providing the access to American people and people around the world to a concept whose time has come.

I do not think there is any better issue that could demonstrate the new technology than term limits. The new technology is designed to give people greater access and term limits will give people greater access to Government. If interactive technology at its core is about the increased deliberation, so, too, is term limitation.

Term limits also help to ensure accountability, and that new people and new ideas find their way into Government, and that we have competitive elections.

In 1994, 91 percent of all Congressmen who stood for reelection were returned to Washington. Term limits would eliminate the single biggest perk in the electoral system—the perk of incumbency. It is time that we simply say to individuals, yes, you are valuable, yes, you have served well, but there are thousands of people across America with the capacity to serve well and to have an opportunity to bring their creativity to Washington, DC.

Dennis Holland of Connecticut suggested, when he contacted my office this weekend, that the Internet and Worldwide Web are the natural place for the free flow of individuals' ideas. I believe they are. That is why we have opened this link of communication for the American people. I will be a part of this free flow of ideas when I appear on America Online chat tonight from 9 p.m. to 10 p.m. We will continue to update the Senate on this exciting experiment. I encourage other Members of the Senate to sign the petition to express themselves for or against term limits. That will be made available to individuals across America who participate in this new process of communicating about an opportunity for America, an opportunity for communication and for reform.

I was Governor of the State of Missouri for two terms. The constitution of Missouri providently provides and wisely includes a provision that we would limit Governors to two terms. Members of the house and senate in Missouri are limited, as are other members of the State executive. The President is limited in the terms that he can serve. It is a way or an avenue of opening up Government to the people, which we should explore.

The House and Senate of the United States, in a couple of weeks, will have an opportunity to send to the people in their States a proposed amendment to the Constitution of the United States to allow them to embrace term limits as a national concept for the Congress. It is one which I hope they will embrace, and I hope we will give them the opportunity to do so.

I look forward to making further appearances as we approach the time for this body to act on term limits. I look forward to seeing the people of America tonight when we are on the America Online program regarding term limits between 9 and 10 p.m. eastern daylight time.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. SIMPSON. Mr. President, I appreciate the cooperation of my colleagues as we proceed with the immigration and reform legislation, both illegal and legal immigration reform. We have much to do, but we have presented to our colleagues three amendments for disposition tomorrow, and we will begin to process the amendments from this side of the aisle and the other side of the aisle. I think that will be most appropriate. There is much to do, obviously, in the spirit of cooperation on a very tough bill, which is tough for every single one of us, and some much more than others.

MORNING BUSINESS

Mr. SIMPSON. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

JANE BERGEN'S SILVER ANNIVERSARY

Mr. HOLLINGS. Mr. President, I would like to express my thanks and congratulations to a member of my staff, Ms. Jane Bergen. As we all know, here on Capitol Hill, we have a lot of very bright people who join our staffs and work tirelessly for our constituents. However, it is truly rare to have

VOL 142 PT 6 AP 15 — 24 1996 UMI

someone as gifted, dedicated, and loyal as Jane. Yesterday was Jane's 25th anniversary with my office, and I am honored to have had her with me for all this time.

One of the many benefits of being a seasoned Senator is the opportunity to form strong relationships with one's staff. My office is, in many ways, a family, and Jane has done a great deal toward making it that way. In addition to being intelligent and capable, she is one of the most good-natured people I've ever met. Jane gets along with everyone, and I know that every member of my staff would do anything for her.

Over the course of 25 years, Jane has come to know just about all there is to know about the workings of the Senate. She has trained more legislative assistants in my office than I can count, and she has become an invaluable resource in the process. These days, the word "dependable" has become a somewhat banal adjective. Well, I would like to redefine that word and apply it to Jane Bergen. She is uniquely trustworthy, and my staff and I have come to rely on her knowledge, judgement, and goodwill on a daily basis.

As much as Jane participates in the family life of the office, she has just as full and successful life outside of it. She and her husband, Les, are the parents of two great children, Leah and Joel, who are the priority in their lives. Jane and Les are community leaders who have been active in local politics, the PTA and their synagogue.

Although Jane has attended college, married, raised children, and pursued a career here in Washington, she is a native of my hometown, Charleston, the daughter of dear friends, Rita and Dr. Leon Banov. And she still retains the best of the traits of southerners: a strong sense of family and community, a perpetually friendly disposition, and loyalty. On behalf of Peatsy and all the staff through the years, I thank Jane for her many and excellent contributions to our office. I look forward to working with her for years to come.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on April 2, 1996, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore [Mr. EMERSON] has signed the following enrolled bills:

H.R. 956. An act to establish legal standards and procedures for product liability litigation, and for other purposes.

H.R. 1561. An act to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes.

H.R. 1833. An act to amend title 18, United States Code, to ban partial-birth abortions.

H.R. 2854. An act to modify the operation of certain agricultural programs.

Under the authority of the order of the Senate of January 4, 1995, the enrolled bills were signed subsequently, during the adjournment of the Senate, by the President pro tempore [Mr. THURMOND].

MESSAGES FROM THE HOUSE

At 1 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The message also announced that the House agrees to the following concurrent resolution, without amendment:

S. Con. Res. 49. Concurrent resolution providing for certain corrections to be made in the enrollment of the bill (H.R. 2854) to modify the operation of certain agriculture programs.

The message further announced that pursuant to the provisions of section 168(b) of Public Law 102–138, the Speaker appoints the following Members on the part of the House to the British American Interparliamentary Group: Mr. CLINGER of Pennsylvania, vice chair, Mr. BROWNBACK of Kansas, Ms. MOLINARI of New York, Mr. PETRI of Wisconsin, and Ms. PRYCE of Ohio.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2202. An act to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes.

H.R. 3103. An act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.

MEASURE PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 2202. An act to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures by improving the verification system for eligibility for employment, and through other measures, to reform legal immigration system and facilitate legal entries into the United States, and for other purposes.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 3103. An act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term-care services and coverage, to simplify the administration of health insurance, and for other purposes.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of March 29, 1996, the following reports of committees were submitted on April 10, 1996:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1664: An original bill to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes (Rept. No. 104–249).

S. 1665: An original bill to amend the Immigration and Nationality Act to reform the standards and procedures for the lawful admission of immigrants and nonimmigrants into the United States (Rept. No. 104–250).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1239: A bill to amend title 49, United States Code, with respect to the regulation of interstate transportation by common carriers engaged in civil aviation, and for other purposes (Rept. No. 104–251).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 1666. A bill to authorize the Federal district court for the Central Division of Utah to hold court in Provo and St. George; to the Committee on the Judiciary.

By Mr. GREGG:

S. 1667. A bill to change the date on which individual Federal income tax returns must be filed to the nation's Tax Freedom Day, or the day on which the country's citizens no longer work to pay taxes, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY:

S. 1668. A bill to improve the job and income security and retirement security of the American worker, and for other purposes; to the Committee on Finance.

By Mr. LOTT (for himself and Mr. COCHRAN):

S. 1669. A bill to name the Department of Veterans Affairs medical center in Jackson, Mississippi, as the "G.V. (Sonny) Montgomery Department of Veterans Affairs Medical Center"; to the Committee on Veterans Affairs.

By Mr. HARKIN:

S. 1670. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for postsecondary education expenses, to make permanent the exclusion for employer-provided education, and for other purposes; to the Committee on Finance.

S. 1671. A bill to provide for cockpit voice recorders and flight data recorders on noncombat aircraft of the Armed Forces; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for Mr. DOLE (for himself, Mr. DASCHLE, Mr. LOTT, Mr. FORD, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr.. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN)):

S. Res. 241. A resolution in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia; submitted and read.

By Mr. WARNER:

S. Res. 242. A resolution to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes; considered and agreed to.

S. Con. Res. 51. A concurrent resolution to provide for the approval of final regulations that are applicable to employing offices that are not employing offices of the House of Representatives or the Senate, and to covered employees who are not employees of the House of Representatives or the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1666. A bill to authorize the Federal District Court for the Central Division of Utah to hold court in Provo and St. George; to the Committee on the Judiciary.

THE CENTRAL DIVISION OF UTAH FEDERAL DISTRICT COURT AUTHORIZATION ACT OF 1996

Mr. HATCH. Mr. President, today I introduce a bill that would permit the Federal District Court of the Central Division of Utah to hold court in Provo and St. George. Under the relevant statutory provision, title 28, United States Code, section 125, District Court for the Northern Division of Utah may be held only in Ogden, and District Court for the Central Division of Utah may be held only in Salt Lake City.

The central division of Utah, however, is quite expansive: it encompasses 23 counties and spreads from the Salt Lake region down to Utah's southern border. Due to the division's size, those involved in district court proceedings, whether as litigants, jurors, or lawyers, must travel to Salt Lake City for district court. The district judges and others in Utah have become concerned about inconveniences that have arisen due to the statutory constraints on the places of holding court in Utah.

On January 9, 1996, the district judges for the District of Utah voted to approve an amendment to title 28, United States Code, section 125 that would permit district court for the central division of Utah to be held not only in Salt Lake City, but also in Provo and St. George. The bill I introduce today embodies those changes. The Utah State Bar supports the bill.

This bill will help Utahns by facilitating the administration of justice in Utah, and by permitting easier access to the district courts to citizens and litigants throughout Utah, who have often had to travel to Salt Lake City to have their cases and concerns heard.

Provo itself is a significant city with a population of 86,835. The neighboring city of Orem, UT, adds a population of 67,561 to Provo's immediate region. St. George, while a smaller city, is located in the southwest corner of Utah, and would provide a convenient location for citizens of southern Utah.

The minor modifications embodied in the bill will place Utah in a similar position to many other States in which district court may be held at numerous statutorily designated locations. The vast majority of States enjoy far more than two places in which district court can be held. Just to cite a few examples, 13 cities in Alabama are designated as cities in which district court may sit, 11 cities in Arkansas are so designated, 17 cities in Georgia are named, 12 cities in Iowa are included, and 23 cities in Oklahoma are listed.

Under current law, only Delaware, Hawaii, Maine, New Hampshire, and Rhode Island stand with Utah in having two or fewer locations in which district court may be held. Utah is the largest of those States. Even with the change, a mere four cities in Utah will be designated as places for holding district court.

I note for my colleagues that the bill does not require any additional appropriations or any courthouse construction. It simply permits court to be held in two additional locations.

I ask unanimous consent that the entire text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HOLDING OF DISTRICT COURT IN PROVO AND ST. GEORGE, UTAH.

Section 125(2) of title 28, United States Code, is amended by inserting ", Provo, and St. George" after "Salt Lake City".

By Mr. KENNEDY:

S. 1668. A bill to improve the job and income security and retirement security of the American worker, and for other purposes; to the Committee on Finance.

THE AMERICAN WORKERS ECONOMIC SECURITY ACT

Mr. KENNEDY. Mr. President, throughout the decades of the cold war, the paramount national concern was national security. Now with the end of

VOL
142
PT
6
AP
15
—
24
1996
UMI

the cold war, concern is growing rapidly over another type of security. This type of security has four aspects: job security, financial security, health security, and retirement security. For millions of individuals and families, the proper word in each of these aspects of their lives is "insecurity," not "security." No political party deserves to prevail if it fails to address these concerns and propose a plausible strategy to end them.

The heart of the current crisis of economic insecurity is the growing realization that growth and prosperity no longer benefit all families fairly. The quarter century after World War II was a golden era. Hard work paid off as the economy grew and income rose for all. But no more.

Superficial signs of prosperity abound. The stock market has soared. Inflation is consistently low and unemployment is down. But the prosperity is less than it seems. Americans are working harder and earning less. Their standard of living is stagnant or sinking. They are worried about losing their jobs, losing their health insurance, affording their children's education, caring for their elderly parents, and somehow still saving for their own retirement.

The rich are still getting richer but more and more families are left out and left behind. The rising tide that once lifted all the boats is now lifting only the yachts.

Mr. President, these two charts reflect, I think, in a dramatic way what has effectively been happening in the U.S. economy over the period of the recent years. From 1947 to 1979, virtually 30 years, we found that in each of the groups, the bottom 20 percent, second bottom 20 percent, the middle 20 percent, the top 20 percent, the second top 20 percent, and even the top 5 percent of Americans for almost 30 years—30 years—effectively grew together, the real family income group. All Americans moved along and moved along together during periods of time when we had both recessions and inflation. Cumulatively over this period of time all Americans went along together.

But from 1979 to 1993, in the most recent period of time, taken collectively, we will find out that those again at the bottom level, the next to the bottom level, and even in the middle have been virtually losing ground; that is, the bottom 60 percent, while the top 40 percent have been moving well, and the top 5 percent has seen great growth, and the top 1 percent the largest growth. That reflects almost two-thirds of the American families over this period of time from 1979 to 1993 have been, in most instances, working harder, struggling longer hours, and have been gradually falling behind in terms of the real family income growth during this period, while those at the top end have seen this extraordinary growth.

Mr. President, once now profitable companies are even laying off good workers at unseemly rates for even fatter profits, even higher stock prices, and even more astronomical salaries and benefits for CEO's. And to add insult to injury, the fears on Main Street are met by cheers on Wall Street.

We saw that in recent times when we saw the dramatic increase in the total number of jobs just a short while ago, 600,000 or 700,000 new jobs, and the stock market going down over 100 points. And we saw it conversely when we saw bank mergers that were taking place just several weeks ago, a couple months ago, that saw the announcement of the loss of some 20,000 jobs, and the stocks as a result of the mergers going right up through the roof.

Mr. President, the Republican Contract With America is now largely defunct because it would have made these problems worse. Its massive cuts in Medicare, education, and other priorities would have exacerbated the security of most families, and the lavish tax breaks for the wealthy would have worsened the income gap. Clearly, the Republican strategy is to comfort the comfortable and afflict the afflicted.

The Republican strategy is designed to exploit the income gap—but do nothing to solve it. In fact, half of all the spending cuts in the vetoed Republican budget came from programs benefiting the neediest 20 percent of families. Less than a tenth came from the top 20 percent, while two-thirds of the Republicans' proposed tax breaks would flow to the top 20 percent, while the bottom 20 percent actually faced a tax increase.

So we found even in the last proposal more was being demanded from the working families, less from the wealthiest individuals, and yet those families were going to be the ones who were going to benefit the greatest amount from those proposed cuts and benefits from the Tax Code. Practical steps, not demagoguery, are needed to deal with each of the four economic insecurities facing individuals and families.

In other times, Congresses have enacted restraints on runaway free enterprise to end abuses and bolster the public interest. The most obvious precedents are the antitrust laws, civil rights laws, the child labor laws, minimum wage, Social Security, Medicare, Medicaid, and Federal aid to education.

Today is April 15—tax day. Ordinary Americans across the country are filing their income taxes and wondering about their job security, their stagnant wages, their health care, their retirement, their ability to educate their children, while our Republican colleagues are proposing tax breaks for the wealthiest individuals and corporations in America.

Let us work together to increase economic security for all families. We can find ways to align the interest of individuals and industries and allow them to grow together so that corporations and shareholders can still reap profits, but not at the expense of the wages and standards of living of their employees.

We should provide incentives to make it more profitable for employers to create jobs than eliminate them, share gains with employees rather than channel them solely to the CEO's and shareholders, and provide reasonable job training, health, and retirement benefits. We can pay for all those incentives by closing perverse incentives in the Tax Code that encourage firms to move jobs overseas and treat workers as disposable.

Action on several fronts is already underway. The Kassebaum-Kennedy bill to guarantee health insurance for workers has bipartisan support and will be taken up this week in the Senate. It will deal with two flagrant problems in health insurance today—the excessive use of exclusions, the preexisting conditions, and the loss of insurance coverage when employees lose their job or change their job.

The lesson of the health reform debate of 1994 is that a sharply divided Congress cannot make far-reaching changes in election years. Instead of repeating that mistake, we should enact the reforms that have broad bipartisan support and that are achievable this year, if both sides in the ongoing health reform debate refrain from piling on controversial additional provisions.

Second, it is time to raise the minimum wage, which will soon reach its lowest level in 40 years. April 1 marked the fifth anniversary of the last increase in the minimum wage. Raising it from $4.25 an hour to $5.15 an hour, in two steps this year and next year, as President Clinton has proposed, will increase the wages of 13 million Americans. It will be interesting to see whether Senator DOLE and other Republicans are prepared to join us as the debate goes on.

Third, Congress should reform the immigration laws to end antiworker abuses. Republicans and Democrats speak with one voice in urging the strongest possible crackdown on illegal immigration. But reforms and legal immigration are needed, too, in order to give American workers the protection they need and deserve.

We should make it illegal for U.S. firms to lay off American workers and replace them with cheap imported foreign labor. Before U.S. firms hire foreign workers they should make a good-faith effort to hire qualified American workers. If we refuse to enact reasonable restrictions to protect U.S. jobs, we will fuel the drive for extreme restrictions that will slam the door unfairly against all immigrants.

Other steps are also needed to assist the American workers. Today, I am introducing a bill to create a two-tier tax

rate for companies and encourage firms to act more responsibly toward their employees. If a company invests in education and training for its workers, provides adequate health care and retirement benefits, shares its profits with its workers, increases the wages of its work force at or above the Consumer Price Index, and makes child care available for all workers, it will receive a 25-percent reduction in the income tax rate it pays on profits distributed as dividends to shareholders on this portion of its income.

The corporate tax rate will be reduced to 26 percent for corporations now taxed at 35 percent, and corporate reductions will be available to corporations now taxed at other rates. Under this plan, CEO's who resist measures to treat workers fairly will feel the wrath of shareholders, whose dividends will be lower because the corporations fail to act responsibly.

This is a two-tier tax rate for most-favored companies. I will show the difference between company A and a most-favored company, using this chart. What we find out is that if they have the profits, they retain the profits—in this case, they distribute them. They pay the $35. It will amount to $70 in this illustration if it is a most-favored company. If they retained $100, but distributed to shareholders the $100 distribution, this would be a $25 tax reduction on the shares distributed to the shareholders, which would mean there would be $26 on this segment, meaning there would be $61 rather than the $70.

So, the drive for this kind of reduction will be the shareholders that will be involved in this decision. This will rely on their interest, their involvement, their pressure, rather than a governmental institution or a State institution to be able to move this process forward. They will see, with the distribution, that their taxes on that distribution will be reduced.

We reward other countries with tariff benefits if they qualify as most favored nations. We should create a category of most-favored companies and reward them when they treat their employees as assets.

In addition, the bill I am introducing today provides that the Federal Government, with its billions of dollars in Government procurement and contracting, will give preference to these companies that treat their employees well and qualify for the tax benefits—about $85 billion, $85 to $100 billion in various contracts. Those most-favored companies would have the preference when competing with a nonfavorite for a particular contract. That would be true, as well as extended loan provisions that come through the various loaning agencies of the Federal Government. That is a smaller figure, about $20 billion, but it is still very, very important, particularly for smaller companies, and smaller companies would be very much encouraged to participate.

The bill also places new restraints on corporate mergers and acquisitions, which are causing enormous job insecurity for workers and substantial layoffs and serious dislocations for entire communities. This provision strengthens the antitrust laws by requiring a review of the impact of these mergers on workers.

The Federal Trade Commission, the Justice Department, the Labor Department, and the Securities and Exchange Commission will give greater scrutiny to the corporate transactions likely to result in the closing or downsizing of company, facilities, or plants that are part of the lifeblood of local communities.

Now, Mr. President, what we are talking about are the mergers and acquisitions, the amendments to the antitrust law. These two companies want to merge, so they go through a review. Then there is a judgment that is made that they will be able to go through and the merger will take place. As part of the remedy process, the commissions will consider not just competition considered at the present time but also consider the impact on workers and communities. They will consider both of those.

We are not assigning percentages to each of them but we are taking note that we believe that if we have established the antitrust laws to consider competition between the various companies, that we also ought to encourage them to take a look at what the impact is going to be on working families. Not to say that has to override, but just that it has to be considered as they are making the remedies, to go forward with any of the new mergers or with any of the divestitures. That is the place this will go on through. We see the total number of mergers—2,800 last year. They have been escalating dramatically. About 20 percent of those are reviewed carefully by the Federal Trade Commission and DOJ. Only a small amount of them ever get into this kind of a process, but that is an extremely important item and can make a very, very important difference.

Mr. President, in addition, the bill eliminates the tax deductions that encourage mergers and acquisitions and leveraged buyouts that cost American jobs and line the pockets of the financiers of the deals. Another major section protects retirement security by encouraging companies to provide greater pension coverage for employees.

Last Thursday, President Clinton proposed a series of needed reforms in the current laws applicable to workers who now participate in pension plans. These reforms will encourage new pension plans for small businesses, expands IRA eligibility, increases pension portability and prevents pension raiding.

In addition, I am proposing several other reforms to facilitate coverage for employees who do not have access to pension plans through their current employment plan. The bill establishes an individual pension plan mechanism for all individuals without access to employer-based plans. Workers will no longer be dependent upon their employer for retirement planning and savings. The bill will provide portability to all these workers who could never before gain access to a pension plan. They will be able to take these plans with them from job to job. The employer's sole responsibility is the payroll deduction of the employees' savings.

Less than 50 percent of the private work force is now covered by private pension plans. More than 68 million Americans have no pension coverage. Ironically, most of them work in smaller businesses, which are the driving force of the future economy. Yet their retirement needs are neglected. These are the workers who are the backbone of the economy during their working lives. They constitute more than half of the work force. We cannot ignore their retirement needs. Like health care, good pension coverage should be accessible, affordable, and portable.

This chart demonstrates the alternative pension plan which is employer based. Here we have the IRA's. The proposal that I am introducing today, the individual pension plan which is the more acceptable, what this does, it says the employer will permit the contribution by the employee into a pension system, that that pension system is going to have to live up to fiduciary and ERISA standards, which will give greater protections for the individual pension plans and the advantage of portability over the IRA's. Individuals will be able to take, though, their portable pension plans with them.

As we all know, most of the new jobs in the country are produced by the small businesses. Pension plans will serve the retirement needs of millions of existing and future small business workers with no pension options.

Finally, the bill I am introducing expands educational opportunities for workers by offering them the tax benefits for employers and families. This is an issue that is familiar to most Members of this body. What we find out once again, to learn what is the level of income from those that both do not finish high school compared to those that complete various segments of their education. This chart is the average annual earnings by level of education. We see that those that do not finish high school and are employed earn $12,800; those that have professional degrees, earn $74,000. We know the stories of World War II. Every dollar invested was returned eight times

VOL
142
PT
6
AP
15
—
24
1996
UMI

to the Federal Treasury. The more incentives that we can provide to increase opportunities for education, the better off our economy and our ability to compete. We have incentives for both the training programs as well as tuition of programs spelled out.

The bill pays for these provisions with revenues generated from the repeal of the incentives in the current tax law that encourage companies to close U.S. plants, uproot jobs in the United States, and transfer them to foreign countries abroad.

We can save $40 billion or more over the next 7 years by repealing tax breaks for profits earned in foreign countries, tax exemptions for companies that transfer title to goods on the high seas to avoid U.S. taxes; price rigging by multinational corporations that minimize U.S. income and maximize income in foreign tax havens; sham corporations that generate huge tax deductions for moving plants and jobs overseas, and loopholes that allow billionaires to thumb their noses at Uncle Sam and renounce their American citizenship and move to a foreign tax haven to evade taxes on the massive wealth they have accumulated in America.

The Members are familiar with this list because many of these have been offered by other Members of the Chamber at different times. We have already voted on the billionaires' tax loophole, which benefits a handful of Americans who have made substantial amounts of money—in some instances, billionaires. By renouncing their citizenship and moving overseas, they effectively escape all of the taxes on that money that was earned in the United States, and they avoid paying any of their tax obligations by just escaping and renouncing American citizenship. This is called the "Benedict Arnold tax loophole." It is an appropriate name for it. The others are matters which raise some $40 billion, and this is not even a complete list.

We are, obviously, open to other recommendations, suggestions, or add-ons for this. But it does indicate that we do have an opportunity to reduce these kinds of incentives that, today, are impacting working families. We will hear that we should not use the Tax Code to achieve social outcomes. The fact of the matter is that these tax provisions, which exist in the Internal Revenue Code today, are all impacting and affecting adversely working families. We are saying, let us stop that. We cover the revenues here and provide the incentives for the American workers.

The "quiet depression" facing American workers is the central economic, social, and political issue of 1996. When the economy is wrong, nothing else is right. Progress and opportunity for all is a fundamental American value. We know the problem. We know its urgency. The only thing that is unacceptable is to do nothing.

By Mr. HARKIN:

S. 1670. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for postsecondary education expenses, to make permanent the exclusion for employer-provided education, and for other purposes; to the Committee on Finance.

THE COMMONSENSE MIDDLE-CLASS TAX RELIEF ACT

• Mr. HARKIN. Mr. President, I introduce the Commonsense Middle-Class Tax Relief Act.

Today, middle-class Americans are working longer hours for smaller paychecks. American families deserve a raise. And that's just what my legislation provides—a raise in incomes, a raise in education and skills, and a raise in living standards.

The Commonsense Middle-Class Tax Relief Act is based on a fundamental premise: a higher education means higher income.

The bill would provide a $10,000 tax deduction for a person or their parents for the costs of tuition and fees at a college or for a vocational education. The full deduction would be available for families with an adjusted gross income of $80,000 and would be reduced as the income exceeded that level, being completely phased out when the taxpayer's income exceeded $100,000 for joint filing taxpayers.

For individuals the full credit would be available for those with adjusted incomes of up to $60,000 phasing out completely at $80,000. For the current year, half of the $10,000 deduction would be available. The full $10,000 deduction would be available starting in 1997 and thereafter. This provision is similar to one proposed by President Clinton.

Under existing law, post-secondary expenses can only be deducted under very narrow circumstances: if it is for the improvement of one's skills in a job a person holds above the skills needed to acquire that position, but to acquire additional skills required by the government or the employer to stay in the position.

My measure also would restore the exclusion of employer-paid payments of post-secondary college and vocational education costs for improvement of an employee's job related skills that were allowed prior to January 1, 1995. It would make the exclusion permanent.

The Commonsense Middle-Class Tax Relief Act will cut taxes on hard-working families trying to get ahead, raise incomes, and prepare Americans for the 21st century. It will mean higher incomes, higher education, and higher quality jobs for hard-working Americans.

Mr. President, education is key to both the raising of incomes of average Americans and to increasing the competitiveness of America in an increasingly global economy. I ask unanimous consent that a recent article in the Washington Post by Lester Thurow on this topic be included in the RECORD.

Mr. President, I urge my colleagues to join me in support of this commonsense proposal. We should be able to agree on a bipartisan basis that this type of important middle-class tax relief is needed and will mean better opportunities and better incomes for millions of Americans.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 7, 1996]

PREPARING STUDENTS FOR THE COMING CENTURY

(By Lester C. Thurow)

Consider an alphabetical list of the 12 largest companies in America at the turn of the 20th century; the American Cotton Oil Company, American Steel, American Sugar Refining Company, Continental Tobacco, Federal Steel, General Electric, National Lead, Pacific Mail, People's Gas, Tennessee Coal and Iron, U.S. Leather and U.S. Rubber. Ten of the 12 were natural resource companies. The economy then was a natural resource economy, and wherever the most highly needed resources were to be found, employment opportunities would follow.

In contrast consider the list made 90 years later by the Japanese Ministry of International Trade and Industry, enumerating what it projected to be the most rapidly growing industries of the 1990s: microelectronics, biotech, the new material-science industries, telecommunications, civilian aircraft manufacturing, machine tools and robots, and computers (hardware and software). All are brainpower industries that could be located anywhere on the face of the earth. Where they will take root and flourish depends upon who organizes the brainpower to capture them. And who organizes the power most efficiently will depend on who educates toward that objective best.

But back to the industries for the moment: Think of the video camera and recorder (invented by Americans), the fax (invented by Americans), and the CD player (invented by the Dutch). When it comes to sales, employment and profits, all have become Japanese products despite the fact that the Japanese did not invent any of them. Product invention, if one is also not the world's low-cost producer, gives a country very little economic advantage. Being the low-cost producer is partly a matter of wages, but to a much greater extent it is a matter of having the skills necessary to put new things together.

Wages don't depend on an individuals's skill and productivity alone. To a great extent they reflect team skills and team productivies. The value of any single person's knowledge depends upon the smartness with which that knowledge is used in the overall economic system—the abilities of buyers and suppliers to absorb that individual's skills.

In an era of brainpower industries, however, the picture is even more complicated: The economy is a dynamic economy always in transition—the companies that do best are those able to move from product to product within technological families so quickly that they can always keep one generation ahead. Keeping one jump ahead in software, for instance, Bill Gates's Microsoft had a net income running at 24 percent of sales in 1995.

If a country wants to stay at the leading edge of technology and continue to generate

high wages and profits, it must be a participant in the evolutionary progress of brainpower industries so that it is in a position to take advantage of the technical and economic revolutions that occasionally arise. Knowledge has become the only source of long-run sustainable competitive advantage. Recent studies show that rates of return for industries that invest in knowledge and skill are more than twice those of industries that concentrate on plant and equipment. In the past, First World citizens with Third World skills could earn premium wages simply because they lived in the First World. They had more equipment, better technology and more skilled co-workers than those who lived in the Third World. But that premium is gone Today's transportation and communications technologies have become so sophisticated that high-wage skilled workers in the First World can work together effectively with low-wage unskilled workers in the Third World. America's unskilled now get paid based on their own abilities and not on those of their better-trained co-workers.

Industrial components that require highly skilled manufacturers can be made in the First World and then shipped to the Third World to be assembled with "low skill" components. Research and design skills can be electronically brought in from the First World. Sales results can be quickly communicated to the Third World factory, and retailers know that the speed of delivery won't be significantly affected by where production occurs. Instant communications and rapid transportation allow markets to be served effectively from production points on the other side of the globe.

Multinational companies are central in this process: Where they develop and keep technological leadership will determine where most of the high-level jobs will be located. If these firms decide to locate their top-wage leadership skills in the United States, it will not be because they happen to be American firms but because America offers them the lowest cost of developing these skills. The decisions will be purely economic. If America is not competitive in this regard, the market will move on. The countries that offer companies the lowest costs of developing technological leadership will be the countries that invest the most in research and development, education and infrastructure (telecommunications systems, etc.).

If the person on a loading dock runs a computerized inventory-control system in which he logs delivered materials right into his hand-held computer and the computer instantly prints out a check that is given to the truck driver to be taken back to his firm (eliminating the need for large white-collar accounting offices that process purchases), the person on the loading dock ceases to be someone who just moves boxes. He or she has to have a very different skill set.

Factory operatives and laborers used to be high school graduates or even high school dropouts. Today 16 percent of them have some college education and 5 percent have graduated from college. Among precision production and craft workers, 32 percent have been to or graduated from college. Among new hires those percentages are much higher. In the last two decades, the linkage between math abilities and wages has tripled for men and doubled for women.

The skill sets required in the economy of the future will be radically different from those required in the past. And the people who acquire those skill sets may not be the unskilled workers who currently live in the first world. With the ability to make anything anywhere in the world and sell it anywhere else in the world, business firms can "cherry pick" the skilled or those easy (i.e., cheap) to teach wherever they live. American firms don't have to hire an American high school graduate if that graduate is not world-class. His or her educational defects are not their problem. Investing to give the necessary market skills to a well-educated Chinese high school graduate may well end up being a much more attractive (i.e., less costly) investment than having to retrain an American high school dropout or a poorly trained high school graduate.

Take Korea for example. In a global economy, what economists know as "the theory of factor price equalization" holds that an American worker will have to work for wages commensurate with a Korean's wages unless he works with more natural resources than a Korean (and no American can, since there is now a world market for raw material to which everyone has equal access); unless he has access to more capital than a Korean (and no American can since there is a global capital market where everyone borrows in New York, London and Tokyo); unless he has more skilled co-workers than a Korean (and no American can claim to since multinational companies can send needed knowledge and skills anywhere in the world); and unless he has access to better technology than a Korean (and few Americans have, since reverse engineering—tearing a product apart to learn how it is made—has become an international art form; highly refined in Korea). Adjusted for skills, Korean wages will rise and American wages will fall until they equal each other. At that point, factor price equalization will have occurred.

The implications for the future are simple. If America wants to generate a high standard of living for all of its citizens, skill and knowledge development are central. New brainpower industries have to be invented and captured. Organizing brainpower means not just building a research and development system that will put us on the leading edge of technology, but organizing a top-to-bottom work force that has the brainpower necessary to make us masters of the new production and distribution technologies that will allow us to be the world's low-cost producers.

To do this will require a very different American educational system. And building such a system is the new American challenge.

Progress has to start by ratcheting up the intensity of the American high school. The performance of the average American high school graduate simply lags far behind that found in the rest of the industrial world. Those Americans who complete a college course of study end up catching up (the rest of the industrial world doesn't work very hard in the first couple of years of university education), but three-quarters of the American work force doesn't ever catch up.

The skill gap doesn't end there. Non-college-bound high school graduates elsewhere in the industrial world go on to some form of post-secondary skill training. Germany has its famous apprenticeship system; in France every business firm by law has to spend one percent of its sales revenue on training its work force; and with lifetime employment as a fact of life, Japanese companies invest heavily in the work force's skills since they know that it is impossible to hire skilled workers from the outside. In America, government-funded programs are very limited in nature, and, with high labor-force turnover rates, American companies quite rationally don't want to make skill investments in people who will leave and take their skills elsewhere. The net result is a compounded skill gap for those Americans who do not graduate from college. Closing this gap and giving the country a competitive edge should be America's number one educational priority.•

By Mr. HARKIN:

S. 1671. A bill to provide for cockpit voice recorders and flight data recorders on noncombat aircraft of the Armed Forces; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE NONCOMBAT AIRCRAFT LEGISLATION

• Mr. HARKIN. Mr. President, I am introducing a bill that requires all Department of Defense noncombat aircraft to have both cockpit voice recorders and flight data recorders. I was shocked to learn that the airplane that crashed in Bosnia with tragic loss of 35 lives including Ron Brown, the Secretary of Commerce was not equipped with those important devices.

We need to thoroughly understand why any plane crash occurs. With that knowledge, was can better protect other planes of a similar type. In this case, the Department of Defense plane used was very similar to civilian aircraft. In other cases that may not be true. But, in all cases, we need to fully understand crashes and near crashes to better improve our safety record.

The bill provides that the Department of Defense should establish rules to require that noncombat aircraft contain those devices within 120 days of enactment and that the devices be in place within 1 year. The legislation provides that the requirements for the Department be as similar as possible to those used by the FAA.

On April 9, I wrote to Secretary Perry about this issue and asked how many DOD noncombat planes do not have these devices and what would be the cost of placing those devices into those aircraft. It is possible that there may be some narrow category of noncombat aircraft where these devices would not be appropriate because of the specialized nature of the aircraft or extreme cost. If that is the case, I look forward to learning about the specific situations involved. There may be a need for some exceptions. But, I believe that the Congress should move forward to require that these devices be on DOD aircraft as quickly as possible. I hope that we will act to pass this legislation, perhaps with some modification, very quickly.•

ADDITIONAL COSPONSORS

S. 358

At the request of Mr. HEFLIN, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 358, a bill to amend the Internal Revenue Code of 1986 to provide for an excise tax exemption for certain emergency medical transportation by air ambulance.

VOL
142
PT
6
AP
15
—
24
1996
UMI

S. 605

At the request of Mr. DOLE, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 605, a bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

S. 743

At the request of Mrs. HUTCHISON, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 743, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes.

S. 773

At the request of Mrs. KASSEBAUM, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 773, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

S. 912

At the request of Mr. KOHL, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 912, a bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes.

S. 969

At the request of Mr. BRADLEY, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 984

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 984, a bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

S. 1027

At the request of Mr. BROWN, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1027, a bill to eliminate the quota and price support programs for peanuts, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1043

At the request of Mr. STEVENS, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1043, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1183, a bill to amend the act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the act, and for other purposes.

S. 1232

At the request of Mr. D'AMATO, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1232, a bill to amend the Internal Revenue Code of 1986 to exclude length of service awards to volunteers performing fire fighting or prevention services, emergency medical services, or ambulance services from the limitations applicable to certain deferred compensation plans, and for other purposes.

S. 1344

At the request of Mr. HEFLIN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1344, a bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes.

S. 1400

At the request of Mrs. KASSEBAUM, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1400, a bill to require the Secretary of Labor to issue guidance as to the application of the Employee Retirement Income Security Act of 1974 to insurance company general accounts.

S. 1483

At the request of Mr. KYL, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 1483, a bill to control crime, and for other purposes.

S. 1505

At the request of Mr. LOTT, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 1505, a bill to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes.

S. 1551

At the request of Mr. DORGAN, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 1551, a bill to restore the broadcast ownership rules under the Communications Act of 1934 to the status quo ante the enactment of the Telecommunications Act of 1996.

S. 1574

At the request of Mr. BOND, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1574, a bill to provide Federal contracting opportunities for small business concerns located in historically underutilized business zones, and for other purposes.

S. 1578

At the request of Mr. FRIST, the names of the Senator from Montana [Mr. BURNS] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1578, a bill to amend the Individuals With Disabilities Education Act of authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

S. 1595

At the request of Mr. BRADLEY, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1595, a bill to repeal the emergency salvage timber sale program, and for other purposes.

S. 1623

At the request of Mr. WARNER, the names of the Senator from Hawaii [Mr. AKAKA] the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from California [Mrs. FEINSTEIN], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

S. 1639

At the request of Mr. DOLE, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1639, a bill to require the Secretary of Defense and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Defense with reimbursement from the medicare program for health care services provided to medicare-eligible beneficiaries under TRICARE.

S. 1646

At the request of Mr. DOMENICI, the names of the Senator from Arizona [Mr. KYL] the Senator from Georgia [Mr. COVERDELL], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 1646, a bill to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

S. 1650

At the request of Mr. HARKIN, the names of the Senator from California [Mrs. BOXER] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1650, a bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes.

S. JOINT RESOLUTION 49

At the request of Mr. KYL, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 49, a joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes.

SENATE RESOLUTION 152

At the request of Mr. ABRAHAM, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of Senate Resolution 152, a resolution to amend the Standing Rules of the Senate to require a clause in each bill and resolution to specify the constitutional authority of the Congress for enactment, and for other purposes.

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the names of the Senator from Maine [Mr. COHEN], the Senator from Hawaii [Mr. AKAKA], the Senator from Rhode Island [Mr. PELL], the Senator from New Mexico [Mr. Bingaman], and the Senator from Georgia [Mr. COVERDELL] were added as cosponsors of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week."

SENATE RESOLUTION 238

At the request of Mr. HELMS, the names of the Senator from Colorado [Mr. BROWN] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Resolution 238, a resolution expressing the sense of the Senate that any budget or tax legislation should include expanded access to individual retirement accounts.

SENATE RESOLUTION 241—IN TRIBUTE TO SECRETARY OF COMMERCE RONALD H. BROWN

By Mr. LOTT (for Mr. DOLE (for himself, Mr. DASCHLE, Mr. LOTT, Mr. FORD, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN)) submitted the following resolution; which was read:

S. RES. 241

Whereas, Ronald H. Brown served the United States of America with patriotism and skill as a soldier, a civil rights leader, and an attorney;

Whereas, Ronald H. Brown served since January 22, 1993, as the United States Secretary of Commerce;

Whereas, Ronald H. Brown devoted his life to opening doors, building bridges, and helping those in need;

Whereas, Ronald H. Brown lost his life in a tragic airplane accident on April 3, 1996, while in service to his country on a mission in Bosnia; and

Whereas, thirty-two other Americans from government and industry who served the nation with great courage, achievement and dedication also lost their lives in the accident: Now, therefore, be it

Resolved, That the Senate of the United States pays tribute to the remarkable life and career of Ronald H. Brown, and it extends condolences to his family.

SEC. 2. The Senate also pays tribute to the contributions of all those who perished, and extends condolences to the families of: Staff Sergeant Gerald Aldrich, Duane Christian, Barry Conrad, Paul Cushman III, Adam Darling, Captain Ashley James Davis, Gail Dobert, Robert Donovan, Claudio Elia, Staff Sergeant Robert Farrington, Jr., David Ford, Carol Hamilton, Kathryn Hoffman, Lee Jackson, Steven Kaminski, Katheryn Kellogg, Technical Sergeant Shelley Kelly, James Lewek, Frank Maier, Charles Meissner, William Morton, Walter Murphy, Lawrence Payne, Nathaniel Nash, Leonard Pieroni, Captain Timothy Schafer, John Scoville, I. Donald Terner, P. Stuart Tholan, Technical Sergeant Cheryl Ann Turnage, Naomi Warbasse, and Robert Whittaker.

SEC. 3. The Secretary of the Senate shall transmit a copy of the resolution to each of the families.

AMENDMENTS SUBMITTED

THE IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

DORGAN (AND OTHERS) AMENDMENT NO. 3667

Mr. DORGAN (for himself, Mr. DASCHLE, Mr. REID, Mr. HOLLINGS, Mr. FORD, Mr. CONRAD, and Mr. FEINGOLD) proposed an amendment to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

At the appropriate place, add the following new section:

SEC. . SENSE OF THE SENATE ON A BALANCED BUDGET CONSTITUTIONAL AMENDMENT.

It is the sense of the Senate that because Section 13301 of the Budget Enforcement Act prohibits the use of the Social Security trust fund surplus to offset the budget deficit, any proposal for a constitutional amendment to balance the budget should contain a provision creating a firewall between the receipts and outlays of the Social Security trust funds and the rest of the federal budget, and that the constitutional amendment should explicitly forbid using the Social Security trust funds to balance the federal budget.

ABRAHAM (AND OTHERS) AMENDMENT NO. 3668

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. FEINGOLD, Mr. DEWINE, Mr. SIMON, Mr. SPECTER, Mr. SANTORUM, Mr. WARNER, Mr. GRAMS, Mr. THURMOND, Mr. LEVIN, and Mr. BOND) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF SENATE REGARDING SEPARATE CONSIDERATION OF ISSUES RELATING TO LEGAL IMMIGRATION AND ILLEGAL IMMIGRATION.

(a) FINDINGS.—The Senate makes the following findings:

(1) One of the first responsibilities of any government is to protect its borders.

(2) The Federal Government has failed in this responsibility, both by permitting large numbers of individuals to enter into the United States illegally and by failing to take effective actions against individuals who overstay their visas.

(3) It is urgent that the Congress address the problem of illegal immigration promptly and expeditiously.

(4) The Committee on the Judiciary of the Senate has ordered reported to the Senate a bill, S. 269, intended to address illegal entry into the United States by improving the patrol of United States borders and to address the overstay of visas by keeping track of and punishing individuals who overstay their visas.

(5) Congress has historically considered issues relating to illegal immigration separately from issues relating to legal immigration.

(6) The Committee on the Judiciary, after deliberating carefully about the consideration of legislation between the 104th Congress on legal immigration and illegal immigration, decided that the Senate should consider issues relating to legal immigration separately from issues relating to illegal immigration and ordered reported to the Senate separate bills to address such issues, S. 269 and S. 1394.

(7) The House of Representatives has expressed its agreement with the proposal to

VOL 142 PT 6 AP 15 — 24 1996 UMI

consider issues relating to legal immigration separately from issues relating to illegal immigration by adopting an amendment to the bill on immigration being considered by the House of Representatives, H.R. 2202, which struck all provisions of that bill relating to family immigration.

(b) SENSE OF SENATE.—It is the sense of the Senate that the issues addressed in S. 269, a bill to control illegal immigration into the United States, should be considered by the Senate separately from the issues addressed in S. 1394, a bill to reform legal immigration into the United States.

SIMPSON AMENDMENT NO. 3669

Mr. SIMPSON proposed an amendment to the bill S. 1664, supra; as follows:

(1) After sec. 213 of the bill, add the following new section:

"SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.'.

"(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'.

"(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

SIMPSON AMENDMENT NO. 3670

Mr. SIMPSON proposed an amendment to the bill S. 1664, supra; as follows:

SEC. . PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) IN GENERAL.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) consists of—

(A) the identify and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) PARTICIPATION BY COLLEGES AND UNIVERSITIES.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "**SEC. 281.**"; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall improve and collect a fee on all visas issued under the provisions of section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five year after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

SIMPSON AMENDMENT NO. 3671

Mr. SIMPSON proposed an amendment to the bill S. 1664, supra; as follows:

After section 115 of the bill, add the following new section:

"SEC. 115A. FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

SIMPSON AMENDMENT NO. 3672

Mr. SIMPSON proposed an amendment to amendment No. 3667 proposed by Mr. DORGAN to the bill S. 1664, supra; as follows:

Strike all after the word "**sec.**" and insert the following:

(1) social security is supported by taxes deducted from workers' earnings and matching deductions from their employers that are deposited into independent trust funds;

(2) over 42,000,000 Americans, including over 3,000,000 children and 5,000,000 disabled workers and their families, receive social security benefits;

(3) social security is the only pension program for 60 percent of older Americans;

(4) almost 60 percent of older beneficiaries depend on social security for at least half of their income and 25 percent depend on social security for at least 90 percent of their income;

(5) 138,000,000 American workers pay taxes into the social security system;

(6) social security is currently a self-financed program that is not contributing to the Federal budget deficit; in fact, the social security trust funds now have over $400,000,000,000 in reserves and that surplus will increase during fiscal year 1995 alone by an additional $70,000,000,000;

(7) these current reserves will be necessary to pay monthly benefits for current and future beneficiaries when the annual surpluses turn to deficits after 2018;

(8) recognizing that social security is currently a self-financed program, Congress in 1990 established a "firewall" to prevent a raid on the social security trust funds;

(9) raiding the social security trust funds would further undermine confidence in the system among younger workers;

(10) the American people overwhelmingly reject arbitrary cuts in social security benefits; and

(11) social security beneficiaries throughout the nation deserve to be reassured that their benefits will not be subject to cuts and their social security payroll taxes will not be increased as a result of legislation to implement a balanced budget amendment to the United States Constitution.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any legislation required to implement a balanced budget amendment to the United States Constitution shall specifically prevent social security benefits from being reduced or social security taxes from being increased to meet the balanced budget requirement.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Wednesday, April 17, 1996, at 10 a.m. to receive testimony on Campaign Finance Reform.

For further information concerning the hearing, please contact Bruce Kasold of the committee staff on 224–3448.

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will hold hearings on Wednesday, April 17, Thursday, April 18, and Friday, April 19, 1996 on the President's Budget Request for fiscal year 1997 for Indian programs and related budgetary issues from fiscal year 1996. The hearings will be held at 1:30 p.m. each day in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of an oversight hearing before the Committee on Energy and Natural Resources to receive testimony on the Tongass Land Management Plan.

The hearing will take place on Thursday, April 18, 1996, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC. Testimony will be received from various administration witnesses.

Those wishing to testify or who wish to submit written statements for the Record should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Mark Rey of the committee staff at 202–224–6170.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled "Keeping Up With the Trend: Issues Affecting Home-Based Business Owners" on Tuesday, April 23, 1996, at 10 a.m., in room 428A of the Russell Senate Office Building.

For further information, please contact Noreen Bracken, 224–5175.

COMMITTEE ON ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, April 25, 1996, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 902, a bill to amend Public Law 100–479 to authorize the Secretary of the Interior to assist in the construction of a building to be used jointly by the Secretary for park purposes and by the city of Natchez as an intermodel transportation center; S. 951, a bill to commemorate the service of First Ladies Jacqueline Kennedy and Patricia Nixon to improving and maintaining the Executive Residence of the President and to authorize grants to the White House Endowment Fund in their memory to continue their work; S. 1098, a bill to establish the Midway Islands as a National Memorial; H.R. 826, a bill to extend the deadline for the completion of certain land exchanges involving the big Thicket National Preserve in Texas; and H.R. 1163, a bill to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, NY.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

AUTHORITY FOR COMMITTEE TO MEET

SUBCOMMITTEE ON THE CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution, Federalism, and Property Rights of the Senate Committee on the Judiciary, be authorized to meet during a session of the Senate on Monday, April 15, 1995, at 10 a.m., in Senate Dirksen room 226, on Senate Joint Resolution 49, a proposed constitutional amendment, to require a two-thirds vote on tax increases, and Senate Joint Resolution 8, a proposed constitutional amendment to prohibit retroactive taxation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE ARAB-AMERICAN CULTURAL AND COMMUNITY CENTER IN HOUSTON, TX

• Mr. ABRAHAM. Mr. President, I rise today to express my sincere congratulations to those individuals who are responsible for the creation of the Arab-

VOL 142 PT 6 AP 15 — 24 1996 UMI

American Cultural Center in Houston, TX. The center will be hosting its first annual gala "Unity of Friendship" in Houston on May 4, 1996, and it is worthy of recognition.

Mr. President, I commend those members for their efforts in building this center, which in effect advances and demonstrates the continuing positive contributions of Arab-Americans. This center will primarily serve the cultural, educational, and social needs of the Arab-American community. The center proclaims their vision as "a place where Arab-American culture, art, and language can be preserved and carried on for generations to come. A place where Arab-Americans can gather to celebrate holidays and festive occasions among relatives and friends. A place where children can play, study, and learn about their ancestors impressive history and heritage."

Many in the Arab-American community have given generously of their time and money for the construction of this center. They are to be commended for their very worthwhile efforts and foresight, and I am pleased to recognize these efforts in the U.S. Senate.●

UNIVERSITY OF MICHIGAN HOCKEY TEAM

● Mr. LEVIN. Mr. President, I rise today to honor the University of Michigan hockey team, because Saturday, March 30, 1996, the Wolverines captured the NCAA hockey championship, defeating Colorado College by a score of 3 to 2 in overtime. The game was held at Riverfront Coliseum in Cincinnati in front of a sell out crowd of 13,330, mostly Michigan fans who traveled south to support their team.

Coach Red Berenson has described his formula for success as "hard work . . . patience and perseverance," and that was what the members of the U. of M. hockey team embraced this 1995–96 season as they triumphed in their final victory with a tie-breaking goal by junior Brendan Morrison, 2 minutes and 35 seconds into overtime. This victory for the Wolverine hockey team ended the doubts that this team could return home as NCAA champions. Colorado College coach Don Lucia said, "Look at the teams Michigan has beaten the last three weeks: Lake Superior, Minnesota, Boston University and now us. Those are the best teams in the country. That's why they're national champions."

This journey by the U. of M. hockey team was a remarkable achievement for the players, and for Coach Red Berenson as well. The victory over Colorado marked the 300th victory of his career. A former U. of M. player himself 1960–62, this commemorated a special homecoming for Coach Berenson.

This is the eighth national champsionship in the Wolverines' hockey history, more than any other collegiate program. Thirty-two years after their last title, the Wolverines proved to be the best in the west by returning the trophy to Ann Arbor. A sign on the desk of Red Berenson, reads, "Our Day Will Come," and it certainly has.

I know that my Senate colleagues join me in congratulating the University of Michigan hockey team on winning the NCAA hockey championship. Here is the list of our valiant victors.

UNIVERSITY OF MICHIGAN HOCKEY TEAM AND COACHING STAFF

Players: Mark Sakala, Bubba Berenzweig, Chris Frescoln, Peter Bourke, Harold Schock, Justin Clark, Matt Herr, Brendan Morrison, Kevin Hilton, Greg Crozier, Mike Legg, Bill Muckalt.

Sean Ritchlin, John Madden, Jason Botterill, John Arnold, Dale Rominski, Steven Halko, Bobby Hayes, Chris Fox, Blake Sloan, Warren Luhning, Gregg Malicke, Greg Daddario, and Marty Turco.

STAFF

Red Berenson, Head Coach, Mel Pearson, Assistant Coach, Billy Powers, Assistant Coach, Rick Bancroft, Trainer, Ian Hume, Equipment Manager; and Brian Fishman, Sports Information Director.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through March 29, 1996. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1996 concurrent resolution on the budget. House Concurrent Resolution 67, show that current level spending is above the budget resolution by $16.0 billion in budget authority and by $16.9 billion in outlays. Current level is $81 million below the revenue floor in 1996 and $5.5 billion above the revenue floor over the 5 years 1996–2000. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $262.6 billion, $17.0 billion above the maximum deficit amount for 1996 of $245.6 billion.

Since my last report, dated March 25, 1996, Congress has cleared and the President has signed the Contract With America Advancement Act. Public Law 104–121, the Agriculture Improvement and Reform Act, Public Law 104–127, and the 12th continuing resolution for 1996, Public Law 104–122. The continuing resolution also included the Federal payment to the District of Columbia and emergency funding for Bosnia and Herzegovina for economic revitalization. These actions changed the current level of budget authority and outlays.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 15, 1996.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1996 shows the effects of Congressional action on the 1996 budget and is current through March 29, 1996. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1996 Concurrent Resolution on the Budget (H. Con. Res. 67). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report dated March 25, 1996, Congress has cleared, and the President has signed the Contract with America Advancement Act (P.L. 104–121), the Agriculture Improvement and Reform Act (P.L. 104–127) and the twelfth continuing resolution for 1996 (P.L. 104–122). The continuing resolution also included the Federal payment to the District of Columbia and emergency funding for Bosnia and Herzegovina for economic revitalization. These actions changed the current level of budget authority and outlays.

Sincerely,

JUNE E. O'NEILL, *Director.*

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1996, 104TH CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS MARCH 29, 1996

[In billions of dollars]

	Budget resolution H. Con. Res. 67	Current level	Current level over/under resolution
ON-BUDGET			
Budget authority	1,285.5	1,301.5	16.0
Outlays	1,288.1	1,305.0	16.9
Revenues.			
1996	1,042.5	1,042.4	−0.1
1996–2000	5,691.5	5,697.0	5.5
Deficit	245.6	262.6	17.0
Debt subject to limit	5,210.7	5,054.8	−155.9
OFF-BUDGET			
Social Security outlays:			
1996	299.4	299.4	0.0
1996–2000	1,626.5	1,626.5	0.0
Social Security revenues:			
1996	374.7	374.7	0.0
1996–2000	2,061.0	2,061.0	0.0

Note.—Current level numbers are the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996, AS OF CLOSE OF BUSINESS MARCH 29, 1996

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			1,042,557
Permanents and other spending legislation	830,272	798,924	
Appropriation legislation		242,052	
Offsetting receipts	−200,017	−200,017	
Total previously enacted	630,254	840,958	1,042,557
ENACTED IN FIRST SESSION			
Appropriation Bills:			
1995 Rescissions and Department of Defense Emergency Supplementals Act (P.L. 104–6)	−100	−885	
1995 Rescissions and Emergency Supplementals for Disaster Assistance Act (P.L. 104–19)	22	−3,149	
Agriculture (P.L. 104–37)	62,602	45,620	
Defense (P.L. 104–61)	243,301	163,223	
Energy and Water (P.L. 104–46)	19,336	11,502	
Legislative Branch (P.L. 105–53)	2,125	1,977	
Military Construction (P.L. 104–32)	11,177	3,110	
Transportation (P.L. 104–50)	12,682	11,899	
Treasury, Postal Service (P.L. 104–52)	23,026	20,530	
Offsetting receipts	−7,946	−7,946	
Authorization Bills:			
Self-Employed Health Insurance Act (P.L. 104–7)	−18	−18	−101
Alaska Native Claims Settlement Act (P.L. 104–42)	1	1	
Fishermens' Protective Act Amendments of 1995 (P.L. 104–43)		(1)	
Perishable Agricultural Commodities Act (P.L. 104–48)	1	(1)	1
Alaska Power Administration Sale Act (P.L. 104–58)	−20	−20	
ICC Termination Act (P.L. 104–88)			(1)
Total enacted first session	366,191	245,845	−100
ENACTED IN SECOND SESSION			
Appropriation Bills:			
Seventh Continuing Resolution (P.L. 104–92) [2]	13,165	11,037	
Ninth Continuing Resolution (P.L. 104–99) [2]	792	−825	
District of Columbia (P.L. 104–122)	712	712	
Foreign Operations (P.L. 104–107)	12,104	5,936	
Offsetting receipts	−44	−44	
Authorization Bills:			
Gloucester Marine Fisheries Act (P.L. 104–91) [3]	30,502	19,151	
Smithsonian Institution Commemorative Coin Act (P.L. 104–96)	3	3	
Saddleback Mountain Arizona Settlement Act (P.L. 104–102)		−7	
Telecommunications Act of 1996 (P.L. 104–104) [4]			
Farm Credit System Regulatory Relief Act (P.L. 104–105)	−1	−1	
National Defense Authorization Act of 1996 (P.L. 104–106)	369	367	
Extension of Certain Expiring Authorities of the Department of Veterans Affairs (P.L. 104–110)	−5	−5	
To award Congressional Gold Medal to Ruth and Billy Graham (P.L. 104–111)	(1)	(1)	
An Act Providing for Tax Benefits for Armed Forces in Bosnia, Herzegovina, Croatia and Macedonia (P.L. 104–117)			−38
Contract with America Advancement Act (P.L. 104–121)	−120	−6	
Agricultural Improvement and Reform Act (P.L. 94–127)	−325	−744	
Total enacted second session	57,151	35,575	−38
CONTINUING RESOLUTION AUTHORITY			
Twelfth Continuing Resolution (P.L. 104–122) [5]	116,863	54,882	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	131,056	127,749	
Total current level [6]	1,301,514	1,305,010	1,042,419
Total budget resolution	1,285,500	1,288,100	1,042,500
Amount remaining:			
Under budget resolution			81
Over budget resolution	16,014	16,910	

[1] Less than $500,000.

[2] P.L. 104–92 and P.L. 104–99 provides funding for specific appropriated accounts until September 30, 1996.

[3] This bill, also referred to as the sixth continuing resolution for 1996, provides funding until September 30, 1996 for specific appropriated accounts.

[4] The effects of this Act on budget authority, outlays and revenues begin in fiscal year 1997.

[5] This is an annualized estimate of discretionary funding that expires April 24, 1996, for the following appropriation bills: Commerce-Justice, Interior, Labor-HHS-Education and Veterans-HUD.

[6] In accordance with the Budget Enforcement Act, the total does not include $3,615 million in budget authority and $1,667 million in outlays for funding of emergencies that have been designated as such by the President and the Congress.

Notes.—Detail may not add due to rounding.●

CHINA'S FOUR SLAPS

● Mr. SIMON. Mr. President, I am concerned that we are waffling on the China issue when we should be very clear.

Clarity in this case will lead to a diminished likelihood of military action and a diminished likelihood of a spurt to the arms race in Asia.

The Charles Krauthammer column which appeared in the Washington Post recently, and which I ask to be printed in the RECORD after my remarks, is unfortunately accurate. It eloquently outlines what has been taking place. He also mentions the matter of "quiet diplomacy." Whenever I talk to people in the State Department they assure me that "quiet diplomacy" is being used.

My experience over the years is that "quiet diplomacy" frequently means no diplomacy or it means "anemic diplomacy."

The column follows.

[From the Washington Post]

CHINA'S FOUR SLAPS—AND THE UNITED STATES' CRAVEN RESPONSE

(By Charles Krauthammer)

The semi-communist rulers of China like to assign numbers of things. They particularly like the number 4. There was the Gang of Four. There were the Four Modernizations (agriculture, industry, technology and national defense). and now, I dare say, we have the Four Slaps: four dramatic demonstrations of Chinese contempt for expressed American interests and for the Clinton administration's ability to do anything to defend them.

(1) Proliferation. The Clinton administration makes clear to China that it strongly objects to the export of nuclear and other mass destruction military technology. What does China do? Last month, reports the CIA. China secretly sent 5,000 ring magnets to Pakistan for nuclear bomb-making and sent ready-made poison gas factories to Iran.

(2) Human rights. Clinton comes into office chiding Bush for "coddling dictators." In March 1994, Secretary of State Warren Christropher goes to China wagging his finger about human rights. The Chinese respond by placing more than a dozen dissidents under house arrest while Christopher is there, then declare that human rights in China are none of his business. Christopher slinks away.

(3) Trade. The administration signs agreements with China under which it pledges to halt its massive pirating of American software and other intellectual property. China doesn't just break the agreements, it flouts them. Two years later the piracy thrives.

(4) And now Taiwan. For a quarter-century, the United States has insisted that the unification of Taiwan with China must occur only peacefully. Yet for the last two weeks, China has been conducting the most threatening military demonstration against Taiwan in 40 years: firing M–9 surface-to-surface missiles within miles of the island, holding huge live-fire war games with practice invasions, closing shipping in the Taiwan Strait.

Slap four is the logical outcome of the first three, each of which was met with a supine American response, some sputtering expression of concern backed by nothing. On nuclear proliferation, for example, Clinton suspended granting new loan guarantees for U.S. businesses in China—itself a risible sanction—for all of one month!

"Our policy is one of engagement, not containment," says Winston Lord, assistant secretary of state for East Asian and Pacific affairs. This is neither. This is encouragement.

Two issues are at stake here. The first is the fate of Taiwan and its democracy. Taiwan is important not just because it is our eighth-largest trading partner. With its presidential elections tomorrow, Taiwan becomes the first Chinese state in history to become a full-fledged democracy. It thus constitutes the definitive rebuff to the claim of Asian dictators from Beijing to Singapore that democracy is alien to Confucian societies. Hence Beijing's furious bullying response.

The second issue has nothing to do with Taiwan. It is freedom of the seas. As the world's major naval power, we are, like 19th century Britain, its guarantor—and not from altruism, Living on an island continent, America is a maritime trading nation with allies and interests and commerce across the seas. If the United States has any vital interests at all—forget for the moment Taiwan or even democracy—it is freedom of navigation.

Chinese Premier Li Peng warns Washington not to make a show of force—i.e., send our Navy—through the Taiwan Strait. Secretary of Defense William Perry responds with a boast that while the Chinese "are a great military power, the premier—the strongest—military power in the Western Pacific is the United States."

Fine words. But Perry has been keeping his Navy away from the strait. This is to talk loudly and carry a twig. If we have, in Perry's words, "the best damned Navy in the world," why are its movements being dictated by Li Peng? The Taiwan Strait is not a Chinese lake. It is indisputably international water and a vital shipping lane. Send the fleet through it.

And tell China that its continued flouting of the rules of civil international conduct—everything from commercial piracy to nuclear proliferation, culminating with its intimidation of Taiwan—means the cancellation of most-favored-nation trading status with the United States.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Yes, revoking MFN would hurt the United States somewhat. But U.S.-China trade amounts to a mere two-thirds of one percent of U.S. GDP. It amounts to fully 9 percent of Chinese GDP. Revocation would be a major blow to China.

Yet astonishingly, with live Chinese fire lighting up the Taiwan Strait, Treasury Secretary Robert Rubin said Tuesday that the Clinton administration supports continued MFN for China. He did aver that Congress, angered by recent events, would probably not go along.

This is timorousness compounded. Revoking MFN is the least we should do in response to China's provocations. Pointing to Congress is a classic Clinton cop-out. The issue is not Congress's zeal. It is Beijing's thuggery.

Quiet diplomacy is one thing. But this is craven diplomacy. What does it take to get this administration to act? The actual invasion of Taiwan? You wait for war, you invite war.•

RABBI MORRIS S. FRIEDMAN PLANS JUNE RETIREMENT AFTER 46 YEARS IN THE RABBINATE

• Mr. D'AMATO. Mr. President, I rise to honor Rabbi Morris S. Friedman of Temple Hillel in North Woodmere, NY, on his retirement after so many years of dedicated service.

In October 1984, Rabbi Friedman welcomed then-President Ronald Reagan to his synagogue, Temple Hillel in North Woodmere, where the President spoke to a packed congregation. Afterwards, Rabbi Friedman hosted the President at his home for lunch. Together they sat, with the rabbi's wife and children, as well as Secretary of State James Baker and myself.

The visit by President Reagan to Rabbi Friedman's temple and home was testimony to the influence and cachet of Rabbi Friedman himself, and to the enormous prestige that Temple Hillel amassed over the 33 years of Rabbi Friedman's leadership. It may have been the first time that a sitting President lunched at the home of a rabbi; but it was not the first time that Rabbi Friedman held conversations with world leaders. From his corner of the world in North Woodmere, Rabbi Friedman has influenced many thousands of lives, those on the world stage and those presiding over the births and deaths and joys and sorrows of a congregation that each year tops 1,000 people.

In June of this year, Rabbi Friedman will retire from the pulpit at Temple Hillel.

"One of my favorite books in the Bible," said Rabbi Friedman when he announced his retirement, "is the Book of Ecclesiastes. The third chapter begins with a statement, 'A season is set for everything, a time for every experience under Heaven.'"

His congregation will honor and pay tribute to him, and to his wife, Mrs. Adelaide Friedman, at a dinner on April 21. "My years at Hillel are truly a love affair between me and the congregation. The friendship, affection and devotion showered upon me and Addi by the congregation, made my service to the community a privilege, a joy and an exciting spiritual adventure," said Rabbi Friedman, looking back at a 33-year relationship.

It will be one of a long line of testimonial dinners made in his honor, because Rabbi Friedman's dedication to Jewish causes reached far and wide beyond his own temple. He has been honored by Boy's Town in Jerusalem; by Bet El, a 13-year-old-settlement in Judea Samaria in Israel; by Touro College's School of Health Sciences, among others.

He has received numerous awards and much recognition, such as the Zedakah Award from the UJA Federation of Jewish Philanthropies in New York, and the degree of honorary fellow conferred upon him by Bar Ilan University in Israel. The Jewish Theological Seminary of America conferred upon him an honorary doctor of divinity degree in 1975.

His stature in the Jewish community led him to his former, very prestigious, role as the president of the New York Board of Rabbis, the largest rabbinic organization in the world. He was also chairman of the United Jewish Appeal-Federation Rabbinic Advisory Council. He served for 2 years, as well, as chairman of the Rabbinical Assembly Campaign for the Jewish Theological Seminary of America. For the past 5 years, he has cochaired the Annual Nassau County Dinner for the Shaare-Zedek Hospital in Jerusalem.

Rabbi Friedman has further enriched the spiritual lives of this congregants by guiding them through Israel on dozens of visits over the years. His own personal travels have taken him to Israel and Europe many times over. But he would be the first to say the true richness of his life comes from the joy and love of his family, his wife Adelaide, his daughter, Naomi, his 2 sons, Mark and David, and his 12 grandchildren.

Mrs. Adelaide Friedman has also greatly enriched the lives of those around her. With degrees in English literature, a bachelor's from Long Island University and a master's from Hofstra, Mrs. Friedman taught English literature at the high school level in girls' yeshivas. She herself has been writing all her life, poetry and short stories, as well as articles and book reviews. Mrs. Friedman wrote a regular, monthly column for the Jewish World several years ago and her book reviews have also appeared in Lifestyles magazine and the quarterly publication for the New York Board of Rabbis. She has had articles published on Jewish subjects in several magazines and periodicals, such as the Algemeiner Journal, a Yiddish newspaper.

Mrs. Friedman taught adult education courses at Temple Hillel on Jewish literature and has given lectures on Jewish women in literature at the Hewlett-Woodmere Library. Her creative talents encompass art as well as writing. She loves to work with oils and pastels and the portraits and still-lifes she has painted hang on the wall of her home and her children's homes.

But it is her role as a rebbitzen for 46 years that has presented truly great rewards. "I loved being involved in something bigger than myself," said Mrs. Friedman. "I loved the idea of connecting with Jewish events as they unrolled and being inspired by lectures and great personalities. It was a very exciting period in my life because I wasn't only a wife and a mother and eventually a grandmother, much as I enjoyed those roles—and still enjoy those roles, I was also part of what was transpiring among the Jewish people."

Before Rabbi and Mrs. Friedman came to North Woodmere, he served in Congregation Beth David in Lynbrook for 13 years as their rabbi. He had been ordained by the Jewish Institute of Religion in New York and had received a master of Hebrew literature degree and a BA degree from Long Island University.

Temple Hillel will say goodbye to Rabbi Friedman this June with much reluctance. But the congregation knows he will continue to be nearby to offer his guidance and wisdom for years to come, as the rabbi emeritus of Temple Hillel. It is a guidance that has taken Temple Hillel to great heights. Said Rabbi Friedman, "I feel, without any hesitation, that we have achieved stardom in the galaxy of Conservative Congregations in the New York Area, and even worldwide!"•

DR. NAN S. HUTCHISON BROWARD SENIOR HALL OF FAME ELECTEES

• Mr. GRAHAM. Mr. President, today I would like to recognize and congratulate a group of 12 inspiring citizens from Broward County, FL. These individuals have each given their time, talents, and love to their communities.

On March 8, 1996, the following men and women were selected as the new members of the Dr. Nan S. Hutchison Broward Senior Hall of Fame. Their names have been added to a commemorative plaque housed in the Broward County government building.

Shirley Berman, of Pembroke Pines, has been a selfless volunteer for the Memorial Manor Nursing Home by introducing pet therapy to the facility. Ms. Berman also uses her crafting talent to provide materials for various fundraising events. The woolen hats she makes are distributed to premature infants at local hospitals.

Majorie A. Davis, of Fort Lauderdale, has made a positive impact on her community as a teacher for 44 years in the Broward County School System. In addition to enriching the lives of her students, she has dedicated her time to

many local organizations. Among Marjorie's most recent accolades is the Urban League of Broward County, Inc. Kathleen Wright Award which she earned in 1994.

Frank Ford, of Lauderdale Lakes, has shown his willingness to serve his community by forming the Motorola Retirees Alumni after serving with Motorola for 20 years. He has also shown his concern for children by establishing the Kids ID Program, which has photographed over 1,200 children to date.

Rubye Haile Howell of Fort Lauderdale, the second school teacher among the electees, has continued her commitment to children long after her retirement. Rubye is the lay leader for the Harris Chapel United Methodist Church and is deeply involved in various organizations in an effort to create unity among people of all ages.

Ms. Audrey Millsaps, also of Fort Lauderdale, has served for 13 years on the Areawide Council on Aging, including 2 years as president. She selflessly advances children's issues through the Florida Ocean Science Institute, SOS Children's Village, the Children Services Board, and the Children's Consortium, among others. Her many hours of service are appreciated by all.

Dan Pearl has served the people of Sunrise in various capacities and is currently deputy mayor. Over a decade ago, Mr. Pearl implemented a free flu shot program, a service which was not covered by Medicare at the time. He has shown his dedication to seniors and the American Cancer Society, and can occasionally be found bagging groceries at Winn Dixie in order to raise money for the organization.

Joe Rosen's dedication to the city of Sunrise and Broward County is far reaching. Not only has he held numerous positions in volunteer organizations, he has been integral in raising over $45,000 for a host of senior organizations throughout Broward. His concern for the safety of his city's streets is exemplified by his role as commander of Citizens on Patrol-Night Crime Patrol.

Jean Ross, of Margate, a dynamic member of Broward County's senior community, currently serves as president of the Broward County Council of Senior Citizens. This organization serves seniors by providing them with much needed information and assistance. Jean has also assured that the council's blood drives are successful by working closely with Broward County's High Schools on an incentive program.

An exemplary senior advocate and resident of Tamarac, Marc Sultanof serves numerous organizations, particularly in the Kings Point neighborhood. He recently was elected to the Area Agency's Advisory Council, where he serves with distinction, and was appointed as a 1995 delegate to the White House Conference on Aging by Gov. Lawton Chiles.

Katherine Thibault is currently serving a second term as a Pembroke Pines city commissioner. As a result of her efforts in the 1994 Area Agency Seniors for Seniors Dollar Drive, Commissioner Thibault helped raised thousands of dollars for senior programs in Broward County. Ms. Thibault is no stranger to volunteer work. Her contributions to the seniors of Broward County have been appreciated by all.

Amadeo Trinchitella's efforts have also been substantial. Beside serving the seniors of Broward County, Mr. Trinchitella is a Deerfield Beach commissioner, and has been appointed by Governor Chiles to a 4-year term as commissioner for the North Broward Hospital District. His activities with Century Village have helped to enhance that vibrant senior community.

Ms. Eula Williams, of Fort Lauderdale, is involved in Mt. Olive Baptist Church and the Northwest Federated Women's Club. Her activities include tending the sick, visiting nursing homes, and helping the homebound. Her involvement in the Area Agency's Session for Seniors, classes which help Broward's seniors deal with independent living, has enriched the lives of Broward's older residents.

Once again, I would like to congratulate these outstanding seniors who have diligently and selflessly given of themselves in order to make Broward County a fine place for all of its residents. The State of Florida and Broward County are fortunate to have residents like these making a difference and setting an example for all.•

SALUTE TO UNIVERSITY OF TENNESSEE WOMEN'S BASKETBALL

• Mr. FRIST. Mr. President, I rise today to congratulate the University of Tennessee Lady Volunteers basketball team for yet another outstanding NCAA tournament and an impressive victory over the highly competitive University of Georgia Lady Bulldogs in the championship game. After posting a remarkable record of 32–4, the Lady Vols have brought the national championship title home to Knoxville where it belongs.

The Lady Volunteers displayed the teamwork, talent, and sheer determination to soundly defeat the Georgia Lady Bulldogs 83 to 65. This was clearly a championship performance.

Mr. President, I want to commend these young women, their head coach Pat Summitt and assistant coaches Mickie DeMoss, Holly Warlick, and Al Brown for their hard work and dedication this year. They have made the University of Tennessee, the city of Knoxville, and the entire State of Tennessee proud and all of Tennessee celebrates their victory with them.

The seniors who played their last college basketball game on March 31 should look back on a game perfectly executed and a season Tennesseans will never forget. And those team members who will be on the court next season can look forward to defending their title next year and for many years to come.

I would like to extend a special congratulations to Michelle Marciniak for being named most outstanding player in the Final Four, and to Chamique Holdsclaw and Tiffani Johnson, who joined Michelle on the all-tournament team. Everyone involved in this championship team has made the University of Tennessee, the city of Knoxville, and the entire State of Tennessee proud, and we all look forward to many more championship seasons to come.•

GAMBLING'S TOLL IN MINNESOTA

• Mr. SIMON. Mr. President, the Reader's Digest recently condensed an article from the Minneapolis Star Tribune written by Chris Ison and Dennis McGrath that talks about the pull of legalized gambling in the State of Minnesota, which I ask to be printed in the RECORD after my remarks.

For those who are unaware of the problems that we face, please read this article.

It illustrates why we need a national commission to take a look at where we are going in this Nation on legalized gambling. The article follows:

[From the Minneapolis Star Tribune]

GAMBLING'S TOLL IN MINNESOTA

(By Chris Ison and Dennis J. McGrath)

[America is becoming a nation of gamblers. Once confined to Atlantic City, Las Vegas and Reno, gambling is now legal in 48 states—all but Hawaii and Utah—and casinos run full tilt in 24. Almost 100 million Americans bet $400 billion last year and lost $39 billion to the house.

To win legal status, the industry promised some tax-poor states a river of money for public programs. But along with the wealth came an alarming rise in suicides, bankruptcies and crime. Here is the experience of one state, where the first full-service casino was welcomed in 1988].

Hour after hour, the blackjack cards flipped past, and still she played. Friday afternoon blurred into Saturday. Through the ringing of slot machines and chattering of coins dropping into tin trays, Catherine Avina heard her name paged.

"Are you coming home tonight?" It was her 21-year-old son, Joaquin, on the phone. "Probably not," she answered.

Avina didn't go to Mystic Lake Casino in Prior Lake, Minn., as much as she escaped to it. That weekend in May 1994, the depressed 49-year-old mother of three was escaping the worst news yet—she was in danger of being fired after almost 11 years as an assistant state attorney general. On Monday—her fourth straight day at the casino—she dragged herself back to her St. Paul home, broke and more depressed than ever.

Two days later, Joaquin confronted his mother about her gambling, and they argued. The next morning, when she didn't come out of her bedroom, he peeked in. Two empty bottles of anti-depressants and a suicide note were near her body. Later the family found debts of more than $7,000, and

VOL
142
PT
6
AP
15
—
24
1996
UMI

Avina was still making payments for gambling-addiction therapy received a year earlier.

In less than a decade legalized gambling in Minnesota—$4.1 billion is legally wagered in the state each year—has created a new class of addicts, victims and criminals whose activities are devastating families. Even conservative estimates of the social toll suggest that problem gambling costs Minnesotans more than $200 million per year in taxes, lost income, bad debts and crime.

Ten years ago only one Gamblers Anonymous group was meeting in the state; today there are 53 groups. According to research by the Center for Addiction Studies at the University of Minnesota in Duluth, nearly 38,000 Minnesota adults are probably pathological gamblers. A 1994 Star Tribune/WCCO–TV poll found that 128,000 adults in Minnesota—four percent—showed signs associated with problem gambling and gambling addiction.

Many experts agree that the potential for gambling addiction among the young—the most vulnerable group—is worse. Teens are twice as likely as adults to become addicted.

Jeff Copeland, a 21-year-old from suburban Minneapolis, can't go to college because he's accumulated a $20,000 gambling debt. "It ruins your life," he says. "And people don't really understand. I thought about suicide. It's the easiest way to get out of it."

Pawnshop Boom: Thousands of Minnesotans are burying themselves in debt because of gambling, borrowing millions they'll never be able to pay back. Bankruptcy experts estimate that more than 1,000 people a year are filing for bankruptcy protection (average owed: $40,000), at an estimated cost to creditors of more than $2.5 million. "Compared with ten years ago, there are 20 times as many people who have gambling debts," says bankruptcy attorney Jack Prescott of Minneapolis.

One of these is Hennepin County Commissioner Sandra Hilary of Minneapolis. She filed for bankruptcy two days after admitting she was addicted to slot machines. She estimated she'd lost nearly $100,000 gambling. After counseling, Hilary is now trying to reimburse her creditors.

Throughout the state, at least 17 new pawnshops have sprung up near casinos, with gamblers hocking possessions for far less than real value to support their gambling habits. In or near Cass Lake (pop. 923), four miles from Palace Bingo & Casino, there are four pawnshops. That's a pawnshop for every 231 people.

Police near casinos note an increase in bogus reports of thefts. These come from people who lie about the disappearance of a ring, video camera or other expensive item that they actually pawned to pay for their gambling.

Easy Credit: Minnesotans are also burning up welfare payments at casinos. Hundreds of thousands of taxpayer dollars that are meant to provide food, clothes and housing for the poor are being wagered on blackjack and in slot machines, and for residents of two Minnesota counties, the money is being made available from automated teller machines inside almost every casino in the state. During a typical month last year, welfare recipients from Hennepin and Ramsey counties withdrew $39,000 in benefits from casino ATMs.

There are few incentives for casinos to regulate the availability of credit to gamblers. The casinos can't lose: they don't give the credit; they simply make the money.

Credit-card companies—there are now more than 7000—have made strong profits in recent years despite increasing bankruptcy and delinquent payments nationwide. Interest rates are so high—averaging 18 percent—they still make up for losses from bankruptcy. And the issuers pass much of the loss onto consumers through higher rates, fees and penalties, says Ruth Susswein, executive director of Bankcard Holders of America, a nonprofit consumer-education group.

"They're making so much money it's been worth it to them to keep offering credit," Susswein adds. Some casinos also rent space to companies that cash checks and provide credit-card advances for fees.

Police Burden: It seemed to take only minutes for Carol Foley to get hooked on video gambling machines. "Within two or three days," she says, "I was playing every day." To cover her losses, Foley, 43, forged $175,000 in checks at her job at the E. M. Lohmann Co., a church-goods dealer in St. Paul. Last September she was released from a correction center in Roseville, Minn., after serving eight months for forgery. She underwent counseling for her gambling addiction and is on a monthly payment plan with her former employer.

The high crime rate among problem gamblers has been well established. The National Council on Problem Gambling found that 75 percent of gamblers treated at in-patient centers had committed a crime.

Between 1988—when the first of Minnesota's 17 casinos began operating—and 1994, counties with casinos saw the crime rate rise twice as fast as those without casinos. The increase was the greatest for crimes linked to gambling, such as fraud, theft and forgery/counterfeiting.

Casinos are burdening local police. When Grand Casino Mille Lacs opened on the Mille Lacs Indian Reservation in April 1991, county police responded to almost twice as many incidents of crime or people seeking help on the reservation.

Jean Mott, a 38-year-old mother of three, worked nights at a Kmart distribution center to help pay the family bills. But the bills began backing up when Mott headed to Mystic Lake Casino, rather than her Shakopee home, at the end of her shift.

Just before dawn one day in January 1995, having lost another paycheck to the casino, Mott drove to the Brooks' Food Market in Shakopee. Wearing a ski mask and with her hand in her pocket to simulate a gun, she stole $233. Police easily traced the holdup to Mott because a patrol officer had run a registration check after he saw her car parked with its lights on just south of the store that morning. Mott was convicted of simple robbery, and served 30 days in jail and 30 days on electronic home monitoring.

Taxpayer Tab: The list of violent gambling-related crimes is also growing. Redwood Falls police officer Derek Woodford was shot by a gambler from Gary, Ind., who had broken into a local bank after a day of gambling at Jackpot Junction in Morton. Woodford spent 13 days in the hospital recovering from three bullet wounds.

Gambling has long been recognized, as well, as a root cause of embezzlement. In most gambling-related embezzlement cases, authorities say, the court file shows the same thing: no previous criminal record.

"Prior to 1990, we had zero cases of gambling-related embezzlements," says William Urban, president of Loss Prevention Specialists, Inc., a Minneapolis company that helps employers deal with internal thefts. Since then the company has investigated gambling-related losses of "well over $500,000."

Reva Wilkinson, of Cedar, is now in federal prison for embezzling more than $400,000 from the Guthrie Theater to support her gambling habit. Besides the money she stole from her Minneapolis employer, her case cost taxpayers over $100,000 to investigate, prosecute and adjudicate.

In June 1993 Theresa Erdmann was charged with stealing nearly $120,000 from the checking account and weekly offerings at St. Michael's Catholic Church in Madison. She said the money was blown on gambling, and now she's serving a three-year sentence in a state prison.

Hidden Suicides: More and more, some problem gamblers pay the ultimate price. The *Star Tribune* confirmed six gambling-related suicides in Minnesota—five in the past three years. Almost certainly, this is only a fraction of the total.

The victims are people like 19-year-old John Lee, a St. Paul college student who, in a three-month period, won about $30,000 at blackjack. Then he started losing. Down to his last $10,000, he lost it all one night. He returned home, put a shotgun to his head and killed himself. In addition, at least 122 Minnesota gamblers have attempted suicide, according to directors of the six state-funded gambling-treatment centers.

Other deaths that may be related to depression over gambling losses are not listed as suicides at all. "So often, when people talk about suicide, they say, 'I'd just drive off the road. I'd drive into a tree,'" says Sandi Brustuen of the Vanguard Compulsive Gambling Treatment Program in Granite Falls, Minn. "They don't want anyone to know they committed suicide, and they want their families to collect the insurance."

The suicide rate among pathological gamblers nationally is believed to rival that of drug addicts. Ten to 20 percent of pathological gamblers have attempted suicide, and almost 90 percent have contemplated it.

Treatment experts, researchers and gamblers themselves say states can do more to reduce the negative consequences for gamblers. Here are some of the most frequently mentioned ideas:

Underwrite better research: Many research efforts across the country have been criticized for failing to prove that treatment works, for failing to measure the social costs of gambling and for failing to implement a long-range plan to address problem-gambling issues. "We really don't know exactly how much problem gamblers cost society," says Henry Lesieur, editor of the Journal of Gambling Studies and a criminal-justice professor at Illinois State University in Normal.

On the federal level, the issue of gambling addiction only recently started to generate action. Last fall committees in the House and Senate held hearings on bills that would authorize a national commission to study the economic and social effects of legalized gambling.

Emphasize public awareness and education—especially among young people—about the risks of gambling: Some suggest funding more in-school efforts, perhaps in conjunction with math and science classes or anti-drug programs. "Let people know what the odds are. The longer you gamble, the more you're going to lose," says Alan Gilbert, solicitor general of Minnesota.

Train casino employees to spot—and discourage—problem gamblers from betting irresponsibly: Some casinos already do this. But they offer only anecdotal evidence that such efforts are used, and some say they've never barred a person for problem gambling unless the person asked to be barred.

Gambling has significant social and economic impact. It results in ruined lives, families and businesses; in bankruptcies and bad

loans; in suicides, embezzlements and other crimes committed to feed or cover up gambling habits—and increases in costs to taxpayers for investigating, prosecuting and punishing those crimes.

Few of these problems have been documented as communities and states across the nation instead focus on gambling as a way to boost their economies and increase tax revenues. But for Minnesota the social costs of gambling are emerging in vivid and tragic detail.●

DAY OF RECKONING

● Mrs. HUTCHISON. Mr. President, today is April 15, the day of reckoning for millions of Americans. After a year on the job, and hours and hours of paperwork, today American moms and dads must file their income tax return, and send a check to Uncle Sam.

The IRS's favorite day of the year is everyone else's least favorite. Working families in America are getting squeezed between ever-rising expenses for necessities and higher taxes.

Last year the Republican Congress tried to do something unusual for taxpayers—we tried to let them keep their own money.

We cut taxes for families with children by providing a $500 tax credit for each child, to help parents raise children and to offset the erosion of the personal exemption from inflation. With this tax cut, 3.5 million families wouldn't have to pay taxes any more. In Texas, it would save 285,000 families over $167 million.

Some big-city liberals don't think $500 is real money—they say "it's only pennies a day." But with the children's tax credit, a parent with two children would be much better off today. Instead of writing a $500 check to the IRS, she could be getting a $500 check back—that's real money for families with kids.

We also encouraged families to save for retirement—with my homemaker IRA proposal, and with expanded individual retirement accounts.

The homemaker IRA would allow women who work at home to get the same opportunity to save for retirement that all other workers do. The current tax code prevents married couples that rely on one income from equitably providing for their retirement security by limiting the homemaker's deductible IRA contribution to $250.

To end this unequal treatment of women and men that work inside the home, and to promote retirement savings, we would have permitted deductible IRA contributions of up to $2,000 by spouses that work inside the home.

What would this mean for homemakers? Under current law, a single-income married couple saving $2,250 each year for 30 years would have $188,000 for retirement. With the bill's $4,000 annual contribution limit, after 30 years they would have $335,000—an increase in savings of almost $150,000.

We also helped families by permitting tax-deferred savings in IRA's for education costs, medical expenses, and first-time home purchases, and allowing penalty free withdrawals during times of unemployment.

We stopped penalizing young couples for getting married. We increased the standard deduction for married couples filing jointly. By 2005, the marriage penalty would have been eliminated for couples that don't itemize their deductions.

We cut capital gains taxes to encourage and reward investment, and to create new businesses and new jobs.

And we cut estate taxes, so that years of hard work and success won't be wiped out in a generation.

Our tax cuts reduce the tax burden on the people who actually pay taxes. More than three-quarters of the cuts in the first year go to the middle class, those making $75,000 a year or less. Who are those people?

They are mothers and fathers, who will get help raising their children with a $500 tax credit.

They are homemakers who will have the opportunity to contribute the maximum amount to an IRA for retirement security for the first time.

They are married couples, who will have the Tax Code's marriage penalty reduced.

They are savers, who are trying to buy a first home, pay for college for their kids, or retirement for themselves.

They are small business owners who have spent their lives building a business, and want to pass it on to their children.

They are investors who have provided the capital to start new businesses and create jobs.

Our tax cut helped all Americans—it would put more money in people's pockets, and would increase jobs. Together with a balanced budget, it would lower interest rates and increase the standard of living for millions of Americans.

So why do I keep saying here is what our proposals would have done? Because President Clinton vetoed it. He vetoed tax relief for all of us paying taxes today to the IRS. Instead of getting a refund, many are writing a check to the Treasury.

After running for President in 1992 on a middle class tax cut, in 1993 President Clinton raised taxes on middle class Americans while claiming he was only hitting the rich. He overlooked his tax increase on seniors, which raised taxes on Social Security benefits from 50 to 85 percent for seniors earning more than $34,000—for marrieds, it's $44,000, and his gas tax on everyone. His taxes took what could have been a robust period of economic growth and made it a weak, lackluster recovery.

I cannot remember any time in America when our economy was growing, but people have had more reason to worry about their jobs. Big government is one of the big reasons. Big government regulation costs jobs, too. A report from the Rochester Institute of Technology estimates the direct cost of complying with Federal regulations to be about $668 billion in 1995. That's about $6,000 for every American family in higher prices, diminished wages, and increased taxes.

Another way to look at it: The cost of regulation is about the same as the entire amount of individual income taxes! So when you're writing your check today, double the check you write to get the real cost of big government.

Last year, when the Republican Congress was preparing our tax cut bill, President Clinton admitted that he and the Democratic Congress had made a mistake in 1993 by raising taxes. Nice talk—but then he vetoed the bill that would have cut taxes for Americans today.

If he hadn't vetoed the bill, instead of turning your money over to Uncle Sam today, you would be keeping your money in your own pocket. With the tax cuts and balanced budget, we would get 1.2 million new jobs, $75 billion in new investment, and lower interest rates, lower mortgage rates, and higher disposal income. Everyone in America would have been better off.

I don't think most Americans object to taxes in principle; we all know some taxes must be paid to provide for a national defense, for health regulations, for police and schools, and for other services. But its how much we pay and what we get in return that bothers us.

President Clinton's new budget will spend $1.572 trillion—with a $146 billion deficit. The problem with the deficit isn't that we aren't paying taxes—its that we're spending too much. The problem has always been spending. If Congress in the 1980's had just limited the growth of domestic spending to the rate of inflation—if Congress had just restrained spending the way that every American household does—we would have ended the last decade with a budget surplus.

What happened? Where is that surplus? It is buried in the huge buildings all over Washington. Instead of limiting spending increases to the rate of inflation, Congress went on an unprecedented spending binge. And when the decade of the 1980's ended, there was no surplus, there was not even a balanced budget—there was more debt to pay interest on.

This administration refuses to abandon the irresponsible policies of past Congresses. This administration has dealt itself out of the fight to save American's future.

The majority in Congress will not change our principles for a few inside-the-beltway bureaucrats and editorial writers who don't want the era of big

VOL
142
PT
6
AP
15
—
24
1996
UMI

government to end. We will not offer a Band-Aid to past the next election. We promised to offer real, long-term solutions for the next generation and we did.

The people know they don't get the money's worth from Washington; we waste money foolishly all the time—on small things like the Tea Tasting Board, and on big ones like the Davis-Bacon law, which adds millions of dollars to every government construction project, while leaving entry-level workers unemployed.

We must go through the budget, line by line, agency by agency, and ask, "Is this worth it? Do we need it? Should the Federal Government do it? "Last year we cut outdated or duplicate programs, like the Interstate Commerce Commission, the Office of Technology Assessment, and the Pennsylvania Avenue Development Corporation, and cut our own budget, too.

Finally, we will make fundamental changes to prevent us from the old tax and spend ways. Today, in the other body, they will consider for the first time an amendment to the Constitution that will change the balance of power between taxes and spending. Right now, when Congress cuts spending, it only lasts for a year. We have annual appropriations, so its easy to replace old spending with new spending. But when we increase taxes, they are permanent changes to the Tax Code. Taxes are paid year after year, until we repeal them.

Not only that, it takes only half the body plus one vote to increase taxes. In 1993, President Clinton's tax increases were passed by one vote in the House, and a tie was broken in the Senate by Vice President GORE. Despite the fact that half the Senate opposed the taxes, they were imposed on the public.

I believe that this was wrong. We shouldn't be able to make such a fundamental change in how Americans are governed by their representatives in Congress without the support in Congress that a super majority vote for a tax increase requires. It should be hard to increase taxes. It should be harder to increase taxes—to take the people's money from them—than it is to cut taxes.

Mr. President, what the public is asking for is leadership.

It is not leadership to increase taxes on the elderly and everyone who drives a car, and claim you only hit the rich—which the Democrats did in 1993 without one Republican vote.

It is not leadership to veto tax cuts for American families, and then propose tax cuts again in the next election year.

It is not leadership to propose a budget with a $200 billion deficit, and then veto a balanced budget.

And it is not leadership to propose a budget in the following year that balances only with huge spending cuts after the year 2000, when the President is sure to have moved back to Arkansas.

It is leadership to confront our fiscal problems head on, to show the people what we must do to preserve Medicare, to help families, to create jobs, to reform welfare, and to balance the budget. That is what the Republican Congress did.

America has led the world through the most tumultuous century of all time—from the age of horse power to the age of atomic power. Now that the threat to our liberty from communism is gone, and freedom is spreading throughout the world, it's time to return the government's power to the people. We can start by giving them their money back.•

IMMIGRATION—JUST THE FACTS

• Mr. SIMON. Mr. President, Priscilla Labovitz had an op-ed piece in the New York Times, which I ask to be printed in the RECORD after my remarks. It deserves the attention of all of us interested in the problems of immigration.

It is fascinating reading, in addition to being important for policymaking.

The material follows:

IMMIGRATION—JUST THE FACTS

(By Priscilla Labovitz)

WASHINGTON.—Congress is considering immigration reform. Patrick Buchanan used the issue to rev up his Presidential campaign. And a few polemicists have even called for a moratorium on all immigration. The subject may be hotly debated, but ultimately the facts and figures speak for themselves.

Percentage of the United States population that white Americans think is Hispanic: 14.7.

Percentage that is Hispanic: 9.5

Percentage that white Americans think is Asian: 10.8.

Percentage that is Asian: 3.1.

Percentage that white Americans think is black 23.8.

Percentage that is black: 11.8.

Percentage that white Americans think is white: 49.9.

Percentage that is white: 74.

Number of legal immigrants admitted in 1820 (the first year for which statistics are available): 8,385.

The number of legal immigrants in 1907: 1,285,349.

The number admitted in 1990: 1,536,483.

The number admitted in 1994 (the latest figures available): 804,416.

Percentage of decrease in legal immigration from 1993 to 1994: 9.3.

Countries that sent the most students to America in 1994: Japan (more than 65,000), South Korea (more than 38,000), China plus Taiwan (more than 36,000).

The number of United States residents who emigrate each year: 195,000.

Countries from which legal immigration decreased most since 1993: El Salvador (32 percent), Vietnam (30.6 percent), China (17.7 percent), Philippines (15.3 percent).

Percentage that employment-based legal immigration decreased from 1993 to 1994: 16.

Percentage of decrease in applications for political asylum from 1994 to 1995: 57.

State with the largest number of legal immigrants from Mexico admitted in 1994: California.

State with the largest number of legal immigrants from all foreign countries combined admitted in 1994: California.

Percentage (estimated) of all illegal immigrants who live in California: 42.6.

State where fewest legal immigrants settled in 1994: Wyoming.

Home state of Alan Simpson, the senator who authorized the principal bill to reduce immigration: Wyoming.

Countries from which most illegals in New York City emigrate: Colombia, Dominican Republic, Ecuador, Italy, Poland.

Countries from which the highest number of legal immigrants on welfare in New York City emigrate: Russia, Dominican Republic.

Proportion of United States population that was foreign-born in 1990: 7.9 percent.

Proporition that was foreign-born in 1910: 16 percent.

Continent of origin of immigrant group with highest educational attainment: Africa.

Welfare programs for which illegal aliens are not eligible: Aid to Families With Dependent Children, food stamps, Medicaid, Medicare, Supplemental Security Income.

Presidential candidate who said: "I think God made all people good, but if we had to take a million immigrants in, say Zulus, next year, or Englishmen, and put them in Virginia, what group would be easier to assimilate and would cause less problems for the people of Virginia?" Patrick Buchanan.

Total number of immigrants who settled in Virginia in 1994: 15,342.

Total number of legal immigrants born in United Kingdom who settled in Virginia in 1994: 404.

Total number of Zulus, Unknown.

Sources: Census Bureau statistics, Immigration and Naturalization Service statistics, National Immigration Law Center, New York City Planning Commission, The Washington Post.•

THE TAX LIMITATION AMENDMENT

• Mr. FAIRCLOTH. Mr. President, as American taxpayers are well aware, today is Tax Day, and it is a most appropriate time to express my strong support of Senate Joint Resolution 49, the tax limitation amendment. This resolution proposes to amend the Constitution to require a two-thirds supermajority vote to increase tax rates or to impose new taxes.

It offers the American taxpayers a source of protection from a Federal Government that often sees their checkbooks as an unlimited line of credit. For too long, the Federal Government has lacked the restraint that the Founding Fathers surely envisioned, and it has consistently grabbed an increasing share of the taxpayers' money.

The American people have sent some $14 trillion to Washington since 1980. This is an enormous amount of money.

I think that it is sufficient to run the Federal Government. I believe that most taxpayers think that it is sufficient to run the Federal Government.

However, it is apparently not enough for the big spenders in Washington. There are bills on the calendar to boost taxes ever higher. There are those still eager to grab yet more money from the taxpayers.

This amendment will stop the big spenders.

It is far too easy to raise taxes. The largest tax increase in American history—the Clinton tax bill of 1993—is a case in point. The Democrats controlled both the White House and the Congress, and, yet the Clinton budget passed the other Chamber by a mere six votes. In this Chamber, the Vice President was forced to bring out the motorcade, and he rode to the Capitol to cast a tie-breaker vote. The President, just months after his election, could not even muster a majority of the elected Senators.

The tax limitation amendment, however, would have stopped that tax bill, and, if it is adopted, it will prevent other ill-considered congressional raids on constituents' checkbooks.

Its opponents decry the supermajority requirement as "anti-democratic." However, the Constitution includes 11 supermajority provisions, and these hurdles were engineered to further safeguard important processes. Indeed, the procedures used to govern this Chamber include super-majority requirements, and I see little restraint in their use on the other side of the aisle. These supermajority requirements compel the development of a broad consensus for action. These procedures often serve this Chamber well. However, I find it impossible to believe that the taxpayers do not deserve similar protection.

It is no surprise that the tax limitation amendment is seen as a revolutionary measure in Washington. However, it is a time-tested procedure in 12 States, and one-third of all Americans live in States with supermajority tax requirements.

Maybe this amendment scares people in Washington because it is so effective. Just look at the numbers. Between 1980 and 1993, the taxpayers in States without supermajority tax limitations faced a 2 percent rise in taxes as a share of personal income. However, taxpayers in States with supermajority tax limitations enjoyed a 7 percent drop in taxes as a share of personal income.

President Clinton bragged in the 1992 campaign that he held the line on taxes in Arkansas as governor. Well, he tried to raise taxes, but Arkansas adopted a three-fourths supermajority requirement to raise most taxes in 1934, long before President Clinton was born.

The tax limitation amendment will impose some real and necessary restraint on the Congress. For too long, Washington lawmakers, unwilling to pare the scope of the Federal Government, simply embarked on pirate-style raids on their constituents' checkbooks. Consequently, the Federal tax burden on the average family has grown from 3 percent in 1948 to some 25 percent today.

Chief Justice Marshall long ago wrote that the power to tax involves the power to destroy. The power to tax is indeed an awesome power. The history of the United States includes chapters of revolution and rebellion rooted in issues of taxation.

The tax limitation amendment is a moderate response to the escalating bite of the Federal Government. It merely requires a little additional deliberation in the exercise of the power of taxation. In a democracy, I believe that we owe the people at least that.•

THE DEATH OF ROBERT MARLOWE

• Mr. COVERDELL. Mr. President, it is with regret that I must report the recent passing of a true leader in Georgia agriculture. Long-time Georgia Farm Bureau Director, Robert W. "Bob" Marlowe, died on March 26 in his home in Macon, GA, after a brief illness.

Mr. Marlowe was a true leader at the Farm Bureau and was a solid citizen. A native of Barrow County, GA, Bob graduated from the University of Georgia before teaching in his local school system for a number of years. After leaving teaching, Bob returned to production agriculture, working for the Cotton Producers Association as a poultry adviser and managing co-op stores. Bob worked for the Georgia Farm Bureau in Macon for 23 years and was an active member of his church and community organizations such as the Lions Club. He was also active in agriculture advocacy through his appointment on the Government's Advisory Council for Tri-State Water Issues and through his work with the State's various commodity commissions. I can attest that he was very helpful in my office's efforts in the formulation of the 1996 farm bill.

I know that Bob will be missed greatly by his family and colleagues at Georgia Farm Bureau. Georgia agriculture and this office will surely miss the likes of Bob Marlowe and I salute him for his exemplary service to our State and the Nation.•

MEASURE READ FOR THE FIRST TIME—H.R. 3103

Mr. SIMPSON. Mr. President, I inquire of the Chair if H.R. 3103 has arrived from the House of Representatives.

The PRESIDING OFFICER. The Senator is informed that the bill is at the desk.

Mr. SIMPSON. Therefore, I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term-care services and coverage, to simplify the administration of health insurance, and for other purposes.

Mr. SIMPSON. Mr. President, I now ask for its second reading, and I object.

The PRESIDING OFFICER. Objection is heard. The bill will be read a second time following the next adjournment of the Senate.

PROVIDING FOR THE APPROVAL OF FINAL REGULATIONS THAT ARE APPLICABLE TO THE SENATE AND THE EMPLOYEES OF THE SENATE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 242 submitted earlier in the day by Senator WARNER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 242) to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. SIMPSON. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 242) was considered and agreed to.

(The text of the resolution will be printed in a future edition of the RECORD.)

RELATING TO CERTAIN REGULATIONS REGARDING THE OFFICE OF COMPLIANCE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 51 submitted earlier by Senator WARNER.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 51) to provide for the approval of final regulations that are applicable to employing offices of the House of Representatives or the Senate, and to covered employees who are not employees of the House of Representatives or the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

VOL
142
PT
6
AP
15
—
24
1996
UMI

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SIMPSON. I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 51) was considered and agreed to.

(The text of the concurrent resolution will be printed in a future edition of the RECORD.)

CLOTURE MOTION

Mr. SIMPSON. Mr. President, I now move to proceed to Senate Resolution 227, the Whitewater legislation, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Senate Resolution 227, regarding the Whitewater extension.

Alfonse D'Amato, Dan Coats, P. Gramm, Bob Smith, Mike DeWine, John H. Chafee, Jim Jeffords, Frank H. Murkowski, R.F. Bennett, Spencer Abraham, Conrad Burns, Al Simpson, Bill Roth, Bill Cohen, Slade Gorton, Strom Thurmond.

Mr. SIMPSON. I ask unanimous consent that the vote occur on Wednesday, April 17, at a time to be determined by the two leaders, and that the mandatory quorum under Rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I now withdraw the motion.

The PRESIDING OFFICER. The motion to proceed is withdrawn.

ORDERS FOR TUESDAY, APRIL 16, 1996

Mr. SIMPSON. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:45 a.m. on Tuesday, April 16; further, that immediately following the prayer the Journal of proceedings be deemed approved to date; no resolutions come over under the rule; the call of the calendar be dispensed with; the morning hour be deemed to have expired; and the time for the two leaders be reserved for their use later in the day; and, that there then be a period for morning business until the hour of 10:45 a.m. with Senators to speak for up to 5 minutes each except for the following: Senator GRASSLEY for 15 minutes and Senator HATCH for 45 minutes.

I further ask unanimous consent that immediately following morning business the Senate resume consideration of S. 1664, the illegal immigration bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I now ask unanimous consent that the Senate stand in recess from the hour of 12:30 until 2:15 for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SIMPSON. Mr. President, for the information of all Senators, following morning business the Senate will resume the immigration bill. There are several pending amendments. However, any votes ordered on those amendments will not occur until after the vote previously scheduled at 2:15.

As a reminder, there will be a cloture vote at 2:15 on Tuesday invoking cloture on the motion to proceed to the Whitewater resolution.

The Senate may also be asked to turn to any other legislative items that can be cleared for action.

ORDER FOR ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. SIMPSON. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following the remarks of my good colleague, Senator ABRAHAM of Michigan.

The PRESIDING OFFICER. Without objection, it is so ordered.

The distinguished Senator from Michigan is recognized.

Mr. ABRAHAM. Thank you very much, Mr. President. I will attempt to complete my remarks in a short period of time.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

Mr. ABRAHAM. Mr. President, I rise tonight to make an opening statement with regard to the bill, S. 1664, on illegal immigration.

Let me begin by stating my support for this legislation. It is the product of much work in our Judiciary Committee and before that in the Immigration Subcommittee of the Judiciary Committee. And, in my judgment, although there are parts of the bill that I still hope to see us modify during the deliberations this week, it is an extraordinary piece of legislation which moves in the right direction, and it is in no small measure thanks to the Senator from Wyoming that we have this fine piece of legislation before us. His work both in the context of this legislation and over the past 17 years on immigration-related matters has been exceptional. It is a reflection of a Senator who is deeply committed to accomplishing a job that is difficult, and I commend him for it.

Mr. President, those who refuse to play by the rules who come here illegally become, as a result, a burden on our society, and it should not be tolerated. The illegal immigration is a betrayal of our long tradition of welcoming those who play by the rules. If the Federal Government did its job of keeping out, tracking down, and expelling illegal aliens, we would not have an immigration problem that confronts America today.

By definition, illegal immigrants are lawbreakers, and based on statistics, illegal immigrants are coming here at a very high rate. It is estimated at about 300,000 per year. Our bill to address illegal immigration, S. 1664, deals effectively and aggressively with the real problem of illegal immigration—reforms to our border patrols, our visa policies, criminal alien policies and rules concerning immigrant use of welfare.

First, with respect to border patrols, this bill begins in the obvious place, by fighting the problem of illegal immigration at the border. Our illegal immigration reform bill provides for the addition of 4,700 Border Patrol agents over the next 5 years, a 90 percent increase over the current level. It adds 300 new INS investigators for the next 3 years to investigate the smuggling and employment of illegal aliens, an increase of nearly 100 percent over current levels. These increases will help us address the fundamental, the basic problem of illegal immigration by providing the manpower necessary to address the problem of those who come to this country without proper documentation. That is only a start of how this bill attempts to reform the immigration laws as they pertain to illegal immigrants.

Another category of illegal aliens is those who overstay their visas, aliens who come here legally but then overstay. This bill addresses that problem and forcefully.

First, it establishes the first substantial penalties for visa overstays.

Second, it bars visa overstayers for even applying for a new visa for 5 years if they fail to appear for a deportation hearing. It also charges 300 INS investigators to seek out these aliens and to enforce the bill's rules.

It is important to keep in mind that contrary to some charges made over recent weeks, visa overstayers commonly are not individuals who come here on permanent family visas. Rather, the bulk of visa overstayers come to this country as tourists or students, then stay beyond the expiration of their visas.

Thus, it is wise and fitting that we should address those who break the

law, those who overstay the visa, with sharp, stiff penalties rather than attempting to address this problem by changing in some ways the penalties for those who are playing by the rules either by reducing the number of immigrants who may come to this country or dealing with those who are in fact not creating the problem.

A third area which this bill addresses and which I have been very active in working on pertains to criminal aliens. By conservative estimates, almost half a million felons are living in this country illegally. These aliens have been convicted of murder, rape, drug trafficking, potentially such crimes as espionage, sabotage, treason and/or a number of other serious crimes and are therefore, under the current laws of our country, deportable.

Unfortunately, in the vast majority of cases, our officials cannot deport these criminals because of a breakdown in the deportation process. Principally, the problem relates to the interminable amount of appeals which deportable aliens who are criminals have at their disposal. As a consequence, many of these noncitizen lawbreakers end up back on our streets to prey on law-abiding American citizens.

In the original bill of the Senator from Wyoming, a number of needed provisions were contained. That bill originally directed the Attorney General to provide regulations permitting special inquiry officers to enter final orders of deportation stipulated to by the alien. It authorized Federal judges to order deportation as a condition of probation. And it made other similar efforts to address the criminal alien problem.

I am glad, however, that the Judiciary Committee saw fit to go even further and to add to and strengthen these provisions by adopting four amendments on which I worked with a number of other Senators on the committee to see adopted. These amendments would create expedited procedures for deporting criminal aliens. The provisions would first prohibit the Attorney General from releasing such criminal aliens from custody; second, end judicial review for orders of deportation entered against these criminal aliens while maintaining the right to administrative review.

In short, once the criminal alien had exhausted all appeals available under the criminal laws, the criminal alien would still have the full deportation administrative provisions to protect him, that is, a deportation hearing and the ability to appeal any order of deportation to the Board of Immigration Appeals, but that would end the process as opposed to triggering a return to the court system. That will be positive because it will mean the actual deportation of more criminal aliens and the freeing up of the court system from many of these frivolous lawsuits.

In addition, the criminal alien deportation procedures require the Attorney General to deport criminal aliens within 30 days of the conclusion of the alien's prison sentence.

What I believe this will lead to is the initiation of the deportation proceedings well in advance of the end of the sentence so that upon release the criminal aliens will be leaving the country.

Finally, our legislation permits State criminal courts to enter conclusive findings of fact during sentencing that an alien has been convicted of a deportable offense. In addition, the State courts, upon making those findings of fact, will be required to report them to the Attorney General so that criminal aliens who are convicted of deportable offenses in State courts would be known by the authorities, that is, the Department of Justice and the Attorney General, in such a fashion as to allow for the deportation proceedings to begin.

These reforms would not affect any of the aliens' due process protections on the underlying criminal offense. Aliens would still be entitled to the lengthy appellate and habeas corpus review, just like U.S. citizens. But abuses of the appeals process would stop there and not continue on through the deportation provisions themselves.

Mr. President, this makes sense. The fact is, if there are, as is currently estimated, a minimum of one-half million noncitizens who are people who have committed serious crimes in this country, to me it makes sense that the laws which allow those people to be deported ought to be enforced so those slots can be taken by law-abiding citizens who want to come to this country and make a positive contribution rather than come to the country and commit serious criminal violations. These provisions collectively will allow us to dramatically increase the number of criminal aliens who are deported. Most recent estimates suggest that current amount is nowhere higher than 4 to 6 percent of the criminal aliens who are deportable in this country. That means that somewhere over 90 percent of the criminal aliens who could be deported are not, primarily because of a lack of a process to make expeditious deportation feasible.

Our bill would change that. It would mean that criminal aliens would be leaving the country and, therefore, there would be more slots in this country for immigrants who want to make a contribution.

Another area which this bill addresses effectively, I think, are restrictions on welfare benefits available to noncitizens. The problem of immigrant welfare use is often overstated. According to the Urban Institute, nonrefugee, working-age immigrants are no more likely to use welfare than are native-born Americans. But I continue to believe we should concentrate on requiring that all immigrants be responsible for themselves, rather than become dependent on Government programs. To encourage responsibility, we first should concentrate on preventing illegal aliens, who undermine our laws by even being here, from receiving welfare benefits. In addition, we should prevent immigrants from collecting welfare payments until they have worked here and contributed taxes to our welfare system or until they become citizens.

Third, we should hold sponsors of legal immigrants financially liable for up to 10 years for welfare payments those they sponsor improperly receive. As you know, the sponsorship agreements that people sign in order to bring someone to this country are very, very infrequently upheld; very infrequently enforced. I think the legislation we have now will provide us with the tools to enforce such sponsorship agreements. It will attribute the sponsor's income to the immigrant sponsor for 5 years should the immigrant seek welfare payments. That will, on the one hand, dramatically reduce those eligible and, in addition, allow us to collect from the person who makes the original commitment of sponsorship.

Collectively, these provisions address, and address effectively, the illegal immigration problems which we currently confront. They do so without punishing law-abiding people and companies. However, there are certain parts of the legislation before us which I think go too far and place the focus, not on those who are breaking the rules, but rather too much on those who are playing by the rules.

First, in this respect, and most important, are the provisions in the legislation that pertain to what I believe will ultimately become a national ID system. The original bill included a national employee verification system. This mandatory system would have required all employers to verify with the Federal Government the work eligibility of every prospective employee. Because this system would be expensive and intrusive, riddled with mistakes and dangerous to our workers' ability to find work, the committee saw fit to strike that permanent system, which would have to have been in place within 8 years.

I brought a provision before the committee to simply strike all of this verification process. It failed on a 9-to-9 vote. What we are left with now is a provision for a pilot program. While it is a smaller program than that originally envisioned in the legislation, I continue to see problems with this provision because, although the bill does not overtly establish a national verification system that is mandatory, it heads us in that direction. And there are no brakes provided in the bill to keep it from that destination.

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In this provision, the INS would be permitted to initiate large local or regional demonstration projects anywhere in the Nation. The language of the bill is vague here, but it leaves discretion to bureaucrats to decide whether the system will be mandatory or voluntary for employers. Also unclear is the size of the regional project that might be initiated, or regional projects that might be initiated. For example, such regions could encompass multiple States at one time.

It is also unclear what happens during a demonstration project when U.S. citizens cannot prove that they are eligible to work. It is likewise unclear about whether or not individual Americans will have to consult the Government when they seek to hire someone even to do such things as mow their own lawn. One thing is clear. The bill sets in place the infrastructure necessary for a mandatory national system and establishes the principle that companies should gain Government approval before hiring any employee.

I think this is headed in the wrong direction. People who want to break the rules will find ways to break the rules or get around the rules. That is happening today. But, if we move in the direction of a national employee verification system, whether it is the original mandatory nationwide program the legislation included or a pilot program which starts in place the infrastructure that leads to a national program, I think we are headed in the wrong direction. We will be penalizing those who play by the rules, both employers and employees of employers. Especially for those in small business, it will be a substantial increase in business overhead. For employees, native-born U.S. citizens, it could mean huge hardship if the database of such a system is in any way inaccurate.

Just to put that in perspective, a mere 1 percent error margin in the database could, on an annual basis, affect 600,000 employment decisions in this country. To put that in perspective, that means twice the number of total illegal aliens that come into this country each year. I do not believe that is the way we should proceed, and, therefore, during consideration of this bill, I will be offering an amendment with Senators FEINGOLD and DEWINE to strike provisions for this overly intrusive infringement that is signified by the pilot program.

This amendment, striking the verification provision, is supported by a significant number of groups concerned with the rights of workers and employers from the National Federation of Independent Businesses and the National Retail Association to the U.S. Catholic Conference to the Small Business Survival Committee. I look forward to working with my colleagues on specifics, but the debate we should be having here is, How do we reduce illegal immigration?

I believe the proper place to start is by focusing on those who are lawbreakers, whether they are employees or employers, whether they are those who come over the border without documents or those who overstay their visas or if they are a criminal alien. I think it is important for us to take a very simple philosophical approach to deal with these problems.

For those who are yearning to be free, who are willing to play by the rules and wait their turn, for them we should throw open the door to the land of liberty, which has been available as long as this country has existed. On the other hand, for those who flout our laws, they should find that Lady Liberty has turned her back on them, that she will not rise up to aid those who trample on the law on which liberty is built.

Though Lady Liberty yearns to aid the righteous, those willing to work hard and to build a better life for themselves and their families, she does not allow people to come to this country simply to take advantage of the laws and of the citizens here.

Those who prize both law and liberty, those who would be Americans are those we should protect with any legislation that we should address in this context.

Mr. President, as virtually every Member of the Senate, I have a heritage that began in another part of the world. In my case, it was my grandparents who came here approximately a century ago. They did not come to this country in search of welfare payments. They did not come to this country for any ulterior motives. They came here because they wanted to live in a country that was free. They wanted their children and their grandchildren to know what it was like to be born in a nation that was free, and they made a positive contribution, both in what they did and in bringing up strong families who have made their own contributions.

Last fall, I had the opportunity for the first time to go to Ellis Island in New York where my grandparents made their first visit to these shores. I was struck as I went there and as I looked through the history of Ellis Island of what it meant and what it still means. I believe as we address immigration issues, we should never lose sight of what Ellis Island and the various other points of disembarkation have meant to those who truly wanted to come to this country to enjoy all that America offers—the American dream.

Legal immigration is the American way. It strengthens us economically, culturally, and spiritually, because by letting in those who come here playing by the rules and seeking to build a better life for their families, we welcome true Americans and live up to our own ideals. Indeed, an overwhelming percentage of people in our country have made it clear that they think we should address illegal immigration problems long before we consider changes in the legal immigration laws of this country, and indeed, Mr. President, as I will say at a later point in these debates, it is clear to me that these are very separate issues and, as a threshold matter, we have done the right thing in the Judiciary Committee, as the House did the right thing, in separating legal and illegal immigration.

Cutting legal immigration precipitously could backfire and cause more people to come here illegally. So for those reasons, I strongly support the illegal immigration bill that is before us and believe it should be considered on its own merits as a freestanding piece of legislation. Indeed, that is the position that two-thirds of the members of the Judiciary Committee took when we began this debate a few weeks ago.

I am convinced that we must concentrate on the real problem facing our country from immigration—lawbreakers—and we should not allow any fear of immigrants to distract us from the task of keeping the illegal immigrants out of the country.

Mr. President, after we conclude that and once S. 1664 has been disposed of, then it would be appropriate to consider changes that we might wish to make in the laws pertaining to legal immigration. But it is my sincere hope and certainly will be my effort here on the floor to maintain the separation that we achieved in the Judiciary Committee and that was achieved in the House of Representatives.

I think that we will make a major step forward if we pass S. 1664, hopefully with certain modifications. I think we would make a big mistake if we backtrack and begin to try and confuse and merge issues that I do not believe are appropriately linked together.

I look forward in the days ahead to working hard on the floor, as we did in the Judiciary Committee, to make sure our country moves aggressively and forcefully to address the problems of illegal immigration.

I strongly commend Senator SIMPSON and all the members of the subcommittee who worked hard to bring us to this point.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:45 a.m., Tuesday, April 16.

Thereupon, the Senate, at 6:35 p.m., adjourned until Tuesday, April 16, 1996, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate April 15, 1996:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ELIZABETH K. JULIAN, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE ROBERTA ACHTENBERG, RESIGNED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

ROBERT CLARKE BROWN, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY FOR A TERM OF 6 YEARS, VICE JACK EDWARDS, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

DANIEL GUTTMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AN HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2001, VICE EDWIN G. FOULKE, JR., TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FARM CREDIT ADMINISTRATION

LOWELL LEE JUNKINS, OF IOWA, TO BE MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION, VICE EDWARD CHARLES WILLIAMSON, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

EXPORT-IMPORT BANK OF THE UNITED STATES

MARTIN A. KAMARCK, OF MASSACHUSETTS, TO BE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 1997, VICE KENNETH D. BRODY, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL CREDIT UNION ADMINISTRATION

YOLANDA TOWNSEND WHEAT, OF MISSOURI, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR THE TERM OF 6 YEARS EXPIRING AUGUST 2, 2001, VICE ROBERT H. SWAN, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF STATE

MORRIS N. HUGHES, JR., OF NEBRASKA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BURUNDI.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT OF THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. CARL E. FRANKLIN, 458-58-3551, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. WALTER KROSS, 113-34-0276.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICER IS ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE:

ARMY COMPETITIVE

To be major

MARK H. LAUBER, 476-76-1270

THE FOLLOWING-NAMED OFFICERS APPOINTMENT IN THE RESERVE OF THE ARMY WITHOUT CONCURRENT ORDER TO ACTIVE DUTY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 12203(A), 12204(A), 3353, AND 3359:

DENTAL CORPS

To be lieutenant colonel

JEFFERY DOOTSON, 558-94-6530
JON E. SCHIFF, 308-42-0762

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE:

ARMY COMPETITIVE

To be lieutenant colonel

DANIEL BOLAS, 050-44-7150
KENNETH R. LEE, 246-86-6679
CARL D. WILEY, 242-04-4168

MEDICAL CORPS

To be major

PAUL S. DARBY, 218-70-2634

THE FOLLOWING-NAMED INDIVIDUALS FOR A RESERVE OF THE ARMY APPOINTMENT, WITHOUT CONCURRENT ORDER TO ACTIVE DUTY UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 12203(A), 12204(A), 3353, AND 3359:

MEDICAL CORPS

To be lieutenant colonel

RICHARD R. ECKERT, 151-42-7918
ROBERT S. KNAPP, 178-32-6636

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 12203 AND 3385:

ARMY PROMOTION LIST

To be colonel

ERNEST R. ADKINS, 284-40-2714
PETER A. CHIEFARI, 061-36-4523
JAMES A. COZINE, 518-52-4288
PAUL J. CUNNINGHAM, 182-40-1964
RICHARD M. DEVILLE, 503-54-6429
JAMES V. GORDON, 248-86-2940
RICHARD D. HOVERSON, 519-50-5886
MITCHELL R. LECLAIRE, 396-52-4067
BUFORD S. MABRY, JR., 248-80-2958
LARRY H. MAXWELL, 412-76-9067
FLOYD D. PARRY, 511-42-0049
JOSEPH F. ROONEY, JR., 530-32-1433
THOMAS M. TRITSCH, 509-56-0726
RICHARD A. VNUK, 031-34-6342
GREGORY L. WAYT, 290-42-4702
BARRINGER F. WINGARD, JR., 249-80-6579

ARMY NURSE CORPS

To be colonel

BETTY L. POEHL, 372-42-0128
CATHERINE A. MOZDEN, 015-38-8838

CHAPLAIN CORPS

To be colonel

KENNETH N. DAFT, 295-42-0435

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

JAMES K. NADDEO, 268-46-9198

MEDICAL CORPS

To be colonel

YOUNG W. KAHN, 075-52-5893

MEDICAL SERVICE CORPS

To be colonel

ROBERT P. THOMAS, 570-74-8464

ARMY PROMOTION LIST

To be colonel

WILLIAM P. BABCOCK, 037-28-6572
TERRY L. DAVIS, 167-40-0926
ROBERT R. DEROSIER, 471-68-2431
GREGORY R. DISHER, 392-44-1371
LARRY L. DIXON, 527-78-5961
WILLIAM F. ELROD, 250-84-9375
ERNEST T. ERICKSON, 109-40-6157
SPENCER L. HAWLEY, 503-68-0878
LAWRENCE M. HAYDEN, 417-80-6067
DOUGLAS A. HILLENSBACK, 587-70-0462
NORMA J. KRUEGER, 413-80-5028
BARRY L. REYNOLDS, 207-38-6404
PHILLIP A. RICHARDSON, 241-88-8013
MILLARD C. RUSHING, 466-68-2821
CHARLES R. SETZER, 533-11-3201
CHERIE D. SMITH, 265-82-7592
JOHN F. SMITH, 564-82-1512
RUSSELL O. VERNON, 048-40-6956
JANICE A. WILLIAMSON, 021-44-7447

CHAPLAIN CORPS

To be lieutenant colonel

GARY L. GROSS, 505-80-8676

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

MYRON C. LINDQUIST, 504-60-2110

MEDICAL CORPS

To be lieutenant colonel

ANITA K. DAS, 313-60-7693

MEDICAL SERVICE CORPS

To be lieutenant colonel

JUDY L. FATTOR, 523-56-3917
JAMES C. ROBERTSON, JR., 552-78-1498

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED BY AN ASTERISK (*) ARE ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE:

MEDICAL CORPS

To be lieutenant colonel

*RAYMOND A. CONSTABILE, 215-76-0487
CHAEIM S. PONTIUS, 102-64-4541
*CRAIG D. SHRIVER, 201-48-0237

VETERINARY CORPS

To be lieutenant colonel

NEIL W. AHLE, 493-60-6333

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

CHAPLAIN

To be lieutenant colonel

GLEN, L. BLOOMSTROM, 473-70-5620
MICHAEL BRADFIELD, 214-62-4246
DAVID H. BRADFORD, 024-44-2654
FRANK J. BRUNING, 496-58-5436
CHARLES D. CHANDLER, 528-74-6123
JOEL W. COCKLIN, 215-44-2258
ALAN C. HENDRICKSON, 486-52-8206
FREDERICK L. HUDSON, 434-68-7474
RONALD R. HUGGLER, 194-44-8213
JAMES W. JONES, 121-34-7621
JO A. KNIGHT, 298-44-9639
RICHARD A. KUHLBARS, 585-64-0622
DANIEL A. MILLER, 219-50-5580
OTIS I. MITCHELL, 254-96-5210
ALVIN M. MOORE, 428-94-2272
DONNIE L. MOORE, 431-88-0535
SHERRILL F. MUNN, 446-46-0802
DENNIS A. NIEMEIER, 285-48-7406
STEVEN D. PASCHALL, 241-78-3285
ALOYSIUS RODRIGUEZ, 435-33-3142
STEPHEN D. TURNER, 223-84-1262
JACK J. VANDYKEN, 422-74-4779
JAMES E. WALKER, 251-86-5832
WILLIAM D. WILLETT, 404-72-8634
LARRY J. WOODS, 510-54-6231
HERSHEL D. YANCEY, 413-86-2071
RICHARD R. YOUNG, 173-44-8859

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION OF THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE. THE OFFICERS MARKED BY AN ASTERISK (*) ARE ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE:

MEDICAL SERVICES CORPS

To be major

*WILLIAM E. ACKERMAN, 267-43-5148
*REED B. ALIDER, 529-84-3891
*MICHAEL L. AMARAL, 026-46-4732
JOSE ANDUJARRIVERA, 584-68-0048
*JOSE L. BAEZ, 582-85-6283
KELLEY M. BARHAM, 240-08-1521
*CATHERINE A. BECK, 397-62-8590
TRAVIS BERNRITTER, 536-88-3400
THOMAS H. BERRY, 235-82-4747
ROBERT A. BOWDEN, 464-19-2639
DOUGLAS A. BRANDSMA, 527-15-3139
*CHARLES BROOKSHIRE, 250-96-4635
*PETER T. BULATAO, 171-48-8893
GORDON R. CAIN, 408-23-8070
*MICHAEL G. CAMMACK, 518-48-8243
*JAMES B. CARR, 264-31-0233
*CHRISTOPHER CASTLE, 173-60-8408
*GRANT J. COBBS, 249-25-4323
MICHAEL R. COOK, 538-66-5722
*MARTIN N. COPPOLA, 128-62-3909
JANE A. CRONK, 012-62-1583
*ERIC P. DAWSON, 218-64-8789
*MICHAEL J. DELLORCO, 491-72-0763
*JOHN A. DEMCHOK, 171-52-8349
WILLIAM C. DOWDY, 430-41-6022
*THOMAS DUBE, 042-64-6302
*CHARLES W. DUNTLEY, 112-48-8921
*REBECCA A. DYER, 396-74-7628
*CHERYL L. FILBY, 298-52-9036
*ARTHUR B. FISCH, 116-40-2868
*JEFFREY M. FOE, 520-78-7292
GERALD A. FOREST, 501-90-4467
*WILTON R. GALAMISON, 146-56-4586
*DANIEL W. GALL, 225-19-4307
*STEVEN R. GALLEGOS, 585-23-3830
*KATHY E. GATES, 076-44-2056
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VOL
142
PT
6
AP
15
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24
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*WALTER R. CHAPPELL, 417-66-8373
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*PASTINA D. DE, 197-60-[illegible]106
GUY A. DESMOND, 202-[illegible]-4752
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*LAVERNE MOOREWASHINGTON, 161-46-7298
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*DANILO C. MOTAS, 568-98-4704
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*VICTOR N. NIEMI, 274-44-7490
*SHARON J. PACCHIANA, 216-50-9898
*SHELLEY V. PALUCH, 284-50-6005
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*MARY L. PICKRELL, 269-42-8623
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*CECILIA PRICEKIMBLE, 057-54-5154
*MARY E. RILEY, 326-66-0676
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*CATHERINE F. RYAN, 027-52-9110
*TRACY L. SABOY, 216-72-2338
*MARILIE K. SAGE, 530-42-8389
*CARMEN S. SANDERS, 571-70-7979
*WANDA L. SCOTT, 421-78-0833
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*WENDELL D. SOUTH, 281-52-8439
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*MACIVER M. TERAN, 454-78-6399
LESLIE TUCHMANN, 045-68-3310
*JANICE D. TURMAN, 415-19-3128
*DEBRA J. VINCENT, 101-52-0592
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*GLORIA WHITEHURST, 416-88-1317
*MELISSA E. YANDEL, 200-60-9557
*MYRNA E. ZAPATA, 582-98-1067

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR APPOINTMENT INTO THE REGULAR MARINE CORPS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. MARINE CORPS AUGMENTATION LIST

To be major

JOEL H. BERRY III, 231-94-6291
ROBERT L. BEVERIDGE, 264-45-3625
WILLIAM S. BRADLEY, 036-54-4358
JERRY L. BUBP, 279-54-9036
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JOHN L. WELINSKI, 532-72-9913

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CHARLES C. MILLER, 439-23-0438
DAVID J. MINER, 477-02-9615
DENNY A. MIRELES, 460-53-0309
JOSEPH F. MONROE, 575-66-8501
AMES D. MOORE, 525-33-0484
JAMES H. MOORE, 449-94-4088
MICHAEL A. MOORE, 508-04-9024
DAVID L. MORGAN II, 143-76-9837
CHRISTOPHE W. MORTON, 198-52-9449
ALBERT G. MOSELEY IV, 251-25-4528
KEVIN G. MOSS, 493-74-6164
MICHAEL G. MUEHLE, 572-45-3383
MICHAEL J. MURPHY, 040-56-0697
STEPHEN J. MURPHY, 228-84-4951
LAWRENCE O. NAPIER, 499-64-9615
RANDY A. NASH, 498-76-6111
RICHARD J. NEFF, 528-19-1919
MICHAEL K. NELSON, 472-94-4119
SAMUEL C. NELSON III, 464-11-6844
JOHN J. NOEL, 507-02-6247
RAYMOND T. NOLIN, 046-62-0992
KENNETH B. NYHOLM, 413-27-9648
GEORGE E. OBSER, 258-39-4793
KYLE J. OMALLEY, 470-64-2747
JOHN R. ONEAL, 382-66-5946
TODD J. ONETO, 042-62-2054
RENE A. ORELLANA, 102-54-9622
RICHARD T. OSTERMEYER, 496-84-0559
CHRISTOPHER J. PARKHURST, 048-60-0113
BRUCE G. PATERSON, 224-27-0985
BRIAN J. PAYNE, 355-48-2371
JOHN M. PECK, 302-66-6262
MARK B. PENNINGTON, 230-08-8011
JOSEPH F. PERITO, 126-60-2095
MICKIEL D. PETE, 259-37-9246
STEPHEN L. PETERS, 532-80-8242
ALEX G. PETERSON, 521-92-9780
MICHAEL R. PFISTER, 308-90-5390
CHRISTOPHER S. PINCKNEY, 246-39-6131
JASON K. POPE, 460-47-7179
DAVE S. PORTILLO, 451-84-7812
ALBERT C. POTRAZ, 300-64-6017
MICHAEL J. POWELL, 517-78-8021
WILLIS E. PRICE III, 431-29-0961
DEAN L. PUTNAM, 033-58-6379
STEVEN P. QUINTANA, 572-53-2035
WILLIAM A. RANDALL, 542-04-8312
GERALD S. RATLIFF, 301-72-5247
ROBERT L. RAUENHORST, 477-80-0836
ALEX M. RAY, 521-92-7374
JAMES E. RECTOR, 425-39-2138
GERALD R. REID, 283-74-2600
PHILLIP J. REIMAN, 576-64-8986
WILLIAM H. REINHART, 014-62-1319
WILLIAM R. REYNOLDS, 349-60-2125
JON E. RICE, 545-77-3697
JADE N. RICHARD, 437-39-3245
GEORGE W. RIGGS, 266-43-6642
DONALD J. RILEY, 027-50-4907
CHARLES R. RISIO, 059-66-6969
JIMMY R. RIVERA, 464-49-5519
RICHARD J. ROCHELLE, 532-82-7298
GLENN A. ROGERS, 528-08-4441
CURTIS M. ROGERS III, 239-25-4462
KARL W. ROTH, 333-62-7206
HOWARD D. RUSSELL, 565-11-8389
ROLLIN R. RUSSELL II, 180-60-9689
JONATHAN L. SACHAR, 339-46-5650
GLENN J. SADOWSKI, 063-64-5209
MICHAEL J. SANDERS, 525-19-2557
WESLEY E. SANDERS, 240-29-6979
DAVID L. SANFORD, 595-03-6109
STEPHEN P. SANTIAGO, 594-07-7711
MARK R. SCHAEFER, 199-52-7553
JEFFERY D. SCRAMSTAD, 475-90-0051
ROBERT G. SCUMACI, 092-66-5343
DEREK W. SHAFFER, 464-45-1966
ROBERT C. SHERRILL, 512-96-0691
DENNIS J. SHERWOOD, 390-84-2243
PAUL G. SICHENZIA, 188-60-3079
QUINN R. SIEVERTS, 529-17-7059
KEVIN M. SISBARRO, 222-42-8373
SCOTT R. SIZEMORE, 534-82-6041
WYLIE S. SLATER, 452-57-7294
WILLIAM E. SMITH JR., 255-21-3636
MARK E. SOJOURNER, 460-19-6916
JEFFREY G. SORTOR, 536-76-9290
KARL H. SPAETH, JR., 208-52-2328
JOHN C. SPAHR, 155-56-3980
ROBERT J. STEFANOWICZ, 135-58-9614
ROSS L. STEPHENSON, JR., 465-15-5283
SEAN C. STEWART, 223-96-3310
VICTOR S. STOVER, 324-70-8888
PAUL T. SULLIVAN, 591-20-3680
SCOTT J. TABER, 036-38-7007
THOMAS L. TALOVICH, 001-54-3579
CHRISTOPHER D. TAYLOR, 499-68-7451
MICHAEL W. TAYLOR, 350-72-4697
TODD S. TAYLOR, 403-19-9701
RANDALL W. TETEAK, JR., 327-54-0780
LANCE M. THOMAS, 447-76-0471
CHRISTOPHER D. THOMPSON, 258-81-6435
DAVID C. THOMPSON, 001-62-3430
BRUCE J. THOMSEN, 543-80-9780
HUGH V. TILLMAN, 005-76-1819
KEITH H. TREADWAY, 255-31-6059
STEPHEN P. TREICHEL, 477-96-2898
WILLIAM J. TRUAX, JR., 532-64-0739
GREGORY P. UTLEY, 415-94-7811
DAVID J. VAIL, 019-56-7844
DAVID N. VANDIVORT, 515-80-0559
WILLIAM J. VANZANTEN, 524-39-0529
DANNY J. VERDA, 433-47-1355
LEWIS D. VOGLER, 436-86-0021
JEANNE A. WADZINSKI, 114-52-9694
MICHAEL C. WAGNER, 308-78-2987
MARSHAL D. WALLACE, 203-42-1610
PATRICK B. WALTERS, 433-39-5751
ANDREW J. WAREHAM, 586-07-1997
VINCENT P. WAWRZYNSKI, 566-49-8681
MARC A. WEBSTER, 344-48-6451
DIXON D. WELT, 130-66-5416
STEPHEN A. WENRICH, 172-42-4906
STEPHEN T. WERNECKE, 222-54-0065
ROBERT A. WILKERSON, 510-86-5392
SCOTT R. WILTERMOOD, 573-47-9651
DONALD K. WIMP, 551-79-3936
LEE J. WINTERS, 312-56-8537
RICHARD D. WOLF, 522-82-6190
KEVIN J. WOLFE, 149-76-1327
MICHAEL A. WOOD, 242-02-1810
ROBERT C. WRIGHT, JR., 138-70-9107
EUGENE J. ZINNI, 131-62-4575

To be first lieutenant

EDUARDO A. ABISELLAN, 411-39-5229
TED A. ADAMS, 516-94-8353
JOSEPH S. ALEXANDER IV, 266-57-0383
TODD L. AMANN, 086-62-4923
VINCENT D. APPLEWHITE, 146-74-0987
STEPHEN P. ARMES, 535-86-9487
JOHN B. ATKINSON, 030-48-6064
THOMAS P. BAJUS II, 094-64-8358
PAUL D. BAKER, 441-74-7970
JOHN M. BARNETT, 362-98-0436
GARY E. BELL, 449-45-7382
WILLIE C. BERRIOS, 217-78-5404
BRENT W. BIEN, 520-64-0613
CHRISTOPHER S. BISCHOFF, 532-74-8647
CHARLES N. BLACK, 577-11-3185
TODD V. BOTTOMS, 524-27-0215
MATTHEW C. BOYKIN, 237-04-8565
DAVID P. BRADNEY, 460-63-1987
RONALD C. BRANEY, 072-44-8561
CHRISTOPHER A. BREWSTER, 226-23-4815
RALPH E. BRUBAKER, JR., 230-13-7825
DANIEL W. BUCKLEY, 230-88-3381
HEATHER M. BURGESS, 530-92-5403
TODD T. BUTLER, 251-57-0091
TED L. CANADAY, 171-48-7986
JAMES C. CARROLL III, 455-47-5768
TIMOTHY T. CARTER, 548-53-5578
MICHAEL S. CASEY, 452-63-7619
BRIAN S. CHRISTMAS, 576-19-1476
WILLIAM P. CLARK, 217-86-1196
TIMOTHY L. CLARKE, 486-76-0104
ANDREW R. COFER, 228-13-5894
MATTHEW D. COOPER, 246-31-6831
EDITH W. CORDERY, 140-86-8420
MATTHEW C. CULBERTSON, 223-19-0543
JEFFREY R. CUNDITH, 548-73-3726
MICHAEL J. CURTIN, 042-76-6026
SEAN P. DARDEEN, 308-80-0649
FELIX B. DAVIDSON, 504-82-1173
CHRISTOPHE J. DOUGLAS, 089-58-7160
FRED H. EGERER II, 601-07-0079
JEFFREY C. EVANS, 585-08-3890
IAN M. FACEY, SR., 214-06-1586
THOMAS M. FAHY, JR., 176-58-3541
JAMES P. FALLON, 031-62-8394
TIMOTHY L. FANNING, 601-12-8396
JAMES P. FARRELLY, 082-58-6124
ANDREW J. FLOYD, 250-57-9670
PHILLIP N. FRIETZE, 585-72-7495
JOHN L. FUREY, 226-04-0108
TIMOTHY P. GEORGE, 184-46-1449
DONALD A. GORDON, 300-50-4220
ROBERT GOVONI, 026-62-3411
EDWARD M. GRANDINETTI III, 527-87-9116
DAVID P. GRANT, 007-82-1080
CHARLES R. GRAY, 220-66-3830
IAN C. GRIGGS, 499-82-4692
CLARENCE T. GUTHRIE III, 424-92-3221
NICHOLAS S. HALE, 333-72-8777
JASON S. HANSON, 540-82-3492
CLARENCE T. HARPER III, 258-25-9348
FRANK W. HARRAR, 233-31-3108
JAMES W. HARRIS, JR., 138-66-2891
MARK A. HASHIMOTO, 576-64-8646
ROBERT A. HAUGHTON, 334-66-8449
SPENCER E. HELGESON, 045-54-8852
KATRINA HENSLEY, 440-72-1450
HENRY C. HESS, 226-35-8417
MICHAEL J. HILLYARD, 038-44-9988
ROBERT P. HINDMARCH, 438-45-1085
STEVEN W. HODGE, JR., 442-80-7555

VOL
142
PT
6
AP
15
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24
1996
UMI

JEFFREY P. BOGAN, 131-70-7316
RENEE A. HOLMES, 494-96-1110
DAVID S. HUGHEY, 543-74-4559
JEFFREY L. JAROSZ, 546-15-6857
MARK J. JOHNSON, 289-54-2762
DAVID M. KASE, 047-72-6138
JEFFREY S. KAWADA, 334-74-1119
JOHN KEANE, 374-66-4394
KEVEN J. KELLEHER, 046-54-6964
MICHAEL J. KENNEDY, 449-57-6034
PATRICK M. KIELY, 229-23-4377
SUN W. KIM, 349-72-7143
JEFFREY A. KNUDSON, 493-84-0917
JOHN M. KRAUSE, 309-84-3381
JOSEPH O. KRINGLER, JR., 147-70-6274
CLIFFORD J. LANDRETH, 526-53-7339
EDWARD T. LANG, 184-60-8542
WILLIAM F. LAPRATT, 381-79-2282
ALFRED R. LEWIS, JR., 009-56-2930
CURTIS T. LOBERGER, 397-76-7033
BRYAN F. LUCAS, 307-78-1905
BARTLETT D. LUDLOW, 476-84-1700
RICHARD E. LUEHRS II, 223-33-3954
MORRIS C. MAHALEY, 302-92-8532
GEORGE G. MALKASIAN, 025-46-4716
MATTHEW R. MARCENELLE, 206-46-6064
KEVEN W. MATTHEWS, 576-82-4929
DENNIS P. MATTSON, JR., 029-60-6213
DANIEL P. MC KENNA, 055-60-3391
ALAN G. MC KINNON, 290-37-5108
JOHN T. MEEK II, 436-47-7143
JAMES J. MIGLETZ, 294-70-7628
BOYD A. MILLER, 194-48-0984
JOHN L. MILLER, 255-19-5232
THOMAS M. MIRANDE, 149-50-2347
KURT E. MOGENSEN, 528-21-5380
BARRY A. MONTGOMERY, 434-92-3621
PAUL T. MORGAN, 481-80-4487
DAVID C. MORRIS, 235-81-3672
MICHAEL F. MOSS, 580-20-0027
ANDREW MUNDY, 215-84-5557
JOHN J. MURPHY III, 039-60-1001
DAVID NATHANSON, 137-60-0485
JOHN M. NEVILLE, JR., 261-77-1361
ANDREW M. NIEBEL, 239-73-0319
PAUL J. NUGENT, 489-68-5627
MICHAEL H. OPPENHEIM, 552-25-3474
MICHAEL S. OSHAUGHNESSY, 252-04-4123
BENJAMIN J. PALMER, 550-85-6086
DANIEL L. PARIS, 145-78-2223
MATTHEW W. PARK, 329-50-8803
WALTER P. PARKER, 248-82-2977
MARK J. PARKITNY, 329-60-0704
TERRY L. PATTERSON, 391-82-7209
PAUL L. PICKETT, 426-45-3760
RICARDO T. PLAYER, 270-68-7111
ROBERT J. PLEVELL, 489-92-8732
MORRIS W. PRIDDY, 413-29-3873
DALE A. PUFAHL, 306-82-3617
MATTHEW PUGLISI, 149-66-6976
MATTHEW G. RAU, 536-84-7130
TIMOTHY D. RENZ, 502-84-2148
THOMAS J. REPETTI, SR., 214-86-4761
DAVID E. RICHARDSON, 374-86-4557
SEAN M. RIORDAN, 228-17-3858
KEITH T. RIVINIUS, 024-60-0641
PAUL A. ROSENBLOOM, 044-60-2460
BRIAN L. RUEGER, 484-92-6615
THOMAS B. SAVAGE, 516-88-0116
ROBERT K. SCHWARZ, 308-74-1552
DAVID D. SCOTT, 390-76-9845
WILLIAM D. SHUELL, 370-84-5949
TODD P. SIMMONS, 065-60-5153
JOSEPH D. SINICROPE, JR., 228-31-5306
WALTER S. SKRZYNSKI, 177-60-4383
KENNETH M. SKUTNIK, 506-72-3335
MARK E. SLUSHER, 143-48-1908
GREGORY J. SMITH, 289-82-6496
KARL SMOLARZ, 119-64-5094
DAVID B. SOSA, 097-60-4741
JOHNNY M. SPANN, 416-21-6382
DIANA L. STANESZEWSKI, 262-91-1795
KEVIN J. STEWART, 037-52-7091
ANDREW A. STOKES, 460-98-2460
JIMMY C. SWAFFORD, 448-78-4351
FRANKLIN M. THURSTON, JR., 231-06-8223
SEAN P. TIERNAN, 019-86-3474
BRIAN F. TIVNAN, 010-66-7406
LEONARD E. TROXEL, 531-58-9052
JOHN E. WALKER, JR., 529-27-9568
EDWARD J. WELSH, 044-56-0273
MARTIN F. WETTERAUER, III, 438-47-3619
RICHARD W. WHITMER, 375-70-1609
JAMES R. WILLSEA, 389-86-7439
BRIAN N. WOLFORD, 212-08-5818
TYLER J. ZAGURSKI, 531-76-6444
JOSEPH J. ZARBA, JR., 523-25-1984
RICHARD D. ZYLA, 371-86-3108

To be second lieutenant

BRIAN W. BALBONI, 590-26-2154
JONATHAN E. BURFORD, 245-08-9601
FRIDRIK FRIDRIKSSON, 531-74-3722
DAVID W. HUDSPETH, 241-51-0088
KEITH A. PARRY, 169-68-7959
EDMUND P. POWER, 119-52-3161
JON M. SCOTT, 456-65-6792
KEITH A. VANASDALAN, 168-56-3456
DANIEL P. WHISNANT, 329-58-1925

THE FOLLOWING-NAMED LIMITED DUTY OFFICERS OF THE REGULAR MARINE CORPS FOR APPOINTMENT AND DESIGNATION AS UNRESTRICTED OFFICERS IN THE REGULAR MARINE CORPS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531 AND 5589:

U.S. MARINE CORPS UNRESTRICTED LIST

To be lieutenant colonel

ARTHUR G. FRIEND, 438-66-3660

To be major

GARY D. FRALEY, 235-78-5805
STEVEN HICKEY, 456-94-7020
PATRICK E. MILLER, 523-72-4033
JOHN C. WRIGHT, 150-48-5091

To be captain

WAYNE R. STEELE, 527-94-4873

IN THE NAVY

THE FOLLOWING-NAMED NAVAL ACADEMY GRADCATES TO BE APPOINTED PERMANENT ENSIGNS IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

DAVID L. AAMODT, 534-72-6956
JAMIE W. ACHEE, 281-82-4046
CHRISTOPHER W. ADAMS, 371-72-0259
JAMES P. ADAMS, 220-02-4852
MICHAEL J. ADAMS, 222-56-2358
JOHN E. AGER, 242-13-7809
SCOT C. ALBRECHT, 313-84-8218
CARA M. ALBRIGHT, 073-66-4925
JOHN E. ALEX, 278-74-5408
KEITH A. ALFIERI, 128-54-4983
CLIFFORD J. ALLEN, 061-70-4342
KEVIN S. ALLEN, 011-68-2382
MATTHEW S. ALLEN, 251-29-3660
ROBERT W. ALPIGINI, JR., 193-64-3552
LUIS ALVA, 337-68-3237
JOSEPH A. AMARAL, 549-63-9425
MICHAEL P. AMSTUTZ, JR., 306-92-3961
JEREMY T. ANDREW, 098-66-6221
WAYNE W. ANDREWS, III, 568-93-1558
BRIAN L. APPLEGATE, 148-80-6615
MICHAEL D. APRICENO, 079-62-7104
RICHARD M. ARCHER, 543-98-1036
KIMBERLY A. ARD, 549-91-7377
PETER A. ARROBIO, 549-71-3344
ROBERT S. ASHBURN, 524-33-0928
AARON R. AUSTIN, 576-21-8989
GEORGE J. AUSTIN, 179-60-6141
ERLINA P. AWA, 254-15-2108
JOHN F. BAEHR, 557-29-0067
JAMES D. BAHR, 050-58-2127
DAVID S. BAIRD, 139-58-2126
STEPHEN G. BAIRD, 292-82-8307
LINDSEY J. BAKER III, 404-86-7512
MICHAEL S. BAKER, 562-67-2067
CRAIO D. BANGOR, 214-88-7649
CHRISTOPHER M. BANKS, 139-68-6004
SEAN M. BANKS, 239-33-4196
HEATHER A. BARACKMAN, 229-02-0291
MICHAEL M. BARNA, 454-37-5379
LUKE A. BARRADELL, 158-84-3151
TREVOR J. BAST, 379-84-8533
DOUGLAS W. BATES, 009-54-3762
LORY N. BATTAGLIA, 245-45-7309
ROBERT M. BAUGE, 106-64-5505
MICHELLE M. BAUMBICH, 331-60-5026
JOSEPH W. BAYER, 476-17-8261
CHRISTOPHER F. BEAUBIEN, 590-20-5728
MICHAEL P. BECKER, 013-52-5268
MICHAEL C. BECKETTE, 498-76-3306
THOMAS A. BECKLEY, 108-64-4461
ELIZABETH A. BEEDE, 204-68-7139
BRIAN R. BENNETT, 262-93-9035
PATRICK L. BENNETT, 600-28-2063
RODERICK D. BENSON, 421-15-7340
AARON T. BERGLIN, 378-98-0106
RORY V. BERKE, 514-88-9259
ROBERT A. BERNER, 137-70-0249
JEFFREY R. BESSLER, 378-88-0051
MARCUS C. BICKLEY, 540-17-0109
MICHAEL D. BILLOK, 152-72-0938
ANTHONY J. BILOTTI, 458-21-7364
MICHAEL D. BISBEE, 530-90-2615
LANIE G. BLACK IV, 495-78-9240
YOLANDA E. BLAIR, 525-59-4567
STUART H. BLANCHETTE, 011-56-5206
ALEXANDER P. BOESENBERG, 315-96-5389
SHAWN A. BOHRER, 234-04-2514
MATTHEW R. BOLAND, 159-58-6993
CHAD A. BOLLMANN, 164-62-5443
JAMES E. BOOMER, 006-66-8050
WESLEY D. BOOSE, 262-87-2922
MICHAEL S. BORCHERDING, 325-78-7897
HOLLEY R. BOREN, 512-90-7333
RHOAN C. BOUCHER, 125-68-0930
JUANITO F. BOYDON, JR., 575-06-9417
MICHAEL J. BRADY, 225-02-0791
DANIEL B. BRANCH III, 259-39-5954
NICHOLAS A. BRANDT, 555-91-2527
WILLIAM L. BRECKINRIDGE VII, 554-95-7973
SCOTT M. BREEN, 434-19-4582
DAVID J. BRENIA, 099-60-7139
MICHAEL J. BRONS, 225-15-5850
AMANDA J. BROOKS, 452-59-9062
JAMIE M. BROOKS, 237-55-7948
LESTER A. BROWN, JR., 220-96-2205
RYAN D. BROWN, 215-80-7665
CURTIS W. BRUCE, JR., 587-53-7463
TODD M. BRUEMER, 493-84-3438
CORY S. BRUMMETT, 429-35-7888
EDDIE B. BUCKLES, JR., 463-65-3841
CHRISTOPHER M. BUGG, 237-15-3694
RICHARD O. BURGESS, 535-86-5076
WILLIAM B. BURKHEAD, 406-15-5217
RANDY J. BURLESON II, 530-04-1275
RODMAN D. BURLEY III, 264-55-3207
LANCE W. BURTON, 320-74-5599
WILLIAM C. BUSHMAN, JR., 249-61-3539
WILLIAM R. BUTLER, 316-68-8777
JOHNNIE L. CALDWELL III, 254-57-7289
SHARIF H. CALFEE, 153-78-8612
MARK J. CALLARI, 109-58-1726
JOHN J. CALVERT, JR., 249-23-4113
JENNIFER L. CAMPBELL, 616-01-1688
HUNG CAO, 586-32-1055
DAVID D. CARNAL, 413-06-2084
ISEL CARO, 455-37-4523
BRADLEY A. CARR, 305-86-0136
MICHAEL B. CARSON, 592-52-3734
JENNIE R. CARUSO, 281-72-8616
MICHELE L. CASEY, 220-96-2563
CHRISTOPHER P. CASTLEMAN, 239-45-3363
RYAN C. CECH, 517-11-9142
JILL R. CESARI, 190-52-3022
ANN C. CHAMBERLAIN, 085-62-8318
WILL J. CHAMBERS, 585-25-6949
EDWARD M. CHANDLER, 348-66-7095
EDWARD C. CHAPMAN, 040-66-3572
MICHAEL A. CHENOWETH, 071-58-3871
ROBERT D. CHIARUTTINI, 325-58-2295
CLARK C. CHILDERS, 450-55-3006
JAMES C. CHITKO, 395-74-2358
ERIC W. CHRISTIAN II, 436-25-6396
MARC R. CHRISTINO, 044-72-9405
PATRICK B. CLARK, 225-13-1801
CHRISTOPHER P. CLEARY, 032-66-3180
MATTHEW P. CLEMENT, 003-62-8141
DWIGHT L. CLEMONS II, 595-03-5671
CHRISTOPHER G. CLINE, 235-11-1918
BLAKE C. COLEMAN, 581-89-8758
WALTER B. COLEY, JR., 225-49-2912
MATTHEW T. COLLINS, 065-68-4716
JAMES J. CONATSER, 415-31-5393
THOMAS G. CONROE, 506-15-8116
SALVADOR C. CONVENTO, 168-62-1245
MATTHEW R. COOK, 068-64-4251
KWAME O. COOKE, 420-13-1869
DREW W. COOPER, 282-74-8749
MICHAEL J. COOPER, 062-72-5408
TODD P. COPELAND, 590-26-4724
SCOTT E. CORBETT, 142-82-0508
MICHAEL CORNELIUS, 171-68-8805
DERIC R. COTTON, 259-21-2210
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VOL
142
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6
AP
15
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24
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HOUSE OF REPRESENTATIVES—*Monday, April 15, 1996*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. BARTON of Texas].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 15, 1996.

I hereby designate the Honorable JOE BARTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On March 7, 1996:

H.R. 2196. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 with respect to inventions made under cooperative research and development agreements, and for other purposes.

On March 12, 1996:

H.R. 927. An act to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

H.R. 3021. An act to guarantee the continuing full investment of Social Security and other Federal funds in obligations of the United States.

On March 15, 1996:

H.J. Res. 163. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

On March 20, 1996:

H.R. 2778. An act to provide that members of the Armed Forces performing services for the peacekeeping efforts in Bosnia and Herzegovina, Croatia, and Macedonia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes.

On March 22, 1996:

H.J. Res. 165. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

On March 26, 1996:

H.R. 2036. An act to amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, and for other purposes.

On March 29, 1996:

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

H.R. 3136. An act to provide for enactment for the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.

On April 1, 1996:

H.J. Res. 78. Joint resolution to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.

H.R. 1266. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

H.R. 1787. An act to amend the Federal Food, Drug, and Cosmetic Act to repeal the saccharin notice requirement.

On April 4, 1996:

H.R. 2854. An act to modify the operation of certain agricultural programs.

On April 9, 1996:

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

The message further announced that on the following dates the President approved and signed bills and a joint resolution of the Senate of the following titles:

On March 28, 1996:

S. 1494. An act to provide an extension for fiscal year 1996 for certain programs administered by the Secretary of Housing and Urban Development and the Secretary of Agriculture, and for other purposes.

On April 1, 1996:

S.J. Res. 38. Joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

On April 9, 1996:

S. 4. An act to give the President line-item veto authority with respect to appropriations, new direct spending, and limited tax benefits.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Guam [Mr. UNDERWOOD] for 5 minutes.

JAPAN FORCES REDEPLOYMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Guam [Mr. UNDERWOOD] is recognized during morning business for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, today President Clinton arrives in Asia on a trip designed to shore up the United States security relationship with Japan and Korea. Since the conviction of three marines on charges of raping a 12-year-old girl in Okinawa and the ensuing protests on the island, the future status of U.S. forces on Okinawa has been unclear.

Following the rape incident, other issues, such as the return of land used by U.S. forces on Okinawa, have boiled to the surface. Last week, landowners on Okinawa refused to renew land leases on which U.S. forces train. Pressure from Okinawan landowners has forced the Pentagon to reevaluate the future status of U.S. military bases on Okinawa.

A discussion of United States forces in Japan inevitably involves an evaluation of the United States presence in both Guam and the Asian Pacific region and the Pentagon's policy of forward deployment of 100,000 American forces in the region. I am pleased that the administration has stood firm on our security commitments and on maintaining the military forces necessary to support these commitments.

As recent incidents in the Taiwan Straits and North Korea's military provocations in the DMZ demonstrate, the United States must maintain the flexibility to respond quickly to threats in the region. In spite of technological advances which enable rapid deployment of forces from other U.S. bases to the Pacific, there is no substitute for a forward-deployed U.S. presence in the region. For 50 years, the U.S. presence in the Asia Pacific region has maintained the peace and made possible the economic prosperity the region and the United States have enjoyed.

Yesterday, Secretary of Defense William Perry announced that the U.S. military will give back to Okinawa about 20 percent of the island property it uses for training. Secretary Perry qualified this action by saying that "we are in no way backing off from our view that the United States military presence in Japan, in Okinawa, is critical to security in the region." While some of these forces are being transferred to other bases in Japan, the Secretary said the United States is now considering moving some military forces from Japan to other places in the region, including Guam.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 142 PT 6 AP 15 — 24 1996 UMI

Secretary Perry's thinking on this issue proves what Guam has been saying all along: Guam should be considered in the context of its role in Asia and not compared to domestic bases. It appears that Guam is Secretary Perry's fallback position. The Defense Department should make clear its intentions for Guam. This is only fair to Guam, which has been subjected to mixed signals from DOD—on the one hand we are enduring military cuts mandated by BRAC 95 while on the other hand we are told our island is DOD's fallback.

The problematic status of foreign basing should make the Pentagon reevaluate its timetable and pace of base closures on Guam. Guam and its U.S. citizens provides stability, and unlike foreign bases, the military does not have to deal with arduous political issues and international agreements.

The reliance on workers at foreign ship repair facilities undercuts the Pentagon's support on Guam. As a matter of principle, American workers on Guam deserve the benefits of forward deployment. As a matter of policy, the Pentagon would be prudent to guarantee an effective transition for the ship repair facility on Guam which was slated for closure by a recent BRAC decision. A prudent policy would be to keep the Military Sealift Command supply ships forward deployed on Guam while Guam transitions to a privatized SRF.

The successful transition to a privatized SRF-Guam depends on repair work from these supply ships. Keeping the supply ships on Guam for the foreseeable future is good policy for three reasons:

First, the supply ships will help Guam implement its privatization by providing SRF with a base load of work;

Second, this policy will provide support for American workers at an American shipyard;

And third, this policy will give the Navy a reliable ship repair facility that supports their forward presence in Asia unencumbered by changing international dynamics.

The Navy's national security concerns cannot be divorced from Guam's economic recovery. The Navy has long-term requirements on Guam, but it must also recognize the needs of its host. I am hopeful that the Pentagon will learn a lesson from its experience in Okinawa: unlike foreign bases, Guam is reliable.

A HISTORIC OPPORTUNITY TO VOTE ON A TAX LIMITATION CONSTITUTIONAL AMENDMENT

The SPEAKER pro tempore (Mr. HOBSON). Under a previous order of the House, the gentleman from Texas [Mr. BARTON] is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Speaker, this evening at approximately 9 p.m., this House is going to have a historic opportunity to vote on the tax limitation constitutional amendment to the Constitution of the United States. The wording of the pertinent paragraph of that article is to my left. It states "Any bill, resolution, or other legislative measure changing the internal laws shall require for final adoption in either House the concurrence of two-thirds of the Members present * * *."

Back in 1787, when our Founding Fathers wrote the original Constitution and sent it to the States for ratification, there were 7 requirements in it to require some sort of supermajority. A two-thirds vote was required to ratify treaties, a two-thirds vote was required to expel Members from Congress, a two-thirds vote was required to impeach Federal judges and so on. The Founding Fathers did not require a supermajority vote to raise taxes, but they were aware that the ability to raise taxes should be restrained in some way. So they gave the authority to introduce tax bills to one body, the House of Representatives, because in 1787 the only Federal institution that had to be directly elected by the people was the House of Representatives.

That limitation worked fine for 125 years, and then in 1913, the 16th amendment to the Constitution said an income tax was constitutional. I have a copy of the first 1040 form back in 1913 with me this morning. It shows that the tax was 1 percent on income up to $20,000, net income. Only one-tenth of 1 percent of all American citizens had to file a 1040 back in 1913. Since that time, though, there has been an explosion in Federal taxes.

I have with me a photocopy of my 1040 that I sent to Austin, TX, last week, and the instruction booklet that goes along with it.

The marginal tax rate on American citizens today is not 1 percent, it is 40 percent. That is an increase in marginal taxation on the American people of 4,000 percent, 4,000 percent in less than 90 years.

Enough is enough. It is now time to add an amendment to the Constitution that says there should be a supermajority vote required to raise taxes. Why a supermajority tax limitation amendment? Quite simply, as I have already said, it is necessary. More importantly, it works. There are 10 States that currently have some sort of supermajority requirement in their State constitutions. They are Arizona, Arkansas, California, Colorado, Delaware, Florida, Louisiana, Mississippi, Oklahoma, and South Dakota.

☐ 1245

In those 10 States, there are four things that are true in every State: Taxes are lower than in States that do not have supermajority; taxes go up slower than in States that do not have supermajority; consequently, jobs increase faster; and the economic growth in that State goes up faster. So we know that in the 10 States, including the largest State, the State of California, including the State where our President is from, Arkansas, tax limitation works.

Interestingly, no State that has adopted tax limitation has repealed the constitutional amendment or the law that put it in place.

Tax limitation would require in this House and in the Senate, if adopted, that there be a consensus to raise taxes. It would not make raising taxes impossible. We could still raise taxes, but it would take a two-thirds vote, which would mean you would not have the kind of tax bill that we had 2 years ago or 3 years ago that passed the House by two votes, all Republicans voting against it, and some Democrats voting against it, and passed the Senate on a tie breaker vote by Vice President GORE. It would require consensus, which is what supermajorities are all about.

The bottom line on why we need to pass this amendment is not about Washington, DC and it is not about macroeconomics analysis. It is about real people. For example, my district representative, Linda Gillespie, is a divorced mother of two. Her oldest son is married now. He and his wife both work. Linda's daughter is going to college and works part time. Linda works for me, but on the weekends she did have a part-time job at a blue jeans store in Ennis, TX, until it went out of business, trying to make enough money to make ends meet for her family.

Tax limitation is important to Linda Gillespie and Billy Gillespie and Julie Gillespie, because they want to make their own way, and they are finding it more and more difficult to do so because of the tax burden today and the probability, if we do not pass the supermajority requirement for tax increases, of an increase in their tax burden in the future.

Mr. Speaker, I would hope that later this evening, when we have this vote, that all Members of the House will vote for the tax limitation supermajority amendment to the Constitution.

VETO ON LATE TERM ABORTIONS CORRECT

The SPEAKER pro tempore (Mr. HOBSON). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I take the floor to talk a bit about my least favorite subject, but, nevertheless, to say this is a day I really want to thank President Clinton and thank him very sincerely. Because while we as Americans all say that we are all

different, but we are all equal, it is always hard to apply that. The President did apply that standard.

President Clinton listened carefully to women who had their pregnancies go off track late in the pregnancy, go terribly wrong,. all sorts of awful things happening to them, and President Clinton, hearing them, had the courage to then veto the so-called partial birth abortion bill.

Now, the political thing to do was let it become law without signing it, do all sorts of things. But that would really be saying women are second class citizens. And why?

I think any woman would be horrified to know that this Congress wants to make a law that says that if your doctor considers what he thinks or she thinks is best for your health, they could become a criminal. We do not do that for any other area. We have never done this before.

There are probably people who could get very upset about organ transplants, about all sorts of things. But once we start entering the consultation room, where a doctor is told to take his best medical knowledge and push it aside because if he applies it he then is going to be subject to imprisonment, to fines, and to a felony, we really are entering a brave new world.

There has been so much distortion about this bill. The obstetric and gynecology groups, the American College of Obstetrics and Gynecology, have stood up and firmly said "This bill should not pass." The American Nurses Association has said the same thing. Yet we have got everbody all focused fetally. We have all these drawings that people have criticized and said doctors did not do those drawings, special interest groups did.

We go through all these grizzly things. Everybody knows that under Roe versus Wade, in the final trimester, abortions can be denied anywhere in this country except for the life and health of the mother. So what we will do if we try to override that veto is say we are changing that. Now the health of the mother does not count anymore. If she has one pregnancy and it goes wrong and the doctor says "This is the only procedure that will save your reproductive organs," too bad, she had her shot, she rolled the dice, she lost. She does not get another chance at parenthood, nor does her family, her husband, get another chance at parenthood.

I think if we could just get some calm and reason coming into this body, everyone would agree with the President that this is not where this body belongs, practicing medicine, entering the medical consultation room, saying that doctors cannot think about their patient, the woman, they cannot apply their medical training, they cannot think about what is best, because if they do we will punish them.

It does not say that they can impose their will; the woman, the family, her religious beliefs, anything allows them to say no. Never is this mandated. But to hear the rhetoric that this is going to allow abortion on demand is absolute baloney. This has nothing to do with abortion on demand. This has to do with what can you do, what tools are available, when everything goes wrong.

If we do this, we are going to be criminalizing a tool, a tool. I guess people feel they can play politics with this, because so very few people have ever needed this tool. Fortunately, by the time most pregnancies get to the third trimester, they are OK and they are going to reach the end. But how tragic it is that we are engaging in this very politically charged debate, and how fortunate as an American woman I feel today that I have a President that is protecting my right to my full medical care by my doctor looking at my health without being criminalized. I thank the President.

A PROPOSED SUPERMAJORITY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Arizona [Mr. SHADEGG] is recognized during morning business for 5 minutes.

Mr. SHADEGG. Mr. Speaker, today on the floor of this House, we will debate and I sincerely hope pass a constitutional amendment to the U.S. Constitution, a provision which will provide a necessary level of discipline to this body.

Ten States in the United States currently have a supermajority requirement for future tax increases. Why? They have this provision because it has turned out to be necessary in order to restrain the ever-growing demands of Government for additional spending.

What has been the effect and what has been the experience of those States? It is quite simple and it is quite straightforward. In the 10 States which have a supermajority requirement to raise taxes yet one more time, things, which we would expect would have indeed happened, spending has gone up less rapidly in those States with such a provision; taxing has gone up less rapidly than in States without such a provision; but, most importantly, Mr. Speaker, in those States which have done what this Congress has a chance today to do, and that is to require a supermajority for future tax increases, economic growth has increased at a faster pace than in those States without this restraint.

Mr. Speaker, what is the issue? The issue is a simple one. If we make it harder, somewhat harder as this constitutional amendment would do, to exact additional tax dollars from the people of this Nation, then this Congress and the Federal Government will spend the money which it has more judiciously.

Now, is that necessary? Indeed, it is. The record of this U.S. Congress in controlling spending and the record of preceding U.S. Congresses is abysmal. In 1950, the year after I was born, the average American family with children paid $1 out of $50 to the Federal Government in income taxes. They earned $1,500, they sent $2 to the Federal Government in income tax.

By 1993, that had become $1 out of $4, and today it is dangerously close to $1 out of $3. Earn $100, do not send $2 to the Federal Government in taxes, but rather send $33 to the Federal Government in taxes.

We will hear from the other side grave reservations, that we are tampering with the U.S. Constitution, that this violates the premise of majority rule. For those people who make those arguments, let me point out that the U.S. Constitution today requires a supermajority in 10 days.

In places where the Founding Fathers thought that restraint was necessary, and they should also be reminded when they harken to this premise of majority rule, that the fundamental purpose of a Constitution is to restrain the access of legislative majority.

Indeed, a legislative majority enabled this Congress in 1993 to enact the largest tax increase in U.S. history. Even in the U.S. Senate with a majority of the Members of the Senate, that tax increase was dead tied, 50-50, for and against, until Vice President AL GORE broke the tie and increased taxes.

For those who believe we ought to be concerned about minority rights, I would point out the experience in which, in the 1990 Omnibus Tax Reconciliation Act, we destroyed a major U.S. industry by imposing through a majority vote a mere, simple majority vote, an excessive burden on just one industry.

For those who say that tax limitation is a radical idea, let me point out that one-third of all Americans today reside in a State in which there is a constitutional supermajority requirement in their own constitution. The other argument we will hear is that this provision is unworkable. In point of fact, as rewritten by the House, it would allow revenue-neutral tax reform to go forward. What it would not do, however, is allow this Congress to reach into the pockets of Federal taxpayers already overburdened, and take yet one more time from those taxpayers.

The fundamental purpose of a constitutional amendment ought to be to seek to restore to the Constitution the founders' original intent. I would suggest that that is precisely what this amendment does. If we look at the history of this Nation over the past four decades, we will see that the Supreme

VOL 142 PT 6 AP 15 — 24 1996 UMI

Court has read the commerce clause so expansively that the Government is vastly more powerful than it was in the past. This measure, this simple idea of saying to raise taxes yet once again we ought to have a supermajority, will provide needed restraint. I urge its adoption.

A PROPOSED CONSTITUTIONAL AMENDMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Colorado [Mr. SKAGGS] is recognized during morning business for 5 minutes.

Mr. SKAGGS. Mr. Speaker, as past Members who have addressed the House this morning have pointed out, later today we will take up an amendment to this Constitution of the United States. I want to address myself for the moment to the process by which this proposed amendment has been brought to the House.

Passing for the moment the fact that I believe it is a bad idea and bad constitutional law, even worse is how we consider it today under a process that insults the intelligence and responsibility of Members of the House, that contradicts any suggestion that this House is able to operate in a thoughtful and considered manner, and that demands and debases the very process of constitutional amendment itself.

The original proposal brought forward by the gentleman from Texas [Mr. BARTON], House Joint Resolution 159, received a single hearing before the House Committee on the Judiciary on March 6. It was then essentially removed from the committee and scheduled for a vote on the floor today. It was not marked up or approved by the Committee on the Judiciary. That committee, Mr. Speaker, is vested with the responsibility and authority under the rules of the House to give the kind of thoughtful consideration to a constitutional amendment that I believe the people of America think ought to obtain.

House Joint Resolution 159 was then replaced, or will be if the rule before the House later today is enacted, by an entirely new proposal, House Joint Resolution 169.

☐ 1200

This version of this constitutional amendment was first introduced in the House on the evening of Thursday, March 28. It was considered by the Committee on Rules the next day. On the morning of March 29, and reported to the House. And then this House went on recess for 2 weeks, the entire intervening time between consideration in the Committee on Rules and today. So very few Members have had an opportunity even to see the text of this amendment, much less to study and understand its implications.

Again, this proposal has had no hearing at all in the Committee of jurisdiction, no markup, no regular deliberative process whatsoever. Let us stop and think about that for a second. Surely second only perhaps to the responsibility that we have in Congress in considering a declaration of war, second only to that, an amendment to the Constitution, an amendment to the Constitution ought to command the most serious and deliberate sort of legislative review, examination and analysis that we are capable of. It deserves better treatment than a rush job to meet a politically sexy vote deadline that the majority admits is a matter of symbolism. Symbolism in amending the fundamental document of this country.

Mr. Speaker, the Constitution should not be used to make political statements.

There are many, many issues that are raised by this proposal, and I will speak about those later on today. One has to do with the fundamental contradiction of the principle of majority rule on which this country is based. In fact, if this were to become part of the Constitution, 34 Senators, representing less than 10 percent of the people of the country, could hold power over this important area of legislation.

Mr. Speaker, it would lock us in, for all practical purposes, to whatever the current tax structure might be at the time of its ratification. It will get in the way of many, many of the necessary things we are going to have to do to get the budget balanced, especially in areas of entitlement reform. It may unintentionally, or intentionally, who knows, actually get in the way of tax cuts because, for instance, those who are the strongest advocates of a capital gains tax reduction argue that that will actually increase revenues, and under this provision, that would require a two-thirds vote. Why? Because it is not whether the tax rate goes up, but whether revenues go up that controls whether a two-thirds vote is to be required.

So, there are many, many issues here that have not been examined because this proposal has been rushed through in derogation of every single rule of procedural regularity that the House is supposed to adhere to. Of course, it is exactly to examine and understand issues such as those I've mentioned that we refer legislation, especially amendments to the Constitution, to committee. However, that was not done in this case.

Mr. Speaker, because of the extraordinary abuse of process involved in bringing this matter to the floor, I want to put my colleagues on notice that I reserve the right to exercise every procedural right to a vote on every procedural matter that may be involved in consideration of this issue.

☐ 1300

1993 CLINTON TAX INCREASE

The SPEAKER pro tempore (Mr. HOBSON). Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas [Mr. SAM JOHNSON] is recognized during morning business for 5 minutes.

Mr. SAM JOHNSON of Texas. Mr. Speaker, today is April 15, tax day, and this is the day when Americans send their tax dollars to Washington and when the IRS sends its agents out to audit Americans, and you know this day, believe it or not, on this day, Americans have to work 21 more days to pay all their Federal, State and local taxes. So it is not over today.

We have a chance to offer today some security to every American by making it harder for the Government to raise their taxes. Today we are going to vote on a constitutional amendment to require a two-thirds vote to raise taxes. You know, I thank the gentleman from Texas [Mr. BARTON], my good friend, for this hard work on behalf of the American people.

This amendment should have been adopted back in 1993 because that is when the President and his fellow Democrats passed the largest tax increase in the history of this Nation, and it squarely broke the backs of the American people. This amendment would have allowed Americans to keep more of their money for themselves, for their families, for their savings and for their future. That big Clinton tax increase meant that families and workers pay more every time they drive to work, or take their kids to soccer practice, or their family on a vacation. This is because the President increased the Federal gasoline tax by 4.3 cents. I bet most of my colleagues do not even know what their gasoline tax is. In the State of Texas, it amounts to 38½ cents a gallon. That is one-fourth of your total gasoline tax or gasoline bill and most pumps do not tell you that you that. That big Clinton tax increase meant seniors pay more on their social security benefits because that was raised, as well. So for seniors, the President's tax increase continues to mean slower growth, fewer jobs and a less competitive America.

The President used class warfare to justify his need to increase taxes, but in reality, his tax increase hit middle America the hardest, the people he claimed to protect. The President's income tax increase hit small businesses right in their pocketbook. It took more money out of their businesses, out of their pockets and out of their future, money which could have been used to expand or hire new workers. Even Senators KENNEDY and DORGAN, both Democrats, agreed.

Mr. Speaker, this is the major difference now between Republicans and Democrats. Democrats believe Americans should pay more taxes and that

the Government deserves more of your money. They believe in raising the minimum wage instead of allowing every American to keep more of what they earn. Democrats believe in big taxes, big Government. They deplore the entrepreneurial spirit, success and self-accomplishment. They believe that if you work harder every day of your life, your own hard work and determination produces results so that you become successful, you should be punished. That is why this administration raised taxes, because they honestly feel that the Government has the right to take what you earn and spend it. They believe they can spend your money better than you can.

Conservatives, on the other hand, believe in a smaller, less intrusive Government, lower taxes and the ability of the American people to succeed. Opportunity, hard work and the Republican ideal is the American dream. We feel that people should be rewarded for success and not punished. We believe that the money you earn is yours to keep. We know this works because Presidents Kennedy and Reagan proved that it does. Their tax cuts, their tax relief allowed people to grow the economy, create jobs and increase the living standard of every American.

Families should not be forced to pay more in taxes than they pay for food, clothing and shelter combined, which is the fact today. To me, that is unacceptable. While I applaud my friend for his amendment, my hope and desire is that we will follow through on another promise and replace the current tax system with one that promotes freedom: That is, F, free, fair and simple; reduces the role of government, R; E-E, by eliminating the IRS, encouraging savings and investment; driving the economy; opportunity for all; and the "m" in "freedom," put more money in the pockets of all Americans.

This is what the country deserves, and this is what we can begin to implement actually next week when I introduce a bill to repeal the 16th amendment to the Constitution, which is the income tax amendment. We must act as soon as possible and rid the Nation of the IRS now.

FIVE PROBLEMS WITH REQUIRING A TWO-THIRDS VOTE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Virginia [Mr. MORAN] is recognized during morning business for 5 minutes.

Mr. MORAN. Mr. Speaker, I have only five problems with the issue that was just discussed by the gentleman from Texas to require a two-thirds vote to raise taxes. Actually, the language that would be made part of the Constitution says to make any change in internal revenue law would require two-thirds of this body voting in favor of it. Let me mention the five problems I have with it.

The first is that it is a classic case of political posturing. The second is that it is bad public policy. The third is that it is fiscally irresponsible. The fourth is that it shows contempt for the wisdom of our Founding Fathers. And the fifth is that it is very badly written. But other than those five problems, it is a fine piece of legislation, I suppose.

Mr. Speaker, I have to say I think that this body would be shamed if we were to yield to the kind of political expediency that has brought it to the floor. Let me explain why it is such a classic case of political grandstanding. At the very beginning of this congressional session, when we began the Contract With America, there was a lot of hoopla over the fact that we, on the first day, passed a requirement that there would be a three-fifths vote requirement to raise income taxes. And those who voted for it took a lot of credit, of course, for doing so. But then when it was to apply to the legislation considered by this body, the majority got the Committee on Rules to waive that rule because they knew that those bills could not get three-fifths of the vote. So they did not let it apply to the so-called Tax Relief Act, to the Medicare Improvement Act, to the balanced budget resolution, or even to the health insurance reform legislation that we just recently passed.

All of those bills included some increases in income tax. So for convenience sake, we simply waived the rules because the majority could not get three-fifths of the vote.

But you cannot waive the Constitution. The fact is that none of the major bills that have gone a long ways toward addressing the Reagan debt that occurred during the 1980's because we kept cutting taxes and not cutting expenditures, we did the politically popular thing and not the politically unpalatable thing and created $3 trillion of debt. Well, almost all of those bills never would have come close to two-thirds vote. That is why I say it is political posturing.

They assume that on the Senate side there will be a sufficient level of responsibility not to pass it. Of course on the Senate side, you have got a very interesting situation. Seventeen States, the least populous who represent only 10 percent of the population, are represented by, of course, 34 Senators. There are two Senators for every State. So those 17 States are represented by 34 Senators, which is just exactly the number you need to block the majority's will. All you need is one-third plus one.

So those 34 Senators have within their power to stop any revenue changes to the tax law if this constitutional amendment were to pass. Ten percent can change the will of the majority of 90 percent. What kind of a situation is that in the world's greatest democracy? In fact, let me get to the issue with regard to recognizing the wisdom of our Founding Fathers.

Article IX of the Articles of Confederation required this kind of supermajority to increase revenue. It did not work. And so when they convened in 1787, the Constitutional Convention, James Madison and others had the courage to stand up and say, this is not what we meant by our democracy. When we have tough votes, they need to be majority votes. The minority should not be able to control or to void the will of the majority. That is what this kind of constitutional amendment would do.

Mr. Speaker, it is also very bad public policy. If you want to make the tax system fairer, if you want to deal with the corporate and individual tax loopholes, if you want to change it into an income tax code that emphasizes savings and investment, you cannot do any of those things under this bill. It is bad public policy. It is hypocritical. It is inconsistent with the Constitution. I would hope my colleagues will vote this legislation down today.

HOUSE REPUBLICANS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Washington [Mr. MCDERMOTT] is recognized during morning business for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, I include for the RECORD an editorial from the Seattle Times from April 12, 1996, the title of which is "A Republican Floor Show Only a Cynic Could Love." It is written by a woman named Terry Tang.

[From the Seattle Times, Apr. 12, 1996]

A REPUBLICAN FLOOR SHOW ONLY A CYNIC COULD LOVE

(By Terry Tang)

If the House Republicans intended people to tune them out as publicity-mad buffoons, they've done a terrific job.

The latest example of their effort is the upcoming vote on a constitutional amendment to require a two-thirds vote of Congress to increase taxes. A floor debate and vote will be staged on Monday, April 15, tax day. Don't be surprised if you've heard nothing about this. Neither have many members of Congress who've been on Easter break for the past two weeks.

The House Judiciary subcommittee held a hearing on an earlier version of the Tax Limitation Amendment last month. That version was so preposterously worded—it would have required a supermajority in Congress to alter the tax laws in any way and would have applied even to raising tariffs on foreign products—that the amendment's sponsors decided it had to be reworked.

So on March 29, the day before the Easter recess, the House Rules Committee cobbled together and approved a totally new amendment more opaque in meaning than the original.

No one expects a serious constitutional debate next Monday. But rest assured, there will be plenty of on-camera time for congressman with sagging poll numbers.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Well before Republican leaders had the amendment language in hand, they had decided that April 15 was the perfect time to call a pep rally. How better to resuscitate the Contract with America than with a floor show featuring a spanking new constitutional amendment as prop?

As part of the coordinated media blitz, the Gingrichities were told to hold anti-tax town meetings in their home districts. The campaign is as contrived as a Burger King-Pocahontas promo. Rep. Randy Tate of the 9th District, for example, dutifully held two town hall meetings this week with special guest star Grover Norquist, president of Americans for Tax Reform, an anti-tax group that has made the constitutional amendment its top priority.

There's no way to separate the fakery from the legislation. But who nowadays seriously expects Congress to place deliberation above crass symbolism?

The tax amendment would even obstruct the tax reforms that Republicans have embraced. The GOP leaders apparently are so cynical—about both the fate of the amendment (the Senate is expected to put on the brakes should the House approve the thing) and meaningful tax reform—that they have no trouble promoting two ideas that are pretty much mutually exclusive.

The amendment language requires a two-thirds vote of Congress on tax measures unless the act does not "increase the internal revenue by more than a de minimus amount." The hurdle would make routine tax legislation nearly impossible.

There is no definition given of "internal revenue." Arguably, the only things not covered by the term are foreign tariffs, all other taxes being internally generated. So increasing user fees based on sound freemarket principles—such as national park entrance fees or grazing fees—would be subject to the limitation, as would closing loopholes and shutting down tax shelters.

But these are minor objections compared to the conundrum that ought to stop supplysiders cold. The amendment would apply to any legislation that increases revenue to the federal government; it does not deal with increases in tax rates per se.

Yet, the first principle of Reaganomics (and the rationale at the core of flat-tax schemes) is that cutting taxes—be it capital-gains taxes or income taxes—unleashes entrepreneurial energies that increase economic growth and therefore increase government's total tax receipts.

One argument to cut capital-gains tax rates is precisely that a cut would increase revenues in the short run as investors rush to liquidate assets to capture their capital gains. In a perverse twist, such a tax cut would be subject to two-thirds approval of Congress also.

The House leadership is well aware that enforcing any supermajority requirement on tax matters is unworkable. On the first day of Congress last year, the House, in a fit of revolutionary fervor, adopted a rule requiring a three-fifth majority on any bill raising federal income-tax rates. The rule has turned out to be only a gimmick.

The Republicans publicly touted their anti-tax scheme as a promise kept—and then silently waived the rule whenever it proved inconvenient.

The House's Contract with America Tax Act inadvertently raised some tax rates while cutting others, and so needed a waiver. The budget reconciliation bill to cut the deficit raised a few rates, thus requiring another waiver.

The House's Medicare bill, by raising premiums on wealthy seniors, needed and got a waiver, as did the new health insurance reform act, which would impose a tax on some withdrawals from medical savings accounts.

The income-tax rule has nothing to do with governing, and everything to do with sloganeering. The proposed constitutional amendment is more of the same.

When the Republicans were the minority, reducing policy debates to bumper stickers came easily. They've yet to switch out of that mode. If they, as the party in power, don't care about the substance of legislation, who will? Somebody tell these people they're being paid to do more than pose for campaign spots and C–SPAN.

I say reading it when I got to my office today and thought somebody has got to talk about this issue.

Some weeks ago my son called me. He is in business school in California and asked me about something that was happening here in Washington, DC, and I proceeded to explain to him what I thought would happen. And he said, after I had finished, "Well, now I know what the cynics think."

☐ 1315

Mr. Speaker, I objected to that. I said, "No, I am giving you a realistic view of what is going to happen here in the Congress," and he said, "Dad, don't get excited. There were the idealists in Greece who wanted things a certain way, and then there were the cynics who actually looked at things as they really were and dealt with them." He said, "Cynicism has gotten a bad name because it has come to mean that we do one thing and try and create the impression that something is happening when, in fact, something else is happening, and the people then get cynical about what's happened."

What is going to happen today is the height of political cynicism because of what will be created. In fact, they choose the exact time they are going to start to debate, when folks in California are able to get to their TV's. They are not going to do it here at this time of day when people are at work in California. They are going to wait until later in the day. The vote will be taken at 9 o'clock tonight, 6 o'clock, when everybody is sitting down and eating, in California. This is a timed debate put on simply to make the American people think that we are going to control taxes.

Mr. Speaker, nothing could be further from the truth. As my colleague, the gentleman from Virginia, [Mr. MORAN], simply pointed out, I am a member of the Committee on Ways and Means. When this House came into session under this leadership, they said we are going to put in a rule that requires a 60-percent vote every time we raise taxes. So, through our Committee on Ways and Means things would come, and we would raise our head and say, "Hey, how are you going to get the two-thirds vote for this out on the floor?"

And they said, "Well, we're going to waive the rule."

Three times, perhaps four times, I am not absolutely sure, they have waived that rule when they have brought things out here on the floor.

Now today they are going to come out and say we are going to pass a constitutional amendment that will prevent us from doing exactly what we have done in the last year and 3 months that the Republicans have controlled this House. They have no will to do what they believe. They simply want the people to cynically believe that they want that to happen. But they are never going to do it.

Now, cynicism is destructive in this society for one reason. People watching this debate are going to say to themselves why should I go and vote for that bunch of yahoos, whoever he is. I saw a bumper strip coming in from the airport last night that said, "Reelect nobody." Reelect nobody? Consider what that means. That means everybody on the floor of the House is going to be subject to people walking around thinking, well, if they were there under that kind of cynical baloney, I do not want them, and my view is that the American people are made cynical by this kind of behavior. There are some absolute realities that must be faced in this country if we are going to be serious.

Now, the first thing that this amendment, if it were to go into place, would say, is that all the cuts, anything that is going to happen in this country, is going to mean we have to reduce spending. We can never raise revenue, we cannot because two-thirds—we did not even get two-thirds on this floor when we were saving Social Security. Two-thirds of the Members did not vote to support Social Security. So all the old people who might be thinking about this, just remember, Mr. Speaker, they got to understand that we could not have saved Social Security on the floor of the House of Representatives in 1983 because there were not two-thirds of the Members who would vote for it.

So what we are saying here today is that we are going to cut things, and all the programs that people are now resting on, Social Security, Medicare, Medicaid, aid for student loans, all those things will be subject to a two-thirds vote. No matter what is going on in the world, no matter what the circumstances of our economy, no matter what happens, it will take two-thirds.

Now, as you heard the gentleman from Virginia [Mr. MORAN] say, that means the Senators from 17 States can block whatever is going on and the majority will no longer rule.

RECESS

The SPEAKER pro tempore (Mr. HOBSON). Pursuant to clause 12 of rule I, the House stands in recess until 2 p.m.

Accordingly (at 1 o'clock and 20 minutes p.m.), the House stood in recess until 2 p.m.

☐ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. EWING] at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Open our ears, O God, to hear the majesty of Your whole creation, a creation of words and music and nature. May not the rush of each day and the multitude of voices that beckon us from one task to another, keep us from hearing Your message of beauty, of renewal, of hope, of healing, and of peace. Free us, O gracious God, from any isolation that keeps our hearts and minds apart from Your grace so we miss the words and sounds that resonate with our humanity and encourage us to be people You would have us be. Bless us this day and every day, we pray. Amen.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SKAGGS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SKAGGS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this matter will be postponed until later today.

The point of no quorum is considered withdrawn.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled bills on Tuesday April 2, 1996: H.R. 956, to establish legal standards and procedures for product liability litigation, and for other purposes; H.R. 1561, to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes; H.R. 1833, to amend title 18, United States Code, to ban partial-birth abortions; and H.R. 2854, to modify the operation of certain agricultural programs.

APPOINTMENT AS MEMBER OF ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

The SPEAKER pro tempore. Pursuant to the provisions of section 3(a) of Public Law 86–380, and the order of the House of Friday, March 29, 1996, authorizing the Speaker and the minority leader to appoint commissions, boards, and committees authorized by law or by the House, the Speaker on April 2, 1996, did appoint the following Member of the House to the Advisory Commission on Intergovernmental Relations: Mr. PAYNE of New Jersey.

IT IS TIME TO GIVE WORKING AMERICAN FAMILIES A BREAK

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, it is April 15, tax day. Today is the day that millions of Americans, as they struggle to file their tax forms all across this country on time, are reminded just how much they are being fleeced by the Federal Government. Every time taxes go up, the working people of this Nation get hurt.

But we will have an opportunity later this evening to help taxpayers, to put the brakes on the never-ending cycle of taxing and spending by voting for a constitutional amendment to prevent any Federal tax increase that does not have at least two-thirds of Congress supporting it.

Those of us who have cosponsored this amendment have a very simple objective: We want to make it harder for the Federal Government to take hard-earned dollars out of the pockets of working American families. For every 8 hours an American works, more than 3 hours go to pay taxes. If you work 5 days, Monday and Tuesday go to the Government; only Wednesday, Thursday, and Friday go to support your family.

Well, enough is enough. This has to stop, Mr. Speaker. It is time to give the American taxpayers a break. Let us do it today.

HAPPY TAX DAY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Medicare trust fund had its first deficit in history, and the reason given was payroll taxes were less than expected.

Now, how could this be if there have been 8 million new jobs? Could it be that maybe these jobs are very suspect?

Check this out: Screw supervisor, nut former, ball sorter, needle straightener, bucket chucker, slitter, creaser, slaughter operator. Do not laugh. These are all jobs listed by the Department of Labor.

If that is not high-tech enough for you, how about sucker machine operator? How about carcass splitter. Just imagine, if we create more sucker machine operators and carcass splitters, we will balance the budget.

If anybody asks my opinion, I would have to say beam me up. I think these screw supervisors all work for the Internal Revenue Service. Happy Tax Day.

THE TAX LIMITATION AMENDMENT

(Mr. BARTON of Texas asked as was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, later this evening we are going to have a historic vote, the first vote on a supermajority requirement to raise your taxes. The amend is to my left, and you will have an opportunity to read it.

When I was in the fourth grade at Travis Elementary in Bryan, TX, my fourth-grade teacher was Miss Andrews. That is where I learned fractions. I learned in the fall of 1960 that two-thirds is a higher fraction than one-half. If you can understand that concept, then you understand the tax limitation constitutional amendment.

Those of us that support it want to make it more difficult to raise your taxes. If you agree with that, then support the Congressmen who are going to vote for the Barton tax limitation amendment later on this evening on the floor.

SUPPORT THE D.C. ECONOMIC RECOVERY ACT

(Ms. NORTON asked and was given permission to address the House for 1

VOL
142
PT
6
AP
15
—
24
1996
UMI

minute and to revise and extend her remarks and include extraneous material.)

Ms. NORTON. Mr. Speaker, this is taxpayers day. I have introduced a bill to make this tax reduction day for D.C. residents. I expect to have leadership support for the D.C. Economic Recovery Act, and I expect support and will seek support from my side of the aisle as well.

There are six reasons why this House should support this bill. One, the District is insolvent with no other revenue stream in sight.

Two, Congress has constitutional responsibility for this city, and no other, as this body constantly reminds me.

Three, this is the only city prevented by Congress from taxing commuters who use city services.

Four, this is the only city that pays for State, county, and municipal functions.

Five, this is the only city with no State to recycle income from wealthier areas.

Six, this is the only city that pays Federal income taxes. We are second per capita in the United States without voting representation in the Congress.

These are six good reasons to support the D.C. Economic Recovery Act.

SUPPORT THE TAX LIMITATION AMENDMENT

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, today is tax day. As I speak, literally millions of Americans are preparing their tax forms to meet today's deadline.

What many of them will discover is that they get to keep less while the Government gets to keep more. Since Bill Clinton took office, family income has flattened while taxes have gone up.

Today Members of this body will have an opportunity to do something about the over-taxation of the American people. Today we will vote on the Barton amendment to change the Constitution to require a two-thirds supermajority to raise taxes.

Considering the voracious appetite for taxes and spending habits of the Federal Government, I think this is a reasonable amendment. It is based squarely on the philosophy of limited Government espoused by the Founding Fathers. It is not time to put limits on the Federal Government. Support the tax limitation amendment.

GET REAL AND VOTE FOR REAL THINGS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Mrs. SCHROEDER. Mr. Speaker, I find this debate fascinating. Like it is really easy to get a majority to lift taxes here, like people just love to run out and vote to lift taxes. Well, that is absolutely ridiculous. That is the hardest vote ever.

What we really need to do is first have a budget here. I find it amazing that people are saying they are going to insist we have two-thirds to raise taxes. When we did not even get a majority to have a budget? And we are halfway through this fiscal year. Yes, we are on continuing resolution No. 12, halfway through this year.

And can you imagine a more inefficient way to run a government, a business, or anything? Every 2 weeks you have to come back here with your tin cup and rattle it, beg, tap dance, do whatever they ask you, to stay in business. We ought to be talking about doing something that we can do that is real. Until we get a budget for this year, I think it is interesting that we can throw all sorts of gimmicks around and say that is the solution. The solution is to get real and vote for real things.

SAY "NO" TO MASSIVE TAX INCREASES

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Mrs. SEASTRAND. Mr. Speaker, for the last 40 years, Congress has violated some basic economic principles on the way to creating a massive high tax, high regulation, big-spending welfare state. One of those principles violated is that you should live within your means.

Beginning with Arkansas in the 1930's, the States began to put constitutional limits on taxing and spending. This chart compares the growth in State spending in the 10 States that require a supermajority to raise taxes to those that do not.

Clearly, we can see that spending is more restrained in the supermajority States.

This is exactly what we need at the Federal level—a serious commitment to spending restraint and the ability to say "no" to massive increases in Federal spending, Federal programs, and Federal benefits.

Mr. Speaker, it is time to follow the lead of the 10 States that require a supermajority to raise taxes. And it's time for the Government to do what every American family does—live within its means.

TAX DAY 1996

(Mr. SHADEGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHADEGG. Mr. Speaker, on tax day 1996, today, we have a chance to amend the U.S. Constitution to require a supermajority to raise taxes. The last speaker on the opposite side of the aisle ridiculed the notion that it was difficult to raise taxes. In fact, she said that it is very hard to raise taxes, one of the most difficult of all votes.

Since 1980 this Congress has raised taxes six times. Each of those times it has increased the burden on the average American taxpayer. In my lifetime, that burden has been increased 1,200 percent. I do not know a constituent who believes they are getting 1,200 percent more out of the Federal Government today than they were in 1950.

The premise underlying this constitutional amendment is straightforward. It is one of fiscal responsibility. If you believe this Congress must be more responsible about spending the money it has, then you believe you must vote for this constitutional amendment, because by making it somewhat more difficult to take taxes out of the pockets of the American taxpayer, we will force ourselves to spend the money we have more prudently.

I urge passage of the amendment.

CONGRESS' SINGLE LARGEST MISTAKE

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, in 1909, the Congress made the single largest mistake in the history of this country. It passed the 16th amendment to the Constitution, which allowed Congress to tax income. That single act succeeded in creating a tax system that is economically destructive, impossibly complex, overly intrusive, unprincipled, dishonest, unfair, and inefficient.

This country deserves a change. We need a tax system based on a vision of America that places the individual, not the government, at the center of society.

□ 1415

We deserve a system that will increase economic growth, create jobs, expand opportunities, and allow people to achieve the American dream. We need a system that promotes freedom.

Two things need to be done. One, we need to get this two-thirds vote to increase taxes; second, we must repeal the 16th amendment to the Constitution. Americans do not want, do not need, and do not deserve the IRS.

SPECIAL ORDERS

The SPEAKER pro tempore. (Mr. EWING). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SUPPORT THE TAX LIMITATION AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. COX] is recognized for 5 minutes.

Mr. COX of California. Mr. Speaker, in Bill Clinton's first term, he and the liberals who then controlled the Congress passed and signed into law the largest tax increase in American history. Since that time, we have still had no relief. It is April 15 today, and many people feel this pain.

The President, Bill Clinton, vetoed the middle class tax cut passed by the new Congress, and as a result, even though last year the gross domestic product, the measure of our economy, grew by only 2 percent, individual income taxes collected by the Federal Government grew 8.5 percent. Taxes are growing and growing inexorably, year in and year out. Today, the average American has to spend 3 hours out of an 8-hour day working just to pay taxes.

Ask yourself this question: How much do you spend in total on your home mortgage, on your rent, on your electricity, on your telephone? How much do you spend on your suits and your dresses and your other clothes? How much do you spend on restaurants and groceries?

Over the whole year, add all of those things up, and if you are like the average American, whether you are rich or not, even if you are just a working American, you pay more in taxes than you pay on all of these things, food, clothing and shelter, combined; 35 percent more in taxes.

It has not always been this way. Our taxes have been growing at an amazing rate just within our lifetimes. Many people here are veterans of World War II. If you are not a veteran of World War II, almost certainly your father is. When Pearl Harbor was attacked, only one out of every nine Americans even had to file an income tax return. That is the America our parents knew.

I am 43 years old. When I was a kid growing up in the Midwest, the average American family like mine paid income tax at a rate of 3 percent. Today, April 15, 1996, most of our constituents can only pine for such days as their own rate of tax has grown more than 1,000 percent.

While the tax burden on ordinary Americans has been growing and growing over the last 40 years of liberal control of the Congress, so, too, has runaway deficit spending. All these higher taxes have not balanced the budget. That is for sure. They have only promised that we will have more spending. They have provided an excuse to spend still more.

In fact, according to the Congressional Joint Economic Committee, throughout the postwar period every dollar in higher taxes has provided an excuse for $1.59 in higher spending. In other words, the higher the taxes, the higher the spending.

To rein in higher spending, this House has given two-thirds approval to a constitutional amendment to balance the budget. But if we are going to amend the Constitution to require a balanced budget and the supermajority vote to break that budget, then we must also take care that this, the balanced budget amendment, does not provide a new excuse, a constitutional justification, to raise taxes.

Colleagues, our taxes are too high. Spending is too high. Those who contend otherwise or who say that merely greater institutional will is necessary stand athwart 40 years of liberal Congressional history.

For once in 40 years, liberals do not control this body. For once, we have the chance to add a balanced budget amendment to the Constitution. And for once we have a chance to add a tax limitation amendment to the Constitution at the same time.

For once, let us do the right thing. Let us do the right thing for our country, for our children, and for our grandchildren, and vote "aye" on the tax limitation amendment later this evening.

CONSTITUTIONAL AMENDMENT ON TAX INCREASES NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. SHADEGG] is recognized for 5 minutes.

Mr. SHADEGG. Mr. Speaker, today on this floor we will debate the issue of tax limitation. Many editorial pages across the country have criticized this concept. They say it is tampering with the Constitution. They suggest that it is dealing improperly with the sacred concept of majority rule. Indeed, they say and suggest it is a dangerous proposition.

I suggest to the contrary. Indeed, I think history proves to the contrary.

There are 10 States in this country which now have tax limitation amendments. My State, Arizona, is one of those States.

In Arizona, we added to our Constitution in 1992 a supermajority requirement very much like the one we will debate on this floor. It allows revenue neutral tax reform, but it says that when the Government seeks to raise taxes, to increase the Government tax bite out of the pockets of average citizens yet one more time, there ought to be not the narrowest of agreement on that idea, but a broad consensus. We ought not to foist down the throats of American taxpayers yet one more increase in taxes without first having developed a broad base of support for the belief that that increase in taxes is necessary.

Now, why? Where are we today? What has the history been? Well, the history is that Government is a growth industry, that throughout my lifetime this Government has grown and grown inexorably, taking an ever larger bite time and again out of the pockets of the American taxpayers.

Six times since 1980 alone we have raised taxes in this country. In that time period, we have enacted some 4,000 tax changes. But those six specific tax increases have been passed by this Congress. And on what basis?

Well, the most striking of them was the most recent, the 1993 tax increase, the single largest tax increase in this Nation's history. By what margin did it pass? By the barest of possible margins. Had simply one vote in this body switched, it would not have passed. We would have not exacted that largest tax increase in U.S. history from the taxpayers of this Nation, by the switch of one vote in the U.S. House of Representatives.

But the contrast is even starker when we look at our body across the way, the U.S. Senate. There this measure was in a dead heat, a 50–50 tie. Not even a simple majority of U.S.Senators agreed on that massive tax increase. So the Vice President stepped in and he broke the tie, and we enacted that massive tax increase.

Now, for those who say we ought not to do this, we ought not to go from a simple majority to raise taxes, 50 percent plus one, to two-thirds, because somehow it offends notions of majority rule or of constitutional sanctity, let me point out that at 10 different places in our current U.S. Constitution, a supermajority is required. But let me also point out that 3 of those 10 were not in the original requirement. Three times since the birth of this Nation, three times since the adoption of our Constitution, we have added provisions requiring a supermajority for approval.

Why? Because there can indeed be a tyranny by the majority of the minority. Indeed, if you reflect on the premise, if you think about the reason for the Constitution itself, it is to guarantee certain rights, but, most importantly, to guarantee to the minority rights that they not be run roughshod over by the majority.

Let me cite just one example of such an instance in the tax arena. In 1990 this Congress passed the so-called luxury tax on expensive boats and automobiles and airplanes. The idea was we will punish the rich; we will make them pay a larger share of the tax burden of this country.

Indeed, it passed by the barest of majorities without a supermajority. But what did it do? Did it punish the rich? It did not. It punished the poor. It punished working Americans. Go anywhere

VOL
142
PT
6
AP
15
—
24
1996
UMI

in this Nation where we were leading the world in the manufacture of yachts, and you will discover skilled workers, skilled carpenters, skilled fiberglass layers, skilled people in the marine industry, who lost their jobs, whose jobs were wiped out because of the tyranny of the majority, which said we ought to enact a tax on those items.

Mr. Speaker, I urge the passage of this amendment. It is not radical, but, rather, it goes a significant way towards restoring the balance that the Founding Fathers envisioned in our U.S. Constitution.

DETERMINING TAXES A RESPONSIBILITY FOR POLITICIANS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, welcome to Pander Theater. First of all, I want to say to people that the next hour is going to be a very thoughtful presentation that I hope every American citizen listens to. The gentleman from Colorado [Mr. SKAGGS] and the gentleman from Virginia [Mr. MORAN] are two of the most thoughtful Members here. Please, I hope you listen to it.

Look, I am leaving at the end of this term, so I can speak a lot more freely. What you are going to hear today is going to be absolutely incredible.

Let me just give you the rule of politics that everybody ought to understand. Whether you vote for more B-2 bombers or more Head Start, whether you vote for more agricultural subsidies or more environmental cleanup, whether you vote for more prisons or more student loans, whether you vote for more highways or more education funds, more, more, more, and all of those you know who you make happy. You know the groups you make happy when you tell them you did this, and that is how you get reelected.

Whenever you vote for more taxes, you make everybody mad; everybody mad. So if you like what Juan and Evita Peron did to Argentina, you are going to love what happens if we get this through today. We are taking the Argentine model, which is give something to everyone, let us vote for all of you to have presents, and it will take a two-thirds vote to ever get enough people to vote for to pay for it.

What this is about is get your credit card back out, the Congress is ready to go back into Reaganomics II. If we do not learn from history, we are condemned to repeat it.

You remember the Reagan program of 1980. They said we are going to increase defense, cut taxes, and balance the budget. We did two out of three. We increased defense, we cut taxes, and the budget went right through the ceiling. The deficit went right up.

Now, we on this side of the aisle have taken some very hard hits. Without one vote from that side of the aisle we bellied up to the bar and started paying some of this off. We have cut the deficit in half. I wish it were down to zero. I would do more. We have cut it in half. How did we do that? We had to have a little increase in the gasoline tax. I am sure all of you felt that. None of us liked that, a few cents in the gasoline tax.

But we got the deficit paid down by half, because we realized we had a huge party in the eighties. Everybody had a great time. And we left our children to be the poorer-scoopers behind the horses after the parade down the street.

□ 1430

That was not fair. So today, because it is tax day, we are going to have like a Hallmark card legislation day. This is tax day, so we are all going to vote on a very tough issue. Yes, sir, we are going to come down here and say it takes a two-thirds vote to raise taxes. Of course, it only takes 50 plus 1 to do spending.

So the game I have seen around here since I have been a Member of Congress is people vote for all the spending programs and then they vote against the taxes, and you are guaranteed to have asbestos underwear that will get you through every election from here on because you made everybody happy and you voted for the spending that each of these groups wanted. They are the only ones that track it, so you made all of the individual groups happy, and then you made all of the citizens happy because you vote against all the spending. The only people who are not happy are the people who are going to inherent the debt. Yes, blessed are the young for they shall inherit the national debt.

We are saying that because we are so prone to run down here and vote for taxes any time we get a chance, this body just cannot wait to vote for more taxes, that what we have to do today on tax day is lift the ceiling to two-thirds to be able to do it. Ladies and gentlemen, if you believe that this body wants to have a tax will every week, that we cannot wait to vote for it every week, that we are so politically stupid we honestly think that you cannot find out when we vote for tax increases and we are going to love voting for more and more and that we have to put this constitutional restraint upon ourselves, I do not know where you have been. That is absolutely not true. Not one of these votes is popular.

To add those few little cents to the gasoline tax to start bringing this debt down, it took arm twisting on this side like mad. We did not have one extra vote of what we needed, and it took the Vice President of the United States to get it through the other body. Now, that is how tough it is. But if you want a culture where we spend, spend, spend and then we put it on a credit card, if we want to go back to seeing the debt go back up before we got it all the way down, you are in great shape. That is why I pointed out when this body cannot even get 51 percent to agree to a budget for this year, they have a lot of nerve bringing this up, and I really hope we get some sense in this debate.

I thank the two gentlemen who will be leading this.

THOMAS DOLUISIO AND BILINGUAL EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. ROTH] is recognized for 5 minutes.

Mr. ROTH. Mr. Speaker, I appreciate being allowed to take this 5-minute opportunity that we have at this time during the day.

I want to tell you about a brave and dedicated school administrator, Thomas Doluisio, who is a State school superintendent in Bethlehem, PA. In his district, he has shown some real leadership in Bethlehem, and he has enjoyed a dramatic improvement in academic success and progress. It is very important, I think, that we not only talk about the negative things that happen in our country and many times in the school system, and also the positive.

Here is an example of a person who has taken tremendous individual initiative and brought up the test scores. What did Doluisio do? He led the fight against the bilingual education bureaucracy and made it possible for his district's Spanish-speaking students to be immersed in English speaking classrooms. Here is what happened. He noticed that the typical student in his district spent 7 years in bilingual education classes before being moved or the student was moved to a regular class being taught in English. Children in kindergarten spent entire days without hearing a word of English and yet administrators were somehow perplexed when these students later scored very poorly in English tests.

Doluisio knew that the system was broken and he knew how to fix it. Barely a year after the school district switched to immersion from bilingual education, improvements have already started to show. Margarita Rivas, a Bethlehem parent, is praising the school superintendent because she said, now our children can speak English and they are able to compete in America so they too can rise and advance on the ladder of opportunity in America.

Mr. Doluisio did what any good administrator does. He recognized a problem and he started to fix it. But he also had the courage to take on an entrenched bureaucracy, and he won. For that, he was officially condemned in

the 1994 convention for the National Association for Bilingual Education. He did, however, win the respect and admiration of Bethlehem parents, whose children are now better able to be prepared and to complete for jobs and pursue their share of the American dream. You know, I suspect that Thomas Doluisio will take that approbation and that approval and that endorsement over any endorsement from the National Association for Bilingual Education any day of the week.

The families of Bethlehem, PA, throughout the area are lucky to have a school superintendent that will fight the system in order to ensure that their children can learn the language of opportunity in America. It is time Congress takes up this fight by ending almost three decades of failed bilingual education programs and bring our educational focus back on teaching English again.

Whether it is Newsweek, whether it is a daily paper, no matter who has investigated this issue over the last 30 years, has said that changes have to be made. I am delighted now that we have a commitment that we are going to be addressing this issue in the near future here in Congress.

Let us help the brave men and dedicated men and women, like Thomas Doluisio, by passing H.R. 739, the Declaration of Official Language Act.

I thank the Speaker and the Members for yielding me this time.

PROPOSED CONSTITUTIONAL AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 60 minutes.

Mr. SKAGGS. Mr. Speaker, let me just say, I have discussed with the gentleman from Texas [Mr. BARTON], who I believe is scheduled to have the hour special order following this one, and I think the country will be well served by a real give-and-take kind of debate on this very important issue of amending the Constitution to require a two-thirds vote by both the House and the Senate.

So I expect we are going to be yielding back and forth a lot for some questions and answers on both my time and the time of the gentleman from Texas later on. I hope it will be a useful, enlightening and serious discussion about this proposal which is way past due, because we have not had a serious, enlightened and careful discussion of this before it gets to the floor later today. In fact, the procedures that the majority has followed in scheduling this matter for the floor on April 15 really makes a mockery of the regular order that ought to be followed in bringing something of this substance and moment to the House for a vote.

Mr. Speaker, I spoke about that a little bit earlier. I am not going to belabor it again now. I do want to remind my colleagues that I, because of the abuse of process that the majority has followed in bringing this up without any vote in committee, any markup in committee, any time for Members to really examine it, I really think all possible procedural rights ought to be exercised, at least at this point in the process. But let me just talk for a moment, then I want to invite the gentleman from Virginia [Mr. MORAN], to engage on this with me, as well, talk for a moment about what, for me anyway, is one of the most central matters raised by this proposal. That is our reliance or not on the fundamental principle of majority rule in this Republic of ours.

I do want to commend the sponsors of this proposal for one thing. They recognized that if we are going to require supermajority votes to deal with any particular kind of legislation, in this case taxes, then you have got to put it in the Constitution. I think, in effect, they concede that the attempt made by the House a year ago January to do this by a mere change in House rules is constitutionally improper.

But I oppose this amendment, as I say, primarily because it violates what James Madison, the principal architect of the Constitution, and of its defense during the debate on ratification, what he called the fundamental principle of free government, and that is the principle of majority rule.

The Constitution makes very few exceptions to that principle, and none of them has to do with the core ongoing responsibility of governance, which includes, among other things, of course, how we raise the revenues necessary to fund the responsibilities that the Federal Government has. I believe we should be very, very wary of extending any of the existing supermajority exceptions to other areas, especially if it would complicate the essential responsibilities and competency of the Government.

Mr. Speaker, I think we need to be particularly aware of the fact that it is a logical corollary of any time we require a supermajority to do anything that we are giving effective control on that issue to the minority. You cannot have it any other way. Under this proposed amendment, that majority could be comprised of as few as 34 Members of the U.S. Senate, representing less than 10 percent of the American people. They would have effective power to control the Government's revenue and tax policy.

Now, that is bad enough as a matter of basic democratic theory and philosophy, but I think, putting that to one side, if we really look at what is likely to happen were this proposal to get into the Constitution, we will be amazed at the absurdly impractical consequences that will flow from it, some intended, perhaps, I suspect many of them unintended.

Let me just take a look at some of those that seem to me to be most significant. First of all, if this were in the Constitution, it would for all practical purposes lock into law whatever the then-current tax structure of the country might be at the time of the amendment's ratification, because I would suggest to you that it will be extremely difficult to meet the two-third vote requirement necessary to make any significant overhaul of the tax system. There may be some tinkering around the edges that could command two-thirds.

So if you like the tax system the way it is now, or if you have supreme confidence that some future Congress is going to get it just right before this amendment might be ratified by the States, then sure, embrace this. I simply do not have that level of confidence, certainly in the way the tax laws now are, or in the supreme wisdom of some future Congress that may adopt some reform or overhaul of the Tax Code to have gotten it just right later. But we should be aware that we are really buying into whatever the then-state of affairs happens to be at the time of ratification.

I think another consequence of this proposal would be to greatly complicate our efforts to balance the budget, which ought to be the central goal that we unite behind right now, particularly complicate the efforts to balance the budget as it relates to changes that will reduce the growth in entitlement programs. We all know that is where the money really is, if we are ever going to get this deficit problem under control.

Another reason that I think we ought to think long and hard and then reject this proposal is that as with the current rule of the House requiring, except when it is waived, which is always, requiring a three-fifths vote whenever there is a tax increase, this constitutional proposal is vague and will almost certainly generate confusion and litigation and, I believe, basically put the validity of most future tax legislation on hold for whatever period of time it takes for the courts to go through and parse out the language of this proposed amendment, deciding what is meant by some "reasonable" act of a future Congress to define what is meant by "de minimis" and any number of other vagaries that are inherent in this proposal.

□ 1445

I have got a number of other points that I may get around to as the debate continues this afternoon, but my colleague from Virginia, Mr. MORAN, has really put in a great deal of time and effort in examining this proposal. I know he has a lot of things on his mind about this, and I would be pleased to yield at this time.

Mr. MORAN. I thank my very good friend from Colorado for yielding to me

VOL
142
PT
6
AP
15
—
24
1996
UMI

and for his valiant efforts to resist the political temptation to vote for a constitutional amendment which is really little more than political grandstanding.

Now there are any number of reasons that Members could choose to vote this down. They could vote it down because we already have a rule that requires a three-fifths vote to increase taxes and every time that it has applied to legislation the Committee on Rules has waived that rule.

They could vote it down because it is bad public policy. It says essentially that whatever is in the Tax Code now stays because it is going to be almost impossible to change it. It is going to be impossible to close the corporate loopholes. Even things like capital gains reductions which are expected to increase revenue would be in violation of this legislation which says that—a piece of legislation that increases revenues by more than a de minimis amount requires a two-thirds vote.

They could vote it down because this debate has already occurred. This debate took place during the Constitutional Convention of 1787. Article IX of the Articles of Confederation required a supermajority vote to increase taxes, and it was found that it did not work. So they had to go back. They had to correct it because they realized that on a tough vote it is hard enough to get a majority of Members to do the courageous and right thing, let alone two-thirds of the body.

Mr. SKAGGS. Could I engage the gentleman just on that point because, you know, you stop to think of it, we would not have this Constitution to amend had it not been for the fact that a supermajority provision in the Articles of Confederation, just like the amendment that the proponents are proposing, was found to completely paralyze the then new National government of America. Is that not correct?

Mr. MORAN. It is absolutely correct. You know, I think that this amendment in some ways shows almost a contempt for the wisdom of our Founding Fathers. They tried to do what this does because they knew the political expediency of making it very difficult to increase taxes. But it brought our country into gridlock, and so that is why they had to go back in 1787 to say the only way we are going to move forward and realize our potential as a nation is if the majority rules; in other words, if every Representative has an equal vote. If you say that you require two-thirds, then the majority does not have an equal vote. The people who have a disproportionate vote are those in the minority because it only takes one-third plus one to prevent the will of the majority from becoming law.

Now this is particularly applicable in the Senate. In the Senate, as you know, every State, no matter how many people are in that State, have two Senators. There are 17 States that represent less than 10 percent of the American population. Those 17 States just happen to be represented by 34 Senators, one-third plus one. So that 10 percent has a disproportionate influence upon the course of legislation.

Now imagine, why should 10 percent of the people be represented by people who can thwart the bill of the majority of 90 percent of the population? That is not democracy, that is not equal representation. When you get into issues like a gas tax or any number of things that might affect rural areas more than urban areas, this becomes particularly apt.

Mr. SKAGGS. Let me interrupt the gentleman on this point as well, because I think it really bears looking at some concrete examples. As the gentleman has pointed out, a piece of legislation could pass the House, the body that directly represents people in this country, by an overwhelming majority, unlikely in the case of a tax bill because they are so difficult to pass, but let us say for the sake of example, and then be held hostage by 34 Senators even though 66 Senators might also agree that it is in the national interest. Or in a close case in the House, 146 of our colleagues here could stand in the way of the will expressed by 289 of our colleagues in the House, the one-third plus one that the gentleman points out.

Now is that really the kind of dramatic shift away from the fundamental principle of free government that Madison wrote about so persuasively over 200 years ago that is in the national interest? I fail to see the point.

Mr. MORAN. I think obviously the answer lies in the question. It is not. It is an aberration of what our Founding Fathers intended, and I think this is a terribly important point. You know, if I were a lobbyist for a corporation that was using a loophole to get billions of dollars of tax preferences, and we can name any number of them, I do not think we need to be specific, but we know that there are about $400 billion of tax preferences in our Tax Code where people can make a legitimate argument of uneven treatment. But if I were a corporation or a wealthy individual; for example, if I was one of these very wealthy individuals who decided that I did not want to pay taxes on gains I had made in this country, so I denounced my citizenship and decided I am going to claim my citizenship offshore, some island or whatever, and even though I can still live here 6 months, or 1 day less than 6 months, or whatever the law is, I would know the law, and in fact I do not have to change my standard of living or my annual vacation plans, I just decide I am no longer an U.S. citizen. I denounce my citizenship, I live someplace else and, thus, save billions of dollars in total on gains made in this United States.

We tried to get—and I will just finish this statement—we tried to get legislation through that would have saved $3.6 billion over 10 years just from a handful of wealthy families who denounced their American citizenship. We could not change that, we could not do the people's will to make them pay taxes on gains incurred in this country because all they would have to do is to go after those few folk over in the Senate, if they could not do it in the House, and, simply, they do not have to deal with the majority, with 67 percent. All they have to do is deal with one-third, and focus on them, and thwart the will of the majority.

Mr. SKAGGS. Well, certainly in my frame of reference $3.6 billion is not a, quote, de minimis, unquote, amount, which is the exception made on this proposed constitutional amendment. So, if I understand the gentleman, it would require the concurrence of two-thirds of both the House and the Senate even to get at such an egregious flaunting and flouting of fairness in our Tax Code as this expatriate tax break provision that you so well described.

You know, one of the other ironies in this is, because of the way this proposal is worded in talking about not raising internal revenues by more than a de minimis amount, rather than not raising tax rates or tax base, that we could end up being hung up over even passing a capital gains tax cut because certainly the advocates of a capital gains tax cut argue that it would increase revenues in some of the economic forecasting models that are used. So it seems to me that we are in the absolutely crazy situation in which it could even require two-thirds of the House and the Senate to adopt a cut in rates that the advocates claim would result in an increase in revenues.

Is that the way the gentleman reads this?

Mr. MORAN. It is exactly the way I read it, and it is the way that Mr. DREIER, who is one of the leaders on the Republican majority, reads it as well. In the Committee on Rules, consideration of this legislation said, well, what a minute, the way this is worded is that if you cut capital gains, and it does as we say that it does, we purport that it will substantially increase revenue in the first couple years, and that is probably true. As far as I am concerned, I think it probably does do that. In the outyears it may be a more problematic situation, but in the initial years people are going to sell their stocks and assets more quickly. It will raise revenue, but that means that you are going to have to get two-thirds of this body and two-thirds of the Senate to approve it because it increases revenue certainly by more than a de minimis amount.

Talk about the law of unintended consequences.

Mr. SKAGGS. If I may interrupt the gentleman again, as I mentioned at the outset, the gentleman from Texas, who is the principal sponsor of this proposal, and I agreed we would try to have a free exchange. I see he is on his feet. Perhaps he can enlighten us as to what that wonderful lawyer Latin phrase "de minimis" really means and how some future Congress will be able to make some sense out of this.

Mr. BARTON of Texas. I thank the distinguished gentleman from Colorado for yielding, and I am going to make two points, and then I am going to yield back since it is your time. I wanted to focus on this, the majority argument that you were speaking of, but before I do that I want to directly answer the question on de minimis. It is our intent that de minimis is equal or less, and in an economy that is $6 trillion, if you want to put a figure on it, in the implementation language and in the colloquy that we will have with the chairman of the Ways and Means Committee later this evening, we are going to say de minimis is one-tenth of 1 percent or less. So that is the number, but de minimis is defined as negligible, or minimal, or having little or no value.

Mr. SKAGGS. One-half of 1 percent of GDP or one-tenth of 1 percent of GDP—or of Federal revenues?

Mr. BARTON of Texas. One-tenth of 1 percent of the existing revenue that is being generated by the current tax system.

Mr. SKAGGS. But would the gentleman agree there is nothing to prevent some future Congress from coming up with whatever arbitrary definition of de minimis it might see fit to impose?

Mr. BARTON of Texas. That is certainly true. A future Congress could change the implementation standard.

Mr. SKAGGS. Or is that the case, because it talks about reasonable legislation. Are we going to have the courts deciding whether a Congress has reasonably exercised its judgment about what de minimis means?

Mr. BARTON of Texas. This constitutional amendment, as all constitutional amendments, are subject to court review, which as a strict constitutionist I know that the gentleman from Colorado would support that.

Mr. SKAGGS. But let me yield to the gentleman from Virginia.

Mr. MORAN. If I might suggest to my friend from Texas, the Constitution is not a rough working draft. You know, here we are, for the first time you are telling us what the words "de minimis" mean, which you want to put into the Constitution. Well, what you are saying is, as I calculate it, anything that is less than $1½ billion, $1,500,000,000 could be considered de minimis. Is that——

Mr. BARTON of Texas. That is over an extended period of time based on the existing Tax Code. But obviously the gentleman from Virginia can go to the Webster's Dictionary and—we picked the least offensive word that we could to put in. The intent is to, in a broad sense, keep the tax burden, the Federal tax burden, on the American people in 19 percent or less, which it has been historically.

Mr. SKAGGS. As someone who studied Latin for 4 years, I do not find de minimis offensive, I just find it vague and confusing as something to put into the U.S. Constitution.

Now would it not have been preferable for this to go through the committee process so that we can really examine exactly what these terms mean before we vote on putting them into the Constitution?

□ 1500

Mr. BARTON of Texas. Mr. Speaker, If the gentleman will continue to yield, I think there is some validity to that concern. We did have one hearing at the Committee on the Judiciary subcommittee. I certainly was not opposed to hearings at the full committee. For whatever reason, those hearings were not held.

I will point out, and the gentleman knows as well as I do, as part of the balanced budget debate, we have had debates on the House floor four times in which the tax limitation balanced budget amendment was one of the amendments that was voted upon. As has been pointed out in the opening statements of the two gentlemen in this special order, we did have a short debate on the three-fifths vote for an income tax increase as a rule change at the start of this Congress. It is not as if this subject has never been debated on the floor.

I would also point out, Mr. Speaker, and the gentleman knows this also, this is not physics and rocket science. The American taxpayer very quickly grasps that two-thirds is a higher fraction than one-half.

Mr. SKAGGS. Reclaiming my time, Mr. Speaker, if the gentleman is making the claim that yes, this has great symbolic value as a bit of political rhetoric, I will concede that. But why do we have to do this, making such a rush of what ought to be the normal deliberative process that the House should go through, especially when we are talking about amending the Constitution?

As the gentleman knows, the language that we are supposed to vote on later today has never been the subject of a committee hearing or markup. In fact, it was introduced on the Thursday night before we left town for 2 weeks on Friday a couple of weeks ago. Is that not an extraordinary rush to judgment on something as complex and serious as amending the Constitution? And is not in fact the reason that this did not go to committee that the Committee on the Judiciary was seen as unwilling to mark up and report a proposal like this out?

Mr. BARTON of Texas. Mr. Speaker, if the gentleman will continue to yield, I will concede the gentleman's point that more debate at the committee would have certainly been in order. I am not going to deny that. I will point out, though, that the day after the vote on the tax limitation balanced budget amendment, I believe in February 1995, the Speaker of the House said that we would have a vote on the tax limitation amendment as a stand-alone amendment on April 15 or near April 15, 1996, so the concept has been out there for a year.

We certainly have had numerous hearings on it in some of the think tanks and things of this sort, so it is not as if this is a brand new concept that people have trouble grasping.

Mr. SKAGGS. If I may, Mr. Speaker, is it not correct that this proposal, the one we will vote on in the U.S. House of Representatives later today, perhaps——

Mr. BARTON of Texas. Hopefully today.

Mr. SKAGGS. That this language never existed on paper until the Thursday before this 2-week break and has never been the subject of a hearing in any committee of the Congress, much less being marked up by the committee of jurisdiction, the Committee on the Judiciary? Is that not correct?

Mr. BARTON of Texas. That is not quite correct.

Mr. SKAGGS. What is wrong with that statement?

Mr. BARTON of Texas. It was the subject of a hearing in the Committee on Rules when we went to the Committee on Rules to ask for consideration today.

Mr. SKAGGS. That was the morning after it was first introduced, is that correct?

Mr. BARTON of Texas. That is not the Committee on the Judiciary. But if I could, I would like to talk about your principle of majority rule. I think you said that there were 10 States, or 10 percent of the population had 34 Senators. I am going to just read the presentment clause in the Constitution. It says: Every bill shall have passed the House of Representatives and the Senate before it becomes a law, be presented to the President of the United States. "Shall have passed." It does not say "shall have passed by a majority," or "shall have passed by a supermajority." It just says "shall have passed."

In the original Constitution there were 7 two-thirds supermajority requirements: Conviction in impeachment trials, article II, section 3, clause 6; expulsion of a Member of Congress, article I, section 5, clause 2; override of a Presidential veto, article I, section 7, clause 2, quorum of two-thirds of the

VOL
142
PT
6
AP
15
—
24
1996
UMI

States to elect the President, article II, section 1, clause 3; consent to a treaty, article II, section 2, clause 2; proposing constitutional amendments which is what we are doing today, article V; and State ratification of the original Constitution, article VII.

Since that time, there have been 3 additional two-thirds supermajority vote requirements added to the Constitution, which brings the number to 10. The purpose of a supermajority requirement, in my opinion, and if you read the Federalist papers and some of the writings of James Madison, it was felt that if the issue was large enough that it needs more than a slim majority, that you really need consensus, you need a supermajority or a two-thirds vote.

Certainly in today's era, it is this gentleman's opinion that raising taxes any higher than they already are is one of those occasions that we need to amend the Constitution and require a supermajority.

Mr. SKAGGS. Let me just say, I believe the gentleman's recitation proves my point, because none of the examples that the gentleman cites for requiring supermajorities has anything to do with the presentment clause. None of those examples involves the presentment of legislation to the President for his approval or disapproval or veto. In fact, they all have to do with extraordinary matters in the course of conducting the business of the country. None of them has to do with the core legislative responsibilities of the Congress. And in fact, it is very clear from the fact that the framers, during the course of the Constitutional Convention, considered and rejected several times proposals to attach supermajority requirements to particular legislative matters, that it was not contemplated by them that the presentment clause could be some kind of excuse, covering the advisability of any supermajority requirement for regular legislative business.

So the gentleman's points are accurate as far as they go. They simply are irrelevant to the validity or not of the argument about the importance of majority rule as a central tenet of free government.

Mr. MORAN. Mr. Speaker, if the gentleman will continue to yield, I thank my friend for underscoring that point. In fact, it might strike one as the height of arrogance to think that after our Founding Fathers put together a Constitution that has withstood the test of time and made us the strongest country in the world economically, socially, and militarily and every other way, that after they debated this issue at length and decided several times that a supermajority would not work to come up with the revenue necessary to finance the expenses of our Government, now we want to come up, without committee hearings, and to second-guess, to change their decision. It strikes me, Mr. Speaker, as not particularly wise or, more importantly, consistent with the intent of our Founding Fathers.

Mr. Speaker, we may sometimes be in the posture of taking the less conservative approach. I think right now we are taking a very conservative approach. Do not treat our Constitution as a rough working draft. Recognize the wisdom that went into this Constitution.

My friend, the gentleman from Texas, has said that de minimis, the term de minimis was chosen because it was the least offensive term. I do not think that really ought to be the criteria by which we make legislation.

When we define it now, for the first time that I am aware of, as one-tenth of 1 percent of the Federal gross revenue, which is about $1.5 billion, I need to ask the gentleman, does this apply to that expatriate loophole where a few families can save themselves millions and millions of dollars by simply renouncing their American citizenship? That is a loophole that I would hope many of us would want and eventually will be able to close. Does that preclude us from being able to do that with a majority vote of this House?

Mr. BARTON of Texas. Mr. Speaker, if the gentleman will yield further, first of all we are not here to either praise Caesar or bury Caesar, Caesar being the current Tax Code; we are here to come up with an amendment to make it more difficult to raise taxes.

I guess what I might have said when I said "least offensive," we wanted to use a term that was as close to revenue neutrality as possible, without saying revenue-neutral, because it is physically impossible if you want to change the entire tax system or you want to monitor it or modify it in some way, to speculate down to the penny that the change is not going to increase taxes. So de minimis was as close to revenue-neutral in terms of terminology as we could get.

Mr. MORAN. If I could suggest to the gentleman, $360 million is not exactly getting down to the penny. That is the amount of money that we would recoup if we simply made people pay taxes on gains generated here in the United States, rather than being able to denounce their citizenship and claim another residence to avoid taxes. That is $360 million annually, $3.6 billion over 10 years. But you are saying that if it is less than $1.5 billion, it does not count, it is de minimis. I do not know a lot of American families that consider $1.5 billion de minimis.

We need to know how many of these tax loopholes are going to be precluded from being closed with your legislation.

Mr. BARTON of Texas. If the gentleman will continue to yield, this legislation does not preclude any tax loophole from being closed. This gentleman from Texas is not on the Committee on Ways and Means. I believe each of you two gentlemen is. I may be incorrect in that assumption. So you and the other members of the Committee on Ways and Means can do whatever you want. If you pass a tax law that has the effect of raising the tax burden on the American people more than a de minimis amount, it will take a two-thirds vote. If you want to change taxes, cut taxes, you want to lower revenues, you can do that with a simple majority vote.

Mr. SKAGGS. Mr. Speaker, let me look at another recent example in our collective experience here earlier in this Congress. When we took up the majority's reconciliation bill last fall, I believe as I recall, there was a significant revenue-raising component to that, including changes in the Medicare part B premium.

I happen to think that we are going to need to deal with that aspect of the Medicare Program in order to put it on a sound financial footing eventually. I was not one to criticize that very difficult political choice that the majority brought to us at that time. But the amount of money involved in that Medicare proposal, I think over whatever economic timeframe you want to look at, was significantly more than the expatriate tax loophole involves, some tens of billions of dollars. The reconciliation bill including that provision did not muster anything close to two-thirds vote.

I think therein lies the problem, and the responsibility that we have to examine the consequences of what you are proposing that we do, not merely to discuss this in terms of the abstract notion that we are fed up with high taxes, but is this workable?

If we are going to have a deal with entitlement reform fairly and sensibly, which by most accounts involves asking wealthier Americans to pay more for their health care if they are able to, we are doing to be facing, if this is in the Constitution, a requirement of getting two-thirds. We know how difficult it is to pass something like that, because it is the political third rail of American politics; how difficult it is to get a simple majority. If we have to get a supermajority to deal with the wealthy end of things, and we cannot, what will be the course of least resistance? It is going to be cutting the benefits on the poor, which we can do by a simple majority.

I invite the gentleman's response to that conundrum.

Mr. SHADEGG. Mr. Speaker, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Speaker, the fundamental essence of the gentleman's question is, is this workable. I believe the answer is, indeed, clearly it is workable. I think the language or the points that you make now highlight the difference between that language which is before this body today and the language of the rule, because what we have done is to let go of the original language proposed in the constitutional amendment introduced by the gentleman from Texas [Mr. BARTON] and indeed embraced a different concept.

That language would have said any increase in any tax rate or any increase in the base to which a tax is applied would require a supermajority; thus, the difficulty which you found in the language. Some would argue that, indeed, that is the preferable way to go, because it would mean that not only would we hold down increases but we would stop changing the Tax Code on a daily basis. Indeed, we made some 4,000 changes of one kind or another in the Tax Code in the last decade. But that is not the language that is before us today.

The language of the rule which you just raised, the language which, indeed, was constrained by rule, the legislation you referred to, is not the language that is before us today. The language that is before us today embraces the concept of revenue neutrality, and, indeed, that is the language which we put in the Arizona Constitution in 1992, and which has been placed in many other constitutions.

Mr. SKAGGS. Reclaiming my time, Mr. Speaker, I believe the gentleman from Arizona, who was just addressing the House, supported the majority's reconciliation bill, which included the significant adjustment in Medicare premiums, way more than a de minimis amount. Does the gentleman not agree that that is a difficult political hurdle to get over by a simple majority, much less by a two-thirds majority, and that if we are going to do fair entitlement reform, it is exactly the kind of tough choice that a future House is going to have to make? Yet you are making it next to impossible for us to do exactly what is best advised for fair entitlement reform.

Mr. SHADEGG. If I can make one quick point, and then I would like to allow my colleague, the gentleman from Texas, to be able to respond, first, the fundamental point here is that you could accomplish any of that with a simple majority provided it was tax-neutral. So were you to raise a premium, you could offset that by lowering a tax on some other location. I believe, however, as the gentleman from Texas [Mr. BARTON] will point out, it did not apply to this instance at all.

□ 1515

Mr. BARTON of Texas. On that specific point, as you know, Medicare consists of two different parts, part A and part B. Medicare part A is funded by a tax, and you have to pay it if you are working in this country. I believe it is 1.2 percent, but it is certainly a tax.

Medicare part B is not mandatory, it is voluntary. Admittedly 94 or 95 percent of the American senior citizens choose to participate in Part B, but it is voluntary. Those that choose understand if they so choose they have to pay part of the premium.

Under the resolution that is on the floor today, it would not take a two-thirds vote to change the medicare part B premium. It would take a two-thirds vote to raise the part A tax, unless at the same time you lower taxes on that part.

Mr. SKAGGS. Reclaiming my time, I beg to differ with the gentleman. The gentleman's proposed constitutional amendment talks about any increase in the internal revenues—it does not talk about Internal Revenue Code—the internal revenues by more than a de minimis amount, made by any change in the law.

Whether Medicare part B is voluntary or not, you are certainly talking about changes in the law that drive a major, not a de minimis, a major increase in internal revenue.

Mr. BARTON of Texas. I will stand by what I say. I believe that my explanation is correct.

Mr. SKAGGS. Here again, would the gentleman agree, this is the kind of discussion and debate that ought to have occurred in the Committee on the Judiciary, so we could have had appropriate refinements made to clear up what is a fundamental area of vagueness and therefore potential uncertainty and litigations? That is why we should not be voting on this out of the regular order as we are going to.

Mr. BARTON of Texas. I am not opposed to more debate on it.

Mr. SKAGGS. Would the gentleman join me in moving to send this back to the Committee on the Judiciary so it can be the subject of hearings and markup?

Mr. BARTON of Texas. I will certainly join the Member in having hearings. After we pass it this evening with a two-thirds vote, we can continue to have these hearings.

Mr. SKAGGS. So we are going to decide what we have done after we have already passed it. That is a terrific standing of things on their heads.

Mr. BARTON of Texas. Again, the concept is not one that you have to be a physics major to understand. If you would realize that two-thirds is a larger number than one-half, you have grasped the principle that we are trying to establish.

Mr. SKAGGS. Let me yield to the gentleman from Virginia.

Mr. MORAN. If I might suggest to my colleague from Texas, we are not suggesting that our colleagues need to be physics majors but they ought to be responsible legislators, particularly when we are attempting to change the Constitution of the United States. We ought to know the definition of some of the terms.

You just threw out the idea that de minimis means $1.5 billion. Does that mean annually, or does that mean if you raise $1.5 billion over 5 years or 7 years or 10 years? None of these answers are evident.

Also, user fees, we are talking about going to a system where we can have user fees for bridges and for roads and for national parks and the like. Are user fees included here? If you read the language of the legislation we were given, the constitutional amendment, certainly they are because that is internal revenue being generated.

I do not think we ought to be, as I suggested, treating the Constitution as some kind of working draft that we can amend as the notion comes to us, either on the floor of the House or even in committee or in any personal way. What we ought to be doing is enabling all the Members of this body to understand fully the consequences of their actions. We have that responsibility, and that is not the responsibility of a nuclear physicist but it certainly is the responsibility of a Member of the House of Representatives.

Mr. SKAGGS. Let me ask the gentleman from Texas, since he is the authoritative person in interpreting this language, what does the amendment contemplate by the phrase "internal revenues"? Is that as distinguished from external revenue, tariffs and excises?

Mr. BARTON of Texas. Internal revenue is certainly the internal income tax system, the internal revenue system of this Nation, and it is taxes that have to be paid by the American people. To the gentleman from Virginia, when he talked about user fees, you could certainly raise the user fee to the national parks by a majority vote. That is not part of the Internal Revenue Code of this Nation.

We will have the chairman of the Committee on Ways and Means on the House floor sometime this evening, and the chairman and I will engage in a colloquy in which just those kinds of questions are asked and answered.

Mr. SKAGGS. If I can reclaim my time, if the gentleman meant raising income taxes by more than a de minimis amount, why did the gentleman not use that term in the constitutional amendment rather than the term internal revenue, which has a much broader connotation to it than income taxes do?

Mr. BARTON of Texas. Well, there are some other broad-based taxes.

Mr. SKAGGS. Well, then, what would those be?

Mr. BARTON of Texas. The Social Security tax as a payroll tax is one.

Mr. SKAGGS. Why not the Medicare tax?

Mr. BARTON of Texas. The Medicare part A is a payroll tax.

Mr. SKAGGS. Why not the Medicare part B?

VOL 142 PT 6 AP 15 — 24 1996 UMI

Mr. BARTON of Texas. Because that is voluntary. That is not a tax.

Mr. SKAGGS. But that is part of the Internal Revenue Code.

Mr. BARTON of Texas. That is a premium.

Mr. SKAGGS. It is part of the Internal Revenue Code, is it not?

Mr. BARTON of Texas. You can choose not to pay that. That is voluntary.

Mr. SKAGGS. Is it part of the Internal Revenue Code?

Mr. BARTON of Texas. Is the gentleman from Colorado paying that premium right now?

Mr. SKAGGS. The gentleman is not over 65, despite my appearance.

Mr. BARTON of Texas. You are not.

Mr. SKAGGS. Is it not part of the Internal Revenue Code?

Mr. BARTON of Texas. But you are paying the part A tax now.

Mr. SKAGGS. Right.

I submit that this is a very artful redefinition on the fly of these terms in a proposed amendment to the fundamental charter of the country, and we do not know what we mean.

Mr. BARTON of Texas. It is the gentleman's time and he has been very gracious and I think this is helpful. I do not want to abuse his time. But as in any constitutional amendment if we pass it, and in my opinion it is not if we pass it, it is when we pass it, there will be obviously implementation language, implementation law, legislation, as in any constitutional amendment. These types of questions will be extensively debated in the committee, on the floor, in conference with the Senate, in conjunction with the President and the Cabinet officers involved in the particular debate and I am absolutely confident that the democratic process will yield satisfactory answers to these questions.

The basic principle, once again, is making it more difficult to raise revenue, the tax burden of the American taxpayer, and I do not think there is any misunderstanding about that between the two distinguished gentlemen on the Democratic side, or certainly myself and the gentleman from Arizona [Mr. SHADEGG] on the Republican side. That is the principle that we are debating.

Mr. SKAGGS. Reclaiming my time, I submit that there is a fundamental disagreement about what we mean. What the gentleman is saying is that, "Well, we may not know what we mean today when we're amending the Constitution, but we'll figure it out some later time."

I think that is really getting things backward. We need as much as we possibly can, and I think our discussion reveals that we do not yet have as clear an understanding as we possible can of the import of the gentleman's words in this proposed amendment.

Certainly most provisions of the Constitution have been subject to some litigation. We should not, however, go out of our way to leave terminology so vague and confusing as to unnecessarily invite a plethora of litigation and uncertainty in this area which ought to have, as much as we possibly can, some sense of precision and certainty.

Let me yield to my friend from Virginia again.

Mr. MORAN. I would underscore the point that my friend from Colorado has been making. We ought not be flying blind on legislation to amend the Constitution of the United States, not even knowing what the terms mean, not even getting it out of subcommittee or having consideration by the full committee, bringing it to the floor.

A lot of concepts have been around for a long time, but most of them the majority would never consider bringing to the floor without having full consideration by people, both Members and staff, to be able to look at this legislation, to understand what these terms mean, to be able to inform the Members so that they know what they are voting on. That is the first flaw.

This morning I had a little debate on a morning news show with Grover Norquist, head of Americans for Tax Reform, who came up with this idea and has been promoting it, and he made the same point that our colleague from Arizona, Mr. SHADEGG, has made with regard to the number of States, and the gentleman from Texas, Mr. BARTON, I know, has made it, who have these kinds of supermajority requirements.

But let me suggest there are some differences between those State budgets and the constraints they are under and the Federal budget. For one thing, States can borrow money, and most States do. Most States are able to get their capital money through long-term indebtedness. We cannot do that. We are on a pay-as-you-go basis. We have a current cash accounting system.

Another thing that States can do that we cannot do is go to the Federal Government as a funder of last resort. Look what happened in California, and I think Arizona was involved, any number of other States have been involved actually this year in any number of natural disasters. Florida. I will not list the whole number of States, but a great many States were victims of natural disasters this year.

They did not have the money in their budget. With some of them they did not have the money because it would have been too difficult to raise the revenue necessary, so they turned to the U.S. Government to fund the costs of repairing and rebuilding.

We have no one to turn to. In fact, I understand there is an exception: If war has been declared, then you can raise money. But there are any number of other things that could happen to this country that would necessitate us raising substantial revenue for the public good, the common good of this country.

We do not know what is going to happen in the future, and it may be a whole lot of these disasters that might occur at the same time. It may necessitate us raising revenue. But to think that 17 States that represent 10 percent of the population have the ability to thwart our responsibility to fund the needs of this country, those States may very well not experience a natural disaster, so it would be in the interest of those particular Senators and Members of Congress not to vote for that revenue raising.

But certainly if a majority of this body and the Senate thinks that it is necessary and is willing to show the political courage to vote to raise revenue for the common good of this country, then they ought to be able to do so and should not be thwarted, should not have their vote minimized, de minimized, if you would, by this legislation. That is exactly what this constitutional amendment would do.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I have great sympathy for the gentleman from Virginia when he talks about a certain number of States with a small percent of the population thwarting the will of the majority. Texas and Colorado were not in the original 13 Colonies. Virginia was. It was one of the big States, but it lost on that issue. It was called the great compromise. The House was the representative of the people, the Senate representative of the States. I can be sympathetic with you, but we lost that fight 200 years ago.

Mr. SKAGGS. Let me, if I may, pose another question to the gentleman about his language in this proposed amendment, and the gentleman from Virginia was touching on this. It provides that a majority could raise revenue either if there is a declared war, which we of course know happens rarely, or if the country is engaged in military conflict.

Mr. BARTON of Texas. Serious military conflict.

Mr. SKAGGS. Is it correct to interpret the military conflict language as involving a shooting conflict of some kind?

Mr. BARTON of Texas. Yes. It would not apply to the gentleman from Virginia's comments about floods and droughts.

Mr. SKAGGS. So it would not apply to the circumstance that the country endured for the better part of 40 years, namely, the cold war?

Mr. BARTON of Texas. It would not, no, sir. Unless you did it with a two-thirds vote.

Mr. SKAGGS. So if I understand this phrase correctly, if we were facing

again that kind of dire threat to the national security but one that, God willing, does not get to the point of a shooting war, but nonetheless demanded the preparation of our military defenses in a way that required raising more money, it would take two-thirds to do that.

Mr. BARTON of Texas. That is correct.

□ 1530

Mr. SKAGGS. Mr. Speaker, I am sure the gentleman is aware of the fact that on the eve of the prior two World Wars, we could barely muster a majority of this body to start facing up to that challenge to our own national security.

Mr. BARTON of Texas. On the eve of what we now call the First World War is when we got the 16th amendment that made the income tax constitutional. On the eve of the second war, which we now call World War II, we were in the throes of the Great Depression, and not only were we not spending much on military preparedness, we were not spending much on anything.

Mr. SKAGGS. The gentleman is well aware that the then sitting Congresses were sharply divided and we could barely muster a majority vote to start the preparations that were ultimately necessary for this great Nation to fulfill its international responsibilities and to protect itself. That is exactly the kind of corner this language is likely to put this country in in some future difficulty if it were to become part of the Constitution.

Mr. BARTON of Texas. But, of course, the response to that is that living in the future, living in the present, we are the world's greatest military power. No one questions that. We spend a higher percentage of our GNP today on military preparedness than we did before World War I or World War II. We are not in the dismal shape that we were in terms of military defenses.

Mr. SKAGGS. As the gentleman knows, if we put this in the Constitution, it is likely to be there for all time.

Mr. BARTON of Texas. We hope.

Mr. SKAGGS. Maybe the gentleman's crystal ball is clearer than mine in understanding now what lies ahead. If I can inquire of the Chair how much time remains.

The SPEAKER pro tempore (Mr. EWING). Six minutes remain.

Mr. SKAGGS. The gentleman from Virginia.

Mr. MORAN. I might remind the gentleman from Texas that one of the reasons why we are the strongest military power is that we spent money that we did not have, particularly during the 1980's.

But what I think is more important to remind the gentleman is that none of the budget reconciliation measures proposed by President Reagan would have passed during the 1980's. None of them got two-thirds of a vote.

There is only one budget reconciliation measure, which was a minor one, in 1989 that passed with more than two-thirds. But it passed because it was minor. It was an easy vote. These others were not easy votes. It is never an easy vote to balance the budget, to come even closer to balancing the budget than we are doing today.

It certainly was not an easy vote to vote for the budget reconciliation measure in 1993, even though it raised money from the top 1.2 percent of Americans and, in fact, through any number of other measures actually reduced our deficit for 3 years in a row, generated over $500 billion of deficit reduction. That passed, as was suggested. If one Member of Congress had switched their vote, it would not have passed.

Now if you think that any responsible budget balancing measure is going to get through this House with a two-thirds requirement, you do not understand the dynamics of politics in America today. But that does not mean that we should not try to be, to propose votes that will require political courage, to try to continue to work to balance our budget, to reduce the amount of indebtedness, to reduce that interest.

If it was not for the interest on the debt created during the 1980's—because we cut taxes and did not cut expenditures, if it were not for the interest accumulated during that period of time—we would have a surplus in the budget today. We cannot raise taxes. We can cut them very easily. We can do it at the drop of an eyelid, and this is the kind of easy vote, to vote against the possibility of the Congress acting responsibly on budgetary and tax matters. But that is why it is wrong. It would be the irresponsible thing for the Members of this Congress to vote for today.

Mr. SKAGGS. You know, we look at history not just because it is fascinating to know where we have come from, but because it is also often instructive about the present and the future. And I think it is very useful to again go back to the debates in the Constitutional Convention about just this sort of provision, when the Framers seriously deliberated on the question of whether certain legislative subjects should be, should have a requirement of supermajorities to legislate. They understood because of their experience under the Articles of Confederation that this was a prescription for gridlock and paralysis. That is why we had a Constitutional Convention, to get us out of that problem.

One thing I believe we can always be sure of, we cannot predict the future. We do not know on April 15, 1996, what a Congress in April 2096 is going to be facing. And yet we are basically saying we do not trust them to have the tools that they are going to require to be good stewards of this Nation's future, that we are so arrogant this year that we will deprive them of the fundamental tools of governing this country by virtue of passing an amendment such as this.

I think it is extraordinarily ill-advised, even if we understood, which clearly from the debate over the last hour we do not understand, the meaning of the specific words being proposed to be put into the Constitution.

But even if we did, it is clear that this is impractical, ill-advised, and would be an extremely foolish and, as the gentleman has pointed out, really an irresponsible act for this Congress to take.

I yield to the gentleman from Virginia.

Mr. MORAN. The only remaining remark I have to make is that we do not act independently here. We have a responsibility to act in the best interests of our constituents. The worst thing this legislation does is to take away the equal representation of our constituents, the American people. The vast majority of the American people will lose the right, the power to determine the legislation of this land. The vast majority of people, two-thirds of the American population, will not have equal representation if this legislation passed because one-third plus one will have the controlling power over what this body, this body of Representatives of the American people, is able to do with regard to tax policy, with regard to balancing the budget, with regard to funding the necessary means of conducting our activities in whatever sphere we are talking about. It is irresponsible. And it is unfair to the vast majority of the American people to pass this today.

THE CONSTITUTIONAL AMENDMENT TO REQUIRE A TWO-THIRDS MAJORITY VOTE TO RAISE TAXES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas [Mr. BARTON] is recognized for 60 minutes as the designee of the majority leader.

Mr. BARTON of Texas. Before I start my special order, I want to commend the gentleman from Colorado and the gentleman from Virginia for yielding time in this special order and once we give our opening statements we will be happy to reciprocate in the spirit and to the level that you did in your special order.

Mr. Speaker and members of the House, we are engaged in a serious debate. It is serious business to determine you should amend the Constitution of the United States. I would point out our Founding Fathers allowed for such amendment, and it has been amended, I believe, 27, perhaps 28 times, since the original Constitution was ratified in 1787.

VOL
142
PT
6
AP
15
—
24
1996
UMI

If you go back to that time period when our Founding Fathers were debating the same issues that we are debating on the floor of the House this afternoon, you find some interesting facts. First of all, there was no such thing as an income tax anywhere in the world. There were obviously taxes, but those taxes were normally head taxes, property taxes, excise taxes, transaction taxes, duties, fees, tariffs, but there was no income tax because very few people in the world, certainly in the United States, had any income. We were an agrarian economy. Most Americans lived on farms or in small communities and there simply was not a resource there to be taxed. Even then, over 200 years ago, the Founding Fathers were very aware of the sensitivity of the tax burden on the American people. So while they did not require a super majority vote to raise taxes, they did require that the House of Representatives, which was the only body directly elected by the people and the body most responsible to the people, be the body where all tax bills originated.

For 125 years that limitation that all tax bills originate in the House of Representatives worked very well. We did not have an explosion in growth of the Federal Government. In 1913, we had the 16th amendment to the Constitution of the United States that said specifically that an income tax was constitutional. In 1913, 83 years ago, the first tax form, the first 1040, was passed out in 1913. This is a photocopy, a blown-up photocopy of the original 1040 form back in 1913.

Those of you that can read it, you find out some very startling information. First of all, the normal tax, the normal tax that most Americans who even had to pay an income tax paid, was 1 percent on net income up to $20,000. Less than one tenth of 1 percent of the American population had to pay that normal tax of 1 percent.

The richest American, an American who made over $500,000 in 1913, had to pay 6 percent. But most Americans paid no income tax, or paid 1 percent.

By 1949, the year that I was born, the tax burden had grown to 5 percent on the American taxpayer, and today the average tax burden is 40 percent. The marginal tax rate on the average taxpayer in America today is 40 percent. If you want to calculate percent increase from 1913, and 1 percent to 1996 and 39.8 percent or 40 percent, it is 4,000-percent increase 4,000 percent. That is too much.

The debate today is about making it more difficult to raise taxes on the American people in the future. It is not about whether we had the appropriate number of hearings in the Committee on the Judiciary. It is not about the exact definition of de minimis in Webster's Dictionary, it is all about the basic principle of making it more difficult to raise taxes than it is under the current simple majority tax increase vote requirement.

It is a very simple concept. Two-thirds as a fráction is a higher number than one-half as a fraction. In fact, it is a higher number by 16 and two-thirds percent, one-sixth, 16.67. Translated into votes in the House, you would go from 218 votes needed to 290 votes. In the Senate you would go from 50 votes or 51 votes needed to 67 votes needed. So that is what we are debating this evening.

There are some States that have tax limitations on their books today. There are 10 States. These States range from the largest State in the Union, the State of California, to the State where President Clinton was Governor, the State of Arkansas. And you can see the other 8 States.

There are four things that are true in every State in the Union that has tax limitation. The first thing that is true is that taxes go up more slowly. In States that have some sort of supermajority requirement for increasing taxes, taxes do not not go up. They do go up. In fact, they have been going up, 102 percent between 1980 and 1992. In the States that do not have a supermajority requirement, taxes have gone up 121 percent. That difference of 19 percent, if you calculated it on the Federal tax rate, you would have lower taxes in the Federal Government this year of around, I believe $160 billion.

☐ 1545

So the first thing in all 10 States is that taxes go up more slowly than they do in States that do not have tax limitations.

The second thing we find out is that, since taxes are not going up as fast in tax limitation States, spending is not going up as fast. Again, between 1980 and 1992, in the supermajority tax increase States, their spending went up about 132 percent. But in States that do not have a supermajority requirement to raise taxes, their spending went up 141 percent. So that is a 9-percent savings in spending.

Mr. Speaker, if we calculate 9 percent of $1.6 trillion we are spending here at the Federal Government this year, that is about $145 billion savings in spending.

Now, since taxes are not going up as rapidly and spending is not going up as rapidly in those States, some good things begin to happen. The first thing that happens is that employment does grow more rapidly. In States that have a supermajority requirement, the average number of people working went up about 26 percent. In States that do not have a supermajority requirement, employment grew, but only 21 percent. So you have a 5-percent differential there.

Last but not least, since there are more people working in States with a supermajority requirement for a tax increase, the economy in those States grew more rapidly, 43 percent versus 35 percent in the nonsupermajority States.

So those four things are true in every State. Taxes do not go up as rapidly, therefore spending does not go up as rapidly, therefore you create more jobs, and you create more wealth in the State. So the way I say this is a simplified fashion, taxes go up lower, taxes are lower, therefore spending goes up slower in States that have the supermajority requirement. And therefore the taxpayers are not left high and dry like they are in States without the supermajority requirement.

Mr. Speaker, I am a lower, slower guy. I am not a higher, dryer guy.

The last thing I would say on these 10 States, not one State that has passed supermajority has repealed it. In some of these States, the supermajority requirement for a tax increase has been on the books for decades.

With that, I would be happy to yield to my friend from Arizona for such time as he may wish to consume.

Mr. SHADEGG. Mr. Speaker, I thank the gentleman from Texas and join him in calling for the passage of this amendment.

Let me talk about why. On the list of States which my colleague put up which have enacted a supermajority requirement, you will find the first State is my home State, the State of Arizona. We enacted that requirement in 1992. It compels the State legislature there to assemble a two-thirds majority before yet once again raising taxes.

Now, why? The reason for that is that we had had a spiralling increase in taxes in our State year after year after year, and the consequences were devastating.

Mr. Speaker, I think the gentleman did a great job of showing exactly how that comes about. I want to focus on just one of those charts.

This chart alone says it all. For my colleagues in the Congress, I urge them to study this one chart. It says a very simple premise: Where taxes are high, where they are raised time and again, over and over, there is a consequence to be paid for that. In Arizona it was that we had gone from a high growth State with low taxes and a booming economy to years of tax increases, and we had become a low growth State. We had injured our economy. So we put an issue on the ballot, an initiative drive which I helped head, which the people had a chance to vote on. By a margin of 72 percent of those voting, we enacted a supermajority tax limitation.

Those words are kind of confusing, supermajority tax limitation. What it says is simply this: Where today in this Congress we can raise taxes with a simple majority, 50 percent plus one, we would change that standard and make it not impossible but slightly more difficult to raise taxes yet one more time.

Mr. Speaker, we are not cutting taxes, we are just saying that the bar over which we should have to climb to raise taxes yet again ought to be slightly higher.

In my lifetime we have raised taxes in this Nation, income taxes in this Nation, on the average American family by 1,200 percent. The consequence is we are doing to the national economy what the non-supermajority States have done to themselves. That is, if you look at States where it is slightly higher and slightly harder to raise taxes, the supermajority States, you will see economic growth is significantly higher than in those States where there is no supermajority and where, accordingly, it is slightly easier to raise taxes.

The premise which this amendment raises is a straightforward issue of fiscal responsibility. Should Congress be more responsible about spending the hard-earned dollars earned by the citizens of this great country? If you believe it should, then you must vote for this amendment, because by making it slightly harder to raise taxes in America, we will force this Congress to have discipline.

Indeed, Mr. Speaker, the record of this Congress and of past Congresses on controlling spending is abysmal. We have failed time and again to control spending. Thus, we need a supermajority requirement, a discipline on our ability to raise taxes, because that will force us to spend the money we have more wisely.

As the gentleman indicated, there are 10 states that now require this. It is not a radical reform. I would like to point out that some of those who have considered it view it as indeed a rather prudent reform.

George Will recently writing said, "The proper reverent reason for amending the Constitution is to revive those of the framers' objectives that have been attenuated by political developments since the framers left Philadelphia."

What indeed has happened in America is that we have lost many of the first principles established in our U.S. Constitution. The U.S. Supreme Court has as of today so expansively read the commerce clause that this Congress has vastly more power than it did a decade or two or three decades ago. Indeed, it has the power to reach into the pockets of Americans time and time again, to spend that money on almost anything it will.

Six times since 1980 we have raised taxes. On one of those occasions, we had the two-thirds majority. On all of the others, we did not. Yet we raised taxes over and over again.

The 1993 tax increase, the largest in American history, would not have passed this body if one vote had switched. It would not have passed the Senate had the vice president not broken a tie.

Let me conclude by pointing out the words of two scholars who have looked at this issue. John McGuinness of the Yeshiva University's Cardoza Law School and Michael Rappaport of the University of San Diego Law School have said about this amendment that the amendment should be seen as an attempt to revive the original values of our Constitution, rather than as a radical innovation.

The opponents of this amendment will argue that it offends the notion of majority rule; that whenever the majority wants to do something, they ought to be able to do that. Regrettably, they ignore that the first premise of a constitution is to protect the rights of a minority.

Indeed, in this instance, it is critically important that in the area of taxation, we protect the rights of the minority. That is why a constitutional amendment is the proper device. It is indeed not a radical innovation, but rather an idea that will restore the Founders' intent.

I would invite the other gentleman to join us here.

Mr. BARTON of Texas. I want to compliment the gentleman from Arizona on his leadership. He is one of the named sponsors, and is doing an outstanding job.

I would like to yield to the gentleman from Arkansas [Mr. HUTCHINSON] at this point in time.

Mr. HUTCHINSON. I thank the gentleman for yielding time and compliment Mr. BARTON from Texas for his leadership on the balanced budget amendment and on this constitutional amendment we will be debating and voting on today.

As Americans hasten to file their Federal income tax returns by midnight tonight, many families will again remember how much of their family budget is paid to the Federal Government every year. Today they will be reminded and we will be reminded that the average American family pays $1 out of every $4 it earns to the Federal Government. We will be reminded that the average American family spends more on taxes than on food, on clothing, and on shelter combined.

Sadly, we will also be reminded that the average American family can expect to work at least until May 6 before being able to dedicate any of the earnings to anything other than Federal, State, and local taxes. The average worker today spends the first 3 hours when he gets to work each morning just paying his debt to the Federal Government, State government, and local government before he can ever begin to labor for himself or for his family.

With approximately 38 percent of the average family's budget being used to meet their total tax burden, it is high time that the U.S. Congress take action to make further tax increases more difficult.

Our country has run chronic budget deficits for 25 years. We have pretended that we were going to do deficit reduction by raising taxes in the omnibus budget laws described as deficit reduction acts, and yet spending continues more and more.

A perfect example for the necessity of such an amendment can be found in the middle class tax cut that was the centerpiece of President Clinton's 1992 campaign for President. Despite his record in Arkansas of having raised taxes and fees 128 times during his tenure as Governor of my home State of Arkansas, the American people still trusted him to make good on his promise. Just 1 month into his Presidency, however, the President betrayed that trust and traded his promise of a middle class tax cut for the largest tax increase in history. This record tax increase was pushed through Congress in 1993 and was approved by a 51-to-50 vote in the Senate and a 218-to-216 vote in the House. A single vote switch in either body would have killed the legislation. A supermajority requirement easily would have saved our economy from yet another oppressive tax increase.

It is clear that increasing taxes is not the answer to our deficit problems, that increasing taxes is not the way we are going to deal with the growth of the national debt. Every time in the last 40 years this Congress has raised taxes $2, we have increased spending $3. Raising taxes is not the answer. We simply must make it more difficult for this Congress and future Congresses to raise taxes.

If that was not enough, our President vetoed the middle class tax cut that this Congress passed and gave to him this past December 6. That is why there will be no tax cut this April for hard working families.

In one stroke of the pen, the President denied tax cut benefits to 28 million families and 59 million children in our $500 per child tax credit. We will not see capital gains tax relief, we will not see the job creation that would have accompanied it, the relief from the marriage penalty, the estate tax, and on and on. We would have done that and much, much more. But, instead, the temptation is going to be there in the future for Congress to start raising taxes again. That is the temptation, to try to solve deficits by raising taxes, and is simply will not work.

It is time to make Washington start working for families, instead of making families work for Washington. That is why I rise in strong support of this supermajority rule as a necessary component strategy, to shrink the size and power of the Federal Government and limit the power of Congress to tax the American people.

Mr. BARTON of Texas. Before I recognize another gentleman, I would like to ask the gentleman a question: My understanding is you do represent the great State of Arkansas.

VOL 142 PT 6 AP 15 — 24 1996 UMI

Mr. HUTCHINSON. That is correct.

Mr. BARTON of Texas. It is my understanding that Arkansas has had a tax limitation on amendment on the books for several decades. It requires a three-fourths vote; not a two-thirds, but even a higher standard of three-fourths. Could you comment on how that has worked in Arkansas?

Mr. HUTCHINSON. We have a supermajority requirement, a three-fourths requirement, to raise the income tax in Arkansas. The evidence is very clear that the legislature has been more reluctant to raise the income tax levels for hard-working Arkansans.

Now, we have a lower threshold for raising the sales tax, which many believe is a more regressive tax. The fact is they have fallen back many times on that regressive sales tax, which hurts poor people more than affluent individuals. I believe the supermajority across the board, whether it was a two-thirds or three-fourths, would make a lot more sense. But Arkansas today has one of the lower tax levels and one of the lower tax burdens in the United States. That is why people are moving to Arkansas. That is why our economy is good in Arkansas.

□ 1600

In my particular district, we have got unemployment down around 3 percent, virtually full employment in my district, companies moving in, people doing well, because the tax burden, heavy as it is on the Federal level, has not been that onerous on the State level, partly because of that super majority provision.

Mr. BARTON of Texas. Is there any move in Arkansas to repeal the three-fourths requirement?

Mr. HUTCHINSON. None whatsoever. I think the American people would rise up in arms, the people of Arkansas would rise up in arms if that were to occur. Quite to the contrary, as is happening in the antitax movement across this country, there are initiatives efforts, there is lots of talk about actually putting on the ballot a requirement to put all tax increases to a vote of the people. I do not necessarily support that. What I am saying is there is certainly no sentiment at all to repeal our supermajority tax issue.

Mr. BARTON of Texas. The tax limitation works, the supermajority vote for tax increases works in Arkansas.

Mr. HUTCHINSON. It worked in Arkansas. It worked when President Clinton, then governor of Arkansas. I certainly believe it will work for our country.

Mr. BARTON of Texas. I thank the gentleman from Arkansas.

I would like to yield to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today in support of the two-thirds tax limitation amendment to the Constitution. Mr. Speaker, a typical family of four pays nearly 40 percent of its income in Federal, State and local taxes. When you consider sales and a variety of other taxes that a family is often paying nearly half of their hard-earned money in taxes. Is there any wonder why so many folks are struggling to make ends meet? We have learned over the past four decades that too many politicians would rather raise taxes than reduce spending or even the growth of spending. Incidentally, that is not just true in Washington.

An article published in Kentucky papers across the State this weekend showed my home State of Kentucky, that the taxes there are a burden on the lower income people more heavily than any State in the Nation. That is according to the Center on Budget and Policy Priorities. We can make a statement on this tax day in the House of Representatives.

We can tell the folks back home that they matter more than big Government, that Congress can make the occasional tough spending decisions without asking hard working men and women to contribute more.

Mr. Speaker, 3 months ago, President Clinton ripped out a page from the Republican playbook by saying the era of big Government is over. We can help him keep his word today by passing House Joint Resolution 159. It is a good start toward ensuring the era of big Government will truly be over.

Over the past three decades, there have been 16 major votes to increase taxes. Just half of those would have become law if there has been a two-thirds requirement. We may not be able to stop President Clinton from vetoing our tax cuts for working families, but we can help make sure that a one-vote margin in the House or the Senate does not allow another massive tax increase like the 1993 Clinton tax hike.

Mr. Speaker, let us tell the American people that enough taxes are enough.

Mr. BARTON of Texas. I thank the gentleman from Kentucky.

I yield to the gentleman, Mr. HALL of Texas, one of the named sponsors, the distinguished gentleman from Rockwall, the fourth district of Texas.

Mr. HALL of Texas. Mr. Speaker, today, of course, is tax day for millions of Americans. It is also tax day for Congress. I think what we do in the next few hours will send a message to all the hard-working Americans all across the country. It will either give Americans some hope for the future, some hope for tax relief, or it will give them nothing but the status quo.

In the next few hours, we will have an opportunity to vote in support of House Joint Resolution 159, the tax limitation amendment to the Constitution. This amendment would require a two-thirds, a supermajority vote in the House and Senate for any bill that would raise Federal taxes. If a two-thirds requirement had been in place over the past 15 years, major tax increases in the years 1982, 1984, 1987, 1990, and 1993 would have failed. It does not mean we would not have had a tax bill, but it would have been a more sensible tax bill. It would have been sent back and reworked and we would have had more cuts in spending and less taxes on the backs of the American people.

This is a much higher standard than a simple majority vote and a standard that would be far more representative of the wishes of the American people.

Most of us here in Congress, like most Americans, support efforts to balance the Federal budget, and last year Members of the House went on record to pass a balanced budget amendment to the Constitution. Now today we have another opportunity to show where we stand on an issue that will affect everyone in this country.

Most of us, like most Americans, most of us Members of Congress believe that taxes are either too high or they are high enough, and today we have an opportunity to vote on a bill that would offer some protection to the American taxpayer by making it more difficult to raise Federal taxes. Hopefully the balanced budget amendment will pass the Senate this year and go all the way to the statehouse and to the States for ratification. Following ratification of the amendment, Congress would be obligated to produce balanced budgets.

Now if the vote falls short, which some people predict that it might do and we have to know that anything can happen on the floor of this house, if we do not have enough contact from the people of America to those who stand on this floor and represent them here as their Member of Congress, it is possible that we will not pass this day, this time this bill. But I think we will accept the lessons of history and consider this another step in the right direction. If I know the gentleman from Texas, Mr. BARTON, and the gentleman from Texas, Mr. PETE GEREN, and the gentleman from Arizona, Mr. SHADEGG, as well as I know them, they will be back again and again. It took 13 years for the balanced budget amendment and the line item veto, but it is here and this will follow.

Mr. Speaker, I believe that we can pass it this day. I think if history is any indication and if we listen to the people, that is exactly what we ought to do. So on this historic day, Mr. Speaker, I am pleased to be an original cosponsor of the tax limitation amendment, along with Mr. BARTON, Mr. SHADEGG, and Mr. PETE GEREN. They have worked tirelessly. I do not know of anyone who has worked harder than those men and their staffs throughout this legislation. The grassroots response have been enormous.

On this historic tax day, I think Americans are watching to see where

Congress stands on this important issue. I think we need to show the American people that we stand with them. I urge my colleagues to join me in support of House Joint Resolution 1759, the tax limitation amendment.

Mr. Speaker, I thank the gentleman.

Mr. BARTON of Texas. I thank the distinguished gentleman from Texas. Before I yield to the gentleman from Texas, Mr. PETE GEREN, I yield to the chairman of the Committee on Economic and Educational Opportunities, the distinguished gentleman from Pennsylvania, Mr. GOODLING.

Mr. GOODLING. Mr. Speaker, I can sum up the most important reason to pass this legislation in one illustration. Thirty-eight percent of what the average American family earns they pay in taxes. Anybody have any idea how much they spend on food, clothing and shelter combined? Twenty-eight percent, which is 10 percent less than they have to spend on taxes.

I was having a meeting this morning and the one gentleman said, I had to pay my taxes today. He has two little children. He said, very, very difficult. I said, yes, because the President vetoed a package that would have given you the kind of relief you would have needed. It would have given you $500 for each child. It would have given you a $500 credit for home care. It would have given you a $1,000 credit toward long-term insurance. It would have given you an IRA for the parent that stays at home.

These are the kinds of things we should be doing to try to help American families stay together, not take their money and bring it to Washington, DC, to waste. So I would call on all of my colleagues, support this legislation. We get a balanced budget and we make sure that we stop spending more than we take in and we will give hope to the future. We will give hope to the children and the grandchildren that are out there now wondering whether there will be a tomorrow like we were fortunate enough to have.

I thank the gentleman for yielding me this time.

Mr. BARTON of Texas. I thank the gentleman, Mr. GOODLING, for those remarks. Would the chair indicate how much time is remaining in our special order?

The SPEAKER pro tempore. The gentleman has 28 minutes remaining.

Mr. BARTON of Texas. I yield to another of our original sponsors, Mr. PETE GEREN of the 12th District of Texas, who unfortunately will be leaving us at the end of this Congress to return home to Fort Worth.

Mr. PETE GEREN of Texas. I want to thank the gentleman, Mr. BARTON, and commend him, the leadership on this issue, the leadership that he has brought to bear.

From the first day he stepped on the floor of the Congress, he has been pushing this, and his dogged determination has brought us to where we are today. I must say it has been with some reluctance that I have come to the conclusion that it is necessary that we pass this resolution that would amend the Constitution to require a supermajority vote of two-thirds in order to increase tax revenues. However, I believe that if we ever are to control the growth of Government, limit its insatiable ambitions, then this limitation is necessary.

The growth of Government, and with it the increase in taxes and increase in the deficit, have become a constant in this country. Regardless of who is in the White House, regardless of what party controls Congress, Government has remained and will continue to remain a growth industry. In terms of 1983 dollars, from 1969 to much of 1996, the size of Government measured in terms of its spending, it has nearly doubled. These are in constant dollars. The Government has grown from $593 billion in 1969 to $1.1 trillion in 1996.

I commend President Clinton for his statement that the era of big Government is over. I wish that were true. In spite of those words, the size of Government continues to grow and according to all projections, to all projections, it will grow as far as the eye can see and younger generations will bear the brunt and cost of our mushrooming growth in taxes paid and in freedom lost.

According to the General Accounting Office, a child born in 1992, to fund Government on its current growth path, a child born in 1992 will pay 82 percent of his or her future earnings in taxes. Eighty-two percent of his or her future earnings in taxes. The Government itself has become the most powerful political force in America, not the people that pay the bills but the people that live off of those who pay the bills.

When faced with cuts in spending, Government programs are able to rally their individual constituencies to bring overwhelming pressure to bear on the legislative process. The tax limitation amendment is needed to offset this pressure. I do not think our Founders ever imagined that we would have a Federal Government that would be telling us where to place curb cuts in the step of Cleburne or a Federal Government that is spending over 20 percent of the gross national product.

They could not have imagined that when they drafted our Constitution, and I am confident if they had, this limitation amendment would have been put in the original Constitution. This is not a new initiative. It is a tested initiative. It has been tested in the laboratories of our individual States, as our Founders intended.

Currently 10 States have supermajority requirements to raise taxes. They include Arkansas, Arizona, California, Colorado, Delaware, Florida, Louisiana, Mississippi, Oklahoma, and South Dakota, geographically spread across the entire Nation. In States with no tax limitation, taxes have climbed 120 percent per capita from 1980 to 1992, while they increased only 102 percent in States with supermajority requirements. Even with the supermajority requirement, the government has found a way to grow. Supermajority States have enjoyed a 43-percent growth rate from 1980 to 1992, while other States without this limitation have grown by only 35 percent. Employment growth averaged 26 percent in supermajority States but only 21 percent in States without the supermajority requirement. Using data from 50 States, Dr. Richard Vedder, in a study for the Joint Economic Committee, has concluded and I quote:

> The economic performance of States is negatively relative to the overall amount of taxation: Higher taxes mean lower growth, lower taxes mean higher growth.

This amendment is not artful. It is not pretty. It is not the sort of provision that will ever thrill constitutional scholars. It is a blunt instrument, and it is unfortunate that it is necessary, but it is necessary. As legislators, we have either been unwilling or unable to put restraints on the growth of government.

In the so-called antitax era that we have all lived through in the last 15 years, we have still seen Government grow. The 1980's were famously antigovernment, antitax, yet taxes grew 20 percent during that decade, the size of Government growing in excess of that. There is a bias in our system toward growing Government. It is a bias that grows stronger every day as Government grows more and more and more intrusive in our lives. This amendment is necessary to counteract this bias and force the Government back into a role that respects that the genius and miracle of our experiment in democracy lies not in Washington, DC, but with the people.

Mr. Speaker, I thank the gentleman, Mr. BARTON, for yielding me this time, and I commend you for your leadership on this effort.

Mr. BARTON of Texas. Well, if the gentleman would remain at the podium, I have got a few questions that I would like to ask.

My first question is, I believe that you are a member of the Democratic Party, is that not correct?

Mr. PETE GEREN of Texas. Certainly am.

Mr. BARTON of Texas. I know that some Members of this body have said that this is some sort of a Republican policy gimmick. But you are not a Republican, obviously. I think you are very proud to be a Democrat.

Mr. PETE GEREN of Texas. No, and I expect that we will have a considerable number of Democrats join us in

VOL
142
PT
6
AP
15
—
24
1996
UMI

voting for this. I think the experience that we have seen in the 10 States that have tried this belies the accusation that this is some partisan gimmick by either party. Arkansas, a State that has been controlled by Democrats. Legislature, the Governor's office, I guess since Reconstruction, they have this provision.

☐ 1615

California, very strong Democratic legislature, they have had Republican and Democratic Governors; they have this limitation under Willy Brown, one of the leading Democrats in the entire country. This provision came out of the legislature in which he presided as the speaker.

So anybody that tries to dismiss this as a partisan gimmick I think is ignoring the fact that 10 States, some of the States in heavily Democratic—with heavily Democratic majorities in every area of government—have this problem. So for those to try to dismiss it with that sort of criticism I think are ignoring the reality of experience with this provision.

Mr. BARTON of Texas. I am sure that you have seen this study, but you might not have had a chance to really study it in detail, but March 19 through March 21 there was a national poll conducted by Americans for Tax Reform. They polled 1,205 registered voters throughout the country about the tax limitation amendment, and I know that you will find this very gratifying to know that of those poll respondents that identified, self-identified, themselves as Democrats, 64 percent said they supported the two-thirds tax limitation amendment; 80 percent of people that identified themselves as Independents and 80 percent that identified themselves as Republican. So the support is slightly higher for Republicans and Independents, but for Democrats around the country 64 percent of the respondents in this 1,200-person poll that said they were Democrats said they supported the amendment.

And I know as a Democrat you will also be delighted to know that when they asked the poll respondents to identify themselves by socioeconomic status, low, middle class, or high income, of those that identified themselves as low-income wage earners, 80 percent supported two-thirds vote for tax limitation; middle income, self-identified, 77 percent supported tax limitation; and high income, 64 percent. And finally, certainly last but not least, when asked the one political question in this survey, and again these are 1,200 people, March 19 through 21, national poll, plus or minus 2.8 percent variance—when asked would you be more likely or less likely to vote for your Member of Congress if you knew that they voted for the two-thirds tax limitation amendment, by party identification 76—no, 68 percent of self-identified Democrats, said that they would be more likely to vote for their Member of Congress if they knew that he or she had voted for the two-thirds tax limitation constitutional amendment.

Does the gentleman from Texas have any comments on those poll numbers?

Mr. PETE GEREN of Texas. Well, I think that this reflects accurately where Americans are, regardless of party affiliation, and also explains why in many States with a strong, strong Democratic tradition and control of their State governments, have enacted a provision of this sort.

This is a bipartisan initiative. We are not going to have as many people on my side of the aisle supporting it as I would like to see, but I think that poll shows that this is an initiative that enjoys bipartisan support or nonpartisan support, including strong support in the Independent base, and I would expect that—I mean, you look at the States that have it, Florida all the way to California, Louisiana, Arkansas; these are States that have very different economies, they have different political traditions, but joined in a recognition and understanding of the need to check this bias in favor of growing government.

Mr. BARTON of Texas. Well, I think it is interesting that when you really look at the facts and you look at the data that is out there, every State that has it, it works. We pointed out, you pointed out, the gentleman from Texas [Mr. HALL] pointed out, that taxes are lower, they grow slower, and that the economy, therefore, grows faster and more jobs are created. We point out that regardless of what your party affiliation is, it is supported anywhere from 80 to 64 percent. Regardless of your socioeconomic status, low, middle, or high, it is supported.

More States are adding this tax limitation provision to their State constitutions every year. Voters of Nevada have already passed it once. Their constitution requires two separate votes. they are going to vote on it again this fall. We think they will ratify it and they will be the eleventh State to put it in the constitution.

There are some dozen, dozen and a half, States that have got initiatives underway, so we are simply doing what is already being done and continuing to be done in the States, and I think that with your support and the support of the gentleman from Texas [Mr. HALL] we have an excellent chance to get enough Democrat support to pass it by two-thirds on the floor this evening.

Mr. PETE GEREN of Texas. Let me just highlight one point that you made, the economic growth.

If anyone were seeking to find an explanation why 68 percent of Democrats across the country support this, it is one simple word. It is jobs, economic growth. You look through the history of Democratic platforms, and you will see the word "jobs" repeated over and over and over for the last 100 years, and the States that have tried this have been proven job creators.

This is an initiative that will create jobs, as it has in California, as it has in Arkansas. This is an opportunity to extend that job creation across the 50 States of this country.

Mr. BARTON of Texas. Be happy to yield to the gentleman from Texas [Mr. HALL] and then——

Mr. HALL of Texas. I think also, Mr. Speaker, that it might be pointed out: I think that same poll that was conducted indicated not just people that are out of work or that are looking for work, Democrats or Republicans, support this. I think that same poll showed that among Federal employees who already have a job, that 68 percent of those supported the supermajority, and I think it also should be pointed out that union members, who historically have voted Democratic, have indicated that 71 percent of the union members polled supported the supermajority.

So while we up here on the floor of Congress try to shoot an arrow that hits the taxpayer and misses the voter, let me tell you we are hitting both of them and this is a chance for the voters and the taxpayers to have a shield, and I think the gentleman from Fort Worth probably agrees with that.

Mr. PETE GEREN of Texas. Absolutely.

Mr. BARTON of Texas. I thank both my two good friends for supporting this.

I would like to continue some of the comments that I made earlier. This is about making it more difficult to raise taxes, but not making it impossible. When my good friend from Arizona gets back, we are going to go through a colloquy on some of the tax increases that have passed the House in the last 10 to 15 years.

One very good thing about our amendment: It would take bipartisan support to pass any additional tax increases because it is very unlikely that either political party is going to have 67 percent of the House and the Senate at the same time in the modern era, and as has been pointed out numerous times during the debate this afternoon, the last major tax increase that we had 2½ years ago passed by two votes in the House, with no Republican voting for it, and by a tie breaker vote the Vice President, Mr. GORE, voting for it in the Senate. That is not bipartisanship, that is one political party with a very slim majority forcing a massive tax increase, in this case the largest tax increase in American history, down the throats of the American people.

I would now like to engage in a colloquy with the gentleman from Arizona about some of the more recent major tax increases that have been before the House and the Senate.

Mr. SHADEGG. I would just like to commend the gentleman from Texas, actually all three gentleman from Texas, Mr. BARTON, Mr. PETE GEREN, and Mr. HALL, who have shown great leadership here. I think I heard Mr. HALL recite that whether we passed it today or not, if in the unlikely chance we do not pass this measure today, he had great confidence that we would be here carrying this fight forward in the future, and, for the reasons that Mr. PETE GEREN pointed out, I indeed, so long as I am a Member of this body, until we are successful in this effort, will be here to fight for it precisely for the reason he pointed out, and it is the reason shown on the chart just to your side, and that is job creation.

This measure will aid the American economy. It is wonderful that we have 10 States to look to which have had experience with a supermajority for tax increases; that is, with making it slightly harder to raise our taxes again. And that experience teaches us; it teaches us that the economy and those States where they have made it a little harder to raise taxes, as we propose to do here today for the Nation, have grown at a significantly faster pace, over 40 percent versus under 30 percent.

Now, in the discussion beforehand, and the gentleman might recall that our colleague from Virginia, Mr. MORAN exercised some great concern about whether or not it would be possible to ever muster the two-thirds majority that this measure would require for a tax increase. Well, the history shows that while it may indeed be and should be somewhat more difficult, our goal is not here today to make it impossible to raise taxes, and I would just like to point out that on at least four recent occasions more than a two-thirds majority has been mustered for a tax increase, both here in the House and also in the Senate.

The Tax Adjustment Act of 1966 got 74 percent of the Members of the House in its support and 94 percent of the Members of the Senate. The Interest Equalization Tax Extension Act of 1967 got 73 percent of the Members of the House to support it and a similar number in the Senate. In 1989 the Senate passed by a vote of 93 percent of the Members and the House passed by a vote of 58 percent of the members the Omnibus Budget Reconciliation Act of 1989. But the most compelling example of where a supermajority was accorded is what is now the infamous or famous Tax Reform Act of 1986. That probably is one of the best known tax revisions in this Nation's history, and that measure in its final version passed this Congress in 1986 by a vote of 292 to 136 in the House and by a vote of 74 to 23 in the Senate.

So for those who say that a two-thirds barrier is too high, is too extreme, I would call these examples to their attention, and I would simply like to reiterate. The gentleman was asked before, the average American family today spends more on taxes, according to the figures we have been provided, than on food, clothing and shelter combined. When we have reached the point in this Nation where we spend more on taxes as an individual family than on food, clothing and shelter combined, indeed I believe it is time for reform, and the reform we bring here is not a radical one. It is a logical one, not a rightful cut in taxes, but simply a provision that says the next time we try to raise taxes again we ought to have to do it with a two-thirds rather than a 50 percent majority.

Mr. BARTON of Texas. My understanding is the gentleman speaking is from the great State of Arizona and that you have a two-thirds or three-fourths requirement for all tax increases in your State and that has been in effect since 1992.

Is that correct?

Mr. SHADEGG. We do indeed have a two-thirds majority for all tax increases.

Mr. BARTON of Texas. And how has this worked in Arizona the 3 years it has been on the books?

Mr. SHADEGG. Well, as having been the chairman of the initiative drive who put it on the ballot and then pushed it over with the vote of 72 percent of the legislature supporting it, it has worked extremely well. Where we had seen a spate of 9 successive tax increases in a row, we have not seen a general tax increase since that measure was enacted.

I would point out that the measure enacted in Arizona is much like the one we are proposing here; that is, it allows revenue neutral tax reform, so that if we want to change the code in some respect we can, so long as it is not a tax increase. And whenever in Arizona a tax increase is required, that is when the supermajority, two-thirds, is triggered, just as the language we are proposing here today would do.

Mr. BARTON of Texas. I think that is a very basic point that we need to emphasize as often as possible. Under the language that is going to be voted on this evening, we could change from a national income tax, graduated system that we have today, to the flat tax or the national sales tax, as some people propose, with a majority vote so long as the revenue impact was de minimis, was neutral or less.

☐ 1630

Mr. SHADEGG. Mr. Speaker, our goal is to allow and to continue to go forward with revenue-neutral tax reform. Should we shift from the income tax to a sales tax to a VAT tax, whatever we deem is necessary, provided it is revenue-neutral, it can be accomplished with a simple majority. That provides the flexibility that our colleagues on the opposite side of the aisle are so deeply concerned about.

Mr. BARTON of Texas. Mr. Speaker, I think one of the other concerns under the current tax code, most Republicans and far-thinking Democrats support a rate reduction in the capital gains tax. What is the gentleman's understanding of what we could do with capital gains, if our amendment were to become part of the Constitution?

Mr. SHADEGG. Mr. Speaker, as the scoring by CBO is currently performed, we could easily enact a capital gains tax cut, and would not require a supermajority to do that. Some of us, though, would argue that CBO ought to embrace the concept of dynamic scoring, which might change that analysis.

But as the measure would currently be scored, a change in our capital gains tax rates to lower those tax rates could be accomplished by a simple majority vote, which means that a lot of arguments we have heard already today and a lot of arguments we will hear tonight about how the rule adopted here on the House has had to be waived simply does not have any application to this debate, because the language of the amendment differs from the language of the rule which we adopted on the first day of this Congress.

Mr. BARTON of Texas. Mr. Speaker, I see the distinguished chairman of the Committee on Rules, the gentleman from the great State of New York [Mr. SOLOMON], on the floor. Would he like to engage in the debate?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from New York.

Mr. SOLOMON. I would. Mr. Speaker, I thank both of the gentlemen. I happen to come from the State—that State is New York—which always is either the first or second highest-taxed State in the Nation. Let me tell you, we have seen hundreds of thousands of manufacturing jobs leave our State almost for that reason alone; that, plus the fact that we are the most overregulated State.

Let me just tell you, we go back to 1993 when this Congress enacted the largest tax increase in the history of this entire Government body, the largest tax increase. Yet, we did not cut the deficit by the amount of the tax increase. That meant by increasing taxes, you actually are giving an incentive to this Congress to increase spending. That is why we should never, never increase taxes in order to bring down the deficit, because it just does not work.

This in itself is going to do more to straighten out the fiscal mess of this Congress and this Government than anything else we could do, because it is going to be a disincentive to this body to spend money. That is what we need

VOL 142 PT 6 AP 15 — 24 1996 UMI

to get at this sea of red ink that is literally killing my children, my grandchildren, and yours, and the others around this country.

I commend both of you. Let us get this thing on the floor and let us pass it, and the American people are going to thank us from the bottom of their hearts.

Mr. SHADEGG. Mr. Speaker, if the gentleman will continue to yield, the gentleman raised the question of whether or not tax increases have solved the deficit problem.

I am sure the gentleman is aware that the history is, as he points out, the opposite. Each time we have increased taxes by a dollar, studies show we have further increased spending by not $1, not an equal amount, but by $1.59. So we have driven ourselves with each new tax increase to solve our deficit problem, not taken ourselves out of debt, but put ourselves further into debt.

Mr. SOLOMON. The gentleman is so right. Again, I want to thank both of you for the job that you have done to get this on the floor. Sometime around 9 o'clock tonight is going to come the critical vote. I would urge all of you, to the people back in your districts, to get those phones ringing and let us get these Members of Congress to come over here and vote for this vital piece of legislation.

Mr. BARTON of Texas. Mr. Speaker, that phone number is 202–225–3121, for those who wish to call the House switchboard.

Mr. HALL of Texas. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Texas.

Mr. HALL of Texas. Mr. Speaker, I would say to the gentleman from Texas [Mr. BARTON], the leader and the original sponsor of this amendment, that we need to reduce this down to its easiest terms to understand. It is not tough. It is really simple. It is just, simply, do you want half the Members on this floor to be able to raise your taxes, or do you want it to require two-thirds. We have de minimis and all these other one-way roads and explanations and diversions and questionings, and we will have speeches about it later in the day, but it narrows right down to whether or not we want half the people to be able to put taxes on us to where they can have more spending, or we want it to require two-thirds.

The gentleman from New York [Mr. SOLOMON] and I were here when they passed the so-called Tax Reform Act of 1986. It was an act that he simply wanted, the President, President Reagan wanted an act. He wanted a Tax Reform Act. The Committee on Ways and Means chairman wanted a Tax Reform Act. They got together on a Tax Reform Act. We passed it. I think of the two, only one of them really understood it. I am sorry to say that was not President Reagan.

We got the sorriest act that has ever been passed on the floor of this Congress, that set this country back so far. That would not have happened if your amendment, I would say if the gentleman from Arizona [Mr. SHADEGG] had been here, and the gentleman from Texas [Mr. BARTON], if his amendment had been passed, that would not have taken place. It took place right at the break of day when people were trying to go home. This protects people against those of us who are trying to go home; stay here and work, and require a two-thirds majority. I thank the gentleman for his tenacity and the tenacity he will set forth in the future if we fail today.

Mr. BARTON of Texas. Mr. Speaker, I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for his leadership. I simply want to conclude my remarks as a part of this special order by saying we in the Congress have a tremendous opportunity today to deliver to the American people on a promise we made a year ago. On this day when we exact their tax return from them, when we reach into their pockets one more time, we have a chance to tell them that we are going to impose the discipline of a supermajority requirement in the U.S. Constitution. I urge my colleagues not to miss this opportunity to support this amendment.

Mr. BARTON of Texas. Mr. Speaker, I want to conclude very quickly by stating that this is about helping us to get to a balanced budget. The last balanced budget of the U.S. Government was in 1969. My son was born in 1970. He is now about to enter graduate school. He has never lived in a year that we have balanced the Federal budget.

There are two ways to balance the budget. You can cut spending or raise taxes. We think, those of us who support this amendment, we should do it by emphasizing spending cuts, not tax increases. Federal revenues have grown every year since 1964. The 10 years that I have been in the Congress, they have grown an average of $59 billion a year, $59 billion a year. The problem is that spending has grown more rapidly than revenues.

The tax limitation amendment is simply a mechanism to make it more difficult to raise taxes and, therefore, easier to focus on spending reduction or spending limitation, which is what we should do in order to balance the budget. This House and this Senate sent to the President of the United States a 7-year comprehensive budget that would have balanced in 7 years with no tax increases. The President vetoed the Balanced Budget bill we sent him. If we get a supermajority requirement into our Constitution, future Congresses will be able to work with future Presidents and focus on spending limitation, not on tax increases, as a way to balance the budget.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 159, CONSTITUTIONAL AMENDMENT RELATING TO TAXES

Mr. McINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 395 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 395

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 159) proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes. An amendment in the nature of a substitute consisting of the text of House Joint Resolution 169 shall be considered as adopted. The previous question shall be considered as ordered on the joint resolution, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) three hours of debate on the joint resolution, as amended, which shall be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) one motion to amend, if offered by the minority leader or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. EWING). The gentleman from Colorado [Mr. McINNIS] is recognized for 1 hour.

Mr. McINNIS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 395 is a very simple resolution. The proposed rule is a modified closed rule providing for 3 hours of general debate divided equally between the chairman and ranking minority member of the Committee on the Judiciary. Upon adoption of this rule an amendment in the nature of a substitute consisting of House Joint Resolution 169 shall be considered as adopted. Additionally, the rule provides for an amendment by the minority leader, or his designee, which would be separately debatable for 1 hour. Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, we should not view a proposed amendment to the Constitution of the United States lightly. However, the participants at the constitutional convention were acutely aware of the need to allow for the amendments to the Constitution. During the Constitutional Convention, Colonel Mason urged the necessity of an amendment process claiming that "the plan now formed will certainly be defective, as the Confederation has been

found to be. Amendments therefore will be necessary, and it will be better to provide for them, in an easy, regular and Constitutional way than to trust chance and violence."

Likewise, Thomas Jefferson stated "I am not an advocate for frequent changes in laws and constitutions. But laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change. With the change of circumstances, institutions must advance also to keep pace with the times."

The Framers with their infinite wisdom included Article V within the Constitution of the United States. Article V has not been overused. During the course of our history, in addition to the 27 amendments that have been ratified by the required three-fourths of the States, six other amendments have been submitted to the States but not ratified by them. At times the ratification process moves slowly. For example, the 27th amendment to the Constitution was proposed on September 25, 1789, and it was declared ratified on May 18, 1992, nearly 203 years later. Ultimately, this House, the Senate, and the various State legislatures will have thoroughly debated the merits of the supermajority requirement prior to ratification, or rejection, of this proposal.

Mr. Speaker, in my opinion, requiring a supermajority for tax increases is a good idea. My State of Colorado requires a three-fourths supermajority for tax increases by the legislature, and the State of Colorado is doing fine. One-third of all Americans live in States that have tax limitations in their constitutions, and they have curbed the growth of both taxes and debt.

Today, the average American, who works an 8-hour day, will spend the first 2 hours and 46 minutes paying his tax liability. This year, the average American family will pay more in taxes than housing, transportation, recreation, and clothing combined. I do not believe that we should continue to increase the average person's tax burden unless there is broad bipartisan consensus as to the increase being necessary. Any tax measure that could garner the required two-thirds vote would obliviously enjoy wide support from all political parties, and among the people generally. I urge my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I include for the RECORD documents detailing a comparison of the amendment process between the 103d Congress and the 104th Congress.

The information referred to is as follows:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of April 12, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	60	59
Modified Closed[3]	49	47	26	25
Closed[4]	9	9	16	16
Total	104	100	102	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of April 12, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17 H.J. Res. 1	Social Security Balanced Budget Amdt	A: 255–172 (1/25/95).
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of April 12, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2521	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands	
H. Res. 309 (12/18/95)	C	H.Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	D	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/21/96).
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96).
H. Res. 388 (3/20/96)	C	H.R. 125	Gun Crime Enforcement	A: 244–166 (3/22/96).
H. Res. 391 (3/27/96)	C	H.R. 3136	Contract w/America Advancement	PQ: 232–180 A: 232–177, (3/28/96).
H. Res. 392 (3/27/96)	MC	H.R. 3103	Health Coverage Affordability	PQ: 229–186 A: Voice Vote (3/29/96)
H. Res. 395 (3/29/96)	MC	H.J. Res. 159	Tax Limitation Const. Amdmt.	
H. Res. 396 (3/29/96)	O	H.R. 842	Truth in Budgeting Act	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. McINNIS. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my Republican colleagues ought to be ashamed of this rule and this constitutional amendment.

The Constitution of the United States is one of the most carefully crafted and well-respected documents ever created. It's the foundation for the greatest Government on Earth. It is the protection of our freedoms. And it's no place for political theater. But that's what's happening today, Mr. Speaker.

Today my Republican colleagues are staging a legislative fiasco, or, as the New York Times put it, "Staging a vote on an irresponsible measure"—and just in time for tax day. And they know it will go nowhere. Because this ridiculous amendment needs 290 votes to pass the House and luckily that won't happen. So, today's bill is showboating pure and simple and the American people deserve more from their Congress.

They deserve a constitutional amendment that at least has been reported out of a congressional committee, and this bill, House Joint Resolution 169, has never been the subject of a full committee hearing nor has it been reported out.

Mr. Speaker, amending the Constitution is serious business and we should at least know what we are doing.

Mr. Speaker, this issue, the issue of getting a supermajority to raise taxes, has come up three times this Congress. In the beginning of the Congress my Republican colleagues changed the rules to require a three-fifth vote for tax increases. But, every single time that rule came up, my Republican colleagues voted against it.

They ignored it on the so-called Medicare Preservation Act, they ignored it on the Budget Reconciliation Act, and they ignored it on health insurance reform.

If my Republican colleagues think this supermajority idea is so wonderful, why didn't they do it the first three times they had the chance?

Mr. Speaker, they had three times to show they were serious and three times they showed they weren't. They didn't impose on themselves this supermajority that they now want to impose on the Constitution of the United States.

And I would say to my colleagues that it is a lot easier and a lot less dangerous to change the House rules than to change the Constitution of the United States of America.

This amendment, Mr. Speaker, like a lot of other legislation we've seen this Congress, will help the very rich at the expense of lower income working American families.

This amendment to our Constitution will lock in corporate welfare and tax breaks for the very rich at the expense of middle and lower income families.

This amendment will not prevent tax increases on working families. In fact, my Republican colleagues have given

themselves a big loophole. They can still increase taxes on working families as long as they also decrease taxes on the very rich.

That means the Republican budget is a-OK. That means that this amendment allows the budget that will give the richest 1 percent of Americans a $15,000 tax break while it raises the taxes on families earning $27,000 a year.

And finally, this rule, Mr. Speaker, is one more restrictive rule in a year of 100 percent restrictive rules.

I urge my colleagues to defeat this rule.

☐ 1645

Mr. Speaker, I reserve the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I should just very briefly point out to the gentleman from Massachusetts that according to the study put out by the National Taxpayers Union, more than 25 percent of the revenue the IRS got in 1992 came from 1 percent of the taxpayers. One percent of the taxpayers, the very wealthiest in the country, pay 25 percent of the burden. So this certainly clarifies the confusion on that side of the aisle about what this rule does.

With that, Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules, a gentleman who is well versed. Certainly it is appropriate for him to address some of the issues that have been brought up by the ranking minority member.

Mr. SOLOMON. I certainly thank my colleague from the Rules Committee, a very valuable member of that committee from Colorado.

Mr. Speaker, my good friend from Massachusetts says we ought to know what we are doing before we vote on this bill. Let me tell my good friend from Massachusetts and everybody else within listening ear here, we know exactly what we are doing. We are making it difficult for this Congress to raise taxes on the American people. That is exactly what we are doing.

Let me call attention right at the outset of this debate, and the 3 hours that we will go after this, I want you to watch the people who stand up and oppose this constitutional amendment. I have here a list, a brand new list from the National Taxpayers Union, and I guarantee you that everybody on that side of the aisle that stands up to oppose this will appear as the biggest spenders in the entire Congress.

So keep that in mind: The people that oppose this constitutional amendment are the big spenders that want to continue to stick it to the American people. And those of us that want to make it difficult to raise taxes are those that have the lowest record for voting for big spending programs in this Congress. Now that we have set the parameter, I want all of you to pay attention and keep track as they stand one by one on each side of the aisle.

Now, having said all that, I am rising to support this legislation, Mr. Speaker.

Attempting to amend the Constitution of the United States is a serious and a very historic undertaking. We would not suggest that this approach is any way easy at all, but as future Congresses are forced to deal with budget realities, the bottom line is that there are limited options to reach a balanced budget.

One is to cut spending, and that is the way we ought to be doing it. The other is to raise revenue, either by raising taxes, which we should never do, or improving economic growth. That is the only way that you get new revenues coming into the Federal budget.

A proposed constitutional amendment before the House today is designed to discourage future Congresses from imposing large tax increases unless there is a two-thirds consensus that this is necessary. That is very simple.

Mr. Speaker, the opponents of this constitutional amendment may try to portray it as some sort of unworkable scheme, but we should keep in mind that 10 States that I know of, and maybe there are more, with one-third of the Nation's population already have some sort of supermajority voting requirement regarding taxation, and those States seem to be managing nicely. They do not have any problem. It just takes an overwhelming need to raise taxes before they will vote for it.

Other opponents may argue that in a democracy all votes should be by a simple majority. That sounds nice, but our own U.S. Constitution already provides for two-thirds votes on a number of issues. For example, this proposed amendment to the Constitution, like all constitutional amendments originating in the Congress, will require a two-thirds vote in each House. So that is already a part of the Constitution, and that is what we are proposing to extend here today.

The Constitution also requires a two-thirds vote by each House of Congress to pass any bill over the President's veto. There is another two-thirds requirement. And the Constitution also requires that there be a two-thirds vote to expel a Member. So everywhere in our rules and in the Constitution we have the two-thirds proviso.

Mr. Speaker, the opponents also may argue that the two-thirds vote requirement is only provided in cases of special significance, and that is true. We all admit that. But as Chief Justice John Marshall stated in the case of McCulloch versus Maryland in 1819, listen to this now, "The power to tax involves the power to destroy."

Let me tell you something: We have all but destroyed the American family in this country. When people with incomes of $30,000 and $40,000 and $50,000 or less or more have to work 3 out of every 8 hours of their day just to pay the taxes for the Federal, State, and local governments, let me tell you, that is the power to destroy. That is what we are trying to prevent from happening in the future.

Mr. Speaker, the increasing of the overall tax burden on the American population is a situation of special significance. It is at least as significant as the ratification of a treaty, for example, and the Constitution already requires a two-third vote in the Senate to approve any treaty at all.

Writing in support of this specific constitutional amendment is someone that I admire and respect very much. Columnist George Will wrote last week that "the properly reverent reason for amending the Constitution," and listen to this, "is to revive those of the Framers' objectives that have been attenuated by political developments since the Framers left Philadelphia" way back when. George Will concluded that this proposed constitutional amendment meets that test.

He cites two supporters of the supermajority requirement, John McGinnis of the prestigious Yeshiva University's Cardozo Law School and Michael Rappaport of the University of San Diego Law School, as saying the amendment should be seen as an attempt to revive the original values of the Constitution rather than as a radical innovation.

Mr. Speaker, that is true. The Framers of our Constitution designed a system to "temper simple majoritarianism" with Federalism and the separation of powers, and to protect "that which taxation can threaten—the right to enjoyment of property that results from enterprise."

We do not want to take money away from people, and that is exactly what we have been doing. And yet those values have been undermined by the Supreme Court's expansive interpretation of the commerce clause and by the rules and regulations of the administrative state that have substantially compromised property rights, which is what we all cherish so much, property rights, our own property.

George Will quotes the two legal scholars to the effect that if the supermajority requirement for raising taxes "forces Congress to finance spending with larger deficits that are even more unpopular than higher taxes," what does that mean? "This will induce Congress to spend less than it otherwise would."

Let me repeat that, because that is really what this debate is all about. "This will induce Congress to spend less than it otherwise would." That is what it is all about. George Will echoes

VOL 142 PT 6 AP 15 — 24 1996 UMI

these sentiments by saying that "by making tax increases most difficult, a supermajority requirement would force the political class to look to economic growth to raise revenues," and that is where we should be looking.

George Will concludes, and I quote, "Some such amendment could represent reverent restoration of the values embodied in what the Framers did at Philadelphia."

Mr. Speaker, I have to go back to my hero, Ronald Reagan, because in 1981 we rammed through the Reagan revolution. We made such a great beginning.

But in 1982 there were some deficits that were appearing, and the liberals that controlled this Congress back in 1982 went to Ronald Reagan and to me and others and they said, "Mr. Reagan, if you will give us $1 in tax increase, we will guarantee you $2 in spending cuts." Ronald Reagan, being a new kid on the block, bought that. He bought that deal.

And do you know what? He actually signed a tax increase over my objection, but what do you think happened? We did not get a nickel's worth of spending cuts at all. As a matter of fact, we spent $1.29 more than we got in tax revenues coming in. That is what this debate is all about.

If we are ever going to stop this sea of red ink, we are going to make it as difficult as we possibly can in raising taxes on the American people, and that is why I hope everyone comes over here and votes for this rule and then votes for this very important constitutional amendment. Because if we do, and we give the two-thirds vote, that means that the people themselves through their representatives in the State legislatures across this country are going to have a chance to then speak and be heard about ratifying this proposal. Let us give the American people that choice by passing this today.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. I thank the gentleman for yielding. But if he is so intent in passing the supermajority, why did his party three times this year waive the supermajority that they put in themselves in changing the rules? Could the gentleman please answer that question?

Mr. SOLOMON. As the gentleman knows, he has some people on his side of the aisle that would liked to have raised a point of order and the point of order would not have stood but it would have taken up several hours of this body's time. That is the only reason. It did not raise taxes and the gentleman knows it.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I hope I have better luck getting a straight answer.

When the gentleman said that it was the liberals who controlled Congress in 1982 that forced Ronald Reagan to have a tax increase, does he include in that the man who was then chairman of the Republican-controlled Senate Finance Committee, ROBERT DOLE?

The tax bill he is talking about in 1982 was passed by a Democratic House and a Republican Senate with ROBERT DOLE as chairman of the Finance Committee.

Was ROBERT DOLE who passed that tax bill one of those liberals the gentleman is complaining about?

Mr. SOLOMON. No. ROBERT DOLE was asked by Ronald Reagan to go along with that bill because Ronald Reagan thought he could trust the liberals. He found out he could not, and BOB DOLE regrets it to this day.

Mr. MOAKLEY. Mr. Speaker, I yield 10 minutes to the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. I thank my good friend from Massachusetts for yielding time to me.

Mr. Speaker, I rise in strong opposition to the rule and to the proposed constitutional amendment it makes in order, which would require two-thirds majorities for passage of bills increasing revenues.

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Mr. Speaker, many of us believe that the tax limitation constitutional amendment is a foolish idea, but even Members who support it ought to be very troubled by the manner in which the House of Representatives is being asked to consider it today.

Amendments to the U.S. Constitution are the most serious and important measures Congress ever considers, because they propose to change the document that is the very foundation of our Government. Yet this proposed constitutional amendment has not gone through even the minimal preliminary step of being reported by the committee of jurisdiction—the Judiciary Committee—before being brought to the House floor. And, because the amendment has not been reported, there is no committee report available discussing the reasons for the legislation.

In fact, only one hearing was held on this subject in the Judiciary Committee—in one of its subcommittees—and that was on a measure that was significantly different from the one that we are to consider today. This new proposal was introduced on March 28, just 1 day before the House recessed for 2 weeks; and its only airing was in the Rules Committee the following day, as Members were preparing to leave Washington for their home districts.

Even worse, this amendment will be debated at a time when Members are just returning from their districts after the 2-week recess, and have not yet had a chance to focus on this proposal, and to consider the merits of the arguments on both sides.

Why is so important a measure as this being debated under such circumstances? For one simple reason: because its proponents believe they will get some public-relations benefit by holding this vote on April 15, the day many Americans identify with paying taxes.

The Republican leaders are so intent on holding this vote on April 15, to get publicity as part of today's tax-related news stories, that they are willing to violate the normal legislative process to do so.

And, the Republican leadership is holding this debate today knowing full well that they will not come close to obtaining the two-thirds vote necessary to pass this measure.

This is a cynical strategy that demeans the U.S. Congress by using the floor of the House of Representatives as a stage for a public-relations stunt, and the debases the U.S. Constitution by using a proposed amendment to it as a stage prop. That is a disgraceful misuse of the legislative process.

It is also more different than anything could be from the careful, thoughtful debate of 1787–1788 of the authors of the Constitution. If more members had read any of their debates, we would never dishonor them by attempting to overthrow what they had one in such an arrogant and thoughtless manner.

If we care at all about the Constitution we all swore to uphold, we would never consider bringing such an important proposal to the floor in the slipshod and disgraceful way that has been followed here. I cannot conceive of anyone being so disrespectful of the men who devoted themselves to creating the great document that has bound us all together so successfully now for more than 200 years than the very manner in which this matter has been thus far considered—and is being presented to the entire House for its final consideration here today.

Beyond the circumstances under which this amendment is being considered, the proposal itself is extremely unwise, which perhaps explains why the committee of jurisdiction refused to act on it.

The primary reason we ought to reject this amendment is that it violates the principle of majority rule, which is at the heart of our democratic form of government. By requiring two-thirds of each House to agree on bills that increase revenues, it would hand control over tax policy—one of Congress's most important responsibilities—to a one-third minority in each House.

Currently, the Constitution requires two-thirds majorities for only five kinds of measures: Presidential impeachment, expulsion of House or Senate Members, ratification of treaties, overriding a veto, and amending the Constitution. This amendment would for the first time require two-thirds majority for passage of ordinary, regular legislation.

Since the committee did not take the time to look carefully at the issue which is being presented to us today, perhaps it might be useful and of some benefit to Members if we were to consider that those who wrote our Constitution, and fought to have it adopted, thought about this very matter.

Mr. Speaker, let me read just very briefly, if I may, from two of the issues of the Federalist, the first being No. 22, written by Mr. Hamilton, published in December of 1787, in part, to give a minority a negative upon the majority, which is always the case where more than a majority is requisite to a decision is in its tendency to subject the sense of the greater number to that of the lesser. This is one of those refinements which, in practice, has in effect the reverse of what is expected from it in theory, the necessity of unanimity in public bodies or of something approaching towards it has been founded upon a supposition that it would contribute to security but its real operation is to embarrass the administration, to destroy the energy of the government and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent or corrupt junto to the regular deliberations and decisions of a respectable majority. In those emergencies of the Nation in which the goodness or badness or weakness or strength of the government is of greatest importance, there is commonly a necessity for action. The public business must in some way or other go forward.

If a pertinacious minority can control the opinion of a majority respecting the best mode of conducting it, the majority in order that something may be done, must then conform to the views of the minority. Thus the sense of the smaller number will overrule that of the greater and give a tone to the national proceedings different from that of the majority. Hence tedious delays, continual negotiations and intrigue, contemptible compromises of the public good.

Secondly, from Federalist paper No. 58, published in February 1788, attributed to both Mr. Hamilton and to Mr. Madison, but which scholars now seem to believe was most likely written by Mr. Madison, here too, Mr. Speaker, I read just a small part. I quote: If has been said that more than a majority ought to have been required for a quorum; in particular cases, if not in all, more than a majority of a quorum for a decision. That some advantages might have resulted from such a precaution cannot be denied. It might have been an additional shield to some particular interests and another obstacle generally to hasty and partial measures, but these considerations are outweighed by the inconveniences in the opposite scale in all cases where justice or the general good might require new laws to be passed or active measures to be pursued, the fundamental principle of free government would be reversed. It would no longer be the majority that would rule. The power would be transferred to the minority, where the defensive privilege limited in particular cases, an interested minority might take advantage of it to screen themselves from equitable sacrifices to the public wheal or in particular emergencies to extort unreasonable indulgences.

Mr. Speaker, two additional comments, if I may, which I believe are relevant:

No. 1, it is useful to recall that the reluctance of the Framers of the Constitution to including supermajority provisions in the Constitution was largely due to the ineffectiveness of the Articles of Confederation which they were drafted to replace. The articles required a supermajority for both taxing and spending, and the fact that it was so difficult to pay off debts from the Revolutionary War and to pay for the regular national expenditures thereafter was the main reason for the downfall of the Articles of Confederation. For that reason, the Philadelphia Convention chose to reject proposals to impose supermajorities in legislative fields of even special sensitivity and concern, reserving them for the five specific and special areas we have heretofore mentioned.

No. 2, the Founding Fathers were willing to accept the fact that Congresses in the future might use poor judgment at times and pass harmful laws by a majority vote—but they believed so deeply in the principle of majority rule, that they placed that principle above whatever personal concerns they had that the majority at times would act in a manner contrary to their own feelings.

And, finally, in Federalist No. 30, Hamilton argued that taxation is a necessity "in one shape or another," and that any effort to weaken the power to tax is to minimize what he referred to as "the most important of the authorities" of government.

For these reasons and many others which I will submit in the form of extended remarks, Mr. Speaker, I strongly oppose this proposal. I urge Members to vote down the rule. That is not the way to bring a constitutional amendment before this body.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to the gentleman from California, put this in real simple terms. We are talking about taxes, taxes, and taxes. You know, taxes do not need rain. Taxes do not need fertilizer to grow. All they need are politicians.

What we are trying to do with this two-thirds, which I live in a State which exercises that, what we are trying to do is put a speed bump in front of politicians that want to continue to increase taxes in this country. It is not going to stop the opportunity from funding the Federal Government. Obviously, that is important. It is going to make you slow down before you hit that speed bump. If you go over it at the proper speed, you are going to get through it. If you do not go over it at the proper speed, it means you are raising taxes too much.

I think April 15 is a very appropriate time for people to be considering, gosh, how much further are we going to let the Federal Government go, how much deeper into our pockets are we going to let them get. This proposal we have today was called by the gentleman from California a stage prop, sinful, slipshod.

You know, what we are attempting to do, one thing, we are attempting to give this to the States, every State in the Union, that is what this Constitution says, they are entitled to debate it. One debate took 203 years. We want every State, we want thousands of elected officials to debate this with the constituents they represent. That is all we are trying to do today. This does not automatically put a two-thirds limitation on the United States of America. It says to the States of the United States of America, here, States, we want you to debate this, here States, here is the opportunity under this Constitution, under Jefferson and so on, to debate it.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BARTON], who is well versed in this area.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of the rule to bring up the tax limitation amendment this evening for floor consideration.

I would like to point out, under the rule the minority party has an opportunity to offer a substitute if they so wish. So, if they have a problem with specific language in the amendment, they will be given an opportunity to offer their own language. It is my understanding they are not going to do so.

The distinguished member, the ranking member of the Committee on Rules, Mr. MOAKLEY, said in his remarks earlier that this is irresponsible. I would take exception to that and say, Mr. Speaker, that this is the most responsible thing we could do on tax day, 1996.

For over 125 years of this Nation's history, we had tax limitation in the Constitution. It was not a supermajority vote requirement, it was a requirement that all tax bills had to originate in the House of Representatives, that are the people's body most closely related to the people and elected for 2-year terms. Unfortunately, in 1913 we

VOL
142
PT
6
AP
15
—
24
1996
UMI

passed the 16th amendment to the Constitution that said an income tax was constitutional.

The marginal tax rate in that first income tax bill in 1913 was 1 percent. Today it is 39.8 percent. That is an increase of 4,000 percent in the marginal tax rate on the American people. In 1913, less than 1/10th of 1 percent of the American people had to pay ever 1 percent. Today, literally every American working has to pay some sort of income tax, and as we speak on the floor, 10 minutes after 5, April 15, 1996, it is 10 after 4 in Texas, 10 after 3 in Colorado, 10 after 2 in California, there are millions of American taxpayers, one-third of all American taxpayers do not file their tax return until the last 2 weeks. There are millions of Americans as we speak scrambling to fill out their taxes, to file an extension, to understand the Tax Code, and every one of those, I think, with almost no exception, is saying my taxes are too high. Sixty percent of working families in this country, both spouses have to work. Of those that are single-parent families, over half of them have to have two jobs. Is it not time to say enough is enough? A 4,000 percent increase on working Americans in their marginal tax rate should be enough for even the biggest-spending liberal in this body.

Let us vote for the two-thirds tax limitation later this evening, send it to the Senate, send it to the States, where three-fourths of them are necessary to ratify it, and begin to focus where we should have focused on all along, and that is on spending limitation, not on tax increases.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. RANGEL].

□ 1715

Mr. RANGEL. Mr. Speaker, not too long ago, when there was a different majority, we used to have a little pamphlet called How to pass a law. I know the freshmen had a chance to read it before they took it off. But it used to go something like this: A Member introduces a bill. It is forwarded to a committee. The committee assigns the bill to a subcommittee. They have hearings on the bill and people who are for it and against it, they listen to the testimony. Then the committee members amend it, they change it. But when they pass it, they take it up to the full committee.

The full committee, they too sometimes have hearings, and they have people to listen to it, to see whether it makes sense. Then they amend it and they report it to the floor. And that is the way it used to be, before the new rules come in.

Nothing goes to the committees anymore. You can sit on the subcommittee, the full committee, and all you have to do is be in the back room with the Speaker and let someone have a great idea and pass it to my dear friend, the gentleman from New York, Mr. SOLOMON, and Mr. SOLOMON brings it to the floor.

I do not mind that. When you lose, you are entitled to be subjected to this type of legislative oppression. I never complain. But do not mess with my Constitution. Do not do that to the American people. Do not send it to a public relations firm on the day that we are supposed to pay taxes, and to believe that this document that allowed our country to survive for 200 years can now be distorted just because you are down in the polls and you are trying to make a couple of points.

No, no, no, no. The Committee on the Judiciary has jurisdiction over this, and the chairman of the Committee on the Judiciary should be entitled to have hearings with scholars, with judges, and with those people who hold this document precious.

Mr. Speaker, oh, it is a good gimmick. I would use it if I could. But the thing is that I would not use it on the floor, not to be a hoaxer to the American people to believe that this is going to become law and we are going to change the Constitution.

We can take a lot of tomfoolery, we can take a lot of jokes, a lot of hoax, a lot of hypocrisy, but somewhere in your hearts you know that, when you want to amend that precious and sacred document called the U.S. Constitution, that at least the committee of jurisdiction should hear it, should have hearings, and report back to the House.

Mr. Speaker, I know it is an election year. I know it has been done before. We like to have flat taxes. We like to have fair taxes; we like to make certain that everyone pays an equal amount. But when the time comes, since you have the votes to put in a bill, to have hearings on the bill and to vote if you want the flat tax, vote for it. You have the votes to pass anything you want in taxes. But I warn you, do not mess with our Constitution. Do not do that to this Congress or to the American people.

Mr. MOAKLEY. Mr. Speaker, I yield 6 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I am honored to follow the gentleman from New York, because he laid out what we are talking about: A political trick being played with the Constitution as a prop, and that ought to be beyond the pale.

Mr. Speaker, what we have here is the most outrageous abuse of the procedures I have seen in 16 years. Here is what happened.

This constitutional amendment was presented in a hearing to the Judiciary subcommittee on which I sit. At the hearing, the chairman of the full Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE], was unable to conceal his lack of belief in this amendment. He was quite critical of it.

As the hearing proceeded, this was the original amendment which is still the one they plan to vote on in the Senate, it became clear under the amendment they originally presented, to go to a flat tax in the income tax, or to go to a sales tax, or to give the President the power to impose a countervailing tariff on a Nation discriminating against our project, all of those would have required two-thirds. There was some disagreement among the sponsors, but they agreed to that.

So what happened then? Well, it was clear from listening to several of the Republicans on the subcommittee that they did not have the votes to get it out of subcommittee. So there was no markup on this in subcommittee, there was no markup in committee. Instead, a private conference was held with the chairman of the Committee on Ways and Means, who to his credit thought the original amendment was really stupid. And it was.

Mr. Speaker, the hearing showed it to be stupid. It did all kinds of things, and I mean stupid in that it did all kinds of things the original sponsors did not mean it to do. So it has been totally changed.

We now have an amendment before us which is wholly different than the one that was originally introduced. This amendment has had no hearings, because we had one hearing which showed a great flaw in the original amendment. They were so embarrassed and the chairman of the Committee on Ways and Means said they cannot do this, so they came up with a whole new one. They did not learn from their mistakes. They learned if you are going to have a stupid amendment, do not have a hearing on it. Because this one did not have a hearing.

They could not defend the original one in the hearing, so they bring this one forward, and it had no hearing, no markup, nothing. It came out of the private set of conversations.

I talked to one of the sponsors of the bill today after it had been rewritten. He said I have not seen it yet.

The chairman of the Committee on Rules quoted George Will. George Will wrote in his column supporting this amendment that the language of this version is problematic. George Will asks us to vote for a constitutional amendment that is problematic.

Now, George Will, with whom I disagree, does not want to put problematic language into the Constitution. Obviously he thinks this is a good political gimmick and that is why he talks about it. Why else would he say pass something that is problematic?

Here is one of the things problematic about it. It would require, according to the majority's own views, two-thirds to cut the capital gains tax. I heard a little colloquy before in which one of the

sponsors of the amendment said, well, not necessarily. The Congressional Budget Office does not score it that way.

Mr. Speaker, that was not an answer. Let me put this within the rules. That was not an answer consonant with the reality of the facts of the situation. The facts of the situation are that this amendment does not give CBO that authority. CBO is irrelevant. This amendment says by a method to be determined, we will require two-thirds if that method says that has got a reasonable chance of raising revenues more than de minimis.

Never have we seen such imprecise language in the Constitution. I have more respect for my friends than to think they are serious about putting this kind of sloppiness into the Constitution. But it does show what a political game this is.

But what they say is that, if it raises the revenues, well now, they believe every single sponsor of this believes that cutting the capital gains tax raises revenues. If you put up a board that reflected their views, that board would rule that it needed a two-thirds vote to reduce the capital gains tax.

Now, I guess their view is this: They will be in control, a group that believes that reducing the capital gains tax will raise revenue will be in control, they will propose such a thing, and then they will set up a board which will rule contrary to their rule that it will cut the revenues. Obviously it will not happen.

The reference to CBO was not a legitimate intellectual response, because CBO has no role under this amendment and the people who will be in control at the time that a tax bill is proposed will be the ones to deal with it.

The fundamental problem we have is this: The right wing group that has taken over the Congress, because they are a majority of the minority, or a minority of the majority, but a very intense one, they have control; the ideological right wing group that has taken over has recognized that their viewpoint is not supported by the majority.

The majority does not like their attacks on Medicare, their attacks on Medicaid, their attacks on the environment. It does not like those. The majority did not even like their tax cut. If you poll them, they said we are serious about balancing the budget, unlike some who want to use it as a game.

What they are trying to do is change the rules, if they are successful, so the temporary majority they got in 1994 would continue to govern long after it has been repudiated at the polls. What this says is if the majority of the American people decide 10 years from now they would like to spend more money on the higher education, the environment, defense, or anything, tough. Because we, having gotten control now, will change the rulings.

But even on those terms, they had a hard time coming up with an amendment. And this amendment, which has never had a hearing and never had a committee vote, which is problematic in its language, according to George Will, which would require you to get a two-thirds vote to cut the capital gains tax, is a disgrace.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while it is interesting to hear the gentleman from Massachusetts refer to the right wing, I would remind the gentleman from Massachusetts that this concept is supported by 68 percent of the Federal employees, that this concept is supported by 71 percent of the union workers.

Now, the gentleman from Massachusetts makes a very eloquent speech about how this is not getting a fair hearing. If the gentleman from Massachusetts wants to get this proposal a fair and a complete hearing, he will vote for this. You know why? Because if he votes for it and we get the necessary votes, we can send it to the 50 States.

If you want a fair hearing, if the gentleman from Massachusetts really wants a complete hearing, he will get it out here to every State in the Union, in which, during the process of ratification, thousands and thousands of elected officials will have the opportunity to listen to their constituents, who frankly think their taxes are awful high.

Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. SHADEGG].

Mr. SHADEGG. Mr. Speaker, I thank my colleague from Colorado for yielding me time.

Mr. Speaker, I rise in strong support of this constitutional amendment. It is an amendment whose time has come. It has well embodied the principle that enough is enough. Six times since 1980 this Congress has raised taxes on the American people. In 1993, the largest of those tax increases passed with the barest of majorities.

There is a simple premise behind this constitutional amendment, a premise embraced by 73 percent of all Americans, a premise adopted by the 10 States that already have a constitutional amendment requiring a supermajority, indeed, the 10 States whose population represents one-third of all Americans, and that is the premise that the U.S. Congress needs to be more responsible about spending the tax dollars it takes from American taxpayers.

If you believe in that premise, then you should not oppose this amendment, but support it. Because by making it somewhat more difficult to raise taxes yet again, we will force on this Congress a level of fiscal discipline which has been missing. Indeed, if you look at this Congress and the past Congresses, our record of fiscal discipline, of spending cuts, is abysmal.

The gentleman earlier on the other side referred to George Will and implied that Mr. Will had criticized the language of this amendment. But he omitted the conclusion of Mr. Will. And the conclusion of Mr. Will at several of the different points in his article was that this was indeed a good amendment. He said:

> The properly reverent reason for amending the Constitution is to revive those of the framers' objectives that have been attenuated by political developments since the framers left Philadelphia.

Mr. Will continues:

> Such am amendment will be voted on by the House on Monday April 15, tax day. Such an amendment could represent a restoration of the values embodied in what the framers did in Philadelphia.

This is indeed not an extreme amendment. I would cite the words of a professor from Cardozo Law School and the University of San Diego Law School who said:

> The amendment should be seen as an attempt to revive the original values of the Constitution, rather than as a radical innovation.

In a Nation where the average American family spends more on taxes than on food, clothing and shelter combined, this is not a radical amendment of the extreme right. It is an amendment supported by labor, it is an amendment supported by rank and file Democrats, it is an amendment whose time has come, and I urge its passage.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, the concept is popular, but the problem Members cannot seem to get through their heads there is we do not deal just in concepts. We have to deal in reality. We are amending the Constitution of the United States. We are creating litigation, we are creating rights, we are dealing with the basic law.

I did not imply that George Will was critical. I quoted George Will. He said the language was problematic. That is in response to the gentleman from Colorado, who says, and of all the silly arguments, I think this is the silliest we get today, oh, vote on the constitutional amendment; and you should vote yes, even if you disagree with it, because you leave it to the people.

Of course, when we vote on the Equal Rights Amendment, that argument disappears. When we vote on a lot of others, that argument disappears. No, you are supposed to vote on it, whether you agree with it or not.

Here is the problem: It will not get a fair hearing in the States because they cannot change it. The point I am making is on its own terms, it is stupid. It does not do what the gentleman wanted it to do. If we had a markup and a

VOL
142
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24
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hearing we might be able to do that. The States cannot change it.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, my question is, If you do not agree with the language but you agree with the concept, is there going to be alternative language offered by the Democrat minority?

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, I would say no, because we have not had the time to do that. We have not had a markup. You know, these rules that we have of hearings, and we have had no hearings on this language, of markups, these are not games. There is a reality to them. People that care about something come together and talk and bounce it off.

I am not going to play the kind of game you play. No, there was not in the 2 weeks, all of which was recessed, during which we could see the new language, which replaced your original wholly inadequate language, your original language was repudiated on your side, so they had to come up with whole new language, it has similar kinds of problems, and you have studiously avoided subjecting any of this language to any of the legislative procedures that would test it.

So, no, we are not going to be able to in this short period of time under this gun play that kind of game with the Constitution.

□ 1730

Mr. McINNIS. Mr. Speaker, I ask for a report on the balance of time remaining.

The SPEAKER pro tempore (Mr. EWING). The gentleman from Colorado [Mr. McINNIS] has 6½ minutes remaining, and the gentleman from Massachusetts [Mr. MOAKLEY] has 5 minutes remaining.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding me time, and I am reluctant to get into this high-powered debate. But I do sit on the Committee on the Judiciary, and I sit on the Subcommittee on the Constitution of the Committee on the Judiciary, and I will tell my colleagues that this bill has not come to either one of those committees for hearings or consideration. It was simply brought to the floor so that we could deal with it on April 15, tax day, so that it could be the backdrop for a political debate on an issue that really needs substantive deliberate consideration.

Mr. Speaker, Members may think that we are playing games when we talk about representation and majority rule, but that is what the entire concept of our country is based on. Each one of us, as Members of this body, is sent here to represent a different constituency, to bring our input to bear from that constituency on every problem that comes to America. When we talk about doing away with the concept of majority rule, what we are doing is undermining the basic fabric and principle of the Constitution and the democracy that we are sent here to represent. So this whole notion that we can take one-third or one-fourth of our Members and tie up the whole process and make them a majority is counter democratic.

Mr. Speaker, I have been arguing with my colleagues all this term that this whole concept of undermining the Constitution is not a conservative concept. Conservative government is based on the Constitution, and not withstanding that, these revolutionaries who call themselves conservatives have four times, during the course of this Congress, come to us and said let us do away with the Constitution that we believe in so dearly, that we are sent here to preserve.

Mr. Speaker, I think we ought to vote down this rule and vote down the bill and send it back for a proper consideration and deliberation.

Mr. McINNIS. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman from Colorado [Mr. McINNIS] for yielding me the time.

Nowadays when you speak up for something the American people want, they call you a revolutionary. I do not think that is a pejorative. I think that is a praiseworthy word now. We need to, I think, focus on the issue. The real issue today is April 15 and it is tax day.

The Federal Government's bite has grown larger and more painful over the years. Today, the average American has to work from January 1 to May 6 just to earn money to pay his or her taxes. That is not fair. Today the average American family has to pay nearly 40 cents out of every dollar it earns for taxes. That is up in the Federal Government by some month more than it was just 10 years ago. What is interesting to me, I read in the paper over the weekend that our Committee on Ways and Means, some 40 people only 6 fill out their own taxes, some 15 percent. That means our tax system is too complicated. If the people who write the taxes here, legislation here in Congress, if this legislation is too complicated for the people in the Congress, can you imagine what it must be for the American people?

Mr. Speaker, this is a vote whose time has come and today is the appropriate day, and I appreciate the Committee on Rules bringing this legislation up so we can vote on it for the American people.

Mr. McINNIS. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Colorado for yielding me the time.

Mr. Speaker, I rise in strong support of this rule and in strong support of this proposed constitutional amendment, because there is nothing extreme about allowing the American people to hang on to more of their hard-earned money, and there is nothing nonsensical about requiring a supermajority to raise taxes. Indeed, history has proven all too eloquently in recent years that this institution has raised taxes time and again to the point that over the past few years, for every dollar raised in new taxes, Congress spends $1.59.

Mr. Speaker, this is a great idea whose time has come. Just as Arizona and several other States of the Union have put provisions such as this in their respective State constitutions, I rise in full support of doing the same thing in our Federal Constitution. As we have seen the cost of government grow 13,500 percent since enactment of the 16th amendment, we stand on the rights of taxpayers. We stand on the rights of the American people. We stand for this rule. And we stand for this amendment.

Mr. MOAKLEY. Mr. Speaker, every single rule the House has adopted this session has been a restrictive rule; you heard that correctly, the Republican House has so far adopted 100 percent restrictive rules in this session. And if it is adopted, the rule before us will leave that 100 percent purely restrictive rules record intact.

This is the 66th restrictive rule reported out of the Rules Committee this Congress.

In addition 73 percent of the legislation considered this session has not been reported from committee—11 out of 15 measures brought up this session have been unreported.

Mr. Speaker, I include the following extraneous material for the RECORD.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes; PQ	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provide for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference; PQ	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision; PQ.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered; PQ.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R.
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(l)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language; PQ.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(l)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins; PQ.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget; PQ.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments; PQ.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ); PQ.	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr; PQ.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment; PQ.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments; PQ.	N/A.

VOL
142
PT
6
AP
15
—
24
1996
UMI

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority; PQ.	N/A.
H.R. 1977	Interior Appropriations	H. Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority; PQ.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority; PQ.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority; PQ.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority; PQ. *RULE AMENDED*.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title.	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	1D.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bi-partisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title; PQ.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate, makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional Record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority; PQ.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D.
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D.
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes); PQ.	1D.
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes); PQ.	1D.
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A.
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A.
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule: Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R.
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R.
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res. 293	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate; PQ.	N/A.
H.R. 1745	Utah Public Lands Management Act of 1995	H. Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min).	N/A.
H.Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dorman), H.Res. 302 (Buyer), and H.Res. 306 (Gephardt); 1 hour of debate on each.	1D; 2R.
H.Res. 309	Revised Budget Resolution	H. Res. 309	Closed; provides 2 hours of general debate in the House; PQ	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H. Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.

PROCEDURE IN THE 104TH CONGRESS 2D SESSION

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered. ** NR; PQ.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131. ** NR; PQ.	N/A.
H. R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the house the motion printed in the Rules Committee report; 1 hr. of general debate; previous quesetion is considered as ordered. ** NR; PQ.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed; ** NR; PQ	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate; makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law; Chairman has en bloc authority for amends in report (20 min.) on each en bloc; PQ.	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H. Res. 368	Open rule; makes in order the Hyde substitute printed in the Record as original text; waives cl 7 of rule XVI against the substitute; Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A.
H.R. 3021	To Guarantee the Continuing Full Investment of Social security and Other Federal Funds in Obligations of the United States.	H. Res. 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H. Res. 372	Restrictive; self-executes CBO language regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report; Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	2D/2R.
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735. ** NR.	6D; 7R; 4 Bipartisan.
H.R. 2202	The Immigration and National Interest Act of 1995	H. Res. 384	Restrictive; waives all points of order against the bill and amendments in the report except for those arising under sec. 425(a) of the Budget Act (unfunded mandates); 2 hrs. of general debate on the bill; makes in order the committee substitute as base text; makes in order only the amends in the report; gives the Judiciary Chairman en bloc authority (20 min.) of debate on the en blocs; self-executes the Smith (TX) amendment re: employee verification program; PQ.	12D; 19R; 1 Bipartisan.
H.J. Res. 165	Making further continuing appropriations for FY 1996	H. Res. 386	Closed; provides for the consideration of the CR in the House and gives one motion to recommit which may contain instructions only if offered by the Minority Leader; the rule also waives cl 4(b) of rule XI against the following: an omnibus appropriations bill, another CR, a bill extending the debt limit. ** NR.	N/A.
H.R. 125	The Gun Crime Enforcement and Second Amendment Restoration Act of 1996.	H. Res. 388	Closed; self-executes an amendment; provides one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3136	The Contract With America Advancement Act of 1996	H. Res. 391	Closed; provides for the consideration of the bill in the House; self-executes an amendment in the Rules report; waives all points of order, except sec. 425(a)(unfunded mandates) of the CBA, against the bill's consideration; orders the PQ except 1 hr. of general debate between the Chairman aad Rankung Member of Ways and Means; one Archer amendment (10 min.); one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; Provides a Senate hookup if the Senate passes S. 4 by March 30, 1996. **NR.	N/A.
H.R. 3103	The Health Coverage Availability and Affordability Act of 1996	H. Res. 392	Restrictive: 2 hrs. of general debate (45 min. split by Ways and Means) (45 split by Commerce) (30 spld by Economic and Educational Opportunities); self-executes H.R. 3160 as modified by the amendment in the Rules report as original text; waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA; makes in order a Democratic substdute (1 hr.) waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA, against the amendment; one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; waives cl 5(c) of Rule XXI (requiring 3/5 vote on any tax increase) on votes on the bill, amendments or conference reports.	N/A.
H.J. Res. 159	Tax Limitation Constitutional Amendment	H. Res. 395	Restrictive; provides for consideration of the bill in the House; 3 hrs of general debate; Makes in order H.J. Res. 169 as original text; allows for an amendment to be offered by the Minority Leader or his designee (1 hr) ** NR.	1D.

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* Contract Bills, 67% restrictive; 33% open. ** All legislation 1st Session, 53% restrictive; 47% open. *** All legislation 2d Session, 95% restrictive; 5% open. **** All legislation 104th Congress, 66% restrictive; 34% open. ***** NR indicates that the legislation being considered by the House for amendment has circumvented standard procedure and was never reported from any House committee. ****** PQ Indicates that previous question was ordered on the resolution. ******* Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. MOAKLEY. Mr. Speaker, I yield the balance of my time to the gentleman from Colorado [Mr. SKAGGS].

The SPEAKER pro tempore. The gentleman from Colorado [Mr. SKAGGS] is recognized for 3 minutes.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for yielding me the time.

Earlier in this debate, I asked the distinguished chairman of the Committee on Rules if he might yield, and he indicated that I should await my time, which has now come. The gentleman knows the rules, because he followed the rules in bringing the flag desecration amendment to this House. That was, as I recall, properly considered in the Committee on the Judiciary, was the subject of hearings and markup, then was brought to the Committee on Rules.

The gentleman from New York, earlier in this hour, observed that this is important and serious business, amending the Constitution of the United States. And I would simply ask the distinguished Chairman of the Rules Committee, would it not have been proper and better procedure for this proposal to have at least had a hearing in the Committee on the Judiciary, so that the implications of these words, which have otherwise received no hearing other than your Rules Committee hearing on March 29, so that we could have had a careful examination of this proposal, as we did of the gentleman's proposal to amend the Constitution to protect the flag? Would that not have been better procedure?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I just say to the gentleman that it could have been, the same as in three previous Congresses we have considered balanced budget amendments that never went through the proper process, either. The gentleman makes a point.

Mr. SKAGGS. Mr. Speaker, reclaiming my time, I know the gentleman knows better, because he has shown that he knows better than to follow or to be a party to an abuse of the Rules of the House in considering an amendment to the fundamental charter of this country, as we are experiencing here this evening.

This is a sad, sad occasion, to have completely run roughshod over the basic guarantees of serious, deliberate action on something as fundamental as our Constitution. It is a shameful demonstration of the priority being given to political theater, to symbolism over our responsibilities as legislators for this country to look carefully before we act on an amendment to the Constitution. Because the process that has brought us to this point has been such an insult to the intelligence and responsibility of the Members, I regretfully will need to make sure that we have every opportunity to vote on every conceivable procedural point for the rest of this evening.

Mr. MCINNIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I rise in strong support of this rule and the purpose for it.

Mr. Speaker, as the American people endure yet another April 15, it is appropriate to note the direct relationship between higher taxes and higher government spending. While incomes have stagnated for many Americans over the last 20 years, the actual take-home pay for Government rose 58 percent and Government spending increased even faster. In fact, the Federal Government spent 80 percent more in inflation adjusted terms in 1995 than in 1973.

The rationale for the last two major tax hikes was deficit reduction. The deal was this—give us more of your money and, trust us, we will get serious about cutting spending. However, while the American taxpayer kept his end of the bargain, prior to this Congress the Federal Government maintained its reckless spending habits. Spending did not slow down, it accelerated. Adjusting for inflation, nondefense discretionary spending was 23 percent higher in 1995 than 1990. The American people are not selfish and they certainly do not mind paying their fair share, but they are not stupid either—they recognize when their Government has sold them a bill of goods.

Mr. Speaker, we have all heard the same disheartening facts. Every year, the average American works until May 5 just to pay his or her taxes. Put another way, this means that 3 hours out of every work day are dedicated solely to sustain Government spending.

This Congress has worked to reduce this oppressive tax burden. We have sent President Clinton a variety of tax relief measures, from middle-class tax relief to increasing the Social Security earnings limit, making it clear that we intend to keep our word with the American taxpayer. We have also begun examining long-term alternatives to our current tax system, that would increase fairness and simplicity. I commend Representatives BARTON and SHADEGG for their hard work to provide long-term protection for American taxpayers through the bill before us today.

Mr. MCINNIS. Mr. Speaker, I yield 30 seconds to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Colorado for yielding me the time.

Listening to my colleague across the aisle from Colorado talk about this process being an insult, I would just simply remind all of us that article V of the Constitution simply says in its opening clause: "The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution."

It does not provide for any other folderol where there are urgent questions of action to be taken. It is incumbent upon this Congress to take those actions, so it is not insult. It is proper to move forward in this fashion to amend the Constitution of the United States.

Mr. MCINNIS. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. McInnis] is recognized for 4 minutes.

Mr. MCINNIS. Mr. Speaker, I find it awfully interesting that one would be able to stand up and talk about the word shameful and so on. This is 2 years after this country experienced the largest tax increase in the history of this country. And by the way, some may argue, well, that tax increase really was to try and get the wealthy people of this country and it did not impact the average working Joe or the working Jane out there. It sure as heck did.

Anybody that buys a gallon of gasoline pays four cents more per gallon because this Congress passed a tax increase on them. Some time take a look, and this is a good day to do it, on April 15, take a look at what you have to pay in taxes. Not just what you send in to the Federal Government. Not just what you send in to the State government, but stop and buy a gallon of gasoline. And after that, if you get really depressed, stop by the liquor store and buy a fifth of whiskey, and see what you pay on a fifth of whiskey in taxes. Then go to the store and see what you pay in sales tax to buy a lawn mower to mow your grass.

Taxes, taxes, taxes. Around here, that is the fuel that feeds this fire in the U.S. Congress. And it seems that the U.S. Congress wants to get the biggest bonfire it can ever have. Well, you know what it has led to? It has led to this. It has led to a concept where we have got to put a speed bump in the way of these people that love to raise your taxes, and raise you taxes, and raise your taxes.

Right now, just in this proposal of this concept, 73 percent of the American people are saying do it. An interesting number here, 68 percent of the Federal employees say do it. Seventy-one percent of the union members say do it. In the Democrats, 64 percent of the Democrats as polled say do it. It is time that we bring a conscience to this country.

Now, some people say, well, you are not giving an opportunity for debate. That is exactly what this concept does. That is why it so carefully follows the Constitution of the United States. What it does is it allows this to go to every State, all 50 States, all of the elected State legislators in those States, which, by the time this debate was thoroughly finished, by the time it got ratified or did not get ratified, you would have thousands and thousands of locally, not in Washington, but locally elected officials who were engaged in this debate of whether or not we should require a supermajority to go out to the working people of this country and raise their taxes.

Mr. Speaker, I think that this rule is fundamentally fair, and I think that this concept is fundamentally necessary for the positive growth and the future of this country.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SKAGGS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 232, nays 168, not voting 31, as follows:

[Roll No. 111]

YEAS—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cobin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—168

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Brewster
Browder
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thurman
Torres
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Woolsey
Wynn
Yates

NOT VOTING—31

Borski
Brown (CA)
Brown (FL)
Calvert
Chapman
Cremeans
de la Garza
Engel
Fattah
Fields (LA)
Fields (TX)
Ford
Frost
Gallegly
Hunter
Jackson-Lee (TX)
Kasich
Lewis (CA)
Lightfoot
Lipinski
Ney
Ortiz
Oxley
Pelosi
Stockman
Tauzin
Thornton
Towns
Williams
Wilson
Wise

□ 1803

Mr. WYNN changed his vote from "yea" to "nay."

Mr. GORDON and Mr. CHAMBLISS changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. EWING). The Clerk will report the motion.

The Clerk read as follows:

> Mr. SKAGGS moves to reconsider the vote whereby the House ordered the previous question on House Resolution 395.

MOTION TO TABLE OFFERED BY MR. MC INNIS

Mr. MCINNIS. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. MCINNIS moves to lay the motion to reconsider on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. MCINNIS] to lay on the table the motion to reconsider offered by the gentleman from Colorado [Mr. SKAGGS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SKAGGS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 15-minute vote, followed by a 5-minute vote on the adoption of the rule.

The vote was taken by electronic device, and there were—yeas 232, nays 169, not voting 30, as follows:

[Roll No. 112]

YEAS—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell

VOL
142
PT
6
AP
15
—
24
1996
UMI

Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—169

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Brewster
Browder
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thurman
Torres
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Woolsey
Wynn
Yates

NOT VOTING—30

Borski
Brown (CA)
Brown (FL)
Calvert
Chapman
Cremeans
de la Garza
Engel
Fattah
Fields (LA)
Fields (TX)
Ford
Frost
Hunter
Jackson-Lee (TX)
Kasich
Lewis (CA)
Lightfoot
Lipinski
Ney
Ortiz
Oxley
Pelosi
Stockman
Tauzin
Thornton
Towns
Williams
Wilson
Wise

□ 1820

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. EWING). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SKAGGS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 234, noes, 162, not voting 35, as follows:

[Roll No. 113]

AYES—234

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—162

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Brewster
Browder
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Costello
Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Slaughter
Spratt
Stark
Stenholm
Stokes
Stupak
Tanner

Taylor (MS)
Tejeda
Thompson
Thurman
Torres
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Woolsey
Wynn
Yates

NOT VOTING—35

Borski
Brown (CA)
Brown (FL)
Calvert
Chapman
Conyers
Cremeans
de la Garza
Fattah
Fields (LA)
Fields (TX)
Ford
Frost
Hunter
Jackson-Lee (TX)
Kasich
Lewis (CA)
Lightfoot
Lipinski
McKinney
Ney
Ortiz
Oxley
Pelosi
Rose
Scarborough
Studds
Tauzin
Thornton
Tiahrt
Towns
Waxman
Williams
Wilson
Wise

□ 1829

The Clerk announced the following pairs:

On this vote:

Mr. Calvert for, with Ms. Jackson-Lee of Texas against.

Mr. Lightfoot for, with Mr. Towns against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Speaker, I offer a motion to reconsider.

The SPEAKER pro tempore (Mr. EWING). The Clerk will report the motion.

The Clerk read as follows:

Mr. SKAGGS moves to reconsider the vote whereby the House adopted House Resolution 395.

MOTION TO TABLE OFFERED BY MR. MC INNIS

Mr. MCINNIS. Mr. Speaker, I move that the motion to reconsider be laid on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. MCINNIS] to lay on the table the motion to reconsider offered by the gentleman from Colorado [Mr. SKAGGS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SKAGGS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken be electronic device, and there were—ayes 233, noes 164, not voting 34, as follows:

[Roll No. 114]

AYES—233

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—164

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bishop
Bonior
Boucher
Brewster
Browder
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thurman
Torres
Torricelli
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Woolsey
Wynn
Yates

NOT VOTING—34

Baesler
Bateman
Berman
Borski
Brown (FL)
Calvert
Chapman
Clinger
de la Garza
English
Fattah
Fields (LA)
Ford
Frost
Hunter
Jackson-Lee (TX)
Lewis (CA)
Lightfoot
Lipinski
McKinney
Ortiz
Oxley
Pelosi
Rose
Scarborough
Schiff
Talent
Tauzin
Thornton
Towns
Waxman
Williams
Wilson
Wise

□ 1847

Mr. GIBBONS changed his vote from "aye" to "no."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

Mr. CANADY of Florida. Mr. Speaker, pursuant to the provisions of House Resolution 395, I call up the joint resolution (H.J. Res. 159) proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

Mr. SKAGGS. Mr. Speaker, I raise the question of consideration of House Joint Resolution 159.

The SPEAKER pro tempore (Mr. EWING). The question is: Will the House now consider House Joint Resolution 159, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SKAGGS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 157, not voting 33, as follows:

[Roll No. 115]

AYES—241

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bono
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler

VOL
142
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15
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24
1996
UMI

Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Pallone
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—157

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Brewster
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thurman
Torres
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Woolsey
Wynn
Yates

NOT VOTING—33

Bonilla
Borski
Brown (FL)
Calvert
Chapman
Clay
Clinger
de la Garza
DeFazio
Fattah
Fields (LA)
Ford
Frost
Hunter
Jackson-Lee (TX)
LaFalce
Lewis (CA)
Lightfoot
Lipinski
Martinez
McKinney
Ortiz
Oxley
Pelosi
Rose
Scarborough
Tauzin
Thornton
Towns
Waxman
Williams
Wilson
Wise

□ 1906

So the House agreed to consider House Joint Resolution 159.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Speaker, I offer a motion to reconsider the previous vote.

The SPEAKER pro tempore (Mr. EWING). The Clerk will report the motion.

The Clerk read as follows:

> Mr. SKAGGS moves to reconsider the vote whereby the House agreed to consider House Joint Resolution 159.

MOTION TO TABLE OFFERED BY MR. CANADY OF FLORIDA

Mr. CANADY of Florida. Mr. Speaker, I move to lay the motion to reconsider the vote on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CANADY] to lay on the table the motion to reconsider the vote offered by the gentleman from Colorado [Mr. SKAGGS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SKAGGS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 236, noes 157, not voting 38, as follows:

[Roll No. 116]

AYES—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Pallone
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—157

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Browder
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta

Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thurman
Torres
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Woolsey
Wynn
Yates

NOT VOTING—38

Becerra
Bonilla
Borski
Brown (FL)
Calvert
Chapman
Clay
Clinger
de la Garza
DeFazio
Fattah
Fawell
Fields (LA)
Ford
Frost
Hayes
Hunter
Jackson-Lee (TX)
LaFalce
Laughlin
Lewis (CA)
Lightfoot
Lipinski
Martinez
Ortiz
Oxley
Pelosi
Rose
Schumer
Stockman
Tauzin
Thornton
Towns
Waters
Waxman
Williams
Wilson
Wise

□ 1923

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, during rollcall votes Nos. 111, 112, 113, 114, 115, and 116, I was unavoidably detained, out of town at a meeting with my constituents.

Had I been present, I would have voted "no" on 111, "no" on 112, "no" on rollcall 113, "no" on 114, "no" on 115, and "no" on 116.

Mr. LIGHTFOOT. Mr. Speaker, because I was unavoidably detained, I missed the procedural rollcall votes Nos. 111, 112, 113, 114, 115, and 116. Had I been present, I would have voted "yea" on each of these votes.

The SPEAKER pro tempore (Mr. RIGGS). Pursuant to House Resolution 395, an amendment in the nature of a substitute consisting of the text of House Joint Resolution 169 is adopted.

The text of House Joint Resolution 159 is as follows:

H.J. RES. 159

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Any bill to levy a new tax or increase the rate or base of any tax may pass only by a two-thirds majority of the whole number of each House of Congress.

"SECTION 2. The Congress may waive section 1 when a declaration of war is in effect. The Congress may also waive section 1 when the United States is engaged in military conflict which causes an imminent and serious threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any provision of law which would, standing alone, be subject to section 1 but for this section and which becomes law pursuant to such a waiver shall be effective for not longer than 2 years.

"SECTION 3. All votes taken by the House of Representatives or the Senate under this article shall be determined by yeas and nays and the names of persons voting for and against shall be entered on the Journal of each House respectively.".

The text of House Joint Resolution 159, as amended, is as follows:

H.J. RES. 169

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Any bill, resolution, or other legislative measure changing the internal revenue laws shall require for final adoption in either House the concurrence of two-thirds the members present, unless that bill, resolution, or measure is determined at the time of adoption, in a reasonable manner prescribed by law, not to increase the internal revenue by more than a de minimis amount.

"SECTION 2. The Congress may waive section 1 when a declaration of war is in effect. The Congress may also waive section 1 when the United States is engaged in military conflict which causes an imminent and serious threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any provision of law which would, standing alone, be subject to section 1 but for this section and which becomes law pursuant to such a waiver shall be effective for not longer than 2 years.

"SECTION 3. All votes taken by the House of Representatives or the Senate under this article shall be determined by yeas and nays and the names of persons voting for and against shall be entered on the Journal of each House respectively.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. CANADY] and the gentleman from Michigan [Mr. CONYERS] each will control 1½ hours of general debate time.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 159.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield 45 minutes to the gentleman from Texas [Mr. ARCHER], and I ask unanimous consent that he may be permitted to yield blocks of time to other Members.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to yield 45 minutes to the distinguished past chairman of the Committee on Ways and Means, the gentleman from Florida [Mr. GIBBONS], and I ask that he be recognized to yield blocks of time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, the millions of Americans rushing to meet the midnight deadline to file their Federal income tax return are asking themselves—why is it that every year more and more of my family's income goes to pay Federal taxes, leaving me with less and less to meet my needs and the needs of my children? As they write that painful final check to the IRS or review the bottom line of their tax liability, they are asking themselves—is there any relief in sight? Will Congress ever be weaned from imposing higher and higher taxes? Will Washington ever get its spending habits under control? To the American people I say, today's vote should give you a glimmer of hope.

Today, we are again considering a mechanism that will bring relief to the American taxpayers. We will be debating and voting on a constitutional amendment to require a two-thirds vote of each House of Congress for any bill that increases revenue by more than a de minimis amount.

Members voted on a similar provision that was part of House Joint Resolution 1, the balanced budget constitutional amendment of the Contract With America in January 1995. In the 1st session of the 104th Congress, the Subcommittee on the Constitution held hearings and the Full Judiciary Committee favorably reported the balanced budget constitutional amendment which included a supermajority requirement for raising tax revenue.

VOL
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1996
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On January 25, 1995, the House voted 253 to 173 in favor of the balanced budget constitutional amendment that had been reported by the Committee on the Judiciary. That version of the amendment, which was sponsored by Congressman BARTON, would have required a three-fifths majority of the entire House and Senate to increase tax revenue and would have allowed a simple majority to waive the requirement in times of war, or in the face of a serious military threat. The balanced budget amendment ultimately adopted by the House did not, however, include the Barton supermajority tax limitation provision.

When the House passed a balanced budget amendment without the Barton supermajority requirement, Speaker GINGRICH promised to schedule another vote on the supermajority tax limitation amendment in the 104th Congress. Today's vote fulfills that promise.

On March 6, 1996, the Subcommittee on the Constitution held an additional hearing on the Barton tax limitation constitutional amendment. House Joint Resolution 159 was criticized as being too broad. For example, as originally drafted House Joint Resolution 159 would have required a two-thirds majority of each House to close a tax loophole or make revenue neutral changes to the Tax Code. Under the Barton substitute amendment made in order under the Rule, such actions would not require a supermajority vote as long as the legislation as a whole was revenue-neutral or resulted in only a de minimis increase in revenue.

The amendment before us this evening requires a two-thirds vote of each House for any bill that is not revenue neutral. Congress may waive this requirement when a declaration of war is in effect, or by adopting a joint resolution upon finding that the United States in engaged in military conflict which causes an imminent and serious threat to national security. The amendment requires that all votes be taken by rollcall.

This substitute amendment is in keeping with the supermajority requirement that was approved by the Committee on the Judiciary and the House in January 1995 as part of the Contract With America.

In addition, the House Rules as adopted at the beginning of this Congress require a three-fifths majority vote to pass a Federal income tax rate increase. However, the House Rule cannot bind future Congresses and can be waived by the Rules Committee as had been done at least once this past year—yet another reason why we need the permanence and certainty of a constitutional amendment.

Members should be aware that the language of the constitutional amendment we are voting on today differs significantly from the House Rule. The constitutional amendment, unlike the House Rule, does not apply to bills that cut taxes or that are roughly revenue neutral. It will make it harder for Congress to raise taxes, yet allows flexibility to make revenue neutral changes to the tax laws.

The National Commission on Economic Growth and Tax Reform, headed by former Congressman Jack Kemp, recently recommended requiring a two-thirds supermajority vote to raise the tax rate. The Kemp Commission recommended substantial changes to the Tax Code and argued that such changes should be held in place by requiring a supermajority vote to raise taxes. The Commission report stated "a two-thirds supermajority vote of Congress will earn Americans' confidence in the longevity, predictability, and stability of any new tax system."

The Framers of our Constitution understood the need for requiring supermajority votes for certain fundamental decisions. The Constitution currently includes ten supermajority requirements for decisions of importance including the requirement of a two-thirds vote to send a constitutional amendment to the States for ratification. I submit that under our current system it is too easy for us to add to the already onerous tax burden Congress has placed upon the American people. The adoption of a supermajority provision can only help us give careful consideration to proposals to raise taxes, and will require us to reach broad consensus in order to do so.

I urge my colleagues to support this important measure and I reserve the balance of my time.

□ 1930

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as one distinguished Republican told me as we were coming over here, "And to think we gave up a whole day of vacation for this debate." I think he put his finger right on the issue here. Everybody in this Chamber and everybody within the sound of my voice knows that what we are doing tonight is show business; not very good show business, but show business.

The gentleman from Texas [Mr. BARTON] sent us a Dear Colleague letter numbering some 20 pages. As I read it and studied it, it reminded me of a quotation that a distinguished Supreme Court Justice made about 100 years ago: Taxes are what we pay for civilization. Taxes are what we pay for civilization.

How well have Americans done? The Organization for Economic Cooperation and Development, which keeps statistics on all of the industrialized countries on Earth, tells us that there are 24 industrialized countries on Earth. Of those 24 industrialized countries on Earth, the United States has the lowest tax rate of any of those 24 countries. This is not ancient history, this is today's history, compiled by the OECD. They are not an American organization. The United States is a member of the OECD, but the headquarters of it is in Europe. It rates all of the industrialized nations.

Of all of the industrialized nations, the United States of America, this Federal Government, has the lowest tax rate of any of them. Do any of you in this Chamber dispute what I have just said? I would ask the gentleman from Texas [Mr. BARTON], does he dispute what I have just said?

In fact, in the 20-some page letter of the gentleman from Texas [Mr. BARTON], he included in his Appendix E on page 20 a list of all of the industrialized nations that had tax limitations in their procedures. I do not think the gentleman from Texas even read this himself or he never would have sent it to us. Of all the nations in this chart that have tax limitations, guess what? Every single one of them has a higher tax rate than the United States of America.

Mr. Speaker, I would ask the gentleman from Texas, did he know that when he sent this to us?

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I would tell the gentleman from Florida [Mr. GIBBONS], I did read that memo.

Mr. GIBBONS. It did not sink in then, though, did it?

Mr. BARTON of Texas. Mr. Speaker, I will be happy to debate it if the gentleman wishes to.

Mr. GIBBONS. I just wondered if the gentleman had read it. He is arguing for a tax limitation by constitutional amendment. He sent us a chart listing all the other countries on Earth that have tax limitations. Every one of them has a higher tax rate than the United States of America.

Mr. Speaker, taxes are the dues of civilization. It is what we pay for civilization. The tax rate in America, being the lowest of the 24 industrialized countries, has remained remarkably stable for about the last 50 years. The tax rate for the 1950's comes out at 17.62 percent. That was the tax rate for the 1950's. The tax rate for the 1960's comes out at 18.31 percent. We have to remember that we were fighting the Vietnam war at that time. The tax rate for the 1970's comes out at 18.47 percent. The tax rate for the 1980's comes out at 18.97 percent. For the first 5 years of 1990, the tax rate has dropped to 18.75 percent.

Mr. Speaker, the ridiculous thing about this amendment is its unintended consequences that will occur. If this amendment ever became law, we would first of all have to declare war

on some unsuspecting country, so that for 2 years we could handle the ordinary and necessary business of this country, which from time to time requires us to make certain adjustments in the Tax Code. After 2 years we would have to find some other unsuspecting country and declare war on it, or maybe we can declare war on somebody in outer space. As long as we declare war, we can waive all of this.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, the gentleman just stated some interesting statistics of 17 percent and 18 percent tax rates. I suspect the gentleman was referring to the percentage of gross domestic product.

Mr. GIBBONS. That is correct. That is the only way you can measure tax rates.

Mr. STARK. That is the only effective way to measure it?

Mr. GIBBONS. That is the only way you can measure tax rates.

Mr. STARK. I thank the gentleman for clarifying that.

Mr. GIBBONS. I thank the gentleman for bringing up that question and letting me clarify it.

Mr. Speaker, there are so many other reasons why this is just a ridiculous piece of show business here today, but Mr. Speaker, at this time I will go back and yield time to other Members so they can participate in the debate.

Mr. Speaker, I include for the RECORD the following document:

CENTRAL-GOVERNMENT TAXES AS PERCENTS OF GDP, 1992: AN INTERNATIONAL COMPARISON

Country	Rank	Percent GDP
Netherlands	1	45.2
Luxembourg	2	43.1
Belgium	3	42.5
Italy	4	41.0
Greece	5	39.7
France	6	39.3
Finland	7	37.3
Norway	8	37.0
Ireland	9	35.2
Austria	10	34.1
New Zealand	11	33.7
Denmark	12	33.6
United Kingdom	13	33.5
Sweden	14	32.9
Spain	15	31.4
Portugal	16	31.2
Germany	17	28.1
Iceland	18	26.6
Japan	19	22.0
Australia	20	21.8
Turkey	21	21.2
Canada	22	20.8
Switzerland	23	20.2
United States	24	19.9

Note: Of the 24 countries for which the OECD keeps statistics, the United States ranks lowest in terms of tax burden.

Source: Committee on Ways and Means Democratic Staff based on information from the Organization for Economic Cooperation and Development [OECD]. Prepared April 15, 1996.

Total U.S. Federal revenue as percents of GDP, 1950–95

Fiscal year	*Total receipts*
1950	14.8
1951	16.5
1952	19.4
1953	19.1
1954	18.9
1955	17.0
1956	17.9
1957	18.3
1958	17.8
1959	16.5
Average, 1950's	17.62
1960	18.3
1961	18.3
1962	18.0
1963	18.2
1964	18.0
1965	17.4
1966	17.8
1967	18.8
1968	18.1
1969	20.2
Average, 1960's	18.31
1970	19.6
1971	17.8
1972	18.1
1975	18.5
1976	17.7
1977	18.5
1978	18.5
1979	19.1
Average, 1970's	18.47
1980	19.6
1981	20.2
1982	19.8
1983	18.1
1984	18.0
1985	18.5
1986	18.2
1987	19.2
1988	18.9
1989	19.2
Average, 1980's	18.97
1990	18.8
1991	18.6
1992	18.4
1993	18.4
1994	19.0
1995	19.3
Average, 1990–95	18.75

Note: Federal Revenue has hovered at 18–19 percent of GDP for all of our Post-WWII history.

Source: Committee on Ways and Means Democratic Staff based on information from the Organization for Economic Cooperation and Development (OECD). Prepared April 15, 1996.

DISTRIBUTION OF THE CURRENT FEDERAL TAX BURDEN

[Projected 1996 income levels]

Income range	Number of families (in millions)	Average income (in dollars)	Effective tax rate (in percent)
Less than $10,000	14.6	$6,009	6.7
$10,000–$20,000	18.5	14,794	10.4
$20,000–$30,000	16.6	24,941	16.5
$30,000–$40,000	13.5	34,841	19.4
$40,000–$50,000	10.8	44,808	21.7
$50,000–$75,000	17.7	61,278	23.6
$75,000–$100,000	8.6	85,637	25.4
$100,000–$200,000	7.0	129,788	26.7
$200,000 or more	1.9	486,031	31.9
All	110.8	48,165	23.8

Source: Committee on Ways and Means Democratic Staff based on June 1995 information from the Congressional Budget Office.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. ARCHER], the distinguished chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let me quickly say that the percentage of GDP is not the only way to determine the tax burden on Americans. GDP and its percentage relative to taxes means very little to the worker. What is important to the worker is how much comes out of his or her paycheck, not what percentage of GDP.

We can talk in those glossary terms inside the beltway, but the American people who are out there producing understand that what they have left in their paycheck is not as much as it should be. That is why I rise in strong support of this constitutional amendment that will serve as a barrier to those who seek to raise taxes and increase the Federal Government's role in our lives, because that is what this debate is all about. That is what the balanced budget debate is all about: How big will the Federal Government be, and how much will it take out of our hard-earned pay?

Taxes in this country are too high, irrespective of what they are in other places around the world. That is because too often Congress has found it easier to raise taxes than to say no to new spending. A constitutional limitation on tax increases will rectify that unfortunate bias. It is time to tilt tax and spending decisions in favor of working Americans who pay the taxes. This proposed constitutional amendment does exactly that.

I have made no secret of my desire to tear our current income tax out by its roots and replace it with a consumption tax on the purchase of goods and services; so simple, because it will remove the IRS completely and totally from every American's individual lives. Accordingly, the amendment's sponsor and I have worked hard to come up with language that would require a supermajority vote for tax increases without making it harder to replace the current income tax system. This revised language accomplishes these twin objectives.

Mr. Speaker, I would like to have a brief colloquy with the sponsor, the gentleman from Texas [Mr. BARTON], about how the amendment will work in practice.

Mr. Speaker, as I read the proposed constitutional amendment, the two-thirds requirement would not apply to tax legislation that is a net tax cut or that is revenue-neutral overall.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I would tell the gentleman, that is correct.

Mr. ARCHER. Accordingly, the supermajority requirement would not have applied to the Balanced Budget Act of 1995 or the Contract With America Tax Relief Act of 1995, since those bills provided a net tax cut, is that correct?

Mr. BARTON of Texas. That is correct, Mr. Speaker.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. ARCHER. It would also not apply to legislation that replaces one tax system with another, as long as that replacement is revenue-neutral; for example, if we were successful in tearing the income tax out by its roots and replacing it with a broad-based consumption tax, that legislation would be subject to a simple majority vote, is that correct?

Mr. BARTON of Texas. If the replacement tax raised the same amount or less revenue than the current tax, then the answer is yes.

Mr. ARCHER. Also, the supermajority requirement does not apply to tax legislation that raises a de minimis amount of revenue. Am I correct in assuming that a bill that increases Federal tax revenue by less than one-tenth of 1 percent would be considered de minimis?

Mr. BARTON of Texas. That is correct.

Mr. ARCHER. Therefore, H.R. 831, which increased and extended the health insurance deduction for the self-employed, H.R. 2778, which provided tax relief to our troops in Bosnia, and H.R. 3103, the Health Coverage Availability and Affordability Act of 1996, would not have required a two-thirds vote. Is that correct?

Mr. BARTON of Texas. Mr. Speaker, the gentleman is correct. Those bills would have met the de minimis exception.

Mr. ARCHER. I thank the gentleman for the clarification. I would also like to point out that the amendment allows Congress to establish procedures that would provide certainty at the time of passage as to whether the two-thirds requirement applies.

I want to address one spurious criticism. Some opponents of House Joint Resolution 159 have argued that it poses problems similar to those alleged with the current House rule that requires a supermajority vote for Federal income tax rate increases.

□ 1945

Anyone who makes that argument clearly has not read the amendment.

The amendment and the House rule are fundamentally different. Indeed the wording of the constitutional amendment reflects the lessons that we have learned from our experiences in dealing with the House rule. The House has not passed any bill containing a Federal income tax rate increase.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, everyone knows that this is April 15, the time that we are supposed to pay taxes. But some of my colleagues think it is April 1, that is, April Fool's Day, because the whole idea of passing a constitutional amendment has been aborted.

Normally a bill would go to the committees that have jurisdiction so that we could really find out the impact of this bill on the American people and especially the American taxpayer. But my dear friend from Texas, Mr. BARTON, did not ask for the House Judiciary Committee that is headed by Chairman HYDE who everyone knows is an expert on the Constitution, he just went to his friend James Perry of the Americans for Tax Reform. I see that 17 pages was sent in support of the Barton amendment. There is nothing here from the Committee on the Judiciary because they never had hearings.

My distinguished chairman, at least chairman for the rest of this year, BILL ARCHER, was here, and this really talks about how this thing is supposed to work, and there is an asterisk next to Mr. Perry's name, but no place here does it say who he is. But it is not important. I would rather have seen something from the Committee on Ways and Means that would just answer certain questions.

Under this amendment if we wanted to protect the Social Security system or to protect the Medicare system and if we had to increase the premium, we would need a two-thirds vote in order to do that. On the other hand if we wanted to raise taxes for education or health care or Social Security or anything, we would need a two-thirds vote for that. But suppose we wanted to close the loopholes, because I refer to this as a lobbyist amendment, not a constitutional amendment. Suppose those people were supporting corporate welfare or wanted to strike it out, close the loopholes. That would mean an increase in taxes. And we would need a two-thirds vote or lock in the lobbyists who are protecting the corporations.

On the other hand, it seems to me that when the majority party decided it was going to increase the taxes of the earned-income tax, the benefits that we give to the lowest, the poorest working people we have in the United States, they just waived a provision that they have in the rules.

Someplace they would say this to the taxpayers as they said, and let me read this section here from this paper that the gentleman from Florida [Mr. GIBBONS] has given to me. This is not a committee report, this is not a Ways and Means report. This is not a Judiciary report. This is a report from Americans for Tax Reform and this is how they open this debate.

That millions of Americans while they are standing out there in front of the post offices paying their taxes, for the first time would see these Republicans on the floor on TV, drive-time radio talk shows will offer live coverage as the votes and hearings proceed. What hearings? As the vote proceeds, and for the first time this resolution will give guaranteed live media coverage.

And so, my friends, enjoy your gimmick, enjoy your public relations, but let us not treat the Constitution that way, and you should have more respect for the American taxpayers than to do this gimmick on this particular day.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. HOKE], a member of the Committee on the Judiciary.

Mr. HOKE. I thank the chairman for yielding the time.

Mr. Speaker, in 1950, the average income family in America had 2 percent of its income paid to the Government in taxes. In 1996, that number has gone up to about 25 percent. We have had, you could say, a 12 times, a 1,200 percent increase in the percentage of taxes that the average American family is paying to the Government. We have seen that increase in taxation that falls directly on the backs of working men and women fuel the explosion in growth in government in the past 45 years. That is what has fueled it.

What I would ask the gentlemen and gentlewomen on the other side of the aisle is do you think that would have been possible if this tax limitation amendment had been in place? I would suggest to you that it would not have been possible and that today what we are fighting and what is a fundamental problem that faces our society and our economy is that families cannot make it on one income, and the reason that they cannot make it on one income is not because it is not enough money to actually raise children with one person staying at home, and it makes no difference to me whether it is the mother or the dad staying at home, but they cannot make it because too much money is being kept out of the paychecks and given to the Government. That is the fundamental problem. When you go from 2 percent in 1950 to 25 percent in 1996, and we are not talking about the rich people, upper-class people, we are talking about the average income family in America. That is the fundamental problem. That is the fundamental problem that tears at the social fabric. That is the fundamental reason that we have been able to fuel this tremendous growth in government, this explosion in the size of government.

The other thing that I wanted to address, and I would draw to your attention, particularly the gentleman from Florida, the senior Member who is retiring this year, this is an article that just appeared in this week's, or I guess last week's Time magazine. It says "Europe's Job Crunch."

You draw attention to the fact that other economies, other countries have got higher tax rates. I want to just read a little bit about what they say because what we do know is that in other countries, there is tremendous stagnation. They say:

> Call it Eurosclerosis, the combination of a staggering tax burden and a blanket of regulations that smother new businesses and entrepreneurship. The symptoms. Europe's unemployment rate of 11 percent is twice as high as the United States and its job creation chart is a flat line. Over the past 3 years the U.S. has created 8.4 million new jobs. Europe none. Significantly many of those new American jobs pay higher than average wages and as many as 60 percent are managerial or professional.

Spain has got a 20-percent unemployment rate; Italy 12; we have got 11 percent in Germany; and France has got 12 percent. This is exactly what you get when you have higher and higher and higher taxes. It is not what created the American success story. It is not what holds the potential of the American dream. We ought to pass this. It will really slow down the growth of government.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, there are at least five very good reasons to vote "no" on this ill-advised constitutional amendment.

The first is that it is a classic example of pure political posturing. At the very beginning of this session of Congress we passed legislation, a rule that said that we would require three-fifths votes to raise taxes, and every single time that rule was to apply, the majority had the rule waived. So we cannot even abide by the rule that exists now, and we want to make it into a constitutional amendment so that we cannot even waive the rule.

Imagine what would have happened with all of the tax legislation that passed for the last 20 years if we had had this rule. There was only one minor piece of legislation that would have passed.

Second, it is fiscally irresponsible. It makes it almost impossible to raise revenue to reduce the deficit, whether it is to cut capital gains taxes, which would increase revenue in the initial years, or particularly to close corporate and individual tax loopholes. We cannot do that under this legislation.

Third, it really shows contempt for the wisdom of the Founding Fathers. They debated this many times and they decided that the Articles of Confederation, article 9, which required a supermajority to increase revenue, was not working, that the minority was thwarting the will of the majority. And so in 1787 at the Constitutional Convention they decided, they voted that they had to have a pure political majority for this democracy to work.

The Constitution is not some rough working draft. It is a body of law that has served this Nation better than any Constitution has served any nation in the history of mankind. For 200 years it has made us the most democratic, the strongest nation on Earth, and now we want to mess around with it, with this kind of constitutional graffiti.

Fourth, it shows a contempt for the legislative process. This language was not even considered by the subcommittee or the full Committee on the Judiciary. We bring it out here and we look at it here on the floor. By the seat of the pants we are coming up with definitions that we want to put into the Constitution.

For example, what does "de minimis" mean? We say, well, how about 0.1 percent of the Federal budget? What kind of constitutional definition is that? We do not even know how many years we should measure whether the revenue is de minimis or not, or whether user fees would apply.

There are all kinds of issues that have not even been adequately considered. The fact is that this is just pure political grandstanding. We are making politically expedient points at the cost of the integrity of this body. This is a bad amendment. we all ought to vote "no" on it.

Mr. BARTON of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. SAXTON], the distinguished chairman of the Joint Economic Committee.

Mr. SAXTON. Mr. Speaker, I am very pleased to rise today in support of the tax limitation amendment requiring a supermajority to raise taxes, and I commend the gentleman from Texas [Mr. BARTON] for his hard work and determination in bringing this amendment to the floor tonight.

I am also proud to say that in 1991, along with my colleague from Texas, I was one of the first Members to bring this supermajority voting requirement to the American people's attention. Tonight we bring it to the attention of the American people once again, this time in anticipation of passing the measure.

For many years we have known that a fundamental change in the way Congress does business is needed, and this is an example of the kind of change that we sincerely believe is needed. Currently it is much easier to raise taxes on the hard-working American people than it is to cut spending, and so we have seen year in and year out as the budget went up, and 1990 is a good example, we increased taxes. In 1993 once again the majority increased taxes, and still we have a deficit.

Let me just say what I think the real issue is here. It is demonstrated by this chart on my left. Today there are 10 States that have supermajority requirements for raising taxes. They happen to be Arizona, Arkansas, California, Colorado, Delaware, Florida, Louisiana, Mississippi, Oklahoma, and South Dakota. Four of those States have a two-thirds supermajority requirement, 3 have a three-fifths, and 3 have a three-fourths requirement.

This chart demonstrates quite clearly that in the States on average that have a supermajority requirement, that growth is much lower in government than in States that have no supermajority requirement, that is, growth in spending.

So, of course, that makes us believe that the same pattern would hold true within the Federal Government. If we went on the street today and asked almost any American, the great majority would say that government is too big, it is too burdensome, it is growing too fast, it is too overwhelming on the American people, and taxes are too high.

So this provision creates a situation in which both parties will realize a major objective that we promise the American people every year, lower taxes.

How does this work? It is very simple. We are trying to restore some balance to the way we operate here in the Congress, the pressures for spending. Just take, for example, a State that wants to build a highway or a series of highways.

□ 2000

There is a very focused effort by a number of special interest groups to get those highways built. There are people who want to get quicker from point A to point B, and that is very important for them for their morning and afternoon commute to and from work. They are focused on those projects. There are labor unions who want jobs; they are focused on those jobs. There are contractors and business people who will make a profit, and they are focused on those projects.

So an intense lobbying effort takes place because of that focus. Now, nobody wants higher taxes. But how deeply do the American people have an opportunity to lobby for lower taxes? Only on the surface, only at election time. They do not have lobbyists in this town, like the special interest groups. And so it seems to me that by requiring a larger vote known as a supermajority, we put some balance back in the system to achieve what these 10 smart-minded States have been able to accomplish. That is slower growth in their governments, and slower growth is what both parties have promised the American people in this House.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, leave that chart there just a minute. Do not move that chart. That chart is as phony as a $3 bill.

He has got California and Florida in that supermajority States. Florida requires a supermajority for increase in corporate income tax. But you can increase the Florida sales tax, which collects 90 percent of the revenue. California you listed as a supermajority State, and California only applies to property taxes. But you can increase the income tax and the sales tax and everything else. I do not know how many other phony things you have got in that, but that chart is no good.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. STARK].

VOL 142 PT 6 AP 15—24 1996 UMI

Mr. STARK. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

Mr. Speaker, this amendment proposal is really nothing more than political sham, phony or not, and we all know it.

These proceedings, which will amount to 5 or 6 hours, are a pathetic political circumstance, staged by the radical Republican leadership of the House, to hopefully be broadcast at prime time on today's tax day.

At this moment in our history, a brief moment, the House happens to be under the control of a misguided vanguard who are ideologically opposed to any tax increases whatsoever. That does not mean we should pervert our Constitution, which has served us so well and supports the longest lasting system of democratic government in modern history.

That is right. This is just another cheap publicity stunt. Remember the Contract With America? That bunch of stupid ideas that sounded so good? Now the Republicans are using that constitutional amendment as a prop and a shallow scheme to convince the public that new majority is working in the best interests of average Americans.

The same radical zealots who said they would save Medicare when they actually wanted to destroy it and handed out tax breaks to the rich are trying to trick us again. Just as Americans file their tax forms, we have the promise of a constitutional amendment to require a two-thirds vote. But the absurdity of this proposal goes much deeper. Any major government initiative requires funding.

Think of it, if this law had been in effect, you would not now have Social Security or you would not now have Medicare. And somebody earlier mentioned family values. Well, that would be fine, except there would be no highway system for the families to go anywhere and you would not be able to vaccinate your children, because we pay for those childhood vaccines with a tax.

All of that would not be here today if this amendment were to pass, and that is not how it is supposed to be done. Amending the Constitution is a serious matter, and this resolution has been rushed through without any discussion or deliberation at the committee level, without any public debate, simply so it could be here tonight on tax day. This is no way to run a country, and my colleagues on the other side of the aisle who support this proposal should be ashamed.

Mr. CANADY of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee [Mr. WAMP].

Mr. WAMP. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I must say, as a freshman Member of this body, it disappoints me to see the kind of name-calling, shallow partisan rhetoric that seems to always seep its way into this debate, particularly by senior Members that have brought distinction to this institution for a long period of time. And now it seems like the same angry, hostile words are used over and over again as if the American people do not know better.

I am not much for partisan rhetoric and shallow words, and I do not come down here on a regular basis to say that Republicans are always right, Democrats are always wrong. I come down here tonight because I do think this is a fundamental issue in 1996. It is the litmus test of this whole process today, and that is the size and scope of the government and the difference in the two parties and their positions and their record on this issue. The barometer of the issue of the size and scope of the Federal Government is taxes. The government is going to grow as the Congress taxes the American people. The government is going to shrink which the American people would like as we reduce taxes on the American people.

Our party, the party of Lincoln, clearly today stands for less government and lower taxes. The Democratic Party, as you have seen tonight, is still Congress coming down here in defense of big government, in defense of higher taxes, even stating that maybe we should or inferring that we should have higher taxes like other countries in other parts of the world where I personally do not want to live. I want to live here, and we want our country to have lower taxes.

Let us look for a moment where we have been: $2,286 per person was paid in 1980, just a few short years ago. I remember that year very well—1980, per person to the Federal Government, $2,286. Last year, that figure was $4,996, almost $5,000. We have gone from $2,286 per person to almost $5,000, well over doubled in those few short years the amount the average American is paying to the Federal Government.

I tell you, the reference was made to our Framers of our Constitution and our Founding Fathers. Obviously they cannot report to us tonight, but here is what I think they are doing tonight, they are rolling over in their graves, screaming we told you so, we warned you time and time again about the government. You know, think about this, a balanced society would have government, business, religion, and family, all four at the same level in a healthy balance.

Do we not realize that the government is way above the line? The family is now way below the line, our religious institutions are way below the line, business is now way below the line, because the government has sucked off the responsibilities of those other four institutions. In order to bring it down, we have got to reduce the tax burden and balance out our society.

We had the gentleman from Ohio [Mr. HOKE] report that in 1950 we paid 2 percent of our dollars in revenues to the Federal Government; now that figure is 25 percent. I have a 9-year-old son and a 7-year-old daughter. My question is, at this pace, what are they going to be paying or will they have anything at all left from the dollars that they make? Because I suspect that they will not unless we draw a line in the sand tonight.

Ladies and gentlemen, people of America, this is about drawing a line in the sand and saying we are not, as a responsible Congress, going to raise your taxes anymore. We are going to have to learn to do with less. We need to limit Congress' ability to raise taxes. It happened in 1993. I think that one vote was the defining vote of the election of 1994 if there was one vote you could turn to. This is something we need to do.

I come from east Tennessee. I consider east Tennessee the center of the universe. The hills and valleys of east Tennessee, the people are honest and straightforward. They believe very passionately that the government is too big, that taxes are too high. They want me to do something about it. And I am.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise in strong opposition to this constitutional amendment. The amendment is not what it appears. This amendment is more than mischievous it will bring the definition of the word "gridlock" to new highs.

This constitutional amendment could add to the deficit. Normally when revenue raisers and spending provisions are matched to assure that legislation is paid for they do not match exactly but rather yield slight differences that are used to reduce the deficit. This amendment would seem to preclude that, meaning that the authors of bills will adjust their spending upward so as to avoid a super majority requirement. This simply makes no sense.

This constitutional amendment is being considered without hearings and without ever being considered by the Judiciary Committee. Constitutional amendments are serious matters and they deserve the most careful consideration. The handling of this amendment on this particular day is more suitable to a publicity stunt than to a change to the Constitution.

This amendment would require a super majority to close down egregious tax shelter or corporate welfare if the proceeds went to deficit but not if the proceeds went to fund tax cuts or other corporate welfare. Again, this simply does not make sense: We should not have a constitutional bias against deficit reduction.

Ordinary reauthorizations of popular programs would require super majorities under the amendment.

The only tax bill enacted last year would have violated the proposed amendment. The Congress last year enacted legislation to extend the health insurance deduction for the self insured and paid for it by closing down a tax loophole after press reports about its abuse by one corporation. Under the terms of the amendment, however, a super majority would have been required—since shutting down a loophole would meet the definition of a tax increase.

Finally, the majority has already waived a similar House rule three times. They waived it for consideration of their big tax cut bill because it would have increased taxes on working American families by $36.45 billion to help pay for tax cuts for better off families. They waived it for consideration of the Medicare bill because the premium increase could be construed as an income tax rate increase. And they waived it on the recently passed health insurance reform bill.

If the majority can not live under its own rule, they clearly can not be serious about a constitutional amendment. I believe our Constitution and the American taxpayer deserves better treatment.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. STOCKMAN].

Mr. STOCKMAN. Mr. Speaker, I am really shocked. In fact, as you are in Texas right now, 7:15, filling out your taxes, you heard on the House floor tonight that it is radical to allow you to keep your money. Listen to what I am saying. They say it is radical for you to keep your money.

Now, I do not know about you, but I find that a radical thought and a little bit shocking that you are so stupid that we need to take your money and bring it up here in Washington and make your State of Texas weaker and make us stronger.

I believe in you. They obviously, on the other side, do not. They want to take more of your money. The gentleman from Ohio, very articulate gentleman, said that the unemployment rate in Europe is 12 percent, and so since they are doing what they are doing and the gentleman suggests we should follow them, then the logic says maybe we should make our unemployment rate 12 percent. Let me finish.

POINT OF ORDER

Mr. RANGEL. Mr. Speaker, I have a point of order.

Mr. STOCKMAN. Mr. Speaker, I think it is radical for them to deny you your money as you are going to file your income tax.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman from Texas will suspend so the gentleman from New York can be heard on his point of order.

Mr. RANGEL. Mr. Speaker, the gentleman in the well has made it abundantly clear that he is addressing his constituents in Texas somewhere and his eyes are directed at the camera so that it is difficult for me really to know whether he is talking to me or making a political address to his constituents. I thought that violated the rules of the House.

Mr. STOCKMAN. Mr. Speaker, I will address that through the Chair.

The SPEAKER pro tempore. The point or order offered by the gentleman from New York is well taken. The Chair will remind all Members to address their remarks only to the Chair.

Mr. STOCKMAN. Mr. Speaker, I have to tell you your money tonight is going to be spent by Washington, and, Mr. Speaker, I have to tell you that I am going to stand here in the well and say we are going to defend every American's right to keep their money regardless of the demagoguery and to me a very offensive rhetoric on the other side. We believe in the American people, and we think the money does not belong here in Washington but indeed it belongs in your pockets across America, and remember, 12 o'clock, when you are filing that check, they want more of it.

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POINT OF ORDER

Mr. RANGEL. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman will state his point of order.

Mr. RANGEL. Mr. Speaker, cleverly the gentleman has wound up his speech once again addressing his taxpayers back home.

Mr. Speaker, I withdraw my point of order.

Mr. GIBBONS. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, I ask my friends and colleagues to recognize something that has occurred tonight in this debate, and that is a betrayal of an inclination to suggest that there is no connection between taxes and spending. It is said that if taxes are curtailed, spending will be curtailed. In my nearly 30 years in Congress, I have not found that to be the case.

In 1976 I began the movement for a balanced budget amendment to the Constitution. By the way, mine was called the Payment Book Amendment. After the balance was achieved, then 5 percent of the national debt, which then was $750 billion, had to be retired each year by a surplus equal to the 5 percent.

I do not mean to pick out any particular President, but as a good example, almost never has the Congress appropriated as much money as a President requests. President Reagan's budgets increased spending in his first 4 years in office by $1 trillion and cut taxes in 1981 by $750 billion, restoring some of that the following year by a reguessive tax increase.

One night when "I pondered weak and weary" and could not sleep, I turned on a TV interview program, on which a prominent Member of the Congress was advocating a $40 billion increase in spending on a new space program. The interviewer was thoughtful enough to ask, "Would you offer an increase in taxes by $40 billion to pay for the increased spending?"

The Member of Congress replied, "Mr. Rose, this country spends $40 billion a year on dog food."

Mr. Rose did not ask the logical follow-up question, which, of course, was, "which dog are you going to ask to give up his food?" The mere fact that people spend a certain amount on dog food does not mean you can increase spending in the Government without increasing taxes to pay for it.

If you really want to curtail spending constitutionally, forbid the Government from borrowing. The easiest thing in the world is to whip out the U.S. Government credit card, and that is exactly what has been done in a bipartisan manner as long as I have served in the Congress.

As for complaints about making car payments or paying the electric bill or any of the other things that are necessities in life, and I do not say that all the increased spending in the eighties was a necessity—I cast my district's vote against much of it—but I do say the necessity is to get cracking and pay for it and stop paying interest on it.

People have not only recently complained about paying taxes. I do not like to pay taxes. I do not like to pay any of my bills, and I do not like it if someone else runs up bills that I have to pay. Will Rogers said, "It is a great country, but you can't live it in for nothing."

Some of the greater patrioteers I would say in this country swear their allegiance and undying love, "patrioticer" than thou. They do not serve in the military, they do not go out and sweep the streets. There is one way they can show their love for the country, and the only way is not to complain about the taxes. But do they ever.

And it is human nature to avoid distastful duty. It is poor state craft indeed to have an arrangement where it is easier to run up the bills than to pay them. A constitution is supposed to restsorum the more foolish aspects of human nature, not view force and encourage them.

Finally, if I have time, I want to disabuse people of a couple of myths. One myth is that the 1993 tax act was the largest increase in history. That is not true. Neither was the 1982 act—the Reagan tax increase—the largest in history.

In World War II, there were all sorts of increases that dwarfed both of them.

VOL 142 PT 6 AP 15 — 24 1996 UMI

Between the two, however, the Reagan tax increase in 1982 was $340 billion in 1993 dollars, the only fair comparison, adjusted for inflation, and the Clinton tax increase was $249 billion. And the myth has gone on for decades that John F. Kennedy was elected President because they stole it in Chicago and Illinois went for Kennedy. The fact is that at 3:33 on the morning following the election, Michigan went over to Kennedy and elected him. Illinois was surplusage. These are two myuths which have been asserted so certainly and so often, that most people have come to believe them. "Truth crushed to earth * * *"

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I rise today in strong support of this joint resolution. Today the people in my home State of Iowa are filing their tax returns. The average Iowan is sending more of their hard-earned money to Washington than they spent on food, shelter, and clothing combined.

For the last 40 years, liberals in Congress have been incapable of restraining the urge to spend and spend and spend. I am glad that my colleague just recently mentioned a credit card, because it is as easy for a Member of this Congress to pull out their congressional credit card, their congressional voting card, slip it into the slot and push a yes button, and you have just spend billions of dollars.

Iowans are frustrated, because instead of working for their families, they have been working to support the spending habits of past liberal Congresses. A minister's wife told me just the other day, "I went back to work part-time. The extra income that we made for our family bumped us up into the next tax bracket. I basically went back to work to pay our family's taxes."

One of the things we can do to put a halt to this madness, this raising of taxes time and time again, is to pass this resolution.

The problem is not that Americans do not pay enough taxes; the problem is that Congress spends too much. By making it harder to raise taxes, we can accomplish two goals: First, more money stays where it should, in the families; second, it mades reducing spending even more necessary.

If liberals in Congress have a tougher time raising taxes, maybe they will be forced to quit spending more money that we have. They have spent too much for too long, and the American people are tired of paying for it. I urge my colleagues to vote "yes" on this joint resolution.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, this amendment is the essence of nonsense. Just look at it—read it.

But we are not here because this is a well-written, well-reasoned amendment. this amendment isn't even a good idea. We are here because it is April 15, tax day—it is time to score political points—the Constitution be dammed.

Two fundamental truths underlie our Government—majority rule, and the Constitution. This amendment is contrary to both. It is ill-conceived, ill-constructed, and ill-advised.

Our Constitution is a sacred document. It is the foundation of the greatest democracy on Earth. Since the adoption of the Bill of Rights over 200 years ago, the people have seen fit to amend it only 17 times. That is because the Constitution is not merely law—it is the foundation of our Nation. It is liberty. It is the separation of powers—checks and balances. It is the essence of democracy.

I revere the Constitution. We must not amend it lightly. Welfare reform—Government spending—tax policy—these are the province of laws. We must not clutter our Constitution with such matters. We must not cheapen the foundation of this great Nation.

It appears that many of my colleagues disagree.

In the past 16 months, the Republican leadership has brought four constitutional amendments to the floor of the House. This is nothing less than an assault on our Constitution—on our democracy. Republicans would restrict the right of voters to choose their Member of Congress. They would limit free speech. They would deny majority rule—deny democracy.

If this amendment had been part of our original Constitution, there would be no Social Security. There would be no Medicare. You see, Republicans voted against Social Security and Medicare. They did not want these programs. They do not want these programs today. Republicans want Medicare to wither on the vine. You have even heard the Senate majority leader brag about his "no" vote.

Democrats—the majority of Congress—the majority of America—supported Social Security. They supported Medicare and they won. Republicans lost—they could not stop the will of the people. With this amendment, they could. No majority rule. No one man—one person—one vote. So much for fundamental truths. So much for our Constitution.

Mr. Speaker, I am saddened that I, as a Member of this House, have been reduced to voting on such a terrible and unwise amendment. I am embarrassed. There have been no hearings. This amendment was born in darkness and conceived in a den of inequity. It is a vague, overly broad, political stunt. It is silly.

Our Constitution is not silly. Democracy is not silly. This amendment is not worthy of the U.S. Constitution, of majority rule, or of this body. Do not demean, do not cheapen—the Constitution of the greatest nation on Earth.

This amendment does not belong here—it certainly does not belong in the Constitution. Get this amendment out of here. Get if off of the floor, out of this House. It is a waste of paper. It is trash. It belongs in the garbage—the waste heap of political stunts.

I urge my colleagues to oppose this amendment.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I must address the remarks of the distinguished gentleman from Georgia [Mr. LEWIS].

Mr. Speaker, the den of iniquity that the gentleman referred to where this specific language was actually drafted was a Committee on Ways and Means hearing room right across the hall. There have certainly been some shady deals discussed in that room over the past, but this is not one of them.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman for his leadership on this issue and for bringing it forward.

Mr. Speaker, the tax limitation balanced budget amendment will ensure that, like American families, the Government spends only within its means. The tax limitation balanced budget amendment will prevent the Congress from balancing governmental books on the backs of working Americans. The tax limitation balanced budget amendment is necessary because Congress has repeatedly failed to control its spending.

When Gramm-Rudman would have forced budget cuts in 1987, Congress revised the act to put off a balanced budget. Congress' inability to cut the deficit and pay down the debt demonstrates the need for this legislation. A balanced budget amendment is the best approach to eliminate the deficit while protecting the fruits of the American worker's labor.

Had this measure been in effect, Mr. Speaker, during 1993, the largest tax increase in history would have needed 290 votes, rather than 218. Instead of passing by only one vote with the support of only one party, a clear bipartisan consensus would have been required.

If you believe that Americans are undertaxed and passing tax increases ought to be as easy as possible and the quick-fix solution to our fiscal problems, do not vote for this measure. On the other hand, if you do not want to hold your constituents' hard-earned tax dollars hostage, you will vote for this reform.

□ 2030

Mr. GIBBONS. Mr. Speaker, I yield myself 30 seconds to ask the gentleman

from Texas [Mr. BARTON], I heard him take that cheap shot at the Committee on Ways and Means. The gentleman is not inferring that we had anything on the Committee on Ways and Means to do with this joke of yours, is he?

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I am not referring to anything.

Mr. GIBBONS. The gentleman is not saying the Committee on Ways and Means took any action on this.

Mr. BARTON of Texas. Mr. Speaker, the gentleman from Georgia [Mr. LEWIS] used the term of "den of iniquity" and the room is the Committee on Ways and Means where we drafted this language. That was the only point I was trying to make. I did not refer to that as the den of iniquity.

Mr. GIBBONS. Well, it was a cheap shot.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Speaker, I rise in opposition to this ill-conceived amendment. And while I can certainly agree with those Members who are attempting to find ways to cut spending and to reduce the size and the scope of the Federal Government, I strongly oppose their use of this mechanism to accomplish that goal.

Mr. Speaker, while my colleagues on the other side of the aisle would like to convince us that the debate on this amendment is about whether or not we believe it should be easier or harder to raise taxes, in reality, the real issue at stake here is very different. This amendment does not make it harder to raise taxes so long as the tax money raised is immediately spent on something through the Tax Code. That is the part of this bill that its sponsors are not making clear.

Under the language of the resolution, Congress can raise taxes on anyone by a majority vote: The rich, the poor, the middle class, corporations, large ones, small ones, foreign or domestic, anyone, so long as we immediately spend the money we raise on someone else through the Tax Code. The only ones we cannot spend this money on are our children and grandchildren, because tax bills which raise money for deficit reduction are the only bills that will be subject to this supermajority vote. This means that we cannot close corporate loopholes, even those considered inadvertent or egregious, and dedicate the money to deficit reduction unless we can get a supermajority of the Congress to agree. However, it will only take a simple majority of the Members to close those same loopholes and spend the money, creating new loopholes for a different group which just might happen to be more popular in some future political climate.

Since my election to Congress, I have spent many hours working on various proposals to balance the Federal budget. I have done this because I believe that budget deficits hurt our economy and represent a legacy of fiscal irresponsibility that we then pass on to future generations. But despite my efforts and the efforts of many other Members on both sides of the aisle, those who have worked to produce a balanced budget that is fair and responsible and acceptable to the majority of Congress and the American people, this goal has not been achieved, and I cannot in good conscience support an amendment to the Constitution which will make the task of balancing our budget even more difficult in the future.

I urge my colleagues to vote against this amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in opposition to this constitution amendment.

The greatest sin against our children is the sin of the deficit, spending more than we are willing to raise in tax revenue. It will impose a paralyzing burden on our children, crippling government in their adulthood, robbing it of the resources necessary to provide even essential services. The deficit is the greatest threat we face. It destroys the lifeblood of economic growth, robbing our neighbors of their jobs and our kids of a strong, vital economy.

We must cut the rate of growth in spending. We must reform entitlements to address real, not imagined, need. But if we fail, we must pay for the services we are enjoying. High taxes have finally elected a Republican majority that is finally discipling spending, providing important public services in a more efficient, cost-effective way. That is the real answer. That is the right answer in a democracy, disciplined spending, balancing the budget.

I am proud as a Republican that we have had the courage to offer and to pass a balanced budget to cut spending, to wipe out the annual deficit over 7 years, but I leave each generation free to establish that balance between taxing and spending that they believe is in their interest. Democracy is about taking responsibility. Responsibility to identify and serve society's needs, to appropriate and to tax, that is democracy, and I am for it. I oppose this amendment.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Speaker, today is a day that is dreaded by most Americans for one reason or another. Today, April 15, is commonly known as Tax Day. Anxiety is high and many Americans are scrambling to meet the deadline. People across America are concerned if they have to pay or if they did their taxes right. Today, the House is participating in a publicity stunt to try to ease the anxiety and fear about our current tax system.

Tonight, we are debating an amendment to the Constitution. Any time we amend the Constitution it should be done in a serious manner. Amending the Constitution should not be taken lightly.

As a former history teacher, I value the Constitution and I have tried to pass this on to my students. Currently, the Constitution requires a two-thirds majority vote in the House in only three instances—overriding the President's veto, submission of a constitutional amendment to the States, and expelling a Member from the House. These instances differ substantially from the issue before us today.

The issue of requiring a two-thirds majority is not a new issue. This issue plagued our Founding Fathers. This proposed amendment would gravely weaken the principle of majority rule that has been at the heart of our system for more than 200 years. The Constitutional Convention rejected requiring a super-majority approval for basic functions such as raising taxes. James Madison associated majority rule with "free government." He believed a person whose vote is diluted by super-majority rules is not an equal citizen and his freedom is not fully enjoyed. The arguments of James Madison still hold true today. With the adoption of this amendment, power would be transferred to the minority. A minority would be able to prevent passage of important legislation. Our Founding Fathers recognized the difficulty of operating under a two-thirds majority. The Articles of Confederation required the vote of nine of the thirteen States to raise revenue. We should learn from the wisdom of our Founding Fathers.

The proposed Constitutional Amendment would change how the House currently functions. This amendment would require any bill closing loopholes for deficit reduction to require a two-thirds majority. However, the amendment would permit tax increases on one group of taxpayers to pay for a tax break for another group of preferences.

This proposed amendment would require a two-thirds majority to reinstate funding of the Superfund program. A supermajority would be required to reinstate the trust fund for the airport and safety and improvement program.

Deficit reduction should be our primary focus and this proposed amendment would make it harder to enact deficit reduction. The coalition budget which was a responsible balanced budget would require a two-thirds majority by closing unnecessary tax preferences.

We should take a hard look at the action we about to take today. Last week

VOL
142
PT
6
AP
15
—
24
1996
UMI

the Washington Post ran an editorial entitled "False Promises." This editorial hit the nail on the head. It reminds us that damage done to the Constitution cannot be undone. We simply cannot waive the Constitution.

We are all in election mode and we should realize that we are elected to make hard decisions. A majority of major legislation passes with less than a two-thirds margin. Our job would be easier here if two-thirds of us could always agree this is not supposed to be an easy job. We have to make tough decisions which often result in close votes.

Between 1982 and 1993, five bills that raised significant revenue were enacted. President Reagan signed three and the other two were signed by President Bush and President Clinton. All five of these bills did not receive a two-thirds vote on the House Floor.

I cannot predict the future, but based on past precedents, I believe it will be extremely difficult for any President to have a budget pass Congress if this amendment is enacted. So many of us hear the complaints from our constituents about gridlock. This amendment could add to the gridlock. We would not be able to pass the budget deals of the past without a supermajority. We should all know from this year's budget battle how difficult this could be.

We will hear today that this amendment is important because it will help reduce our taxes. If we really want to help the American taxpayer can do better than this legislation today. Our energy should be focused on deficit reduction. This amendment would make deficit reduction more difficult.

We all want to make our tax system more fair and simpler. This amendment will not help reach that goal. We have not studied the effects of this amendment closely enough. The wording of this amendment is not clear and could result in years of litigation. The resolution is not specific enough to address questions such as the length of the budget window or what constitutes a tax or a fee.

I urge you not to support this proposed amendment. We do not know enough about its effects. Tomorrow, we have on the schedule the Taxpayer Bill of Rights and this an example of legislation that will really help the individual taxpayer. Just because it is Tax Day, we would not support a constitutional amendment that sounds good at first. In reality, this amendment will create numerous problems and will change the concept of majority rule. With this amendment, we are turning back the clock of history and not moving forward.

I offer a suggestion tonight, Mr. Speaker, that we reject this foolhardy proposal.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I rise in strong support of this constitutional amendment requiring a supermajority to increase our Federal taxes.

The average American family of four already spends 38.2 percent of their income to government in taxes. We need to pass this amendment so that we can have two-thirds of this body's vote to help cement a pattern we have advanced in this Congress, that pattern being that when we face a problem of deficit spending, we address it by reducing spending and not taxing our citizens of these United States, taxing them out of a job or making a decent living.

I have heard liberal opponents of this measure describe it as fiscally irresponsible, and I want to throw out a few statistics to counter those claims. For instance, the States that have a supermajority for tax increases have incurred 13 percent less debt than those States with a simple majority. Second, a supermajority does not exclude government from raising taxes in the event of fiscal hardships. It just ensures that the legislators, those elected officials, will scrutinize their options and provide added projections to the average taxpayer.

I heard earlier this evening the gentleman from Florida, the ranking Member, making comments about California, and I want to say that I served in the State assembly in California, and I want everyone to know that you need a supermajority, two-thirds, to raise taxes. In fact, as a member, I opposed a measure about 5 years ago that increased taxes on the citizens of California. However, my point is that still we were able, that body was able to increase taxes even with a supermajority.

Last, Mr. Speaker, statistics show that the States that live under the supermajority tax increase requirement have smaller tax and spending increases, grow faster, create more jobs and accumulate less debt. I urge Members to back this supermajority for tax increases.

Mr. Speaker, I heard a lot of comments about cheap shots and publicity stunts, but I will tell you, my 26-year-old who is just entering the job market, my daughter who is 24, are anxious, like your children and grandchildren, are anxious for us to do this tonight.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from Florida for yielding me the time.

This is a sad day in the House of Representatives. Amending the Constitution of the United States is a very serious matter. I have voted to amend the Constitution of the United States on a number of occasions. I believe we ought to have a requirement that we will be constrained by our revenues in our expenditures. I believe that deficits eat at our economy and place at risk the next generation. But tonight, in my opinion, is the theater of the irresponsible. I do not see senior Members who have given thoughtful consideration to this speaking very much on this floor on behalf of this amendment. I do not see the distinguished chairman of the Committee on the Judiciary on the floor as a proponent of this amendment. I did see a distinguished senior member of the Committee on Ways and Means, the gentlewoman from Connecticut [Mrs. JOHNSON], say that she believed in democracy, she believed in our Constitution, and unlike many documents, it gave to the people the right to choose.

Perhaps the people sometimes make mistakes, as each of us do, but it gave them that right. It did so for the most part by majority vote. This House, under this leadership, does not trust the people, no matter what it may see, and let me give the examples. We adopted a rule. It said that we could not raise taxes except by a three-fifths vote. We have waived that rule, of course, on a number of occasions when it suited the fancy of the leadership of this House.

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Seventy-three percent of the bills that have come to this floor have come without a hearing in the substantive committees, out of the Committee on Rules. That shuts the American public out of the decisionmaking process.

One hundred sixty-five legislative riders have been added to appropriations bills without a single hearing on any of those riders.

Term limits. Term limits is a classic "we don't trust the people." We do not trust them to elect the right people. Every 2 years they have that opportunity to choose in a democracy, to send us back or to retire us. But there are some in this body who believe that, no, we do not trust the people to make that decision.

We started this Congress by disenfranchising in the Committee of the Whole the representatives of American citizens from Puerto Rico, from Guam, American Samoa, the District of Columbia. Perhaps we did not trust those people as well.

We passed an amendment through this House, which I opposed, sponsored by the gentleman from Maryland [Mr. EHRLICH] and the gentleman from Oklahoma [Mr. ISTOOK], which said, "That if you get Federal money to propose a program, if you get money, you cannot spend your own money to advocate issues before the Congress or other political bodies."

Why does this leadership not trust the people?

The line-item veto was essential, I have been told, over the years, and my friend from Texas, Mr. STENHOLMand I agreed that there was a necessity for a process. But it kept even the relationship between the Executive and the Legislature. The line-item veto was essential, but not until January, not in this budget process, my colleagues. The line-item veto would go into effect next year.

My colleagues, Warren Rudman was mentioned. Warren Rudman is a distinguished Republican, a Senator from New Hampshire, not known as a profligate fiscal State. Warren Rudman opposes this amendment. Why does he oppose this amendment? Because he believes, as the gentlewoman from Connecticut [Mrs. JOHNSON] believes, that it will undermine, not enhance, the ability of this Nation to democratically and fairly balance the budget, which is our objective and our responsibility.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding this time to me.

I rise in support of this constitution amendment which we are talking about, and it has been stated here several times that amending the Constitution is a serious matter. Well, raising people's taxes is also a serious matter, and taxes are high in the United States of America, particularly if we look at the range of about $30,000 to $60,000, and we consider Social Security taxes, Medicare taxes, personal income taxes and all the local taxes which, after all, are part of the taxation that people face. The important thing here is it is the taxpayers' money we are talking about, and for that reason I believe that we should have a higher standard before we appropriate the taxpayers' money by passing tax legislation in the Congress of the United States.

The history of this Congress is to spend too much, and then in later years to tax to try to make up for that. We had the same problems in my State of Delaware. Back in 1980 we had 19.8 percent personal income taxes. we had businesses leaving the State, we were not balancing our budget, and we came along and we said we have got to do something about it, and we passed a balanced budget amendment, and we passed a supermajority to increase our taxes, and we passed a line-item veto, and since that time we have balanced our budget 19 times, we have cut taxes 6 times, we lowered poverty more than any other State in the United States of America. We have one of the lowest unemployment rates in the entire United States of America. It has worked, and it has worked well.

A tax limitation amendment is not a magic solution to our fiscal problems, but like the balanced budget amendment and the line-item veto, it will make a real contribution to putting the Federal Government on a permanent path to fiscal responsibility. Without a constitutional mandate, we may have some short-term success in limiting the growth of government, but we will never change the fundamental problems that lead to continued growth in Federal programs and spending. The only way to change business as usual in Washington is to make it more difficult for this Government to raise taxes and continue deficit spending. We owe it to the people of this country to send this amendment to them for ratification.

The easy decision is to vote no. The tough decision and the right one is to vote yes.

Mr. Speaker, I urge its passage.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr LEVIN. Mr. Speaker, it is said that the Republican majority has returned and showed they have not learned a thing during this break. The public has legitimate concerns about taxes, but I think the message from the public, these last months, has been do not play games with these concerns.

I wish the Republican majority has gone back, as I did, and read the transcript of proceedings in 1982 over that tax bill. Here is what was said by the Senate manager:

> The bill would increase revenues of about $99 billion over 3 years. Confronted with the need to raise revenues, our committee sought to emphasize eliminating or cutting back on justified preferences in the Tax Code.

And then he went on to say:

> Some of my colleagues, some of my Republican colleagues, some of the pure supply-siders, though there are not as many as there were, would say why are you raising revenues,

and this is what he continues to say on page 6907:

> As I said earlier, I do not know what choice we had. The bill can help eliminate much taxpayer resentment over the perceived unfairness of our tax system by cutting back on tax shelters that benefit the wealthy, who can afford sophisticated tax planning.

Then a month later in the conference that same gentleman from the Senate said this:

> I would say that those who talk about tax increases where you have not paid taxes at all, but now you have to start paying taxes because of tax compliance. That is not a tax increase. It seems to me, when you properly consider that, then I suggest we have a pretty good bill. Call it a tax bill, call it a tax increase, call it tax reform, call it anything you want, but vote for it. Vote for it because it is good policy.

That was ROBERT DOLE in 1982. What is he going to do now with this proposal? That bill in 1982, the conference report carried only 226 to 207 in the House. It would have been defeated under this legislation. Is ROBERT DOLE going to give in to the irresponsibles in the House majority?

This proposal will defend tax loopholes. What our colleagues' bill should be called is the Tax Loophole Preservation Act of 1996. I urge its defeat. It is going to die in the Senate. It is clearly playing game with legislative concerns of the American people. They have had enough of that from our colleagues. Too much.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 30 seconds.

The gentleman from Maryland [Mr. HOYER] talked about the lack of senior Members speaking on behalf of this amendment. So far today we have had the chairman of the Committee on Economic and Educational Opportunities, the gentleman from Pennsylvania, Mr. GOODLING, speak in favor; the chairman of the Committee on Rules, the gentleman from New York, Mr. SOLOMON, speak in favor; the chairman of the Committee on Ways and Means, the gentleman from Texas, Mr. ARCHER, speak in favor; the chairman of the Joint Economic Committee, Mr. SAXTON, speak in favor. We expect to have the chairman of the Republican Policy Committee speak in favor later this evening.

Mr. Speaker, I yield 2½ minutes to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I thank my friend from Texas for yielding me this time.

There are two documents to which we should pay great attention this evening, Mr. Speaker. One, of course, the document which is the foundation of our constitutional republic, the Constitution of the United States, and I have listened with great interest, the spontaneous historical revisionism which has gone on during the course of this debate, for it is worth noting and worth asking: If a personal income tax were so desirable, if a personal income tax were so laudable, why did not our Founders spell that out by levying a personal income tax in the main body of this document, the Constitution of the United States?

Now history shows us that it was a constitutional amendment that gave us a personal income tax, the 16th amendment, ratified in 1913, which leads me, Mr. Speaker, to the second document here, and unfortunately, Mr. Speaker, it is a document with which Americans come into more contact on an annual basis, unfortunately, than I dare say the Constitution of the United States. Form 1040. This is the first.

Mr. Speaker, the Center for Small Business Survival conducted a study, which I think is incredibly illuminating, for it went back to the initial tax tables and the tax code levied or instituted in 1913 and projected that into real dollars in 1990, and the statistics and the findings are nothing short of amazing. If we applied the tax tables of 1913 to the American people today, in real dollars today, a single filer would be exempt on his first $46,000 of income.

Simply noted, it is this. I can show my colleagues the tables, and I will do it during a special order. But the fact is even adjusting for inflation, since the institution of this income tax, the spending of Government has increased by 13,500 percent, and if we are so quick to riase taxes, our Founders did give us

VOL
142
PT
6
AP
15
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24
1996
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a mechanism to correct that. It is a constitutional amendment, and the only game being played is the increased transference of wealth from the American people to the shores of the Potomac.

Mr. Speaker, I stand in support of this amendment, and the American people know it is the right thing to do.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. DeFazio].

Mr. DEFAZIO. Mr. Speaker, if my colleagues think the current tax system is fair and equitable, then they will love this amendment. If they like the loopholes and tax giveaways in our Tax Code, they should embrace this constitutional amendment.

Why? Because it will let the special interests and foreign corporations who are now getting a free ride under our loophole-ridden Tax Code stop any reforms from moving through Congress.

Seventy-three percent of the foreign corporations doing business in the United States pay absolutely no Federal corporate income tax. This is a scandal, and the authors of this legislation want to keep it that way. They say that a minority of either the House or Senate should be able to stop tax reform that places a fair tax on foreign corporations doing business in the United States.

Every year foreign corporations mine millions dollars of gold on Federal lands. They pay no royalties to the U.S. Treasury. This bill allows a minority of Members of the House or Senate to stymie any legislation placing a reasonable royalty on mining operations on Federal lands.

The oil and gas industry seems to be doing just fine. Prices are rising at the gas pumps. Profits are up, stocks are increasing in value. Do they really need a $1.5 billion a year Federal tax subsidy? Do we need a constitutional amendment that protects their subsidies? They majority thinks so.

This amendment has been cynically sold as tax relief for average Americans. Nothing could be further from the truth. This legislation makes certain that Members of Congress, whose campaigns are fueled by contributions from the oil industry and a host of other special interests, can protect their tax breaks, subsidies, and loopholes those special interests receive.

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Make no mistake about it, every dollar that the U.S. Tax Code dishes out in corporate tax loopholes comes straight out of the pockets of working people in this country. This cynical legislation ought to be called the Special Interest Tax Loophole and Corporate Welfare Protection Act. It is a desperate attempt to defend the status quo and make sure that working Americans pay while foreign corporations and special interests play.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. Camp].

Mr. CAMP. Mr. Speaker, I rise in support of the tax limitation amendment. Americans today work almost 3 hours out of every 8-hour day just to pay their taxes. That is unacceptable. Our taxes are heavy burdens. They are hurting families and causing us to lose jobs. It has been far too easy to raise taxes, far too easy.

Just recently, in 1993, we saw the tax burden increase by almost $250 billion by just a single vote. It should not be that easy to place additional financial burdens on the backs of America's working families. The tax limitation amendment would require a two-thirds majority vote to increase taxes. That means any future tax hike would be supported by a large majority in Congress, not just a single vote.

I know, while I have not been in Congress as long as some of those on the other side who have come to the well in opposition to this amendment, I have been here long enough to know that we need change. My friends on the other side had it their way for 40 years. We can point fingers wherever we want, but let us look at the facts. This country is $5 trillion in debt. A child born last year owes $187,000 just in interest on the debt. How can we expect any American to realize the American dream under those circumstances?

Will this solve all of our problems? Probably not. But it is another tool to reduce the size and scope of the Federal Government, a Federal Government that has grown too large. Let us make the decision. Let American working families keep more of what they earn. Vote for the tax limitation amendment.

Mr. BARTON of Texas. Mr. Speaker, I am happy to yield 2 minutes to the distinguished gentleman from Arizona [Mr. Salmon].

Mr. SALMON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I did listen when I was back home in the district over the last couple of weeks. I listened to people who said they were tired of the liberals with their fingerprints on their wallets and their footprints on their backs, and that they are sick and tired of paying $1 out of every $4 of their income in taxes. They are sick and tired of having to have both spouses in a family work, one of those spouses just to pay the tax bill for the family.

I do not know if any of the Members have read the recent article in Readers Digest where it talked about the poll they did among Americans, an equally divided poll among Republicans, Democrats, and Independents, some that called themselves conservatives, many that called themselves liberals.

One thing they all agreed on across all classes of our society here in these United States was that they felt no family should be paying more than 25 percent of their income in their total tax burden. But what is the average family of four's tax burden? It is at 39 percent, when you include the 24 percent of their income that goes to the Federal Government, with little to show for it.

In fact, in 1950, middle-class couples with two children sent $1 out of every $50 to Washington. Today they send $1 out of $4. What more do they have to show for it? Of the last 16 major votes to increase taxes, only half of them would have passed by the two-thirds vote. In the 1980's alone, we would have saved the taxpayer $666 billion, had this measure been in effect.

If this is some cruel joke being perpetrated upon the American public, then I fail to see the humor in it. The cruel joke is Americans are working more and they are taking home less. More is coming here to spend, spend on whatever. But they do not have anything to show for it.

I remember I heard a respondent that listened to President Clinton talking about the 4 million jobs he took credit for. His comment was, "That's great. I have three of them." The fact is, maybe Americans are making more, but they are taking home less. It is time we stand up for them. This cruel joke has been perpetrated on the American taxpayer for long enough. Let us stand up for them and get rid of this smokescreen of doublespeak for "Let's stick it to the taxpayer one more time."

Mr. GIBBONS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Georgia [Ms. McKinney].

Ms. McKINNEY. Mr. Speaker, I rise in opposition to this Republican publicity stunt, masquerading as public policy. We are having a hard enough time as it is, trying to scale back some of the special interest tax breaks in our tax code with just a simple majority vote. If adopted, however, this constitutional amendment would make it virtually impossible to reduce corporate welfare. What will this mean for middle-class families? It will mean that Social Security, Medicare, education, and the environment will all be on the chopping block, while corporate tax subsidies are forever locked in place because of a two-thirds vote requirement in the Constitution.

Mr. Speaker, this amendment is designed to allow tax increases on middle-class families just as long as those increases are offset by tax cuts for the wealthy. Is that not convenient?

Mr. Speaker, I urge my colleagues to defeat this tax day publicity stunt.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Cunningham].

Mr. CUNNINGHAM. Mr. Speaker, I heard the excuse that, well, we have not had hearings. I do not think you

have to have a hearing, to go in your district, to have people feel that they are taxed too high. You can go into any district across this country and people will say that they are taxed too high. But the Democrats will give you every excuse in the world why we should limit Democrats from increasing taxes. Why? Because everything that we have been fighting for on these budget debates is about the ability of the Federal Government to spend money, to spend money to their constituents so they can get reelected, so they got the power to start with, whether it is Medicare, Medicaid, education, the environment, welfare. It is about the flow of dollars that are going out of the Federal Government.

It is like they are talking about free money. Mr. Speaker, it is not free money. They have to take it from their constituents in the first place, send it to Washington, DC, feed a big bureaucracy, and get very little of the money back to the areas which they are trying to help: for example, welfare, where you only get about 30 cents on a buck back; education, 760 programs in education, where you only fund about 6 percent of the total education revenue; 760 programs, where you only get 23 cents on every dollar back into the classroom, because of the spending.

Mr. Speaker, they say, "Well, we all want a balanced budget." I submit that that is not true, Mr. Speaker. The President submitted four budgets that increased the deficit $200 billion a year. When he was finally forced and cornered into producing a balanced budget scored by CBO in 7 years, what did he do? He put off 90 percent of the discretionary cuts until years 6 to 7, when he would not even be here, if he is elected to a second term, and then increase taxes during that time and increase spending. Mr. Speaker, a balanced budget amendment takes the power away from the Democrats. That is what they are fighting.

Mr. GIBBONS. Mr. Speaker, I yield the remainder of my time to the gentleman from New York, [Mr. Engel].

The SPEAKER pro tempore. (Mr. Riggs). The gentleman from New York [Mr. Engel] is recognized for 1½ minutes.

Mr. ENGEL. Mr. Speaker, I think we ought to look at this proposed amendment and call it for what is. It is a Republican election year publicity stunt. They want to require a simple majority to go to war, but want to require a two-thirds majority to correct a tax loophole to end corporate welfare. That makes no sense to me whatsoever.

Mr. Speaker, at the beginning of this Congress the Republican majority passed a much-heralded House rule requiring a three-fifths vote to raise taxes, and every time we have raised taxes in this Chamber with Republican votes and Republican majorities, they have waived that rule, that house rule, three times. So who is kidding who? The House rule was supposed to prevent taxes being raised without a three-fifths majority. Each time the Republicans found it convenient to raise taxes, they just waived it.

So with the same publicity at the beginning of this Congress that they put in to look good, this is the same kind of election year publicity stunt that they are putting in right now: a simple majority to go to war, a two-thirds majority to correct a tax loophole to end corporate welfare.

One can only conclude from this that they like the corporate welfare, they like the special interests, they like catering to the special interests, and it is the middle class once again under the Republican plans that get kicked in the teeth. Americans should understand what this is all about. This is to protect corporate welfare. It is a cynical election-year publicity stunt. It hurts the middle class and ought to be defeated.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. Graham.]

Mr. GRAHAM. Mr. Speaker, if there is something wrong with our corporate code, and there may be, and if foreign corporations are getting away with tax murder, we need to change it. But I would suggest that the party that has been in control for 40 years has some blame to accept that that is true.

Let us stop blaming each other and try to fix the problem. What is the problem? It may make the gentleman feel better that this is an election year, but I ran on the same concept in the election year 1994. This is not a new thought to Congress. I believe very deeply that there should be a wall between your pocketbook and the U.S. Congress' ability to take money out of it.

One thing we have learned is that if you leave Congress to its own devices, you lose. What would the Founding Fathers say about this debate? They would want to know, how is the country doing? If you tell them they are in 5 trillion dollars' worth of debt, they would say, "What is $1 trillion?" We have created new money amounts.

I do believe it is time to change the way we do business in Washington, and this is a start. I do not trust the Republican Party enough to leave it unhindered. I want to change America for the sake of the people who earn the money and have to pay the taxes.

Let us have the line-item veto and give it to a Republican and Democratic President to regulate the way we spend. Let us have a balanced budget amendment that regulates both parties' conduct, so we cannot leave here with a deficit. Let us have term limits so Congressmen will come here with a different view of how to serve the public. Let us change America and be serious about it before it is too late.

Some say it is too late. I do not believe that. The two-thirds supermajority vote requirement to raise taxes is long overdue. It is needed, because we in America, in Congress, have been irresponsible. Do not trust party rhetoric, do not trust political rhetoric. Change the rules of how Congress taxes you, how it spends money. If we do not do that, nothing in America is going to change.

This is a great debate to be having, and there is going to be a vote pretty soon, and you will find out who is with you and who is against you. If you believe this is corporate welfare, a way of protecting it, then you can punish me if you thing that is true. If you believe this is a good rule to limit congressional spending long overdue, you can punish the people who voted the other way. This is a great debate to be having. It is one of many we have had. I am proud to be part of it.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Miller].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this constitutional amendment on taxes is a cynical, back door attempt by Newt Gingrich and his followers to appear to favor cutting taxes for average Americans while actually preserving tax breaks for their special interest and big business supporters.

Were it to become law—which all of us know it will not—average Americans will continue to pay a high price for tax loopholes and special interest giveaways.

Despite their rhetoric, Republicans under Newt Gingrich have been working against family interests since they took over the Congress.

If they were serious about helping America's families, Gingrich and his followers would not have voted to raise taxes on the working poor by cutting the earned income tax credit. They would not have voted to cut funds for education.

If Republicans were serious about helping American families they would stop blocking a vote to increase the minimum wage, and they would not allow companies to raid the pensions of hardworking Americans.

But they are not serious about helping American families get ahead. They are cynical, and I think it is safe to say that one thing we don't need more of in this country is cynicism.

Today's vote is a transparent gimmick intended to shield Republicans from their lengthy antifamily record.

We all understand how it works. The Republicans say this vote will make it harder to raise your taxes, and if you vote against them, they will say you voted to raise taxes. Pretty neat. But wrong on all accounts.

In fact, if you vote for this amendment, you will make it harder to balance the budget. You will make it

VOL 142 PT 6 AP 15—24 1996 UMI

harder to resolve the crisis in Medicare and Social Security. You will make it harder, if not impossible, to make responsible budget choices for the future.

By making it nearly impossible to vote to end a tax loophole—because the Republicans will say it is a tax increase—this amendment will preserve the fundamentally unfair tax structure we have today.

Consider this: In 1952 corporate income taxes were 32 percent of Federal revenues. By 1992, corporate income taxes had fallen to just 9 percent of Federal revenues because of tax loopholes and favorable, but unjustified treatment.

This amendment will protect those special interest tax breaks, such as the tax shelter for money hidden in foreign subsidiaries, or the ability of businesses to deduct today capital depreciation that occurs in the far off future.

It is tax loopholes like these and many others that allowed at least 130 large companies in the 1980's to avoid paying any Federal taxes at all even though they had large profits.

The Democratic majority in the 1980's enacted the alternative minimum tax to require these large profitable corporations to pay Federal taxes.

Well guess what? Not only does the Republican majority want to preserve tax loopholes, they want to repeal the alternative minimum tax too. They want to help profitable corporations pay no taxes.

Think about that as you file your own tax returns.

So this amendment is really about locking in an unfair tax system—not making the tax system more fair. It is about preserving what is wrong with America and making the middle class and low-income Americans pay the price. It is about selling the Constitution for a short-term and short-sighted political gain.

Well, Mr. Speaker, guess what?

The constitution is not for sale. And I have enough faith in the intelligence of the American voters that they will see that you are trying to sell a piece of the Constitution that you swore to uphold to buy a little air time for the November election.

My colleagues, clear your eyes. Summon your courage. Cast the right vote tonight against this amendment and know that in doing so you are standing up for what's right. Isn't that what the American people sent us here to do?

Vote no tonight on the latest and most cynical ploy by the most cynical man in American politics today.

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Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. I thank the gentleman for yielding me the time.

Mr. Speaker, in 1988 we had a presidential candidate who pledged no new taxes and then in 1990 taxes were raised. Then in 1992 we had another candidate who campaigned on a middle-class tax cut and in 1993 he raised taxes. It should be no surprise to the minority Members in this room that now there are a new group of people in this Congress who want to actually require a three-fifths majority to raise taxes.

I am told that if this law were in place, the majority tax increases over the past 15 years of 1982, 1984, 1987, as well as 1990 and 1993, would not have gone through. I think it is good to have a firewall of protection between the people's wallet and the Government of the United States. I support this amendment. I encourage all of my colleagues to support the amendment. We need this protection for the working people in the United States.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I do want to repeat, because the outrageous tactics being used here need to be underlined

This is an amendment to the Constitution of the United States, the text of which has never had a public hearing, has in fact been in existence for barely 2 weeks, during almost all of which time we were out of session. It is being rushed through late tonight just for the symbolic version of it being on April 15. It really shows a fundamental disrespect to democracy.

There has been zero pubic hearing on the text of this amendment. We had a hearing on the text of the earlier amendment they introduced, and it was so shabby that they had to withdraw it. They come up with a new one and they learned they better not expose it to the light of day. But this amendment shows a disrespect for democracy in another way.

The question here is not the substantive one of whether or not taxes should be increased. Sometimes taxes are increased unnecessarily. When Ronald Reagan and the then Senate Finance chairman ROBERT DOLE and the Democrats in the House collaborated in 1982 for a tax increase, I voted "no."

In 1982, with a Republican Senate and Ronald Reagan as President, we did a tax increase. I thought it was a mistake. A year later when Ronald Reagan and ROBERT DOLE and Tip O'Neill came together to raise taxes again for Social Security, I thought that was a mistake a I voted "no." I thought they made a mistake.

The Reagan-Dole-O'Neill tax increase of 1982 and the Reagan-Dole-O'Neill tax increase of 1983, I voted against both of them. But I did not think that I had the right to have them defeated when I could not get a majority on my side. We are not talking substance here. We are talking about majority rule.

As of now, there does not appear to be much public sentiment for significant tax increases, nor does there appear to be a lot of sentiment for tax decreases. At this point the general public's sentiment appears to be, let us do deficit reduction. But 8 years from now, 12 years from now, should the majority of the American voters have a right to decide then by majority rule that we need to increase taxes some? Yes, I think they should.

As a matter of fact, one of the problems you will have with this poorly drafted amendment, this keep it in the dark and let's not have a public hearing amendment, is that you may make it harder for people to lower taxes in the future, because in a rational world under the right circumstances, we might decide to reduce taxes. But under this amendment, if we were to reduce taxes 1 year and then 4, 5, 7 years later decide that we erred or that for unforeseen reasons things did not work out as we thought and we needed more revenue to defend the United States, to protect the environment, to protect Social Security, we should need two-thirds to do it.

In 1981 Ronald Reagan and Senator DOLE and Tip O'Neill collaborated, that time they fought. There was a tax cut in 1981. Apparenly it was the Republican view, the Reagan-Dole view in 1981 was that they cut taxes by too much. So they raised taxes back in 1982 to offset some of that they had done in 1981. They said they overshot in 1981.

You would make it impossible for them to to do this. Make it impossible for people to correct errors, and you make it less likely they will act in the first place.

I talked about Social Security. We have a problem with Social Security. One possible solution might be right now, Social Security taxes stop at $62,000 of income, making it by far the most regressive tax we have. Medicare used to stop, and we raised the amount of income that is subject to the Medicare tax.

I think a reasonable thing to do might be to say from $60,000 to $90,000 you have got to pay half a percent to Social Security, and from $90,000 to $200,000 you pay 1 percent, and above $200,000 you pay 1.5 percent. That would be one way to help protect Social Security.

But you would make that impossible, or at least require a two-thirds, which makes it very difficult. So any possibility that we might want to raise taxes on people who make $60,000 or more to help protect the Social Security system, that is what you are aiming at.

Are there bad tax increases that would be hurt by this? Yes, the Reagan-Dole-O'Neill tax increases of 1982 and 1983 that I voted against would not have become law. But I do not want to change the rules. I want to have to go by majority rule.

What this amendment says is, "No, no, we don't like this majority rule stuff." That might have been all right

for a while ago. Maybe that is OK for France or Sweden or Belgium, but this is America. We do not have majority rule anymore.

Those of us currently in power will change the rules and we will take our substantive preference, and right now what they are saying is, "We don't like government, we think government is too big, so we want to change the rules so that a majority in the future that disagrees with our position and thinks we need more aid to education and more environmental protection but doesn't want to cut the military, that they won't be able to do that without getting two-thirds."

By the way, what we are having here now is a fundamental distortion of the democratic process to try and freeze in the views of a temporary majority.

Mr. BARTON of Texas. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, whenever you follow the good Representative from Massachusetts, you want to spend your time replying to some of his preposterous arguments.

I submit on this House floor that disrespect to democracy has been greatest with the $5 trillion debt, and what we need to do is bring that debt down. We have had so many taxes on this House floor with 40 years of Democrat rule that we have not had the opportunity to control this budget, and now we do with this great House joint resolution.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. STEARNS. I will not yield.

Let me just say that going back 220 years, our Founding Fathers had the foresight to mandate a two-thirds majority vote on certain priority issues. This is something not brand new we are bringing to the Congress here in April 1996. Alexander Hamilton and James Madison and John Jay would be turning over in their graves if they saw that we had a $5 trillion debt in this country.

James Madison, a vocal supporter of majority rule, argued that the greatest threat to liberty in a republic came from unrestrained majority rule, and that is why they proposed two-thirds majority for conviction in impeachment trials, expulsion of a Member of Congress, override a Presidential veto, quorum of two-thirds of the States to elect a President, consent to a treaty, proposing constitutional amendments. There were seven of these that were already in the Constitution when they wrote the document, and since then three more.

I submit that to prevent any further debt, we must pass this resolution.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK] because the gentleman's name was mentioned but he was not yielded to.

Mr. FRANK of Massachusetts. Mr. Speaker, typical of the hit-and-run tactics of the gentleman, to make abusive remarks and then refuse to yield so I could respond.

Mr. STEARNS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. No, no longer than he would to me.

Mr. STEARNS. Will the gentleman yield?

Mr. FRANK of Massachusetts. No, I follow the gentleman's example, and I ask the Chair to please restrain the gentleman. The gentleman gets up, makes insulting remarks, refuses to yield and then tries to interrupt me when I am speaking. I am simply responding as he did under his rule.

I would say this. First he talked about Democratic tax increases. The disrespect for facts is glaring.

Mr. STEARNS. Will the gentleman yield?

Mr. FRANK of Massachusetts. Regular order, Mr. Speaker. Please instruct the gentleman who refused to yield that he may not interrupt.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman from Massachusetts will withhold so that the Chair can admonish the gentleman from Florida that the House will proceed in regular order, and that the gentleman from Massachusetts controls the time and may proceed as he sees fit.

Mr. FRANK of Massachusetts. I thank the Chair.

I would have been prepared to engage in a colloquy. The gentleman made insulting remarks, refused to yield. Now what he is trying to do is to prevent me from responding by deliberately flouting the rules of the House. It is not worth further discussion.

What is worth further discussion is his blatant misrepresentation of the facts of the situation when he talked about Democratic tax increases. The tax increase of 1982 was a Reagan-Dole-O'Neill tax increase. So was the one of 1983. In fact, these tax increases came asked for, not just signed but asked for by Ronald Reagan.

The notion that you are justified in making it harder to raise revenue because you want to reduce the debt is bizarre. As a matter of fact, when we were trying to save the Social Security system, we raised revenues in part for Social Security. I suppose you could have reduced expenditures to Social Security. I was not in favor of doing that. Maybe the gentleman is. But that is how you deal with it in this situation.

Finally, the silliest thing I have heard today is to say that because the Founding Fathers required two-thirds in a couple of extraordinary circumstances, that must have meant that they wanted two-thirds in this one. Yes, it shows that they were perfectly capable of understanding when we required two-thirds, what extraordinary circumstances required two-thirds and when the general principle of majority rule ought to apply.

They felt that for raising the revenues of the United States, majority rule ought to apply. That does not mean we cannot change it. We have a right to amend the Constitution. But to invoke the Founding Fathers so that you can say that they were mistaken seems very, very unfortunate. They decided we did not need two-thirds. The current Republican majority does not trust democracy, and therefore they want to make the amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, April 15 is a very important date in my family because my mother was a tax consultant. My family has been involved in income tax for 45 years and my wife now runs a business.

While I keep hearing this discussion about the constitutional issue, let me remind you, the Founding Fathers not just once but twice specifically in the Constitution said the income tax should not be allowed. Twice in article 1.

The first thing they did is they said you make sure you have fair apportionment of representation in the House of Representatives and a fair apportionment of taxes.

So when someone brings up the founding Fathers, let us go back to the Founding Fathers' constitutional document and the 16th amendment was the only amendment that specifically reversed the direction of the Founding Fathers. It should have included a supermajority at the time the 16th was passed.

Mr. Speaker, my family has listened to working-class people talk about being taxed too much and every time I hear people on the other side of the aisle say, "We're only raising the taxes on the rich," go ask the middle-class people in my community in Imperial Beach and in San Diego and whenever you are going to lower the taxes, "Oh, it's only going to be lowered on the rich."

Let us be frank and open about it. That is what it is all about. You want more money to increase spending so you get more power in Washington and less freedom as individuals. I am telling you as somebody who has worked in the communities as a working class, you taxes are not on the rich, they are bearing down on the middle class, and they are sick and tired of it. They want the original Founding Fathers' intention that taxes should be fair and equitable and this amendment will help to do that.

□ 2130

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. SCOTT], a member of the committee.

Mr. SCOTT. Mr. Speaker, I rise to oppose this late-night attack on the Constitution. We all know that this initiative will not become law. It is nothing

VOL 142 PT 6 AP 15 — 24 1996 UMI

more than a public relations ploy which panders to voters on April 15. Perhaps some will think that the American people on April 15 will forget that the big fat tax cut for the wealthy that was part of the Republican budget was funded by cutting Medicare, education, and environmental protection programs.

Mr. Speaker, much has been said tonight about fiscal responsibility. Mr. Speaker, this amendment does nothing to reduce spending. In fact, it continues to allow spending money by majority vote whereas paying the bills will require a two-thirds vote. It does not take a rocket scientist to figure out what will happen to the deficit if this amendment is adopted. Earlier this evening, we heard a list of taxes which would not have been adopted if this amendment had been in effect, but all of the prior spending would have still been adopted.

Shamefully, Mr. Speaker, this amendment will also have the effect of requiring a two-thirds vote to eliminate special interest tax breaks and cutting corporate welfare.

Mr. Speaker, we need to get serious about facing our budget problems. This amendment will do nothing to curb spending. It will make it more difficult to pay the bills we run up, and at the same time it will shamefully protect corporate welfare and current special interest loopholes.

We should defeat this resolution.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, the tax man cometh tonight, and if there was ever a more abominable tax system than the American income tax system, we have yet to see it on the face of the planet. It came to use by a two-thirds vote. It did not come to this Chamber, to this body, to the American public except through a constitutional amendment that required a two-thirds vote.

The first attempt to pass an income tax was declared unconstitutional because our Constitution prohibited an income tax system in our country as it was first written. So what is wrong with requiring that changes should come only with a two-thirds vote? We are not saying taxes cannot be raised in America. We are simply saying they should not be easily raised, no more easily than the American public was first inflicted with this system with a two-thirds vote when the 16th amendment was proposed and later adopted.

I wish we were debating the repeal of the income tax system tonight. We have such a bill before this body, House bill 3039, a bill to establish an alternative tax system for America. This system taxes Americans twice on the same money, once when you earn it and again when you spend it, when you pay all the business taxes, when you consume American products. It taxes only American products, not products made from overseas and imported here. It is a lousy system. It costs small businesses $4 to conform to the Code for every dollar they send in tonight, and we are paying all of that cost. We are told $300 billion worth of man-hours is spent in complying with this Tax Code. We ought to get rid of it.

But at least we ought not raise taxes more easily than this country was inflicted with income taxes, and that was with a two-thirds vote of the Congress and a confirmation by the legislatures of the 16th amendment.

I remind you, the income tax was declared unconstitutional once. It was repealed in prior history in this country by Congress. Americans hate it. They have a right to hate it. It is a lousy system, and we ought to at least make it more difficult to raise taxes under that system in America.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. WATT], a distinguished member of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I left this body earlier and I went and watched these proceedings on television for a while to try to get a flavor of what was going on here. And as I listened, I heard my colleagues on the Republican side come to the floor and say that this is about taxes, taxes, taxes.

I think they are missing the point. We can debate taxes when we talk about whether to raise taxes or lower taxes. This is about whether to amend the Constitution of the United States. This is about fundamental fairness. Lord knows, I have been in on the losing end of a lot of votes since I have come to this House, both when we were in the majority and during this term when we are now in the minority. But on every single one of those votes, almost without exception, it has been by majority rule, because that is the basis on which our constitutional democracy is founded. It is one person, one vote.

Every single Member of this House gets sent to this body by the same number of people. That is why we redistrict the country every 10 years after every census, to guarantee that each individual citizen in this country, in this body, the people's body, has one individual who represents their interests and that individual's vote is equivalent to the vote of every other individual in this body.

So, this is not about taxes, taxes, taxes, my friends. This is about the fundamental rights and belief in democracy. This is about majority rule. And you all seem to have missed that point.

You say that you believe in conservative values. But four times during this session of Congress you have come in to attack the Constitution. I am beginning to believe that you do not believe in the Constitution at all.

We should defeat this insane amendment to the Constitution and to the fundamental rights that we all should believe in and support.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, the only point anyone has missed in this whole debate is the fact that the American people are frustrated and fed up. The last 30 years their taxes have been raised and raised and raised every time. This amendment today would reassure taxpayers that they are entitled to the money that they work so hard to earn and the taxes will only be raised when absolutely necessary.

I am convinced that you can never satisfy the appetite of certain Members of this body to tax and to spend the earned incomes of our working families. While we may not be able to cure their appetite, this supermajority amendment would put a hurdle in the system that Washington's big spenders would have to jump before they could get into our wallets.

President Clinton recently declared that the era of big government is over. And he is right. By passing this amendment, we will put a needed restraint on the politicians who want to keep raising taxes to pay for more big government programs.

I urge my colleagues to support passage of this important amendment to the Constitution of the United States and to restore some economic sanity back to the people who sent us here.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise today in opposition to H.J. Res. 159, the proposed amendment to the Constitution to require two-thirds majorities for bills increasing taxes. Those who support this concept are well-intended and probably, like many of us, frustrated at not being able to cut taxes for hard-working American families across the country.

The Constitution is alive and well today after 220 years. It granted Congresses the power to levy taxes. To change this very special document in this manner is inappropriate. The framers of the Constitution had wisdom far beyond their years. They felt the strength of the Nation, with few exceptions, was based upon majority, not supermajority, rule. Let us stick to that concept. The surest way for this Nation to ensure itself against higher taxes is to retain and indeed expand the Republican majority.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding this time to me.

First of all, I want to say to some of the previous speakers, here is a copy of the Constitution that talks, in article 5, about the amendment procedure. Clearly, it would not be in there unless our forefathers anticipated the need to amend it.

I also recommend to you something else you probably have not read, the bill itself, which talks about how you can close a corporate loophole. I am going to put both of these here if you want to take the time to read them tonight before you vote on these and find out how absurd some of the arguments are.

Here is why I support this thing. Forty-five percent of the income, the household income of the middle class family, goes to taxes now. Two-income families all over America, you know what that means, it means the second employee, one spouse is working for the Government. You can say, no, no, no, not my husband, not my wife. He is a real estate agent, she sells clothes, he is a barber. That is not true. They are working for the Government. They might be getting their paycheck through the private sector. That money goes straight to the Government. These people are government employees.

The middle class has had enough of this. I was here in 1993 when the big Clinton tax increase came through here, and that 15 minutes, which is the traditional voting stance, the 15 minutes came and the majority was not there. So, what happened? The Democratic Speaker, the Democrat Majority Leader, the Democrat Whip went around the House, and this place looked like a beehive, all the buzzing around, because you want a road, you want a bridge, you want a highway, you want a new committee assignment.

The clock kept going, 20 minutes, 25 minutes, 30 minutes, squeezing out that last vote, giving away that last bridge, that last committee assignment or whatever it took to get it just over the hump. And, of course, the votes where there, and the tax increase went by two votes. And what happened as a result of it? The government got bigger, bigger. Yes, the deficits went down, the government got bigger. What would have happened without it? the deficit would have gone down. The government would have got smaller. That upsets a lot of people who like agencies, commissions, bureaucracies, red tape, micromanagement out of Washington. But for John and Sue, middle class, they want less taxes, not more government.

Support this. It is good legislation.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Speaker, I rise today in opposition to House Joint Resolution 159, the supermajority bill, because I am convinced it is really a super loophole bill.

This bill will require a two-thirds vote—a "supermajority"—for any legislation that increases revenue. While this may sound like a good idea it is, in fact, a terrible idea for our country. Closing existing tax loopholes will also raise revenue, therefore this legislation will require supermajority votes to close tax loopholes. Closing tax loopholes should not require a supermajority—it is not fair, it is not right, and it is not constitutional.

I introduced H.R. 1497, the Insurance Tax Fairness and Small Insurance Company Economic Growth Act, to close a tax loophole in the life insurance industry. By closing a huge loophole in Section 809 of the tax code, my legislation will level the playing field in the life insurance industry, provide tax relief for small life insurance companies and raise nearly $2 billion annually for the U.S. Treasury.

However, if this supermajority amendment is approved, a minority of this House could prevent closing this or any other tax loophole. Protected by the supermajority requirement, loopholes will continue to ensure tax unfairness and inequality—the "super loophole" is born.

Legislation like mine, which targets nearly $2 billion in unpaid taxes, demonstrates the financial irresponsibility of supermajority constitutional amendment. My bill is about fairness and equality; this amendment is about neither.

By requiring a supermajority vote on loophole closings and other tax corrections, this bill will tie our legislative hands and prevent us from taking the necessary actions to make our tax system fairer. Legislation such as H.R. 1497, should be addressed individually by Congress and not be made inconsequential by this proposed constitutional amendment.

For more than 200 years, the U.S. Constitution has guaranteed certain rights, privileges and protections. It has never guaranteed nor protected the right to a tax loophole—and now is not the time to start doing so. Oppose the supermajority, defeat this bill and prevent super loopholes.

□ 2145

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, this whole debate sort of revolves around what Thomas Jefferson once said, and that is that it is time we chain the government and free the people. That is what this debate is about, because we have operated in a policy of absolute unrestrained Federal Government. The more money we give the Federal Government, the more power this Federal Government has.

We have gotten to the point where nearly 50 percent of our ability to see, our time, energy and intelligence, which we invest in our workplace, we see almost 50 percent of that taken by the Federal Government.

So it is time we put the restraints on the Federal Government. John Marshall, our Supreme Court Justice back in 1819, said the power to tax involves the power to destroy. The power to destroy may defeat and render useless the power to create. These are propositions not to be denied.

In 1996, that is what we are facing, and that is what we are dealing with now in the Federal Government.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS], a Member who has been on the floor a lot tonight.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman very much for the time.

Mr. Speaker, I guess I am just an old-fashioned conservative. I believe in majority rule. I think it is dangerous when we give over power over a substantial responsibility of this Government to 34 Senators representing as few as 10 percent of the people.

I am also pretty conservative about the way this House ought to operate. I think for some reason it is important that on a constitutional amendment perhaps we have some serious deliberation and examination, even in the Committee on the Judiciary. It is ironic, I think, that the chairman of that committee is not here controlling debate on this matter.

Mr. Speaker, we are the stewards of an incredible legacy in this Constitution. It is astounding to me to see what we are about this evening.

I suggest to my colleagues that we envision perhaps standing over here in the well James Madison, and back there John Jay, and over here, Alexander Hamilton, looking down on us and the way we are tending their grand legacy of constitutional government.

I think that they would be ashamed of our performance here tonight, absolutely ashamed.

Mr. Speaker, I oppose this proposed amendment to the Constitution to require the vote of two-thirds of both Houses of Congress to approve certain changes to Federal revenue laws.

This proposed amendment is a bad idea and bad constitutional law. Even worse, we consider it today in this body under a process that insults Members' intelligence and responsibility, that contradicts any suggestion that this House is a thoughtful body, and that demeans and debases the very amendment process itself.

Mr. Speaker, let me say a word about the process that has brought this measure to the House today. The original proposal put forward by Representative BARTON, House Joint Resolution 159, received one hearing in the House Committee on the Judiciary on March 6, 1996. It then was removed from that committee and scheduled for a vote on the floor.

VOL 142 PT 6 AP 15 — 24 1996 UMI

It was not marked up or approved by the Judiciary Committee. House Joint Resolution 159 was then replaced by a second proposal, House Joint Resolution 169, which is being considered here today. This version of the amendment was introduced on March 28, 1996, considered by the Rules Committee on March 29, 1996, and reported to the House. We then went into recess for 2 weeks. So, very few Members have even seen the text of this amendment, much less studied it. This proposal has had no hearing at all in the committee of jurisdiction.

Second only, perhaps, to an act of Congress declaring war, an amendment to the Constitution ought to command the most serious and deliberate sort of legislative review, examination, and analysis we are capable of. It deserves better treatment than a rush job to meet a politically sexy vote deadline that the majority admits is a matter of symbolism. The Constitution shouldn't be used to make political statements.

I would, however, like to commend the sponsors of this bill on one point. They recognize that a change in the U.S. constitution is necessary in order to require a supermajority to pass legislation on this subject. In effect, they concede that the attempt by the House in January, 1995 to simply pass a rule requiring a supermajority is not the proper procedure.

I oppose this proposed constitutional amendment on a number of grounds. It violates what Madison called the fundamental principle of free government, the principle of majority rule. The Constitution makes very few exceptions to that principle, none having to do with the core, on-going responsibilities of Government. We should be extremely wary of any further exceptions, especially if it would complicate the essential responsibilities and competency of the government.

We have to be mindful that the logical corollary of supermajority rule is minority control. And under this proposed amendment, 34 Senators representing less than 10 percent of the American people would have the power to control the Government's revenue and tax policy.

I also oppose this proposed amendment because of its almost absurdly impractical consequences—intended and unintended.

One such consequence would be for all practical purposes to lock into law whatever was the then current tax structure at the time of this amendment's ratification. If you like the tax system the way it is now, or if you have supreme confidence that some future Congress will have gotten it fixed just right before ratification, you ought to love this proposal.

Another related consequence of this proposal would be to complicate efforts to balance the budget, particularly as they entail reducing the growth of entitlement programs.

Finally, I'm opposed to this proposed amendment because, like the current House three-fifths rule, it is vague and will generate confusion and litigation.

I know the authors of this proposal feel strongly about taxes. But simply having strong feelings about an issue is not sufficient reason to cede power over all future changes to an important area of national law to a small minority. In addition to the tax issue, Members of Congress will typically have very strong feelings on a number of issues—civil rights or trade or the deployment of U.S. troops abroad. In none of these areas does it serve the long-term national interest to undermine the principle of majority rule. In short, my opposition to this proposal is primarily grounded in the fundamental principle that is at stake, the principle of majority rule—the fundamental principle of free government.

Wiser lawmakers than we have considered the question of whether to require a supermajority for passage of certain kinds of legislation. At the Constitutional Convention, the Framers of the Constitution specifically considered—and rejected—proposals to require a supermajority to pass legislation concerning particular subjects such as navigation and commerce. They rejected various legislative supermajority proposals largely because of their experience under the Articles of Confederation and the paralysis caused by the Articles' requirement of a supermajority to raise and spend money. In other words, we have a Constitution because it was impossible for the country to function under a constitutional law such as is being proposed here.

The Framers' judgment on this matter, including whether to retain the Articles' supermajority to raise revenues, should give us all cause to reflect on the wisdom of the proposals before the House today.

In those cases in which the Framers did impose supermajority requirements, none deals with topics of regular legislative business central to the on-going operation and management of the Federal Government, such as taxes and revenues.

In those cases in which the Framers did impose supermajority requirements, only two require action by both bodies, namely, the override of a Presidential veto and the referral of a proposed amendment to the States. Both are extraordinary matters.

In sum, this proposal would go far beyond any existing constitutional precedent. It would effectively paralyze the ability of future Congresses to deal with one of the most nuanced of all legislative issues—revenues and taxes, allowing a small minority to control national policy.

The Presidential primary election season brought forward a number of innovative ideas regarding the Federal tax system. Were it now in the Constitution, this new amendment would likely serve to thwart these ideas or other reforms. This amendment would certainly apply to flax tax proposals which proponents claim would increase economic growth and, therefore, federal revenues. This proposed amendment would likely require a two-thirds vote on legislation implementing the consumption tax or Value-Added Tax [VAT] proposed by some, which again proponents believe would increase economic activity and Federal revenues. There's been a lot of talk on both sides of the aisle about getting rid of corporate welfare. Many want to end corporate welfare by closing tax loopholes—and that, of course, would likely bring in additional tax revenue from affected corporations and so would require a two-thirds vote under this proposal. And what about a capital gains tax cut? Its advocates usually argue the effect will be to raise revenue. Does that mean the two-thirds requirement would kick in?

But let's say we tried one of these ideas out before the amendment took effect. Is anyone certain enough that one of them is the correct solution to the tax reform problem that you wish to make repeal or revision next to impossible?

And if this proposed amendment were part of the Constitution, it would probably make it more difficult to reduce taxes. If at some point in the future, Congress judges the budget and economy healthy enough to reduce taxes, how likely is it that a responsible Congress would go ahead and do so knowing that it would be almost impossible to raise rates again in the event circumstance required it?

If now in the Constitution, this proposed amendment would certainly make the current efforts to balance the budget a lot more difficult. Whether adjusting the Consumer Price Index [CPI], or reducing business and tax subsidies, or taxing the income of expatriates, or limiting the use of section 936 tax credits for business activities in Puerto Rico, or narrowing the EITC, or means testing Medicare Part B premiums, or limiting the amount of profits companies can shift to overseas subsidiaries—all would have to be passed by two-thirds.

It is important to realize that the proposal being considered here today is not really a tax amendment at all. The word 'tax' does not appear in the text, nor does 'income tax,' 'tax rate,' or 'new tax.' It is a "revenue" amendment. The only legislation requiring a two-thirds vote under this proposal is that which has the effect of increasing "internal revenues."

There is no technical definition of "internal revenues" except perhaps as distinguished from revenues from "external" sources, such as import duties. All other sources of Federal revenue are presumably included under this proposed amendment. So any legislation to increase any Federal fee or charge or fine would be subject to a two-thirds vote if it results in more than a "de minimis" increase in revenues. So would any proposal to sell Federal assets—another frequent component of budget balancing and privatization plans. And according to the proposed amendment, de minimis is to be defined by Congress at some later time. Or quite conceivable, at each time a revenue bill is considered, inviting an exercise in manipulative definition whenever the prospect of winning two-thirds approval was dim.

On the other hand, it's arguable that this proposal would not necessarily require approval of two-thirds for a tax increase. Some tax increases can actually reduce or, at least, not increase revenues. For example, the luxury tax on certain boats an cars that was repealed in 1993 is said to have actually reduced sales so dramatically that associated revenues actually declined. Some even argue that most tax increases on business activity actually reduce Federal revenues by depressing economic growth. What economic theory, interpreted by which expert, will therefore determine the application and effect of this amendment if it were adopted?

So, once you consider how this amendment might be interpreted, many absurd consequences come to mind.

In the context of deficit reduction, we should also consider the fairness and equity implications of this amendment. Most Federal benefits to lower and middle income Americans come from programs that depend on direct expenditures. The benefits of upper income Americans and corporations often come through various kinds of tax breaks. Since this amendment would require a simple majority to cut programs benefiting lower- and middle-income Americans, but a supermajority to reduce tax benefits to wealthy Americans and corporations, it would unfairly bias deficit reduction and create a path of least resistance that would disproportionately hurt middle and lower income citizens.

Of course, it is to examine and understand exactly these sorts of things that we usually refer legislation, especially amendments to the Constitution, to committee. There, these and other questions can be asked and answered and necessary refinements and revisions to a proposal can be crafted. Sadly, no, shamefully none of this regular order has been followed in the House. We should not be surprised at the logical incoherence of the proposal which we are considering today.

In evaluating this proposed amendment, it's also helpful to examine some recent experience in the House. In the 104th Congress, the House pretended to operate under a new rule requiring a three-fifths vote to pass any increase in a Federal income tax rate. Obviously, the amendment before the House today would go much further.

The short history accumulated on the application of he New House rule is instructive about the problems that would likely rise under this proposed constitutional amendment. In the 14 months that the three-fifths rule has been in effect, it has been waived during consideration of the majority party's budget reconciliation bill H.R. 2491, the Contract With American tax bill H.R. 1215, the majority's Medicare bill H.R. 2425, and, recently, the House version of the Kennedy/Kassebaum health care bill H.R. 3103. These waivers have been accompanied by dispute and confusion as to the meaning of the rule.

The amendment we are considering is far more problematic because the Constitution can't be waived for convenience sake when questions arise. And you can be certain that similar questions about the meaning of this amendment will arise in great number. The net effect would probably be for almost any future tax bill that passed by less than two-thirds under some claimed exemption from this amendment to be subject to protracted litigation, creating an outcome we ought to avoid in tax law—uncertainty and confusion.

Much of the criticism I have offered about the amendment being voted on today in the House—House Joint Resolution 169—can also be made of the original version—Senate Joint Resolution 49—which addresses any new tax or increase in a tax rate or base, as opposed to an increase in internal revenues. While the original version directly addresses the issue of taxes, instead of the vague concept of internal revenue, it would also obstruct many proposed approaches to tax reform and interfere with efforts to balance the budget. It would require a two-thirds vote on flat tax proposals which would increase the tax base as they reduce the tax rate, on legislation implementing the new consumption tax or value added tax [VAT] proposed by some Members of Congress, and on closing tax loopholes that also necessarily increase the tax base. Instructively, if the original version of the proposed amendment were already a part of the Constitution, the new majority in this Congress could not have passed its budget bill, which effectively increased taxes on Americans eligible for the earned income tax credit.

One thing we can be sure of. We don't know the future. Why would we wish to deprive our successors in Congress of the tools and ability to deal with the problems they will face? To our successors we are in effect saying, "We don't care what the particular circumstances may be in 10 or 50 years; we don't trust you, and you're stuck with our expectations of your incompetence." What arrogance.

I urge the Members from both sides of the aisle to take a close look at this proposed constitutional amendment in the light of the wisdom and experience of the framers, its stifling and absurd effects, and the history of the House of Representatives' three-fifths rule. Treat it for what it is, a political statement—and one better made on the floor of the House than put into the U.S. Constitution.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Speaker, I thank the gentleman for yielding me time.

Let us talk about being ashamed, $5 trillion worth of shame. And who pays? The auto mechanic and the nurse who works at Brookhaven Memorial Hospital who are sitting at their kitchen table as we sit here. They are sitting at their kitchen table trying to figure out how they are going to feed the spending monster in Washington.

Mr. Speaker, who should be ashamed? We should be ashamed. For 40 years this body has taken upon itself to spend and spend and spend. Most recently in 1982, 1984, 1987, 1990, and 1993, this body has said, "We are going to just get more money from the average working people," average working people, who are out at home trying to make hard-earned dollars as we sit here in Washington trying to take those hard-earned dollars and redistribute them to our own political constituencies.

Who pays? They are paying. The American people are paying, and they are tired of it. They are tired of a Congress that just willy-nilly over 40 years has raised the burden on average working families. If we care about those families, we will support this super majority so that we can put the brakes on spending, so that we can put the brakes on raising taxes on people who are home right now racing to the deadline of the annual day of reckoning, April 15.

If we care about average working people back home, we will support the brakes that we need to put on the raising of taxes on average working people in America.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds to remind my Republican colleague whose voice was raised pretty loudly about the $5 trillion debt that it was initiated under the administration of Republican Presidents, sir. It was under the Democratic administrations that we have been able to make a dent in this debt. So the gentleman's fulminations are appropriate for April 15, but factually they are seriously inaccurate.

Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong opposition to this amendment to slice another part out of the precious heritage of our Constitution. This is in fact the fourth attempt by this Republican leadership in the 104th Congress to rip apart the Constitution of the United States, a document that has only been amended 17 times, excluding the Bill of Rights in our 207 year history as a nation.

Now they are trying to rid it of majority rule, enshrined in the Constitution since the beginning of this Republic. We are being asked to undermine the delicate checks and balances between the executive and legislative branches on the important issue of revenues. Other equally weighty issues, such as borrowing or coining money or even declaring war, itself could eventually become subject to the same supermajority threshold.

Reread article I, sections 5 and 7. It specifically defines how decisions are to be made between this legislative branch and the executive branch. It does provide for a two-thirds override in the event of a veto by the President, but majority rule is enshrined in this Chamber.

In 1779 the emerging republic that was to call itself the United States of America threw off the shackles of monarchy and gave voice to the people by vesting all their legislative powers in those they elected here, and they did it by majority rule, bound by the Constitution that has kept us free.

Frankly, this amendment is a cheap shot against a sacred document during a week that most Americans would like to forget: tax filing time. But this Member is one that is unwilling to unravel the Constitution and its environment of majority rule for the sake of a few well-timed press releases at tax time. For shame.

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the honorable gentleman from Texas [Mr. HALL], one of our chief sponsors of this legislation.

Mr. HALL of Texas. Mr. Speaker, this is not a difficult issue at all. It is rather simple actually. It just gets down to this, as to whether or not in order to raise people's taxes, we want a simple majority to do it, or do we want

VOL 142 PT 6 AP 15 — 24 1996 UMI

to make it a little bit tougher and require two-thirds?

I think most Americans filing their tax returns today firmly believe that they are paying too much in taxes at all levels of government. These hardworking Americans are tired of a tax and spend Federal Government. They want some financial accountability.

Let me issue a challenge to every Member of this body: When you go home, look into the face of the first 15 of your constituents you see, and ask them a simple question: Would you like me to make it a little tougher for those folks up there to raise your taxes or not.

I challenge you to do that. I assure you that you will get 15 out of 15 that will tell you, Yes, I would. We are paying too much taxes. We want more return for your tax dollars. We don't want higher taxes.

Mr. Speaker, that is why I rise today as a cosponsor, along with the gentleman from Texas, Mr. BARTON, the gentleman from Texas, Mr. PETE GEREN, and the gentleman from Arizona, Mr. SHADEGG, in support of this.

A year ago we announced the sponsorship of this legislation, and the leadership made good on its promise to allow us a vote on this bill on tax day. Today we have an opportunity I think to show the American taxpayer where we stand on this issue. For the first time in many year this Congress has focused on efforts to achieve a balanced budget and decrease taxes at the same time. These are goals that many of us have worked on forever since we have been elected to Congress.

Last year the House passed an historic balanced budget amendment to the constitution, and now we are asking our colleagues' support of the tax limitation amendment, which will further ensure fiscal responsibility and accountability in Federal Government. This amendment will help make sure that future Congresses continue to focus on slowing the government and slowing the spending at the Federal Government, rather than increasing taxes as the means to balance the budget.

If history teaches us anything, Congress will always be tempted to raise taxes, especially if a balanced budget becomes a constitutional mandate. While raising taxes may eventually be necessary, this important issue should not be resolved by a simple majority vote. The tax limitation amendment would not make it impossible to raise taxes, it would simply make it more difficult. Each of those 15 constituents that you talk to and ask whether or not they want it to be more difficult for us to raise their taxes, they are going to tell you yes, make it as difficult as you possibly can.

A two-thirds vote, 290 votes in the House and 67 in the Senate, is a lot higher standard, one that would afford more protection for the American taxpayer. I think certainly, as has been noted, the two-thirds requirement can be waived in the event of a declared war or military conflict that threatens national security.

Mr. Speaker, fairness in taxation is an issue upon which this Nation was founded. The tax limitation amendment would help restore this fairness. We can go to the polls if we want to. Seventy-three percent of registered voters support a two-thirds supermajority; 72 percent believe there is no need to raise taxes. Sixty-four percent of the Democrats said support the supermajority. Sixty-eight percent of the Federal employees and 71 percent of union workers said support this amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I thank the gentleman for yielding me 1 minute.

Mr. Speaker, I rise in defense of what they are trying to do. I would say to the gentleman from Florida [Mr. CANADY], I would feel a lot better if in speaking to the Senate the gentleman would try to amend this to also call for a two-thirds vote to raise the debt limit for this country.

You see, there is something equally as evil as tax and spend, in fact something even more evil, and it is called borrow and spend. Tax and spend, you at least ask this generation to pay for something. Borrow and spend, we ask the next generation to pay for something.

Just 2 weeks ago this body by a fairly large margin voted to raise the debt limit by $600 billion.

□ 2200

And for those of you who are not following this, we now spend 30 times more money on interest on the national debt than we do on foreign aid, more money on interest on the national debt than Medicade and Medicare combined, more money on the interest on the national debt than we do on defending this Nation.

I will vote for the bill of the gentleman from Florida [Mr. CANADY] but I sure as heck hope he would use this learning experience to turn right around and call for a constitutional amendment that calls for a two-thirds vote to raise the debt limit. And then turn right around and let us pressure the other body to pass the constitutional amendment to require the balanced budget that this House passed about a year ago today.

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. DELAY], distinguished whip, who is operating at reduced power because of an accident rollerblading in Sugar Land.

The SPEAKER pro tempore (Mr. RIGGS). The Chair did recognize the distinguished majority whip's foot attire, but was not going to bring attention to that.

The gentleman from Texas [Mr. DELAY] is recognized for 3 minutes.

Mr. DELAY. Mr. Speaker, I appreciate the sympathy expressed about my foot attire.

I just want to commend my Texas colleagues, Mr. BARTON and Mr. ARCHER, on their fine work in developing this balanced budget initiative alternative. I can give you one simple reason this tax limitation balanced budget amendment is necessary: Bill Clinton. Bill Clinton wants to raise taxes to pay for more spending. He did it in the first half of his term in office when he signed the largest tax increase in history. If Republicans did not control the Congress in the second half, I believe he would have raised taxes then, too. Even today, Bill Clinton is trying to raise taxes to pay for more spending.

Mr. Speaker, the American people contribute more to government spending than they do to family spending. In fact, the government now takes more money from families, 52 percent, than families are allowed to spend on their own. The government takes 52 cents out of every hard-earned dollar that the American family makes today. Mr. Speaker, I just think this is outrageous.

According to the latest polls, 66 percent of the American people believe they are being taxed too much, while 1 percent believe they are being taxed too little. It is time to bring our tax rates in the line with what the American people want, not what Washington politicians want.

The current budget impasse is being fought over the principle of Washington spending. The President wants Washington bureaucrats to spend more of the American people's money. We believe that the American people would rather spend their own money for themselves. This battle of principle is what this tax limitation balanced budget amendment is all about and that is why I support it.

Mr. Speaker, it is time to get responsible about Washington spending. So I urge my colleagues to vote for this legislation and send it to the Senate.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes and 30 seconds time to the gentleman from Missouri [Mr. VOLKMER], a Member who was once the speaker of the statehouse in Missouri.

Mr. VOLKMER. Mr. Speaker, I do not know if I will take the full 3 minutes because it is hard to find very much to say about this radical piece of legislation from the radical right that is bound and determined to shift the tax burden of the American public, to shift it from a progressive tax to a regressive tax. And why do I know the cat is out of the bag? I listened to the gentleman from Texas [Mr. ARCHER] earlier in this debate. He said that under

this proposed constitutional amendment with a majority vote, he could pass a consumption tax, which would be a national sales tax. That is the consumption tax, the most regressive tax that we can find, and he can do it on majority vote. At the same time, he can lower the high tax rate from 39, 36, eliminate them altogether, make the highest tax rate around 25 percent, so that a millionaire will only pay 25 percent. Then he would pay the national sales tax of 20 percent maybe of what he buys only, and that is all.

Then the poor person out here that is making $20,000 a year, got a wife and two kids, is going to pay that same 20 percent sales tax that the millionaire pays, the same rate that the millionaire pays for necessities. The cat is out of the bag, folks. That is what this is all about: Who pays? Who pays? Who suffers the burden?

The Republican radical right under NEWT GINGRICH wants to shift that burden. They proved it with their tax cut proposal last year. It is again here right in this constitutional amendment, to shift the burden from a progressive tax that basically says the more you earn, the more you get from unearned income, either way, the more you pay. I believe in that. I have always believed in that. I have been thankful for it.

I would like to pay $1 million in taxes next year. I would love to pay $1 million in taxes next year, because that means that I got to make at least 2 million, and I get to keep the other 1 million. Now that is not too bad.

I got everybody in my district almost, 99 percent, going to take that any day. They would love to pay more and make more. And I heard the gentleman over here, the minority whip, talk about this 52 percent. He ought to come to my district.

There are not very many people in my district paying that amount of taxes to the Federal Government. I do not know of any in his district that are paying that kind of money to the Federal Government. They are not, because that is not the top tax rate.

But the story is, we need to kill this monster. That is what it is. It is in disguise, a snake in disguise, to shift the tax burden from the wealthy to the middle-income to the poor. Vote it down.

Mr. CANADY of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from Texas, Mr. PETE GEREN.

Mr. PETE GEREN of Texas. I thank my friend for yielding me the time.

Mr. Speaker, I have listened to this debate tonight. One thing I have heard over and over is that this process has been hasty, that we have had few hearings rather than several.

Mr. Speaker, I contend that this system has worked as it should, as the founders intended. Our States have been a laboratory to test this initiative. With all due respect to the committee process, a real-world test that has been underway for several years involving 70 million Americans in 10 States gives a better understanding of the impact of this initiative than all the hearings that could ever be held.

What has the test shown? It has proven that this initiative works as advertised, more jobs, more economic growth, less government and lower taxes. Critics say that the supporters of this measure do not trust the American people because of the supermajority. Surveys of the American people show that an overwhelming majority of Americans support this initiative, over 75 percent do, and nearly 68 percent of Democrats support it. It is an initiative that is spreading from State to State with broad and bipartisan support. It has received overwhelming support at the ballot box.

But if the critics are right, the ratification process will prove the undoing of this initiative, for this is just the first step. The Senate would be next. Then it would go to the people, requiring three-quarters of the States to say yes before it became part of the Constitution. I say that those who vote no do not trust the American people with this matter. Those who vote yes trust the American people to make this decision.

Mr. Speaker, critics contend that this initiative empowers the minority at the expense of the majority. My colleagues, the current system has empowered a minority at the expense, literally and figuratively, of the majority. The Federal Government, representing 20 percent of our GNP, has become the most powerful political force in America. The full force of the government is used in the political process to block efforts to cut or reduce the growth of government. That majority has become the tail that wags the dog in this great experiment in democracy.

In the real world of politics today, it is easier to raise taxes than reform Medicare, even though we must do it. Politically it is easier to raise taxes than reform Social Security. Politically it is easier to raise taxes than reform the VA health care system, and on and on and on. Rather than do what we know we must do, we raise taxes because it is easier. Perhaps if the bar were raised, if it were a little harder to raise taxes, we might tackle Medicare, we might tackle the other issues that are considered political untouchable in this political climate.

As far as the intent of the founders, the founders would never recognize what has become of our government. Telling cities and States how to run local government, telling school boards how to run their schools, and involving itself in the most minute details of American daily life. It is a government that controls so much of American life that it has become the biggest force in American politics. It has learned to manipulate the system so that it feeds itself and grows in good times and in bad times. It grows in the antigovernment Reagan years, just as it does in the pro-government years. During the so-called antitax, antigovernment decade of the 1980's, the size of our government grew by over 25 percent. It did not shrink even then. No matter who controls the Congress, who controls the White House, government grows. The record is clear.

This amendment, if passed tonight, approved by the Senate, and only after being passed by three-fourths of the states, that would slow that growth, will make the growth of government more judicious. It will give the force of government, the political juggernaut that it has become, a higher hurdle to clear before it indulges its ambitions, is a higher hurdle to clear before it takes resources from the people.

Over the 200 years of this experiment in democracy, those institutions that get their funds from the political process have figured out the political process. Those who pay the bills are no match for those whose livelihood depends on growing government. This initiative will put the political process back where it was when our Constitution was ratified. It will level the playing field for those who pay the bills.

This initiative is not elegant. It will never thrill the academics. It is a blunt instrument to check the brute political power of a government with an insatiable appetite to grow, to control more of American life. It is a blunt instrument whose time has come.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, this is the fourth amendment to the Constitution that the Republican leadership has forced the House to vote on in the past 16 months. This radical assault on our Nation's most sacred document is an outrage, and I rise in defense of our Nation's Constitution and against this resolution.

This resolution before us is the product of a poll and a focus group. It is election-year political theater at its worst. Our Constitution is the greatest political document ever written, yet Speaker GINGRICH is convinced he can do better. Does the Speaker really think he can improve upon the work of Madison and Hamilton?

Congress ought to be approaching the Constitution with reverence and humility. Instead, the Republican leadership is treating the Constitution as a rough draft. This amendment flies in the face of the principle of majority rule that has guided this Nation since its founding. It would vest unprecedented power in the hands of a small minority and prevent the majority from enacting the will of the American people. If the

VOL
142
PT
6
AP
15
—
24
1996
UMI

principle of majority rule was good enough for James Madison, it should be good enough for NEWT GINGRICH and the Congress.

Mr. Speaker, I urge a "no" vote on this resolution.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oklahoma [Mr. COBURN] in whose State there is a supermajority tax limitation amendment for that State.

Mr. COBURN. Mr. Speaker, it is interesting coming from Oklahoma, being a new Member of this body, the arrogance of this body. What we hear tonight is arguments based on class envy. What we hear tonight is arguments that the people in the States are not adequate to make decisions about their own well-being. The very idea that our Framers of our Constitution had in mind was that we should send to the States to be decided amendments to the Constitution. By us precluding that, based on what we think, not with prudence, but based on what we think that they should not have the opportunity to decide that, that in the face that the vast majority of people in this country when asked, do you think we should change this system, do you think that we should make it more difficult to raise taxes, would agree.

□ 2215

So once again Washington collectively, Washington in its arrogance, in its ego, has decided that we know better. Well, that is just not the truth. It is arrogant, it is careerism, it is elitism at its worst, and it is impossible for this country to survive with that kind of thinking continuing.

The other thing that I hear tonight is that this bill would not allow tax reform. That is not true. It does allow tax reform.

Finally, this is what this new Congress is all about, trying to put us back in a redirection, trying to reform this institution, trying to give it the self-discipline that it needs because it has obviously not had it over the past 30 years.

Mr. Speaker, I support this bill. The people of Oklahoma support this bill. This is something that we should and must do for the next generation.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, I do not come to this well with a speech that I have written because I had no intention tonight to give a speech. I came to this House to hear the debate on amending one of the most cherished documents that this world and this Nation have ever seen.

And I want my colleagues to look around in this room at 10:15 in the evening. There are very few Members here; there are more staff people on the floor of this House than there are Members of the House. And the reason I ask Members to look around is that this is the only hearing that this amendment to the most cherished document in our country will receive in this House. It is not arrogance to want a full consideration and careful review of our Constitution.

I suggest it is reverence, reverence for our document that we all proclaim to love and reverence for our country and the seriousness of the issues which we debate this evening.

To my colleagues who genuinely believe that we should have such an amendment, or a similar one, I suggest let us have the courage to debate it in the light of day before the American people and not late at night as a political gimmick simply because this happens to be tax day.

To my colleague and friend, the gentleman from Texas [Mr. BARTON], who genuinely believes in tax limitation, let me suggest it says something wrong about this process when even he, who has fought harder for this issue than anyone I know, had to admit in a national publication just a few days ago that even he did not understand the content of this amendment to our Nation's Constitution.

I plead with my colleagues to pay respect not to our Constitution, just with their rhetoric, but to pay respect to it with our process. I think our Founding Fathers would be sad, whether they supported tax limitation or not. I think our Founding Fathers would be sad that we would have had no single hearing on such an important issue, that we would debate amending the Constitution at 10:20 at night with very few Members on this floor and more staff members than Members here.

Regardless of my colleagues' position on the issue, I suggest this is a sad day for our country and a total lack of reverence for our Constitution.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. COOLEY].

Mr. COOLEY. Mr. Speaker, I rise in favor of this resolution. I rise to remind this body of an important fact that seems to have gotten lost in the debate, that if this resolution passes tonight we will not have amended the Constitution. Remember that it takes three-fourths of the States and the people of the States in order to amend the Constitution. When we vote for this measure, we are voting to let the people decide that they would like two-thirds of congressional votes in order to raise the taxes. We are voting to let the people decide.

Those who vote against this measure would like to keep the money and the power here in Washington. Do not we trust the American people? I think we should. Let us let the American people decide whether or not they would like to make it harder for us to raise taxes.

Mr. BARTON of Texas. Mr. Speaker, I only have two more speakers, myself and the other chief sponsor. So I would like to reserve the balance of my time.

The SPEAKER pro tempore (Mr. RIGGS). The Chair would advise that the gentleman from Florida [Mr. CANADY] has 8 minutes remaining, the gentleman from Michigan [Mr. CONYERS] has 16½ minutes remaining, and the gentleman from Texas [Mr. BARTON] has 12 minutes remaining.

Mr. CONYERS. Mr. Speaker, I will step into the breach and yield 2 minutes to the distinguished gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I am going to read a list of names. What is wrong with this list?

Madison.
Adams.
Franklin.
Jefferson.
WISE.
GINGRICH.

Mr. Speaker, if you said that the last two should not be confused tonight with the first four, you are absolutely correct. No one is going to confuse what is happening tonight with Thomas Jefferson or John Adams or Benjamin Franklin.

Careful consideration was what the Constitution was about. What everyone should understand, there has not been one hearing on this, not one committee action. The previous speaker said what is wrong with sending it to the States. When we send it to the States, we send it as is, and, yes, it is fair to let the States vote on it, but have us perfect it first before we send it there.

I have to ask another question. If two-thirds is good for raising taxes for protecting Rupert Murdoch, for instance, then what is wrong with two-thirds for some other sacred areas? What about Social Security cuts when beneficiaries pay more out of pocket? Should not that have been two-thirds? What about Medicaid cuts?

I think if we are going to ask the middle class in this country to potentially pay $36,000 a year for nursing home costs that Medicaid has been paying for their loved ones, that might be worth two-thirds. That is certainly an increase. Somebody adding $3 or $4,000 on a student loan, and you proposed that earlier, Mr. Speaker, and the Republican Party, and yet that would not require two-thirds vote. You were happy with a 1—with 50 percent.

Sending our sons and daughters to war; I find it interesting, Mr. Speaker, that to raise taxes on the wealthiest would require a two-thirds vote, to raise an army to fight a war would only require a simple majority. It seems to me that some priorities are wrong here.

Mr. Speaker, I have faith in the American people, and I do not think it is arrogance. I have faith because I know that American people can say I know how my representatives voted, and I can evaluate that person whether

or not they should have voted for that tax increase.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the American people want a balanced budget. The American people want to control spending. They want a line-item veto. The Republicans have tried to give that to them. And the American people want less taxes. They are going to pay until May 7 everything that they earned this year in taxes. Almost half of the year everything Americans earn are going to go just to pay taxes. They are fed up. Look at every single poll.

I am talking to my liberal colleagues in this Chamber. They are being taxed to death, and they do not want their taxes raised any further.

Now how do we guarantee that? We guarantee that by making it very difficult to raise their taxes, and the best way to do that is to have a supermajority.

The Barton bill is a very good step in the right direction. A two-thirds majority to raise taxes makes sense. If it is really necessary to raise taxes, our colleagues will get the two-thirds majority, but if it is not necessary, they will not.

Now we need a balanced budget, we need a line-item veto. We have given the President that. And we need to control taxes. Their party has been in control for 40 years, and for 40 years the policy has been tax, spend, tax, spend, tax, spend, and it has put this country in a terrible downward spiral. Every time we raise taxes; there has been 3 major taxes in the last 12 years; every time taxes have been raised, we spend more and more and more, and we are now into almost a 6 trillion dollars national debt.

When our forefathers came up with the income tax for the first time back in what, the early 1900's, it was 1 mill on a dollar, 1 tenth of 1 cent on a dollar, and said it was not going to go higher than probably half a cent on the dollar, and now one is working almost 6 months a year just to pay their taxes. it has to come to an end. The Barton bill is a good bill and should pass.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Speaker, I thank the gentleman for yielding this time to me, and just to respond one moment to the gentleman from Missouri who was talking about possibly the consumption tax in this country, and we have built into it a two-thirds vote in which to certainly raise that from a 15 percent to a 16 percent level, and more importantly for his farmers in Missouri or any farmer throughout the country, the estate tax is being abolished, which means that that individual who builds this family business or family farm over a period of time and turns around and wants to give it to his children or grandchildren, this is not going to happen any longer, and he can do it or she can do it at no interference with the Federal Government.

The second thing is I wanted to mention that there is built in a personal exemption refund for the working poor all the way up to the poverty line in this particular piece of legislation. So in essence the working poor in this country would pay nothing as far as taxes go on whatever they earn.

So I want to make this a very solid point, that the consumption tax is not being debated now. The two-thirds vote certainly is, and I certainly strongly support it.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I do not know where to start here. There was a budget that was offered here that supposedly was supposed to get a lot of support, was going to cut Medicare $270 billion, was going to do $240 billion worth of tax cuts. Right now we are not talking about raising taxes on anybody. But it seems to me, if we are going to do something of this magnitude, we would have some hearings on it, especially something as important as amending the Constitution of the United States.

And let us make one thing perfectly clear. We have been sitting here for almost 3 hours, and what we have come down to is the gentleman from Texas has talked about something that is a very frivolous thing in a campaign year, a campaign year, and the gentleman from Indiana said what we have done, we have given the President the line-item veto, but they saw fit to pass everything else in that bill except give the President the line-item veto the authority for this year. We are going to wait until after the election.

□ 2230

Everything is predicated on the November election. The consultants have already been together and said,

> Hey, look, what we are going to do on this amendment tonight: The folks that vote against it, we are going to brand them as big spenders and liberals and don't want to get the balanced budget, and we will have a campaign issue in November.

It is just that simple. They do not particularly care about restrictions on raising taxes.

Nobody wants to vote to raise taxes. I pay taxes. I am a taxpayer. But this is purely and simply about the November elections, about 30-second spots, what we are going to do in November, how we can make the inroads on folks that vote against this irresponsible constitutional amendment. No hearings. Not even the chairman of the committee is here talking about passing this amendment. It is totally irresponsible, and that is basically what it is. Let us look at it for what it is; it is a campaign tool for November, pure and simple. Had it not been there, we would have been gone a long, long while ago.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, in the landmark case of McCulloch versus Maryland, America's first giant judicial situation, John Marshall wrote that the power to tax is the power to destroy. To be sure, in that instance Justice Marshall was seeking to prevent my home State of Maryland from taxing a Federal bank, but the principle remains. The fact is that taxation, taken to the extreme, can render meaningless the right to property, freedom of contract, or virtually any other freedom.

This amendment simply clarifies that Congress' use of that potentially destructive power—the power of taxation—should be subject to a higher approval standard than that of Congress' other powers as defined under article I, section 8 .of the constitution. This amendment would make it subject to the same super-majority requirements used for constitutional amendment, veto override, or treaty ratification.

It is true that the Founders did not intend for taxation to be subject to the same requirements. But it is also true that their standards were adopted prior to the ratification (indeed the proposal) of the 16th amendment. Prior to the 16th amendment, the power of taxation meant tariffs and excise taxes. But the 16th amendment created the income tax which refocused taxation on the livelihoods of individuals. When the rights of individuals to earn a living face potential threats from Government power, there should be a higher legislative standard for government to use that power. The amendment before us creates such a standard.

Mr. Speaker, today many people feel the strain attendant to tax rates which have risen continually over decades. On this day more than any other, our constituents are aware of the potentially destructive power of Federal taxation. I am supporting this amendment to provide my constituents a reasonable level of protection against that. I urge my colleagues to do the same.

Mr. BARTON of Texas. Mr. Speaker, I yield 6 minutes to the gentleman from Arizona [Mr. SHADEGG] who is one of the original sponsors of this legislation and who helped pass similar legislation in the Arizona legislature, which is now in the Arizona constitution.

Mr. SHADEGG. Mr. Speaker, it has been a privilege to be a part of this debate today, but it has been at times a

VOL
142
PT
6
AP
15
—
24
1996
UMI

very sad debate. At times we have heard from the other side that this is simply politics. That is dead wrong. This amendment raises a straightforward issue regarding fiscal responsibility. Should this Congress and this Federal Government be more responsible about spending the money it has?

If you believe it should, then indeed you should vote for this amendment, because simply by making it harder on this Tax Day, 1996, for the government to reach into the pockets of average American citizens and take more money out, we will force discipline on this Congress and we will cause this Congress to be more cautious, more prudent and more judicious in spending the money that we do take from those citizens.

All day long, Mr. Speaker, I have heard the other side talk about this as an attack on the sacred principle of majority rule. Well, bunk. This is not an attack on the sacred rule, the sacred principle of majority rule. Indeed, the very reason for placing it in the Constitution is because Constitutions are designed to protect minorities, to protect minorities against the tyranny of the majority, and indeed in this Nation where now the average American spends more on taxes than on food, shelter, and clothing combined, since the adoption of the 16th Amendment, we have a tyranny of the majority on the issue of taxes over the minority.

Mr. Speaker, the second issue I have heard makes me question whether anyone has bothered to read the amendment. Indeed, all day long I have heard my colleagues on the opposite side decry that they could not do any tax reform, they could not close corporate tax loopholes they could not provide additional funding for Medicare or child care, or for anything that they believed was a worthy cause.

That is dead wrong. I urge them to read the language which was left here because, as written, this measure provides for "revenue-neutral tax reform"; that is, any measure which raised taxes on some but lowered taxes on others could be passed with a simple majority. Indeed, the other point they have made all day is that this is an outrageous debate which is radical, which is politics, which is a public relations ploy, theater and grandstanding.

Let me tell them, they are again wrong, because in 10 States in this Union, an amendment just like this one has already passed. Are they saying that it is radical of those States? If they are, they are telling one-third of all Americans that they live in a State which has adopted a radical grandstanding political theater of an amendment. That is right; one-third of all Americans live in a State which has adopted a tax limitation amendment just like the one before us tonight.

It is not radical, it is indeed a reasonable reform, a reform that two law professors have said would attempt to retrieve the original values of the Constitution, rather than a radical innovation. Let us look at what has happened. In those States which have adopted supermajority, taxes have climbed more slowly than in other States. You would expect that. Spending has climbed more slowly than in States which do not have a supermajority requirement. Those you could predict.

Let us look at the economic effect. We hear a lot of talk about the economy and jobs. In those States which have a supermajority, which have done what we have proposed to do here tonight, the economy has grown at 43 percent since 1980 to 1992. In those States which have refused to do what we do tonight, the economy has only grown at 35 percent. What does that mean? It means that the growth in the economy creates jobs, and indeed the study reveals the same: higher levels of job creation in those States which have a supermajority requirement.

The other side often talks about the importance of creation of jobs. This measure tonight would do more to enable us to create jobs in this Nation than anything else we could do in the 104th Congress. That is why the last fact is rather evident and why the other side hurts, because once examined by those facts, once made real to them, what happens?

A survey result revealed that 64 percent of Democrats support a tax limitation because it creates jobs; that 68 percent of Federal employees support tax limitation. Why? Because they are sick of wasteful spending at the Federal level; that 71 percent of union members who pick up that tab also support tax limitation, and that 73 percent of all Americans support tax limitation. This is indeed an idea whose time has come.

We have a tyranny of the majority in taxes in this Nation. I urge my colleagues to support this reasonable reform to restore the Founding Fathers' intent, and the intent that we should not have a tyranny of the majority over the taxpayers in this Nation.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. SHADEGG. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I thank the gentleman very much for yielding to me.

Mr. Speaker, is the gentleman aware that in his charts where he indicates the supermajority of States, he includes California and Florida?

Mr. SHADEGG. Mr. Speaker, I believe those are 3 of the 10 States which have supermajority requirements, as does my State of Arizona, enacted in 1992, pursuant to an initiative drive with the support of 72 percent of the electorate.

Mr. CONYERS. Mr. Speaker, then does the gentleman know that in those two States, that the requirement of supermajority does not apply to sales tax, which is the principal means of raising revenue in those two States?

Mr. SHADEGG. It applies to some taxes in various States. They are not uniform across the Nation.

Mr. CONYERS. Is the gentleman aware of that?

Mr. SHADEGG. Certainly I am aware of that. But what we have seen is that in all 10 States, the economy has grown more and jobs have expanded more.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the distinguished chairman of the Committee on Appropriations, the gentleman from Louisiana [Mr. LIVINGSTON], made some comments that need to be rebutted.

During the 40 years that you claim Democrats were running wild, we had Presidents Nixon, Bush, Eisenhower, Ford, and Reagan. We had Republican majorities in the Senate. In many years, in some of those years, we had Republicans with working control of this House, so I think trying to blame this on one particular party, the debt that we find ourselves in, is unfair and inaccurate.

Further, Mr. Speaker, under this President we have reduced the deficit from $290 billion, the highest in history, to $140 billion, which is more than a half, a 50 percent reduction.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CHRYSLER].

Mr. CHRYSLER. Mr. Speaker, we hear a lot in this debate today about the election year ploy and the campaign ploy of this two-thirds majority. There are some short memories in this body, because it was just last year that we voted on this very issue in this same body. If we want to talk about election year ploys, we would want to talk about the minimum wage. Why did the Democrats not vote for it in 1993 when they controlled all three bodies? They controlled all three bodies and they raised their taxes, but why not minimum wage? Not until the AFL–CIO came to town and the union bosses demanded of the President that he bring this up and make it an issue in this election did they even talk about the minimum wage this year.

Mr. Speaker, I want to support the two-thirds majority of the gentleman from Texas [Mr. BARTON] for any further tax increases in this country.

Mr. CONYERS. Mr. Speaker, I yield myself 45 seconds.

Mr. Speaker, I would ask my distinguished colleague, the gentleman from Michigan [Mr. CHRYSLER], would he not have felt better if a constitutional amendment would have had some hearings in some committee before we brought it to the floor to attempt to send it out to the States?

Mr. CHRYSLER. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Michigan.

Mr. CHRYSLER. Mr. Speaker, we voted last year, I would say to my colleague, the gentleman from Michigan, just last year we voted on the Barton amendment that had a two-thirds provision in it in the balanced budget amendment. Then we did, in fact, vote to have this body have a two-thirds vote to raise taxes last year.

Mr. CONYERS. Mr. Speaker, I would ask the gentleman to check a little bit more carefully. I do not know how long he has seen the resolution that is on the floor. It was only put together rather recently, in remote corners of the Congress. It is different from the one that was debated at the time the he suggested.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman will state it.

Mr. BARTON of Texas. Mr. Speaker, there is some confusion or at least concern on our side. I am the sponsor of the amendment, and I was under the understanding that I have the right to close. I would like a ruling on that.

The SPEAKER pro tempore. The manager of the joint resolution has the right to close debate.

Mr. BARTON of Texas. Mr. Speaker, can the manager of the bill yield to me to close on his time?

The SPEAKER pro tempore. The manager of the joint resolution gentleman from Florida [Mr. CANADY], can yield for the purposes of closing debate to any Member.

Mr. BARTON of Texas. Mr. Speaker, I yield the 6 minutes that I control back to the gentleman from Florida [Mr. CANADY] to use as he may wish to; I yield the 6 minutes that I still control.

The SPEAKER pro tempore. The Chair is advised that that would be an appropriate offer, and that the gentleman from Florida [Mr. CANADY] will now control 8 minutes of time.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas, Ms. SHEILA JACKSON-LEE a distinguished member of the Committee on the Judiciary.

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Ms. JACKSON-LEE of Texas. Mr. Speaker, I am somewhat like my colleague from Texas who previously spoke as I came to listen to this dabate, recognizing that Congressman BARTON has a sincere commitment to this issue. But I take umbrage with the gentleman from Arizona and his articulation of who is in control.

I think our Founding Fathers in the Constitutional Convention of 1787 were trying to do one thing, and that is to remove the colonies from tyranny. We come today on April 15, 1996, to return them to that same tyranny, and that is to allow a minority to rule.

The constitutional amendment would allow tax increases on one group of taxpayers to fund tax breaks for another group. The Republican leadership has already waived the existing House rule requiring a three-fifths vote to raise taxes on three separate occasions, demonstrating already the unworkability of such a proposal.

I am opposed to this amendment because we find ourselves again coming to the floor of the House to allow a minority to dominate the majority. This is tyranny, simply and purely.

The framers of the Constitution rejected the principal of requiring a supermajority for basic Government functions such as raising taxes. James Madison, one of the drafters of the Constitution, stated that requiring more than majority of a quorum for decision will result in minority rule and the fundamental principle of free government would be reversed.

I am not sure what my Republican colleagues are trying to do but the Houston Chronicle saw it for what it was, political trickery. Of course we want to bring down the deficit, but do we want to bring down the hammer on top of those who can least afford it. Do we want to continue to see an increasing deficit when this Congress is not able to meet the responsibilities of this government?

This amendment is poorly drafted, Mr. Speaker, and I would simply say this is wrongheaded and wrong-directed. This is tyranny. This is not in keeping with the Constitution or that of our Founding Fathers. I ask that we vote this down.

Mr. Speaker, I rise in opposition to the resolution, House Joint Resolution 159, to amend the Constitution to require that any legislation raising taxes be subject to a two-thirds majority vote in the House and the Senate. If this amendment is added to the Constitution, Congress will not have the flexibility that is necessary to meet the important fiscal priorities of our Nation.

This proposal lists only two circumstances under which Congress could waive the two-thirds requirement. Those instances are when Congress adopts a declaration of war, or Congress adopts a resolution stating that the United States is engaged in a military conflict causing a threat to national security.

Even the House leadership understands the practical problems with this proposal because the House adopted a House rule in January 1995, similar to the constitutional amendment. The House rule requires a three-fifths majority to pass any bill containing an increase in income tax rates. On three occasions, the House leadership waived this requirement when considering bills containing such increases such as the Budget Reconciliation bill, the Medicare Preservation Act, and the Health Coverage Availability and Affordability Act.

I also oppose this resolution because it will give a minority of the House and Senate control over tax legislation. Our democratic system of government is based on majority rule. We must not undermine this central concept by allowing one-third of the membership of either the House or the Senate to exercise this power.

This amendment is poorly drafted. For example, the amendment states that legislation containing only a de minimis increase in revenue will not be subject to the two-thirds requirement. The problem, however, is that the term "de minimis" is not defined. Thus, Federal courts would ultimately decide the meaning of this term.

This resolution is not the most effective means of securing a balanced budget, which the majority of Members of the House proclaim is their legislative priority. In some instances, sound fiscal policy may require a combination of spending reductions and tax increases. In many cases, Congress considers legislation that contains such combination. Moreover, if Congress has considerable difficulty raising taxes, it may have to resort to more deficit spending in order to meet the critical needs of the Federal Government.

Finally, this resolution really avoids the key concerns of most taxpayers. They want simpler tax forms and they want their tax dollars spent wisely by eliminating waste, fraud, and abuse. I urge my colleagues to vote against this resolution. Let us get serious about improving the tax system and moving forward on balancing the budget. This proposed constitutional amendment will not help achieve these important goals.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. GILLMOR].

Mr. GILLMOR. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in opposition to the joint resolution.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Speaker, these new constitutionalists are certainly fabricating. The Founding Fathers did not allow a tax on income, so why would they need a limitation? They just made it illegal when we had to amend the Constitution. Yet speaker after speaker say the Founding Fathers did not envision a two-thirds vote. They did not allow you to steal from income at all.

And then, oh, but California. Rob the rich. Tax the rich. Soak the rich. We love the rich. Baloney. California allows a two-thirds vote only for all taxes; sales tax, income tax, all taxes. I served in the legislature for 12 years. Do not fabricate, you new constitutionalists. We are not after one group, we are not after another group. All taxpayers should be protected. The rich, the poor, others.

In the 1950's we taxed at a 23-percent level. We are now taxing at 40 percent. Do you think we are undertaxed? Ask the people. Ask the people tonight on the 15th, do you need protection or is Washington out of control? Yes, we are out of control. No, you have done nothing about the deficit. The new majority will protect you if you will keep us, the new majority.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in opposition to House Joint Resolution 159, and I want to spend a little time examining closely what exactly we are voting on and what we are not.

On the floor earlier today a blanket statement was made that if you are opposed to this amendment, there is only one reasonable explanation: it is because you are a big spender. I find it interesting, then, that the National Taxpayer's Union vote tally scores me based on my actual votes on appropriation and reconciliation bills as a Member who is a spending cutter.

I also find it significant that the Concord Coalition, one of the most thoughtful, respected, and credible watchdogs of deficit spending, is opposed to this amendment. They wrote, "Enactment of this constitutional amendment would be detrimental to the budget process. In considering how to balance the Federal budget and keep it balanced over the long term, all options for reducing spending or raising revenues must be on the table. No area of the budget, on either the spending or the revenue side, should receive preferential treatment such as requiring supermajorities."

The Center on Budget and Policy Priorities writes, "The Coalition budget represented the most serious of all deficit reduction plans developed in the last year. It contained more deficit reduction over the next 7 years than any other plan. Under the proposed constitutional amendment, the coalition budget would be unconstitutional unless it received a two-thirds vote."

The coalition budget would have balanced the budget in 7 years, with considerably less debt than the reconciliation bill passed by the majority, primarily through spending cuts. In fact over 90 percent of the deficit reduction came from $731 billion in spending cuts. However, it contained a limited number of commonsense changes that would have resulted in increased revenues, hence unconstitutional unless two-thirds of the House supported it.

Does that really make common sense? I believe amending the Constitution is serious business and deserves serious debate. I suspect it is precisely because Committee on the Judiciary chairman HENRY HYDE has the same respect for and concern about amending the Constitution that his committee was never given its proper and vitally important chance to consider the resolution before us on the floor tonight.

The Constitution serves to protect fundamental rights of the minority in circumstances where majority rule does not adequately protect those rights. I believe that the balanced budget amendment is an appropriate addition to the Constitution because it protects the rights of future generations who are not represented in the current political system. By contrast, individuals who are affected by tax increases are represented in the political system and are protected by our system of majority rule. Our children and grandchildren are not.

It is too easy to borrow money. Debt going from $1 trillion to $5 trillion in the last 13 years is evidence that the theory behind the amendment proposed before us tonight has not worked and will not work.

Tax limitation promises have a superficial appeal which completely ignores the realities of the deficit. It is time for us to start eating our vegetables and resisting the dessert, regardless of whether it is Republican tax cut dessert or Democratic extra spending dessert being peddled.

This debate is not about the level of taxes that CHARLIE STENHOLM, JOE BARTON, PETE GEREN, or any other Member of the 104th Congress thinks is appropriate under the current circumstances for the next year or even the next 7 years. This debate tonight is about whether those of us here tonight should place in the Constitution an inflexible rule that will apply for all future generations.

I wonder if this amendment has been fully thought out. I think the debate today proves it has not. There are so many serious unanswered questions about this amendment.

For example, the resolution before us amends the Constitution to require a two-thirds majority vote to increase internal revenue by more than a de minimis amount. Nowhere either in the bill or in any part of the Constitution are there any clues as to what policies would be covered by the phrase "internal revenue" or what "de minimis" might mean.

Later this week the House will vote on a bill to take the transportation trust funds off-budget. However, the airport ticket tax which is supposed to fund the aviation trust fund has expired. Under this amendment, a two-thirds vote would be required to extend this tax. On the one hand, a majority of this body may say that these trust funds deserve special protection, while on the other hand we are voting tonight to prevent Congress from funding the trust fund at all unless two-thirds of this body shall concur.

This bill should be sent back to committee for the further and thoughtful review that any constitutional amendment, before it ever gets to the floor of the House, should have had. Vote "no" on this amendment. It is a very politically popular amendment but it is a poorly thought out resolution.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Speaker, tonight we are having a debate about whether we should amend the Constitution to make it more difficult to raise taxes. If you look back over the last 15 years, over the last 30 years, take that amount of time, it has become clear that whenever Congress got into a bind, they just raised taxes. The fact is many of us believe that it ought to be more difficult to raise taxes and many of us believe that if we are going to balance the budget, we ought to do it by reducing spending and controlling spending and not by increasing taxes. A number of States already have tax limitation language in their Constitutions, Arizona, Arkansas, California, Colorado, Delaware, Florida, Louisiana, Mississippi, Oklahoma, and South Dakota. They all have requirements to balance their State budgets. And so you can see that these States have a tax limitation amendment in their Constitution. They also have a requirement to balance their budgets, and they are doing just fine, and this Congress can do the same thing. The fact is it has been too easy to raise taxes in this Congress. What we are trying to do is to tell the American people, "We're on your side, we're going to make it tougher."

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER pro tempore. The Chair would remind the gentleman from Michigan that he has 3¾ minutes remaining.

Mr. CONYERS. Mr. Speaker, this is not a good day to have brought this measure to the floor. I would have liked to have recommended that you brought it on April 1 instead of April 15, and that is because this is a grand and elaborate but clear scheme that attempts to fool the American people. It is also, as it has been pointed out, a sham, to protect the wealthy of this country from being taxed fairly. It is a proposal that the House has once earlier defeated as a constitutional amendment and which the majority, the new majority, has on 4 different occasions violated the very principle that they now attempt to enshrine as a constitutional amendment on April 15.

It is a demeaning insult to a Constitution that deals with fundamental rights and liberties, and it is a scam that will fail, and many of its proponents are fully aware of that.

At its heart, the measure before us tonight is designed to ensure that the very wealthiest of individuals and corporations never have to pay their fair share of taxes. And how is that?

Well, consider the tax loopholes for the super-rich that this bill would all but ensure would never be closed. First, it would take a two-thirds majority to make billionaires who make their fortunes in this country, pay their fair share of taxes instead of moving out of the Nation and renouncing their citizenship to avoid such payment.

Second, it would take a two-thirds majority to end tax incentives for companies that open plants overseas.

Third, it would take a two thirds majority to stop the financial markets from permitting the wealthy to defer capital gains.

Finally, it would take a two-thirds majority vote to stop the wealthy from hiding their income from the Internal Revenue Service by using foreign trusts for safe havens.

All of these measures will raise revenues and require a supermajority vote. At the same time, this fraud that we are considering today would allow tax increases with a simple majority vote on lower and middle income Americans in the form of a flat tax or value added tax. Sock it to the middle class is what the logo of this Congress ought to be.

MORE UNFAIR CUTS TO BALANCE BUDGET WILL RESULT

So while the coporations and wealthy Americans lavish in their continued tax subsidies, the middle and lower income Americans will disproportionately suffer deep cuts in their benefits as we attempt to reduce the budget deficit that we all agree must be reduced. The amendment could as a result lead to a raiding of the Social Security and Medicare trust funds in order to balance the budget.

A NEW CONCEPT: MINORITY RULE

This amendment makes a mockery of this body and a fundamental principle of democracy—the principle of majority rules. By proposing this supermajority requirement Republicans are attempting to shift tax writing powers to a minority of Members.

A supermajority vote requirement to increase taxes has already been rejected this Congress during the balanced budget debate. One of the Republican statesmen that I expect to vote against this measure today, our Judiciary Committee Chairman HENRY HYDE said during previous consideration of this concept that "I'm troubled by the concept of divesting a Member of full import of his or her vote."

Well I am more than troubled, I think it is an outrage that Republicans would put forth a constitutional amendment that would so diminish the impact of a Members' vote in a such fundamental area of responsibility.

REPUBLICAN HYPOCRISY

With today's constitutional amendment we need to officially declare the Republican majority "Brain Dead." Barely 1 year into the Republican's new found majority states we are considering a bill—offered by the majority—to limit their own ability to operate by majority rule.

The Republicans have already passed a House Rule that requires a three-fifths vote for tax increases. But despite self-righteous pledges to oppose tax increases, the majority has on four separate occasions waived or ignored this requirement:

First, on April 5, 1995, during the consideration of H.R. 1212, the Contract With America Tax Relief Act, there was parliamentary ruling that the new House rule did not apply—even though the bill increased the maximum rate of tax on sales of certain small business stock.

Second, on October 19, 1995, the House rule was waived for the consideration of H.R. 2425, the Medicare preservation bill which would have imposed additional taxes on withdrawals from Medicareplus medical savings accounts and premium increases on high-income Medicare beneficiaries.

Third, on October 26, 1995, the House rule was waived for the consideration of the fiscal year 1996 budget reconciliation bill and its conference report.

Finally, on March 28, 1996—the very day that the Republicans released the text of the resolution—they waived the House rule for the consideration of H.R. 3103, the health coverage conference report.

To introduce this amendment after waiving the House rule four times, is the absolute height of hypocrisy.

This amendment will transfer significant tax authority to the courts. The wording of the amendment is so ambiguous that many future tax bills would be subject to challenge in court. For example, what does an increase in internal revenue mean? Will the amendment apply to a reduction in tax rates that results in a temporary increase in tax revenues? What about the requirement that Congress can by a simple majority change the ground rules for determining the validity of tax increases?

And so this is a cruel and a patent hoax that I hope will be refused at this late hour of the night on a measure written somewhere other than in the Committee on the Judiciary and which does not deserve to be supported on this night of April 15.

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I urge a "no" vote on the measure now pending.

Mr. Speaker, I yield back the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I rise in support of this constitutional amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 6 minutes, the balance of my time, to the gentleman from Texas [Mr. BARTON], the sponsor of this amendment.

Mr. BARTON of Texas. Mr. Speaker, as the much maligned author of this amendment, I feel somewhat put upon. Some of the more polite things the amendment has been called tonight are irresponsible, stupid and insane. It has not been called unnecessary. There have been concerns expressed about the procedure by which it has been brought to the floor. I think some of those concerns are valid. But there has not been anything substantively said against the policy we are attempting to adopt.

We have heard some concerns about the language. Yet the rule offered the Democrats an alternative. If they support the policy but do not agree with the specific language, they could have brought a substitute amendment based on the same policy to the floor, and they chose not to do so.

There has been much said about the history and the Founding Fathers and how in 1787 there was no requirement for supermajority vote for a tax increase in the Constitution. That is true. The original Constitution prevented an income tax of any kind. The 16th Amendment in 1913 made income taxes constitutional. So, for over 125 years the tax limitation provision that we had in the Constitution was that all tax bills should originate in the House of Representatives, which was the body closest to the people and the only Federal body always elected by the people.

But beginning in 1913, with the 16th amendment, we began to have income taxes in this Nation. The first income tax was 1 percent on income up to $20,000. In 1913, one-tenth of 1 percent of the American people had to file a Federal income tax, one-tenth of 1 percent.

Since 1913, the average marginal tax rate on the American taxpayer has grown to 39.8 percent of 40 percent, which is a 4,000 percent increase, 4,000 percent increase in the marginal tax rate on the American taxpayer since 1913 and the passage of the first income tax.

Enough is enough. It is time this evening to pass the two-thirds tax limitation constitutional amendment and send it to the other body for ratification so it can go to the States. We do not have a revenue problem in the U.S. Federal Government. Federal revenues in the time that I have been in this body since 1985 have grown an average of $55 billion a year, $55 billion a year revenue growth.

But, unfortunately, spending has grown $59 billion a year, $59 billion a year. We do not have a revenue problem. We have a spending restraint problem.

Fortunately, we have a laboratory called the State governments. There are States that have tax limitations in their constitutions or in their laws, and in those States that have it, there are four things that are true in every State: Their taxes are lower; their taxes go up slower; their jobs increase faster; and economic growth in those States goes up faster.

Interestingly, no State that has tax limitations repealed it. In fact, States are adding to it. There are 18 States

VOL
142
PT
6
AP
15
—
24
1996
UMI

that are considering adding some form of tax limitation to their constitutions right now, the most current one being Nevada, where it is going to be voted on by the voters this November.

Tax limitation for supermajority vote requirements does work. The polls support that. Seventy-three percent of the American people support it. Eighty percent of Republicans support it. Eighty percent of independents support it. Interestingly enough, 64 percent of the Democrats, self-identified support it, low-income support it, with 80 percent. Middle-income people, 77 percent margins. High income people, 64 percent margins.

Those are polls. Let us talk about real people in Innis, Texas, where I live, real people like Jan and Troy Rogers, who own the hardware store. They support it. Real people like Bill and Helen Templen, who own the drugstore, they support it. Single-parent families, like Linda Gillespie, who works for me and has a son and daughter-in-law, married, both working, and a daughter working her way through college, they support it. They support it because they know that the average American family today spends more time working for the government to pay the government the tax revenue than they do for their own family, any other thing in their family budget.

We simply, Mr. Speaker and Members of this body, must pass the tax limitation language this evening, send it to the other body for ratification, send it to the States so that three-fourths of the States may have an opportunity to ratify this.

On tax day, April 15, 1996, it is time to say enough is enough and pass this. If we do not pass it, we are like the movie villain Freddie in "Friday the 13th." We will be back next year on April 15, 1997, until we do pass it. It is not if we are going to pass it, it is when we are going to pass it.

This is not something that takes a long learning curve. In my town meetings when I talk about this, after the first 10 to 15 seconds the people are for it. I have yet to have one person in my town meetings or my public meetings in the last year who say they oppose it, making it more difficult to raise their taxes.

So let us, please, Mr. Speaker, vote for the two-thirds supermajority vote to require a tax increase on the American people.

Mr. FRANKS of Connecticut. Mr. Speaker as a cosponsor of House Joint Resolution 159, I rise in strong support for the passage of this resolution which proposes a constitutional amendment to require a two-thirds supermajority for passage of legislation that raises taxes.

Mr. Speaker, I am of the opinion that the situation of the taxpayer is one of desperation. For years, the American taxpayer has been like a person stranded in the middle of the desert, crawling, straining, praying for the first sight of that precious, random oasis which would provide him with the water to quench his thirst and give him relief.

However, the aching taxpayer suffering in the desert sun has become rightfully cynical. He knows that because of the deception of the heat, he may not be able to believe his eyes. You see, Mr. Speaker, over the past few years, the taxpayer has had to deal with a series of tax-related mirages. For example, he had to deal with a mirage in 1988 that said to him "Read my lips, no new taxes." But that mirage raised taxes on the American people in an ill-advised budget deal in 1990. After that, the taxpayer had to handle the mirage that comes to him in 1992 and promised him middle-class tax relief but then, in early 1993, that mirage went ahead and gave him the largest tax increase in American history. Later, the mirage of 1992 returned in late 1994 to promise that taxpayer a "middle class bill of rights. Predictably, nothing ever came of that.

Thus, Mr. Speaker, for these long years, the hot, blistering sun of big Government has parched the America taxpayer. The taxpayer of 1996 is presently fiscally dehydrated and it will be up to the members of the 104th Congress to come to the rescue—to provide the American taxpayer with the refreshment of fiscal discipline and the parasol of tax limitation.

I think House Joint Resolution 159 is a commonsense solution. This resolution proposes an amendment to the Constitution to require a two thirds majority vote for the House or Senate to pass any legislation which would result in an increase in personal, business, or other Federal taxes—taxes which have a significant effect on our national security.

Mr. Speaker, this type of legislation is nothing new. It is not some prototype piece of legislation which has not even been tested at the small town level. According to the April 15, 1996, edition of the Wall Street Journal, one-third of all Americans live in the 12 States that have tax limitation provisions in their constitutions. The Journal also pointed out that during the years 1980–92, the States that had the supermajority provisions in their constitutions raised their taxes by 102 percent while the States without such a law raised taxes by 121 percent.

Also, I am sure, much to the chagrin of some of my colleagues on the other side of the aisle who have supported huge tax increases in the past, this type of proposal has the support of our employers, the American people. According to the Wall Street Journal, a Polling Co. poll found that 73 percent of the American populace support the idea of a supermajority when dealing with raising taxes. The same poll cited in the Journal also found the supermajority idea is supported by 64 percent of Democrats, 68 percent of Federal employees, and 71 percent of union members. This is not a concept that is only supported by rich and their fat-cat friends. Rather, this thoughtful proposal is supported by a broad spectrum of America. With this knowledge, I know that this proposal can be supported in my district—from the corporate manager in Danbury to the housewife in Shelton, from the teacher in Newtown to the boilermaker in Waterbury, and so on.

Let me be clear—I can respect the arguments of those colleagues of mine who express reservation about passing the constitutional amendment. The Constitution is the most sacred document of our land and it should not be used for momentary whims and passing fancy. But it is my belief, and the belief of a great supermajority of Americans—not just a mere majority, that is amendment is needed to bring an end to confiscatory Government that has gone on for way too long. We need to let the American people take home more of the money they work for and utilize it in the way they see fit.

Accordingly, I fully support this amendment and encourage my colleagues to do likewise. I yield back the balance of my time.

Mr. LIGHTFOOT. Mr. Speaker, I am proud to serve as an original cosponsor of the tax limitation amendment, which would make it impossible to raise the taxes of America's working families without a two-thirds vote of Congress.

It is inconceivable that it requires a two-thirds vote to override President Clinton's veto of our plan to provide tax relief to American families. But in 1993, it only took a single vote majority to enact the largest tax increase in American history.

Prior to Republican control of the House and Senate, history had shown Congress to be reckless and irresponsible with the taxpayers' dollars. This legislation will protect American taxpayers from the tax-and-spend liberals in Congress, who are all too eager to raise taxes and expand the Federal Government.

The 104th Congress has made great strides in rolling back the tide of Government expansion and escalating debt, yet, we need to take every precaution against backsliding. Requiring a two-thirds vote of Congress to raise taxes will ensure a continued commitment to fiscal responsibility.

Mr. GILMAN. Mr. Speaker, though I am weary at attempts to amend our Constitution and the concepts authored by our forefathers, I am concerned that our Nation continues to drown in wasteful Government spending and increased taxes, laying a heavy financial burden upon the backs of our children and grandchildren. Our Nation is great because of the principles espoused by our Founding Fathers and authored in the Constitution. This includes the belief that if you are able and willing to work hard you can adequately provide for your family.

However, Congress continues to ignore this principle and instead chooses to place economic roadblocks in front of working Americans. It is time to reel in the Federal Government's long arm. The Federal Government has been reaching into the pockets of Americans for far too long.

Accordingly, I rise in support of this constitutional amendment to provide a supermajority to raise taxes.

The debate should not be about supermajority rule versus majority rule, but instead about how best to provide jobs, investment, and economic growth for all working Americans.

Accordingly, I urge my colleagues to support this initiative and all measures aimed at providing working families with the ability to succeed in our Nation's economy.

Mr. KIM. Mr. Speaker, I rise in support of House Joint Resolution 159.

After a long, hard winter, it seems that spring has finally arrived. Across the Nation, many cities enjoyed their first warm, sunny weekend in months. In Washington, the cherry blossoms have bloomed, adding beautiful spring colors to the wonderful weather.

Regrettably, millions of Americans didn't get to enjoy this beautiful spring weekend. Instead, many of us were stuck inside doing our taxes.

A wasted spring weekend is a relatively minor annoyance, however, when compared to Americans' overwhelming frustration with the tax system in general. I'll bet that most Americans would endure the hassle of filing taxes with a lot less complaint—if only they felt that the taxes they paid were fair and that their money was spent wisely.

Unfortunately, neither of the above is true. The fact is, Americans pay too much in taxes, and the taxes they pay are all too often wasted.

The statistics are amazing: The average American citizen works well into May for our Government. Think about it: Every dollar that a person earns, from January 1 until several weeks after April 15, will go to pay Federal, State, and local taxes. And that does not include gas taxes, property taxes, and sales taxes.

And where does all of this money go? A great deal of it goes to support worthy Federal programs, such as Medicare, national parks, student loans, transportation, and defense. But too much of it is wasted—to support a bloated Federal bureaucracy, pork barrel projects, fraudulently received welfare benefits, and inefficient or outdated Federal programs.

Is it any wonder, then, that Americans are fed up with paying taxes? Should we be surprised that the American people resent having to pay high taxes, only to see their hard-earned money thrown down a rathole? I don't think so.

With the new majority in Congress, these frustrations are finally being addressed. In fact, one of the primary goals of the new Republican Congress is to reform how this Nation taxes and spends. We have passed a balanced budget bill that would reduce Federal spending by hundreds of billions of dollars over 7 years. We have passed legislation that would reform or consolidate hundreds of wasteful Federal programs. And, we have passed a bill that would have given middle-class individuals and families a substantial tax cut.

The constitutional amendment we are considering today is part of these continuing efforts. The amendment is simple: It would require a two-thirds vote in both the House and Senate to pass a tax increase. Instead of a simple majority vote, it would take 290 votes in the House and 67 votes in the Senate to raise taxes on the American people.

In doing so, this amendment would make it much more difficult to raise taxes—and would finally stack the odds in favor of the American taxpayer. If this amendment is passed, we will never again be faced with a repeat of the 1993 tax debate, in which the largest tax increase in American history was rammed through both Houses by one vote on a party-line basis. Congress would still have the option of raising taxes—but only if a broad, bipartisan coalition agreed that a tax increase was necessary.

In all probability, however, supporters of a tax increase will never convince two-thirds of both houses that such a tax hike is necessary. History bears this point out: During the past 30 years, Congress has passed 16 major tax increases. If this amendment were in effect, 8 of those tax increases would not have been passed. In the 1980's alone, this amendment would have saved American taxpayers nearly $700 billion in increased taxes.

In short, this amendment will force Congress to stop looking to the American taxpayer every time we want to spend more than we take in. Instead, the tax limitation amendment will force Congress to do what we have historically been unwilling to do: Cut spending.

Finally, the most appealing aspect of this amendment is that it will be permanent. By incorporating this bias against higher taxes into the Constitution, we ensure that future Congresses are not tempted to reach into the wallets of the American people. We also ensure that the efforts of this Congress to cut spending and lower taxes are not in vain.

In sum, I strongly support House Joint Resolution 159 because if provides critically needed protection for American taxpayers. It will stack the deck against tax increases and for spending cuts. And, while it won't prevent taxpayers from having to spend another spring weekend doing their taxes, it will at least ensure that they don't have to pay more taxes than are truly necessary.

For these reasons, I urge my colleagues to support this important legislation.

Mr. BEREUTER. Mr. Speaker, this member rises in opposition to House Joint Resolution 159, the so-called tax limitation amendment. Certainly it would be more politically expedient to simply go along and vote in support of a Constitutional amendment requiring two-thirds approval by Congress for any tax increases. However, this Member can not in good conscience cast such a vote.

As this member stated when speaking in favor of a balanced budget amendment to the U.S Constitution, there is a great burden of proof to deviate from the basic principle of our democracy—the principle of majority rule. Unfortunately, this Member does not believe the proponents of this amendment have met this burden.

There should be no question of this Member's continued and enthusiastic support for a balanced budget and a constitutional amendment requiring such. Tax increases should not routinely be employed to achieve a balanced budget. That is why this member supported the inclusion of a supermajority requirement in the Rules of the 104th House which were adopted at the beginning of this Congress. However, to go beyond that and amend the Constitution is, in this Members opinion, an unreasonable and dangerous action.

Mr. PORTER. Mr. Speaker, I rise in opposition to this resolution. Amending the Constitution to require a two-thirds vote to raise taxes may make for good election year politics, but adding a policy-specific supermajority requirement to our Constitution runs contrary to the fabric of the text and is an unwise change that should be rejected.

I speak today, Mr. Speaker, as a very strong opponent of taxes. I believe that our fiscal problems do not result from excessive spending and I do not favor tax increases. During my service in Congress, I have voted against the tax increases that were adopted in 1983, 1990, and most recently, I opposed President Clinton's tax increase in 1993. My record in opposition to increased spending is equally strong and unwavering.

But I think it is instructive to reflect upon the teachings of the Founding Fathers when considering a proposition of this magnitude. Our forefathers founded this nation over 200 years ago in tax revolt. King George III's imposition of huge and unfair levies without the consent of the American colonists led to their rallying cry of "no taxation without representation." The British Crown's impositions, including heavy taxation, were among the principal causes of the American revolution.

Within a decade, in 1787, the leaders of that revolution were writing a new constitution to govern the relationship among the new National Government, the States, and the people. Heavy upon their minds was the power of the central government to tax. Yet, having the opportunity to require supermajorities for the imposition of any tax, they did not write such a provision into the new Constitution.

Indeed, supermajority provisions are found only rarely in our Constitution. In the instances where they are found, there is a particular rationale reflecting the concern of the Framers with the need to maintain checks and balances between the branches of the government and between the two Houses of the Congress. In no case do we find a policy-specific supermajority requirement such as the one that is proposed today.

Supermajority requirements are found in the Constitution in the context of expelling a member of the House or Senate or impeaching the President. Such requirements make obvious sense in that they protect Representatives or Senators espousing a minority viewpoint or a President who is disfavored by a majority of the legislative branch from being purged from office simply because of his or her views.

A supermajority requirement is also found with respect to the ratification of treaties by the Senate. Again, there is a process-based rationale for this requirement. Because the House plays no role in the treaty ratification process, and because treaties are afforded the status of supreme law, the Framers sought to avoid a situation whereby a President in concert with a simple majority of the Senate could utilize the treaty process to make law while circumventing the popularly elected House. The supermajority requirements was imposed as a check on this power.

There is also a supermajority requirement for the promulgation of an amendment to the Constitution. And, again, this is a process based requirement designed to protect the Constitution itself from constant revision.

Perhaps most well known is the supermajority requirement for the override of a Presidential veto. This requirement also relates to the concerns of the Framers about the balance of powers. During debate on the Constitution, it was proposed by some delegates that the President have an absolute veto over legislation that he disliked, with no provision for an override. Other delegates felt that the Chief Executive should play no role in the enactment of legislation and therefore should

VOL
142
PT
6
AP
15
—
24
1996
UMI

have no ability to veto legislation. The two-thirds override provision that found its way into the final version of our Constitution was essentially a compromise between these two views—the President was given the authority to negate legislation adopted by the Congress in order to protect against the potential for rash action by the legislative branch, but if a supermajority of legislators—after reflecting on the President's veto—nonetheless felt that the measure was in the national interest, they could reverse the effect of that veto.

Moreover, Mr. Speaker, the proponents of the resolution that we debate today have overlooked an even more fundamental reason why policy-specific legislative supermajority requirements were eschewed by the Framers. The bicameral composition of the legislative branch itself—with House members serving relatively short terms and apportioned by population and Senate members serving relatively long terms and apportioned by State—was designed to retard the adoption of unpopular or unfair legislation and, in particular, tax legislation The record of the debates of the Framers makes clear that a chief reason why the House was intentionally structured to keep its Members close to the wishes of their constituencies was to deter them from recklessly taxing those people. Equally clear is that the Senate was intended as a more insular and—it was assumed—contemplative body that would protect the small States from tax and other legislation that might be adopted by the House that might disproportionately impact such small States. In short, the bicameral legislature that we have today was fashioned—after considerable debate—to act as a check on both excess and unfair taxation. A supermajority provision respecting taxes was not considered necessary because it was considered redundant of the essential structure of the legislative branch.

Mr. Speaker, earlier this year, we changed the House rules to require a supermajority to raise taxes. I supported that change in the rules because I feel very strongly that, at this time, we should bind ourselves to resolve the present deficit crisis with a focus on the elimination of wasteful and unnecessary Federal spending and the elimination of programs that have outlived their usefulness or are more appropriately the function of the States or local governments. But the resolution before us today proposes to change the text of our Constitution and, in so doing, to bind future generations with respect to the resolution of a problem that we cannot anticipate. To do so is, in my judgment imprudent. And it is also unnecessary.

Mr. Speaker, I believe that the Founders had it right the first time—each of us must stand for election every 2 years and each of us must answer for our votes in this body. Those who vote for increased taxation must answer to their constituencies for such action and, it seems clear to me, that the voters continue to express a visceral dislike of taxes and a strong willingness to turn out of office those who lose touch with this sentiment. Senators also cannot escape the consequences of voting to raise taxes. Indeed, the move to a popularly elected Senate has, if anything, strengthened the responsiveness of the legislative branch to the anti-tax ethos that is found at the core of our Nation's founding and reflected in its central organizational document.

Mr. Speaker, those who propose to amend our Constitution bear a heavy burden to convince the Members of this body and the American people of the propriety of their action. This resolution does not meet that burden.

Mr. COYNE. Mr. Speaker, I rise today in opposition to this proposed amendment to the Constitution. I believe that such an amendment would be unwise.

I am primarily concerned that this amendment will spell the end of majority rule in this country. We will find it much harder to address the many financial problems that we know this country will face in coming years. Under this amendment, one-third of the Senate could block legislation. Conceivably, one-third of the Senate could represent States containing only 10 percent of the country's population. In short, 10 percent of the country's voters could thwart the will of the other 90 percent! That's not democracy.

What would be the effect of such a change in the Constitution? Well, let us just look at some of the close votes of the past. If this amendment had been part of the Constitution in years past, for example, we wouldn't have had the votes needed to pass the legislation that create Social Security or Medicare. If we adopt this amendment, we would find it much harder to close corporate tax loopholes—we can't even muster a majority of votes to eliminate them. I am also concerned that the proposed amendment, if ratified, would produce a Federal Tax Code that is more regressive than the one under which we live today. We could, for example, pass a flat tax or a VAT tax under this amendment, but we could not pass legislation that would reform the current income tax to make it more progressive and reduce the tax burden on working families.

Mr. KLECZKA. Even the Republicans don't really want to live by such rules. We have had a House rule for the last year that requires a three-fifths vote to increase income tax rates. The Republican-controlled House has already waived that rule four times. What are they saying by offering this constitutional amendment—stop us before we tax again? Or are they just offering this amendment as a political gesture that they know will never be ratified as part of the Constitution?

Moreover, this amendment would shift a great deal of control over Federal taxes from Congress to the courts. Under this amendment, anyone would have standing to bring a suit in court. Do we doubt that the courts would be inundated with cases challenging congressional tax legislation? I doubt that this is what the Founding Fathers had in mind.

If this amendment is ratified, it will be much more difficult to balance the budget in future years. In order to reduce the deficit under this amendment, Congress would have to make devastating changes in the programs that serve the needs of the American people—programs like Social Security, Medicare, and Medicaid. I do not think the American people want such an outcome.

We all know that in coming years, Congress will have to both cut spending and raise taxes in order to keep the deficit from exploding. Entitlements will have to contribute their share. But this amendment would result in paralysis and massive deficits that would cripple the country, impose unnecessary suffering on senior citizens and the poor, and choke off economic growth.

I find it especially disturbing that the House is considering this amendment without adequate hearings and consideration at the committee level first. Amending the Constitution is a major decision. Such a step deserves careful consideration. And yet we have had—what?—one hearing at the subcommittee level on this proposal. It hasn't even been considered by the full Judiciary Committee.

I urge my colleagues to reject this hasty and ill-advised amendment.

Mr. Speaker, I rise in opposition to House Joint Resolution 159. This constitutional change is unnecessary and misguided, and I urge my colleagues to oppose it.

This initiative strikes at the very heart of our constitutional democracy, eroding the principle of majority rule. The Constitution requires a supermajority only in extraordinary circumstances, such as a veto override or impeachment of a president. This resolution would give a small minority of this House the power to block critical bills—even responsible legislation designed to balance the federal budget—if you contain a tax increase. If Congress can declare war by a simple majority vote, surely we can pass a tax bill by the same margin.

I also foresee difficulties defining a tax increase. Earlier this year, the Republican House majority passed a bill reducing the earned income tax credit, a tax credit for our nation's working poor. That measure effectively increased low-income Americans' taxes by reducing their credit. However, the GOP did not consider that bill a tax increase. It is likely we will see similar controversies. If Congress eliminates an unjustified tax deduction, thereby resulting in a tax bracket change for an individual or a corporation, does that constitute a tax increase? Would it require a supermajority to right this hypothetical wrong? The answer is uncertain as this legislation is currently written.

The resolution's provision waiving the two-thirds requirement for "de minimis" tax increases is also troublesome. By failing to define a "de minimis" increase, the resolution abdicates responsibility for developing this guideline and turns it over to the federal courts. The courts will undoubtedly spend many years and thousands of taxpayer dollars delineating precisely what is meant by this term.

There are other technical difficulties with the measure. It does not define the time period over which a tax increase must be estimated in order to trigger the two-thirds requirement. Similarly, this amendment does not address situations where bills projected to decrease tax revenues actually increase taxes. Closing loopholes in the tax code could also be almost impossible if these efforts were subject to a two-thirds vote on the House.

Mr. Speaker, I would also note that the Republican-controlled House has not even been able to live under its own rule that income tax increases must be passed by a three-fifths vote. This rule has been waived three times in this Congress, allowing income tax bills to pass by a simple majority. If the GOP violates

the spirit of its own rules, what will prohibit it from circumventing a Constitutional amendment in a similar way?

House Joint Resolution 159 is the fourth attempt by this Republican Congress to amend the Constitution—the most ever since the post-civil war period. I urge my colleagues to vote against this resolution.

Mr. GILLMOR. Mr. Speaker, I rise in reluctant opposition to the tax limitation amendment offered by the gentlemen from Texas. I commend them for their hard work on this effort, but in the end, I believe this proposal is bad public policy.

Let me make it clear that I am opposed to a tax increase on the American people. I think the overall tax burden of the average American family is too large, and tax relief or tax reduction is appropriate. I believe this amendment is well intentioned, but as we all know, the "road to Hell is paved with good intentions."

Regrettably, this vote and the way it came about is an example of ideology prevailing over common sense. I do not believe that higher taxes are a panacea to our budget problems. I would support a lower tax burden. As Ohio Senate President, I was responsible for pushing through the largest income tax cut bill in Ohio history. This was accomplished even though we had to contend with a Democrat-controlled House and Democrat Governor who opposed that tax relief bill. Americans, of all backgrounds, deserve to have more money in their pockets to spend the best way they know. Government should not be in the business of making decisions that working families can make for themselves. The average family now pays more in taxes than for food, clothing, and shelter.

Let me briefly set out four reasons this proposal should not be approved tonight. First, changes to our fundamental charter, the U.S. Constitution, should not be undertaken lightly. The justification for this proposed change has simply not been adequately made. When the Constitution was first written, Congress was given the authority to raise revenues by a simple majority vote. This amendment places new hurdles on our jurisdiction, putting philosophy over reality.

Second, I want to remind the members that at the beginning of the 104th Congress, the House rules stipulated that new revenue provisions needed to be approved by three-fifths majority. This rule, though, has been waived repeatedly. Very simply, it did not work as intended, so it was waived. However, the Constitution cannot be waived.

Third, the practical effect of this type of provision if it had been in effect in the past would have prevented some of the most significant progress we have achieved as a nation. Specifically, I am referring to the National Highway System, our magnificent interstates that we all voted to renew earlier this Congress. These roads have given us the greatest transportation system in the world, and added hundreds of billions of dollars to our economy. If this Tax Limitation Amendment had been part of our Constitution when the Highway Act was originally voted on by the Congress, this system would not exist today. Congress first passed a gas tax to pay for this highway system, one of the greatest public works projects in our history, with more than two-thirds of House members voting for it. Yet, reauthorizing the tax would have never happened because in 1959 it would have failed by a vote of 243 to 163, less than two-thirds.

Fourth, the procedures used here simply fail to meet the minimum standards we should adhere to in voting on a constitutional amendment. There have been no meaningful hearings on this proposal. In fact, the current version was just recently drafted, behind closed doors, with no opportunity for the public, or even most Members, to examine it.

Mr. Speaker, I urge my colleagues to stand up for sound, reasonable, and practical public policy and oppose this amendment.

Mr. LANTOS. Mr. Speaker, this Congress—now under new management, as my distinguished colleagues on the other side of the aisle have repeatedly emphasized—has been long on rhetoric and extremely short on accomplishments. In the first session, we had the largest number of recorded votes in recent memory—and the fewest number of bills passed in recent memory. I hasten to add, Mr. Speaker, that the limited accomplishments of this Congress' new management had little to do with Presidential vetoes. It has a great deal to do with poor quality legislation and extremist legislation that has not found support even among the Republican majority in the other body. It has a great deal to do with partisan posturing while ignoring the importance of bipartisan cooperation and good government.

Today, Mr. Speaker, we are once again engaged in another exercise of symbolism rather than substance as we consider House Joint Resolution 159/169, to require a two-thirds vote in both houses of Congress in order to increase tax revenues. No one likes to pay taxes, and no one likes to pick up the tab after lunch. But just as there is no free lunch, taxes are the price we pay in order to participate in the benefits of civilized society.

Today is April 15—tax day, the deadline by which all of us must file our Federal income taxes. In order to take advantage of media interest in taxes, our colleagues on the other side of the aisle are bringing to the floor a bill which does little to deal with the burden of taxation, a bill which does little to deal with the issue of fairness in taxation. Once again we are seeing this House posture rather than perform. We are taking time today to consider an ill-conceived and ill-drafted resolution that will go nowhere, a resolution that this House should not even take the time to consider, a resolution that is so flawed that it should not be adopted.

Furthermore, Mr. Speaker, the majority on the other side of the aisle has already had a super majority requirement, which was adopted last year as a rule of the House. The House Rules require a three-fifth vote for any tax increase. But have they followed their own super-majority rule in the House? Since the adoption of the House Rule 16 months ago, the House majority has waived the rule three times for specific legislation. The hypocrisy is appalling, Mr. Speaker.

House Joint Resolution 159/169, which we are considering, has a number of serious flaws. First, it is a violation of the fundamental principle of majority rule that is a the heart of our democracy. Adopting this amendment would make democratic decision making more difficult. Requiring super majorities, in all but the most weighty and most fundamental issues, simply makes it even more difficult to govern. The paralysis we have seen in this House and between the House and the Senate over the past year would be considerably compounded by adding this new requirement.

Second, this amendment would erect serious new barriers to deficit reduction. If we are to deal with our Nation's deficit we must have both spending cuts and revenue increases in the years ahead. The requirement of a two-thirds vote for any legislation that raises revenues would make it difficult, if not impossible, to adopt legislation that balances program cuts and increased payments for government services. Under this amendment, even an increase in the fee charged visitors to our national parks would apparently require a two-thirds vote of the House and the Senate. A cut in the capital gains tax rate, according to official projections would result in an increase in tax revenues for the first few years, this it appears that a reduction in the capital gains tax rate would therefore require a two-thirds vote. The awkwardness of this requirement is obvious.

Third, as with so much of the legislation that we have considered in this house over the past sixteen months, this provision will be of much greater benefit to the wealthiest and most powerful Americans at the expense of the rest of our people. As the Center on Budget and Policy Priorities, which has expressed its strong opposition to this resolution, stated: "A two-thirds majority would be required to curb special interest tax benefits, which disproportionately benefit those at high income levels. By contrast, a simple majority vote would be required to cut federal programs, which primarily benefit the middle class and the poor."

The Concord Coalition—the respected bipartisan organization established four years ago by former Senators Paul Tsongas of Massachusetts and Warren Rudman of New Hampshire "to eliminate federal budget deficits and build a sound economy for future generations"—has expressed its opposition to this constitutional amendment. The Concord Coalition, which has taken fiscal responsibility very seriously, opposes this resolution and has announced that it will include this vote as a key vote for its 1996 congressional scorecard.

Mr. Speaker, there are a number of serious and thoughtful analyses that have been made in connection with the legislation that we are considering today. The Washington Post published an excellent editorial on April 12 entitled "Showboating on Tax Day" which raises very serious and thoughtful objections to the bill we are considering House Joint Resolution 159/169. As the Post argues: "Issues like this ought not be raised to the constitutional level. If evaded, the amendment would breed contempt for the Constitution. If adhered to, it would weaken the government whose resolve it purports to strengthen." Mr. Chairman, I ask that the text of this Washington Post editorial be included in the RECORD at the conclusion of my statement.

Mr. Speaker, this House has been too long on symbolism and too short on legislation that is meaningful to the American people. I urge

VOL
142
PT
6
AP
15
—
24
1996
UMI

my colleagues to oppose this symbolic resolution before us today. Let us move on to the serious and important business of the people.

Showboating on Tax Day

The House is scheduled to vote next week on a constitutional amendment requiring two-thirds votes of both houses to pass tax increases. It's a bad idea whose effect would likely be not so much to limit tax increases as to raise their political price by giving minorities the power to hold the majority hostage. The Republicans are staging the vote to demonstrate on tax day their devotion to lower taxes and smaller government. They should find a better way to do that than to turn the Constitution into a political toy.

The amendment is being advanced in the name of fiscal responsibility, but the effect would be to make a responsible fiscal policy harder to achieve. The budget is structurally out of balance now. It can only become more so as the baby boomers begin to retire; the day is not that far off. Aid to the elderly, mainly in the form of Social Security and Medicare, already makes up close to half the budget for other than interest and defense.

Left to itself, the share will increase; to protect the rest of government and keep the deficit from rising, there will be pressure to cut the net cost of these programs. If all the cost cutting takes the form of benefit reductions, the standard of living of the elderly, so painfully raised in recent years, will be adversely affected. For the sake of social equity as well as fiscal responsibility, there will need to be tax increases as well as benefit cuts. In the face of a problem as fundamental as this, why, except for misplaced ideology, make the decent solution harder to achieve?

The amendment tries to use a change in procedure to achieve a particular policy result. All kinds of questions of interpretation instantly arise. The Republicans want to cut the capital gains tax. As part of the argument in favor, they say that at least at first it will add to revenues rather than reduce them, because it will generate more sales of assets. If you have cut that supposedly adds to revenues, does that mean you need a two-thirds vote in both houses, or will simple majorities suffice? Over what time periods do you measure? Who does the measuring, and what if they turn out to be wrong?

Issues like this ought not be raised to the constitutional level. If evaded, the amendment would breed contempt for the Constitution. If adhered to, it would weaken the government whose resolve it purports to strengthen. If it's hard to assemble majorities for responsible budgets, how much harder to assemble two-thirds. This is a showy proposal meant to make its supporters look good on tax day. What it does instead is make them look like another bunch of pols in search of another gimmick. The House should vote this amendment down.

Mr. BUNNING of Kentucky. Mr. Speaker, this is the day that comes each year when the American people are reminded of the cost of their government. And this government ain't cheap.

The Federal budget has grown to more than one-and-a-half trillion dollars and that is a cost paid directly by working Americans. It has become too easy to sit here in our Nation's Capital and spend other people's money.

Other people's money—money that they earned through work and effort—should be spent with care and only for what we absolutely must have.

But, unfortunately, Jefferson, was right when he said that no one spends someone else's money as carefully as he spends his own.

If the amendment before us today is approved, it will make it more difficult for the government to spend other people's money in such a callous way. In a word, it will make us more accountable.

Those who like to call the ones who earn the money greedy because they want to keep more of it for their families should think again.

In my books, the greedy ones are those who sit here in Washington demanding that the workers hand over more and more of what they earn.

Mr. Speaker, our fiscal problem has not been a lack of revenues but too much spending of other people's money. The time has come for us to make it more difficult to take and spend money earned by the American worker.

Higher taxes and more spending are not signs of virtue. In fact, they are signs of a government grown too fat. To paraphrase President Reagan, you cannot measure compassion by the size of the Federal budget.

I think that it is time for some compassion for the folks who have been paying the bills around here.

The American taxpayer deserves a system that makes it at least as easy to cut spending as it is to raise taxes and this amendment will do that. It levels the field so that the easy answer is no longer to stick it to the taxpayer one more time.

If taxes grow more slowly and spending must be cut so that the government lives with its means, that is a virtue. It may help to curb the vice of spending more and more of other people's money.

I urge my colleagues to support the American Taxpayer and support the ⅔ majority rue for tax increases.

Mrs. SMITH of Washington. Mr. Speaker, I join my colleagues today in supporting this supermajority tax increase amendment. A year ago, my freshmen colleagues and I led a fight in the first round of an effort to bring taxation under control. Since coming to Congress a little over a year ago, I have seen first hand how difficult it is to cut Federal spending. One of the best disincentives we can use is to make raising taxes that much more difficult. The American people are no longer willing to give the benefit of the doubt to Congress. Our tax and spend addiction has taken over efforts for credible discussions about deficit reduction. As a grandmother of six young children, I only have to think of their future tax rates to realize what will happen if we do not get Federal spending under control. We have no moral right to depend on tax increases in the future to fund the Federal spending today.

Requiring a two-thirds supermajority for a tax increase is part of sound economic growth. States with supermajority requirements saw their economies grow 43 percent between 1980 and 1992. States without such requirements lagged behind at 35 percent. Taxes also grow more slowly in States with a supermajority requirement. In the State of Washington, we have such a supermajority and it has done much to increase the level of accountability between the taxpayers and their elected officials. It allows hard working Americans to invest their dollars in the economy whether it be through a home purchase, a college education, or simply providing a better life for their families.

I ask my colleagues today to join with me in supporting this two-thirds supermajority tax legislation. We can do no less for our children and grandchildren.

Ms. DUNN of Washington. Mr. Speaker, I rise today in strong support of House Joint Resolution 159 and urge my colleagues to approve this common sense and responsible measure.

The truth is, Mr. Speaker, that it is simply too easy to raise taxes.

Currently, it is easier to increase taxes than it is to cut them. In 1993, President Clinton and the Democratic-controlled Congress enacted the largest tax increase in the history of our great Nation by a 50-percent-plus-one vote. And that is exactly how it happened. They passed the largest increase in the history of the United States by a one-vote margin.

Democrats placed this burden squarely on the backs of the American people. Those tax increases took real money out of the pockets of real American families.

In 1995, Republicans worked to reverse the largest tax increase in the history of our Nation. Last fall, we passed and sent to the President a measure that would have included tax reductions to offset the economic burden placed on every American by the 1993 tax increases.

Unfortunately, the President vetoed that relief and in order to override the veto and pass tax cuts the Congress needed to achieve a two-thirds majority. It is simply too easy in this country to take more money out of the pockets of the citizens. Simple majority for a tax increase—and two-thirds majority for tax cut. This must stop. This Republican Congress will no longer allow elected officials to take the easy way out.

During the past 30 years there have been 16 major votes to increase taxes. Of those 16, only 8 would have passed if the two-thirds majority requirement had been in place. Since 1980, the taxpayers would have saved $666 billion had the tax limitation amendment been in effect.

Around the country States have also been forced to reform their spending, and budgeting priorities because of deficit-spending. The most successful method used by States has been some type of tax limitation. One-third of all Americans live in a State with tax limitation in their constitutions. Mr. Speaker, the Federal Government has learned a number of lessons from the States, and this is no exception. States that have enacted a tax limitation have experienced expanded economies, reduced spending and a better way of life for its citizens.

Mr. Speaker, I would hope that my colleagues on the other side of the aisle will at the very least listen to their constituents. The American people support tax limitation. Seventy percent of the American public support amending the Constitution to require a two-thirds vote to raise taxes.

The power of the Federal Government to tax is an enormous responsibility. If used unwisely this power will lead to a lower standard

of living for all Americans. With enactment of this amendment, no longer will tax increases become the preferred method of dealing with our Nation's finances. Ultimately, this measure will foster good government by forcing us to reevaluate commitments and prioritize spending. I urge my colleagues to support House Joint Resolution 159.

Mr. MCDERMOTT, Mr. Speaker, in the words of Seattle Time's columnist Terry Tang, today's debate is best summed up as "A Republican Floor Show Only a Cynic Could Love."

The proposed constitutional amendment is so gravely flawed it should not be debated on the floor of the House of Representatives. Instead of working to finish passages of this year's budget, or work on serious legislation, the Republican leadership has decided to waste valuable legislative time debating a bill they know will never pass.

Today's vote is nothing more than a cynical publicity stunt to pander for political votes. Today's vote to amend the Constitution to require a two-thirds vote to raise taxes is a perfect example of Republican legislation which has nothing to do with governing and everything to do with bumper-sticker politics.

While these sound-bite tactics play well in campaign ads, they fail the test of serious legislation. When will the Republican Party learn that there is more to legislating than trying to add a campaign slogan to the Constitution?

When the Republicans took control of the House in January 1995, one of the first things they did was pass a House rule requiring a three-fifth's vote to pass any legislation that included an increase in income tax rates. The Republicans touted the passage of this rule as a sign of their commitment to not raise taxes on Americans and balance the budget through spending cuts alone.

Have the Republicans lived up to their lofty promise not to raise taxes on Americans? The answer is an emphatic "No." On four separate occasions, the Republican leadership brought bills to the House floor for a vote which included increases in income tax rates on working Americans.

How do we know for sure that at least four Republican bills included tax increases?

Simply because they already have voted to waive their new rule four times in order to ensure passage of their legislation by a simply majority vote, and not the three-fifth's majority vote that their own House rule required.

Let me make this clear—the Republicans have ignored their own rule, they have voted on and passed four separate pieces of legislation which increased income tax rates on the American people, in direct contradiction to their widely publicized promise not to raise taxes.

The Republicans have clearly not been able to live according to the terms of the House rule they adopted for themselves at the start of this Congress.

The Republicans now want all of their minions to march down to the House floor today and ram an amendment through the House without ever taking the time to study what such an amendment might actually mean to the American people.

If the American people, and my colleagues across the aisle were to take the time to actually think about this bill, people would clearly see that such an amendment would have significant consequences on our country's future.

Passage of this amendment to the Constitution is nothing more than giving Speaker GINGRICH another tool to undermine the working men and women of America.

This amendment is structured to protect corporate welfare in the Tax Code, reduce spending on education and the environment, weaken Medicare and Medicaid and threaten the future of Social Security.

The latest budget proposals put forth by the President and the Republican leadership include provisions which would close corporate tax loopholes in the Tax Code to help reduce the deficit. Yet, the Republican leadership, with this amendment, is signaling to corporate American that they are in the clear from here on out because this amendment would make it almost impossible to close any tax loopholes for deficit reduction.

Why? Because the requirement for a two-thirds majority would not only apply to measures to raise taxes, but also to measures to cut unproductive tax expenditures that grant subsidies to select industries.

The amendment was drafted this way, despite the fact that a recent CBO study found that over half the corporate subsidies the Federal Government provides are through the Tax Code. Closing tax loopholes is often hard enough by a majority vote requirement—to constitutionally require a two-thirds vote of Congress to do so would be impossible.

The Republican party evidently would rather balance the budget on the backs of working men and women than require corporate America to contribute its fair share to deficit reduction.

It shouldn't be surprising to anyone to learn that this amendment is biased against average families and the poor.

Most Government programs that benefit working Americans, like Social Security, school loans, unemployment insurance and food stamps, to name a few, come from the spending side of the budget.

In contrast, wealthy individuals and corporations tend to receive benefits through the Tax Code. Because this amendment makes raising revenue for deficit reduction through the Tax Code very difficult, the wealthy and powerful are more easily able to preserve their Federal Government benefits.

Most distressing is that this amendment makes clear that the Republicans have no commitment to preserving Medicare or Social Security for future generations.

This amendment would prevent Congress from asking beneficiaries of these programs who have high incomes to pay for more of the Government benefits they receive.

The Medicare bill which the Republicans passed, would have increased the Medicare part B premiums for beneficiaries. Under today's amendment, it would not be allowed without a two-thirds vote.

Whether raising premiums is necessary or not, Congress needs the flexibility to be able to take actions such as increasing premiums or means testing Social Security benefits if a majority of Representatives think it is necessary for the continued financial integrity of these programs.

Amending the Constitution should not be taken lightly. It is disconcerting to know that bills we will be voting on later this evening on the suspension calendar will have undergone substantially more scrutiny than this proposed amendment.

Today's amendment has never had a hearing before either the Constitution Subcommittee or the full Judiciary Committee. This legislation has not been marked up nor has a report on this bill been filed.

Trying to amend the Constitution of the United States with a Republican Party campaign slogan is irrefutable evidence of how little respect the Republicans have for our Constitution.

For any Member to vote for legislation which has undergone so little scrutiny, let alone a constitutional amendment which will affect the lives of every American would be a serious mistake.

For this House to vote on such a flawed amendment is a disgrace to the institution and an insult to the Nation.

Mr. MARTINI. Mr. Speaker, I rise today in support of the American taxpayer and in support of this historic amendment being considered by the House of Representatives.

House Joint Resolution 159, the tax limitation amendment, will require a two-thirds supermajority vote of the Congress to raise Federal taxes.

Mr. Speaker, this amendment is necessary because the average family of four pays about 38.2 percent of their income in Federal, State, and local taxes. More than 3 hours of every 8-hour workday are dedicated to the tax man.

To put it another way, the average American works from New Year's Day to May 6 just to pay off his or her tax burden.

We believe that Americans are taxed too much, not too little. We also believe that individuals and families can better decide how to spend their money than Uncle Sam.

Unfortunately, most Americans are scared, they are feeling squeezed by falling wages and mixed signals on status of the economy.

People are anxious about their economic future and job security. In New Jersey, we see corporations like AT&T laying off thousands of employees and the Thomas' English Muffins plant closing their doors in Totowa.

Unfortunately, millions of working families gather around the kitchen table each week and wonder why it is they can't seem to make ends meet. They work longer hours, they take second jobs, but they feel like they are running in place.

In his State of the Union speech, President Clinton stated "our economy is the healthiest it has been in three decades." The President proudly pointed to statistics from the Department of the Treasury as well a robust year on Wall Street.

However, someone forgot to tell the President to check with middle-class America because he has failed to recognize the importance of what we refer to as the "Clinton Crunch."

Secretary of Labor, Robert Reich, likes to point out that real wages for the median worker have fallen 4.6 percent since 1979. What he doesn't tell the American people is that half the wage decline has occurred under the Clinton administration.

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In fact, the only period of sustained wage growth in the last 17 years came during the Reagan administration. You may recall former President Reagan advocated a policy of smaller government, lower taxes, and less intrusion into the lives of Americans. Sound familiar?

Mr. Speaker, we don't blame workers for falling wages, we simply believe that they are not being given the necessary tools to compete in the high-technology economy of the 1990's.

Productivity is stagnant because the rate of investment in new equipment in only half of what it was a decade ago.

Investment has been curtailed because our savings rate is low.

American families are not saving as much because Federal taxes are at an all time high.

We must provide working families with tax relief, that is what today's amendment is all about. If Congress wants to raise taxes it is going to require a two-thirds vote of this legislative body.

One-third of the States currently have their own form of the tax limitation amendment and not surprisingly those States had lower taxes, more economic growth, and more job creation than States without a tax limitation law.

Mr. Speaker, the facts are clear, tax relief benefits working families and working Americans. In fact, 74 percent of the proposed $500-per-child family tax credit will go to families making less than $75,000 a year.

Put another way, the $500-per-child tax credit means families earning less than $25,000 will no longer pay Federal taxes, those earning $30,000 will have 48 percent of their Federal tax liability wiped out.

With regards to capital gains tax relief, an IRS analysis of 1993 tax returns found that 77 percent of the tax returns reporting capital gains were filed by taxpayers with adjusted gross incomes of less than $75,000; 60 percent had adjusted gross incomes of less than $50,000.

Lower taxes benefit all Americans, not just the wealthy.

Last year Congress passed a plan to relieve some of the burden on the middle class. We passed a $500-per-child income tax credit for middle-income families, we passed capital gains tax reform, and we passed IRA self-loan legislation.

This Congress wants you to earn more and keep more of what you earn. Had our balanced budget been signed into law, instead of being vetoed by President Clinton, families could look forward to doing more with the money they earn.

Today, as Americans go to the post office to mail their tax returns, we will vote on a constitutional amendment to require a two-thirds supermajority to raise taxes.

If the two-thirds rule had been in existence in 1993, we would have stopped President Clinton's tax hike, and American families would now be paying less for gasoline, small businesses would be creating more jobs, and our retired parents and neighbors would be paying less in taxes.

A tougher standard to raise taxes will ensure that taxes are raised only when there is a broad consensus and when it is absolutely necessary.

This safeguard will help keep spending in check because Congress won't be able to take the easy way out and raise Federal taxes.

Mr. Speaker, House Joint Resolution 159 is another example of how the new majority in Congress is fulfilling its promises and making a difference to the American taxpayer.

Mr. WATTS of Oklahoma. Mr. Speaker, Americans understand the necessity of paying bills, balancing checkbooks, and living within their means. It is unfortunate that Americans must struggle to make ends meet, but their Government does not understand that concept.

The current Tax Code, with its high marginal rates and thousands of pages of rules, regulations, and redtape, poses a formidable barrier to economic growth. Tax reform must move toward making the Tax Code more user friendly and create incentives for savings and investment.

America's voters sent Washington a message in November 1994—just as Americans balance their budgets, so should the Government. This Congress has made fiscal responsibility the hallmark of our legislative agenda. We passed the Balanced Budget Act of 1995, which included a tax reform package, but unfortunately, the President vetoed it.

Today, millions of Americans will pay the Federal Government their share of the tax cut that the Republican Congress promised, then passed, and that the President promised, then vetoed. The Congress passed this tax cut because we believe the people who earn the money should keep more of what they earn, so they can do more for themselves, their children, their churches, and their communities.

For too long, Congress denied its responsibility by using tax increases to cover up its own lack of political will to make tough budgetary decisions. Because Federal benefits tend to be targeted at specific groups, special interest groups consistently come together to effectively lobby for more spending. Taxes, on the other hand, are spread among many millions of working Americans who don't hire Washington lobbyists.

Limiting the ability of Congress to raise taxes will force Congress to set real budget priorities. To safeguard our children and grandchildren from a return to the profligate ways of the past, of tax and spend, and spend and tax, we must enact a tax limitation amendment that ensures congressional accountability for the taxpayers' money.

My home State of Oklahoma has had a tax limitation on its books since 1922. It also has a balanced budget law. In Oklahoma any new tax must be submitted to a vote of the people of the State unless the tax receives a three-fourths supermajority of both the State house and the State senate. I wonder how many new taxes or tax increases would pass if they required a two-thirds supermajority or were submitted to a vote of the American people?

Mr. WELLER. Mr. Speaker, I come back to Washington today after an important district work period. I say important because with tax day approaching, and now finally here, I heard time and time again from constituents who are overtaxed. As a result, they find it very difficult to save for retirement, for a down payment on a home, and for a college education for their children

The American people aren't dumb. They know all to well that the largest obstacle to their personal prosperity is an out-of-touch Government that spends without restraint and looks to the taxpayers to bail it out after the fact.

Some in this Chamber may have forgotten that President Clinton's 1993 tax hike was passed out of this body by a single vote. I am here to tell you that the people of the 11th district haven't forgotten that vote that enacted the greatest tax increase in the history of our Nation, no, the history of civilization. My constituents, who have been squeezed by this additional tax, know all to well what $1,100 in additional taxes has meant for them. This was the single largest contributing factor to the doubling of the American tax burden from $2,300 in 1980 to $4,800 in 1995. According to the Census Bureau, household incomes were actually lower in 1994 than they were when Bill Clinton took office in 1992 and there is no evidence to suggest that they have risen since then because economic growth has been so slow.

That is why I am proud to come to the well today as a cosponsor of this historic legislation to bring some accountability to the Halls of Congress. The American people support making it more difficult for Congress to raise taxes. They ought to * * * Currently, one third of all Americans live in a State with a tax limitation in the Constitution. These citizens know first hand what a tax limitation amendment can do.

In States with a tax limitation taxes grow at a slower rate. This slower rate means that citizens in those States have a fighting chance to get ahead and to save. Economies and employment also grow at faster rates in States that have tax limitations.

Mr. Speaker, every year tax freedom day gets later and later. Currently, Americans need to work until May to pay off their yearly tax burden. Today, we have an opportunity to end this insanity. I urge my colleagues to bring accountability to Congress and freedom to the American taxpayer by passing this important tax limitation amendment to the Constitution.

Mr. EWING. Mr. Speaker, taxes in America are too high on working men and women and their families. Today the average American family pays 38 percent of their income in taxes to local, State, and the Federal Government. That means a family with an income of $25,000 a year only takes home $15,500 to spend on their families.

These high taxes not only take money away from families, they also hurt our Nation's economy and slow its growth which means fewer jobs for Americans. The Joint Economic Committee released a study that shows of the States that have raised income taxes these States lost nearly 200,000 jobs and unemployment rose by 2.3 percent. Conversely, in States that cut income taxes nearly one million new jobs were created and unemployment rose by only .3 percent.

Over the past 30 years there have been 16 major votes to increase Federal taxes on Americans. Had a super-majority requirement been in place only 8 would have become law. In the 1980's alone, had the tax limitation amendment been in place taxpayers would have saved $666 billion. The past 30 years shows that the Federal Government can not control its addiction to taxation.

The 104th Congress is conscious of the high tax burden on Americans, just as past

Congresses have not been afraid to raise taxes. I therefore support this constitutional amendment because raising taxes is too harmful to our economy, employment, and takes money away from American families. This amendment should be considered as a comparison to the balanced budget amendment and both amendments should be sent to the States for ratification.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for general debate has expired.

Is there a Member intending to offer the amendment made in order under the rule? If not, pursuant to House Resolution 395, the previous question is ordered.

The question is on engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. STENHOLM. I certainly am, in its current form.

The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. STENHOLM moves to recommit House Joint Resolution 159 to the Committee on the Judiciary with instructions that the Committee conduct hearings and a necessary study on the joint resolution.

The SPEAKER pro tempore. The gentleman from Texas [Mr. STENHOLM] is recognized for 5 minutes in support of his motion.

Mr. STENHOLM. Mr. Speaker, the debate tonight has been a good debate. Members on both sides have made very good and relevant points. However, I believe it has now been clearly demonstrated that much more work remains before this amendment should be sent to the other body. If I have learned anything over the many years that we spent in bipartisan work on the passage of the balanced budget constitutional amendment, it is a tremendous respect for every significant single word that goes into the Constitution of the United States.

The constitutional amendment bipartisanly worked on over the years underwent a great deal of scrutiny both in the public arena and in committee hearings. The amendment evolved and improved because of that scrutiny. We have seen an alarming abuse of the committee review process during this entire Congress, but never so blatantly as with this constitutional amendment.

For people who revere the history of this Nation, the aborted democratic procedures of the past year and a half make a mockery of the title deliberative body. To bring a constitutional amendment to the floor of the House without having it undergo the scrutiny of the Committee on the Judiciary I think in itself is ample reason that this House tonight should refer this amendment back to the committee so that it may be what it should have done before tonight, and that is conduct hearings on this amendment, on these words, on this what has been spoken tonight, and a necessary study of the joint resolution, and then bring it forward again for consideration of this House if the majority so wills.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Does the gentleman from Florida wish to be recognized in opposition to the motion to recommit?

Mr. CANADY of Florida. I do wish to be recognized in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 5 minutes.

Mr. CANADY of Florida. Mr. Speaker, let me just point out it is erroneous to claim the House Committee on the Judiciary has not considered this issue. The Committee on the Judiciary has considered the issue. Hearings have been held on this issue.

Let me review some of the history that has occurred during this Congress. In the first session of this Congress the Committee on the Judiciary Subcommittee on the Constitution held hearings on House Joint Resolution 1, the Balanced Budget Constitutional Amendment. Those hearings were conducted on January 9 and January 10. House Joint Resolution 1, as reported by the Committee on the Judiciary on January 11, 1995, included a three-fifths majority voting requirement to increase tax revenues. During floor consideration of House Joint Resolution 1, on January 25 and 26, 1995, the full House voted on the Barton balanced budget proposal, which would have required a three-fifths majority of the entire House and Senate to increase tax revenue and would have allowed a simple majority to waive the requirement in time of war or in the face of serious military threat. Although the Barton proposal received 253 votes, an amendment without the supermajority tax limitation provision was ultimately adopted by the House by a vote of 300 to 132.

I would like to continue with my explanation. On March 6 of this year, the Subcommittee on the Constitution again held hearings on a supermajority tax limitation provision. It is true that the hearing was held on a proposal that did not have language identical to this language. But that hearing considered a broad range of issues related to a supermajority requirement in connection with taxes.

Now, the issue before the House tonight is this: Are the American people undertaxed or not? The opponents of this bill believe that the American people are undertaxed and the debate began with an assertion comparing our tax rate in this country and the tax burden in this country to the tax burden in other countries around the world. The clear implication was that the opponents of this bill believe that the American people are undertaxed. I do not think that the American people agree with that, and as Americans all over the country are racing to the post office to deposit their tax returns in the U.S. Mail, I think most of them are saying that they are not undertaxed. Indeed, I believe that they are overtaxed. All the polls show that. That is consistent. It crosses party lines.

So, the issue here that is before the House tonight is whether we are going to take steps to restrain the taxing authority of this Government. I understand that a principled case can be made against that. But that is the issue before us.

Now, if you believe that the American people are undertaxed, I would suggest that you vote against the motion to recommit and that you vote against this proposed amendment. But if you believe that the tax burden on the American people should be restrained, then I would suggest that you vote against the motion to recommit and in favor of this proposed amendment to the Constitution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The question is on the motion to recommit offered by the gentleman from Texas [Mr. STENHOLM].

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 243, nays 177, not voting 12, as follows:

[Roll No. 117]

YEAS—243

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono

VOL
142
PT
6
AP
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1996
UMI

Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greene
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Parker
Paxon
Petri
Pombo
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Walker
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—177

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Campbell
Cardin
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gillmor
Gonzalez
Gunderson
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hostettler
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Porter
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Thomas
Thompson
Thurman
Torres
Torricelli
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn

NOT VOTING—12

Becerra
Chapman
Fields (LA)
Flake
Ford
McDade
Rose
Schroeder
Thornton
Towns
Wilson
Yates

□ 2331

So, two-thirds not having voted in favor thereof, the joint resolution was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FLAKE. Mr. Speaker, last night I missed rollcall No. 117. Had I been present, I would have voted "nay" on it.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 51. Concurrent resolution to provide for the approval of final regulations that are applicable to employing offices that are not employing offices of the House of Representatives or the Senate, and to covered employees who are not employees of the House of Representatives or the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1972

Mr. PETERSON of Minnesota. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1972.

The SPEAKER pro tempore (Mr. RIGGS). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

Pursuant to clause 1. rule I, the Journal stands approved.

AMERICAN OVERSEAS INTERESTS ACT—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–197)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 1561, the "Foreign Relations Authorization Act, Fiscal Years 1996 and 1997."

This legislation contains many unacceptable provisions that would undercut U.S. leadership abroad and damage our ability to assure the future security and prosperity of the American people. It would unacceptably restrict the President's ability to address the complex international challenges and opportunities of the post-Cold War era. It would also restrict Presidential authority needed to conduct foreign affairs and to control state secrets, thereby raising serious constitutional concerns.

First, the bill contains foreign policy provisions, particularly those involving East Asia, that are of serious concern. It would amend the Taiwan Relations Act (TRA) to state that the TRA supersedes the provisions of the 1982 Joint Communique between the United States and China. The 1982 Communique has been one of the cornerstones of our bipartisan policy toward China for over 13 years. The ongoing management of our relations with China is one of the central challenges of United States foreign policy, but this bill would complicate, not facilitate that task. The bill would also sharply restrict the use of funds to further normalize relations with Vietnam, hampering the President's ability to pursue our national interests there and potentially jeopardizing further progress on POW/MIA issues. If read literally, this restriction would also raise constitutional concerns.

Second, the bill would seriously impede the President's authority to organize and administer foreign affairs

agencies to best serve the Nation's interests and the Administration's foreign policy priorities. I am a strong supporter of appropriate reform and, building on bipartisan support, my Administration has already implemented significant steps to reinvent our international operations in a way that has allowed us to reduce funding significantly, eliminate positions, and close embassies, consulates, and other posts overseas. But this bill proceeds in an improvident fashion, mandating the abolition of at least one of three important foreign affairs agencies, even though each agency has a distinct and important mission that warrants a separate existence. Moreover, the inflexible, detailed mandates and artificial deadlines included in this section of the bill should not be imposed on any President.

Third, the appropriations authorizations included in the bill, for fiscal years 1996 and 1997, fall unacceptably below the levels necessary to conduct the Nation's foreign policy and to protect U.S. interests abroad. These inadequate levels would adversely affect the operation of overseas posts of the foreign affairs agencies and weaken critical U.S. efforts to promote arms control and nonproliferation, reform international organizations and peacekeeping, streamline public diplomacy, and implement sustainable development activities. These levels would cause undue reductions in force of highly skilled personnel at several foreign affairs agencies at a time when they face increasingly complex challenges.

Fourth, this bill contains a series of objectionable provisions that limit U.S. participation in international organizations, particularly the United Nations (U.N.). For example, a provision on intelligence sharing with the U.N. would unconstitutionally infringe on the President's power to conduct diplomatic relations and limit Presidential control over the use of state secrets. Other provisions contain problematic notification, withholding, and certification requirements.

These limits on participation in international organizations, particularly when combined with the low appropriation authorization levels, would undermine current U.S. diplomatic efforts—which enjoy bipartisan support—to reform the U.N. budget. The provisions included in the bill are also at odds with ongoing discussions between the Administration and the Congress aimed at achieving consensus on these issues.

Fifth, the bill fails to remedy the severe limitations placed on U.S. population assistance programs by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107). That law imposes unacceptable spending restrictions pending authorization for U.S. bilateral and multilateral population assistance programs. But H.R. 1561 does not authorize these programs. Consequently, these restrictions will remain in place and will have a significant, adverse impact on women and families in the developing world. It is estimated that nearly 7 million couples in developing countries will have no access to safe, voluntary family planning services. The result will be millions of unwanted pregnancies and an increase in the number of abortions.

Finally, the bill contains a number of other objectionable provisions. Some of the most problematic would: (1) abruptly terminate the Agency for International Development's housing guaranty (HG) program, as well as abrogate existing HG agreements, except for South Africa, and prohibit foreign assistance to any country that fails to make timely payments or reimbursements on HG loans; (2) hinder negotiations aimed at resolving the plight of Vietnamese boat people; (3) unduly restrict the ability of the United States to participate in the United Nations Human Rights Committee; and (4) extend provisions of the Nuclear Proliferation Prevention Act that I have objected to in the past. I am also concerned that the bill, by restricting the time period during which economic assistance funds can be expended for longer-term development projects, would diminish the effectiveness of U.S. assistance programs.

In returning H.R. 1561, I recognize that the bill contains a number of important authorities for the Department of State and the United States Information Agency. In its current form, however, the bill is inconsistent with the decades-long tradition of bipartisanship in U.S. foreign policy. It unduly interferes with the constitutional prerogatives of the President and would seriously impair the conduct of U.S. foreign affairs.

For all these reasons, I am compelled to return H.R. 1561 without my approval.

WILLIAM J. CLINTON.

THE WHITE HOUSE, April 12, 1996.

□ 2345

The SPEAKER pro tempore (Mr. RIGGS). The objections of the President will be spread at large upon the Journal, and the message and the bill will be printed as a House document.

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that further consideration of the veto message on the bill, H.R. 1561, be postponed until Tuesday, April 23, 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON S. 735, TERRORISM PERVENTION ACT

Mr. HYDE submitted the following conference report and statement on the Senate bill (S. 735) to prevent and punish acts of terrorism, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–518)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 735), to prevent and punish acts of terrorism, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antiterrorism and Effective Death Penalty Act of 1996".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—HABEAS CORPUS REFORM

Sec. 101. Filing deadlines.
Sec. 102. Appeal.
Sec. 103. Amendment of Federal Rules of Appellate Procedure.
Sec. 104. Section 2254 amendments.
Sec. 105. Section 2255 amendments.
Sec. 106. Limits on second or successive applications.
Sec. 107. Death penalty litigation procedures.
Sec. 108. Technical amendment.

TITLE II—JUSTICE FOR VICTIMS

Subtitle A—Mandatory Victim Restitution

Sec. 201. Short title.
Sec. 202. Order of restitution.
Sec. 203. Conditions of probation.
Sec. 204. Mandatory restitution.
Sec. 205. Order of restitution to victims of other crimes.
Sec. 206. Procedure for issuance of restitution order.
Sec. 207. Procedure for enforcement of fine or restitution order.
Sec. 208. Instruction to Sentencing Commission.
Sec. 209. Justice Department regulations.
Sec. 210. Special assessments on convicted persons.
Sec. 211. Effective date.

Subtitle B—Jurisdiction for Lawsuits Against Terrorist States

Sec. 221. Jurisdiction for lawsuits against terrorist states.

Subtitle C—Assistance to Victims of Terrorism

Sec. 231. Short title.
Sec. 232. Victims of Terrorism Act.
Sec. 233. Compensation of victims of terrorism.
Sec. 234. Crime victims fund.
Sec. 235. Closed circuit televised court proceedings for victims of crime.
Sec. 236. Technical correction.

TITLE III—INTERNATIONAL TERRORISM PROHIBITIONS

Subtitle A—Prohibition on International Terrorist Fundraising

Sec. 301. Findings and purpose.
Sec. 302. Designation of foreign terrorist organizations.
Sec. 303. Prohibition on terrorist fundraising.

Subtitle B—Prohibition on Assistance to Terrorist States

Sec. 321. Financial transactions with terrorists.
Sec. 322. Foreign air travel safety.
Sec. 323. Modification of material support provision.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Sec. 324. Findings.
Sec. 325. Prohibition on assistance to countries that aid terrorist states.
Sec. 326. Prohibition on assistance to countries that provide military equipment to terrorist states.
Sec. 327. Opposition to assistance by international financial institutions to terrorist states.
Sec. 328. Antiterrorism assistance.
Sec. 329. Definition of assistance.
Sec. 330. Prohibition on assistance under Arms Export Control Act for countries not cooperating fully with United States antiterrorism efforts.

TITLE IV—TERRORIST AND CRIMINAL ALIEN REMOVAL AND EXCLUSION

Subtitle A—Removal of Alien Terrorists

Sec. 401. Alien terrorist removal.

Subtitle B—Exclusion of Members and Representatives of Terrorist Organizations

Sec. 411. Exclusion of alien terrorists.
Sec. 412. Waiver authority concerning notice of denial of application for visas.
Sec. 413. Denial of other relief for alien terrorists.
Sec. 414. Exclusion of aliens who have not been inspected and admitted.

Subtitle C—Modification to Asylum Procedures

Sec. 421. Denial of asylum to alien terrorists.
Sec. 422. Inspection and exclusion by immigration officers.
Sec. 423. Judicial review.

Subtitle D—Criminal Alien Procedural Improvements

Sec. 431. Restricting the defense to exclusion based on 7 years permanent residence for certain criminal aliens.
Sec. 432. Access to certain confidential immigration and naturalization files through court order.
Sec. 433. Criminal alien identification system.
Sec. 434. Establishing certain alien smuggling-related crimes as RICO-predicate offenses.
Sec. 435. Authority for alien smuggling investigations.
Sec. 436. Expansion of criteria for deportation for crimes of moral turpitude.
Sec. 437. Miscellaneous provisions.
Sec. 438. Interior repatriation program.
Sec. 439. Deportation of nonviolent offenders prior to completion of sentence of imprisonment.
Sec. 440. Authorizing State and local law enforcement officials to arrest and detain certain illegal aliens.
Sec. 441. Criminal alien removal.
Sec. 442. Limitation on collateral attacks on underlying deportation order.
Sec. 443. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 444. Extradition of aliens.

TITLE V—NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS RESTRICTIONS

Subtitle A—Nuclear Materials

Sec. 501. Findings and purpose.
Sec. 502. Expansion of scope and jurisdictional bases of nuclear materials prohibitions.
Sec. 503. Report to Congress on thefts of explosive materials from armories.

Subtitle B—Biological Weapons Restrictions

Sec. 511. Enhanced penalties and control of biological agents.

Subtitle C—Chemical Weapons Restrictions

Sec. 521. Chemical weapons of mass destruction; study of facility for training and evaluation of personnel who respond to use of chemical or biological weapons in urban and suburban areas.

TITLE VI—IMPLEMENTATION OF PLASTIC EXPLOSIVES CONVENTION

Sec. 601. Findings and purposes.
Sec. 602. Definitions.
Sec. 603. Requirement of detection agents for plastic explosives.
Sec. 604. Criminal sanctions.
Sec. 605. Exceptions.
Sec. 606. Seizure and forfeiture of plastic explosives.
Sec. 607. Effective date.

TITLE VII—CRIMINAL LAW MODIFICATIONS TO COUNTER TERRORISM

Subtitle A—Crimes and Penalties

Sec. 701. Increased penalty for conspiracies involving explosives.
Sec. 702. Acts of terrorism transcending national boundaries.
Sec. 703. Expansion of provision relating to destruction or injury of property within special maritime and territorial jurisdiction.
Sec. 704. Conspiracy to harm people and property overseas.
Sec. 705. Increased penalties for certain terrorism crimes.
Sec. 706. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.
Sec. 707. Possession of stolen explosives prohibited.
Sec. 708. Enhanced penalties for use of explosives or arson crimes.
Sec. 709. Determination of constitutionality of restricting the dissemination of bomb-making instructional materials.

Subtitle B—Criminal Procedures

Sec. 721. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
Sec. 722. Clarification of maritime violence jurisdiction.
Sec. 723. Increased and alternate conspiracy penalties for terrorism offenses.
Sec. 724. Clarification of Federal jurisdiction over bomb threats.
Sec. 725. Expansion and modification of weapons of mass destruction statute.
Sec. 726. Addition of terrorism offenses to the money laundering statute.
Sec. 727. Protection of Federal employees; protection of current or former officials, officers, or employees of the United States.
Sec. 728. Death penalty aggravating factor.
Sec. 729. Detention hearing.
Sec. 730. Directions to Sentencing Commission.
Sec. 731. Exclusion of certain types of information from definitions.
Sec. 732. Marking, rendering inert, and licensing of explosive materials.

TITLE VIII—ASSISTANCE TO LAW ENFORCEMENT

Subtitle A—Resources and Security

Sec. 801. Overseas law enforcement training activities.
Sec. 802. Sense of Congress.
Sec. 803. Protection of Federal Government buildings in the District of Columbia.
Sec. 804. Requirement to preserve record evidence.
Sec. 805. Deterrent against terrorist activity damaging a Federal interest computer.
Sec. 806. Commission on the Advancement of Federal Law Enforcement.
Sec. 807. Combatting international counterfeiting of United States currency.
Sec. 808. Compilation of statistics relating to intimidation of Government employees.
Sec. 809. Assessing and reducing the threat to law enforcement officers from the criminal use of firearms and ammunition.
Sec. 810. Study and report on electronic surveillance.

Subtitle B—Funding Authorizations for Law Enforcement

Sec. 811. Federal Bureau of Investigation.
Sec. 812. United States Customs Service.
Sec. 813. Immigration and Naturalization Service.
Sec. 814. Drug Enforcement Administration.
Sec. 815. Department of Justice.
Sec. 816. Department of the Treasury.
Sec. 817. United States Park Police.
Sec. 818. The Judiciary.
Sec. 819. Local firefighter and emergency services training.
Sec. 820. Assistance to foreign countries to procure explosive detection devices and other counterterrorism technology.
Sec. 821. Research and development to support counterterrorism technologies.
Sec. 822. Grants to State and local law enforcement for training and equipment.
Sec. 823. Funding source.

TITLE IX—MISCELLANEOUS

Sec. 901. Expansion of territorial sea.
Sec. 902. Proof of citizenship.
Sec. 903. Representation fees in criminal cases.
Sec. 904. Severability.

TITLE I—HABEAS CORPUS REFORM

SEC. 101. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

"(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

"(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

"(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.".

SEC. 102. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§2253. Appeal

"(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

"(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the United States, or to test the validity of such person's detention pending removal proceedings.

"(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

"(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

"(B) the final order in a proceeding under section 2255.

"(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

"(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).".

SEC. 103. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"Rule 22. Habeas corpus and section 2255 proceedings

"(a) APPLICATION FOR THE ORIGINAL WRIT.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

"(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or its representative, a certificate of appealability is not required.".

SEC. 104. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

"(A) the applicant has exhausted the remedies available in the courts of the State; or

"(B)(i) there is an absence of available State corrective process; or

"(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

"(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

"(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

"(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

"(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

"(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

"(A) the claim relies on—

"(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

"(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense."; and

(5) by adding at the end the following new subsections:

"(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.".

SEC. 105. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

(2) by adding at the end the following new undesignated paragraphs:

"A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the date on which the judgment of conviction becomes final;

"(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

"(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

"Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

"(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

"(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.".

SEC. 106. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking "and the petition" and all that follows through "by such inquiry." and inserting ", except as provided in section 2255.".

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

"(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

"(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

"(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

"(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

"(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

"(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

"(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

"(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and

VOL
142
PT
6
AP
15
—
24
1996
UMI

shall not be the subject of a petition for rehearing or for a writ of certiorari.

"(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.".

SEC. 107. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2263. Filing of habeas corpus application; time requirements; tolling rules.
"2264. Scope of Federal review; district court adjudications.
"2265. Application to State unitary review procedure.
"2266. Limitation periods for determining applications and motions.

"§2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by State law, a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

"(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

"(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

"§2263. Filing of habeas corpus application; time requirements; tolling rules

"(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

"(b) The time requirements established by subsection (a) shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

"(3) during an additional period not to exceed 30 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

"§2264. Scope of Federal review; district court adjudications

"(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

"(1) the result of State action in violation of the Constitution or laws of the United States;

"(2) the result of the Supreme Court's recognition of a new Federal right that is made retroactively applicable; or

"(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

"(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

"§2265. Application to State unitary review procedure

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) To qualify under this section, a unitary review procedure must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Sections 2262, 2263, 2264, and 2266 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to 'an order under section 2261(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

"§2266. Limitation periods for determining applications and motions

"(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

"(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

"(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

"(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

"(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

"(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

"(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

"(III) Whether the failure to allow a delay in a case that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

"(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

"(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ of mandamus not later than 30 days after the filing of the petition.

"(5)(A) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

"(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

"(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

"(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

"(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

"(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.".

(b) TECHNICAL AMENDMENT.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases 2261.".

(c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 108. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

"(9) Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.".

TITLE II—JUSTICE FOR VICTIMS

Subtitle A—Mandatory Victim Restitution

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Mandatory Victims Restitution Act of 1996".

SEC. 202. ORDER OF RESTITUTION.

Section 3556 of title 18, United States Code, is amended—

(1) by striking "may" and inserting "shall"; and

(2) by striking "sections 3663 and 3664." and inserting "section 3663A, and may order restitution in accordance with section 3663. The procedures under section 3664 shall apply to all orders of restitution under this section.".

SEC. 203. CONDITIONS OF PROBATION.

Section 3563 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking "and" at the end;

(B) in the first paragraph (4) (relating to conditions of probation for a domestic crime of violence), by striking the period and inserting a semicolon;

(C) by redesignating the second paragraph (4) (relating to conditions of probation concerning drug use and testing) as paragraph (5);

(D) in paragraph (5), as redesignated, by striking the period at the end and inserting a semicolon; and

(E) by inserting after paragraph (5), as redesignated, the following new paragraphs:

"(6) that the defendant—

"(A) make restitution in accordance with sections 2248, 2259, 2264, 2327, 3663, 3663A, and 3664; and

"(B) pay the assessment imposed in accordance with section 3013; and

"(7) that the defendant will notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments."; and

(2) in subsection (b)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (22) as paragraphs (2) through (21), respectively; and

(C) by amending paragraph (2), as redesignated, to read as follows:

"(2) make restitution to a victim of the offense under section 3556 (but not subject to the limitation of section 3663(a) or 3663A(c)(1)(A));".

SEC. 204. MANDATORY RESTITUTION.

(a) IN GENERAL.—Chapter 232 of title 18, United States Code, is amended by inserting immediately after section 3663 the following new section:

"§3663A. Mandatory restitution to victims of certain crimes

"(a)(1) Notwithstanding any other provision of law, when sentencing a defendant convicted of an offense described in subsection (c), the court shall order, in addition to, or in the case of a misdemeanor, in addition to or in lieu of, any other penalty authorized by law, that the defendant make restitution to the victim of the offense or, if the victim is deceased, to the victim's estate.

"(2) For the purposes of this section, the term 'victim' means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable

VOL 142 PT 6 AP 15 — 24 1996 UMI

by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.

"(3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

"(b) The order of restitution shall require that such defendant—

"(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

"(A) return the property to the owner of the property or someone designated by the owner; or

"(B) if return of the property under subparagraph (A) is impossible, impracticable, or inadequate, pay an amount equal to—

"(i) the greater of—

"(I) the value of the property on the date of the damage, loss, or destruction; or

"(II) the value of the property on the date of sentencing, less

"(ii) the value (as of the date the property is returned) of any part of the property that is returned;

"(2) in the case of an offense resulting in bodily injury to a victim—

"(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

"(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

"(C) reimburse the victim for income lost by such victim as a result of such offense;

"(3) in the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

"(c)(1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense—

"(A) that is—

"(i) a crime of violence, as defined in section 16;

"(ii) an offense against property under this title, including any offense committed by fraud or deceit; or

"(iii) an offense described in section 1365 (relating to tampering with consumer products); and

"(B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.

"(2) In the case of a plea agreement that does not result in a conviction for an offense described in paragraph (1), this section shall apply only if the plea specifically states that an offense listed under such paragraph gave rise to the plea agreement.

"(3) This section shall not apply in the case of an offense described in paragraph (1)(A)(ii) if the court finds, from facts on the record, that—

"(A) the number of identifiable victims is so large as to make restitution impracticable; or

"(B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.

"(d) An order of restitution under this section shall be issued and enforced in accordance with section 3664.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 232 of title 18, United States Code, is amended by inserting immediately after the matter relating to section 3663 the following:

"3663A. Mandatory restitution to victims of certain crimes.".

SEC. 205. ORDER OF RESTITUTION TO VICTIMS OF OTHER CRIMES.

(a) IN GENERAL.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "(a)(1) The court" and inserting "(a)(1)(A) The court";

(B) by inserting ", section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863) (but in no case shall a participant in an offense under such sections be considered a victim of such offense under this section)," before "or section 46312,";

(C) by inserting "other than an offense described in section 3663A(c)," after "title 49,";

(D) by inserting before the period at the end the following: ", or if the victim is deceased, to the victim's estate";

(E) by adding at the end the following new subparagraph:

"(B)(i) The court, in determining whether to order restitution under this section, shall consider—

"(I) the amount of the loss sustained by each victim as a result of the offense; and

"(II) the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.

"(ii) To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section outweighs the need to provide restitution to any victims, the court may decline to make such an order."; and

(F) by amending paragraph (2) to read as follows:

"(2) For the purposes of this section, the term 'victim' means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.";

(2) by striking subsections (c) through (i); and

(3) by adding at the end the following new subsections:

"(c)(1) Notwithstanding any other provision of law (but subject to the provisions of subsections (a)(1)(B) (i)(II) and (ii), when sentencing a defendant convicted of an offense described in section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863), in which there is no identifiable victim, the court may order that the defendant make restitution in accordance with this subsection.

"(2)(A) An order of restitution under this subsection shall be based on the amount of public harm caused by the offense, as determined by the court in accordance with guidelines promulgated by the United States Sentencing Commission.

"(B) In no case shall the amount of restitution ordered under this subsection exceed the amount of the fine ordered for the offense charged in the case.

"(3) Restitution under this subsection shall be distributed as follows:

"(A) 65 percent of the total amount of restitution shall be paid to the State entity designated to administer crime victim assistance in the State in which the crime occurred.

"(B) 35 percent of the total amount of restitution shall be paid to the State entity designated to receive Federal substance abuse block grant funds.

"(4) The court shall not make an award under this subsection if it appears likely that such award would interfere with a forfeiture under chapter 46 of this title or under the Controlled Substances Act (21 U.S.C. 801 et seq.).

"(5) Notwithstanding section 3612(c) or any other provision of law, a penalty assessment under section 3013 or a fine under subchapter C of chapter 227 shall take precedence over an order of restitution under this subsection.

"(6) Requests for community restitution under this subsection may be considered in all plea agreements negotiated by the United States.

"(7)(A) The United States Sentencing Commission shall promulgate guidelines to assist courts in determining the amount of restitution that may be ordered under this subsection.

"(B) No restitution shall be ordered under this subsection until such time as the Sentencing Commission promulgates guidelines pursuant to this paragraph.

"(d) An order of restitution made pursuant to this section shall be issued and enforced in accordance with section 3664.".

(b) SEXUAL ABUSE.—Section 2248 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (c).

(c) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—Section 2259 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (e).

(d) DOMESTIC VIOLENCE.—Section 2264 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (g); and

(4) by adding at the end the following new subsection (c):

"(c) VICTIM DEFINED.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(e) TELEMARKETING FRAUD.—Section 2327 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (c).

SEC. 206. PROCEDURE FOR ISSUANCE OF RESTITUTION ORDER.

(a) IN GENERAL.—Section 3664 of title 18, United States Code, is amended to read as follows:

"§3664. Procedure for issuance and enforcement of order of restitution

"(a) For orders of restitution under this title, the court shall order the probation officer to obtain and include in its presentence report, or in a separate report, as the court may direct, information sufficient for the court to exercise its discretion in fashioning a restitution order. The report shall include, to the extent practicable, a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant. If the number or identity of victims cannot be reasonably ascertained, or other circumstances exist that make this requirement clearly impracticable, the probation officer shall so inform the court.

"(b) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.

"(c) The provisions of this chapter, chapter 227, and Rule 32(c) of the Federal Rules of Criminal Procedure shall be the only rules applicable to proceedings under this section.

"(d)(1) Upon the request of the probation officer, but not later than 60 days prior to the date initially set for sentencing, the attorney for the Government, after consulting, to the extent practicable, with all identified victims, shall promptly provide the probation officer with a listing of the amounts subject to restitution.

"(2) The probation officer shall, prior to submitting the presentence report under subsection (a), to the extent practicable—

"(A) provide notice to all identified victims of—

"(i) the offense or offenses of which the defendant was convicted;

"(ii) the amounts subject to restitution submitted to the probation officer;

"(iii) the opportunity of the victim to submit information to the probation officer concerning the amount of the victim's losses;

"(iv) the scheduled date, time, and place of the sentencing hearing;

"(v) the availability of a lien in favor of the victim pursuant to subsection (m)(1)(B); and

"(vi) the opportunity of the victim to file with the probation officer a separate affidavit relating to the amount of the victim's losses subject to restitution; and

"(B) provide the victim with an affidavit form to submit pursuant to subparagraph (A)(vi).

"(3) Each defendant shall prepare and file with the probation officer an affidavit fully describing the financial resources of the defendant, including a complete listing of all assets owned or controlled by the defendant as of the date on which the defendant was arrested, the financial needs and earning ability of the defendant and the defendant's dependents, and such other information that the court requires relating to such other factors as the court deems appropriate.

"(4) After reviewing the report of the probation officer, the court may require additional documentation or hear testimony. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(5) If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing, the attorney for the Government or the probation officer shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(6) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate judge or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(e) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant's dependents, shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

"(f)(1)(A) In each order of restitution, the court shall order restitution to each victim in the full amount of each victim's losses as determined by the court and without consideration of the economic circumstances of the defendant.

"(B) In no case shall the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source be considered in determining the amount of restitution.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall, pursuant to section 3572, specify in the restitution order the manner in which, and the schedule according to which, the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the defendant, including whether any of these assets are jointly controlled;

"(B) projected earnings and other income of the defendant; and

"(C) any financial obligations of the defendant; including obligations to dependents.

"(3)(A) A restitution order may direct the defendant to make a single, lump-sum payment, partial payments at specified intervals, in-kind payments, or a combination of payments at specified intervals and in-kind payments.

"(B) A restitution order may direct the defendant to make nominal periodic payments if the court finds from facts on the record that the economic circumstances of the defendant do not allow the payment of any amount of a restitution order, and do not allow for the payment of the full amount of a restitution order in the foreseeable future under any reasonable schedule of payments.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) if the victim agrees, services rendered to the victim or a person or organization other than the victim.

"(g)(1) No victim shall be required to participate in any phase of a restitution order.

"(2) A victim may at any time assign the victim's interest in restitution payments to the Crime Victims Fund in the Treasury without in any way impairing the obligation of the defendant to make such payments.

"(h) If the court finds that more than 1 defendant has contributed to the loss of a victim, the court may make each defendant liable for payment of the full amount of restitution or may apportion liability among the defendants to reflect the level of contribution to the victim's loss and economic circumstances of each defendant.

"(i) If the court finds that more than 1 victim has sustained a loss requiring restitution by a defendant, the court may provide for a different payment schedule for each victim based on the type and amount of each victim's loss and accounting for the economic circumstances of each victim. In any case in which the United States is a victim, the court shall ensure that all other victims receive full restitution before the United States receives any restitution.

"(j)(1) If a victim has received compensation from insurance or any other source with respect to a loss, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) Any amount paid to a victim under an order of restitution shall be reduced by any amount later recovered as compensatory damages for the same loss by the victim in—

VOL
142
PT
6
AP
15
—
24
1996
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"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(k) A restitution order shall provide that the defendant shall notify the court and the Attorney General of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution. The court may also accept notification of a material change in the defendant's economic circumstances from the United States or from the victim. The Attorney General shall certify to the court that the victim or victims owed restitution by the defendant have been notified of the change in circumstances. Upon receipt of the notification, the court may, on its own motion, or the motion of any party, including the victim, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.

"(l) A conviction of a defendant for an offense involving the act giving rise to an order of restitution shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, to the extent consistent with State law, brought by the victim.

"(m)(1)(A)(i) An order of restitution may be enforced by the United States in the manner provided for in subchapter C of chapter 227 and subchapter B of chapter 229 of this title; or

"(ii) by all other available and reasonable means.

"(B) At the request of a victim named in a restitution order, the clerk of the court shall issue an abstract of judgment certifying that a judgment has been entered in favor of such victim in the amount specified in the restitution order. Upon registering, recording, docketing, or indexing such abstract in accordance with the rules and requirements relating to judgments of the court of the State where the district court is located, the abstract of judgment shall be a lien on the property of the defendant located in such State in the same manner and to the same extent and under the same conditions as a judgment of a court of general jurisdiction in that State.

"(2) An order of in-kind restitution in the form of services shall be enforced by the probation officer.

"(n) If a person obligated to provide restitution, or pay a fine, receives substantial resources from any source, including inheritance, settlement, or other judgment, during a period of incarceration, such person shall be required to apply the value of such resources to any restitution or fine still owed.

"(o) A sentence that imposes an order of restitution is a final judgment notwithstanding the fact that—

"(1) such a sentence can subsequently be—

"(A) corrected under Rule 35 of the Federal Rules of Criminal Procedure and section 3742 of chapter 235 of this title;

"(B) appealed and modified under section 3742;

"(C) amended under section 3664(d)(3); or

"(D) adjusted under section 3664(k), 3572, or 3613A; or

"(2) the defendant may be resentenced under section 3565 or 3614.

"(p) Nothing in this section or sections 2248, 2259, 2264, 2327, 3663, and 3663A and arising out of the application of such sections, shall be construed to create a cause of action not otherwise authorized in favor of any person against the United States or any officer or employee of the United States.".

(b) TECHNICAL AMENDMENT.—The item relating to section 3664 in the analysis for chapter 232 of title 18, United States Code, is amended to read as follows:

"3664. Procedure for issuance and enforcement of order of restitution.".

SEC. 207. PROCEDURE FOR ENFORCEMENT OF FINE OR RESTITUTION ORDER.

(a) AMENDMENT OF FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 32(b) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (1), by adding at the end the following: "Notwithstanding the preceding sentence, a presentence investigation and report, or other report containing information sufficient for the court to enter an order of restitution, as the court may direct, shall be required in any case in which restitution is required to be ordered."; and

(2) in paragraph (4)—

(A) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(B) by inserting after subparagraph (E), the following new subparagraph:

"(F) in appropriate cases, information sufficient for the court to enter an order of restitution;".

(b) FINES.—Section 3572 of title 18, United States Code, is amended—

(1) in subsection (b) by inserting "other than the United States," after "offense,";

(2) in subsection (d)—

(A) in the first sentence, by striking "A person sentenced to pay a fine or other monetary penalty" and inserting "(1) A person sentenced to pay a fine or other monetary penalty, including restitution,";

(B) by striking the third sentence; and

(C) by adding at the end the following:

"(2) If the judgment, or, in the case of a restitution order, the order, permits other than immediate payment, the length of time over which scheduled payments will be made shall be set by the court, but shall be the shortest time in which full payment can reasonably be made.

"(3) A judgment for a fine which permits payments in installments shall include a requirement that the defendant will notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay the fine. Upon receipt of such notice the court may, on its own motion or the motion of any party, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.";

(3) in subsection (f), by inserting "restitution" after "special assessment,";

(4) in subsection (h), by inserting "or payment of restitution" after "A fine"; and

(5) in subsection (i)—

(A) in the first sentence, by inserting "or payment of restitution" after "A fine"; and

(B) by amending the second sentence to read as follows: "Notwithstanding any installment schedule, when a fine or payment of restitution is in default, the entire amount of the fine or restitution is due within 30 days after notification of the default, subject to the provisions of section 3613A.".

(c) POSTSENTENCE ADMINISTRATION.—

(1) PAYMENT OF A FINE OR RESTITUTION.—Section 3611 of title 18, United States Code, is amended—

(A) by amending the heading to read as follows:

"§3611. Payment of a fine or restitution";

and

(B) by striking "or assessment shall pay the fine or assessment" and inserting ", assessment, or restitution, shall pay the fine, assessment, or restitution".

(2) COLLECTION.—Section 3612 of title 18, United States Code, is amended—

(A) by amending the heading to read as follows:

"§3612. Collection of unpaid fine or restitution";

(B) in subsection (b)(1)—

(i) in the matter preceding subparagraph (A), by inserting "or restitution order" after "fine";

(ii) in subparagraph (C), by inserting "or restitution order" after "fine";

(iii) in subparagraph (E), by striking "and";

(iv) in subparagraph (F)—

(I) by inserting "or restitution order" after "fine"; and

(II) by striking the period at the end and inserting "; and"; and

(v) by adding at the end the following new subparagraph:

"(G) in the case of a restitution order, information sufficient to identify each victim to whom restitution is owed. It shall be the responsibility of each victim to notify the Attorney General, or the appropriate entity of the court, by means of a form to be provided by the Attorney General or the court, of any change in the victim's mailing address while restitution is still owed the victim. The confidentiality of any information relating to a victim shall be maintained.";

(C) in subsection (c)—

(i) in the first sentence, by inserting "or restitution" after "fine"; and

(ii) by adding at the end the following: "Any money received from a defendant shall be disbursed so that each of the following obligations is paid in full in the following sequence:

"(1) A penalty assessment under section 3013 of title 18, United States Code.

"(2) Restitution of all victims.

"(3) All other fines, penalties, costs, and other payments required under the sentence.";

(D) in subsection (d)—

(i) by inserting "or restitution" after "fine"; and

(ii) by striking "is delinquent, to inform him that the fine is delinquent" and inserting "or restitution is delinquent, to inform the person of the delinquency";

(E) in subsection (e)—

(i) by inserting "or restitution" after "fine"; and

(ii) by striking "him that the fine is in default" and inserting "the person that the fine or restitution is in default";

(F) in subsection (f)—

(i) in the heading, by inserting "and restitution" after "on fines"; and

(ii) in paragraph (1), by inserting "or restitution" after "any fine";

(G) in subsection (g), by inserting "or restitution" after "fine" each place it appears; and

(H) in subsection (i), by inserting "and restitution" after "fines".

(3) CIVIL REMEDIES.—Section 3613 of title 18, United States Code, is amended to read as follows:

"§3613. Civil remedies for satisfaction of an unpaid fine

"(a) ENFORCEMENT.—The United States may enforce a judgment imposing a fine in accordance with the practices and procedures for the enforcement of a civil judgment under Federal law or State law. Notwithstanding any other Federal law (including section 207 of the Social Security Act), a judgment imposing a fine may be enforced against all property or rights to property of the person fined, except that—

"(1) property exempt from levy for taxes pursuant to section 6334(a) (1), (2), (3), (4), (5), (6), (7), (8), (10), and (12) of the Internal Revenue Code of 1986 shall be exempt from enforcement of the judgment under Federal law;

"(2) section 3014 of chapter 176 of title 28 shall not apply to enforcement under Federal law; and

"(3) the provisions of section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673) shall apply to enforcement of the judgment under Federal law or State law.

"(b) TERMINATION OF LIABILITY.—The liability to pay a fine shall terminate the later of 20

years from the entry of judgment or 20 years after the release from imprisonment of the person fined, or upon the death of the individual fined.

"(c) LIEN.—A fine imposed pursuant to the provisions of subchapter C of chapter 227 of this title, or an order of restitution made pursuant to sections 2248, 2259, 2264, 2327, 3663, 3663A, or 3664 of this title, is a lien in favor of the United States on all property and rights to property of the person fined as if the liability of the person fined were a liability for a tax assessed under the Internal Revenue Code of 1986. The lien arises on the entry of judgment and continues for 20 years or until the liability is satisfied, remitted, set aside, or is terminated under subsection (b).

"(d) EFFECT OF FILING NOTICE OF LIEN.—Upon filing of a notice of lien in the manner in which a notice of tax lien would be filed under section 6323(f) (1) and (2) of the Internal Revenue Code of 1986, the lien shall be valid against any purchaser, holder of a security interest, mechanic's lienor or judgment lien creditor, except with respect to properties or transactions specified in subsection (b), (c), or (d) of section 6323 of the Internal Revenue Code of 1986 for which a notice of tax lien properly filed on the same date would not be valid. The notice of lien shall be considered a notice of lien for taxes payable to the United States for the purpose of any State or local law providing for the filing of a notice of a tax lien. A notice of lien that is registered, recorded, docketed, or indexed in accordance with the rules and requirements relating to judgments of the courts of the State where the notice of lien is registered, recorded, docketed, or indexed shall be considered for all purposes as the filing prescribed by this section. The provisions of section 3201(e) of chapter 176 of title 28 shall apply to liens filed as prescribed by this section.

"(e) DISCHARGE OF DEBT INAPPLICABLE.—No discharge of debts in a proceeding pursuant to any chapter of title 11, United States Code, shall discharge liability to pay a fine pursuant to this section, and a lien filed as prescribed by this section shall not be voided in a bankruptcy proceeding.

"(f) APPLICABILITY TO ORDER OF RESTITUTION.—In accordance with section 3664(m)(1)(A) of this title, all provisions of this section are available to the United States for the enforcement of an order of restitution.".

(4) DEFAULT.—Chapter 229 of title 18, United States Code, is amended by inserting after section 3613 the following new section:

"§3613A. Effect of default

"(a)(1) Upon a finding that the defendant is in default on a payment of a fine or restitution, the court may, pursuant to section 3565, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, resentence a defendant pursuant to section 3614, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, enter or adjust a payment schedule, or take any other action necessary to obtain compliance with the order of a fine or restitution.

"(2) In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the fine or restitution order, and any other circumstances that may have a bearing on the defendant's ability or failure to comply with the order of a fine or restitution.

"(b)(1) Any hearing held pursuant to this section may be conducted by a magistrate judge, subject to de novo review by the court.

"(2) To the extent practicable, in a hearing held pursuant to this section involving a defendant who is confined in any jail, prison, or other correctional facility, proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other communications technology without removing the prisoner from the facility in which the prisoner is confined.".

(5) RESENTENCING.—Section 3614 of title 18, United States Code, is amended—

(A) in the heading, by inserting "or restitution" after "fine";

(B) in subsection (a), by inserting "or restitution" after "fine"; and

(C) by adding at the end the following new subsection:

"(c) EFFECT OF INDIGENCY.—In no event shall a defendant be incarcerated under this section solely on the basis of inability to make payments because the defendant is indigent.".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter B of chapter 229 of title 18, United States Code, is amended to read as follows:

"Sec.
"3611. Payment of a fine or restitution.
"3612. Collection of an unpaid fine or restitution.
"3613. Civil remedies for satisfaction of an unpaid fine.
"3613A. Effect of default.
"3614. Resentencing upon failure to pay a fine or restitution.
"3615. Criminal default.".

SEC. 208. INSTRUCTION TO SENTENCING COMMISSION.

Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to reflect this subtitle and the amendments made by this subtitle.

SEC. 209. JUSTICE DEPARTMENT REGULATIONS.

Not later than 90 days after the date of enactment of this subtitle, the Attorney General shall promulgate guidelines, or amend existing guidelines, to carry out this subtitle and the amendments made by this subtitle and to ensure that—

(1) in all plea agreements negotiated by the United States, consideration is given to requesting that the defendant provide full restitution to all victims of all charges contained in the indictment or information, without regard to the counts to which the defendant actually pleaded; and

(2) orders of restitution made pursuant to the amendments made by this subtitle are enforced to the fullest extent of the law.

SEC. 210. SPECIAL ASSESSMENTS ON CONVICTED PERSONS.

Section 3013(a)(2) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "$50" and inserting "not less than $100"; and

(2) in subparagraph (B), by striking "$200" and inserting "not less than $400".

SEC. 211. EFFECTIVE DATE.

The amendments made by this subtitle shall, to the extent constitutionally permissible, be effective for sentencing proceedings in cases in which the defendant is convicted on or after the date of enactment of this Act.

Subtitle B—Jurisdiction for Lawsuits Against Terrorist States

SEC. 221. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

"(A) if the foreign state was not designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later so designated as a result of such act; and

"(B) even if the foreign state is or was so designated, if—

"(i) the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration; or

"(ii) the claimant or victim was not a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when the act upon which the claim is based occurred."; and

(2) by adding at the end the following:

"(e) For purposes of paragraph (7) of subsection (a)—

"(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

"(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

"(3) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

"(f) No action shall be maintained under subsection (a)(7) unless the action is commenced not later than 10 years after the date on which the cause of action arose. All principles of equitable tolling, including the period during which the foreign state was immune from suit, shall apply in calculating this limitation period.

"(g) LIMITATION ON DISCOVERY.—If an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General shall stay any request, demand, or order for discovery that the Attorney General certifies will interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will not longer so interfere.".

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting ", or"; and

(B) by adding at the end the following new paragraph:

"(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.".

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of title 28, United States Code, is amended—

(A) by striking "or (5)" and inserting "(5), or (7)"; and

VOL 142 PT 6 AP 15 — 24 1996 UMI

(B) by striking "used for the activity" and inserting "involved in the act".

(c) APPLICABILITY.—The amendments made by this subtitle shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

Subtitle C—Assistance to Victims of Terrorism

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Justice for Victims of Terrorism Act of 1996".

SEC. 232. VICTIMS OF TERRORISM ACT.

(a) AUTHORITY TO PROVIDE ASSISTANCE AND COMPENSATION TO VICTIMS OF TERRORISM.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404A the following new section:

"SEC. 1404B. COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM OR MASS VIOLENCE.

"(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE THE UNITED STATES.—The Director may make supplemental grants as provided in section 1404(a) to States to provide compensation and assistance to the residents of such States who, while outside of the territorial boundaries of the United States, are victims of a terrorist act or mass violence and are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

"(b) VICTIMS OF TERRORISM WITHIN THE UNITED STATES.—The Director may make supplemental grants as provided in section 1404(d)(4)(B) to States for eligible crime victim compensation and assistance programs to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, for the benefit of victims of terrorist acts or mass violence occurring within the United States and may provide funding to United States Attorney's Offices for use in coordination with State victim compensation and assistance efforts in providing emergency relief.".

(b) FUNDING OF COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM, MASS VIOLENCE, AND CRIME.—Section 1402(d)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(4)) is amended to read as follows:

"(4)(A) If the sums available in the Fund are sufficient to fully provide grants to the States pursuant to section 1403(a)(1), the Director may retain any portion of the Fund that was deposited during a fiscal year that was in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as an emergency reserve. Such reserve shall not exceed $50,000,000.

"(B) The emergency reserve referred to in subparagraph (A) may be used for supplemental grants under section 1404B and to supplement the funds available to provide grants to States for compensation and assistance in accordance with sections 1403 and 1404 in years in which supplemental grants are needed.".

(c) CRIME VICTIMS FUND AMENDMENTS.—

(1) UNOBLIGATED FUNDS.—Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(A) in subsection (c), by striking "subsection" and inserting "chapter"; and

(B) by amending subsection (e) to read as follows:

"(e) AMOUNTS AWARDED AND UNSPENT.—Any amount awarded as part of a grant under this chapter that remains unspent at the end of a fiscal year in which the grant is made may be expended for the purpose for which the grant is made at any time during the 2 succeeding fiscal years, at the end of which period, any remaining unobligated sums in excess of $500,000 shall be returned to the Treasury. Any remaining unobligated sums in an amount less than $500,000 shall be returned to the Fund.".

(2) BASE AMOUNT.—Section 1404(a)(5) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(5)) is amended to read as follows:

"(5) As used in this subsection, the term 'base amount' means—

"(A) except as provided in subparagraph (B), $500,000; and

"(B) for the territories of the Northern Mariana Islands, Guam, American Samoa, and the Republic of Palau, $200,000, with the Republic of Palau's share governed by the Compact of Free Association between the United States and the Republic of Palau.".

SEC. 233. COMPENSATION OF VICTIMS OF TERRORISM.

(a) REQUIRING COMPENSATION FOR TERRORIST CRIMES.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(3)) is amended—

(1) by inserting "crimes involving terrorism," before "driving while intoxicated"; and

(2) by inserting a comma after "driving while intoxicated".

(b) FOREIGN TERRORISM.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(6)(B)) is amended by inserting "are outside of the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or" before "are States not having".

(c) DESIGNATION OF CARTNEY MCRAVEN CHILD DEVELOPMENT CENTER.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Federal building at 1314 LeMay Boulevard, Ellsworth Air Force Base, South Dakota, shall be known as the "Cartney McRaven Child Development Center".

(B) REPLACEMENT BUILDING.—If, after the date of enactment of this Act, a new Federal building is built at the location described in subparagraph (A) to replace the building described in the paragraph, the new Federal building shall be known as the "Cartney McRaven Child Development Center".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to a Federal building referred to in paragraph (1) shall be deemed to be a reference to the "Cartney McRaven Child Development Center".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 1 year after the date of enactment of this Act.

SEC. 234. CRIME VICTIMS FUND.

(a) PROHIBITION OF PAYMENTS TO DELINQUENT CRIMINAL DEBTORS BY STATE CRIME VICTIM COMPENSATION PROGRAMS.—

(1) IN GENERAL.—Section 1403(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)) is amended—

(A) by striking "and" at the end of paragraph (7);

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following new paragraph:

"(8) such program does not provide compensation to any person who has been convicted of an offense under Federal law with respect to any time period during which the person is delinquent in paying a fine, other monetary penalty, or restitution imposed for the offense; and".

(2) APPLICATION OF AMENDMENT.—Section 1403(b)(8) of the Victims of Crime Act of 1984, as added by paragraph (1) of this section, shall not be applied to deny victims compensation to any person until the date on which the Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, issues a written determination that a cost-effective, readily available criminal debt payment tracking system operated by the agency responsible for the collection of criminal debt has established cost-effective, readily available communications links with entities that administer Federal victim compensation programs that are sufficient to ensure that victim compensation is not denied to any person except as authorized by law.

(b) EXCLUSION FROM INCOME FOR PURPOSES OF MEANS TESTS.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by inserting after subsection (b) the following new subsection:

"(c) EXCLUSION FROM INCOME FOR PURPOSES OF MEANS TESTS.—Notwithstanding any other law, for the purpose of any maximum allowed income eligibility requirement in any Federal, State, or local government program using Federal funds that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) that becomes necessary to an applicant for such assistance in full or in part because of the commission of a crime against the applicant, as determined by the Director, any amount of crime victim compensation that the applicant receives through a crime victim compensation program under this section shall not be included in the income of the applicant until the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime.".

SEC. 235. CLOSED CIRCUIT TELEVISED COURT PROCEEDINGS FOR VICTIMS OF CRIME.

(a) IN GENERAL.—Notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crime to watch criminal trial proceedings in cases where the venue of the trial is changed—

(1) out of the State in which the case was initially brought; and

(2) more than 350 miles from the location in which those proceedings originally would have taken place;

the trial court shall order closed circuit televising of the proceedings to that location, for viewing by such persons the court determines have a compelling interest in doing so and are otherwise unable to do so by reason of the inconvenience and expense caused by the change of venue.

(b) LIMITED ACCESS.—

(1) GENERALLY.—No other person, other than official court and security personnel, or other persons specifically designated by the court, shall be permitted to view the closed circuit televising of the proceedings.

(2) EXCEPTION.—The court shall not designate a person under paragraph (1) if the presiding judge at the trial determines that testimony by that person would be materially affected if that person heard other testimony at the trial.

(c) RESTRICTIONS.—

(1) The signal transmitted pursuant to subsection (a) shall be under the control of the court at all times and shall only be transmitted subject to the terms and conditions imposed by the court.

(2) No public broadcast or dissemination shall be made of the signal transmitted pursuant to subsection (a). In the event any tapes are produced in carrying out subsection (a), such tapes shall be the property of the court and kept under seal.

(3) Any violations of this subsection, or any rule or order made pursuant to this section, shall be punishable as contempt of court as described in section 402 of title 18, United States Code.

(d) DONATIONS.—The Administrative Office of the United States Courts may accept donations to enable the courts to carry out subsection (a).

(e) CONSTRUCTION.—

(1) Nothing in this section shall be construed—

(i) to create in favor of any person a cause of action against the United States or any officer or employees thereof, or

(ii) to provide any person with a defense in any action in which application of this section is made.

(f) DEFINITION.—As used in this section, the term "State" means any State, the District of Columbia, or any possession or territory of the United States.

(g) RULES.—The Judicial Conference of the United States, pursuant to its rule making authority under section 331 of title 28, United States Code, may promulgate and issue rules, or amend existing rules, to effectuate the policy addressed by this section. Upon the implementation of such rules, this section shall cease to be effective.

(h) EFFECTIVE DATE.—This section shall only apply to cases filed after January 1, 1995.

SEC. 236. TECHNICAL CORRECTION.

Section 1402(d)(3)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(3)(B)) is amended by striking "1404A" and inserting "1404(a)".

TITLE III—INTERNATIONAL TERRORISM PROHIBITIONS

Subtitle A—Prohibition on International Terrorist Fundraising

SEC. 301. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) international terrorism is a serious and deadly problem that threatens the vital interests of the United States;

(2) the Constitution confers upon Congress the power to punish crimes against the law of nations and to carry out the treaty obligations of the United States, and therefore Congress may by law impose penalties relating to the provision of material support to foreign organizations engaged in terrorist activity;

(3) the power of the United States over immigration and naturalization permits the exclusion from the United States of persons belonging to international terrorist organizations;

(4) international terrorism affects the interstate and foreign commerce of the United States by harming international trade and market stability, and limiting international travel by United States citizens as well as foreign visitors to the United States;

(5) international cooperation is required for an effective response to terrorism, as demonstrated by the numerous multilateral conventions in force providing universal prosecutive jurisdiction over persons involved in a variety of terrorist acts, including hostage taking, murder of an internationally protected person, and aircraft piracy and sabotage;

(6) some foreign terrorist organizations, acting through affiliated groups or individuals, raise significant funds within the United States, or use the United States as a conduit for the receipt of funds raised in other nations; and

(7) foreign organizations that engage in terrorist activity are so tainted by their criminal conduct that any contribution to such an organization facilitates that conduct.

(b) PURPOSE.—The purpose of this subtitle is to provide the Federal Government the fullest possible basis, consistent with the Constitution, to prevent persons within the United States, or subject to the jurisdiction of the United States, from providing material support or resources to foreign organizations that engage in terrorist activities.

SEC. 302. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

"SEC. 219. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

"(a) DESIGNATION.—

"(1) IN GENERAL.—The Secretary is authorized to designate an organization as a terrorist organization in accordance with this subsection if the Secretary finds that—

"(A) the organization is a foreign organization;

"(B) the organization engages in terrorist activity (as defined in section 212(a)(3)(B)); and

"(C) the terrorist activity of the organization threatens the security of United States nationals or the national security of the United States.

"(2) PROCEDURE.—

"(A) NOTICE.—Seven days before making a designation under this subsection, the Secretary shall, by classified communication—

"(i) notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees, in writing, of the intent to designate an organization under this subsection, together with the findings made under paragraph (1) with respect to that organization, and the factual basis therefor; and

"(ii) seven days after such notification, publish the designation in the Federal Register.

"(B) EFFECT OF DESIGNATION.—

"(i) For purposes of section 2339B of title 18, United States Code, a designation under this subsection shall take effect upon publication under subparagraph (A).

"(ii) Any designation under this subsection shall cease to have effect upon an Act of Congress disapproving such designation.

"(C) FREEZING OF ASSETS.—Upon notification under paragraph (2), the Secretary of the Treasury may require United States financial institutions possessing or controlling any assets of any organization included in the notification to block all financial transactions involving those assets until further directive from either the Secretary of the Treasury, Act of Congress, or order of court.

"(3) RECORD.—

"(A) IN GENERAL.—In making a designation under this subsection, the Secretary shall create an administrative record.

"(B) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a designation under this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

"(4) PERIOD OF DESIGNATION.—

"(A) IN GENERAL.—Subject to paragraphs (5) and (6), a designation under this subsection shall be effective for all purposes for a period of 2 years beginning on the effective date of the designation under paragraph (2)(B).

"(B) REDESIGNATION.—The Secretary may redesignate a foreign organization as a terrorist organization for an additional 2-year period at the end of the 2-year period referred to in subparagraph (A) (but not sooner than 60 days prior to the termination of such period) upon a finding that the relevant circumstances described in paragraph (1) still exist. The procedural requirements of paragraphs (2) and (3) shall apply to a redesignation under this subparagraph.

"(5) REVOCATION BY ACT OF CONGRESS.—The Congress, by an Act of Congress, may block or revoke a designation made under paragraph (1).

"(6) REVOCATION BASED ON CHANGE IN CIRCUMSTANCES.—

"(A) IN GENERAL.—The Secretary may revoke a designation made under paragraph (1) if the Secretary finds that—

"(i) the circumstances that were the basis for the designation have changed in such a manner as to warrant revocation of the designation; or

"(ii) the national security of the United States warrants a revocation of the designation.

"(B) PROCEDURE.—The procedural requirements of paragraphs (2) through (4) shall apply to a revocation under this paragraph.

"(7) EFFECT OF REVOCATION.—The revocation of a designation under paragraph (5) or (6) shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation.

"(8) USE OF DESIGNATION IN TRIAL OR HEARING.—If a designation under this subsection has become effective under paragraph (1)(B), a defendant in a criminal action shall not be permitted to raise any question concerning the validity of the issuance of such designation as a defense or an objection at any trial or hearing.

"(b) JUDICIAL REVIEW OF DESIGNATION.—

"(1) IN GENERAL.—Not later than 30 days after publication of the designation in the Federal Register, an organization designated as a foreign terrorist organization may seek judicial review of the designation in the United States Court of Appeals for the District of Columbia Circuit.

"(2) BASIS OF REVIEW.—Review under this subsection shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information used in making the designation.

"(3) SCOPE OF REVIEW.—The Court shall hold unlawful and set aside a designation the court finds to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity; or

"(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right.

"(4) JUDICIAL REVIEW INVOKED.—The pendency of an action for judicial review of a designation shall not affect the application of this section, unless the court issues a final order setting aside the designation.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'classified information' has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

"(2) the term 'national security' means the national defense, foreign relations, or economic interests of the United States;

"(3) the term 'relevant committees' means the Committees on the Judiciary, Intelligence, and Foreign Relations of the Senate and the Committees on the Judiciary, Intelligence, and International Relations of the House of Representatives; and

"(4) the term 'Secretary' means the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act, relating to terrorism, is amended by inserting after the item relating to section 218 the following new item:

"Sec. 219. Designation of foreign terrorist organizations.".

SEC. 303. PROHIBITION ON TERRORIST FUNDRAISING.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following new section:

"§2339B. Providing material support or resources to designated foreign terrorist organizations

"(a) PROHIBITED ACTIVITIES.—

"(1) UNLAWFUL CONDUCT.—Whoever, within the United States or subject to the jurisdiction of the United States, knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under this title or imprisoned not more than 10 years, or both.

VOL
142
PT
6
AP
15
—
24
1996
UMI

"(2) Financial Institutions.—Except as authorized by the Secretary, any financial institution that becomes aware that it has possession of, or control over, any funds in which a foreign terrorist organization, or its agent, has an interest, shall—

"(A) retain possession of, or maintain control over, such funds; and

"(B) report to the Secretary the existence of such funds in accordance with regulations issued by the Secretary.

"(b) Civil Penalty.—Any financial institution that knowingly fails to comply with subsection (a)(2) shall be subject to a civil penalty in an amount that is the greater of—

"(A) $50,000 per violation; or

"(B) twice the amount of which the financial institution was required under subsection (a)(2) to retain possession or control.

"(c) Injunction.—Whenever it appears to the Secretary or the Attorney General that any person is engaged in, or is about to engage in, any act that constitutes, or would constitute, a violation of this section, the Attorney General may initiate civil action in a district court of the United States to enjoin such violation.

"(d) Extraterritorial Jurisdiction.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(e) Investigations.—

"(1) In general.—The Attorney General shall conduct any investigation of a possible violation of this section, or of any license, order, or regulation issued pursuant to this section.

"(2) Coordination with the Department of the Treasury.—The Attorney General shall work in coordination with the Secretary in investigations relating to—

"(A) the compliance or noncompliance by a financial institution with the requirements of subsection (a)(2); and

"(B) civil penalty proceedings authorized under subsection (b).

"(3) Referral.—Any evidence of a criminal violation of this section arising in the course of an investigation by the Secretary or any other Federal agency shall be referred immediately to the Attorney General for further investigation. The Attorney General shall timely notify the Secretary of any action taken on referrals from the Secretary, and may refer investigations to the Secretary for remedial licensing or civil penalty action.

"(f) Classified Information in Civil Proceedings Brought by the United States.—

"(1) Discovery of classified information by defendants.—

"(A) Request by United States.—In any civil proceeding under this section, upon request made ex parte and in writing by the United States, a court, upon a sufficient showing, may authorize the United States to—

"(i) redact specified items of classified information from documents to be introduced into evidence or made available to the defendant through discovery under the Federal Rules of Civil Procedure;

"(ii) substitute a summary of the information for such classified documents; or

"(iii) substitute a statement admitting relevant facts that the classified information would tend to prove.

"(B) Order granting request.—If the court enters an order granting a request under this paragraph, the entire text of the documents to which the request relates shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

"(C) Denial of request.—If the court enters an order denying a request of the United States under this paragraph, the United States may take an immediate, interlocutory appeal in accordance with paragraph (5). For purposes of such an appeal, the entire text of the documents to which the request relates, together with any transcripts of arguments made ex parte to the court in connection therewith, shall be maintained under seal and delivered to the appellate court.

"(2) Introduction of classified information; precautions by court.—

"(A) Exhibits.—To prevent unnecessary or inadvertent disclosure of classified information in a civil proceeding brought by the United States under this section, the United States may petition the court ex parte to admit, in lieu of classified writings, recordings, or photographs, one or more of the following:

"(i) Copies of items from which classified information has been redacted.

"(ii) Stipulations admitting relevant facts that specific classified information would tend to prove.

"(iii) A declassified summary of the specific classified information.

"(B) Determination by court.—The court shall grant a request under this paragraph if the court finds that the redacted item, stipulation, or summary is sufficient to allow the defendant to prepare a defense.

"(3) Taking of trial testimony.—

"(A) Objection.—During the examination of a witness in any civil proceeding brought by the United States under this subsection, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible.

"(B) Action by court.—In determining whether a response is admissible, the court shall take precautions to guard against the compromise of any classified information, including—

"(i) permitting the United States to provide the court, ex parte, with a proffer of the witness's response to the question or line of inquiry; and

"(ii) requiring the defendant to provide the court with a proffer of the nature of the information that the defendant seeks to elicit.

"(C) Obligation of defendant.—In any civil proceeding under this section, it shall be the defendant's obligation to establish the relevance and materiality of any classified information sought to be introduced.

"(4) Appeal.—If the court enters an order denying a request of the United States under this subsection, the United States may take an immediate interlocutory appeal in accordance with paragraph (5).

"(5) Interlocutory appeal.—

"(A) Subject of appeal.—An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of a district court—

"(i) authorizing the disclosure of classified information;

"(ii) imposing sanctions for nondisclosure of classified information; or

"(iii) refusing a protective order sought by the United States to prevent the disclosure of classified information.

"(B) Expedited consideration.—

"(i) In general.—An appeal taken pursuant to this paragraph, either before or during trial, shall be expedited by the court of appeals.

"(ii) Appeals prior to trial.—If an appeal is of an order made prior to trial, an appeal shall be taken not later than 10 days after the decision or order appealed from, and the trial shall not commence until the appeal is resolved.

"(iii) Appeals during trial.—If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved, and the court of appeals—

"(I) shall hear argument on such appeal not later than 4 days after the adjournment of the trial;

"(II) may dispense with written briefs other than the supporting materials previously submitted to the trial court;

"(III) shall render its decision not later than 4 days after argument on appeal; and

"(IV) may dispense with the issuance of a written opinion in rendering its decision.

"(C) Effect of ruling.—An interlocutory appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a final judgment, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

"(6) Construction.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privilege.

"(g) Definitions.—As used in this section—

"(1) the term 'classified information' has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

"(2) the term 'financial institution' has the same meaning as in section 5312(a)(2) of title 31, United States Code;

"(3) the term 'funds' includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing;

"(4) the term 'material support or resources' has the same meaning as in section 2339A;

"(5) the term 'representative' includes an officer, official, or spokesperson of an organization and any person who directs, counsels, commands, or induces an organization or its members to engage in terrorist activity;

"(6) the term 'Secretary' means the Secretary of the Treasury; and

"(7) the term 'terrorist organization' means an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.".

(b) Clerical Amendment to Table of Sections.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

"2339B. Providing material support or resources to designated foreign terrorist organizations.".

(c) Technical Amendment.—

(1) New item.—Chapter 113B of title 18, United States Code, relating to torture, is redesignated as chapter 113C.

(2) Table of chapters.—The table of chapters for part I of title 18, United States Code, is amended by striking "113B. Torture" and inserting "113C. Torture".

Subtitle B—Prohibition on Assistance to Terrorist States

SEC. 321. FINANCIAL TRANSACTIONS WITH TERRORISTS.

(a) In General.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the section 2332c added by section 521 of this Act the following new section:

"§2332d. Financial transactions

"(a) Offense.—Except as provided in regulations issued by the Secretary of State, in consultation with the Secretary of the Treasury, whoever, being a United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as a country supporting international terrorism, engages in a financial transaction with that country, shall be fined under this title, imprisoned for not more than 10 years, or both.

"(b) Definitions.—As used in this section—

"(1) the term 'financial transaction' has the same meaning as in section 1956(c)(4); and

"(2) the term 'United States person' means any—

"(A) United States citizen or national;

"(B) permanent resident alien;

"(C) juridical person organized under the laws of the United States; or

"(D) any person in the United States.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the item added by section 521 of this Act the following new item:

"2332d. Financial transactions.".

SEC. 322. FOREIGN AIR TRAVEL SAFETY.

Section 44906 of title 49, United States Code, is amended to read as follows:

"§44906. Foreign air carrier security programs

"The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator shall not approve a security program of a foreign air carrier under section 129.25, or any successor regulation, unless the security program requires the foreign air carrier in its operations to and from airports in the United States to adhere to the identical security measures that the Administrator requires air carriers serving the same airports to adhere to. The foregoing requirement shall not be interpreted to limit the ability of the Administrator to impose additional security measures on a foreign air carrier or an air carrier when the Administrator determines that a specific threat warrants such additional measures. The Administrator shall prescribe regulations to carry out this section.".

SEC. 323. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended to read as follows:

"§2339A. Providing material support to terrorists

"(a) Offense.—Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 37, 81, 175, 351, 831, 842 (m) or (n), 844 (f) or (i), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, or 2340A of this title or section 46502 of title 49, or in preparation for, or in carrying out, the concealment from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

"(b) Definition.—In this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.".

SEC. 324. FINDINGS.

The Congress finds that—

(1) international terrorism is among the most serious transnational threats faced by the United States and its allies, far eclipsing the dangers posed by population growth or pollution;

(2) the President should continue to make efforts to counter international terrorism a national security priority;

(3) because the United Nations has been an inadequate forum for the discussion of cooperative, multilateral responses to the threat of international terrorism, the President should undertake immediate efforts to develop effective multilateral responses to international terrorism as a complement to national counter terrorist efforts;

(4) the President should use all necessary means, including covert action and military force, to disrupt, dismantle, and destroy international infrastructure used by international terrorists, including overseas terrorist training facilities and safe havens;

(5) the Congress deplores decisions to ease, evade, or end international sanctions on state sponsors of terrorism, including the recent decision by the United Nations Sanctions Committee to allow airline flights to and from Libya despite Libya's noncompliance with United Nations resolutions; and

(6) the President should continue to undertake efforts to increase the international isolation of state sponsors of international terrorism, including efforts to strengthen international sanctions, and should oppose any future initiatives to ease sanctions on Libya or other state sponsors of terrorism.

SEC. 325. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620F the following new section:

"SEC. 620G. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

"(a) Withholding of Assistance.—The President may withhold assistance under this Act to the government of any country that provides assistance to the government of any other country for which the Secretary of State has made a determination under section 620A.

"(b) Waiver.—Assistance prohibited by this section may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

"(1) a statement of the determination;

"(2) a detailed explanation of the assistance to be provided;

"(3) the estimated dollar amount of the assistance; and

"(4) an explanation of how the assistance furthers United States national interests.".

SEC. 326. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620G the following new section:

"SEC. 620H. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

"(a) Prohibition.—

"(1) In general.—The President may withhold assistance under this Act shall be provided to the government of any country that provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

"(2) Applicability.—The prohibition under this section with respect to a foreign government shall terminate 1 year after that government ceases to provide lethal military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.

"(b) Waiver.—Notwithstanding any other provision of law, assistance may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

"(1) a statement of the determination;

"(2) a detailed explanation of the assistance to be provided;

"(3) the estimated dollar amount of the assistance; and

"(4) an explanation of how the assistance furthers United States national interests.".

SEC. 327. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by inserting after section 1620 the following new section:

"SEC. 1621. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

"(a) In General.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

"(b) Definition.—For purposes of this section, the term 'international financial institution' includes—

"(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund;

"(2) wherever applicable, the Inter-American Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund; and

"(3) any similar institution established after the date of enactment of this section.".

SEC. 328. ANTITERRORISM ASSISTANCE.

(a) Foreign Assistance Act.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa-2) is amended—

(1) in subsection (c), by striking "development and implementation of the antiterrorism assistance program under this chapter, including";

(2) by amending subsection (d) to read as follows:

"(d)(1) Arms and ammunition may be provided under this chapter only if they are directly related to antiterrorism assistance.

"(2) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year shall not exceed 30 percent of the funds made available to carry out this chapter for that fiscal year."; and

(3) by striking subsection (f).

(b) Assistance to Foreign Countries To Procure Explosives Detection Devices and Other Counterterrorism Technology.—(1) Subject to section 575(b), up to $3,000,000 in any fiscal year may be made available—

(A) to procure explosives detection devices and other counterterrorism technology; and

(B) for joint counterterrorism research and development projects on such technology conducted with NATO and major non-NATO allies under the auspices of the Technical Support Working Group of the Department of State.

VOL 142 PT 6 AP 15 — 24 1996 UMI

(2) As used in this subsection, the term "major non-NATO allies" means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.

(c) ASSISTANCE TO FOREIGN COUNTRIES.—Notwithstanding any other provision of law (except section 620A of the Foreign Assistance Act of 1961) up to $1,000,000 in assistance may be provided to a foreign country for counterterrorism efforts in any fiscal year if—

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.

SEC. 329. DEFINITION OF ASSISTANCE.

For purposes of this title—

(1) the term "assistance" means assistance to or for the benefit of a government of any country that is provided by grant, concessional sale, guaranty, insurance, or by any other means on terms more favorable than generally available in the applicable market, whether in the form of a loan, lease, credit, debt relief, or otherwise, including subsidies for exports to such country and favorable tariff treatment of articles that are the growth, product, or manufacture of such country; and

(2) the term "assistance" does not include assistance of the type authorized under chapter 9 of part 1 of the Foreign Assistance Act of 1961 (relating to international disaster assistance).

SEC. 330. PROHIBITION ON ASSISTANCE UNDER ARMS EXPORT CONTROL ACT FOR COUNTRIES NOT COOPERATING FULLY WITH UNITED STATES ANTITERRORISM EFFORTS.

Chapter 3 of the Arms Export Control Act (22 U.S.C. 2771 et seq.) is amended by adding at the end the following:

"SEC. 40A. TRANSACTIONS WITH COUNTRIES NOT FULLY COOPERATING WITH UNITED STATES ANTITERRORISM EFFORTS.—

"(a) PROHIBITED TRANSACTIONS.—No defense article or defense service may be sold or licensed for export under this Act in a fiscal year to a foreign country that the President determines and certifies to Congress, by May 15 of the calendar year in which that fiscal year begins, is not cooperating fully with United States antiterrorism efforts.

"(b) WAIVER.—The President may waive the prohibition set forth in subsection (a) with respect to a specific transaction if the President determines that the transaction is essential to the national security interests of the United States.".

TITLE IV—TERRORIST AND CRIMINAL ALIEN REMOVAL AND EXCLUSION

Subtitle A—Removal of Alien Terrorists

SEC. 401. ALIEN TERRORIST REMOVAL.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding at the end the following new title:

"TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

"SEC. 501. DEFINITIONS.

"As used in this title—

"(1) the term 'alien terrorist' means any alien described in section 241(a)(4)(B);

"(2) the term 'classified information' has the same meaning as in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

"(3) the term 'national security' has the same meaning as in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App.);

"(4) the term 'removal court' means the court described in section 502;

"(5) the term 'removal hearing' means the hearing described in section 504; and

"(6) the term 'removal proceeding' means a proceeding under this title.

"SEC. 502. ESTABLISHMENT OF REMOVAL COURT.

"(a) DESIGNATION OF JUDGES.—The Chief Justice of the United States shall publicly designate 5 district court judges from 5 of the United States judicial circuits who shall constitute a court that shall have jurisdiction to conduct all removal proceedings. The Chief Justice may, in the Chief Justice's discretion, designate the same judges under this section as are designated pursuant to section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

"(b) TERMS.—Each judge designated under subsection (a) shall serve for a term of 5 years and shall be eligible for redesignation, except that of the members first designated—

"(1) 1 member shall serve for a term of 1 year;

"(2) 1 member shall serve for a term of 2 years;

"(3) 1 member shall serve for a term of 3 years; and

"(4) 1 member shall serve for a term of 4 years.

"(c) CHIEF JUDGE.—

"(1) DESIGNATION.—The Chief Justice shall publicly designate one of the judges of the removal court to be the chief judge of the removal court.

"(2) RESPONSIBILITIES.—The chief judge shall—

"(A) promulgate rules to facilitate the functioning of the removal court; and

"(B) assign the consideration of cases to the various judges on the removal court.

"(d) EXPEDITIOUS AND CONFIDENTIAL NATURE OF PROCEEDINGS.—The provisions of section 103(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(c)) shall apply to removal proceedings in the same manner as they apply to proceedings under that Act.

"SEC. 503. REMOVAL COURT PROCEDURE.

"(a) APPLICATION.—

"(1) IN GENERAL.—In any case in which the Attorney General has classified information that an alien is an alien terrorist, the Attorney General may seek removal of the alien under this title by filing an application with the removal court that contains—

"(A) the identity of the attorney in the Department of Justice making the application;

"(B) a certification by the Attorney General or the Deputy Attorney General that the application satisfies the criteria and requirements of this section;

"(C) the identity of the alien for whom authorization for the removal proceeding is sought; and

"(D) a statement of the facts and circumstances relied on by the Department of Justice to establish probable cause that—

"(i) the alien is an alien terrorist;

"(ii) the alien is physically present in the United States; and

"(iii) with respect to such alien, removal under title II would pose a risk to the national security of the United States.

"(2) FILING.—An application under this section shall be submitted ex parte and in camera, and shall be filed under seal with the removal court.

"(b) RIGHT TO DISMISS.—The Attorney General may dismiss a removal action under this title at any stage of the proceeding.

"(c) CONSIDERATION OF APPLICATION.—

"(1) BASIS FOR DECISION.—In determining whether to grant an application under this section, a single judge of the removal court may consider, ex parte and in camera, in addition to the information contained in the application—

"(A) other information, including classified information, presented under oath or affirmation; and

"(B) testimony received in any hearing on the application, of which a verbatim record shall be kept.

"(2) APPROVAL OF ORDER.—The judge shall issue an order granting the application, if the judge finds that there is probable cause to believe that—

"(A) the alien who is the subject of the application has been correctly identified and is an alien terrorist present in the United States; and

"(B) removal under title II would pose a risk to the national security of the United States.

"(3) DENIAL OF ORDER.—If the judge denies the order requested in the application, the judge shall prepare a written statement of the reasons for the denial, taking all necessary precautions not to disclose any classified information contained in the Government's application.

"(d) EXCLUSIVE PROVISIONS.—If an order is issued under this section granting an application, the rights of the alien regarding removal and expulsion shall be governed solely by this title, and except as they are specifically referenced in this title, no other provisions of this Act shall be applicable.

"SEC. 504. REMOVAL HEARING.

"(a) IN GENERAL.—

"(1) EXPEDITIOUS HEARING.—In any case in which an application for an order is approved under section 503(c)(2), a removal hearing shall be conducted under this section as expeditiously as practicable for the purpose of determining whether the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist.

"(2) PUBLIC HEARING.—The removal hearing shall be open to the public.

"(b) NOTICE.—An alien who is the subject of a removal hearing under this title shall be given reasonable notice of—

"(1) the nature of the charges against the alien, including a general account of the basis for the charges; and

"(2) the time and place at which the hearing will be held.

"(c) RIGHTS IN HEARING.—

"(1) RIGHT OF COUNSEL.—The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent the alien. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18, United States Code. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged.

"(2) INTRODUCTION OF EVIDENCE.—Subject to the limitations in subsection (e), the alien shall have a reasonable opportunity to introduce evidence on the alien's own behalf.

"(3) EXAMINATION OF WITNESSES.—Subject to the limitations in subsection (e), the alien shall have a reasonable opportunity to examine the evidence against the alien and to cross-examine any witness.

"(4) RECORD.—A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept.

"(5) REMOVAL DECISION BASED ON EVIDENCE AT HEARING.—The decision of the judge regarding removal shall be based only on that evidence introduced at the removal hearing.

"(d) SUBPOENAS.—

"(1) REQUEST.—At any time prior to the conclusion of the removal hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal classified evidence or the source of that evidence. The Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena.

"(2) PAYMENT FOR ATTENDANCE.—If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid from funds appropriated for the enforcement of title II.

"(3) NATIONWIDE SERVICE.—A subpoena under this subsection may be served anywhere in the United States.

"(4) WITNESS FEES.—A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States.

"(5) NO ACCESS TO CLASSIFIED INFORMATION.—Nothing in this subsection is intended to allow an alien to have access to classified information.

"(e) DISCOVERY.—

"(1) IN GENERAL.—For purposes of this title—

"(A) discovery of information derived pursuant to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), or otherwise collected for national security purposes, shall not be authorized if disclosure would present a risk to the national security of the United States;

"(B) an alien subject to removal under this title shall not be entitled to suppress evidence that the alien alleges was unlawfully obtained; and

"(C) section 3504 of title 18, United States Code, and section 1806(c) of title 50, United States Code, shall not apply if the Attorney General determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information or otherwise threaten the integrity of a pending investigation.

"(2) PROTECTIVE ORDERS.—Nothing in this title shall prevent the United States from seeking protective orders and from asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and state secrets privileges.

"(3) TREATMENT OF CLASSIFIED INFORMATION.—

"(A) USE.—The judge shall examine, ex parte and in camera, any evidence for which the Attorney General determines that public disclosure would pose a risk to the national security of the United States or to the security of any individual because it would disclose classified information.

"(B) SUBMISSION.—With respect to such information, the Government shall submit to the removal court an unclassified summary of the specific evidence that does not pose that risk.

"(C) APPROVAL.—Not later than 15 days after submission, the judge shall approve the summary if the judge finds that it is sufficient to enable the alien to prepare a defense. The Government shall deliver to the alien a copy of the unclassified summary approved under this subparagraph.

"(D) DISAPPROVAL.—

"(i) IN GENERAL.—If an unclassified summary is not approved by the removal court under subparagraph (C), the Government shall be afforded 15 days to correct the deficiencies identified by the court and submit a revised unclassified summary.

"(ii) REVISED SUMMARY.—If the revised unclassified summary is not approved by the court within 15 days of its submission pursuant to subparagraph (C), the removal hearing shall be terminated.

"(f) ARGUMENTS.—Following the receipt of evidence, the Government and the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The Government shall open the argument. The alien shall be permitted to reply. The Government shall then be permitted to reply in rebuttal.

"(g) BURDEN OF PROOF.—In the hearing, it is the Government's burden to prove, by the preponderance of the evidence, that the alien is subject to removal because the alien is an alien terrorist.

"(h) RULES OF EVIDENCE.—The Federal Rules of Evidence shall not apply in a removal hearing.

"(i) DETERMINATION OF DEPORTATION.—If the judge, after considering the evidence on the record as a whole, finds that the Government has met its burden, the judge shall order the alien removed and detained pending removal from the United States. If the alien was released pending the removal hearing, the judge shall order the Attorney General to take the alien into custody.

"(j) WRITTEN ORDER.—At the time of issuing a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law.

"(k) NO RIGHT TO ANCILLARY RELIEF.—At no time shall the judge consider or provide for relief from removal based on—

"(1) asylum under section 208;

"(2) withholding of deportation under section 243(h);

"(3) suspension of deportation under subsection (a) or (e) of section 244;

"(4) adjustment of status under section 245; or

"(5) registry under section 249.

"SEC. 505. APPEALS.

"(a) APPEAL OF DENIAL OF APPLICATION FOR REMOVAL PROCEEDINGS.—

"(1) IN GENERAL.—The Attorney General may seek a review of the denial of an order sought in an application filed pursuant to section 503. The appeal shall be filed in the United States Court of Appeals for the District of Columbia Circuit by notice of appeal filed not later than 20 days after the date of such denial.

"(2) RECORD ON APPEAL.—The entire record of the proceeding shall be transmitted to the Court of Appeals under seal, and the Court of Appeals shall hear the matter ex parte.

"(3) STANDARD OF REVIEW.—The Court of Appeals shall—

"(A) review questions of law de novo; and

"(B) set aside a finding of fact only if such finding was clearly erroneous.

"(b) APPEAL OF DETERMINATION REGARDING SUMMARY OF CLASSIFIED INFORMATION.—

"(1) IN GENERAL.—The United States may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

"(A) any determination by the judge pursuant to section 504(e)(3); or

"(B) the refusal of the court to make the findings permitted by section 504(e)(3).

"(2) RECORD.—In any interlocutory appeal taken pursuant to this subsection, the entire record, including any proposed order of the judge, any classified information and the summary of evidence, shall be transmitted to the Court of Appeals. The classified information shall be transmitted under seal. A verbatim record of such appeal shall be kept under seal in the event of any other judicial review.

"(c) APPEAL OF DECISION IN HEARING.—

"(1) IN GENERAL.—The decision of the judge after a removal hearing may be appealed by either the alien or the Attorney General to the United States Court of Appeals for the District of Columbia Circuit by notice of appeal filed not later than 20 days after the date on which the order is issued. The order shall not be enforced during the pendency of an appeal under this subsection.

"(2) TRANSMITTAL OF RECORD.—In an appeal or review to the Court of Appeals pursuant to this subsection—

"(A) the entire record shall be transmitted to the Court of Appeals; and

"(B) information received in camera and ex parte, and any portion of the order that would reveal the substance or source of such information, shall be transmitted under seal.

"(3) EXPEDITED APPELLATE PROCEEDING.—In an appeal or review to the Court of Appeals under this subsection—

"(A) the appeal or review shall be heard as expeditiously as practicable and the court may dispense with full briefing and hear the matter solely on the record of the judge of the removal court and on such briefs or motions as the court may require to be filed by the parties;

"(B) the Court of Appeals shall issue an opinion not later than 60 days after the date of the issuance of the final order of the district court;

"(C) the court shall review all questions of law de novo; and

"(D) a finding of fact shall be accorded deference by the reviewing court and shall not be set aside unless such finding was clearly erroneous.

"(d) CERTIORARI.—Following a decision by the Court of Appeals pursuant to subsection (c), the alien or the Attorney General may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal. Any order of removal shall not be stayed pending disposition of a writ of certiorari, except as provided by the Court of Appeals or a Justice of the Supreme Court.

"(e) APPEAL OF DETENTION ORDER.—

"(1) IN GENERAL.—Sections 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom section 507(b)(1) applies. In applying the previous sentence—

"(A) for purposes of section 3145 of such title an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit; and

"(B) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

"(2) NO REVIEW OF CONTINUED DETENTION.—The determinations and actions of the Attorney General pursuant to section 507(b)(2)(C) shall not be subject to judicial review, including application for a writ of habeas corpus, except for a claim by the alien that continued detention violates the alien's rights under the Constitution. Jurisdiction over any such challenge shall lie exclusively in the United States Court of Appeals for the District of Columbia Circuit.

"SEC. 506. CUSTODY AND RELEASE PENDING REMOVAL HEARING.

"(a) UPON FILING APPLICATION.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Attorney General may—

"(A) take into custody any alien with respect to whom an application under section 503 has been filed; and

VOL
142
PT
6
AP
15
—
24
1996
UMI

"(B) retain such an alien in custody in accordance with the procedures authorized by this title.

"(2) SPECIAL RULES FOR PERMANENT RESIDENT ALIENS.—

"(A) RELEASE HEARING.—An alien lawfully admitted for permanent residence shall be entitled to a release hearing before the judge assigned to hear the removal hearing. Such an alien shall be detained pending the removal hearing, unless the alien demonstrates to the court that the alien—

"(i) is a person lawfully admitted for permanent residence in the United States;

"(ii) if released upon such terms and conditions as the court may prescribe (including the posting of any monetary amount), is not likely to flee; and

"(iii) will not endanger national security, or the safety of any person or the community, if released.

"(B) INFORMATION CONSIDERED.—The judge may consider classified information submitted in camera and ex parte in making a determination whether to release an alien pending the removal hearing.

"(3) RELEASE IF ORDER DENIED AND NO REVIEW SOUGHT.—

"(A) IN GENERAL.—Subject to subparagraph (B), if a judge of the removal court denies the order sought in an application filed pursuant to section 503, and the Attorney General does not seek review of such denial, the alien shall be released from custody.

"(B) APPLICATION OF REGULAR PROCEDURES.—Subparagraph (A) shall not prevent the arrest and detention of the alien pursuant to title II.

"(b) CONDITIONAL RELEASE IF ORDER DENIED AND REVIEW SOUGHT.—

"(1) IN GENERAL.—If a judge of the removal court denies the order sought in an application filed pursuant to section 503 and the Attorney General seeks review of such denial, the judge shall release the alien from custody subject to the least restrictive condition, or combination of conditions, of release described in section 3142(b) and clauses (i) through (xiv) of section 3142(c)(1)(B) of title 18, United States Code, that—

"(A) will reasonably assure the appearance of the alien at any future proceeding pursuant to this title; and

"(B) will not endanger the safety of any other person or the community.

"(2) NO RELEASE FOR CERTAIN ALIENS.—If the judge finds no such condition or combination of conditions, as described in paragraph (1), the alien shall remain in custody until the completion of any appeal authorized by this title.

"SEC. 507. CUSTODY AND RELEASE AFTER REMOVAL HEARING.

"(a) RELEASE.—

"(1) IN GENERAL.—Subject to paragraph (2), if the judge decides that an alien should not be removed, the alien shall be released from custody.

"(2) CUSTODY PENDING APPEAL.—If the Attorney General takes an appeal from such decision, the alien shall remain in custody, subject to the provisions of section 3142 of title 18, United States Code.

"(b) CUSTODY AND REMOVAL.—

"(1) CUSTODY.—If the judge decides that an alien shall be removed, the alien shall be detained pending the outcome of any appeal. After the conclusion of any judicial review thereof which affirms the removal order, the Attorney General shall retain the alien in custody and remove the alien to a country specified under paragraph (2).

"(2) REMOVAL.—

"(A) IN GENERAL.—The removal of an alien shall be to any country which the alien shall designate if such designation does not, in the judgment of the Attorney General, in consultation with the Secretary of State, impair the obligation of the United States under any treaty (including a treaty pertaining to extradition) or otherwise adversely affect the foreign policy of the United States.

"(B) ALTERNATE COUNTRIES.—If the alien refuses to designate a country to which the alien wishes to be removed or if the Attorney General, in consultation with the Secretary of State, determines that removal of the alien to the country so designated would impair a treaty obligation or adversely affect United States foreign policy, the Attorney General shall cause the alien to be removed to any country willing to receive such alien.

"(C) CONTINUED DETENTION.—If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General, in coordination with the Secretary of State, shall make periodic efforts to reach agreement with other countries to accept such an alien and at least every 6 months shall provide to the attorney representing the alien at the removal hearing a written report on the Attorney General's efforts. Any alien in custody pursuant to this subparagraph shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate.

"(D) FINGERPRINTING.—Before an alien is removed from the United States pursuant to this subsection, or pursuant to an order of exclusion because such alien is excludable under section 212(a)(3)(B), the alien shall be photographed and fingerprinted, and shall be advised of the provisions of section 276(b).

"(c) CONTINUED DETENTION PENDING TRIAL.—

"(1) DELAY IN REMOVAL.—The Attorney General may hold in abeyance the removal of an alien who has been ordered removed, pursuant to this title, to allow the trial of such alien on any Federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

"(2) MAINTENANCE OF CUSTODY.—Pending the commencement of any service of a sentence of confinement by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

"(3) SUBSEQUENT REMOVAL.—Following the completion of a sentence of confinement by an alien described in paragraph (1), or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to the removal of the alien under this title.

"(d) APPLICATION OF CERTAIN PROVISIONS RELATING TO ESCAPE OF PRISONERS.—For purposes of sections 751 and 752 of title 18, United States Code, an alien in the custody of the Attorney General pursuant to this title shall be subject to the penalties provided by those sections in relation to a person committed to the custody of the Attorney General by virtue of an arrest on a charge of a felony.

"(e) RIGHTS OF ALIENS IN CUSTODY.—

"(1) FAMILY AND ATTORNEY VISITS.—An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunity, as determined by the Attorney General, to communicate with and receive visits from members of the alien's family, and to contact, retain, and communicate with an attorney.

"(2) DIPLOMATIC CONTACT.—An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien's country of citizenship or nationality or of any country providing representation services therefore. The Attorney General shall notify the appropriate embassy, mission, or consular office of the alien's detention.".

(b) JURISDICTION OVER EXCLUSION ORDERS FOR ALIEN TERRORISTS.—Section 106(b) of the Immigration and Nationality Act (8 U.S.C. 1105a(b)) is amended by adding at the end the following sentence: "Jurisdiction to review an order entered pursuant to the provisions of section 235(c) concerning an alien excludable under section 212(a)(3)(B) shall rest exclusively in the United States Court of Appeals for the District of Columbia Circuit.".

(c) CRIMINAL PENALTY FOR REENTRY OF ALIEN TERRORISTS.—Section 276(b) of such Act (8 U.S.C. 1326(b)) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting "; or", and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) who has been excluded from the United States pursuant to section 235(c) because the alien was excludable under section 212(a)(3)(B) or who has been removed from the United States pursuant to the provisions of title V, and who thereafter, without the permission of the Attorney General, enters the United States, or attempts to do so, shall be fined under title 18, United States Code, and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence.".

(d) TABLE OF CONTENTS.—The Immigration and Nationality Act is amended by adding at the end of the table of contents the following:

"TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

"Sec. 501. Definitions.
"Sec. 502. Establishment of removal court.
"Sec. 503. Removal court procedure.
"Sec. 504. Removal hearing.
"Sec. 505. Appeals.
"Sec. 506. Custody and release pending removal hearing.
"Sec. 507. Custody and release after removal hearing.".

(e) ELIMINATION OF CUSTODY REVIEW BY HABEAS CORPUS.—Section 106(a) of the Immigration and Nationality Act (8 U.S.C. 1105a(a)) is amended—

(1) in paragraph (8), by adding "and" at the end;

(2) in paragraph (9), by striking "; and" at the end and inserting a period; and

(3) by striking paragraph (10).

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

Subtitle B—Exclusion of Members and Representatives of Terrorist Organizations

SEC. 411. EXCLUSION OF ALIEN TERRORISTS.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) in subclause (I), by striking "or" at the end;

(B) in subclause (II), by inserting "is engaged in or" after "believe,"; and

(C) by inserting after subclause (II) the following:

"(III) is a representative (as defined in clause (iv)) of a foreign terrorist organization, as designated by the Secretary under section 219, or

"(IV) is a member of a foreign terrorist organization, as designated by the Secretary under section 219,"; and

(2) by adding at the end the following:

"(iv) REPRESENTATIVE DEFINED.—As used in this paragraph, the term 'representative' includes an officer, official, or spokesman of an organization, and any person who directs, counsels, commands, or induces an organization or its members to engage in terrorist activity.".

SEC. 412. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting each new subparagraph 2 ems to the right;

(2) by striking "If" and inserting "(1) Subject to paragraphs (2) and (3), if"; and

(3) by adding at the end the following new paragraphs:

"(2) The Secretary of State may waive the requirements of paragraph (1) with respect to a particular alien or any class or classes of excludable aliens.

"(3) Paragraph (1) does not apply to any alien excludable under paragraph (2) or (3) of subsection (a).".

SEC. 413. DENIAL OF OTHER RELIEF FOR ALIEN TERRORISTS.

(a) WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following new sentence: "For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.".

(b) SUSPENSION OF DEPORTATION.—Section 244(a) of such Act (8 U.S.C. 1254(a)) is amended by striking "section 241(a)(4)(D)" and inserting "subparagraph (B) or (D) of section 241(a)(4)".

(c) VOLUNTARY DEPARTURE.—Section 244(e)(2) of such Act (8 U.S.C. 1254(e)(2)) is amended by inserting "under section 241(a)(4)(B) or" after "who is deportable".

(d) ADJUSTMENT OF STATUS.—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended—

(1) by striking "or" before "(5)", and

(2) by inserting before the period at the end the following: ", or (6) an alien who is deportable under section 241(a)(4)(B)".

(e) REGISTRY.—Section 249(d) of such Act (8 U.S.C. 1259(d)) is amended by inserting "and is not deportable under section 241(a)(4)(B)" after "ineligible to citizenship".

(f) WAIVER.—Section 243(h) of such Act (8 U.S.C. 1253(h)) is amended by adding at the end the following:

"(3) Notwithstanding any other provision of law, paragraph (1) shall apply to any alien if the Attorney General determines, in the discretion of the Attorney General, that—

"(A) such alien's life or freedom would be threatened, in the country to which such alien would be deported or returned, on account of race, religion, nationality, membership in a particular social group, or political opinion; and

"(B) the application of paragraph (1) to such alien is necessary to ensure compliance with the 1967 United Nations Protocol Relating to the Status of Refugees.".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

SEC. 414. EXCLUSION OF ALIENS WHO HAVE NOT BEEN INSPECTED AND ADMITTED.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this title, an alien found in the United States who has not been admitted to the United States after inspection in accordance with section 235 is deemed for purposes of this Act to be seeking entry and admission to the United States and shall be subject to examination and exclusion by the Attorney General under chapter 4. In the case of such an alien the Attorney General shall provide by regulation an opportunity for the alien to establish that the alien was so admitted.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act.

Subtitle C—Modification to Asylum Procedures

SEC. 421. DENIAL OF ASYLUM TO ALIEN TERRORISTS.

(a) IN GENERAL.—Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)) is amended by adding at the end the following: "The Attorney General may not grant an alien asylum if the Attorney General determines that the alien is excludable under subclause (I), (II), or (III) of section 212(a)(3)(B)(i) or deportable under section 241(a)(4)(B), unless the Attorney General determines, in the discretion of the Attorney General, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to asylum determinations made on or after such date.

SEC. 422. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) IN GENERAL.—Subsection (b) of section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended to read as follows:

"(b)(1)(A) If the examining immigration officer determines that an alien seeking entry—

"(i) is excludable under section 212(a)(6)(C) or 212(a)(7), and

"(ii) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution,

the officer shall order the alien excluded from the United States without further hearing or review.

"(B) The examining immigration officer shall refer for an interview by an asylum officer under subparagraph (C) any alien who is excludable under section 212(a)(6)(C) or 212(a)(7) and has indicated an intention to apply for asylum under section 208 or a fear of persecution.

"(C)(i) An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (B).

"(ii) If the officer determines at the time of the interview that an alien has a credible fear of persecution (as defined in clause (v)), the alien shall be detained for an asylum hearing before an asylum officer under section 208.

"(iii)(I) Subject to subclause (II), if the officer determines that the alien does not have a credible fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

"(II) The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum office at the port of entry of a determination under subclause (I).

"(iv) The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

"(v) For purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

"(D) As used in this paragraph, the term 'asylum officer' means an immigration officer who—

"(i) has had professional training in country conditions, asylum law, and interview techniques; and

"(ii) is supervised by an officer who meets the condition in clause (i).

"(E)(i) An exclusion order entered in accordance with subparagraph (A) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

"(ii) In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of exclusion entered under subparagraph (A).

"(2)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

"(B) The provisions of subparagraph (A) shall not apply—

"(i) to an alien crewman,

"(ii) to an alien described in paragraph (1)(A) or (1)(C)(iii)(I), or

"(iii) if the conditions described in section 273(d) exist.

"(3) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.".

(b) CONFORMING AMENDMENT.—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "Deportation" and inserting "Subject to section 235(b)(1), deportation", and

(2) in the first sentence of paragraph (2), by striking "If" and inserting "Subject to section 235(b)(1), if".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

SEC. 423. JUDICIAL REVIEW.

(a) PRECLUSION OF JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) by amending the section heading to read as follows:

"JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION, AND SPECIAL EXCLUSION"; and

(2) by adding at the end the following new subsection:

"(e)(1) Notwithstanding any other provision of law, and except as provided in this subsection, no court shall have jurisdiction to review any individual determination, or to entertain any other cause or claim, arising from or relating to the implementation or operation of section 235(b)(1). Regardless of the nature of the action or claim, or the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or

VOL
142
PT
6
AP
15
—
24
1996
UMI

other equitable relief not specifically authorized in this subsection nor to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

"(2) Judicial review of any cause, claim, or individual determination covered under paragraph (1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

"(A) whether the petitioner is an alien, if the petitioner makes a showing that the petitioner's claim of United States nationality is not frivolous;

"(B) whether the petitioner was ordered specially excluded under section 235(b)(1)(A); and

"(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such review as is provided by the Attorney General pursuant to section 235(b)(1)(E)(i).

"(3) In any case where the court determines that an alien was not ordered specially excluded, or was not properly subject to special exclusion under the regulations adopted by the Attorney General, the court may order no relief beyond requiring that the alien receive a hearing in accordance with section 236, or a determination in accordance with section 235(c) or 273(d).

"(4) In determining whether an alien has been ordered specially excluded, the court's inquiry shall be limited to whether such an order was in fact issued and whether it relates to the petitioner.".

(b) Preclusion of Collateral Attacks.—Section 235 of such Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(d) In any action brought for the assessment of penalties for improper entry or re-entry of an alien under section 275 or section 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under this section or sections 236 and 242.".

(c) Clerical Amendment.—The item relating to section 106 in the table of contents of such Act is amended to read as follows:

"Sec. 106. Judicial review of orders of deportation and exclusion, and special exclusion.".

Subtitle D—Criminal Alien Procedural Improvements

SEC. 431. RESTRICTING THE DEFENSE TO EXCLUSION BASED ON 7 YEARS PERMANENT RESIDENCE FOR CERTAIN CRIMINAL ALIENS.

The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.".

SEC. 432. ACCESS TO CERTAIN CONFIDENTIAL IMMIGRATION AND NATURALIZATION FILES THROUGH COURT ORDER.

(a) Confidentiality of Information.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting "(i)" after "except the Attorney General"; and

(2) by inserting after "Title 13" the following: "and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

"(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

"(II) for criminal law enforcement purposes against the alien whose application is to be disclosed.".

(b) Applications for Adjustment of Status.—Section 210(b) of the Immigration and Nationality Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting ", except as allowed by a court order issued pursuant to paragraph (6) of this subsection" after "consent of the alien"; and

(2) in paragraph (6), by inserting the following sentence before "Anyone who uses": "Notwithstanding the preceding sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant an order authorizing, disclosure of information contained in the application of the alien to be used for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or for criminal law enforcement purposes against the alien whose application is to be disclosed or to discover information leading to the location or identity of the alien.".

SEC. 433. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Section 130002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended to read as follows:

"(a) Operation and Purpose.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.".

SEC. 434. ESTABLISHING CERTAIN ALIEN SMUGGLING-RELATED CRIMES AS RICO-PREDICATE OFFENSES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting "section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain," before "section 1029";

(2) by inserting "section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581–1588 (relating to peonage and slavery)," after "section 1513 (relating to retaliating against a witness, victim, or an informant),";

(3) by striking "or" before "(E)"; and

(4) by inserting before the period at the end the following: ", or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain".

SEC. 435. AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

"(o) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or".

SEC. 436. EXPANSION OF CRITERIA FOR DEPORTATION FOR CRIMES OF MORAL TURPITUDE.

(a) In General.—Section 241(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(II)) is amended to read as follows:

"(II) is convicted of a crime for which a sentence of one year or longer may be imposed,".

(b) Effective Date.—The amendment made by subsection (a) shall apply to aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 437. MISCELLANEOUS PROVISIONS.

(a) Use of Electronic and Telephonic Media in Deportation Hearings.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien".

(b) Codification.—

(1) Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: "Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(2) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) is amended by striking "and nothing in" and all that follows through "1252(i))".

(3) The amendments made by this subsection shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

SEC. 438. INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country's border with the United States.

SEC. 439. DEPORTATION OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.

(a) In General.—Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

"(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

"(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

"(A) in the case of an alien in the custody of the Attorney General, if the Attorney General

determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

"(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

"(3) Any alien deported pursuant to this subsection shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens deported under paragraph (2).".

(b) Reentry of Alien Deported Prior to Completion of Term of Imprisonment.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

"(c) Any alien deported pursuant to section 242(h)(2) who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.".

SEC. 440. AUTHORIZING STATE AND LOCAL LAW ENFORCEMENT OFFICIALS TO ARREST AND DETAIN CERTAIN ILLEGAL ALIENS.

(a) In General.—Notwithstanding any other provision of law, to the extent permitted by relevant State and local law, State and local law enforcement officials are authorized to arrest and detain an individual who—

(1) is an alien illegally present in the United States; and

(2) has previously been convicted of a felony in the United States and deported or left the United States after such conviction,

but only after the State or local law enforcement officials obtain appropriate confirmation from the Immigration and Naturalization Service of the status of such individual and only for such period of time as may be required for the Service to take the individual into Federal custody for purposes of deporting or removing the alien from the United States.

(b) Cooperation.—The Attorney General shall cooperate with the States to assure that information in the control of the Attorney General, including information in the National Crime Information Center, that would assist State and local law enforcement officials in carrying out duties under subsection (a) is made available to such officials.

SEC. 441. CRIMINAL ALIEN REMOVAL.

(a) Judicial Review.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a(a)(10)) is amended to read as follows:

"(10) Any final order of deportation against an alien who is deportable by reason of having committed a criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), shall not be subject to review by any court.".

(b) Final Order of Deportation Defined.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(47)(A) The term 'order of deportation' means the order of the special inquiry officer, or other such administrative officer to whom the Attorney General has delegated the responsibility for determining whether an alien is deportable, concluding that the alien is deportable or ordering deportation.

"(B) The order described under subparagraph (A) shall become final upon the earlier of—

"(i) a determination by the Board of Immigration Appeals affirming such order; or

"(ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration Appeals.".

(c) Arrest and Custody.—Section 242(a)(2) of such Act is amended—

(1) in subparagraph (A)—

(A) by striking "(2)(A) The Attorney" and inserting "(2) The Attorney";

(B) by striking "an aggravated felony upon" and all that follows through "of the same offense)" and inserting "any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), upon release of the alien from incarceration, shall deport the alien as expeditiously as possible"; and

(C) by striking "but subject to subparagraph (B)"; and

(2) by striking subparagraph (B).

(d) Classes of Excludable Aliens.—Section 212(c) of such Act (8 U.S.C. 1182(c)) is amended—

(1) by striking "The first sentence of this" and inserting "This"; and

(2) by striking "has been convicted of one or more aggravated felonies" and all that follows through the end and inserting "is deportable by reason of having committed any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).".

(e) Aggravated Felony Defined.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended—

(1) in subparagraph (J), by inserting ", or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses)," after "corrupt organizations)";

(2) in subparagraph (K)—

(A) by striking "or" at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or";

(3) by amending subparagraph (N) to read as follows:

"(N) an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;";

(4) by amending subparagraph (O) to read as follows:

"(O) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 18 months;"

(5) in subparagraph (P), by striking "15 years" and inserting "5 years", and by striking "and" at the end;

(6) by redesignating subparagraphs (O), (P), and (Q) as subparagraphs (P), (Q), and (U), respectively;

(7) by inserting after subparagraph (N) the following new subparagraph:

"(O) an offense described in section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;"; and

(8) by inserting after subparagraph (Q), as so redesignated, the following new subparagraphs:

"(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which a sentence of 5 years' imprisonment or more may be imposed;

"(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and".

(b) Effective Date.—The amendments made by subsection (a) shall apply to convictions entered on or after the date of the enactment of this Act, except that the amendment made by subsection (a)(3) shall take effect as if included in the enactment of section 222 of the Immigration and Nationality Technical Corrections Act of 1994.

(f) Deportation of Criminal Aliens.—Section 242A(a) of such Act (8 U.S.C. 1252a) is amended—

(1) in paragraph (1)—

(A) by striking "aggravated felonies (as defined in section 101(a)(43) of this title)" and inserting "any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i)."; and

(B) by striking ", where warranted,";

(2) in paragraph (2), by striking "aggravated felony" and all that follows through "before any scheduled hearings." and inserting "any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).".

(g) Deadlines for Deporting Alien.—Section 242(c) of such Act (8 U.S.C. 1252(c)) is amended—

(1) by striking "(c) When a final order" and inserting "(c)(1) Subject to paragraph (2), when a final order"; and

(2) by inserting at the end the following new paragraph:

"(2) When a final order of deportation under administrative process is made against any alien who is deportable by reason of having committed a criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D) or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), the Attorney General shall have 30 days from the date of the order within which to effect the alien's departure from the United States. The Attorney General shall have sole and unreviewable discretion to waive the foregoing provision for aliens who are cooperating with law enforcement authorities or for purposes of national security.".

SEC. 442. LIMITATION ON COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.

(a) In General.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

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"(d) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to criminal proceedings initiated after the date of enactment of this Act.

SEC. 443. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ADMINISTRATIVE HEARINGS.—Section 242A(b) of the Immigration and Nationality Act (8 U.S.C. 1252a(b)), as added by section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A) and inserting "or", and

(B) by amending subparagraph (B) to read as follows:

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.";

(2) in paragraph (3), by striking "30 calendar days" and inserting "14 calendar days";

(3) in paragraph (4)(B), by striking "proccedings" and inserting "proceedings";

(4) in paragraph (4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(B) by adding after subparagraph (C) the following new subparagraphs:

"(D) such proceedings are conducted in, or translated for the alien into, a language the alien understands;

"(E) a determination is made for the record at such proceedings that the individual who appears to respond in such a proceeding is an alien subject to such an expedited proceeding under this section and is, in fact, the alien named in the notice for such proceeding;".

(5) by adding at the end the following new paragraph:

"(5) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in the Attorney General's discretion.".

(b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a), as added by section 130004(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended to read as follows:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) PRESUMPTION OF DEPORTABILITY.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting after subsection (b) the following new subsection:

"(c) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 444. EXTRADITION OF ALIENS.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "The provisions of this chapter"; and

(2) by adding at the end the following new subsections:

"(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons, other than citizens, nationals, or permanent residents of the United States, who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

"(1) evidence has been presented by the foreign government that indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

"(2) the offenses charged are not of a political nature.

"(c) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

TITLE V—NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS RESTRICTIONS

Subtitle A—Nuclear Materials

SEC. 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) nuclear materials, including byproduct materials, can be used to create radioactive dispersal devices that are capable of causing serious bodily injury as well as substantial damage to property and to the environment;

(2) the potential use of nuclear materials, including byproduct materials, enhances the threat posed by terrorist activities and thereby has a greater effect on the security interests of the United States;

(3) due to the widespread hazards presented by the threat of nuclear contamination, as well as nuclear bombs, the United States has a strong interest in ensuring that persons who are engaged in the illegal acquisition and use of nuclear materials, including byproduct materials, are prosecuted for their offenses;

(4) the threat that nuclear materials will be obtained and used by terrorist and other criminal organizations has increased substantially since the enactment in 1982 of the legislation that implemented the Convention on the Physical Protection of Nuclear Material, codified at section 831 of title 18, United States Code;

(5) the successful efforts to obtain agreements from other countries to dismantle nuclear weapons have resulted in increased packaging and transportation of nuclear materials, thereby decreasing the security of such materials by increasing the opportunity for unlawful diversion and theft;

(6) the trafficking in the relatively more common, commercially available, and usable nuclear and byproduct materials creates the potential for significant loss of life and environmental damage;

(7) report trafficking incidents in the early 1990's suggest that the individuals involved in trafficking in these materials from Eurasia and Eastern Europe frequently conducted their black market sales of these materials within the Federal Republic of Germany, the Baltic States, the former Soviet Union, Central Europe, and to a lesser extent in the Middle European countries;

(8) the international community has become increasingly concerned over the illegal possession of nuclear and nuclear byproduct materials;

(9) the potentially disastrous ramifications of increased access to nuclear and nuclear byproduct materials pose such a significant threat that the United States must use all lawful methods available to combat the illegal use of such materials;

(10) the United States has an interest in encouraging United States corporations to do business in the countries that comprised the former Soviet Union, and in other developing democracies;

(11) protection of such United States corporations from threats created by the unlawful use of nuclear materials is important to the success of the effort to encourage business ventures in these countries, and to further the foreign relations and commerce of the United States;

(12) the nature of nuclear contamination is such that it may affect the health, environment, and property of United States nationals even if the acts that constitute the illegal activity occur outside the territory of the United States, and are primarily directed toward foreign nationals; and

(13) there is presently no Federal criminal statute that provides adequate protection to United States interests from nonweapons grade, yet hazardous radioactive material, and from the illegal diversion of nuclear materials that are held for other than peaceful purposes.

(b) PURPOSE.—The purpose of this title is to provide Federal law enforcement agencies with the necessary means and the maximum authority permissible under the Constitution to combat the threat of nuclear contamination and proliferation that may result from the illegal possession and use of radioactive materials.

SEC. 502. EXPANSION OF SCOPE AND JURISDICTIONAL BASES OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "nuclear material" each place it appears and inserting "nuclear material or nuclear byproduct material";

(B) in paragraph (1)—

(i) in subparagraph (A), by inserting "or to the environment" after "property"; and

(ii) so that subparagraph (B) reads as follows:

"(B) circumstances exist, or have been represented to the defendant to exist, that are likely to cause the death or serious bodily injury to any person, or substantial damage to property or to the environment;"; and

(C) in paragraph (6), by inserting "or to the environment" after "property";

(2) in subsection (c)—

(A) so that paragraph (2) reads as follows:

"(2) an offender or a victim is—

"(A) a national of the United States; or

"(B) a United States corporation or other legal entity;";

(B) in paragraph (3)—

(i) by striking "at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and"; and

(ii) by striking "or" at the end of the paragraph;

(C) in paragraph (4)—

(i) by striking "nuclear material for peaceful purposes" and inserting "nuclear material or nuclear byproduct material"; and

(ii) by striking the period at the end of the paragraph and inserting "; or"; and

(D) by adding at the end the following new paragraph:

"(5) either—

"(A) the governmental entity under subsection (a)(5) is the United States; or

"(B) the threat under subsection (a)(6) is directed at the United States."; and

(3) in subsection (f)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "with an isotopic concentration not in excess of 80 percent plutonium 238"; and

(ii) in subparagraph (C), by striking "uranium" and inserting "enriched uranium, defined as uranium";

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(C) by inserting after paragraph (1) the following new paragraph:

"(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;";

(D) in paragraph (4), as redesignated, by striking "and" at the end;

(E) in paragraph (5), as redesignated, by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following new paragraphs:

"(6) the term 'national of the United States' has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, Commonwealth, territory, possession, or district of the United States.".

SEC. 503. REPORT TO CONGRESS ON THEFTS OF EXPLOSIVE MATERIALS FROM ARMORIES.

(a) STUDY.—The Attorney General and the Secretary of Defense shall jointly conduct a study of the number and extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Attorney General and the Secretary of Defense shall jointly prepare and transmit to the Congress a report on the findings of the study conducted under subsection (a).

Subtitle B—Biological Weapons Restrictions

SEC. 511. ENHANCED PENALTIES AND CONTROL OF BIOLOGICAL AGENTS.

(a) FINDINGS.—The Congress finds that—

(1) certain biological agents have the potential to pose a severe threat to public health and safety;

(2) such biological agents can be used as weapons by individuals or organizations for the purpose of domestic or international terrorism or for other criminal purposes;

(3) the transfer and possession of potentially hazardous biological agents should be regulated to protect public health and safety; and

(4) efforts to protect the public from exposure to such agents should ensure that individuals and groups with legitimate objectives continue to have access to such agents for clinical and research purposes.

(b) CRIMINAL ENFORCEMENT.—Chapter 10 of title 18, United States Code, is amended—

(1) in section 175(a), by inserting "or attempts, threatens, or conspires to do the same," after "to do so,";

(2) in section 177(a)(2), by inserting "threat," after "attempt,"; and

(3) in section 178—

(A) in paragraph (1), by striking "or infectious substance" and inserting "infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product";

(B) in paragraph (2)—

(i) by inserting "the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule" after "means";

(ii) by striking "production—" and inserting "production, including—";

(iii) in subparagraph (A), by inserting "or biological product that may be engineered as a result of biotechnology" after "substance"; and

(v) in subparagraph (B), by inserting "or biological product" after "isomer"; and

(C) in paragraph (4), by inserting ", or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology," after "organism".

(c) TERRORISM.—Section 2332a(a) of title 18, United States Code, is amended—

(1) by inserting ", threatens," after "attempts"; and

(2) by inserting ", including any biological agent, toxin, or vector (as those terms are defined in section 178)" after "destruction".

(d) REGULATORY CONTROL OF BIOLOGICAL AGENTS.—

(1) LIST OF BIOLOGICAL AGENTS.—

(A) IN GENERAL.—The Secretary shall, through regulations promulgated under subsection (f), establish and maintain a list of each biological agent that has the potential to pose a severe threat to public health and safety.

(B) CRITERIA.—In determining whether to include an agent on the list under subparagraph (A), the Secretary shall—

(i) consider—

(I) the effect on human health of exposure to the agent;

(II) the degree of contagiousness of the agent and the methods by which the agent is transferred to humans;

(III) the availability and effectiveness of immunizations to prevent and treatments for any illness resulting from infection by the agent; and

(IV) any other criteria that the Secretary considers appropriate; and

(ii) consult with scientific experts representing appropriate professional groups.

(e) REGULATION OF TRANSFERS OF LISTED BIOLOGICAL AGENTS.—The Secretary shall, through regulations promulgated under subsection (f), provide for—

(1) the establishment and enforcement of safety procedures for the transfer of biological agents listed pursuant subsection (d)(1), including measures to ensure—

(A) proper training and appropriate skills to handle such agents; and

(B) proper laboratory facilities to contain and dispose of such agents;

(2) safeguards to prevent access to such agents for use in domestic or international terrorism or for any other criminal purpose;

(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

(4) appropriate availability of biological agents for research, education, and other legitimate purposes.

(f) REGULATIONS.—The Secretary shall carry out this section by issuing—

(1) proposed rules not later than 60 days after the date of enactment of this Act; and

(2) final rules not later than 120 days after the date of enactment of this Act.

(g) DEFINITIONS.—For purposes of this section—

(1) the term "biological agent" has the same meaning as in section 178 of title 18, United States Code; and

(2) the term "Secretary" means the Secretary of Health and Human Services.

Subtitle C—Chemical Weapons Restrictions

SEC. 521. CHEMICAL WEAPONS OF MASS DESTRUCTION; STUDY OF FACILITY FOR TRAINING AND EVALUATION OF PERSONNEL WHO RESPOND TO USE OF CHEMICAL OR BIOLOGICAL WEAPONS IN URBAN AND SUBURBAN AREAS.

(a) CHEMICAL WEAPONS OF MASS DESTRUCTION.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332b as added by section 702 of this Act the following new section:

"§2332c. Use of chemical weapons

"(a) PROHIBITED ACTS.—

"(1) OFFENSE.—A person shall be punished under paragraph (2) if that person, without lawful authority, uses, or attempts or conspires to use, a chemical weapon against—

"(A) a national of the United States while such national is outside of the United States;

"(B) any person within the United States; or

"(C) any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States.

"(2) PENALTIES.—A person who violates paragraph (1)—

"(A) shall be imprisoned for any term of years or for life; or

"(B) if death results from that violation, shall be punished by death or imprisoned for any term of years or for life.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'national of the United States' has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) the term 'chemical weapon' means any weapon that is designed or intended to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or precursors of toxic or poisonous chemicals.

(b) STUDY OF FACILITY FOR TRAINING AND EVALUATION OF PERSONNEL WHO RESPOND TO USE OF CHEMICAL OR BIOLOGICAL WEAPONS IN URBAN AND SUBURBAN AREAS.—

(1) FINDINGS.—The Congress finds that—

(A) the threat of the use of chemical and biological weapons by Third World countries and by terrorist organizations has increased in recent years and is now a problem of worldwide significance;

(B) the military and law enforcement agencies in the United States that are responsible for responding to the use of such weapons require additional testing, training, and evaluation facilities to ensure that the personnel of such agencies discharge their responsibilities effectively; and

(C) a facility that recreates urban and suburban locations would provide an especially effective environment in which to test, train, and evaluate such personnel for that purpose.

(2) STUDY OF FACILITY.—

(A) IN GENERAL.—The President shall establish an interagency task force to determine the feasibility and advisability of establishing a facility that recreates both an urban environment and a suburban environment in such a way as to permit the effective testing, training, and evaluation in such environments of government personnel who are responsible for responding to

VOL 142 PT 6 AP 15 — 24 1996 UMI

the use of chemical and biological weapons in the United States.

(B) DESCRIPTION OF FACILITY.—The facility considered under subparagraph (A) shall include—

(i) facilities common to urban environments (including a multistory building and an underground rail transit system) and to suburban environments;

(ii) the capacity to produce controllable releases of chemical and biological agents from a variety of urban and suburban structures, including laboratories, small buildings, and dwellings;

(iii) the capacity to produce controllable releases of chemical and biological agents into sewage, water, and air management systems common to urban areas and suburban areas;

(iv) chemical and biocontaminant facilities at the P3 and P4 levels;

(v) the capacity to test and evaluate the effectiveness of a variety of protective clothing and facilities and survival techniques in urban areas and suburban areas; and

(vi) the capacity to test and evaluate the effectiveness of variable sensor arrays (including video, audio, meteorological, chemical, and biosensor arrays) in urban areas and suburban areas.

(C) SENSE OF CONGRESS.—It is the sense of Congress that the facility considered under subparagraph (A) shall, if established—

(i) be under the jurisdiction of the Secretary of Defense; and

(ii) be located at a principal facility of the Department of Defense for the testing and evaluation of the use of chemical and biological weapons during any period of armed conflict.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the item added by section 702 of this Act that relates to section 2332b the following new item:

"2332c. Use of chemical weapons.".

TITLE VI—IMPLEMENTATION OF PLASTIC EXPLOSIVES CONVENTION

SEC. 601. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) plastic explosives were used by terrorists in the bombings of Pan American Airlines flight number 103 in December 1988 and UTA flight number 722 in September 1989;

(2) plastic explosives can be used with little likelihood of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation;

(3) the criminal use of plastic explosives places innocent lives in jeopardy, endangers national security, affects domestic tranquility, and gravely affects interstate and foreign commerce;

(4) the marking of plastic explosives for the purpose of detection would contribute significantly to the prevention and punishment of such unlawful acts; and

(5) for the purpose of deterring and detecting such unlawful acts, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

(b) PURPOSE.—The purpose of this title is to fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

SEC. 602. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following new subsections:

"(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

"(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

"(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

"(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

"(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

"(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

"(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, that has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

"(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form has a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.".

SEC. 603. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following new subsections:

"(l) It shall be unlawful for any person to manufacture any plastic explosive that does not contain a detection agent.

"(m)(1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive that does not contain a detection agent.

"(2) This subsection does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

"(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent.

"(2) This subsection does not apply to—

"(A) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by any person during the period beginning on that date and ending 3 years after that date of enactment; or

"(B) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

"(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the date of enactment of this subsection, to fail to report to the Secretary within 120 days after such date of enactment the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may prescribe by regulation.".

SEC. 604. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

"(a) Any person who violates any of subsections (a) through (i) or (l) through (o) of section 842 shall be fined under this title, imprisoned for not more than 10 years, or both.".

SEC. 605. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "(l), (m), (n), or (o) of section 842 and subsections" after "subsections"; and

(B) in paragraph (1), by inserting before the semicolon ", and which pertain to safety"; and

(2) by adding at the end the following new subsection:

"(c) It is an affirmative defense against any proceeding involving subsections (l) through (o) of section 842 if the proponent proves by a preponderance of the evidence that the plastic explosive—

"(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

"(A) research, development, or testing of new or modified explosive materials;

"(B) training in explosives detection or development or testing of explosives detection equipment; or

"(C) forensic science purposes; or

"(2) was plastic explosive that, within 3 years after the date of enactment of the Antiterrorism and Effective Death Penalty Act of 1996, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located.

"(3) For purposes of this subsection, the term 'military device' includes, but is not restricted to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.".

SEC. 606. SEIZURE AND FORFEITURE OF PLASTIC EXPLOSIVES.

Section 596(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1595a(c)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) is a plastic explosive, as defined in section 841(q) of title 18, United States Code, which does not contain a detection agent, as defined in section 841(p) of such title.".

SEC. 607. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.

TITLE VII—CRIMINAL LAW MODIFICATIONS TO COUNTER TERRORISM

Subtitle A—Crimes and Penalties

SEC. 701. INCREASED PENALTY FOR CONSPIRACIES INVOLVING EXPLOSIVES.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 702. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) OFFENSE.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332a the following new section:

"§2332b. Acts of terrorism transcending national boundaries

"(a) PROHIBITED ACTS.—

"(1) OFFENSES.—Whoever, involving conduct transcending national boundaries and in a circumstance described in subsection (b)—

"(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any person within the United States; or

"(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States, in violation of the laws of any State, or the United States, shall be punished as prescribed in subsection (c).

"(2) TREATMENT OF THREATS, ATTEMPTS AND CONSPIRACIES.—Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished under subsection (c).

"(b) JURISDICTIONAL BASES.—

"(1) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

"(A) any of the offenders uses the mail or any facility of interstate or foreign commerce in furtherance of the offense;

"(B) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

"(C) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

"(D) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, or leased to the United States, or any department or agency of the United States;

"(E) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

"(F) the offense is committed within the special maritime and territorial jurisdiction of the United States.

"(2) CO-CONSPIRATORS AND ACCESSORIES AFTER THE FACT.—Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of the circumstances described in subparagraphs (A) through (F) of paragraph (1) is applicable to at least one offender.

"(c) PENALTIES.—

"(1) PENALTIES.—Whoever violates this section shall be punished—

"(A) for a killing, or if death results to any person from any other conduct prohibited by this section, by death, or by imprisonment for any term of years or for life;

"(B) for kidnapping, by imprisonment for any term of years or for life;

"(C) for maiming, by imprisonment for not more than 35 years;

"(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

"(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

"(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

"(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

"(2) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

"(d) PROOF REQUIREMENTS.—The following shall apply to prosecutions under this section:

"(1) KNOWLEDGE.—The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

"(2) STATE LAW.—In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

"(e) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

"(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

"(2) over conduct which, under section 3, renders any person an accessory after the fact to an offense under subsection (a).

"(f) INVESTIGATIVE AUTHORITY.—In addition to any other investigative authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General. Nothing in this section shall be construed to interfere with the authority of the United States Secret Service under section 3056.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'conduct transcending national boundaries' means conduct occurring outside of the United States in addition to the conduct occurring in the United States;

"(2) the term 'facility of interstate or foreign commerce' has the meaning given that term in section 1958(b)(2);

"(3) the term 'serious bodily injury' has the meaning given that term in section 1365(g)(3);

"(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States, determined in accordance with international law; and

"(5) the term 'Federal crime of terrorism' means an offense that—

"(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

"(B) is a violation of—

"(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear materials), 842 (m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844 (f) or (i) (relating to arson and bombing of certain property), 956 (relating to conspiracy to injure property of a foreign government), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property or contracts), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of an energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 2152 (relating to injury of fortifications, harbor defenses, or defensive sea areas), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture);

"(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

"(iii) section 46502 (relating to aircraft piracy) or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the item relating to section 2332a the following new item:

"2332b. Acts of terrorism transcending national boundaries.".

(c) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended—

(1) by striking "any offense" and inserting "any non-capital offense";

(2) by striking "36" and inserting "37";

(3) by striking "2331" and inserting "2332";

(4) by striking "2339" and inserting "2332a"; and

(5) by inserting "2332b (acts of terrorism transcending national boundaries)," after "(use of weapons of mass destruction),".

(d) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting ", 956(a), or 2332b" after "section 924(c)".

SEC. 703. EXPANSION OF PROVISION RELATING TO DESTRUCTION OR INJURY OF PROPERTY WITHIN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

Section 1363 of title 18, United States Code, is amended by striking "any building," and all that follows through "shipping" and inserting "any structure, conveyance, or other real or personal property".

VOL
142
PT
6
AP
15
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24
1996
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SEC. 704. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) In General.—Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

"§956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

"(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

"(2) The punishment for an offense under subsection (a)(1) of this section is—

"(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

"(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

"(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.".

(b) Clerical Amendment.—The item relating to section 956 in the table of sections at the beginning of chapter 45 of title 18, United States Code, is amended to read as follows:

"956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.".

SEC. 705. INCREASED PENALTIES FOR CERTAIN TERRORISM CRIMES.

(a) In General.—Title 18, United States Code, is amended—

(1) in section 114, by striking "maim or disfigure" and inserting "torture (as defined in section 2340), maim, or disfigure";

(2) in section 755, by striking "two years" and inserting "5 years";

(3) in section 756, by striking "one year" and inserting "five years";

(4) in section 878(a), by striking "by killing, kidnapping, or assaulting a foreign official, official guest, or internationally protected person";

(5) in section 1113, by striking "three years" and inserting "seven years"; and

(6) in section 2332(c), by striking "five" and inserting "ten".

(b) Penalty for Carrying Weapons or Explosives on an Aircraft.—Section 46505 of title 49, United States Code, is amended—

(1) in subsection (b), by striking "one year" and inserting "10 years"; and

(2) in subsection (c), by striking "5" and inserting "15".

SEC. 706. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3)) or drug trafficking crime (as defined in section 924(c)(2)) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of an explosive material.".

SEC. 707. POSSESSION OF STOLEN EXPLOSIVES PROHIBITED.

Section 842(h) of title 18, United States Code, is amended to read as follows:

"(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.".

SEC. 708. ENHANCED PENALTIES FOR USE OF EXPLOSIVES OR ARSON CRIMES.

(a) In General.—Section 844 of title 18, United States Code, is amended—

(1) in subsection (e), by striking "five" and inserting "10";

(2) by amending subsection (f) to read as follows:

"(f)(1) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other personal or real property in whole or in part owned or possessed by, or leased to, the United States, or any department or agency thereof, shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both.

"(2) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct, directly or proximately causes personal injury or creates a substantial risk of injury to any person, including any public safety officer performing duties, shall be imprisoned for not less than 7 years and not more than 40 years, fined under this title, or both.

"(3) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the death of any person, including any public safety officer performing duties, shall be subject to the death penalty, or imprisoned for not less than 20 years or for life, fined under this title, or both.";

(3) in subsection (h)—

(A) in the first sentence, by striking "5 years but not more than 15 years" and inserting "10 years"; and

(B) in the second sentence, by striking "10 years but not more than 25 years" and inserting "20 years"; and

(4) in subsection (i)—

(A) by striking "not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed," and inserting "not less than 5 years and not more than 20 years, fined under this title"; and

(B) by striking "not more than 40 years, fined the greater of a fine under this title or the cost of repairing or replacing any property that is damaged or destroyed," and inserting "not less than 7 years and not more than 40 years, fined under this title".

(b) Conforming Amendment.—Section 81 of title 18, United States Code, is amended by striking "fined under this title or imprisoned not more than five years, or both" and inserting "imprisoned for not more than 25 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both".

(c) Statute of Limitation for Arson Offenses.—

(1) In general.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

"§3295. Arson offenses

"No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 unless the indictment is found or the information is instituted not later than 10 years after the date on which the offense was committed.".

(2) Clerical amendment.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3295. Arson offenses.".

(3) Conforming amendment.—Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

SEC. 709. DETERMINATION OF CONSTITUTIONALITY OF RESTRICTING THE DISSEMINATION OF BOMB-MAKING INSTRUCTIONAL MATERIALS.

(a) Study.—The Attorney General, in consultation with such other officials and individuals as the Attorney General considers appropriate, shall conduct a study concerning—

(1) the extent to which there is available to the public material in any medium (including print, electronic, or film) that provides instruction on how to make bombs, destructive devices, or weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic or international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism;

(4) the application of Federal laws in effect on the date of enactment of this Act to such material;

(5) the need and utility, if any, for additional laws relating to such material; and

(6) an assessment of the extent to which the first amendment protects such material and its private and commercial distribution.

(b) Report.—

(1) Requirement.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section.

(2) Availability.—The Attorney General shall make the report submitted under this subsection available to the public.

Subtitle B—Criminal Procedures

SEC. 721. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) Aircraft Piracy.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking "and later found in the United States";

(2) so that paragraph (2) reads as follows:

"(2) There is jurisdiction over the offense in paragraph (1) if—

"(A) a national of the United States was aboard the aircraft;

"(B) an offender is a national of the United States; or

"(C) an offender is afterwards found in the United States."; and

(3) by inserting after paragraph (2) the following:

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) Destruction of Aircraft or Aircraft Facilities.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking ", if the offender is later found in the United States,"; and

(2) by inserting at the end the following: "There is jurisdiction over an offense under this subsection if a national of the United States was

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on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.".

(c) Murder of Foreign Officials and Certain Other Persons.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

"(7) 'National of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''; and

(2) in subsection (c), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(d) Protection of Foreign Officials and Certain Other Persons.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (e), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(e) Threats and Extortion Against Foreign Officials and Certain Other Persons.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (d), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(f) Kidnapping of Internationally Protected Persons.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States."; and

(2) by adding at the end the following: "For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(g) Violence at International Airports.—Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting "(A)" before "the offender is later found in the United States"; and

(2) by inserting "; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))" after "the offender is later found in the United States".

(h) Biological Weapons.—Section 178 of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding the following at the end:

"(5) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

SEC. 722. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking "and the activity is not prohibited as a crime by the State in which the activity takes place"; and

(2) in clause (iii), by striking "the activity takes place on a ship flying the flag of a foreign country or outside the United States,".

SEC. 723. INCREASED AND ALTERNATE CONSPIRACY PENALTIES FOR TERRORISM OFFENSES.

(a) Title 18 Offenses.—

(1) Sections 32(a)(7), 32(b)(4), 37(a), 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H), and 2281(a)(1)(F) of title 18, United States Code, are each amended by inserting "or conspires" after "attempts".

(2) Section 115(b)(2) of title 18, United States Code, is amended by striking "or attempted kidnapping" both places it appears and inserting ", attempted kidnapping, or conspiracy to kidnap".

(3)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking "or attempted murder" and inserting ", attempted murder, or conspiracy to murder".

(B) Section 115(b)(3) of title 18, United States Code, is amended by striking "and 1113" and inserting ", 1113, and 1117".

(b) Aircraft Piracy.—

(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting "or conspiring" after "attempting".

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting "or conspiring to commit" after "committing".

SEC. 724. CLARIFICATION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended by striking "commerce," and inserting "interstate or foreign commerce, or in or affecting interstate or foreign commerce,".

SEC. 725. EXPANSION AND MODIFICATION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the subsection heading, by inserting "Against a National of the United States or Within the United States" after "Offense";

(B) by striking "uses, or attempts" and inserting ", without lawful authority, uses, threatens, or attempts"; and

(C) in paragraph (2), by inserting ", and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce" before the semicolon at the end;

(2) in subsection (b), by striking subparagraph (B) and inserting the following:

"(B) any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;";

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following new subsection:

"(b) Offense by National of the United States Outside of the United States.—Any national of the United States who, without lawful authority, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction outside of the United States shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.".

SEC. 726. ADDITION OF TERRORISM OFFENSES TO THE MONEY LAUNDERING STATUTE.

Section 1956(c)(7) of title 18, United States Code, is amended—

(1) in subparagraph (B), by amending clause (ii) to read as follows:

"(ii) murder, kidnapping, robbery, extortion, or destruction of property by means of explosive or fire;"; and

(2) in subparagraph (D)—

(A) by inserting after "an offense under" the following: "section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),";

(B) by inserting after "section 215 (relating to commissions or gifts for procuring loans)," the following: "section 351 (relating to congressional or Cabinet officer assassination),";

(C) by inserting after "section 798 (relating to espionage)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),";

(D) by inserting after "section 875 (relating to interstate communications)," the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),";

(E) by inserting after "section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution)," the following: "section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),";

(F) by inserting after "section 1203 (relating to hostage taking)," the following: "section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),";

(G) by inserting after "section 1708 (relating to theft from the mail)," the following: "section 1751 (relating to Presidential assassination),";

(H) by inserting after "2114 (relating to bank and postal robbery and theft)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),";

(I) by striking "or section 2320" and inserting "section 2320"; and

(J) by striking "of this title" and inserting the following: ", section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), or section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code,".

SEC. 727. PROTECTION OF FEDERAL EMPLOYEES; PROTECTION OF CURRENT OR FORMER OFFICIALS, OFFICERS, OR EMPLOYEES OF THE UNITED STATES.

(a) Homicide.—Section 1114 of title 18, United States Code, is amended to read as follows:

VOL
142
PT
6
AP
15
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24
1996
UMI

"§1114. Protection of officers and employees of the United States

"Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished—

"(1) in the case of murder, as provided under section 1111;

"(2) in the case of manslaughter, as provided under section 1112; or

"(3) in the case of attempted murder or manslaughter, as provided in section 1113.".

(b) THREATS AGAINST FORMER OFFICERS AND EMPLOYEES.—

(1) IN GENERAL.—Section 115(a)(2) of title 18, United States Code, is amended by inserting ", or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or" after "assaults, kidnaps, or murders, or attempts to kidnap or murder".

(2) LIMITATION.—Section 115 of title 18, United States Code, is amended by adding at the end the following:

"(d) This section shall not interfere with the investigative authority of the United States Secret Service, as provided under section 3056, 871, and 879 of this title.".

(c) AMENDMENT TO CLARIFY THE MEANING OF THE TERM DEADLY OR DANGEROUS WEAPON IN THE PROHIBITION ON ASSAULT ON FEDERAL OFFICERS OR EMPLOYEES.—Section 111(b) of title 18, United States Code, is amended by inserting "(including a weapon intended to cause death or danger but that fails to do so by reason of a defective component)" after "deadly or dangerous weapon".

SEC. 728. DEATH PENALTY AGGRAVATING FACTOR.

Section 3592(c) of title 18, United States Code, is amended by inserting after paragraph (15) the following new paragraph:

"(16) MULTIPLE KILLINGS OR ATTEMPTED KILLINGS.—The defendant intentionally killed or attempted to kill more than one person in a single criminal episode.".

SEC. 729. DETENTION HEARING.

Section 3142(f) of title 18, United States Code, is amended by inserting "(not including any intermediate Saturday, Sunday, or legal holiday)" after "five days" and after "three days".

SEC. 730. DIRECTIONS TO SENTENCING COMMISSION.

The United States Sentencing Commission shall forthwith, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired, amend the sentencing guidelines so that the chapter 3 adjustment relating to international terrorism only applies to Federal crimes of terrorism, as defined in section 2332b(g) of title 18, United States Code.

SEC. 731. EXCLUSION OF CERTAIN TYPES OF INFORMATION FROM DEFINITIONS.

Section 2510 of title 18, United States Code, is amended—

(1) in paragraph (12)—

(A) by striking "or" at the end of subparagraph (B);

(B) by adding "or" at the end of subparagraph (C); and

(C) by adding at the end the following new subparagraph:

"(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds;"; and

(2) in paragraph (16)—

(A) by adding "or" at the end of subparagraph (D); .

(B) by striking "or" at the end of subparagraph (E); and .

(C) by striking subparagraph (F).

SEC. 732. MARKING, RENDERING INERT, AND LICENSING OF EXPLOSIVE MATERIALS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary of the Treasury (referred to in this section as the "Secretary") shall conduct a study of—

(A) the tagging of explosive materials for purposes of detection and identification;

(B) the feasibility and practicability of rendering common chemicals used to manufacture explosive materials inert;

(C) the feasibility and practicability of imposing controls on certain precursor chemicals used to manufacture explosive materials; and

(D) State licensing requirements for the purchase and use of commercial high explosives, including—

(i) detonators;

(ii) detonating cords;

(iii) dynamite;

(iv) water gel;

(v) emulsion;

(vi) blasting agents; and

(vii) boosters.

(2) EXCLUSION.—No study conducted under this subsection or regulation proposed under subsection (a) shall include black or smokeless powder among the explosive materials considered.

(b) CONSULTATION.—

(1) IN GENERAL.—In conducting the study under subsection (a), the Secretary shall consult with—

(A) Federal, State, and local officials with expertise in the area of chemicals used to manufacture explosive materials; and

(B) such other individuals as the Secretary determines are necessary.

(2) FERTILIZER RESEARCH CENTERS.—In conducting any portion of the study under subsection (a) relating to the regulation and use of fertilizer as a pre-explosive material, the Secretary of the Treasury shall consult with and receive input from non-profit fertilizer research centers.

(c) REPORT.—Not later than 30 days after the completion of the study conducted under subsection (a), the Secretary shall submit a report to the Congress, which shall be made public, that contains—

(1) the results of the study;

(2) any recommendations for legislation; and

(3) any opinions and findings of the fertilizer research centers.

(d) HEARINGS.—Congress shall have not less than 90 days after the submission of the report under subsection (c) to—

(1) review the results of the study; and

(2) hold hearings and receive testimony regarding the recommendations of the Secretary.

(e) REGULATIONS.—

(1) IN GENERAL.—Not later than 6 months after the submission of the report required by subsection (c), the Secretary may submit to Congress and publish in the Federal Register draft regulations for the addition of tracer elements to explosive materials manufactured in or imported into the United States, of such character and in such quantity as the Secretary may authorize or require, if the results of the study conducted under subsection (a) indicate that the tracer elements—

(A) will not pose a risk to human life or safety;

(B) will substantially assist law enforcement officers in their investigative efforts;

(C) will not substantially impair the quality of the explosive materials for their intended lawful use;

(D) will not have a substantially adverse effect on the environment; and

(E) the costs associated with the addition of the tracers will not outweigh benefits of their inclusion.

(2) EFFECTIVE DATE.—The regulations under paragraph (1) shall take effect 270 days after the Secretary submits proposed regulations to Congress pursuant to paragraph (1), except to the extent that the effective date is revised or the regulation is otherwise modified or disapproved by an Act of Congress.

TITLE VIII—ASSISTANCE TO LAW ENFORCEMENT

Subtitle A—Resources and Security

SEC. 801. OVERSEAS LAW ENFORCEMENT TRAINING ACTIVITIES.

The Attorney General and the Secretary of the Treasury are authorized to support law enforcement training activities in foreign countries, subject to the concurrence of the Secretary of State, for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses.

SEC. 802. SENSE OF CONGRESS.

It is the sense of the Congress that, whenever practicable, each recipient of any sum authorized to be appropriated by this Act, should use the money to purchase American-made products.

SEC. 803. PROTECTION OF FEDERAL GOVERNMENT BUILDINGS IN THE DISTRICT OF COLUMBIA.

The Attorney General and the Secretary of the Treasury may prohibit—

(1) any vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia used by law enforcement authorities subject to their jurisdiction, that is in whole or in part owned, possessed, or leased to the Federal Government; and

(2) any person or entity from conducting business on any property immediately adjacent to any building described in paragraph (1).

SEC. 804. REQUIREMENT TO PRESERVE RECORD EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) REQUIREMENT TO PRESERVE EVIDENCE.—

"(1) IN GENERAL.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records, and other evidence in its possession pending the issuance of a court order or other process.

"(2) PERIOD OF RETENTION.—Records referred to in paragraph (1) shall be retained for a period of 90 days, which shall be extended for an additional 90-day period upon a renewed request by the governmental entity.".

SEC. 805. DETERRENT AGAINST TERRORIST ACTIVITY DAMAGING A FEDERAL INTEREST COMPUTER.

(a) REVIEW.—Not later than 60 calendar days after the date of enactment of this Act, the United States Sentencing Commission shall review the deterrent effect of existing guideline levels as they apply to paragraphs (4) and (5) of section 1030(a) of title 18, United States Code.

(b) REPORT.—The United States Sentencing Commission shall prepare and transmit a report to the Congress on the findings under the study conducted under subsection (a).

(c) AMENDMENT OF GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the sentencing guidelines to ensure any individual convicted of a violation of paragraph (4) or (5) of section 1030(a) of title 18, United States Code, is imprisoned for not less than 6 months.

SEC. 806. COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Commission on the Advancement of Federal Law Enforcement" (hereinafter in this section referred to as the "Commission").

(b) DUTIES.—The Commission shall review, ascertain, evaluate, report, and recommend action to the Congress on the following matters:

(1) The Federal law enforcement priorities for the 21st century, including Federal law enforcement capability to investigate and deter adequately the threat of terrorism facing the United States.

(2) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.

(3) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement operations, and their uniformity and compatibility on an interagency basis, including standards related to the use of deadly force.

(4) The investigation and handling of specific Federal criminal law enforcement cases by the United States Government and the Federal law enforcement agencies therewith, selected at the Commission's discretion.

(5) The necessity for the present number of Federal law enforcement agencies and units.

(6) The location and efficacy of the office or entity directly responsible, aside from the President of the United States, for the coordination on an interagency basis of the operations, programs, and activities of all of the Federal law enforcement agencies.

(7) The degree of assistance, training, education, and other human resource management assets devoted to increasing professionalism for Federal law enforcement officers.

(8) The independent accountability mechanisms that exist, if any, and their efficacy to investigate, address, and to correct Federal law enforcement abuses.

(9) The degree of coordination among law enforcement agencies in the area of international crime and the extent to which deployment of resources overseas diminishes domestic law enforcement.

(10) The extent to which Federal law enforcement agencies coordinate with State and local law enforcement agencies on Federal criminal enforcement operations and programs that directly affect a State or local law enforcement agency's geographical jurisdiction.

(11) Such other related matters as the Commission deems appropriate.

(c) MEMBERSHIP AND ADMINISTRATIVE PROVISIONS.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed as follows:

(A) 1 member appointed by the President pro tempore of the Senate.

(B) 1 member appointed by the minority leader of the Senate.

(C) 1 member appointed by the Speaker of the House of Representatives.

(D) 1 member appointed by the minority leader of the House of Representatives.

(E) 1 member (who shall chair the Commission) appointed by the Chief Justice of the Supreme Court.

(2) DISQUALIFICATION.—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

(3) TERMS.—Each member shall be appointed for the life of the Commission.

(4) QUORUM.—3 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(5) MEETINGS.—The Commission shall meet at the call of the Chair of the Commission.

(6) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day, including travel time, during which the member is engaged in the performance of the duties of the Commission.

(d) STAFFING AND SUPPORT FUNCTIONS.—

(1) DIRECTOR.—The Commission shall have a director who shall be appointed by the Chair of the Commission.

(2) STAFF.—Subject to rules prescribed by the Commission, the Director may appoint additional personnel as the Commission considers appropriate.

(3) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(e) POWERS.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it. The Commission may establish rules for its proceedings.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission, unless doing so would threaten the national security, the health or safety of any individual, or the integrity of an ongoing investigation.

(4) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

(f) REPORT.—The Commission shall transmit a report to the Congress and the public not later than 2 years after a quorum of the Commission has been appointed. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for such actions as the Commission considers appropriate.

(g) TERMINATION.—The Commission shall terminate 30 days after submitting the report required by this section.

SEC. 807. COMBATTING INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary"), in consultation with the advanced counterfeit deterrence steering committee, shall—

(1) study the use and holding of United States currency in foreign countries; and

(2) develop useful estimates of the amount of counterfeit United States currency that circulates outside the United States each year.

(b) EVALUATION AUDIT PLAN.—

(1) IN GENERAL.—The Secretary shall develop an effective international evaluation audit plan that is designed to enable the Secretary to carry out the duties described in subsection (a) on a regular and thorough basis.

(2) SUBMISSION OF DETAILED WRITTEN SUMMARY.—The Secretary shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act.

(3) 1ST EVALUATION AUDIT UNDER PLAN.—The Secretary shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

(4) SUBSEQUENT EVALUATION AUDITS.—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

(c) REPORTS.—

(1) IN GENERAL.—The Secretary shall submit a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

(2) CONTENTS.—In addition to such other information as the Secretary may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

(A) A detailed description of the evaluation audit process and the methods used to develop estimates of the amount of counterfeit United States currency in circulation outside the United States.

(B) The method used to determine the currency sample examined in connection with the evaluation audit and a statistical analysis of the sample examined.

(C) A list of the regions of the world, types of financial institutions, and other entities included.

(D) An estimate of the total amount of United States currency found in each region of the world.

(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

(3) CLASSIFICATION OF INFORMATION.—

(A) IN GENERAL.—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

(B) CLASSIFIED AND UNCLASSIFIED FORMS.—If, in the interest of submitting a complete report under this subsection, the Secretary determines that it is necessary to include classified information in the report, the report shall be submitted in a classified and an unclassified form.

(d) SUNSET PROVISION.—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act.

(e) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing any entity to conduct investigations of counterfeit United States currency.

(f) FINDINGS.—The Congress hereby finds the following:

(1) United States currency is being counterfeited outside the United States.

(2) The 103d Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement

VOL
142
PT
6
AP
15
—
24
1996
UMI

of section 470 and related criminal provisions, has been delayed.

(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

(g) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

(1) IN GENERAL.—The Secretary of State shall—

(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Secretary of the Treasury considers appropriate in posts in overseas embassies; and

(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any information requested by the Secretary of State in connection with such requests.

(3) REPORTS REQUIRED.—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

(h) ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.

SEC. 808. COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.

(a) FINDINGS.—The Congress finds that—

(1) threats of violence and acts of violence against Federal, State, and local government employees and their families are increasing as the result of attempts to stop public servants from performing their lawful duties;

(2) these acts are a danger to the constitutional form of government of the United States; and

(3) more information is needed relating to the extent and nature of the danger to these employees and their families so that actions can be taken to protect public servants at all levels of government in the performance of their duties.

(b) STATISTICS.—The Attorney General shall collect data, for the calendar year 1990 and each succeeding calendar year thereafter, relating to crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees and their families in the performance of their lawful duties. Such data shall include—

(1) in the case of crimes against such employees and their families, the nature of the crime; and

(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees and their families, the deterrent effect on the performance of their jobs.

(c) GUIDELINES.—The Attorney General shall establish guidelines for the collection of the data under subsection (b), including a definition of the sufficiency of evidence of noncriminal incidents required to be reported.

(d) USE OF DATA.—

(1) ANNUAL PUBLISHING.—The Attorney General shall publish an annual summary of the data collected under this section.

(2) USE OF DATA.—Except with respect to the summary published under paragraph (1), data collected under this section shall be used only for research and statistical purposes.

(e) EXEMPTION.—The Attorney General, the Secretary of State, and the United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threat made against any individual for whom that official or Service is authorized to provide protection.

SEC. 809. ASSESSING AND REDUCING THE THREAT TO LAW ENFORCEMENT OFFICERS FROM THE CRIMINAL USE OF FIREARMS AND AMMUNITION.

(a) The Secretary of the Treasury, in conjunction with the Attorney General, shall conduct a study and make recommendations concerning—

(1) the extent and nature of the deaths and serious injuries, in the line of duty during the last decade, for law enforcement officers, including—

(A) those officers who were feloniously killed or seriously injured and those that died or were seriously injured as a result of accidents or other non-felonious causes;

(B) those officers feloniously killed or seriously injured with firearms, those killed or seriously injured with, separately, handguns firing handgun caliber ammunition, handguns firing rifle caliber ammunition, rifles firing rifle caliber ammunition, rifles firing handgun caliber ammunition and shotguns;

(C) those officers feloniously killed or seriously injured with firearms, and killings or serious injuries committed with firearms taken by officers' assailants from officers, and those committed with other officers' firearms; and

(D) those killed or seriously injured because shots attributable to projectiles defined as "armor piercing ammunition" under section 921(a)(17)(B) (i) and (ii) of title 18, United States Code, pierced the protective material of bullet resistant vests and bullet resistant headgear;

(2) whether current passive defensive strategies, such as body armor, are adequate to counter the criminal use of firearms against law officers; and

(3) the calibers of ammunition that are—

(A) sold in the greatest quantities;

(B) their common uses, according to consultations with industry, sporting organizations and law enforcement;

(C) the calibers commonly used for civilian defensive or sporting uses that would be affected by any prohibition on non-law enforcement sales of such ammunition, if such ammunition is capable of penetrating minimum level bullet resistant vests; and

(D) recommendations for increase in body armor capabilities to further protect law enforcement from threat.

(b) In conducting the study, the Secretary shall consult with other Federal, State and local officials, non-governmental organizations, including all national police organizations, national sporting organizations and national industry associations with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be presented to Congress twelve months after the enactment of this Act and made available to the public, including any data tapes or data used to form such recommendations.

(c) There are authorized to be appropriated for the study and recommendations such sums as may be necessary.

SEC. 810. STUDY AND REPORT ON ELECTRONIC SURVEILLANCE.

(a) STUDY.—The Attorney General and the Director of the Federal Bureau of Investigation shall study all applicable laws and guidelines relating to electronic surveillance and the use of pen registers and other trap and trace devices.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report to the Congress that includes—

(1) the findings of the study conducted pursuant to subsection (a);

(2) recommendations for the use of electronic devices in conducting surveillance of terrorist or other criminal organizations, and for any modifications in the law necessary to enable the Federal Government to fulfill its law enforcement responsibilities within appropriate constitutional parameters;

(3) a summary of instances in which Federal law enforcement authorities may have abused electronic surveillance powers and recommendations, if needed, for constitutional safeguards relating to the use of such powers; and

(4) a summary of efforts to use current wiretap authority, including detailed examples of situations in which expanded authority would have enabled law enforcement authorities to fulfill their responsibilities.

Subtitle B—Funding Authorizations for Law Enforcement

SEC. 811. FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—With funds made available pursuant to subsection (c)—

(1) the Attorney General shall—

(A) provide support and enhance the technical support center and tactical operations of the Federal Bureau of Investigation;

(B) create a Federal Bureau of Investigation counterterrorism and counterintelligence fund for costs associated with the .investigation of cases involving cases of terrorism;

(C) expand and improve the instructional, operational support, and construction of the Federal Bureau of Investigation Academy;

(D) construct a Federal Bureau of Investigation laboratory, provide laboratory examination support, and provide for a command center;

(E) make grants to States to carry out the activities described in subsection (b); and

(F) increase personnel to support counterterrorism activities; and

(2) the Director of the Federal Bureau of Investigation may expand the combined DNA Identification System (CODIS) to include Federal crimes and crimes committed in the District of Columbia.

(b) STATE GRANTS.—

(1) AUTHORIZATION.—The Attorney General, in consultation with the Director of the Federal Bureau of Investigation, may make grants to each State eligible under paragraph (2) to be used by the chief executive officer of the State, in conjunction with units of local government, other States, or any combination thereof, to carry out all or part of a program to establish, develop, update, or upgrade—

(A) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center of the Federal Bureau of Investigation;

(B) the capability to analyze deoxyribonucleic acid (DNA) in a forensic laboratory in ways that are compatible and integrated with the combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and

(C) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, a State shall require that each person convicted of a felony of a sexual nature shall provide to appropriate State law enforcement officials, as designated by the chief executive officer of the State, a sample of blood, saliva, or other specimen necessary to conduct a DNA analysis consistent with the standards established for DNA testing by the Director of the Federal Bureau of Investigation.

(3) INTERSTATE COMPACTS.—A State may enter into a compact or compacts with another State or States to carry out this subsection.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for the activities of the Federal Bureau of Investigation, to help meet the increased demands for activities to combat terrorism—

(A) $114,000,000 for fiscal year 1997;
(B) $166,000,000 for fiscal year 1998;
(C) $96,000,000 for fiscal year 1999; and
(D) $92,000,000 for fiscal year 2000.

(2) AVAILABILITY OF FUNDS.—Funds made available pursuant to paragraph (1), in any fiscal year, shall remain available until expended.

(3) ALLOCATION.—

(A) IN GENERAL.—Of the total amount appropriated to carry out subsection (b) in a fiscal year—

(i) the greater of 0.25 percent of such amount or $500,000 shall be allocated to each eligible State; and

(ii) of the total funds remaining after the allocation under clause (i), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of such State bears to the population of all States.

(B) DEFINITION.—For purposes of this paragraph, the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, except that for purposes of the allocation under this subparagraph, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one State and that for these purposes, 67 percent of the amounts allocated shall be allocated to American Samoa, and 33 percent to the Commonwealth of the Northern Mariana Islands.

SEC. 812. UNITED STATES CUSTOMS SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the United States Customs Service, to help meet the increased needs of the United States Customs Service—

(1) $8,000,000 for fiscal year 1997;
(2) $8,000,000 for fiscal year 1998;
(3) $8,000,000 for fiscal year 1999; and
(4) $7,000,000 for fiscal year 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to subsection (a), in any fiscal year, shall remain available until expended.

SEC. 813. IMMIGRATION AND NATURALIZATION SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the Immigration and Naturalization Service, to help meet the increased needs of the Immigration and Naturalization Service, including the detention and removal of alien terrorists, $5,000,000 for each of the fiscal years 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to subsection (a), in any fiscal year, shall remain available until expended.

SEC. 814. DRUG ENFORCEMENT ADMINISTRATION.

(a) ACTIVITIES OF DRUG ENFORCEMENT ADMINISTRATION.—The Attorney General shall use funds made available pursuant to subsection (b) to—

(1) fund antiviolence crime initiatives;

(2) fund initiatives to address major violators of Federal antidrug statutes; and

(3) enhance or replace infrastructure of the Drug Enforcement Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Drug Enforcement Administration, to help meet the increased needs of the Drug Enforcement Administration—

(1) $35,000,000 for fiscal year 1997;
(2) $40,000,000 for fiscal year 1998;
(3) $45,000,000 for fiscal year 1999; and
(4) $52,000,000 for fiscal year 2000.

(c) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 815. DEPARTMENT OF JUSTICE.

(a) IN GENERAL.—The Attorney General shall use funds made available pursuant to subsection (b) to—

(1) hire additional Assistant United States Attorneys and attorneys within the Criminal Division of the Department of Justice; and

(2) provide for increased security at courthouses and other facilities in which Federal workers are employed.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 1997;
(2) $10,000,000 for fiscal year 1998;
(3) $10,000,000 for fiscal year 1999; and
(4) $11,000,000 for fiscal year 2000.

(c) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

(d) EXEMPTION AUTHORITY.—Notwithstanding any other provision of law, section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (Public Law 102–395), shall remain in effect until specifically repealed, subject to any limitation on appropriations contained in any Department of Justice Appropriation Authorization Act.

(e) GENERAL REWARD AUTHORITY OF THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Chapter 203 of title 18, United States Code, is amended by adding immediately after section 3059A the following section:

"§3059B. General reward authority

"(a) Notwithstanding any other provision of law, the Attorney General may pay rewards and receive from any department or agency funds for the payment of rewards under this section to any individual who assists the Department of Justice in performing its functions.

"(b) Not later than 30 days after authorizing a reward under this section that exceeds $100,000, the Attorney General shall give notice to the respective chairmen of the Committees on Appropriations and the Committees on the Judiciary of the Senate and the House of Representatives.

"(c) A determination made by the Attorney General to authorize an award under this section and the amount of any reward authorized shall be final and conclusive, and not subject to judicial review.".

SEC. 816. DEPARTMENT OF THE TREASURY.

(a) IN GENERAL.—There are authorized to be appropriated for Department of Treasury law enforcement agencies engaged in counterterrorism efforts to augment those efforts—

(1) $10,000,000 for fiscal year 1997;
(2) $10,000,000 for fiscal year 1998;
(3) $10,000,000 for fiscal year 1999; and
(4) $10,000,000 for fiscal year 2000.

(b) UNITED STATES SECRET SERVICE.—There are authorized to be appropriated for the activities of the United States Secret Service, to augment White House security and expand Presidential protection activities—

(1) $11,000,000 for fiscal year 1997;
(2) $11,000,000 for fiscal year 1998;
(3) $13,000,000 for fiscal year 1999; and
(4) $15,000,000 for fiscal year 2000.

SEC. 817. UNITED STATES PARK POLICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the United States Park Police, to help meet the increased needs of the United States Park Police, $500,000 for each of the fiscal years 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 818. THE JUDICIARY.

(a) IN GENERAL.—There are authorized to be appropriated to the Federal judiciary, to help meet the increased demands for judicial branch activities, including supervised release, and pretrial and probation services, resulting from the enactment of this Act—

(1) $10,000,000 for fiscal year 1997;
(2) $10,000,000 for fiscal year 1998;
(3) $10,000,000 for fiscal year 1999; and
(4) $11,000,000 for fiscal year 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 819. LOCAL FIREFIGHTER AND EMERGENCY SERVICES TRAINING.

(a) GRANT AUTHORIZATION.—The Attorney General, in consultation with the Director of the Federal Emergency Management Agency, may make grants to provide specialized training and equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1997, $5,000,000 to carry out this section.

SEC. 820. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTERTERRORISM TECHNOLOGY.

There are authorized to be appropriated to the National Institute of Justice Office of Science and Technology not more than $10,000,000 for each of the fiscal years 1997 and 1998 to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States, or puts United States nationals at risk, in—

(1) obtaining explosive detection devices and other counterterrorism technology;

(2) conducting research and development projects on such technology; and

(3) testing and evaluating counterterrorism technologies in those countries.

SEC. 821. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTERTERRORISM TECHNOLOGIES.

There are authorized to be appropriated to the National Institute of Justice Office of Science and Technology not more than $10,000,000 for fiscal year 1997, to—

(1) develop technologies that can be used to combat terrorism, including technologies in the areas of—

(A) detection of weapons, explosives, chemicals, and persons;
(B) tracking;
(C) surveillance;
(D) vulnerability assessment; and
(E) information technologies;

(2) develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and

(3) identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

SEC. 822. GRANTS TO STATE AND LOCAL LAW ENFORCEMENT FOR TRAINING AND EQUIPMENT.

(a) AMENDMENT OF BYRNE GRANT PROGRAM.—Section 501(b) of the Omnibus Crime Control

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and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(26) to develop and implement antiterrorism training programs and to procure equipment for use by local law enforcement authorities.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000,000 for each of fiscal years 1997 through 2000 for grants under section 501 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) to be used for the development and implementation of antiterrorism training programs and to procure equipment for use by local law enforcement authorities.

SEC. 823. FUNDING SOURCE.

Appropriations for activities authorized in this subtitle may be made from the Violent Crime Reduction Trust Fund.

TITLE IX—MISCELLANEOUS

SEC. 901. EXPANSION OF TERRITORIAL SEA.

(a) TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, for purposes of Federal criminal jurisdiction is part of the United States, subject to its sovereignty, and is within the special maritime and territorial jurisdiction of the United States for the purposes of title 18, United States Code.

(b) ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.—Section 13 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after "title," the following: "or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, Commonwealth, territory, possession, or district"; and

(2) by adding at the end the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Commonwealth, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed, for purposes of subsection (a), to lie within the area of the State, Commonwealth, territory, possession, or district that it would lie within if the boundaries of such State, Commonwealth, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 902. PROOF OF CITIZENSHIP.

Notwithstanding any other provision of law, a Federal, State, or local government agency may not use a voter registration card (or other related document) that evidences registration for an election for Federal office, as evidence to prove United States citizenship.

SEC. 903. REPRESENTATION FEES IN CRIMINAL CASES.

(a) IN GENERAL.—Section 3006A of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by redesignating paragraphs (4), (5) and (6) as paragraphs (5), (6), and (7), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) DISCLOSURE OF FEES.—The amounts paid under this subsection, for representation in any case, shall be made available to the public."; and

(2) in subsection (e) by adding at the end of the following:

"(4) DISCLOSURE OF FEES.—The amounts paid under this subsection for services in any case shall be made available to the public.".

(b) FEES AND EXPENSES AND CAPITAL CASES.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended to read as follows:

"(10)(A) Compensation shall be paid to attorneys appointed under this subsection at a rate of not more than $125, per hour for in-court and out-of-court time. Not less than 3 years after the date of the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, the Judicial Conference is authorized to raise the maximum for hourly payment specified in the paragraph up to the aggregate of the overall average percentages of the adjustments in the rates of pay for the General Schedule made pursuant to section 5305 of title 5 on or after such date. After the rates are raised under the preceding sentence, such hourly range may be raised at intervals of not less than one year, up to the aggregate of the overall average percentages of such adjustments made since the last raise under this paragraph.

"(B) Fees and expenses paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9) shall not exceed $7,500 in any case, unless payment in excess of that limit is certified by the court, or by the United States magistrate judge, if the services were rendered in connection with the case disposed of entirely before such magistrate judge, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit. The chief judge of the circuit may delegate such approval authority to an active circuit judge.

"(C) The amounts paid under this paragraph for services in any case shall be disclosed to the public, after the disposition of the petition.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to—

(1) cases commenced on or after the date of the enactment of this Act; and

(2) to appellate proceedings, in which an appeal is perfected, on or after the date of the enactment of this Act.

SEC. 904. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the bill, insert the following: "An Act to deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes.".

And the House agree to the same.

HENRY HYDE,
BILL MCCOLLUM,
STEVEN SCHIFF,
STEVE BUYER,
BOB BARR,
CHARLES SCHUMER,
Managers on the part of the House.

ORRIN G. HATCH,
STROM THURMOND,
ALAN K. SIMPSON,
Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the Senate and the House at the conference on the disagreeing votes of the two Houses on the bill (S. 735), to prevent and punish terrorism, submit the following joint statement to the Senate and the House in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—HABEAS CORPUS REFORM

Sections 101–108—Sections 601–608 of the Senate bill and sections 901–908 of the House amendment are identical, and therefore were not modified by the conference committee.

This title incorporates reforms to curb the abuse of the statutory writ of habeas corpus, and to address the acute problems of unnecessary delay and abuse in capital cases. It sets a one year limitation on an application for a habeas writ and revises the procedures for consideration of a writ in federal court. It provides for the exhaustion of state remedies and requires deference to the determinations of state courts that are neither "contrary to," nor an "unreasonable application of," clearly established federal law.

The revision in capital habeas practice also sets a time limit within which the district court must act on a writ, and provides the government with the right to seek a writ of mandamus if the district court refuses to act within the allotted time period. Successive petitions must be approved by a panel of the court of appeals and are limited to those petitions that contain newly discovered evidence that would seriously undermine the jury's verdict or that involve new constitutional rights that have been retroactively applied by the Supreme Court.

In capital cases, procedures are established for the appointment of counsel, conduct of evidentiary hearings, and the application of the procedures to state unitary review systems. Courts are directed to give habeas petitions in capital cases priority status and to decide those petitions within specified time periods. These procedures apply both to state and federal capital cases.

TITLE II—JUSTICE FOR VICTIMS

Subtitle A—Mandatory Victim Restitution

Sections 201–211—Senate recedes to section 806 of the House amendment, with modification. The modification includes the Senate amendments to the bill H.R. 665, passed by the Senate on December 22, 1995, together with perfecting amendments. The managers intend that the Report of the Senate Committee on the Judiciary to accompany H.R. 665 (S.Rept. 104–179) should serve as the legislative history for this subtitle.

Subtitle B—Jurisdiction for Lawsuits Against Terrorist States

Section 221—House section 803 recedes to Senate section 206, with modifications. This subtitle provides that nations designated as state sponsors of terrorism under section 6(j) of the Export Administration Act of 1979 will be amenable to suit in U.S. courts for terrorist acts. It permits U.S. federal courts to hear claims seeking money damages for personal injury or death against such nations and arising from terrorist acts they commit, or direct to be committed, against American citizens or nationals outside of the foreign state's territory, and for such acts within the state's territory if the state involved has refused to arbitrate the claim.

Subtitle C—Assistance to Victims of Terrorism

This subtitle incorporates several provisions of the Senate bill and the House amendment addressing the needs of victims of terrorism.

Section 232—Victims of Terrorism Act. House recedes to Senate Title X, with modifications to reflect the Senate's later action on a similar provision in its December 22, 1995 amendment H.R. 665. This provision authorizes supplemental grants through the States to compensate and assist victims of terrorism and mass violence.

Section 233—Compensation of victims of terrorism. Senate recedes to House section 802, with a modification to include Senate section 902.

Section 234—Crime Victims Fund.

This provision consists of section 201 of the Senate amendment to H.R. 665, passed by the Senate December 22, 1995. The section prohibits the payment of federally-funded victim assistance to any individual who is delinquent in paying a fine, restitution, or other monetary penalty imposed pursuant to a conviction for a crime in federal court. To ensure that a burden is not imposed on state victim assistance programs, as well as to ensure that no person is wrongfully denied assistance, this prohibition would not take effect until such time as a criminal debt tracking system is in place. The managers do not intend that this provision in any way affect the development of the tracking system referenced by this section.

Section 235—Closed circuit televised court proceedings for victims of crime. Senate recedes to section 808 of the House amendment, with a modification. This section requires, in certain cases when the venue of a criminal trial is moved, that the court provide closed circuit television coverage of the trial to the original venue for the benefit of victims. The Senate modification is intended to ensure that the court retains control over the signal, provides contempt penalties for violating a court order related to restrictions on the signal, removes the prohibition on the use of appropriated funds, and sunsets the provision upon implementation by the federal courts of any rules they may promulgate to effectuate the policy addressed by this section. The managers do not intend that this provision in any way effect either the general policy of Rule 53 of the Federal Rules of Criminal Procedure (prohibiting photography and broadcasting in federal criminal court proceedings), or the authority of the federal courts to regulate and prescribe rules for conduct in federal courts.

Section 236—This section makes a technical correction to the Victims of Crime Act.

TITLE III—INTERNATIONAL TERRORISM PROHIBITIONS

Subtitle A—Prohibition on International Terrorist Fundraising

Sections 301–303—House recedes to Senate sections 401, with modifications. This subtitle adds to federal law prohibitions on providing material support to, or soliciting or raising funds for, foreign organizations designated by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to be terrorist organizations. Importantly, the proposed designations of organizations would be subject to congressional approval. Upon notification to Congress of the intent to designate a foreign group as a terrorist organization, the Treasury Secretary will be authorized to order the freezing of such group's American-held financial assets. The designation, when final, would be subject to judicial review, based solely on the administrative record created, including any national security information used to make the designation. The designation would expire after two years, but could be extended for additional two year periods.

Subtitle B—Prohibitions on Assistance to Terrorist States

Section 321—Senate recedes to House amendment title XV. This section provides criminal penalties for engaging in financial transactions with terrorist states by United States citizens, nationals, residents, and corporations.

Section 322—House recedes to Senate section 903. This section, including a perfecting amendment to the Senate provision, instructs the Administrator of the FAA to require identical security measures for foreign flagged carriers serving airports in the United States as are required of U.S. carriers.

In 1990, after the tragic bombing of Pan Am Flight 103, Congress revamped the aviation security laws. It was the intent of Congress to ensure that all Americans would be guaranteed adequate protection from terrorist attacks on international flights arriving in or departing from the United States, regardless of the nationality of the air carrier providing the service.

The 1990 law required the FAA to ensure that foreign carriers operated under security programs providing a similar level of safety to that of programs required of U.S. carriers. Unfortunately, since the 1990 enactment, ambiguity has developed over Congressional intent regarding the meaning of the term "similar".

This section is intended to resolve that ambiguity. It is the intent of the managers that the FAA establish a base floor level of necessary security measures for international flights which all foreign and domestic carriers will be required to employ. It is not the intent that any measures currently required of domestic carriers be dispensed with. Nor is it the intent of the managers to in any way restrict the ability of the FAA to impose additional measures on any airline at any time that a particular threat warrants additional measures.

Additionally, the managers acknowledge that the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science and Transportation have jurisdiction over aviation security issues.

Section 323—Senate recedes to House amendment section 103. This provision amends section 2339A of title 18, United States Code, (as added by section 120005 of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103–322)) by adding sections 956 and 2332b of title 18 to the list of predicate offenses for which an individual can be prosecuted for providing material support. It is important to note that the material support being provided, which triggers this section, need not be to a designated terrorist organization. The support must be given in furtherance of the specifically listed criminal offenses, however.

This section also deletes subsection (c) of section 2339A of title 18, United States Code. The subsection being repealed provided an unworkable restriction on the investigation of crimes under section 2339A.

This section also redefines the term "material support or resources" to mean "currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials." "Medicine" should be understood to be limited to the medicine itself, and does not include the vast array of medical supplies. "Religious materials" should not be read to include anything that could be used to cause physical injury to any person. It is meant to be limited to those religious articles typically used during customary and time-honored rituals or teachings of a particular faith, denomination, or sect.

Section 324—House recedes to Senate section 201. This section states Congressional findings and urges the President to establish a White House office to coordinate U.S. counterterrorism efforts and to organize an international conference to develop multinational responses to the threat of international terrorism.

Section 325—House recedes to Senate section 202. This section prohibits U.S. aid to countries that provide aid to terrorist nations, but permits the President to waive the prohibition, after notifying Congress, if he determines that such waiver is in the national interest.

Section 326—House recedes to Senate section 203. This section prohibits U.S. aid to countries that provide military equipment to terrorist nations. It, too, permits the President to waive the prohibition, after notifying Congress, if he determines that such waiver is in the national interest.

Section 327—House recedes to Senate section 204. This section requires U.S. opposition to international financial institutions' assistance to countries that support terrorism.

Section 328—House amendment section 702 recedes to Senate section 205. This section eases restrictions for U.S. antiterrorism assistance to foreign nations.

Section 329—House recedes to Senate section 208. This section defines, for purposes of this title, "assistance" as any grant, concessional sale, guaranty, *inter alia*, to the government of any foreign country, whether in the form of loan, lease, credit, or debt relief.

Section 330—House recedes to Senate section 907. This section prohibits the export of defense articles to countries decertified by the President no later than May 15 of the calendar year preceding the fiscal year for which the prohibition applies, that the countries are not cooperating with U.S. antiterrorism efforts; provides a presidential waiver for specific transactions.

TITLE IV—TERRORIST AND CRIMINAL ALIEN REMOVAL AND EXCLUSION

Subtitle A—Removal of Alien Terrorists

Section 401—House recedes to Senate section 301, with modifications. This section creates special procedures to ensure that aliens within the United States whom the government believes to be engaging in terrorist activity can be removed from the United States without disclosing national security secrets. The provision establishes a removal court comprised of sitting district court judges appointed by the Chief Justice of the Supreme Court. This court would have the authority to hear deportation cases involving alien terrorists and would ensure, through the use of a limited *ex parte* procedure, that the United States can expeditiously deport alien terrorists without disclosing national security secrets to the alien or to their criminal partners. The alien's due process rights are protected by requiring that an unclassified summary of the evidence be provided to the alien, sufficient to enable the alien to prepare a defense, and that the judge can only order the deportation based upon the evidence introduced at the hearing, taken as a whole. The removal

VOL
142
PT
6
AP
15
—
24
1996
UMI

of alien terrorists from the United States, and the prevention of alien terrorists from entering the U.S. in the first place, present among the most intractable problems of immigration enforcement. The stakes in such cases are compelling: protecting the very lives and safety of U.S. residents, and preserving the national security. Yet, alien terrorists, while deportable under section 241(a)(4)(D) of the INA, are able to exploit many of the substantive and procedural provisions available to all deportable aliens in order to delay their removal from the U.S. In addition, alien terrorists, including representatives and members of terrorist organizations, often are able to enter the U.S. under a legitimate guise, despite the fact that their entry is inimical to the national interests of the U.S. In several noteworthy cases, the Department of Justice has consumed years of time and hundreds of thousands (if not millions) of dollars seeking to secure the removal of such aliens from the U.S.

Starting in the first Administration of President Reagan, the Department of Justice has sought reform of immigration law and procedures to better enable this country to protect itself against the threat of alien terrorists. The chief target of these reforms are the statutory and administrative protections given to such aliens, many of which are not required by the due process clause of the Fifth or Fourteenth Amendment or any other provision of law, that enable alien terrorists to delay their removal from the U.S.

The need for special procedures to adjudicate deportation charges against alien terrorists is manifest. Terrorist organizations have developed sophisticated international networks that allow their members great freedom of movement and opportunity to strike, including within the United States. They are attracting a more qualified cadre of adherents with increasing technical skills. Several terrorist groups have established footholds within immigrant communities in the U.S.

The nature of these groups tend to shield the participants from effective counterterrorism efforts—including the most basic measure of removing them from our soil. The U.S. relies heavily upon close and continued cooperation of friendly nations who provide information on the identity of such terrorists. Such information will only be forthcoming if it sources continue to be protected. Thus, it is essential to the national security of the U.S. that procedures be established to permit the use of classified information in appropriate cases to establish the deportability of an alien terrorist.

Such procedures also must be crafted to meet constitutional requirements. The government's efforts to safeguard lives and property and to protect the national security may be contested on the grounds that they conflict with the procedural rights of aliens. The interests of the government must therefore be balanced against the legitimate rights of those privileged to be present within the United States.[1]

Subtitle B—Exclusion of Members and Representatives of Terrorist -Organizations

Section 411—House recedes to Senate section 210, with modification. This section permits, as a new basis for alien exclusion, the denial of entry into the United States to any person who is a representative or member of a designated foreign terrorist organization.

Section 412—House amendment section 632 recedes to Senate section 209 with modifications. This section grants the Secretary of State discretion to waive, in the case of nonimmigrant visa applications by excludable aliens, the requirement to inform each alien of the denial of the application and the grounds for such denial. This section also provides that no explanation of the denial need be given to aliens excluded on the basis of their terrorist or other criminal activity.

Section 413—Senate recedes to House amendment section 612. This section amends section 208 to provide that an alien may not be granted asylum if the alien is excludable under the provisions of section 212(a), or deportable under the provisions of section 241(a) relating to alien terrorists.

Section 414—Senate recedes to House amendment section 623. This section amends section 241 of the INA by adding a new subsection (d). Subsection (d) provides that an alien present in the United States, who has not been admitted after inspection in accordance with section 235 of the INA, is deemed to be seeking entry and admission and shall be subject to examination and exclusion in accordance with Chapter 4 of Title II of the INA. Such an alien must be provided the opportunity to establish that he or she has been lawfully admitted to the U.S. This section by operation of law, returns "to the border" any alien who has entered the United States unlawfully, regardless of the duration of his or her presence in the United States.

Subtitle C—Modifications to Asylum Procedures

Section 421—Senate recedes to House amendment section 611. This section bars the granting of asylum to an alien excludable as a terrorist unless the Attorney General determines that the individual seeking asylum will not be a danger to the security of the United States.

Section 422—Senate recedes to House amendment section 621. This section amends section 235(b), regarding the inspection and exclusion of aliens arriving at a port of entry. New section 235(b)(1) provides that if an examining immigration officer determines that an alien is inadmissible under section 212(a)(6)(C) (fraud or misrepresentation) or 212(a)(7) (lack of valid documents), the officer may order the alien removed without further hearing or review.

An alien who states a fear of persecution, or wishes to apply for asylum, will be referred for interview by an asylum officer. If the officer finds that the alien has a credible fear of persecution, the alien shall be detained for further consideration of the application for asylum. If the alien does not meet this standard, and the officer's decision is upheld by a supervisory asylum officer, the alien will be ordered removed. An alien may consult with a person of his or her choosing before the interview, at no expense to the Government and without delaying the interview. A "credible fear of persecution"means that it is more likely than not that the alien is telling the truth and the alien has a reasonable possibility of establishing eligibility for asylum. The Attorney General is required to write and promulgate regulations for these procedures consistent with the intent of this provision.

There is no administrative review of a removal order entered into under this paragraph, but an alien claiming under penalty of perjury to be lawfully admitted for permanent residence shall be entitled to administrative review of such an order. An alien ordered removed under this paragraph may not make a collateral attack against the order in a prosecution under section 275(a) (illegal entry) or 276 (illegal reentry).

New section 235(b)(2) provides that an alien who is not clearly and beyond a doubt entitled to enter (other than an alien subject to removal under paragraph (b)(1), or an alien crewman or stowaway) shall be detained for a hearing before a special inquiry officer (immigration judge).

Section 423—Senate recedes to House amendment section 622. Subsection (a) of this section amends section 106 of the INA to add a new subsection (e). Subsection (e) precludes judicial review, subject to the provisions of paragraph (e)(2), of a decision to exclude an alien from entry under the expedited exclusion provisions of new section 235(b)(1). Paragraph (e)(2) allows for habeas corpus review limited to the issues of whether the petitioner is an alien (provided the alien makes a non-frivolous claim of U.S. nationality), whether the alien was ordered specially excluded pursuant to section 235(b)(1)(A), and whether the petitioner is a lawful permanent resident alien entitled to judicial review according to section 235(b)(1)(e)(i).

A reviewing court may not order any relief other than to require that the alien receive an exclusion hearing pursuant to section 236, or a determination in accordance with section 235(c) (special procedures for aliens excludable on national security grounds) or section 273(d) (procedures for stowaways).

Subsection (b) of this section amends section 235 of the INA by adding a new subsection (d), which precludes collateral attack in an action for assessment of penalties for improper entry or re-entry under section 275 or 276 of the validity of an order of exclusion, special exclusion, or deportation made under section 235, 236, or 242 of the INA.

Subtitle D—Criminal Alien Procedural Improvements

Section 431—Senate recedes to House amendment section 664. This section shortens the period under which a permanent resident alien can be considered excludable under certain circumstances.

Section 432—House amendment section 631 recedes to Senate section 304. This section permits the Immigration and Naturalization Service to release certain confidential information on individual aliens for law enforcement purposes.

Section 433—Senate recedes to House amendment section 666. This section expands and clarifies the purpose of the Criminal Alien Tracking Center established by section 130002 of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322).

Section 434—Senate recedes to House amendment section 667. This section adds several alien smuggling related crimes to the list of offenses that are RICO predicates.

Section 435—Senate recedes to House amendment section 668. This section adds wiretap authority for the investigation of various immigration offenses.

Section 436—Senate recedes to House amendment section 669. This section clarifies that for purposes of deportability, crimes of moral turpitude are crimes punishable by imprisonment for a year or more.

Section 437—Senate recedes to House amendment section 670. This section permits deportation proceedings to be conducted telephonically.

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[1] Fiallo v. Levi, 406 F. Supp. 162 (S.D.N.Y.), *aff'd*, 430 U.S. 787 (1975); Jean V. Nelson, 472 U.S. 846, *aff'g*, 727 F.2d 957 (11th Cir. 1984); Kleindienst v. Mandel, 408 U.S. 753 (1972) (supporting the proposition that alien's presence in U.S. is privilege extended by Congress and not fundamental right.) *See also Alvarez* v. *INS*, 539 F. 2d 1220 (9th Cir.), *cert. denied*, 430 U.S. 918 (1976) (applying rational basis test to equal protection claim for impermissible classification of aliens).

Section 438—Senate recedes to House amendment section 675. This section directs the development of a program to repatriate to the interior of a bordering country any alien who has entered the US illegally 3 or more times.

Section 439—Senate recedes to House amendment section 676. This section permits nonviolent alien offenders to be deported prior to the completion of sentences. It does not apply to offenses involving alien smuggling. The section requires the remainder of the sentence to be served if the alien reenters the United States illegally.

Section 440—Senate recedes to House amendment section 677. This section allows state and local law enforcement officials to arrest and detain illegal aliens who have previously been deported for criminal behavior until they can be taken into federal custody by the INS.

Section 441—House amendment section 601 recedes to Senate section 303(e). This section enhances the ability of the United States to deport criminal aliens.

Section 442—Senate recedes to House amendment section 665. This section limits the ability of an deportable alien to collaterally challenge an deportation order in a pending criminal case.

Section 443—Senate recedes to House amendment section 663. This section streamlines the procedures for deportation of deportable non-permanent resident aliens.

Section 444—House recedes to Senate section 302. This section permits the Attorney General to extradite persons who are not U.S. citizens, nationals, or permanent residents to countries with which the United States does not have an extradition treaty.

TITLE V—NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS RESTRICTIONS

Subtitle A—Nuclear Materials

Sections 501–502—House amendment title IV recedes to Senate title VIII. These sections provide federal law enforcement officials the tools necessary to combat the threat of nuclear contamination and proliferation that may result from illegal possession of, and trafficking in, nuclear materials, including nuclear by-products and non-weapons-grade materials.

Section 503—Senate recedes to House amendment section 306 with modifications. This section requires the Attorney General, together with the Secretary of Defense, to undertake a study of the number of thefts of firearms, explosives, and other terrorist type materials from military arsenals and report findings to Congress within 6 months from the date of enactment.

Subtitle B—Biological Weapons Restrictions

Section 511—Senate recedes to House amendment title XI with modifications. This subtitle addresses the threat of the misuse or diversion to illegal use of potentially deadly human pathogenic substances. It adds attempt, threat, and conspiracy to the prohibition on acquiring, possessing, or using biological weapons, and expands the definition of biological weapons to include certain human pathogens. This section also authorizes the Secretary of Health and Human Services to regulate the transfer of certain biological agents harmful to humans. The managers intend that in promulgating regulations and listing regulated biological agents pursuant to this provision, the Secretary ensures the continued viability of the use of such agents for legitimate purposes.

Subtitle C—Chemical Weapons Restrictions

Section 521—House recedes to Senate section 908 with modification. This subtitle criminalizes the use of chemical weapons within the United States, or against Americans outside of the United States. Additionally, this section provides for a study of the need for a training center to enhance law enforcement response capabilities to chemical and biological emergencies. Senate section 908 also provided additional authority for military assistance to law enforcement in chemical and biological emergencies. In light of the enactment of section 378 of the National Defense Authorization Act for Fiscal Year 1996 (P.L. 104-106), the managers have omitted this provision.

TITLE VI—IMPLEMENTATION OF PLASTIC EXPLOSIVES CONVENTION

Sections 601–606—House amendment sections 501–505 recede to Senate sections 701–705 and 707. This title fulfills the obligations of the United States to implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, entered into at Montreal in 1991 in the wake of the bombing of Pan Am flight 103. This title requires that detectant agents be placed in all plastic explosives manufactured in, imported into, or exported from the United States, and provides criminal penalties for violations.

TITLE VII—CRIMINAL LAW MODIFICATIONS TO COUNTER TERRORISM

Subtitle A—Crimes and Penalties

Section 701—House amendment section 202 recedes to Senate section 101. This section amends the explosives chapter of Title 18 to provide that a conspiracy to commit a crime under that chapter is punishable by the same maximum penalty as that applicable to the substantive offense that formed the object of the conspiracy.

Section 702—Senate section 102 recedes to House amendment section 104 with modifications. This section creates a new federal criminal prohibition on acts of terrorism transcending national boundaries. It will be a violation of this provision to kill, kidnap, maim, or seriously injure any person in the United States, or to create substantial risk of injury to any person by damaging or destroying property in the United States. Their will be federal jurisdiction over the offense if the offender uses facilities of interstate commerce, the offense interferes with interstate commerce, the victim is the United States or any employee of the United States, or the offense takes place in U.S. territorial jurisdiction, and at least part of the conduct occurred outside of the United States.

Section 703—House section 104 recedes to Senate section 102(f). This section expands the categories of property in federal jurisdiction the destruction or damage of which is criminally punishable by the United States .

Section 704—Senate section 103 recedes to House section 105. This section amends Section 956 of title 18, United States Code, which currently only prohibits conspiracies within the United States to injure property overseas.

This amendment will criminalize conspiracies to harm people and property outside the United States, so long as at least one was present, and one act in furtherance of the conspiracy occurred, within the jurisdiction of the United States.

The penalties for offenses under section 956 will range from life imprisonment for conspiracies to murder or kidnap; 35 years for conspiracy to maim; and 25 years for conspiring to damage property.

Section 705—House recedes to Senate section 104. This section increases penalties for a series of federal crimes, including amending the law against maiming and disfiguring to include torture and punishing an attempt to violate this section by up to $10,000 in fines and/or 10 years imprisonment, and adding protection to armed services personnel.

Section 706—Senate section 105 recedes to House amendment section 205. This section above and creates a criminal prohibition on the transfer of explosive materials, "knowing or having reasonable cause to believe"they will be used to commit a crime of violence or drug trafficking offense. Crimes committed under this section will be subject to the same penalties as are provided for a first conviction of section 844(h) of title 18, United States Code, which is a mandatory minimum 5 year term of imprisonment.

Section 707—Senate section 106 recedes to House amendment section 111. This section amends current section 842(h) of title 18, United States Code, to include the possession of and pledging, or acceptance as security for a loan, any stolen explosive materials that have moved in, or constitute any part of interstate or foreign commerce. Currently, the law only prohibits the transport, shipment, concealment, storage, bartering, sale, and disposal of such stolen explosive material.

Section 708—House amendment section 201 recedes to Senate section 107 with modifications. This section increases penalty for arson or explosives crimes against property, with mandatory minimums for these offenses. This section also extends the statute of limitations for arson offenses from seven to ten years.

Section 709—Senate section 901 recedes to House amendment section 804. This section requires the Attorney General to undertake a 180 day study of publicly available literature and material instructing how to make bombs, destructive devices, or weapons of mass destruction. The study is to include a review of print, electronic, and film media, in this regard. This provision requires the Attorney General to determine the extent to which the availability of this material has been used in terrorism incidents, and the likelihood of its use for such activity in the future.

This section also mandates that the Attorney General review existing federal laws having application to this material and the need or utility of any additional statutory coverage. Furthermore, the Attorney General must render a legal analysis of the protection provided this material by the First Amendment.

The Attorney General is required to submit a report of findings to Congress and make that report available to the public.

Subtitle B—Criminal Procedures

Section 721—Senate section 621 recedes to House amendment section 106. This section clarifies United States jurisdiction for specific terrorism crimes occurring overseas. The Aircraft Piracy statute is amended to provide extraterritorial federal jurisdiction for aircraft piracy if a U.S. national was on the plane; if the perpetrator is a U.S. national; or, if the offender is found in the U.S. after committing the crime. The United States has a legitimate interest in punishing anyone who injures a U.S. national, and also retains an interest in punishing its own citizens for crimes committed against foreign nations, or foreign nationals.

This section also clarifies U.S. extraterritorial jurisdiction over the offenses of aircraft destruction, murder of, and assaults or threats against of foreign officials or internationally protected persons, biological weapons offenses, and violence at

VOL
142
PT
6
AP
15
—
24
1996
UMI

international airports if the offense occurred outside the U.S., so long as the victim is an "internationally protected person," (as defined by Section 1116(b)(4) of title 18); if the victim is a representative, officer, employee, or agent of the United States; if the offender is a U.S. national; or, if the offender is later found in the U.S.

Section 722—Senate recedes to House amendment section 110. This section provides clarifying language to section 2280(b)(1)(A) of title 18, United States Code, which establishes federal jurisdiction over violent activities occurring on the high seas.

Section 723—Senate section 627 recedes to House amendment section 203. This section will make it a crime to conspire to commit any offense under the specifically listed sections of title 18, United States Code found in this provision. Adding the conspiracy language to these criminal statutes will enable the government to prosecute and punish those offenses appropriately. Without a conspiracy element in the statutory language, the government must rely on title 18, United States Code, section 371, to prosecute conspiracies generally. Section 371 only carries a five year statutory maximum penalty, even if the underlying offense requires a much higher penalty. This section corrects this anomaly. This section provides clarifying language to Section 2280(b)(1)(A) of title 18, United States Code, which establishes federal jurisdiction over violent activities occurring on the high seas.

Section 724—Senate section 628 recedes to House amendment section 109 with modification. This section amends section 844(e) of title 18, United States Code. Currently, Section 844(e) prohibits threats of violence against persons or property, whether true or false, if the threat is made through the mail or any other instrument of commerce. This new section replaces "commerce" with the words "interstate or foreign commerce." It also expands the statute's reach to any threat that is "in or affects interstate or foreign commerce."

Section 725—Senate section 623 recedes to House amendment section 107 with modifications. This section criminalizes a threat to use a weapon of mass destruction, extends the prohibition to the use of such weapons by U.S. nationals overseas, and clarifies that any chemical weapon is included in the definition of weapon of mass destruction or destructive device.

Section 726—House amendment section 108 recedes to Senate section 625. This section adds certain terrorism offenses to the money laundering statute.

Section 727—Senate section 626 recedes to House amendment section 101 with modifications. Subsection (a) of this section amends Section 1114 of title 18, United States Code, to allow federal prosecution for the murder or attempted murder of all officers and employees of the United States government while that person was engaged in or because of that person's official duties. It also covers the murder or attempted murder of any other person assisting the United States officer, or employee, in the performance of his or her duties, or on account of the assistance provided. The penalties for this offense are the same as those provided under sections 1111, 1112, and 1113 of title 18, United States Code.

Subsection (b) amends section 115(a)(2) of title 18, United States Code, by including within that statute's reach threats "to assault, kidnap, or murder, any person who formerly served" as a federal law enforcement officer or agent in retaliation for the exercise of his official duties. The statute currently provides this protection to currently employed federal law enforcement officers, and the family members of former law enforcement personnel. Curiously, former federal law enforcement officers are left out of the statute's coverage. This subsection of the bill corrects that omission.

This section also clarifies the use of a deadly or dangerous weapon in an assault on a federal employee or officer includes the use of a weapon that fails to cause death or danger due to a defective component.

Section 728—Senate recedes to House amendment title XIV. This section adds multiple killings or attempted killings to the list of aggravating factors for the imposition of the death penalty in federal criminal cases.

Section 729—Senate recedes to House amendment section 310. This section clarifies that the time period in which a detention hearing must be held does not include weekends and legal holidays.

Section 730—Senate recedes to House amendment sections 206 and 207. This section gives the U.S. Sentencing Commission amendment authority to expand the scope of its Chapter 3 enhancement for "international terrorism offenses" under the U.S. Sentencing Guidelines, to apply only to federal crimes of terrorism as defined in section 2332b(g). In amendments to the Sentencing Guidelines that became effective November 1, 1996, a new provision that substantially increases jail time for offenses committed in connection with a crime of international terrorism. This section of the bill will make that new provision applicable only to those specifically listed federal crimes of terrorism, upon conviction of those crimes with the necessary motivational element to be established at the sentencing phase of the prosecution, without having to wait until November 1996 for the change to become law.

Section 731—Senate recedes to House amendment section 302. Subsection (a)(3) of this section excludes from the definition of "electronic communication" under the wiretap statute "information stored in a communications system used for the electronic storage and transfer of funds." This will allow law enforcement to obtain such bank records through the usual grand jury subpoena, or other court order procedure, without requiring a wiretap order for these purposes.

Subsection (b) eliminates "electronic communication" from the definition of "radio communications that are readily accessible to the general public." This inclusion of "electronic communication" negated the need to exempt from the wiretap coverage radio transmissions, i.e., scanners, CBs, and Ham radio signals. It is not intended to preclude the need for a title III wiretap order for telephone conversations occurring over cordless telephones, which operate through radio signals not readily available to the general public. "Electronic communications" are already specifically and separately covered by the wiretap statutes.

Section 732—House amendment sections 301 and 801 recede to Senate sections 708 and 905, with modifications. This section directs the Treasury Secretary to provide to the Congress a study of the feasibility of tagging explosives and precursor chemicals, for the purpose of tracing the explosives back to the manufacturer after an explosion. The study would also evaluate the feasibility of imposing controls on the sale and distribution of certain of those chemicals. Black or smokeless powder is excluded from the study. The section requires input from non-profit fertilizer research centers in the Treasury Secretary's conduct of the study. The section also requires the Treasury Secretary to conduct a study of the licensing requirements applicable in the various states for the purchase and use of commercial high explosives. The phrase "commercial high explosives" is defined, by way of illustration, to include "detonators, detonating cards, dynamite, water gel, emulsion, blasting agents, and boosters." This section also requires the Treasury Secretary to report the results of the study to Congress, together, if deemed necessary, with recommendations for regulation. The Secretary is authorized to promulgate regulations requiring the inclusion of tracing taggants in explosive materials if the taggants will not endanger human life or safety, will substantially assist law enforcement, and are cost-effective. The regulations promulgated pursuant to this authority shall go into effect if Congress does not act within 270 days of the publication of the regulations in the Federal Register.

TITLE VIII—ASSISTANCE TO LAW ENFORCEMENT

Subtitle A—Resources and Security

Section 801—Senate recedes to House amendment section 807, with modification. This provision provides clear statutory authority for the Departments of Justice and Treasury, in consultation with the Department of State, to use appropriated funds for the purposes of law enforcement training activities overseas.

Section 802—Senate recedes to House amendment section 704. This section expresses the sense of the Congress that any purchases made with funds authorized under this Act should be American-made.

Section 803—Senate section 513 recedes to House amendment section 303, with modification. This section authorizes the Attorney General and the Treasury Secretary to ban parking or vending adjacent to any building in the District of Columbia used by law enforcement authorities subject to their jurisdiction. The managers intend and expect that in carrying out this section, the Attorney General and the Secretary will consult and coordinate with the Government of the District of Columbia.

Section 804—House amendment section 303 recedes to Senate section 513. This section requires the providers of wire or electronic communications services to take necessary steps to preserve evidence relevant in certain investigations.

Section 805—House recedes to Senate section 528. This section requires the United States Sentencing Commission to report on the deterrent effect of current penalties for violations of laws prohibiting unauthorized access to, or damage to, a federal interest computer. Also requires the Commission to ensure that persons sentenced under these laws are incarcerated for at least six months.

Section 806—Senate recedes to House amendment title XII, with modification. This section establishes a commission, appointed jointly by the leadership of the Congress and the Chief Justice of the United States Supreme Court, to evaluate the coordination, effectiveness, and oversight of federal law enforcement. The Commission is required to report to Congress.

Section 807—Senate recedes to House amendment title X. This section requires an audit of counterfeit U.S. currency in international markets, and provides for consideration by the Secretary of State of requests by the Department of the Treasury for the posting of agents of the United States Secret Service at U.S. embassies.

Section 808—Senate recedes to House amendment section 805. This section establishes findings by Congress that acts of violence against all levels of government employees are on the increase, that such acts create a danger to our constitutional form of government, and that additional information is needed to fully understand the true nature and source of the dangers faced by public servants.

This section then directs the Attorney General to acquire and compile data for each calendar year, beginning in 1990, reflecting crimes and incidents of threats of violence against federal, state, and local government employees on account of the performance of their public duties. The Attorney General is required to publish an annual summary of the collected data.

Section 809—Senate recedes to House amendment section 112. This section requires the National Institute of Justice ("NIJ") to conduct a study that may result in a standard protocol for identifying handgun bullets that are capable of penetrating body armor commonly worn by police when shot from a handgun. The NIJ must establish standard criteria for the type of body armor against which the bullets were tested. The NIJ must report its findings to Congress with recommendations regarding its findings.

The current practice is to outlaw bullets by brand-name without regard to their specific component qualities. To continue this practice could result in hunting-type bullets being outlawed indiscriminately, without regard to the nature and purpose of the ammunition, and without regard to the proximity of the target, or the type of weapon used to shoot the bullet.

It is important to establish standard criteria for determining which bullets, when shot from a handgun, have the ability to penetrate body armor.

Section 810—House recedes to Senate section 511, with modifications. This section requires a study of current laws and guidelines governing the use of electronic surveillance devices and PEN registers, and the effect of evolving technology on criminal activity.

Subtitle B—Funding Authorizations for Law Enforcement

This subtitle provides $1.0 billion in authorization for appropriations to enhance law enforcement ability to deter, investigate, and prosecute terrorism.

Of this $1.0 billion authorization, $468 million is authorized for the Federal Bureau of Investigation, $172 million is authorized for the Drug Enforcement Administration, and $100 million is authorized for State and Local law enforcement. The remaining $260 million is divided among other enforcement and emergency response organizations.

The conference report authorization levels represent a $940 million increase from the House amendment's authorization. This increases authorized appropriations for Federal law enforcement, the Federal Judiciary and State and local law enforcement.

However, the conference authorization levels also represent a $1.116 billion decrease from the Senate bill authorizations. The reductions come from removing Fiscal Year 1996 authorizations and reducing the remaining authorizations by half. These reductions were applied equally among all affected Senate authorizations, with minor exceptions.

The managers are committed to achieving a balanced budget, and intend that all authorizations be considered as part of the levels within the Balanced Budget Act of 1995, if enacted, or any subsequent balanced budget act.

Section 811—House recedes to Senate section 521 with modifications. Total authorization is $468 million. Funds may be used for, among other purposes, to create a Federal Bureau of Investigation counterterrorism and counterintelligence fund; expand and improve the instructional, operational support, and construction of the Federal Bureau of Investigation academy; and construct an FBI laboratory, provide laboratory examination support.

Section 812—House recedes to Senate sections 522 and section 912 with modifications. Total authorization is $31 million. Funds may be used to help the Customs Service meet the increased demands occasioned by the enactment of this Act.

Section 813—Senate recedes to House Section 601 with modifications. Total authorization is $20 million. Funds may be used to help Immigration and Naturalization Service meet the increased demands occasioned by the enactment of this Act, including the purpose of detaining and removing alien terrorists.

Section 814—House recedes to Senate section 524 with modifications. Total authorization is $172 million. Funds may be used by the Drug Enforcement Administration to fund antiviolence crime initiatives; fund major violators of Federal antidrug statute initiatives; and enhance or replace the infrastructure of the Drug Enforcement Administration.

Section 815—House recedes to Senate sections 503 and 525, with modifications. Total authorization is $41 million. Funds may be used by the Department of Justice to hire additional Assistant United States Attorneys, and provide for increased security at facilities housing Federal workers.

This section also increases the maximum reward authority available to the Attorney General for information relating to international terrorists.

Section 816—House recedes to Senate section 526 with modifications. Total authorization is $90 million. Funds may be used by the Department of the Treasury to augment counterterrorism efforts, augment White House security, and expand Presidential protection activities.

Section 817—House recedes to Senate section 910 with modifications. Total authorization is $2 million. Funds may be used to help the U.S. Park Police meet the increased demands occasioned by the enactment of this Act.

Section 818—House recedes to Senate Section 911 with modifications. Total authorization is $41 million. Funds to be used for the activities of the Federal Judiciary, including increased workload of the Federal courts occasioned by the enactment of this Act.

Section 819—Senate recedes to House Section 701 with modifications. Total authorization is $5 million. Funds to be used to provide grants for specialized training or equipment to enhance the capability of local fire and emergency service departments to respond to terrorist attacks and acts of mass violence.

Section 820—Senate recedes to House Section 702 with modifications. Total authorization is $20 million. Funds may be used to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States or puts United States nationals at risk.

Section 821—Senate recedes to House Section 703 with modifications. Total authorization is $10 million. Funds may be used to develop technologies to combat terrorism.

Section 822—Byrne grant program is modified include a program to develop and implement antiterrorism training programs and to procure equipment for use by local law enforcement authorities. Total authorization is $100 million.

Section 823—House recedes to Senate Section 527 with modification. This section provides that funding for this subtitle is authorized to be made from the Violent Crime Reduction Trust Fund, established by Title XXXI of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322).

TITLE IX—MISCELLANEOUS

Section 901—House recedes to Senate Section 622. This section codifies the extension of United States territorial sea, as defined by a 1988 Presidential Proclamation. This area would then be included within the special maritime and territorial jurisdiction of the U.S. for purposes of the criminal law. This section also adopts non-conflicting state law in the territorial sea.

Section 902—House recedes to Senate section 904. This section provides that voter registration cards (or similar documents) will not qualify as proof of U.S. citizenship.

Section 903—Senate recedes to House amendment title XIII. This section provides limitations on fees for representation of defendants in criminal cases.

Section 904—House recedes to Senate section 913. This section provides severability for the provisions of the Act.

Henry Hyde,
Bill McCollum,
Steven Schiff,
Steve Buyer,
Bob Barr,
Charles Schumer,
Managers on the Part of the House.

Orrin G. Hatch,
Strom Thurmond,
Alan K. Simpson,
Managers on the Part of the Senate.

PARTIAL-BIRTH ABORTION BAN ACT—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104-198)

The Speaker pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without any approval H.R. 1833, which would prohibit doctors from performing a certain kind of abortion. I do so because the bill does not allow women to protect themselves from serious threats to their health. By refusing to permit women, in reliance on their doctors' best medical judgment, to use their procedure when their lives are threatened or when their health is put in serious jeopardy, the Congress has fashioned a bill that is consistent neither with the Constitution nor with sound public policy.

I have always believed that the decision to have an abortion generally should be between a woman, her doctor, her conscience, and her God. I support the decision in *Roe* v. *Wade* protecting a woman's right to choose, and I believe that the abortions protected

VOL
142
PT
6
AP
15
—
24
1996
UMI

by that decision should be safe and rare. Consistent with that decision, I have long opposed late-term abortions except where necessary to protect the life or health of the mother. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health.

The procedure described in H.R. 1833 has troubled me deeply, as it has many people. I cannot support use of that procedure on an elective basis, where the abortion is being performed for non-health related reasons and there are equally safe medical procedures available.

There are, however, rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health. In these situations, in which a woman and her family must make an awful choice, the Constitution requires, as it should, that the ability to choose this procedure be protected.

In the past several months, I have heard from women who desperately wanted to have their babies, who were devastated to learn that their babies had fatal conditions and would not live, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have included an inability to ever bear children again. For these women, this was not about choice—not about deciding against having a child. These babies were certain to perish before, during or shortly after birth, and the only question was how much grave damage was going to be done to the woman.

I cannot sign H.R. 1833, as passed, because it fails to protect women in such dire circumstances—because by treating doctors who perform the procedure in these tragic cases as criminals, the bill poses a danger of serious harm to women. This bill, in curtailing the ability of women and their doctors to choose the procedure for sound medical reasons, violates the constitutional command that any law regulating abortion protect both the life and the health of the woman. The bill's overbroad criminal prohibition risks that women will suffer serious injury.

That is why I implored Congress to add an exemption for the small number of compelling cases where selection of the procedure, in the medical judgment of the attending physician, was necessary to preserve the life of the woman or avert serious adverse consequences to her health. The life exception in the current bill only covers cases where the doctor believes that the woman will die. It fails to cover cases where, absent the procedure, serious physical harm, often including losing the ability to have more children, is very likely to occur. I told Congress that I would sign H.R. 1833 if it were amended to add an exception for serious health consequences. A bill amended in this way would strike a proper balance, remedying the constitutional and human defect of H.R. 1833. If such a bill were presented to me, I would sign it now.

I understand the desire to eliminate the use of a procedure that appears inhumane. But to eliminate it without taking into consideration the rare and tragic circumstances in which its use may be necessary would be even more inhumane.

The Congress chose not to adopt the sensible and constitutionally appropriate proposal I made, instead leaving women unprotected against serious health risks. As a result of this Congressional indifference to women's health, I cannot, in good conscience and consistent with my responsibility to uphold the law, sign this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 10, 1996*.

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal, and the message and the bill will be printed as a House document.

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that the message of the President and the bill be referred to the Committee on the Judiciary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

APPROVING REGULATIONS TO IMPLEMENT THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995 WITH RESPECT TO EMPLOYEES OF THE HOUSE OF REPRESENTATIVES

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 400) approving regulations to implement the Congressional Accountability Act of 1995 with respect to employing offices and covered employees of the House of Representatives.

The Clerk read as follows:

H. RES. 400

Resolved,

SECTION 1. APPROVAL OF REGULATIONS.

(a) IN GENERAL.—The regulations listed in subsection (b) are hereby approved, insofar as such regulations apply to employing offices and covered employees of the House of Representatives.

(b) REGULATIONS APPROVED.—The regulations referred to in subsection (a) are the following regulations issued by the Office of Compliance on January 22, 1996, as published in the Congressional Record on January 22, 1996 (Volume 142, daily edition), each beginning on the page indicated:

(1) Regulation on rights and protections under the Family and Medical Leave Act of 1993, page S200.

(2) Regulation on rights and protections under the Fair Labor Standards Act of 1938, page S238.

(3) Regulation on use of lie detector tests by the Capitol Police, page S261.

(4) Regulation on rights and protections under the Employee Polygraph Protection Act of 1988, page S263.

(5) Regulation on rights and protections under the Worker Adjustment and Retraining Notification Act, page S271.

The SPEAKER pro tempore. The gentleman from California [Mr. THOMAS] and the gentleman from California [Mr. FAZIO] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GOODLING], the chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the resolution before us with regard to congressional coverage.

While largely ministerial, they represent one more important step in bringing ourselves under the workplace laws we have long imposed, often too cavalierly in my view, on other employers.

Let me just say that I still occasionally express some wonderment that this day is finally here. The Congressional Accountability Act regulations represent the culmination of a several-year process in the Opportunities Committee in which the now-majority party repeatedly attempted to extend the laws of the workplace to our own employees, with proper enforcement mechanisms including access to the courts with jury trials.

Enactment of the Congressional Accountability Act, like the unfunded mandate legislation which was also enacted this Congress, has created a long-needed institutional brake—a yellow flag—on the passage of laws this institution too easily imposed in the past on all other workplaces while exempting itself. As importantly, the law finally extended the same workplace protections other workers have to our own employees. While these laws are not perfect there is no reason why our workers should be under different standards. And now that we are forced to comply with these laws, we will learn from experience and better identify with problems of compliance endured by our constituents. In fact, I can guarantee it. Proposals for future workplace requirements and reform of existing laws will gather a lot closer attention by every member of the Opportunities Committee and the House. And it's about time.

True, the protections of some laws had been applied in the past to the House, but the protections were hollow because employees never had the same right to court enforcement that their counterparts in the private sector and the executive branch enjoyed. And there were no signs there would ever be such enforcement! Indeed, as recently as 1991 when I had CRS do an analysis of the issue, we were still arguing over whether court enforcement posed constitutional concerns. Fortunately, that analysis, which found there were

not significant concerns, growing public awareness over the double standard enjoyed by Congress, and, most importantly, the outcome of the last election, brought us here today. Yes, the issue is now bipartisan, and I am glad it is, but it is clear that real—truly effective—congressional coverage was the result of the last election. We've come a long way in a year's time.

Indeed, the only shadow cast over today is that it took so long in coming. As I have noted in the past, the irony of Congress in exempting itself from the laws it imposed on others is so obvious that one wonders how it so long escaped criticism. But I am gratified that those of us who long fought for strong congressional coverage enforcement now have amply company.

The first House resolution before us, House Resolution 400, simply provides for approval of the regulations issued by the Office of Compliance, including those under the Fair Labor Standards Act and the Family and Medical Leave Act, as applicable to House employees.

After we proceed with this resolution, we will take up House Resolution 401 which provides for educational assistance by the Office of Compliance by employees who are not involved in deciding cases, and only to the same extent as such assistance is provided by the Department of Labor to the employers it regulates. The resolution also provides for a settlement procedure to ensure that taxpayer funds are protected from abuse.

Last, we will take up Senate Concurrent Resolution 51, already passed by the Senate, applying the regulations issued by the Office of Compliance to certain of the so-called instrumentalities of the House and Senate. These are offices administered by both the House and the Senate—such as the Congressional Budget Office, the Architect of the Capitol, and the Capitol Police—and, therefore, have to be covered through a concurrent resolution.

Mr. Speaker, I support these resolutions.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Congressional Accountability Act—Public Law 104-1—became effective on January 23, 1996. This law created the Office of Compliance, an independent office within the legislative branch, which is responsible for educating Congressional offices on how to comply with the laws made applicable to the Congress, as well as for providing a procedure for resolution of employee grievances, and for adopting regulations to implement these laws. These regulations must be approved by the House.

The Board of Directors of the Office of Compliance adopted regulations which were published in the CONGRESSIONAL RECORD on January 22, 1996. In anticipation of these regulations, on December 19, 1995, the House agreed to House Resolution 31 and House Concurrent Resolution 123, which provided for provisional approval of these regulations until the Committees of jurisdiction could review them and make a final recommendation to the House.

On March 12, 1996, the Committee on House Oversight considered these regulations, and voted to recommend their approval to the House. The regulations were also considered by the Committee on Educational and Economic Opportunities, which has jurisdiction over most of the laws made applicable to Congress by the act. The two House Resolutions which will be considered by the House today are the product of consultation by the two committees.

An issue addressed by the Committee on House Oversight at its March 12, 1996 meeting was supporting of time off plans. Our research indicates that these plans are available to House employers in the same way they are available to employers in the private sector. Mr. Speaker, I ask unanimous consent to insert at this point in the RECORD a memo on this issue written by the American Law Division of the Congressional Research Service.

In addition House Resolution 400 provides for approval of the regulations adopted by the Office of Compliance which are applicable to House employing offices and covered employees, as contemplated by section 304(c)(4) of the act.

Mr. Speaker, I submit for the RECORD a memorandum from the American Law Division of the Congressional Research Service.

AMERICAN LAW DIVISION,
CONGRESSIONAL RESEARCH SERVICE,
Washington, DC,

Subject: Time-off Plans Under Fair Labor Standards Act (FLSA).

Author: Vince Treacy, Legislative Attorney.

The Fair Labor Standards Act (FLSA) requires that employees be paid one-and-one-half times their regular rate of pay for each hour worked in excess of 40 hours in a workweek. 29 U.S.C. §207(a). Overtime compensation earned in a particular workweek must be paid on the regular pay day for the period in which such workweek ends. 29 C.F.R. §778.106. The Congressional Accountability Act (CAA) made the overtime provisions of the FLSA applicable to all employing offices in the Legislative Branch. Public Law No. 104-1, §203(a)(3).

Under a time-off plan, the employer may comply with the FLSA and continue to pay a fixed wage or salary each pay period, even though the employee works overtime in some other week or weeks within the pay period. The employer lays off the employee a sufficient number of hours during some other week or weeks of the pay period, so that the desired wage or salary for the pay period covers the total amount of compensation, including overtime compensation, for each workweek taken separately. The essential principle of the time-off plan is the control of earnings by control of the number of hours an employee is permitted to work.

A time-off plan cannot be applied "to a salaried employee who is paid a fixed salary to cover all hours he may work in any particular workweek or pay-period." U.S. Dep't of Labor, Employment Standards Administration, The Time Off Plan. In other words, a time-off practice cannot be applied to a nonexempt salaried employee who is paid a fixed salary to cover all hours, however few or many, that he may have worked in a particular workweek. For example, if an employee was hired to work for a salary of $400 per week to cover all hours worked up to 40 in a week, then the employee would earn the same $400 whether he worked 40, 30, 20, or no hours in a week. This employee could not be compensated with time off within another week in the pay period, since the employer would have paid him for that time in any event. Since the employee was already entitled to his salary for the short workweek, the use of the hours under 40 as an offset against overtime liability owed for a separate workweek would result in a denial of the extra overtime compensation the employee was entitled to under the FLSA.

The Department of Labor expressly disapproved time-off plans for workers with a guaranteed salary in Opinion Letter of May 27, 1964. The employer wanted to guarantee certain employees 40 hours of work or pay each week. Employees would receive a minimum week's pay in any week even though they may have worked fewer hours in the week. The proposed plan "is not a bona fide time-off plan in that the employee is guaranteed a definite number of hours of work or the equivalent in pay each workweek. The required control of earnings through control of the number of hours an employee is permitted to work in a pay period is lacking."

A similar problem would arise if an employee were expressly hired to work 35 hours per week for a fixed salary of $350. That employee could not be compensated with hours-off under 40 in a week, since those hours are unpaid under the employment agreement. The time off for such an employee must be subtracted from the 35 hours in the regular workweek. An employee who worked 50 hours in one week could then be compensated by receiving the full $350 salary for 20 hours of work in the second week. In the second week, $200 would represent compensation for the 20 hours actually worked, while $150 would be cash compensation for the 10 hours of overtime in the first week.

A time-off plan allows an employer to control earnings by controlling the number of hours worked. If the employee works more than 40 hours in a workweek, the employee can be required to take one-and-one-half hours off for each overtime hour within the same pay period. This produces virtually the same total earnings as if the employee had work only 40 hours in each workweek in the pay period.

Salaries status does not preclude the use of time-off plans for nonexempt employees. Time-off plans are barred only when the employee is guaranteed the salary regardless of the number of hours actually worked. Salaried nonexempt employees are customarily required to work a fixed number of hours for their pay. Absences must be charged to leave banks for vacation, sickness, or personal use. The actual salary is reduced ("docked") only when leave is denied or exhausted. These salaried employees may be given time off with pay in lieu of cash overtime, since the pay for the compensatory time off represents pay they would not otherwise have received.

In the state and local public sector, compensatory time off may be carried over to other pay periods, and can be accumulated into banks of up to 240 hours, or 480 for public safety employees. In the private sector, however, the overtime hours cannot be accumulated and the time off cannot be given in another pay period. This policy is based in part on the possibility that the employer may go out of business, or file for liquidation under the Bankruptcy Code, and thereby eliminate employee overtime compensation entirely.

The Congressional Accountability Act expressly adopted the private sector policy,

VOL
142
PT
6
AP
15
—
24
1996
UMI

and prohibited the accumulation of compensatory time. "Except as provided in regulations under subsection (c)(3), covered employees may not receive compensatory time in lieu of overtime compensation." Public Law No. 104–1, § 203(a)(3).

Time-off plans were approved by the Court in Dunlop v. State of New Jersey: :"The restriction that time off for overtime be granted within the same pay period as earned mirrors the stricture placed upon monetary payments for overtime." 522 F.2d 504, 510 (3d Cir. 1975), affirming 364 F.Supp. 156 (D.N.J. 1973), vacated on other grounds, 427 U.S. 909 (1976). Time-off plans have been approved by the Wage-Hour Administrator in Opinion Letters. DOL Opinion Letter No. 913 (Dec. 27, 1968), quoted with approval, 522 F.2d at 509–510, 364 F.Supp. at 158.

The use of time-off plans was first suggested to the House in 1990 by Betty Southard Murphy, an attorney who was a former Wage and House Administrator at the Department of Labor.

Overtime compensation need not be paid as money wages. Under proper and rigid circumstances, employees may receive their overtime compensation as compensatory time off. Such plans are only permitted as an alternative to overtime payments if the time off is taken during the same pay period in which the overtime is earned. Presentation by Betty Southard Murphy Before the Administrative Assistants Association, U.S. House of Representatives, Washington, DC, Oct. 18, 1990 (emphasis in original).

The time-off plan must meet three requirements. (1) The employees must be either hourly or salaried; employees paid by piecework, commission, or amount of production are excluded. (2) The wage agreement must provide a fixed number working hours per week; employees who work fluctuating hours for a fixed salary do not qualify. (3) The pay period must be either bi-weekly, semimonthly; or monthly; the plan cannot be applied to employees whose pay period is weekly.

Furthermore, time-off plans require careful records, because the employer may not at any time owe the employees overtime compensation. Payroll records should clearly indicate that the premium rate of one-and-one-half of the regular rate of pay is paid for all overtime hours worked. The employer must maintain an individual account for each employee, with credit for the appropriate amount of time. "Overall, time-off plans are rarely used because they are difficult to administer—the employer must anticipate workload requirements in all weeks of the established pay period." Betty Murphy, Guide to Wage and Hour Regulation at 46 (BNA, 1987).

Under the Portal-to-Portal Act of 1947, an employer must act "in good faith in conformity with and in reliance on any written administrative regulation, order, ruling, approval, or interpretation" of the Administrator of the Wage and Hour Division of the Department of Labor. 29 U.S.C. § 259. The Office of Compliance has ruled that the Portal-to-Portal Act applies under the Congressional Accountability Act. 122 Cong. Rec. S222 (daily ed., Jan. 22, 1996).

The Office of Compliance has stated that "[t]ime-off plans are authorized under section 7(a) of the FLSA. See, e.g., Wage and Hour Administrator Opinion Letter, issued 1950; Wage and Hour Opinion Letter dated December 27, 1968. Thus, employing offices are authorized to use such plans under section 203 of the CAA." It would therefore appear that employing offices may rely on the written opinions of the Wage and Hour Administrator of DOL in adopting time-off plans.

In the House of Representatives, several provisions should be noted. Title 2 of the U.S. Code provides that "[n]o person shall be paid from any clerk hire allowance if such person does not perform services for which he receives such compensation in the offices of such Member or Resident Commissioner in Washington, District of Columbia, or in the State or the district in which such Member or Resident Commissioner represents." 2 U.S.C. § 92–1.

The Rules of the House of Representatives provides that a Member or officer of the House "shall retain no one under his payroll authority who does not perform official duties commensurate with the compensation received in the offices of the employing authority." Rule XLIII, clause 8 (1995). The Members' Congressional Handbook provides that "Members may not [emphasis in original] retain a Clerk Hire employee on their payroll who does not perform official duties commensurate with their compensation," and that "Clerk Hire employees must perform the duties for which they are compensated within the Washington, D.C., or district congressional office(s) of the Member." See section II.A, clauses 2, 3, at page 5. Moreover, Title 31 of the U.S. Code provides that "[a]ppropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law." 31 U.S.C. § 1301(a).

An employing office in the House of Representatives may adopt a time-off plan. It is advisable that the plan be in writing. The plan should note that its provisions revoke and supersede all prior customs, practices and usages concerning time and pay. The plan should stipulate that all covered employees, whether salaried or hourly, are employed for a fixed workweek, such as 40 hours per week. The plan should also require that all hours be strictly accounted for, either as hours worked or as hours charged to paid leave, such as annual, sick, personal, holiday, emergency, or administrative leave.

Mr. Speaker, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my friend from California, Chairman THOMAS, has accurately described the purpose of the resolution. It simply approves the regulations issued by the Office of Compliance.

Reforming employment practices in the House took bi-partisan effort. Members from both sides of the aisle were steadfast in the reform efforts, and we were able to work through all the obstacles and pass the law.

I want to single out for praise the efforts to Chairman THOMAS, Representative SHAYS, Representative HOYER, and many other Members of this Congress, as well as Representative Swett in 103d Congress. They deserve recognition for their dedication to this reform.

House Members of both parties overwhelmingly supported this bill, and individual Members should take credit for their part in it. Remember, the underlying purpose of this law—imposing the same sandards on the House as on the private sector—enjoyed the same strong bi-partisan support in this Congress that it enjoyed in the last Congress.

I think we can be proud, individually and as an institution, that we have arrived at this point. Furthermore, as I have surveyed my colleagues, I find them universally supportive of the new law, and the workplace fairness which it brings to the House. There is a genuine desire to comply with the law, and Members seem eager for information to help them comply.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and agree to the resolution, House Resolution 400.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

DIRECTING THE OFFICE OF COMPLIANCE TO PROVIDE EDUCATIONAL ASSISTANCE TO EMPLOYING OFFICES OF THE HOUSE IN SAME MANNER AS SUCH ASSISTANCE IS PROVIDED TO THE PRIVATE SECTOR THROUGH THE DEPARTMENT OF LABOR

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 401) directing the Office of Compliance to provide educational assistance to employing offices of the House of Representatives regarding compliance with the Congressional Accountability Act of 1995 and requiring employing offices of the House of Representatives to obtain the prior approval of the chairman and the ranking minority party member of the Committee on House Oversight of the House of Representatives of the amount of any settlement payments made under such Act.

The Clerk read as follows:

H. RES. 401

Resolved,

SECTION 1. INTERPRETATION AND ADVICE BY OFFICE OF COMPLIANCE.

In carrying out its duties under section 301(h) of the Congressional Accountability Act of 1995, the Office of Compliance shall, through interpretive bulletins, advisory opinions, and other methods, provide educational assistance to employing offices of the House of Representatives in the same manner as, and to no lesser extent than, such assistance is provided to other employers through the Department of Labor with respect to laws made applicable to such offices under that Act, except that any employees of the Office of Compliance who provide such

assistance may not participate in deciding complaints filed under section 405 of the Act or in deciding petitions for review filed under section 406 of the Act.

SEC. 2. APPROVAL OF AMOUNT OF SETTLEMENT PAYMENTS.

No employing office of the House of Representatives may enter into any settlement of a compliant under the Congressional Accountability Act of 1995 which includes the payment of funds unless the office has obtained the prior approval of the chairman and the ranking minority party member of the Committee on House Oversight of the House of Representatives, acting jointly, regarding the amount of funds to be paid.

The SPEAKER pro tempore. The gentleman from California [Mr. THOMAS] and the gentleman from California [Mr. FAZIO] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

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Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Section 301(h) of the Congressional Accountability Act—Public Law 104–1—requires the Office of Compliance to carry out a program of education for employing authorities of the legislative branch with regard to the laws made applicable to Congress by the act. The purpose of this section was to ensure that employing offices have the information necessary to comply with the act.

On March 12, 1996, the Committee on House Oversight agreed to direct the Office of Compliance to provide educational assistance through interpretive bulletins, advisory opinions, and other methods with respect to the regulations adopted by the Office of Compliance. It is important to note that this assistance is currently provided to employers in the private sector by the Department of Labor.

The Office of Compliance has publicly claimed that they cannot issue advisory opinions. The authority to issue advisory opinions, in the committee's opinion, is a necessary function related to the authority to issue regulations. It seems a little disingenuous to adopt regulations. It seems a little disingenuous to adopt regulations and then claim an inability to explain or interpret those regulations. Therefore, H.R. 401 expresses the will of the House that the Office of Compliance provide educational assistance through various methods. Advisory opinions are only one of the many ways such assistance may be provided.

Mr. Speaker, I include for the RECORD a copy of an analysis on this issue from the American Law Division of the Congressional Research Service.

The document referred to is as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, April 15, 1996.

To: Committee. on House Oversight; attention: Dan Crowley.
From: American Law Division.
Subject: Examination of Authority of Office of Compliance to Issue Advisory Opinions.

This memorandum is submitted in response to the committee's request, as discussed with Dan Crowley of the committee staff, concerning the subject noted above. Specifically, the committee has asked that we examine the position taken by the Office of Compliance that it cannot, consistent with the scheme of the Congressional Accountability Act of 1995[1] (CAA or the act), issue advisory opinions.

On March 12, 1996, the Committee on House Oversight (committee) considered, but did not report, two resolutions to approve regulations adopted by the Board of Directors (Board) of the Office of Compliance (Office) to implement the act.[2] The first section of each resolution states that specified regulations of the Board "are hereby approved. . . ." Section 2 of each resolution provides:

"In carrying out its duties under section 301(h) of the Congressional Accountability Act of 1995, the Office of Compliance shall, through interpretive bulletins, advisory opinions, and other methods, provide educational assistance to employing offices of the House of Representatives in the same manner as, and to no lesser extent than, such assistance is provided to other employers through the Department of Labor with respect to laws made applicable to the House of Representatives under that Act."

We have been advised by the committee staff that similar language may be included in a resolution to be considered by the House on April 15, 1996, to approve of the Board's regulations.[3]

The Board maintains that, given its functions and powers under the CAA, it cannot issue advisory opinions.[4] Two premises provide the foundation for the Board's view. First, the Board argues that, as an administrative entity with adjudicatory functions under the CAA, it "may not issue binding legal interpretations concerning disputed matters in non-public proceedings and without the benefit of an adversary proceeding that is governed by rules of law and subject to judicial review. . . . [T]o issue such binding interpretations and advisory opinions . . . would . . . compromise the independence and impartiality of the Office. . . ."[5] And second, the Board considers the issuance of interpretations and advisory opinions to be incident to an agency's investigative and prosecutorial powers—a means by which an agency informs those subject to its jurisdiction of its prosecutorial policies and its stance with regard to conduct deemed to be violative of the pertinent laws and regulations. Since the Office does not generally exercise investigative and prosecutorial authority under the CAA, the Board believes that it would be inappropriate for it to issue advisory opinions.

From our review of the CAA, the committee's resolutions, the Board's argument, and sources on administrative law, it appears for several reasons that the Office need not be precluded from issuing advisory opinions of the type seemingly contemplated by the resolutions.

(2) The resolutions call for educational assistance. The resolutions call upon the Office, in fulfilling its duties under CAA, § 301(h), to "provide educational assistance to employing offices of the House of Representatives" by means of "interpretive bulletins, advisory opinions, and other methods. . . ."[6] The resolutions are arguably intended to secure education for employers, and advisory opinions are only one of the means contemplated by which this education would be furnished. Although the Office deems it to be inappropriate to issue advisory opinions, it could fulfill the central purpose of this provision of the resolution by affording other types of educational assistance to employing offices. The Office acknowledges that it "has issued hundreds of pages of educational and informational materials, sponsored numerous educational programs, and established an information hot-line."[7] Additional assistance to employers of the type already provided by the Office, although perhaps more particularized, could satisfy the goal of the resolutions. Furthermore, it seems that the Office could issue advisory opinions, as contemplated by the resolutions, without raising the concerns advanced by the Office in regard to the impact on the "independence and impartiality of the office."[8] The Office is troubled by the prospect of issuing "*binding* legal interpretations . . . in non-public proceedings" on"*individual fact-specific cases* that may then later come before . . . [the Office] for adjudication."[9] However, it is arguable that an advisory opinion could be rendered by the Office, consistent with the purpose of the resolutions, without speaking to the facts of an individual case but addressing instead a fact pattern potentially of interest to a number of employing offices. Additionally, the educational assistance sought by the resolutions could be afforded without providing a binding legal interpretation, but merely further guidance along the lines already made available by the Office in other ways.[10]

(2) Advisory opinions may be issued pursuant to rulemaking power. Although our research has revealed a dearth of literature on the issuance of advisory opinions by administrative bodies, one study of advice giving by federal agencies observes that "the most striking characteristic of the advice-giving procedures of the agencies studied is that, except on the question of jurisdiction, agencies view advice-giving assistance to the public as part of their rulemaking, rather than their adjudicatory processes."[11] From this statement, it seems that an agency with adjudicatory powers may provide advice[12] and it would further appear that such advice might encompass advisory opinions.[13] Thus, it might be argued that the adjudicatory powers vested by the CAA in the Office of Compliance need not bar the Office from issuing advisory opinions. Furthermore, the advice giving function has been considered by at least some agencies to be a part of their rulemaking duties, and the Office does have rulemaking responsibilities under the act.[14] Thus, the Office arguably could issue advisory opinions under its rulemaking powers, without regard to the fact that it lacks prosecutorial authority.

CONCLUSION

It would appear that the scheme of the CAA need not preclude the Office from issuing advisory opinions, as contemplated by the resolutions described above, pursuant to its education function or pursuant to its rulemaking power, notwithstanding the fact that it generally does not exercise investigative or prosecutorial powers. Furthermore, the Office's adjudicatory powers would not

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[1] Footnotes at end.

VOL
142
PT
6
AP
15
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24
1996
UMI

seem to bar it from issuing advisory opinions.

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FOOTNOTES

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[1] Pub. L. No. 104–1, 109 Stat. 3.

[2] Our analysis is based on discussion drafts of the resolutions, dated March 7, 1996, which were provided to us by the committee staff. One resolution is a simple House resolution which approves of regulations applicable to the House, and the other is a concurrent resolution which approves of regulations applicable to employees covered by the CAA who are not employees of either the House or the Senate.

[3] Similar language appears in §1 of a revised discussion draft of the resolution provided to us by committee staff. However, the revised draft further specifies that "any employees of the Office of Compliance who provide such [educational] assistance may not participate in, deciding complaints filed under section 405 of the Act or in deciding petitions for review filed under section 405 of the Act. . . ."

[4] Letter from Glen Nager, Chair of the Board, to the Honorable William M. Thomas, Chairman of the Committee on House Oversight (Mar. 15, 1996) (hereafter, "Board's letter"), at pp. 2–4 (A copy of the letter was provided to us by committee staff.) Similar views are set forth in a March 28, 1996, letter from Ricky Silberman, Executive Director, Office of Compliance, to the editor of Roll Call. Our analysis focuses on the reasoning set forth in the Board's letter with regard to the propriety of the issuance of advisory opinions by an administrative body in light of its adjudicatory, prosecutorial, and investigative powers. Our analysis is confined to the question of the Board's authority to issue advisory opinions. We do not address any other issues that might be raised by the resolutions or by the Board's critique of the resolutions in its letter. The Board suggests, without explanation, that "the additional provisions of the resolution [including the provision concerning advisory opinions] are not legally binding. . . ." Board's letter, at p. 4. In the absence of elaboration by the Board, we do not explore here the issue of whether the additional provisions of the resolution would be binding. Our analysis is restricted to the question of whether the Board has authority under the CAA, as originally enacted, to issue advisory opinions.

[5] Board's letter *supra* note 4, at p. 2.

[6] Section 301(h) mandates that the Office "carry out a program of education for Members of Congress and other employing authorities . . . respecting the laws made applicable to them . . . ."

[7] Board's letter, supra note 4, at p. 3.

[8] Id., at p. 2.

[9] Id. (emphasis added).

[10] The resolutions call upon the Office to provide educational assistance in the same manner as such assistance is provided to other employers through the Department of Labor. The Board contends that, lacking investigative and prosecutorial powers, it cannot meet this standard. Board letter, supra note 4, at pp. 2-3. But such investigative and prosecutorial powers may not be required to issue advisory opinions. See notes 11 14 and accompanying text, infra.

[11] Powell, "Sinners, Supplicants, and Samaritans: Agency Advice Giving in Relation to Section 554(e) of the Administrative Procedure Act," 63 N.C.L. Rev. 339, 348-49 (1985). The article was based on a study of the following fourteen federal agencies: Consumer Product Safety Commission, Environmental Protection Agency, Federal Aviation Administration, Federal Communications Commission, Federal Election Commission, Federal Energy Regulatory Commission, Federal Maritime Commission, Federal Trade Commission, Food and Drug Administration Interstate Commerce Commission, National Labor Relations Board, Nuclear Regulatory Commission, Occupational Safety and Health Administration, and Securities and Exchange Commission. Id. at 348 n.36.

[12] See id. at 355 (adjudication occurs where advice giving by agency has already failed).

[13] "Advice giving" is considered to be a type of rulemaking, and definitions of rulemaking generally do not attempt to distinguish among "interpretive rules and various kinds of announcements, interpretations, opinions, releases, rulings, practices, usages, and policies." Id. at 350 n.38, citing 1 K. Davis, Administrative Law Treatise, §5.01 at p. 289 (1958).

[14] CAA §§303, 304.

Mr. Speaker, H.R. 401 also establishes the process by which a settlement may be entered into by any employing office of the House, as contemplated in Section 414 of the act. Specifically, this resolution safeguards taxpayer funds by requiring the prior approval of the chairman and the agreement of the ranking minority member of the Committee on House Oversight, acting jointly, regarding the amount of funds to be paid.

This procedure is similar to the current procedure for approval of settlement payments sanctioned by the Office of Fair Employment Practices under House rule 51. All cash settlements will be approved on a strictly bipartisan basis.

In practice, it will be incumbent upon the employing office or defense counsel to ensure that the chairman and ranking minority member approve the amount of funds to be paid prior to entering into any settlement involving a cash payment. It is important to note that this resolution does not affect the authority of the executive director of the Office of Compliance to approve settlement. Instead, it imposes a restriction on the ability of House employing offices to enter into settlement agreements involving cash payments. Settlements involving only other forms of relief, including reinstatement, promotion, and prospective salary adjustments, are beyond the scope of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as with the earlier resolution, my friend, the gentleman from California, the chairman, has accurately described the purpose of this resolution. It simply expresses the House's desire to be treated the same as the private sector with respect to information available to Members to comply with the Act.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RIGGS). The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and agree to the resolution, House Resolution 401.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

APPROVING FINAL REGULATIONS APPLICABLE TO JOINT ENTITIES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 51) to provide for the approval of final regulations that are applicable to employing offices that are not employing offices of the House of Representatives or the Senate, and to covered employees who are not employees of the House of Representatives or the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes.

The Clerk read as follows:

S. CON. RES. 51

Resolved by the Senate (the House of Representatives concurring), That the following regulations issued by the Office of Compliance on January 22, 1996, and applicable to employing offices that are not employing offices of the House of Representatives or the Senate, and to covered employees who are not employees of the House of Representatives or the Senate, are hereby approved as follows:

PART 825—FAMILY AND MEDICAL LEAVE

825.1 Purpose and scope
825.2 [Reserved]

Subpart A—What is the Family and Medical Leave Act, and to Whom Does it Apply under the Congressional Accountability Act?

825.100 What is the Family and Medical Leave Act?
825.101 What is the purpose of the FMLA?
825.102 When are the FMLA and the CAA effective for covered employees and employing offices?
825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?
825.104 What employing offices are covered by the FMLA, as made applicable by the CAA?
825.105 [Reserved]
825.106 How is "joint employment" treated under the FMLA as made applicable by the CAA?
825.107—825.109 [Reserved]
825.110 Which employees are "eligible" to take FMLA leave under these regulations?
825.111 [Reserved]
825.112 Under what kinds of circumstances are employing offices required to grant family or medical leave?
825.113 What do "spouse," "parent," and "son or daughter" mean for purposes of an employee qualifying to take FMLA leave?
825.114 What is a "serious health condition" entitling an employee to FMLA leave?
825.115 What does it mean that "the employee is unable to perform the functions of the position of the employee"?
825.116 What does it mean that an employee is "needed to care for" a family member?
825.117 For an employee seeking intermittent FMLA leave or leave on a reduced leave schedule, what is meant by "the medical necessity for" such leave?
825.118 What is a "health care provider"?

Subpart B—What Leave Is an Employee Entitled To Take Under The Family and Medical Leave Act, as Made Applicable by the Congressional Accountability Act?

825.200 How much leave may an employee take?
825.201 If leave is taken for the birth of a child, or for placement of a child for adoption or foster care, when must the leave be concluded?
825.202 How much leave may a husband and wife take if they are employed by the same employing office?
825.203 Does FMLA leave have to be taken all at once, or can it be taken in parts?
825.204 May an employing office transfer an employee to an "alternative position" in order to accommodate intermittent leave or a reduced leave schedule?
825.205 How does one determine the amount of leave used where an employee takes leave intermittently or on a reduced leave schedule?
825.206 May an employing office deduct hourly amounts from an employee's salary, when providing unpaid leave under FMLA, as made applicable by the CAA, without affecting the employee's qualification for exemption as an executive, administrative, or professional employee, or when utilizing the fluctuating workweek method for payment of overtime, under the Fair Labor Standards Act?
825.207 Is FMLA leave paid or unpaid?
825.208 Under what circumstances may an employing office designate leave, paid or unpaid, as FMLA leave and, as a result, enable leave to be counted against the employee's total FMLA leave entitlement?
825.209 Is an employee entitled to benefits while using FMLA leave?
825.210 How may employees on FMLA leave pay their share of group health benefit premiums?
825.211 What special health benefits maintenance rules apply to multi-employer health plans?
825.212 What are the consequences of an employee's failure to make timely health plan premium payments?
825.213 May an employing office recover costs it incurred for maintaining "group health plan" or other non-health benefits coverage during FMLA leave?
825.214 What are an employee's rights on returning to work from FMLA leave?
825.215 What is an equivalent position?
825.216 Are there any limitations on an employing office's obligation to reinstate an employee?
825.217 What is a "key employee"?
825.218 What does "substantial and grievous economic injury" mean?
825.219 What are the rights of a key employee?
825.220 How are employees protected who request leave or otherwise assert FMLA rights?

Subpart C—How Do Employees Learn of Their Rights and Obligations under the FMLA, as Made Applicable by the CAA, and What Can an Employing Office Require of an Employee?

825.300 [Reserved]
825.301 What notices to employees are required of employing offices under the FMLA as made applicable by the CAA?
825.302 What notice does an employee have to give an employing office when the need for FMLA leave is foreseeable?
825.303 What are the requirements for an employee to furnish notice to an employing office where the need for FMLA leave is not foreseeable?
825.304 What recourse do employing offices have if employees fail to provide the required notice?
825.305 When must an employee provide medical certification to support FMLA leave?
825.306 How much information may be required in medical certifications of a serious health condition?
825.307 What may an employing office do if it questions the adequacy of a medical certification?
825.308 Under what circumstances may an employing office request subsequent recertifications of medical conditions?
825.309 What notice may an employing office require regarding an employee's intent to return to work?
825.310 Under what circumstances may an employing office require that an employee submit a medical certification that the employee is able (or unable) to return to work (i.e., a "fitness-for-duty" report)?
825.311 What happens if an employee fails to satisfy the medical certification and/or recertification requirements?
825.312 Under what circumstances may an employing office refuse to provide FMLA leave or reinstatement to eligible employees?

Subpart D—What Enforcement Mechanisms Does the CAA Provide?

825.400 What can employees do who believe that their rights under the FMLA as made applicable by the CAA have been violated?
825.401—825.404 [Reserved]

Subpart E—[Reserved]

Subpart F—What Special Rules Apply to Employees of Schools?

825.600 To whom do the special rules apply?
825.601 What limitations apply to the taking of intermittent leave or leave on a reduced leave schedule?
825.602 What limitations apply to the taking of leave near the end of an academic term?
825.603 Is all leave taken during "periods of a particular duration" counted against the FMLA leave entitlement?
825.604 What special rules apply to restoration to "an equivalent position?"

Subpart G—How Do Other Laws, Employing Office Practices, and Collective Bargaining Agreements Affect Employee Rights Under the FMLA as Made Applicable by the CAA?

825.700 What if an employing office provides more generous benefits than required by FMLA as Made Applicable by the CAA?
825.701 [Reserved]
825.702 How does FMLA affect anti-discrimination laws as applied by section 201 of the CAA?

Subpart H—Definitions

825.800 Definitions
Appendix A to Part 825—[Reserved]
Appendix B to Part 825—Certification of Physician or Practitioner
Appendix C to Part 825—[Reserved]
Appendix D to Part 825—Prototype Notice: Employing Office Response to Employee Request for Family and Medical Leave
Appendix E to Part 825—[Reserved]

§825.1 Purpose and scope

(a) Section 202 of the Congressional Accountability Act (CAA) (2 U.S.C. 1312) applies the rights and protections of sections 101 through 105 of the Family and Medical Leave Act of 1993 (FMLA) (29 U.S.C. 2611-2615) to covered employees. (The term "covered employee" is defined in section 101(3) of the CAA (2 U.S.C. 1301(3)). See §825.800 of these regulations for that definition.) The purpose of this part is to set forth the regulations to carry out the provisions of section 202 of the CAA.

(b) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 202(d) and 304 of the CAA, which direct the Board to promulgate regulations implementing section 202 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 202 of the CAA requires regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202 of the CAA].

(c) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§825.2 [Reserved]

Subpart A—What is the Family and Medical Leave Act, and to Whom Does it Apply under the Congressional Accountability Act?

§825.100 What is the Family and Medical Leave Act?

(a) The Family and Medical Leave Act of 1993 (FMLA), as made applicable by the Congressional Accountability Act (CAA), allows "eligible" employees of an employing office to take job-protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 workweeks in any 12 months because of the birth of a child and to care for the newborn child, because of the placement of a child with the employee for adoption or foster care, because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition, or because the employee's own serious health condition makes the employee unable to perform the functions of his or her job (*see* §825.306(b)(4)). In certain cases, this leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

(b) An employee on FMLA leave is also entitled to have health benefits maintained while on leave as if the employee had continued to work instead of taking the leave. If an employee was paying all or part of the premium payments prior to leave, the employee

VOL
142
PT
6
AP
15
—
24
1996
UMI

would continue to pay his or her share during the leave period. The employing office, or a disbursing or other financial office of the House of Representatives or the Senate may recover its share only if the employee does not return to work for a reason other than the serious health condition of the employee or the employee's immediate family member, or another reason beyond the employee's control.

(c) An employee generally has a right to return to the same position or an equivalent position with equivalent pay, benefits and working conditions at the conclusion of the leave. The taking of FMLA leave cannot result in the loss of any benefit that accrued prior to the start of the leave.

(d) The employing office has a right to 30 days advance notice from the employee where practicable. In addition, the employing office may require an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee's immediate family member. Failure to comply with these requirements may result in a delay in the start of FMLA leave. Pursuant to a uniformly applied policy, the employing office may also require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition (*see* §825.311(c)). The employing office may delay restoring the employee to employment without such certificate relating to the health condition which caused the employee's absence.

§825.101 What is the purpose of the FMLA?

(a) FMLA is intended to allow employees to balance their work and family life by taking reasonable unpaid leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition. The FMLA is intended to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interesta in preserving family integrity. It was intended that the FMLA accomplish these purposes in a manner that accommodates the legitimate interests of employers, and in a manner consistent with the Equal Protection Clause of the Fourteenth Amendment in minimizing the potential for employment discrimination on the basis of sex, while promoting equal employment opportunity for men and women.

(b) The enactment of FMLA was predicated on two fundamental concerns "the needs of the American workforce, and the development of high-performance organizations. Increasingly, America's children and elderly are dependent upon family members who must spend long hours at work. When a family emergency arises, requiring workers to attend to seriously-ill children or parents, or to newly-born or adopted infants, or even to their own serious illness, workers need reassurance that they will not be asked to choose between continuing their employment, and meeting their personal and family obligations or tending to vital needs at home.

(c) The FMLA is both intended and expected to benefit employers as well as their employees. A direct correlation exists between stability in the family and productivity in the workplace. FMLA will encourage the development of high-performance organizations. When workers can count on durable links to their workplace they are able to make their own full commitments to their jobs. The record of hearings on family and medical leave indicate the powerful productive advantages of stable workplace relationships, and the comparatively small costs of guaranteeing that those relationships will not be dissolved while workers attend to pressing family health obligations or their own serious illness.

§825.102 When are the FMLA and the CAA effective for covered employees and employing offices?

(a) The rights and protection of sections 101 through 105 of the FMLA have applied to certain Senate employees and certain employing offices of the Senate since August 5, 1993 (*see* section 501 of FMLA).

(b) The rights and protection of sections 101 through 105 of the FMLA have applied to any employee in an employment position and any employment authority of the House of Representatives since August 5, 1993 (*see* section 502 of FMLA).

(c) The rights and protections of sections 101 through 105 of the FMLA have applied to certain employing offices and covered employees other than those referred to in paragraphs (a) and (b) of this section for certain periods since August 5, 1993 (*see, e.g.*, Title V of the FMLA, sections 501 and 502).

(d) The provisions of section 202 of the CAA that apply rights and protections of the FMLA to covered employees are effective on January 23, 1996.

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee eligibility.

§825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?

(a) An eligible employee's right to take FMLA leave began on the date that the rights and protections of the FMLA first went into effect for the employing office and employee (*see* §825.102(a)). Any leave taken prior to the date on which the rights and protections of the FMLA first became effective for the employing office from which the leave was taken may not be counted for purposes of the FMLA as made applicable by the CAA. If leave qualifying as FMLA leave was underway prior to the effective date of the FMLA for the employing office from which the leave was taken and continued after the FMLA's effective date for that office, only that portion of leave taken on or after the FMLA's effective date may be counted against the employee's leave entitlement under the FMLA, as made applicable by the CAA.

(b) If an employing office-approved leave is underway when the application of the FMLA by the CAA takes effect, no further notice would be required of the employee unless the employee requests an extension of the leave. For leave which commenced on the effective date or shortly thereafter, such notice must have been given which was practicable, considering the foreseeability of the need for leave and the effective date.

(c) Starting on January 23, 1996, an employee is entitled to FMLA leave under these regulations if the reason for the leave is qualifying under the FMLA, as made applicable by the CAA, even if the event occasioning the need for leave (*e.g.*, the birth of a child) occurred before such date (so long as any other requirements are satisfied).

§825.104 What employing offices are covered by the FMLA, as made applicable by the CAA?

(a) The FMLA, as made applicable by the CAA, covers all employing offices. As used in the CAA, the term "employing office" means—

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(b) [Reserved]

(c) Separate entities will be deemed to be parts of a single employer for purposes of the FMLA, as made applicable by the CAA, if they meet the "integrated employer" test. A determination of whether or not separate entities are an integrated employer is not determined by the application of any single criterion, but rather the entire relationship is to be reviewed in its totality. Factors considered in determining whether two or more entities are an integrated employer include:

(i) Common management;

(ii) Interrelation between operations;

(iii) Centralized control of labor relations; and

(iv) Degree of common financial control.

§825.105 [Reserved]

§825.106 How is "joint employment" treated under the FMLA as made applicable by the CAA?

(a) Where two or more employing offices exercise some control over the work or working conditions of the employee, the employing offices may be joint employers under FMLA, as made applicable by the CAA. Where the employee performs work which simultaneously benefits two or more employing offices, or works for two or more employing offices at different times during the workweek, a joint employment relationship generally will be considered to exist in situations such as:

(1) Where there is an arrangement between employing offices to share an employee's services or to interchange employees;

(2) Where one employing office acts directly or indirectly in the interest of the other employing office in relation to the employee; or

(3) Where the employing offices are not completely disassociated with respect to the employee's employment and may be deemed to share control of the employee, directly or indirectly, because one employing office controls, is controlled by, or is under common control with the other employing office.

(b) A determination of whether or not a joint employment relationship exists is not determined by the application of any single criterion, but rather the entire relationship is to be viewed in its totality. For example, joint employment will ordinarily be found to exist when: (1) an employee, who is employed by an employing office other than the personal office of a Member of the House of Representatives or of a Senator, is under the actual direction and control of the Member of the House of Representatives or Senator; or

(2) two or more employing offices employ an individual to work on common issues or other matters for both or all of them.

(c) When employing offices employ a covered employee jointly, they may designate one of themselves to be the primary employing office, and the other or others to be the secondary employing office(s). Such a designation shall be made by written notice to the covered employee.

(d) If an employing office is designated a primary employing office pursuant to paragraph (c) of this section, only that employing office is responsible for giving required notices to the covered employee, providing FMLA leave, and maintenance of health benefits. Job restoration is the primary responsibility of the primary employing office, and the secondary employing office(s) may, subject to the limitations in §825.216, be responsible for accepting the employee returning from FMLA leave.

(e) If employing offices employ an employee jointly, but fail to designate a primary employing office pursuant to paragraph (c) of this section, then all of these employing offices shall be jointly and severally liable for giving required notices to the employee, for providing FMLA leave, for assuring that health benefits are maintained, and for job restoration. The employee may give notice of need for FMLA leave, as described in §§ 825.302 and 825.303, to whichever of these employing offices the employee chooses. If the employee makes a written request for restoration to one of these employing offices, that employing office shall be primarily responsible for job restoration, and the other employing office(s) may, subject to the limitations in §825.216, be responsible for accepting the employee returning from FMLA leave.

§825.107 [Reserved]

§825.108 [Reserved]

§825.109 [Reserved]

§825.110 Which employees are "eligible" to take FMLA leave under these regulations?

(a) An "eligible employee" under these regulations means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

(b) The 12 months an employee must have been employed by any employing office need not be consecutive months. If an employee worked for two or more employing offices sequentially, the time worked will be aggregated to determine whether it equals 12 months. If an employee is maintained on the payroll for any part of a week, including any periods of paid or unpaid leave (sick, vacation) during which other benefits or compensation are provided by the employer (e.g., workers' compensation, group health plan benefits, etc.), the week counts as a week of employment. For purposes of determining whether intermittent/occasional/casual employment qualifies as "at least 12 months," 52 weeks is deemed to be equal to 12 months.

(c) If an employee was employed by two or more employing offices, either sequentially or concurrently, the hours of service will be aggregated to determine whether the minimum of 1,250 hours has been reached. Whether an employee has worked the minimum 1,250 hours of service is determined according to the principles established under the Fair Labor Standards Act (FLSA) , as applied by section 203 of the CAA (2 U.S.C. 1313), for determining compensable hours of work. The determining factor is the number of hours an employee has worked for one or more employing offices. The determination is not limited by methods of record-keeping, or by compensation agreements that do not accurately reflect all of the hours an employee has worked for or been in service to the employing office. Any accurate accounting of actual hours worked may be used. For this purpose, full-time teachers (see §825.800 for definition) of an elementary or secondary school system, or institution of higher education, or other educational establishment or institution are deemed to meet the 1,250 hour test. An employing office must be able to clearly demonstrate that such an employee did not work 1,250 hours during the previous 12 months in order to claim that the employee is not "eligible" for FMLA leave.

(d) The determinations of whether an employee has worked for any employing office for at least 1,250 hours in the previous 12 months and has been employed by any employing office for a total of at least 12 months must be made as of the date leave commences. The "previous 12 months" means the 12 months immediately preceding the commencement of the leave. If an employee notifies the employing office of need for FMLA leave before the employee meets these eligibility criteria, the employing office must either confirm the employee's eligibility based upon a projection that the employee will be eligible on the date leave would commence or must advise the employee when the eligibility requirement is met. If the employing office confirms eligibility at the time the notice for leave is received, the employing office may not subsequently challenge the employee's eligibility. In the latter case, if the employing office does not advise the employee whether the employee is eligible as soon as practicable (i.e., two business days absent extenuating circumstances) after the date employee eligibility is determined, the employee will have satisfied the notice requirements and the notice of leave is considered current and outstanding until the employing office does advise. If the employing office fails to advise the employee whether the employee is eligible prior to the date the requested leave is to commence, the employee will be deemed eligible. The employing office may not, then, deny the leave. Where the employee does not give notice of the need for leave more than two business days prior to commencing leave, the employee will be deemed to be eligible if the employing office fails to advise the employee that the employee is not eligible within two business days of receiving the employee's notice.

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee's eligibility.

(f) [Reserved]

§825.111 [Reserved]

§825.112 Under what kinds of circumstances are employing offices required to grant family or medical leave?

(a) Employing offices are required to grant leave to eligible employees:

(1) For birth of a son or daughter, and to care for the newborn child;

(2) For placement with the employee of a son or daughter for adoption or foster care;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and

(4) Because of a serious health condition that makes the employee unable to perform the functions of the employee's job.

(b) The right to take leave under FMLA as made applicable by the CAA applies equally to male and female employees. A father, as well as a mother, can take family leave for the birth, placement for adoption or foster care of a child.

(c) Circumstances may require that FMLA leave begin before the actual date of birth of a child. An expectant mother may take FMLA leave pursuant to paragraph (a)(4) of this section before the birth of the child for prenatal care or if her condition makes her unable to work.

(d) Employing offices are required to grant FMLA leave pursuant to paragraph (a)(2) of this section before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed. For example, the employee may be required to attend counseling sessions, appear in court, consult with his or her attorney or the doctor(s) representing the birth parent, or submit to a physical examination. The source of an adopted child (*e.g.*, whether from a licensed placement agency or otherwise) is not a factor in determining eligibility for leave for this purpose.

(e) Foster care is 24-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement between the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family that the foster family will take care of the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

(f) In situations where the employer/employee relationship has been interrupted, such as an employee who has been on layoff, the employee must be recalled or otherwise be re-employed before being eligible for FMLA leave. Under such circumstances, an eligible employee is immediately entitled to further FMLA leave for a qualifying reason.

(g) FMLA leave is available for treatment for substance abuse provided the conditions of §825.114 are met. However, treatment for substance abuse does not prevent an employing office from taking employment action against an employee. The employing office may not take action against the employee because the employee has exercised his or her right to take FMLA leave for treatment. However, if the employing office has an established policy, applied in a non-discriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking FMLA leave. An employee may also take FMLA leave to care for an immediate family member who is receiving treatment for substance abuse. The employing office may not take action against an employee who is providing care for an immediate family member receiving treatment for substance abuse.

§825.113 What do "spouse," "parent," and "son or daughter" mean for purposes of an employee qualifying to take FMLA leave?

(a) Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

(b) Parent means a biological parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a son or daughter as defined in (c) below. This term does not include parents "in law".

(c) Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability."

(1) "Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in three or more of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene,

VOL 142 PT 6 AP 15 — 24 1996 UMI

bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

(2) "Physical or mental disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. See the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)).

(3) Persons who are "*in loco parentis*" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

(d) For purposes of confirmation of family relationship, the employing office may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship. This documentation may take the form of a simple statement from the employee, or a child's birth certificate, a court document, *etc.* The employing office is entitled to examine documentation such as a birth certificate, *etc.*, but the employee is entitled to the return of the official document submitted for this purpose.

§825.114 What is a "serious health condition" entitling an employee to FMLA leave?

(a) For purposes of FMLA, "serious health condition" entitling an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:

(1) *Inpatient care* (*i.e.*, an overnight atay) in a hospital, hospice, or residential medical care facility, including any period of *incapacity* (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(2) *Continuing treatment* by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(i) A period of *incapacity* (*i.e.*, inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(A) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(B) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(ii) Any period of incapacity due to pregnancy, or for prenatal care.

(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(A) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(B) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(C) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

(iv) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(v) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

(b) Treatment for purposes of paragraph (a) of this section includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (a)(2)(i)(B), a regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(c) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(d) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(e) Absences attributable to incapacity under paragraphs (a)(2)(ii) or (iii) qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

§825.115 What does it mean that "the employee is unable to perform the functions of the position of the employee"?

An employee is "unable to perform the functions of the position" where the health care provider finds that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee's position within the meaning of the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)). An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment. An employing office has the option, in requiring certification from a health care provider, to provide a statement of the essential functions of the employee's position for the health care provider to review. For purposes of FMLA, the essential functions of the employee's position are to be determined with reference to the position the employee held at the time notice is given or leave commenced, whichever is earlier.

§825.116 What does it mean that an employee is "needed to care for" a family member?

(a) The medical certification provision that an employee is "needed to care for" a family member encompasses both physical and psychological care. It includes situations where, for example, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor, etc. The term also includes providing psychological comfort and reassurance which would be beneficial to a child, spouse or parent with a serious health condition who is receiving inpatient or home care.

(b) The term also includes situations where the employee may be needed to fill in for others who are caring for the family member, or to make arrangements for changes in care, such as transfer to a nursing home.

(c) An employee's intermittent leave or a reduced leave schedule necessary to care for a family member includes not only a situation where the family member's condition itself is intermittent, but also where the employee is only needed intermittently "such as where other care is normally available, or care responsibilities are shared with another member of the family or a third party.

§825.117 For an employee seeking intermittent FMLA leave or leave on a reduced leave schedule, what is meant by "the medical necessity for" such leave?

For intermittent leave or leave on a reduced leave schedule, there must be a medical need for leave (as distinguished from voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. The treatment regimen and other information described in the certification of a serious health condition (see §825.306) meets the requirement for certification of the medical necessity of intermittent leave or leave on a reduced leave

schedule. Employees needing intermittent FMLA leave or leave on a reduced leave schedule must attempt to schedule their leave so as not to disrupt the employing office's operations. In addition, an employing office may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule.

§825.118 What is a "health care provider"?

(a)(1) The term "health care provider" means:

(i) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(ii) Any other person determined by the Office of Compliance to be capable of providing health care services.

(2) In making a determination referred to in subparagraph (1)(ii), and absent good cause shown to do otherwise, the Office of Compliance will follow any determination made by the Secretary of Labor (under section 101(6)(B) of the FMLA, 29 U.S.C. 2611(6)(B)) that a person is capable of providing health care services, provided the Secretary's determination was not made at the request of a person who was then a covered employee.

(b) Others "capable of providing health care services" include only:

(1) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law;

(2) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law;

(3) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employing office that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement.

(4) Any health care provider from whom an employing office or the employing office's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and

(5) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

(c) The phrase "authorized to practice in the State" as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider.

Subpart B—What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act, as Made Applicable by the Congressional Accountability Act?

§825.200 How much leave may an employee take?

(a) An eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during any 12-month period for any one, or more, of the following reasons:

(1) The birth of the employee's son or daughter, and to care for the newborn child;

(2) The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and,

(4) Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job.

(b) An employing office is permitted to choose any one of the following methods for determining the "12-month period" in which the 12 weeks of leave entitlement occurs:

(1) The calendar year;

(2) Any fixed 12-month "leave year," such as a fiscal year or a year starting on an employee's "anniversary" date;

(3) The 12-month period measured forward from the date any employee's first FMLA leave begins; or

(4) A "rolling" 12-month period measured backward from the date an employee uses any FMLA leave (except that such measure may not extend back before the date on which the application of FMLA rights and protections first becomes effective for the employing office; see §825.102).

(c) Under methods in paragraphs (b)(1) and (b)(2) of this section an employee would be entitled to up to 12 weeks of FMLA leave at any time in the fixed 12-month period selected. An employee could, therefore, take 12 weeks of leave at the end of the year and 12 weeks at the beginning of the following year. Under the method in paragraph (b)(3) of this section, an employee would be entitled to 12 weeks of leave during the year beginning on the first date FMLA leave is taken; the next 12-month period would begin the first time FMLA leave is taken after completion of any previous 12-month period. Under the method in paragraph (b)(4) of this section, the "rolling" 12-month period, each time an employee takes FMLA leave the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months. For example, if an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee used four weeks beginning February 1, 1997, four weeks beginning June 1, 1997, and four weeks beginning December 1, 1997, the employee would not be entitled to any additional leave until February 1, 1998. However, beginning on February 1, 1998, the employee would be entitled to four weeks of leave, on June 1 the employee would be entitled to an additional four weeks, etc.

(d)(1) Employing offices will be allowed to choose any one of the alternatives in paragraph (b) of this section provided the alternative chosen is applied consistently and uniformly to all employees. An employing office wishing to change to another alternative is required to give at least 60 days notice to all employees, and the transition must take place in such a way that the employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee. Under no circumstances may a new method be implemented in order to avoid the CAA's FMLA leave requirements.

(2) [Reserved]

(e) If an employing office fails to select one of the options in paragraph (b) of this section for measuring the 12-month period, the option that provides the most beneficial outcome for the employee will be used. The employing office may subsequently select an option only by providing the 60-day notice to all employees of the option the employing office intends to implement. During the running of the 60-day period any other employee who needs FMLA leave may use the option providing the most beneficial outcome to that employee. At the conclusion of the 60-day period the employing office may implement the selected option.

(f) For purposes of determining the amount of leave used by an employee, the fact that a holiday may occur within the week taken as FMLA leave has no effect; the week is counted as a week of FMLA leave. However, if for some reason the employing office's activity has temporarily ceased and employees generally are not expected to report for work for one or more weeks (e.g., a school closing two weeks for the Christmas/New Year holiday or the summer vacation or an employing office closing the office for repairs), the days the employing office's activities have ceased do not count against the employee's FMLA leave entitlement. Methods for determining an employee's 12-week leave entitlement are also described in §825.205.

(g)(1) If employing offices jointly employ an employee, and if they designate a primary employer pursuant to §825.106(c), the primary employer may choose any one of the alternatives in paragraph (b) of this section for measuring the 12-month period, provided that the alternative chosen is applied consistently and uniformly to all employees of the primary employer including the jointly employed employee.

(2) If employing offices fail to designated a primary employer pursuant to §825.106(c), an employee jointly employed by the employing offices may, by so notifying one of the employing offices, select that employing office to be the primary employer of the employee for purposes of the application of paragraphs (d) and (e) of this section.

§825.201 If leave is taken for the birth of a child, or for placement of a child for adoption or foster care, when must the leave be concluded?

An employee's entitlement to leave for a birth or placement for adoption or foster care expires at the end of the 12-month period beginning on the date of the birth or placement, unless the employing office permits leave to be taken for a longer period. Any such FMLA leave must be concluded within this one-year period.

§825.202 How much leave may a husband and wife take if they are employed by the same employing office?

(a) A husband and wife who are eligible for FMLA leave and are employed by the same employing office may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken:

(1) for birth of the employee's son or daughter or to care for the child after birth;

(2) for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; or

(3) to care for the employee's parent with a serious health condition.

(b) This limitation on the total weeks of leave applies to leave taken for the reasons

(c) Where the husband and wife both use a portion of the total 12-week FMLA leave entitlement for one of the purposes in paragraph (a) of this section, the husband and wife would each be entitled to the difference between the amount he or she has taken individually and 12 weeks for FMLA leave for

VOL 142 PT 6 AP 15 — 24 1996 UMI

a purpose other than those contained in paragraph (a) of this section. For example, if each spouse took 6 weeks of leave to care for a healthy, newborn child, each could use an additional 6 weeks due to his or her own serious health condition or to care for a child with a serious health condition.

§825.203 Does FMLA leave have to be taken all at once, or can it be taken in parts?

(a) FMLA leave may be taken "intermittently or on a reduced leave schedule" under certain circumstances. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per work week, or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time, normally from full-time to part-time.

(b) When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the employing office agrees. Such a schedule reduction might occur, for example, where an employee, with the employing office's agreement, works part-time after the birth of a child, or takes leave in several segments. The employing office's agreement is not required, however, for leave during which the mother has a serious health condition in connection with the birth of her child or if the newborn child has a serions health condition.

(c) Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition. It may also be taken to provide care or psychological comfort to an immediate family member with a serious health condition.

(1) Intermittent leave may be taken for a serious health condition which requires treatment by a health care provider periodically, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy. A pregnant employee may take leave intermittently for prenatal examinations or for her own condition, such as for periods of severe morning sickness. An example of an employee taking leave on a reduced leave schedule is an employee who is recovering from a serious health condition and is not strong enough to work a full-time schedule.

(2) Intermittent or reduced schedule leave may be taken for absences where the employee or family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition even if he or she does not receive treatment by a health care provider.

(d) There is no limit on the size of an increment of leave when an employee takes intermittent leave or leave on a reduced leave schedule. However, an employing office may limit leave increments to the shortest period of time that the employing office's payroll system uses to account for absences or use of leave, provided it is one hour or less. For example, an employee might take two hours off for a medical appointment, or might work a reduced day of four hours over a period of several weeks while recuperating from an illness. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the need for the leave, except as provided in §§825.601 and 825.602.

§825.204 May an employing office transfer an employee to an "alternative position" in order to accommodate intermittent leave or a reduced leave schedule?

(a) If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee or a family member, including during a period of recovery from a serious health condition, or if the employing office agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption or foster care, the employing office may require the employee to transfer temporarily, during the period the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. See §825.601 for special rules applicable to instructional employees of schools.

(b) Transfer to an alternative position may require compliance with any applicable collective bargaining agreement and any applicable law (such as the Americans with Disabilities Act, as made applicable by the CAA). Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent or reduced leave.

(c) The alternative position must have equivalent pay and benefits. An alternative position for these purposes does not have to have equivalent duties. The employing office may increase the pay and benefits of an existing alternative position, so as to make them equivalent to the pay and benefits of the employee's regular job. The employing office may also transfer the employee to a part-time job with the same hourly rate of pay and benefits, provided the employee is not required to take more leave than is medically necessary. For example, an employee desiring to take leave in increments of four hours per day could be transferred to a half-time job, or could remain in the employee's same job on a part-time schedule, paying the same hourly rate as the employee's previous job and enjoying the same benefits. The employing office may not eliminate benefits which otherwise would not be provided to part-time employees; however, an employing office may proportionately reduce benefits such as vacation leave where an employing office's normal practice is to base such benefits on the number of hours worked.

(d) An employing office may not transfer the employee to an alternative position in order to discourage the employee from taking leave or otherwise work a hardship on the employee. For example, a white collar employee may not be assigned to perform laborer's work; an employee working the day shift may not be reassigned to the graveyard shift; an employee working in the headquarters facility may not be reassigned to a branch a significant distance away from the employee's normal job location. Any such attempt on the part of the employing office to make such a transfer will be held to be contrary to the prohibited-acts provisions of the FMLA, as made applicable by the CAA.

(e) When an employee who is taking leave intermittently or on a reduced leave schedule and has been transferred to an alternative position no longer needs to continue on leave and is able to return to full-time work, the employee must be placed in the same or equivalent job as the job he/she left when the leave commenced. An employee may not be required to take more leave than necessary to address the circumstance that precipitated the need for leave.

§825.205 How does one determine the amount of leave used where an employee takes leave intermittently or on a reduced leave schedule?

(a) If an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken may be counted toward the 12 weeks of leave to which an employee is entitled. For example, if an employee who normally works five days a week takes off one day, the employee would use 1/5 of a week of FMLA leave. Similarly, if a full-time employee who normally works 8-hour days works 4-hour days under a reduced leave schedule, the employee would use ½ week of FMLA leave each week.

(b) Where an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled is determined on a pro rata or proportional basis by comparing the new schedule with the employee's normal schedule. For example, if an employee who normally works 30 hours per week works only 20 hours a week under a reduced leave schedule, the employee's ten hours of leave would constitute one-third of a week of FMLA leave for each week the employee works the reduced leave schedule.

(c) If an employing office has made a permanent or long-term change in the employee's schedule (for reasons other than FMLA, and prior to the notice of need for FMLA leave), the hours worked under the new schedule are to be used for making this calculation.

(d) If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the leave period would be used for calculating the employee's normal workweek.

§825.206 May an employing office deduct hourly amounts from an employee's salary, when providing unpaid leave under FMLA, as made applicable by the CAA, without affecting the employee's qualification for exemption as an executive, administrative, or professional employee, or when utilizing the fluctuating workweek method for payment of overtime, under the Fair Labor Standards Act?

(a) Leave taken under FMLA, as made applicable by the CAA, may be unpaid. If an employee is otherwise exempt from minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA), as made applicable by the CAA, as a salaried executive, administrative, or professional employee (under regulations issued by the Board, at part 541), providing unpaid FMLA-qualifying leave to such an employee will not cause the employee to lose the FLSA exemption. This means that under regulations currently in effect, where an employee meets the specified duties test, is paid on a salary basis, and is paid a salary of at least the amount specified in the regulations, the employing office may make deductions from the employee's salary for any hours taken as intermittent or reduced FMLA leave within

(b) For an employee paid in accordance with a fluctuating workweek method of payment for overtime, where permitted by section 203 of the CAA (2 U.S.C. 1313), the employing office, *during the period* in which

intermittent or reduced schedule FMLA leave is scheduled to be taken, may compensate an employee on an hourly basis and pay only for the hours the employee works, including time and one-half the employee's regular rate for overtime hours. The change to payment on an hourly basis would include the entire period during which the employee is taking intermittent leave, including weeks in which no leave is taken. The hourly rate shall be determined by dividing the employee's weekly salary by the employee's normal or average schedule of hours worked during weeks in which FMLA leave is not being taken. If an employing office chooses to follow this exception from the fluctuating workweek method of payment, the employing office must do so uniformly, with respect to all employees paid on a fluctuating workweek basis for whom FMLA leave is taken on an intermittent or reduced leave schedule basis. If an employing office does not elect to convert the employee's compensation to hourly pay, no deduction may be taken for FMLA leave absences. Once the need for intermittent or reduced scheduled leave is over, the employee may be restored to payment on a fluctuating work week basis.

(c) This special exception to the "salary basis" requirements of the FLSA exemption or fluctuating workweek payment requirements applies only to employees of employing offices who are eligible for FMLA leave, and to leave which qualifies as (one of the four types of) FMLA leave. Hourly or other deductions which are not in accordance with the Board's regulations at part 541 or with a permissible fluctuating workweek method of payment for overtime may not be taken, for example, where the employee has not worked long enough to be eligible for FMLA leave without potentially affecting the employee's eligibility for exemption. Nor may deductions which are not permitted by the Board's regulations at part 541 or by a permissible fluctuating workweek method of payment for overtime be taken from such an employee's salary for any leave which does not qualify as FMLA leave, for example, deductions from an employee's pay for leave required under an employing office's policy or practice for a reason which does not qualify as FMLA leave, *e.g.*, leave to care for a grandparent or for a medical condition which does not qualify as a serious health condition; or for leave which is more generous than provided by FMLA as made applicable by the CAA, such as leave in excess of 12 weeks in a year. The employing office may comply with the employing office's own policy/practice under these circumstances and maintain the employee's eligibility for exemption or for the fluctuating workweek method of pay by not taking hourly deductions from the employee's pay, in accordance with FLSA requirements, or may take such deductions, treating the employee as an "hourly" employee and pay overtime premium pay for hours worked over 40 in a workweek.

§825.207 Is FMLA leave paid or unpaid?

(a) Generally, FMLA leave is unpaid. However, under the circumstances described in this section, FMLA, as made applicable by the CAA, permits an eligible employee to choose to substitute paid leave for FMLA leave. If an employee does not choose to substitute accrued paid leave, the employing office may require the employee to substitute accrued paid leave for FMLA leave.

(b) Where an employee has earned or accrued paid vacation, personal or family leave, that paid leave may be substituted for all or part of any (otherwise) unpaid FMLA leave relating to birth, placement of a child for adoption or foster care, or care for a spouse, child or parent who has a serious health condition. The term "family leave" as used in FMLA refers to paid leave provided by the employing office covering the particular circumstances for which the employee seeks leave for either the birth of a child and to care for such child, placement of a child for adoption or foster care, or care for a spouse, child or parent with a serious health condition. For example, if the employing office's leave plan allows use of family leave to care for a child but not for a parent, the employing office is not required to allow accrued family leave to be substituted for FMLA leave used to care for a parent.

(c) Substitution of paid accrued vacation, personal, or medical/sick leave may be made for any (otherwise) unpaid FMLA leave needed to care for a family member or the employee's own serious health condition. Substitution of paid sick/medical leave may be elected to the extent the circumstances meet the employing office's usual requirements for the use of sick/medical leave. An employing office is not required to allow substitution of paid sick or medical leave for unpaid FMLA leave "in any situation" where the employing office's uniform policy would not normally allow such paid leave. An employee, therefore, has a right to substitute paid medical/sick leave to care for a seriously ill family member only if the employing office's leave plan allows paid leave to be used for that purpose. Similarly, an employee does not have a right to substitute paid medical/sick leave for a serious health condition which is not covered by the employing office's leave plan.

(d)(1) Disability leave for the birth of a child would be considered FMLA leave for a serious health condition and counted in the 12 weeks of leave permitted under FMLA as made applicable by the CAA. Because the leave pursuant to a temporary disability benefit plan is not unpaid, the provision for substitution of paid leave is inapplicable. However, the employing office may designate the leave as FMLA leave and count the leave as running concurrently for purposes of both the benefit plan and the FMLA leave entitlement. If the requirements to qualify for payments pursuant to the employing office's temporary disability plan are more stringent than those of FMLA as made applicable by the CAA, the employee must meet the more stringent requirements of the plan, or may choose not to meet the requirements of the plan and instead receive no payments from the plan and use unpaid FMLA leave or substitute available accrued paid leave.

(2) The FMLA as made applicable by the CAA provides that a serious health condition may result from injury to the employee "on or off" the job. If the employing office designates the leave as FMLA leave in accordance with §825.208, the employee's FMLA 12-week leave entitlement may run concurrently with a workers' compensation absence when the injury is one that meets the criteria for a serious health condition. As the workers' compensation absence is not unpaid leave, the provision for substitution of the employee's accrued paid leave is not applicable. However, if the health care provider treating the employee for the workers' compensation injury certifies the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline the employing office's offer of a "light duty job". As a result the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the 12-week entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the employing office may require the use of accrued paid leave. See also §§825.210(f), 825.216(d), 825.220(d), 825.307(a)(1) and 825.702 (d) (1) and (2) regarding the relationship between workers' compensation absences and FMLA leave.

(e) Paid vacation or personal leave, including leave earned or accrued under plans allowing "paid time off," may be substituted, at either the employee's or the employing office's option, for any qualified FMLA leave. No limitations may be placed by the employing office on substitution of paid vacation or personal leave for these purposes.

(f) If neither the employee nor the employing office elects to substitute paid leave for unpaid FMLA leave under the above conditions and circumstances, the employee will remain entitled to all the paid leave which is earned or accrued under the terms of the employing office's plan.

(g) If an employee uses paid leave under circumstances which do not qualify as FMLA leave, the leave will not count against the 12 weeks of FMLA leave to which the employee is entitled. For example, paid sick leave used for a medical condition which is not a serious health condition does not count against the 12 weeks of FMLA leave entitlement.

(h) When an employee or employing office elects to substitute paid leave (of any type) for unpaid FMLA leave under circumstances permitted by these regulations, and the employing office's procedural requirements for taking that kind of leave are less stringent than the requirements of FMLA as made applicable by the CAA (e.g., notice or certification requirements), only the less stringent requirements may be imposed. An employee who complies with an employing office's less stringent leave plan requirements in such cases may not have leave for an FMLA purpose delayed or denied on the grounds that the employee has not complied with stricter requirements of FMLA as made applicable by the CAA. However, where accrued paid vacation or personal leave is substituted for unpaid FMLA leave for a serious health condition, an employee may be required to comply with any less stringent medical certification requirements of the employing office's sick leave program. See §§825.302(g), 825.305(e) and 825.306(c).

(i) Compensatory time off, if any is authorized under applicable law, is not a form of accrued paid leave that an employing office may require the employee to substitute for unpaid FMLA leave. The employee may request to use his/her balance of compensatory time for an FMLA reason. If the employing office permits the accrual of compensatory time to be used in compliance with applicable Board regulations, the absence which is paid from the employee's accrued compensatory time "account" may not be counted against the employee's FMLA leave entitlement.

§825.208 Under what circumstances may an employing office designate leave, paid or unpaid, as FMLA leave and, as a result, enable leave to be counted against the employee's total FMLA leave entitlement?

(a) In all circumstances, it is the employing office's responsibility to designate leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee as provided in this section. In the *e.g.*, if the employee is incapacitated, the employee's spouse, adult child, parent, doctor, etc.,

VOL
142
PT
6
AP
15
—
24
1996
UMI

may provide notice to the employing office of the need to take FMLA leave). In any circumstance where the employing office does not have sufficient information about the reason for an employee's use of paid leave, the employing office should inquire further of the employee or the spokesperson to ascertain whether the paid leave is potentially FMLA-qualifying.

(1) An employee giving notice of the need for unpaid FMLA leave must explain the reasons for the needed leave so as to allow the employing office to determine that the leave qualifies under the FMLA, as made applicable by the CAA. If the employee fails to explain the reasons, leave may be denied. In many cases, in explaining the reasons for a request to use paid leave, especially when the need for the leave was unexpected or unforeseen, an employee will provide sufficient information for the employing office to designate the paid leave as FMLA leave. An employee using accrued paid leave, especially vacation or personal leave, may in some cases not spontaneously explain the reasons or their plans for using their accrued leave.

(2) As noted in §825.302(c), an employee giving notice of the need for unpaid FMLA leave does not need to expressly assert rights under the FMLA as made applicable by the CAA or even mention the FMLA to meet his or her obligation to provide notice, though the employee would need to state a qualifying reason for the needed leave. An employee requesting or notifying the employing office of an intent to use accrued paid leave, even if for a purpose covered by FMLA, would not need to assert such right either. However, if an employee requesting to use paid leave for an FMLA-qualifying purpose does not explain the reason for the leave—consistent with the employing office's established policy or practice—and the employing office denies the employee's request, the employee will need to provide sufficient information to establish an FMLA-qualifying reason for the needed leave so that the employing office is aware of the employee's entitlement (i.e., that the leave may not be denied) and, then, may designate that the paid leave be appropriately counted against (substituted for) the employee's 12-week entitlement. Similarly, an employee using accrued paid vacation leave who seeks an extension of unpaid leave for an FMLA-qualifying purpose will need to state the reason. If this is due to an event which occurred during the period of paid leave, the employing office may count the leave used after the FMLA-qualifying event against the employee's 12-week entitlement.

(b)(1) Once the employing office has acquired knowledge that the leave is being taken for an FMLA required reason, the employing office must promptly (within two business days absent extenuating circumstances) notify the employee that the paid leave is designated and will be counted as FMLA leave. If there is a dispute between an employing office and an employee as to whether paid leave qualifies as FMLA leave, it should be resolved through discussions between the employee and the employing office. Such discussions and the decision must be documented.

(2) The employing office's notice to the employee that the leave has been designated as FMLA leave may be orally or in writing. If the notice is oral, it shall be confirmed in writing, no later than the following payday (unless the payday is less than one week after the oral notice, in which case the notice must be no later than the subsequent payday). The written notice may be in any form, including a notation on the employee's pay stub.

(c) If the employing office requires paid leave to be substituted for unpaid leave, or that paid leave taken under an existing leave plan be counted as FMLA leave, this decision must be made by the employing office within two business days of the time the employee gives notice of the need for leave, or, where the employing office does not initially have sufficient information to make a determination, when the employing office determines that the leave qualifies as FMLA leave if this happens later. The employing office's designation must be made before the leave starts, unless the employing office does not have sufficient information as to the employee's reason for taking the leave until after the leave commenced. If the employing office has the requisite knowledge to make a determination that the paid leave is for an FMLA reason at the time the employee either gives notice of the need for leave or commences leave and fails to designate the leave as FMLA leave (and so notify the employee in accordance with paragraph (b)), the employing office may not designate leave as FMLA leave retroactively, and may designate only prospectively as of the date of notification to the employee of the designation. In such circumstances, the employee is subject to the full protections of the FMLA, as made applicable by the CAA, but none of the absence preceding the notice to the employee of the designation may be counted against the employee's 12-week FMLA leave entitlement.

(d) If the employing office learns that leave is for an FMLA purpose after leave has begun, such as when an employee gives notice of the need for an extension of the paid leave with unpaid FMLA leave, the entire or some portion of the paid leave period may be retroactively counted as FMLA leave, to the extent that the leave period qualified as FMLA leave. For example, an employee is granted two weeks paid vacation leave for a skiing trip. In mid-week of the second week, the employee contacts the employing office for an extension of leave as unpaid leave and advises that at the beginning of the second week of paid vacation leave the employee suffered a severe accident requiring hospitalization. The employing office may notify the employee that both the extension and the second week of paid vacation leave (from the date of the injury) is designated as FMLA leave. On the other hand, when the employee takes sick leave that turns into a serious health condition (*e.g.*, bronchitis that turns into bronchial pneumonia) and the employee gives notice of the need for an extension of leave, the entire period of the serious health condition may be counted as FMLA leave.

(e) Employing offices may not designate leave as FMLA leave after the employee has returned to work with two exceptions:

(1) If the employee was absent for an FMLA reason and the employing office did not learn the reason for the absence until the employee's return (e.g., where the employee was absent for only a brief period), the employing office may, upon the employee's return to work, promptly (within two business days of the employee's return to work) designate the leave retroactively with appropriate notice to the employee. If leave is taken for an FMLA reason but the employing office was not aware of the reason, and the employee desires that the leave be counted as FMLA leave, the employee must notify the employing office within two business days of returning to work of the reason for the leave. In the absence of such timely notification by the employee, the employee may not subsequently assert FMLA protections for the absence.

(2) If the employing office knows the reason for the leave but has not been able to confirm that the leave qualifies under FMLA, or where the employing office has requested medical certification which has not yet been received or the parties are in the process of obtaining a second or third medical opinion, the employing office should make a preliminary designation, and so notify the employee, at the time leave begins, or as soon as the reason for the leave becomes known. Upon receipt of the requisite information from the employee or of the medical certification which confirms the leave is for an FMLA reason, the preliminary designation becomes final. If the medical certifications fail to confirm that the reason for the absence was an FMLA reason, the employing office must withdraw the designation (with written notice to the employee).

(f) If, before beginning employment with an employing office, an employee had been employed by another employing office, the subsequent employing office may count against the employee's FMLA leave entitlement FMLA leave taken from the prior employing office, except that, if the FMLA leave began after the effective of these regulations (or if the FMLA leave was subject to other applicable requirement under which the employing office was to have designated the leave as FMLA leave), the prior employing office must have properly designated the leave as FMLA under these regulations or other applicable requirement.

§825.209 Is an employee entitled to benefits while using FMLA leave?

(a) During any FMLA leave, the employing office must maintain the employee's coverage under the Federal Employees Health Benefits Program or any group health plan (as defined in the Internal Revenue Code of 1986 at 26 U.S.C. 5000(b)(1)) on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. All employing offices are subject to the requirements of the FMLA, as made applicable by the CAA, to maintain health coverage. The definition of "group health plan" is set forth in §825.800. For purposes of FMLA, the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that:

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and,

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

(b) The same group health plan benefits provided to an employee prior to taking FMLA leave must be maintained during the FMLA leave. For example, if family member coverage is provided to an employee, family

member coverage must be maintained during the FMLA leave. Similarly, benefit coverage

(c) If an employing office provides a new health plan or benefits or changes health benefits or plans while an employee is on FMLA leave, the employee is entitled to the new or changed plan/benefits to the same extent as if the employee were not on leave. For example, if an employing office changes a group health plan so that dental care becomes covered under the plan, an employee on FMLA leave must be given the same opportunity as other employees to receive (or obtain) the dental care coverage. Any other plan changes (*e.g.*, in coverage, premiums, deductibles, etc.) which apply to all employees of the workforce would also apply to an employee on FMLA leave.

(d) Notice of any opportunity to change plans or benefits must also be given to an employee on FMLA leave. If the group health plan permits an employee to change from single to family coverage upon the birth of a child or otherwise add new family members, such a change in benefits must be made available while an employee is on FMLA leave. If the employee requests the changed coverage it must be provided by the employing office.

(e) An employee may choose not to retain group health plan coverage during FMLA leave. However, when an employee returns from leave, the employee is entitled to be reinstated on the same terms as prior to taking the leave, including family or dependent coverages, without any qualifying period, physical examination, exclusion of pre-existing conditions, etc. See §825.212(c).

(f) Except as required by the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) or 5 U.S.C. 8905a, whichever is applicable, and for "key" employees (as discussed below), an employing office's obligation to maintain health benefits during leave (and to restore the employee to the same or equivalent employment) under FMLA ceases if and when the employment relationship would have terminated if the employee had not taken FMLA leave (*e.g.*, if the employee's position is eliminated as part of a nondiscriminatory reduction in force and the employee would not have been transferred to another position); an employee informs the employing office of his or her intent not to return from leave (including before starting the leave if the employing office is so informed before the leave starts); or the employee fails to return from leave or continues on leave after exhausting his or her FMLA leave entitlement in the 12-month period.

(g) If a "key employee" (see §825.218) does not return from leave when notified by the employing office that substantial or grievous economic injury will result from his or her reinstatement, the employee's entitlement to group health plan benefits continues unless and until the employee advises the employing office that the employee does not desire restoration to employment at the end of the leave period, or FMLA leave entitlement is exhausted, or reinstatement is actually denied.

(h) An employee's entitlement to benefits other than group health benefits during a period of FMLA leave (*e.g.*, holiday pay) is to be determined by the employing office's established policy for providing such benefits when the employee is on other forms of leave (paid or unpaid, as appropriate).

§825.210 How may employees on FMLA leave pay their share of group health benefit premiums?

(a) Group health plan benefits must be maintained on the same basis as coverage would have been provided if the employee had been continuously employed during the FMLA leave period. Therefore, any share of group health plan premiums which had been paid by the employee prior to FMLA leave must continue to be paid by the employee during the FMLA leave period. If premiums are raised or lowered, the employee would be required to pay the new premium rates. Maintenance of health insurance policies which are not a part of the employing office's group health plan, as described in §825.209(a), are the sole responsibility of the employee. The employee and the insurer should make necessary arrangements for payment of premiums during periods of unpaid FMLA leave.

(b) If the FMLA leave is substituted paid leave, the employee's share of premiums must be paid by the method normally used during any paid leave, presumably as a payroll deduction.

(c) If FMLA leave is unpaid, the employing office has a number of options for obtaining payment from the employee. The employing office may require that payment be made to the employing office or to the insurance carrier, but no additional charge may be added to the employee's premium payment for administrative expenses. The employing office may require employees to pay their share of premium payments in any of the following ways:

(1) Payment would be due at the same time as it would be made if by payroll deduction;

(2) Payment would be due on the same schedule as payments are made under COBRA or 5 U.S.C. 8905a, whichever is applicable;

(3) Payment would be prepaid pursuant to a cafeteria plan at the employee's option;

(4) The employing office's existing rules for payment by employees on "leave without pay" would be followed, provided that such rules do not require prepayment (*i.e.*, prior to the commencement of the leave) of the premiums that will become due during a period of unpaid FMLA leave or payment of higher premiums than if the employee had continued to work instead of taking leave; or,

(5) Another system voluntarily agreed to between the employing office and the employee, which may include prepayment of premiums (*e.g.*, through increased payroll deductions when the need for the FMLA leave is foreseeable).

(d) The employing office must provide the employee with advance written notice of the terms and conditions under which these payments must be made. (*See* §825.301.)

(e) An employing office may not require more of an employee using FMLA leave than the employing office requires of other employees on "leave without pay."

(f) An employee who is receiving payments as a result of a workers' compensation injury must make arrangements with the employing office for payment of group health plan benefits when simultaneously taking unpaid FMLA leave. *See* paragraph (c) of this section and §825.207(d)(2).

§825.211 What special health benefits maintenance rules apply to multi-employer health plans?

(a) A multi-employer health plan is a plan to which more than one employer is required to contribute, and which is maintained pursuant to one or more collective bargaining agreements between employee organization(s) and the employers.

(b) An employing office under a multi-employer plan must continue to make contributions on behalf of an employee using FMLA leave as though the employee had been continuously employed, unless the plan contains an explicit FMLA provision for maintaining coverage such as through pooled contributions by all employers party to the plan.

(c) During the duration of an employee's FMLA leave, coverage by the group health plan, and benefits provided pursuant to the plan, must be maintained at the level of coverage and benefits which were applicable to the employee at the time FMLA leave commenced.

(d) An employee using FMLA leave cannot be required to use "banked" hours or pay a greater premium than the employee would have been required to pay if the employee had been continuously employed.

(e) As provided in §825.209(f), group health plan coverage must be maintained for an employee on FMLA leave until:

(1) the employee's FMLA leave entitlement is exhausted;

(2) the employing office can show that the employee would have been laid off and the employment relationship terminated; or,

(3) the employee provides unequivocal notice of intent not to return to work.

§825.212 What are the consequences of an employee's failure to make timely health plan premium payments?

(a)(1) In the absence of an established employing office policy providing a longer grace period, an employing office's obligations to maintain health insurance coverage cease under FMLA if an employee's premium payment is more than 30 days late. In order to drop the coverage for an employee whose premium payment is late, the employing office must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. If the employing office has established policies regarding other forms of unpaid leave that provide for the employing office to cease coverage retroactively to the date the unpaid premium payment was due, the employing office may drop the employee from coverage retroactively in accordance with that policy, provided the 15-day notice was given. In the absence of such a policy, coverage for the employee may be terminated at the end of the 30-day grace period, where the required 15-day notice has been provided.

(2) An employing office has no obligation regarding the maintenance of a health insurance policy which is not a "group health plan." See §825.209(a).

(3) All other obligations of an employing office under FMLA would continue; for example, the employing office continues to have an obligation to reinstate an employee upon return from leave.

(b) The employing office may recover the employee's share of any premium payments missed by the employee for any FMLA leave period during which the employing office maintains health coverage by paying the employee's share after the premium payment is missed.

(c) If coverage lapses because an employee has not made required premium payments, upon the employee's return from FMLA leave the employing office must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed, including family or dependent coverage. See §825.215(d)(1)-(5). In such case, an employee

VOL
142
PT
6
AP
15
—
24
1996
UMI

may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to

§825.213 May an employing office recover costs it incurred for maintaining "group health plan" or other non-health benefits coverage during FMLA leave?

(a) In addition to the circumstances discussed in §825.212(b), the share of health plan premiums paid by or on behalf of the employing office during a period of unpaid FMLA leave may be recovered from an employee if the employee fails to return to work after the employee's FMLA leave entitlement has been exhausted or expires, unless the reason the employee does not return is due to:

(1) The continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member which would otherwise entitle the employee to leave under FMLA; or

(2) Other circumstances beyond the employee's control. Examples of "other circumstances beyond the employee's control" are necessarily broad. They include such situations as where a parent chooses to stay home with a newborn child who has a serious health condition; an employee's spouse is unexpectedly transferred to a job location more than 75 miles from the employee's worksite; a relative or individual other than an immediate family member has a serious health condition and the employee is needed to provide care; the employee is laid off while on leave; or, the employee is a "key employee" who decides not to return to work upon being notified of the employing office's intention to deny restoration because of substantial and grievous economic injury to the employing office's operations and is not reinstated by the employing office. Other circumstances beyond the employee's control would not include a situation where an employee desires to remain with a parent in a distant city even though the parent no longer requires the employee's care, or a parent chooses not to return to work to stay home with a well, newborn child.

(3) When an employee fails to return to work because of the continuation, recurrence, or onset of a serious health condition, thereby precluding the employing office from recovering its (share of) health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. Such certification is not required unless requested by the employing office. The employee is required to provide medical certification in a timely manner which, for purposes of this section, is within 30 days from the date of the employing office's request. For purposes of medical certification, the employee may use the optional form developed for this purpose (see §825.306(a) and Appendix B of this part). If the employing office requests medical certification and the employee does not provide such certification in a timely manner (within 30 days), or the reason for not returning to work does not meet the test of other circumstances beyond the employee's control, the employing office may recover 100% of the health benefit premiums it paid during the period of unpaid FMLA leave.

(b) Under some circumstances an employing office may elect to maintain other benefits, *e.g.*, life insurance, disability insurance, *etc.*, by paying the employee's (share of) premiums during periods of unpaid FMLA leave. For example, to ensure the employing office can meet its responsibilities to provide equivalent benefits to the employee upon return from unpaid FMLA leave, it may be necessary that premiums be paid continuously to avoid a lapse of coverage. If the employing office elects to maintain such benefits during the leave, at the conclusion of leave, the employing office is entitled to recover only the costs incurred for paying the employee's share of any premiums whether or not the employee returns to work.

(c) An employee who returns to work for at least 30 calendar days is considered to have "returned" to work. An employee who transfers directly from taking FMLA leave to retirement, or who retires during the first 30 days after the employee returns to work, is deemed to have returned to work.

(d) When an employee elects or an employing office requires paid leave to be substituted for FMLA leave, the employing office may not recover its (share of) health insurance or other non-health benefit premiums for any period of FMLA leave covered by paid leave. Because paid leave provided under a plan covering temporary disabilities (including workers' compensation) is not unpaid, recovery of health insurance premiums does not apply to such paid leave.

(e) The amount that self-insured employing offices may recover is limited to only the employing office's share of allowable "premiums" as would be calculated under COBRA, excluding the 2 percent fee for administrative costs.

(f) When an employee fails to return to work, any health and non-health benefit premiums which this section of the regulations permits an employing office to recover are a debt owed by the non-returning employee to the employing office. The existence of this debt caused by the employee's failure to return to work does not alter the employing office's responsibilities for health benefit coverage and, under a self-insurance plan, payment of claims incurred during the period of FMLA leave. To the extent recovery is allowed, the employing office may recover the costs through deduction from any sums due to the employee (*e.g.*, unpaid wages, vacation pay, *etc.*), provided such deductions do not otherwise violate applicable wage payment or other laws. Alternatively, the employing office may initiate legal action against the employee to recover such costs.

§825.214 What are an employee's rights on returning to work from FMLA leave?

(a) On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. *See* also §825.106(e) for the obligations of employing offices that are joint employing offices.

(b) If the employee is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the employing office's obligations may be governed by the Americans with Disabilities Act (ADA), as made applicable by the CAA. *See* §825.702.

§825.215 What is an equivalent position?

(a) An equivalent position is one that is virtually identical to the employee's former position in terms of pay, benefits and working conditions, including privileges, perquisites and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority.

(b) If an employee is no longer qualified for the position because of the employee's inability to attend a necessary course, renew a license, fly a minimum number of hours, *etc.*, as a result of the leave, the employee shall be given a reasonable opportunity to fulfill those conditions upon return to work.

(c) *Equivalent Pay.* (1) An employee is entitled to any unconditional pay increases which may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed would not have to be granted unless it is the employing office's policy or practice to do so with respect to other employees on "leave without pay." In such case, any pay increase would be granted based on the employee's seniority, length of service, work performed, *etc.*, excluding the period of unpaid FMLA leave. An employee is entitled to be restored to a position with the same or equivalent pay premiums, such as a shift differential. If an employee departed from a position averaging ten hours of overtime (and corresponding overtime pay) each week, an employee is ordinarily entitled to such a position on return from FMLA leave.

(2) Many employing offices pay bonuses in different forms to employees for job-related performance such as for perfect attendance, safety (absence of injuries or accidents on the job) and exceeding production goals. Bonuses for perfect attendance and safety do not require performance by the employee but rather contemplate the absence of occurrences. To the extent an employee who takes FMLA leave had met all the requirements for either or both of these bonuses before FMLA leave began, the employee is entitled to continue this entitlement upon return from FMLA leave, that is, the employee may not be disqualified for the bonus(es) for the taking of FMLA leave. *See* §825.220 (b) and (c). A monthly production bonus, on the other hand, does require performance by the employee. If the employee is on FMLA leave during any part of the period for which the bonus is computed, the employee is entitled to the same consideration for the bonus as other employees on paid or unpaid leave (as appropriate). *See* paragraph (d)(2) of this section.

(d) *Equivalent Benefits.* "Benefits" include all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office through an employee benefit plan.

(1) At the end of an employee's FMLA leave, benefits must be resumed in the same manner and at the same levels as provided when the leave began, and subject to any changes in benefit levels that may have taken place during the period of FMLA leave affecting the entire workforce, unless otherwise elected by the employee. Upon return from FMLA leave, an employee cannot be required to requalify for any benefits the employee enjoyed before FMLA leave began (including family or dependent coverages). For example, if an employee was covered by a life insurance policy before taking leave but is not covered or coverage lapses during the period of unpaid FMLA leave, the employee

cannot be required to meet any qualifications, such as taking a physical examination, in order to requalify for life insurance upon return from leave. Accordingly, some employing offices may find it necessary to modify life insurance and other benefits programs in order to restore employees to equivalent benefits upon return from FMLA leave, make arrangements for continued payment of costs to maintain such benefits during unpaid FMLA leave, or pay these costs subject to recovery from the employee on return from leave. *See* §825.213(b).

(2) An employee may, but is not entitled to, accrue any additional benefits or seniority during unpaid FMLA leave. Benefits accrued at the time leave began, however, (*e.g.*, paid vacation, sick or personal leave to the extent not substituted for FMLA leave) must be available to an employee upon return from leave.

(3) If, while on unpaid FMLA leave, an employee desires to continue life insurance, disability insurance, or other types of benefits for which he or she typically pays, the employing office is required to follow established policies or practices for continuing such benefits for other instances of leave without pay. If the employing office has no established policy, the employee and the employing office are encouraged to agree upon arrangements before FMLA leave begins.

(4) With respect to pension and other retirement plans, any period of unpaid FMLA leave shall not be treated as or counted toward a break in service for purposes of vesting and eligibility to participate. Also, if the plan requires an employee to be employed on a specific date in order to be credited with a year of service for vesting, contributions or participation purposes, an employee on unpaid FMLA leave on that date shall be deemed to have been employed on that date. However, unpaid FMLA leave periods need not be treated as credited service for purposes of benefit accrual, vesting and eligibility to participate.

(5) Employees on unpaid FMLA leave are to be treated as if they continued to work for purposes of changes to benefit plans. They are entitled to changes in benefits plans, except those which may be dependent upon seniority or accrual during the leave period, immediately upon return from leave or to the same extent they would have qualified if no leave had been taken. For example if the benefit plan is predicated on a pre-established number of hours worked each year and the employee does not have sufficient hours as a result of taking unpaid FMLA leave, the benefit is lost. (In this regard, §825.209 addresses health benefits.)

(e) *Equivalent Terms and Conditions of Employment.* An equivalent position must have substantially similar duties, conditions, responsibilities, privileges and status as the employee's original position.

(1) The employee must be reinstated to the same or a geographically proximate worksite (*i.e.*, one that does not involve a significant increase in commuting time or distance) from where the employee had previously been employed. If the employee's original worksite has been closed, the employee is entitled to the same rights as if the employee had not been on leave when the worksite closed. For example, if an employing office transfers all employees from a closed worksite to a new worksite in a different city, the employee on leave is also entitled to transfer under the same conditions as if he or she had continued to be employed.

(2) The employee is ordinarily entitled to return to the same shift or the same or an equivalent work schedule.

(3) The employee must have the same or an equivalent opportunity for bonuses and other similar discretionary and non-discretionary payments.

(4) FMLA does not prohibit an employing office from accommodating an employee's request to be restored to a different shift, schedule, or position which better suits the employee's personal needs on return from leave, or to offer a promotion to a better position. However, an employee cannot be induced by the employing office to accept a different position against the employee's wishes.

(f) The requirement that an employee be restored to the same or equivalent job with the same or equivalent pay, benefits, and terms and conditions of employment does not extend to *de minimis* or intangible, unmeasurable aspects of the job. However, restoration to a job slated for lay-off, when the employee's original position is not, would not meet the requirements of an equivalent position.

§825.216 Are there any limitations on an employing office's obligation to reinstate an employee?

(a) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. An employing office must be able to show that an employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment. For example:

(1) If an employee is laid off during the course of taking FMLA leave and employment is terminated, the employing office's responsibility to continue FMLA leave, maintain group health plan benefits and restore the employee ceases at the time the employee is laid off, provided the employing office has no continuing obligations under a collective bargaining agreement or otherwise. An employing office would have the burden of proving that an employee would have been laid off during the FMLA leave period and, therefore, would not be entitled to restoration.

(2) If a shift has been eliminated, or overtime has been decreased, an employee would not be entitled to return to work that shift or the original overtime hours upon restoration. However, if a position on, for example, a night shift has been filled by another employee, the employee is entitled to return to the same shift on which employed before taking FMLA leave.

(b) If an employee was hired for a specific term or only to perform work on a discrete project, the employing office has no obligation to restore the employee if the employment term or project is over and the employing office would not otherwise have continued to employ the employee.

(c) In addition to the circumstances explained above, an employing office may deny job restoration to salaried eligible employees ("key employees," as defined in paragraph (c) of §825.217) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the employing office; or may delay restoration to an employee who fails to provide a fitness for duty certificate to return to work under the conditions described in §825.310.

(d) If the employee has been on a workers' compensation absence during which FMLA leave has been taken concurrently, and after 12 weeks of FMLA leave the employee is unable to return to work, the employee no longer has the protections of FMLA and must look to the workers' compensation statute or ADA, as made applicable by the CAA, for any relief or protections.

§825.217 What is a "key employee"?

(a) A "key employee" is a salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees employed by the employing office within 75 miles of the employee's worksite.

(b) The term "salaried" means paid on a salary basis, within the meaning of the Board's regulations at part 541, implementing section 203 of the CAA (2 U.S.C. 1313) (regarding employees who may qualify as exempt from the minimum wage and overtime requirements of the FLSA, as made applicable by the CAA, as executive, administrative, and professional employees).

(c) A "key employee" must be "among the highest paid 10 percent" of all the employees "both salaried and non-salaried, eligible and ineligible "who are employed by the employing office within 75 miles of the worksite.

(1) In determining which employees are among the highest paid 10 percent, year-to-date earnings are divided by weeks worked by the employee (including weeks in which paid leave was taken). Earnings include wages, premium pay, incentive pay, and non-discretionary and discretionary bonuses. Earnings do not include incentives whose value is determined at some future date, *e.g.*, benefits or perquisites.

(2) The determination of whether a salaried employee is among the highest paid 10 percent shall be made at the time the employee gives notice of the need for leave. No more than 10 percent of the employing office's employees within 75 miles of the worksite may be "key employees."

§825.218 What does "substantial and grievous economic injury" mean?

(a) In order to deny restoration to a key employee, an employing office must determine that the restoration of the employee to employment will cause "substantial and grievous economic injury" to the operations of the employing office, not whether the absence of the employee will cause such substantial and grievous injury.

(b) An employing office may take into account its ability to replace on a temporary basis (or temporarily do without) the employee on FMLA leave. If permanent replacement is unavoidable, the cost of then reinstating the employee can be considered in evaluating whether substantial and grievous economic injury will occur from restoration; in other words, the effect on the operations of the employing office of reinstating the employee in an equivalent position.

(c) A precise test cannot be set for the level of hardship or injury to the employing office which must be sustained. If the reinstatement of a "key employee" threatens the economic viability of the employing office, that would constitute "substantial and grievous economic injury." A lesser injury which causes substantial, long-term economic injury would also be sufficient. Minor inconveniences and costs that the employing office would experience in the normal course would certainly not constitute "substantial and grievous economic injury."

(d) FMLA's "substantial and grievous economic injury" standard is different from and more stringent than the "undue hardship" test under the ADA (see, also §825.702).

§825.219 What are the rights of a key employee?

(a) An employing office which believes that reinstatement may be denied to a key employee, must give written notice to the employee at the time the employee gives notice

VOL
142
PT
6
AP
15
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24
1996
UMI

of the need for FMLA leave (or when FMLA leave commences, if earlier) that he or she qualifies as a key employee. At the same time, the employing office must also fully inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the employing office should determine that substantial and grievous economic injury to the employing office's operations will result if the employee is reinstated from FMLA leave. If such notice cannot be given immediately because of the need to determine whether the employee is a key employee, it shall be given as soon as practicable after being notified of a need for leave (or the commencement of leave, if earlier). It is expected that in most circumstances there will be no desire that an employee be denied restoration after FMLA leave and, therefore, there would be no need to provide such notice. However, an employing office who fails to provide such timely notice will lose its right to deny restoration even if substantial and grievous economic injury will result from reinstatement.

(b) As soon as an employing office makes a good faith determination, based on the facts available, that substantial and grievous economic injury to its operations will result if a key employee who has given notice of the need for FMLA leave or is using FMLA leave is reinstated, the employing office shall notify the employee in writing of its determination, that it cannot deny FMLA leave, and that it intends to deny restoration to employment on completion of the FMLA leave. It is anticipated that an employing office will ordinarily be able to give such notice prior to the employee starting leave. The employing office must serve this notice either in person or by certified mail. This notice must explain the basis for the employing office's finding that substantial and grievous economic injury will result, and, if leave has commenced, must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of the leave and the urgency of the need for the employee to return.

(c) If an employee on leave does not return to work in response to the employing office's notification of intent to deny restoration, the employee continues to be entitled to maintenance of health benefits and the employing office may not recover its cost of health benefit premiums. A key employee's rights under FMLA continue unless and until either the employee gives notice that he or she no longer wishes to return to work, or the employing office actually denies reinstatement at the conclusion of the leave period.

(d) After notice to an employee has been given that substantial and grievous economic injury will result if the employee is reinstated to employment, an employee is still entitled to request reinstatement at the end of the leave period even if the employee did not return to work in response to the employing office's notice. The employing office must then again determine whether there will be substantial and grievous economic injury from reinstatement, based on the facts at that time. If it is determined that substantial and grievous economic injury will result, the employing office shall notify the employee in writing (in person or by certified mail) of the denial of restoration.

§825.220 How are employees protected who request leave or otherwise assert FMLA rights?

(a) The FMLA, as made applicable by the CAA, prohibits interference with an employee's rights under the law, and with legal proceedings or inquiries relating to an employee's rights. More specifically, the law contains the following employee protections:

(1) An employing office is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the FMLA as made applicable by the CAA.

(2) An employing office is prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) for opposing or complaining about any unlawful practice under the FMLA as made applicable by the CAA.

(3) All employing offices are prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) because that covered employee has—

(i) Filed any charge, or has instituted (or caused to be instituted) any proceeding under or related to the FMLA, as made applicable by the CAA;

(ii) Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA;

(iii) Testified, or is about to testify, in any inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA.

(b) Any violations of the FMLA, as made applicable by the CAA, or of these regulations constitute interfering with, restraining, or denying the exercise of rights provided by the FMLA as made applicable by the CAA. "Interfering with" the exercise of an employee's rights would include, for example, not only refusing to authorize FMLA leave, but discouraging an employee from using such leave. It would also include manipulation by covered an employing office to avoid responsibilities under FMLA, for example:

(1) [Reserved];

(2) changing the essential functions of the job in order to preclude the taking of leave;

(3) reducing hours available to work in order to avoid employee eligibility.

(c) An employing office is prohibited from discriminating against employees or prospective employees who have used FMLA leave. For example, if an employee on leave without pay would otherwise be entitled to full benefits (other than health benefits), the same benefits would be required to be provided to an employee on unpaid FMLA leave. By the same token, employing offices cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions; nor can FMLA leave be counted under "no fault" attendance policies.

(d) Employees cannot waive, nor may employing offices induce employees to waive, their rights under FMLA. For example, employees (or their collective bargaining representatives) cannot "trade off" the right to take FMLA leave against some other benefit offered by the employing office. This does not prevent an employee's voluntary and uncoerced acceptance (not as a condition of employment) of a "light duty" assignment while recovering from a serious health condition (see §825.702(d)). In such a circumstance the employee's right to restoration to the same or an equivalent position is available until 12 weeks have passed within the 12-month period, including all FMLA leave taken and the period of "light duty."

(e) Covered employees, and not merely eligible employees, are protected from retaliation for opposing (e.g., file a complaint about) any practice which is unlawful under the FMLA, as made applicable by the CAA. They are similarly protected if they oppose any practice which they reasonably believe to be a violation of the FMLA, as made applicable by the CAA or regulations.

Subpart C—How do Employees Learn of Their Rights and Obligations under the FMLA, as Made Applicable by the CAA, and What Can an Employing Office Require of an Employee?

§825.300 [Reserved]

§825.301 What notices to employees are required of employing offices under the FMLA as made applicable by the CAA?

(a)(1) If an employing office has any eligible employees and has any written guidance to employees concerning employee benefits or leave rights, such as in an employee handbook, information concerning both entitlements and employee obligations under the FMLA, as made applicable by the CAA, must be included in the handbook or other document. For example, if an employing office provides an employee handbook to all employees that describes the employing office's policies regarding leave, wages, attendance, and similar matters, the handbook must incorporate information on FMLA rights and responsibilities and the employing office's policies regarding the FMLA, as made applicable by the CAA. Informational publications describing the provisions of the FMLA as made applicable by the CAA are available from the Office of Compliance and may be incorporated in such employing office handbooks or written policies.

(2) If such an employing office does not have written policies, manuals, or handbooks describing employee benefits and leave provisions, the employing office shall provide written guidance to an employee concerning all the employee's rights and obligations under the FMLA as made applicable by the CAA. This notice shall be provided to employees each time notice is given pursuant to paragraph (b), and in accordance with the provisions of that paragraph. Employing offices may duplicate and provide the employee a copy of the FMLA Fact Sheet available from the Office of Compliance to provide such guidance.

(b)(1) The employing office shall also provide the employee with written notice detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. The written notice must be provided to the employee in a language in which the employee is literate. Such specific notice must include, as appropriate:

(i) that the leave will be counted against the employee's annual FMLA leave entitlement (see §825.208);

(ii) any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so (see §825.305);

(iii) the employee's right to substitute paid leave and whether the employing office will require the substitution of paid leave, and the conditions related to any substitution;

(iv) any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments (see §825.210), and the possible consequences of failure to make such payments on a timely basis (i.e., the circumstances under which coverage may lapse);

(v) any requirement for the employee to present a fitness-for-duty certificate to be restored to employment (see §825.310);

(vi) the employee's status as a "key employee" and the potential consequence that restoration may be denied following FMLA leave, explaining the conditions required for such denial (see §825.218);

(vii) the employee's right to restoration to the same or an equivalent job upon return from leave (see §§ 825.214 and 825.604); and,

(viii) the employee's potential liability for payment of health insurance premiums paid by the employing office during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave (see §825.213).

(2) The specific notice may include other information—*e.g.*, whether the employing office will require periodic reports of the employee's status and intent to return to work, but is not required to do so. A prototype notice is contained in Appendix D of this part, or may be obtained from the Office of Compliance, which employing offices may adapt for their use to meet these specific notice requirements.

(c) Except as provided in this subparagraph, the written notice required by paragraph (b) (and by subparagraph (a)(2) where applicable) must be provided to the employee no less often than the first time in each six-month period that an employee gives notice of the need for FMLA leave (if FMLA leave is taken during the six-month period). The notice shall be given within a reasonable time after notice of the need for leave is given by the employee—within one or two business days if feasible. If leave has already begun, the notice should be mailed to the employee's address of record.

(1) If the specific information provided by the notice changes with respect to a subsequent period of FMLA leave during the six-month period, the employing office shall, within one or two business days of receipt of the employee's notice of need for leave, provide written notice referencing the prior notice and setting forth any of the information in subparagraph (b) which has changed. For example, if the initial leave period were paid leave and the subsequent leave period would be unpaid leave, the employing office may need to give notice of the arrangements for making premium payments.

(2)(i) Except as provided in subparagraph (ii), if the employing office is requiring medical certification or a "fitness-for-duty" report, written notice of the requirement shall be given with respect to each employee notice of a need for leave.

(ii) Subsequent written notification shall *not* be required if the initial notice in the six-month period *and* the employing office handbook or other written documents (if any) describing the employing office's leave policies, clearly provided that certification or a "fitness-for-duty" report would be required (*e.g.*, by stating that certification would be required in all cases, by stating that certification would be required in all cases in which leave of more than a specified number of days is taken, or by stating that a "fitness-for-duty" report would be required in all cases for back injuries for employees in a certain occupation). Where subsequent written notice is not required, at least oral notice shall be provided. (*See* §825.305(a).)

(d) Employing offices are also expected to responsively answer questions from employees concerning their rights and responsibilities under the FMLA as made applicable under the CAA.

(e) Employing offices furnishing FMLA-required notices to sensory impaired individuals must also comply with all applicable requirements under law.

(f) If an employing office fails to provide notice in accordance with the provisions of this section, the employing office may not take action against an employee for failure to comply with any provision required to be set forth in the notice.

§825.302 What notice does an employee have to give an employing office when the need for FMLA leave is foreseeable?

(a) An employee must provide the employing office at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If 30 days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. For example, an employee's health condition may require leave to commence earlier than anticipated before the birth of a child. Similarly, little opportunity for notice may be given before placement for adoption. Whether the leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee shall advise the employing office as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown.

(b) "As soon as practicable" means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case. For foreseeable leave where it is not possible to give as much as 30 days notice, "as soon as practicable" ordinarily would mean at least verbal notification to the employing office within one or two business days of when the need for leave becomes known to the employee.

(c) An employee shall provide at least verbal notice sufficient to make the employing office aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave. The employee need not expressly assert rights under the FMLA as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed for an expected birth or adoption, for example. The employing office should inquire further of the employee if it is necessary to have more information about whether FMLA leave is being sought by the employee, and obtain the necessary details of the leave to be taken. In the case of medical conditions, the employing office may find it necessary to inquire further to determine if the leave is because of a serious health condition and may request medical certification to support the need for such leave (see §825.305).

(d) An employing office may also require an employee to comply with the employing office's usual and customary notice and procedural requirements for requesting leave. For example, an employing office may require that written notice set forth the reasons for the requested leave, the anticipated duration of the leave, and the anticipated start of the leave. However, failure to follow such internal employing office procedures will not permit an employing office to disallow or delay an employee's taking FMLA leave if the employee gives timely verbal or other notice.

(e) When planning medical treatment, the employee must consult with the employing office and make a reasonable effort to schedule the leave so as not to disrupt unduly the employing office's operations, subject to the approval of the health care provider. Employees are ordinarily expected to consult with their employing offices prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the employing office and the employee. If an employee who provides notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglects to consult with the employing office to make a reasonable attempt to arrange the schedule of treatments so as not to unduly disrupt the employing office's operations, the employing office may initiate discussions with the employee and require the employee to attempt to make such arrangements, subject to the approval of the health care provider.

(f) In the case of intermittent leave or leave on a reduced leave schedule which is medically necessary, an employee shall advise the employing office, upon request, of the reasons why the intermittent/reduced leave schedule is necessary and of the schedule for treatment, if applicable. The employee and employing office shall attempt to work out a schedule which meets the employee's needs without unduly disrupting the employing office's operations, subject to the approval of the health care provider.

(g) An employing office may waive employees' FMLA notice requirements. In addition, an employing office may not require compliance with stricter FMLA notice requirements where the provisions of a collective bargaining agreement or applicable leave plan allow less advance notice to the employing office. For example, if an employee (or employing office) elects to substitute paid vacation leave for unpaid FMLA leave (see §825.207), and the employing office's paid vacation leave plan imposes no prior notification requirements for taking such vacation leave, no advance notice may be required for the FMLA leave taken in these circumstances. On the other hand, FMLA notice requirements would apply to a period of unpaid FMLA leave, unless the employing office imposes lesser notice requirements on employees taking leave without pay.

§825.303 What are the requirements for an employee to furnish notice to an employing office where the need for FMLA leave is not foreseeable?

(a) When the approximate timing of the need for leave is not foreseeable, an employee should give notice to the employing office of the need for FMLA leave as soon as practicable under the facts and circumstances of the particular case. It is expected that an employee will give notice to the employing office within no more than one or two working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible. In the case of a medical emergency requiring leave because of an employee's own serious health condition or to care for a family member with a serious health condition, written advance notice pursuant to an employing office's internal rules and procedures may not be required when FMLA leave is involved.

(b) The employee should provide notice to the employing office either in person or by telephone, telegraph, facsimile ("fax") machine or other electronic means. Notice may be given by the employee's spokesperson (e.g., spouse, adult family member or other responsible party) if the employee is unable to do so personally. The employee need not expressly assert rights under the FMLA, as made applicable by the CAA, or even mention the FMLA, but may only state that

VOL
142
PT
6
AP
15
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24
1996
UMI

leave is needed. The employing office will be expected to obtain any additional required information through informal means. The employee or spokesperson will be expected to provide more information when it can readily be accomplished as a practical matter, taking into consideration the exigencies of the situation.

§825.304 What recourse do employing offices have if employees fail to provide the required notice?

(a) An employing office may waive employees' FMLA notice obligations or the employing office's own internal rules on leave notice requirements.

(b) If an employee fails to give 30 days notice for foreseeable leave with no reasonable excuse for the delay, the employing office may delay the taking of FMLA leave until at least 30 days after the date the employee provides notice to the employing office of the need for FMLA leave.

(c) In all cases, in order for the onset of an employee's FMLA leave to be delayed due to lack of required notice, it must be clear that the employee had actual notice of the FMLA notice requirements. This condition would be satisfied by the employing office's proper posting, at the worksite where the employee is employed, of the information regarding the FMLA provided (pursuant to section 301(h)(2) of the CAA, 2 U.S.C. 1381(h)(2)) by the Office of Compliance to the employing office in a manner suitable for posting. Furthermore, the need for leave and the approximate date leave would be taken must have been clearly foreseeable to the employee 30 days in advance of the leave. For example, knowledge that an employee would receive a telephone call about the availability of a child for adoption at some unknown point in the future would not be sufficient.

§825.305 When must an employee provide medical certification to support FMLA leave?

(a) An employing office may require that an employee's leave to care for the employee's seriously ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member. An employing office must give notice of a requirement for medical certification each time a certification is required; such notice must be written notice whenever required by §825.301. An employing office's oral request to an employee to furnish any subsequent medical certification is sufficient.

(b) When the leave is foreseeable and at least 30 days notice has been provided, the employee should provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(c) In most cases, the employing office should request that an employee furnish certification from a health care provider at the time the employee gives notice of the need for leave or within two business days thereafter, or, in the case of unforeseen leave, within two business days after the leave commences. The employing office may request certification at some later date if the employing office later has reason to question the appropriateness of the leave or its duration.

(d) At the time the employing office requests certification, the employing office must also advise an employee of the anticipated consequences of an employee's failure to provide adequate certification. The employing office shall advise an employee whenever the employing office finds a certification incomplete, and provide the employee a reasonable opportunity to cure any such deficiency.

(e) If the employing office's sick or medical leave plan imposes medical certification requirements that are less stringent than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (see §825.207), only the employing office's less stringent sick leave certification requirements may be imposed.

§825.306 How much information may be required in medical certifications of a serious health condition?

(a) The Office of Compliance has made available an optional form ("Certification of Physician or Practitioner") for employees' (or their family members') use in obtaining medical certification, including second and third opinions, from health care providers that meets FMLA's certification requirements. (See Appendix B to these regulations.) This optional form reflects certification requirements so as to permit the health care provider to furnish appropriate medical information within his or her knowledge.

(b) The Certification of Physician or Practitioner form is modeled closely on Form WH-380, as revised, which was developed by the Department of Labor (see 29 C.F.R. Part 825, Appendix B). The employing office may use the Office of Compliance's form, or Form WH-380, as revised, or another form containing the same basic information; however, no additional information may be required. In all instances the information on the form must relate only to the serious health condition for which the current need for leave exists. The form identifies the health care provider and type of medical practice (including pertinent specialization, if any), makes maximum use of checklist entries for ease in completing the form, and contains required entries for:

(1) A certification as to which part of the definition of "serious health condition" (see §825.114), if any, applies to the patient's condition, and the medical facts which support the certification, including a brief statement as to how the medical facts meet the criteria of the definition.

(2)(i) The approximate date the serious health condition commenced, and its probable duration, including the probable duration of the patient's present incapacity (defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) if different.

(ii) Whether it will be necessary for the employee to take leave intermittently or to work on a reduced leave schedule basis (i.e., part-time) as a result of the serious health condition (see §825.117 and §825.203), and if so, the probable duration of such schedule.

(iii) If the condition is pregnancy or a chronic condition within the meaning of §825.114(a)(2)(iii), whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.

(3)(i)(A) If additional treatments will be required for the condition, an estimate of the probable number of such treatments.

(B) If the patient's incapacity will be intermittent, or will require a reduced leave schedule, an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any.

(ii) If any of the treatments referred to in subparagraph (i) will be provided by another provider of health services (e.g., physical therapist), the nature of the treatments.

(iii) If a regimen of continuing treatment by the patient is required under the supervision of the health care provider, a general description of the regimen (see §825.114(b)).

(4) If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), whether the employee:

(i) is unable to perform work of any kind;

(ii) is unable to perform any one or more of the essential functions of the employee's position, including a statement of the essential functions the employee is unable to perform (see §825.115), based on either information provided on a statement from the employing office of the essential functions of the position or, if not provided, discussion with the employee about the employee's job functions; or

(iii) must be absent from work for treatment.

(5)(i) If leave is required to care for a family member of the employee with a serious health condition, whether the patient requires assistance for basic medical or personal needs or safety, or for transportation; or if not, whether the employee's presence to provide psychological comfort would be beneficial to the patient or assist in the patient's recovery. The employee is required to indicate on the form the care he or she will provide and an estimate of the time period.

(ii) If the employee's family member will need care only intermittently or on a reduced leave schedule basis (*i.e.*, part-time), the probable duration of the need.

(c) If the employing office's sick or medical leave plan requires less information to be furnished in medical certifications than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (*see* §825.207), only the employing office's lesser sick leave certification requirements may be imposed.

§825.307 What may an employing office do if it questions the adequacy of a medical certification?

(a) If an employee submits a complete certification signed by the health care provider, the employing office may not request additional information from the employee's health care provider. However, a health care provider representing the employing office may contact the employee's health care provider, with the employee's permission, for purposes of *clarification* and authenticity of the medical certification.

(1) If an employee is on FMLA leave running concurrently with a workers' compensation absence, and the provisions of the workers' compensation statute permit the employing office or the employing office's representative to have direct contact with the employee's workers' compensation health care provider, the employing office may follow the workers' compensation provisions.

(2) An employing office that has reason to doubt the validity of a medical certification may require the employee to obtain a second opinion at the employing office's expense.

Pending receipt of the second (or third) medical opinion, the employee is provisionally entitled to the benefits of the FMLA as made applicable by the CAA, including maintenance of group health benefits. If the certifications do not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave and may be treated as paid or unpaid leave under the employing office's established leave policies. The employing office is permitted to designate the health care provider to furnish the second opinion, but the selected health care provider may not be employed on a regular basis by the employing office. See also paragraphs (e) and (f) of this section.

(b) The employing office may not regularly contract with or otherwise regularly utilize the services of the health care provider furnishing the second opinion unless the employing office is located in an area where access to health care is extremely limited (e.g., a rural area where no more than one or two doctors practice in the relevant specialty in the vicinity).

(c) If the opinions of the employee's and the employing office's designated health care providers differ, the employing office may require the employee to obtain certification from a third health care provider, again at the employing office's expense. This third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the employing office and the employee. The employing office and the employee must each act in good faith to attempt to reach agreement on whom to select for the third opinion provider. If the employing office does not attempt in good faith to reach agreement, the employing office will be bound by the first certification. If the employee does not attempt in good faith to reach agreement, the employee will be bound by the second certification. For example, an employee who refuses to agree to see a doctor in the specialty in question may be failing to act in good faith. On the other hand, an employing office that refuses to agree to any doctor on a list of specialists in the appropriate field provided by the employee and whom the employee has not previously consulted may be failing to act in good faith.

(d) The employing office is required to provide the employee with a copy of the second and third medical opinions, where applicable, upon request by the employee. Requested copies are to be provided within two business days unless extenuating circumstances prevent such action.

(e) If the employing office requires the employee to obtain either a second or third opinion the employing office must reimburse an employee or family member for any reasonable "out of pocket" travel expenses incurred to obtain the second and third medical opinions. The employing office may not require the employee or family member to travel outside normal commuting distance for purposes of obtaining the second or third medical opinions except in very unusual circumstances.

(f) In circumstances when the employee or a family member is visiting in another country, or a family member resides in a another country, and a serious health condition develops, the employing office shall accept a medical certification as well as second and third opinions from a health care provider who practices in that country.

§825.308 Under what circumstances may an employing office request subsequent recertifications of medical conditions?

(a) For pregnancy, chronic, or permanent/long-term conditions under continuing supervision of a health care provider (as defined in §825.114(a) (2)(ii), (iii) or (iv)), an employing office may request recertification no more often than every 30 days and only in connection with an absence by the employee, unless:

(1) Circumstances described by the previous certification have changed significantly (e.g., the duration or frequency of absences, the severity of the condition, complications); or

(2) The employing office receives information that casts doubt upon the employee's stated reason for the absence.

(b)(1) If the minimum duration of the period of incapacity specified on a certification furnished by the health care provider is more than 30 days, the employing office may not request recertification until that minimum duration has passed unless one of the conditions set forth in paragraph (c)(1), (2) or (3) of this section is met.

(2) For FMLA leave taken intermittently or on a reduced leave schedule basis, the employing office may not request recertification in less than the minimum period specified on the certification as necessary for such leave (including treatment) unless one of the conditions set forth in paragraph (c)(1), (2) or (3) of this section is met.

(c) For circumstances not covered by paragraphs (a) or (b) of this section, an employing office may request recertification at any reasonable interval, but not more often than every 30 days, unless:

(1) The employee requests an extension of leave;

(2) Circumstances described by the previous certification have changed significantly (e.g., the duration of the illness, the nature of the illness, complications); or

(3) The employing office receives information that casts doubt upon the continuing validity of the certification.

(d) The employee must provide the requested recertification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(e) Any recertification requested by the employing office shall be at the employee's expense unless the employing office provides otherwise. No second or third opinion on recertification may be required.

§825.309 What notice may an employing office require regarding an employee's intent to return to work?

(a) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. The employing office's policy regarding such reports may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation.

(b) If an employee gives unequivocal notice of intent not to return to work, the employing office's obligations under FMLA, as made applicable by the CAA, to maintain health benefits (subject to requirements of COBRA or 5 U.S.C. 8905a, whichever is applicable) and to restore the employee cease. However, these obligations continue if an employee indicates he or she may be unable to return to work but expresses a continuing desire to do so.

(c) It may be necessary for an employee to take more leave than originally anticipated. Conversely, an employee may discover after beginning leave that the circumstances have changed and the amount of leave originally anticipated is no longer necessary. An employee may not be required to take more FMLA leave than necessary to resolve the circumstance that precipitated the need for leave. In both of these situations, the employing office may require that the employee provide the employing office reasonable notice (i.e., within two business days) of the changed circumstances where foreseeable. The employing office may also obtain information on such changed circumstances through requested status reports.

§825.310 Under what circumstances may an employing office require that an employee submit a medical certification that the employee is able (or unable) to return to work (i.e., a "fitness-for-duty" report)?

(a) As a condition of restoring an employee whose FMLA leave was occasioned by the employee's own serious health condition that made the employee unable to perform the employee's job, an employing office may have a uniformly-applied policy or practice that requires all similarly-situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health care provider that the employee is able to resume work.

(b) If the terms of a collective bargaining agreement govern an employee's return to work, those provisions shall be applied. Similarly, requirements under the Americans with Disabilities Act (ADA), as made applicable by the CAA, that any return-to-work physical be job-related and consistent with business necessity apply. For example, an attorney could not be required to submit to a medical examination or inquiry just because her leg had been amputated. The essential functions of an attorney's job do not require use of both legs; therefore such an inquiry would not be job related. An employing office may require a warehouse laborer, whose back impairment affects the ability to lift, to be examined by an orthopedist, but may not require this employee to submit to an HIV test where the test is not related to either the essential functions of his/her job or to his/her impairment.

(c) An employing office may seek fitness-for-duty certification only with regard to the particular health condition that caused the employee's need for FMLA leave. The certification itself need only be a simple statement of an employee's ability to return to work. A health care provider employed by the employing office may contact the employee's health care provider with the employee's permission, for purposes of clarification of the employee's fitness to return to work. No additional information may be acquired, and clarification may be requested only for the serious health condition for which FMLA leave was taken. The employing office may not delay the employee's return to work while contact with the health care provider is being made.

(d) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

(e) The notice that employing offices are required to give to each employee giving notice of the need for FMLA leave regarding their FMLA rights and obligations as made applicable by the CAA (see §825.301) shall advise the employee if the employing office will require fitness-for-duty certification to return to work. If the employing office has a handbook explaining employment policies and benefits, the handbook should explain

VOL
142
PT
6
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24
1996
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the employing office's general policy regarding any requirement for fitness-for-duty certification to return to work. Specific notice shall also be given to any employee from whom fitness-for-duty certification will be required either at the time notice of the need for leave is given or immediately after leave commences and the employing office is advised of the medical circumstances requiring the leave, unless the employee's condition changes from one that did not previously require certification pursuant to the employing office's practice or policy. No second or third fitness-for-duty certification may be required.

(f) An employing office may delay restoration to employment until an employee submits a required fitness-for-duty certification unless the employing office has failed to provide the notices required in paragraph (e) of this section.

(g) An employing office is not entitled to certification of fitness to return to duty when the employee takes intermittent leave as described in §825.203.

(h) When an employee is unable to return to work after FMLA leave because of the continuation, recurrence, or onset of the employee's or family member's serious health condition, thereby preventing the employing office from recovering its share of health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. (*See* §825.213(a)(3).) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

§825.311 What happens if an employee fails to satisfy the medical certification and/or recertification requirements?

(a) In the case of foreseeable leave, an employing office may delay the taking of FMLA leave to an employee who fails to provide timely certification after being requested by the employing office to furnish such certification (i.e., within 15 calendar days, if practicable), until the required certification is provided.

(b) When the need for leave is not foreseeable, or in the case of recertification, an employee must provide certification (or recertification) within the time frame requested by the employing office (which must allow at least 15 days after the employing office's request) or as soon as reasonably possible under the particular facts and circumstances. In the case of a medical emergency, it may not be practicable for an employee to provide the required certification within 15 calendar days. If an employee fails to provide a medical certification within a reasonable time under the pertinent circumstances, the employing office may delay the employee's continuation of FMLA leave. If the employee never produces the certification, the leave is not FMLA leave.

(c) When requested by the employing office pursuant to a uniformly applied policy for similarly-situated employees, the employee must provide medical certification at the time the employee seeks reinstatement at the end of FMLA leave taken for the employee's serious health condition, that the employee is fit for duty and able to return to work (see §825.310(a)) if the employing office has provided the required notice (see §825.301(c); the employing office may delay restoration until the certification is provided. In this situation, unless the employee provides either a fitness-for-duty certification or a new medical certification for a serious health condition at the time FMLA leave is concluded, the employee may be terminated. See also §825.213(a)(3).

§825.312 Under what circumstances may an employing office refuse to provide FMLA leave or reinstatement to eligible employees?

(a) If an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, the employing office may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the employing office of the need for FMLA leave. (*See* §825.302.)

(b) If an employee fails to provide in a timely manner a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, an employing office may delay continuation of FMLA leave until an employee submits the certificate. (*See* §§ 825.305 and 825.311.) If the employee never produces the certification, the leave is not FMLA leave.

(c) If an employee fails to provide a requested fitness-for-duty certification to return to work, an employing office may delay restoration until the employee submits the certificate. (*See* §§ 825.310 and 825.311.)

(d) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. Thus, an employee's rights to continued leave, maintenance of health benefits, and restoration cease under FMLA, as made applicable by the CAA, if and when the employment relationship terminates (*e.g.*, layoff), unless that relationship continues, for example, by the employee remaining on *paid* FMLA leave. If the employee is recalled or otherwise re-employed, an eligible employee is immediately entitled to further FMLA leave for an FMLA-qualifying reason. An employing office must be able to show, when an employee requests restoration, that the employee would not otherwise have been employed if leave had not been taken in order to deny restoration to employment. (See §825.216.)

(e) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intention to return to work. (See §825.309.) If an employee unequivocally advises the employing office either before or during the taking of leave that the employee does not intend to return to work, and the employment relationship is terminated, the employee's entitlement to continued leave, maintenance of health benefits, and restoration ceases unless the employment relationship continues, for example, by the employee remaining on *paid* leave. An employee may not be required to take more leave than necessary to address the circumstances for which leave was taken. If the employee is able to return to work earlier than anticipated, the employee shall provide the employing office two business days notice where feasible; the employing office is required to restore the employee once such notice is given, or where such prior notice was not feasible.

(f) An employing office may deny restoration to employment, but not the taking of FMLA leave and the maintenance of health benefits, to an eligible employee only under the terms of the "key employee" exemption. Denial of reinstatement must be necessary to prevent "substantial and grievous economic injury" to the employing office's operations. The employing office must notify the employee of the employee's status as a "key employee" and of the employing office's intent to deny reinstatement on that basis when the employing office makes these determinations. If leave has started, the employee must be given a reasonable opportunity to return to work after being so notified. (See §825.219.)

(g) An employee who fraudulently obtains FMLA leave from an employing office is not protected by job restoration or maintenance of health benefits provisions of the FMLA as made applicable by the CAA.

(h) If the employing office has a uniformly-applied policy governing outside or supplemental employment, such a policy may continue to apply to an employee while on FMLA leave. An employing office which does not have such a policy may not deny benefits to which an employee is entitled under FMLA as made applicable by the CAA on this basis unless the FMLA leave was fraudulently obtained as in paragraph (g) of this section.

Subpart D—What Enforcement Mechanisms Does the CAA Provide?

§825.400 What can employees do who believe that their rights under the FMLA as made applicable by the CAA have been violated?

(a) To commence a proceeding, a covered employee alleging a violation of the rights and protections of the FMLA made applicable by the CAA must request counseling by the Office of Compliance not later than 180 days after the date of the alleged violation. If a covered employee misses this deadline, the covered employee will be unable to obtain a remedy under the CAA.

(b) The following procedures are available under title IV of the CAA for covered employees who believe that their rights under FMLA as made applicable by the CAA have been violated:

(1) counseling;

(2) mediation; and

(3) election of either—

(A) a formal complaint, filed with the Office of Compliance, and a hearing before a hearing officer, subject to review by the Board of Directors of the Office of Compliance, and judicial review in the United States Court of Appeals for the Federal Circuit; or

(B) a civil action in a district court of the United States.

(c) Regulations of the Office of Compliance describing and governing these procedures are found at [proposed rules can be found at 141 Cong. Rec. S17012 (November 14, 1995)].

§825.401 [Reserved]

§825.402 [Reserved]

§825.403 [Reserved]

§825.404 [Reserved]

Subpart E—[Reserved]

Subpart F—What Special Rules Apply to Employees of Schools?

§825.600 To whom do the special rules apply?

(a) Certain special rules apply to employees of "local educational agencies," including public school boards and elementary schools under their jurisdiction, and private elementary and secondary schools. The special rules do not apply to other kinds of educational institutions, such as colleges and universities, trade schools, and preschools.

(b) Educational institutions are covered by FMLA as made applicable by the CAA (and these special rules). The usual requirements for employees to be "eligible" apply.

(c) The special rules affect the taking of intermittent leave or leave on a reduced leave schedule, or leave near the end of an academic term (semester), by instructional employees. "Instructional employees" are those whose principal function is to teach

and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include, and the special rules do not apply to, teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

(d) Special rules which apply to restoration to an equivalent position apply to all employees of local educational agencies.

§825.601 What limitations apply to the taking of intermittent leave or leave on a reduced leave schedule?

(a) Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively rather than intermittently. The period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee's FMLA leave entitlement. An instructional employee who is on FMLA leave at the end of the school year must be provided with any benefits over the summer vacation that employees would normally receive if they had been working at the end of the school year.

(1) If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the employing office may require the employee to choose either to:

(i) Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or

(ii) Transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

(2) These rules apply only to a leave involving more than 20 percent of the working days during the period over which the leave extends. For example, if an instructional employee who normally works five days each week needs to take two days of FMLA leave per week over a period of several weeks, the special rules would apply. Employees taking leave which constitutes 20 percent or less of the working days during the leave period would not be subject to transfer to an alternative position. "Periods of a particular duration" means a block, or blocks, of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave.

(b) If an instructional employee does not give required notice of foreseeable FMLA leave (see §825.302) to be taken intermittently or on a reduced leave schedule, the employing office may require the employee to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the employing office may require the employee to delay the taking of leave until the notice provision is met. *See* §825.207(h).

§825.602 What limitations apply to the taking of leave near the end of an academic term?

(a) There are also different rules for instructional employees who begin leave more than five weeks before the end of a term, less than five weeks before the end of a term, and less than three weeks before the end of a term. Regular rules apply except in circumstances when:

(1) An instructional employee begins leave more than five weeks before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if—

(i) The leave will last at least three weeks, and

(ii) The employee would return to work during the three-week period before the end of the term.

(2) The employee begins leave for a purpose other than the employee's own serious health condition *during* the five-week period before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if —

(i) The leave will last more than two weeks, and

(ii) The employee would return to work during the two-week period before the end of the term.

(3) The employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a term, and the leave will last more than five working days. The employing office may require the employee to continue taking leave until the end of the term.

(b) For purposes of these provisions, "academic term" means the school semester, which typically ends near the end of the calendar year and the end of spring each school year. In no case may a school have more than two academic terms or semesters each year for purposes of FMLA as made applicable by the CAA. An example of leave falling within these provisions would be where an employee plans two weeks of leave to care for a family member which will begin three weeks before the end of the term. In that situation, the employing office could require the employee to stay out on leave until the end of the term.

§825.603 Is all leave taken during "periods of a particular duration" counted against the FMLA leave entitlement?

(a) If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

(b) In the case of an employee who is required to take leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. The employing office has the option not to require the employee to stay on leave until the end of the school term. Therefore, any additional leave required by the employing office to the end of the school term is not counted as FMLA leave; however, the employing office shall be required to maintain the employee's group health insurance and restore the employee to the same or equivalent job including other benefits at the conclusion of the leave.

§825.604 What special rules apply to restoration to "an equivalent position?"

The determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave will be made on the basis of "established school board policies and practices, private school policies and practices, and collective bargaining agreements." The "established policies" and collective bargaining agreements used as a basis for restoration must be in writing, must be made known to the employee prior to the taking of FMLA leave, and must clearly explain the employee's restoration rights upon return from leave. Any established policy which is used as the basis for restoration of an employee to "an equivalent position" must provide substantially the same protections as provided in the FMLA, as made applicable by the CAA, for reinstated employees. See §825.215. In other words, the policy or collective bargaining agreement must provide for restoration to an "equivalent position" with equivalent employment benefits, pay, and other terms and conditions of employment. For example, an employee may not be restored to a position requiring additional licensure or certification.

Subpart G—How Do Other Laws, Employing Office Practices, and Collective Bargaining Agreements Affect Employee Rights Under the FMLA as Made Applicable by the CAA?

§825.700 What if an employing office provides more generous benefits than required by FMLA as made applicable by the CAA?

(a) An employing office must observe any employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established by the FMLA. Conversely, the rights established by the FMLA, as made applicable by the CAA, may not be diminished by any employment benefit program or plan. For example, a provision of a collective bargaining agreement (CBA) which provides for reinstatement to a position that is not equivalent because of seniority (e.g., provides lesser pay) is superseded by FMLA. If an employing office provides greater unpaid family leave rights than are afforded by FMLA, the employing office is not required to extend additional rights afforded by FMLA, such as maintenance of health benefits (other than through COBRA or 5 U.S.C. 8905a, whichever is applicable), to the additional leave period not covered by FMLA. If an employee takes paid or unpaid leave and the employing office does not designate the leave as FMLA leave, the leave taken does not count against an employee's FMLA entitlement.

(b) Nothing in the FMLA, as made applicable by the CAA, prevents an employing office from amending existing leave and employee benefit programs, provided they comply with FMLA as made applicable by the CAA. However, nothing in the FMLA, as made applicable by the CAA, is intended to discourage employing offices from adopting or retaining more generous leave policies.

(c) [Reserved]

§825.701 [Reserved]

§825.702 How does FMLA affect anti-discrimination laws as applied by section 201 of the CAA?

(a) Nothing in FMLA modifies or affects any applicable law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability (e.g., Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act), as made applicable by the CAA. FMLA's legislative history explains that FMLA is "not intended to modify or affect the Rehabilitation Act of 1973, as amended, the regulations concerning employment which have been promulgated pursuant to that statute, or the Americans with Disabilities Act of 1990, or the regulations issued

VOL
142
PT
6
AP
15
—
24
1996
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under that act. Thus, the leave provisions of the [FMLA] are wholly distinct from the reasonable accommodation obligations of employers covered under the [ADA] * * * or the Federal government itself. The purpose of the FMLA is to make leave available to eligible employees and employing offices within its coverage, and not to limit already existing rights and protection." S. Rep. No. 3, 103d Cong., 1st Sess. 38 (1993). An employing office must therefore provide leave under whichever statutory provision provides the greater rights to employees.

(b) If an employee is a qualified individual with a disability within the meaning of the Americans with Disabilities Act (ADA), the employing office must make reasonable accommodations, etc., barring undue hardship, in accordance with the ADA. At the same time, the employing office must afford an employee his or her FMLA rights. ADA's "disability" and FMLA's "serious health condition" are different concepts, and must be analyzed separately. FMLA entitles eligible employees to 12 weeks of leave in any 12-month period, whereas the ADA allows an indeterminate amount of leave, barring undue hardship, as a reasonable accommodation. FMLA requires employing offices to maintain employees' group health plan coverage during FMLA leave on the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period, whereas ADA does not require maintenance of health insurance unless other employees receive health insurance during leave under the same circumstances.

(c)(1) A reasonable accommodation under the ADA might be accomplished by providing an individual with a disability with a part-time job with no health benefits, assuming the employing office did not ordinarily provide health insurance for part-time employees. However, FMLA would permit an employee to work a reduced leave schedule until the equivalent of 12 workweeks of leave were used, with group health benefits maintained during this period. FMLA permits an employing office to temporarily transfer an employee who is taking leave intermittently or on a reduced leave schedule to an alternative position, whereas the ADA allows an accommodation of reassignment to an equivalent, vacant position only if the employee cannot perform the essential functions of the employee's present position and an accommodation is not possible in the employee's present position, or an accommodation in the employee's present position would cause an undue hardship. The examples in the following paragraphs of this section demonstrate how the two laws would interact with respect to a qualified individual with a disability.

(2) A qualified individual with a disability who is also an "eligible employee" entitled to FMLA leave requests 10 weeks of medical leave as a reasonable accommodation, which the employing office grants because it is not an undue hardship. The employing office advises the employee that the 10 weeks of leave is also being designated as FMLA leave and will count towards the employee's FMLA leave entitlement. This designation does not prevent the parties from also treating the leave as a reasonable accommodation and reinstating the employee into the *same* job, as required by the ADA, rather than an equivalent position under FMLA, if that is the greater right available to the employee. At the same time, the employee would be entitled under FMLA to have the employing office maintain group health plan coverage during the leave, as that requirement provides the greater right to the employee.

(3) If the same employee needed to work part-time (a reduced leave schedule) after returning to his or her same job, the employee would still be entitled under FMLA to have group health plan coverage maintained for the remainder of the two-week equivalent of FMLA leave entitlement, notwithstanding an employing office policy that part-time employees do not receive health insurance. This employee would be entitled under the ADA to reasonable accommodations to enable the employee to perform the essential functions of the part-time position. In addition, because the employee is working a part-time schedule as a reasonable accommodation, the employee would be shielded from FMLA's provision for temporary assignment to a different alternative position. Once the employee has exhausted his or her remaining FMLA leave entitlement while working the reduced (part-time) schedule, if the employee is a qualified individual with a disability, and if the employee is unable to return to the same full-time position at that time, the employee might continue to work part-time as a reasonable accommodation, barring undue hardship; the employee would then be entitled to only those employment benefits ordinarily provided by the employing office to part-time employees.

(4) At the end of the FMLA leave entitlement, an employing office is required under FMLA to reinstate the employee in the same or an equivalent position, with equivalent pay and benefits, to that which the employee held when leave commenced. The employing office's FMLA obligations would be satisfied if the employing office offered the employee an equivalent full-time position. If the employee were unable to perform the essential functions of that equivalent position even with reasonable accommodation, because of a disability, the ADA may require the employing office to make a reasonable accommodation at that time by allowing the employee to work part-time or by reassigning the employee to a vacant position, barring undue hardship.

(d)(1) If FMLA entitles an employee to leave, an employing office may not, in lieu of FMLA leave entitlement, *require* an employee to take a job with a reasonable accommodation. However, ADA may require that an employing office offer an employee the opportunity to take such a position. An employing office may not change the essential functions of the job in order to deny FMLA leave. See §825.220(b).

(2) An employee may be on a workers' compensation absence due to an on-the-job injury or illness which also qualifies as a serious health condition under FMLA. The workers' compensation absence and FMLA leave may run concurrently (subject to proper notice and designation by the employing office). At some point the health care provider providing medical care pursuant to the workers' compensation injury may certify the employee is able to return to work in a "light duty" position. If the employing office offers such a position, the employee is permitted but not required to accept the position (*see* §825.220(d)). As a result, the employee may no longer qualify for payments from the workers' compensation benefit plan, but the employee is entitled to continue on unpaid FMLA leave either until the employee is able to return to the same or equivalent job the employee left or until the 12-week FMLA leave entitlement is exhausted. See §825.207(d)(2). If the employee returning from the workers' compensation injury is a qualified individual with a disability, he or she will have rights under the ADA.

(e) If an employing office requires certifications of an employee's fitness for duty to return to work, as permitted by FMLA under a uniform policy, it must comply with the ADA requirement that a fitness for duty physical be job-related and consistent with business necessity.

(f) Under Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act, and as made applicable by the CAA, an employing office should provide the same benefits for women who are pregnant as the employing office provides to other employees with short-term disabilities. Because Title VII does not require employees to be employed for a certain period of time to be protected, an employee employed for less than 12 months by any employing office (and, therefore, not an "eligible" employee under FMLA, as made applicable by the CAA) may *not* be denied maternity leave if the employing office normally provides short-term disability benefits to employees with the same tenure who are experiencing other short-term disabilities.

(g) For further information on Federal anti-discrimination laws applied by section 201 of the CAA (2 U.S.C. 1311), including Title VII, the Rehabilitation Act, and the ADA, individuals are encouraged to contact the Office of Compliance.

Subpart H—Definitions

§825.800 Definitions.

For purposes of this part:

ADA means the Americans With Disabilities Act (42 U.S.C. 12101 *et seq.*).

CAA means the Congressional Accountability Act of 1995 (Pub. Law 104-1, 109 Stat. 3, 2 U.S.C. 1301 et seq.).

COBRA means the continuation coverage requirements of Title X of the Consolidated Omnibus Budget Reconciliation Act of 1986 (Pub. Law 99-272, title X, section 10002; 100 Stat. 227; as amended; 29 U.S.C. 1161-1168).

Continuing treatment means: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(1) A period of *incapacity* (*i.e.*, inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(ii) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(2) Any period of incapacity due to pregnancy, or for prenatal care.

(3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(i) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(iii) May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, *etc.*).

(4) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(5) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), kidney disease (dialysis).

Covered employee—The term "covered employee", as defined in the CAA, means any employee of—(1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Office of Compliance; or (9) the Office of Technology Assessment.

Eligible employee—The term "eligible employee", as defined in the CAA, means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

Employ means to suffer or permit to work.

Employee means an employee as defined in the CAA and includes an applicant for employment and a former employee.

Employee employed in an instructional capacity. See Teacher.

Employee of the Capitol Police—The term "employee of the Capitol Police" includes any member or officer of the Capitol Police.

Employee of the House of Representatives—The term "employee of the House of Representatives" includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Employee of the Office of the Architect of the Capitol—The term "employee of the Office of the Architect of the Capitol" includes any employee of the Office of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants.

Employee of the Senate—The term "employee of the Senate" includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Employing Office—The term "employing office", as defined in the CAA, means:

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

Employment benefits means all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office or through an employee benefit plan. The term does not include non-employment related obligations paid by employees through voluntary deductions such as supplemental insurance coverage. (See §825.209(a)).

FLSA means the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

FMLA means the Family and Medical Leave Act of 1993, Public Law 103-3 (February 5, 1993), 107 Stat. 6 (29 U.S.C. 2601 et seq.).

Group health plan means the Federal Employees Health Benefits Program and any other plan of, or contributed to by, an employing office (including a self-insured plan) to provide health care (directly or otherwise) to the employing office's employees, former employees, or the families of such employees or former employees. For purposes of FMLA, as made applicable by the CAA, the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that:

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and,

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

Health care provider means:

(1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or

(2) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law; and

(3) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law; and

(4) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

(5) Any health care provider from whom an employing office or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

(6) A health care provider as defined above who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country.

"*Incapable of self-care*" means that the individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

Instructional employee: See *Teacher*.

Intermittent leave means leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.

Mental disability: See *Physical or mental disability*.

Office of Compliance means the independent office established in the legislative branch under section 301 of the CAA (2 U.S.C. 1381).

Parent means the biological parent of an employee or an individual who stands or stood in loco parentis to an employee when the employee was a child.

Physical or mental disability means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. See the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)).

Reduced leave schedule means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

Secretary means the Secretary of Labor or authorized representative.

Serious health condition entitling an employee to FMLA leave means:

(1) an illness, injury, impairment, or physical or mental condition that involves:

(i) *Inpatient care* (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of *incapacity* (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(ii) *Continuing treatment* by a health care provider. A serious health condition involving continuing treatment by a health care provider includes:

(A) A period of *incapacity* (*i.e.*, inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(*1*) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of

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142
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health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(*2*) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(B) Any period of incapacity due to pregnancy, or for prenatal care.

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(*1*) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(*2*) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(*3*) May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, etc.).

(D) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(E) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

(2) Treatment for purposes of paragraph (1) of this definition includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (1)(ii)(A)(*2*) of this definition, a regimen of continuing treatment includes, for example, a course of prescription medication (*e.g.*, an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (*e.g.*, oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(3) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(4) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(5) Absences attributable to incapacity under paragraphs (1)(ii)(B) or (C) of this definition qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.

Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

State means any State of the United States or the District of Columbia or any Territory or possession of the United States.

Teacher (or *employee employed in an instructional capacity*, or *instructional employee)* means an employee employed principally in an instructional capacity by an educational agency or school whose principal function is to teach and instruct students in a class, a small group, or an individual setting, and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily noninstructional employees.

Appendix A to Part 825—[Reserved]

Appendix B to Part 825—Certification of Physician or Practitioner

Certification of Health Care Provider

(Family and Medical Leave Act of 1993 as Made Applicable by the Congressional Accountability Act of 1995)

1. Employee's Name:

2. Patient's Name (if different from employee):

3. The attached sheet describes what is meant by a "serious health condition" under the Family and Medical Leave Act as made applicable by the Congressional Accountability Act. Does the patient's condition[1] qualify under any of the categories described? If so, please check the applicable category.

(1) _______ (2) _______ (3) _______ (4) _______ (5) _______ (6) _______, or None of the above _______

4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

5.a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity[2] if different):

b. Will it be necessary for the employee to take work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in Item 6 below)? _______

If yes, give probable duration:

c. If the condition is a chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated[2] and the likely duration and frequency of episodes of incapacity[2]:

6.a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments:

If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments:

c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

7.a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind? _______

b. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)? _______ If yes, please list the essential functions the employee is unable to perform: _______

c. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment? _______

8.a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? _______

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? _______

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:

(Signature of Health Care Provider)

(Type of Practice)

(Address)

(Telephone number)

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

(Employee signature)

(Date)

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[1] Footnotes at the end of appendix B.

A "Serious Health Condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. *Hospital Care.*—Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity[1] or subsequent treatment in connection with or consequent to such inpatient care.

2. *Absence Plus Treatment.*—(a) A period of incapacity[2] of more than three consecutive calendar days (including any subsequent treatment or period of incapacity[2] relating to the same condition), that also involves:

(1) Treatment[3] two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider: or

(2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment[4] under the supervision of the health care provider.

3. *Pregnancy.*—Any period of incapacity due to pregnancy, or for prenatal care.

4. *Chronic Conditions Requiring Treatments.*—A chronic condition which:

(1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(3) May cause episodic rather than a continuing period of incapacity[2] (e.g., asthma, diabetes, epilepsy, etc.)

5. *Permanent/Long-term Conditions Requiring Supervision.*—A period of incapacity[2] which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6. *Multiple Treatments (Non-Chronic Conditions).*—Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity[2] of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

FOOTNOTES

[1] Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

[2] "Incapacity," for purposes of FMLA as make applicable by the CAA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefrom.

[3] Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

[4] A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

Appendix C to Part 825—[Reserved]

Appendix D to Part 825—Prototype Notice: Employing Office Response to Employee Request for Family and Medical Leave

Employing office response to employee request for family or medical leave

(Optional use form—see §825.301(b)(1) of the regulations of the Office of Compliance)

(Family and Medical Leave Act of 1993, as made applicable by the Congressional Accountability Act of 1995)

(Date)

To:________________

(Employee's name)

From:________________

(Name of appropriate employing office representative)

Subject: Request for Family/Medical Leave

On_______, *(date)* you notified us of your need to take family/medical leave due to: (date)

the birth of your child, or the placement of a child with you for adoption or foster care; or

a serious health condition that makes you unable to perform the essential functions of your job; or

a serious health condition affecting your "spouse, "child, "parent, for which you are needed to provide care.

You notified us that you need this leave beginning on _______*(date)* and that you expect leave to continue until on or about_______ *(date)*.

Except as explained below, you have a right under the FMLA, as made applicable by the CAA, for up to 12 weeks of unpaid leave in a 12-month period for the reasons listed above. Also, your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work, and you must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from leave. If you do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (2) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

This is to inform you that: (*check appropriate boxes; explain where indicated)*

1. You are ☐ eligible ☐ not eligible for leave under the FMLA as made applicable by the CAA.

2. The requested leave ☐ will ☐ will not be counted against your annual FMLA leave entitlement.

3. You ☐ will ☐ will not be required to furnish medical certification of a serious health condition. If required, you must furnish certification by_______ (*insert date*) (must be at least 15 days after you are notified of this requirement) or we may delay the commencement of your leave until the certification is submitted.

4. You may elect to substitute accrued paid leave for unpaid FMLA leave. We ☐ will ☐ will not require that you substitute accrued paid leave for unpaid FMLA leave. If paid leave will be used the following conditions will apply: (*Explain*)

5(a). If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments as follows: (*Set forth dates, e.g., the 10th of each month, or pay periods, etc. that specifically cover the agreement with the employee.*)

(b). You have a minimum 30-day (*or, indicate longer period, if applicable*) grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, *provided* we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work. We ☐ will ☐ will not pay your share of health insurance premiums while you are on leave.

(c). We ☐ will ☐ will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on FMLA leave. If we do pay your premiums for other benefits, when you return from leave you ☐ will ☐ will not be expected to reimburse us for the payments made on your behalf.

6. You ☐ will ☐ will not be required to present a fitness-for-duty certificate prior to being restored to employment. If such certification is required but not received, your return to work may be delayed until the certification is provided.

7(a). You ☐ are ☐ are not a "key employee" as described in §825.218 of the Office of Compliance's FMLA regulations. If you are a "key employee," restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us.

(b). We ☐ have ☐ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. (*Explain (a) and/or (b) below. See §825.219 of the Office of Compliance's FMLA regulations.*)

8. While on leave, you ☐ will ☐ will not be required to furnish us with periodic reports every _______ (*indicate interval of periodic reports, as appropriate for the particular leave situation*) of your status and intent to return to work (*see §825.309 of the Office of Compliance's FMLA regulations*). If the circumstances of your leave change and you are able to return to work earlier than the date indicated on the reverse side of this form, you ☐ will ☐ will not be required to notify us at least two work days prior to the date you intend to report for work.

9. You ☐ will ☐ will not be required to furnish recertification relating to a serious health condition. (*Explain below, if necessary, including the interval between certifications as prescribed in §825.308 of the Office of Compliance's FMLA regulations.*)

Subtitle C—Regulations relating to the employing offices other than those of the Senate and the House of Representatives—C series

Chapter III—Regulations Relating to the Rights and Protections Under the Fair Labor Standards Act of 1938

Part C501—General provisions

Sec.
C501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C501.101 Purpose and scope.
C501.102 Definitions.
C501.103 Coverage.
C501.104 Administrative authority.
C501.105 Effect of Interpretations of the Labor Department.
C501.106 Application of the Portal-to-Portal Act of 1947.

VOL
142
PT
6
AP
15
—
24
1996
UMI

C501.107 [Reserved]

§C501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
Part 531 Wage payments under the Fair Labor Standards Act of 1938	Part C531
Part 541 Defining and delimiting the terms "bona fide executive," "administrative," and "professional" employees	Part C541
Part 547 Requirements of a "Bona fide thrift or savings plan"	Part C547
Part 553 Application of the FLSA to employees of public agencies	Part C553
Part 570 Child labor	Part C570

Subpart A—Matters of general applicability

§C501.101 Purpose and scope

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§206(a)(1) & (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to Sections 203(c) and 304 of the CAA, which requires that the Board promulgate regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of §203 of the CAA] except insofar as the Board may determine, for good cause shown . . . That a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

(d) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 203(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 203 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection a [of section 203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 203 of the CAA requires a regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA]."

(e) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§C501.102 Definitions

For purposes of this chapter:

(a) *CAA* means the Congressional Accountability Act of 1995 (P.L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *FLSA* or *Act* means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201 et seq.), as applied by section 203 of the CAA to covered employees and employing offices.

(c) *Covered employee* means any employee, including an applicant for employment and a former employee, of the (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment, but shall not include an intern.

(d)(1) *Employee of the Office of the Architect of the Capitol* includes any employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants;

(2) *Employee of the Capitol Police* includes any member or officer of the Capitol Police.

(e) *Employing office* and *employer* mean (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(f) *Board* means the Board of Directors of the Office of Compliance.

(g) *Office* means the Office of Compliance.

(h) *Intern* is an individual who (a) is performing services in an employing office as part of a demonstrated educational plan, and (b) is appointed on a temporary basis for a period not to exceed 12 months; *provided* that if an intern is appointed for a period shorter than 12 months, the intern may be reappointed for additional periods as long as the total length of the internship does not exceed 12 months; *provided further* that the defintion of *intern* does not include volunteers, fellows or pages.

§C501.103 Coverage

The coverage of Section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§C501.104 Administrative authority

(a) The Office of Compliance is authorized to administer the provisions of Section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of Sections 203(c) and 304 of the CAA.

§C501.105 Effect of interpretations of the Department of Labor

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutorily-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See *Batterton v. Francis*, 432 U.S. 416, 425 n.9 (1977). See also 29 C.F.R. §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No.8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: "[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *Skidmore v. Swift*, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing Section 203 of the CAA shall be "the same as substantive regulations promulgated by the Secretary of Labor" except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§C501.106 Application of the Portal-to-Portal Act of 1947

(a) Consistent with Section 225 of the CAA, the Portal to Portal Act (PPA), 29 U.S.C.

§§216 and 251 *et seq.*, is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. §259, provides in pertinent part: "[N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, . . . if he pleads and proves that the act or omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] . . . or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect."

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided*, that such regulation, order, ruling approval or interpretation had not been superseded at the time of reliance by any regulation, order, decision, or ruling of the Board or the courts.

§C501.107 [Reserved]

Part C531—Wage Payments Under the Fair Labor Standards Act of 1938

Subpart A—Preliminary Matters

Sec.

C531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

C531.1 Definitions.

C531.2 Purpose and scope.

Subpart B—Determinations of "reasonable cost" and "fair value"; effects of collective bargaining agreements

C531.3 General determinations of "reasonable cost".

C531.6 Effects of collective bargaining agreements.

A—Preliminary matters

§C531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
531.1 Definitions	C531.1
531.2 Purpose and scope	C531.2
531.3 General determinations of "reasonable cost"	C531.3
Effects of collective bargaining agreements	C531.6

§C531.1 Definitions

(a) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) *Act* means the Fair Labor Standards Act of 1938, as amended.

§C531.2 Purpose and scope

(a) Section 3(m) of the Act defines the term 'wage' to include the 'reasonable cost', as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the 'fair value' of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of 'fair value.' Whenever so determined and when applicable and pertinent, the 'fair value' of the facilities involved shall be includable as part of 'wages' instead of the actual measure of the costs of those facilities. The section provides, however, that the cost of board, lodging, or other facilities shall not be included as part of 'wages' if excluded therefrom by a bona fide collective bargaining agreement. Section 3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the 'reasonable cost' and 'fair value' of board, lodging, or other facilities having general application.

Subpart B—Determinations of "reasonable cost" and "fair value"; effects of collective bargaining agreements

§C531.3 General determinations of 'reasonable cost'

(a) The term *reasonable cost* as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5½ percent) for interest on the depreciated amount of capital invested by the employer: *Provided*, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term *good accounting practices* does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term *depreciation* includes obsolescence.

(d)(1) The cost of furnishing 'facilities' found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§C531.6 Effects of collective bargaining agreements

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be "bona fide" when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

Part C541—Defing and Delimiting the Terms "Bona Fide Executive," "Administrative," or "Professional" Capacity (Including Any Employee Employed in the Capacity of Academic Administrative Personnel or Teacher in Secondary School)

Subpart A—General regulations

Sec.

C541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

C541.01 Application of the exemptions of section 13(a)(1) of the FLSA.

C541.1 Executive.

C541.2 Administrative.

C541.3 Professional.

C541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

C541.5d Special provisions applicable to employees of public agencies.

Subpart A—General regulations

§C541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
541.1 Executive	C541.1
541.2 Administrative	C541.2
541.3 Professional	C541.3
541.5b Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees.	C541.5b
541.5d Special provisions applicable to employees of public agencies	C541.5d

§C541.01 Application of the exemptions of section 13 (a)(1) of the FLSA

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of Section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c)and 304 of the CAA,

VOL
142
PT
6
AP
15
—
24
1996
UMI

which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections under §203.

§C541.1 Executive

The term *employee employed in a bona fide executive * * ** capacity in section 13(a) (1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department of subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided*, That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: *Provided*, That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section

§C541.2 Administrative

The term *employee employed in a bona fide * * * administrative * * * capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either:

(1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or

(2) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or

(2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers of in the school system, educational establishment or institution by which employed: *Provided*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§C541.3 Professional

The term *employee employed in a bona fide * * * professional capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of:

(1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or

(3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in school system, educational establishment or institution by which employed, or

(4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided*, That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further*, That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6 1/2 times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§C541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially "equal work," the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

§C541.5d Special provisions applicable to employees of public agencies

(a) An employee of a public agency who otherwise meets the requirement of being paid on a salary basis shall not be disqualified from exemption under Sec. C541.1, C541.2, or C541.3 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because—(1) permission for its use has not been sought or has been sought and denied; (2) accrued leave has been exhausted; or (3) the employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to

a budget-required furlough shall not disqualify the employee from being paid 'on a salary basis' except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

Part C547—Requirements of a "Bona Fide Thrift or Savings Plan

Sec.
C547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance
C547.0 Scope and effect of part.
C547.1 Essential requirements of qualifications.
C547.2 Disqualifying provisions.

§C547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
547.0 Scope and effect of part	C547.0
547.1 Essential requirements of qualifications ..	C547.1
547.2 Disqualifying provisions	C547.2

§C547.0 Scope and effect of part

(a) The regulations in this part set forth the requirements of a "bona fide thrift or savings plan" under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§C547.1 Essential requirements for qualifications

(a) A "bona fide thrift or savings plan" for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in §547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: *Provided*, That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§C547.2 Disqualifying provisions

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

Part C553—Overtime Compensation: Partial Exemption for Employees Engaged in Law Enforcement and Fire Protection; Overtime and Compensatory Time-Off for Employees Whose Work Schedule Directly Depends Upon the Schedule of the House

Introduction

Sec.
C553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C553.1 Definitions.
C553.2 Purpose and scope.

Subpart C—Partial exemption for employees engaged in law enforcement and fire protection

C553.201 Statutory provisions: section 7(k).
C553.202 Limitations.
C553.211 Law enforcement activities.
C553.212 Twenty percent limitation on nonexempt work.
C553.213 Public agency employees engaged in both fire protection and law enforcement activities.
C553.214 Trainees.
C553.215 Ambulance and rescue service employees.
C553.216 Other exemptions.
C553.220 "Tour of duty" defined.
C553.221 Compensable hours of work.
C553.222 Sleep time.
C553.223 Meal time.
C553.224 "Work period" defined.
C553.225 Early relief.
C553.226 Training time.
C553.227 Outside employment.
C553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).
C553.231 Compensatory time off.
C553.232 Overtime pay requirements.
C553.233 "Regular rate" defined.

Subpart D—Compensatory time-off for overtime earned by employees whose work schedule directly depends upon the schedule of the House

C553.301 Definition of "directly depends."
C553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.
C553.303 Using compensatory time off.
C553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

Introduction

§C553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
553.1 Definitions	C553.1
553.2 Purpose and scope	C553.2
553.201 Statutory provisions: section 7(k)	C553.201
553.202 Limitations	C553.202
553.211 Law enforcement activities	C553.211
553.212 Twenty percent limitation on nonexempt work	C553.212
553.213 Public agency employees engaged in both fire protection and law enforcement activities	C553.213
553.214 Trainees	C553.214
553.215 Ambulance and rescue service employees	C553.215
553.216 Other exemptions	C553.216
553.220 "Tour of duty" defined	C553.220
553.221 Compensable hours of work	C553.221
553.222 Sleep time	C553.222
553.223 Meal time	C553.223
553.224 "Work period" defined	C553.224
553.225 Early relief	C553.225
553.226 Training time	C553.226
553.227 Outside employment	C553.227
553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)	C553.230
553.231 Compensatory time off	C553.231
553.232 Overtime pay requirements	C553.232
553.233 "Regular rate" defined	C553.233

Introduction

§C553.1 Definitions

(a) Act or FLSA means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219), as applied by the CAA.

(b) 1985 Amendments means the Fair Labor Standards Amendments of 1985 (Pub. L. 99–150).

(c) Public agency means an employing office as the term is defined in §501.102 of this chapter, including the Capitol Police.

VOL
142
PT
6
AP
15
—
24
1996
UMI

(d) Section 7(k) means the provisions of §7(k) of the FLSA as applied to covered employees and employing offices by §203 of the CAA.

§C553.2 Purpose and scope

The purpose of part C553 is to adopt with appropriate modifications the regulations of the Secretary of Labor to carry out those provisions of the FLSA relating to public agency employees as they are applied to covered employees and employing offices of the CAA. In particular, these regulations apply section 7(k) as it relates to fire protection and law enforcement employees of public agencies.

Subpart C—Partial exemption for employees engaged in law enforcement and fire protection

§C553.201 Statutory provisions: section 7(k).

Section 7(k) of the Act provides a partial overtime pay exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. This section of the Act formerly permitted public agencies to pay overtime compensation to such employees in work periods of 28 consecutive days only after 216 hours of work. As further set forth in §C553.230 of this part, the 216-hour standard has been replaced, pursuant to the study mandated by the statute, by 212 hours for fire protection employees and 171 hours for law enforcement employees. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 (or 171) hours to 28 days.

§C553.202 Limitations

The application of §7(k), by its terms, is limited to public agencies, and does not apply to any private organization engaged in furnishing fire protection or law enforcement services. This is so even if the services are provided under contract with a public agency.

Exemption requirements

§C553.211 Law enforcement activities

(a) As used in §7(k) of the Act, the term 'any employee . . . in law enforcement activities' refers to any employee (1) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by law to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power to arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

(b) Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as 'trainee,' 'probationary,' or 'permanent,' and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing, or to support activities of the type described in paragraph (g) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's law enforcement activities. See Sec. C553.215.

(c) Typically,- employees engaged in law enforcement activities include police who are regularly employed and paid as such. Other agency employees with duties not specifically mentioned may, depending upon the particular facts and pertinent statutory provisions in that jurisdiction, meet the three tests described above. If so, they will also qualify as law enforcement officers. Such employees might include, for example, any law enforcement employee within the legislative branch concerned with keeping public peace and order and protecting life and property.

(d) Employees who do not meet each of the three tests described above are not engaged in (law enforcement activities' as that term is used in sections 7(k). Employees who normally would not meet each of these tests include:

(1) Building inspectors (other than those defined in Sec. C553.213(a)),

(2) Health inspectors,

(3) Sanitarians,

(4) civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points,

(5) Civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices,

(6) Wage and hour compliance officers,

(7) Equal employment opportunity compliance officers, and

(8) Building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(e) The term 'any employee in law enforcement activities' also includes, by express reference, 'security personnel in correctional institutions.' Typically, such facilities may include precinct house lockups. Employees of correctional institutions who qualify as security personnel for purposes of the section 7(k) exemption are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution. These employees are considered to be engaged in law enforcement activities regardless of their rank or of their status as 'trainee,' 'probationary,' or 'permanent,' and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

(f) Not included in the term 'employee in law enforcement activities' are the so-called 'civilian' employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

§C553.212 Twenty percent limitation on nonexempt work

(a) Employees engaged in fire protection or law enforcement activities as described in Sec. C553.210 and C553.211, may also engage in some nonexempt work which is not performed as an incident to or in conjunction with their fire protection or law enforcement activities. For example, firefighters who work for forest conservation agencies may, during slack times, plant trees and perform other conservation activities unrelated to their firefighting duties. The performance of such nonexempt work will not defeat the §7(k) exemption unless it exceeds 20 percent of the total hours worked by that employee during the workweek or applicable work period. A person who spends more than 20 percent of his/her working time in nonexempt activities is not considered to be an employee engaged in fire protection or law enforcement activities for purposes of this part.

(b) Public agency fire protection and law enforcement personnel may, at their own option, undertake employment for the same employer on an occasional or sporadic and part-time basis in a different capacity from their regular employment. The performance of such work does not affect the application of the §7(k) exemption with respect to the regular employment. In addition, the hours of work in the different capacity need not be counted as hours worked for overtime purposes on the regular job, nor are such hours counted in determining the 20 percent tolerance for nonexempt work discussed in paragraph (a) of this section.

§C553.213 Public agency employees engaged in both fire protection and law enforcement activities

(a) Some public agencies have employees (often called 'public safety officers') who engage in both fire protection and law enforcement activities, depending on the agency needs at the time. This dual assignment would not defeat the section 7(k) exemption, provided that each of the activities performed meets the appropriate tests set forth in Sec. C553.210 and C553.211. This is so regardless of how the employee's time is divided between the two activities. However, all time spent in nonexempt activities by public safety officers within the work period, whether performed in connection with fire protection or law enforcement functions, or with neither, must be combined for purposes of the 20 percent limitation on nonexempt work discussed in Sec.C553.212.

(b) As specified in Sec.C553.230, the maximum hours standards under section 7(k) are different for employees engaged in fire protection and for employees engaged in law enforcement. For those employees who perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§C553.214 Trainees

The attendance at a bona fide fire or police academy or other training facility, when required by the employing agency, constitutes engagement in activities under section 7(k) only when the employee meets all the applicable tests described in Sec. C553.210 or Sec. C553.211 (except for the power of arrest for law enforcement personnel), as the case may be. If the applicable tests are met, then basic training or advanced training is considered incidental to, and part of, the employee's fire protection or law enforcement activities.

§C553.215 Ambulance and rescue service employees

Ambulance and rescue service employees of a public agency other than a fire protection or law enforcement agency may be

treated as employees engaged in fire protection or law enforcement activities of the type contemplated by §7(k) if their services are substantially related to firefighting or law enforcement activities in that (1) the ambulance and rescue service employees have received training in the rescue of fire, crime, and accident victims or firefighters or law enforcement personnel injured in the performance of their respective duties, and (2) the ambulance and rescue service employees are regularly dispatched to fires, crime scenes, riots, natural disasters and accidents. As provided in Sec. C553.213(b), where employees perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§C553.216 Other exemptions

Although the 1974 Amendments to the FLSA as applied by the CAA provide special exemptions for employees of public agencies engaged in fire protection and law enforcement activities, such workers may also be subject to other exemptions in the Act, and public agencies may claim such other applicable exemptions in lieu of §7(k). For example, section 13(a)(1) as applied by the CAA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in Part C541. The section 13(a)(1) exemption can be claimed for any fire protection or law enforcement employee who meets all of the tests specified in part C541 relating to duties, responsibilities, and salary. Thus, high ranking police officials who are engaged in law enforcement activities, may also, depending on the facts, qualify for the section 13(a)(1) exemption as "executive" employees. Similarly, certain criminal investigative agents may qualify as "administrative" employees under section 13(a)(1).

Tour of duty and compensable hours of work rules

§C553.220 "Tour of duty" defined

(a) The term "tour of duty" is a unique concept applicable only to employees for whom the section 7(k) exemption is claimed. This term, as used in section 7(k), means the period of time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Such periods include "shifts" assigned to employees often days in advance of the performance of the work. Scheduled periods also include time spent in work outside the"shift" which the public agency employer assigns. For example, a police officer may be assigned to crowd control during a parade or other special event outside of his or her shift.

(b) Unscheduled periods include time spent in court by police officers, time spent handling emergency situations, and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance.

(c) The tour of duty does not include time spent working for a separate and independent employer in certain types of special details as provided in Sec. C553.227.

§C553.221 Compensable hours of work

(a) The rules under the FLSA as applied by the CAA on compensable hours of work are applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (Sec. C553.222) apply to both law enforcement and firefighting employees for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of firefighters (Sec. C553.223).

(b) Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

(c) Time spent away from the employer's premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, where a police station must be evacuated because of an electrical failure and the employees are expected to remain in the vicinity and return to work after the emergency has passed, the entire time spent away from the premises is compensable. The employees in this example cannot use the time for their personal pursuits.

(d) An employee who is not required to remain on the employer's premises but is merely required to leave word at home or with company officials where he or she may be reached is not working while on call. Time spent at home on call may or may not be compensable depending on whether the restrictions placed on the employee preclude using the time for personal pursuits. Where, for example, a firefighter has returned home after the shift, with the understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensable. On the other hand, where the conditions placed on the employee's activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call is compensable.

(e) Normal home to work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer's premises.

(f) A police officer, who has completed his or her tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time even where the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls is compensable.

§C553.222 Sleep time

(a) Where a public agency elects to pay overtime compensation to firefighters and/or law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude sleep time from hours worked if all the conditions for the exclusion of such time are met.

(b) Where the employer has elected to use the section 7(k) exemption, sleep time cannot be excluded from the compensable hours of work where

(1) The employee is on a tour of duty of less than 24 hours, and

(2) Where the employee is on a tour of duty of exactly 24 hours.

(c) Sleep time can be excluded from compensable hours of work, however, in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude such time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes means at least 5 hours), the entire time must be counted as hours of work.

§C553.223 Meal time

(a) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude meal time from hours worked if all the statutory tests for the exclusion of such time are met.

(b) If a public agency elects to use the section 7(k) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less, provided that the employee is completely relieved from duty during the meal period, and all the other statutory tests for the exclusion of such time are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., stakeouts'), they are not considered to be completely relieved from duty, and any such meal periods would be compensable.

(c) With respect to firefighters employed under section 7(k), who are confined to a duty station, the legislative history of the Act indicates Congressional intent to mandate a departure from the usual FLSA 'hours of work' rules and adoption of an overtime standard keyed to the unique concept of 'tour of duty' under which firefighters are employed. Where the public agency elects to use the section 7(k) exemption for firefighters, meal time cannot be excluded from the compensable hours of work where (1) the firefighter is on a tour of duty of less than 24 hours, and (2) where the firefighter is on a tour of duty of exactly 24 hours.

(d) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the statutory tests for exclusion of such hours are met.

§C553.224 "Work period" defined

(a) As used in section 7(k), the term 'work period' refers to any established and regularly recurring period of work which, under the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28 consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the duty cycle or pay period or with a particular day of the week or hour of the day. Once the beginning and ending time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within the period. The beginning and ending of the work period may be changed, provided that the change is intended to be permanent and is not designed to evade the overtime compensation requirements of the Act.

(b) An employer may have one work period applicable to all employees, or different work periods for different employees or groups of employees.

VOL 142 PT 6 AP 15—24 1996 UMI

§C553.225 Early relief

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work.

§C553.226 Training time

(a) The general rules for determining the compensability of training time under the FLSA apply to employees engaged in law enforcement or fire protection activities.

(b) While time spent in attending training required by an employer is normally considered compensable hours of work, following are situations where time spent by employees in required training is considered to be noncompensable:

(1) Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

(2) Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government, does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class or at a training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§C553.227 Outside employment

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) the special detail work is performed solely at the employee's option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department may maintain a roster of officers who wish to perform such work. The department may also select the officers for special details from a list of those wishing to participate, negotiate their pay, and retain a fee for administrative expenses. The department may require that the separate and independent employer pay the fee for such services directly to the department, and establish procedures for the officers to receive their pay for the special details through the agency's payroll system. Finally, the department may require that the officers observe their normal standards of conduct during such details and take disciplinary action against those who fail to do so.

(e) Section 7(p)(1) applies to special details even where a State law or local ordinance requires that such work be performed and that only law enforcement or fire protection employees of a public agency in the same jurisdiction perform the work. For example, a city ordinance may require the presence of city police officers at a convention center during concerts or sports events. If the officers perform such work at their own option, the hours of work need not be combined with the hours of work for their primary employer in computing overtime compensation.

(f) The principles in paragraphs (d) and (e) of this section with respect to special details of public agency fire protection and law enforcement employees under section 7(p)(1) are exceptions to the usual rules on joint employment set forth in part 791 of this title.

(g) Where an employee is directed by the public agency to perform work for a second employer, section 7(p)(1) does not apply. Thus, assignments of police officers outside of their normal work hours to perform crowd control at a parade, where the assignments are not solely at the option of the officers, would not qualify as special details subject to this exception. This would be true even if the parade organizers reimburse the public agency for providing such services.

(h) Section 7(p)(1) does not prevent a public agency from prohibiting or restricting outside employment by its employees.

Overtime compensation rules

§C553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)

(a) For those employees engaged in fire protection activities who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 212 as the number of days in the work period bears to 28.

(b) For those employees engaged in law enforcement activities (including security personnel in correctional institutions) who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 171 as the number of days in the work period bears to 28.

(c) The ratio of 212 hours to 28 days for employees engaged in fire protection activities is 7.57 hours per day (rounded) and the ratio of 171 hours to 28 days for employees engaged in law enforcement activities is 6.11 hours per day (rounded). Accordingly, overtime compensation (in premium pay or compensatory time) is required for all hours worked in excess of the following maximum hours standards (rounded to the nearest whole hour):

MAXIMUM HOURS STANDARDS

Work period (days)	Fire protection	Law enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

§C553.231 Compensatory time off

(a) Law enforcement and fire protection employees who are subject to the section 7(k) exemption may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum for their work period as set forth in Sec. C553.230.

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if a firefighter's work period is 28 consecutive days, and he or she works 80 hours in each of the first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same firefighter had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

§C553.232 Overtime pay requirements

If a public agency pays employees subject to section 7(k) for overtime hours worked in cash wages rather than compensatory time off, such wages must be paid at one and one-half times the employees' regular rates of pay.

§C553.233 'Regular rate' defined

The statutory rules for computing an employee's 'regular rate', for purposes of the Act's overtime pay requirements are applicable to employees or whom the section 7(k) exemption is claimed when overtime compensation is provided in cash wages.

Subpart D—Compensatory time-off for overtime earned by employees whose work schedule directly depends upon the schedule of the House and the Senate

§C553.301 Definition of "directly depends"

For the purposes of this Part, a covered employee's work schedule "directly depends" on the schedule of the House of Representatives and the Senate only if the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House and the Senate.

§C553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House and Senate

No employing office shall be deemed to have violated section 203(a)(1) of the CAA, which applies the protections of section 7(a) of the Fair Labor Standards Act ("FLSA") to covered employees and employing office,

by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under section 7(a) of the FLSA where the employee's work schedule directly depends on the schedule of the House of Representatives or the Senate within the meaning of §C553.301, and: (a) the employee is compensated at the rate of time-and-a-half in pay for all hours in excess of 40 and up to 60 hours in a workweek, and (b) the employee is compensated at the rate of time-and-a-half in either pay or in time off for all hours in excess of 60 hours in a workweek.

§C553.303 Using compensatory time off

An employee who has accrued compensatory time off under §C553.302 upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of the request. An employee may renew the request at a subsequent time. An employing office may also, upon reasonable notice, require an employee to use accrued compensatory time-off.

§C553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service

An employee who has accrued compensatory time authorized by this regulation shall, upon termination of employment, be paid for the unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

Part C570—Child Labor Regulations

Subpart A—General

Sec.

C570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

C570.1 Definitions.

C570.2 Minimum age standards.

Subpart C—Employment of minors between 14 and 16 years of age (child labor reg. 3)

C570.31 Determination.

C570.32 Effect of this subpart.

C570.33 Occupations.

C570.35 Periods and conditions of employment.

Subpart E—Occupations particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being

C570.50 General.

C570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1).

C570.52 Occupations of motor-vehicle driver and outside helper (Order 2).

C570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5).

C570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7).

C570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8).

C570.62 Occupations involved in the operation of bakery machines (Order 11).

C570.63 Occupations involved in the operation of paper-products machines (Order 12).

C570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14).

C570.66 Occupations involved in wrecking and demolition operations (Order 15).

C570.67 Occupations in roofing operations (Order 16).

C570.68 Occupations in excavation operations (Order 17).

Subpart A—General

§C570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance Regulations under Section 202 of the CAA:

Secretary of Labor regulations	*OC regulations*
570.1 Definitions	C570.1
570.2 Minimum age standards	C570.2
570.31 Determinations	C570.31
570.32 Effect of this subpart	C570.32
570.33 Occupations	C570.33
570.35 Periods and conditions of employment	C570.35
570.50 General	C570.50
570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1)	C570.51
570.52 Occupations of motor-vehicle driver and outside helper (Order 2)	C570.52
570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5)	C570.55
570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7)	C570.58
570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8)	C570.59
570.62 Occupations involved in the operation of bakery machines (Order 11)	C570.62
570.63 Occupations involved in the operation of paper-products machines (Order 12)	C570.63
570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14)	C570.65
570.66 Occupations involved in wrecking and demolition operations (Order 15)	C570.66
570.67 Occupations in roofing operations (Order 16)	C570.67
570.68 Occupations in excavation operations (Order 17)	C570.68

§C570.1 Definitions

As used in this part:

(a) *Act* means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219).

(b) *Oppressive child labor* means employment of a minor in an occupation for which he does not meet the minimum age standards of the Act, as set forth in Sec. 570.2 of this subpart.

(c) *Oppressive child labor age* means an age below the minimum age established under the Act for the occupation in which a minor is employed or in which his employment is contemplated.

(d) [Reserved]

(e) [Reserved]

(f) *Secretary or Secretary of Labor* means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(g) *Wage and Hour Division* means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

(h) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative.

§C570.2 Minimum age standards

(a) All occupations except in agriculture. (1) The Act, in section 3(1), sets a general 16-year minimum age which applies to all employment subject to its child labor provisions in any occupation other than in agriculture, with the following exceptions:

(i) The Act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being (see subpart C of this part); and

(ii) The Act sets an 18-year minimum age with respect to employment in any occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such age or detrimental to their health or well-being.

(2) The Act exempts from its minimum age requirements the employment by a parent of his own child, or by a person standing in place of a parent of a child in his custody, except in occupations to which the 18-year age minimum applies and in manufacturing and mining occupations.

Subpart B [reserved]

Subpart C—Employment of minors between 14 and 16 years of age (child labor reg. 3)

§C570.31 Determination

The employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

§C570.32 Effect of this subpart

In all occupations covered by this subpart the employment (including suffering or permitting to work) by an employer of minor employees between 14 and 16 years of age for the periods and under the conditions specified in § 570.35 shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938.

§C570.33 Occupations

This subpart shall apply to all occupations other than the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

VOL
142
PT
6
AP
15
—
24
1996
UMI

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations which the Secretary of Labor may, pursuant to section 3(1) of the Fair Labor Standards Act and Reorganization Plan No. 2, issued pursuant to the Reorganization Act of 1945, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being;

(f) Occupations in connection with:

(1) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

(2) Warehousing and storage;

(3) Communications and public utilities;

(4) Construction (including demolition and repair); except such office (including ticket office) work, or sales work, in connection with paragraphs (f)(1), (2), (3), and (4) of this section, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

§ C570.35 Periods and conditions of employment

(a) Except as provided in paragraph (b) of this section, employment in any of the occupations to which this subpart is applicable shall be confined to the following periods:

(1) Outside school hours;

(2) Not more than 40 hours in any 1 week when school is not in session;

(3) Not more than 18 hours in any 1 week when school is in session;

(4) Not more than 8 hours in any 1 day when school is not in session;

(5) Not more than 3 hours in any 1 day when school is in session;

(6) Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

SUBPART D [RESERVED]

Subpart E—Occupations particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being

§ C570.50 General

(a) Higher standards. Nothing in this subpart shall authorize non-compliance with any Federal law or regulation establishing a higher standard. If more than one standard within this subpart applies to a single activity the higher standard shall be applicable.

(b) Apprentices. Some sections in this subpart contain an exemption for the employment of apprentices. Such an exemption shall apply only when: (1) The apprentice is employed in a craft recognized as an apprenticeable trade; (2) the work of the apprentice in the occupations declared particularly hazardous is incidental to his training; (3) such work is intermittent and for short periods of time and is under the direct and close supervision of a journeyman as a necessary part of such apprentice training; and (4) the apprentice is registered by the Executive Director of the Office of Compliance as employed in accordance with the standards established by the Bureau of Apprenticeship and Training of the United States Department of Labor.

(c) Student-learners. Some sections in this subpart contain an exemption for the employment of student-learners. Such an exemption shall apply when:

(1) The student-learner is enrolled in a course of study and training in a cooperative vocational training program under a recognized State or local educational authority or in a course of study in a substantially similar program conducted by a private school and;

(2) Such student-learner is employed under a written agreement which provides:

(i) That the work of the student-learner in the occupations declared particularly hazardous shall be incidental to his training;

(ii) That such work shall be intermittent and for short periods of time, and under the direct and close supervision of a qualified and experienced person;

(iii) That safety instructions shall be given by the school and correlated by the employer with on-the-job training; and

(iv) That a schedule of organized and progressive work processes to be performed on the job shall have been prepared. Each such written agreement shall contain the name of student-learner, and shall be signed by the employer and the school coordinator or principal. Copies of each agreement shall be kept on file by both the school and the employer. This exemption for the employment of student-learners may be revoked in any individual situation where it is found that reasonable precautions have not been observed for the safety of minors employed thereunder. A high school graduate may be employed in an occupation in which he has completed training as provided in this paragraph as a student-learner, even though he is not yet 18 years of age.

§ C570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1)

(a) Finding and declaration of fact. The following occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components are particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being:

(1) All occupations in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in paragraph (a)(2) of this section) manufacturing or storing explosives or articles containing explosive components except where the occupation is performed in a 'nonexplosives area' as defined in paragraph (b)(3) of this section.

(2) The following occupations in or about any plant or establishment manufacturing or storing small-arms ammunition not exceeding .60 caliber in size, shotgun shells, or blasting caps when manufactured or stored in conjunction with the manufacture of small-arms ammunition:

(i) All occupations involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small-arms ammunition and all other occupations requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.

(ii) All occupations involved in the manufacturing, transporting, or handling of primers and all other occupations requiring the performance of any duties in the same building in which primers are manufactured.

(iii) All occupations involved in the priming of cartridges and all other occupations requiring the performance of any duties in the same workroom in which rim-fire cartridges are primed.

(iv) All occupations involved in the plate loading of cartridges and in the operation of automatic loading machines.

(v) All occupations involved in the loading, inspecting, packing, shipping and storage of blasting caps.

(b) Definitions. For the purpose of this section:

(1) The term *plant or establishment manufacturing or storing explosives or articles containing explosive component* means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.

(2) The terms *explosives* and *articles containing explosive components* mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the Interstate Commerce Commission in regulations for the transportation of explosives and other dangerous substances by common carriers (49 CFR parts 71 to 78) issued pursuant to the Act of June 25, 1948 (62 Stat.739; 18 U.S.C. 835).

(3) An area meeting all of the criteria in paragraphs (b)(3) (i) through (iv) of this section shall be deemed a "nonexplosives area":

(i) None of the work performed in the area involves the handling or use of explosives;

(ii) The area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings;

(iii) The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and

(iv) Satisfactory controls have been established to prevent employees under 18 years of age within the area from entering any area in or about the plant which does not meet criteria of paragraphs (b)(3) (i) through (iii) of this section.

§ C570.52 Occupations of motor-vehicle driver and outside helper (Order 2)

(a) Findings and declaration of fact. Except as provided in paragraph (b) of this section, the occupations of motor-vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in § C570.68(a) are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) Exemption—Incidental and occasional driving. The findings and declaration in paragraph (a) of this section shall not apply to the operation of automobiles or trucks not exceeding 6,000 pounds gross vehicle weight if such driving is restricted to daylight hours; *provided*, such operation is only occasional and incidental to the minor's employment; that the minor holds a State license valid for the type of driving involved in the job performed and has completed a State approved driver education course; and *provided further*, that the vehicle is equipped with a seat belt or similar restraining device for the driver and for each helper, and the employer has instructed each minor that such belts or other devices must be used. This paragraph shall not be applicable to any occupation of motor-vehicle driver which involves the towing of vehicles.

(c) Definitions. For the purpose of this section:

(1) The term *motor vehicle* shall mean any automobile, truck, truck-tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

(2) The term *driver* shall mean any individual who, in the course of employment, drives a motor vehicle at any time.

(3) The term *outside helper* shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

(4) The term *gross vehicle weight* includes the truck chassis with lubricants, water and a full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body and special chassis and body equipment, and payload.

§ C570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5)

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven wood-working machines are particularly hazardous for minors between 16 and 18 years of age:

(1) The occupation of operating power-driven woodworking machines, including supervising or controlling the operation of such machines, feeding material into such machines, and helping the operator to feed material into such machines but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.

(3) The occupations of off-bearing from circular saws and from guillotine-action veneer clippers.

(b) Definitions. As used in this section:

(1) The term *power-driven woodworking machines* shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer.

(2) The term *off-bearing* shall mean the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this section include: (i) The removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expulsion roller, and (ii) the following operations when they do not involve the removal of material or refuse directly from a saw table or from the point of operation: The carrying, moving, or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling, or loading of materials.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec. 570.50 (b) and (c).

§ C570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7)

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven hoisting apparatus are particularly hazardous for minors between 16 and 18 years of age:

(1) Work of operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic operation passenger elevator or an electric or air-operated hoist not exceeding one ton capacity.

(2) Work which involves riding on a manlift or on a freight elevator, except a freight elevator operated by an assigned operator.

(3) Work of assisting in the operation of a crane, derrick, or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like occupations.

(b) Definitions. As used in this section:

(1) The term *elevator* shall mean any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators (including portable elevators or tiering machines), but shall not include dumbwaiters.

(2) The term *crane* shall mean a power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot-pouring, jib, locomotive, motor-truck, overhead traveling, pillar jib, pintle, portal, semi-gantry, semi-portal, storage bridge, tower, walking jib, and wall cranes.

(3) The term *derrick* shall mean a power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with an hoisting mechanism or operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy and stiff-leg derrick.

(4) The term *hoist* shall mean a power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term shall include all types of hoists, such as base mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum and trolley suspension hoists.

(5) The term *high-lift* truck shall mean a power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a (fork or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving) fork, or other attachments for handling specific loads. The term shall mean and include highlift trucks known under such names as fork lifts, fork trucks, fork-lift trucks, tiering trucks, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of but not the tiering of material.

(6) The term *manlift* shall mean a device intended for the conveyance of persons which consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; such belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom.

(c) Exception. (1) This section shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all such doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive over travel by the car.

(2) For the purpose of this exception the term *automatic elevator* shall mean a passenger elevator, a freight elevator, or a combination passenger-freight elevator, the operation of which is controlled by pushbuttons in such a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic.

(3) For the purpose of this exception, the term *automatic signal operation elevator* shall mean an elevator which is started in response to the operation of a switch (such as a lever or pushbutton) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors-from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

§ C570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8)

(a) Finding and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operator of or helper on the following power-driven metal forming, punching, and shearing machines:

(i) All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.

(ii) All pressing or punching machines, such as punch presses except those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the area between the dies; power presses; and plate punches.

(iii) All bending machines, such as apron brakes and press brakes.

(iv) All hammering machines, such as drop hammers and power hammers.

(v) All shearing machines, such as guillotine or squaring shears; alligator shears; and rotary shears.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those with automatic feed and ejection.

(b) Definitions. (1) The term *operator* shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(2) The term *helper* shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.

(3) The term *forming, punching, and shearing machines* shall mean power-driven metal-working machines, other than machine tools, which change the shape of or cut metal by means of tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving parts. Types of forming, punching, and shearing machines enumerated in this section are the machines to which the designation is by custom applied.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec. 570.50 (b) and (c).

VOL
142
PT
6
AP
15
—
24
1996
UMI

§C570.62 Occupations involved in the operation of bakery machines (Order 11)

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven bakery machines are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operating, assisting to operate, or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machine; or cake cutting band saw.

(2) The occupation of setting up or adjusting a cookie or cracker machine.

§C570.63 Occupations involved in the operation of paper-products machines (Order 12)

(a) Findings and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operation or assisting to operate any of the following power-driven paper products machines:

(i) Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single-or-double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, or vertical slotter.

(ii) Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those which do not involve hand feeding.

(b) Definitions. (1) The term *operating or assisting to operate* shall mean all work which involves starting or stopping a machine covered by this section, placing or removing materials into or from the machine, or any other work directly involved in operating the machine. The term does not include the stacking of materials by an employee in an area nearby or adjacent to the machine where such employee does not place the materials into the machine.

(2) The term *paper products* machine shall mean all power-driven machines used in:

(i) The remanufacture or conversion of paper or pulp into a finished product, including the preparation of such materials for recycling; or

(ii) The preparation of such materials for disposal. The term applies to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishment.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

§C570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14)

(a) Findings and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operator of or helper on the following power-driven fixed or portable machines except machines equipped with full automatic feed and ejection:

(i) Circular saws.

(ii) Band saws.

(iii) Guillotine shears.

(2) The occupations of setting-up, adjusting, repairing, oiling, or cleaning circular saws, band saws, and guillotine shears.

(b) Definitions. (1) The term *operator* shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(2) The term *helper* shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.

(3) The term *machines equipped with full automatic feed and ejection* shall mean machines covered by this Order which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any part of his body in the point-of-operation area.

(4) The term *circular saw* shall mean a machine equipped with a thin steel disc having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.

(5) The term *band saw* shall mean a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.

(6) The term *guillotine shear* shall mean a machine equipped with a movable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in §570.50 (b) and (c).

§C570.66 Occupations involved in wrecking and demolition operations (Order 15)

(a) Finding and declaration of fact. All occupations in wrecking and demolition operations are particularly hazardous for the employment of minors between 16 and 18 years of age and detrimental to their health and well-being.

(b) Definition. The term *wrecking and demolition operations* shall mean all work, including clean-up and salvage work, performed at the site of the total or partial razing demolishing or dismantling of a building, bridge, steeple, tower, chimney, other structure.

§C570.67 Occupations in roofing operations (Order 16)

(a) Finding and declaration of fact. All occupations in roofing operations are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health.

(b) Definition of roofing operations. The term *roofing operations* shall mean all work performed in connection with the application of weatherproofing materials and substances (such as tar or pitch, asphalt prepared paper, tile, slate, metal, translucent materials, and shingles of asbestos, asphalt or wood) to roofs of buildings or other structures. The term shall also include all work performed in connection with: (1) The installation of roofs, including related metal work such as flashing and (2) alterations, additions, maintenance, and repair, including painting and coating, of existing roofs. The term shall not include gutter and downspout work; the construction of the sheathing or base of roofs; or the installation of television antennas, air conditioners, exhaust and ventilating equipment, or similar appliances attached to roofs.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

§C570.68 Occupations in excavation operations (Order 17)

(a) Finding and declaration of fact. The following occupations in excavation operations are particularly hazardous for the employment of persons between 16 and 18 years of age: (1) Excavating, working in, or backfilling (refilling) trenches, except (i) manually excavating or manually backfilling trenches that do not exceed four feet in depth at any point, or (ii) working in trenches that do not exceed four feet in depth at any point.

(2) Excavating for buildings or other structures or working in such excavations, except: (i) Manually excavating to a depth not exceeding four feet below any ground surface adjoining the excavation, or (ii) working in an excavation not exceeding such depth, or (iii) working in an excavation where the side walls are shored or sloped to the angle of repose.

(3) Working within tunnels prior to the completion of all driving and shoring operations.

(4) Working within shafts prior to the completion of all sinking and shoring operations.

(b) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec.C570.50 (b) and (c).

Exclusion for employees of the Capitol Police

None of the limitations on the use of lie detector tests by employing offices set forth in Section 204 of the CAA apply to the Capitol Police. This exclusion from the limitations of Section 204 of the CAA applies only with respect to Capitol Police employees. Except as otherwise provided by law or these regulations, this exclusion does not extend to contractors or nongovernmental agents of the Capitol Police; nor does it extend to the Capitol Police with respect to employees of a private employer or an otherwise covered employing office with which the Capitol Police has a contractual or other business relationship.

Scope of regulations

These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 204(a)(3) and 304 of the CAA, which authorize the Board to issue regulations governing the use of lie detector tests by the Capitol Police. The regulations issued by the Board herein are on all matters for which section 204(a)(3) of the CAA requires a regulation to be issued.

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL AND ISSUANCE OF INTERIM REGULATIONS

Summary: The Board of Directors, Office of Compliance, after considering comments to its Notice of Proposed Rulemaking published November 28, 1995 in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations implementing Sections 204(a) and (b) of the Congressional Accountability Act of 1995 ("CAA"). The Board is also adopting and issuing such regulations as interim regulations for the House of Representatives, the Senate and the employing offices of the instrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions of approval are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540-1999. Telephone: (202) 724-9250.

Background and Summary

Supplementary Information: The Congressional Accountability Act of 1995 ("CAA"), P.L. 104-1, 109 Stat. 3, was enacted on January 23, 1995. 2 U.S.C. §§1301-1438. In general, the CAA applies the rights and protections of eleven federal labor and employment statutes to covered employees and employing offices within the legislative branch. Section 204(a) of the CAA provides that no employing office may require any covered employee (including a covered employee who does not work in that employing office) to take a lie detector test where such test would be prohibited if required by an employer under paragraphs (1), (2) or (3) of section 3 of the Employee Polygraph Protection Act of 1988, 29 U.S.C. §2002(1), (2) or (3) ("EPPA"). 2 U.S.C. §1314(a). Section 204(a) of the EPPA also applies the waiver provisions of section 6(d) of the EPPA (29 U.S.C. §2005(d)) to covered employees. *Id.* Section 225(f) of the CAA provides that, "[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions [of the EPPA] shall apply under this Act." 2 U.S.C. §1361(f)(1).

Section 204(c) of the CAA requires the Board of Directors of the Office of Compliance issue regulations implementing the section. 2 U.S.C. §1314(c). Section 204(c) further states that such regulations "shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." *Id.*

To obtain input from interested persons on the content of these regulations, the Board published for comment a Notice of Proposed Rulemaking in the Congressional Record 141 Cong. Rec. S17656 (daily ed., Nov. 28, 1995) ("NPR"), inviting comments from interested parties regarding the proposed regulations. The Board received three comments on the proposed regulations from interested parties. Two of the comments, without elaboration, supported the regulations as proposed. Only one commenter took issue with certain sections of the proposed regulations and the Board's resolution of certain issues raised in the NPR. In addition, the Office has sought consultations with the Secretary of Labor regarding the proposed regulations, pursuant to section 304(g) of the CAA.

After full consideration of the comments received in response to the proposed rule, the Board has adopted and is submitting these final regulations for approval by the Congress. Moreover, pursuant to sections 411 and 304, the Board is also adopting and issuing such regulations as interim regulations for the House, the Senate and the employing offices of the instrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions of approval are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

I. Summary of Comments and Board's Final Rules

A. Exemption for national defense and security

One commenter suggested that proposed section 1.11, implementing the national defense and security exemption, be modified. The commenter suggested that, as proposed, the regulatory exemption for national defense and security could be construed to permit claims by employees that an employing office violated section 204 of the CAA by conveying information that ultimately led to a lie detector test, even though the subsequent law enforcement investigation was outside of that employing office's control. Moreover, the commenter argued that proposed section 1.11(d), which states that the Executive Branch must administer the tests "in accordance with applicable Department of Defense directives and regulations," should be deleted since administration of such tests by the Executive Branch is outside of the control of employing offices. Finally, this commenter argued that proposed section 1.11 should refer to all of the exemptions under section 7(b) of the EPPA, not just to subsection (b)(2) of section 7 of the EPPA.

Contrary to the commenter's concern, section 1.11(d) cannot reasonably be construed to permit claims by employees that the employing office has violated section 204 of the CAA merely by conveying information to law enforcement authorities. Section 1.11 of the regulation states that lie detector tests performed by the Federal Government in the performance of any intelligence or counterintelligence function are not within any of the prohibitions of section 204 of the CAA. Thus, if the conditions of section 1.11 are met, no employing office should be held liable under section 204 of the CAA for indirectly causing the Executive Branch to perform such tests by conveying a report to Federal Government intelligence or counterintelligence officers. Moreover, section 1.4(b) of the regulations makes it clear that employing offices will ordinarily not be liable under section 204 of the CAA for making reports to law enforcement authorities or for cooperating in law enforcement investigations.

Nor is the Board inclined to modify the requirement in section 1.11(d) that any tests administered under the national security exemption be in accordance with applicable Department of Defense directives and regulations. That requirement is taken verbatim from the identical Executive Branch regulations that are applicable to private sector employers who also have no control over the requirements of the Department of Defense directives and regulations. The Board has not been presented with any reason that would constitute good cause to deviate from these provisions.

Finally, the Board was not provided with sufficient information to determine whether the portions of the Secretary's regulation implementing section 7(b) of the EPPA that were not included in proposed section 1.11 are applicable to the legislative branch. However, out of an abundance of caution, the Board's final regulation shall include, with appropriate modifications, the entirety of the implementing regulation, as suggested by the commenter.

B. Exemption for employees of the Capitol Police

The commenter also stated that section 1.4(e) of the regulations, which provides that the Capitol Police may administer lie detector tests to non-Capitol Police employees only during the course of an "ongoing investigation" by the Capitol Police, is not authorized by the CAA. The Board disagrees.

Section 204(a)(3) gives the Board authority to adopt limitations on the nature and scope of lie detector use by the Capitol Police. This is such a provision.

Contrary to the commenter's suggestion, this regulation strikes an appropriate balance between giving the Capitol Police authority to use lie detector tests for legitimate law enforcement purposes and protecting against overbroad and unreasonable use of lie detector tests by the Capitol Police with respect to covered employees not employed by it. Specifically, section 1.4(e) of the regulation makes it clear that the regulation excluding the Capitol Police from section 204 of the CAA with respect to its own employees is not a total exemption of the Capitol Police from the prohibitions on the employment-related use of lie detector tests. It prohibits employing offices other than the Capitol Police from avoiding the prohibitions of section 204 of the CAA by administering lie detector tests on their covered employees indirectly through the Capitol Police under circumstances where such tests would not be warranted by legitimate law enforcement investigative considerations.

Application of Rights and Protections of the Employee Polygraph Protection Act of 1988

Subpart A—General

Section
1.1 Purpose and scope.
1.2 Definitions.
1.3 Coverage.
1.4 Prohibitions on lie detector use.
1.5 Effect on other laws or agreements.
1.6 Notice of protection.
1.7 Authority of the Board.
1.8 Employment relationship.

Subpart B—Exemptions

1.10 Exclusion for employees of the Capitol Police. [Reserved]
1.11 Exemption for national defense and security.
1.12 Exemption for employing offices conducting investigations of economic loss or injury.
1.13 Exemption for employing offices authorized to manufacture, distribute, or dispense controlled substances.

Subpart C—Restrictions on polygraph usage under exemptions

1.20 Adverse employment action under ongoing investigation exemption.
1.21 Adverse employment action under controlled substance exemption.
1.22 Rights of examinee—general.
1.23 Rights of examinee—pretest phase.
1.24 Rights of examinee—actual testing phase.
1.25 Rights of examinee—post-test phase.
1.26 Qualifications of and requirements for examiners.

Subpart D—Recordkeeping and disclosure requirements

1.30 Records to be preserved for 3 years.
1.35 Disclosure of test information.

Subpart E—Duration of interim rules

1.40 [Reserved]
Appendix A—Notice to Examinee
Authority: Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. 1314(c)

Subpart A—General

Sec. 1.1 Purpose and scope.

Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA")

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142
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directly applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 204(a) of the CAA, 2 U.S.C. §1314(a) provides that no employing office may require any covered employee (including a covered employee who does not work in that employing office) to take a lie detector test where such test would be prohibited if required by an employer under paragraphs (1), (2) or (3) of section 3 of the Employee Polygraph Protection Act of 1988 (EPPA), 29 U.S.C. §2002(1), (2) or (3). The purpose of this part is to set forth the regulations to carry out the provisions of Section 204 of the CAA.

Subpart A contains the provisions generally applicable to covered employers, including the requirements relating to the prohibitions on lie detector use. Subpart B sets forth rules regarding the statutory exemptions from application of section 204 of the CAA. Subpart C sets forth the restrictions on polygraph usage under such exemptions. Subpart D sets forth the rules on recordkeeping and the disclosure of polygraph test information.

Sec. 1.2 Definitions.

For purposes of this part:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) *EPPA* means the Employee Polygraph Protection Act of 1988 (Pub. L. 100-347, 102 Stat. 646, 29 U.S.C. §§2001-2009) as applied to covered employees and employing offices by Section 204 of the CAA.

(c) The term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Congressional Budget Office; (5) the Office of the Architect of the Capitol; (6) the Office of the Attending Physician; (7) the Office of Compliance; or (8) the Office of Technology Assessment.

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means (1) the personal office of a Member of the House of Representatives or of a Senator; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment. The term *employing office* includes any person acting directly or indirectly in the interest of an employing office in relation to an employee or prospective employee. A polygraph examiner either employed for or whose services are retained for the sole purpose of administering polygraph tests ordinarily would not be deemed an employing office with respect to the examinees. Any reference to "employer" in these regulations includes employing offices.

(j)(1) The term *lie detector* means a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical or electrical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual. Voice stress analyzers, or psychological stress evaluators, include any systems that utilize voice stress analysis, whether or not an opinion on honesty or dishonesty is specifically rendered.

(2) The term *lie detector* does not include medical tests used to determine the presence or absence of controlled substances or alcohol in bodily fluids. Also not included in the definition of *lie detector* are written or oral tests commonly referred to as "honesty" or "paper and pencil" tests, machine-scored or otherwise; and graphology tests commonly referred to as handwriting tests.

(k) The term *polygraph* means an instrument that—

(1) Records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards; and

(2) Is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(l) *Board* means the Board of Directors of the Office of Compliance.

(m) *Office* means the Office of Compliance.

Sec. 1.3 Coverage

The coverage of Section 204 of the Act extends to any "covered employee" or "covered employing office" without regard to the number of employees or the employing office's effect on interstate commerce.

Sec. 1.4 Prohibitions on lie detector use

(a) Section 204 of the CAA provides that, subject to the exemptions of the EPPA incorporated into the CAA under section 225(f) of the CAA, as set forth in Sec. 1.10 through 1.12 of this Part, employing offices are prohibited from:

(1) Requiring, requesting, suggesting or causing, directly or indirectly, any covered employee or prospective employee to take or submit to a lie detector test;

(2) Using, accepting, or inquiring about the results of a lie detector test of any covered employee or prospective employee; and

(3) Discharging, disciplining, discriminating against, denying employment or promotion, or threatening any covered employee or prospective employee to take such action for refusal or failure to take or submit to such test, or on the basis of the results of a test.

The above prohibitions apply irrespective of whether the covered employee referred to in paragraphs (1), (2) or (3), above, works in that employing office.

(b) An employing office that reports a theft or other incident involving economic loss to police or other law enforcement authorities is not engaged in conduct subject to the prohibitions under paragraph (a) of this section if, during the normal course of a subsequent investigation, such authorities deem it necessary to administer a polygraph test to a covered employee(s) suspected of involvement in the reported incident. Employing offices that cooperate with police authorities during the course of their investigations into criminal misconduct are likewise not deemed engaged in prohibitive conduct provided that such cooperation is passive in nature. For example, it is not uncommon for police authorities to request employees suspected of theft or criminal activity to submit to a polygraph test during the employee's tour of duty since, as a general rule, suspect employees are often difficult to locate away from their place of employment. Allowing a test on the employing office's premises, releasing a covered employee during working hours to take a test at police headquarters, and other similar types of cooperation at the request of the police authorities would not be construed as "requiring, requesting, suggesting, or causing, directly or indirectly, any covered employee * * * to take or submit to a lie detector test." Cooperation of this type must be distinguished from actual participation in the testing of employees suspected of wrongdoing, either through the administration of a test by the employing office at the request or direction of police authorities, or through reimbursement by the employing office of tests administered by police authorities to employees. In some communities, it may be a practice of police authorities to request testing by employing offices of employees before a police investigation is initiated on a reported incident. In other communities, police examiners are available to covered employing offices, on a cost reimbursement basis, to conduct tests on employees suspected by an employing office of wrongdoing. All such conduct on the part of employing offices is deemed within the prohibitions of section 204 of the CAA.

(c) The receipt by an employing office of information from a polygraph test administered by police authorities pursuant to an investigation is prohibited by section 3(2) of the EPPA. (See paragraph (a)(2) of this section.)

(d) The simulated use of a polygraph instrument so as to lead an individual to believe that an actual test is being or may be performed (e.g., to elicit confessions or admissions of guilt) constitutes conduct prohibited by paragraph (a) of this section. Such use includes the connection of a covered employee or prospective employee to the instrument without any intention of a diagnostic purpose, the placement of the instrument in a room used for interrogation unconnected to the covered employee or prospective employee, or the mere suggestion that the instrument may be used during the course of the interview.

(e) The Capitol Police may not require a covered employee not employed by the Capitol Police to take a lie detector test (on its own initiative or at the request of another employing office) except where the Capitol Police administers such lie detector test as part of an "ongoing investigation" by the Capitol Police. For the purpose of this subsection, the definition of "ongoing investigation" contained section 1.12(b) shall apply.

Sec. 1.5 Effect on other laws or agreements

(a) Section 204 of the CAA does not preempt any otherwise applicable provision of federal law or any rule or regulation of the

House or Senate or any negotiated collective bargaining agreement that prohibits lie detector tests or is more restrictive with respect to the use of lie detector tests.

(b)(1) This provision applies to all aspects of the use of lie detector tests, including procedural safeguards, the use of test results, the rights and remedies provided examinees, and the rights, remedies, and responsibilities of examiners and employing offices.

(2) For example, a collective bargaining agreement that provides greater protection to an examinee would apply in addition to the protection provided in section 204 of the CAA.

Sec. 1.6 Notice of protection

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 204 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

Sec. 1.7 Authority of the Board

Pursuant to sections 204 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections of the EPPA. Section 204(c) directs the Board to promulgate regulations implementing section 204 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 204 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA]."

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

Sec. 1.8 Employment relationship

Subject to the exemptions incorporated into the CAA by section 225(f), section 204 applies the prohibitions on the use of lie detectors by employing offices with respect to covered employees irrespective of whether a covered employee works in that employing office. Sections 101 (3), (4) and 204 of the CAA also apply EPPA prohibitions against discrimination to applicants for employment and former employees of a covered employing office. For example, an employee may quit rather than take a lie detector test. The employing office cannot discriminate or threaten to discriminate in any manner against that person (such as by providing bad references in the future) because of that person's refusal to be tested. Similarly, an employing office cannot discriminate or threaten to discriminate in any manner against that person because that person files a complaint, institutes a proceeding, testifies in a proceeding, or exercises any right under section 204 of the CAA. (*See* section 207 of the CAA.)

Subpart B—Exemptions

Sec. 1.10 Exclusion for employees of the Capitol Police [Reserved]

Sec. 1.11 Exemption for national defense and security

(a) The exemptions allowing for the administration of lie detector tests in the following paragraphs (b) through (e) of this section apply only to the Federal Government; they do not allow covered employing offices to administer such tests. For the purposes of this section, the term "Federal Government" means any agency or entity within the Federal Government authorized to administer polygraph examinations which is otherwise exempt from coverage under section 7(a) of the EPPA, 29 U.S.C. §2006(a).

(b) Section 7(b)(1) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any counterintelligence function, to any expert, consultant or employee of any contractor under contract with the Department of Defense; or with the Department of Energy, in connection with the atomic energy defense activities of such Department.

(c) Section 7(b)(2)(A) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function of the National Security Agency, the Defense Intelligence Agency, or the Central Intelligence Agency, to any individual employed by, assigned to, or detailed to any such agency; or any expert or consultant under contract to any such agency; or any employee of a contractor to such agency; or any individual applying for a position in any such agency; or any individual assigned to a space where sensitive cryptologic information is produced, processed, or stored for any such agency.

(d) Section 7(b)(2)(B) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function, to any covered employee whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.2 (a) of Executive Order 12356 (or a successor Executive Order).

(c) *Counterintelligence* for purposes of the above paragraphs means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, terrorist activities, or assassinations conducted for or on behalf of foreign governments, or foreign or domestic organizations or persons.

(d) Lie detector tests of persons described in the above paragraphs will be administered in accordance with applicable Department of Defense directives and regulations, or other regulations and directives governing the use of such tests by the United States Government, as applicable.

Sec. 1.12 Exemption for Employing Offices Conducting Investigations of Economic Loss or Injury

(a) Section 7(d) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides a limited exemption from the general prohibition on lie detector use for employers conducting ongoing investigations of economic loss or injury to the employer's business. An employing office may request an employee, subject to the conditions set forth in sections 8 and 10 of the EPPA and Secs. 1.20, 1.22, 1.23, 1.24, 1.25, 1.26 and 1.35 of this part, to submit to a polygraph test, but no other type of lie detector test, only if—

(1) The test is administered in connection with an ongoing investigation involving economic loss or injury to the employing office's operations, such as theft, embezzlement, misappropriation or an act of unlawful industrial espionage or sabotage;

(2) The employee had access to the property that is the subject of the investigation;

(3) The employing office has a reasonable suspicion that the employee was involved in the incident or activity under investigation;

(4) The employing office provides the examinee with a statement, in a language understood by the examinee, prior to the test which fully explains with particularity the specific incident or activity being investigated and the basis for testing particular employees and which contains, at a minimum:

(i) An identification with particularity of the specific economic loss or injury to the operations of the employing office;

(ii) A description of the employee's access to the property that is the subject of the investigation;

(iii) A description in detail of the basis of the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; and

(iv) Signature of a person (other than a polygraph examiner) authorized to legally bind the employing office; and

(5) The employing office retains a copy of the statement and proof of service described in paragraph (a)(4) of this section for at least 3 years.

(b) For the exemption to apply, the condition of an "ongoing investigation" must be met. As used in section 7(d) of the EPPA, the ongoing investigation must be of a specific incident or activity. Thus, for example, an employing office may not request that an employee or employees submit to a polygraph test in an effort to determine whether or not any thefts have occurred. Such random testing by an employing office is precluded by the EPPA. Further, because the exemption is limited to a specific incident or activity, an employing office is precluded

(c)(1)(i) The terms *economic loss or injury to the employing office's operations* include both direct and indirect economic loss or injury.

(ii) Direct loss or injury includes losses or injuries resulting from theft, embezzlement, misappropriation, espionage or sabotage. These examples, cited in the EPPA, are intended to be illustrative and not exhaustive. Another specific incident which would constitute direct economic loss or injury is the misappropriation of confidential or trade secret information.

(iii) Indirect loss or injury includes the use of an employing office's operations to commit a crime, such as check-kiting or money laundering. In such cases, the ongoing investigation must be limited to criminal activity that has already occurred, and to use of the employing office's operations (and not simply the use of the premises) for such activity. For example, the use of an employing office's vehicles, warehouses, computers or

VOL
142
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24
1996
UMI

equipment to smuggle or facilitate the importing of illegal substances constitutes an indirect loss or injury to the employing office's business operations. Conversely, the mere fact that an illegal act occurs on the employing office's premises (such as a drug transaction that takes place in the employing office's parking lot or rest room) does not constitute an indirect economic loss or injury to the employing office.

(iv) Indirect loss or injury also includes theft or injury to property of another for which the employing office exercises fiduciary, managerial or security responsibility, or where the office has custody of the property (but not property of other offices to which the employees have access by virtue of the employment relationship). For example, if a maintenance employee of the manager of an apartment building steals jewelry from a tenant's apartment, the theft results in an indirect economic loss or injury to the employer because of the manager's management responsibility with respect to the tenant's apartment. A messenger on a delivery of confidential business reports for a client firm who steals the reports causes an indirect economic loss or injury to the messenger service because the messenger service is custodian of the client firm's reports, and therefore is responsible for their security. Similarly, the theft of property protected by a security service employer is considered an economic loss or injury to that employer.

(v) A theft or injury to a client firm does not constitute an indirect loss or injury to an employing office unless that employing office has custody of, or management, or security responsibility for, the property of the client that was lost or stolen or injured. For example, a cleaning contractor has no responsibility for the money at a client bank. If money is stolen from the bank by one of the cleaning contractor's employees, the cleaning contractor does not suffer an indirect loss or injury.

(vi) Indirect loss or injury does not include loss or injury which is merely threatened or potential, e.g., a threatened or potential loss of an advantageous business relationship.

(2) Economic losses or injuries which are the result of unintentional or lawful conduct would not serve as a basis for the administration of a polygraph test. Thus, apparently unintentional losses or injuries stemming from truck, car, workplace, or other similar type accidents or routine inventory or cash register shortages would not meet the economic loss or injury requirement. Any economic loss incident to lawful union or employee activity also would not satisfy this requirement.

(3) It is the operations of the employing office which must suffer the economic loss or injury. Thus, a theft committed by one employee against another employee of the same employing office would not satisfy the requirement.

(d) While nothing in the EPPA as applied by the CAA prohibits the use of medical tests to determine the presence of controlled substances or alcohol in bodily fluids, the section 7(d) exemption of the EPPA does not permit the use of a polygraph test to learn whether an employee has used drugs or alcohol, even where such possible use may have contributed to an economic loss to the employing office (e.g., an accident involving an employing office's vehicle).

(e) Section 7(d)(2) of the EPPA provides that, as a condition for the use of the exemption, the employee must have had access to the property that is the subject of the investigation.

(1) The word *access*, as used in section 7(d)(2), refers to the opportunity which an employee had to cause, or to aid or abet in causing, the specific economic loss or injury under investigation. The term "access", thus, includes more than direct or physical contact during the course of employment. For example, as a general matter, all employees working in or with authority to enter a property storage area have "access" to unsecured property in the area. All employees with the combination to a safe have "access" to the property in a locked safe. Employees also have "access" who have the ability to divert possession or otherwise affect the disposition of the property that is the subject of investigation. For example, a bookkeeper in a jewelry store with access to inventory records may aid or abet a clerk who steals an expensive watch by removing the watch from the employing office's inventory records. In such a situation, it is clear that the bookkeeper effectively has "access" to the property that is the subject of the investigation.

(2) As used in section 7(d)(2), *property* refers to specifically identifiable property, but also includes such things of value as security codes and computer data, and proprietary, financial or technical information, such as trade secrets, which by its availability to competitors or others would cause economic harm to the employing office.

(f)(1) As used in section 7(d)(3), the term *reasonable suspicion* refers to an observable, articulable basis in fact which indicates that a particular employee was involved in, or responsible for, an economic loss. Access in the sense of possible or potential opportunity, standing alone, does not constitute a basis for "reasonable suspicion." Information from a co-worker, or an employee's behavior, demeanor, or conduct may be factors in the basis for reasonable suspicion. Likewise, inconsistencies between facts, claims, or statements that surface during an investigation can serve as a sufficient basis for reasonable suspicion. While access or opportunity, standing alone, does not constitute a basis for reasonable suspicion, the totality of circumstances surrounding the access or opportunity (such as its unauthorized or unusual nature or the fact that access was limited to a single individual) may constitute a factor in determining whether there is a reasonable suspicion.

(2) For example, in an investigation of a theft of an expensive piece of jewelry, an employee authorized to open the establishment's safe no earlier than 9 a.m., in order to place the jewelry in a window display case, is observed opening the safe at 7:30 a.m. In such a situation, the opening of the safe by the employee one and one-half hours prior to the specified time may serve as the basis for reasonable suspicion. On the other hand, in the example given, if the employee is asked to bring the piece of jewelry to his or her office at 7:30 a.m., and the employee then opened the safe and reported the jewelry missing, such access, standing alone, would not constitute a basis for reasonable suspicion that the employee was involved in the incident unless access to the safe was limited solely to the employee. If no one other than the employee possessed the combination to the safe, and all other possible explanations for the loss are ruled out, such as a break-in, a basis for reasonable suspicion may be formulated based on sole access by one employee.

(3) The employing office has the burden of establishing that the specific individual or individuals to be tested are "reasonably suspected" of involvement in the specific economic loss or injury for the requirement in section 7(d)(3) of the EPPA to be met.

(g)(1) As discussed in paragraph (a)(4) of this section, section 7(d)(4) of the EPPA sets forth what information, at a minimum, must be provided to an employee if the employing office wishes to claim the exemption.

(2) The statement required under paragraph (a)(4) of this section must be received by the employee at least 48 hours, excluding weekend days and holidays, prior to the time of the examination. The statement must set forth the time and date of receipt by the employee and be verified by the employee's signature. This will provide the employee with adequate pre-test notice of the specific incident or activity being investigated and afford the employee sufficient time prior to the test to obtain and consult with legal counsel or an employee representative.

(3) The statement to be provided to the employee must set forth with particularity the specific incident or activity being investigated and the basis for testing particular employees. Section 7(d)(4)(A) of the EPPA requires specificity beyond the mere assertion of general statements regarding economic loss, employee access, and reasonable suspicion. For example, an employing office's assertion that an expensive watch was stolen, and that the employee had access to the watch and is therefore a suspect, would not meet the "with particularity" criterion. If the basis for an employing office's requesting an employee (or employees) to take a polygraph test is not articulated with particularity, and reduced to writing, then the standard is not met. The identity of a coworker or other individual providing information used to establish reasonable suspicion need not be revealed in the statement.

(4) It is further required that the statement provided to the examinee be signed by the employing office, or an employee or other representative of the employing office

(h) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in Secs. 1.20, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to remedial actions, as provided for in section 6(c) of the EPPA.

Sec. 1.13 Exemption of Employing Offices Authorized to Manufacture, Distribute, or Dispense Controlled Substances

(a) Section 7(f) of the EPPA, incorporated into the CAA by section 225(f) of the CAA, provides an exemption from the EPPA's general prohibition regarding the use of polygraph tests for employers authorized to manufacture, distribute, or dispense a controlled substance listed in schedule I, II, III, or IV of section 202 of the Controlled Substances Act (21 U.S.C. §812). This exemption permits the administration of polygraph tests, subject to the conditions set forth in sections 8 and 10 of the EPPA and Sec. 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part, to:

(1) A prospective employee who would have direct access to the manufacture, storage, distribution, or sale of any such controlled substance; or

(2) A current employee if the following conditions are met:

(i) The test is administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture,

distribution, or dispensing of any such controlled substance by such employing office; and

(ii) The employee had access to the person or property that is the subject of the investigation.

(b)(1) The terms *manufacture, distribute, distribution, dispense, storage, and sale*, for the purposes of this exemption, are construed within the meaning of the Controlled Substances Act (21 U.S.C. §812 et seq.), as administered by the Drug Enforcement Administration (DEA), U.S. Department of Justice.

(2) The exemption in section 7(f) of the EPPA applies only to employing offices that are authorized by DEA to manufacture, distribute, or dispense a controlled substance. Section 202 of the Controlled Substances Act (21 U.S.C. §812) requires every person who manufactures, distributes, or dispenses any controlled substance to register with the Attorney General (i.e., with DEA). Common or contract carriers and warehouses whose possession of the controlled substance is in the usual course of their business or employment are not required to register. Truck drivers and warehouse employees of the persons or entities registered with DEA and authorized to manufacture, distribute, or dispense controlled substances, are within the scope of the exemption where they have direct access or access to the controlled substances, as discussed below.

(c) In order for a polygraph examination to be performed, section 7(f) of the Act requires that a prospective employee have "direct access" to the controlled substance(s) manufactured, dispensed, or distributed by the employing office. Where a current employee is to be tested as a part of an ongoing investigation, section 7(f) requires that the employee have "access" to the person or property that is the subject of the investigation.

(1) A prospective employee would have "direct access" if the position being applied for has responsibilities which include contact with or which affect the disposition of a controlled substance, including participation in the process of obtaining, dispensing, or otherwise distributing a controlled substance. This includes contact or direct involvement in the manufacture, storage, testing, distribution, sale or dispensing of a controlled substance and may include, for example, packaging, repackaging, ordering, licensing, shipping, receiving, taking inventory, providing security, prescribing, and handling of a controlled substance. A prospective employee would have "direct access" if the described job duties would give such person access to the products in question, whether such employee would be in physical proximity to controlled substances or engaged in activity which would permit the employee to divert such substances to his or her possession.

(2) A current employee would have "access" within the meaning of section 7(f) if the employee had access to the specific person or property which is the subject of the on-going investigation, as discussed in Sec. 1.12(e) of this part. Thus, to test a current employee, the employee need not have had "direct" access to the controlled substance, but may have had only infrequent, random, or opportunistic access. Such access would be sufficient to test the employee if the employee could have caused, or could have aided or abetted in causing, the loss of the specific property which is the subject of the investigation. For example, a maintenance worker in a drug warehouse, whose job duties include the cleaning of areas where the controlled substances which are the subject of the investigation were present, but whose job duties do not include the handling of controlled substances, would be deemed to have "access", but normally not "direct access", to the controlled substances. On the other hand, a drug warehouse truck loader, whose job duties include the handling of outgoing shipment orders which contain controlled substances, would have "direct access" to such controlled substances. A pharmacy department in a supermarket is another common situation which is useful in illustrating the distinction between "direct access" and "access." Store personnel receiving pharmaceutical orders, i.e., the pharmacist, pharmacy intern, and other such employees working in the pharmacy department, would ordinarily have "direct access" to controlled substances. Other store personnel whose job duties and responsibilities do not include the handling of controlled substances but who had occasion to enter the pharmacy department where the controlled substances which are the subject of the investigation were stored, such as maintenance personnel or pharmacy cashiers, would have "access." Certain other store personnel whose job duties do not permit or require entrance into the pharmacy department for any reason, such as produce or meat clerks, checkout cashiers, or baggers, would not ordinarily have "access." However, any current employee, regardless of described job duties, may be polygraphed if the employing office's investigation of criminal or other misconduct discloses that such employee in fact took action to obtain "access" to the person or property that is the subject of the investigation—e.g., by actually entering the drug storage area in violation of company rules. In the case of "direct access", the prospective employee's access to controlled substances would be as a part of the manufacturing, dispensing or distribution process, while a current employee's "access" to the controlled substances which are the subject of the investigation need only be opportunistic.

(d) The term *prospective employee*, for the purposes of this section, includes a current employee who presently holds a position which does not entail direct access to controlled substances, and therefore is outside the scope of the exemption's provisions for preemployment polygraph testing, provided the employee has applied for and is being considered for transfer or promotion to another position which entails such direct access. For example, an office secretary may apply for promotion to a position in the vault or cage areas of a drug warehouse, where controlled substances are kept. In such a situation, the current employee would be deemed a "prospective employee" for the purposes of this exemption, and thus could be subject to preemployment polygraph screening, prior to such a change in position. However, any adverse action which is based in part on a polygraph test against a current employee who is considered a "prospective employee" for purposes of this section may be taken only with respect to the prospective position and may not affect the employee's employment in the current position.

(e) Section 7(f) of the EPPA, as applied by the CAA, makes no specific reference to a requirement that employing offices provide current employees with a written statement prior to polygraph testing. Thus, employing offices to whom this exemption is available are not required to furnish a written statement such as that specified in section 7(d) of the EPPA and Sec. 1.12(a)(4) of this part.

(f) For the section 7(f) exemption to apply, the polygraph testing of current employees must be administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employing office.

(1) Current employees may only be administered polygraph tests in connection with an ongoing investigation of criminal or other misconduct, relating to a specific incident or activity, or potential incident or activity. Thus, an employing office is precluded from using the exemption in connection with continuing investigations or on a random basis to determine if thefts are occurring. However, unlike the exemption in section 7(d) of the EPPA for employing offices conducting ongoing investigations of economic loss or injury, the section 7(f) exemption includes ongoing investigations of misconduct involving potential drug losses. Nor does the latter exemption include the requirement for "reasonable suspicion" contained in the section 7(d) exemption. Thus, a drug store operator is permitted to polygraph all current employees who have access to a controlled substance stolen from the inventory, or where there is evidence that such a theft is planned. Polygraph testing based on an inventory shortage of the drug during a particular accounting period would not be permitted unless there is extrinsic evidence of misconduct.

(2) In addition, the test must be administered in connection with loss or injury, or potential loss or injury, to the manufacture, distribution, or dispensing of a controlled substance.

(i) Retail drugstores and wholesale drug warehouses typically carry inventory of so-called health and beauty aids, cosmetics, over-the-counter drugs, and a variety of other similar products, in addition to their product lines of controlled drugs. The noncontrolled products usually constitute

(ii) Polygraph testing, with respect to an ongoing investigation concerning products other than controlled substances might be initiated under section 7(d) of the EPPA and Sec. 1.12 of this part. However, the exemption in section 7(f) of the EPPA and this section is limited solely to losses or injury associated with controlled substances.

(g) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in Secs. 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to the remedies authorized in section 204 of the CAA. The administration of such tests is also subject to collective bargaining agreements, which may either prohibit lie detector tests, or contain more restrictive provisions with respect to polygraph testing.

Subpart C—Restrictions on polygraph usage under exemptions

Sec. 1.20 Adverse employment action under ongoing investigation exemption.

(a) Section 8(a)(1) of the EPPA provides that the limited exemption in section 7(d) of the EPPA and Sec. 1.12 of this part for ongoing investigations shall not apply if an employing office discharges, disciplines, denies employment or promotion or otherwise discriminates in any manner against a current employee based upon the analysis of a polygraph test chart or the refusal to take a polygraph test, without additional supporting evidence.

VOL
142
PT
6
AP
15
—
24
1996
UMI

(b) "Additional supporting evidence", for purposes of section 8(a) of the EPPA, includes, but is not limited to, the following:

(1)(i) Evidence indicating that the employee had access to the missing or damaged property that is the subject of an ongoing investigation; and

(ii) Evidence leading to the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; or

(2) Admissions or statements made by an employee before, during or following a polygraph examination.

(c) Analysis of a polygraph test chart or refusal to take a polygraph test may not serve as a basis for adverse employment action, even with additional supporting evidence, unless the employing office observes all the requirements of sections 7(d) and 8(b) of the EPPA as applied by the CAA and described in Secs. 1.12, 1.22, 1.23, 1.24 and 1.25 of this part.

Sec. 1.21 Adverse employment action under controlled substance exemption.

(a) Section 8(a)(2) of the EPPA provides that the controlled substance exemption in section 7(f) of the EPPA and section 1.13 of this part shall not apply if an employing office discharges, disciplines, denies employment or promotion, or otherwise discriminates in any manner against a current employee or prospective employee based solely on the analysis of a polygraph test chart or the refusal to take a polygraph test.

(b) Analysis of a polygraph test chart or refusal to take a polygraph test may serve as one basis for adverse employment actions of the type described in paragraph (a) of this section, provided that the adverse action was also based on another bona fide reason, with supporting evidence therefor. For example, traditional factors such as prior employment experience, education, job performance, etc. may be used as a basis for employment decisions. Employment decisions based on admissions or statements made by an employee or prospective employee before, during or following a polygraph examination may, likewise, serve as a basis for such decisions.

(c) Analysis of a polygraph test chart or the refusal to take a polygraph test may not serve as a basis for adverse employment action, even with another legitimate basis for such action, unless the employing office observes all the requirements of section 7(f) of the EPPA, as appropriate, and section 8(b) of the EPPA, as described in sections 1.13, 1.22, 1.23, 1.24 and 1.25 of this part.

Sec. 1.22 Rights of examinee—general.

(a) Pursuant to section 8(b) of the EPPA, the limited exemption in section 7(d) of the EPPA for ongoing investigations (described in Secs. 1.12 and 1.13 of this part) shall not apply unless all of the requirements set forth in this section and Secs. 1.23 through 1.25 of this part are met.

(b) During all phases of the polygraph testing the person being examined has the following rights:

(1) The examinee may terminate the test at any time.

(2) The examinee may not be asked any questions in a degrading or unnecessarily intrusive manner.

(3) The examinee may not be asked any questions dealing with:

(i) Religious beliefs or affiliations;

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or behavior; or

(v) Beliefs, affiliations, opinions, or lawful activities concerning unions or labor organizations.

(4) The examinee may not be subjected to a test when there is sufficient written evidence by a physician that the examinee is suffering from any medical or psychological condition or undergoing any treatment that might cause abnormal responses during the actual testing phase. "Sufficient written evidence" shall constitute, at a minimum, a statement by a physician specifically describing the examinee's medical or psychological condition or treatment and the basis for the physician's opinion that the condition or treatment might result in such abnormal responses.

(5) An employee or prospective employee who exercises the right to terminate the test, or who for medical reasons with sufficient supporting evidence is not administered the test, shall be subject to adverse employment action only on the same basis as one who refuses to take a polygraph test, as described in Secs. 1.20 and 1.21 of this part.

(c) Any polygraph examination shall consist of one or more pretest phases, actual testing phases, and post-test phases, which must be conducted in accordance with the rights of examinees described in Secs. 1.23 through 1.25 of this part.

Sec. 1.23 Rights of examinee—pretest phase.

(a) The pretest phase consists of the questioning and other preparation of the prospective examinee before the actual use of the polygraph instrument. During the initial pretest phase, the examinee must be:

(1) Provided with written notice, in a language understood by the examinee, as to when and where the examination will take place and that the examinee has the right to consult with counsel or an employee representative before each phase of the test. Such notice shall be received by the examinee at least forty-eight hours, excluding weekend days and holidays, before the time of the examination, except that a prospective employee may, at the employee's option, give written consent to administration of a test anytime within 48 hours but no earlier than 24 hours after receipt of the written notice. The written notice or proof of service must set forth the time and date of receipt by the employee or prospective employee and be verified by his or her signature. The purpose of this requirement is to provide a sufficient opportunity prior to the examination for the examinee to consult with counsel or an employee representative. Provision shall also be made for a convenient place on the premises where the examination will take place at which the examinee may consult privately with an attorney or an employee representative before each phase of the test. The attorney or representative may be excluded from the room where the examination is administered during the actual testing phase.

(2) Informed orally and in writing of the nature and characteristics of the polygraph instrument and examination, including an explanation of the physical operation of the polygraph instrument and the procedure used during the examination.

(3) Provided with a written notice prior to the testing phase, in a language understood by the examinee, which shall be read to and signed by the examinee. Use of Appendix A to this part, if properly completed, will constitute compliance with the contents of the notice requirement of this paragraph. If a format other than in Appendix A is used, it must contain at least the following information:

(i) Whether or not the polygraph examination area contains a two-way mirror, a camera, or other device through which the examinee may be observed;

(ii) Whether or not any other device, such as those used in conversation or recording will be used during the examination;

(iii) That both the examinee and the employing office have the right, with the other's knowledge, to make a recording of the entire examination;

(iv) That the examinee has the right to terminate the test at any time;

(v) That the examinee has the right, and will be given the opportunity, to review all questions to be asked during the test;

(vi) That the examinee may not be asked questions in a manner which degrades, or needlessly intrudes;

(vii) That the examinee may not be asked any questions concerning religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations;

(viii) That the test may not be conducted if there is sufficient written evidence by a physician that the examinee is suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination;

(ix) That the test is not and cannot be required as a condition of employment;

(x) That the employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against the examinee based on the analysis of a polygraph test, or based on the examinee's refusal to take such a test, without additional evidence which would support such action;

(xi)(A) In connection with an ongoing investigation, that the additional evidence required for the employing office to take adverse action against the examinee, including

(B) That any statement made by the examinee before or during the test may serve as additional supporting evidence for an adverse employment action, as described in paragraph (a)(3)(x) of this section, and that any admission of criminal conduct by the examinee may be transmitted to an appropriate government law enforcement agency;

(xii) That information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(A) To the examinee or any other person specifically designated in writing by the examinee to receive such information;

(B) To the employing office that requested the test;

(C) To a court, governmental agency, arbitrator, or mediator pursuant to a court order;

(D) By the employing office, to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct;

(xiii) That if any of the examinee's rights or protections under the law are violated, the examinee has the right to take action against the employing office under sections 401-404 of the CAA. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees;

(xiv) That the examinee has the right to obtain and consult with legal counsel or other representative before each phase of the test, although the legal counsel or representative may be excluded from the room where the test is administered during the actual testing phase.

(xv) That the employee's rights under the CAA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the CAA, agreed to and signed by the parties.

(b) During the initial or any subsequent pretest phases, the examinee must be given the opportunity, prior to the actual testing phase, to review all questions in writing that the examiner will ask during each testing phase. Such questions may be presented at any point in time prior to the testing phase.

Sec. 1.24 Rights of examinee—actual testing phase

(a) The actual testing phase refers to that time during which the examiner administers the examination by using a polygraph instrument with respect to the examinee and then analyzes the charts derived from the test. Throughout the actual testing phase, the examiner shall not ask any question that was not presented in writing for review prior to the testing phase. An examiner may, however, recess the testing phase and return to the pre-test phase to review additional relevant questions with the examinee. In the case of an ongoing investigation, the examiner shall ensure that all relevant questions (as distinguished from technical baseline questions) pertain to the investigation.

(b) No testing period subject to the provisions of the Act shall be less than ninety minutes in length. Such "test period" begins at the time that the examiner begins informing the examinee of the nature and characteristics of the examination and the instruments involved, as prescribed in section 8(b)(2)(B) of the EPPA and Sec. 1.23(a)(2) of this part, and ends when the examiner completes the review of the test results with the examinee as provided in Sec. 1.25 of this part. The ninety-minute minimum duration shall not apply if the examinee voluntarily acts to terminate the test before the completion thereof, in which event the examiner may not render an opinion regarding the employee's truthfulness.

Sec. 1.25 Rights of examinee—post-test phase

(a) The post-test phase refers to any questioning or other communication with the examinee following the use of the polygraph instrument, including review of the results of the test with the examinee. Before any adverse employment action, the employing office must:

(1) Further interview the examinee on the basis of the test results; and

(2) Give to the examinee a written copy of any opinions or conclusions rendered in response to the test, as well as the questions asked during the test, with the corresponding charted responses. The term "corresponding charted responses" refers to copies of the entire examination charts recording the employee's physiological responses, and not just the examiner's written report which describes the examinee's responses to the questions as "charted" by the instrument.

Sec. 1.26 Qualifications of and requirements for examiners

(a) Section 8 (b) and (c) of the EPPA provides that the limited exemption in section 7(d) of the EPPA for ongoing investigations shall not apply unless the person conducting the polygraph examination meets specified qualifications and requirements.

(b) An examiner must meet the following qualifications:

(1) Have a valid current license, if required by the State in which the test is to be conducted; and

(2) Carry a minimum bond of $50,000 provided by a surety incorporated under the laws of the United States or of any State, which may under those laws guarantee the fidelity of persons holding positions of trust, or carry an equivalent amount of professional liability coverage.

(c) An examiner must also, with respect to examinees identified by the employing office pursuant to Sec. 1.30(c) of this part:

(1) Observe all rights of examinees, as set out in Secs. 1.22, 1.23, 1.24, and 1.25 of this part;

(2) Administer no more than five polygraph examinations in any one calendar day on which a test or tests subject to the provisions of EPPA are administered, not counting those instances where an examinee voluntarily terminates an examination prior to the actual testing phase;

(3) Administer no polygraph examination subject to the provisions of the EPPA which is less than ninety minutes in duration, as described in Sec. 1.24(b) of this part; and

(4) Render any opinion or conclusion regarding truthfulness or deception in writing. Such opinion or conclusion must be based solely on the polygraph test results. The written report shall not contain any information other than admissions, information, case facts, and interpretation of the charts relevant to the stated purpose of the polygraph test and shall not include any recommendation concerning the employment of the examinee.

(5) Maintain all opinions, reports, charts, written questions, lists, and other records relating to the test, including, statements signed by examinees advising them of rights under the CAA (as described in section 1.23(a)(3) of this part) and any electronic recordings of examinations, for at least three years from the date of the administration of the test. (See section 1.30 of this part for recordkeeping requirements.)

Subpart D—Recordkeeping and disclosure requirements

Sec. 1.30 Records to be preserved for 3 years

(a) The following records shall be kept for a minimum period of three years from the date the polygraph examination is conducted (or from the date the examination is requested if no examination is conducted):

(1) Each employing office that requests an employee to submit to a polygraph examination in connection with an ongoing investigation involving economic loss or injury shall retain a copy of the statement that sets forth the specific incident or activity under investigation and the basis for testing that particular covered employee, as required by section 7(d)(4) of the EPPA and described in 1.12(a)(4) of this part.

(2) Each examiner retained to administer examinations pursuant to any of the exemptions under section 7(d), (e) or (f) of the EPPA (described in sections 1.12 and 1.13 of this part) shall maintain all opinions, reports, charts, written questions, lists, and other records relating to polygraph tests of such persons.

Sec. 1.35 Disclosure of test information

This section prohibits the unauthorized disclosure of any information obtained during a polygraph test by any person, other than the examinee, directly or indirectly, except as follows:

(a) A polygraph examiner or an employing office (other than an employing office exempt under section 7 (a), or (b) of the EPPA (described in Secs. 1.10 and 1.11 of this part)) may disclose information acquired from a polygraph test only to:

(1) The examinee or an individual specifically designated in writing by the examinee to receive such information;

(2) The employing office that requested the polygraph test pursuant to the provisions of the EPPA (including management personnel of the employing office where the disclosure is relevant to the carrying out of their job responsibilities);

(3) Any court, governmental agency, arbitrator, or mediator pursuant to an order from a court of competent jurisdiction requiring the production of such information;

(b) An employing office may disclose information from the polygraph test at any time to an appropriate governmental agency without the need of a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

(c) A polygraph examiner may disclose test charts, without identifying information (but not other examination materials and records), to another examiner(s) for examination and analysis, provided that such disclosure is for the sole purpose of consultation and review of the initial examiner's opinion concerning the indications of truthfulness or deception. Such action would not constitute disclosure under this part provided that the other examiner has no direct or indirect interest in the matter.

Subpart E—Duration of Interim Regulations

Sec. 1.40 [Reserved]

Appendix A to Part 801—Notice to Examinee

Section 204 of the Congressional Accountability Act, which applies the rights and protections of section 8(b) of the Employee Polygraph Protection Act to covered employees and employing offices, and the regulations of the Board of Directors of the Office of Compliance (Sections 1.22, 1.23, 1.24, and 1.25), require that you be given the following information before taking a polygraph examination:

1. (a) The polygraph examination area [does] [does not] contain a two-way mirror, a camera, or other device through which you may be observed.

(b) Another device, such as those used in conversation or recording, [will] [will not] be used during the examination.

(c) Both you and the employing office have the right, with the other's knowledge, to record electronically the entire examination.

2. (a) You have the right to terminate the test at any time.

(b) You have the right, and will be given the opportunity, to review all questions to be asked during the test.

(c) You may not be asked questions in a manner which degrades, or needlessly intrudes.

(d) You may not be asked any questions concerning: Religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual preference or behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations.

(e) The test may not be conducted if there is sufficient written evidence by a physician that you are suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination.

(f) You have the right to consult with legal counsel or other representative before each phase of the test, although the legal counsel or other representative may be excluded from the room where the test is administered during the actual testing phase.

3. (a) The test is not and cannot be required as a condition of employment.

VOL
142
PT
6
AP
15
—
24
1996
UMI

(b) The employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against you based on the analysis of a polygraph test, or based on your refusal to take such a test without additional evidence which would support such action.

(c)(1) In connection with an ongoing investigation, the additional evidence required for an employing office to take adverse action against you, including termination, may be (A) evidence that you had access to the property that is the subject of the investigation, together with (B) the evidence supporting the employing office's reasonable suspicion that you were involved in the incident or activity under investigation.

(2) Any statement made by you before or during the test may serve as additional supporting evidence for an adverse employment action, as described in 3(b) above, and any admission of criminal conduct by you may be transmitted to an appropriate government law enforcement agency.

4. (a) Information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(1) To you or any other person specifically designated in writing by you to receive such information;

(2) To the employing office that requested the test;

(3) To a court, governmental agency, arbitrator, or mediator that obtains a court order.

(b) Information acquired from a polygraph test may be disclosed by the employing office to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

5. If any of your rights or protections under the law are violated, you have the right to take action against the employing office by filing a request for counseling with the Office of Compliance under section 402 of the Congressional Accountability Act. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees.

6. Your rights under the CAA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the CAA, and agreed to and signed by the parties.

I acknowledge that I have received a copy of the above notice, and that it has been read to me.

____

(Date)

____

(Signature)

Application of Rights and Protections of the Worker Adjustment Retraining and Notification Act of 1988 (Implementing Section 204 of the CAA)

Sec.
639.1 Purpose and scope.
639.2 What does WARN require?
639.3 Definitions.
639.4 Who must give notice?
639.5 When must notice be given?
639.6 Who must receive notice?
639.7 What must the notice contain?
639.8 How is the notice served?
639.9 When may notice be given less than 60 days in advance?
639.10 When may notice be extended?
639.11 [Reserved]

§639.1 Purpose and scope

(a) *Purpose of WARN as applied by the CAA.* Section 205 of the Congressional Accountability Act, P.L: 104–1 ("CAA"), provides protection to covered employees and their families by requiring employing offices to provide notification 60 calendar days in advance of office closings and mass layoffs within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act of 1988, 29 U.S.C. §2102. Advance notice provides workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market. As used in these regulations. WARN shall refer to the provisions of WARN applied to covered employing offices by section 305 of the CAA

(b) *Scope of these regulations.* These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 205(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 205 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 205 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA]."

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these sections and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

These regulations establish basic definitions and rules for giving notice, implementing the provisions of WARN. The objective of these regulations is to establish clear principles and broad guidelines which can be applied in specific circumstances. However, it is recognized that rulemaking cannot address the multitude of employing office-specific situations in which advance notice will be given.

(c) *Notice in ambiguous situations.* It is civically desirable and it would appear to be good business practice for an employing office to provide advance notice, where reasonably possible, to its workers or unions when terminating a significant number of employees. The Office encourages employing offices to give notice in such circumstances.

(d) *WARN not to supersede other laws and contracts.* The provisions of WARN do not supersede any otherwise applicable laws or collective bargaining agreements that provide for additional notice or additional rights and remedies. If such law or agreement provides for a longer notice period, WARN notice shall run concurrently with that additional notice period. Collective bargaining agreements may be used to clarify or amplify the terms and conditions of WARN, but may not reduce WARN rights.

§639.2 What does WARN require?

WARN requires employing offices that are planning an office closing or a mass layoff to give affected employees at least 60 days' notice of such an employment action. While the 60-day period is the minimum for advance notice, this provision is not intended to discourage employing offices from voluntarily providing longer periods of advance notice. Not all office closings and layoffs are subject to WARN, and certain employment thresholds must be reached before WARN applies. WARN sets out specific exemptions, and provides for a reduction in the notification period in particular circumstances. Remedies authorized under section 205 of the CAA may be assessed against employing offices that violate WARN requirements.

§639.3 Definitions

(a) *Employing office.* (1) The term "employing office" means any of the entities listed in section 101(9) of the CAA, 2 U.S.C. §1301(9) that employs—

(i) 100 or more employees, excluding part-time employees; or

(ii) employs 100 or more employees, including part-time employees, who in the aggregate work at least 4,000 hours per week, exclusive of overtime.

Workers on temporary layoff or on leave who have a reasonable expectation of recall are counted as employees. An employee has a "reasonable expectation of recall" when he/she understands, through notification or through common practice, that his/her employment with the employing office has been temporarily interrupted and that he/she will be recalled to the same or to a similar job.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN, are nonetheless counted as employees for purposes of determining coverage as an employing office.

(3) An employing office may have one or more sites of employment under common control.

(b) *Office closing.* The term "office closing" means the permanent or temporary shutdown of a "single site of employment", or one or more "facilities or operating units" within a single site of employment, if the shutdown results in an "employment loss" during *any 30-day period* at the single site of employment for *50 or more* employees, excluding any part-time employees. An employment action that results in the effective cessation of the work performed by a unit, even if a few employees remain, is a shutdown. A "temporary shutdown" triggers the notice requirement only if there are a sufficient number of terminations, layoffs exceeding 6 months, or reductions in hours of work as specified under the definition of "employment loss."

(c) *Mass layoff.* (1) The term "mass layoff" means a reduction in force which first, is not the result of an office closing, and second, results in an employment loss at the single site of employment during *any 30-day period* for:

(i) *At least 33 percent* of the active employees, excluding part-time employees, and

(ii) *At least 50 employees*, excluding part-time employees.

Where 500 or more employees (excluding part-time employees) are affected, the 33% requirement does not apply, and notice is required if the other criteria are met. Office closings involve employment loss which results from the shutdown of one or more distinct units within a single site or the entire site. A mass layoff involves employment loss, regardless of whether one or more units are shut down at the site.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN are nonetheless counted as employees for purposes of determining coverage as an office closing or mass layoff. For example, if an employing office closes a temporary project on which 10 permanent and 40 temporary workers are employed, a covered office closing has occurred although only 10 workers are entitled to notice.

(d) *Representative.* The term "representative" means an exclusive representative of employees within the meaning of 5 U.S.C. §§7101 *et seq.*, as applied to covered employees and employing offices by section 220 of the CAA, 2 U.S.C. §1351.

(e) *Affected employees.* The term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed office closing or mass layoff by their employing office. This includes individually identifiable employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such individual workers reasonably can be identified at the time notice is required to be given. The term affected employees includes managerial and supervisory employees. Consultant or contract employees who have a separate employment relationship with another employing office or employer and are paid by that other employing office or employer, or who are self-employed, are not "affected employees" of the operations to which they are assigned. In addition, for purposes of determining whether coverage thresholds are met, either incumbent workers in jobs being eliminated or, if known 60 days in advance, the actual employees who suffer an employment loss may be counted.

(f) *Employment loss.* (1) The term employment loss means (i) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (ii) a layoff exceeding 6 months, or (iii) a reduction in hours of work of individual employees of more than 50% during each month of any 6-month period.

(2) Where a termination or a layoff (see paragraphs (f)(1) (i) and (ii) of this section) is involved, an employment loss does not occur when an employee is reassigned or transferred to employing office-sponsored programs, such as retraining or job search activities, as long as the reassignment does not constitute a constructive discharge or other involuntary termination.

(3) An employee is not considered to have experienced an employment loss if the closing or layoff is the result of the relocation or consolidation of part or all of the employing office's operations and, prior to the closing or layoff—

(i) The employing office offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment, or

(ii) The employing office offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

(4) A "relocation or consolidation" of part or all of an employing office's operations, for purposes of paragraph §639.3(f)(3), means that some definable operations are transferred to a different site of employment and that transfer results in an office closing or mass layoff.

(g) *Part-time employee.* The term "part-time" employee means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required, including workers who work full-time. This term may include workers who would traditionally be understood as "seasonal" employees. The period to be used for calculating whether a worker has worked "an average of fewer than 20 hours per week" is the shorter of the actual time the worker has been employed or the most recent 90 days.

(h) *Single site of employment.* (1) A single site of employment can refer to either a single location or a group of contiguous locations. Separate facilities across the street from one another may be considered a single site of employment.

(2) There may be several single sites of employment within a single building, such as an office building, if separate employing offices conduct activities within such a building. For example, an office building housing 50 different employing offices will contain 50 single sites of employment. The offices of each employing office will be its single site of employment.

(3) Separate buildings or areas which are not directly connected or in immediate proximity may be considered a single site of employment if they are in reasonable geographic proximity, used for the same purpose, and share the same staff and equipment.

(4) Non-contiguous sites in the same geographic area which do not share the same staff or operational purpose should not be considered a single site.

(5) Contiguous buildings operated by the same employing office which have separate management and have separate workforces are considered separate single sites of employment.

(6) For workers whose primary duties require travel from point to point, who are outstationed, or whose primary duties involve work outside any of the employing office's regular employment sites (e.g., railroad workers, bus drivers, salespersons), the single site of employment to which they are assigned as their home base, from which their work is assigned, or to which they report will be the single site in which they are covered for WARN purposes.

(7) Foreign sites of employment are not covered under WARN. U.S. workers at such sites are counted to determine whether an employing office is covered as an employing office under §639.3(a).

(8) The term "single site of employment" may also apply to truly unusual organizational situations where the above criteria do not reasonably apply. The application of this definition with the intent to evade the purpose of WARN to provide notice is not acceptable.

(i) *Facility or operating unit.* The term "facility" refers to a building or buildings. The term "operating unit" refers to an organizationally or operationally distinct product, operation, or specific work function within or across facilities at the single site.

§639.4 Who must give notice?

Section 205(a)(1) of the CAA states that "[n]o employing office shall be closed or a mass layoff ordered within the meaning of section 3 of [WARN] until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff. . ." Therefore, an employing office that is anticipating carrying out an office closing or mass layoff is required to give notice to affected employees or their representative(s). (See definitions in §639.3 of this part.).

(a) It is the responsibility of the employing office to decide the most appropriate person within the employing office's organization to prepare and deliver the notice to affected employees or their representative(s). In most instances, this may be the local site office manager, the local personnel director or a labor relations officer.

(b) An employing office that has previously announced and carried out a short-term layoff (6 months or less) which is being extended beyond 6 months due to circumstances not reasonably foreseeable at the time of the initial layoff is required to give notice when it becomes reasonably foreseeable that the extension is required. A layoff extending beyond 6 months from the date the layoff commenced for any other reason shall be treated as an employment loss from the date of its commencement.

(c) In the case of the privatization or sale of part or all of an employing office's operations, the employing office is responsible for providing notice of any office closing or mass layoff which takes place up to and including the effective date (time) of the privatization or sale, and the contractor or buyer is responsible for providing any required notice of any office closing or mass layoff that takes place thereafter.

(1) If the employing office is made aware of any definite plans on the part of the buyer or contractor to carry out an office closing or mass layoff within 60 days of purchase, the employing office may give notice to affected employees as an agent of the buyer or contractor, if so empowered. If the employing office does not give notice, the buyer or contractor is, nevertheless, responsible to give notice. If the employing office gives notice as the agent of the buyer or contractor, the responsibility for notice still remains with the buyer or contractor.

(2) It may be prudent for the buyer or contractor and employing office to determine the impacts of the privatization or sale on workers, and to arrange between them for advance notice to be given to affected employees or their representative(s), if a mass layoff or office closing is planned.

§639.5 When must notice be given?

(a) *General rule.* (1) With certain exceptions discussed in paragraphs (b) and (c) of this section and in §639.9 of this part, notice must be given at least 60 calendar days prior to any planned office closing or mass layoff, as defined in these regulations. When all employees are not terminated on the same date, the date of the first individual termination within the statutory 30-day or 90-day period triggers the 60-day notice requirement. A worker's last day of employment is considered the date of that worker's layoff. The first and each subsequent group of terminees are entitled to a full 60 days' notice. In order for an employing office to decide whether issuing notice is required, the employing office should—

(i) Look ahead 30 days and behind 30 days to determine whether employment actions both taken and planned will, in the aggregate for any 30-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement; and

VOL
142
PT
6
AP
15
—
24
1996
UMI

(ii) Look ahead 90 days and behind 90 days to determine whether employment actions both taken and planned each of which separately is not of sufficient size to trigger WARN coverage will, in the aggregate for any 90-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement. An employing office is not, however, required under section 3(d) to give notice if the employing office demonstrates that the separate employment losses are the result of separate and distinct actions and causes, and are not an attempt to evade the requirements of WARN.

(2) The point in time at which the number of employees is to be measured for the purpose of determining coverage is the date the first notice is required to be given. If this "snapshot" of the number of employees employed on that date is clearly unrepresentative of the ordinary or average employment level, then a more representative number can be used to determine coverage. Examples of unrepresentative employment levels include cases when the level is near the peak or trough of an employment cycle or when large upward or downward shifts in the number of employees occur around the time notice is to be given. A more representative number may be an average number of employees over a recent period of time or the number of employees on an alternative date which is more representative of normal employment levels. Alternative methods cannot be used to evade the purpose of WARN, and should only be used in unusual circumstances.

(b) *Transfers*. (1) Notice is not required in certain cases involving transfers, as described under the definition of "employment loss" at §639.3(f) of this part.

(2) An offer of reassignment to a different site of employment should not be deemed to be a "transfer" if the new job constitutes a constructive discharge.

(3) The meaning of the term "reasonable commuting distance" will vary with local conditions. In determining what is a "reasonable commuting distance," consideration should be given to the following factors: geographic accessibility of the place of work, the quality of the roads, customarily available transportation, and the usual travel time.

(4) In cases where the transfer is beyond reasonable commuting distance, the employing office may become liable for failure to give notice if an offer to transfer is not accepted within 30 days of the offer or of the closing or layoff (whichever is later). Depending upon when the offer of transfer was made by the employing office, the normal 60-day notice period may have expired and the office closing or mass layoff may have occurred. An employing office is, therefore, well advised to provide 60-day advance notice as part of the transfer offer.

(c) *Temporary employment*. (1) No notice is required if the closing is of a temporary facility, or if the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking.

(2) Employees must clearly understand at the time of hire that their employment is temporary. When such understandings exist will be determined by reference to employment contracts, collective bargaining agreements, or employment practices of other employing offices or a locality, but the burden of proof will lie with the employing office to show that the temporary nature of the project or facility was clearly communicated should questions arise regarding the temporary employment understandings.

§639.6 Who must receive notice?

Section 3(a) of WARN provides for notice to each representative of the affected employees as of the time notice is required to be given or, if there is no such representative at that time, to each affected employee.

(a) *Representative(s) of affected employees.* Written notice is to be served upon the chief elected officer of the exclusive representative(s) or bargaining agent(s) of affected employees at the time of the notice. If this person is not the same as the officer of the local union(s) representing affected employees, it is recommended that a copy also be given to the local union official(s).

(b) *Affected employees.* Notice is required to be given to employees who may reasonably be expected to experience an employment loss. This includes employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such workers can be identified at the time notice is required to be given. If, at the time notice is required to be given, the employing office cannot identify the employee who may reasonably be expected to experience an employment loss due to the elimination of a particular position, the employing office must provide notice to the incumbent in that position. While part-time employees are not counted in determining whether office closing or mass layoff thresholds are reached, such workers are due notice.

§639.7 What must the notice contain?

(a) *Notice must be specific.* (1) All notice must be specific.

(2) Where voluntary notice has been given more than 60 days in advance, but does not contain all of the required elements set out in this section, the employing office must ensure that all of the information required by this section is provided in writing to the parties listed in §639.6 at least 60 days in advance of a covered employment action.

(3) Notice may be given conditional upon the occurrence or nonoccurrence of an event only when the event is definite and the consequences of its occurrence or nonoccurrence will necessarily, in the normal course of operations, lead to a covered office closing or mass layoff less than 60 days after the event. The notice must contain each of the elements set out in this section.

(4) The information provided in the notice shall be based on the best information available to the employing office at the time the notice is served. It is not the intent of the regulations that errors in the information provided in a notice that occur because events subsequently change or that are minor, inadvertent errors are to be the basis for finding a violation of WARN.

(b) As used in this section, the term "date" refers to a specific date or to a 14-day period during which a separation or separations are expected to occur. If separations are planned according to a schedule, the schedule should indicate the specific dates on which or the beginning date of each 14-day period during which any separations are expected to occur. Where a 14-day period is used, notice must be given at least 60 days in advance of the first day of the period.

(c) Notice to each representative of affected employees is to contain:

(1) The name and address of the employment site where the office closing or mass layoff will occur, and the name and telephone number of an employing office official to contact for further information;

(2) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(3) The expected date of the first separation and the anticipated schedule for making separations;

(4) The job titles of positions to be affected and the names of the workers currently holding affected jobs.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

(d) Notice to each affected employee who does not have a representative is to be written in language understandable to the employees and is to contain:

(1) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(2) The expected date when the office closing or mass layoff will commence and the expected date when the individual employee will be separated;

(3) An indication whether or not bumping rights exist;

(4) The name and telephone number of an employing office official to contact for further information.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

§639.8 How is the notice served?

Any reasonable method of delivery to the parties listed under §639.6 of this part which is designed to ensure receipt of notice of at least 60 days before separation is acceptable (e.g., first class mail, personal delivery with optional signed receipt). In the case of notification directly to affected employees, insertion of notice into pay envelopes is another viable option. A ticketed notice, i.e., preprinted notice regularly included in each employee's pay check or pay envelope, does not meet the requirements of WARN.

§639.9 When may notice be given less than 60 days in advance?

Section 3(b) of WARN, as applied by section 205 of the CAA, sets forth two conditions under which the notification period may be reduced to less than 60 days. The employing office bears the burden of proof that conditions for the exceptions have been met. If one of the exceptions is applicable, the employing office must give as much notice as is practicable to the union and non-represented employees and this may, in some circumstances, be notice after the fact. The employing office must, at the time notice actually is given, provide a brief statement of the reason for reducing the notice period, in addition to the other elements set out in §639.7.

(a) The "unforeseeable business circumstances" exception under section 3(b)(2)(A) of WARN, as applied under the CAA, applies to office closings and mass layoffs caused by circumstances that were not reasonably foreseeable at the time that 60-day notice would have been required.

(1) An important indicator of a circumstance that is not reasonably foreseeable is that the circumstance is caused by some sudden, dramatic, and unexpected action or condition outside the employing office's control.

(2) The test for determining when circumstances are not reasonably foreseeable

focuses on an employing office's business judgment. The employing office must exercise such reasonable business judgment as would a similarly situated employing office in predicting the demands of its operations. The employing office is not required, however, to accurately predict general economic conditions that also may affect its operations.

(b) The "natural disaster" exception in section 3(b)(2)(B) of WARN applies to office closings and mass layoffs due to any form of a natural disaster.

(1) Floods, earthquakes, droughts, storms, tidal waves or tsunamis and similar effects of nature are natural disasters under this provision.

(2) To qualify for this exception, an employing office must be able to demonstrate that its office closing or mass layoff is a direct result of a natural disaster.

(3) While a disaster may preclude full or any advance notice, such notice as is practicable, containing as much of the information required in §639.7 as is available in the circumstances of the disaster still must be given, whether in advance or after the fact of an employment loss caused by a natural disaster.

(4) Where an office closing or mass layoff occurs as an indirect result of a natural disaster, the exception does not apply but the "unforeseeable business circumstance" exception described in paragraph (a) of this section may be applicable.

§639.10 When may notice be extended?

Additional notice is required when the date or schedule of dates of a planned office closing or mass layoff is extended beyond the date or the ending date of any 14-day period announced in the original notice as follows:

(a) If the postponement is for less than 60 days, the additional notice should be given as soon as possible to the parties identified in §639.6 and should include reference to the earlier notice, the date (or 14-day period) to which the planned action is postponed, and the reasons for the postponement. The notice should be given in a manner which will provide the information to all affected employees.

(b) If the postponement is for 60 days or more, the additional notice should be treated as new notice subject to the provisions of §§639.5, 639.6 and 639.7 of this part. Rolling notice, in the sense of routine periodic notice, given whether or not an office closing or mass layoff is impending, and with the intent to evade the purpose of the Act rather than give specific notice as required by WARN, is not acceptable.

§639.11 [Reserved]

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. THOMAS] and the gentleman from California [Mr. FAZIO] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what this resolution does is it accomplishes the same purpose as House Resolution 401, but it is extended to those joint entities under regulations adopted by the Office of Compliance, and those joint entities are the Capitol Guide Board, the Capitol Police Board, the Capitol Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance itself.

Mr. Speaker, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as with the earlier resolution adopting the regulations applicable to the House, my friend, the gentleman from California [Mr. THOMAS], has accurately described the Senate concurrent resolution. Again, it simply approves the regulations issued by the Office of Compliance for those items that are jointly responsible to both houses of the Congress.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the committee does want to thank the ranking member. It is difficult enough in making sure that the application of laws that have been applied to the private sector apply equally and fairly to this House, and I have to say that we have had an excellent bipartisan working relationship in making sure that this has been done in a professional manner so that the laws that apply to others apply to us fairly.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 51).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. JACKSON-LEE (at the request of Mr. GEPHARDT) on today, Monday, April 15, 1996, on account of business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COX of California) to revise and extend their remarks and include extraneous material:)

Mr. HUTCHINSON, for 5 minutes, today.

Mr. COX of California, for 5 minutes, today.

Mr. SHADEGG, for 5 minutes, today.

(The following Members (at the request of Mr. FAZIO of California) to revise and extend their remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. KAPTUR, for 5 minutes, today.

(The following Member (at the request of Mr. HAYWORTH) to revise and extend his remarks and include extraneous material:)

Mr. RIGGS, for 5 minutes, on April 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. COX of California) and to include extraneous matter:)

Mr. LEWIS of California.

(The following Members (at the request of Mr. FAZIO of California) and to include extraneous matter:)

Mr. BONIOR.
Mr. STOKES.
Ms. NORTON.
Mrs. MEEK of Florida.
Mr. SERRANO in three instances.
Mr. MANTON.
Mrs. MALONEY.
Mr. TOWNS.
Mr. PALLONE.
Mr. LANTOS in three instances.
Mr. JACOBS.
Mr. FARR of California in two instances.
Mr. FILNER.
Mr. RAHALL.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. HAYES.
Mr. BARTON of Texas.
Mr. COX of California.
Mrs. CHENOWETH.
Mr. COMBEST.
Mr. WATTS of Oklahoma in two instances.
Mr. BAKER of California.
Mr. SPENCE.
Mr. BUNNING of Kentucky.
Mr. KING.
Mr. HOUGHTON.
Mr. GILMAN.
Mr. LIGHTFOOT in two instances.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following days present to the President, for his approval, bills of the House of the following titles:

On March 27, 1996:

H.R. 1833. An act to amend title 18, United States Code, to ban partial-birth abortions.

On April 1, 1996:

H.R. 956. An act to establish legal standards and procedures for product liability litigation, and for other purposes.

H.R. 1561. An act to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of

VOL
142
PT
6
AP
15
—
24
1996
UMI

State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes.

H.R. 2854. An act to modify the operation of certain agricultural programs.

ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 7 minutes a.m.), under its previous order, the House adjourned until today, Tuesday, April 16, 1996, at 9:30 a.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2335. A communication from the President of the United States, transmitting his requests for fiscal year 1996 supplemental appropriations totaling $250 million to intensify our Nation's drug law enforcement, treatment, and prevention efforts, and to designate the amount made available as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 104–193); to the Committee on Appropriations and ordered to be printed.

2336. A communication from the President of the United States, transmitting his request to make available appropriations totaling $13,025,000 in budgetary authority for the Department of Health and Human Services, in addition a request to redirect appropriations totaling $3,700,000 in budget authority to the Department of Health and Human Services, and to designate the amounts made available as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 104–194); to the Committee on Appropriations and ordered to be printed.

2337. A communication from the President of the United States transmitting a report of 10 proposed rescissions of budgetary resources, totaling $400.4 million affecting the Department of Defense, pursuant to 2 U.S.C. 683(a)(1) (H. Doc. No. 104–195); to the Committee on Appropriations and ordered to be printed.

2338. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of April 1, 1996, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 104–192); to the Committee on Appropriations and ordered to be printed.

2339. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification that the Department of the Navy intends to transfer by sale the ship U.S.S. *Recovery* to the Taipei Economic and Cultural Representative Office, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on National Security.

2340. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the transfer of property to the Republic of Panama under the Panama Canal Treaty of 1977 and related agreements, pursuant to 22 U.S.C. 3784(b); to the Committee on National Security.

2341. A letter from the Comptroller General of the United States, transmitting a report entitled, "Financial Audit: Panama Canal Commission's 1995 and 1994 Financial Statements" (GAO/AIMD-96-61) March 1996, pursuant to 31 U.S.C. 9106(a); to the Committee on National Security.

2342. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation entitled the "National Defense Authorization Act for Fiscal Year 1997," pursuant to 31 U.S.C. 1110; to the Committee on National Security.

2343. A letter from the Chairman, Federal Financial Institutions Examination Council, transmitting the Council's 1995 annual report to the Congress, pursuant to 12 U.S.C. 3305; to the Committee on Banking and Financial Services.

2344. A letter from the Chairman, National Credit Union Administration, transmitting the 1995 annual report of the National Credit Union Administration, pursuant to 12 U.S.C. 1256; to the Committee on Banking and Financial Services.

2345. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year—if any—and the budget year provided by House Joint Resolution 170, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–578); to the Committee on the Budget.

2346. A letter from the National Foundation on the Arts and the Humanities, transmitting the Federal Council on the Arts and the Humanities' 20th annual report on the Arts and Artifacts Indemnity Program for fiscal year 1995, pursuant to 20 U.S.C. 959(c); to the Committee on Economic and Educational Opportunities.

2347. A letter from the Secretary of Transportation, transmitting the Department's 20th annual report to Congress entitled "Automotive Fuel Economy Program," pursuant to 49 U.S.C. 32916; to the Committee on Commerce.

2348. A letter from the Chairman, Federal Trade Commission, transmitting the Commission's 80th annual report covering its accomplishments during the fiscal year ended September 30, 1994, pursuant to 15 U.S.C. 46(f); to the Committee on Commerce.

2349. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the semiannual report for the combined periods October 1, 1994 to September 30, 1995 listing voluntary contributions made by the U.S. Government to International Organizations, pursuant to 22 U.S.C. 2226(b)(1); to the Committee on International Relations.

2350. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on chemical and biological weapons proliferation control efforts for the period of February 1, 1995 to January 31, 1996, pursuant to Public Law 102–182, section 308(a) (105 Stat. 1257); to the Committee on International Relations.

2351. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

2352. A communication from the President of the United States, transmitting a report on the evaluation from Liberia of private United States citizens and certain third-country nationals who have taken refuge in the United States Embassy compound wishing to leave. (H. Doc. No. 104–196); to the Committee on International Relations and ordered to be printed.

2353. A letter from the Chair, Foreign Claims Settlement Commission, Department of Justice, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2354. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting the Authority's report on procedures for hiring experts and consultants, pursuant to Public Law 104–8, section 101(e)(1) (109 Stat. 101); to the Committee on Government Reform and Oversight.

2355. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting the Authority's report entitled "Report on Final Allocations of the District of Columbia's Fiscal Year 1996 Budget," pursuant to Public Law 104–8, section 202(d) (109 Stat. 113); to the Committee on Government Reform and Oversight.

2356. A letter from the Executive Director, Interstate Commission on the Potomac River Basin, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2357. A letter from the Chairman, National Endowment for the Arts, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2358. A letter from the Director, Office of Government Ethics, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2359. A letter from the Special Counsel, Office of Special Counsel, transmitting the annual report of the Office of the Special Counsel [OSC] for fiscal year [FY] 1995, pursuant to Public Law 101–12, section 3(a)(11) (103 Stat. 29); to the Committee on Government Reform and Oversight.

2360. A letter from the President and CEO, Overseas Private Investment Corporation, transmitting the Corporation's fifth annual management report, pursuant to Public Law 101–576, section 306(a) (104 Stat. 2854); to the Committee on Government Reform and Oversight.

2361. A letter from the Chairman, Railroad Retirement Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calender year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2362. A letter from the Chairman, Federal Election Commission, transmitting 50 recommendations for legislative action, pursuant to 2 U.S.C. 438(a)(9); to the Committee on House Oversight.

2363. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period October 1, 1995, through December 31, 1995, as

compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a (H. Doc. No. 104–191); to the Committee on House Oversight and ordered to be printed.

2364. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

2365. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

2366. A letter from the Attorney General of the United States, transmitting the 1995 annual report of the Federal Prison Industries, Inc. [FPI], pursuant to 18 U.S.C. 4127; to the Committee on the Judiciary.

2367. A letter from the Director, Federal Judicial Center, transmitting the Federal Judicial Center's annual report for 1995, pursuant to 28 U.S.C. 623(b); to the Committee on the Judiciary.

2368. A letter from the Secretary of Transportation, transmitting the Department's report entitled "Remote Alcohol Testing Program for Masters and Pilots," pursuant to Public Law. 101–380, section 4111(c) (104 Stat. 516); to the Committee on Transportation and Infrastructure.

2369. A letter from the Secretary of Transportation, transmitting the Department's report entitled "Tanker Navigation Equipment, Systems, and Procedures Report," pursuant to Public Law 101–380, section 4111(c) (104 Stat. 516); to the Committee on Transportation and Infrastructure.

2370. A letter from the Chairman, Federal Maritime Commission, transmitting the 34th annual report of the Federal Maritime Commission for fiscal year 1995, pursuant to 46 U.S.C. 1118; to the Committee on Transportation and Infrastructure.

2371. A letter from the Acting Administrator, General Services Administration, transmitting an informational copy of the fiscal year 1997 Capital Investment and Leasing Program of the General Services Administration's Public Buildings Service, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

2372. A letter from the Secretary of Veterans Affairs, transmitting a report covering the disposition of cases granted relief from administrative error, overpayment, and forfeiture by the Administrator in 1995, pursuant to 38 U.S.C. 503; to the Committee on Veterans' Affairs.

2373. A letter from the Chairman, U.S. International Trade Commission, transmitting a draft of proposed legislation to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1997, pursuant to 31 U.S.C. 1110; to the Committee on Ways and Means.

2374. A letter from the Director, Office of Government Ethics, transmitting the Office's fourth biennial report to the Congress, pursuant to Public Law 95–452, section 408 (102 Stat. 3032); jointly, to the Committees on the Judiciary and Government Reform and Oversight.

2375. A letter from the Administrator, Federal Aviation Administration, transmitting the Administration's report of progress on developing and certifying the traffic alert and collision avoidance system [TCAS] for the period October through December 1995, pursuant to Public Law 100–223, section 203(b) (101 Stat. 1518); jointly, to the Committees on Transportation and Infrastructure and Science.

2376. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled the "Department of Transportation Regulatory Reform Act of 1996"; jointly, to the Committees on Transportation and Infrastructure and Commerce.

2377. A letter from the Secretary of Commerce, transmitting the annual report of the National Technical Information Service [NTIS] for fiscal year 1994, pursuant to Public Law 100–519, section 212(f)(3) (102 Stat. 2596); jointly, to the Committee on Science and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1527. A bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws; with amendments (Rept. 104–516 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2160. A bill to authorize appropriations to carry out the Interjurisdictional Fisheries Act of 1986 and the Anadromous Fish Conservation Act; with an amendment (Rept. 104–517). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee of Conference. Conference report on S. 735. An act to prevent and punish acts of terrorism, and for other purposes (Rept. 104–518). Ordered to be printed.

SUBSEQUENT ACTION ON BILLS INITIALLY REFERRED UNDER TIME LIMITATIONS

Under clause 5 of rule X, the following actions were taken by the Speaker.

H.R. 1527. The Committee on Agriculture discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1527. Referral to the Committee on Agriculture extended for a period ending not later than April 15, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SPENCE (for himself and Mr. Dellums) (both by request):

H.R. 3230. A bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1997, and for other purposes; to the Committee on National Security.

By Mr. HEFLEY (for himself and Mr. Ortiz) (both by request):

H.R. 3231. A bill to authorize certain construction at military installations for fiscal year 1997, and for other purposes; to the Committee on National Security.

By Mr. EHRLICH:

H.R. 3232. A bill to amend title XIX of the Social Security Act to repeal the preadmission screening and resident review [PASARR] requirement for nursing facilities under the Medicaid Program; to the Committee on Commerce.

H.R. 3233. A bill to amend titles XVIII and XIX of the Social Security Act to repeal denial of approval of nurse aide training programs based on reasons not associated with quality or operation; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BALLENGER (for himself, Mrs. Meyers of Kansas, Mr. Barrett of Nebraska, Mr. Hoekstra, Mr. Norwood, Mr. Stenholm, Mr. Graham, Mr. Hayes, Mr. Hutchinson, Mr. Hall of Texas, and Mr. Brewster):

H.R. 3234. A bill to amend the Occupational Safety and Health Act of 1970; to the Committee on Economic and Educational Opportunities.

By Mr. CANADY (for himself and Mr. Hyde):

H.R. 3235. A bill to amend the Ethics in Government Act of 1978, to extend the authorization of appropriations for the Office of Government Ethics for 3 years, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COMBEST (for himself and Mr. Thornberry):

H.R. 3236. A bill to amend the Consolidated Farm and Rural Development Act to provide a grace period for the prohibition on Consolidated Farm Service Agency [CFSA] lending to delinquent borrowers; to the Committee on Agriculture.

By Mr. COMBEST:

H.R. 3237. A bill to provide for improved management and operation of intelligence activities of the Government by providing for a more corporate approach to intelligence, to reorganize the agencies of the Government engaged in intelligence activities so as to provide an improved Intelligence Community for the 21st century, and for other purposes; to the Committee on Intelligence (Permanent Select), and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEUTSCH (for himself, Ms. Ros-Lehtinen, Mr. Diaz-Balart, Mr. Johnston of Florida, Mrs. Meek of Florida, Mr. Hastings of Florida, Mr. Gibbons, Mr. Foley, Ms. Woolsey, Mr. Bryant of Texas, Mr. Ward, Mr. Gordon, and Mr. Manton):

H.R. 3238. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to establish a national resource center and clearinghouse to carry out, through the

VOL 142 PT 6 AP 15 — 24 1996 UMI

Jimmy Ryce Law Enforcement Training Center for the Recovery of Missing Children, training of State and local law enforcement personnel to more effectively respond to cases involving missing or exploited children, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. DICKEY (for himself, Mr. SHAYS, Mr. INGLIS of South Carolina, Mr. BONILLA, Mr. STUMP, Mr. TAYLOR of North Carolina, Mr. HEFLEY, Mr. BAKER of California, Mr. THORNTON, Mr. PACKARD, Mr. GREEN of Texas, and Mr. KING):

H.R. 3239. A bill to reform the independent counsel statute, and for other purposes; to the Committee on the Judiciary.

By Mr. DORNAN (for himself and Mr. WOLF):

H.R. 3240. A bill to amend the Internal Revenue Code of 1986 to clarify the prohibition against lobbying; to the Committee on Ways and Means.

By Mr. FOGLIETTA (for himself, Mr. BARRETT of Wisconsin, Mr. DELLUMS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GREEN of Texas, Mr. CLYBURN, Mr. HINCHEY, Ms. NORTON, Mr. HASTINGS of Florida, Miss COLLINS of Michigan, and Ms. MCKINNEY):

H.R. 3241. A bill to amend the Internal Revenue Code to allow the designation of additional empowerment zones and provide additional incentives for empowerment zones and enterprise communities, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Banking and Financial Services, Government Reform and Oversight, Transportation and Infrastructure, Economic and Educational Opportunities, International Relations, Commerce, the Judiciary, National Security, and Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HUTCHINSON (for himself and Mr. SCOTT):

H.R. 3242. A bill to provide for the reporting of deaths of persons in custody; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 3243. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reduce certain funds if eligible States do not enact certain laws; to the Committee on the Judiciary.

By Ms. NORTON:

H.R. 3244. A bill to amend the Internal Revenue Code of 1986 to provide for individuals who are residents of the District of Columbia a maximum rate of tax of 15 percent on income from sources within the District of Columbia; to the Committee on Ways and Means.

By Mr. POMEROY:

H.R. 3245. A bill to amend the Internal Revenue Code of 1986 to provide a deduction for higher education expenses; to the Committee on Ways and Means.

By Mr. SCHUMER (for himself, Mr. KENNEDY of Massachusetts, and Mrs. MALONEY):

H.R. 3246. A bill to amend the Electronic Fund Transfer Act to protect the consumer with regard to fees imposed in connection with an electronic fund transfer initiated by a consumer, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. THOMPSON (for himself, Mr. CLYBURN, Mr. HILLIARD, and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 3247. A bill to redesignate the Herbert Clark Hoover Department of Commerce Building located at 14th Street and Constitution Avenue, NW, in Washington, DC, as the "Ronald H. Brown Commerce Building"; to the Committee on Transportation and Infrastructure.

By Mr. HOUGHTON (for himself, Mr. WATT of North Carolina, Mr. CHABOT, Mr. ACKERMAN, Mr. PAYNE of New Jersey, Mr. HASTINGS of Florida, Mr. ENGEL, and Mr. FRAZER):

H. Con. Res. 160. Concurrent resolution congratulating the people of the Republic of Sierra Leone on the success of their recent democratic multiparty elections; to the Committee on International Relations.

By Mr. STOCKMAN:

H. Con. Res. 161. Concurrent resolution authorizing the use of the Capitol Grounds for the Washington for Jesus 1996 prayer rally; to the Committee on Transportation and Infrastructure.

By Mr. THOMAS:

H. Res. 400. Resolution approving regulations to implement the Congressional Accountability Act of 1995 with respect to employing offices and covered employees of the House of Representatives; to the Committee on House Oversight.

H. Res. 401. Resolution directing the Office of Compliance to provide educational assistance to employing offices of the House of Representatives regarding compliance with the Congressional Accountability Act of 1995 and requiring employing offices of the House of Representatives to obtain the prior approval of the chairman and the ranking minority party member of the Committee on House Oversight of the House of Representatives of the amount of any settlement payments made under such Act; to the Committee on House Oversight.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

214. By the SPEAKER: Memorial of the House of Representatives of the State of Idaho, relative to the training range at Mountain Home Air Force Base, ID; to the Committee on National Security.

215. Also, memorial of the Senate of the State of Idaho, relative to opposition to any legislation seeking to authorize the United Nations to levy taxes on the people and corporations of the United States directly or indirectly for U.N. purposes; to the Committee on International Relations.

216. Also, memorial of the House of Representatives of the State of Idaho, relative to the reintroduction of grizzly bears to Idaho; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. SALMON.

H.R. 28: Mr. SALMON.

H.R. 123: Mr. BROWNBACK.

H.R. 209: Mr. SALMON.

H.R. 218: Mr. HEFNER.

H.R. 246: Mr. BATEMAN.

H.R. 248: Ms. NORTON, Ms. ESHOO, and Mr. GUTIERREZ.

H.R. 351: Mr. ROHRABACHER, Mr. NEY, Mr. BONO, Mr. WELDON of Florida, Mr. DOOLITTLE, Mr. HORN, Mr. HUTCHINSON, Mr. CALLAHAN, Mr. BAKER of California, and Mr. KING.

H.R. 392: Mr. NEY.

H.R. 452: Ms. NORTON.

H.R. 580: Mr. SCOTT, Mr. BROWN of California, and Mr. ROMERO-BARCELÓ.

H.R. 773: Mr. PAYNE of New Jersey, Mr. CUNNINGHAM, Mrs. MORELLA, and Mr. CHABOT.

H.R. 777: Mr. FALEOMAVAEGA, Ms. JACKSON-LEE, Mr. SAXTON, and Mr. CRAMER.

H.R. 778: Mr. FALEOMAVAEGA, Ms. JACKSON-LEE, Mr. SAXTON, and Mr. CRAMER.

H.R. 779: Ms. MOLINARI.

H.R. 780: Ms. MOLINARI.

H.R. 784: Mrs. CHENOWETH and Mrs. SEASTRAND.

H.R. 791: Mr. BATEMAN.

H.R. 820: Mrs. MEYERS of Kansas.

H.R. 833: Mr. BECERRA.

H.R. 835: Ms. MCKINNEY, Mrs. CLAYTON, Mr. CONYERS, Mrs. MALONEY, Mr. FRAZER, Mr. OWENS, and Mr. CLYBURN.

H.R. 858: Mr. PAYNE of New Jersey, Mr. BARCIA of Michigan, Mr. KENNEDY of Rhode Island, Mr. DOYLE, Mr. KLINK, Mr. BONIOR, Mr. ENGLISH of Pennsylvania, Mr. HINCHEY, Mr. SHUSTER, Mr. SKELTON, Mr. GONZALEZ, Mr. FROST, Mr. PETERSON of Minnesota, Mr. HEFLEY, Mr. KLECZKA, Mr. LATOURETTE, Mr. BRYANT of Texas, Mr. THORTON, Mr. WISE, Ms. BROWN of Florida, and Mrs. LOWEY.

H.R. 885: Mr. FORBES.

H.R. 911: Mrs. SMITH of Washington, Mr. WATTS of Oklahoma, Mr. CUNNINGHAM, Ms. NORTON, Ms. PELOSI, and Mr. HASTINGS of Florida.

H.R. 941: Mr. SAWYER.

H.R. 958: Mr. WOLF, Mr. OWENS, Mr. STUPAK, Mr. TORRICELLI, Mr. GENE GREEN of Texas, Mr. FILNER, Mr. FAZIO of California, Mr. KILDEE, Mr. GUTIERREZ, and Mr. CLYBURN.

H.R. 1005: Mr. SALMON.

H.R. 1023: Mr. DIXON, Mr. KNOLLENBERG, Mr. SKELTON, Mr. CARDIN, Mr. NUSSLE, Ms. DUNN of Washington, Ms. ESHOO, Mr. PETE GEREN of Texas, and Mr. NORWOOD.

H.R. 1033: Mr. DAVIS.

H.R. 1073: Mr. WARD, Mr. SMITH of Texas, Mr. TORKILDSEN, and Mrs. THURMAN.

H.R. 1074: Mr. WARD, Mr. SMITH of Texas, Mr. TORKILDSEN, and Mrs. THURMAN.

H.R. 1131: Mr. SALMON.

H.R. 1210: Mr. CRAMER and Mr. TRAFICANT.

H.R. 1227: Mr. WALSH, Mr. WELDON of Florida, and Mr. CRAMER.

H.R. 1355: Ms. KAPTUR.

H.R. 1386: Mr. HALL of Texas, Mr. PETERSON of Minnesota, Mr. DAVIS, Mr. EHRLICH, and Mrs. FOWLER.

H.R. 1402: Mr. MORAN.

H.R. 1483: Mr. WALSH.

H.R. 1484: Mr. WATT of North Carolina, Mr. KLINK, Mr. WYNN, Mr. GREEN of Texas, and Mrs. LOWEY.

H.R. 1496: Mr. FRANK of Massachusetts.

H.R. 1501: Mr. BATEMAN and Mr. ZIMMER.

H.R. 1507: Mr. ENGEL, Mr. WAXMAN, Mr. JOHNSTON of Florida, Mr. WILLIAMS, Mr. JACKSON, Mrs. MORELLA, Mr. SANDERS, Mr. WARD, and Ms. LOFGREN.

H.R. 1527: Mr. SKAGGS and Mr. ZELIFF.

H.R. 1547: Mr. NADLER.

H.R. 1619: Mr. TEJEDA, Mr. SMITH of Texas, Mr. QUINN, and Mr. DELLUMS.

H.R. 1711: Mr. FUNDERBURK, Mr. DUNCAN, and Mr. MCINTOSH.

H.R. 1776: Mr. SISISKY, Mr. FLANAGAN, Mr. HOBSON, Mr. KASICH, Mr. MATSUI, Mrs. MYRICK, Mr. SHAYS, Mr. HOYER, Miss COLLINS of Michigan, Mr. ABERCROMBIE, Mrs. LINCOLN, Mr. MOAKLEY Mr. GILLMOR, Mrs. MORELLA, Mrs. MALONEY, Ms. PRYCE, Mr.

GEJDENSON, Mr. WAXMAN, and Mr. BAKER of California.

H.R. 1810: Mr. SALMON.

H.R. 1893: Mr. FILNER.

H.R. 1981: Mr. SALMON.

H.R. 2024: Mr. WHITE.

H.R. 2137: Mr. MCINTOSH.

H.R. 2167: Mr. NEY, Mr. BROWN of California, Mr. EMERSON, and Mr. MANTON.

H.R. 2214: Mr. STARK, Mr. BROWN of California, Mr. ENGLISH of Pennsylvania, Mr. EMERSON, and Mr. RAHALL.

H.R. 2240: Mr. MARTINEZ.

H.R. 2244: Mr. MARTINI.

H.R. 2270: Mr. EMERSON and Mr. POMBO.

H.R. 2450: Mr. BARCIA of Michigan, Mr. FALEOMAVAEGA, Mr. GREEN of Texas, Mr. HOKE, Mr. SOLOMON, Mr. CLAY, Mr. DEAL of Georgia, Mr. HASTINGS of Florida, and Mr. GONZALEZ.

H.R. 2566: Mr. MARKEY, Mr. GREENWOOD, and Mr. DURBIN.

H.R. 2579: Mr. GRAHAM, Mr. RUSH, Mr. COLLINS of Georgia, Mr. TALENT, Mr. DAVIS, Mr. HAMILTON, Mr. LAUGHLIN, Mr. ZIMMER, and Mr. TORKILDSEN.

H.R. 2585: Mr. OLVER.

H.R. 2618: Mr. SANDERS and Mr. BROWN of California.

H.R. 2651: Mr. PETERSON of Minnesota and Mr. YATES.

H.R. 2655: Mr. MARTINI.

H.R. 2683: Ms. WOOLSEY, Mr. GILMAN, Mr. HUTCHINSON, Mr. YOUNG of Florida, Mr. BARTON of Texas, Mrs. FOWLER, and Mr. TALENT.

H.R. 2701: Mr. MONTGOMERY, Mr. GEJDENSON, Mr. SCHIFF, Mr. FATTAH, and Mr. DIAZ-BALART.

H.R. 2745: Mr. LEACH.

H.R. 2757: Mr. FORBES, Mr. CRAMER, and Mr. ROBERTS.

H.R. 2779: Mr. LEWIS of Kentucky, Mr. PAYNE of Virginia, Mr. PAXON, and Mr. HOBSON.

H.R. 2796: Mr. BENTSEN.

H.R. 2820: Mr. HUTCHINSON, Mr. DICKEY, Mr. EMERSON, Mr. HAYES, Mr. BAKER of Louisiana, Mr. NEY, Mr. UPTON, Mr. TIAHRT, and Mr. DUNCAN.

H.R. 2875: Mr. BAKER of Louisiana, Mr. CALVERT, and Mr. ROMERO-BARCELÓ.

H.R. 2911: Mr. LAHOOD.

H.R. 2912: Ms. FURSE.

H.R. 2959: Mr. SCOTT, Mr. FAWELL, Mr. FORD, and Mr. FROST.

H.R. 2994: Mr. OBERSTAR, Mr. FRANK of Massachusetts, Mr. CLEMENT, Mr. FAZIO of California, Mr. EVANS, Mr. BEREUTER, Mr. HINCHEY, and Mr. WYNN.

H.R. 3002: Mr. MCINTOSH and Mrs. MEYERS of Kansas.

H.R. 3050: Mr. EVANS, Mr. BONIOR, and Mr. BEREUTER.

H.R. 3059: Mr. HILLIARD and Mr. STARK.

H.R. 3065: Mr. DEUTSCH and Mr. CRAPO.

H.R. 3067: Ms. RIVERS, Mr. FOGLIETTA, Ms. PRYCE, and Mr. MILLER of California.

H.R. 3085: Mr. CAMP.

H.R. 3086: Mr. WELDON of Florida and Mr. HILLEARY.

H.R. 3102: Mr. KLINK, Mr. BARRETT of Wisconsin, Mr. LIPINSKI, and Mrs. SCHROEDER.

H.R. 3104: Mr. CALVERT, Mr. BARRETT of Nebraska, Ms. NORTON, and Mr. POMEROY.

H.R. 3118: Mr. FROST, Mr. MOAKLEY, Mr. SOLOMON, Mr. MASCARA, Mr. HALL of Texas, and Mr. TEJEDA.

H.R. 3119: Mr. MOAKLEY, Ms. ROYBAL-ALLARD, Mr. MASCARA, Mr. DORNAN, Mr. TEJEDA, Mr. HALL of Texas, and Mr. VOLKMER.

H.R. 3123: Mr. SMITH of New Jersey, Mr. SOLOMON, and Mr. CALVERT.

H.R. 3139: Mr. LAZIO of New York, Mr. ACKERMAN, Mr. FLAKE, Mr. MANTON, Mr. SERRANO, Mrs. KELLY, Mr. GILMAN, Mr. SOLOMON, Mr. BOEHLERT, Mr. MCHUGH, and Mr. WALSH.

H.R. 3141: Ms. LOFGREN.

H.R. 3142: Mr. NORWOOD, Mr. WATTS of Oklahoma, Mr. KIM, Mr. ORTIZ, Mr. RIGGS, Mr. RAHALL, Mr. GREEN of Texas, Mr. BILBRAY, Mr. HUTCHINSON, Mr. BEREUTER, Mr. PETERSON of Florida, Mr. HEFNER, Mr. EHRLICH, Mr. HOBSON, Mr. MARTINEZ, Mr. WHITFIELD, Mr. EMERSON, Mr. WARD, Mr. EVANS, Mr. KINGSTON, Mr. SISISKY, Mr. BAKER of California, Mr. WOLF, Mr. MCHUGH, Ms. BROWN of Florida, Mrs. FOWLER, Mr. COOLEY, Mr. OLVER, Mr. HASTINGS of Florida, Mr. STUMP, Mr. SKEEN, Mr. BROWN of California, Mr. TORKILDSEN, Mr. ROMERO-BARCELÓ, and Mr. NETHERCUTT.

H.R. 3153: Mr. HILLIARD, Mr. MICA, Mr. BUNNING of Kentucky, Mr. BAKER of Lonisiana, Mr. CRAPO, Mr. HOLDEN, Mr. TANNER, Mr. BEREUTER, Mr. BURR, Mr. DUNCAN, Mr. HOKE, Mr. CHAPMAN, and Mrs. CHENOWETH.

H.R. 3165: Mr. RIGGS, Mr. STUPAK, and Mr. ROMERO-BARCELÓ.

H.R. 3195: Mr. GREEN of Texas, Mr. COBURN, Mr. FROST, Mr. HEFLEY, Mr. LUCAS, and Mr. HUTCHINSON.

H.R. 3226: Ms. MOLINARI.

H.J. Res. 114: Mr. REED.

H.J. Res. 159: Mrs. VUCANOVICH, Mr. BASS, Mrs. MEYERS of Kansas, and Ms. ROS-LEHTINFN.

H. Con. Res. 47: Mr. STUPAK, Mr. NEUMANN, Mr. HOYER, Mr. HALL of Ohio, Mr. GONZALEZ, and Mr. FATTAH.

H. Con. Res. 50: Mr. WATT of North Carolina.

H. Con. Res. 128: Mrs. MEEK of Florida, Ms. VELÁZQUEZ, Ms. PELOSI, Mrs. MALONEY, and Ms. NORTON.

H. Con. Res. 145: Mr. LIPINSKI.

H. Con. Res. 151: Mr. MASCARA and Mr. CRAMER.

H. Res. 30: Mr. FOX, Mr. COLLINS of Georgia, Mrs. SCHROEDER, Mr. SMITH of Texas, Mr. LANTOS, and Mr. DELAY.

H. Res. 49: Mr. DEFAZIO and Ms. SLAUGHTER.

H. Res. 348: Mr. ENGLISH of Pennsylvania, Mr. FLANAGAN, Mr. BURR, Mr. MANZULLO, Mr. MOORHEAD, Mr. MCKEON, and Mr. HUNTER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of September 19, 1995]

H. Con. Res. 12: Mr. LIVINGSTON.

[Omitted from the Record, March 29, 1996]

H.J. Res. 159: Mr. GOSS.

[Submitted April 15, 1996]

H.R. 1972: Mr. PETERSON of Minnesota.

PETITIONS, ETC.

Under clause 1 of rule XXII.

70. The SPEAKER presented a petition of the Dutchess County Legislature, NY, relative to flow control; which was referred to the Committee on Commerce.

VOL
142
PT
6
AP
15
—
24
1996
UMI

EXTENSIONS OF REMARKS

COMMEMORATING YOM HASHOAH

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mrs. MALONEY. Mr. Speaker, tomorrow, we will all gather in the majestic setting of the Capitol rotunda to carry out our solemn annual obligation to commemorate Yom HaShoah—Holocaust Remembrance Day.

The length of time to pass since the Holocaust is now more than half a century, and it is even more incumbent upon us to ensure that the lessons and legacies of this dark period in history are never forgotten. As the Holocaust survivors themselves grow older and pass away, we must ensure that the phrase "zachor"—remember—does not become a mere slogan. Preventing such a catastrophe from ever occuring again is only possible if we continue to pass on the memories of the Nazi era to our children.

Mr. Speaker, yesterday I was privileged to attend the Annual Holocaust Commemoration in New York City. This ceremony, which took place at the beautiful Temple Emanu-El in my district, included a stirring speech by Benjamin Meed, the president of the Warsaw Ghetto Resistance Organization. As he does each year, my friend Ben Meed delivered a moving tribute to those who perished and those who survived. I commend Ben's remarks to my colleagues.

AN ADDRESS BY BENJAMIN MEED, PRESIDENT, WARSAW GHETTO RESISTANCE ORGANIZATION, 53D ANNUAL COMMEMORATION OF THE WARSAW GHETTO UPRISING

We are together again—the entire Jewish people, men, women, and children, to commemorate the murder of the Jewish people by the Germans and their collaborators. They made no distinctions among Jewish people at the gates of hell. Together we were all pushed to the gas chambers. For one reason only—we were born as Jews.

This commemoration, which I have the honor to chair for the 35th year, is deeply emotional for me as it is for many of you. For many years, the survivors alone remembered. We kept reliving our nightmares in the hope that the world would pay attention to our past, and now, the world has heard our story.

People have started to understand that what happened was real. When we testified collectively, the world began to take our tragic experience seriously—and to heed our warning.

Or perhaps it is because all humanity is frightened that the tragic, unique lesson that we Jews experienced, can happen again—this time on a cosmic scale—to all people. And it is all because survivors kept faith with the final command imparted to us by the Kedoshim! Zachor—Gedenk—Remember.

We accepted that obligation and took it with us to our adopted homes throughout the world. In Israel or Argentina—in Sweden or France—throughout the United States and Canada—survivors remember. How can we forget? How can we allow others to forget? How betrayed and isolated we were by the high and the mighty—and the ordinary people. The so called ordinary people were not so ordinary. Many highly educated were nevertheless motivated to murder us.

Immediately after the Holocaust they said they did not know. How could they not have known? On the cattle cars to Auschwitz and Treblinka—throughout Poland, Czechoslovakia, and Hungary on the way to death—we criss-crossed all of Europe—day after day after day—screaming for help in Yiddish and Polish, Greek and German, Dutch and Flemish, Russian, and French. But the world would not listen as we were herded together from the four corners of Nazi Europe to be murdered—only because we were Jews.

We Jews now speak other languages. And on Yam Hashoah we gather from every part of the world—to remember together. And Jews are united—not by death—but by memory and by a love of Israel. To us survivors, the State of Israel is not only a political entity. It is a homeland—a realized dream—a bright beacon of light in a world desperate for hope.

And yet we are still afraid—but it is a different fear. Those who were fortunate enough not to have experienced the Holocaust do not and cannot understand how we survivors feel when we see how our tragic past is remembered by others. We are deeply hurt when we see the way the Holocaust is portrayed as only dead bodies—piles and piles of corpses and mass graves. We survivors shudder, for in a way we fear that Hitler succeeded because the world is not aware of the vibrant Jewish life that was before the Holocaust—or of the cultural heritage of 1,000 years of Jewish history in Europe. It does not hear the songs of the shtetl, the theme of Warsaw, the Yeshivot of Vilna, the Hasidim of Belz, or the poets of Lodz and Krakow.

All it recognizes is death. Yet we remember the life that was destroyed—the world that is no longer. The world of Yiddishkeit and Menchlichkeit.

We are still asking the questions—how did it happen? Who failed? What failed? But these questions should not distract our attention from the real murderers—the Germans and their collaborators—or from the profound failure of world leaders and church leaders. Their silence has yet to be judged by history.

And we think not only of the past but also of the future. To you—our children assembled here, we would like to entrust our memories—as part of our last will and testament. You are the last generation to be blessed with the memories of the survivors—the living witnesses to the kingdom of night. This is your heritage, which we are transmitting to you. You must know your roots. You must remember that your very birth was testimony of the triumph of hope over despair—of dreams over pain. You are our response to those who tried to destroy us.

We also want to protect the truth from innocent and well-meaning people who speak only of the good—of the rays of hope and goodness—the righteous Gentiles whose memories we cherish with gratitude. But where was the reality? For every righteous person, there were thousands who collaborated or who shared the enemy's desire to murder the Jews or who, at best, stood idly by and did nothing.

Let us remember the Holocaust as it was. It was painful. It was bitter. It was ugly. It was inhuman. But it was real. Let us not permit it to be diluted or vulgarized. Let us not diminish its meaning by treating every event in human history—every instance of human suffering or discrimination as a Holocaust.

We survivors know that time is growing short, we are getting older and we need each other more than ever before, and we need you—our children and our fellow Jews to continue our legacy.

RECOGNITION OF DR. JOHN "BOB" MAZERO

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. MURTHA. Mr. Speaker, it is a rare thing these days to find someone like Dr. Bob Mazero. He reminds us of the kind of doctor our parents used to call at his home and ask to come over on a Saturday night if one of the kids had a fever. In a small community like Latrobe, PA, being on call is not something that you schedule. It is getting called away from your family's Fourth of July picnic because a boy on the other side of town got too close to a bottle rocket, or pulled away from Thanksgiving dinner because one of your patients had a bad fall and you're the only one she trusts to examine her. For over 30 years, Dr. Mazero has been that type of doctor, one that everyone in town has seen at some time or other in their lives, and he always remembers their names, and usually remembers to ask how their father is doing or how their daughter is getting along in college. He's one of the most depended on, faithful, trusted members of the community. In times of crisis, he often is the one a whole family looks to for reassurance, and he has to provide that the best way he can. He is a true community leader, and we could use many more like him.

Dr. Mazero did not have to return to his little hometown to practice medicine. He could have stayed in Washington, or Cleveland, or Pittsburgh, where he studied, or gone to some other big city with opportunities for a bright young doctor.

But he came back to the town where he grew up and devoted his life, not only to making sure Latrobe had one of the best community hospitals in the country, but to advance the role of a community hospital in creating an educational environment for other physicians as well. He was not content to be just one of the doctors who made his rounds and went home. He cared about teaching other young doctors, and about connecting the community to its medical centers and to its source of health care. That is why, as director of Latrobe Area Hospital, he has worked to create partnerships between the hospital and several regional colleges, medical schools, as well as other area medical centers. For his outstanding achievements in these areas, he has earned numerous civic and academic honors throughout his career.

As we debate health care reforms in Washington, we have to always remember that the medical personnel are at the heart of any system, and that no matter what we do to health care, it's only going to be as good as those individuals providing it. It is because of these professionals that America has the best health care system in the world. And against that measure, it is why we are all so glad to join in recognizing Bob Mazero as Latrobe's Italian American of the Year.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

YOM HASHOAH: REMEMBER, HONOR, REFLECT

HON. STEVE C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. LaTOURETTE. Mr. Speaker, this evening at Fairmount Temple in Beachwood, OH, a Yom HaShoah V'Hagvura Commemoration is being held. Had the House of Representatives not been in session this day, I would have joined my friends and constituents at this special community event. I deeply regret not being able to attend the Yom HaShoah Commemoration, and wish to commend those who worked so hard to make the evening a success.

The purpose of this community commemoration is to remember the Holocaust and the Warsaw Ghetto Uprising. This evening's special commemorative event is part of the larger Holocaust Day of Remembrance—an internationally recognized day set aside annually to remember the victims of the Holocaust, including the 6 million Jews murdered by the Nazis and their evil collaborators.

As the member of Congress representing Ohio's 19th District, it has been a profound honor for me to serve on the council of the U.S. Holocaust Memorial Museum in Washington, DC. This council was created by a unanimous act of Congress in 1980 and was charged with the task of creating the U.S. Holocaust Memorial Museum. Our mission is to encourage remembrance of the Holocaust—to remember its victims—and to assure that never again in history will we allow bigotry and hatred to run unchecked.

There are some who will assert that the Holocaust was about Jews and therefore any remembrance of the Holocaust will have meaning only to Jews. Those people could not be more wrong. When we remember the Holocaust we remember a historical truth too great for most to fathom, but one that can never be forgotten. If we know anything about history, it is that it tends to repeat itself. The Holocaust, however, must never be repeated. While it is painful to dwell on such a heinous slice of history, it is a pain that should never be far from the hearts and minds of all Americans, for America responded to the horror of the Holocaust in a way that was tragically and regretfully inadequate.

The systematic extermination of European Jews began in June 1941 when the German Army invaded the Soviet Union, yet it would be some time until reports of atrocities would filter back to the United States, and even longer until they were taken seriously. Most Americans, meanwhile, remained unaware of the horror inflicted on European Jews, as reports of atrocities were not widely publicized by the media. American and British Jewish organizations, however, took the reports with the seriousness they deserved, and only at their insistence did the American and British governments decide to act to rescue those European Jews who had fallen victim to the Nazis.

As you commemorate the Warsaw Ghetto Uprising this evening, it is important to remember that at the same time the uprising began—April 1943—the Bermuda Conference opened. This emergency conference was intended to outline a solid plan for rescuing Jews from Nazi atrocities, yet little was accomplished, as both British and American delegates fretted over what to do with those Jews who would be rescued. The United States would not budge on its immigration quotas, and Britain would not even consider the possibility of admitting rescued Jews into Palestine.

The two governments exhibited cowardice and indifference while those staging the revolt displayed unparalleled backbone and heroism. The inaction at the Bermuda Conference, unfortunately, would lead to additional torture and extermination of Jews. This followed, of course, our country's unwise refusal to relax immigration quotas following the Evian Conference in 1938. It hardly seems possible today given our country's leadership in helping others, but of the 33 countries represented at Evian, only the tiny Dominican Republic agreed to accept a significant number of Jewish refugees. The American response to Hitler's Germany is a legacy of shame we can never forget.

Meanwhile, at the same time America and Britain could not agree on what to do about rescuing Jews from Nazi atrocities, Jews in the Warsaw Ghetto residents were carrying out an orchestrated revolt, refusing to report to deportation areas and staging an armed uprising. The Jews fought valiantly against their Nazi tormentors, even as German forces began destroying the ghetto, setting buildings on fire to force out those in hiding. Finally, on May 16, 1943—nearly a month after the heroic uprising began—the Nazis in one last act of horrific bravado destroyed the Great Synagogue to symbolize victory. With the ghetto reduced to rubble, those Jews who survived the monthlong violent Warsaw Ghetto uprising were deported to forced-labor or extermination camps, where Nazi horror, tyranny and hatred continued to reign.

On this day, it is my fervent hope that all Americans will pause and embrace the spirit of the Day of Remembrance, and the tireless efforts of those who seek to make this day resonate with significance—from my friends at Fairmount Temple to all the Jewish, community and civic organizations across the country, to the dedicated staff and council of the U.S. Holocaust Museum. May all Americans make a lasting commitment never to forget the Holocaust, or the moral, spiritual, and ethical questions it raises for those of us blessed to live in a democracy.

THE INTELLIGENCE COMMUNITY ACT

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. COMBEST. Mr. Speaker, I have introduced today the Intelligence Community Act. This bill represents an important stage in our committee's major project, IC21: The Intelligence Community in the 21st Century.

The Intelligence Community Act makes comprehensive changes in how we manage intelligence. I would like to outline for my colleagues the principles that have led to this legislation.

First and foremost, the United States continues to need a strong, highly capable and increasingly flexible intelligence community. Our national security concerns are more varied and in many ways more complex than they were during the cold war.

The United States needs an intelligence community that is more corporate, i.e., one that works better together as a more coherent enterprise aiming toward a single goal the delivery of time intelligence to policy makers at various levels.

A key issue is opportunity, not reform. In the aftermath of our cold war victory we are more secure than we have been since 1940. This is a good time to update and modernize intelligence.

IC21 is not a budget or staffing exercise. It is an effort to ascertain the type of intelligence community we will need as we enter the next century. Issues of cost and size should be debated during the regular legislative budget deliberations.

Finally, the focus must be on where the intelligence community needs to be in the next 10 to 15 years, not a snapshot of where we are today.

With these principles—flexibility, "corporateness," opportunity, future vision—in mind, the Intelligence Community Act proposes several changes. Among them are:

A more clearly defined central role for the Director of Central Intelligence [DCI] as head of the intelligence community, including expanded authority over resources and personnel. The DCI would also continue to be directly responsible for the CIA, clandestine services and the community management staff.

Re-establishing the Committee on Foreign Intelligence within the National Security Council, to provide regular guidance and feed back to the DCI.

Creating a second Deputy DCI. One Deputy DCI would run CIA, the other would run the community management staff, thus giving the DCI greater back-up and support for this two major responsibilities—the CIA and the intelligence community.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The Director of the Defense Intelligence Agency [DIA] would be designated as the Director of Military Intelligence, the senior uniformed military intelligence officer.

CIA would be confirmed as the premier all-source analytical agency. DIA continues to be the focal point for managing Defense all-source analysis.

The Clandestine Service, comprising current CIA and Defense clandestine human collectors, would be combined into a single entity and separated from CIA.

A new Technical Collection Agency [TCA] would manage the technical collection activities of signals, imagery and measurement, and signatures intelligence.

A new Technology Development Office [TDO] would manage intelligence community research and development.

The current National Intelligence Council would become the National Intelligence Evaluation Council, with the key responsibility of making sure that intelligence means and ends are correlated, and that every effort is made to provide the best intelligence to policy makers.

IC21 also comprises a number of non-legislative proposals that will be found in the unclassified staff studies, which would be available later this week.

I want to thank the staff members of the Permanent Select Committee on Intelligence who have devoted much of the last year to this effort. The bill I have introduced today is a testament to their hard work and to their vision.

I urge my colleagues to look over this bill carefully, and the staff studies as well. The staff of the intelligence committee is always available for questions and consultation.

This is a daunting agenda and an important one. Informal discussions among the staff of interested congressional committees in the House and Senate and with the executive indicate agreement on many of the principles I have outlined. I optimistically look forward to working with my colleagues over the next few months to pass a bill that will give us the intelligence community we will need as we enter the 21st century.

PERSONAL EXPLANATION

HON. HELEN CHENOWETH

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mrs. CHENOWETH. Mr. Speaker, on Tuesday, March 12 and Wednesday, March 13 last week, I was unable to be here due to an illness in the family and missed rollcall votes 56–61.

Had I been here, I would have voted: "No" on rollcall vote 56, "Yea" on rollcall vote 57, "Yea" on rollcall vote 58, "No" on rollcall vote 59, "No" on rollcall vote 60, and "Yea" on rollcall vote 61.

HONORING RETIRING NORTH MIAMI POLICE DEPUTY CHIEF LAURENCE R. JURIGA

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mrs. MEEK of Florida. Mr. Speaker, after more than 31 years of service with the North Miami Police Department, Laurence R. Juriga retired on April 10, 1996. He began his career in 1964 as a patrol officer and is retiring as deputy chief of police.

Chief Juriga distinguished himself over three decades as an officer of the utmost integrity and professionalism. His rise from patrol officer to deputy chief attests to his abilities. He possesses a wealth of practical and administrative knowledge for which his peers turn to him when seeking input on wide-ranging topics. The entire North Miami police force views him with esteem and respect.

Beyond his normal job duties, Chief Juriga established himself as a vibrant member of the North Miami community through unparalled participation in community activities. He has been instrumental in organizations including the Police Officers Assistance Trust, the North Miami Foundation for Senior Citizens, and the Dade County Association of Chiefs of Police. He has been active in the Special Olympics and the Easter Seal program.

Chief Juriga also initiated the North Miami Police Department's Angel Network, a system through which more than 2,800 gifts were collected and distributed to needy children this past Christmas. These behind the scenes efforts are exactly what set Chief Juriga apart from the norm.

As he moves forward with his wife, Nancy, into the next phase of his life, I wish him continued happiness.

NATIONAL MEDICAL LABORATORY WEEK

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. BONIOR. Mr. Speaker, there are more than a quarter million certified laboratory personnel, including pathologist, medical technologists, clinical laboratory scientists, and specialists, practicing preventive medicine in more than 12,000 medical laboratories in the United States.

These highly trained and dedicated professionals make invaluable contributions to the quality of health care in the United States. They save countless lives by providing reliable test results required for prevention, detection, diagnosis, and the treatment of illness and disease. By carefully performing high quality tests and providing reliable information, these vital health care workers help physicians make diagnosis, early, when cures are most likely to succeed. Test results may also help rule out certain conditions thereby avoiding unnecessary treatment, saving money, and most importantly, ensuring the proper treatment.

We all must take responsibility for our health, but ultimately, our well-being depends on the cooperation and coordination that exists between the many individuals devoted to maintaining health. Doctors, nurses, dietitians, teachers, parents, and the staff at our Nation's medical laboratories all play important roles.

The dedicated professionals who work in these laboratories save lives every day. They play a crucial role in the delivery of health care services in America and I am proud to join with the Michigan Society for Clinical Laboratory Science in recognizing this week, April 14–20, 1996, as National Medical Laboratory Week.

TRIBUTE TO CAPTAIN ROBERT B. SHIELDS, U.S. NAVY

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. SPENCE. Mr. Speaker, I rise today to ask my colleagues to join me in paying tribute to a dedicated U.S. Navy officer, gentleman and a friend as he prepares to take command of the U.S.S. *Vicksburg,* CG–69.

Most of you will remember Capt. Robert B. Shields for his tour as a deputy legislative assistant to the Chairman of the Joint Chiefs of Staff. Captain Shields served in this challenging position with honor and distinction until last year, when he returned to the fleet to prepare to take command on one of our finest ships–and *Aegis* Class cruiser.

He has been connected with the Congress in one position or another for over 5 years of his distinguished 23-year Navy career. Captain Shields' accomplishments are an integral part of the continuing saga of the U.S. Navy in its third century of service to the Nation as it fully realizes the talent and potential of men who ply the sea in the service of our great Nation. I would like to take a moment to highlight Bob's career milestones.

A native of Providence, RI, Captain Shields is a graduate of the U.S. Naval Academy, Annapolis, MD, class of 1972. Captain Shields also earned a master's degree in engineering acoustics from the Naval Post Graduate School. His military career began in 1972 with his first assignment to U.S.S. *Alwin* where he was first lieutenant and anti-submarine warfare officer. His second shipboard tour came when he commissioned U.S.S. *Nicholson* and served as her weapons officer. He then served his third shipboard tour as weapons officer in U.S.S. *Richmond K. Turner.*

Capitalizing on his demonstrated leadership skills, the Navy sent Captain Shields to attend the Royal Navy Staff College in Greenwich, England. this was followed by service as executive office in U.S.S. *Sterett,* then homeported in the Republic of the Philippines. Detaching from his executive officer tour, Captain Shields was assigned to the office of the director, research, development and acquisition and then completed a year as a Federal executive fellow at the American Enterprise Institute. His first exposure to congress came when he was assigned as the congressional Liaison office for surface ship programs in the Navy's Office of Legislative Affairs. Upon conclusion of that assignment, Captain Shields took command of U.S.S. *O'Bannon.* With that successful tour behind him, Captain Shields was hand picked to be a legislative assistant to the Chairman and Vice-Chairman, Joint Chiefs of Staff.

Captain Shields has been awarded the Defense Distinguished Service Medal, the Meritorious Service Medal, four Navy Commendation Medals, and the Joint Meritorious Unit Commendation. He is married to the former Jennifer Reith of London, England, and has two wonderful children, Sarah and Robert.

Bob was one of the principal liaison officers to Congress for both General Powell and General Shalikashvili during momentous times in our Nation's history—the end of the cold war, Operations Provide Promise, Provide Hope, Provide Comfort, Southern Watch, Deny Flight, and Restore Democracy, among countless other military operations and exercises. During the restoration of democracy in Haiti, he accompanied Members of this House on a fact-finding delegation to that troubled country. He has served as the Chairman of the Joint Chiefs of Staff's principal liaison with the House National Security Committee and the House Appropriations Committee. I and many others of this body have often depended on him to be on top of the national security issues of the day, complete with timely, sound, and accurate information and advice.

Mr. Speaker, it is a great honor and personal privilege for me to pay tribute to Capt. Robert B. Shields before the Congress in honor of his taking command of U.S.S. *Vicksburg* on May 3, 1996. It is clear, through a record of accomplishment, Bob is someone dedicated to the peace and freedom this Nation enjoys today. We wish him every success as he assumes his new command and for what I know will be a bright future. May he always have fair winds and following seas.

INTRODUCTION OF SMALL BUSINESS OSHA RELIEF ACT

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. BALLENGER. Mr. Speaker, today I and several of my colleagues are introducing the Small Business OSHA Relief Act of 1996.

Mr. Speaker, nearly 1 year ago, President Bill Clinton traveled to a small sheet metal plant in northwest Washington, DC, and declared that it was time to create a "new OSHA."

I certainly agree with the President on the need to change OSHA. OSHA, said President Clinton, needs to change so that its emphasis is on "prevention, not punishment," and so that the agency uses "common sense and market incentives to save lives."

Throughout the past year, no doubt largely in response to initiatives here in Congress to reform OSHA, the Clinton administration struggled to convince us and the American public that OSHA was being reinvented. Assistant Secretary Joe Dear, for example, said in congressional testimony last year: "If there is one single message you take away from this hearing today, 'I hope it is this: that OSHA is changing the way it does business." The marks of the new OSHA, according to the Assistant Secretary, would be the elimination of inspection and penalty quotas; a less confrontation approach to enforcement, including reductions in penalties for employers who promptly correct violations; and commonsense regulations.

Whatever the genesis for this recognition of the need to change OSHA by the Clinton administration, I, and I know many of my colleagues as well, have applauded it. The direction of these changes is the same as we have pushed for in H.R. 1834, the Safety and Health Improvement and Regulatory Reform Act. Obviously what the Clinton administration has proposed does not go as far as H.R. 1834, and in my view does not go far enough. But they at least move OSHA in the same direction.

President Clinton announced that he would veto H.R. 1834 even before that bill was marked up in subcommittee. It was clear from the circumstances of that veto message that it had much to do with Presidential election politics and little to do with the legislation itself, but the promise of a veto effectively stopped realistic prospects for enacting comprehensive OSHA reform this year.

Nonetheless, I believe it is important to solidify the progress that has been made in changing OSHA in the direction that Republicans and many of my Democratic colleagues have called for for years, and which President Clinton called for 1 year ago. For that reason, I am introducing the Small Business OSHA Relief Act of 1996.

The Small Business OSHA Relief Act of 1996 is comprised of five provisions, each of which comes directly from policy pronouncements by the Clinton administration.

The first provision comes from statements made by Labor Secretary Reich in support of measuring and balancing the costs and benefits of OSHA standards, consistent with the administration's goal for OSHA of more "commonsense regulations."

The second provision adopts President Clinton's directive of April 21, 1995, granting a waiver of penalties for small businesses which correct violations within a reasonable period of time. As President Clinton said in announcing that directive, "We will stop playing 'gotcha' with decent, honest business people who want to be good citizens. Compliance, not punishment, should be our objective."

The third provision adopts and follows an OSHA compliance directive issued in November 1995 regarding citations for paperwork violations. In recent years, a majority of the most commonly cited OSHA standards are paperwork requirements. OSHA's compliance directive recognizes that these paperwork violations have often been technical and nitpicking, and don't address real health or safety problems. Including this change in the statute will give employers and employees assurance that this common sense change will be more permanent than is the case with a compliance directive.

The fourth provision codifies OSHA's State consultation grants program. The consultation grants program was created by OSHA to assist small businesses in improving safety and health in their workplaces. Historically, these grants, which are given to State agencies or colleges in each State to provide consultation services, have been underfunded, requiring employers who seek assistance to wait up to 2 years for assistance. The Clinton administration has endorsed the codification of the consultation grants program.

The fifth and last provision of the bill would codify another mark of the new OSHA—elimination of the use of inspections, citations, and penalties as performance measures for inspectors and their supervisors.

The Small Business OSHA Relief Act codifies the positive changes to OSHA on which the Clinton administration and we agree, so that we can build on those and continue to work constructively to create a truly new OSHA.

I welcome my colleagues' support and cosponsorship of the Small Business OSHA Relief Act of 1996.

TAX DAY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. PACKARD. Mr. Speaker, today millions of Americans will scramble to file their taxes. My Republican colleagues and I are fighting hard to ensure that all Americans keep more of their hard earned money.

Taxpayers deserve relief now. That is why my colleagues in both the House and the Senate passed the Contract With America's tax relief plan. Americans need tax reform, but that will not happen overnight. While we consider tax reform in Congress, there are a number of things we have done to lift the burden from America's families and encourage economic growth. We passed a $500 child tax credit for families. We provided capital gains tax relief. We expanded IRA's, just to name a few. Unfortunately, President Clinton vetoed the Republican plan. With the stroke of a pen he vetoed pro-family, projob tax relief.

In spite of the President's veto, we must continue to do what is right for America. The protaxpayer agenda we begin to consider today is a tremendous step in the right direction. The tax limitation amendment, by requiring a two-thirds vote to raise taxes, will reign in escalating taxes. It will finally put an end to the roller coaster ride of the IRA's tax code and return fiscal responsibility to Washington. Almost every State that has implemented tax and spending limitations has witnessed below average growth is State spending and higher than average economic growth.

As Daniel Webster Said, "An unlimited power to tax involves, necessarily, the power to destroy." Mr. Speaker, my Republican colleagues and I are committed to protecting America's families from tax-and-spend Washington. Americans not only need tax protection they need tax relief.

VOL
142
PT
6
AP
15
—
24
1996
UMI

A TRIBUTE TO ALLEN "BUD" SPENCER

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. WELLER. Mr. Speaker, today, I'd like to honor Allen "Bud" Spencer for his 27 years of dedicated service as director of Twin Oaks Savings Bank. While we wish him well in his retirement, his commitment and hard work will be greatly missed.

Mr. Spencer's long career started in World War II where he served as a tank commander and platoon leader in the 745th Tank Battalion of the First Infantry Division or "The Big Red One."

His length of service can be noted in the number of battles he fought in: Normandy Beachhead, St. Lo Breakthrough, Falaise Pocket, Battle of Mons, Seigfried Line, Battle of Aachen, Hurtgen Forest, Battle of the Bulge, Roer and Rhine, Remagen Bridgehead, Ruhr Pocket, and Harz Mountains.

For his bravery and patriotism, Mr. Spencer received the Silver Star, two Bronze Stars, the Purple Heart, and a battlefield commission. Thank you for your service to our Nation.

Mr. Spencer also gave to his community. After the war he owned and operated Spencer's Insurance and subsequently was elected director of Marseilles Building & Loan in 1969 where under his guidance the business prospered and flourished. In 1976, he was elected president and chairman of the board and under his leadership a new bank building was constructed and consumer loans, ATM cards, and checking accounts were added.

Mr. Spencer, thank you for your dedication and devotion to not only your country, but your community, neighbors, friends, and family. You will be missed.

A TRIBUTE TO ROLLAND E. ALEXANDER II

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of CSM Rolland E. Alexander II. Alexander will be recognized at a celebration in his honor on April 20 as he retires after nearly 40 years in the California Army National Guard.

CSM Alexander is a third generation Californian and was born in San Francisco. A graduate of Rio Hondo College, he is also a second generation national guardsmen following his father's service in World War I. CSM Alexander enlisted in 1957 as a member of Battery C, 215th Field Artillery, 40th Armored Division, now designated as Battery C, 2d Battalion, 144th Field Artillery, 40th Infantry Division (Mechanized). In his civilian capacity Alexander works as a technical consultant in marketing services for the Southern California Edison Co.

While assigned to the battery, CSM Alexander has served in a number of positions including cannoneer, gunner, section sergeant, and chief of firing battery. Over the years, he has served in a variety of capacities and has served as CSM of Detachment 3, State Area Command, Los Alamitos Armed forces Reserve Center, Los Alamitos, CA, since December 1993.

CSM Alexander has been recognized for his service and is the recipient of numerous commendations including the Meritorious Service Medal, Army Commendation Medal, Army Achievement Medal, California Commendation Medal, California Medal of Merit, Good Conduct Medal, California State Service Medal, the Order of St. Barbara, and others.

CSM Alexander is currently the president of the Sergeants Major Association of California, life member of the California Enlished Associaton of the National Guard of the United States, the National Guard Association of California, National Rifle Association, California Rifle and Pistol Associaton, and many other civic oriented associations.

Mr. Speaker, I ask that you join me, our colleagues, CMS Alexander's family, and many friends in honoring him for his years of dedicted service. After serving our State and country well for nearly 40 years, it is only appropriate that the House recognize CSM Alexander today as he begins his well deserved retirement.

RECOGNITION OF WILLIAM H. BOWERS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. MURTHA. Mr. Speaker, I would like to say a few words of congratulations and thanks to a distinguished member of the community in my district. A lifetime member of American Legion Post 57, and the most recent Western Vice Commander, William H. Bowers has made numerous outstanding achievements that have greatly benefitted his fellow veterans and citizens in his home county of Indiana, PA.

He has held numerous offices in addition to the American Legion Western Vice Commander. While serving as post commander, Saltsburg, he received the National Americanism Award. He has been honored as Post Commander of the Year in Pennsylvania, as well as Indiana County Veteran of the Year; in addition he has served as Commander of the Indiana County United Veterans, Indiana County Commander, District 27 Commander, District 27 Adjutant, and Vice Chairman of the Citizens Flag Allegiance. He has also been recognized by the ROTC for his many accomplishments.

In addition to being a lifetime member of the American Legion, Commander Bowers is also a member of the VFW Post 7901, Amvets Post 277, and VVA Chapter 286.

Among his many civic contributions are establishing bylaws for the Indiana County United Veterans Advisory Council and serving as chairman of the Indiana County Veterans Memorial Committee. He organized and still serves as the CEO of Boy Scout Troop No. 157 in Saltsburg and manages the Young Township senior legion baseball team. He has also been a guest speaker at the Indiana University of Pennsylvania's sociology department representing VVA Chapter 286.

1991 was a very painful year for us in and near the 12th district of Pennsylvania, when 25 local gulf war soldiers were killed in action. Commander Bowers gave a memorable tribute to those young men and women by organizing a veterans honor guard of over 300 veterans with colors for their funerals. Commander Bowers was also instrumental in having a gulf war honor roll erected on the Indiana County Courthouse lawn, listing all Indiana County veterans serving in the Gulf.

William H. Bowers served in the Army with the Military Assistance Group overseas.

I salute Commander Bowers for his lifelong dedication to his fellow soldiers and his community.

HONORING SHERIFF CHARLES A. FUSELIER, SHERIFF OF THE YEAR

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. HAYES. Mr. Speaker, when I heard that my friend of over 25 years was being honored by the National Sheriff's Association as "Sheriff of the Year," I was gratified to know that the national law enforcement community was finally acknowledging what the citizens of St. Martin Parish and all of Acadiana have known for a long time—that Charles August Fuselier is one of the most effective, top flight sheriffs in the country.

In his statement, Sheriff Fuselier said he was "shocked" to learn of his selection by the National Sheriff's Association. He should not have been. Charles Fuselier's dedication to public service and the protection of the public in his rural South Louisiana Parish is unparalleled. Like his father before him, Sheriff Fuselier demonstrates every day total commitment to making St. Martin Parish a safer place to live, work, and raise a family.

Through his leadership and his work on the Triad Program, St. Martin Parish became a testing ground and model for all of America in preventing crimes against our senior citizens. The Triad forms a coalition between local sheriffs, police chiefs, and senior citizens' groups to reduce the victimization and unwarranted fear of crime which disproportionately plagues senior citizens. By bringing the Triad concept to life, Sheriff Fuselier has opened up the lines of communication with seniors in the community and has made the seniors feel more comfortable and trusting that their interests will be protected.

Sheriff Fuselier once told me that he received more than a 10-fold return on his investments using volunteers, who work in his office 2 to 3 days a week, so that crimes have been quickly resolved because of greater senior participation. While in the Congress I may have worked to ensure Federal involvement in Triad, but Triad is growing across the country because of the efforts and devotion of Sheriff Fuselier. The Triad information network has

the potential to be the cornerstone of future crime fighting activities within the seniors community.

I commend the National Sheriff's Association for bestowing my friend with this honor and congratulate Sheriff Fuselier for the great achievement of being named "Sheriff of the Year."

HONORING MEL DEARDORFF

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. BAKER of California. Mr. Speaker, America's firefighters serve on the frontlines of public safety. Risking their lives and health to save people at risk, their courage and resourcefulness are the watchwords of their profession.

No one better typifies the finest traditions of firefighting than Mel Deardorff. Mel retired recently after 35 years of service in the San Ramon Valley region, for the last 8 years serving as fire chief of the San Ramon Valley Fire Protection District.

Mel helped reduce the Insurance Services Office rating in the San Ramon region; was influential in establishing expanded firefighting services; facilitated a new paramedic program; added engine company, fire prevention, and clerical staff; and made many other contributions to fire safety in the East Bay region of San Francisco. He was a member of many professional organizations, including the International Association of Fire Chiefs and California Fire Chiefs.

Mel Deardorff was a public servant whose leadership, commitment, and dedication helped enable residents of the San Ramon and Danville, CA communities to go to sleep knowing that they were in good hands. As a resident of Danville for 25 years. I am thankful for all Chief Deardorff has done for my hometown and the San Ramon Valley region. He deserves sincere thanks from people throughout Contra Costa County, and I am pleased to have this opportunity to recognize him in the CONGRESSIONAL RECORD.

TRIBUTE TO DR. RICARDO ALEGRIA

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. SERRANO. Mr. Speaker, it is with great honor that I rise today to pay tribute to a very distinguished countryman, Dr. Ricardo Alegria, for his outstanding contributions to the investigation, preservation, and recognition of the culture and history of Puerto Rico.

Dr. Alegria, is one of the pioneers who established the studies on archaeology, anthropology, and culture of Puerto Rico and the Caribbean. Yesterday, which was also his birthday, the Smithsonian Institution awarded him the Smithsonian Bicentennial Medal for his great legacy to Puerto Rican culture and history.

Dr. Alegria is well known as a humble man, always accessible to the people, and a profound thinker in all his areas of inquiry. He is internationally recognized as the most distinguished Latin American in the field of preservation of historic cities and in the studies of the anthropology and archaeology of Puerto Rico and the Caribbean.

His interest in the study of mankind and how humans identify themselves with their surroundings started at a very early age; as a child he opened a small museum at his home with pieces and little stones that he had collected from the ground at his family farm.

He studied at the University of Puerto Rico, and obtained a master in archaeology from the University of Chicago and a Ph.D. in archaeology from Harvard. After his return to the island, young Dr. Alegria went to Loiza and Luquillo where he performed excavations that uncovered evidence of our earliest inhabitants, the arcaicos, and of the later Indians, the igneris.

In 1955, Dr. Alegria became the director of the Institute of Puerto Rican Culture. Under his leadership, the institute enhanced the recognition of, strengthened, and promoted Puerto Rican culture as a heritage with Indian, African, and Spaniard influences, as well as its own folklore traditions. For his willingness to engage in the enormous task of investigating and compilating historical data on Puerto Rico and for the resurgence of the popular arts we owe him a great debt of gratitude.

Some of his published works include the History of Our Indians ("Historia de Nuestros Indios"), Folkloric Tales of Puerto Rico ("Cuentos Folklóricos de Puerto Rico"), Anthology: the Theme of Coffee in Puerto Rican Literature ("Antologia: El Tema Del Café en la Literatura Puertoriqueña") and the magazine published by the Institute of Puerto Rican Culture, ("Revista del Instituto de Cultura Puertorriqueña").

One of his most important accomplishments, for which he received the Picasso Gold Medal of the United Nations Educational, Scientific, and Cultural Organization, is the restoration and preservation of Puerto Rican historical monuments. A very special award, the Picasso Medal has only been awarded to Dr. Alegria and to the historical village of Paris. Among the historical monuments that were restored under Dr. Alegria's supervision were the Indian Ceremonial Center, the Church of Porta Coeli, and the capital of Puerto Rico, Old San Juan, which is now a jewel among the historic sites of the Americas.

Dr. Alegria is internationally renown as an eminence in the restoration of historic cities, as well as for his patronage of the arts. From directing the Center of Advanced Studies in Puerto Rico and the Caribbean, and founding the Center of Archaeological and Ethnological Investigations of the University of Puerto Rico, to the reorganization of a great number of museums in Puerto Rico, Dr. Alegria has left a legacy of devotion and dedication to the instruction and preservation of the Puerto Rican culture.

Among other honors, Dr. Alegria received the Medal of Isabel La Católica, awarded by the Spanish Government and the Medal of the Fifth Centenary of the Discovery of America and Puerto Rico, bestowed by the Puerto Rican Government.

The Puerto Rican people and the Puerto Rican community, here in the United States and all over the world are in debt to Dr. Alegria for his outstanding contributions to the study, celebration, and promotion of our culture and history. In my congressional district of the South Bronx, and in all of New York City, as well as, throughout the Americas, we are all beneficiaries of his cultural heritage.

Mr. Speaker, I ask my colleagues to join me in recognizing the great contributions of Dr. Alegria, hero of the Puerto Rican culture.

TRIBUTE TO RICHARD A. BROWN

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. MANTON. Mr. Speaker, I rise today to pay tribute to Mr. Richard A. Brown honored April 18 as the Judiciary of Queens County by the Queens Borough Lodge of Elks.

Mr. Speaker, Mr. Brown is an distinguished judge who has long served the community of Queens in many different capacities. He is a member of the American Bar Association, the New York State Bar Association, the Association of the Bar of the City of New York and the Queens County Bar Association.

District Attorney Richard A. Brown of Queens County was born in Brooklyn, NY on November 13, 1932. He received his Bachelor of Arts degree from Hobart College in 1953, was graduated from New York University School of Law in June 1956 and was admitted to the Bar by the Appellate Division, Second Department in October 1956. Judge Brown is married and resides in Forest Hills, NY with his wife and three lovely children, Karen, Todd, and Lynn.

Mr. Speaker, Mr. Brown has served the State of New York in numerous ways since becoming a member of the Judiciary in 1973. He spent 9 years serving in various important legal positions on behalf of the leadership of the New York State Senate and Assembly and at the 1967 New York State Constitutional Convention and 4 years as New York City's legislative Representative in Albany where he managed the city's Albany office and supervised its legislative program.

After serving as a Judge of the Criminal Court for less than 2 years, Judge Brown was appointed the Supervising Judge of the Brooklyn Criminal Court. In 1976, he was designated as an Acting Justice of the Supreme Court of the State of New York and was given the added responsibility for supervising the operations of the Criminal Court in Richmond County.

Mr. Speaker, in 1977, Judge Brown was elected a Justice of the Supreme Court in Queens County. He then served as the Governor's chief legal advisor for 3 years before returning to the Supreme Court as an Associate Justice of the Appellate Division, Second Department where he was twice redesignated as a member of the Appellate Division by Governor Mario M. Cuomo.

On June 1, 1991, Judge Brown accepted Governor Cuomo's appointment as the District Attorney of Queens County and was reelected

VOL
142
PT
6
AP
15
—
24
1996
UMI

without opposition to another full term in 1995. Under Judge Brown's leadership, the Queens District Attorney's Office has attained an extraordinary reputation as one of the finest prosecutor's offices in the State. Throughout his career, Judge Brown has served the judicial community and the people of New York with unwavering dedication.

Mr. Speaker, I am proud to recognize the achievements of Richard A. Brown, and I know my colleagues join me in congratulating him as he is honored by the Queens Borough Lodge of Elks.

INTRODUCTION OF THE DISTRICT OF COLUMBIA ECONOMIC RECOVERY ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Ms. NORTON. Mr. Speaker, today I am introducing the District of Columbia Economic Recovery Act [DCERA], a bill to provide a Federal tax reduction to the residents of the District of Columbia. The bill comes at a time when the city's financial viability is in peril. The Constitution obligates the Congress to maintain the Capital of the United States. The DCERA will allow Congress to do so without direct aid, by encouraging middle income residents to remain and to move to the District.

Last February, the Washington Post reported that the District has already lost more residents in the 1990's than in the entire decade of the 1980's. The District's tax base is declining so rapidly that it is doubtful that it will gain the ability to support itself, notwithstanding even the most dramatic reduction in the size of its government. In 1993, for example, only 9,838 D.C. residents or 3.4 percent of the tax filers were solidly middle income in the $75,000 to $100,000 range, while 65 percent had incomes of $30,000 or less. Ominously, 11.5 percent of D.C. tax filers had an income between $50,000 and $100,000, compared with almost 20 percent nationally.

The bill seeks to accomplish the goal of replenishing middle income residents and families through a Federal tax discount. The tax is progressive because it has large initial exemptions ($15,000 for single filers, $25,000 for single heads of household, and $30,000 for married joint filers); the mortgage interest deduction and the charitable giving deductions are retained; and a uniform tax rate of 15 percent is applied in a progressive fashion up the income scale. Only bona fide District residents can qualify for this special rate and only on their D.C. sourced income. The bill defines a bona fide resident as one who has maintained his or her place of abode in the District, been physically present in such a place of abode for at least 183 days of the taxable year, and has paid District of Columbia income taxes. Naturally, District residents who work in the metropolitan region will also benefit from the tax deduction. The metropolitan region is defined by the Federal Government's "Consolidated Metropolitan Statistical Area."

The bill exempts capital gains, so long as they are District investments by bona fide District residents. This provision is meant to stimulate investment in D.C. businesses and other economic development. In come from Social Security and from the qualified pension plans of bona fide D:C. residents are considered D.C. sourced and thus eligible for the tax reduction. Investment income on activity within the District will also qualify for the special tax rate. In short, income from outside the District or the region will not get the benefit of the DCERA. The provisions of the bill restricting the tax reduction to D.C. residents on their D.C. sourced income are designed to prevent speculators and wealthy people from taking advantage of the bill or turning the District into a tax haven. A freeze on property taxes is an additional safeguard that I am seeking from the city council.

Some Members will question why the District should receive a Federal tax reduction that is not available to other jurisdictions. This unique bill is being considered only because of the unique responsibility of the Congress for the Capital of the United States and because a grave financial crisis threatens the District's viability as a city. The District has no State to help support it, and therefore lacks any additional sources for a long-term revenue stream or other necessary ongoing relief. The District is the only city without a State to recycle revenue from wealthier areas; the only city that pays for State, county, and municipal functions; and the only city prevented by Congress from taxing commuters who use city services. As a result, the District is a financial orphan without a State to bear State costs, such as Medicaid and prisons, and without access to the other aid that States regularly give to their troubled big cities. Because none of the usual remedies is available to the District, a tax cutting approach to stem the hemorrhage of taxpayers holds virtually the only promise.

As this House is well aware, the District is in a state of fiscal insolvency and cannot borrow from Wall Street, but only from the U.S. Treasury. A Control Board was appointed nearly a year ago and is working to downsize the Government (10,000 jobs by 1999—5,600 jobs already eliminated), control spending, and return the District to financial solvency. When New York, Philadelphia, and Cleveland became insolvent, State aid and State takeover of city functions were critical to the recovery of those cities. That possibility does not exist presently for the District, the only city in the United States without a State. As a result, there is little prospect that the city can become self-supporting without extraordinary measures.

In the absence of state aid, this Federal tax reduction is the only remedy that has the potential in this Congress to allow the District to recover from its insolvency. I believe that this approach could also serve as a model for States which want to encourage taxpayers to remain in large cities, by reducing State income taxes for city residents; but, of course, only Congress can provide such a remedy for the District. The value of a tax reduction is in the encouragement it gives to residents to remain in a city with many problems, paying high city taxes, maintaining the schools and other services, and otherwise halting decline because of increased taxpayer presence.

The District is the only jurisdiction that flies the American flag where residents pay Federal income taxes, but do not have full representation in the House and have no representation in the Senate. The four territories pay no Federal income tax at all, while the District is second per capita in the payment of Federal income taxes. This bill will not give the District full equity in this regard—D.C. residents would continue to pay Federal taxes without full congressional representation and full self-government. The District seeks only sufficient tax relief to help sustain itself through income from its own residents—as most jurisdictions do—in the absence of other viable alternatives.

I believe that the District of Columbia Economic Recovery Act fits the tax cutting mood of the country and of both parties and the administration. I ask the Members of this House to join me in our efforts to save the District of Columbia through this bill.

THE COMMUNITY MOBILIZATION CONFERENCE AND TRAINING ON GANGS, VIOLENCE, AND DRUGS

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. FILNER. Mr. Speaker and colleagues, I rise today to recognize the Annual Community Mobilization Conference and Training on Gangs, Violence, and Drugs which was convened in my hometown of San Diego, CA on April 4 and 5.

This is the seventh annual conference that has been convened by Nu-Way Youth and Social Services, a local community-based organization. The conference is a national, collaborative event that brings parents, educators, law enforcement officers, probation officers, prosecutors, health and social service providers, together with civic, political, and spiritual leaders to discuss the latest technologies and strategies for combatting juvenile crime in our communities.

Mr. Speaker, this conference is not the result of a Federal program or government funding. In fact, this conference receives no government funding at all.

This conference is a true collaborative project. And by its very nature, it reinforces the notion that "it takes a village to raise a child"—and it challenges all of our citizens to accept the responsibility and join in our struggle to keep our youth free from the influence of gangs and drugs.

Mr. Speaker, I am proud that Nu-Way, a valuable resource in the fight against gangs, drug abuse, and violence, is based in my congressional district, and I applaud the efforts of Nu-Way and the Community Mobilization Conference for their important role in our fight against juvenile crime.

TRIBUTE TO ADAM DARLING

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. FARR of California. Mr. Speaker, for any parent, the death of a child is surely life's

greatest tragedy. I can personally remember the profound grief and gloom that swept over my own father and family when my youngest sister Nancy was tragically killed following a horseback riding accident in Colombia, where I served in the Peace Corps more than 30 years ago. Even now, not a day goes by that my family does not sorely miss Nancy and regret the fact that she did not live longer, though we all know she led a magnificent life while she was with us.

The same sentiment, I am sure, will be true for the family of Santa Cruz resident Adam Darling, who left this world last week with Commerce Secretary Ron Brown and 32 other brave Americans in an ill-fated flight over Bosnia. Adam died doing precisely what he wanted: Serving his country, while working to make the world a better place. The eternal optimist, Adam had once offered to ride his bike cross-country from his home in Santa Cruz to Washington, DC for then Governor Bill Clinton because he felt he could make a difference in the 1992 presidential race. After the election, he ended up in Washington working in the Commerce Department. When I arrived to be sworn in as a Member of Congress, Adam was there to meet me. He brought his father, the Reverend Darrell Darling from Santa Cruz with him to all of our Washington activities. According to Darrell, "Adam Darling was a leader among his peers, his friends, his family and in his work. His leadership grew from a keen and uncluttered mind, a character free of shame, given or received, and a thoroughly generous spirit. He was very realistic about both public policy and public service, and the limitations and temptations of both. Adam's realism never became cynical. When you decide to make a difference where there is risk, you can't calculate the cost or be guaranteed delivery from pain or loss. Bosnia is a land of grief and turmoil and none of us is immune."

At the Commerce Department, Adam served as staff in the press office for several months before becoming a personal assistant to the Deputy Secretary of Commerce for 2 years. Adam was also instrumental in bringing state-of-the art science to Central Coast and the country. Just 1 year ago, he helped organize the first-ever link between classrooms across America and marine biologists working in the Monterey Bay. Ron Brown had recently asked Adam to handle press relations and advance planning for the economic development mission in Bosnia. According to his family, "Adam saw it as an opportunity to make a significant contribution to a peace effort where it is severely needed."

Rather than working hard to gain personal attention, Adam worked hard for the sheer pleasure of doing a job well and the satisfaction of knowing he had helped make someone else's life a little more livable. He was one of the many invisible government hands working in Bosnia to ensure the survival of a nation. Amazing acts of heroism, dedication, and humanitarianism exemplify the work done by those invisible hands. Without people like those who served, continue to serve and will serve their country by helping others, the world would be hard pressed to survive tragedies such as the Bosnia conflict.

Adam too saw life as an opportunity to serve the world. Telling his family at the age of five that he would be President of the United States some day, a young boy made his commitment to bettering his country at any cost. During the few years he was afforded, Adam worked with the dedication and commitment of a President, and accomplished more for the good of humankind during his lifetime than many even attempt in 100 years.

The loss of Adam Darling and the 34 others in Bosnia will be sorely felt by all and will remain in our hearts as a memorial to all who pay the highest cost possible in order to help the world by serving their country.

TRIBUTE TO P. STUART THOLAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. LANTOS. Mr. Speaker, Mr. P. Stuart Tholan was one of the 32 Americans accompanying Secretary Ron Brown on his mission to contribute to the rebuilding of Bosnia. He was aboard the military transport plane which crashed, killing all abroad. My most sincere condolences go out to his wife, Marilyn, his children, Scott and Carolyn, and all his family, as well as to all those whose lives Stuart Tholan touched.

Mr. Tholan had been invited on the humanitarian mission by Commerce Secretary Ron Brown because of his distinguished record of overcoming seemingly insurmountable obstacles and succeeding again and again. The reconstruction and revival of Bosnia's devastated economy would have been Mr. Tholan's most significant challenge. I have the utmost confidence, as did Secretary Brown, that he would have succeeded at this ultimate challenge.

Mr. Tholan's outstanding work for the Bechtel group of companies, based in San Francisco, CA, earned him a reputation as a demanding project director who tackled the most daunting tasks with eternal optimism and a can-do attitude. While his focus on the successful completion of a project could not be swayed, he never lost sight of the importance of the people on the project. Mr. Tholan would always take the time to help a co-worker when they had personal or family difficulties or to devote his spare time to coaching Little League and girl's softball.

The mission that Stuart Tholan was participating in was perfectly suited to his strengths. Throughout his career, he had shown an ability to bring together people and motivate them to accomplish the most difficult tasks. The strengths of his personality and character shone through the overwhelming nature of jobs he took on. His leadership propelled an international work force of 16,000 to put out the Kuwaiti oil fires in a fraction of the time experts thought possible.

These are the reasons why Secretary Brown chose Stuart Tholan as the perfect candidate to help rebuild the devastated economy of Bosnia. Mr. Speaker, Stuart Tholan and the others who perished on that plane deserve our gratitude for their commitment and dedication to bring peace and stability to Bosnia and for their service to our Nation.

TRIBUTE TO GEORGE NADER, EDITOR, MIDDLE EAST INSIGHT MAGAZINE

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. RAHALL. Mr. Speaker, over the years volumes have been written about the Middle East and its turbulent politics, economic potential, and strategic importance to the United States. One publication stands out because of its comprehensive, insightful and balanced approach to issues in the region.

I am referring to Middle East Insight magazine which has just celebrated its 15th anniversary as one of the leading journals of Middle East affairs. Throughout this turbulent period, Middle East Insight has covered the complex issues affecting the region in a thoughtful, creative way to bring greater knowledge and understanding to all parties. By striving to rise above the ideological passions that often divide the region, Middle East Insight has earned the respect of its readers in Washington, DC and throughout the region.

The driving force behind the magazine is its editor, George Nader. Nader is the founder and president of International Insight, an organization that promotes better understanding between the Middle East and the United States. He is a recognized expert on the region and is often invited by major news organizations to comment as events unfold.

Because of his reputation for fairness and his remarkable access to key political and business leaders throughout the region, Nader has produced a magazine of distinction and high quality. Leaders such as Egyptian President Hosni Mubarak, PLO Leader Yassir Arafat, the late Israeli Prime Minister Yitzhak Rabin, Morocco's King Hassan II, and Presidents Bush and Clinton have all been featured in Middle East Insight.

It is a tribute to George Nader and his vision to publish a magazine that is respected for its contribution to public policy debate. Both he and Middle East Insight deserve special recognition on their 15th anniversary.

45TH ANNIVERSARY OF THE AUTOMOTIVE SERVICE ASSOCIATION

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. BARTON of Texas. Mr. Speaker, I rise to pay tribute to the Automotive Service Association [ASA] on the occasion of its 45th anniversary. ASA is the oldest and largest trade association of its kind representing all segments of the independent automotive repair industry, including transmission, mechanical, and collision repair facilities. The association now includes more than 12,000 businesses. The association now includes more than 12,000 businesses, 28 State groups and 220 chapters located throughout the world.

Over the past 45 years, ASA has merged with a variety of automotive repair associations to enable the industry to speak with a

VOL
142
PT
6
AP
15
—
24
1996
UMI

singular and unified voice. These groups include the Independent Garagemen's Association of Texas [IGA], the Independent Garage Owners of America [IGO], the Auto Body Association of America [ABAA], the Automotive Service Councils [ASC] and, the Independent Automotive Service Association [IASA].

In addition to providing a host of member benefits, ASA annually sponsors the world's largest collision repair event, the International Autobody Congress and Exposition [NACE], the Congress of Automotive Repair and Service [CARS], the Northern Autobody Congress and Exposition and the ASA Annual Convention. In fact, NACE has been selected from a wide range of applicants to participate in the U.S. Department of Commerce's International Buyer Program. This recognition serves as acknowledgement of the quality of the event and the export potential of the industry it serves.

ASA members recognize their obligation to professionalism. Members subscribe to a code of ethics, which governs the methods by which they conduct their business practices. Among other things, an ASA member is sworn to perform high quality repair service at a fair and just price; use only proven merchandise of high quality distributed by reputable firms; employ the best skilled technicians; recommend corrective and maintenance services, explaining to the customer which of these are required to correct existing problems and which are for preventive maintenance.

ASA also endeavors to assist its members to improve the quality of repairs through management and technician training programs. The Automotive Service Association Management Institute [ASAMI] provides continuing management education in the areas of leadership, business, finance, personnel, operations, and personal enrichment.

The ASA anniversary will be recognized throughout the year at ASA-sponsored events and ASA's official publication AutoInc. will feature a special anniversary issue. I am pleased to honor the association today on this special occasion.

TRIBUTE TO I. DONALD TERNER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. LANTOS. Mr. Speaker, Mr. I. Donald Terner was one of the 32 Americans accompanying Secretary Ron Brown on his mission to contribute to the rebuilding of Bosnia. He was aboard the military transport plane which crashed, killing all aboard. My most sincere condolences go out to his wife, Deirdre English, his children, and to all those whose lives Donald Terner improved with his many good works.

Donald Terner was a man of truly extraordinary energy and commitment, and we are extremely fortunate that he chose to devote his talents to improving the lives of low-income families throughout California. As founder and president of Bridge Housing Corp., Donald Terner created a low-income housing enterprise which constructed nearly 6,000 homes in the 13 years the organization has been in business. Both the continuing success of the solid organization Donald Terner built and the thousands of families who will have a roof over their heads for years to come will serve as a lasting testament to the life of Donald Terner.

Commerce Secretary Ron Brown was so impressed with the remarkable achievements of Donald Terner that he invited Mr. Terner to accompany him on a humanitarian mission to restore the housing resources destroyed by years of all-out war in Bosnia. Donald Terner was not deterred by the overwhelming difficulty of rebuilding this devastated region. Secretary Brown recognized in Donald Terner the same qualities that those who have worked with him have appreciated for decades. His humanitarian spirit combined with his unrelenting commitment to success in the face of adversity has allowed him to succeed in California and it would have propelled him to success in Bosnia.

Donald Terner was known as a relentless promoter of low-income housing in California and throughout the world. Building affordable housing entails not only raising the necessary funds, but also the often more difficult task of convincing homeowners to allow the housing to be built in their neighborhoods. It was impossible, however, to say "no" to Donald Terner. He was able to convince lenders and neighbors to support to projects because he believed that what he was doing would help people, and that made his persuasive powers all but irresistible.

Mr. Speaker, I invite my colleagues to join me in to Donald Terner for his commitment to making the world more livable for low-income people. His efforts in behalf of the community should serve as a model for all Americans. While we cannot all devote the time and energy that Donald Terner did, we can invoke his memory when our communities ask something of us.

CONGRATULATING THE REPUBLIC OF SIERRA LEONE ON THEIR FIRST MULTIPARTY, DEMOCRATIC ELECTIONS IN NEARLY 30 YEARS

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. HOUGHTON. Mr. Speaker, I've come to the floor today with some of my colleagues to introduce a concurrent resolution congratulating the people of the Republic of Sierra Leone who just held their first democratic, multiparty elections in nearly 30 years.

On February 26, 1996, the West African nation of Sierra Leone held their first round of elections amid much uncertainty. There had just been a military coup less than a month before the election and a civil war that had displaced almost half the population raged in the countryside.

Sponsored by the African-American Institute [AAI], a delegation visited Sierra Leone as part of a U.N. team of international observers. In that delegation were several congressional staffers who deal with African issues in the Congress, including Joyce Brayboy Dalton with Representative MEL WATT, Tim Trenkle, Senator NANCY KASSEBAUM, Michael Pelletier, legislative fellow in the office of Senator JIM JEFFORDS, and my legislative assistant Bob Van Wicklin.

Despite some inadequacies, the group deemed the election to be free and fair. AAI issued the following statement after the election:

STATEMENT OF THE INTERNATIONAL OBSERVER DELEGATION OF THE AFRICAN-AMERICAN INSTITUTE

FREETOWN, February 29, 1996.—The African-American Institute (AAI), has spent the last three weeks preparing for and conducting an observation of the presidential and parliamentary elections of Sierra Leone. The AAI delegation feels that the elections of February 26–27, 1996 were transparent, open, and substantially fair. Despite certain irregularities and disruptions due to breaches of security, the delegation is convinced these elections reflect the freely expressed choices of the people of Sierra Leone.

Working in affiliation with the United Nations Joint International Observer Group and funded by the United States Agency for International Development, the 17-member AAI delegation was deployed throughout Freetown and its environs, Lungi, Bo, Kenema, Makeni and Kono. The AAI team observed two crucial phases of the elections which were held on February 26–27, 1996.

During the first phase, the delegation met throughout the country with government officials, the staff of the Interim National Electoral Commission, leaders of political parties and major civic organizations, representatives of the media, government officials, and other sections of civil, society including organized labor. The delegation also carefully studied the electoral laws, examined the relevance of several training materials, scrutinized the voter registration process and samples of voter registers, observed training of electoral staff and domestic monitors, and attended civic education programs in many parts of the country.

During the second phase, the delegation observed the electoral campaigning, the voting which began on February 26 and was extended through February 27, and the counting process on February 27–28, 1996. In the areas of their deployment, AAI observers visited over 250 polling places nationwide.

AAI found that the elections were held under a cloud of uncertainly and substantial logistical difficulty caused by a lack of adequate infrastructure, minimal election experience and training, and the displacement of sectors of the population due to hostile military actions on or just prior to the date of the elections. This situation often led to the late opening and numerical overtaxing of many polling stations and, in some areas, disruption of the vote and count. Still, in the majority of the areas observed by AAI delegates, the vote went forward in a procedurally correct manner, with materials provided and correctly utilized. Polling station officials, political party representatives and domestic observers, in most cases, were adequately prepared and conducted their duties in an exemplary manner. In the, areas of the country observed by AAI delegates, the difficulties cited above were overcome by the fierce determination of an overwhelming majority of the population to hold the elections on schedule, even in the face of serious attempts to obstruct and disrupt the process.

Despite these administrative inadequacies and certain instances of violence and intimidation in Freetown, as well as deadly conflicts between citizens and those seeking to disrupt the election in Bo and Kenema, the electoral process was largely peaceful and free of threats and confrontations. Voting took place in are orderly fashion in most polling stations. There was little evidence of fraud or irregularity.

The AAI delegation wishes to salute the people of Sierra Leone for their strong commitment to democratic practices and their determination to hold elections on schedule. This unflinching commitment to democratic values and procedures, as well as the courage that the citizens demonstrated in the face of great danger, augurs well for the future of democracy in this country.

The AAI delegation also wishes to congratulate the Chairman of the Interim National Electoral Commission, Dr. James Jonah, and his colleagues for their impartiality and inspiring and tenacious leadership under difficult conditions.

Finally, the AAI delegation thanks the people of Sierra Leone for their hospitality and warm welcome.

On March 29, 1996, Ahmad Tejan Kabbah of the Sierra Leone People's Party was sworn in as the President of the Republic of Sierra Leone. This peaceful transition of power from a military regime to a freely elected civilian government is a tremendous step onto the road to democracy, and I think will have a very positive effect on some of Sierra Leone's authoritarian neighbors.

In fact, just last week, when United States citizens located in the neighboring country of Liberia were threatened by the ongoing violence in that country, the Government of Sierra Leone allowed the United States to use their airport to help with the evacuation of Americans and other internationals from the Liberian capital city of Monrovia. For this, we are very grateful, and thank the new Government of Sierra Leone for their cooperation and assistance.

Also deserving special recognition are all of the United States citizens living in Sierra Leone, especially the people who work at the United States Embassy in Freetown led by Ambassador John Hirsch, a very dynamic individual who has given so much of himself to help the people of Sierra Leone.

It seems that we hear so much bad news from Africa—it's good to be able to emphasize the good news when it comes along.

With that in mind, I hope that all of my colleagues in the House and Senate will join us in congratulating the people of the Republic of Sierra Leone by helping to pass this resolution.

RIVER RIDGE (FL) HIGH SCHOOL'S MOCK STATE LEGISLATURE

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. KING. Mr. Speaker, I rise today to commend the achievements of Kevin Miller, a student at River Ridge High School in Florida. As can be seen from the enclosed story from the Tampa Tribune, Mr. Miller recently participated as speaker of a mock State legislature.

Mr. Speaker, it is obvious that Kevin Miller has an outstanding career ahead of him in politics and government. Indeed, the time may soon come when we will become the speaker of this body.

I should note that Mr. Miller's uncle, Thomas R. Curtin, was a classmate of mine at Notre Dame Law School. Clearly Kevin has far more talent than his uncle and perhaps even a bit more talent than I have.

It is certainly reassuring to know that there are outstanding young men such as Kevin Miller who will be making such great contributions to our country's future.

STUDENTS FIND LEGISLATOR SEAT NO EASY CHAIR

(By Tiffany Anderson)

NEW PORT RICHEY.—For at least a few hours, seniors became senators.

The 12th-grade class at River Ridge High School got a chance to play politics by participating Friday in the school's mock state legislative session.

To earn class credit in American government, more than 328 students served as state representatives and senators and sat on committees.

The bills they wrote won't ever make it outside the school's auditorium. But that didn't keep most seniors from taking the event any less seriously.

"People told me that I would run everything," said Kevin Miller, 18-year-old speaker of the "House." "In a way, that's true. I just didn't realize how much power Newt Gingrich has. If he doesn't like someone he can make it really hard for people."

State Rep. Mike Fasano spoke to the seniors on the first day of the two-day event. Later, students spent hours heatedly debating dozens of issues from abortion education to education reform.

By Friday, the make-believe legislators had learned that life in the Capitol isn't easy and that getting a law passed is even harder.

More than 275 bills were discussed in committee. Only 40 were heard on the House and Senate floor.

Students proposed such legislation as:

The Dumb Teachers Act, requiring instructors to be recertified every year.

Mandating that school administrators keep toilet paper and soap in the bathroom or be subject to fines plus tar and feathering.

Increasing the speed limit on state highways to 85 miles per hour.

Ultimately, only five bills became "law," making it more difficult to use lottery money to supplement school funding; allowing a vehicle's tinted windows to be as dark as the driver wanted; permitting students to work as many hours a week as they wanted as long as they maintained a "C" average; requiring boating licenses for those 14 and older; and making it easier to get an "A" at River Ridge, but abolishing extra points for attendance.

The mock legislative session has been staged for the past four years, said teacher Tom Fleming.

"It's better if they live the legislative process," he said.

Students agreed.

"Even though they're not real laws, you still learn a lot," said Gena Deluigi, 18. "It's just good to see how a bill gets passed. Now, I can look at a bill and even though it may already exist, I can see why this or that wasn't included in it . . . because it could have come up in our session, too."

HAPPY 50TH WEDDING ANNIVERSARY TO MR. AND MRS. WILLIAM QUESENBERRY

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. COX of California. Mr. Speaker, today I rise in celebration of the 50th wedding anniversary of Mr. and Mrs. William Quesenberry of Coral Gables, FL.

Bill, a graduate of Shenandoah Junior High and Miami Senior High, first met Mary Belle Gardner when she was a wintertime resident of Miami Beach. Bill courted Mary Belle throughout high school and his days at the University of the South at Sewanee, TN. On April 13, 1946, Bill and Mary Belle were married on a beautiful, sunny day in Nashville, TN.

After college, Bill flew in World War II as a naval aviator. Upon returning from the war, Bill followed his father's footsteps into the wholesale grocery business. As a wholesale grocer, Bill provided consumers with a wide variety of products and competitive retail prices.

Bill and Mary Belle share a joy of traveling that has led them across the globe. Their sense of adventure has taken them to the frozen land of Antarctica, a far cry from their home in sunny Coral Gables, and even beneath the surface of the sea itself—Bill and Mary Belle are accomplished scuba drivers and snorkelers.

Mr. Speaker, on behalf of their children and grandchildren as well as their many friends, I wish Bill and Mary Belle a happy golden wedding anniversary in the hopes of many more to come.

CONGRATULATIONS TO RED BANK CATHOLIC

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. PALLONE. Mr. Speaker, I rise today to congratulate the Red Bank Catholic Women's Basketball Team for winning the New Jersey State High School Basketball Championship.

Back in the Sixth Congressional District, these young women have provided their fans and myself with much excitement and sense of pride. From reaching the finals of the Shore Conference Tournament to winning the State Championship at the Meadowlands, Red Bank Catholic has demonstrated its commitment to excellence.

Throughout the year, Red Bank Catholic has stressed the importance of team unity as a major component of victory. This approach to the season, in addition to its dedication and hard work, provided the team with the necessary drive to become the best high school basketball team in the State of New Jersey.

VOL
142
PT
6
AP
15
—
24
1996
UMI

In addition to the athletic abilities possessed by this team, the players of Red Bank Catholic must be saluted for their academic excellence. On and off the court, these student athletes have maintained athletic prowess and academic integrity in light of intense pressure.

Once again I would like to salute these young women for capturing the high school basketball championship and wish them the best of luck in their future endeavors.

TRIBUTE TO HELEN MINETA

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. FARR of California. Mr. Speaker, I rise today to acknowledge a woman who exemplifies the very best of the American spirit. Helen Mineta, a teacher of politics and government for more than 30 years, a friend, and an active member of the community, died March 18th in San Jose, CA. She was 77. The daughter of immigrant Japanese parents, Ms. Mineta persevered throughout her life against racism, overcoming numerous barriers. She bettered the lives of those with whom she came in contact in countless ways, as a teacher and as an advocate for Japanese-American rights.

Helen Mineta graduated from San Jose State College in 1938 with dreams of becoming a teacher, but was told by her professors that no one would hire a Japanese person. Undaunted, she worked in the speech and drama department at San Jose State while studying commerce. She remained at San Jose State until the onset of World War II and the attack on Pearl Harbor caused Americans to lash out at Japanese-Americans. As a result of both racism and fear, Ms. Mineta and many other Japanese-Americans were placed in internment camps.

Helen Mineta and her family were interned first at the Santa Anita Racetrack and then the Heart Mountain camp in Wyoming. Despite these hardships, Ms. Mineta managed to get out of the internment camp by obtaining a position as an executive secretary in a Chicago chemical corporation. Although forced to leave her family behind, she did not forget them. Ms. Mineta helped to educate her brother, Norman, who was without a school in the internment camp, by sending him books and questions to answer concerning them. Her hard work and tutelage reaped great benefits, for Norman was later to become our friend, the former congressman from San Jose.

In the years after the war Ms. Mineta worked for her brother-in-law at the Japanese American Citizens League in Washington, D.C., fighting to help others deal with the same racism that had assailed her. She went on to receive another bachelor's degree from the University of California at Berkeley, and finally realized her goal of teaching at San Jose High School in 1958. But again tragedy struck as Ms. Mineta was about to receive a much dreamed about position at the United Nations. Her mother died in 1956 and she returned home to help her father.

Helen Mineta remained actively involved in the community throughout her life, giving lectures on the racism she confronted and overcame during World War II and throughout her life. She was also instrumental in the fight to build the San Jose Center for the Performing Arts, bringing a valuable resource to the community. Her accomplishments were acknowledged by the University of California Alumni Club.

In the end, though, many remember Helen Mineta as a dear friend who had a zest for life. She remained active and cheerful throughout her life despite the obstacles. She will be sorely missed. Ms. Mineta is survived by two sisters, Etsu M. Masaoka of Chevy Chase, MD and Aya Endo of Medford, NJ; two brothers, Albert Mineta of San Jose, and Norman Mineta of Alexandria, VA, and three nieces and four nephews. To them we send our deepest condolences.

TRIBUTE TO THE LATE MARINE COL. ROBERT OVERMYER

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. BROWN of Ohio. Mr. Speaker, I rise today to speak of a tragic loss that the people of the 13th District of Ohio, and the entire Nation, recently suffered.

Marine Col. Robert Overmyer, born in Lorain, OH, died last month while bravely working as a test pilot. The prototype plane he was flying lost control and crashed before he could eject. His sacrifice, made while insuring the safety of others, will not be forgotten.

Colonel Overmyer was a true American hero and served his country with great pride for almost 40 years, both as a Marine and a celebrated astronaut. He worked on the Air Force Manned Orbiting Laboratory Program, served as a NASA astronaut on the Apollo 17 mission, and more recently commanded the 1985 Space Shuttle *Challenger* mission.

Colonel Overmyer grew up Westlake, OH, near Cleveland Hopkins Airport. His love of flying was born while watching planes take off and land at that airport. He never forgot his roots in Ohio, and always found the time to give back to his childhood community. He returned several times to speak to students and adults about the role of the military and future of the American space program.

Colonel Overmyer will be remembered not only by his family and friends, but by all Americans for his dedicated service to our country. I thank you, Colonel Overmyer, for giving the most while you were with us. You will be missed.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 16, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 17

9:30 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Bureau of Indian Affairs/National Indian Gaming Commission.

SD–138

Armed Services

Readiness Subcommittee

To hold hearings on the privatization of Department of Defense depot maintenance and other commercial activities.

SR–222

Banking, Housing, and Urban Affairs

Business meeting, to consider a proposed resolution to authorize the Committee to conduct an investigation of Madison Guaranty Savings and Loan Association and related matters, amend the Committee's rules to facilitate the investigation and related public hearings, and to authorize the issuance of subpoenas.

SD–538

Energy and Natural Resources

Parks, Historic Preservation and Recreation Subcommittee

To hold hearings on S. 128, to establish the Thomas Cole National Historic Site in the State of New York, S. 695, to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas, and S. 1476, to establish the Boston Harbor Islands National Recreation Area.

SD–366

Labor and Human Resources

Business meeting, to mark up S. 969, to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, S. 295, to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and S. 1643, to authorize appropriations for fiscal years 1997 through 2001 for the Older Americans Act of 1965, and to consider pending nominations.

SD–430

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Air Force programs.

SD–192

Rules and Administration

To resume hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns.

SR–301

1:30 p.m.

Indian Affairs

To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.

SR–485

2:00 p.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of the Treasury, focusing on the Financial Crimes Enforcement Network, the Federal Law Enforcement Training Center, the Bureau of Alcohol, Tobacco and Firearms, the U.S. Customs Service, and the U.S. Secret Service.

SD–138

Judiciary

Administrative Oversight and the Courts Subcommittee

Business meeting, to mark up S. 984, to protect the fundamental right of a parent to direct the upbringing of a child.

SD–226

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

APRIL 18

9:30 a.m.

Commerce, Science, and Transportation

To resume hearings to examine Spectrum's use and management.

SR–253

Energy and Natural Resources

To hold oversight hearings on the Tongass land management plan.

SD–366

Governmental Affairs

Business meeting, to consider pending calendar business.

SD–342

Small Business

To hold hearings on small business and employee involvement, focusing on the TEAM Act proposal (S.295).

SR–428A

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Agriculture, focusing on natural resources and the environment.

SD–138

Budget

To hold hearings to review the Congressional Budget Office's economic and budget outlook for fiscal years 1997 through 2006.

SD–608

Foreign Relations

International Economic Policy, Export and Trade Promotion Subcommittee

To resume hearings to examine the impact of balance the Federal budget on the United States trade deficit.

SD–419

Judiciary'

Business meeting, to consider pending calendar business.

SD–226

1:30 p.m.

Indian Affairs

To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.

SR–485

2:00 p.m.

Foreign Relations

To hold hearings on the nominations of Kenneth C. Brill, of California, to be Ambassador to the Republic of Cyprus, Christopher Robert Hill, of Rhode Island, to be Ambassdor to The Former Yugoslav Republic of Macedonia, Richard L. Morningstar, of Massachusetts, for the rank of Ambassador during his tenure of service as Special Advisor to the President and to the Secretary of State on Assistance to the New Independent States (NIS) of the Former Soviet Union and Coordinator of NIS Assistance, and Day Olin Mount, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counseler, to be Ambassador to the Republic of Iceland.

SD–419

5:00 p.m.

Armed Services

Business meeting, to mark up S. 1635, to establish a United States policy for the deployment of a national missile defense system.

SR–222

APRIL 19

1:30 p.m.

Indian Affairs

To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.

SR–485

APRIL 23

9:00 a.m.

Indian Affairs

Business meeting, to consider pending calendar business.

SR–485

9:30 a.m.

Commerce, Science, and Transportation

Consumer Affairs, Foreign Commerce, and Tourism Subcommittee

To hold hearings on proposed legislation authorizing funds for the Consumer Product Safety Commission.

SR–253

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings on S. 1401, to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that Act with respect to surface coal mining and reclamation operations.

SD–366

Environment and Public Works

To hold hearings on S. 1285, to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980 (Superfund), as modified by S. Amdt. 3563, in the nature of a substitute.

SD–406

Special on Aging

To hold hearings to examine issues relating to Alzheimer's Disease.

SD–106

10:00 a.m.

Judiciary

To hold hearings on a proposed constitutional amendment to establish a bill of rights for crime victims.

SD–226

Small Business

To hold hearings to examine issues affecting home-based business owners.

SR–428A

APRIL 24

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine distance learning, and on S. 1278, to establish an education satellite loan guarantee program for communications among education, Federal, State, and local institutions and agencies and instructional and educational resource providers.

SR–253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

Environment and Public Works

To continue hearings on S. 1285, to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980 (Superfund), as modified by S. Amdt. 3563, in the nature of a substitute.

SD–406

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Army programs.

SD–192

2:00 p.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings to examine the need for additional bankruptcy judgeships and the role of the U.S. trustee system.

SD–226

Veterans' Affairs

To hold hearings on the President's proposed budget for fiscal year 1997 for veterans programs.

SR–418

APRIL 25

9:00 a.m.

Indian Affairs

To hold joint hearings with the House Committee on Resources on S. 1264, to provide for certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe.

SR–485

9:30 a.m.

Energy and Natural Resources

Parks, Historic Preservation and Recreation Subcommittee

To hold hearings on S. 902, to authorize the Secretary of the Interior to assist in the construction of a building to be used jointly by the Secretary for park purposes and by the city of Natchez as an intermodal transportation center,

VOL
142
PT
6
AP
15
—
24
1996
UMI

S. 951, to commemorate the service of First Ladies Jacqueline Kennedy and Patricia Nixon to improving and maintaining the Executive Residence of the President and to authorize grants to the White House Endowment Fund in their memory to continue their work, S. 1098, to establish the Midway Islands as a National Memorial, H.R. 826, to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas, and H.R. 1163, to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, New York.

SD–366

MAY 1

9:30 a.m.

Rules and Administration

To resume hearings on issues with regard to the Government Printing Office.

SR–301

2:30 p.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings to examine airport revenue diversion.

SR–253

MAY 8

10:00 a.m.

Veterans' Affairs

To hold hearings to examine the reform of health care priorities.

SR–418

SEPTEMBER 17

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.

334 Cannon Building

POSTPONEMENTS

APRIL 25

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.

SR–253

SENATE—*Tuesday, April 16, 1996*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by Bishop Kenneth Ulmer, of the Faithful Central Missionary Baptist Church in Los Angeles, CA.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Dr. Kenneth C. Ulmer, offered the following prayer:

O God our help in ages past; our strength, our hope, our joy for years to come. Father, we give You thanks and praise for the consistency of Your faithfulness. Morning by morning You have showered us with new mercies and new expressions of Your grace, and for that we say thank You. As Jehovah Shalom You have given us Your peace in a world of confusion. As Jehovah Jireh You have provided us with the riches of Your grace and mercy. As Jehovah Rohi, You have been the great shepherd of this Nation. Lord, give us the ability to acknowledge the possibility of our own error, patience that we might listen to opposing opinions, and wisdom to learn from one another. Give us honesty that we might speak the truth in love and strength that we might not falter in the quest for truth and justice. Keep us humbled by the limitations of our own perspectives and encouraged by the magnitude of divine vision. When the tensions of our democracy would tend to divide us, keep us constantly aware of Your omnipotent ability to make us one as we celebrate the diversity within our unity. May we sense the sacredness of our call to leadership. O God, may integrity and uprightness preserve this Nation. As we faithfully serve its people may we so faithfully serve You. In the name of our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the Senator from Mississippi, Senator LOTT, is recognized.

Mr. LOTT. I thank the President pro tempore. It is a pleasure to see the President pro tempore.

GREETING BISHOP KENNETH C. ULMER

Mr. LOTT. Mr. President, I am proud to extend the greetings of the Senate today to Bishop Kenneth Ulmer from Los Angeles, who delivered the morning prayer. Our Chaplain, Dr. Ogilvie, tells me he is one of the truly great emerging spiritual leaders of our Nation. Since his arrival 12 years ago at the Faithful Central Missionary Baptist Church, where Bishop Ulmer occupies the pulpit, the congregation has grown from one of 325 to one of over 3,500. Bishop Ulmer is recognized as one of California's most respected voices in promoting positive relationships between people of all races and backgrounds.

He is a member of the California attorney general's policy council on violence prevention and a member of the board of directors of the Rebuild Los Angeles Committee. I know all Senators join me in thanking Bishop Ulmer for joining us this morning.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, this morning the Senate will conduct a period for morning business until 10:45 a.m., with Senator GRASSLEY to speak for up to 15 minutes and Senator HATCH for up to 45 minutes.

Following morning business, the Senate will resume consideration of the illegal immigration bill and the pending amendments. The yeas and nays are ordered on several of these amendments; however, those votes will not occur prior to the scheduled vote at 2:15.

As a reminder, at 2:15 p.m. today, there will be a cloture vote on the motion to proceed to the Whitewater resolution. The Senate will recess from the hours of 12:30 p.m., to 2:15 p.m. for the weekly policy conferences to meet. The Senate can expect rollcall votes to occur throughout the session today in order to make progress on the pending illegal immigration bill.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, there will now be a period for morning business.

The Senator from Iowa is recognized for 15 minutes.

Mr. GRASSLEY. Mr. President, before I speak, I ask unanimous consent to yield to Senator THURMOND for the purpose of introducing bills without it cutting into my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. I thank the able Senator very much.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 1672 and S. 1673 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. Mr. President, I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 1674 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

COMMANDER STUMPF

Mr. GRASSLEY. Mr. President, I want to speak on a subject that I have spoken before. This is the issue of the promotion of Navy Comdr. Robert Stumpf and his promotion to the rank of captain. This promotion has been denied by the Armed Services Committee. It was denied because of his suspected involvement in inappropriate behavior at the Tailhook convention.

I support the committee's decision to deny the promotion. I have spoken on this matter several times. Since my last speech, I have had a letter from Commander Stumpf's attorney. The attorney's name is Mr. Charles W. Gittins. Mr. Gittins thinks that the facts are the issue here. Of course, I disagree. In my mind, the facts are not at issue.

What do the facts mean? It is the answer to the question that gets Commander Stumpf in hot water.

Mr. President, I ask unanimous consent to have printed in the RECORD Mr. Gittins' letter to me.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WILLIAMS & CONNOLLY,
Washington, DC, April 4, 1996.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: I am writing on behalf of my client, Commander Robert E. Stumpf, USN, who was the subject of your March 16, 1996 floor speech in the Senate. I applaud you for asking the five questions relevant to whether Commander Stumpf should be promoted because it is apparent that your colleagues have lost sight of those important attributes in the political infighting over Bob Stumpf's promotion.

Had you researched the answers to the five questions that you "asked", and put the answers as well as the questions in the Congressional Record, I am sure that you would have embarrassed your colleagues with the truth. Moreover, I am sure that if you had researched the answers before you went to the floor to give the speech, your speech would have been one of unequivocal support for Commander Stumpf's promotion.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Your first question, like the rest, can be answered by reference to the official records of the Court of Inquiry as well as by reference to Commander Stumpf's Official Military Personnel File. Commander Stumpf's record is clearly among the finest in the Navy. Two Navy Captain selection boards now have selected Commander Stumpf for promotion to Captain. In order to do so, the Boards were required to find that Commander Stumpf was among those "best qualified" from among those officers who the board found were "fully qualified." Further, Commander Stumpf's performance in combat, illuminated by the many citations for bravery and heroism awarded him by the United States, abundantly proves that the promotion boards were correct in their judgment of Commander Stumpf's performance.

Your second question, concerning leadership and discipline, are equally well answered by the Navy's official records. All you needed to do was read them. Commander Stumpf was described by senior officers who testified at his Court of Inquiry as "among the finest leaders that they have had the opportunity to work with." In this regard, you may wish to read the testimony of Vice Admiral Kihune and Rear Admiral McGowan, two officers with personal and daily observation of Commander Stumpf in positions of responsibility. You may also wish to read the statement of Captain Dennis Gillespie, USN, Commander Stumpf's commander in combat during Desert Storm. Commander Stumpf's leadership was nowhere more vigorously tested than in combat, where he personally led 9 carrier air wing airstrikes without losing a single aircraft. Discipline? How much discipline does it take to fly a combat aircraft at 500 miles an hour into the face of anti-aircraft fire and surface to air missiles while still managing to put bombs on target. I submit that there is no greater demonstration of discipline.

Does Commander Stumpf set a good example? If not, why was Commander Stumpf chosen to lead the Blue Angels in the first place? The singular purpose of the Blue Angels is to provide a good example of the Navy for public consumption. Perhaps you saw Commander Stumpf perform at the airshow in Iowa. If so, you could not help but be impressed with the example Commander Stumpf sets. The fact that he was returned to command of the Blue Angels by the Navy even after he was subjected to an embarrassing Navy Court of Inquiry speaks volumes about the type example Commander Stumpf sets. Moreover, his press conference following the Court's decision made clear Commander Stumpf's agenda—at that press conference Commander Stumpf said he would thereafter take no more questions about Tailhook. His job was to "make the Navy look good. And that what [he] intend[ed] to do"

Your question four is self-evident by Commander Stumpf's performance in combat. How many leaders who flew 22 combat missions can say that they brought back every plane that they started the mission with? Moreover, the junior officers who testified for the government, pursuant to grants of testimonial and transactional immunity, each stated unequivocally that Commander Stumpf was an outstanding role model, one who was universally recognized as superior throughout the Navy and the strike-fighter community, and one they would gladly follow into combat. There simply is no higher praise for a military officer. There has never been any evidence adduced, in the Committee, in the Court of Inquiry, or in subsequent reviews conducted by the Navy or the Committee, that Commander Stumpf is anything but an outstanding role model.

Finally, Commander Stumpf has over and over throughout his career proven his integrity. Commander Stumpf has been forthcoming about Tailhook and his involvement therein. The Secretary of the Navy personally questioned Commander Stumpf closely on these issues and determined that Commander Stumpf was not culpable for any misconduct, either by him or his subordinates, at Tailhook. Secretary Dalton confirmed that Commander Stumpf was "appropriately selected for promotion and that he should be promoted." Until you raised the question of Commander Stumpf's integrity, there has never been any insinuation that Commander Stumpf was other than forthright and honest in all of his dealings throughout his Navy career. If you have specifics in mind, please feel free to communicate them to me. I will be glad to have Commander Stumpf respond.

If your five questions are the measuring stick that the Senate intends to follow on all future officer nominations, I applaud your standard. If you intend to apply that standard to Commander Stumpf, it would do you and your colleagues well to actually read the records before you draw conclusions about Commander Stumpf, or any other officer who presents to the Committee or the Senate similarly situated.

What has diminished the credibility of the Committee and the Senate with the public in Commander Stumpf's case is ignorance of, or intentional lack of familiarity with, the unalterable fact that Commander Stumpf did not conduct himself in any way inappropriately at the 1991 Tailhook Symposium. That is a fact that cannot be ignored, even on the floor of the United States Senate.

Sincerely,

Charles W. Gittins.

Mr. GRASSLEY. I am opposed to what Commander Stumpf and his attorney are doing for three reasons. First, they want us to believe that this is a legal issue. Commander Stumpf seems to have the mistaken notion that a promotion to captain in the Navy is an inalienable right.

He sees the committee erecting a barrier between himself and that right. So he has hired a fancy lawyer to reclaim that right under the law.

Well, sadly, I am afraid that Commander Stumpf may be in for a big disappointment. As Senator Nunn put it, "It is well known that nomination proceedings are not criminal trials. They are not formal evidentiary proceedings."

A promotion is not guaranteed under the law. In fact, as we all know, it must be earned, and not only earned, but confirmed by the Senate.

This, Mr. President, brings me to my second point. Each Senator must make a subjective judgment about a candidate's character. We have to examine the entire record, and then we have to pick and choose.

Sadly, Commander Stumpf and his lawyer somehow believe that the Senate should not sit in judgment of a nominee's character. Two Navy captain selection boards and Secretary of the Navy Dalton decided that Commander Stumpf should be promoted. End of the story for them. The Senate should somehow butt out.

Again, Senators Nunn and Coats have laid this misguided idea to rest. They put it this way: "The Senate has a constitutional responsibility to give advice and consent on military promotions."

That is our constitutional duty. We look at the evidence, and we make judgment calls. We know it is not an exact science. It is an imperfect system, but most of the time it seems to work.

This brings me to the third source of my concern. Those who are pushing the Stumpf promotion want us to think he is a victim of political correctness. Mr. President, that is pure, 100 percent, grade-A, Navy baloney. I happen to believe that Commander Stumpf's problems run much deeper than that. They go right to the core of his character. His behavior at the 1991 Tailhook convention raises questions about his ability to lead.

Mr. President, I am not holding Commander Stumpf to some arbitrary standard dreamed up by this Senator. I am holding him to the military's own standards.

The military standards are laid out in a document entitled "Military Leadership, Field Manual 22–100." Those principles are described on pages 5 through 8 of the document. This is an exact quote from the document:

> No aspect of leadership is more powerful than setting a good example.

So, Mr. President, I feel obliged to ask this very simple question: Did Commander Stumpf set a good example at Tailhook? A former Naval officer, writing in the Washington Times recently, answered that question. I want to quote directly from the April 1, 1996, article:

> Officers throughout the Navy—particularly Naval aviators like Commander Stumpf—were well aware that the Tailhook convention had become an increasingly grotesque event before it finally suffered public scrutiny in 1991.
>
> That Commander Stumpf finds himself having been caught in the fallout is a result of the poor judgment he showed in participating when many of his contemporaries had stopped doing it years before.

That says it all, Mr. President.

Commander Stumpf's behavior also raises questions about his willingness to accept responsibility. The military leadership manual states that a leader must do two things: First, seek responsibility and, second, take responsibility for his or her actions. By seeking and accepting responsibility, a leader can build trust within his or her military unit.

Clearly, Commander Stumpf is eagerly and aggressively seeking greater responsibility. He has an aggressive lobbying campaign going to get himself promoted. He is doing a good job of that lobbying.

Unfortunately, he is not very good at accepting criticism for his past mistakes. It seems like he is trying to evade responsibility.

Commander Stumpf claims he did not witness the really obscene behavior at his squadron's Tailhook party. It happened after he left, and if he did not see it, he is not responsible, so he claims. Commander Stumpf's ship ran aground when he was not on the bridge. That is what he wants us to believe. He wants us to believe that his junior officers are to blame. In effect, he is saying that.

Commander Stumpf's reasoning is flawed, and it is inconsistent with naval tradition and leadership and the responsibility that is placed on leaders in the military manual. The ship's captain is always responsible if the ship runs aground.

When something like this happens, the manual says a leader should never try to evade responsibility by blaming others. When a commander tries to shift the blame to others, the manual says that undermines trust and respect within any military organization. Evading responsibility is not the sign of a topnotch military commander.

When Commander Stumpf first got in hot water, he should have acknowledged his mistake and taken corrective action.

Mr. President, Commander Stumpf needs to face the music and take responsibility for his actions.

I ask unanimous consent to have that part of the manual printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Principles of Leadership

The 11 principles of Army leadership are excellent guidelines and provide the cornerstone for action. They are universal and represent fundamental truths that have stood the test of time. Developed in a 1948 leadership study, the principles were first included in leadership doctrine in 1951. Use these principles to assess yourself and develop an action plan to improve your ability to lead. Examples throughout this manual give you ideas of how to apply these principles. Here is an explanation of each of the leadership principles.

KNOW YOURSELF AND SEEK SELF-IMPROVEMENT

To know yourself, you have to understand who you are and to know what your preferences, strengths, and weaknesses are. Knowing yourself allows you to take advantage of your strengths and work to overcome your weaknesses. Seeking self-improvement means continually developing your strengths and working on overcoming your weaknesses. This will increase your competence and the confidence your soldiers have in your ability to train and lead.

BE TECHNICALLY AND TACTICALLY PROFICIENT

You are expected to be technically and tactically proficient at your job. This means that you can accomplish all tasks to standard that are required to accomplish the wartime mission. In addition, you are responsible for training your soldiers to do their jobs and for understudying your leader in the event you must assume those duties. You develop technical and tactical proficiency through a combination of the tactics, techniques, and procedures you learn while attending formal schools (institutional training), in your day-to-day jobs (operational assignments), and from professional reading and personal study (self-development).

SEEK RESPONSIBILITY AND TAKE RESPONSIBILITY FOR YOUR ACTIONS

Leading always involves responsibility. You want subordinates who can handle responsibility and help you perform your mission. Similarly, your leaders want you to take the initiative within their stated intent. When you see a problem or something that needs to be fixed, do not wait for your leader to tell you to act. The example you set, whether positive or negative, helps develop your subordinates. Our warfighting doctrine requires bold leaders at all levels who exercise initiative, are resourceful, and take advantage of opportunities on the battlefield that will lead to victory. When you make mistakes, accept just criticism and take corrective action. You must avoid evading responsibility by placing the blame on someone else. Your objective should be to build trust between you and your leaders as well as between you and those you lead by seeking and accepting responsibility.

MAKE SOUND AND TIMELY DECISIONS

You must be able to rapidly assess situations and make sound decisions. If you delay or try to avoid making a decision, you may cause unnecessary casualties and fail to accomplish the mission. Indecisive leaders create hesitancy, loss of confidence, and confusion. You must be able to anticipate and reason under the most trying conditions and quickly decide what actions to take. Here are some guidelines to help you lead effectively:

Gather essential information before making your decisions.

Announce decisions in time for your soldiers to react. Good decisions made at the right time are better than the best decisions made too late.

Consider the short- and long-term effects of your decisions.

SET THE EXAMPLE

Your soldiers want and need you to be a role model. This is a heavy responsibility, but you have no choice. No aspect of leadership is more powerful. If you expect courage, competence, candor, commitment, and integrity from your soldiers, you must demonstrate them. Your soldiers will imitate your behavior. You must set high, but attainable, standards, be willing to do what you require of your soldiers, and share dangers and hardships with your soldiers. Your personal example affects your soldiers more than any amount of instruction or form of discipline. You are their role model.

KNOW YOUR SOLDIERS AND LOOK OUT FOR THEIR WELL-BEING

You must know and care for your soldiers. It is not enough to know their names and hometowns. You need to understand what makes them "tick" and learn what is important to them in life. You need to commit time and effort to listen to and learn about your soldiers. When you show genuine concern for your troops, they trust and respect you as a leader. Telling your subordinates you care about them has no meaning unless they see you demonstrating care. They assume that if you fail to care for them in training, you will put little value on their lives in combat. Although slow to build, trust and respect can be destroyed quickly.

If your soldiers trust you, they will willingly work to help you accomplish missions. They will never want to let you down. You must care for them by training them for the rigors of combat, taking care of their physical and safety needs when possible, and disciplining and rewarding fairly. The bonding that comes from caring for your soldiers will sustain them and the unit during the stress and chaos of combat.

KEEP YOUR SUBORDINATES INFORMED

American soldiers do best when they know why they are doing something. Individual soldiers have changed the outcome of battle using initiative in the absence of orders. Keeping your subordinates informed helps them make decisions and execute plans within your intent, encourages initiative, improves teamwork, and enhances morale. Your subordinates look for logic in your orders and question things that do not make sense. They expect you to keep them informed and, when possible, explain reasons for your orders.

DEVELOP A SENSE OF RESPONSIBILITY IN YOUR SUBORDINATES

Your subordinates will feel a sense of pride and responsibility when they successfully accomplish a new task you have given them. Delegation indicates you trust your subordinates and will make them want even more responsibility. As a leader, you are a teacher and responsible for developing your subordinates. Give them challenges and opportunities you feel they can handle. Give them more responsibility when they show you they are ready. Their initiative will amaze you.

ENSURE THE TASK IS UNDERSTOOD, SUPERVISED, AND ACCOMPLISHED

Your soldiers must understand what you expect from them. They need to know what you want done, what the standard is, and when you want it done. They need to know if you want a task accomplished in a specific way. Supervising lets you know if your soldiers understand your orders; it shows your interest in them and in mission accomplishment. Oversupervision causes resentment and undersupervision causes frustration.

When soldiers are learning new tasks, tell them what you want done and show how you want it done. Let them try. Watch their performance. accept performance that meets your standards; reward performance that exceeds your standards; correct performance that does not meet your standards. Determine the cause of the poor performance and take appropriate action.[1] When you hold subordinates accountable to you for their performance, they realize they are responsible for accomplishing missions as individuals and as teams.

BUILD THE TEAM

Warfighting is a team activity. You must develop a team spirit among your soldiers that motivates them to go willingly and confidently into combat in a quick transition from peace to war. Your soldiers need confidence in your abilities to lead them and in their abilities to perform as members of the team. You must train and cross train your soldiers until they are confident in the team's technical and tactical abilities. Your unit becomes a team only when your soldiers trust and respect you and each other as trained professionals and see the importance of their contributions to the unit.

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[1] Kenneth H. Blanchard and Keith L. Kettler, "A Suitable Approach to Leader Development."

VOL
142
PT
6
AP
15
—
24
1996
UMI

EMPLOY YOUR UNIT IN ACCORDANCE WITH ITS CAPABILITIES

Your unit has capabilities and limitations. You are responsible to recognize both of these factors. Your soldiers will gain satisfaction from performing tasks that are reasonable and challenging but will be frustrated if tasks are too easy, unrealistic, or unattainable. Although the available resources may constrain the program you would like to implement, you must continually ensure your soldiers' training is demanding. Apply the battle focus process to narrow the training program and reduce the number of vital tasks essential to mission accomplishment. Talk to your leader; decide which tasks are essential to accomplish your warfighting mission and ensure your unit achieves Army standards on those selected. Battle focus is a recognition that a unit cannot attain proficiency to standard on every task, whether due to time or other resource constraints. Do your best in other areas to include using innovative training techniques and relooking the conditions under which the training is being conducted, but do not lower standards simply because your unit appears unable to meet them. Your challenge as a leader is to attain, sustain, and enforce high standards of combat readiness through tough, realistic multiechelon combined arms training designed to develop and challenge each soldier and unit.

SUMMARY

The factors and principles of leadership will help you accomplish missions and care for soldiers. They are the foundation for leadership action.

The factors of leadership are always present and affect what you should do and when you should do it. Soldiers should not all be led in the same way. You must correctly assess soldiers' competence, commitment, and motivation so that you can take the right leadership actions. As a leader, you must know who you are, what you know, and what you can do so that you can discipline yourself and lead soldiers effectively. Every leadership situation is unique. What worked in one situation may not work in another. You must be able to look at every situation and determine what action to take. You influence by what you say, write, and, most importantly, do. What and how you communicate will either strengthen or weaken the relationship between you and your subordinates.

The principles of leadership were developed by leaders many years ago to train and develop their subordinates. The principles have stood the test of time and the foremost test—the battlefield. Use the principles to assess how you measure up in each area and then develop a plan to improve your ability to lead soldiers.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

MEASURE PLACED ON THE CALENDAR—H.R. 3103

Mr. HATCH. Mr. President, I understand there is a bill due for its second reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.

Mr. HATCH. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

SOCIAL POLICY AND CIVIL RIGHTS

Mr. HATCH. Mr. President, I wish to continue the discussion about social policy and civil rights I began a short time ago.

Mr. President, I support the vigorous and sensible enforcement of our civil rights laws and make whole relief for the victims of discrimination. I support affirmative action involving outreach and recruitment. I support training and assistance open to all who are seeking to enhance their ability to compete, without regard to race, ethnicity, or gender. I oppose preferences in the award of benefits or impositions of penalties based in whole or in part on race, ethnicity, or gender.

Opposition to preferences should not be a device used, however inadvertently, to ignore the particular problems resulting from the legacy of prior and ongoing discrimination. Nor should opposition to preferences be used to weaken the kind of affirmative outreach and recruitment I mentioned earlier.

Conversely, I reject the cynical use of the affirmative action label as a means of throwing a protective shield over preferences, as President Clinton and his administration have repeatedly done.

This administration has pursued a pervasive policy of preference. The President's actions speak louder than his words. The Clinton administration has repeatedly cast its lot not on the side of equal opportunity for all Americans, but on the side of racial, gender, and ethnic preferences and equal results for groups.

Indeed, I find both President Clinton's July 19, 1995, speech on this issue and his administration's review of this issue an artful dodge of the real issues and a vigorous assault on the principle of equal opportunity for all Americans.

In his frequently gauzy July 19 speech, President Clinton never came to grips with the details of affirmative action preferences. He also repeats some false dichotomies long used by other tenacious defenders of preferences. He ignores the variety of ways preferences operate, and are defended, even under his own administration.

Moreover, he defines affirmative action with a combination of breadth and vagueness, allowing him to dodge the tough issues. He does not understand that preferences are not only wrong, they are terribly divisive.

Columnist Robert J. Samuelson has written:

> The essence of Clinton-speak is that the president is often saying the opposite of what he is doing. On affirmative action, he deplores those "who play politics with the issue * * * and divide the country." Yet, that describes Clinton exactly. His eager embrace of affirmative action guarantees that it will foment racial and gender rancor.

That was from the Washington Post of August 9, 1995.

He treats the web of local, State and Federal bureaucratic, legislative, and judicial rules and policies requiring the cause of preferences as if they were minor aberrations or barely in existence. They have, in fact, grown over the years, including under his policies.

For example, he claims that sometimes employers abuse the concept—as if local, State, and Federal governments have not been breathing down many employers' necks—playing the numbers game, pressuring and requiring consideration of race, ethnicity, and gender in their employment practices. Indeed, his administration has recently issued guidance concerning Federal employment which provides a shocking, broad-based series of rationales for preferences.

Moreover, the President, in my view, gives too much credit to affirmative action for progress in this country. The enactment and enforcement of antidiscrimination laws, a decrease in prejudice, and economic forces, in my view, have clearly played very important roles in such progress. Even his own task force admits, at least: "It is very difficult * * * to separate the contribution of affirmative action from the contribution of antidiscrimination enforcement, decreasing prejudice, rising incomes and other forces."

The four directives he has issued to his agencies are largely misleading or irrelevant, especially in light of his administration's overall actions. The President says, "No quotas in theory or practice * * *" but he supports a so-called flexible goal.

It is preferences we must oppose, however, not the label for one of the forms of preference. And the Clinton administration has strongly fostered preferences in various ways, as I will explain shortly, sometimes making use of numbers and sometimes not. Indeed, his administration has fostered outright quotas.

With respect to numerical objectives, whether they are labeled goals and timetables or quotas, the harm that occurs is the exercise of preference based on race, ethnicity, gender, or otherwise. It is such preference that is wrong, rather than the precise label we place on the mechanism of preference.

I think it is helpful to conceptualize the numbers approach as functioning along a continuum. At one end, the equal opportunity end, there is the requirement not to discriminate on the

basis of irrelevant characteristics, the requirements to review selection processes to ensure that there is no bias and to recruit widely—and no numerical objective. At the other end is a requirement that does one of two things. First, it either establishes separate lists of those at least minimally qualified, based on race or gender, with alternate selection from these lists until a certain percentage is met, regardless of the relative rankings that would exist on a single list. Or, the requirement simply defines equal opportunity as essentially the proportional representation of various groups, and mandates or permits race or gender conscious selection procedures in order to meet that objective.

In between these two ends are various levels of coercive authority and sanctions that require or strongly encourage the use of preference. Thus, somewhere between these two opposites might be what is euphemistically described as a "flexible goal and timetable." In fact, this differs little, as a practical matter, from what is otherwise known as a quota, except in the lack of explicitly separate lists. It might be that an employer is pressured to reach a certain percentage of designated groups in his work force over a period of time without the explicit creation of separate lists. Sanctions remain available, lurking not far in the background. If an employer or school believes that the failure to meet a goal will result in increased oversight, paperwork, and required explanations; the threat of contract debarment, loss of Federal aid, or a lawsuit by individuals, advocacy groups or the Government hanging overhead; or a contempt motion pursuant to a court order which is already in place, then the employer or school is going to try to meet that number, regardless of who is best qualified. If an employer or school does not believe that the Government intends for the number to be reached, they would have to ask, why did the Government put the number out there? If equal opportunity alone is all that is required, the Government can require that such opportunity be afforded without setting any numerical requirement. I also note that, when race, ethnicity, or gender is used as only one factor in a decision to hire, and that one factor tips the decision in favor of one person and against another, that is discrimination, that is a preference.

Thus, while some numerical objectives may be somewhat less coercive than others, they are no less objectionable. At best, we are speaking of matters of degree, not of kind. The Clinton Administration makes full use of the range of preferences.

President Clinton next says, "no illegal discrimination of any kind including reverse discrimination." Mr. President, this is clearly a verbal slight of hand. The President never defined reverse discrimination. As the President and his legal advisors well know, the courts and executive bureaucracies, regrettably, have deemed a variety of reverse discrimination—preferences—as legal. His own task force, for example, speaks approvingly of the Supreme Court's 1979 Weber decision. That decision permits reverse discrimination in an employer's training program under title VII. The Weber decision is a crucial part of the reverse discrimination edifice in this country. So the President favors reverse discrimination under the name of affirmative action, at least so long as a court anywhere, or a bureaucrat, says its acceptable or might possibly say its acceptable. The congressional testimony, courtroom legal arguments, and policy guidance of his Justice Department amply confirm this.

Indeed, his own administration has vigorously sought to expand the rationales for permitting reverse discrimination. Let us not forget: the Clinton administration was on the losing side in the Supreme Court's 1995 Adarand case. The Clinton administration argued for a double standard based on race and ethnicity in the Federal Government's award of contracts and in Federal Government policy generally. President Clinton managed to omit that fact from his July 19, 1995, speech. President Clinton defended his administration's outrageous defense of racial preferences in layoffs in the Piscataway case.

Next comes the President's clumsiest and most transparent cynicism: "no preference for people who are not qualified for any job or other opportunity." This is a longstanding dodge by the ardent defenders of preference and reverse discrimination. Of course, the problem with preferential policies is that they favor the lesser qualified over the better qualified.

Finally, the President says, as soon as "the [particular affirmative action] program has succeeded it must be retired." We have heard that for at least 25 years. What does the President mean by an affirmative action program succeeding? He does not say, directly. But a careful review of his speech, his task force's rationale for affirmative action, including preferences, and his Justice Department guidance, makes it clear—he does not mean equal opportunity for individuals. The repeated reference, as justification for affirmative action, to various statistical disparities makes clear that affirmative action succeeds in this administration when equality of result—proportionality—has been reached. Indeed, his Justice Department's February 29, 1996 guidance to Federal agencies justifying preferences and reverse discrimination in Federal employment authorizes those agencies to maintain proportionality almost continually.

Despite misleading disclaimers, that memorandum is a wide-ranging defense not only of reverse discrimination well beyond current Supreme Court precedent. It is a thinly veiled defense of quota hiring.

I should also point out that President Clinton takes the Adarand decision as if it is the final guidance on preferences. It is not. His own task force knows better: "The Court's decision concerned what is constitutionally permissible, which is a necessary but not sufficient consideration in judging whether a measure is a wise public policy." There is the question of what is right. In my view, if a business has been discriminated against by a government entity, it should have a remedy. But to prefer another business because it is owned by a member of the same group, over an innocent business owner who belongs to a different group, is wrong.

If one believes that rights inhere in individuals, not in groups, one has to oppose this latter type of program, a contract preference based on race, ethnicity, or gender. The Clinton administration celebrates it. Just listen to the Clinton task force's rationalization: race-conscious contract procurement programs "cause only a minor diminution of opportunity for non-minority firms. In that respect, current programs are balanced and equitable in the large." So much for individual rights. So much for equal opportunity for every individual. No reasonable person would accept such a rationale if the victims were minority firms, and properly so.

The Clinton administration should tell Tom Stewart of Spokane, WA, who testified before the Senate Judiciary Constitution Subcommittee, that contract preferences generally cause only minor loss of opportunity. His guardrail firm has lost $10 to $15 million over 15 years because of preferences—reverse discrimination to anyone else but this President and other defenders of preference and reverse discrimination. Mr. Stewart has numerous letters from prime contractors saying he was the low bidder but could not be retained because of set-aside requirements—the preferences, if you will.

Or tell it to Lance McKinney, the president of Atherton Construction Co. of Salt Lake City, UT, who was not even permitted to bid on certain contracts because of his race. These requirements are far more pervasive in local, State, and Federal governments than the President admits. Even one contract lost because of race is one too many, but the Clinton administration breezily understates the scope of the problem.

The President condescendingly tries to bundle off concern about preferences and reverse discrimination to economic uncertainty in the white middle class. The President thinks the real problems with racial, ethnic, and gender set-asides are those of fronts and fraud.

VOL
142
PT
6
AP
15
—
24
1996
UMI

President Clinton just does not get it. He is out of touch with mainstream America. The real problem with racial, ethnic, and gender preferences, including in contract awards, is that they are fundamentally unfair. Preferences and reverse discrimination should be ended, not tinkered with.

The principle of equal opportunity demands that we avoid new forms of discrimination. We must not create new victims of discrimination in the name of affirmative action—something the President's own administration has, in the large, fostered and defended.

Ted Van Dyk, a former assistant to Vice President Hubert Humphrey, has written:

> The civil-rights fighters of the 1950s and early 1960s can only be shocked that the more recent Democrats, including the president, have taken that struggle for opportunity and transformed it into an attempt at guaranteed outcomes. Hence the official and unofficial, gender and ethnic quotas imposed in staffing the administration.

Mr. Van Dyk has also noted—and keep in mind he was former assistant to Vice President Hubert Humphrey, who helped to write the act of 1964.

Mr. Van Dyk has also noted,

> Affirmative action was intended as nothing more than a late footnote to central civil rights and social legislation of the early and mid-1960s meant to remove from American life discrimination against—or for—any person or group. The objective of a generation of civil-rights fighters of all races and colors had been to give every American an equal chance at the starting line—but not a guaranteed outcome at the finish line.
>
> My old boss Hubert Humphrey, principal sponsor of the 1964 Civil Rights Act, made clear during congressional debate that quotas, racial preferences, set-asides and other discriminatory measures were totally at odds with the justice sought through the act. Title VII of the act, in fact, explicitly bans preferences by race, gender, ethnicity and religion.
>
> No one could have predicted then that affirmative action would be transformed into a quasi-entitlement or that well-meaning next-generation leaders, including President Clinton and Hillary Rodham Clinton, would insist on rigid racial, gender and ethnic quotas in filling federal appointments.

These quotes are from the Washington Post, March 9, 1995 edition.

The Washington Post of September 1, 1995, reports:

> A divided Montgomery County School Board has refused to overturn a school system decision denying two Asian kindergartners admission into a French immersion program because the transfer would upset the ethnic balance at their neighborhood elementary school.

Only after a public uproar was this particular denial overturned. How does the President feel about this general policy? Will his administration enforce equal opportunity in the Montgomery County schools?

The Washington Post of October 30, 1995, reported:

> Principal Inez Sadler's Valley View Elementary School in Prince George's County, Maryland faced a shortage of 50 students for its Talented and Gifted program, but she could not choose from any of the 67 students on a waiting list. The reason: all 67 students on the list are African American, while all 50 available slots are reserved for children of other races.

This is pursuant to a court-ordered desegregation remedy originating in a 23-year-old lawsuit.

In San Francisco, as part of a 12-year-old consent decree, Chinese-American youngsters are being discriminated against in favor of whites, blacks, Hispanics, Koreans, or Japanese for entry to Lowell High School—and there is discrimination in the treatment among these groups as well. This is in the Los Angeles Times, July 13, 1995 edition.

Only in the past few weeks has there been the possibility of some change in those policies.

A 12-year-old girl was denied admission to Boston Latin School recently because she ran afoul of racial preferences.

Does the President believe these practices are right? Should his administration have been doing something about it?

Some of these examples point out something else President Clinton is oblivious to: Preferences hurt all of those outside the preferred groups in any given instance, not just white males. That is the dodge that they hide behind all the time. We are finding they are hurting everybody.

Once we draw a line based on race, ethnicity, or gender, we create new victims of discrimination.

When Miami Dade Community College, for example, offers five faculty fellowships for males of African descent, white males are not the only victims. Females of African descent are discriminated against, as are Asians and Hispanics. But this program is fully consistent with the administration's actual policies.

If President Clinton is truly concerned about equal opportunity, he should straighten out the policies of his own administration.

He could start with the Department of Justice, which of course, as chairman of the Judiciary Committee, I have the responsibility of overviewing. That is one reason why I am taking time to make this statement today.

In 1994, the Clinton administration switched sides in a reverse discrimination case in Piscataway, NJ.

In the Piscataway case, the Piscataway Board of Education decided to reduce the size of its Business Education Department. The choice was between laying off a white female or a black female with equivalent seniority.

Normally, the tiebreaker between two equally senior employees facing a layoff is undertaken in a race-neutral manner, by drawing lots. But Piscataway had an affirmative action plan, which required that the tie be broken on the basis of race in favor of the black teacher. In 1989, the white teacher was discharged.

The Bush Justice Department brought a lawsuit in January 1992 challenging this racially discriminatory layoff under title VII of the 1964 Civil Rights Act. In June 1993, the Clinton administration, then in power, filed two briefs advancing its then position that the race-based layoff was illegal.

Then, stunningly, after the district court ruled in favor of the United States and the white teacher who had intervened in the case in her own behalf, and granted her relief, the Clinton administration flip-flopped and abandoned its earlier position. It, in effect, switched sides and argued against the white teacher in favor of a policy of racial discrimination. It argued to deprive the victim of discrimination of the very relief it had engineered.

The district court's straightforward legal analysis and finding in favor of the discriminatorily discharged teacher was challenged by the Clinton administration's strained legal arguments in its ideological drive to go beyond Supreme Court precedent to further its policies of reverse discrimination.

The advocates of racial preference argue that such preferences can be justified as an effort to enhance racial diversity in a work force.

I have many problems with the administration's position in this case. Let me mention one. I am deeply disturbed by the sweeping rationale DOJ advanced in support of the preference in this case. In its amicus brief—or friend of the court brief—the Department of Justice relied on Justice Steven's concurring opinion in Johnson, which defended preferences by public and private employers in very broad terms, including increasing the diversity of a work force for its own sake.

If the open-ended view taken in DOJ's brief prevails, what is left of the actual language of title VII? Title VII's language bans discrimination in employment because of race. Narrow exceptions to title VII's plain language in Weber and Johnson, unfortunate as they are, do not extend as far as the facts in Piscataway. The Clinton administration's rationale in Piscataway, it seems to me, turns the statute upside down. It is an open invitation to widespread discrimination.

President Clinton should have repudiated the Justice Department's extreme position in this case. Instead, he endorsed it. Now, he tries to claim he opposes reverse discrimination? In Piscataway, he advocates it. The court of appeals in that case has recently rejected the administration's effort to participate further in the case. I hope it upholds the lower court, notwithstanding the Clinton administration's change of heart.

Moreover, the Justice Department largely echoed its Piscataway brief in the wide-ranging rationales it will accept for preferential hiring in the Federal Government. The Justice Department's claim that whenever an employer can produce statistics, anecdotes, or expert testimony, it can justify racial, ethnic, and gender preferences in order to meet its operational needs is a giant leap down the wrong road for this country. The President should repudiate this memorandum and start over again. He has had to countermand the Justice Department in a pornography case and a religious liberty case, so I am not suggesting anything new for this President.

Let me be clear: I favor racial diversity and integration. The question is, how does an employer achieve it? I believe the proper way of doing so is recruiting widely, including among those who traditionally do not apply for a job, and then hiring on a nondiscriminatory basis, letting the numbers then fall where they may. We should not seek to achieve diversity by trumping the principle of equal opportunity for individuals.

The Clinton administration, in contrast, believes diversity can and should be reached by discrimination and preferences, even in cases involving layoffs, as in the Piscataway case. Indeed, as I mentioned earlier, its brief in this case, after changing sides, together with its recent guidance to Federal agencies, embraces multiple, sweeping rationales for reverse discrimination with little limit, at least in the context of hiring, promotion, and remarkably, layoff.

This is a recipe for the division, polarization, and balkanization of our people. It does not bring us together. The drafters of the 1964 Civil Rights Act, such as Hubert Humphrey, have shown us a better way. Instead, President Clinton is taking us far away from the principle of equal opportunity for individuals.

No matter how much the purveyors of preference try to candycoat or obfuscate their policies with euphemisms, they cannot mask the outright discrimination they are supporting. They cannot fool the American people.

Let me mention just some of the other manifestations of the Clinton administration's policy of preference. An August 10, 1994, memorandum to Assistant Secretaries of Defense for Force Management; Health Affairs; and Reserve Affairs and to the Deputy Under Secretaries of Defense for Requirements and Resources and for Readiness addressed the subject of improving representation. It is from the Under Secretary of Defense for Personnel and Readiness, Edwin Dorn.

The memorandum expresses concern about the job representation of, for example, minorities and women. That is a fair concern, and the issue becomes, how do you address that concern. The memorandum seems to call for recruitment of minorities and women as applicants for jobs, which I believe is entirely appropriate. But listen to how this concern is further addressed in the memorandum. Listen to how subtle pressure is placed on subordinates to put a premium, a preference, on irrelevant characteristics at the point of hiring or promotion.

The memorandum reads in part:

> Secretary Perry is holding me responsible for improving representation within the Office of Under Secretary of Defense for Personnel and Readiness. For this reason, I need to be consulted whenever you are confronting the possibility that any excepted position, or any career position at GS–15 level and higher, is likely to be filled by a candidate who will not enhance your organization's—and thus Personnel and Readiness's—diversity. By working together, we may be able to make faster progress. We know that there is a problem; it may be apparent even at our own staff meetings . . .

Notice that whenever there is a mere possibility that a person in one of the nonpreferred groups is even likely to be hired or promoted for any of the covered positions, race and gender must then come into play. The Defense Department may try to explain that any way it wishes. But the euphemistic phrase making faster progress, as a practical matter, means: if you are about to hire or promote a male or a nonminority, presumably on the basis of merit, do not do it until you check with your superiors and we may well prefer someone else on the basis of race or gender to improve our numbers. Indeed, in the next paragraph, the memorandum states, "I believe that the informal process outlined above will produce results. If not, we will need to employ a more formal approach involving goals, timetables and controls on hiring decisions."

The problem to the Clinton administration is not discrimination. The problem to the Clinton administration is the absence of a particular proportion of each group. By singling out hiring and promotion of white males for special scrutiny, this office in DOD discriminates against them. While this approach is already a formal one—see me before you hire a white male—the threat of even more draconian measures makes it even more likely that his subordinates will make sure they are on board in their hiring to begin with.

Antidiscrimination laws already apply to the Defense Department to ensure equal opportunity. The Department is also certainly capable of recruiting widely for job applicants. But the Clinton administration is going well beyond this with its pervasive policy of preference.

If President Clinton is really serious about equal opportunity, he will repudiate that memorandum.

Let us take another example of the Clinton administration's drive toward equal results. The November 15, 1994, FAA Weekly Employee Newsletter states, "More than half of the GS–15 management positions recently filled through the Air Traffic National Selection System were minorities and females. 'This is in line with Air Traffic's commitment to fill one out of every two vacancies with a diversity selection,' said acting Associate Administrator for Air Traffic, Bill Jeffers." Rather than achieve equal opportunity by recruiting widely and hiring fairly, without regard to irrelevant characteristics, the Clinton administration prides itself on a process, driven not by equal opportunity, but by equal results.

When asked at a congressional hearing on June 27, 1995, whether the administration opposes quotas, the President's Attorney General said yes. Yet, when asked about the propriety of this FAA policy, the Attorney General refused to answer three times, hiding behind the President's ongoing, long-running Adarand review. There was no excuse for failing to repudiate the FAA's policy if this administration was serious about equal opportunity, rather than treating it as a political problem to be managed with euphemisms and dodges.

President Clinton's omnibus health care bill in the last Congress provides yet another example of how this administration really views preferences and has sought to foster preferences and reverse discrimination. The Clinton health care proposal would have given a national council power to set limits on the number of medical students in various specialties and would have allocated funding among various medical training programs. The bill said that among the factors the national council must consider in allocating specialty slots is,

> . . . the extent to which the population of training participants in the program includes training participants who are members of racial or ethnic minority groups, [and] with respect to a racial or ethnic group represented among the training participants, the extent to which the group is underrepresented in the field of medicine generally and in various medical specialties.

It was not enough, then, that the medical school comply with title VI which bans racial and ethnic discrimination in programs receiving Federal aid. It was not enough to recruit widely for applicants. The Clinton administration wanted to tell medical schools that the more members of a particular group they enroll, the more likely it is that they will get a financial allocation. How many members of the groups? The bill did not say, a new twist on preferences and their encouragement. Mr. President, if you were a rational medical school administrator competing for scarce Federal dollars, and this bill had become law, how would you react? Would you simply recruit widely and then select medical students on the basis of merit and talent, without regard to race or ethnicity? Or would you make sure that

VOL
142
PT
6
AP
15
—
24
1996
UMI

race and ethnicity play a role in the selection of students, as well? This is a financial incentive for preference.

The revised Clinton health bill, S. 2357, introduced in August 1994, actually added women to racial and ethnic groups in this preference provision. Of course, Federal law since 1972 already bans discrimination against women in federally assisted education programs. Instead of relying on our nondiscrimination laws which were written to protect these people and relying on recruitment of the right kind, the Clinton administration actually made this provision more preferential than it was less than a year before.

If President Clinton is so concerned about fairness and doing the right thing, I respectfully suggest that, as a first step, he ought to stop doing the wrong thing.

There are a number of other examples. Let me mention the Podberesky versus Kirwan case.

In addition to need-based financial aid, the University of Maryland at College Park [UMCP] offers two merit-based scholarships. No. 1, the Banneker scholarship, is for black students only. Podberesky, a Hispanic student, applied for a Banneker scholarship. Although he met the minimum requirements, he was turned down because he is not black. He is Hispanic.

The Department of Justice defended the program as a remedy for the present effects of past discrimination in Maryland's public higher education system. The district court ruled for the university, but the fourth circuit reversed and granted Podberesky summary judgment. The fourth circuit said that the university did not have sufficient evidence of present effects of its prior discrimination to justify a preference in its scholarship program, and, in any event, its effort is not narrowly tailored to serve its purported remedial purpose.

Instead of justifying this reverse discrimination, the Clinton administration should be fostering race-neutral financial aid policies.

When the California regents ended reverse discrimination in their policies in the California State university system, how did the Clinton administration respond? The President's Chief of Staff, Leon Panetta called it a terrible mistake. The Clinton administration sought to bully California and perhaps intimidate others. It initially threatened a possible cutoff of Federal aid and Federal contracts. Mr. Panetta, referring to the California universities' Federal aid, said, "Obviously the Justice Department and the other agencies are going to review the relationship." The President's chief civil rights enforcer, Assistant Attorney General Deval Patrick, called this policy of equal opportunity a shame. He called it unwise. In a statement that only George Orwell could have loved, the Clinton administration's chief civil rights enforcer condemned the California Regent's action as an abandonment of "the ideals that have been with us since our founding as a nation."

This is another example of how the President does not get it: The California Regent's new policy is a step that reflects our Nation's ideals. If the President was truly concerned about fairness, equal opportunity, and against reverse discrimination, he would have supported Gov. Pete Wilson and the California Regents. Nothing better sets out the starkly different visions of this administration and those of us who believe in equal opportunity for all Americans than the Clinton administration's attempted bullying of California on this matter. Nothing better belies this administration's claim to be reformist—though the administration may tinker here and there, it is essentially a defender of the status quo.

This administration is fostering preferences in mortgage lending and property insurance through groundbreaking misuse of fair housing and fair credit laws. The then acting director of the Office of Thrift Supervision has even questioned some of these tactics.

The President, in undertaking his review of affirmative action, reminds me of the French Police Chief in the movie "Casablanca" who pretended not to know gambling was taking place in the nightclub he frequented. President Clinton would apparently be shocked, shocked to learn that reverse discrimination is openly, knowingly, and tenaciously fostered and defended by his administration in practice. Even now, I believe the Clinton administration is working hard to devise ways of perpetuating as much preference as possible, giving up just enough to make it seem as if they are doing something about it. Even then, as I will explain in a moment, the administration is attempting to mislead the American people.

President Clinton is out of touch with mainstream America on the issue of equal opportunity.

Mr. President, it is not enough to nibble at the edges of a problem.

The administration has announced its suspension of one of the preference programs operated by the Federal Government. This is a contract set-aside program operated at the Defense Department, the so-called rule of two program. I approve of this small, first step, but it is so much window-dressing thus far in the administration's review. Indeed, after making a large public relations splash about the suspension of this program, the Department of Defense made a much quieter announcement in the Federal Register on December 14, 1995. It proposed a new preference for awarding certain contracts by adding 10 percent to the total price of all offers other than those from small minority businesses.

And, shortly thereafter, the Clinton administration filed a brief in the Dynalantic Corp. versus Department of Defense case, which tenaciously defended racial contract preferences generally and under the section 8(a) program.

The President may suspend a few more programs that represent the worst abuses. But, Mr. President, one cannot split the difference on the principle of equal opportunity.

There are numerous preferential programs and policies operated by the Federal Government, a number of which the President can abolish. For example, he could eliminate the use of numerical racial, ethnic, and gender employment goals for Federal contractors. Executive Order 11246 requires Federal contractors to undertake affirmative action to ensure nondiscrimination. It does not require numerical goals. Numerical goals are a bureaucratic creation which the President could end with a stroke of a pen.

The section 8(a) contract set-aside program at the Small Business Administration is another example. Section 8(a) is intended to assist small businesses owned by socially and economically disadvantaged persons. The statute defines a socially disadvantaged person as someone who has been discriminated against because of racial, ethnic, or cultural bias. But the SBA regulations require that members of some racial or ethnic groups be presumed to be socially disadvantaged. All others seeking entry into the 8(a) program must prove they are socially disadvantaged. The President should order the deletion of this preference. All American small businessowners should have an equal chance to compete for 8(a) contracts.

Moreover, aside from these three areas, there are many other Federal policies and programs that contain preferences. What does the President intend to do about them?

What is the President's action really about? The answer seems to lie in the candid remark of an administration official, cited in the May 31, 1995, New York Times. In that story, the New York Times reported that "an administration official said there might be some political benefit if black business executives criticized the Administration's eventual proposals. 'We want black businessmen to scream enough to let angry white males understand we've done something for them,' said the anonymous official."

Indeed, President Clinton went to California over the Labor Day weekend and claimed credit for Congress' repeal of an FCC racial preference in the selling of broadcast properties earlier this year. His administration, of course, resisted repeal of that preference, and then wanted it modified, not repealed. His own spokesman had to acknowledge as much. And, as I mentioned earlier, in December, his administration

recently proposed a brand new preference at the Department of Defense and continues to defend other preferences.

Let me conclude with the words of Prof. William Van Alstyne, in a 1979 law review article:

> . . . one gets beyond racism by getting beyond it now: by a complete, resolute, and credible commitment never to tolerate in one's own life—or in the life or practices of one's government—the differential treatment of other human beings by race. Indeed, that is the great lesson for government itself to teach: in all we do in life, whatever we do in life, to treat any person less well than another or to favor any more than another for being black or white or brown or red, is wrong. Let that be our fundamental law and we shall have a Constitution universally worth expounding.

This is "Rites of Passage: Race, the Supreme Court, and the Constitution:" in the Chicago Law Review. I have to say I fully agree with that.

Mr. President, this is an important set of issues. We cannot ignore them. We are going to divide this country more than ever if we keep doing this system of preferences that has been going on in this administration and, alas, unfortunately, in some prior administrations as well. I hope that we can do a lot about this. I hope that we will make headway against these preferences and these inappropriate treatments of fellow American citizens as we move on into the future.

I hope the administration will pay attention to some of the things that I have brought up here today.

THE UNTIMELY DEATH OF SECRETARY OF COMMERCE RON BROWN

Mrs. FEINSTEIN. Mr. President, I would like to comment briefly on the tragic death of Secretary of Commerce Ron Brown, which occurred last week in Croatia.

I have known Ron Brown and his family for 12 years. Ron was a friend of mine, and a friend of the State of California. One of his first duties as Commerce Secretary was to find ways to resuscitate California's economy, and he helped to do just that. Ron Brown made the Department of Commerce a positive force for helping the largest State in the Union recover from the devastating recession of the early 1990's.

Ron had a vision of a prosperous America, where the cliche that "a rising tide lifts all boats" could actually come true. He focused his Department and this administration on looking for opportunities to help the American economy make the transition from the era of heavy industry to an era of high technology, scientific innovation, and the advancement of the current revolution in communications.

Ron helped formulate this vision, made sure that his Department gave grants and other forms of assistance to firms pursuing it, and at the time of his death was advocating that vision to other parts of the world.

But even more important than his career was the man himself. Always upbeat, with ceaseless energy, Ron could persuade the most vehement skeptic of the value of his vision and efforts for our country. He served in a variety of roles, and in each he excelled. His days as an effective leader with the National Urban League demonstrates this, where he became deputy executive director, general counsel and vice president of the Urban League's Washington, DC office.

Ron Brown's boundless energy and commitment to excellence did not stop at the National Urban League. It continued to help him break racial boundaries and become the first African-American to head a major political party, helping to elect the country's first Democratic President in 12 years; the first African-American to become a partner in his powerful Washington, DC law firm; and the first African-American to take the helm at the U.S. Department of Commerce.

I know of no chairman of the Democratic National Committee who was better regarded, whose fundraising calls were more frequently returned, or whose hardships and public statements were more well regarded—Ron Brown was tops.

In my view, Ron Brown's stewardship as Secretary of Commerce was unparalleled. He truly cared about his work and those the Department serves, and the record reflects accurately billions of dollars in trade and new business that will, in the future, benefit this country's businesses and industrial base.

I find the circumstances of his untimely death to be particularly poignant. Here he was, leading a group of business people and his staff, on a mission of peace to the war torn land of the former Yugoslavia.

He did not wait for peace to be restored. He went when risks of hostile action were still present. He did not wait for pleasant weather before springing into action. And, he did not just work on economic issues. He also spent time with our troops over there, to let them know we support their efforts.

Mr. President, we have lost a great American in Ron Brown. Whether it was politics, or crafting legislation for the Senate, or civil rights, or military service, or being a husband and a father, Ron Brown was a great patriot, and a great human being. I shall always treasure the relationship he and I had, and I shall miss him terribly.

To Alma Brown and Tracy, who have traveled with me in the campaign, I send my heart and prayers. With all his family, I share an unrelenting emptiness and sadness. I will miss the phone calls, the smile, the exploits from progress, and, most of all, his abiding and consummate belief in all of us.

LUCIUS WADE EDWARDS, JULY 18, 1979–APRIL 4, 1996

Mr. HELMS. Mr. President, on March 14 of this year, one of the most impressive young men I have ever met came to my office, accompanied by his justifiably proud mother. Lucius Wade Edwards, 16, had just come from the White House. He had visited with First Lady Hillary Rodham Clinton who praised him for having been 1 of the 10 finalists in a contest sponsored by the National Endowment for the Humanities and the Voice of America.

His father, John R. Edwards; his mother, Elizabeth Anania Edwards, and his younger sister, Kate, accompanied him to the White House living quarters for his visit with Mrs. Clinton.

Wade was being honored for his having written a poignant essay entitled, *What It Means To Be An American*. Wade described going with his father to vote.

It was, as I said at the outset, Mr. President, March 14, 1996, when Wade and his dear mother stopped by my office. Three weeks later, on April 4, Wade died in an automobile accident that involved no carelessness, no recklessness, no failure to wear his seatbelt. It was just one of those tragic things that happen, and it snuffed out the life of this remarkable young man.

Mr. President, in a moment I shall ask unanimous consent that two important insertions into the RECORD be in order. The first will be the text of the award-winning essay written by Wade. It is entitled "Fancy Clothes and Overalls."

The second is an account, published in the Raleigh News and Observer on April 4, 1996, relating to the tragic death of Wade Edwards.

I now ask unanimous consent, Mr. President, that the two aforementioned documents be printed in the RECORD at the conclusion of my remarks and in the order specified by me.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FANCY CLOTHES AND OVERALLS

(By Wade Edwards)

A little boy and his father walk into a firehouse. He smiles at people standing outside. Some hand pamphlets to his father. They stand in line. Finally, they go together into a small booth, pull the curtain closed, and vote. His father holds the boy up and shows him which levers to move.

"We're ready, Wade. Pull the big lever now."

With both hands, the boy pulls the lever. There it is: the sound of voting. The curtain opens. The boy smiles at an old woman leaving another booth and at a mother and daughter getting into line. He is not certain exactly what they have done. He only knows that he and his father have done something important. They have voted.

VOL
142
PT
6
AP
15
—
24
1996
UMI

This scene takes place all over the country.

"Pull the lever, Yolanda."

"Drop the ballot in the box for me, Pedro."

Wades, Yolandas, Pedros, Nikitas, and Chuis all over the United States are learning the same lesson: the satisfaction, pride, importance, and habit of voting. I have always gone with my parents to vote. Sometimes lines are long. There are faces of old people and young people, voices of native North Carolinians in southern drawls and voices of naturalized citizens with their foreign accents. There are people in fancy clothes and others dressed in overalls. Each has exactly the same one vote. Each has exactly the same say in the election. There is no place in America where equality means as much as in the voting booth.

My father took me that day to the firehouse. Soon I will be voting. It is a responsibility and a right. It is also an exciting national experience. Voters have different backgrounds, dreams, and experiences, but that is the whole point of voting. Different voices are heard.

As I get close to the time I can register and vote, it is exciting. I become one of the voices. I know I will vote in every election. I know that someday I will bring my son with me and introduce him to one of the great American experiences: voting.

Wade Edwards, 16, is a junior at Broughton High School, the oldest high school in Raleigh, North Carolina. He has played on Broughton's soccer team, participated in student government and has been an editor on the yearbook staff. He is also a member of the Key Club, the Junior Classical League, and the Latin Honor Society. This year Wade was selected to attend the National Youth Leadership Forum on Law and the Constitution. After school, he works as a messenger for a law firm. One of the accomplishments of which Wade is most proud was achieved outside of high school—last summer he successfully climbed Mount Kilimanjaro, the highest peak in Africa, with his father and two friends.

LUCIUS WADE EDWARDS

RALEIGH.—Lucius Wade Edwards was born in Nashville, Tennessee, on July 18, 1979, the first child of John R. Edwards and Elizabeth Anania Edwards. He moved at two years old with his family to Raleigh. He moved into the house he calls home the day after his loving sister, Kate, was born. He chose the green room and quickly filled it with the imagination of a boy. In elementary school at Aldert Root, he made lasting friendships and, when his sister joined him, he was the perfect big brother, walking her home each day hand and hand. Wade played basketball at the Salvation Army, the YMCA, and the Jaycee Center. He played soccer for years with CASL, eventually on the Broncos coached by his father, and later on the Renegades. Wade attended middle school at Ligon for two years, where his poetry was published and he won a countrywide computing award, and at Daniels for one year. He really began to become a young adult when he started attending Broughton High School in 1993. He made the Junior Varsity Soccer team in his freshman and sophomore years. He joined various organizations, such as Junior Classical League, Key Club, and the yearbook staff, where he was organizations editor this year.

In the summer between Wade's sophomore and junior years in high school, Wade attended and completed the eighteen day Rocky Mountain Outward Bound program. Immediately after that, Wade and his father flew to Africa, where they met with close friends and together successfully climbed Mount Kilimanjaro. It was the accomplishment of which he felt most proud.

In his junior year, Wade was invited to attend and did attend the four day National Youth Leadership Conference on Law and the Constitution in Washington, D.C. A short story he wrote based on his Outward Bound experiences was chosen for publication in Broughton's literary journal and won second place in the Raleigh Fine Arts Society competition for all Wake County eleventh graders. He wrote an essay on the topic What It Means To Be an American for the National Conversation Essay contest. He wrote about voting with his father. His essay was selected as one of the ten finalists nationwide. As a result, in March he was invited by the National Endowment for the Humanities and Voice of America to receive an award in Washington, D.C. During that visit, he had a personal audience with the First Lady, Hillary Rodham Clinton in the private quarters of the White House. With his father, mother, and sister watching, he received his award in the Indian Treaty Room. He recorded his essay for international broadcast over Voice of America.

Wade had a greater impact than his many achievements. He made many friends with his wide smile and easy way. He had a genuine sweetness and compassion that made his friends cherish him. He was always affectionate and loving with his family, which, in this time, gives great comfort. And in return he was well-loved in his home, in his school, and in his community.

In addition to his parents, Wade is survived by his sister, Kate, maternal grandparents, Vincent and Elizabeth Anania of Melbourne, Fla., paternal grandparents, Wallace and Catherine Edwards of Robbins, N.C.

Funeral service will be at 11 a.m. Monday at Edenton Street United Methodist Church.

The family will receive friends at Brown-Wynne Funeral Home, St. Mary's Street from 7-9 p.m. Sunday. Burial will follow in Oakwood Cemetery.

In lieu of flowers, the family asks that donations be made to a Memorial Fund at Broughton High School, St. Mary's Street, Raleigh, in Wade's name to be used to create a memorial befitting Wade's special gifts and contributions.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

Mr. HATCH. Would the Senator withhold that?

Mr. SIMPSON. I withhold.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

Mr. HATCH. Mr. President, since we have just turned to the illegal immigration reform bill, I ask the indulgence of the two managers for a few minutes. I want to pay tribute to my friend and colleague, the senior Senator from Wyoming. For some 17 years—really, 17 years plus—Senator SIMPSON has taken on the difficult and often thankless task in dealing with the immigration issue, an issue which stirs the emotions, and one which people become very passionate about. He has always taken on this task with spirit, diligence and intelligence. His views were always thoughtful.

From time to time, I have disagreed with my friend from Wyoming on some immigration issues, but the record should be crystal clear that my friend from Wyoming is a man of great good will, a good will he brings to this issue. He often takes unfair criticism. Indeed, to borrow one of many pithy phrases I will soon miss from my friend, my friend has had several metric tons of garbage dumped on him over this issue—although garbage is not the exact word he uses. The abuse is very much undeserved.

I express my warmth, affection, and respect for my friend from Wyoming as we continue this important debate, and respect for his staff, also, which has worked so hard on these issues. I want him to know that I, as chairman of the Judiciary Committee, particularly appreciate his help and his work in the markup of this very important bill. I just want him to know how much we respect him and others who are working on this bill, as well.

Mr. SIMPSON. Mr. President, I do thank my friend and colleague from Utah. It is a great pleasure always to work with Senator ORRIN HATCH. We have done that, now, for 17½ years together. There is not a person I enjoy more—his spirit, energy, and background as a pugilist, which has certainly helped him. Would that I had studied pugilism as he had in my youth, because he gives as good as he gets. He is a wonderful friend, and I thank him.

As we proceed to these next 2 days, this issue is such a marvelous issue, filled simply with emotion, fear, guilt, and racism, and it is a political loser. It has never pushed me up a peg in political life, but somebody has to do this particular work, and the Senator has given me the ability and the leeway to go forward with it as your subcommittee chairman. I am deeply appreciative of it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, let me begin by applauding the leadership of Senators SIMPSON and HATCH and the rest of the Judiciary Committee in passing out of the committee this very important immigration bill to stem the tide of illegal immigration in our country, both among those who come here illegally and those who come here legally but who do not leave our country when their visas expire. It has been said before that, according to the INS, these visa overstayers represent about 50 percent of the illegal population.

The bill we are debating this week also includes provisions to crack down on criminal aliens and alien smugglers and to ensure that neither illegal nor legal immigrants come to the United States to take jobs from taxpayers or to depend upon our Nation's welfare benefits.

There will be an effort on the floor to pass a sense-of-the-Senate resolution declaring that any attempt to reform laws related to legal immigration should be considered separately from illegal immigration reform. I oppose this effort and will speak against it when it is offered.

I plan to offer an amendment with Senator SIMPSON that will provide a temporary 10-percent reduction in overall legal immigration. This is a very modest reduction, but it will at least provide a sharp contrast to the increase in immigration that will result under the bill as it was amended in the committee.

It is important to make clear that immigration will not be reduced under the committee bill. Immigration will increase at a slightly lesser rate than under current law, but it will increase.

Having said that, Mr. President, I move to the bill we are debating today and one of great importance to the Nation, and specifically to my home State of Arizona. Immigration and Naturalization Service figures show that illegal immigrants are entering Arizona at a faster rate than they are entering any other State. Over the past year, Arizona has surpassed even Texas in illegal immigrant apprehensions. California is the only State with higher apprehension levels, and although apprehensions have decreased somewhat in what had been the hot spot for illegal entry in Nogales, AZ, apprehensions for March 1995 to March 1996 have increased over 300 percent in the Nation's newest hot spot for illegal entry, Douglas, AZ.

Mr. President, I was in Douglas, AZ, just about a week ago, in fact, a week ago yesterday, and visited with community leaders and with Immigration and Naturalization Service employees. The situation in Douglas is extraordinary, to say the least, with thousands of illegal entrants into the country every month. As a matter of fact, in the first 2 months of this year already, more people had been apprehended than in all of last year. What has happened is that as the INS has put more agents in Texas and in the San Diego area of California, the illegal immigration naturally shifted to Arizona, first the port of Nogales, where last year that was the hottest spot in Arizona. Now, with more agents having been put in Nogales the people are moving from there, east, to Douglas and crossing the border in that very small community. As a result, it is very, very important that there be additional support provided for the Immigration and Naturalization Service in the Douglas area, including the addition of more agents.

I note that at the moment, there are some 60 temporary agents, but under labor union contracts they can only be assigned away from their permanent station for, I think, a period of 30 days. In any event, 60 people translates into 15 people on the ground at any given time. There needs to be an additional allocation of agents to the Douglas area. According to the Immigration and Naturalization Service, illegal immigrants comprise about 10 percent of the work force in Arizona.

In addition, according to Governor Fife Symington, Arizona incurs costs of $30 million every year to incarcerate criminal aliens. The State also spends $55 million annually in Arizona taxpayer money to provide free education to persons who are in this country illegally. Clearly, illegal immigration imposes great costs on our citizens.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRASSLEY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I will continue on with my comments.

Arizona is not the only State dramatically affected by illegal immigration. The INS estimates that there are 4 million illegal immigrants in the United States and that this number is growing by 300,000 to 400,000 each year.

While the United States has always been, and should continue to be, a land of opportunity for U.S. citizens and for those who come here illegally, we simply cannot afford as a nation to continue to incur the unrestrained costs of illegal immigration—in jobs, in welfare, in education, in health care, in crime on our streets, and on our penal system. To illustrate the effect, consider that over one-quarter of all Federal prisoners are foreign-born, up from 4 percent as recently as 1980. Again, over 25 percent of all Federal prisoners are foreign-born. It was only 4 percent just 15 years ago.

As we all know, yesterday was tax day. It is not fair, given our $5 trillion debt and annual $200 million in deficit spending, to ask law-abiding taxpayers to pay for those who choose to violate our laws to come to this country illegally, or even to pay for legal immigrants who, once here, quickly come to depend on our Nation for welfare and other public benefits.

S. 1664 will go a long way toward eliminating those incentives. Under the bill, illegal immigrants are banned from almost all public benefits programs outright and legal immigrants will have to work 40 quarters before becoming eligible for most benefits. I was pleased that the committee passed a number of amendments I offered to deal with this general issue: these include requiring the Education Department to report to Congress on the effectiveness of a new system designed to ensure that ineligible aliens do not receive higher education benefits, and requiring the Federal Government to reimburse States for the costs of providing emergency medical services and ambulance services also passed. The latter was offered on behalf of Senator MCCAIN. I also plan to offer an amendment during this debate to ensure that, as the House did, illegal aliens do not receive assisted government housing benefits.

So that aliens do not come to this country illegally and take jobs away from law-abiding taxpayers, the bill directs the Attorney General to conduct regional and local pilot employer verification projects to ensure that employees are eligible to work in the United States. Employers are already required to fill out the I–9 form to verify the eligibility of employees. However, the I–9 system is open to fraud and abuse—participants in the new system will be, for the most part, exempt from the I–9 requirement. An improved verification system will protect employers from unintentionally hiring illegal aliens and also protect potential job applicants from discrimination. The bill specifically prohibits the establishment of any national ID card. Employee verification can only be used after an employee is offered a job, and would require a subsequent vote in Congress before a national system could be established. I was pleased that the committee passed my amendments to limit liability and cost to employers who participate in any system.

Importantly, this bill will assist our Government in its primary responsibility; protecting U.S. borders and enforcing U.S. laws. After all, we are a nation of laws. We cannot turn a blind eye to those who break our immigration laws. We simply cannot afford to anymore. We must gain greater control over our Nation's borders, prevent illegal entry and smuggling, and detain and swiftly deport criminal aliens. S. 1664 will help achieve these objectives. Increasing the number of Border Patrol agents, and improving technology and equipment at the border has been one of my priorities, so I was particularly pleased that the committee adopted my amendments to train 1,000 new Border Patrol agents through the year 2000 and to require, as recommended by Sandia Labs in 1993, the construction of a triple-tier deterrence fence along

VOL
142
PT
6
AP
15
—
24
1996
UMI

the San Diego border; and to increase the number of INS detention spaces to 9,000 by the year 1997. This increase in detention space will raise by 66 percent detention space available to the INS to detain criminal aliens awaiting deportation and other aliens who are at risk of not showing up for deportation or other proceedings. The bill also requires the Attorney General to report to Congress on how many excludable or deportable aliens within the last 3 years have been released onto our Nation's streets because of a lack of detention facilities.

In addition, the bill allows the Attorney General to acquire U.S. Government surplus equipment to improve detection, interdiction, and reduction of illegal immigration, including drug trafficking, and allows volunteers to assist in processing at ports of entry and in criminal alien removal. These provisions will go a long way toward effective control and operation of our Nation's borders.

In addition to more effectively controlling our border, further modification of our laws is needed to create disincentives for individuals to enter the United States illegally. I plan to offer two additional amendments to deal with this issue. The first would amend section 245(i) of the Immigration and Nationality Act, so that illegal aliens who become eligible for an immigrant visa can no longer attain the visa by paying a fee that lifts the requirement to depart the United States. Section 245(i) encourages people who are awaiting an immigrant visa to jump illegally ahead of others, simply by paying a fee. Senator HUTCHISON and I also plan to offer an amendment that, with a number of exceptions, would exclude for 10 years those who have entered without inspection from obtaining a visa.

S. 1664 also makes clear that you cannot skirt the law by entering the country legally and then overstaying a visa. Another amendment I offered that the subcommittee adopted requires individuals who have overstayed their visas to return home to obtain another visa, period. And, the last successful amendment regarding overstayers, offered by Senator ABRAHAM and cosponsored by me, requires visa overstayers to return home for 3 years before applying for another visa. While this last amendment goes far, I plan to offer an amendment with Senator HUTCHISON that would, with a number of exceptions, exclude for 10 years those individuals who have overstayed their visas for more than a year.

For those individuals who come to this country and commit crimes—and there are 450,000 criminal in jails and at large in this country—there are provisions in the bill to keep them off our streets and deport more quickly. I am pleased that a bill I introduced last year, to encourage the President to renegotiate prison transfer treaties so that aliens convicted of crimes can no longer choose whether or not they serve out their sentences here or in their home country, was added to the bill. Also passed was my amendment to advise the President to renegotiate these treaties so that if a transferred prisoner returns to the United States prior to the completion of a sentence, the U.S. sentence is not discharged. The committee also passed a number of amendments I cosponsored, offered by Senator ABRAHAM, that strengthen the detainment and deportation of criminal aliens in other ways.

There are a number of other provisions in this bill that are important, including provisions to streamline the system by which asylum seekers apply to stay in the United States. While refugees are still offered important protections, abuse of the system will be largely curtailed by a new system allowing specially trained asylum officers at ports of entry to determine if refuge seekers have a credible fear of persecution. If they do, then they go through the process of establishing a well-founded fear of persecution in order to stay in the United States.

By allowing these especially trained officers to make decisions at ports of entry, it will be more difficult for individuals to simply fill out an asylum application, be released into the streets, and possibly never show up for asylum proceedings.

The bill we are debating this week includes provisions that Senator SIMPSON and his staff have worked hard to develop and protect. Many of them are a response to the Jordan Commission recommendations. It includes bipartisan provisions on which Senators from both sides of the aisle have diligently worked.

As we begin to consider this important bill, we have to remember that, unless we protect our borders and insist that our immigration laws are taken seriously, we undermine the law, and that undermines the United States as a land of opportunity for all—both foreign and native born. My grandparents immigrated to the United States from Holland. I think they would be concerned about how our immigration system works today.

The American dream must be kept alive for citizens and for those who came here legally. A government not in control of its own borders is not serving the public well.

I urge my colleagues to pass a bill that will address these important problems. Again, I very sincerely thank the chairman of the Immigration Subcommittee of the Judiciary Committee for his long years of work in this area and for his willingness to work with everybody on the committee to craft the best bill possible so that he can begin to deal with these serious problems.

Mr. SIMPSON. Mr. President, I thank my colleague from Arizona. I only want to say that it has been a great joy to work with him on the Committee on Immigration. He is a remarkable contributing member, brings a vigor and intelligence and skill to the committee, to the subcommittee, and to the full committee. There could not be a finer new Member of the body participating in the measure, and it will be a great personal satisfaction for me that he will continue on with this issue. I certainly hope, also, that it might be in the capacity as chairman of the Subcommittee on Immigration.

I know that Senator KENNEDY will work with whoever my successor will be, and I think we will find certainly a great deal of pleasure in working with Senator KYL. I thank him very much for all that he has done.

I yield to Senator BRYAN of Nevada since the business of the floor is the immigration bill and since I hold the floor.

Mr. DORGAN. Mr. President, regular order.

Mr. SIMPSON. I hold the floor. I believe that is the case.

Mr. DORGAN. Mr. President, parliamentary inquiry.

Mr. SIMPSON. You recognized me. I intended to yield to Senator BRYAN.

Mr. DORGAN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER (Mr. KYL). The Senator will state the parliamentary inquiry.

Mr. DORGAN. The Senator from Wyoming yielded to the Senator from Nevada for a question. Does the Senator from Wyoming control time on the floor of the Senate at this point?

Mr. SIMPSON. I have the floor, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota should be advised that Senator SIMPSON may yield to the Senator from Nevada with consent.

Is there any objection?

Mr. DORGAN. I object.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. Objection is heard.

The Senator from North Dakota.

Mr. DORGAN addressed the Chair.

Mr. SIMPSON. Mr. President, what is the status of the situation on the floor at the present time? Objection is sustained and not——

The PRESIDING OFFICER. At the present time, I will advise the Senator from Wyoming that, absent unanimous consent to do otherwise, the Senate, under the previous order, will resume consideration of S. 1664.

Mr. SIMPSON. Yes. But after the objection, then there is no yielding of any measure to the Senator from North Dakota. He does not then take the floor.

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. Mr. President, parliamentary inquiry.

Mr. SIMPSON. This Senator, I am advised and wanted to be absolutely

certain, does control the floor, and I can yield to the Senator from Nevada, and at the end of that time I intend to yield to the Senator from Wisconsin, Senator FEINGOLD, and to Senator GRASSLEY, because we are doing an immigration bill. We are not doing Social Security. We are not doing balanced budgets this morning.

Mr. DORGAN. Mr. President, parliamentary inquiry.

Mr. SIMPSON. Those are subjects that the Senator from North Dakota would like to address.

The PRESIDING OFFICER. The Senator is correct.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1664, which the clerk will report.

Mr. DORGAN. Parliamentary inquiry.

The bill clerk read as follows:

A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dorgan amendment No. 3667, to express the sense of the Senate that a balanced budget constitutional amendment should protect the Social Security system by excluding the receipts and outlays of the Social Security trust funds from the budget.

Simpson amendment No. 3669, to prohibit foreign students on F-1 visas from obtaining free public elementary or secondary education.

Simpson amendment No. 3670, to establish a pilot program to collect information relating to nonimmigrant foreign students.

Simpson amendment No. 3671, to create new ground of exclusion and of deportation for falsely claiming U.S. citizenship.

Simpson amendment No. 3672 (to amendment No. 3667), in the nature of a substitute.

Several Senators addressed the Chair.

Mr. DORGAN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from North Dakota will state his inquiry, and then it is the Chair's intention to recognize the Senator from——

Mr. DORGAN. Mr. President, the parliamentary inquiry is this. When I offered an objection to the unanimous-consent request, the unanimous-consent request was then not agreed to. At that moment I said, "Mr. President," and the Chair recognized the Senator from North Dakota.

I do not quite understand that the right of recognition on the floor of the Senate has changed because I read the rule book about the right of recognition. After I was recognized, the Senator from Wyoming then asked a series of questions of the Chair, from whom he got a sympathetic answer, which does not comport with the rules of Senate.

I would like to understand the circumstances which existed when the Chair recognized me after I objected.

The PRESIDING OFFICER. The Senator knows that the stating of a parliamentary inquiry does not gain the floor. The Senator from Wyoming has the floor. The floor was placed under the regular order, which the Senator from North Dakota had called for. Under the previous order, the Senate resumed consideration of S. 1664, which is the pending business. The Chair asked the clerk to report. The Senator from Wyoming has the floor.

Mr. DORGAN. Parliamentary inquiry. This Senator begs to differ with the President. The circumstances of the Senate were this: The Senator from Wyoming propounded a unanimous-consent request. The Chair asked if there was an objection. The Senator from North Dakota objected. At that point, the Senator from North Dakota addressed the President, "Mr. President." The President of the Senate recognized the Senator from North Dakota. At that point I was recognized and had the floor of the Senate.

I do not understand the ruling or the interpretation of the Chair that leads to a different result. I would very much like to try to understand that.

The PRESIDING OFFICER. The Senator from North Dakota is correct to this extent: The pending business is S. 1664. The chairman of the Immigration Subcommittee, Senator SIMPSON, has the right to be recognized under that pending business. The Chair has recognized the Senator.

Mr. DORGAN. Parliamentary inquiry.

Mr. SIMPSON. Mr. President, may I just ask my friend from North Dakota? I think the Chair could easily have determined that in recognizing the Senator from North Dakota, it was for the point of parliamentary inquiry. That was all that the Senator from North Dakota was seeking. If he was recognized, which he was, then certainly it was on the point of a parliamentary inquiry. I think that is perhaps the confusion.

Mr. DORGAN. Mr. President, parliamentary inquiry: The right of——

The PRESIDING OFFICER. The Chair, the President, will state again to the Senator from North Dakota that no one has the right to the floor when the President is asking the clerk to read the bill, which is the regular order. At that point in time, the Senator from Wyoming has the right to be recognized, and the Chair has recognized him.

So the Senator from Wyoming is recognized.

Mr. DORGAN. Mr. President, parliamentary inquiry. Did the Senator from Wyoming seek the floor when I made the objection to the unanimous-consent request?

The PRESIDING OFFICER. No.

Mr. DORGAN. Mr. President, after the unanimous-consent request was made and I objected, for what purpose did the Presiding Officer recognize the Senator from North Dakota? The transcript will show that the President recognized the Senator from North Dakota at that point.

The PRESIDING OFFICER. The Presiding Officer recognized the Senator from North Dakota for the purpose of inquiring what the nature of the parliamentary inquiry was and recognized the Senator from Wyoming and the manager of the bill, which is the pending business. It automatically became the pending business.

Mr. DORGAN. Further parliamentary inquiry. I think a mistake has been made here. I think I could easily understand what the mistake is if we had the transcript read back.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I hope that all of us understand what the situation is—I do anyway—and that is that the Senator from North Dakota feels very strongly about an issue which he proposed yesterday that had to do with a balanced budget amendment and Social Security and offsets and that type of thing, a rather consistent theme by the Senator from North Dakota that he talked about. There is also a proposal—I am not leadership. I am not representing leadership. What we are trying to do is go forward with an immigration bill. There will be many extraneous amendments on this bill, I feel quite certain. All I am trying to do is to get to the hour of 2:15, after which time the Senator from North Dakota may do anything that he desires to do with regard to the issue.

At this time I yield the floor for purposes of an opening statement by Senator BRYAN of Nevada.

Mr. DORGAN. I object, Mr. President.

Mr. BRYAN. I thank the Chair.

Mr. DORGAN. Mr. President, I object.

Mr. SIMPSON. There is not anything to object to.

The PRESIDING OFFICER. Did the Senator from Wyoming propound a——

Mr. SIMPSON. No; I did not propose a unanimous-consent request. I simply yielded the floor to the Senator from Nevada.

Several Senators addressed the Chair.

Mr. DORGAN. Parliamentary inquiry. That is not the way the Senate operates.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. KENNEDY. The rules of the Senate require one can only yield for purposes of a question. That has been the rule for 200 years.

The PRESIDING OFFICER. The Senator from Massachusetts is correct.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

RECESS

Mr. DOLE. Mr. President, I move we stand in recess until 2:15.

The PRESIDING OFFICER. Is there objection to standing in recess until 2:15?

Without objection, it is so ordered.

The motion was agreed to, and, at 11:21 a.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 p.m. having arrived, under rule XXII, the clerk will report the motion to invoke cloture on the motion to proceed to Senate Resolution 227.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. Res. 227, regarding the Whitewater extension.

Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, Bill Roth, Bill Cohen, Jim Jeffords, R.F. Bennett, John Warner, Larry Pressler, Spencer Abraham, Conrad Burns, Al Simpson, John H. Chafee, Frank H. Murkowski.

CALL OF THE ROLL

The PRESIDING OFFICER. The mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of Senate Resolution 227, the Whitewater resolution, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

I further announce that the Senator from Alaska [Mr. MURKOWSKI] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Alaska [Mr. MURKOWSKI] would vote "yea."

Mr. FORD. I announce that the Senator from North Dakota [Mr. CONRAD] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 46, as follows:

[Rollcall Vote No. 61 Leg.]

YEAS—51

Abraham	Faircloth	Lugar
Ashcroft	Frist	McCain
Bennett	Gorton	McConnell
Bond	Gramm	Nickles
Brown	Grams	Pressler
Burns	Grassley	Roth
Campbell	Gregg	Santorum
Chafee	Hatch	Shelby
Coats	Hatfield	Simpson
Cochran	Helms	Smith
Cohen	Hutchison	Snowe
Coverdell	Inhofe	Specter
Craig	Jeffords	Stevens
D'Amato	Kassebaum	Thomas
DeWine	Kempthorne	Thompson
Dole	Kyl	Thurmond
Domenici	Lott	Warner

NAYS—46

Akaka	Ford	Mikulski
Baucus	Glenn	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Heflin	Nunn
Bradley	Hollings	Pell
Breaux	Inouye	Pryor
Bryan	Johnston	Reid
Bumpers	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Exon	Leahy	Wyden
Feingold	Levin	
Feinstein	Lieberman	

NOT VOTING—3

Conrad	Mack	Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 46. Three-fifths of the Senators not having voted in the affirmative, the motion is rejected.

The majority leader is recognized.

UNANIMOUS-CONSENT REQUEST—S. 1664

Mr. DOLE. Mr. President, what I am going to propound when Senator DASCHLE arrives is consent that consideration of the immigration bill be limited to relevant amendments only. Either we will finish this bill or we will move to something else. It is my hope we can complete action on the immigration bill by tomorrow evening and then go to the Kassebaum-Kennedy health care bill.

In the interim, we need to take care of the conference report on terrorism. The original bill passed the Senate last May. We are prepared, if we cannot do business on the immigration bill, to move to the conference report on terrorism. We would like to finish that so that the House might complete action on it by Thursday.

I now ask unanimous consent that during the consideration of the pending immigration bill, the bill be limited to relevant amendments only.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, I wonder how many times Senator DOLE has been in the opposite position, when Senator MITCHELL and my distinguished predecessor, Senator BYRD, made similar requests on the Senate floor.

We all know the circumstances on the Senate floor. We all know that there are many occasions when Senators have no other opportunity to raise an issue except in the form of amendments to pending legislation. Our Republican colleagues have done it time and time again, both in this Congress as well as in previous Congresses.

Given that, I propose a modification to the unanimous-consent request that I think is reasonable. We would be prepared to offer just two nonrelevant amendments, the minimum wage amendment as well as the Dorgan amendment relating to the balanced budget proposal, and would even be prepared to allow the Republicans a similar number of nonrelevant amendments, with time constraints and no second-degree amendments, in an effort to accommodate the schedule.

That is not, it seems to me, too much to ask. We could accommodate that within the next hour or two. We could even agree to a limited number of amendments on the bill itself that are relevant. I make that modification and ask the distinguished majority leader whether he would be inclined to support it. If so, I think we could find a way in which to schedule this legislation and reach final passage.

Mr. DOLE. Maybe regulatory reform. We have over a majority. We have 58 votes; we need 60. My colleagues on the other side will not let us bring that to a vote. That costs the average family about $6,000 per year because of excessive regulations. We think it is a reasonable nonpartisan bipartisan approach to regulatory reform. Maybe that is an amendment we could look at.

What I will tell the Democratic leader, I am happy to consider that, but I assume if he objects to this request, we will go on to the terrorism conference report, after a statement by the distinguished Senator from Wyoming, Senator SIMPSON. Maybe while we are resolving that bill, we could see if we can resolve this one.

I said we passed this bill last May. It was June 7 that the terrorism bill passed by a vote of 91 to 8. We have pretty much the same bill. I hope we would not spend a great deal of time on the conference report. Then we can go back to the immigration bill if we can work out an agreement. If not——

Mr. DASCHLE. If I can respond to the distinguished majority leader, I hope we could use whatever time we have available to us to see if we can find some mutually agreeable schedule here. Our desire is to come to final passage on an illegal immigration bill.

We want to see that happen as badly as anybody else here in the Senate. We

also recognize, however, that circumstances in the past have precluded us from offering amendments relating to minimum wage. We will not have, if we bring up the constitutional amendment to balance the budget under the reconsideration rules here in the Senate, an opportunity to offer amendments. So we really have no vehicle with which to offer alternatives.

But I understand and certainly respect the majority leader's position, and I want to work with him to see if we cannot accommodate his desire and ours to complete work on the illegal immigration bill, as well as to have opportunities to vote on issues that we hold to be very important.

I object under the circumstances now presented.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. As I understand it, the Senator had a modification to mine?

Mr. DASCHLE. Yes, I proposed a modification.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

Mr. DOLE. Mr. President, I hope that the Chair may lay before the Senate the conference report to accompany the terrorism bill, and I will ask that the conference report be considered as having been read, and then we can make whatever statements we want.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object. If, as soon as that is laid down, the Presiding Officer could recognize the Senator from Massachusetts and the Senator from Wyoming, I would have no objections, with that understanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 735), to prevent and punish acts of terrorism, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of Apr. 15, 1996.)

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

Mr. SIMPSON. Mr. President, I just reflect that Senator KENNEDY and I are ready to go forward with this measure. It is an issue that is very topical and must be addressed—the issue of illegal immigration, the issue of legal immigration. Both bills are here. One is at the desk and one is being processed.

I want to assure all that immigration reform is not a partisan issue. It never has been and it never will be. It cannot be. I just hope that before we go on with these maneuvers, we recognize that I do not think anyone, especially in an election year, would want to be known as the person that took this bill down and left it down. It is an issue that, as I say, is not going to resolve itself. It is a Federal issue, not a State issue. We either resolve it, or we will have proposition 187's in every State of the Union. From me, I have buried my dead many times before with regard to both legal and illegal immigration, and life will go on if you bury it one more time.

Thank you.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join with the Senator from Wyoming in believing that it is premature to draw this bill down. This issue is of enormous importance in terms of dealing with the borders of this country and the flow of illegal immigration. It is enormously important in terms of enhancing the various criminal statutes that would deal with struggling, and it is enormously important to make sure we are going to protect American jobs by refusing illegals the opportunities for employment. And as the Jordan Commission and the Hesburgh Commission pointed out, jobs are the issues which attract the illegals. This particular measure deals with those particular proposals.

We had 6 days of markup on this in committee. As the Senator from Wyoming pointed out, there was significant participation by Republicans and Democrats. It was devoid of partisanship in the consideration of various amendments. Last evening, the Senator from Wyoming offered three important amendments, which we were about to accept—one to make it a deportable offense to falsely claim to be a citizen while applying for jobs or welfare benefits. That is important. That can make a difference in terms of protecting the American taxpayer and the American worker. There is an amendment to keep track of the foreign students, to make sure they stay in school and not work illegally. We do not have the information of what is happening to many of the students, whether or not they circumvent the current laws and melt on into the population and use what is a legitimate cause to come here, to subvert the efforts to try and deal with illegal immigration. The third proposal is where you have students that come here to go to a private university and end up, at the public taxpayers' expense, allegedly going to public education at the burden of the taxpayers. These are significant and important amendments. We debated and discussed those last evening. We are prepared to act on them.

So there are probably eight or nine extremely important and controversial items that I was prepared to work out a time agreement on and urge colleagues to do so. And there were the other two items, which as Senator DORGAN and I will speak to briefly, about the minimum wage.

I would have been glad to urge the minority leader to agree to an hour or half hour, if that was going to be the cost of getting a vote on the issue of the minimum wage. We have been unable to get consideration of that measure now for over a year. And we have seen 56 Members of the Senate—bipartisan—who have indicated they want to address that issue. We are still denied an opportunity to consider a bill on its own merits with a relatively short period of time, since this is an issue that is understood by the Members.

Every day that goes on where we deny the opportunity for an increase in the minimum wage makes it clearer and clearer that there are those in this body, the U.S. Senate, that refuse to recognize that the work is important of the men and women in this country that work 40 hours a week, 52 weeks a year and are entitled to a livable wage. That issue is not going to go away. We are going to keep revisiting that, as the minority leader pointed out, over the objections and opposition and stress to those opposed to that, until we are at least able to deal with it in a way in which that particular issue is dealt with with a sense of dignity because of the importance that has to many of our fellow citizens.

So I am disappointed that we are not able to move ahead. We are prepared to move along. I think many of those amendments that have been published here could be disposed of with broad bipartisan support. Probably, a dozen need our full attention. We were quite prepared—I know the leader on our side had instructed us to make every effort to move the program forward. That was the sense of the Democratic members of the Judiciary Committee. So, Mr. President, I am distressed by that. Also, as a matter of information on the terrorism bill, they did strike provisions that were in the previous law that permits the Internet to publish information about how to make bombs, and then a measure that was worked out by Senator FEINSTEIN, and also Senator BIDEN, that ensured that we were going to deal with that particular

VOL
142
PT
6
AP
15
—
24
1996
UMI

item. It was a matter that I brought to the floor. Someone had sent it to me over the Internet itself, and it provided in detail about how to make bombs. Senator FEINSTEIN and Senator BIDEN provided leadership to deal with that on the Internet. And now, as I understand, for some reason that I cannot possibly understand, in this terrorism conference report that particular provision has been eliminated.

I heard the leader say that this is pretty much the same measure that came through the Senate. I have just listened with great interest. I wish our ranking member of our Judiciary Committee, Senator BIDEN, was on the floor to respond to that. I know we will have a debate on some of those measures. But that, along with other provisions dealing with the explosives and tagging explosives and also the reduction of the provisions, which were accepted in the Senate in terms of wiretapping, which the FBI indicated would be such a powerful force in terms of dealing with the terrorist organizations and potential terrorist bombs, have all been dropped in that conference report. For what reason I do not know. But I heard the leader say that this measure was pretty much what was passed in the Senate. Certainly, if those measures have been addressed and deleted or compromised, I think that we ought to—as I am sure we will—hear Senator BIDEN and others address it.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, the Senator from Massachusetts is correct. Senator HATCH is prepared, and he will start on the conference report. We are not going to debate the immigration bill. It is being held hostage now because of the demands on the other side. If we do not want to do anything about illegal immigration, I guess the Democrats can make that happen. Most Americans, by 80 percent, think we should deal with this issue. But now we are going to be held hostage by Social Security amendments and minimum wage amendments. They have five or six others. Then they have the gall to stand up and say, "We want to move ahead on illegal immigration." We know what is happening.

If we can work out a time agreement on relevant amendments, we will pursue illegal immigration or the immigration bill. It passed the committee, as I understand, by a vote of 13 to 4. But if we are going to have extraneous amendments and nonrelevant amendments to help protect some of those who voted wrong on the balanced budget amendment, we could be having this every day—and every day and every day. I just hope the six on the other side who voted for a balanced budget amendment 2 years ago would now, when we have the vote sometime this month or probably next month, vote for the balanced budget amendment—we are just a couple of votes short—and send it to the States for ratification. If three-fourths of the States ratify it, it becomes part of the Constitution.

But we are now prepared to proceed on the antiterrorism conference report. Obviously, not every provision the Senate passed survived the conference. But as I think, as the Senator from Utah outlined to us in our policy luncheon, nearly every important feature in the Senate bill survived the conference, and we believe that it is a good bill that should be passed as quickly as possible so the House might act.

If we can work out some agreement on immigration, we will go back to immigration. If not, we may go to something else. It does not have to proceed here one day at a time. I know some would like to frustrate any efforts on this side of the aisle. But we do have the majority, and we will try to do our best to move legislation that the American people have an interest in. Illegal immigration—wherever you go illegal immigration is a big, big issue. If we are going to be frustrated by efforts on the other side to hold the bill hostage, that is up to them. They can make it happen. Then they can explain that to the voters in November.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I thought we had completed the discussion on immigration. But since it appears that is not the case, let me respond again.

We did not pull the bill. We could be on that bill right now. We could be taking up amendments right now. We have already agreed to short timeframes within which to debate the minimum wage amendment and the Social Security amendment. We can resolve them by 5 o'clock this afternoon and come to completion on the bill itself sometime tonight. We are prepared to do that.

So do not let anybody be misled. We are not holding this bill hostage. We did not pull it down. We did not ask that there be no opportunity to vote. Welcome to the U.S. Senate. Welcome to the U.S. Senate.

If our Republican colleagues are prepared right now, this afternoon, to say that throughout the rest of the 104th Congress they will never offer an irrelevant amendment to any bill because doing so would somehow indicate that they do not want a bill to pass or they are going to hold the bill hostage, we might be prepared to talk about that. But everyone knows that is not what this is all about. There are some here who do not want to deal with the issues that we are attempting to address in these amendments.

So I do not think there ought to be any misunderstanding or obfuscation of the question. The question is, Do we support passage of an illegal immigration bill? The answer is not only yes, but emphatically yes. Do we support timeframes within which every amendment could be considered? The answer is yes.

So I hope we can reach an agreement. I hope now we can move on to the counterterrorism bill and address that in a timely manner. I am prepared to sit down this afternoon, tonight, or tomorrow to find a way to resolve the procedural issues regarding how we take up the immigration bill itself.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Utah.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HATCH. Mr. President, I think it is time to vote on the antiterrorism bill.

I have to say that I do not think anybody denies the minority a right to bring up irrelevant amendments. But it is happening on everything. It has happened now for 2—actually better than 2—solid years. When you get something as important as the immigration bill—and I have to say, as chairman of the Judiciary Committee, we worked our guts out to get that bill here because it is such an important bill. It is a bill that every border State in this country and every State in this country is concerned about. Senator SIMPSON has just plain worked for years to get this up. I do not agree with Senator SIMPSON on every aspect of that bill, but I sure admire him. I admire the effort he has put in. I just think it is a tragedy that we cannot move and get the thing done. It is something that every Democrat and every Republican wants to do.

Also, as a former member of and former chairman of the Labor Committee, we have had these minimum wage fights year after year, time after time, and, frankly, to bring it up on immigration, it is a matter of great concern to me that they would do that.

These are a couple of bills—the immigration bill and the antiterrorism bill—that literally ought to be bipartisan every step of the way. We can have our differences, but we ought to be working to resolve these bills.

Sometimes I think this body does not seem to care about what is important for the people out there. I have to admit that there are very sincere people on the minimum wage. On the other hand, there are other opportunities to bring that up, I suppose. These two bills really should not have a bunch of irrelevant amendments.

Today, the Senate begins consideration of the conference report on S. 735, the Antiterrorism Effective Death Penalty Act of 1996. This is a particularly

relevant time to begin this debate because we are fast approaching the 1-year anniversary of the heinous crime that claimed the lives of so many men, women, and children in Oklahoma City, OK. Indeed, this Friday, the 19th, marks the 1-year anniversary of that tragedy. I hope we can in an orderly, decent way get this bill done today so that we can send it to the House and they can do it, so that we can at least do what the Senate ought to do in commemoration of the lives of those who died last year—and those who died in the Lockerbie airline crash, those who have been terrorized all over this world, but especially those who have been and will yet be terrorized in this country.

Although many of the physical wounds endured by the survivors of that blast in Oklahoma City have healed, the wounds to their hearts continue to bleed. We met with a number of them yesterday. Those folks really want this bill.

During this past year, as I have spent time with my own family—Elaine and I have 6 children; all 6 of them are married now, and we have 15 grandchildren—my thoughts have often turned to the survivors of the Oklahoma City tragedy and to the families of those who lost their loved ones on that terrible day a year ago this Friday. I cannot imagine what it would be like to have my family taken from me by the acts of evil men and perhaps women.

I have to say my heart went out to these survivors yesterday who came back here at their own expense to stand with us at that press conference and announce that we finally have arrived at a bill after this full year of effort.

Yesterday, I had the opportunity to meet with some of the families who lost loved ones on that fateful day. The one thing that the survivors of that tragedy and the victims of that tragedy requested was that we try to provide justice to the memories of those who lost their lives in that terrorism blast.

I want to quote the family members of the victim of the bomb who spoke to the Nation yesterday about the need for this bill. Dianne Leonard lost her husband Don, an agent of the U.S. Secret Service. Despite her pain, she came here yesterday, along with other victims of terrorism, and made one of the most eloquent statements I have ever heard on the issue. She said:

> In an effort to be caring and honorable human beings, we have granted perpetrators of violent crime much more than their constitutional rights. Our caring and honorable intentions have been misdirected. Instead, we as a society have been cold and heartless, because we have forgotten the innocent victims of crime. We have forgotten the sheer terror of the victims immediately prior to their death. We have forgotten that anyone who could murder an innocent human being has relinquished his rights for compassion.

That is what Dianne said. Mr. President, that is what this is all about. It is not about whether this bill is weaker. We all know that it is not. It is about whether we will stand with the victims of terrorism and violent crime or not.

I am not sure we can ever provide justice to those families in this life. I hope, however, that we can, perhaps, bring some peace to the survivors of that tragedy in that we can enact this antiterrorism legislation in their memory. For once, just once, I hope we can put aside the partisan wrangling that often occurs here and simply do what is right—just once, on a bill like this. It is my firm belief that passing this conference report represents the right thing to do.

The legislation that Representative HYDE and I have negotiated represents a landmark bipartisan effort to prevent and punish acts of domestic and international terrorism. Indeed, the Republican Governor of Oklahoma and the Democratic attorney general of Oklahoma both support this legislation—strongly support it.

I would like to note the efforts of Representative CHUCK SCHUMER, CHARLES SCHUMER, of New York, in working with us to craft this legislation. Representative SCHUMER, who signed the conference report as a Democrat, made significant contributions to the final product. We tried to accommodate our colleagues on the other side to the extent that we could—in fact, on both sides of this issue, as we negotiated this measure. Our majority leader, Senator DOLE, was instrumental in moving negotiations on this bill forward. With Senator DOLE's leadership, we were able to put back into the bill many of the provisions that the House had removed. Without Senator DOLE's able leadership, I do not think we would have been able to have a bill that is as tough on terrorism as this one is.

Let me just give a few of the major areas we were able to agree on and get back into this bill that made it much closer to the Senate bill.

The terrorist alien removal provision: We restored the terrorist alien removal provision which allows courts to expeditiously deport alien terrorists. The court can consider classified evidence without disclosing that evidence to the alien.

We put back in designation of terrorist organizations. This has greatly pleased a number of civil liberties organizations, and I have to say the Anti-Defamation League. We worked with the House on language to allow the President to designate foreign terrorist organizations. This provision was not in the House-passed bill. A weaker version than this one was in the Senate bill. This tougher version eliminates an entire level of judicial review and allows the Government to freeze the assets of foreign terrorists before the designation becomes public.

On the issue of fundraising, we make it a crime to donate or accept funds for foreign terrorist organizations. The House had removed this provision. The Senate bill contained that provision. It is a big, big provision.

We have summary exclusion of alien terrorists. The Senate prevailed in including a provision which creates a new legal basis for automatic alien exclusion from the United States when the person is a representative or member of any designated foreign terrorist organization.

On biological weapons, we also succeeded in getting the House to toughen up regulations dealing with the transportation and sale of human biological agents which could be used as weapons of mass destruction.

The criminal alien removal procedures—the Senate bill made it much easier for an alien who had been convicted of an aggravated felony to be deported. The House bill was definitely weaker on that point. We prevailed. We put the Senate language back in.

These are big concessions by our colleagues over in the House, some of whom have problems, some of whom are worried that Government is too intrusive in all of our lives—and I think rightfully so, in many ways. But we got these things in.

On authorizations, the House bill had virtually no funding for Federal law enforcement on this antiterrorism area. The Senate bill had a little over $2 billion over 5 years. We agreed on $1 billion in funding for Federal and State law enforcement over 4 years. We have already spent almost a half billion dollars this year—maybe a little more than that. So, in essence, we got the Senate funding into this bill.

On taggants, we have put taggants on plastic explosives, which are the primary explosives used by terrorist organizations and by terrorists. There will be taggants on there so we can determine the source. With regard to other explosives—because even the OTA, even ATF, admit that there may be some danger involved in putting taggants in other explosives—they are not sure of being efficacious for law enforcement, or even cost effective to do so, and to mandate that—we provided for a study for a year. Then we provided for a means whereby the regulators can come up with their regulations—if that study shows that it is environmentally sound, economically sound, law enforcement efficacious, and that it is not dangerous—then the regulators can come up with regulations on taggants, and then the Congress will have to make a determination whether they accept those regulations or not. Those are just a few of the things that we put back into this bill.

We were able to craft legislation that adds important tools to the Government's rights in the Government fight

VOL
142
PT
6
AP
15
—
24
1996
UMI

against terrorism, but we do so in a temperate manner that is protective of civil liberties.

Most important, this conference bill contains the habeas corpus reform proposal contained in the Senate terrorism bill. The House adopted it word for word. The present habeas corpus allows those who are convicted of brutal, heinous crimes to delay the imposition of just punishment for years. The habeas reform proposal contained in this legislation will end the ability of those heinous criminals, those violent criminals—those murderers, if you will, those justly convicted—to delay the imposition of their sentence.

Habeas corpus reform is the only substantive provision in this bill that will directly affect the Oklahoma bombing situation. If those being tried for the bombing are convicted, our habeas corpus reform language will prevent them from delaying the imposition of their penalties on frivolous grounds. And we have all seen that year after year in every jurisdiction in this country.

In Utah, we had one case that went 18 years, the "hi-fi murderer," where he and his buddy went in there, where they tortured these people, rammed pencils through their eardrums, poured Drano down their throats, and murdered them in cold blood. No question of guilt, no question of any prejudice against them, they were convicted and justly sentenced to death.

Mr. President, 18 years later, 28 appeals all the way up through the State courts to the State supreme court, all the way up to the Federal courts to the Federal Supreme Court—28 appeals, millions of dollars spent before that just sentence could be carried out. And that is going on in a myriad of cases all over this country. Rather than exploit it, the devastation of the Oklahoma City bombing, I believe that by including this provision in the antiterrorism legislation, we are protecting the families of the victims.

Comprehensive habeas corpus reform is the only legislation Congress can pass as a part of this terrorism bill that will have a direct effect on the Oklahoma City bombing case. It is the one thing Congress can pass now to ensure that President Clinton's promise of swift justice is kept.

President Clinton recognized this fact during his April 23, 1995, appearance on the television program "60 Minutes," when, in response to a question about whether those responsible would actually be executed without the adoption of habeas corpus reform, he said, "I do believe the habeas corpus provisions of the Federal law which permit these appeals sometimes to be delayed 7, 8, 9 years, should be changed. I have advocated that. I hope the Congress will pass a reform of the habeas corpus provisions because it should not take 8 or 9 years and three trips to the Supreme Court to finalize whether a person, in fact, is properly convicted or not."

That is the President of the United States. Last Sunday, he called me. I was grateful for that call. It was late at night, and he called me at home before he left for Alaska. He wanted to have me bring him up to speed on what we were doing in the conference, what we were doing in the negotiations on this bill. And he said to me, "I wish we could shorten the time. If I had my way, I would shorten the time, shorter than what you have in this bill."

I said, "That will be great, but I don't think we can do that at this point. This bill is fair." I pretty well acknowledged that. He noted he would not veto this bill based on the habeas corpus provisions.

I explained some of the other changes we made, and he seemed pleased, because he knew we made great strides in trying to get a better bill that will really do the job, and this bill will. It does not solve every problem, but it sure goes a long way toward solving problems in the past and, above all and even more important perhaps, in the future.

The claim that habeas corpus reform is tangential or unrelated to fighting terrorism is ludicrous. We can be confident that those responsible for the bombing in Oklahoma will be brought to justice. The American people do not want to witness the spectacle of these terrorists abusing our judicial system and delaying the imposition of a just sentence by filing appeal after meritless appeal. A system which permits such a result does not provide justice for the victims of terrorism and simply has to be changed, and this bill will do it—one of the most important changes in criminal law in this century, and we are going to do it.

Although most capital cases are State cases—and the State of Oklahoma can still prosecute this case—the habeas reform proposal in this bill would apply to Federal death penalty cases as well. It would greatly affect the Government's prosecution of the Oklahoma bombing case.

No. 1, it would place a 1-year limit for the filing of a habeas petition on all death row inmates, State and Federal inmates.

No. 2, it would limit condemned killers convicted in State and Federal court to one habeas corpus petition. In contrast, under current law there is currently no limit to the number of petitions he or she may file and no time constraints. We have a case where a person waited 9 years to file a habeas petition on the eve of the carrying out of that person's sentence, clearly abusing the system.

No. 3, it requires the Federal courts, once a petition is filed, to complete judicial action within a specified time period. Therefore, if the Federal Government prosecutes this case and the death penalty is sought and imposed, the execution of sentence could take as little as 1 year if our proposal passes. This is in stark contrast to, in the Utah case, an 18-year case of delay we are so used to under the current system, and there are cases that are longer than the 18-year case.

President Clinton said justice, in the wake of the Oklahoma tragedy, would be "swift, certain and severe." We must help President Clinton keep this promise to the families of those who were murdered in Oklahoma City by passing comprehensive habeas corpus reform now.

Unfortunately, while habeas corpus reform is the single most important issue in this bill and will directly affect the Oklahoma City bombing, there are some who would urge the President to veto the bill on the basis of this reform proposal. I sincerely hope that this does not happen, and the President told me it would not happen on that proposal. We should not put our concern for convicted killers above our desire to see that justice is done and carried out.

The Senate and House also worked together to restore many important provisions to the conference bill. For example, we restored the terrorist alien removal provision that allows courts to expeditiously deport alien terrorists. The Department of Justice requested this provision, and we worked with our House colleagues to ensure that this provision would be an effective means of removing alien terrorists from our shores, while at the same time protecting due-process concerns.

Second, we adopted tough new procedures that would permit the Secretary of State to designate certain foreign organizations that commit acts of violence as terrorist groups.

The designation procedure adopted in the conference report is much stronger than that contained in the original Senate bill. We have also criminalized fundraising efforts on behalf of designated foreign terrorist groups and provided for the exclusion of representatives or members of terrorist groups. I think that the recent bombings in the Middle East and in England are a tremendous problem, and they bring out the necessity of preventing fundraising in this country on behalf of organizations bent on killing innocent persons for political gain.

This bill also includes provisions making it a crime to knowingly provide material support to the terrorist functions of foreign groups designated by a Presidential finding to be engaged in terrorist activities.

We also succeeded in adopting tough new measures to regulate the transport and sale of human biological pathogens that could be used as weapons of mass destruction. This legislation increases the penalties for acts of foreign and domestic terrorism, including the use of

weapons of mass destruction, attacks on officials and employees of the United States and conspiracy to commit terrorist acts. That has not been in the law up till now, and we are going to put it there, and it is going to be a tremendous prosecutorial tool against terrorist activity.

It gives the President enhanced tools to use as foreign policy powers to combat terrorism overseas, and it gives those of our citizens harmed by terrorist acts of outlaw states the right to sue their attackers in our courts.

Our bill also provides measured enhancements to the authority of Federal law enforcement to investigate terrorist threats and acts.

In addition to giving law enforcement legal tools they need to do the job, our bill also authorizes increased resources for law enforcement to carry out its mission. The bill provides $1 billion over 4 years for an enhanced antiterrorism effort at the Federal and State levels. The bill also implements the convention on the marketing of plastic explosives. It requires that the makers of plastic explosives make their explosives detectable.

I note that many of the provisions in this bill enjoy broad bipartisan support, and, in several cases, it passed the Senate on previous occasions. Indeed, we have worked closely with the administration during the development of this legislation, and many of the provisions in this bill have the administration's strong support.

The people of the United States and around the world must know that terrorism is an issue that transcends politics and political parties. Our resolve in this matter has to be clear. Our response to the terrorist threats and to acts of terrorism will be certain, swift, and unified. I think we have to redouble our efforts to combat terrorism and to protect our citizens.

A worthy first step would be the enactment of these sound provisions to provide law enforcement with the tools to fight terrorism. I, therefore, urge my colleagues to support this conference report.

Let me just also say there are some matters that we were not able to work out with the House that the distinguished Senator from Delaware and I would have preferred to have in this bill. We would have put in—and we did have it in the Senate bill—multipoint wiretaps. It would be a more modern way of going at this matter. Of course, we have people who move from post to post, and it should not be the obligation of our law enforcement people to have to go and get a warrant for every telephone that they move to.

I would prefer to have had that in here. We had it in the Senate bill. We were unable to get it in. I will tell you why. Because, frankly, there are people in the House who basically believe that the Government is too intrusive and that there needs to be a study done on the abuse of wiretapping and done on the needs of law enforcement for wiretapping before we make that step. I have to say, I do not particularly agree that it should not be in this bill.

On the other hand, the study will do well. And I have committed myself, as chairman of the Judiciary Committee, and as a leader on that committee, to get that study done and to make sure that ultimately we resolve these problems in a way satisfactory to our law enforcement people.

There are some other matters that may not be in this bill. We have not been able to put everything in here that the distinguished Senator from Delaware and I would put in this bill. But it is a terrific bill. We have a lot more in this bill than in the original bill filed by the President before the Oklahoma City bombing, and I might add in the original bill filed by the Senate through Senator BIDEN after the Oklahoma City bombing.

By the way, there were no multipoint wiretap provisions in either of those President's bills. And so, you know, it is easy to see that some may try to make political hay out of that. But what the legislative process is is the art of the possible. There are other things we would like to have in this bill. They are not there. But we have both parties together, both bodies together. I think we have a bill that basically will make a real dent in the matter of terrorism.

Let me just say this. One of our problems with regard to the multipoint wiretaps was that when the bill came up they called them roving wiretaps. Just that semantic term caused angst in the hearts of a lot of people around our society. I might add that the roving wiretap provisions were, I think, in the second bill filed by Senator BIDEN on behalf of the President. And if we called them multipoint wiretaps at that point, we might have been able to keep them in. I would prefer that they be in. But I do not think that the fact that they are not in should stop us from passing that which can pass now, that which is needed to fight terrorism, that which we have done and that which we can have done, and can do at this time.

Let me just say in closing, that this is one of the most important bills in our country's history. It is not perfect, but it goes a long way toward preventing terrorist activities in the future. It goes a long way toward attacking these criminals the way they need to be attacked. It is a tough on crime bill. Could it be improved? Sure.

I want to also say that without the leadership of our majority leader, Senator DOLE, this bill would not be here today. He stood with us every step of the way. He worked with recalcitrant Members in both the Senate and the House in both parties. He has handled the matter well. And, frankly, I think he deserves an awful lot of the credit when this bill passes, if not the lion's share of the credit.

So I would just plainly like to make these points and just say this in conclusion, that I really want to pass this bill this week, hopefully tonight, if not tomorrow, and then get it through the House, so that we can say to the people in Oklahoma City on Friday that we, as a Congress, in a bipartisan way, both Democrats and Republicans, with nobody really trying to take the credit for it, have done what is right for them. Frankly, when we pass this bill we will have done what is right for them.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, let me begin by acknowledging that my friend from Utah supported a vast majority of the amendments that I am going to offer—not amendments—I am going to offer motions to recommit this bill with instructions to go back to the Senate language.

Let me acknowledge that I think both the Republican leader and the chairman of the Judiciary Committee, Senator HATCH, and the chairman of the Judiciary Committee on the House side, Mr. HYDE, are all in a difficult position. I acknowledge that.

Let me acknowledge that Senator DOLE deserves responsibility for this bill. I think he does. I think he deserves the responsibility for also what is not going to be in this bill because we are backing off after votes, which I am about to go through, of 91 to 6 and 99 to 0 and unanimous consent agreed. All the things I am going to offer here were passed overwhelmingly by the Senate. And we caved.

We caved so quickly on the House side it was like watching water go over a waterfall. I do think the leader bears responsibility for that as well, for not exercising his authority there because—I want to say at the outset here—I found this was the first time in any conference I have ever attended, even when the Democrats controlled the Senate, which they did off and on for the period I have been here, where everyone at a conference, but two, acknowledges that everything I am offering is correct and right but we are not going to do it because a minority of House Members do not like it.

I will not, because I am afraid I will misspeak—and I do not have the transcript—I will not use the description the minority members used of the Republican leadership in the conference on the House side because I may misspeak and create a little dilemma. But I will try to dig that up for the RECORD. But this is the first time I am aware where a major piece of legislation, where the Senate on the critical points have agreed overwhelmingly—

VOL 142 PT 6 AP 15 — 24 1996 UMI

overwhelmingly; I mean, 90 to 1 kind of overwhelmingly—and we have caved to the House, where the leader of the House in the conference said, "You're right, Senate. But I just cannot pass it if I take it back."

I think there is a thing called accountability. I think we should pass what we think is right, and let them vote against it. So if they vote against it, let them pay the consequences. And if they vote against it, and do not have the votes, then we can come back and try to get what we can get. But this is not even where we have challenged what was described to me as a minority of the Republican caucus on the House side.

They did not like it. Too bad. This is democracy. Too bad. There are a lot of things I do not like. I lose. I lose. But they did not like it. My goodness, 72 or 41 or 57 freshmen Republicans in the House do not like it. Great. So, yeah, I think that the leadership deserves credit and responsibility for not only what we are doing but what we are not going to do, apparently.

Second, the conference report—the majority leader stood up and said—and I have great respect for the majority leader, I truly do. I think over 23 years I have demonstrated it. He is a bright, competent leader. But he stood up and he said the conference report is essentially what we passed. It is not even close to what we passed in the Senate. It is not even close, which I will outline here in a minute why it is not even close to what we passed in the Senate.

The third point I would make is my friend from Utah and I have had sharp disagreements over habeas corpus for the last 15 years. They still exist. He is right in one important respect. This is a great habeas corpus bill. That is what this is. This is a habeas corpus bill with a little terrorism thrown in. I am not going to make any motions or move to strike the habeas corpus provisions. If we put back things in these provisions, I am willing to swallow the habeas corpus provisions, if we have a tough terrorism bill underneath it.

A year ago this week the American people experienced the unthinkable. Terrorists planted a bomb in a Federal building in Oklahoma City and hundreds of innocent citizens were killed or wounded. Families were faced with tragedy and chaos. And the Nation was catatonic.

In response to this horrendous crime that was committed, as well as the earlier terrorist bombs of the World Trade Center and Pan Am 103, the Senate passed a tough piece of legislation, in a timely fashion, to the credit of the majority leader and the minority leader. The House sat on it for the better part of a year. They would not even let their membership vote on it because apparently a minority over there thought that there was too much intrusiveness on the part of the Federal Government.

Does it not seem kind of coincidental to all who may be listening that after a year we are finally urgently bringing this bill up on the week of the anniversary of the bombing? Where was it a month ago, 3 months ago, 5 months ago, 7 months ago?

Now, the bill that we passed addressed both international and domestic threats of terrorism, and it carefully balanced the need for new law enforcement authority against the civil liberties that are so important to all of us. The bill also built upon work that had been done a year before in the Senate crime bill—now the crime bill, the Biden crime bill. It was the Biden-Hatch crime bill. I do not know whether he still wants to take credit for it. It was the Biden-Hatch crime bill. It is now the crime law of the United States of America.

Guess what? There would be no death penalty for the two people about to be prosecuted were it not for the crime bill, were it not for the crime bill we passed, and the President led the way. There would be no death penalty because it is a Federal case, Federal law. There was no Federal death penalty for this.

My friend is talking that unless we change this habeas corpus provision, the Oklahoma bomber will go free. If those who voted against the crime bill had prevailed, there would be no death penalty even available to be brought against those accused of the bombing in Oklahoma City under Federal law. They would have to try it in State court without the resources of the Federal Government to deal with it. We kind of rewrite history around here. As my friend from Wyoming often says, everyone is entitled to their opinion, but they are not entitled to their own facts.

Let me also point out something else. On building on the crime bill the Senate passed, the terrorism bill that focused narrowly on a terrorist threat, unfortunately, the House then delayed. It finally passed a bill that pretty much took terrorism out of this bill. Now we face a conference report that is only partially approved. I strongly support the Senate-passed version of the terrorism bill, despite the fact that I did not like what we did and how we did reform habeas corpus. We have never had a disagreement that we have to reform habeas corpus. The question is, Do you eliminate it essentially, or do you reform it? This bill essentially eliminates it at a State level. Quite frankly, reform is needed to stop abuse of the writ of habeas corpus.

My friend, and he is a very able lawyer, trial lawyer, stood here and talked about how this is the most important thing to deal with terrorists—habeas corpus. Let me remind everybody who may be listening: In order to file a writ of habeas corpus, one has to be behind bars already. Got that? You already have to be in jail, convicted of a crime. When you file a writ of habeas corpus, you write it and you slide it between the bars and you send it via a court officer to the judge. You are in jail.

Now, how does that prevent terrorism? It needs to be reformed. The abuses must be eliminated. It has nothing to do with stopping terrorism. I think that is what we are about. Is this not about trying to stop terrorism?

Now, second, this is a very complicated subject that the Senator from Utah knows very well because he is a capable lawyer, and the Presiding Officer knows well because he is such a capable prosecutor. I mean that sincerely. Not a lot of lawyers understand habeas corpus. They know it is a great writ. If you sit down and ask them to explain in detail the difference between Federal and State habeas, they get lost. It is complicated and easily lends itself to exaggeration.

Putting this in focus now, every single case that I am aware of—and I may be mistaken—that my friend and his two competent staff people come up with are State court cases—every single one that I have ever heard. There may be one that I have not heard. Every one that Senator THURMOND comes up with, which are legitimate to come up with, every one I have mentioned, they are State cases.

Let me explain what I mean by that. It means that somebody was indicted and/or on information arrested, taken to a State court, tried under State law, convicted under State law, made appeals under State law, instituted their attempts under State habeas corpus to say, "No, I was wrongly convicted. My constitutional rights were violated when they convicted me. Do not set me free, but give me a new trial." That is what habeas does. It does not find you not guilty. It requires you get a new trial if it is granted and, "Send me back to State court to be tried again."

Now, what happens? All the delays, 99 percent of the delays—let me be conservative—90 percent of the delays, take the best case to my friends, are delays when you are in State courts, State courts, State courts. Now, what are we talking about in the terrorism bill? What is this bill we are passing? Is this a State bill? No; it is a Federal bill.

If someone violates any provisions of this bill that we are about to pass, what happens to them? Do they go to State court and get tried in State court, and are they subject to the delays that occur in State courts? No; they go to a Federal prison. They get tried in a Federal court. They have Federal judges. They have Federal prosecutors. They have Federal people. No State judge gets to say a thing. No State prosecutor gets to appear in any position other than if they happen to be a witness.

Now, where is the delay? Where is the Federal habeas corpus problem? My friends do not cite any. Even if they do, we have a provision in here that I support. We set a strict limitation in Federal court, in Federal habeas corpus, with a Federal prisoner, tried under a Federal law, convicted in a Federal court, sent to a Federal prison, that they have x number of months in which to appeal their case, to make their habeas appeal. They get one bite out of the apple. That is fair. But it does not even deal with anything anybody argues is a problem. It just guarantees if there is any problem, it will be corrected, and if there is not, it will not occur.

Now, say somebody is convicted under this law. They are convicted under this new law we are passing. Where are they going to go? They are going to go to Federal court. Now, how does changing all the State habeas corpus cases have anything to do with terrorism? I would like to know that one. That is a fascinating notion, what we call in the law a non sequitur. It does not follow. It sounds reasonable. All the people sitting in the gallery when Senator HATCH, a worthy and knowledgeable advocate, stands up and says, "This is very important. Habeas corpus is the most important tool we have to fight terrorism," you all go, "I know Habeas, and I know Corpus, and they are real tough people. They are out there bombing people." Or, "Boy, I know that makes sense. I know about all the delays. He is right."

It has nothing to do with State courts because, by the way, I say to the Presiding Officer, who knows this well, if it is in a State court, it is not a Federal crime. If it is in a State court, the Federal Government is not prosecuting. If it is in a State court, it is not international terrorism. If it is in a State court, it is not a terrorist under this bill.

Now, what is the obverse? If it is in a Federal court, there is no evidence of delay on habeas corpus to begin with. But even if there is, we do correct it in this bill. But even if it is a problem, and even if we correct it, the only way you get the person who is filing the habeas corpus petition is if they are already in jail convicted. Now, tell me—I ask, if I could, folks watching this, how many of you feel if we could say in a blanket way, "We guarantee you that anybody already behind bars—already behind bars—will be executed in a timely fashion if convicted of a capital offense," that will solve our terrorism problem? Do you all feel better now about terrorism? Do you all feel more secure about whether anybody will go in the New York subway with saran gas?

You all feel better that someone is not going to come up with—another wacko—one of these bombs they make out in some field in southern Delaware or northern Delaware or Montana or Alabama, and blow up a building and kill children—do you feel better? This is crazy.

This is crazy. It may be needed just like health insurance may be needed, just like better highways may be needed. But what does it have to do with terrorism? Let me give you the one possible nexus. Here is how it goes. The only intellectually, in my opinion, legitimate argument that connects it to terrorism goes like this; it says that if we convict a terrorist and send a terrorist to jail, and if a terrorist is not able to abuse the system—which nobody is arguing that the Federal habeas system is being abused anyway, and they know they cannot abuse it and they are likely to go to death in 6 months or 6 years, then they might not have committed the terrorist act in the first place. That is the only intellectually credible argument to be made as to how this could deter terrorism. Granted. So let us put that provision in the bill. But let us not go forward and say, with all due respect, this is going to change terrorism. I just asked a rhetorical question. Go back home and ask your constituents if they know that the appeal time has been cut from an average of 6 years to 6 months for people already convicted, and do they think we have licked terrorism. They will tell you that we imposed justice, they will tell you that we eliminated abuse, they will tell you that we saved money—all of which is true. But I defy you to campaign on the notion that you stopped terrorism by changing habeas corpus. Remember, folks, you already have to be in jail, convicted of a crime, in order to be able to file one of these petitions that you then abuse.

Now, the Senate-passed version of this bill really did do some things beyond habeas. It had all this habeas stuff in it, which, by the way, is a phenomenal overreach, but that is a different issue. I am not going to fight that again. I will register here just that the changes in Federal habeas make sense. The changes essentially say you cannot review State court decisions in a Federal court as to whether or not the State court accurately interpreted the Federal Constitution. That is a bad idea. That is saying that you cannot review, as a practical matter, State court judges' decisions on the U.S. Constitution in a Federal court.

I will not go into the history of why we did this in the first place back in the late teens of this century. But that is another issue. This is not an antiterrorism bill because it limits State habeas corpus. Unfortunately, what we have before us today is a conference report from which some of the most critical antiterrorism provisions are missing. My efforts to restore these tough provisions during the conference were unsuccessful. Despite the fact that the Republican chairmen on both sides, to their credit, acknowledged that they were good provisions, acknowledged that they were important provisions, acknowledged that they would work with me to pass these provisions in another form at a later date, and acknowledged that law enforcement needed some of these provisions very badly—notwithstanding that, notwithstanding that the majority of the members of the conference agreed with me, we voted them down.

I say to my friend from California, who has not been here as long, I found it to be a fascinating experience that never happened to me before. I am used to getting beat flatout. I get beat a lot. I am used to that. I am used to winning once in a while, too. But I have never been beaten where everybody agrees with me and then they say, "We cannot agree with you, JOE, because those guys and women over in the House, the minority within our party, do not like it." That is like me saying the four remaining liberals in the U.S. Senate—if there are that many—do not like something. Therefore, even though you are right and I agree with you, I am not going to go along with it.

I am not being facetious. I respect their position because they want a bill badly. Apparently, the majority leader believes he needs a bill badly. Apparently, the President is concerned about having a bill. I am concerned about having a good bill. I am concerned about having the kind of bill we should have, the kind we passed. It was passed 91 to 6. That is the bill I am concerned about having. I was told the Republicans would oppose including these needed provisions in the bill because a group of Republicans in the House could not support the bill if they were included. In other words, a faction of Republicans—I might add that some liberal Democrats are agreeing with the ACLU. That is a fascinating combination. You know that phrase "politics makes strange bedfellows." I want to tell you something. George Bush, or somebody, made famous the ACLU card, who carries that. When you have the people who carry ACLU cards and those who carry NRA cards sleeping in the same bed, it is fascinating. I would love to be in one of those meetings with the gunowners of NRA and the ACLU. Everybody is smiling. They are trying not to because they know how preposterous it is. It is fascinating. I am not being critical of either of the groups. It is human nature. They have objections for totally different reasons, as I understand it. They are a minority, no matter how you add them up. Yet, the majority in both parties is going to kowtow to them.

I, quite frankly, do not understand this antipathy to fighting terrorists and holding them accountable. I do not understand how a small group of House Members has been able to seize control of the democratic process and block provisions that the vast majority of us

VOL
142
PT
6
AP
15
—
24
1996
UMI

support. I think it is wrong, and I think we in the Senate should insist on a terrorism bill that contains the tough provisions we passed more than 9 months ago.

Today I will offer a number of motions to recommit this back to conference so the missing provisions can be put back. We must send the President a strong terrorism bill that addresses the very real threat posed by those who know only the language of terrorism and violence. But they are here at home and they are also abroad. They are both places, and we have to acknowledge that. Almost a year ago, after the tragedy in Oklahoma City, Speaker GINGRICH issued a call to action. Let me quote him:

> This is the kind of exact moment when Americans ought to be Americans. We ought to pull together. We ought to send a unified response to terrorists at home and terrorists overseas that we are not going to tolerate this.

The Speaker was absolutely right. We should pull together and send a message to terrorists. Let me ask you all a question, rhetorically. You are a terrorist planning a bombing. You are planning to put a chemical agent in the water supply in Minneapolis-St. Paul; you are planning to use a chemical weapon in Athens, GA, or in Atlanta at the Olympics; you are a terrorist planning to blow up the pyramid tower, the Transamerican Tower in San Francisco, to make my point. Now, what are you going to be most concerned about? Remember, we said, using the Speaker's words, this is to send a message to the terrorists. You are a terrorist planning this bombing, OK, or planning an act. Are you going to be more concerned that the Senate has just given the FBI the authority to wiretap not just the phone that you use in your house, but the phone that you have in your car, the one you have in your pocket that you keep throwing away and getting a new one so you cannot be detected, and the phone at the corner that you use to communicate your activities; are you more concerned that they may allow the Government to tap all those phones you are using? Or are you going to be more concerned that they change State habeas corpus? What do you think? What is going to send you a message? Are you going to be concerned if you are a terrorist planning an activity that if, in fact, you walk into Macy's Department Store and you plan a terrorist act like the IRA, and instead of using the bomb you use shotguns, you call the President of the United States, or you call the Governor of the State of California and say, "Unless you do the following, we are going to walk into one of the largest malls in Los Angeles and indiscriminately kill people." And you walk in with a shotgun—12 of you, 10 of you, 3 of you—and you blow away, indiscriminately, 10, 20, 30, 50, 100 Californians. Under this bill, you cannot be prosecuted in Federal court. Guess why? Because there is no Federal predicate. It is not a Federal crime to use a shotgun in the State. What is going to send you more of a message? That, or the fact that State habeas corpus has been changed? What are you going to do?

You are a terrorist. You decide you are going to use chemical weapons or biological agents. You are a terrorist. Now you learn that the Senate and the House just passed a bill that does not allow the Department of Defense, does not allow the military—the only ones with expertise in chemical warfare and biological warfare—does not allow them to participate in the investigation of your act. We affirmatively took that out of the bill.

What message are we sending terrorists? Are you going to be more worried about a provision that allows the military to investigate chemical and biological warfare against American citizens, or are you going to be more worried about the State habeas corpus? That is what we did. That is what we did. We took it out of the Senate bill. This is not chopped liver, folks. This is serious stuff.

Are you going to be more worried as a terrorist about to commit a crime, or having already committed one, that the Attorney General of the United States has the same authority that she now has with the Mafia; that, if she is convinced that an imminent act of danger is going to take place by a particular individual, she can order a wiretap that will last for 48 hours, and within those 48 hours she has to go to a Federal judge, convince that Federal judge she has probable cause to put that in place in the first place, and, if she did not, it gets thrown out?

You can do it for John Gotti now. You can do it for organized crime now. But guess what? Our friends in the House decided you should not be able to do it for terrorists. What is the logic of that? Tell me.

I do not ever remember being as upset about what has happened to a piece of legislation. Tell me the message we send to terrorists. What is the message you want to send them? "Do not stop here. Wrong place." What is the message you want to send them?

We have tools. If you are engaged in terrorist activities affecting Americans in the United States of America, to get you before you act, what are those tools? My friend was a prosecutor. Ask any prosecutor in here, "What are the tools?" Wiretaps, wiretaps, informants, information before the act occurs. But what do we do in this bill? We send a message to terrorists: "Do not worry; no multipoint wiretaps for you."

My friend from Utah says, correctly, that initially the President referred to the roving wiretaps. He says what the chairman of the House conference said, that that upsets people. They misunderstood. They thought they could indiscriminately put wiretaps. We know that is what they could do. The chairman of the Judiciary Committee knows it does not give the Federal Government that power, but because, apparently, whoever it was—talk show host, letter writers, or somebody—convinced them of that, they say we cannot pass it because the public misunderstands—misunderstands.

How many people in the public do you think understand accelerated depreciation for equipment in factories? What do you think? Does anybody stand here on the floor and say, "You know, because it is difficult for the public to understand that concept, we are not going to pass tax provisions that relate to accelerated depreciation?"

How many people understand on this floor, or off this floor, how the International Monetary Fund works? Do we sit here and say, "You know, because if we took an exam, the American public would not know what it meant, therefore, even though we know it is good, even though we know it is in the national interest, we should not do it."

That is just what we said; because people misunderstand what a roving wiretap is, we cannot have one.

You are a terrorist. You are sitting there. You are the Unabomber—allegedly, assuming he got caught. You are sitting in your old cabin watching portable TV, battery driven, and you see the Senate goes out and says, "You know, do not worry. We are not going to wiretap." First of all, "I do not have a phone. It does not matter. But when I go use a pay phone, they cannot get me now." Are you going to know? "My God, they have this change in habeas corpus now. I am going to really worry about whether I commit this crime."

I mean, come on. Come on. Ask any police officer if you have a case on terrorism. Would you rather have a change in State habeas corpus or the ability to have emergency wiretaps? Would you rather have a change in habeas corpus, or would you rather have multipoint wiretaps court approved? What do you think they are going to say? What do you think they are going to say? If you ask them, "Would you rather have the health care system of America reformed or have that provision," they may say the health care system of America needs reform, but it has not anything to do with terrorists. They may want habeas corpus, but it does not deal with terrorism. It does not mean we should not include it. It sure means we should not advertise this legislation as legislation that fights crime.

The destruction of Pan Am 103 reminds us that Americans are vulnerable wherever they are. The 1993 terrorist bomb at the World Trade Center in New York and the bomb blast at the

Federal building in Oklahoma City were terrorist acts by anybody's definition. In response to the World Trade Center, Oklahoma City, et cetera, the President sent to the Congress the second bill focused primarily on international terrorism. Then, when the Oklahoma City blast occurred, he sent a bill that also addressed the domestic terrorist threat.

Here in the Senate, the majority leader, Senator DOLE, and Senator HATCH introduced a bill based in large measure on that proposal with some additions. They brought it to the floor within 2 months of Oklahoma City tragedy. The numbers in the President's proposals that were not initially included in the Dole-Hatch bill were added on the floor by overwhelming bipartisan support, and in the end the bill passed 91 to 8. Every one of the Senate conferees supported the bill. Think for a moment who we are talking about: ORRIN HATCH, STROM THURMOND, ALAN SIMPSON, JOE BIDEN and TED KENNEDY. It is not often you get this group all together on a major controversial piece of legislation. And, when you do, you can be sure that there is something we have seen precious little of around Washington: compromise and bipartisanship.

The product of this compromise and bipartisanship was a bill that struck a key balance, a balance about protecting Americans from terrorists on the one hand while at the same time preserving the individual liberties that are the very hallmark of our American way of life—and the very thing that terrorists wish to take away.

I am struck by an irony here. I am a guy who has been criticized about being too adamant about civil liberties. I am a person who has often on this floor been castigated by my Republican friends as being too concerned about civil liberties and am now being opposed by those who say these provisions that I feel strongly about pay too little heed to the civil liberties and give too many powers to law enforcement.

Ever since I came to the Senate 23 years ago, I have made it my top priority, my nonnegotiable priority, to fight for civil liberties. I take a back seat to nobody when it comes to standing against the unwarranted expansion of Government power and standing up for the privacy rights and liberties of all Americans. Yet, I am here in support of a tough, comprehensive, well-balanced counterterrorism bill that all of you supported as well. With all due respect to my friends in the House, the conference report does not strike that balance and it does not do the job that must be done to protect Americans from the threat of terrorism.

I believe Chairman HYDE was right when, during the House debate on the bill, he opposed the amendment offered by Congressman BARR of Georgia, stating, "Passage of the amendment would leave the bill a frail representation of what started out as a robust answer to the terrorist menace."

Let me say that again. On the floor of the House of Representatives the conservative chairman of the House Judiciary Committee, HENRY HYDE, when Mr. BARR introduced those amendments relating primarily, in this case, to the wiretap, said to his fellow Members of the House, if the Barr amendment passes, it will "leave the bill a frail representation of what started out as a robust answer to the terrorist menace." He was right then. He is right now. What we have before us is a useful but frail representation of what started out to be a robust message sent to terrorists across the world, which was, "Not here in the United States. We are empowering law enforcement, with the due respect and regard to American civil liberties, to have additional tools to fight terrorism." That, unfortunately, is not what has happened.

Today, I and others will offer motions to recommit the bill to conference with the intent of saving this terrorism bill. I believe my friend when he says to me that, if this bill passes without being strengthened to something like it was before, that he will work with me to create another separate bill to add all these provisions that I want in the bill—or that we want in the bill. I believe him.

But we know the process. This is going to be an extremely political year. The idea of anything passing here, with Senator DOLE as the leader running for President, that is going to upset the folks over on the House side in the minority of his party, I think is less than real. It is understandable. It would be the same if there was a Democratic leader running for President. It is not likely to happen. I doubt whether anyone here will stand on the floor and tell you there is even a 1 in 10 chance of passing any of the things I am going to raise or my friend from California is going to raise as independent pieces of legislation. This is our chance.

So, at a minimum we are talking about a year or two delay. And how many terrorist acts might we have prevented if we had given the law enforcement officials the tools that we are taking away from them here? How many? Pray God none. Pray God someone will be able to be here, assuming I am here in 2 years, to stand on the floor and say: "BIDEN said in mid-April of 1996 that if we do not put these provisions in the bill, we would have lost the ability to stop some terrorist acts. I would like to say to Senator BIDEN, there have been no terrorist acts in 2 years, so he was wrong."

I will gladly, overwhelmingly, with joy in my heart, say, "You were right, Senator. I was wrong. We did not have any terrorist acts in 2 years." But, can anybody deny that denying the Federal Government the ability to wiretap like they can for the Mafia, denying the Federal Government the ability, with probable cause signed by a Federal judge, to wiretap people suspected of terrorist activities—that is not going to enhance the chance we stop it?

Today we will have a rollcall on a number of these votes. Today, I and others will offer motions to recommit the conference report. We must restore what the President, Senator DOLE, Senator HATCH, Chairman HYDE, Representative MCCOLLUM and many others on both sides of the aisle in both Houses thought were important at one point, which is to take a clear and unequivocal stand against terrorists, whether they are overseas or in our own homeland.

As the President has said, we must be guided by three bottom-line goals. First, we must protect Americans without curtailing Americans' rights. Second, we must give law enforcement officials the tools they need to protect Americans from terrorist attacks. And third, we must make sure that terrorists are not given safe haven, support, and comfort here in our country.

I end by complimenting my friend from Utah for fighting hard to get these and other provisions back in the bill. He got some of them back in the bill in a conference, in his meetings with House Members. But in my view, he did not get the single most important provision in the bill. That is why, as a Congress, we must give the FBI authority to use wiretaps in criminal investigations; where we wrote special stringent protections into the statute in order to protect legitimate private interests. Each and every one of these protections range from strict probable cause showing to approval by a Federal judge to a requirement that officers minimize intrusive wiretaps, and time limits on any authorization will remain in the law. Wiretap proposals I will seek to include in the conference report are limited and modest, but they are urgently needed so we can identify and stop terrorists before—before—before—before—before they strike.

In the Senate, Senators NUNN and THURMOND hammered out a very limited and commonsense provision to involve the military if we should ever, God forbid, face an emergency involving biological and chemical weapons of mass destruction. Remember, we are talking about only technical and logistical support from the military, not law enforcement. We are talking about an emergency involving biological and chemical weapons of mass destruction; something the military is especially trained and equipped to deal with. The military, I might also add, has this limited authority when it

VOL
142
PT
6
AP
15
—
24
1996
UMI

comes to nuclear weapons now. Senator NUNN has now perfected that language, and we should include his provision in this bill.

The conference report also fails to include a number of other provisions in the Senate bill which I believe the conference report should contain, including the following: We should add terrorism crimes to the list of RICO predicates, that is those laws which are designed to deal with organized crime, and make the penalties harsher. We should make it a crime to teach someone how to make a bomb when they intend it to be used. That is what the Senator from California will speak to again. We should extend the statute of limitations for certain firearms offenses, as we do for other offenses.

All the provisions I have just mentioned were contained in the Senate bill which, as I said earlier, passed with the votes of 91 Senators and all the votes of us representing the Senate in the conference. What is more, at the same time that the conference bill goes easy on terrorists, it gets tough on law enforcement officials. For example, the House had stripped from the original bill a provision that would have helped protect police officers from cop killer bullets.

Let me explain that just for a minute. In 1986, and again in 1994, the Congress outlawed a few bullets capable of penetrating body armor worn by our Nation's police officers for their protection. The key problem with this approach is that it is possible, indeed altogether probable, that a new bullet can be manufactured and brought to the market before Congress can pass legislation to stop it. For that reason, many had sought a performance test. In other words, let us all agree on a test that will determine what kinds of bullets can penetrate the body armor typically used by police officers. Then bullets that fail the test, so-called cop killer bullets, would be banned before they can see the light of day or kill a cop.

The bill reported out of the House Judiciary Committee by Chairman HYDE contained the first modest step for this commonsense approach. It contained a study, just a study to determine if there is a fair test to determine whether or not a cop killer bullet is just that or is not that.

But even this modest step forward was changed in the conference report. The conference bill includes a provision added on the House floor to study how police officers are killed, with mandatory participation by national sporting organizations. What do they know about cops being killed?

The study is a setup.

We already know that armor-piercing bullets have never actually killed a cop, but that result is because we have been able to ban armor-piercing bullets before they are marketed. So the so-called study in the conference report is a first step, it seems to me, in an effort to stop any action that may keep cop-killer bullets off the street. I found this astounding.

It seems to me the conference report, while stripping out a number of provisions to crack down on terrorists, would make our law enforcement officers, who every day put their lives on the line, fair game for criminals in ways they are not now.

The conference report orders a commission to study not the terrorists but Federal, State, and local law enforcement officials who work to protect Americans from terrorism. Again, I find this astounding. I hope the police officers of America are listening to this. This bill calls for a study of American police officers. Did you hear what I said? A study of American police officers, not a study of terrorist groups, a study of American police officers.

I want to repeat, it is my intention to send the President a tough comprehensive bill. Since the conference report does not meet this standard, I will offer a series of motions to recommit the bill so that we get it right.

I hope all of my colleagues will support just what they supported before. I am not asking anybody to change their mind. I am satisfied if the six people who voted against it before vote against it again, but I hope that we have a principled vote here where people vote the way they did before on these issues and not be cowed by a minority in either party, in either House at any time. I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Utah.

PRIVILEGE OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent to permit Nick Altree, Sammy Linebaugh, and Christina Rios privilege of the floor during the pendency of the terrorist bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I have enjoyed my colleague's remarks. Senator BIDEN made some good points; some are not good, in my view. The most important issue in this debate happens to be habeas corpus reform. The one thing—the only thing—the one thing and the only thing that the Oklahoma victims have asked for, the only thing they mentioned and they asked for was habeas corpus reform. The survivors of that tragedy know that habeas is the most important issue for them. Habeas is particularly relevant here because the district attorney for Oklahoma City has promised—he has promised—that the perpetrators of the bombing will be tried for murder in State court. Thus, habeas corpus reform applies, because this bill applies to both Federal and State proceedings.

Moreover, there is evidence that delay exists in the Federal courts, contrary to what my dear friend and colleague has said, and this habeas proposal places limits on Federal petitions for habeas corpus as well.

The game is going to be over. The victims understand it. Thank God the rest of us are not victims of that bombing, but they understand it. They know darn well this is the only provision that really will make a difference in their lives. So habeas clearly applies to this situation.

The point is that justice delayed is justice denied. It is impossible to stop a terrorist attack that is motivated by political fanaticism, and that appears to be what we have here and it appears to be what occurs in almost every terrorist attack. But it is possible to ensure that the perpetrators are punished. Justice delayed is justice denied.

I also point out to my friend and colleague that the bill does contain tough antiterrorism provisions, contrary to what he indicated that this is the only provision this bill is all about and it is the whole bill. It is not at all.

No. 1, we have the designation of foreign organizations as terrorist groups provision. It is a very, very important change in criminal law. It is a tough thing.

The bill includes provisions making it a crime to knowingly provide material support to terrorist functions of foreign groups. This provision is aimed at cutting off the dollars and, thus, the lifeblood of foreign terrorist organizations that are wreaking havoc and destroying lives all over the world.

The United States provides a lot of that money. People do not realize that here. They do not even realize we have up to 1,500—and I am just using very modest figures, these are figures from 10 years ago—at least 1,500 known terrorist groups and people in this country that we are watching and monitoring. Most people in this country do not realize how important this is, but the victims of the Oklahoma City bombing, the World Trade Center, the Lockerbie bombing, they all know what is involved here, and that is what they asked for yesterday, and the reason they did is because they know it is going to make a difference.

I worked hard to ensure that this provision will not violate the Constitution, that is the provision on habeas corpus reform. We have worked hard to make sure it does not violate the Constitution or place inappropriate restrictions on cherished first amendment freedoms.

Nothing in the habeas provisions of this bill prohibits the free exercise of religion or speech or impinges on freedom of association. We are talking now about material support to terrorist functions of foreign groups.

Moreover, nothing in the Constitution provides the right to engage in violence against fellow citizens or foreign nations. Aiding and financing foreign terrorist bombings is not constitutionally protected activity.

Additionally, I have to believe that honest donors to any organization want to know if their contributions are being used for such scurrilous terrorism purposes. We are going to be able to tell them after this bill. This is an important provision. It is a major provision that we would want to pass whether we have habeas corpus in here or not, although the habeas provision is extremely important.

Inextricably linked to this provision on being able to deter alien financing of foreign terrorist organizations is the related issue of the designation of certain foreign organizations as terrorist organizations to which the fundraising ban would also apply.

I sympathize with the concerns that have been raised on this issue. However, I believe that there can be no effective ban on terrorist fundraising unless the Government is given limited power to designate which foreign groups are, indeed, engaged in terrorist activity. The United States has a responsibility to its own citizens and to the world community to help cut off funds flowing to terrorists. I am convinced we have crafted a narrow but effective designation provision which meets these obligations while safeguarding the freedom to associate, which none of us would willingly give up.

So that provision of financing of foreign terrorist organizations is very important.

No. 2, we provide a provision in here for the exclusion of members of terrorist organizations. We will not even let them come into this country. Right now they can and they do. We are going to get tough on that, and this legislation provides that type of law.

It is important stuff. This is not just habeas corpus, although that is important in and of itself. It is the only thing that the victims yesterday called for. They said it is the one thing they want more than anything else. But these other provisions are important, too.

No. 3, we have a prohibition, like I say, on terrorist fundraising activities in this society.

No. 4, we prohibit financial transactions with terrorists, and we provide the language that will help to do that.

No. 5, we adopt regulations on human pathogens to prevent terrorists from using deadly human pathogens to harm our citizens. By enhancing penalties for and restrictions on the use of biological agents, the Antiterrorism and Effective Death Penalty Act of 1996 would decrease the opportunities for terrorists to perpetrate their crimes with biological weapons.

It may surprise even the American people to know that very dangerous, even deadly, organisms that cause diseases and death in human beings are available for purchase, not only by legitimate users, but also by those who may use them with criminal intent.

We have had instances where a phonied-up letterhead, looking like a research institution, has applied for human pathogen problems and biological agents that could cause death to humans. Because these agents cause such devastating diseases as bubonic plague and anthrax, it is crucial that the Federal Government more closely regulate, monitor their movement over both interstate and foreign channels of trade. While I strongly favor a reduction in the Government's overall regulatory posture, there is a clear and present danger with respect to the threat of biological terrorism.

To give you just one example, the Washington Post recently reported that in May 1995 an Ohio man, using letterhead that appeared to be a legitimate laboratory, faxed an order for three vials of the bubonic plague agent from the American Type Culture Collection, the ATCC, in Maryland. After a series of events, the FBI later discovered that this individual already possessed deadly microorganisms in addition to a cache of rifles, grenades, and white separatist literature. Although the man was prosecuted under mail and wire fraud statutes, these charges might not otherwise have been available had he not sent the bogus letterhead.

For example, gaps exist in the current regulations that allow anyone to possess deadly human pathogens. Thus, in turn, it makes prosecution of people who attempt to acquire them, even for illegitimate purposes, very difficult indeed. Under current law then, law enforcement authorities must wait until human pathogens are actually used as weapons before criminal prosecution may be pursued.

In response, this bill strengthens law enforcement's hand by prohibiting conspiracy, threat, or attempts to use biological weapons, in addition to their acquisition and their possession. The fact that human pathogens are available to several legitimate groups poses unique regulatory problems which our bill has, I think, successfully overcome.

In addition to the lack of interagency coordination in this area, the relevant regulations have not kept up with advancing science. So it is important, and, accordingly, the legislation here authorizes the Secretary of Health and Human Services to regulate the transfer of harmful biological agents. However, when promulgating regulations and the listing of biological agents subject to these regulations, the Secretary is to ensure the continued viability of the use of such agents for legitimate purposes.

So we are attacking these problems before they result in tremendous tragedies. This bill will do that. My colleagues and I believe that the American people deserve better than the current regulations and criminal statutes we have in this area which have left us vulnerable to the potential use of human pathogens as terrorist weapons.

Since we have not kept pace with science and technology and recognize that we live in a more dangerous world than we once did, this legislation takes strong action and makes a strong response right now. That is another reason why it is important.

No. 6, we restrict the transfer of nuclear materials and chemical biological weapons. The Antiterrorism and Effective Death Penalty Act of 1996, this bill, gives Federal law enforcement officials the tools necessary to combat the threats of nuclear contamination and proliferation that may result from the illegal possession of and trafficking in nuclear materials. It is in the vital national security interests of the United States that we take every conceivable step within our power to restrict the flow of nuclear materials around the world.

With this simple truth in mind, this legislation recognizes that the threat that nuclear materials will be obtained and used by terrorists and other criminal organizations has increased since the enactment, some 14 years ago, of the Convention on the Physical Protection of Nuclear Material. Accordingly, this bill proposes to give Federal law enforcement officials the maximum authority permissible under the Constitution to address this increased threat.

One of the ways the legislation provides new tools to law enforcement is through the expansion of the scope and jurisdictional basis of nuclear materials prohibitions. This is accomplished in part by recognizing that nuclear byproduct materials, in addition to nonderivative nuclear materials, poses a major threat, not only to our military and commercial assets, but also to the environment.

This broader definitional scope is essential if law enforcement is going to have the kind of prosecutorial reach necessary to keep up with the technological developments in the field. Ironically, the increased threat of terrorist nuclear activity is to some extent a result of our, the United States, success in obtaining agreements from other countries to dismantle nuclear weapons.

While we all applaud these efforts, they have resulted in increased packaging and transportation of nuclear materials, which has created a more difficult security environment because it has provided greater opportunities for unlawful diversion and theft. Although we have traditionally thought of nuclear terrorism in terms of the detonation of nuclear bombs against civilian

VOL
142
PT
6
AP
15
—
24
1996
UMI

or military targets in the United States, we are also acutely aware of the threat of environmental contamination as a result of nuclear material getting into the wrong hands.

The nature of nuclear communication is such that it may affect the health, environment, and property of U.S. nationals both here and abroad even if the illegal conduct is directed at foreign nationals. This is why increasing the scope of prohibitive materials is so important. Because there is currently no Federal criminal statute that provides adequate protection to U.S. interests from nonweapons grade, yet hazardous, radioactive material, this is all in this bill. This is important stuff.

This is not just a habeas bill. But even if that were all it was, it is worth passing because that is the one thing that the victims of these criminal activities and terrorist activities have called for. Frankly, it was the only thing they called for yesterday, although I am sure that they recognize these other matters and are very happy to have them.

No. 7, we require tagging devices in plastic explosives. This bill will tag them. It does tag the devices in plastic explosives. Now, there is, in my opinion, a reason to tag other things as well, but I have to say there are reasons not to at this point.

Let me make this point. The Antiterrorism and Effective Death Penalty Act of 1996, this bill, fulfills the obligation of the United States to implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, entered into in Montreal in 1991 in the tragic wake of the bombing of Pan Am flight 103. It required that detection devices be placed in all devices imported to or exported from the United States and provides criminal penalties for violations.

It should be noted that criminal provisions with respect to the incorporation of detection agents in plastic explosives do not apply retroactively to any Federal agency performing military or police functions or to the National Guard of any State, only if such incorporation occurs within 15 years of enactment of the Montreal Convention.

Furthermore, governmental transfer or possession of such nonconforming devices will not be considered a criminal act nor will transfer or possession by private citizens of nonconforming devices manufactured prior to this legislation if this occurs within a 3-year grace period of its enactment.

These provisions in this bill affecting the manufacture, distribution, and use of plastic explosives are absolutely critical given the likelihood that without them plastic explosives will continue to be used with even less certainty of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation.

The purpose of this bill really is very simple. By marking or requiring the marking of plastic explosives, not only will we effectively deter future terrorist acts, but we will also substantially improve our chances of bringing to justice those who place innocent lives in jeopardy, endanger our national security, and disrupt international commerce by the use of these stealthy, deadly devices.

The distinguished Senator from Delaware raises a good point when he desires, and we in the Senate enacted—it was a Hatch provision again. These are provisions I worked on. These are provisions I wanted in the bill. There is no question about that. We put mandatory taggants on all explosives, in a certain sense.

The fact is that the explosive used in Oklahoma City was the result of a fertilizer. But the fact, also, is that before we put taggants on those, we have been cautioned by the mining industry, which has to use explosives throughout its processes, by the stone industry, which has to use explosives, by other industries that are prone to use explosives, that they are afraid that mandatory taggants could be very dangerous to their workers and to their efforts.

Frankly, in order to solve that problem and in order to solve some of the worries and concerns of those over in the House, we then did what is the next best thing—frankly, probably is the best thing under the circumstances—since we have had these matters brought to our attention by ATF, the Bureau of Alcohol, Tobacco, and Firearms, which handles the explosives matters and has been studying it for years, by OTA, which as of a few years ago said these may be dangerous. We do not have the answers as of yet, so we provide for a study to determine just how dangerous it is, and whether we can put taggants in, that will be safe and will protect the workers in these industries. It is a serious concern. It is one that we can resolve. We resolve it by giving a year for that study and allowing the regulatory agencies to enact regulations and allowing time for Congress to review them and finally resolve them. It is a reasonable approach.

Yes, it is not as far as I want it to go, that we did go in the Senate bill, but it is a reasonable compromise. That is what we have had to do here.

This is not just a habeas bill. This is a lot of things we have had to compromise with the House to get it done.

Let me go to No. 8. We enhance penalties for many terrorism crimes. We do not enhance them for every crime that the distinguished Senator from Delaware wants us to. I do not disagree with him. Look, we have gone through in the last few years, Waco, Ruby Ridge, the Good Ol' Boys Roundup, we have gone through other types of law enforcement matters. There are people who are terrified of the IRS, people who are afraid of their own Government. If you look at the polls, the vast majority of them are afraid of their own Government today because of some of these things.

We have looked into these and there have been some mistakes. Because of these fears and the perceptions that arise from these fears, we have had to go gently on some of the areas where, yes, the distinguished Senator from Delaware and I probably would agree. We worked together a lot in these areas. I have tremendous respect for his abilities in this area. I do not agree with him that this is just habeas corpus and it does not have much else. Give me a break. This bill has a lot besides habeas. Even if it was only a habeas bill, that is the most important criminal law change in the century. It is important. Anybody who understands it and who wants to get tough on crime, who wants sentences carried out without delay, without unreasonable delay, wants this bill. That is the vast majority of people.

Let me say there is probably not one thing in this bill—I cannot think of one thing in the bill that my colleague from Delaware really opposes other than habeas corpus. And he is willing to accept that. Because he disagrees with habeas corpus reforms, he and others, it looks to me like they are willing to delay this bill. I hope they do not. I hope we can move ahead with his motions here today and get this matter done.

I suggest that we pass this report and return to many of the issues that Senator BIDEN outlines in subsequent legislation. I will work closely with him and with others to be able to do that, to make sure we know what we are doing when we do it. In fact, I promise Senator BIDEN once this bill is signed, I will work with him to draft legislation looking at enhancing wiretap authority, or any of the other issues he has raised. We try to solve these problems with study and with other approaches in this bill so we can bring both sides of the Hill together.

Yes, I agree with him on a number of things. I wish we could put them in this bill. In the perfect world that he and I believe in, we would do that. On the other hand, this is an imperfect world, and there are a significant number of people—both Democrats Republicans, by the way, over in the House—who literally do not agree with us. I think we have to put these things in perspective.

Now, rather than exploiting the devastation of Oklahoma City, I believe that we are protecting the families of the victims from additional unwarranted victimization. Comprehensive habeas corpus reform is the only legislation Congress can pass as part of the terrorism bill that will have a direct effect on the Oklahoma City bombing,

or the Lockerbie bombing or the World Trade Center bombing. It is the one thing that Congress can pass to ensure that President Clinton's promise of swift justice is kept.

Like I say, President Clinton recognized this fact during his April 23, 1995, "60 Minutes" appearance when, in response to a question about whether those responsible would actually be executed without the adoption of habeas reform, he said, "It may not happen, but the Congress has the opportunity this year to reform the habeas corpus proceedings and I hope they will do so."

The claim that habeas corpus reform is tangential or unrelated to fighting terrorism is just plain ludicrous. Indeed, habeas corpus reform has far more to do with combating terrorism than many of the proposals contained in the administration's own antiterrorism package, such as the proposals to enhance FBI access to telephone billing records and to loosen standards for the use of roving wiretaps in felony cases. I would like to do those but habeas has more meaning than they do.

Most capital cases are State cases. The State of Oklahoma could still prosecute this case, and the district attorney says it will. Our habeas reform proposal would apply to Federal death penalty cases, as well. It would directly affect the Government's prosecution of the Oklahoma bombing case. Indeed, several people were killed just outside the Oklahoma Federal building, the terrorists who destroyed the Federal building could thus be tried in State court for the murder of those citizens. The district attorney for Oklahoma City, as I said, is planning those prosecutions.

The provisions of this bill demonstrate the relationship of habeas reform to the terrorist bombing. No. 1, it would replace a 1-year limit for the filing of a habeas petition on all death row inmates, State and Federal inmates; No. 2, it would limit condemned killers convicted in Federal and State court to one habeas petition, to where under current law there is currently no limit to the number of petitions he or she may file; No. 3, it requires the Federal courts, once a petition is filed, to complete the judicial action within the specified time period. Clearly, by passing these provisions, we ensure that those responsible for killing scores of United States citizens will be given the swift penalty that we as a society exact upon them.

Let me just say this: My friend and colleague from Delaware said without the crime bill there would be no Federal death penalties. I commend him for that. I worked hard with him to get that. I think it was a good thing. The fact is that every State, almost every State does have a Federal death penalties.

Senator BIDEN makes the case that these are State cases for the most part. That is true, involving habeas corpus. Where is the Federal habeas corpus problem, he says? I have to say one of the biggest problems, loony judges in the Federal courts who basically will grant a habeas corpus petition for any reason at all. Because they do not have the teeth in the law to stop it, it goes on all the time. We have judges who do not like the Federal death penalties. They do not like the State death penalty, so they do anything to grant a habeas corpus petition. That game will be over once this bill passes. This bill requires deference to court action unless there is some very good reason not to defer, and I have to say that is a major, major, change in criminal law. It is important.

My colleague says, how does changing habeas corpus have anything to do with terrorism? I think he outlined it pretty good and indicated it has nothing to do with State courts. Of course it does. If it is in a State court he said it has nothing to do with Federal crime. Well, what happens under current law is these people try to get into the Federal courts where they figure they have more liberal judges who are going to find any excuse they can to overturn a death penalty, and my friend indicated, "Well, it does not get them out of jail." Sometimes it does.

If a habeas corpus petition is granted and a Federal death penalty is overturned, it is 18 years down the pike, all witnesses are dead or gone, and you cannot put a case on in the courts, that creates tremendously complicated problems. This is not as simple as some would make it out to be. You can get into that on both sides of that issue, I suppose, ad infinitum.

I have to say that justice delayed, as I said before, is justice denied. There are crazy people out there that no amount of wiretapping, no amount of any kind of predisposition toward law enforcement is going to stop them. These people are crazy. These people have no sense about them. They have no sense about them. They are not disciplined. We have to have some way of resolving these problems.

I have to say, I do not disagree with my distinguished colleague and friend. There are things, yes, I wish were in this bill. Again, this is the art of compromise. This is the art of the doable. This is the art of having to bring both bodies together. I think the Senate can do a better job on this bill than the House. I have to say, having said that, I think the House has come a long way towards the Senate bill, and we got them to go as far as we can, and the areas we cannot, we have studies or other approaches to help solve the problems.

Let me name some provisions in this bill that were not in the original bill filed by Senator BIDEN on behalf of the administration:

Pen registers and trap and trace devices on foreign counterintelligence and counterterrorism investigations. That was in the second bill. It is not in this bill.

Disclosure of information in consumer reports to FBI for foreign counterintelligence purposes. That was in the second bill filed for the President.

Let me just go down the list here. Civil monetary penalty surcharges. It was in the first bill. Nobody has it in this bill.

Increased penalties for certain crimes. We have a number in the Senate bill we passed, and they are in this conference report. They were not in the two bills filed for the President.

Enhanced penalties for explosives or arson crimes. They are in this conference report but not in the two bills filed for the President, to my knowledge.

Study and report on electronic surveillance. That was not in either of the President's bills, but they are in this bill. It was in the Senate bill.

Expansion of territorial sea. It was in the Senate bill and it is in this bill.

The prohibition on distribution of information relating to explosive materials for a criminal purpose. It was not in the President's bill; it was in the Senate bill, and it is in this bill.

Foreign air traffic safety and travel safety was in the Senate bill, and it is in this bill.

Proof of citizenship. That was in the House bill, and it is in this bill. It is a strong provision. We did not have it in our Senate bill.

Cooperation of fertilizer research centers. That was in the Senate bill, and it is in this bill, but not in the President's bills.

Special assessments on convicted persons. Not in the President's two bills, but it was in the Senate bill, and it is in this bill.

Prohibition on assistance under Export Control Act for countries not cooperating fully with the United States. That was not in the President's two bills. It was in the Senate bill, and it is in this bill.

Authorization of additional appropriations for the U.S. Park Police. Not in either of the President's bills. It was in the Senate bill and is in this bill.

Authorization of additional appropriations for the Customs Service. In the Senate bill and this bill, but not the President's bills.

Study and recommendation for assessing and reducing the threat to law enforcement officers from the criminal use of various matters. That was in the House bill, and we adopted it in the conference report.

Mandatory penalty for transferring explosive material knowing it will be used to commit a crime of violence. That was not in the President's bills, but it was in the Senate bill and it is in this bill.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Directions to the sentencing commission. We have that from the House, which we put in the conference report.

There are a number of other provisions we have put from the House bill into the conference report that range from exclusion of certain types of information, from wiretap-related definitions, detention hearings, protection of Federal Government buildings in the District of Columbia, study of thefts from armories, report to the Congress, et cetera, et cetera.

There are a lot of provisions that literally were not in the President's bills that are in this bill and were in the Senate bill and we were able to talk the House into putting in here.

So it is not just a habeas bill. If that is all this is, it is worth everything we can put into it. It will be one of the most impressive and important changes in criminal law in this century. Frankly, the other provisions will go a long way toward stopping and penalizing terrorist activity in America.

I have gone on and on. I know the Senator from California wants to speak, as do others. You can go on with this because there are so many other matters I would like to talk to. I heard the distinguished Senator from Delaware, for instance, saying the NRA and ACLU agree on a number of things here, or are opposed to a number of aspects of this bill for different reasons. Frankly, the reasons are pretty much the same. They are concerned about an oppressive Government, and they are concerned about Government activity that goes far beyond where it should go. They are concerned about civil liberties and, whether they are right or wrong, they both are concerned about those matters. They may look at things a little bit differently, but their concerns are pretty much the same.

For those who want to make this out as an NRA bill, that is just fallacious. Let me make some points. They were not happy with the Terrorist Alien Removal Act we put back into this bill. NRA did not want the designation of foreign organizations as terrorist groups. They were afraid some of their people might be designated. Exclusion of alien terrorists. They did not want that. These are major provisions that we put in here, and we did it in conference. We did it with House Members who are good people trying to do the best for the country. Funding for the ATF. They hate the ATF [Alcohol, Tobacco and Firearms] the agency of Government regulatory authority for the Secretary to impose taggants at all. The fact is, we have the authority to do that in this bill. I think these are all matters that need to be brought up.

There is one other thing I will bring to the attention of everybody. I believe that some of the major organizations in this country are certainly going to support this. I was really pleased to see the help that we have had and the positive work that we got from the Anti-Defamation League. They deserve a lot of credit. They have been very, very concerned about this. There are some who will not like this bill just because we do not have their particular ideas.

Well, I have made a commitment here to see that we resolve those programs in the future. We cannot do it in this context. It does not mean they will not be resolved. We have four State attorneys general of the various States who support this bill explicitly. The National District Attorneys Association supports this bill with everything they have. The Anti-Defamation League supports this bill. As far as I know, APAG supports this bill. They know the Jewish people have been targets of these terrorist activities, and they know it is not going to stop, and they know this bill will make a difference, and it could solve some of these problems. We have all of the survivors of the Oklahoma City bombing, and we have the Oklahoma Attorney General, who appeared at the press conference yesterday and made some of the most eloquent, hard-hitting, and strong remarks with regard to the support of this bill. We have the National Association of Attorneys General supporting this bill. Citizens For Law and Order support this. And you can go on and on.

There are those, I am sure, who may oppose this bill for one reason or another. But we have put together a very bipartisan, acceptable bill that will really make a difference against terrorism in this country and really will help this country to breathe a little bit easier—and, frankly, many other countries throughout the world, too, because of the provisions we have here.

This is not just a habeas corpus bill. But I will say it one more time. If that were all that it was, it is worth supporting. It would be a tremendous change, a really tremendous change in criminal law that I think would make a difference in the lives of many victims throughout the country, and I think it would stop some of the ridiculous approaches to law that have gone on far too long in a country where, really, the great writ was a great writ to allow people to get to a trial. The writ of habeas corpus we are talking about is a statutory writ. That statute needs to be modified by this bill so that we can stop the foolish game of frivolous appeals just because people do not like the death penalty.

I can understand if people do not like the death penalty. But they can make legitimate arguments against it. If they can convince a majority of the American people that the death penalty is a bad thing, I could live with that. But they cannot. The American people sense that it is a deterrent. They sense that it is something that has to be done, and they also sense that if the death penalty is imposed, it ought to be carried out, and it should not be made a charade as we have through these frivolous habeas corpus appeals through the years.

I yield the floor.

Mr. BIDEN. Mr. President, I am delighted to listen to the Senator. I know what is going to happen. I am going to respond to him, and we are going to hear somebody talking about delay. I have talked a lot less time than the Senator from Utah, who was worried about delaying passage of the bill. I think he should talk. I have been in this game before, and I know what is going to happen. I am going to respond to him an equal amount of time, and somebody is going to say I am delaying. I would like a record to be kept as to how long we have spoken. I have no intention of delaying this.

I am going to respond as briefly as I can and then yield the floor and, at a later date, introduce my amendments. Let me point out that you are looking at somebody who not only does not oppose the death penalty, I wrote the bill that added 57 new penalties.

So I am not opposed to the death penalty. I am not only not opposed to it, I authored the Federal death penalty legislation. And the bill that I authored is the reason why those people in Oklahoma are going to be able to get the death penalty in a Federal court, if in fact there is a conviction. That is No. 1.

Second, I disagree with the habeas corpus provisions that are in here. But I am not going to oppose the bill based on that. I am not going to offer amendments to change that.

So, as we say in the law, the red herring keeps being thrown up here by those who are opposed to the death penalty, and it is really about habeas. And it is not about that.

Third, those liberal Federal judges my friend is talking about, 57 out of the 100 of them are Republican liberal judges; 57 out of every 100 of them were appointed by President Bush and President Reagan; 57 out of every 100.

So, to the extent that they are liberal and not the majority of the court, it is a Federal court appointed by two Republican Presidents.

Just to clear some of the clutter away here, I also point out to you that there are some very tough provisions in this bill. I am not saying there are not. There are very tough provisions. My initial response was that the biggest weapon in here to fight terrorism was habeas corpus. That is an after-the-fact weapon, not a before-the-fact weapon. I am not as terribly optimistic as my friend from Utah. I believe we can stop terrorism. I believe we can stop terrorists. If the only thing I was to do here as a U.S. Senator was to clean up in the aftermath of terrorist acts and make the prosecution more available, then I would think I was

doing half my job. That is not question. I do not question for a moment that the victims of the Oklahoma bombing and their families very much want the habeas corpus provision. I do not question that. They are victims.

There are two things we are trying to do in this bill—deal with the victims of terrorism and prevent new victims. My point is habeas does nothing about preventing new victims. That should be our major thrust in my view.

Also, I point out that my friend from Utah says that the district attorney is going to seek the death penalty. Well, if in fact the Federal trial takes place, which is going on—if, in fact, there is a conviction and they get the death penalty—I hope to God he will not intervene and delay the death penalty by then going into State court to get a death penalty if we already get the death penalty in Federal court. That is another red herring. The idea that the State attorney general, the district attorney in Oklahoma, is saying he needs a change in State habeas corpus in order to put to death people who in fact committed the Oklahoma bombing, they will already be dead. They will already be dead, if they are convicted, because they will be convicted under a Federal law, and they will be hung or injected with a lethal injection under Federal law. They will be dead. I surely hope he will not delay their death by deciding to have a whole new trial in State court. Again, it sounds reasonable when he says it to you. But when you parse through it, it makes no sense.

Why would you try someone, and then delay the imposition of the death penalty after they have already been convicted and are about to be put to death?

The other thing I would say is that there are some taggant provisions in here. I compliment my friend on the taggants. Everyone should know what taggants are. They are little tiny particles that they put in the manufacture of weapons, of bombs, of material that goes into bombs. So when the bomb goes off, the easiest way to think of it as a lay person, if somebody has a little Geiger counter, metal detector, they go around and pick up these taggants. They blink. They make sounds. So they can identify. Then they can look and see the taggant, and they can put it under a microscope and find out that this taggant, this material used in this bomb, was made in Dover, DE, or Sacramento, CA, at such and such a place, such and such a batch, and such and such a time. Then they can trace who purchased that batch of material, and they trace it back. And they find the guy who put the bomb together. That is what a taggant is. That is what it means.

We had a very strong provision. The House had a weak provision. But to the credit of my friend from Utah, last night he put in the process that guarantees there will be taggants because everyone should know this: That, although there will be a study, the study once completed automatically goes into effect. So anyone who objects to it will have to get a majority vote in the House and the Senate to defeat it. That is a very positive thing he did; very positive thing. And I compliment him for it.

Although it will delay by 28 months what we wanted to do, it will make it likely that that automatically will be the law, and it will require affirmative action to knock out the use of taggants.

The other point that I want to make is that many of the things that the Senator said—all of the things he said—are accurate about the additional provisions in the law. But if I can make an analogy, it is kind of like giving a police officer a revolver that has six chambers in it and giving him one bullet. You are giving the revolver. That is good. You give him one bullet. That helps protect. But we should give him the other five bullets.

My friend cited as one of the sterling objectives and achievements of this legislation as one example that would create a new crime, a new Federal crime—terrorism—that says that providing material support for terrorists is now a Federal crime. That is good. That is the gun and one bullet. But guess what we do? We say that you cannot use a wiretap under Federal law to go after people who have provided material support for terrorist groups. We do not include that in the list of crimes for which you can get a wiretap under Federal law. The Senate did. The House did not. So we do not include that. So we give them a gun. We give them the bullet. But we do not give them the full chamber. It is positive; agreed. But why in the Lord's name would you allow people to get a wiretap for bank embezzlement and not a wiretap for materially supporting a terrorist organization? Why would you do that? I do not understand that.

Lastly, I would point out that—there is much more to say but I am not going to take as much time as my colleague because my friend from California has been standing here for all of this time—the Senator went into great detail about human pathogens and chemical and nuclear and biological warfare. He is right. We added those crimes. We added enhanced penalties. But guess what we did? We said, if it is a chemical or biological weapon, you cannot do what you can do for nuclear weapons. You cannot bring in the only people who know about them; the military—the only people trained with the equipment to dismantle them, the only people who know how to identify them. You cannot bring them in for chemical, or for biological weapons. But you can for nuclear. Again, an example of a half-step that is very positive. It is in the right direction. But then you make it not useless but incredibly difficult to enforce, or to deal with because you cannot call in the experts.

It is like that movie you all saw, that one with Dustin Hoffman, and the danger that breaks out in the town, "Outbreak." Let us assume a terrorist under this law uses a biological weapon. You are not going to have Dustin Hoffman flying in with the people in helicopters who are military who can deal with this. They are not going to be allowed to deal with it because we prevent them from dealing with it. We do not allow them to. The local cops are going to have to take care of it. You are not allowed to bring them in. Hollywood is going to have to revamp their scripts.

I mean, see again, a positive step but a half tentative step. And, when you are going to close the deal because a few people disagree with it, we back off. We back off.

I have much more to say. I will withhold the rest of my comments but conclude by saying there are two pieces here. There is dealing with the apprehension of, the conviction of, and the imposition of a penalty on those who commit terrorist acts. That is very important. We do some of that in here. But there is an equally important aspect of preventing and apprehending before they commit the heinous act, those engaged in terrorist activities. We do not do a very good job of that in here.

I yield the floor, and I beg my colleague to yield and not take the floor because I will have to respond to him—and he is talking a lot more than I am—and let my friend from California proceed.

Several Senators addressed the Chair.

Mr. HATCH. Mr. President, I will only take a moment, with regard to posse comitatus. In true emergency situations the President has full authority to resolve those and use the military if he wants to. The reason the President would want us to put posse comitatus language in there is because it takes him off the hook. The fact is, the President has that authority.

Mr. BIDEN. I will respond to that later, Mr. President.

The PRESIDING OFFICER. The Senator from California.

THE ILLEGAL IMMIGRATION BILL

Mrs. FEINSTEIN. Mr. President, both the Senator from Utah and the Senator from Delaware are certainly hard acts to follow.

I want to comment on this bill, but before I do so I want to make a public appeal to the majority leader to please, please, please bring back on the floor the illegal immigration bill. This bill, I believe, has widespread bipartisan support. But more fundamentally, I cannot tell you how important this bill is

VOL
142
PT
6
AP
15
—
24
1996
UMI

to the safety and well-being of the people of California.

Right now on the border you have miles without a Border Patrol agent. Right now, for both Senator BOXER and I, Border Patrol people come in and tell us how they have rocks thrown at them, how they are concerned for their own safety.

A few weeks ago you had a major freeway accident with 19 people killed, illegal immigrants in a van. More recently you had an incident, publicized all over the United States, of an unfortunate law enforcement action which involved unrestrained force against illegal immigrants who pummeled on a freeway, hitting other automobiles, trying to get away from a sheriff's officer in pursuit.

This is the State that passed Proposition 187, which was a call for help from the Federal Government to enforce the law and change the law and stop illegal immigration.

Mr. President, there is so much that this bill—worked on so hard by Senator SIMPSON, worked on I think on both sides of the aisle in the subcommittee and in the full committee—does. Let me just say it adds 700 Border Patrol agents in the current fiscal year; 1,000 more in the next 4 years. It takes the total number of agents up to 7,000 by 1999. That is double the force that was in place 3 years ago. Every border State wants that.

It establishes a 2-year pilot project for interior repatriation. When somebody comes across the border, they are not just returned to the other side of the border, but they are returned deep into the interior to stop them from coming right back again.

It adds 300 full-time INS investigators for the next 3 fiscal years to enforce laws against alien smuggling, and it adds alien smuggling and document fraud, a big problem, as predicate acts in RICO statutes, something that Federal prosecutors have asked for.

It increases the maximum penalty for involuntary servitude, to discourage cases like the one we saw very recently where scores of illegal workers from Thailand were smuggled in and forced to work in subhuman conditions, against their will, in a sweatshop in southern California.

Mr. President, this bill is critical. It is an important thing for border States and particularly for the State of California. If Proposition 187 was not the bellwether that said, "Federal Government, do your job," I do not know what else will be.

So I earnestly and sincerely, please, I beg the majority leader to bring this bill back on the floor, let us debate it, let us resolve it, let us pass it, let us get it signed, and let it get into law in the State of California.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report

Mrs. FEINSTEIN. Mr. President, I thank the distinguished chairman of the Judiciary Committee for his work on this bill and the distinguished ranking member for his work on this bill.

I am particularly disappointed that the House succeeded in gutting the commonsense prohibition on distributing instructions for bomb making for criminal purposes. I will talk about that in a minute. But the good news is that the conference report also restored good provisions to this bill. I am especially gratified that the conference committee restored my amendment which gives the Secretary of Treasury the authority to require taggants for tracing explosives.

The Senator from Delaware, the distinguished ranking member, just explained what taggants are: simple little coded plastic chips that are mixed with batches of commercially available explosives. They allow law enforcement to trace a bomb that has exploded, just like one would trace a car by knowing the license plate number. That is exactly what taggants are.

It was studied 16 years ago. Everybody said go ahead with it. They have been available. And it has now happened.

Incidentally, it took the Unabomber 18 years to, quite possibly, get caught. Three people have been killed, 23 people have been wounded, in bombs that really plagued nine States. This time could have been cut in half, perhaps, if we had tagging of explosives.

Unfortunately, the bill completely exempts black powder from either tagging or study requirements. I must say, how can a bill even refute the ability to study tagging of black powder? The amendment I submitted on taggants essentially provided for its addition, taggants' addition, where explosives would be bought in larger amounts. But, where small amounts of black powder were purchased to use in antique guns and for small arms, the taggant would not be included.

The NRA opposes this. What the National Rifle Association is clearly saying is they do not want any taggants in black powder explosives period, or even a study of it. Can you imagine the power of an organization that is able to successfully say we will not even study the impact of tagging black powder, which is also used as the triggering device on major explosive bombs that are used by terrorists? I have a very hard time with that.

I heard the distinguished chairman of the Judiciary Committee just say the NRA opposed excluding alien terrorists from this country. The NRA opposed excluding alien terrorists from this country—unbelievable. I think I just heard him say the NRA opposed a prohibition on fundraising in this country by terrorist groups.

Let me tell you something, if anybody believes that Hamas is in this country raising money to use it for charitable purposes, I will sell you a bridge tomorrow. I will sell you a bridge tomorrow. That is just unbelievable to me.

Nevertheless, I thank the chairman of the Judiciary Committee for standing Utah tall in the conference committee on the issue of taggants. I would like to thank Senator BIDEN and Senator KENNEDY for their help as well. I think this is a very important step forward and I do not mean to diminish it in any way.

I also must say that I view the habeas corpus reform also as an important step forward. Abuse of the writ of habeas corpus, most egregiously by death row inmates who file petition after petition after petition on groundless charges will come to an end with the passage and the signature of this bill. I believe it is long overdue.

For anyone who believes that habeas is not abused, let me just quickly—because it has been thrown out before, and I know others want to speak—speak about the Robert Alton Harris case. It, I think, is a classic case on what happened with Federal habeas corpus, and State habeas corpus.

Mr. Harris was convicted in 1978 for killing two 17-year-old boys in a merciless way, eating their hamburgers, and then going out and robbing a bank.

His conviction became final in October of 1981. Yet, he was able to delay enforcement of the California death penalty capital sentence until April 21, 1992—for 14 years.

Over that time, he filed no fewer than 6 Federal habeas petitions and 10 State petitions. Five execution dates—five execution dates—were set during the pendency of his case. In all, Harris and his attorneys engineered almost 14 years of delay and piecemeal litigation by misuse of habeas corpus, and, I might say, it was 14 years of unresolved grief for the parents of the children.

I think cases like that one point out the need for habeas corpus reform, and, frankly, I want to commend the Judiciary Committee, and in particular the chairman, for seeing that that is included.

Senator HATCH also just mentioned the pathogens incident. In the Judiciary Committee, we had some full hearings, that were rather chilling to many of us, on how easy it is to obtain human pathogens.

I cannot help but note that the Chair is a distinguished physician and surgeon who knows this area well. But what we found out, essentially, is that one person—namely, Larry Wayne Harris—managed to order and to receive samples of bubonic plague through the mail less than a year ago.

Incredibly, although he was caught, he could be charged with only wire and mail fraud, because there were no laws on the books prohibiting the possession of bubonic plague pathogens. In fact, he made up a letterhead and sent it in to a lab, asked to purchase the plague bacteria, and it was sent to him, no questions asked. So this bill clearly takes care of that problem.

It adds that any attempt, threat, or conspiracy to acquire dangerous biological agents for use as a weapon are crimes punishable by fines or imprisonment, up to life imprisonment.

It also asks the Secretary of HHS to establish and maintain a list of biological agents which pose a severe threat to the public safety, and it directs the Secretary to establish enforcement and safety procedures for the transfer of human pathogens.

As a matter of fact, a number of us wrote a letter to the President and urged that emergency action be taken quickly because of the potential ability of people to acquire these bacteria prior to the enactment of this statute.

I want to also express my thanks that fundraising by terrorist organizations will be prohibited in the United States of America. I think it is extraordinarily important that this take place.

I am also very pleased that there is a section, known as 330, of the conference report—which, as a matter of fact, I offered—which prohibits the United States from selling weapons and defense services to countries that the President determines are not fully cooperating with U.S. antiterrorism efforts.

This is a commonsense provision, and I am amazed that there has been nothing in law that meets it. But there certainly is no reason the United States should continue to provide weaponry to any country that refuses to do all it can to combat terrorism.

My big disappointment—and I think because the Presiding Officer is relatively new to this body, he would be interested to know—is that on the Internet today, there is a volume called The Terrorist Handbook. The Terrorist Handbook describes how you can make bombs, whether those bombs are in baby food jars, in electric light bulbs or in telephones. To my knowledge, there is no legal use for a bomb in a baby food jar, for a bomb in a light bulb, or for a bomb in a telephone. You know that once you teach somebody how to do that, their only use of the knowledge is to slaughter and to kill.

So I have a very hard time understanding why simple language, which says if you knowingly publish material with the intent of enabling someone to commit a crime, shall not be permitted.

Let me quote the February 2, 1996, New York Times Metro section. Headline: "3 Boys Used Internet to Plot School Bombing, Police Say."

Three 13-year-old boys from the Syracuse area have been charged for plotting to set off a home-made bomb in their junior high school after getting plans for the device on the Internet. The boys, all eighth graders at Pine Grove Junior High School in the suburb of Minoa, were arrested Wednesday by the police. "There is no doubt that the boys were serious," the captain said, adding that they've recently set off a test bomb in a field behind an elementary school and that it started a small fire.

This cartoon is exactly what is happening all across the United States with young people. The cartoon is a youngster, sort of a Dennis-the-Menace type sitting at his computer, wrapping dynamite and attaching a detonation and clock device to it, while his mother is on the telephone saying "History * * * astronomy * * * science * * * Bobby is learning so much on the Internet."

I have another article. The Los Angeles Times, just this past Saturday, April 13: "Four Teens Admit to Bombs in Mission Viejo School Yard."

The boys, all 15- and 16-year-olds, told investigators they learned how to build the small high-pressure explosives from friends who got it off the Internet. According to the chief, who is then quoted, "It's something they're getting off the Internet. Any time you mix volatile chemicals and have a little bit of knowledge, you put yourself and others in jeopardy."

A third article, Orange County Register, "2 Home-Made Bombs Dismantled in Orange" County.

Authorities theorize that teens are learning how to make the 2-liter bottle devices on the Internet. Ladies and gentlemen, how far do we wish to push the envelope of the first amendment?

Let me tell you what is also in this "Terrorist Handbook." People say, "Well, we have a first amendment right." There is a part on breaking into a lab. This "Terrorist Handbook," which we downloaded yesterday on the Internet, let me quote from it. The first section deals with getting chemicals legally. This section deals with procuring them.

> The best place to steal chemicals is a college. Many state schools have all of their chemicals out on the shelves in the labs, and more in their chemical stockrooms. Evening is the best time to enter a lab building, as there are the least number of people in the building and most of the labs will still be unlocked. One simply takes a bookbag, wears a dress shirt and jeans, and tries to resemble a college freshman. If anyone asks what such a person is doing, the thief can simply say he's looking for the polymer chemistry lab or some other chemistry-related department other than the one they are in.

Then it goes on and it tells them how to pick the lock to break into the chem lab. It tells them what kind of chemicals to steal from the chem lab, and then to go out and how to make the bomb—baby food bomb, telephone bomb, light bulb bomb.

We know people are following this. Yet this conference committee deleted—deleted—a simple amendment which said, if you knowingly publish this kind of data with the view that someone will commit a crime, that is illegal—that is illegal. The conference committee voted it down, I would take it, at the behest of the National Rifle Association. Why? I cannot figure out why. I cannot to this day figure out why.

Let me give you one other quote that was on the Internet. It tells you where to go.

> Go to the Sports Authority or Hermans sports shop and buy shotgun shells. At the Sports Authority that I go to you can actually buy shotgun shells without a parent or adult. They don't keep it behind the little glass counter or anything like that. It is $2.96 for 25 shells.

Then the computer bulletin board posting provides instructions on how to assemble and detonate the bomb. It concludes with:

> If the explosion doesn't get 'em, then the glass will. If the glass doesn't get 'em, then the nails will.

This is what, by rejecting my simple amendment, the conference is saying is permissible on the Internet.

Let me give you one last thing so that it is, hopefully, indelibly etched in everybody's mind what we are doing. Following Oklahoma City, this was on the Internet.

"Are you interested in receiving information detailing the components and materials needed to construct a bomb identical to the one used in Oklahoma?" The information specifically details the construction, deployment, and detonation of high powered explosives. It also includes complete details of the bomb used in Oklahoma City and how it was used and how it could have been better.

How far are we pushing the envelope of the first amendment? What I have tried to show is that not only is this kind of thing with knowledge, with intent, on the Internet, but that youngsters are using it. They have used it within the last 2 weeks in New York, in California, and they have used it to do bodily harm to others.

So this is my big disappointment in this bill, because I believe we have as much to fear from domestic terrorism, as I think the Unabomber has pointed out, as we do from foreign terrorism. It begins right here at home. It begins with a system that lets everybody do anything they want, including telling you how to steal, break in and steal the chemicals, make the bombs, go out and deliver them.

I believe it is the job of this Congress to try to do something about it. With that in mind, I will support the amendment to recommit this to committee. I realize that that is a useless gesture, but just to make the point.

VOL
142
PT
6
AP
15
—
24
1996
UMI

I will vote for this legislation and I will at the earliest time possible reintroduce my amendment on another bill to take another crack at saying the time has come for the United States of America to say, indeed, everything does not go. There are some restrictions and some things that we are going to do to stop criminality in this country. I thank the Chair and I yield the floor.

Mr. THURMOND. Mr. President, I served as a conferee representing the Senate, and I am pleased that the House and Senate conferees have resolved the differences between our respective bills to combat terrorism. We must send a clear message to those who engage in this heinous conduct that the American people will not tolerate cowardly acts of terrorism, in any fashion—whether their source is international or domestic.

It is important that the Congress work closely with Federal law enforcement to provide the necessary tools and authority to prevent terrorism. Yet, I am mindful that an appropriate balance between individual rights guaranteed in the Constitution and the needs of law enforcement must be achieved as we meet our responsibility. The American people appropriately look to their government to maintain a peaceable society but do not want law enforcement to stray into the private lives of law-abiding citizens. The balance is to provide reasonable authority to law enforcement to investigate and prevent terrorism while respecting the rights of the American people to form groups, gather and engage in dialog even when that dialog involves harsh antigovernment rhetoric.

Mr. President, it is my belief that this conference report will enhance law enforcement capabilities to combat terrorism while respecting our cherished rights under the Constitution. This legislation includes provisions to increase penalties for conspiracies involving explosives and the unauthorized use of explosives, enhance our ability to remove and exclude alien terrorists from U.S. territory, provide private rights of action against foreign countries who commit terrorist acts, prohibit assistance to countries that aid terrorist states financially or with military equipment, and enhance prohibitions on the use of weapons of mass destruction. Also, there are a number of other measures designed to combat terrorism which were included and detailed earlier by the able chairman of the Judiciary Committee, Senator HATCH.

Clearly, one of the most important sections included in the conference report is language designed to curb the abuse of habeas corpus appeals. In fact, we heard from families of the Oklahoma bombing victims who demand that habeas reform be included to make this a truly successful bill.

Mr. President, for years, as both chairman and ranking member of the Senate Judiciary Committee, I have worked for reform of habeas corpus appeals. The habeas appellate process has become little more than a stalling tactic used by death row inmates to avoid punishment for their crimes.

Unfortunately, the present system of habeas corpus review has become a game of endless litigation where the question is no longer whether the defendant is innocent or guilty of murder, but whether a prisoner can persuade a Federal court to find some kind of technical error to unduly delay justice. As it stands, the habeas process provides the death row inmate with almost inexhaustible opportunities to avoid justice. This is simply wrong.

In my home State of South Carolina, there are over 60 prisoners on death row. One has been on death row for 18 years. Two others were sentenced to death in 1980 for a murder they committed in 1977. These two men, half brothers, went into a service station in Red Bank, SC, and murdered Ralph Studemeyer as his son helplessly watched. One man stabbed Mr. Studemeyer and the other shot him. It was a brutal murder and although convicted and sentenced to death these two murderers have been on death row for 15 years and continue to sit awaiting execution.

The habeas reform provisions in this legislation will significantly reduce the delays in carrying out executions without unduly limiting the right of access to the Federal courts. This language will effectively reduce the filing of repetitive habeas corpus petitions which delays justice and undermines the deterrent value of the death penalty. Under our proposal, if adopted, death sentences will be carried out in most cases within 2 years of final State court action. This is in stark contrast to death sentences carried out in 1993 which, on average, were carried out over 9 years after the most recent sentencing date.

Mr. President, the current habeas system has robbed the State criminal justice system of any sense of finality and prolongs the pain and agony faced by the families of murder victims. Our habeas reform proposal is badly needed to restore public confidence and ensure accountability to America's criminal justice system.

We have a significant opportunity here to fight terrorism and provide certainty of punishment in our criminal justice system. The preamble to the U.S. Constitution clearly spells out the highest ideals of our system of government—one of which is to "insure domestic tranquility." The American people have a right to be safe in their homes and communities.

I am confident that this antiterrorism legislation will provide valuable assistance to our Nation's law enforcement in their dedicated efforts to uphold law and order.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first, I would like to thank Senator DOLE for setting aside the immigration bill, the illegal immigration bill, temporarily so we can pass this terrorism conference report.

I might mention to my colleagues this is a conference report and is not really amendable. It does not mean we do not have parliamentary procedures and it does not mean people cannot delay or procrastinate or mean we cannot say we can send it back to the conference with specific amendments. They have the right to do so. But I am going to urge my colleagues not to do so. If we do so, we are not going to finish this bill. I would like to finish this bill this week.

I would really like to compliment my colleagues, Senator HATCH, and also Senator BIDEN, as well as our colleague in the House, Chairman HYDE, for their work in the last couple of weeks in melding the two bills together.

This is a compromise bill. I do not make any bones about it. It is probably not perfect. But it is a good bill, and it needs to pass, and it needs to pass this week. If we recommit this bill, we are not going to get it done this week. So I urge my colleagues, it might be tempting and it may be politically appealing, for whatever reason, to recommit this bill and to score some points or run against the NRA or whatever, but I urge them to set that aside.

Let us pass this bill. This is a positive bill. It is a good bill. It is a bill that has very, very strong support and a lot of emotional connections in my State. I think everybody is well aware of the fact that this Friday is the first anniversary of the Oklahoma City bombing that took 168 innocent lives of men, women, and children. The families of those victims have urged us to pass this bill. They have admitted maybe this bill is not perfect, but they think it is a good bill. I have met with several of the victims and families of the victims. They said, please pass this bill.

The No. 1 provision that they want in this bill is the so-called habeas corpus reform. They want an end to these endless appeals of people who have been convicted of atrocious crimes and murders. An end to abusing the judicial system, abusing taxpayers, filing frivolous appeals, endless, endless appeals.

In Oklahoma actually several were wearing buttons that had a 17 with a line through it. They were referring to Roger Dale Stafford. In 1978, he murdered nine individuals in my State. First he murdered the Lorenz family—he was a sergeant. Sergeant Lorenz saw a stopped car with the hood up. So he pulled over and stopped to help Stafford. Lorenz was with his wife and his child. Roger Dale Stafford murdered him, murdered his wife, and went back into the car and murdered their son; and then shortly after that murdered six people. Most of them were kids in a Sirloin Stockade restaurant. He herded them into a freezer or refrigerator and murdered them in cold blood.

That was in 1978. His execution did not happen until last year, 1995. He was on death row for 17 years. The families of the victims of the Oklahoma City bombing have said we need habeas corpus reform. This is a Federal crime. They will be tried under Federal statute. The death penalty does apply. If convicted, they would like to have the sentence carried out swiftly, not 20 years from now. They feel very, very strongly about it.

I want to thank my colleagues for working over the last couple of weeks when the Senate was in recess. We do not usually do that. It does not happen very often around here. Usually we have a break or recess for whatever reason and staffs and Senators take off and not a lot of work is done. But this time was different.

I also again want to thank Senator DOLE and also Speaker GINGRICH because I personally appealed to both and said I would really like to get this bill up and passed through both Houses of Congress by this anniversary date. I would like to go back to Oklahoma on Friday and tell the families that, yes, we have passed this antiterrorism bill.

It has a lot of provisions, a lot of good provisions. I realize in the legislative process we make some compromises. It has been pointed out maybe there are a couple of provisions that should not be in or have been left out. My colleague from Delaware mentioned expanded wiretaps. A lot of people in my State have real second thoughts about that. I do not know. I supported it when it passed the Senate. It may be a good provision. Maybe I was wrong. I am not sure.

I am not an expert in that area, but I know that habeas corpus reform, or death penalty reform, needs to pass. That is the foremost thing on the minds of the victims of the Oklahoma tragedy. If we send this back to committee, we will not be able to pass this bill this week. I will be more than disappointed if that happens.

We have a couple of other provisions that are very important to the people of Oklahoma. We put in a provision, and I want to thank my colleagues, both Senator HATCH and Senator BIDEN for supporting this provision, that will allow and actually provide for closed circuit TV viewing of the trial proceedings in the Oklahoma bombing case. Unfortunately, the trial was moved to Denver. In Denver they have a courtroom, I believe, that holds 130 people. The judge said we will have an annex for audio, so in total, maybe 260 people including press would have the opportunity to attend or hear the trial. Frankly, that is not enough. That is not near enough. Not to mention the fact that the individuals and families would have to travel over 500 miles, and be away from the rest of their family. It would be an enormous inconvenience. We have raised some money to assist them. I am sure some families would like to personally attend the trial and we will try and help them financially, as well.

I thank the Attorney General for helping in that manner. She wrote me a letter saying they were contributing the travel fund. I asked the Attorney General's assistance so that those who could not travel to Denver could view the trial through closed circuit TV coverage. We think that a decision to permit this by the court is discretionary and it should happen. Unfortunately, she has declined to help us with the closed circuit TV provision. This bill says that the court must provide closed circuit coverage of the trial for victims and their families. It will be closely monitored. The court will have complete control over the coverage. This is not for public viewing but for the families, so they can view the trial without leaving their home, without leaving the rest of their families, maybe without having to take several months off from their jobs or their workplaces. This is going to be a very traumatic time for them and it would be much better for them as individuals to be able to view this at home and still be able to be with their family members and friends instead of dislocating them for several months, sending them to Denver, and only a very small percentage of them being able to even be present in court, and be more than frustrated by being so close yet so far away because they would not have access to the proceedings in the trial.

I am appreciative of this one provision, and again I thank my colleague from Utah and my colleague from Delaware for inserting this provision. There is a comparable provision in the House bill. This is most important to the families of the victims of the Oklahoma City bombing.

Finally, I want to comment on one other provision. This bill provides for mandatory restitution for victims of Federal violent crimes, property crimes, and product tampering crimes. This is a measure that we have spoken about on the floor of the Senate countless times. This is a measure that has passed the Senate three or four times. This is a measure that has bipartisan support. Senator BIDEN, Senator HATCH, myself, and others have worked to put this in. We have passed it in various crime control packages in the past. Unfortunately, when we have had a conference it has not remained in the conference package. This is a most important provision where we do give respect, treatment and assistance for the victims of crime—mandatory restitution for victims. We should pay more attention to victims instead of to the criminals, as we have done in the past. I am most appreciative. This is a very important provision.

I think our colleagues have put together a good bill. It may not be perfect. I have heard my colleague from Utah say, well, as far as some of the other provisions, maybe the provision that was alluded to by our colleague from California dealing with Internet and directions for explosives, that may be a good provision. I may well support it. It does not have to be in this package. I hope that if there are other good provisions not included in this bill, we can garner overwhelming support in the Senate, we can take them up separately and pass them this year. I would like to think that we have a window of opportunity of a couple of months where we can pass substantive legislation without playing politics. I hope we do not play politics with this bill.

I keep hearing statements about the NRA and others, there are a lot of people that are concerned about expanding wiretap authority and they do not have anything to do with the NRA. Maybe that is a good provision. I am not debating that. Maybe it should be debated, but debate it separately. If we put some of those provisions in, there will be problems in the House and we will not pass this bill this week. To me that would be a real shame. That would be something that we should not do. This is an important bill. This is a good bill, a bill that should pass, that should pass tonight. I would hope that my colleagues would join together, resist the temptation to send this back to conference, knowing it would delay it. Hopefully, they would join us in saying, "Let's pass this bill," and if we want to consider separate measures dealing with taggants or anything else that was originally in the House bill or originally in the Senate bill, or maybe originally in the President's bill, we can consider that independently.

This is a conference report. Most of our colleagues are aware of the fact we do not usually amend conference reports, and if we do, we could put unnecessary delay on this legislation which would be a serious mistake. On behalf of the victims of the tragedy that happened on April 19, 1995, in Oklahoma City, on behalf of the families and the countless number of people who were impacted directly, I urge my colleagues, let Members pass this bill, pass this bill tonight, no later than tomorrow, get it through the House, as well, so we can let them know that we have listened to them, we have heard them, and we have passed a good antiterrorism bill with real habeas corpus reform, with real death penalty reform, with a provision allowing them

VOL
142
PT
6
AP
15
—
24
1996
UMI

to have closed circuit TV viewing of the trial. I think they will be most appreciative. I know they will be most appreciative.

I yield the floor.

Mr. INHOFE. Mr. President, I have listened to the debate not just today but the debate on this for the past year. I remember so well the incident, when my fellow Senator from Oklahoma, Senator NICKLES, and I were in Oklahoma City right after it happened for the days following that, talking to families and the ones who actually had their own loved ones that were still in the building, not knowing whether they were alive or dead.

It is very difficult to get the full emotional impact watching TV of some remote place like Oklahoma from outside. When you are there, you feel differently about it. This is why Senator NICKLES and I have such strong feelings about this bill.

There is some opposition in this bill even in the State of Oklahoma by many people who felt that perhaps the wiretapping provisions went a little bit too far, the invasion of civil rights and privacy, perhaps was a little too strong. Many of my conservative friends did not want me to support it.

I was very pleased when the conference came out with its report. I believe the bill we have today is better than the House bill was. It is better than the Senate bill that we sent to them. I feel much stronger about it now and much more supportive than I did before. I think Senator NICKLES has covered most of the things that people in Oklahoma are concerned with. I can just tell you it is not a laughing matter that these people do want an opportunity. These are not wealthy people. They feel they should participate, at least be able to view the trial taking place. That is something that is in this bill. It will allow them to do it. Many of them could not sustain the hardship of making a trip to Denver.

There are a lot of things in here that I think are better than they were when we sent it over. The one area I want to concentrate on and just emphasize again is the habeas reform. My concern, and in fact, I can tell you, if that had been taken out I probably would have opposed the bill. Two months after the tragedy, the bombing tragedy in Oklahoma City, we had the families of the victims up here, in Washington, DC. I personally took them to many Senators' offices. They expressed to them that of all the provisions that would come out in an antiterrorism bill, the one that was the most significant to them was the habeas reform.

It happened to coincide with something that Senator NICKLES and I are very familiar with, a murder that had taken place 20 years ago, by a man named Roger Dale Stafford. Roger Dale Stafford murdered nine Oklahomans in cold blood. He sat on death row for 20 years. We just finally carried out that execution. These families are looking and saying, "Here is a guy that sat on death row. He gained over 100 pounds, so the food was not too bad. He was in an air-conditioned cell and watched color TV." They are thinking about what happened to their own members of their family. I look at it behind that. If you get someone with a terrorist mentality, and particularly, someone, perhaps, from the Middle East who has a different value on life than we do, if he is looking at the down side and saying, should I do this act, should I perform this act, and the worst thing that can happen to me is that I will sit in an air-conditioned cell and watch color TV for 15 years, punishment ceases to be a deterrent to crime.

So I think that is a very significant provision that has to be saved. I think any chance on sending this back might jeopardize the chances of having that type of reform. Again, that was the one thing that was in this bill that the families of the victims in Oklahoma said we really have to have; that is the one thing that has to be in there that is going to give us any relief at all. Once the person is apprehended and the trials and sentence are over, and if it is an execution, they want to go ahead and go through with it and not have the perpetrator of the crime that murdered their families sitting on death row for most of their lifetimes.

So I think this is a very good bill. I will just repeat an emotional appeal from the victims and families of the victims in Oklahoma. Let us get this passed and let us get it passed before April 19, on Friday. It is very, very important for us, and I hope we move along on this. We have been considering this for quite a period of time. We started right after the bombing. So we have had adequate time to be deliberative—as deliberative as this body is famous for being. I think it is time to go ahead and pass it.

I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of the antiterrorism conference report.

First, it is with great sadness that we approach the first anniversary of the bombing in Oklahoma City. It was truly a tragic event carried out by premeditated and dreadful murderers. I just hope that the people that carried out that act get the justice they so deserve.

Mr. President, one of the most important reforms made by this bill are those reforms to our death penalty procedures. For too long, murderers have been on death row, filing appeal after appeal, in the hopes of finding some small legal loophole—anything they can find that will nullify their sentence.

The people of this country are sick and tired of murderers being put on death row and then sitting there, as Senator INHOFE said, watching television, getting fat, and at an enormous cost to the American taxpayers.

Mr. President, since the death penalty was reestablished in 1977, over 400,000 people have been murdered. But only 200 have been executed. This is hardly a message that our justice system is swift or sure to those that break the law.

In my home State of North Carolina, we have over 100 people on death row, with an estimated cost of close to $50,000 a year to keep them there—per person. Yet, in the last 16 years, only 5 people have had the death sentence carried out in North Carolina, with 100 waiting. There have been delays, delays, and more delays, simply using one loophole behind another. Simply, the executions have not been carried out, at an enormous cost to the State of North Carolina for attorneys to fight these endless appeals.

In the United States, as a whole, there are over 2,700 people on death row. Over half have been there longer than 6 years. Further, of those on death row, over half were on probation or parole when they were arrested for murder. What does this say about the justice system?

Is it any wonder that crime has increased 41 percent in the last 20 years? Is it any wonder that violent crime has increased by 100 percent in the last 20 years? Our judicial system has been made a mockery by those who set out to break the law.

For those that carried out the Oklahoma City bombing, they probably never thought they would get caught. Fortunately, and luckily, with good police work, they were caught. But they probably believe that they can beat the system. I hope not, but I am sure they believe it. They probably think they can make a mockery of the justice system, as so many others have. Certainly, we will be hiring the most expensive lawyers out there to help them to beat the system.

In this country, we need to reestablish a respect for the law. Criminals need to know that if they commit murder, they will receive the death penalty. And, more importantly, they need to know that it will be carried out, and they will not be held on death row with endless delays.

With this bill, we finally have broken the logjam on the issue. We keep passing bill after bill that increases penalties and provides new capital offenses; yet, we do nothing to reform our justice system to see that the punishment is carried out.

Finally, we have done something to end the frivolous appeals filed by death row inmates.

Mr. President, I support this conference report. I thank Senator HATCH,

and others, who have pushed death penalty reform to the forefront in this bill.

I yield the floor.

Mr. BIDEN. Mr. President, I hope both of my friends from Oklahoma and my friend from North Carolina—speaking to my friends from Oklahoma—understand that we do not want the delay in this bill. This bill got delayed in the House of Representatives for close to 6 months. I did not hear people coming to the floor with me and saying, "Where is the bill, where is the bill, where is the bill, where is the bill?" Now we are told to make this bill workable, and we should not attempt to do better.

I cannot believe the Senator from North Carolina would support a provision allowing, for example, someone to be taught how to make another fertilizer bomb to blow up another Federal building—maybe this one in North Carolina—and maybe learn how over the Internet. He would not want that to happen. Yet, he is probably going to vote against adding that provision back into the bill. He will probably vote, "No, I will not send it back to the conference and have them include that provision."

We had a provision saying you cannot teach people how to make fertilizer bombs, plastic bombs, and baby food bombs on the Internet, when you know the intent is for that person to use it. Yet, they are all going to stand here and vote against me on that. I find that fascinating.

I hope the folks in every one of our districts remember this. They are going to vote against me when I say we want to prevent future Oklahomas. We want to take care of those victims of Oklahoma and make sure retribution is had. That is why the crime bill I authored set the death penalty for it. And there would not even be a death penalty had President Clinton's crime bill not passed. Those people in Oklahoma would not be able to get the death penalty.

Some of my colleagues voted against the crime bill, and now they are hailing the death penalty. The only reason why those people are being tried and, if convicted, will get death, is because of the crime bill they voted against. I find this kind of fascinating logic going on here.

The third thing I point out, and that was tried in Federal court—and then I will yield to my friend from Georgia, who has a very important amendment or very important motion to make—I also point out that we should be worried about future victims. Future victims.

The comment was made—and a legitimate comment—by one of my colleagues a moment ago, when he said, "On behalf of the victims of the bombing in Oklahoma, please pass this bill." On behalf of the tens of millions of Americans who may be the next victims, on behalf of them, please give the police the authority they need to enhance their ability to prevent future Oklahomas by allowing them to wiretap these suspected terrorists under probable cause, just like we do the Mafia. What is good enough for the Mafia ought to be good enough for a bunch of whacko terrorists.

So not only mourn those who died, which I do, but pray for those who are living that they continue to be able to live. I mean, how in the Lord's name can we, after Oklahoma, stand here on the floor and vote against the motion I predict they will vote against which says you cannot teach someone how to make a fertilizer bomb on the Internet when you know it is going to be used? They are going to vote against that. What about future Oklahomas?

I see my friend from Georgia is ready to proceed. So I will yield the floor for the purpose of his making his motion after I make a concluding statement.

In each of these amendments that I offered yesterday, Chairman HYDE in the transcript of yesterday's proceedings said—this is what this is all about—and I quote. He said:

> Mr. Chairman, [Chairman HYDE speaking] may I say something? Mr. Chairman, let us cut to the chase. I agree with the Senator [i.e. Senator BIDEN] and have always agreed with the Senator on this issue, the wiretap issue. The facts of life are that we lose about 35 votes in the House if we pass the wiretap provision.

That is what this is about—35 folks in the House who do not like it. That is why we are going to vote against our interest probably in the next couple of hours.

I yield the floor.

Mr. HATCH. Mr. President, if I could take a second.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Utah.

Mr. HATCH. I agree with the 35, but all of those oppose the bill anyway. But it is a lot more than 35 people who will vote. I just wanted to make that statement.

I thank the Senator from Georgia.

Mr. NUNN. Mr. President, I urge my colleagues to support Senator BIDEN's motion which he will, I understand, make in a few minutes—I do not think it has yet been made—to recommit the conference report because it fails to address a very significant gap in the law which we corrected when we passed the Senate bill regarding the use of chemical and biological weapons of mass destruction in criminal terrorist activities.

The Armed Forces have special capabilities, and they are the only people that have special capabilities to counter nuclear, biological, and chemical weapons. They are trained and equipped to detect, suppress, and contain these dangerous materials in hostile situations. The police authorities of our country and the fire departments of our country do not have the capability to deal with chemical and biological attacks or the threat of those attacks. They do not have the equipment. They do not have the protective gear.

We have had four hearings in the last 6 weeks in the Permanent Subcommittee on Investigations, of which I am the ranking member and Senator ROTH is the chairman. Let us be very clear. With the testimony from law enforcement officials, from fire officials, from city officials, State officials, and from our own people in the Federal Government, that, if there were a chemical or biological attack in this country, we would have as the first victims those who came to the rescue. It would be those personnel coming to the rescue of those innocent victims who are caught in that situation that would also become victims themselves because they are not equipped to detect. They are not equipped to really deal with and they certainly are not equipped to withstand the lethal capability of chemical and biological weapons. Over a period of time they may be able to.

One of the things I am going to be talking about in the weeks ahead is a package of legislation which I hope Senator LUGAR and I will be sponsoring. One of the things we are going to need to do is to give, I think, our military both the capability with funding and also the authority and responsibility to help begin training our police and law enforcement officials around the country. It is going to take a long time.

We are in a different era now, Mr. President. One of the things that many people do not recognize after the attack in Tokyo where the avowed goal of the group that had really prepared very extensive capabilities for chemical warfare on their own people is that if they had the kind of delivery system that a few weeks later they might have had, instead of 15 or 20 people being killed and several hundred being injured, there literally would have been tens of thousands of deaths right there in Tokyo. We are in that era now.

A lot of people do not also understand that in the World Trade Center bombing there was really very strong evidence that a chemical component was in the explosive material. There was an attempted effort at chemical attack there also, but the chemical element was consumed by the huge fire and explosion. So we have had that attempt also in this country.

My point is that it is a very dangerous omission in not giving the kind of clear authority in this conference report that we had in the Senate bill.

At the present time the statutory authority to use the Armed Forces in situations involving the criminal use of weapons of mass destruction extends only to nuclear material. Section 831 of title 18, United States Code, permits the Armed Forces to assist in dealing

VOL
142
PT
6
AP
15
—
24
1996
UMI

with crimes involving nuclear materials when the Attorney General and the Secretary of Defense jointly determine that there is an emergency situation requiring military assistance. There is no similar authority to use a special expertise in the Armed Forces in circumstances involving the use of chemical and biological weapons of mass destruction.

In the wake of the devastating bombing of the Federal building in Oklahoma City and also the World Trade Center, with the tragic loss of life in Oklahoma and the disruption of governmental facilities, I think it is appropriate and absolutely necessary to reexamine Federal counterterrorism capabilities, including the role of the Armed Forces.

For more than 100 years, military participation in civilian law enforcement activities has been governed by the Posse Comitatus Act. The act precludes military participation in the execution of laws except as expressly authorized by Congress. That landmark legislation was the result of congressional concern about increasing use of the military for law enforcement purposes in post-Civil War era, particularly terms of enforcing the reconstruction laws in the South and suppressing labor activities in the North.

There are about a dozen express statutory exceptions to the Posse Comitatus Act, which permit military participation in arrests, searches, and seizures. Some of the exceptions, such as the permissible use of the Armed Forces to protect the discoverer of Guano Islands, reflect historical anachronisms. Others, such as the authority to suppress domestic disorders when civilian officials cannot do so, have continuing relevance—as shown most recently in the 1992 Los Angeles riots.

It is important to remember that the act does not bar all military assistance to civilian law enforcement officials, even in the absence of a statutory exception. The act has long been interpreted as not restricting use of the Armed Forces to prevent loss of life or wanton destruction of property in the event of sudden and unexpected circumstances. In addition, the act has been interpreted to apply only to direct participation in civilian law enforcement activities—that is, arrest, search, and seizure. Indirect activities, such as the loan of equipment, have been viewed as not within the prohibition against using the Armed Forces to execute the law.

Over the years, the administrative and judicial interpretation of the act, however, created a number of gray areas, including issues involving the provision of expert advice during investigations and the use of military equipment and facilities during ongoing law enforcement operations.

During the late 1970's and early 1980's, I became concerned that the lack of clarity was inhibiting useful indirect assistance, particularly in counterdrug operations. I initiated legislation, which was enacted in 1981 as chapter 18 of title 10, United States Code, to clarify the rules governing military support to civilian law enforcement agencies.

Chapter 18, as enacted and subsequently amended, generally retains the prohibitions on arrest, search, and seizure, but clarifies various forms of assistance involving loan and operation of equipment, provision of advice, and aerial surveillance. Chapter 18 does not authorize military confrontations with civilians in terms of arrests, searches, and seizures. Chapter 18 also ensures that DOD receives reimbursement for military assistance that does not serve provide a training benefit that is substantially equivalent to that which would otherwise be provided by military training or operations.

The administration requested legislation that would permit direct military participation in specific law enforcement activities relating to chemical and biological weapons of mass destruction similar to the exception that already exists under current law that permits the direct military participation in the enforcement of the laws concerning the improper use of nuclear materials.

Mr. President, the nuclear kind of incident is entirely possible. We have to be prepared for it. We are much better prepared to deal with nuclear than we are with chemical or biological. We have the capability in the Department of Energy with a team that has been training and working on this for years, and they are much better prepared. We do not have a similar capability for chemical or biological.

So by the omission of this specific authority in this bill, we are taking the most likely avenue of attack for terrorism in this country with mass-destruction weapons—and that is chemical or biological—and we are not putting that in the same category as nuclear, which is possible, and we must be prepared for it. But a nuclear attack is not as likely to happen as a chemical or biological attack.

Last June, the Senate included such legislation in the counterterrorism bill with safeguards to ensure that it would only be used in cases of emergency and under certain specific, carefully drawn limitations. In my judgment, the question of whether we should create a further exception for chemical and biological weapons should be addressed in light of the two enduring themes reflected in the history and practice and experience of the Posse Comitatus Act and related statutes:

First, the strong and traditional reluctance of the American people to permit any military intrusion into civilian affairs.

Second, the concept of any exception the Posse Comitatus Act should be narrowly drawn to meet the specific needs that cannot be addressed by civilian law enforcement authority. The record is abundantly clear that we are talking about exactly that. These are cases where local law enforcement and State law enforcement simply could not handle the job.

These issues were examined at a hearing before the Judiciary Committee on May 10, led by the chairman of the committee, Senator HATCH, and the ranking minority member, Senator BIDEN. At the hearing, five major themes emerged:

First, we should be very cautious about establishing exceptions to the Posse Comitatus Act, which reflects enduring principles concerning historic separation between civilian and military functions in our democratic society.

Second, exceptions to the Posse Comitatus Act should not be created for the purpose of using the Armed Forces to routinely supplement civilian law enforcement capabilities with respect to ongoing, continuous law enforcement problems.

Third, exceptions may be appropriate when law enforcement officials do not possess the special capabilities of the Armed Forces in specific circumstances, such as the capability to counter chemical and biological weapons of mass destruction in a hostile situation.

Fourth, any statute which authorizes military assistance should be narrowly drawn to address with specific criteria to ensure that the authority will be used only when senior officials, such as the Secretary of Defense and the Attorney General, determine that there is an emergency situation which can be effectively addressed only with the assistance of military forces.

Fifth, any assistance which authorizes military assistance should not place artificial constraints on the actions military officials may take that might compromise their safety or the success of the operation.

The Senate provision was drafted to reflect the traditional purposes of the Posse Comitatus Act and the limited nature of the exceptions to that act. The motion to recommit that we will be voting on in a few minutes would require the conferees to reinstate that provision with a minor technical clarification that has come to our attention since the Senate bill was passed.

Under the motion to recommit, the Attorney General would be authorized to request the assistance of the Department of Defense to enforce the prohibitions concerning biological and chemical weapons of mass destruction in an emergency situation.

The Secretary of Defense could provide assistance upon a joint determination by the Secretary of Defense and the Attorney General that there is an

emergency situation, and a further determination by the Secretary of Defense that the provisions of such assistance would not adversely affect military preparedness. Military assistance could be provided under the motion to recommit only if the Attorney General and the Secretary of Defense jointly determined that each of the following five conditions is present. This is very narrowly drawn.

First, the situation involves a biological or chemical weapon of mass destruction.

Second, the situation poses a serious threat to the interests of the United States.

Third, that civilian law enforcement expertise is not readily available to counter the threat posed by the biological or chemical weapon of mass destruction involved.

Fourth, that the Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological or chemical weapon of mass destruction involved.

Fifth, that the enforcement of the law would be seriously impaired if Department of Defense assistance were not provided.

I have a very hard time understanding why the House of Representatives would not accept this provision. Maybe there is a reason, but I certainly have not heard that reason. Nothing that I have heard indicates why our military could not be used, when we have a biological or chemical weapon of mass destruction involved in the situation, a serious threat is posed to the interests of the United States, civilian law enforcement expertise is not available to counter the threat, Department of Defense capabilities are needed to counter the threat, and law enforcement would be seriously impaired if DOD assistance is not provided.

I think the American people would expect us to be involved in that with the military, to protect the lives of American citizens.

The types of assistance that could be provided during an emergency situation would involve operation of equipment to monitor, to detect, to contain, to disable or dispose of a biological or chemical weapon of mass destruction or elements of such a weapon. The authority would include the authority to search for and seize the weapons or elements of the weapons.

We may get into a situation where it is not entirely clear whether there is a chemical or biological weapon but someone has threatened that that kind of weapon is contained in a basement somewhere in a city.

If the President of the United States does not have this statutory authority, he is going to be very reluctant to put the military into downtown New York to look for chemical or biological weapons. It would be extremely dangerous for law enforcement to undertake that task, but the President will be on the very conservative side and very reluctant to take that step unless he has absolute belief that there is such a weapon and a disaster is impending.

Unfortunately we are not going to have that kind of clarity, in my view, in the future. So it is important for Congress to speak to this issue.

If the Biden amendment is agreed to and it goes back to conference, and this becomes law, the Attorney General and the Secretary of Defense would issue joint regulations defining the type of assistance that could be provided. The regulations would also describe the actions that the Department of Defense personnel may take in circumstances incidental to the provision of assistance under this section, including the collection of evidence. This would not include the power of arrest or search or seizure, except for the immediate protection of life or as otherwise authorized by this provision or other applicable law.

This provision is set forth in the motion to recommit. If it is agreed to, and I hope it is, it would make it clear that nothing in this provision would be construed to limit the existing authority of the executive branch to use the Armed Forces in addressing the dangers posed by chemical and biological weapons and materials.

The motion to recommit would address two important concerns. First, as a general principle, the types of assistance provided by the Department of Defense should consist primarily in operating equipment designed to deal with the chemical and biological agents involved, and that the primary responsibility for arrest would remain with the civilian officials. As a law enforcement situation unfolds, however, military personnel must be able to deal with circumstances in which they may confront hostile opposition. In such circumstances their safety and the safety of others and the law enforcement mission cannot be compromised by putting our military in that dangerous situation and then precluding them from exercising the power of arrest or the use of force.

Mr. President, some people wanted to pass a statute saying the military could do everything but they could never make an arrest. I think they ought to defer to civilians in almost all circumstances. But we do not want to have our military team out there in chemical gear, looking for chemical weapons, some of which may already be escaping, no policemen being able to go in because they do not have the equipment, no fire authority able to go in, run right into the people perpetrating the act and not be able to do anything about it. So we have to give them that kind of limited authority in unusual, and hopefully circumstances which, God forbid—I hope they will never occur. But I must say the likelihood of something like this occurring in the next 5 to 10 years in America is, in my view, very high.

The motion to recommit would require the Department of Defense to be reimbursed for assistance provided under this section in accordance with section 377 of title 10, the general statute governing reimbursement of the Department of Defense for law enforcement assistance. This means that if DOD does not get a training or operational benefit substantially equivalent to DOD training, then DOD must be reimbursed.

Under the motion to recommit, the functions of the Attorney General and the Secretary of Defense may be exercised, respectively, by the Deputy Attorney General and the Deputy Secretary of Defense, each of whom serves as the alter ego to the head of the Department concerned. These functions could be delegated to another official only if that official has been designated to exercise the general powers of the head of the agency. This would include, for example, an Under Secretary of Defense who has been designated to act for the Secretary in the absence of the Secretary and the Deputy.

The limitations set forth in the motion to recommit would address the appropriate allocation of resources and functions within the Federal Government; and are not designed to provide the basis for excluding evidence or challenging an indictment.

The motion to recommit, which reflects the Senate-passed provision, is prudent and narrowly drafted. It was strongly supported in the Senate by the chairman of the Armed Services Committee, Senator THURMOND. It was unanimously adopted by the Senate. The administration, both the Department of Defense and Department of Justice, have testified that current law is inadequate and they need authority to deal with chemical and biological terrorism similar to the authority they now have for nuclear terrorism. It is irresponsible to leave our law enforcement officials and military personnel without clear authority to deal with these dangers.

I know the argument is made that we already have the insurrection statute on the books, which possibly could cover this situation. I would like to just share with my colleagues, before I close, a reading of that statute so they will understand why we need to have clarification.

Under the insurrection statute, sections 331–335, title 10 United States Code, the President can use the military in the following situations.

> To suppress an "insurrection" at the request of a State.
>
> To suppress "unlawful obstructions, combinations, or assemblages, or rebellion [that] make it impractical to enforce the laws of

VOL
142
PT
6
AP
15
—
24
1996
UMI

the United States in any State or Territory by the ordinary course of judicial proceedings."

To suppress "any insurrection, domestic violence, unlawful combination, or conspiracy" if it "so hinders the execution of laws" that a State or the Federal Government cannot enforce the laws.

Before using these authorities, the President must issue a proclamation that, "order[s] the insurgents to disperse and retire peacefully to their abodes within a limited time."

Can you imagine somebody coming into the President saying, "Mr. President, we expect an attack. We cannot prove this but we expect a chemical attack in New York City or Chicago in the next 12 to 24 hours. We desperately need our military teams to go to a potentially hostile situation with protective gear to detect and determine if that kind of material is present within certain areas of New York."

And the President says, "How do I do that?"

They say, "Mr. President, what you first have to do is issue a proclamation, saying that the insurgents should disperse and retire peacefully to their abodes within a limited time."

Mr. President, can you imagine a President saying to his staff, "You mean you want me to issue that? We have a terrorist group in New York City running around and you want me to issue a proclamation for the whole world to see and for the American people to laugh at, saying that the insurgents must disperse and retire peacefully to their abodes within a limited time? I will be laughed out of the White House if I do that."

Any President would be extremely reluctant to use that kind of authority. Besides that, this is not an insurrection. It is not an unlawful combination or conspiracy designed to hinder execution of the laws. To fit chemical or biological terrorism under the insurrection statute would require an extremely awkward and very stretched application. I think the President would only use that if he was absolutely convinced that being scoffed at and made fun of all over the world by issuing such a "disperse and retire peacefully" order would be outweighed by almost the certainty that that kind of calamity was about to happen.

These statutes are designed to deal with civil disorders, not terrorism. When the terrorists are on the subway with chemical or biological agents of mass destruction, must we await the President's issuing of a proclamation and ordering the terrorists to "retire peacefully to their abodes?"

The reason we have the statute that allows military assistance in the event of nuclear offenses is to provide for prompt and effective employment of military personnel to address the emergency, without the need to interpret the law or determine whether there is some inherent authority to assist. Chemical and biological weapons are more likely to be used, and they present the same problems of mass catastrophe as do nuclear weapons, and we should not delay clarification of the authority of the military personnel to provide specific assistance in emergency situations.

I do not understand why people oppose this. I cannot understand why the House opposes it. I think it is irresponsible not to proceed as the Senator from Delaware is urging us to proceed with his motion.

I know there is one other argument that says, because of a Supreme Court decision, there is inherent authority for the President to act with the military or with whatever he has to use to protect against the immediate threat to life. I would not deny that in certain situations the President might use this authority. Certainly in desperate situations he might. This is not statutory authority. It requires him to exercise constitutional, inherent authority. This is a very difficult situation and the military personnel involved, if the President is wrong in his assessment of inherent and immediate threat to life, would be at risk. They would be at risk of lawsuits and liability. They would be at risk of all sorts of problems if the President is wrong because they would not be acting under color of law.

So this immediate-threat-to-life inherent authority, though possibly available in desperate situations, is simply not the way to proceed. It would be a classic lawyers' debate. What we are doing now, if we leave the law as it is, as this bill before us will do unless it is amended, unless it is sent back to conference and amended, we are basically saying we are going to have one big furious debate among lawyers as to what authority would be used in what could be a matter of urgency, extreme urgency where every minute and every hour counted for the military to get into the business where we have a true emergency and American life is threatened.

So the present law is inadequate. The constitutional inherent authority of the President is inadequate in this situation, and the insurrection law would be, I think, resisted fiercely by any President where you would have to basically make an almost preposterous-type plea for the people who are perpetrating this act of terrorism to disperse and retire peacefully to their abodes within a limited time.

I would like to hear someone explain why this is not part of this conference report. I know that the Senate supported it. My colleague, Senator HATCH, I am sure, urged its adoption in the House of Representatives. I do not understand why this has been taken out of this bill.

Mr. President, I urge the adoption of the Biden amendment.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I know the distinguished Senator from Washington would like to make some remarks, but let me just make a few comments about the remarks of my distinguished friend from Georgia.

I do not entirely disagree with Senator NUNN, the distinguished Senator from Georgia. At the outset, I want to call my colleagues' attention to the fact that the Congress has already acted in this area this year. Section 378 of the National Defense Authorization Act of fiscal year 1996, which is already law, specifically provides the military can provide training facilities, sensors, protective clothing and antidotes to Federal, State, and local law enforcement in chemical and biological emergencies.

From this country's earliest days, the American people have sought to limit military involvement in civilian affairs. In the wake of the terrible tragedy in Oklahoma, with the heightened sensitivity to the threat of terrorism this country faces, some feel like giving the military a more prominent role in combating terrorism both here and abroad. This is not a policy we should rush into.

I must add, I support the provision, which is known as the Nunn-Thurmond provision, in the Senate bill. Americans have always been suspicious of using the military in domestic law enforcement, and rightly so. Civilian control of the military and separation of the military from domestic law enforcement feature prominently in the early history of this country, from the Declaration of Independence to the Constitution and Bill of Rights. Indeed, the Declaration of Independence listed among our grievances against the King of England that he had "kept among us, in times of peace, Standing Armies without the Consent of our legislature," and had "affected to render the Military independent of and superior to the Civil Power."

It was abuse of military authority in domestic affairs, especially in the South after the Civil War, that motivated Congress to impose the first so-called posse comitatus statute. The term "posse comitatus" means power of the country and has as its origin the power of the sheriff through common law to call upon people to help him execute the law.

The statute, in 18 U.S.C. 1385, prevents the Federal Government from using the Army or Air Force to execute the law, except where Congress expressly creates an exception. Domestic law enforcement thus remains as is, in the hands of local communities.

Currently, as I understand it, Congress has created only limited exceptions to the Posse Comitatus Act. The President can call out the military if terrorists threaten the use of nuclear weapons or if the rights of any group of people are denied and the State in

which they reside is unable or unwilling to secure their lawful rights.

The military is also authorized to share intelligence information with Federal law enforcement in attempts to combat drug trafficking. These are limited exceptions to the act, however, and do not generally empower the military to be actively involved in the enforcement of domestic laws. We have done well with a separation between military authority and domestic law enforcement. Although this proposal seems sensible and appears simply to expand upon the military's preexisting authority, to become involved if the use of nuclear weapons or biological or chemical weapons is threatened, it may, in fact, be unnecessary.

The premise underlying this amendment is that there does not exist among civilian law enforcement the expertise to deal effectively with chemical or biological agents. However, I believe that such expertise is available outside of the military. Particularly in the area of chemical agents, civil authorities and even the private sector have considerable experience in containing these substances.

Moreover, the military can already assist civil authorities in all aspects of responding to the type of crisis contemplated by this amendment but one: The actual use of military personnel to disable or contain the device. The military can lend equipment, it can provide instructions and technical advice on how to disable or contain a chemical or biological agent, and it can train civil authorities, if necessary.

The one thing that this amendment adds to the military's ability to assist civil law enforcement is the permission to put military personnel on the scene and inject them directly into civilian law enforcement. This is, in my view, the one thing we should not do.

This amendment would raise troubling implications going to the heart of the Posse Comitatus Act. It recognizes, as it must, that whenever law enforcement personnel are engaged in an evolving criminal event, there are unpredictable and exigent circumstances. The personnel on the scene must be able to take the necessary steps, including making arrests, conducting searches and seizures and sometimes using force to protect lives and property. Yet, the posse comitatus statute was enacted precisely to ensure that the military would not engage in such civilian law enforcement functions.

Let me just say this. I agreed to the language that the distinguished Senator would like to put back in this bill in the Senate bill. I would not be unhappy if that language was in this bill. Unfortunately, the reason it is not is because we have people in the other body who basically are concerned about some of these issues that I have just raised. Rightly or wrongly, they are concerned, and we were unable in our deliberations, as much as we got this bill put together, as much as we have made it a very strong bill, we were unable to get that provision in.

Let us just be brutally frank about this. If there is a motion to recommit on this issue, or any other issue, and that motion is approved by the Senate, then the antiterrorism bill is dead. If we do not, there will be a chance to put it through.

Frankly, we have a very good bill here. It may not have every detail in it that I would like to have. It does not have every detail in it that the chairman of the House Judiciary Committee would like to have or our distinguished colleagues Senators BIDEN or NUNN would like to have. I might add, it does not have all the provisions in it that Congressmen BARR and MCCOLLUM and BUYER and SCHIFF and others would like to have.

Nobody is totally going to get everything they want in this bill. But what it does have is a lot of good law enforcement provisions that will make a real difference, in fact, right now against terrorism in our country and internationally. We simply cannot shoot the bill down because we cannot get a provision in at this particular time that we particularly want.

We all understand this process. We all understand that we cannot always get everything in these bills that we want to. But I will make a commitment to my friend and colleague from Georgia, as I have on other matters. I do not disagree with him in the sense that this is something that perhaps we should do. I will make a commitment to do everything in my power to make sure we look at it in every way, and if we do not do it here—and I suggest we should not do it here on this bill under these circumstances—then I will try later in a bill that we can formulate that will resolve some of these conflicts that both the distinguished Senator from Delaware and I and the distinguished Senator from Georgia and I would like to see in this bill—and others, I might add.

So there is no desire to keep anybody's provision out of the bill. There is no desire to not solve this problem. The problem is we cannot do it on this bill and pass an antiterrorism bill this year. I think one reason the President called me last Sunday, I am sure, is because he has been asking us to get him a terrorism bill. This is it. This is the week to do it. I think we have done a really extraordinary job of bringing this bill back from what it was when the House passed its bill.

I give credit to the House Members. There have been a lot of wonderful people over there who have worked hard on this. I have mentioned some of them in my remarks here today. But certainly the distinguished chairman over there, CHUCK SCHUMER, and others, and BOB BARR and others, have worked very hard on this bill.

None of us have everything we want in this bill. And none of us want to see it go down to defeat because of any one provision that we can solve later as we continue to study and look at this matter.

Also, one of the problems we have had in trying to bring together people on this very important piece of legislation is that there have been some perceptions over in the House as a result of some of the mistakes that law enforcement has made that perhaps we might be going too far if we follow completely the Senate bill as it came out of the Senate Chamber.

I think those perceptions are wrong, but the fact is they are there. I think we have to work on them and educate and make sure that we, by doing future bills, will resolve these problems, solve them in the minds of not only Members of the House of Representatives who have complaints against some of this information, but also in the minds of others who would like their own provisions in the bill.

I have to say there are some—and I do not include the distinguished Senator from Georgia among them—but there are some who are just plain and simply trying to stop this bill. They hate the habeas corpus provisions of this bill. I know the distinguished Senator from Georgia does not, that he is with me on those issues, but they do. And they will use any strategy to try to stop this bill because they do not want to have death penalty reform. This bill is going to bring that to all of us. It is worth it.

If that is all we had in this bill, it is the one provision that every victim who appeared here yesterday and in the past has said they want more than anything else. There is a very good reason to pass this bill for that reason alone. But there are so many other good provisions in the bill that we ought to pass it. We ought to pass it, even though one or more provisions that we think might make the bill better cannot be put into it at this time.

We have really worked our guts out to come out with a bill that I think can be supported in a bipartisan manner. We have really worked hard on that. I do not care who gets the credit for this bill. I can say we have worked very, very hard to have a bill that all of us can be proud of. And I think we do have one. Does it have everything in it? No. But it has so much in it that we really have to go ahead and get it done.

If this motion or any subsequent motions to recommit are passed, this bill will be dead. I think that would be one of the most tragic things that this body could do this week, just a few days before the anniversary date of the Oklahoma City bombing.

Yesterday, we had people from Pan Am 103 here as well. We had others. Frankly, they all asked us to get this bill through. I am doing everything I

VOL
142
PT
6
AP
15
—
24
1996
UMI

can to get it through. So I hope people will vote against this motion even though I myself have a great deal of respect for the Senator from Georgia, a great deal of empathy for his position, and I would, even if I did not understand it, I would want to support him as I often have done through the years here on the floor of the U.S. Senate.

I think basically that says it. I hope people will vote against any motion to recommit because it would be tragic for this bill to go down. I cannot imagine the majority voting it that way. I hope they will not in this particular instance.

I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I will just make a few brief remarks.

I have tremendous respect for my friend from Utah. He knows that. He and I have been on the same side of the habeas corpus issue for a long time. Now the Governor of Florida, then Senator from Florida, Lawton Chiles, and I came to the floor for 2 or 3 weeks in a row every day back in the 1970's, I believe—time slips by—about the importance of reform in habeas corpus. So I certainly share his view on that.

As much as I think that needs reforming, I do not think that habeas corpus statutes are the problem now. It has been somewhat modified by the courts themselves. I do not think that is as urgent as what we are talking about here, because with the hearings we have had and with the tremendous amount of effort that I have made and Senator LUGAR and others have made in this whole problem of the proliferation of chemical and biological weapons, I do not know whether anything is going to happen next week, next month, or next year.

I do know that we could have some calamity happen without any notice in this area. I hate to see our Nation so ill-prepared to deal with a threat that is much more likely to happen than some of the threats that we are prepared to deal with.

Mr. President, something has happened to our Republican friends in the House of Representatives. I am not sure what deal was struck over there, but I recall very well being on the floor of the Senate—and my friend from Utah probably recalls this, too—when the House of Representatives passed an amendment—this was a good many years ago during the Reagan administration—that basically gave an order, waived the posse comitatus statute, gave the order, I believe by Congressman HUNTER from California, to shut the borders down with our military, basically shut them down, I believe, within 45 days saying the military would be deployed all over the borders of the United States to basically close the borders, not let any drugs come through.

We computed that we would have to bring all our military forces back from Europe, from Korea, from Japan, everywhere else to put them side by side virtually on the border to comply with that. It passed the House, and it was a Republican-sponsored amendment. Of course, after some light was shone over here on the floor of the Senate, we rejected that amendment. It did not happen.

I also have a long history in this posse comitatus area because I thought certain carefully crafted exceptions to the statute needed to be made in the law enforcement and drug area, but carefully constructed so we did not get our military involved in search and seizure and arrest on a routine basis. I found myself debating the then-Senator from California, now Governor of California, where he proposed an amendment that would have had the military be able to make any kind of arrest and search and seizure for drug transactions in the domestic United States.

That was another very, very broad waiver of the posse comitatus statute that I would have opposed. This would have made, on a routine basis, a military response for law enforcement. I opposed that. That was going too far.

Here we have my colleagues on the House side, and for some reason now they have switched all the way over and they are worried about even using the military in a situation where we have a desperate situation with chemical and biological weapons where nobody else can handle it. I do not understand it. I do not understand what has transpired. But something strange has taken place here.

I do think we have to approach this whole posse comitatus area with great care. We do not want our military engaged in law enforcement except as an absolute last resort when there is no other alternative and when the result of failure to be involved would be catastrophic.

I also would ask my friend from Utah—and I know he has tried to sustain the Senate position on this; I know him well enough to know that he has done that, and you cannot do it on every item in conference—but I do not understand how people who supported the exception on the nuclear side to the posse comitatus statute that was made at the Reagan administration's request have a different view now. During the Reagan administration, they said they needed this exception. We had the same Constitution then, the same Supreme Court decisions, the same insurrection statute, but they wanted an exemption in the nuclear area so they could clearly have statutory authority. We supported that. That was not a partisan issue at all. Democrats and Republicans supported it. President Reagan signed it into law.

Now we have the same kind of situation, almost identical, in the chemical and biological area. We have a different President in the White House, who is a Democrat, and we have a whole switch in positions where people say, "Oh, we don't need this. We don't need it. We can't give them this authority," and so forth. I do not understand it. I understand partisan positions, but I do not understand completely switching philosophical positions on something of this nature.

I make one other point. The Senator from Utah mentioned the provision we passed recently in the defense authorization bill that allowed the equipment of the military to be used and to be loaned to law enforcement and other domestic officials in situations that are chemical-biological. That is a very useful addition to the present authority. What you have to have there is personnel who are trained to use that equipment. You cannot jump into chemical protective gear and know how to operate it in an emergency situation, if the Defense Department brings it in and hands it to local police. You have to be trained in that.

The military spends hundreds of hours training people in that regard. It will take years and years and years to train our domestic law enforcement and fire officials all over this country in the use of that kind of equipment. Unless they are already trained, that statute will not be available for practical use in an emergency situation. They may try to use it, but it will not do the job because it does not authorize military personnel to operate the equipment.

We simply have a multiple number of cities around this country that could be struck, and we cannot freeze out and prevent our military from being involved in an emergency dire situation as a last resort. We have to have people who are trained and know how to use the equipment, not only protective gear but protective equipment. It cannot be done at the last minute when there is an immediate threat of attack.

Mr. President, I would not be speaking in favor of this motion to recommit on an important bill like this if I did not think that the failure to act in this regard could have a very serious consequence. None of us can predict at what time interval something like this will occur. I hope never.

I must say, the probability of having some kind of chemical or biological attack in the United States in the next several years is, in my view, a rather high probability. We will have to do a lot more than we have done so far to get ready for it. I hope that somehow the House of Representatives will recognize that.

I know the Senator from Utah is absolutely sincere in his willingness to revisit this issue and try to put it on another bill. If this motion does not pass, I will work with him in that regard. I hope that those in the House will reexamine their position. I hope they get some of their staff to go through the records. We have had a considerable number of hearings on this explicit point.

We have had all sorts of expert testimony from the fire chiefs around the country, from law enforcement officials, from Justice Department officials, the FBI, the military. We have had detailed hearings on the attack in Tokyo, what occurred there. Not only are we not prepared law enforcement-wise in this regard, we do not have the emergency medical training required in most of our American cities to deal with the aftermath of this kind of event if it did occur. We would simply be overwhelmed, and people would ask all of us, "Where were you when this threat was being discussed, when you were, basically, responsible for doing something about it? Why did somebody not try to prevent it from happening, or at least prepare us to deal with the terrible medical, tragic consequence of this kind of attack?"

Again, I urge the Biden amendment be adopted.

Mr. GORTON. Mr. President, in monitoring the beginning of this debate, a set of lyrics from a source that I usually do not use came to mind as a bit of advice for the distinguished Senator from Delaware. These lyrics come from the Rolling Stones: "You can't always get what you want. But if you try real hard you just might find, you just mind find, you get what you need."

Now, Mr. President, the conferees have tried real hard. They have tried real hard and I think indisputably, they have produced a bill that we very, very much need.

Most of this afternoon, however, has been spent pointing out the bill's shortcomings, elements that the Senator from Delaware or the Senator from Georgia or, for that matter, the Senator from Utah wish were in the bill but are not. Certainly, this bill is not everything that the Senator from Delaware wishes, but it does contain a lot of what he thinks is constructive. Even he admits, and I think I am quoting correctly, it is a "useful, if frail" antiterrorism bill.

Senator HATCH, the distinguished Senator from Utah, has already outlined the positive steps in connection with a campaign against terrorism which are included in the conference report that is before the Senate now. I will not take up the time of the Senate simply by repeating them now. What we are faced with in the course of the current debate, however, is the question of whether or not we should reject what the conference committee has done, send it back, and ask that the committee effectively start all over again.

This conference committee has labored long enough. I do not believe that the Senator from Utah has left anything on the table. I do not think that he walked away having omitted anything from this bill that his very best efforts and the help of other Senate Members in both parties could possibly have gotten included for us to make better an already fine proposition.

What we have here is a meaningful antiterrorism bill, one that will make the law better than it is at the present time, one that will help the President and our Federal law enforcement officers by adding to the tools to deal with a new, highly regrettable situation with which our society is faced.

But there is something else in this bill, Mr. President. That something else is highly controversial, something that I believe the President of the United States would just as soon not have in it, something that I think a number of other Members wish were not a part of this bill. Something, however, that I think is particularly important. That is the reform of our entire habeas corpus procedures in connection with the conviction for serious crimes.

Doing something about a flawed habeas corpus system has been discussed in this Senate since I began serving here over a decade ago. We finally have an opportunity this evening in connection with this bill to do something positive about it.

I believe that the Senator from Delaware has complained that habeas corpus reform is not relevant to an antiterrorism bill. Just as an aside, Mr. President, I find it a charming argument coming from the side of the aisle which insists on our voting on Social Security amendments and minimum wage amendments as a part of the debate over immigration. I am tempted to say that we might have stronger rules of relevance in connection with all of our debates. Be that as it may, I am convinced that habeas corpus is relevant to a bill with respect to terrorism.

Mr. President, to deal effectively with any criminal challenge, we must have effective, clear, and cogent criminal statutes. We must have strong and skilled law enforcement officers to enforce those statutes and to arrest people who violate them. It is also absolutely vital, Mr. President, that when we do so, that when our system of justice has moved from apprehension through trial and conviction, that the people of the United States have a degree of confidence in the finality of those convictions after appropriate appeals, and that the punishments prescribed in those statutes will actually be carried out. That is an area, a field in which we have been a significant failure, Mr. President, because of the almost unlimited nature of our habeas corpus provisions.

We talk of doing something about terrorism and the fear it instills because the people of the United States lack trust and confidence in their criminal justice system and feel unsafe on their streets, at least in part because they see delay after delay, appeal after appeal, a total lack of finality, thousands of dollars after thousands of dollars going into the endless delays in the execution of sentences, particularly related to capital punishment.

Now, reforming habeas corpus is vitally important in that connection, Mr. President, and not just with respect to antiterrorism legislation, but with respect to all of the other serious crimes principally contained in our State and Federal criminal codes.

Let us move from the abstract to the concrete for just a few moments. I would like to remind my colleagues of the subject on which I have spoken a number of times in the course of the last Congress—one particular case in the State of Washington, which illustrates the frustration that our people feel with a system of endless appeals.

Charles Campbell was tried and sent to jail for the rape of a particular woman in a county just north of Seattle, WA. When he was on work release he went back to the home of this woman and murdered her, together with her 8-year-old daughter and a neighbor who just happened to be in the way. In 1982, he was charged with capital murder for those offenses and convicted. By 1984, that conviction had gone through the entire State court system, and the conviction and sentence had been affirmed by the Supreme Court for the State of Washington. From 1984 to 1994, Mr. President—10 additional years—57 separate actions were taken in the Federal courts of the United States—a first direct appeal to the Supreme Court of the United States, which was turned down, followed by innumerable petitions for habeas corpus and appeals from various orders in those habeas corpus petitions.

Remember, Mr. President, that even after a capital case has gone through all of its State court appeals and has been appealed to the Supreme Court of the United States, which has either affirmed it or failed to act, a single Federal district court judge can interrupt the process. That single judge can make a determination that all of the previous judges were wrong and send the case back to the State courts. More frequent than that, of course, is that the single Federal court judge, and then a circuit court of appeals, and perhaps then, again, the Supreme Court of the United States, finds nothing in error in these processes and affirms the State court decisions, at which point the process often starts over again with the filing of another petition for habeas corpus.

That, Mr. President, more than any other single factor, I think, has caused the people of the United States to lose an important degree of faith in their criminal justice system.

VOL
142
PT
6
AP
15
—
24
1996
UMI

A reform of that system, not to deny a right of appeal, but in effect—except under extraordinary circumstances—to give only a single bite at the apple through the Federal court system, is the subject of the habeas corpus provisions that have been shepherded through both Houses of Congress by the distinguished Senator from Utah.

It is my opinion, Mr. President, that these provisions complement, and are as important, or more important, than the strictly antiterrorism elements of this legislation. It is my opinion that the more strictly antiterrorism provisions of this legislation are themselves important. I find myself in agreement with all of those here, and I think that includes every Member of the Senate who has spoken on this subject, that we ought to do better, that we ought to have more antiterrorism legislation. I think it very unlikely that that is going to happen in the course of this Congress.

As I have said before, I think the Senator from Utah got everything out of this conference committee that he could get, and the effect of a motion to recommit would simply be that we would either have no legislation on this subject, or this identical legislation, which is important, would be delayed.

Delays have already been too long, Mr. President. I sincerely hope that the Members of the Senate will reject a motion to recommit and will promptly pass this legislation. The House is certain to do the same. We will, when the President has signed it, move forward on two distinct but related fields—significant progress with respect to antiterrorism, and significant progress with respect to reforming our habeas corpus system. For that, the Senator from Utah, and all who have worked on this legislation, deserve our grateful thanks and the thanks of the American people.

Mr. BIDEN. Mr. President, I am sure my friend from Washington is aware that these are Federal offenses we are creating here. They have nothing to do with State habeas corpus. He is aware of that, is he not?

Mr. GORTON. Yes. I think the Senator from Washington said when the Senator from Delaware was off the floor that he regards it as rather touching that the Senator from Delaware wants to make sure everything we do is relevant to Federal antiterrorism legislation, when I believe he has been supporting the proposition on the other side of the aisle that immigration legislation should carry Social Security amendments with it and a number of other subjects of that sort.

This legislation is, of course, dealing with Federal statutes and with Federal courts. Habeas corpus legislation, of course, deals primarily with State laws and State convictions, but with the interference by the Federal courts in those procedures.

If the Senator would further yield a moment, I ask unanimous consent that a chronology of the Campbell case be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

April 14, 1982: Campbell beats and murders Renae Wickland, in her Clearview, WA home, then beats and murders Wickland's 8-year-old daughter, along with a neighbor who stopped by the home.

November 26, 1982: Campbell is convicted of aggravated first degree murder in Snohomish County Superior Court.

December 17, 1982: Campbell is sentenced to death in Snohomish County Superior Court.

November 6, 1984: Washington State Supreme Court affirms Campbell's conviction and sentence.

April 29, 1985: The United States Supreme Court denies Campbell's request to hear an appeal of his conviction.

July 22, 1985: Campbell files an appeal in federal district court.

February 16, 1986: Federal district court denies Campbell's appeal after an evidentiary hearing.

February 18, 1986: Campbell appeals to the Ninth Circuit Court of Appeals.

October 6, 1987: The Ninth Circuit Court affirms the district court's decision denying Campbell's appeal.

June 8, 1988: The State of Washington moves to remove the stay on Campbell's execution.

July 10, 1988: Ninth Circuit Court of Appeals denies the State's request.

August 19, 1988: Campbell appeals his case again to the United States Supreme Court.

November 7, 1988: The U.S. Supreme Court refuses to hear Campbell's appeal.

November 8, 1988: State of Washington files motion to move forward with execution of Campbell.

December 6, 1988: State Supreme Court agrees with State's motion, denying the stay of execution.

January 25, 1989: Ninth Circuit Court of Appeals agrees with State Supreme Court, dissolving the stay of execution.

February 15, 1989: Snohomish County Superior Court issues a death warrant for Campbell's execution for March 30, 1989.

March 7, 1989: Campbell files appeal with State Supreme Court and a motion to stay the execution. In both documents he raises several unsupported challenges to hanging as a method of execution.

March 23, 1989: The State Supreme Court unanimously rejects all of Campbell's challenges against hanging and denies his motion to stay the execution. The court concludes that none of his issues warrant further consideration.

March 24, 1989: Federal District Court Judge John Coughenour, anticipating another appeal by Campbell in federal court, summons attorneys for both sides into his chambers to discuss the matter. Upon learning from Campbell's attorneys that they intended to file an appeal the following Monday, March 27, the judge calls for an evidentiary hearing that day and in no way limits the issues that Campbell and his attorneys will be allowed to raise. The judge also orders Campbell and his former trial attorney to be present regarding Campbell's claim of ineffective counsel.

March 27, 1989: Campbell files another appeal and, at the evidentiary hearing, raises three issues regarding hanging: (1) hanging will deprive him of constitutional right against cruel and unusual punishment; (2) the state has no one qualified to perform the hanging; and (3) having to choose between execution by lethal injection or hanging violates his protection against cruel and unusual punishment and his First Amendment freedom of religion. Campbell and his attorneys offer no evidence to substantiate these issues and he again claims he was represented by ineffective counsel. Later that day, Judge Coughenour rejects Campbell's charges against hanging, and denies his motion to stay the execution.

March 28, 1989: Campbell appeals Judge Coughenour's denial to the Ninth Circuit Court of Appeals. The Ninth Circuit stays Campbell's execution, pending the appeal.

June 27, 1989: Attorneys for the State and for Campbell present oral argument to the Ninth Circuit Court.

February 21, 1991: The Ninth Circuit orders the withdrawal of Campbell's latest appeal, pending responses by the attorneys on the question of whether Campbell has exhausted all legal avenues in State court.

March 4, 1991: The State responds to the 2/21/91 order, demonstrating that Campbell has exhausted all other State remedies.

June 3, 1991: Campbell's attorneys inform the State Supreme Court that they intend to file another appeal. This will be his third separate appeal.

August 7, 1991: The Ninth Circuit grants Campbell's request to discharge his attorney, and delays its ruling on other issues, pending review of Campbell's new appeal, which has not yet been filed.

September 13, 1991: Campbell files his third appeal.

October 25, 1991: Bypassing the Ninth Circuit, the State asks the U.S. Supreme Court to compel the Ninth Circuit to resolve Campbell's earlier appeal (not the third appeal filed on 9/13/91).

January 13, 1992: The U.S. Supreme Court denies the State's request to compel the Ninth Circuit to rule on Campbell's appeal, but indicates the State may make additional requests "if unnecessary delays or unwarranted stays" occur in the Ninth Circuit's handling of the Campbell case.

March 9, 1992: The U.S. District Court dismisses Campbell's third appeal filed on 9/13/91.

April 1, 1992: The Ninth Circuit Court affirms the district court's denial of Campbell's earlier appeal (not the appeal denied by the district court on 3/9/92).

April 22, 1992: The State asks the Ninth Circuit to allow Campbell's execution to move forward and to conduct an expedited review of Campbell's third appeal (the appeal filed on 9/13/91).

May 5, 1992: The Ninth Circuit denies both requests by the State.

May 14, 1992: The State asks the Ninth Circuit to reconsider both of its May 5 rulings.

May 15, 1992: Campbell's attorney and Campbell himself ask the Ninth Circuit Court for a rehearing.

June 4, 1992: Campbell's attorney files legal brief in Campbell's third appeal.

December 24, 1992: The Ninth Circuit affirm's the district court's denial of Campbell's third appeal.

January 20, 1993: The Ninth Circuit hears oral arguments on Campbell's second appeal.

January 26, 1993: The Ninth Circuit grants a request by Campbell's attorney for a rehearing of Campbell's third appeal, the denial of which the court affirmed on 12/24/92.

January 29, 1993: The Ninth Circuit, in its reconsideration of Campbell's second appeal, orders attorneys for Campbell and the State to submit written arguments on whether hanging is cruel and unusual punishment, and whether an evidentiary hearing should be held in federal district court on the issue of hanging.

April 28, 1993: The Ninth Circuit orders Campbell's case back to federal district court for an evidentiary hearing on whether hanging is cruel and unusual punishment.

May 4, 1993: The State asks the Ninth Circuit to reconsider its April 28 order.

May 7, 1993: The Ninth Circuit denies the State's request.

May 10, 1993: The State appeals to the U.S. Supreme Court, asking it to set aside the evidentiary hearing in federal district court and to require the Ninth Circuit court to rule on whether hanging violates the Constitution.

May 14, 1993: Supreme Court Justice Sandra Day O'Connor issues a four-page chamber opinion indicating a single high court justice does not have the authority to overrule an order by the Ninth Circuit. She cites the "glacial progress" of the Campbell case and dismisses the State's appeal "without prejudice," leaving open the door for the State to press its case before the full Supreme Court.

May 17, 1993: The State appeals the Ninth Circuit order to the full Supreme Court.

May 24–26, 1993: Judge Coughenour conducts an evidentiary hearing on whether hanging is cruel and unusual punishment.

June 1, 1993: The U.S. Supreme Court denies without comment the State's request to vacate the Ninth Circuit's order to conduct the evidentiary hearing.

June 1, 1993: Judge Coughenour issues his findings and conclusions, ruling that Washington's judicial hanging protocol fully comports with the Constitution and does not constitute cruel and unusual punishment.

February 8, 1994: The Ninth Circuit rules 6–5 that hanging does not constitute cruel and unusual punishment and that being forced to choose death by lethal injection, or face death by hanging does not violate Campbell's constitutional rights. The ruling states that the stay of execution will be lifted and the mandate ordering the execution will be issued 21 judicial days following the order.

February 15, 1994: Attorney General Christine O. Gregoire files a motion with the Ninth Circuit to lift the stay of execution. Attorneys for Campbell also file motions to continue the stay of execution and to request reconsideration of the Ninth Circuit's February 8 ruling by the full Circuit Court.

March 21, 1994: After waiting more than one month for the Ninth Circuit to act on her motion, Attorney General Gregoire asks the U.S. Supreme Court to remove the stay of execution. Also on this date, the U.S. Supreme Court rejects Campbell's appeal for a hearing on his third habeas petition.

March 25, 1994: Justice Sandra Day O'Connor refuses to lift the stay of execution.

March 28, 1994: This date marks the fifth anniversary of the stay of execution imposed by the Ninth Circuit Court of Appeals.

April 14, 1994: This date marks the 12th anniversary of the three murders committed by Campbell.

April 14, 1994: Ninth Circuit Court of Appeals lifts stay of execution.

April 15, 1994: State sets May 27, 1994 execution date.

May 3, 1994: Campbell asks U.S. Supreme Court to stay execution and rule on claim that hanging is unconstitutional method of execution.

May 27, 1994: Campbell is executed.

Mr. BIDEN. Mr. President, once again, my friend misses the point. I am not objecting to the State portion being put in here. That is not relevant. It has nothing to do with terrorism. It is not going to effect the bill. My colleague talks about this having an impact on terrorism. I believe we should reform State habeas corpus. We should, and it is appropriate to do it in this bill, as long as my friend from Washington does not have any illusions that he can go back and tell the people of Washington that by effecting State habeas corpus he has done something about terrorism. That is the point. It is relevant, just not relevant to stopping terrorism.

The second point I will make—and then I will make my motion—is that people have been asking me about time. I am willing to enter into a time agreement. There are a maximum of a possible 14 motions. I doubt whether they will all be used. I am prepared to agree to one-half hour, equally divided, and to a time certain to vote tomorrow, or tonight, or whenever anybody wants to vote on it. So I want everybody to know that. I understand we may be trying to work that out now.

Mr. HATCH. If the Senator will yield, that would be fine with me—one-half hour equally divided. I am prepared to go and get it done. This is that important. The President has asked for it. He said he wants it as quickly as we can do it. We have all week, but we might as well find out whether we can do it at all. I believe we can, and with cooperation we can get this done. I am happy to cooperate and do it that way—just go bing, bing, bing, from here on out.

Mr. BIDEN. I have no objection to keep going now. That is a call of the leadership. That is up to them. In the meantime, while we are figuring out how long we are going to go——

Mr. HATCH. If the Senator will yield, we need to see what all the motions are. We need to know what those are. We would appreciate that.

Mr. BIDEN. I would be happy to do that.

MOTION TO RECOMMIT

Mr. BIDEN. I offer a motion on behalf of Senator NUNN and myself to recommit the conference report with instructions to add a provision to give the military authority in the cases of emergency involving chemical and biological weapons of mass destruction.

Mr. President, once I formally make that motion, I would suggest to my colleagues that we will regret mightily if there is a chemical attack and this does not pass.

I now formally offer that motion to recommit.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will read the motion.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. NUNN, for himself and Mr. BIDEN, moves to recommit the conference report with instructions to add provisions.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . AUTHORITY TO REQUEST MILITARY ASSISTANCE WITH RESPECT TO OFFENSES INVOLVING BIOLOGICAL AND CHEMICAL WEAPONS.

(a) BIOLOGICAL WEAPONS OF MASS DESTRUCTION.—Section 175 of title 18, United States Code, is amended by adding at the end the following:

"(c)(1) MILITARY ASSISTANCE.—The Attorney General may request that the Secretary of Defense provide assistance in support of Department of Justice activities relating to the enforcement of this section in an emergency situation involving biological weapons of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

"(A) the Secretary of Defense and the Attorney General determine that an emergency situation involving biological weapons of mass destruction exists; and

"(B) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

"(2) As used in this section, 'emergency situation involving biological weapons of mass destruction' means a circumstance involving a biological weapon of mass destruction—

"(A) that poses a serious threat to the interests of the United States; and

"(B) in which—

"(i) civilian expertise is not readily available to provide the required assistance to counter the threat posed by the biological weapon of mass destruction involved;

"(ii) Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological weapon of mass destruction involved; and

"(iii) enforcement of the law would be seriously impaired if the Department of Defense assistance were not provided.

"(3) The assistance referred to in paragraph (1) includes the operation of equipment (including equipment made available under section 372 of title 10) to monitor, contain, disable, or dispose of a biological weapon of mass destruction or elements of the weapon.

"(4) The Attorney General and the Secretary of Defense shall jointly issue regulations concerning the types of assistance that may be provided under this subsection. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this subsection. Such regulations shall not authorize arrest or any direct participation in conducting searches and seizures that seek evidence related to violations of this section, except for the immediate protection of human life, unless participation in such activity is otherwise authorized under paragraph (3) or other applicable law.

"(5) The Secretary of Defense shall require reimbursement as a condition for providing assistance under this subsection in accordance with section 377 of title 10.

VOL 142 PT 6 AP 15—24 1996 UMI

"(6)(A) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this subsection. The Attorney General may delegate the Attorney General's authority under this subsection only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

"(B) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this subsection. The Secretary of Defense may delegate the Secretary's authority under this subsection only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

"(7) Nothing in this section shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before the date of enactment of [this Act].".

(b) CHEMICAL WEAPONS OF MASS DESTRUCTION.—The Chapter 113B of Title 18, United States Code, that relates to terrorism, is amended by inserting after section 2332a the following:

"§2332b. Use of chemical weapons

"(a) OFFENSE.—A person who without lawful authority uses, or attempts or conspires to use, a chemical weapon—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States.

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) the term 'chemical weapon' means any weapon that is designed to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors.

"(c)(1) MILITARY ASSISTANCE.—The Attorney General may request that the Secretary of Defense provide assistance in support of Department of Justice activities relating to the enforcement of this section in an emergency situation involving chemical weapons of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

"(A) the Secretary of Defense and the Attorney General determine that an emergency situation involving chemicals weapons of mass destruction exists; and

"(B) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

"(2) As used in this section, 'emergency situation involving chemical weapons of mass destruction' means a circumstance involving a chemical weapon of mass destruction—

"(A) that poses a serious threat to the interests of the United States; and

"(B) in which—

"(i) civilian expertise is not readily available to provide the required assistance to counter the threat posed by the chemical weapon of mass destruction involved;

"(ii) Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological weapon of mass destruction involved; and

"(iii) enforcement of the law would be seriously impaired if the Department of Defense assistance were not provided.

"(3) The assistance referred to in paragraph (1) includes the operation of equipment (including equipment made available under section 372 of title 10) to monitor, contain, disable, or dispose of a chemical weapon of mass destruction or elements of the weapon.

"(4) The Attorney General and the Secretary of Defense shall jointly issue regulations concerning the types of assistance that may be provided under this subsection. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this subsection. Such regulations shall not authorize arrest or any direct participation in conducting searches and seizures that seek evidence related to violations of this section, except for the immediate protection of human life, unless participation in such activity is otherwise authorized under paragraph (3) or other applicable law.

"(5) The Secretary of Defense shall require reimbursement as a condition for providing assistance under this subsection in accordance with section 377 of title 10.

"(6)(A) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this subsection. The Attorney General may delegate the Attorney General's authority under this subsection only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

"(B) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this subsection. The Secretary of Defense may delegate the Secretary's authority under this subsection only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

"(7) Nothing in this section shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before the date of enactment of [the Act].".

(c)(1) CIVILIAN EXPERTISE.—The President shall take reasonable measures to reduce civilian law enforcement officials' reliance on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States, including—

(A) increasing civilian law enforcement expertise to counter such threat;

(B) improving coordination between civilian law enforcement officials and other civilian sources of expertise, both within and outside the Federal Government, to counter such threat.

(2) REPORT REQUIREMENT.—The President shall submit to the Congress—

(A) ninety days after the date of enactment of this Act, a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States;

(B) one year after the date of enactment of this Act, a report describing the actions planned to be taken and the attendant cost pertaining to paragraph (1); and

(C) three years after the date of enactment of this Act, a report updating the information provided in the reports submitted pursuant to subparagraphs (A) and (B), including measures taken pursuant to paragraph (1).

(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332a the following:

"2332b. Use of chemical weapons.".

(e) USE OF WEAPONS OF MASS DESTRUCTION.—Section 2332a(a) of title 18, United States Code, is amended by inserting "without lawful authority" after "A person who".

Mr. GRASSLEY. Mr. President, I rise in strong support of the antiterrorism bill. In my view, this bill strikes a reasonable balance between the needs of the law enforcement and national security communities and the constitutional rights of the American people. I applaud the efforts of Senator HATCH and other conferees in crafting this important and much-needed piece of legislation.

Perhaps one of the more important provisions of this bill relates to restitution to victims of crime in Federal courts. I am proud to say that key provisions of S. 1404, the Victim Restitution Enhancement Act of 1995, which I introduced on November 8, 1995, with Senator KYL, have been incorporated into the conference report. This bill, I believe, provides victims of crime with a valuable and important way of vindicating their rights and obtaining restitution. S. 1404 provides that court orders requiring restitution will act as a lien which the victims themselves can enforce. I think this lets victims help themselves and ensures that crime victims will receive the restitution they are entitled to.

To understand why giving victims of Federal crimes the ability to seek restitution from their victimizers is a positive development, you need to understand the nature of most of the Federal crimes which give rise to restitution liability. Federal crimes, by and large, are not crimes of violence like State crimes are. Once you exclude Federal drug prosecutions—which do not give rise to restitution liability as that term is generally understood—many Federal prosecutions are for fraud and other so-called white collar crimes. With fraud and white collar crimes, the victims may have substantial resources. These persons may wish to obtain restitution themselves, rather than relying on overworked prosecutors to do that job. That's what the lien does, its gives victims a powerful tool use to get restitution.

With respect to terrorism, and the Oklahoma City bombing, this means that the families of the bombing victims can seek restitution. So if the bombers come into money from any source, the victims' families can receive restitution. This is very positive development.

How does the current bill, like S. 1404, do this? Section 206(m) of the conference report establishes a lien in favor of crime victims, very similar to the lien procedure contained in S. 1404. I believe that this section will prove to be of enormous value.

Also, the conference report, section 206(n), drew on provisions in S. 1404, which provided that should prisoners who have been ordered to pay restitution file a prisoner lawsuit and receive a windfall, that windfall will go to the victims and not to the prisoner. This should take some of the lure out of prisoner lawsuits. Importantly, the conference report we are debating today also provides that windfalls received by prisoners from all sources, including lawsuits, will go to pay victims.

This conference report, in section 206(d)(3), like S. 1404, requires criminals to list all their assets under oath. This way, if criminals who owe victims try to hide their assets, they can be prosecuted for perjury. This too should help make sure that victims receive more of what they are entitled to.

While the restitution provisions of this bill are an important step in the right direction, I would also like to point out that unlike S. 1404, the conference report does not establish a hard-and-fast time limit within which restitution liability must be paid off. I think that this is a serious shortcoming. Without a bright-line for the payment of restitution, well-financed criminal defense lawyers will use legal technicalities to delay payment as long as possible. The reason that no definite time limit was included is that some Members of the minority opposed a definite time limit. So, in this respect, I believe that S. 1404 is superior to the current bill.

The conference report also makes serious and much-needed reforms of habeas corpus prisoner appeals. As even a casual observer of the criminal justice system knows, criminals have abused habeas corpus to delay just punishment.

I believe that this conference report strikes exactly the right balance on habeas corpus reform. It provides enough in the way of habeas appeals to ensure that unjustly convicted people will have a fair and full opportunity to bring forth new evidence or contest their incarceration in numerous ways. But the conference report sets meaningful limits, which should go a long way toward eliminating many of the flagrant abuses that make a mockery of justice.

If we do not pass this bill, with this habeas corpus reform package, we can pretend that we are for the death penalty. But, in reality, the death penalty will be virtually meaningless and toothless. The families of the bombing victims in Oklahoma City know this, and they support this bill.

Let us not get ourselves in the position of making mere symbolic gestures, which do not really help the American people and which do not really restore faith in the justice system. I agree with President Clinton: Punishment should be swift and sure. Just punishment must be meted out in an appropriate amount of time.

I strongly support these reforms, and again applaud the conferees for bringing this bill to the floor. Mr. President, I yield the floor.

Ms. SNOWE. Mr. President, I rise in strong support of the conference report on S. 735, the Comprehensive Terrorism Prevention Act. I would like to congratulate Chairman HATCH, Senator BIDEN, and the other Senate conferees on both sides of the aisle for their diligent work in conference with the other body. This bill left the Senate June 7, 1995, having passed by an overwhelming bipartisan vote of 91 to 8. Then the bill went over to the House, where it languished for 9 months. When it finally came up in the House for a vote on March 13, the most important anti-terrorism provisions were stripped from the bill.

When this occurred, many of us who strongly supported the Senate bill were dismayed and wondered whether it would even be possible for a conference committee to fashion a final bill that would garner the strong bipartisan support that the original Senate bill enjoyed. To emphasize the importance of this bipartisan support, I joined with Senator LIEBERMAN on March 29, in sending a letter to all five Senate conferees urging that they work to defend in conference key Senate provisions dealing with international terrorism. These included authority to exclude from the United States members of terrorist groups and authority to prohibit terrorist fundraising within the United States, both of which were indeed retained in this final conference report.

Mr. President, I am pleased to support this conference report, and I heartily congratulate our conferees for preserving these provisions. In fact, they went even further, and have given us a strong, positive antiterrorism bill that deserves our wholehearted support.

This legislation contains a broad range of needed changes in the law that will enhance our country's ability to combat terrorism, both at home and from abroad. The managers of this bill have described its provisions in some detail, so I will not repeat their comments. Briefly, however, this bill would increase penalties: For conspiracies involving explosives, for terrorist conspiracies, for terrorist crimes, for transferring explosives, for using explosives, and for other crimes related to terrorist acts.

The bill also includes provisions to combat international terrorism, to remove from the United States aliens found to be engaging in or supporting terrorist acts, to control fundraising by foreign terrorist organizations, and procedural changes to strengthen our counterterrorism laws.

This legislation will enhance the ability of our law enforcement agencies to bring terrorists to justice, in a manner mindful of our cherished civil liberties. This bill will enact practical measures to impede the efforts of those violent rejectionists who have launched an unprecedented campaign of terror intended to crush the prospects for peace for the Israeli and Palestinian people. Most important is the provision in this bill that will cut off the ability of terrorist groups such as Hamas to raise huge sums in the United States for supposedly "humanitarian" purposes, where in reality a large part of those funds go toward conducting terrorist activities. These accomplishments are real, and this legislation deserves our support.

Mr. President, I would like to concentrate the remainder of my comments on two provisions of mine that were retained in this conference report. These two provisions are the Terrorist Exclusion Act and the Law Enforcement and Intelligence Sources Protection Act, both of which I introduced separately last year.

Traditionally, Americans have thought of terrorism as primarily a European, Middle Eastern, or Latin American problem. While Americans abroad and U.S. diplomatic facilities have been targets in the past, Americans have often considered the United States itself largely immune to acts of terrorism. Two events have changed this sense of safety. The first was the internationally-sponsored terrorist attack of February 26, 1993 against the New York World Trade Center, and the second was the domestic terrorist attack just a year ago on April 19 in Oklahoma City.

I first introduced the Terrorist Exclusion Act in the House three years ago, and last year I reintroduced the legislation in the Senate with Senator BROWN as my original cosponsor. The Terrorist Exclusion Act will close a dangerous loophole in our visa laws which was created by the Immigration

VOL
142
PT
6
AP
15
—
24
1996
UMI

Reform Act of 1990. With its rewrite of the McCarran-Walters Act, Congress eliminated then-existing authority to deny a U.S. visa to a known member of a violent terrorist organization.

The new standards required knowledge that the individual had been personally involved in a past terrorist act or was coming to the United States to conduct such an act. This provision will restore the previous standard allowing denial of a U.S. visa for membership in a terrorist group.

I discovered this dangerous weakness in our visa laws in early 1993 during my investigation of the State Department failures that allowed the radical Egyptian cleric, Sheikh Omar Abdel Rahman, to travel to, and reside in, the United States since 1990. I undertook this investigation in my role as ranking Republican of the House International Operations Subcommittee, which has jurisdiction over terrorism issues, a role I have continued in the Senate as Chair of the International Operations Subcommittee of the Foreign Relations Committee.

Sheikh Rahman is the spiritual leader of Egypt's terrorist organization, The Islamic Group. His followers were convicted for the 1993 bombing of the World Trade Center in New York. The Sheikh himself received a life sentence for his own role in approving a planned second wave of terrorist acts in the New York City area.

The case of Sheikh Abdel Rahman is significant because he was clearly excludable from the United States under the pre-1990 law, but the legal authority to exclude him ended with enactment of the Immigration Reform Act that year. He was admitted to this country through an amazing series of bureaucratic blunders.

Then in 1990, as the U.S. government was building its deportation case against him, the law changed. As a result, the State Department was forced to try to deport him on the grounds that he once bounced a check in Egypt and had more than one wife, rather than the fact that he was the known spiritual leader of a violent terrorist organization.

A high-ranking State Department official informed my staff during my investigation that if Sheikh Abdel Rahman had tried to enter after the 1990 law went into affect, they would have had no legal authority to exclude him from the United States because they had no proof that he had ever personally committed a terrorist act, despite the fact that his followers were known to have been involved in the assassination of Anwar Sadat.

It is urgent that we pass this provision. Every day in this country American lives are put at risk out of deference to some imagined first amendment rights of foreign terrorists. This is an extreme misinterpretation of our cherished Bill of Rights, which the founders of our nation intended to protect the liberties of all Americans.

In my reading of the U.S. Constitution, I see much about the protection of the safety and welfare of Americans, but nothing about protecting the rights of foreign terrorists to travel freely to the United States whenever they choose.

The second of my bills contained in S. 735 is the Law Enforcement and Intelligence Sources Protection Act. This legislation would significantly increase the ability of law enforcement and intelligence agencies to share information with the State Department for the purpose of denying visas to known terrorists, drug traffickers, and others involved in international criminal activities.

This provision would permit a U.S. visa to be denied for law enforcement purposes without a detailed written explanation, which current law requires. These denials could be made citing U.S. law generically, without further clarification or amplification. Individuals who are denied visas due to the suspicion that they are intending to immigrate to the U.S. would still have to be informed that this is the basis, and they would then be allowed to compile additional information that may change that determination.

Under a provision of the Immigration and Nationality Act, a precise written justification, citing the specific provision of law, is required for every alien denied a U.S. visa. This requirement was inserted into the INA out of the belief that every non-American denied a U.S.-visa for any reason had the right to know the precise grounds under which the visa was denied, even if it was for terrorist activity, narcotics trafficking, or other illegal acts. This has impeded the willing- ness of law enforcement and intelligence agencies to share with the State Department the names of excludable aliens.

These agencies are logically concerned about revealing sources or compromising an investigation by submitting the names of people known to be terrorists or criminals—but who do not know that they are under investigation by U.S. officials—if that information is then revealed to a visa applicant, as current law requires. This is information the United States should be able to protect until a case is completed and, hopefully, law enforcement action is taken. But for the protection of the American people we should also make this information available to the Department of State to keep these individuals out of our country.

Mr. President, I again congratulate Chairman HATCH, and all of the other Senate conferees on this bill for their achievements in negotiations with the House. Obviously, there were some Senate provisions that had strong bipartisan support in this body that I regret could not be sustained in conference. But I urge my colleagues to concentrate on the very substantial and important achievements of this conference report, and I urge broad bipartisan support for its adoption.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. CHAFEE. I wonder if the Senator might yield for a question before the quorum call.

The PRESIDING OFFICER. Will the Senator withhold his quorum call?

Mr. HATCH. Yes. I am happy to.

Mr. CHAFEE. I am a little confused why we do not vote on this motion right now. Everybody is familiar with the issue.

Mr. HATCH. I think we are but the majority leader asked me to put the quorum call.

Mr. CHAFEE. Could I safely say that, if things go right, we are going to vote in a very few minutes?

Mr. HATCH. I hope so. I think so.

The PRESIDING OFFICER. Is there further debate on the motion?

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah.

Mr. HATCH. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the motion to recommit, by the Senator from Delaware.

Mr. HATCH. Mr. President, I move to table the motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that during the consideration of the conference report to accompany the terrorist bill, the time on the conference report be limited to 20 minutes equally divided in the usual form, and all motions to recommit be limited to the following time restraints; that they be relevant

in subject matter of the conference report or Senate- or House-passed bills and that they not be subject to amendments: 30 minutes equally divided in the usual form on each motion.

I further ask unanimous consent that following the disposition of all motions to recommit, if defeated or tabled, the Senate proceed to vote on adoption of the conference report, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Without objection, it is so ordered.

The question is on agreeing to the motion to lay on the table the Biden motion to recommit.

The yeas and nays have been ordered. The clerk will call the roll.

Mr. LOTT. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Florida [Mr. MACK] are necessarily absent.

I further announce that the Senator from Alaska [Mr. MURKOWSKI], is absent due to death in the family.

I further announce that, if present and voting, the Senator from Alaska, [Mr. MURKOWSKI] would vote "yea."

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is necessarily absent.

The result was announced—yeas 50, nays 46, as follows:

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—50

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone
Wyden

NOT VOTING—4

Hatfield
Mack
Murkowski
Murray

So the motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to:

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is ordered.

NORDY HOFFMAN: A TRIBUTE

Mr. HOLLINGS. Mr. President, I would like to pay my respects to a dear friend, F. Nordhoff Hoffman, who died on Friday, April 5, 1996. Nordy Hoffman was a truly good man. He was a big man with a big faith—faith in his church, faith in his beloved alma mater Notre Dame, faith in his wonderful family and, perhaps most importantly, faith in his fellow men and women.

In the early 1970's, I had the honor of serving as chairman of the Democratic Senatorial Campaign Committee while Nordy was the executive director. He was excellent in that capacity, as he was in all of the endeavors he undertook.

As Senate Sergeant-at-Arms, Nordy showed his talents to their fullest. He drew upon his experience with the steelworkers union, his military background, and his political acumen to provide a rare style of leadership. Not only was he an excellent organizer with an aptitude for strategy, he related well to his coworkers and especially to his employees.

Following his Senate service, Nordy founded and maintained a political consulting firm, F. Nordy Hoffman and Associates.

Nordy was a man who demonstrated his commitment to organizations and issues that he cared about. He was an involved member of the Notre Dame University community in several capacities. In his undergraduate years, he was an All-American guard with the championship football team, coached by Knute Rockne—Nordy was later inducted into the College Football Hall of Fame in 1978.

Nordy's deep love of Notre Dame continued through the years. He served as president of the alumni association and as a member of the board. Several years ago, the F. Nordy Hoffman Scholarship was established. The funds are used to aid young men and women who suffer financial reversals during their time at Notre Dame.

Nordy also was an active member of the board of directors of the Stone Ridge School in Bethesda, the board of regents of the Center for Congressional and Governmental Relations at Catholic University, and the board of directors of the credit union here in the U.S. Senate. In addition, he gave unstinting support to numerous local charities.

Nordy spent his life in service to his fellow Americans. Those of us who were privileged to have known and worked with him saw this day after day. He truly made a difference and there can be no higher tribute.

Peatsy and I and the staff join in heartfelt condolences to Nordy's wife Joanne and his entire family.

TRIBUTE TO RONALD BROWN

Mr. FEINGOLD. Mr. President, I rise today to pay tribute to Ron Brown.

Ron Brown had a remarkable career, marked by his exceptional ability to unify people from diverse backgrounds. As chairman of the Democratic National Committee, he used this talent to bring the party's factions together. Democrats and Republicans alike spoke with admiration of his aptitude as a party leader. Ron Brown's work to bridge differences helped revitalize the Democratic party and played an essential role in building the support that led to President Clinton's election.

As Commerce Secretary, Ron Brown also unified individuals from different walks of life to work for American business. His aggressive efforts traveling the world promoting American goods won him uncommon praise from business leaders. It was his enthusiastic devotion to this mission of championing trade and economic development that took him to Bosnia earlier this month not only to try to build American business, but also to aid in the reconstruction of Bosnia. He made the ultimate sacrifice for these goals, giving his life in service to his country.

Ron Brown's career also leaves us with an example of racial leadership, having been the first African-American to chair the Democratic Party and the first African-American Secretary of Commerce. His guidance was apparent in the way he closed divisions within the Democratic Party and in the way he brought together diverse individuals at the Commerce Department. Ron Brown provided a real-life role model for aspiring young Americans as someone who rose to the highest levels of government and who was admired and respected by those who knew him and knew of his contributions to the well-being of his Nation.

The loss of Ron Brown is tragic to America. His leadership will be sorely missed. My deepest condolences go to the Brown family and the families of all the other Americans who lost their lives in this terrible tragedy.

TRIBUTE TO WAYNE A. STEEN, SR.

Mr. BIDEN. Mr. President, today, I would like to offer a tribute to one of the outstanding citizens of my State, one of those citizens who truly represents the best not only of Delaware but of America—the best of our heritage and our hope, the best of our national spirit of community.

VOL
142
PT
6
AP
15
—
24
1996
UMI

It will surprise no one to learn that the citizen I'm describing is a volunteer firefighter.

Wayne A. Steen, Sr., joined the Mill Creek Fire Co. on October 2, 1967, as a member of its youth division, Explorer Post 921. In the course of his 4 years of membership, Wayne served as both president and chief of the post.

On September 22, 1971, just a few days pass his 18th birthday, Wayne Steen became a full member of the Mill Creek Fire Co. For 20-plus years after, he served the company in virtually every office and on virtually every committee, putting in more than a thousand hours and responding to about 600 fire and ambulance runs—those are not career totals; that's 1,000 hours and 600 runs per year—and earning three citations for heroism and leadership.

In addition, Wayne Steen has served as a director of both the New Castle County and the Delaware State Fire Chiefs Associations, and he was long an active member of the Delaware Valley regional association and the International Society of Fire Service Instructors.

Wayne Steen's fire service career represents literally the best of the best—exceptional leadership in a group of exceptional leaders, exceptional citizenship and commitment in a group defined by active concern for neighbors and community, and by selfless dedication to protect and promote the public safety.

Because of Wayne's extraordinary community leadership and service, June 12, 1995, marked a great public as well as personal tragedy.

At this point, this tribute becomes a little difficult for me. First, Wayne Steen is someone I've known and worked with for many years, someone I'm proud to call a friend. And second, Wayne fell victim to a medical condition that I was lucky to survive without any long-term disability. Wayne was not as lucky, and it is hard to reconcile my good fortune with the challenge he and his family continue to face every day.

On that date last June, Wayne was in command of a group of firefighters at the scene of a fatal traffic accident. While on duty, he fell victim to the sudden strike of a brain aneurysm, which left him in a coma. When I went to see Wayne in the hospital, there seemed to be little doubt that his condition would do anything but worsen. He was 41 years old.

With medical care, the support of his family and friends, and, I have absolutely no doubt, by some force of his own will that no mere physical condition could defeat, Wayne's condition was stabilized, and he was able to leave that hospital room where I saw him last summer. But still the struggle had just begun, and it will be a lifelong battle for Wayne and for the family and friends who fight by his side.

It is tempting to describe Wayne Steen as a fallen hero, but I do not think it would be right to do so.

Certainly, he is a hero, and had earned the right to be thought of as such long before last June. His fire service career was, in fact, as good a living definition of citizen-heroism as we are likely to find, and we should—and must—honor such service always.

But Wayne Steen is not fallen, because he has stood too tall, and he has elevated us all too much. Wayne Steen devoted much of his spirit—as well as his time and his talents—to serving a great and essential ideal, and if some part of his spirit has left this life, I have no doubt that it has risen to a higher one. Wayne is not fallen because he serves us still, as long as his example of citizenship continues to call to the best in all of us.

We honor leaders like Wayne Steen best not with our words but when we continue their work, when we learn that they have given so much because their purpose is so important to us all.

And we honor them best when we recognize and fulfill our obligation to those who put themselves at risk to protect our families, our homes, and our communities—our obligation to support them in their service and, when tragedy strikes, in their need. We must be there for people like Wayne, who have always been there for us.

Wayne's family—especially his wife, Terry, and their children, Phillip, Wayne, and Heather—have been there for him in the way we would all hope to support a loved one through such a traumatic ordeal. Their courage, dedication, and strength continue an inspiring family tradition.

The members of the Mill Creek Fire Co., as well as the broader fire service community, have also kept their faith with Wayne and with the Steen family, another great tradition—members of the fire service always keep the faith.

There is no escaping that what happened to Wayne Steen is a tragedy, the kind that cannot be explained, and I do not want to minimize in any way the depth of the loss or the difficulty of the struggle. Our tears are more than justified.

Yet still, through our sadness and in asking Americans to offer prayers and good wishes in support of Wayne and his family, I would also ask that we not forget the immeasurable triumphs of Wayne Steen's life and spirit. Let us not forget the lessons he has taught us by his citizenship, let us not forget the purpose to which he sacrificed so much.

Let us not forget the bond and obligation we share as fellow citizens—let's take care of each other more often, let's work together better. Let's remember how lucky we are.

That's what Wayne Steen would want, and we owe it to him.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, a lot of folks don't have the slightest idea about the enormity of the Federal debt. Occasionally, I ask friends, how many millions of dollars are there in a trillion? They think about it, voice some estimates, most of them wrong.

One thing they do know is that it was the U.S. Congress that ran up the enormous Federal debt that is now over $5 trillion.

To be exact, as of the close of business Monday, April 15, the total Federal debt—down to the penny—stood at $5,140,011,407,773.15. That's $5 trillion, 140 billion plus. Another sad statistic is that on a per capita basis, every man, woman and child in America owes $19,422.38.

So Mr. President, how many million are there in a trillion? There are a million-million in a trillion, which means that the Federal Government owes more than $5 million-million.

Sort of boggles the mind, doesn't it?

THE TYRANT OF TRIPOLI

Mr. MOYNIHAN. Mr. President, on December 21, 1995, I rose on the Senate floor to note the seventh anniversary of the bombing of Pan Am flight 103 over Lockerbie, Scotland—an outrageous act of international terrorism which claimed the lives of 270 innocent people. Seven long years have passed, but still the victims' families have no solace that the alleged masterminds of this evil act will ever be brought to justice because the Libyan Government refuses to extradite them.

Yesterday, in an interview with Gayle Young of the Cable News Network, Libyan dictator Muhammar Qadafi attempted to justify his position: "We are ready [for] these suspects * * * to go there for a trial. But the Governments of America and the British, [sic] they don't want to solve this problem * * *. They have no proof [so] they avoid the trial." Three assertions. Three untruths. Three additions to the endless stream of lies and falsehoods issuing from the tyrant of Tripoli.

A state which harbors outlaws must, of necessity, remain an outlaw state. The United States and the community of civilized nations must keep steadfast to our commitment to the rule of law and our demand for justice for the victims of Pan Am 103 and their families.

I thank the Chair and I yield the floor.

NDSU WOMEN TRIUMPH FOR FOURTH STRAIGHT YEAR

Mr. DORGAN. Mr. President, I want to pay special tribute today to the 1996 National Collegiate Athletic Association's Division II women's national basketball champions, the North Dakota State University Bison.

The Bison women's accomplishments are truly remarkable for any level of play. This year's title marks their fourth straight national basketball championship and their fifth title in the last 6 years.

Many thought they could not improve upon last year's season, when the Bison finished their season undefeated. While they didn't quite reach that goal, they had 2 losses this year, they did break their own record from last year for most points scored in the championship game. This year, they scored 104 points against Shippensburg, PA, in the title game. They also extended their homecourt winning streak to 43 games.

Their outstanding team accomplishments throughout the year were aided by some notable individual accomplishments. I want to especially congratulate the team's two seniors, Lori Roufs and Jenni Rademacher, for their achievements throughout their careers at NDSU. Not too many college athletes close out their collegiate careers with not one, not two, not three, but four national championship rings. That they added the fourth is due in no small part to their leadership this year.

Lori and Jenni each scored 1,000 points during their years at NDSU. And they earned the additional honor of being named to the 1996 Elite 8 All-Tournament team.

I also cannot overlook the individual accomplishments of junior Kasey Morlock, who was named Most Outstanding Player of the tournament for the second year in a row.

But a basketball team needs hard work and contributions from all of its players if it is to reach its league's pinnacle. The Bison certainly got that from juniors Rhonda Birch and Andrea Kelly, sophomores Rachael Otto and Amy Ornell, and freshmen Tanya Fischer, Molly Reif, Brenna Stefonowicz, Theresa Lang, Heidi Smith, and Heather Seim.

Finally, I want to honor the coaches who have turned the Bison into the dominant force in division II women's basketball. It's no coincidence that Head Coach Amy Ruley has won her fifth national championship, and I know her players have the highest respect for her as a coach and as a person. Coach Ruley is assisted on the bench by Kelli Layman, Jill DeVries, and Lynette Mund.

As with last year, all but the two seniors will be returning for next year's season, so the Bison and all of us in North Dakota can look forward to another excellent season. But for now, it is more than enough to bask in the glow of winning yet another national championship. Congratulations to a wonderful team.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:20 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following resolution, without amendment:

S. Con. Res. 51. Concurrent resolution to provide for the approval of final regulations that are applicable to employing offices that are not employing offices of the House of Representatives or the Senate, and to covered employees who are not employees of the House of Representatives or the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes.

The message also announced that pursuant to the provisions of Public Law 86–380, the Speaker appoints the following Member on the part of the House to the Advisory Commission on Intergovernmental Relations: Mr. PAYNE of New Jersey.

At 4:52 p.m. a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the resolution (H. Res. 402) returning to the Senate the bill (S. 1463) to amend the Trade Act of 1974 to clarify the definitions of domestic industry and like articles in certain investigations involving perishable agricultural products, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned with a message communicating this resolution.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 3103. An act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2205. A communication from the Chairman and the Finance Committee Chairman, transmitting jointly, the revised budget request and supplemental appropriation request for fiscal year 1996; to the Committee on Appropriations.

EC–2206. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the Selected Acquisition Reports for the period October 1 through December 31, 1995; to the Committee on Armed Services.

EC–2207. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report under the Chemical and Biological Weapons Control and Warfare Elimination Act for the period February 1, 1995 through January 31, 1996; to the Committee on Foreign Relations.

EC–2208. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report on finance charges under the Truth in Lending Act; to the Committee on Banking, Housing, and Urban Affairs.

EC–2209. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–2210. A communication from the Chairman of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–2211. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2212. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2213. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2214. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2215. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–2216. A communication from the Commissioner of Reclamation, Department of the Interior, transmitting, a report of an overrun of projected cost for Ochoco Dam, Crooked River Project, Oregon; to the Committee on Energy and Natural Resources.

VOL
142
PT
6
AP
15
—
24
1996
UMI

EC-2217. A communication from the Chairman of the International Trade Commission, transmitting, a draft of proposed legislation to provide authorization of appropriations for the United States International Trade Commission for fiscal year 1997; to the Committee on Finance.

EC-2218. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

H.R. 1743. A bill to amend the Water Resources Research Act of 1984 to extend the authorizations of appropriations through fiscal year 2000, and for other purposes (Rept. No. 104-252).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 2243. A bill to amend the Trinity River Basin Fish and Wildlife Management Act of 1984, to extend for three years the availability of moneys for the restoration of fish and wildlife in the Trinity River, and for other purposes (Rept. No. 104-253).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 1672. A bill to make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes; to the Committee on Armed Services.

S. 1673. A bill to authorize appropriations for Fiscal Year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for Fiscal Year 1997, to authorize certain construction at military installations for Fiscal Year 1997, and for other purposes; to the Committee on Armed Services.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, and Mr. BAUCUS):

S. 1674. A bill to amend the Internal Revenue Code of 1986 to expand the applicability of the first-time farmer exception; to the Committee on Finance.

By Mr. GRAMM (for himself, Mr. BIDEN, Mrs. HUTCHISON, and Mr. FAIRCLOTH):

S. 1675. A bill to provide for the nationwide tracking of convicted sexual predators, and for other purposes; to the Committee on the Judiciary.

By Mr. FAIRCLOTH (for himself and Mr. HELMS):

S. 1676. A bill to permit the current refunding of certain tax-exempt bonds; to the Committee on Finance.

By Mrs. BOXER:

S. 1677. A bill to amend the Immigration and Nationality Act to establish the United States Citizenship Promotion Agency within the Immigration and Naturalization Service, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAMS (for himself, Mr. FAIRCLOTH, Mr. ABRAHAM, and Mr. STEVENS):

S. 1678. A bill to abolish the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROBB:

S. Res. 243. A resolution to designate the week of May 5, 1996, as "National Correctional Officers and Employees Week"; to the Committee on the Judiciary.

By Mr. FORD (for himself and Mr. MCCONNELL):

S. Res. 244. A resolution to commend and congratulate the University of Kentucky on its men's basketball team winning its sixth National Collegiate Athletic Association championship; considered and agreed to.

By Mr. LOTT (for Mr. DOLE):

S. Res. 245. A resolution making majority party appointments to the Labor and Human Resources Committee; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 1672. A bill to make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE LEGISLATION

Mr. THURMOND. Mr. President, by request, for myself and the senior Senator from Georgia [Mr. NUNN], I introduce, for appropriate reference, a bill to make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and a section-by-section analysis explaining its purpose be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENERAL COUNSEL OF
THE DEPARTMENT OF DEFENSE,
Washington, DC, April 15, 1996.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: The Department of Defense proposes the enclosed legislation, "To make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes." This proposal is part of the Department of Defense legislative program for the 104th Congress.

The proposal would make changes in authorities relating to use of Warsaw Initiative funds for the Regional Airspace Initiative and the Partnership for Peace information management system, limitations of grades of officers on active duty in the military, the use of certain Reservists in Presidential call-ups, the use of appropriated funds to influence certain Federal contracting and financial transactions, and refinements to third party collection and CHAMPUS double coverage programs. It would address the tax treatment of transfers of Department of Defense owned utility systems. It also would authorize an increase in the penalties for certain traffic offenses on Federal property. It would streamline and simplify child support and alimony garnishment processing. The bill has a provision that would authorize an aviation and vessel war risk insurance program and an extension authority for the Weapons of Mass Destruction Act of 1992.

The Department also requests that the Congress continue to consider for enactment the proposed legislation transmitted last year in the Administration's acquisition reform proposals that would repeal the requirement for recoupment by the Government of certain charges for products sold through the Foreign Military Sales program.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the submission of this proposal to the Congress.

Sincerely,

JUDITH A. MILLER.

Enclosures.

SECTIONAL ANALYSIS

Section 1. The Department of Defense lacks the legal authority to use DoD funds to provide foreign assistance to any foreign country unless such assistance is expressly authorized by law. Therefore, funds appropriated to the Department of Defense for PfP can only be used for activities which DoD can legally perform under existing law, such as to support Partner participation in exercises under the authority of 10 U.S.C. 2010. Since the RAI and PIMS do not fall within the narrow confines of exercise support, the additional authority along the lines of the section above is necessary to support the Regional Airspace Initiative and the PfP Informanagement System.

It is Department of Defense policy to assure mission support utility service at the lowest life-cycle cost. This could include the privatization of existing defense utility systems. In many instances, the Department of Defense is required to make an up-front cash contribution to the utility company for upgraded environmental compliance or additional capacity to effect the transfer of property title.

Section 2. This section would modify section 523 of title 10 to raise the grade ceilings of active duty Army, Air Force and Marine Corps majors, lieutenant colonels, and colonels, and active duty Navy lieutenant commanders, commanders, and captains relative to the total number of commissioned officers on active duty. The revision is driven largely by changes in officer requirements that have occurred since the tables were implemented in 1980. Principal among these are field grade requirements generated by the Goldwater-Nichols and Defense Acquisition Workforce Improvement Acts. Further, other DOPMA constraints on promotion timing and career opportunity have, when coupled with the force reductions since FY 1987, limited the Services' abilities to comply with overall statutory requirements for officer career management.

Section 3. This proposal will provide greater flexibility, cost effectiveness, and efficiency in promoting the acceptance of new technologies necessary to meet Department of Defense (DoD) environmental requirements. The proposal will reduce the frequency and variety of locations required to

demonstrate environmental technologies in order to obtain regulatory approval. Early involvement of regulatory agencies in a substantive manner will improve efficiency and avoid repetitive data collection efforts.

Section 4. Because Haiti no longer has a military, it is not eligible under current law to purchase defense articles and defense services from the Department of Defense under the Foreign Military Sales (FMS) program. The proposed legislation is designed to make Haiti eligible for such assistance. FMS sales will facilitate U.S. assistance in developing and equipping civilian-led law enforcement and maritime institutions. Currently, Haiti is developing a maritime law enforcement entity for refugee and contraband control and would be hindered by a lack of spare parts and equipment. FMS cash sales represent the most efficient manner for the Government of Haiti to acquire the equipment needed to support these missions and would complement IMET training the U.S. Government intends to provide Haiti in maritime skills. It would extend the United States' ability to exert a positive influence over the Haitian National Police and Coast Guard.

Section 5. This section would authorize the Secretary of Defense to participate in the Foundation Geneva Centre for Security Policy, established in 1986, whose purpose is to actively promote the building and keeping of peace, security and stability in Europe and in the world. To this end, the Centre (1) conducts international training courses in security policy, (2) carries out research in security policy and stability and (3) organizes conferences and seminars concerning security issues. Unlike the Marshall Center, an institution chartered by the Secretary of Defense and operated under the direction of the Commander-in-Chief European Command, the Foundation Geneva Centre for Security Policy was established by the Federal Military Department of Switzerland. Consequently, the role of the United States will be participatory, limited to attendance by DoD personnel at conferences and seminars and the making available of an instructor as well as liaison personnel to help organize the various activities of the Centre.

Section 6. This proposal would repeal section 1352 of title 31, United States Code, entitled "Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions" in its entirety. This section was originally established to prevent the use of appropriated funds for lobbying and requires extensive reporting and certifications by contractors and grantees of covered lobbying activities of the Executive Branch and Congress.

The provisions contained in section 1352 have been rendered duplicative by the Lobbying Disclosure Act of 1995 (Public Law 104-65). This new Act requires reporting of lobbying activities directly to Congress and additionally requires the registration of lobbyists. The primary reporting requirements of section 1352 were rescinded by section 10 of the Lobbying Disclosure Act of 1995. The sole reporting requirement which remains is of no practical use. In addition, the restriction against the use of appropriated funds in section 1352 is unnecessary insofar as sections 911 and 1534 of the National Defense Authorization Act for FY 1986 will remain in effect if section 1352 is repealed.

Retention of Section 1352 places an unreasonable dual burden on contractors and grantees and is contrary to the goals of acquisition reform and simplification. Section 1352 no longer serves a useful purpose for contracting and grants officers and represents extra unnecessary costs of compliance for both government and industry.

Section 7. This provision would adopt several refinements to the Third Party Collection Program under which military medical facilities collect from third party payers for health care services provided to beneficiaries who are also covered by the third party payers' plans, and to the related CHAMPUS Double Coverage Program, under which CHAMPUS is secondary payer to other health plans that also cover CHAMPUS beneficiaries.

For the Third Party Collection Program, the section would make three changes. First it would clarify that the rule under which receipts are credited to the appropriation supporting the facility also applies in connection with services provided through the facility, in addition to services provided "by" the facility. This conforms the receipts provision to the overall scope of the Third Party Collection authority. Second, it would clarify that workers' compensation programs and plans are included as third party payers under the program. These plans should not enjoy a windfall in cases in which their beneficiaries, for whom they have collected premiums, happen to receive care in military facilities. Third, it would codify a provision in the DoD Third Party Collection Program regulation (32 CFR 220.12(i)) that, similar to other no-fault automobile coverage, the program includes personal injury protection or medical payments benefits in cases involving personal injuries resulting from operation of a motor vehicle.

For the CHAMPUS Double Coverage Program, the section would integrate the scope of third party payer coverage between the Third Party Collection Program and the CHAMPUS Double Coverage Program. This will assure consistency in third party payer responsibilities relating to the Military Health Services System, regardless of whether their insured or covered beneficiaries receive care in military treatment facilities or under CHAMPUS.

These refinements are consistent with the long-standing Congressional policy of containing health care spending by assuring that third party payers, who generally have collected full premiums for coverage of insured persons who are also DoD beneficiaries, do not shift their costs on to the Federal taxpayers.

Section 8. Under section 118(b) of the Internal Revenue Code, these transfers are a contribution-in-aid of construction (CIAC), and subject to a tax based on their fair market values. By rulings of the Public Utility Commissions in the various States, this tax must be paid by the utility customer, in this case the Department of Defense, which created the tax liability and which cannot be built into the general rate base for all utility customers.

To effect the transfer of Department of Defense owned utility systems, a utility company is obligated to impose a charge on the Department of Defense equal to the CIAC tax which must be paid from Defense Appropriations for Base Operations and Maintenance. In summary, the consideration of Department of Defense cash or real property transfers as a CIAC to a utility and subject to federal tax merely results in a "pass-through" from Department of Defense appropriations through the utility company to the United States Treasury with no-net-revenue-gain to the Federal Government.

The proposed exemption will conserve scarce Department of Defense Base Operation and Maintenance funds, eliminate a no-net-revenue-gain to the Federal Treasury, and reduce the administrative burden of enforcing this section of the Federal Tax Code.

The proposal would permit the Department of Defense to implement its privatization policy of divesting itself from ownership and operation of utility systems without distorting the economic analyses by unnecessary "added costs" to the government. The Department of Defense would get out of the utility business in its entirety when it is proven to be cost effective to do so, and concentrate its shrinking resources on its training and war fighting mission. The proposal further would prevent the government from taxing itself when transferring Department of Defense property or paying a connection fee to a utility entity by a Department of Defense installation. It would relieve local utility companies of the burden of having to account for a CIAC and re-bill the Department of Defense for taxes on CIAC. Finally, it would eliminate the need to the Department of Defense to program and budget for the payment of this tax which results in no-net revenue-gain to the Federal Treasury.

Section 9. This provision would amend the Act of June 1, 1948 (40 U.S.C. 318c) which authorizes the Federal prosecution of a person who violates a regulation to control Federal property promulgated by the Administrator of the General Services Administration. Section 4 of the Act provides for a fine of not more than $50 or imprisonment for not more than 30 days, or both. The penalties have not been revised since enactment. This section would amend such section 4 to make the penalties in title 18, United States Code, applicable to violations of regulations promulgated pursuant to the Act. For example, section 3571 of title 18 would establish the applicable fines.

Section 10. This section amends section 659(b) of title 42, United States Code, to delete the requirement for service by certified mail, to require additional information to identify the individual whose pay is subject to legal process.

The current language of section 659(b) requires the use of certified or registered mail or personal service. Personal service, as a practical matter, is rarely used. Requiring that service be made by certified or registered mail increases the likelihood the process will be rejected because many agencies often forget to send the orders by certified mail. This results in increased cost to the government, extensive rework, and further delays the implementation of a support order. The amending language expands the existing language to include facsimile or electronic transmission, mail, and personal service.

The amendment also amends section 659(b) by adding the word "obligor" after the word "individual" in the sentence to clarify the intent of the statutory language and further designate the person the process must identify, and requires the obligor's Social Security Number, whenever available, as an identifier in order to assist the Government in correctly identifying the proper person. Because of limitations in records that are accessed to process these orders, the name, address, date of birth, and place of birth are generally insufficient to identify an individual. Addresses can change virtually overnight. A Social Security Number is the one identifier that is unique and permanent. Requiring use of the Social Security Number will enhance the ability of an agency to make a correct identification of the person responsible for support payments and expedite the processing of the order.

VOL
142
PT
6
AP
15
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24
1996
UMI

Section 11. Section 334 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 requires that draft final remedial investigations and feasibility studies (RI/FS) be completed within 24 months (for BRAC 88 installations) or 36 months (for BRAC 91 installations) for installations on the NPL unless the Secretary of Defense grants a deadline extension The Secretary may grant such extension only after consulting with the Environmental Protection Agency (EPA) and notifying Congress.

The provision does not help speed cleanups or base closure or encourage greater involvement by EPA and is of no value to the Department. The provision directs project management resources for the periodic notification and formal consultation requirements. The formal consultation is unnecessary because Federal Facility Agreements (FFAs) between DoD and EPA contain cleanup schedules negotiated and agreed to by both parties based on base closure and cleanup goals and priorities.

The provision requires burdensome information gathering, coordination, and reporting that is of no value to the Department. Elimination of the provision would result in reduced red tape thereby expediting the cleanup and transfer of closing bases.

Budget Impact: The amendment does not impact environmental restoration budgeting requirements.

Section 12. (1) *Fort Riley:* The U.S. Environmental Protection Agency (EPA) Region VII, assessed a $65,000 penalty against Fort Riley pursuant to the March 4, 1991, Federal Facilities Agreement which governs cleanup activities at the installation. The penalty was due to the failure to submit the draft final Remedial Investigation (RI) report for the pesticide storage facility. The draft final RI was due on June 3, 1993, and was not submitted until July 19, 1993. On January 26, 1994, Ft. Riley and EPA Region VII agreed to a settlement wherein the Army would pay $34,000 as a cash penalty and $31,000 was mitigated through completion by April 9, 1994 of the following three on-site response actions (removals):

(1) excavation of pesticide and metal contaminated soils at Pesticide Storage Facility,

(2) excavation of lead contaminated soils from Colyer Manor Housing site, and

(3) placement of rock revetment along the Kansas River bank at the Southwest Funston Landfill site.

The $31,000 cleanup project at the pesticide storage facility has been completed. However, enabling legislation is required to pay the $34,000 cash penalty.

The Army has included the $34,000 as part of the FY 1997 budget request. Because it is already included in the budget request, no adverse budget impact is anticipated by use of the $34,000 to pay this penalty.

(2) *Massachusetts Military Reservation:* The Military Reservation violated the CERCLA-mandated Interagency Agreement (42 U.S.C. 9620) with EPA Region I and the Commonwealth of Massachusetts by failing to submit cleanup studies to EPA and Massachusetts according to an agreed-upon time schedule.

(3) *F.E. Warren Air Force Base:* The Air Base violated the CERCLA-mandated Interagency Agreement (42 U.S.C. 9620) with EPA Region VIII and the State of Wyoming by failing to adequately test potentially contaminated soil at a cleanup site, and by failing to properly containerize such soil.

(4) *Naval Education and Training Center Newport, Rhode Island:* The EPA Region I assessed a $260,000 penalty for non-compliance with the March, 1992 Federal Facility Agreement (FFA) for Naval Education and Training Center, Newport, Rhode Island. The penalty was for failure to submit complete draft Remedial Investigation (RI) reports for McAllister Point Landfill and Old Fire Fighting Training Area. The reports, as submitted to EPA, were incomplete, because they did not contain ecological risk assessments. The draft RI report for McAllister Point Landfill was submitted February 14, 1994 and the draft RI report for Old Fire Fighting Training Area was submitted March 31, 1994. These dates were in accordance with the FFA schedules. A draft report containing ecological risk assessments for both sites was submitted May 30, 1994. On June 26, 1995, the Navy, EPA Region I and the State of Rhode Island agreed to a settlement wherein the Navy would pay $30,000 as a cash penalty and also accomplish the following actions:

(1) arrange for a partnering session among the parties and contribute $10,000 to such an endeavor (completed August, 1995).

(2) removal of sandblast grit at the Derecktor Shipyard site at NETC; cost of the removal to be not less than $90,000 (completed September, 1995).

The Navy has included the $30,000 as part of the FY 1997 budget request. Because it is already included in the budget request, no adverse budget impact is anticipated by use of the $30,000 to pay this penalty, but enabling legislation is required.

(5) *Lake City Army Ammunition Plant:* The Army violated a CERCLA-mandated Interagency Agreement with EPA Region VII and the State of Missouri for failing to submit Area 18 and Northeast Corner Operable Unit Remedial Investigation Reports to EPA and Missouri according to an agreed-upon time schedule.

Section 13. The purpose of this legislation is to provide a means for rapid payment of claims and the rapid reimbursement of the insurance funds to protect commercial carriers assisting the Executive Branch from catastrophic losses associated with the destruction or damage to aircraft or ships while supporting the national interests of the United States. Allowing the Department of Defense to transfer any and all available funds will allow the United States, in these two vital reinsurance programs, to match standard commercial insurance practice for the timely payment required by financial arrangements common in the transportation industry today. Reporting and the requirements for supplemental appropriations, if any, ensures Congressional oversight at all stages.

Subsections (a) and (b) of the proposed legislation set forth the short title and the findings and purposes, respectively.

Subsection (c) of the proposed legislation amends section 44305 of title 49, United States Code, by adding a new subsection (c).

Subsection (c)(1) allows transfer of any funds available to the Department of Defense, regardless of the purpose of those funds. Although other authorities may exist to transfer funds, limitations as to amounts and priorities make these authorities insufficient to rapidly respond to the obligations of the Department of Defense under the current law, especially if contingencies or war-time conditions exist. Proposed language would not distinguish between types of insurance or risk, so long as the Federal Aviation Administration had issued a policy covering the risk. The language would not limit the authority to a specific fiscal year, but would be ongoing without need for reenactment periodically by Congress. Such Congressional oversight is already in place through the reauthorization of the Aviation Insurance Program, next scheduled to take place in 1997.

Subsection (c)(2) provides specific time limits within which the Secretary of Defense must pay claims and reimburse the Federal Aviation Administration. Notification to Congress and the 30 day delay before transfer required in other statutes is waived. The most important issue for the air carriers is the replace of the hull so that they may continue operations, including supporting the requesting agency, without idling crews or having to lay off personnel due to the lack of airframes. A longer time frame is provided for other claims, such as liability to third parties, as normal claims procedures can adequately protect their interest.

Subsection (c)(3) requires reports to Congress within 30 days of loss for amounts in excess of one million dollars, with periodic updates to ensure Congress is aware of amounts being transferred and paid out under the chapter 443 program. As supplemental appropriations may be necessary, Congress will have sufficient information on which to base a decision regarding the supplemental appropriations.

Subsection (d) of the proposed legislation amends section 1205 of the Merchant Marine Act, 1936, (46 App. U.S.C. §1285) by adding a new subsection (c).

Subsection (c)(1) authorizes the Secretary of Defense to transfer funds available to the Department to pay claims by contractors, for the damage or loss of vessels and death or injury to personnel, insured pursuant to Title XII of the Merchant Marine Act, 1936, or loss or damage associated therewith. Proposed language would not distinguish between types of insurance or risk, so long as the Maritime Administration had issued a policy covering the risk. The language would not limit the authority to a specific fiscal year, but would be ongoing without need for reenactment periodically by Congress. Such Congressional oversight is already in place through the reauthorization of the Vessel War Risk Insurance Program, next scheduled to take place before the 30 June 1995 expiration (46 App. U.S.C. §1294).

Subsection (c)(2) provides specific time limits within which the Secretary of Defense must reimburse the Secretary of Transportation.

Subsection (c)(3) requires reports to Congress on a periodic basis for claims paid in amounts in excess of one million dollars to ensure Congress is aware of amounts being transferred and paid out under the Title XII program. As supplemental appropriations may be necessary, Congress will have sufficient information on which to base a decision regarding the supplemental appropriations.

The addition of subsection (c) to section 44305 of title 49, United States Code, and subsection (c) to section 1205 of the Merchant Marine Act, 1936, (46 App. U.S.C. §1285) would allow the Department of defense to rapidly pay claims resulting from damages or injuries caused by risks covered by the respective programs as a consequence of providing transportation to the United States when commercial insurance companies refuse to cover such risks on reasonable terms and conditions. The requirement to reimburse the Federal Aviation Administration or the Maritime Administration already exists; however, the only method for payment currently available may involve requesting supplemental appropriations from Congress. Such a process historically has taken six

months or longer. Many air carriers have indicated their financial obligations may not allow them to continue to support the United States if rapid payment for losses cannot be made. Commercial aircraft insurance policies and practice require payment in less than 30 days when cause is not in issue, usually within 72 hours.

If enacted, this legislation would not result in an increase in the budgetary requirements of the Department of Defense.

Section 14. This proposal would modify section 12304 of title 10, United States Code, to provide authority to include up to 30,000 members of the Individual Ready Reserve as part of the 200,000 Reserve component members ordered to active duty involuntarily. This would be done only when the President determines that it is necessary to augment the active forces for any operational mission. This change would ensure the timely availability of certain trained members of the Individual Ready Reserve [IRR] to fill requirements for selected skills in early mobilizing or deploying active and reserve units. This would preclude the need for cross-leveling of personnel from later deploying units to fill shortages in early deploying units. Currently, members of the IRR cannot be ordered to active duty involuntarily until a national emergency has been declared.

Every military unit has vacancies caused by individual schooling requirements, hospitalizations, and transitioning personnel. Additional vacancies occur upon deployment due to personal hardships, medical reasons, and differences between peacetime and wartime manning. In the past, upon deployment, those vacancies have been filled by taking trained personnel from later deploying units or individual volunteers from the IRR. This approach of fixing early deploying units at the expense of units scheduled for later deployment can create a risk with regard to readiness of the later deploying units, should their deployment be required. As the force becomes smaller, every unit in the Reserve components becomes increasingly important. Borrowing personnel from later deploying units is no longer an acceptable option.

The Army has documented the need for early access to members with specific skills, in specific grades, in the IRR to accommodate full-strength deployment of first-to-fight units. Since members of the IRR are in the Ready Reserve but not the Selected Reserve, currently they are not subject to involuntary call-up under the provisions of the section 12304 being amended (Presidential Selected Reserve Call-up) and are therefore not available for filling early deploying unit shortfalls.

This legislative proposal would provide the authority to use a limited number of IRR members who possess specific specialties and grades, and who meet certain criteria, to fill early deploying unit shortfalls, thus lessening the potential impact on the readiness and cohesion of units scheduled for later deployment.

Section 15. This provision would extend, through the end of Fiscal Year 1998, the Weapons of Mass Destruction Act of 1992, which is slated to expire at the end of Fiscal Year 1996. The provision would revise funding restrictions in a manner consistent with the original legislation. Such authority especially is important given ongoing concerns over Iraq's continued possession of weapons of mass destruction and missile delivery systems. The Department of Defense, including its Executive Agent for matters regarding the United Nations Special Commission on Iraq (POTPOR.SECUNSCOM), the On-Site Inspection Agency, requires the authority to continue much of its current activities in support of UNSCOM.

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 1673. A bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1997, to authorize certain construction at military installations for fiscal year 1997, and for other purposes; to the Committee on Armed Services.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. THURMOND. Mr. President, by request, for myself and the senior Senator from Georgia [Mr. NUNN], I introduce, for appropriate reference, "A bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, to prescribe military personnel strength for fiscal year 1997, to authorize certain construction at military installations for fiscal year 1997, and for other purposes." I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and a section-by-section analysis explaining its purpose by printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENERAL COUNSEL OF
THE DEPARTMENT OF DEFENSE,
Washington, DC, April 5, 1996.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: The Department of Defense proposes the enclosed draft of legislation, "To authorize appropriations for Fiscal Year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for Fiscal Year 1997, and for other purposes."

This legislative proposal is part of the Department of Defense legislative program for the 104th Congress and is needed to carry out the President's budget plans for Fiscal Year 1997. The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

This bill provides management authority for the Department of Defense in Fiscal Year 1997 and makes several changes to the authorities under which we operate. These changes are designed to permit a more efficient operation of the Department of Defense.

Enactment of this legislation is of great importance to the Department of Defense and the Department urges its speedy and favorable consideration.

Sincerely,

JUDITH A. MILLER.

Enclosures.

SECTIONAL ANALYSIS

PROCUREMENT—OTHER MATTERS

Section 110 clarifies that the prohibition in the National Defense Authorization Act for Fiscal Years 1990 and 1991 does not apply to funds authorized and appropriated in the Department of Defense Appropriations Act, 1996 and the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 186). The prohibition was against obligating funds for procuring additional F-15 aircraft. This proposal is similar to previous exceptions at section 137 of the National Defense Authorization Act for Fiscal Year 1992 (Public Law 102-190; 105 Stat. 1312) which permitted the obligation of funds to replace and support F-15 aircraft that had been sold to Saudi Arabia. Without this clarification the Department of Air Force will be unable to obligate appropriated funds for this program. The proposal also would obviate the prohibition for Fiscal Year 1997 departmental authorizations and appropriations. The President's Budget includes assumptions that the waiver will apply in Fiscal Years 1996 and 1997.

Section 111 updates the cost basis for the definition of the term "major system" to fiscal year 1990 constant dollars from fiscal year 1980 constant dollars. It also allows the Secretary of Defense to further adjust these costs after notification of the Congressional defense committees. This language parallels the language in the definition of "major defense acquisition program" found in section 2430 of title 10.

The purpose of section 112 is to streamline and simplify the notification process for defense contract workers who are displaced because of termination or substantial reduction in defense contract funding. The current law creates an elaborate process of such a complex and cumbersome nature that it actually prevents prompt notification. The revision places notifications directly at the contract administration level. Additionally, a redundant Federal Register reporting requirement is eliminated.

The proposal would continue the intent of the original legislation—to make displaced defense contract workers eligible for employment services under the Job Training Partnership Act (JTPA).

It would require DOD notifications to contractors upon actual contract terminations or substantial reductions in funding. The original law, on the other hand, had notification triggered by the budget process at the program level when the President's budget was first submitted to Congress. It included provision for withdrawals of notification if Congress provided funding for a program proposed to be eliminated or reduced by the President's budget. The original law also included a provision for notifications based on funding cuts, still at the program level, in the Defense Appropriations Act. This proposal eliminates the necessity of withdrawals of notices by focusing the process on actual contract impacts (instead of "pending" terminations or substantial reductions, and relates to obligated funds on a contract by contract basis. Additionally, notifications/withdrawals in the original legislation, at the program level, did not identify which specific contracts under a particular major defense program would be reduced or eliminated.

The proposal also eliminates reporting in the Federal Register of notifications and withdrawals as redundant to the public availability of both budget submissions and enacted defense appropriations legislation.

The proposal retains the following provisions of the original law:

Notification to contractors by DoD within 60 days after enactment of a Defense Appropriations Act; contractor's obligations to inform adversely affected employees, its subcontractors, State Employment Services' dislocated workers units, and the chief elected local government official within two

VOL 142 PT 6 AP 15 — 24 1996 UMI

weeks after the contractor receives notification.

Continued requirement to give notice to the Department of Labor.

Notification of contract termination or substantial reduction to enable displaced defense contractor employees to be eligible for JTPA employment benefits.

Continued notifications to affected subcontractors at identified tiers.

Loss of eligibility for JTPA benefits if funding is restored to a contract after notification.

Continued connection to major defense system.

Section 113 would incorporate improvements in the acquisition reporting process of major defense acquisition programs. These improvements reflect recommendations from the Defense Authorization and Appropriation Committees, Congressional Budget Office, and Department of Defense staffs. Briefly, this proposal includes revisions to the section of the law that is related to Selected Acquisition Reporting (SAR).

This provision would replace "program acquisition unit cost" with "procurement unit cost" as a more meaningful measure of recurring unit cost. Program acquisition unit cost includes Research, Development, Test, and Evaluation (RAT&E), a nonrecurring portion of acquisition costs. Management oversight of *unit* cost should focus on procurement unit cost, the recurring portion of acquisition costs.

The provision also would delete the currently reported completion status for a program, that is, percent program completed and percent program cost appropriated. These calculations of program status can be misleading, particularly in the early development stage of a program. The Department plans to substitute percent program delivered and percent program expended as more accurate measures of program status. These measures also represent the statutory criteria for SAR termination.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Section 202. Section 2366, title 10, United States Code, requires realistic survivability testing on a covered system before the system may proceed beyond low-rate initial production. The law authorizes the Secretary of Defense to waive realistic survivability testing before the system enters into engineering and manufacturing development if a certification is made to Congress that testing would be unreasonably expensive and impractical, and requires a report assessing realistic survivability testing. The V-22 program entered full-scale engineering development (the previous term for engineering and manufacturing development) prior to enactment of the legislation.

This section allows the Secretary of Defense to exercise the waiver authority of section 2366(c), notwithstanding the fact that the V-22 program has already entered engineering and manufacturing development. Such a waiver requires the Secretary of Defense to certify to Congress that live-fire testing of the V-22 would be unreasonably expensive and impractical. The section also provides alternative survivability test requirements for the conduct of any alternative live-fire test program.

Section 203 would amend section 2366(c) of title 10, United States Code, to authorize the Secretary of Defense to exercise the waiver authority in such section, with respect to the application of survivability tests of that section to the F-22 aircraft, notwithstanding that such a program has entered full-scale engineering development.

Section 254 of the National Defense Authorization Act for Fiscal Year 1995 directed the Secretary of Defense to request the National Research Council to study the desirability of waiving the live fire tests that are required by law for the F-22. The Committee on the Study of Live Fire Survivability Testing of the F-22 Aircraft was formed by the National Research Council (NRC) to conduct the study.

The NRC committee began its work in December 1994. Several data gathering meetings were held to expose the committee to the full spectrum of views involving live fire testing of fighter aircraft. A final report entitled "Live Fire Testing of the F-22" was published in 1995. The principal recommendation of this report is stated below:

"Principal Recommendation. Permit a waiver of the full-up, full-scale live fire tests required by law for the F-22. The committee believes that such tests are impractical and offer low benefits for the costs."

The NRC report contains four pages of recommendations. The F-22 System Program Office (SPO) is preparing a detailed response to each of the NRC recommendations. The F-22 SPO will coordinate these additional RDT&E activities with the responsible Air Force and OSD offices.

Given the above NRC recommendation, the Department of Defense is submitting legislation to authorize a retroactive waiver of the survivability and lethality testing procedures that apply to the F-22 Program.

This law change avoids the purchase ($181M in FY90$, $250M in TY$) of an additional F-22 aircraft for full-up, full-scale destructive live fire testing.

Section 204 would clarify and, to the extent necessary, override the provisions of section 1701 of the National Defense Authorization Act for Fiscal Year 1994, or other laws, which indicate that the basic and applied research and advanced technology development activities of the Defense Advanced Research Projects Agency are to be subordinated to other research organizations or entities within the Department. This would restore the agency to its traditional function within the Department.

TITLE III—OPERATION AND MAINTENANCE

Section 310 would expand the remedies available to contractor employees who are wrongfully terminated because they reported wrongdoing.

This legislation would also amend the law to provide that the investigative costs may be assessed against a contractor when the allegation of reprisal is substantiated.

Any additional costs required by this proposal will be absorbed in departmental operation and maintenance accounts.

Section 311 would repeal section 12408 of title 10, United States Code, which requires that each member of the National Guard receive a physical examination when called into, and again when mustered out of, Federal service as militia. For short periods of such service, this requires two complete physical examinations during a period of days or weeks. In view of other statutory and regulatory requirements for periodic medical examinations and physical condition certifications for members of the National Guard, this additional examination requirement is unnecessary, administratively burdensome, and expensive, and could impede the rapid and efficient mobilization of the National Guard for civil emergencies.

There is no corresponding statutory requirement for physical examinations when members of the National Guard or other reserve components are ordered to active duty as reserves.

Section 312 would amend section 4105 of title 5, United States Code, by adding a new sentence to authorize the utilization by military personnel of arrangements and agreements developed for training civilian employees. Current authorities do not provide a streamlined procedure for the acquisition of commercial courses for military personnel, whereby the Government Employees Training Act of 1954 authorized procuring such courses without regard to acquisition practices contained in part 5 of title 41 and the prohibition against paying in advance of receipt of services now contained in section 3324 of title 31. Allowing military personnel to utilize these procedures will streamline acquisition of these courses, enabling utilization of commercial credit cards and electronic funds transfer, where appropriate, to parallel practices in commercial industry.

If enacted, this proposal will not increase the budgetary requirements of the Department of Defense. By amending this section, monetary savings may be realized by decreasing their intensive procurement methods and authorizing training personnel to procure such training for military personnel in addition to civilian personnel training rather than have contracting personnel involved in the acquisition of what were basically commercial services.

Section 313 provides authority to Department of Defense (DoD) to retain proceeds from the sale of Clean Air Act emission reduction credits, allowances, offsets, or compatible economic incentives.

Federal fiscal law and regulations generally require proceeds from the sale of government property to be deposited in the treasury. These regulations preclude an agency from keeping the funds generated by reducing air emissions and selling the credits as does private industry. This inhibits the investment of those funds to purchase needed air credits in other areas, and eliminates any incentive for installations to spend the money required to generate the credits in order to sell them.

The Clean Air Act (CAA) mandates that states establish state implementation plans (SIPs) to attain and maintain the national ambient air quality standards (NAAQs), which are health based standards established for certain criteria air pollutants, e.g., ozone, particulate matter, carbon monoxide. To further this mandate, the 1990 Clean Air Act Amendments provided language encouraging the states to include "economic incentive" programs in their SIPs. Such programs encourage industry to reduce air pollution by offering monetary incentives for the reduction of emissions of criteria air pollutants. CAA §110(a)(2)(A) provides that SIPs "shall include enforceable emission limitations and other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emission rights) . . . as may be necessary or appropriate to meet the applicable requirements of this chapter." See also CAA §176(c)(6) (similar language specifically directed toward SIPs for nonattainment areas for NAAQs).

A number of state and local air quality districts have already established various types of emission trading systems (see Brownstein, "Report on Select Emissions Trading Programs," prepared for the Virginia Department of Environmental Quality by the Mid-Atlantic Regional Air Management Association (1995), examining 11 state trading and banking programs). However, the military services presently lack clear authority to sell Clean Air Act economic incentives and, if such incentives were sold, would have to remit the proceeds to the U.S. Treasury. Assuming sale authority is granted, this authority needs to be coupled with the right to retain the proceeds at the installation level in order to create a local economic incentive to reduce air pollution above and beyond legal requirements and thereby create a marketable commodity. Retention and use of proceeds at the installation level is a key component of the proposed bill. Because this new authority would be similar in concept to existing authority for the sale of recyclable materials and retention of proceeds from the sale for use by the local military installation, the proposed bill is patterned on that authority.

In 1982, Congress passed Public Law 97-214, 10 U.S.C. §2577, Disposal of Recyclable Materials, to provide greater economic incentives for military departments to develop aggressive recycling programs at the installation level to reduce the volume of materials going into the waste stream. The statute gave the Secretary of Defense authority to prescribe regulations for the sale of recyclable materials held by a military department or defense agency. All sales of recyclable materials by the Secretary of Defense or a Secretary of a military department must be in accordance with the procedures of section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property. The important feature of the statute which provides a significant local economic incentive is that net proceeds from the installation's sale of recyclable materials remain at the installation, available for use in local programs (i.e., pollution abatement, energy conservation, and the moral and welfare account) rather than having to be forwarded to the U.S. Treasury, the standard requirement. When a "profit" can be realized and applied in support of local operations, the installation commander has a definite incentive to develop and implement a successful program.

Proceeds from the sale of recyclable materials in the DoD program had increased from $1.5 million in FY 1983 to $37 million in FY 1992. The success of the DoD recycling incentive program clearly demonstrates that there can be significant benefits to the environment, such as reduction of waste streams going to landfills, that also make sense economically when direct economic incentives are created to reduce pollution.

Budget Impact: This provision will not result in increased cost to the military. Military installations will develop tradable credits only when economically beneficial for future use at the same or other installations, or for selling on the private market. Only installations located in areas where an emissions credit program has been implemented can utilize this provision. Currently only a few states have developed such programs, with several states in the process of the necessary rulemaking. With the number of installations able to participate being unknown; no cumulative cost-benefit analysis can be presented.

However, an example demonstrating the potential cost/savings benefits of the proposed legislation is the RECLAIM air emission trading program in the South Coast Air Quality Management District (SCAQMD), California. The RECLAIM program is an allowance type market program for NO_x (Nitrogen oxides) and SO_x (sulfur oxides) sources. RECLAIM Trading Credits (RTCs) are issued annually, upon payment of a fee, to a facility at the start of its compliance cycle (one year). The number of RTCs issued to a facility decline each year. If a facility has RTCs that it does not require for its own use, it may sell those RTCs to other RECLAIM facilities. Several military installations are required to participate in the NO_x RECLAIM program including March Air Force Base, Long Beach Naval Shipyard, and Naval Auxiliary Landing Field San Clemente Island. These military facilities will also be included in the RECLAIM program for VOCs once it is approved.

RECLAIM was effective January 1, 1994. By December 1994, at the conclusion of the first year of the program, March AFB held 69,246 pounds of surplus NO_x RTCs which, if the proposed legislation was in effect, it could have sold/traded to other RECLAIM facilities. March AFB could have potentially recouped half its investment having paid $00.10 per pound or $7,051 for the unused credits. In 1995, March paid $12,415.00 for 110,458 NO_x RTCs; it expects to use 90,000. However, since March is closing, once the active duty forces have left on April 1, 1996, March will have a significant decrease in NO_x emissions meaning it will then have a significant number of RTCs to trade/sell.

A report on RECLAIM trading provides interesting market data (see Margolis, "In the RECLAIM Trading Pit—Progress, Problems, and Prospects," Dames & Moore Air Trade Services, Air & Waste Management Association, 88th Annual Meeting (1995)). At least 30 trades have occurred involving about 5.5 million pounds of NO_x. The largest trade to date was between Union Carbide Corporation (RTC seller) and Anchor Glass Container Corporation (RTC buyer) involved a stream of 1994 through 2010 NO_x RTCs equaling about 1,700 tons. The price was $1.2 million for the entire stream, or about $700 per ton of RTCs (in 1994 dollars). The first RECLAIM auction, held in July, 1994, drew 17 sellers and 6 buyers; 48,700 pounds of 1995 NO_x RTCs sold for $334 per ton and 2,500 pounds of 1996 NO_x RTCs sold for $574 per ton. The 1995 RTCs that March projects to have this year, by interpolation, could then be sold for $3,340.00, not a large sum, but, as noted above the sales price will increase in succeeding years as all facility allocations decline. The sale reduces compliance costs and proceeds offset fees incurred by the military facility. Recent trading in the RECLAIM program showed that the cost for RTCs useable in the years 2010/11 had risen to $1706/ton.

We anticipate that many other areas of the country will be implementing "RECLAIM" type programs that require military installations to purchase credits or allowances based on estimated allocations rather than actual emissions. In time, the new CAA Title V Operating Permit Programs will include trading components and Title V is based on "potential to emit" rather than actual emissions. It is therefore necessary to give the military services the required authority and flexibility to fully participate in these new emission trading programs.

Section 314 would revise subsection 2216(i)(1) of title 10, United States Code, to reestablish compatible capital asset thresholds for Operation and Maintenance (O&M) funded activities and DBOF funded activities. Historically DBOF business areas have used the same capital asset threshold as used by O&M funded activities to ensure application of consistent accounting policies throughout the Department and to simplify training and management requirements. The raising of the O&M capital asset threshold to $100,000 reflects the impact of inflation on the cost of equipment and software and the recognition that $50,000 is no longer a reasonable threshold for the additional management requirements associated with capital purchases.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Section 402 would amend section 115(d) of title 10, United States Code, by adding a new subsection (8), which would exclude a limited number of Reserve component members, who are serving on active duty for special work for more than 180 days, from counting against the end strength for each of the armed forces (other than the Coast Guard) authorized for active duty personnel who are to be paid from funds appropriated for active duty personnel. This proposed amendment would increase accessibility to Reserve component members and provide for greater continuity in the use of Reservists to support CINC and other active force OPTEMPO requirements. The number of Reserve component members serving on active duty for more than 180 days, excluded under this provision, could not exceed two-tenths of one percent of the authorized active duty end strength for each military service.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Matters Relating to Reserve Components

Section 501 would amend section 14514, chapter 1407, of title 10 of the United States Code to authorize the Service Secretaries to separate administratively members in an inactive status for years of service or after selective removal without convening a discharge board.

Enactment of this technical change closes a loophole that allows retention of non-participating members in the Standby Reserve with no benefit to the government. The majority of these members are retirement eligible and have not applied for transfer to the Retired Reserve. Assignment of these Reserve members to the Retired Reserve benefits the government as they are available for use much earlier in a contingency due to a higher DOD mobilization priority selection. Congressional authority is required to recall the Standby Reserve. World War II was the last time Congress recalled the Standby Reserve. Presidential authority is required to recall Retired Reserve members. The last time the President recalled the Retired Reserve was during DESERT SHIELD/STORM.

Another benefit is reduced administrative cost to the government due to selective removal of members from the inactive status. Presently, in order to separate these members an Administrative Discharge Board must be convened by the responsible agency and this board must be comprised of personnel who are senior in grade to the member being considered for discharge. Convening a board involves travel expenses, per diem, pay and allowances, commissary and base exchange privileges and the administrative costs of the board. Approval of this change allows the Service Secretaries to be more efficient and cost effective in managing their inactive reserves.

Any additional administrative costs in the enactment of this proposal will be accomplished within available operational and maintenance funds.

Section 502 would amend section 12205 of title 10, United States Code, relating to the ability of members of the Naval Reserve to be promoted. The amendment would authorize naval service members who are selected for service as commissioned officers under the Seaman to Admiral program to be promoted above the grade of lieutenant (junior

VOL
142
PT
6
AP
15
—
24
1996
UMI

grade) even though they might not have completed baccalaureate degree requirements at the time they are considered by the lieutenant (0-3) selection board. Section 12205 restricts the promotion of officers of the Naval Reserve who do not have baccalaureate degrees to no higher than the grade of lieutenant (junior grade), with exceptions for limited duty officers and members commissioned under the Naval Aviation Cadet (NAVCAD) program. This section would simply add an exception for members commissioned under the Seaman to Admiral program.

The Seaman to Admiral program was designed to provide commissions to outstanding enlisted members of the Navy even if they do not have a college degree. This program provides an excellent opportunity for up to 50 truly outstanding Navy enlisted personnel per year. After selection to the program and commissioning as ensigns in the Naval Reserve, the Seaman to Admiral selectees attend from 16 weeks to 2 years of warfare training. These officers then serve in their wartime communities in initial operational tours of duty. Later, they are afforded the opportunity to earn college degrees at Government expense. Attendance at college would commence when they have approximately 3-4 years of commissioned service, coinciding with the promotion flow point to lieutenant. Under current law, the Seaman to Admiral program selectees will not be eligible for promotion above 0-2 at that flow point, as most will not have earned college degrees. At their "second look" for promotion to lieutenant, approximately the 5-year mark, current law would require officers who have not yet completed degrees to be passed over a second time. Under current law, members passed over twice must be separated from the service.

This section is needed to remove the unintended consequence of forcing failure of selection for promotion, without regard to performance. This amendment will allow Seaman to Admiral program selectees to become commissioned officers with full career opportunity according to merit, including promotions at the normal flow points.

In the first 2 years of this program, 58% of the selectees in an intensely competitive selection process had already completed a portion of their college education prior to selection. This bill is intended to ensure these outstanding junior officers retain the ability to complete for promotion based on their performance.

The proposed legislation would result in no additional Department of Defense costs or budget requirements.

Section 503 would direct the Secretary of Defense to conduct a regionalized test of unlimited commissary privileges for members of the reserve component of the Armed Forces who are currently eligible for limited use of the commissary. Currently, eligible members of the Ready Reserve and Retired Reserve as authorized 12 days of commissary shopping in a calendar year. The test would provide a means of evaluating the extent to which an expansion of commissary privileges for currently authorized Reservists might impact on commissary operations.

Section 504 would amend section 12868 of title 10, United States Code, as added by the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2998), to provide discretionary authority to the Secretaries of the Military Departments and the Secretary of Transportation to except certain members of the reserve component, who serve on active duty (other than for training) from the limitations on separation contained in that section. Under section 12868, a member of a reserve component who is serving on active duty (other than for training), and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system may not be involuntarily released from active duty without the approval of the Secretary concerned. The amendment would provide that reservists who volunteer to serve on active duty (other than for training) for a period of 180 consecutive days or less could be excepted from the general prohibition on involuntary release even though they complete 18 or more years of service. This exception would apply only if the member is informed of and consents to such exception prior to entry on active duty. This exception would not apply to reservists involuntarily ordered to active duty. There are no costs associated with the provision.

Section 505 would change the number of years that the Department of Defense could recognize a baccalaureate degree awarded by a qualifying educational institution from three years to eight years. The typical promotion opportunity to the rank of Captain in the Army Reserve, Army National Guard, Air Force Reserve, Air National Guard, and Marine Corps Reserve, and Lieutenant in the Naval Reserve occurs at approximately three and one half years of service. Officers typically remain eligible for promotion through approximately seven and one half years of service before mandatory separation processing occurs for failure to select for promotion. The current three year statutory limitation for recognizing a baccalaureate degree from a qualifying educational institution effectively precludes an officer who holds such a degree from meeting the educational requirements for promotion, even at the first promotion opportunity, unless the officer earned the degree sometime after receiving a commission. By changing the period that the Department can recognize a degree from a qualifying educational institution to eight years, we provide these officers every opportunity to be appointed or federally recognized in the grade of O-3 based on their overall performance and qualifications for promotion, to include necessary post-secondary educational requirements.

This proposal has no budgetary effects to the Department of Defense.

Section 506 would amend subsection 418(c) of title 37, United States Code, to correct an erroneous reference. Section 1038(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106) amended section 418 of title 37, U.S.C. to prohibit paying a uniform allowance or furnishing uniforms under section 1593 of title 10, U.S.C., or section 5901 of title 5, U.S.C., to enlisted members of the National Guard employed as technicians under section 709 of title 32, U.S.C. for periods of employment "for which a uniform allowance is paid under section 415 or 416" of title 37. The intent of this legislation is to prevent technicians from receiving uniform benefits from two different sources. However, because sections 415 and 416 of title 37, U.S.C. only apply to uniform allowances for officers, this reference is incorrect. The legislation should have referred to section 418 of title 37 (itself) because this is the authority for providing uniform benefits to enlisted members. The amendment correct the erroneous reference.

Section 507 would amend section 12310 of title 10, United States Code to provide that certain reserve personnel serving in composite organizations which support both the active and reserve components, reserve personnel on duty for peacetime standby air defense and ballistic missile defense operations within the territory of the United States, and reserve personnel on duty in reserve component organizations which have been assigned the responsibility for the conduct of activities of the service Secretaries in support of any part of a military department, may be counted against the end strengths for reserve personnel on active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing or training the reserve components.

Subsection (c)(1) would supplement 10 U.S.C. 2571, which permits any department or organization of the Department of Defense to perform work and services for any other department and organization without reimbursement, by treating as AGRs reserve personnel who perform any function of a secretary of a Department which has been assigned by that secretary to a reserve component organization for execution, with the consent of the Chief of the National Guard Bureau or the chief of such reserve component. A reserve component organization, for purposes of this section, would be an organization under the control of the Chief of the National Guard Bureau or any of the chiefs of the reserve components.

Subsection (c)(2) would provide that peacetime standby air defense and ballistic missile defense of the territory of the United States would be included within the scope of functions for which reserve personnel would be accountable against reserve component end strengths. Thus Air National Guard personnel of the First Air Force would be accounted for as Active Guard and Reserve personnel while instructing and training for and performing standby air defense activities and Army National Guard personnel would be similarly treated when conducting standby ballistic missile defense activities for the Ballistic Missile Defense Organization. Section * * * of title 10 would permit these AGRs to conduct air defense and missile defense after a mobilization.

Subsection (d) would provide that Reserve personnel be authorized to supervise and command active component personnel in a composite organization which conducts activities in support of both active and reserve components.

Subtitle B—Officer Education Programs

Section 510 would modify title 10 to set the maximum age for ROTC scholarships at age 27, vice age 25 (10 U.S.C., §2107); would concurrently modify the age standard for Service academies (10 U.S.C., §§4346, 6958, 9346) to ensure that academy entrants also would be appointed as commissioned officers by age 27. Specifically, this would add two years for ROTC scholarship students and a single year for the academies. The change is driven by a need reported by all Services—to relax the ROTC age standard as a means of expanding the recruiting pool, while accommodating promising students who otherwise would be ineligible. The Service academy change flows from a recognition that the controlling criterion (a youthful and vigorous officer corps) should bear equally on both sources of commission.

This provision would apply to classes entering the service academies of 1997 and thereafter.

Section 511 would modify current law (10 U.S.C. 2107) to permit initial award of ROTC scholarships to those who already have received a baccalaureate degree, provided the recipient executes contractual commitments, including enrollment in the ROTC advance course. Today, Services cannot recruit a 22 year-old electrical engineer with bachelors degree, who (never before an ROTC participant) could earn a masters degree in two years while completing the ROTC advanced course, qualifying for commission. This exclusion also penalizes top performers who graduate from high school or enter ROTC with advanced college credit, since the scholarship is terminated when they complete the undergraduate degree, yet they must remain in college to complete ROTC commissioning requirements. No additional costs would be incurred, since this simply would permit more-efficient channeling of existing scholarships.

Subtitle C—Other Matters

Section 515 would expand the definition of the term "active status" in section 101(d) (4) of title 10, United States Code, to include both officers and enlisted members of the reserve components, who are not in the Inactive National Guard, on an inactive status list, or in the Retired Reserve. This change is consistent with Section 10141(b) of title 10 which addresses the status of reserve component members and which states that *all Reserve members* who are not in an inactive status or a retired status are in an "active status."

Section 516 would amend sections 574(e) and 575(b) of title 10 to reduce the minimum time in grade necessary for promotion to two years rather than three, and to authorize the below-zone selection for promotion to the grade of chief warrant officer, W-3.

Reduction of the minimum time in grade required for promotion would result in actual promotion after three years in grade. It is not now possible for below zone consideration, even to chief warrant officer, W-4. This legislation would also authorize chief warrant officer, W-3, below-zone selection opportunity. This change will permit recognition of the small number of chief warrant officers, W-3, deserving of promotion ahead of their peers. The average chief warrant officer, W-2, has almost eighteen years enlisted service when commissioned in that grade.

Prior to 1 February 1992 when the Warrant Officer Management Act became effective, temporary warrant officer promotions were made under such regulations as the service secretary prescribed, as authorized by section 602 of title 10. Under this section, repealed by the Warrant Officer Management Act, warrant officers were temporarily promoted well ahead of the criteria for permanent regular warrant officer promotions under section 559 of title 10, also repealed, and it was also possible for a limited number of outstanding individuals to be selected early from among below-zone candidates for the grade of chief warrant officer, W-3.

Under section 574(e) of title 10, a chief warrant officer is not eligible to be considered for promotion to the next higher grade until he or she has completed three years of service in current grade.

Additionally, section 575(b)(1) of title 10 limits below-zone selection opportunity to those being considered for promotion to chief warrant officer, W-4, and chief warrant officer, W-5.

This legislation is intended to improve the management of the Services' chief warrant officer communities by reducing the minimum time in grade required for chief warrant officers to be considered for promotion to the next higher grade from three years to two years, thereby allowing the opportunity for early selection, and to authorize below-zone selection opportunity for promotion to the grade of chief warrant officer, W-3, similar to that currently authorized for promotion to the grades of chief warrant officer, W-4, and chief warrant officer, W-5.

With due-course promotions occurring after four years time in grade, as they now occur in the Department of the Navy, the requirement for chief warrant officers to have three years in grade to be considered for promotion has the effect of not permitting any early selections. Reducing the minimum time in grade for promotion consideration to two years would allow for a small number of individuals to be selected from among below-zone candidates, and to be promoted one year early after actually serving three years in grade. Additionally, authorizing early selection to chief warrant officer, W-3, would permit recognition as appropriate of the experience and competence of these individuals. For example, the average Navy chief warrant officer, W-2, has almost 18 years enlisted service when commissioned in that grade.

Chief warrant officers provide the services with commissioned officers who possess invaluable technical expertise, leadership and managerial skills developed during enlisted service and through formal education. This legislation is needed to identify and reward the small number of exceptionally talented chief warrant officers whose demonstrated performance and strong leadership are deserving of special recognition by being selected for promotion ahead of their peers, thereby enhancing morale and maintaining the vitality of the entire community.

These changes would increase the size of the group under consideration for promotion but would not authorize any additional numbers of total promotions from that larger group. As a result, this proposal would not result in any increased cost to the Department of the Navy, other services, or the Department of Defense.

Section 517. The FY-96 National Defense Authorization Act (Public Law 104-106; 110 Stat. 186) amended title 10, United States Code, by adding Chapter 76—Missing Persons. While the Department supported the Senate version of the act, the compromise version adopted into law contains several provisions which will have a negative impact on efforts to account for missing personnel, the well being of their families, and the people who are charged with the accounting effort. The proposed repeals and amendments are intended to ensure that the process of determining the fate and accounting for America's missing are not inadvertently hindered, and that the families get the answers, rights and benefits they deserve without placing additional financial and emotional burdens on them.

(a) REPEAL.—

(1) Section 1508 (Judicial Review).—The section provides the primary next of kin or previously designated person(s) the right to appeal a finding of death on the basis of a subjective opinion that proper weight was not accorded to available information.

This provision will create an undue delay in the final resolution of a missing person's status and subsequently benefits to the beneficiaries. This right to challenge the finding becomes even more disruptive when the beneficiaries are not a party to the appeal. In addition, the court is not being asked to judge whether a person's rights have been violated, but rather to render a subjective opinion on the strength and validity of information related to the case, a role military experts and peers of the missing person have already performed.

(2) Section 1509 (Preenactment, Special Interest Cases).—The section requires the establishment of boards of inquiry for Cold War (dating back to Sept. 2, 45), Korean and Vietnam War unaccounted for cases if new information, from any source, becomes available that may result in a change of status.

This provision will at best consume a significant amount of time and money, and at worse produce a lose-lose situation—given the age of these cases and the possible inability to locate all relevant evidence or witnesses. The Secretary concerned already has the ability under chapter 10, title 37 U.S.C. to review cases if evidence arises that indicates that a service member previously declared dead may be alive. To date, the findings of the Senate Select Committee on POW/MIA Affairs and the current work being conducted by the Defense POW/MIA Office, USCINCPAC's Joint Task Force-Full Accounting, U.S.-Russia Joint Commission, and the central Identification Laboratory, Hawaii, to account for American service personnel have been unable to uncover any credible evidence that there are unaccounted for service members still alive from the Cold War, Korean War, or the Vietnam War.

(b) TRANSMISSION THROUGH THEATER COMPONENT COMMANDER.—Requires the theater component commander to review all missing person's recommendations from the unit commanders, in the field, and then certify that all necessary actions are being taken and all appropriate assets are being used to resolve the status of the missing person. In addition the provision provides the missing person's unit commander only 48 hours to complete an initial investigation and forward a missing recommendation to the theater component commander.

The review and certification requirements by the combatant commander work under the assumption that all future conflicts will be small in scope and casualties limited in number. In a major conflict, with heavy losses, the volume of certification requirements will severely tax the Component Commanders, and their staffs, and divert their attention at a time when they are charged with the grave responsibility of directing the CINC's military efforts in the theater and leading soldiers, sailors, and airmen in battle. The unit commander, grade 0-5 or above, who conducts the investigation under section 1502 is more than capable of conducting a full search and rescue effort, and a thorough investigation of the loss. A minimum of 10 days is required, rather than 48 hours, to conduct a thorough and complete investigation and provide a fully informed recommendation.

(c) COUNSEL FOR MISSING PERSON.—Requires the Secretary to assign a missing person's counsel to represent each missing or unaccounted for person. Counsel is tasked with reviewing each piece of new evidence that may affect the missing person's status to determine if it is significant enough to recommend that the Secretary appoint a review board. In addition, the counsel is directed to review all information, attend board deliberations, and provide a written report as a companion to the review boards report.

This provision presupposes that the U.S. government does not hold the interest of the missing person as the compelling factor in determining their status. It also creates an adverserial environment that, as shown by experience in other similar types of investigations, may ultimately have a negative impact on the investigative process. The requirement for a lawyer to attend deliberations and then comment on the findings may

VOL
142
PT
6
AP
15
—
24
1996
UMI

have a chilling effect on the board's deliberations—nowhere else in our system are lawyers representing an affected party allowed to sit in on the deliberations of a deliberative panel. This effect is exaggerated for multiple loss cases where the provision requires one counsel for "each" mission person; i.e., if 20 servicemen are lost in a plane crash, 20 lawyers must be assigned to the case. Finally, the requirement to have a lawyer review every new piece of information, creates an administrative and financial burden on the Department by requiring the Office of Missing Persons to maintain a full time cadre of lawyers to conduct such reviews alongside the intelligence analysts who already have this responsibility. There have already been 17,000+ live sighting or dogtag reports from the Vietnam War alone.

(d) THREE YEAR REVIEWS.—Requires that the Secretary appoint a review board every three years, for 10 years, for persons in a missing status who are last known alive or last suspected of being alive.

This requirement will only cause undue pain and financial hardship on families by requiring a status review when no new information on which to base a change in status exists. It works under the assumption that the Department will not pursue a case unless a formal board is established every three years to look into the case. Section 1505 already requires the Secretary concerned to convene a board if new information becomes available that may result in a change of status. Section 1506 requires all new information to be placed in the missing person's record, or notice thereof, and that the information or knowledge of its existence be forwarded to the family. In addition, the Government creates a double standard in that the three year review is only applied to a select number of cases. The Department feels every case/family deserves equal treatment.

(e) WRONGFUL WITHHOLDING.—The provision makes it a criminal act for a person to knowingly and willfully withhold from a missing person's file any information relating to the disappearance or whereabouts and status of the missing person. It provides for a fine under title 18 or imprisonment of not more than 1 year, or both.

The investigative and legal burden that this criminal provision will create for the analysts and other members of the Office of Missing Persons will have a debilitating effect on the pace of POW/MIA work and the quality of personnel the office is able to recruit. The Defense POW/MIA Office is often accused by a select group of families and activists with withholding documents and information from the case files of unaccounted for service members. Justice has reviewed several such allegations in the past and has found them baseless, however attaching criminal liability to such charges will create a working environment where DPMO staff ends up spending scarce time and resources aggressively defending their conduct rather than working to resolve the fate of the missing.

(f) RECOMMENDATION ON STATUS OF DEATH.—Requires that a review board recommending a status of death provide information on the date and place of death, and if remains are recovered, a description of the location where it was recovered and certification of identification by a forensic scientist, if visual identification was not possible.

Under section 1501(e), the provisions of the chapter 76 cease to apply when a person is accounted for, as defined in section 1513(3)(B), recovery and identification of the person's remains by a forensic scientist of identification, if visual identification was not possible.

(g) DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.—The law applies equal coverage to Department of Defense civilian and contractor employees who accompany forces in the field, and members of the Armed Forces. The FY–96 Defense Authorization Act calls on the Secretary of State to conduct a one year study on how best to apply similar coverage to all government civilian and contractor employees who accompany forces in the field.

Until the Secretary of State reports to Congress the results of his study on how best to cover government civilians and contractor employees, the Government risks inadvertently harming the people it is trying to protect by failing to address in chapter 76 the impact this measure may have on:

(1) provisions of title 5 U.S.C. and other civil service guidelines;

(2) the fact that such individuals may not fall under UCMJ authority;

(3) pay and promotion issues; and,

(4) other nuances that need to be examined in the Secretary's study.

While the Department agrees that there is a need for legislation covering Department of Defense civilian and contractor employees, at this point it would be better to wait until the study is complete and then address all U.S. Government and contractor employees who accompany the armed forces in hostile environments under a separate piece of legislation.

Section 518 amends section 5721 of title 10 to make permanent the authority for temporary promotions of certain Navy lieutenants.

The Navy has a shortage of available qualified officers to fill key engineering billets. To counter this shortage, some exceptional lieutenants are assigned to lieutenant commander engineering related assignments. These are extremely difficult and challenging assignments that include Engineer Officer on nuclear powered submarines, Engineer Officer on Nuclear powered cruisers, Engineer Officer on Ticonderoga class cruisers, Engineer Officer on CLF ships, Members of the fleet Commander-in-Chief's Nuclear Propulsion Examining Board or Propulsion Examining Board.

SPOT promotion authority provides a flexible *law cost solution* to precisely target the shortfall of skilled engineering officers. It is limited by the Secretary of the Navy's policy to only key engineering billets for which a shortage of available *qualified officers exists*. SPOT promotions occur within statutory lieutenant commander ceilings with a 1:1 reduction of regular promotions to lieutenant commander. Officers are promoted only while serving in a qualifying billet. The program accounts for over 120 SPOT promotions a year.

An absolute shortage of permanent lieutenant commanders exists within those line communities that fill Lieutenant Commander SPOT billets. The table below summarizes the specific shortages of permanent Lieutenant Commanders by community.

Designator	Inventory	Total billets	Community specific shortfall
1,110	1,317	1,406	89
1,120	635	819	184
6,400	62	67	5
6,130	55	73	18
6,230	25	24	−1
Total	2,094	2,389	295

The shortfall becomes significantly more pronounced if the inventory is limited to those permanent Lieutenant Commanders with the skills required for SPOT promotion billets.

Designator	Inventory	Total billets	Community specific shortfall
1,110	1,095	1,406	311
1,120	436	819	383
6,400	62	67	5
6,130	55	73	18
6,230	25	24	−1
Total	1,673	2,389	716

The qualified lieutenant commander inventory includes those officers who are Engineering Officer of the Watch qualified (for conventional assignments) or have current nuclear engineer qualifications (for nuclear assignments).

The number of community specific billets actually understates the billet fill requirements in the case of unrestricted line officers who must also fill a fair share of 1000/1050 billets.

The continued use of SPOT promotions remain necessary due to the critical shortage of officers qualified to fill engineer officer, engineering departmental principal assistants, engineering material officer and engineering staff billets directly supporting fleet engineering readiness. Originally enacted in 1965, SPOT promotion has proven its value as a strong incentive and retention tool for our top officers. It remains a very effective management tool to ensure our ability to fill extremely demanding billets with the best officers.

Section 519 would modify title 10, United States Code, (§513) to permit extension in the Delayed Entry Program (DEP), for meritorious cases as determined by the Secretary concerned, beyond the 365-day time limit currently established by the statute. Notably, applicants who enter the DEP in June or July are within a few weeks of that ceiling when they graduate from high school; consequently, a delay would force discharge and re-accomplishment of enlistment, with associated challenge and expense. In the past, natural and manmade disasters have forced delays in shipping schedules, and this change simply would permit, on a selective basis, the avoidance of discharge/enlistment paperwork drills.

Section 520. Currently, section 505(d) of title 10, United States Code, authorizes the Secretaries of the military departments to accept reenlistments in regular components for a period of at least two but not more than six years. Accordingly, even senior enlisted members of the armed forces who have made military service a career must periodically reenlist. This proposal would eliminate the administrative efforts and associated costs that occur as a consequence of the requirement to reenlist continually senior enlisted members.

Under the proposal, the Secretaries of the military departments could accept indefinite reenlistments from enlisted members who have at least ten years of service on active duty and who are serving in the pay grade of E–6 or above. The vast majority of enlisted members with these characteristics will make military service a career. Thus, in enlisted member who serves 30 years would avoid the necessity of continually reenlisting over a 20 year period. The paperwork for reenlistment and its processing is not burdensome but it is not insignificant. Savings should result. The proposal would also increase the prestige of the noncommissioned officer corps.

Section 521. As a result of the demise of communism and a reduction in the size of military forces in many nations, including the U.S., it is important that allied and other friendly countries work together to standardize doctrine, procedures and tactics and share responsibility in the development and production of military systems to promote standardization and interoperability at reduced costs. The exchange of military and civilian personnel between defense establishments is one of the efficient and cost effective means that can be used to promote these objectives. Under the proposed exchanges, costs would be borne by the government of the exchange personnel except for activities that are directed by the host party or where orientation or familiarization training is made necessary by the unique qualifications of the assignment. The proposal further stipulates that the benefit to each government must be substantially equal which ensures that each government benefits from the exchanges.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Section 601 would waive the adjustment required by section 1009 of title 37, United States Code and increase the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters by three percent. This is what the President submitted in his budget for Fiscal Year 1997.

Section 602 amends subsection 403(a) of title 37, United States Code, by adding a provision that would eliminate the entitlement to Basic Allowance for Quarters (BAQ) for members of the Ready Reserve who occupy government quarters during short periods of active duty, fifteen days or less, and who are not accompanied by their dependents. This legislative proposal is a National Performance Review initiative. It would eliminate the requirement to provide BAQ to Reserve component members performing annual active duty for training when government berthing/housing is provided. Reserve component members performing active duty when government quarters are not provided or when members are accompanied by their dependents would not be subject to this limitation. The five year cost saving associated with this proposal is estimated at $913 million and is distributed as follows:

[In millions of dollars]

Fiscal year:	
1997	178
1998	180
1999	184
2000	187
2001	184
Total	913

Section 603 would amend section 403(c)(2) of title 37, United States Code. This provision prohibits the payment of the basic allowance for quarters to all members below the pay grade of E–6 without dependents, while assigned to sea duty. Amending this section will remove the prohibition against single E–5 members and authorize them to receive either quarters ashore (adequate or inadequate) or the payment of the basic allowance for quarters.

In the words of Master Chief of the Navy, John Hagan, amending section 403(c)(2) is "well past time for E–5 Sailors to get (this) benefit" calling this shortcoming "the most compelling inequity in our entire compensation system."

This section also would amend 37 U.S.C. §403(c)(2) to remove the monetary penalty for joint military couples, below the pay grade of E–6, serving simultaneous shipboard duty. Currently, those military couples who serve onboard ships at the same time lose all of the entitlement to BAQ/VHA. Law would be amended to state that a couple's combined BAQ/VHA entitlement be equal to BAQ (with-dependents rate) or VHA (with-dependents rate) calculated for the senior member's pay grade only.

Section 604 would strike out paragraph (2) of section 203(c) of title 37. Section 203(c)(1) stipulates the specific rate of cadet and midshipmen pay as determined by the Congress. Paragraph (2) is inconsistent with the adjustment called for in the section. Making an adjustment under the seldom used section 1009 would result in a level of pay different than the exact rate specified by the Congress in section 203(c)(1). The inconsistent provision accordingly is recommended for deletion.

Subtitle B—Extension of Bonus and Special Pays

Section 605 would extend the authority to employ accession and retention incentives, ensuring that adequate manning is provided for hard-to-retain skills, including occupations that are arduous or that feature extremely high training costs (e.g. aviators, health care professionals, and incumbents of billets requiring nuclear qualification). Experience shows that retention in those skills would be unacceptably low without these incentives, which in turn would generate the substantially greater costs associated with recruiting and developing a replacement. The Department and the Congress have long recognized the cost-effectiveness of these incentives in supporting effective manning in these occupations.

Section 606 would extend the authority to employ recruiting and retention incentives to support effective manning in the Reserve Components, ensuring that adequate manning is provided for hard-to-retain skills. These bonuses also stimulate the flow of manning to undersubscribed Reserve units. Experience shows that retention in those skills, or in those units, would be unacceptably low without these incentives. The Department and the Congress have long recognized the cost-effectiveness of these incentives in supporting effective manning in such occupations and units.

Section 607 would extend the authority to employ accession and retention incentives to support manning for nurse billets that have been chronically undersubscribed. Experience shows that retention in the nursing field would be unacceptably low without these incentives, and the Department and Congress have long recognized the cost-effectiveness of these incentives in supporting effective manning levels within the nursing field.

Subtitle C—Travel and Transportation Allowances

Section 610 would amend title 37, United States Code, to authorize round-trip travel allowances for transporting motor vehicles at government expense. The bill amends section 406 (b)(1)(B)(i)(I) and 406 (b)(2)(B)(i)(II) of title 37, United States Code, to authorize round-trip travel allowances when a member transports a motor vehicle to and from the port, in conjunction with a permanent change of station move between OCONUS and CONUS locations. The provision also provides that the amendment made by section I shall take effect on July 1, 1997.

Section 611 would allow the Department of Defense to reimburse non-Federal civilians, who serve as school board members, for approved training and eliminate the disparate treatment of school board members serving pursuant to section 2164(d) of title 10, United States Code. Currently, only school board members are employees of the Armed Services of Federal Government are authorized reimbursement for approved training under both the Federal Training Act, title 5, United States Code, section 4109, and the Joint Federal Travel Regulations, Volume 2, Paragraph C 4502. Since non-Federal civilian board members cannot be reimbursed for training, they are not sent to training.

Section 612 modifies section 2634 of title 10, United States Code, by authorizing the Government-funded storage, in lieu of transportation, of a service member's motor vehicle when that service member is ordered to make a permanent change of station to a location which precludes entry of or requires extensive modification to the motor vehicle. Subsection (b) of the provision would modify section 406 of title 37, United States Code, to authorize the storage of a motor vehicle as provided for in section 1 of this bill. Subsection (c) would provide that the amendments would take effect on July 1, 1997.

Section 613 would repeal section 1589 of title 10, which prohibits the Department of Defense from paying a lodging expense to a civilian employee who does not use adequate available Government lodgings while on temporary duty. Although the purpose of section 1589 is to reduce the Department of Defense travel costs, the law can increase travel costs because it considers only lodging costs, not overall travel costs. Deleting the provision would enable Department of Defense travelers, supervisors and commanders to make more efficient lodgings decisions, with potential cost savings for the trip as a whole.

The title 10 provision (added in 1985 to codify similar provisions in the Department of Defense Appropriations Acts from 1977) prohibits payment of a lodging expense to civilian employees who don't use adequate available Government quarters. The Fiscal Year 1978 Committee Report on Department of Defense Appropriations (H. Rep. No. 95–451) notes that if employees on temporary duty at military installations for school, training and other work assignments were directed to use available Government quarters, "many thousands of dollars could be saved."

When a temporary duty trip involves business on and off-base, the cost-effective business decision, considering factors such as rental car costs, must be made on a case-by-case basis. The current law allows no flexibility for the cost-conscious resource manager. To be reimbursed for lodging, the traveler must stay on-base whether it is efficient or not. Further, in temporary travel when team integrity is essential, the mission may preclude employees staying in available government lodgings. To maintain team integrity under current law when quarters are adequate for only the less senior members of the team, quarters must be determined "not available" for each member of the team, imposing an unnecessary administrative cost.

The Department is committed to improving the efficiency of the temporary duty travel system to enhance mission accomplishment, reduce costs, and improve customer service. The proposal would be a significant step in this direction.

Enactment of the legislative proposal will not cause an increase in the budgetary requirements of the Department.

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

Section 615 would repeal the delay of the military retired pay Cost of Living Adjustment (COLA) that currently is scheduled for

VOL
142
PT
6
AP
15
—
24
1996
UMI

Fiscal Year 1996 and that prohibits payment of such increase for months before September 1998. This section also would repeal the conditional provision that provides that the Fiscal Year 1997 COLA will not be payable any later than the COLA for retired Federal civilian employees. Accordingly, under this section, the Fiscal Year 1998 military retired pay COLA will be payable for all months in which it is effective.

Section 616 amends section 1065(a) of title 10, United States Code, to give members of the Retired Reserve who would be eligible for retired pay but for the fact that they are under 60 years of age (gray area reservists) the same priority for use of morale, welfare, and recreation (MWR) facilities of the military services as members who retired after active-duty careers.

Currently, section 1065(a), enacted in 1990, gives the retired reservists the same priority as active-duty members. They, therefore, have preference over members who retired after serving on active duty for 20 years or more. This section amends the current section 1065(a) by revising the last sentence to correct this inequity.

Enactment of this section will not result in an increase in the budgetary requirements of the Department of Defense.

Section 617 amends subsection (d) of section 501 of title 37, United States Code, to authorize survivors of members of the uniformed services to receive a payment upon death of a member for all leave accrued. It would take effect on October 1, 1996.

Subtitle E—Other Matters

Section 620(a) amends section 1201 of title 10, United States Code; subsection 620(b) amends section 1202 of title 10; and subsection 620(c) amends section 1203 of title 10. The purpose of this amendment is to extend disability coverage for persons granted excess leave under section 502 of title 37, United States Code. Subsection (d) provides that this amendment will take effect on the date of its enactment.

The purpose of section 620 is to provide members of the United States Marine Corps who are participating in an educational program leading to designation as a judge advocate while in an excess leave status under section 502(b) of title 37 the disability benefits under sections 1201, 1202, and 1203 of title 10 that accrue to servicemembers who are entitled to basic pay. Servicemembers on active duty for 30 days or more are entitled to disability benefits under those sections of law only if disabled while entitled to basic pay. Except as provided in section 502(b) of title 37, an individual who is granted excess leave by the Secretary of the military department concerned under section 502(b) of that title is not entitled to basic pay as long as the member is in that status. If such an individual were to incur any disability while on excess leave, he or she would not be entitled to any of the benefits provided under the provisions of sections 2101, 1202, and 1203 of title 10.

Currently, the only members of the Department of Defense that would be affected by the proposed legislation are those enrolled in the Marine Corps Excess Leave (Law) Program. The U.S. Marine Corps has used this program as an accession source for judge advocates since 1967. Selected regular officers having between two and eight years of commissioned service are authorized by the Secretary of the Navy to be placed on excess leave under section 502(b) of title 37 for the purpose of obtaining a law degree from an accredited law school and designation as a Marine Corps judge advocate. While on excess leave, the officer receives no pay and allowances and must bear all costs associated with subsistence, housing, and tuition. However, the member may use the G.I. Bill and Veterans Educational Assistance Program (VEAP) to defray tuition costs. The U.S. Marine Corps now has twenty-three officers participating in the program and expects to assign an average of six to eight officers during each of the next five years. Officers incur a three-year active duty obligation upon designation as a Marine Corps judge advocate. Retention of these officers on active duty beyond that time is over ninety percent. Officers who fail to complete a law degree and are disenrolled from the program must serve a year on active duty for each year or portion of a year spend in excess leave. However, no one who was selected to participate in this program during the past nine years has been disenrolled.

Officers participating in the Excess Leave Program are still on active duty and maintain their precedence on the active-duty list. They must maintain the high standards expected of commissioned officers. Although no officer has ever been permanently or temporarily disabled while participating in the program, the possibility always exists that such an event may occur. Any officer who might become disabled while participating in this program should be protected in the same manner as members entitled to basic pay are protected as mentioned above.

Although the Excess Leave Program is the only program that now exists in the Department of Defense under the authority of section 502(b) of title 37, this provision of law permits the Secretaries of the military departments to grant excess leave to individuals who might participate in other educational programs. Accordingly, the proposed legislation would provide members of the armed forces enrolled in such programs the same disability benefits that it would provide members enrolled in the Excess Leave Program.

The category of individuals for whom the legislation is intended is clearly distinguishable from those individuals who are not entitled to disability benefits under sections 1201, 1202, and 1203 of title 10 because they are not entitled to basic pay for such reasons as court-martial sentence or placement on excess leave to await administrative discharge in lieu of trial by court-martial. Since an individual who would be protected by the legislation probably will serve a full career on active duty in the armed forces, enactment of the legislation would be in the best interests of both the individual and the Government.

Since the proposed legislation is intended to provide protection to individuals who might become disabled in the future, cost and budget data cannot be determined.

Section 621 would simplify, standardize, and facilitate the processing of orders under the Uniformed Services Former Spouses' Protection Act (10 U.S.C. §1408) and to ensure equitable treatment to all members and former spouses who are subject to the provisions of this law.

The section amends subsection 1408(b)(1)(A) of title 10, United States Code, to allow for service of court orders by facsimile or electronic transmission, ordinary mail, or by personal service. The current law requires personal service by certified or registered mail, return receipt requested. Deleting this requirement and providing for facsimile or electronic transmission will expedite processing of applications by reducing the number of applications that must be returned to the sender for the sole reason that it was not personally served or mailed by certified or registered mail, return receipt requested.

Subsection 1408(e) of title 10 is amended to clarify the jurisdictional requirements relative to court orders issued by states other than the state issuing the original court order and modifying or clarifying the original court orders on which payments under the Act were based. The amendment provides that the court must have jurisdiction over both the member and the former spouse under the same guidelines applicable to members under subsection (c)(4) of section 1408.

Subsection 1408(h)(10)(A) of title 10 is amended to provide an alternative method of determining retirement eligibility in cases where dependents are victims of abuse by members who lose their right to retired pay. The purpose of the amendment is to allow a former spouse, who may not qualify under the current provisions due to the member not yet being retirement eligible on the date the convening authority approves the sentence, to have the option of having the member's retirement eligibility determined at the later point of the member's discharge.

Section 622 would change section 1151, chapter 10 of title 10, United States Code. The changes would revise the legislation to make it more compatible with lessons learned from program implementation and operation. It would eliminate the restriction on providing a stipend to "early retirees". Full retirees are authorized to receive the stipend, but because the decision to offer early retirement came after Troops to Teachers legislation, they were inadvertently omitted as being eligible. It also aligns the obligation to teach for two years vice five years with the revised formula for reimbursement which goes from five years to two years. Finally, this proposal reduces the incentive grant from five years with a maximum of $50K to two years and a maximum of $25K.

Section 623. Section 37 USC 411b(a)(1) provides for travel and transportation expenses for members and their dependents who have been ordered to consecutive overseas tours for the purpose of taking consecutive overseas tour (COT) leave. These expenses are reimbursed for an amount not to exceed what it would cost the government to send the member to his/her home of record. This is an important quality of life benefit. It allows members the opportunity to visit relatives and loved ones near their home of record in the continental us before commencing an additional three year tour. This program has a very positive impact on members. It enhances retention, improves morale, and reduces the stress of long separations for members who are serving on the front lines in defense of their country. Few members could afford to make such a trip on their own. This program also saves money because it reduces the number of overseas moves that the Government has to fund.

Section 37 USC 411b(a)(2) allows a member to defer this travel for up to one year. The one year limitation is beneficial under normal circumstances because it ensures that commanders cannot indefinitely postpone COT leave. However, this limitation becomes a problem for members participating in critical operational missions such as contingencies and humanitarian missions because commanders have the authority to deny leave for operational necessity. Currently, Service members participating in Operation Joint Endeavor will lose their COT leave due

to the one year limitation on eligibility. This provision will cure this problem.

Also, with the increased number of contingencies and humanitarian missions that the Department has been conducting since the end of the "Cold War" and is expected to conduct in the future, this legislation will have a much broader and beneficial impact. Deferring the one year limitation while members participate in major operational missions will enhance morale, reduce overseas moving costs, and provide commanders with the flexibility they need to conduct major operational missions.

Enactment of the legislative proposal will not cause an increase in the budgetary requirements of the Department.

Section 624 would authorize the Secretary of Defense, in certain situations, to pay civilian personnel of the Department of Defense stationed outside the United States allowances and benefits comparable to those paid to members of the Foreign Service or other government agencies which routinely place personnel in foreign location assignments.

This section remedies an on-going problem experienced by DoD civilian personnel and their families when on overseas assignment. The issues addressed include: travel for medical care when no suitable facility exists to provide medical care at the duty location, travel of an attendant for the employee or family member who is too ill or too young to travel alone, rest and recuperation travel for employees and their families stationed at locations designated by the Secretary of State for such travel, round trip travel in emergency situations involving personal hardship. These benefits are detailed at title 22 U.S.C. §4081.

This provision also authorizes the Secretary to designate DoD employees stationed overseas as eligible for participation in the State Department health care program described at title 22 U.S.C. §4084.

The enactment of this Bill will affect the current administrative guidance contained in the State Department Foreign Affairs Manual (3 FAM 680 and 681.1). No judicial, executive or Administrative provisions would be overturned or affected by this change. Minor modifications may have to be made to the State Department Foreign Affairs Manual as stated above.

TITLE VII—HEALTH CARE PROVISIONS

Section 701 would revise the amendment made by section 731 of the National Defense Authorization Act for Fiscal Year 1996 to section 1079(h) of title 10, United States Code. The proposed revision is needed to permit health care providers who are not participating in the TRICARE network to be paid higher amounts than now permitted by section 1079(h) in the limited circumstances in which they might provide care to TRICARE Prime enrollees. This revision would have the important effect of protecting TRICARE Prime enrollees from "balance billing" by such providers. As is standard for Health Maintenance Organizations (HMOs), enrollees receive most care from network providers, but in limited circumstances receive covered services from nonparticipating providers (for example, emergency care). The proposed revision provides authority that would also apply in another limited circumstance: when enrollees are referred to a non-network provider in cases in which no network provider is available (for example, for specialties in limited supply in certain areas).

Section 702 would establish new alternatives in cases of members of the Health Professions Scholarship and Financial Assistance Program who do not or cannot complete their active duty service obligations. Under current law (10 U.S.C. 2123(e)), the only available alternative is "assignment to a health professional shortage area designated by the Secretary of Health and Human Services." This alternative has never been used because neither DoD nor the Department of Health and Human Services has an effective mechanism to administer such an alternative obligation. Under the proposed section, there would be four options for alternative obligations for the member: (1) a reserve component assignment of a duration twice as long as the remaining active duty obligation; (2) service as a health professional civil service employee in a facility of the uniformed services; (3) transfer of the active duty service obligation to an equal obligation under the National Health Services Corps (similar to the probable intent of the current authority); or (4) repayment of a percentage of the total cost incurred by DoD under the program equal to the percentage of the member's total active duty service obligation being relieved, plus interest. Subsection (b) of the proposed provision would amend current law (10 U.S.C. 2114) to establish extended service in the Selected Reserve or as a civil service employee as alternatives to active duty service for graduates of the Uniformed Services University of the Health Sciences who do not or cannot complete their active duty service obligations.

Subsection (c) of the proposed section 703 would provide that the provision take effect with respect to individuals who first become members of the program or students of the University on or after October 1, 1996. Subsection (d) would provide for a transition under which, member already receiving (as of October 1, 1996) a scholarship or financial assistance or individuals who already are students of the University, or for those already serving an active duty obligation under the program or as a graduate of the University, the applicable alternative obligations would be available, but only with the agreement of the member.

Section 703 would facilitate a continuation of the long-standing practice of assignment of a number of Public Health Service (PHS) officers to duty in the Department of Defense (DoD). Such officers have served with distinction in DoD, including with the Office of the Assistant Secretary of Defense (Health Affairs) and the Joint Staff. However, tightening PHS officer end-strength limitations now jeopardize these arrangements. The provision would permit the exclusion from PHS end-strength limitation of the PHS officers assigned to DoD. This provision is modeled after 42 U.S.C. section 207(e), which excepts up to three flag officers assigned to DoD from the PHS flag officer limitation.

Section 704 would repeal section 1093 of title 10, United States Code, which prohibits using funds available to the Department of Defense to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section also would repeal the provision enacted by section 738 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106, February 10, 1996) that generally prohibits prepaid abortions in overseas facilities.

Section 705 would replace section 1074a of title 10, United States Code, in order clarify the medical and dental care members of the Reserve are entitled to while in a duty status or traveling directly to and from their duty location. The amendment defines the entitlement to medical and dental care for Reserve component members in a specific military duty status and the authority to continue such care until the member is returned to full military duty, or if unable to return to military duty, the member is processed for disability separation in accordance with chapter 61 of title 10 U.S.C. It further clarifies that Reserve component members on active duty, active duty for training, annual training, full-time National Guard Duty or traveling directly to or from such duty may request continuation on Active duty while hospitalized and that all members receiving care are eligible to apply to receive pay and allowances in accordance with subsection 204 (g) and (h) of title 37 U.S.C.

Section 706 would amend sections 1074a, 1204 and 1481 of title 10, United States Code, and sections 204 and 206 of title 37, United States Code by providing reservists performing inactive duty training the same death and disability benefits as active duty members. Although previous authorization bills have corrected some of the inequities, there are still instances when a reservist is not covered for certain disability or death benefits if the occurrence happens after sign-out between successive training periods. This proposal would extend death and disability benefits to all reservists from the time they depart to perform authorized inactive duty training until the reservist returns from that duty. Reservists who return home between successive inactive duty training days would be covered portal to portal only.

TITLE VIII—ACQUISITION AND RELATED MATTERS

Section 801. Repeal of chapter 142 of title 10, United States Code, would end the requirement that the Department of Defense, through the Defense Logistics Agency, administer the Procurement Technical Assistance Cooperative Agreement Program. Currently, Procurement Technical Assistance centers are providing services to many of the same clients served by the Small Business Administration's Small Business Development Centers. This has occurred because Small Business Development Centers were offering procurement assistance to clients before the Defense Logistics Agency began the Procurement Technical Assistance Cooperative Agreement Program in 1985 and there is no restriction on awarding Procurement Technical Assistance Cooperative Agreement Program funding to Small Business Development Centers. Since 1985, the Procurement Technical Assistance Cooperative Agreement Program has evolved from a Department of Defense-only program to one that encourages Procurement Technical Assistance centers to assist businesses desiring knowledge on the methods for selling to any federal, state or local government agency, which is clearly a Small Business Development Center function. As a result, the Defense Logistics Agency has incurred staffing costs to award and administer cooperative agreements for a service that is already, or could easily be, provided and managed by the existing Small Business Development Center organization of more than 900 offices operating in all 50 states.

A key goal of the Federal Acquisition Streamlining Act of 1994 and other acquisition reform initiatives is to resolve the differences between Department of Defense acquisition procedures and other federal agency procedures and commercial procedures. At this time, the descriptions of Procurement Technical Assistance Cooperative Agreement Program functions are essentially the same as procurement-related

VOL
142
PT
6
AP
15
—
24
1996
UMI

Small Business Development Center functions. If the Small Business Administration is funded by Congress, the programs may be merged and acquisition streamlining may be achieved without a loss of services to businesses in need of assistance or advice on marketing of their services. Additionally, cost savings would be realized due to the decreased administrative and oversight costs.

The Department of Defense Inspector General is scheduled to issue a report which will recommend that program responsibility for the Procurement Technical Assistance Cooperative Agreement Program be moved from the Department of Defense to the Small Business Administration. This report will also recommend that Congress not fund the Defense Logistics Agency for administration of the Procurement Technical Assistance Cooperative Agreement program, but instead, add sufficient funding to the Small Business Administration's budget to ensure that continuation of procurement assistance at Small Business Development Centers in all 50 states and the District of Columbia, especially in counties with high rates of unemployment.

We have conferred with the Director of Small and Disadvantaged Business Utilization, who strongly supports this initiative. He has discussed the issues with and received favorable reaction from appropriate officials within the Small Business Administration.

Section 802 clarifies the authority for requestioning and lease of General Services Administration motor vehicles for use in the training and administration of the National Guard. The United States property and Fiscal Officer for each state or other jurisdiction would be identified as the requisitioning authority for leasing vehicles to be furnished to the state National Guard. Such use of GSA vehicles has been made for many years. This provision would provide a clear statutory basis for this practice.

Section 803 would conform the period established for mentors to provide developmental assistance under the program to the revised period established for new admissions into the program.

Section 824 of the FY 1996 Defense Authorization Act provided a one year extension to the period for eligible businesses under the Mentor-Protegé Program to enter into new agreements. This was the second extension to the entry period, a prior one year extension having been provided in the FY 1994 Defense Authorization Act. The current ending date for entry into the program is 30 September 1996.

While the period for entry into the program has been extended, no similar revision has been made to the date established for ending the period during which mentors may incur costs furnishing developmental assistance under the program, currently also 30 September 1996. For the objectives of entry period extensions to be met, a conforming two year revision to the period authorized for mentors to incur costs is also required. This revision is needed to allow for the establishment and execution of meaningful agreements between the potential mentors and proteges. Likewise, without this revision, the extension of the period for entry into the program is of little value to potential mentor-protégé agreements, if the period of time the mentor can incur costs is also not extended.

The Department has budgeted and allocated $30 million to spend on costs incurred through September 30, 1996, but the full amount of these costs will not be incurred until September 30, 1998. The costs incurred by this initiative will not exceed the amount already allocated.

Section 804 would extend the authority to enter into prototype projects under section 845 until September 30, 1999. It would expand use of the authority to the Military Departments and other defense components designated by the Secretary of Defense. It would authorize the Secretary of Defense to determine procedures for determining whether to conduct a follow-on production program to a prototype project and prescribe the acquisition procedures applicable to such follow-on acquisition. It would clarify that use of this authority is for the conduct of acquisition experiments and vest maximum flexibility in the component exercising the authority. These changes do not authorize any new programs but impact the procedures under which approved prototype projects and follow-on acquisition programs may be executed. While the flexibility provided by these programs may result in budget savings they cannot be determined at this time.

Section 805 would repeal the Congressional reporting requirements applicable to agreements entered into under the authority of section 2371, title 10, United States Code. Section 2371 is reorganized by removing authority concerning cooperative research and development agreements entered into by federally funded research and development centers and reenacting such authority in a separate section. Business and technical information submitted to the Department on a confidential basis in order to obtain or perform a cooperative agreement or other transaction will be exempted from public disclosure for five years. Deletion of the reporting requirement will result in a small but undetermined budgetary savings.

Section 806 would correct a technical flaw in the law that prevents payment of valid contractor invoices properly chargeable to line-item appropriations canceled by the Account Closing Law when the Corresponding line-item is discontinued in subsequent current appropriations acts. For example, the Department currently lacks the legal authority to pay such invoices incurred for the FFG ship program because of the line-item nature of the Shipbuilding and Conversion, Navy (SCN) account and the absence of a current FFG line item. Existing law at 31 U.S.C. 1553 (b)(1) states;

". . . after the closing of an account under section 1552(a) of 1555 of this title, obligations and adjustments to obligations that would have been properly chargeable to that account, both as to purpose and in amount, before closing and that are not otherwise chargeable to any current appropriation account of the agency may be charged to *any current appropriation account of the agency available for the same purpose.*" (Emphasis added)

For line-item appropriation accounts like SCN, this means that payments from a canceled account may only be charged to the corresponding ship line-item account currently available for new obligations. If a current shipbuilding program no longer exists, there is no longer a source of funds "available for the same purpose."

Section 807 restates the policy of 10 U.S.C. 2462 to rely on the private sector for supplies and services necessary to accomplish the functions of the Department of Defense. The provision authorizes the Secretary of Defense, notwithstanding any provision of title 10, United States Code, or any statute authorizing appropriations for or making appropriations for, the Department of Defense, to acquire by contract from the private sector or any non-federal government entities, commercial or industrial type supplies and services to accomplish the authorized functions of the Department. The Secretary shall use the procurement procedures of chapter 137 of title 10, United States Code, in carrying out this authority, but in the procurement of such supplies and services the Secretary may limit the place of performance to the location where such supplies or services are being provided by federal government personnel. This proposal would overcome existing statutory encumbrances on privatization. It also would facilitate privatization in place, thereby reducing the impact on affected federal government employees.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—General Matters

Section 901 is a technical amendment to reflect the proper title of the United States Element, North American Aerospace Defense Command. It is consistent with the 1991 amendment to section 166a(f) of title 10, United States Code. Subsection (a) of the amended provision states the name of the command as the North American Air Defense Command in each of its three paragraphs. It is noted once in each paragraph. If enacted, the proposal will not increase the budgetary requirements of the Department of Defense.

Section 902 would amend section 172(a) of title 10, United States Code, to permit qualified civilian employees of the Federal government to serve as board members on the ammunition storage board which is currently named the Department of Defense Explosives Safety Board. Section 172(a) currently limits the board membership to "officers" who, in accordance with the definition set forth in section 101(b)(1), must be commissioned or warrant officers and not civilian employees. This limitation restricts the Secretaries of the military departments from selecting the most qualified person available to represent their departments. In the area of explosive safety, expertise and corporate continuity invariably reside in Department of Defense civilian personnel. To ensure the Secretaries of the military departments have the flexibility to be represented by the most qualified professional available, the option to select civilian board members is imperative.

Section 903 would remove the Secretary of the Army from membership on the Foreign Trade Zone Board. The Department of the Army has been involved in the Foreign Trade Zone Board since passage of the Foreign Trade Zone Act in 1934. At that time, most import-export trade was through waterborne commerce, and, because of the Corps of Engineers navigation role in harbor development, the Secretary of the Army was made a member of the Board.

Although there may have been good rationale for Army involvement in 1934, the nature of the zone activities has since changed. More frequently, foreign trade zones (FTZ) are being established away from deep water ports in favor of land border crossings and airports. In addition, current FTZ issues usually involve trade policy, customs collection, competition among domestic industries, and the impact of proposed zones on existing businesses, rather than matters of interest to the Corps of Engineers, such as engineering, construction, and environmental impacts.

While this proposal would minimize involvement of the Department of the Army and the Corps in routine FTZ activities, the

Corps would still be available to lend its expertise in engineering, construction, and environmental related issues on a case-by-case basis.

Subtitle B—Financial Management

Section 910 would modify the authorization and appropriation of the Environmental Restoration, Defense Account. As proposed, the legislation would change the existing authorization of one central transfer account by providing additional transfer accounts for each of the Military Departments. The legislation would also provide for the direct appropriation of Environmental Restoration funds into these newly established transfer accounts.

The proposed legislation is required to implement the Department's decision to devolve the Environmental Restoration Program to the Military Departments. Devolving the account to the Military Departments will involve them more directly in validating the cleanup efforts and balancing the cleanup program with other military requirements in the budget preparation.

Section 911 would amend chapter 31 of title 10, United States Code, to authorize the expenditure of appropriated funds to provide small meals and snacks at recruiting functions for members of the Delayed Entry Program, others who are the subject of recruiting efforts for the reserve components, influential persons in communities who assist the military departments in their recruiting efforts, military and civilian personnel whose attendance at such functions is mandatory, and other persons whose presence at such functions will contribute to recruiting efforts. The primary persons who will attend recruiting functions where small meals and snacks will be provided are persons in the Delayed Entry Program and reserve component recruiting programs. The authority will be used sparingly and the cost is neglegible. These recruiting functions result in more motivated recruits, decreased attrition in the programs while recruits finish school, and referral sources for future recruits.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Section 1002. Section 2608 of title 10, United States Code, (the Defense Cooperation Account) currently authorizes the acceptance of contribution of money and real or personal property for any defense purpose. The amendment would allow the United States to accept housing or other services on the same basis that real or personal property now can be accepted.

Section 1003 would amend section 101(b) of the Sikes Act (16 U.S.C. 670a) to authorize the transfer of fees collected on a military installation for hunting and fishing permits. Under the Act, the Secretary of Defense is authorized to carry out a program involving wildlife, fish, game conservation and rehabilitation for each military reservation in accordance with a cooperative plan mutually agreed upon by the Secretary of Defense, the Secretary of Interior, and the appropriate state agency. The plan may authorize commanding officers of reservations to act as agents of the state concerning and collect fees for state hunting and fishing permits. The fees would be retained locally and used only for conservation and rehabilitation programs agreed to under the plan. Subsection (b)(4)(B) of the Sikes Act provides that the fees collected may not be expended except for the installation on which the fees were collected. Many military installations are now being closed and the Act does not address the disposition of fees that have been collected for these installations. This section would authorize the transfer of those fees to another open installation for the conservation and rehabilitation purposes expressed in the Act. The section would impact on Treasury receipts. The funds are modest but valuable on individual military installations.

Section 1004 would amend section 3342 of title 31, United States Code, to allow DoD disbursing officials to cash checks for U.S. Federal credit unions operating at DoD invitation in foreign countries where contractor-operated military banking facilities are not available.

Italy and Spain historically have not permitted U.S. military banking facilities to operate within their borders. Although certain U.S.-chartered Federal credit unions have been allowed to operate branches in those countries at the invitation of the DoD, often they have obtained operating cash through DoD disbursing officials. That practice must be discontinued because it has been determined to be beyond the scope of the disbursing official's authority under title 31 of the United States Code.

U.S.-chartered Federal Credit union branches in Italy and Spain currently provide the most comprehensive and accessible U.S.-style retail financial services for military installations in those countries. Without these credit unions, military and civilian personnel assigned in Italy and Spain might be denied U.S.-style retain financial services. Accordingly, this is a significant and urgent quality-of-life issue. Although title 31 currently authorizes disbursing officials to cash checks and provide exchange services for Government personnel, those services do not approach the range of services the credit unions can provide. Furthermore, Service resources already are stretched to such an extent that generally it is not feasible to devote disbursing officials to the enormous task of cashing checks for individuals. It is more efficient simply to sell cash to the credit unions and allow them to provide retail financial services.

This amendment is of equal import to each of the services in order to maintain accessible banking services on all installations overseas.

Section 1005. Subsection (a) of this section amends section 204(b)(4) of the Defense Authorization Amendments and Base Closure and Realignment Act (title II of Public Law 100–526, as amended; 10 U.S.C. 2687 note) by replacing the reserve account established in the United States Treasury with the Commissary Surcharge Fund or a Department of Defense nonappropriated fund account designated by the Secretary of Defense, as applicable. It also eliminates the requirement for an advance appropriation before funds placed in this account are expended.

Subsection (b) of this section makes conforming amendments to section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510, as amended; 10 U.S.C. 2687 note).

Subsection (c) of this section makes conforming amendments to section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510, as amended; 10 U.S.C. 2678 note).

Subsection (d) of this section defines the term "proceeds" to be consistent with the amount currently available for expenditure for the Base Closure and Realignment account without further appropriations action.

Subtitle B—Civilian Personnel

Section 1010 would amend section 1595(c) of Title 10, United States Code, to add a new paragraph (4) to include the English Language Center of the Defense Language Institute. This would have the effect of correcting an earlier omission (the English Language Center should have been added with the Foreign Language Center) and allowing the Secretary of Defense to employ civilians and prescribe faculty compensation. The English Language Center currently is severely restricted in classifying job positions and providing appropriate faculty compensation. This is having an adverse impact upon our ability to recruit, develop and retain English-as-a-second-language instructors in fulfillment of the DoD security assistance mission, to include the key English language training component of the Partnership for Peace program. By revising the authority of section 1595, the English Language Center will be allowed, as the Foreign Language Center, National Defense University, and George Marshall Center currently are allowed, to establish a personnel system that truly meets their need to establish job series that correspond with their mission and to compensate faculty accordingly.

There are no cost implications with this amendment.

Section 1011 would amend section 1595, title 10, United States Code, to authorize the Asia-Pacific Center for Security Studies to employ and compensate its civilian faculty, including the Director and Deputy Director.

The proposal would authorize the Secretary of the Defense to appoint, administer and compensate the civilian faculty of the Asia-Pacific Center for Security Studies. The National Defense University (10 U.S.C. 1595), United States Naval Academy (10 U.S.C. 6952), the United States Military Academy (10 U.S.C. 4331), the United States Air Force Academy (10 U.S.C. 9331), the Naval Postgraduate School (10 U.S.C. 7044), the Naval War College (10 U.S.C. 7478), the Army War College (10 U.S.C. 4021), the Air University (10 U.S.C. 9021) and the George C. Marshall European Center for Security Studies (10 U.S.C. 1595) have such authority for their civilian faculty.

The Asia-Pacific Center for Security Studies is a new institution chartered by the Secretary of Defense to be under the authority, direction and control of the Commander in Chief, U.S. Pacific Command. The center's mission is to facilitate broader understanding of the U.S. military, diplomatic, and economic roles in the Pacific and its military and economic relations with its allies and adversaries in the region. The center will offer advanced study and training in civil-military relations, democratic institution and nation building, and related courses to members of the U.S. military and military members of other Pacific nations. The mission of this critically important and innovative center will require first-rate faculty and scholars with international reputations.

Under current legislation and authority available to the Commander in Chief, U.S. Pacific Command, civilian faculty for the Asia-Pacific Center for Security Studies must be appointed, administered and compensated under title 5, United States Code. This means the faculty must be classified under the General Schedule (GS) and recruitment and compensation must be limited to GS grade, occupational series, and pay rates. However, the GS grading system does not meet the needs of the traditional academic ranking system wherein faculty members earn and hold rank based on educational accomplishment, experience, stature and other related academic and professional endeavors. The GS grading system also does not allow the center to hire non-U.S. citizen academics

VOL
142
PT
6
AP
15
—
24
1996
UMI

from international institutions. Legislation is required for the Commander in Chief, U.S. Pacific Command to utilize title 10 excepted service authority to appoint, administer and compensate the center's civilian faculty.

Section 1595, title 10, United States Code provides for employment and compensation of civilian faculty at certain Department of Defense schools. There is no provision for civilian faculty of the Asia-Pacific Center for Security Studies.

The proposed legislation provides excepted service authority for appointing, administering and compensating the civilian faculty of the Asia-Pacific Center for Security Studies.

Enactment of this legislation will not increase the budgetary requirements of the Department of Defense.

Section 1012. Currently, article 143(c) of the Uniform Code of Military Justice (10 U.S.C. 943(c)) authorizes the United States Court of Appeals of the Armed Forces to make excepted service appointments to attorney positions in the same manner as appointments are made to other executive branch positions of a confidential or policy-determining character. This proposal would extend the authority to cover appointments to non-attorney positions established in a judge's chambers which presently are made under the Schedule C, excepted service authority of 5 C.F.R. 213.3301 for positions of a confidential or policy-determining character. This would consolidate the court's appointing authorities and eliminate the administrative efforts currently required to obtain U.S. Office of Personnel Management approval for any new or changed position in a judge's chambers. As a note, Schedule C authority is automatically revoked upon vacancy, thereby requiring approval of both the position establishment and appointment.

Under this proposal, the United States Court of Appeals for the Armed Forces could make appointments to attorney positions established in the court and to non-attorney positions established in a judge's chambers. The non-attorney positions established in a judge's chambers would include such positions as personal and confidential assistant, secretary, paralegal, and law student intern which provide direct, confidential support to a judge These positions are relatively small in number (i.e., typically would not include other non-attorney positions outside a judge's chambers for which employment in the competitive service remains appropriate. The proposal is cost neutral since the administrative paperwork in terms of the number of positions envisioned is not significant; however, a more timely and streamlined process will result.

Section 1013. Section 1032 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 429) requires the Secretary of Defense to convert 10,000 military positions within the Department of Defense to civilian positions. A military position is one noted as being authorized to be filled by a member of the Armed Forces on active duty.

The Secretary of Defense is cognizant of his management requirements and of the costs of military personnel *vis a vis* civilian personnel. Because of the unique activities and operations of the Department of Defense, many positions require the skills, experience, and knowledge of members of the Armed Forces. The Department has an optimum balance of military and civilian manpower in its current structure, and any non-programmatic numerical adjustment will only serve to upset that balance.

Subtitle Miscellaneous Reporting Requirements

Section 1020 would amend Section 10541(b)(5)(A) of Title 10, United States Code, to delete the requirement to break out the full war-time requirement of each item of equipment over successive 30-day periods following mobilization. The requirement to show the full war-time requirement and inventories of each item of equipment will remain in law. Under current war planning methodology to respond to multiple major regional contingencies, a fixed approach employing 30-day increments is no longer applicable. In the post-Cold War environment, the requirement for flexible design and employment of responses renders rigid 30-day increment planning out of date.

Section 1021. The purpose of the proposed legislation is to amend the statutory requirement for an Annual Report on Strategic Defense Initiative (SDI) programs to reflect the current Ballistic Missile Defense (BMD) mission.

The Annual Report to Congress provides congressional committees with an assessment of the progress of the Ballistic Missile Defense Organization (BMDO) in fielding a ballistic missile defense and a road map that BMDO intends to follow for the future. The statutory provision, which prescribes an Annual Report, requires the BMDO to report on actions that are no longer pertinent to the direction of the BMD program and the current world situation. This proposed legislation would amend those requirements to reflect the current mission of BMDO.

Sections 224(b)(3) and 224(b)(4) require that the Annual Report to Congress detail objectives for the planned deployment phases and the relationships of the programs and projects to the deployment phases. The deployment phases were germane when the SDI was developing a system to be fielded in phases, with each phase (after phase 1), designed to offset expected Soviet countermeasure and add to U.S. ballistic missile defensive capabilities. The current focus of the BMDO program is to field improve theater missile defense systems and maintain a technology readiness program for contingency fielding of a national missile defense. The concept of phased additions to offset Soviet countermeasures and provide large incremental improvements to U.S. ballistic missile defense capabilities no longer exists.

Section 224(b)(7) requires an assessment of the possible Soviet countermeasures to the SDI programs. With the demise of the Soviet Union and the shift in focus of the BMD program to fielding theater missile defense systems, this requirement is no longer applicable.

Section 224(b)(9) and 224(b)(10) require details on the applicability of SDI technologies to other military missions. The missions addressed have largely become the primary focus of BMDO and reporting how SDI technologies could be applied to other military missions is no longer relevant. These two subparagraphs should be repealed, as they are redundant with reporting the status of today's BMD.

Enactment of the proposed legislation will not result in any increase in budgetary requirements. Our analysis of the costs incurred and the benefits derived is that this legislation is budget neutral.

Section 1022 would repeal the requirement at 10 U.S.C. 2706(c) for the Department to submit an annual report to Congress on its reimbursement of environmental response action costs for the top 100 defense contractors, as well as on the amount and status of any pending requests for such reimbursement by those same firms.

The Department recommends repeal of this statutory reporting requirement because the data collected are not necessary, or even helpful, for properly determining the allowableness of environmental response action costs on Government contracts. Moreover, the Department does not routinely collect data on any other categories of contractor overhead costs. As a minimum, if repeal is not feasible, the law should be amended to limit data collection to the top 20 defense contractors, which would still capture most environmental response action cost reimbursements by DoD.

This reporting requirement is very burdensome on both DoD and contractors, diverting limited resources for data collection efforts that do not benefit the procurement process. Not only are there 100 different firms involved, but for most of these contractors, data must be collected for multiple locations in order to get an accurate company-wide total. Contractor personnel at these numerous locations must collect the required data (which is not normally categorized in this fashion in contractor accounting systems); the cognizant DoD administrative contracting officers must request, review, assemble, and forward these data through their respective chains of command; the Defense Contract Audit Agency must validate the data submitted; and the Secretary of Defense's staff must consolidate this large amount of data into the summary report provided to Congress. We estimate that more than 20,000 hours of contractor and DoD effort were required to prepare the Department's February 6, 1995 report.

In addition, the summary data provided to Congress in the February 6, 1995 report did not show large amounts of contractor environmental response action costs being reimbursed on DoD contracts. For overhead rate proposals settled in FY93, the DoD share of such costs was approximately $6 million for that year's top 100 defense contractors; while for FY94 settlements, the comparable figure was approximately $23.6 million—with $17.9 million of that being attributable to the settlement of a single long-standing, multi year dispute at one contractor location.

Section 1023 would repeal the requirement at 10 U.S.C. 2391 note (Section 4101 of Public Law 101–510) that the heads of appropriate Federal agencies promptly notify the appropriate official or other person or party that may be substantially and seriously affected as a result of defense downsizing.

This provision requires that notices be sent to a long list of officials, persons or other parties if: (1) the annual budget of the President submitted to Congress, or long-term guidance documents, or (2) public announcements of base or facility closures or realignments, or (3) cancellation or curtailment of a major contract will have a serious and substantial affect. Determining every community, business and union that may be significantly adversely affected by any of these actions is almost impossible to accomplish. The information does not exist to determine every city, county, state, company and union that may be significantly adversely affected by any action taken under one of the three categories listed in the law. In addition, recipients may be unnecessarily confused by potentially incorrect notices because the budget of the Department that is passed by the Congress is very different from the budget that the President submits. Also, the Department can not predict the actions that every company or community may take

in response to Congressional funding decisions. One budget action may have offsetting affects of another budget action and only the community or the company will be able to determine a best course of action. The decision not to fund military construction in one community versus another may have an adverse employment affect. Attempting to make these determinations means that some notices may be sent incorrectly for events that never happen and some places and groups will be left out—both events causing considerable unnecessary stress and disruption to the cities, towns, companies, families and individuals that receive them. The intent to provide places and people with advance notice and information about Defense-prompted employment declines can not be accomplished fairly and equitably by this requirement and therefore, should be repealed.

This section would also repeal the notification requirement (section 4201 of Public Law 101–510) that the Secretary of Defense provide the Secretary of Labor information on any proposed installation closure or substantial reduction, any proposed cancellation of or reduction in any contract for the production of goods or services for the Department of Defense if the proposed cancellation, closure, or reduction will have a substantial impact on employment. The current requirement is that large prime or subcontractors notify the Department of Defense whenever a downsizing action of the Department will have a substantial and serious adverse employment impact. This is a burden to the Department and its contractors.

Since the requirement to implement this provision has been in place in the Federal Acquisition Regulations in 1992, there have been only four notifications made by contractors. The requirements of the law are confusing, overlapping, and narrowly defined. Many worker reductions are not in response to Department of Defense actions but rather are as a result of the overall downsizing of the defense industry. Many contractors have multiple contracts with the Department of Defense. Although some contracts may be canceled, others may be increasing thereby offsetting the adverse affects of a particular cancellation. Only the company can make the decisions about necessary work force requirements. Such decisions often are not tied to a specific action such as a particular cancellation. The statutory requirement is not resulting in the advance notice requirements being made regarding layoffs.

Subtitle D—Matters Relating to Other Nations

Section 1025 would change section 401 of title 10, United States Code, to authorize the Department of Defense to:

To use funds appropriated for Overseas Humanitarian, Disaster, and Civic Aid to cover the costs of travel, transportation and subsistence expenses of personnel participating in such activities and to procure equipment, supplies and services in support of or in connection with such activities.

To transfer to foreign countries or other organizations equipment, supplies, and services for carrying out or supporting such activities.

Such changes would allow the Department of Defense to continue to carry out its humanitarian demining program, one of the unified commanders' most visible and cost-effective peacetime activities. The program is particularly important given the worldwide attention that has been focused on landmines and the need to remedy their effect on civilian populations in affected countries.

Subtitle E—Other Matters

Section 1030. The Department strongly supports the policy objectives of Chapter 148, National Defense Technology and Industrial Base, Defense Reinvestment, and Defense Conversion. As noted in Industrial Capabilities for Defense, forwarded to Congress on September 29, 1994, the Department has initiated a coordinated effort to identify and analyze industrial concerns, and ensure technology and industrial issues are effectively integrated into its key budget, acquisition, and logistics processes. However, the Department believes that the objectives of Chapter 148 would best be met by performing the analyses and establishing only the organizations necessary to support the Department's key budget, acquisition, and logistics processes. Therefore, the Department is proposing the following changes.

Subsection (a) amends section 2502 of title 10 by revising the responsibilities of the National Defense Technology and Industrial Base Council (NDTIBC) to conform to our proposed amendments to section 2505 below.

Subsection (b) amends section 2503 of title 10 by deleting various references to the National Defense Technology and Industrial Base Council and section 2506 periodic plans; (2) deleting subsections (a)(2), (a)(3) and (a)(4) dealing with administration of the National Defense Program for Analysis of the Technology and Industrial Base and coordination requirements; and (3) deleting subsection (b) dealing with supervision of the program.

Subsection (c) amends section 2505 of title 10, establishing specific requirements for Department of Defense technology and industrial capability assessments. In particular, it requires the Secretary of Defense to prepare selected assessments through fiscal year 1998 to attain national security requirements, and describes the scope of the required assessments. This subsection also requires that such assessments be fully integrated into the Department's resource planning guidance.

Subsection (d) amends section 2506 of title 10 to substitute revised language which requires the Secretary of Defense to issue guidance to achieve national security requirements. It also requires Departmental senior-level oversight to ensure technological and industrial issues are integrated into key budget decisions. Finally, it requires a Department report to Congress on its implementation of industrial base policy.

Subsection (e) adds a new section 2508 to title 10 which requires an annual report to Congress, for 2 years commencing March 1997 to enable Congress to monitor technology and industrial issues. The report would include descriptions of the Department's policy guidance, the methods and analysis used to address technological and industrial concerns, and assessments used to develop the Department of Defense's annual budget; it would also identify any programs designed to sustain essential technology.

Subsection (f) amends section 2514 of title 10 to remove the requirement for the Secretary of Defense to coordinate the program to encourage diversification of defense laboratories with the National Defense Technology and Industrial Base Council.

Subsection (g) amends section 2516 of title 10 to place the responsibility with the Secretary of Defense for establishing the Military-Civilian Integration and Technology Advisory Board.

Subsection (h) amends section 2521 of title 10 by removing subsection (b) which refers to the relationship of the National Defense Manufacturing Technology Program to the National Defense Technology and Industrial Base Plan.

Subsection (i) makes conforming repeals of sections 4218, 4219, and 4220 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2315).

Subsection (j) makes clerical amendments.

Section 1031 would amend Title II, Section 204(b) of the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (Title II of Public Law 100–526, U.S.C. 2687 note), as amended by Title XXIX of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103–160 by restoring inadvertently eliminated provisions of then-subparagraph (3), which in considerably more extended language provided the Defense Department the basic authority for inter Service and similar transfers of real and personal property. The 1994 deletion from the 1988 Act was an inadvertent technical legislative drafting error.

Section 1032. A primate research complex has existed at Holloman Air Force Base for several decades. It originated as an Air Force laboratory supporting the named space program which is what generated the requirement for chimpanzees. It was later operated under contract. The complex consists of a number of buildings and facilities located generally on two separate but relatively close sites on the base. The main structure and the center of the complex is the recently completed facility constructed with $10,000,000.00 in federal grant money provided through the General Services Administration. Virtually all the chimpanzees are housed in the new facility. Because the facility is only a few years old, and because there is no other available facility to house the Air Force owned chimpanzees, it is impractical to remove the laboratory from the base at this time.

The Air Force has not had a requirement for its chimpanzees for at least two decades but has had no significant expenses in maintaining them because they were maintained by the operating contractor at no cost to the Air Force. The contractor used them for scientific and medical research and as part of the National Institutes of Health breeding program for chimpanzees. The breeding program is responsible for the growth in the Air Force owned population over the years.

The current lease provides that any chimpanzees born to Air Force owned animals will become the property of the lessee, not the Air Force. Consequently the Air Force population will not grow; however, the long life of chimpanzees will guarantee the colony will survive for decades to come. The legislation will remove a substantial liability to the Government. The chimpanzees, because of their general age and past use in research, have no significant value as a colony. Estimates the Air Force has received indicate that the only alternative to continuing their current use is to retire them presumably at Government expense. The cost of such retirement has been estimated from tens of millions of dollars up to $100,000,000.00. Nevertheless, if a qualified and capable offeror is willing to assume the care and maintenance of the chimpanzees and the facilities, at no cost to the Air Force, there is no reason to refuse such an entity the option to compete for the facilities and chimpanzees.

Subsection (a) of this section authorizes the Secretary of the Air Force, on a competitive basis and without regard to the requirements of the Federal Property and Administrative Services Act of 1949, to dispose of, at not cost, all interests the Government has in the primate research complex and Air Force owned chimpanzees located at or managed from Holloman Air Force Base. The underlying real property is excluded from transfer.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The laboratory was largely built with Government grant funds. The current lessee and operator of the laboratory is the Coulston, Foundation, a not-for-profit entity. The laboratory's location within the Base makes it impractical to create a privately owned enclave inside the Base boundaries by excessing the underlying real property.

Subsection (b) conditions the conveyance by requiring the recipient to utilize the chimpanzees for scientific research, medical research, or retirement of the chimpanzees and provide adequate care for the chimpanzees. The Air Force owned chimpanzees were originally obtained and later bred for scientific and medical research and the new facility was funded for continuation of these purposes.

Subsection (c) provides standard language for a survey to establish the legal description of the property conveyed.

Subsection (d) provides the standard language that the Secretary may require such additional terms as necessary to protect the interests of the United States.

Section 1033 would amend section 172 of the National Defense Authorization Act for Fiscal Year 1993. Section 172 requires the Secretary of the Army to establish a Chemical Demilitarization Citizens Advisory Commission for each State in which there is a low-volume chemical weapons storage site and for any State with a chemical storage site other than a low-volume site, if the establishment of such a commission is requested by the Governor of the State. The Secretary must provide a representative to meet with the commissions to receive citizen and State concerns regarding the Army's program to dispose of lethal chemical agents and munitions.

Currently, section 172 requires the representatives to be from the Office of the Assistant Secretary of the Army (Installations, Logistics and Environment). However, that office no longer has the responsibility for this program. That amendment will allow the Secretary of the Army to designate the representative to meet with the commissions from the office with current responsibility for the program, the Office of the Assistant Secretary of the Army (Research, Development and Acquisition).

Section 1034 would amend section 172 of the National Defense Authorization Act for Fiscal Year 1993. Section 172 requires the Secretary of the Army to establish a Chemical Demilitarization Citizens Advisory Commission for each State in which there is a low-volume chemical weapons storage site and for any State with a chemical weapons storage site other than a low-volume site, if the establishment of such a commission is requested by the Governor of the State. The Secretary must provide a representative to meet with the commissions to receive citizen and State concerns regarding the Army's program to dispose of lethal chemical agents and munitions.

Currently, section 172 requires the representative to be from the Office of the Assistant Secretary of the Army (Installations, Logistics and Environment). However, that office no longer has the responsibility for this program. This amendment will allow the Secretary of the Army to designate the representative to meet with the commissions from the office with current responsibility for the program, the Office of the Assistant Secretary of the Army (Research, Development and Acquisition).

Section 1035 would amend section 1044a of title 10, United States Code, to authorize all judge advocates of the Armed Forces, adjutants, assistant adjutants, and personnel adjutants, and all other members of the Armed Forces designated by regulations of the Armed Forces, to include members of the Coast Guard, to have the same notary public authority without regard to whether they are on active duty or performing inactive duty for training. All law specialists of the Coast Guard are lawyers. Under the current law, National Guard judge advocates and other otherwise authorized personnel do not have the general powers of a notary public while serving on annual training or on Active Guard and Reserve duty in a full-time National Guard duty status, nor do National Guard and Reserve judge advocates, adjutants, and others have such powers when not in a formal duty status. This amendment would authorize such powers regardless of duty status.

Reserve and National Guard judge advocates and Coast Guard law specialists are asked to perform notarial acts, both on and off duty, and to assist members of the Guard and reserves in preparing for mobilization and deployment. These judge advocates and law specialists are often in a position to prepare and execute Powers of Attorney and Wills at their private offices or at the command where the soldier is located, which may be distant from a military facility. Under the present statute they may not do so unless on active duty or performing inactive-duty for training.

Under the present law, civilians question the notary authority and request verification of duty status in order to assure compliance with section 1044a before accepting the Power of Attorney or other notarized document. The service member often has no way of reasonably discovering the whereabouts of the judge advocate or law specialist and cannot provide such information, resulting in rejection of the document. This proposal will bring uniformity and flexibility among the services in this area and be less confusing to the civilian community. It will eliminate litigation, especially in cases involving wills.

Subsection (b) would ratify notarial acts performed prior to the date of enactment of this section by persons authorized notarial powers under this amendment, provided such acts have not been challenged or negated in a formal proceeding prior to the date of enactment.

Section 1036 would shift the office of primary responsibility for all systems of transportation during time of war from the Secretaries of the Army and the Air Force to the Secretary of Defense. Such a change is in keeping with the integration of transportation systems in the commercial sector to intermodal methods of shipment. DoD, for efficiency purposes, has established a single manager for transportation, the United States Transportation Command. Activation of the Civil Reserve Fleet in time of war is from the President to the Secretary of Defense to the Commander, United States Transportation Command. The need for the Army or the Air Force independently to assume control of transportation systems for its members, munitions, and equipment, especially to the exclusion of the other services can no longer be justified.

If enacted, this proposal will not increase the budgetary requirements of the Department of Defense. By amending this section, monetary savings may be realized by authorizing more centralized control of the DoD transportation system.

Section 1037 would clarify that the period of limitations for the filing of claims before the various Boards of the Military Departments for the corrections of service records (10 U.S.C. 1552(b) of three years, that can be waived by the board "in the interest of justice") is not tolled by section 205 of the Soldiers' and Sailors' Civil Relief Act of 1940. Section 205 of such Act was amended by the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 (section 5 of such Act (56 Stat. 770); 50 U.S.C. App. 525). It prescribes that military service is not to be computed in any period limited by law for the bringing of any action or proceeding before a court, board, etc. The recent judicial decision of *Detweiler v. Pena*, 38 F. 3d 591 (D.C. Cir. 1994) applied the tolling provision to the limitation of section 1552(b).

This provision would overturn that court decision and direct the military correction boards to consider the travails of military service in their findings "in the interest of justice" in waiving the limitation period. This result is necessary considering that the boards are examining military records. It underscores the need for a prompt resolution of requests for corrections, especially to avoid multiple successive corrections in the examination of records 20 to 30 years after a complained of error.

Section 1038 would update the statutory reference to the name upon which the Navy's central historical activity has operated for more than two decades. The original term was used in 1949 when the trust fund initially was started. Subsequently, the fund has evolved to include, among other things, the Navy Museum and Navy Art Gallery. This is a technical change conforming the statutory reference to the common title.

Section 1039. The George C. Marshall Center was established in 1993 to respond to the new security challenges which emerged at the end of the Cold War: e.g., promoting stability in Europe by helping the nations of Central Europe and the former Soviet Union to develop democratic institutions. The Center's formal mission is to foster the development of defense institutions and security structures compatible with democratic processes and civilian control. As its directive mandates, it does this by (1) providing appropriate defense education; (2) conducting research on security issues relevant to the task; (3) holding conferences and seminars on appropriate issues; (4) providing Foreign Area Officer (FAO) and language training; and (5) supporting NATO activities which are directed toward the same end.

To execute its mission, the Marshall Center conducted programs through three operational components: the College of Strategic Studies and Defense Economics (CSSDE); the Research and Conference Center (RCC); and the Institute for Eurasian Studies (IES). The CSSDE teaches a 19 week in-depth course in English, Russian, and German to future national security leaders in mid-level civilian and military positions from the nations of CE/FSU twice a year. The RCC holds conferences and seminars and sponsors research on issues of importance to current leaders at the ministerial and parliamentarian level from the North Atlantic Community, the nations of the NATO and PfP signatories. The IES trains US and NATO personnel (FAO and language students) who will work in and with these nations in the future. Each element synergistically reinforces the Center's overall objective of reinforcing and accelerating the democratization processes of the security establishments in the CE/FSU nations.

The work of the Marshall Center continues to receive international recognition. The innovative and ground breaking curriculum that teaches about many forms of democracy and looks at the principles that govern defense organization and management, in both western and the emerging democracies in the Central European and Former Soviet Union nations, is being used as a model for other schools. The Marshall Center, in promoting democratic principles and serving as a forum for promoting democratic principles and serving as a forum for European and Eurasian security and stability issues, clearly provides a service that benefits not only NATO countries but also neutral European nations. Both NATO and neutral nations, recognizing the importance and effectiveness of the Marshall Center, have expressed an interest in contributing to the program. From the Marshall Center academic perspective, the more view points that can be offered, the richer and better the program.

In 1994, the Marshall Center was given special permission by Congress to accept contributions from the German government under a formal; "Memorandum of Agreement". This arrangement is a tremendous success story. The German contribution of both funding and manpower enhances the conferences and research program and hence the prestige and effectiveness of the Marshall Center. Enabling the Marshall Center to accept contributions from other nations would only serve to further enhance the breadth and quality of the Marshall Center program as it works to strengthen U.S. interests and spread democratic values in the Central and Eastern European and Former Soviet Union nations.

As addressed above, the Marshall Center is an educational institution. In accordance with U.S. strategic interests, it is dedicated to stabilizing and thereby strengthening Post-Cold War Europe. Specifically, the Marshall Center provides education to defense and foreign ministries' officials to develop their knowledge of how national security organizations and systems operate under democratic principles. The Marshal Center program recognizes that even peaceful, democratic governments require effective national defenses; that regional stability will be enhanced when legitimate defense and that a network of compatible democratic security structure will enhance the continent's prospects for harmony and stability.

The Marshall Center additionally seeks to create an enduring and ever expanding network of national security officials who understand defense planning in democratic societies with market economies and to provide those officials with ever greater opportunities to share their perspectives on current and future security issues. The Marshall Center, with its international faculty and students from over 26 nations, and it active conference program serves as an important forum for discussion of European and Eurasian security and stability issues.

Unfortunately, the very nations that can be viewed as perhaps the most in need of what the Marshall Center offers, in both education and as a forum for defense cooperation contacts, are excluded from participation. Inviting national security officials from nations such as Bosnia, Yugoslavia, and Azerbaijan to Marshall Center programs would expose them to the very ideas and changes the U.S. is seeking to influence and promote.

If the U.S. strategic goals of promoting stability through defense cooperation are to be achieved, all the newly emerging governments of the Central and Eastern and States of the Former Soviet Union (CE/FSU) nations must be allowed, even encouraged, to attend and participate in the Marshall Center program. Participation of all CE/FSU nations in the Marshall Center program can only enhance the U.S. objective of increasing the continent's prospects for harmony and stability.

The Secretary of Defense has requested that a Board of Visitors be established to advise him on Marshall Center programs. Distinguished citizens from both the United States and other nations are being asked to participate without compensation other than remuneration for their travel expense to serve on the Board twice a year. Having to make financial disclosures or foreign registration will discourage their participation and make it extremely difficult in recruiting volunteers with exceptional diplomatic experience.

Section 1040 would direct the transfer and exchange of lands between the Departments of Army and Interior, which will allow those departments to more efficiently manage their property and also will provide for the orderly development of additional lands for the benefit of Arlington National Cemetery, which currently is slated for closure to initial interments by 2025.

Subsection (a) of this provision directs the Secretary of the Interior to transfer to the Secretary of the Army lands that are currently under the jurisdiction of the National Park Service (NPS) to the Army for the use of Arlington National Cemetery. On February 22, 1995, the Army and the Department of the Interior entered into an Interagency Agreement for the purpose of ultimately effecting a transfer of these lands. These lands are part of what is known as "Section 29," an area that became part of the National Park System in 1975 when the Army reported the property as excess and transferred it to the NPS pursuant to the Federal Property and Administrative Services Act, subject to a 1964 Order by the Secretary of the Army that it be set aside in perpetuity to preserve an appropriate setting for the Custis-Lee Mansion (subsequently renamed the Arlington House, The Robert E. Lee Memorial) and be maintained in a parklike manner.

Section 29 includes approximately 24.44 acres that are divided into two zones, the approximately 12.5-acre Robert E. Lee Memorial Preservation Zone and the approximately 12-acre Arlington National Cemetery Interment Zone. Because it is unnecessary for the Interment Zone, and possibly portions of the Preservation Zone as well, to be maintained in a parklike manner for the NPS to provide a proper setting for Arlington House, or for the proper administration and maintenance of it and its adjacent buildings as a national memorial, this property may be transferred to the Army for use as part of Arlington National Cemetery.

Under the Interagency Agreement signed on February 22, 1995, the NPS agreed to allow the Army to use the lands in the the Preservation Zone that are suitable for transfer and all lands in the Interment Zone until the transfer is effected, for the purpose of studying and surveying the property and planning for its use as a cemetery.

Subsection (a) directs the Secretary of the Interior to transfer these lands directly to the Secretary of the Army in accordance with the Interagency Agreement.

Subsection (b) of this provision directs the exchange of specific parcels of land located in and adjacent to Arlington National Cemetery between the Departments of Army and Interior. This transfer is designed to meet the respective agencies' needs and will provide for the optimum use of these Federal lands.

Section 1041. The existing language of section 2643, title 10, United States Code, subverts the Department of Defense consolidated contracting for overseas transportation and may result in higher overall costs, with less flexibility and control.

Section 1042. The Sikes Act (P.L. 99-561) permits the use of cooperative agreements to "provide for the maintenance and improvement of natural resources" on DoD installations. Similar language is not available to support DoD's cultural resources program.

Cooperative agreements are an essential instrument used to enter into partnerships with other Federal, State, and local governments, and with nongovernmental organizations to share personnel and fiscal resources for the mutual benefit of all participating parties. Partnership opportunities have been lost or deferred because the Military Departments do not feel they can enter into such agreements for cultural resources management, except for Legacy Resource Management Program-funded projects. Furthermore, the Legacy program was established as a short-term enhancement initiative. A broader, more permanent fix is required to ensure stability and inclusiveness of such efforts for DoD's cultural resources management program.

New partnership oppportunities would be available with this legislative change. Resource stewardship on DoD lands would be enhanced. This proposal has no fiscal or budgetary impact to the Department of Defense.

Section 1043 would authorize the President to award the Medal of Honor to seven named African American soldiers who served in the United States Army during World War II. It would authorize the award notwithstanding the time restrictions in section 3744 of title 10, United States Code. Those restrictions require that the award be made within three years of the act justifying the award and that a statement setting forth the distinguished service and recommending official recognition of the service be made within two years after the distinguished service. The Army recently conducted a study of the awarding of the Medal of Honor to African American soldiers during World War II. The waiver of the time limitations for the presentation of the Medal of Honor to the named former soldiers is a result of that study.

Section 1044 would amend section 2543 of title 10, United States Code, to make permanent the temporary authority the Secretary of Defense had during fiscal years 1992 and 1993 to provide assistance to the Presidential Inaugural Committee and to the joint committee of the Senate and House appointed to make the necessary arrangements for the Inauguration of the President-elect and the Vice President-elect. Section 307 of the National Defense Authorization Act for 1992 and 1993 authorized the Secetary of Defense to lend materials and supplies, and to provide materials, supplies, and services of personnel, during that period to the Inaugural Committee and joint committee.

Section 1045 cites a continuing need for military use of the affected lands and sets forth certain definitions.

Subsection (b) withdraws certain federal lands in Imperial County generally known as the East Mesa and West Mesa ranges from all forms of appropriation under the public land laws, subject to existing rights and certain conditions. The lands would be reserved for use by the Navy in accordance with the current memorandum of understanding between the Bureau of Land Management and the Department of the Navy, and for other defense-

VOL
142
PT
6
AP
15
—
24
1996
UMI

related purposes consistent with the memorandum.

The provision requires the publication and filing of maps and descriptions of the affected lands, gives those maps and descriptions the same effect as if they were included in the Act, and provides for public inspection.

It would require management of the withdrawn lands by the Secretary of the Interior pursuant to the Federal Land Policy and Management Act and other applicable law, with the concurrence of the Secretary of the Navy. The lands could be managed to permit wildlife protection and management, fire suppression, geothermal leasing by the Department of the Navy and power production and continued grazing. Nonmilitary use could not interfere with military use consistent with the Act. The Secretary of the Interior could issue a lease, easement, right of way, or otherwise authorize nonmilitary use of the lands, with the concurrence of the Secretary of the Navy and under the terms of the cooperative agreement. The Secretary of the Navy would close the withdrawn lands to the public if required by military operations, national security of public safety. Withdrawn lands would be used for purposes other than those specified in the memorandum of understanding, however, the Secretary of the Navy would be required to notify the Secretary of the Interior. Withdrawn lands and minerals within them would be managed in accordance with the existing cooperative agreement, which would be revised as soon as practicable after the enactment of this legislation to implement the provision of the section.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, and Mr. BAUCUS):

S. 1674. A bill to amend the Internal Revenue Code of 1986 to expand the applicability of the first-time farmer exception; to the Committee on Finance.

THE AGGIE BOND IMPROVEMENT ACT

Mr. GRASSLEY. Mr. President, as you might expect, as I so often do on the floor of the Senate, I rise to speak about agriculture because it is a very important industry in my State. The legislation that I am introducing today, with Senators PRESSLER and BAUCUS, is bipartisan in sponsorship and changes the treatment of what are referred to as the aggie bond provisions of our tax statutes. We call this the Aggie Bond Improvement Act.

This legislation is important because of the changing scene of agriculture, the inability of young farmers to get started in farming, and particularly because today the average age of farmers. In my State of Iowa, and I think in most agricultural States, farmers average in their upper fifties. In 5 to 6 years we will have 25 percent of the farmers retiring. Hence, the necessity for improving programs to encourage young people to go into farming is clear. We introduce this bill today for with this purpose in mind.

This legislation will recondition and strengthen the popular first-time farmer programs administered by various State authorities. These authorities issue tax-exempt bonds to finance first-time farmers' loans. This combined agriculture and tax legislation enjoys the company of a companion bill in the House to be introduced by my colleagues from Iowa, Congressman LIGHTFOOT and Congressman GANSKE and the remainder of the Iowa House delegation. Joining me in our efforts in the Senate, as I have already said, are Senators PRESSLER of South Dakota and Senator BAUCUS of Montana. These two Senators are very interested in the problems of agriculture. The problems in their States are similar to those in mine.

We encourage all of our colleagues in the Senate to join us as sponsors in this Aggie Bond Improvement Act. Many beginning farmers and ranchers utilize low-interest loans authorized by aggie bonds to get started in farming and ranching. With the help of State authorities, these usually younger farmers must secure a participating private lender. This is a Government-private sector partnership. This private lender assumes all of the loan risk.

A Federal law limits the use of aggie bonds for first-time farmer purchases and restricts them to a maximum of $250,000 per family, per lifetime. I know that sounds like a lot of money to people that do not understand agriculture, but with that sort of loan you create one job. We are not talking about a massive farming operation with a massive amount of hired help. It takes that much capital to create one job in agriculture because of the nature of the investment.

State laws usually impose additional restrictions in addition to those that we do in the Federal Government. They might do this from the standpoint of net worth, material participation, and residence requirements—all very legitimate requirements. Therefore, there is no risk of any misappropriation of any underlying tax benefit.

These State programs present American taxpayers with a new generation of farmers to ensure that our grocery stores continue to stock the greatest food bargains in the world. However, to fully succeed, the States need the improvements offered by this legislation.

First, cosponsors to this bill will help family members purchase the family farm by changing the current rule prohibiting aggie bond financing for family member transactions.

Senators from agriculture States know that the high startup costs for farming and the unique expertise required of farmers, cooperate to ensure that only the children and family members of present farmers can themselves become farmers. Therefore, disallowing aggie bond financing for family member transactions has operated as an unintended obstacle to the success of aggie bond programs.

Second, cosponsors to this bill will help more first-time farmers become lifetime farmers by allowing more young people to qualify for aggie bond financing. Present law disqualifies beginning farmers who have previously owned and farmed any parcel of land that is 15 percent or more of the median-size of a farm in the same county. Depending on the size of other farms in the county, many young farmers cannot utilize beginning farmer loans because of this restriction. Therefore, this legislation would qualify a beginning farmer who had previously owned and operated any farm that is no more than 30 percent of the average size of a farm in the same county. In Iowa, this means where present law disqualifies an average beginning farmer for having farmed only 35 acres, with this legislation, average beginning farmers can farm up to 100 acres and still qualify for aggie bond financing.

Having been a farmer all of my adult life, I can attest that no farmer can make a living to support even himself on 100 acres, not to mention supporting a family. These persons truly are just starting out in the farming trade and desperately need the first-time farmer's loans financed by these aggie bonds.

Mr. President, farm State Senators know the average age of farmers is increasing. Presently, our farmers in Iowa average in their late fifties. This aging trend is common in every State in this country. Last year, the Iowa Agriculture Development Authority—the authority that issues these aggie bonds in my State along with comparable agencies in about 20-some other States—issued 177 of these loans in my State, and nearly 80 percent of the applicants were under 35 years of age.

Truly, there is an aging generation of farmers still on the land who would like to retire and there is a younger generation of farmers who want to begin. This legislation to improve the State aggie bonds programs simply makes the necessary transactions possible. Seeing these possibilities, the National Counsel of State Agriculture Finance Programs, and a farming organization called Communicating for Agriculture, strongly endorse this legislation. It is also important to note that the Federal Government shoulders absolutely no financial risk in aggie bonds, and their cost, after these improvements, will be minimal.

I urge my colleagues to join me and the other cosponsors of this bill in supporting America's beginning farmers.

Mr. President, I ask unanimous consent to have printed in the RECORD the legislation.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF FIRST-TIME FARMER EXCEPTION.

(a) ACQUISITION FROM RELATED PERSON ALLOWED.—Section 147(c)(2) of the Internal Revenue Code of 1986 (relating to exception for first-time farmers) is amended by adding at the end of the following new subparagraph:

"(G) ACQUISITION FROM RELATED PERSON.—For purposes of this paragraph and section 144(a), the acquisition by a first-time farmer of land or personal property from a related person (within the meaning of section 144(a)(3)) shall not be treated as an acquisition from a related person."

(b) SUBSTANTIAL FARMLAND DEFINITION MODIFIED.—Clause (i) of section 147(c)(2)(E) of the Internal Revenue Code of 1986 (defining substantial farmland) is amended by striking "15 percent of the median" and inserting "30 percent of the average".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

By Mr. FAIRCLOTH (for himself and Mr. HELMS):

S. 1676. A bill to permit the current refunding of certain tax-exempt bonds; to the Committee on Finance.

THE EASTERN BAND OF CHEROKEE INDIANS ACT OF 1996

Mr. FAIRCLOTH. Mr. President, I rise today to introduce legislation for the Eastern Band of Cherokee Indians in my home State of North Carolina.

In 1982, the Congress passed legislation that would allow Indian tribes to issue tax exempt bonds just like other units of governments, such as States, counties, and cities. The 1982 act acknowledged that Indian tribes are in fact legitimate units of government with wide ranging responsibilities.

Using the act, the Cherokee Indians in my State issued $31 million in tax-exempt bonds to purchase the Carolina Mirror Co. The tribal leadership viewed the purchase of Carolina Mirror Co. as a means to promote jobs and economic development for their tribe and its members.

In 1986, however, the Congress passed new legislation that narrowed the interpretation of the original act so that tax exempt bonds could only be used to finance "essential governmental functions."

Mr. President, the Cherokee Tribe in my State would like to take advantage of lower interest rates and refinance the bonds. Under a "green eye shade" view of the law, the IRS has ruled that a refinancing would be a reissue, and the tribe could not issue tax exempt bonds again. By reissuing bonds at a lower rate, the company could save nearly $1 million a year—or nearly half of its annual profit.

In my view, this is as great a savings that can be attained for this company, but for this narrow interpretation of the law.

The legislation that I am introducing today is a technical bill that would allow Indian tribes to refinance tax-exempt bonds issued on or before October 13, 1987. This bill has safeguards to ensure that the temporary tax-exempt status of the bonds are not taken advantage of. Most importantly, this bill would be revenue neutral.

It is my hope that the Senate could consider this legislation.

By Mrs. BOXER:

S. 1677. A bill to amend the Immigration and Nationality Act to establish the United States Citizenship Promotion Agency within the Immigration and Naturalization Service, and for other purposes; to the Committee on the Judiciary.

THE CITIZENSHIP PROMOTION ACT OF 1996

• Mrs. BOXER. Mr. President, what do Saul Bellow, Itzhak Perlman, Elie Wiesel, Elizabeth Taylor, Mikhail Baryishnikov, Alistair Cooke, I. M. Pei, Hakeem Olajuwan, Patrick Ewing, and General John Shalikashvili have in common? They're all naturalized Americans, people who came to our country as immigrants and made major contributions to American life after receiving the precious gift of American citizenship.

Naturalization—the process by which a legal immigrant is granted the full rights and responsibilities of citizenship—represents the final step in a journey toward the American dream, a journey played by the rules.

As a firm believer in the American dream, and as a U.S. Senator whose mother became a naturalized citizen, I am pleased to introduce the Citizenship Promotion Act of 1996 which will put the "N" back in INS. This much-needed legislation will reform our current system of naturalization so that it can better serve those who want to follow the rules and become full participants in American society.

California has much at stake in improving the current delivery of naturalization services due to the high number of immigrants in the State who wish to naturalize. The latest surge in naturalization applications submitted is nowhere more evident than here. In fiscal year 1995, an estimated 1 million people applied for naturalization in the United States; over 380,000 of them live in the State of California. This is a 500-percent increase over the totals for fiscal year 1991.

Although Doris Meissner, the Commissioner of INS, is actively addressing the naturalization backlog, the wait for a naturalization application to be processed is still a year or longer in cities such as San Francisco and San Jose. Efforts by INS to cut waiting periods in heavily impacted cities continue to be delayed by lack of funding and outdated agency structures. We owe it to those who patiently follow the rules to do better. That is why my legislation is needed.

The first component of the legislation will create a citizenship promotion agency within INS. Headed by a new associate commissioner for citizenship, the citizenship promotion agency [CPA] will be responsible for carrying out all of the naturalization activities of the INS.

Currently, the INS lumps responsibility for naturalization with their other responsibilities. A separate agency for naturalization within INS will not only elevate the importance of the function but it will clear up the backlog of applications. The naturalization fees will be used to fund the naturalization process only, as they should be.

My legislation further provides for funds in the naturalization examinations fee account to be used for English language instruction. Today, there is an overwhelming need for more English language classes catering to immigrants trying to naturalize. The current availability of such classes is inadequate to meet the growing need for this type of instruction. In Los Angeles, for example, more than 20,000 people are now on waiting lists for English classes.

My legislation recognizes that learning English is not only an important component of naturalization, but also the key to opening all of America's opportunities to our new citizens.

The CPA will be encouraged to enter into cooperative agreements with other Government entities as well as private and nonprofit organizations to help carry out its naturalization outreach responsibilities. This will help maximize the capabilities of organizations that perform valuable naturalization outreach services at the local level.

My legislation also creates a citizenship advisory board to work with the Citizenship Promotion Agency. This board will give INS the benefit of advice and assistance from people with diverse experiences and perspectives on the naturalization process through the issuance of two reports a year.

Many of our most acclaimed Americans have been naturalized citizens. This is particularly true in San Francisco and the bay area. For instance, Lofti Mansouri, director of the San Francisco Opera is a naturalized citizen. Helgi Tommason, the director and choreographer for the San Francisco Ballet, is in the process of becoming one. Leo McCarthy is a naturalized citizen.

The last four Nobel Prize winners at UC Berkeley as well as UC Berkeley Chancellor Chang Lin-Tien and UC Santa Barbara Chancellor Henry T. Yang are all great thinkers and naturalized Americans. Our Nation has bestowed the gift of citizenship on them; they have repaid our culture and society with the priceless gifts of their knowledge and creativity.

These individuals are not only the leading lights in the bay area; they have received accolades the world over for their talents and contributions.

From the people we have invited today, you will hear the stories of what

VOL
142
PT
6
AP
15
—
24
1996
UMI

they have been through and what naturalization means to them. And while all of our naturalized citizens are not famous, many of them embody the best of America's traditions and values.

Take the example of Joyce Cheng, a naturalized citizen who came from Hong Kong in 1965 to settle in California's central valley. Ms. Cheng worked at her family's restaurant and two other jobs in order to pay for her education at the University of California at Berkeley. After receiving her degree in sociology, she worked in community service agencies and counseled other newcomers in employment and adjustment to American life.

Later Ms. Cheng joined the financial industry and was credited with building her bank's net worth tenfold in less than 2 years. In 1988 she founded her own successful mortgage loan and financial planning company in Oakland which generates millions of dollars in revenues each year

Ever since she naturalized in 1970, Ms. Cheng has participated in every election and helped encourage her community to be active participants in the democratic process. She serves on over 20 civic and professional boards and organizations.

Or take Eliana Osorio, who immigrated to the United States from Chile in 1963. She overcome the cultural barriers most newcomers face, such as unfamiliarity with English, and raised four very successful American children. Patricia is a graduate of UC Berkeley and will be attending the University of Chicago in the fall to pursue a masters degree in public policy. Mrs. Osorio's son is a photographer for the Chicago Tribune and a graduate of San Francisco State University.

Much like Mrs. Osorio, Felisa Lam came to the United States many years ago to begin a new life. She came to study accounting and remained in America as a legal resident. She founded a printing shop in 1979, after attending a start-up business conference. After 17 years, her San Francisco business, Trans Bay Printing, has grown dramatically. Her clients range from major corporations to local community groups. Her efforts have not only allowed her to claim a piece of the American dream, they have enabled her two children to claim a piece of their own by attending Yale University.

These are only a few short examples of the kind of new citizens who enrich our communities throughout the country. They not only demonstrate the strong work ethic and family values inherent in most of our foreign-born citizens, but also a firm commitment to their civic responsibilities as American citizens.

I am a strong supporter of efforts to regain control of illegal immigration. It must be done at the border and in the workplace. But that effort should not overshadow other responsibilities of the Immigration and Naturalization Service.

My bill will make needed improvements to the often-neglected function of naturalization, acting as an important balance to proposed immigration reform and remaining true to the promise of the American dream.

Many of us have directly witnessed the contributions of naturalized citizens in our communities and our families. I was fortunate to see in my own home, with my own mother, how much a naturalized American treasured her U.S. citizenship.

After my mother passed away in 1991, I found a very special pouch that she had left for me. In it were this wedding band and a one-page document wrapped in cellophane. It was her naturalization certificate. America was her land, her home. Her papers were all in order—but that one paper in that separate pouch with her wedding band was the one she wanted me to have, and I have saved it to share with her great-grandchildren.•

By Mr. GRAMS (for himself, Mr. FAIRCLOTH, Mr. ABRAHAM, and Mr. STEVENS):

S. 1678. A bill to abolish the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

THE DEPARTMENT OF ENERGY ABOLISHMENT ACT OF 1996

• Mr. GRAMS. Mr. President, I am pleased to be introducing the Department of Energy Abolishment Act of 1996. I do this on behalf of the ratepayers and taxpayers in my home State of Minnesota and across America who have handed over their hard-earned dollars for years in exchange for a bloated bureaucracy. It is for their sake that we embark on this journey to bring real accountability to the Federal Government—the first step is the elimination of the Energy Department.

In 1977, the U.S. Department of Energy, or DOE, was created to address the energy crisis which had paralyzed our Nation throughout that decade. It was assumed then that the creation of a Cabinet-level Energy Department would serve as a preemptive strike against future energy emergencies. But I'm sure that no one who served in Congress at that time envisioned the problems that DOE would create, rather than solve.

I do not doubt that the DOE was established with good intentions, but like many of the relics of the seventies, it has outlived its usefulness and public support. And like many of the outdated and wasteful taxpayer-funded programs of that era, the DOE should come to an end.

In my opinion, there are three main reasons for eliminating the DOE.

First, the DOE serves no real mission.

The DOE was created in response to the energy crisis and to protect us from similar emergencies in the future, a noble cause. Yet, the problems for which the DOE was established to address never materialized. Oil supplies eventually rose while prices dropped. The need for a national energy department became less apparent. Even so, the DOE continued to grow, with its bureaucrats working overtime to justify the Department's existence by branching out into areas only marginally related to national energy policy.

Their effort is readily apparent when you realize that 85 percent of the DOE's budget is spent on activities with no direct relation to energy resources. The bulk of those dollars go toward the cleanup of radioactive waste from nuclear weapons facilities and for overseeing storage of our Nation's nuclear waste—programs better suited respectively for the Defense Department and the Army Corps of Engineers.

I share the sentiments expressed by former Defense Secretary Caspar Weinberger who says: "The Department of Defense, today, with the appropriate leadership and management, is the best place for responsibility for the nuclear weapons stockpile in all its aspects, to be vested, including clean-up activities. Maintaining a separate chain-of-command, and all associated overhead in DOE is a costly and cumbersome arrangement that we can no longer afford."

The DOE is also responsible for national energy research—such as the development of alternative energy; promoting energy conservation; and ensuring affordable power and access to it by consumers. But after nearly 20 years and hundreds of billions of tax dollars, the DOE has little to show for it, except a few porkbarrel programs and a lot of excuses.

Second, the DOE has failed to carry out the duties it has been handed.

Perhaps the best example of this failure is the DOE's refusal to address the responsibility to accept and store our Nation's nuclear waste. There are 34 States, including my home State of Minnesota, with nuclear facilities in danger of running out of storage space for their spent nuclear fuel. In spite of this impending crisis and the DOE's legally mandated deadline of accepting nuclear waste by 1998, it has taken no real action in addressing the problem.

Worse yet, through a surcharge on their monthly energy bills, electric utility customers have already contributed $11 billion to a nuclear waste trust fund established to create a permanent storage facility, nearly half of which the DOE has already spent. But as we approach 15 years of inaction on the part of the DOE, the waste still sits, posing a potential environmental risk to the people of Minnesota and across the country.

Finally, the DOE is an affront to the taxpayers who are forced to watch

nearly $16 billion of their hard-earned dollars go each year to feed this bureaucratic monstrosity.

It currently takes 20,000 Federal bureaucrats and another 150,000 contract workers to carry out the DOE's agenda. Even in the absence of another energy crisis like that which led to its creation, the DOE's budget has grown by 235 percent since 1977—a particularly alarming figure given our current national debt of over $5 trillion.

In his State of the Union Address, President Clinton declared that "the era of big government is over." And I agree. What better way to carry out this pledge than to start dismantling an agency with no mission, no purpose and no legitimate future? That is exactly what the Department of Energy Abolishment Act does.

As this chart shows, our legislation would dismantle the DOE, while transferring the legitimate functions of government to other agencies and departments. In doing so, it will eliminate DOE's upper-level bureaucracy, saving taxpayers an estimated $19 to $23 billion over 5 years and $5 to $7 billion annually thereafter—a refreshing change for the millions of Americans who filed their tax returns yesterday.

At the same time, it will peel away another level of Federal bureaucracy which has grown at the expense, not benefit, of the taxpayers, while addressing the future energy needs of this Nation.

Most importantly, it will send a clear signal to the American people that Congress heard their message in the elections of 1994 and is prepared to protect the taxpayers by giving them a smaller, more effective Government.

First, the Department of Energy Abolishment Act accomplish these goals by immediately eliminating the Cabinet-level status of the DOE and creating a 3-year resolution agency to oversee the transfer, privatization and elimination of the various DOE programs and functions. Then, the legislation sets about dismantling the DOE structure.

Under title I of the bill, the Federal Energy Regulatory Commission [FERC] is transformed into an independent agency. This is similar to the FERC status prior to the creation of the DOE.

The pending cases before the Energy Regulatory Administration [ERA] are transferred to the Department of Justice with a 1-year resolution deadline. Furthermore, the DOJ is instructed to utilize alternative dispute resolution whenever possible.

The activities of the Energy Information Administration [EIA] are transferred to the Department of Interior [DOI], which will have the discretion of maintaining or privatizing EIA activities.

The basic science and energy programs within the DOE structure are handled in two ways. Those activities not being conducted by the DOE laboratory facilities are transferred immediately to the DOI. Once at the DOI, the Secretary of Interior has the discretion of determining which functions or programs constitute basic research and can recommend transfer to the National Science Foundation [NSF] for further study and recommendation by an independent science commission which is also established to look at the DOE labs.

For those activities which are more commercial in nature, the Secretary has 1 year to recommend to the Congress a plan for permanent disposition of these functions. These activities can then be assumed by the private sector, focusing Government dollars toward fundamental research initiatives.

Under title II of the bill, the three defense labs—Sandia, Lawrence Livermore, and Los Alamos—are all transferred to the Department of Defense under the civilian management and control of a new defense nuclear programs agency. The remaining non-defense laboratories are transferred to the NSF for review by a non-defense energy laboratory commission. The Commission can recommend restructuring, privatization or concur with the bills closure language.

Furthermore, if the commission identifies additional labs or functions which are national security related, the commission can recommend a transfer of functions to one of the defense labs or a transfer of those facilities to the DOD.

Once the commission has submitted its recommendations, Congress has fast-track authority to consider the report and enact the recommendations. Failure by Congress to act will result in closure of facilities within 18 months of the reports issuance.

Under title III of the bill, the Power Marketing Administrations [PMA's]—Bonneville, Southeastern, Southwestern, and Western—are transferred to the U.S. Army Corps of Engineers. The General Accounting Office is then instructed to conduct an inventory of the PMA assets and liabilities. The GAO is then instructed to perform a study of the options available which protect the interests of the current customers and taxpayers and submit it to the Congress.

The Strategic Petroleum Reserve [SPR] and the Naval Petroleum Reserve are addressed under title IV of the bill. The SPR is transferred to the DOD where a GAO study is ordered to determine alternatives to maintaining the reserves. Once complete, the Secretary of DOD has the discretion to determine the amount to maintain or sell. The Naval Petroleum Reserve, however, is ordered to be sold within 3 years under the direction of the resolution administrator. If the sale is not completed within this timeframe, the Secretary of Interior is instructed to administer the balance of the sale.

The largest portion of the DOE's budget, defense-related provisions, are addressed under titles V & VI of the legislation. All national security and environmental management programs are transferred to a newly created, civilian-controlled Defense Nuclear Programs Agency [DNPA]. This includes stewardship of the weapons production facilities and the stockpile.

The environmental restoration activities at the defense nuclear facilities are also transferred to the new DNPA to coordinate ongoing DOD cleanup activities. DOE's current cleanup programs have wasted billions of dollars with little progress in their efforts at sites such as Hanford. This transfer is aimed at refocusing taxpayer dollars to cleanup, rather than duplicative bureaucracies.

Title VII of the legislation transfers the civilian waste program to the Army Corps of Engineers. Site characterization activities continue at the Yucca Mountain site, and Area 25 of the Nevada Test Site is named as the interim storage site. This temporary site is consistent with legislation currently pending before the U.S. Senate. Also, the GAO is instructed to conduct a study of options for program privatization initiatives. These changes to the civilian waste program represent the best way to ensure the Federal Government meets its obligation to begin accepting waste by 1998.

The merits and importance of this legislation have been recognized not only by Secretary Weinberger, but also by two men who know the DOE inside and out—former Energy Secretaries Donald Hodel and John Herrington. I am delighted that our legislation has their support, as well as the support of the Cato Institute, the Competitive Enterprise Institute, and Citizens Against Government Waste.

I would like to close by quoting Nobel Prize-winning economist Milton Friedman who in 1977 likened a national energy agency to a Trojan Horse, saying "[I]t enthrones a bureaucracy that would have a self-interest in expanding in size and power and would have the means to do so."

Over the years, we have witnessed Dr. Friedman's prediction come true—and all at the cost of hundreds of billions of wasted taxpayers' dollars. As a result, the DOE has managed to see its 19th anniversary this year. It should not be around for its 20th. It is time to put this Trojan Horse out to pasture.•

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. STEVENS, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Mississippi [Mr. LOTT], the Senator from Hawaii [Mr. INOUYE], and the Senator from Wyoming [Mr. SIMPSON] were

VOL
142
PT
6
AP
15
—
24
1996
UMI

added as cosponsors of S. 39, a bill to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

S. 258

At the request of Mr. PRYOR, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 258, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 494

At the request of Mr. KYL, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 494, a bill to balance the Federal budget by fiscal year 2002 through the establishment of Federal spending limits.

S. 568

At the request of Mr. COATS, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 568, a bill to provide a tax credit for families, to provide certain tax incentives to encourage investment and increase savings, and to place limitations on the growth of spending.

S. 607

At the request of Mr. WARNER, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Oregon [Mr. WYDEN] were added as cosponsors of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the names of the Senator from Maine [Ms. SNOWE], the Senator from Iowa [Mr. HARKIN], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 814

At the request of Mr. MCCAIN, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 814, a bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes.

S. 874

At the request of Mr. GRAMS, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 874, a bill to provide for the minting and circulation of $1 coins, and for other purposes.

S. 948

At the request of Mr. DORGAN, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 948, a bill to encourage organ donation through the inclusion of an organ donation card with individual income refund payments, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Louisiana [Mr. BREAUX], the Senator from New York [Mr. D'AMATO], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1189

At the request of Mr. DEWINE, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immuno-deficiency virus due to contaminated blood products.

S. 1289

At the request of Mr. KYL, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1289, a bill to amend title XVIII of the Social Security Act to clarify the use of private contracts, and for other purposes.

S. 1506

At the request of Mr. ABRAHAM, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1506, a bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes.

S. 1512

At the request of Mr. LUGAR, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1512, a bill to amend title 23, United States Code, to improve safety at public railway-highway crossings, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. HELMS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1623

At the request of Mr. WARNER, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

S. 1624

At the request of Mr. HATCH, the names of the Senator from Virginia [Mr. ROBB] and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 1624, a bill to reauthorize the Hate Crime Statistics Act, and for other purposes.

S. 1646

At the request of Mr. DOMENICI, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1646, a bill to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

S. 1653

At the request of Mr. CONRAD, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1653, a bill to prohibit imports into the United States of grain and grain products from Canada, and for other purposes.

SENATE CONCURRENT RESOLUTION 41

At the request of Mr. INOUYE, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from New Mexico [Mr. DOMENICI], the Senator from Hawaii [Mr. AKAKA], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Concurrent Resolution 41, a concurrent resolution expressing the sense of the Congress that The George Washington University is important to the Nation and urging that the importance of the University be recognized and celebrated through regular ceremonies.

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the names of the Senator from Missouri [Mr. BOND], the Senator from Iowa [Mr. GRASSLEY], the Senator from Nevada [Mr. REID], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week."

SENATE RESOLUTION 243—TO DESIGNATE NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK

Mr. ROBB submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 243

Whereas the operation of correctional facilities represents a crucial component of our criminal justice system;

Whereas correctional personnel play a vital role in protecting the rights of the public to be safeguarded from criminal activity;

Whereas correctional personnel are responsible for the safety and dignity of human beings charged to their care; and

Whereas correctional personnel work under demanding circumstances and face danger in their daily work lives: Now, therefore, be it

Resolved, That the Senate designates the week of May 5, 1996 as "National Correctional Officers and Employees Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. ROBB. Mr. President, I submit a Senate resolution to designate the week of May 5, 1996 as "National Correctional Officers and Employees Week."

Mr. President, this resolution is a small gesture to recognize the vital role that correctional personnel play in our communities.

Correctional officers and employees put their lives on the line every day to protect the public from dangerous criminals. These brave men and women also protect incarcerated individuals from the violence of their circumstance, and they help prisoners work toward returning to lawful society.

I urge my colleagues to join with me to recognize the indispensable contributions of our Nation's correctional officers and employees.

SENATE RESOLUTION 244—RELATIVE TO THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION CHAMPIONSHIP

Mr. FORD (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 244

Whereas the University of Kentucky Wildcats men's basketball team defeated Syracuse University's team on April 1, 1996, in East Rutherford, New Jersey, to win its sixth National Collegiate Athletic Association (NCAA) championship;

Whereas the senior members of this team, during their four-year varsity careers, were also NCAA semi-finalists and three-time champions of the Southeastern Conference.

Whereas Coach Rick Pitino, his staff, and his players displayed outstanding dedication, teamwork, unselfishness, and sportsmanship throughout the course of the season in achieving collegiate basketball's highest honor, earning for themselves the nickname "The Untouchables"; and

Whereas Coach Pitino and the Wildcats have brought pride and honor to the Commonwealth of Kentucky, which is rightly known as the basketball capital of the world: Now, therefore, be it

Resolved, That the Senate commends and congratulates the University of Kentucky on its outstanding accomplishment.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the president of the University of Kentucky.

SENATE RESOLUTION 245—MAKING MAJORITY PARTY APPOINTMENTS TO THE LABOR AND HUMAN RESOURCES COMMITTEE

Mr. LOTT (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 245

Resolved, That notwithstanding any provision in Rule 25 or 26, the following be the majority party membership on the Committee on Labor and Human Resources for the 104th Congress, or until their successors are appointed:

Labor and Human Resources: Mrs. Kassebaum (Chairman), Mr. Jeffords, Mr. Coats, Mr. Gregg, Mr. Frist, Mr. DeWine, Mr. Ashcroft, Mr. Gorton, and Mr. Faircloth.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will conduct a business meeting on Tuesday, April 23, 1996, to mark up the committee's letter to the Senate Committee on the Budget containing the committee's budget views and estimates on the President's budget request for fiscal year 1997 for Indian programs. The business meeting-markup will be held at 9 a.m. in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will conduct a hearing during the session of the Senate on Thursday, April 25, 1996 on S. 1264, a bill to provide certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe and for other purposes. The hearing will be held at 9 a.m. in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Tuesday, April 16, 1996, in open session, to receive testimony on the Department of Energy's atomic energy defense activities and the fiscal year 1997 budget request and Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, April 16, 1996 session of the Senate for the purpose of conducting a hearing on the Reauthorization of the National Transportation Safety Board and the Pipeline Safety Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, April 16, 1996, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of the hearing is to consider S. 1646, a bill to authorize and facilitate a program to enhance safety, training; research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 16, 1996, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FEDERAL-TRIBAL NEGOTIATED RULEMAKING

• Mr. MCCAIN. Mr. President, I rise to inform my colleagues that later today I will ask their unanimous consent to hold at the desk and pass H.R. 3034, a measure that was passed by the House by consent. H.R. 3034 is identical to S. 1608, a measure I and Senator INOUYE introduced on March 12, 1996. S. 1608 was referred to the Committee on Indian Affairs, which I chair.

My full statement explaining the bill appeared at page 4402 of the March 12 CONGRESSIONAL RECORD. While I regret that it is necessary, I support the 60-day extension of authority to the Secretary of the Interior and the Secretary of Health and Human Services to promulgate regulations implementing the Indian Self-Determination Contract Reform Act of 1994 under negotiated rulemaking procedures.

VOL
142
PT
6
AP
15
—
24
1996
UMI

In the 1994 act, the Congress required the administration to involve the Indian tribes, under negotiated rulemaking procedures, in the development of these regulations within an 18-month period that expires on April 25, 1996. The pending bill would extend that period to June 25, 1996.

Many of the Indian tribes who have been involved in the negotiated rulemaking process have sought the extension in order to provide them adequate time to respond to the public comment received from the draft regulations published on January 24, 1996. The administration has joined them in requesting a 2-month extension to the 18-month period provided by the statute to promulgate regulations. Their request is worthy of support and I urge my colleagues to consent to its passage.•

CONGRATULATIONS CORNHUSKERS BASKETBALL

• Mr. KERREY. Mr. President, I come to the floor today to congratulate the University of Nebraska Cornhuskers Men's Basketball Team on their thrilling championship victory over St. Joseph's of Pennsylvania, 60 to 56, in the National Invitational Tournament, the Nation's oldest postseason tournament, at Madison Square Garden on March 28. With their victory, the men's basketball team joins an impressive list of championship seasons this school year for UNL that already includes national champions in football and women's volleyball.

Coach Danny Nee and his players overcame considerable adversity this season, having entered the NIT with 10 losses in their last 11 games. But they defeated Colorado State, Washington State, Fresno State, and Tulane in route to the NIT final, and finished what could have been a disappointing season on a very successful note.

Mr. President, this is UNL's first ever basketball championship and although some may consider the NIT a second-tier tournament, only two teams in men's NCAA Division One basketball can end their season on a winning note. And I am proud to say, one of them this year is my Alma Mater—the University of Nebraska at Lincoln.

Congratulations to Coach Nee, senior guard and NIT MVP Erick Strickland, and the entire Cornhusker men's basketball team on a successful season and a terrific victory. Nebraska is, indeed, proud.•

CRUMBS FOR THE MAJORITY

• Mr. SIMON. Mr. President, I felt like starting these observations by saying three cheers for Mort Zuckerman.

Recently, Mortimer B. Zuckerman, editor-in-chief of U.S. News & World Report, had a superb column called "Crumbs for the Majority", which I ask to be printed in the CONGRESSIONAL RECORD after my remarks.

He talks about our income disparity, our growing problems with poverty, and the need to do something about it.

He advocates a grant program similar to the old GI bill after World War II.

It is interesting that if you were to add an inflation factor to the average grant made under the GI bill after World War II, it today would average $9,400 a year. The most anyone can receive today in a grant from the Federal Government is $2,400, and you have to meet strict standards of poverty to receive that.

Even for a modest program like the Direct Loan Program, we have to struggle to see it survive.

If you were to combine the kind of suggestion that Mort Zuckerman has with a WPA type of program that would say to people: You can stay on welfare 5 weeks, but after that you have to work 4 days a week at minimum wage, as in the old WPA, and the fifth day you should be out trying to find a job in the private sector, we would put to work hundreds of thousands—probably millions—of Americans who are now left out of our process and who can be made productive. The demand for unskilled labor is going down and to talk about welfare reform without talking about creating jobs for people of limited skills is public relations and nothing more.

Such a WPA program should tie in with the education recommendation of Mort Zuckerman. People who come into the program should be screened, and if they can't read and write, we should get them into the program. We have 23 million Americans who cannot fill out an employment form and who cannot read the newspaper. That is a huge drag on our productive capacity.

Those who come into the WPA type of program who have a remarkable skill should be given an opportunity to enhance that skill, whether through an apprentice program or a technical school or community college.

Mort Zuckerman ends his column by saying "but it is hope that will sustain and enrich us." He is correct.

The great division in our society is not between black and white or Hispanic and Anglo or many of the other divisions that people talk about. It is between those who have hope and those who have given up. We need programs that give people the spark of hope.

We have shown very little creativity in dealing with the problems of poverty in our Nation. We have been pandering to those who make the big campaign contributions and who are politically articulate.

It is about time we pay attention to those who make no campaign contributions and who are getting more and more disillusioned with our Government.

The editorial follows:

[From U.S. News & World Report, Feb. 26, 1996]

CRUMBS FOR THE MAJORITY

(By Mortimer B. Zuckerman)

The stock market is up over a trillion dollars in the past 14 months. The United States is five years into an economic recovery. But the opinion polls reveal the public to be in a foul mood and pessimistic about the future. What is going on?

The cake has gotten bigger, but it is not being shared equitably. The technological and educated aristocracy, and the owners of financial assets, are sharing the cream with a highly skilled and well-educated minority, a little more than a third of the work force, who have full-time, full-benefits jobs. But there are only crumbs for the majority of the population who lack a college education or specialized skills. Incomes have been falling or stagnating as this group has remained mired for more than 20 years in what has been called "the silent depression." As social analyst Daniel Yankelovich points out, we are in the midst of the erosion of one of the greatest achievements of the post-World War II era, in which not only people with a college degree could make a good living but also people without one. This gave us a middle class and a prosperous country with a sense of fairness and hope.

That optimism and faith in America have been eroded. Too many Americans cannot afford health insurance; too many can barely save; too many cannot afford to send their children to college; and as 1995's Christmas sales indicate, too many cannot afford gift buying. Both spouses have to work, and the one-earner, middle-class family is becoming extinct. Parents are now spending about 40 percent less time with their children than they did 30 years ago. To support the children who need ever more costly education for ever longer periods of time, parents have to be willing to make larger and larger sacrifices. What's more, too many men are bailing out of these obligations.

This erosion of family life has led to a widespread sense of moral confusion and a breakdown in the shared norms that hold our society together. No value has suffered more than individual responsibility. A nation whose creed is individualism courts disaster if it then proceeds to weaken the moral responsibility of the individual by a philosophy of entitlement. The social conservatism that has re-emerged in response has found its political expression in a bipartisan readiness to cut social services and other programs, which is understandable. Americans ask, If we are spending so much, why aren't we seeing better results? Many Americans see themselves as subsidizing well-organized special-interest groups that are excessively influential in shaping the decisions of our rulers once they are in office.

The voters are rebelling not just against big government—everyone's villain these days—but against bad government. The government has proved inadequate in grappling with the problems of corporate downsizing and declining incomes that now affect tens of millions of workers. We have civil servants who are not civil, public schools that do not teach the public, a criminal justice system that neither reduces crime nor produces justice and economic insecurity even in a rapidly growing economy.

Merely cutting this and that is hardly a sufficient response. There are areas where only government can lead. Higher education and continual learning are a place to start.

Higher education is an investment in the greatest strength a country has, its people. We need a modern version of the GI Bill, which provided mass higher education for more than 20 million veterans and dependents. Any student able to meet minimum standards upon graduation from high school should qualify for a scholarship for higher education for the information age, providing family income does not exceed a maximum amount of, say, $125,000. This would be a constructive way to shrink the gap between the haves and the have-nots—much better than doing it only by taxation.

Such a program would cost billions of dollars. But government must find a way to reorder its priorities, to shift money from less valuable programs. Without positive policies to arrest our national decay, the deep anxiety that now seizes much of our society may well turn to fear, or even panic. It is fear that has provided the political basis for the success of Pat Buchanan. But it is hope that will sustain and enrich us.•

INCREASING THE FEDERAL DEBT LIMIT

•Mr. GRAMS. Mr. President, I wanted to express my concern over the increase in the public debt limit which occurred under a unanimous-consent agreement on the Thursday before the Easter recess. Having earlier expressed in a letter to the Republican leadership my intention to oppose an increase in the debt limit if it was not directly connected to a balanced budget. I believe this unanimous-consent agreement hangs over this Congress like a black cloud, marking a dark day for the American taxpayers.

The Congress had done the hard work of putting together a balanced budget that would have put this Nation on the glidepath to eliminating the deficit. Furthermore, it represented our best hope for tackling our $5 trillion debt.

Yet the President carelessly vetoed the bill and its key reforms which would have restored solvency to our Medicare System and ended welfare as we know it. All the while, he has sat at the other end of Pennsylvania Avenue, clamoring for more spending.

Mr. President, I believe yesterday's vote was a white flag of surrender, and a retreat on our pledge to protect the American taxpayers. Nothing in this bill ensures any progress will be made with this Administration in attempting to reach a balanced budget agreement.

Instead, we promised this President we would increase the credit limit on the Nation's charge card by $600 billion—an amount the Congressional Budget Office estimates will be exceeded by next summer. And what did the taxpayers receive in return? The promise of bigger government, a bigger debt, and more of the status quo.

I will acknowledge that the bill did contain two riders which I have supported. The Small Business Regulatory Enforcement Fairness Act is similar to a measure I had supported earlier this month. And as a cosponsor of the Senior Citizens' Right to Work Act, I had advocated passage of this bill earlier this year. But I do not believe seniors or small business should be held hostage to an increase in the debt limit. Unfortunately, they were used to mask the fact that yesterday's vote dragged us deeper into financial chaos.

While the Federal Government's impending financial crisis may have been averted by this debt limit increase, the President must understand that our action does not absolve him of his responsibility in derailing the first real balanced budget produced by a Congress in over 25 years. Given that track record, we cannot allow another increase to occur without the enactment of a balanced budget plan. The Nation's credit card is ready to snap under the heavy load we have already heaped upon it—the American taxpayers are no longer willing to shoulder that burden.•

CANADA, BACKED BY MEXICO, PROTESTS TO UNITED STATES ON CUBA SANCTIONS

• Mr. SIMON. Mr. President, I cast 1 of the 22 votes against the Cuban sanction bill that passed the Senate and has been signed by the President.

I read the story in the New York Times, by Richard Stevenson, titled "Canada, Backed by Mexico Protests to United States on Cuba Sanctions," which I ask to be printed in the CONGRESSIONAL RECORD after my remarks.

Canada is right, Mexico is right, and the Senate, House, and the President are wrong on this one.

We are capitulating to emotion, and we will have done not one thing to discourage Castro.

Our policy to remove Castro has failed for decades, in fact it has had the opposite affect. We simply are compounding the problem.

We are like an accident victim who has suffered a gash, and we think we can stop the bleeding by cutting ourselves some more.

The column follows:

[From the New York Times, Mar. 14, 1996]

CANADA, BACKED BY MEXICO, PROTESTS TO UNITED STATES ON CUBA SANCTIONS

(By Richard W. Stevenson)

WASHINGTON, March 13.—In a sign of the growing tensions between the United States and its trading partners over stepped-up American sanctions against Cuba, Canada said today that it had lodged a trade protest with the Clinton Administration, and Mexico immediately asked to join Canadian-American discussions on the issue.

Responding to a new American law that seeks to tighten the economic vise on Cuba by putting pressure on other countries not to do business with Fidel Castro's Government, Canada said it asked for consultations with the United States under the terms of the North American Free Trade Agreement.

Canada has extensive trade with Cuba, and has vigorously protested what it sees as unfair efforts by the United States to penalize Canadian companies and business executives who operate there.

Canadian officials said the law, sponsored by Senator Jesse Helms of North Carolina and Representative Dan Burton of Indiana, both Republicans, and signed on Tuesday by President Clinton, could violate the free trade agreement in several ways.

In Ottawa, Canada's Trade Minister, Arthur Eggleton, said his government would "seek clarification of U.S. intentions" in introducing the bill.

"Canada finds objectionable the Helms-Burton bill, which could interfere with companies engaged in legitimate business and which attempts to extend U.S. law to other jurisdictions," Mr. Eggleton said.

Mexican officials, expressing similar misgivings, said they supported the Canadian action, and wanted to take part in the consultations to get a clearer idea how the United States would carry out the legislation's most contentious measures.

A request for consultations is the first step in resolving trade disputes under Nafta, and could lead to a formal ruling on whether the American legislation violates the pact.

The legislation was passed by Congress and signed by President Clinton after the drowning of two small civilian aircraft by Cuban fighters last month. Among other things, it allows American citizens to sue foreigners and foreign companies that "act to manage, lease, possess, use or hold an interest in" property confiscated by the Cuban Government from people who are now American citizens.

It also permits the United States to bar entry to foreign corporate officers and controlling shareholders who take part in using such property and foreign executives whose companies do business in Cuba.

The United States Trade Representative, Mickey Kantor, said the American position "is entirely consistent" with both the rules of Nafta and the world trade talks.

In an interview, Mr. Kantor said that under the trade agreement the United States reserved the right to protect its security interests and to bar from entry people who have committed crimes of moral turpitude under United States laws.

"The combination of those two, or either standing alone depending on the situation, would support our position," Mr. Kantor said.

Federico Salas, the minister for political affairs at the Mexican Embassy in Washington, said "The Canadians have taken the initiative and we have requested to participate in these consultations." The European Union said last week that the law would "represent the extraterritorial application of U.S. jurisdiction and would restrict E.U. trade in goods and services with Cuba."

Russia also objected to provisions in the law linking American foreign aid to Russia to Moscow's cutting its military and economic ties to Mr. Castro.•

INTERNATIONAL BRIBERY

Mr. FEINGOLD. Mr. President, export promotion is a critical component of both domestic economic growth in this country and of our foreign policy. One of the barriers to more trade for U.S. companies has been a virtual subsidy by the governments of many of our trade competitors for offering bribes to win foreign contracts. Of course, U.S. business is prohibited from engaging in bribery by the Foreign Corrupt Practices Act. While there

VOL
142
PT
6
AP
15
—
24
1996
UMI

have been calls to repeal the FCPA, for almost 2 years, I have been working to promote universal acceptance of the principles of the FCPA. I introduced legislation and a sense of the Senate resolution last year to move forward in that direction. A version of the proposals were included in the Senate State authorization bill, but not included in the conference agreement.

For a problem that no one seems to want to talk about publicly, there has been some important movement to help eradicate this practice in Europe. Two years ago the Organization for Economic Cooperation and Development a group of 26 major industrialized countries, passed a resolution to "deter, prevent, and combat bribery." Now it has expanded on that by recommending that members terminate the tax-deductibility of bribes, such as allowed in Germany and elsewhere.

This is a significant step toward leveling the playing field for U.S. exports. It is also important that major newspapers, such as the New York Times and the Washington Post, have carried opinion pieces in the past couple of days on this issue. I ask that the articles be printed in the RECORD and commend them to my colleagues for their review. Bribery and corruption are serious impediments to our exports, and promote bad business practice. We should be supportive of efforts, such as the recent initiatives by the OECD to help protect American business.

The articles follow:

[From the Washington Post, Apr. 16, 1996]

AN END TO CORRUPTION

(By Robert S. Leiken)

If a German bribes a German, he gets thrown in jail; if he bribes a foreign official he gets a tax deduction. Only American businessmen can be prosecuted at home for bribing foreigners.

But the day when U.S. business was a solitary straight arrow seems to be ending. This is not because the Foreign Corrupt Practices Act (FCPA) has become a dead letter. IBM-Argentina, now under federal investigation, can testify to that. What may be opening a new chapter in commercial diplomacy is a revolution in public opinion, the repudiation of bribery and kickbacks by societies that once tolerated them.

Last week the Organization for Economic Cooperation and Development (OECD), the league of wealthy industrial nations, recommended that is members stop allowing tax write-offs for bribes. Sources close to those protracted negotiations said that the public reaction to recent bribery scandals helped overcome resistance to the measure led by France, Germany and Japan.

The end of the Cold War, the spread of democracy, the rise of civil societies have sparked disclosure of corruption East and West. This is the case not only in the former Soviet bloc but also among Western allies where military regimes or ruling-party dominance has given way to competitive politics.

An intriguing community of interests is forming between U.S. corporations and democracy. For the solution to translational bribery lies not in a futile attempt to repeal the Foreign Corrupt Practices Act but in universalizing it and supporting reforms in emerging countries.

Corruption is being challenged by opposition parties, and unmuzzled press, religious groups and other nongovernment organizations, as well as prosecutors, magistrates and other civil servants. Anti-corruption movements have emerged in countries as diverse as Argentina, Cambodia, Italy, Hungary, Pakistan, Saudi Arabia, El Salvador, South Korea, Switzerland, Taiwan, Tanzania, Thailand, New Zealand and Zimbabwe. Citizens who have silently endured corruption for generations now take to the streets to protest corrupt practices, to elect anticorruption candidates and to impeach corrupt presidents, vice presidents, premiers, cabinet ministers and party leaders.

Many countries have appointed national commissions to recommend reforms and have established government agencies to prosecute abuses. Small countries are beginning to make known their anticorruption sentiments. Recently, for example, Malaysia and Singapore each declared several foreign firms caught bribing officials ineligible for bidding on future contracts.

The stakes are enormous for U.S. companies and workers. As emerging nations drop trade barriers and privatize state monopolies, more than $200 billion of export and investment contracts will be open to international bidding. Our trade rivals understand that these contracts will determine who builds tomorrow's economies. The U.S. Department of Commerce has calculated that from April 1994 to May 1995 nearly 100 foreign contracts worth $45 billion were lost to foreign competitors through graft. The most egregious bribers, according to U.S. government and business officials, include companies from Japan, France, Germany, Spain, Britain, Taiwan and South Korea.

These bribes cost Americans jobs, and since less competitive firms must bribe to win contracts, they cost emerging countries efficiency—which is what they need most. Studies show corrupt procurement practices deter foreign investment while as much as doubling the price that emerging countries pay for goods and services.

As globalization offers corporations more options, corruption has come to be a factor in choosing where to invest. Meanwhile, emerging nations wishing to shed bad reputations have begun to court firms with "squeaky clean" images. In some emerging markets, U.S. firms now advertise their liability to the FCPA as surety of their integrity. Several governments have engaged the "credibility services" of reputable Western firms in such tasks as procurement, accounting and auditing.

Bribery and corruption are no longer unmentionables in international diplomacy. A Convention Against Corruption will soon criminalize "transnational bribery" throughout the Western Hemisphere. The treaty provides for extradition of corrupt officials and urges transparency in hiring and procurement as well as laws against the "illicit enrichment" of government officials. When the United States goes to international forums to demand a level playing field it can take Canada and the developing nations of the hemisphere with it. Along with its success at the OECD, Washington is also making headway in getting the new World Trade Organization to universalize transparent procurement practices. Top administration officials want the United States to press for a recommendation at the next G-7 meeting to criminalize transnational bribery—in other words, to universalize the Foreign Corrupt Practices Act.

The way impatience with corruption is crossing frontiers recalls the human rights campaigns of past decades. Transparency International, modeled on the human rights organization Amnesty International, was formed in Germany in 1993.

Yesterday the guilty's first line of defense was that human rights was "an internal matter." But dissidents welcomed and were emboldened by international attention. Human rights subsequently became a universal watchword. Today opponents of corruption insist that "sunlight is the best disinfectant." During this crucial stage when democracy and must institutionalize or perish, "transparency" may emerge as a banner.

For the first time in 60 years, there is no international danger of tyranny. Our national interest is more immediately menaced today by such "unconventional" dangers as international crime cartels, the smuggling of weapons of mass destruction, drug trafficking, the spread of pestilent viruses—all of which entail corrupt government officials. Corruption has been provided the pretext for tyrants to topple fledgling democracies. Already, pervasive corruption has paved the way for reaction in and around Russia. Today's decisive battles for democracy and development may be fought on the terrain of corrupt practices.

[From the New York Times, Apr. 16, 1996]

A DEFEAT FOR BUSINESS BRIBERY ABROAD

The United States has successfully pressured its allies to stop subsidizing corruption. Western European governments routinely allow companies that pay bribes to win business contracts from foreign officials to deduct those kickbacks from their taxable income. Last week the Organization for Economic Cooperation and Development, a group of 26 major industrialized countries, agreed to end tax-deductible bribes. That does not go nearly as far as America, which outlaws foreign bribery altogether, would like, but it is a big first step.

Industrial countries outlaw bribes within their borders, but only the United States bars companies from paying bribes to foreign officials. That noble stance puts American business at a disadvantage when competing for a foreign contract against businesses that operate under no such constraints. The United States has labeled the payment of bribes a trade barrier and is fighting to get its trade partners to end the practice completely. The Administration says it has identified about 100 cases between April 1994 and May 1995 in which American companies lost business to those that paid bribes to foreign officials in order to win contracts in the construction, telecommunications and other lucrative industries.

So far, the United States has acted unilaterally—losing business but having a limited impact on corruption. By bringing the other major industrialized countries along, the anti-corruption campaign will pack more wallop and remove American companies as a special target of retaliation. The best way to fight corruption is to present a united front. That way the pressure on offending governments to clean up their act is maximized and the businesses of no one country are victimized. The Administration's lobbying may not end foreign bribes. But its multilateral approach is smart.●

IS IT NOT ENOUGH TO BE A RACIST

● Mr. SIMON. Mr. President, on Martin Luther King's birthday, the Washington Post had an op-ed piece by a long

time friend of many of us, Hyman Bookbinder.

It was so good, I set it aside and I have now just re-read it.

For those of you who have read it before, it is worth reading again. For those who have not read it, they should.

I say this as one who participated in the civil rights struggle three and four decades ago. I visited the South as well as participated in programs in the North.

One of the things that has troubled me is the willingness of some to create a division between the black community and the Jewish community. When I was involved in the civil rights struggle, those in the white community who were most active in behalf of the rights of African-Americans were not Lutherans—which I am—nor Catholic—which my wife is—nor Baptist nor Presbyterian nor Episcopalians. They were people of the Jewish faith.

With the name of SIMON, people assume that I am Jewish and particularly when I get on some call-in radio program when there is a predominately African-American audience, I will occasionally get some of the haters on the phone. I have to add that happens occasionally in white communities.

I am pleased to say that compared to 50 years ago, anti-Semitism is not as great a problem today as it was then.

But we have to learn to become one Nation under God, indivisible and reach out to one another regardless of our personal background.

I ask that Hyman Bookbinder's article be printed into the CONGRESSIONAL RECORD.

The article follows:

IT IS NOT ENOUGH NOT TO BE RACIST

(By Hyman Bookbinder)

I'll never forget that moment 12 years ago. I recall it with special poignancy every Martin Luther King Day.

I was sitting in a reserved Senate gallery, and proud to find myself right behind Coretta Scott King, widow of the slain civil rights leader. The senators had just given overwhelming approval to the King holiday bill, which had already secured House approval. President Reagan, after long hesitation, had stated that he would now sign such legislation. So the Senate vote meant that the long campaign had finally succeeded.

At that moment, the senators all rose, turned to face Mrs. King, waved at her and applauded for some time. Mrs. King acknowledged the applause and then turned to her children sitting by her side and embraced each in turn. She then turned around and hugged me. We were not personal friends, but she knew I had done whatever I could on behalf of the American Jewish Committee to mobilize support for the legislation. As she hugged me, she spoke words I have cherished all these years:

"This is your holiday too."

I do not know whether Coretta King, at that moment, meant "your" to mean white American or Jewish American. But whichever, or both, her words were most gratifying because they reflected precisely what I had been urging for years—hoping, and I still do, that my fellow Jews and all Americans could feel that way.

On the several occasions that I had testified on behalf of the holiday, I had expressed the hope that the holiday would not only recognize the extraordinary attributes of an extraordinary black American, but would also provide the occasion for celebrating the unique cultures of our many religious, ethnic and racial groups even as we seek to enhance the common culture that binds us all as Americans.

Dr. King never failed to define his quest for racial justice as part of the goal of universal justice for all people. In his historic "Dream" speech, his ringing peroration called for speeding up "that day when all of God's children, black men, and white men, Jews and gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the Negro spiritual, 'Free at last, free at last, thank God Almighty, we are free at last.'"

In Martin Luther King Jr., American Jews always had a friend and an ally who understood Jewish agony even as we tried to understand the agony of his people. Only months before he died, he wrote. "It is not only that antisemitism is immoral—though that alone is enough. It is used to divide Negro and Jews—who, have effectively collaborated in the struggle for justice."

That collaboration can and most endure despite some difficult policy differences that have developed over how best to overcome the discrimination and disadvantage and inequality that persist. Dr. King would undoubtedly share his widow's satisfaction in knowing that every King holiday since 1985 has prompted more and more interracial and interreligious commemorations during which his life and work are remembered and commitments renewed to help realize his dream.

In the nation's capital, two events have always been particularly moving. At one, the Embassy of Israel fills its auditorium with several hundred invited guests from the political community, the Jewish community and the black community. Each year, one African American and one Jewish American are cited for their special contributions to civil rights. The other event, a collaboration with the city's principal black churches, fills the sanctuary of Washington Hebrew congregation at a Friday evening Sabbath service. The church choirs enrich the moving ceremony.

At this year's events, the year just ended provides grounds for much despair but also for some hope. The bigots and racists, the antisemites and hate groups are still doing their dirty work. Two much-reported events in 1995 painfully reminded us of the racial divide that persists. When Susan Smith said that "a black man" had kidnapped her children, she counted on anti-black stereotyping to add credibility to her story; when the lie was revealed, black Americans were furious. And, of course, the opposite reactions to the O.J. Simpson verdict among blacks and whites told us more than we wanted to believe. How many more Mark Fuhrmans were there?

But if there are racists in America, it does not mean that we are a racist nation or that most Americans are racists. If this were so, could a Colin Powell be odds-on favorite public personality in the country? Would the Congress of a racist country enact a legal holiday for a black civil rights champion?

But it is not enough not to be racist. It is incumbent upon all of us to isolate and repudiate those who are. It is essential that we insist upon full compliance with the laws enacted to counteract discrimination and inequality. And it is our responsibility to see that our schools and workplaces and churches do their part in closing the gap between "majority" and "minority" Americans.

All this, and much more, we must do, but not in a patronizing, paternalistic spirit. We owe it to ourselves to help create a society that, as Dr. King admonished us, judges its people by the content of their character, not by the color of their skin. We would all be the winners.

To Coretta King's gracious, generous comment that today is "your holiday too," every American should respond, "Yes, racial disadvantage is our problem too."●

THE 50TH ANNIVERSARY OF THE NUREMBERG WAR CRIMES TRIBUNAL

Mr. DODD. Mr. President, about a month ago, the survivors of the Nuremberg Tribunal met here in Washington for their 50th reunion. The Nuremberg War Crimes Tribunal holds a special significance for me because of the role my father, Senator Thomas Dodd, played as an executive trial counsel at the tribunal.

Those who participated in the Nuremberg tribunal deserve a special place in our Nation's history. At the end of World War II, when the heinous atrocities of the Holocaust were revealed to the world, the inevitable impulse to lash out in retaliation against those responsible would have been understandable.

But, in Nuremberg the hand of vengeance was steadied by the belief in the rule of law. Thus, our triumphs on the battlefield led to the ultimate triumph of our ideals in the Palais of Justice in Nuremberg. This is the legacy of Nuremberg and all those who participated in the tribunal. I ask to have printed in the RECORD a list of all those who were attended the recent reunion as well as my remarks at the 50th reunion celebration.

The material follows:

REMARKS OF SENATOR CHRISTOPHER J. DODD, THIRD NUREMBERG REUNION, MARCH 22, 1996

Let me first say what a great pleasure it is to be here this afternoon and surrounded by so many people who played such an important role in my father's life.

My father often said that his participation in the Nuremberg trials was the seminal event of his public life. The fifteen months he spent in Germany, prosecuting Nazi war criminals, defined the type of lawmaker he would become and dictated the issues that he so passionately fought for throughout his career in the Senate.

My father came away from Nuremberg with a greater understanding and fervor for the need to uphold freedom and human rights and to speak out against intolerance, tyranny and violence wherever it may rear its head.

It's why he campaigned so vigorously to establish genocide and crimes against humanity as violations of international law. It's why, he was such a fervent advocate for the civil rights movement in this country.

VOL 142 PT 6 AP 15—24 1996 UMI

And it's why he fought so hard as a United States Senator to eradicate the scourge of gun violence and drug use from our nation's streets.

While I take great pride in the role my father played at Nuremberg, my appreciation for your efforts at Nuremberg is just as great. When the gas chambers, death camps and wanton destruction that Nazism had wrought on Europe was revealed, you were burdened with a grave responsibility. To not only punish the guilty but to reassure the world that future generations would never forget the horrors and atrocities of the Nazis.

It was no easy task, particularly when the weight of the living was compounded by the ghosts of history that stood behind you.

At Nuremberg, your voice spoke for the millions of innocents who drew their final breaths at Auschwitz, Treblinka, and Dachau. At Nuremberg, your vigor and energy guaranteed that the millions, who suffered so egregiously—from London to Leningrad—would see justice prevail. And at Nuremberg you affirmed that those who committed the worst atrocities the world has ever witnessed would ultimately be held accountable for their crimes.

Reading through my father's letters the frustration and challenges that all of you must have felt at one time or another comes through clearly. But, what is even more apparent are the deep character, humanity and integrity of all those who toiled so emphatically in the name of justice and the rule of law.

I think my father sums it up best in one of his letters: "Sometimes a man knows his duty, his responsibility so clearly, so surely he cannot hesitate—he does not refuse it. Even great pain and other sacrifices seem unimportant in such a situation. The pain is no less for this knowledge—but the pain has a purpose at least."

But as these words remain relevant and enduring today, so too are the legal doctrines and precedents that Nuremberg established.

Nuremberg enshrined into international law the principles that war crimes, crimes against humanity and genocide would not be tolerated. It declared that respect for human rights was an international responsibility to be maintained and venerated by all nations of the Earth. And, it held that evil would not be faceless. Those responsible for crimes against humanity would be exposed to the world.

I think the words of the chief prosecutor in Nuremberg, Supreme Court Justice Robert Jackson, are eloquent reminders of the goals of Nuremberg: The wrongs which we seek to condemn and punish have been so calculated, so malignant and so devastating, that civilization cannot tolerate their being ignored because it cannot survive their being repeated.

However, while my father left Nuremberg with invaluable lessons that compelled him to fight for freedom and human dignity around the world, the international community largely ignored the lessons of Nuremberg.

My father, like many of you in this room, left Nuremberg envisioning a world in which the rule of law would deter future tyrants, and where international tribunals would mete out fair, yet swift punishment to those who would commit crimes against humanity. Sadly, that vision for the future remains unfulfilled.

If we had taken the lessons of Nuremberg to heart, the ghastly killing fields of Cambodia might have been averted. If the international community had forcefully enshrined the legal precedents of Nuremberg, the perpetrators of atrocious violence in the past half-century, from Idi Amin and Pol Pot to Saddam Hussein and Chairman Mao would have been forced to explain their behavior under the harsh spotlight of international jurisprudence.

Regrettably in 1996, the legacy of intolerance and hatred that was prosecuted at Nuremberg lives on in the smoldering suburbs of Sarajevo and in the mass graves of Kigali.

But, commemorating your accomplishments of the past gives us reason to redouble our efforts for the future. Now, just as at the end of World War II, we stand on the cusp of a new international era. We have the opportunity to make good on the lessons of Nuremberg and enshrine into international law the notion that those who violate the norms of basic human rights will not escape from the long arm of the law.

Today we can see those efforts take flight, as the international community is working to bring suspected war criminals to trial in Bosnia and Rwanda. These tribunals seek to punish those responsible for genocide, war crimes and crimes against humanity while at the same time begin the process of reconciliation for countries torn apart by violence.

Without justice in Bosnia and Rwanda the cycle of violence may only continue. Effective and fair tribunals will silence the calls for retribution and remove the heavy burden of collective guilt from entire communities.

Let us remember that not all Serbs or Hutus are murderers. Most seek only to enjoy the "quiet miracle of life." They strive for simple normalcy. They want only to raise their children in peace, and make an honest living among neighbors in which they have only trust, and not fear.

These tribunals will punish those Serbs and those Hutus who are guilty. But, at the same time it will allow the vast majority of people, who have committed no crime, to work with their neighbors in beginning the national healing process.

Yet, these tribunals serve another effective role: Demonstrate to future criminals that ultimately they will be held accountable.

Some scoff at the notion that international tribunals can prevent future genocides. But, the Hutu murderers in Rwanda took inspiration from the failure of the international community to act after similar ethnic massacres in Burundi. Much in the same way that Hitler took inspiration from the world's failure to react to the Armenian genocide in 1915.

In 1993, 50,000 ethnic Hutu and Tutsi were savagely murdered while the international community did nothing to stop the violence. In addition, they failed to establish any system whereby the perpetrators would be brought to justice. The result was an emboldened Hutu majority, who had little fear of punishment from the international community.

There is no better way to make this lesson clear to all the world's would-be tyrants and murderers than through the establishment of an permanent international tribunal to prosecute those responsible for war crimes, crimes against humanity or genocide.

At the dedication ceremony for the Thomas Dodd Research Center at the University of Connecticut, President Clinton called for the creation of a permanent international tribunal. I commend him for his foresight. And I call on all of us, who understand so well the importance of international tribunals, to work with the President and other world leaders to permanently enshrine the legacy of Nuremberg into international law.

A permanent international tribunal would send a clear signal to those intent on committing terrible atrocities that they will be held culpable for their behavior.

Will an international tribunal stop all future atrocities? Regrettably, no. There will be more Yugoslavias, more Rwandas, and more Burundis.

But, a permanent international tribunal will create a lasting framework for the prosecution of war criminals. It will prevent justice from being contingent on ad hoc measures such as those we've seen in Bosnia. And it will quicken and normalize the implementation of humanitarian laws.

As I don t have to remind you, establishing an international tribunal and prosecuting war criminals can be a messy, patchwork operation.

In Nuremberg, there were few legal precedents by which to model the trial. In particular, new doctrines and concepts in international law had to be created. "War crimes, may be familiar to us today," but in 1945 they were not defined in any international or even national legal sense.

The same can be said of crimes against humanity, which was a concept that remained untested in international law. In Nuremberg, you not only had to prosecute Nazi war criminals, but you had to establish the international laws under which they would be tried.

As Justice Jackson noted in his opening statement at Nuremberg: "Never before in legal history has an effort been made to bring within the scope of a single litigation the developments of a decade, covering a whole Continent, and involving a score of nations, countless individuals, and innumerable events."

But, the creation of a permanent tribunal would revamp the currently ad hoc nature of international tribunals. It would streamline the process of prosecuting those who commit crimes against humanity. But most important, it would serve as an enduring tribute to your tireless labors at Nuremberg on behalf of the international rule of law.

In many ways the question of international jurisprudence and the rule of law, while maybe mundane to some is the embodiment of the spirit of Nuremberg.

After the surrender of Germany and once the ghastly atrocities of the Holocaust had been revealed to the world the impulse to lash out in vengeance at those responsible for these crimes would have been understandable. Some leaders echoed these thoughts. Winston Churchill, in fact, called for the execution of Nazi leaders, without trial.

But, the United States and its Allies ended this war the same way they had fought it, by embodying, as Abraham Lincoln once said, "the better angels of our nature."

The struggle of World War II is as close as any civilization will find to a pure struggle between good and evil. And not only did the forces of good triumph on the battlefield, but they triumphed in the courtroom at Nuremberg as well.

When millions of innocent Jews stood on the railroad sidings at Auschwitz, Treblinka and Dachau to be chosen for the gas chambers they were unjustly stripped of their rights and their liberties.

They weren't granted the right of due process. They weren't given the right to defend themselves or speak on their own behalf. In the concentration camps, the only form of justice was down the barrel of a gun.

But at Nuremberg, the Allies recognized that the only antidote to savagery and inhumanity is justice. That s why defendants

were given the right to defend themselves, that's why they were given the right to choose their own legal representation and that's why three of them were acquitted of all charges.

Whatever the legacy of Nuremberg on international law, my father and every person in this room can look back to Nuremberg and remember that when the deafening calls for vengeance were heard you silenced them with the sounds of justice.

Once again, I hark back to the words of Justice Jackson in describing these actions: "That four great nations, flushed with victory and stung with injury stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power has ever paid to Reason."

Looking through my father's letters, I came across a wonderful anecdote from his time in Nuremberg. After only a few weeks in the country he had the opportunity to go to a baseball game at the same Nuremberg stadium where "Hitler corrupted and misled the youth of Germany."

But on that day the voices of evil that had once found shelter in Nuremberg were replaced by 40,000 Americans doing the "most American of things"; watching a baseball game and calling the umpires names and the players "bums."

In many ways, something as wholesome and American as baseball is a wonderful metaphor for the triumph of American optimism, American ideals and American democracy over the forces of intolerance and depravity, represented by Nazism.

In Nuremberg, America's commitment to democracy and the ideals enshrined in our Constitution remained intact even in the face of unspeakable horror. In many ways this is the ultimate legacy of Nuremberg; that our triumph in arms led to the triumph of our ideals.

When historians look back at the events that unfolded in the Palais of Justice in Nuremberg 50 years ago, it is that proud legacy they will remember. And today it is our responsibility to make sure that heritage lives on for the next generation.

For the past 50 years, through wonderful books such as Telford Taylor's "The Anatomy of the Nuremberg Trials" and now the research facilities at the Dodd Center in Connecticut, you've kept the events of a half-century ago burning bright in the world's eyes. Tirelessly, you've worked to illuminate the lessons of those bygone days to a world that so quickly forgets the lessons of history.

Our duty today is to build on that proud tradition with the creation of a permanent international tribunal to prosecute war crimes. I can think of now better way to give your labors at Nuremberg a truly lasting, enduring, and tangible imprint on human history and all of mankind.

PARTICIPANTS IN THE NUREMBERG TRIAL AND THIRD NUREMBERG REUNION

Joan McCarter Adrian, John M. Anspacher, Esq., Beatrice Johnson Arntson, Marvin F. Atlas, Carrie Burge Baker, Ruth Holden Bateman, Henry Birnbaum, Esq., Dr. John Boll, Madelaine Bush, Helen Treidell Carey, Edith Simon Coliver, James S. Conway, Esq., Donald H. Cooper, Esq., Raymond D'Addario, Esq., Mr. & Mrs. Vernon W. Dale, Christiane Deroche, Mary Turley Lemon Devine, Nicholas R. Doman, Esq., Mr. & Mrs. Arthur Donovan, Esq., Allan Dreyfuss, Esq., Mr. & Mrs. Demetrius Dvoichenko-Markov, Mary Crane Elliott, Hedy Wachenheimer Epstein, Margo Salgo Fendrich, Theodore F. Fenstermacher, Esq., Mr. & Mrs. Benjamin Ferencz, Dr. Paul G. Fried.

Miroslav Galuska, Anne Royce Garcia, William H. Glenny, Judge Cecilia Goetz, Greta Kanova Goldberg, Elisabeth Stewart Hardy, Professor Whitney R. Harris, Richard Heller, Esq., Mary Madelaine Trumper Husic, William E. Jackson, Esq., Peter & Annette Jacobsen, Arnold Joseph, Esq., Arthur A. Kimball, Henry T. King, Jr., Esq., Florence B. Kramer, Richard H. Lansdale, Esq., Prof. John K. Lattimer, MD, ScD, Jennie Lazowski, Jane Lester, Margot Lipton, Andy Logan Lyon, Herbert Markow, Esq., Maxine Martin.

Ralph S. Mavrogordato, Esq., Alice Blum Mavrogordato, Mary May, Alma Soller McLay, Pat Gray Pigott Mowry, Lady Marjorie Culverwell Murray, Gwen Heron Niebergall, Jeanette Stengel Noble, Betty Richardson Nute, Arthur L. Peterson, Esq., Mlle. Marta Pantleon, Joan Wakefield Ragland, Siegfried Ramler, Esq., William Raugust, Esq., Dorothy Owens Reilly, Jack W. Robbins, Esq., Walter J. Rockler, Esq., Robert Rosenthal, Esq., Phillis Heller Rosenthal, Howard H. Russell, Jr., Esq., Gunther Sadel, Esq., Mildred Clark Sargent, Walter T. Schonfeld, Julian R. Schwab, Victor Singer, Esq.

Vivien R. Spitz, Drexel A. Sprecher, Esq., Prof. Alfred G. Steer, Ruth M. Stolte, Joseph M. Stone, Esq., Annabel Grover Stover, Prof. Telford Taylor, Claire Bubley Tepper, Fred Treidell, Esq., Jean Tuck Tull, Lt. Col.(ret.) Peter Uiberall, Dr. Herbert Ungar, Patricia Jordan Vander Elst, Inge Weinberger, Lorraine White, Rose Korb Williams, M. Jan Witlox, David J. Smith, John M. Woolsey, Esq., Hon. & Mrs. Wiliam Zeck, Werner Von Rosenstiel, and Lawrence L. Rhee.●

ANGELS WITH HAMMERS

●Mr. HATFIELD. Mr. President, my home State of Oregon has been hit hard in recent months. With the damage wrought by this winter's violent windstorms and recordbreaking floods, many Oregonians were left to wonder if God was somehow angry with us. The helping hand that a Mennonite group has provided to a small Oregon town reminds us how faith can be a powerful healer for a community.

A recent feature in The Oregonian newspaper, titled "Angels With Hammers" by Bryan Denson, related the assistance the Christian Aid Ministries Disaster Response Service has brought to the tiny town of Vernonia, OR. Vernonia suffered $9 million worth of damage last February, when the cresting rivers flowed into the community's schools, homes, and businesses. Emergency services pulled out of town when the immediate crisis of the flood passed, and Vernonia's 2,250 residents faced the daunting task of rebuilding their community.

They found help from a most unexpected source. The first of a wave of Mennonites arrived, led by Paul Weaver and Dan Hostetler. These volunteers were soon joined by some New Order Amish and Apostolic Christians. they offered to repair the dining hall of a local outdoor school in return for shelter. Then they volunteered their free labor and construction expertise for a number of the community's rebuilding needs. For the last 6 weeks, the Mennonites have worked side by side with the people of Vernonia, rebuilding homes destroyed by the flooding.

By late May, the group expects to have renovated at least 30 Vernonia homes. Then they will quietly move on to another community in need of the same assistance. The Ohio-based Cristian Aid Ministries Disaster Response Service was formed in 1992 in the wake of Florida's Hurricane Andrew. They have helped rebuild hundreds of homes in disaster-stricken communities all over the Nation.

I am always heartened by stories about the generosity of strangers, and the help these good samaritans have brought to one Oregon town is exceptional. I want to take this opportunity to publicly thank these Mennonite brethren and the volunteers working with them for the healing aid they have brought to Vernonia. Through their quiet and unexpected efforts, they have relieved a community in great need and inspired many with their faith. The mayor of Vernonia, Tony Hyde, summed up this act of selflessness perfectly when he said, "It's pretty special—Christianity at its best."

As an aside, I would also like to commend the reporter that produced the account of this effort in Vernonia, Bryan Denson, and The Oregonian for publishing this piece. Oftentimes reading the morning paper causes one to want to crawl back in bed. The inspirational tone of this article would make any reader anxious to greet a new day and to lend a hand to their neighbor.●

THE JANE ADDAMS INTERNATIONAL WOMEN'S LEADERSHIP AWARD FOR 1996

● Mr. SIMON. On May 8, 1996, in Chicago, the Jane Addams International Women's Leadership Award for 1996 will be presented. For the first time, this award will be given jointly to two women.

The International Women's Leadership Award is named for Jane Addams, the first American woman to receive the Nobel Prize for Peace. It honors women whose strong leadership makes a practical difference across national boundaries and cultural divisions.

This year's winners are Dr. Hanan Ashrawi and Rita E. Hauser. These women act daily in the spirit of Jane Addams, breaking down the national and cultural barriers that can work against peace. Their efforts have been a major factor in the progress toward peace in the Middle East. In a time of ever increasing partisanship, the cooperative spirit and work of these two women is inspiring.

Dr. Hanan Ashrawi, a Palestinian professor, is currently Commissioner

VOL
142
PT
6
AP
15
—
24
1996
UMI

General of the Palestinian Independent Commission for Citizens Rights. She was recently elected to the Palestinian Parliament. As spokesperson for the Palestinian delegation to the Middle East talks until 1993, she was instrumental in forging the peace. Dr. Ashrawi received her B.A. and M.A. from American University of Beruit and her PhD. from the University of Virginia.

Rita E. Hauser is an American attorney, currently president of the Hauser Foundation. She is chair of the board at the International Peace Academy and chair of the Advisory Board of the Greater Middle East Studies Center at RAND. From 1986 to 1992, she was a member of the advisory panel on international law at the U.S. Department of State. From 1983–91, she served as the U.S. Chair for the International Center for Peace in the Middle East.

I know my colleagues join me in honoring these two women who are well deserving of receiving the Jane Addams International Women's Leadership Award for 1996.●

COMMENDING THE UNIVERSITY OF KENTUCKY'S MEN'S BASKETBALL TEAM ON ITS SIXTH NATIONAL CHAMPIONSHIP

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 244, a resolution to commend and congratulate the University of Kentucky on its men's basketball team winning its sixth National Collegiate Athletic Association championship, submitted earlier today by Senators FORD and MCCONNELL.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. FORD. Mr. President, there is a scene in the movie "Butch Cassidy and the Sundance Kid" where the heroes, successful and unchallenged for years, suddenly find themselves chased by an unshakeable posse.

Each time the posse reappears, the pressure builds on the heroes and they feel a little less invincible, their pursuers' skills a little more impressive. "Who are those guys?" they keep asking.

Over the 3 weeks leading up to the weekend of the National Collegiate Athletic Association Championships' final four, fans found themselves watching upset after upset, crossing off one favored pick after another, scratching their heads and saying, "Who are those guys?"

Those upsets are testament to the incredible talent we saw on display during the NCAA championships this year. And the incredible pressure. That's why after going through nickname after nickname for his team, the University of Kentucky's Coach Rick Pitino finally settled on the "untouchables," because they never let any of that pressure touch them.

Game after game during the tournament, those players came out professional, poised, and untouched by the pressure that had the most devoted of Wildcat fans cautious in their predictions for Monday night's final outcome.

But as Sports Illustrated pointed out, not even the magnificently courageous Syracuse team they would suit up against on April 1, 1996, would be able to shake the Cat's unapologetic defense.

In the end, even the upset magic that was in the tournament's air from the first jump ball, was simply no match for their depth and their talent.

The fans were right to ask "Who are those guys?" But, the Wildcats have a coach that knew how to take raw talent, combine it with an unmatched professionalism, sportsmanship, and some downright dangerous weapons—from Derrick Anderson's three-pointers to Walter McCarthy's thunderous dunks to Ron Mercer's slashing drives to Anthony Epps' ball handling—to turn back the challengers, one by one.

And of course there was Tony Delk. He had 7 three-pointers and 10 rebounds in the final game against Syracuse's scrappy Orangemen. But, as he bent down to help up a fallen Syracuse player, he came to epitomize not just the outstanding playing that marked this tournament, but the outstanding sportsmanship as well.

But, this was one player's victory.

Those five starters weren't the whole team by any means. With no player averaging much over 20 minutes per game the whole season, the Wildcats succeeded because of their ability to rely on one another's strengths, no matter what a player's position in the lineup.

That's because this was a team in every sense of the word, with a depth and wealth of talent that was the envy of the entire NCAA. Rick Pitino said more than once that his players checked their egos at the door. And because of that, when they went back out that door, they went as winners.

They rib us a bit about taking our basketball too seriously in Kentucky. And apocryphal stories about fans being buried in their Wildcat sweat suits or calling on Coach Pitino to help settle their marital spats, sometimes make it seem so.

But, when you see a team of such gifted athletes work together in a way that seems almost effortless—and combine it with a professionalism on and off the court that makes them true role models to their peers and their young admirers—then Kentucky's devotion to her basketball doesn't seem misplaced one bit.

The University of Kentucky's year was marked by one amazing statistic after another. They not only had a 34 and 2 record—the best record since the 1953–54 Cats went 25 and 0, but at one point had strung together 27 consecutive wins, the longest in the country. And they finished a very, very tough SEC regular season undefeated, the first time that's been done in four decades. The Wildcat's average margin of victory in the NCAA tournament was 21.5 points per game—the fourth best margin of victory in the history of the game.

And, while the players' incredible talent and the unmatched coaching skills of Rick Pitino are enough to assure that no one will be asking "who are those guys?" about the Kentucky Wildcats anytime soon, I believe it is only right that the U.S. Senate should be on record saluting their accomplishments.

And so I urge my colleagues in joining me in the adoption of a resolution commending the University of Kentucky basketball team.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, and motion to reconsider be laid upon the table, that the preamble be agreed to, and that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 244) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 244

Whereas the University of Kentucky Wildcats men's basketball team defeated Syracuse University's team on April 1, 1996, in East Rutherford, New Jersey, to win its sixth National Collegiate Athletic Association (NCAA) championship;

Whereas the senior members of this team, during their four-year varsity careers, were also NCAA semi-finalists and three-time champions of the Southeastern Conference;

Whereas Coach Rick Pitino, his staff, and his players displayed outstanding dedication, teamwork unselfishness, and sportsmanship throughout the course of the season in achieving collegiate basketball's highest honor, earning for themselves the nickname "The Untouchables"; and

Whereas Coach Pitino and the Wildcats have brought pride and honor to the Commonwealth of Kentucky, which is rightly known as the basketball capital of the world: Now, therefore, be it

Resolved, That the Senate commends and congratulates the University of Kentucky on its outstanding accomplishment.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the president of the University of Kentucky.

MEASURES INDEFINITELY POSTPONED—CALENDAR NOS. 124, 164, AND 247

ORDER REGARDING S. 1124, S. 1125, AND S. 1126 VITIATED

Mr. LOTT. Mr. President, I ask unanimous consent that the following calendar numbers be indefinitely postponed: 124, 164, and 247. I further ask that the unanimous consent order of September 6, 1995, regarding S. 1124, S. 1125, and S. 1126 be vitiated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

REGARDING MAJORITY PARTY MEMBERSHIP OF THE LABOR AND HUMAN RESOURCES COMMITTEE

Mr. LOTT. Mr. President, I send to the desk a resolution regarding majority party membership of the Labor and Human Resources Committee and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 245) making majority party appointments to the Labor and Human Resources Committee.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ABRAHAM. Mr. President, I rise in support of adoption of Senate Resolution 245 which will have the effect of removing me from membership on the Labor and Human Resources Committee. Although I would have liked to retain my assignment on the Labor Committee, I support this action in deference to rule XXV of the Standing Rules of the Senate. Rule XXV limits the number of committees on which each Member may serve during a Congress. In combination with rule XXV, and the seniority considerations within the Senate Republican conference, which dictate the basis by which Members obtain waivers to serve on more than two "A" committees, I am not eligible at this time to continue to serve on the Labor Committee during the remainder of the 104th Congress.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 245) was agreed to, as follows:

S. RES. 245

Resolved, That notwithstanding any provision in Rule 25 or 26, the following be the majority party membership on the Committee on Labor and Human Resources for the 104th Congress, or until their successors are appointed:

Labor and Human Resources: Mrs. KASSEBAUM (Chairman), Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. GORTON, and Mr. FAIRCLOTH.

THE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 354, H.R. 255; calendar No. 355, H.R. 860; calendar No. 356, H.R. 1804; calendar No. 357, H.R. 2415; and calendar No. 358, H.R. 2556, en bloc, the bills be deemed read the third time, and passed, the motions to reconsider be laid upon the table, all occurring en bloc, and that any statements relating to the bills be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE JAMES LAWRENCE KING FEDERAL JUSTICE BUILDING DESIGNATION ACT

The bill (H.R. 255) to designate the Federal Justice Building in Miami, Florida, as the "James Lawrence King Federal Justice Building," was considered, ordered to a third reading, read the third time, and passed, as follows:

H.R. 255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Justice Building located at 99 Northeast Fourth Street in Miami, Florida, shall be known and designated as the "James Lawrence King Federal Justice Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "James Lawrence King Federal Justice Building".

THOMAS D. LAMBROS FEDERAL BUILDING AND UNITED STATES COURTHOUSE DESIGNATION ACT

The bill (H.R. 869) to designate the Federal building and U.S. Courthouse located at 125 Market Street in Youngstown, Ohio, as the "Thomas D. Lambros Federal Building and U.S. Courthouse," was considered, ordered to a third reading, read the third time, and passed, as follows:

H.R. 869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 125 Market Street in Youngstown, Ohio, shall be known and designated as the "Thomas D. Lambros Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "Thomas D. Lambros Federal Building and United States Courthouse".

JUDGE ISAAC C. PARKER FEDERAL BUILDING ACT

The bill (H.R. 1804) to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the "Judge Isaac C. Parker Federal Building," was considered, ordered to a third reading, read the third time, and passed, as follows:

H.R. 1804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, shall be known and designated as the "Judge Isaac C. Parker Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office-Courthouse referred to in section 1 shall be deemed to be a reference to the "Judge Isaac C. Parker Federal Building".

THE TIMOTHY C. McCAGHREN CUSTOMS ADMINISTRATIVE BUILDING

The bill (H.R. 2415) to designate the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building," was considered, ordered to a third reading, read the third time, and passed, as follows:

H.R. 2415

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, shall be known and designated as the "Timothy C. McCaghren Customs Administrative Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Timothy C. McCaghren Customs Administrative Building".

VINCENT E. McKELVEY FEDERAL BUILDING DESIGNATION ACT

The bill (H.R. 2556) to redesignate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building," was considered, ordered to a third reading, read third time, and passed, as follows:

VOL
142
PT
6
AP
15
—
24
1996
UMI

H.R. 2556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 345 Middlefield Road, in Menlo Park, California, and known as the Earth Sciences and Library Building, shall be known and designated as the "Vincent E. McKelvey Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Vincent E. McKelvey Federal Building".

CLOTURE MOTION

Mr. LOTT. Mr. President, I now move to proceed to Senate Resolution 227, the Whitewater legislation, and send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the the motion to proceed to Senate Resolution 227, regarding the Whitewater extension.

Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, John H. Chafee, Jim Jeffords, Frank H. Murkowski, Robert F. Bennett, Spence Abraham, Conrad Burns, Alan K. Simpson, William V. Roth, Bill Cohen, Lauch Faircloth, Slade Gorton.

Mr. LOTT. Mr. President, I ask unanimous consent that the vote occur on Thursday, April 18 at a time to be determined by the two leaders and the mandatory quorum under Rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I now withdraw the motion.

ORDERS FOR WEDNESDAY, APRIL 17, 1996

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:15 am, on Wednesday, April 17; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business until the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the following exceptions: Senator LEAHY for 10 minutes, Senator GRAMM for 20 minutes, and Senator GRAMS for 10 minutes; further, that the Senate then immediately resume consideration of the conference report to accompany S. 735, the terrorism bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, I further ask unanimous consent that immediately following the vote on adoption of the terrorism conference report, there be 60 minutes of debate, equally divided in the usual form, to be followed by a vote on cloture on the motion to proceed to the Whitewater committee resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will resume the terrorism conference report tomorrow. Under a previous consent agreement, there will be a limited amount of debate in relations to motions to recommit the conference report. Members can anticipate rollcall votes throughout the day on or in relation to the conference report prior to a vote on adoption.

Following final disposition of the terrorism conference report, there will be 1 hour of debate to be followed by a vote on cloture on the motion to proceed to the Whitewater resolution.

It is also still possible that the Senate would resume consideration of the immigration bill, if an agreement can be reached with respect to that measure.

The Senate may be asked to turn to any other legislative items that could be cleared for action.

ORDER FOR ADJOURNMENT

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following the remarks of the distinguished Democratic leader, Senator DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO COMMERCE SECRETARY RON BROWN

Mr. DASCHLE. Mr. President, as I understand it, the resolution which honors the memory of Ron Brown is still pending, and I want to make a couple of remarks in regard to that resolution and Secretary Brown before we close tonight.

Mr. President, it is with sadness—and tremendous gratitude for the work their lives exemplified—that I add my voice to those honoring Commerce Secretary Ron Brown and the extraordinary men and women who died with him on that plane.

I am sure each of us will long remember just where we were and what we were doing when we heard that Secretary Brown's plane was missing over Croatia, and then, moments later, when we learned the plane had crashed.

In my case, I was at home—packing to leave for Bosnia, Croatia and Serbia myself.

So many thoughts raced through my mind. . . .

I thought of the meeting I was supposed to have had the following evening in Zagreb with Secretary Brown.

I thought of how, just a few weeks earlier, Secretary Brown had helped an electronics company in Rapid City work out the final details of a contract with a group in South Africa, and of all the people in my state who will be able to work because he went the extra mile for us.

But mostly I thought, what a loss. What a terrible loss our Nation had just suffered.

Ron Brown and the 32 brave Americans who accompanied him on that noble mission to Bosnia represented what is best about our Nation:

A "can do" sense of optimism and determination.

A generosity of spirit.

And an unshakable belief in democracy.

The men and women on that plane did not go to Bosnia simply to bring contracts to America—as important as that is.

They went to bring hope and prosperity to Bosnia so that the fragile peace there might take root and grow, and democracy might replace tyranny.

Hours after Secretary Brown's plane crashed into that mountain, I was on another plane with Senators HATCH and REID. We spent 9 days in Bosnia, Croatia and Serbia and four neighboring states, assessing progress in the implementation of the Dayton peace plan.

Every world leader with whom I met stressed the importance of both promoting economic growth and building democratic institutions to achieving a sustainable peace in the Balkans. Those were the very goals to which Ron Brown's trip to Bosnia was dedicated.

In an article I read, a woman who had worked with Secretary Brown said it wasn't just that he saw a glass half-full when others saw it half-empty. His optimism was bigger than that. Where others saw a half-empty glass, she said, he saw a glass overflowing with possibilities.

It would take that kind of vision to see the path to a lasting peace in Bosnia.

Ron Brown was able to see that path. And, he was able to make others see it.

He was a good salesman. What he sold was America—not just American goods and services, but American ideals.

The reason he could sell America with such confidence is that he believed in America, and in the goal of

making America—and the world—better.

Ron Brown spent his life transcending boundaries.

Boundaries of race.

Boundaries of party.

Boundaries drawn on maps.

And in transcending those boundaries, he made them less formidable for all of us. That is part of the great legacy he has left us.

I have been reminded these last few days of a scene in the Shakespearean play, Julius Caesar. It is the scene at Caesar's burial. Caesar has just been falsely maligned by Brutus as a traitor.

Then Mark Antony rises to recall the Caesar he knew.

He was, Mark Antony said, a man who loved his country so much he gave his life for it.

Then he stunned the crowd by reading them Caesar's will. He had left all of his possessions to the people of Rome.

Even more precious, he had left his fellow citizens a legacy of greatness and the ability, to quote Shakespeare, "to walk abroad and recreate yourselves."

Ron Brown and the men and women on that plane died trying to recreate the American spirit of democracy and opportunity in a land torn apart by war.

It is right that we offer these tributes to them. But, in the end, the best tribute we can pay them is to keep alive their determination to recreate what is best about America wherever people long for freedom and justice and opportunity.

Let us today rededicate ourselves to that noble cause.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I wish to commend the distinguished Democrat leader for his remarks. I would like to ask unanimous consent that I might add just a few comments of my own.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO COMMERCE SECRETARY RON BROWN

Mr. WARNER. Mr. President, I, too, like the distinguished minority leader, remember where I was when this tragic message came. I first thought to myself that not too many months prior thereto I was with our distinguished colleague on a similar mission in that region. Senator BOB KERREY and I were over there, and we actually landed at the same airport. This was my fifth trip. I was the very first Senator to make a trip to Sarajevo some more than 3½ years ago. The thought came to my mind where the Secretary had given his life, together with the aircrews'—aircrews that all of us have traveled with. I traveled with those crews and their predecessors for 20-plus years formerly as Secretary of the Navy and now in the U.S. Senate. They are a very dedicated and well trained group of officers and enlisted men. The finest the Air Force has, really, are dedicated to those missions. Those aircraft are somewhat old, but they are well kept. They are not palatial.

Of course, with the Secretary were a very distinguished group of Americans from the private sector, and journalists also, who were going to examine that war-torn region, to help provide for those less fortunate than ourselves, who have suffered the tragedies of that conflict, a conflict of which to this day, although I have studied it, I cannot understand the root causes.

But, nevertheless, I had known the Secretary. While we are of opposite political persuasions, I always remember him as a man of great humor. I never saw him without a twinkle in his eye. Always he put forward his hand. There were several stressful periods in his life and I always stretched out my hand, because those of us in public office know from time to time there are periods that put us to the test. But he met the tests and he served his Nation.

I join the distinguished minority leader and my colleagues in paying our tribute to him as a fine American, to the aircrews, to all passengers who were on that plane. We give our heartfelt compassion to the families that must survive this tragedy and go on to lead constructive and meaningful lives.

Mr. President, I thank the Chair and distinguished minority leader.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

The PRESIDING OFFICER. The Senate, under the previous order, will stand adjourned until 9:15 a.m., Wednesday, April 17, 1996.

Thereupon, the Senate, at 7:55 p.m., adjourned until Wednesday, April 17, 1996, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate April 16, 1996:

GENERAL SERVICES ADMINISTRATION

DAVID J. BARRAM, OF CALIFORNIA, TO BE ADMINISTRATOR OF GENERAL SERVICES, VICE ROGER W. JOHNSON, RESIGNED.

NUCLEAR REGULATORY COMMISSION

HUBERT T. BELL, JR., OF ALABAMA, TO BE INSPECTOR GENERAL, NUCLEAR REGULATORY COMMISSION, VICE DAVID C. WILLIAMS.

DEPARTMENT OF STATE

JOHN CHRISTIAN KORNBLUM, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF STATE, VICE RICHARD HOLBROOKE, RESIGNED.

BARBARA MILLS LARKIN, OF IOWA, TO BE AN ASSISTANT SECRETARY OF STATE, VICE WENDY RUTH SHERMAN, RESIGNED.

VOL
142
PT
6
AP
15
—
24
1996
UMI

HOUSE OF REPRESENTATIVES—*Tuesday, April 16, 1996*

The House met at 9:30 a.m. and was called to order by the Speaker pro tempore [Mr. DICKEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 16, 1996.

I hereby designate the Honorable JAY DICKEY to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Texas, Mr. SAM JOHNSON, for 5 minutes.

TIME TO CREATE A TAX SYSTEM THAT PROMOTES FREEDOM

Mr. SAM JOHNSON of Texas. Mr. Speaker, I found a statement by Richard E. Byrd, who was speaker of the Virginia House of Delegates from 1908 to 1914, which was the time when the income tax began. He predicted and I quote:

> A hand from Washington will be stretched out and placed upon every man's business; the eye of the Federal inspector will be in every man's counting house * * * the law will of necessity have inquisitorial features, * * * it will provide penalties, it will create complicated machinery. Under it men will be haled into courts distant from their homes. Heavy fines imposed by distant and unfamiliar tribunals will constantly menace the taxpayer. An army of Federal inspectors, spies, and detectives will descend upon the State.

Unfortunately, I believe the gentleman's prediction was right.

We in Congress have created a system that has grown from 11,000 to 7 million words, from 14 pages to over 9,000, and now has 480 different tax forms that require an additional 280 forms to describe the first 480. I don't believe this system is either simple or fair.

I will ask anyone to tell me that it is simple and fair when they can explain why 50 different tax experts, given the same return for a family of 4, come back with 50 different answers.

And why does it take over 115,000 IRS agents to enforce this Tax Code. Does anyone realize that there are more IRS agents than are employed by the Environmental Protection Agency, the Occupational Safety and Health Administration, the Food and Drug Administration, and the Drug Enforcement Agency combined.

I have to agree with Fred Goldberg, the IRS Commissioner under George Bush who said:

> The IRS has become a symbol of the most intrusive, oppressive, and nondemocratic institution in a Democratic society.
>
> Not to mention overly complex, economically destructive, unprincipled, inefficient, and discriminatory.
>
> Discriminatory because, as stated by Justin Morrill, a Member of this body back in 1866, in this country we neither create nor tolerate any distinction of rank, race, or color, and should not tolerate anything else than entire equality in our taxes.

Even the Founding Fathers were opposed to any politics based on income differences, because they feared it would lead to class warfare. They believed that comity and tolerance among the States and classes were the preconditions for a unified country.

I believe that the current system has divided the Nation because it says, that if you work hard and make a good living you should be punished. To all those who say the current system is fair I would like to point out a recent Readers Digest poll which found that Americans believe that no one should pay more than 25 percent in taxes and that is Federal, State, and local combined. And this feeling was universal across race, economic, and gender lines.

I believe it is time to create a tax system that promotes freedom. Freedom to me means a system that is fair and simple, encourages savings and investment, is efficient, drives the economy, provides opportunity for all and puts more money in your pocket.

That is why we will introduce a resolution to repeal the 16th amendment to the Constitution. The American public will see how destructive our tax system really is. I believe as Abraham Lincoln did that "with public sentiment, nothing can fail; without it nothing can succeed." That is why I call on Congress and the American people to help us pull up the income tax system by its roots and replace it with a system that gives everybody the chance to succeed in attaining the American dream.

ISSUES CONGRESS SHOULD ADDRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 5 minutes.

Mr. PALLONE. Mr. Speaker, I think many of us know that for the last few weeks we have been in our districts. The House has not been in session until yesterday evening. Of course, it is an opportunity to talk to your constituents on a daily basis and get their input.

What I found overwhelmingly was a feeling on the part of my constituents in my district in New Jersey that this House of Representatives and this Congress under the leadership of Speaker GINGRICH and the Republicans is not getting the job done.

My constituents expressed concerns about health care, whether or not they were going to have affordable health insurance or any health insurance at all; they expressed a great deal of concern about the environment, because we are now getting close to the summer season. My district is very dependent on shore tourism. For the last few years we have seen significant, at least in the last 10 years, we have seen significant improvement in our water quality, and they do not want to see the clock turned back on environmental protection.

They are also concerned about education. Today in my district in New Jersey we vote on the school board elections and the budgets. Property taxes are going up in many municipalities, and there is concern about a lack of State and Federal aid to help and provide property tax relief.

They are also concerned about jobs. They are concerned about whether or not pension, health care benefits, are going to be available, and whether they are going to have a job at all.

I ask the Members of this House, I ask the Speaker, what is it that this Congress under the Republican leadership, under Speaker GINGRICH and the rest of the Republican leadership, have done about any of these issues? And the answer is pretty much nothing.

We are back now for a 6-week session. I understand that the House Republican leadership under Speaker GINGRICH is going to propose some bills that are essentially, in my opinion, nothing but smoke and mirrors, an effort to sort of suggest that they are going to address education, environment, and health care issues, but that they really will not be addressing those issues in a significant way.

Let me just talk a little bit, if I can, about what is missing from this Republican leadership or Gingrich agenda. First of all, the education element. We are continuing to operate now as we have since the beginning of this fiscal year on what we call continuing resolutions. In other words, we have not passed a budget, we have not passed appropriation bills, to keep the Government going, and I know we have had actually at least two Government shutdowns because of the inability, if you will, of the House Republican leadership to pass legislation to keep the Government operating.

But a big part of these continuing resolutions or stopgap spending appropriation measures that have been passed here have actually implemented major cuts in education funding, for title I and other programs that are important to our school districts.

What that means is that when those school districts do not get the education funding to hire teachers or to pay for teachers' salaries or whatever, they either have to lay teachers off, as many have now or give notice of layoffs, or increase their local property taxes to make up the difference.

That is what is happening in the State of New Jersey. Many of our constituents are going to be going to the polls today voting on school board budgets that are higher because they cannot expect the Federal aid that they normally would have. What that means is that property taxes go up for many of them and property taxes are already too high. There has been a lot of talk about taxation by the Republican leadership around here, but they have not mentioned the fact they are actually increasing property taxes because of the cutbacks in education funding.

On the issue of the environment, as you know, next Tuesday, or next Monday I should say, will be Earth Day. We will be celebrating, I believe, the 26th Earth Day. Over the last 25 years, on a bipartisan basis, there were major accomplishments to protect and improve the protection of the environment. Water and air quality have improved. But if you look at the record of this Republican Congress and the Gingrich agenda over the last year, they have tried significantly to turn back the clock on environmental protection. They introduced and passed in this House what I call a dirty water bill, which eliminates a lot of the protections to improve water quality, particularly with regard to enforcement. The spending bills, the same stopgap spending bills that have major negative impacts on education have also had negative impacts on environmental protection, to the point where the EPA cannot do inspections, cannot do cleanup of hazardous waste sites pursuant to the Superfund Program. Grants that would go to municipalities and counties to upgrade sewage treatment, to make sure our water continues to be clean, have been cut back significantly.

What I have always said is it is very nice to have environmental laws on the books, and we do have some good ones, but what is the point if you do not have the money to enforce those laws?

So I would just conclude, Mr. Speaker, and say that this House and this Republican leadership needs to address the real issues that face the American people, and not operate in this smoke and mirrors agenda.

TRIBUTE TO GAIL DOBERT, DEPUTY DIRECTOR, OFFICE OF BUSINESS LIAISON, AND LONGTIME AIDE TO SECRETARY RON BROWN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. FORBES] is recognized during morning business for 5 minutes.

Mr. FORBES. Mr. Speaker, I thank you for this opportunity. I take the floor today to pay tribute to a young woman, a young woman by the name of Gail Dobert. Gail Dobert was lost by us on April 3 in the tragic airplane crash in Croatia that took the life of Secretary Ron Brown and 33 others. This morning I take the floor to talk about Gail and the promise that Gail represented.

Mr. Speaker, literally tens of thousands of young people come to Washington, DC, every year, with the hope of promise for the excitement and the opportunity to be part of this Government. Whether it is the government of Ronald Reagan or George Bush or Jimmy Carter or Bill Clinton, they come to this town because they are caught up in the excitement of a living and vibrant democracy and wanting very much to be a part of that democracy.

I rise today to pay tribute to Gail. Gail Dobert was a Department of Commerce official. Her family of Moriches, Long Island, a very wonderful family, who described themselves as Kennedy Democrats and said that they are thrilled by Gail's participation in the political process. Along with many of my neighbors on Long Island, I was deeply saddened when we learned of the loss of Gail and Secretary Brown and so many others on that tragic day.

But today we are here to celebrate the life of Gail and what she meant. So many individuals search their whole lives through to try to make a lasting contribution to the world, to their communities, to their Nation. I think it is fair to say that Gail Dobert, in her very short 34 years, made a tremendous contribution, not only to the political process, but enhancing our own democracy and to working for the concerns that brought her to Washington.

Gail was born in Oneonta, NY, on April 12, 1961, the same day that headlines were made when the Russians had somebody orbiting the Earth. She grew up in St. Johns Street in Sayville, Long Island, and, ironically, she died on St. Johns Hill in Croatia. As a Long Islander, she loved the ocean, the warm breezes and the beaches that she came to love after her experiences every summer on Fire Island with her family. Rehoboth Beach, of course, became her favorite getaway beach from the rigors of Washington.

In 1979 she graduated from Connetquot High School in Long Island and left to attend Bucknell University. She was the beloved daughter, as I said, of Ken and Maureen Dobert, two individuals who describe themselves as Kennedy Democrats. She is the devoted sister of Ray and Darla, granddaughter of Helen, and I might add that this family's tragedy has only been enhanced because Gail lost both her grandmother and her grandfather, Maureen's parents, earlier in the year.

She is the adored niece of Regina and James and Elizabeth and cousin to Michael, Jennifer, Christopher, and Janice.

Prior to coming to Washington, Gail worked for Philip Morris and the New York Daily News to help those two organizations with their summer jobs program that aided economically disadvantaged young people to find employment opportunities during the summer in New York City. Her first job out of Bucknell was as assistant director of public relations here in Washington for the Sheraton Hotel chain. She did press, marketing, and events planning. But she could not fight that desire to come up here on Capitol Hill, and finally she landed a job as a senior legislative assistant to Pennsylvania Congressman Gus Yatron, a Democrat of Pennsylvania.

Following President Clinton's election in 1992, the road led Gail to four intense months as deputy director of operations for the inauguration. This appointment came as a result of her diligent and enthusiastic work under Ron Brown during his leadership as head of the Democratic National Committee. She served as budget manager for the Victory '92 Campaign, convention coordinator for all operational events, and corporate fundraiser at the DNC from 1990 to 1992.

After a 5-month recreational hiatus at various beaches in the Caribbean, Gail was persuaded to join Secretary Brown and did so in the Office of Business Liaison at the U.S. Department of Commerce as a confidential aide, deputy director, and, at the time of her unfortunate death, as acting director.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Under Secretary Brown's leadership and working closely with him, Gail helped to develop U.S. business interests abroad, and in fact she was able to organize and coordinate Presidential business development missions to Russia, South America, China, Ireland, India, Turkey, the Middle East, Africa, Bosnia and Croatia. These trade missions promoted export-related activities for specific business ventures by American companies. They developed over $44 billion in American opportunities abroad for businesses.

Mr. Speaker, I ask that the memory of Gail Dobert be recognized by this House and by the Nation at large.

DISTRICT OF COLUMBIA ECONOMIC RECOVERY ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized during morning business for 5 minutes.

Ms. NORTON. Mr. Speaker, as this body is aware, it has imposed a Control Board on the District of Columbia, which has become insolvent. The only reason there are not more cities in this category, of course, is because most cities have States. Nevertheless, New York, Philadelphia, and Cleveland, long before the District became insolvent, themselves became insolvent and had control boards.

Control boards, of course, are necessary, because insolvent cities cannot borrow. One of the first things such cities need to do is to downsize their governments. That is exactly what is happening in the District of Columbia as I speak.

The fact is, however, that every other city that has become insolvent had a dual strategy or they never would have become solvent. The State provided either some direct aid, as in the case of Philadelphia, or a takeover of functions and aid, as in the case of New York City.

The District is a unique entity, and I have proposed a unique bill, the only alternative I can see, that provides any realistic way to counter the serious problems of the capital of the United States.

The unique fact about this city, of course, to face first and foremost, is that it has no State to help it in any way. The Congress, which, of course, has an obligation to help it with a payment in lieu of taxes, because we cannot build on the best land in the District, has not raised the District's Federal payment in 5 years.

Now, costs have gone up enormously in 5 years, so that means that the Federal payment is taking a loss every year that it is not raised. Congress, if anything, made it worse this year by shutting down the Government for a week and by delaying the full Federal payment for 6 months, just digging the hole deeper.

The Congress says the District cannot impose a commuter tax, even though 2 million people come in here using our facilities and walk out everyday without leaving a thin dime to support the city.

If you look at no State to help us, no Federal payment increase in 5 years, no commuter tax, you end up with no way out. It is the obligation of this body, that has constitutional responsibility for the capital of the United States and for every responsible person in this city, to think through how the recovery in fact is going to take place.

Step one is in place. The District is going to reduce its work force by 10,000 people in the next 4 years. That is a 25-percent reduction in its own city government work force. I challenge any Member to show me any government that has had that kind of reduction in so short a period of time. Indeed, the District is halfway there, because of the 10,000 positions that will go, it already has eliminated more than 5,000 of them. And yet this year, before half of the fiscal year was over, the District was down $100 million. You do not get out of insolvency that way.

So yesterday on Tax Day, I introduced the District of Columbia Economic Recovery Act. It adopts the approach that Members on both sides of the aisle want the Congress to adopt, tax cuts for the District of Columbia, rather than direct aid; tax cuts in order to encourage middle income residents who live here now to remain, and others to come.

In other words, the city would be able to support itself the old-fashioned way, because there would be enough middle-income taxpayers to pay for what needs to be paid for. There would be a flat 15 percent rate that would have a progressive effect on the income scale, giving substantial Federal tax reductions to D.C. taxpayers.

By the way, there is much to learn from my bill, I think, for the States. If you want to keep folks in New York, Newark, Chicago, and Los Angeles, perhaps the States should try reducing State income tax on taxpayers that remain in those cities, rather than allowing those cities to become what everybody knows they are becoming as I speak, and that is basket cases.

You cannot afford to have the proud capital of your country become a basket case. You are going to pay one way or another. Let us pay for it by letting D.C. residents keep their own money. There also would be capital gains exemption for D.C. residents who invest in the District of Columbia.

Yes, this is a unique remedy for a uniquely handicapped city. Read this morning's Washington Times editorial, "A Serious Plan for What Ails the District."

TRAVEL AND TOURISM IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Wisconsin [Mr. ROTH] is recognized during morning business for 5 minutes.

Mr. ROTH. Mr. Speaker, I congratulate the Speaker for the good job he is doing in the Chair.

The SPEAKER pro tempore. Thank you sir. You are not doing so badly yourself.

Mr. ROTH. Mr. Speaker, I am excited this morning. We now have 219 cosponsors to the Travel and Tourism Partnership Act. That means that we have more than a majority of the Members in the U.S. House of Representatives that have signed onto this legislation, and it is only appropriate that it happened on April 15—tax day. That is the day the American people focus on how much it costs to run their Government.

The American people know that travel and tourism is the second largest industry in America, and it is going to be the largest industry in America in only 4 years. What this means is that one out of every nine Americans who works, works in the travel and tourism industry.

Travel and tourism has only one problem: The people in the industry do not know how powerful they are politically. So the people that work in travel and tourism, that work in our hotels, motels, and our restaurants, small businesses up and down Main Street, America, they work hard and they pay their taxes. They do not do a lot of screaming. So whenever a tax bill comes to pay for more and more taxes, the American Congress puts it on the hard-working people that work in travel and tourism. Because they are so busy working, they do not have time to demonstrate.

The American people ought to know that every household in America, because of the travel and tourism industry, pays $652 less in taxes. That is right. if you live and own a home anywhere in America, yesterday, on tax day, you paid $652 less in taxes because of this industry, because so many people are employed in this industry. The travel and tourism industry pays a total of $54 billion a year in taxes, and that benefits all Americans.

What has this Congress done? This Congress has closed down the U.S. Travel and Tourism Administration. Travel and tourism is the second largest industry in America and we have stopped advertising. What does every small business person in America know? You have to do some advertising. But Congress said "We are going to save a few dollars," being very myopic, "and we are going to close down the U.S. Travel and Tourism Administration."

What I have done is introduce this legislation, and it does not cost 1 dollar

in taxes. With this legislation will have the Government and private industry, travel and tourism, working together to let the world know what we have got to offer right here in America.

Every day we can see the benefits of travel and tourism. We had one of our Members here this morning talking about the environment and Earth Day. The money we spend on Earth Day, what will it do? It's just 1 day, where people work on a project, and speak to the TV news in the evening; but the next day it is all forgotten.

Not with travel and tourism. People in travel and tourism are environmentalists every day of the year. Why? It's their business. We want to have clean water. We want to have clean air. We want to make sure we have recreational areas for people to enjoy and to have a healthy environment: All of this means tourism.

I think the U.S. Congress, Mr. Speaker, is waking up to that message, and that is why we have 219 cosponsors on this bill. Very few bills ever get that kind of support.

But the flip side is we have 216 Members of Congress in the House who are not yet signed on. Do they not care about one out of every nine working people in America? I want the travel and tourism industry to contact these Members too. To let them know this is going to be an election issue, and that travel and tourism means jobs.

There are three industries that jobs for the American people will come from the rest of this decade and into the 21st century. What are they? Telecommunications, information technology, and travel and tourism. These are the three great job-producers in America's future.

So when we talk about travel and tourism, we are talking about an industry that is going to produce the jobs that our people need if we are going to have a strong economy.

The U.S. Congress is not going to produce jobs. Travel and tourism produce jobs for one out of every nine working Americans. In only 4 years, 661 million people will be traveling worldwide. Why is that important? Because that number of people will spend more than $585 billion in the process. That is a lot of money to be added to the American economy.

Mr. Speaker, our Travel and Tourism Caucus is the largest caucus in Congress—304 Members. I ask all Members to join this caucus, because travel and tourism is the wave of the future.

THE 104TH CONGRESS AND THE ENVIRONMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from California [Ms. PELOSI] is recognized during morning business for 5 minutes.

Ms. PELOSI. Mr. Speaker, I am pleased to be a cosponsor of the travel and tourism legislation of our colleague from Wisconsin, Mr. ROTH, and wish him much success with it. However, I do take issue with one comment that he made, and that is what he said about Earth Day, that it is a day we go have our press events, make some fuss about Earth Day, and then it is forgotten for the rest of the year.

Maybe that is the approach that some of our colleagues on the Republican side of the aisle, and I am not including Mr. ROTH in that, because I know that is not his attitude, but some of our more extreme Members on the Republican side of the aisle take to Earth Day, but that is not the appropriate approach.

As our colleague mentioned Earth Day, we are preparing for Earth Day, the 26th anniversary of the first Earth Day, which will occur next Monday. I think it is important to make some observations about what has happened in this 104th Congress when it comes to the environment.

The 104th Congress came to Washington with an aggressive anti-environment agenda promoted largely by industry and special interest groups who are determined to turn back 25 years of progress to protect public health, safety and the environment.

The budget cuts proposed by the Gingrich majority in Congress for the Department of Interior and the Environmental Protection Agency are aimed at the heart of our Nation's environmental protection. The two departments with the greatest environmental authority have become the prime targets in the current attack on the environment.

The proposed cut in funding for the EPA is 21 percent below last year's level, and this would seriously affect EPA's enforcement of clean air, clean water, and safe drinking water laws. The Interior appropriations bill included provisions to open Alaska's Tongass National Forest to increased logging and to continue the moratorium on the listing of new endangered species.

The funding for protection of our Nation's wetlands, endangered species, forests and the public lands, must not be sacrificed in favor of short-term profits for miners, grazers, and developers. Programs to protect our Nation's water and air should not be held hostage to budget antics that have left these primary environmental agencies limping through the 1996 fiscal year with only a fraction of the funding needed to function.

Mr. Speaker, I want to call to the attention of our colleagues once again some of the impacts of the extreme Republican cuts on the EPA. Weakened enforcement of environmental laws, including a 40-percent reduction in health and safety inspections of industrial facilities; delayed new standards to protect drinking water, including tap water standards; delayed new and ongoing cleanups at toxic waste sites; rolled-back community right-to-know information about toxic chemicals; created barriers to developing new controls to protect rivers and streams from industrial water pollutants. The Republican approaches have delayed approving pesticides with lower health risks as a safer alternative for farmers, delayed new standards for toxic industrial air pollutants, delayed review of air pollution standards to ensure adequate health protection, delayed studies on how toxic chemicals may impair reproductive development, and studies on how pollution affects high risk populations.

I want to make two observations. The list goes on and on. I am just naming a few that affect EPA. There are others that affect the Department of the Interior and the Department of Justice's enforcement. I make two observations about that list.

One is, Mr. Speaker, as you know, as a colleague on the Subcommittee on Health and Human Services of the Committee on Appropriations, scientists have come before our subcommittee and said that you cannot separate personal health from the health of our environment. Pollution prevention is disease prevention. That makes these cuts foolish cuts, because they are not cutting the budget, they are reducing an investment in public health as well as environmental health.

I want to also call to the attention of our colleagues the release of a report by the California State Senate on environmental protection. The report says, "Contrary to popular belief, environmental regulations are not a major cause of job losses and declining economic performance." The Senate report concludes that environmental laws are not a major cause for the relocation of businesses to other States or countries. According to the report, more jobs are lost from leveraged buyouts and mergers than from controlling pollution.

The American people have the answer: They want a safe and healthy environment. We should follow their lead and we should live up to their expectations that the Federal Government will ensure their health and safety at all levels.

Mr. Speaker, on that note, I would like to close by saying when we observe Earth Day this year, we should use it to make observations about how far we have come and what is at risk, and we should every day of every year work to protect the environment and health of the American people.

THE NEW LEGISLATIVE AGENDA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized during morning business for 5 minutes.

VOL 142 PT 6 AP 15 — 24 1996 UMI

Ms. DELAURO. Mr. Speaker, today Congress returns from a 2-week break, and the Republican majority leader has announced what he calls a new legislative agenda for this Congress. But in fact it is the same old Republican agenda, dressed up with some new rhetoric. Their agenda still fails the fundamental test, which is helping working middle-class families cope with the challenges that they face in their everyday lives.

When I was home during the recent break, I met with constituents in my district who feel that this Congress is simply not doing the job that working families need.

Consider just two issues, health care and pensions. The House passed a health insurance reform bill that should have addressed, I repeat, should have addressed, the problems faced by the millions of Americans who cannot get health insurance because they suffer from a preexisting condition.

I have a preexisting condition. I am a survivor of ovarian cancer. There are not too many businesses that want to include me in their insurance policy because of my prior illness. It would raise the cost of premiums for everyone. So I understand this problem of preexisting condition.

Millions of Americans cannot get health insurance because they suffer from a preexisting condition, or they fear losing their coverage if they lose or they change their jobs. When Congress took up this bill, we had a real opportunity, a real opportunity, to help families in this country by modestly reforming the health insurance industry and meeting the needs of working families.

I was in Wallingford, CT, not too long ago, where I met with a group of construction workers. One of the gentlemen there said to me that he was very, very much concerned about the downsizing of businesses all over the country. He has a child with a terminal illness. He said, "I stay up nights worrying that if I lose my job, I lose my health care. What do I do about my child's illness and her health care?"

We had an opportunity, and, unfortunately and sadly, the bill that passed the House is a bad bill. It let the American people down, and it will make the health care problem worse.

We had a bipartisan bill sponsored in the Senate by Senator KENNEDY and Senator KASSEBAUM, and in this body, in the House, by Congresswoman MARGE ROUKEMA of New Jersey, a bipartisan bill that took the first steps toward addressing these two very serious problems. Instead of passing that legislation as it is and as the authors thought it best, what happened was that under the banner of reform, the House passed the bill which includes extraneous provisions that raise costs, hurt consumers, and will increase the number of uninsured in this country.

For example, they added medical savings accounts, which are expensive, destructive and bad health care policy. Instead of helping working middle-class families, our Republican colleagues continue to cater to the special interests. The medical savings accounts are a creature of the Golden Rule Insurance Co., headed up by J. Patrick Rooney, who, not by my description, but by the description of a variety of others, including the Wall Street Journal, has indicated that he is the third largest contributor to Republican campaigns.

Medical savings accounts have been added to this bill, causing an enormous problem. Medical savings accounts will take the healthy out of the traditional insurance pool, provide them with a tax break, and leave the insurance pool with only those who are frail and sick, thereby driving up premiums for everyone else. With the rise in those costs of premiums, people will no longer be able to afford them, thereby increasing the number of uninsured.

The American Council of Actuaries, not a liberal group by any stretch of the imagination, indicated that there would be a 61 percent shifting of costs with the medical savings account to those who are now currently insured in a traditional insurance policy, a 61-percent shift in cost.

Working Americans know very, very well, very well, about cost shifting in health care. When people are not insured, that does not go begging, it does not fall into a black hole. Everybody else who is insured picks up the cost. We had an opportunity, and we missed it.

Watch carefully and listen carefully. Do not buy this new rhetoric. Understand what is going on here.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 11 a.m.

Accordingly (at 10 o'clock and 10 minutes a.m.), the House stood in recess until 11 a.m.)

□ 1100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As the rain nourishes the Earth, so may Your grace, O God, nourish us in the depths of our souls, our minds, and our hearts. We strive to learn and master new tasks. We absorb the facts and figures of today's world and we have all the resources of the intellect of the generations. Yet on this day we pray that we will heed the needs of our souls, strengthen our inner being in faith, preserve the hope and renewal of our hearts and by so doing walk in love and trust with You, our God, for ever and ever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. DIXON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DIXON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 335, nays 67, answered "present" 1, not voting 28, as follows:

[Roll No. 118]

YEAS—335

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Evans
Ewing
Fawell
Fields (TX)
Flake
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gillmor

Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefner
Herger
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Lantos
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney
Manzullo
Martinez
Mascara
Matsui
McCarthy
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Nadler
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Torres
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Young (FL)
Zeliff
Volkmer
Watt (NC)
Weller
Wynn
Yates
Zimmer

NAYS—67

Abercrombie
Ackerman
Baldacci
Borski
Brown (CA)
Brown (FL)
Clayton
Clyburn
Collins (IL)
DeFazio
Durbin
Engel
Ensign
Everett
Fazio
Filner
Foglietta
Frank (MA)
Gephardt
Geren
Gutierrez
Gutknecht
Hall (OH)
Hastings (FL)
Hefley
Heineman
Hilleary
Hilliard
Jacobs
Klink
LaFalce
Latham
Levin
Lewis (GA)
Longley
Manton
Martini
McDermott
Menendez
Neal
Oberstar
Olver
Pallone
Pastor
Pelosi
Pickett
Pombo
Pomeroy
Rush
Sabo
Schroeder
Sisisky
Skaggs
Stark
Stockman
Tanner
Taylor (MS)
Thompson
Torkildsen
Velazquez
Visclosky

ANSWERED "PRESENT"—1

Harman

NOT VOTING—28

Becerra
Boehner
Buyer
Chapman
Clay
Dornan
Farr
Fattah
Fields (LA)
Ford
Gibbons
Greenwood
Largent
LaTourette
Markey
McDade
Meek
Myrick
Owens
Richardson
Riggs
Rose
Thornton
Tiahrt
Towns
Vento
Wilson
Young (AK)

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So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from North Carolina [Mr. BALLENGER] come forward and lead the House in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, April 16, 1996.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the certificate of election received from the Honorable Bill Jones, Secretary of State, State of California, certifying that, according to the semi-official returns of the Special Election held on the 26th day of March, 1996, the Honorable Juanita M. McDonald was elected to the Office of Member of the Congress from the Thirty-seventh Congressional District of California.

With warm regards,

ROBIN H. CARLE.

SWEARING IN OF THE HONORABLE JUANITA MILLENDER-MCDONALD, OF CALIFORNIA, AS A MEMBER OF THE HOUSE OF REPRESENTATIVES

The SPEAKER. Will the Member-elect from California, the Honorable JUANITA MILLENDER-MCDONALD, present herself in the well along with the California delegation and raise her hand?

Ms. MILLENDER-MCDONALD appeared at the bar of the House, and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you are a Member of the House.

A WELCOME TO THE HONORABLE JUANITA MILLENDER-MCDONALD AS A MEMBER OF THE HOUSE

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, it is my great honor and privilege this morning, on behalf of the California delegation, to introduce the newest Member of Congress from the State of California. I hope that she will be the first in a series of new Members that will be elected from California.

But before I yield briefly to the minority leader, I would like to note that Gus Hawkins is present to participate in this great activity, and before we begin to praise JUANITA, may I just say about Gus Hawkins, my dear friend for the last 40 to 50 years, that he is the dean of all elected officials in the State of California, having served for 56 years continuously, half in this body and half in the State legislature, of course.

Again, more appropriately, he is the first African-American to be elected from southern California, and this is the latest African-American to be elected from southern California. And I think it is appropriate to note in such a brief period how much history has changed in California.

Mr. Speaker, I yield to the minority leader for any introductory remarks he may wish to make.

Mr. GEPHARDT. Mr. Speaker, thanking Mr. Dean, Members of the House, I rise this morning on behalf of all of my Democratic colleagues and all of my colleagues to welcome the newest Member of the House of Representatives, JUANITA MILLENDER-MCDONALD of California.

Many of our colleagues have begun their careers in local and State, city, town government and built their understanding of their districts and their communities from the bottom up, from the grass roots. But in the gentlewoman from California [Ms. MILLENDER-MCDONALD], we have gained a colleague who has already used her talents as a State lawmaker to become a national leader.

A former school teacher, Ms. MILLENDER-MCDONALD has been an innovator on education policy, pushing for creative reforms in California's inner-city schools, such as better English instruction, tougher standards and model school-to-work programs. That may be why she was appointed to

VOL
142
PT
6
AP
15
—
24
1996
UMI

the National Commission on Teaching in America's Future and the Education Committee of the States, where she serves as a powerful voice for California.

She has also worked to start workshops all across the country to encourage broad education reform.

But education is just one of the issues on which she has made her mark. From her seat in one of California's most diverse assembly districts, she fought for transportation improvements that are creating hundreds of new jobs, for child care, for grandparents raising their grandchildren, for the growth of high-tech business in California, for basic rights for the homeless, and for reform of California's workmen's compensation laws.

When she became chair of California assembly's insurance committee, she was the first woman and the first minority to do so.

When she became chair of the revenue and taxation committee, she was also the first woman to do that. She has blazed a trail of innovation and accomplishment on every issue that she has faced.

My colleagues, not only have we gained a tireless and effective new champion for the 37th District of California, a woman with almost unlimited interests and abilities, we have also gained a sage and experienced legislator, and in keeping with her first career I believe she can teach us a great deal.

Join me now, my colleagues, in welcoming our newest colleague, the gentlewoman from California [Ms. MILLENDER-MCDONALD].

Mr. BROWN of California. I am of course going to yield to the gentlewoman from California [Ms. MILLENDER-MCDONALD] to make a brief response immediately, but are there any other Members from California who would like to say a word? If not, then I would now at this time again present the gentlewoman to talk and invite her under my 1-minute to respond briefly to the welcome that she has just received.

Ms. MILLENDER-McDONALD. Mr. Speaker, Members, I am honored to represent the outstanding constituents of the 37th Congressional District, a district that mirrors America because it is one of the most diverse districts in the State of California. The constituents of the 37th Congressional District are hard-working and share the same concerns with Americans about crime, jobs, security, taxes, health care, and the future.

My constituents include my family, who have traveled afar to come here today for this very historic event, and I would like to have them acknowledged in the gallery.

My campaign theme was to Choose Hope, and it drew inspiration from my grandchildren, Ayanna Demaris Thomas, and Myles Chandler McDonald. My promise to the constituents was that I would take Choose Hope to Washington because, for me, Hope represents the American agenda that speaks to opportunity to fulfill dreams, quality education, job preparation and training, but expands global work opportunities, job creation through business incentives and transportation projects while maintaining health security for seniors and protection for our children.

I am also going to foster gender equity in health research projects. So I have come today to work with you as a team so that we can all forge an American agenda for all of the people of the United States as well as California in a bipartisan effort. I do welcome your support and thank you so much.

ANNOUNCEMENT BY THE SPEAKER

Mr. SPEAKER. The Chair will take 1-minute speeches.

NO EXCUSE FOR 40-PERCENT TAX RATE ON MIDDLE-INCOME FAMILIES

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, yesterday millions and millions of Americans paid their taxes all across this country. Unfortunately, most of them found that the Government was taking more and more of their hard-earned dollars, and they were keeping less and less to support their families.

The tax burden on the average American family is outrageous. The total tax bill for an average family is almost 40 percent. Most Americans will spend more on taxes than they do on food, shelter, clothing, health care combined. Think of that; it is unbelievable.

Yesterday, during debate, one of the participants on the other side noted that taxes are what we pay for civilization. Now, I am mystified as to where that bit of wisdom was gleaned. There is no excuse for a 40-percent tax rate on middle-income families. That is not civilization; that is something close to tyranny.

The American people have every right to be upset about high taxes, and we have an obligation to try and change tax and spend Washington. It is time we give tax relief to the American people, and we ought to do it right now.

CFS IS A DEVASTATING INFECTIOUS DISEASE

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, a recently published book, Osler's Web, by Hillary Johnson, charges with impressive evidence that the Federal Center for Disease Control has ignored substantial clinical and epidemiological evidence that chronic fatigue syndrome is a devastating infectious disease caused by a specific virus rather than a psychosomatic illness as the CDC has claimed. Miss Johnson asserts that there is impressive evidence the chronic fatigue syndrome is, in fact, an immunological disease with many of the same characteristics as AIDS, that HHV–6, a virus may be a precipitating factor or a cofactor in CFS and in other immunological diseases, including AIDS, and that distinguished scientists who have come to the same or similar conclusion have been systematically ostracized and denied funding for the research by a snall clique at the Center for Disease Control.

I have already contacted Health and Human Services Secretary Donna Shalala requesting that she investigate these disturbing allegations, and I now urge my colleagues to join me in directing the GAO to look into this matter as well.

TAX DAY IN AMERICA

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, the most dreaded day of the year arrived yesterday. It was tax day in America. The Republicans tried to make yesterday a little better by passing a constitutional amendment to require a two-thirds vote to raise taxes.

Unfortunately, the tax and spenders in Congress prevented us from doing that. The liberals praise themselves for having the courage to raise taxes. That's not courage, that's taking the easy way out. That's why we had a record tax increase in 1993. It shouldn't be that easy.

A recent survey showed that 1 percent of Americans believe taxes are too low. By preventing us from passing this tax limitation amendment, the tax lovers in this Congress have defied the will of 99 percent of America.

We could have made yesterday a little better. Instead, the liberals are trying to ensure that every day is tax day in America.

TRIBUTE TO REX CHAO

(Ms. MOLINARI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MOLINARI. Mr. Speaker, last week, a senseless tragedy took from us a great and giving friend. Rex Chao, a student at Johns Hopkins University and an intern in my office, was murdered in very cold blood. It is difficult to not think of Rex in the most alive of terms. He loved being here in the U.S.

Capitol, immersed in Government. He was excited by the Republican revolution and he was driven by his love and confidence in our Nation.

My office and I struggled with the most fitting tribute we could give our friend and decided that it should be a 1-minute speech. Rex would want to be in the middle of partisan debate and elevated discussions concerning the issues we face as Americans. Rex will now be recorded forever in congressional history.

Our debates, our philosophies are important to our democracy. But it is the idealism of young people like Rex that will always guarantee its future. We are grateful he came our way.

HOW ABOUT A FEW JOBS IN AMERICA?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Department of Labor continues to amaze me with these new job listings. Check this out: Box bender ball warper, fish smoker, top screw nut roaster, impregnator, worm picker blank maker, hooker laster. Does that mean there is a hooker quicker job? If that is not enough to file your chapter 7, how about a slime plant operator helper? How about a wax ball knockout worker?

Unbelievable, Mr. Speaker, when American workers become box bending, ball warping, nut roasting top screws, it is evident everybody is getting their fish smoked. How about a few jobs in America? Eight million jobs. What do they pay, Mr. Speaker? Five dollars an hour? I yield back the balance of these jobs.

GEORGE STEPHANOPOULOS HAS IT BACKWARD: FOR PRESIDENT CLINTON, ACTIONS ARE WORDS, AS EVIDENCED BY HIS VETOES

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, in the current issue of Time magazine, we have a very interesting quote from George Stephanopoulos, one of Bill Clinton's top aides. He says, "For this President, words are actions."

Well, let's examine the record. Here are some interesting words from one of Bill Clinton's campaign commercials: "I've offered a plan to get the economy moving again, starting with a middle-class tax cut." Or, how about these words: "I would present a 5-year plan to balance the budget." And let's not forget these words, again, from the President: "I have a plan * * * to end welfare as we know it."

Mr. Speaker, considering the fact that Bill Clinton has vetoed all of these promises, I'm left wondering, What is George Stephanopoulos talking about?

The record is clear. There is no similarity between what Bill Clinton says and what he does.

Obviously, Mr. Stephanopoulos got it backward: For this President actions are words, because his vetoes speak volumes about protecting Washington's values.

EARTH DAY

(Ms. McKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McKINNEY. Mr. Speaker, Earth Day will soon be upon us, and under instructions from the Republican National Committee, members from the other side of the aisle will be planting trees in an effort to clean up their well-deserved antienvironmental image. The American people know, however, that the only thing green about the Republican Party is the color of the campaign dollars they receive from big-name polluters.

It is no coincidence, Mr. Speaker, that the Republican majority is still trying to pass legislation to allow oil and gas drilling in the Arctic National Wildlife Refuge in Alaska. GOP coffers have been pumped full of money from the oil and gas industries.

You see, the process is simple: Pump greenbacks into Republican coffers, then pump oil and gas out of fragile ecosystems.

So this coming Earth Day when you see your Republican Member of Congress planting a tree, just think of how scenic the Arctic National Wildlife Refuge will be with oil wells dotting the landscape.

WE MUST PROTECT WORKING CLASS AMERICANS FROM ROBBERY BY THE FEDERAL GOVERNMENT EVERY APRIL 15

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCARBOROUGH. Mr. Speaker, I like trees. I think it is a good idea that we plant more trees. But let us talk about something serious and get beyond partisan bickering. Let us talk about what happened yesterday with the tax vote.

We continue to hear that we are providing tax cuts for the rich, but I have to tell the Members, when I hold my town hall meetings, and I have held 75 over the past year, it is not people making six figures asking for tax cuts, it is working class Americans making $30,000 or less who see every 2 weeks when they are working at Wendy's and they are working at Wal-Mart and they are carrying two or three jobs, that the Federal Government is taking more and more and more of their money.

We have to do something to protect those working class Americans who continue to get robbed by the Federal Government every April 15 and every 2 weeks. That is why I was proud to vote the way I did, and that is why I was disappointed to hear the rhetoric about all these people who are so darned interested in union workers and the working class Americans who will not do what they want them to do, and that is to give them back more of their money so they can invest in their future, their children's education, and put a little bit of money to the side.

CALLING FOR RESTORATION OF SUMMER JOBS PROGRAMS FOR 615,000 DESERVING STUDENTS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I could not help but hear my good friend, the gentleman from Florida, talk about jobs. I just wonder how many of the Republicans are supporting the increase in minimum wage that so many Americans need.

Now there are approximately 53 days left until schools in Houston and across the Nation recess for summer vacation. There will be a crisis of out-of-work young people if this Congress does not restore the Job Training Partnership Act funds for summer youth employment.

The extremist forces in the House have smeared the memory of Dr. Martin Luther King in the month of his death, as he fought for the opportunities for underprivileged young people to find summer work, by eliminating these funds altogether. Eliminated were $867 million in nationwide funding, $9.1 million from my hometown in Houston, TX, alone; in all, leaving some 615,000 underprivileged young people across America without summer jobs that they depend on to support their families and return to school. Fortunately, the Senate has restored most of the funding for this vital program. However, the uncertainty that this program faces due to temporary spending measure after temporary spending measure leaves us in jeopardy.

Mr. Speaker, I simply ask, in 53 days, let us stand for the young people of America. Let us restore the jobs, the 6,000 jobs in Houston, and the $9.1 million.

MINIMUM WAGE INCREASE IS NOT A PANACEA

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, somehow liberals in this House and the

VOL
142
PT
6
AP
15
—
24
1996
UMI

big labor union bosses here in Washington, DC, are convinced that raising the minimum wage will somehow solve the world's problems. The belief in the effectiveness of the minimum wage is a triumph of fantasy over reality, of symbolism over substance.

The proponents of an increased minimum wage argue that Americans need a raise. Well, if Members recall, Mr. Speaker, Republicans tried to give working Americans a raise by giving them a tax cut, and the President said no and vetoed it. Now liberals are falling, and, I might say, those big labor union bosses are falling all over themselves trying to portray themselves as defenders of the poor, the economically downtrodden. But it is all an act, and Americans know it. Even President Clinton's top economic adviser, Joseph Stieglitz, wrote in an economic textbook that, "A higher minimum wage does not seem a particularly useful way to help the poor."

If liberals and those labor bosses were really convinced about the poor and concerned about them, they would support tax relief, that $500 per child tax credit. They would lower interest rates by supporting a balanced budget, and also they would seek economic growth.

LEGISLATION WHICH PROTECTS OUR PLANET SHOULD BE A CONGRESSIONAL PRIORITY

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, let me say first for the record that the buying power of the minimum wage is the lowest it has been in 40 years. To deny an increase in the minimum wage is reprehensible.

Mr. Speaker, today I have risen to speak as we approach Earth Day, a day that Americans across the country come together to focus on the environment. I would like to call attention to the atrocious environmental record that the Republican majority has created. At a time when the EPA estimates that nearly 40 percent of the Nation's waters are unfit for fishing and swimming, we would think that clean water would be a priority.

However, Mr. Speaker, the so-called Clean Water Act that the Republican majority passed last year, written mostly by corporate polluters, would create waivers and exemptions from previously established basic standards for our rivers, lakes, streams, and oceans.

In short, protecting our environment means protecting our future. We have been entrusted to provide a future of clean air, lush forests, and clean water for our children and our children's children. Legislation which protects our planet should be a priority, not the Republican majority's laws that have encouraged its destruction.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1202

Mr. SHAW. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1202.

The SPEAKER pro tempore (Mr. CAMP). Is there objection to the request of the gentleman from Florida?

There was no objection.

LET US FOCUS NATIONAL EFFORTS ON WINNING THE WAR AGAINST DRUGS

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, the gentleman from Illinois, DENNY HASTERT, the gentleman from Florida, JOHN MICA, the gentleman from Indiana, MARK SOUDER, and I just returned from a counternarcotics trip to Mexico, Panama, Colombia, Bolivia, and Peru. We met with various leaders in the antidrug effort, including Peru's President Fujimori and Colombia's National Police Chief Serrano. We also met the brave Americans from several of our Government agencies in those countries, with armed patrols who went into the jungles of Bolivia and Peru where the bulk of the world's coca leaf is grown and processed in primitive drug labs.

We watched as Bolivian antidrug units destroyed a pit where cocaine was made to ship to Colombia and Mexico, and then be shipped into our country. The deadly cocaine and heroin destroying our communities starts in the jungle and ends up in the streets of New Hampshire.

We have people risking and even losing their lives on the front line. We need to get a commitment from our people and our national leaders to refocus our efforts on winning this war. Drugs and crime together are our Nation's No. 1 national security threat. We need to get everybody, from the President and Congress to teachers, parents, and media, talking about this threat to our Nation. We also need a plan that puts a priority on educating our people about the risk of narcotics, that includes treatment for those who are already addicted, as well as sufficient funds for law enforcement interdiction and eradication. We can win the war on drugs if we can put a man on the moon. We need to get moving now.

BEWARE REPUBLICAN EARTH DAY ASSAULT

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, Saturday is Earth Day, a day to celebrate our environment—our Earth—our home. We must protect it; we have no other place to go.

We have a responsibility to make our world a little greener and a little cleaner—to make it safer for our children and unborn generations.

The Republican leadership does not agree.

Republicans passed the dirty water bill. Their Superfund reform lets corporate polluters off the hook. Who benefits? Polluters. Who suffers? Each and every one of us. There is more pollution in the air we breathe, the water we drink, the food we eat.

The American people know what you are doing. They have seen the Republican assault on our environment—and they are worried. Be careful with your publicity stunts this Earth Day—the American people will not be fooled.

AMERICA'S ENVIRONMENTAL PROBLEMS CAN BE SOLVED ONLY AT THE STATE AND COMMUNITY LEVEL

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, let me assure my good friend, the gentleman from Georgia, that after the hue and cry and the celebrations this Earth Day, many committed conservatives will stand there to clean up the mess left by so many so-called environmentalists.

It is interesting to hear the lines provided today, Mr. Speaker, from our friends on the liberal side, their carefully crafted scripts engaging in playground taunts. Let me state unequivocally and for the record that the new majority is in favor of clean air and clean water, and yes, restoring balance to our laws, recognizing that Phoenix is not the same as Philadelphia, or that Flagstaff is not the same as Fargo, ND, and relying on people on the front lines to solve their problems in the 50 States where there are departments of environmental quality, and in the communities, understanding that there are differences.

The key to solving the problem, Mr. Speaker, resides with the American people, not with the Washington bureaucrats, and no amount of name-calling can change that fact.

☐ 1200

REPUBLICAN THREATS TO THE ENVIRONMENT

(Mr. JACKSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACKSON of Illinois. Mr. Speaker, the founder of the annual April 22 Earth Day, former Senator Gaylord Nelson, said the record of the 104th Congress shows this to be the worst environmental Congress ever. The majority leadership in this body has attempted to roll back years of environmental progress to provide favors for its special interest friends.

Because of budget cuts by the majority in this Congress, the Environmental protection Agency has missed thousands of inspections and enforcement actions. This same majority has shifted costs from polluters to taxpayers, while cleanups have been slowed at 400 toxic waste sites and stopped at 60 Superfund sites. Because funds to implement six administrative rules have been cut, hundreds of millions of pounds of pollution entered our water supply that could have been prevented.

While never aggressively pursued, adequately funded or fully enforced, our environmental laws were working. Yet, there is much to be done. It is time for the majority in the 104th Congress to clean up its environmental act.

PAYING MORE AND GETTING LESS

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, we have heard the other side bash the Republicans about environmental policy. Unfortunately they do not want to deal with the facts.

We heard them mention 40 percent of the streams still polluted in the country, or whatever percentage. That is under current law. Let us look at Superfund, one of their great examples that they want to protect as we do now. Over 2,000 sites have been identified for hazardous waste. How many have been cleaned up? Just a handful, less than 70, at a cost of billions of dollars.

Where does 85 percent of the money go? For attorneys fees and for studies. That is what we are talking about here. We are talking about paying more and getting less.

Of the sites that were cleaned up, a GAO report last year said the sites were chosen on the basis of political pressure, those few sites that did not address public health, safety or welfare. So they want to pay more and get less. They want to protect the 6,000 bureaucrats in Washington, DC, and EPA just down the street from here, who have not cleaned up a hazardous waste site and would not recognize one if it hit them in the face.

THE EXTREME REPUBLICAN MEAN-SPIRITED AGENDA

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, it has been 16 months since the Republicans have taken over Congress, and what have we gotten for it? We have gotten an extreme agenda that hurts the middle class.

The previous Speaker showed why the environment is so important and how the Republican majority is doing nothing to help the environment. We have Medicare cuts and Medicaid cuts that hurt our senior citizens. We have the largest education cuts in American history. Let me say that again, the largest education cuts in American history. As we approach Earth Day, we find cuts in the environment, cuts in environmental enforcement, allowing the polluters to continue to pollute.

They use the code word "balance." That means let us let industry continue to pollute. They hurt the middle class. They want to keep corporate welfare. This is what the agenda was all about yesterday.

They talk about tax relief. We have rules in this House that we passed, much-heralded rules saying that there needs to be a supermajority in order to raise taxes, and the Republicans have waived those rules three times.

Let us stop the nonsense. Let us stop hurting the middle class with the extreme Republican mean-spirited agenda.

CALL FOR A MINIMUM WAGE BILL

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, yesterday this House spent several hours on legislation everybody knew that was not going to go anywhere, was not going to pass and even if it did, it would not have any effect on anybody in this country for years to come because it would have to be ratified by the States.

But we Democrats are asking the leadership of the Republicans, Speaker GINGRICH and the radical Republicans, to bring forward legislation that will help millions of people in this country now, and that is an increase in the minimum wage. The minimum wage today is the buying power of what it was 40 years ago. Many people out in my district work for the minimum wage. They need an increase in the minimum wage.

I ask the Speaker and his radical Republicans, let us bring forth a minimum wage bill that will be helpful to the people of this country. Let us not continue to work on legislation that will have no effect and will not help anybody. Let us do a minimum wage bill.

ENVIRONMENTAL STEWARDSHIP

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, Earth Day is coming, and if we are serious about protecting the planet, we are going to have to work together as Democrats and Republicans, as Americans and as citizens of this planet Earth to achieve the results that we all say that we are in favor of.

It is not going to work to say Republicans or Democrats, this and that. We have 60 Superfund sites where work has stopped. We have some 2,000 Superfund sites, 1,300 of which we have not even gotten to. If we are serious about this, we will stop spending billions of dollars, $5 billion out of the last $15 billion, on nothing but litigation and bureaucracy.

Superfund reform is bipartisan. Republicans favor it, Democrats favor it, and we need to pass it if we are serious about cleaning up toxic waste sites. If we are serious about protecting our rain forests and our savannas, then perhaps you will wish to sponsor the Rain Forest and Savanna Protection Act that I will soon be introducing, that will condition World Bank, IMF, bilateral, and multilateral foreign aid to countries that ought to be responsible for protecting our rain forests and savannas on sound environmental stewardship.

RNC GOOFS ON TAX AND SPEND WORK SHEET

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, yesterday, as we know, the tax and spend work sheet went out all over the country. One was sent to my district from the National Republican Congressional Committee.

It says here, "Neil Abercrombie's Tax and Spend Work Sheet." The only problem is that they forgot to white out Representative KAREN THURMAN's name at the bottom. They were using a generic one-size-fits-all work sheet for everybody in the country, and they are so stupid that they put somebody else's name on my work sheet. They do not know the difference between Hawaii and Florida.

So when they ask me about taxing and spending, I say, "I don't know, ask the Republican National Committee. They're the ones that put out Representative KAREN THURMAN's work sheet for my work sheet."

They say they want to represent the values of the people of the First District of Hawaii. Well, I am in good shape to do that. I do not live in Florida. Why do you not go down to Florida and check with Representative KAREN

VOL
142
PT
6
AP
15
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24
1996
UMI

THURMAN the next time you want to do that?

They told me this campaign was going to be nasty but they did not say it was going to be foolish as well.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 789

Mr. DURBIN. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 789.

The SPEAKER pro tempore (Mr. CAMP). Is there objection to the request of the gentleman from Illinois?

There was no objection.

ENVIRONMENTAL RECORD OF 104TH CONGRESS

(Mr. DURBIN asked and was given permission to address the House for 1 minute.)

Mr. DURBIN. Mr. Speaker, with Earth Day coming up, it is time to reflect on the environmental record of the 104th Congress. Do you recall, during the heyday of the Gingrich revolution, when in one appropriation bill the Gingrich Republicans put in a 28-page amendment which eliminated 14 environmental protection laws they considered unnecessary?

Let me give some examples. The law which says the Federal Government will monitor the presence of arsenic in drinking water, the Republicans say that is unnecessary.

Another law which said that one industry, a special interest group, the cement kiln industry, would have a waiver of air pollution standards, the Republicans said, that is a good idea. Well, that amendment passed with the Gingrich Republicans' support, and after 3 separate efforts, 35 moderate Republicans finally took all the heat they could at home and decided to join the Democrats and repeal it.

Since then, the gentleman from Georgia [Mr. GINGRICH] has tried to get an awful lot greener. Every time he has come to the floor, he has talked about saving the environment, but the American people know better. You have to put money in the Environmental Protection Agency to protect the purity of the water we drink and the safety of the air that we breathe.

ENVIRONMENTAL PROTECTION

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, I just wanted to comment on some of the comments that were being made on the other side of the aisle by Republicans about Earth Day and progress on the environment.

It is certainly true that a lot more needs to be done on environmental protection, whether it is cleaner air or cleaning up more of the hazardous wastesites under the Superfund Program. But to suggest that the answer to that or the way to do that is to cut back on the number of people who work for the EPA, or to cut back on the investigators and those who go out and enforce the existing environmental laws, or to weaken those laws so that they do not provide as much environmental protection, well, that makes no sense at all.

If you are concerned about the environment, you do not turn the clock back 25 years on a bipartisan basis in this House and the Senate and in the Presidency to try and improve environmental quality and to increase enforcement. That is what Speaker GINGRICH and the Republican leadership are trying to do here in this House. They are trying to turn back the clock.

They are saying we do not need the people to do the investigation, we do not need the enforcers. We are going to let industry do its own thing. The bottom line is that you are not going to improve the quality of this Nation's environment unless you do more to protect the environment, have stronger laws, and have better enforcement. That is what we need.

That is not what is happening here. Unfortunately, we are leading up to Earth Day this year with this Republican leadership working in the opposite direction.

NEW REPUBLICAN AGENDA IS SAME OLD GAME PLAN

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, recently the gentleman from Texas [Mr. ARMEY], the Republican leader, unveiled what he calls a, quote, new agenda for this Congress. But in fact what we really have in this new agenda is the same old Republican game plan of hurting working families and the health and safety of working families while bailing out the special interests.

At a minimum, the hardworking families of this country should be able to count on the Congress to protect the public health, but this Congress has been a polluter's dream come true. During the 104th Congress, Republicans invited polluters to rewrite the Clean Water Act. They also proposed letting big companies off the hook for cleaning up hazardous waste that they dumped.

The House Republican leadership has insisted on deep cuts in environmental protection, halting cleanups in many areas. They have also encouraged their folks to let people know that they are environmentally conscious, and then they say, "go plant a tree, go hug a tree, go to a zoo, that will make people think you are environmentally conscious."

Do not be fooled by the phony agenda the Republicans have unveiled. It is a sad attempt to mask the truth. After almost a year and a half of failure, the Gingrich Congress continues to pursue an agenda that puts the needs and the health of Americans at risk.

REPUBLICAN TURNAROUND ON ENVIRONMENT COMES TOO LATE

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, after a year of the most comprehensive and concentrated attack on the basic environmental laws of this country, the Speaker of this House and the majority leader of the Republican Party believe that they can turn around a record and con the American people into believing that all of a sudden the Republican caucus in the House is in favor of environmental protection. It simply will not wash.

After a year of voting against clean air and clean water, voting against Superfund liability, voting against the Endangered Species Act, voting to eviscerate wilderness areas of this country, you will not turn around America's image of the Republican caucus in this House by recycling batteries or reauthorizing the Coastal Zone Management Act. It takes more than that to protect the environment, and it takes more than that to turn around the image the American public have of the Republicans and the environment.

They have tired to destroy the laws, and now they are trying to hide the record because they are reading the polls and the election results in November.

COMMUNICATION FROM THE HONORABLE STEVEN SCHIFF, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable STEVEN SCHIFF, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 4, 1996.

Hon. NEWT GINGRICH,
Speaker of the House, The Capitol, Washington, DC.

DEAR MR. SPEAKER: this is to formally notify you, pursuant to Rule L (50) of the Rules of the House of Representatives, that four members of my Albuquerque District Office have been served with subpoenas issued by the Second Judicial District Court (Bernalillo County, New Mexico) in the case of New Mexico v. Martin.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

STEVEN SCHIFF.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

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TAXPAYER BILL OF RIGHTS 2

Mrs. JOHNSON of Connecticut. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2337) to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections, as amended.

The Clerk read as follows:

H.R. 2337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer Bill of Rights 2".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—TAXPAYER ADVOCATE

Sec. 101. Establishment of position of Taxpayer Advocate within Internal Revenue Service.
Sec. 102. Expansion of authority to issue Taxpayer Assistance Orders.

TITLE II—MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

Sec. 201. Notification of reasons for termination of installment agreements.
Sec. 202. Administrative review of termination of installment agreement.

TITLE III—ABATEMENT OF INTEREST AND PENALTIES

Sec. 301. Expansion of authority to abate interest.
Sec. 302. Review of IRS failure to abate interest.
Sec. 303. Extension of interest-free period for payment of tax after notice and demand.
Sec. 304. Abatement of penalty for failure to make required deposits of payroll taxes in certain cases.

TITLE IV—JOINT RETURNS

Sec. 401. Studies of joint return-related issues.
Sec. 402. Joint return may be made after separate returns without full payment of tax.
Sec. 403. Disclosure of collection activities.

TITLE V—COLLECTION ACTIVITIES

Sec. 501. Modifications to lien and levy provisions.
Sec. 502. Modifications to certain levy exemption amounts.
Sec. 503. Offers-in-compromise.

TITLE VI—INFORMATION RETURNS

Sec. 601. Civil damages for fraudulent filing of information returns.
Sec. 602. Requirement to conduct reasonable investigations of information returns.

TITLE VII—AWARDING OF COSTS AND CERTAIN FEES

Sec. 701. United States must establish that its position in proceeding was substantially justified.
Sec. 702. Increased limit on attorney fees.
Sec. 703. Failure to agree to extension not taken into account.
Sec. 704. Award of litigation costs permitted in declaratory judgment proceedings.

TITLE VIII—MODIFICATION TO RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS

Sec. 801. Increase in limit on recovery of civil damages for unauthorized collection actions.
Sec. 802. Court discretion to reduce award for litigation costs for failure to exhaust administrative remedies.

TITLE IX—MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

Sec. 901. Preliminary notice requirement.
Sec. 902. Disclosure of certain information where more than 1 person liable for penalty for failure to collect and pay over tax.
Sec. 903. Right of contribution where more than 1 person liable for penalty for failure to collect and pay over tax.
Sec. 904. Volunteer board members of tax-exempt organizations exempt from penalty for failure to collect and pay over tax.

TITLE X—MODIFICATIONS OF RULES RELATING TO SUMMONSES

Sec. 1001. Enrolled agents included as third-party recordkeepers.
Sec. 1002. Safeguards relating to designated summonses.
Sec. 1003. Annual report to Congress concerning designated summonses.

TITLE XI—RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS

Sec. 1101. Relief from retroactive application of Treasury Department regulations.

TITLE XII—MISCELLANEOUS PROVISIONS

Sec. 1201. Phone number of person providing payee statements required to be shown on such statement.
Sec. 1202. Required notice of certain payments.
Sec. 1203. Unauthorized enticement of information disclosure.
Sec. 1204. Annual reminders to taxpayers with outstanding delinquent accounts.
Sec. 1205. 5-year extension of authority for undercover operations.
Sec. 1206. Disclosure of Form 8300 information on cash transactions.
Sec. 1207. Disclosure of returns and return information to designee of taxpayer.
Sec. 1208. Study of netting of interest on overpayments and liabilities.
Sec. 1209. Expenses of detection of underpayments and fraud, etc.
Sec. 1210. Use of private delivery services for timely-mailing-as-timely-filing rule.
Sec. 1211. Reports on misconduct of IRS employees.

TITLE XIII—REVENUE OFFSETS

Subtitle A—Application of Failure-to-Pay Penalty to Substitute Returns

Sec. 1301. Application of failure-to-pay penalty to substitute returns.

Subtitle B—Excise Taxes on Amounts of Private Excess Benefits

Sec. 1311. Excise taxes for failure by certain charitable organizations to meet certain qualification requirements.
Sec. 1312. Reporting of certain excise taxes and other information.
Sec. 1313. Exempt organizations required to provide copy of return.
Sec. 1314. Increase in penalties on exempt organizations for failure to file complete and timely annual returns.

TITLE I—TAXPAYER ADVOCATE

SEC. 101. ESTABLISHMENT OF POSITION OF TAXPAYER ADVOCATE WITHIN INTERNAL REVENUE SERVICE.

(a) GENERAL RULE.—Section 7802 (relating to Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations)) is amended by adding at the end the following new subsection:

"(d) OFFICE OF TAXPAYER ADVOCATE.—

"(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall be appointed by and report directly to the Commissioner of Internal Revenue. The Taxpayer Advocate shall be entitled to compensation at the same rate as the highest level official reporting directly to the Deputy Commissioner of the Internal Revenue Service.

"(2) FUNCTIONS OF OFFICE.—

"(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

"(i) assist taxpayers in resolving problems with the Internal Revenue Service,

"(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

"(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

"(B) ANNUAL REPORTS.—

"(i) OBJECTIVES.—Not later than June 30 of each calendar year after 1995, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

"(ii) ACTIVITIES.—Not later than December 31 of each calendar year after 1995, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

"(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

"(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

"(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

"(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

"(V) contain an inventory of the items described in subclauses (I), (II), and (III) for

VOL
142
PT
6
AP
15
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24
1996
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which action remains to be completed and the period during which each item has remained on such inventory,

"(VI) contain an inventory of the items described in subclauses (II) and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

"(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

"(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

"(IX) describe the extent to which regional problem resolution officers participate in the selection and evaluation of local problem resolution officers, and

"(X) include such other information as the Taxpayer Advocate may deem advisable.

"(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the Committees referred to in clauses (i) and (ii) without any prior review or comment from the Commissioner, the Secretary of the Treasury, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

"(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner of Internal Revenue shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate within 3 months after submission to the Commissioner."

(b) CONFORMING AMENDMENTS.—

(1) Section 7811 (relating to Taxpayer Assistance Orders) is amended—

(A) by striking "the Office of Ombudsman" in subsection (a) and inserting "the Office of the Taxpayer Advocate", and

(B) by striking "Ombudsman" each place it appears (including in the headings of subsections (e) and (f)) and inserting "Taxpayer Advocate".

(2) The heading for section 7802 is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONERS; TAXPAYER ADVOCATE."

(3) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

"Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioners; Taxpayer Advocate."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 102. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) TERMS OF ORDERS.—Subsection (b) of section 7811 (relating to terms of Taxpayer Assistance Orders) is amended—

(1) by inserting "within a specified time period" after "the Secretary", and

(2) by inserting "take any action as permitted by law," after "cease any action,".

(b) LIMITATION ON AUTHORITY TO MODIFY OR RESCIND.—Section 7811(c) (relating to authority to modify or rescind) is amended to read as follows:

"(c) AUTHORITY TO MODIFY OR RESCIND.—Any Taxpayer Assistance Order issued by the Taxpayer Advocate under this section may be modified or rescinded—

"(1) only by the Taxpayer Advocate, the Commissioner of Internal Revenue, or the Deputy Commissioner of Internal Revenue, and

"(2) only if a written explanation of the reasons for the modification or rescission is provided to the Taxpayer Advocate."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE II—MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

SEC. 201. NOTIFICATION OF REASONS FOR TERMINATION OF INSTALLMENT AGREEMENTS.

(a) TERMINATIONS.—Subsection (b) of section 6159 (relating to extent to which agreements remain in effect) is amended by adding at the end the following new paragraph:

"(5) NOTICE REQUIREMENTS.—The Secretary may not take any action under paragraph (2), (3), or (4) unless—

"(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

"(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy."

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 6159(b) is amended to read as follows:

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 202. ADMINISTRATIVE REVIEW OF TERMINATION OF INSTALLMENT AGREEMENT.

(a) GENERAL RULE.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by adding at the end the following new subsection:

"(c) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for an independent administrative review of terminations of installment agreements under this section for taxpayers who request such a review."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1997.

TITLE III—ABATEMENT OF INTEREST AND PENALTIES

SEC. 301. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by inserting "unreasonable" before "error" each place it appears in subparagraphs (A) and (B), and

(2) by striking "in performing a ministerial act" each place it appears and inserting "in performing a ministerial or managerial act".

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended—

(1) by striking "ASSESSMENTS" and inserting "ABATEMENT", and

(2) by inserting "UNREASONABLE" before "ERRORS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 302. REVIEW OF IRS FAILURE TO ABATE INTEREST.

(a) IN GENERAL.—Section 6404 is amended by adding at the end the following new subsection:

"(g) REVIEW OF DENIAL OF REQUEST FOR ABATEMENT OF INTEREST.—

"(1) IN GENERAL.—The Tax Court shall have jurisdiction over any action brought by a taxpayer who meets the requirements referred to in section 7430(c)(4)(A)(iii) to determine whether the Secretary's failure to abate interest under this section was an abuse of discretion, and may order an abatement, if such action is brought within 180 days after the date of the mailing of the Secretary's final determination not to abate such interest.

"(2) SPECIAL RULES.—

"(A) DATE OF MAILING.—Rules similar to the rules of section 6213 shall apply for purposes of determining the date of the mailing referred to in paragraph (1).

"(B) RELIEF.—Rules similar to the rules of section 6512(b) shall apply for purposes of this subsection.

"(C) REVIEW.—An order of the Tax Court under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests for abatement after the date of the enactment of this Act.

SEC. 303. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 calendar days (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6601(e)(2) is amended by striking "10 days from the date of notice and demand therefor" and inserting "21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)".

(2) Paragraph (3) of section 6651(a) is amended by striking "10 days of the date of the notice and demand therefor" and inserting "21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of any notice and demand given after December 31, 1996.

SEC. 304. ABATEMENT OF PENALTY FOR FAILURE TO MAKE REQUIRED DEPOSITS OF PAYROLL TAXES IN CERTAIN CASES.

(a) IN GENERAL.—Section 6656 (relating to failure to make deposit of taxes) is amended by adding at the end the following new subsections:

"(c) EXCEPTION FOR FIRST-TIME DEPOSITORS OF EMPLOYMENT TAXES.—The Secretary may waive the penalty imposed by subsection (a) on a person's inadvertent failure to deposit any employment tax if—

"(1) such person meets the requirements referred to in section 7430(c)(4)(A)(iii),

"(2) such failure occurs during the 1st quarter that such person was required to deposit any employment tax, and

"(3) the return of such tax was filed on or before the due date.

For purposes of this subsection, the term 'employment taxes' means the taxes imposed by subtitle C.

"(d) AUTHORITY TO ABATE PENALTY WHERE DEPOSIT SENT TO SECRETARY.—The Secretary may abate the penalty imposed by subsection (a) with respect to the first time a depositor is required to make a deposit if the amount required to be deposited is inadvertently sent to the Secretary instead of to the appropriate government depository."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to deposits required to be made after the date of the enactment of this Act.

TITLE IV—JOINT RETURNS

SEC. 401. STUDIES OF JOINT RETURN-RELATED ISSUES.

The Secretary of the Treasury or his delegate and the Comptroller General of the United States shall each conduct separate studies of—

(1) the effects of changing the liability for tax on a joint return from being joint and several to being proportionate to the tax attributable to each spouse,

(2) the effects of providing that, if a divorce decree allocates liability for tax on a joint return filed before the divorce, the Secretary may collect such liability only in accordance with the decree,

(3) whether those provisions of the Internal Revenue Code of 1986 intended to provide relief to innocent spouses provide meaningful relief in all cases where such relief is appropriate, and

(4) the effect of providing that community income (as defined in section 66(d) of such Code) which, in accordance with the rules contained in section 879(a) of such Code, would be treated as the income of one spouse is exempt from a levy for failure to pay any tax imposed by subtitle A by the other spouse for a taxable year ending before their marriage.

The reports of such studies shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate within 6 months after the date of the enactment of this Act.

SEC. 402. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 403. DISCLOSURE OF COLLECTION ACTIVITIES.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end the following new paragraph:

"(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing by either of such individuals, the Secretary shall disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected. The preceding sentence shall not apply to any deficiency which may not be collected by reason of section 6502."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

TITLE V—COLLECTION ACTIVITIES

SEC. 501. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end the following new subsection:

"(j) WITHDRAWAL OF NOTICE IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—The Secretary may withdraw a notice of a lien filed under this section and this chapter shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

"(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the withdrawal of such notice would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States.

Any such withdrawal shall be made by filing notice at the same office as the withdrawn notice. A copy of such notice of withdrawal shall be provided to the taxpayer.

"(2) NOTICE TO CREDIT AGENCIES, ETC.—Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall promptly make reasonable efforts to notify credit reporting agencies, and any financial institution or creditor whose name and address is specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe."

(b) RETURN OF LEVIED PROPERTY IN CERTAIN CASES.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(d) RETURN OF PROPERTY IN CERTAIN CASES.—If—

"(1) any property has been levied upon, and

"(2) the Secretary determines that—

"(A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the return of such property will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c)."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 502. MODIFICATIONS TO CERTAIN LEVY EXEMPTION AMOUNTS.

(a) FUEL, ETC.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(1) by striking "If the taxpayer is the head of a family, so" and inserting "So",

(2) by striking "his household" and inserting "the taxpayer's household", and

(3) by striking "$1,650 ($1,550 in the case of levies issued during 1989)" and inserting "$2,500".

(b) BOOKS, ETC.—Paragraph (3) of section 6334(a) (relating to books and tools of a trade, business, or profession) is amended by striking "$1,100 ($1,050 in the case of levies issued during 1989)" and inserting "$1,250".

(c) INFLATION ADJUSTMENT.—Section 6334 (relating to property exempt from levy) is amended by adding at the end the following new subsection:

"(f) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year beginning after 1997, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to levies issued after December 31, 1996.

SEC. 503. OFFERS-IN-COMPROMISE.

(a) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500." and inserting "$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE VI—INFORMATION RETURNS

SEC. 601. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

"(a) IN GENERAL.—If any person willfully files a fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

"(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing),

"(2) the costs of the action, and

"(3) in the court's discretion, reasonable attorneys fees.

"(c) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within the later of—

"(1) 6 years after the date of the filing of the fraudulent information return, or

"(2) 1 year after the date such fraudulent information return would have been discovered by exercise of reasonable care.

"(d) COPY OF COMPLAINT FILED WITH IRS—Any person bringing an action under subsection (a) shall provide a copy of the complaint to the Internal Revenue Service upon the filing of such complaint with the court.

"(e) FINDING OF COURT TO INCLUDE CORRECT AMOUNT OF PAYMENT.—The decision of the court awarding damages in an action brought under subsection (a) shall include a finding of the correct amount which should have been reported in the information return.

VOL 142 PT 6 AP 15 — 24 1996 UMI

"(f) INFORMATION RETURN.—For purposes of this section, the term 'information return' means any statement described in section 6724(d)(1)(A)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

"Sec. 7434. Civil damages for fraudulent filing of information returns.

"Sec. 7435. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fraudulent information returns filed after the date of the enactment of this Act.

SEC. 602. REQUIREMENT TO CONDUCT REASONABLE INVESTIGATIONS OF INFORMATION RETURNS.

(a) GENERAL RULE.—Section 6201 (relating to assessment authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) REQUIRED REASONABLE VERIFICATION OF INFORMATION RETURNS.—In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B or C of part III of subchapter A of chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer as reasonably requested by the Secretary), the Secretary shall have the burden of producing reasonable and probative information concerning such deficiency in addition to such information return."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

TITLE VII—AWARDING OF COSTS AND CERTAIN FEES

SEC. 701. UNITED STATES MUST ESTABLISH THAT ITS POSITION IN PROCEEDING WAS SUBSTANTIALLY JUSTIFIED.

(a) GENERAL RULE.—Subparagraph (A) of section 7430(c)(4) (defining prevailing party) is amended by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(b) BURDEN OF PROOF ON UNITED STATES.—Paragraph (4) of section 7430(c) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) EXCEPTION IF UNITED STATES ESTABLISHES THAT ITS POSITION WAS SUBSTANTIALLY JUSTIFIED.—

"(i) GENERAL RULE.—A party shall not be treated as the prevailing party in a proceeding to which subsection (a) applies if the United States establishes that the position of the United States in the proceeding was substantially justified.

"(ii) PRESUMPTION OF NO JUSTIFICATION IF INTERNAL REVENUE SERVICE DID NOT FOLLOW CERTAIN PUBLISHED GUIDANCE.—For purposes of clause (i), the position of the United States shall be presumed not to be substantially justified if the Internal Revenue Service did not follow its applicable published guidance in the administrative proceeding. Such presumption may be rebutted.

"(iii) APPLICABLE PUBLISHED GUIDANCE.—For purposes of clause (ii), the term 'applicable published guidance' means—

"(I) regulations, revenue rulings, revenue procedures, information releases, notices, and announcements, and

"(II) any of the following which are issued to the taxpayer: private letter rulings, technical advice memoranda, and determination letters."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 7430(c)(2) is amended by striking "paragraph (4)(B)" and inserting "paragraph (4)(C)".

(2) Subparagraph (C) of section 7430(c)(4), as redesignated by subsection (b), is amended by striking "subparagraph (A)" and inserting "this paragraph".

(3) Sections 6404(g) and 6656(c)(1), as amended by this Act, are each amended by striking "section 7430(c)(4)(A)(iii)" and inserting "section 7430(c)(4)(A)(ii)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 702. INCREASED LIMIT ON ATTORNEY FEES.

(a) IN GENERAL.—Paragraph (1) of section 7430(c) (defining reasonable litigation costs) is amended—

(1) by striking "$75" in clause (iii) of subparagraph (B) and inserting "$110",

(2) by striking "an increase in the cost of living or" in clause (iii) of subparagraph (B), and

(3) by adding after clause (iii) the following: "In the case of any calendar year beginning after 1996, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 703. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT.

(a) IN GENERAL.—Paragraph (1) of section 7430(b) (relating to requirement that administrative remedies be exhausted) is amended by adding at the end the following new sentence: "Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 704. AWARD OF LITIGATION COSTS PERMITTED IN DECLARATORY JUDGMENT PROCEEDINGS.

(a) IN GENERAL.—Subsection (b) of section 7430 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

TITLE VIII—MODIFICATION TO RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS

SEC. 801. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.

(a) GENERAL RULE.—Subsection (b) of section 7433 (relating to damages) is amended by striking "$100,000" and inserting "$1,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 802. COURT DISCRETION TO REDUCE AWARD FOR LITIGATION COSTS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES.

(a) GENERAL RULE.—Paragraph (1) of section 7433(d) (relating to civil damages for certain unauthorized collection actions) is amended to read as follows:

"(1) AWARD FOR DAMAGES MAY BE REDUCED IF ADMINISTRATIVE REMEDIES NOT EXHAUSTED.—The amount of damages awarded under subsection (b) may be reduced if the court determines that the plaintiff has not exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

TITLE IX—MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

SEC. 901. PRELIMINARY NOTICE REQUIREMENT.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) PRELIMINARY NOTICE REQUIREMENT.—

"(1) IN GENERAL.—No penalty shall be imposed under subsection (a) unless the Secretary notifies the taxpayer in writing by mail to an address as determined under section 6212(b) that the taxpayer shall be subject to an assessment of such penalty.

"(2) TIMING OF NOTICE.—The mailing of the notice described in paragraph (1) shall precede any notice and demand of any penalty under subsection (a) by at least 60 days.

"(3) STATUTE OF LIMITATIONS.—If a notice described in paragraph (1) with respect to any penalty is mailed before the expiration of the period provided by section 6501 for the assessment of such penalty (determined without regard to this paragraph), the period provided by such section for the assessment of such penalty shall not expire before the later of—

"(A) the date 90 days after the date on which such notice was mailed, or

"(B) if there is a timely protest of the proposed assessment, the date 30 days after the Secretary makes a final administrative determination with respect to such protest.

"(4) EXCEPTION FOR JEOPARDY.—This subsection shall not apply if the Secretary finds that the collection of the penalty is in jeopardy."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to proposed assessments made after June 30, 1996.

SEC. 902. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest), as amended by section 403, is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

"(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

"(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 903. RIGHT OF CONTRIBUTION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by adding at the end the following new subsection:

"(d) RIGHT OF CONTRIBUTION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY.—If more than 1 person is liable for the penalty under subsection (a) with respect to any tax, each person who paid such penalty shall be entitled to recover from other persons who are liable for such penalty an amount equal to the excess of the amount paid by such person over such person's proportionate share of the penalty. Any claim for such a recovery may be made only in a proceeding which is separate from, and is not joined or consolidated with—

"(1) an action for collection of such penalty brought by the United States, or

"(2) a proceeding in which the United States files a counterclaim or third-party complaint for the collection of such penalty."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 904. VOLUNTEER BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS EXEMPT FROM PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Section 6672 is amended by adding at the end the following new subsection:

"(e) EXCEPTION FOR VOLUNTARY BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS.—No penalty shall be imposed by subsection (a) on any unpaid, volunteer member of any board of trustees or directors of an organization exempt from tax under subtitle A if such member—

"(1) is solely serving in an honorary capacity,

"(2) does not participate in the day-to-day or financial operations of the organization, and

"(3) does not have actual knowledge of the failure on which such penalty is imposed.

The preceding sentence shall not apply if it results in no person being liable for the penalty imposed by subsection (a)."

(b) PUBLIC INFORMATION REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate (hereafter in this subsection referred to as the "Secretary") shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the Internal Revenue Code of 1986, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

(A) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

(B) the development of a special information packet.

(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of such Code. Such materials shall be made available to tax-exempt organizations.

(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of such Code with regard to voluntary members of boards of trustees or directors of tax-exempt organizations.

TITLE X—MODIFICATIONS OF RULES RELATING TO SUMMONSES

SEC. 1001. ENROLLED AGENTS INCLUDED AS THIRD-PARTY RECORDKEEPERS.

(a) IN GENERAL.—Paragraph (3) of section 7609(a) (relating to third-party recordkeeper defined) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting "; and", and by adding at the end the following the subparagraph:

"(I) any enrolled agent."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to summonses issued after the date of the enactment of this Act.

SEC. 1002. SAFEGUARDS RELATING TO DESIGNATED SUMMONSES.

(a) STANDARD OF REVIEW.—Subparagraph (A) of section 6503(k)(2) (defining designated summons) is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted,".

(b) LIMITATION ON PERSONS TO WHOM DESIGNATED SUMMONS MAY BE ISSUED.—Paragraph (1) of section 6503(k) is amended by striking "with respect to any return of tax by a corporation" and inserting "to a corporation (or to any other person to whom the corporation has transferred records) with respect to any return of tax by such corporation for a taxable year (or other period) for which such corporation is being examined under the coordinated examination program (or any successor program) of the Internal Revenue Service".

(c) CLERICAL AMENDMENT.—Section 6503 is amended by redesignating subsections (k) and (l) (as amended by this section) as subsections (j) and (k), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses issued after the date of the enactment of this Act.

SEC. 1003. ANNUAL REPORT TO CONGRESS CONCERNING DESIGNATED SUMMONSES.

Not later than December 31 of each calendar year after 1995, the Secretary of the Treasury or his delegate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the number of designated summonses (as defined in section 6503(j) of the Internal Revenue Code of 1986) which were issued during the preceding 12 months.

TITLE XI—RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS

SEC. 1101. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS.

(a) IN GENERAL.—Subsection (b) of section 7805 (relating to rules and regulations) is amended to read as follows:

"(b) RETROACTIVITY OF REGULATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, no temporary, proposed, or final regulation relating to the internal revenue laws shall apply to any taxable period ending before the earliest of the following dates:

"(A) The date on which such regulation is filed with the Federal Register.

"(B) In the case of any final regulation, the date on which any proposed or temporary regulation to which such final regulation relates was filed with the Federal Register.

"(C) The date on which any notice substantially describing the expected contents of any temporary, proposed, or final regulation is issued to the public.

"(2) EXCEPTION FOR PROMPTLY ISSUED REGULATIONS.—Paragraph (1) shall not apply to regulations filed or issued within 18 months of the date of the enactment of the statutory provision to which the regulation relates.

"(3) PREVENTION OF ABUSE.—The Secretary may provide that any regulation may take effect or apply retroactively to prevent abuse.

"(4) CORRECTION OF PROCEDURAL DEFECTS.—The Secretary may provide that any regulation may apply retroactively to correct a procedural defect in the issuance of any prior regulation.

"(5) INTERNAL REGULATIONS.—The limitation of paragraph (1) shall not apply to any regulation relating to internal Treasury Department policies, practices, or procedures.

"(6) CONGRESSIONAL AUTHORIZATION.—The limitation of paragraph (1) may be superseded by a legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to any regulation.

"(7) ELECTION TO APPLY RETROACTIVELY.—The Secretary may provide for any taxpayer to elect to apply any regulation before the dates specified in paragraph (1).

"(8) APPLICATION TO RULINGS.—The Secretary may prescribe the extent, if any, to which any ruling (including any judicial decision or any administrative determination other than by regulation) relating to the internal revenue laws shall be applied without retroactive effect."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to regulations which relate to statutory provisions enacted on or after the date of the enactment of this Act.

TITLE XII—MISCELLANEOUS PROVISIONS

SEC. 1201. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENTS REQUIRED TO BE SHOWN ON SUCH STATEMENT.

(a) GENERAL RULE.—The following provisions are each amended by striking "name and address" and inserting "name, address, and phone number of the information contact":

(1) Section 6041(d)(1).
(2) Section 6041A(e)(1).
(3) Section 6042(c)(1).
(4) Section 6044(e)(1).
(5) Section 6045(b)(1).
(6) Section 6049(c)(1)(A).
(7) Section 6050B(b)(1).
(8) Section 6050H(d)(1).
(9) Section 6050I(e)(1).
(10) Section 6050J(e).
(11) Section 6050K(b)(1).
(12) Section 6050N(b)(1).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to statements required to be furnished after December 31, 1996 (determined without regard to any extension).

SEC. 1202. REQUIRED NOTICE OF CERTAIN PAYMENTS.

If any payment is received by the Secretary of the Treasury or his delegate from any taxpayer and the Secretary cannot associate such payment with such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.

SEC. 1203. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties), as amended by section 601(a), is amended by redesignating section 7435 as section 7436 and by inserting after section 7434 the following new section:

"SEC. 7435. CIVIL DAMAGES FOR UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

"(a) IN GENERAL.—If any officer or employee of the United States intentionally compromises the determination or collection of any tax due from an attorney, certified public accountant, or

VOL
142
PT
6
AP
15
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24
1996
UMI

enrolled agent representing a taxpayer in exchange for information conveyed by the taxpayer to the attorney, certified public accountant, or enrolled agent for purposes of obtaining advice concerning the taxpayer's tax liability, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of $500,000 or the sum of—

"(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the information disclosure, and

"(2) the costs of the action.

Damages shall not include the taxpayer's liability for any civil or criminal penalties, or other losses attributable to incarceration or the imposition of other criminal sanctions.

"(c) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(d) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the actions creating such liability would have been discovered by exercise of reasonable care.

"(e) MANDATORY STAY.—Upon a certification by the Commissioner or the Commissioner's delegate that there is an ongoing investigation or prosecution of the taxpayer, the district court before which an action under this section is pending shall stay all proceedings with respect to such action pending the conclusion of the investigation or prosecution.

"(f) CRIME-FRAUD EXCEPTION.—Subsection (a) shall not apply to information conveyed to an attorney, certified public accountant, or enrolled agent for the purpose of perpetrating a fraud or crime."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76, as amended by section 601(b), is amended by striking the item relating to section 7435 and by adding at the end the following new items:

"Sec. 7435. Civil damages for unauthorized enticement of information disclosure.

"Sec. 7436. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions after the date of the enactment of this Act.

SEC. 1204. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7524. ANNUAL NOTICE OF TAX DELINQUENCY.

"Not less often than annually, the Secretary shall send a written notice to each taxpayer who has a tax delinquent account of the amount of the tax delinquency as of the date of the notice."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7524. Annual notice of tax delinquency."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1996.

SEC. 1205. 5-YEAR EXTENSION OF AUTHORITY FOR UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 is amended by striking all that follows "this Act" and inserting a period.

(b) RESTORATION OF AUTHORITY FOR 5 YEARS.—Subsection (c) of section 7608 is amended by adding at the end the following new paragraph:

"(6) APPLICATION OF SECTION.—The provisions of this subsection—

"(A) shall apply after November 17, 1988, and before January 1, 1990, and

"(B) shall apply after the date of the enactment of this paragraph and before January 1, 2001.

All amounts expended pursuant to this subsection during the period described in subparagraph (B) shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before January 1, 2001."

(c) ENHANCED OVERSIGHT.—

(1) ADDITIONAL INFORMATION REQUIRED IN REPORTS TO CONGRESS.—Subparagraph (B) of section 7608(c)(4) is amended—

(A) by striking "preceding the period" in clause (ii),

(B) by striking "and" at the end of clause (ii), and

(C) by striking clause (iii) and inserting the following:

"(iii) the number, by programs, of undercover investigative operations closed in the 1-year period for which such report is submitted, and

"(iv) the following information with respect to each undercover investigative operation pending as of the end of the 1-year period for which such report is submitted or closed during such 1-year period—

"(I) the date the operation began and the date of the certification referred to in the last sentence of paragraph (1),

"(II) the total expenditures under the operation and the amount and use of the proceeds from the operation,

"(III) a detailed description of the operation including the potential violation being investigated and whether the operation is being conducted under grand jury auspices, and

"(IV) the results of the operation including the results of criminal proceedings."

(2) AUDITS REQUIRED WITHOUT REGARD TO AMOUNTS INVOLVED.—Subparagraph (C) of section 7608(c)(5) is amended to read as follows:

"(C) UNDERCOVER INVESTIGATIVE OPERATION.—The term 'undercover investigative operation' means any undercover investigative operation of the Service; except that, for purposes of subparagraphs (A) and (C) of paragraph (4), such term only includes an operation which is exempt from section 3302 or 9102 of title 31, United States Code."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 1206. DISCLOSURE OF FORM 8300 INFORMATION ON CASH TRANSACTIONS.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(15) DISCLOSURE OF RETURNS FILED UNDER SECTION 60501.—The Secretary may, upon written request, disclose to officers and employees of—

"(A) any Federal agency,

"(B) any agency of a State or local government, or

"(C) any agency of the government of a foreign country,

information contained on returns filed under section 60501. Any such disclosure shall be made on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (i) of section 6103 is amended by striking paragraph (8).

(2) Subparagraph (A) of section 6103(p)(3) is amended—

(A) by striking "(7)(A)(ii), or (8)" and inserting "or (7)(A)(ii)", and

(B) by striking "or (14)" and inserting "(14), or (15)".

(3) The material preceding subparagraph (A) of section 6103(p)(4) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)",

(B) by striking "(i)(3)(B)(i), or (8)" and inserting "(i)(3)(B)(i),", and

(C) by striking "or (12)" and inserting "(12), or (15)".

(4) Clause (ii) of section 6103(p)(4)(F) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)", and

(B) by striking "or (14)" and inserting "(14), or (15)".

(5) Paragraph (2) of section 7213(a) is amended by striking "or (12)" and inserting "(12), or (15)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1207. DISCLOSURE OF RETURNS AND RETURN INFORMATION TO DESIGNEE OF TAXPAYER.

Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended by striking "written request for or consent to such disclosure" and inserting "request for or consent to such disclosure".

SEC. 1208. STUDY OF NETTING OF INTEREST ON OVERPAYMENTS AND LIABILITIES.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall—

(1) conduct a study of the manner in which the Internal Revenue Service has implemented the netting of interest on overpayments and underpayments and of the policy and administrative implications of global netting, and

(2) before submitting the report of such study, hold a public hearing to receive comments on the matters included in such study.

(b) REPORT.—The report of such study shall be submitted not later than 6 months after the date of the enactment of this Act to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 1209. EXPENSES OF DETECTION OF UNDERPAYMENTS AND FRAUD, ETC.

(a) IN GENERAL.—Section 7623 (relating to expenses of deduction and punishment of frauds) is amended to read as follows:

"SEC. 7623. EXPENSES OF DETECTION OF UNDERPAYMENTS AND FRAUD, ETC.

"The Secretary, under regulations prescribed by the Secretary, is authorized to pay such sums as he deems necessary for—

"(1) detecting underpayments of tax, and

"(2) detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same,

in cases where such expenses are not otherwise provided for by law. Any amount payable under the preceding sentence shall be paid from the proceeds of amounts (other than interest) collected by reason of the information provided, and any amount so collected shall be available for such payments.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 78 is amended by striking the item relating to section 7623 and inserting the following new item:

"Sec. 7623. Expenses of detection of underpayments and fraud, etc.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 6 months after the date of the enactment of this Act.

(d) REPORT.—The Secretary of the Treasury or his delegate shall submit an annual report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the payments under section 7623 of the Internal Revenue Code of 1986 during the year and on the amounts collected for which such payments were made.

SEC. 1210. USE OF PRIVATE DELIVERY SERVICES FOR TIMELY-MAILING-AS-TIMELY-FILING RULE.

Section 7502 (relating to timely mailing treated as timely filing and paying) is amended by adding at the end the following new subsection:

"(f) TREATMENT OF PRIVATE DELIVERY SERVICES.—

"(1) IN GENERAL.—Any reference in this section to the United States mail shall be treated as including a reference to any designated delivery service, and any reference in this section to a postmark by the United States Postal Service shall be treated as including a reference to any date recorded or marked as described in paragraph (2)(C) by any designated delivery service.

"(2) DESIGNATED DELIVERY SERVICE.—For purposes of this subsection, the term 'designated delivery service' means any delivery service provided by a trade or business if such service is designated by the Secretary for purposes of this section. The Secretary may designate a delivery service under the preceding sentence only if the Secretary determines that such service—

"(A) is available to the general public,

"(B) is at least as timely and reliable on a regular basis as the United States mail,

"(C) records electronically to its data base, kept in the regular course of its business, or marks on the cover in which any item referred to in this section is to be delivered, the date on which such item was given to such trade or business for delivery, and

"(D) meets such other criteria as the Secretary may prescribe.

"(3) EQUIVALENTS OF REGISTERED AND CERTIFIED MAIL.—The Secretary may provide a rule similar to the rule of paragraph (1) with respect to any service provided by a designated delivery service which is substantially equivalent to United States registered or certified mail."

SEC. 1211. REPORTS ON MISCONDUCT OF IRS EMPLOYEES.

On or before June 1 of each calendar year after 1996, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

(1) all categories of instances involving the misconduct of employees of the Internal Revenue Service during the preceding calendar year, and

(2) the disposition during the preceding calendar year of any such instances (without regard to the year of the misconduct).

TITLE XIII—REVENUE OFFSETS

Subtitle A—Application of Failure-to-Pay Penalty to Substitute Returns

SEC. 1301. APPLICATION OF FAILURE-TO-PAY PENALTY TO SUBSTITUTE RETURNS.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

Subtitle B—Excise Taxes on Amounts of Private Excess Benefits

SEC. 1311. EXCISE TAXES FOR FAILURE BY CERTAIN CHARITABLE ORGANIZATIONS TO MEET CERTAIN QUALIFICATION REQUIREMENTS.

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by redesignating subchapter D as subchapter E and by inserting after subchapter C the following new subchapter:

"Subchapter D—Failure by Certain Charitable Organizations To Meet Certain Qualification Requirements

"Sec. 4958. Taxes on excess benefit transactions.

"SEC. 4958. TAXES ON EXCESS BENEFIT TRANSACTIONS.

"(a) INITIAL TAXES.—

"(1) ON THE DISQUALIFIED PERSON.—There is hereby imposed on each excess benefit transaction a tax equal to 25 percent of the excess benefit. The tax imposed by this paragraph shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

"(2) ON THE MANAGEMENT.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any organization manager in the excess benefit transaction, knowing that it is such a transaction, a tax equal to 10 percent of the excess benefit, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the excess benefit transaction.

"(b) ADDITIONAL TAX ON THE DISQUALIFIED PERSON.—In any case in which an initial tax is imposed by subsection (a)(1) on an excess benefit transaction and the excess benefit involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess benefit involved. The tax imposed by this subsection shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

"(c) EXCESS BENEFIT TRANSACTION; EXCESS BENEFIT.—For purposes of this section—

"(1) EXCESS BENEFIT TRANSACTION.—

"(A) IN GENERAL.—The term 'excess benefit transaction' means any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for the performance of services unless such organization clearly indicated its intent to so treat such benefit.

"(B) EXCESS BENEFIT.—The term 'excess benefit' means the excess referred to in subparagraph (A).

"(2) AUTHORITY TO INCLUDE CERTAIN OTHER PRIVATE INUREMENT.—To the extent provided in regulations prescribed by the Secretary, the term 'excess benefit transaction' includes any transaction in which the amount of any economic benefit provided to or for the use of a disqualified person is determined in whole or in part by the revenues of 1 or more activities of the organization but only if such transaction results in inurement not permitted under paragraph (3) or (4) of section 501(c), as the case may be. In the case of any such transaction, the excess benefit shall be the amount of the inurement not so permitted.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable for any tax imposed by subsection (a) or subsection (b), all such persons shall be jointly and severally liable for such tax.

"(2) LIMIT FOR MANAGEMENT.—With respect to any 1 excess benefit transaction, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000.

"(e) APPLICABLE TAX-EXEMPT ORGANIZATION.—For purposes of this subchapter, the term 'applicable tax-exempt organization' means—

"(1) any organization which (without regard to any excess benefit) would be described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), and

"(2) any organization which was described in paragraph (1) at any time during the 5-year period ending on the date of the transaction.

Such term shall not include a private foundation (as defined in section 509(a)).

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) DISQUALIFIED PERSON.—The term 'disqualified person' means, with respect to any transaction—

"(A) any person who was, at any time during the 5-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization,

"(B) a member of the family of an individual described in subparagraph (A), and

"(C) a 35-percent controlled entity.

"(2) ORGANIZATION MANAGER.—The term 'organization manager' means, with respect to any applicable tax-exempt organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization).

"(3) 35-PERCENT CONTROLLED ENTITY.—

"(A) IN GENERAL.—The term '35-percent controlled entity' means—

"(i) a corporation in which persons described in subparagraph (A) or (B) of paragraph (1) own more than 35 percent of the total combined voting power,

"(ii) a partnership in which such persons own more than 35 percent of the profits interest, and

"(iii) a trust or estate in which such persons own more than 35 percent of the beneficial interest.

"(B) CONSTRUCTIVE OWNERSHIP RULES.—Rules similar to the rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of this paragraph.

"(4) FAMILY MEMBERS.—The members of an individual's family shall be determined under section 4946(d); except that such members also shall include the brothers and sisters (whether by the whole or half blood) of the individual and their spouses.

"(5) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess benefit transaction, the period beginning with the date on which the transaction occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed.

"(6) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any excess benefit transaction, undoing the excess benefit to the extent possible, and taking any additional measures necessary to place the organization in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards."

VOL
142
PT
6
AP
15
—
24
1996
UMI

(b) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—

(1) IN GENERAL.—Paragraph (4) of section 501(c) is amended by inserting "(A)" after "(4)" and by adding at the end the following:

"(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual."

(2) SPECIAL RULE FOR CERTAIN COOPERATIVES.—In the case of an organization operating on a cooperative basis which, before the date of the enactment of this Act, was determined by the Secretary of the Treasury or his delegate, to be described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, the allocation or return of net margins or capital to the members of such organization in accordance with its incorporating statute and bylaws shall not be treated for purposes of such Code as the inurement of the net earnings of such organization to the benefit of any private shareholder or individual. The preceding sentence shall apply only if such statute and bylaws are substantially as such statute and bylaws were in existence on the date of the enactment of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4955 is amended—

(A) by striking "SECTION 4945" in the heading and inserting "SECTIONS 4945 AND 4958", and

(B) by inserting before the period "or an excess benefit for purposes of section 4958".

(2) Subsections (a), (b), and (c) of section 4963 are each amended by inserting "4958," after "4955,".

(3) Subsection (e) of section 6213 is amended by inserting "4958 (relating to private excess benefit)," before "4971".

(4) Paragraphs (2) and (3) of section 7422(g) are each amended by inserting "4958," after "4955,".

(5) Subsection (b) of section 7454 is amended by inserting "or whether an organization manager (as defined in section 4958(f)(2)) has 'knowingly' participated in an excess benefit transaction (as defined in section 4958(c))," after "section 4912(b),".

(6) The table of subchapters for chapter 42 is amended by striking the last item and inserting the following:

"SUBCHAPTER D. Failure by certain charitable organizations to meet certain qualification requirements.

"SUBCHAPTER E. Abatement of first and second tier taxes in certain cases."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (b)) shall apply to excess benefit transactions occurring on or after September 14, 1995.

(2) BINDING CONTRACTS.—The amendments referred to in paragraph (1) shall not apply to any benefit arising from a transaction pursuant to any written contract which was binding on September 13, 1995, and at all times thereafter before such transaction occurred.

(3) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to inurement occurring on or after September 14, 1995.

(B) BINDING CONTRACTS.—The amendment made by subsection (b) shall not apply to any inurement occurring before January 1, 1997, pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such inurement occurred.

SEC. 1312. REPORTING OF CERTAIN EXCISE TAXES AND OTHER INFORMATION.

(a) REPORTING BY ORGANIZATIONS DESCRIBED IN SECTION 501(c)(3).—Subsection (b) of section 6033 (relating to certain organizations described in section .501(c)(3)) is amended by striking "and" at the end of paragraph (9), by redesignating paragraph (10) as paragraph (14), and by inserting after paragraph (9) the following new paragraphs:

"(10) the respective amounts (if any) of the taxes paid by the organization during the taxable year under the following provisions:

"(A) section 4911 (relating to tax on excess expenditures to influence legislation),

"(B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations), and

"(C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations),

"(11) the respective amounts (if any) of the taxes paid by the organization, or any disqualified person with respect to such organization, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations),

"(12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958),

"(13) such information with respect to disqualified persons as the Secretary may prescribe, and".

(b) ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Section 6033 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a) the information referred to in paragraphs (11), (12) and (13) of subsection (b) with respect to such organization."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years beginning after the date of the enactment of this Act.

SEC. 1313. EXEMPT ORGANIZATIONS REQUIRED TO PROVIDE COPY OF RETURN.

(a) REQUIREMENT TO PROVIDE COPY.—

(1) Subparagraph (A) of section 6104(e)(1) (relating to public inspection of annual returns) is amended to read as follows:

"(A) IN GENERAL.—During the 3-year period beginning on the filing date—

"(i) a copy of the annual return filed under section 6033 (relating to returns by exempt organizations) by any organization to which this paragraph applies shall be made available by such organization for inspection during regular business hours by any individual at the principal office of such organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office, and

"(ii) upon request of an individual made at such principal office or such a regional or district office, a copy of such annual return shall be provided to such individual without charge other than a reasonable fee for any reproduction and mailing costs.

The request described in clause (ii) must be made in person or in writing. If the request under clause (ii) is made in person, such copy shall be provided immediately and, if made in writing, shall be provided within 30 days."

(2) Clause (ii) of section 6104(e)(2)(A) is amended by inserting before the period at the end the following: "(and, upon request of an individual made at such principal office or such a regional or district office, a copy of the material requested to be available for inspection under this subparagraph shall be provided (in accordance with the last sentence of paragraph (1)(A)) to such individual without charge other than reasonable fee for any reproduction and mailing costs)".

(3) Subsection (e) of section 6104 is amended by adding at the end the following new paragraph:

"(3) LIMITATION.—Paragraph (1)(A)(ii) (and the corresponding provision of paragraph (2)) shall not apply to any request if, in accordance with regulations promulgated by the Secretary, the organization has made the requested documents widely available, or, the Secretary determines, upon application by an organization, that such request is part of a harassment campaign and that compliance with such request is not in the public interest."

(b) INCREASE IN PENALTY FOR WILLFUL FAILURE TO ALLOW PUBLIC INSPECTION OF CERTAIN RETURNS, ETC.—Section 6685 is amended by striking "$1,000" and inserting "$5,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made on or after the 60th day after the Secretary of the Treasury first issues the regulations referred to section 6104(e)(3) of the Internal Revenue Code of 1986 (as added by subsection (a)(3)).

SEC. 1314. INCREASE IN PENALTIES ON EXEMPT ORGANIZATIONS FOR FAILURE TO FILE COMPLETE AND TIMELY ANNUAL RETURNS.

(a) IN GENERAL.—Subparagraph (A) of section 6652(c)(1) (relating to annual returns under section 6033) is amended by striking "$10" and inserting "$20" and by striking "$5,000" and inserting "$10,000".

(b) LARGER PENALTY ON ORGANIZATIONS HAVING GROSS RECEIPTS IN EXCESS OF $1,000,000.—Subparagraph (A) of section 6652(c)(1) is amended by adding at the end the following new sentence: "In the case of an organization having gross receipts exceeding $1,000,000 for any year, with respect to the return required under section 6033 for such year, the first sentence of this subparagraph shall be applied by substituting '$100' for '$20' and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed $50,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years ending on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Connecticut [Mrs. JOHNSON] and the gentleman from California [Mr. MATSUI] will each be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Connecticut [Mrs. JOHNSON].

GENERAL LEAVE

Mrs. JOHNSON of Connecticut. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous remarks on H.R. 2337.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House already has acted favorably on the contents of H.R. 2337 when it passed the 7-year Balanced Budget Act on October 26, 1995. The Taxpayer Bill of Rights II was part of the Committee on Ways and Means title of H.R. 2491.

The freestanding bill which the Committee on Ways and Means approved on March 21, 1996, is substantially the same as the provisions which passed the House last October as part of the 7-year Balanced Budget Act, with only minor technical changes and adjustments to some of the bill's effective dates. Upon the President's veto of that bill, Mr. Speaker, Commissioner Richardson implemented a number of our recommendations by administrative action, and for that I thank her.

I commend her as well and appreciate her concern with our point of view by enclosing my remarks in which I expressed great concern for the IRS's use of economic reality audits with the distribution of her guidance to her staff in the use of these extensive audits for the purpose of assuring that people do pay their fair share.

I have enjoyed working with Commissioner Richardson and her staff, and my colleague the gentleman from California [Mr. MATSUI] and I believe that the bill we bring before you today will move us forward in assuring taxpayers' rights in dealing with the IRS, but also will do so in a way that is harmonious with our underlying law and the responsibilities of the IRS.

Yesterday was April 15, the deadline for American citizens to file their income tax returns for 1995. Most citizens filed their tax returns, will receive their refunds, and never hear from the IRS again. They are the lucky ones.

The Taxpayer Bill of Rights aims to expand the protections for the unlucky taxpayers who become involved in a tax dispute with the IRS. These taxpayers often feel as if they are engaged in a David versus Goliath contest.

H.R. 2337 gives taxpayers some important procedural tools in defending themselves in controversies with the Goliath of the IRS. While procedural tax rules may not seem glamorous, they can be extremely important in deciding the outcome of a tax dispute.

For example, TV viewers who followed the O.J. Simpson trial last year learned that procedural rules can have a major impact on the outcome of a legal controversy. In a similar way, the procedural tax rule changes and the Taxpayer Bill of Rights II will have a significant effect on the outcome of tax disputes with the IRS.

For example, the committee learned of cases where the IRS began auditing a taxpayer's return, and then the IRS employee conducting the audit was transferred to a new division and the return sat for another year or two before the audit was completed. Under current law, the IRS has no authority to abate the interest which ran up during this period. H.R. 2337 addresses this problem by giving the IRS expanded authority to abate interest charges that occur as a result of unreasonable delays caused by the IRS's own process.

The bill will also make it easier for taxpayers who win their cases against the IRS in Tax Court to collect attorneys' fees. Under current law, not only does a taxpayer have to prevail on the merits against the IRS to collect attorneys fees, he must also prove that the IRS was not justified in pressing the case against him. H.R. 2337 would switch the burden to the IRS of proving that its position was substantially justified. This is consistent with the judicial principle that the party in control of the facts should bear the burden of proof.

Another provision would help taxpayers who enter into installment payment agreements with the IRS. Under current law the IRS does not have to give notice to the taxpayer before it revokes an installment payment plan. This can result in a hardship when the IRS revokes an installment agreement based on faulty information. H.R. 2337 would require the IRS to give 30 days advance notice before it revokes an installment agreement in order to give the affected taxpayer an opportunity to challenge this action.

Further, in the extreme cases where the IRS damages the taxpayer because its employees act recklessly in collecting taxes, the bill would raise the ceiling for damage claims by taxpayers against the IRS to $1 million. The current ceiling is $100,000.

Finally, for the first time, the experience of the IRS ombudsman as to the most common problems experienced by taxpayers will be relayed directly to the Committee on Ways and Means, without passing through the many layers of administrative filters of the IRS and then the Department of the Treasury.

This will enable us here in Congress to respond in a far more timely fashion to the problems, indeed the snares, taxpayers get caught in as they deal with the IRS. That will allow us to deal with the legitimate problems, while assuring that the IRS can collect the legitimately owed taxes.

Mr. Speaker, the Nation's taxpayers probably will never enjoy paying taxes, but they should not feel powerless in their dealings with the IRS. The Taxpayer Bill of Rights II will establish many new procedural protections for taxpayers. Like the David in Biblical history, the average taxpayer may be smaller than the rival IRS, but we are giving him some significant weapons with which to defend himself.

I support the passage of H.R. 2337, urge my colleagues to do likewise, and I thank the gentleman from California [Mr. MATSUI], and his able staff, for their work with us on this matter over the last many months.

Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also rise in strong support of H.R. 2337. This legislation has been adopted numerous times by the Committee on Ways and Means on a bipartisan basis, and certainly on the floor of the House it has been adopted as well, and the enactment is certainly long overdue. This legislation is supported by the administration and will result in a much needed protection for taxpayers in their dealings with the Internal Revenue Service.

Mr. Speaker, I would like to first of all take this opportunity to commend the gentlewoman from Connecticut, Chairwoman NANCY JOHNSON, who has done a tremendous job on making sure that we have a bipartisan approach to this piece of legislation. All through the drafting and the putting together of this legislation, we have worked very cooperatively, and she and her staff have kept us informed, and I just want to take this opportunity to personally thank her for her efforts.

Certainly it goes also to the majority's fine staff, Donna Steele, and the members of our staff, Beth Vance, as well; all have played a significant role in making sure this legislation is in the form that it is today.

I want to also thank Secretary Rubin, and particularly Les Samuels, the assistant to Mr. Rubin, who has been very helpful with his input in the drafting of this legislation. Of course, the Internal Revenue Commissioner, Margaret Richardson, who has made, as Chairwoman JOHNSON stated in her opening statement, numerous reforms in this particular area.

This legislation, Mr. Speaker, is the second comprehensive taxpayers' bill of rights that have been adopted by the Congress and signed, hopefully signed, by the President. this bill will establish, as the gentlewoman from Connecticut [Mrs. JOHNSON] has said, a taxpayer advocate which will replace the ombudsman.

The advocate will have four main responsibilities. One to assist the taxpayer in resolving problems with the Internal Revenue Service; two, to identify problem areas within the Internal Revenue Service; three, a proposed change in the practice of the Internal Revenue Service to solve these problems; and, four, identify legislative solutions to these problems as well.

The second area in this bill in terms of making major changes, it will switch the burden of proof in cases in which attorneys' fees will be awarded. Currently taxpayers must show that the position of the IRS was not substantially justified in order to recover his or her attorney fees. Under the bill, a taxpayer who wins a suit can recover his or her fees unless the Internal Revenue Service can show that it was substantially justified in pursuing the action against the taxpayer in the first instance.

Three, the bill includes a number of provisions in which the IRS has greater flexibility in waiving certain penalties

VOL
142
PT
6
AP
15
—
24
1996
UMI

and will require that the Internal Revenue Service notify taxpayers before taking actions that would adversely affect them.

Fourth, the bill does address a problem that has been in the news over the last few years, and this deals with divorced spouses. There have been several cases where divorced spouses have signed returns not knowing what is in these returns, and before collection will occur now the Internal Revenue Service must give advance notice to the former spouse before any collection efforts will be taken.

In addition, the Service will do a study that will be due back in 6 months on how to deal with the issue of joint and several liability, undoubtedly which will affect many people in the middle of a divorce or are divorced when the filing occurs.

Again, I would like to thank the gentlewoman from Connecticut [Mrs. JOHNSON] and members of the majority staff for all their help in this effort. I know that this is only the second step. We intend I believe to have a taxpayers' bill of rights III during the next Congress, and I look forward to working with the members of this committee and certainly the Members of the House and the administration.

Mr. Speaker, I reserve the balance of my time.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARCHER], the chairman of the Committee on Ways and Means, and I thank him for his participation.

Mr. ARCHER. Mr. Speaker, I thank the gentlewoman for yielding me time, and also commend her on the outstanding work she has done on this bill.

Mr. Speaker, I rise in strong support of the Taxpayer Bill of Rights II, which will establish many new protections for the Nation's taxpayers in their dealings with the IRS. The campaign to safeguard taxpayer rights has a long history. The original Taxpayer Bill of Rights was enacted in 1988. While this legislation was a good first step, the continuing course of constituent complaints against the IRS has convinced us of the need to enact additional taxpayer protections.

Under this bill, taxpayers who are involved in a dispute with the IRS will be armed with additional rights and protections. In the David against Goliath fight between the taxpayer and the IRS, this bill is the slingshot the taxpayer can now use to win his or her fight.

I compliment the gentlewoman from Connecticut, [Mrs. JOHNSON], chairwoman of the Subcommittee on Oversight, and the gentleman from California [Mr. MATSUI], the ranking Democrat, for their dedication to championing the cause of the Nation's taxpayers.

Mr. Speaker, the IRS is the agency tasked with the responsibility of enforcing our Nation's tax laws and collecting the taxes that are legally due. It is an important job, because the functioning of the Federal Government depends on the public's willingness to voluntarily pay the taxes they owe. However, it is also a very difficult responsibility because the complicated structure of our current income tax system necessarily interjects the IRS into the private lives of the American people.

There is no question the IRS has grown too powerful and too intrusive. However, this has come in direct response to the growing complexity of our current tax system. The ultimate solution to this problem is to tear the income tax out by its roots and eliminate the need for an agency which must delve into our private lives in order to enforce the tax system. But until Congress fundamentally reforms the tax laws, the next best approach is to make the current tax system operate in a way which treats taxpayers more fairly.

□ 1230

Mr. MATSUI. Mr. Speaker, I reserve the balance of my time.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, too often the taxpayer is at the mercy of the IRS, and the whole purpose of this bill is to try to set that right, at least a little bit.

Included in this Taxpayer Bill of Rights II is the Fast and Efficient Tax Filing Act, and I want to thank the Members that worked on Ways and Means, in particular my colleague the gentlewoman from Connecticut, NANCY JOHNSON, and my colleague from California for including this in the legislation, so thank you, Mr. MATSUI, as well.

The Fast and Efficient Tax Filing Act is going to make at least one area of the Internal Revenue Code a little more user friendly. Many of you may have at one time in your lives stood in line for an IRS Postal Service postmark to mail your tax return on April 15.

Turns out that in order to use this rule, the Postal Service must be the form of delivery. If on the morning of April 15 you send it Federal Express, UPS, or some overnight delivery, and it gets there the next day, that is not good enough. If you put it in the mailbox and it gets postmarked, or if you stand in line and get that receipt from the Postal Service, even though the IRS does not get it for a week, then you can use the rule.

Both taxpayers and the IRS are being cheated under the current system. As a result of the Fast and Efficient Tax Filing Act, no more midnight waits at the post office; send it Fed Ex, call 1-800 pickup or DHL, or any of the competitors that we have that operate in America to deliver things efficiently throughout the rest of our economy. Next year you will be able to do that as a result of the passage of this bill.

So I want to congratulate once again my colleagues, the gentleman from California [Mr. MATSUI] and the gentlewoman from Connecticut [Mrs. JOHNSON], for including this in a wonderful bill. The IRS is going to get returns faster. Our constituents will not stand in line. At least this one area of our onerous Tax Code will have a modicum of common sense.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from California for his good work. He did contribute to this bill very substantially, and I thank him for his comments today.

Mr. Speaker, I would now like to recognize the gentleman from Ohio [Mr. TRAFICANT], and in so doing I want to recognize his tireless efforts to promote the rights of taxpayers in their dealings with the IRS. He has long been one of this body's most steadfast champions for the Nation's taxpayers, and he deserves much of the credit for provision in this bill relating to burden-of-proof issues, including the provision relating to the award of attorneys fees and costs, which shifts the burden to the IRS to prove that it was justified in bringing its case against the taxpayer.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I appreciate that from the distinguished chairwoman, and I think the gentlewoman from Connecticut, Mrs. JOHNSON was tired of having me run her down on the floor, and the gentleman from Texas, BILL ARCHER. I want to thank Speaker GINGRICH, the gentleman from Texas, DICK ARMEY, the gentlewoman from Connecticut, NANCY JOHNSON, the gentleman from Texas, BILL ARCHER, the gentleman from Florida, SAM GIBBONS, and the gentleman from California, BOB MATSUI.

Yes, I have been aggressive on some of these issues, and the gentlewoman from Connecticut has accommodated me under a powerful strain of opposition at times from the Internal Revenue Service.

Two provisions I worked hard for, as cited by the gentlewoman from Connecticut [Mrs. JOHNSON]. No. 1, after a matter has been adjudicated, a taxpayer can in fact go after those attorney fees and costs and, in fact the burden of proof after adjudication is thus switched to the IRS to justify and maintain their position for going after the taxpayer in the first place.

That is a good first step, my colleagues. I have no complaints with

that, and I commend you and thank you for doing something I could not get a Congress to do over the last four terms.

The second one says that right now there is a cap of $100,000 when an IRS agent violates the rights of a taxpayer. In my provision in here it increases that cap to $1 million, and I think $1 million will get their attention.

This is a great first step, but I want to just make a few points today, and I want to ask the Committee on Ways and Means to consider what I say very seriously. More than 97 percent of the American people support the change in the burden of proof in a civil tax case. No one has helped me more than the gentlewoman from Connecticut [Mrs. JOHNSON] and the gentleman from Texas [Mr. ARCHER]. As a Democrat, I want to commend the Republican leadership for giving me an opportunity on this.

Right now, under current existing law, in a civil tax case a taxpayer goes into court with the burden of proof. They have to prove they are innocent. There is no other provision in law. I do not know how this evolution has come about, where all of a sudden we have a law that places an American guilty in the eyes of the court and under the statutory law and they must prove themselves innocent.

Some of the arguments we are getting from the IRS are that deadbeats might get over. I do not believe that. I think the IRS is now saying that this would be a big revenue loser. I would say to all leaders, if we scored the Bill of Rights and let the IRS score the Bill of Rights, would we enjoy the freedoms of the Bill of Rights? Money is not an argument here.

I think when the IRS says, "Look, Mr. TRAFICANT, don't confuse us with the Constitution," I cannot buy the argument.

I am asking the Committee on Ways and Means to look at offsets. My new bill, H.R. 2450, handles this matter differently. It breaks it down to administrative and judicial.

When a taxpayer gets notice of an administrative audit, in that administrative procedure they have the burden of proof. They must substantiate those representations they make on their tax forms. But in good faith, having made those representations and the IRS then choosing to take the matter to court, the Traficant bill says at that point the burden of proof shifts to the IRS and the IRS shall be able to justify their case, prove evidence, submit evidence, and prove that matter.

Let me say this. That is something that we here in Congress should do. I would even be willing to have a provision in that bill that says that in the administrative procedure where the burden of proof is on the taxpayer, they must comply, if they are not compliant and deemed to have not complied in the eyes of the court, that the court can maintain the burden of proof on the taxpayer.

It would force the administrative process to be up front. We could expedite these cases. I do not think we would have as big a revenue problem as we have, and I would urge the committee to look at the scoring of it, but not only look at the scoring but to look at the offsets for funds to right this wrong.

But for me to stand up here today and to say because this total burden of proof is not enacted makes this bill weaker would not be fair. The gentlewoman from Connecticut [Mrs. JOHNSON] has done a fine job. I thank her for putting up with me.

The gentleman from California [Mr. MATSUI] and the gentleman from Texas [Mr. ARCHER] are going to have to put up more with me, and their staff, because I will not be satisfied until we right the wrong. A taxpayer in America pays the freight on this train coming down the track and, by God, they should at least be considered like everyone else in a court of law, innocent until proven guilty.

I am asking for their help, and I appreciate the time the gentlewoman has given me.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

First, I want to commend the gentleman from Ohio [Mr. TRAFICANT]. As the gentlewoman from Connecticut [Mrs. JOHNSON] has said, he really has been very helpful providing information to us, both in terms of the burden of proof issue and, second, in terms of lifting the $100,000 cap to $1 million in terms of the damage issue. We want to thank him very, very much for that.

We both look forward to working with the gentleman in the future on the third tax bill of rights legislation when we bring it before the House. Again, we thank him.

Second, I would like to just thank the gentleman from California [Mr. COX] for his very helpful information and piece of legislation, as well, in terms of the alternative uses besides the Postal Service in terms of filing returns.

I might also add the name of this legislation is the Pickle-Johnson legislation; and that is not two Texans, that is not President Johnson, but that is the gentlewoman from Connecticut, NANCY JOHNSON, and of course Jake Pickle, who was really one of the leaders for the last 10 years working on the tax bill of rights. This is the Pickle-Johnson legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would like to comment that my colleague, the gentleman from California [Mr. MATSUI], and I and our staff have worked very hard, not only together and with Members and with constituents who have testified, but also with the IRS. These provisions are going to front-load those defenses that taxpayers need so that we should not be getting into the kinds of problems that the gentleman from Ohio [Mr. TRAFICANT] describes.

By assuring taxpayers better information, more open communication and better procedures, we believe their rights will be defended long before they get into the level of controversy that has concerned the gentleman, and rightly so.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas, Mr. SAM JOHNSON.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I too would like to commend the gentlewoman from Connecticut, NANCY JOHNSON, and the gentleman from California, Mr. MATSUI, for doing a good job and for getting this bill back to the floor, this bill of rights back to the floor for a second time.

As you know, the President vetoed it back in December, along with a bunch of other stuff. But this bill is important because the powers of the IRS to investigate and examine taxpayers are greater than any other Government agency. They are intrusive. They are into our lives, and it seems that the constitutional rights of taxpayers are always trampled upon but nothing is ever done.

This bill makes important commonsense changes to current law that will strengthen the rights of American taxpayers. It establishes a taxpayer advocate to prevent the IRS from treating taxpayers like second class citizens. It increases the amount people may sue the IRS from $100,000 to $1 million. And for the first time, it allows the Federal courts to determined IRS failure and abuse of discretion.

While this bill makes important progress to rein in the IRS and its 115,000 IRS agents, I believe America is demanding that the entire system should be replaced, and I think we must insist that any new system must empower individuals and not the Government; provide opportunities, not dead ends, and, most importantly, it must offer the hard-working people of this country the freedom to achieve the American dream.

I commend the gentlewoman again for bringing this bill to the floor again, and I hope we can get it through in good shape this time.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentlewoman for yielding this time to me, and I stand up in vigorous support of a commonsense change in the law as it affects the taxpayers' rights in balancing it out with the rights and duties of the Internal Revenue Service.

The Internal Revenue Service is a needed agency which looks over the

VOL
142
PT
6
AP
15
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24
1996
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collection of taxes in this country. There is no question about it. But there are some things that need to be balanced out which this legislation does.

To give just a few examples of what is in this bill that needs to be done: One of the provisions in here would allow the IRS to release property on which there are liens when it is to the advantage of the Government to do so. Right now they cannot do that.

You have situations where businesses are closed down, where if the IRS would simply allow them to continue to exist for a short period of time, the Federal Government could make up some of the dollars that it is losing. And, of course, also, there is a question of jobs being lost. This is just plain common sense.

When we have a situation where a spouse is charged with liability because of signing a joint return and the secrecy law comes into play, it is only common sense, if we are going to go after using the female spouse, that we would be able to share certain information, which now the IRS is prohibited from doing.

These are just a couple of examples of just pure common sense that we are putting into the law.

I compliment my fellow Members of the Committee on Ways and Means. It was a good meeting, and I think it shows that we have great bipartisan support, and I am sure that each Member of the Congress, every Member of the Congress is going to be proud to vote for and support this legislation.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume to say that I do not believe we have any further speakers.

I might just add, in closing on my side, that we hope that the Members support this bill. I urge support of this legislation. The President supports this legislation and will sign this bill and, again, I look forward to continuing working with the gentlewoman from Connecticut.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). The gentlewoman from Connecticut has three-fourth of a minute remaining.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield the balance of my time to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Speaker, I rise today in support of the Taxpayer Bill of Rights. I think it is a step we need to take.

There are a couple of things I wish had been in it that are not there. One of them, the item that the gentleman from Ohio [Mr. TRAFICANT] has worked so hard on, and some of the rest of us, and that is to change the burden of proof. The other is that the IRS should pay back at the same interest rate that we have to pay if they overcharge us.

□ 1245

But Congress, I think, has finally realized what taxpayers have known for years, that the IRS has too much power over the lives of ordinary citizens. This bill contains some much-needed reforms which make so much sense. I have to shake my head and wonder that these protections do not already exist.

This bill creates the position of taxpayer advocate. It expands the authority of the IRS to abate interest and penalties, extend the length of time which the taxpayer may fulfill his obligation to the IRS without accrual of excessive penalties and interest. It allows the taxpayer, when they are right, to collect the money in fees and costs from the IRS. I hope we can pass this bill.

Mr. NEAL of Massachusetts. Mr. Speaker, yesterday the House was involved in a publicity stunt because of it being tax day. Today, we are debating tax legislation that will truly help the American people. Before us today is the Taxpayer Bill of Rights. The purpose of this legislation is to help those taxpayers who find themselves in dispute with the Internal Revenue Service [IRS].

This legislation will reduce the anxiety that surrounds April 15 each year. Taxpayers will have some extra assistance when they are faced with the IRS. This legislation is based on an extensive bipartisan effort of the Ways and Means Committee to assist the taxpayer. Mr. Pickle, the former chairman of the Subcommittee on Oversight, worked long and hard on this issue. The legislation before us today is substantially the same as legislation developed by Mr. Pickle. Also, Senator PRYOR has spent many years working on this legislation.

One of the key provisions of this legislation is the creation of an independent taxpayer advocate. The taxpayer advocate will work to improve taxpayer services and IRS responsiveness. The taxpayer advocate will report to the tax writing committees of Congress on the progress in this area. Another key provision requires the IRS to report to the tax writing committees on the misconduct of IRS employees. This report will give Congress the chance to study the misconduct of IRS employees and the punishment for misconduct.

Taxpayers will receive assistance for taxpayers who experienced difficulty with the IRS. This legislation would allow taxpayers who have been the victim of reckless collection actions by the IRS to sue the Government for $1 million up from the current cap of $100,000.

The bottom line is this legislation will make it easier for taxpayers to work with the IRS. Currently, the United States has an 86-percent rate of compliance for Federal taxes. Hopefully, this legislation will help improve compliance which is already the envy of other countries. This legislation will improve the working relationship between taxpayers and the IRS.

I am pleased this legislation is before us today. This legislation is a concrete way to help make April 15 a less stressful day for all Americans.

Mr. PORTMAN. Mr. Speaker, first of all, I would like to thank Chairman JOHNSON for her excellent leadership in crafting this bill. She and her Oversight Subcommittee staff have worked tirelessly on behalf of the American taxpayer.

Mr. Speaker, yesterday's deadline to file income tax returns reminds us of how much power the Internal Revenue Service has over the honest taxpayers of this country. We must ensure that the IRS isn't heavy-handed in enforcing regulations and that the taxpayer has adequate protections.

One of my constituents learned the hard way about how the IRS sometimes does business. While she was married, she and her self-employed husband filed a joint tax return. But after her divorce was finalized, the IRS determined that she was responsible for paying off almost all of the $30,000 in taxes her ex-husband owed the Federal Government.

The IRS rejected her plea for relief under the innocent spouse provision in the Tax Code because she had signed the joint tax returns. Her ex-husband is now off the hook, having settled with the IRS for about $5,000. Meanwhile, this divorcee currently owes the IRS $20,000, a burden that could affect her for the rest of her life. She says she feels like she's being punished for being a good citizen and for working hard. It certainly looks that way to me, too.

We owe it to the hardworking citizens of our country to prevent the IRS from unfairly pushing them around. Most people come away from a confrontation with the IRS feeling bruised and battered. This legislation at least will give them a fighting chance—it includes more than 30 items that give the taxpayers rights and powers in dealing with the IRS. Some of these provisions will help ensure that divorced filers are not victimized.

I urge my colleagues in the House to vote in favor of passage of this Taxpayer Bill of Rights—it will guard against unreasonable IRS positions and protect the rights of taxpayers.

Mr. PACKARD. Mr. Speaker, few things are scarier than getting into a dispute with the IRS. They truly believe that they are above the law and all too often taxpayers have no recourse.

During April, working Americans struggle to fill out complicated U.S. tax forms, enduring great anxiety and paying out large sums of money to accountants, just to guarantee that they are giving Uncle Sam the appropriate and expected amount. And when there is a dispute or audit, taxpayers—right or wrong—always end up paying the price. Ironically the IRS' own annual reports admit a high rate of errors and the IRS telephone information service gives out wrong answers as much as one-third of the time.

My Republican colleagues and I are committed to changing that. The taxpayer bill of rights that we consider today makes it harder for the IRS to demand America's hard-working families pay for the IRS' own mistakes. The more than 30 protections in this bill will waive interest charges when the IRS is at fault for tax underpayment. It extends time for taxpayers to pay delinquent taxes without being subject to interest and penalties. It allows taxpayers to sue the IRS for reckless collection actions and there are dozens of other taxpayer protections included in this measure.

Mr. Speaker, our tax system has veered out of control. My Republican colleagues and I

know America needs tax reform and the debate will begin in earnest this week. Because, it will not happen overnight, we must provide tax relief now to America's families. The taxpayer bill of rights does that and more. It proves to our taxpayers that the Republican-led Congress is committed to returning fiscal responsibility to Washington.

Mrs. MINK of Hawaii. Mr. Speaker, I rise in support of H.R. 2337, the Taxpayer Bill of Rights Act, which represents significant advancement toward fair treatment of taxpayers under the Internal Revenue Code by the Internal Revenue Service.

I am particularly in favor of a section that embodies the intent of a bill that I introduced last year, H.R. 331, which would require the Federal Government to consider as having arrived on time any sealed bid for the procurement of goods or services, if the bid was sent by an overnight message delivery service at least 2 business days before the date specified for receipt of bids.

Current procurement law states that late bids cannot be considered for awards unless they were one, sent by registered or certified mail no later than 5 days before the bids receipt deadline, two, proven to have been delivered late due to mishandling by the receiving Government agency, or three, sent by U.S. Postal Service Express Mail Next Day Service no later than 2 business days prior to bid receipt deadline. This provision excludes from this portion of the procurement process the use of private delivery services, such as United Postal Service and Federal Express, despite the fact that these companies have proven trustworthy and reliable in overnight package delivery, not only meeting but in many cases exceeding the abilities of the U.S. Postal Service.

Similarly, Internal Revenue Code §7502 was recently interpreted by the Ninth Circuit U.S. Court of Appeals (*V.L. Correia*, 58 F.3d 468 (1995)) that only the date of actual delivery to the IRS or Tax Court by private delivery service is applicable, rather than the date of mailing as in cases of delivery by the U.S. Postal Service. Section 1210 of the bill before us would allow the Secretary of the Treasury to expand this timely mailing as timely-filing section to the use of private delivery companies that meet specified criteria. A significant number of American taxpayers every year attempt to submit their income tax returns to the IRS through a private delivery service, only to find this inadequate to demonstrate timely filing of their returns.

I urge my colleagues full support of this provision, as well as my bill, H.R. 331.

Mr. KLECZKA. Mr. Speaker, 8 years ago, the first "Taxpayer Bill of Rights" passed which created a more level playing field between citizens and the IRS with safeguards to protect taxpayers. The legislation gave taxpayers the right to sue the IRS for actions taken by its agents, provided financially troubled taxpayers the right to seek an installment tax payment plan, and enabled taxpayers who prevail over the IRS in court to seek reimbursement for part of their attorney fees in some circumstances.

Although this 1988 legislation was a step in the right direction, more can be done to help taxpayers. The "Taxpayer Bill of Rights II," which I strongly supported in the Ways and Means Committee, contains over two dozen provisions to give taxpayers further protection. This bill will expand the power of the IRS Taxpayer Ombudsman to issue protective orders to help taxpayers, mandate that the IRS take reasonable steps to corroborate third-party information disputed by a taxpayer, and give the IRS the authority to waive the interest on late tax payments in cases where there is a valid reason for such payment. Additionally, the bill would increase to $1 million the civil damages for which a taxpayer could sue the IRS in cases of unauthorized collections.

The vast majority of citizens are responsible taxpayers who deserve the additional rights and safeguards that the Taxpayer Bill of Rights II will provide. I hope that Congress will quickly pass, and the President sign this meaningful bill. I urge a "yea" vote.

Ms. DUNN of Washington. Mr. Speaker, I rise in strong support of H.R. 2337, the Taxpayer Bill of Rights II and urge its adoption.

All too often "tax fairness" usually refers almost solely to whether Government is seizing the right amount of money from different economic classes—not how the tax collectors are treating the individual citizen.

Under U.S. law, Americans are innocent until proven guilty. Yet, when an individual taxpayer deals with the IRS, the taxpayer is guilty until he or she proves their innocence.

Over the past few months, I have heard from literally hundreds of constituents who have described to me numerous problems they see with our system of taxation. A common theme has been the intrusive nature of the Internal Revenue Service [IRS] and the enormous compliance burdens imposed on individuals.

This measure gives taxpayers a helping hand if they find themselves at odds with the IRS. The American taxpayer will be empowered with more than 30 protections in dealing with the IRS.

In addition to these protections, I will continue to work for the inclusion of an additional provision in the final version of this legislation that I have been working on within the Ways and Means Committee.

Specifically, the bipartisan provision, which I am sponsoring along with my colleague, Mr. MATSUI, would permit "equitable tolling" application in tax refund cases.

My interest in this area was precipitated by a highly publicized court case in which a 93-year-old senile man, Stanley McGill, overpaid his taxes in 1984. After Mr. McGill's death in 1988, Marian Brockamp found her late father's canceled check to the IRS in a pile of receipts. In fact, Mr. McGill owed the IRS $700—not $7,000. Mrs. Brockamp asked the IRS for a refund.

Although the agency acknowledged the mistake, it refused to return the money, claiming the 3-year statue of limitations on refund claims had expired.

But Brockamp's attorney argued that the time set aside for suing the Government should be extended under the legal doctrine known as equitable tolling—which is invoked in cases where a taxpayer is disabled.

A Federal judge in Los Angeles rejected that argument in 1993, but the 9th U.S. Circuit Court of Appeals overruled the lower court in June 1995, calling the IRS refusal unconscionable.

The Justice Department has appealed the decision to the Supreme Court.

This is just one example of an outrageous injustice that my commonsense change of law is intended to end.

H.R. 2337, the Taxpayer Bill of Rights II, will help the average American, who might have made an honest mistake in underestimating his taxes due by providing him a little more time to prove it was an honest mistake.

The new majority in this Congress is working on commonsense ways to give taxpayers a break. In fact, the Taxpayers Bill of Rights II itself is simply a long overdue exercise in common sense. Will Rogers once said, "Common sense ain't that common." Well, like everything else, common sense is making a comeback.

Mr. ALLARD. Mr. Speaker, Congress has passed a new Taxpayers' Bill of Rights to help level the playing field between our citizens and the IRS.

The Tax Code is long and complicated, and taxpayers make legitimate mistakes on their returns. When folks make honest mistakes, they shouldn't be exposed to what often boils down to bullying and harassment by the IRS.

The Taxpayers' Bill of Rights reforms numerous tax collecting operations of the IRS to protect taxpayers. Foremost is the creation of a taxpayer advocate, who must assist taxpayers in resolving and preventing problems with the IRS. The advocate also can require the IRS to meet deadlines in performing tasks for taxpayers.

Other important provisions include changes in terminating tax payment plans, waiving interest and penalties, and awarding costs and fees in legal disputes.

Many people view the IRS as a massive bureaucracy that acts without proper authority. This important bill makes a number of changes to protect people who have legitimate grievances with the IRS, while ensuring that taxes are collected fairly.

This bill was adopted just 1 day after the House unfortunately failed to approve a tax amendment to the U.S. Constitution. The amendment would have required a full two-thirds of the House or Senate vote to approve any legislation that would increase personal, business, or other Federal taxes.

Although I am disappointed the amendment failed, I am pleased by the broad support it did receive.

Congress has proven time and again that it cannot control its urge to raise taxes. The amendment would have created more accountability and would have forced Congress to work in a more bipartisan manner on tax issues.

Passage of the second Taxpayers' Bill of Rights helps take away some of the sting from the failure of the tax amendment.

The SPEAKER pro tempore (Mr. CAMP). The question is on the motion offered by the gentlewoman from Connecticut [Mrs. JOHNSON] that the House suspend the rules and pass the bill, H.R. 2337, as amended.

The question was taken.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I object to the vote on the

VOL
142
PT
6
AP
15
—
24
1996
UMI

ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

EXTENSION OF FREE TRADE BENEFITS TO WEST BANK AND GAZA STRIP

Mr. SHAW. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3074) to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone.

The Clerk read as follows:

H.R. 3074

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL PROCLAMATION AUTHORITY.

The United States-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 2112 note) is amended by adding at the end the following new section:

"SEC. 9. ADDITIONAL PROCLAMATION AUTHORITY.

"(a) ELIMINATION OR MODIFICATIONS OF DUTIES.—The President is authorized to proclaim elimination or modification of any existing duty as the President determines is necessary to exempt any article from duty if—

"(1) that article is wholly the growth, product, or manufacture of the West Bank, the Gaza Strip, or a qualifying industrial zone or is a new or different article of commerce that has been grown, produced, or manufactured in the West Bank, the Gaza Strip, or a qualifying industrial zone;

"(2) that article is imported directly from the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone; and

"(3) the sum of—

"(A) the cost or value of the materials produced in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone, plus

"(B) the direct costs of processing operations performed in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone, is not less than 35 percent of the appraised value of the product at the time it is entered into the United States.

For purposes of determining the 35 percent content requirement contained in paragraph (3), the cost or value of materials which are used in the production of an article in the West Bank, the Gaza Strip, or a qualifying industrial zone, and are the products of the United States, may be counted in an amount up to 15 percent of the appraised value of the article.

"(b) APPLICABILITY OF CERTAIN PROVISIONS OF THE AGREEMENT.—

"(1) NONQUALIFYING OPERATIONS.—No article shall be considered a new or different article of commerce under this section, and no material shall be included for purposes of determining the 35 percent requirement of subsection (a)(3), by virtue of having merely undergone—

"(A) simple combining or packaging operations, or .

"(B) mere dilution with water or with another substance that does not materially alter the characteristics of the article or material.

"(2) REQUIREMENTS FOR NEW OR DIFFERENT ARTICLE OF COMMERCE.—For purposes of subsection (a)(1), an article is a 'new or different article of commerce' if it is substantially transformed into an article having a new name, character, or use.

"(3) COST OR VALUE OF MATERIALS.—(A) For purposes of this section, the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone includes—

"(i) the manufacturer's actual cost for the materials;

"(ii) when not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

"(iii) the actual cost of waste or spoilage, less the value of recoverable scrap; and

"(iv) taxes or duties imposed on the materials by the West Bank, the Gaza Strip, or a qualifying industrial zone, if such taxes or duties are not remitted on exportation.

"(B) If a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of—

"(i) all expenses incurred in the growth, production, or manufacture of the material, including general expenses;

"(ii) an amount for profit; and

"(iii) freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

If the information necessary to compute the cost or value of a material is not available, the Customs Service may ascertain or estimate the value thereof using all reasonable methods.

"(4) DIRECT COSTS OF PROCESSING OPERATIONS.—(A) For purposes of this section, the 'direct costs of processing operations performed in the West Bank, Gaza Strip, or a qualifying industrial zone' with respect to an article are those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly, of that article. Such costs include, but are not limited to, the following to the extent that they are includible in the appraised value of articles imported into the United States:

"(i) All actual labor costs involved in the growth, production, manufacture, or assembly of the article, including fringe benefits, on-the-job training, and costs of engineering, supervisory, quality control, and similar personnel.

"(ii) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the article.

"(iii) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the article.

"(iv) Costs of inspecting and testing the article.

"(B) Those items that are not included as direct costs of processing operations with respect to an article are those which are not directly attributable to the article or are not costs of manufacturing the article. Such items include, but are not limited to—

"(i) profit; and

"(ii) general expenses of doing business which are either not allocable to the article or are not related to the growth, production, manufacture, or assembly of the article, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

"(5) IMPORTED DIRECTLY.—For purposes of this section—

"(A) articles are 'imported directly' if—

"(i) the articles are shipped directly from the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel into the United States without passing through the territory of any intermediate country; or

"(ii) if shipment is through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of any intermediate country and the invoices, bills of lading, and other shipping documents specify the United States as the final destination; or

"(B) if articles are shipped through an intermediate country and the invoices and other documents do not specify the United States as the final destination, then the articles in the shipment, upon arrival in the United States, are imported directly only if they—

"(i) remain under the control of the customs authority in an intermediate country;

"(ii) do not enter into the commerce of an intermediate country except for the purpose of a sale other than at retail, but only if the articles are imported as a result of the original commercial transactions between the importer and the producer or the producer's sales agent; and

"(iii) have not been subjected to operations other than loading, unloading, or other activities necessary to preserve the article in good condition.

"(6) DOCUMENTATION REQUIRED.—An article is eligible for the duty exemption under this section only if—

"(A) the importer certifies that the article meets the conditions for the duty exemption; and

"(B) when requested by the Customs Service, the importer, manufacturer, or exporter submits a declaration setting forth all pertinent information with respect to the article, including the following:

"(i) A description of the article, quantity, numbers, and marks of packages, invoice numbers, and bills of lading.

"(ii) A description of the operations performed in the production of the article in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel and identification of the direct costs of processing operations.

"(iii) A description of any materials used in production of the article which are wholly the growth, product, or manufacture of the West Bank, the Gaza Strip, a qualifying industrial zone, Israel or United States, and a statement as to the cost or value of such materials.

"(iv) A description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in the article which are claimed to have been sufficiently processed in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel so as to be materials produced in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel.

"(v) A description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in the West Bank, the Gaza Strip, or a qualifying industrial zone.

"(c) SHIPMENT OF ARTICLES OF ISRAEL THROUGH WEST BANK OR GAZA STRIP.—The President is authorized to proclaim that articles of Israel may be treated as though they were articles directly shipped from Israel for the purposes of the Agreement even if shipped to the United States from the West Bank, the Gaza Strip, or a qualifying industrial zone, if the articles otherwise meet the requirements of the Agreement.

"(d) TREATMENT OF COST OR VALUE OF MATERIALS.—The President is authorized to proclaim that the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the cost or value of materials produced in Israel under section 1(c)(i) of Annex 3 of the Agreement, and the direct costs of processing operations performed in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the direct costs of processing operations performed in Israel under section 1(c)(ii) of Annex 3 of the Agreement.

"(e) QUALIFYING INDUSTRIAL ZONE DEFINED.—For purposes of this section, a 'qualifying industrial zone' means any area that—

"(1) encompasses portions of the territory of Israel and Jordan or Israel and Egypt;

"(2) has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and

"(3) has been specified by the President as a qualifying industrial zone.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. SHAW] and the gentleman from New York [Mr. RANGEL] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. SHAW].

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include therein extraneous material on the bill, H.R. 3074.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to introduce, along with the gentleman from Illinois [Mr. CRANE], the Gaza Strip-West Bank bill. This is a noncontroversial bill that received great bipartisan support when we marked it up previously in the Ways and Means Committee. It is also supported by the administration. The provisions of this bill will permit the President to eliminate or modify any existing duty on products that are produced in the Gaza Strip-West Bank area.

In light of the recent occurrences in Israel, this bill is most timely and will aid in the peace process. Since February 25, suicide bombers have killed five innocent civilians. The Israelis and Palestinians want peace for their people, security for every citizen and hope that they can peacefully coexist. It is very important for the United States and this Congress to show their collective will that they will do all they can do to further the peace process. The passage of this bill will send a very clear signal to the international community that we support normalized relations between the Israelis and the Palestinians.

The provisions of this bill will strengthen the Israeli and Palestinian relation by providing economic and employment relief to that area and it will help the establishment of a Palestinian State. I urge all of my colleagues to support this most important piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise as an original cosponsor in strong support of H.R. 3074. This legislation would authorize the President to proclaim duty-free treatment for products of the West Bank, the Gaza Strip, and industrial zones that may be created in the region. Similar treatment is granted products of Israel under the United States-Israel free-trade agreement implemented in 1985. In return, the Palestinians have agreed to provide duty-free access to United States products, to prevent illegal transshipments, and to support an end to the Arab boycott of Israel.

This legislation is supported by the Israeli Government. The administration supports extension of duty-free treatment as part of the Mideast peace process to promote investment and economic development in the region.

I am not aware of any opposition to this bill, and urge its passage.

Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank my good friend from New York for yielding time to me.

Mr. Speaker, I support this legislation and will support this legislation, but I really feel that this ought to be used as an explanation to what has been happening in the Middle East. Everyone supports investment and economic development in the West Bank and Gaza Strip. We know ultimately that that is really the only way that peace is going to survive in the Middle East.

However, Chairman Yasser Arafat and the PLO have promised repeatedly to amend the covenants of the PLO charter which call for the destruction of Israel. And in the recently concluded agreement to which they signed, they agreed that 2 months after the Palestinian elections were held that the Palestine National Council would meet and would amend the covenants, would take out the part that calls for Israel's destruction. That date is fast approaching. That date will come on May 7, and, much to my chagrin, I have not yet heard the positive signs that I would like to hear that that May 7 deadline will be kept.

Several weeks ago, Mr. Speaker, I circulated a letter along with my colleague, the gentleman from New Jersey [Mr. SAXTON], which was signed by over 100 Members of the House, bipartisan Members of the House. It was a letter to Yasser Arafat telling him that according to the law of which we provide aid to the Palestinian entity that all aid must cease unless those covenants are amended and that the May 7 deadline is fast approaching.

We implored, we pleaded with Chairman Arafat to give us a commitment that that deadline would be met. Last week, I received a replay from Chairman Arafat and, much to my chagrin, he did not even mention the covenants in his reply to our letter, although our letter specifically was about amending those covenants. He talked about the peace process. he talked about normalization, but he did not address the issue of the covenants.

Now, the gentleman from New Jersey [Mr. SAXTON] and I are sending another letter to him, asking him to please address the issue of the covenants and to please give us assurances that he will keep his word. I must say, Mr. Speaker, that, if May 7 comes and goes and those covenants are not amended, it will be very difficult for me to continue to support continued aid to the Palestinian entity, to the Palestinian authority.

I believe that peace agreements are good, but I believe that both sides must keep their agreement. And as cochair of the peace monitoring accord group along with the gentleman from New Jersey [Mr. SAXTON], we intend to make sure that all parties comply with the agreement that they signed.

We are not telling the parties what to sign. We are not telling the parties what to do. All we are saying is that the parties need to keep their word. They need to adhere to the agreement that they signed. And I think the issue of the covenants are a very, very important issue.

Mr. Speaker, it is very, very difficult to believe that somebody really wants peace if they habitually refuse or ignore calls to amend the covenant calling for the destruction of one side, in this case the destruction of the State of Israel. So I think the time has long past. It has now been several years. And those covenants really, really need to be amended. And again according to United States law, no aid can continue to the Palestinians unless those covenants are changed.

Let me finally say about this that it is not enough, I think, to just pass something and say well, this supersedes. We want those covenants abrogated. We want them eliminated. We do not want some whitewashing of them and somehow trying to fudge the issue or to allow Mr. Arafat to speak out of both sides of their mouth.

Mr. Speaker, I support the peace process fully. I think the suicide bombings have brought a sense of reality to the peace process, but peace must continue and must go on. I think what is going on in Lebanon today and for the past several days also is a sobering realization that there are many, many

VOL
142
PT
6
AP
15
—
24
1996
UMI

people that want to destroy the peace process. The Hezbollah are guerrillas, the so-called Party of God, the people who are rejecting it on the Palestinian side.

We need to persevere. But in order to have a real peace, Mr. Speaker, I believe that both sides must keep their agreement. And I say it again and I say it for all to hear, to Mr. Arafat, you must abrogate those covenants calling for Israel's destruction or American aid will cease. Now, I support this because again I think free-trade benefits to the West Bank and Gaza Strip are important. But again, these benefits and all benefits will stop if those covenants are not abrogated.

Mr. SHAW. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE], chairman of the Subcommittee on Trade of the Committee on Ways and Means.

Mr. CRANE. Mr. Speaker, I am pleased to rise today in support of H.R. 3074, legislation that would provide the President proclamation authority to modify tariffs on products from the West Bank, Gaza Strip, and qualifying industrial zones. I introduced this bill, together with my colleagues Mr. SHAW and Mr. RANGEL, because I believe it will go a long way to improve the tense situation in the Middle East. This bipartisan bill was reported favorably out of the Ways and Means Committee by voice vote without amendment on March 14 and enjoys the full support of the administration.

Specifically, the effect of the provision is to offer to goods from the West Bank, Gaza Strip, and qualifying industrial zones the same tariff treatment as is offered to Israel under the United States-Israel Free-Trade Agreement. In exchange for this preferential tariff treatment, the Palestinian Authority has agreed to accord United States products duty-free access to the West Bank and Gaza Strip, to prevent illegal transshipment of goods not qualifying for duty-free access, and to support all efforts to end the Arab economic boycott of Israel.

I believe that granting duty-free treatment for goods produced in these zones in exchange for the commitment by the Palestinian Authority is important to the Middle East peace process. In addition, it will increase employment and will stimulate the economy of the region. Therefore, I encourage my colleagues to give their full support to this bill.

Mr. RANGEL. Mr. Speaker, I just want to urge the adoption of this legislation. As I said earlier, it is supported by both sides of the aisle and the President.

Mr. Speaker, I yield back the balance of my time.

Mr. ARCHER. Mr. Speaker, I am very pleased today to support H.R. 3074. I congratulate my colleagues, Chairman CRANE and Mr. SHAW, in working hard to bring this important piece of legislation before the House today. This bill enjoys bipartisan support and is noncontroversial.

H.R. 3074 would permit the expansion of preferential tariff treatment in the Middle East, specifically to goods from the West Bank, Gaza Strip, and qualifying industrial zones in the area. This provision would implement an agreement with the Palestinian authority that would benefit United States Interests because United States products would also be accorded duty free access to these areas and steps would be taken to end illegal transshipment of goods not qualifying for such treatment. In addition, the Palentinian authority has agreed to support all efforts to end the Arab economic boycott of Israel.

Although the impact of this legislation will not cover a large dollar amount of trade, I believe that it sends an important signal to encourage the Middle East peace process. I have always said that free trade is the most effective public policy tool that we possess to increase peace and prosperity in our society. This legislation is part of that process. I urge my colleagues to vote for H.R. 3074.

Mr. SHAW. Mr. Speaker, I join with my colleague and good friend, the gentleman from New York [Mr. RANGEL], and ask for a "yes" vote on this important piece of legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. SHAW] that the House suspend the rules and pass the bill, H.R. 3074.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—RETURNING TO THE SENATE S. 1463

Mr. SHAW. Mr. Speaker, I rise to a question on the privileges of the House and I offer a resolution (H. Res. 402) returning to the Senate the bill S. 1463.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 402

Resolved, That the bill of the Senate (S. 1463) to amend the Trade Act of 1974 to clarify the definitions of domestic industry and like articles in certain investigations involving perishable agricultural products, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore. The resolution constitutes a question of the privileges of the House.

Under the rule, the gentleman from Florida [Mr. SHAW] will be recognized for 30 minutes, and the gentleman from New York [Mr. RANGEL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. SHAW].

□ 1300

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution is necessary to return to the Senate the bill S. 1463, because it contravenes the constitutional requirement that revenue measures shall originate in the House of Representatives. S. 1463 would create a new basis for applying import restrictions, and therefore contravenes this constitutional requirement.

S. 1463 proposes to amend title II of the Trade Act of 1974, which sets forth the authority and procedures for the President to provide temporary import relief to a domestic industry which has been seriously injured by imports. Under the so-called "safeguard" statute, the International Trade Commission conducts an investigation upon request, and, if appropriate, makes a recommendation to the President regarding what action would address the injury to the industry. This action may include a tariff, tariff-rate quota, quantitative restriction, or adjustment measures. The President then must determine what action, if any, is appropriate. The actions authorized to be taken by the President include a duty, tariff-rate quota, quantitative restriction, adjustment measure, or negotiation of trade agreements limiting imports into the United States.

S. 1463 changes this authority and procedure by authorizing the ITC to limit its investigation with respect to a domestic agricultural product produced within a particular growing season. As a result, S. 1463 changes the predicate necessary for achieving access to the desired trade remedy, which takes for form of an import restriction. As a result, the proposed change would allow products which do not currently qualify for import relief to be able to qualify in the future. This would have the effect of creating a new basis and mechanism for applying import restrictions under authority granted to the President, which is not currently available.

Import relief granted under this new authority would have a direct effect on customs revenues. The proposed change in our tariff laws is a "revenue affecting" infringement in the House's prerogatives, which constitutes a revenue measure in the constitutional sense. Therefore, I am asking that the House insist on its constitutional prerogatives.

There are numerous precedents for the action I am requesting. For example, on March 21, 1996, the House returned to the Senate S. 1518, repealing an existing import restriction in the Tea Importation Act of 1897. On July 21, 1994, the House returned to the Senate S. 729, prohibiting the import of

specific products which contain more than specified quantities of lead.

On February 25, 1992, the House returned to the Senate S. 884, requiring the President to impose sanctions, including import restrictions, against countries that fail to eliminate large-scale driftnet fishing. On October 31, 1991, the House returned to the Senate S. 320, including provisions imposing, or authorizing the imposition of a ban on imports in connection with export administration. On September 23, 1988, the House returned to the Senate S. 2662, imposing import quotas on textiles and footwear products.

I want to emphasize that this action does not constitute a rejection of the Senate bill on its merits. Adoption of this privileged resolution to return the bill to the Senate should in no way prejudice its consideration in a constitutionally acceptable manner.

In fact, I introduced companion legislation, H.R. 2795, on December 15, 1995, in order to address the identical issues by S. 1463. In addition, at my request, the Ways and Means Subcommittee on Trade will be holding a hearing on H.R. 2795 on April 25.

Accordingly, the proposed action today is purely procedural in nature, and is necessary to preserve the prerogatives of the House to originate revenue matters. It makes it clear to the Senate that the Appropriate procedure for dealing with revenue measures is for the House to act first on a revenue bill, and for the Senate to accept it or amend it as it sees fit.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank the gentleman from Florida [Mr. SHAW] for yielding this time to me.

I rise in strong support of what the gentleman from Florida is trying to do primarily because of the casualties. We are suffering unnecessary casualties. There are things we can do to repair that damage, and the gentleman from Florida [Mr. SHAW] has the right answer.

Mr. Speaker, Florida winter fruit and vegetable growers are being drowned in a flood of cheap Mexican produce. While current U.S. laws allow other industries in this position to seek relief under a GATT and NAFTA legal escape clause, this option is not really open to our growers because of the seasonal nature of their industry. In January, the Florida delegation made a bipartisan push to attach language to the continuing resolution to correct this technical, definitional problem in section 202 of the 1974 Trade Act. While these efforts hit a snag in the House, Florida's Senators were able to join forces to pass a stand-alone measure in the Senate.

Today, S. 1463 is being blue-slipped on procedural grounds because it is the prerogative of the House to originate revenue measures. The members of the Florida delegation respect the need to proceed under the regular rules of the House, but believe that this measure must be moved forward. For this reason, we are pleased to see that the House Ways and Means Subcommittee on Trade will be holding hearings on Representative SHAW's section 202 fix next week. From there, we hope to see the measure return quickly to this floor for full consideration. We hope that when this measure emerges from committee for a vote, you will join us in giving fair treatment to American farmers.

Florida growers perform a unique function for this country by competing head-to-head—not with other American producers, but with foreign producers—to provide winter fruits and vegetables for Americans. They deserve our support.

Mr. SHAW. Mr. Speaker, at this time I have no additional speakers. I compliment the Senators and the Senate for the passage of this bill, and hopefully they can expeditiously pass it in the final analysis.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXTENSION OF FEDERAL POWER ACT DEADLINE FOR PROJECT IN KENTUCKY

Mr. SCHAEFER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2501) To extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2501

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 10228, the Commission shall, at the request of the licensee for the project and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project, under the extension described in subsection (b), for not more than 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the expiration of the extension of the period required for commencement of construction of the project described in subsection (a) that the Commission issued, prior to the date of enactment of this Act, under section 13 of the Federal Power Act (16 U.S.C. 806).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from New Jersey [Mr. PALLONE] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

GENERAL LEAVE

Mr. SCHAEFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2501, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SCHAEFER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, these bills extend the deadline for construction of hydroelectric projects in the States of Illinois, Kentucky, North Carolina, Ohio, and Pennsylvania. Under section 13 of the Federal Power Act, project construction must begin within 4 years of the issuance of the license. If the licensee has not begun construction by that time, the Federal Energy Regulatory Commission cannot extend the deadline and must terminate the license.

These types of bills have not been controversial in the past, and the bills we are considering today were reported out of the Commerce Committee by unanimous voice vote. The bills do not alter the license requirements in any way and do not change environmental standards, but merely extend the Federal Power Act deadline for construction.

There is a need to act, since the construction deadlines for some of the projects have already expired. If Congress does not act, the Commission will terminate the licenses, the project sponsors will lose millions of dollars they have invested in the projects, and communities will lose the prospect of significant job creation and added revenues.

The principal reason construction of these projects has not commenced is the lack of a power sales contract. In order to finance a hydroelectric project, a sponsor typically requires a power sales contract to obtain financing necessary to begin construction. However, due to the sweeping changes in the electric industry today, many utilities are reluctant to sign the long-term purchase contracts. These bills give licensees additional time to obtain financing.

I should also note that the bills incorporate the views of the Federal Energy Regulatory Commission. The Energy and Power Subcommittee solicited the views of FERC, and amended the legislation to limit extensions to 10 years, as recommended by the Commission.

I would like to briefly describe the first of the bills, H.R. 2501, a bill to extend the deadline for commencement of construction of a hydroelectric project in Kentucky. This 80-megawatt project would be located at an existing Army Corps of Engineers dam on the Ohio

VOL 142 PT 6 AP 15 — 24 1996 UMI

River in Hancock County, KY. The construction deadline expired on June 20, 1995, and if we do not act the Commission will terminate the license. According to the project sponsor, the lack of a power sales contract has prevented construction. FERC has not expressed opposition to H.R. 2501, since it includes limitations on the extension. The legislation was introduced by our colleague, Representative RON LEWIS of Kentucky.

I urge my colleagues to support H.R. 2501.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Colorado went into the details of why these bills have been brought to the floor today and why it is important that we move on them. In each case they are supported on a bipartisan basis, and I certainly support them because of the limitations set in the Federal Power Act. We basically have a tradition in this House on a bipartisan basis of moving these noncontroversial license extensions, and I am pleased that we are continuing that tradition today by taking up these bills. They were reported out without dissent, and I do support each of them.

Mr. Speaker, I yield back the balance of my time.

Mr. SCHAEFER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. SCHAEFER] that the House suspend the rules and pass the bill, H.R. 2501, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXTENSION OF FEDERAL POWER ACT DEADLINE FOR A PROJECT IN ILLINOIS

Mr. SCHAEFER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2630) to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois, as amended.

The Clerk read as follows:

H.R. 2630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE FOR HYDROELECTRIC PROJECT IN THE STATE OF ILLINOIS.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project unnumbered 3246, the Commission shall, at the request of the licensee for the project, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend until October 15, 1997, the time period during which the licensee is required to commence construction of the project.

(b) APPLICABILITY.—Subsection (a) shall take effect on the expiration of the extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the period required for commencement of construction of the project described in subsection (a).

(c) REINSTATEMENT OF LICENSE.—The Commission is authorized to reinstate the license for the project referred to in section (a), effective as of the date of its expiration or termination.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from New Jersey [Mr. PALLONE] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

GENERAL LEAVE

Mr. SCHAEFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2630, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SCHAEFER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2630 as amended directs the Federal Energy Regulatory Commission to extend the deadline for construction of a hydroelectric project in Illinois. This 78-megawatt project would be located at an existing Corps of Engineers dam on the Mississippi River, in St. Charles County, MO, and Madison County, IL. There was a previous legislative extension of the construction period for this project in the 1991 highway bill. There is good reason to act on H.R. 2630 in a timely manner, since the construction deadline expired on October 15, 1995, and FERC has issued a notice of probable termination. This bill was introduced by our colleague, Representative JERRY COSTELLO of Illinois.

I urge my colleagues to support H.R. 2630.

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Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would indicate support on our side of the aisle for the bill. The gentleman from Illinois [Mr. COSTELLO] was here before and asked, of course, that it be moved.

Mr. COSTELLO. Mr. Speaker, I rise today in support of H.R. 2630, legislation to extend the deadline for beginning construction on a hydroelectric project in southwestern Illinois. The Federal Power Act requires construction of a hydroelectric project to begin within 2 years after the Federal Energy Regulatory Commission [FERC] issues a license. FERC can grant one additional extension, which it has already done. This bill will extend the time period in which construction must begin by 2 years.

This project is important to meet the energy and economic needs of southwestern Illinois. This region of my district has seen tremendous job loss and a shrinking tax base due to reduced job opportunities in manufacturing. Royalties from power sales will provide revenue to the local city for capital improvements and other projects which will positively impact area employment.

The project has been planned in a way that addresses potential environmental concerns. The current proposal utilizes a turbine design, which will reduce the plant's impact on fish and other aquatic life. In fact, the fishways to be constructed upstream and downstream from the plant will actually improve fishing access for anglers.

I urge my colleagues to support this extension of time allowed to construct a hydroelectric power facility in southwestern Illinois.

Mr. PALLONE. Mr. Speaker, I yield back the balance of my time.

Mr. SCHAEFER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). The question is on the motion offered by the gentleman from Colorado [Mr. SCHAEFER] that the House suspend the rules and pass the bill, H.R. 2630, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXTENSION OF FEDERAL POWER ACT DEADLINE FOR PROJECTS IN PENNSYLVANIA

Mr. SCHAEFER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2695) to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania, as amended.

The Clerk read as follows:

H.R. 2695

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

(a) EXTENSION.—Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C. 806), upon the request of the licensee for the project concerned, and after reasonable notice, the Federal Energy Regulatory Commission shall, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, extend the time required for commencement of construction of each of the following projects until September 26, 1999:

(1) FERC Project No. 4474.

(2) FERC Project No. 7041.

(b) EFFECTIVE DATE.—This section shall take effect for the project upon the expiration of the extension (issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806)) of the period required for commencement of construction of the project concerned.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from New Jersey [Mr. PALLONE] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

GENERAL LEAVE

Mr. SCHAEFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2695, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SCHAEFER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2695, as amended, directs the Federal Energy Regulatory Commission to extend the deadline for commencement of construction of two hydro projects in Pennsylvania. These projects would be constructed at existing Army Corps of Engineer dams on the Allegheny and Ohio Rivers, and would have capacities of 12 and 20 megawatts. There is a need to act on this legislation, since the construction deadline for both projects expired on April 15, 1995. According to the project sponsors, construction has not commenced for lack of a power purchase agreement. H.R. 2695 was introduced by our colleague, Representative RON KLINK of Pennsylvania.

I urge my colleagues to support H.R. 2695.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to thank the gentleman for moving H.R. 2695, which deals with the two hydroelectric projects in the State of Pennsylvania. This bill is sponsored by the gentleman from Pennsylvania [Mr. KLINK] who is a member of our committee. It passed unanimously, and I would urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. SCHAEFER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. SCHAEFER] that the House suspend the rules and pass the bill, H.R. 2695, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXTENSION OF FEDERAL POWER ACT DEADLINE FOR PROJECTS IN NORTH CAROLINA

Mr. SCHAEFER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2773) to extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

(a) PROJECT NUMBERED 10812.—

(1) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 10812, the Commission shall, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project, under the extension described in paragraph (2), for not more than 3 consecutive 2-year periods.

(2) EFFECTIVE DATE.—This subsection shall take effect on the date of the expiration of the extension of the period required for commencement of construction of the project described in paragraph (1) that the Commission issued, prior to the date of enactment of this Act, under section 13 of the Federal Power Act (16 U.S.C. 806).

(b) PROJECT NUMBERED 6879.—

(1) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 6879, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for not more than 3 consecutive 2-year periods.

(2) EFFECTIVE DATE.—This subsection shall take effect on the date of the expiration of the period required for commencement of construction of the project under the license for the project.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from New Jersey [Mr. PALLONE] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

GENERAL LEAVE

Mr. SCHAEFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2773, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SCHAEFER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2773, as amended, directs the Federal Energy Regulatory Commission to extend the deadline for construction of two projects in North Carolina. The first project is a 4.8-megawatt project to be located at an existing Army Corps of Engineers dam on the Yadkin River in Wilkes County, NC. The second project is an 815-kilowatt project to be located at an existing private dam on the Second Broad River in Rutherford County, NC. There is a need to act on this legislation, since the deadline for commencement of construction of the two projects expired on October 28, 1994, and March 20, 1995. Moreover, the Commission has issued a notice of probable termination for one of the projects. This legislation is not opposed by FERC, since it includes limitations on the extensions. The measure was introduced by our colleague, Representative SUE MYRICK of North Carolina.

I urge my colleagues to support H.R. 2773.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we also support this bill on our side of the aisle, and urge its adoption.

Mrs. MYRICK. Mr. Speaker, I proposed H.R. 2773 as a regulatory relief bill for two of America's many entrepreneurs.

H.R. 2773 extends the construction license for two hydroelectric plants in North Carolina. Extending these deadlines allows these two individuals to participate in the fastest growing sector of our economy, small business. For example, Mr. Daniel Evans of Kings Mountain, N.C., a constituent of mine, has successfully worked to raise the capital on his own—no government handouts—and line up the purchasing of the land for this noteworthy project.

This example of self-initiative shows that the entrepreneurial spirit is alive and well in America. I thank my colleagues in the House for voting for H.R. 2773 and showing their support for the small businessmen and businesswomen of this country.

I also want to thank House Commerce Committee Chairman THOMAS BULEY, Commerce Energy and Power Subcommittee Chairman DAN SCHAEFER, and Representative RICHARD BURR of North Carolina for all of their assistance in bringing H.R. 2773 to the House floor. Their tireless efforts are greatly appreciated by myself and all of the citizens of North Carolina who will benefit by having this added source of hydroelectric energy for their use.

Mr. PALLONE. Mr. Speaker, I yield back the balance of my time.

Mr. SCHAEFER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. SCHAEFER] that the House suspend the rules and pass the bill, H.R. 2773, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VOL
142
PT
6
AP
15
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24
1996
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EXTENSION OF FEDERAL POWER ACT DEADLINE FOR PROJECT IN OHIO

Mr. SCHAEFER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2816) to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes.

H.R. 2816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT OF LICENSE AND EXTENSION DEADLINE.

Notwithstanding the expiration of the license and notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 3218, the Commission shall, at the request of the licensee for the project, reinstate the license effective September 25, 1993, and extend the time period during which the licensee is required to commence the construction of the project so as to terminate on September 24, 1999.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from New Jersey [Mr. PALLONE] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

GENERAL LEAVE

Mr. SCHAEFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2816.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SCHAEFER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2816 directs the Federal Energy Regulatory Commission to reinstate the license and extend the deadline for construction of a hydroelectric project in Ohio. This 49-megawatt project is located at an existing Army Corps of Engineers dam on the Ohio River, at Tiltonsville, OH. The deadline for commencement of construction expired on April 15, 1993, and the Federal Energy Regulatory Commission accepted surrender of the license. H.R. 2816 would reinstate the license and extend the construction deadline until September 24, 1999. FERC does not oppose the bill since it limits the extension. This legislation was introduced by our colleague, Representative BOB NEY of Ohio.

I urge my colleagues to support H.R. 2186.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we also support the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SCHAEFER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. NEY].

Mr. NEY. Mr. Speaker, I want to thank my colleague, the gentleman from Colorado, for yielding time to me.

Mr. Speaker, I wanted to point out the importance of H.R. 2816. Of course, as has been stated, it is a bill to extend the deadline for construction of a hydroelectric project in Ohio. It is in Belmont County. It is located at the Pike Island Locks and Dam in our county in Ohio. It will have a very positive impact on the local economy, Mr. Speaker, in this area. The anticipated cost is estimated between $106 million and $130 million, with a cost of approximately $85 million for civic, electrical, and mechanical construction. The Pike Island project would provide between 84 and 139 construction jobs over a 3-year period with a payroll between $10.8 million and $18.6 million.

This project, Mr. Speaker, was brought to our attention by Yorkville, OH in the district of the gentleman from Ohio [Mr. REGULA]. I want to thank him for being a cosponsor.

I also want to point out that this is also an environmentally friendly project. The development of the Pike Island project can satisfy part of the supply-side electrical generating capacity that the region will need to meet its growth. The project will also generate approximately 49.5 megawatts and provide important reductions in the emissions of sulfur dioxide and other airborne pollutants. More importantly for our area, I want to point out that clean air credits will also be generated, which is important in helping to ensure we can burn our region's high-sulfur coal and we can continue to burn the coal that is important for our jobs.

The Pike Island project will also create and preserve local employment, enhance recreational and sporting opportunities for local residents, and will pay considerable taxes and fees. That is for the entire region of Belmont County in Ohio.

Mr. Speaker, also I want to say in closing, I want to thank the county commissioners in Belmont County, Commissioners Beaning, Coyne, and Pollak, and also Don Myers, our director of development, who worked with us on this project. It is a good bill, and I urge support.

Mr. SCHAEFER. Mr. Speaker, I thank my good friend, the gentleman from Ohio [Mr. NEY], for his remarks, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. SCHAEFER] that the House suspend the rules and pass the bill, H.R. 2816.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXTENSION OF FEDERAL POWER ACT DEADLINE FOR PROJECT IN KENTUCKY

Mr. SCHAEFER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2869) to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky, as amended.

The Clerk read as follows:

H.R. 2869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE FOR HYDROELECTRIC PROJECT IN KENTUCKY.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 6641, the Commission shall at the request of the licensee for the project, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend until June 15, 1998, the time period during which the licensee is required to commence construction of the project.

(b) APPLICABILITY.—Subsection (a) shall take effect on the expiration of the extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the period required for commencement of construction of the project described in subsection (a).

(c) REINSTATEMENT OF LICENSE.—The Commission is authorized to reinstate the license for the project referred to in subsection (a), effective as of the date of its expiration or termination.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from New Jersey [Mr. PALLONE] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

GENERAL LEAVE

Mr. SCHAEFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2869.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SHAEFER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2869 directs the Federal Energy Regulatory Commission to extend the license for an 80-megawatt hydroelectric project in Kentucky by 2 years. This project is located at an existing Army Corps of Engineers dam on the Ohio River in Livingston County, KY. There was a previous legislative extension of the construction period for this project in the Energy Policy Act of 1992, which extended the period until June 29, 1996. FERC does not oppose H.R. 2869, because it does not extend the construction period beyond 10 years. The bill was introduced by a member of the

Subcommittee on Energy and Power, Representative ED WHITFIELD of Kentucky.

I urge my colleagues to support H.R. 2869.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, this is a noncontroversial bill, and I would urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. SCHAEFER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. SCHAEFER] that the House suspend the rules and pass the bill, H.R. 2869, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DEPLORING INDIVIDUALS WHO DENY HISTORICAL REALITY OF HOLOCAUST AND COMMENDING WORK OF U.S. HOLOCAUST MEMORIAL MUSEUM

Mr. ENSIGN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 316) deploring individuals who deny the historical reality of the Holocaust and commending the vital, ongoing work of the U.S. Holocaust Memorial Museum.

The Clerk read as follows:

H. RES. 316

Whereas the Holocaust is a basic fact of history, the denial of which is no less absurd than the denial of the occurrence of the Second World War;

Whereas the Holocaust—the systematic, state-sponsored mass murders by Nazi Germany of 6,000,000 Jews, alongside millions of others, in the name of a perverse racial theory—stands as one of the most ferociously heinous state acts the world has ever known; and

Whereas those who promote the denial of the Holocaust do so out of profound ignorance or for the purpose of furthering anti-Semitism and racism: Now, therefore, be it

Resolved, That the House of Representatives—

(1) deplores the persistent, ongoing and malicious efforts by some persons in this country and abroad to deny the historical reality of the Holocaust; and

(2) commends the vital, ongoing work of the United States Holocaust Memorial Museum, which memorializes the victims of the Holocaust and teaches all who are willing to learn profoundly compelling and universally resonant moral lessons.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada [Mr. ENSIGN] and the gentleman from California [Mr. LANTOS]. each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Resolution 316, deploring individuals who deny the historical reality of the Holocaust and commending the ongoing work of the U.S. Holocaust Museum.

I am honored to lead the fight for this important legislation. We must never forget nor allow the fog of passing years to diminish the memories of those who died in the concentration camps. It is the blessed burden of each generation that follows, be they Jew or Gentile, to honor them by remembering and acknowledging their sacrifice.

It has been nearly 60 years since the beginning of the Holocaust, when Nazis killed over 6 million Jews and millions of Poles, gypsies, Jehovah's Witnesses, and others. The Nazi Holocaust demonstrated an aspect of human nature which many people find hard to believe.

Much has happened since the closure of Auschwitz, and today we find the lands where this terrible act occurred, as well as lands which were once behind the Iron Curtain are now free.

We are fortunate that we live in this free and democratic society here in America; a place where people can espouse whatever their views may be, even if they are factually incorrect or hurtful to others. However, freedom of expression cannot be allowed to drown out the truth. Flasehoods must be answered.

It is my hope that this vote will send a strong signal to the families of those who died that the United States stands with you in remembrance. We will not allow others with their doubts and questions to lessen the tragedy of what happened.

Therefore, I commend this legislation to my colleagues, and encourage the good work of the Holocaust Museum which is helping to educate over 2 million people per year so that the atrocities which occurred nearly 60 years ago may never be repeated again.

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Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we consider this resolution, a few feet from this Chamber in the presence of members of the Supreme Court, our colleagues and a vast number of individuals who are either survivors of the Holocaust or children of survivors, we are commemorating the day that has been set aside for remembering this most heinous of all crimes.

It is a sad commentary on the absurdity of our times that an event as profoundly documented as the Holocaust would need to be reemphasized as a reality. One and a half million innocent children were among the 6 million men, women, and little ones who were consumed in the flames of hatred that represented the Holocaust. Learned and simple, rich and poor, young and old, religious and nonbeliever, they were all consumed by the flames of the Holocaust. As the only Member of Congress who is a survivor of the Holocaust, I am calling on all of my colleagues every year to remember this event, not only for its historic significance but so that similar events, comparable events, events of mass destruction of human beings, such as the ones we have seen lately in both Africa and the former Yugoslavia, should not take place.

As we remember the Holocaust, we also must pay tribute to the greatest pedagogic institution on the face of this planet, the Holocaust Memorial Museum. This museum, in our Nation's Capital, is the most effective instrument of teaching generations yet unborn that we are in fact our brother's and sister's keeper and fanatic hatreds, bigotries, and discrimination have no place in a civilized society.

I suspect this particular year, which is the 50th year of terminating the Nuremberg trials which brought to justice the leaders of this monstrosity, the people who demanded this mass murder, it is appropriate for all of us to pause and to rededicate ourselves to recognizing the beauty of our different approaches to religion and life. That our variety is not a problem but a thing to be celebrated and honored.

I call on all of my colleagues to remember the Holocaust and to pay tribute to the Holocaust Memorial Museum as a primary instrument of teaching about our common humanity.

Mr. Speaker, I reserve the balance of my time.

Mr. ENSIGN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of legislation the House is considering today. House Resolution 316, which I introduced on behalf of myself and my colleagues on the Holocaust Memorial Council, deplores the persistent, ongoing, and malicious efforts by some persons in this country and abroad to deny the historical reality of the Holocaust. This legislation also commends the vital, ongoing work of the U.S. Holocaust Memorial Museum in speaking the truth against those who would deny that the Holocaust ever took place or who attempt to negate that the Holocaust specifically targeted Jews for extinction.

I wish to especially thank the chairman of the Resources Committee, Mr. YOUNG, and the chairman of the Subcommittee on National Parks, Mr.

VOL 142 PT 6 AP 15 — 24 1996 UMI

HANSEN, for their great support in expediting consideration of House Resolution 316. It is exceedingly timely that today's consideration takes place, since today is also Holocaust Memorial Day, and many of us have attended the remembrance day ceremony that the Museum sponsored at noon in our Capitol rotunda.

One of the major reasons for the Museum's very existence is to counter Holocaust deniers. Those who foster the denial of the Holocaust do so either out of profound ignorance or for the purpose of furthering anti-Semitism, bigotry, and racism. The Holocaust Memorial Museum, through its permanent exhibitions, traveling programs, and educational outreach efforts, both memorialize the victims of the Holocaust, and counters those accusers through its honest and sensitive approach to one of the most ferociously heinous state acts the world has ever known.

Accordingly, Mr. Speaker, I urge all my colleagues to express their support for the work of the Holocaust Memorial Museum by adopting House Resolution 316 and by participating in the Days of Remembrance ceremonies throughout our Nation.

Mr. LANTOS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. SCHUMER], who in his own work here in the Congress has done so much to preserve a society under laws.

Mr. SCHUMER. Mr. Speaker, I want to congratulate both the gentleman from New York [Mr. GILMAN] and the gentleman from California [Mr. LANTOS] for this timely resolution.

I need not add any more words in praise of the Holocaust Museum and the Holocaust Memorial. It is a tribute to America that when you go there, you see people from every corner of America visiting and learning and remembering.

I look at the museum as a great tribute to those who conceived it and put it together but also as a great tribute to this country. I do not think such a museum would have been built in any other country.

But I would like to talk for the remainder of my time on the part of the bill dealing with revisionism.

I represent a large number of Holocaust survivors. When they hear and read these ads denying that the Holocaust existed, when just about every one of them lost members of their immediate family, their parents, their brothers and sisters, their children, and yet they suffer the indignity of people for their own vicious, vitriolic, and usually anti-Semitic purposes to deny that the Holocaust existed, it is an indignity that the people who have gone through such great indignities should not have to suffer. That is why this resolution is so appropriate. It is appropriate because this Congress, with all the divisions we have, can come and unite and say, "You can't change history," and we realize the pain people went through, and we also remember, being the great country that we are, that unless we learn from history, we are going to repeat it.

I would say to my colleagues, the fact that a few people with vicious intent can get such attention and do so much to try and deny the Holocaust is a sad commentary on our times as the gentleman from California mentioned. It deals with an issue which I would call moral relativism. These days no matter how absurd, no matter how outrageous something someone says is, the general view is, "Well, let's debate it." There are some absolutes. There is truth. There is history. And the idea that no matter what anyone says, we should put it on the table as equal to the refutation of what has been said is something that we have to deal with. Obviously there are differing views on so many issues. But there is not a differing view on this one. The Holocaust existed. We know it. I have talked myself to thousands who survived it. They did not all get in a room and make this up. They suffered. Every family.

I was just looking at a picture at my home that I pointed out to my daughters was a picture of a family of six, my grandmother who lived in this country to over 90, her parents, her brother who I knew, and her two sisters. Her parents and her two sisters were killed in the Holocaust, and I pointed this out to my 11-year-old and 7-year-old, and someone who has no knowledge of this comes in and says, "No, it didn't exist." That is awful. That is degrading. And this body by taking a stand and saying that it did exist is doing not just the survivors a service and not just the people who have relatives who died a service, it is doing the world a service. I thank the gentlemen, both of them, for introducing this resolution.

Mr. ENSIGN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. FOX], a fellow visitor to Yad Vashem, which is the Holocaust Museum in Israel.

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman from Nevada [Mr. ENSIGN] for yielding me the time. I would like to thank the gentleman from New York [Mr. GILMAN] and the gentleman from California [Mr. LANTOS] for their leadership in introducing this legislation. One of the most solemn obligations we bear as legislators in our great democracy is to study the past and learn from it and to educate our fellow citizens.

As the American theologian Reinhold Niebuhr wrote, "Human capacity for justice makes democracy possible, but our inclination to injustice makes democracy necessary." The revolting evidence of man's capacity for injustice lies close by in the U.S. Holocaust Memorial Museum and also in the memory of some of our distinguished colleagues. The inhumane events of the Holocaust were far beyond description. The collapse of a democracy and the rise of an evil regime must never be forgotten or denied for fear that they will be repeated. The horrors which followed were incomprehensible.

Because of my religious upbringing and roots, the Holocaust Remembrance Day, Yom HaShoah, has a personal significance for me. But far more importantly this day and its memories hold valuable lessons for all of us as Members of the U.S. Congress. We must never forget the bitter consequences of tyranny. These preserved memories are important but they must be strengthened by education and a willingness to act. This willingness of each of us to not be a bystander is the key to protecting our democracy. In the report to the President, the Holocaust Commission members, led by Elie Wiesel, summed up the reasons for and role of an American memorial and museum to the Holocaust:

> In reflecting on the Holocaust we confront not only a collapse in human civilization but also the causes, processes and consequences of that collapse. As we analyze the American record, we can study our triumphs, as well as our failures, so as to defeat radical evil and strengthen our democracy.

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My colleagues, let us be ever vigilant in working for the people, pursuing the will of the majority, while ensuring the rights of the minority. Let us, as Elie Wiesel asks, never be silent when human lives are in danger and human dignity is in jeopardy. Let us follow his charge to stand together, to "defeat radical evil and strengthen our democracy" and ensure that there are no more holocausts in the future.

Those that would deny the Holocaust not only dishonor the memory of the martyrs who lost their lives in this tragedy, but also rejects the ideas and values on which our great country is based.

Thank you all for standing as one against those who would deny the Holocaust and for standing up for all America represents to the people who call our great Nation home and to those across the globe that look to us as a beacon of freedom and hope.

I would also like to thank my freshmen colleagues who joined the gentleman from Rhode Island [Mr. KENNEDY] and myself at the Holocaust Museum this past summer. One of our most weighty responsibilities is to bear witness, to tell and retell the facts of the Holocaust so that its lessons will never be forgotten. It is my sincere hope that all future freshman classes will visit the Holocaust Museum and reflect on its lessons as they apply to our work.

Mr. LANTOS. Mr. Speaker, I am particularly pleased to yield such time as he may consume to the gentleman

from Rhode Island [Mr. KENNEDY], my dear friend and colleague whose family has done so much to carry forward the principles of freedom and justice and decency among human beings in this country and across the globe.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I want to commend the chairman for writing this resolution, along with the gentleman from California [Mr. LANTOS], and the only Holocaust survivor in this Congress, for yielding me this time.

Mr. Speaker, as Congressman LANTOS said, who would have thought it necessary to affirm that the Holocaust has happened? Who would have thought it was necessary to affirm what was the worst crime against humanity the world has ever seen? Tragically, it is necessary. As we all know, the historical record of the Holocaust faces challenges on many fronts. These must be fought in every instance. Revisionism and denial threaten more than just the understanding of an unfathomable event. They threaten the future as well, for the energy which animates the Holocaust denier and the revisionist is the same hatred which propelled the Holocaust into being in the first place.

Today, one of the most offensive challenges to the historical record of the Holocaust is set to take place in Croatia, where President Franjo Tudjman has announced plans to rebury the remains of the Croatian fascists, the Yastashi regime, that was in complicity with Hitler and the Nazis. He has announced a plan to rebury these SS officers, if you will, alongside the remains of the victims of the Holocaust in the death camp Yasenovech, which is also in Croatia.

This proposal is a moral affront to those who suffered the Holocaust, and it sends a dangerous message. No, it sends a lie to future generations about what happened at the death camp Yasenovech. It muddles the history.

Here, on what should be sacred ground, perpetrators of the Holocaust and victims of the Holocaust would now be lying side-by-side for an eternity. For those who endured a living hell, this is the ultimate injustice.

President Tudjman and other Holocaust revisionists should not derive false comfort from a deliberate distortion of their past. His proposal, in the words of Dr. Walter Reich, head of the Holocaust Memorial Museum here in Washington, DC, is "nothing more than an attempt to rewrite history with a shovel." This should not be allowed to happen. I know this House will speak out strongly on this issue, as will the Senate when it comes to the floor.

I want to commend my colleagues, when it comes to this resolution, for including this proposal in today's Yom HASHOAH recognition. As well, I want to commend the Holocaust Museum for the support they have offered in this fight and for the invaluable education they provide to thousands who visit the Holocaust Memorial Museum in Washington, DC every day. The mission of this museum has never been more important, and it is something that everyone should visit if they have not visited already.

Mr. ENSIGN. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it is a great honor to join my colleagues on this day of Yom HaShoah to offer a resolution reaffirming the truth of the Holocaust and commending the work and mission of the U.S. Holocaust Memorial Museum.

I hope my colleagues also will join me in supporting legislation I am introducing today directing the U.S. Holocaust Memorial Council to draft model curricula that schools can use to ensure that the truth and accuracy of the Holocaust is taught to, and remembered by, the generations to come.

A half century ago, more than 8 million people were deliberately, brutally, and systematically murdered in a state-sponsored effort to annihilate their ethnic and religious existence. Of those, fully 6 million were Jewish. Many others from across Europe died risking their lives for simply being compassionate and trying to intervene.

All of their deaths are fact, not fiction. And those who deny that reality not only further the pain and delay the healing but perpetuate a crime on history and humanity.

Their motives for doing this are varied. But we should be as one in our response.

We should condemn those who deny the Holocaust for trying to rob us of the understanding of the evil that humanity is capable of.

That knowledge itself is the most powerful protection we have against such horror occurring again. It is a lesson about what can happen when the soul becomes desensitized and corrupted.

Holocaust survivor and Nobel Laureate Elie Wiesel, the Holocaust Council's first honorary chairman, reminded people last night—and I quote—"Don't allow anyone or anything to deprive you of the great, great miracle which renders a human being sensitive to others."

I commend the U.S. Holocaust Memorial Museum and the council for making sure that we never forget.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New York [Mr. ENGEL], my friend and distinguished colleague, an indefatigable fighter for human rights and decency.

Mr. ENGEL. Mr. Speaker, I thank my friend from California for yielding me time. Let me say we are all inspired by his story and his efforts.

Mr. Speaker, just a brief while ago many of us attended a Yom HaShoah remembrance, Days of Remembrance, 1996, U.S. Holocaust Memorial Museum, and they passed out this program. On the program it says, "For the dead and the living, we must bear witness."

Certainly nothing is more obscene than those Holocaust revisionists who try to claim that it did not happen or that it did not happen to the magnitude that we know it happened. They include, unfortunately, leaders of countries. Even a candidate for President of this country has from time to time made such ridiculous allegations.

When you go to the Holocaust Memorial Museum on the fourth floor and you first walk in, there is a quote from President Eisenhower, then General Eisenhower, who said he wanted to witness what went on after the camps were liberated. he wanted to be there himself so that if, generations later on, if there would be those people who would deny that such horrendous things ever happened, he would be able to bear witness that he say it with his own two eyes.

Mr. Speaker, the unspeakable atrocities that went on in trying to annihilate the Jews of Europe is something that must never be forgotten, and it is certainly something that must never be repeated. Those of us who have witnessed the events, tragic events, over the past several years in Bosnia, while not of the magnitude of the Holocaust, certainly touched a responsive chord in us to know that we cannot ever again sit idly by and watch ethnic cleansing or Holocaust to rear its ugly head again.

One would think the world would learn, the world would know, the world would not want to repeat what went on. Yet we see again and again genocide rearing its ugly head.

So I think it is very, very fitting, Mr. Speaker, that this body pause to honor the people who perished in the Holocaust, the memory of the people who perished in the Holocaust, and to redouble our efforts to make sure that in the future, holocausts never happen again.

On this day of Yom HaShoah, we bear witness to what happened, and we honor those people who perished in the Holocaust.

Mr. ENSIGN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Speaker, never again. That is the cry of those who must keep the memory of the Holocaust and its victims alive forever. We must keep this memory in mind so that there will never again in history be a repeat of this worst of human tragedies.

Today, April 16, is the Day of Remembrance, a day on which we should reflect as a nation on the monumental

VOL
142
PT
6
AP
15
—
24
1996
UMI

tragedy of the Holocaust directed at the Jewish population of Europe by Adolf Hitler and the Nazi regime.

Unfortunately, there are too many individuals, both in our Nation and in the world, who would twist and distort the historical facts, in their sickening attempts to claim that the Holocaust never existed, or to minimize its scope.

By voting in support of this resolution, I hope that Congress will send a message, a clear message, against these purveyors of anti-Semitism and hatred, who seek to erase this tragedy from human memory.

The U.S. Holocaust Memorial Museum in this Nation's Capital serves to educate and inform Americans about the reality of the Holocaust through its many displays, its films, and interviews. But in my opinion, Mr. Speaker, the most moving part of the museum is the testimony of Holocaust survivors and eyewitnesses. These touching accounts are a bridge between the past and the present. They serve as a stark reminder of the depths of inhumanity to which the human race can sink, and they keep the memory of the Holocaust victims and survivors alive in our minds, so we can make certain that tragedies of this proportion never again can occur on the face of the Earth.

In conclusion, I urge my colleagues to vote in support of House Resolution 316, and I end my statement as I began, be repeating the words that should be always remembered, and those words are, "never again."

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is important in discussing this issue that we understand that the Holocaust did not begin with gas chambers. The Holocaust began with words of hate, with words of bigotry, with words of intolerance. And every time in our own time when we are confronted with words of bigotry and hate and intolerance, it is important that we nip those manifestations of inhumanity in the bud, because, if allowed to flourish, they will lead to unspeakable acts of horror, such as the ones we have witnessed in the Holocaust.

Mr. Speaker, I reserve the balance of my time.

Mr. ENSIGN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. TORKILDSEN].

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Mr. TORKILDSEN. Mr. Speaker, I rise in strong support of House Resolution 316, a resolution deploring individuals who deny the historical reality of the Holocaust and also commending the work of the U.S. Holocaust Memorial Museum. Each year we observe Yom HaShoah to say for the dead and the living, we must bear witness. For the dead and the living, we must bear witness that, in the darkest chapter in human history, 6 million lives were stolen from us forever, as was part of the human spirit.

This year's remembrance sadly is crystallized by recent tragedies and actions of terrorism in Israel, reminding all of us that hatred still lives and breathes in the midst of all attempts to forge peace.

The senseless assassination of Prime Minister Rabin and the terrorist bombings that claimed innocent lives only 6 weeks ago must serve as a source of strength and solidarity for all of us, and renew our commitment to just and lasting peace. The cowardly perpetrators of these acts must not succeed in their aim to divide us and in their attempts to assassinate peace as well as people.

Tragically, there are other present day reminders of the Holocaust. Ethnic cleansing and the slaughter in Rwanda continue to serve as proof that we must never forget.

The beauty of Yom HaShoah is that it is universal. The lessons of the Holocaust are for all of us in the human family to learn, to understand, and to instill in others, for us to earnestly say "never again." We must every day continue to remember. For the dead and the living, we must bear witness.

Shalom.

Mr. LANTOS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ENSIGN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what we are talking about today, if you go back in history, people did not believe that stories coming out of the death camps, stories that were just almost too unspeakable to even think of and, therefore, people in Europe chose to ignore them.

Mr. Speaker, let us today, as we remember the Holocaust and we celebrate the Holocaust Museum and the work that it is doing, let us never forget those stories that came out of those death camps. Let us never forget the faces of the men and women and children that were tortured and brutally murdered, many in those death camps. Let us not let people rewrite history, because if we allow them to rewrite history, history will indeed repeat itself.

Mr. LATOURETTE. Mr. Speaker, today on the House floor we are considering House Resolution 316—a measure deploring individuals who deny the historical significance of the Holocaust and commending the fine work of the U.S. Holocaust Memorial Museum.

I rise in strong support of this measure, as it is important that we never forget or attempt to diminish the historical significance of one of the most heinous chapters in history—the Holocaust. There are some who seek to revise history, to alter it in such a way as to deny the Holocaust. This is insulting to the memory of the 6 million Jews who died in the Holocaust, and this type of destructive, divisive thinking should not be given credence.

In the 104th Congress I have had the honor of serving on the council of the U.S. Holocaust Memorial Museum. I would like to take this opportunity to praise the fine work of the museum staff, from its director, Walter Reich, to its chairman, Miles Lerman, to Stan Turesky, Director of Congressional Relations.

The museum truly is an American and international treasure and goes far beyond the traditional purpose of a museum, which is to preserve and record history. This museum compels its visitors to consider the moral and spiritual consequences of the Holocaust. It accomplishes this by exposing the visitor to stark and unsettling examples of hatred, heartbreak, and heroism. The stories of perpetrators, victims, bystanders, rescuers and liberators confront the visitor and demand attention. By doing so, the museum forces us to learn important lessons about the Holocaust and our everyday lives.

On this Day of Remembrance of the Holocaust—Yom HaShoah—we as a nation should rededicate ourselves and our commitment to overcoming bigotry, hatred, and intolerance. We should condemn those who want to dismiss the Holocaust, and embrace the efforts of those who rightly believe that we as a nation can learn from the Holocaust experience and ensure that it will never again be repeated.

Mr. MANZULLO. Mr. Speaker, I am honored to have this opportunity to rise in support of House Resolution 316, a bill that deplores individuals in the United States and abroad who deny the historical reality of the Holocaust, and commends the crucial, ongoing work of the U.S. Holocaust Memorial Museum. This important piece of legislation coincides with the 1996 Days of Remembrance which will be held in the Capitol rotunda today.

In 1980, Congress established the U.S. Holocaust Museum to serve as a memorial to the 6 million victims of the Holocaust and as a center for the study, interpretation and presentation of Holocaust history. The museum uses the historical record in its exhibits and outreach programs to counter the outrageous charges by revisionist historians who attempt to deny the occurrence of the Holocaust. The Holocaust Museum leads the charge in fighting against ignorance, racism and anti-Semitism.

Every year, more than 2 million people travel to Washington to visit the Holocaust Museum. An overwhelming majority of these visitors travel more than 100 miles to do so. Tens of thousands of survivors, scholars, students, members of the media and Government officials utilize the museum as a center for scholarship and learning about the Holocaust and genocide.

The U.S. Holocaust Museum is truly a national treasure. I am deeply honored to have this opportunity to highlight its outstanding work.

Mr. MARTINI. Mr. Speaker, I rise today to honor Yom HaShoah and remember the 6 million Jewish people who were killed in the Holocaust. I also rise today to pledge my full support for House Resolution 316, a resolution deploring individuals in the United States and abroad who deny the historical reality of the Holocaust and commending the work of the Holocaust Museum.

Last summer, I was fortunate to have been afforded the opportunity to visit Israel as a member of a congressional delegation researching the tangible effects of the peace process. My visit taught me a tremendous amount. Fortunately, we were given the opportunity to visit many historical landmarks in Israel that are of particular importance to understanding the history of Judaism. This history could not be holistically understood without a visit to Yad Vasheem. This memorial museum to the victims of the Holocaust was both horrifying and beautiful in an enlightening way. Horrifying in its intensity and in its truth and beautiful in its message. The message of remembrance is immortalized. My visit to Yad Vasheem still haunts me.

The Holocaust Memorial Museum in Washington, DC, is an equally monumental achievement made possible by the spirit of hope and remembrance. Similarly, this museum painfully humanizes and chronicles the most cataclysmic event in Jewish history, as well as human history.

The Shoah—Holocaust—was a genocide acted out on the international stage in the face of apathy and often complicity. Six million Jewish people were killed. European Jewry ceased to exist on much of the Continent, and wounds have been left around the world that will never heal.

It is my hope that today the world will remember the suffering of so many innocent people. Further, it is my hope that the perpetrators of evil and the proponents of ethnic purity achieved through genocide will look to the lessons that history has taught us and realize that their goal will not be looked upon with complicity and their efforts will be futile. The history of the Holocaust is not a lie.

The message that we must impart on our children and ourselves is one of tolerance and remembrance. We must teach our children of the past and assure that such a heinous act never occurs on this Earth again. And in the end, let us remember death but focus our vision on life and the growth of Jewish culture.

Mr. FRANKS of Connecticut. I rise in strong support of House Resolution 316, a measure which applauds the work of the U.S. Holocaust Memorial Museum while condemning those people who have the sheer audacity to deny that the Holocaust ever occurred.

Mr. Speaker, the Holocaust Museum serves as a poignant historical reminder of one of the darkest periods of human history—the systematic extermination by Nazi Germany of over six million Jews. This important museum serves as an essential, necessary monument that reminds the world of those people whose lives were savagely ripped away from them in Nazi death camps like Auschwitz while honoring the brave people who fiercely took a stand against the evil Nazi tyrants.

Mr. Speaker, anyone who visits the Holocaust Museum will find it to be an experience both sobering and stirring. I applaud the work of those who are involved with the Holocaust Museum for the job they have done in educating the public and making sure that we will never forget. Truly, anyone who visits our Nation's capital should make pilgrimage to this museum.

Sadly, Mr. Speaker, there are still those who dispute that a Holocaust ever occurred. They maintain, mainly out of hatred and anti-semitism, that there was no genocide and that the notion of the Holocaust is fraudulent. Mr. Speaker, I feel it is our duty as duly-elected officials, as representatives of the American people, to condemn these hateful people for such warped attitudes and make notice that these despicable people, these offensive outcasts of society, remain permanently embedded in the status of pariahs of our communities.

Mr. Speaker, when all is said and done, I pray that we have learned from this sad, sad chapter of human history and that we, the human race, must never forget the necessity of being soldiers on the front lines in the war versus bigotry, hatred, and racism. The Holocaust Museum serves as a concrete record and as a reminder, for us and generations to come, of our obligation in this battle for us and our children. I commend Congressman GILMAN and Congressman LANTOS for their work on this endeavor and I encourage my colleagues to pass this important resolution.

Mr. ENSIGN. Mr. Speaker, I urge the adoption of this resolution, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). The question is on the motion offered by the gentleman from Nevada [Mr. ENSIGN] that the House suspend the rules and agree to the resolution, House Resolution 316.

The question was taken.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT AMENDMENTS

Mr. ENSIGN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3034), to amend the Indian Self-Determination and Education Assistance Act to extend for 2 months the authority for promulgating regulations under the act.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the consideration of the gentleman from Nevada?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORITY TO PROMULGATE REGULATIONS.

Section 107(a)(2)(B) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450k(a)(2)(B)) is amended by striking "18 months" and inserting "20 months".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ENSIGN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Resolution 316.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

AMENDING FOREIGN ASSISTANCE ACT OF 1961 AND ARMS EXPORT CONTROL ACT

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3121) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3121

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Table of contents.

TITLE I—DEFENSE AND SECURITY ASSISTANCE

CHAPTER 1—MILITARY AND RELATED ASSISTANCE

Sec. 101. Terms of loans under the Foreign Military Financing program.
Sec. 102. Additional requirements under the Foreign Military Financing program.
Sec. 103. Drawdown special authorities.
Sec. 104. Transfer of excess defense articles.
Sec. 105. Excess defense articles for certain European countries.

CHAPTER 2—INTERNATIONAL MILITARY EDUCATION AND TRAINING

Sec. 111. Assistance for Indonesia.
Sec. 112. Additional requirements.

CHAPTER 3—ANTITERRORISM ASSISTANCE

Sec. 121. Antiterrorism training assistance.
Sec. 122. Research and development expenses.

CHAPTER 4—NARCOTICS CONTROL ASSISTANCE

Sec. 131. Additional requirements.
Sec. 132. Notification requirement.
Sec. 133. Waiver of restrictions for narcotics-related economic assistance.

CHAPTER 5—OTHER PROVISIONS

Sec. 141. Standardization of congressional review procedures for arms transfers.
Sec. 142. Standardization of third country transfers of defense articles.
Sec. 143. Increased standardization, rationalization, and interoperability of assistance and sales programs.
Sec. 144. Definition of significant military equipment.
Sec. 145. Elimination of annual reporting requirement relating to the Special Defense Acquisition Fund.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Sec. 146. Cost of leased defense articles that have been lost or destroyed.
Sec. 147. Designation of major non-NATO allies.
Sec. 148. Certification thresholds.
Sec. 149. Depleted uranium ammunition.
Sec. 150. End-use monitoring of defense articles and defense services.
Sec. 151. Brokering activities relating to commercial sales of defense articles and services.
Sec. 152. Return and exchanges of defense articles previously transferred pursuant to the arms export control act.
Sec. 153. National security interest determination to waive reimbursement of depreciation for leased defense articles.
Sec. 154. Eligibility of Panama under Arms Export Control Act.
TITLE II—TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES
Sec. 201. Authority to transfer naval vessels.
Sec. 202. Costs of transfers.
Sec. 203. Expiration of authority.
Sec. 204. Repair and refurbishment of vessels in United States shipyards.

TITLE I—DEFENSE AND SECURITY ASSISTANCE

CHAPTER 1—MILITARY AND RELATED ASSISTANCE

SEC. 101. TERMS OF LOANS UNDER THE FOREIGN MILITARY FINANCING PROGRAM.

Section 31(c) of the Arms Export Control Act (22 U.S.C. 2771(c)) is amended to read as follows:

"(c) Loans available under section 23 shall be provided at rates of interest that are not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities.".

SEC. 102. ADDITIONAL REQUIREMENTS UNDER THE FOREIGN MILITARY FINANCING PROGRAM.

(a) Audit of Certain Private Firms.—Section 23 of the Arms Export Control Act (22 U.S.C. 2763) is amended by adding at the end the following new subsection:

"(f) For each fiscal year, the Secretary of Defense, as requested by the Director of the Defense Security Assistance Agency, shall conduct audits on a nonreimbursable basis of private firms that have entered into contracts with foreign governments under which defense articles, defense services, or design and construction services are to be procured by such firms for such governments from financing under this section.".

(b) Notification Requirement With Respect to Cash Flow Financing.—Section 23 of such Act (22 U.S.C. 2763), as amended by this Act, is further amended by adding at the end the following new subsection:

"(g)(1) For each country and international organization that has been approved for cash flow financing under this section, any letter of offer and acceptance or other purchase agreement, or any amendment thereto, for a procurement of defense articles, defense services, or design and construction services in excess of $100,000,000 that is to be financed in whole or in part with funds made available under this Act or the Foreign Assistance Act of 1961 shall be submitted to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

"(2) For purposes of this subsection, the term 'cash flow financing' has the meaning given such term in the second subsection (d) of section 25.".

(c) Limitations on Use of Funds for Direct Commercial Contracts.—Section 23 of such Act (22 U.S.C. 2763), as amended by this Act, is further amended by adding at the end the following new subsection:

"(h) Of the amounts made available for a fiscal year to carry out this section, not more than $100,000,000 for such fiscal year may be made available for countries other than Israel and Egypt for the purpose of financing the procurement of defense articles, defense services, and design and construction services that are not sold by the United States Government under this Act.".

(d) Annual Estimate and Justification for Sales Program.—Section 25(a) of such Act (22 U.S.C. 2765(a)) is amended—

(1) by striking the "and" at the end of paragraph (11);

(2) by redesignating paragraph (12) as paragraph (13); and

(3) by inserting after paragraph (11) the following new paragraph:

"(12)(A) a detailed accounting of all articles, services, credits, guarantees, or any other form of assistance furnished by the United States to each country and international organization, including payments to the United Nations, during the preceding fiscal year for the detection and clearance of landmines, including activities relating to the furnishing of education, training, and technical assistance for the detection and clearance of landmines; and

"(B) for each provision of law making funds available or authorizing appropriations for demining activities described in subparagraph (A), an analysis and description of the objectives and activities undertaken during the preceding fiscal year, including the number of personnel involved in performing such activities; and".

SEC. 103. DRAWDOWN SPECIAL AUTHORITIES.

(a) Unforeseen Emergency Drawdown.—Section 506(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)(1)) is amended by striking "$75,000,000" and inserting "$100,000,000".

(b) Additional Drawdown.—Section 506 of such Act (22 U.S.C. 2318) is amended—

(1) in subsection (a)(2)(A), by striking "defense articles from the stocks" and all that follows and inserting the following: "articles and services from the inventory and resources of any agency of the United States Government and military education and training from the Department of Defense, the President may direct the drawdown of such articles, services, and military education and training—

"(i) for the purposes and under the authorities of—

"(I) chapter 8 of part I (relating to international narcotics control assistance);

"(II) chapter 9 of part I (relating to international disaster assistance); or

"(III) the Migration and Refugee Assistance Act of 1962; or

"(ii) for the purpose of providing such articles, services, and military education and training to Vietnam, Cambodia, and Laos as the President determines are necessary—

"(I) to support cooperative efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War; and

"(II) to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support Department of Defense-sponsored humanitarian projects associated with such efforts.";

(2) in subsection (a)(2)(B), by striking "$75,000,000" and all that follows and inserting "$150,000,000 in any fiscal year of such articles, services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph—

"(i) not more than $75,000,000 of which may be provided from the drawdown from the inventory and resources of the Department of Defense;

"(ii) not more than $75,000,000 of which may be provided pursuant to clause (i)(I) of such subparagraph; and

"(iii) not more than $15,000,000 of which may be provided to Vietnam, Cambodia, and Laos pursuant to clause (ii) of such subparagraph."; and

(3) in subsection (b)(1), by adding at the end the following: "In the case of drawdowns authorized by subclauses (I) and (III) of subsection (a)(2)(A)(i), notifications shall be provided to those committees at least 15 days in advance of the drawdowns in accordance with the procedures applicable to reprogramming notifications under section 634A.".

(c) Notice to Congress of Exercise of Special Authorities.—Section 652 of such Act (22 U.S.C. 2411) is amended by striking "prior to the date" and inserting "before".

SEC. 104. TRANSFER OF EXCESS DEFENSE ARTICLES.

(a) In General.—Section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) is amended to read as follows:

"SEC. 516. AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.

"(a) Authorization.—The President is authorized to transfer excess defense articles under this section to countries for which receipt of such articles was justified pursuant to the annual congressional presentation documents for military assistance programs, or for programs under chapter 8 of part I of this Act, submitted under section 634 of this Act, or for which receipt of such articles was separately justified to the Congress, for the fiscal year in which the transfer is authorized.

"(b) Limitations on Transfers.—The President may transfer excess defense articles under this section only if—

"(1) such articles are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer;

"(3) the transfer of such articles will not have an adverse impact on the military readiness of the United States;

"(4) with respect to a proposed transfer of such articles on a grant basis, such a transfer is preferable to a transfer on a sales basis, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of a transfer on either a grant or sales basis;

"(5) the President determines that the transfer of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred; and

"(6) the transfer of such articles is consistent with the policy framework for the Eastern Mediterranean established under section 620C of this Act.

"(c) Terms of Transfers.—

"(1) No cost to recipient country.—Excess defense articles may be transferred

under this section without cost to the recipient country.

"(2) Priority.—Notwithstanding any other provision of law, the delivery of excess defense articles under this section to member countries of the North Atlantic Treaty Organization (NATO) on the southern and southeastern flank of NATO and to major non-NATO allies on such southern and southeastern flank shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to other countries.

"(d) Waiver of Requirement for Reimbursement of Department of Defense Expenses.—Section 632(d) shall not apply with respect to transfers of excess defense articles (including transportation and related costs) under this section.

"(e) Transportation and Related Costs.—

"(1) In general.—Except as provided in paragraph (2), funds available to the Department of Defense may not be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of this section.

"(2) Exception.—The President may provide for the transportation of excess defense articles without charge to a country for the costs of such transportation if—

"(A) it is determined that it is in the national interest of the United States to do so;

"(B) the recipient is a developing country receiving less than $10,000,000 of assistance under chapter 5 of part II of this Act (relating to international military education and training) or section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program) in the fiscal year in which the transportation is provided;

"(C) the total weight of the transfer does not exceed 25,000 pounds; and

"(D) such transportation is accomplished on a space available basis.

"(f) Advance Notification to Congress for Transfer of Certain Excess Defense Articles.—

"(1) In general.—The President may not transfer excess defense articles that are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or excess defense articles valued (in terms of original acquisition cost) at $7,000,000 or more, under this section or under the Arms Export Control Act (22 U.S.C. 2751 et seq.) until 15 days after the date on which the President has provided notice of the proposed transfer to the congressional committees specified in section 634A(a) in accordance with procedures applicable to reprogramming notifications under that section.

"(2) Contents.—Such notification shall include—

"(A) a statement outlining the purposes for which the article is being provided to the country, including whether such article has been previously provided to such country;

"(B) an assessment of the impact of the transfer on the military readiness of the United States;

"(C) an assessment of the impact of the transfer on the national technology and industrial base and, particularly, the impact on opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are to be transferred; and

"(D) a statement describing the current value of such article and the value of such article at acquisition.

"(g) Aggregate Annual Limitation.—

"(1) In general.—The aggregate value of excess defense articles transferred to countries under this section in any fiscal year may not exceed $350,000,000.

"(2) Effective date.—The limitation contained in paragraph (1) shall apply only with respect to fiscal years beginning after fiscal year 1996.

"(h) Congressional Presentation Documents.—Documents described in subsection (a) justifying the transfer of excess defense articles shall include an explanation of the general purposes of providing excess defense articles as well as a table which provides an aggregate annual total of transfers of excess defense articles in the preceding year by country in terms of offers and actual deliveries and in terms of acquisition cost and current value. Such table shall indicate whether such excess defense articles were provided on a grant or sale basis.

"(i) Excess Coast Guard Property.—For purposes of this section, the term 'excess defense articles' shall be deemed to include excess property of the Coast Guard, and the term 'Department of Defense' shall be deemed, with respect to such excess property, to include the Coast Guard.".

(b) Conforming Amendments.—

(1) Arms export control act.—Section 21(k) of the Arms Export Control Act (22 U.S.C. 2761(k)) is amended by striking "the President shall" and all that follows and inserting the following: "the President shall determine that the sale of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred.".

(2) Repeals.—The following provisions of law are hereby repealed:

(A) Section 502A of the Foreign Assistance Act of 1961 (22 U.S.C. 2303).

(B) Sections 517 through 520 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k through 2321n).

(C) Section 31(d) of the Arms Export Control Act (22 U.S.C. 2771(d)).

SEC. 105. EXCESS DEFENSE ARTICLES FOR CERTAIN EUROPEAN COUNTRIES.

Notwithstanding section 516(e) of the Foreign Assistance Act of 1961, during each of the fiscal years 1996 and 1997, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to countries that are eligible to participate in the Partnership for Peace and that are eligible for assistance under the Support for East European Democracy (SEED) Act of 1989.

CHAPTER 2—INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 111. ASSISTANCE FOR INDONESIA.

Funds made available for fiscal years 1996 and 1997 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) may be obligated for Indonesia only for expanded military and education training that meets the requirements of clauses (i) through (iv) of the second sentence of section 541 of such Act (22 U.S.C. 2347).

SEC. 112. ADDITIONAL REQUIREMENTS.

(a) General Authority.—Section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347) is amended in the second sentence in the matter preceding clause (i) by inserting "and individuals who are not members of the government" after "legislators".

(b) Exchange Training.—Section 544 of such Act (22 U.S.C. 2347c) is amended—

(1) by striking "In carrying out this chapter" and inserting "(a) In carrying out this chapter"; and

(2) by adding at the end the following new subsection:

"(b) The President may provide for the attendance of foreign military and civilian defense personnel at flight training schools and programs (including test pilot schools) in the United States without charge, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one basis each fiscal year between those United States flight training schools and programs (including test pilot schools) and comparable flight training schools and programs of foreign countries.".

(c) Assistance for Certain High-Income Foreign Countries.—

(1) Amendment to the foreign assistance act of 1961.—Chapter 5 of part II of such Act (22 U.S.C. 2347 et seq.) is amended by adding at the end the following new section:

"SEC. 548. PROHIBITION ON GRANT ASSISTANCE FOR CERTAIN HIGH INCOME FOREIGN COUNTRIES.

"(a) In General.—None of the funds made available for a fiscal year for assistance under this chapter may be made available for assistance on a grant basis for any of the high-income foreign countries described in subsection (b) for military education and training of military and related civilian personnel of such country.

"(b) High-Income Foreign Countries Described.—The high-income foreign countries described in this subsection are Austria, Finland, the Republic of Korea, Singapore, and Spain.".

(2) Amendment to the arms export control act.—Section 21(a)(1)(C) of the Arms Export Control Act (22 U.S.C. 2761) is amended by inserting "or to any high-income foreign country (as described in that chapter)" after "Foreign Assistance Act of 1961".

CHAPTER 3—ANTITERRORISM ASSISTANCE

SEC. 121. ANTITERRORISM TRAINING ASSISTANCE.

(a) In General.—Section 571 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa) is amended by striking "Subject to the provisions of this chapter" and inserting "Notwithstanding any other provision of law that restricts assistance to foreign countries (other than sections 502B and 620A of this Act)".

(b) Limitations.—Section 573 of such Act (22 U.S.C. 2349aa–2) is amended—

(1) in the heading, by striking "SPECIFIC AUTHORITIES AND";

(2) by striking subsection (a);

(3) by redesignating subsections (b) through (f) as subsections (a) through (e), respectively; and

(4) in subsection (c) (as redesignated)—

(A) by striking paragraphs (1) and (2);

(B) by redesignating paragraphs (3) through (5) as paragraphs (1) through (3), respectively; and

(C) by amending paragraph (2) (as redesignated) to read as follows:

"(2)(A) Except as provided in subparagraph (B), funds made available to carry out this chapter shall not be made available for the procurement of weapons and ammunition.

"(B) Subparagraph (A) shall not apply to small arms and ammunition in categories I and III of the United States Munitions List

VOL
142
PT
6
AP
15
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24
1996
UMI

that are integrally and directly related to antiterrorism training provided under this chapter if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees specified in section 634A of this Act in accordance with the procedures applicable to reprogramming notifications under such section.

"(C) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.".

(c) ANNUAL REPORT.—Section 574 of such Act (22 U.S.C. 2349aa-3) is hereby repealed.

(d) TECHNICAL CORRECTIONS.—Section 575 (22 U.S.C. 2349aa-4) and section 576 (22 U.S.C. 2349aa-5) of such Act are redesignated as sections 574 and 575, respectively.

SEC. 122. RESEARCH AND DEVELOPMENT EXPENSES.

Funds made available for fiscal years 1996 and 1997 to carry out chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.; relating to antiterrorism assistance) may be made available to the Technical Support Working Group of the Department of State for research and development expenses related to contraband detection technologies or for field demonstrations of such technologies (whether such field demonstrations take place in the United States or outside the United States).

CHAPTER 4—NARCOTICS CONTROL ASSISTANCE

SEC. 131. ADDITIONAL REQUIREMENTS.

(a) POLICY AND GENERAL AUTHORITIES.—Section 481(a) of the Foreign Assistance Act (22 U.S.C. 2291(a)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) International criminal activities, particularly international narcotics trafficking, money laundering, and corruption, endanger political and economic stability and democratic development, and assistance for the prevention and suppression of international criminal activities should be a priority for the United States."; and

(2) in paragraph (4), by adding before the period at the end the following: ", or for other anticrime purposes".

(b) CONTRIBUTIONS AND REIMBURSEMENT.—Section 482(c) of that Act (22 U.S.C. 2291a(c)) is amended—

(1) by striking "CONTRIBUTION BY RECIPIENT COUNTRY.—To" and inserting "CONTRIBUTIONS AND REIMBURSEMENT.—(1) To"; and

(2) by adding at the end the following new paragraphs:

"(2)(A) The President is authorized to accept contributions from foreign governments to carry out the purposes of this chapter. Such contributions shall be deposited as an offsetting collection to the applicable appropriation account and may be used under the same terms and conditions as funds appropriated pursuant to this chapter.

"(B) At the time of submission of the annual congressional presentation documents required by section 634(a), the President shall provide a detailed report on any contributions received in the preceding fiscal year, the amount of such contributions, and the purposes for which such contributions were used.

"(3) The President is authorized to provide assistance under this chapter on a reimbursable basis. Such reimbursements shall be deposited as an offsetting collection to the applicable appropriation and may be used under the same terms and conditions as funds appropriated pursuant to this chapter.".

(c) IMPLEMENTATION OF LAW ENFORCEMENT ASSISTANCE.—Section 482 of such Act (22 U.S.C. 2291a) is amended by adding at the end the following new subsections:

"(f) TREATMENT OF FUNDS.—Funds transferred to and consolidated with funds appropriated pursuant to this chapter may be made available on such terms and conditions as are applicable to funds appropriated pursuant to this chapter. Funds so transferred or consolidated shall be apportioned directly to the bureau within the Department of State responsible for administering this chapter.

"(g) EXCESS PROPERTY.—For purposes of this chapter, the Secretary of State may use the authority of section 608, without regard to the restrictions of such section, to receive nonlethal excess property from any agency of the United States Government for the purpose of providing such property to a foreign government under the same terms and conditions as funds authorized to be appropriated for the purposes of this chapter.".

SEC. 132. NOTIFICATION REQUIREMENT.

(a) IN GENERAL.—The authority of section 1003(d) of the National Narcotics Control Leadership Act of 1988 (21 U.S.C. 1502(d)) may be exercised with respect to funds authorized to be appropriated pursuant to the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and with respect to the personnel of the Department of State only to the extent that the appropriate congressional committees have been notified 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of that Act (22 U.S.C. 2394).

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

SEC. 133. WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE.

For each of the fiscal years 1996 and 1997, narcotics-related assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) may be provided notwithstanding any other provision of law that restricts assistance to foreign countries (other than section 490(e) or section 502B of that Act (22 U.S.C. 2291j(e) and 2304)) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees (as defined in section 481(e) of that Act (22 U.S.C. 2291(e))) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

CHAPTER 5—OTHER PROVISIONS

SEC. 141. STANDARDIZATION OF CONGRESSIONAL REVIEW PROCEDURES FOR ARMS TRANSFERS.

(a) THIRD COUNTRY TRANSFERS UNDER FMS SALES.—Section 3(d)(2) of the Arms Export Control Act (22 U.S.C. 2753(d)(2)) is amended—

(1) in subparagraph (A), by striking ", as provided for in sections 36(b)(2) and 36(b)(3) of this Act";

(2) in subparagraph (B), by striking "law" and inserting "joint resolution"; and

(3) by adding at the end the following:

"(C) If the President states in his certification under subparagraph (A) or (B) that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, thus waiving the requirements of that subparagraph, the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate immediate consent to the transfer and a discussion of the national security interests involved.

"(D)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(b) THIRD COUNTRY TRANSFERS UNDER COMMERCIAL SALES.—Section 3(d)(3) of such Act (22 U.S.C. 2753(d)(3)) is amended—

(1) by inserting "(A)" after "(3)";

(2) in the first sentence—

(A) by striking "at least 30 calendar days"; and

(B) by striking "report" and inserting "certification"; and

(3) by striking the last sentence and inserting the following: "Such certification shall be submitted—

"(i) at least 15 calendar days before such consent is given in the case of a transfer to a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

"(ii) at least 30 calendar days before such consent is given in the case of a transfer to any other country,

unless the President states in his certification that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists (thus waiving the requirements of clause (i) or (ii), as the case may be, and of subparagraph (B)) the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that consent to the proposed transfer become effective immediately and a discussion of the national security interests involved.

"(B) Consent to a transfer subject to subparagraph (A) shall become effective after the end of the 15-day or 30-day period specified in subparagraph (A)(i) or (ii), as the case may be, only if the Congress does not enact, within that period, a joint resolution prohibiting the proposed transfer.

"(C)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(c) COMMERCIAL SALES.—Section 36(c)(2) of such Act (22 U.S.C. 2776(c)(2)) is amended by amending subparagraphs (A) and (B) to read as follows:

"(A) in the case of a license for an export to the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, or New Zealand, shall not be issued until at least 15 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 15-day period, enacts a joint resolution prohibiting the proposed export; and

"(B) in the case of any other license, shall not be issued until at least 30 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 30-day period, enacts a joint resolution prohibiting the proposed export.".

(d) COMMERCIAL MANUFACTURING AGREEMENTS.—Section 36(d) of such Act (22 U.S.C. 2776(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by striking "for or in a country not a member of the North Atlantic Treaty Organization"; and

(3) by adding at the end the following:

"(2) A certification under this subsection shall be submitted—

"(A) at least 15 days before approval is given in the case of an agreement for or in a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

"(B) at least 30 days before approval is given in the case of an agreement for or in any other country;

unless the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States.

"(3) If the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States, thus waiving the requirements of paragraph (4), he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate approval of the agreement and a discussion of the national security interests involved.

"(4) Approval for an agreement subject to paragraph (1) may not be given under section 38 if the Congress, within the 15-day or 30-day period specified in paragraph (2)(A) or (B), as the case may be, enacts a joint resolution prohibiting such approval.

"(5)(A) Any joint resolution under paragraph (4) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions under paragraph (4), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(e) GOVERNMENT-TO-GOVERNMENT LEASES.—

(1) CONGRESSIONAL REVIEW PERIOD.—Section 62 of such Act (22 U.S.C. 2796a) is amended—

(A) in subsection (a), by striking "Not less than 30 days before" and inserting "Before";

(B) in subsection (b)—

(i) by striking "determines, and immediately reports to the Congress" and inserting "states in his certification"; and

(ii) by adding at the end of the subsection the following: "If the President states in his certification that such an emergency exists, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that the lease be entered into immediately and a discussion of the national security interests involved."; and

(C) by adding at the end of the section the following:

"(c) The certification required by subsection (a) shall be transmitted—

"(1) not less than 15 calendar days before the agreement is entered into or renewed in the case of an agreement with the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, or New Zealand; and

"(2) not less than 30 calendar days before the agreement is entered into or renewed in the case of an agreement with any other organization or country.".

(2) CONGRESSIONAL DISAPPROVAL.—Section 63(a) of such Act (22 U.S.C. 2796b(a)) is amended—

(A) by striking "(a)(1)" and inserting "(a)";

(B) by striking out the "30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 62(a)," and inserting in lieu thereof "the 15-day or 30-day period specified in section 62(c) (1) or (2), as the case may be,"; and

(C) by striking paragraph (2).

(f) EFFECTIVE DATE.—The amendments made by this section apply with respect to certifications required to be submitted on or after the date of the enactment of this Act.

SEC. 142. STANDARDIZATION OF THIRD COUNTRY TRANSFERS OF DEFENSE ARTICLES.

Section 3 of the Arms Export Control Act (22 U.S.C. 2753) is amended by inserting after subsection (a) the following new subsection:

"(b) The consent of the President under paragraph (2) of subsection (a) or under paragraph (1) of section 505(a) of the Foreign Assistance Act of 1961 (as it relates to subparagraph (B) of such paragraph) shall not be required for the transfer by a foreign country or international organization of defense articles sold by the United States under this Act if—

"(1) such articles constitute components incorporated into foreign defense articles;

"(2) the recipient is the government of a member country of the North Atlantic Treaty Organization, the Government of Australia, the Government of Japan, or the Government of New Zealand;

"(3) the recipient is not a country designated under section 620A of the Foreign Assistance Act of 1961;

"(4) the United States-origin components are not—

"(A) significant military equipment (as defined in section 47(9));

"(B) defense articles for which notification to Congress is required under section 36(b); and

"(C) identified by regulation as Missile Technology Control Regime items; and

"(5) the foreign country or international organization provides notification of the transfer of the defense articles to the United States Government not later than 30 days after the date of such transfer.".

SEC. 143. INCREASED STANDARDIZATION, RATIONALIZATION, AND INTEROPERABILITY OF ASSISTANCE AND SALES PROGRAMS.

Paragraph (6) of section 515(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321i(a)(6)) is amended by striking "among members of the North Atlantic Treaty Organization and with the Armed Forces of Japan, Australia, and New Zealand".

SEC. 144. DEFINITION OF SIGNIFICANT MILITARY EQUIPMENT.

Section 47 of the Arms Export Control Act (22 U.S.C. 2794) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) 'significant military equipment' means articles—

"(A) for which special export controls are warranted because of the capacity of such articles for substantial military utility or capability; and

"(B) identified on the United States Munitions List.".

SEC. 145. ELIMINATION OF ANNUAL REPORTING REQUIREMENT RELATING TO THE SPECIAL DEFENSE ACQUISITION FUND.

(a) IN GENERAL.—Section 53 of the Arms Export Control Act (22 U.S.C. 2795b) is hereby repealed.

(b) CONFORMING AMENDMENT.—Section 51(a)(4) of such Act (22 U.S.C. 2795(a)(4)) is amended—

(1) by striking "(a)"; and

(2) by striking subparagraph (B).

SEC. 146. COST OF LEASED DEFENSE ARTICLES THAT HAVE BEEN LOST OR DESTROYED.

Section 61(a)(4) of the Arms Export Control Act (22 U.S.C. 2796(a)(4)) is amended by striking "and the replacement cost" and all that follows and inserting the following: "and, if the articles are lost or destroyed while leased—

"(A) in the event the United States intends to replace the articles
lost or destroyed, the replacement cost (less any depreciation in the value) of the articles; or

"(B) in the event the United States does not intend to replace the articles lost or destroyed, an amount not less than the actual value (less any depreciation in the value) specified in the lease agreement.".

SEC. 147. DESIGNATION OF MAJOR NON-NATO ALLIES.

(a) DESIGNATION.—

(1) NOTICE TO CONGRESS.—Chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 517. DESIGNATION OF MAJOR NON-NATO ALLIES.

"(a) NOTICE TO CONGRESS.—The President shall notify the Congress in writing at least 30 days before—

"(1) designating a country as a major non-NATO ally for purposes of this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.); or

"(2) terminating such a designation.

"(b) INITIAL DESIGNATIONS.—Australia, Egypt, Israel, Japan, the Republic of Korea, and New Zealand shall be deemed to have been so designated by the President as of the effective date of this section, and the President is not required to notify the Congress of such designation of those countries.".

(2) DEFINITION.—Section 644 of such Act (22 U.S.C. 2403) is amended by adding at the end the following:

"(q) 'Major non-NATO ally' means a country which is designated in accordance with section 517 as a major non-NATO ally for purposes of this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.).".

(3) EXISTING DEFINITIONS.—(A) The last sentence of section 21(g) of the Arms Export Control Act (22 U.S.C. 2761(g)) is repealed.

VOL 142 PT 6 AP 15 — 24 1996 UMI

(B) Section 65(d) of such Act (22 U.S.C. 2796d(d)) is amended—

(i) by striking "or major non-NATO"; and

(ii) by striking out "or a" and all that follows through "Code".

(b) COOPERATIVE TRAINING AGREEMENTS.—Section 21(g) of the Arms Export Control Act (22 U.S.C. 2761(g)) is amended in the first sentence by striking "similar agreements" and all that follows through "other countries" and inserting "similar agreements with countries".

SEC. 148. CERTIFICATION THRESHOLDS.

(a) INCREASE IN DOLLAR THRESHOLDS.—The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended—

(1) in section 3(d) (22 U.S.C. 2753(d))—

(A) in paragraphs (1) and (3), by striking "$14,000,000" each place it appears and inserting "$25,000,000"; and

(B) in paragraphs (1) and (3), by striking "$50,000,000" each place it appears and inserting "$75,000,000";

(2) in section 36 (22 U.S.C. 2776)—

(A) in subsections (b)(1), (b)(5)(C), and (c)(1), by striking "$14,000,000" each place it appears and inserting "$25,000,000";

(B) in subsections (b)(1), (b)(5)(C), and (c)(1), by striking "$50,000,000" each place it appears and inserting "$75,000,000"; and

(C) in subsections (b)(1) and (b)(5)(C), by striking "$200,000,000" each place it appears and inserting "$300,000,000"; and

(3) in section 63(a) (22 U.S.C. 2796b(a))—

(A) by striking "$14,000,000" and inserting "$25,000,000"; and

(B) by striking "$50,000,000" and inserting "$75,000,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to certifications submitted on or after the date of the enactment of this Act.

SEC. 149. DEPLETED URANIUM AMMUNITION.

Chapter 1 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2370 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 620G. DEPLETED URANIUM AMMUNITION.

"(a) PROHIBITION.—Except as provided in subsection (b), none of the funds made available to carry out this Act or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than—

"(1) a country that is a member of the North Atlantic Treaty Organization;

"(2) a country that has been designated as a major non-NATO ally (as defined in section 644(q)); or

"(3) Taiwan.

"(b) EXCEPTION.—The prohibition contained in subsection (a) shall not apply with respect to the use of funds to facilitate the sale of antitank shells to a country if the President determines that to do so is in the national security interest of the United States.".

SEC. 150. END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES.

(a) IN GENERAL.—The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by inserting after chapter 3 the following new chapter:

"CHAPTER 3A—END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES

"SEC. 40A. END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES.

"(a) ESTABLISHMENT OF MONITORING PROGRAM.—

"(1) IN GENERAL.—In order to improve accountability with respect to defense articles and defense services sold, leased, or exported under this Act or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the President shall establish a program which provides for the end-use monitoring of such articles and services.

"(2) REQUIREMENTS OF PROGRAM.—To the extent practicable, such program—

"(A) shall provide for the end-use monitoring of defense articles and defense services in accordance with the standards that apply for identifying high-risk exports for regular end-use verification developed under section 38(g)(7) of this Act (commonly referred to as the 'Blue Lantern' program); and

"(B) shall be designed to provide reasonable assurance that—

"(i) the recipient is complying with the requirements imposed by the United States Government with respect to use, transfers, and security of defense articles and defense services; and

"(ii) such articles and services are being used for the purposes for which they are provided.

"(b) CONDUCT OF PROGRAM.—In carrying out the program established under subsection (a), the President shall ensure that the program—

"(1) provides for the end-use verification of defense articles and defense services that incorporate sensitive technology, defense articles and defense services that are particularly vulnerable to diversion or other misuse, or defense articles or defense services whose diversion or other misuse could have significant consequences; and

"(2) prevents the diversion (through reverse engineering or other means) of technology incorporated in defense articles.

"(c) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this section, and annually thereafter as a part of the annual congressional presentation documents submitted under section 634 of the Foreign Assistance Act of 1961, the President shall transmit to the Congress a report describing the actions taken to implement this section, including a detailed accounting of the costs and number of personnel associated with the monitoring program.

"(d) THIRD COUNTRY TRANSFERS.—For purposes of this section, defense articles and defense services sold, leased, or exported under this Act or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) includes defense articles and defense services that are transferred to a third country or other third party.".

(b) EFFECTIVE DATE.—Section 40A of the Arms Export Control Act, as added by subsection (a), applies with respect to defense articles and defense services provided before or after the date of the enactment of this Act.

SEC. 151. BROKERING ACTIVITIES RELATING TO COMMERCIAL SALES OF DEFENSE ARTICLES AND SERVICES.

(a) IN GENERAL.—Section 38(b)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778(b)(1)(A)) is amended—

(1) in the first sentence, by striking "As prescribed in regulations" and inserting "(i) As prescribed in regulations"; and

(2) by adding at the end the following new clause:

"(ii)(I) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in official capacity) who engages in the business of brokering activities with respect to the manufacture, export, import, or transfer of any defense article or defense service designated by the President under subsection (a)(1), or in the business of brokering activities with respect to the manufacture, export, import, or transfer of any foreign defense article or defense service (as defined in subclause (IV)), shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations.

"(II) Such brokering activities shall include the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service.

"(III) No person may engage in the business of brokering activities described in subclause (I) without a license, issued in accordance with this Act, except that no license shall be required for such activities undertaken by or for an agency of the United States Government—

"(aa) for use by an agency of the United States Government; or

"(bb) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

"(IV) For purposes of this clause, the term 'foreign defense article or defense service' includes any non-United States defense article or defense service of a nature described on the United States Munitions List regardless of whether such article or service is of United States origin or whether such article or service contains United States origin components.".

(b) EFFECTIVE DATE.—Section 38(b)(1)(A)(ii) of the Arms Export Control Act, as added by subsection (a), shall apply with respect to brokering activities engaged in beginning on or after 120 days after the enactment of this Act.

SEC. 152. RETURN AND EXCHANGES OF DEFENSE ARTICLES PREVIOUSLY TRANSFERRED PURSUANT TO THE ARMS EXPORT CONTROL ACT.

(a) REPAIR OF DEFENSE ARTICLES.—Section 21 of the Arms Export Control Act (22 U.S.C. 2761) is amended by adding at the end the following new subsection:

"(l) REPAIR OF DEFENSE ARTICLES.—

"(1) IN GENERAL.—The President may acquire a repairable defense article from a foreign country or international organization if such defense article—

"(A) previously was transferred to such country or organization under this Act;

"(B) is not an end item; and

"(C) will be exchanged for a defense article of the same type that is in the stocks of the Department of Defense.

"(2) LIMITATION.—The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—

"(A)(i) has a requirement for the defense article being returned; and

"(ii) has available sufficient funds authorized and appropriated for such purpose; or

"(B)(i) is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act; and

"(ii) has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act.

"(3) REQUIREMENT.—(A) The foreign government or international organization receiving a new or repaired defense article in exchange for a repairable defense article pursuant to paragraph (1) shall, upon the acceptance by the United States Government of the repairable defense article being returned, be charged the total cost associated with the repair and replacement transaction.

"(B) The total cost charged pursuant to subparagraph (A) shall be the same as that charged the United States Armed Forces for a similar repair and replacement transaction, plus an administrative surcharge in accordance with subsection (e)(1)(A) of this section.

"(4) RELATIONSHIP TO CERTAIN OTHER PROVISIONS OF LAW.—The authority of the President to accept the return of a repairable defense article as provided in subsection (a) shall not be subject to chapter 137 of title 10, United States Code, or any other provision of law relating to the conclusion of contracts.".

(b) RETURN OF DEFENSE ARTICLES.—Section 21 of such Act (22 U.S.C. 2761), as amended by this Act, is further amended by adding at the end the following new subsection:

"(m) RETURN OF DEFENSE ARTICLES.—

"(1) IN GENERAL.—The President may accept the return of a defense article from a foreign country or international organization if such defense article—

"(A) previously was transferred to such country or organization under this Act;

"(B) is not significant military equipment (as defined in section 47(9) of this Act); and

"(C) is in fully functioning condition without need of repair or rehabilitation.

"(2) LIMITATION.—The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—

"(A)(i) has a requirement for the defense article being returned; and

"(ii) has available sufficient funds authorized and appropriated for such purpose; or

"(B)(i) is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act; and

"(ii) has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act.

"(3) CREDIT FOR TRANSACTION.—Upon acquisition and acceptance by the United States Government of a defense article under paragraph (1), the appropriate Foreign Military Sales account of the provider shall be credited to reflect the transaction.

"(4) RELATIONSHIP TO CERTAIN OTHER PROVISIONS OF LAW.—The authority of the President to accept the return of a defense article as provided in paragraph (1) shall not be subject to chapter 137 of title 10, United States Code, or any other provision of law relating to the conclusion of contracts.".

(c) REGULATIONS.—Under the direction of the President, the Secretary of Defense shall promulgate regulations to implement subsections (l) and (m) of section 21 of the Arms Export Control Act, as added by this section.

SEC. 153. NATIONAL SECURITY INTEREST DETERMINATION TO WAIVE REIMBURSEMENT OF DEPRECIATION FOR LEASED DEFENSE ARTICLES.

(a) IN GENERAL.—Section 61(a) of the Arms Export Control Act (22 U.S.C. 2796(a)) is amended—

(1) in the second sentence, by striking ", or to any defense article which has passed three-quarters of its normal service life"; and

(2) by inserting after the second sentence the following new sentence: "The President may waive the requirement of paragraph (4) for reimbursement of depreciation for any defense article which has passed three-quarters of its normal service life if the President determines that to do so is important to the national security interest of the United States.".

(b) EFFECTIVE DATE.—The third sentence of section 61(a) of the Arms Export Control Act, as added by subsection (a)(2), shall apply only with respect to a defense article leased on or after the date of the enactment of this Act.

SEC. 154. ELIGIBILITY OF PANAMA UNDER ARMS EXPORT CONTROL ACT.

The Government of the Republic of Panama shall be eligible to purchase defense articles and defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), except as otherwise specifically provided by law.

TITLE II—TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

SEC. 201. AUTHORITY TO TRANSFER NAVAL VESSELS.

(a) EGYPT.—The Secretary of the Navy is authorized to transfer to the Government of Egypt the "OLIVER HAZARD PERRY CLASS" frigate GALLERY. Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(b) MEXICO.—The Secretary of the Navy is authorized to transfer to the Government of Mexico the "KNOX" class frigates STEIN (FF 1065) and MARVIN SHIELDS (FF 1066). Such transfers shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(c) NEW ZEALAND.—The Secretary of the Navy is authorized to transfer to the Government of New Zealand the "STALWART" class ocean surveillance ship TENACIOUS. Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(d) PORTUGAL.—The Secretary of the Navy is authorized to transfer to the Government of Portugal the "STALWART" class ocean surveillance ship AUDACIOUS. Such transfer shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j; relating to transfers of excess defense articles).

(e) TAIWAN.—The Secretary of the Navy is authorized to transfer to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act) the following:

(1) The "KNOX" class frigates AYLWIN (FF 1081), PHARRIS (FF 1094), and VALDEZ (FF 1096). Such transfers shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(2) The "NEWPORT" class tank landing ship NEWPORT (LST 1179). Such transfer shall be on a lease basis under section 61 of the Arms Export Control Act (22 U.S.C. 2796).

(f) THAILAND.—The Secretary of the Navy is authorized to transfer to the Government of Thailand the "KNOX" class frigate OUELLET (FF 1077). Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

SEC. 202. COSTS OF TRANSFERS.

Any expense of the United States in connection with a transfer authorized by this title shall be charged to the recipient.

SEC. 203. EXPIRATION OF AUTHORITY.

The authority granted by section 201 shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 204. REPAIR AND REFURBISHMENT OF VESSELS IN UNITED STATES SHIPYARDS.

The Secretary of the Navy shall require, to the maximum extent possible, as a condition of a transfer of a vessel under this title, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from California [Mr. LANTOS] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring this legislation to the floor of the House at this time.

The purpose of title I of this bill is to amend authorities under the Foreign Assistance Act of 1961, as amended, and the Arms Export Control Act to revise and consolidate defense and security assistance authorities, in particular by updating policy and statutory authorities.

The genesis of this effort began nearly 7 years ago, with H.R. 2655, the International Cooperation Act of 1989. Subsequent legislation by the then Committee on Foreign Affairs, including H.R. 2508, the International Cooperation Act of 1991, and later bills, continued our efforts to amend and update these important authorities.

On June 8, 1995, the House of Representatives passed H.R. 1561, the American Overseas Interest Act of 1995, by a vote of 222 to 192. Title XXXI of division C, the Foreign Aid Reduction Act of 1995, was dedicated to defense and security assistance provisions. On March 12, 1996, the House agreed to the conference report on H.R. 1561 by a vote of 226 to 172. The conference report, though, did not include provisions from division C of the House-passed bill.

This legislation, H.R. 3121, continues the effort by our Committee on International Relations to amend the Foreign Assistance Act and the Arms Export Control Act to make improvements to defense and security assistance provisions under those acts. The provisions included in title I of this bill are nearly identical to title XXXI of H.R. 1561, are the product of bipartisan effort and cooperation, and enjoy the strong support of the Departments of State and Defense.

Central to consideration of this bill is the committee's view that this legislation fulfills its responsibility as an authorizing committee. Specifically, this legislation codifies in permanent law authorizing language which has been too long carried on annual appropriations measures.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The purpose of title II of this bill is to authorize the transfer of naval vessels to certain foreign nations pursuant to the administration's request of January 29, 1996. Title II of this bill authorizes the transfer of 10 naval vessels, 8 sales, 1 by lease and 1 by grant, to the following nations: to Egypt, to Mexico, to New Zealand, to Portugal, to Taiwan, and to Thailand.

According to our Department of Defense, the Chief of Naval Operations has certified that these naval vessels are not essential to the defense of our own Nation.

As detailed above, the United States plans to transfer eight naval vessels by sale, pursuant to section 21 of the Arms Export Control Act. One of the vessels will be transferred as a lease, pursuant to chapter 6 of the Arms Export Control Act, and one of the vessels will be transferred as a grant pursuant to section 519 of the Foreign Assistance Act of 1961, as amended.

The United States will incur no cost for the transfer of the naval vessels under this legislation. The foreign recipients will be responsible for all costs associated with the transfer of the vessels, including maintenance, repairs, training and fleet turnover costs. Any expenses incurred in connection with these transfers will be charged to the foreign recipients.

Through the sale of these naval vessels, this legislation will generate $72 million in revenue for the U.S. Treasury. In addition, through repair and reactivation work, through service contracts, ammunition sales, and savings generated from avoidance of storage and deactivation costs, our Navy estimates that the legislation will generate an additional $525 million in revenue for the U.S. Treasury and for private U.S. firms.

I commend this bill to the House and I ask my colleagues for their support.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would like to commend the distinguished chairman of our committee for his leadership on this bill and on so many other matters. I rise in strong support of this resolution.

Mr. Speaker, I yield 2 minutes to my good friend and distinguished colleague, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman from California, and I want to join in congratulating his leadership, along with the gentleman from New York in the previous resolution on the Holocaust.

In general, this is good legislation. As someone who represents a large number of Portuguese-Americans who are proud of the very strong, thriving relationship between our two democratic nations, I am pleased to see through the efforts of my colleagues the needs of the Portuguese Navy have been in part accommodated.

But I am severely disappointed that this legislation continues a pattern of rewarding the Government of Indonesia, which continues to engage in some of the most oppressive and racist activities in the world in their maltreatment of the people of East Timor. Indonesia's record in East Timor is one of the great moral failings in the world, and unfortunately it is a further moral failing that the rest of the world stands back and allows the people of East Timor to be so oppressed.

I understand that this is military and educational training. Theoretically just for civilians, in ways it is supposed to help. But you know when you are in East Timor being oppressed, when you are being killed or imprisoned by this brutal regime, the fact the people doing the killing and the Indonesians are a little better educated in civic values than they otherwise might have been is no consolation. I regret very much that this legislation continues that practice.

Last year I offered an amendment to strike from the foreign operations appropriations bill all aid to Indonesia. The Committee on Rules did not allow it. I want to announce now that I and others intend to insist this time on our right to at least vote on that. It is bad enough that this Congress goes along with rewarding the brutal actions of the Government of Indonesia, but to deny us even a chance to vote for it implicates our own procedures in that unfortunate aspect, although obviously murder is a lot worse than our being able to vote. I am sorry it is not included here, and I pledge we will do everything we can to end the practice of rewarding the Indonesian Government until and unless it stops its brutalization of the people of East Timor.

Mr. GILMAN. Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from Rhode Island [Mr. KENNEDY], my good friend and distinguished colleague.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I would like to concur with my colleague from Massachusetts [Mr. FRANK], in that this bill should not be on the Suspension Calendar as it relates to the inclusion of an enhancement for Indonesia for the same reasons my colleagues just spoke.

Indonesia has proven itself to be someone with no respect and regard for the human rights of the East Timorese in the application of their Government in East Timor. They have systematically used their Government to oppose the East Timorese. They have terrorized, brutalized, they have killed demonstrators in broad daylight in front of international cameras. They will go to no end to show that they are not worthy of the recognition that this enhancement gives them.

The whole idea of the enhancement is to say, "Well, we will work with you."

☐ 1415

But understand, we will work to support democratic efforts. But if there are no democratic efforts being undertaken, it is a little presumptuous for us to think that simply by our recognition of East Timor through this enhanced IMET that we are going to replace what is not there. That is the problem with enhanced IMET.

My former colleague, Congressman Ron Machtly, was successful in revoking IMET. It was a good thing that this Congress recognized it. Nothing has changed. Indonesia still oppresses these Timorese, and that is why this is not the time for us to be renewing IMET. That is why, Mr. Chairman, as the gentleman can obviously tell, there are people like myself, the gentlewoman from California [Ms. PELOSI], the gentlewoman from New York [Mrs. LOWEY], and others, the gentleman from Massachusetts [Mr. FRANK], who know this is not an issue where we should be debating it on a Suspension Calendar. We have no problem debating this as a bill on the floor itself, and that is the way it should come before us.

Mr. Speaker, this bill contains provisions, as the gentleman from New York said, which we all support. I would be the first to commend the gentleman from New York [Mr. GILMAN] for the inclusion of the hydrographic vessel that goes to Portugal. But that is the proper role for a suspension bill. The IMET is not. So while I support that endeavor that the gentleman has put into the bill, this I have to object to.

Mr. GILMAN. Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise today in strong opposition to the provision in this bill that authorizes international military education and training [IMET] assistance for Indonesia.

In 1992, we voted to end all IMET assistance for Indonesia because of that country's abysmal human rights record and their continued oppression of the people of East Timor. Despite the lack of improvement in Indonesia's human rights record, and the opposition of myself and many of my colleagues, a modified IMET program was approved for Indonesia in the Foreign Operations Appropriations Act for fiscal year 1996.

When this provision was added to the foreign aid bill last year, we said we would monitor the human rights situation in Indonesia very carefully and act accordingly this year. Well, the State Department's Country Report on Indonesia was released last month, and according to the report, "The government continued to commit serious human rights abuses."

So what do we do a month after this report came out? We attempt to slip reauthorization of IMET for Indonesia into a supposedly noncontroversial bill that is being considered on the Suspension Calendar. This is an unacceptable way to legislate.

Mr. Speaker, in the past we have debated this issue extensively. Last year, I offered an amendment to the foreign aid bill to prohibit this assistance from going to Indonesia. There is significant opposition in Congress to Indonesian IMET. That doesn't sound noncontroversial to me.

A month ago, the State Department said that in Indonesia "reports of extrajudicial killings, disappearances, and torture of those in custody by security forces increased." Not decreased. Not stayed the same. Increased. Should we really be authorizing IMET assistance for this government now when they have not addressed these critical human rights issues? I don't think so.

Indonesia's policy in East Timor is about the oppression of people who oppose Indonesia's right to torture, kill, and repress the people of East Timor. It is about the 200,000 Timorese who have been slaughtered since the Indonesian occupation in 1975—200,000 killed out of a total population of 700,000. It is about genocide.

Mr. Speaker, this is not a noncontroversial issue, and should never have been brought up under suspension.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. BROWNBACK], a member of our committee.

Mr. BROWNBACK. Mr. Speaker, let me begin by congratulating Chairman GILMAN for the hard work he and his staff have put into reforming the defense and security assistance provisions incorporated in H.R. 3121.

I think H.R. 3121 represents a common sense approach to advancing our foreign policy goals of promoting global security, ensuring the security of U.S. citizens and U.S. allies around the world, and encouraging democracy. However, the bill achieves these goals while effectively reducing the amount of excess defense articles that will be transferred to our allies on a grant or no-cost lease basis.

We need to use the grant and no-cost lease options sparingly so that these programs recover as much money for the taxpayers as possible. H.R. 3121 will force the Defense Department to drastically reduce the number of no-cost leases and grants that are used to transfer excess defense articles to our allies. The bill creates the national security interest determination that the President will have to invoke in order to provide a no-cost lease for excess defense articles.

Mr. Speaker, H.R. 3121 also requires the Pentagon to evaluate whether excess defense articles should be transferred on a grant basis or on a sale basis, depending upon what the potential proceeds would be from a sale, what the likelihood of selling a defense article would be, and what the foreign policy benefits of a transfer would be. Mr. Speaker, I simply add that in this time of budgetary constraint and austerity, I think this is a very good measure that we move forward with that, we say to the Defense Department and we say to the administration, if you are going to give away these ships, if you are going to give away these airplanes, you better have a darn good reason to do it, because we are broke and we need to be able to recognize and get as much funding as we possibly can and have as much restraint here as possible.

That is in the bill, and I commend Chairman GILMAN for inserting it.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. BROWNBACK. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for focusing on the changes and the reforms that are a part of this bill. The gentleman has been active as well as Chairman GILMAN and the ranking member.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BROWNBACK. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I just want to commend the gentleman from Kansas for his astute observations, analysis of the bill. He has been a sound critic of the prior procedures that we have utilized in transferring this equipment, and as a result of his efforts, a good reform has come about. I thank the gentleman for his efforts.

Mr. BROWNBACK. I thank the gentleman very much.

Mr. HAMILTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I want to commend Chairman GILMAN for his leadership on this bill. He has proceeded in a very constructive and bipartisan way. The first part of the bill, an amendment of security assistance authorities in the Foreign Assistance Act and the Arms Export Control Act, has indeed been developed on a bipartisan basis under Chairman GILMAN's leadership. He has already spoken in some detail about the bill, and I do not want to repeat his presentation.

Mr. Speaker, I just want to speak to two issues that have come up by our colleagues. One is expanded IMET for Indonesia. The issue of expanded IMET for Indonesia is troubling to some Members of this House. The administration strongly supports the provision in this bill which exactly tracks the Foreign Operations Act for this fiscal year. The bill would not allow IMET assistance for traditional purposes. There would be no lethal training.

This bill allows military education and training in Indonesia only for very specific purposes: To foster greater respect for and understanding of the principle of civilian control of the military, to improve military justice in accordance with internationally recognized human rights, and to improve counternarcotics cooperation. The purpose of this so-called expanded IMET is solely to give the United States a better handle in trying to alter the behavior of the Indonesian Government and the military which, of course, is the strongest, most influential institution in the country.

Second, Members interested in arms control have raised questions about this bill, as well. I believe this bill will help improve Congress' oversight of the arms export control process. The bill gives the Congress an additional 20 days' advance notification of arms export commercial licenses and coproduction agreements. It will give Congress the same window on these transactions as it now has on government-to-government sales.

For the first time, it will give the Congress the ability to offer resolutions of disapproval on third-country transfers and on coproduction agreements. For the first time, the Congress will require the executive branch to establish a comprehensive end-use monitoring system on government-to-government arms transfers. For the first time, Congress will put a genuine meaningful cap, $350 million, on the transfer of excess defense articles in a fiscal year. The existing ceiling, $250 million, has just too many loopholes in it.

Mr. Speaker, it is correct that this bill raises thresholds on arms notifications, for example, from $14 million to $25 million on arms sales. The last time thresholds were raised was 1981. So this change is basically in response to inflation.

According to the Department of Defense, this change in the past year would have resulted only in some four or five fewer notifications to Congress per year out of a few hundred, I might say, each year, and all of them to NATO countries.

The bill eliminates grants of international military education and training for wealthy countries. The bill gives the administration more flexibility in the use of limited assistance funds through increases in drawdown authorities and changes in the authorities on antinarcotics and antiterrorism assistance programs. For example, this bill will enable the President to use assistance funds to work with Israel on research and development efforts to combat terrorism.

Mr. Speaker, I also want to commend the chairman, Mr. GILMAN, and the administration, particularly the Navy, on the second part of the bill on naval ship transfers. The Navy has heard the message about the committee's opposition to large numbers of grant ships

VOL
142
PT
6
AP
15
—
24
1996
UMI

transfers. The bill before us returns to the traditional pattern of ship transfers. Eight ships in this package are sales, one is a lease, and one to Portugal is a grant. Portugal, of course, is a NATO ally since the beginning of NATO, has provided the United States access to facilities since the 1940's, and last year renewed that access agreement in the Azores.

This package also includes the sale of three 1970 vintage *Knox*-class frigates to Taiwan and the lease of one transport ship to Taiwan. This is part of our longstanding policy under the Taiwan Relations Act to provide defense articles to Taiwan. I strongly support these ship transfers.

Mr. Speaker, I strongly support the overall bill. I urge the adoption of H.R. 3121.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman from Indiana for his supporting remarks.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I thank the gentleman from California [Mr. LANTOS] very much for yielding the time.

Mr. Speaker, today we face an international drug problem. Few of us would deny this fact; fewer would stand by idly as the problem grows worse.

I rise in support of H.R. 3121, Technical Amendments to Foreign Assistance and Arms Export Control Acts. I wish to thank Chairman GILMAN and ranking member HAMILTON of the International Relations Committee for their dedicated effort to bring this bill to the floor. I wish to also thank them for adding, at my request, necessary exceptions for Panama to receive foreign military sales to combat the international drug problem.

Ambassador and former Congressman Bill Hughes recently alerted me of the importance for the Panamanian public forces to receive United States military assistance. This is not an attempt on our part to rebuild the Panamanian military, but merely an avenue through which we can halt illegal drug trafficking. Costa Rica, for example, is permitted such funding. We are discovering that when a country acquires the tools to fend off this addictive disease, the cure is always within reach.

I want to thank my colleagues for their support of this exception and this bill. It is another step toward continuing and escalating our war against drugs.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his concern about the war against drugs and for making certain that this waiver was inserted in the measure. We thank him for his support of the measure.

Mr. Speaker, I reserve the balance of my time.

☐ 1430

Mr. LANTOS. Mr. Speaker, I am delighted to yield 3 minutes to the gentlewoman from San Francisco, CA [Ms. PELOSI] my neighbor, friend, and distinguished colleague.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from California [Mr. LANTOS] for yielding this time to me and for his leadership on issues, international issues as well as others, that come before this House. I have great respect for the chair of the committee, the gentleman from New York [Mr. GILMAN], and our ranking member, the gentleman from Indiana [Mr. HAMILTON].

I rise today to express concern about a couple of the provisions of this legislation, H.R. 3121. I do not believe that the bill before us should be on suspension calendar because it covers a great deal of territory and with a minimal amount of debate and consideration on the floor.

My two concerns, one I share with many of my colleagues, is about the enhanced IMET to Indonesia for 1996–97 and my concern about arms control. I listened very attentively to the remarks of the ranking member, the gentleman from Indiana [Mr. HAMILTON], and appreciate the assurances he has given about the increased ceiling in terms of the weapons, the sale, amount of the weapon sales, and the increased discretion given to Congress to intervene in those sales, and I accept his explanation, and I look forward to getting more information that is contained in the bill.

But I would, for the record, like to express concern about the international military and education training for Indonesia for 1996 and 1997. Our colleagues have said that this legislation tracks the Committee on Foreign Operations legislation. Well, it does for 1996.

Many of us on the committee, and I serve on the Foreign Operations Subcommittee, do not think that Indonesia should be getting any IMET. We recognize that there are those who believe that this enhanced IMET for the purposes of fostering civilian control in the role of an army and a more democratic country, et cetera, I do not know if I have defined Indonesia that way, but nonetheless this IMET, enhanced IMET, could be useful. And in that spirit of cooperation we accepted the compromise proposed graciously by our chairman, the gentleman from Alabama [Mr. CALLAHAN], with the understanding that it was only for 1996 and the program would be carefully monitored. We accepted the compromise but remain convinced nonetheless that Indonesia should not receive IMET funds.

Now we see before us, in the bill before us, extending the IMET for 1997 despite the fact the record shows continuing serious human rights abuses by the armed forces in Indonesia that several of our colleagues referenced specifically in East Timor. We will continue the debate on this important issue as the Committee on Foreign Operations considers fiscal year 1997.

I mentioned my concerns about the arms sales and think there could be dangerous consequences, but, as I say, accept the explanation extended by the gentleman from Indiana [Mr. HAMILTON]. While the notification process may be considered cumbersome by some in the bureaucracy, congressional oversight helps insure that the taxpayer dollars are well spent.

Again, I am concerned the bill was placed on suspension calendar with little information to many Members. Passage of the bill does not reflect wholehearted support for some of the provisions it contains; I guess that is a rule of life around here. But I do want to very strongly convey to our chairman that this does not track the foreign ops bill for 1996–97. The foreign ops bill only gave enhanced IMET for 1996, and I hope that the gentleman would join with us in monitoring how that enhanced IMET funding is spent.

Mr. LANTOS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker I rise because of concerns I have to H.R. 3121, amending the Foreign Assistance Act and the Arms Export Control Act.

This bill moves us in the wrong direction. It unnecessarily costs the taxpayers more money and it moves us toward less accountability of arms transfers.

At a time when we are working so hard to balance the Federal budget, it does not make sense to do as this bill does. For the first time, it would require U.S. taxpayers to pay the costs of shipping the excess defense articles we're giving away to other countries.

In a world where our own soldiers are at risk from the very weapons exported by the United States, we should not be promoting increased exports in the ways that this bill does. This bill eliminates congressionally mandated language to ensure that foreign recipient countries use the equipment as intended. That includes, for example, the requirement that excess defense articles transferred for counternarcotics purposes be used primarily for counternarcotics purposes and not for counterinsurgency.

This bill strips Congress of its ability to gauge the human rights situation and to determine if the assistance is likely to be used in abuses. We must be more creative than that in determining ways for our Nation's workers to have jobs. We cannot come to rely on arms exports to such an extent that we ignore human rights.

This is a controversial bill, Mr. Speaker. I object to the process that was used in bringing it to the floor on the suspension calendar and I object to its content. I urge my colleagues to reject H.R. 3121.

Mr. LANTOS. Mr. Speaker, I yield such time as she may consume to the

gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, as a mother and a woman of conscience, I am concerned about U.S. transfers of arms around the world and the impact that those transfers will have 10–15 years down the road, particularly on my son and the other young people of America.

Mr. Speaker, I rise today to express concern about portions of H.R. 3121 that would reduce congressional oversight on arms sales to foreign countries.

Current law governing congressional oversight of arms sales is already feeble—this bill only makes a bad situation worse. On numerous occasions, our soldiers have been sent into war situations where they have had to face hostile forces armed with American supplied weapons.

I am sure everyone recalls Panama, Iraq, Somalia, and Haiti where our fighting men and women were sniped at and killed by weapons we supplied to those countries before they turned belligerent.

Mr. Speaker, while there are provisions in this bill which I strongly support—such as Narcotics control, refugee assistance, and POW/MIA recovery efforts—I cannot in good conscience allow this bill to breeze through this body without careful deliberation.

Every year, the weapons we sell overseas are used against innocent civilians, refugees, political dissidents, and, yes, American soldiers. As the legislative branch, we have the right and responsibility to oversee the transfer of weapons to foreign governments.

This does not mean we cannot supply our allies with the tools to defend themselves, it simply means that we should provide a sobering second thought when the administration is about approve the transfer of lethal American weapons into the hands of foreign governments.

This bill, Mr. Speaker, would increase the threshold at which Congress must be notified for arms sales, from $200 to $300 million. That means the administration would be able to sell $100 million more in guns overseas before Congress must be notified.

Moreover, the bill authorizes the resumption of international military and education training for the Government of Indonesia. Mr. Speaker, it is well known that Indonesia has an atrocious human rights record, especially with regards to the people of East Timor.

For those of my colleagues who aren't aware, the people of East Timor have been subjected to near-genocide, simply because of their opposition to the multinational mining interests who want to expropriate their minerals.

Mr. Speaker, measures such as these should not be dealt with so lightly under the suspension calendar, and Congress should not be so willing to hand over its limited oversight authority to the administration.

While I want to support the good measures in this bill Mr. Speaker, I am afraid that my conscience will not let me vote for a bill that will reduce congressional oversight with respect to the sale of weapons. Moreover, I cannot support a bill which will authorizes the use of American tax dollars to train the repressive military of Indonesia.

As a mother and as a woman of conscience, I urge my colleagues to oppose this regrettably tainted bill.

Mr. LANTOS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 6 minutes to the gentleman from Nebraska [Mr. BEREUTER], the distinguished chairman of our Subcommittee on Asia and the Pacific.

Mr. BEREUTER. Mr. Speaker, I thank the chairman for yielding me this time.

I would say to my colleagues, the gentleman from Massachusetts, the gentleman from Rhode Island, the gentlewoman from New York, and the gentlewoman from California, if it is not absolutely clear, we are not authorizing IMET for Indonesia. We are authorizing E-IMET, or extended IMET, and not, as one of the gentleman said, enhanced IMET. And, even "extended IMET" really does not convey what the program is, for it is quite different than the original IMET program. The Extended IMET program is the kind of program exactly designed to be used in a country like Indonesia where we do have some human rights concerns which are in part related to East Timor.

Now, let me say first of all that the enhanced IMET program, or E-IMET, is strongly supported by the administration. If you listen to CINCPAC sources, as people in the State Department, the Defense Department generally and other parts of the administration, it is clear that this administration, the previous administration, are supportive of extending the "Enhanced IMET" program to Indonesia. It moves us closer to a positive defense relationship with Indonesia, and, more importantly, it is specifically geared, as the gentleman from Indiana [Mr. HAMILTON] said, to dealing with a country that has human rights problems that trouble us a great deal. The E-IMET program is to foster greater respect for the principles of civilian control of the military. It is to improve military justice and military codes of conduct in accordance with internationally recognized human rights. It is to contribute to responsible defense resource management. It is to contribute to cooperation between the military and local police in the area of counternarcotics.

This is the full scope of the E-IMET program. It is very different than the IMET program, about which objections have been expressed here today.

Now, let me say that I, despite the fact that I believe that Indonesia is playing a very important role in Southeast Asia, that it is strategically located and is a country that has played the key, positive role in trying to resolve the Spratley Islands dispute in the waters off Southeast Asia, despite that, I would not be able to suggest to my colleagues that we ought to approve the traditional IMET authorization. But there is this to be said for what is happening in Indonesia:

There are substantial signs of greater judicial independence, there is NGO activism in the last 12 months, there is a human rights commission that has been established, primarily because of outside interests, the human rights community, and the United States of America. Human rights practices remain certainly imperfect, but the E-IMET program is specifically designed primarily to push Indonesia and other countries toward better human rights practices.

So I think that, in fact, our colleagues should feel very good about authorizing "Enhanced IMET" program for Indonesia. And by the way, it is identical to the existing law in the foreign operations appropriation bill as well as the authorization bills passed by both the House and the Senate.

I understand a couple of my colleagues—the gentlewoman from Connecticut, the gentleman from Florida—might like to engage in a colloquy here. Is that correct?

Mr. Speaker, I yield to the gentleman from Florida if he wishes to engage in this discussion.

Mr. SHAW. Mr. Speaker, I had not intended to be in the debate on this particular issue until I heard the questions of what I consider to be tremendous exaggerations as to what is going on in East Timor. I had the privilege of visiting East Timor for several days just a few months ago, along with Congressman JOHNSON and the gentleman from Texas, Mr. ARCHER. We saw firsthand the fact that there are not these huge breaches of human rights, and we did not see these breaches of human rights as referred to.

As a matter of fact, one of our Members went and spoke to a Catholic priest, and, by the way, most of Indonesia is Muslim, this is mostly Catholic. As a matter of fact, there is the second largest statue of Jesus in the entire world being constructed—in process of being constructed—in East Timor.

I went to a Catholic priest who actually favored independence, but he verified the fact that the human rights record was certainly improving and that he did not see these tremendous violations of human rights.

Mr. BEREUTER. Mr. Speaker, I yield to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I think it ought to be also in the record that the government of East Timor is a Timoran, well respected by the people of that island, and Indonesia has a way of sharing the benefits of mining and timber throughout the islands of Indonesia. So development money is coming in, and not only are they beginning to deal with the terrible economic problems of this island, but they are

VOL
142
PT
6
AP
15
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24
1996
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beginning also to deal constructively with the human rights issues.

Mr. BEREUTER. Mr. Speaker, I thank the gentlewoman.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Florida, the gentlewoman from Connecticut, the gentleman from Nebraska for straightening out some of the background on East Timor and the IMET Program.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. MANZULLO], a member of our committee.

Mr. MANZULLO. Mr. Speaker, this is an interesting bill, and I rise in full support of it, H.R. 3132.

The last title, title 2, that appears on page 50, represents an incredible set of events that took place in our Committee on International Relations several months ago. I raised the concern several months ago, along with the gentleman from Kansas [Mr. BROWNBACK] that a request of an admiral would come before the committee on a relatively routine, in his mind, and in the past a routine, procedure of simply asking the House of Representatives to give away ships.

As I sat there and listened to the admiral talking about giving away these ships, it dawned on me—why is the United States in the business of giving away ships when, in fact, we can simply sell these or lease them, and at that point the particular bill was pulled. The people who were working on it decided that perhaps we should do something different, and as a result of that, there was a committee hearing held March 21, 1996, before the Committee on International Relations and this time this particular bill was before our committee, and that is to sell ships or to lease them to Egypt, Mexico, New Zealand, Portugal, Taiwan, and Thailand, and I asked the person from the Department of Defense, the fact that they are now requesting a sale or lease of the ships, is this in direct response to the inquiry that Mr. BROWNBACK and I had over our consternation that our country was giving away excess ships. And the answer by Mr. Caines was, "Very much, sir."

He said, "We have understood what the committee and the Congress have said, and therefore you will see that in that package, which I believe includes a total of 10 ships, there is only one grant, sir. There are eight sales and one lease."

This particular bill brings in revenues to the U.S. Government in excess of one-half billion dollars, and what this amounts to is that the U.S. Navy has now changed its policy so that henceforth any excess ships are not routinely given away, they are now sold or leased to our trading partners overseas.

This is a good bill. It is a revenue generator. It is going to make a lot of money for this country, and it is good, sound foreign policy.

So I would encourage my colleagues wholeheartedly to support the passage of H.R. 3132.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his supporting comments.

Mr. Speaker, I believe that this has been a good, sound debate on the bill. I am pleased that many of our colleagues have had an opportunity to participate. I thank the gentleman from California [Mr. LANTOS] for his supporting remarks.

This bill does make important changes in defense and security assistance authorities, and I am calling on my colleagues to support the measure.

Mr. REED. Mr. Speaker, I recognize the importance of the issues that the House of Representatives is addressing today as it considers H.R. 3121.

However, I must object to certain provisions of H.R. 3121 and the manner in which it has been brought before the House. This measure authorizes enhanced International Military and Education Training [IMET] for Indonesia, which is committing flagrant human rights abuses against the people of East Timor.

More than 20 years ago, Indonesian troops invaded the small country of East Timor, beginning a storm of violent occupation and repression that continues today. I believe that we must stand with the East Timorese against these unconscionable acts, and I am concerned that by providing enhanced IMET to Indonesia, we may send a dangerous message to the leaders of that nation.

In addition, by bringing H.R. 3121 to the floor under suspension of the rules, we will not have a full and open debate on IMET and Indonesia's aggression against the East Timorese. The suspension calendar should be reserved for non-controversial legislation. In my opinion, H.R. 3121 does not meet this test.

I regret that this afternoon, the House is not giving these issues the attention they deserve. In the months to come, I will continue to work to assist the long-suffering people of East Timor, and I urge my colleagues to join me in this effort.

Mr. HALL of Ohio. Mr. Speaker, while I support the majority of the provisions in H.R. 3121, which makes various technical amendments to the Foreign Assistance Act and the Arms Export Control Act, I strongly oppose the section which authorizes the resumption of International Military and Education Training [IMET] funds for Indonesia.

I have been protesting the human rights abuses in East Timor for some time now. Last December marked the 20th anniversary of Indonesian invasion of East Timor. Recently, the situation on the ground there has been getting worse not better. It is sobering to reflect that over the last 20 years at least 100,000 and perhaps more than 200,000 people have been killed out of a population of less than 700,000. While the vast majority of these deaths took place before 1980, harsh repression continues. The world witnessed this first hand when the 1991 Santa Cruz massacre in which the Indonesian military killed over 200 unarmed individuals was recorded by journalists.

Congress banned IMET funding for Indonesia to protest human rights abuses in East Timor. The situation has not improved and the U.S. Congress should not change this policy. It is my hope that we can prevent the funding of IMET for Indonesia in the appropriations process.

☐ 1445

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and pass the bill, H.R. 3121, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3121, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on all motions to suspend the rules. Pursuant to the provisions of clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 2337, de novo; and House Resolution 316, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote after the first such vote in this series.

TAXPAYER BILL OF RIGHTS II

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2337, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Connecticut [Mrs. JOHNSON] that the House suspend the rules and pass the bill, H.R. 2337, as amended.

The question was taken.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic devise, and there were—yeas 425, nays 0, not voting 7, as follows:

[Roll No. 119]

YEAS—425

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—7

Becerra
Gutierrez
Hunter
Richardson
Tiahrt
Torres
Wilson

☐ 1507

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CAMP). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair had postponed further proceedings.

DEPLORING INDIVIDUALS WHO DENY HISTORICAL REALITY OF HOLOCAUST AND COMMENDING ONGOING WORK OF UNITED STATES HOLOCAUST MEMORIAL MUSEUM

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 316.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada [Mr. ENSIGN] that the House suspend the rules and agree to the resolution, House Resolution 316, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 12, as follows:

[Roll No. 120]

YEAS—420

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden

VOL
142
PT
6
AP
15
—
24
1996
UMI

Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Becerra
Brewster
Gutierrez
Horn
Hunter
Myers
Richardson
Ros-Lehtinen
Roth
Tiahrt
Torres
Wilson

☐ 1514

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, at the end of the afternoon of Tuesday, April 16, 1996, I was unavoidably absent from this Chamber and therefore missed rollcall vote No. 120—deploring individuals who deny the historical reality of the Holocaust and commending the vital, ongoing work of the U.S. Holocaust Memorial Museum and rollcall vote No. 119—to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections. I want the RECORD to show that if I had the opportunity to be in this Chamber when these votes were cast, I would have voted "yea" for both rollcall vote No. 120 and rollcall vote No. 119.

PERSONAL EXPLANATION

Mr. TIAHRT. Mr. Speaker, earlier today I was unavoidably detained. Had I been present, I would have voted in the affirmative on rollcall vote No. 119 (H.R. 2337) and rollcall vote No. 120 (H. Res. 316).

PERSONAL EXPLANATION

Ms. ROS-LEHTINEN. Mr. Speaker, I was unavoidably absent for the final vote on Tuesday, April 16. I would have voted "yes" on rollcall vote 120.

PERSONAL EXPLANATION

Mr. HORN. Mr. Speaker, on rollcall No. 120, I regret having been unavoidably detained in a meeting with constituents, which prevented me from voting aye in support of House Resolution 316: Deploring individuals who deny the historical reality of the Holocaust and commending the work of the U.S. Holocaust Memorial Museum.

This is particularly ironic since I have spoken out for over two decades about the foolishness and evil of those who deny the Holocaust and the murder of 6 million Jews in Nazi-controlled Europe during the Second World War.

Had I been present, I would have voted "aye."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1972

Mr. QUINN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1972.

The SPEAKER pro tempore (Mr. COBLE). Is there objection to the request of the gentleman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1963

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that my name be removed from H.R. 1963, the Postmark Prompt Payment Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

A TRIBUTE TO SOPHIE REUTHER

(Mr. TORRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. TORRES. Mr. Speaker, I rise today to honor and pay tribute to a great American woman, Sophie Reuther, who passed away on February 20 of this year. This past Saturday, approximately 150 people, friends and family, gathered at the Reuther home to celebrate the life and lessons of this remarkable woman. Trade unionists from afar, from California, from Ohio, from Minnesota, from Michigan, from New England, from Canada, gathered to retell stories about Sophie's life, her hopes, her aspirations. She was a full partner with her husband Victor as they struggled for social and economic justice for workers in America and throughout the world. They were the true pioneers in the organization of the United Auto Workers of America.

Mr. Speaker, there are not enough words for me to tell about Sophie Reuther, who I had the privilege to know. I therefore ask my colleagues to read about her legacy in a New York Times obituary.

Mr. Speaker, I include this article for the RECORD, as follows:

[From the New York Times, Feb. 23, 1996]

SOPHIE REUTHER, A SOCIAL AND LABOR ACTIVIST, IS DEAD AT 82

(By Robert McG. Thomas Jr.)

Sophie Reuther, a social activist who captured the head of the United Auto Workers' co-founder, Victor Reuther, and then proved her mettle as a union organizer during the violent labor wars of the 1930's, died on Tuesday at a hospice near her winter home in Ft. Myers, Fla. She was 82 and had been Mr. Reuther's full partner in labor and in life for 59 years.

When they met in December 1935 at the Brookwood Labor College in Katonah, N.Y., where she was a student and he a visiting lecturer, Mr. Reuther was a dashing labor figure who had spent three years traveling around the world with his older brother, Walter, and had helped him found the U.A.W. earlier that year.

"I think she was impressed," her husband said yesterday, acknowledging that the feeling was more than mutual. She may not have had his credentials as a union founder, but as the daughter of Polish refugees who died when she was 15, Sophia Goodlavish, or Sophie Good, as she was known, had already made a mark for herself in labor circles.

A native of Middleboro, Mass., she had her first taste of organizing while working at a shoe factory and had later so distinguished herself in raising money for unionized workers during a shipyard strike that Norman Thomas, the Socialist leader, had recommended her for a scholarship to the labor college.

"She was a very prim young woman with a fund of social idealism," Mr. Reuther said, offering a courtly labor man's declaration of what he acknowledged was love at first sight.

Mr. Reuther, who had been profoundly lonely since his brother's recent marriage, said he was so afraid he would never see her again after her short term ended that he proposed.

She accepted, and six months after their marriage in July 1936, Mrs. Reuther, using the name Good to hide her connections to a high union official, was sent by the U.A.W. to Anderson, Ind., to help bolster support for a strike at a General motors plant.

At one point, Mr. Reuther said, while he was on his way to Anderson, his wife had to

jump out a second-story window to escape an armed band of Ku Klux Klansmen who stormed the union headquarters at the urging of management officials.

"She went underground and it took me three days to find her," he said. Before the year was out, he and she along with his brother Roy, were purged during an intra-union fight that lasted until the Reuther faction regained power two years later.

Walter Reuther, who remained in office during the purge, also remained a marked man.

In April 1938 two gun-wielding anti-union thugs forced their way into Sophie Reuther's 25th birthday party at Walter Reuther's Detroit apartment (a delivery of Chinese food had been expected) and began pistol whipping her brother-in-law until a guest scrambled out a second-story window and began shouting for the police.

When the police, widely assumed to be in the pay of the auto makers, began a perfunctory investigation and asked Mrs. Reuther to describe the thugs, she did not miss a beat. "They looked very much like you," she said.

In 1951, after an attempt on Mr. Reuther's life, the family including three children, moved to Paris, where he spent three years as the Congress of Industrial Organization's European director.

They moved to Washington in 1954, when Walter Reuther took over as U.A.W. president and Victor became his special assistant and director of international affairs.

Although Mrs. Reuther held no official union position after 1937, she remained very much a union woman, so much so that when her husband, who she believed had been neglecting his domestic duties, returned from one of his frequent trips he found a list of her demands written large in rug shampoo on the living room carpet.

Known as a woman who recognized no limitation on what she could do, Mrs. Reuther obtained a fine arts degree from George Washington University at the age of 55 in 1968 and was a Robert F. Kennedy delegate to the Democratic National Convention that year.

It was during an official union visit to India that year that Mrs. Reuther left her husband with the enduring image of her humanity. At a mine near Calcutta, he recalled, a miner's widow, an untouchable, approached his wife, bent down and kissed her shoe.

Then, in a breach of caste protocol, "my Sophie reached down and lifted the woman up and embraced her." Mr. Reuther recalled. "The women were shocked. The men were shocked."

"That was my Sophie," he said. "She felt a kinship with the suffering of all people."

In addition to her husband, Mrs. Reuther is survived by a daughter, Carole Hill of Cowden, Ill.; two sons, Eric, of Washington, and John, of Moscow; a brother, Edward Bezuska of Warren, Mich, and six grandchildren.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

GETTING GOVERNMENT OFF THE BACKS OF AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I certainly appreciate the opportunity, and we are glad to be back in our Nation's Capital, and obviously it is tax week. April 15 has come and gone, and the American public has obviously hopefully filled out all of their appropriate papers. But it gives us cause to look at Government and talk about how we are trying to make a difference here in Washington, trying to get Government to look at itself and reflect on what its true mission is, to look at all levels of spending, to look at all that we do in trying to determine what is the most appropriate role for the Federal Government, what would be best reserved for the States, what would we expect from our leaders.

I am particularly pleased that the National Taxpayers Union released its report on Congress. The National Taxpayers Union released its ratings from the 1995 session of Congress, the first of the 104th. I was proud to note 78 Members of this body scored an A rating. I was particularly delighted in the fact that 33 Members of the freshman class were A rated this year.

In their release, the National Taxpayers Union suggested that Members did not only talk about reduction of spending in their districts, they emphasized it here on the floor of this Chamber. They showed by their deeds and by their actions their commitment to reducing the size and scope of Federal Government.

Yes, we need to make priorities. Yes, we need to seek the direction that this Nation hopes to accomplish. But, by these ratings, we have clearly indicated, at least this Member personally, that we are prepared to make the tough votes, to bring us in balance in our Nation.

We are spending in excess of $200 billion a year that we do not have. We have a $5 trillion national debt. It is costing us $300 billion in interest payments on the debt alone to service that debt. Even in the year 2002 when we fully balance the treasury and we do not have more going out than we have coming in, we will still have in excess at that point of $6 trillion in debt.

Now, when you are spending $300 billion alone this fiscal year on interest payments, no principle reduction, you are clearly spending that $200 billion, and you are spending in excess $100 billion further in reducing the debt. Without that $300 billion you would have a surplus revenue to the treasury of over $100 billion.

So part of the significant concern is reducing the debt, ratcheting it down, much like an individual does on a 30-year mortgage. They start paying down the debt, small incremental principle reductions, in order to bring down that devastating debt burden on our Nation.

If the Members would think of $300 billion of free flow cash that could be used to enhance programs, actually you would have $100 billion, but you take that toward education, pre-K programs, Head Start, things vitally important to getting our Nation's youth up and running so they enter first grade with reading and writing skills, basic skills, in order to become productive.

I talked a little bit about what we tried to do in the crime areas in this Nation. It is time we stop coddling the criminals. I was entirely depressed the other day when I read the story about the gentleman from Texas who had committed sexual offenses against minors, who was being released from prison, and readily acknowledged that he would commit the crimes again. In our society we suggest that he be released and we put a monitoring bracelet on him.

Here is a man that indicates he is going to perpetrate crimes against children, he may kill his next victim, and our Nation releases him. The penal system in Texas releases him because they claim they cannot hold him any longer. The mere utterance of the fact that he threatened bodily injury on another human being I think should have proven beyond a reasonable doubt that he should have been held in custody.

If we are going to get tough on crime, we are having to get tough on sentences like this, where they are releasing perpetrators of serious felonies against children out into our society. We are not going to prove to the young people of America that crime does not pay, if in fact they witness daily people being released by judges, released by prisons, serving half the time allocated by the judge, serving 25 percent of the allocable time.

We tried to mandate we will not provide prison funds for States if they do not require serving 80 percent of sentences. We come up with gimmicks like "three strikes and you're out." What is wrong with the first strike? Why do we need baseball metaphors to feel safe in our homes? Why not put them away the first time.

When kids bring knives and guns to school, do not suspend them from campus. Do not send them home into the communities with guns and knives so they can rob homes while we are working. Put them in a boot camp. No marine wants to go back to basic training. Once they have completed it, they never want to return to basic training.

The same could be held for our young juvenile offenders. If in fact they commit these types of crimes, put them in a boot camp and make them serve a sentence so they will not commit a crime again or will think twice about it.

We can make a difference in America in this Congress. We can get tougher on criminals. We can balance the budget and save the Nation from fiscal collapse. But we must act now in the week

VOL
142
PT
6
AP
15
—
24
1996
UMI

of IRS' big gulp. Let us get the taxes reduced and Government off our backs.

TRIBUTE TO THE LATE THOMAS JAMES PETTEWAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. FRANKS] is recognized for 5 minutes.

Mr. FRANKS of Connecticut. Mr. Speaker, Thomas James Petteway was a civic leader who was needed at his time, but he was also a civic leader who was truly ahead of his time. And for all of us who knew and loved him, Tom will be missed by us all the time.

For his sisters and brothers, in-laws, nieces, and nephews and the many cousins, especially those that make up the branch of the Petteway family, now led by my mother Jenary Petteway Franks, we all loved Tom Petteway.

But Tom was easy to love. Family came first with Tom. And he loved his family.

He as a likable person. He was a good, decent individual.

Anything Tom Petteway did, he did it well. And he did a lot. He served his country in the Army during WWII with distinction. He later presided over an area veterans club. He was an active member of the community.

Tom was an active member of the Republican Party. Back when Tom registered to vote most blacks registered with the Republican Party. Unlike many, Tom stayed with the Republican Party over the years.

I remember white old timers in the Republican Party telling me stories about Tom Petteway.

I remember blacks, like Kay Wyrick, telling me about the Black Republican Club in which Tom headed at one time.

Whites and blacks talked of Tom with sincere affection and admiration. But who could not remember his distinctive voice. Tom was a proud, articulate, well-educated man whose mere presence was felt by all whenever he appeared in a room.

Tom served the city of Waterbury in an official capacity as a member of the Welfare Board.

He served as president of the Waterbury Chapter of the NAACP during one of the most contentious civil rights periods.

Without any doubt Tom Petteway distinguished himself as one of Waterbury's leading black civic leaders.

Tom Petteway was a pioneer. Tom Petteway was ahead of his time.

It was easier for my generation of black leaders because of people like Tom Petteway.

That is why people from my generation need to pause and thank people like Tom Petteway for blazing the trail for us.

And, I do that again today.

When I was starting out in Republican politics back in the early eighties, it seemed as though Tom was always at the big events.

He offered me a great deal of encouragement and he also gave me little tips from time to time, like for example: He said you may go to a meeting but what you may not realize is that there may have been a meeting before the real meeting in which you were not invited.

It was not long before I too found that to be true.

When the big Republican events turned out to be events for me, Tom was always there to offer his support. He was not feeling well all the time but he was always there.

As a Congressman I frequently made it my point to stop by the West Haven Veterans Hospital to see my cousin Tom. And, he was well known there too.

Tom Petteway was a leader in this time. Tom Petteway was ahead of his time.

But for those who knew Tom, we are grateful that he lived during our time.

□ 1530

REMEMBERING SECRETARY RON BROWN AND THOSE WHO PERISHED WITH HIM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, I rise today to remember still, as we are all still feeling, those who were on the plane with Secretary Ron Brown. It was a loss that this country feels now and is going to feel for quite a long time.

In West Virginia we feel this deeply, the lose of the Government personnel, the military personnel, the private sector personnel. In addition to Secretary Brown we lost William Morton of Huntington who was buried Saturday in Huntington, who was long time involved in so many things that made this country great: political campaigns and working with Secretary Brown in a number of capacities.

He grew up and graduated, went to Huntington High School and went on to make his mark in so many different areas. I give thanks for his life and that of Ron Brown's. With Secretary Brown he was a man of composure, a man of pragmatism, a man of obvious intelligence, and a compassionate man.

So many stories that each of us has about Secretary Ron Brown. I remember one. He visited Martinsburg, WV, at my request somewhere around 2 years ago. We had a celebration, he was kicking off a compressed natural gas vehicle caravan. We had bands out there, and there were two little children that were making presentations.

I still remember that Secretary Brown was there surrounded, by Members of Congress and the State leadership and the city leadership and the county leadership, and everybody's in a suit looking very official, and these two little girls. One of the little girls was making a presentation in the microphone, and of course she was dressed in her Sunday best, and she was a little awed by all of this and she had trouble with a couple of her words. Secretary Brown nodded very patiently, went over and leaned over and said take your time. Just take your time. She smiled and finished like a champ.

Secretary Brown was, we liked to kid him, he was a property owner in West Virginia owning property in the Canaan Valley. But I think what he will be remembered for, so much he will be remembered because more people are working today in this country because of Ron Brown. There are more opportunities for people today in this country because of Ron Brown. There are more jobs that have been created in this country today because of Ron Brown. There are more trade opportunities here and abroad because of Ron Brown.

The Commerce Department, which has been a traditional backwater for many years, is a thriving vibrant department today because of Ron Brown. In so many areas we see his hand and we are going to miss that guiding hand.

The testimony of Ron Brown, well, there are so many testimonies, but I know one. As well as being a member of the Democratic Party, he is the one who put us back on track. He took a demoralized party and turned it, in just a few short years, to one that won the Presidency for the first time in 12 years. A tribute to Ron Brown is how many of us, how many people who came in contact with him called him friend.

I was at a meeting in Missouri this week, Republicans and Democrats alike, as well as foreign parliamentarians, and Ron Brown's name came up. And all of us stopped and every one of us had a story to tell about Ron Brown. Every one of us wanted to tell that story. Every one of us knew him as friends. Ron Brown was our friend. He was a friend of America's and we miss him. We miss him, very, very much.

THE RICKY RAY HEMOPHILIA RELIEF FUND ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, a majority of the House now agrees that we should provide compassionate assistance to the 8,000 victims of hemophilia-associated aids. The Ricky Ray Hemophilia Relief Fund Act—which establishes a compensation program for the victims of this tragedy—now carries 219 bi-partisan cosponsors. I introduced the Ricky Ray Bill—which is named for a constituent who was 15 when he died of hemophilia-associated Aids in 1992. We started with two dozen sponsors.

But each week for the past year the support for this measure has grown thanks to the awesome grassroots participation of the victims of hemophilia-associated Aids, their families and their friends. These folks have put aside their differences, rallied together and learned to use the legislative process to further their goals. I am extremely proud of their work and pledge to redouble my efforts to make sure this bill gets heard during this Congress.

Hemophilia is an inherited blood-clotting disorder causing serious internal bleeding episodes that, if left untreated, can lead to disfigurement and even death. To help control and prevent such bleeding, hemophiliacs rely on blood-products, which are manufactured and sold by pharmaceutical companies. Because these products are made from the pooled blood of thousands of people, the potential for infection with blood-borne disease among those who use them is very high, something that has been well-known for decades. In fact, since the 1970's, the hemophilia community has grappled with the serious consequences of hepatitis, a debilitating chronic illness. But in the early 1980's, a much more deadly villain struck, as nearly one-half of all people with hemophilia in the United States became infected with the virus that causes aids. Today they are dying at a rate of about one each day.

Mr. Speaker, we have long argued that the Federal Government shares responsibility for this devastating situation, because it failed to respond to the early warning signs that Aids was transmissible by blood and blood products. During the early years of Aids, repeated opportunities to reduce the likelihood of contaminated blood entering the supply of blood products were missed.

This conclusion was supported by a 2-year study, conducted by a distinguished panel at the institute of medicine. In a report entitled "HIV and the blood supply," the IOM panel concluded that the Federal agencies missed opportunities to protect the public health because they consistently chose the least aggressive response to the early warning signs. The report concluded that the system—which was charged with protecting the blood supply, ensuring the safety of manufactured blood products, and informing the public of risks—failed to deal with the relatively well-known problem of hepatitis and was therefore unprepared to confront the crisis of Aids. Mr. Speaker, the premise behind the Ricky Ray bill is that the Government has a unique responsibility for regulating the safety of blood products, based on a Federal blood policy and several major statutes that establish the regulatory framework for blood.

Members should also understand that the legal system classifies blood products in a unique way. Even though they are commercially marketed and sold, blood products enjoy special status under the so-called "blood shield" laws of every State, which protect against product liability lawsuits.

Given these facts, we have concluded that Government has a unique obligation to assist the victims and so the Ricky Ray bill authorizes the creation of a trust fund, administered by the Attorney General, to provide $125,000 in assistance to each victim who meets strict eligibility criteria.

The trust fund would sunset after 5 years, would be capped at $1 billion and would be subject to funding through annual appropriations.

Mr. Speaker, the United States has yet to set up an assistance program, even though more than 20 other nations have done so. Just last month the Government of Japan and five drug companies—including several American firms—agreed to provide the equivalent of $430,000 to each of the estimated 1,800 victims in Japan, with the government paying 44 percent and the companies paying 56 percent.

It is time the United States took its share of responsibility for what happened to 8,000 American hemophiliacs during the 1980's. Please join the majority of bipartisan support of the Ricky Ray Hemophilia Relief Fund Act.

SEEKING AN HONEST DEBATE ON THE ISSUES WITH REGARD TO BILINGUAL EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam [Mr. UNDERWOOD] is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, today I would like to respond to assertions that English-only proponents are making about bilingual education in their efforts to advance their cause.

Yesterday a Member came to this floor to praise Mr. Thomas Doluisio, for his fight against bilingual education. The Member went on to say that the National Association of Bilingual Education officially condemned Mr. Doluisio at their 1994 convention. This information, taken from a Wall Street Journal editorial by John Miller of the Heritage Foundation and Center for Equal Opportunity, is not accurate. The National Association of Bilingual Education has never condemned any individual officially or otherwise, including Mr. Doluisio. His story may have been discussed among bilingual educators, but this is a far cry from official condemnation by a respected national organization. I am informed that a letter was sent by the National Association of Bilingual Education refuting the Wall Street Journal article.

There have been other statements made by English-only proponents that I take issue with. One of the statements continuously used by English-only advocates is that bilingual education costs the taxpayers $8–$12 billion a year. This figure is inaccurate and is an exaggeration of the costs of educating bilingual children. The $8–$12 billion is the total cost of education for children who are limited English proficient, not just students being taught in bilingual programs. Furthermore, it multiplies the total cost of educating these children not just the marginal cost of bilingual education. If we wanted to save $8–$12 billion, we'd have to kick these 2.3 million kids out of school entirely!

In fact, the Institute for Research in English Acquisition and Development Journal, funded by U.S. English, an English-only advocacy group, has now come forth and stated that the $8–$12 billion figure is misleading. The true cost of bilingual education is the additional funds necessary to shift from a monolingual English program to a bilingual program. The total Federal expenditure for bilingual education is $156 million not $8–$12 billion.

This week the other body will debate the Immigration Control and Financial Responsibility Act. During that debate, an amendment to include an English-only requirement will be offered. It is clear from this maneuver that proponents would rather dodge a floor clear from this maneuver that proponents would rather dodge a floor debate on a separate English-only bill. The administration has recently announced its support of the Senate immigration bill, but if English-only language is included members of Clinton's cabinet are certain to recommend a veto.

I am not pointing these things out in an effort to discredit those who are not being totally honest in their arguments. What we seek is an honest debate on the issues, not a war of anecdotes and imaginative mathematics. Let's stick to the facts and keep fiction out of this debate.

□ 1545

I dare say that I am probably the only Member of this institution who has been a bilingual education professional, and if anyone in the House wants to understand bilingual education at its very basic and grassroots levels, I stand open to be contacted.

D.C. EMANCIPATION COMMEMORATION SPEECH

The SPEAKER pro tempore (Mr. COBLE). Under a previous order of the House, the gentleman from Illinois [Mr. MANZULLO] is recognized for 5 minutes.

Mr. MANZULLO. Mr. Speaker, today commemorates one of the most significant events that has ever taken place in the history of this great country. One hundred thirty-four years ago

VOL
142
PT
6
AP
15
—
24
1996
UMI

today Congress emancipated over 3,000 slaves owned by residents of the District of Columbia. This city's slaves were the first to be freed in our country—9 months before President Abraham Lincoln's Emancipation Proclamation took effect on January 1, 1863.

Sometime in the early 1860's, while this Nation was embroiled in a civil war, a conversation took place between Senator Charles Sumner of Massachusetts and President Abraham Lincoln. Sumner asked the President, "Mr. President, do you realize who is the largest slaveholder in the United States?" The President had to think, and the Senator said, "It is you, Mr. President."

At the time there were over 3,000 slaves in the District of Columbia who were stuck in slavery and bondage and could be freed by an act of Congress. That conversation began a monumental epic in the history of this country. Within a short period, the House of Representatives and the Senate passed legislation, and on April 16, 1862 President Lincoln signed the D.C. Emancipation Proclamation.

Mr. Speaker, let me read to you from a history of the Nation's Capital written by M. Bryant in 1960 that explains the significance of the D.C. Emancipation Proclamation. He said:

> The proclamation brought to a close an issue about which the anti-slavery Congress had raged for years. As well as placed on the statute books the preliminary measure of what proved to be national policy that would not merely destroy the chains from the slaves, but raise them to civil and political equality.

That was done with an act of Congress.

The Congress could not really set free the slaves in the District of Columbia though. What Congress did was to recognize what God intended from the beginning: that all men are created equal, and all men are created free. All Congress could do was to recognize that which God had intended.

Abraham Lincoln affixed his signature to that great document. That began the pealing of bells in the District of Columbia. The pealing of the bells said the Nation's Capital shall no longer be a stronghold for slavery.

Here are the words of the document that was the precursor of the Emancipation Proclamation:

> Be it enacted by the Senate and the House of Representatives of the United States of America, in Congress assembled, that all persons held to service or labor within the District of Columbia by reason of African descent are hereby discharged and freed of all claims of service of labor. From and after passage of this Act, neither slavery or voluntary servitude shall hereafter exist in said district.

Those were the words.

Nine months later he did something else quite significant. Spurred on by Congress to set the slaves free in the District of Columbia, President Lincoln, by Executive proclamation, issued the Emancipation Proclamation. Two years ago, I took to the Library of Congress my family and Loretta Carter Hanes—the wonderful lady who, along with her son, Peter, has revived the D.C. Emancipation Commemoration ceremony in this city. There, we read the words of one of the original drafts of the Emancipation Proclamation. It was an extremely moving event. Reading these words, Loretta's knees buckled and she turned to me and said: "I have to sit down because of the majesty of seeing one of the original drafts penned by Abraham Lincoln."

This is one of the few documents Lincoln signed with his full first name, "Abraham". Lincoln did this because he wanted these two documents, the two Emancipation Proclamations, to be among the most remembered and revered of everything that he signed into law as a President. Listen to these words:

> That on the first day of January, in the year of our Lord, 1863, all persons held as slaves within any State or designated part of a State, the people whereof shall then be remanded as the United States, shall be thenceforward and forever free.

REPUBLICANS CARE ABOUT THE ENVIRONMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker and my colleagues, I took to the floor earlier today in response to charges from the other side.

With Earth Day coming up, the other side is bashing Republicans. Republicans are going to hurt the environment. They send an incorrect message to the American people. Let me take, if I may, a few minutes and set the record straight.

First of all, probably most of the Members and the young people who have come here to serve in Congress do not realize, Mr. Speaker, that in fact the Environmental Protection Agency is a Republican idea. It was started and proposed by President Nixon in 1972. But the idea was not to create a huge bureaucracy. The idea was to set some national standards, because Republicans want clean air. Republicans want clean water. Republicans want clean land. We have children. We breathe the air. We drink the water. We want our children to inherent a land that is environmentally protected and clean and secure.

So it is a Republican idea that we are talking about. But the idea was not to pay more and get less. In fact, the Republican idea was to set some national standards of regulation. But let us look at what has happened. Just take a minute and look at this. Since today, we have 18,000 Federal bureaucrats in the Environmental Protection Agency, not to mention thousands of contract employees, and their job is to pump out rules.

You think they might be in my State of Florida, but in fact they are scattered throughout 10 regional offices and 1,000 at a clip there. Then here in Washington, DC, we have 6,000 EPA employees within almost speaking distance of my voice.

Mr. Speaker, we have 6,000 EPA Federal bureaucrats who, again, their responsibility is to pump out more rules and regulations and justify their bureaucracy and their rulemaking ability. So we have seen that bureaucracy grow. In 1972, we did not have 47 of the 50 States that have full-blown environmental protection agencies. Almost every city, every county, every State has full-blown authorities.

Let us look at the programs that they talk about, the gentleman from New Jersey came back and talked about. Do these programs work? Are we making polluters pay? Look at this headline from 1993: "EPA Lets Polluters Off Hook." So polluters are not paying under the current law. So this misinformation is incorrect.

These are the facts. Now, of the sites that we have in Superfund, a program which was well-intended, are we cleaning up the Superfund? Wrong. Look at the number of sites. We have over 2,000 sites, and only a handful have been cleaned up at great expense. So we are not cleaning up the sites, and that is according to GAO reports. They do not want to deal with the facts. Then a GAO report that was released in 1994, it says: "Are we cleaning up the sites that are most hazardous to public health, safety and welfare? And the answer is no."

The report says EPA does not use risk to set priorities. You know what drives the cleanup? Political pressure. That is what this report says. That is what Republicans are trying to change. We say why pay more and get less? Superfund is a disaster. You know who gets the money in this? The lawyers and the people who do studies. About 80 percent of the billions of dollars that are expended on these programs go to the lawyers and the studies.

Mr. Speaker, I sit on the committee that oversees EPA. You know who does the studies? Another report by the General Accounting Office showed that the largest percentage of contractors are former EPA employees. An incestuous relationship. So this is what they want to keep. They want to keep the pollution. They want to let the polluters off the hook. They do not want the sites cleaned up that are hazardous to our children and our future. They want to pay more and get less. They want the attorneys and these fat cats from EPA who have gone into the private sector to keep milking the cow because

the taxpayers are paying. This is what the argument is about, and the American people and this Congress must listen.

Republicans care about the environment. Republicans care about the land and the water and the air we breathe. The thing is, we are not getting our money's worth. The thing is, people are out there busting their buns to send money to Washington, and this is where the billions are going and the hazardous waste sites are not being cleaned up and priorities are not being met and promises are not being kept.

THANK YOU TO MY WIFE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, my colleagues and the broad C–SPAN audience of a million people or more, sometimes a million and a half when we are having a hot debate here on public policy, I watch in 1-minute speeches at the beginning of some days hear Members from both sides of the aisle get up and proudly talk about a little league team, a professional basketball team, a professional baseball team, or some worthy American citizen in their district who has passed away who lived a great life and contributed to the overall greatness of our country and to the benefit of their fellow citizens. But today I rise to do that very thing for someone very close to me, my wife. Today is her birthday, but it is also our 41st wedding anniversary. Last year it was the day that I declared for President in the city of my birth, the island of my birth, Manhattan, in New York City.

It was Easter Sunday last year, the 16th, and we went to mass in the beautiful cathedral where I was baptized, the seventh largest church in the world, St. Patrick's Cathedral in New York. On that beautiful Easter Sunday, we went up to the baptismal font where I became a Christian and we retook our wedding vows, and this last year has been one of the most exciting, delightful years of my life, running, fulfilling a boyhood dream for the Presidency of this great United States.

Mr. Speaker, I just want to thank my wife for putting up with an Air Force fighter pilot who ejected twice, saved a couple other aircrafts, landing in dangerous conditions without any power, dead-sticking, almost lost at sea once, traveling around the world in dangerous areas. The plane that killed our Commerce Secretary Ron Brown was the very airplane that Mr. CALLAHAN flew on not 4 weeks before, 3 weeks and 6 days before. Four times I flew with that same wonderful Air Force crew. About seven of the eight on that crew were with SONNY CALLAHAN's crew and BOB STUMP of Arizona and myself. Great, fine young people.

We flew into some dangerous fields, Tuzla, in a snowstorm, Sarajevo in a snowstorm. That could have been me. It could have been six Members of this House instead of 24 CEO's, 35 people overall, including Ron Brown. But it is not easy being married to someone that is living a life of adventure and trying to serve his fellow countrymen, giving up wonderful opportunities in media to make a lot of money and still contribute significantly.

I just want to thank my wife, Sally Hanson Dornan, for putting up with me for 41 years, giving us five beautiful children, all of them charging conservatives of principle.

This year, on the eve of the Iowa debate, I won the Presidential election because I got a 10th grandchild. And I woke up this morning to my granddaughter handing me Molly Dornan, looking at that beautiful, precious face. We have had all 10 grandchildren together for the first time over this Easter week, and I am just overwhelmed that I have so many blessings from God to account for an to never retire, to just find some way to serve my fellow Americans.

We spent Saturday all day at Mount Vernon. What an inspirational point in American history, the birthplace of the Father of our country, first in war, first in peace, and first in the hearts of his countrymen.

□ 1600

That was the first time I would be back to Mount Vernon since my dad took my two brothers and me there in 1941 in the summer, right before we were drawn into World War II, and I remember those 8-year-old boyhood memories of the beautiful vistas of the Potomac, but I did not remember the house, and what a humble way, in spite of the dark clouds of slavery over that plantation and that Washington freed his slaves on the death of his wife, which happened 4 years after his own. He died at age 67; Martha died at age 70.

But you walk through those small bedrooms, wooden floors, looked at the bed where George Washington died, and thought what great dreams he had for this country, this man of character, how far we have fallen in some areas, then the promise that Washington, Adams, Jefferson, Madison, the Father of our Constitution, Abraham Lincoln, fighting Teddy Roosevelt; all these Presidents, so many of them general officers that were shot and wounded in combat.

Washington, when he was with Braddock, was 1 of only 4 officers out of 100 that were not wounded. Thirty-eight of them were killed, and he said only by God's hand was he saved, and he was 23 years old and he wondered why.

Mr. Speaker, that is what I wondered when I bailed out of the jet the second time at 23, wondered why did God keep me around, and hope I am not disappointing anybody. I will continue, Mr. Speaker, to keep fighting for faith, for family, and for freedom, and again I thank my wife on her birthday for 41 wonderful years.

DOD MEDICAL AND DENTAL SUPPORT CONTRACTS

The SPEAKER pro tempore (Mr. COBLE). Under the Speaker's announced policy of May 12, 1995, the gentleman from North Carolina [Mr. JONES] is recognized for 60 minutes as the designee of the majority leader.

Mr. JONES. Mr. Speaker, I rise this afternoon along with my colleague from the State of Georgia, Mr. NORWOOD, to talk about our military health care system, specifically to discuss TriCare and its implementation.

I believe there are a number of important issues this body needs to address. The long-established ways of providing medical care for soldiers, military retirees, and family members are changing. As the bond with Korea's soldiers for lifetime medical care is being redefined, the historic promise of free lifetime medical care is coming face to face with the fiscal realities of the post-cold war.

The most significant change in military health care is the introduction of TriCare, the Defense Department's regional managed care program. It is my understanding that TriCare is intended to provide high-quality, low-cost, successful care to dependent and retiree beneficiaries by partnering with civilian sector health care providers. The change has begun in selected areas of the United States and is scheduled to be fully operational in the continental United States and Hawaii by 1997.

As we closely watch TriCare evolve, it seems that several outcomes appear apparent. Throughout the transition, Congress will examine TriCare closely, and alternatives to TriCare will be considered if problems of access and cost escalate and TriCare is unable to provide a uniform benefit.

Mr. Speaker, at this time I would like to yield to the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. I thank my friend from North Carolina, and I am honored to share this time with you.

Mr. Speaker, we are grateful for the opportunity to bring to you a very complex subject, and I hope that we can bring this down to a point where the people understand what we are talking about in terms of a national problem and by bringing it to you on a very local level.

Now, I want to say up front I have the highest praise for the Department of Defense medical care system. In my district, the Eisenhower Army Medical Center is an outstanding example of how the Department of Defense provides the highest quality medical care

VOL 142 PT 6 AP 15 — 24 1996 UMI

to its military beneficiaries. However, with the military drawdown, this has forced many of our military families and our retirees out of the military hospitals and clinics. Under the new DOD medical management care system, now called TriCare that you referred to earlier, many of these beneficiaries are treated by civilian medical and dental care providers through the use of managed care contractors.

Now, the intent, I believe, of the Department of Defense is to use these contracts to be sure that our military retirees and our active-duty dependents have access to care, and quality of care, but at the same time manage the health care costs; in other words, try to bring that cost down.

Now, if this is done well and properly, I believe these managed care contracts can successfully augment the outstanding care that is now being provided in our military hospitals and dental clinics all over the country; in fact, the world. But if this is done poorly, the effects on the military beneficiaries could be devastating, and I think we are going to see some of that as we go through this today.

These medical and dental contracts are worth billions of dollars to civilian managed health care companies. The financial advantage to these companies in securing a DOD contract is clearly very obvious, and we must insure that the value of the services that they provide is equally as obvious to our military beneficiaries as well as to the American taxpayers, and at this time the General Accounting Office and the Congressional Budget Office are not convinced that the TriCare program can do what it is supposed to do in its current form.

Serious, serious questions have been raised in congressional hearings about questionable procurement procedures, uncertain budgetary projection, unresolved compliance violations by contractors. Last August, just last August, the GAO stated that the members of the DOD source selection evaluation board, and I will quote, "have little or no experience with private sector managed care plans and thus have difficulty distinguishing among offenders who can perform effectively in the private sector and those who are less effective insuring quality care and controlling costs."

Now, that is what the GAO said. At a congressional hearing last month that Congressman JONES and I were both able to attend, the Assistant Secretary of Defense for health affairs was unable to list any substantial improvements in the way medical and dental managed care contracts are procured since that last GAO report. The GAO revealed unresolved concerns about the abilities of DOD to evaluate the effectiveness of TriCare programs and to measure the performance of the TriCare contractors.

Now, this is going to be very important, I say to the gentleman, Congressman JONES, as we get into our story here to show how this is actually happening. An earlier Congressional Budget Office estimate suggested that TriCare will increase DOD's cost of health care delivery, says it will increase the cost of health care delivery despite the statutory requirement that TriCare not raise Government costs.

In addition, CBO projects that DOD will not be able to meet its congressional mandate of offering beneficiaries a more uniform and stable benefit nationwide.

Now, we are going to lead into all that when we talk about one little tiny town in this country.

Despite these findings, an article in the December 27, 1995, Washington Post noted that the Foundation Health Corp., which is a TriCare contractor that manages 5 of the 12 TriCare regions now, pays its chairman and CEO an annual salary of $6.1 million. This is the highest paid or compensated health care executive in the United States.

Within a few days of this, after last month's TriCare hearing, articles appeared in each of the Army, Navy, and Air Force Times which described access problems with the new contractor of the TriCare family member dental plan.

Now, that is about to get into where we are going.

This program provides comprehensive dental benefits to dependents of active-duty personnel and has historically been one of the Defense Department's most popular and successful health care programs.

The problems reported in these articles certainly raise questions about whether DOD's confidence in the process it claims to have made in the area of procurement reforms is truly justified. These reports strongly suggest that the very problems GAO found with TriCare medical procurements may now extend as well to the dental contracts.

Now, we want to try to discuss this afternoon a case where our fears about TriCare are real, happening to real Americans, and I am talking about a TriCare dental contract in Mr. JONES' district where patients, meaning military dependents and retirees as well as the dental providers, are living a pure nightmare.

I would ask my colleagues if he wishes to tell us a little bit about what is happening in Jacksonville, NC.

Mr. JONES. Well, I really appreciate having this opportunity, knowing of your background and your interest in providing for adequate medical, both health and dental, plans for our military and retirees. You and I share this same commitment to our retirees and to those serving on active duty and to their families to make sure that they get the very best medical care, both physical and dental.

I will have to say, back in, I guess, January of this past year, I happened to be down in Jacksonville, which is the home of Camp Lejeune Marine Base, and we are very proud to have Camp Lejeune in eastern North Carolina, particularly in my district.

Well, a group of dentists wanted to talk to me, and I will be very honest with you, I was very unfamiliar with the dental plan because it was something new. I think the Concordia is now the provider of this dental plan, and in the past, and I hope you are in touch with this in just a couple of minutes, Delta had been the provider.

Well, according to these dentists that I met with, they had a tremendous concern about the fact that they were going to have to provide this dental care with a less fee, and they had it well broken down and documented as to the amount of money that it cost them to provide adequate medical care to the military family and the retirees, and the fact that Concordia was asking them to take a very, very significant decrease, and they were showing me with documentation how they could not afford to provide this dental care for the military at Camp Lejeune.

Well, when I came back to Washington, I met with my military person, and we started looking into this matter, and in addition to what I heard when I was in Jacksonville, also these dentists were telling me, and, CHARLIE, they have been doing work with the military for years and years, and they were telling me that they were being threatened that if you do not buy into our contract, we will put our own dentists down here in Jacksonville to provide the dental service.

So this is what really made me very upset because again my concern is for the dentists, but also my concern is for the military and the retirees, and what I was trying to do, and the reason you and I developed this relationship on this issue, is because you and I both share the concern with what the Department of Defense is doing. And I would appreciate if you would share with me and those that might be watching us this afternoon a little background on how DOD decided to go with Concordia, and my concern is that DOD is not, does not, have the proper oversight on the actions of Concordia as they are, in my opinion, intimidating many of the dentists in my district.

Mr. NORWOOD. If the gentleman would yield, Congressman JONES, you have been hearing a lot, I know, from your constituents back home, and I have been hearing a lot from some of your constituents, too, because I practiced dentistry for 25 years, and I think they know and realize that I can understand what the problem is.

Concordia is a managed care company. There are no health care providers there. They are managed care entrepreneurs, and as a Department of

Defense put out bids to see who would manage the dental care for all of the Nation's retirees and so forth, Concordia bid on it. Now Delta dental plans had been running the same type of contract for something like 8 years; my understanding is all, if not most, of the dentists in Jacksonville were signed up with this particular managed care company, and it is a discounted fee, and everybody seemed to be pretty happy in that area with Delta dental plan, and I will have to tell you this thing with Concordia is not just in North Carolina, but it is nationwide. This is a $1.7 billion contract.

Now that interests entrepreneurs. That is a lot of money. Yet Concordia, by most measures, would be considered a very small company, and they were interested in this contract for a couple of reasons: No. 1, if they get it, then that would put them into a position to go nationwide, and in the long run we are talking about lots and lots of money.

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Concordia came to the dentists in Jacksonville, NC, I think there were about 40 in a town of about 75,000 people, all of whom or most all of whom are connected with the military, either retired, one way or the other. These 40 dentists were already treating the people from LeJeune and in the area of North Carolina. They came to these guys and said, "We won the bid. We would like for you to come work for us."

They said, "We have been doing this for a long time with Delta Dental. What do you have?" Concordia said, "We want you to sort of do the same thing, but we are going to have to cut your fees by 20 percent, 20 to 25 percent."

The problem with that that Concordia should have known is that most dentists practice with an overhead of about 70 cents. Another way to say that, for every dollar that comes in, the dentist gets to keep 30 cents of that dollar. Then he pays 15 cents of that to the Federal Government. Concordia comes in and says, "We are going to take 25 cents out of that dollar," which means there is no way they could do that. They cannot make a living, they cannot stay in practice. It particularly affects a smaller town like this, because all of their patients are wrapped up and already involved in this.

Concordia put this to the dentists and the dentists, as I understand it, simply said, "Sorry, we can't do this. We can't make a living. We can't offer any kind of quality of care. We cannot do it." So none of them have signed up.

I do not know if Concordia underbid Delta Dental to get the contract so they could grow nationwide. I do not know what they did in terms of their bid. But they have gone to the providers of health care and said, "We can't pay you enough for you to make a living," and the providers of health care in North Carolina said, "Sorry, we can't be involved in that." Then comes the pressure. Your constituents are getting pressure from a big insurance company that is hired by the Department of Defense. That is how then we get involved.

Mr. Speaker, it is not just the Jacksonville dentists. They are not alone in the rejection of this Concordia managed care company. The previous contractor, Delta Dental, had a provider network across the Nation of 113,000 dentists. Only 33,000 of that 113,000 agreed to sign up with Concordia. The Jacksonville dentists shared the opinion of the other 80,000 dentists across the country that will not sign up with Concordia because it is purely unacceptable. You cannot practice that way.

Mr. JONES. Let me ask the gentleman, before he became a Member, since he was a dentist, is it not true that the dentists, and you explained this 30 cents out of a dollar, I believe you said, they work on a very tight margin, so many times these dentists, even though they might have been in business for 10 or 12 years, they still owe for equipment, they still owe moneys on the facility itself.

So the concern that I had when I first heard about this was the fact that Concordia, if you will let me use this word, seemed to come in there in a very roughshod way to say, "You either buy into our plan, or we are going to hurt your business by putting our own people in."

If you do not mind touching on that, I think you might have just a moment ago, but do you not see a problem with a company that has been OK'd, so to speak, or approved by the Department of Defense going into a community that has welcomed and loved the Marine base, it has been there for years and years, and then they come in and say, "If you do not accept our fee structure, which is quite a reduction from what you had previously, if you do not follow our orders, then we are going to go in direct competition with you." Is that any way to build rapport in a town where you have a military facility as important as Camp LeJeune?

And not only the providers or the patients, none are happy with a situation like that, but my understanding is they threatened to come into town, build a new clinic and import people from outside, in effect closing down 40 families, 40 offices in town who had been there doing the right things all these years.

It is also my understanding, and it is a pretty clear understanding, that there is a real effort by Concordia to characterize the local dentists as selfish and uncooperative and unwilling to accept a discounted fee. But they have been doing that for the past 8 years with Delta Dental. The difference is that Delta Dental was paying them enough to make a living and they could still offer a good quality of care.

The problem here, WALTER, as I see it is that the Department of Defense, in fact CHAMPUS, selected this company, Concordia, Inc. This company has come under serious fire from patients and providers since it replaced Delta Dental earlier this year.

We think, and we are looking into this, as you are, too, but we think there are certain deficiencies going on in the Concordia contract which I alluded to when I opened. The Congressional Budget Office alluded to it, too, that we basically do not have oversight of a situation like this.

Concordia has not been able to establish an adequate provider network, meaning they do not have enough dentists working for them. Therefore, the patients, the military dependents and retirees, do not have as many choices. They do not have access to patients, which is one of the very first things the Department of Defense said they wanted to make sure that we had.

Concordia has inadequate claims services, creating, really—that causes a serious financial crisis, not only for your patients, but also for the providers. They have been accused of making changes in the procedure codes during claim processing. Another way of saying that is that they go in, and if a provider puts a particular code down for a particular procedure that is supposed to pay x dollars, Concordia does not mind changing that code so it will pay fewer dollars. In other words, that is another way for them to make up for the fact that perhaps they underbid this contract.

There have been unresponsive and most certainly uninformed service representatives causing delays in treatment and delays in claims processing. It has gotten to the point where there are just hostile relations down there between this managed care company—and again, that is not people who do any type of treatment, they are managed care, they are health care entrepreneurs—and the providers.

Mr. JONES. When the gentleman has approached the Department of Defense, I know the gentleman mentioned in his earlier statement that we did have a hearing in one of our military committees and this subject did come up, but knowing that you have done an extensive amount of work, you and your staff along with my staff, will you tell me what your response has been from the Department of Defense when you say, "What in the heck is going on?"

Mr. NORWOOD. Mr. Speaker, we have been assured that everything is wonderful, that everybody is doing exactly what they need to do, that patients will have all the access to care that they possibly want, and that there are really no problems.

VOL
142
PT
6
AP
15
—
24
1996
UMI

You know, I want to just point out a little small inconsistency in that. DOD says that the Concordia dental network is adequate, meaning there are enough dentists to provide the care that the patients need. Since the size of this network determines access, which you mentioned and I mentioned, which is so important, that beneficiaries have to dental care, how did the DOD determine what constituted an adequate network?

The previous dental provider was Delta Dental. When they were first granted the contract from DOD, CHAMPUS determined that their existing national network, they had 90,000 dentists, and CHAMPUS said, "That is too small." They required Delta Dental to go out and hire more people to work.

Concordia stated that their goal for an adequate network was only 40,000 dentists. To date, they have really been able to only sign up 33,000 from the Delta Dental network plan of 113,000. Yet, Concordia claims, "That is small enough to take care of all the patients." I am saying that somebody needs to oversee Concordia.

Mr. JONES. Mr. Speaker, I want to touch on a couple of areas the gentleman has mentioned, but I want to share with him a letter that we received several months ago from a dentist, and I will not give his name. It says:

> My opinion is that the schedule of allowances known as fees paid by United Concordia is too low to be profitable. My income is solely derived from my fees. I get no subsidy from the government. These United Concordia fees are 20 to 33 percent less than the fees paid by the old administrator, Delta. A reduction of fees of this magnitude reduces my profit by 60 to 82 percent. I cannot afford to see these patients at such a loss.

In addition to the fact that dentists should not be expected to stay in business if they cannot make a profit, no one can in America, the problem that I have is that, again, not only are our dentists, in my opinion, being treated unfairly, but the fact that we do not have the network to service those at the base and their families and the retirees. We have a real serious problem, CHARLIE, and I am delighted that you are so involved in this issue. We have a serious problem, and that is giving adequate care to our men and women in the military.

Mr. NORWOOD. If the gentleman will yield, Mr. Speaker, the gentleman is totally right. When we do not pay enough to let people make a living, then we may be assured access will be affected, and so will quality of care. Those are the three things that the Department of Defense says it is interested in. I hope that they have not gone out and accepted a bid just based on who is cheapest. There is more to it than that.

They say so, too. They say access of care is very important, and they say quality of care is very important, but they want it for less money, and the problem in this particular area is they want it for so much less people cannot make a living, so nobody will join the program. Therefore, there are no providers.

Mr. Speaker, I want to remind the gentleman from North Carolina, we are talking about a $1.7 billion, with a B, billion, contract to provide dental care to military families. With this contract in billions of taxpayers' dollars, Concordia, which is a small, regional, managed care company, is going to transform itself into a major national player in the emerging dental care managed care industry. The potential for rapid corporate growth and huge future profits for Concordia is staggering. The question remains: What will the American taxpayer and our military beneficiaries receive in exchange for a very lucrative contract?

Mr. JONES. Along these lines, Mr. Speaker, I want to read a newspaper article, just a couple of quotes from this article, one being from a dentist in New Bern, NC, which is Craven County, adjacent to Onslow County.

It says: Dr. Jim Congleton has not signed with United Concordia. He said that he wished the company had been more honest and open in developing the dental plan which they are offering to military dependents.

In addition to that, let me share a comment by a dependent. "Military dependents are not happy with this situation. Our costs are going to go way up," said Jeannette Coulsey, a military spouse. "UCCI says if no dentist in the area signs up, or we see a dentist who is not in the plan, United Concordia will pay the dentist 10 to 12 percent less than one of their participating dentists."

So your point about our concern should be for the dentists, and also it certainly should be for those in the military and their families, and again, this is why I really appreciate you joining me this afternoon, because this is a very serious problem in my opinion, and one that, thank goodness for people like you, and I want to say my staff, the fact that we are willing to look into a firm that could receive $1.7 billion, and that is with a B, billion dollars, $1.7 billion, and yet we have so many unhappy, dissatisfied people.

Mr. NORWOOD. If the gentleman will continue to yield further, Mr. Speaker, one of the questions I think we have to ask ourselves is how did Concordia wrestle away this $1.7 billion contract from a managed care plan that had been in business for the last 8 years? Did they bid less? Did they bid so low that they cannot pay the providers enough to sign up, so they can at least make a living? I am not sure. We need to understand these problems.

Concordia assures us that patients are satisfied with their program. That is what they said at the hearings. Health affairs has no formal plan for determining patient satisfaction or assessing contractor compliance. That is very, very important. who is going to oversee this? The only method being used at this point is to perform periodic spot checks using the participating provider list, using trend analysis, or to evaluate complaints by beneficiaries.

I want to remind Members, this is a $1.7 billion contract. I will tell the Members something I do not understand at all.

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Prior to having TriCare, the health care of our military, the dental care of our military was left up to the commanders at local military hospitals.

Why does Health Affairs not allow local dental commanders and regional dental service support area commanders to have oversight authority over Concordia? I do not understand that. Once CHAMPUS selects a contractor, Mr. Speaker, the contractor is responsible only to CHAMPUS and DOD Health Affairs.

Currently dental commanders do not have the official oversight authority over Concordia. That is not true in the medical side of the house, where the medical commanders, they are called lead agents, they have oversight authority over TriCare contractors, and they are responsible for ensuring that the contractor is complying with the terms of the contract.

Who is responsible here to be sure that your constituents in Jacksonville, NC, have a good deal?

Mr. JONES. That is why I sincerely appreciate your joining me in this effort to find out what we can do to help correct a very bad situation. I am like you. I do not know why we do not have oversight over situations like this, because we are talking about the taxpayers' money. We are talking about providing good health plans for our military and our retirees, and we all know that we are talking about the taxpayers' money, and you said again, I keep using this, $1.7 billion contract.

Let me share this also with the gentleman from Georgia [Mr. NORWOOD] and also those that might be watching. This is a quote from, again, a news article. I want you to know that I give credit to the news article, because these are not my words but the words of someone else. This has to do with a statement by a gentleman named Jeff Album, spokesman for Delta Dental. I would like to share this with you.

"But Onslow County is not alone. There are other counties across the country around military bases without dentists signed up with UCCI," which again is United Concordia, said Jeff Album, spokesman for Delta Dental.

Then I go further with his quote. "We believe the criteria specified for selection of a winner in the request for proposal did not match the criteria that

seems to have been used in the selection of UCCI," Album said. And I further quote: "It appears DOD opted for the least expensive bid rather than best value."

Let me read that again, and I want you to comment, if you will. "We believe the criteria specified for selection of a winner in the request for proposal did not match the criteria that seems to have been used in the selection of UCCI," Album said. "It appears DOD opted for the least expensive bid rather than best value."

Since you have looked into this matter in detail, can you comment on that? Do you think that the bid process was equal to what Delta had been asked to bid on before?

Mr. NORWOOD. No. And, more importantly, maybe I do not believe it has been, but neither has GAO or the Congressional Budget Office. I talked about that when we first started.

In their hearings before us, they had made more than a few comments about the fact that they were not sure we had this together enough yet, and what we are doing is we are making sure now, because we have rushed into this and perhaps did not take the best contract. We have got our military retirees, our active duty dependents that do not have access to care. Their care is going up. I cannot speak to the quality, but one has got to question it when you start reducing the dollars in it.

We have got these, and then we have got other citizens, small business people who have a small office. They are being attacked by this giant insurance company saying,

> You better come to work for me because I put out a $1.7 billion bid and I can't fix teeth. I've got to have dentists to do that. You guys come to work for me, or we're going to spread your name around town as being unselfish or unwilling to cooperate.

That is hard to take for a small business, and that is what a little dental office is. They are being picked on by this giant conglomerate of insurance companies, where they are trying to force them to come to work and not be able to make a living. Then they have done worse than that. We will get into that in just a minute, too.

Mr. JONES. It is our responsibility to oversee the spending of the taxpayer dollar, you and I and other Members of the House. It is our responsibility to be sure whether it is DOD or another agency that they are getting their money's worth. Certainly the taxpayer needs to get his or her money's worth and certainly our military needs to be treated fairly with the best plan possible for the money. What I have gathered from the last 20 or 25 minutes that we have been talking from your comments as well as mine, that we feel that they are not getting their dollar's worth and you just said about the dentists, and this probably appalled me as much as anything. When I had dentists and, I want people to remember, these are taxpayers of America.

Mr. NORWOOD. That is right.

Mr. JONES. These are taxpayers. Yet they have a company that comes down and threatens their livelihood and says, "If you don't join our group, we're going to take your money, because you're a taxpayer, we're going to spend your money and put you out of business."

Mr. NORWOOD. Some of your constituents who are dentists have been writing me and I am going to take just a minute, Mr. JONES. I want to read two paragraphs, but it says so much. This is a 10-page letter that lays out lots of the problems. Just two paragraphs.

He says:

> You may correctly assume that I have much better things to do with my time than to argue with and complain about a government contractor that is not performing as specified. My full attention should be given to my patients and their families, my staff, my practice and my family and friends. The amount of effort I have given to this issue never should have been necessary but I will do whatever it takes to protect my patients and my practice and to make sure everyone gets a fair deal. I do not believe that the United States government is getting what it contracted for, optimum dental health for military families through a fee-for-service dental plan. Indications are that we are entering into an ordeal with Concordia where only Concordia is benefitting.

I will jump off the letter for a minute to remind you that they are going to get their 25 percent of that $1.7 billion. I bet it works for the company.

He goes on to say:

> Because of situations like this, those of us in the trenches work ourselves to the bone and then have to scramble to meet our overhead. Consider the fact that some of my regular monthly expenses are around, say, $50,000 for payroll, without the provider, close to $19,000 for mortgages of office, $5,000 for utilities, $12,000 for dental and office supplies, and because of a massive need of supplies, I have not taken a salary since last September. I have virtually exhausted my savings and may shortly be forced to sell or borrow against assets. Surely this was not the intent of the Department of Defense. I know this is also happening to numerous other colleagues in the Jacksonville area.

Mr. JONES. Mr. Speaker, I think it is worth restating. Would the gentleman from Georgia [Mr. NORWOOD] tell me again how many dentists were in the network when Delta had the plan versus Concordia today?

Mr. NORWOOD. Delta Dental had 113,000 dentists in their network nationwide. Concordia has said, "Well, we can do it with 40,000." That means less access. They have only been able to sign up 33,000. Eighty thousand not willing to sign up and work for nothing.

I want to present to the Speaker some corrections that I think that DOD Health Affairs really has to bring out and deal with, because this is just the beginning. They have not even awarded the contracts all across the country yet. This is just the beginning. So if I could, Mr. JONES, I would like to list a few things for the record because we are going to bring it back to them in other ways as time goes on.

First of all, DOD must establish a full-time oversight board to monitor complaints of the Concordia contract, which are numerous. They must authorize local dental commanders and regional dental service support area commanders. That means the colonels and the majors and the captains and so forth that are working in the different armed services clinics around the world, we need to let them exercise some oversight over this Concordia program. In the same manner, by the way, as the TriCare lead agents and medical facility treatment commanders have over TriCare contractors.

Third, we need to establish a methodology for measuring the effectiveness of the Concordia program to provide access, choice, and quality of care, not just how much cheaper is it. Establish an effective means to receive comprehensive input from beneficiaries on patient satisfaction. In other words, how do the patients feel about this. That is who this is all about and that is who this is for.

We need to issue a, quote, cure notice to Concordia, require correction of contractual deficiencies within a specified time. And after an appropriate transition period, give them some time to get it right, if Concordia does not live up to its contractual agreements, Health Affairs should issue a cancellation by default order and allow another more capable contractor to assume the program.

Those are things we are going to have to deal with if, No. 1, we are going to deal with the patients and your constituents, and, No. 2, the providers of health care.

Mr. JONES. I like those four or five points the gentleman from Georgia [Mr. NORWOOD] made because as you said in your comments a few minutes ago, there is no oversight. Once the bid process is finished and a company gets the contract, then this has become very helter-skelter. We have dentists that have not been treated fairly in my opinion, we have patients who have not been treated fairly in my opinion, and I am delighted to hear these four or five points, because if there is anything I want those that might be watching to fully understand in fact that this new majority, we understand making Government more efficient. Here we have got a dental system that in my opinion is not efficient and is not serving the people it was intended to serve. When you think about our military, these are men and women that were willing to sacrifice their life, and they should not be denied dental care. Yet we have our dentists as we have said, I am being a little repetitious but I want to repeat

VOL
142
PT
6
AP
15
—
24
1996
UMI

it again, they are taxpayers, American citizens, and here we have got the Government through this Concordia group working against the taxpayer who is paying for this $1.7 billion plan.

So I am delighted to join you, and I am sure you will have many others as you go forward with these four or five points that you think would help with oversight as it relates to dental care for our military.

Mr. NORWOOD. If the gentleman from North Carolina [Mr. JONES] would yield further, as we are headed toward conclusion, I want to point out another thing that has happened in this contract that drives me crazy. It is one of the reasons why the American people lose faith in their Government. It is one of the things that I think make people dislike a strong Federal Government.

We have talked about this great big insurance company spreading bad information around this small community of 70,000 people about the providers because the providers won't come to work for them for nothing. Then we are talking about this large company that then says to the providers, the dental care providers, "Well, if you don't come to work for us, we're going to close you, we're going to build this big office in town and import people from out of town to take care of it."

But the icing on the cake to me is now Concordia, this big insurance company, has called in the Federal Government, has called in the Federal Trade Commission, and it said, "Come get 'em, they're bad guys, they've actually been talking about what this costs."

Now, it is perfectly legal for Concordia to set the price of the cost of dental care across the Nation. But if two dentists in Jacksonville, NC, sit down to talk about what this does to their practice and how it affects them, we get the Federal Trade Commission lawyers running in at the behest of Concordia.

☐ 1645

All they got to do is make an allegation. It does not—you are guilty. If they make an allegation to the Federal Trade Commission, you are guilty until you can prove yourself innocent. What does that do to people? Well, it is like the IRS running in. The first thing you know is no matter who wins, I lose.

There is no way to win that, because you get involved in a lawsuit to defend yourself against the Federal Trade Commission. What does it do? It costs you a ton of money to defend yourself. It costs time. You spend hours and hours and hours answering all the questions that you must answer because the Federal Trade Commission has come rushing in. No matter there is no point to it. If they are called, they are glad to run in. I presume that maybe they do not have anything else to do, but they are going to go down there and they are going to pick on these guys in Jacksonville, NC.

And this is a managed care company using the Federal Government as a big club to make people, small family businesses, come to work for them at absolutely no way to make a living.

I do not know what we should do about this, but I have been involved in this thing once before in my life. Some years ago when I was President of the Georgia Dental Association, the dentists of Pennsylvania told Blue Cross and Blue Shield, no, thanks, we are not coming to work for you because you will not pay us enough. By the way, that is the parent company of Concordia. Now, this happened. I was involved in this. They said we are not coming to work for you because you will not pay us enough to make a living.

So what do the Blues do? They run straight down here to Washington, get the Federal Trade Commission in on it. The Federal Trade Commission, the entire Pennsylvania Dental Association. By the way, all of the North Carolina Dental Association is being sued now by the Federal Trade Commission.

This goes on for months and months and months. We raised money around the country to help this one little dental association defend itself against the Federal Trade Commission. They got all through and found nothing was wrong, and it cost $2 million.

These are not rich people that you can just go throw around $2 million. This is not Ford Motor Co. These are small family businesses, very small businesses, and we cannot continue to allow the Federal Government to be used as a club to beat on your folks in your district.

Mr. JONES. Let me tell you. Mr. NORWOOD, I know we are closing down in another 5 or 6 minutes and will be ready to yield back the balance of our time, but I could not agree more. We have gotten to a point in this country where too many times those people, and you are right about the dentists in eastern North Carolina. Most of the dentists in North Carolina, but particularly eastern North Carolina, these are hard working, family people. they are not muntimillionaires, they are not millionaires; they are just people working hard to provide a very valuable service, trying to take care of the people in their community. Yet, as you said, too many times the Federal Government, whether it bve DOD or another agency that you were just talking about, comes down with a heavy hand or club, as you said, and as long as there are people like you and I and many on both sides of the aisle up here in Congress, we are going to fight for that man, that woman, in our district that we feel has not been treated fairly.

If I can before closing, I would like to read, because this is a letter sent to me by an Air Force captain on April 1, 1996. I am just going to read a couple of sentences to you. It says, "Dear MR. JONES: As a member of the USAF stationed at Seymour Johnson in your Congressional District, I am writing to you about the new military dental plan. I attempted to follow my chain of command and in doing so determined this is a Congressional issue."

"According to Champus," and this is a quote, " 'there would be no change in coverage' under the new plan."

I am just skipping around in this letter.

"My payments have almost doubled. Personally, I would rather pay the extra $308 per month" for the service that I had prior to this new company. "I am certain that I am not the only military member. With this problem with Concordia's limits being so low, I can hardly blame dentists for not accepting the new plan."

Let me repeat that again. "I am certain I am not the only military member with this problem. With Concordia's limits being so low, I can hardly blame dentists for not accepting the new plan."

"In all honesty, it gets old having your health packages changed, being told that 'coverage is the same', and discovering that twice as much money is coming out of your pockets."

I want to get that in for the RECORD, Mr. NORWOOD, because again, with all of this 30 or 40 minutes we have had, what we are talking about is American citizens, taxpayers and military. I am going to continue to work with you and your staff to see if we cannot correct this problem. I think it is a problem that has gone too far, to the detriment of taxpayers in my district and some of your friends elsewhere. I am going to work with you and your staff as you work with me and my staff to see if we cannot correct this situation.

Mr. NORWOOD. If the gentleman would yield, I will conclude by saying this, Mr. JONES: I think the people in your district are very fortunate to have you up here. In many cases there is no other advocate for those people. You have military retirees, you have dependents of active duty military people, who are not winning under this program. In fact, they are losing. You are up here defending them. Who else will?

I mean, we do not have any oversight from the DOD. I am glad you are. We have your constituents who provide dental care in your district, my colleagues. You know, who is going to help them? They have got a large manage care company coming after them with all the resources in the world. Now they have the Federal Government coming after them through the Federal Trade Commission. Who is going to be on their side in this?

Well, they are your constituents, but they are my colleagues, and I am not

going to ever let this go until we give them some protection down there from that big heavy arm of the Federal Government.

Mr. JONES. CHARLIE NORWOOD, I want to thank you for joining me today. I look forward to joining you on this issue. We are going to right a wrong before it is over. I promise you that.

TRIBUTE TO THE LATE HONORABLE RON BROWN

The SPEAKER pro tempore (Mr. COBLE). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 60 minutes as the designee of the minority leader.

Mrs. CLAYTON. Mr. Speaker, on the hillside over Bosnia, this Nation lost 33 dedicated and committed Americans. Among those lost was the man we pay tribute to today, Secretary of Commerce Ron Brown. We pay tribute to Secretary Brown because, in the finest tradition of America, he gave his life in service to his country, while performing peace in a region torn by war.

This tribute has been organized by those of us who serve on and have participated with the President's Export Council [PEC], a bipartisan effort with the private and public sector working together for export. Secretary Brown was a public sector member of PEC and the driving force behind a notable private-public partnership, whose mission is to expand the United States' exports abroad.

At the very first meeting of PEC of February 13, 1995, President Clinton attended and Secretary Brown welcomed and swore in the appointees. Secretary Brown emphasized that he would regard the PEC members as the Board of Directors for America's national export strategy, first implemented then in September 1993.

So, Mr. Speaker, we think it is only fitting that the PEC Board of Directors leave a tribute to the person who in our mind was the chairman and chief executive officer of America's effort to achieve free and fair trade, to give a chance to U.S. businesses of all sizes to market their goods and services abroad.

I am pleased to be joined by several of my colleagues, both Democrats and Republicans, and we will alternate as there are Members available. We will ask Members to limit their remarks to 2 or 3 minutes.

Ron Brown was born in Washington, DC, and you will hear more about that, on August 1, 1941. He was raised in Harlem by his parents, attended Middlebury College in Vermont, was commissioned an officer in the army and spent time in West Germany and Korea, when certainly the seeds of foreign trade were planted at this time.

He will be especially missed for his work with PEC on behalf of U.S. exports and his effort as the Secretary of Commerce. One of his last appearances in the United States was at the most recent meeting of the PEC. At that meeting, he shared his thoughts and plans on the Bosnia-Croatia trip, as well as the uncommon insight he had gathered about trade around the world.

From this meeting came the proposed statement of principle concerning the Export Administration. Those principles reflected Ron's vision and wisdom, declaring export as a right of every American citizen, not a privilege, his early vision of the Export Administration. As stated, those principles outlined what America's position should be on export restriction, seeking to make sure, as Ron always did, that there is a level playing field throughout the world; that no one nation could assume an unfair competitive advantage in an increasing competitive marketplace. Indeed, Ron's work and the work of PEC makes certain that business of all types, politics aside, would benefit from the renewed trade effort, and they did.

During his tenure, important groundwork was laid, major breakthroughs were experienced, and future prospects for peace and prosperity were cemented. While Ron was deeply committed as a Democrat on the matters of free and fair trade, he was an American first. Party took a second seat to the goals of expanding export.

That reason and other reasons should cause us, both Republican and Democrat, to work together and to honor Ron Brown by committing ourselves to the expansion of America's industries in the benefit of American workers.

Mr. Speaker, I am going to yield time to one who has known Ron Brown for many, many years, and certainly it extends beyond that of trade, in a personal way, the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the gentlewoman from North Carolina for her leadership in organizing this special order and much deserved tribute.

Ron Brown was my constituent and my friend, so that last week I had one of the saddest weeks of my tenure as the Congresswoman from the District of Columbia. I was, of course, at Dover where the bodies of 33 Americans came home, and then on another evening at the Metropolitan Baptist Church to speak in tribute to Ron Brown, and finally at the funeral at the National Cathedral, where there was an outpouring of people from all over the world.

May I first read the names of all seven of my constituents who perished on that flight. Ronald H. Brown, Secretary of Commerce; Adam M. Darling, confidential assistant to the Deputy Secretary of Commerce; Gail E. Dobert, acting director of the Office of Business Liaison; Carol L. Hamilton, whose parents I know very well, press secretary to Secretary Brown; Catherine E. Hoffman, special assistant to Secretary Brown; William Morton, Deputy Assistant Secretary for International Trade; and Lawrence M. Payne, special assistant, Office of Domestic Operations. For all of my seven constituents there is still great grief and feeling in the District of Columbia.

Ron Brown had been a friend for 30 years. When he and I were both young and his wife Alma and I were in a club in New York called Liaison, and Michael and Tracy were born to them, and Johnny and Catherine were born to my husband and me, Michael now has a wife, Tammy, and one of the saddest things to see is Ron with these two babies, these twin sons who were his grandsons. Ron was a wonderful family man. His son, as was said at the funeral, was his best friend.

Ron was a man of extraordinary determination, energy, and ability. Seldom has one American put together so many of the traits necessary for success in public life. As both policy spokesman and politician, Ron Brown excelled, bringing his party back to life again and helping Democrats win; without whom the President said we would not have won the Presidency in 1992.

Yet this was a fund raiser extraordinaire on the one hand, a coalition builder on the other. Any one of those would have been much.

I thank the New Yorker magazine for its comment on Ron in an article called "The Fixer as Statesman." Somehow, this article tries to put together the two parts of this man that so often are seen as not going together.

The statesman, of course, is the commercial diplomat that Ron Brown became, and the fixer is the man who fixed the Commerce Department and the man who fixed the Democratic Party.

☐ 1700

The comment by Sean Willents calls Ron silky, shrewd, and supremely self-confident. I do think, Madam Leader, that they capture this man we knew so well. They say he was not a plaster saint. Would he abhor being remembered in that way?

And they call him wordly and capable. They remember that Ron began in the Civil rights movement. So many who have achieved in this country today never would have gotten the chance to showcase their talents were it not for the civil rights movement. Having seen what he could do, because of the opportunity the movement afforded him as the vice president of the Urban League, ultimately Ron then went on to become a top staffer in the Committee on the Judiciary of the Senate and leader of his party, where he was essentially its titular head for between 1988 and 1992, articulating policies, bringing people together, preparing the way.

VOL
142
PT
6
AP
15
—
24
1996
UMI

He took the job at the Commerce Department, which was regarded as nothing so much as a bureaucracy, and reinvented it into the kind of department European and Asian countries have long had, a Department that is aggressive in going out and selling the country and the country's business.

Finally, let me say of Ron Brown what is so important to to many. Ron simply saw and understood himself to have no limits. I am not sure all of us understand what an achievement that is in country where so many still feel bound by race, even if in fact if they would fly they are not bound by race. Ron said let me try to fly, and then he soared. The great tragedy is that had Ron not been killed, there in no limit to where he might have flown.

He simply refused to have an assigned place as a black man. He looked around him, saw other places, and went wherever his talent and energy could go, and they took him very far. I said at the Metropolitan Baptist Church that to many, race is what they believe holds them back. To Ron, race was a contest that you ran and won. With that spirit, so many youngsters caught in ghetto environments today might find the role model for the 1990's.

For my city, the city where Ron was born, the city where he lived when he died, I have asked my constituents not to mourn for Ron. Remember Ron was the happy warrior. I have said to my constituents living in this troubled city, this seriously troubled city because of its financial crisis, to remember Ron as the man who looked to impossible missions and made them possible. It is possible for Ron's birthplace, for the place where Ron lived, to bloom again, as Ron always looked to see what was possible and then went forward. I have said to those I represent: Don't mourn for Ron, try to be like Ron. Ron came, Ron saw, Ron conquered. So can we.

I appreciate the time that has been offered me.

Mrs. CLAYTON. I thank the gentlewoman for her very poignant and personal remarks about Ron.

We have been joined also by one who serves on the PEC, this is the President's Export Council, and what we want to do, indeed, is to remember him in a personal way but also remember him as forging new opportunities for trade, and those of us who had the unique pleasure of serving on that feel that certainly there is a particular loss.

I am going to ask if the gentlewoman from Connecticut, Mrs. Nancy Johnson, who is here, if she would make comments. And I understand that on her side—I want to say that this is a bipartisan approach that we were doing, and I am pleased that the gentlewoman from Connecticut wanted to join in this effort, which I think is an appropriate effort.

Our tribute is that Ron served American industries which gave American jobs, and we as Americans first rather than you as a Republican and I as a Democrat, we are Americans trying to foster the interests of that. So I am pleased that she has come to join us.

Mrs. JOHNSON of Connecticut. Thank you. I thank my colleague for yielding to me. The President and the members of the Cabinet are the President and the members of the Cabinet for all Americans, and I am privileged to be here tonight to help you celebrate the life of Ron Brown and honor him as our former Secretary of Commerce and recognize the leadership he provided and the quality of the job he did.

When I was first elected in 1982, I came here from a district that had been devastated by what we called in those days unfair foreign competition. Some of it was just a very strong dollar combined with an American industry that was not efficient and was not strong. I watched Mac Baldrige try to develop the Commerce Department into a fighting partner with American business in a developing international market. I saw him struggling through, trying to help us see the importance of developing a department of trade.

I saw Mac Baldridge and some of his successors build the capability of the Department of Commerce to help American business get into the export market, sell abroad, be present in other markets in the same way foreign producers were present in our market, provide the same challenge in the world market that foreign producers were providing in our market. And that opening of vision that started with Mac Baldridge culminated in some really remarkable successes under the leadership of Secretary Brown. He understood and developed that in a way none of his predecessors had. Each of them made unique and remarkable and very valuable contributions to beginning to look forward to how the American economy could be strong in the decades ahead and serve our children in the same way it served us and our grandparents and our great grandparents.

But Ron Brown understood, in a sense, in a more practical vigorous way than any of the rest of us the need for the American Government to back, to partner, to encourage, to lead, to pressure, to force, to incite, to get American business to understand their own power in the international market, the quality of their product, the possibilities for them, and he got right out there with them. He got right out there with them in China at a time when, frankly, the State Department was having a little trouble with China. But he understood if you learn to produce and you learn to trade, if you force ideas, if you award intellectual property, if you reward personal energy, we as a Nation will be OK. We will be economically strong and we will be peaceful.

I remember him talking about that connection between prosperity, peace and trade, and in his own way he was as dynamic and as vigorous and as committed an individual as the world has ever produced in support of business, trade, and the economic strength and prosperity that flows from a dynamic business community in an international market.

He got out there with big companies and small. He got out there in countries like China. He got out there all over the world. And it is tragic but, in a sense, not surprising that he lost his life taking business into what was a devastated, war-torn area, because that was his idea of giving hope to a people torn, devastated; their goods, their economy, their hearts, their minds destroyed by years and years of war.

He understood that the only real bond; that healing would only truly take place when there were jobs, when there was an economy, when there was competitiveness, when there was strength, and that America could not only offer goods but we could offer hope through example. We could offer leadership through guidance.

Mrs. CLAYTON. Would the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I would be happy to yield.

Mrs. CLAYTON. I wanted to respond to her very, I think, appropriate analogy of his going to both big and large companies. He also, conversely, understood that small and big companies here in America could also experience the value of exports and what that meant to the smaller communities as well as what it meant to the big companies.

As you know, on the export council there are big businesses there, but there are also smaller businesses. Maidenform, for example, is small. It is not a big company, it started small. So it means in my district, its small subsidiary also expands as their products are sold abroad, giving jobs to Americans in their communities.

I think Ron Brown knew what the rest of us have come to understand: that for every $1 million of export we already create here $9 million of industry. And some of us do not understand that. I for one, initially, did not have that same appreciation until I was on the Small Business Export Subcommittee and had an opportunity to work with you and others, as well as under the leadership of Ron Brown, who opened, as you say, the hope, the opportunity. And it was about vision and excitement, but also it was about the possibility if people worked together.

And that is why, I think, if we are going to have this expansion and tribute to Ron Brown, it should be about us keeping that going. The greatest legacy to any of us as we leave is for someone to pick up our work and build on it and see the value of it and continue. I just wanted to thank the gentlewoman for her pushing that thought in my mind.

Mrs. JOHNSON of Connecticut. One of the things that I think is wise to remember from the death of a man like Ron Brown is that he was extraordinarily capable in many ways, and one of them was that he was an extraordinary mentor.

Mrs. CLAYTON. Yes.

Mrs. JOHNSON of Connecticut. I had the privilege to travel recently over the recess, and I ran into some of the young people that had worked with Ron. And it was really interesting to me because you do not see this all the time. Cabinet members are not necessarily either warm and fuzzy or mentors. They are important and they do a great job for America. They serve an important need. But Ron has inspired many young minds, and they are there and they will serve us. And they are both parties. Some of them are lifelong, quote, "bureaucrats."

And so he has passed on and was able to pass on a belief and a faith in America, in us as a free people, and in us as a governing democracy, and felt strongly the need for us to be a part of the international community both as an economic force and as a force for democracy.

I thought it was so interesting to listen to the gentlewoman from the District of Columbia [Ms. Norton] talk about how he never saw himself as a black man. He saw himself as an American, as a man, as a power, as an individual, and as a proud black citizen. But he never felt anything stood in his way. If he wanted to do it, he had the intellect and resources to do it. And it is that legacy that inspired those he traveled with, that made a difference in the countries he went to. And it is that attitude that he leaves to those whose lives he touched.

I thank my colleague for organizing this recognition of former Secretary Ron Brown tonight. It is well deserved, and I appreciate having had the opportunity to join you.

Mrs. CLAYTON. Thank you for your comments. I appreciate that.

Mr. BEILENSON. Would the gentlewoman yield? Is it convenient for the gentlewoman to yield at this point?

Mrs. CLAYTON. I promise I will get right back to the gentleman from Nebraska [Mr. Bereuter]. We certainly want to have his comments here. But we have also been joined by the distinguished gentleman from Michigan [Mr. Dingell] and he wants to make a statement and we would be honored to have his statement.

□ 1715

Mr. DINGELL. Mr. Speaker, I thank the distinguished gentlewoman for yielding to me. I want to commend her for having this special order to celebrate the life and the contributions of a great and patriotic American, our now deceased Commerce Secretary Ron Brown, who in a tragic event about 2 weeks ago lost his life with more than 30 others in a tragic air crash in Bosnia.

In the days that followed it became very clear to our citizens how much Ron Brown had accomplished in a very short time at the helm of the Commerce Department. To those of us who serve in the Federal Government, Ron Brown is a well-known figure, a symbol of what is best in our Nation. When you work hard and strive for excellence, you attain it.

I had the privilege of serving with him in matters of concern when he was at the Commerce Department and when his agency was answerable to the Committee on Commerce of which I was at that time chairman and then more recently ranking member.

He had a distinguished career that included military service, served at the Urban League, served at the Democratic National Committee. He was successful in the practice of law and advising heads of state. And he proved time and time again that skill, adroitness, energy, dedication can be an enormous asset in getting the job done.

I will be inserting into the Record a number of quotes of distinguished Americans and American businesses about his contribution to our Government. I also want to make the observation that he was one who understood what the Department of Commerce should do. It was his function, as he saw it, not only to provide extraordinary leadership to that agency but also to see to it that it functioned to the fullest and that it dealt with the promotion of trade, jobs, market openings and expansion of opportunity for Americans through the business of exports, because that is where economic success for this country lies.

He was a great human being, a dear friend, and his wife Alma and he were dear friends of my wife Deborah and I. We shall miss him. We shall pray for the repose of his soul, and we shall understand that he brought excellence to the Department in the great tradition of others who had preceded him, first the distinguished Secretary Malcolm Baldrige, who was a great friend of mine and also a distinguished public servant, as also was Secretary Mosbacher, who was a leader of great quality in that agency.

We shall miss Ron. We can dedicate ourselves to carrying forward the practices and principles in which he believed, that market opening and trade, that opportunity for Americans lies in the success of that Department.

I want to thank the distinguished gentlewoman for yielding to me and for holding this special order.

Mr. Speaker, our Nation suffered a severe blow almost 2 weeks ago when it was learned that Commerce Secretary Ron Brown and more than 30 others lost their lives in a tragic air crash in Bosnia.

In the days that followed, it became very clear to our citizens how much Ron Brown accomplished in a very short time at the helm of the Commerce Department. To those of us who serve in the Federal Government, Ron Brown was a well-known figure, a symbol of what is best about our Nation: when you work hard and strive for excellence, you attain it.

Brown had a distinguished career that included military service. During his tenure at the Urban League, at the Democratic National Committee, practicing law or advising heads of state, Ron proved time and time again to be an invaluable asset to getting the job done.

Over the past year, many working Americans wrote to me about Ron Brown's work at the Commerce Department to promote exports, combat unfair trade practices by our international trade competitors, speed the dissemination of advanced technologies, and conduct research vital to understanding our climate, our weather, and the environment.

Bissell, Inc. in Grand Rapids, MI wrote that his company frequently used the Commerce Department's export programs, and that, "they have proven to increase export sales and thus help the economy of our country."

Viatec, Inc. in Hastings, MI said that, "This invaluable program is an INVESTMENT that produces returns to the American taxpayers with more high-paying jobs, taxpaying citizens, and U.S.A.-purchased materials."

A research group in Ann Arbor said the Advanced Technology Program is, "important in transferring the results of fundamental research into practical products."

Monroe Auto Equipment in Monroe, MI, said that Ron Brown's "aggressive trade promotion policies of our government add value to my company's efforts to compete in worldwide markets."

Perhaps Detroit Mayor Dennis Archer said it best: "The Department of Commerce has been a job-creation machine for the State of Michigan and our cities."

The last time that Secretary Brown appeared before the Commerce Committee, he said the following about his Department: "I am anxious to work very closely with Members of Congress on both sides of the aisle to make sure we do what is best for the country, to make sure we do what is best to assure long term economic growth and creation of high wage, high quality jobs for our people. I think that no department in government does that more effectively than the Department of Commerce."

Mr. Speaker, today Ron Brown is gone. But his life was one which touched many people, both here and abroad, and his work has left a legacy of accomplishment about the strength of a government that serves its people well. We will miss Ron Brown greatly. But his was a life that mattered, and his legacy lives on.

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman from Michigan [Mr. Dingell] also for getting comments from the business community, because I think that is extremely important, because sometimes we think only of politicians or public servants, but Ron Brown also was essential for

VOL
142
PT
6
AP
15
—
24
1996
UMI

the ongoing expansion of business opportunity. For business persons to make that tribute I think is appropriate.

GENERAL LEAVE

Mrs. CLAYTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. WHITE). Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

Mrs. CLAYTON. We are joined by the gentleman from Nebraska [Mr. BEREUTER]. He has been very active on the President's Export Council as well. We are pleased for him to make comments.

Mr. BEREUTER. Mr. Speaker, as mentioned already with some examples here, Ron Brown was an extraordinarily multitalented man who brought great intensity and scope to his interests and his activities. You heard about his mentoring activities here and how much he stimulated so many Americans, especially young Americans, to take an active role in Government. But I did want to focus my remarks on the tremendous achievements that Secretary Brown brought during his tenure at the Commerce Department to the expansion of our trade and investment opportunities abroad.

On August 4 of last year, when we held hearings in the committee on International Relations about the future of the Department of Commerce, I said during the course of that debate that I was proud to enthusiastically and sincerely commend our late Secretary for his hard work and promotion of American commercial interests. Secretary Brown correctly realized that if the United States economy is to remain strong and vibrant in the 21st century, the United States Government must maintain and fund a comprehensive national export strategy. And he served as a very competent innovative chairman of the trade promotion coordinating committee. In that capacity he recognized, of course, and made it clear to many Americans that the United States economy is already very dependent on exports. He clearly understood that during this decade exports have to account for a much larger part of our economic growth.

Secretary Brown fought tirelessly for American commercial interests, both within the cabinet and abroad. Since taking office, Secretary Brown hit the ground running and immediately received the wrath of the Europeans for an important United States commercial airplane deal with Saudi Arabia, 15 high-level trade and investment missions. And billions of dollars of U.S. export and investment later, we bid the honorable Ron Brown, the former Secretary of Commerce, a fond farewell and thank him for his unmatched advocacy and dedication to American commercial interests. I think he set an important precedent for the Commerce Department and for our cabinet members generally in his focus on international trade and expanding our export base.

As I said, he was a man of multitalented background, a wonderful man, sincere in his working with Members of Congress on both sides of the aisle. I look back with great fondness at the relationship we had in working for expanding the export base.

I thank the gentlewoman for taking this special order and for allowing me to say a few words about one aspect of Secretary Brown's life.

Mrs. CLAYTON. I do appreciate that. I think the gentleman has experienced a working relationship and particularly in that area about which he spoke. I want to note again for the RECORD that is an effort, the President's Export Council, to have a bipartisan effort. Both Republicans and Democrats should be honoring a great man and that is as it appropriately should be.

I thank the gentleman. I am pleased to yield to my friend, the gentleman from South Carolina [Mr. CLYBURN].

Mr. CLYBURN. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, I first met Ron Brown in the late 1960s, when all of us were all about trying to find a way to get ourselves and those people that we represented into the mainstream of American activity. I grew to admire and respect him, and there was something about Ron that compelled him to bring along with him all of the young talent that he could muster in order to demonstrate to our great Nation the talent that was there for those who, given the opportunity, could make significant contribution. That to me is the real legacy of Ron Brown.

One of these young talents was the granddaughter of my doctor when I lived in Charleston, Jerry Irving Hoffman, in the late 1960's and early 1970's. And I want to join today with everybody in paying homage to that great spirit that Ron Brown gave to all with whom he came in contact.

Mr. Speaker, on Wednesday before last, as I sat in the home of Mr. Brown sharing with his wife Alma, his son Michael and his daughter Tracey, other family members and friends, hoping against hope that something, some good news would come of this event, as we sat there, watching the television, something occurred that stays with me to this day. And it is what I would like to share with all Americans today. There came to the camera a gentleman, I think he was from northern Virginia, who did not make the trip, a CEO who spoke to the world on the fact that for some reason, though he was scheduled to be on the trip, he did not make the trip. And he asked a very cogent question, and I think all of us ought to ask ourselves today, he said that he must now find out why the good Lord saw fit to keep him here. It is his job now to find out exactly what it is that the good Lord would have him do.

I think that is something that all of us who call ourselves public servants ought to be thinking about today. We are left here; we can speak of Ron Brown's legacy. We can pay homage to all that his life meant. But I think throughout it all we ought to ask ourselves the question now, what it is that the good master would have us do.

I would hope that as we go about trying to fulfill the dreams and aspirations of Ron Brown and others like him that we will keep in mind the hope and the aspirations that he gave to so many and the hope and aspirations that so many are still left looking to us to help fulfill for their futures.

Mrs. CLAYTON. Mr. Speaker, I remember seeing that same executive. He said he was not sure what God had in store for him. So part of our hope is that God has in store for him to help push what Ron Brown started. We are also pleased to have Congressman SHAYS from the Great State of Connecticut join us, and he wants to be a part of this tribute and we are delighted to have him.

Mr. SHAYS. Mr. Speaker, I definitely want to be a part of this tribute and join with my colleagues from both sides of the aisle who are here to express their love and admiration for a truly great American, a truly fine, outstanding Secretary of the Cabinet, the Secretary of Commerce.

I would first want to express my love and admiration for his wife Alma and for his very distinguished son Michael and distinguished daughter Tracey. I was not able to be at the funeral for Mr. Brown because I had two constituents who also died on that plane. And if I could I would like to just express my love and admiration for Claudio Elia, who died on that plane, and for his two magnificent children, Kristin and Marc, who just were real soldiers during their dealing with their grief, and for his magnificent wife Susan, and also for Robert Donovan, who also died, and for his truly outstanding two children, Kara and Kevin, who just seem to deal with this agony and grief in a way that I could not help admire, and for his precious wife Peg, two people from the 4th Congressional District who died on that plane because they wanted to be with Ron Brown on this very important and, in fact, dangerous mission to bring trade and economic growth and some sense of hope to people in Yugoslavia, to give them a sense that maybe their day would be a little brighter.

I have admiration for Ron Brown for leading this. I did not have direct contact with him in my capacity on the

Committee on the Budget or the Committee on Government Reform and Oversight, but he came to my office twice to talk about the importance of the Department or Commerce, and I was just struck by his incredible energy, highly intelligent man, and just an admiration for realizing that I was sitting in the same room with an individual who at the depth, I think, of a party challenge, taking on being the chairman of a great party, the Democrat Party, taking on the role of trying to select a Democrat President, a President, electing a very distinguished Governor and thinking that the immense task that must have been as he was talking with me and the incredible talent it must have taken to bring all the different people he had to bring together to accomplish that task.

I am here to salute him as a very capable Secretary of the Department of Commerce, a very capable individual, someone who I respect as being a joyous warrior, someone who I felt instantly I could tell him very candidly what I thought and that he would respect me as another individual in the same environment he was, a political environment.

I think the real tragedy is that not just one segment of our society, not just the Democrat Party, not just the black community, but all of America has the right to truly grieve that we have lost a young man who in the last 5 to 10 years was a dynamic force in this country, who maybe one day would have been in fact President of this United States, who would have been clearly a force in the next decade or two.

☐ 1730

So I thank you for giving me this opportunity to express my admiration for him and for being part of this very important tribute. Again, I would close by expressing my love and affection for the family and say that, while I was not in Washington to listen to the tribute the night before, since I was at a funeral service when his service was taking place, but for hours I watched the tribute and wished that I could have been there in person to actually enjoy it even the more. I thank you for this time.

Mrs. CLAYTON. Indeed it was a celebration of his life that we watched, rather than a tragedy.

Mr. SHAYS. It was a celebration of life, period, and of this great country.

Mrs. CLAYTON. We are also joined by my colleague, the great Congressman from Texas, Mr. DE LA GARZA. He has asked to participate as well.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentlewoman for giving me this time and to join my other colleagues in expressing our sense of loss individually, collectively as a Nation, and even the world, due to the loss of our friend, Ron Brown.

Let me say first that I am mourning his loss because he was my friend. But we as a Nation lost a great American. I cannot add to the adjectives that have been mentioned or will be mentioned about Ron Brown, but I only would like to mention a couple or three of my personal remembrance of him.

One was that he was a man that no task was too small, no challenge was too large. He did what he had to do. He did it in a gracious, eloquent manner also, always without fault, and I would like to remember also that the most minute things and the way that he handled items as a person, all we know as Secretary of Commerce, what he did and how he did it, and throughout the world and here, but before the last Democratic Convention, I called over to the Democratic Committee, and this is when he was chairman of that committee, that I wanted to be sure that some mention was made of agriculture in the speeches and at the convention, and I left it at that.

The next afternoon I had a call from Ron Brown, which I never expected. I was just speaking with the people that were organizing the program, and he says, "Mr. Chairman, would you think that I would leave agriculture out of this convention?"

I say, "No, I wouldn't have thought so, Ron, but I just wanted to be sure to remind whoever it was organizing the program."

He says, "Well, agriculture will be addressed, and you will be a speaker." And so it was. And so it was.

How it got from the person I spoke to and much lower levels to Ron Brown I do not know, but the only explanation is that he was looking at everything that was going on. And so I had the great honor of speaking at the national convention because of the request of Ron Brown.

Again, also when we were working so hard on NAFTA, most of you, not all of you, remember how he worked on the Hill, how he worked throughout the United States. But I wanted to have a joint meeting with our friends from Mexico, and I appealed to him, if he could be of assistance. His answer to me was, "When do you want me?"

So we set a date. We invited his counterpart from Mexico, and they met in McAllen and Hidalgo, TX, and we had a great meeting, and there I saw him working, the people from Mexico and the people from south Texas.

But one of the most interesting things, and it has been mentioned before, he had a way with young people, children. At the meeting that we had, open meeting with several hundred people, it was a young person that walked up to him and visited with him, and he visited back as if that young man or that young woman was the most important person at that event that day. And there we had Secretary of Commerce from Mexico, the Secretary of Commerce from the United States, assistants, needless to say, the local Congressman, but to him at that point was, and I recall this very vividly, that young lady that was asking him questions about the Department of Commerce and, I think in the end, how she could get a job at the Department of Commerce.

He never flinched or missed a beat, and he says come see me, I will be happy to talk to you.

That is the kind of individual we personally will miss.

Certainly the country has lost a tremendous American, the world has lost a tremendous individual, and I think it has been mentioned before, but the legacy of Ron Brown should be what we continue doing that he did not have time to do. And I hope that that would be our dedication.

I extend on behalf of my district and myself my condolences to the family, to all his family, and we share because it was our loss and we will mourn him. But more so, we should dedicate ourselves to that which he tried to do. To him there was no black, no brown, no white, no red. Everyone was a creature of God from his beginning to the very end, and that he died on a mission trying to enhance U.S. commerce, but yet trying to help downtrodden people was probably the major culmination, the major thing, of what Ron Brown was.

There was no small, there was no large, there was no one but the individual before him, and I saw him do that, and we will forever remember him in that manner. I thank the gentlewoman.

Mrs. CLAYTON. I thank the gentleman for those very appropriate and sincere remarks, and I want to insert that he was indeed a friend of agriculture because North Carolina understands that very well, in making opportunities in Russia for turkeys and poultry and other places that we could have in that area.

We are pleased to be joined by a Congressman from Indiana, Congressman JACOBS. He also wants to be a part of this tribute.

Mr. JACOBS. Mr. Speaker, he was no longer a warrior, but he died in a war torn country.

He died not that others might live, but that others, many others, including Bosnians and Americans as well, might live better.

He was and, in the inspirational sense, remains an authentic American hero. "We shall miss his bright eyes and sweet smile."

May God forgive those who were so ready to bear false witness against him.

Mrs. CLAYTON. Thank you very much.

Congresswoman COLLINS from the great State of Illinois has joined us, and she will now make a tribute.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise to pay special tribute to Secretary Ron Brown and to express my

VOL
142
PT
6
AP
15
—
24
1996
UMI

sincere condolences to his wife, Alma, and to their family. My heart goes out to them because I understand full well what they have gone through, having gone through something like this myself.

Ron was a great man, and we have heard about his strength, his vision, and his compassion for people. Tributes have come from the broadest possible range of people, including the President of the United States and foreign dignitaries, to the lowest ranking workers of the Commerce Department. I believe that these statements best serve as testimonials. They are the very best testimonials to a man many of us had the honor to know and to admire. But let me add just a few observations.

Secretary Ron Brown might best be remembered as a man who saw opportunity where others saw none. He will be missed as a crucial bridge between the privileged and the underserved in our society. For Ron Brown believed, above all else, that the greatest asset America has is the diversity of its population. Secretary Brown understood that America's prosperity depends on our ability to become more competitive in emerging economic markets around the world.

American exports equal American jobs, and he knew this, and that is why he was on the mission that he was on. He knew that developing countries needed real economic investments and not handouts, economic investment with which to demonstrate that a market economy works; economic development, in turn, can lead to real democracy.

And that is what he was all about. He was about building America, about creating jobs, about making sure that democracy is all over this world because we all know that it is a system that has worked and works well, better than any other in the world.

It seems to me that those of us who knew him well and have known him for so many years understood that. We understood that when he smiled, it was a smile of friendship, when he extended his hand, it was a hand of welcome from those across the shores to those of the shores of the United States of America.

When we saw him in office all throughout his many achievements throughout his short lifespan, we knew that here was a man of great thought, of great compassion, of great wisdom.

I stand here because I know that Ron Brown was my friend, and I know in my heart that this country will miss him, a man of his dedication and a man of his strength.

Mr. Speaker, Secretary Ron Brown might best be remembered as a man who saw opportunity where others saw none. He will be missed as a crucial bridge between the privileged and the underserved in our society. For Ron Brown believed above all else that the greatest asset America has is the diversity of it population.

Secretary Brown understood that American prosperity depends upon our ability to become more competitive in emerging economic markets around the world. American exports equal American jobs. Those emerging markets are located in Africa, Asia, and Latin America. America's racial diversity could be our most important asset in corporate efforts to gain market share in these emerging regions. Ron Brown was harnessing our racial diversity in a way that was good for American business, good for American jobs and good for developing nations.

Secreatry Brown knew that developing countries need real economic investments not handouts. Economic investment will demonstrate that a market economy works. Economic development in turn can lead to real democracy.

While many in the United States are willing to use this approach in Eastern Europe and Asia, there is a conspicuous absence of American investment in Africa. Secretary Brown was especially concerned about the willingness of many in the United States to concede the markets of Africa to its former colonizers in Europe. Unbelievably only 7 percent of exports to Africa come from the United States while 40 percent come from Europe. This makes no sense when the return on investment in Africa is 25 percent, outstripping any other region in the world. Ron Brown was helping American companies change this equation.

Secretary Brown was also a tenacious fighter and advocate. As the ranking minority member of the Committee on Government Reform and Oversight, I worked with Secretary Brown in opposing efforts to dismantle the Commerce Department. When many political pundits on Capitol Hill were predicting the imminent demise of the Commerce Department because it had become a favorite target of the new majority, Ron Brown never wavered in his eloquent defense of the Department and its employees.

Secretary Brown used his considerable skills to clearly and forcefully articulate the folly of eliminating the Commerce Department at a time of economic globalization. When the central governments of countries like France and Japan are promoting their businesses, the United States Government cannot afford to abandon its efforts to identify and win export opportunities abroad.

Under Ron Brown's leadership, our Government developed a national export strategy to help small, minority, women-owned, and large companies, win export sales abroad. His efforts paid off in more than $80 billion of foreign sales for American firms that supported thousands of high-paying jobs for American workers.

While Secretary Brown was always open to exploring new export opportunities abroad, he was also never afraid to stand up for the rights of U.S. business in foreign markets. When foreign steel producers dumped steel in the U.S. at below fair market prices, it was the Commerce Department under Secretary Brown that took the action which led to the imposition of duties on foreign steel.

Secretary Brown was also one of the strongest defenders of the United States movie, computer software, and recording industries rights against intellectual property rights violation in China. Secretary Brown firmly believed America's economic strength greatly depends on our ability to safely and freely market intellectual property in foreign markets.

Secretary Brown's efforts were not focused on foreign markets alone. He played an instrumental role in directing funds so that small town throughout our country could gain access to the information superhighway. He insisted that the new telecommunications law, ensure universal service and open access for all communities in our country, including inner city areas. For Ron Brown, the information superhighway represented future social and economic growth. He was determined that all Americans would benefit from these historic changes.

Finally, for African-Americans Ron Brown served as an important role model. His life demonstrated to many young African-Americans that they can thrive in non-traditional roles. As the first African-American chairman of the Democratic National Committee he was the one person most responsible for the election of President Clinton. As the first African-American Secretary of Commerce in our Nation's history, Ron Brown was by any objective standard the most effective Secretary of Commerce I have ever witnessed in my 23 years in the Congress. Ron Brown was a shining example that African-Americans can lead this Nation and the world into the 21st century.

His life was also a caution to African-Americans that your efforts to move beyond traditional roles may be met with resistance. The rules for you will be different than the rules for anyone else. Therefore, if you are to succeed, you must be willing to out perform others. You will need to work harder, and smarter in order to be successful. But if you stay focused and keep your eyes on the prize, and are given the opportunity, Ron Brown's legacy demonstrates that there is nothing that African-Americans cannot accomplish.

Mrs. CLAYTON. Thank you very much.

We are also joined by the Congresswoman from Maryland.

Mrs. MORELLA. Thank you. I do want to thank Congresswoman CLAYTON for doing this. I think it is very important that we pay tribute to a man who has died too young, who served his country so well, and I know others will join by memorializing Secretary Ron Brown by virtue of submitting statements.

I just want to say that there is a vacuum in the world, there is a vacuum in the country, there is a vacuum in the hearts of country men and country women because of the untimely loss of Ron Brown. He is a man who is dedicated to his country, to his community, to his profession to a "T", to his family especially, and certainly to his friends.

I became acquainted with Ron Brown because as somebody who is involved with the technology subcommittees, as chair of it, under our jurisdiction is the National Institutes of Standards and Technology and the Technology Administration, and obviously all of this

is part of the Department of Commerce. I have never found anybody who would work so perseveringly, indefatigably, and with a tremendous sense of humor and with a tremendous ability for what he believed.

As a matter of fact, today we were originally to have had a groundbreaking of a chemistry building on the campus in Gaithersburg of the National Institute of Standards and Technology and a field hearing at the same time because of the passing of Secretary Ron Brown and the high esteem in which he is held by all of those people who are employed not only in all of the facets of commerce and especially the National Institute of Standards and Technology. This has now been postponed for a later date. People were grieving so, that they really felt that they could not go on with another undertaking of that nature. Certainly there will probably be a dedication in a time when it does indeed take place.

I found him to be a man who did have a sense of humor and a sense of commitment, defended his Department very well and could work on both sides of the aisle. There was no real aisle when it came to performing what he truly believed in, and I had the opportunity a week and a half ago to go to India, and I spoke to Americans who were engaged in enterprises in India as well as the Indian nationals who were involved in industry and business.

☐ 1745

They mourned, they mourned greatly the passing of Ron Brown. It occurred at that time, because there had had a very successful trade mission just last year which opened all kinds of avenues and markets for America to participate in the great world market.

Mr. Speaker, I simply feel that, as Shakespeare said, the force of his own merit led his way, and indeed it did. He will be missed. He will, however, go on, live on in love, and I hope he will be an inspiration to us. I offer my condolences, obviously, to his beloved wife Alma, and to his two children, Michael and Tracy.

Mrs. CLAYTON. Mr. Speaker, we also join with the gentleman from the Virgin Islands [Mr. FRAZER] who will join in this tribute to Ron Brown.

Mr. FRAZER. Mr. Speaker, I want to thank the distinguished gentlelady from North Carolina for holding this special order for the late Secretary of Commerce Ronald H. Brown.

Secretary Brown served our Nation with distinction, service, and honor. He provided the vision, and the leadership to promote American business abroad. He understood that in order for American business to succeed abroad they needed to have the full support of the U.S. Government. He used his office to open doors and provide opportunities for large and small businesses. This support is characteristic of how Secretary Brown served this Nation and American business with distinction.

Secretary Brown was accessible and available to the people of the Virgin Islands. He sent his Assistant Secretary for Economic Development to assess the rural economic development needs of the Virgin Islands and to map out a strategy. It was Secretary Brown who understood how vital the U.S. tourism business was to the Virgin Islands and was working with us to help promote tourism through the international trade administration.

Secretary Brown elevated the Commerce Department to a new standard of honor—where business and government can work together for the good of the Nation. Today, the Commerce Department is at the international vanguard for American business. This stature is due to Secretary Ronald H. Brown's vision, leadership, and astute business intellect.

Mrs. CLAYTON. Mr. Speaker, we will ask the gentleman from Georgia [Mr. LEWIS] if he will share also. I have been advised that we have 3 minutes remaining, unfortunately, to all those who would participate in our tribute.

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to pay honor and tribute to our late Secretary of Commerce, Ronald H. Brown. No words I can utter on this House floor today can do justice to this great man, patriot, and public servant. I want to personally express my great sense of loss at the passing of this good and decent man and extend my condolences to his family: to his wife Alma, his son Michael, and his daughter Tracy. Their loss, Mr. Speaker, is our loss, our party's loss, and our Nation's loss.

I first met Ron Brown more than 30 years ago while vacationing on Martha's Vineyard. I was immediately struck by his boundless energy, charisma, sophistication, and style. Even back then, one only had to spend a little time with Ron to know that he was a rising star. And so I was never surprised as I followed Ron's career and watched this man grow and develop, first as a young lawyer, then as a leader in the National Urban League in New York and later here in Washington, as the chief counsel for the Senate Judiciary Committee and later as a partner in a prestigious Washington law firm and as the chairman of the Democratic Party.

Ron Brown was born in Washington, DC, and raised in Harlem, NY, and though he worked his way to the heights of the business and political worlds in our Nation, he never forgot where he came from. He never forgot how to speak with people. He never forgot who it was that needed help and hope and opportunity. Ron spent his life and gave his life creating opportunity for those less fortunate, for those who had not yet climbed up the economic ladder.

Ron Brown was a bridge-builder. Through his actions and his words he was working to build what Dr. Martin Luther King, Jr. called the beloved community, a community at peace with itself, where people are not judged by the color of their skin but by the content of their character. Ron believed in creating opportunity for all Americans and he used his position as Secretary of Commerce to promote American business abroad and economic development in communities where it was desperately needed.

Robert Kennedy was fond of quoting George Bernard Shaw: "Some men see things as they are and ask why," Shaw wrote, "I dream of things that never were and ask why not." Ron Brown did dream of things that never were and ask why not. He dedicated his life and gave his life to promote the country that he loved and to better the lives of the people of this country.

Ron Brown will live in the annals of American history, not just as the first African-American Secretary of Commerce, but as perhaps the best, most effective, and most accomplished Secretary of Commerce in the history of our Nation.

Mr. Speaker, I, like so many others will miss Ron Brown. His energy could light up a room. His enthusiasm could inspire people to reach their greatest God-given potential. His vision and foresight returned the Presidency to his party. His counsel and guidance and wisdom will be sorely missed as we tackle the problems that face our Nation. One of what President John F. Kennedy called our best and our brightest has been taken from our midst.

Those of us who knew Ron Brown were more than lucky, we were blessed.

Again, I want to extend my condolences to the Brown family and thank you, Mrs. CLAYTON, for arranging for this special order.

Mrs. CLAYTON. Mr. Speaker, on a hillside over Bosnia, this Nation lost 33 dedicated and committed Americans.

Among those lost was the man we pay tribute to today, Secretary of Commerce Ron Brown.

We pay tribute to Secretary Brown because, in the finest tradition of America, he gave his life, in service to his country, while promoting peace in a region torn by war.

This tribute has been organized by those of us who serve on and who have participated with the President's Export Council [PEC].

Secretary Brown was a public sector member of PEC, and the driving force behind a notable private-public partnership, whose mission is to expand U.S. exports abroad.

At the very first meeting of PEC, on February 13, 1995, President Clinton attended, and Secretary Brown welcomed and swore in the appointees.

Secretary Brown emphasized that he would regard PEC members as the board of directors of America's National Export Strategy, first implemented in September of 1993.

VOL 142 PT 6 AP 15 — 24 1996 UMI

And so, Mr. Speaker, we think it only fitting that the PEC "Board of Directors" lead a tribute to the person who, in our minds, was the chairman and chief executive officer of America's effort to achieve free and fair trade and to give a chance to U.S. businesses of all sizes to market their goods and services abroad.

Ronald Harmon Brown was born in Washington, DC, on August 1, 1941.

He was raised in Harlem by his parents, attended Middlebury College in Vermont, was commissioned an officer in the Army and spent time in West Germany and Korea—surely the seed of foreign trade was planted at this time.

When he left the Army, he joined the National Urban League as a welfare caseworker, evidencing early in his career a dedication to public service. At night, he attended law school.

Shortly after law school came his first foray into politics, when he was elected district leader of the Democratic Party in Mount Vernon. Immediately, he became known as one who could build bridges and close divides.

In 1973, he moved back to Washington, DC and, following a series of public and private-sector positions, on February 10, 1989, he was elected by acclamation as the first African American chair of the Democratic National Committee.

The rest is history, as Ron went on to help elect President Clinton and to be asked to serve as Secretary of Commerce.

In a relatively short period of time, he made giant strides, distinguishing himself, making his mark in many places, leaving his permanent imprint on the sands of time.

Neither race, nor color, nor religion, nor background, or any of those false barriers stood in his way. We could always count on him to fight another fight, to write another chapter, to run another race. Secretary Ron Brown will be sorely missed.

He will be especially missed for his work with PEC in behalf of U.S. exports and his efforts as Secretary of Commerce. One of his last appearances in the United States was at the most recent meeting of PEC. At that meeting, he shared his thoughts and plans on the Bosnia/Croatia trip, as well as uncommon insights he had gathered about trade around the world.

From that meeting came the proposed PEC "Statement of Principles" concerning export administration. Those principles reflected Ron's vision and wisdom—declaring exporting as a right of every American citizen, not a privilege, as early versions of the Export Administration Act had stated.

And, those principles outlined what America's position should be on export restrictions, seeking to make sure, as Ron always did, that there is a level playing field throughout the world and that no one nation could assume an unfair competitive advantage in an increasingly competitive marketplace.

While those proposed principles reflected Ron's views, they were shaped and will be reshaped by all members of PEC, public and private, and certainly included the view of those business and corporation representatives who served.

Indeed, Ron's work and the work of PEC made certain that businesses of all types, politics aside, could benefit from the renewed trade efforts, and they did.

During his tenure, important groundwork was laid, major breakthroughs were experienced, and future prospects for peace and prosperity were cemented. And, while Ron was a deeply committed Democrat, on the matter of free and fair trade, he was first an American. Party took a second seat to the goal of expanding exports.

Ron knew what many of us have now come to know. For every $1 million we make a available to finance exports, we generate a $7 million return, and, more importantly, we create new jobs.

In the First Congressional District of North Carolina alone, there are more than 450 companies that manufacture goods of foreign markets—and nearly two-thirds are small- and medium-sized businesses, employing less than 100 people.

All in all, eastern North Carolina ships more than $1.3 billion of goods overseas each year. Indeed, in 1994, 270,000 new jobs were attributed to North Carolina, exports, generating some $13.7 billion in revenue, a 21.7 percent increase. In 1994, North Carolina ranked 10th in the Nation in exports.

More and more, the economic well-being of our region and our State depends on our ability to sell our products to other countries.

Clearly, our ability to generate good jobs in the future is tied to exports and the ability of local companies, small and large, to exploit opportunities in other countries.

As a member of the Subcommittee on Procurement, Exports, and Business Opportunities of the House Small Business Committee and an appointee of PEC, I have learned a great deal about the relationship between exports and better jobs.

I have come to appreciate eastern North Carolina's unique combination of harbors at Wilmington and Morehead City, a strong interstate system, and a state-or-the-art air shipping facility at the proposed Global Transpark in Kingston which makes our area particularly well-suited to be involved in the export boom.

I've been working with community leaders to have the proposed Global Transpark designated a free-trade zone, which would make it a hub for international shipping. If we are successful, the seafood caught off our shores in the morning could be someone's dinner in Japan the next day.

According to the U.S. Department of Commerce, for every $1 billion in exports, 20,000 jobs are created.

U.S. exports of goods and services can reach $1 trillion by the beginning of the next decade and can produce over 6 million new jobs. This could mean, by the year 2000, more than 13 million Americans who will be earning their living as a direct consequences of exports.

But businesses, large and small, usually face three challenges when they begin to look to other lands, gaining access to the capital needed to open new product lines or modify existing ones for overseas consumers, attaining technical training vital to dealing with other governments, and finding the information about regulations, American and foreign, and trade practices in other countries.

Secretary Ron Brown, through the Department of Commerce and the President's Export Council had undertaken, like never before, to remove those barriers to exporting, to overcome the challenges.

Mr. Speaker, the greatest tribute we can give to Ron Brown and those 32 other Americans who perished in Bosnia, is to keep their work going and make their dreams come true. That is a tribute in which Democrats and Republicans, small, medium, and large businesses, and Americans of all stripes can join.

Growth in real incomes and living standards depends heavily on trade.

Secretary of Commerce designate Mickey Kantor recently noted that expanding trade is critical to creating good, high-wage jobs.

The 11 million Americans who owe their jobs to exports are earning 13 to 17 percent more than those in nontrade jobs. Ron Brown had the right idea.

I invite my colleagues to join me in keeping that idea burning and in creating a living legacy for a man who lived his life in sacrifice so that millions of his fellow citizens could live their lives in pride.

Mr. TRAFICANT. Mr. Speaker, today I would like to honor the memory of the late Secretary of Commerce Ronald H. Brown. A true leader. A successful, fearless man who loved the big things: his family, his friends, his country, his work, his African-American heritage. And those are the important things. He was passionate and devoted to each. To his wife, Alma and his children, Michael and Tracey, please known that no man could have lived a more blessed and successful life. God be with you.

Mr. MATSUI. Mr. Speaker, I rise today to honor the late Ron Brown. Secretary Brown's tragic death on April 3 robbed our Nation of a highly distinguished and talented leader. Throughout his career, Ron Brown made the most of every challenge that confronted him. As Secretary of Commerce and in his other work, he dedicated himself to creating opportunities for others.

I first met Ron when he ran Senator EDWARD KENNEDY's 1980 Presidential campaign. But I didn't begin to fully appreciate Ron's talents until 1991, when, as chairman of the Democratic National Committee, he asked me to join him as treasurer of the DNC.

In that capacity, I witnessed first hand Ron's vision and leadership. He had an uncanny ability to bring disparate factions together and a capacity of persuasion that was literally unparalleled. I believe it was Ron's early work on the Presidential campaign of 1992 that enabled then-candidate Bill Clinton to emerge from the Democratic Convention with the momentum and resources that ultimately resulted in his victory.

Another of the many distinguished legacies that Ron Brown leaves is the dramatic results of his tireless advocacy on behalf of American businesses in his 3 years as Secretary of Commerce. Ron worked closely with businesses large and small to identify new opportunities and to promote American products. He recognized the tremendous potential that foreign markets held and knew that American firms must seize this opportunity if our Nation was to thrive as it entered the 21st century.

He worked effectively as a peer with the most powerful business leaders in our Nation, yet Ron Brown never lost his ability to identify

with and related to average Americans. He was greatly beloved in his boyhood home of Harlem and left strongly positive impressions among the people he came into contact with while traveling throughout the country.

Ron's leadership, keen intelligence, and passion will be greatly missed by all those who knew him personally and his loss will continue to be felt by many more whom he impacted through his work. I am a better person for having known Ron Brown, and I deeply mourn his passing.

Mr. DIXON. Mr. Speaker, we are all horrified by the untimely death of the Honorable Ronald Harmon Brown, a man of incredible ability who was loved and respected across the globe. In searching for words to appropriately honor him, I recalled the following tribute, which I had the privilege of inserting into the CONGRESSIONAL RECORD on August 4, 1995.

TRIBUTE TO SECRETARY OF COMMERCE RONALD H. BROWN

Mr. Speaker, as we prepare to return to our districts where many of us will be meeting with community and business leaders concerned about economic development opportunities in our neighborhoods, I want to use this occasion to salute the outstanding accomplishments of a gentleman who has worked tirelessly to promote the cause of business and economic opportunity throughout the United States and abroad. The Honorable Ronald H. Brown, our distinguished Commerce Secretary, is to be applauded and commended for the outstanding job that he has done in serving as the administration's enormously adept "Pied Piper" of economic opportunity and empowerment.

Ron Brown is the 30th United States Secretary of Commerce. In nominating him to this auspicious post, President Bill Clinton noted that "American business will know that the Department of Commerce has a strong and independent leader and a forceful advocate." Those of us who have been privileged to know Ron can attest to his outstanding leadership acumen and his tenacity and considerable powers of persuasion. He is a skillful negotiator and an indefatigable advocate on behalf of America's economic interests abroad as he seeks to expand and open markets for American-made products around the globe.

Ron's career has been structured around public service and helping to make America a better place for all of her citizens. A native Washingtonian, he grew up in New York where his parents managed Harlem's famous Hotel Theresa. He attended Middlebury College in Vermont and received his law degree from St. John's University. He is a member of the New York Bar, the District of Columbia Bar, and is admitted to practice before the United States Supreme Court.

A veteran of the United States Army, Ron saw tours of duty in Germany and Korea.

Secretary Brown has had an eclectic career. He spent 12 years with the National Urban League, serving as Deputy Executive Director, and General Counsel and Vice President for the organization's Washington operations. He also served as Chief Counsel for the Senate Judiciary Committee. He is a former partner in the Washington, D.C. law firm of Patton, Boggs, and Blow. And who among us does not remember the brilliant job that he did as the Chairman of the Democratic National Committee and 1993 Inaugural Committee.

As Secretary of Commerce, Ron has traveled extensively, promoting the administration's trade policies and forging sound private/public. sector partnerships. Following the Los Angeles, Northridge earthquake in January 1994, Ron was one of the first cabinet officials on the scene, working with local, State, and Federal officials to identify and earmark funding sources for businesses severely damaged and/or destroyed in the quake. He has since returned to the quake damaged areas on several occasions to survey the progress made by programs implemented under this aegis.

Ron maintains a schedule that would tire men half of his age. Yet he is always prepared to go wherever he is needed, and he always does it with aplomb and with a spirit of unyielding optimism that inspires all around him to achieve the same level of commitment.

In addition to his weighty responsibilities as Commerce Secretary, Ron serves on several presidential boards and councils. He is a member of the President's National Economic Council, the Domestic Policy Council, and the Task Force on National Health Care Reform. He serves a Co-Chair of the U.S.-China Joint Commission on Commerce and Trade, the U.S.-Russia Business Development Committee, and the U.S.-Israel Science and Technology Commission.

Secretary Brown is also a member of the Board of Trustees for Middlebury College and is chair of the Senior Advisory Committee of the Institute of Politics at the John F. Kennedy School of Government at Harvard University.

Mr. Speaker, I am proud and honored to have this opportunity to commend my good friend, Secretary Ronald H. Brown, on the fine job that he is doing as our Secretary of Commerce. He has led an exemplary career, and I have no doubt that he will continue to lead and inspire. Please join me in applauding him on an outstanding career, and in extending to him, his wife Alma, and their two children, attorneys Michael and Tracy, continued success in the future.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to note with appreciation the many achievements and inspirational life of Commerce Secretary Ron Brown. With his constant good will and hard work, he was able to build bridges where there once were valleys and hope where there was once despair. Secretary Brown used the power of the Commerce Department to find ways to give opportunity to ordinary Americans, to generate jobs for the American economy, and to build futures for American citizens.

One could look at Ron's life as a series of firsts. That would be a disservice, for in fact, his life was a series of first place and solid accomplishments. Ron Brown always believed that we would succeed. Whether as a student at Middlebury, staff person to Senator KENNEDY, or top campaign aide to the Senator, Ron was a success. As chairman of the Democratic National Committee, Ron was a success. A lawyer, a skillful negotiator, a pragmatic bridge builder, and past highly successful chairman of the Democratic National Committee, Secretary Brown strongly believed in the promise of America and aggressively advanced polices and programs to accelerate the Nation's economic growth and create new jobs and opportunities for all American people.

Under his leadership, the Commerce Department became the powerhouse envisioned by President Clinton. Secretary Brown promoted U.S. exports, U.S. technologies, entrepreneurship, and the economic development of distressed communities throughout the Nation.

He led trade development missions to five continents, touting the competiveness of U.S. goods and services. During his tenure, U.S. exports reached a record high, America regained its title as the world's most productive economy, and exports and technology were key contributors to the millions of new jobs created during the first 3 years of President Clinton's administration.

Mr. Speaker, my prayers go out to his wife Alma, son Michael, and daughter Tracy. Their strength and courage were displayed during Secretary Brown's funeral service and they should be forever proud of their husband and father.

I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I rise this evening to honor the memory of former Secretary of Commerce Ronald H. Brown, an American pioneer, patriot, and hero. Secretary Brown was also a dear friend. I am sure that my sense of loss is shared by many who work, or have worked, on Capitol Hill. In 1979, Secretary Brown became the first African-American to serve as a chief counsel for a standing Senate committee when he took over the Senate Judiciary Committee. As was the case throughout his career, his service on the Hill helped to chart a new course of participation for African-Americans within the corridors of political and public policy decisionmaking.

Being the first, being the only, being a pioneer, was the former Secretary's calling card. He was the first African-American to join a social fraternity during his undergraduate days at Middlebury College. An Army officer, he was the only African-American officer in his unit during his tour of duty in Germany. He was the first African-American partner in the law firm of Patton, Boggs & Blow. He was the first African-American to head a major political party. Finally, he was the first African-American to head the Department of Commerce.

Upon nominating Ron Brown to be the 30th U.S. Secretary of Commerce, then-President-elect Clinton declared, "American business will know that the Department of Commerce has a strong and independent leader and a forceful advocate." The President could not have been more prescient, nor could have made a more brilliant appointment.

Under the leadership of Secretary Brown, the Commerce Department became one of the major success stories of the Clinton administration. He launched a national export strategy predicated on the very basic idea that American exports translate into jobs and opportunities for American business and working people. In the pursuit of this strategy, Secretary Brown conducted trade mission after trade mission abroad. He traveled most often to what he liked to call the big emerging markets of Asia, Latin America, and Africa.

The trip on which Secretary Brown and his 34 colleagues lost their lives was typical of his missions. It was visionary in the most practical sense of the word. It was practical in the most visionary sense of the word. He had the vision to see that beyond the horrors of war wracking Bosnia and Croatia, lay opportunities for American business to be of service, as well as to engage in commerce. He was grounded

VOL
142
PT
6
AP
15
—
24
1996
UMI

enough in the realities of that conflict to understand that the road to peace lay in the rebuilding of those shattered communities.

When Secretary Brown's plane crashed into that mountain on the way to Dubrovnik, an American patriot became an American hero. He is no less a hero because he died in an accident. He is no less a hero because some persons serving in this Congress have spent an inordinate amount of time besieging him and undermining the Department he led so brilliantly. He is a hero because he died in the service of this Nation, pursuing its interests at the cutting edge of diplomacy and peacemaking.

I would be remiss if I did not comment on Secretary Brown's meaning to me as an African-American public servant. Secretary Brown could not be mistaken for anything else than what he was, an African-American. He did not deny that fact, nor did he allow that fact to limit his personal or professional horizons. To be sure, Secretary Brown did everything within his power to help African-Americans. Beyond that, he did everything he could to find points of convergence between the interests of America, African-Americans, and Africa. But he never allowed himself to be the black Secretary of Commerce, nor, for that matter, the black head of the Democratic National Committee, or the black anything else. Ron Brown was the Secretary of Commerce, in the service of each and every American, hyphenated and unhyphenated.

It is often said that a picture is worth a thousand words. I agree, a thousand and sometimes more. The picture that I have in mind is that of President William Jefferson Clinton presenting an American flag to Mrs. Alma Brown at Arlington National Cemetery on Wednesday, April 10, 1996. That picture says it all. Secretary Brown's life was a life of service in the public arena in the pursuit of justice and opportunity. It was the life of an American pioneer, patriot, and hero.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I would like to take this opportunity to pause with my fellow colleagues to remember our friend Ron Brown. As many have already said, Ron Brown was an exceptional person with a deep love for his family, friends, and country. Today, I would like to honor his memory by celebrating some of his achievements as Secretary of Commerce.

Our record in international trade will ultimately define the future prosperity of our Nation. The ability of our work force to meet the new challenges of the global economy and compete for high-skill high-wage jobs of tomorrow will be critical. No one understood these principles more than Ron Brown

As Commerce Secretary, Ron Brown expanded our international role by reaching out to countries all over the globe, and by strengthening the foundations of our domestic economy. His work to improve our trade balance, increase overseas opportunities, and create domestic jobs helped to prepare the United States for the next century. In my State of Rhode Island he genuinely made a difference.

Last summer, Secretary Brown visited with me in my office to discuss the many programs at Bryant College that focused on improving our State's economy by investing our resources in international business. We talked about Bryant's existing initiatives like the Rhode Island Export Assistance Center and their innovative International Trade Data Network [ITDN]. The purpose of ITDN was to help create and distribute practical information and data that will enable businesses to effectively and realistically target their export efforts to actual opportunities. For Rhode Island, the programs at Bryant were a way to reduce the effects of defense downsizing and struggling economy.

Secretary Brown saw the impacts that international trade could have on local economies and later visited Rhode Island twice to see Bryant College and various other initiatives first hand. He took the time to investigate our latest ideas and offer the support of this Department. Truly, Ron Brown led by example.

In the end, Ron Brown died as he lived: a dedicated patriot who selfessly give his all for friends and country. As a nation we are forced to continue without him, but his time with us all will be remembered as a time of progress, learning, and achievement.

Ms. SLAUGHTER. Mr. Speaker, today I join with my fellow colleagues to pay tribute to a truly great American, the late Secretary of Commerce, Ron Brown. To many of us, Ron Brown was not only a cabinet member with an impressive record of accomplishment, but he was also a dynamic party leader, a trailblazer in the business world, a ferocious advocate for the business community as well as those in need, a role-model for blacks and whites alike, and a dear friend.

I will remember Ron for his charming and captivating persona, for his astute mind, and for his love of country. Ron Brown was full of energy and enthusiasm in each endeavor that he undertook. As Chair of the Democratic National Committee, Ron utilized his skills in bringing people together and motivating them to work toward a common goal, and that propelled the Democratic party to victory in 1992.

In his capacity as Commerce Secretary, Ron Brown was masterful in seeking out and opening up new markets to U.S. businesses. I know firsthand of his tremendous talent in bringing together the public and private sectors in partnerships. A perfect example of this is in my home district of Rochester in which Ron displayed his immense support of Eastman Kodak Corporation's efforts to halt unfair trade practices that were detrimental to Kodak. Upon Ron Brown's insistence, the International Trade Commission concurred and steps were taken to address the inequities.

Ron was such a wonderful and unique leader because he recognized his role as Commerce Secretary was broader than simply promoting American business and trade in foreign lands. He also used his position to help ensure the peace and stability that would provide the foundation for a stable economic base in tormented nations such as Bosnia and Croatia.

Ron died in the midst of an important mission. And he died doing what he did best: building bridges between people and building bridges between nations.

Mr. Speaker, I would like to join my colleagues in extending my deepest sympathies to Alma Brown, Ron's children, and all of the family and friends of this extraordinary man. His presence will be sadly missed by the entire Nation.

Mr. GEPHARDT. Mr. Speaker, in the few days since Ron Brown's death, it has already become a cliche to speak of his brilliant political career—of his pioneering role as party leader, and his efforts to almost single-handedly redefine the Commerce Department and its influence on the American economy. For those of us who considered Ron a friend, it is reassuring to know that the country remembers him as fondly we do. But when there are so many tangible achievements to celebrate in a man's life, it becomes harder to recognize what is less tangible, but perhaps more important.

To me, there is a reason that Ron Brown broke down so many barriers in so many aspects of his life, and shattered so many preconceptions about politics, race, and America's place in the world. For all his practical and political talents, Ron Brown was an idealist, pure and simple. His goals for himself, his party, and his country were always based on what should be, and not on what others thought could be. That is a rare quality in a politician, and a rare quality in a human being. But it is why people loved and respected Ron Brown, and were so often willing to abandon their own goals and egos to work with him for that higher purpose.

I first began to work closely with Ron when he became chairman of the Democratic National Committee in 1989, around the same time that I became House majority leader. It may be hard to remember just how bad prospects seemed for the Democratic Party at that point, and how few people believed that our party could ever again capture the hearts and minds of the American people. Ron Brown was not only an unfailing optimist—often the only voice of optimism at those early meetings and strategy sessions—but a man who believed so strongly in the bedrock principles of the Democratic Party, he refused to accept any reason why America would not rally around Democratic ideals and candidates.

There is no question in my mind that Ron Brown was the driving force behind Democratic victories in both the 1990 midterm elections and the 1992 Presidential election—and that he worked and sweated for those victories not out of some desire for narrow political gain, but because of his unshakable faith in the Democratic Party as the party of progress for average, working Americans. He never forgot where he had come from, and who he wanted to help.

Much has been said in recent days about Ron Brown's ability to heal divisions, to reconcile warring factions, to focus on what united people as Democrats, or business leaders, or Americans. He truly believed that you could always accomplish more by working together—by bringing others along with you. That may be why he established a unique precedent in working so closely with congressional leaders as party chairman. He really did bring the Democratic Party together—sometimes almost one person at a time. To see the depth of his empathy and understanding—to see how far he would go to understand divergent people and opinions, and then to find the common ground between them—was to see the very essence of leadership.

As Commerce Secretary, Ron Brown dramatically expanded his mandate, reinvigorating the Foreign Commercial Service, and becoming a booster of U.S. exports on a scale that had never before been seen. He poured his energy and passion into his work at Commerce, much the way he had done so at the DNC. I admired the aggressive manner in which he led that department, even in the face of partisan political pressures to play a lower profile.

Our country could use another Ron Brown. For he pushed boundaries and broke down barriers almost instinctively, intuitively, as if he simply refused to acknowledge they were there in the first place. Perhaps, in that sense, we can find some shred of meaning in Ron's terrible death—because no risks and no naysayers could ever have kept him from exploring new terrain, reaching for new challenges, and trying to redefine the world in which we live. That he managed to do all those things in so few years is a powerful legacy indeed.

Mr. REGULA. Mr. Speaker, I would like to join members of the President's Export Council today in paying tribute to Secretary Ron Brown. Ron Brown was a personable individual and a master of the art of politics. He served his country and his party with distinction. I worked with the Secretary during his tenure as Secretary of Commerce and was always impressed with his dedication to economic growth and jobs. We shared the goal of promoting U.S. exports, as Ohio has become a leader in the export of goods to other countries. The objective of his final mission was again to facilitate the movement of U.S. goods into overseas markets, thereby working to keep good jobs here in the U.S. I extend my sympathies to Secretary Brown's family and friends.

Mr. LANTOS. Mr. Speaker, I rise today in both sadness and mourning to extend the condolences of myself and my family to Mrs. Alma Brown, their two children Michael and Tracey, and to the entire Brown family. Your husband, father, and mentor was indeed a unique man who graced the institutions which he diligently served.

He was a man committed to the service of his country and to the fulfillment of a promise he had made to himself and the community that surrounded him in his youth. It was a promise that compelled him to demonstrate time and time again that America's diversity was a strength and not a weakness. It was a promise that elevated him from his beginnings in Harlem to the position of Secretary of Commerce where he served with distinction and ultimately died in that service. And above all, it was a promise that drove Secretary Brown to tirelessly break down the barriers that divided people.

Ron Brown was a lawyer and skillful negotiator who became the first African-American chairman of the Democratic National Committee. Secretary Brown strongly believed in the promise of America and aggressively advanced policies and programs to accelerate the Nation's economic growth. He also became the first African-American to hold the office of U.S. Secretary of Commerce, and through his outstanding inspiration, vision and force of will, left an indelible stamp upon the Department of Commerce.

His list of achievements reads longer than the endless accolades that have adorned his passage from this world into the next.

Secretary Brown worked endlessly to champion the role of civilian technology and technological innovation as the means to ensure American job creation, economic prosperity, and a higher standard of living. Under his tenure, he worked to establish a nationwide network to help small businesses. He led trade development missions to five continents, touting the competitiveness of U.S. goods and services. Under his leadership, U.S. exports reached a record high.

Ron Brown worked vigorously to remove outdated government-imposed obstacles that hindered U.S. exports, and he strongly believed in the competitiveness of American business. His dream was to make America stronger, and he remained steadfast to this commitment. Under Secretary Brown, United States exports to Japan increased by one-third. He advocated for $80 billion in projects and supported hundreds of thousands of U.S. jobs. His vision and leadership included his understanding of the vital link between our economy and the integrity of our environment. He furthermore understood the critical importance of protecting intellectual property worldwide, and to this purpose he negotiated with countries around the world.

There was a purpose to Secretary Brown's commitment that found fruition in his constant struggle to transcend all barriers. It is indeed befitting that this dedication will serve as his legacy; a befitting legacy that will outlive the demise of its creator. His passing will not detract from the quality of his achievement, but will rather inspire us all to achieve more from ourselves.

His premature departure not only leaves a void, it also leaves a tradition that has taught America how to face and overcome adversity. His passing compels all of us to take note of his outstanding determination and pay respects to his commendable achievements. On this day, I ask my colleagues to join me in remembering a man who served his country faithfully in both life and in death.

Mr. DELLUMS. Mr. Speaker, I rise to pay tribute to a dear friend, a visionary, a dream-maker, and trailblazer; the Honorable Ronald H. Brown. Although I am deeply saddened by his sudden passing, I am inspired and encouraged by the legacy Ron has left for all citizens of the United States. Ron Brown was not only a personal friend, but a friend of our country.

Elected the first African American Chairman of the Democratic National Committee, he utilized his experience and successes, in reuniting the Democratic Party and ensuring a victory for President Clinton.

As the first African American Secretary of Commerce, Ron not only pursued the expansion of American trade opportunities, but also sought to extend the American Dream to improve the quality of life for all people throughout the world. His vision for the Department of Commerce included providing economic opportunities for all Americans, opening and expanding markets globally, and generating jobs through his national export strategy which allows U.S. companies—big and small—to maximize their export potential. In addition, he wanted to ensure an enhanced technology base and infrastructure and utilization and growth for the Information Superhighway. In doing so, he transformed America into an export superpower, creating over $80 billion in foreign agreements for U.S. businesses. A champion of civil rights, he fought for diversity within the Department, as well as increased opportunities for minority-owned businesses.

Ron was a trailblazer. The list of accomplishments which inspires not only African Americans, but all working men, women, and minorities is commendable. He, as Dr. Martin Luther King, Jr., was an effective communicator, a passionate civil rights advocate, keen political strategist, skilled negotiator, and compassionate bridge builder. A man of action, Ron Brown not only dreamt, but more importantly, realized his dreams for himself and others.

I will personally miss our heart to heart conversations and political discussions, Ron's enthusiasm for life, and most of all, his infectious smile.

As my friend, the Reverend Jesse Jackson so eloquently described him, "We must remember Ron Brown—freedom fighter, social servant, patriot, dream-maker . . . A monument to his success is opening the door for coming generations." We must always hold a special place in our hearts for Ron Brown. Ron was truly a man for all seasons who we will sorely miss. Thank you, Ron, for all you've done. We love you, brother.

Mr. RAHALL. Mr. Speaker, people from all walks of life, professional, personal, religious—friends, colleagues and strangers alike—found themselves binding together over the past 2 weeks in mourning the loss of Ron Brown, U.S. Secretary of Commerce, who died tragically in a plane crash in Bosnia. As could be expected, Ron was lost to us while on a mission of peace as he sought to repair the fabric of war-torn Bosnia.

Today, in honor of his memory, I would like to add my voice to those of hundreds of thousands—perhaps millions—of others who spoke of Ron Brown the man, the husband, the father, the friend of Democrats, the beloved advisor to President Clinton.

I begin by extending my personal condolences to his wife, Alma and their children, and to the families and friends of all others who gave their lives as well, and to assure them that they are in my thoughts and my prayers; may they be comforted by God's love and the outpouring of grief, love, and the many tributes coming from people throughout the world.

I also convey condolences to the family and friends of William Morton, a native of Huntington, WV, located in the district I represent, who was also aboard the doomed plane over Croatia. To them I extend my deepest sympathies and offer my prayers on their behalf that will always be comforted knowing that William died on a mission of peace, as a patriot of his country, doing the job he was committed to doing and doing well, at the side of his mentor, Secretary Brown.

I pay particular tribute to Ron Brown, Secretary of Commerce, for while he excelled in all aspects of every endeavor or job or position he ever held in public life, it was as Secretary of Commerce that he won my everlasting admiration and esteem.

VOL
142
PT
6
AP
15
—
24
1996
UMI

As the Representative in the House of the people of the third district in West Virginia, one of my major goals is to do all that is possible to increase economic development opportunities and the job creation that follows such incentives, for my people. We live in the heart of Appalachia where unemployment in some areas still remains in double-digits, and where economic development is integral to our effort to create a stronger, stable economic base for all West Virginians.

Ron Brown won my heart by requiring his entire department staff to memorize a one-sentence mission statement that ought to be the mission statement of every person in government, and that sentence was: "Our mission is to ensure economic opportunity for every American."

Ron Brown, having achieved the American dream for himself, spent the rest of his life seeking to make it a reality for those bound over by poverty and despair. His life stands as a testament to the power of educating our people, to a sound work ethic meaning a willingness to work hard, and a dedication of ourselves to work for the common good of all.

In West Virginia, Ron will be remembered more for local economic development projects through the Economic Development Administration [EDA], and the Office of Economic Adjustment perhaps, then for his global view on trade initiatives between the United States and the rest of the world. He was a friend of towns and cities large and small throughout the Nation, and became the catalyst for change in social and economic circles that were long overdue, by reminding American capitalists that their prosperity was inextricably linked to the prosperity of all Americans.

Whether Ron was in an American city, the Middle East, or Bosnia, he believed that participation in economic success would go a long way in healing racial, ethnic, and religious differences.

Secretary Brown ran the Commerce Committee like no other Secretary before him—by actively involving businesses in securing jobs for Americans. He took a page from the investment strategy book of the Japanese Government whose economic growth excelled for many years because of the direct involvement of government in the Japanese business community, issuing a challenge to America's economic thinking.

Ron Brown learned from that, and he acknowledged the power and importance of businesses great and small in the United States, and encouraged greater investment in business and industry, rather than ignoring them as his predecessors had done. Under his stewardship, the American economy rebounded over the past 3 years, largely due to his personal involvement and the involvement of his department staff who had memorized the one-sentence mission statement: "Our mission is to ensure economic opportunity for every American."

Ron Brown was many things to many people, and he was remembered as having great charisma, of being able to walk into a room and energize it, drawing people to his side. He was known for his sense of compassion, his willingness to listen to both sides. He was also known for his sense of humor and, needless to say, for his outstanding political acumen, and his ability to make friends anywhere and everywhere he went, working on behalf of the America he loved.

That is Secretary Brown's legacy to us all, and we must not forget.

TRIBUTE TO SECRETARY OF COMMERCE RON BROWN

The SPEAKER pro tempore (Mr. WHITE). Under a previous order of the House, the gentleman from North Carolina [Mr. WATT] is recognized for 5 minutes.

Mr. WATT of North Carolina. Mr. Speaker, I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, there is much that many of us can say about our good friend and public servant for this Nation, Secretary Ron Brown. I simply want to say to Alma, Michael, and Tracy and the family, we loved and respected him; but to America, he was a leader beyond leaders. He realized that American business meant American jobs.

As a member of the Committee on Science, I saw his dynamic leadership in support of advanced technology, recognizing that was the future of America. So it is my commitment to his family and to his legacy that I will continue to work toward creating jobs, and I leave this tribute to Secretary Ron Brown:

> Isn't it strange that kings and queens and clowns that caper in sawdust rings and common people like you and me are builders for eternity? For unto each of us is given a bag of rules and a shapeless mass and each must give or life is flown as a stumbling block or stepping stone.

It is my belief and the belief of the American people that Ron Brown was a stepping stone for America, American business, American jobs. Long live the legacy of the honorable Secretary of Commerce, Ron Brown.

Mr. Speaker, I consider it a great privilege and honor to participate in this special order in tribute to Ronald H. Brown, former U.S. Secretary of Commerce. He had an outstanding career as a lawyer, National Urban League executive, Democratic Party chairman, Cabinet Secretary and close Presidential adviser. I am proud that the city of Houston paid tribute to Secretary Brown and the others that perished on April 3, on Friday, April 12, 1996, at Antioch M.B. Church.

Ron Brown used his many talents to create a better quality of life for all Americans. This special order's focus on his impact on the expansion of American-owned companies into foreign markets is very appropriate. During his tenure at the Commerce Department, he redefined the Department's mission to provide economic opportunity for every American. Moreover, he believed that peace and prosperity could be strengthened and promoted through international trade.

Over the past 3 years, he helped develop a national export strategy to assist American companies in increasing their exports to foreign nations. Since 1993, American-owned companies entered into commercial deals with foreign businesses in the amount of $80 billion.

Most of this expansion was as a result of his tireless efforts in leading numerous trade missions around the world. He supported the creation of strong ties with new markets in Africa. Asia, Latin America and Eastern Europe. Brown also helped to streamline regulations that unnecessarily hindered the exports of our goods and products.

Brown served on President Clinton's National Economic Council and the Council on Sustainable Development. He was also a member of the council on Foreign Relations. He chaired the Trade Promotion Coordinating Committee, which was comprised of 19 Government agencies, to strengthen the American economy through trade.

Ron Brown was a man of great vision and understood the importance of technology in our growth and development. He was a strong supporter of the Commerce Department's advanced technology program, which helped create thousands of businesses that will lead us into the 21st century.

All of us in public service owe a great debt to Ron Brown. He inspired us to always remain optimistic, to be committed to achieving our objectives and work to ensure that no American is left behind. This is his great legacy. Let us renew our commitment to public service.

Mr. WATT of North Carolina. Mr. Speaker, I yield to the gentlewoman from Florida, Mrs. CARRIE MEEK.

Mrs. MEEK of Florida. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, it is very difficult for me to discuss my feelings, my personal feelings, about Ron Brown. I have known Ron Brown since he was a very young man. I have seen him come up through the ranks. He did it the hard way. He worked for it.

I appreciate the kind of commendation that we are giving Ron Brown today. I want to send my condolences to the family, especially to my baby, Michael, his son, and to say to Alma and to her daughter, Tracy, that God will go with them, as we all know, and that Ron will always be remembered, and that we will keep his legacy going. He will not be a forgotten man. I also want to say to Mrs. Meissner, who lost her husband, to send my condolences to her.

People were magnetized by Ron Brown. He lived in such a way that people would gravitate towards him because they knew he was good. I will tell you one thing, Mr. Speaker, every youngster in this country who is from a poor or disadvantaged community, or even more, all over this country and all over this world, not due to ethnicity, race, or creed, will pattern themselves after Ron Brown, because they see an opportunity in him, in what he did, to make the American dream work. That is going to be his legacy.

He walked through the streets of Liberty City with me, a very poor community, and he reached out to every one

of them, yet he got to be a counselor to the President of the United States. He sat on the Cabinet.

When I think of Ron, I think of a poem which we call, and I am going to paraphrase it, The Builder:

> There was an old man at evening tide who was building a bridge on the countryside. A young man came to him and said, "Old man, why do you try to build this bridge? When the tide comes in you will be long gone. You won't be here." And the old man lifted his head and said, "Young man, let me tell you something. The reason I build this bridge at evening tide is there will be a young man such as you who will come after me. Young man, I build this bridge for thee."

That is why Ron did what he did, to build bridges for all of us. I thank the gentleman for sharing his time with me.

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentlewoman for sharing in this special order tribute to Ron Brown. Mr. Speaker, I want to spend a minute or two in this final part of the 5-minute period just saying a couple of things, more from the heart.

First, Mr. Speaker, I want to express my condolences to Alma Brown and to the entire Brown family, and to the families of those others who perished so tragically in this crash. This was a devastating loss for our country and for me personally.

Second, I cannot help but recall the very last time that I saw Ron Brown, which was in the hall in the Rayburn Building. I had been involved in a hearing and was rushing in one direction. Ron had been called before a committee of the House to testify at another hearing. He was coming out of that and was rushing off to another place.

Despite the fact that both of us were in a hurry and headed in different directions, the characteristic that always came through from Ron Brown surfaced. That was the ability, for whatever small period of time he had, to look at you in the eye and make you feel that you were the most important person in life at that moment. We spent a few moments together, and that came through to me. That is the memory that I will always have of Ron Brown.

Mr. Speaker, I would like to express my condolences to Alma and the rest of the Brown family and to the families of those who perished tragically in the plane crash in Croatia.

The outpouring of support that we have seen since Ron's passing is a testament to the life he led and the impact that he had on people. Since his passing there have been two things that have been said about Ron most frequently. They are that Ron Brown had a lot of friends and that he had a tremendous amount of political acumen. I knew both of those things were true.

Almost 2 weeks after Secretary Brown's passing I think it is necessary for us to continue to honor his life and celebrate his legacy. Ron Brown taught us about the importance of providing jobs for our citizens through economic expansion and ensuring equality of opportunity so that all could share in the fruits of economic expansion.

EXPANDING ECONOMIC OPPORTUNITY

Ron Brown knew that the success of the American economy in the 21st century would depend upon expanding economic opportunity for all of our people. In a time where the gap between the rich and the poor is ever-widening, we must see to it that our economy creates jobs which provide living wages. We must also see to it that the good which flows from economic prosperity is shared among all of our people.

EQUALITY OF OPPORTUNITY

Ron Brown knew that our schools and our workplaces should be a reflection of America and should ensure equality of opportunity. He saw to it that his Commerce Department reflected the racial, ethnic and gender differences of the taxpayers on whose behalf his Department worked. Ron worked to provide opportunities for others who might not have been given the chance. Ron Brown knew that there were many more Ron Browns with intelligence, ambition and the will to succeed. Ron Brown gave them an opportunity to shine. They were African-American, white, Latino, Asian-American, they were among those who accompanied him on the mission to Bosnia. We must continue to work to see to it that America fulfills this promise of equality which Ron Brown exemplified.

As we honor our late Secretary of Commerce we must not forget these things which his life has taught us so well and we must work to continue his legacy.

Mr. Speaker, I thank the gentleman from Ohio for providing this opportunity to do this special order before his special order comes forward.

TAXES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. CHABOT] is recognized for 60 minutes.

Mr. CHABOT. Mr. Speaker, the topic of our special order this evening is taxes, and periodically, we will likely be joined by some other principally freshman Members of this House. One of the things that we all share is that we all believe very firmly that taxes are just far too high in this country. The American public is overtaxed, and our Government overspends, and we have to do something about that.

I am 43 years old, and back when I was born, and I was born in the early 1950's, during that period of time the average American family in this country sent about 5 percent, 3 to 5 percent to Washington in the form of taxes.

Here we are 40 years later, and that has gone from 5 percent up to about 25 percent that Americans send to Washington to cover our Federal Government's spending. But that is not the whole picture. It is even worse than that. When you add State taxes, local taxes, city taxes, county taxes, township taxes, school taxes, sales taxes, real estate taxes, all the other taxes that we pay as Americans, the average American family now spends about 40 percent, 40 percent of what it earns in the form of taxes.

☐ 1800

Another way to look at that 40 percent figure is that if you work Monday through Friday, you are working Monday and Tuesday for the Government and only Wednesday, Thursday and Friday are you able to support your family on the money that you earned. That is far too high, far too much of a bite out of the taxpayers of this country coming to the Government.

Another way to look at it is if you work an 8-hour day, about 3 of those hours are worked for the Government. That is just ridiculous. I am sure that our Founding Fathers and founding mothers never envisioned anything like the burden of taxation that we now have on the people of this Nation.

Wages have gone up somewhat. If we look since 1989, for example, wages have increased somewhat. However, when we look at the tax burden, the fact that taxes have gone up, we are at best in this country treading water. We are trying to stay even. But we are really losing out on the American dream.

Our parents, I know my parents, envisioned their children doing better than they did. We all want to advance some in life. The problem is right now because taxes at all levels of Government, particularly at the Federal level of Government, have gone up and up and up, the American dream is being destroyed. Because we are overtaxed, we cannot keep enough of our own money to support our families, and that absolutely has to change.

A group called the Tax Foundation, for example, calculates that in this country we right now pay more in taxes than we do for food, clothing, or housing, shelter, medical costs. Think of that. Food, clothing, health care, housing, all those things, we are spending less for that than we are for taxes. That shows again that we are just overtaxed in this country.

At this time I have been joined by several of my colleagues. I will pick up here in a few minutes but I would like to, I believe, start with the gentleman from Kansas [Mr. BROWNBACK] since he was here first, and I will at this point yield to a good friend of mine from Kansas [Mr. BROWNBACK].

Mr. BROWNBACK. I appreciate the work that the gentleman from Ohio [Mr. CHABOT] does in representing Ohio in this great Nation, one of the big power forces we have had in this new freshman class of things we have been able to get done. I do not know how many American people recognize that this freshman class has hit here and people like the gentleman from Ohio [Mr. CHABOT] have gotten things done,

VOL
142
PT
6
AP
15
—
24
1996
UMI

sent here to make Washington smaller, more efficient, work better for the American people, and it has happened.

One of the things we have not gotten done yet is changing the taxes and being able to get the tax burden less on the American people. We have passed it and passed it again, and have been vetoed and sent back by the President. As the gentleman aptly put forward, the American people are I think taxed to the max, to the point now that they work nearly 40 percent of their year just to pay taxes at all levels, and it is just too much.

I wanted to make another point, if I could, on the issue of taxes. I have got some words here in front of us that rule our lives, if I could show these to the American people. I think it will be kind of interesting to other Members of Congress.

I have got on this page the Declaration of Independence, where we declared independence from a dictatorial nation that was telling us to live a different way than what we wanted to, and these are some words that rule our lives. Within this page is the Declaration of Independence that talks so much about the freedoms and justice that we treasure so much as the American people.

I also have with me today the Holy Bible, words that help with our life as well. I have got the number of words here, 773,000 words approximately in the Holy Bible. The size of this, Declaration of Independence, 1,300 words.

I have got to show the Members of Congress the 1940 Tax Code. I thought we would go back a little ways and we would see the 1940 Tax Code, and I can still lift this one up. It is 4 volumes, the United States Code Annotated, Internal Revenue Code of the United States, 1940's Tax Code.

I cannot pick up the current Tax Code of the United States. I guess I need to be lifting weights better, then I would be able to. The gentleman from Arizona [Mr. HAYWORTH] might be able to do this, but it is a stack about 2½ feet tall of books. It contains 555 million words that control our lives.

This is no joke at all. Unfortunately, this is the real thing. This is just the Tax Code itself, so we can see how much it has grown and how much it has expanded over a period of from 1940 to what it presently is today.

The IRS actually sends out 8 billion pages a year in forms and instructions, which itself would stretch around the world 28 times, just the words that they send out and the billions of pages.

In 1948 a typical family paid only 3 percent of its income in Federal taxes, 3 percent. Imagine that. Because today they pay 24 percent, 8 times as great as in 1948. Imagine what an increase in salary and wages and income we would be giving the American people if we could cut the Government back even a quarter of the way to where we were in 1948.

According to the Tax Foundation, more than 3 hours of every working day are dedicated to the Tax Code. That is how long Americans work on average to pay their taxes. In total, individuals will spend 1.7 billion hours filling out their taxes, responding to this stack of books here, of rules and laws and words that govern our life.

My point in mentioning all of this, and there is a number of other facts that move forward with this, is that we have far too much tax burden on the American people. Average working American people across this country are working too much for the Government and not enough for themselves and their own families.

We have got to much manipulation out of Washington, trying to micromanage our individual economic and personal decisions, trying to make everybody, I guess, perfect across the country as somebody might have designed from here. The Tax Code was written by a thousand different Members of Congress at different times over the eight decades that we have had an Internal Revenue Code.

I just think it is time we say enough is enough. We have got too much of a tax burden, it is too complex, it is too much manipulation out of Washington, and it is time we cut it down to size. It is time we cut the tax burden, and give the American people a real raise by cutting their tax burden.

It is time we cut back on manipulation out of Washington and say that the Tax Code is not for social engineering, it is not for economic engineering. The Tax Code is for raising revenue for the Federal Government. It should be done with a lot of change that we are going to have to get through, and making these sort of changes so the American people can get the relief that they need to have both in the burden and the quantity of manipulation they are getting out of Washington.

I see we have been joined by some other colleagues.

Mr. CHABOT. Reclaiming my time, I thank the gentleman from Kansas. I particularly think it is very interesting the figure you used about 8 billion forms and instructions that go out to taxpayers all over this country.

I think one of the interesting figures that I had seen recently was to put together those forms, we have to cut down 293,000 trees just to put together these forms that we send out to the American public and I personally think that we ought to leave a lot more of these trees standing and cut down the Tax Code substantially. I yield to the gentleman from Mississippi [Mr. WICKER].

Mr. WICKER. I thank my colleague from Ohio for yielding. I certainly also want to commend my friend from Kansas for the remarks which he just made. I certainly hope that he will leave those books there on the desk. They are a graphic example of the increase in the complexity of our Tax Code over the past number of years. They translate into something very, very practical, and, that is, the fact that too much money is being taken out of household budgets and brought to Washington, DC, and that is just a very graphic example there.

Yesterday was tax day all across the United States of America, which was another reminder to American families and American working men and women of the bite that the Federal Government takes out of household incomes. But there is another date that is also very, very significant, and that is May 7, to be exact, May 7, 1996. That is Tax Freedom Day in the United States of America. That means that the average American has had to work until May 7 just to pay his obligation for all Federal, State, and local taxes. Not until May 8, 1996, will the average American begin working for himself.

This is the latest time during a calendar year that Tax Freedom Day has occurred. What that means is that the tax burden on Americans is heavier than it has ever been in the United States of America. I want to commend our party, the Republican Party, for proposing a solution to that and proposing to change the direction.

Sometimes I go back home and people say, "Well, ROGER, there's too much partisan rhetoric on the floor of the House of Representatives," and certainly I applaud any effort at bipartisanship, and I also applaud the efforts of those who have put forward the civility code. I think we need more of that.

But, Mr. Speaker, there is a reason for the very pitched partisan debate about the tax issue. And that is this. That there are two very, very fundamentally different approaches to taxation represented here in this Capitol building. There is the Democrat approach of 40 years of increased taxation, increased overreaching into the pocketbooks of American workers, and we are here now as a Republican majority for the first time in 40 years to reverse that trend.

The differences at the national level are certainly heightened, I think, by none other than the President of the United States. Candidate Clinton ran in 1992 promising a middle-class tax cut. The American people responded to that plank in then Governor Clinton's platform and he was elected. Once elected, President Clinton not only abandoned his pledge for a middle-class tax cut but he gave us the largest tax increase in history. I note that one of my colleagues yesterday came onto the House floor and disputed that, saying that actually maybe it was the largest tax increase in peacetime history.

Regardless of how you do your figures there, it was a whopping increase of nearly $260 billion, which meant a 4.3

cent per gallon tax on gasoline which affected farmers, truckers, and people certainly living in the rural areas of my district in north Mississippi. The Clinton tax increase involved a 70-percent increase in the amount of Social Security benefits that can be taxed. I certainly am proud to stand as one of the Members of this House of Representatives who voted to reverse that tax and repeal that tax and certainly regret the fact that President Clinton has stymied us and not allowed that repeal of that tax to go through. Also small businesses were hit hard. Don't take my word for it. The National Federation of Independent Business called the Clinton tax plan about as anti-small business as you could ever see.

So I would simply point out to my colleagues, Mr. Speaker, that there are fundamental differences in our approach to this very, very significant issue. The Republicans in the House of Representatives and in the Senate stand for lower taxes, tax cuts which not only benefit families but also which will encourage job creation. And so I thank my colleague from Ohio for putting together this special order and I look forward to participating in it this afternoon.

Mr. CHABOT. Reclaiming my time, I thank the gentleman from Mississippi for sharing his thoughts on taxation. You mentioned the disparity, the discrepancy between the two parties in this House and I do not think it could have been plainer than as recently as yesterday. What we attempted to do in essence was to make it tougher, make it harder for the Government to raise income taxes on the American people. Right now we can do it with a simple majority of Congress, taxes can be raised on the American public and assuming that the President signs the bill.

What the Republicans in this House tried to do was to make it tougher, to go up to two-thirds. We tried to pass a constitutional amendment that would require two-thirds of this House and then two-thirds of the Senate in order to raise taxes on the American public.

Mr. WICKER. If the gentleman would yield on that point, I think the gentleman would agree that four out of the last five tax increases would not have been enacted had that provision been part of the Constitution when they were voted on.

Mr. CHABOT. Reclaiming my time, I think that is absolutely correct. I firmly believe that we should make it tougher for Congress to ever raise taxes again.

☐ 1815

Unfortunately, since it is a constitutional amendment, we needed two-thirds of this House to pass it. Some 234 Members of this body voted for it, 177 voted against it. Almost every Republican, there were only 17, I believe, Republicans voted against it. And 200-plus Republicans voted for the constitutional amendment. There were a relatively small number of Democrats who joined us on this.

But there are many people in this House, and even though we did not get it this time, we are going to keep coming back, because we should definitely make it tougher for this Congress ever to raise taxes on the American people again.

At this time, I would like to yield to one of the most articulate and truly one of the leaders of the freshman class, the gentleman from Arizona, Mr. J.D. HAYWORTH.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Ohio and the gentleman from Mississippi and the gentleman from South Carolina for joining us here to talk about taxation. I thought especially eloquent was the gentleman who preceded me at this podium, the gentleman from Kansas. And while he is quite eloquent in his verbiage, I thought the stack of books that now comprise the Internal Revenue Code, Mr. Speaker, with those joining us on television this evening and this afternoon back in my home State of Arizona could see with their own eyes that huge stack of books in a system that has grown more and more complicated. I think just as there were volumes upon volumes, that picture spoke volumes.

The gentleman from Ohio, you mentioned yesterday's proceedings, and I thought it was interesting what transpired in this Chamber during the course of the debate. A couple of arguments used and one, quite candidly, that some Members of the new majority bought into, was this notion that somehow the Constitution of the United States should not be amended or amended only sparingly. I just thought it was worth going back to article 5 of the Constitution, this document of limited and enumerated powers, to see precisely what is said. Again, I think the first clause in article 5 lays it out quite simply: The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution.

Now, for the accurate historical picture, of course there is one prohibition dealing with the Government and dealing with a certain year date, 1808, with reference to some amendments to the Constitution, but that had to do with the foundation of this very republic and some time-sensitive matters.

But that is clearly where it is left. You see, our Founders did not say, now we would limit you to a Bill of Rights or to 40 subsequent amendments. They left no numerical prohibition there. Nor did they feel it was their place to articulate a procedure that either of these two Houses in the legislative body would follow.

Indeed, yesterday, Mr. Speaker, it was very interesting to watch Members of the liberal minority stand up to profess great feeling for the Constitution, but in reality, to hold higher alleged rules and customs of this House than the Constitution. To somehow claim, and I know that I am joined here by friends who work on the Judiciary Committee who are in their own right juris doctors. And for the purpose of full disclosure Mr. Speaker, "J.D." in my name does not stand for juris doctor. It stands for JOHN DAVID. I am not a lawyer, nor have I played one on television.

But I think it is worth noting that our Founders simply said whenever two-thirds of both Houses deem it necessary, they gave us the ability to bring these proposals directly to the floor. And if there were ever a proposal that we needed to move on, it was the tax limitation amendment that fell somewhat short last night but is long, long overdue.

Mr. Speaker, I attempted to offer some perspective during the course of last night's debate, and indeed I thank the gentleman from Ohio for allowing me to fulfill a promise, because as I said from that well that we would have to wait for a special order to articulate this. But a couple of points worth noting. Those folks who were so reluctant to amend the Constitution failed to answer the question I proffered last night. And that was, if a direct personal income tax were such a good idea, why did the Founders not put it in the original document? They were strangely silent about that amendment.

But also it is worth noting what transpired in the wake of the 16th amendment. The Center for Small Business Survival put together a survey, put together a study, went back and took a look at the original tax code in 1913, in the wake of the passage of the 16th amendment, and the numbers were absolutely astounding. If we wre to take the tax code of 1913 and apply it in 1990's dollars, a single person filing singly, of course, would be exempt on the first $46,000 of his income. A married couple filing jointly would be exempt on the first $59,000 of their income. And most astonishingly, to take the 1913 tax code and project it into 1990's dollars, 1 percent tax would be levied on the first $298,000 of earnings. Absolutely astonishing.

How then do we account for the change? How do we account for the volumes the gentleman from Kansas brought? Quite simply this. The insatiable desire of this Federal Government to take money from its citizens, to reach into the pockets of hard-working Americans. If you need proof, understand this. Adjusting for inflation, according to the Center for Small Business Survival, even adjusting for inflation, the cost of the Federal Government from 1913 until the present day

VOL
142
PT
6
AP
15
—
24
1996
UMI

has increased in excess of 13,500 percent. The marginal tax rate on families has increased some 4,000 percent.

The arguments have been made eloquently here again in this special order. I commend the gentleman from Ohio. But simply this thought should be remembered: When the average American family surrenders more to the Government in taxation than it spends on food, shelter, and clothing combined, something is fundamentally wrong. We were sent to this Congress with a basic premise and a basic promise: To let the hard-working people of the United States of America hand on to more of their hard-earned money and send less of it to Washington.

Mr. Speaker, I salute my colleagues who join me here tonight. I salute them also for voting for this tax limitation amendment.

Mr. CHABOT. Mr. Speaker, I thank the gentleman from Arizona.

Reclaiming my time, I would like to at this time recognize, introduce the gentleman from South Carolina [Mr. SANFORD], a very good friend. I also want to compliment the gentleman from South Carolina on a recent score he received from one of the groups that ranks Members of Congress, and that is the National Taxpayers' Union. And what they do is they go through a very large number of votes and keep track of which Members are really serious about cutting spending and cutting taxes. They put all the votes together, and of the 435 Members of the House, this gentleman was tied for No. 4, I believe, and of the freshman class, you were tied with lead, coincidently with myself.

But in any event, I want to thank the gentleman and commend you on that particular score, and let us keep cutting taxes and reducing the rate of spending in some areas and cutting spending in other areas.

The gentleman from South Carolina [Mr. SANFORD].

Mr. SANFORD. Mr. Speaker, I thank the gentleman from Ohio for yielding the time.

I consider it good company that I had both this evening and on that particular scoreboard. I do not know if I thank you, though, for putting me behind J.D. It is always horrible following J.D. J.D., you are a walking encyclopedia on this stuff, and I admire the almost ever-growing list of things that you know about on the whole tax matter. I applaud your efforts there.

I would simply say this. I do not want to beat an old horse, and a lot of things have been covered as we have talked about taxes, but I would like to throw in these two cents. That is, we had a town meeting last Saturday, just prior to everybody sending in their tax returns, back home in Charleston, and I tried to think about what is it that you are going to talk about just prior to tax day. I thought about well, May 7 is Tax Freedom Day. I thought about how the average family sends almost 40 percent of what they earned off to the Federal, Statė, or local government. I thought about how, you know, a hard-working couple works almost until noon to pay for the total cost of Federal, State, and local government. But what occurred to me was why in the world would I be telling them that? Because they know it a whole lot better than I do. In fact, when I have neighborhood office hours, people come up to me saying, MARK, do you realize how much we are paying in taxes?

So I did not want to state the redundant, and so I looked. I do not know if you all have heard, Charles Adams wrote a book entitled "For Good and Evil: The Impact of Taxes on The Course of Civilization." So I got out pen and pad and began to work my way through his book. What he does in his book is he looks through the course of civilization, and with each different civilization breaks out tax rates.

What was interesting about his study is that if you start, let us say, with the Egyptians, go all the way back to the Egyptians. You go back, let us say, 3,000 B.C., to all the way to when they ended, which I guess was around 476 A.D. And if you look at taxes in their civilization, what you would find is that on average, they had an agricultural production tax of about 20 percent. And then during hard times, this is nothing you would see with the IRS today. But during hard times, they had what they call philanthropa, wherein the pharaoh would say, we had a bad year with crops this year, therefore, there would be no taxes this year. It was rumored that is where the word "philanthropy" came from. But roughly around 20 percent.

Then you move to the Greeks. Athens and Sparta had this sort of military sharing arrangement there with the other city/states to fight off the Persians, which they did quite successfully. And what was interesting there was they had an indirect tax, a tax ranging anywhere from 2 percent to around 10 percent, 10 percent if it was a shipping channel covered with pirates, 2 percent if it was not. And then around a 10 percent harvest tax for the city/states. They actually had the first progressive tax, which they called liturgy, where it was a voluntary tax for somebody who lived in that city/state who was doing well, they would come and say, we need this help with *x*. Would you help us? And there was a voluntary tax. But roughly again somewhere on the order of 10 and 15 percent on average.

Then in Rome, you break out the republic versus the empire during the first part. During the republic, there was very little in the way of tax because you had a volunteer economy. What you had there is with their army, every citizen who was a landowner volunteered for the army for 1 year. That spirit of volunteerism, if you want to call it that, was so pervasive that even the magistrates volunteered. So as a consequence, there was not a lot in the way of taxes. They had indirect commercial taxes and custom duties, which ranged from on the order of 2 percent to 5 percent. Unfortunately they had slave auctions back then, which were roughly another 2 to 5 percent. But those were the two big taxes.

Then as you moved into the empire, taxes began to go up because, first, they had tribunal, which was a war tax. There was a 5-year census. Every 5 years they took a census, and then depending on your wealth, if you were poor, roughly about one-tenth of your wealth was taxed. If you were wealthy, roughly about 1 percent of your wealth was taxes. And that tax went off. And if they were successful in their war effort, there was a rebate with the booty that came with war.

They had a couple other taxes, again a 10-percent harvest tax, a 20-percent orchard tax, a 5-percent custom tax. And toward the end of the empire, they actually began to have an inheritance tax of around 5 percent. But again, something just slight of 20 percent on average.

If you looked at the Spanish decline, the Spanish empire and how it declined, what you found was they had two main taxes there. The second tax began to get out of whack, if you will. There was a revolt there with Charles V around 1520 as a result of these taxes because they were not viewed as fair.

□ 1830

They almost had an arrangement wherein the legislature was promised a whole lot of benefits, pensions, et cetera from the king, which worked fine until the taxes got too high and then there was revolt.

The Swiss have long understood the connection between liberty, taxes, and democracy, and for that matter all revenue matters essentially come to vote. An example of that would be, in 1991 a value added tax was proposed in Canada and passed. The same value added tax was proposed in Switzerland and failed, in large measure because they could take that vote straight back to the people.

But what struck me about all this, and you could wander through a whole lot of empires and civilizations, was that you can only squeeze so much blood from a turnip. Those numbers happen to fit, in terms of the study of civilizations and taxes there with his book, fit with OMB numbers, and they fit with Reader's Digest, which is an unlikely pairing in my book.

Because with OMB they went back and looked at numbers from 1950 to present, and what they found was that regardless of which tax rate you were at, roughly the government share was

around 19.8 percent, just shy of 20 percent. Whether you were in the 70-percent tax rate or the 20-percent tax rate, as tax rates ratcheted up and down, you could only squeeze so much blood from a turnip.

People responded to that tax. If the tax was up at 70 percent, sure enough, the second earner stopped earning. They stayed home more. If it was down to 20 percent, they went back to work. People responded. So, first, you can only squeeze so much blood from a turnip; and, second, this is where Reader's Digest recently did a poll and went out and asked folks, "What do you think a fair tax rate would be?"

They asked males, they asked females, they asked whites, blacks, and people earning below $35,000. They asked people earning above $35,000, "What would be a fair tax rate?" Resoundingly, in each of those different categories people came back with the answer, around 25 percent.

Any yet, as you know, our overall tax burden is closer to 40 percent, which again says to me two things: First, civilizations must have had something right throughout time, and the fact that they were at or below 20 percent on average says to me that we are probably out of whack. And, second, if Reader's Digest gets it right, maybe they could pass along the lesson to us here in Congress, in that here we are bouncing along in the neighborhood of 40 percent. What do their readers say? Around 25 percent would be fair.

So I just thought that that was interesting to look at that whole time frame and just say where are we in the grand perspective. Because when I say tax freedom or I say, do you realize you are paying *x*, people already know that.

What was interesting was to look at those numbers and to say, boy, 20 percent seems to be a number that has worked throughout time.

I will yield back. I do not want to take too much of your time.

Mr. CHABOT. I thank the gentleman, and reclaiming my time, I think the gentleman from South Carolina makes many, many very good points. I cannot touch on all of them, but I think you cannot squeeze blood out of a turnip or only so much is right on the mark. That has been one of the problems with the government, particularly the Federal Government, is they thought there was just an unlimited ability to squeeze blood out of the American public. The limit for taxes, just unlimited, just keep raising them, and we have gone far beyond a level which is appropriate in this country.

This Congress, particularly on this side of the aisle, we have made some effort. Before yielding to the gentlewoman from California, I want to touch on a couple of things that we have done in this Congress thus far to give the American people a break, to reduce the level of taxation on particularly working people in this country.

For example, right now a married couple in this country is penalized for being married. We wanted to eliminate the marriage penalty, and passed appropriate legislation here in Congress to do that. Unfortunately, down at the White House it was vetoed. This is unfortunate because we should not penalize married people. We should encourage people to be married in this country.

Capital gains relief is another example of tax relief that we tried to pass this year in this house. Capital gains I think is something that is very important, because some people think capital gains is just for rich people. Seventy-three percent of the people who benefit from capital gains relief earn less than $75,000.

Many senior citizens in their pension plans and their IRA's and other things benefit from relief. Most importantly, capital gains relief means that the economy will thrive more. It will mean more jobs for Americans, more entry level jobs for teenager, for example, so we need capital gains relief in this country.

The adoption tax credit is something we passed here. The President, by the way, vetoed the capital gains relief. The adoption credit, we wanted to give a $500 tax credit to people in this country for adopting a child. There are many diverse views in this House about the issue of abortion, a controversial issue. Some are pro-life, some pro-choice, but I think we all agree that we want to reduce the number of abortions, and the $500 tax credit or, excuse me, $500 adoption credit would encourage people to adopt children.

We wanted to give seniors in this country relief. Right now a senior citizen, once they earn about $11,000 they start losing their Social Security Benefits. That does not seem fair. Seniors all over this country have paid into Social Security all their lives. Then they retire, want to make a little bit of money, and they start losing their Social Security benefits.

So what we did is, we passed in this House relief which allowed seniors to go from $11,000 to earning up to about $35,000 over a 7-year period. It was a gradual increase in the amount that could be earned before they started to lose their Social Security benefits. Fortunately, that was one of the things that the President did not veto, so that was passed, and I am very pleased about that.

The final thing I wanted to mention that we have done in this Congress thus far is, we wanted to give a $500 tax credit for families who have children. So if you have two children, that would be a thousand dollar tax credit, not a deduction but a credit. When you are raising kids, everybody knows it is an extra burden, and we should give relief to families across this country.

Now, again, 89 percent of the people that would have benefited from this would have been people who made less than $75,000, but the President vetoed it. What we heard was tax cuts for the rich, tax cuts for the rich. These things were not tax cuts for the rich, they were tax cuts for hard-working American citizens, and it is time we give the American public tax relief. I think that is what we are all about.

At this time I would like to yield to a good friend from California, a lady who has made many courageous votes in this House thus far in her career, the gentlewoman from California, ANDREA SEASTRAND.

Mrs. SEASTRAND. Thank you to the gentleman from Ohio. I appreciate your gathering this time for us to talk about taxes, especially this day after April 15.

I am very proud to just find out today that I was given a great score from the National Taxpayer's Union and got an A from them. So I am pleased to be here.

I noticed one of the preceding colleagues mentioned a townhall meeting on taxes, and I know there were a number of us that did that throughout the Nation this past Saturday. I was one. I held a townhall meeting on taxes in a little town called Paso Robles on the central coast of California. It went so well that I hope to do, even though it preceded April 15, I am hoping to do this all through my district, because the information and the give and take from the constituents went so well.

I think the thing that I wanted to get across to them was to tell them that this Congress tried so very much to give them tax relief, that we are starting to talk about tax reform and had some votes on reforming taxes, and that we want to give taxpayers rights.

I know a lot has been said about the hours, the dollars that taxpayers have to spend just to figure out their taxes. We have talked about the hurdles that many of our taxpayers have to endure to get their taxes done, and so I am glad that you are talking about some of the solutions to the problem. I am proud to be part of this 104th Congress that has looked to solutions.

We had the vote yesterday in trying to get a supermajority to pass taxes in this House. It is interesting because I come from a State, the State of California, that does just that. To increase taxes you have to get two-thirds.

Let me tell you, the liberals in that House howl every time we talk about the budget because they are down and they want to take it to a simple majority. They tout how it is better for everybody involved, and some of the same arguments that I heard on this House floor yesterday from the liberals that have been in control of this House for 40 years, and why it was a stupid idea in their estimation to try to even bring this issue up on the floor. They talked about publicity stunts, and I

VOL
142
PT
6
AP
15
—
24
1996
UMI

should be shameful because I was talking about increasing the number to a supermajority on this House floor.

Well, I would just say it has worked in my State, and I want to remind everyone that even if you are a supermajority State such as California, they still have the opportunity when we are in facing a dire fiscal situation that, even though I disagreed with that vote about 5 years ago, they raised taxes in the State of California even with a supermajority.

So it was a great vote yesterday. We did not have enough people, the 290 votes, to pass a constitutional amendment requiring two-thirds of this body to increase taxes, but there is another day, another time, and it is just the beginning of continuing to talk about reform in this House.

Now, I am glad that my colleague from Ohio just went through the litany of relief that we tried to give to the taxpayers, those working families throughout America, those working families in Paso Robles in my central coast of California. You talked about the $500 per child tax credit. You talked about the marriage penalty. You talked about your capital gains relief to create jobs for especially the small businesses on the central coast of California. I do not have any of those big corporations in my district.

The tax credit for parents who adopt a child, I know what that is about because my two children are adopted, and know about what it means to give tax deductions to children who have elderly parents at home, and my mom is always worried, concerned about that aspect. And to also give a tax deduction for the first $2,500 interest on a student loan. My children have just graduated from college, but we are always concerned about students, and can they get a tax deduction for their loans.

All of these issues the gentleman from Ohio pointed out just about working families. I am one of those freshmen, about half of our class is under attack by the old guard that have controlled this place for 40 years, particularly those big labor union bosses that sit here in Washington, DC, and then more or less dictate what their members in my part of the country will do.

I have been under siege now for a year, since last April, radio ads, TV ads. You name it, they have done it to me, trying to say that ANDREA SEASTRAND voted for tax relief for the rich. I keep saying, "Where?"

I have just read the litany, you read it prior to, and it is interesting, what we just mentioned, what we are trying to do in this House, and yet the distortions and the misinformation and downright, I guess I could say, lies stated about what we have tried to do in this House to give tax relief to the working families across this Nation.

But you know what I found interesting was that at the townhall meetings, and Saturday was the 50th townhall meeting I have had since I have been elected, the first question is what are you going to do about the Internal Revenue Service. I am telling you, people stand up out of their chairs and they cheer.

What are we going to do? I tell them I am interested in reforming and looking to taking that Tax Code and throwing it out as we know it and looking at something else. Again cheers. So it was no different on Saturday because people actually sit on the edge of their seat and say, "What are we going to do?" What about the flat tax? What about a national sales tax? What about repealing the 16th amendment, the income tax as we know it? What about doing away with the Internal Revenue Service?

So it is exciting to listen to people wanting to start the national discussion, and I hope that through my townhall meetings we can promote a national discussion about not only the tax relief that we have done in this House, but the tax reform that we have begun with our vote yesterday and the discussion that we have started. Should we do away with the Tax Code? Should we repeal the 16th amendment? Should we go to a flat tax or a sales tax?

Now, I think we need to focus on reforming the current income tax, and just to give you a little thought, the national sales tax would abolish that need for the IRS because there would no longer be any income tax.

□ 1845

Americans would only pay tax on the money they spend so it encourages savings and investment. Imagine bringing home your paycheck and looking at the whole thing and then you decide what you would do with your dollars, what kind of things you would buy. Like the flat tax, it would be easy to comply with, easy to administer. And there are many that have advocated that. I have not myself endorsed either the flat tax or the national sales tax, but I am anxious to continue the discussion with the American taxpayer as to what they think is the best way to go.

The flat tax has just one rate, treats everyone the same. That is what proponents of the flat tax say. All the flat tax plans include a generous family exclusion. There are no special interest loopholes and the form is a simple postcard, enough to fit it all on one little postcard, not the numerous forms that we have to look at today.

The National Commission on Economic Growth and Tax Reform appointed by Speaker GINGRICH and Majority Leader Senator DOLE concluded on six principles that should be included on needed tax reform: First, that we have economic growth through incentives to work, save, and invest; second, that there is fairness for all taxpayers; third, simplicity so that anyone can understand the system; fourth, neutrality so that people and not government can make choices; fifth, visibility, so that people know the cost of government; and sixth, stability so that people can plan for the future.

The bottom line is that our current Tax Code is not a good system. It is time-consuming. It is peppered with loopholes. It discourages savings. It needs help desperately, and the American people are saying that they definitely want a fair, simpler, and more equitable Tax Code and tax system.

So I am glad to be down here and talking with my colleagues that are trying to do something about it. I just appreciate you taking this time etching it out of our busy schedules here in the House so that we can talk about what is so important, more important than anything else but the importance to our particular constituents at home and how it is important that we do something, not only get that tax relief, get that reform, but also give some good old-fashioned taxpayer rights to the taxpayers of America.

Mr. CHABOT. I thank the gentlewoman from California. I just want to compliment the gentlewoman on the may votes that she has taken to give tax relief to the American people. We need to keep fighting this battle.

I now would like to yield to the gentleman from South Carolina [Mr. GRAHAM], a gentleman who has been one of the true leaders in the freshman class this year and in fact in the Congress as a whole.

Mr. GRAHAM. Mr. Speaker, it has been a great debate to listen to. It has kind of brought me down here, kind of got my blood stirring.

One thing that was talked about a lot is the two-thirds supermajority vote requirement to raise taxes. And it has been very well articulated why you need that. One observation I would like to make, if you took 435 people at random, any town in America, any district in the Union, and you asked them to vote on this particular measure, the only group I know of that would have less than a two-thirds agreement is here in Congress. You could take 435 people in any town in my district and ask a simple question, should there be a wall between you and the politician to get in your pocket a little higher than the one that exists, they would have jumped on it a lot more than two-thirds vote. It would have probably been unanimous.

Unfortunately, because it was a constitutional amendment, we needed a two-thirds vote. We were about 30 votes short. The idea is alive and well and the good thing about this Congress, it has been an historic Congress. We have not spent much time talking about what we have accomplished because we

have been so busy doing it and ducking rocks being thrown at us for having done it.

The line-item veto by itself is probably the biggest change in the last 200 years. The line-item veto allows the President to look over our shoulder for the first time and look at how we spend money.

This tax debate is a good debate to be having, but it needs to be linked up with the spending debate that is going on. One thing is for sure, Americans are going to complain about the umpire and they are going to complain about taxes. If you go back in time at any time in the history of our Republic, you will find people complaining about how much they have to give to the government, I think that is just our nature. But we always give. We always meet our obligations.

But the question that you must ask now, are people complaining for a good reason. I think they are complaining for a darn good reason. When you take money from the American public you should have a game plan in mind on how to spend it. We collect taxes to provide services at the national level. Are we providing quality service? Are we spending an appropriate amount of money, or are we spending too much? Are we doing too many things at the national level? Should some of those things be done at home? Should some of those things be done by the private sector?

That is a great debate that must be joined with the tax debate. I would suggest to you that the money that we are taking from you is too much. The average person, black, white, rich, poor, conservative, liberal, says 25 percent from State, local, Federal taxes is enough taxation on the American family, and the reality is it is almost 40 percent.

So I would suggest to you that not only does the American public believe we are taking too much, there is a new group in Congress that believes we are taking too much. But we are in the minority, but we are growing. Thanks to the vote in 1994, we have grown a lot. And just hang in there with us and get enough people up here to do something about it. We are here talking about it. We need more votes to make it happen.

But the average American believes very sincerely they are having to pay too much. I agree with them. You agree with them. It is about time to start delivering. But we take their money. And what do we do with it? We provide services.

Medicare is a good program. I come from the South where a lot of people who have worked in the textile industry in years gone by did not have good pension plans or health care plans. That is getting better. Medicare was a safety net program for folks that has grown tremendously. Do you know how much we have increased Medicare spending since 1980? We have increased it 2200 percent. Welfare, a tremendous explosion in welfare spending in the last 30 years; $5 trillion have been spent in the name of compassion. And we have more illegitimate children, more poor and disadvantaged people than we have ever had.

I would suggest that the Federal Government could get by with less, that not only are you right when you are saying we take too much from you, you are right when you believe that Congress does not spend your money wisely. We can come up with a Medicare system that will take care of our seniors, that will not grow at 2200 percent every 15 years.

We can provide compassion. We can provide welfare. We can help those people who are disadvantaged without paying them to have children they cannot afford. We can help people of alcohol problems without sending their check to the bar. We can reconfigure this government. We can take less of your money and do a better job. But you are going to have to help us. We have got to reinvent systems that are long overdue to be reinvented, and we can get by on less money. Do not let anyone tell you otherwise, because it is a complete distortion to say that the Federal Government is a few billion dollars short.

I thank the gentleman very much.

Mr. CHABOT. Mr. Speaker, I thank the gentleman from South Carolina for his thoughts on taxation. He also has been a true leader around here in trying to cut the tax burden on American working people in this country.

In summarizing where we have been tonight, I would just like to make a couple of points here. Something that we passed today that I think was a very good move, something in the right direction, was something called the Taxpayers Bill of Rights. And in essence what that does is, if you call the IRS right now, and the IRS gives you bad information, you are responsible for penalties and interest, even though the IRS gave you bad information. That sounds ridiculous. It is ludicrous, but that has been the law.

We passed, however, today a law which basically said that if the IRS gives you bad information, then you cannot be held responsible for interest and penalties due to bad information from the IRS.

I think that is a step in the right direction. Congressman JIM TRAFICANT, who is a Democrat from Ohio, my State, I think has—I am cosponsor of something I think is a very good piece of legislation. It basically would put the burden of proof on the IRS rather than on the taxpayer.

Right now it is supposed to be you are innocent until proven guilty. But with the IRS, basically you are guilty unless you can prove you are innocent. This takes the burden off the taxpayer and puts it on the IRS where it ought to be. Something else that I found kind of interesting in preparing for this issue this evening was the fact that we have got 6,000 border patrol people in this country, 6,000 people on the border patrol to protect our borders. We have got 24,000 employees of the FBI, and we know all the good things that the FBI does for our Nation. So that is 30,000 employees with border patrol and the FBI. With the IRS, the IRS has 111,000 employees, almost four times the number of employees that we have in those other two departments. It really shows you what our government's priorities have been. I think we need to change those priorities.

Another thing that is interesting, as we mentioned, April 15 was just yesterday, taxpayers all across this Nation were trying to figure out how much they owed to make sure that they paid what they owed; 1.7 billion hours were spent by taxpayers figuring their taxes and the next figure is really shocking, $140 billion was spent by taxpayers for attorneys and accountants to figure out what their taxes were, time basically wasted figuring out taxes, $140 billion. I would argue that that time could be much more productively spent in many other ways.

I had a town meeting, many of the other Members that spoke here this evening mentioned they had town meetings on the weekend. I had a town meeting in my district. I represent the 1st district of Ohio, which is basically most of the city of Cincinnati and some of the western suburban communities. We had about 125 people at the town meeting.

I started out with a question at the beginning: How many people here feel that taxes in this country are relatively low and perhaps we could raise them to balance the budget or do more government programs, whatever? Not one hand went up.

Then I asked, how many people feel that taxes are about right in this country? I expected we might get a few hands. We did not get one hand that said that taxes are anything near what they ought to be. Then I asked, how many people feel that we are overtaxed in this country, we need tax relief? And every single hand in that room went up.

These are just regular citizens from my community, the Cincinnati area, and that is probably true all across this Nation.

We had a couple of groups that were represented there, a group called TEE. We have had some grass roots groups that just formed in the community a few years ago. TEE is one. It is Taxed Enough Already. Brenda Kuhn is the founder of that organization. We have the True Blue Patriots, Pat Cooksey, founder of that organization that was there, and also Tom Brinkman, who is the treasurer of a group called CATS, Citizens Against Taxes and Spending.

VOL
142
PT
6
AP
15
—
24
1996
UMI

So we have actually in my community, in reaction to this high level of taxes, we have actually had regular men and women, average working people form groups to try to petition their government to get off their backs, give them some tax relief. And I think it is time that we did that.

I want to thank all the Members of the House who came here this evening to discuss and participate in this topic which could not be more timely about tax relief. I would like to say finally that I think it is time that we work together, Democrats and Republicans, and, yes, the President of the United States, we should all work together to give tax relief to the American people. It is time we get the job done. Let us get working on it. Let us relieve the American people of the huge tax burden that this government has placed on their backs.

Thank you very much for participating this evening.

TAXES, EXPENDITURES, AND BUDGETS

The SPEAKER pro tempore (Mr. WHITE). Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, today I would like to continue the discussion about taxes, let us talk about taxes and expenditures and budgets. But before we do that, there were some tributes by my colleagues to Ron Brown, and I would like to add my tribute to that number. And I think that the chairman of the Congressional Black Caucus, the gentleman from New Jersey [Mr. PAYNE], is here for that purpose, too.

I yield to the gentleman from Virginia [Mr. PAYNE] for his statement on Ron Brown, and then I will follow with my statement on Ron Brown and then go on with the rest of the discussion.

TRIBUTE TO RON BROWN

Mr. PAYNE of New Jersey. Mr. Speaker, I thank the gentleman for yielding to me at this time.

Let me say to Mr. OWENS from New York that following your time, we are going to have members of the caucus come and make expressions. And so what I will do at this time is to yield back until the gentleman completes his special order. And then I will return back to the podium.

I thank the gentleman from New York for yielding to me at this time.

Mr. OWENS. Mr. Speaker, I would like to add my voice to the numerous voices that have been raised to pay tribute to Ron Brown. Ron Brown, the mentor for all public servants, he could teach us all a great deal.

I will enter my statement in its entirety into the RECORD, but I would like to read the statement and comment on it.

Ron Brown was a renaissance politician. He was a jack-of-all-trades who mastered all the trades in politics. He was a mentor for seasoned professional politicians, and he was qualified to tutor most of us.

Ron used his considerable influence and charm to become an extraordinary fund raiser for the Democratic Party. From the complex job of raising money to the details of election day engineering, Ron performed with great enthusiasm.

Ron Brown was the kind of person who could raise funds, and I admire him most for that. He probably had a problem like everybody else but he plunged into the process of raising funds and did a great job of that.

There are some people who do fundraising very well, but they are not good at strategy. They are not good at tactics. They do not have certain other qualities. But in addition to being able to raise funds, which we all admired him for, Ron Brown had the talents that went across the entire spectrum in terms of skills that are needed in public life.

I first met Ron Brown in Chicago while campaigning for Harold Washington for mayor of Chicago. Former majority whip Bill Gray, Ron, and I were in a car on a tour through the public housing projects on Chicago's south side. We had been assigned that area to campaign. At that time Ron was working with a well-known, prestigious, and powerful law firm in Washington.

□ 1900

However, on that day it was simply Ron, the lawyer, friend, campaigning for a fellow democrat. We went into huge, tall, cold, concrete buildings and walked on floors which seemed to be completely out of this world. The deterioration and the garbage inside the halls were unbelievable, even to a poor boy like me, whose father has never earned more than the minimum wage. I had lived in some of the poorest neighborhoods in Memphis, TN, and I had worked in some of the poorest neighborhoods in New York. but never had I seen such despair. The only glimmer of light I saw in those high-rise urban tunnels that day were the Harold Washington posters that the residents waved at us when they saw our familiar signs.

We had connected at that point with the most depressed among us.

As my eyes met Ron's eyes, he broke into his signature smile. This is what politics has got to be all about, he said, as we plunged into the crowd of outstretched hands and marched through the halls reminding folks that tomorrow was the day to go out and elect the first African-American mayor of Chicago.

Ron Brown was the unifying driving force behind the most successful and conflict-free convention the Democrats have had in nearly two decades. Ron was a star who kept his poise. He kept peace among the many party factions and made the Democratic National Committee an effective force to be reckoned with in politics.

Ron Brown was a masterful strategist who began his tenure as party chairman with several special election victories despite great obstacles. He was a great communicator, and he was a great cheerleader who also understood the nuts and bolts of winning campaigns.

Seldom in America does one man so gracefully transcend the racial chasm as Ron Brown did, and in his journey he deeply touched the heart and soul of a Nation.

As our Secretary of Commerce, he was our corporate ambassador to the world. As the chairman of the splintered, fractured Democratic Party, he was the glue that held it together, and in so doing he delivered the White House and became the most beloved chairman in history.

Ron Brown was undaunted and unfazed by challenges. Being a first was not unusual for him. He was the first African-American in his college fraternity, the first African-American counsel for the Senate Judiciary Committee, and the list goes on and on.

Ron was a trailblazer and an eternal optimist. He saw no mountain that could not be climbed or moved or conquered.

The nation has lost a great leader and statesman. I join Ron's many colleagues and friends, not in mourning his death, but in celebrating his life, his accomplishments, his style and spirit. Ron Brown will be missed, but Ron Brown will never be forgotten.

Ron Brown was an ambassador for corporate America. Ron Brown was about the business of expanding the markets of America across the globe. Ron Brown understood that a prosperous America was an America that would generate the revenues needed to do the things that had to be done in our country for all Americans.

At this point in our year, April 16, it is a day after tax day. April 15 is a dreaded day by most Americans. My colleagues who preceded me in this special order before talked about taxes and the need to lower taxes for American families, and although my colleagues who have spoken before were all Republicans, I want to go on record and have the whole world hear that I agree 100 percent with my Republican colleagues. We need to lower taxes for families and individuals in the United States. We need to lower taxes, and I have talked about that on many occasions here.

The problem is that we are taxing families and individuals too harshly. Families and individuals are paying too much because corporations are paying too little.

In 1943, the corporations were paying almost 40 percent of the total income tax burden in this country, 27 percent by individuals and families, and almost 40 percent by corporations in 1943.

By 1983, the amount of money being paid by corporations under Ronald Reagan's administration fell as low as 4 percent, 4 percent, while individual taxes went up to 48 percent. The share of income taxes paid by families and individuals went as high as 48 percent, while the share for corporations went down as low as 4 percent in 1983.

Today we still have a gross inequity. The share of taxes paid by corporations, income taxes, is only 11.4 percent, while the share paid by individuals and families is four times that amount, 44 percent.

So I agree with my Republican colleagues. I only regret that they spent so much time talking without confronting a few very basic truths.

The basic truth that they refuse to come to grips with is that the corporations who represent the energies in America that are making the greatest amount of money; prosperity has been good to corporations because corporations have known how to take advantage of technological progress. They have taken advantage of all the research and development that has gone forth under the aegis of the taxpayers.

Taxpayers are the ones who have paid for the research and development for computers for radar. Taxpayers are the ones who have led to many who finance transistor research and miniaturization, telecommunications of all kinds. Taxpayers of America have been the driving force behind this. Corporations have known how to organize, take advantage of this and produce products.

So our economy is booming on Wall Street, and corporations are making a great deal of money. And nobody regrets that at all. We applaud that. The corporations should be paying a greater share of the taxes, and, as we move past income tax day, April 15, Americans should think very seriously about the inequities, the imbalance in the share of taxes paid by corporations verusus individuals.

Yes, we need a tax cut.

My colleagues before who were speaking said they spoke to crowds and asked people do you think you are paying enough taxes, and nobody raised their hands and said, yes, I am paying enough. I would agree. I do not—yes, I am paying too much. I mean do you think you pay too much tax? Everybody raise their hand and say, yes, I pay too much. I would agree I am paying too much. Most families and individuals are paying too much, in my opinion.

In order to raise the revenue needed to run this country, we need to have a more equal balance in terms of corporations paying their fair share. We need to have some of the corporate welfare programs taken away. The other side of it is reducing the expenditures.

You know, Federal taxes also, we must understand, spread the wealth in America, and I think my colleagues on the other side who talk at length about taxes did not bother to mention the fact that Federal taxation polices represent some of the greatest generosity in America. Some of the spirit of being my brother's keeper, especially in the case of the east coast, especially even more so in the case of New Yorkers on the east coast; you know, the tradition has been that the wealth first accumulated on the east coast, and Franklin Roosevelt and his tax policies were such that he increased the taxes of people who had the money, most of them residing on the east coast and the Rust Belt States, they call them now, industrialized States. The money was there, and by initiating Federal programs like the Social Security Program and other Federal programs, Rural Electrification Program and a number of other programs that had to be paid for, he can only pay for them with taxes raised on the east coast and in the industrial States where they had the money, and that tradition has continued until today.

New York was one of the States that had to pay out large amounts of money in order to help take care of the needs of the rest of the country, and so it is even until now on many occasions I have stood here and talked about the fact that New York for the last 20 years, as a State, has paid into the Federal Treasury more money than it has received back from the Federal Government in terms of aid.

Federal aid going to New York has always been lower than it has been, than the amount of money that New Yorkers have paid in taxes. New York State in 1994 paid $18.9 billion more into the Federal Treasury than they got back in terms of Federal aid. Before that, in 1993 New York paid $23 billion more in Federal taxes than New York State got back in Federal aid.

Now, many people have asked me, well, you know, what are you talking about, where do you get these outrageous figures, where they come from, and I have quoted before, and I just brought back the booklet today, a study that is done every year. It is called "The Federal Budget and the States," and this study is done every year. It documents everything that I have said in terms of some States are donor States and some States are recipient States. The Federal budgets in the fiscal year 1994 is what I am holding in my hand.

Its introduction is by DANIEL PATRICK MOYNIHAN because Senator DANIEL PATRICK MOYNIHAN of the State of New York has pioneered and highlighted these great inequities for many years.

This study, this report, was done by Monica E. Fryer and Herman B. Leonard, and it is published by the Taubman Center for State and Local Government at the Kennedy School of Government at Harvard University.

So the study is available for anybody who wants to see it. There are many fascinating facts beyond the fact that New York State consistently has paid more in taxes than it has received back. They have looked at aid in terms of salaries of military personnel who live in a given State, they looked at aid in terms of Medicaid and Medicare, dollars that come from the Federal Government; they looked at aid in terms of programs for job training; title I; all the aid lumped together. And they can tell you how much each State received back from the Federal Government versus what the State paid in.

So New York is a big donor State. It has been that way for a long time, and I think Franklin Roosevelt clearly understood that, that Federal taxes spread the wealth, and they have spread it across to places that most of the States in the South. Practically all of the States in the South are recipient States, they get more from the Federal Government than they give back to the Federal Government.

Mississippi receives $6 billion more from the Federal Government than Mississippi pays in taxes to the Federal Government. And some of the gentleman who were speaking before had better beware; if you remove the role of the Federal Government in collecting taxes and you want to leave more of it to the States, the States who will lose the most are States in the South because the States in the South combined receive $65 billion more from the Federal Government than they pay into the Federal Government. And I will repeat that because I do not want the figure to get lost: $65 billion more is received from the Federal Government than the States of the South collectively pay into the Federal Government.

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Georgia receives $2 billion more from the Federal Government than Georgia pays into the Federal Government in taxes. The county in the United States which receives the highest amount of money per capita is the county represented by the Speaker of the House. That county receives more money per capita than any other county in the country in terms of Federal aid. So we should beware, and when we talk about taxes let us talk about all the facts. Let us talk about the most significant facts.

Yes, individuals and families are paying too much in taxes. Yes, the corporate world is not paying their fair share. They are paying too little. They are making the money, but they are paying less.

If we want a tax cut, I am all in favor of a tax cut. I stand here as an acknowledged, unashamed, proud liberal,

VOL
142
PT
6
AP
15
—
24
1996
UMI

and I agree with my Republican colleagues on the other side who said that families are being taxed too much. We need a tax cut. It may begin with where President Clinton has begun in terms of a tax cut for education, to aid with tuition, a tax cut for families in terms of creating a situation with families with direct benefits, so much per child, $500. There is agreement between Republicans and Democrats on that.

I think as we do it, we should look at the situation. I would understand that a tax cut should not mean that we end up cutting aid to education or cutting Medicaid. A tax cut for individuals and families means we should balance off the situation and make certain that where the money is needed, it goes there.

We cannot responsibility deal with tax cuts unless we deal with the expenditure side, what is happening with respect to the budget. The budget and the waste in the budget must be dealt with also, and I have a great disagreement with my colleagues on the other side about where you ought to begin dealing with the waste. The waste is not in aid to education, the waste is not in Medicaid, although there is waste and corruption in health care programs. The real waste is in other places. I have cited some of that waste before.

I have gotten some questions over the recess, and people said, "How dare you say that the CIA has $2 billion that they did not know they had and $2 billion that are just sitting there while the deficit grows and programs are being cut"? And my answer was, "Yes, they probably have more than $2 billion, because the public figure that has been stated, not confirmed by the CIA but not denied by the CIA, has been $2 billion. They probably have more. It was in the coffers over there, petty cash, slush fund, whatever you want to call it. Folks have challenged that. I have said I am only quoting from the New York Times and the Washington Post.

There were several articles that appeared on the pages of the New York Times and the Washington Post. Many of my friends did not see them. Even some of my colleagues here in Congress, when I asked them to sign a letter to the President asking him to use that $2 billion to restore the funding for title I and for Head Start and for summer youth employment, they questioned me, "Where did you get your figures from?" I told them, off the front pages of the New York Times and the Washington Post.

One article that appeared talked about the President firing two people who had been considered responsible for this. This was in February, on February 27, 1996:

> The top two managers of the National Reconnaissance Office, a secret agency that builds satellites, were dismissed today after losing track of more than $2 billion in classified money.

It goes on to talk about how no audit had been done for a long time, and this agency had accumulated these funds. And $2 billion, you know, if there is $2 billion there, then the question is how many other entities, sacred cows in the government, also are sitting on funds? That popped into my head, how many others.

And then, lo and behold, just a few weeks ago a report came out which said that the Federal Reserve, the Federal Reserve that is responsible for our economy, who are responsible for advising us how to run the economy most effectively and efficiently, the Federal Reserve has $3.7 billion, $3.7 billion in its slush fund.

An audit by the GAO shows that the Federal Reserve has $3.7 billion in what they call the surplus account. A surplus account. Now, if that $3.7 billion was returned to the Treasury, think of how much interest we would not have to be paying on the debt. The interest on $3.7 billion worth of money would be relieved and we would not have to pay that. It could reduce the deficit by $3.7 billion, but it is sitting in the Federal Reserve coffers. It is called a surplus account. The General Accounting Office makes this statement:

> Although the surplus account is intended to absorb possible losses, the Federal Reserve has recorded substantial net profits for 79 consecutive years.

Do Members hear what I am saying? The surplus account is kept, the Federal Reserve says, because they may have losses in their operation. It is a self-sustaining operation. They loan money, they charge interest for that, they charge money for services. They might lose money 1 year, so they say they keep the $3.7 billion around because they might lose money and they need to make that up. It is a rainy day fund for the Federal Reserve.

But they have not lost any money for 79 consecutive years. "Even though the likelihood of the system's incurring losses, exceeding its revenues, appears remote," I am reading from the GAO report, "the total surplus increased 79 percent in the 1988 to 1994 period, rising from $2.1 billion to $3.7 billion."

The Federal Reserve has $3.7 billion lying around, doing nothing, as a rainy day fund. So yes, you are paying too much taxes. You are paying too much taxes, because we do not have corporations that have carried their fair share. You also pay too much taxes because we have waste in government.

When the President says and all of the leadership says, and I agree, that the era of big government is over, we have different meanings. The era of big government ought to be over. I think the government should be downsized, but the commitments of the government maybe should be increased in certain areas. But in the process of downsizing, how do you not see $3.7 billion in the Federal Reserve?

Why is the search for funds only conducted in job training programs? They go looking for programs that do not operate effectively and efficiently. Why do they go looking there? Why do they go looking in the AFDC programs, Aid to Families with Dependent Children? Why do they go looking in the WIC programs? Why do they always go looking in the programs where the poorest people are served? Why do they go looking in the Medicaid program? Why do you not look first at the CIA? Why do you not look at the Federal Reserve?

The head of the Federal Reserve, Mr. Greenspan, was up for reconfirmation. He has already been there for a long time, so he certainly would be derelict if he did not know about the $3.7 billion that the Federal Reserve has lying around. If he did know, then he ought to answer some questions about, "Why is this sitting in your coffers as a rainy day fund when it could reduce the deficit?" But I do not think he was asked those questions because he is an icon of some kind, and he is not a welfare mother. He is not on WIC. We do not treat all people equal in this Government.

It is tax time, Mr. Speaker. It is tax time. We ought to all be concerned with taxes. I hope that the result of our concern with taxes will mean that we will insist on an overhaul and a total reform of our tax system. In the past I have talked about the fact that progressives and liberals have ignored the revenue side too much. We have dealt with expenditures, meeting the needs of people, meeting the needs of the environment, doing what has to be done to make certain that all Americans share in the prosperity of America. All of that is highly desirable, but we have not looked at taxation enough. We have not looked at revenue enough. Revenue is everybody's business.

I propose a Commission on revenue reforms. We ought to take a look at the proposals for flat taxes. We ought to take a look at other proposals that have been offered; a consumption tax, a value-added tax. We ought to take a look at tax possibilities that exist in terms of taxing the sale of the spectrum, taxing the air above us that belongs to all the people. All of these things should be examined.

This past weekend at the Omni Shoreham Hotel, a conference is being held called a Summit on the Politics of Meaning. I spent a few hours of the last 3 days at this summit. I want to congratulate the organizers of that summit, particularly Michael Lerner, who is the editor of Tikkun magazine.

I would like to congratulate him for being the guiding light and the spearhead for this organization of this summit, because it brings together people from a lot of different areas who are concerned about values, and they are concerned about values and how those values and how love, compassion, can be applied to public policies.

They are concerned about public policies without being necessarily concerned about which person implements those policies. They do not want to get into the dirty business, in quotas, they call it a dirty business, of electoral politics, endorsing candidates, et cetera. I do not think politics is dirty. I think electoral politics is very necessary. I think more good people need to get into electoral politics.

But I agree that it is very useful to have groups and individuals who are concerned primarily about issues, and this particular summit on the politics of meaning, which was called by Michael Lerner, the editor of Tikkun, focused on how do you apply a concern for your brother, for your neighbors, in an effective manner in the present situation, when marketplace values dominate, and people talk about family values, but they really do not come to grips with the fact that too many times, the market values dominate our thinking.

How do you apply compassion, how do you apply love, how do you apply concern for your fellow human being if there is a health care industrial complex taking over health care services, and if private health care providers, drug companies and insurance companies, are buying up health maintenance organizations, and health maintenance organizations are set up to make a profit, in addition to providing a service? It has been hard enough for health care providers to just provide a service, but now, in addition to delivering a service, they have to make a profit.

It may be good, it may be an improvement, but we are moving so rapidly in this area that it is clear that a government health care industrial complex is about to take over, and it is not moving in a way which gives anybody else an opportunity to have developed this new emerging health care system for all the people. So how do we apply love and compassion to the problem that is confronting us?

I want to just read part of Michael Lerner's call for people to come and join this summit on the politics of meaning. They brought together people from all walks of life, they brought together people from all religions. It is very interesting to see people of the Jewish religion with people who are in every denomination of the Christian religion: Unitarian Universalists, Baptists, Methodists, Catholics. I heard all kinds of people speak. I heard a lesbian minister speak.

They were all there asserting the fact that human beings have hearts, and human beings, at their very best, are capable of great compassion, and human beings need to return from the values of the marketplace and assert those values of love and compassion in their daily lives and in public policy development. It was quite a summit. It is closing out tonight.

I just want to read a few sections from the call for the summit, in tribute to what Michael Lerner and his colleagues have done. I am quoting Michael Lerner:

> Like many people, I am distressed at the deep ethical and spiritual crisis facing this country. The attempts to dismantle social support for the poor without setting up anything else in its place is only the latest stage of the continued erosion of fundamental human values.
>
> It is not clear that the Democrats have adequately grasped why people have turned to the right. In addition to my normal job as editor of Tikkun Magazine, I am a psychotherapist, and for 10 years I did extensive research leading 12-week groups for middle-income working class people, focused in part on why they were turning to the Right. What I found was this. People turn to the Right because it speaks, although in a distorted way, to the hunger people have for meaning and higher purpose.
>
> The fundamental problem with liberal and progressive forces is that they don't understand this hunger for meaning, and so they come up with programs and policies which are narrowly technocratic and don't speak to the soul.

I am quoting from Michael Lerner, the convener of the summit on the politics of meaning.

I continue to quote:

> Faced with a society whose dominant ethos is selfishness and cynicism, many people conclude that the best way to protect themselves is to narrow their "circles of caring" to themselves and their immediate families and narrowly-defined communities. My research suggested that many people actually wish for a very different kind of society, one based on Biblical values of love, justice, and mutual recognition, the ability to see others, and be seen oneself, as an embodiment of the image of God. Yet everyday in the world of work people are rewarded for precisely the opposite, the ability to see others as objects, the supposed commonsense that "looking out for No. 1" is the only reasonably way to live, and the ethos of selfishness, materialism, and cynicism.

Continuing to quote Michael Lerner:

> Ironically, it is this very ethos, learned in the world of work, which becomes the central source of people's unhappiness in personal life. Surrounded by others who live by that very same ethos, people increasingly come to feel that everyone is only out for themselves, and that they had better do the same. A "rip-off mentality" begins to pervade the social order, and people increasingly come to feel frightened, alone, and cynical about others. No wonder that it becomes hard to hear those who call upon them to "love thy neighbor," when doing so seems so counterintuitive to the "real world."
>
> There is no way to change this without a frontal assault on the ethos of selfishness, materialism, and cynicism in our society, and that is precisely what the politics of meaning advocated by the Foundation for Ethics and Meaning attempts to do. The goal of the politics of meaning is to "switch the bottom line" in American society away from measuring productivity or efficiency primarily in terms of the degree to which institutions maximize wealth or power to a new criteria: the degree to which an institution helps to foster ethically, spiritually, and ecologically sensitive human beings capable of sustaining long-term committed loving relationships.

I continue to quote Michael Lerner:

> This may all sound very visionary and far-off, but in fact it is actually far more practical short-term politics than the various attempts to protect this or that item in the budget at a time when the dominant climate is calling for dramatic budget and tax reductions. It is far more likely that large sections of the American public will respond to an alternative vision to the conservative one that is increasingly dominating both parties than to a nit-picking approach that accepts the dominant assumptions and seeks to minimanage how it is implemented.
>
> It is not that these details are totally unimportant, and the response of many Americans to Clinton's willingness to stand up to the Republicans gives us some indication of the power his presidency might have had had he been willing to fight for something at other points along the way. But the basic problem is that Clinton is not putting forward a different set of principles, and eventually most people get weary of staying tuned to the details of implementation of assumptions that both sides seem to share.
>
> "The first stage" of a strategy to change this "is to convene a gathering of people who may be interested in becoming the core group for a politics of meaning strategy. This is the 'ground floor' meeting. We are calling it the national Summit on Ethics and Meaning at the Omni Shoreham Hotel in Washington, D.C. April 14–16, 1996. This summit will bring together a wide variety of people who wish to challenge the materialism and selfishness in American society, but who have previously not thought of themselves as part of a political movement to do so. The Summit will serve a dual function. On the one hand, it will be an opportunity to explore the ideas of a politics of meaning in some detail," to refine the politics of meaning ideas," and to refine the strategy around them.

I end the quotation from the call put out by Michael Lerner for the Politics of Meaning Summit, and I mentioned that because I found the summit very inspiring. They expected 600 people to show up, to turn out for the summit and they got 1800 instead of 600. There is a hunger for meaning and there is a hunger for values. There is a hunger for ways to express compassion and love in the making of public policies, and I think that the summit on the Politics of Meaning is a great beginning in the movement in this direction.

I say all of this because in the present budget battles, we talk about taxes and I said before when you talk about taxes and the need for taxes, taxes are kind of a necessary evil. If you are going to deal with a fairer taxation system, then we should get on with the business of trying to make certain that corporations pay their fair share, because corporations are entities that are now making large amounts of money and they can afford to pay that share.

In the absence of fairness, in the absence of an approach which reaches out to those who can afford to produce the revenue and get the adequate amounts

VOL
142
PT
6
AP
15
—
24
1996
UMI

of revenue, we have a situation where an attempt is being made to make up for what the corporations are not paying, their fair share, by cutting the expenditures for programs that help the people who need the most help. This has produced a crisis in this country. There is a crisis in neighborhoods like the neighborhoods that I represent because people are very much concerned and they are very much appropriately alarmed by the speed at which certain programs that have existed for the last 30 years or 40 years are being taken away. Medicare and Medicaid are merely 30 years old. Medicaid and Medicare are now being threatened. The entitlement for Medicaid is under a great threat because the governors of all the States, both Democratic governors and Republican governors met and they decided that the entitlement for Medicaid should be removed, that the Federal Government should no longer assume the responsibility for providing health care to everybody who is poor enough to meet a means test which says that they are eligible to have the health care that they need when they meet it. The States will not assume that responsibility of providing health care to everybody who needs it when they need it. The States will only spend as much as they have. They want a block grant. They want the Federal Government to give them the money in a block grant and they will decide how to spend the money, they will decide who is eligible for it, and when the money runs out, they have no vehicle. Most States operate on balanced budgets. They must not spend any more than their revenues take in. When they run out of money, then if there are any sick people or any people who need to go into nursing homes because two-thirds of the money that Medicaid spends provides nursing homes for people who cannot afford their own nursing home expenses. Many people who are middle class and they are on Medicare, when they get very ill and they are forced to spend large amounts of money beyond what their insurance provides, they end up being poor by the time they are required to go into a nursing home because their health has degenerated. When they are required to go into nursing homes, they have no more funds, so it is Medicaid that picks up the cost. Two-thirds of the money spent by Medicaid goes to pay for nursing homes for elderly people.

So we have a situation where people are alarmed because that is threatened. Medicaid has been here now for 30 years. Medicaid is the only step we have taken in this country toward universal health care. All of the other industrialized nations except South Africa have some form of universal health care, health care for every citizen who needs it. But we do not have it. Medicaid represented a step in that direction. If they take away the entitlement for Medicaid, which is very much a possibility, right now here in Washington, if they take away that entitlement, we are in serious trouble. We have not only lost a service that is a vital need for the survival of many Americans, we have also taken an ideological step backwards. We will never have universal health care if we allow that retreat to take place. So people are concerned that this crisis has been created and we are acting as if the country is going to go broke if we do not have drastic cuts in public housing money, drastic cuts in education, drastic cuts in Medicaid, Medicare, drastic cuts in job training programs.

That is what the Republican majority has done in the last 15 months. They have generated an atmosphere of crisis. That atmosphere of crisis is being used as an excuse to cut the safety net programs that have been built up since World War II and really started before that with President Roosevelt's New Deal. They are going to take all that away. At the same time they are going to spend large amounts of money on new fighter plane systems, on a new antimissile system and continue to spend large amounts of money on the defense budget. All of this is a crisis that they have created and it is very interesting to note some of the effects of that crisis. Some of the effects is that the people in our communities instead of understanding the need to rise up and fight this kind of artificially created crisis and to fight the people who have created the crisis, they are turning on themselves. In health care we have situations where hospitals in New York City are being proposed to be sold. Some are being proposed for leasing. One hospital that is a State institution primarily, Kings Borough Hospital in my district, has been told they will shut down by August. They are going to shut the hospital down, which is primarily a hospital for the mentally ill. In this process, we find some other hospitals in the area nearby willing to speed up the process of closing their fellow institution by agreeing to take over various parts of their activities, even when it is not feasible.

Brooklyn is a community with 2.5 million people. Brooklyn if it were a city would be the sixth or seventh largest city in the country. But in Brooklyn there is one mental hospital of this kind. So 2.5 million people need that hospital. We do not need to be told we can travel somewhere else. We have the population concentration. We need it. The institution should not help the Republican governor balance his budget on the backs of the mentally ill by taking parts of the functions of this hospital.

So I have asked all the hospitals to take an anticannibalism pledge, don't cannibalize the institution, and I have asked other hospitals in other parts of the city, as we fight to maintain decent health care in the communities that need health care most, let us not cooperate with the mayor, the Republican mayor who wants to sell hospitals and lease hospitals, let us not cooperate by cannibalizing each other. Hospitals should not cannibalize each other. They should take a pledge that New York City, with 8 million people, needs all of its hospitals. If it does not need all of the beds, then we do not have to have all the beds. We can restructure health care in various ways. But we basically need all the hospitals. And we can provide health care for people who are from outside the city. An accumulation of the best experts in the medical fields has taken place in that city and health care should be seen as an industry as well as a service, and that industry can serve areas from outside the city as well as inside the city. So the cannibalism should not take place. I caution every American who is wary and concerned and even panicked by the budget cuts that have been generated by the Republican majority not to participate in cannibalization. I have seen examples of it in the area of education recently.

There are people who want to see special education programs closed down or drastically reduced because they want more money for the regular education program. Well, the regular education programs and the people who advocate them, as we all do, the regular education programs should confront the people who have created the crisis. We do not need cuts in title I. We do not need cuts in the teacher training programs. We do not need those cuts. We need instead the kinds of increases for education that President Clinton has proposed.

Education is ranked very high in the polls by Americans every time polls are taken. So why are we cutting back on the education budget and why are people in the education community willing to engage in cannibalism? Don't try to eat the special education programs. Let us fight for more funds, both for special education programs and for title I programs and for any other programs that are needed. Let us fight the State governments, let us fight the city governments, let us fight the Federal Government to get the fair share of the allocated dollars for education.

The cannibalization of special education is under way now. There is a bill that is being introduced by the Republican majority in the community that I serve on, and they are trying to take advantage of the fact that shortsighted people out there are moving to try to rush into a shutdown of special education programs because they cost more than other education programs do and my answer to them is let us all put our heads together with reason and some hard examination and scrutiny, and let us try to come up with the best possible program we can come up with. Let us make cuts of waste where it exists.

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Let us not cannibalize education programs. Let us not destroy good special education programs. Across the country, I hope that the people in the community of people with disabilities understand the kind of hostility that has been generated by this Republican majority here in the House of Representatives toward all programs for people with disabilities. What is happening to the special education programs right now and the legislation is indicative of the kind of hostility that is shown by the Republican majority. We have to meet that hostility with a demand that adequate amounts of money be made available for all education.

Let us celebrate today, the fact that according to reports that have appeared in a number of places, it has not been voted on, on the floor yet, but the cuts in title I are no more. Title I will not be cut in this budget, I am told. This year's budget will be at the same level as last year's budget. Let us celebrate, all of the people out there who have been so anguished by the assault on education programs, know that we have fought the good fight.

We have kept our promise and stopped the extremists from rolling over us and the extremists have decided to retreat. There will be no cut in title I. Title I will be kept at the same level as last year. There will be no cut in Head Start. Let us celebrate. Let us celebrate the fact that we have kept the faith. We have stopped the extremists.

There will be no cut in Head Start in this annual budget. Let us celebrate the fact that the money is now almost assured for the Summer Youth Employment Program. It is less than it should be, but it is about almost at the same level as last year, last summer. Let us celebrate, a few weeks ago, there was zero in the budget and no talk of remedying that problem. So let us celebrate what the great fight has proposed. Let us celebrate the fact that by fighting, by standing up, Democrats have kept their promise of stopping the extremism.

Extremism, the manufactured crisis, the artificial crisis, the unreal crisis created by an extreme majority in this Congress, has not prevailed in the area of education. So let there be no more cannibalization. Let all the people in the education world, the superintendents, the State education commissioners, the principals, let us stop sharpening our knives for the funds that may be available if drastic cuts are made in special education programs. We do not need to do things which we would be ashamed of in a few years. We do not need the atrocities of throwing children out of classes because of the fact that they are disruptive, we have not been able to deal with it. But we mainly want to use that as an excuse to cut down on the number of children in special education programs.

We do not want to abandon the free-education doctrine that has prevailed for so many years. We do not want to abandon the right of parents to follow a due process procedure and to have legal assistance in doing that in going through that process. We do not want to cannibalize special education programs any more than we want to watch health care programs cannibalized also.

On May 19, in New York City, we have declared that it is Hospital Support Sunday, Sunday, May 19. On that Sunday, we are trying to bring out as many people as possible to show that everybody cares about health care. It is not just the unions who have people who work in the hospitals. It is not only the doctors and the professional staff who have a vested interest in the hospitals. But it is everybody. It is the patients, it is the community, the people surrounding the hospital. It is everybody who cares about hospitals in New York City. They want to come out.

Mr. Speaker, we want to have a set of demands established. The No. 1 demand is that every process of change in the hospital system in New York, whether it involves HMO's or hospitals or clinics, all of those things should be frozen and let the people come forward to participate. We want a citizens' committee instead of cannibalization to make up for what is being cut. We want the people to participate in the restructuring and in the fight to get additional funds where they are needed.

New York is often criticized for spending more money on Medicare and Medicaid than other States. But that same New York, as said before, gives to the Federal Government $1.9 billion more than it gets back. In 1994, we gave $1.9 billion more than we got back. In 1993, we gave $23 billion more in taxes to the Federal Government than we got back.

If we were to let New York have its own money, leave the taxes that we pay to the Federal Government in New York, we could have decent health care. We could have lots of other programs. We could have adequate funding for our colleges and our universities, adequate funding for our schools. We can do a lot with $1.9 billion that does not go somewhere else across the Nation.

That generosity once was a proud gesture for New Yorkers. But we have been spat upon so much and criticized so much, there is so much ingratitude throughout the Nation, especially in the recipient States, that we do not want to continue that any longer. We would like to find a way to have revenue justice.

Let the revenues come back. Let us have some kind of formula where States that year after year pay more into the Federal coffers in taxes than they get back would receive some kind of rebate to go back into their own treasury to meet the needs of their own people. We will not have people so distressed and so distraught that they are stampeded into cannibalizing institutions and taking valuable resources from one much-needed institution in order to put it over here to another.

Mr. Speaker, teachers, principals, commissioners, administrators should not indulge in that in education. Doctors, hospital administrators should not indulge in that kind of practice in the area of health care. We do not need to eat each other. Instead we should fight for a fair share of the resources that are available, and we should fight to make more resources available by having the corporations pay their fair share of the taxes.

We started the discussion with taxes. Let us close it out with a discussion of taxes. I have an article here, April 15, 1996, Mr. Robert D. Novak. I do not usually quote Mr. Novak. The article is entitled GOP Deficit Trap. In this article, Mr. Novak says that it appears from reports from the Congressional Budget Office that we will have a balanced budget by the year 2002, without all of these drastic cuts that are being made and proposed by the Republican majority. It appears that the deficit can be erased without one dime from entitlements. Members do not have to take one dime from social security, Medicare and Medicaid alike.

That is what Mr. Robert D. Novak said, who is not a proud liberal on my end of the spectrum. He is on the other end of the spectrum. And Mr. Novak goes on to talk about what he calls a GOP deficit trap. He says the GOP has been, unfortunately, obsessed with ending the deficit and balancing the budget. They made a great mistake. We are going to be able to balance the budget and have funds for everybody on a reasonable basis without having to make the Herculean, drastic kind of cuts being proposed.

So I end by saying yesterday was tax day. Today every American should take it very seriously. Take a harsh look at your Government. Examine how we are being taxed, how unjust the tax system is, how uneven the tax system is, how the corporations are paying only 11 percent while individuals are paying 44 percent, four times as much as the corporations are paying.

That is part of the answer. The other part of the answer is; where is the waste? Where do these expenditures need to be cut? Go look in the coffers of the CIA. They have $2 billion in a slush fund, a petty cash fund. Go look in the coffers of the Federal Reserve.

VOL
142
PT
6
AP
15
—
24
1996
UMI

They have $3.7 billion. Then they are jamming some of these other agencies. We better take a look at a lot of the others, the space agency, the nuclear commission. All of these icons of Government need to be closely examined to see where is our money. The Department of Agriculture, which gives away money, has forgiven $12 billion in debts to farmers, for Farmers Home Loan mortgages.

Mr. Speaker, it is tax time. It is a time we take seriously where the revenues come from and where the expenditures go. Every American ought to get involved. They ought to get involved with compassion and love and concern for their fellow man.

Mr. Speaker, I include Mr. Novak's article of April 15, 1996, for the RECORD:

[From the Washington Post, Apr. 15, 1996]

GOP DEFICIT TRAP

(By Robert D. Novak)

As Republican congressional leaders on March 28 were poised to flee Washington for a two-week Easter break, they failed to notice a "preliminary report" on the government's long-term fiscal outlook prepared by their own Congressional Budget Office (CBO). But President Clinton's eagle-eyed number crunchers quickly perused it and could scarcely contain their delight.

The report estimated the federal budget deficit for the year 2002 down to $107 billion—miraculously, $37 billion lower than the CBO number just three months earlier. Thus, the president and the Republicans are but a short, easy hop away from balancing the budget in seven years as measured by the CBO, as they each have agreed to attempt.

Good news? for Clinton, yes. For the Republicans, no. The hop to budget balance is too short and too easy. By this route, the deficit can be erased without one dime from entitlements—Social Security, Medicare, Medicaid and the like—whose immense growth could eventually ruin the economy. What's more, the deficit would be eliminated without downsizing the present massive structure of the federal government or relieving the onerous tax burden.

The Republicans are in a deficit trap. In their first experience controlling Congress in 40 years, they have gradually lost emphasis on revolutionary change in government by obsessing on the deficit. The president is on the brink of a major victory—achieving a zero deficit without significantly altering the federal leviathan and without providing real tax relief.

This became clear to Clinton's budget experts when they read the CBO's March 28 report forecasting the effects of a freeze at 1996 dollar levels of "discretionary" spending—amounts affected by the congressional appropriations process, as contrasted with entitlements.

The 2002 deficit estimate of $107 billion was reduced from the $144 billion in CBO's December 1995 update. Its reason: "largely" the piecemeal reductions in appropriations painstakingly passed by Congress that were not vetoed by Clinton. Assumed lower interest rates that would result from a balanced budget also were factored in.

The president's aides immediately telephoned their Republican counterparts in Congress, pointing out the new numbers and proposing: Let's get together now and make a seven-year budget deal!

The components of such a deal are not hard to envision: the small reductions in Medicare and Medicaid growth already proposed by Clinton, plus a few more cuts in discretionary spending. The package might also include a modest tax reduction (with some capital gains cuts) drafted by the Joint Tax Committee and tentatively endorsed by administration officials.

But Capitol Hill was empty of Republican policy-makers for the last two weeks, and what the White House was proposing was above the pay grade of GOP staffers still there. Such a budget deal would have far-reaching effects on the presidential election. Deficit reduction, budget-balancing and even tax reduction would be neutralized as issues for Republicans.

Senate Budget Committee Chairman Pete Domenici, campaigning for reelection in New Mexico, has been informed. So has Sheila Burke, chief of staff for Senate Majority Leader Robert J. Dole. House and Senate GOP budget staffers met last week.

But as Congress reconvenes this week, it is safe to say that there is no Republican policy for dealing with these numbers. In fact, only Bob Dole is in a position to make this decision now that he is the party's prospective presidential nominee.

In his long-accustomed role as a self-described "doer" rather than a "talker," the decision would be easy for Dole: Make the deal and accept the congratulatory signing pen from Bill Clinton at the Rose Garden.

It is more difficult now that he must confront Clinton in a broader arena. He must determine whether he will rule out a quick budget agreement and insist that the deficit is not everything and that it is essential to reduce entitlements and taxes for the sake of the economy.

He might even propose a package that adjusts the Consumer Price Index in a way that would cut entitlement payments but also increase tax payments, so that it would have to be accompanied by significant tax reductions. This course might rescue the Republicans from the deficit trap constructed by congressional leaders, including Bob Dole.

THE REPUBLICAN BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. GRAHAM] is recognized for 60 minutes.

Mr. GRAHAM. Mr. Speaker, I think probably a good lead-in to this debate is the last comment of the gentleman from New York [Mr. OWENS] that every American should get involved with what is going on in Congress, and I think compassion and understanding are very good guides to have, and I think reality needs to be in there somewhere.

Let us talk about the budget real quickly, then we are going to get into something near and dear to everyone's heart in this country, and that is education. The Federal role in it, what we have tried to do at the national level in this Congress, I think to improve education, and to have an effective delivery system that recognizes the need to educate our children, to balance the budget, and what role money should play in all that, what role the Federal Government should play.

Mr. Speaker, I find it very interesting that we can balance the budget and remove the deficit without affecting entitlements. That is very curious. I need to read the article by Mr. Novak. As I understand the dynamic that we are facing, two-thirds of the Federal budget that we deal with is on auto pilot. Sixteen percent of the Federal budget is interest payments. We paid more in 1997, will pay more in 1977 for interest on the national debt than the entire Defense Department, over $400 billion.

Forty cents of every individual income tax dollar collected in this country goes to pay the interest element of the national debt. Over 50 percent, I believe it is 51 percent of the Federal budget consists of entitlement spending, such as Medicare, Medicaid and welfare. Medicare has gone up 2,200 percent since 1980.

When we look at the Federal deficit and the national debt, the national debt is over $5 trillion, and I ask people at home what a trillion is. It is a number, it is a term that really is beyond imagination. I think a lot of people can relate to a million. They may not have a million, I certainly do not. But they can relate to the concept of a million dollars. If you spent a million dollars a day, Mr. Speaker, it would take you 2700 years to spend 1 trillion. If you collected $1 trillion in taxes from the American public, it is the equivalent of $3,814 from every man, woman and child in America, and we know that every man, woman, and child in America is not paying taxes. So those of us that are are paying a lot.

Let us talk about the Federal budget now that we understand what 1 trillion is. The Republican budget that Mr. OWENS criticized so harshly and the President vetoed appropriated $12 trillion to run the Federal Government over the next 7 years. That is right, the Republicans have spent $12 trillion at the national level over the next 7 years compared to the last 7 years. That is a 26-percent increase in Federal spending, a 64-percent increase in Medicare alone over the next 7 years, from a $4,800 per senior citizen expenditure this year, to the year 2002, it will grow to $7,100. A tremendous amount of money is being spent on welfare and Medicaid, an over 50-percent increase.

Student loans in the education area, we have increased student loan funds by over 50 percent in the next 7 years. What the Republican budget has done is tremendously increase spending over a 7 year period 20 percent, 6 percent across the board, tremendous increases in entitlements, but less than the projected amounts, because the projected amounts are going to be well above 50 percent, well above 63 percent. Those of us who say that we want to balance the budget, I think we need to start being honest with each, and I know my colleague from Florida has been a real champion in this cause. If Members really want to balance the budget, I

think it is time to address why we have debt to begin with.

Why did America get into $5 trillion worth of debt? Was it because Ronald Reagan increased military spending during the 1980's where the deficit did grow? Well, the truth is that he did. I was in the Air Force from 1982 to 1988. After the Carter years, the military was a place that needed expenditures. Spare parts were in short supply. We had squadrons of airplanes grounded. The Navy could not sail ships because of lack of funding. So Ronald Reagan decided to increase military spending during the 1980's, and Congress allowed him to do so but they required an increase in social spending.

The truth be known, it is not because Ronald Reagan wanted to increase military spending. It is not because Tip O'Neill and Tom Foley increased social spending at the rate of 3 to 1 during the 1980's. The truth is that the national debt grew to such large proportions as it exists today because during the 1980's, entitlement spending went through the roof. One program, Medicare, increased 2200 percent since 1980.

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And all of the other entitlements, Medicare and Medicaid, have grown tremendously. Medicaid is growing at 19 percent a year since 1990. So if you want to blame anybody, I think you can blame both parties, because we have sat back and we have watched entitlement spending go through the roof to the point now it is over 50 percent of the Federal budget.

If nothing changes in this country in the next 17 years, the Federal budget, the Federal revenue collected from the taxpayers at the national level, will be spent in two areas: entitlement spending and interest payments on the national debt. It is already two-thirds of our budget. In 17 years it will consume the entire revenue stream. There will be no money left to fund the Defense Department, Education Department, the Commerce Department, and environmental agencies that exist at the Federal level. And that is not a Republican statement. That comes from Senator KERRY, a Democratic Senator, who has been involved in entitlement study and reform. And the facts are just what they are, facts. Entitlement spending is out of control and it is going to consume the entire revenue stream unless we do something about it.

We have tried to do something about it, and I think in a very responsible manner. What we have done is we have allowed increased spending in Medicare alone 2½ times the inflation per year, a 63 percent increase in a 7-year period, a tremendous amount of increase, but we are going to create options available to senior citizens that are more efficient than this 1965 fee-for-service Medicare model that is full of fraud.

We are going to give people something they very rarely get from the Federal Government, and that is a choice. A choice to pick a program that may deliver more effective medicine, less bureaucratically, and a better deal for the taxpayers. It is time to give people choices that mirror private sector growth in health care.

The private sector programs are growing at 3 to 4 percent, the government programs, like Medicare and Medicaid, are growing at 13 and 19 percent because they are very inefficient, they are full of fraud, and they have the wrong incentives. It is hard to get preventive medicine reimbursed under Medicare. The number one expenditure in Medicare is diabetes, but you cannot get insulin paid for.

So it is a system that is really overdue for an overhaul. And we have allowed private sector programs to be placed on the table and let senior citizens make choices, and we are going to give them four to five different options to Medicare as it exists today. But they have to choose. And if they do not want to make a choice, they stay in Medicare as it exists now. And that is just one example.

In Medicaid, we are going to allow the States to take the increased spending at the Federal level and manage care the money. Right now our Medicaid programs are growing at 19 percent. If you are a Medicaid recipient and you go to the hospital and have a $300 visit for a cold, something private insurance would not allow you to do, Medicaid reimburses people for medical conditions four and five times the expense that the private sector manages those same illnesses.

So it is time now to start allowing States to put into place managed care programs for the Medicaid recipient that are good, that are compassionate, but that have cost controls on them so it does not grow at 19 percent.

If you want to improve education in my State of South Carolina, which I do, and I think everybody who is listening to me in South Carolina would like to see that happen, let us change Medicaid. Because when Medicaid grows at 19 percent at the national level, that is the health care for the disabled and the welfare recipient, when it is growing at that rate for the State of South Carolina, to get any Medicaid money from the Federal Government they have to put money on the table. It is a matching formula.

So when the pot of money at the Federal level grows at 19 percent, then for South Carolina to get its Medicaid money, its share grows at the same rate, so you are robbing our State budget to get Medicaid money from the Federal Government. And if we do not change, if we do not change that dynamic, every State's budget is going to be consumed by getting matching portions of Medicaid.

And as the gentleman from New York, MAJOR OWENS, indicated, the Governors in this country, Republican and Democrat alike, have gotten into a room and said: Enough. You are bankrupting our State. We are having to spend most of our budget to get Medicaid dollars because the pot of money at the Federal level is growing so large, the mandates are so onerous, we have no flexibility. Please, give us a break. We can get by on less money if you will give us flexibility to create programs that mirror the private sector.

And unless we do that, ladies and gentlemen, you will not balance the budget. If we do not address the reason Medicare grows at 22 percent every 15 years, it does not matter if you spend less in 7 years to get the numbers right, you are going to be back in debt. It does not matter if you slow the growth of Medicaid down temporarily, as the President's budget does. If you do not change the reason it grows at 19 percent, you are not going to keep the budget balanced. And it does not matter what you do in welfare reform if you do not address the reason people stay on welfare 10½ years.

So what I am looking for is a budget that addresses the reason we got in debt, a budget that addresses the underlying problem, which is entitlement spending. Let us reform entitlements up here in a fair and compassionate way so that we can deliver you a balanced budget that will stay balanced. Let us create a welfare system so that the average person does not stay on it a decade.

I believe most people want to get off welfare, go into the private sector and live with dignity and not be dependent on the Federal Government, but it is darn hard to do that. If you live together as man and wife under our current system, we look at both incomes and deny benefits. If you get a part-time job we will start taking benefits away from you when you start moving up the economic ladder. We are trying to keep your vote, but we are not allowing you to be free from government control.

I am looking for a welfare system that helps people who need help, that will give you training, give you educational assistance and will allow you to get a job. And the way you create a job is not by me talking about it on the floor of the House, it is by lowering taxes so people have more money to invest and grow their businesses.

Capital gains tax reductions will be good for this country. It will create jobs and bring in additional revenue to the Federal Government. It did in the 1980's when we lowered capital gains tax rates, it will in the 1990's if we can ever get it passed.

But the way you create a job is to change this model that currently exists

VOL
142
PT
6
AP
15
—
24
1996
UMI

of where we are overtaxed, we overlitigate, and we overregulate. And the ultimate hope of welfare reform is a system that allows people to help themselves, that pushes them forward, that will not pay them to have children they cannot afford, but will have a job waiting on them. And to do that you need to change this bureaucratic model that we have created for the last 40 years that is strangling American business. I think that is compassionate.

I think that is the way to truly deal with the Nation's problems, because the poor in this country want the same thing as anybody else who is an American: the hope of having it better for themselves and their children than the last generation, a chance to have a private pension plan, a chance to have health care that they own and is now given to them by the government. We all have the same values, we just have a different belief on how to get there.

The special order topic really tonight is about education. And nothing is going to change in this country until we provide an educational system that brings the best out in our kids, and that is a school environment where you can go to school and not worry about being beaten up or having a drug deal occur under your nose.

The national role in education since 1979 has grown dramatically. Test scores have gone down. Education quality is stagnant. We are not moving forward by having more control at the national level. The Department of Education's budget in 1979 was about $16 billion. It is $32 billion now. Six percent of all education dollars spent in this country comes from the Federal level. Ninety-four percent of education funding comes from the State and local level.

When you talk about education reductions at the national level, it has to be put in perspective of the total funding. The bad deal is that 50 percent of the mandates, how to spend the money at the local level, comes from the Federal Government. We give you very few dollars, but we put a lot of requirements on our local educators, our State and local systems, and we are not getting a quality product.

The only model that will work, in my opinion, is to have parents and teachers and the community leaders involved, and the current Federal system does not allow that to happen. It is a wall between quality education and the State and local community. I do believe that we have an overly intrusive Federal role in education that is not bringing out the best in our kids, and that we have programs on the books that are very inefficient, all done in the name of compassion.

Title I, that Mr. OWENS mentioned, is a program that started in the 1960's to help school districts that had a disproportionate number of disadvantaged and poor students, to give them a leg up, a little extra tutorial time. That program has grown now to almost where 80 percent of school districts in this country receive title I money. It has become a candy store.

Title I money is spent on disadvantaged students, and the definition of disadvantaged has grown greatly. And the facts are that 80 percent of the people who provide this extra tutorial time are not certified teachers, they are teachers' aids. It is becoming an employment opportunity for the major cities in this country.

The test scores of the children receiving title I assistance have not moved up any. What we are doing is basically we are taking an average of 10 minutes a day extra time for a title I student, getting no return on our money, giving the money to someone who is not a professional educator, trained as a teacher, taking them out of the class and spending $6 billion a year doing that. That is not a good deal for the taxpayer and we are not moving forward.

The gentleman from Florida is going to tell us a bit about Head Start and how unsuccessful that program has been when measured by objective criteria. It is a good idea. It is a compassionate idea, but eventually you have to look to see if the idea is delivering a quality product. Title I is not a good investment educationally or financially, and Head Start, I believe, falls under that same category when you look at the return for your money.

I would yield now to the gentleman from Florida to tell us a little about title I, then we will talk about student loans.

Mr. MICA. I thank the gentleman from South Carolina for yielding, and also I must take a minute and thank him and his other 72 colleagues of the 73 new freshmen in the House of Representatives. How refreshing it is to have people come from all walks of life. Not just attorneys, but somewhere in the neighborhood of three-quarters of this class, this new class of freshmen, come from business. Three-quarters of them have never run for a political office or served in other political office. And they took time from their lives and their family obligations and business and professional obligations, and leaders like the gentleman from South Carolina, Mr. LINDSEY GRAHAM, have come here and looked at how our Government is operating. They brought a message from the people in this last election that the people were not pleased with paying more and getting less, as I often say.

I have only been here 37 months in Congress, so I consider myself part of that new breed, but I commend the gentleman and his colleagues for what they have brought to the Congress and their recommendations. If you consider what we are doing tonight, Mr. LINDSEY GRAHAM from South Carolina is doing tonight, he is here late at night talking about education. He is a Republican, he is a member of the new majority, and the Republicans and Mr. GRAHAM and every one of my Republican colleagues are very committed to good sound education, improving education in this country. We cannot make any better investment. But ask any American, ask any parent, ask any student, ask any teacher about education in the United States today, and they are going to tell you that education is in crises.

Republicans have always been strong supporters of education. Being business men and women and professionals and people who are highly educated, they know that education is really the key to the success of the problems in this country. They know that if you go into the jails, if you go into the unemployment lines in this Nation, if you go into the homes of welfare recipients, you find that they did not have a good education opportunity. But Americans and Republicans and Democrats and independents and anyone who lives and pays taxes in this Nation must be concerned about paying more for education and getting less.

Now, I always drive the other side of the aisle crazy and the Democrats crazy, because I like to deal with facts, and sometimes they come out here and say things and they do not base them on fact. But let me tell you about where we are in education and the facts about paying more and getting less. The fact is, and these are not my statistics, these are published statistics, the fact is SAT scores dropped from a total average of 937 in 1972 to 902 in 1994. The fact is we are spending more and getting less.

The fact is 17-year-olds scored 11 points worse in science in 1970 than in 1994. The fact is reading of 17-year-olds, 17-year-olds who do not read at a proficient level, their reading scores have fallen since 1992. Spending more, getting less.

The fact is, in math, United States students scored worse in math than all other large countries except Spain. The fact is we are spending more and getting less for education.

The fact is 30 percent of all college freshmen must take remedial education, and in my district in central Florida, and I come from a fairly prosperous and successful central Florida area, some of our community colleges, one of the presidents told me over 50 percent of his students entering community college need remedial education. And then I was stunned to read that at another local community college, 71 percent of the entering freshmen need remedial education.

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This is the fact. These are the facts. We are paying more and we are getting less in education. That is what this is

about. It is not just how much money we come here and spend, and the people just getting home today and are working and yesterday paid their taxes. And they are sending this incredible amount of their money here to Washington. This is the result of your dollars.

We need to look at how; we came here to look at how effectively we were spending those dollars. I looked at Head Start. Let me again deal with some facts. Let us talk a little bit for a minute about the history of Head Start.

Every Member of this Congress, Mr. Speaker, and every citizen of this country should pay attention to this, because first of all they think Republicans are cutting spending in these areas. The fact is, in education we are proposing increasing expenditures of almost $25 billion over the next 7 years. I tell people that and they say, I thought Republicans were cutting education. The fact is, for possibly illegal aliens, you will not be getting education. That is part of what this debate is about. You do not hear that talked about here. But let us talk about one program that I took some time spending, spending some of my staff work and my personal time in looking at a Head Start program.

Back in the schools that I attended at the University of Florida, I remember serving as the secretary of academic affairs and student government. This is back in the early 1960s. I was committed to trying to make a change and to do some positive things. I remember one of the things we worked on was a project called Project Begin Here, because we knew we had a university, the University of Florida, a great institution, here we had a town, Gainesville, where students did not have opportunities to learn. So we started this Project Begin Here to take the resources of this great university school of education I was a part of and bring it into the community and help give kids an opportunity and an uplift.

We knew that was a key way back then. I supported Head Start Programs back then in the early 1960s. I support Head Start Programs today. The concept is basically good. The problem is look at what has happened.

Look at the time from 1990 to 1995. Head Start funding increased 128 percent. Washington spent over $31.2 billion on the Head Start Program. Those are the types of increases. The House proposed, the House proposed $3.39 billion for 1996, only a minimal reduction from $3.52 billion that was appropriated for 1995. Now, that is not a very big difference. There is a reduction, and let me talk about the purpose for the reduction in a minute. But the funding for this program has grown almost five times as fast as the number of children served. The growth has resulted in a sloppy, I mean disgusting management of the program. This is not what I am saying. This is not a Republican report I am going to detail here. And again, we must look at how we are spending these dollars and what the effect is and what are we getting for the program.

Now, these programs, and again, not Republican reports, and I only want to deal with facts because, as I said, it drives the opposition crazy, this report is the Office of Inspector General, Department of Health and Human Services, evaluating Head Start expansion through the performance indicators. These are 1993. This one is 1993, Head Start expansion grantee experiences.

Let us talk about what we found here. Head Start is 30 years old, and yet there is little evaluation of the program's effectiveness. This is not what I am saying. What there is suggests that academic gains made by kids in the program are in fact temporary. That is what we find. The HHS report found that, one, children may not be fully immunized before leaving the Head Start Program. I mean here we spend hundreds of millions on immunization programs, a government program, and we cannot even get our government program to cooperate with the administration's program to immunize, so number one grade success.

Grantees frequently do not identify families social services needs, another criticism of this, and wait until you hear how we spend the money on trying to identify this.

Grantee's files and records are incomplete, inconsistent and difficult to review. And wait until you hear how I detail what is required as far as administration of this program in one small program in my district.

The HHS report also found that there was no educationally meaningful differences between Head Start children and nonHead Start children by the end of the second year of grade school. Numerous independent studies confirm that the present Head Start Program has only short-term benefits for poor children.

This is not what I have said. This is the report of the inspector general. These are the facts. So this is how they evaluated the program.

So I was contacted by a parent who was a single mother, divorced, I believe, situation with two children and she put her children into the Head Start, had, I think, one or two children in Head Start Program. And she was having a difficult time personally but wanted to give her children every advantage. I commend her for her effort. But then she came to me and said, Mr. MICA, she is a very intelligent woman, a very educated woman. She said, I have had my children in this program and it is a disaster. So I thought, well, I better look at what is going on.

So I went and I looked at the Head Start Program. Let me give you one Head Start Program in one community, and there are some, there are others that are not run in this fashion, but let me tell you what is going on in my area of Florida.

Last year this one program that serves 378 children received over $2 million for the Federal Government, another $550,000 from the State, that is over $2.5 million. The cost per student for a part-time preschool program is $7,325. That is just the local administrative cost, the figures I have, not including this huge bureaucracy they have built in Washington, not including the bureaucracy that they have in Atlanta. I could send the student to the best preschool program, a stellar one in central Florida for this amount of money. And then with the money that bureaucrats are wasting in administration, I would have money left over, plenty of money left over. In addition, I know that the program would be, first of all, longer in duration because this is an abbreviated program. The teachers, there would be at least some certified teachers in the program. And the child would have a much better experience.

This program in central Florida has been found to be deficient by HHS in serving children for the past two years. My attempts to try to change it are totally useless because you have to deal with a bureaucracy in Washington and Atlanta and all kinds of regulations. It is amazing that they can run this.

Listen to the best part. This agency, again the local Head Start Program, one program, 378 students, employs 25 teachers and 25 assistants. Now, that is not bad. But first of all, not one of the teachers that I know of are certified. Not one of the assistants are certified. They have come up with some cockamamie certification program, but basically what you have is a minority employment program.

So then they gather all the minority children together in this program with no certified teachers to basically provide day care services. It is an incredibly expensive price tag. And are these students getting a cultural advantage? Are they getting an educational experience? The answer has to be no.

Now, you have not heard the most outrageous part of this entire story. I asked for the budget for these 378 students. For the 25 teachers, there are nearly 25 administrators. Listen to this: One director gets almost $40,000; an area coordinator gets almost $29,000; another area coordinator, $29,000; an education coordinator, $26,000; a family services coordinator, $26,000; a nutrition coordinator, almost $26,000; mental health disability coordinator, $26,000; another health coordinator, $26,000; personnel training coordinator, $19,000; an educational specialist, $29,000; another educational specialist, $24,000. It goes on and on, $20,000, they go on and on. Then you have family services specialists. It is absolutely mind-boggling.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Then you get to the teachers, the teachers. Here is the teacher, first teacher, $12,000 a year, $14,000 a year. We might even have a teacher in here, there is one for $15,000. I do not have a certified teacher. This is a national disgrace, Mr. Speaker, that my disadvantaged students, 378 of them, that we have this bureaucracy.

Now, it would not be bad if you just had this bureaucracy for this little program, but this incredible amount of money. Let us face it, this is what the debate is all about, Mr. Speaker. I am chairman of the House Civil Service Subcommittee that oversees the Federal employees. So I asked the staff to tell me how many employees there are in the Department of Education. There are 4,876. Now, of all of the departments, I think they probably take the cake, but there are 3,322 just down the street from here, 3,322. I really think the Secretary of Education, Mr. Riley, was taking great pride in how he had reduced the number of people in the Department of Education from some other year. So I ask our staff to also investigate, and they told me that there are thousands upon thousands of contract employees that are not now counted in these figures. But we have 3,322 bureaucrats here pumping out rules and regulations and they pump them out to Tallahassee, my State capital, and other State capitals. They pass then onto Atlanta, and they must pass them on. So we have 25 administrators making twice the amount of money anyone in the classroom made in this program, and we wonder why our students cannot read and why there is this debate. But it is all about spending more and getting less.

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Again, these are the facts. Anyone who would like copies of these, any of my colleagues, this is how the programs are run. These are the evaluations. These are not Republican evaluations.

Mr. Speaker, Members can see I get a little bit hot under the collar when they accuse Republicans of cutting education. I have two children. I am concerned about education.

I heard the gentleman from South Carolina talking about Title I. I do not know a lot about it, but I know how important it is to have it as a follow-up program. If you have Head Start and you do not have Title I, we know if the kids cannot read by third grade, as my superintendent so ably says in Seminole County, FL, the school superintendent, he says, they are lost. They cannot read, they cannot write, they cannot do basic math. If we are not spending the money in the classroom on the students, in the programs that need it, for the teachers, we have a problem.

A teacher just came up to me in a Title I Program and stated, "Mr. MICA, I want you to know, they told me I am going to lose my job, but they are hiring another administrator." I almost got sick when I heard that. Here is a teacher in a Title I Program, and Title I programs are important. We need to make sure that for the students who need Title I, that we have a consistent pattern of education; that we just do not do minority grouping with minority employment and give these children a disadvantage. They need an advantage, the very best advantage. Then we need to follow up in first grade and second grade and third grade, so they can read and write, and of course do basic skills.

Mr. Speaker, I want to talk, if I may, just for a minute more. If the gentleman will continue to yield, when I get on these subjects, again, as a former graduate of the University of Florida School of Education, I just get so upset and concerned about the direction of education.

Mr. Speaker, if we take a minute and look at what we are doing to employ students who need skills for real jobs, and I am not talking about $5-an-hour-paying jobs. We know people have difficulty living on minimum wage. But we are talking about jobs that give people an opportunity to be self-sustaining, good-paying jobs. When we start to look at what we are doing with our job training programs, the same accusations, Republicans are cutting money for job training programs.

Again, Mr. Speaker, we must look at what we are doing. The American people must stop, listen, and learn about what is going on with their money. Here is one program for job education. I know this comes under the Department of Labor. Here is an article that says, "Audit faults job training program." This is in Puerto Rico. We also pay for job training there, but the same thing happens in the United States. This report says, "the department spent about $305,000 for each participant placed in a job-related employment whose employment lasted over 90 days.

Mr. Speaker, this caught my eye just recently in the Washington Post, but there was an article within the last month or so in the Orlando Sentinel that absolutely was flabbergasting. It talked about the State of Florida and job training and education programs. Get this. The State of Florida, one State out of the 50 States, spends $1 billion in their job trainings programs, $1 billion. This was a State audit of those programs.

The State audit said basically that the programs were, almost every one of them, a disaster. It said, in fact, that only 20 percent of the students who entered these job training programs ever completed them, 20 percent who entered. Then, of those who completed the job training program, only 37 percent got a job. Then, of the 37 percent, and remember, that is of the 20 percent who have entered who got a job, they got just above a minimum wage job. Then they found that within 6 months the people were out of a job.

One billion dollars that people spent yesterday in paying their taxes, Floridians and other Americans, to send to Washington for education programs that do not make sense, for job training programs that do not make sense. Again, the reports go on and on.

I served on the committee that oversaw some of these programs, the EPA and some of the others in the previous Congress. I would sit at the hearings and just about fall off my chair to hear how taxpayer money was wasted and abused. But this message is not getting out to the Congress, Mr. Speaker, it is not getting out to the American people, that they are paying more and getting less.

I know in their hearts and in their guts, the American people know this is wrong. They know there is something wrong with the system, and they are dedicated. People are interested in education. Everyone I have met, whether it is someone working in a grocery store or someone who is a high professional in my community, is interested in education. Every Republican wants education. But what we do not want is this huge bureaucracy, this huge ineffectiveness that has cast a spell across the entire country.

What we want, too, are some other things that we may not be able to legislate. We may begin to want to look at how we can restore some true caring, some love, some spiritual values, some values, some discipline in these schoolrooms. You talk to the teachers, I have talked to teachers who have been struck twice. Instead of another art course or a music class, as in where some of my children went, they are putting in security guards. There are police people. We do not have new math teachers or cultural teachers, we have more policepeople. We are putting in metal detectors in our schools. There is something wrong. There is something dramatically wrong. If this does not tell a little bit of the picture, I do not know what does.

Mr. Speaker, I know there are other problems: the welfare system that we have created over 40 years. When children go to school and they have never seen a father, they come from a home that is in total disruption, they have no sense of values, then we wonder why we get into these situations. We are dealing with the problems that we have self-generated in 40 years of decline of family values, of discipline in our schools; of the professionism of education, rather than a 9 to 5 job: If I can just make it through one more day and keep these kids under some control, and keep the discipline to where they do not physically abuse me during the day, I have made it through another day in my classroom. It has to stop.

I just came here for a short time. I do not plan to stay forever. But I am dedicated, and if the gentleman from South Carolina [Mr. GRAHAM] is not here next time or the other freshmen are not here, I know the American people will send more people to get this job done, because they are concerned, and we are concerned. We do not care about the next election, we are concerned about the next generation. When we have to take our children out of schools and we are paying taxes and seeing this result, it is sad. It really is sad.

Mr. Speaker, I thank the gentleman for yielding to me. I get wound up in these debates, but these are all things that I take personally. I am a Republican who cares about education and does not like to have people tell me that we are gutting or cutting education. We are trying to improve, we are trying to re-examine education as it has been done and correct these mistakes, and do a better job with taxpayers' very hard-earned money. Again I thank the gentleman for yielding.

Mr. GRAHAM. Mr. Speaker, I thank very much the gentleman from Florida for talking about facts, because sometimes facts get in the way of a good story. Head Start is a good idea, but when you look at the facts you described, you have to wonder if the program is working as efficiently as the taxpayers deserve for it to work.

It is obvious that you care about education, that you have made it your life's work, but you also care about the national debt, the $5 trillion debt, and the role that money plays in education and the debt have to be examined. I would suggest to you that the education problems in this country are not all about money. They go a lot deeper than that. They are about the breakdown of the home, they are about relying on someone else from far away to solve all your problems, just like a lot of problems exist in America today, and we, the people, are responsible.

You can blame Congress, it is a fashionable thing to do, and we do deserve to be blamed for allowing this Nation to get so far in debt. We should be allowed to talk openly about improving the educational climate in America and balancing the budget without having people throw rocks at you, because you heard the gentleman from Florida, Mr. MICA, speak. I hope you are convinced, I know I am, that he is sincere about providing a quality education, but he has a responsibility to manage the taxpayers' money wisely and to provide that quality education.

I would suggest that you are not getting a return on your investment, as he has indicated. Let us talk abut student loans for a minute. You have heard a lot of talk about student loans. I know the gentleman from Florida has, and our Speaker is very knowledgeable about the student loan situation in America.

I am the first person in my family to go to college. I am not a country club anything in that regard. I am the first Republican in my district in 120 years. They hung the other guy, so I think I am doing a little bit better. But things are changing down South. It is a district with an average per capita income is $13,200. It is not a wealthy district. It is a very proud district where people want to pass on their hopes and dreams and make it better for their children.

I received student loans. My parents died when I was a junior and senior in college, and I had a 12-year-old sister who received student loans. They worked very hard to give me an education, and I helped my sister, and the Government helped us by allowing student loans, making student loans available to us. That is going to continue, because most of the people in my district who are qualified students to go to college will go into a banker's office and say, I would like to go to college, and the banker will say, what do you own? The student probably owns very little, and sometimes the parents do not have the assets to make a loan on the up and up, so the Federal Government comes in and guarantees that loan. That will continue, as long as I am in Congress, because that is a very much-needed dynamic in this country.

What will not continue is to lend money blindly, to waste money in the name of compassion, and to take the hard-earned taxpayers' dollars from two-thirds of the children, the kids who graduate high school and go into the work force and never get a student loan. We have some obligation to run the student loan program like a business.

Here are the facts. The Republican budget increased student loan spending from $24 billion to $36 billion over the next 7 years, a 50 percent increase in the amount of money available for student loans. The number of students eligible for a student loan has grown from $6.6 million to $7.1 million over the next year under the Republican plans. We have increased Pell grants to the highest level ever. $2,440 will be available for eligible students to receive a Pell grant, money that you receive that you do not pay back.

My sister, when my parents died, was eligible to get a Pell grant. That program continues and is fully funded. There is more money in the program than in the history of the program. We are looking at the number of people eligible, but trying to ratchet down the income levels, so the money will go to the people who need it the most. You cannot be everything to everybody and balance the budget. That is a bad dynamic to create, even if we were not in debt.

The supplemental education opportunity grants program that helps disadvantaged students is funded at the same level it was last year. The college work-study program is fully funded at $617 million. The Perkins loan program remains at $6 billion, just like the President requested. The Trio program for minorities and disadvantaged students is fully funded at $463 million. That is the Republican budget.

What we did try to do is we tried to look at the student loan program and see if we could improve it and make savings to help balance the budget, because I think we have a moral obligation to look at the way we spend money and to craft programs that help people, but not overly waste money for the two-thirds of the students that never borrow it to go to college to begin with.

We were able to save $10 billion in about 2 days of talking. Unfortunately, most of those savings will never go into effect, but I am going to tell you, in just about 2 minutes, how you can save $10 billion and I believe not hurt a soul, help the taxpayer, and make this student loan program more energetic.

Mr. Speaker, we were going to save $5 billion by doubling the risk that the bank shares in the event of a default. Under the current student loan program, when a bank lends the money the Federal Government guarantees the loan, and if there is a default, the bank gets 98 cents on a dollar. Do you think they spend a whole lot of time chasing that loan down? That is not a good business deal for the American taxpayer.

I want banks to make money. I think banks should be the primary lender of student loans. They should be able to get into the student loan business and make money, but the Federal Government needs to do a better deal than 98 cents on the dollar. Under the Republican reform, we double the risk the banks will accept in the event of a default. They will still be able to make money, but there is less risk for the taxpayer, there is more risk-sharing. That saved $5 billion, and had nothing to do with anybody who is getting a student loan. It had to do with the banks.

Mr. Speaker, we saved $1.2 billion by eliminating a program the President is pushing called direct lending.

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The student loan guarantee program where we underwrite loans of the private sector needs to be improved. It is not a good business deal for the taxpayer. It is inefficient. The risk is not shared in a fair amount. We are going to improve that. We are going to double the risk. We are going to stop subsidizing the guaranteed agencies to the extent that they are subsidized now. We are going to do a better business deal for you, the American taxpayer, and still help students.

The President, who is critical of the guaranteed program, wants to go the opposite direction. What he would like

VOL
142
PT
6
AP
15
—
24
1996
UMI

to have happen is the Federal Government become the primary lender, become a bank. Can you imagine the Department of Education becoming the third largest consumer bank in America?

The bureaucrats that the gentleman from Florida [Mr. MICA] has described would have a huge loan portfolio available to them. They would replace the private sector. We would go borrow the money, the Federal Government. We are broke, we do not have money, we would have to borrow money. We would let the Department of Education become the lender and the collection agency. It would be a disaster.

It may be easier to get the money, somewhat more efficient, they say. That is not true. We would have a government bureaucracy at the Department of Education with unlimited growth potential. They would be the third largest consumer bank in America, and a bureaucratic Department of Education gets paid whether they collect the loan or not. It is not their money.

The banks are lending their money. They have a reason to go collect the money. They are in a business. The Department of Education are not bankers, they are not in the banking business, and the President wants to replace private sector capital with public borrowed money, replace bankers who are in the business of collecting money for a living with bureaucrats.

That is the worst idea I have ever heard of in this Congress, and it shows us how much he believes in big government. I will never ever vote, I will never ever allow that to happen, to take a private sector program that should and could be improved and replace it with a dominated Federal program where the default rates are going through the roof.

If we think there is a problem now with defaults, let the Federal Government be the lender and the collection agency. They could care less. They want your vote, not your money back, not the money back. That would be a disaster, and it is not going to happen. It is not going to happen if we control this place.

It will happen if the other party takes over, unfortunately, and there are Members of the other party who think this is a bad idea. Please do not allow the Federal Government to become the third largest bank and replace private capital with government borrowed money. That is a horrible idea.

The Congressional Budget Office has told us if we would get the Federal Government out of the lending business in education, we would save $1.2 billion. That shows us how big a bureaucracy has grown up over a 10 percent share of the market, where direct lending has 10 percent of the student loan business now, there is a $1.2 billion savings if we wiped it out. The President wants to do 100 percent direct lending, but we save $1.2 billion in our budget by wiping it out, $5 billion by doubling the risk of banks.

One thing we did do for students, that under the current program, Mr. MICA, if you graduate from college, we forgive the interest payment of your loan for a 6-month period when you graduate. We have proposed to allow the interest element of your loan to continue to run. You do not have to pay it if you do not have the money, but we are going to let the interest continue to run, not forgive the interest for a 6-month period. That would save $3.5 billion to the American taxpayer. It would mean to the average student a $4 a month increase, but it would save $3.5 billion for this Nation. I could tell you right now if we got to the point where we cannot forgive the interest for a 6-month period and that be devastating to education and a student cannot incur a $4 a month charge, then something is wrong and we are never going to balance the budget. That is not too much to ask. That is an appropriate thing to do to save $3.5 billion for the American taxpayer, and that is part of this package. We save $10 billion and I have just described to you, we increase the interest rates for parents who are not eligible for the guaranteed program to borrow the money at Treasury rates plus a percent, we increase that 0.1 percent, that will result in about half a billion dollars. We save $10 billion for the American taxpayers and the only thing to happen to a student is that they would have to pay $4 a month more because they are going to have to pay their interest for the 6-month period after they get out of college. We are not going to forgive it. To me that was very reasonable and responsible. It helped us balance the budget, and I think it improved the student loan program that needs to be improved.

Those two-thirds of high school students who never go to college, who never go on and receive a student loan, they deserve our time and attention, too. Because they are the ones paying the bill and we can have a quality student loan program. Access to education is a must. I will always vote to ensure that money is available to help needy students and families who cannot go it on their own have money available to go to college. But as long as I am here, we are going to run it more like a business, we are going to ask the private sector to share the risk, we are going to improve the quality of the student loan program, we are going to negotiate a better deal for the taxpayer and we are going to save money in the process, and we are going to ask those students who borrow the money to pay it back. We have reduced the default rate by 50 percent and it has got nothing to do with direct lending. It has got to do with a Congress who has finally gotten tough and tells the school that has a 25 percent default rate, "You're going to get out of the program." There are schools in this program that have 50 and 60 percent default rates. They should not be allowed to participate. We are going to start asking people to pay the money back, we are going to ask schools to get involved and run it more like a business at their level. We are going to renegotiate a relationship between the student loan program and the American taxpayer that will ensure access to education, but we are going to save some money because we are wasting money now and they are not contradictory principles. You can have efficiencies in government and improve the quality of people's lives, and that is the goal of this Congress, in education and every other area. I am proud to have been a part of it. Instead of getting criticized, I think we should be applauded for taking on programs that have not been looked at since 1965.

Mr. MICA. If the gentleman will yield, I think the gentleman makes a very good point and he has detailed this evening, Mr. Speaker, some of the differences in the philosophy between the Republicans and Democrats on this issue. Education is important but it is not just a question of spending more money, it is how we spend that money. This is really the fundamental debate in this entire Congress. It transcends not only education but every other area. I spoke this afternoon on the floor about the EPA and Superfund program. We spend more, we get less. We are spending more in those programs and we are cleaning up fewer and fewer of the sites, and we are not even cleaning up the sites that pose the most risk to human health and safety. We have detailed tonight how just in a few programs, student loans, title I, in Head Start and some of the other programs the disaster that we have come across as new Members of the Congress and found in my 37 or 38 months here and in Mr. GRAHAM's tenure, so each of those areas we have tried to look at how a businessperson, how a parent, how a teacher, how someone interested in education would make changes. Because if you just continue the way we have, you have thrown more money at the problem, you are not really addressing the fundamental changes that need to be made in the programs. Again, whether it is education or environment or other areas, these are the fundamental debates. As a parent, I want a good education. As a parent, I want our children to be able to read their diplomas and to stop the decrease in these scores, and to stop this bureaucratic administration. Again 3,322 Federal Department of Education employees in Washington, DC. Not in the classroom, not out there teaching. But

their job is to pass on rules and regulations and that is why we have a big bureaucracy in Atlanta and other regional offices, that is why you have a big bureaucracy in my State capital and in other State capitals. That is why your school boards are required to hire more administration people. That is why Head Start is top heavy with administration. It all starts here. This may be the last opportunity that this Congress has and the American people have a real opportunity to make changes in these programs. And that is the fundamental debate. Do we want to continue to pay more and get less? I think it is time to reverse that trend. I think it is time to improve education, improve the environment, improve the way taxpayer money that again came here yesterday in incredible amounts and is deducted from people's paychecks in incredible amounts. I thank the gentleman for his leadership on this issue.

Mr. GRAHAM. I thank the gentleman from Florida for participating and providing facts that I think show very clearly that the efficiencies in government that we are seeking can be found without looking very deeply. That if you had an opportunity to come up here yourself, the ones listening to me tonight and look at these programs and spend a few minutes analyzing how they are run, you could save $10 billion pretty quickly, also. It is not that hard to do. The hard thing is to convince people that when you are trying to improve the student loan program for the two-thirds of the students who never get in it but pay the taxes for it, that you are not being mean.

When you try to stop Medicare from growing at 2200 percent so you can keep the budget balanced, that you are not being mean, because you can provide quality health care from Medicare to seniors in this country without allowing the program to grow 2200 percent every 15 years. The amount of money and the efficiency do not relate. We are spending more money than we need to. We can deliver a better quality program, a better quality of life and save money in the process. That is not only something we can do, it is something we must do. If you allow us, we will do it.

VOTING RIGHTS ACT OF 1965

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Under the Speaker's announced policy of May 12, 1995, the gentleman from Louisiana [Mr. FIELDS] is recognized for 60 minutes.

Mr. FIELDS of Louisiana. Mr. Speaker, I rise tonight to talk about the Voting Rights Act of 1965 and all of its amendments thereto.

Yesterday, Mr. Speaker, I had the opportunity to go before a panel and present different legal arguments as relates to redistricting in Louisiana and perhaps redistricting across the country. Tonight, I would like to take a little time to talk about where we are today and how we got to this point. I am very pleased to be joined by my good friend and colleague from the 12th Congressional District of Illinois, Mr. JACKSON.

Tonight, I want to from a historical perspective talk about the Voting Rights Act, why it was passed and where we are today with it and then try to talk a little bit about the cases that are pending in the Supreme Court and give some sense of logic to what State legislatures should be doing and particularly in the State of Louisiana. Because I think many of these redistricting challenges are not based on constitutional law as much as they are based on financial gain, for lawyers and for plaintiffs, and I plan to talk about that later in this discussion.

But at this time, Mr. Speaker, I would like to yield to the gentleman from Illinois as much time as he may consume.

Mr. JACKSON of Illinois. Let me take this opportunity to congratulate the distinguished gentleman from Louisiana [Mr. FIELDS] for the vigilance that he has shown and the people of the Fourth Congressional District of Louisiana as they have fought to uphold the law of the 1965 Voting Rights Act which has in part and in no small measure created the kind of diversity in the Federal Government, the kind of diversity in State government, the kind of diversity in political legislative bodies all across our country. There has never been since Plessy versus Ferguson was decided in 1897 which ran 22 African-Americans out of this distinguished body and ran African-Americans and other minorities out of State legislatures around this country the kind of representation that African-Americans, Latinos, women, and other minorities in this country presently have come to appreciate.

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I want to offer certainly a level of congratulations again to the gentleman from Louisiana for those State legislators who are presently in Louisiana filibustering the attempt by that State legislature to undermine the Fourth Congressional District of Louisiana. I want to offer this evening an historical perspective and then hear from the gentleman from Louisiana and then engage the gentleman in a colloquy about the sustenance of the Voting Rights Act of 1968.

In June 1993, the Supreme Court handed down a decision that threatened to return this country to the days of separate but equal. The decision in voting rights mocked the reality of persistent racial inequality in America in the name of a color-blind society. Using the Constitution's guarantee of equality, the Court has given the green light to willful racial exclusion in the political process.

In the past, damaging interpretations of civil rights laws could be minimized by congressional amendments to clarify the law. The Court's ruling in these voting rights cases calls into question our ability to seek redress in this, the body of the people. In Shaw versus Reno, after the creation of majority African-American congressional districts in North Carolina, blacks elected the first African-American to Congress since Reconstruction. Even with two majority African-American districts, white voters who make up 76 percent of that State's population, continued to control more than their share, 83 percent, of North Carolina congressional seats. Yet the Court suggested that one majority black district, because it was irregular in shape, was nothing more than an effort to segregate the races, and I quote, for the purposes of voting.

It said that such a district would, quote unquote, threaten to carry us further from the goal of a political system in which race no longer matters. The Court is, in fact, saying that racial injustice no longer exists. In reality, we live in a political system that is so racially divided that race matters more than any one factor in a voter's choice of candidates in American. Political encumbents whose main goal in redistricting is to insure their own reelection, they know this. And when they draw the district lines, computer technology can tell them the racial composition of every census block. Indeed, many majority white districts are drawn to exclude African-Americans and preserve white constituencies in the last reapportionment, they look as unusual as the black districts singled out by the Supreme Court. In many cases, compact minority districts are hard to draw because African-Americans and Hispanics are concentrated in isolated communities.

The census blocks in these communities were defined long ago by legalized residential segregation. This was the target of Dr. King's last civil rights march in 1966.

Creating majority black districts does not harm white voters. Indeed, there is no State in the country in which whites are underrepresented in State legislatures or in this body, the 104th Congress. Even with enforcement of the Voting Rights Act, African-Americans and other minorities continue to be barred from their fair share of political power nationwide. Given the racial division among voters and the bitter history of African-American electoral exclusion, African-American districts provide the most widely accepted means of allowing black voters full participation, a bear minimum for citizenship in this democracy. Concern with the shape of a district should obviously pale in comparison.

VOL
142
PT
6
AP
15
—
24
1996
UMI

When Shaw versus Reno was decided, too many in the voting rights community initially sought to characterize it as a narrow decision which, while potentially damaging, it was not a fundamental attack on the constitutionality of the Voting Rights Act of 1965. I was very concerned about this opinion because I viewed it as a signal that it would encourage those opposed to the Voting Rights Act to challenge it everywhere. This is exactly what has happened since the Shaw decision.

Mr. Speaker, voting rights and the law protecting these rights were one of the few areas to remain largely intact following the Reagan and Bush onslaught. In voting rights cases, they must first prove intentional discrimination on the part of the State to succeed in a Voting Rights Act case. Congress disagreed with the City of Mobile versus Bolden and they disagreed with the Supreme Court's interpretation and ruling in the Bolden case, and in 1982, they amended the Voting Rights Act to specifically overrule that decision. In fact, Congress strengthened the Voting Rights Act on a bipartisan basis to make it plain that discrimination against minority voters continued to persist and that an important test was not intent, which is often difficult to prove, but instead was the effect on minority voters. In 1986, the Supreme Court upheld the constitutionality of the 1982 amendments in Thornburg versus Gingles, and it was against this background that the State legislatures determined the Constitution required that majority-minority districts be drawn to avoid violating the law.

The Shaw decision resurrected the intent question by turning the Voting Rights Act on its head in order to recognize the right of white plaintiffs, who do not even live in these congressional districts, to challenge districts that were intended in the first place to lead to greater minority representation in this body, in the Louisiana State Legislature and the North Carolina Legislature, in State legislatures around this country. The objective of the Voting Rights Act was to desegregate the institutions of power that heretofore historically had been denied to African-Americans, women, and to other minorities.

Most recently, in the Fifth Circuit decision in Hays versus Louisiana, they sought to apply Shaw to answer a totally different question: Is there a compelling State interest in designating a congressional district using race as one of many criteria so that racial minorities have an equal opportunity of winning? The court in Hays concluded that the Louisiana plan, the seat of the gentleman from Louisiana [Mr. FIELDS] was not narrowly tailored to further a compelling State interest.

Hayes was obviously troubling for a number of reasons. To recognize the standing of white citizens to attack majority-minority districts, the court cited regents of the University of California versus Bakke in 1978, in addition to Shaw and Croson. Thus, the fact of a color-blind Constitution and country was elevated by the case in Louisiana, Hays versus Louisiana, to strike down the Louisiana plan. The Hays court relied on a 1964 decision, Wright versus Rockefeller, a case that was decided before the Voting Rights Act of 1964, to define a racially gerrymandered districting plan as one that, quote unquote, intentionally draws one or more districts along racial lines or otherwise segregates citizens into voting districts based on their race.

The court also cited Bolden in support of this point. The Hays court seems to have ignored the fact that the 1982 amendments by this Congress overturned Bolden. The only citation the court makes of those amendments is to assert that section 2 expressly declares that proportional representation is not required.

On Thursday, June 30, 1994, exactly 1 year to the day after the Shaw versus Reno decision undermined a North Carolina redistricting plan designed to give African-Americans greater representation after Reconstruction, the Court struck again. In two separate opinions, a Florida case, Johnson versus DeGrande, and a Georgia case Holder versus Hall, the Court sought to limit a broad interpretation of section 2 of the Voting Rights Act. Section 2 outlaws all forms of voter discrimination.

Congress intended a broad interpretation so as to be able to address the various and subtle forms of voter denial, but the Court appears increasingly unwilling to use an interpretation that expands the notion of democracy for all Americans. As a New York Times editorial said, the Court was driven by a core of justices who evince no respect for Congress whatsoever. Justice Clarence Thomas and Mr. Antonin Scalia are leading the challenge against the Voting Rights Act.

And so today, there are legislators in Louisiana who are engaged in a filibuster so that the Fourth Congressional District of Louisiana will remain intact.

I brought, today, a map to show the changes that the Fourth Congressional District of Louisiana has gone through in the last year. In the Louisiana case, the Court said racial gerrymandering was unconstitutional. In a State 30-percent black, only two Congresspersons have been elected since Reconstruction. The first Louisiana plan, 65 percent black, 35 percent white. The second Louisiana plan after this plan was thrown out created a new congressional district, 55 percent black, 45 percent white. And now the State legislature in Louisiana is presently filibustering to keep the third plan from becoming a matter of law, thus moving this district 70 percent white to 30 percent black.

So a district that is almost 50 percent black and 50 percent white has been declared unconstitutional, but now we have a district that the court, Reagan-appointed judges and Nixon-appointed judges in Louisiana are now saying that a district 70 percent white but with 30 percent minorities is constitutional.

I would like to yield back the balance of my time to the gentleman from Louisiana.

Mr. FIELDS of Louisiana. Mr. Speaker, I thank the gentleman for yielding, and I thank the gentleman for sharing this special order with me.

I want to also talk a little bit about some of the history, not only in Louisiana but all across this country, as relates to the Voting Rights Act. As the gentleman knows, the Voting Rights Act was actually instituted by this institution simply because of the denial of due process in the voting arena. Individuals of color, as a matter of fact women as well, could not participate in the electoral process simply because they were women and simply because they were Hispanic, simply because they were black or African-Americans and, therefore, this esteemed body thought enough of this country to pass something called a Voting Rights Act.

Did the gentleman know that there were individuals who would try to register to vote, but simply because they were African-Americans, they were not able to vote? And after it was illegal to deny a person the opportunity to vote, State legislatures passed statutes that had prohibitions in terms that made the registration process more complicated. For example, I can recall talking to one of my professors at Southern University that mentioned the fact that in order to register to vote in Louisiana, you had to state the Preamble to the Constitution. That was one thing that eliminated several voters, several potential voters from the voting rolls, not only in Louisiana but all across the country, particularly in the southern part of our country.

Individuals had to state how many bubbles were in a bar of soap. Asinine questions like that were presented to individuals before they were able to gain access to the voting rolls. And then this Congress, this esteemed body, decided that was enough of discrimination, that was enough denial of due process and voting opportunities in this country and they passed the Voting Rights Act.

That is what this whole discussion is about tonight. I want to talk about Louisiana from a historical perspective as related to this Congress. The State of Louisiana, we have sent over 184 individuals to this body. One hundred eighty-four individuals from Louisiana have had the opportunity to serve in this esteemed body. Of the 184, only 3

of those individuals have been African-Americans, in spite of the fact that Louisiana has always had a substantial minority population. I mean even today, Louisiana's minority population is over 31 percent. Sending 184 people to sit in this Congress, the people's House, the House of Representatives, and not having but three of those individuals come from that State of African-American descent. And then to have one of the districts that are presently under attack, presently drawn to give an African-American an opportunity is absolutely, absolutely unconscionable.

In 1812, Louisiana was admitted to the Union. Louisiana was admitted as a State in 1812 to be a part of this great Union. Louisiana went from 1812 to 1875 before it elected its first African-American to Congress. So Louisiana went 63 years. From the time it was admitted to the Union to 1875, 63 years without sending one African-American to Congress. And the first African-American to ever serve in this body was Charles Nash, who was elected in 1875 and served only one term. He served from 1875 to 1877, and the reason why he was not reelected, it wasn't because he did not want to come back to Congress and to serve his constituency in the State of Louisiana and to do a good job and to represent not only the people in his district but people in his State. It was because the State legislature in Louisiana decided to pass laws to prohibit many of his constituencies the opportunity to vote, to register to vote.

They passed laws like literacy tests. They passed a poll tax. They not only disenfranchised blacks, but they disenfranchised whites, as well. Anyone who was poor in the State, as it was in many States across the southern part of our country, could not gain access to the ballot box because they did not own property. So Charles Nash, despite the fact that he wanted to return to Congress, could not return to Congress because many of the people who voted for him could not vote for him any longer. So Louisiana went from 1877 to 1990 without electing one African-American to Congress. That is 113 years. 113 years the State of Louisiana did not have one African-American, despite the fact that Louisiana had over 30 percent African-American population.

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Why? Because districts were gerrymandering to exclude minority votes and not include minority voters. And as a result of that, they never had the mere opportunity, not a guarantee but just a mere opportunity, to run in a district where they could run and win.

So Louisiana's African-Americans, went a total of 176 years without having one single voice here in this Congress from that esteemed State. Now, today, the big debate in the State legislature is whether or not we continue to have a Fourth Congressional District.

I am going to at this time yield to the gentleman, because I know he is on a tight time schedule and will be joining me later in the special order for a few minutes to further talk about some of—I see he has a map display, so I will yield to the gentleman.

Mr. JACKSON of Illinois. I want to thank the gentleman for yielding. I do want to apologize, because I am going to step away for a few moments.

I wanted to show you a map of congressional districts around the country, particularly southern congressional districts that are now being challenged as a result of the decisions that are coming out of Louisiana, that are coming out of North Carolina, and that are certainly coming out of Florida.

It is really interesting to note, when we look at the district formerly held by Barbara Jordan, Mickey Leland, and presently held by SHEILA JACKSON-LEE, and the districts held by Representative FIELDS, and by Mrs. MEEK and ALCEE HASTINGS in Florida, when we look at the district of CYNTHIA MCKINNEY, we note that these districts were drawn to desegregate the institution of Congress, to give African-Americans in a State where they have significant populations, like the State of Louisiana, an equal opportunity of winning.

If there is any one thing that can be said about the present attacks on the Voting Rights Act, it is that the Voting Rights Act of 1965 has been effective. It has indeed worked. The reality is between 1863, after the slaves had been freed, between 1863 and 1896, 22 African-Americans were elected to serve in this Congress, and because, quite frankly, in a bipartisan way many Democrats and many Republicans during first Reconstruction sought to conspire to undermine the progress that many African-Americans had made in first Reconstruction. That was the Tilden-Hayes Compromise of 1877.

By 1896 they had stacked the Court, a conservative Court. They gave us Plessy versus Ferguson. And by 1901, even though we had 22 African-Americans in Congress, a gentleman stood right here on this floor and said, "We will be back." By 1901 there were zero blacks in Congress.

It was not until the 1954 Brown versus The Board of Education decision establishing the principle of equal protection under the law was decided by the Supreme Court that the Voting Rights Act then took the impetus from the Supreme Court, along with the Civil Rights Act and a whole host of other legislation that sought to apply the principle of equal protection under the law to every facet of American life.

Therein lies the foundation of the Voting Rights Act of 1965: lines drawn in such a way as to create an equal opportunity for African-Americans, for Latinos, and for others to serve not only in this body but in State legislatures around the country.

Let me just at this point say that even with the enforcement of the Voting Rights Act, African-Americans and other minorities continued to be barred from a fair share of political power nationwide. For example, there are now slightly over 7,500 African-American elected officials, but African-Americans are about 12 to 13 percent of the population and there are nearly 500,000 offices.

Thus, 12 percent of 500,000 is roughly 60,000 political offices that should be rightfully held by African-Americans. Seven thousand five hundred is a mere 1.5 percent of the offices that should be held by African-Americans if elected on a fair basis, if they did not have to go through annexations and gerrymandering and constant political games, if you will, that are played by many State legislatures around this country.

Mr. FIELDS of Louisiana. Would the gentleman yield on that point?

Mr. JACKSON of Illinois. I certainly would.

Mr. FIELDS of Louisiana. The gentleman mentioned diversity, and mentioned how the whole purpose of the Voting Rights Act or one of the purposes of the Voting Rights Act was to integrate the political system, such as the U.S. Congress and State legislatures across the country. The gentleman is absolutely right.

Even today there are 535 Members that serve in the U.S. Congress, as you know, there are 435 that serve in this esteemed body and then 100 across the hall in the other distinguished body. And of the 535 Members, only 40 of them are African-Americans. So for anyone to even opine the thought that a person's rights have been violated simply because there are 40 African-Americans in the U.S. Congress, in a body that consists of 535 people, is absolutely wrong.

Mr. JACKSON of Illinois. If the gentleman would yield for a moment, there is also an assumption that African-Americans are incapable of representing people beyond just African-Americans. My district, for example, is about 65 percent African-American, about 30 percent white, 5 percent Jewish, and others. So I am capable, as a Member of Congress, of representing a diverse district, as you are capable of representing a diverse district. All the shape of these districts do is allow us an equal opportunity of competing.

When Democrats in the State legislatures or Republicans in the State legislatures get finished drawing lines in the State to accomplish their political wills, African-Americans are never even considered, Latinos are never even considered. The Voting Rights Act of 1965 mandates that these State

VOL
142
PT
6
AP
15
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24
1996
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legislatures take into account race as a factor, not the factor in drawing congressional districts.

We have some Members of this Congress whose districts are drawn in such a way to be economically gerrymandered. That is, they only represent large industries and big businesses. You have others whose districts are drawn representing primarily farmland. Well, our districts primarily are inner city and they must take into account the needs of the inner city, which more than likely are represented by African-Americans.

Mr. FIELDS of Louisiana. If the gentleman would yield, because the gentleman is correct about diversity, and continuing on the point about diversity, because many of the individuals, particularly the press, they declare districts, the district that you represent and the district that I represent and the district that many African-Americans in the Congress represent, they declare them as, quote-unquote, black districts, when in fact these are the most diverse districts in the entire country.

These districts are not superminority districts, these districts are very diverse districts. The district I represent and the district you represent is not overwhelmingly—I mean not 70, 80, and 90 percent African-American. They are very diverse. The district I represent is 55 percent black, 45 percent white. So how can one say the creation of these districts segregates voters? As a matter of fact, these districts desegregate voters and integrate voters. It brings voters together.

To say a district that is 98 percent majority is constitutional and is integrated, and a district that is 55 percent minority and 45 percent majority is unconstitutional and segregated, defies all logic. That is one of the reasons why State legislatures ought to leave this decision to the courts.

I think the courts are still tussling with the idea of how to deal with redistricting. Let us go back to Shaw versus Reno. In Shaw versus Reno the Court went to great pains not to say that the creation of a majority-minority district is unconstitutional in and of itself. Sandra Day O'Connor used, I think in the dictum of the opinion, it is an appearance of racial apartheid.

But they never said the creation of the district in North Carolina, the 12th Congressional District which is represented by our colleague, Mr. WATT, was unconstitutional. They simply said that if a district is drawn, if a district looks so bizarre as to suggest that race was the predominant factor in the creation of that district, it does not mean it is unconstitutional, it simply means the State must show a compelling stated reason why they draw it. And, second, that plan must be narrowly tailored.

As soon as Shaw versus Reno was ruled on by the Supreme Court, plaintiffs all across the southern part of the country rushed to their courthouses and filed lawsuits, and started saying that if a district is majority black or majority Hispanic it is unconstitutional. That is not the declaration of the Court.

Then the Court came back in Johnson versus Miller, when they ruled the district in Georgia was unconstitutional. They did not say it was unconstitutional because it was majority black, they said it was unconstitutional because race was the predominant factor as they saw it, and the plan was not narrowly tailored.

Now, one of the problems that we have, one of the legal problems that we have in this whole discussion is if plaintiffs are allowed to file lawsuits in courts because they are of the minority, then that opens up the floodgates of litigation that every citizen in this State will have standing in the courts to file lawsuits, even tonight, if they feel that their district was created based on race. Just the thought.

For example, in the State of Louisiana, the three judges in Louisiana did not even discover an injury, but they gave plaintiffs standing to file a suit, and a suit went all the way to the Supreme Court. Later they found that those plaintiffs did not even have standing. The basic requirement to even get into court. The threshold requirement.

Everybody is rushing to judgment on these cases, and the Supreme Court has yet to really deal with this issue in a definitive way.

You talked about diversity and Members representing all their constituency. I am proud of the fact that I represent the most diverse district in the State of Louisiana. I take great pride in that. My district is almost a 50-50 district.

When I view my constituents, I do not view them as black constituents or white constituents or Hispanic constituents or Jewish constituents. I view them as constituents. When they have a problem, they have a problem and they need the assistance of their Congressman and his congressional office. That burden that the press and other people try to put on Members, not only African-Americans but Hispanic——

Mr. JACKSON of Illinois. Would the gentleman yield for a question?

Mr. FIELDS of Louisiana. I would be glad to yield.

Mr. JACKSON of Illinois. Why is it that your district in Louisiana, why is it you feel your district has been singled out above all other districts in that State?

Mr. FIELDS of Louisiana. I can state several reasons why I feel that the district has been singled out, one being the fact that it is a majority-minority district. In Shaw versus Reno the Court, when it ruled, it gave an invitation to plaintiffs all across or people all across this country, that if you live in a majority-minority district and you do not like the appearance of it, then you have the right to file a lawsuit and you have a right to be heard. So I think plaintiffs, as a result of Shaw versus Reno, filed this lawsuit, and simply because it was a majority-minority district.

Now, these plaintiffs, you have a picture of a map of the Louisiana district, and the gentleman had another map earlier that showed the second phase of the Louisiana district. As you can see, Louisiana is the only State in the Nation that has changed its congressional district twice within 2 years. First they started with the Zorro plan, and a lot of people considered that the Zorro plan because the minority district was shaped by a Z.

I put evidence in the record in the Louisiana State Senate only yesterday to show that the Zorro plan was not created in the 1990's. The Zorro plan, in fact, was created in the 1970's, but it was not a majority-minority district. It was a majority-minority district and it was not called Zorro then, it was called a congressional district, and it was about 80 percent majority. But because it is majority-minority, now it is Zorro. It looks bad.

The Louisiana legislature, and I give great credit to the Louisiana legislature, these men and women, after the Court ruled on Zorro, went back to the drawing board and redrew the lines. They wanted to comply. They went to great pains, they wanted to comply with the three judges in Shreveport, LA, and they drew the Second District, which is just like former and previous districts in Louisiana.

They did not want to deviate from redistricting principles in the State, so they drew from the old eighth Congressional District because the Court said this district is 66 percent minority, it ought to be 55. they made it 55, and the Court still ruled that it was unconstitutional.

Mr. JACKSON of Illinois. Would the gentleman yield?

Mr. FIELDS of Louisiana. Certainly.

Mr. JACKSON of Illinois. For another question. The gentleman had a distinguished career serving in the Louisiana State legislature before becoming a Member of this august and esteemed body. I would like to ask the gentleman if he could articulate some of the considerations as a State legislator that you confronted when you came into the census and the reapportionment period in your State legislature.

It clearly was not just racial considerations. There clearly were other considerations. Could the gentleman lay out some of those?

Mr. FIELDS of Louisiana. Absolutely. And for anyone to even think that a redistricting plan, and I do not care if it is congressional, I do not care

if it is legislative or even a city council's plan or a school board plan, to think that politics does not play a role, a significant role in the drawing of these plans, is someone who is off base.

You certainly cannot take the politics out of politics. When these plans were drawn in Louisiana, they were drawn based on incumbency protection, first; second, they were drawn based on the fact that Louisiana moved from eight congressional districts to seven. So, of course, districts were going to increase in size and not decrease in size. That is just a logical thing for them to do.

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They were also drawn based on commonality of interest. What people in north Louisiana have in common with people in south Louisiana, we have always had districts that connected urban and rural communities together. If we do not do that, we will not be able to live up to the deviation of zero deviation or one man-one vote requirement by the Constitution of the United States of America.

We are required by the Constitution to have proportioned districts. Legislatures have to apportion districts based on the number of people in each, and each district must have as close to an equal amount of people in one as it does in the other in order to pass the deviation requirement.

I was talking about Shaw versus Reno, Mr. Speaker. Shaw versus Reno did not rule that districts were unconstitutional if they were majority minority. Plaintiffs all across the country decided to file lawsuits. Going back to the State of Louisiana, because I have tried to deal with the question of how is a voter injured in my district, because I walk into this body and to these halls and to this august building every day and try to do my very best. I go home every week and I try to represent my constituents to the best of my ability. I try to have a staff that is zealous and caring and concerned.

I have held more town hall meetings than any other Member of Congress from my State and perhaps in this whole Congress. So I have tried to go beyond the call of duty not to give any constituent rhyme or reason to say that I have not represented my constituents to the best of my abilities.

When the lawyers started to take depositions, the deposition of these plaintiffs who said, I have been injured because I live in Congressman FIELDS district or the district that he represents, we took the deposition. Let me tell my colleagues about these injuries: How do you feel about Congressman FIELDS? Well, he is a great guy. He works hard. I like him personally. But he is liberal.

That is injury No. 1. Plaintiff No. 2, under oath, what is your injury? Well, he is a Democrat and I am a Republican. So I am injured.

The plaintiff No. 3, what is your injury? This is under oath, in the record, I ran for Congress and I was defeated. So I am injured.

Not one person who filed a lawsuit against the constitutionality or against this district has been able to allege any real significant injury or any injury at all.

Mr. Speaker, I started toying with this whole notion of what is wrong with the district, what is wrong with me as a Representative. I first dealt with the district thing and I said, listen, Louisiana has been creating districts, extended over 200 miles since we have had congressional districts. So you cannot say because the district is over 200 miles you are injured because four other districts in the State extend over 200 miles. So that is not an injury. And you cannot allege that. Well, it is irregularly shaped. Well, Louisiana has always had irregularly shaped districts. For crying out loud, look at the State of Louisiana, it is not a perfect square or a perfect box, it is a boot. So you tell me how in the world you are going to have seven perfect squares or circles in the State of Louisiana when the State itself is shaped like a boot.

I mean most States do not look like squares and boxes. They look like animal cookies. So there is no injury there. Then when we finally got this case to the Supreme Court, I was as excited as anybody else because I, for one, want to put this issue of redistricting behind me once and for all.

Now, right now in the Louisiana, the Fourth Congressional District is in the Supreme Court and the plaintiffs insist to the Governor of their State that he put redistricting in the court, when there are very important issues in the State of Louisiana that must be dealt with, issues like education, issues like deficit reduction, real issues that must be dealt with for the survival and the future of our children in the State of Louisiana.

And I wondered, why would they put redistricting on the calendar when redistricting right now, the lawsuit is in the Supreme Court, which will ultimately make the decision anyway. And then I started to do my research, Mr. Speaker.

I found out that it really was not about injury, that it was not about it and is not about a plaintiff really being hurt. This whole issue is about money. It is about how plaintiffs receive damages, how they receive money.

This is beginning to be a trend. It really bothers me that people would have the audacity to file lawsuits not only in Louisiana but across this country for financial gain. The Hays versus Louisiana case, Hays being the main plaintiff who filed the lawsuit, prevailed in the lower court, went to the Supreme Court, lost. Back to the three judge panel in Shreveport, now is before the Supreme Court again. And I often wondered why Hays is still a plaintiff because Hays has been ruled by the Supreme Court that he does not even have standing. He just does not have justiciability.

Mr. Speaker, then I pulled the records from the court. I found that Hays' attorney, the plaintiff's attorney, decided to withdraw from the case. Mr. Speaker, why did he withdraw from the case? It was because he did not want to deal with this constitutional issue anymore. It was not because he did not want to see the case through to the final appeal. It was because these plaintiffs, according to this affidavit that was filed in the Federal court, wanted money.

I thought these plaintiffs had a problem with the constitutionality of the district and they were injured because their rights were violated. I wanted to share with the Speaker and Members of the House this affidavit that is public record, has been filed in the Western District of Louisiana. This affidavit, I will not go through the entire affidavit, but I would like to talk about two sections of it, sections 2 and 3.

Section 2, the counsel said, these are his words, counsel withdrew from further representation of the plaintiffs in this matter because of the demands made by plaintiffs Ray Hays and Gary Stokley that the fee application in this matter to be submitted under 42 USC 1988 include fictitious paralegal fees, fictitious activities allegedly performed by the plaintiffs Ray Hays and Gary Stokley and that counsel split. For crying out loud, I really thought the plaintiffs thought they were injured. I thought this was a constitutional question, that the counsel split with the plaintiffs Ray Hays and Gary Stokley all attorney fees awarded to counsel in this litigation and the redistricting litigation in Texas.

Mr. Speaker, how in the world can a plaintiff, a nonlawyer, who has alleged to the court and to the United States of America that he is injured because he is in a majority minority district, the most diverse district in his State, and he is injured because it was created based on race? Now say to his lawyer, I want half of the legal fees.

Why it is that the Louisiana legislature would push so hard, some Members, one of the Members, Mr. Speaker, one of the authors of the bill to change the district and moot the old redistricting plan is one of the lawyers in the lawsuit. Want to talk about ethics? Want to talk about injury and what is really going on in Louisiana? I suspect that that is not only taking place in Louisiana but it is probably taking place in other parts of the country.

Let us go to section 3. These are the lawyer's words who withdrew from the Hays case. These unreasonable demands were initially made by the plaintiffs shortly after the court's order on December 28, 1993, setting

VOL
142
PT
6
AP
15
—
24
1996
UMI

aside the original congressional district in Louisiana. These demands are confirmed by letters from plaintiffs Ray Hays and Gary Stokley and a written refusal by counsel to agree to such demand.

Plaintiffs who are pushing right now in the Louisiana legislature that this plan be adopted so that they can benefit from anywhere from $4.2 million in legal fees.

The last point of this affidavit I want to point to, Mr. Speaker, is section 7. The motion by the plaintiffs requesting that the court delay the determination owed in professional services. Under that they cite the law firm Kirkland & Ellis. Mr. Speaker, last time I checked, that law firm is the same law firm that is associated with Kenneth Starr, the independent counsel for the Whitewater investigation. Kenneth Starr's law firm, according to this affidavit that I will put in the RECORD, are the lawyers of record for these plaintiffs in Louisiana.

Mr. Speaker, I will be quite honest with my colleagues and then I will yield my time. I do not have a problem with the Supreme Court of the United States of America deciding the constitutionality of the 4th Congressional District or any congressional district in this country because as lawmakers we make the law and, as the court, they interpret the law. And we have to live with the laws we make and we have to live with their interpretation.

Until we change the law, we have to live with the interpretation of the Supreme Court because that is their role. But I am not going to sit and/or stand idly by and let just a few selfish plaintiffs and a few greedy lawyers railroads a plan through the Louisiana Legislature and subject my State to over $4 million in legal fees for personal gain. This is not a decision of the legislature. This is not a decision of a three judge panel. This decision, Mr. Speaker, is a decision of the Supreme Court of the United States of America.

I want to thank the Speaker for allowing us to share in this special order. I want to thank him for his time.

Mr. Speaker, I include for the RECORD the following information:

EXHIBIT "C"

AFFIDAVIT

(By Paul Loy Hurd)

BE IT KNOWN that on the 1st day of May, 1995, before the undersigned witnesses, and Notary Public duly authorized in the Parish of Ouachita, State of Louisiana, personally came and appeared PAUL LOY HURD, a person of full age of majority, domiciled in the Parish of Ouachita, State of Louisiana, Hereinafter referred to as "Counsel", who after being duly sworn did depose and state that:

1. Counsel was originally the lead counsel for the Plaintiffs in this matter from its initial filing until December 1994, when this Honorable Court granted Counsel's motion to withdraw.

2. Counsel withdrew from further representation of the Plaintiffs in this matter because of the demands by Plaintiffs, Ray Hays and Gary Stokley (i) that the fee application in this matter to be submitted under 42 U.S.C. 1988 include fictitious "paralegal" activities allegedly performed by the Plaintiffs, Ray Hays and Gary Stokley, and (ii) that Counsel split with the Plaintiffs, Ray Hays and Gary Stokley, all attorney fees awarded to Counsel in this litigation and the districting litigation in Texas.

3. These unreasonable demands were initially made by the Plaintiffs shortly following the Court's order of December 28, 1993 setting aside the original congressional districts in Louisiana. These demands are confirmed by letters from Plaintiffs, Ray Hays and Gary Stokley, and the written refusal by Counsel to agree to any such demand.

4. The attorneys presently representing the Plaintiffs were fully appraised of the unreasonable demands being made by Plaintiffs, including both the demanded fee splitting and the submittal of unperformed "paralegal" activities.

5. This dispute culminated in the Plaintiffs offering to allow Counsel to argue the appeal in the United States Supreme Court if he would agree to the financial demands of the Plaintiffs. Counsel refused these demands again, and was removed as lead counsel in the fall of 1994.

6. The Plaintiffs are fully aware that Counsel's personal financial condition has been greatly taxed by the failure of the Plaintiffs to reimburse Counsel for out of pocket expenses as previously agreed, and by the continuing delay in the payment of the attorney fees owed in this matter. With this full knowledge, the Plaintiffs, Ray Hays and Gary Stokley, have asserted their intention to take all possible steps to deny to Counsel any compensation in this matter, and to delay as long as possible the receipt by Counsel of any compensation to be received in this matter.

7. The Motion by the Plaintiffs (i) requesting that this Court further delay its determination of the fee owed for the professional services rendered by Counsel, and (ii) requesting that Counsel not be allowed to defend his application before this Court, and (iii) requesting that all fees paid by the Defendants be paid to Kirkland & Ellis to be dispersed at the sole direction of the Plaintiffs, is filed by the Plaintiffs to effectuate the threats previously made against Counsel.

THUS DONE AND PASSED on this the 1st day of May, 1995 before the aforesaid witnesses and Notary Public.

LEGAL FEES QUESTIONED IN REMAP CASE

(By Brad Cooper)

BATON ROUGE—Two Lincoln Parish residents who challenged Louisiana's congressional districts demanded their former attorney ask a judge to award fees for fictitious legal work, court documents allege.

That's the allegation Monroe attorneys Paul Hurd levies against Ray Hays and Gary Stokley of Ruston in an affidavit filed in federal court in Shreveport.

Hurd represented Stokley, Hays and two others until December 1994 in the constitutional challenge to Louisiana's congressional districts.

A three-judge federal panel threw out the districts because they were rigged to ensure election of a minority candidate.

Stokley and Hays denied Hurd's charge, saying they are not trying to make a profit from their lawsuit. Stokley called the charges "upsetting" and destructive to his reputation.

The state could be responsible for paying the legal fees in the case—possibly more than $4 million by some estimates—if the Legislature approves a new set of congressional boundaries that eliminates a second district with a majority of black voters.

A bill that would do that is a step away from final approval. A Senate committee signed off on a new set of congressional districts Monday and sent them to the full Senate to consider.

The affidavit surfaced at the committee meeting.

"It's all about money," said state Sen. Dennis Bagneris, New Orleans. "According to the affidavit, there has been no motivation based on . . . who is fairly represented. It's all about the bucks."

Hurd, who is seeking about $728,000 for his work, states in his affidavit that Hays and Stokley wanted him to apply to the court for fees to cover "fictitious" paralegal expenses.

He also accuses Hays and Stokley of wanting a slice of the legal fees from the case as well as part of the legal fees from his lawsuit agianst Texas' congressional districts, which were thrown out by a lower court becuse they were racially gerrymandered.

Hurd, who declined comment on Monday, withdrew as counsel after the four Lincoln Parish plaintiffs enlisted the help of a high-powered Washington, D.C., law firm.

The plaintiffs said they hired the firm because it was more experienced in dealing with constitutional issues. Hays said Hurd's accusations are retaliation for the plaintiffs' decision to bring another firm to argue the case before the Supreme Court.

"His feelings are hurt and he got mad," Hays said. "He is angry and popped all that stuff out."

Filing a false claim with the federal courts could possibly lead to perjury charges if it is verified under oath. Or the applicant could be forced to serve jail time for criminal contempt of court, court officials said.

The judge also could levy a fine if the application is found to be fraudulent, court officials said.

Hays and Stokley were confounded by the allegations. They said Hurd deserves to be paid for the work he did.

"We didn't ask as plaintiffs for any awards, damages or anything like that. This has not been about money," said Stokley, a sociology professor at Louisiana Tech University.

"Money has never been an issue with me. If it was I wouldn't have been a teacher," Stokley said.

ITEMS IN THE CONTRACT WITH AMERICA

The SPEAKER pro tempore (Mr. COLLINS of Georgia).

Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I want to take this time to speak with my colleagues about the items in the Contract with America and other items that have received legislative approval in this House for which I think there can be bipartisan pride. Many items have come forward to this House and have received almost unanimous Republican support and overwhelming support from the Democratic side of the aisle as well. I think they are worth repeating tonight so that people could put a perspective in this House

where we have gone and how far we need to go.

Mr. Speaker, the first item I want to mention would be that we have passed the congressional accountability law. That is a law introduced by Congressman CHRIS SHAYS to make sure that the laws that we in fact have passed that affect everyone else, I am speaking of civil rights laws, the Fair Labor Standards law, OSHA, prior Congresses, bills were passed and Congress, congressional employees were in fact exempt from the benefits of those laws.

Now, under legislation adopted by both Chambers and signed by the President, the congressional employees are protected as well. We have passed the unfunded mandates law, which says that if the Federal Government decides we want to have a local government do something, we have to send the funding back with it.

Just last week the President signed into law a bill passed by both the House and Senate for a line item veto. This will give the President the opportunity to in fact blue line or remove, like 43 Governors can, including our own Governor of Pennsylvania, Governor Ridge, the opportunity to cut out wasteful spending, pork barrel projects. These are reforms in which Members from both sides of the aisle and Members of this House and Senate can take great pride.

We have also had legislation for the first time since 1969, where the balanced budget amendment has passed in this House. We are hopeful it will receive the approval of the President so we can make sure we keep our fiscal house in order, just like all the State governments do and House budgets do at home.

We have also increased the Social Security earnings limit to allow senior citizens to earn, instead of $11,200 a year, up to $30,000 a year without deductions in their Social Security. We also passed several term limits bills that have not received the constitutional majority, but certainly are trying to carry out the will of the people and be able to control the number of terms House Members can serve beyond the initial term.

I think it is also significant to point out that the House has done much to try to curb welfare spending, whether it is legislation I have introduced for the sunset review of Federal agencies, or the other bills, to make sure we downsize and streamline and make sure Government is more balanced, as we have seen with the Grace Commission that has come forward and said, look, many of the agencies we now have are different than they were when we started, some certainly are duplicating what States do, and making sure we have services to get back to the people is the key; removing the fraud and abuse, but getting the real service back to the people.

We can also take pride as Members of this House in making sure we have reformed the way we have operated Congress. We have saved $150 million in the operation of this House just in the first session of the Congress. We have also been able to make sure that we can have, for the first time in the history of the House, a ban on gifts from lobbyists.

We have passed lobbying disclosure. We are about to embark on a successful trail to have campaign reform, so the House has certainly gone forward with many important reforms. I am glad that joining me right now is the gentleman from Georgia [Mr. KINGSTON], who I know has been working very hard on reforms in the House and on legislation to be more accountable.

WHAT HAS THIS CONGRESS ACCOMPLISHED?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 60 minutes.

Mr. KINGSTON. Mr. Speaker, picking up on the topic of the gentleman from Pennsylvania [Mr. FOX], of what have we accomplished and what has this Congress done, I have brought some notes with me to discuss on that tonight. I think maybe if we were to title this, I would say, what is it that we have done? What have we accomplished?

Looking back, I would say to the gentleman from Pennsylvania, at where we were 1 year ago, the House, the new House, energized with the 73 freshmen, idealistic freshmen, had just adjourned for the Easter break. We passed 30 out of 31 parts of the Contract With America. All of this legislation was designed to reduce the size of Government, reduce spending, cut waste, balance the budget, reform welfare, and increase personal freedom.

We were all excited. We were all confident that since the public was with use, that the Republican Senate would grab the issues, take the legislative package and quickly pass them as fast as possible, and then the President, who was lukewarm at best on these proposals, would have to sign at least part of it. Then, of course, we came back, and basically what the other body said to us is, Well, the Contract With America was not a Senate promise, it was a House promise. We will get to it somewhere between Whitewater and Packwood.

Of course, with each week of deliberation, which turned into months and months and months, the public excitement, the public interest, waned, and before we knew it, the President would not even have to veto these Contract With America items, he would never even see the legislation, because the Senate had not moved it forward.

Mr. Speaker, from one standpoint we had that. Then we had the press. The press, of course, has never been fans of conservative causes and small Government. You cannot spend enough to keep the press and their bureaucratic allies happy. In fact, it is interesting, when the press started attacking us on, you need to be more bipartisan, I think the press should be more bipartisan and less partisan than they are.

But as it turns out, the press took that little gap that was created around summertime to really start attacking the new Congress and the Contract With America, and then we had this unpleasant shutdown of the Government period, where we could not get a compromise with the President.

He vetoed Medicare reform even after his own trustee said it was going to go bankrupt. He vetoed welfare reform, even though it was a bipartisan package, and he had indicated earlier that he would sign it. Then he vetoed a balanced budget. So we seem to have lost some of the momentum.

Mr. FOX of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Pennsylvania.

Mr. FOX of Pennsylvania. Mr. Speaker, I think we are on our way. However, after making reforms in the House, on the gift ban, on reducing the size of the committees, reducing the number of committees, three full committees were eliminated, 25 subcommittees, we have reduced franking by one-third, and I think with the enthusiasm of the freshman Congressmen like the gentlewoman from California, ANDREA SEASTRAND, we have seen this revolutionary zeal to restore credibility by the American public in Congress, and in passing pro-jobs, pro-family, pro-reform ideas and antitax ideas.

I would ask the gentlewoman from California if she would reflect on that, whether in her district she feels these positive changes we have introduced and discussed here in Congress have been taking hold.

Mr. KINGSTON. Mr. Speaker, before we yield, if the gentlewoman would not mind giving me a few more minutes, what I said in terms of introduction was only to set the stage to answer the question, What have we done? To answer that question, what I want to be sure to say quickly, and then I will yield the floor to our colleague, the gentlewoman from California, is compare this Congress with the last Congress.

The 103d Congress passed the largest tax increase in the history of the country, and tried to socialize medicine, which would have created 59 new health care agencies and commissions, with over 100,000 new Government employees.

The EEOC, the Equal Employment Opportunity Commission, was taking a swing at the American worker, saying that you cannot have religious symbols in the workplace, so if you wore a Star

VOL
142
PT
6
AP
15
—
24
1996
UMI

of David necklace to work or a Jesus Saves tee shirt, they wanted to make sure that practice was outlawed. OSHA was passing regulations that said if you smoked in your own house and you had a domestic employee, then you had to install ventilators. That is where the bureaucracy was under the 103d Congress.

Mr. Speaker, what has the 104th Congress done? It has cut staffs by one-third, reduced our own congressional operating expenses by $67 million. For the first time in history, Congress is under the same workplace laws as the private sector. As the gentleman pointed out, lobbyist registration; the first bill in I think over 50 years on lobbyists; passed a tough gift ban, passed a line-item veto; securities litigation reform; a product liability bill which has passed the both houses and awaits the President's signature.

We have a sweeping farm bill that phases out farm subsidies and gives farmers the much needed flexibility to decide what they want to grow, where they want to grow it. We have passed the Paperwork Reduction Act for small businesses who work with Government, to make it a lot easier on them. We have stopped the practice of mandating that local municipalities have to increase taxes for new laws that we have put on them.

We have passed the telecommunications bill that should create 3.4 million jobs over the next 5-year period of time. Most importantly, however, I would say that the No. 1 thing that the 104th Congress has done compared to the 103d Congress and all previous Congresses is we have stopped the swing, the swing to the left, the swing for big government, the swing for more commissions, more bureaucracies, more red tape, more control, command, and control bureaucratic micromanagement out of Washington, which is stifling local initiative.

So I would say there is certainly a world of difference. As we look back, despite the frustration that I think many of us have had, it is a darned good track record. It reminds me of my experience in the private sector, where as a salesperson I would have what I would consider very tough days, very tough weeks, very tough months, and yet at the end of the year, I found out as I looked at my W-2 form, I had indeed made a little money along the way. So we have had some tough times here, but as we look at it, we have closed the sale on a whole bunch of stuff that is important and has been enacted into law.

Mr. Speaker, having said all that, I yield to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I thank my two gentlemen colleagues. It is interesting to serve in the 104th Congress. This Congress, as I tell people, is a Congress that has a new attitude. It is interesting, because when you go home, you hear people talking, and they are excited about what we are doing. I think some are upset that we were not able to do all that we wanted to do, we were slowed down a little, but that new attitude is not whether we are going to balance the budget some day, it is when and how. It is not whether we are going to give tax relief, but when and how. It is not whether we are going to have welfare reform, but when and how.

What we have done in this House has changed that attitude from the tax and spend of 40 years, a philosophy of liberal leftists, to the one we have today, to worry about working families, especially this day after, you know, across America, working families have paid their taxes.

It is interesting to note, I am one of those freshmen that liberals and I call them Washington, DC labor bosses are after. For the past year I have been hit with radio and television ads condemning me for my votes on a balanced budget, tax relief, that I am voting for taxes for the rich.

It is interesting, because I have had some 50 town hall meetings in the district since being elected, and it is interesting, because the folks back home seem to see through that liberal jargon of the days of yore. It is the idea that they are gasping for air. They are trying to do their very best to take hold of this House in the next Congress, and I think people are going to see through that. They understand that we are trying our very best to change the way that this place has been run for some 40 years.

It is a pleasure to work with the gentlemen on this floor, my colleagues, because we all have the same beliefs. We want to serve the working families of this country and get on with the business of making a better America for tomorrow.

Mr. KINGSTON. I think those comments are good, Mr. Speaker. We need to yield to the gentleman from Arizona [Mr. HAYWORTH]. Before we do so, if he does not mind, I would like to ask the gentlewoman from California a few questions about these ads, if she would not mind a little colloquy here.

Mr. Speaker, I would ask the gentlewoman, you have had TV ads run against you by your opponent?

Mrs. SEASTRAND. No, no. I have not seen my opponent. No. It is special interest groups out of Washington, and they are funded by Washington, DC sources of dollars. In fact, it is kind of interesting, because if you were to be sitting in your living room watching television tonight, you might see one of those ads; a very, very well done ad.

But if you were sitting, perhaps, in the district of our colleague from Las Vegas, NV, Mr. JOHN ENSIGN, you would see the very same ad, the same man with a flannel shirt talking about your Congressman. They are very generic ads. They change our names in the ads, and they are playing in about half of the freshman Members' districts. It is a very well-organized campaign against what we are doing in this House of Representatives.

Mr. Speaker, I think that the folks back home and across America should know what we are facing this time around. People do not like what we have done and they want to change and go back to the status quo of 40 years.

Mr. KINGSTON. These are Washington bureaucrats who do not want to give local folks back autonomy, so they are fighting the ANDREA SEASTRANDs and all other Members.

Mrs. SEASTRAND. And all of us.

Mr. KINGSTON. Are you one of the people they have pledged to spend $500,000 against, and that money is not reported by your opponent?

Mrs. SEASTRAND. That is correct.

Mr. KINGSTON. That is important to understand.

Mrs. SEASTRAND. Underlining it.

Mr. KINGSTON. The money that is spent is not coming from your opponent, nor does he or she have to report it. It is a completely separate expenditure.

Mrs. SEASTRAND. Independent.

Mr. KINGSTON. That is outrageous, half a million dollars.

Mrs. SEASTRAND. I would just like to point out that I hold in my hand today eliminations of programs at all levels of Government, page after page, that this Congress has cut off spending for and eliminated programs. When you look at this, that is a lot of bureaucracy.

What is happening is the bureaucrats that have been cut off are very upset with ANDREA SEASTRAND and with the JON FOX's, the J.D. HAYWORTH's, the JACK KINGSTON's of the world, so they are after us. It is interesting, though, to bring this up, because once the folks at home in all of our districts understand, they get upset that they are not going to elect their representatives. Someone else from Washington, DC is kind of horning in on their territory, and going to try and elect someone that does not represent the folks at home.

□ 2200

Mr. KINGSTON. Before yielding to the gentleman from Arizona [Mr. HAYWORTH], I want to make one final point. None of that money was raised in your district. It all came out of Washington, DC from special interest groups.

Mr. HAYWORTH. I thank my friends for yielding, and lest, Mr. Speaker, those viewing on television and in the gallery would misunderstand what we are saying, we do not have any problem with good, honest debate in the American political system. We do not have any problem with honest differences of

opinion. But it is more than ironic, indeed I daresay it is hypocritical of those on the left who would repeatedly use the lexicon of special interests and big money and power and extremism applying to members of the new majority and yet as my colleague from California has outlined, actually take money from outside States and congressional districts, take Washington money and pour it into a certain district.

There is one other further distinction. Because, Mr. Speaker, the people of the United States who have come to view this endeavor quite cynically might honestly ask, well, what is the difference? There is a major difference. When union bosses take union dues and without the permission of union members take those compulsory dues and donate them directly to the Democrat National Committee, and indeed even as we have derided the increase in taxes, even as we have pointed out the Arkansas shuffle from a campaigner-in-chief who spoke of balancing the budget in 5 years only to renege on that promise, from a campaigner-in-chief who spoke of tax breaks for the middle class, only to renege on that promise, from a campaigner-in-chief who talked about ending welfare as we know it, only to renege on that promise, veto those measures in all three instances, now again comes another irony of saying one thing and doing another. The Beck decision, a mechanism my good friend from Pennsylvania, well versed in the law, is aware of, effectively said to end that practice of compulsory, nonvoluntary donations. And yet this President and his Justice Department refuse to enforce that decision.

So, Mr. Speaker, I do not blame the American people for their cynicism, but I believe a little background is in order. For the difference is if people can freely give to candidates of their choice, then so be it. But it should be a donation freely made. Not in the realm of compulsory action.

Mr. KINGSTON. Let me ask the gentleman about this Beck decision. Are you telling me that a paper mill worker in my district who is prolife, antigun control, and anti-NAFTA has his money, his dues going to, say, President Clinton's reelection campaign, and he does not have a say-so in it, the union employee does not know his money is being used for those causes, even though they may be things that he does not stand for?

Mr. HAYWORTH. If the gentleman will yield further, that is exactly what I am saying. Or the experience I had on one occasion, flying here and some of the folks on the flight, some of the flight attendants involved in their union made clear their displeasure with the incumbent President and members of the liberal minority and said that they called the local chapter of their union to put in their two cents worth and those members of the union were amazed to hear that a portion of their dues were going, even really without their knowledge, to guardians of the old order, guardians of the special interests, folks who would put bureaucracy above people and folks who would trust Washington, DC more than the American people. Those folks were absolutely flabbergasted. That is exactly what I am saying and to my friend from Georgia, I will say something else. It has been noted that Boss Sweeney of the AFL–CIO has asked for what sounds like the Clinton tax hike, an increase in those dues. Even as they bemoan the so-called stagnation in earning power, these bosses are asking for an increase in those dues, ergo a compulsory donation to the guardians of the old order without one whit of personal conviction from many members of unions. Indeed by some estimates almost half the members of unions are conservatives who vote consistently with the new majority. It is one of the ironies of life here in Washington.

Mrs. SEASTRAND. It is interesting the gentleman mentioned that. I had earlier commented about the ads playing in my district, on the 800 number. This has been going on for a year, but it has been interesting because I field calls in my office, being a Californian, here in Washington, DC, we have a 3-hour edge so the folks back home, it is 7 o'clock, it is now 10 o'clock, so when I am working in the office, people will call, I will answer the phone and it is interesting because they said, "I just saw that ad on television, it's an 800 number, I have to go through shenanigans to get to it." I guess they are hooked up to the union switchboard. They take their name and address I guess for future fund-raising efforts. "But I want you to know I'm outraged to know my dollars are used in this way. I'm a union member, always have been and believe in some of these things, but I also agree with you that we have to get big government under control."

It was interesting to note when I was home these last 2 weeks, there was a very well-organized protest outside my district office in San Luis Obispo. But it was interesting to note that the people that came were the union organizers. They came from San Francisco, there was one from Los Angeles, one from San Jose. And then the executive secretary of the local union who is the hired bureaucrat and another gentleman were all part of this. Everybody else, the union members, the ones they work for, are hard at work trying to make a living for their family. I agree. They say 40 percent of members are good Republicans, pleased with what we are doing and it is firsthand knowledge, that is what I am hearing. In fact one went on television to tell the world that she was very upset to see her dollars being used in such a way for union ads when she was pleased about what we are doing here in the House.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Allow me to compliment and put in perspective what these freshman Members of Congress, and we have two with us tonight, have done. And not only the freshmen but the gentleman from Georgia [Mr. KINGSTON], a Member of the 103d Congress. In the 102d Congress when I came in, we had a Congress that had been controlled for almost 50 years at that time by one party. We had a situation where in the House bank, Members were writing checks freely. They were not paying the money back. They were laundering money and selling drugs from the post office, which is not a U.S. post office. We are not making these things up. There have been numerous convictions and investigations to prove this to be true. That party from this side that had controlled the House for so long could have reformed it. They did not. Seven of us, became known as the Gang of Seven, started unraveling the twine with a request for an investigation. We finally after 8 months forced an investigation because the people of this country demanded it and we started with the investigation into the House bank, which followed in the post office and made the changes.

Even after all of that became known, we could not make the changes in Congress that needed to be made until this 104th Congress and our majority with our freshman class came on board. And now during the last 18 months for the first time in the history of the country, we have had an audit, an audit that has disclosed discrepancies in the past in the House. We have had numerous changes with the Contract With America that was offered. This House has passed most every aspect of that, certainly with the majority in Congress, and has sent it on, most of it has been sent to the President who has vetoed tax reform, tax relief for people in this country. They have vetoed welfare reform and other areas that the freshmen of this group have put through. There answer to the American people has been not to join and do what the American people want, not to pass the reforms the American people have demanded and that this freshman class and this Republican majority Congress has given. It has been to try to go back to the dirty politics side, try to run ads with millions of dollars against freshman Congressmen and try to win back control.

What will they be winning back control to do? To return back to the same situation we had before, where house bank scandals and house post office scandals were common.

VOL
142
PT
6
AP
15
—
24
1996
UMI

I commend their class for the work you have done. Those of us that fought in the 102d Congress and later when the gentleman from Georgia [Mr. KINGSTON] came in the 103d Congress and fought, are being joined by you, and I think the people will make the same decision. In my first race, I won by about 3,000 votes. They immediately gerrymandered my district and put 30,000 votes against me by taking 15,000 from one party out and putting 15,000 new in. And although the President, President Clinton, carried by district, I won in a hard campaign by 55 percent. Last year all the liberal organizations joined, the Democratic women's organization of Emily's List that you are going to find and those contributions do not have to be reported. They can be bundled and slip under the law in a method that allows hundreds of thousands of dollars to go to campaigns unreported. And we won 61 to 39 percent.

What I am saying is the people out there are living and listening to what is happening and the things you are doing and I think they will, with knowledge of what is going on, return you to office in order that reform may continue in this body, that you are carrying out and have been working on. I want to commend you for the work you have done.

Mr. HAYWORTH. I will ask the gentleman from Georgia to yield so I can respond to my friend from North Carolina.

Mr. KINGSTON. Yes.

HAYWORTH. First of all, Mr. Speaker, let me thank the gentleman from North Carolina for his membership and his actions as part of the Gang of Seven, and I point out now there is a gang of 73 and a new majority, and the gentleman from North Carolina is quite right. For in the midst of this talk of reform comes one legitimate question that the gentleman from North Carolina touched on, Mr. Speaker.

If this newfound embracing of reform by the liberals in this House were so genuine, where was it during their long years of domination of this institution, their complicity with the forces of big government and the forces that would always use the same tired equation, the answer of tax-and-spend, tax-and-spend, tax-and-spend. Where was that commitment? And make no mistake. If we retreat, Mr. Speaker, one can imagine a new liberal majority coming to this institutions, having learned its lesson in what through misleading claims and the politics of fear and the complicity of many liberals in the journalistic endeavors might wish to take place here, they would turn on this institution and that notion of reform in a heartbeat. Their notion of reform would be as the actions taken by ancient Rome against the Carthaginians. They would move metaphorically to lace the soil with lime to ensure that the full honest flour of reform would never take root again in this Chamber for the foreseeable future, and to return to an iron grip with rules completely out of proportion, a majority that would border on tyranny. In short, the same type of tyrannical majority we saw in this institution at the tail end of those 40 years of one-party domination.

Mrs. SEASTRAND. If the gentleman would yield, if you watch, you talk about the reform, how there would be no reform, let me tell you, if you look at these ads, negative ads, there is no hope. Everything is negative, negative, negative in the attack I am taking. Bad balanced budget, bad welfare reform, bad tax relief, bad this and that. There is no hope in these ads. And because there is nothing, let us fact it, their ideas are bankrupt after 40 years. There is no hope in their ideas. And so what do they do? All they have left is to just condemn and to attack. And it would be something if they could offer alternatives to the situations at hand today for the problems that need to be solved across this Nation, but it is all the same.

□ 2215

Their answer is usually more, bigger, more dollars here from Washington, DC.

Mr. KINGSTON. Let us talk about some of these basically Republican solutions, but they are anti-Washington bureaucrat solutions, some of the things that I think that we have been trying to work for: more choice in medicare, a balance in environmental policy, more local control in education, more State flexibility in poverty and welfare programs.

Thinking of the Medicare policy, here we have in April last year, a Clinton trustee saying Medicare is going bankrupt and in two years, it will be out of money. Well, they missed that by 11 months. In February for the first time in the history, Medicare ran out of money. So we went in there, said okay, people want traditional Medicare, we understand that. But if our seniors want options, like physician service plans, and if they want to join a managed care plan or take an individual medical savings account, let us give them those options, and by offering the options we can reduce the growth from 11 percent each year in Medicare to 4 percent and head away from the insolvency and the bankruptcy. We can save, protect and preserve Medicare and increase spending per recipient from $4,800 to $7,100 at the same time.

Mr. Speaker, a key component of that, as you two know, is cracking down on fraud and abuse. I have with me a Derma-Gran bandage, which a friend of mine in business has sent to me. He said this bandage actually cost 94 cents to produce. It is sold to health care providers for $6. And Medicare, on this 94-cent $6 purchase, gets $36.44 with it.

Now, your mother is paying for that and your father is paying for that, and it is going at the price of their health care, a diagnosis or something down the road. My friend's math on it, he just pointed out to me, that does not sound like that much of a problem, does it? But the fact is potentially, listen to this. Potentially 20,000 nursing home patients each day use this. That would mean this is costing American taxpayers at that $36 rate $21 million per month or, $262 million in nothing but waste and almost fraud but certainly abuse in Medicare. And this is what we were trying to resolve, and this is what the President vetoed, cracking down on these.

Again, we are just giving seniors choices and protections that we need for the program.

Mr. HAYWORTH. If the gentleman would yield, I think it is important again to articulate something, because it is lost in the politics of hyperbole, in the grand political theater of the propaganda on the Nation's radio and television stations right now. And incidentally, I would challenge my former colleagues in television to do their reality checks that they often reserve for the political campaigns. I would challenge my former colleagues in television news around the country to apply the truth ads to these cynical, manipulative, untrue announcements and maintain the vigilance now that they reserve for the election campaign.

But the gentleman from Georgia brings up an interesting point. I do not know anyone, despite the extreme rhetoric of those outrageous claims made on television and radio, I do not know anyone in the new majority who would for a moment wish that his parents would have inadequate health care, desire for his grandparents inadequate health care, purposely move to starve children and deprive them of the basics of life, nor doom America to drinking dirty water and breathing impure air. The claims are outrageous, and my colleague from Georgia correctly points out the challenge is met.

The challenge is presented by the waste, fraud, and abuse in the current vacuum in a Washington-based, one-size-fits-all system that is devoid of the very compassion it claims to give to people, for it denies the most essential element of our freedom: The opportunity to choose. When my parents turn 65 next year, when that happens, there will be no federally provided shopper to accompany them out of their homes and to decree what department store they will visit, what clothing they will buy, what car they will drive. And yet in the current health care system, in the one-size-fits-all anachronistic plan of the 1960's, which we hope to update, improve, transform and, yes, even save, a vacuum exists. A massive bureaucracy exists that invites the very waste, fraud and abuse that the gentleman spoke of.

Mrs. SEASTRAND. If the gentleman would yield.

Mr. HAYWORTH. I yield to the gentlewoman.

Mrs. SEASTRAND. It is interesting that the gentleman mentions the waste, fraud, and abuse, but I think one of the things, particularly in the ads from the big labor unions, the statements they make is we are cutting Medicare. My mom is on Medicare, and she was concerned about this, that her daughter was going to be doing something that she was in need of. And I just want to tell people that that is the worst thing to say, to scare our senior citizens. And I know some of them actually, people went into with their propaganda into nursing homes to scare our older and elderly that are in nursing homes and convalescent homes across the Nation.

I just want to set the record straight. We actually increased Medicare spending from $4,800 per beneficiary starting now to $7,100 in 7 years. Now, I am just an old fourth-grade school teacher that did a lot of old math without calculators. But if we subtract that, we get a difference, and that difference has a big plus sign in front of it. Very, very hard to get that point across, especially to some of the reporters today. I guess they were brought up on new math.

But we are increasing Medicare spending over the next 7 years by $2,300 per beneficiary, and that is with more and more seniors coming into the system. So you can tell we are spending a lot more. And that is one of the falsehoods in the ads that is hitting and attacking some of the freshmen, myself included, today on television.

Another interesting point was I know in the ads, and we heard it all, we hear it from the other side of the aisle, that we are just taking care of our rich friends with tax relief. Well, you know, I have been through this litany. What am I doing here for the rich? A $500 per child tax credit that would benefit 29 million families; a capital gains tax credit that will create 6.1 million jobs; relief from the marriage penalty that would allow 23 million taxpayers to receive $8 billion in tax relief; an adoption credit that would have allowed parents to claim a $5,000 annual tax credit for up to five years in order to help with their child adoption expenses; or how about an elderly care deduction that would allow 1 million taxpayers a $1,000 deduction for the care of a parent or family member?

Mr. Speaker, now maybe for some of those union bosses that live high on the hog here in Washington, DC, that do not understand what the working families back in each of our districts have to face, this is what I voted for and what we proposed is for working families across this nation, and I do not know about any rich people.

Mr. KINGSTON. The gentlewoman had mentioned also about some of the putting common sense into some of the environmental laws. One of the things that happened in California that we know of, Riverdale, California, the endangered kangaroo rat. Now, you know, my view is I do not want to lose a species. I am committed to the Endangered Species Act. Riverdale, CA had kangaroo rat, and the EPA would not let them cut fire breaks in the residential area because it would endanger the habitat of the kangaroo rat. So what happened? A fire came and it destroyed 30 homes.

But in addition to that, it also destroyed 25,000 acres of kangaroo rat habitat. So we have got lose-lose policy for both the private property owner and the kangaroo rat. We see this kind of impracticality over and over again. In fact, I think it was in Arizona, may have been New Mexico, where the Boy Scout was lost last year in a wilderness area.

They discovered him I think 48 hours later, and the Park Service would not let a helicopter land there because it was a motorized vehicle. And under the Wilderness Act, you cannot have any sort of motorized vehicle in the park area. So here is this kid 14 years old, 12 years old, I am not sure of the age, and he is hungry, he is starving, he has been sleeping on rocks, and the helicopter comes and it won't rescue him. You know, it is just out of balance.

The other thing is, the decision to dig fire breaks in Riverdale, California, or to rescue a 14-year-old in a western State does not need to be made out of Washington by a Washington bureaucrat. I think that the Park Service people and the local county commissioners and the residents can probably figure it out, keep it in Federal guidelines. They can solve their own problem without Washington bureaucrats.

Mrs. SEASTRAND. Well, if the gentleman would yield, I think a lot of the bureaucrats that work here in Washington, DC have never been to our districts. Unless they read National Geographic, they have never come to the middle kingdom of California to see the Monterey Bay Sanctuary or the Channel Island Sanctuary. So what do they do? They do regulations that one size fits all, and it does not fit our particular needs at the local level.

Mr. Speaker, every one of us wants clean water, a better environment. After all, we are going to leave this place and I hope to leave it in a better way for my children and my grandchildren than I found it. But it is interesting, another area that when we are dealing with the environment is to look at the Superfund. And the folks back home say, hey, my tax dollars are going and where are the Superfund sites being cleaned up? And what do we find out? We are spending it on bureaucrats in Washington, DC, who are attorneys and using those dollars to litigate, litigate, litigate. In the meantime, the sites remain dirty. And we want to cut through that so we can take those precious tax dollars, put them into the sites, clean them up and get on with the business of the day at hand.

Mr. HAYWORTH. If the gentlewoman would yield, indeed the current Superfund legislation, in stark contrast to the genuine reforms the new majority would propagate, which we advocate, the current Superfund legislation could well be renamed the special interest and lawyer subsidy act with an incidental tip of the cap to the environment to camouflage its true purpose. I mean that is a long title, but that is in essence what has transpired here. Come to think of it, may not be entirely grammatically correct. I would bow to my friend who taught the fourth grade so capably for many years in that regard.

But regardless of the fractured syntax, it does not take away from the validity of the observation of the gentleman from Georgia.

Mr. Speaker, I can recall on another occasion just prior to our recent recess when we returned home to the districts, where I came to this floor along with the gentleman from Georgia, a gentleman from Maryland, a gentleman from Michigan. No, we do not agree on every jot and tittle of what should transpire with meaningful reform to conservation and environmental legislation, and yet there were some common themes. One just rearticulated by the gentleman from Georgia dealing with the notion of local control and State control now being perhaps the most capable way to address many of these problems.

Indeed, I do not believe anyone would argue of the necessity of the action taken in the early 1970's in the Nixon administration to create an Environmental Protection Agency. The question now becomes, however, with 50 States with their own departments of environmental qualities, in other words, 50 State-run EPA's, in effect, a legitimate question can be asked, should everything be centered in Washington? Indeed, the gentlewoman from California referred to one of the main problems, and let me pause here so no one will misunderstand. I do not discredit the millions of hard-working people who are in the employ of the Federal Government. I realize many of them work hard to do the jobs they are given. But sometimes those jobs are ill defined, or worse, the dynamics or the situation into which these employees are thrust leads to impracticalities, such as the notion of being deskbound instead of in the field looking at problems.

On an occasion which we were discussing Indian housing, and there are

VOL
142
PT
6
AP
15
—
24
1996
UMI

more native Americans living on reservations in the Sixth District of Arizona than anywhere else in the continental United States, one of my constituents offered the story. There was a body of water on the reservation land in that district that the people had come to call Twelve Mile Lake.

□ 2230

Well, there was some contentious debate with an EPA administrator, I believe from San Francisco so the story goes, according to my constituent. And during many telephone conversations, the EPA official in San Francisco behind a desk was adamant, certainly there must be significant wetlands protection for that body of water known as Twelve Mile Lake. The tribal administration, my friend who recounted the story, said, sir, you don't understand, it is not a significant body of water, it is a tiny body of water. It is akin to a mud puddle. Oh, certainly you exaggerate, said the EPA official. There must be these safeguards.

Well, miracle of miracles, the U.S. official, the San Francisco bureaucrat, left that beautiful city by the bay and traveled to the reservation land, and the tribal officials took him to what in essence was a mud puddle. My constituent said, evoking images of Madison Avenue, it made for a Kodak moment to see the expression of stupefaction that crossed the bureaucrat's face. He said something to the effect of, you're right, it is a mud puddle. Why do you call it Twelve Mile Lake? And the tribal official said, well, you see, sir, that's what we've been trying to tell you. The reason this particular small body of water is called Twelve Mile Lake is not because of its dimensions but because, you see, it is 12 miles from the center of town to this particular body of water.

And I think the story speaks volumes, and I daresay a disturbing tendency would be the overzealousness to abandon the context of what is reasonable to have almost the unbelievable advocacy of saying that mud puddle should be equated with a navigable water and should be a wetland that is protected. And that is the next course of action that has been taken on many different fronts. What should always undergird our mission in this Congress is a standard test of the law of Western civilization. What is reasonable? What would a reasonable person do?

Mr. KINGSTON. Our friend Frank Luntz uses this illustration. Do you know that the State of Indiana does not participate in daylight savings time? They do not spring forward and fall backward.

Mr. HAYWORTH. If you would yield for a second, let me also say the great State of Arizona does not subscribe to savings time either.

Mr. KINGSTON. Did you know that Indiana did not? I did not know that of Arizona. Did you know that?

Mrs. SEASTRAND. Yes, I did.

Mr. KINGSTON. You two are exceptionally brilliant. Four hundred thirty-five Members, I can almost promise you that 90 percent of us do not know that. But don't you think that is relevant to the people in Arizona and Indiana, that they do not spring forward and fall backward on their time? And don't you think that would be relevant for a business doing commerce in either of those two States, or a visitor or a government?

And isn't it ironic that I can vote, as can any other Member of Congress on things affecting the people of Arizona and Indiana, and not even know such a fundamental thing about their culture? And yet we do it routinely, just like you talked about with the Twelve Mile Lake.

The bureaucrat in Washington can set the rule, having no idea that the lake is not 12 miles wide, simply that, and not knowing that it is just simply 12 miles from town. But they are experts on everything, and they are from the government and they are here to help and they are going to tell you how to run your town and your State.

Mrs. SEASTRAND. It was interesting, I have just been appointed to the Speaker's Environmental Task Force. I am serving on the steering committee. And during the recess, I naturally organized a task force for my two countries of my district and invited, as a jumping off period, a first meeting, some 28 people from different agencies and local groups that are active within the environment. And when you start thinking about this, this is vast. We can have a lot of great discussions, and I am looking forward to our monthly meetings.

But it was interesting at that first meeting, an attorney who makes his living on litigation said, I hate to say this because I make my living this way, but I deal every day trying to make sense of the regulations from Washington, DC. And because some of these laws were written some 20, 25 years ago, technology is advanced, science knows so much more, and we need to look at science, we need to look at the technology today and reform and change some of these laws. Not throw them out, but let us change what can fit 1996 for a better way, a better environment.

It was interesting, one of the Federal agencies' representatives said, you know, in my job I have a standard, and I have the State official from the agency following me right behind, and we are doing the same work. In other words, repetition. The taxpayer is not getting good use of people sharing resources.

Another gentleman said from one of the other Federal agencies, you know, I would do anything to be able to have a local advisory group to give me input as to what they feel about situations that affect what I am doing here. So it was interesting, in that short 1-hour beginning meeting of a task force, I was able to learn and get from other people that have to deal in this area every day, their feelings of what we have talked about in this new Congress with this new attitude.

We want to give incentives to people, not penalize them so if they find an endangered species on their property, they are worried about it and they do not want to tell anybody. I want them to be able to tell a government official about it, so that they can get an incentive and figure out how they are going to continue having the endangered species on their property and still have property rights to see that they can utilize that land.

So it is interesting. We have a long way to go. It will be an exciting time to be part of the environmental task force so that we can come together and discuss the policy for the 21st century.

Mr. KINGSTON. Now, one of the things I hear, and you mentioned earlier on the Superfund, is that Superfund is 15 years old. We have spent $25 billion on it and yet we have only cleaned up 12 percent of the national priority polluted sites.

Mr. HAYWORTH. Would you yield just a second? I want you to repeat the amount of money spent on this over 12 years, over 15 years.

Mr. KINGSTON. Over 15 years we have spent $25 billion on environmental cleanup and only cleaned up 12 percent of the sites.

Mrs. SEASTRAND. And may I add, if the gentleman would yield, I want to add this statistic. The Justice Department spent over 800,000 man-hours just on Superfund litigation between 1990 and 1992. That is a lot of hours.

Mr. KINGSTON. I understand that translates to about 43 cents on the dollar going to the cost of litigation. Now, it does not matter where you are on the environmental debate, we all should come together and say this is broken and we need to fix it.

Mr. HAYWORTH. And if the gentleman would yield, numerous examples from the great Grand Canyon State of Arizona, one in particular from a couple of years ago, bears out what I talked about in an abbreviated fashion this morning in responding to my good friend from Georgia on this floor, and what we have talked about tonight, and indeed what is one of the basic tenets of this new practical, realistic, common sense majority, and that is one size does not fit all.

Phoenix is not the same as Philadelphia, nor is Flagstaff the same as Fargo, ND. And, indeed, something that transpired 2 years ago in the desert City of Tucson, Arizona, offers a stirring example.

There was a violent windstorm in the desert. Those wind storms blow up great dust devils, great amounts of

dust in the air. Visibility is poor. There was a car crash on Interstate 10, one of those long 20-car tangos, if you will. But also, even as that was transpiring on the interstate, moving through Tucson, Arizona, technical data collection, equipment provided by the Federal Government to monitor the Clean Air Act, showed that at the same time Tucson was technically in violation of the provisions of the Clean Air Act.

Now, the particulates in the air on that day did not come from the cars involved in the accident on the interstate, it came from the particulates in the air. When you live in a desert and a windstorm blows up, there will be more particulates in the air; ergo, Tucson is not the same a Tacoma. Different places, different areas of this Nation, different climatic conditions offer different challenges.

And, yes, while there are some technologies that are common, certainly the circumstances of those respective areas should be taken into account, not for Washington standards but for local standards that are realistic, reasonable and move to protect the environment.

Mr. KINGSTON. And with the Federal presence, guidance, and oversight, but not necessarily Washington bureaucratic micromanagement.

Now, I think probably the biggest failure of the Washington bureaucracy to manage a problem is local poverty control. You know, the folks on welfare in Savannah, GA, have to do what the bureaucrats tell them to do in Washington, and it is the same bureaucrats telling your folks in California what to do, and the people in California in Mrs. SEASTRAND's district have to do what the folks in Arizona in your district do, and you have one Washington bureaucracy command controlling poverty. As a result, since 1964 we have spent $5 trillion on poverty. The poverty rate then was 14 percent, and the poverty rate now is 14 percent. It has not worked. We need local control and flexibility.

You know what? I cannot solve Mrs. SEASTRAND's poverty problem, and I cannot solve Mr. HAYWORTH's, and maybe I cannot solve mine. But you know what? I can do a heck of a lot better job on mine than I can on yours. Just give me the tools and I think I can do it.

That is one reason why you want State block grants. Cut out the poverty brokers and put the control in the hands of the local people.

Mrs. SEASTRAND. If the gentleman would yield. I had a firsthand experience in what you are saying. I served in the State assembly in California. And so often the folks back here in Washington, DC, in this House, would vote a particular bill, legislation, change the law, and then it would come down to us and they would hold the hammer over our head. If you do not follow these rules the way we want you to do it, we are going to hold back on transportation funds or welfare funds or whatever.

And we knew that we could do it a better way; that we here in California perhaps did not match what you needed to do for your folks in Savannah, GA, or the people in Arizona. And that was day in, day out that we were constantly told if we did not adhere to the new mandates from the Federal Government they would hold back something from us.

So many times I would vote no to just protest, and then most of the folks, though, would vote yes and we would receive another mandate from the Federal Government that many times did not make sense to us at the State level.

Mr. HAYWORTH. And if the gentlewoman would yield, it is worth noting that one of the genuine reforms and one of the few times in which the gentleman at the other end of Pennsylvania Avenue in the big white house was willing to work with us was on this notion of unfunded mandates, where Washington bureaucrats decreed to local government officials you will do it this way.

The frustration of that system has led the mayor of Winslow, AZ, to coin a new phrase. He calls it the idiocracy. The idiocracy which would mandate an action being taken without taking into account the realistic, common sense, reasonable notions of the good people who live right there in the area and also want to redress the problem but on their own terms, reflecting their own priorities, with no less of a commitment to solving that problem. That is what we must remember.

Mrs. SEASTRAND. If the gentleman would yield. I know our time is coming to a close, but I would just say that all of Americans across this Nation I think have to be reminded that so many of them voted for a change in 1994 and that change has begun, but it is not going to be completed in such a short time. We have to chip away at so much that has been built after 40 years and we have to keep driving for that change.

You know, I am pleased, being from California, that we have seen, in passing legislation off this floor regarding immigration reform, we talked about lowering taxes, and we talked about earlier the line item veto and returning government decisions to state and local levels and to continue our push for a balanced budget. But we have to continue to do that. And I just would say that what we have seen happen here, there are forces that do not like what we have accomplished.

□ 2245

They are going to try their very best to more or less take some of us out in this next election so that they can take back that old status quo of big bureaucratic Washington-controlled government. I just am going to fight it, as I know you gentlemen will, too.

Mr. HAYWORTH. I would close with an observation by one of my constituents in the Navajo Nation, having spent Sunday in Window Rock, Arizona. A lady told the story of a young homemaker in a Navajo household cutting off a substantial portion of a hand. Kids asked her why. She said, I do not know; mom did it. So she went to great-grandma and she said, why did you cut off a major part of your hand. She said, well, it used to be a smaller pot and so I had to cut that off to make it fit in the pot, an example of a tradition for tradition's sake that defied common sense and needed to be changed, in much the same way we need to make changes here. Not because Washington said so, but because technology and the people living in those areas are willing to make the changes of their own volition. History does not occur in a vacuum and history is on the side of freedom.

Mr. KINGSTON. Mr. Speaker, let me conclude with this. Last week a teacher in Darien, Georgia told me that in an 8-hour day she spends two to three hours filling our paperwork, about 50 percent of it is for the Federal Government. That is 10 to 15 hours a week that is not spent teaching Johnny how to read, write, and do arithmetic. She can teach her children better than the bureaucrats who are making her fill out the paperwork in Washington.

What we are asking with that and all these other examples, let the local people do what they know how to do best and let the Washington bureaucrats stop the micromanagement, return freedom to the people and increase personal responsibility along the way.

I thank Mrs. SEASTRAND of California and Mr. HAYWORTH of Arizona for being with me tonight.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. GEPHARDT, for 5 minutes, today.

(The following Members (at the request of Mr. BLUTE) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. FRANKS of Connecticut, for 5 minutes, today.

Mr. MANZULLO, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. DORNAN, for 5 minutes, today.

Mr. DIAZ-BALART, for 5 minutes, on April 17.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WATT of North Carolina, for 5 minutes, today.

(Mr. FOX of Pennsylvania (at his own request), for 5 minutes, today.)

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) and to include extraneous matter:)

Ms. NORTON.
Ms. PELOSI.
Mr. RICHARDSON, in two instances.
Mr. LEVIN.
Mr. STARK.
Mr. VISCLOSKY.
Mr. MILLER of California.
Mr. ACKERMAN.
Mr. VENTO.
Mr. STOKES.

(The following Members (at the request of Mr. BLUTE) and to include extraneous matter:)

Mr. WATTS of Oklahoma, in two instances.
Mr. CAMP.
Mr. BURTON of Indiana.
Mr. BILIRAKIS.
Mr. EWING.
Mr. TORKILDSEN, in two instances.
Mr. KING.

(The following Members (at the request of Mr. GRAHAM) and to include extraneous matter:)

Mr. MARTINI.
Mrs. ROUKEMA.
Mr. VENTO.
Mr. LATOURETTE.
Mr. BURTON of Indiana.
Mr. KING in two instances.
Mr. SOLOMON.
Mr. TIAHRT.
Mr. KANJORSKI.
Mr. LANTOS.
Mr. SHUSTER.
Mr. MASCARA.
Mrs. MEEK of Florida.
Mr. ORTON.
Mr. POSHARD.
Mr. STOKES.
Mr. WARD.
Mr. OBEY.
Ms. ROS-LEHTINEN.
Mr. SMITH of Michigan.
Mr. HASTERT.
Mr. DEUTSCH.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following title:

On March 20, 1996:

H.J. Res. 78. Joint resolution to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.

On March 28, 1996:

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the 104th Congress.

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

On March 29, 1996:

H.R. 3136. An act to provide for enactment of the Senior Citizen's Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

On April 3, 1996:

H.R. 2854. An act to modify the operation of certain agricultural programs.

On April 5, 1996:

H.R. 1833. An act to amend title 18, United States Code, to ban partial-birth abortions.

H.R. 1561. An act to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for U.S. foreign assistance programs for fiscal years 1996 and 1997, and for other purposes.

ADJOURNMENT

Mr. KINGSTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 47 minutes p.m.) the House adjourned until tomorrow, Wednesday, April 17, 1996, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2378. A letter from the Assistant Secretary of Defense, transmitting the Department's report on automated information systems of DOD, pursuant to Public Law 104–106, section 366(c)(1) (110 Stat. 276); to the Committee on National Security.

2379. A letter from the Deputy Secretary of Defense, transmitting three reports pursuant to the National Defense Authorization Act for fiscal year 1996, the report are as follows: "Improving the Combat Edge Through Outsourcing," in response to section 357; "Policy Regarding Performance of Depot-Level Maintenance and Repair," in response to section 311(c); and "Depot-Level Maintenance and Repair Workload," in response to section 311(i); to the Committee on National Security.

2380. A letter from the Secretary of Defense, transmitting the Department's report to the Congress entitled "Nonlethal Weapons," pursuant to Public Law 104–106, section 219(c) (110 Stat. 223); to the Committee on National Security.

2381. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Indonesia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

2382. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the 1994 report required by section 918 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, pursuant to 12 U.S.C. 1833; to the Committee on Banking and Financial Services.

2383. A letter from the Chairman, Federal Deposit Insurance Corporation, transmittng the 1995 report required by section 918 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, pursuant to 12 U.S.C. 1833; to the Committee on Banking and Financial Services.

2384. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting the Board's report on finance charges under the Truth in Lending Act, pursuant to section 2(f) of the Truth in Lending Act Amendments of 1995; to the Committee on Banking and Financial Services.

2385. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 2969, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

2386. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 2854, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

2387. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 3136 and H.R. 1266, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

2388. A letter from the Secretary, Nuclear Regulatory Commission, transmitting the Commission's major rule—revision of fee schedules; 100 percent fee recovery, fiscal year 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2389. A letter from the Secretary of Health and Human Services, transmitting the Department's annual report entitled "Public Housing Primary Care Program," pursuant to section 340A of the Public Health Service Act; to the Committee on Commerce.

2390. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 96–20: Suspending Restrictions on United States Relations with the Palestine Liberation Organization, pursuant to Public Law 104–107, section 604(b)(1) (110 Stat. 756); to the Committee on International Relations.

2391. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's report entitled "Assistance Related to International Terrorism Provided by the U.S. Government to Foreign Countries," pursuant to 22 U.S.C. 2349aa–7(b); to the Committee on International Relations.

2392. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–216, "Early Intervention Services Sliding Fee Scale Establishment Temporary Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2393. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–240, "Health Services Planning and Certificate of Need Program Temporary Amendment Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2394. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–242, "Business Improvement Districts Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2395. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–243, "Public Charter Schools Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2396. A letter from the U.S. Commissioner, Delaware River Basin Commission, transmitting the Commission's report in compliance with the Inspector General Act of 1978, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

2397. A letter from the Chairman, Farm Credit Administration, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2398. A letter from the Chairman, Farm Credit Administration, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2399. A letter from the Acting Administrator, General Services Administration, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2400. A letter from the Executive Director, Japan-United States Friendship Commission, transmitting the 1995 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100–504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

2401. A letter from the U.S. Commissioner, Susquehanna River Basin Commission, transmitting the Commission's report in compliance with the Inspector General Act of 1978, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

2402. A letter from the Administrator, Federal Aviation Administration, transmitting the Administration's list of the foreign aviation authorities to which the Administrator provided services in the preceding fiscal year, pursuant to Public Law 103–305, section 202 (108 Stat. 1582); to the Committee on Transportation and Infrastructure.

2403. A letter from the Secretary of Transportation, transmitting the Department's second annual report on the activities of the Department regarding the guarantee of obligations issued to finance the construction, reconstruction, or reconditioning of eligible export vessels, pursuant to section 1111(b)(4) of the Merchant Marine Act of 1936, as amended; to the Committee on Transportation and Infrastructure.

2404. A letter from the Secretary of Veterans Affairs, transmitting the Department's report on the evaluation of health status of spouses and children of Persian Gulf war veterans, pursuant to 38 U.S.C. 1117 note; to the Committee on Veterans' Affairs.

2405. A letter from the Chief of Staff, Social Security Administration, transmitting the Administration's final rules on statement of earnings and benefit estimates (RIN 0960–AD74), pursuant to 5 U.S.C. 801a); to the Committee on Ways and Means.

2406. A letter from the Secretary of Health and Human Services, transmitting notification that the Department is allotting to States, the District of Columbia, Indian tribes, and territories emergency funds made available under section 2602(e), of the Low—Income Home Energy Assistance Act of 1981, pursuant to 42 U.S.C. 8623(g); jointly, to the Committees on Commerce and Economic and Educational Opportunities.

2407. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 96–19: Determination Pursuant to Section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107), pursuant to Public Law 104–107, section 523 (110 Stat. 729); jointly, to the Committees on International Relations and Appropriations.

2408. A letter from the President, U.S. Institute of Peace, transmitting a report of the audit of the Institute's accounts for fiscal year 1995, pursuant to 22 U.S.C. 4607(h); jointly, to the Committees on International Relations and Economic and Educational Opportunities.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GILMAN: Committee on International Relations. H.R. 3121. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes (Rept. 104–519 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MEYERS: Committee on Small Business. H.R. 2715. A bill to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies; with an amendment (Rept. 104–520 Pt. 1). Ordered to be printed.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1965. A bill to reauthorize the Coastal Zone Management Act of 1972, and for other purposes; with an amendment (Rept. 104–521). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on Rules discharged from further consideration. H.R. 3121 referred to the Committee of the Whole House on the State of the Union.

BILLS PLACED ON THE CORRECTIONS CALENDAR

Under clause 4 of rule XIII, the Speaker filed with the Clerk a notice requesting that the following bills be placed upon the Corrections Calendar:

H.R. 3049, a bill to amend section 1505 of the Higher Education Act of 1965 to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

H.R. 3055, a bill to amend section 326 of the Higher Education Act of 1965 to permit continued participation by Historically Black Graduate Professional Schools in the grant program authorized by that section.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 3121. Referral to the Committee on Rules extended for a period ending not later than April 16, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EVERETT (for himself and Mr. EVANS):

H.R. 3248. A bill to amend title 38, United States Code, to revise and improve certain veterans programs and benefits, to authorize the American Battle Monuments Commission to enter into arrangements for the repair and long-term maintenance of war memorials for which the Commission assumes responsibility, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ABERCROMBIE (for himself and Mr. WICKER):

H.R. 3249. A bill to authorize appropriations for a mining institute to develop domestic technological capabilities for the recovery of minerals from the Nation's seabed, and for other purposes; to the Committee on Resources.

By Mr. BEREUTER (for himself, for Mr. FORD, Ms. LOFGREN, Mr. MCINTOSH, Mr. PICKETT, Mr. DELLUMS, Ms. WOOLSEY, Mr. STARK, Mr. FAZIO of California, Mr. COSTELLO, Mrs. MEYERS of Kansas, Mr. EHLERS, Mr. SCHAEFER, Mr. MOLLOHAN, Mr. LEACH, Mr. GILCHREST, Mr. BOEHLERT, Mr. CASTLE, Mr. CLAY, Mr. VENTO, Mr. SKELTON, Mr. EVANS, Mrs. MORELLA, Mr. RAHALL, Mr. SKAGGS, Ms. MCCARTHY, Mr. HEFLEY, Mr. WELLER, Mrs. VUCANOVICH, Mr. BUNNING of Kentucky, Mr. BAKER of California, Mr. BEILENSON, Ms. NORTON, Mr. HASTINGS of Florida, Mr. HAMILTON, Mr. FROST, Mr. WAXMAN, Mr. BARRETT of Nebraska, Mr. ORTON, Mr. NEY, Mr. LANTOS, Mr. FAWELL, and Mr. MILLER of California):

H.R. 3250. A bill to amend the National Trails System Act to create a new category of long-distance trails to be known as National Discovery Trails, to authorize the American Discovery Trail as the first national trail in that category, and for other purposes; to the Committee on Resources.

VOL
142
PT
6
AP
15
—
24
1996
UMI

By Mr. LIGHTFOOT (for himself, Mr. Leach, Mr. Nussle, Mr. Ganske, and Mr. Latham):

H.R. 3251. A bill to amend the Internal Revenue Code of 1986 to expand the applicability of the first-time farmer exception; to the Committee on Ways and Means.

By Ms. McKINNEY:

H.R. 3252. A bill to amend the Internal Revenue Code of 1986 to discourage American businesses from moving jobs overseas and to encourage the creation of new jobs in the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. PARKER (for himself, Mr. Wicker, Mr. Taylor of Mississippi, Mr. Thompson, Mr. Edwards, Mr. Cooley, Mr. Everett, Mr. Doyle, Mr. Hutchinson, Mr. Clement, Mr. Smith of New Jersey, Mr. Evans, Mr. Mascara, Ms. Brown of Florida, Mr. Filner, Mr. Kennedy of Massachusetts, Mr. Tejeda, Ms. Waters, Mr. Ney, Mr. Clyburn, and Mr. Emerson):

H.R. 3253. A bill to name the Department of Veterans Affairs medical center in Jackson, MS, as the "G.V. (Sonny) Montgomery Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

By Mr. QUILLEN:

H.R. 3254. A bill to suspend until January 1, 1998, the duty on Fybrel [SWP]; to the Committee on Ways and Means.

H.R. 3255. A bill to amend the Harmonized Tariff Schedule of the United States to correct the tariff treatment of certain iron and steel pipe and tube products; to the Committee on Ways and Means.

By Mr. ROBERTS:

H.R. 3256. A bill to establish the Nicodemus National Historic Site in Kansas, and for other purposes; to the Committee on Resources.

By Mr. ZIMMER (for himself and Mr. Frelinghuysen):

H.R. 3257. A bill to develop model curricula appropriate for elementary and secondary students; to the Committee on Economic and Educational Opportunities.

By Mr. MILLER of California:

H. Con. Res. 162. Concurrent resolution recommending the entities which were instrumental in developing the "Friday Night Live" and "Club Live" programs and which have created, are operating, and are working to expand the "Rotary Life Club" program; to the Committee on Economic and Educational Opportunities.

By Mr. ARCHER:

H. Res. 402. Resolution returning to the Senate the bill S. 1463; considered and agreed to.

By Mr. GEPHARDT:

H. Res. 403. Resolution in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia; to the Committee on Commerce.

By Mrs. MEEK of Florida:

H. Res. 404. Resolution in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 99: Ms. Woolsey.
H.R. 118: Mr. Salmon.
H.R. 188: Mr. Sanders.
H.R. 248: Mr. Upton.
H.R. 491: Mr. Taylor of Mississippi, Mr. Stockman, Mr. Peterson of Minnesota, Mr. Deal of Georgia, Mr. Funderburk, Mr. Greenwood, and Mr. Hall of Texas.
H.R. 822: Mr. Salmon.
H.R. 833: Mr. Barrett of Wisconsin and Mr. Gunderson.
H.R. 1110: Mr. Salmon.
H.R. 1462: Mr. Payne of New Jersey.
H.R. 1483: Mr. Minge, Mr. Watts of Oklahoma, Mr. Andrews, and Mr. Stearns.
H.R. 1757: Mrs. Thurman.
H.R. 1776: Mr. Regula, Mr. Barcia of Michigan, Mr. Lantos, Ms. Lofgren, Mr. Oberstar, Mr. Clay, and Mr. Schumer.
H.R. 1791: Mr. Olver.
H.R. 1797: Mrs. Meek of Florida, Mr. Foglietta, Mr. Fox, Ms. Waters, Mr. Frost, Ms. Norton, and Mr. Deutsch.
H.R. 1819: Mr. Gephardt.
H.R. 1856: Mr. Radanovich.
H.R. 2011: Ms. Jackson-Lee, Mr. Becerra, and Mr. Dingell.
H.R. 2270: Mr. Hutchinson.
H.R. 2272: Mr. Bonior and Mr. Brown of California.
H.R. 2306: Mr. Kildee and Mr. Wise.
H.R. 2391: Mr. Stenholm.
H.R. 2508: Mrs. Meyers of Kansas.
H.R. 2531: Mr. Whitfield.
H.R. 2566: Mr. Kennedy of Massachusetts and Mr. Richardson.
H.R. 2740: Mr. Gekas.
H.R. 2741: Mrs. Fowler, Mr. Hobson, and Mr. Royce.
H.R. 2746: Mr. Reed, Mr. Smith of New Jersey, Mr. Pombo, Mr. Dellums, Mr. Oberstar, Mr. Underwood, Mr. Lantos, Mr. Abercrombie, Mr. Brown of Ohio, Ms. Norton, Mr. Frank of Massachusetts, Ms. Slaughter, Mr. Conyers, Mr. Hall of Ohio, Mr. Manton, Mr. Romero-Barcelo, and Ms. Furse.
H.R. 2777: Mr. Scott.
H.R. 2798: Mr. Luther and Mr. Pombo.
H.R. 2834: Mr. Andrews.
H.R. 2900: Ms. Furse, Mr. Cox, Mr. Parker, Mr. Wynn, Mr. Ganske, Mr. Browder, Mr. Neumann, and Mr. Pallone.
H.R. 2925: Mr. Forbes, Mr. Chrysler, Mr. Wamp, Mr. Castle, Mr. Callahan, Mr. Tejeda, Mr. McKeon, Mr. Lazio of New York, and Mr. Montgomery.
H.R. 2943: Mr. Obey, Mr. Emerson, Mr. Romero-Barcelo, and Mr. Shays.
H.R. 3059: Mr. Olver, and Mrs. Thurman.
H.R. 3084: Mr. Ackerman, Mr. Frost, Mr. Dornan, and Mr. Tejeda.
H.R. 3108: Mr. Frost.
H.R. 3114: Mr. Engel, Ms. Norton, Mr. Barrett of Nebraska, and Mr. Ballenger.
H.R. 3161: Mr. Houghton.
H.R. 3170: Mr. Torricelli and Mr. Manton.
H.R. 3180: Mr. Chapman, Mr. Foglietta, Mr. Green of Texas, Mrs. Maloney, and Mr. Deutsch.
H.R. 3201: Mr. Rose, Mr. Myers of Indiana, and Mr. Pete Geren of Texas.
H.R. 3217: Mr. Pallone, Mr. Hinchey, Mr. Vento, Mr. Cardin, and Mr. Farr.
H.R. 3236: Mr. Johnson of South Dakota, Mr. Peterson of Minnesota, Mr. Stenholm, Mr. Hilliard, Mrs. Clayton, Mr. Holden, Mr. Baldacci, and Mr. Pomeroy.
H. Con. Res. 47: Mr. Hamilton.
H. Con. Res. 50: Ms. Norton.
H. Con. Res. 103: Mr. Engel, Ms. Molinari, Mr. Miller of California, and Mr. Torricelli.
H. Con. Res. 156: Mr. Hilliard, Mrs. Clayton, Mr. Frost, Mr. McDermott, Mr. Frazer, Ms. Pelosi, Mrs. Maloney, Mrs. Meek of Florida, Mr. Owens, Mr. Payne of New Jersey, Mr. Foglietta, Mr. Fox, Mr. Green of Texas, Ms. Waters, Mr. Romero-Barceló, Mr. Faleomavaega, Ms. Norton, and Mr. Filner.
H. Con. Res. 160: Mr. Campbell and Mr. Johnston of Florida.
H. Res. 282: Mrs. Lowey, Mr. Smith of New Jersey, Mr. Yates, and Mr. Levin.
H. Res. 316: Mr. Lazio of New York and Mr. Zimmer.
H. Res. 381: Mr. Levin, Mr. Stark, Mr. Bryant of Texas, Mr. Lipinski, Mr. Romero-Barceló, and Mr. Manton.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 789: Mr. Durbin.
H.R. 1202: Mr. Shaw.
H.R. 1963: Mr. Shays.
H.R. 1972: Mr. Quinn.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 842

Offered By: Mr. Minge

Amendment No. 1: On page 3, line 10 insert "(a) In General.—Except as provided in subsection (b)" before "Notwithstanding"

On page 4, after line 14 insert the following:

"(b) Prohibition on Funding Transportation Projects From General Revenue.—Subsection (a) shall no longer be effective after the last day of a fiscal year in which any amounts were made available from the general fund of the Treasury of the United States for construction, rehabilitation and maintenance of highways or grants-in-aid for airports or for aviation-related facilities, equipment, research and engineering as determined by the Director of the Office of Management and Budget."

H.R. 842

Offered By: Mr. Minge

Amendment No. 2: Page 3, line 10, insert "(a) In General.—" before "Notwithstanding".

Page 4, after line 14, insert the following:

(b) Prohibition on Earmarking of Highway Trust Fund Amounts.—Subsection (a) shall no longer apply with respect to the Highway Trust Fund after the last day of any fiscal year in which amounts are made available for obligation from the Highway Trust Fund for any highway construction project or activity that is specifically designated in a Federal law, a report of a committee accompanying a bill enacted into law, or a joint explanatory statement of conferees accompanying a conference report, as determined by the Director of the Office of Management and Budget.

H.R. 842

Offered By: Mr. Minge

Amendment No. 3: Page 3, line 10, insert "(a) In General.—" before "Notwithstanding".

Page 4, after line 14, insert the following:

(b) Prohibition on Earmarking of Highway Trust Fund Amounts.—Subsection (a) shall no longer apply with respect to the

Highway Trust Fund after the last day of any fiscal year in which amounts are made available for obligation from the Highway Trust Fund for any construction project or activity that is specifically designated in a Federal law, a report of a committee accompanying a bill enacted into law, or a joint explanatory statement of conferees accompanying a conference report, as determined by the Director of the Office of Management and Budget.

H.R. 842

Offered By: Mr. Obey

Amendment No. 4: Page 3, line 10, strike "Notwithstanding" and insert "(a) In General.—Except as provided by subsection (b) and notwithstanding", and page 4, after line 14, insert the following new subsection:

(b) Exception.—If, for any fiscal year, the disbursements from any fund described in subsection (a) exceed receipts dedicated to that fund, the provisions of subsection (a) shall not apply to that excess of disbursements over receipts.

H.R. 842

Offered By: Mr. Royce

Amendment No. 5: Page 3, line 10, insert "(a) In General.—" before "Notwithstanding".

Page 4, after line 14, insert the following:

(b) Prohibition on Earmarking of Highway Trust Fund Amounts.—Subsection (a) shall no longer apply with respect to the Highway Trust Fund after the last day of any fiscal year in which amounts are made available for obligation from the Highway Trust Fund for any highway construction project or activity that is specifically designated in a Federal law, a report of a committee accompanying a bill enacted into law, or a joint explanatory statement of conferees accompanying a conference report, as determined by the Director of the Office of Management and Budget.

H.R. 842

Offered By: Mr. Sabo

Amendment No. 6: Page 3, line 10, strike "Notwithstanding" and insert "(a) In General.—Except as provided by subsection (b) and notwithstanding", and page 4, after line 14, insert the following new subsection:

(b) Exception.—(1) If, for any fiscal year, the disbursements from any fund described in subsection (a) would exceed the balance in that fund (as adjusted pursuant to paragraph (2)), the provisions of subsection (a) shall not apply to those excess disbursements.

(2) In applying this subsection, the balances otherwise available in a trust fund shall be reduced by the amount (if any) by which interest to be credited to that fund during a fiscal year would exceed the amount of interest that would be credited if the interest rate paid to the fund did not exceed the average interest rate on 52-week Treasury securities to be sold to the public during the same fiscal year.

H.R. 842

Offered By: Mr. Smith of Michigan

Amendment No. 7: Page 3, lines 10 and 11, strike "the receipts and disbursements of" and insert the following:

the amounts that after the date of the enactment of this Act are received by or disbursed from

H.R. 842

Offered By: Mr. Smith of Michigan

Amendment No. 8: Page 12, after line 22, insert the following:

SEC. 5. APPROPRIATION OF INTEREST EARNINGS OF HIGHWAY TRUST FUND.

(a) Purpose.—It is the purpose of this section to offset the approximately $82,000,000,000 that has been appropriated from the general fund of the Treasury for Federal-aid highway and mass transit construction projects.

(b) Appropriation of Interest Earnings.—On September 30, 1996, there is hereby appropriated from the Highway Trust Fund to the general fund of the Treasury an amount equal to the aggregate amounts of interest credited to the Highway Trust Fund before such date.

Page 13, line 1, strike "5" and insert "6".

H.R. 1675

Offered By: Mr. Young of Alaska

Amendment No. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES.

(a) Short Title.—This Act may be cited as the "National Wildlife Refuge Improvement Act of 1996".

(b) References.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or provision of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

SEC. 2. FINDINGS.

(a) Findings.—The Congress finds the following:

(1) The National Wildlife Refuge System is comprised of over 91,000,000 acres of Federal lands that have been incorporated within 508 individual units located in all 50 States and our territories.

(2) The System was created to conserve fish, wildlife, and other habitats and this conservation mission has been facilitated by providing Americans opportunities to participate in wildlife-dependent recreation, including fishing and hunting, on System lands and to better appreciate the value of and need for fish and wildlife conservation.

(3) The System is comprised of lands purchased not only through the use of tax dollars but also through the sale of Duck Stamps and refuge entrance fees. It is a System paid for by those utilizing it.

(4) On March 25, 1996, the President issued Executive Order 12996 which recognized "wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation as priority general public uses of the Refuge System".

(5) Executive Order 12996 is a positive step in the right direction and will serve as the foundation for the permanent statutory changes made by this Act.

SEC. 3. DEFINITIONS.

(a) In General.—Section 5 (16 U.S.C. 668ee)—

(1) is redesignated as section 4; and

(2) as so redesignated is amended to read as follows:

"SEC. 4. DEFINITIONS.

"For purposes of this Act:

"(1) The term 'compatible use' means a use that will not materially interfere with or detract from the fulfillment of the purposes of a refuge or the purposes of the System specified in section 4(a)(3), as determined by sound resource management, and based on reliable scientific information.

"(2) The terms 'conserving', 'conservation', 'manage', 'managing', and 'management', when used with respect to fish and wildlife, mean to use, in accordance with applicable Federal and State laws, methods and procedures associated with modern scientific resource programs including protection, research, census, law enforcement, habitat management, propagation, live trapping and transplantation, and regulated taking.

"(3) The term 'Coordination Area' means a wildlife management area that is acquired by the Federal Government and subsequently made available to a State—

"(A) by cooperative agreement between the United States Fish and Wildlife Service and the State fish and game agency pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661–666c); or

"(B) by long-term leases or agreements pursuant to the Bankhead-Jones Farm Tenant Act (50 Stat. 525; 7 U.S.C. 1010 et seq.).

"(4) The term 'Director' means the Director of the United States Fish and Wildlife Service.

"(5) The terms 'fish', 'wildlife', and 'fish and wildlife' mean any wild member of the animal kingdom whether alive or dead, and regardless of whether the member was bred, hatched, or born in captivity, including a part, product, egg, or offspring of the member.

"(6) The term 'hunt' and 'hunting' do not include any taking of the American alligator (Alligator mississippiensis) or its eggs.

"(7) The term 'person' means any individual, partnership, corporation or association.

"(8) The term 'plant' means any member of the plant kingdom in a wild, unconfined state, including any plant community, seed, root, or other part of a plant.

"(9) The terms 'purposes of the refuge' and 'purposes of each refuge' mean the purposes specified in or derived from the law, proclamation, executive order, agreement, public land order, donation document, or administrative memorandum establishing, authorizing, or expanding a refuge, refuge unit, or refuge subunit.

"(10) The term 'refuge' means a designated area of land, water, or an interest in land or water within the System, but does not include navigational servitudes, or Coordination Areas.

"(11) The term 'Secretary' means the Secretary of the Interior.

"(12) The terms 'State' and 'United States' mean the several States of the United States, Puerto Rico, American Samoa, the Virgin Islands, Guam, and the insular possessions of the United States.

"(13) The term 'System' means the National Wildlife Refuge System designated under section 4(a)(1).

"(14) The terms 'take', 'taking', or 'taken' mean to pursue, hunt, shoot, capture, collect, or kill, or to attempt to pursue, hunt, shoot, capture, collect, or kill.".

(b) Conforming Amendment.—Section 4 (16 U.S.C. 668dd) is amended by striking "Secretary of the Interior" each place it appears and inserting "Secretary".

SEC. 4. MISSION AND PURPOSES OF THE SYSTEM.

Section 4(a) (16 U.S.C. 668dd(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively;

(2) in clause (i) of paragraph (6) (as so redesignated), by striking "paragraph (2)" and inserting "paragraph (5)"; and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) The overall mission of the System is to conserve and manage fish, wildlife, and plants and their habitats within the System for the benefit of present and future generations of the people of the United States.

"(3) The purposes of the System are—

"(A) to provide a national network of lands and waters designed to conserve and manage fish, wildlife, and plants and their habitats;

VOL
142
PT
6
AP
15
—
24
1996
UMI

"(B) to conserve, manage, and where appropriate restore fish and wildlife populations, plant communities, and refuge habitats within the System;

"(C) to conserve and manage migratory birds, anadromous or interjurisdictional fish species, and marine mammals within the System;

"(D) to provide opportunities for compatible uses of refuges consisting of fish- and wildlife-dependent recreation, including fishing and hunting, wildlife observation, and environmental education;

"(E) to preserve, restore, and recover fish, wildlife, and plants within the System that are listed or are candidates for threatened species or endangered species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) and the habitats on which these species depend; and

"(F) to fulfill as appropriate international treaty obligations of the United States with respect to fish, wildlife, and plants, and their habitats.".

SEC. 5. ADMINISTRATION OF THE SYSTEM.

(a) ADMINISTRATION, GENERALLY.—Section 4(a) (16 U.S.C. 668dd(a)) (as amended by section 3 of this Act) is further amended by inserting after new paragraph (3) the following new paragraph:

"(4) In administering the System, the Secretary shall—

"(A) ensure that the mission and purposes of the System described in paragraphs (2) and (3), respectively, and the purposes of each refuge are carried out, except that if a conflict exists between the purposes of a refuge and any purpose of the System, the conflict shall be resolved in a manner that first protects the purposes of the refuge, and, to the extent practicable, that also achieves the purposes of the System;

"(B) provide for conservation of fish and wildlife and their habitats within the System;

"(C) ensure effective coordination, interaction, and cooperation with owners of land adjoining refuges and the fish and wildlife agency of the States in which the units of the System are located;

"(D) assist in the maintenance of adequate water quantity and water quality to fulfill the purposes of the System and the purposes of each refuge;

"(E) acquire under State law through purchase, exchange, or donation water rights that are needed for refuge purposes;

"(F) plan, propose, and direct appropriate expansion of the System in the manner that is best designed to accomplish the purposes of the System and the purposes of each refuge and to complement efforts of States and other Federal agencies to conserve fish and wildlife and their habitats;

"(G) recognize compatible uses of refuges consisting of wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation as priority general public uses of the System through which the American public can develop an appreciation for fish and wildlife;

"(H) provide expanded opportunities for these priority public uses within the System when they are compatible and consistent with sound principles of fish and wildlife management;

"(I) ensure that such priority public uses receive enhanced attention in planning and management within the System;

"(J) provide increased opportunities for families to experience wildlife-dependent recreation, particularly opportunities for parents and their children to safely engage in traditional outdoor activities, such as fishing and hunting;

"(K) ensure that the biological integrity and environmental health of the System is maintained for the benefit of present and future generations of Americans;

"(L) continue, consistent with existing laws and interagency agreements, authorized or permitted uses of units of the System by other Federal agencies, including those necessary to facilitate military preparedness;

"(M) plan and direct the continued growth of the System in a manner that is best designed to accomplish the mission of the System, to contribute to the conservation of the ecosystems of the United States, and to increase support for the System and participation from conservation partners and the public;

"(N) ensure timely and effective cooperation and collaboration with Federal agencies and State fish and wildlife agencies during the course of acquiring and managing refuges;

"(O) ensure appropriate public involvement opportunities will be provided in conjunction with refuge planning and management activities; and

"(P) identify, prior to acquisition, existing wildlife-dependent compatible uses of new refuge lands that shall be permitted to continue on an interim basis pending completion of comprehensive planning.".

(b) POWERS.—Section 4(b) (16 U.S.C. 668dd(b)) is amended—

(1) in the matter preceding paragraph (1) by striking "authorized—" and inserting "authorized to take the following actions:";

(2) in paragraph (1) by striking "to enter" and inserting "Enter";

(3) in paragraph (2)—

(A) by striking "to accept" and inserting "Accept"; and

(B) by striking ", and" and inserting a period;

(4) in paragraph (3) by striking "to acquire" and inserting "Acquire"; and

(5) by adding at the end the following new paragraph:

"(4) Subject to standards established by and the overall management oversight of the Director, and consistent with standards established by this Act, enter into cooperative agreements with State fish and wildlife agencies and other entities for the management of programs on, or parts of, a refuge.".

SEC. 6. COMPATIBILITY STANDARDS AND PROCEDURES.

Section 4(d) (16 U.S.C. 668dd(d)) is amended by adding at the end the following new paragraph:

"(3)(A)(i) Except as provided in clause (ii), on and after the date that is 3 years after the date of the enactment of the National Wildlife Refuge Improvement Act of 1996, the Secretary shall not initiate or permit a new use of a refuge or expand, renew, or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use.

"(ii) On lands added to the System after the date of the enactment of the National Wildlife Refuge Improvement Act of 1996, any existing fish or wildlife-dependent use of a refuge, including fishing, hunting, wildlife observation, and environmental education, shall be permitted to continue on an interim basis unless the Secretary determines that the use is not a compatible use.

"(iii) The Secretary shall permit fishing and hunting on a refuge if the Secretary determines that the activities are consistent with the principles of sound fish and wildlife management, are compatible uses, and are consistent with public safety. No other determinations or findings, except the determination of consistency with State laws and regulations provided for in subsection (m), are required to be made for fishing and hunting to occur. The Secretary may make the determination referred to in this paragraph for a refuge concurrently with the development of a conservation plan for the refuge under subsection (e).

"(B) Not later than 24 months after the date of the enactment of the National Wildlife Refuge Improvement Act of 1996, the Secretary shall issue final regulations establishing the process for determining under subparagraph (A) whether a use is a compatible use, that—

"(i) designate the refuge officer responsible for making initial compatibility determinations;

"(ii) require an estimate of the timeframe, location, manner, and purpose of each use;

"(iii) identify the effects of each use on refuge resources and purposes of each refuge;

"(iv) require that compatibility determinations be made in writing and consider the best professional judgment of the refuge officer designated under clause (i);

"(v) provide for the expedited consideration of uses that will likely have no detrimental effect on the fulfillment of the purposes of a refuge or the purposes of the System specified in subsection (a)(3);

"(vi) provide for the elimination or modification of any use as expeditiously as practicable after a determination is made that the use is not a compatible use;

"(vii) require, after an opportunity for public comment, reevaluation of each existing use, other than those uses specified in clause (viii), when conditions under which the use is permitted change significantly or when there is significant new information regarding the effects of the use, but not less frequently than once every 10 years, to ensure that the use remains a compatible use;

"(viii) require after an opportunity for public comment reevaluation of each fish and wildlife-dependent recreational use when conditions under which the use is permitted change significantly or when there is significant new information regarding the effects of the use, but not less frequently than in conjunction with each preparation or revision of a conservation plan under subsection (e) or at least every 15 years;

"(ix) provide an opportunity for public review and comment on each evaluation of a use, unless an opportunity for public review and comment on the evaluation of the use has already been provided during the development or revision of a conservation plan for the refuge under subsection (e) or has otherwise been provided during routine, periodic determinations of compatibility for fish- and wildlife-dependent recreational uses; and

"(x) provide that when managed in accordance with principles of sound fish and wildlife management, fishing, hunting, wildlife observation, and environmental education in a refuge are generally compatible uses.

"(4) The provisions of this Act relating to determinations of the compatibility of a use shall not apply to—

"(A) overflights above a refuge; and

"(B) activities authorized, funded, or conducted by a Federal agency (other than the United States Fish and Wildlife Service) which has primary jurisdiction over the refuge or a portion of the refuge, if the management of those activities is in accordance with a memorandum of understanding between the Secretary or the Director and the

head of the Federal agency with primary jurisdiction over the refuge governing the use of the refuge.

"(5) Overflights above a refuge may be governed by any memorandum of understanding entered into by the Secretary that applies to the refuge.".

SEC. 7. REFUGE CONSERVATION PLANNING PROGRAM.

(a) IN GENERAL.—Section 4 (16 U.S.C. 668dd) is amended—

(1) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1)(A) Except with respect to refuge lands in Alaska (which shall be governed by the refuge planning provisions of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)), the Secretary shall—

"(i) propose a comprehensive conservation plan for each refuge or related complex of refuges (referred to in this subsection as a 'planning unit') in the System;

"(ii) publish a notice of opportunity for public comment in the Federal Register on each proposed conservation plan;

"(iii) issue a final conservation plan for each planning unit consistent with the provisions of this Act and, to the extent practicable, consistent with fish and wildlife conservation plans of the State in which the refuge is located; and

"(iv) not less frequently than 15 years after the date of issuance of a conservation plan under clause (iii) and every 15 years thereafter, revise the conservation plan as may be necessary.

"(B) The Secretary shall prepare a comprehensive conservation plan under this subsection for each refuge within 15 years after the date of enactment of the National Wildlife Refuge Improvement Act of 1996.

"(C) The Secretary shall manage each refuge or planning unit under plans in effect on the date of enactment of the National Wildlife Refuge Improvement Act of 1996, to the extent such plans are consistent with this Act, until such plans are revised or superseded by new comprehensive conservation plans issued under this subsection.

"(D) Uses or activities consistent with this Act may occur on any refuge or planning unit before existing plans are revised or new comprehensive conservation plans are issued under this subsection.

"(E) Upon completion of a comprehensive conservation plan under this subsection for a refuge or planning unit, the Secretary shall manage the refuge or planning unit in a manner consistent with the plan and shall revise the plan at any time if the Secretary determines that conditions that affect the refuge or planning unit have changed significantly.

"(2) In developing each comprehensive conservation plan under this subsection for a planning unit, the Secretary, acting through the Director, shall identify and describe—

"(A) the purposes of each refuge comprising the planning unit and the purposes of the System applicable to those refuges;

"(B) the distribution, migration patterns, and abundance of fish, wildlife, and plant populations and related habitats within the planning unit;

"(C) the archaeological and cultural values of the planning unit;

"(D) such areas within the planning unit that are suitable for use as administrative sites or visitor facilities;

"(E) significant problems that may adversely affect the populations and habitats of fish, wildlife, and plants within the planning unit and the actions necessary to correct or mitigate such problems; and

"(F) the opportunities for fish- and wildlife-dependent recreation, including fishing and hunting, wildlife observation, environmental education, interpretation of the resources and values of the planning unit, and other uses that may contribute to refuge management.

"(3) In preparing each comprehensive conservation plan under this subsection, and any revision to such a plan, the Secretary, acting through the Director, shall, to the maximum extent practicable and consistent with this Act—

"(A) consult with adjoining Federal, State, local, and private landowners and affected State conservation agencies; and

"(B) coordinate the development of the conservation plan or revision of the plan with relevant State conservation plans for fish and wildlife and their habitats.

"(4)(A) In accordance with subparagraph (B), the Secretary shall develop and implement a process to ensure an opportunity for active public involvement in the preparation and revision of comprehensive conservation plans under this subsection. At a minimum, the Secretary shall require that publication of any final plan shall include a summary of the comments made by States, adjacent or potentially affected landowners, local governments, and any other affected parties, together with a statement of the disposition of concerns expressed in those comments.

"(B) Prior to the adoption of each comprehensive conservation plan under this subsection, the Secretary shall issue public notice of the draft proposed plan, make copies of the plan available at the affected field and regional offices of the United States Fish and Wildlife Service, and provide opportunity for public comment.".

SEC. 8. EMERGENCY POWER; PRESIDENTIAL EXEMPTION; STATE AUTHORITY; WATER RIGHTS; COORDINATION.

(a) IN GENERAL.—Section 4 (16 U.S.C. 668dd) is further amended by adding at the end the following new subsections:

"(k) Notwithstanding any other provision of this Act the Secretary may temporarily suspend, allow, or initiate any activity in a refuge in the System in the event of any emergency that constitutes an imminent danger to the health and safety of the public or any fish or wildlife population, including any activity to control or eradicate sea lampreys, zebra mussels, or any other aquatic nuisance species (as that term is defined in section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702)).

"(l)(1) The President may exempt from any provision of this Act any activity conducted by the Department of Defense on a refuge within the System if the President finds that—

"(A) the activity is in the paramount interest of the United States for reasons of national security; and

"(B) there is no feasible and prudent alternative location on public lands for the activity.

"(2) After the President authorizes an exemption under paragraph (1), the Secretary of Defense shall undertake, with the concurrence of the Secretary of the Interior, appropriate steps to mitigate the effect of the exempted activity on the refuge.

"(m) Nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of fish and resident wildlife on lands or waters not within the System.

"(n) Nothing in this Act shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area within the System. Regulations permitting hunting or fishing of fish and resident wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws, regulations, or management plans.

"(o)(1) Nothing in this Act shall—

"(A) create a reserved water right, express or implied, in the United States for any purpose;

"(B) affect any water right in existence on the date of enactment of the National Wildlife Refuge Improvement Act of 1996; or

"(C) affect any Federal or State law in existence on the date of the enactment of the National Wildlife Refuge Improvement Act of 1996 regarding water quality or water quantity.

"(2) Nothing in this Act shall diminish or affect the ability to join the United States in the adjudication of rights to the use of water pursuant to the McCarran Act (43 U.S.C. 666).

"(p) Coordination with State fish and wildlife agency personnel or with personnel of other affected State agencies pursuant to this Act shall not be subject to the Federal Advisory Committee Act.".

(b) CONFORMING AMENDMENT.—Section 4(c) (16 U.S.C. 668dd(c)) is amended by striking the last sentence.

SEC. 9. STATUTORY CONSTRUCTION.

Nothing in this Act is intended to affect—

(1) the provisions for subsistence uses in Alaska set forth in the Alaska National Interest Lands Conservation Act (Public Law 96-487), including those in titles III and VIII of that Act;

(2) the provisions of section 102 of the Alaska National Interest Lands Conservation Act, the jurisdiction over subsistence uses in Alaska, or any assertion of subsistence uses in the Federal courts; and

(3) the manner in which section 810 of the Alaska National Interest Lands Conservation Act is implemented in refuges in Alaska, and the determination of compatible use as it relates to subsistence uses in these refuges.

SEC. 10. NEW REFUGES.

Notwithstanding any other provision of law, no funds may be expended from the Land and Water Conservation Fund established by Public Law 88-578, for the creation of a new refuge within the National Wildlife Refuge System without specific authorization from Congress pursuant to recommendation from the United States Fish and Wildlife Service, to create that new refuge.

SEC. 11. REORGANIZATIONAL TECHNICAL AMENDMENTS.

(a) REORGANIZATIONAL AMENDMENTS.—The Act of October 15, 1966 (16 U.S.C. 668dd et seq.) is amended—

(1) by adding before section 4 the following new section:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'National Wildlife Refuge System Administration Act of 1966'.";

(2) by striking sections 6, 7, 8, 9, and 10; and

(3) in section 4 (16 U.S.C. 668dd), as in effect immediately before the enactment of this Act—

(A) by redesignating that section as section 2;

(B) by striking "SEC. 4."; and

(C) by inserting before and immediately above the text of the section the following new heading:

VOL
142
PT
6
AP
15
—
24
1996
UMI

"SEC. 4. NATIONAL WILDLIFE REFUGE SYSTEM.".

(b) CONFORMING AMENDMENT.—Section 12(f) of the Act of December 5, 1969 (83 Stat. 283) is repealed.

(c) REFERENCES.—Any reference in any law, regulation, or other document of the United States to section 4 of the National Wildlife Refuge System Administration Act of 1966 is deemed to refer to section 2 of that Act, as redesignated by subsection (a)(4) of this section.

EXTENSIONS OF REMARKS

MEDICARE BENEFICIARY PROTECTION AMENDMENTS—H.R. 1707

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. STARK. Mr. Speaker, last May, I introduced legislation designed to ensure that Medicare beneficiaries have access to quality care and fair treatment by their HMO's and managed care plans. Today, I reiterate the need for Medicare beneficiary protection and urge passage of the needed safeguards that H.R. 1707 provides.

An important issue addressed by this measure is the serious abuse of marketing practices by HMO's. Abuses by sales agents are especially prevalent in geographic areas where people have little experience with managed care. The commission system in which many HMO agents work is an inappropriate financial incentive which leads to pressure sales to vulnerable beneficiaries. For example, when Geraldine Dallek of the Center for Health Care Rights provided testimony last year to the Senate Special Committee on Aging, she reported a story of a woman from Los Angeles who was a victim of these practices. The woman, Mrs. B, who has a fifth grade education, received an unsolicited visit from an HMO marketing agent. When Mrs. B refused to sign up for the plan, the representative persuaded her to sign an enrollment form by telling her that it would only be used to verify his visit.

To remedy abusive HMO marketing practices, H.R. 1707 would prohibit door-to-door marketing and allow beneficiaries to enroll via mail. Also, it would limit the percentage of compensation received through commissions and require plans to recover commissions if the beneficiary disenrolled within 90 days.

Most HMO enrollees give up their supplemental or MediGap coverage when they enroll in an HMO. Many fear that if they disenroll from an HMO, no insurance company will sell them a supplemental policy. This is a very serious issue for those who leave their HMO because they are ill and believe the HMO is not providing them adequate care. Under my bill, beneficiaries will be able to secure a supplemental plan after moving out of an HMO. H.R. 1707 requires Medicare-contracting plans and MediGap plans to participate in an open enrollment process. This provision allows for a beneficiary to enroll, disenroll, or change plans during this period without being subject to medical underwriting or preexisting exclusions.

Also, the difficulty beneficiaries have making comparisons among Medicare coverage options would be dealt with by having the Secretary conduct annual open enrollment periods. During this period, Medicare beneficiaries could enroll in traditional Medicare coverage or any additional HMO-managed care options. Differences in plan benefits and costs would be presented in easy, comparative formats. A criticism of managed care plans has been the lack of readily available, understandable and comparable information of plans. This legislation works to correct this by requiring Medicare-contracting plans to provide descriptive information on plan utilization review requirements, plan standards for contracting with providers, provider credentials, and plan physician payment arrangements. This bill would standardize the basic benefit package for Medicare HMO's. Plans could not impose cost sharing other than nominal copayments for Medicare-covered services. Also, limits on additional benefits must be fully explained and enrollees given reasonable notice that benefits are expiring.

Managed care is a system that provides financial incentives to provide less care. A 1989 GAO report concluded that this system that puts providers at financial risk for expensive medical treatment inherently contains incentives to deny or delay needed care. The problem of inconsistent and delayed utilization review practices of managed care plans would be remedied in several ways by H.R. 1707.

First, financial compensation could not be given to individuals performing the UR based upon the number of denials. Second, negative determinations about medical necessity or appropriateness will be required to be made by clinically qualified personnel. Also, final determination of coverage must be made within 24 hours.

The amendments would also update HMO plans in the area of access to emergency medical services. Specifically, plans could not require preauthorization for true emergency medical care and could not deny a claim for a beneficiary who uses the "911" system to access services. Also, plans must define "emergency medical care" in terms easily understood by the average person. An example of why this is needed is given by the Center for Health Care Rights which reports a case of a San Diego woman who went to her HMO's urgent care center for treatment of an injury. She was told that the center had many people waiting and only one doctor on duty. The beneficiary was instructed to go to the nearest emergency room. The HMO later denied her claim because the emergency room treatment was not authorized.

These requirements will also benefit physicians by mandating reimbursement by the plan to those physicians who provide emergency services in nonplan hospitals in order to fulfill the Federal antidumping law.

An important protection standard in this legislation would benefit those who seek out-of-plan treatment: Providers plans would be prohibited from charging more than Medicare would have paid under fee-for-service rules. Also, plans would be required to make arrangements for beneficiaries to have occasional dialysis service outside the plans area.

Recognizing the special needs of individuals with disabilities and chronic-illness, the amendments guarantee enrollees access to designated centers of excellence. The standard for the designation of a center of excellence will be established by the Secretary. Factors that would be included in the Secretary's designation would include specialized education and training, participation in peer-reviewed research, and treatment of patients from outside the facility's geographic area.

To improve due process for providers in networks, public notices would be required as to when applications by participating providers are to be accepted. Notification of a decision to terminate or not renew a contract would be required not later than 45 days before it is to take effect.

In order to ensure access to enrollees throughout a plan's service area, the Secretary may require plans to contract with certain clinics and other essential community providers in the service area. In general, the service area of a Medicare-contracting plan would be an entire metropolitan statistical area.

To comply with this plan, Federal regulators would be given authority to impose intermediate sanctions. Currently, the Secretary has the authority to bar participation in Medicare. Under this plan, the Secretary could prohibit plans from enrolling beneficiaries until it meets all Federal requirements. A new review process would allow HMO's to submit a corrective action plan for violations. A civil money penalty up to $25,000 for each violation that adversely affects an individual enrolled in the plan would be authorized.

The Medicare beneficiary protection amendments are a powerful step toward safeguarding the health of Medicare beneficiaries. Last year, an inspector general's survey found that 16 percent of enrollees planned to leave their HMO, but felt they could not. Even worse, 66 percent of disabled/ERSD enrollees wanted to leave their HMO's. These statistics and others indicate that HMO's are often failing to properly serve many Medicare beneficiaries. The remedies I propose will move us toward better quality and a fairer managed care system.

CELEBRATING TUFTONIA'S WEEK

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. RICHARDSON. Mr. Speaker, in just a few short weeks, many of us will be attending college graduations watching as countless numbers of our constituents finish their college education, graduate, and become alumni.

As seasoned alumni know, you always maintain a special tie to your college. At my alma mater, Tufts University actively encouraged alumni to celebrate their college days by

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 142 PT 6 AP 15 — 24 1996 UMI

participating in annual "Tuftonia's Week" celebrations. It is a special time for more than 88,000 alumni of Tufts to turn their thoughts to Tufts and to get together with fellow Tuftonians, to reminisce with old friends.

Tuftonia Week also allows the university to focus attention on its enormously successful alumni program called, "TuftServe." Last year, Tufts alumni contributed more than 19,000 volunteer hours of community service. This work enhance the quality of life in our local communities and enables alumni to maintain a close relationship with their alma mater.

As my colleagues address soon-to-be alumni at college graduation campuses around the country, may I suggest that we take with us a page from Tuftonia's Week and encourage college graduates to remember and honor their college years by offering and volunteering their knowledge and expertise in their communities. Such an endeavor by my colleagues would be a great tribute to the volunteer commitment of many Tufts University alumni as well as an outstanding celebration of Tuftonia's Week.

SAN FRANCISCO CHRONICLE COLUMNIST HERB CAEN RECEIVES PULITZER PRIZE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. LANTOS. Mr. Speaker, Herb Caen, a truly extraordinary talent in the world of journalism, joined an elite group of journalists last week when he was awarded the Pulitzer Prize. He received a special Pulitzer Award that recognizes his unique and enormous contributions to the city that he loves with all his heart. For almost 58 years, Herb Caen has delighted residents of San Francisco and the surrounding communities with stories and thoughts on our unique and wonderful "City by the Bay."

Herb Caen fills his daily 1,000-word column with an incredible range of items, from political platforms to society gossip to humorous encounters with the many interesting individuals within the rich and diverse city of San Francisco. While there is almost always a laugh contained in Herb Caen's column, he did not shy away from expressing controversial opinions on issues concerning the city and the country. I am delighted that the Pulitzer board recognized these extraordinary qualities when they conferred this special prize, only the fifth in the history of the awards.

The only person who can adequately express the importance of this award to the San Francisco community is Herb Caen himself. So, Mr. Speaker, I invite my colleagues to read the column which appeared the day after the award was announced in order to get a good taste of the wit and elegance which earned Herb Caen this well-deserved honor.

HEY, LOOK ME OVER!

(By Herb Caen)

"Pulitzer Prizewinning columnist." Well, it does have a certain ring to it. And it will definitely add a touch of class to the obituary, which has been moldering away in the morgue for years. I'm not trying to be morbid in the Edgar Allan Poe mode. "Morgue" is what old newshounds call their paper's library, and it's somebody's job to keep the obits up to date. "Pulitzer Prizewinning columnist" will also juice up the resume if I ever have to start jobhunting again. Don't laugh. Downsizing is the order of the day. I command a large salary, several dollars a week over scale. I could well be on the short list for the gold-plated watch and farewell handshake, thereby making room on the payroll for the pitcher and running back we so desperately need.

I got the word that I'd won a Pulitzer late yesterday morning when Karyn Hunt of the local Associated Press bureau called and asked for a statment. I thought she was kidding because I happen to know she's a great kidder. How do I know? Because—and here's your item—Karyn once worked for me, manning the phones and checking stories. She got out as soon as she could and has colorful stories to tell about what a mizzerable person I am to work for, but I digress. Actually, I'm not that hard to work for. Ask Carole Vernier, who works for me now. On second thought, don't ask Carole. I do get a little difficult around deadline. I am no longer digressing. I am regressing. Say, can the Pulitzer board!—and thank you thank you thank you whoever your are—where was I? Oh yes, can the board take the prize back once it has been bestowed? This could well be a historic test.

Anyway, when Karyn of the AP called for a comment, I said "A little late for April Fool jokes, isn't it?" She finally convinced me this was for real, whereupon I fell back on the old barnyard joke whose punchline is "What a pullet surprise," laying an egg in the process. "Be serious," she said, sternly, "I'm on deadline." "You're on deadline?" I snapped. "Whaddya think I'm on, a Stairmaster? And you know how I get at deadline time." In truth, my thoughts were so scattered and my surprise, pullet or otherwise, so genuine that I had no statement to make beyond "Duh, I'll get back to you." What I think happened is that I outlasted the Pulitzer board members. They kept waiting for me to pop off, so they wouldn't have to think about that West Coast noodnik any longer, and when I passed 80 they caved in.

About 25 years ago, Art Hoppe and I made a solemn pact, sealed in blood: If either or both of us ever won a Pulitzer, we'd refuse to accept it. That's because we felt that a lot of columnists who didn't deserve the prize were winning it. Besides, the years were rolling along without a nod from Olympus, which would make it easy for him or me to say coldly, "Too late, ladies and gentlemen, too late." Well, when the word came through yesterday, I was in a quandary. A sacred vow sealed with a vile oath is not to be broken lightly. As I was tentatively rehearsing variations on "I don't need no steenkin' prizes," Hoppe poked his head into my office and said "Forget it. I release you." That is one of several reasons I think Art Hoppe deserved a Pulitzer a long time ago.

No, I never expected to win the gonfalon, the gong, the biggie. Year after year I studied the columns of prizewinners and discerned a pattern: To win a Pulitzer, it is necessary to be serious, ready to render learned opinions on matters of importance not only to the nation but to a waiting world. A three-dot columnist in a smallish city on the coast hardly seems worthy of a place in the pantheon. Walter Winchell, my original inspiration, never won anything of note, and he used even more dots than I, to excellent effect. It's true that satirical columns picked up a prize from time to time, as long as they weren't too funny. I will not deny that although I am not often funny, I am definitely silly and that seemed to me the kiss of death.

What I received yesterday, said the AP, was "a special award for what the Pulitzer board described as 'his extraordinary and continuing contribution as a voice and a conscience of his city.'" I can be serious about that. I am as seriously touched—nay, overwhelmed—as I am seriously in love with "my" city. The Pulitzer, coming on the heels of my 80th birthday last week, with its attendant tributes and demonstrations of friendship, has rendered me limp with gratitude, speechless with swirling thoughts impossible to articulate. Mixed up somewhere in the award, I figure, is a streak of sentimental regard for an old party who has been grinding it out, year after year, and, at the same time, a salute to longevity, for which I thank my German mama and my French papa who had the good taste to come to this loveliest of cities so long ago.

This is also, of course, a victory for the mechanical typewriter over the burgeoning forces of cyberspace. I hereby hub my Royal, a brand name that is currently being dragged through the mud. The suspected Unabomber is said to have written his manifesto on a 40-year-old Royal, the same age as mine. As for the part about being "the conscience of the city," this city had one—plus great style—long before I came down the river from Sacramento. The city's overriding aense of fair play always appealed to me and I have been delighted to get the chance to help keep it alive. About being "the voice," I seem to have lost it at the moment, being speechless with surprise. All I can manage to croak is, "For columns like this, they give a Pulitzer?"

IN TRIBUTE OF PROF. JAN KARSKI

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Ms. PELOSI. Mr. Speaker, I rise today with the Holocaust Center of Northern California to honor Prof. Jan Karski, a member of the Polish underground during World War II who risked his life in an effort to stop the Holocaust.

Professor Karski, a devout Roman Catholic, was captured and savagely tortured by the Gestapo while working as a courier in 1940. Willing to sacrifice his life to protect the underground, Professor Karski escaped with the help of the Polish workers, and returned to his work as a courier.

In 1942, Professor Karski was smuggled into the Warsaw ghetto and death camp near Belzec, and then traveled secretly to Washington, DC, where he provided President Roosevelt, other top Government officials, journalists, and religious leaders with a terrifying eyewitness account of the extermination of thousands of helpless and innocent Jews. Professor Karski traveled extensively throughout the United States lecturing about the atrocities he had witnessed. In 1944, he published a best-selling book, "The Story of the Secret State", which exposed the Nazis' genocidal plans.

Twenty-five years later, Professor Karski broke his silence about the terrible secret in

Claude Lanzmann's epic Holocaust film documentary, "Shoah." In recognition of his courage on behalf of the Jewish people, Professor Karski was honored at Yad Vashem as a Righteous Among the Nations in 1982 and the Israeli Government awarded him honorary citizenship in 1994.

I am pleased to join with the Holocaust Center of Northern California and the Jewish religious community to pay tribute to this great man on Yom HaShoah, the Day of Holocaust Remembrance, which begins at sundown on Monday, April 15, 1996.

Professor Karski is a hero not only to his own people but to all of humanity. With his unwavering courage and integrity, Professor Karski is a role model for us all, for he demonstrated how the human spirit can triumph over extreme evil and adversity. Now in his eighties, Professor Karski continues to speak out against racism, anti-Semitism and intolerance so others might learn from the horrible mistakes of the past.

HONORING HONEY MILLER FOR HER MANY YEARS OF COMMUNITY SERVICE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents and with the members of the Eastern Queens Democratic Club as they honor Honey Miller at the club's annual dinner at the Douglaston Manor in Queens County, NY.

For many years, Honey Miller has been a model of what the term "community activist" should mean. While serving as deputy director of Queens community boards from 1985 through 1990, Honey used her expertise to help local boards address major, complex issues that impacted on the growth and development of the borough's many communities. While immersed in this ongoing role Honey developed a second field of expertise by becoming a professional volunteer. As a PTA leader, president of the Aviva chapter of B'nai Brith, a companion to children with emotional problems at the Creedmoor Hospital, a chairwoman of the adult-education program at the Marathon Jewish Center, a volunteer at the Queens County District Attorney's office, and a chauffeur for senior citizens at the Samuel Field Y, Honey Miller established a reputation as someone who could undertake any task and get the job done.

Mr. Speaker, the community has not only benefited from Honey's dedication, but also has responded to her good works by presenting her with many and varied honors, including Woman of the Year for the northeast Queens Memorial Day parade, certificates of achievement from B'nai Brith and the Marathon Jewish Center, citation of achievement from the metropolitan region of the United Synagogue of America, the Community Service Award from the Glen Oaks Volunteer Ambulance Corp., and the certificate of merit from the Queens Women's Center.

Fully understanding the workings of American government and responding in the true American spirit of voluntarism and civic participation, Honey has risen to a variety of prominent positions in the area of elected leadership. While currently serving as Democratic district leader for the 24th Assembly District, a position which she has held since 1972, Honey has also chaired the women's division of the New York State Democratic Committee, was treasurer of the Women's Executive Committee of the Queens County Democratic Organization, second vice chairperson of the Queens Democratic Committee, and served as delegate to the last five Democratic National Conventions.

Mr. Speaker, Honey Miller has come to symoblize the truest example of the American participatory spirit. I ask all my colleagues to join with the grateful people of the Fifth Congressional District in extending to Honey Miller the highest accolades of appreciation and recognition.

HONORING SISTER CHARLOTTE

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. PASTOR. Mr. Speaker, today I rise to congratulate Sister Charlotte of Project YES!, who has been chosen as a recipient of the National Service Award. I am especially pleased that her work is being recognized at the national level for two reasons: First, she has been a strong and tireless advocate for children, and second, she has brought resources and attention to an economically deprived area. It is because of her work that the children living in this multiethnic area have access to educational opportunities, and more importantly, hope.

She has provided opportunities for the children in her neighborhood to work with tutors, to socialize, to have enriching educational experiences, to be in sports leagues, to develop spiritually, to better understand their culture, and to bond with adults. She has created a loving, caring, safe environment for many children who have never known such a place. For many of these children, Project YES! is not just a home away from home, it is the only home they know.

Because Project YES! is so special to the children, the only discipline needed is the threat of time out from Project YES! No one misbehaves because no one wants to be excluded even for a few hours.

Sister Charlotte first became involved in Project YES! in 1983 as a member of its board of directors. Her background in guidance counseling and teaching encouraged her interest and her enthusiasm for this alternative way of reaching children. Consequently, in 1987 she left her elementary school administrator position with the Santa Cruz Catholic School and became the executive director of Project YES!

Under her creative and enthusiastic direction, Project YES! has become a vital force in the lives of hundreds of children and of their parents. In addition to the supportive environment and programs for the children, she has created parent-to-parent workshops in both English and Spanish where parents can learn from each other about good parenting skills. Parent-to-parent combines teaching, peer counseling, and sharing to help parents find caring ways to guide their children.

Sister Charlotte is a resource we treasure in the Second District of Arizona. We are proud that her programs for children are being recognized, and I congratulate her on her accomplishments.

TRIBUTE TO JEWISH WAR VETERANS U.S.A., NORTH ESSEX, POST 146

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. MARTINI. Mr. Speaker, I rise today to pay tribute to a very special group of Americans from the Eighth Congressional District of New Jersey.

On March 15, 1896, a group of Jewish veterans gathered for the first time and formed an organization by pledging to maintain their true allegiance to the United States, to stand against the sway of bigotry, and to honor the patriotic service performed by men of Jewish faith. This organization, the Jewish War Veterans U.S.A., has for a century offered a steadfast portrait of loyalty, sacrifice, and self-resolve.

Our loyalties mark the kinds of persons we have chosen to become. Real loyalty endures inconvenience, withstands hardship, and does not flinch under assault. The individuals who make up the Jewish War Veterans U.S.A. consistently allow this genuine loyalty to pervade the whole of their lives.

The members of JWV, Post 146 remind us that the loyal, patriotic citizen expects no great reward for coming to his country's aid. On the contrary, a devoted patriot seeks only that his country flourishes.

When it comes to honoring their country, their faith, and their comrades, the veterans of Post 146 know that good intentions are no guarantee for right actions. Indeed, the members of Post 146 have demonstrated both the wisdom to know the right thing to do, and the will to do it. Certainly, they have lived up to the obligations of loyalty, patriotism, and service.

To be a loyal citizen means to achieve a high standard of caring seriously about the well-being of one's nation. I am proud to honor and praise the Jewish War Veterans U.S.A. for exceeding this standard. Congratulations JWV U.S.A. for 100 years of Jewish pride and American patriotism, and Post 146 on your 60th anniversary.

WELCOME BACK LOU STOKES

HON. STEVE C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. LATOURETTE. Mr. Speaker, yesterday my friend and colleague, LOU STOKES, returned to the House of Representatives. I

VOL
142
PT
6
AP
15
—
24
1996
UMI

wanted to take this opportunity to tell him how much his presence and guidance were missed in this institution, and how the Congress is enriched to have him back, and in good health.

Anyone who knows LOU STOKES knows it would take nothing short of major surgery to keep him away from the House of Representatives. As it turns out, it was major heart surgery that kept LOU away, which seems fitting because LOU has one major heart. I am pleased he came through his surgery with flying colors, and know he will resume his work with the same level of intensity and commitment we've all come to expect from him. I thank the fine doctors of the Cleveland Clinic for taking care of our good friend, and sending him back to us as good as new.

As a member of the Ohio delegation and a Representative from northeast Ohio, I have always valued LOU's experience and wisdom, and feel blessed to have a role model like him in the House. In all my dealings with LOU STOKES he has been fair, forthright, and decent, and it is greatly appreciated.

So, on the occasion of his return to the House, I wish him well. The dean of the Ohio delegation was dearly missed, and I for one am very glad that he is back.

LARS ANDERSON

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. RICHARDSON. Mr. Speaker, it is with great respect and admiration that I honor today a business associate, good friend, and fellow New Mexican, Lars Anderson.

Mr. Anderson was recently honored by the New Mexico AIDS Services by receiving the Ron McDaniel Award, named for the late AIDS and human rights activist. This tribute recognizes commitment and compassion for people impacted by HIV in Santa Fe, NM. Today I salute Mr. Anderson for this revered honor.

Mr. Anderson is a highly dedicated and responsible individual, whether in financial management, where I have benefited from his expertise, or in his steadfast endeavors to help others in need. He has been volunteering many hours for over 2 years with the Hand-in Hand Practical Support Program, assisting those who are dying with AIDS. He has given his loyal support to help relieve the pain, both physically and emotionally, to those afflicted with this fatal disease.

I am extremely grateful to be associated with Mr. Anderson. I respectfully invite all of my colleagues in the House of Representatives to join me in giving tribute to this esteemed New Mexican.

CUPA 50TH ANNIVERSARY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. LEVIN. Mr. Speaker, I rise today to acknowledge an association that has had a significant impact in the advancement of higher education human resource management—the College and University Personnel Association [CUPA], which celebrated its 50th anniversary on April 11, 1996.

The association was started by a visionary named Donald E. Dickason, a former director of nonacademic personnel at the University of Illinois at Champaign in 1946. At that time, Dickason invited representatives from more than 50 post-secondary institutions in the Midwest to a forum to discuss problems unique to higher education personnel administration. He envisioned an Association that would provide timely information and support to help foster leadership among personnel administrator. He envisioned an Association that would provide timely information and support to help foster leadership among personnel administrators and growth among institutions. The 44 individuals who attended the meeting agreed and thus CUPA was born.

I first became aware of CUPA when I sponsored H.R. 127, the Employer Provided Education Assistance Act to reinstate the exclusion from income for employees who receive compensation for education expenses from their employer. As many colleges and universities use this valuable training and re-training tool to help their personnel keep on the cutting edge of new technology and information in various education fields, CUPA has helped to lead the charge in trying to reinstate this important provision to the tax code.

It is in this tradition that CUPA promotes effective management and development of human resources in higher education by providing a forum for the exchange of ideas and providing valuable information and services to its membership on the national, regional, and chapter level.

Among the functions CUPA provides is the distribution of information critical to expanding and enhancing the higher education human resource management profession through publications and other actions. CUPA provides such support and assistance to help its membership understand and comply with various federal laws and regulations such as the Civil Rights Act, the Age Discrimination in Employment Act [ADEA], the Americans with Disabilities Act [ADA], and the Family Medical Leave Act [FMLA] to name just a few. By providing this valuable information in a timely and professional manner, CUPA helps to ensure their members are living up to both the spirit and the intent of these important worker right and protection laws.

CUPA has grown from the original 44 individuals who attended the first meeting in 1946 to 6,100 human resource administrators representing more than 1,800 colleges and universities and other institutions interested in the advancement of the human resource profession nationwide.

I ask my colleagues to join me in recognizing the many accomplishments of CUPA, in congratulating them on 50 years of excellence, and in wishing them well in their next 50 years of service.

HISPANIC COORDINATING COUNCIL AWARDS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. VISCLOSKY. Mr. Speaker, on Saturday, April 13, 1996, numerous outstanding Hispanics from Indiana's First Congressional District were honored for their notable contributions to northwest Indiana. Student Recognition Awards, a President's Award, a Community Outreach Award, a Cesar Chavez award and an Outstanding Family Award were presented by the Hispanic Coordinating Council during a banquet held at the American Legion Post No. 369 in East Chicago, IN.

Sixty Hispanic students representing thirty northwest Indiana and northeast Illinois high schools were recognized for their academic and athletic achievement. The students who received awards for Outstanding Academic Achievement include: Melissa Hogg, Andrean High School; Angelica Quiroz, Calumet High School; April Ybarra, Clark Middle/Senior High School; Leandro Cortez, Jr., East Chicago Central High School; Fidel Lopez, Edison Junior/Senior High School; Laura Rivera, Gavit Middle/High School; Susan Barriga, Griffith Senior High School; Tina Rongel, Hammond High School; Iris Sanchez, Hanover Central High School; Raymond Padron, Hebron Junior/Senior High School; Nicole Yadron, Highland High School; Nina Ramos, Hobart High School; Elvin Roman, Horace Mann High School; Megan Mendoza, Lowell High School; Carmen Bonilla and Robert Martinez, Merrillville High School; Rebekah Perez, Morton High School; Christopher Garcia and Odette Gutierrez, Munster High School; James Espinoza, Portage High School; Patrica Cisneros and Javier Fuentes, River Forest High School; Mabel Lamas and Allison Karas, Thornton Fractional North High School; Leslie Cruz, Thornton Fractional South High School; William Marquez and Alison DeSchamp, Valparaiso High School; and Santiago Rodrigues, Jr., Whiting Middle/High School.

The students who received awards for Outstanding Athletic Achievement include: Matthew Murawski, Andrean High School; Israel Anthony Roman, Bishop Noll Institute; Daniel Mendez, Boone Grove High School; Seleno Gomez, Calumet High School; Manuel Amezcua, Clark Middle/Senior High School; Paul Maldonado and Frank Chabes, East Chicago Central High School; Nick Reyes, Edison Junior/Senior High School; Enrique Luna, Gavit Middle/Senior High School; Stefanie Dominquez, Griffith Senior High School; Diana Cruz, Hammond High School; Jennifer Conley, Hanover Central High School; Rachel Guzman, Highland High School; Kristopher Kingery, Hobart High School; Jose Fogleman, Lowell High School; Mike Villanueva, Merrillville High School; David Mendoza, Morton High School; Alaina Altschu and Derek Sema, Munster High School; Nicholas Munoz and Leroy Vega, Portage High School; Mellissa Piunti, River Forest High School; and Luis Dominguez, Whiting Middle/Senior High School.

Those students who received awards for being an Outstanding Student include: William Maldonado, East Chicago Central High School; Zack Escobedo, Lake Ridge Middle School; Thomas Bonez, Portage High School; and Jason Lee Pedroza, River Forest High School.

The Council also presented the Outstanding Family Award to Jose and Josephine Valtierra and their 11 children. This distinguished family was carefully selected from many qualified families on the basis of their unity and dedication to one another's successes. The Senoras of Yesteryear received the President's Award. This Senoras of Yesteryear honors women who have recorded and documented achievements of Hispanic families in East Chicago and the Indiana Harbor Region. The Community Organization Award was presented to the Hammond Hispanic Community Committee. Juan Andrade, Jr. earned the Cesar Chavez Award for co-founding the Midwest-Northeast Voter Registration Education Project. Juan was also recently named one of the "100 Most Influential Hispanics in America" by the Hispanic Business Magazine.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in applauding all of the award recipients chosen by the Hispanic Coordinating Council. I feel that all of the participants are most deserving of the honors that were bestowed upon them. Moreover, I would like to commend the Hispanic Coordinating Council, its President, Ben Luna, and all of the Council members for committing themselves to preserving their culture. It is my privilege to commend them on their achievements.

25TH ANNIVERSARY OF GAY AND LESBIAN ACTIVIST ALLIANCE OF WASHINGTON, DC

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Ms. NORTON. Mr. Speaker, Tuesday, April 16, 1996, marks the 25th anniversary of the Gay and Lesbian Activist Alliance [GLAA]. GLAA is the oldest consistently active lesbian and gay political and civil rights organization in the United States. I am proud to represent GLAA in Congress and to count its members among my friends.

Since its founding in 1971, GLAA has remained a nonpartisan organization and a consistent force advocating the civil and political rights of the lesbian and gay people in Washington, DC, and across the Nation. GLAA has played a pivotal role in establishing a ban on discrimination against lesbian and gay public schoolteachers in Washington, DC, the first in the Nation. Its efforts helped lead to the passage of DC's Human Rights Act, the founding of the Civilian Complaint Review Board, the reform of the District's sodomy statute, and the enactment of DC's domestic partnership law.

GLAA's work with elected officials in Washington, DC, has resulted in more effective AIDS prevention programs targeted to the public schools, to the prisons, to the homeless, and to underserved populations in the Nation's Capital. The alliance's tireless advocacy on behalf of persons living with AIDS increased local funding for AIDS services and programs.

I hope my fellow Members will join me in congratulating the Gay and Lesbian Activist Alliance on its 25th anniversary. I wish them every success in their future endeavors.

TRIBUTE TO DR. JAMES J. FADULE, JR.

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. MARTINI. Mr. Speaker, I rise today to pay tribute to a very special individual from the Eighth Congressional District of New Jersey.

Dr. James J. Fadule, Jr. has served as superintendent of the Nutley Public Schools for the past 18 years and has set the standard for pedagogical excellence.

"What should I be when I grow up?" is a question many young people ask when they are in school. Dr. Fadule has changed the premise of the question by encouraging students to ask "What should be my work in the world?" This is not a question about a paycheck, but a question about life.

The work of Dr. Fadule's life has been to push students and teachers to expand their energies for the sake of achieving something special. Work in this intrinsic sense is not what we do for a living but what we do with our living.

Some of life's greatest joys come from the work of one's life. Indeed, those who have neglected the joy of work, of a job well done, have lost something very meaningful. Thank you, Dr. James Fadule for your life's work—I am certain that as you begin your retirement you will continue to encourage, teach, and appreciate others in all that you do.

THE ENVIRONMENT

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Ms. PELOSI. Mr. Speaker, as we approach the 26th anniversary of the first Earth Day next Monday, I would like to make the following observations about the 104th Congress.

The 104th Congress came to Washington with an aggressive, antienvironment agenda promoted largely by industry and special interest groups who were determined to turn back 25 years of progress to protect public health, safety, and the environment.

The budget cuts proposed by the Gingrich Congress for the Department of the Interior and the Environmental Protection Agency are aimed at the heart of our Nation's environmental protection. The two departments with the greatest environmental authority have become the prime targets in the current attack on the environment.

The proposed cut in funding for the EPA is 21 percent below last year's level, which would seriously affect EPA's enforcement of clean air, clean water, and safe drinking water laws. The Interior appropriations bill included provisions to open Alaska's Tongass National Forest to increased logging and continue the moratorium on listing new endangered species.

The funding for protection of our Nation's wetlands, endangered species, forests, and public lands must not be sacrificed in favor of short-term profits for miners, grazers, and developers. Programs to protect our Nation's water and air should not be held hostage to budget antics that have left these primary environmental agencies limping through the 1996 fiscal year with only a fraction of the funding needed to function.

The impacts of Republican cuts to the EPA include:

Weakened enforcement of environmental laws—including a 40-percent reduction in health and safety inspections of industrial facilities;

Delayed new standards to protect drinking water—including tap water standards for pollutants like cryptosporidium, which killed 100 people in Milwaukee in 1993;

Delayed new and ongoing cleanups at toxic waste sites—start of new construction halted at 68 sites; pace of cleanup slowed at 400 sites;

Rolled back community right-to-know information about toxic chemicals;

Created barriers to developing new controls to protect rivers and streams from industrial water pollutants;

Delayed approving pesticides with lower health risks as a safer alternative for farmers;

Delayed new standards for toxic industrial air pollutants;

Delayed review of air pollution standards to ensure adequate health protection; and

Delayed studies on how toxic chemicals may impair reproductive development and studies on how pollution affects high-risk populations.

These are just some of the effects of the cuts to EPA funding. I have not even listed the serious impacts of spending cuts on the Department of the Interior.

I will conclude with two observations. First, scientists say you cannot separate personal health from the health of our environment. Pollution prevention equals disease prevention. These foolish cuts are reducing our Nation's investment in public health. It is false economy to cut back on enforcement of clean air and clean water. How sad that 26 years after the first Earth Day and a generation of fighting pollution, the Republicans are choosing to dismantle environmental programs.

Second, I will call attention to a report on environmental protection by the California State Senate. The press reports, "Contrary to popular belief, environmental regulations are not a major cause of job losses and declining economic performance."

The Senate report concludes that environmental laws are not a major cause for the relocation of business to other States or countries. According to the report, more jobs are lost from leveraged buyouts and mergers than from controlling pollution.

The American people have the answer—they want a safe and healthy environment. We should follow their lead, and we should live up

VOL
142
PT
6
AP
15
—
24
1996
UMI

to their expectations that the Federal Government will ensure their health and safety at all levels. We should remember that every day of every year.

H.R. 3173—THE CONSUMER PRODUCTS SAFE TESTING ACT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. LANTOS. Mr. Speaker, I rise today to call to the attention of my colleagues the Consumer Products Safe Testing Act which I recently introduced, along with thirty-two of our colleagues. This long-overdue legislation aims at scaling back outdated and burdensome federal regulations used by the FDA and other Federal agencies regarding toxicity testing of cosmetics, corrosives, and other substances. The bill calls on all Federal regulatory agencies with jurisdiction over toxicity testing to review and evaluate their regulations concerning animal acute toxicity testing. The bill establishes no new mandates regarding animal toxicity testing. For many years, the Federal Government has used animals to test the toxicity of consumer products. This bill seeks to establish, wherever possible, non-animal acute toxicity testing as an acceptable standard for Government regulations without compromising human safety.

Development of new technology has achieved substantial gains in the field of non-animal alternatives for acute toxicity tests. Many cosmetic companies, including Avon, Revlon, Redken, Paul Mitchell, The Body Shop, and Nexxus, already use alternatives to animal testing for screening and developing their products. In addition, many biotechnology firms are developing non-animal tests to determine the safety of various consumer products they produce. These tests include Skintex by InVitro International and Testskin by Organogenisis, Inc., which use human skin equivalent to measure irritancy. InVitro has actually developed a series of non-animal test kits which evaluate and rank irritancy and toxicity of a wide variety of substances.

Despite these advances, the Federal Government still relies on animals for toxicity testing. The result is that many companies at the cutting edge of non-animal technology are forced to market their products overseas. If the United States is to remain a world leader in biotechnology, we must reexamine our Federal regulations to reflect the advances in testing methods already in progress. If we fail to encourage developments in this field and continue using outdated federal regulations, we run the risk of falling behind the rest of the industrialized world and losing our position as a world leader in science. By calling on the Federal Government to reevaluate its regulations on toxicity testing to include non-animal tests wherever possible, the Consumer Products Safe Testing Act will encourage U.S. companies to develop and market non-animal testing products in the United States.

Non-animal alternatives to toxicity tests, in addition to being more humane, produce better data and reduce costs over the long term. Scientists agree that, despite the usefulness of animals for testing purposes, human cells and tissue produce more accurate results. As technology progresses to develop an acceptable battery of tests, non-animal toxicity testing can provide a more cost effective method of testing products. Savings can be realized from reduction in animal care and storage, in addition to time saved.

Time involved in product testing remains a crucial factor. Many product development companies spend large amounts of time and resources in the government regulatory process. Animal testing often takes several years to complete. If acceptable alternatives are developed, this would save the producer, as well as the regulatory agency, time and money during the lengthy and cumbersome approval process. In asking the Federal Government to review its regulations concerning toxicity testing, the bill takes a bite out of federal regulation, while ensuring consumers' safety.

In recognition of the contribution animal tests make to the medical community, the bill specifically exempts all medical research. Only regulations regarding toxicity testing are affected.

I am delighted to sponsor the Consumer Products Safe Testing Act. This legislation will move towards ensuring that the Federal Government treats non-animal acute toxicity testing as an acceptable standard and that outdated and cumbersome regulations are reviewed and reevaluated.

THE "WE THE PEOPLE" PROGRAM

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. BURTON of Indiana. Mr. Speaker, on April 27–29, 1996, more than 1,300 students from 50 States and the District of Columbia will be in Washington, DC, to compete in the national finals of the "We the People . . . the Citizen and the Constitution" Program. I am proud to announce that the class from Lawrence Central High School in Indianapolis, IN, will represent Indiana's Sixth Congressional District. These young scholars have worked diligently to reach the national finals by winning local competitions in their home State.

The distinguished members of the team representing Indiana are: Amber Anderson, Carrie Anderson, Heather Bailey, Alicia Crichton, Nathan Criswell, Finda Fallah, Jeremy Freismuth, Lourie Gilbert, Robert Gordon, Phillip Gray, Amanda Gross, Tim Halligan, Lindsey Hamilton, Brandon Hart, Scott King, Brent Patterson, Mike Petro, Megan Pratt, Jason Roberts, Anthony Roque, C. David Smith, Tony Snider, Tomeka Stansberry, Crystal Sullivan, Sarah Thompson, Gene Wagner, Maurice Williams, and Mike Zabst.

I would also like to recognize their teacher, Drew Horvath, who deserves much of the credit for the success of the team, The district coordinator, Langdon Healy, and the State coordinator, Robert Leming, also contributed a significant amount of time and effort to help the team reach the national finals.

The "We the People . . . the Citizen and the Constitution" Program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the "We the People . . ." Program, now in its ninth academic year, has reach more than 70,400 teachers, and 22,600,000 students nationwide at the upper elementary, middle, and high school levels. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers.

The "We the People . . ." Program provides an excellent opportunity for students to gain an informed perspective on the significance of the U.S. Constitution and its place in our history and our lives. I wish these students the best of luck in the national finals and look forward to their continued success in the years ahead.

TRIBUTE TO DR. LOREN BENSLEY OF CENTRAL MICHIGAN UNIVERSITY

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize an outstanding teacher, writer, and scholar as he retires from Central Michigan University. On May 2, 1996, Dr. Loren Bensley will celebrate his retirement after 33 years of service to his students, the community, and the health profession.

Dr. Bensley is recognized as a State, national, and international scholar in the field of health education, with 60 publications and more than 100 presentations to his credit. As president of the American School Health Association, he received 32 awards from various professional organizations for his leadership and contributions. Under his leadership, the Eta Chapter of Eta Sigma Gamma, the National Health Science Honorary, won the National Chapter of the Year award 10 times. Such outstanding accomplishments are a testament to his academic brilliance and exceptional leadership capability.

Mr. Speaker, Dr. Loren Bensley's love for and dedication to education is clear. He has consistently gone beyond what was expected or required to achieve excellence not only in teaching, but writing and leadership. His reputation as a kind, inspiring, and hard-working scholar will serve as an example to all who know him for many years to come. I know you will join me in recognizing his achievements and wishing him a satisfying retirement.

"ANSWERING AMERICA'S CALL" HAWAII'S WINNING ESSAY IN VOICE OF DEMOCRACY CONTEST

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mrs. MINK of Hawaii. Mr. Speaker, I submit the winning essay in the Hawaii State Veterans of Foreign Wars Voice of Democracy Competition. The author, Emily Shumway, resides in my district. She attends Kahuku High School and serves as the senior class president. In her script, Ms. Shumway explores the theme "Answering America's Call." Her entry gained national recognition from the Veterans of Foreign Wars, and she was recently awarded the Mr. and Mrs. James H. Black Scholarship.

I join with her parents, Mr. and Mrs. Eric Brandon and Carolyn Merrill Shumway of Laie, HI, to congratulate Emily Shumway for her outstanding performance in the 1996 Voice of Democracy Program. The VFW Post 3927 of Waimanalo, HI, sponsored her in this year's contest. Her essay is as follows:

ANSWERING AMERICA'S CALL

(By Emily Shumway)

A young boy clings to his mother's black dress, his eyes fixed on the bright flag draped over a coffin. The rays from the blazing Arizona sun sparkle and dance on the shining flag, causing it to glitter. The flag lights up the gloomy circle he stands in. His trance is broken by the sound of crying. He looks over at Corporal Far's young widow, her whole body shaking in anguish and sorrow. He moves his attention towards a young marine in a crisp blue uniform. He watches the soldier closely as he removes a shining gold bugle from its case. The bugle boy raises the instrument to his lips and starts to play. The haunting melody of "Taps" fills the little boy's ears and goose bumps rise on his skin. Each moving phrase of the melody is echoed by another bugler standing on a hill about a quarter of a mile away. The music penetrates the silence across the lonely Arizona desert. To the small child, the whole desert resonates. So much so, that even the sagebrush and the tumble weeds seem to stand at attention. He senses that he is witnessing one of the most significant of human events. There is a line of military men standing alongside the casket with burnished rifles at their sides. In unison they raise their guns into the air and fire 3 shots as the final note of "Taps" floats solemnly over the crowd and lingers for a few moments. The feeling in the air is almost tangible. Even the little boy of five recognizes the importance of what he is observing. He is not a spectator, but a participant in the event taking place. His attention returns to the flag in the center. "What does one do to deserve such honor?" he thinks.

If America could speak she would say, "I need men and women who would give their very lives to protect me and preserve the freedom and justice I stand for. Patriotism in this country, so vital for a nation's survival, has been increasingly replaced by cynicism and mistrust of government. I need men and women who embody the same spirit that possessed George Washington, Paul Revere, Abraham Lincoln, Frederick Douglas, Susan B. Anthony, Harriet Tubman, Theodore Roosevelt, Sergeant York, General MacArthur, and even Corporal Far."

America's call is a call to uphold her commitment to peace, freedom, liberty, and justice for all. In an age where discontent and excessive individuality seek to undermine and trivialize patriotic actions, America calls out to each man, woman, and child to remember the sacrifice of thousands, even millions, like Corporal Far. They believe in America's future and they proved it with their very lines. May each one of us of the rising generation know and feel, as did the five year-old Arizona boy, the honor of devoted service to our country. Though we may not die for our country, let us live for it by seeking for ways to uphold and strengthen its righteous institutions while constantly focusing on improvement. Each one of us must thus answer America's call.

IN SUPPORT OF 35TH ANNIVERSARY OF THE PEACE CORPS

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to offer my congratulations to the Peace Corps on the celebration of its 35th anniversary and to thank all of the many volunteers who have given so much of themselves over the past three and a half decades to ensure the success of the Peace Corps mission abroad.

The Peace Corps currently has over 6,000 American volunteers operating in 94 countries, providing skills and services that range from teaching English in densely populated cities to repairing damaged or outdated water structures in remote villages. The beauty of this program is that it is a cultural exchange. Yes, the host countries are exposed to some of the technological and social advancements our country has to offer through the important services of the Peace Corps volunteers; but after 2 years of service, the volunteers also bring back home with them more than they could ever anticipate: a new language, a new culture, new job skills, and an enlightened world view. This is a win-win program if I've ever seen one.

Knowing that the creation of the Peace Corps was one of President Kennedy's proudest accomplishments during his administration, I am pleased to see that my uncle's vision for the involvement of U.S. citizens in international development has endured. My hat's off to all current and former Peace Corps volunteers, and I sincerely hope that their idealism and service to both our country and our international neighbors continues to be passed on from generation to generation.

SIDE WITH DOCTORS AND SCIENTISTS, NOT THE DOPE PUSHERS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. SOLOMON. Mr. Speaker, the pro-drug crowd is at it again, Mr. Speaker. They never tire of their sneaky attempts at legalizing drugs. Their latest endeavor is in, no surprise here—California—where a fringe group called Californians for Compassionate Use is lobbying the California Legislature to pass two bills which would legalize marijuana use for medicinal purposes. Because marijuana has no medicinal value, it is fairly obvious that this is nothing but a backdoor attempt to legitimize the use of marijuana for all purposes. And that is not just my opinion.

Mr. Speaker, the FDA has repeatedly rejected marijuana for medical use because it adversely impacts concentration and memory, the lungs, motor coordination and the immune system. A recent evaluation of the issue by scientists at NIH concluded, "after carefully examining the existing preclinical and human data, there is no evidence to suggest that smoked marijuana might be superior to currently available therapies for glaucoma, weight loss associated with AIDS, and nausea and vomiting associated with cancer chemotherapy."

Marijuana weakens the human immune system. That is why oncologists reject the idea of prescribing smoked marijuana for cancer chemotherapy. Experts also oppose the use of marijuana to treat glaucoma. As for AIDS patients, it does not facilitate weight gain, further weakens the immune system, and puts them at significant risk for infections and respiratory problems.

For these reasons the American Cancer Society, the American Glaucoma Society and the American Medical Society all oppose using marijuana for medicinal purposes.

Unfortunately, this seriously misguided effort is not limited to some hippies out in California. It has reached the Congress of the United States. Representative BARNEY FRANK has introduced legislation—H.R. 2618—that would federalize the right to use marijuana for medical purposes. This is dangerous legislation—and I can assure you, Mr. Speaker, that I will stop H.R. 2618 dead in its tracks should it receive significant support—something I do not anticipate happening.

I urge my colleagues to focus on what this issue is all about: The organizations lobbying for H.R. 2618 are intentionally exploiting the pain and suffering of others as part of their backdoor attempt to legalize marijuana.

TRIBUTE TO JACK SHAFFER

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. SHUSTER. Mr. Speaker, I rise today to pay tribute to Mr. Jack Shaffer. No words could better describe the character of Jack Shaffer than were expressed in Time magazine on the naming of his new cabinet officers by President Nixon in 1968, "cool competence rather than passion or brilliance."

Many of our Nations' leaders are born in small rural towns. Everett, PA on Feb. 25, 1919, was Jack's birthplace. He grew up much the same as any small town boy would. Appointed to West Point in 1941, where he played football, he was a member of the first

VOL
142
PT
6
AP
15
—
24
1996
UMI

class to receive airmen's wings upon graduation. From there he went to transition flight school, thence to England where he flew forty-six combat missions over Europe in a B–26.

Staying in the Air Force, he became a project officer in Ohio directing the engineering development of the B–47 and B–50 programs. He then resigned his commission and joined the Mercury division of the Ford Motor Co., moving to Washington as corporate vice president for customer requirements of TRW Inc.

With the return of the Republican Party to the Presidency in 1968, President Nixon selected him to become Administrator of the Federal Aviation Administration and he was easily confirmed by the Senate.

Having volunteered his time to the Agency before confirmation, he recognized the need for a massive increase in the civil aviation infrastructure. He saw, as his first priority, the need to modernize and update the Nation's air traffic control and airport systems. He also recognized that the surrounding environment needed protection. Although he was at odds with others in the administration, he stuck to his principles and succeed in passing, through a Democratic Congress, the Airport and Airway Development Acts of 1970. The Legislation set aside a trust fund for airport construction which is still a vital element in providing for the ever-increasing use of air transportation, not only in the United States but throughout the world.

In order to protect the flying public, although faced with strong opposition, he also established regulations to limit the number of flights per hour into five of the Nation's air traffic hubs. JFKennedy, Washington National, LaGuardia, O'Hare, and Chicago Midway. Although designed as a temporary fix, the restrictions still remain in place today. Growth continues to outpace capacity.

Another issue with heavy international connotations was the increase in aircraft highjacking. Highjackers flew aircraft to Cuba for refuge and in several instances, passengers or crew were killed. Negotiations with Cuba and other countries denied these criminals a safe haven. Passengers and luggage were screened for weapons. With air marshalls assigned by the FAA, the number of highjackings decreased dramatically by 1972. However, some of the safety arrangements still exist. During his tenure air safety reached a new high. In 1970, only two deaths occurred on U.S. air carriers.

The most difficult task for the Administrator was to instill confidence in the Agencies air traffic controllers. Following a sick-out by controllers on duty, with as many as 50% of a single shift calling in sick, delays and flight cancellations became burdensome to the flying public. Finally, in 1972, it took court action to curtail their union activities. The Air Traffic Controller Career Act, spearheaded by Jack Shaffer, provided early retirement and retraining for its group, some 20,000 employees.

As a result of these many advancements in the aviation system, Jack Shaffer, in 1972 was awarded the Wright Brothers' Trophy for outstanding service in advancing aviation. He was the first FAA Administrator to be so honored.

One of Jack Shaffers' friends is the legendary golfer, Arnold Palmer, also raised in a small Western Pennsylvania town. In many regards, the two are a lot alike, sharing the same qualities; tenacity, desire, passion for what they do and love of the game of golf. Both have reached the pinnacle of their profession, are pilots, and remember their heritage.

After leaving the FAA, Jack continued his career in the private sector acting as a consultant to Beech Aircraft Corp. and advancing the use of Liquid Natural Gas as a preserver of the environment. He is a role model for political appointees who move from the private sector to government when duty calls.

Jack has been married to Joan for over fifty years and they have raised three fine children. He is currently in a nursing home in Frederick, MD, and is sorely missed by those who know him and have benefited by his influence on their lives.

IN SUPPORT OF ROTARIANS AGAINST SUBSTANCE ABUSE FOUNDATION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. MILLER of California. Mr. Speaker, I am pleased to introduce today a House concurrent resolution to recognize the work of the Rotarians Against Substance Abuse Foundation, the First Presbyterian Church of Concord, CA, and the Alcohol and Drug Abuse Council of Contra Costa County, CA.

These organizations came together in 1983 to promote the idea of engaging teenagers in positive activities and having fun without using alcohol and drugs. Through programs such as Friday Night Live, Club Live, and Rotary Life Club #1, teenagers participate in on-campus peer counseling, community services, Kidfest, and other fun and worthwhile activities. Today, with the success of these programs, this idea is being promoted all across our Nation and throughout the world.

These organizations deserve our commendation for their concern for children's well-being, community service, private initiative, and international promotion. Their work in providing positive activities for teenagers deserves the recognition and support of this House.

I urge my colleagues to support this important bill.

TWIN CITIES COMMUNITY HONORS INFLUENTIAL RESIDENT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. VENTO. Mr. Speaker, I rise today to acknowledge the work of Rev. James w. Battle and to thank him for his outstanding dedication to the St. Paul/Minneapolis communities in Minnesota.

Reverend Battle is the pastor of the Mount Olivet Baptist Church in St. Paul. His activities in the community, however, go far beyond his duties as pastor. Recently, the Luther Seminary recognized him for some of those activities by giving him the Seminary's Race, Church and Change Award. This award was given to Reverend Battle to honor him for his outstanding and tireless efforts to improve cross-cultural relations within the community.

Along with organizations such as the Urban League, Chamber of Commerce, Council on Black Minnesotans, Rainbow Coalition and others, Reverend Battle has taken the lead in the efforts to address many of our community's most daunting problems. He helped organize a meeting of gang leaders from cities across the Nation, brought together to talk about problems associated with gang activity and how they could help forge peace between gangs in their communities. On the local level, he has helped unite several Twin Cities congregations, forming the St. Paul Ecumenical Alliance of Churches. This amazingly effective alliance is helping these 16 congregations coordinate their efforts to address community problems.

During the years he spent giving his time and efforts to our community, Reverend Battle has participated in many efforts to improve the lives of our most precious and vulnerable citizens, our children. They are the future of the Twin Cities, and the nation. By opening doors of opportunity for young Minnesotans in the Twin Cities, Reverend Battle has helped ensure a strong future for our community. The mentoring and guidance he has provided to so many youth will not only increase those children's chances to achieve success, it will also ensure that the next generation of Twin Cities adults feels the same commitment to their community and respect for their neighbors that Reverend Battle holds in such high regard. These lessons are some of the most valuable ones a child will learn in his or her lifetime, and Reverend Battle has served as an exceptional teacher of these lessons.

There is still much work left to be done to address and fill the needs of some Twin Cities residents. However, Reverend Battle's efforts serve as a strong foundation as he and the rest of our community continue this struggle. I join the entire Twin Cities community in thanking him for his hard work on behalf of the community and its residents, and I look to walk through Samaria and face the problems and meet the challenges of the community with a strong leader, Rev. James W. Battle.

Mr. Speaker, I would like to enter the following article into the RECORD. It was printed in the St. Paul Pioneer Press on April 9, 1996. It is a wonderful summary of the good work Reverend Battle has accomplished in the Twin Cities.

[From the St. Paul Pioneer Press, Apr. 9, 1996]

PASTOR HONORED FOR COMMUNITY MINISTRY

(By Pat Burson)

The Rev. James W. Battle Sr. has preached peace to gang members, repentance to sinners and colorblind community service to the clergy.

Battle, known as much for his social activism as his pastorship of Mount Olivet Baptist Church in St. Paul, has opened the church's doors to the community for meetings. In 1993, he helped organize a summit meeting of gang leaders from around the nation to sit down and talk. He helped start an

organization to unite local congregations to work collectively to solve problems in their communities.

Luther Seminary will award Battle, pastor of Mount Olivet, its annual Race, Church and Change Award today.

In giving him the award, Luther Seminary honors one of its own: Battle received a master's of divinity degree from the school in 1977. "It really surprised me," Battle said. "It let's me know you can make a difference in this world."

According to Rod Maeker, Luther Seminary's director of cross cultural-education, the award is given to unsung heroes for faithfulness to a ministry of reconciliation.

"The seminary views the Rev. Battle's exemplary ministry as a wonderful role model for seminary students, parish pastors and community leaders who are committed to serving their community," Maeker said. "He's a classic."

Battle has also worked to improve communication and relations between residents, merchants and organizations in the Frogtown neighborhood. And he is co-founder and co-chairman of the St. Paul Ecumenical Alliance of Congregations, an interdenominational, multiracial, grass-roots organization started in 1990 that brings together about 16 local congregations to address housing, education, crime and employment issues within neighborhoods.

Local ministers applaud Battle's insistence that churches get more involved in improving social, economic and living conditions within the communities they serve.

"He's been consistent in saying that churches need to be more responsive to those who have been left out—the underserved—whatever race," said the Rev. James Erlandson, pastor of Lutheran Church of the Redeemer who also is involved with the St. Paul Ecumenical Alliance of Congregations.

"Primarily, churches serve the middle class," Erlandson said, "If we're going to be consistent with Jesus' message and the prophets' message, we need to serve the poor and those who have been left out of the economic process, so we can be a voice for those folks. He's been reminding us of that."

Battle also is known as an advocate for families, children and education. He recently was involved with the Twin Cities African American Parent Involvement Committee, a local group that organized the African American Parent Involvement Day on Feb. 12. The effort was part of a national push to encourage more black parents to take an active role in their children's education.

Phillip Penn, human resources director for the St. Paul Public Schools, said Battle was an enthusiastic member of that organizing committee, attending all the meetings, and even opening his church for gatherings some Saturday mornings. Battle also was key in alerting other ministers about the project and urging them to spread the word to members of their congregations, Penn said.

"He was just extremely supportive in every way."

THE PASSING OF RABBI ARTHUR J. LELYVELD

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. STOKES. Mr. Speaker, I am saddened to announce the passing of Rabbi Arthur J. Lelyveld on April 15, 1996. Rabbi Lelyveld held the post of Senior Rabbi Emeritus of Anshe Chesed congregation (Fairmount Temple), having served as Senior Rabbi for 28 years. With his passing, we mourn the loss of a close friend and a nationally recognized civil rights and religious leader. I rise to share with my colleagues some important information regarding Rabbi Lelyveld and his contributions to the Nation.

Throughout his life, Rabbi Lelyveld was a strong and effective leader in the Jewish community. He was the founder and first president of the Jewish Peace Fellowship. In addition, Rabbi Lelyveld was the past national president of the American Jewish Congress and the American Jewish League for Israel. He served as national director of the B'nai B'rith Hillel Foundations, and executive vice chairman of the American-Israel Cultural Foundation.

During his lifetime, Rabbi Arthur Lelyveld was equally committed to the struggle for civil rights and social justice. At the height of the civil rights movement, Rabbi Lelyveld traveled with other clergy to Mississippi where they served as counselors to the Commission on Race and Religion. Although he was severely beaten, Rabbi Lelyveld was unwavering in his belief that the battle for equality could be won. He was a man of courage who shared a close friendship with Dr. Martin Luther King, Jr., and others involved in the struggle.

The Greater Cleveland community also benefited immensely as a result of Rabbi Lelyveld's strong dedication. He was a gifted orator and a well-known author who was able to draw upon his life experiences as a lesson for others. Rabbi Lelyveld served as the Bernard Rich Hollander lecturer in Jewish thought at John Carroll University, and senior teaching fellow at the Cleveland College of Jewish Studies. He also served as adjunct professor of religion at Case Western Reserve University.

The passing of Rabbi Arthur J. Lelyveld brings to a close a life of service which transcended religious and racial boundaries. He was a brilliant man who devoted his enormous intellect and energies to addressing and working to solve the inequities and ills in our society. He fiercely fought discrimination and racism wherever he encountered it. I came to know Rabbi Lelyveld through our serving on the board of directors together in the Cleveland Chapter, NAACP, and his involvement in the Civil Rights Movement in Cleveland. He was a man of peace but a warrior for righting the wrongs in our society.

In later years, one of my fondest memories was that I had the honor of presenting Rabbi Lelyveld when he served as guest chaplain for the House of Representatives. In his opening prayer delivered in this Chamber in 1993, Rabbi Lelyveld challenged us to conquer the problems facing our Nation, such as homelessness, hunger, and crime. He challenged us to set the standard for other nations to follow. In his prayer, Rabbi Lelyveld shared his vision for this Nation—"a vision of brotherhood, justice and peace."

On April 17, 1996, services for Rabbi Lelyveld will be held at Fairmount Temple in Beachwood, OH. It is my hope that his loving and devoted wife, Teela; his children, Robin, Joseph, David, and Michael; and other members of the family, will take comfort in knowing that others share their sorrow. Rabbi Lelyveld will be remembered for his service to humanity. In tribute to Rabbi Lelyveld, let us work together with renewed vigor to make his vision for our society a reality.

I want to share with my colleagues an article regarding Rabbi Lelyveld which appeared in the Plain Dealer newspaper.

RABBI ARTHUR J. LELYVELD, CIVIL RIGHTS FIGURE, DIES AT 83

(By Zina Vishnevsky)

CLEVELAND—Rabbi Arthur J. Lelyveld, nationally known as a fighter for civil rights and the state of Israel, died yesterday of complications from a brain tumor at Montefiore Home in Beachwood. He was 83.

The Cleveland resident was the spiritual leader of Fairmount Temple in Beachwood, one of the country's three largest Reform congregations.

He gained notoriety for his involvement in the formation of Israel, the civil rights movement and in the struggle against apartheid in South Africa.

He was rabbi of Fairmount Temple from 1958 until retiring in 1986. After becoming senior rabbi emeritus at Fairmount, he served as a lecturer in Jewish thought at John Carroll University, a Jesuit institution.

Rabbi David J. Gelfand, now the leader at Fairmount Temple, said Lelyveld used strict Judaic teachings to bring his civil rights message to synagogues.

"He spoke fearlessly as one of the great advocates of civil rights by making the message of the prophets come alive through his words and deeds," he said. "He emphasized from our own Jewish particularity the eternal importance of universality, the notion that all human beings are interrelated.

"He was fond of saying we were all made in the image of God."

Lelyveld served on the board of the Cleveland chapter of the NAACP in the 1960s and played a major role in the civil rights progress of Cleveland.

"He was the conscience of the community on many critical issues," said Carole Hoover, president of the Greater Cleveland Growth Association. "His strength was in his ability to pull us all together."

He was one of the nation's first rabbis to join the Rev. Dr. Martin Luther King Jr.'s campaign for civil rights. He participated in key marches, including Selma to Mongomery, Ala., and provided financial support to the Southern Christian Leadership Conference.

In 1964, as part of the Cleveland clergy team, Lelyveld served as a counselor for the Council of Federated Organizations under the National Council of Churches Commission on Race and Religion.

He was beaten with tire irons by segregationists while helping to register black voters in Hattiesburg, Miss.

"He was a giant—both as a rabbi and as a civil rights leader. He used his brilliant and keen mind to make people think deeper about social issues," said Rep. Louis Stokes, a Cleveland Democrat, who served on the NAACP board with Lelyveld in the 1960s. Stokes; his brother, former Mayor Carl B. Stokes; and Lelyveld became lifelong friends.

After the beating in Hattiesburg, Lelyveld said that he worried that police would not apprehend the suspects in his assault and would continue to harass civil rights workers.

He issued a statement to his supporters in Mississippi. "There is only one way to stay

VOL
142
PT
6
AP
15
—
24
1996
UMI

here and not be corrupted, only one way to stay and be faithful to Israel's convenants: That is to stay and stand up for decency and freedom, with all the risks involved. If you cannot do that—and it is understandable if you can't—then for the sake of your souls, leave Mississippi."

A month later, the men who beat Lelyveld received suspended sentences "on condition of good behavior" and were fined $500 each.

Although he was an anti-Zionist early in his rabbinical career, Lelyveld later said that he had "become convinced of the righteousness of the cause."

He worked for the establishment of Israel as a Jewish state when many American Reform Jews were not always strongly inclined to support Zionism or a modern state of Israel. He met with President Harry S. Truman at the White House in 1946 to encourage U.S. support for a Jewish state, at a time when the State Department seemed hostile to the idea.

In 1970, during the election to his third term as national president of the American Jewish Congress, he spoke out against an attack by Jewish extremists on Arab diplomats in New York in retaliation for a school bus attack in Israel.

"We cannot allow the horrifying acts of Middle East terrorists to push us into committing or condoning irrational attempts to take violent reprisals against Arab representatives in our country," he said.

Born in Manhattan, Lelyveld attended public schools in New York City and graduated from George Washington High School in Manhattan when he was 15 years old.

He attended Columbia College and was the first Jewish editor-in-chief of its newspaper, the Columbia Daily Spectator. He was the student leader of the Glee Club, led a band called the Columbia Ramblers and participated in soccer and wrestling. He graduated Phi Beta Kappa in 1933.

He earned his master's degree in Jewish theology and was ordained a rabbi at Hebrew Union College in Cincinnati. He then taught on a fellowship from Hebrew Union College for two years while his rabbinae was at Congregation B'nai Israel in Hamilton, Ohio.

He became a founder and first president of the Jewish Peace Fellowship, where he worked from 1941 until 1944.

Lelyveld served as executive director of the Zionist Organization of America's Committee on Unity for Palestine from 1946 to 1948. He was national director of the B'nai B'rith Hillel Foundation from 1947 to 1956. From 1956 until he came to Cleveland in 1958, he was executive vice president of the American-Israel Cultural Foundation.

He served as national president of the American Jewish Congress for three consecutive terms from 1966 until 1972 and had served at various times as president of the Synagogue Council of America and the Central Conference of American Rabbis, an association of Reform rabbis in the United States and Canada.

Lelyveld and his wife, Teela, made 28 visits to Israel.

As president of the Synagogue Council of America, Lelyveld served as a representative to the Vatican to improve Catholic-Jewish relations.

Lelyveld taught two religion courses at John Carroll University through the Jewish Chautauqua Society as the Bernard Rich Hollander lecturer, beginning in 1980. In 1989, he filled the Walter and Mary Tuohy Chair of Interreligious Studies at John Carroll.

In 1985, he spent a five-month sabbatical in South Africa as the guest of the United Progressive Jewish Congregation of Johannesburg.

His son, Joseph S., was a long-time New York Times correspondent who covered South Africa during the 1960s and again in the 1980s and is now executive editor of the Times. Lelyveld had once considered a career in journalism himself when he was in college.

In the late 1980s, after he retired from an active role at Fairmount Temple, Lelyveld spent several months in Oxford, England, as a scholar-in-residence at Oxford University. He returned again over the years and was invited back last summer.

He was also an author, One of his books, "The Steadfast Stream: An Introduction to Jewish Social Values," was published in September.

As past president of the Central Conference of American Rabbis, he wrote a book responding to contemporary radical theology entitled "Atheism is Dead," First published in 1968 by World Publishing Co., it was reissued in paperback in 1970 and again in paperback in 1985.

He was mentioned or written about in at least four books in 1993, including "A History of Jews in America," by Howard Schar, and "Truman," a biography by David McCullough.

In 1988, while on leave from John Carroll, Lelyveld served as a chaplain and lecturer on a 100-day Grand Circle Pacific Cruise aboard the Royal Viking Sea.

He was awarded the 1992 Martin Luther King Jr. Award for Social Justice by the African American Archives Auxiliary of the Western Reserve Historical Society.

Lelyveld served as senior rabbi at Temple Emanu El in Honolulu, Hawaii, from September 1994 until June.

He was a member of the Advisory Board of the Pastoral Psychology Institute of Case Western Reserve University's College of Medicine.

Survivors include his wife of 31 years, Teela, and daughter, Robin of Bethesda, Md. He is also survived by three sons from his first marriage to Toby Bookholtz: Joseph S. and David S., both of New York, and Michael S. of Arlington, Mass.; and five grandchildren.

Services will be at 3 p.m. tomorrow at Fairmount Temple, 23737 Fairmount Blvd., Beachwood. Arrangements are by Berkowitz-Kumin-Bookatz Memorial Chapel in Cleveland Heights.

Contributions may be sent to the Arthur J. Lelyveld Memorial Foundation, c/o Fairmount Temple, 23737 Fairmount Blvd., Beachwood 44122; or to the Religion Department of John Carroll University, 20700 N. Park Blvd., University Heights 44118; or to the Montefiore Nursing Home Hospice, David Myers Pkwy., Beachwood 44122.

STUDENT WINS FIRST PLACE IN VFW SCHOLARSHIP CONTEST

HON. FRANK MASCARA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. MASCARA. Mr. Speaker, I am pleased to report to my colleagues that Jonathan Bayat, a senior from Upper St. Clair High School in my district, has won first place in this year's Pennsylvania VFW Voice of Democracy broadcast script writing contest.

An outstanding student who has earned three letters in swimming, Jonathan plans to attend the American University here in Washington, DC, and pursue a career in international service. He also enjoys music and plays the guitar and trombone.

In the eloquent script Jonathan wrote for this contest, appropriately titled "Answering America's Call," he sends a message all of us here in Congress need to hear: We must work together as a community to overcome the problems of homelessness, poverty, and illiteracy. He urges us all to become involved and volunteer our time and talents to help those less fortunate than ourselves.

In an effort to ensure his message is read across the country and to honor Jonathan's accomplishment, Mr. Speaker I ask that his script be included in today's RECORD. Thank you.

ANSWERING AMERICA'S CALL

(By Jonathan Bayat)

"Now we must all hang together, or most assuredly we shall all hang separately." When Benjamin Franklin spoke those words to a small group of farmers, smiths, and artisans assembled some 219 years ago in Philadelphia, they were as true then as they are today. He told that group of men that if they were going to do what they had set out to do, to tell the King of England that they had had enough of his tyranny, then they must all stick together. Through thick and thin, through good times and bad times, they had to work together or they would all be killed. Their ideals, philosophies and culture would all be lost. Their unity made it capable for this great nation to rise from the loosely associated and disorganized thirteen colonies which preceded her.

The ability for Americans to come together regardless of race, color, or creed and work in unity for the most basic of American ideals has always made this nation great. From the thousands of Union troops who fought to preserve the nation during the Civil War to the thousands of men who left their homes in 1942 to fight for a land and a people most of them had never even seen, all of them rose to the occasion and to the call from their homeland, America. But the call extended beyond military service it went out to every man and every woman regardless of age.

When our American troops landed at Normandy they did not land alone, but rather were backed by the support of millions of Americans. Millions of Americans who did everything from designing the landing craft which our troops used in their amphibious assault, to the fastening of bolts on the armor plating of tanks which our soldiers used to break the back of the Nazi war machine. When Alan Sheppard became the first American to enter space he did not accomplish this task alone but rather he rode on a rocket that countless Americans played a role in developing. Every person had a function and it was the compilation of these capacities that made this monumental feat possible.

But what now is America's call? Is it to again go overseas to defend freedom worldwide or has the call, now, in recent years, sounded closer to home? Has the proverbial battle for the "American Way" moved from foreign shores to our own sacred soil?

The battle being fought now is on the streets of inner-city America and in the classrooms of every public school rather than at the 38th parallel or the DMZ. The battle is now fought with books, knowledge, clothing, and shelter. America now faces the enemies of homelessness, poverty, and illiteracy. But these enemies are neither too great nor too powerful for the transcendent American war machine.

Our focus must simply change. We as Americans must go forth into our own nation and wage war on poverty. Not only with monetary support but also with real community involvement: building houses for the poor, working in soup kitchens, teaching evening classes at homeless shelters. We as Americans must fight for those kids who for whatever reason, be it lack of parental supervision, poor public school systems or overall living environment cannot meet the basic reading and writing standards to be employed. These are the battles which face our nation today.

When Thomas Jefferson remarked in an address to congress that, "Free men without Education are not free for long," he spoke the truth. The lack of education and the poverty and degradation that it breeds must be met head-on and destroyed. I envision an America full of volunteers, a virtual nation of volunteers, an army of civilians fighting a battle which we as a country have lost in the past, an army which would put an end to suffering for thousands of men, women and children, and truly make this country the richest, strongest, and proudest the world has ever seen.

It is time for us, the citizens of the United States, to stand up, and through unity and cooperation fight and win the battle against poverty. In the immortal words of Benjamin Franklin, "United we stand, divided we fall."

THOMAS R. BROME ENDOWMENT FUND

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate Thomas R. Brome on the formation of the Thomas R. Brome Endowment Fund by his friends and colleagues at the Ridgewood, NJ, Public Education Foundation. The fund, with an initial endowment of $25,000, is being formed to honor Tom for his many contributions to the community. The fund will be used exclusively to support programs in education in Tom's name.

Tom's contributions have been enormous. He is a gentleman, scholar, corporate giant, community leader, philanthropist and an extraordinary friend. Even beyond his myriad accomplishments, his exemplary character establishes him as a role model for future leaders in America. He has three passions: his family—wife Mimi and their three children, Clint, Bethan, and Heather; his love of the law, and his commitment to volunteerism.

In both the public and private sector, Tom embodies the highest ethical and moral standards, affirms the dignity of every individual and creates compromise and consensus in environments often rife with discord. As a conciliator, Tom is the embodiment of "win-win" negotiations. His intellect allows him to do that, but it is his personal warmth, genuine willingness to listen and his ability to find a resolution greater than the sum of the parts that really speak to his special abilities.

Tom has led a life filled with distinctions. The 1960 graduate of Ridgewood High School graduated magna cum laude from Harvard University in 1964. At New York University Law School, he was a Root-Tilden Scholar. After graduation, he clerked for Warren Burger at the U.S. Court of Appeals in Washington before the jurist was elevated to the U.S. Supreme Court. Tom joined the firm of Cravath, Swaine & Moore in 1968, was elected partner in 1975 and is presently head of the Corporate Law Department.

Despite a challenging career and a rigorous workload, Tom has always managed to find time to give service to the community of Ridgewood and other causes.

Tom is in his third year as president of the Ridgewood Public Education Foundation, with the mission of broadening our children's education experience and helping our school system deliver a world-class competitive education. He has helped establish a successful partnership with the Paterson Education Foundation and a number of districts have looked to Ridgewood as a prototype.

In November 1994, Tom became president of the New York Legal Aid Society Board of Directors, an agency with which he has served since law school. As president, Tom had the task of negotiating contracts and restructuring Legal Aid's staff following an attorneys' strike and New York City's termination of Legal Aid contracts.

He is also co-chair of Weinfeld Associates, a fund-raising arm of NYU Law School, a former president and trustee of the Ridgewood Board of Education, and a former vestryman and warden at St. Elizabeth's Church in Ridgewood.

Tom and I go way back—back further than either of us would care to admit. He was my student at George Washington Junior High School in Ridgewood. From those days a long time ago, I could see Tom was destined for great things. He was sharp, disciplined, handled himself very well, displayed great character and his classmates turned to him for answers. In short, he was a leader among leaders even then.

It is Tom's propensity for hard work, his facile mind and his wonderful ability to deal with people that have allowed him to balance a truly Herculean schedule. Everything he does, he does with full effort and with grace and sensitivity. Perhaps it is the dignity with which Tom treats every individual that truly inspires people to do their best. Ridgewood is truly blessed to have Tom as a resident and I am truly blessed to be able to call him my friend.

CONGRATULATING MICHAEL KENNY, FLORIDA VOICE OF DEMOCRACY WINNER

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. BILIRAKIS. Mr. Speaker, each year the Veterans of Foreign Wars and its ladies auxiliary conduct the Voice of Democracy Broadcast Scriptwriting Contest. This year, more than 116,000 secondary school students participated in the contest, competing for the 54 national scholarships totaling more than $118,000. The contest theme for this year was "Answering America's Call."

I am proud to announce that one of my constituents, Michael Kenny, won first place in the state and a $1,000 scholarship in the Voice of Democracy Contest. Michael is a senior at Tarpon Springs High School and hopes to pursue a career in theater.

In his speech, Michael reminds us all of what can be accomplished when we answer America's call and undertake individual acts to improve the world around us. I would like to share Michael's speech with you.

ANSWERING AMERICA'S CALL

(By Michael Kenny)

Around the first of December 1995, due to the efforts of people in Helena, Montana banding together to protect and care for certain ailing and threatened birds, the American Bald Eagle was taken off the endangered species list.

Murder, poverty, homelessness, hunger, discrimination*** when we watch the evening news, or read the paper, we seldom see good news like the story about the Bald Eagle. We are often disgusted and shocked at what transpires in the world around us. Many are pointing out our problems without offering any solutions. They see America's flaws and say we are a society destined to failure. America is endangered, but her critics are not listening. They do not hear the soft voice of America as she whispers. America is calling out to us. She asks for our love and respect for her and for her precious needy citizens. She is the voice of the twenty million children living in poverty and the 12 million children hoping for a hot meal so they won't go to bed hungry***again***"help us," America calls, "help them", "help each other."

Let's not waste time criticizing, let's answer. Let's work together and repair what is wrong with this country. She asks us to come together, to stand united in our communities and help those who need food, clothing and shelter. As a letter to the editor in my local newspaper recently put it, "The truth is that no sense of community can survive unless we the people demand political respect and economic support for the values of human dignity." A while back, I was like the many who just complained and put America down. I was angry at the world around me for all of its problems because I felt helpless to make right what was wrong. I am only one person, I thought, what can I do? Recently, desiring to at least do something. I went down to a local soup kitchen to offer some help. I noticed there a young girl in what appeared to have once been a pink dress, but was now only soiled rags. She was cold and clutched tightly an old doll with the stuffing coming out and she was desperately trying to keep warm. My heart sank as she timidly approached the counter. I wanted so much to help her. As I handed her a cup of chicken soup and saw the smile cross that dirt-stained little face as she took her first sip, I knew I had begun to answer her call. She received the nourishment she needed to get through the day. We helped make her life, and others, a little easier, at least for the moment. I realized then that I could make a difference. Finally, I was beginning to hear and answer the call of America.

Our country also calls out for us to be proud. We live in a nation where men and women have traditionally joined in a fight

VOL
142
PT
6
AP
15
—
24
1996
UMI

for freedom. So many lives were lost to gain what this country stands for; justice, liberty and community. When you hear the national anthem at a ball game, rise***rise as America calls you to your feet, and when you place your right hand over your heart, be proud of your country. When we answer America's call, we will have come together as a community; white, black, native America, Asian, Hispanic and have erased prejudice and racism. We will have helped our fellow human beings and hopefully, defeated hate and violence. And America will finally hear the praise she so desperately deserves.

So let's listen to our country because all our criticism is drowning out her voice. But she still calls for us to go out and do something. No, You or I alone can't change a whole country, but when people in our community see what we are doing, it will inspire them to do the same, and will create a chain from one community to the next until all of America is answering the call. And then, who knows, maybe this country, like its national symbol, the Bald Eagle, will no longer be endangered.

TRIBUTE TO GIRL SCOUT GOLD AWARD RECIPIENT

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. OBEY. Mr. Speaker, today, I would like to salute an outstanding young woman, Laura Hahn, who has been honored with the Girl Scouts of the U.S.A. Gold Award by the Indian Waters Girl Scout Council in Eau Claire, WI.

She is being honored for earning the highest achievement award in Girl Scouting. The Girl Scout Gold Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning and personal development.

Girl Scouts of the U.S.A., an organization serving over 2.6 million girls, has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill five requirements: earn four interest project patches, earn the Career Exploration pin, earn the Senior Girl Scout Leadership Award project, earn the Senior Girl Scout Challenge, and design and implement a Girl Scout Gold Award project. A plan for fulfilling the requirements of the award is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

For the Girl Scout Gold Award project, Laura developed a plan to prepare and distribute holiday meals to people who could not leave their homes. Laura worked to secure the funding for the meals and organized volunteers to help prepare and deliver the meals. Through her project, Laura was able to bring together different groups to address the needs of individuals in her community.

The earning of the Girl Scout Gold Award is a major accomplishment for Laura Hahn and I believe she should receive the public recognition due her for this significant service to her community and her country.

TRIBUTE TO NORA W. BRANDT: SPEAKING OUT FOR PEACE

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mrs. MEEK of Florida. Mr. Speaker, I rise today to recognize the accomplishments of Nora W. Brandt, the principal of W.J. Bryan Elementary School in north Miami. Mrs. Brandt will be honored here in Washington tonight at a ceremony recognizing her efforts to teach young people peaceful means of resolving conflict.

Too often in our society, conflicts are resolved through violent rather than through peaceful means. Mrs. Brandt's efforts to teach a new generation about ways to settle disagreements without fighting are very much needed today.

To advance the cause of peace, Mrs. Brandt, in 1992 initiated a schoolwide peace campaign at W.J. Bryan Elementary. In subsequent years the school sponsored the Annual W.J. Bryan Peace Summit which has become a model for other area schools. Earlier this year, more than 2,000 students and parents participated in a multicultural peace march organized by Mrs. Brandt and the students of W.J. Bryan.

Mrs. Brandt has also coordinated the schoolwide training of all teachers in "Creative Conflict Solving for Kids" and established a Peer Mediation Program.

In 1994 Mrs. Brandt was recognized as Peace Administrator of the Year by the Peace Education Foundation. Under her leadership, W.J. Bryan was named the 1995 Exemplary Peace School by Dade County Public Schools Multicultural Task Force.

Mr. Speaker, I join with all of our community in honoring Nora W. Brandt, educator and peacemaker.

DEDICATION OF THE GENE R. ALEXANDER LEARNING RESOURCE CENTER

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. POSHARD. Mr. Speaker, I rise today to honor Mr. Gene R. Alexander of Benton, IL. For over 30 years he was a devoted teacher and principal, and on April 25 he will be honored for his service when the library at Benton Elementary School is renamed the "Gene R. Alexander Learning Resource Center." I would like to thank "Mr. A," he is fondly referred to, for his relentless promotion of education and his efforts on behalf of the children of Franklin County.

As an educator and administrator I understand the commitment and hard work it takes to make a profound impact on the lives of your students. This task is even harder today, for it seems all school employees are asked to make a case for the benefits of education; students crave entertainment and engagement as much as they desire fundamental knowledge. Mr. A. understood that if he gave enough of himself to the children, they would respond. Even in retirement, he still can be found reading to students, cleaning and painting area schools, spreading the word to say no to drugs, even contributing his own money to purchase school resources. Mr. A has been the difference for many kids between enjoying school and appreciating the value of education instead of just getting by. And, as so often is the case with community leaders, Mr. A's civic participation has not been confined to his chosen profession. He has taught Sunday School at the First Christian Church for 37 years and been an active member and past president of the Benton Kiwanis. His life is a testimonial to selflessness, and we the recipients of his kindness have been truly blessed.

Mr. Speaker, all too often we fail to recognize the contributions that the teachers of our children make to their lives. On this very floor, we hear about how our education system is letting down our students and how overall standards have decreased. Thankfully, Gene R. Alexander has made sure this is not the case in Benton and the surrounding area. I would again like to thank Mr. A for his tireless efforts on behalf of the children of the 19th District. It is an honor to represent him in the U.S. Congress.

TRIBUTE TO LEO NELSON

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. HASTERT. Mr. Speaker, I rise today to honor an outstanding civic leader of Illinois' 14th Congressional District, Leo Nelson, on his forthcoming receipt of the Elgin Cosmopolitan Club's Annual Distinguished Service Award.

Leo Nelson has served the community of Elgin with great distinction over the years, serving as a member of city government for over a decade and participating in a number of community activities. The list of accomplishments during his long career are many, and there are several States across this Nation that are better for his service there. Born and raised in Chicago, Illinois, he graduated from the University of Illinois with a Bachelor's degree in political science in 1957. He then served his country for several years in the U.S. Army, retiring and returning to college at Boston University where he received his Master's degree in 1964. He began his professional career as administrative assistant to the city manager of Rock Island, IL in 1964, and followed that position with city management positions in Wyoming, Michigan and Sidney, OH before settling in Elgin, IL, in late 1972.

Mr. Speaker, Mr. Nelson has been a highly valued member of the Elgin community for nearly 25 years, and his list of civic activities is quite lengthy. He is a former director and current chairman of the Elgin Area Chamber of Commerce Board, the president-elect of the United Way of Elgin Board, member of the Elgin Community College Foundation Board and current chairman of the Robotics and High Technology Academy of School District

U–46 in Elgin. His past activities have included time as chairman of the Jayne Shover Easter Seal Center, as chairman of the Greater Elgin Area YMCA Corporate Board, and as a member of the Neighborhood Housing Services Board, the Well Child Conference and the Elgin affiliate of the Literacy Volunteers of America.

Mr. Speaker, I ask you and my colleagues to join me in honoring this dedicated man, for his commitment to the Elgin community and to improving this Nation. I wish him well as they years's recipient of the Elgin Cosmopolitan Club's Annual Distinguished Service Award, an honor that is richly deserved.

RECOGNITION OF CIVIC ACHIEVEMENTS OF ERVIN HIGGS

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. DEUTSCH. Mr. Speaker, for the past 60 years in Monroe County, one man has been at the forefront of fighting for the needs of the Florida Keys. Ervin Higgs has taken a leading role in finding solutions to our communities' problems. In recognition of all of his civic achievements, I would like to take this time to outline all that he has done for south Florida.

The Ervin Higgs story began on April 30, 1936 in Key West, Florida. On that day, Ervin Higgs was born into a family of "conchs" who trace their heritage to Spanish Wells in the Bahamas.

In an attempt to contribute his energy to the community, Ervin sought out public service as a profession. He was first appointed by Governor Askew in 1976 as the tax assessor for Monroe County, FL and has served in that position ever since.

When the local government was mandated to adopt a comprehensive plan in compliance with certain state mandates, Ervin was acutely aware of the higher taxes paid under the school funding formula. Even at the early stages, he foresaw that the funding formula could, and probably in the near future, reach a point where local taxpayers would be required to pay more into the state school fund than would be allowed to be expended by the local school board. In order to ensure that all properties were properly reflected on the tax roll when the country adopted the initial comprehensive plan, he realized that the mapping of the environmental features of properties was inadequate. He hired his own consultant and eventually produced maps that were adopted by the county.

Through the years Ervin has been in office, he has defended the equity of the tax roll and even fought in the courts to ensure that everyone paid their fair share. He has cost-effectively modernized the Property Appraiser's Office, passing cost-savings back to the taxpayers.

As he grew older, Ervin developed into one of those endangered species that is currently being threatened in south Florida as a result of an attempt of almost every level of government to influence and control the future of the Florida Keys. As a "conch", he has always been acutely aware of the need to preserve the existing natural beauty of the Florida Keys while at the same time attempting to keep the local economic base viable. For all of his work, I would like to take this time to honor his achievements.

VETERANS AFFAIRS HOSPITAL VOLUNTEER PROGRAM

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. WARD. Mr. Speaker, the Department of Veterans Affairs [VA] Hospital Volunteer Program is one of the oldest and largest nationally coordinated programs and is an outgrowth of a movement that began during World War II. During that time, volunteers came, unsolicited, to VA hospitals to visit and entertain war-injured patients. After the war, national organizations and the VA formulated this effort by creating the VA Voluntary Service National Advisory Committee.

This year is the 50th anniversary of VA Voluntary Service. That organization has coordinated the donation of more than 400 million community volunteer hours at VA medical centers since 1945.

At the VA Medical Center [VAMC] in Louisville, 585 volunteers worked a total of 58,225 hours last year. This is equivalent to 26 full-time employees and valued at $706,269.

Last year, Louisville VAMC volunteers gave $150,372 in material donations, such as personal hygiene items, art supplies, books, equipment, and vehicles to the medical center. In addition, our volunteers gave $58,321 in monetary donations last year.

Volunteers are vital to the delivery of health care to our nation's veterans. They assist at the Louisville VAMC by transporting patients to different areas of the hospital, transporting records and files, visiting patients, assisting with recreation programs, and helping with clerical work.

The most valuable contribution given to veteran patients by Louisville VAMC volunteers cannot be measured in any way. It is the gift of themselves—their compassion, caring, understanding, and dedication. Their very presence in the medical center contributes to putting frightened patients at ease and creating a comfortable environment for them.

I salute the Louisville VA Medical Center's volunteers for their tireless service to our Nation's veterans.

A TRIBUTE TO UTAH STATE SENATOR WILFORD "REX" BLACK

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. ORTON. Mr. Speaker, I would like to take a moment today to honor Utah State Senator Wilford "Rex" Black of Salt Lake City, who is retiring from the Utah Senate after representing his west Salt Lake district for 24 years.

Senator Black has earned the high respect and admiration of his colleagues on both sides of the aisle as he has worked in the Utah Senate. An article, published in the Thursday, February 29, 1996, edition of the Salt Lake Tribune written by staff writer Tony Semerad, does a good job describing Senator Black. I would like to include portions of this article in today's CONGRESSIONAL RECORD:

> Wilford "Rex" Black Jr., trusty locomotive driver of Utah Democratic legislators, pulled into the retirement yard Wednesday after a quarter-century of service.
>
> Part statesman, part grump, part warm-hearted grandfather, Black, 76, ended a 24-year Senate career when the gavel fell. As the longest-serving senator in the chamber, he leaves an indelible mark on state government and the politicians who stay behind.
>
> The Senate had been a dry-eyed place in 1996. That is, until Monday, when senators began speaking up at a Black farewell ceremony. One by one, leading Republicans and Democrats folded in tears as they bade farewell to the retired railroad engineer-turned-senator, his firm manner and, above all, his integrity.
>
> "When Rex tells you something, you can take it to the bank," said Sen. John Holmgren, R-Bear River City. "That's just the way it is."
>
> Through six Senate terms, the Rose Park resident has served as majority whip when Democrats dominated Capitol Hill, and held the post of Senate minority leader for a decade. From key committee seats, he has influenced nearly every major piece of legislation since the late 1970s, focusing on public safety, transportation, credit unions and the state's retirement system.
>
> Senate President Lane Beattie, R-West Bountiful, calls Black and his experience one of strongest arguments against the idea of term limits. "I can't imagine a worse mistake than limiting the expertise, knowledge and wisdom of a man like this," said Beattie.
>
> Many find it impossible to imagine working in the Utah Legislature without Black's leather-tough, sometime gruff, sometime humorous presence.
>
> "He is as much of a part of my mental visualization of what goes on in here as anything or anybody in the chamber," said Gov. Mike Leavitt, whose father, Dixie Leavitt, served alongside Black.
>
> But the years catch up with everyone. "It's my time to go," Black said.
>
> While still fit after surviving a bout with cancer six years ago, the gray-haired senator shows an icy bluntness and lack of self-consciousness befitting someone who has spent his golden years making state laws.
>
> He is renowned for reading every bill, even the most mind-dulling, and for being a stickler for correctness in procedure.
>
> He was born in Salt Lake City in 1920 and named for his father, a Hercules shell-house foreman. Seven months after marrying Helen Shirley Frazer in May 1942, Black entered the army, eventually driving supply and prisoner trains across Europe.
>
> Upon his return, Black resumed working for the Denver & Rio Grande Western Railroad, reaching the ranks of union leadership in the Brotherhood of Locomotive Firemen and Enginemen and its successor, the United Transportation Union, until retirement.
>
> He has eight children, 34 grandchildren and four greatgrandchildren, a clan a fellow senator said 'was practically the entire population of Rose Park.' Black also is a devout Mormon.

VOL 142 PT 6 AP 15 — 24 1996 UMI

Eddie Mayne labored in the Bingham open-pit mine 25 years ago, when he and a delegation of other workers approached Black about running for the Senate. Black's wife was decidedly cold to the idea. 'I won't tell you her exact remarks,' he said, 'but it was a definite 'no.'

Mayne, now head of the Utah AFL-CIO and a senator himself, said Black has come to symbolize a Democratic brand of respect and compassion for the elderly, disabled, veterans, workers, and the state's downtrodden.

On their behalf, Black has charged into some of the major political fights of the age.

The only filibuster of his career came under the late Gov. Scott Matheson. Republicans proposed altering state procurement code in a way Democrats felt jeopardized the Intermountain Power Project, an immense coal-fire power plant near Delta, a boon for blue-collar jobs.

Black stalled Senate debate for an hour and 45 minutes, enough time to allow Democrat Matheson to pressure the bill's supporters into backing down.

Finally, they asked me to call it off,' he said with a wry smile.

Mr. Speaker, I add my congratulations and thanks to Senator Black, on behalf of the people of Utah, for his may years of service in the Utah Senate. He will be missed but not forgotten.

MANOJ ILLICKAL WINS FIRST PLACE IN ANNUAL ESSAY CONTEST

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. KING. Mr. Speaker, today I would like to salute a young constituent of mine, Manoj "Manny" Illickal, who is working toward his college degree with the assistance of the Gateway Job Corps. Manny recently took first place honors in the Joint Action in Community Service, Inc. [JACS] National Essay Contest.

I offer for inclusion in the RECORD, Manny's award-winning essay, "How Job Corps Changed My Life." It's an inspiring story of how he learned self-discipline and the value of hard, honest work. After reading this essay, I am certain that you'll agree with me that Manny's future is limited only by how far he wants to take himself. He seems to have the right attitude for success.

HOW JOB CORPS CHANGED MY LIFE

(By Manny Illickal)

While my classmates were cleaning other parts of the workshop, I was spending my Friday afternoon mopping the office of my instructor; that is, I was supposed to be mopping his office. What I was actually doing was trying to figure out how best to get out of Building and Apartment Maintenance, out of Gateway Civilian Conservation Center and (most importantly) out of the U.S. Job Corps. I was a really smart kid when it came to quitting things, probably because I had a lot of practice.

After the student-foreman had told me to mop the office I asked, "Don't you have someone who does that type of work here?" "Yeah, we have you." I was rather discouraged, because the floor didn't seem to be getting any cleaner. Every few minutes, I would spill a few drops of dirty water onto the floor, and I would halfheartedly move the mop around whenever a classmate walked by the window. Mopping the floor as part of my jobs was beneath me. I was a really smart kid.

Why should I have to do this work? I wasn't even building anything. Enough was enough. I was going to get my pay and get out of this place so fast that they would have to change their name to Getaway. I had quit better places than this one, and it got easier every time. I came to Job Corps because I wanted to get a good job. I hadn't come to the Job Corps work. After all, I was a really smart kid who had never had to work too hard when I was in school.

Of course, I didn't really understand why being smart didn't seem to help too much with my grades. Back in school, I knew I was smarter than most of my classmates. Whenever there was a good opportunity to leave campus, I would be one of the first guys gone to enjoy the time. A lot of the other guys would waste their time reading over the chapter assigned for tomorrow. Why do it now, since I could do it tomorrow or the day after tomorrow? I didn't need to waste a lot of valuable time reading textbooks. I could always catchup later. After all, I was really a smart kid.

Those guys who didn't even know how to have a good time went off to college, and there I was wasting a perfectly good Friday mopping my instructor's office. Actually, what I was doing had less to do with mopping and more to do with leaning on the mop, while I contemplated the injustice of it all. That was when my instructor entered the office without knocking first and when I began to think that maybe I wasn't such a smart kid after all.

I would describe what he said, but I doubt that the written word would be able to express the volume properly. Also, I'm not too sure how to spell all of it. Suffice it to say that he got his meaning across pretty well. I figure that I might as well quit right then and there, just as I had at my other jobs. Why give him the satisfaction of firing me? Before I got the chance, he grabbed the mop out of my hand and began mopping the floor, even though he was the boss. In a minute he had finished the entire office, even though it was at least 15 square feet. The floor looked so good that I half expected Mr. Clean to be there looking up at us. I'm pretty sure that it had something to do with his putting more muscle into it than I put, especially since he told me that I had to put some muscle into it.

The floor reflected so well on him that I was really surprised when he purposely threw a lot of dirt on it. "Do you expect me to do your work for you? You came here to learn something." Then instead of telling me that I was fired, he told me in his own inimitable style to clean up the place NOW and that there was no excuse for not doing my best. He added that "all work is a self-portrait of the person who did it." Then he went to check on the rest of the students in the shop to spread more joy.

I was standing in an office that had a filthy floor, then had a beautiful and then had a filthy floor again. What a waste. He didn't need to mess up such a good job. He could have left it looking great and I would have learned . . . very little. There aren't that many moments in your life when you feel as though everything has changed, at least there haven't been that many in my life. I had grown accustomed to starting some work, doing half of it, growing bored, getting in trouble, losing my job and walking away from responsibility. Losing and walking away from a job can get to be a habit. This time I couldn't even walk away from the job. Gateway's in the middle of nowhere, and the Center Standards Officer stops everyone who even tries to go AWOL.

This time I was stuck in a filthy office with a mop. It turns out that I was right. If you put a little muscle into it the mopping goes rather nicely. After I finished, it didn't look as good as it had when my instructor did it, but it did look better than it had before I started.

My instructor had said "all work is a self-portrait of the person who did it." Looking back over my life. I figured that it was time to stop eating crayons. I realized that there really isn't any excuse for not doing my best work. Losing had become a habit with me. I wanted to find out whether winning could get to be a habit as well.

I would like to discuss how I went on to becoming the best Building and Apartment Maintenance student that my instructor has ever had, but I would be lying. Not everything went great the moment I realized that I wanted to paint a pretty picture. What did change was that I didn't quit. Many months later, I successfully completed the Building and Apartment Maintenance program of the Home Builders Institute. For the rest of my life, I'm a completer.

As I was completing my trade, my boss told me how proud he was of me. His boss took the time during a business trip from Washington, D.C. to tell me how proud he was of me. Before Job Corps, I was the type of guy a boss wouldn't find, let alone compliment. Now they're recommending me for a Job Corps college program. I'm going to work hard to be a college "completer" too.

I have been accepted to the university of the State of New York. How has Job Corps changed my life? Before I came to Job Corps, my self-portrait resembled the finger-printing of a slow kindergarten student. After I came to Job Corps it began to bear some likeness to a college man with a bright future. I would give you more of a critique, but I need to start reading NOW to get ready for college. I'm thinking about taking an elective in art history. I would like to learn about the work of Michelangelo, Da Vinci and my personal favorite, Norman Rockwell. I'm hopeful that if I work hard in school, maybe in a few years I'll be a smart man.

PROF. JOHN HALL SAVES SMITHSONIAN ARTIFACTS

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. SMITH of Michigan. Mr. Speaker, the country owes a debt of gratitude to one of my constituents, Prof. John Hall of Albion College in Albion, MI. His story has been told on the CBS Evening News as well as on the front pages of America's most prominent newspapers.

Professor Hall is an expert in, among other things, World War I fighter planes. He discovered that original pieces from a French World War I aircraft were for sale but which he knew to be the property of the Smithsonian. Inquiries led him to the seller—a Smithsonian curator, who even offered to authenticate the

pieces he was selling on Smithsonian letterhead.

Professor Hall contacted the FBI. At their request, he wore a hidden microphone when discussing various aircraft parts that were available for sale with the curator. As a result, the FBI was able to arrest him. Thanks to professor Hall's detective work, the Smithsonian is now undergoing an inventory to see what else might have been stolen and implementing a bar code system to ensure that such theft becomes much less likely in the future.

VOL
142
PT
6
AP
15
—
24
1996
UMI

SENATE—*Wednesday, April 17, 1996*

The Senate met at 9:15 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, we are dependent on You for everything. We could not breathe a breath, think a thought, move a muscle, work a day, or develop our lives without Your moment-by-moment provision. We place our finger on our pulse; thank You for the gift of life. We breathe in, saying "Bless the Lord, O my soul"; and breathe out saying, "And all that is within me bless His holy name."

We list all that is ours from Your loving provision. We praise You for food, our physical bodies, people in our lives, the opportunities and challenges of today. We want to make this a day for constant and consistent conversation with You in which we repeatedly say thank You, Lord, for the abundant mercies that You give us in a never-ending flow of goodness.

You know that a thankful heart is not just the greatest virtue, but You have made it the parent of all virtues and the source of the transformation of our attitudes. Every virtue devoid of thankfulness is maimed and limps along the spiritual road. With everything that is within us, we thank You. May this be a day for constant thanksgiving for the privilege of life. In Your holy name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, there will be a period for morning business until 10 a.m., with Senator LEAHY to speak for up to 10 minutes, Senator GRAMM for up to 20 minutes, and Senator GRAMS for up to 10 minutes.

Following morning business, the Senate will resume consideration of the terrorism prevention conference report. Under the order, motions to recommit are in order and limited to 30 minutes of debate each. Senators can expect rollcall votes on or in relation to those motions prior to a vote on adoption of the conference report.

Following adoption of the conference report, there will be 60 minutes of debate prior to the vote on cloture on the motion to proceed to the Whitewater resolution. It is still possible we might consider the immigration bill today if we can get an understanding about relevant amendments. It is very important legislation and broadly supported by the American people. We would like to complete action on that and then move to the Kassebaum-Kennedy health care measure yet this week and complete action on that. That may or may not be possible, but we will do our best.

IN TRIBUTE TO SECRETARY OF COMMERCE RONALD H. BROWN AND OTHER AMERICANS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume consideration of Senate Resolution 241.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 241) in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia.

The Senate resumed consideration of the resolution.

Mr. DOLE. Mr. President, Chaplain Ogilvie said it best Monday in his prayer marking the Senate's return after a 2-week recess when he said: "Our hearts are still at half-mast."

Like all Senators, I was saddened by the tragic April 3 airplane accident that led to the loss of Secretary of Commerce Ron Brown and 32 other Government and business leaders.

I was not privileged to know Secretary Brown as well as many of my colleagues, but in my dealings with him, I was impressed by his professionalism, his wit, and his ability to get things done.

The outpouring of emotion that followed his death is testimony to the fact that not only was Secretary Brown an outstanding public servant, he was also an outstanding friend who touched many lives through his generosity.

The 32 other Americans lost in the accident were also friends, parents, sons, daughters, brothers, and sisters.

And I know I speak for all the Senate in saying that our thoughts and prayers remain with the Brown family, and with the families and friends of all the victims of this tragedy.

Mr. President, on Monday, at the request of the Democrat leader and myself, Senate Resolution 241, honoring Secretary Brown and the 32 other Americans who died in the accident, was read for the information of the Senate.

I want to thank Senator LOTT for his cooperation.

At this time, Mr. President, I ask unanimous consent that Senate Resolution 241 and the preamble be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 241) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 241

Whereas, Ronald H. Brown served the United States of America with patriotism and skill as a soldier, a civil rights leader, and an attorney;

Whereas, Ronald H. Brown served since January 22, 1993, as the United States Secretary of Commerce;

Whereas, Ronald H. Brown devoted his life to opening doors, building bridges, and helping those in need;

Whereas, Ronald H. Brown lost his life in a tragic airplane accident on April 3, 1996, while in service to his country on a mission in Bosnia; and

Whereas, thirty-two other Americans from Government and industry who served the Nation with great courage, achievement, and dedication also lost their lives in the accident: Now, therefore, be it

Resolved, That the Senate of the United States pays tribute to the remarkable life and career of Ronald H. Brown, and it extends condolences to his family.

SEC. 2. The Senate also pays tribute to the contributions of all those who perished, and extends condolences to the families of: Staff Sergeant Gerald Aldrich, Duane Christian, Barry Conrad, Paul Cushman III, Adam Darling, Captain Ashley James Davis, Gail Dobert, Robert Donovan, Claudio Elia, Staff Sergeant Robert Farrington, Jr., David Ford, Carol Hamilton, Kathryn Hoffman, Lee Jackson, Steven Kaminski, Katheryn Kellogg, Technical Sergeant Shelley Kelly, James Lewek, Frank Maier, Charles Meissner, William Morton, Walter Murphy, Lawrence Payne, Nathaniel Nash, Leonard Pieroni, Captain Timothy Schafer, John Scoville, I. Donald Terner, P. Stuart Tholan, Technical Sergeant Cheryl Ann Turnage, Naomi Warbasse, and Robert Whittaker.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to each of the families.

Mr. DOLE. Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be the period for the transaction of morning business for not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

EXTREMISM: THE MANTRA OF THE MINORITY

Mr. GRAMS. Mr. President, if there is 1 day that dramatically highlights the growing anxieties of middle-class Americans, it is April 15. During this tax week of 1996, I want to share some thoughts on taxes, Congress, and a certain word that has crept into a place of prominence here on Capitol Hill.

Since the opening days of the 104th Congress, my colleagues on the other side of the aisle have come to the floor repeatedly to talk of "extremism" and "extremists."

These are not words to be tossed around lightly, and yet more than 100 times over the past 16 months, those are the very words they have used to describe the work of this Congress. "Extremist" has become the mantra of the minority, repeated over and over when all the arguments have been exhausted and refuted, and name calling is all that remains.

The Contract With America "is simply the wish list of the extreme faction of one political party," says one.

"The sweeping and extremist approach in this bill poses a grave threat to all Americans, especially children," says another.

And finally, "If moderation does not prevail, this level of extremism will ultimately take our country backward, not forward, and the damage will be felt not by us, but by generations to come."

Of course, the rhetoric has not been confined to this Chamber alone, or to the other body. The Clinton administration, and particularly the President and Vice President, have repeatedly engaged in it as well, as they recite from the pages of this well-worn script. In just seven news conferences and speeches last year, Vice President GORE used some version of the word "extremist" 22 times in describing our efforts to reform the way Government undertakes the people's business.

"Extremist groups."

"Extremist measures."

"Extremist factions."

"The extremist, radical members of their caucus."

"An extremist set of priorities."

"An extremist agenda."

You would think from all the dramatics that something truly horrible is going here. So, Mr. President, what's happening that has my Democrat colleagues running so scared? What is Congress doing that is so radical, so dangerous, so wrong, so extreme?

Here are the shocking highlights:

We accomplished what a quarter century of Congresses couldn't when we balanced the Federal budget. This Congress is not willing to let our children and grandchildren collapse under a load of debt that we have created.

We have taken responsible steps to control spending, reining in the Federal Government and reducing its role as the dominating force in American life.

Working families would keep billions of their own money under the tax plan passed by Congress. We offered families a $500 tax credit for each child, eliminated the marriage penalty that discriminated against married couples, and helped bring and keep families together through adoption and elderly care tax credits.

We are also not willing to sit by and let Medicare dissolve into bankruptcy. Under legislation passed by this Congress, seniors would be assured that Medicare—for some, their only link to health care insurance—would be rescued from its impending insolvency.

Our plan to reform the welfare system encourages recipients to seek a life beyond their monthly welfare checks, while it protects the American taxpayers from the abuses of the past.

Mr. President, have my colleagues across the aisle become so insulated from the public and isolated from reality that they have forgotten what qualifies as extreme out in the real world? Our work on behalf of the Nation's families, taxpayers, senior citizens, children, and job providers could hardly be considered extreme. Far from it—what we have accomplished is exactly what the American people sent us here to carry out.

So how do you think it makes them feel to see their dreams for the Nation dismissed on the Senate floor as the notions of extremists?

If you really want to talk about extremism, there is a good reason why so many American families have April 15 circled on that calendar taped to the refrigerator door. They have experienced extremism in their Government right where it hurts the most—the family wallet—and they are reminded of that fact every year when tax day rolls around.

Under the current administration, Americans are paying more in Federal taxes this year than they have ever paid before.

President Clinton started the trend with his recordbreaking $241 billion tax hike in 1993, which raised taxes on every member of the middle class. Add to that the new taxes imposed by the President in his latest budget, and Americans will be paying a half trillion more in taxes than we did before President Clinton took office. That is an additional $758 every year, for the next 10 years, for every taxpayer in this country.

The American people say that is extreme.

The tax load has become such a burden that Tax Freedom Day—the day we are no longer working just to pay our taxes and can begin keeping that money for ourselves—will not arrive this year until May 7. That is the latest ever. It means working Americans have been on the job from January 1 through today, and have not been allowed to keep even a dime of their own money. That will not happen for another 20 days.

And by the way, families in my home State of Minnesota will have to wait even longer. Because State taxes in Minnesota are higher than the national average, my constituents are forced to hold out an additional 8 days until their Tax Freedom Day arrives.

And the calculations for Tax Freedom Day do not include the additional days we are forced to work to cover the heavy costs of Washington's unnecessary and burdensome regulations as well. If it did, we would not be marking our freedom until the first week of July. That is a cruel joke, considering that is when we are also celebrating Independence Day.

The American people say that is extreme.

When President Clinton was elected in 1992, Federal taxes on a median-income American family—Federal taxes on a median-income American family—totaled $12,770. By last year, that same family was paying a total of $14,813 in taxes—over $2,000 a year more per median family since 1992. And now 26.5 percent of every family's income goes directly to Washington.

That is not exactly what the American people had in mind. In a survey conducted last year, they were asked what percentage of their income should reasonably go to paying taxes. This was for all levels of government, including social security taxes, sales taxes, excise taxes, and property taxes. Across the board, regardless of income group, age, education, gender, race, or political affiliation, the answer was the same: most people said a maximum tax burden of 25 percent would be fair.

No wonder they are feeling squeezed today. Far from the 25 percent tax rate they think is reasonable, the typical American family faced a total tax burden—and that includes Federal, State, and local taxes—of 38.2 percent of all their income in 1995. That is more money going to Washington than families spend for food, clothing, shelter, and transportation combined.

The American people say that is extreme, too.

I know that is what Minnesotans are saying. I held a series of town meetings back home last week, in a part of the State where life can be tough and money doesn't come easy. It is home to hard-working people who sometimes hold down two jobs, and spend as many as 7 days a week on the job, struggling to stay afloat. They ask nothing more of their Government than the opportunity and freedom to make something

VOL 142 PT 6 AP 15 — 24 1996 UMI

of their lives. But high taxes continue to block the way.

We talked about taxes at every stop over the recess, and how 40 years of Washington's economic extremism have trapped working families short of their dreams.

They are frustrated. They do not see where their tax dollars are going, or how those dollars are directly improving their lives and their communities. And given that, they do not understand how Congress can keep coming after them for more.

During one of our stops, a college student pulled me aside after my town meeting in Duluth. He said, "It seems like the federal government is reaching deeper and deeper into our pockets, but in my case, I don't have any more to give." He went on to say, I don't qualify for student aid, so I'm working for my tuition and rent. I'm paying all these taxes, but none of it comes back to benefit me. So please—cut my taxes and let me keep my own money."

People do not understand what is happening in Washington. The crowds at my town meetings wanted to know why the President campaigned on a promise to balance the budget and cut their taxes, but then vetoed the balanced budget and tax relief bill passed by this Congress, and, by the way, passed the largest tax increase on its own.

I had to admit that I did not understand either. "Chalk it up to election-year politics," I said.

Would the President come around and sign your bill this year, they wondered?

I had to say, "It doesn't look good." "Not this year. Not this President." And the people just shook their heads.

Listen to the people, Mr. President—they will tell you just what they told me. Cutting taxes for working families is not extreme. Preserving Medicare is not extreme. Giving people opportunities to pull themselves out of poverty is not extreme.

If anything is extreme about our government, it is the past practices of a Congress and President willing to steal from tomorrow's kids to finance another Federal handout or social program or pork project today. That is what the people sent us here to change.

Mr. President, there are despicable people in this world—assassins, bombers, terrorists—who are filled with such rage and contempt that they deserve to be branded as "extremists."

But in America, a man or woman who works themselves to the bone, who struggles to put food on the table and keep a sturdy roof over their family's heads, who just wants to sign their tax return knowing that this government does not take their tax dollars for granted anymore—is not an extremist.

Yet, Mr. President, any time my colleagues dismiss the people's taxpayers' agenda as extreme, they pin that label on every one of those Americans.

During tax week, 1996, my colleagues would do well to acknowledge the debt of gratitude we owe the American taxpayers. After all, their sacrifices have built this massive Federal Government. I leave you with this question—during tax week, 1996, when Washington's burden has become too much and the people are begging for our help, what is this Government willing to sacrifice in return?

Mr. BURNS. Mr. President, might I inquire, are we in morning business?

The PRESIDING OFFICER. The Senate is in morning business.

RETIREMENT OF UNIVERSITY OF MONTANA FOOTBALL COACH DON READ

Mr. BURNS. Mr. President, I rise today to echo what is probably on the mind of everybody who ever attended school at the University of Montana, and every Grizzlies fan in my home State. Coach Don Read, the football coach of the last 10 or 11 years, is retiring. He told us all Monday that he was retiring in order to spend more time with his wife, Lois, and the rest of the family, and to move in a new direction.

We are losing a legend in Missoula. We are saddened by that, even a little bit stunned, because Coach Read is the winningest coach in the history of the University of Montana. When he arrived in Missoula 10 years ago, he recruited heavily, ushering in the "Read Era" of UM, an era that culminated in the university's first-ever Division One-double-A national championship just this past season. It was a thrilling ride for every one of us in Montana, and we cannot help but think of what is ahead for the Griz because of the foundation and the base that Coach Read has laid.

Mr. President, Vince Lombardi, the legendary coach of the Green Bay Packers, said "winning is a habit." No one typified the winning habit more than Coach Read. Since taking over the University of Montana football program in 1986, he has never had a losing season. His overall record there was 85 and 36. That is a winning average of better than 70 percent, the best any coach at UM and the sixth best in the history of the Big Sky Conference.

In his tenure at the University of Montana, Coach Read even managed to pull off 10 straight wins against his cross-state rival and another one of my favorite teams, Montana State University. His overall coaching record including his many years coaching in Oregon is an impressive 154 and 127 and one—he had one tie.

Mr. President, I could go on about all the "firsts" and the "mosts" and the awards of Coach Read and what he has earned in his time at the University of Montana. Most wins by a Griz football team in a single season, five playoff appearances, three-time Big Sky Coach of the Year, selected Division One-double-A Coach of the Year by two national magazines, but all of that pales in comparison to Don Read as a man, and as a man that I know. He is loved and respected by his players and his colleagues and he is a fiercely devoted family man.

You know they say the coach will probably be judged on the wins and losses. But basically, what effect he has had on the young men who have played on his team is just absolutely—you cannot measure that. By his own words, the demands of coaching is a 16-hour-a-day, 7-day-a-week job. It has a way of catching up with you. Coach Read wants to make sure that his players will have a full-time coach that devotes all of his energy toward that team. In that respect, I admire him for putting the needs of a team before his own.

So the University of Montana is really losing one of the great ones. We want to thank him for the season just passed. The national championship is one that is not written about and is not voted on by sportswriters. It is played. Of course when you want it, he beat Marshall here in the State of West Virginia. It was a great thrill for all of us who live in the State of Montana.

Coach Read said he believes his replacement will be the best coach ever. I hope he is right. But I tell you he will be stepping into some awfully big shoes. Just like anybody else, he will have to get his cleats the old-fashioned way. He will have to earn them. That is the way it will be.

Mr. President, we bid farewell to a man who has brought so much respect and so much quality to the University of Montana and the football program, and we say goodbye, but we do not say so long.

I yield the floor.

PROGRESS TOWARD A BAN ON ANTIPERSONNEL LANDMINES

Mr. LEAHY. Mr. President, I want to bring Senators up to date on the progress of the past 2 months since the Leahy amendment for a moratorium on the use of antipersonnel landmines was signed into law.

That amendment received bipartisan support from about two-thirds of the Senate. It was supported by the House-Senate conference committee, and it was signed by the President on February 12. I want to thank all those Senators who voted for it. I would also like to thank those Senators who have come up to me since the vote who did not vote for it and said now they wished they had because of the havoc that the mines have wreaked in Bosnia.

In fact, in Bosnia just since December, 38 NATO soldiers have been injured, 7 have been killed by landmines, including 3 Americans. There are 3 million landmines left in Bosnia. To put

that in perspective, there are 3 million landmines in a country about the size of Tennessee. They will kill and maim civilians for decades after our troops leave. Children going to school, farmers working in their fields, and people going to market will be dying long after most of us have left the U.S. Senate.

Over the past several years, I have sponsored legislation against antipersonnel landmines. The purpose of my legislation has been to exert United States leadership so that pressure would build on other countries to follow our example. During a lot of that time this was seen as some kind of a crusade of civilians against the military. It was never the case. It was never intended by me to be the case. In fact, one of the greatest encouragements I had in my efforts to ban landmines was the support I received from combat veterans around this country.

Those who say we need antipersonnel landmines should read the April 3 full-page open letter to President Clinton that appeared in the New York Times. In this full-page letter to the President, 15 of the country's most distinguished retired military officers called for a ban on the production, the sale, the transfer, and the use of antipersonnel landmines. They say such a ban would be both "humane and militarily responsible."

Look at some of the people who signed this. These are not just wild-eyed theorists. They include Gen. Norman Schwarzkopf; former Chairman of the Joint Chiefs of Staff, Gen. David Jones; the former Supreme Allied Commander, Gen. John Galvin; former Commander in Chief of the U.S. Southern Command, Gen. Frederick Woerner; former Commmanding General, U.S. Readiness Command, Gen. Volney Warner. Mr. President, these are generals who know what has happened.

I ask unanimous consent that a copy of the generals' letter be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. There is no doubt that antipersonnel landmines have some use. Any weapon does. But to those who would argue that whatever use they have outweighs the devastation they inflict on whole societies, I would answer that the commanders of our forces in South Korea, Vietnam, NATO, and Desert Storm say otherwise.

They say we can get rid of these landmines. These generals have used antipersonnel landmines and have seen what they do. They say these indiscriminate weapons made their jobs more dangerous, not safer. They remember their troops being blown up by their own minefields.

Today, it is landmines that our troops fear the most in Bosnia. No army is going to challenge our men and women in Bosnia, but there are hidden killers everywhere. A $2 antipersonnel mine will blow the leg off the best-trained, the best-equipped, the best-motivated American soldier.

In the 2 months since February, Canada, the Netherlands, Australia and, yesterday, Germany, have announced they will unilaterally, effective immediately, ban their use of antipersonnel landmines. These countries have gone way out ahead of the United States in showing leadership to ban landmines. Several, like Germany, said they will destroy their stockpile of these weapons. They are taking this action, which far surpasses what the United States has done, to lead the rest of the world.

Mr. President, next Monday, the United States will join over 50 countries in Geneva in the final session of negotiations on a treaty to limit the use of antipersonnel landmines. We already know that any agreement is going to fall far short of what is needed to solve this problem. Countries have insisted on exceptions and loopholes that are just going to assure that landmines will continue to maim and kill innocent civilians for decades to come.

In the weeks of negotiations there have not been more than 2 minutes of discussion on the banning of these weapons—the simplest and easiest thing to do, and what all of these distinguished retired American generals asked us to do. The only way we are going to get rid of antipersonnel landmines is by leadership that energizes the rest of the world.

A year and a half ago in a historic speech at the United Nations, President Clinton declared the goal of ridding the world of antipersonnel landmines.

There is no reason why today, with the world's attention focused on Bosnia, where we are spending tens of millions of dollars just to try to find the mines, we cannot join with our NATO partners, who have gone way out ahead of the United States, and renounce these insidious weapons. Let the United States—the most powerful nation on Earth—instead of being a follower in this, become the leader. A law we voted for in the Senate, now on the books, says we will halt our use of these landmines in 3 years. It should happen immediately, and it should be permanent, as Germany, Canada, and the others have done. Our senior retired combat officers support it. Hundreds of humanitarian organizations support it. They have seen the limbs torn off children at the knee.

If I have anything to do with it—and I intend to—this country is going to end this century having banned these terrible weapons once and for all. I hope the President and his administration will do what the United States Senate has already done—shown leadership in this. I hope that the rest of the Congress will do that, and then I hope that the United States will come back into a leadership role in banning landmines. It is what our NATO allies want, it is what our retired generals want, and it is what our men and women in the Armed Forces want.

Mr. President, I ask unanimous consent that an article in the April 8 edition of Newsweek magazine, by David Hackworth, America's most decorated soldier, entitled, "One Weapon We Don't Need," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek, Apr. 8, 1996]

ONE WEAPON WE DON'T NEED

(By David H. Hackworth)

Last February, Sgt. 1/C Donald A. Dugan was killed instantly on a snowy patch of ground in Bosnia. An antipersonnel mine exploded while the veteran U.S. Army reconnaissance sergeant was attempting to disarm it. The explosion drove a piece of the steel disarming tool into his forehead. On a dozen different killing fields around the world in the past 50 years. I've seen thousands of soldiers and civilians blasted apart by land mines. In northern Italy, where I served as a 15-year-old soldier boy at the end of World War II, I saw an army captain's legs ripped off by a land mine. In Bosnia last January, I came within minutes of becoming a casualty myself from a land-mine explosion. But I've never seen a battle in which land mines made a difference to the outcome. They are ugly and ineffective weapons, and they ought to be outlawed.

Land mines are indiscriminate killers. They kill not only during the conflict, but decades after the last shot was fired. The technology has improved; a modern mine can be programmed to blow itself up after a few weeks or months, reducing the postwar threat to civilians. But anti-personnel mines are still not "smart." They can't tell a good guy from a bad guy, a soldier from a civilian, an adult from a child. And some fail to blow themselves up. When millions of mines are scattered across a battlefield by air and artillery, even a tiny "dud rate" will leave a substantial number lying in wait for innocent victims.

Of all the instruments of terror used on the battlefield, mines are the most inhumane. The wartime casualties are young men whose lives are either snuffed out or ruined forever by crippling injuries. Even soldiers who escape from a minefield unscathed are haunted by the experience. Many cases of posttraumatic stress disorder, a serious psychological malady, were caused by the preying fear of mines and booby traps. Years later, a walk across an open field bring back the old dread: What's under those leaves? Do I dare put my foot on that freshly turned earth? Walk through a minefield, and you'll never be young again.

During the Korean War, tens of thousands of soldiers on both sides were felled by land mines. Many of them were killed by their own mines, recklessly thrown down in haste, their location unrecorded. In 1952, as a 21-year-old lieutenant, I was ordered to clear a path through an unmapped minefield—one of our own. I argued with my colonel about the advisability of doing such work on frozen, snow-covered ground. Lieutenants seldom win disputes with colonels, so the mine-clearing detail proceeded as ordered until a fine black sergeant named Simmons tripped the wire on a "Bouncing Betty" mine. It

VOL
142
PT
6
AP
15
—
24
1996
UMI

popped up from the ground and blew off the top of his head, covering me with his blood and brains. Moments later, another noncom went nuts and stomped out into the minefield, screaming: "I'll find the f—— mines, I'll find the f—— mines!" He was tackled, restrained and led away.

In Vietnam, the U.S. Armed Forces also used land mines irresponsibly, dropping millions of them at random by air. The enemy quickly learned how to disarm these weapons and recycle them for use against us. The infantry battalion I commanded in the Ninth Division took more than 1,800 casualties in a year and a half, most of them caused by recycled U.S. ordnance. Mines cannot secure a flank or defend a position by themselves. For a minefield to be even marginally effective, it must be protected by friendly troops, to knock off the bad guys who want to clear a path or use the mines against you.

Mines never stopped any unit of mine from taking its objective—or the enemy from getting inside my wire. Anyone who has ever been in battle, especially in Korea or Vietnam, has seen enemy sappers crawl through mines and barbed wire and get into their positions. I once faced a Chinese "human wave" attack in Korea. My company was dug in on high ground, with plenty of weapons, ammo and artillery support. Out in front of our position we laid a carpet of mines and flares. The enemy attacked in regimental strength, outnumbering us 9 to 1. They walked through our minefield—and our gunfire—without missing a beat. They cut my company in half and within an hour were two miles to the south, in our rear. The only way out was to move north, so we trudged through our own somewhat depleted minefield to escape, losing two men in the process.

Most serving generals especially the desk jockeys, are in favor of mines. The real warfighters usually want to get rid of them. Whatever defensive punch is lost would be more than offset by the new firearms and missiles that give today's infantry platoon more killing power than a Korea-vintage battalion. "Mines are not mission-essential," says one general, "but they are budget-essential." In 1996, the U.S. Army budgeted $89 million for land-mine warfare. Now the army is fighting to protect every nickel.

Still, some retired generals want to ban mines, and I agree with them. Governments can declare land mines illegal, just as chemical weapons were prohibited. Sure, thugs like Saddam Hussein or Ratko Mladic will continue to use them. But users (along with manufacturers and dealers) can be hunted down and punished by an international court. If that happens just a few times, antipersonnel mines will go the way of mustard gas. I'll drink to that, and so will most veterans of foreign wars.

Mr. LEAHY. Mr. President, let me say one last time that we can ban landmines. We can ban landmines certainly within this century. We can ban them if the most powerful nation on Earth, the United States, takes the leadership role that it must in this. If we do what so many other countries have already done, and if we, instead of following them, step out ahead of them, we can ban these landmines once and for all. If we do, our men and women, when sent into harm's way, will be safer. Our humanitarian workers will be safer, and millions of children and innocent civilians around the world will become safer.

I yield the floor.

EXHIBIT 1

[From the New York Times, Apr. 3, 1996]

AN OPEN LETTER TO PRESIDENT CLINTON

DEAR MR. PRESIDENT: We understand that you have announced a United States goal of the eventual elimination of antipersonnel landmines. We take this to mean that you support a permanent and total international ban on the production, stockpiling, sale and use of this weapon.

We view such a ban as not only humane, but also militarily responsible.

The rationale for opposing antipersonnel landmines is that they are in a category similar to poison gas; they are hard to control and often have unintended harmful consequences (sometimes even for those who employ them). In addition, they are insidious in that their indiscriminate effects persist long after hostilities have ceased, continuing to cause casualties among innocent people, especially farmers and children.

We understand that: there are 100 million landmines deployed in the world. Their presence makes normal life impossible in scores of nations. It will take decades of slow, dangerous and painstaking work to remove these mines. The cost in dollars and human lives will be immense. Seventy people will be killed or maimed today, 500 this week, more than 2,000 this month, and more than 26,000 this year, because of landmines.

Given the wide range of weaponry available to military forces today, antipersonnel landmines are not essential. Thus, banning them would not undermine the military effectiveness or safety of our forces, nor those of other nations.

The proposed ban on antipersonnel landmines does not affect antitank mines, nor does it ban such normally command-detonated weapons as Claymore "mines," leaving unimpaired the use of those undeniably militarily useful weapons.

Nor is the ban on antipersonnel landmines a slippery slope that would open the way to efforts to ban additional categories of weapons, since these mines are unique in their indiscriminate, harmful residual potential.

We agree with and endorse these views, and conclude that you as Commander-in-Chief could responsibly take the lead in efforts to achieve a total and permanent international ban on the production, stockpiling, sale and use of antipersonnel landmines. We strongly urge that you do so.

General David Jones (USAF; ret.), former Chairman, Joint Chiefs of Staff;
General John R. Galvin (US Army, ret.), former Supreme Allied Commander, Europe;
General H. Norman Schwarzkopf (US Army, ret.), Commander, Operation Desert Storm;
General William G.T. Tuttle, Jr. (US Army, ret.), former Commander, US Army Materiel Command;
General Volney F. Warner (US Army, ret.), former Commanding General, US Readiness Command;
General Frederick F. Woerner, Jr. (US Army, ret.), former Commander-in-Chief, US Southern Command;
Lieutenant General James Abrahamson (USAF, ret.), former Director, Strategic Defense Initiative Office;
Lieutenant General Henry E. Emerson (US Army, ret.), former Commander, XVIII Airborne Corps;
Lieutenant General Robert G. Gard, Jr. (US Army, ret.), former President, National Defense University, President, Monterey Institute of International Studies;
Lieutenant General James F. Hollingsworth (US Army, ret.), former I Corps (ROK/US Group);
Lieutenant General Harold G. Moore, Jr. (US Army, ret.), former Commanding General, 7th Infantry Division;
Lieutenant General Dave R. Palmer (US Army, ret.), former Commandant, US Military Academy, West Point;
Lieutenant General DeWitt C. Smith, Jr. (US Army, ret.), former Commandant, US Army War College;
Vice Admiral Jack Shanahan (USN, ret.), former Commander, US Second Fleet;
Brigadier General Douglas Kinnard (US Army, ret.), former Chief of Military History, US Army.

SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT

Mr. GRAMM. Mr. President, I have introduced The Sexual Offender Tracking and Identification Act of 1996 with Senators Biden, Hutchison, and Faircloth. I would like, this morning, to talk a little bit about this bill, its origins and what it seeks to do.

I begin by asking unanimous consent to have printed in the RECORD a letter of endorsement from the National Center for Missing and Exploited Children.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CENTER FOR MISSING
& EXPLOITED CHILDREN,
Arlington, VA, April 16, 1996.

To: Senator Phil Gramm.
From: Teresa Klingensmith, Manager, Legislative Affairs.
Date: April 16, 1996.
Re Necessity of Sexual Predators Tracking and Identification Act of 1996.

The benefit of a national sex offender registry network and database, such as the one envisioned in your bill, cannot be overstated. As we see the effects of the mandates contained in the Wetterling Act—presently 47 states have sex offender registry programs—we are made cognizant of the new obstacles to be tackled with regard to sex offender containment. It is time for the next steps contemplated but not attended to in Wetterling.

1. A registry network. Fifty individual state sex offender registries would be sufficient if no sex offender ever moved interstate. Unfortunately, that is certainly not the case. Indeed, these offenders tend to be particularly transient individuals, probably due to the need to conceal the darker side of their lives and seek out new victims. As these offenders move from state to state, they can easily get lost in the paper-shuffling from state to state. A central, federal database and verification system will insure that these individuals do not "fall through the cracks" as they move from state to state.

2. Community notification. Thirty states have enacted community notification laws, and more are being considered in the 1996 state sessions. These laws remain very popular, despite the current judicial debate surrounding them.[1] However, like sex offender registries, these laws are ineffective in the larger scope if offenders can evade them simply by moving across a state line. Already, I receive letters from offenders in prison requesting information about which states have notification programs and which do not. These offenders are not stupid; we must be as clever as they if we intend to protect our children. No current federal law suggests the passage of a community notification program as strongly as your legislation or provides the background on which to build such a national system. No current community notification program will be truly effective until all 50 states have relatively uniform programs; this bill the next step towards such coverage.

3. Release of information. Child molesters dedicate an enormous amount of energy obtaining legitimate access to children. This includes securing positions (if possible) in day care centers, child youth organizations, schools, community centers, etc. In recognition of this, states have responded by passing background screening laws requiring criminal background checks for those who have access/contact with children. Unfortunately, most of these checks stop at state lines. Without a national database of sex offenders and authorized access to that database, these background checks won't accomplish their true purpose. We strongly support your effort to provide such a database.

Sex offenders do not only victimize the women and children they attack; they victimize society as a whole. As a nation we have a depleted sense of security and trust as a result of these individuals. To combat these offenses and their long-term results requires a plan that addresses all the aspects of their behavior and strives to empower the community to protect itself and its children. NCMEC has long advocated a reasonable, responsible, long-range approach to containing sex offender recidivism. I believe your bill is a positive contribution to such a long-range plan and necessary to its development.

The inclusion on the FBI's Wanted Persons Index for unverifiable offenders is a clever and strong answer to a persistent question. Many offenders may be coerced into updating their registration information by the threat of inclusion on that list. It is a practical, no-nonsense solution.

We support your efforts and commend your interest in child protection.

Mr. GRAMM. Mr. President, let me begin with a tragic story, and then talk about a Texas law, what other States have done in the area of sexual predators, why what they are doing cannot work unless we do our part, and then outline what we are trying to do in this bill.

Three years ago, a 7-year-old girl named Ashley Estell went to a park in Plano, TX, which is an upscale suburb of Dallas, one of the finest communities in America, and certainly we would assume one of the safest. She went to the park that day to watch her brother play soccer. Ashley's brother played in the second of three games to be played that day and while her parents stayed to watch the final game, Ashley went to play on a swing set. Although there were 2,000 people in the park that day, this little girl was, nevertheless, abducted, raped, and brutally murdered.

The FBI stepped in to investigate the case, and asked parents who were there that day to turn in any video cassette recordings they might have taken of games on the playground. The FBI, using the 14 tapes that were turned in, was able to go back and identify a known sexual predator who had been there the day Ashley was abducted. They apprehended him, and after a change of venue to Midland, TX, he was convicted and sentenced to death. His record was a record that we read about every day in the newspaper—he had been previously convicted, had been sentenced to 10 years in prison, had gotten out in just 18 months, and then went to this park and abducted and murdered a little girl.

What shocked Plano, the whole metroplex and, to some degree, the entire country, was not just this tragic crime, but the fact that the FBI, in looking at these 14 tapes, identified not one, but two sexual predators who were there in the park on that day. It turned out that the referee of all three soccer games played that day was a convicted sexual predator, who had fled from North Carolina to Texas to avoid being sent to prison for 10 years.

One of the greatest tragedies was that the soccer league had no way of knowing who this person was and no way of checking his record. Further, there is no national database that can be used to check the records of anybody else who wants to be a scoutmaster for the Girl Scouts or the Boy Scouts, who wants to work for the Boys and Girls Club, or wants to be a Big Brother or Big Sister.

And so, in light of this terrible tragedy, Florence Shapiro, an outstanding young State senator in my State of Texas, wrote a series of bills called Ashley's laws, named after this little girl. These bills sought, among other things, to set up a statewide tracking system for sex offenders, and required a minimum mandatory sentence of life imprisonment without parole for a second sexual offense or for aggravated sexual assault.

Under the tracking system in Texas, before convicted sexual predators can be released from prison, they have to be photographed, fingerprinted, and have a file built on them. Then, when they leave prison, they have to register with law enforcement authorities in the town that they move into. The law enforcement authorities then notify the school system, print a notice in the newspaper, and make the data available to local civic organizations, local groups, and other groups where you have substantial concentrations of children. With this system, which is in place today, if somebody wants to be a scoutmaster in Plano, TX, the scouting council can go to the local police department and say, "This person wants to be a scoutmaster. Can you look on your computer data base and see if there is a reason that we should be concerned about trusting young children to this person?" This system has been set up in Texas, 46 other States have established similar programs, and I believe Texas' is a model system.

The problem is, since each State has its own individual program, when someone commits a sex crime in Texas and moves to Arizona, there is no mechanism to pick them up in Arizona. The same, obviously, is true if somebody commits a sex crime in Chicago, goes to prison, gets out, and then moves to College Station, TX. There simply is no mechanism to pick them up once they cross State lines.

Senator BIDEN, Senator HUTCHISON, Senator FAIRCLOTH, and I have offered a bill to change this by having the FBI set up, working with the States, a national data base on sexual predators. As the Presiding Officer knows, we are in the process of building a massive criminal data base which is expected to be on-line by the year 2000. This system will be the most comprehensive data base on criminals in the history of mankind. I was chairman of the Commerce, Justice, and State Department Appropriations Subcommittee last year when Florence Shapiro, our State senator, was writing her bill, and it struck me, in providing $88 million for this program, that this sexual predator effort is never going to work as long as sexual predators can move across State lines and escape the system. Needless to say, we are already beginning to get evidence which proves this. Even though most of these State laws are already in effect, it is becoming increasingly clear that exactly what you would expect happen has indeed happened; that is, sexual predators, in Texas and elsewhere, who are required to register when they move into a community are trying to escape this increased scrutiny. Although we do not have enough data yet to show this conclusively, I think it is increasingly clear that the interstate migration of convicted sexual predators has exploded as these convicts try to exploit the weakness of the current system.

What we are trying to do in this bill is to have the FBI set up a national data base in conjunction with those States that have registration laws, and set up a data base for the three States that have not yet acted in this area, in order to develop a national system that all States can participate in as partners. Under this system, any time a sexual predator is released from prison, we will have a comprehensive file on them, and wherever they move we will ensure that the local law enforcement authorities are notified. We will leave it up to the State and local officials as to how they want to use this information. Some States, like Texas, have

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[1] Even this judicial debate centers on specific aspects of these laws (i.e. retroactive application) rather than on the spirit of the community notification program. The basic theory of notification has withstood all challenges.

VOL
142
PT
6
AP
15
—
24
1996
UMI

very aggressive programs which provide for school notification, public notification, and a program through which volunteer civic organizations can use the data base to determine whether someone should be put in a position of trust with regard to children. We do not get into telling the States how to use the data base, we simply assure that they have access to a nationwide sexual offender registry.

Let me, in conclusion, provide an example of how this system might work once this bill is passed and the data base is operating. Let us say that in Tucson you had the principal of an elementary school call up the police chief and say, "We have a strange guy hanging around our school, and maybe I am overreacting to this, but our janitor thinks he saw this guy looking into a bathroom window." What would happen with this system in place is that the police chief in Tucson could send a police officer out to the school, get a description of this individual, get any evidence there might be—a footprint, for example—and if they had a computer in the patrol car, they could actually put the data into the computer at that moment and ask the data base, "Can you take this description and match it against any registered sexual predator within 25, 50, 100, or 1,000 miles of Tucson, AZ?" The computer could then generate, for example, six people who meet this description, and produce color, digitized photographs of those individuals. These photos could then be immediately shown to the principal, to the kids, to the teachers, and to the janitor, and, hopefully, they could identify this person.

In my State, it is a felony for a person who has previously been convicted as a sexual predator against children to be within a certain distance of the school whether they are still on parole or not, and so in Texas the police could go out and arrest this person and put them back in jail before they could hurt someone.

It is important to note that sexual predators have a recidivism rate that is higher than any other known class of criminal activity. The probability that someone who is convicted of being a sexual predator, especially if it is a crime against a child, committing that crime again is estimated to be 10 times higher than the probability that an armed robber who is apprehended, convicted, and sent to prison will commit the act of armed robbery again. As a result, we have a special obligation to be vigilant in protecting society from sexual predators.

Finally, I see this bill as being a first step toward using the power of the information age to deny criminals the one thing they need to prey on society, and that is a dark corner to hide in. I believe that with the explosion of the information age, if we are willing to commit the resources to hire and train law enforcement officials, to build prisons, and .to elect and appoint judges that are serious about protecting society, we have the ability to protect our children from people for whom the preponderance of the evidence shows that they are guilty. I think the power of the information age in denying criminals—in this case, sexual predators—a dark corner to hide in is going to give us the ability to have the safest society we have had in over half a century.

I want to be certain that we take this opportunity to achieve these goals and I hope my colleagues will look at this bill and will join us in this effort. We hope to see this bill become law this spring and do not know of any organized effort against it. The ACLU opposed similar provisions in my State, arguing that we were violating the right to privacy of people who had previously been convicted as being sexual predators. My response to this charge, however, is that you do not have to be on this list. If you are concerned about your privacy, do not molest our children. If you do not commit a sexual crime, then you will not lose your privacy. But if you do commit this kind of terrible crime, part of our response will be to take extraordinary procedures to protect society.

So I recommend this to my colleagues, I thank the Chair, and I yield the floor.

Mr. BIDEN. Yesterday, Senator GRAMM, Senator HUTCHISON, Senator FAIRCLOTH, and I introduced Senate bill 1675—legislation to strengthen and improve the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

The Jacob Wetterling Act requires States to enact laws to register and track the most violent, the most horrible—and least likely to be rehabilitated—criminals our Nation faces today. I refer to those criminals who attack our children and criminals who are sexually violent predators.

These criminals must be tracked. And local law enforcement must know when these criminals are in their communities. This was the reason I worked to include this important measure in the 1994 crime law. And I will also point out that almost all States have taken great strides to build an effective tracking system.

Now we seek to build upon this progress to meet three specific goals:

First, we must have a nationwide system that will help State and local law enforcement track these offenders as they move from State to State and will help by providing a backup system of tracking.

Second, while most States have established or are about to establish these systems, if any States fail to act, we cannot allow there to be a black hole where sexual predators can hide—and are then lost to all States. A nationwide system will track offenders if States do not maintain registration systems.

Third, we must ensure that the most serious sexual predators are required to remain registered with law enforcement officials for the rest of their lives.

All of these key goals will be met by this legislation. In addition, our bill will offer some improvements which are made possible by the nationwide system this bill will provide. For example, our bill will—

Require all offenders to verify their address on a regular basis by returning verification cards with their fingerprints.

Require that a nationwide warning is issued whenever an offender fails to verify their address or when an offender cannot be located.

Institute tough penalties for offenders who willfully fail to meet their obligations to register with the nationwide system in States where there is no registration and in cases of offenders who move from one State to another.

Notify law enforcement officials not only when an offender moves to their area, but also when an offender moves out of their neighborhood.

To offer just one of the practical problems a national data base will help local law enforcement address—Delaware law enforcement, because Delaware is so close to other States, will certainly need to know if a sexual predator lives just over the line in Pennsylvania. And only a national data base can provide this information.

To offer a real life example of why a nationwide system is needed—in Delaware, a sex offender was released last year. Fortunately, Delaware's offender registration law requires this offender—Freddy Marine—to be tracked by Delaware law enforcement. Since his release, Marine has moved to another State. The nationwide system established by this bill will help make sure that if Freddy Marine moves back to Delaware—our State law enforcement will know, and knowledge is the key to effective enforcement.

Let me also point out that our bill would still allow States the flexibility to decide when a community should be notified of the presence of a sexual offender, as State and local law enforcement is in the best position to decide when and how notification in their area is warranted. Frankly, our bill has erred on the side of registering many more offenders than may be necessary. Therefore, the specific decision to require community notification must be left to the State and local officials.

In summary, the sex offender tracking and identification bill is possible because States such as Delaware and Texas have done the hard work to build statewide registration systems. We now seek to build a system where all movements of sexually violent and

child offenders can be tracked and we will go a long way toward the day when none of these predators will fall between the cracks.

Mr. DORGAN. Mr. President, I ask unanimous consent to extend morning business time for 10 minutes so that I might speak in morning business.

The PRESIDING OFFICER (Mr. COVERDELL). Without objection, it is so ordered.

Mr. DORGAN. I say to the Senators who are handling the bill that when they come to the floor I will certainly immediately relinquish the floor.

Let me say to the Senator from Texas before he leaves the floor that I am interested in cosponsoring that piece of legislation. I met with a group of law enforcement officers recently in Dickinson, ND, in fact, last week. We talked about a wide range of subjects, including the triple "i" index, the interstate identification index, the criminal records base, and there are two things that are deficient. One is there are a great many criminal records dealing with the criminal history of someone who is below 18 years of age, someone who has committed a murder, a rape, armed robbery, and so on, that you cannot get at. If you inquire from a law office in Texas and this person had committed the act in South Dakota, North Dakota, or Nebraska, those records are expunged and withheld. So you do not have the complete criminal history.

The other thing that they talked about was this issue of sexual predators. It is fine for States to have the system, but, if they are not together and interlocked in this interstate identification system, somehow it does not respond to the way we want it to respond.

I listened to what the Senator from Texas had to say. I want to cosponsor the legislation and work with him and others. I think this makes a great deal of good sense.

Mr. GRAMM. I thank the Senator. Let me say we are looking at exactly the problem of at what point should a juvenile go on this database. It is clear to me that, in the society in which we live today, by the time many of these hardened criminals, these sexual predators, are adults, they have already committed many crimes and have established a life style which they are unlikely to break. Senator BIDEN and I are working on these kinds of problems, and we will happily put the Senator on as a cosponsor.

We would also be happy to try to incorporate into our bill any suggestions the Senator or his law enforcement officials might have.

We have a blueprint of what we want to do, but we are very open to try to improve it, and I thank the Senator.

Mr. DORGAN. I appreciate the Senator's remarks. I will cosponsor the legislation and be anxious to work with him on the juvenile crime issue.

LEGISLATIVE AGENDAS

Mr. DORGAN. Let me, Mr. President, just take a moment to describe what happened yesterday since the Senate went into recess and I was unable to speak about it.

There are stories in the press today which say that the majority leader pulled the bill on immigration and said that some were trying to hold the immigration bill hostage in the Senate yesterday.

That is not the case at all. It is simply not accurate. It is true that amendments were offered to the immigration bill. My amendment was offered yesterday that deals with a Social Security issue, but I indicated to the person managing the bill I would be willing to accept a 20- or 30-minute time agreement on my amendment. It was not a circumstance where my amendment was going to hold up the bill. There would have been a minimum wage amendment, but Senator KENNEDY indicated he was willing to accept a time agreement of perhaps an hour, perhaps a half-hour, on that minimum wage amendment. So no one could accurately describe that as holding any kind of a bill hostage.

I want to describe the circumstance we were in yesterday and why I had to offer the Social Security amendment. The majority leader has announced in the Senate that he intends to seek reconsideration of the constitutional amendment to balance the budget. He has the right to do that, and when he does it, as I understand the procedure, there will be no debate and no opportunity for an amendment. That is the procedure under which he will seek reconsideration.

As a result of that, those of us who care about an issue that is related to the constitutional amendment to balance the budget, namely the issue of using Social Security trust funds as part of the revenue to balance the budget, wanted to offer a sense-of-the-Senate resolution saying any constitutional amendment to balance the budget that is brought to the Senate floor should create a firewall between the Social Security trust funds and the operating revenues of the Federal Government.

Now, why is that important? Because if you do not do that, we will have nearly $700 billion of Social Security trust funds misused. They were supposed to have been collected to be saved for the baby boom generation when they retire. But instead, they will be used as revenues on the revenue side of the budget to show a lower budget deficit.

Some of us feel that is wrong. I know that yesterday it was charged, well, this is just politics. It is not just politics. It is an enormously important question that this Senate must address. So far it has addressed it in the wrong way.

The minimum wage, which was also scheduled to be offered as an amendment by Senator KENNEDY and some others, is an issue they have worked on for over a year. There was not any intention to hold the bill up but simply to say on behalf of those folks out there working on a minimum wage who have for 6 years not received any kind of an increase at all, they have been frozen for 6 years and have lost a half a dollar of their wage to inflation in terms of purchasing power, we will try to give you a slight increase in the minimum wage.

That is what the fight was about. It was not a fight to try to hold up the bill.

Now, the majority leader came to the floor and, apparently with great frustration, said, well, this Social Security amendment and others have nothing to do with the underlying bill.

The majority leader understands how the Senate works. He has been here for a long, long time. He came to the floor when we had family and medical leave in this Chamber and offered a gays in the military amendment that had nothing to do with the bill. It was because he wanted to offer his amendment dealing with gays in the military. It was completely extraneous. It was nonrelevant. But he did it because he felt it was important to do.

On the immigration bill yesterday, the only opportunity, it seemed to us, to be able to register on this issue of the misuse of the Social Security funds in a constitutional amendment to balance the budget, the only opportunity we would have had before the majority leader would bring up the vote on the constitutional amendment to balance the budget was to offer it before he did it, and so we used the first vehicle that came along.

It is not an attempt to frustrate the immigration bill. Much in the immigration bill I support, as do many of my colleagues. The immigration bill will pass the Senate, in my judgment, if the majority leader brings it back to the floor. But he is not going to be in a circumstance where he comes to the floor of the Senate and says: Here is our agenda, and you vote on our amendments and our agenda when we want to vote; and with respect to the things you care about, we are sorry but they do not count; they are irrelevant.

It is not the way the Senate works. And so we are not trying to hold up any piece of legislation. We very much want the Senate to register itself on a couple of important issues.

With respect to whether these issues are just politics, as a couple of people have suggested, I guess if we get to the point when we are talking about a minimum wage for millions of Americans who have not had an adjustment in the minimum wage for 6 years, if we get to the point where we say, well, that is just politics if we want to talk about

VOL
142
PT
6
AP
15
—
24
1996
UMI

the minimum wage, they have changed the definition of politics. If it is just politics when we want to talk about $700 billion of Social Security trust funds being misused to show a lower budget deficit, then they have changed the definition of politics. That is not politics, in my judgment. It is what we ought to be discussing in the Senate.

My hope is that when we finish the antiterrorism bill, which I think will be moved out of the Senate with a yes vote, we will turn to the immigration bill, and we will deal with these amendments.

The fact is these amendments are not going to go away. I heard the majority leader and others say, well, those who offer these amendments simply want to cover their vote against the constitutional amendment.

We had two votes on the constitutional amendments last year. I voted for one, which was the right one, which did not misuse the Social Security trust funds, and I voted against the one that did misuse the Social Security trust funds. You cannot take money from workers' paychecks and say to them we promise this is dedicated for only one purpose; it goes into a trust fund; it is going to be saved for Social Security when we need it when the baby boomers retire, and then say, oh, by the way, we have changed our mind; the $71 billion this year that we collect above what we need for Social Security, we are going to use that to balance the Federal budget.

This is not a trust fund. The fund ought not to have the word "trust" in it if you are going to use it for other purposes, and it is not politics for us to start talking about some honesty in budgeting and protecting the Social Security trust funds for the days when this country is going to need them when the baby boomers retire.

There are plenty of issues we need to deal with in the Senate, and if every time we come to the floor of the Senate and talk about issues of substance, whether it is the Social Security trust funds or a constitutional amendment to balance the budget or for that matter the minimum wage, it is alleged somehow it is totally political, then I guess all of the activities of the Senate will be political this year. But some of us happen to think some of these issues ought to be dealt with, and those who think they will avoid votes in the coming months should understand we will come to the floor again and again and again, and it is not to play games. It is because it is serious business when you are talking about $700 billion in the Social Security trust funds, and it is also serious business when you are talking about folks who have worked on minimum wages for 6 years and have had no adjustment relative to inflation.

So, Mr. President, I understand we have the antiterrorism bill that will be coming to the floor this morning. I hope we make good progress on it. I think there is a consent agreement of some sort with respect to amendments. That bill ought to get out of the Senate soon. I will likely vote for it. Then I hope we can turn to immigration and deal with some of these issues.

I have watched what has happened in the Senate now for some long time, and I do not want people coming to the floor of the Senate and saying, well, we offer all of our amendments, any amendment, any time we want on any bill we want, but if you offer an amendment on minimum wage here, somehow you are playing politics.

That is not the way the Senate works. If one side is able to use legislation to advance the policies they want to advance, then the other side is going to do the same thing, and it ought not be a surprise to anybody. I just do not like to see stories in which we are told that somehow somebody yesterday was holding an immigration bill hostage. Both amendments that were to be offered to the immigration bill would have been subject to, and the authors of both amendments had said that they would agree to, very short time agreements. Nobody was holding anything hostage. People ought to know that.

Mr. President, I yield the floor, and I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION REFORM

Mr. CAMPBELL. Mr. President, I come to the floor today to make a few brief comments on the immigration proposals that we will be debating over the next few days. My first observation is to recognize the distinct set of issues that relate to and will be debated with respect to legal and illegal immigration. I commend the work of the Judiciary Committee for recognizing the merits of considering two separate bills rather than one package, and I strongly endorse the committee's position.

Mr. President, what I hear from many of my constituents on the issue of immigration is the growing costs absorbed by the system, that is Federal, State, county, and local governments, to continue to provide public services and benefits to the immigrant community. And recently, in my home State of Colorado, the increasing number of illegal immigrants, in particular, has been a growing concern.

Further, recent statistics, compiled by the Congressional Research Service and other recent studies, clearly document the enormous financial burden placed on Government entities to provide services to the immigrant community. It is my belief that without significant changes to curb the flow of illegal immigration, and to revisit current benefits bestowed to legal and illegal immigrants, this financial burden will continue to increase dramatically.

For example, a recent study out of Rice University, concluded that immigration costs to the United States exceeded $50 billion in 1994 alone. While the conclusion reached in this study are subject to debate, there is nonetheless a compelling need for significant change.

With over 4 million illegal aliens currently in this country, and over 300,000 arriving annually, the increasing burdens on our society demand our attention.

I would like to point out that in my home State of Colorado, for the 5-month period from November 1995 through March 1996, the Immigration and Naturalization Service [INS], contacted a total of 3,486 illegals. Of those, 2,014 were deported, while 1,472 were let go.

Mr. President, I would like to bring your attention to a newspaper article from the Denver Post dated April 12, 1996, that reads in part, "Last week, a van filled with 29 illegal immigrants was stopped on Interstate 70 in Grand Junction, but a lack of detention funds kept the INS from arresting them or their driver."

These incidents come just days after the INS Operation Mountain Passes ended. As a result of this program, designed to specifically crack down on smugglers, roughly 1,300 illegal immigrants were stopped, arrested, and deported. However, and not so ironic, when the money ran out this program ended.

Again as recently as Monday, in Colorado Springs, CO, a van containing 13 suspected illegal immigrants was stopped by the Colorado State Patrol. Unfortunately, for some unknown reason the INS could not respond. Because the State patrol does not have the authority to arrest illegal immigrants, these individuals were released. This represents the second time in less than a week that suspected illegal immigrants have been released because of inadequate INS response capability.

As a result of changes in the dynamics of illegal immigration migration Colorado has now become a major corridor for illegal immigrants migrating east. Without the assistance of increased law enforcement efforts, such as Operation Mountain Passes, I am concerned that these successful efforts may be curtailed.

While I support efforts to increase law enforcement efforts to curb illegal immigration, both at the border and to other impacted States, I do have concerns with provisions adopted in the House measure that may be considered in this Chamber.

Primarily, I am concerned with the provisions adopted in the House bill that seek to deny public education to illegal immigrant children as a means of reducing the flow of illegal immigrants into this country. Congress should not be so overzealous in its endeavor to reduce the influx of illegal aliens that we adopt stopgap measures that are actually destined to increase the demands on public funding by expanding the number of America's undereducated and unemployed.

Any provision that seeks to deny children access to education will place a massive burden upon our already overburdened community services, schools, and local law enforcement agencies. At a time when local and State leaders are making strenuous efforts to keep kids off the streets and in school, education should be employed as an important tool to help solve America's problems, not used as a weapon against its most helpless victims.

Mr. President, reducing the flow of illegal immigrants must first focus upon measures that will actually restrict and hopefully prevent illegal immigrants from entering this country. I support provisions in S. 1664, the Immigration Control and Financial Responsibility Act of 1996, that provides for more border patrol agents, as well as the addition of 300 full-time Immigration and Naturalization Service investigators for each of the next 3 fiscal years. I believe these provisions will provide a much needed boost to the understaffed and overworked agencies that we entrust to keep illegal aliens out of this country. Our focus, again, should be on the prevention and control of illegal immigration, rather than on retribution for illegally immigrating to this country.

Each of my colleagues brings a certain perspective to the immigration debate. I have listened to much of the debate and realized that the great lot of us are products of immigrant families. Personally, I believe I have unique perspective to add to the debate.

Over 60 years ago, my mother legally immigrated from Portugal. Like many people during that time she wanted the opportunity to make a better life for herself and an opportunity to succeed, but to do so in a law abiding way. While on the other hand, my father comes from people, the Northern Cheyenne people, who can document their ties to this land, to this continent for hundreds of years prior to the first explorers of this continent. If I were to take his advice, and the advice of many native American people, they might suggest that we all pack our bags and go home.

Obviously reality dictates real and pragmatic solutions. However, I might also observe that it seems ironic that if this same debate were to take place 100 years ago many of my colleagues, including myself, might not be here today.

In closing, I look forward to the debate on these immigration proposals and hope that this Chamber can adopt fair and effective immigration reform. Let us remember that, with few exceptions, we are all ancestors of immigrants.

Mr. President, I ask unanimous consent that the text of an article that appeared in the Colorado Springs Gazette Telegraph, on immigration, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUSPECTED ILLEGAL ALIENS LET GO AFTER INS NO-SHOW

(By Teresa Owen-Cooper)

Thirteen suspected illegal immigrants from Mexico were detained briefly in Colorado Springs on Monday night but released after federal authorities couldn't respond to take them into custody, according to the Colorado State Patrol.

The 12 men and one woman from Oaxaca, Mexico, on their way to Tennessee to pick fruit, were stopped on Interstate 25 near U.S. Highway 24 about 7 p.m. after their van was weaving, said state patrol trooper Chuck Coffrin.

Coffrin found 13 people inside the 1972 Ford panel van, and none were able to produce documentation that they were U.S. citizens, officials said.

State patrol officials called the U.S. Immigration and Naturalization Service, who couldn't respond, Coffrin said, adding that the INS gave no indication why.

Because the state patrol doesn't have authority to arrest illegal immigrants, the 13 people were released, Coffrin said.

It was the second time in less than a week that the state patrol has stopped a van carrying suspected illegal immigrants from Mexico and been forced to release them because the INS didn't take action.

On Thursday, the state patrol stopped a van, carrying 19 people, on I-25 about 15 miles south of Colorado Springs, because their van was weaving, according to the state patrol.

GULF WAR SYMPTOMS

Mr. CAMPBELL. Mr. President, ever since the conclusion of the gulf war, returning veterans have complained about a variety of symptoms including dizziness, nausea, loss of equilibrium, and depression.

All of us have visited veterans in our States. And through a series of hearings, those of us on the Veterans' Affairs Committee have been dismayed by the steadfast denial on the part of the Pentagon and the Department of Defense to acknowledge these brave men and women are suffering the after effects of all airborne or waterborne agent or agents that have caused their sickness.

As late as this week, Mr. President, the Pentagon issued a statement saying that after spending $80 million of taxpayer money, they found no evidence of sickness-inducing agents during the gulf war. Kind of sounds like Vietnam and agent orange all over again.

Well, lo and behold, Mr. President, thanks to an extensive study done by the University of Texas through a grant given by Ross Perot, those complaints from our men and women in uniform appear to be true, and the culprit was a combination of three agents acting in concert with each other. One agent was a common pesticide. Last night the Pentagon, somewhat sheepishly admitted their mistake.

My only questions are these, Mr. President. One, what the heck did they study with the $80 million? And two, if they are that incompetent they must be in an unmendable state of denial in helping our returning veterans.

Hooray for the University of Texas—boo on the Pentagon.

TRIBUTE TO CHINA-BURMA-INDIA VETERANS ASSOCIATION OF NEVADA

Mr. BRYAN. Mr. President, I rise today to honor the China-Burma-India Veterans Association [CBIVA] of Nevada. These veterans played a decisive role in World War II. The China-Burma-India Veterans were responsible for driving the Japanese out of the treacherous Burma jungles and for building a road from Burma through the Himalayas to China, which was originally called the Burma Road. The China-Burma-India Veterans also flew the most famous of the B-29 airplanes, brought the air war to Japan and its occupied territories and ended the war with the historic atom bombing of mainland Japan.

The China-Burma-India Association was established in 1948 in Milwaukee, WI and is now a nonprofit organization of approximately 7,000 veterans. In Las Vegas, a group of the brave and courageous veterans has established a chapter of their own called the Silver State Basha No. 133 with Eugene Henkin as their current commander. The China-Burma-India Veterans Association, Silver State Basha No. 133, keeps their veterans in touch by sending out more than 200 newsletters to China-Burma-India Veterans of Las Vegas and surrounding communities.

The Silver State Basha No. 133 is an example of the many fine men and women in our country who had the courage, sacrifice, and devotion to serve in World War II. On April 21-23, the China-Burma-India Veterans Association World War II will hold its western area reunion in Las Vegas at the Rio Hotel and Casino. I am pleased to recognize this group and would like to wish the China-Burma-India Veterans Association best wishes on a successful reunion.

VOL
142
PT
6
AP
15
—
24
1996
UMI

TRIBUTE TO JOHN O. HEMPERLEY

Mr. HATFIELD. Mr. President, I rise today to pay tribute to John O. Hemperley, the Budget Officer of the Library of Congress, who passed away last Saturday.

Members and staff of the Appropriations Committee rely heavily on the expertise, efficiency, and responsiveness of agency budget officers. Throughout our Federal Government there is a corps of budget professionals who set the example of dedicated public service. John Hemperley embodied the highest standards of his profession. He possessed a knowledge and understanding of the Library's budget that was unsurpassed, and he was unfailingly responsive in sharing that knowledge with our committee and its staff. He was fierce in his defense of the Library's mission and the budget funding that mission, but he never misrepresented the facts, and he always faithfully executed the budget enacted by the Congress.

The Library of Congress is a unique and treasured institution. It is the greatest repository of knowledge in the history of the world, and for 196 years the Congress of the United States has supported and nurtured its development. Today the Library faces the challenge of providing new electronic services to all its constituent groups while maintaining its traditional services to the Congress and the Nation, all in a time of severe fiscal constraint.

John O. Hemperley was a unique and treasured individual. For the past 23 years, he supported and nurtured the Library of Congress in its relationship with the Committee on Appropriations. He will be sorely missed, not only by those who knew and loved him here in the Senate and in the Library, but by all those who may never have known him but who benefit daily from the enormous resources the Library provides. The challenges the Library faces will be more daunting without him.

Mr. President, I know I speak for Senator MACK, the chairman of our Legislative Branch Appropriations Subcommittee, and for all other members of the Appropriations Committee, and our staff, in expressing our great sorrow and extending sincere condolences to John's wife, Bess Hemperley, their children, and grandchildren. And may John rest in peace with God.

CHANGE OF VOTE

Mr. MOYNIHAN. Mr. President, on rollcall vote 50, I voted yea. My intention was to vote nay. I ask unanimous consent that I be permitted to change my vote which in no way would change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, I have mentioned many times that memorable evening in 1972 when the television networks reported that I had won the Senate race in North Carolina.

At first, I was stunned because I had never been confident that I would be the first Republican in history to be elected to the U.S. Senate by the people of North Carolina. When I got over that, I made a commitment to myself that I would never fail to see a young person, or a group of young people, who wanted to see me.

I have kept that commitment and it has proved enormously meaningful to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the 23 years I have been in the Senate.

A large percentage of them have been concerned about the total Federal debt which recently exceeded $5 trillion. Of course, Congress is responsible for creating this monstrous debt which coming generations will have to pay.

Mr. President, the young people and I almost always discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I began making these daily reports to the Senate on February 25, 1992. I decided that it was important that a daily record be made of the precise size of the Federal debt which, at the close of business yesterday, Tuesday, April 16, stood at $5,142,250,889,027.95. This amounts to $19,430.38 for every man, woman, and child in America on a per capita basis.

The increase in the national debt since my report yesterday—which identified the total Federal debt as of close of business on Monday, April 15, 1996—shows an increase of more than two billion dollars $2,239,481,250.00, to be exact. That 1-day increase is enough to match the money needed by approximately 332,070 students to pay their college tuitions for 4 years.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report accompanying S. 735, which the clerk will report.

The assistant legislative clerk read as follows:

A conference report to accompany S. 735, an act to prevent and punish acts of terrorism and for other purposes.

The Senate resumed the consideration of the conference report.

MOTION TO RECOMMIT

Mr. LEAHY. Mr. President, I move to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on striking the text of section 414 (relating to summary exclusion), section 422 (relating to modification of asylum procedures) and section 423 (relating to preclusion of judicial review) from the conference substitute.

The PRESIDING OFFICER. There are 30 minutes on the motion, to be equally divided.

Who yields time?

Mr. LEAHY. Mr. President, I yield myself 6 minutes.

Mr. President, I will ask for the yeas and nays on this at the appropriate time but, I understand that the distinguished chairman of the committee is on his way to the floor. I would not make such a request until he was on the floor.

I am not taking this action lightly. I understand there is a real concern on motions to recommit, but this is a very, very serious matter.

I understand the symbolism of trying to have this conference report adopted by the House on the 1-year anniversary of the terrible bombing of the Federal building in Oklahoma City and, for that matter, the 3-year anniversary of the tragic end of the siege near Waco. It is one thing to say we want to schedule a resolution or sense of the Congress to coincide with a memorial day but here we are talking about a very significant piece of legislation. While I think that all of us abhor what happened in Oklahoma—certainly, no sane American could take any pleasure in what happened in the tragedy in Oklahoma City—we also have a responsibility as U.S. Senators, no matter which party we belong to, to pass the best law we can. After all, that is what the American people expect.

The vast majority of Americans are opposed to terrorism, terrorism of any sort, and they assume that their elected officials, both Republicans and Democrats, are going to pass good antiterrorism legislation. If it takes a day or two more to get it right, then let us take the day or two more. We are doing this for a nation of 250 million Americans, a very powerful nation, threatened by terrorism.

The Senate passed S. 735 on June 6, 1995, almost a year ago. The House only considered its version last month. The conference committee apparently met a couple of evenings ago, and we were handed the conference report yesterday with instructions to pass it post haste. Having seen almost 10 months elapse since the Senate passed this bill, I hope

we take time to at least to read the conference report. And, I dare suggest, there are not five Senators in here who have even read the conference report or have the foggiest notion of what it is they are voting on.

This is what we are talking about. We are talking about a bill being rushed through here about antiterrorism, because we are all against terrorists. But I am willing to bet my farm in Middlesex, VT, you are not going to find 5 to 10 Senators in this body who have read every word of this conference report.

In particular, my motion to recommit concerns profound changes to our asylum process that were not previously considered by the Senate in our deliberations on antiterrorism last year. The provisions I am objecting to have nothing to do with preventing terrorism. That is one reason why they were not in the antiterrorism bill that we considered and passed last summer. These provisions were added in the conference.

They do not have to do with terrorism. I am asking only to strike sections 414, 422, and 423. These are general immigration matters. They should be in the immigration bill. They should not be in this antiterrorism bill.

I tried to amend these provisions during the Judiciary Committee consideration of the immigration bill. I failed on a tie vote. I circulated a "Dear Colleague" earlier this week, making clear my intention to try to change this. These provisions are bad policy. They are going to make bad law, and they are put in here for the first time in a conference report.

I disagree as well with the habeas corpus sections of the conference report, but at least we had the opportunity to debate and amend those provisions. The asylum rewrite was done in the dark of the night and it is being forced on us today. I think that is wrong.

Look no further than the front page of the New York Times on Monday. You see the most recent example of why we must not adopt the summary exclusion provision in the bill. There is an article on the case of Fauziya Kasinga and her flight from Togo to avoid female genital mutilation. She has sought for 2 years to find sanctuary in this country, only to be detained, tear-gassed, beaten, isolated and abused—not in some distant land, but the United States of America. The case has outraged women and men all over this country.

What you may not know is that the conference report that we have before us would summarily exclude Ms. Kasinga from ever having made an asylum claim, a claim that I hope, based on the reported facts, is going to be granted without her enduring more suffering. You see she traveled from Germany coming to America, and traveled on a false British passport in order to escape mutilation in Togo.

Under the legislation before us, she would be out. "Tough. Go back and get mutilated. We do not care. We have a law—that none of us ever saw, none of us ever debated, none of us ever spent time on—that allows for your summary exclusion. You are out."

Fidel Castro's daughter is another recent example of a refugee who came here using a disguise and phony Spanish passport to seek asylum. She came through Spain. Under the provisions of this bill, she might have been turned away at the border after a summary interview by a low-level immigration officer. We all know that there are political reasons why Fidel Castro's daughter should be granted asylum. Under the provisions of the conference report before us, slipped into the bill in the middle of the night, are barriers that could make that impossible.

I yield myself 2 more minutes.

In my "Dear Colleague" letter on my proposed amendment to these sections in the immigration bill and in the additional views I filed with the committee report on the immigration bill I also recall victims of the Holocaust and their use of false identification provided by the brave diplomats Raoul Wallenberg and Chiune Sugihara during World War II. Think of Oskar Schindler, think of "Schindler's List." These are the kind of things that we need to consider before adopting this conference report.

My concern is not to defend alien smuggling or false documentation or terrorists, but to acknowledge that there are some circumstances and oppressive regimes in the world where, if you are going to escape, you may well need to rely on false papers.

It would be ironic if we were to pass these provisions on an antiterrorism bill that would prohibit victims of terror, torture, and oppression around the world from seeking refuge in this, the world's greatest democracy.

I hope that the United States will not abandon its historic role as a refuge for the oppressed and persecuted. Our country is a beacon of hope and freedom, let it not be extinguished. Let us not abandon our leadership role in international human rights. Let us not abandon the world's true refugees, let us not restrict the due process that protects the people who look to us for asylum. Unfortunately, the impact of the provisions in this bill would be to deny refugees any opportunity to claim political asylum and would, instead, summarily exclude them from the United States and send them back to their persecutors without a hearing, without due process protections, without assistance to help them describe their plight and without judicial review of any kind.

Sections 421 and 422 of the conference report prohibit an asylum claim by refugees who enter this country with false identification. I could understand that we might want to consider as potentially relevant factors to an asylum claim that the refugee arrived with false documents and the route that the refugee traveled to get here. But those factors should not be dispositive. The examples to which I have previously alluded indicate that there are times when the use of false documentation is not something that we would want to punish. I fear that the bill goes too far and sends the wrong signal by putting the burden on the refugee, without counsel and in a summary proceeding, to establish that the person is the exception and to create a clear record of "credible fear" and that it was necessary to present the false document to depart from the persecuting country.

The Committee to Preserve Asylum has sent each of us a letter outlining the ways in which similar provisions in the immigration bill would harm human rights and endanger refugees. In their April 8 letter supporting the Leahy amendment they outline cases in which these provisions would have been disastrous.

The U.N. High Commissioner for Refugees sent our chairman a letter dated March 6 objecting to these provisions as inconsistent with the 1967 Protocol Relating to the Status of Refugees and remains critical of the bill.

The asylum process was reorganized and reformed in January 1994. The bill fails to take these changes into account. In fact, in 1995 asylum claims decreased greatly and were being timely processed. Only 20 percent were granted. Thus, the bill's provisions are a bad solution in search of a problem. The INS and Department of Justice report that they have matters in hand.

The Department of Justice counsels that we should allow immigration judges rather than asylum officers to make these determinations. Under the circumstances, I believe that we have moved too far too fast and allowed a few cases from the distant past to create bad law.

The asylum provisions in the bill would place undue burdens on unsophisticated refugees who are truly in need of sanctuary but may not be able to explain their situation to an overworked asylum officer. The bill would establish summary exclusion procedures and invest low-level immigration officers with unprecedented authority to deport refugees without allowing them a fair opportunity to establish a valid claim to asylum. Even before being permitted to apply for asylum, refugees who flee persecution without valid documents, would be met with a series of procedural hurdles virtually impossible to understand or overcome.

This is a radical departure from current procedures that afford an asylum hearing before an immigration judge

VOL
142
PT
6
AP
15
—
24
1996
UMI

during which an applicant may be represented by counsel, may cross-examined and present witnesses, and after which review is available by the Board of Immigration Appeals. Such hearings have been vitally important to refugees who may face torture, imprisonment or death as a result of an initial, erroneous decision by an INS official. Indeed, human rights organizations have documented a number of cases of people who were ultimately granted political asylum by immigration judges after the INS denied their release from INS detention for not meeting a "credible fear" standard. Under the summary screening proposed in the bill conference report, these refugees would have been sent back to their persecutors without an opportunity for a hearing.

Under international law, an individual may be denied an opportunity to prove an asylum claim only if the claim is "manifestly unfounded." This bill would establish a summary screening mechanism that utilizes a "credible fear" standard without meaning or precedent in international law. These summary exclusion provisions have been criticized by international human rights organizations and the United Nations High Commissioner for Refugees.

Furthermore, the proposed legislation would deny the Federal courts their historic role in overseeing the implementation of our immigration laws and review of individual administrative decisions. The bill would allow no judicial review whether a person is actually excludable. These proposals thereby portent a fundamental change in the role of our coordinate branches of Government and a dangerous precedent.

Besides being fundamentally unfair to a traumatized and fatigued refugee, who would be allowed no assistance and no interpreter, the proposed summary screening process would impose a burdensome and costly diversion of INS resources. In 1995 for example, only 3,287 asylum seekers arrived without valid documents—hardly the tens of thousands purported to justify these changes. The bill would require that a phalanx of specially trained asylum officers be created and posted at airports, sea ports and other ports of entry across the country to be available to conduct summary screening at the border. There is simply no need to divert these resources in this way when the asylum process has already been brought under control.

There are no exigent circumstances that require this Nation to turn its back on its traditional role as a refuge from oppression and to resort to summary exclusion processes. Neither the Department of Justice nor the INS support these provisions or believe them necessary.

I urge my colleagues to reject this gutting of our asylum laws and support the motion to recommit.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it not be charged to my time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, regarding the motion to recommit the conference report by the distinguished Senator from Vermont, now, look, this bill is a tough bipartisan measure. Stated simply, it is a landmark piece of legislation. My colleagues on the other side of the aisle know it. We have crafted a bill that puts the Nation's interests above partisan politics.

Some of my colleagues however have criticized this bill for not being tough enough on terrorists. In truth, many oppose this bill because it is too tough on vicious, convicted murderers—not my friend from Vermont, but others. My colleagues are aware that this motion to recommit will not improve the bill. Instead, if it passes it will scuttle the antiterrorism bill. In other words, it will kill it.

Accordingly, on behalf of Senator DOLE and myself, I move to table the pending motion and ask for the yeas and nays.

Mr. LEAHY. Mr. President, would the Senator withhold just a moment?

Mr. HATCH. I will be happy to withhold.

Mr. LEAHY. Mr. President, as I understand it, we are under a time agreement. Such a motion would not be in order until—or at least a vote on such a motion would not be in order until all time is either used or yielded back. Am I correct?

Mr. HATCH. I thought maybe the Senator had used his time.

I withdraw my request.

The PRESIDING OFFICER. The motion would not be in order until the time is used or yielded back.

Mr. LEAHY. If the Senator asks unanimous consent to make his motion to get the yeas and nays on it now, to be done at the expiration of time or yielding back——

Mr. HATCH. We can wait until then.

Mr. LEAHY. Mr. President, would the Senator yield further, on my time?

Mr. HATCH. I certainly do.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that a letter from the Committee to Preserve Asylum and various attachments in support of my amendment, signed by the American Friends Service Committee, the American Jewish Committee, Amnesty International, Associated Catholic Charities of New Orleans, Jesuit Social Ministries, Jewish Federation of Metropolitan Chicago, Indian Law Resource Center, and a number of others in support of my amendment be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE TO PRESERVE ASYLUM,
Washington, DC, April 8, 1996.

Hon. PATRICK J. LEAHY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: We are an ad hoc coalition of religious groups, human rights organizations, concerned physicians, and immigration and civil rights advocates that have come together to oppose the new bars to applying for asylum contained in S. 269.

The right to seek asylum is an internationally recognized human right, incorporated into U.S. law by Congress in the 1980 Refugee Act. It protects individuals fleeing persecution on account of race, religion, nationality, political opinion, or membership in a particular social group. Each year the U.S. grants asylum to about 8,000 people, less than 1% of legal immigrants. The new bars to asylum contained in S. 269, the Immigration Control and Financial Responsibility Act, would seriously undermine human rights protections for these bona fide refugees.

The new bars to asylum, found in sections 133 and 193 of the bill, would give low level immigration officers the authority to exclude and deport without a fair hearing refugees who were forced to flee persecution without valid travel documents. For reasons illustrated in the attached documents, this section would effectively deny asylum to many human rights victims. It will also cost more money. Senator Leahy will offer an amendment on the Senate floor that will preserve procedural protections for people escaping religious and political persecution.

We urge you to vote for the Leahy amendment.

Sincerely yours,

American Civil Liberties Union.
American Friends Service Committee.
American Jewish Committee.
Amigos de los Sobrevivientes.
Amnesty International.
Associated Catholic Charities of New Orleans.
Asylum and Refugee Rights Law Project, Washington Lawyers' Committee for Civil Rights and Urban Affairs.
Ayuda, Inc., Washington, DC.
Center for Immigrants Rights, Inc.
Central American Resource Center—CARECEN of Washington, DC.
Central America Political Asylum Project, American Friends Service Committee, Miami, FL.
Church World Services Immigration and Refugee Program.
Columban Fathers' Justice & Peace Office.
Comité Hispano de Virginia.
Committee for Humanitarian Assistance to Iranian Refugees.
Committee to Protect Journalists.
Council of Jewish Federations.
Dominican Sisters of San Rafael, CA.
El Centro Hispanoamericano.
FIRN, Inc. (Foreign-born Information and Referral Network).

Friends Committee on National Legislation.
Heartland Alliance for Human Needs & Human Rights.
Hebrew Immigrant Aid Society.
Hogar Hispano.
Illinois Coalition for Immigrant and Refugee Protection.
Immigrant and Refugee Services of America.
Immigrant Legal Resource Center.
Indian Law Resource Center.
International Institute of Boston.
International Institute of Los Angeles.
Jesuit Social Ministries.
Jewish Federation of Metropolitan Chicago.
Las Americas Refugee Asylum Project.
Lawyers Committee for Human Rights.
Lutheran Immigration and Refugee Service.
Marjorie Kovler Center for the Treatment of Survivors of Torture.
Mennonite Central Committee.
Minnesota Advocates for Human Rights.
National Asian Pacific American Legal Consortium.
Network: A National Catholic Social Justice Lobby.
North Texas Immigration Coalition.
Northwest Immigrant Rights Project.
Peace Workers.
Physicians for Human Rights.
Political Asylum/Immigration Representation Project, Boston College Law School.
Proyecto Adelante.
Proyecto San Pablo.
Robert F. Kennedy Memorial Center for Human Rights.
Sponsors Organized to Assist Refugees, OR.
Union of Council of Soviet Jews.
U.S. Committee for Refugees.
Vietnamese Association of Illinois.
VIVE, Inc., An Organization for World Refugees.

THE NEW BARS TO ASYLUM WOULD RETURN HUMAN RIGHTS VICTIMS TO FURTHER PERSECUTION

VOTE FOR THE LEAHY AMENDMENT

Sections 133 and 193 of S. 269, the Immigration Control and Financial Responsibility Act, would give low-level immigration officers the authority to deport back to their persecutors refugees who were forced to flee persecution without valid travel documents. The new bars to asylum would punish people whose only means of fleeing repressive governments is by using invalid travel documents.

Many true refugees are forced to flee persecution without valid travel documents either because they do not have time to acquire them or because applying for them would threaten their lives.

Under current law, a person who arrives in the United States without valid travel documents and fears persecution in his or her home country may go before an immigration judge and prove eligibility for asylum. The asylum seeker may be represented at the hearing at no cost to the government.

The new bars to asylum would preclude such a person from even applying for asylum until he or she has proven that he or she has a "credible fear" of persecution and used the invalid travel documents to flee directly from a country where there is a "significant danger" of being returned to persecution. This all may have to be proven immediately after a stressful journey, and without the assistance of counsel or an interpreter, and without the involvement of any judicial or quasi-judicial officer.

The new bars and summary procedures are problematic for several reasons.

A "false papers" rule would harm human rights victims. By definition, asylum seekers frequently fear persecution by the government of their home country—the same government that issues travel documents and checks identity papers and exit permits at the airports and border crossings. It should be recalled that the United States has long honored Raoul Wallenberg, who saved countless lives during the Holocaust by issuing unofficial travel documents so that refugees could flee further persecution.

Meritorious asylum seekers would be returned to persecution. The INS has made serious errors while trying to apply the "credible fear" test. Under current law, asylum seekers who arrive in the U.S. without valid travel documents are detained pending their hearing unless they prove a "credible fear" of persecution in their home country. Human rights organizations have documented many cases in which people were denied parole under this standard, but later were granted asylum at their hearing before an immigration judge. Under the new bars to asylum, they would have been returned to persecution. A summary of some of these case studies is attached.

The Department of Justice opposes the new bars to asylum. Deputy Attorney General Jamie Gorelick wrote in her February 14 letter to Judiciary Committee Chairman Orrin G. Hatch that the Justice Department opposes sections 133/193, noting that "Absent smuggling or an extraordinary migration situation, we can handle asylum applications for excludable aliens under our regular procedures."

The new bars would deny protection to refugees who had to change planes on route to the United States. Before being able to apply for asylum, a refugee who used false documents would have to prove that they were needed to leave her country or to transit through another country. This requirement would prejudice both asylum seekers who flee countries that do not have direct carrier routes to the U.S. and those who must travel over land through countries that do not have asylum laws, that may be friendly with the government they are fleeing, or that are hostile to people of their background or nationality. Refugees from Asian and African countries in particular face this situation.

The new bars to asylum are inconsistent with U.s. obligations under international law and will inevitably lead to errors. The new bars lack the minimal procedural safeguards to prevent the mistaken return of a genuine refugee to certain persecution. The UNHCR "fears that many bona fide refugees will be returned to countries where their lives or freedom will be threatened" if the new bars to asylum become law. (Letter to Sen. Hatch, Chairman Judiciary Cmte, March 6, 1996).

VOTE FOR THE LEAHY AMENDMENT

Bob, a student at the University of Khartoum in Sudan, was an active member of the Democratic Unionist Party, an anti-government organization. After participating in a peaceful student protest, he was arrested by the Sudanese government. He was detained in a 6 by 11 foot cell with 10 other prisoners for 2 months. During his imprisonment, he was repeatedly interrogated and tortured—he was hung by his hands and feet, beaten and electrically shocked. As a result of the torture, his elbows are permanently deformed. He remained active in the democratic movement after his release from prison. Then, as he was walking to a democratic union meeting, he was again arrested and imprisoned. A few months later, while he was still in prison, he suffered a nervous breakdown because of the torture he suffered. He was transferred to a hospital, but remained under arrest. Wearing a nurse's uniform that his mother had smuggled into the hospital, Bob escaped from imprisonment.

Bob's colleagues from the democratic union smuggled him onto a freighter bound for Germany. In Germany, he borrowed another person's ID card to leave the ship. Knowing that the anti-immigration and NeoNazi movement in Germany had heightened and that it would be impossible to receive asylum there, Bob flew from Germany to the United States. He arrived without a passport. When he exited the plane, he immediately told the INS that he wanted to apply for asylum. He was placed in detention. Bob was not released from detention because the INS interviewer determined he did not have a "credible fear" of persecution. He was granted asylum by an immigration judge.

Alan, an Indian national, had been persecuted in Kashmir because of his religion. On several occasions, he and his family members were imprisoned and tortured by the Indian government. In July 1994 when the military police sought to detain him, he evaded arrest. A few months later his family's home was bombed.

Fearing for his life, Alan fled to the United States using a false passport. He told the INS he wanted asylum immediately. He explained to the INS officials that he and his family had been persecuted by the Indian government. The INS officers at the airport did not think he was credible. The officials verbally abused Alan and denied him food and water until he was brought to a detention center the next day. Alan was not released from detention because the INS did not think he had a credible fear of persecution even though he presented the INS with reports about religious persecution in Kashmir. Alan was later granted asylum by an immigration judge.

Sam, a Nigerian national, was an active member of a pro-democracy organization that was determined to ensure democratic elections in Nigeria. Shortly before the elections, the leader of the democracy organization was found murdered, and several members were arrested and subsequently disappeared. The State Secret Service went to Sam's house on election day searching for him. When Sam learned that the secret service was searching for him, he immediately went into hiding, afraid that if they found him, he too would "disappear" as his colleagues had.

Sam fled to the United States right out of hiding. He changed planes in Amsterdam. He traveled with a false U.S. passport. He was afraid that the Nigerian government would arrest him if he tried to leave the country with his own identification papers. When he arrived in the United States, he immediately told the INS that he wanted asylum. He was placed in detention. The INS interviewed him to determine whether he had a credible fear of persecution; the INS concluded that he did not. He was granted asylum by a federal court.

Mr. LEAHY. Mr. President, I also ask unanimous consent that a letter from the U.N. High Commissioner for Refugees in support be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VOL
142
PT
6
AP
15
—
24
1996
UMI

UNITED NATIONS,
HIGH COMMISSIONER FOR REFUGEES,
Washington, DC, March 19, 1996.
Re Special Exclusion Provisions of S. 269.
Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: I wish to express UNHCR's sincere appreciation for your efforts during the 14 March Judiciary Committee mark-up session to remove the special exclusion provisions of S. 269. These provisions, found in Sections 133, 141 and 193 of the bill, would almost certainly result in the U.S. returning bona fide refugees to countries where their lives or freedom would be threatened.

As noted in my 6 March letter to Judiciary Committee Chairman Orrin Hatch, we offer our views regarding S. 269 with the hope that you and the other members of the Judiciary Committee will seek to adhere to the standards and principles set forth in the 1967 Protocol Relating to the Status of Refugees, to which the U.S. acceded in 1968.

In particular, UNHCR is concerned with the following special exclusion provisions:

(1) Lack of due process—Sections 133, 141 and 193 provide few procedural safeguards to ensure that true refugees are not erroneously returned to persecution.

(a) No administrative review—Under Section 141, special exclusion orders are not subject to administrative review (p. IB–4, line 19). Minimum procedural guidelines for refugee status determinations specify that an applicant should be given a reasonable time to appeal for a formal reconsideration of the decision. This principle is set forth in UNHCR Executive Committee Conclusion No. 8 (1977).[1] The "prompt supervisory review" provided for in Section 193 (p. IC–36, line 12) does not meet these minimum procedural guidelines.

(b) Limitation on access to counsel—Under Section 193, asylum-seekers arriving at US ports of entry with false documents or no documents are permitted to consult with a person of their choosing, only if such consultation does "not delay the process" (p. IC–36, line 25). Such a limitation is in violation of the principle that applicants for asylum should be given the necessary facilities for submitting his/her case to the authorities, including the services of a competent interpreter and the opportunity to contact a representative of UNHCR (UNHCR Executive Committee Conclusion No. 8 (1977)).

(2) Limitation on access to asylum—Section 193 provides that individuals presenting false or no documents or who are escorted to the US from a vessel at sea are not permitted to apply for asylum unless they traveled to the US from a country of claimed persecution and that the false document used, if any, was necessary to depart from the country of claimed persecution. UNHCR requests the US to remove this limitation and to adhere to international principles which provide as follows:

(a) "[A]sylum should not be refused solely on the ground that it could be sought from another State. Where, however, it appears that a person, before requesting asylum, already has a connexion or close links with another State, he may if it appears fair and reasonable be called upon first to request asylum from that State" (UNHCR Executive Committee Conclusion No. 15 (1979) (emphasis added)).

(b) When refugees and asylum-seekers move in an irregular manner (without proper documentation) from a country where they have already fonnd protection, they may be returned to that country if, in addition to being protected against refoulement (i.e. protected against return to a country where their lives or freedom would be threatened), they are treated in accordance with "recognized basic human standards" (UNHCR Executive Committee Conclusion No. 58 (1989)). UNHCR is prepared to assist in practical arrangement for the readmission and reception of such persons, consistent with these international standards.

(3) Credible fear standard—Sections 133, 141 and 193 create a new, heightened threshold standard that asylum-seekers must meet before they are permitted to present their claims in a hearing before an immigration judge. Under these sections, asylum-seekers who are brought or escorted to the US from a vessel at sea (Sections 133 and 141), who have entered the US without inspection, but have not resided in the US for two years or more (Section 141), who arrive during an "extraordinary migration situation" (Section 141) or who arrive at a port of entry with false documents or no documents (Section 193) must first establish a "credible fear" of persecution before they are permitted to present their claims in an asylum hearing before an immigration judge. UNHCR urges the adoption of a "manifestly unfounded" or "clearly abusive" standard which would reduce the risk that a bona fide refugee is erroneously returned to a country where s/he has a well-founded fear of persecution. This international standard for expeditious refugee status determinations is set forth in UNHCR Executive Committee Conclusion No. 30 (1983).

We are hopeful that you will support the elimination of a deadline for filing asylum applications. Failure to submit a request within a certain time limit should not lead to an asylum request being excluded from consideration (UNHCR Executive Committee Conclusion No. 15 (1979)). Under this international principle, the US is obliged to protect refugees from return to danger regardless of whether a filing deadline has been met.

Again, I thank you for your efforts to ensure that refugees are protected from return to countries of persecution. Please do not hesitate to contact my Office if UNHCR may be of any further assistance to you, your staff or other members of the Committee.

Sincerely,

ANNE WILLEM BIJLEVELD,
Representative.

Mr. LEAHY. Mr. President, I am not in any way trying to derail this bill. I am just saying that this is something that was tucked into it in the middle of the night. Nobody ever had a chance to debate it. It is in here. And it is going to make it impossible, or nearly impossible, for anyone from Fidel Castro's sister to somebody escaping torture and religious persecution to come to the United States, if traveling through a second country or traveling with a false passport to do it.

That makes no sense. That is not an antiterrorist situation. Look at "Schindler's List." Remember Raoul Wallenberg. Think about those who escaped persecution by using false passports as a way they could get out of the country. They may well have to go through an intermediate country to get to the greatest nation of freedom on Earth. Just because somebody slipped these provisions into the conference report, let us not go along with it. This is something that should be debated.

Our own Department of Justice does not support these provisions of the bill. I think in fact the Justice Department reiterated their opposition to them in an April 16 letter on similar provisions in the immigration bill to the majority leader. Deputy Attorney General Gorelick wrote us, "absent smuggling or an extraordinary migration situation, we can handle asylum applications for excludable aliens under our regular procedures."

I reserve the balance of my time and yield to the Senator from Utah.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I do not really have anything more to say other than this is a very important piece of legislation. It is a key piece of legislation. It is desired by almost everybody who wants to do anything against terrorism. It is effective and strong. Even though we acknowledge we do not have everything everybody wants in this bill, it is a darn good bill that will make a real difference. If this motion or any motion to recommit passes, this bill is dead, it will be killed. So we simply have to defeat any and all motions to recommit. I will move to table the amendment at the appropriate time. I am prepared to yield back the balance of my time on this amendment.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, the Senator from Utah, the distinguished chairman of the committee, keeps referencing that——

The PRESIDING OFFICER. Does the Senator from Vermont yield time to the Senator from Delaware?

Mr. LEAHY. Yes. I understand I have about 4 minutes. I yield 2 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, the Senator from Utah keeps saying anything will kill this bill. That is not true. This is not "kill this bill." If we send this back to conference for one or two or 12 amendments it does not kill this bill. Every major bill we had, including the crime bill, we sent back to conference with instructions—at least on three occasions. This will not kill this bill.

Some of this has not been well thought out. Much of what we left out of the bill, I am convinced, on reconsideration by our friends in the House, they would change their view. But I want to make it clear, I do not believe there is any evidence to suggest that sending this back to conference with specific instructions would kill the bill.

I am prepared, if the chairman and if Senator LEAHY is, to yield back. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. LEAHY. Does the Senator from California care to speak on this?

Mrs. BOXER. No. I am waiting for the next motion.

Mr. LEAHY. Mr. President, I thought Senator KENNEDY wished to speak on this.

I am ready to yield back the balance of my time.

Mr. HATCH. I am prepared to yield back the balance of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. HATCH. Mr. President, I ask unanimous consent that the pending Leahy motion to recommit be temporarily set aside with the vote to occur on or in relation to the Leahy motion after completion of debate on the next motion to recommit.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Senators should be aware there will be two consecutive rollcall votes following completion of all debate on the next motion.

Mr. President, I also ask unanimous consent to move to table the Leahy amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, for the benefit of my colleagues, to review the bidding from yesterday, the distinguished chairman of the committee and I agreed on a unanimous-consent proposal that we have one-half hour on each of up to as many as 14 motions. I doubt there will be that many. But we will move them out seriatim here. I see my distinguished colleague from California, Senator BOXER, is on the floor prepared to go with her motion, to begin to debate her motion. So I would, with the permission of the Senator from Utah, yield to the Senator from California for that purpose.

I will make one important point, Mr. President. At the appropriate time I will make the motion. As I understand the parliamentary situation, debate must be concluded before I make the motion, otherwise the motion is subject to immediately being tabled, which I do not think my friend has any intention of doing. But just to make sure we do it by the numbers—I beg your pardon. I have been informed by staff we got unanimous consent yesterday that that is not necessary, that we can offer the motion. But I will offer the motion at this point.

MOTION TO RECOMMIT

Mr. BIDEN: Mr. President, I offer a motion to recommit the conference report with instructions to add provisions on the National Firearms Act statute of limitations. For the purpose of discussion of that motion, I send that motion to the desk.

The PRESIDING OFFICER. The motion is now pending.

The motion is as follows:

Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . INCREASED PERIODS OF LIMITATION FOR NATIONAL FIREARMS ACT VIOLATIONS.

Section 6531 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H), respectively; and

(2) by amending the matter immediately preceding subparagraph (A), as redesignated, to read as follows: "No person shall be prosecuted, tried, or punished for any criminal offense under the internal revenue laws unless the indictment is found or the information instituted not later than 3 years after the commission of the offense, except that the period of limitation shall be—

"(1) 5 years for offenses described in section 5861 (relating to firearms and other devices); and

"(2) 6 years—.".

The PRESIDING OFFICER. There will be 30 minutes equally divided. Who yields time?

Mr. BIDEN. I thank the Chair for its assistance. I yield as much time as the Senator from California may need under my control.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. BOXER. Thank you, Mr. President. I want to thank the Senator from Delaware for taking the leadership on this issue. Every motion that he will make today is a motion that is tough on crime. Every single motion that he will make, if it is carried by this U.S. Senate, will make this a better bill.

The motion that he just sent to the desk means a lot to the Senator from California because I offered it to this U.S. Senate. It was adopted unanimously. I have to say, it is inexplicable to me why this provision would have been stricken. I do know there are certain groups that oppose it, one in particular, the NRA. I cannot for the life of me understand why else this would have been stricken from the Senate bill.

Let me explain the amendment that I offered which is the subject of this motion. What we would do is simply make sure that under the National Firearms Act when there is a crime which deals with making a bomb, making a silencer, making a sawed-off shotgun, that there be a period of time of 5 years rather than 3 years for law enforcement to track down and prosecute the criminal who would commit such a crime.

There is an anomaly in the United States Code right now. These crimes are the only ones that have a 3-year statute of limitations. Let me explain why this is so bad and why we must fix it. If there is a crime where a terrorist makes a bomb and the bomb explodes and it kills people—and we have just, of course, revisited, as our President did, the tragedy in Oklahoma City, and the 1-year anniversary of that dreadful day is coming quickly upon us—if a criminal had a bomb in his home or in his farmhouse or in his truck or hidden away for a period of a year, let us say, while he made that bomb, the statute of limitations starts running from the day the bomb is made. In such a case law enforcement would have only 2 years to track down and put away such a criminal.

I do not understand why those who claim to be tough on crime would drop from this bill a commonsense provision. Striking this provision makes it easier to get away with making a bomb. It is that simple.

Who supports this BOXER amendment? How did I even learn about it? I learned about it from local law enforcement people who asked me to fight this fight. I learned about it from the Justice Department, who asked us to carry this fight. I learned about it from the Treasury Department, which heads the ATF, and they asked me to fight for this. Mr. President, 47 police chiefs told me to fight for this. For them, I offered this amendment to establish a 5-year statute of limitations for making a bomb, a sawed-off shotgun, or a silencer. It is pretty straightforward.

I think the American people understand this, and people can stand up here as long as they want, and I have respect for them. However, I must question them when stand up here and say, "Well, gee, Senator BOXER, if we kept your amendment in here, this whole bill would go down." Show me one U.S. Senator of either party, show me one House Member who would truly stand up and say that a criminal who makes a bomb, who makes a silencer, who makes a sawed-off shotgun should get away with it because of a 3-year statute of limitations. If any disparity is warranted, bomb making ought to be a longer statute, because a bomb could be hidden in somebody's possession for a long time before it was detonated and before it was used.

The police chief of Oklahoma City supports this. Let me repeat that: The police chief of Oklahoma City supports this amendment. They know they need time to put together their case.

What are we doing here? Are we doing the bidding of the NRA, or are we

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[1] The UNHCR Executive Committee is a group of representatives from 50 countries, including the United States, that provides policy and guidance to UNHCR in the exercise of its refugee protection mandate.

VOL
142
PT
6
AP
15
—
24
1996
UMI

doing the bidding of the American people? Are we trying to protect the people from these vicious crimes, these cowardly crimes? It is horrible enough when someone walks up to someone else and injures them with a weapon. That is a horrible crime and it should be punishable by the worst possible punishment.

It is unbelievable to me that this was stricken by this conference committee. I thought we were going to be tough on crime.

Last night, a simple proposal that would say if a chemical weapon was used, local law enforcement could call on our military to get help was defeated in this Republican Senate—defeated. Now, ask the average law enforcement person in the local community if they are experts on chemical and biological weapons. They will tell you no. Just as in my amendment, if you ask them, do you need more time to go after the cowards that would make a bomb, they would say, "We need more time, Senator. Fight for your amendment." We did, and it passed this Senate, and it was dropped in conference. It comes back to us with this piece missing.

I am stunned that would be the case. There is no argument except the one that the distinguished chairman makes over and over again on each of these motions which is, "You know that your amendment, Senator, will kill this bill." Well, I do not know that. I never got one letter, one note of opposition to this commonsense proposal supported by the police chief of Oklahoma City and all the other law enforcement people who know it takes time to put together these complex cases.

I say if anyone believes this is bad policy, if they disagree with me on substance, if they disagree with the police chief of Oklahoma City and all the other police chiefs, the Justice Department and the administration, why do they not come down here? I say if they agree that it is common sense that altogether these crimes should have a minimum of a 5-year statute of limitations, they should support the Biden motion to recommit.

It defies imagination that we are now here refighting important commonsense proposals included in the Senate version of this bill.

I hope that my Republican friends will support this motion. I think it is absolutely key that we not tie the hands of law enforcement. We are coming to the 1-year anniversary of Oklahoma City. We know the investigation is going on and is continuing. If you asked every American, no matter what political stripe, no matter what part of the country they are from, they would say that it is important to give law enforcement enough time to investigate these complex cases—that is all we are asking for. This does not cost any money. It simply gives law enforcement time, time to make sure that they have completed their investigation and those cowards who would blow up innocent people are put away and dealt with in the harshest possible fashion.

I say that is being tough on crime. I hope that we will have support for this motion to recommit. Mr. President, I yield the floor. I reserve whatever time I might have.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I will not take long because, frankly, it comes down to one thing: that we have worked this bill out. We have worked hard with the House Members. It has been very difficult to do. They have made significant concessions to us, and rightfully so. We applaud them for doing so because we have our problems here, and they have their problems there.

Anybody who has been in this process very long understands that once you reach a conference report like this—especially this one, which has taken a year to get here—any change is going to kill the bill—especially this provision.

Section 108 of the Senate bill, in part, would increase from 3 to 5 years the limitations period for commencing actions for violations of the National Firearms Act. The reason it is opposed by Members of the House, and the reason I oppose this attempt to increase the limitations provision, simply put, is because it is unnecessary. It does absolutely nothing with regard to terrorism. The 3-year Internal Revenue Code statute of limitation period for licensed firearms dealers violating the National Firearms Act is more than an adequate time to commence prosecutions.

There is no sanguine reason to extend the period. This has nothing to do with terrorism. It may be a good idea in another context, but it is apparent that it would cause plenty of problems in this context because there are simply people in the House—and I suspect here—who disagree with the distinguished Senator from California, who is very sincere in putting this amendment forward.

The statute of limitations period should be built upon fairness. These types of statutes of limitation must protect the Government's ability to prosecute claims and violations of the law. Yet, they also have to protect citizenry from stale claims and bureaucratic abuse. In this area there are a significant number of people on both sides of the floor here, and in the House of Representatives in particular, who have seen unfairness by various bureaucratic abusers and do not want to change this.

The traditional 3-year limitations period here accomplishes this fine balance between public needs and private rights. If we look at the underlying National Firearms Act offenses subject to a 3-year limitations period, the violations either prohibit dealers from possessing or transferring illegal firearms, such as banned machine guns or sawed-off shotguns, or possessing or transferring them without the proper firearm identification serial numbers, or through fraudulent applications or records. The 3-year limitations period, historically, has been more than sufficient to prosecute claims under the act, some being substantive but many of an administrative or of a paperwork nature. Some are technical. And we have seen abuses. Extending the limitations period to 5 years does absolutely nothing except perhaps open the system up to abuse and unfairness. Frankly, that is why our colleagues in the House are against this amendment. That is why I am against it here today.

I am prepared to yield, and I reserve the remainder of my time.

Mr. BIDEN. Mr. President, I yield myself 2 minutes of what I understand to be 5 minutes of remaining time.

The idea, of course, here, Mr. President, is that the proposal that is in the bill, the failure to do this in the bill does not make sense. Listen to some of the types of weapons covered. Poison gas, bombs, grenades, rockets having propellant charges of more than 4 ounces, missiles having an explosive or incendiary charge of more than one-quarter ounce, mines—these are not playthings we are talking about. Remember, the statute of limitations runs not from the time the crime becomes public knowledge, but from the time the crime was committed. So if a terrorist builds a bomb secretly, keeps it in his barn for 2½ years, and blows up a building with it, the Federal prosecutors only have 6 months to track the guy down and get an indictment for building that bomb.

Crimes covered by the National Firearms Act are serious. They involve illegal manufacture of rockets, bombs, missiles, and sawed-off shotguns. So I cannot understand why anybody would oppose bringing the statute of limitations for these crimes into line with almost every other Federal crime.

Here are a few examples of crimes with a 5-year statute: Simple assault; stealing a car; impersonating a Federal employee; buying contraband cigarettes; impersonating, without authority, the character Smokey the Bear. If we are going to give the Government 5 years to track down a guy who impersonates Smokey the Bear, why not track down a guy who is involved in producing poison gas in his garage or barn?

I yield the remainder of my time to the Senator from California.

Mrs. BOXER. Mr. President, I say to the Senator from Delaware that, as usual, he has put this in exactly the

right manner. There is no reason on God's green Earth why this should not have been kept in this bill. Again, just ask the American people. Sometimes things sound very complicated. When the Senator from Utah got up and discussed the law, he makes it sound too complicated for the average person to understand. When you tell the average person that if you get out there and impersonate Smokey the Bear, law enforcement has 5 years to track you down, prosecute you, and put you away, but if you make a bomb, they have 3 years, it makes no sense whatsoever.

When the Senator from Utah says I am very sincere, I appreciate that. He knows me and he knows that I am, and I know that he is as well. But this is not about my sincerity. This is about a tool that law enforcement has asked the Congress to give them. So in the remainder of my time, I am going to read into the RECORD the local police chiefs who have asked us to give them this tool. It does not cost any money and does not set up a new bureaucracy. It gives them a commodity they want: time. So I am going to read, in the time that remains, the people who said to me, "Senator, this is important. Let us get this statute of limitations extended so we can go after these bad, cowardly criminals and put them away."

The police chiefs of San Jose, CA; San Francisco, CA; Berkeley, CA; Los Angeles Port, CA; Salinas, CA; San Leandro, CA; Indianapolis, IN; the police chief of Oklahoma City, OK; the director of police in Roanoke, VA; the chiefs of police in Bladensburg, MD; Edwardsville, IL; Rock Hill, SC; Old Saybrook, CT; North Little Rock, AR; Puyallup, WA; Yarmouth, ME; Kinnelton, NJ; Bel Ridge, St. Louis, MO; Charleston, SC; Jackson, MS; Salem, MA; Scottsdale, AZ; Cambridge, MA; Haverhill, MA; Millvale, Pittsburgh, PA; Newport News, VA; Dekalb County Police, Decatur, GA; Opelousas, LA; Eugene, OR; Mobile, AL; Portland, OR; East Chicago, IN; Louisville, KY; Alexandria, VA; Renton, WA; Waukegan, IL; Port St. Lucie, FL; Greensboro, NC; Miami, FL; Buffalo, NY; Oxnard, CA; Seattle, WA.

The PRESIDING OFFICER. The time of the Senator from California has expired.

Mrs. BOXER. Thank you. I hope people will listen to the local chiefs and support the motion of the Senator from Delaware.

Mr. HATCH. Mr. President, look, if the Senator's arguments are valid, why do we not make it a 100-year statute of limitations? I mean, we can make it that way. They can prosecute any time they want to prosecute.

The fact of the matter is that we are trying to balance our law enforcement needs. Most of these are paperwork violations that are going to be automatically ascertained within a very short period of time, certainly within 3 years. If we make it 5 years, they will wait 4½ years before prosecuting on a paperwork violation rather than 2½ years, which is sometimes the case now.

There is simply no reason to extend the statute of limitations for this act. Anyone who uses a bomb, as is the illustration by the Senator from California, or illegal weapon, under this act, will be prosecuted under the Criminal Code and receive far larger penalties than are under this act. The majority of these offenses are mere paperwork offenses and have little or nothing to do with terrorism. Essentially, it would permit bureaucrats, like I say, 4½ years to start an investigation instead of 2½ years. That is really sometimes what happens.

Let us get back to where we were; that is, that we have arrived at a compromise here, and we have had to bring the House a long distance to meet the needs of the Senate. They have cooperated and have worked hard. Chairman HYDE and the other members of the conference have all worked very hard on this, and this is where we are. There are those on both sides of the floor over there who do not like this amendment, and, frankly, it would be a deal killer and a bill killer. If we want an antiterrorism bill, we have to vote down this motion to recommit.

I am prepared to yield the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAMS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN addressed the Chair.

Mr. HATCH. Mr. President, I yield 60 seconds of my time to the distinguished Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to make two very brief points.

I do not believe this is a deal killer, No. 1. But No. 2, there are two pieces here. It is illegal to make a bomb. It is illegal to put together poison gas. That is one crime all by itself. The second crime is if you go out and use it. So, if you used a bomb to blow up buildings, a new statute of limitations starts to run.

There is a distinction between what is lacking in this bill across the board, between prevention and apprehension. We not only want to get the bad guys who do the bad things; we want to prevent the bad guys from being able to do the bad things. By allowing the statute of limitations to be like it is for Smokey the Bear impersonation, and everything else in the Federal code—just about—it gives us more time to track down the people who have prepared or are stockpiling this kind of material, whether or not they have used it. That is an important distinction.

I think this is an important amendment. I cannot believe for a moment that this would kill the bill, that you would have 35 people in the House vote against this because we made the statute of limitations for making poison gas the same as for impersonating Smokey the Bear. I find that unfathomable.

I thank my colleague for yielding me an extra minute.

Mr. HATCH. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 6 minutes and 20 seconds.

Mr. HATCH. Mr. President, let me answer the distinguished Senator.

There are people on both sides of the aisle over there who do not like this amendment. We have taken a year to get this done. It was done 1 month after we passed the Senate bill, which, by the way, was an excellent bill. The fact of the matter is, there are people over there who will kill this bill over any amendment at this particular point. Everybody knows that. This is not something new to us.

We have had to fight our guts out to get this conference and get the conference report done. Frankly, there are a wide variety of viewpoints on this bill and on some of the aspects of this bill.

Look, if somebody is making a bomb, it is very likely you could charge that person under conspiracy, or an attempt statute, or under a number of other statutes that have longer statutes of limitations. This is not—I do not want to call it a phony issue, but it certainly is not an issue that should allow a motion to recommit.

Frankly, 3 years is plenty of time to get somebody who makes a bomb. If they do not get it under this statute, they will get it under something else. But if you expand it to 5 years, then all of these paperwork violations—which primarily is what is prosecuted under this statute, and some of them very unjustly so in the past—all of those become dragged out for another 2 years.

Frankly, we want the law enforcement people, if they feel they have a legitimate reason to prosecute, to prosecute it, and do it quickly so the witnesses are available, so that a lot of other things can be done and the people can defend themselves.

So there are a number of legitimate reasons why people do not like this amendment and why people in the House would not want this in the bill. The purpose of this is to give the bureaucrats a new lease on life without really stopping terrorism. That is what we are talking about here.

I suggest the absence of a quorum.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, what is the current business?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. HATCH. I yield back the remaining part of my time. What is the current business?

VOTE ON LEAHY MOTION TO RECOMMIT

The PRESIDING OFFICER. The question is now on the motion to table the Leahy motion.

Mr. HATCH. We do have the motion to table.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HATCH. Mr. President, on behalf of Senator DOLE and myself, I also move to table the Biden-Boxer motion, and ask for the yeas and nays as well.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. It is my understanding that these votes will be back to back starting now.

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the motion to lay on the table the motion of the Senator from Vermont. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 61, nays 38, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—61

Abraham
Ashcroft
Bennett
Bond
Breaux
Brown
Bryan
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Feinstein
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hollings
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—38

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bumpers
Conrad
Daschle
Dodd
Feingold
Ford
Glenn
Graham
Harkin
Heflin
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—1

Mack

So the motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, since these are two stacked votes, I ask unanimous consent that there be 1 minute for debate equally divided in the usual form prior to the vote on the motion to table the Biden-Boxer motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

BIDEN MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, let me explain briefly what this is. First, right now there is a statute of limitations that if you go out and impersonate Smokey the Bear, you have 5 years to track them down, if you write a bad check you have 5 years. If you make poison gas, if you make a chemical weapon, if you have a rocket propellant charge of more than 4 ounces, if you produce missiles and hide them in your garage, and they find them, without them being used, they only have a 3-year statute of limitations. So if they did not find them until 1 year after you have made them, you have 2 years. If they did not find them until 2½ years, you have 6 months. We want to make this a 5-year statute of limitations, just like impersonating Smokey the Bear.

This is mindless not to do this when you are talking about making poison gas and chemical weapons and grenade launchers.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. This is a National Firearms Act and 3-year limitation. These are mainly paperwork violations. If someone violates beyond that—and for even paperwork they can get them for conspiracy. They can prosecute them under a whole variety of statutes that have longer statutes of limitation.

This is not a serious issue to us in the Senate, but it is a very serious issue to those in the House. We have worked hard to fashion this compromise. It is a doggone good compromise. Our friends in the House have really worked hard to help us to get it done. Frankly, this motion, as well as others, would kill the bill. So I hope my fellow Senators will vote against this motion.

The PRESIDING OFFICER. All time for debate has expired.

Mr. HATCH. Mr. President, this is a motion to table, is it not?

The PRESIDING OFFICER. That is correct.

Mr. HATCH. I do not have to move to table?

The PRESIDING OFFICER. No.

The question is on agreeing to the motion to table the Biden motion to recommit the conference report on S. 735 to the committee on conference with instructions. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER (Mr. GREGG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—53

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—1

Mack

The motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, we are now going to move to a motion that I offer to recommit the conference report with instructions to add a provision on multipoint wiretaps that was in our original Senate bill.

I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:
>
> **SEC. . REVISION TO EXISTING AUTHORITY FOR MULTIPOINT WIRETAPS.**
>
> (a) Section 2518(11)(b)(ii) of the title 18 is amended: by deleting "of a purpose, on the part of that person, to thwart interception by changing facilities." and inserting "that the person had the intent to thwart interception or that the person's actions and conduct would have the effect of thwarting interception from a specified facility."
>
> (b) Section 2518(11)(b)(iii) is amended to read: "(iii) the judge finds that such showing has been adequately made."
>
> (c) The amendments made by subsection (a) and (b) of this amendment shall be effective 1 day after the enactment of this Act.

The PRESIDING OFFICER. There will be 30 minutes equally divided.

Mr. BIDEN. I yield myself 2 minutes.

Mr. President, the distinguished Senator, and former Attorney General of the State of Connecticut, is here. We are going to divide this up a little bit. I want to make in my opening statement here a clarification for anyone listening as to what we are doing here, because we are really not changing anything that is not already done in any significant way.

These multipoint wiretaps are made out to be this major new concoction that they have come up with to interfere in the lives of people. I was told in the House conference that some Members of the House thought that it meant that the FBI would be in vans roving down the street literally eavesdropping on people's homes. It is bizarre what people think this means.

Let me explain what has to happen now to get a multipoint wiretap. There are all sorts of provisions built into the law now for the Federal Government: One, the Government must convince a judge that there is probable cause to believe that a specific person is committing a specific crime, as with any other wiretap. Two, the application even to ask a Federal judge for one of these wiretaps is approved at the very top level of the Justice Department, either by the Attorney General herself, or the Deputy Attorney General, or the Assistant Attorney General for the Criminal Division. No U.S. attorney in America can go out and ask a judge for one of these. No U.S. attorney can do that. No assistant U.S. attorney can do it without the approval of the Attorney General, Deputy Attorney General, or the head of the Criminal Division.

The application submitted must identify the person involved and believed to be committing the crime, and whose communications are to be the ones intercepted. A judge then has to find that the target's action—that is, the person who they are targeting. Say, we think our reporter here is in fact committing a crime. What you have to do is get the judge to believe that there is probable cause to believe a crime has been committed, that he is engaging in an activity. And, further, when they decide that you can wiretap not only his home phone, but the mobile phone he has in his pocket, the phone he has in his car, and the pay phone he uses all the time—the judge has to believe that the person is committing the crime—and communications are intercepted, it has to be proved that he is trying to effectively thwart the tap. For example, if my phone is tapped and there is probable cause that I committed a criminal offense, and I walk every day at 2 o'clock down to the pay phone on the corner, or I use a cell phone and then get rid of the new cell phone every day and get a new one, then that effectively thwarts the ability of the Federal Government investigators to tap someone where there is probable cause that they committed a crime. So that judge has to believe all that before he grants such an order.

In addition, any interception cannot begin until the officers have clearly determined that the target in question—that is, the person they believe committed the crime—is using a particular tapped phone. Once the target is off the phone, the interception must end. It does not say, by the way, that any phone that the target uses can be tapped. It says that we have reason to believe that he is using the following phone, one, two, or three. You can tap those phones.

Once the phone is tapped, if you go to your mother-in-law's house to use the phone, and after you get off, your mother-in-law is off the phone, they cannot, under the law, tap your mother-in-law. They must end the surveillance. It must stop. It must stop.

In addition, the moment the target leaves the phone, the tap on that phone has to be disengaged. It cannot be used. Any evidence cannot be used that would come from such a tap, if it stayed on. So this is nothing new. What is new is that, under the present law, this is used for the mob and other outfits. Under the present law, you have to show that the person is intending to thwart the surveillance—intending to. So essentially what you have to get is a mobster or terrorist saying, "I cannot use this phone in my house anymore because I think it is tapped. I am going to be going other places to use other phones. I will get to you later." That is what you basically have to prove now.

What we are saying in this law is—and 77 Senators voted for it last year—if the effect of the target is to thwart the surveillance, that is all you need to prove. The effect is to thwart the surveillance. You do not have to prove that he intended to thwart the surveillance; you have to prove the effect is to thwart surveillance.

So, again, a minor change already exists with multipoint wiretaps, is already in place. I will quote Mr. MCCOLLUM, the Republican leader of the Criminal Subcommittee. When I offered this in conference, he said:

> I think the reality is quite simple here—

This is MCCOLLUM speaking to me.

> You are 100 percent right.

I am 100 percent right.

> It is the single-most important issue we are not putting in this bill. We have got to find some way to do it. But we are not going to get the votes for this bill, and we could not get the votes for this freestanding bill, I don't think, right this minute in the House.

Get the first part: "It is the single-most important issue we are not putting in the bill." Mr. MCCOLLUM is right.

I yield the remainder of my time to the distinguished Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my colleague from Delaware. Mr. MCCOLLUM was right. Senator BIDEN was right in everything he said, except for where he said you could not wiretap my mother-in-law. I would like to talk to him later about that.

Mr. BIDEN. If the Senator will yield for 3 seconds. His mother-in-law may be listening.

Mr. LIEBERMAN. She probably is.

Mr. President, let me say first, both to the Senator from Delaware and the Senator from Utah, how very pleased in general I am that we have come as far as we have on this legislation. Over a year ago, President Clinton challenged us to reach a bipartisan consensus on counterterrorism legislation in the aftermath of the Oklahoma City tragedy. The Senate promptly did so, including the Dole-Hatch substitute bill we passed last spring, including in that bill most of the key provisions of the President's own counterterrorism bill offered earlier in the year by Senator BIDEN and others.

Unfortunately, the Senate's spirit of bipartisanship did not reach the other body and did not, as fully as I think it should, reach the conference itself. The conference has produced a report and a bill that I would term a good bill in the war against terrorism. But it could and should be better. That is why I am supporting Senator BIDEN's motion to recommit, particularly directing the conference committee to insert this so-called multipoint wiretapping that I was privileged to offer along with Senator BIDEN and which, as he has indicated, passed the Senate overwhelmingly. Not only was that amendment

VOL 142 PT 6 AP 15 — 24 1996 UMI

dropped in conference, but even what I thought was the entirely uncontroversial provision in the Senate bill that would add specific terrorism offenses to the list of crimes for which wiretaps may be authorized was dropped as well. In other words, if there is a suspected terrorist out there now and law enforcement wants to tap his or her phones, they have to do so on suspicion of a crime being committed but it cannot be a terrorist act. They have to find some other specific crime that was committed.

Mr. President, these omissions puzzle me and trouble me. I am afraid that they represent some strange left-right marriage of fear or skepticism or cynicism about the Government and about law enforcement officials particularly. As Senator BIDEN has said, the power to wiretap—let me say from my own experience and others in law enforcement—is a critically important tool in the hands of law enforcement, and they need that tool not to feather their own nest or build their own empires; they need it to protect us from the criminals, and in this case the terrorists. They are on our side, those who work for the U.S. attorneys, the FBI, the DEA, and the whole range of other law enforcement officials down to the State and local police. They are on our side.

There is somehow a feeling that has grown at the extremes of our political discourse that we have a lot to fear from them. This provision, as Senator BIDEN has said, incorporates the classically American due process rules to make sure that any wiretap that is obtained is approved by a judge and is applied and used in narrowly and clearly circumscribed ways.

Mr. President, for everything I know about terrorism, the ability to penetrate the highly secretive world of terrorists is the single most effective tool law enforcement officials have to prevent terrorism acts from happening and then to bring the terrorists to justice. We can build barriers around Federal buildings. We can increase law enforcement presence and try to fortify obvious targets. But we can never defend all of the targets of terrorists, because they are cowards. They will look for and strike undefended targets without remorse about killing innocent civilians. You simply cannot protect every target. They will strike everywhere. The object of the terrorist is to create terror and panic. So, the best defense we have against them is an offense, to penetrate their operations and to know that they are about to strike before they strike so we can cut them off. If there was ever a category of crime that warranted the full range of wiretap capacities that law enforcement officials have today, it is terrorism. That is what this amendment would do.

Look. In a way, by not including this amendment that the Senate passed overwhelmingly, more essentially, allowing the terrorist to use all of the tools of modern technology, leave the house phone, go to the cell phone, go to the car phone, go to the phone booth, and we are saying to law enforcement, "Oh, no, you cannot. We are going to make it hard for you to follow them. You are going to have to prove that they are moving with an intent to thwart that wiretap."

Senator BIDEN's example is so perfect. Basically we are saying to the law enforcement folks, you have to hear a terrorist say on the phone that, "I got to hang up, John. I'm afraid the FBI is listening to me. I am going to move out to my cell phone." You need that kind of proof of intent to get, under the current law, this multipoint wiretap.

So we are saying to the bad guys, the criminals, the terrorists, you can use all of this modern telecommunications equipment, but we are going to stop law enforcement from trailing them. It is as if we said during the cold war that we had intelligence information that the Soviet Union had developed some very strong new weapon, that the Pentagon had the ability to counteract that weapon with a defense, but we are going to put strictures on them from using that weapon. It does not make sense. It is why I think it is so important to adopt this amendment.

Mr. President, multipoint wiretaps are used very sparingly because of the requirements that Senator BIDEN set out. They have proved, however, according to testimony submitted by Deputy Attorney General Jamie Gorelick to the Judiciary Committee, highly effective tools in prosecuting today's highly mobile criminals and terrorists who may switch phones frequently for any number of reasons. Again, as we have asked before on other measures, why allow ease of obtaining a multipoint wiretap against other criminals, including organized crime criminals, and not allow it against terrorists who threaten us in such a devastating way?

Mr. President, the aim of this motion to recommit is a simple one. We want to be sure that our law enforcement officials receive the tools they need, the tools that will be there for them so that swift and effective action can be taken to prevent the World Trade Center explosion, to prevent Oklahoma City, to prevent any future disaster of that kind. We owe our Federal law enforcement officials that authority, that capacity, those tools. But the truth is we owe it to ourselves. They are out there trying to protect us and our families from being innocent victims of a terrorist. Every counterterrorism expert that I have ever talked to or ever heard, within the Government and without, will emphasize the importance of infiltration and surveillance in countering terrorists and bringing them to justice. Given the devastating effects of these acts, not only the maiming and death of men, women, and children, but these acts are assaults on the institutions of our Government, on the democratic processes which we cherish, and on our fundamental liberty to move safely and confidently throughout our society. They create the kind of fear that undercuts the freedom that we have fought for.

So I do not understand why we would not want to give the law enforcement officials the same authority to obtain wiretaps when pursuing terrorists that they have under current law to pursue other kinds of criminals, and why we do not want to improve their ability to track all criminals, including terrorists, as they move from phone to phone and from place to place with the obvious intent of thwarting surveillance and covering their treacherous, deadly deeds.

Mr. President, finally, I say we need to give the conferees another chance to strengthen this bill. As I said at the outset, it is a good bill, but it can and should be a better bill. I fear that, if we do not include a power like this one, that we are going to come to a day when we are going to look back and regret it—a terrorist act that will occur that could have been stopped if law enforcement had this authority.

I know we want to pass this bill and have the President sign it by the first anniversary of the Oklahoma City tragedy, but the truth is that I would rather see us do this right, do it as strongly and effectively as we can. And if it takes a few more days, so be it. We have waited this long. We can wait a little longer to protect ourselves, our society, the institutions of our Government, and the basic freedom to live and move around in our great country from the horrible acts of terrorists within our midst.

I thank the Chair. I yield the floor.

Mr. HATCH. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Utah has 15 minutes and the Senator from Delaware has 1 minute and 54 seconds.

Mr. HATCH. Mr. President, I do not disagree with my two distinguished colleagues on that side that this might be a useful provision. After all, I wrote it, and we put it in the Senate bill. I drafted the multipoint language in the Senate bill. However, since that time, some have raised, in their eyes, serious questions as to whether this expanded authority to wiretap American citizens and others is necessary.

Because of that, we have worked out this bill through a long series of meetings for over a year, culminating Monday night in a conference where we put everything in this bill we could possibly get into it. We brought it very close to what the original Senate bill was. I think it is a darned good bill. We

could not get the other side to agree on this provision. It comes down to whether we want a bill or we do not.

To this end, because of that, then I insisted we at least put in a study, a balanced study to look at the excesses of law enforcement with regard to wiretapping and the needs of law enforcement with regard to wiretapping and the applications of it. The distinguished Senator from Connecticut and I both understand how important it is, and so does, of course, the ranking Democrat on the committee. We will require the Justice Department to review its law enforcement surveillance needs and report back to Congress.

On that basis, I just want to say that I am committed to working with both Senator BIDEN and Senator LIEBERMAN to craft legislation which will provide law enforcement with the electronic surveillance capabilities it needs, wiretap authority it needs. I am going to get this done one way or the other in an appropriate way, but the study is important in the eyes of those on the other side. It is important in my eyes.

I do not want to go into this thing halfcocked, nor do I want to lose this bill because others feel we may be moving into it halfcocked without having looked at it in a balanced way. So I will work with both of my colleagues to craft legislation to provide law enforcement with whatever wiretap authority, expanded wiretap authority it needs beyond what it has today. I give my colleagues my assurance that we will move in this direction with dispatch. I think they both know, when I say that, I mean it. The truth, however, is that this provision would have done nothing—and I repeat nothing—to stop the Oklahoma bombing. This is not antiterrorism legislation that would have been necessary to stop the Oklahoma bombing. While multipoint wiretaps may be useful in crime investigation, we simply do not need to put them in this particular legislation at this time.

Last evening, Israel was bombed in another bombing attack. I personally do not believe we should wait one more day—knowing that is going on over there and knowing that we have at least 1,500 known terrorists and organizations in this Nation, I do not think we should wait one more day, not one more hour in my book, in voting for final passage of this bill. We want to assure that terrorist funding is prohibited and stopped, and this bill goes a long way toward doing that.

Let me mention for the record the letters of support that we have for this bill. They are wide ranging and across the political spectrum: The National Association of Attorneys General, the National Association of Police Officers, the National District Attorneys Association, the Anti-Defamation League, Survivors of the Oklahoma Bombing, Citizens for Law and Order, the International Association of Chiefs of Police, the National Sheriffs Association, the National Troopers Association, the Law Enforcement Alliance of America, 34 individual State attorneys general including the California attorney general, California's District Attorneys Association, the National Government Association with regard to the habeas corpus provision, and various Governors, and so forth. It is okayed by the Governor of Oklahoma, who is a Republican, Frank Keating, and by the Democrat attorney general, with whom I have had a great deal of joy working, Drew Edmonson. I have a lot of respect for him, and he has been willing to work with us to try to get this done.

Frankly, we do not have a letter, but we do have the verbal support of AIPAC, and I might say other attorneys general in this country who have written to us and want to be mentioned. We will put that all in the RECORD.

This is important. This bill is important. I know my colleagues know I am sincere when I say I will find some way of resolving these multipoint wiretap problems. Unfortunately, they were called roving wiretaps when they came up, and just that rhetorical term has caused us some difficulties and has caused some of the people who feel, after Waco, Ruby Ridge, Good Ol' Boys Roundup, et cetera, that even law enforcement sometimes is too intrusive into all of our lives, and at this particular time of the year, at tax time, with the feelings about the IRS, there are some who literally feel this is going too far and it will kill this bill if we put it in.

So I will move ahead. We will have the study, but I will move ahead even while the study is being conducted and do everything I can with my two colleagues here to get this problem resolved. I intend to do it, and we will get it done.

I am going to move to table this. I hope folks will vote for the motion to table so that we can continue to preserve this bill and get it done, quit playing around with it and get it done. I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware has 1 minute 54 seconds remaining.

Mr. BIDEN. Mr. President, if the problem is people misunderstand because this is a roving wiretap, one thing that will get everybody's attention is we amend it, send it back, and it will become real clear. In about 20 minutes of discussion, we can have it back here, and it will not kill the bill—if that is the reason.

No. 2, in the letter from the chiefs, the president of the International Association of Chiefs of Police, they do support the bill but they are very clear. Let me quote. They say:

> This legislation does not deal with the ability of law enforcement to use roving wiretaps or 48-hour wiretaps in the case of terrorism even though this later type of wiretap is already authorized in other special situations.

They list what they do not like about the bill. They do not like the fact that this is not in the bill. They strongly support this wiretap authority. And if we cannot get it done now in this bill, I respectfully suggest to my friend that no matter how much he wishes to fix this, there will be no ability to get it done standing alone.

I yield back whatever seconds I may have remaining.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. The fact is that we have to pass this bill. Frankly, I think we can get this problem solved. It is kind of a world turned upside down. When I got here 20 years ago, it was the conservatives who wanted expanded wiretap authority and the liberals fought it with everything they had. But now all of a sudden we have the liberals fighting for wiretap authority and conservatives concerned about it.

The fact is it is not just the rhetoric. There is some sincere concern on the part of some Members of the House who are crucial to the passage of this bill about putting this in at this time. I believe we can resolve this problem in the future, and I will work hard to do it with my colleagues, but it really cannot be in this bill if we want a terrorism bill at this time.

I yield back the remainder of my time. On behalf of Senator DOLE and myself, I move to table the motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to recommit. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—58

Abraham
Ashcroft
Bennett
Bond
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Dorgan
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg

VOL
142
PT
6
AP
15
—
24
1996
UMI

Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—40

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bumpers
Byrd
Conrad
Daschle
Dodd
Exon
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Wyden

NOT VOTING—2

Breaux
Mack

So the motion to table the motion to recommit was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

MOTION TO RECOMMIT

Mr. MOYNIHAN. Mr. President, I send to the desk a motion and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from New York [Mr. MOYNIHAN] moves to recommit the conference report on the bill S. 735.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the motion to recommit is as follows:

> Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on deleting the following:
>
> "(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—
>
> "(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or
>
> "(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding."; from section 104 of the conference report".

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, the distinguished ranking member and manager have asked that I yield myself such time as I may require, and I add with the proviso, as much time as he wishes. I will obviously yield to him.

The PRESIDING OFFICER. The Senator has 15 minutes.

Mr. MOYNIHAN. Mr. President, this is a proposal to strike an unprecedented provision—unprecedented until the 104th Congress—to tamper with the constitutional protection of habeas corpus.

The provision reads:

> (d) An application for writ of habeas corpus on behalf of a person in custody pursuant to the judgment of State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—"(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or "(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

We are about to enact a statute which would hold that constitutional protections do not exist unless they have been unreasonably violated, an idea that would have confounded the framers. Thus we introduce a virus that will surely spread throughout our system of laws.

Article I, section 9, clause 2 of the Constitution stipulates, "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

We are at this moment mightily and properly concerned about the public safety, which is why we have before the Senate the conference report on the counterterrorism bill. But we have not been invaded, Mr. President, and the only rebellion at hand appears to be against the Constitution itself. We are dealing here, sir, with a fundamental provision of law, one of those essential civil liberties which precede and are the basis of political liberties.

The writ of habeas corpus is often referred to as the "Great Writ of Liberty." William Blackstone called it "the most celebrated writ in English law, and the great and efficacious writ in all manner of illegal imprisonment." It is at the very foundation of the legal system designed to safeguard our liberties.

I repeat what I have said previously here on the Senate floor: If I had to choose between living in a country with habeas corpus but without free elections, or a country with free elections but without habeas corpus, I would choose habeas corpus every time. To say again, this is one of the fundamental civil liberties on which every democratic society of the world has built political liberties that have come subsequently.

I make the point that the abuse of habeas corpus—appeals of capital sentences—is hugely overstated. A 1995 study by the Department of Justice's Bureau of Justice Statistics determined that habeas corpus appeals by death row inmates constitute 1 percent of all Federal habeas filings. Total habeas filings make up 4 percent of the caseload of Federal district courts. And most Federal habeas petitions are disposed of in less than 1 year. The serious delays occur in State courts, which take an average of 5 years to dispose of habeas petitions. If there is delay, the delay is with the State courts.

It is troubling that Congress has undertaken to tamper with the Great Writ in a bill designed to respond to the tragic circumstances of the Oklahoma City bombing last year. Habeas corpus has little to do with terrorism. The Oklahoma City bombing was a Federal crime and will be tried in Federal court.

Nothing in our present circumstance requires the suspension of habeas corpus, which is the practical effect of the provision in this bill. To require a Federal court to defer to a State court's judgment unless the State court's decision is unreasonably wrong effectively precludes Federal review. I find this disorienting.

Anthony Lewis has written of the habeas provision in this bill: "It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed." If we agree to this, to what will we be agreeing next? I restate Mr. Lewis' observation, a person of great experience, a long student of the courts, "It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed." Backward reels the mind.

On December 8, four United States attorneys general, two Republicans and two Democrats, all persons with whom I have the honor to be acquainted, Benjamin R. Civiletti, Jr., Edward H. Levi, Nicholas Katzenbach, and Elliot Richardson—I served in administrations with Mr. Levi, Mr. Katzenbach, and Mr. Richardson; I have the deepest regard for them—wrote President Clinton. I ask unanimous consent that the full text be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 8, 1995.

Hon. WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The habeas corpus provisions in the Senate terrorism bill, which the House will soon take up, are unconstitutional. Though intended in large part to expedite the death penalty review process, the litigation and constitutional

rulings will in fact delay and frustrate the imposition of the death penalty. We strongly urge you to communicate to the Congress your resolve, and your duty under the Constitution, to prevent the enactment of such unconstitutional legislation and the consequent disruption of so critical a part of our criminal punishment system.

The constitutional infirmities reside in three provisions of the legislation: one requiring federal courts to defer to erroneous state court rulings on federal constitutional matters, one imposing time limits which could operate to completely bar any federal habeas corpus review at all, and one preventing the federal courts from hearing the evidence necessary to decide a federal constitutional question. They violate the Habeas Corpus Suspension Clause, the judicial powers of Article III, and due process. None of these provisions appeared in the bill that you and Senator Biden worked out in the last Congress together with representatives of prosecutors' organizations.

The deference requirement would bar any federal court from granting habeas corpus relief where a state court has misapplied the United States Constitution, unless the constitutional error rose to a level of "unreasonableness." The time-limits provisions set a single period for the filing of both state and federal post-conviction petitions (six months in a capital case and one year in other cases), commencing with the date a state conviction becomes final on direct review. Under these provisions, the entire period could be consumed in the state process, through no fault of the prisoner or counsel, thus creating an absolute bar to the filing of a federal habeas corpus petition. Indeed, the period could be consumed before counsel had even been appointed in the state process, so that the inmate would have no notice of the time limit or the fatal consequences of consuming all of it before filing a state petition.

Both of these provisions, by flatly barring federal habeas corpus review under certain circumstances, violate the Constitution's Suspension Clause, which provides: "The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in the cases of rebellion or invasion the public safety may require it" (Art. I, §9, cl. 1). Any doubt as to whether this guarantee applies to persons held in state as well as federal custody was removed by the passage of the Fourteenth Amendment and by the amendment's framers' frequent mention of habeas corpus as one of the privileges and immunities so protected.

The preclusion of access to habeas corpus also violates Due Process. A measure is subject to proscription under the due process clause if it "offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental," as viewed by "historical practice." *Medina* v. *California*, 112 S.Ct. 2572, 2577 (1992). Independent federal court review of the constitutionality of state criminal judgments has existed since the founding of the Nation, first by writ of error, and since 1867 by writ of habeas corpus. Nothing else is more deeply rooted in America's legal traditions and conscience. There is no case in which "a state court's incorrect legal determination has ever been allowed to stand because it was reasonable," Justice O'Connor found in *Wright* v. *West*, 112 S.Ct. 2482, 2497; "We have always held that federal courts, even on habeas, have an independent obligation to say what the law is." Indeed, Alexander Hamilton argued, in The Federalist No. 84, that the existence of just two protections—habeas corpus and the prohibition against ex post facto laws—obviated the need to add a Bill of Rights to the Constitution.

The deference requirement may also violate the powers granted to the judiciary under Article III. By stripping the federal courts of authority to exercise independent judgment and forcing them to defer to previous judgments made by state courts, this provision runs afoul of the oldest constitutional mission of the federal courts: "the duty . . . to say what the law is." *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 177 (1803). Although Congress is free to alter the federal courts' jurisdiction, it cannot order them how to interpret the Constitution, or dictate any outcome on the merits. *United States* v. *Klein*, 80 U.S. (13 Wall.) 128 (1871). Earlier this year, the Supreme Court reiterated that Congress has no power to assign "rubber stamp work" to an Article III court. "Congress may be free to establish a . . . scheme that operates without court participation," the Court said, "but that is a matter quite different from instructing a court automatically to enter a judgment pursuant to a decision the court has not authority to evaluate." *Gutierrez de Martinez* v. *Lamagno*, 115 S.Ct 2227, 2234.

Finally, in prohibiting evidentiary hearings where the constitutional issue raised does not go to guilt or innocence, the legislation again violates Due Process. A violation of constitutional rights cannot be judged in a vacuum. The determination of the facts assumes" and importance fully as great as the validity of the substantive rule of law to be applied." *Wingo* v. *Wedding*, 418 U.S. 461, 474 (1974).

The last time habeas corpus legislation was debated at length in constitutional terms was in 1968. A bill substantially eliminating federal habeas corpus review for state prisoners was defeated because, as Republican Senator Hugh Scott put it at the end of debate, "if Congress tampers with the great writ, its action would have about as much chance of being held constitutional as the celebrated celluloid dog chasing the asbestos cat through hell."

In more recent years, the habeas reform debate has been viewed as a mere adjunct of the debate over the death penalty. But when the Senate took up the terrorism bill this year, Senator Moynihan sought to reconnect with the large framework of constitutional liberties: "If I had to live in a country which had habeas corpus but not free elections," he said, "I would take habeas corpus every time." Senator Chafee noted that his uncle, a Harvard law scholar, has called habeas corpus "the most important human rights provision in the Constitution." With the debate back on constitutional grounds, Senator Biden's amendment to delete the deference requirement nearly passed, with 46 votes.

We respectfully ask that you insist, first and foremost, on the preservation of independent federal review, i.e., on the rejection of any requirement that federal courts defer to state court judgments on federal constitutional questions. We also urge that separate time limits be set for filing federal and state habeas corpus petitions—a modest change which need not interfere with the setting of strict time limits—and that they begin to run only upon the appointment of competent counsel. And we urge that evidentiary hearings be permitted wherever the factual record is deficient on an important constitutional issue.

Congress can either fix the constitutional flaws now, or wait through several years of litigation and confusion before being sent back to the drawing board. Ultimately, it is the public's interest in the prompt and fair disposition of criminal cases which will suffer. The passage of an unconstitutional bill helps no one.

We respectfully urge you, as both President and a former professor of constitutional law, to call upon Congress to remedy these flaws before sending the terrorism bill to your desk. We request an opportunity to meet with you personally to discuss this matter so vital to the future of the Republic and the liberties we all hold dear.

Sincerely,

BENJAMIN R. CIVILETTI, Jr.,
Baltimore, MD.
EDWARD H. LEVI,
Chicago, IL.
NICHOLAS DEB. KATZENBACH,
Princeton, NJ.
ELLIOT L. RICHARDSON,
Washington, DC.

Mr. MOYNIHAN. Mr. President, let me read excerpts from the letter:

> The habeas corpus provisions in the Senate bill . . . are unconstitutional. Though intended in large part to expedite the death penalty review process, the litigation and constitutional rulings will in fact delay and frustrate the imposition of the death penalty . . .
>
> The constitutional infirmities . . . violate the Habeas Corpus Suspension Clause, the judicial powers of Article III and due process . . .
>
> . . . A measure is subject to proscription under the due process clause if it "offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental," as viewed by "historical practice."

That is Medina versus California, a 1992 decision. To continue,

> Independent federal court review of the constitutionality of state criminal judgments has existed since the founding of the Nation, first by writ of error, and since 1867 by writ of habeas corpus.
>
> Nothing else is more deeply rooted in America's legal traditions and conscience. There is no clause in which "a state court's incorrect legal determination has ever been allowed to stand because it was reasonable."

That is Justice O'Connor, in Wright versus West. She goes on, as the attorneys general quote,

> We have always held that federal courts, even on habeas, have an independent obligation to say what the law is.

If I may interpolate, she is repeating the famous injunction of Justice Marshall in Marbury versus Madison.

The attorneys general go on to say:

> Indeed, Alexander Hamilton argued, in The Federalist No. 84, that the existence of just two protections—habeas corpus and the prohibition against ex post facto laws—obviated the need to add a Bill of Rights to the Constitution.

The letter from the attorneys general continues, but that is the gist of it. I might point out that there was, originally, an objection to ratification of the Constitution, with those objecting arguing that there had to be a Bill of Rights added. Madison wisely added one during the first session of the first Congress. But he and Hamilton and Jay, as authors of the Federalist papers, argued that with habeas corpus

VOL
142
PT
6
AP
15
—
24
1996
UMI

and the prohibition against ex post facto laws in the Constitution, there would be no need even for a Bill of Rights. We are glad that, in the end, we do have one. But their case was surely strong, and it was so felt by the Framers.

To cite Justice O'Connor again:

> A state court's incorrect legal determination has never been allowed to stand because it was reasonable.

Justice O'Connor went on:

> We have always held that Federal courts, even on habeas, have an independent obligation to say what the law is.

Mr. President, we can fix this now. Or, as the attorneys general state, we can "wait through several years of litigation and confusion before being sent back to the drawing board." I fear that we will not fix it now. The last time this bill was before us, there were only eight Senators who voted against final passage.

We Americans think of ourselves as a new nation. We are not. Of the countries that existed in 1914, there are only eight which have not had their form of government changed by violence since then. Only the United Kingdom goes back to 1787 when the delegates who drafted our Constitution established this Nation, which continues to exist. In those other nations, sir, a compelling struggle took place, from the middle of the 18th century until the middle of the 19th century, and beyond into the 20th, and even to the end of the 20th in some countries, to establish those basic civil liberties which are the foundation of political liberties and, of those, none is so precious as habeas corpus, the "Great Writ."

Here we are trivializing this treasure, putting in jeopardy a tradition of protection of individual rights by Federal courts that goes back to our earliest foundation. And the virus will spread. Why are we in such a rush to amend our Constitution? Eighty-three amendments have been offered in this Congress alone. Why do we tamper with provisions as profound to our traditions and liberty as habeas corpus? The Federal courts do not complain. It may be that if we enact this, there will be some prisoners who are executed sooner than they otherwise would have been. You may take satisfaction in that or not, as you choose, but we will have begun to weaken a tenet of justice at the very base of our liberties. The virus will spread.

This is new. It is profoundly disturbing. It is terribly dangerous. If I may have the presumption to join in the judgment of four attorneys general, Mr. Civiletti, Mr. Levi, Mr. Katzenbach, and Mr. Richardson—and I repeat that I have served in administrations with three of them—this matter is unconstitutional and should be stricken from this measure.

Fourteen years ago, June 6, 1982, to be precise, I gave the commencement address at St. John University Law School in Brooklyn. I spoke of the proliferation of court-curbing bills, at that time, but what I said is, I feel, relevant to today's discussion. I remarked,

> . . . some people—indeed, a great many people—have decided that they do not agree with the Supreme Court and that they are not satisfied to Debate, Legislate, Litigate.
>
> They have embarked upon an altogether new and I believe quite dangerous course of action. A new triumvirate hierarchy has emerged. Convene (meaning the calling of a constitutional convention), Overrule (the passage of legislation designed to overrule a particular Court ruling, when the Court's ruling was based on an interpretation of the Constitution), and Restrict (to restrict the jurisdiction of certain courts to decide particular kinds of cases).
>
> Perhaps the most pernicious of these is the attempt to restrict courts' jurisdictions, for it is . . . profoundly at odds with our nation's customs and political philosophy.
>
> It is a commonplace that our democracy is characterized by majority rule and minority rights. Our Constitution vests majority rule in the Congress and the President while the courts protect the rights of the minority.
>
> While the legislature makes the laws, and the executive enforces them, it is the courts that tell us what the laws say and whether they conform to the Constitution.
>
> This notion of judicial review has been part of our heritage for nearly two hundred years. There is not a more famous case in American jurisprudence than Marbury v. Madison and few more famous dicta than Chief Justice Marshall's that
>
> It is emphatically the province and the duty of the judicial department to say what the law is.
>
> But in order for the court to interpret the law, it must decide cases. If it cannot hear certain cases, then it cannot protect certain rights.

Mr. President, I am going to ask unanimous consent that a number of materials appear in the RECORD following my remarks. I apologize for the length, but if we are going to trifle with the Great Writ of Liberty, the record needs to be complete. The materials are as follows: a May 23, 1995 letter from the Emergency Committee to Save Habeas Corpus to the President and a one-page attachment; a June 1, 1995 letter from the Emergency Committee to me; a March 13, 1996 New York Times editorial entitled, "The Wrong Answer to Terrorism"; an April 8, 1996 Times editorial entitled, "Grave Trouble for the Great Writ"; three Anthony Lewis op-eds which appeared in the Times on July 7, 1995, December 8, 1995, and April 15, 1996 entitled "Mr. Clinton's Betrayal", Is It A Zeal To Kill?", and "Stand Up For Liberty", respectively; and the third paragraph of the March 12, 1996 "Statement of Administration Policy" concerning H.R. 2703—the House version of the counter-terrorism bill—which reads, in part: "H.R. 2703 would establish a standard of review for Federal courts on constitutional issues that is excessively narrow and subject to potentially meritorious constitutional challenge."

Mr. President, I ask unanimous consent that these materials be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. Mr. President, we need to deal resolutely with terrorism. And we will. But if, in the guise of combating terrorism, we diminish the fundamental civil liberties that Americans have enjoyed for two centuries, then the terrorists will have won. With deep regret, but with a clear conscience, I will vote against the conference report to S. 735 as now presented.

EXHIBIT 1

EMERGENCY COMMITTEE TO
SAVE HABEAS CORPUS,
May 23, 1995.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We understand that the Senate may act, as soon as tomorrow, on the habeas corpus provisions in Senator Dole's terrorism legislation. Among these provisions is a requirement that federal courts must defer to state courts incorrectly applying federal constitutional law, unless it can be said that the state ruling was "unreasonable" incorrect. This is a variation of the proposal by the Reagan and Bush administrations to strip the federal courts of the power to enforce the Constitution when the state court's interpretation of it, though clearly wrong, had been issued after a "full and fair adjudication."

The Emergency Committee was formed in 1991 to fight this extreme proposal. Our membership consists of both supporters and opponents of the death penalty, Republicans and Democrats, united in the belief that the federal habeas corpus process can be dramatically streamlined without jeopardizing its constitutional core. At a time when proposals to curtail civil liberties in the name of national security are being widely viewed with suspicion, we believe it is vital to ensure that habeas corpus—the means by which all civil liberties are enforced—is not substantially diminished.

The habeas corpus reform bill you and Senator Biden proposed in 1993, drafted in close cooperation with the nation's district attorneys and state attorneys general, appropriately recognizes this point. It would codify the long-standing principle of independent federal review of constitutional questions, and specifically reject the "full and fair" deference standard.

Independent federal review of state court judgments has existed since the founding of the Republic, whether through writ of error or writ of habeas corpus. It has a proud history of guarding against injustices born of racial prejudice and intolerance, of saving the innocent from imprisonment or execution, and in the process, ensuring the rights of all law-abiding citizens. We in the Emergency Committee have fought against proposals to strip the federal courts of power to correct unconstitutional state court actions, alongside other distinguished groups such as the NAACP Legal Defense Fund, the Southern Christian Leadership Conference, the American Bar Association, former prosecutors, and the committee chaired by Justice Powell on which all subsequent reform proposals have been based. We have met with Attorney General Reno, testified in Congress, and successfully argued in the Supreme Court against the adoption of a deference standard, in Wright v. West.

We hope you will use the power of your office to ensure that the worthwhile goal of streamlining the review of criminal cases is accomplished without diminishing constitutional liberties. If it would be helpful, we would be pleased to meet with you to discuss this vitally important matter personally.

Sincerely,

BENJAMIN CIVILETTI.
EDWARD H. LEVI.
NICHOLAS DEB.
KATZENBACH.
ELLIOT L. RICHARDSON.

STATEMENTS ON PROPOSALS REQUIRING FEDERAL COURTS IN HABEAS CORPUS CASES TO DEFER TO STATE COURTS ON FEDERAL CONSTITUTIONAL QUESTIONS

"Capital cases should be subject to one fair and complete course of collateral review through the state and federal system. . . . Where the death penalty is involved, fairness means a searching and impartial review of the propriety of the sentence."—Justice Lewis F. Powell, Jr., presenting the 1989 report of the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases, chaired by him and appointed by Chief Justice William Rehnquist

"The federal courts should continue to review *de novo* mixed and pure questions of federal law. Congress should codify this review standard. . . . Senator Dole's bill [containing the "full and fair" deference requirement] would rather straightforwardly eliminate federal habeas jurisdiction over most constitutional claims by state inmates."—150 former state and federal prosecutors, in a December 7, 1993 letter to Judiciary Committee Chairmen Biden and Brooks

"Racial distinctions are evident in every aspect of the process that leads to execution. . . . [W]e fervently and respectfully urge a steadfast review by federal judiciary in state death penalties as absolutely essential to ensure justice."—Rev. Dr. Joseph E. Lowery, President, Southern Christian Leadership Conference, U.S. House Judiciary Committee hearing on capital habeas corpus reform, June 6, 1990

"The State court cannot have the last say when it, though on fair consideration and what procedurally may be deemed fairness, may have misconceived a federal constitutional right."—Justice Felix Frankfurter, for the Court, in *Brown v. Allen*, 344 U.S. 443, 508 (1953)

"[There is no case in which] a state court's incorrect legal determination has ever been allowed to stand because it was reasonable. We have always held that federal courts, even on habeas, have an independent obligation to say what the law is."—Justice Sandra Day O'Connor, concurring in *Wright v. West*, 112 S.Ct. 2482 (1992), citing 29 Supreme Court cases and "many others" to reject the urging of Justices Thomas, Scalia and Rehnquist to adopt a standard of deference to state courts on federal constitutional matters.

EMERGENCY COMMITTEE TO
SAVE HABEAS CORPUS,
June 1, 1995.

Hon. DANIEL PATRICK MOYNIHAN,
Senate Russell Office Building,
Washington, DC.

DEAR SENATOR MOYNIHAN: We understand that the Senate may act next week on the habeas corpus provisions in Senator Dole's terrorism legislation. Among these provisions is a requirement that federal courts must defer to state courts incorrectly applying federal constitutional law, unless it can be said that the state ruling was "unreasonably" incorrect. This is a variation of past proposals to strip the federal courts of the power to enforce the Constitution when the state court's interpretation of it, though clearly wrong, had been issued after a "full and fair" hearing.

The Emergency Committee was formed in 1991 to fight this extreme proposal. Our membership consists of both supporters and opponents of the death penalty, Republicans and Democrats, united in the belief that the federal hebeas corpus process can be dramatically streamlined without jeopardizing its constitutional core. At a time when proposals to curtail civil liberties in the name of national security are being widely viewed with suspicion, we believe it is vital to ensure that habeas corpus—the means by which all civil liberties are enforced—is not substantively diminished.

The hebeas corpus reform bill President Clinton proposed in 1993, drafted in close cooperation with the nation's district attorneys and state attorneys general, appropriately recognizes this point. It would codify the long-standing principle of independent federal review of constitutional questions, and specifically reject the "full and fair" deference standard.

Independent federal review of state court judgments has existed since the founding of the Republic, whether through writ of error or writ of hebeas corpus. It has a proud history of guarding against injustices born of racial prejudice and intolerance, of saving the innocent from imprisonment or execution, and in the process, ensuring the rights of all law-abiding citizens. Independent federal review was endorsed by the committee chaired by Justice Powell on which all subsequent reform proposals have been based, and the Supreme Court itself specifically considered but declined to require deference to the states, in Wright v. West in 1992.

We must emphasize that this issue of deference to state rulings has absolutely no bearing on the swift processing of terrorism offenses in the federal system. For federal inmates, the pending habeas reform legislation proposes dramatic procedural reforms but appropriately avoids any curtailment of the federal courts' power to decide federal constitutional issues. This same framework of reform will produce equally dramatic results in state cases. Cutting back the enforcement of constitutional liberties for people unlawfully held in state custody is neither necessary to habeas reform nor relevant to terrorism.

We are confident that the worthwhile goal of streamlining the review of criminal cases can be accomplished without diminishing constitutional liberties. Please support the continuation of independent federal review of federal constitutional claims through habeas corpus.

Sincerely,

BENJAMIN CIVILETTI.
EDWARD H. LEVI.
NICHOLAS DEB.
KATZENBACH.
ELLIOT L. RICHARDSON.

[From the New York Times, Mar. 13, 1996.]

THE WRONG ANSWER TO TERRORISM

With the first anniversary of the Oklahoma City bombing approaching next month, Congress and the White House are pressing to complete action on new anti-terrorism legislation. In haste to demonstrate their resolve in an election year, President Clinton and lawmakers from both parties are ready to approve steps that would dangerously erode American liberties. Combating terrorism is vitally important, but it should not threaten long-established rights of privacy, free speech and due process.

Last June the Senate rashly passed the Comprehensive Terrorism Protection Act of 1995. The bill contained some reasonable measures, including an increase in F.B.I. staff and revisions in Federal law that would make it easier to trace bombs and impose harsher penalties for dealing in explosives.

But the legislation also authorized intrusive new surveillance powers for law enforcement agencies, crackdown on suspect aliens and an ill-advised blurring of the line between military and police forces. To assure passage, Mr. Clinton unwisely agreed to withdraw his objections to incorporating a change in habeas corpus standards that would limit death row appeals in Federal courts.

A corresponding bill under consideration in the House this week does not include some of the most troubling Senate provisions, including the expanded role for military forces in domestic law enforcement. But House members who take their constitutional vows seriously should eliminate or modify other damaging provisions in the bill.

Among other dubious steps, the House bill would grant the Secretary of State expansive authority to brand foreign groups and their domestic affiliates as terrorists, thereby making it a crime for Americans to support the group's activities, even if they are perfectly legal. Members of designated terrorist groups would be barred from entering the country to speak, reviving a discredited practice that was discarded in 1990 with repeal of the McCarthy-era McCarran-Walter Act.

Under the House legislation, the Attorney General would be given unchecked authority to elevate ordinary state and Federal crimes to acts of terrorism, carrying sentences ranging up to death. The F.B.I., which already has ample authority to pursue terrorists, would get new powers to obtain phone and travel records without having to establish that a suspect seemed to be engaging in criminal activity. Government wiretap authority would be expanded, with reduced judicial oversight.

The proposed change in habeas corpus would undermine the historic role of the Federal courts in correcting unconstitutional state court convictions and sentences. If Congress is determined to make this alteration, it should at least address the question separately and carefully, rather than tagging it onto an antiterrorism bill.

These objectionable measures are not included in a promising alternative bill proposed by three Democratic representatives—John Conyers Jr. of Michigan, Jerrold Nadler of New York and Howard Berman of California.

Americans were shaken and angered by the explosion that shattered the Federal building in Oklahoma City and killed 169 people. Congress is right to give Federal law enforcement agencies more money and manpower. Diminishing American liberties is not the solution to terrorism.

[From the New York Times, Apr. 8, 1996]

GRAVE TROUBLE FOR THE GREAT WRIT

Members of Congress are exploiting public concerns about terrorism to threaten basic civil liberties. Of these, not one is more precious than the writ of habeas corpus—the venerable Great Writ devised by English judges to guard against arbitrary imprisonment and, in modern terms, a vital shield against unfair trials.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Both the House and Senate have voted to weaken the modern version of habeas corpus beyond recognition. Invading the province of the independent Federal judiciary, their proposals would forbid judges from rendering their own findings of fact and law, virtually instructing the judges to decide cases against the petitioning prisoner. President Clinton, who has waffled on the issue, needs to warn Congress that he will not sign this unconstitutional measure just to get a terrorism law.

The writ has long been available in America to tell sheriffs and wardens to "produce the body" of the prisoner and justify the jailing in court. Congress applied the habeas corpus power in 1867 to give Federal district courts the power to review state criminal convictions. Since then, judges have set aside many sentences of prisoners who failed to receive fair trials, including some condemned to die because prosecutors concealed evidence of their innocence.

The antiterrorism bills contain provisions that would accelerate the executions of condemned prisoners, at great risk to their fundamental rights. These provisions have survived Congressional debate even though other provisions that might actually have done something about terrorism—banning bullets that pierce police vests and tagging explosives to enable law enforcement to trace terrorist bombs—were scrapped on the House floor.

The most pernicious legal change would instruct Federal judges that they are bound by state court findings when determining the fairness of a prisoner's criminal trial. Only when those findings are "unreasonable" or flatly contradict clearly announced Supreme Court rulings can the Federal court overturn them. State courts rarely disobey the high court openly. But they still make serious mistakes. Federal judges have often found state court judgments woefully sloppy though masked in neutral language the new proposals would insulate from review.

A Supreme Court case from last year makes the point. By a distressingly thin 5-to-4 margin, the Court set aside the death sentence of a man whose murder conviction rested on the word of an informant whose potential motives for falsely accusing him were known to the police but concealed from the defense. The condemned man's conviction survived many layers of state and Federal judicial review before reaching the Supreme Court. Under the proposal in Congress, the defendant, instead of getting a new trial, would get the chair.

By essentially telling independent Federal judges how to decide cases, the bill unconstitutionally infringes on the jurisdiction of a coordinate branch of government and potentially violates the Constitution's stricture that the writ of habeas corpus shall not be suspended except in time of war or dire emergency. It also includes unrealistic deadlines for filing court petitions and undue restraints on legal resources available to prisoners. Unless a Senate-House conference committee can disentangle habeas corpus from terrorism, Mr. Clinton has a duty to warn that he will veto the entire package.

[From the New York Times, July 7, 1995]

MR. CLINTON'S BETRAYAL

(By Anthony Lewis)

BOSTON.—For Bill Clinton's natural supporters, the most painful realization of his Presidency is that he is a man without a bottom line. He may abandon any seeming belief, any principle. You cannot rely on him.

There is a telling example to hand. As the Senate debated a counterterrorism bill last month, Mr. Clinton changed his position on the power of Federal courts to issue writs of habeas corpus. The Senate then approved a provision that may effectively eliminate that power.

The issue may sound legalistic, but habeas corpus has been the great historic remedy for injustice. By the Great Writ, as it is called, Federal courts have set aside the convictions of state prisoners because they were tortured into confessing or convicted by other unconstitutional means.

In recent years conservatives in Congress have attacked the habeas corpus process because it delays the execution of state prisoners on death row. Some prisoners do file frivolous petitions. But in other cases conservative Federal judges have found grave violations of constitutional rights—ones not found in state courts, often because the defendants had such incompetent lawyers.

After the Oklahoma City bombing, Senate Republicans decided to attach a crippling habeas provision to the counterterrorism bill. On May 23 four former Attorneys General, Democrats and Republicans—Benjamin Civiletti, Nicholas deB. Katzenbach, Edward H. Levi and Elliot L. Richardson—wrote President Clinton urging him to oppose it.

"It is vital," they wrote, "to insure that habeas corpus—the means by which *all* civil liberties are enforced—is not substantively diminished.

. . . It has a proud history of guarding against injustices born of racial prejudice and intolerance, of saving the innocent from imprisonment or execution and in the process insuring the rights of all law-abiding citizens."

Two days later President Clinton wrote the Senate majority leader, Bob Dole, to say that he favored habeas corpus reform so long as it preserved "the historic right to meaningful Federal review." The issue should be addressed later, he said, not in the counterterrorism bill.

Then, on June 5, Mr. Clinton appeared on television on CNN's "Larry King Live." Asked about habeas corpus, he said reform "ought to be done in the context of this terrorism legislation."

It was a complete switch from his position of less than two weeks before. And it had the effect of undermining Senate supporters of habeas corpus.

Two days later the Senate approved the Republican measure. The House has also passed stringent restrictions on habeas corpus, so almost certainly there will be legislation putting a drastic crimp on the historic writ.

The Senate bill says that no Federal court may grant habeas corpus to a state prisoner if state courts had decided his or her claim on the merits—unless the state decision was "contrary to, or involved an unreasonable application of" Federal constitutional law as determined by the Supreme Court.

That language seems to mean that Federal judges must overlook even incorrect state rulings on constitutional claims, so long as they are not "unreasonably" incorrect. It is a new and remarkable concept in law; that mere wrongness in a constitutional decision is not to be noticed.

Experts in the field say the provision may effectively eliminate Federal habeas corpus. It signals Federal judges to stay their hands. And what Federal judge will want to say that his state colleagues have been not just wrong but "unreasonable"?

The President explained to Larry King that attaching the habeas corpus provision to the counterterrorism bill would speed proceedings in the prosecutions brought over the Oklahoma bombing. But those are Federal prosecutions, not covered by this bill.

No, the reason for President Clinton's turnabout is clear enough. He thinks there is political mileage in looking tough on crime. Compared with that, the Great Writ is unimportant.

In 1953 Justice Hugo L. Black wrote: "It is never too late for courts in habeas corpus proceedings . . . to prevent forfeiture of life or liberty in flagrant defiance of the Constitution." Now, thanks to Bill Clinton and the Republicans in Congress, it may be.

[From the New York Times, Dec. 8, 1995]

IS IT A ZEAL TO KILL?

(By Anthony Lewis)

An Illinois man who had been on death row for 11 years, Orlando Cruz, had a new trial last month and was acquitted of murder. The record, including police perjury, was so rank that the Justice Department has begun investigating possible civil rights violations.

In the last 20 years, 54 Americans under sentence of death have been released from prison because of evidence of their innocence. In an important pending case, a U.S. Court of Appeals has scheduled a hearing for Paris Carriger, an Arizona death row inmate who some usually skeptical criminologists believe is probably innocent.

Congress is now preparing to deal with the fact that innocent men and women are occasionally sentenced to death in this country. Congress's answer is: Execute them anyway, guilty or innocent.

That result will follow, inevitably, from legislation that is heading for the floor of the House and has already passed the Senate. It would limit Federal habeas corpus, the legal procedure by which state prisoners can go to Federal courts to argue that they were unconstitutionally convicted or sentenced.

Federal habeas corpus has played a crucial part in saving wrongly convicted men and women from execution. One reason is that state judges, most of them elected, want to look strongly in favor of capital punishment. For example, Alabama judges have rejected 47 jury recommendations for life sentences, imposing death instead, while reducing jury death sentences to life only 5 times.

The habeas corpus restrictions moving through Congress would increase the chance of an innocent person being executed in two main ways.

The first deals with the right to bring in newly discovered evidence of innocence in a fresh habeas corpus petition. There are legal rules against successive petitions, but there is an escape hatch for genuine evidence of innocence.

Today a prisoner is entitled to a habeas corpus hearing, despite the rules against repeated petitions, if his new evidence makes it "more likely than not that no reasonable juror would have convicted him." The pending legislation would change the "more likely" standard to the far more demanding one of "clear and convincing evidence."

Second, the legislation as passed by the Senate raises a new obstacle. Federal courts would be forbidden to grant habeas corpus if a claim had been decided by state courts—unless the state decision was "an arbitrary or unreasonable" interpretation of established Federal constitutional law.

Apparently, a Federal judge could not free a probably innocent state prisoner if he had been convicted as the result of a state court constitutional ruling that was merely wrong. It would have to be "unreasonably" wrong—a remarkable new concept.

Why would members of Congress want to increase the chances of innocent men and women being gassed or electrocuted or given lethal injections? Perhaps I am naive, but I find that difficult to understand.

The country's agitated mood about crime, fed by demagogic politicians, makes Congress—and Presidents—want to look tough on crime. One result is zeal for the death penalty.

But that cannot explain a zeal to cut off newly discovered evidence of a prisoner's likely innocence and execute him, guilty or innocent. Can our political leaders really be so cynical that they put the tactical advantage of looking tough on crime ahead of an innocent human life?

It is a question for, among others, Senator Orrin Hatch and Representative Henry Hyde, chairmen of the Senate and House Judiciary Committees. Whatever their political outlook, I have never thought them indifferent to claims of humanity.

President Clinton must also face the reality of what this legislation would do. Last May he wrote Senator Bob Dole that he favored habeas corpus reform so long as it preserved "the historic right to meaningful Federal review." He opposed adding a habeas corpus provision to counterterrorism legislation—but a few days later he abandoned that position.

In the House the clampdown on habeas corpus is going to be part of a counterterrorism bill coming out of the Judiciary Committee. The bill has many other problems, of fairness and free speech. But the attack on habeas corpus is a question of life and death.

[From the New York Times, Apr. 15, 1996]

STAND UP FOR LIBERTY

(By Anthony Lewis)

WASHINGTON.—In one significant respect, Bill Clinton's Presidency has been a surprising disappointment and a grievous one. That is in his record on civil liberties.

This week Congress is likely to finish work on legislation gutting Federal habeas corpus, the historic power of Federal courts to look into the constitutionality of state criminal proceedings. Innocent men and women, convicted of murder in flawed trials, will be executed if that protection is gone.

And President Clinton made it possible. With a nod and a wink, he allowed the habeas corpus measure to be attached to a counterterrorism bill that he wanted—a bill that has nothing to do with state prosecutions.

House and Senate conferees are likely to finish work on the terrorism bill this week, and both houses to act on it. Last week Attorney General Janet Reno sent a long letter to the conferees. Reading it, one is struck by how insensitive the Clinton Administration is to one after another long-established principle of civil liberties.

The letter demands, for example, that the Government be given power to deport aliens as suspected terrorists without letting them see the evidence against them—arguing for even harsher secrecy provisions than ones the House struck from the bill last month. It says there is no constitutional right to see the evidence in deportation proceedings, though the Supreme Court has held that there is.

Ms. Reno denounces the House for rejecting a Clinton proposal that the Attorney General be allowed to convert an ordinary crime into "terrorism" by certifying that it transcended national boundaries and was intended to coerce a government. Instead, in the House bill, the Government would have to prove those charges to a judge and jury—a burden the Clinton Administration does not want to bear.

The Reno letter objects to "terrorists" being given rights. But that assumes guilt. The whole idea of our constitutional system is that people should have a fair chance to answer charges before they are convicted. Does Janet Reno think we should ignore the Fourth and Fifth and Sixth Amendments because they protect "criminals"? Does Bill Clinton?

Even before the terrorism bill, with its habeas corpus and numerous other repressive provisions, the Administration had shown a cavalier disregard for civil liberties. The Clinton record is bleak, for example, in the area of privacy.

President Clinton supported the F.B.I.'s demands for legislation requiring that new digital telephone technology be shaped to assure easy access for government eavesdroppers. That legislation passed, and then the Administration asked for broader wiretap authority in the counterterrorism bill. (That is one proposal Congress seems unwilling to swallow.)

The President also supported intrusive F.B.I. demands for ways to penetrate methods used by businesses and individuals to assure the privacy of their communications. He called for all encryption methods to have a decoder key to which law-enforcement officials would have access.

Recently Mr. Clinton issued an executive order authorizing physical searches without a court order to get suspected foreign intelligence information. That is an extraordinary assertion of power, without legislation, to override the Constitution's protection of individuals' privacy.

He has also called for a national identity card, which people would have to provide on seeking a job to prove they are not illegal aliens. That idea is opposed by many conservatives and liberals as a step toward an authoritarian state.

Beyond the particular issues, Mr. Clinton has failed as an educator. He has utterly failed to articulate the reasons why Americans should care about civil liberties: the reasons of history and of our deepest values. This country was born, after all, in a struggle for those liberties.

His record is so disappointing because he knows better. Why has he been so insensitive to the claims of liberty?

The answer is politics: politics of a narrow and dubious kind. The President wants to look tough on terrorism and aliens and crime. So he demands action where there is no need or public demand. Without his push, the excesses of the terrorism bill would have no meaningful constituency.

He would do better for himself, as for the country, if he stood up for our liberties. And there is history. Does Bill Clinton really want to be remembered as the President who sold out habeas corpus?

EXCERPT FROM STATEMENT OF ADMINISTRATION POLICY

Finally, H.R. 2703 contains provisions to reform Federal habeas corpus procedures. The Administration has consistently and strongly supported habeas corpus reform in order to assure that criminal offenders receive swift and certain punishment. Indeed, the Administration believes that the bill could be improved to provide additional guarantees that offenders have only "one bite at the apple" and complete the process even more expeditiously. These further limitations should be accompanied by necessary changes in the scope of review afforded to such petitions. H.R. 2703 would establish a standard of review for Federal courts on constitutional issues that is excessively narrow and subject to potentially meritorious constitutional challenges. To achieve the twin goals of finality and fairness, H.R. 2703 should shorten the duration and reduce the number of reviews for each criminal conviction while preserving the full scope of habeas review so that it can continue to serve its historic function as the last protection against wrongful conviction. The Administration hopes to work with the House and the conferees to achieve these ends.

Mr. DOLE. Mr. President, is leader time reserved?

The PRESIDING OFFICER. Yes.

BROADCAST BLACKOUT

Mr. DOLE. Mr. President, TV broadcasters have broken their trust with the American people. For more than 40 years, the American people have generously lent TV station owners our Nation's airwaves for free. Now some broadcasters want more and will stop at nothing to get it. They are bullying Congress and running a multimillion-dollar scare campaign to mislead the public.

The reason is simple: Why pay for something when you can get it for free? But there is one small problem. The airwaves are the Nation's most valuable natural resource and are worth billions and billions of dollars. They do not belong to the broadcasters. They do not belong to the phone companies. They do not belong to the newspapers. Each and every wave belongs to the American people, the American taxpayers. Our airwaves are just as much a national resource as our national parks.

Enter the TV broadcasters. Earlier this year, I blocked their legislative efforts to get spectrum for free. At my request, Congress is now holding open hearings on reforming our spectrum policies.

Apparently, the democratic process is not good enough for most broadcasters. So TV broadcasters are now running ads and so-called public service announcements, claiming that TV will die without this huge corporate welfare program, this billions and billions of dollars they want to take away from the American taxpayers. Of course, they do not call this giveaway welfare; they call it a tax. Imagine calling a giveaway a tax.

Also, I am aware that some broadcasters have asked Members of Congress to drop by their stations. In the midst of these friendly discussions, the broadcasters say, "I thought you might want to see the ad we are considering running in your district."

So much for subtlety.

It seems to me the broadcasters should be happy with the deal they already have. They have been getting free channels for years. In return, they

VOL
142
PT
6
AP
15
—
24
1996
UMI

fulfill public interest obligations, such as reporting news and information. Now they want more airwaves for free.

Newspapers also report the news, but Congress has never had to buy them off. It seems to me that giving broadcasters free spectrum is like giving newspapers free paper from our national forests.

Congress has never challenged whether broadcasters should be allowed to keep a channel. Instead, we are simply stating that if broadcasters want more channels, then they are going to pay the taxpayers for them. That does not kill television.

The broadcasters say they cannot afford to buy additional airwaves, which the Congressional Budget Office estimates is worth at least $12 billion. Last time I checked, the American people cannot afford to give it to them free.

We are trying to balance a budget with tax cuts for families with children, reducing spending, and closing loopholes.

Broadcasters say that if they had to pay for the extra airwaves, it would be the end of so-called free, over-the-air television. The facts speak otherwise. According to the Washington Post, over the last 2 years broadcast deals in the private sector amounted to a whooping $31.3 billion. That is with a "b"—billion dollars.

Here is another fact. All TV broadcast licenses in America were originally given away for free, but only 6 percent are still in the hands of the original licensee. The other 94 percent have been bought and sold. My point is that broadcasters have a long history of paying top dollar for existing channels. Somehow they cannot afford any new ones unless the taxpayer picks up the tab.

UNFUNDED MANDATE ON CONSUMERS

Before Congress lets huge moneyed interests get their fingers on this national resource, we must be certain that the American taxpayer is fully protected. The policy broadcasters' want will not only force taxpayers to giveaway valuable airwaves, it will also force consumers to spend hundreds of billions of their own dollars on new equipment which is a point that I think has been overlooked. They have been trying to frighten everybody with television, and to get their way are going to have to have another television or some attachment.

The fact is that federally mandating a transition to digital broadcast will ultimately render all television sets in the country obsolete. You will not be able to use your television set.

Consumers will be forced to buy either new television sets or convertor boxes to receive so-called free, over-the-air broadcasts.

Last year we passed the unfunded mandates law. Perhaps some have forgotten, but that law applies to more than just State and local governments. It applies to the private sector and most importantly to individuals.

The impact of the broadcasters' plan would be dramatic. There are 222 million television sets in this country. At a Senate Budget Committee hearing last month, the broadcasters testified that the average digital television set's estimated cost is $1,500, while the less expensive converter box will cost approximately $500. Replacing every television set in America with a digital one would cost $333 billion. Using the less expensive converter box would cost $111 billion. No doubt about it, consumers will not be happy that Congress made this choice for them. That is precisely what we are going to do here unless we wake up and smell something.

The American people should have a say before Congress makes a decision on spectrum. After all, the airwaves are theirs and so are their TV sets. Neither belongs to the broadcasters.

NETWORK COVERAGE

Finally, TV broadcasters have rightly kept a watchful eye on a bloated Government. Whether it was $600 toilet seats or $7,000 coffee pots, they have always helped us quickly identify waste. But they have been strangely silent on this issue. In contrast, story after story, and editorial after editorial, protested this giveaway in the print media.

In fact, I have a whole bookful here. In fact, this is loaded with editorials and comments about this giveaway. You do not see it on television.

There have been a few exceptions. I want to be fair. CNN, which is a cable network, has reported on this issue, while CBS made an attempt a month ago. So-called public interest obligations seem to have gone out the window when it is not in the broadcasters' self-interest.

If five Senators took a legitimate trip somewhere overseas to investigate something that might be costing the American people money, that is reported on the evening news as a junket costing thousands and thousands of dollars to the American taxpayer because the Senators were over there trying to see if they were spending too much on foreign aid maybe in Bosnia or maybe somewhere else. That would be news. Maybe it is news. Maybe it should be reported. But when it comes to billion dollar giveaways, to them "mum" is the word. You never hear about it on television. Dan Rather will not utter a word. Peter Jennings, Tom Brokow—maybe they do not know about it. But I would say to the American taxpayers and the people with TV sets that somebody had better protect the American public.

I have even had a threatening letter, which I will not put in the file, that if I do not shape up and stop talking about this, this broadcaster is going to get his 700 employees to vote for someone else in November. That is intimidation.

I have no quarrel with the broadcasters. I have always thought they were my friends. But it seems to me that when we are trying to balance the budget and when we are asking everybody to make a sacrifice, then we ought to make certain that we do not give something away worth billions and billions and billions of dollars.

Maybe the broadcasters felt this issue was not newsworthy. But if that is the case, why did the National Association of Broadcasters vote to go on the offensive and launch a multi-million-dollar ad campaign to preserve, as they spin it, free, over-the-air broadcasting?

I have already indicated it is not going to be free. It is going to cost you $500 for a converter box or $1,500 for a new TV set. That is not free.

I did not realize that ad campaigns have replaced the evening news.

CONCLUSION

Mr. President, if the broadcasters have a case to make, Congress is prepared to hear them. We are having fair and open hearings. That is what democracy is all about. It is not about distorting the truth and making thinly veiled threats. The American people know this. And despite what some might think, we are not easily duped.

I hope that fairness will prevail. I do not know what the value should be. But we should find out. Maybe it is $1. Maybe it is $1 million. Maybe it is $50 billion. But I never found anything wrong with having a hearing and asking the people that might be impacted, including the American consumer, to come to testify. I believe many broadcasters understand their responsibility. Maybe there are only a few out there leading this effort to mislead the American public and to walk away with billions of dollars in welfare from the Congress of the United States.

I know this is not a very popular thing to do—to get up and take on TV broadcasters or radio broadcasters because they have a lot of free access to the airwaves. But I believe, if we are serious about the budget and serious about the future, serious about the taxpayers, that it at least ought to be raised.

So I think they are all legitimate. But I think those broadcasters who have not been blinded by greed—and there are a lot of them out there that have not—will help shape the future of television.

Again, I must say that I know it does not get a lot of attention. But there are all kinds of columns here by different people, William Safire and others, page after page, hundreds of pages of stories about this giveaway.

I know the broadcasters are meeting in Las Vegas, and I think it is time to throw the dice and have a hearing. Maybe they can make their case. That is what Congress is all about.

But it seems to me that the President, I think, should have an interest

in this. It is not a partisan issue. It is an issue of how we are going to pay the bills, how we are going to balance the budget, and what amount will properly be received in charging for spectrum.

Mr. MOYNIHAN. Mr. President, will the majority leader yield for a question?

Mr. DOLE. I am happy to yield.

Mr. MOYNIHAN. Does the leader have in mind to schedule hearings and to ask the administration officials to testify?

Mr. DOLE. In fact, I think we have had one. Senator PRESSLER, chairman of the Commerce Committee, had 1 day of hearings. There will be another day of hearings, I think, next week to be followed by additional hearings. So there is an effort to have everybody come in and testify and then make a judgment.

I see the Senator from South Dakota is on the floor now. That was part of the agreement on the telecommunications bill—that the bill would go forward, there would be hearings, and Congress would make a judgment for the American people. We are going to have to cough up the money on what we should do.

Mr. MOYNIHAN. I thank the Senator. It is none too soon.

IRANIAN ARMS FOR BOSNIA

Mr. DOLE. Mr. President, since the report surfaced in the Los Angeles Times that President Clinton decided to allow Iran to provide arms to the Bosnians, there has been little, if any, response from the other side of the aisle.

Had there been a Republican in the White House, no doubt, the Democrats would have been all over the President. But, that is not the real issue. I am not here to be all over the President. This is not about the conduct of partisan politics, but the conduct of our foreign policy. This is about American leadership, American credibility, and Congressional oversight. That is why I met today with the chairmen of the Foreign Relations, Intelligence, Armed Services, and Judiciary Committees to discuss this serious foreign policy matter. For nearly 3 years, this administration opposed congressional efforts to lift the unjust and illegal arms embargo on Bosnia and Herzegovina. We were told, and the American people were told, that the United States was bound by the U.N. embargo on the former Yugoslavia. We were told that if America violated this embargo, we would lose support from our allies for other embargoes, such as the one against Iraq. Finally, we were told that lifting the embargo and allowing the Bosnians to have arms while U.N. forces were deployed in Bosnia, would endanger the troops of our allies.

Some people are saying, well, you knew that Iran was providing arms to the Bosnians. I would like to respond to that. While we read and heard reports that Iran was smuggling arms to the Bosnians, we did not know the President and his advisers made a conscious decision to give a green light for Iran to provide arms. Indeed, those of us who advocated lifting the arms embargo—Republicans and Democrats—argued that if America did not provide Bosnia with assistance, Iran would be Bosnia's only option. In my view, the role of the President and administration officials in this matter need to be examined—even if we do not receive cooperation from the White House and the Intelligence Oversight Board—which has been the case to date.

In the meeting I held with the four committee chairmen today, we decided on the approach we would take. The Intelligence Committee will investigate the matter of whether any administration officials were engaged in covert action. The Foreign Relations Committee will review administration policy as stated and as executed, as well as the ramifications of these revelations. Let me tell you why I believe this examination is important.

In short, this duplicitous policy has seriously damaged our credibility with our allies. It has also produced one of the most serious threats to our military forces in Bosnia and, according to the administration, the main obstacle to the arm and train program for the Bosnians—I am talking about the presence of Iranian military forces and intelligence officials in Bosnia.

As I have said many, many times on this floor, along with many of my colleagues on the other side, had we lifted the arms embargo and had we provided the weapons, the Bosnians could have defended themselves and chances are there would not have been any American troops there now, and we would have had a peace agreement sooner and on better terms for the Bosnians. And most likely, as I said, we would not have 20,000 Americans in Bosnia at this moment. And finally, had we lifted the arms embargo on Bosnia, the United States would have done the right thing for the right reason. We would have done it openly, and we would have done it honestly.

That is what this examination and these hearings will be about, because I think we owe it to the American people and we owe it to Members of Congress. As far as I know, no one knew about what was happening. We were told we just could not lift the arms embargo because of all the problems that would create with our allies and our credibility at the same time. Apparently some knew it was happening through the back door.

I yield back the remainder of my leader time.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Did the Senator want to comment on the Moynihan amendment?

Mr. HOLLINGS. I ask unanimous consent that I be given 10 minutes as if in morning business to respond to the majority leader on the issue of broadcast spectrum auctions.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from South Carolina is recognized.

Mr. HOLLINGS. I thank the distinguished leaders of this measure.

TELECOMMUNICATIONS

Mr. HOLLINGS. Mr. President, I must take exception with the statements by the distinguished majority leader. What really occurred 5 years ago is that hearings both in our Committee of Commerce, which I was chairing at the time, and the Federal Communications Commission as to how to bring about high-definition television, going from the analog signal to the high-definition digital television signal—similar to how we went earlier from AM radio to FM radio and we gave away the licenses, and now most of the radio audience predominates in FM.

On this particular score, there are all kinds of problems. First, there is a problem faced by the local broadcasters. To change over from their analog signal to a digital signal is going to be a cost of somewhere between $2 and $10 million. They are not going to put that $2 to $10 million in changing over unless and until there are digital TV sets. The people who are going to purchase the sets are not going to purchase them until the broadcasters bring about digital television.

So working as the public body in the public interest, we reasoned, after these hearings, that there ought to be a transition to change over, to certainly not penalize established free broadcasts in America—it is not a gift, if you please, but, on the contrary, we need to get them to switch from analog to digital and then we'll take the one that they relinquished and auction it. Nobody is getting anything free. It is necessary to bring about that particular switch from the analog to the high-definition television that will truly benefit consumers.

Chairman Sikes, a Republican chairman of the Federal Communications Commission, enunciated this policy. We had 2 years of hearings in our Commerce Committee. We, in a bipartisan fashion, got the movement going with respect to the broadcasters. You have to sort of sell this idea to move them along.

We are trying now to get the criteria for high-definition television agreed upon by all the technical entities that are interested in this particular move.

VOL
142
PT
6
AP
15
—
24
1996
UMI

And the Federal Communications Commission is having hearings to determine the technology that should be used. Once that is done this spring, we hope to move forward and, as best we can, accelerate this improved television viewing for the American public.

And now this thing about balancing the budget, this crowd is running up $1 billion a day in interest costs. You raise spending $1 billion a day while we are talking that you do not want to pay for. I put in a value-added tax bill to pay for it, but nobody else around here wants to pay for it—talking about paying the bills and balancing the budget. But right is right and fair is fair.

The broadcasters have not been going around soliciting or asking for a giveaway of billions of dollars or whatever it is. We have to maintain free over-the-air broadcasting. They used to have almost 100 percent of the broadcast audience. They are down to 60 percent. Cable television and direct broadcast satellites are taking over and everything of that kind. In a very real sense, we are very careful about the regular analog stations that you and I watch every day and every evening.

So the air should be clear. You can have 100 hearings. You can go back on it. You can come up with the sale and make a lot of money, but the American public is not going to be served. Auctioning the second channel would only disadvantage the American consumer. You should not reverse a well-studied and well-thought-out policy by a Republican administration and a Democratic administration, a Republican committee and a Democratic committee. We should stick with the FCC plan—it is the best way to ensure free over-the-air television and the taxpayer will benefit when the original channel is auctioned.

This peripheral attack about I am Horatio at the bridge here and I am standing up and I am protecting the public, and we want to pay the bills and we want to balance the budget, is all hogwash. If you want to pay bills, then I say to the Senator, it is in your Finance Committee. Pull it out of the Finance Committee and let's vote up and down, because you cannot balance the budget without increasing taxes.

I will make my challenge one more time. I make it time and again. I would be delighted to jump off the Capitol dome if you can give me a 7-year balanced budget without increasing taxes. You cannot do it. I gave that to the distinguished chairman of the Budget Committee, and he did not do it. That was over a year ago. And I am still ready to jump.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah has 15 minutes.

Mr. FORD. Mr. President, I ask unanimous consent I might have 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Kentucky has 2 minutes.

Mr. FORD. I thank the Chair, and I thank my friend from Utah.

GAGGING OF A SENATOR

Mr. FORD. Mr. President, yesterday the Senator from North Dakota was prevented from speaking on the Senate floor. They recessed the Senate in order to prevent him from speaking. I know the majority leader has certain privileges that other Senators do not have—leader's time, recognized first, and all that. But I think the majority leader made a mistake in trying to gag a colleague yesterday.

We are here, expecting to vote every 30 minutes, on an amendment or reconsideration—recommittal on this terrorism bill, and the majority leader comes in, as is his right—I do not say he did not have the right—but we talk about telecommunications and we talk about Bosnia. Yet, the Senator from North Dakota could not talk about Social Security and balancing the budget.

So, I want the Senate to know that some of us observe that. I believe the majority leader made a mistake. I think he realized he made a mistake. And we should not attempt to gag anyone here on the Senate floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HATCH. Mr. President, for my friend from New York, I will just move to table this amendment. But I think, because he approaches things in such a scholarly manner, I should take just a few minutes to explain why we cannot accept his amendment and why I will move to table.

Mr. President, I think that part of the disagreement we have with respect to the appropriate standard of review in habeas petitions involves differing visions as to the proper role of habeas review.

Federal habeas review takes place only after there has been a trial, direct review by a State appellate court, a second review by a State supreme court, and than a petition to the U.S. Supreme Court. Thus we have a trial and at least three levels of appellate review. In a capital case, the petitioner often files a clemency petition, so the State executive branch also has an opportunity to review the case.

But that is not the end. In virtually every State, a postconviction collateral proceeding exists. In other words, the prisoner can file a habeas corpus petition in State court. That petition is routinely subject to appellate review by an intermediate court and the State supreme court. The prisoner may then file a second petition in the U.S. Supreme Court, and may also, of course, seek a second review by the Governor.

So, after conviction, we have at least six levels of review by State courts and two rounds of review—at least in capital cases—by the State executive. Contrary to the impression that may be left by some of my colleagues, Federal habeas review does not take place until well after conviction and numerous rounds of direct and collateral review.

The Supreme Court has clearly held that habeas review is not an essential prerequisite to conviction. Indeed, this very term, the Supreme Court reaffirmed the principle that the Constitution does not even require direct review as a prerequisite for a valid conviction.

Now that we have set the proper context for this debate, let us just look at the proposed standard. Under the standard contained in the bill, Federal courts would be required to defer to the determinations of State courts unless the State court's decision was "contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the Supreme Court . . . ."

This is a wholly appropriate standard. It enables the Federal court to overturn State court decisions that clearly contravene Federal law. Indeed, this standard essentially gives the Federal court the authority to review, de novo, whether the State court decided the claim in contravention of Federal law.

Moreover, the review standard proposed allows the Federal courts to review State court decisions that improperly apply clearly established Federal law. In other words, if the State court unreasonably applied Federal laws, its determination is subject to review by the Federal courts.

What does this mean? It means that if the State court reasonably applied Federal law, its decision must be upheld. Why is this a problematic standard? After all, Federal habeas review exists to correct fundamental defects in the law. After the State court has reasonably applied Federal law, it is hard to say that a fundamental defect exists.

The Supreme Court, in Harlow versus Fitzgerald, has held that if the police officers' conduct was reasonable, no claim for damages under Bivens can be maintained. In Leon versus United States, the Supreme Court held that if the police officers' conduct in conducting a search was reasonable, no fourth amendment violation would obtain and the Court could not order suppression of evidence obtained as a result of the search. The Supreme Court has repeatedly endorsed the principal that no remedy is available where the Government acts reasonably.

Why then, given this preference for reasonableness in the law, should we

empower a Federal court to reverse a State court's reasonable application of Federal law to the facts?

Our proposed standard simply ends the improper review of State court decisions. After all, State courts are required to uphold the Constitution and to faithfully apply Federal laws. There is simply no reason that Federal courts should have the ability to virtually retry cases that have been properly adjudicated by our State courts.

I think that once we cut away the camouflage surrounding the arguments against our proposed habeas reform package, we find two things: First, a disagreement with the death penalty as a punishment. That is a legitimate disagreement. I, personally, am in favor of the death penalty, but I would very sparingly use it. But there are others who very sincerely believe that the death penalty is wrong. I can understand that. Many people have moral or ethical concerns about the death penalty, and many more in this country, the vast majority, believe we should have a death penalty for the most heinous murders and crimes in our society. I am appreciative, though, and sensitive to the concerns of others who feel otherwise. Many of my colleagues have heartfelt views on this matter, and I respect the sincerity of those views.

But if the arguments against meaningful habeas reform are in reality arguments against the death penalty, then let us debate the efficacy of the death penalty. Let us decide whether death is the appropriate sanction for people like those who murdered the 168 individuals in Oklahoma City. I am prepared to debate the point. But let us not disguise this argument.

The second argument I think my friends are making is that they fundamentally distrust the decisions of State courts. They believe that State courts are somehow incompetent to try important cases. They believe that State juries are somehow not as good as Federal juries; that State court judges are not as qualified as Federal judges; that State prosecutors and defense attorneys are not as adept as their Federal counterparts. Although I generally disagree with this argument, I can understand it. I can debate it. I can argue about the merits of having State criminal justice systems at all. I can debate the issue of whether something magical happens when a State court judge becomes a Federal judge. But if this is what really concerns the opponents to the habeas reform, then let us debate the point straight up. We should not allow this debate to be derailed.

My good friend, the Senator from New York, referred to the Great Writ, which is part of the Constitution. He need not fear for the Great Writ, if this proposal is enacted, in other words, if our bill is enacted. The Great Writ of Habeas Corpus contained in the Constitution applied to only two circumstances: No. 1, to challenge an illegal imprisonment before trial; and, No. 2, to determine whether the trial court had jurisdiction to hear the case.

The habeas corpus we are reforming is the statutory form of habeas corpus. There are some in this body who oppose such reform. I believe they are motivated in part, in major part, by their desire to stop the death penalty or to oppose the death penalty. I can understand that position, although I disagree with it, and I think the vast majority of Americans disagree with it.

I believe convicted killers should be punished, and the particularly heinous killings ought to be punished with the death penalty. I think the survivors and family, the victims of this type of heinous murder, have a right to see that those who killed their loved ones are justly punished. That is why we have to pass this provision. It is long overdue.

To me, and I think to many others, almost everybody in law enforcement today, the habeas corpus provision that we have in this bill is a good one. The standard is a good one. The deference to State law is good, because it just means that we defer to them if they have properly applied Federal law. We should not give some judge who hates the death penalty a right to disrupt that whole process when there is no legal justification for doing so. Frankly, we have allowed the procedural justifications to exist for far too long and that is what this is all about.

So, having said that, I have letters from all kinds of law enforcement organizations, including some organizations that have fought for civil liberties all of their existence, that support our habeas corpus reform because it is time to have that in law. It is time to get rid of the charade. They support the habeas corpus reform more than any—or the death penalty reform, more than any other provision in this bill, although there are many good provisions in this bill.

Having said all that, I am prepared to yield back the remainder of my time, and, on behalf of Senator DOLE and myself, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ABRAHAM). Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, might I ask for 30 seconds to thank my friend and respond?

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I thank him for his thoughtful, careful response. I would like to make the point that my concern is not with the death penalty but with habeas corpus itself. I have had a long experience, as the manager has had, with problems of terrorism. As I said a moment ago, the only time the terrorists ever win is when they begin to make you change your own fundamental political and judicial processes, and that is what I fear this will do. It is of some relief to hear the distinguished manager's statement that the Great Writ will remain substantially intact.

Mr. HATCH. Mr. President, if I can have 30 seconds. The Great Writ will not be affected by this one bit. I appreciate his concerns, and I believe he will find this provision will help us in fighting violent criminals.

So I move to table the motion. I believe we have the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to recommit.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER (Mr. INHOFE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—64

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hollings
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Reid
Robb
Rockefeller
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NAYS—35

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Glenn
Harkin
Heflin
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Sarbanes
Simon
Wellstone

NOT VOTING—1

Mack

So the motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, I move to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following language to prohibit the distribution of information relating to explosive materials for a criminal purposes.

I send the motion to the desk.

The motion is as follows:

> Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:
>
> **SEC. . PROHIBITION ON DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVE MATERIALS FOR A CRIMINAL PURPOSE.**
>
> (a) Section 842 of title 18, United States Code, is amended by adding at the end the following new subsection:
>
> "(l) It shall be unlawful for any person to teach or demonstrate the making of explosive materials, or to distribute by any means information pertaining to, in whole or in part, the manufacture of explosive materials, if the person intends or knows, that such explosive materials or information will be used for, or in furtherance of, an activity that constitutes a Federal criminal offense or a criminal purpose affecting interstate commerce.".
>
> (b) Section 844 of title 18, United States Code, is amended by designating subsection (a) as subsection (a)(1) and by adding the following new subsection:
>
> "(a)(2) Any person who violates subsection (l) of section 842 of this chapter shall be fined under this title or imprisoned not more than twenty years, or both.".

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield myself such time as I may use within the limit of the time I have.

This provision is very straightforward and simple. It is beyond me why it was taken out of the Senate version of the language that was sent to the House.

I have heard many colleagues stand up on the floor here and rail against pornography on the Internet, and for good reason. Even when we thought we had corrected the language that Senator EXON introduced to comport with the first amendment, I still hear in my State, and I hear of people writing about how so and so is promoting pornography on the Internet because they will not ban pornography on the Internet.

Yet, in the bill, we came along—all of us here—and the genesis of this came from Senator FEINSTEIN, when it was initially offered. The majority leader, Senator HATCH, and I had some concerns with this, and we thought the language to ban teaching people how to make bombs on the Internet or engage in terrorist activities on the Internet might violate the first amendment. Senators DOLE, HATCH, and I worked to tighten the language and came up with language that was tough and true to civil liberties. It was accepted by unanimous consent.

We have all heard about the bone-chilling information making its way over the Internet, about explicit instructions about how to detonate pipe bombs and even, if you can believe it, baby food bombs. Senator FEINSTEIN quoted an Internet posting that detailed how to build and explode one of these things, which concludes that "If the explosion don't get'em, the glass will. If the glass don't get'em, the nails will."

I would like to give you a couple of illustrations of the kinds of things that come across the Internet. This is one I have in my hand which was downloaded. It said, "Baby food bombs by War Master." And this is actually downloaded off the Internet. It says:

> These simple, powerful bombs are not very well known, even though all of the materials can be obtained by anyone (including minors). These things are so—

I will delete a word because it is an obscenity.

> powerful that they can destroy a CAR. The explosion can actually twist and mangle the frame. They are extremely deadly and can very easily kill you and blow the side of a house out if you mess up while building it. Here is how they work.

This is on the Internet now. It says:

> Go to Sports Authority or Herman's Sport Shop and buy shotgun shells. It is by the hunting section. At the Sports Authority that I go to you can actually buy shotgun shells without a parent or an adult. They don't keep it behind the glass counter, or anything like that. It is $2.96 for 25 shells.

And then it says:

> Now for the hard part. You must cut open the plastic housing of the bullet to get to the sweet nectar that is the gun powder. The place where you can cut is CRUCIAL. It means a difference between it blowing up in your face or not.

Then there is a diagram, which is shown as to how to do that on the Internet. Then it says:

> You must not make the cut directly where the gun powder is, or it will explode. You cut it where the pellets are.

And then it goes through this in detail. And then it gets to the end, and it says:

> Did I mention that this is also highly illegal? Unimportant stuff that is cool to know.

And then it rates shotgun shells by two numbers, gauge, pellet size, and goes into great detail. It is like building an erector set. It does it in detail.

So what Senators DOLE and HATCH and I did, we said you should not be able to do this, but we have a first amendment problem, possibly. So we added a provision that says that you have to have the intent, when you are teaching people how to do this, that the person using it is using it for the purpose of doing harm.

So it seems to me that this is pretty straightforward. Granted, I want to stop pornography on the Internet. I think pornography does harm to the minds of the people who observe it, particularly young people. But if that does harm, how much harm is done by teaching a 15-year-old kid, a 12-year-old kid, or a 20-year-old person, with great detail, how to build a baby food bomb, or how to build an automatic particle explosion provision, or how to build light bulb bombs.

It says:

> An automatic reaction to walking into a dark room is to turn on the light. This can be fatal if a light-bulb bomb has been placed in the overhead light socket. A light-bulb bomb is surprisingly easy to make. It also comes with its own initiator and electric ignition system. On some light-bulbs, the light-bulb glass can be removed from the metal base by heating the base of the light bulb in a glass flame, such as that of a blowtorch and a gas stove.

And so on and so forth. It goes on to explain how if you attach a plastic back to the light bulb when you remove the glass part but leave the filament and attach it and tape it there, when someone comes in and turns on the light, it blows up the room. Or, if you want to just play a prank, you could put odorous, smelling materials in the bag. It would blow up the bag. But you can put anything in it, and it blows it up.

We said in the language we passed that it shall be unlawful for any person to teach or demonstrate the making of explosive materials, or to distribute by any means information pertaining to, in whole or in part, the manufacture of explosive materials if the person intends or knows that such explosive material, or information will be used for, or in the furtherance of, activity that constitutes a Federal criminal offense, or a criminal purpose affecting interstate commerce. And the House took it out. The House removed it.

I want to say to all of you who are going to probably vote down my putting this back in, I want to hear you explain to your folks back home when a commercial is run on your television station that Senator Jones or Senator whoever voted against prohibiting on the Internet explicit directions how to make a bomb knowing that the person intends to use it. I want to hear your explanation of that. I want to be there when you explain that one.

Let me read the statute again. It says: It shall be unlawful for a person

to teach or demonstrate, et cetera, if the person intends or knows that such explosive material or information will be used for, or in the furtherance of, activity that constitutes a Federal crime. "Knows or intends" is a pretty a high standard falling, in my view, and in the view of constitutional scholars, well within our first amendment privileges. I just think this is crazy.

Let me go on just a few more moments, and then I will stop. The provision is pretty straightforward. If you are one of the guys who has made a name for himself by bringing manifestoes like "The Terrorist Handbook" or "How to Kill With Joy," which literally are on the Internet, and if someone comes to you and says, "Tomorrow morning a group of police officers are going to be meeting at the Fifth Street precinct, and I want to blow them up," and if you say to them, "Here, let me tell you how to make a bomb," arguably at that point the police can get you on a conspiracy charge. That is possible. That is possible. But if you just know what they are about, you see them all out there in a car, you look down and see that they have this plan, and you go ahead and tell them how to make a bomb, it is not a violation of the law to teach them how to make the bomb. Is not that incredible?

Last June, all of us in this body agreed to this. I hope we will agree to it again because let me tell you, if this will kill the bill, as I am sure my colleague from Utah is going to say it will, I want to hear—if this is the only change in the bill—I want to see those House Members stand up and say, "The reason I am not voting for this terrorist legislation is because I want to continue to allow people to teach people how to make bombs," knowing that they are going to be used to commit a crime or kill someone, "And that is why I am voting against this bill," because it now contains a provision that prohibits that, I think maybe this is time to face down some of those people over there. Let them stand up and tell all of our colleagues around the Nation, and tell the parents around the Nation, that that is the reason they are voting against the terrorism bill.

I retain the remainder of my time and yield the floor.

Mr. HATCH. Mr. President, I will only take a couple of minutes, and then I am prepared to yield back the remainder of my time.

The constitution of conspiracy to use an explosive to commit a felony is already provided for in precedent law, 18 U.S.C. 844(h). Thus, anyone who trains a terrorist to make a bomb as part of such a conspiracy would certainly be prosecuted under current law.

I want to make it clear that I do not entirely disagree with Senator BIDEN's position. However, we have been facing down this problem for a year now. Friday is the day where we commemorate this awful tragedy. Frankly, we have gone through every detail in this bill, and we have not been able to get it exactly to Senator BIDEN's desire, or even mine, but this is it. This is the bill. And anything short of this is going to amount to losing the bill.

Like I said, I do not entirely disagree with Senator BIDEN's position. However, there are many who have raised first amendment and intellectual property concerns about this provision. They are legitimate concerns. As the chairman of the Judiciary Committee, which handles all of the patents, copyrights, and trademark issues, I can say they are legitimate. So, consequently, we have included a study in the bill to ensure that we can criminalize efforts to distribute bombmaking materials without impinging upon constitutional freedoms. Besides, there is little doubt that anyone who knowingly transmits information to use explosives to commit a felony is already subject to Federal law; 18 U.S.C. 844(h) does that.

So, frankly, I would like to accommodate the distinguished Senator from Delaware, but we tried to and we have been unable to accommodate him. Frankly, I contend that any return to the conference will kill this bill.

I am prepared to yield. I apologize for not being able to do more. But we think we have brought this bill back to a very, very strong level, and we have had a lot of cooperation with Members of the House in doing so and the leadership on the Judiciary Committee—both Democrats and Republicans.

Yes, it is not a bill that any one of us in here thinks is totally what we want, but I think the vast majority of us will believe that it is a pretty darned good bill that is going to make a real dent in terrorist activities in the future and will, I think, correct some inequities of terrorist activities in the past.

So I am prepared to yield the remainder of my time.

Mr. BIDEN. Mr. President, let me respond about this conspiracy. I acknowledge that, if, in fact, there is an agreement with the bombmaker, the bomb teacher, and the bomb user, and they could prove that, then they can get the bomb teacher as part of this conspiracy. That is not how this happens. The way it happens is someone walks in telling me—and looking like they are something out of a movie—telling me, and I do not know them, that they want to learn how to make a fertilizer bomb. "I want to learn how to make a bomb out of baby food, a baby-food bomb, or a light-bulb bomb"—that is all they tell me, and I do not know them from Adam. I sit down and tell them how to make the bomb. The ability to prove that there was a conspiracy to commit a crime requires that there be an ability to be an agreement between the two of us about the crime that was about to be committed.

I am saying it should be a national crime if you intend, or you know the person is about to do something wrong regardless of whether you know what the crime is, what they are going to do with it. Obviously, if a 14-year-old kid comes to you and says, "By the way, I want to learn how to make a baby-food bomb that has the ability to blow up, has the power, like advertised here, that can bend the frame of a car," you are telling me that you have to be able to prove conspiracy. If the guy says, "I am happy to show you how to make that, just like I can show you how to make a rocket in the field for a science class," there is no distinction. And under this law, there is no conspiracy.

You vote against this, and it means someone can show a kid how to do that and not have to wonder why this kid is asking me how to make a powerful bomb that can bend the frame of a car. You cannot prove conspiracy. But it should be wrong. It should be wrong. And how any of you can vote here and say that is not wrong is beyond me.

I think it is about time we make some of those people hiding over in the House side stand up. Make them stand up.

I want to be there when some punk on the New York subway decides he wants a baby food bomb just for the kicks of it, just to see what it is like, and sets it off. You mean to tell me when we find the guy who taught him how to do it, we should say, "No problem; you didn't do anything wrong. It's OK; no problem." I think we should throw the sucker in jail.

I cannot understand how you all can vote against this. I understand the rationale. The rationale in part is 35 House Members, or 75 House Members or 99 House Members will turn down the whole bill because of this. I do not believe for 1 second that if this single provision were added to the bill, with all the stuff they have on habeas corpus they want, with all the other stuff they say they want, they are going to vote down this bill because now you are going to be able to arrest some wacko teaching our kids how to make bombs when you know they are going to use them. I cannot believe that. I think we are being cowardly in our willingness to confront whoever the cowards are over there who will not allow us to protect ourselves. This is crazy.

I yield the floor. I yield back my time. I am ready to vote.

The PRESIDING OFFICER (Mr. INHOFE). The Senator's time has expired.

Mr. BIDEN. That is a good reason to do it.

Mr. HATCH. Mr. President, I hear the Senator. I do really think, though, we ought to consider winding this up. Personally, I think there comes a time when enough is enough on these motions to recommit because what we are

VOL
142
PT
6
AP
15
—
24
1996
UMI

trying to do is to get this bill through. Frankly, we have people in the House on both extremes, both the far left and far right, who disagree on some of these things. I do not think it is unreasonable to request a study so that we look at this matter, consider the first amendment implications and other implications and do it right, although I have some sympathy with what the Senator said.

I am prepared to yield back the remainder of my time, and I move to table.

Mr. BIDEN. Mr. President, I yield myself 20 seconds on the bill.

The PRESIDING OFFICER. The Senator has that right.

Mr. BIDEN. Mr. President, no one asked for a study on pornography. No one asked for that. I did not hear anybody stand up here and say, "Let's have a study on pornography. I wish to stop pornography on the Internet." I did not hear anybody say, "Let's not do it. Let's have a study." When it comes to a bomb, teaching our kids how to make bombs, we want to study it.

Mr. HATCH. Mr. President, like I say, I am sympathetic to what the Senator is trying to do. He knows that. But he also knows that we have gone through this and we have come up with this bill after a year of intensive battling, fighting. And it is not just the conservatives that were there; it is the far left.

We have worked hard on this, and this is the bill we could come up with. Do we want to do something about terrorism or do we want to kill the bill? That is what it comes down to. Frankly, it is not just any one of these things. It could be any one of these things. We have worked it out. It is a good bill, and it will make a difference. It will start fighting terrorism right now. In the end, it seems to me if we can ever get to a final vote on this, we will have something of which virtually everybody who thinks about it will be proud.

So I move to table the motion on behalf of Senator DOLE and myself and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to table the motion to recommit. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—51

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—48

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone
Wyden

NOT VOTING—1

Mack

So the motion to lay on the table the motion to recommit was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

CLOTURE VOTE VITIATED—SENATE RESOLUTION 227

Mr. DOLE. Mr. President, I ask unanimous consent that the cloture vote with respect to the Special Committee to Investigate Whitewater be vitiated.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS

Mr. DOLE. Mr. President, I send a resolution to the desk, and I ask unanimous consent that the Senate turn to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 246) to authorize the use of additional funds for salaries and expenses of the Special Committee to Investigate Whitewater Development Corporation and related matters, and for other purposes.

The Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, the Senate is about to reauthorize the special committee's operations for a specific, limited period.

It is my understanding, and that of all my colleagues on this side of the aisle, that the special committee will conclude its hearing schedule no later than June 14, 1996, and further, that no other committee of the Senate intends to hold hearings on Whitewater-related matters thereafter. I have also discussed with the majority leader and will commit to him that it is not the intention of Members on this side of the aisle to object to the special committee meeting under the provisions of rule XXVI nor to obstruct the special committee's progress, thereby preventing them from completing their work pursuant to the latest deadlines outlined in this resolution.

It is the further understanding on this side that the report of the special committee, required to be submitted to the Senate pursuant to Senate Resolution 120, will be submitted no later than the close of business on June 17, 1996.

It is also our understanding that the majority leader does not believe any amendments, motions, or resolutions will be offered in the Senate regarding further extensions of the operations of the special committee beyond June 17, 1996.

Mr. President, I ask the distinguished majority leader whether I have correctly stated the situation as he now sees it?

Mr. DOLE. The Senator has correctly stated the understandings on both sides of the aisle as I see it at this time.

Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 246) was agreed to, as follows:

S. RES. 246

SECTION 1. FUNDS FOR SALARIES AND EXPENSES OF SPECIAL COMMITTEE.

There shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations, for use not later than June 17, 1996, by the Special Committee to Investigate Whitewater Development Corporation and Related Matters (hereafter in this Resolution referred to as the "special committee"), established by Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995) to carry out the investigation, study, and hearings authorized by that Senate Resolution—

(1) a sum equal to not more than $450,000.

(A) for payment of salaries and other expenses of the special committee; and

(B) not more than $350,000 of which may be used by the special committee for the procurement of the services of individual consultants or organizations thereof; and

(2) such additional sums as may be necessary for agency contributions related to the compensation of employees of the special committee.

SEC. 2. TERMINATION OF THE SPECIAL COMMITTEE.

(a) HEARINGS.—Not later than June 14, 1996, the special committee shall complete the investigation, study, and hearings authorized by Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995).

(b) REPORT.—Not later than June 17, 1996, the special committee shall submit to the Senate the final public reported required by section 9(b) of Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995) on the results of the investigation, study, and hearings conducted pursuant to that Resolution.

Mr. DOLE. Mr. President, I understand Senator D'AMATO and Senator SARBANES may want to speak briefly.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me just take several moments to thank the distinguished leaders, the majority leader and the minority leader, and a number of my colleagues on the Banking Committee on both sides of the aisle for helping us arrive at an agreement that will permit the business of the Senate to be conducted in an orderly, thoughtful, thorough fashion so that we can complete the work of the Whitewater Committee in a timely manner, recognizing that we are fast approaching—we are already in—the political season, but that season becomes even more and more political as the days and weeks move ahead.

It is my hope that working together, as we have in most of our undertakings on the Banking Committee and on the special Whitewater Committee, we can handle the matters that come before us, even those that may be somewhat contentious, in a bipartisan manner.

Ours was to get the facts. Ours is to report back to the Senate of the United States as best we can. Ours is not to prejudge. Ours is not to preclude. But ours is to be the searcher of facts, again, given the limitations that exist. It does not pay for us to go into what the limitations are. I must say that there are those areas beyond the ability of the Senate and its investigation to control or to deal with as it relates to time, availability of witnesses, et cetera.

So, recognizing those, we may never be able to satisfactorily complete the job of getting all of the facts or determining all of them, recognizing the limitations that we have. But I think if we do the best we possibly can, if we work together in the spirit of people who are willing to understand each other's problems, the limitations that we do have on us, ours will be an important task, it will not be an easy task, but it will be one that we can attempt to fulfill and meet the mandates of the Senate and, indeed, of the Constitution and, more importantly, of our people. We are going to be thorough, comprehensive, but yet fair.

Let me conclude by saying that I hope that we can finish by the 14th of June. That is the time which we have spelled out. I believe that reasonably, if we see that there are matters that are yet to be addressed that are important, that are substantial, that we can come to an accommodation to deal with that. It is my hope, though, that we will be able to deal with this, conclude the public hearings by the 14th of June, and thereafter have our report within the 3 days that we have provided.

I believe this is the best manner in which to proceed, less in the way of contention. I certainly hope—as my colleagues have, my Democratic colleagues have helped and assisted in arriving at this agreement—that they will work with us. We pledge to work with them to get all of those concerns, all of those people that we wish to get evidence from, testimony from, to be as cooperative and to use the good offices of my colleagues on the Democratic side to accomplish this goal.

So I want to commend both leaders. I want to thank Senator SARBANES, Senator DODD, the other members, the Republican members, of the committee for being patient, for being thoughtful, and doing a very difficult process. I believe that the agreement that we have hammered out is in the best interest of the Senate and, more importantly, the people of the United States. I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, let me say that the resolution which has just been passed represents a great deal of effort over a considerable period of time and obviously encompassed accommodations and adjustments on both sides and from many parties. I believe the resolution provides us now with the framework for the completion of the work of the special committee on Whitewater. The resolution requires the submission of the special committee's final public report by the 17th of June, and provides a budget to carry forward this work which we believe is adequate for the task. It provides for the hearings to end by the 14th of June.

I must say, I hope, as the chairman has stated, that we are able to conduct through this period of time fair and thorough and objective hearings.

The chairman is right, an effort has been made to do that in the past, I think with a fair amount of success, although as he observed we have had on occasion perhaps strayed off that path somewhat. I hope we do not, as we move forward now from today into the middle of June.

Many people contributed to making this possible. I want to recognize the contributions of the colleagues on my side, Senators DODD and BRYAN and BOXER and MURRAY and MOSELEY-BRAUN and KERRY and SIMON and, of course, the chairman and his colleagues who have worked on this. And, of course, the two leaders have been involved to some extent in order to bring this matter to this point.

The committee back in January, pursuant to the previous resolution, was required to report to the Senate about whether additional time was needed. At the time, there was a difference of opinion about that. The majority said additional time was needed; the minority felt not. We had a sharp difference about that. The minority leader made a proposition for an extension. The majority, of course, had a resolution before us for an unlimited extension. This, of course, is not an unlimited extension, and I think it is very important to recognize that.

I simply close by saying that I hope in the weeks to come, now as we approach the 17th of June for the submission of the final report, that we will be able to move ahead expeditiously with our work. It is the intention of the minority to seek to work in a constructive way with the majority to carry out these hearings in a responsible manner, not really to explore allegations, not to make allegations, but to carry out the kind of hearings for which the Senate can take some measure of comfort that it has been done according to appropriate standards. Mr. President, I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I want to join my colleague from Maryland in thanking our colleague from New York, the chairman of the committee, and others for putting this together. I want to commend as well my colleague from Maryland, who has done a very fine job in helping to fashion this resolution. I join with him and the chairman of the committee and others in hoping that we will be able now over the next several weeks to conduct a thorough and complete and fair investigation.

I will say, Mr. President, there are many people, of course, on this side of the aisle who, frankly, in fact, may have voted, if there were a recorded vote, may have voted even against that resolution, who felt that we should have wrapped this up and it is over with. So there is no recorded vote on this, and apparently there will be none. So there will be no actual recording, but Members can obviously speak for themselves. I would have voted for this resolution if there was a recorded vote. I want my colleagues to know that.

It would not be any great surprise to my colleague from New York if I say to him, Mr. President, that I would do so with great reluctance because I, frankly, would have liked to wrap this up earlier. So I read this and see this as a determination now to conclude our work by the 14th of June, with a couple extra days to get our report done. That is our goal and our determination. Certainly our colleague from New York

VOL
142
PT
6
AP
15
—
24
1996
UMI

has made it clear to us that that is his intent as well. We respect that and take that. The distinguished majority leader has indicated that as well.

So we have a lot of work, I know, to do in the coming weeks. But we are confident we can do it and bring this to a conclusion. It has been a long process, Mr. President. I think, as someone pointed out, it may be the longest set of hearings in the history of the Congress on a particular matter like this. Someone may challenge that, but certainly in modern Senate history, I think, the longest record, the longest set of hearings, at great cost. I am not speaking now exclusively of our work here, but the overall investigation. So the American public, I think, wants us to complete our work on this.

Also, I point out that because this is a special committee but made up primarily of members of the Banking Committee—of course, the chairman is the chairman of the Banking Committee as well—there is a great deal of work we have to do on the Banking Committee before this Congress ends. Our colleague from California has a number of issues that she is interested in. Senator MURRAY, from the State of Washington, has mentioned several issues she is interested in, along with our colleague from Maryland and others.

So our sincere hope is that not only will we get this done, I say to our colleagues—I know many are asking the question: Are you really going to get your work done? I am saying here we are going to have this done on June 14, a report several days afterward, and our Banking Committee is also going to get its work done on other issues that have been raised as well that should be addressed.

With that, Mr. President, I commend my colleague from New York, my colleague from Maryland, our ranking member, for bringing this to a final conclusion. We will have our work done by June 14.

Mrs. BOXER. Mr. President, I am not going to belabor the points that were made except to add my thanks to my ranking member, Senator SARBANES, and my chairman, Senator D'AMATO, for working this out with the able assistance of many people, particularly Senator DODD.

I have always taken the position as long as there are Senators on the floor making it sound like there are issues that are being covered up or not looked at, it was very important for us to continue, because frankly, I think we have had a sufficient amount of time. We have had more days of hearings than the O.J. Simpson trial. The fact is, this has gone on endlessly.

The people in California, and I cannot speak for the people of Connecticut or the people from Maryland or the people from New York, but I can say those who came to see me in this 2-week break, not one said, "Senator, the one thing I want you to do when you go back is hold more hearings on Whitewater." Not one person. No Republican came up and told me that. They never even mentioned it. They did say, "Go back and get the job done. Balance the budget. Pass a budget. Do not cut Medicare. Take care of education. Go after the situation in our exports where we have problems with nations who are not treating us fairly."

I sit on the Banking Committee and we have that jurisdiction. We have not done a thing about the issues that will make life better for the people of this country. It is Whitewater, Whitewater, Whitewater. What do the people think of it? I tell you what they think of it, they think it is a waste of time. They think it is a waste of time. We have a special counsel who has no limit on what he can spend going after the truth on Whitewater. There is no statute of limitations. We had little discussion about that earlier in relation to another bill. This special prosecutor has the world at his fingertips, and yet we have to call up the same felons, the same felons that are spewing forth things against our President, we are going to bring them into the hallowed Halls of the Senate of the United States.

People are smart. The American people get it. This Congress has a bad reputation among the people. They do not think this Congress is doing its job. No wonder. No wonder. So there are a lot of accolades about how great it is that we reached an agreement on this. I say, good, I am glad, because the alternative was having this in the Banking Committee where we would get nothing else done, and waste the time of the Banking Committee.

I have a situation in California where we have a great industry which is the leader in CD's and laser disks. We are losing billions of dollars a year because of China piracy. What are we doing about it in the Banking Committee? Zero—no time. No time. I was encouraged when our chairman said that he agreed with me on this issue, and, yes, he will get that done. Well, that is good. I do not know how we will do it all, but my view has always been as long as there are allegations made on this floor that they have not unturned every stone, that I would vote to continue this, because the last thing I want is for people to think we are not willing to look.

Yes, I would have voted for this, but I have to say I hope we are better in this phase than we have been before, because there were days when we were supposed to have hearings and no one showed up. I am here, and I know there is a lot of comity on the floor today and everybody is thrilled. I am not so thrilled. Yes, I will vote for it, but I think it is a waste of time. It is political. Everyone in the country knows it is political. They are smart. They know the special prosecutor is out there, and they see Members of the Senate act like prosecutors and staff sitting there like that is their job. If they want to be prosecutors, God bless them, be prosecutors. Do not be a U.S. Senator, and do not come to work for U.S. Senators, because we have other things to do.

What we have to do is make life better for the people. It is embarrassing. It is embarrassing to me that I sit on one of the best committees in the U.S. Senate, and this is what we are going to be doing. I am glad we have an end date of June. We can wrap it up and do our work. I just hope we get back to the business of making life better for the people of our great Nation, because they deserve our attention. There is economic insecurity out there. There are things we can do in the Banking Committee to get to those issues. I stand ready to work in a bipartisan way to get to those issues and to move these hearings along.

I also have to say just because I am straight from the shoulder about this, that when we have witnesses up there who are convicted felons, I hope my colleagues on the other side of the aisle will not be surprised if I get a little tough in my questions. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I will not delay the Senate. I know that Members would like to get back to the Terrorism Prevention Act.

I would like the record to reflect that I did vote against the establishment of the special committee to investigate Whitewater. I think it was not a proper function for the Senate this election year. I certainly would like the RECORD to reflect had there been a rollcall vote on this resolution extending the jurisdiction of that special committee, I would also vote against this.

I yield the floor.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me. I will speak only a very few moments. I know we want to get on with the business of the Senate.

I want to first commend my colleague, Senator SARBANES, the ranking member of the committee, and I want to commend the chairman of the committee for ultimately working out an agreement. Maybe this can be a solution by which we might proceed in an orderly way to end the quest to find facts, information, and to educate ourselves on the so-called issue of Whitewater.

Mr. President, if we had brought this issue to a vote, like my friend from New Mexico, I probably would have voted "no". I probably would have voted "no" on this resolution, Mr. President, simply because I think that there are enough forces out there occupying the time and resources of our

Government and our judicial system to amply comply with the intent of this overall investigation.

These hearings have already gone, Mr. President, as my friend from California has stated, longer than the O.J. Simpson trial. Longer, I think, in many instances that the Iran-Contra trial. These were national issues of great importance. This is an issue of some importance, but it is of importance only because it affects what we know as a Whitewater issue. It relates to a matter that took place 12 or 15 years ago in the State of Arkansas. How important is it as it relates to the other issues that we have to defend and debate and concern ourselves with at this time? That is the question.

I do not feel that the Senate, nor this committee, should further utilize the resources of our Government to continue bringing witnesses up here from the State of Arkansas, week after week, day after day, and month after month, simply because it is a politically motivated endeavor. Mr. President, that is what it is. It is a politically motivated endeavor.

Yesterday, the distinguished chairman of the Banking Committee or the Whitewater Committee, if you might call it that, issued a press release in which he basically said if he did not get his way, if he did not have his way and if the Senate did not allow the Whitewater committee to continue—then he would use the Banking Committee to usurp the powers of the Whitewater Committee. He was then going to seek the authority to have the opportunity to investigate and to subpoena all financial records of every financial institution in the State of Arkansas. from January 1978 until January 20, 1993, when Governor Clinton became President Clinton.

Mr. President, had that occurred—and I am glad it did not—and had the Banking Committee singled out one State, I was going to attempt to amend that resolution, if it was in the form of a resolution, and say, wait a minute, let us not just apply this to one State, Arkansas. Do not let this be the first time that a committee of the U.S. Senate has declared war on one of the States in this Union. Let us make it apply to New York, to all the banks and all the banking institutions, to Wall Street, and to the stock exchange. That has not been the prettiest picture for the last 15 to 18 years. Let us investigate them. Let us extend this authority there and see how far that resolution would have gotten.

Well, Mr. President, of course, I am using a little bit of exaggeration. But I want to state that, for 15 years, had the Banking Committee had that authority to subpoena any and all records and any and all documents from all financial institutions in our State, it would have been a matter, I think, of egregious overreach of this body and, certainly, of the U.S. Government.

Mr. President, further, I would like to state that—and I hope the Chair will pay close attention to this, as the distinguished Senator always does—we have recently asked the Federal Bureau of Investigation to do a little workup of the amount of resources that it has committed to the Whitewater issue. I was astounded and shocked when I found out what the five major ongoing investigations by the Federal Bureau of Investigation are right now. One is Oklahoma City, which takes priority. That is where most of the resources have been expended. No. 2, the Unabomber. Well, it has paid off because we may have caught the Unabomber. That is a lot of resources, and that is a proper use of the FBI. The third is another bank scandal. I can supply what State that is in for the RECORD. Evidently, a lot of FBI resources are being allocated to that particular bank scandal. But the fourth in priority of all the investigations where the FBI is allocating its major resources is—you guessed it—Whitewater. It even surpasses the commitment that we have made to the World Trade Center bombing by terrorists some 2 or 3 years ago. Whitewater has surpassed the use of FBI personnel and financial resources, and we have gone above and beyond those funds expended and agents expended to deal with the World Trade Center bombing of 2 or 3 years ago.

That is unbelievably outrageous. In fact, some $11 million to $12 million of FBI resources have been expended just on Whitewater—$11 million to $12 million of FBI personnel, including 41 agents and 81 support personnel of the Federal Bureau of Investigation are looking at Whitewater events that happened 10, 12, 15 years ago.

Mr. President, it is time, as other speakers have said, to really get our priorities right. I am hopeful that this committee will continue, will move expeditiously, will come to a conclusion, write its report, throw that report at the Congress, and then let us let the people decide what we should do about it.

Finally, I want to say that this morning in the New York Times, finally—finally—under an editorial entitled "Replacing Kenneth Starr," who is basically the special counsel—or what I call the "special prosecutor" in the Whitewater matter down in Little Rock. The New York Times has asked for Mr. Starr to be replaced. Why have they asked for Mr. Starr to be replaced, Mr. President? Well, it is very simple. It is because Mr. Starr has conflicts of interest, which are precluding him from presenting a fair image of investigation and of factfinding in the Whitewater matter. Here is the man who is charged with prosecuting and investigating this issue. But here also is the man who has the burden of bearing these conflicts of interest. The New York Times points out this morning in its editorial "Replacing Kenneth Starr," that he is making speeches all over the country, representing controversial clients before the U.S. Supreme Court, representing, perhaps, the national Republican Party, and other groups that have direct conflicts of interest with the fair-mindedness that this hearing and process has to portray.

Mr. President, I ask unanimous consent that this editorial, "Replacing Kenneth Starr," appearing this morning in the New York Times, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 17, 1996]

REPLACING KENNETH STARR

With a Presidential election only six months away, the public needs to have confidence in the fairness, good judgment and unselfish civic purpose of the independent counsel on Whitewater. It is also important that the months of work by a large, expensive staff not be squandered. After listening to Kenneth Starr's narrow, legalistic reasons for his continued representation of wealthy, politically active clients while serving as independent counsel, we have concluded that Mr. Starr is not the person to deliver on those two goals. It is time for him to step aside and let the investigation go forward under a replacement from the senior staff.

Mr. Starr seems defiantly blind to his appearance problems and indifferent to the special obligation he owes to the American people. He and his ethics adviser, Sam Dash, keep pointing out that most of the 16 other people appointed under the independent counsel law have continued to work on private cases. They conveniently ignore the fact that Mr. Starr is one of only two such counsels to be given the task of investigating a sitting President.

"The independent counsel was never expected to become a full-time employee of the Government and leave his or her law firm," Mr. Starr told the Federal Bar Association in a haughty speech last week. That could be because never before has a lawyer assigned to investigate high government officials maintained such a conspicuously fast-paced and politically freighted private practice while assuming a major national responsibility.

The cumulative weight of Mr. Starr's conflicts have become so heavy that Mr. Dash, the top lawyer for the old Senate Watergate committee, who is paid $3,200 a week to advise Mr. Starr, defends only the formal legality of Mr. Starr's lucrative moonlighting. The law allows the court-appointed prosecutor to have an outside law practice, but Mr. Dash told Jane Mayer of The New Yorker that he would prefer that Mr. Starr serve full time. What the independent counsel is doing is proper, Mr. Dash argued later, but reasonable people may believe "there's an odor."

Mr. Dash is right about the odor, but wrong about the propriety. The independent counsel law was enacted so the public could be assured that the President would not sway Justice Department officials who work for him. But if the counsel refuses to divest himself of his own political and financial baggage, he erases the gain in public confidence that his appointment is expected to solidify.

VOL
142
PT
6
AP
15
—
24
1996
UMI

This page has steadily advocated the continuation of the Whitewater investigation in the belief that the public has the right to know the full facts about the Clinton's business dealings and related matters. But at the very outset, we asked Mr. Starr to step aside because his entanglement with conservative judges cast a shadow over his objectivity. When that did not happen, we urged him to take a leave from his law firm and appoint a deputy to oversee areas of the investigation where he had a clear conflict of interest.

But the number of those conflicts—involving big tobacco, conservative foundations, the Resolution Trust Corporation, the International Paper Company—has grown so great that voters are bound to be confused about the integrity of Mr. Starr's decision on whether to prosecute the Clintons and their close associates.

There was a time when Mr. Starr could have ameliorated such doubt with openness and a sensitivity to his obligation to the American people. That time is past. He needs to honor the work of his staff and the investment of the taxpayers by stepping down.

Mr. PRYOR. Mr. President, also, let me state that in this New Yorker magazine, dated April 22, I believe—I do not have my glasses with me—there is a splendid article entitled "How Independent Is the Counsel," once again, talking about the conflicts, talking about the image that this man who is burdened with these conflicts presents as he is attempting to portray that he is fair-minded, objective, and impartial in finding all the facts.

It is time, Mr. President, that, once again, we sort of set this ship straight, if I might say that. It is time that we move forward with a fair determination of the facts and finding of the facts. I hope the committee will proceed expeditiously. But had I had the opportunity to vote, if it were a matter before this body that required a yes or no vote, I would have voted "no."

Mr. HATCH. What is the regular order, Mr. President?

The PRESIDING OFFICER. The conference report on S. 735 is the order of business.

Mr. HATCH. Soon we will proceed on that. But while we are waiting for Senator BIDEN to come, I want to say that I have sat on the Whitewater committee. I have to say I think it has been conducted very fairly. Senator D'AMATO has bent over backward to do it fairly. I know our counsel has done a fair and decent job. In fact, I have never seen two better counsel than the two we have on both the minority and majority sides on the Whitewater matter.

I also have to say that I hope it is resolved in favor of the President and First Lady. But there are a lot of things that are very much up in the air, matters over which we have a great deal of concern. You cannot just sweep them under the rug because it has taken time. There have been obfuscation, delays, and there have been deliberate refusals to give documents, and documents have suddenly appeared. These types of things do not ordinarily happen. It has been filled with all kinds of incidents and occurrences that literally would cause anybody to say, "What is going on here? If there is nothing wrong, why all these problems?" Personally, it is bothering me.

I have to say that I am glad we are getting this on the way to a resolution. I hope we can expedite it and do it in a fair and proper way, and get it over with one way or the other. I intend to do what I can to insist on doing that.

With that, I would like to go to the regular order, and I yield to Senator BIDEN.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, I offer a motion to recommit the conference report with instructions to add provisions on wiretap authority for terrorism crimes. I send the motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] moves to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . AUTHORIZATION FOR INTERCEPTIONS OF COMMUNICATIONS IN CERTAIN TERRORISM RELATED OFFENSES.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c)—

(A) by inserting before "or section 1992 (relating to wrecking trains)" the following: "section 2332 (relating to terrorist acts abroad), section 2332a (relating to weapons of mass destruction, section 2332b (relating to acts of terrorism transcending national boundaries), section 2339A (relating to providing material support to terrorists), section 37 (relating to violence at international airports),"; and

(B) by inserting after "section 175 (relating to biological weapons)," the following: "or a felony violation under section 1028 (relating to production of false identification documentation), sections 1541, 1542, 1543, 1544, and 1546 (relating to passport and visa offenses),"; (2) by striking "and" at the end of paragraph (o), as so redesignated by section 512(a)(2);

(3) by redesignating paragraph (p), as so redesignated by section 512(a)(2), as paragraph (s); and

(4) by inserting after paragraph (o), as so redesignated by section 512(a)(2), the following new subparagraphs:

"(p) any violation of section 956 or section 960 of title 18, United States Code (relating to certain actions against foreign nations);

"(q) any violation of section 46502 of title 49, United States Code; and".

The PRESIDING OFFICER. The time is 30 minutes equally divided.

Mr. BIDEN. Mr. President, I yield myself such time as I may consume within my allotted time.

Mr. President, before I begin on this amendment, I want to just tell you, and all of my colleagues who may be listening back in the offices, that while the last vote was going on a colleague of ours, Senator WENDELL FORD, came to the floor and said, "Let me show you something my staff just downloaded from the Internet." While you were all voting on whether or not to prohibit people from being able to teach people how to make bombs knowing or intending they be used to violate the law, let me read what was downloaded. This is roughly at 3:20 p.m. today.

Attention all Unabomber wannabes. You will first have to make a mild version of thermite. Use my recipe but substitute iron filings for rust. Mix the iron with aluminum filings in a ratio of 75 percent aluminum, 25 percent iron. This mixture will burn violently in a closed space (such as an envelope). This brings us to the next ingredient. Go to the post office and buy an insulated (padded) envelope. You know, the type that is double layered. Separate the layers and place the mild thermite in the main section where the letter would go. Then place magnesium powder in the outer layer. There is your bomb!!

Now to light it. This is the tricky part, and hard to explain.

I am still quoting now.

Just keep experimenting until you get something that works. The fuse is just that torch explosive I have told you about in another one of my anarchy files. You might want to wrap it like a long cigarette, then place it at the top of the envelope in the outer layer (on top of the powdered magnesium). When the torch explosive is torn, or even squeezed hard, it will ignite the powdered magnesium (sort of a flash light) and then it will burn the mild thermite. If the thermite did not blow up, it would at least burn your enemy (it does wonders on human flesh).

You all just voted to keep that legal—to keep that legal—because of the fear, apparently, or concern that we would not be able to convince 35 recalcitrant House Members to make that illegal. That is what you did. That is what you did.

I ask unanimous consent that this be printed in the RECORD along with the baby food bomb by Warmaster, also taken off the Internet.

For all of you who are concerned about the pornography on the Internet, as I am, how do you explain banning that, which we should, and not this? Pornography deforms the mind. These bombs burn the flesh.

I ask unanimous consent that these recipes available to our children and the demented people out there in the public, the few that exist, be printed in the RECORD to know what we have just done.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ATTENTION ALL UNABOMBER WANNABES

You will first have to make a mild version of thermite. Use my recipe, but substitute iron fillings for rust. Mix the iron with aluminum fillings in a ratio of 75% aluminum to

25% iron. This mixture will burn violently in a closed space (such as an envelope). This brings us to our next ingredient. Go to the post office and buy an insulated (padded) envelope. You know, the type that is double layered. Separate the layers and place the mild thermite in the main section, where the letter would go. Then place magnesium powder in the outer layer. There is your bomb!! Now to light it . . . this is the tricky part and hard to explain. Just keep experimenting until you get something that works. The fuse is just that touch explosive I have told you about in another one of my anarchy files. You might want to wrap it like a long cigarette and then place it at the top of the envelope in the outer layer (on top of the powdered magnesium). When the touch explosive is torn or even squeezed hard it will ignite the powdered magnesium (sort of a flash light) and then it will burn the mild thermite. If the thermite didn't blow up, it would at least burn your enemy (it does wonders on human flesh!).

BABYFOOD BOMBS

(By Warmaster)

These simple, powerful bombs are not very well known even though all the materials can be easily obtained by anyone (including minors). These things are so powerful that they can DESTROY a car. The explosion can actually twist and mangle the frame. They are extremely deadly and can very easily kill you and blow the side of the house out if you mess up while building it. Here's how they work.

Go to Sports Authority or Hermans sport shop and buy shotgun shells. It is by the hunting section. At the Sports Authority that I go to you can actually buy shotgun shells without a parent or adult. They don't keep it behind the little glass counter or anything like that. It is $2.96 for 25 shells.

Now for the hard part:

You must cut open the plastic housing of the bullet to get to the sweet nectar that is the gunpowder. The place where you cut it is CRUCIAL. It means the difference between it blowing up in your face or not.

You must not make the cut directly where the gunpowder is or it will explode. You must cut it where the pellets are. When you cut through it, empty the pellets out and the white stuff (called buffer) that surrounds the pellets. There is a layer of wadding that separates the gunpowder from the pellets and that must be cut through VERY CAREFULLY! Don't use a drill! Whatever instrument you use (knife, screwdriver, etc.) you must work very slowly and don't make big movements. Friction can set it off. You now have a nice supply of gunpowder.

I have also tried this with Quail Shot. The only difference between buck and quail is that quail has very small pellets and buck has big ones.

It is strange but almost all shotgun shells have a different interior. Some have very powdery powder and some have flakes for powder. Also some have plastic wadding and some have cardboard. Usually the smaller the pellets the less gunpowder and more cardboard wadding. The smaller pellet sizes are the ones with the flakes. Also that white stuff called buffer is only used in heavy buckshot and is not found in Quail and Dove shot or other bullets with small pellets.

[Contents deleted from original.]

I would like to stress once again that this is EXTREMELY dangerous and can very easily kill you. I've done this once and it scared the——out of me and I am never doing it again. These are very destructive. If you are stupid enough to do it, wear two or three pairs of safety glasses and thick clothes to protect you from the glass. The——can still hurt you from 100 feet away. The blast is also deafening. But if you want to spread some choas, this little bomb is the way to go.

Did I mention that this is also highly illegal?

Unimportant stuff that is cool to know:

They rate shotgun shells by two numbers. Gauge and pellet size. With gauge the smaller the number the bigger the bullet (12 gauge is bigger than 14 or 16 gauge). The biggest I know of is 10 gauge, but that is very hard to find. The other number is the pellet size. The bigger the pellet the less can fit in the bullet. The advantage of a big pellet is that it is more powerful but cover an area very scarcely. The smaller pellets have a much lower velocity but there are many more pellets in the shell. Here is how the system goes: 000 buckshot (triple 0) is the very biggest. There are only 10 pellets in it but they are huge. Then comes 00, 0, 1, 2, 3, 4, 5, 6, 7. Number 7 has about 200 pellets in it. It is used for squirrels and small birds. Generally the 000, 00, 0, 1, 2, 3, and 4 have the best powder. Anything higher up has this weird flakey gunpowder that doesn't work so well.

Some Other Things That Smart People Do That Don't Want To Get Killed:

Other things you can do with the powder other than use it in a babyfood jar is to use it in a smaller jar. You will get less bang out of it but it is much safer. Some good jars to use are very small makeup jars and those little TESTORS paint bottles. The paint bottles have thick glass and it might be more dangerous. Another thing you can do with the powder is wrap it up tightly in some paper and stick a fuse in it (it is easier to put the fuse in before you wrap the paper).

Typed by the Warmaster.

The author accepts no responsibility for any misuse of information in this file. This is for information purposes only, and reading enjoyment only, and is meant to show how at any time any lunatic with a mile long police record can legally make a highly powerful bomb with almost no equipment. The author is not advocating the use of explosives in any way.

Mr. BIDEN. Mr. President, what I would like to speak to in an indirect way covers this. We have had several votes on wiretaps, and I know people are asking why am I introducing the other wiretap provision that was taken out of the Senate bill. The reason I am is I refuse to believe that, if you all hear this enough, you will not eventually decide to do the right thing on this.

The provision that I have proposed is not original with me. It was in the Senate bill that we passed. The provision would add a number—the bill we have before us, the conference report—would add a number of terrorism-related offenses to the law. I will go into those in a minute. What I have sent to the desk, if adopted, would instruct the conferees to add the same number of offenses that we are adding to the bill, to the law, to those categories of things for which the Government, with probable cause, can get a wiretap. It was in the Senate bill as introduced by Senators HATCH and DOLE. It was part of the terrorism bill reported out of Representative HYDE's Judiciary Committee. Unfortunately, by the time the bill had made it to the House, the provision was dropped.

I think it is worth talking a moment about how a wiretap statute works, the one that is in place now in the law, for it seems there is a lot of misunderstanding about it these days. I am repeating myself again to eliminate the misunderstanding. As some people tell it, you would think the FBI and BATF and the local and State police are tapping our phones left and right, that they are riding down the streets in vans with electronic devices eavesdropping into our windows and houses—which they have the capacity to do, by the way. But that is just not the way it works.

First and foremost, it is not an FBI agent but a U.S. attorney, or even the Attorney General herself, who has the power to authorize the wiretap. No. Actually, that is not quite true. The ultimate authority to issue a wiretap sits only with a Federal judge. The U.S. attorney has the power to petition the court for a wiretap, but only a judge, a judge who cannot be fired, whose salary cannot be docked by any of us in Washington, who cannot be affected in any way, only a judge may disagree with something that the Attorney General does or does not do. It is that judge who must determine that there is probable cause to believe that a specific crime—not a general crime—a specific crime has been—not is about to—has been committed; that specific people are committing that crime, and that they are doing it at a specific place. The affidavit that the U.S. attorney takes to the court, to the judge, must also satisfy what is called the necessity requirement. The judge must be convinced that other less intrusive investigative procedures have been tried and failed—that is infiltration, that is eavesdropping in a conversation, walking by, any other method—has to be convinced that they have been tried and failed or that they are unlikely to succeed in any reasonable circumstance.

That necessity requirement is meant to ensure that wiretapping is not the normal investigative technique, like physical surveillance or the use of informants. These are very serious protections, Mr. President. I believe that interposing a court between the prosecutor and the wiretap is a citizens' best protection.

But even before we get to the judge who makes his decision, there is a very painstaking, stringent process within the Justice Department for determining when to seek a court authorization for a wiretap.

First, the agent in the field, under the supervision of his or her supervisor, must write an affidavit, a sworn affidavit, that they must sign that sets out all the particular facts relating to

VOL
142
PT
6
AP
15
—
24
1996
UMI

probable cause, because even if an order is granted based on the agent, if he is lying, then that information is gone even if the judge issued the wiretap order.

So, on the front end, you have to have a sworn law enforcement officer swear that the information they are writing down as to why they think a crime has been committed is true. They are liable. An assistant U.S. attorney then must take that affidavit from the FBI agent and draft an application and a proposed order for the court to sign. The package then must be sent from the U.S. attorney in Wilmington, DE, or in Manchester, NH, and sent down to Washington. The U.S. attorney cannot just walk into the courtroom of the Federal judge or to any of the judges, and say, "Judge, I want a wiretap." They must send it down to Washington. Once the package is sent to Washington, the Criminal Division of the Justice Department takes a look and scrutinizes the affidavit and discusses any necessary changes or additions or questions they have with the U.S. attorney that is handling the case back in Manchester, Wilmington, or Salt Lake City.

Then a detailed memorandum summarizing the facts and legal issues and addressing the application's compliance with each statutory requirement is sent to the Assistant Attorney General. All these materials are then sent to the Assistant Attorney General or Deputy Attorney General for final review and final authorization, and then it is sent back to Manchester, sent back to Wilmington, sent back to Salt Lake City. The U.S. attorney then petitions the court and then goes in and sees a judge.

This is painstaking. It is time consuming, as well it should be, for we want to make sure that wiretaps are used in only the most serious cases. We want to make sure that they are used only as a last resort when all other less intrusive techniques have failed, and we want to make sure that the Government is not making unwarranted intrusions into our privacy. But we also need to make sure that law enforcement has the tools, if they meet all these hurdles, to catch the bad guy.

Now, this provision that I have offered, that we already voted on, will provide an important tool. Let me just point out there is currently a very long list of crimes for which a wiretap can be authorized. Let me make this point because a lot of nonlawyers or people who do not practice criminal law are not aware of this as well.

You cannot get a wiretap, even if you do all the things I just said, unless you turn to the Criminal Code, and you have all these crimes listed in the Criminal Code. OK. You may find a crime in one section, and then you have to turn to another section, section 251, of the Criminal Code entitled, "Authorization for Interception of Wire, Oral or Electronic Communications." And then you have to find there in subsection (c) the list of offenses for which you can get a wiretap. Not every crime is entitled to have a wiretap attached to it.

So it is a two-step process. First, you have to prove there is a crime being committed that is a violation of the Federal law. Second, you have to go through all these procedures that I outlined to safeguard that it is not willingly used by the Government to intrude on your privacy. And then, in that process, you have to make sure it is a listed crime for which you can seek a wiretap. OK.

Now, some of those crimes for which you can seek a wiretap are murder, kidnaping, robbery, extortion, bribing public officials, witnesses, or bank officials, obstructing justice, criminal investigations or law enforcement, all manner of fraud and embezzlement, destroying cars, wrecking trains. They are all listed, all listed. And this list goes on.

The provision I am suggesting here does only one minor thing: It would add a very serious and potentially deadly terrorism offense to that list, including new offenses that are added in this legislation. The legislation we are voting on, the conference report is this thing, and in here, to the credit of the chairman and I believe to me and others who worked on this, we add new crimes, new Federal crimes, terrorism crimes for which the Federal Government can go after you if you do these bad things. But we miss one important step. We do not take these new laws and add them to the list of those things for which you can get a wiretap. This would do that, would allow wiretaps with all the procedures for the new crimes of terrorism we have in here.

It is ironic. At first I thought it was an oversight, but obviously it is intended that you not be able to use wiretaps to deal with terrorism as we outlined in the bill.

I assume my time has expired.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BIDEN. I thank the Chair.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized for 15 minutes.

Mr. HATCH. We have been doing this for a year. We are trying to pass a bill here that will make a difference against terrorist crimes. I can say categorically that there is virtually always a way to get wiretaps if the prosecution wants it, if the law enforcement people want it. To just add the word terrorism, that would be efficacious, but it still would not stop anybody—if you do not add it, it still would not stop anybody from getting the necessary wiretaps in the case of suspected terrorists.

We can overdue these technicalities to the end of the doggone Congress. The fact is, this bill contains alien terrorist removal provisions that will make a real difference. It contains designation of terrorist organizations that we do not have right now, neither of these provisions, that will make a real difference today. We have Hamas people in this country who want to murder our Jewish citizens, just to mention a few. We have Abu Nidal people in this country who want to murder our Jewish citizens and others, do anything to disrupt our economy. We have other terrorist organizations in this country. We have at least 1,500 known terrorists and organizations in this country. And we are standing here debating whether or not we should put a word into the bill.

Now, I agree I would love to put it in, but in this year-long set of negotiations and work with the other body, they did not want it put in that way. They are concerned that we are expanding wiretapping too far. It is a legitimate concern.

This world is turned upside down. When I got here 20 years ago, the conservatives wanted the wiretapping because they wanted to stop all crimes. The liberals did not want it because they were concerned about civil liberties. I can remember the battles we had in the Judiciary Committee, and they were heated and intense.

Today, it is the opposite. The conservatives, some conservatives, especially those on the far right—and I might add, the far left liberals still do not want wiretapping, but the far right conservatives are concerned because they feel like justice went awry in Waco and Ruby Ridge, the Good Ol' Boys roundup and other matters. Those are legitimate concerns that they bring.

Let me just say this. I would not mind putting this in the bill if I could at this point, but I cannot and still have a bill. We have a bill that has alien terrorist removal provisions. It would help this country all over the world. It would help other countries all over the world. Designation of terrorist organizations, we start to put a stop to terrorist organizations. It would certainly stop the fundraising. We have language that will stop the raising of funds in the United States of America that are sponsoring terrorism all over this world.

These are big provisions. These are things that can make a difference. We can get around these other technicalities, and we can get wiretaps if we need them. But we cannot get these things without this bill.

Summary exclusion of alien terrorists, we have a right to do it because of this bill. These were provisions we had to fight to get back into the bill that we had written in the Senate, provisions that will make a difference, not

some technicality that is important and I would like to have in, that the Senator from Delaware would like to have in, and rightly so. I do not have any problem with that. We have not been able to get those technicalities in, but there are ways around those technicalities today without having them in. There are no ways around these provisions, none. We cannot do these things without this bill. Without this bill we could not stop many major terrorist problems in this country that could happen in the future.

We have language in here on biological weaponry, something that is critical. Every one of us is concerned about that, and rightly so. We succeeded in getting the House to tighten up and toughen up those provisions dealing with the transportation and sale of human biological agents. That needs to be done. We should not wait a day longer; we should not wait an hour longer to get that done. We have criminal alien removal procedures. When these criminal aliens get convicted, the minute their sentence is over, they are moved. We get them out of this country so they cannot just waltz out of the jail and go and start doing further terrorist activities.

We have $1 billion in authorization money in this bill, to go to work tomorrow, if we pass this bill and as soon as the President signs it, to go to work to fight against this terrorist activity.

We have language in here that goes a long way toward tagging explosives. I could go on and on. I could talk for 4 or 5 hours on what is in this bill and why it is going to make a difference against terrorism.

I have to say my colleague from Delaware deserves his reputation as a very fine lawyer and somebody who is bringing up very good points here. Most of the language he has brought up, I wrote. Naturally, some of it I would like to have in the bill. But we can get around most of those problems with current criminal law. We cannot get around these problems I am discussing with regard to terrorism.

Let me just say on wiretapping alone, just so people understand how serious this is, in 18 United States Code, section 2518, it says:

> Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, [any, by the way] specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that—
>
> (a) an emergency situation exists that involves—
>
> (i) immediate danger of death or serious physical injury to any person,
>
> (ii) conspiratorial activities threatening the national security interest, or
>
> (iii) conspiratorial activities characteristic of organized crime,
>
> that requires a wire, oral, or electronic communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained. . . .

I would like all this clarifying language in. I would not mind having it. We had it in the Senate bill and we have worked for a year to try to get it back in and almost every major, big provision we have gotten back in. Some of this we have not. But we have ways to get around those problems.

I will repeat it. Talking in real terms, realistically, there is always a way to do it if it has to be done, to get a wiretap. But there is not always a way to remove terrorist aliens. There is not a way right now to designate terrorist organizations as terrorists and to start branding them for what they are all over the world and start using the force of American power and law against them. There is no real way to stop fundraising today for terrorist organizations in this country.

I might say there is no summary exclusion of alien terrorists today. We do not have any aspects against biological weapons.

I was the one who held the hearing just a month or so ago, showing where you could get—anybody if they were clever enough, could get human pathogens that could cause major diseases all over this country.

I might add, we do not have any current criminal alien removal procedures. This bill grants all of that.

We do not have habeas corpus reform, death penalty reform in this country. That alone, the people who have suffered, the victims of the Oklahoma City bombing would be enough to justify this bill. But I am giving you bigtime stuff that will make a difference against terrorism. These other matters, we can get around those in most instances.

I am telling you, I will just say one other thing. I am committing right here on the floor today I will do everything in my power, as chairman of the Judiciary Committee and as one of 100 Senators here, to try to correct some of these matters in the future, after we have these studies that help us to know how to correct them and after we can get rid of some of these perceptions that law enforcement is too intrusive and is not protective of the civil rights and liberties of people in this country.

I believe it is. I believe our law enforcement people are the best in the world. We have occasional mistakes, but I think the FBI is the best in the world. I think our Justice Department is the best in the world. I think ATF does a very good job and they are cleaning up a lot of problems that have existed in the past in the eyes of most people who own guns in this country, and they are doing it, I think, in an expeditious and good way. I am proud of the law enforcement in this country. I want to give them the tools and I want to work hard to make sure we have them. But we have to give them these tools now. We have to start fighting terrorism, instead of really babbling, here, on the floor of the U.S. Senate.

The longer we go the more difficult it is to get this through over in the House. If we change one word of this and go back to conference, I can tell you right now we are in danger of losing the bill. So, sure I can improve any bill. Just make me a dictator and let me write whatever I want to and I guarantee you it will be perfect. At least that is the idea of some people in this body. But we have to live in the real world of bringing 100 Senators, 435 Representatives—535 minds together and, by gosh, we have done a pretty good job.

When the Senator read the Internet bomb description, had his idea—and I might add even I would agree with the idea—been the law, he might have been in violation of his own law. The fact of the matter is, there are still ways of getting around that problem. We can go after bomb makers, under this bill. We can make a difference.

I just wanted to mention a few things that we are really fighting for here, major issues, major issues that can help us against crime, against terrorism, that will help to prevent future terrorist activities. Do we have everything in this bill? I said from the beginning, no, we do not, because we have to bring together at least half of the 535 people serving in both Houses of Congress. But we have a lot of things in this bill I never thought we would get there, through 535 people. This is a bipartisan bill. It is a bill that both Republicans and Democrats have fashioned. Frankly, I am proud of it and I would like to get about passing it.

In that regard, then, on behalf of Senator DOLE and myself, I move to table the Senator's motion and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, may I make a suggestion? There are several colleagues who apparently will have difficulty getting here in the next 5 minutes for this vote. Senator KENNEDY is on the floor, ready to proceed with an amendment. Maybe we could just stack the two? I have been opposing stacking them all day.

Mr. HATCH. Mr. President, I ask unanimous consent we stack the next two votes to occur immediately after the time expires on Senator KENNEDY's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield myself 60 seconds on the bill. I have two responses.

VOL
142
PT
6
AP
15
—
24
1996
UMI

My distinguished and able colleague has mixed up apples and oranges here. The section he read from the wiretap statute related to emergency wiretaps that do not require a court order at the front end.

What we are talking about are wiretaps where they want to go in and we want to prove they have probable cause to get the wiretap in the first case.

Second, I agree with everything that he says about the good parts of the bill. They were in the same bill I introduced, most of those things. I am for them. But the problem is, he mentioned there are 1,500 terrorists out there, or whatever the number. Under the bill now we create a new crime relating to providing material support for terrorists, if you send money to Hamas and provide material support or an automobile or a train ticket or whatever it is, and it is not a crime. It is a Federal crime now, but one for which you cannot get a wiretap. That seems to make no sense to me and that is why I have introduced this amendment.

I yield the floor to my friend from Massachusetts.

Mr. HATCH. Mr. President, if my friend from Massachusetts will just allow me to respond for 15 seconds, I will just make the statement again. Realistically, in this real world, if law enforcement wants to get a wiretap, whether emergency or otherwise, it is going to be able to get it. That has been my experience and I think it has been the experience of every prosecutor, I think, in this country.

Mr. BIDEN. I yield myself 15 more seconds on the bill. That is the very thing we do not want to happen. We want prosecutors to operate under the law. We do not want to further ignite the imagination of those folks over in the House. We want them to do it by the numbers, not with imagination.

Mr. HATCH. Mr. President, I would just add, they will do it by the law, but realistically they can do it. I have also said that I will work with the distinguished Senator from Delaware to try to resolve these problems in a formal bill in the future, as we examine this more carefully. I think we can do that job. But it is misleading, to think the American people are not going to be protected, from a wiretap standpoint, when I know the law enforcement officials can use wiretaps and can get them, realistically, in almost every situation.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that I may speak on the conference report without the time being charged to the remaining 20 minutes of the general debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, it is a year since the tragic bombing of the Federal building in Oklahoma City, and 10 months since the Senate passed a bill to give Federal law enforcement agencies the effective assistance they need to deal with these crimes.

Unfortunately, the conference report before us is a far weaker bill than the measure we passed last year. All that is left now is the hollow shell of a terrorism bill, a mockery of the strong bipartisan legislation passed by the Senate. Most of the meaningful antiterrorism measures passed by the Senate have been stripped out by the House, so that this bill is far less likely to deter terrorist crimes or aid in the apprehension of terrorists.

Using the phony label of antiterrorism, the bill achieves two reprehensible goals: it denies meaningful habeas corpus review to State death row inmates, and it makes it easier to turn away refugees and victims of political persecution from America's shores.

Everyone knows what happened to this bill. It fell victim to the anti-Government assault of the National Rifle Association. After the Senate passed a tough, effective terrorism bill, the NRA stepped in and prevented House action for months. Then the NRA's supporters in the House stripped the bill of key provisions to strengthen Federal law enforcement.

As a result of the NRA's maneuvering, the conference report before us is completely inadequate to meet the needs of law enforcement. The Senate still has a chance to insist on a real terrorism bill, and not a sham bill. We should send this bill back to conference, and insist that the conferees restore the tough Senate provisions.

There are numerous glaring gaps in the conference report:

It does not include the expanded wiretapping authority that the FBI has said is necessary to keep up with current telecommunications technology.

It does not address the dangerous reality that bomb-making information is now freely disseminated on the Internet.

It does not include a Senate-passed provision extending the statute of limitations for serious firearms offenses.

It does not include a necessary exception to the posse comitatus laws so that military experts can provide technical assistance to law enforcement in terrorist attacks involving chemical or biological warfare.

Each of these measures was included in the Senate bill, but has been stripped out of the conference report at the insistence of the NRA.

And while the bill is clearly deficient in these respects, it includes other provisions that are too extreme in limiting the rights and liberties of individuals:

It eviscerates the ancient Writ of Habeas Corpus, denying death row inmates the opportunity to obtain even one meaningful Federal review of the constitutionality of their convictions.

It returns to the discredited cold war guilt-by-association policy of the McCarran-Walter law, excluding individuals from our shores based on mere membership in an organization. Current law already contains authority to exclude members of known terrorist organizations. The far broader sweep of this bill is unnecessary and excessive.

It places excessive restrictions on the ability of refugees to obtain asylum in the United States. This provision was never considered by the full Senate, and it ought to be debated on the immigration bill, not the terrorism legislation.

Mr. President, I point out here what has been happening. Asylum claims decline 57 percent as productivity doubles in 1995. What we have seen is the dramatic reduction in terms of the asylum claims. In 1994, there were 122,000; 60,000 completed.

In 1995, 53,000; 126,000 were completed. The Justice Department has a handle on this issue. It is doing it in a conscientious, fair, and disciplined way, and we ought to retain it and not be caught up with other facts and figures.

Every omnibus bill requires Members of Congress to weigh the good provisions against the bad ones. I voted for the Senate bill even though it included the objectionable limits on habeas corpus. But the balance has changed, now that the Senate bill has been seriously weakened. There is too little to place on the scale against the shameful trashing of the writ of habeas corpus and the Nation's asylum system.

It is unfortunate that the unrelated and controversial subject of habeas corpus was injected into this bill in the first place. Proponents say that habeas corpus is relevant because the suspects in the Oklahoma City bombing are charged with a Federal capital offense. But that fact is no justification for changing the rules with regard to State prisoners.

The habeas corpus proposals do not strike a fair balance. The bill denies death row inmates a full opportunity to raise claims of innocence based on newly discovered evidence. It will therefore increase the likelihood that innocent people will be executed. The proposal to limit inmates to one bite at the apple is sound in principle. But surely the interest in swift executions must yield to new evidence that an innocent person is about to be put to death. As Supreme Court Justice Potter Stewart once wrote, "Swift justice demands more than just swiftness."

Also, the proposal would unwisely require Federal courts to defer to State courts on issues of Federal constitutional law. A Federal court could not grant a writ habeas corpus based on Federal constitutional claims, unless the State court's judgment was "an unreasonable application of Federal law."

It is a serious mistake to require a Federal court to defer to the judgment of a State court on matters of Federal constitutional law. The notion that a Federal court should be prevented from correcting a constitutional error because it was a reasonable error is unacceptable, especially in a capital case. Ever since the days of Chief Justice John Marshall, the Federal courts have served as the great defenders of constitutional protections, and they should remain so.

The asylum provisions in this bill are equally misguided.

The Senate-passed bill did not address this subject, because it is more appropriately dealt with as part of immigration reform. But the conferees adopted House-passed language that drastically limits the ability of refugees to claim asylum if they arrive without proper documents. This provision undermines the fundamental treaty obligations of the United States by subjecting legitimate refugees to persecution and even torture.

It is often impossible for asylum seekers fleeing persecution to obtain a valid passport or travel document before they leave. Even the effort to obtain a travel document from the same government that is the persecutor may result in further danger to the asylum seeker. People may die or may be tortured while waiting for the proper papers. Accepting this reality, the U.N. High Commission on Refugees has recognized that circumstances may compel a refugee to use fraudulent documents to escape persecution.

This fact has long been recognized under international law. The United States has international obligations to protect refugees and asylum seekers who use fraudulent documents to escape persecution abroad. Article 31 of the U.N. Convention Relating to the Status of Refugees imposes an obligation on the United States not to penalize refugees and asylum seekers who are fleeing persecution, and who present fraudulent documents or no documents at all.

Under current practice, when asylum seekers arrive in the United States without valid travel documents or a passport, they are placed in detention. Generally, they are released from detention only if an asylum prescreening officer believes they have a sound case. That is the dramatic change in the way the Justice Department is considering the asylum seekers at the present time and how they were considered a number of months ago. Otherwise, they must pursue their asylum claim while in detention.

The pending bill significantly changes this process. It gives the prescreening officer the authority to deport an asylum seeker who enters with false or no documents. The office can deport the asylum seeker without a full hearing. An immigration judge never sees the case. In addition, the asylum seeker has no access to the assistance of counsel or even an interpreter.

As we consider this unprecedented proposal, we should remind ourselves of Raoul Wallenberg, the hero who saved countless lives during the Holocaust by issuing false travel documents so that Jews could escape Hitler's persecution. If this bill had been law in 1946, those Jews could have been returned to Europe without so much as a hearing.

Finally, the bill is flawed because it excludes foreigners from our shores based on mere membership in a disfavored organization.

In the days of the cold war, distinguished writers, professors, and others were excluded from the United States based on their mere membership in a Communist organization. Finally in 1990, we repealed the notorious McCarran-Walter law and set exclusion criteria based on individual actions, not their words.

This bill is a giant step backward. It explicitly sets excessive exclusion criteria based on membership in an organization, even though it would be grossly unfair to assume that all or even most members of the organization are terrorists.

Current law already gives broad authority to exclude members of terrorist organizations in such cases, and the blunderbuss provision in this bill is unneeded. If applied to American citizens, it would be a violation of the first amendment.

The harm caused by the habeas corpus, asylum, and exclusion provisions of this bill is severe, and the good accomplished by the antiterrorism sections of the bill is minor. I urge the Senate to send this defective bill back to conference with instructions to do the job right—and produce a real antiterrorism bill that gives law enforcement the tools it needs to get the job done.

I thank the chairman and the ranking minority member of the committee for letting me address the Senate on this issue.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have listened to my distinguished colleague and friend, and he would like to restore the Senate bill. We just cannot do that. I was very proud of that Senate bill. I wrote most of it and, frankly, I think our colleagues worked together to come up with a good bill. When it went to the House, the House enacted a bill which really was much less than the Senate bill. We have gone to conference and have brought most all of the Senate bill back.

The distinguished Senator from Massachusetts says that this bill we have today is a hollow shell. Now, come on. Let me just go through some highlights of this bill.

We have most everything back, and the things we do not have back, we can probably, in the real world, solve anyway, under current existing law. I have to say, yes, I would prefer the original Senate bill, but let me give you one illustration.

In the fundraising provisions, I might add that the Antidefamation League, and others of similar mind—and I am of similar mind—believe that our fundraising language is far superior in this bill than it was in the Senate bill. I know it is far superior.

We were able to work that out with our colleagues in the House. That alone is a reason for preferring this bill over the Senate bill, plus the added promise that I have made here that I will try to work out these wiretap and other issues, or at least the wiretap issues, in the Senate Judiciary Committee.

But just look at the highlights of this antiterrorism bill. Capital punishment reform, death penalty reform, something that has been needed for years, decades. It is being abused all over the country. There are better than 3,000 people who have been living on death row for years with the sentences never carried out, the victims going through the pain every time they turn around. This will solve that problem while still protecting their constitutional rights and every right of appeal that they really should have. It is written well.

The international terrorism prohibitions, prohibitions on international terrorist fundraising. As I have said, the Anti-Defamation League, AIPAC, and a whole raft of others that are concerned in this area, like the language in this bill much better than the language in the Senate bill.

This subtitle adds to Federal law prohibitions which provide material support to, or raise funds for, foreign organizations designated by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to be terrorist organizations.

We have the Terrorist and Criminal Alien Removal and Exclusion Act in this bill. We remove alien terrorists, and we provide very good language that was very much the same as the Senate language.

We have the exclusion of members or representatives of terrorist organizations, the alien terrorists exclusion, if you will. This permits, as a new legal basis for alien exclusion, the denial of entry into the United States of any person who is a representative or member of a designated terrorist organization.

We have a whole title on nuclear, biological, and chemical weapons restrictions. These are not picayune provisions. This is big-time stuff. This is something this country has needed for years and the whole world needs. We have it in this bill.

VOL
142
PT
6
AP
15
—
24
1996
UMI

We have the expansion of scope and jurisdictional bases of nuclear materials prohibitions and a report to Congress on thefts of explosive materials from armories. We require the Attorney General, together with the Secretary of Defense, to undertake a study of the number of thefts of firearms, explosives, and other terrorist-type materials from military arsenals. We will make them get on these things.

We have biological weapons restrictions, enhanced penalties, and control of biological agents. We have chemical weapons restrictions, chemical weapons, and biological weapons of mass destruction. We provide for a study of the facility for training and the evaluation of personnel who respond to the use of chemical or biological weapons in urban or suburban areas.

We have the implementation of the Plastic Explosives Convention in here. We have the marking of plastic explosives. We have studies on the marking of other explosives and putting taggants on them.

We have made a whole bunch of modifications in criminal law to counterterrorism, increased penalties for conspiracies involving explosives. All this talk about explosives. We provide language in here that will help to solve those problems.

Acts of terrorism transcending national boundaries, we have language on that. We have criminal procedure changes in here that would make a real difference with regard to certain terrorism offenses overseas, the clarification of maritime violence jurisdiction, increased and alternate conspiracy penalties for terrorism offenses, clarification of Federal jurisdiction over bomb threats. The expansion and modification of weapons of mass destruction statute is in here, the addition of terrorism offenses to the money laundering statute.

We have the protection of Federal employees in here mainly because it is needed now in this day and age with some of the vicious people we have to put up with in our society. We have the protection of current and former officials in here, officers, employees of the United States.

We have the death penalty as an aggravating factor. We solve that and add multiple killings to the list of aggravating factors in the imposition of the death penalty. We have detention hearing language in here and directions to the sentencing commission.

I have to say, we have a whole raft of other things that I do not have time to mention. Look, it is time to pass this terrorism bill. It is time to let the people in Oklahoma City know we mean business here.

Is the time expired on both sides? On behalf of the majority leader and I, I move that we table the Kennedy amendment and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays.have been ordered. The question occurs on agreeing to the motion to table.

Mr. HATCH. Mr. President, do we have motions to table on both of these amendments? And will they be back to back?

The PRESIDING OFFICER. There is only one amendment. The Senator from Massachusetts did not offer an amendment.

Mr. HATCH. He did not. I am happy to then proceed with the vote on the Biden amendment.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to table the motion to recommit. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 68 Leg.]

YEAS—56

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
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Domenici
Exon
Faircloth
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Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—43

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—1

Mack

The motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SMITH. Mr. President, I rise to commend Senator HATCH and the other members of the conference committee for incorporating what originated in this Congress as my bill, S. 270, the Alien Terrorist Removal Act of 1995, into the conference report on S. 735, the Anti-Terrorism and Effective Death Penalty Act of 1996.

I also want to thank Senator SPECTER again for the opportunity to testify before his Judiciary Subcommittee on Terrorism last summer regarding my alien terrorist removal bill.

My bill—now the alien terrorist removal section of the conference report on S. 735—essentially embodies the Smith-Simpson amendment that the Senate passed unanimously as part of the crime bill in the last Congress. Unfortunately, certain House members of the conference committee on the 1994 crime bill insisted on the deletion of the Smith-Simpson amendment from that legislation.

After I introduced S. 270 early in the first session of this Congress, the Clinton administration proposed its own substantially identical version of my bill as part of its omnibus antiterrorism legislation. Then, in the wake of the Oklahoma City bombing, Senators DOLE and HATCH introduced S. 735, which incorporated the substance of my bill, S. 270. S. 735, of course, passed the Senate by a vote of 91 to 8 last June.

Unfortunately, when S. 735 reached the House, the alien terrorist removal provisions of the Senate-passed bill were removed from the legislation. Commendably, however, Senator HATCH steadfastly insisted that the conference committee include an alien terrorist removal section in its conference report on S. 735. Fortunately for our Nation, Senator HATCH succeeded in that effort.

Let me summarize briefly for the benefit of my colleagues what the alien terrorist removal section of S. 735 is all about. The alien terrorist removal provisions of the bill would establish a new, special, judicial procedure under which classified information can be used to establish the deportability of alien terrorists.

The new procedures that are established under section 401 of S. 735 are carefully designed to safeguard vitally important national security interests, while at the same time according appropriate protection to the necessarily limited due process rights of aliens.

Under current law, Mr. President, classified information cannot be used to establish the deportability of terrorist aliens. Thus, when there is insufficient unclassified information available to establish the deportability of a terrorist alien, the Government faces two equally unacceptable choices.

First, the Justice Department could declassify enough of its evidence against the alien in question to establish his deportability. Sometimes, however, that simply cannot be done because the classified information in question is so sensitive that its disclosure would endanger the lives of human

sources or compromise highly sensitive methods of intelligence gathering.

The Government's second, and equally untenable, choice would be simply to let the terrorist alien involved remain in the United States.

Sadly, Mr. President, what I have just described is not a hypothetical situation. It happens in real cases. That is why the Department of Justice, under both Republican and Democratic Presidents and Attorneys General, has been asking for the authority granted by my bill—now section 401 of S. 735—since 1988.

Utilizing the existing definitions of terrorism in the Immigration Act of 1990 and of classified information in the Classified Information Procedures Act, section 401 of S. 735 would establish a special alien terrorist removal court comprised of sitting U.S. district judges designated by the Chief Justice of the Supreme Court of the United States. This new alien removal court is modeled on the special court that was created by the Foreign Intelligence Surveillance Act.

Under section 401 of S. 735, the U.S. district judge sitting as the special court would personally review the classified information involved in camera and ex parte.

Where possible, without compromising the classified information involved, the alien in question would be provided with an unclassified summary of the classified information in order to assist him in preparing a defense.

Ultimately, the special court would determine whether, considering the record as a whole, the Justice Department has proven, by a preponderance of the evidence, that the alien is a terrorist who should be removed from the United States.

Finally, Mr. President, any alien who is ordered removed under the provisions of section 401 of S. 735 would have the right to appeal to the U.S. Court of Appeals for the District of Columbia Circuit.

Mr. President, the most serious national security threat that our Nation faces in the post-cold-war world is the scourge of international terrorism. That threat became reality in 1993 with the terrorist attack on the World Trade Center in New York City. Tragically, with the Oklahoma City bombing 1 year ago this week, we learned the bitter lesson that we face the threat of terrorism from domestic extremists as well.

Now, this historic 104th Congress is responding, strongly and effectively, to address the twin terrorist threats that we face. I urge the prompt adoption of the conference report on S. 735 by the Senate and, once again, I commend the conferees for incorporating my alien terrorist removal bill into their landmark legislation.

Mr. LEAHY. Mr. President, I am encouraged that the conference report includes important provisions that I proposed back in June 1995, when the Senate began consideration of antiterrorism legislation. These provisions were adopted by the Senate and then passed as part of the original S.735 and passed a second time last year by the Senate as part of H.R. 665, our version of the mandatory victim restitution legislation. They are now included as sections 231 and 232 of the conference report. It is astonishing that at the time I added these provisions to the bill there were no victims-related measures in any antiterrorism legislation.

When the bomb exploded outside the Murrah Federal Building in Oklahoma City last year, my thoughts and prayers, and I suspect that those of all Americans, turned immediately to the victims of this horrendous act. It is my hope that through this legislation we will proceed to enact a series of improvements in our growing body of law recognizing the rights and needs of victims of crime. We can do more to see that victims of crime, including terrorism, are treated with dignity and assisted.

The conference report incorporates the provisions of the Justice for Victims of Terrorism Act, which will accomplish a number of worthwhile objectives. They include a proposal to increase the availability of assistance to victims of terrorism and mass violence here at home.

We, in this country, have been shielded from much of the terrorism perpetrated abroad. That sense of security has been shaken recently by the bombing in Oklahoma City, the destruction at the World Trade Center in New York, and assaults upon the White House. I, therefore, proposed that we allow additional flexibility in targeting resources to victims of terrorism and mass violence and the trauma and devastation that they cause.

The conference report includes these provisions to make funds available through supplemental grants to the States to assist and compensate our neighbors who are victims of terrorism and mass violence, which incidents might otherwise overwhelm the resources of a State's crime victims compensation program or its victims assistance services. I understand that assistance efforts to aid those who were the victims of the Oklahoma City bombing are now $1 million in debt. These provisions should help.

The substitute will also fill a gap in our law for residents of the United States who are victims of terrorism and mass violence that occur outside the borders of the United States. Those who are not in the military, civil service, or civilians in the service of the United States are not eligible for benefits in accordance with the Omnibus Diplomatic Security and Antiterrorism Act of 1986. One of the continuing tragedies of the downing of Pan Am flight 103 over Lockerbie, Scotland, is that the United States Government had no authority to provide assistance or compensation to the victims of that heinous crime. Likewise, the U.S. victims of the Achille Lauro incident could not be given aid. This was wrong and should be remedied.

In its report to Congress in 1994, the Office for Victims of Crime at the U.S. Department of Justice identified the problem. Both the ABA and the State Department have commented on their concern and their desire that crime victims compensation benefits be provided to U.S. citizens victimized in other countries. This bill takes an important step in that direction. Certainly U.S. victims of terrorism overseas are deserving of our support and assistance.

In addition, I believe that we must allow a greater measure of flexibility to our State and local victims' assistance programs and some greater certainty so that they can know that our commitment to victims programming will not wax and wane with events. Accordingly, the conference report includes an important provision to increase the base amounts for States' victims assistance grants to $500,000 and allows victims assistance grants to be made for a 3-year cycle of programming, rather than the year of award plus one, which is the limit contained in current law. This programming change reflects the recommendation of the Office for Victims of Crime contained in its June 1994 report to Congress.

I am disappointed that some have objected to an important improvement that would have allowed all unspent grant funds to be returned to the crime victims fund from which they came and reallocated to crime victims assistance programs. I believe that we ought to treat the crime victims fund, the violent crime reduction trust fund, and Violence Against Women Act funds with respect and use them for the important purposes for which they were created.

The crime victims fund, we should remember, is not a matter of appropriation and is not funded through tax dollars. Rather, it is funded exclusively through the assessments against those convicted of Federal crimes. The crime victims fund is a mechanism to direct use of those funds to compensate and assist crime victims. That is the express purpose and justification for the assessments.

Accordingly, I believe it is appropriate for those funds to be used for crime victims and, when not expended for purposes of a crime victims program, they ought to be returned to the crime victims fund for reobligation. Instead, because of a technicality in the application of the Budget Act, the conference report includes a change from

VOL
142
PT
6
AP
15
—
24
1996
UMI

the language that I proposed and that was approved by the Judiciary Committee and previously by the Senate. My language would have returned all unspent crime victims grant funds to the crime victims fund. The conference report will require that some of the money that came from the crime victims fund go, instead, to the general Treasury if it remains unobligated more than 2 years after the year of grant award. I am pleased that we have been able to obtain some concession in this regard and note that the unobligated funds must exceed $500,000 in order to revert to the general Treasury.

Fortunately, the Office for Victims of Crime has improved its administration of crime victims funds and that of the States over the past 3 years to a great extent. While more than $1 million a year has in past years remained unobligated from grants made through the States across the country, in 1994 that number was reduced below $125,000. The Director of the Office for Victims of Crime, Aileen Adams, should be commended for this improvement. It is my hope that the administration of crime victims fund grants will continue to improve through the Department of Justice and the States and that the Department of Health and Human Services will, likewise, improve its oversight and grant administration and encourage the States to be more vigilant. If so, the change in the language of the bill from that previously adopted by the Senate and by the Judiciary Committee will not result in a significant diversion of crime victims fund money to other uses.

I also regret that the emergency reserve is not structured as I recommended. I would limit the reserve to the highest level of annual deposits placed in the fund in the past 5 fiscal years. This would allow the emergency reserve to fulfill its purpose as a rainy day fund and smooth the distribution of aberrational deposit pattern. Further, I hope that we will soon reconsider the 40-percent cap of Federal contributions to State victim compensation awards and other suggested improvements to the Victims of Crime Act.

Our State and local communities and community-based nonprofits cannot be kept on a string like a yo-yo if they are to plan and implement victims assistance and compensation programs. They need to be able to plan and have a sense of stability if these measures are to achieve their fullest potential.

I know, for instance, that in Vermont Lori Hayes at the Vermont Center for crime victims Services, Judy Rex at the Vermont Network Against Domestic Violence and Sexual Abuse, and many others provide tremendous service under difficult conditions. I was delighted to be able to arrange a meeting between them and the Attorney General of the United States when Attorney General Reno recently visited Vermont. They will be able to put increased annual assistance grants to good use. Such dedicated individuals and organizations will also be aided by increasing their programming cycle by even 1 year. Three years has been a standard that has worked well in other programming settings. Crime victims' programming deserves no less security.

In 1984, when we established the crime victims fund to provide Federal assistance to State and local victims' compensation and assistance efforts, we funded it with fines and penalties from those convicted of Federal crime. The level of required contribution was set low. Twelve years have passed and it is time to raise that level of assessment in order to fund the needs of crime victims. Accordingly, the conference report includes as section 210 a provision that I worked on with Senator MCCAIN and that the Senate previously passed as an amendment to the antiterrorism bill last summer. It doubles the special assessments levied under the Victims of Crime Act against those convicted of Federal felonies in order to assist all victims of crime.

I do not think that $100 to assist crime victims is too much for those individuals convicted of a Federal felony to contribute to help crime victims. I do not think that $400 is too much to insist that corporations convicted of a Federal felony contribute. Accordingly, the conference report would raise these to be the minimum level of assessment against those convicted of crime.

While we have made progress over the last 15 years in recognizing crime victims' rights and providing much-needed assistance, we still have more to do. I am proud to have played a role in passage of the Victims and Witness Protection Act of 1982, the Victims of Crime Act of 1984, the Victims' Rights and Restitution Act of 1990, and the victims provisions included in such measures as the Violent Crime Control and Law Enforcement Act of 1994. I thank my colleagues for their acceptance of the provisions of the Justice for Victims of Terrorism Act.

I thank the outstanding crime victims advocates from Vermont for their help, advice, and support in connection with the Justice for Victims of Terrorism Act and the improvements it includes to the Victims of Crime Act. I also thank them for the work they are doing by developing and implementing programs for crime victims in Vermont.

In addition, I thank the National Organization for Victim Assistance, the National Association of Crime Victim Compensation Boards, and the National Victim Center for their assistance and support in the development of the Justice for Victims of Terrorism Act. Without their help, we could not make the important progress that its provisions contain. I appreciate the cooperation of all those who have worked to incorporate these improvements to the Victims of Crime Act in this measure.

It is important to me that we do all we can to bring stability to the crime victims fund so that the State programs for compensating and assisting victims of crime can plan and provide services for victims that increase and expand across our States in the coming years. I hope that we can continue to cooperate and refine the Victims of Crime Act's provisions.

Mr. FEINGOLD. Mr. President, it has been nearly 1 year since America was shocked and outraged by the bombing in Oklahoma City.

The anguish and the pain caused by this cowardly act left a marked impression on each of us which remains today.

That which had formerly been reserved for distant parts of the globe—acts of savage terrorism—was now being visited upon the citizens of this Nation.

There can be no debate that we must respond to these acts, as we must all acts of crime, with the singular and unyielding purpose of capturing, prosecuting and punishing the responsible individuals.

Unfortunately, in the 12 months that has passed since Oklahoma City, this legislation has been subject to many varied interests—interests placing certain proposals above the underlying goal of responding to terrorism in the measured and focused manner necessary to protect the citizens of this Nation.

Unfortunately, many of the proposals which have been offered throughout this debate to combat terrorism simply went too far and placed the civil liberties of all Americans in peril.

For this simple reason I opposed language included in the Senate bill which would have expanded the scope of wiretap authority and would have injected the military into areas of law enforcement which are better left to local officials.

I am concerned that these provisions move us toward unwarranted expansion of Federal power. Accordingly, I support the removal of these provisions from the final package.

However, just as some of those proposals overstepped the boundaries of civil liberties, the final conference report remains flawed.

Careful review of this legislation reveals that it contains very few substantive provisions which would have prevented or helped prevent the Oklahoma City tragedy.

As I said when the Senate considered this legislation last summer, it is essential that law enforcement be given the resources and support necessary to investigate and prosecute terrorists.

To truly protect citizens of this Nation, terrorists must be stopped before they strike—before they take innocent lives in some misguided effort to prove the validity of their agenda.

That is why I am so troubled when I hear the suggestion that the single most effective antiterrorism provision in this bill is the alleged reform of habeas corpus.

The link between habeas corpus and keeping the people of this Nation free from acts of terrorism is tenuous at best. The argument that these habeas provisions will prevent another Oklahoma City is one which is manufactured solely to justify inclusion of these unrelated provisions in a bill originally meant to address terrorism.

These so-called habeas reforms will do nothing to rid our communities of dangerous persons who may strike against innocent people.

The only time habeas corpus is even remotely related to terrorism is after the terrorist has committed an act of terrorism, has been apprehended, convicted and is sitting in a prison cell.

Once again political expediency has obscured sound policy making. In the words of the New York Times, "Members of Congress are exploiting public concerns about terrorism to threaten basic civil liberties."

Many of my colleagues want very sincerely to address what they perceive to be abuses in the use of habeas corpus. These efforts, however, should not be hidden behind the unsustainable claim that doing so in anyway makes the people of this Nation less likely to be attacked by terrorists.

Further, the provisions in the conference report go well beyond reform and eviscerate the constitutional underpinnings of habeas corpus. Just as many of the law enforcement provisions went too far, so too do the habeas provisions.

By setting unreasonable limitations and standards of review available on appeal of constitutional violations, this bill greatly enhances the potential that this Nation will execute an innocent person for a crime they did not commit.

I do not disagree with my colleagues who argue that justice must be served. The families of the victims and the American people deserve as much. However, the pursuit of justice does not require us, as these habeas provisions do, to depart from over 200 years of constitutional protections.

Justice is not served by the execution of an innocent human being. The families of the victims and the American public will find no comfort from such an occurrence.

Like so many facets of this bill, the habeas provisions of this bill lack any semblance of reasonable balance.

A recent March 20 editorial from the Milwaukee Journal Sentinel entitled "A needless overreaction to terrorism" criticized these provisions and pointed out the fallacy of the alleged link between habeas reform and terrorism or that these provisions will have any deterrent effect.

In the words of the Journal;

> It's difficult to see how limits on appeals by prison inmates would deter terrorism. Most such prisoners have been convicted of ordinary—not political—crimes. Besides, many terrorists are willing to undergo punishment, even death, for the causes they believe in.

The inclusion of habeas reform in this legislation has very little to do with terrorism and a great deal to do with advancing an agenda which has previously languished in the Congress.

Just as I opposed those law enforcement provisions which raised constitutional concerns, so too do I oppose these proposals.

We should be just as wary of proposals which forsake constitutional protection in the name of habeas reform as we are of those which do so in the name of expanding wiretap authority.

Mr. President, it is very likely that this conference report will become law. This is unfortunate. Not simply because bad provisions of this bill will become bad law, but because this bill represents an opportunity squandered.

This legislation started as an effort to address terrorism—to provide some protection for the citizens of this Nation against acts of terrorism. The American people deserve as much. Sadly Mr. President, for all the fanfare which will likely accompany this legislation, it fails to meet that laudable and important goal.

Mr. HEFLIN. Mr. President, I will support passage of the Terrorism Prevention Act Conference Report. Although the conference report is not as strong as the Senate-passed bill, nor is it as strong as I would like, it is much stronger than the House-passed bill and reflects a compromise between the two houses which is an essential element of our Nation's democratic process.

It is fitting that we enact this legislation around the anniversary of the tragic bombing which occurred in Oklahoma City and resulted in such a massive loss of life and injury to innocent people. We must enhance our Nation's efforts to combat domestic and international terrorism, and the conference report is a step in the right direction.

I am pleased that the conferees were able to restore many provisions which the House-passed bill deleted, such as allowing courts to expeditiously deport alien terrorists, allowing the President to designate foreign terrorist organizations so any assets they have in the United States can be more easily frozen by the Government, and making it a crime to donate or accept funds for foreign terrorist organizations. Further, the House-passed bill contained almost no funding for Federal law enforcement, and the conference report has a funding level of $1 billion for Federal and State law enforcement over a 4-year period.

The conference report contains a provision to require taggants be placed on plastic explosives, which are most commonly used by foreign terrorists, thereby making them more detectable, and it calls for a study on placing taggants on other types of explosives.

I would have preferred that the conference report contained the Senate-passed provisions allowing for multipoint wiretaps and other strong provisions, but this did not occur and motions to recommit the bill to conference with instructions to include those provisions have been unsuccessful. This is the democratic process, and I accept the will of the Senate.

That does not, however, leave this legislation a toothless tiger. It contains strong provisions to reform Federal habeas corpus laws—something that is long overdue. Reform of the habeas corpus process will speed up the imposition of sentences of those criminal convicted of especially brutal crimes. Overall, the conference report is a step in the right direction, and I urge its passage so that it can be signed by the President and allow our Nation to enhance its efforts to combat both domestic and international terrorism.

Mr. BRADLEY. Mr. President, I rise in support of the conference report to S. 735, the Antiterrorism and Effective Death Penalty Act of 1996. Almost 1 year ago today, the Oklahoma City bombing brought into sharp focus the reality and horror of domestic terrorism in America. The death toll of the bombing stands at 167, making it the deadliest mass murder in the history of the United States.

While several strong crime fighting provisions that I supported in the Senate version of the bill were deleted by the conference committee, this legislation contains tools that will enable the United States to respond to the international and domestic terrorist threats and prosecute these despicable criminal acts. On balance, Mr. President, this legislation will enhance the ability of law enforcement to combat both foreign and domestic terrorism.

Mr. President, the provisions in this bill are vitally important to our efforts to respond to international and domestic threats of terrorism. I, therefore, support this bill, and I am confident that because of our actions today, America will be more fortified against the evils of terrorism.

Mr. CHAFEE. Mr. President, for the last day and a half, the Senate has been debating the antiterrorism bill conference report. During debate, a number of motions to recommit the legislation to conference were offered.

I voted against all of them—even those with which I agree on the substance. In this situation sending the

VOL
142
PT
6
AP
15
—
24
1996
UMI

bill back to conference would not be simply a matter of adding back provisions that we in the Senate like. Sending the bill back to conference would reopen the legislation to countless changes that the House might, in turn, demand that the Senate accept.

Obviously this conference report is not perfect. No bill is. Frankly, there are some provisions I wish were still in there, and others I would gladly see dropped. For example, I would have liked to see in the final bill the Boxer amendment on the statute of limitations for firearms violations. But I recognize that the nature of a conference is compromise. And therefore the package before us is the only one on which we can act.

In conclusion, I might add, I do not believe that the door is finally shut on amendments such as the Boxer amendment. We can hopefully revisit that amendment on another bill.

Mr. BROWN. Mr. President, I rise today in support of the conference report on the Terrorism Prevention Act. This bill takes many important steps in the fight against terrorism. In particular, several key provisions will significantly strengthen U.S. efforts to combat international terrorism. In recent years, attacking terrorism has taken a back seat in U.S. foreign policy. Attacks have been waged against innocent people and allies across the world, and yet terrorists are invited to the White House where their violent rhetoric has been conveniently overlooked.

In January 1994, Gerry Adams, the leader of the Irish-national political organization Sinn Fein, was granted a visa on a Presidential foreign policy waiver to travel to the United States. In doing this, the National Security Council overruled a unanimous recommendation from the Department of State, the Department of Justice, and the intelligence community that the waiver should not be granted due to the fact that neither Adams nor the Irish Republican Army have really renounced violence in theory or in practice. This exception represents the current administration's ability to pay lipservice to stopping terrorism while failing to achieve substantive results.

In the past, Adams had been denied a visa eight times by previous administrations because of his affiliation with the terrorist organization. But since obtaining a visa in January 1994, Adams has received seven additional visas from the Clinton administration, was received by State Department officials, introduced to National Security Advisor Anthony Lake, raised money throughout the United States while touring in March 1995, and celebrated St. Patrick's Day in the White House. All of this transpired even though he has yet to renounce the use of violence to achieve political goals or denounce the plague of terrorist bombings in Great Britain.

We cannot continue to project such an inconsistent and unflattering testament of our commitment to fight terrorism. The legislation we now consider addresses many of the shortcomings in our ability to deal strongly and effectively with terrorism. The provisions in S. 735 will significantly strengthen our authority to combat international terrorism, and three sections in particular are worth noting.

Section 221 of this bill amends the Foreign Sovereign Immunities Act to permit jurisdiction of U.S. courts for lawsuits against terrorist states, as designated by the Secretary of State. Under current law, U.S. citizens are barred from suing foreign governments or state-owned foreign enterprises unless the alleged injury is directly related to the commercial activity of the foreign government. In other words, American citizens can be tortured or murdered in a foreign state by agents of that state, and if that state provides no effective legal remedy, the American victims and their families have no enforceable legal remedy either in the United States or anywhere else in the world. The provision in section 221 will now allow victims of terrorism, hostage taking or torture abroad, or their survivors, to seek restitution against a state sponsor of terrorism when they are unable to gain relief in the courts of the country involved.

This provision provides vital remedies for victims. Just last summer a United States district court barred survivors of Pan Am 103 victims from suing Libya even though the United States Government had found Libya to be directly responsible and two Libyans had been indicted in United States court for the crime.

It is important to note that section 221 provides a responsible avenue for victims to seek just compensation. This is a powerful and significant tool that should be used cautiously. Thus the legislation limits the scope of jurisdiction to only those countries who have been identified as state sponsors of terrorism. Sovereign immunity is designed to protect nations from being dragged into another nation's courts for legitimate sovereign acts. The international community, however, does not recognize the right of any state to commit acts of torture, extrajudicial killing, aircraft sabotage, or hostage taking. Sovereign immunity is an act of trust among nations of good faith. When a terrorist state harbors or supports known terrorists, or injures or kills American citizens, it destroys that trust and should not be allowed to avoid the accusations of those it harms.

Beyond ensuring that American citizens have recourse after brutal terrorist acts, this section represents a vital counterterrorism measure. I am confident that the threat of enforceable judgments and levies against assets from U.S. courts will be a significant inducement for countries to get themselves off of the State Department's terrorist list.

Section 323 also provides an important tool in combating international terrorism. As a result of international pressures against states which provide support to international terrorists, some terrorist groups are seeking other means of financing and support, such as raising funds from sympathizers or establishing front companies. During its investigation of the Bank of Credit and Commerce International [BCCI], the Senate Foreign Relations Committee unearthed a significant trail of funding through BCCI that demonstrated the importance of international financial networks in the support of illegal and terrorist activity abroad. The bank hosted many illegal, unsafe, and unsound banking practices, as well as acting as a front for worldwide arms deals, drug deals, and assistance to various groups linked directly or indirectly to terrorist activity. Section 323 will enable U.S. prosecutors to begin to crack down on the use by terrorist groups of international financial institutions and front companies for their material support.

This provision would create a new offense of providing material support or resources, or concealing the nature, location, source, or ownership of material support or resources, for various terrorist-related offenses. Currently, an individual responsible for building a bomb or taking someone hostage can be prosecuted for their activities, but those providing financial or technical support, or harboring terrorists after the crime, can escape punishment of any kind. Section 323 criminalizes a series of offenses by recognizing all forms of meaningful assistance and material support to terrorists.

It amends current law which was originally offered with the same intent as section 323, but was severely weakened in conference, rendering it virtually ineffective. This language strengthens current law by restoring the original intent of punishing all persons involved, to whatever degree, in terrorist activities.

Finally, section 411 which allows the exclusion of alien terrorists from the United States is an extremely important tool in combating international terrorism. Currently we have a loophole in our immigration law that permits the United States to issue visas to know members of terrorist organizations. How can America expect to condemn other nations who support terrorists without first taking action to limit the organizational efforts of known terrorists in the United States? We must slam the door on foreign members of such terrorist organizations who now freely travel to our country.

The case of Sheikh Rashid Ghanoushi's application for a visa to the United States highlights the far-reaching consequences of our limited exclusionary authority. Ghanoushi is an Islamic extremist whose terrorist organization was responsible for the deaths of many innocent tourists in Tunisia. He was convicted in absentia.

Nonetheless, in 1993, he applied for a visa to travel to the United States to speak to religious and academic audiences. In June 1994, the Government of Tunisia indicated that it would regard a United States decision to admit Ghanoushi as a hostile act. Furthermore, in the past Ghanoushi has urged violence against United States interests and continues to demand Israel's destruction. Yet the United States has still not issued a final decision about whether to grant a visa to him, claiming lack of authority to deny him entry. At present, Ghanoushi's case is under active review by the State Department.

It is well known that many foreign terrorist groups depend on money raised in the United States to fund their activities abroad. Terrorist activity should not be defined by the area in which a bomb explodes.

Our Nation, with its many democratic freedoms, represents fertile ground for terrorist organizations for fundraising, organizational support, and international recognition. Many of these terrorists organizations have already developed networks of support in our country.

The existing loophole in the Immigration Act of 1990 permitting members of terrorist organizations to come to the United States fostered an atmosphere of indecisiveness. It sends the wrong signal to the international community. The provisions in section 411 correct this inconsistency and effectively strengthen our authority to combat terrorism and keep those people who are members of terrorist organizations off of U.S. soil.

In the past decade, Americans have suffered numerous terrorists attacks. Without the authority and support created by S. 735, particularly the three sections I highlighted, we will continue to needlessly hamstring our ability to protect American citizens. Enough is enough. It is time to take bold steps to protect American citizens from the threat posed by terrorism. We know the obstacles currently facing us in the fight against international terrorism. S. 735 provides the tools and the authority necessary to wage an effective defense.

Mr. DODD. Mr. President, this Friday will be the first anniversary of the brutal and cowardly bombing of the Alfred P. Murrah Federal Building in Oklahoma City. One hundred and sixty-nine Americans, including 19 children tragically lost their lives in this terrible act of domestic terrorism.

A year later, that terrorist bombing continues to tear at the Nation's soul. As we continue to mourn the loss of so many innocent lives, our hearts go out to the survivors, the families of the victims and the courageous residents of Oklahoma City who have already begun the difficult healing process.

However, part of the process of healing begins with the pursuit of justice. And for the past year, law enforcement officials have tirelessly labored to see that the full force of the law is brought to bear on the guilty parties. And soon, the trial against the alleged bombers will begin.

But, as we continue the process of providing answers to this terrible tragedy—the deadliest terrorist attack on American soil—we must find new and innovative ways to prevent such acts in the future. That's what this bill is all about.

While no one will argue that this legislation, or for that matter any legislation, will finally and completely end terrorism, we must take the necessary steps to deter terrorists from their deadly actions. We must make it more difficult for them to kill and injure. And we must ensure that they are swiftly brought to justice.

President Clinton deserves praise for moving forcefully in that direction by submitting a comprehensive counterterrorism proposal to Congress, after the Oklahoma bombing.

Unfortunately, in the year since the President introduced that proposal, Congress has dragged it's feet on this legislation. What's worse, I believe, many of the strongest elements of this bill have been watered down or eliminated by the House of Representatives.

Several provisions that would make it easier for law enforcement agencies to utilize multipoint and emergency wiretaps against suspected terrorists were removed.

The failure to include these wiretap provisions in the final conference report create a situation where it is easier for the FBI to tap the phone of someone they suspect of bribing a bank officer than someone who may be prepared to engage in a terrorist act.

What's more, this conference report prevents the Attorney General from requesting technical and logistical support from the military if our Nation faced an emergency involving biological and chemical weapons.

This provision was deleted even though I think everyone in this body would agree that the military has far more expertise in matters of chemical and biological weapons than our law enforcement agencies.

It's particularly disheartening that while these provisions were overwhelmingly agreed to by the Senate, they were removed from the final conference report because of the intransigence of the other body.

Similarly, while we need to find ways to prevent prisoners from abusing the legal process, by filing meritless appeals, we must ensure that those people who have been unfairly convicted have some legal recourse.

Unfortunately, I believe that the habeus corpus reform measures in this bill are ill-advised. They limit the ability of inmates to raise claims of innocence based on newly discovered evidence and also require Federal courts to defer to State courts on issues of Federal constitutional law raised by these claims.

However, while I feel this legislation could be further strengthened if it were recommitted to the conference, there are enough positive elements in the bill that allow me to vote for it.

This counter-terrorism legislation provides Federal law enforcement officials with the proper means to investigate and prevent terrorism. It establishes new Federal offenses to ensure that terrorists do not elude justice through gaps in the current law.

Similarly, it increases penalties for terrorist actions. And it gives new assistance to victims of terrorist attacks, including provisions that will make it easier to bring lawsuits against nations that sponsor terrorism. Combined, these steps will give law enforcement important new tools to use in the fight against terrorism.

Although it is not perfect, this bill will not only help the Nation prevent terrorist acts but it will also help hold terrorists accountable for their actions.

The bombing in Oklahoma made clear just how vulnerable we all are to these terrible acts of violence. And ultimately, I believe this legislation will make Americans safer from the scourge of international and domestic terrorism.

Mr. WARNER. Mr. President, I rise in support of this conference report which embodies compromise antiterrorism and anticrime legislation. I recognize that many Members would like to see additional provisions added. We have waited too long, however, to allow this opportunity to pass without enacting legislation which will help us avoid additional disasters such as Oklahoma City and the World Trade Center bombings. I thus support this conference report as it stands and will continue to work to pass additional measures which will combat terrorism, whether sponsored by foreign entities or by domestic extremists.

This bill provides $1 billion for enhanced law enforcement efforts, both at the Federal and State levels, to combat terrorism. Plastic explosives will be required to be tagged with materials which can be tracked back to the source in the event of a bombing. Foreign terrorists will be denied the opportunity to raise money inside the United States, and if found here, will be subject to special, but constitutional, deportation proceedings. The bill also includes numerous important

VOL
142
PT
6
AP
15
—
24
1996
UMI

and noncontroversial provisions which will remove legal impediments to combat terrorism.

This bill also contains one of the most important anticrime and judicial reform measures passed in years. Finally, the charade of habeas corpus appeals will be reformed: death row inmates will no longer be allowed to drag out their appeals for several decades. I have faith that our State courts respect our constitutional rights, and in the exceptional case where Federal rights have been violated, defendants retain very reasonable access to Federal courts to prove their innocence.

We have come to a crossroads in this debate almost 1 year after the tragedy in Oklahoma. Either we pass this bill and begin reaping the protections it will provide us in the fight against terrorists, or we throw up our hands and give up. I believe we need this bill now and I commend the efforts of Senator HATCH and others to reach a reasonable consensus which can pass both houses and be signed into law by President Clinton.

Mr. PELL. Mr. President, today, as the Senate considers the conference report to S. 735, the Antiterrorism and Effective Death Penalty Act of 1996, I regret that as I did when this bill was presented for passage in the Senate, I again must oppose the final version of the bill. I do so for two basic reasons.

First, the conference did nothing to change those provisions of the bill which drastically curtail the Federal judicial protections afforded those given the death penalty in State courts. This is a departure from a longstanding tradition in English and American jurisprudence and, as an opponent of the death penalty, I feel I cannot in good conscience support it.

Second, the conference removed several of the most effective antiterrorism measures that were included in the Senate version of the bill. These include giving the FBI the ability to employ court-approved multipoint wiretaps, adding terrorism crimes to the list of those for which wiretaps can be approved, including terrorism crimes under RICO statutes, and permitting the use of military expertise to cope with either chemical or biological weapons of mass destruction. Without these provisions, I believe that the bill has been severely compromised and, in the process, the chance to do something truly meaningful about domestic and international terrorism in this bill has been lost.

Accordingly, I believe that the conference report fails to correct the deficiencies of the legislation that left the Senate last summer and furthermore, has eliminated many of its most effective counterterrorism provisions. Thus, I continue to oppose passage of this legislation.

Mr. LEVIN. Mr. President, I will vote for S. 735, I am distressed that a number of the strongest antiterrorism provisions of the Senate bill were dropped in conference with the House. For example, I am disappointed that the conference report would not—Provide the Attorney General the enhanced tools for fighting domestic and international terrorism that were requested by the administration and included in the Senate bill; permit the Attorney General to utilize the expertise of the military in investigations of crimes involving the use of chemical and biological weapons; or prohibit the dissemination of information on making explosive materials with the knowledge that the information will be used for criminal activities.

On balance, however, I conclude that the antiterrorism provisions in the bill, viewed as a whole, are still worth enacting.

The habeas corpus provisions of the bill are also problematical. Under the conference report, an application for a writ of habeas corpus may be granted if the underlying State court decision was "contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States."

I interpret the new standard to give the Federal courts the final say as to what the U.S. Constitution says. I reach this conclusion for two reasons.

First, several Members have raised the concern that the reference in the bill to an unreasonable application of Federal law could create two different classes of constitutional violations—reasonable and unreasonable. I vote for the bill because I have confidence that the Federal courts will not do this. I believe the courts will conclude, as they should, that a constitutional error cannot be reasonable and that if a State court decision is wrong, it must necessarily be unreasonable.

Second, I note that this provision permits a Federal court to grant a petition for habeas corpus if the State court decision was contrary to Federal law. I interpret this language to mean that a Federal court may grant habeas corpus—on a first petition—any time that a State court incorrectly interprets Federal law and that error is material to the case. In other words, if the State court's interpretation of the U.S. Constitution is wrong, this standard authorizes the Federal courts to overturn that interpretation.

The provision in the bill refers to "clearly established Federal law, as determined by the Supreme Court of the United States." I understand this provision to refer to the whole body of Supreme Court jurisprudence on substantive and procedural rights. If the Supreme Court has adopted a clear rule of law and that rule has been consistently interpreted and applied by the courts of appeals, that rule—and its consistent interpretation and application—would prevail in habeas corpus proceedings.

In sum, Mr. President, I believe that this standard can be interpreted in a manner that is consistent with the fundamental duty of the Federal courts to act as the final interpreters of the meaning of the U.S. Constitution, and to protect the constitutional rights of Americans.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that the only remaining motions to recommit in order to the pending conference report be the following: Two additional Biden motions; further, that the motions be limited to the restrictions previously agreed to, and that following the debate on all motions and the conference report, the Senate proceed to vote on or in relation to the pending motions, to be followed by a vote on the adoption of the conference report, all without any intervening action or debate, with the exception of using 6 minutes, equally divided, for debate prior to the final passage vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, I am offering a motion to recommit the conference report with instructions to add provisions relating to a third type of wiretap that was deleted, referred to as an emergency wiretap.

I send the motion to recommit the conference report to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Delaware [Mr. BIDEN] moves to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:
>
> **SEC. . REVISION TO EXISTING AUTHORITY FOR EMERGENCY WIRETAPS.**
>
> (a) Section 2518(7)(a)(iii) of title 18, United States Code, is amended by inserting "or domestic terrorism or international terrorism (as those terms are defined in 18 U.S.C. 2331)" after "organized crime".
>
> (b) Section 2331 of title 18, United States Code is amended by inserting the following words after subsection (4):
>
> "(5) the term 'domestic terrorism' means any activities that involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State and which appear to be intended to intimidate or coerce a civilian population or to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping.".
>
> (c) This section shall be effective one day after enactment of this Act.

Mr. BIDEN. Mr. President, I do not plan on taking the entire allotted time on this side with this motion.

Let me be real clear about this. This provision was not in the Senate bill. It

was offered by Senator LIEBERMAN, and it was strongly supported by many in this body. But it was not in the original Senate bill.

This provision incorporates the President's proposal to expand emergency wiretap authority. Today, emergency wiretap authority is available for organized crime cases. This proposal simply makes it available for terrorism cases. This proposal says that what is fair for the mob is fair for Hamas. What is good for John Gotti is good for any terrorist from abroad. What is good for those involved in organized crime is good for terrorists. If the justification exists for organized crime in and the mob, why does it not exist for crimes of terrorism?

Let me first explain what an emergency wiretap is, because understandably a lot of people—I know many, like the Senator from Utah and the Senator from Pennsylvania, Senator SPECTER, and the Senator from Vermont, Senator LEAHY, all former prosecutors understand these wiretap requirements, but many do not.

An emergency wiretap—I will explain more precisely not only what it is but how it is limited. First of all, in all cases—or in most cases—the Government must go to a judge to get a court order before it can initiate a wiretap. But at the same time, Congress recognized there are emergency situations where time is of the essence and that completing the necessary paperwork and getting the judge's order will simply take longer than the situation allows.

I have gone through today probably a half hour's worth laying out precisely the safeguards built into getting a wiretap for a crime that is listed in the Criminal Code as being able to get a wiretap for, and how long and difficult the process is and should be. But the Congress in the past has recognized that there are situations under current law which allow the Government to initiate a wiretap without a court order. Here are the circumstances: where immediate danger, death, or serious physical injury exists; where conspiratorial activities threaten the national security, or a conspiratorial activity characteristic of organized crime activities exist.

Only the top three Justice Department officials—the Attorney General, the Deputy Attorney General, and the Associate Attorney General—have the authority under the present law to issue or to authorize any emergency wiretap.

If the law stopped there, I would agree with those who object to this amendment. I would agree that it does not go far enough to protect our civil liberties if all it said was one of the three top the Justice Department officials can initiate a wiretap. But the law does not stop there now. It does not allow Federal officials to operate on their own for long. Indeed, it requires that if the Attorney General authorizes an emergency wiretap for any one of those three circumstances I mentioned, they must nonetheless go before a Federal judge within 48 hours and make a case that probable cause exists for this wiretap prior to the authorization of the wiretap, prior to the time the tap started. Prior to that time, they have to prove there is probable cause that the subject was committing a specific crime. The officials also must convince the judge that they could not have completed the necessary application prior to beginning the wiretap.

And, of course, if the judge concludes that either they could have completed the application in the necessary time or that there was no probable cause at the outset, then none of the evidence, no matter how incriminating, that is acquired as a consequence of the emergency tap can be used in court against the target. If the judge does not buy it, enforcement will have blown their case. Not only must the wiretap stop, but none of the evidence obtained by the tap can be used against the target.

This is a powerful check on the Government's power. You can bet that they are not just going to go around willy-nilly exercising—the top three officials of the Justice Department—emergency authority because, if they do, they will lose their evidence if they turn out to be wrong, which means they will lose their case, which means the bad guys go free and all the time investigating up to that point will have been wasted and blown. That is not what law enforcement wants.

I want to repeat. Why, if we give this authority, this very limited and proscribed emergency authority to the Government, to the prosecutors, to the Attorney General of the United States, to deal with organized crime, why does it not make sense to allow them to deal with Hamas or deal with a terrorist organization?

The last time I looked, the Mafia had not blown up a Federal building. The last time I looked, the Mafia had not blown up the World Trade tower. They are real bad guys, and I have spent the bulk of my career as a U.S. Senator on both the Intelligence Committee and the Judiciary Committee passing laws and working to nail the Mafia. But if an emergency wiretap is good enough for John Gotti, why is it not good enough for the Unabomber? If the emergency wiretap is good enough for John Gotti, why is it not good enough for some wacko who blows up or is about to blow up a Federal building in Wilmington, DE, or Washington, DC?

I want to repeat. To give this authority to the Government when it comes to organized crime, why not for terrorists?

Of course, wiretapping is a powerful and intrusive tool. That is why the current wiretap statute contains a number of restrictions to prevent the abuse of emergency wiretaps, none of which would be changed by this amendment.

Let me repeat. Only the top officials at Justice—the top three, those who have the most at stake in an investigation being blown by bad evidence—can authorize such a tap. Even then, they have to go to the court within 48 hours and must adhere to all the strict guidelines for getting a court order in the first instance. If they do not get the court order, none of the evidence is able to be used.

Let me emphasize. This amendment does not in any way weaken what the Government must show to get a wiretap order. Law enforcement still must show that some particular person has or is about to commit some particular crime. And this provision only applies to cases of international domestic terrorism, which is further defined as—let me define what this would apply to and only what it would apply to: activities that involve violent acts, or acts dangerous to human life, and which appear to be intended to intimidate or coerce the civilian population, or to influence the policy of the Government by intimidation or coercion, or to affect the conduct of a Government by assassination or kidnapping.

Why, if in fact they believe that any one of those circumstances exist, should they not, with all the safeguards built in, be able to get an emergency wiretap?

Let me say, although I have no illusions that this will pass, that I hope we will continue to demonstrate by the votes we have heretofore—over 45 and as many as 48 of our 100 colleagues felt strongly about these issues. These are not frivolous undertakings. These are not frivolous motions. All but one of the amendments I have offered, I believe, has gotten over 40 votes. I think they have all gotten over 45 votes, so we are pretty evenly divided on this. I just want to make sure that before final vote on this conference report, that I do everything in my power to make this a much more useful tool in fighting terrorism.

Again, I know my colleague—and I respect him—is going to say if this passes it will kill the bill. I cannot believe that this will kill the bill. If we cannot put 35, or whatever number that is the number quoted by the House, Members of the House in the position where they have to yield on what would be an incredibly strong bill only because they are worried that we now allow terrorists to be treated the same way as John Gotti and the mob, then I think—I doubt whether they will vote that way because I doubt whether many of their constituents will keep them around if they vote that way. And quite frankly, if they vote that way, it is best for all to see. If they vote that way and defeat the conference report, we could come back

VOL
142
PT
6
AP
15
—
24
1996
UMI

with an amended report and pass what we have. So this will not kill the bill, but I am sure that is going to be stated.

I reserve the remainder of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Utah.

Mr. HATCH. Mr. President, again, in the real world, in the case of the Unabomber or a terrorist where there is a real threat or an immediate concern, you do not need this provision to get an emergency wiretap. All the Senator's motion does is expand the number of crimes that would trigger the wiretap statute. This amendment was offered during the Senate debate. It was defeated. It was not a part of the Senate bill. It was not a part of the House bill. It is not a part of our conference report, and rightly so. I oppose this provision that could expand emergency wiretap authority to permit the Government to begin a wiretap prior to obtaining court approval in a greater range of cases than the law presently allows. I personally find this proposal troubling. I am concerned that this provision, if enacted, would unnecessarily broaden emergency wiretap authority. Under current law, such authority exists when life is in danger, when the national security is threatened, or when an organized crime conspiracy is involved. In the real world, we do not need this amendment to get emergency wiretap authority, and that is a fact.

Let me also say that this authority is constrained by a requirement that surveillance be approved by the Court within 48 hours, but that authority already exists in those areas I have addressed.

Now, this proposal of the distinguished Senator from Delaware would expand those powers to any conspiratorial activity characteristic of domestic or international terrorism. I do not think that expansion is necessary to effectively battle the threat of terrorism. You can get that emergency authority now. In the Unabomber case, no question; when terrorist acts are threatened, no question. I think that the opinion of many, many experts would agree with this analysis.

Now, it is also very important to note that it is not 35 conservatives over in the House that are against this. The vast majority of people against this amendment happen to be liberals who are very concerned with an unwarranted expansion of wiretap authority and surveillance authority. I have to say now there is an increasing number of libertarian conservatives who are becoming more concerned over law enforcement and some of the approaches that have been taken. I personally believe that those concerns are not justified.

On the other hand, they are legitimate concerns, and they arise primarily out of the Waco and Ruby Ridge and Good Ol' Boys Roundup, and other types of law enforcement mistakes that really were made. I have called them mistakes. Some people have felt that they should be characterized a little stronger than that.

Frankly, I am proud of the law enforcement agencies of this country. I know these people. I know what wonderful people they are. I know how much they risk their lives for you and me. But we do not need this authority in order to do emergency wiretaps in these particular areas.

At this point, I should like to yield 5 minutes to the distinguished Senator from California, who has asked me for some time.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I very much thank the distinguished chairman of the Judiciary Committee for this opportunity. I did have an opportunity to speak yesterday, but there is something I omitted to say that I very much felt was part of this discussion.

What happened in Oklahoma City was brought home to us in California last Friday. Early that morning, about 9 o'clock, there was a phone call that came into the Vacaville headquarters of the Labor Department's Mine Safety Administration, and the caller said, using some expletives, "You guys are all dead. Timothy McVeigh lives on."

Later that afternoon, a mine safety inspector by the name of Gene Ainslie, who worked with the Department of Labor, was returning from inspecting a mine in Sierra County and he dropped off his official car. He got into his pickup truck, met his wife, started out on Interstate 80 to return to Sacramento, and the pickup truck exploded. A bomb had been placed on that truck.

Gene and Rita Ainslie are hospitalized today in serious condition—actually, today is their 32d wedding anniversary—Gene, with shrapnel in his legs and severe burns, and his wife with a broken ankle and a dislocated hip, but they survived. I and every Member of this body send them our fondest greetings and let them know that our hearts and thoughts are with them both.

This was not a random act of violence. It was not a deranged individual on a shooting spree. It was a deliberate and, once again, targeted attack on a representative of the U.S. Government, an attack that was aimed at murdering a Federal employee. This is not an isolated incident, and we have all seen them happening. There will be a study that will released very shortly, an annual study of terrorism. And what it will show is that, for the first time, the United States of America is listed among the top 20 nations experiencing the highest level of terrorism and political violence in the world.

I was shocked when I heard this. According to the study, there were 44 incidents reported to the authorities in the United States, an increase of 200 percent since 1988. With this number of incidents, according to this study, we ranked ahead of Lebanon.

I only say this because of the particular pertinence of the legislation before us today. We relate the legislation to the Oklahoma City bombing a year ago, but in fact even last Friday an incident took place in the State of California.

I think we also need to look at what is happening in our society that is fostering so much hatred and disregard for human life, and what can be done to restore the values of justice and respect for the rule of law that really made this the greatest democracy on Earth.

I do not believe this is about restoring faith in our Government. I do not believe right thinking people resort to this kind of violence because they think they pay too much in taxes or because they are angry at Government red tape. I think there really is no justification and no rationale for this kind of behavior.

But what does concern me is that the report I get from California is that there are very dispirited Federal employees, that morale is low, and that some, for example those affected by the bomb last Friday, really do not know that anybody cares about them. And what I want them to know, and I know I am joined by every Member of this Senate, is that, in fact, we do care about them. We do know that Federal employees—every member of the Army and the Navy who went to the Gulf war was a Federal employee, every park official is a Federal employee—these people take the job not for the money, certainly, but because this is the way they want to serve their Nation.

They are entitled to respect, and it is our job to see that they have that respect. So, as we pass this bill, which I hope we will do shortly, as a kind of living memorial to what happened in Oklahoma City, I think we have to do it with a view that these events are taking place in this Nation daily, just as it happened last Friday near Sacramento and Vacaville in the State of California.

I say to Gene Ainslie, 56 years old, celebrating his 32d anniversary today with his wife Rita, and all those who labor as part of the Federal Government, that we Americans do respect them, that we do honor them, and we will do everything in our power to see that this kind of behavior is not inflamed, but rather it is put to an end.

The PRESIDING OFFICER. The Senator from Utah has 5 minutes and 13 seconds.

Mr. HATCH. Is there any other time remaining?

The PRESIDING OFFICER. The Senator from Delaware has 4 minutes and 9 seconds.

Mr. HATCH. I am prepared to yield back the remainder of my time.

Mr. BIDEN. I am prepared to yield back the remainder of my time.

Mr. HATCH. Then we will both yield the remainder of our time.

Can we proceed to the next amendment?

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, my colleagues will know this is the last motion I have.

I offer a motion to recommit the conference report with instructions to delete the section relating to the study of Federal law enforcement. Senator KOHL of Wisconsin wishes to be added as a cosponsor as does, I believe, although I am not certain, Senator NUNN. I will check that. But Senator KOHL for certain.

I send a motion to recommit the conference report to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Delaware, [Mr. BIDEN], moves to recommit the conference report on the bill S. 735 to the committee of conference with instructions.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

> Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on deleting the text of section 806 of the conference report.

Mr. BIDEN. Mr. President, just for the sake of discussion, if there were 10 very important provisions in this bill when we passed it out of the Senate, it has come back to us with 4—I am not being literal—with fewer than we sent over. Fewer than 50 percent of the provisions that I think are important in this bill remain in the bill.

In truth, when the Senator and I got to conference, there were probably only 10 percent of the provisions we thought important in the bill. To the credit of the Senator from Utah, he was able to get back additional provisions in the bill. For that I compliment him.

What I have been fighting about all afternoon here is trying to add back provisions that I think were mindlessly removed and removed tools that we could make available to law enforcement to protect my children and me and all of us in this Chamber and around this country.

This is the one portion of the conference report that I am seeking to delete that has made the bill worse than when it went out of here. Up to now I have been arguing that we sent a bill out of here with a lot of good things that the House stripped out and I wanted to put them back in. Not only did the House take out the bulk of the really good things that were invaluable to fight terrorism, but it added some things which I think are counterproductive. One of them is pandering to this concern of some Americans that the bad guys are the cops, the bad guys are the Government, the bad guys are the FBI or the ATF or the Justice Department.

I do not believe we should go forward with an antiterrorism bill that has a study in it only of police and not terrorists. For that reason, I propose to delete the study of the police in this bill. I think it is more of an affront than it is a substantive problem. If we do not delete this, we will be faced with a conference report that studies cops but not terrorists.

Let us remember who has literally laid down their lives in the defense of our Nation and our way of life. It is the Federal law enforcement officers, not the terrorists. This study will provide nothing but a forum for those who believe the Federal law enforcement is the enemy of the American people and not the protectors. We are unwittingly aiding and abetting that notion by deciding that, in a terrorism bill, we are going to study the cops.

The study says, section 806, Commission on the Advancement of Federal Law Enforcement.

> (a) ESTABLISHMENT.—There is established a commission to be known as the "Commission on the Advancement of Federal Law Enforcement" (hereinafter in this section referred to as the "Commission").
>
> (b) DUTIES.—The Commission shall review, ascertain, evaluate, report, and recommend action to the Congress on the following matters:
>
> (1) The Federal law enforcement priorities for the 21st century, including Federal law enforcement capability to investigate and deter adequately the threat of terrorism facing the United States.
>
> (2) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.
>
> (3) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement . . .
>
> (4) The investigation and handling of specific law enforcement cases . . .
>
> (5) The necessity for the present number of Federal law enforcement agencies and units.

Get that? We are going to study the necessity, the necessity of the present number of law enforcement agents and agencies. What is the implication of that? The implication of that is there are some bad law enforcement agencies out there. I assume this is the right's attempt to go after the Alcohol, Tobacco and Firearms. I do not know. That is who we are studying. We are going to study the cops, not the terrorists.

We have to study the location and efficacy of the office or entire entity responsible, aside from the President, for the coordination of interagency bases of operation, programs and activities of all Federal law enforcement agencies.

It goes on, by the way, for another half a dozen sections.

Think about this. Many of us were local officials before we came here. How many times did a very small segment of our community come to tell us that we had to set up commissions and we had to set up outside organizations, we had to set up police review boards, and so on, because they did not like the cops? Sometimes it was necessary. But remember how good cops responded to this.

I spoke with Director Louis Freeh today. He called me—the Director of the FBI. Of every single thing in the bill, this is the thing that most concerns him because of what it says to the American people about what we in the Congress think about our law enforcement agencies, the very people who probably have captured the Unabomber; the very people who have gotten hold of, apparently, the man or men who blew up the World Trade Center, as well as the Federal building in Oklahoma City; the very people who, just a couple of weeks ago, outside of my State in neighboring Pennsylvania, were shot down dead, protecting people in Philadelphia—FBI agents, the very people who, increasingly, are losing their lives fighting crime and terrorism.

These are the people who we are going to investigate. There is not even a parallel study in here to investigate malicious, to investigate organizations that, in fact, raise questions, to investigate—separate issue—terrorist, per se, organizations. We are going to investigate the cops.

I can remember the years during the Reagan era. We talked about how demoralized the military felt and, to Reagan's great credit, in my view, one of the things I agreed with him on is he built up the morale of the military, after years of being beaten about the head after Vietnam.

These guys need our support, Mr. President. These women need our support. They do not need us yielding to the NRA and others insisting on a study—a study of them in a terrorism bill.

That is the study we are going to make. We are fighting terrorism, and every law Federal law enforcement officer in the Nation, guarantee you, knows that we spend an entire page of this bill—that is not true, half a page of this bill—laying out extensively what we are going to study, the people we are going to appoint to study this and, listen to this:

> (1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed—

By whom?

One member appointed by the President pro tempore in the Senate; one by

VOL
142
PT
6
AP
15
—
24
1996
UMI

the minority leader of the Senate; one by the Speaker of the House; one appointed by the minority leader of the House; one member who shall chair the Commission will be appointed by the Chief Justice of the Supreme Court.

(2) DISQUALIFICATION.—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

How is that? Why cannot someone who is an officer of the U.S. Government—what a field day these wacko Freemen out in Montana are going to have when we pass this. I promise you, they are going to hold this up—some of them, may not be those guys—but other wackos and say, "See, we're right, the U.S. Congress thinks we have to study these people, and they don't even trust them enough to allow any Federal Government employee in any capacity to be on the commission."

I think this is humiliating, absolutely humiliating. Disqualifications: you are disqualified if you are an officer or an employee of the United States of America. That means any military person could not be on the commission; it means the Chairman of the Joint Chiefs of Staff could not be put on the commission.

This is disturbing, and if you doubt what I am saying after this is over or before we vote, pick up the phone, call Louis Freeh, call any of the police officers you know and respect, call the people we count on to protect our lives that we are studying them.

I see my friend from Utah is on his feet, and my friend from Wisconsin who wishes to speak in favor of this motion is here. I will be happy to yield to either one of them. How much time remains under my control, Mr. President?

The PRESIDING OFFICER. Three minutes 50 seconds.

Mr. BIDEN. I yield the remainder of the time to the distinguished Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I thank my friend from Delaware.

Mr. President, I rise to speak in support of this motion to recommit, and I also want to speak generally about the terrorism measure before us. In sum, we should approve this legislation because it is the best we are likely to get and the best we can do for the victims of the Oklahoma City bombing. But I believe the record should be clear that we should have done better.

For many years, we have watched with growing concern as terrorist violence has escalated and reached closer to our homes. We can no longer ignore the fact that post-cold war violence knows no borders, and respects no distinction between soldiers and innocents.

For that reason, Senators BIDEN and SPECTER and myself introduced legislation to fight international terrorism last February. We broadened our legislation to reach domestic terrorism after Oklahoma City. And building on this, the Senate overwhelmingly supported a strong, bipartisan proposal.

That is not the proposal we are debating, however, today. We are now considering a version of that bill which is far more watered down.

Still, if we cannot enact a strong and decisive antiterrorism bill, this measure will do at least some good. For example, it will still provide law enforcement with new weapons to choke off terrorist fundraising, new powers to deport suspected terrorists, and the ability to "tag" plastic explosives. All of these provisions will help reduce the threat of terrorism, all are constitutional, and in their entirety they make this measure worth saving.

Unfortunately, other parts of the conference report are more problematic. The conferees deleted Senate provisions that would prevent new technology from undermining our wiretap laws. The conferees prohibited the military from using its resources to help fight chemical and biological weapons.

And the conference also added some troubling items. For example, our subcommittee held 14 days of hearings on Ruby Ridge and issued a report that was praised across the political spectrum—by Janet Reno and by militia leaders. So why do we need to have a so-called Commission reopen this matter? Similarly, why does a study of cop-killer bullets suddenly appear in this bill? Is this really necessary? Is it really an important part of our fight against terrorism?

I believe the answer is no.

The best arguments against the motions to recommit seem to be this: Don't let the perfect be the enemy of the expedient. Or we have to accept the bad in this bill to finally enact some of the good.

Well, in a certain sense that is true. But America should clearly understand that this is not what we here in the Senate agreed to. America should know that this legislation has been used to forward a political agenda that does not advance the cause of preventing terrorist acts. America should understand that while this bill does something for the memories of the Oklahoma City victims, it could have done much more.

So I will support this conference report—on balance it is better than no bill at all—and I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this Commission will explore issues surrounding the future and mission of Federal law enforcement as we enter the 21st century. Among other things, the Commission will assess our efforts to prevent and investigate future acts of domestic and international terrorism. It will consider the pressing issues facing law enforcement as crime rates rise and as criminals become more sophisticated.

I appreciate the fact that the law enforcement community is sensitive to this sort of review, but this Commission is different in focus, and we made it different in focus in the conference from the House-passed version. What was once a Waco-Ruby Ridge Commission with subpoena power is now a Commission to help Congress set Federal law enforcement priorities for the 21st century. It is a Commission which, in my opinion, will help law enforcement. I must say to my friends in the law enforcement community that I only learned of their concerns after the report was filed. If there are specific areas of the Commission's scope which are truly troublesome, I will work with them to try to address their concerns.

It should be noted that the last time a Commission looked at Federal law enforcement was over 60 years ago in 1931. In that year, the Commission on Law Observance and Enforcement, established by President Hoover, better known as the Wickersham Commission, made public its recommendations to Congress.

In a report signed by its chair, former Attorney General Wickersham, the Commission concluded that the growth of interstate crime, an interstate organized crime network, and interstate property and economic criminal activities, mandated the need for an increased Federal role in law enforcement.

At that time, the findings and recommendations of that Commission were truly a major contribution to the fight against crime in this country.

There is more I have to say on this. At the appropriate time, I will move to table both of the Biden motions, because this Commission is thought to be extremely critical by people in the House. We have bona fide it to make it more palatable to those who object to it, and I believe we bona fide it to a degree that it can be acceptable.

On the other hand, we will continue to look at this language after this bill is passed, and I will continue to listen to law enforcement and others who are concerned and see what we can do to resolve their concerns.

I am pleased to yield 10 minutes to the distinguished Senator from Pennsylvania.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished chairman of the Judiciary Committee for yielding this time.

I support this legislation because I think it makes important improvements in our fight against terrorism and also in our fight against violent crime in the United States.

The additional $1 billion will be an enormous help to the FBI and law enforcement officials to fight terrorism. The Subcommittee on Terrorism, which I chair in the Judiciary Committee, held extensive hearings after the Oklahoma City bombing. There is absolutely no doubt about the need for more resources by the FBI. The FBI Terrorism Center will provide a clearinghouse which will be of enormous aid and assistance.

As is frequently the case, the bill is not entirely to my liking or the liking of anyone. There are a couple of provisions which concern me that I want to comment about because they may be cured at a later date.

On the provision relating to expedited deportation, I am concerned about the absence of a right of confrontation. There is a constitutional right to confront your accuser in a criminal case. A deportation proceeding is not a criminal case. It is defined as a civil case, but the consequences are extreme because a person is ousted from the country. There are very important policy considerations to not allowing the right of confrontation because many of the witnesses are confidential informants and the disclosure of their testimony would be very harmful to ongoing law enforcement efforts.

We do have an unclassified summary, included in an amendment offered by Senator SIMON and myself, and I think that is about as far as we can go. But I believe we have to watch how the act works on this expedited deportation proceeding in the absence of a confrontation right.

The restrictions on fundraising are also important. I have some concern about the limited judicial review, but on balance, this legislation against terrorism is very, very important. I am glad to see that we are finally acting on it.

Attached to this terrorism bill, Mr. President, are provisions relating to modifications of habeas corpus which limit the time for appeals on death penalty cases. This has been a long time in coming to this country. It is something that I have worked on personally for more than a decade, based upon the experience I had as the district attorney of Philadelphia. We currently have the death penalty applied and then there are delays of up to 17 years while the cases languish in the Federal courts. Most of the arguments about these provisions are made by people who are opposed to the death penalty. The lengthy appeals process in the Federal court has, in effect, defeated the deterrent effect of the death penalty.

I am personally convinced, Mr. President, that the death penalty is a deterrent. I saw many cases in my 12-year tenure in the Philadelphia district attorney's office, 4 years as an assistant DA trying murder cases and 8 years as district attorney, arguing appellate cases where the death penalty was imposed, and I am convinced that professional burglars do not carry weapons for fear of the death penalty when it is timely. But the only way a deterrent can be effective is if it is certain and reasonably swift. The time limits established in this bill are very, very important. They break new ground.

I first offered these time limits, Mr. President, in 1990. After a long, tough debate we got these time limits established by a 52-to-46 vote. They were incorporated again in 1991, passed by a narrow vote of 58 to 40. In 1993, habeas corpus was left out of the crime bill, and I offered these provisions. They were defeated on a motion to table. Senator HATCH and I later collaborated on the Specter-Hatch bill. It is not too easy to come ahead of Senator HATCH on a bill, but I did. Senate bill 623 established those time limits and they are incorporated into this final bill. They will require that anyone on death row has to file a habeas corpus proceeding within 6 months if counsel is provided, under State law, or within 1 year if counsel is not provided.

Mr. President, I think that we should have included provisions for counsel. They are not in this bill. I think that is a serious mistake. I hope it is a mistake we can correct at a later time.

When you talk about inmates languishing on death row for up to 17 years, you are talking about a problem for the system, you are talking about a problem for law enforcement, you are talking about a problem for the victims' relatives, and you are also talking about a problem for the defendants themselves on death row.

The European Court on Human Rights decided that it was cruel and barbarous treatment, cruel and inhumane treatment, to keep someone on death row for 6 to 8 years. There was an extradition case which came up where somebody was accused of murder in the first degree in Virginia, which had the death penalty, and extradition was sought from Germany. The Court denied extradition on the ground that it would be cruel, barbarous, and unusual treatment to keep someone in jail for lengthy periods of time, for 6 to 8 years. Obviously, 17 years is an extension of the time which was held to be cruel and barbarous treatment.

This bill provides a limitation on time so that the district court must decide the case within 180 days, 120 days for brief and hearing, and 60 days for decision. I have been involved in these cases in the State court. I have been involved in habeas corpus proceedings as a trial counsel in the Federal court. What the judges do is put these cases on the back shelf. There is no reason they cannot give these cases priority treatment. Now they will have to. The Congress of the United States recognizes judicial independence on what judges decide, but in terms of timetable, we have the authority to establish timetables, and we have done so under the Speedy Trial Act of years ago. Even in the jurisdictions which have a tremendous number of death penalty cases, like Texas, California, and Florida, the judge does not have more than one of these cases every year and a half. So they can put these on the expedited trial list.

This bill also provides that there will not be repetitive decisions, because the court of appeals will be the gatekeeper.

Mr. President, I inquire how much time I have remaining of my 10 minutes.

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. SPECTER. That tells me how brief I have to be.

We have had repetitive petitions filed. They have been a major irritant in the Federal court system. The idea of the Court of Appeals as a gatekeeper came to me from a law school classmate, Judge Jon Newman, chief judge of the Court of Appeals for the Second Circuit.

I am concerned, Mr. President, about a couple of provisions. I think the bill is too restrictive in limiting the ability to present a claim of innocence, requiring that it be proved by clear and convincing evidence. I joined Senator LEVIN in seeking to change that standard. But the reality is that the standard of proof is a very variable thing. I think if it is established innocence, it may not make a whole lot of practical difference, but I think clear and convincing evidence is too high a standard from a theoretical point of view.

Similarly, I do not favor the deference which is allowed to the State court decision, requiring that it has to be unreasonable in order for the Federal court to overturn it. But I think in a Federal habeas corpus proceeding, if the court thinks it is unreasonable, it will be able to overturn the decision, notwithstanding a standard that is really not as precise as it ought to be.

I think the exhaustion requirement is misplaced here. We would be better off without it. But the net effect, Mr. President, is that this legislation is very good legislation taken as a whole. It will help out on terrorism with the additional resources. We have a tremendous problem in this country with the potential for terrorism. We have seen it in the World Trade Center bombing. We have seen it in Oklahoma City. In my capacity as the chairman of the Senate Intelligence Committee, I see a lot of problems which we cannot discuss openly, but we can move for the additional resources.

On law enforcement, the death penalty is the law of the land in 37 jurisdictions in this country. It is favored by more than 70 percent of the American people. If States do not want it, they do not have to have it. But the

VOL
142
PT
6
AP
15
—
24
1996
UMI

States that do have it ought to have it enforced. I think the overwhelming weight of authority is that it is a deterrent. These provisions are fair to the defendant. The European Court on Human Rights held it cruel and unusual punishment to impose a delay of more than 6 to 8 years.

So it is fair to the defendant. Certainly it provides closure for the victims' families, and it will reinvigorate law enforcement by taking out the habeas corpus provisions which really made the death penalty a laughingstock. So in total I think it is a good bill.

I commend all of my colleagues who have worked on it in the House. I think we will see passage of something which will be very, very significant for law enforcement in this country.

Mr. President, violent crime has been one of the worst problems faced by the people of our country for several years. Homicide rates, fueled by illegal drugs, spiraled upward in the 1980's. While the rate of violent crime has recently started to decline, there remains far too much violence in our society. And while the violent crime rates are down, the future is grim: the rate of murder and violent crime committed by children under 17 is soaring, and the number of youth in our society is increasing. Therefore, we may expect another surge in violent crime unless we take action.

There are many avenues to take to curb violent crime. We need a balanced approach that includes law enforcement, drug prevention and treatment, crime prevention programs and other means of steering juveniles away from drugs and crime.

Based on my personal experience as an assistant district attorney and as district attorney of Philadelphia, I am convinced that the death penalty is an effective deterrent to violent crime. Criminal justice experts agree that in order for any penalty to be effective as a deterrent, it must be swift and certain. When years pass between the commission of the crime and the carrying out of the sentence, the link between crime and punishment is broken.

The great writ of habeas corpus is the means by which criminal convictions and sentences in State court are reviewed in Federal court to ensure that the trial satisfied the requirements of the U.S. Constitution. It has been an indispensable safeguard of constitutional rights in this country, especially since the 1930's when the Supreme Court began reviewing State-court convictions in cases like the Scottsboro case. Unfortunately, the Federal courts have gone too far in habeas corpus cases. These cases drag on for years, and there is no end to them, as inmates, especially those on death row with nothing to lose, file endless rounds of petitions.

There is no statute of limitations for filing habeas corpus petitions. This leads inmates who have been sentenced to death to wait until they are facing their imminent execution before filing their habeas corpus petition in Federal court. An example of this abuse is the case of Stephen Duffey in Pennsylvania. Duffey murdered his victim in 1984. His conviction was finally upheld by the Pennsylvania courts in 1988. His death warrant was not signed until 1994, 10 years after the murder. It was only when the death warrant was signed by the Governor that Duffey first sought habeas corpus review in Federal court.

The requirement that all claims raised in Federal habeas corpus petitions be presented and fully adjudicated by State courts has also led to excessive delays and unsound rules as to whether Federal courts can even consider a habeas corpus petition.

The case of Michael Peoples, which I have discussed with my colleagues on numerous occasions, shows graphically how the exhaustion rule leads to excessive formalism and delay. People was convicted of a vicious robbery in 1981, and his conviction was upheld by the intermediate Pennsylvania appellate court in 1983. The Pennsylvania Supreme Court denied review by an order that did not make it clear whether it was based on the merits or on the court's procedural discretion not to hear cases that do not present a substantial legal issue. Peoples then filed a habeas corpus petition in 1986. The district court denied the petition for failure to exhaust his State remedies. The Court of Appeals for the third circuit then reversed on the ground that the exhaustion requirement had been satisfied when the Pennsylvania Supreme Court denied review. Peoples then appealed to the U.S. Supreme Court, which granted review—making the case 1 of just 147 it heard that year out of over 4,550 petitions for Supreme Court review—and reversed the third circuit. On remand, the third circuit issued a complicated ruling finding that Peoples' habeas petition contained both exhausted and unexhausted claims and sent the case back to the district court. Years were spent considering just this initial procedural hurdle of exhaustion. I believe we would have been better served had the courts simply reviewed the substance of Peoples' claims.

Another problem causing the excessive delay in carrying out death sentences has been the ability of inmates to file repeated habeas corpus petitions. Once again, I turn to an example I have often discussed with my colleagues, the case of Robert Alton Harris. After being convicted of a double murder in a California court in 1980, Harris filed over the next 14 years 10 petitions for State post-conviction relief and five Federal petitions for habeas corpus. The Supreme Court of the United States considered 11 different applications relating to the Harris case. Many of the petitions Harris filed contained similar or overlapping claims, although none raised doubts about his guilt. Finally, after 14 years, Harris was executed. I regret to say that the Harris case is far from unique in its multiple habeas corpus filings.

Abuse of the writ of habeas corpus has led to the death penalty being not an effective deterrent, but a mockery. Inmates on death row spend an average of over 9 years awaiting execution. And may wait much longer, with some cases dragging on 18 or more years. During these periods of lengthy delay in carrying out death sentences, the families of the victims are left in a sense of suspension, unable to put the tragedy behind them.

Putting an end to these excessive delays will once again restore vitality to the death penalty as an effective deterrent to violent crime, which I know from personal experience it is. I have told my colleagues on numerous occasions over the past several years about the case of Cater, Rivers, and Williams, three young hoodlums who I prosecuted as an assistant district attorney. These three were planning on robbing a Philadelphia pharmacy. When Cater and Rivers saw that Williams was carrying a revolver, they told him they would not participate in the robbery if he took the weapon because they feared the death penalty. Williams put the gun in a drawer, but as the three were leaving, Williams sneaked it back into his pocket. Williams used the gun in the commission of the robbery to kill Jacob Viner, the pharmacist.

All three men convicted and sentenced to death because, under the law, Cater and Rivers were equally responsible for Viner's murder as Williams. Ultimately, Williams was executed, but Cater and Rivers had their sentences commuted to life imprisonment because they were unaware that Williams had carried the gun. As a prosecutor, this case was just one of many I encountered in which burglars and robbers refused to carry firearms because they feared the death penalty.

In order to make the death penalty once again an effective deterrent, I have actively been attempting to streamline habeas corpus procedures since 1990. When the Senate considered anticrime legislation that year, I offered with Senator THURMOND an amendment to reform habeas corpus procedures to speed up and streamline the process. My amendment was adopted by the Senate, 52 to 46, and included in the final bill. Unfortunately, at the insistence of the House conferees, the provision was dropped from the conference report adopted the last day of the 101st Congress.

In the 102d Congress, I introduced legislation, S. 19, that was substantively identical to the 1990 amendment the Senate had passed. When the

Senate considered anticrime legislation in 1991, however, Senators HATCH and THURMOND offered a slightly different habeas corpus reform amendment that was based on my legislation but included language limiting the scope of Federal review of State convictions. After careful consideration, I spoke at length in favor of that amendment and voted for it. This amendment also passed the Senate, 58 to 40, and included in the final bill that passed the Senate. When the bill went to conference, however, the House insisted on its habeas corpus provisions which, rather than reducing delays and streamlining the process, would have allowed for greater delay and more manipulation of the process. The conference report that contained that provision was filibustered in the Senate because of its habeas corpus provisions and never came to a vote.

Once again in the 103d Congress, I introduced legislation similar to my previous efforts. When the 1993 anticrime bill was debated in the Senate, the managers decided that habeas corpus reform was too tough an issue to resolve and remove the bill's habeas provisions. I strenuously objected and brought before the Senate a bill I introduced to streamline the process. While many of my colleagues wanted to see us take action on the bill, it was tabled in order to keep the habeas issue from interfering with efforts, which I also supported, to secure Federal assistance for police hiring and prison construction.

When Republicans took control of the Senate and House this Congress, I had high hopes that we would finally be able to resolve the issues that had previously derailed efforts to reform habeas corpus. Together with Senator HATCH, I introduced legislation, S. 623, to impose a statute of limitations on the filing of habeas corpus petitions, restrict the ability to file successive petitions, impose time limits on Federal court consideration of habeas petitions in capital cases, and encourage States to provide adequate counsel in capital habeas cases.

In the wake of the Oklahoma City bombing, as the Senate developed antiterrorism legislation, I worked to ensure the inclusion in the bill of my habeas corpus reform legislation. As introduced and passed by the Senate, S. 735 includes in full the provisions of S. 623. When the House ultimately considered its antiterrorism bill, it included my habeas corpus reform language as well.

As I mentioned, there are several aspects of the habeas corpus reform provisions that I would prefer were different. Most glaringly is the restrictive standard of review. The bill continue to require deference to State courts' findings of fact. Federal courts will owe no deference to State courts' determinations of Federal law, which is appropriate in our Federal system. However, under the bill deference will be owed to State courts' decisions on the application of Federal law to the facts. Unless it is unreasonable, a State court's decision applying the law to the facts will be upheld. I am not entirely comfortable with this restriction, but upon reflection I believe that the standard in the bill will allow Federal courts sufficient discretion to ensure that convictions in State court have been obtained in conformity with the Constitution.

I also believe that the formulation in the bill is too restrictive in limiting successive petitions when the inmate raises a claim as to innocence. For this reason, I supported Senator LEVIN's amendment when the bill was initially considered by the Senate. That amendment, however, was tabled.

Finally, I am disappointed by the absence of two provisions from the habeas corpus reform sections. Since 1990, I have been convinced that we can improve the process by eliminating the exhaustion requirement. I have tried repeatedly to do so. Both prosecutors and representatives of the defense bar have strenuously objected to these efforts, albeit for different reasons. Despite my certainty that the bill would be improved had we eliminated the exhaustion requirement, I am willing to move forward without its elimination in the interest of getting habeas corpus reform. I am also concerned that the bill does not establish standards for trial counsel in capital cases. In my previous efforts I had sought to ensure that the States provided adequate counsel in capital cases at both trial and in the post-conviction process. Improving trial counsel in capital cases is a critical step to making the trial rather than the habeas proceedings the central event in death-penalty cases. This bill, while seeking to ensure adequate counsel for habeas proceedings, does nothing to strengthen the minimal constitutional standard for ensuring adequate counsel at trial.

Despite the provisions that concern me and the failure of the habeas reform to include two elements important to a fair and comprehensive scheme of habeas reform, I support the habeas corpus reform provisions of this bill. In politics, one learns that the best is the enemy of the good. Since the restoration of the death penalty in 1976, we have seen its effectiveness as a deterrent sapped by delays attributable to defects in the habeas corpus system. The reforms included in this bill, while not perfect, will go a long way to restoring vitality to the death penalty as an effective deterrent to violent crime. I was therefore willing to sponsor these provisions in conjunction with Senator HATCH and am please to see them enacted. They are the culmination of many years of effort, and I am deeply satisfied by their adoption.

We are, of course, dealing with an antiterrorism bill, and there are several provisions of the bill in addition to habeas corpus reform that I want to address briefly. As chairman of the Judiciary Subcommittee on Terrorism, I have long been interested in combating terrorism and have been very active in the area. In 1986, I introduced legislation that made it a Federal crime to commit a terrorist attack against a U.S. citizen anywhere in the world. I have also been active in seeking to limit diplomatic immunity for terrorist acts and for punishing acts of terrorism before an international criminal court. Earlier this Congress, I joined Senator BIDEN and Senator KOHL in introducing S. 390, the fist omnibus counterterrorism bill introduced this Congress, 2 months before the tragic Oklahoma City bombing that gave the issue such currency.

I am pleased that the conference report retained my amendment to the Senate bill to authorize assistance to U.S. allies to support the purchase of counterterrorism technology if U.S. interests are at stake. My original amendment authorized $3 million for this assistance, but in the wake of the recent terrorist bombings in Israel that have put the peace process at risk, the amount authorized in the conference report has been increased to $20 million.

I also want to express my support for the provision to require the Attorney General to study the availability of bombmaking manuals, evaluate whether current laws are adequate to address the problem, and determine whether anything else can be done constitutionally. My Judiciary Subcommittee on Terrorism and Technology held a hearing on this subject in May 1995. We were deeply troubled by what we heard. I am skeptical that the Government can do anything to restrict such information without violating the first amendment. I am pleased that the Attorney General, whose representative testified at our hearing, will study this matter and make appropriate recommendations.

The conference report adds a provision to make it a crime to misuse human pathogens and other biological agents. The terrorist threat from such agents is very real. My Terrorism Subcommittee is conducting a study on this issue and the threat from chemical agents as well. I know that the Governmental Affairs Committee has also held hearings on this subject. Recently, the full Judiciary Committee held a hearing on the threat posed by the wrongful use of human pathogens. After that hearing, I joined several other members of the committee in writing the President to express our concern over the gaps in Federal regulation over the distribution of human pathogens. I am pleased to see the conference report include this provision.

The conference report deleted the Senate-passed provision to authorize

VOL
142
PT
6
AP
15
—
24
1996
UMI

the broader use of multipoint wiretaps. I opposed the inclusion of this provision in the Senate bill and am pleased to see that the conferees deleted it. Current law strikes the appropriate balance, and I feared the Senate-passed provision went too far in threatening privacy interests.

I want to note that, while the conference report alters the expedited deportation provisions of the Senate bill, adopted as part of an amendment I offered with Senator SIMON and Senator KENNEDY, it preserves the requirement that if classified information is used to deport an alien suspected of terrorist activity, an unclassified summary adequate to permit the alien to mount a defense must be provided to the alien. This requirement is the absolute minimum that due process will permit. Anything less could not have survived constitutional scrutiny, and I am pleased that this aspect of my amendment was retained.

I am also troubled by the restrictions on domestic fundraising for foreign terrorist organizations. The Senate bill had allowed entities designated as terrorist to seek judicial review. That review would have accorded no deference to the administration's designation and allowed full and searching judicial review. The conference report, while retaining judicial review, establishes a deferential standard for that review. I am far less satisfied with this level of scrutiny. I am also concerned about the first amendment implications of this provision, restricting the ability of U.S. citizens to support favored causes. I acknowledge that the United States is a fertile ground of financial support for foreign terrorist organizations, but am nonetheless concerned about these infringements on U.S. citizens.

Finally, I want to express my strong disappointment over the limited scope of the provision allowing U.S. citizens injured by foreign terrorist attacks to sue foreign nations who supported the attack in which they were injured. In 1993, I introduced the first bill in the Senate to allow U.S. victims of foreign terrorism to sue foreign countries they suspected of supporting the terrorists who injured them. My bill was favorably reported by the Judiciary Committee.

When the Senate considered this bill, it included a provision similar to but narrower than my bill as reported by the Judiciary Committee in 1994, allowing suits against foreign nations for supporting terrorism only if the State Department had previously listed the defendant nation as a sponsor of terrorism. The House bill contained a broader provision allowing suit in the U.S. against any foreign country that did not provide due process in its own courts to remedy the injury to an American citizen.

As the conference on this bill began, I wrote to each of the Senate conferees urging them to accept the House-passed provision. As the conference proceeded, I had thought that an acceptable compromise would be reached. I deeply regret that the conference report rejected any compromise and adhered to the Senate's provision, which allows the State Department to manipulate those foreign nations that are subject to suit in U.S. courts for injuring U.S. citizens. Giving the State Department this role is contrary to the rationale of the Foreign Sovereign Immunities Act and will allow impermissible foreign policy consideration to affect the ability of Americans to seek redress for their injuries caused by foreign governments. I will continue to work on this issue to remove this unfair limitation.

This conference report is not all that could be hoped for. It does, however, represent a significant advance in our Nation's ability to fight terrorism without unduly compromising the rights and liberties of our citizens. As a result, I support the conference report and urge my colleagues to do so as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah has 2 additional minutes.

Mr. HATCH. I yield back my 2 minutes. I understand the time of the minority is also expired.

The PRESIDING OFFICER. That is correct.

Mr. HATCH. On behalf of Senator DOLE and myself, I move to table both of the Biden amendments, with the understanding that these votes are stacked.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Could I also ask unanimous consent that the first vote be 15 minutes in length, but the last two votes be 10 minutes each?

Mr. FORD. Reserving the right to object, Mr. President, I am not sure. Could you give me just a second?

Mr. HATCH. I will withhold that unanimous-consent request.

Mr. DOLE. Were the yeas and nays ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. The first rollcall will be 15 minutes, and the next will be 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. The third will be 10 minutes. The first vote is 15 minutes, the next two votes will be 10 minutes each.

Mr. DOLE. Mr. President, just short of a year ago, this country was rocked by an attack on the Alfred Murrah Federal Building in Oklahoma City, OK. In the wake of that horrible incident, in only a matter of weeks, the Senate responded by passing the Dole-Hatch comprehensive antiterrorism legislation by a vote of 91 to 8 on June 7, 1995. Most of its provisions were drawn from earlier Republican crime packages. Over the past month, we have worked in a bipartisan manner to craft what would surely be the toughest antiterrorism bill ever to become law.

This week, to honor the memory of those who suffered in Oklahoma, the Congress will send to President Clinton this landmark bipartisan antiterrorism bill. It has the support of the Republican Governor of Oklahoma, Frank Keating, and Oklahoma's Democratic attorney general, Drew Edmondson.

Under the leadership of Senator HATCH, we have a measure which would give us the strong, upper hand in the battle to prevent and punish domestic and international terrorism.

On March 27, 1996, I wrote to each of the conferees urging in particular that the three important provisions in the Senate bill be retained. The first facilitates a speedy removal of suspected foreign terrorists from U.S. soil. The second keeps foreign terrorists from raising money for their activities in the United States. The third makes membership in a terrorist organization the basis for exclusion from the United States.

Each of these is a commonsense protection for all Americans. Each of these reforms is long overdue. I am pleased that Senator HATCH and the conferees insisted on keeping these important reforms in the bill.

Most importantly, the bill contains comprehensive, effective habeas corpus reform, which has just been discussed by the distinguished Senator from Pennsylvania, Senator SPECTER, who, as he outlined, has been active in this area for many, many years.

I did visit the San Quentin State Prison in California about 6 or 8 weeks ago. There I met a father whose son had been murdered, a pretty clear-cut case, and it took 15 years—15 years—appeal after appeal after appeal before justice was meted out and the person who committed the murder was executed. There have been more people die of natural causes in that prison than of the death penalty, because of the frivolous appeals, appeal after appeal, costing the State millions and millions of dollars. Obviously, we need to protect the rights of the defendant, particularly in capital cases, but in my view, it is a sad commentary that on death row in San Quentin, where there are about 400-some inmates on death row, more will probably die of natural causes than because of the death penalty.

Maybe that will be changed because of this big, big step forward. I want to

commend Senator HATCH, Senator SPECTER, and others who have worked on this a long time. It has been more than a decade of efforts. We are about to curb these endless, frivolous appeals of death sentences by those convicted of murder. Habeas corpus reform is the only substantive provision in this bill that will directly affect the Oklahoma City bombing case. It is the heart and soul of the bill.

I sent a letter Monday to President Clinton. In that letter, I reiterated that we simply cannot continue allowing convicted murderers to appeal their sentences year after year. President Clinton has already vetoed a similar reform of the death penalty appeals process. The White House continued right up to the end, to argue for changes in habeas corpus that would essentially gut this reform. I called on President Clinton to support us in this important effort and sign this bill when it is sent to his desk. America will not tolerate a second veto of habeas corpus reform.

I am very pleased, moreover, that the conference report provides victims of terrorism the ability to sue foreign governments responsible for terrorist acts in U.S. courts for the first time. On December 21, 1988, 270 people were killed in the terrorist bombing of Pan Am flight 103. This brutal act of terrorism killed more Americans than died in Desert Storm.

The Libyan Government was clearly responsible for this brutal crime. Yet, Libya refuses to extradite the Libyan intelligence officials responsible. I do not know anyone who believes there is a realistic chance that Qaddaffi will cooperate to bring killers he ordered to justice in a legitimate court.

For too long, the survivors of the victims have had no recourse to seek compensation from Libya. That's why the Dole-Hatch bill last year contained authority for victims of international terrorism to sue terrorist states in U.S. courts. For 10 months the Clinton administration fought this provision. For 3 years the Clinton administration has had meetings with family members and had tough rhetoric—but there has been no real action to redress the tragedy of Pan AM flight 103.

This week the Congress will enact this important reform. This is not rhetoric, this is action. This is historic and will, at long last, allow American victims of terrorism to use U.S. courts to try to seek compensation for the vicious acts of terrorist states.

I am proud to have worked closely with the families of the Pan AM 103 victims for many years, especially in the 1990 Aviation Security Act. Nothing we do can possibly replace their loss, but we can give them a avenue for partial justice.

Mr. President, yesterday I received a letter from Victoria Cummock, president of the families of Pan-Am 103/Lockerbie. On behalf of those families, she urged support of this bill. She focuses on two provisions: habeas corpus reform; and opening up our courts to allow victims their day in court against governments that sponsor terrorism. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the materials was ordered to be printed in the Record, as follows:

FAMILIES OF PAN-AM 103 LOCKERBIE,
April 15, 1996.

Hon. BOB DOLE,
Senate Majority Leader,
Washington, DC.

DEAR SENATOR DOLE: On behalf of the victims' families of Pan Am 103, I want to express our gratitude for your leadership in the Anti-Terrorism bill (S–735), currently pending in the Congressional Conference Committee. Your support of two key provisions will enable American victims of terrorism obtain justice in U.S. courts.

More Americans have died at the hands of terrorists than in Desert Storm, or in any other American war over the past 20 years. The bombing of Pan Am 103 was the single worst act of terrorism against civilians in this country's history, killing 270 people. For more than seven year, we—the families—have waited for our country's help and support. During that time terrorists blew up the World Trade Center '93, injuring 1,000 and killing eight, and last year bombed the federal building in Oklahoma City, killing 168.

On March 7, dozens of Americans victimized by terrorism gathered in Washington, D.C. They included parents, widows, and children from the families of Pan Am 103; 21 next of kin from the Oklahoma City bombing; a daughter of Leon Klinghoffer killed in the hijacking of the Achille Lauro; Joseph Ciccipio and David Jacobson held hostage in Lebanon; Scott Nelson tortured in Saudi Arabia, families of the victims of the World Trade Center bombing, and Hans Ephraimson-Abt, the 74-year old father of one of the victims of KAL 007 shot down over the Soviet Union.

At great personal and emotional expense, they gathered to support provisions of the anti-terrorism bill that would enable us to achieve justice: limit immunity granted foreign states that sponsor terrorism, and reform Habeas corpus.

Our motives are not political. Our lives and families have been unraveled by terrorism, and justice is our only consolation. Without justice and accountability there is no deterrence. We want to live in peace knowing that other Americans will be spared.

Countries that hide behind their sovereign immunity to avoid U.S. courts will continue to encourage and sponsor terrorist acts. For example, Libya, which is accused of ordering the bombing of Pan Am 103, is also accused of the 1989 bombing of a French UTA plane of Chad. It killed 171.

Allowing convicted murderers to delay their execution for 17–24 years with their seemingly endless appeals is also plainly wrong. It makes a mockery of our judicial system and gives criminals more rights than their victims.

Dead Americans have no voice, their families must speak for them. Four weeks ago the President made a request to Congress to provide aid to the families of four Cuban Americans shot down by Cuba. Has the President forgotten the hundreds of other Americans murdered by terrorists? The promise that he made to us before his election?

This nation cannot continue to allow countries to kidnap, torture, and murder Americans and escape accountability. The United States allow corporations to seek restitution in U.S. civil court. U.S. law permits restitution for sabotaging a plane full of chickens—but not people. This is an outrage. The message sent to countries sponsoring terrorism is that it is safe to target and kill Americans.

I want to be able to tell my three small children that America stands with us and that their father's constitutional right to justice (and that of other victims) will no longer take a back seat to the rights of terrorists. By maintaining the FSAI and Habeas Corpus provisions in the final language of the anti-terrorism bill, Congress will give us the opportunity to help ourselves. The changes we advocate are right for all Americans; this reform is overdue.

Thank you for your commitment in helping American victims of terrorism. Our hopes and prayers will be with all the Congressional Committee members during their final deliberations.

Sincerely,
M. VICTORIA CUMMOCK,
Widow of John B. Cummock;
President.

Mr. DOLE. Mr. President, in a few moments we will pass this bill. The Congress will put the national interest ahead of partisan interests. Those who have delayed passage of this historic bill argue that this is a weak bill. This is wrong. It is unfair to those who have suffered or may suffer in the future from the evil handiwork of terrorists and other criminals.

My colleagues have opposed these efforts. We will pass this bill today. As Diane Leonard, whose husband Don was killed in the Oklahoma City bombing, said yesterday: "It is the right thing to do." Then I hope President Clinton will do the right thing and sign the bill.

I yield the floor.

Mr. HATCH. Mr. President, what is the status of the bill?

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the motion to table the motion to recommit offered by the Senator from Delaware.

Mr. HATCH. Mr. President, I was under the mistaken belief that we would have some extra time, but I would like to give some time before final passage, equally divided. I would like to be able to give 3 minutes to the two distinguished Senators from Oklahoma. That would mean 6 minutes to the minority.

I ask unanimous consent that we have 12 minutes, equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, as I understand, prior to the final vote?

Mr. HATCH. Prior to the final vote.

Mr. FORD. Six minutes.

Mr. HATCH. Divided between Senator BIDEN and myself, and I make sure the——

Mr. FORD. Six minutes on each side?

Mr. HATCH. Right.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to table the motion to recommit offered by the Senator from Delaware [Mr. BIDEN] relative to revising existing authority for wiretaps.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 69 Leg.]

YEAS—56

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—43

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—1

Mack

The motion to lay on the table the motion to recommit was agreed to.

The PRESIDING OFFICER (Mr. SANTORUM). The question occurs on agreeing to the motion to table the motion to recommit with instructions relative to deleting section 806 of the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—53

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—1

Mack

So the motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I understand before the final vote there are 6 minutes allotted to each side.

The PRESIDING OFFICER. The Senator will suspend. Senators to the left of the Chair will please take your conversations to the cloakroom. The Senate will please come to order.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I appreciate the indulgence of my colleagues today in voting on these motions to recommit and the strong support of 40 to 48 Senators we have gotten on each of these votes. I appreciate that.

In the 6 minutes that I have to close, let me just suggest two things. There is a good deal of change that has been made in the habeas corpus provisions of the law, which, in my view—a broken record—will do nothing to prevent terrorism. The habeas provision in this bill deals primarily with State crimes, and the terrorism crimes we are concerned about—Oklahoma City, the World Trade Center bombing, et cetera—are Federal crimes. It will not affect it at all.

But there is a provision in the bill that I would like to say something about. There's a section that says:

> An application for writ of habeas corpus on behalf of a person in custody, pursuant to the judgment of a State court, shall be granted with respect to any claim that was adjudicated on the merits in State court proceedings, unless the adjudication of the claim, one, resulted in a decision that was contrary to or involved in unreasonable application of a clearly established Federal law as determined by the Supreme Court, or resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented.

I would like to make this brief observation.

As things now stand, Federal courts take State court decisions very seriously. They are not writing on a blank page and ignoring State court decisions right and left. In fact, court watchers who pay close attention to the cases tell me that Federal courts grant relief only when it is pretty clear that someone's constitutional rights have been violated. So it seems to me that even under this provision of the law we are now changing, which I think is inadvisable to change, but even under this provision, if Federal courts think that State courts are right on the Constitution, they will uphold it. And if they are wrong, they will not.

So if a State court makes an unconstitutional determination, the Federal courts will, and should, continue to say so. Therefore, I think this is much less onerous—unnecessary but much less onerous—than, in fact, it may appear on its face.

If a Federal court concludes the State court violated the Federal Constitution, that, to me, is by definition—by definition—an unreasonable application of the Federal law, and, therefore, Federal habeas corpus would be able to be granted.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am truly gratified at the action that I believe the Senate is about to take. Passage of this legislation is urgently needed. This bill, passing at this time, will be a memorial to the victims of terrorism. I was so moved the other day, when survivors of terrorism came here to Washington to plead again for enactment of this legislation.

Since the Senate first acted last June, we have been working to reach this point. The result of that effort is a conference report that, in my view, deserves the support of every Member here. This legislation represents a landmark effort to address an issue of grave national importance—the prevention and punishment of acts of terrorism. This bill includes long-needed reforms to Federal habeas corpus procedures and provides vital provisions for victims of terrorism and other Federal crimes. It also adds important tools to the Government's fight against terrorism, and does so in a temperate manner that is protective of civil liberties.

I have insisted from the beginning that this bill address the needs of the victims of terrorist acts, so I am particularly pleased about the provisions we have included for them. Our commitment to the victims of terrorism is evident from the first two titles of the conference report. These provisions are

the heart and soul of this bill, and are the only provisions which can provide solace to the victims of past acts of terrorism, such as Oklahoma City and Lockerbie:

Habeas corpus reform: This legislation includes tough, fair, and effective reform of Federal habeas corpus procedures. I have been fighting, along with crime victims across our Nation, for the enactment of this legislation for nearly 20 years. Finally, heinous criminals will no longer be able to thwart justice and avoid just punishment by filing frivolous appeals for years on end. Finally, crime and terrorism victims will know that our justice system means what it says.

Mandatory victim restitution: The mandatory victim restitution section of this bill is the Hatch-Biden measure, and will ensure for the first time that Federal courts must order violent criminals and terrorists to pay restitution to their victims. We all know that a price can never be placed on the terrible costs these crimes inflict. We also know that in far too many cases, repayment will fall far short of the cost we can calculate. However, with this bill, victims will finally have the solace of knowing that the justice system recognizes their loss, and that the perpetrators of evil are held accountable.

Terrorism by foreign countries: This bill takes the important step of ensuring that Americans who are harmed by foreign governments committing or directing terrorists acts can sue those governments in American courts. Lawless nations will no longer be able to hide their terrorist acts behind the rules of international law that they otherwise flaunt.

Oklahoma City trial: Finally, by providing for closed circuit viewing of the Oklahoma City trial by the bombing's victims and survivors, this bill also will ensure that these courageous people can observe justice being done, while still ensuring a fair and just trial for the accused.

The terrorism bill we are about to finalize also is a tough, effective measure. With its enactment, we will be better able to prevent and deter future terrorist acts. Moreover, we will be better equipped to respond to and punish these heinous acts should they occur.

First, for the first time since the tragic bombing of Pan Am flight 103, it will be required that all plastic explosives manufactured, sold, imported into, or exported from the United States include chemicals to make them detectable by airport security. This provision will help protect airline passengers from terrorist attacks and fulfill our obligations under international agreements.

Second, this legislation include important new measures to ensure that access to dangerous human pathogens—like the agent that causes bubonic plague—is properly limited. This will help ensure that the American people are not victimized by terrorists engaging in such tactics, such as the Japanese cult Aum Shinri Kyo that released cyanide gas in a crowded Tokyo subway.

Third, the bill we will send to the President provides law enforcement with the tools necessary to combat the threat of nuclear contamination and proliferation that may result from illegal possession of nuclear materials.

Fourth, this antiterrorism bill will prohibit, in a constitutional manner, fundraising in this country by specific, designated foreign terrorist groups. Once designated, these groups will no longer be permitted to use American-raised funds to spread terror here and abroad.

Fifth, this bill provides the Federal Government with the tools it needs to exclude representatives and members of foreign terrorist groups from the United States, and provides the Government with the ability, within the bounds of due process, to deport alien terrorists without compromising national security.

This bill also: Increases the penalties for crimes committed with explosives, as well as conspiracies to commit such crimes; curtails the use of domestic and foreign use of weapons of mass destruction; addresses the increasingly global nature of terrorism, increasing penalties for terrorist acts that transcend national boundaries; imposes strict penalties for retaliatory assaults or murders of Federal officers or employees; provides emergency response training to State and local law enforcement; and harmonizes security measures to provide Americans flying to and from the United States on foreign airlines with the same level of protection they receive for domestic flights.

In short, this bill reflects the unity of purpose and clarity of resolve with which we must meet the terrorist threat.

I am proud of the bill we have crafted. It is time for us to finish the job, and pass this conference report. In doing so, it is my hope that we recall the Americans who died at the hands of terrorists, not only last month, but over the last 15 years or more. In Beirut, in Lockerbie, in New York, and in Oklahoma City, victims of terrorism have had their lives stolen by evil persons pursuing selfish and twisted agendas. We can honor these victims by completing the task at hand.

Mr. HATCH. Mr. President, I yield 3 minutes to the distinguished junior Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 3 minutes.

Mr. INHOFE. Mr. President, I think anything that is said further tonight on this bill will be redundant, but I think some things are worthy of redundancy. I think it is virtually impossible for anyone in this Chamber who was not in Oklahoma City when the tragedy happened—the bombing of the Murrah Federal Office Building—to really appreciate the significance of the trauma, the disaster, the emotions at the time.

I think it was well said in a magazine called Oklahoma Today, talking about the first wave of the super-hot gas moved at 7,000 miles an hour, fast enough for someone 10 feet away to be hit with a force equal to 37 tons, and in about half a second the gas dissipated only to be replaced by an equally violent vacuum. The resulting pressure waved outward, lifting the building up and causing beams, floor slabs, and connections to weaken and collapse.

When the pressure wave passed, gravity took over. Nine stories of the north side of the building pancaked, creating a crater 30 feet deep. People who had been on the ninth floor ended up in the basement.

I think one of the most memorable experiences I had was the very first night. The firefighters had arrived. They were all volunteers. They were taking turns 1 hour at a time crawling on their bellies through there to pull out parts of bodies. I actually saw on the first floor human hair and one hand that was stuck to a wall. As they pulled the bodies out—some alive, some dead—they did not know at that time whether or not it would come crashing down and kill them. When one group came out after an hour, there was blood all over the individuals. Then you could hear the cadence, almost like you heard in World War II, of the firefighters marching down the streets to take their turn, and this is what we experienced there.

The majority leader a few minutes ago said the habeas provision is the heart and the soul of this bill. It may be that some of you do not agree with that, but I can assure you the families of the 168 victims who died in the Murrah Federal Office Building, they believe that, because they came up here 2 months after the explosion and sat across the table from many of the Senators in here and said, "The one thing we want in legislation is habeas reform. We do not want the same thing to happen as happened when Roger Dale Stafford in Oklahoma murdered nine Oklahomans and sat on death row for 20 years."

So I guess all I can say is, on behalf of the families of the 168 victims, those who lost their lives in the Murrah Federal Office Building, I appeal to you to pass this bill tonight.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, so that the majority gets to go last, I have 2 minutes remaining.

What the Senator from Oklahoma just read was moving and significant. I

VOL
142
PT
6
AP
15
—
24
1996
UMI

am going to vote for this bill, but I am dumbfounded why, after reading what he just read and us knowing that, that we all voted in this Chamber to allow someone to teach somebody how to build another fertilizer bomb, even if the person teaching knew or had reason to believe it would be used for a purpose like that.

Hear what I just said? "Intended." If a person teaches someone how to build a fertilizer bomb intending that that be able to be done, a crime to be able to be committed with it, we just voted not to put that prohibition into the law.

And now that you all are here and did not have a chance to listen to this before, I hope you know, after we pass this bill, you will join me tomorrow, or the next day, to pass a law that says you cannot do that, because you inadvertently voted, when I tried to put it back in the law, to let someone now, legally, over the Internet or any other way, teach someone how to build a fertilizer bomb, give them the details and intend that it be used that way, and it is not prohibited.

So I hope tomorrow when I am here, or the next day, listening to what the Senator from Oklahoma accurately stated and believes deeply that we should never let this happen again; we will correct the mistake that we made here today.

Mr. HATCH. Mr. President, I yield the last 3 minutes to the distinguished senior Senator from Oklahoma.

Mr. NICKLES. Mr. President, first I wish to thank the majority leader for setting aside the immigration bill to take up this bill. I informed the majority leader and the Speaker some months ago of my earnest desire to pass this before this Friday.

This Friday is the 1-year anniversary of the worst civil disaster that we have had in U.S. history: 168 innocent men, women, and children were murdered in the Murrah Building bombing.

The majority leader responded to that request, and I appreciate it.

I also want to compliment Senator HATCH and Senator BIDEN and their staffs, and also Chairman HYDE, for their willingness over the last 2 weeks when we were in recess to work out the differences, because the bills between the House and the Senate had a lot to offer, but there are significant differences in the bills.

But there were significant differences. They worked out those differences. They came up with compromises. That was not easy during the break. That is not often done. But they did it so we can meet this deadline. I very much appreciate their cooperation.

Mr. President, this is vitally important legislation. As my colleague from my State, Senator Inhofe, mentioned, this is very important legislation to the families of the victims. There are hundreds of people involved. Yes, there are 168 individuals who lost their lives, but they have hundreds of family members, and actually I think it is in the thousands, the relatives that are directly impacted, that lost a cousin, lost a dad, lost a son, lost a daughter.

We met with those individuals. They want this bill passed. This bill may not be perfect. I know Chairman HATCH said that some of the other provisions that were alluded to today, that he is happy to introduce those and work on those in separate legislation. I compliment him for that. But if we recommitted this bill, we would not have this bill. It would not pass.

So I want to thank my colleagues on this side that voted against the motions to recommit. This is a conference report. If we are going to get it passed, we are not going to be able to recommit it. So I will be happy to work to make future improvements. But this is a good bill. It does have habeas corpus reform. It ends the abusive appeals. That is certainly good for taxpayers and victims.

It does allow closed-circuit TV for families in the Oklahoma City bombing. Right now the trial, regrettably, is going to be in Denver. That is over 500 miles from Oklahoma City. They want to be able to view the trial and not have to move their families to Denver. We requested assistance from Justice, but they did not make it happen. We make it happen in this legislation. That is good news for their families. Several of us will be with several thousand people. That will be good news for Oklahomans.

Finally, I thank my colleagues for their bipartisan support. We put mandatory victim restitution in this legislation, something that the Senate has supported countless times. That is very significant and important and one of the crime reform packages we have had. We passed it in the Senate. Unfortunately, it has not come out of conference with the House. It is in this bill. Again, I want to thank my colleagues, Senator HATCH and Senator BIDEN, because they supported that provision.

Finally, Mr. President, I want to urge my colleagues to vote for this bill. I will be very disappointed if this bill only has 60 or 65 votes. I hope it has 100 votes. This bill may not be perfect, but it is good legislation. Also, I would like to urge the President of the United States to sign it.

Mr. President, I ask unanimous consent that a letter from the Governor of the State of Oklahoma to the President of the United States urging that the President sign this bill be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF OKLAHOMA,
OFFICE OF THE GOVERNOR,
Oklahoma City, OK, April 16, 1996.

Hon. BILL CLINTON,
United States of America, The White House, Pennsylvania Avenue, Washington, DC.

DEAR PRESIDENT CLINTON: Congress will soon pass legislation which will effectively combat terrorism. Having dealt with the tragedy and aftermath of the Oklahoma City bombing, I believe it is imperative that you sign this legislation into law.

In addition to the tough law enforcement provisions aimed at terrorists and their organizations, it includes provisions of particular interest to those of us in Oklahoma.

First and foremost is effective death penalty reform, which will end the delays and frivolous appeals by convicted death row inmates. The importance of this provision has been made clear by the families of the victims of the Oklahoma City bombing, who have worked tirelessly to see this reform become law so that justice may be swift and sure.

Second is a provision allowing for the closed circuit viewing of the trial by families and victims who cannot be accommodated by the courtroom in Denver. The viewing would take place in Oklahoma and would allow these families and victims to fully benefit from our victims' rights laws which stipulate they be entitled to monitor the trial proceedings.

Mr. President, this bill deserves to be signed into law. For the families and victims of the Oklahoma City bombing, it represents a significant step in bringing closure to this terrible tragedy. I urge you to approve this vital change in our nation's laws to combat terrorism. It is the right thing to do.

Very truly yours,

FRANK KEATING.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 71 Leg.]

YEAS—91

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords

Johnston
Kassebaum
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Mikulski
Murkowski
Murray
Nickles
Nunn
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NAYS—8

Byrd
Feingold
Hatfield
Kennedy
Moseley-Braun
Moynihan
Pell
Simon

NOT VOTING—1

Mack

The conference report was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I think this is a big victory for all of America, but most of all for those folks who suffered in Oklahoma City, OK, and other terrorist incidents in the world.

I want to acknowledge the work of some people who were critical to the passage of this bill—in particular, the majority leader. The majority leader, BOB DOLE, is to be commended for his leadership. Once again, Senator DOLE has delivered for the American people. I personally express my gratitude to our distinguished majority leader.

I also want to acknowledge the work of Chairman HENRY HYDE over in the House, and my fellow conferees, Senators THURMOND, SIMPSON, BIDEN, and KENNEDY. Senators NICKLES and INHOFE deserve mention, too, because they never let this institution forget who this bill was for. All of the survivors from the Oklahoma tragedy and the Pan Am disaster were critical to this bill's passage. So they all deserve our thanks.

I want to mention a few of the other people who worked on this bill, as well—in particular, the staffers who worked long hours out of deep commitment to public service. Jeanne Lapatto, Christina Rios, Nick Altree, Mike Ashburn, John Gibbons, and Ed Richards were invaluable. Ashley Disque—a young woman who came to the committee as an L.C. and has not looked back—epitomized initiative. Mike Kennedy, an attorney who is going to go places, in my opinion, worked around the clock. Finally, I want to commend Mike O'Neill, our crime counsel. Mike is going to be leaving here in a few weeks to clerk for Justice Thomas over at the Supreme Court. Our loss is the Supreme Court's gain. Quite simply, Mike O'Neill, more than any other staffer, made this bill happen. Manus Cooney, our committee staff director and senior counsel is also to be commended.

Some of Senator BIDEN's staff should be mentioned as well—Demetra Lambros and Chris Putala are true professionals. Also, I would like to thank Valerie Flappan of the legislative counsel's office.

I also want to compliment the other House conferees and, in particular, Congressmen HYDE, MCCOLLUM, SCHIFF, BUYER, and especially BOB BARR from Georgia, who worked very hard on this bill and has provided an awful lot of input on this bill. Another staffer who should be mentioned here is Pat Murray, HENRY HYDE's able and dedicated counsel who, in working with our staff, helped craft a true terrorism bill. Paul McNulty also deserves credit. There are so many others I would like to commend at this point. But I will end at this point and thank all of these good people for the good work they have done.

I pay respect to my distinguished colleague, the minority leader on the Judiciary Committee. He is a tough, tough opponent. He is a very good advocate. It is one of the privileges in my life to be able to work with him on the Judiciary Committee and to be able to have this type of a relationship, and still to occasionally fight each other on the floor and, hopefully, walk away still friends.

In particular, I want to make all those congratulations.

I yield the floor.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 77–770, appoints the Senator from Louisiana, [Mr. BREAUX], to the Migratory Bird Conservation Commission, vice the Senator from Arkansas, [Mr. PRYOR].

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

MORNING BUSINESS

Mr. SPECTER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HISTORIC 70 WINS FOR THE CHICAGO BULLS

Mr. SIMON. Mr. President, Senators often make statements on the floor to inform the Senate and the Nation about the accomplishments of their constituents, and today I wish to acknowledge some folks back in Illinois who have achieved a historic feat unequaled by their peers. My colleagues may be familiar with this group of Chicagoans. I am speaking of the Chicago Bulls, who last night defeated the Milwaukee Bucks in a hard-fought, 86 to 80 game, to become the first National Basketball Association [NBA] team to win 70 games in a season.

In the nearly 50-year history of the NBA, 70 wins has been a mythical, seemingly unattainable goal. The 1971–72 Los Angeles Lakers came close with 69 wins, but now the Bulls have secured their place in the history books with 70, and with 3 games left in the season, that record could be higher.

Of course this achievement would not have been possible without the return of Michael Jordan, unarguably the game's greatest player ever. But we cannot overlook the efforts of his star teammates, from Scottie Pippen, Toni Kukoc, and Dennis Rodman, to the less publicized but invaluable players like Ron Harper, Luc Longley, Steve Kerr, and Bill Wennington, to name just a few. The talent of individuals however can only take you so far. A true champion needs a great leader, and coach Phil Jackson has fulfilled that role throughout his career, having guided the Bulls to three previous championships.

Should the Bulls go on to win the championship in June—their fourth of the decade—there is little doubt that they would be considered the greatest team in the history of professional basketball. I am proud to represent this group of individuals and congratulate them on their unprecedented accomplishment. I wish them the best of luck as they head into the playoffs.

CHICAGO BULLS WIN 70 GAMES

Ms. MOSELEY-BRAUN. Mr. President, I want to take this opportunity to commemorate a historic moment for the city of Chicago and the State of Illinois. Over the years, the members of this greatest deliberative body have engaged in some of the most compelling debates the world has ever heard: issues of States' rights, war and peace, and individual liberty. But as of last evening, one debate need no longer be considered: which is the greatest NBA team of all time, at least through the regular season. By recording their unprecedented 70th win of the regular season, the 1995–96 Chicago Bulls are one of the best teams of all time, and when they go on to secure an NBA championship, they will be without question, the greatest team in the history of professional basketball.

In the 49-year history of the National Basketball Association, no team has won 70 games in one season until the Chicago Bulls accomplished that remarkable feat—I am sad to say to my dear friend and colleague from Wisconsin, Senator KOHL—by defeating the Milwaukee Bucks last night 86 to 80. By winning their 70th game in 79 tries, the Bulls eclipsed a 24-year-old record set by the Los Angeles Lakers and now stand alone on the other side of what once was considered an impregnable barrier.

VOL
142
PT
6
AP
15
—
24
1996
UMI

This year's Bulls team has elevated itself to an elite level in the history of sports. This team deserves to be ranked on the same level as the 1927 New York Yankees, the 1972 Miami Dolphins, and the 1977 Montreal Canadiens—all teams that embodied perfection in sports. It might also be noted that with this 70th win, Chicago now holds the distinguished honor of having or sharing three of the four major sports records for most wins in a regular season—the 1906 Cubs in baseball, 116 wins, the 1985 Bears in football, 15 wins and now, the Chicago Bulls. I know I speak for Bulls fans across the country in saying that we are energized and excited by the zealous pursuit of victory exhibited by our team this year.

It is no coincidence that the greatest team of all time is being propelled by the greatest player of all time—Michael Jordan. Michael Jordan has a combination of power and panache unmatched in the history of the NBA. He refuses to lose and his competitive nature, floor leadership, and will to win lifts the playing level of all those around him.

Mr. President, we all know that in team sports, true greatness cannot be achieved alone. Michael Jordan is surrounded by outstanding players in their own right—Scottie Pippen, Dennis Rodman, Toni Kukoc, and the rest of the lineup. Coach Phil Jackson has been able to skillfully mesh all the personalities of this team into an extraordinary combination of teamwork and individual achievement. The result is the 70-win accomplishment that has eluded basketball's best players and teams for decades.

On behalf of the city of Chicago and the State of Illinois, I want to offer my State's hearty congratulations to Coach Jackson and the entire Bulls organization for winning 70 games in the 1995–96 regular season, a record that may never be equaled.

CONGRATULATING NATIONAL PEOPLE'S ACTION ON 25 YEARS OF ACCOMPLISHMENT AND THEIR 25TH NATIONAL NEIGHBORHOODS CONFERENCE

Ms. MOSELEY-BRAUN. Mr. President, on Saturday, April 27, National People's Action (NPA), a national network of more than 300 community organizations, churches, and senior citizen groups from 38 States across the country, will open its 25th national neighborhoods conference here in Washington, DC.

I want to call the Senate's attention to this conference, because National People's Action represents America at its best—people from neighborhoods working together to improve their neighborhoods. The hundreds of organizations and the thousands of people from all walks of life who make up National People's Action are committed to their communities. They know that neighborhoods are critically important. They know that neighborhoods with good housing, neighborhoods that are safe, and neighborhoods with access to good jobs are places where families can achieve their own piece of the American dream. And perhaps most importantly, they know that by putting fundamental American values to work—by working hard to make those values an everyday part of life in their neighborhoods—they are making a real difference in their communities and in our country.

National People's Action is known as the first voice of our Nation's neighborhoods. This people's organization has, from its inception, spoken out for investing in neighborhoods, ending redlining by financial institutions, expanding the stock of good, affordable housing, implementing community-based approaches to crime prevention and policing, and expanding economic opportunity and the access to good jobs at good wages that are so essential to healthy communities.

NPA is a grass roots movement with an enviable record of accomplishment. I would like to take just a moment to highlight a few of those many successes. First, NPA played a key role in making the Community Reinvestment Act, the primary Federal tool for expanding access to capital, a reality, and NPA has used that tool to obtain over $25 billion worth of CRA lending agreements. These agreements mean access to mortgage money, home rehabilitation money, and economic development money for hard-working people living in hard-pressed neighborhoods that have all too often been cut off from capital in the past.

NPA created the lease-to-purchase mortgage product, the first of its kind in the United States. This innovative approach allows people who may not have the money to make a downpayment on a home to have a real opportunity to achieve perhaps the single most important element of the American dream—owning their own home.

And NPA, working with Freddie Mac, created an ingenious new type of mortgage for buildings with two-to-four units, thereby helping to revitalize this kind of housing, which is so important to so many cities and neighborhoods, and making it possible for neighborhood residents to become homeowners and landlords. The result of this resourceful approach are more homeowners in neighborhoods, and a better stock of rental housing.

While NPA's successes are varied, however, they all have the same theme. They are all about people, about making it possible for people in the neighborhoods and communities around our Nation to build a better life for themselves. NPA is a quintessentially American organization. It accomplishes a huge amount with very little money. It is nonbureaucratic. And it works right at the neighborhood level. It doesn't tell people what to do. Rather, it brings people together so that, by working together, they can make their neighborhoods better places to live for themselves and for their families.

National People's Action, and its national chairperson Gale Cincotta, deserve the Senate's commendation. As I stated at the beginning of my remarks, this organization embodies the essence of American values. NPA puts the values on which this Nation was founded to work for all of its people. I am therefore glad to have the opportunity to bring NPA's 25th annual neighborhoods conference to the Senate's attention, and I hope every Member of the Senate will attend this important event.

Mr. President, I ask unanimous consent that a complete list of NPA's major proneighborhood accomplishments be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NPA'S MAJOR ACCOMPLISHMENTS

REINVESTMENT

Spearheaded enactment of the Home Mortgage Disclosure Act (HMDA) and the Community Reinvestment Act (CRA) which protect urban areas and minorities from loan discrimination.

Provided technical assistance to community groups which directly led to over $25 billion in NPA assisted CRA lending agreements.

Developed 10 city pilot affordable housing programs with the secondary market and private mortgage insurers which led to a nationwide low-downpayment program called the Community Homebuyers Program. The development of the CHBP has resulted in industry-wide changes in the standards for conventional lending and millions of home loans to low income families.

Coordinated the Chicago Reinvestment Alliance, which in 1984 developed a $363 million Neighborhood Lending Program. The program has been renewed twice, and to date, over $500 million have been lent and over 14,000 units of affordable housing and businesses have been created or rehabilitated in Chicago.

Coordinated the NPA/Aetna Neighborhood Investment Program, which provided over $100 million in loans for rehabilitation or construction of over 10,000 affordable housing units in 14 urban neighborhoods throughout the country.

Brought the Neighborhood Housing Services (NHS) to Chicago and has continued to support its expansion by developing new loan programs and funding sources.

Successfully advocated for increases in Community Development Block Grant (CDBG) funding and for increases in the targeting of CDBG funds to low and moderate income neighborhoods.

Created the Lease-to-Purchase mortgage product, the first-of-its-kind in the nation. This product allows individuals to enter the home as tenants and after a 2–3 year lease period become the homeowner, having accumulated a 10–15% downpayment to purchase. Lease-to-Purchase has become a standard affordable housing option.

Successfully advocated for performance oriented goals for Government Sponsored Enterprises (GSEs) requiring 30% of mortgages to be purchased in underserved markets and from low and moderate income families.

Created a unique low downpayment mortgage product for 2–4 unit buildings with Freddie Mac that allows for 75% of rental income to be used to qualify the applicant, thus creating an opportunity for homeownership for low income people.

Developed in conjunction with the Mortgage Guaranty Insurance Corporation (MGIC) the first ever purchase and default counseling training for community based counselors.

FEDERL HOUSING ADMINISTRATION

Through a national advocacy campaign, stopped abusive lending practices that resulted in catastrophic FHA foreclosures in the 1970s.

Secured 518(b) and (d) Payback Programs for buyers of defective FHA homes which provided funds for repair of major systems and structural defects.

Developed Repair and Sell Programs that rehabilitated vacant FHA homes in blighted neighborhoods.

Spearheaded the development of the FHA Assignment Program which provides assistance to those behind in their mortgage in order to prevent foreclosure.

Continued to research FHA lending practices and uncover abuses, such as illegal minimum loan amounts imposed by some FHA lenders.

Negotiated a HUD demonstration program that allows not-for-profit developers to obtain vacant, foreclosed properties at a 30% discount. Over 600 homes have been rehabilitated for low income families. This pilot program has become a permanent HUD program.

Successfully advocated for public disclosure by HUD of FHA lending activity and loan failure rates by mortgage company and census tract. Analysis of data has uncovered high default rates far exceeding HUD's definition of trouble areas.

CRIME AND DRUG PREVENTION

Developed 1976 community anti-crime program with the law Enforcement Assistance Administration which redirected LEAA funds to local community groups for local anti-crime programs.

Changed Illinois policy regarding the distribution of Asset Forfeiture funds to allow $500,000 to be returned to communities for crime prevention programs.

Coordinated along with the Chicago Police Department a Nuisance Abatement Program in four police districts that resulted in closing 1,000 drug houses during the first year of operation.

Provided 387 community groups, 42 police departments, and state and local government agencies with technical assistance to develop community based anti-crime and drug strategies.

Coordinated a national day of Reclaiming Our Neighborhoods in which 38 cities participated February 14, 1994.

Won change in Asset Forfeiture Regulations nationally, allowing communities to receive 15% of seized drug money and real property.

Was awarded $1.2 million cooperative agreement from the Bureau of Justice Assistance, U.S. Department of Justice to coordinate a demonstration program (1992–1995) in 13 cities across the country, Communities in Action to Prevent Drug Abuse.

Was awarded cooperative agreement from the Bureau of Justice Assistance—Department of Justice and the Department of Labor to coordinate Communities in Action to Prevent Drug Abuse II—Reclaiming Our Communities (1995–1997) in 10 cities across the country.

TRAINING

Was awarded a three year national VISTA grant in 1978 which resulted in training of almost 100 community staff in 48 community organizations.

Provided technical assistance and seed funding to 131 community groups since 1980 through the Mott Foundation's Strengthening Citizen Initiatives at the Local Level Program.

Provided training on financial management to community groups in 8 cities through a program developed with Allstate.

Offered week-long training courses since 1974 that have trained over 3,000 participants in community advocacy skills.

Provided on-site consultations that have resulted in development of dozens of new community organizations across the country.

Provided on-site training for at least 40 organizations a year.

Have coordinated national conferences on Housing, CRA, Jobs, Insurance and Drugs providing an area for all the players to come together to discuss their concerns. Each conference attracted over 500 participants.

ENERGY

Provided training and consulting for 147 community groups on natural gas deregulation in the late 1970s and early 1980s.

In the mid 1980s, founded the Affordable Budget Coalition to address the rash of utility shut-offs plaguing Illinois. The ABC became independent in 1987.

Assisted community groups to intervene in utility rate cases before the Illinois Commerce Commission, resulting in almost $2 billion in refunds.

Has been an expert witness in telephone and electric utility cases and performed an analysis of Currency Exchange rates charged to cash government benefit checks for use in rate investigation of the Illinois Department of Financial Institutions.

Currently working with community groups and participating in policy forums on the deregulation of the electrical utility industry in Illinois.

Working with community groups, government agencies and electric and natural gas utility companies to establish a long-term solution to the low income residential energy crisis and the decline of federal energy assistance funding.

Providing training for Community Action Agency's low income board members across the country in cooperation with the Illinois Community Action Agency under a contract from the U.S. Department of Health and Human Services.

INSURANCE

Developed new urban property insurance products and increased urban investments with leading companies, including Allstate and State Farm as a response to NPA advocacy against insurance redlining.

THE HEALTH INSURANCE REFORM ACT OF 1995

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the following items with regard to S. 1028 be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 22, 1995.

Hon. NANCY LANDON KASSEBAUM,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office [CBO] has reviewed S. 1028, the Health Insurance Reform Act of 1995, as ordered reported by the Senate Committee on Labor and Human Resources on August 2, 1995. CBO estimates that enactment of S. 1028 would not significantly affect the federal budget. (Each state's insurance commissioner would ensure that the requirements of this legislation are carried out by health insurance carriers in their state; CBO has not attempted to estimate the amount by which state government spending could be changed.) Pay-as-you-go procedures would apply because the bill could affect direct spending and receipts. the estimated change in direct spending and receipts, however, is not significant.

This bill would create uniform national standards intended to improve the portability of private health insurance policies. for example, these standards would allow workers with employment-based policies to continue their coverage more easily when changing or leaving jobs. Because most private insurance plans require a waiting period before new enrollees become eligible for coverage, especially for preexisting medical conditions, workers with chronic conditions or other health risks may face gaps in their coverage when they change jobs. Alternatively, such workers may be hesitant to change jobs because they fear the temporary loss of coverage, a situation known as "job-lock."

S. 1028 would reduce the effective length of exclusions for preexisting conditions by crediting enrollees for continuous coverage by a previous insurer. Insurance companies would be prohibited from denying certain coverage based on the medical status or experience of individuals or groups and would be required to renew coverage in most cases. Insurers could not deny coverage to individuals who have exhausted their continuing coverage from a previous employer. This bill would allow individuals to change their enrollment status without being subject to penalties for late enrollment if their family or employment status changes during the year. To the extent that states have not already implemented similar rules, these changes would clarify the insurance situation and possibly reduce gaps in coverage for many people.[1]

Because the bill would not regulate the premiums that plans could charge, the net number of people covered by health insurance and the premiums that they pay would continue to be influenced primarily by current market forces. In other words, although insurance would become more portable for some people under this bill, it would not become any more or less available in general.

S. 1028 could affect the federal budget in two primary ways. First, if the bill changed the amount of employer-paid health premiums, total federal tax revenues could change. For example, if the amount employers paid for premiums rose, cash wages would probably fall, thereby reducing income and payroll tax revenues. If individuals paid more for individually-purchased insurance, they could increase their itemized deductions for health expenses. Second, if the bill

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Footnotes at end of letter.

VOL
142
PT
6
AP
15
—
24
1996
UMI

caused people insured by Medicaid or government health programs to purchase private coverage, then federal outlays for those programs could change.

According to the General Accounting Office [GAO], 38 states have enacted legislation to improve the portability and renewability of health plans among small employers.[2] The state laws do not apply to employees of larger firms with self-funded insurance plans, however, and the GAO report finds that state laws generally do not apply to the market for individually-purchased insurance.

Because many insurance reforms have already been implemented by the states, GAO assumes that the new national standards created by S. 1028 would not significantly change the insurance market for most people. Although the national standards created by S. 1028 would improve the portability of health insurance for some additional groups or individuals, GAO assumes that the incremental change in the insurance marketplace would be minor. Any changes to overall insurance coverage or premiums caused by the bill would probably be small, and the direction of the change is uncertain. Most people subject to the new insurance rules would have had coverage under the old rules, so their total health spending would probably not be noticeably different. Therefore federal revenues would be unlikely to change.[3]

CBO estimates that federal outlays for Medicaid would not change because any persons eligible for free coverage from Medicaid under current law would also seek out Medicaid coverage if S. 1028 was enacted. CBO also estimates that the bill would cause no appreciable changes to federal outlays for Medicare, Federal Employees Health Benefits, or other federal programs.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff Lemieux.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

FOOTNOTES

[1] For additional discussion, see GAO testimony "Health Insurance Regulations, National Portability Standards Would Facilitate Changing Health Plans," July 18, 1995, before the Senate Committee on Labor and Human Resources.

[2] Health Insurance Regulation: Variation in Recent State Small Employer Health Insurance Reforms (GSO/HEHS-95-161FS, June 12, 1995).

[3] CBO cooperates with the Joint Committee on Taxation to produce estimates of revenue changes under proposals that would change the private health insurance market. Following CBO's estimate that S. 1028 would not significantly change spending for private health insurance, the Joint Committee assumes that federal revenues would not change.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 22, 1996.

Hon. NANCY L. KASSEBAUM,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed mandate cost statements for S. 1028, the Health Insurance Reform Act of 1995, as reported by the Senate Committee on Labor and Human Resources on October 12, 1995.

Enactment of S. 1028 would impose both intergovernmental and private sector mandates. The cost of the intergovernmental mandates would not exceed the applicable $50 million threshold, but the costs of the private sector mandates would exceed the applicable $100 million threshold.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE ESTIMATED COST OF INTERGOVERNMENTAL MANDATES

1. Bill number: S. 1028.

2. Bill title: The Health Insurance Reform Act of 1995.

3. Bill status: As reported by the Senate Committee on Labor and Human Resources on October 12, 1995.

4. Bill purpose: S. 1028 would make it easier for people who change jobs to maintain adequate coverage by requiring issuers of group health plans and sponsors of health plans for employees to: Limit exclusions for preexisting conditions to 12 months (18 months for late enrollees) with a one-for-one offset against the exclusion for continuous coverage; not impose eligibility requirements based on health status or other medical information; and offer special enrollment periods when an employee experiences a change in family composition (e.g., the birth of a child) or a family member of an employee loses health coverage under another health plan because of a change in employment status.

In addition, the bill would require health plans sponsored by employers to: extend COBRA coverage an additional 11 months if an employee becomes disabled during the 18 months of the original COBRA coverage or has disabled dependents, and provide immediate coverage to newborns or adopted children under a parent's COBRA policy.

Furthermore, S. 1028 would increase the portability of health insurance from group coverage to individual coverage by requiring issuers of individual health insurance to provide coverage if an individual has had 18 months of continuous coverage. In addition, the bill would assist employers and individuals in establishing voluntary coalitions for purchasing group health insurance and preempt some state laws dealing with purchasing cooperatives. Finally, if the bill is enacted, states would have the option of enforcing the bill's requirements regarding group and individual health insurance. If a state chooses not to enforce the requirements, the federal government would enforce them.

5. Intergovernmental mandates contained in bill: S. 1028 contains several intergovernmental mandates as defined in Public Law 104-4, primarily the new requirements that would be imposed on health plans sponsored by employers. State and local governments who offer their employees health insurance would have to abide by these requirements.

6. Estimated direct costs to State, local, and tribal governments:

(a) *Is the $50 Million a Year Threshold Exceeded?* No.

(b) *Total Direct Costs of Mandates:* S. 1028 would increase the cost of health insurance for covered employees of state and local governments, but this cost would primarily be borne by the employees themselves and not by state or local taxpayers. Although CBO cannot provide a precise estimate, any increase in the cost of health insurance for employees of state and local governments would amount to less than $50 million annually. As a result of higher health care costs, state and local governments would reduce other elements of their employees' compensation packages by a corresponding amount. The amount of total compensation paid by the state and local governments would thus remain unchanged in the long run. Except for an initial transition period, during which state and local governments may not be able to change other elements of their employees' compensation packages, state and local governments would not be required to spend additional funds to comply with these mandates.

(c) *Estimate of Necessary Budget Authority:* None.

7. Basis of estimate: Based on a limited survey of State and local governments, CBO found that the health insurance plans currently offered by State and local governments are generally in compliance with S. 1028. However, some State and local governments would have to make minor adjustments to their plans. Almost all plans already limit to 1 year, or do not include, exclusions for preexisting conditions, but only a few of the plans that have exclusions allow an offset against the exclusion for continuous coverage. In addition, some plans do not offer special enrollment periods when a family member of a participant loses his or her health insurance under another plan because of a change in employment. Finally, the expansion of COBRA coverage would affect all plans.

CBO estimates that the cost of S. 1028 to the private sector for the group health insurance reforms would total about $300 million. A simple calculation, based on the number of employees involved, would indicate that the cost of S. 1028 for employees of State and local governments would be $60 million. CBO believes that the cost would actually be significantly less than this, however, because health plans sponsored by State and local governments are generally more liberal than plans sponsored by private sector employers. State and local governments therefore would be confronted with fewer changes as a result of S. 1028. The cost of the mandates imposed on State and local government would clearly be less than $50 million, a change of about 0.1 percent in the approximately $40 billion that is now spent on health insurance for employees of State and local governments.

Economists generally believe, and CBO's cost estimates have long assumed, that workers as a group bear most of the cost of employers' health insurance premiums. The primary reason for this conclusion is that the supply of labor is relatively insensitive to changes in take-home wages. Because most workers continue to work even if their take-home pay declines, employers have little trouble shifting most of the cost of additional health insurance to workers' wages or other fringe benefits.

8. Appropriation or other Federal financial assistance provided in bill to cover mandate costs: None.

9. Other impacts on State, local and tribal governments: States would have the option of enforcing the requirements of S. 1028 on issuers of health insurance in the group and individual markets. If a State decides not to enforce the new requirements, the Federal Government would do so. Because enforcement would be voluntary, this provision would not impose an intergovernmental mandate as defined in Public Law 104-4. However, the enforcement provisions would have a budgetary impact on State governments. States currently regulate the group and individual markets, and CBO does not expect any State to give up this authority and responsibility. States thus would incur additional costs as they enforce the new requirements. In 1995, according to the National Association of Insurance Commissioners, States spent $650 million regulating all forms of insurance (health and others). CBO expects that S. 1028 would increase these costs only marginally.

10. Previous CBO estimate: None.

11. Estimate prepared by: John Patterson.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

CONGRESSIONAL BUDGET OFFICE ESTIMATE OF COSTS OF PRIVATE SECTOR MANDATES

1. Bill number: S. 1028.

2. Bill title: Health Insurance Reform Act of 1995.

3. Bill status: As reported by the Senate Committee on Labor and Human Resources on October 12, 1995.

4. Bill purpose: The purpose of S. 1028 is to increase access to health care benefits for workers and their families both while the workers are employed and after they leave employment. It would also increase the portability of health insurance when workers change jobs, and make other changes affecting health care benefits.

5. Private sector mandates contained in the bill: S. 1028 contains several private sector mandates as defined in P.L. 104-4 that would affect the private health insurance industry. Three general areas of coverage would be affected: (1) the group and employer-sponsored health insurance market, (2) the extensions of health insurance required under the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, and (3) the market for individual health insurance.

Mandates on group insurers and employee health benefit plans

The bill would require sellers of group health insurance to cover any group purchaser who applies. Group insurers could stop selling coverage only under certain conditions, such as ceasing to offer coverage to any additional group purchasers. Under those circumstances, they could resume offering coverage only after a 6 month cessation and would be required to resume on a first-come-first-served basis. Those availability provisions would apply separately to the "large group" and "small group" markets—that is, an issuer would be allowed to serve only one of those markets. Group insurers would also be required to renew coverage at the option of the group purchaser, except in certain circumstances including nonpayment of premiums, or fraud or misrepresentation on the part of the group purchaser. Network plans would not be required to renew coverage to people living outside the geographic area covered by the plan as long as this action is done on a uniform basis, without regard to the health status of particular individuals.

Several provisions of the bill would apply both to sellers of group insurance and to employee health benefit plans that are "self-insured" by firms. Eligibility, enrollment, and requirements relating to premium contributions could not be based on the employee's health status, claims experience, or medical history.

In addition, the bill would limit the use of pre-existing condition exclusions—clauses that exempt the plan from paying for expenses related to a medical condition that already existed when an enrollee first joined the plan. Under the bill, twelve months would be the maximum allowable duration of a pre-existing condition exclusion (eighteen months for employees who did not join the plan at their first enrollment opportunity). Furthermore, month-for-month credit against that exclusion would have to be given to enrollees for continuous coverage that they had prior to joining a new plan. (Insurers and health benefit plans would be required to keep records to document the previous coverage.) In addition, pregnancy could not be excluded by a pre-existing condition clause, and children who were signed up with a plan within thirty days of birth could not have any existing conditions excluded from coverage. (A similar provision applies for adopted children.)

Affiliation periods, in which new enrollees pay no premium but receive no benefits, could be used if pre-existing condition exclusions were not part of the plan. However, such periods would be limited to sixty days (ninety days for late enrollees).

Finally, the bill would require that health plans offer special enrollment periods for participants or family members for various changes in family or employment status.

Mandates extending COBRA continuation coverage

Under certain circumstances, the bill would compel firms to extend so-called "COBRA" coverage to former employees or their family members for a longer period of time than is currently required. Under current law, firms that offer health insurance as part of their employee benefits package and employ 20 or more people must allow employees (and family members) to continue coverage for 18 months after leaving employment (or for certain other reasons), at a cost that cannot exceed 102 percent of the premium for regular employees. Under certain circumstances, such as if a worker is disabled when he or she first qualifies for COBRA coverage, an additional 11-month extension of coverage also must be made available.

The bill would extend COBRA coverage by specifying an additional condition that would qualify former employees (or their insured family members) for the 11-month extension period after the initial 18-month period. In particular, if a former employee were to become disabled during the first 18 months of extended coverage, then they would qualify for the additional 11-month period. Disability of an insured family member also would be a qualifying condition for continuation of CORBA coverage. Under the current law COBRA provisions, a premium of 150 percent of the premium for regular employees could be charged to former employees in the additional 11-month period.

Mandates affecting the individual insurance market

Under S. 1028, sellers of individual health insurance policies would be required to cover individuals who wanted to enroll in an individual health plan, regardless of their medical history or claims experience, if they had at least 18 months of continuous prior coverage by one or more group health plans or employee health benefit plans. To be eligible for such group-to-individual market "portability," the individual applicant also would have to be ineligible for coverage by another group health plan, employee health benefit plan, or COBRA continuation coverage. The bill would leave the determination of premiums to the applicable state laws or regulations.

Issuers of individual plans also would be required to renew policies at the option of the insured individuals, except for certain circumstances including nonpayment of premiums or fraud.

To the extent that state laws or regulations were a suitable substitute for the provisions of the bill, the federal rules would not apply. Examples of such substitutes could include laws providing for state-sponsored high-risk pools that provide coverage to those who could not otherwise obtain private coverage, open enrollment by one or more health plan issuers to facilitate coverage in the individual market, and guaranteed issue of insurance to all individuals regardless of their health status.

6. Estimated direct cost to the private sector: CBO estimates that the direct cost of the main private sector mandates in S. 1028 would be approximately $350 million in the first year the provisions were effective, rising to about $500 million annually in the fifth year. Those mandate costs represent about one-quarter of one percent of total private sector health insurance expenditures, although their distribution among health insurance plans would be uneven. (Plans that cover public sector employees are not included in this analysis.) These estimates are subject to considerable uncertainty because a number of underlying assumptions rely on limited data or judgments about future changes in health insurance markets.

The specific mandates examined in this estimate are: Limiting the length of time employer-sponsored and group insurance plans could withhold coverage for pre-existing conditions; requiring that periods of continuous prior health plan coverage be credited against pre-existing condition exclusions of a new plan; extending the conditions under which an employer would have to offer 11 additional months of COBRA coverage for disabled people; and requiring issuers of individual health insurance policies to offer coverage to all individuals who meet specific requirements, including 18 months of prior continuous group of employer-sponsored coverage.

Basis of the estimate: The direct costs of those mandates consist of the additional health expenses that would be covered by insurance as a direct result of their implementation. Expenses for pre-existing conditions that would have to be paid by insurers under the bill but would not have been insured under current law, for example, are included in aggregate direct costs. In contrast, insured expenses that would be transferred among different insurers because of the bill are not included in aggregate direct costs.

In making this estimate, CBO did not attempt to value any social benefits that might result from expansions in insurance coverage. That is, the estimate accounts only for the additional insurance costs of the mandates, not the value of additional insurance coverage to beneficiaries. Nor was there an attempt to quantify any indirect costs or benefits. Such indirect effects could include, for example, loss of coverage if an employer ceases to offer group coverage when premiums rise, or increases in worker mobility (or reduced "job lock") with greater portability of benefits. It would be important to weigh all such factors in considering the bill, but only estimates of the direct costs of the mandates in the bill are required by P.L. 104-4, the Unfunded Mandates Reform Act.

Direct costs of mandates on group insurers and employee health benefit plans

Two of the principal mandates in S. 1028 affect group and employee health benefit plans: (1) limiting the maximum length of pre-existing condition exclusions, and (2) requiring that health plans reduce the length of pre-existing condition exclusions for people with prior continuous coverage under other health plans. CBO estimates that the direct cost of those two mandates would total about $300 million in each of the first five years the provisions would be effective. This cost is approximately 0.2 percent of the total premium payments in the group and employer-sponsored market.

Limiting the Maximum Length of an Exclusion. The mandate to limit exclusions for

VOL
142
PT
6
AP
15
—
24
1996
UMI

pre-existing conditions to 12 months (18 months for late enrollees) is estimated to have a direct private-sector cost of about $200 million per year. This estimate is based on two components: (1) the number of people who would have more of their medical expenses covered by insurance if exclusions were limited to one year or less, and (2) the average cost to insurers of that newly insured medical care.

CBO used data from the Survey of Employee Benefits in the April 1993 Current Population Survey (CPS) to estimate the number of people with conditions that are not now covered because of a pre-existing condition exclusion of more than one year. The survey asks respondents whether they or a family member have a medical condition that their employment-based plan is not covering because of a pre-existing condition exclusion. It also asks respondents how long they have been with their present firm. For people with medical conditions excluded by a pre-existing condition clause, responses to the second question are used to estimate whether the exclusion period exceeds one year.

A number of adjustments were made to the data. In particular, CBO's estimate of the number of people affected by S. 1028 excluded people who said they were limited by a pre-existing restriction but who also had other health insurance coverage, because the other insurance plan might have covered their pre-existing conditions. Under those circumstances, the limitation imposed on employment-based plans by S. 1028 would not raise their aggregate costs.

The second modification to the CPS data adjusted for changes in the insurance market that have occurred since the survey date of 1993. In particular, since that time, about 40 states have implemented laws affecting the small group insurance market that would limit pre-existing condition exclusions to one year or less and require that previous coverage be credited against those exclusions. Those laws generally apply to groups of 50 or fewer employees and do not include self-funded health benefit plans. Because plans covered by such state laws would not have to change their provisions as a result of S. 1028, CBO lowered its initial estimate of the number of people affected by the bill.

CBO's analysis led to the conclusion that approximately 300,000 people would gain coverage under S. 1028 for some condition that would otherwise be excluded by a long (more than one year) pre-existing condition clause. This estimate represents less than 0.3 percent of people with private employment-based coverage.

The other component of the estimated private-sector cost is the average cost of the coverage that would become available under S. 1028. A recent monograph from the American Academy of Actuaries (referred to as the Academy) indicated a surge in claims costs of 40 to 60 percent when a pre-existing condition exclusion period expired for a sample of people with high expected medical costs.[1] That range is consistent with information from Spencer and Associates indicating that the costs of policies for former employees who have chosen to take extended COBRA coverage are 55 percent higher than those of active employees.[2] Applying those percentages to the average premium cost in the employer-sponsored market yields a potential range of additional costs of $600 to $900 a year per person who would gain coverage under S. 1028.

Crediting Prior Coverage Against Current Exclusions. Another provision in S. 1028 would require insurers under certain circumstances to credit previous continuous health insurance coverage against pre-existing condition periods. That provision is estimated to have a private sector cost of about $100 million per year. The key components of this estimate are: (1) the number of people who would receive some added coverage, and (2) the additional full-year cost of coverage, adjusted to reflect the estimated number of months of that coverage.

CPS data were used to estimate the number of people who would receive some added coverage under this mandate. These are people who would otherwise face some denial of coverage under a pre-existing condition exclusion period of one year or less, and who would qualify for a shortened exclusion period based on prior continuous coverage. CBO estimates that about 100,000 people would receive some added coverage under this provision of the bill. The relatively small size of this estimate is due largely to the difficulty of meeting the restrictive eligibility criteria for the reduction in the exclusion period—particularly the requirement that at most a 30-day gap separate prior periods of insurance coverage from enrollment in the new plan.

The average number of months of coverage these people would gain is constrained by the one-year limit on the exclusion period that would be required under the bill. Based on information from a 1995 study by KPMG Peat Marwick, CBO estimates that people who would qualify would gain coverage for an average of 10 months.[3] CBO's estimate of the additional insured costs per person is based on evidence from the Academy, which suggested that people with pre-existing condition exclusions may not seek treatment during the exclusion period but have rapid increases in expenses when that period expires. That behavior would reduce the effectiveness of exclusion periods in protecting insurers from treatment costs. The shorter the exclusion period, the less effective the pre-existing exclusion is at reducing the insurer's costs. CBO consequently assumed that full-year insured costs of people getting coverage for pre-existing conditions under this provision would rise by less than 40 percent.

Other Considerations. The estimated direct cost of the mandate to limit the length of pre-existing condition exclusions is about $200 million annually, and the cost of the mandate to credit previous coverage against pre-existing condition exclusions is about $100 million. Together, those mandate costs amount to about 0.2 percent of total premium payments in the group and employer-sponsored market.

Those estimates are subject to considerable uncertainty for several reasons. First, they are based on individuals' responses to surveys, which should be treated with caution. In addition, unforeseen changes in health insurance markets could result in the estimates being too low or too high. Larger than expected increases in medical costs would result in higher direct costs than estimated. On the other hand, the growth of managed care plans would lower the direct costs of the bill. The magnitude of this effect would depend on the relative growth of HMOs, which generally do not use preexisting condition exclusions, as compared to PPO and POS plans, many of which do use preexisting condition exclusions.

The distribution of the direct costs of the mandates would be uneven across health plans. Only plans that currently use pre-existing condition exclusions of more than 12 months would face the $200 million direct cost of the first mandate. Data from the Peat Marwick survey indicate that 2.5 percent of employees are in such health plans. Consequently, the costs to health plans that use long pre-existing condition exclusions would be about 4.5 percent of their premium costs. Likewise, only health plans that use pre-existing condition exclusions would face the direct cost of the mandate to credit previous coverage against the pre-existing exclusion. The data indicate that almost half of employees are in such plans—implying that the plans directly affected by this mandate would have direct costs equal to about one-tenth of one percent of their premiums under current law.

Employers could respond in a number of ways to the additional insured costs that would arise under these provisions of the bill. They could reduce other insurance benefits, increase employees' premium contributions, or reduce other components of employee compensation. Employers would be likely to respond in different ways, and these changes could take time. Some employers that currently offer health insurance to their employees might drop that coverage if the costs became too large, although the magnitude of such a reaction would probably be modest. These employer responses, which would offset the costs of the mandates, are indirect effects and do not enter into our estimates of the direct costs to the private sector of the insurance mandates.

Direct costs of mandates extending COBRA continuation coverage for the disabled

CBO estimates that the aggregate direct costs of the COBRA extension for disabled people would be negligible. Although individuals qualifying for the extension would be expected to have covered health expenses about three times greater than their premium payments, very few people would actually participate.

CBO used two approaches to estimate the number of people who would take advantage of the new COBRA extension. The first method used evidence on the number of employees electing COBRA coverage under current law who are disabled. A study by Flynn found that only 0.09 percent of COBRA elections are by disabled people.[4] Even under the assumption that the number of disabled people having COBRA coverage would double as a result of the new extension, fewer than 5,000 people a year would be covered by that extension.

In the second approach, CBO used data from the 1992 Survey of Income and Program Participation (SIPP) to examine the prior insurance status of people who became covered under Medicare disability coverage. That analysis also suggested that the number of people qualifying for the additional COBRA coverage under S. 1028 would be extremely small.

The costs of coverage for disabled people were estimated using information from the 1987 National Medical Expenditure Survey, which indicated that non-elderly disabled people had medical expenditures four to five times greater than non-disabled people. Those higher costs would be partly offset by additional premiums that would be collected from persons using the COBRA extension. COBRA allows insurers to charge those people up to 150 percent of the premium for regular employees. Consequently, assuming the full COBRA premium was assessed, the insured costs of disabled people taking the new extension would be about three times higher than the premiums they would pay.

Footnotes at end of article.

Direct costs of mandates affecting the individual insurance market

S. 1028 would require issuers of individual health insurance policies to offer coverage to all people who have had group or employer-sponsored coverage continuously for at least 18 months immediately prior to enrolling, but who are not eligible for additional COBRA or other group coverage. CBO estimates that this group-to-individual portability provision would impose aggregate direct costs on the private sector of less than $50 million in the first year the law was effective. Those aggregate direct costs would rise to about $200 million annually in the fifth year.

The mandate costs are added insurance costs of people who would gain coverage minus premium payments that the newly covered individuals themselves would make to insurers. Premium payments are subtracted because they would directly offset part of the cost of the mandate imposed on insurers.

A key element of this estimate is the calculation of the number of people who would both qualify for and desire to purchase individual market insurance under the provisions in S. 1028, but who would not be extended insurance coverage under current law. CBO analyzed data from the 1992 SIPP to determine the number of people who: (1) had 18 months of prior continuous group coverage, and (2) would purchase an individual policy if insurers were not permitted to exclude them on the basis of health. We assumed that uninsured survey respondents who indicated that they were too sick to obtain insurance would fulfill the latter condition. The data suggest, however, that only about 25 percent of such people would meet S. 1028's requirement of 18 months of continuous prior group coverage.

Because the SIPP survey used in this analysis ended in late 1993, we made two additional adjustments to our estimate. First, we corrected for changes in the number of uninsured since 1993. Second, we reduced our estimate to account for state legislation that supersedes the S. 1028 provision. Many states undertook reforms of their individual insurance markets prior to the time of the survey, and a few additional states have implemented such laws since then. We assumed that all states with comparable laws would get waivers from the S. 1028 provisions affecting the individual market. Accordingly, the estimate assumes that the mandate would only be effective in states accounting for about 5.4 million of the estimated 13.4 million people currently having individual coverage.[5] (Note that estimates of the number of people insured through the individual market vary considerably. CBO's assumption is consistent with that of the Academy.)

CBO concludes that approximately 40,000 people would become covered by the end of the first year the bill would be effective because of the group-to-individual portability provision. The number of covered people would grow gradually over time as more people who, in the absence of S. 1028, would have been denied coverage because of poor health would meet the 18-month continuous group coverage requirement and choose to purchase individual insurance. In about four years, the number of people covered because of those portability provisions would plateau at around 150,000 people. Those estimates refer only to the number of people who gain insurance coverage as a result of S. 1028. The estimates do not include people who might decide to move into individual insurance coverage under S. 1028 but would have had insurance coverage from elsewhere in the absence of the bill. It would not be appropriate to count such people toward the aggregate direct costs of the bill because their medical expenses would have been insured anyway.

In order to complete the estimate, we calculated the direct mandate costs per person who would obtain individual coverage because of this bill. Those costs equal the difference between the added insurance costs of the people who would gain coverage and the premium payments that those newly covered people would make to insurers. Neither the additional insurance costs, nor the additional premium revenue, can be estimated with a high degree of confidence.

S. 1028 would prohibit the denial of coverage because of health status or claims experience. Consequently, people gaining coverage through the portability provisions of S. 1028 would cost more, on average, than the typical person who currently purchases an individual policy. But, because of the multiple eligibility criteria required by S. 1028, surveys of health expenditures do not provide an adequate basis for a specific estimate of those higher costs.

Likewise, the premiums that insurers might charge newly covered people are highly uncertain because they depend on the unknown responses of state insurance regulators that are likely to vary among the states. At one extreme, state regulators might not allow insurers to charge higher premiums for people qualifying under the S. 1028 portability provisions. The loss on those people would then be relatively large. At the other extreme, state regulators might allow insurers to charge them their full expected costs. In that case, there would be no loss to insurers, and consequently no aggregate costs from that mandate.

Previous studies offer divergent views on these issues. The Academy assumed that people obtaining individual coverage through the portability provisions would have costs two to three times as high as standard risks.[6] They also assumed that the premiums those people would pay would range from 125 to 167 percent of the average individual premium. That is, the Academy assumed that states would limit what insurers could charge to less than the full cost of the benefit.

The Health Insurance Association of America (HIAA) assumed that newly covered people who exhausted their COBRA coverage would have costs between two and three times the average, while the cost of those not eligible for COBRA coverage would be 1.5 to two times the average[7] HIAA made no specific assumptions about the rating rules that states would impose on health plans in the individual market.

Although neither the costs nor the insurance premiums associated with the newly covered individuals are known, it is not unreasonable to assume that state insurance commissioners would take the additional costs, and their potential effects, into account in regulating the individual market. If, for example, the expected costs of the newly insured people were high relative to others in the individual market, insurance regulators might allow insurers to charge such people relatively high premiums. Conversely, if the expected costs of the newly insured people were not much higher than others in the individual market, state regulators might not allow their premiums to deviate much from the market average.

This relationship can be viewed in terms of a target "loss" percentage that regulators might seek. That percentage would be the difference between the cost of coverage and the premium, expressed as a share of the average premium in the individual market. Based on a wide range of possible cost and premium factors, CBO assumed that the insurers' loss percentage associated with the newly covered individuals would be about 70 percent. That is, the difference between premium income and insurance costs for the newly insured people is expected to be about 70 percent of the average premium paid by others in the individual market.

Multiplying the loss percentage by the average individual market premium under current law and by the number of newly covered people yields the estimated aggregate direct costs of the group-to-individual portability provision. Those costs are expected to be less than $50 million in the first effective year of the legislation and to rise to about $200 million annually by the fifth year.

Other Considerations. For those states in which the individual market mandates are expected to apply, premiums are estimated to be around 0.5 percent higher than otherwise by the end of the first year of implementation and to be approximately 2 percent higher than otherwise by the end of the fifth year. Those premium increases represent the excess costs that presumably would be passed on to people who would have acquired individual policies in the absence of this bill. The estimates of premium increases are limited to those costs attributable to people who obtain insurance in the individual market who would have been uninsured in the absence of S. 1028.

If individual insurance premiums rose sufficiently as a consequence of S. 1028, some people with individual coverage would probably drop their insurance. Those most likely to do so would be lower-income people who were not in poor health. CBO used an analysis by Marquis and Long to estimate the number of people who would drop out of the individual insurance market in response to higher premiums.[8] By the fifth year after S. 1028 became effective, about 35,000 people who would have purchased individual policies in the absence of this legislation would not do so. Overall, however, the number of people with insurance in the individual market would probably rise as a result of S. 1028.

CBO's estimate assumes that states that already meet the individual market standards in S. 1028 would be granted waivers of those requirements. Initiatives such as guaranteed issue laws and state-sponsored risk pools to provide insurance for high-risk people may qualify states for waivers. The Academy has suggested, however, that states may not seek those waivers even when they are eligible. States might see the provisions of S. 1028 as a mechanism to transfer some individuals out of partially state-subsidized high-risk insurance pools into the private market, where their additional costs would be picked up entirely by the private sector.

7. Appropriations or other Federal financial assistance: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: James Baumgardner.

10. Estimate approved by: Joseph Antos, Assistant Director for Health and Human Resources.

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[1] See American Academy of Actuaries, "Providing Universal Access in a Voluntary Private-Sector Market," February 1996.

[2] Charles D. Spencer and Associates, Inc., "1995 COBRA Survey: Almost One in Five Elect Coverage, Cost is 155% of Actives' Cost," Spencer's Research Reports (August 25, 1995).

[3] Based on unpublished tabulations from KPMG Peat Marwick, LLP, Survey of Employer-Sponsored Benefits, 1995.

VOL
142
PT
6
AP
15
—
24
1996
UMI

[4] Patrice Flynn, "COBRA Qualifying Events and Elections, 1987–1991," Inquiry, vol. 31, no. 2 (Summer 1994), pp. 215–220.

[5] Calculations based on consultations with the Congressional Research Service/Hay Group concerning state individual insurance market laws.

[6] American Academy of Actuaries, "Comments on the Effect of S. 1028 on Premiums in the Individual Health Insurance Market," February 20, 1996.

[7] Health Insurance Association of America, "The Cost of Ending 'Job Lock' or How Much Would Health Insurance Costs Go Up if 'Portability' of Health Insurance Were Guaranteed; Preliminary Estimates," July 26, 1995.

[8] M. Susan Marquis and Stephen H. Long, "Worker Demand for Health Insurance in the Non-Group Market," Journal of Health Economics, vol. 14, no. 1 (May 1995), pp. 47–63.

SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT OF 1996

Mrs. HUTCHISON. Mr. President, in response to the number of repeat crimes that are committed by convicted sex offenders, Senator GRAMM and I are offering legislation to require all such individuals to register with the FBI.

Society needs to know where these predators are at all times. Individual States are creating registries of convicted sex offenders and devising other measures to address the problem—my home state of Texas has moved forward aggressively on this front.

Unfortunately, for my State and others, there is a continuing worry despite such progress: individuals convicted of 1,000 cases of child molestation scheduled to be released in Texas this year alone.

Currently, 47 States have registry laws which apply to sex offenders, but these track such felons only within the individual State. There is no national registry. There is no formal network for law enforcement agencies to communicate with each other about know sexual predators. As a result, a convicted rapist or child molester released in Texas can move to, say, Vermont—which has no registry law—and disappear from law enforcement records. This ability to move from one State to the next unmonitored has provided tens of thousands of sex offenders with the opportunity to commit yet more deviant acts.

The legislation Senator GRAMM and I are introducing would close this immense loophole by creating a national computer registry to track convicted sex offenders. Our bill would:

Require all sex offenders to register with the FBI for 10 years following their release from prison, drawing on State registries.

Authorize the FBI to register and track offenders living in States with no registry program.

Require the FBI to ensure that local authorities are notified every time a sex offender moves into or out of their jurisdiction.

Allow private and community organizations access to the sex offender files through their local law enforcement agencies;

Preserve State authority in determining whether (or how) the public at large will be notified of the presence of sex offenders in a community.

Provide penalties for those who fail to register.

This will provide a tracking program nationwide. It is an appropriate function of the Federal Government to keep tabs on such offenders—and help to arm communities with information that might well prevent future, similar, horrifying crimes. We know that 40 percent of convicted sex offenders will repeat their crimes. We must begin acting on that information.

Mr. President, Senator GRAMM and I are not asking that any money be appropriated for this purpose—the FBI can create such a tracking system with existing resources. And this is how Federal agencies should be spending the taxpayers' money: on protecting them and their children, and making their communities safer, less threatening places to live.

One of the ultimate responsibilities of Government is the protection of its citizens—especially its youngest and most vulnerable. This measure does not seek to impose additional punishment on sex offenders—but it is aimed at providing society at large with an element of self-defense that it does not enjoy now.

TAX DAY

Mr. PELL. Mr. President, Tax Day has come and gone, and I would wager that few outside of Washington, DC, marked its passing because they were so absorbed in the last minute preparation and filing of income tax returns. Most paid scant heed to this congressionally created day of moment, which, in my view, panders irresponsibly to popular aversion to taxation.

It is far more responsible, in my view, to emphasize the positive aspects of public finance. Most Federal taxes flow right back to Americans in benefits and services. Federal taxes here includes both Federal income taxes and Federal payroll or Social Security taxes. Payroll taxes are used to pay Social Security and Medicare benefits to our elderly and disabled. Income taxes are used to fund the operations of our Government which include the provision of student loans for education, maintenance of our national parks and museums, low-interest mortgage loans for first-time home buyers, veterans benefits, unemployment compensation, and our military defense, among other things.

I am advised that Federal entitlements—benefits citizens are entitled to collect if they meet certain demographic or income definition—reach 49 percent of U.S. households, including 39 percent of families with children and 98 percent of the elderly.

Moreover, in my view, Americans are not overtaxes in comparison with other nations. The highest statutory marginal individual income tax rate in the United States, 39.6 percent, is relatively low by international standards. France, Germany, Italy, and Japan have tax rates that are substantially higher, reaching 56.8 percent. By another measure, using total tax receipts as a percent of gross domestic product [GDP], the United States has an average tax rate of 31.5 percent. The United Kingdom, Italy, Germany, Canada, and France are all significantly higher, with several having average tax rates in excess of 40 percent of GDP.

Of course, constant restraint and diligence must be exercised to make sure that waste, fraud, and abuse are avoided at all times. But overall, I believe that our Federal Government has had, and continues to have, a positive impact on the lives of most Americans. In the words of Justice Holmes, "taxes are what we pay for civilized society." In the end, we get what we pay for.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES FOR CALENDAR YEAR 1995—MESSAGE FROM THE PRESIDENT—PM 138

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

I am pleased to present to you the 1995 Annual Report of the National Endowment for the Humanities (NEH). For 30 years, this Federal agency has given Americans great opportunities to explore and share with each other our country's vibrant and diverse cultural heritage. Its work supports an impressive array of humanities projects.

These projects have mined every corner of our tradition, unearthing all the distinct and different voices, emotions, and ideas that together make up what is a uniquely American culture. In 1995, they ranged from an award-winning television documentary on President Franklin Delano Roosevelt, the radio production Wade in the Water, to preservation projects that will rescue

750,000 important books from obscurity and archive small community newspapers from every State in the Union. Pandora's Box, a traveling museum exhibit of women and myth in classical Greece, drew thousands of people.

The humanities have long helped Americans bridge differences, learn to appreciate one another, shore up the foundations of our democracy, and build strong and vital institutions across our country. At a time when our society faces new and profound challenges, when so many Americans feel insecure in the face of change, the presence and accessibility of the humanities in all our lives can be a powerful source of our renewal and our unity as we move forward into the 21st century.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 17, 1996.*

REPORT ON ALASKA'S MINERAL RESOURCES FOR CALENDAR YEAR 1995—MESSAGE FROM THE PRESIDENT—PM 139

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources.

To the Congress of the United States:

I transmit herewith the 1995 Annual Report on Alaska's Mineral Resources, as required by section 1011 of the Alaska National Interest Lands Conservation Act (Public Law 96–487; 16 U.S.C. 3151). This report contains pertinent public information relating to minerals in Alaska gathered by the U.S. Geological Survey, the U.S. Bureau of Mines, and other Federal agencies.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 17, 1996.*

MESSAGES FROM THE HOUSE

At 1:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2337. An act to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections.

H.R. 2501. An act to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes.

H.R. 2630. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.

H.R. 2695. An act to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania.

H.R. 2773. An act to extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes.

H.R. 2816. An act to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes.

H.R. 2869. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky.

H.R. 3034. An act to amend the Indian Self-Determination and Education Assistance Act to extend for two months the authority for promulgating regulations under the Act.

H.R. 3074. An act to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone.

H.R. 3121. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for the purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 3074. An act to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone; to the Committee on Finance.

H.R. 3121. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following measures were read the first and second times by unanimous consent and placed on the calendar:

H.R. 2501. An act to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes.

H.R. 2630. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.

H.R. 2695. An act to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania.

H.R. 2773. An act to extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes.

H.R. 2816. An act to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes.

H.R. 2869. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky.

The following bill was ordered placed on the calendar:

H.R. 2337. An act to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2219. A communication from the Secretary of Energy transmitting, pursuant to law, the annual report for the Strategic Petroleum Reserve for 1995; to the Committee on Energy and Natural Resources.

EC–2220. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–2221. A communication from the Deputy Chief (Programs and Legislation Division), Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a notice relative to the Range Mobile Target Support function; to the Committee on Armed Services.

EC–2222. A communication from the Deputy Chief (Programs and Legislation Division), Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a notice relative to depot maintenance activities; to the Committee on Armed Services.

EC–2223. A communication from the Secretary of the Navy transmitting, pursuant to law, a report relative to a major defense acquisition program; to the Committee on Armed Services.

EC–2224. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, the notice of an intention to offer a transfer by sale; to the Committee on Armed Services.

EC–2225. A communication from the Assistant Secretary of the Navy (Installations and Environment) transmitting, pursuant to law, the report of a study relative to outsourcing; to the Committee on Armed Services.

EC–2226. A communication from the Secretary of the Army transmitting, pursuant to law, a report relative to the average unit procurement cost for a program; to the Committee on Armed Services.

EC–2227. A communication from the Assistant Secretary of the Army (Installations, Logistics and Environment) transmitting, pursuant to law, a notice relative to Fort Polk, LA; to the Committee on Armed Services.

EC–2228. A communication from the Secretary of Energy transmitting, pursuant to law, the report of DOE activities relating to the Defense Nuclear Facilities Safety Board for calendar year 1995; to the Committee on Armed Services.

EC–2229. A communication from the Deputy Secretary of Defense transmitting, pursuant to law, a report relative to outsourcing; to the Committee on Armed Services.

EC–2230. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Armed Services.

EC–2231. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "The National Defense Authorization Act for Fiscal Year 1997"; to the Committee on Armed Services.

EC–2232. A communication from the Administrator of the Environmental Protection

VOL
142
PT
6
AP
15
—
24
1996
UMI

Agency, transmitting, pursuant to law, the (entire) National Water Quality Inventory Report for calendar year 1994; to the Committee on Environment and Public Works.

EC–2233. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report relative to the Office of Small and Disadvantaged Business Utilization (OSDBU) and women and minority business enterprises; to the Committee on Environment and Public Works.

EC–2234. A communication from the Secretary of the Nuclear Regulatory Commission, transmitting, pursuant to law, a major rule to establish license and annual fees under the Omnibus Budget Reconciliation Act of 1990; to the Committee on Environment and Public Works.

EC–2235. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the financial statements for fiscal years 1994 and 1995; to the Committee on Armed Services.

EC–2236. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on nonlethal weapons; to the Committee on Armed Services.

EC–2237. A communication from the Assistant General Counsel of the U.S. Information Agency, transmitting, pursuant to law, a report relative to an exchange visitor's program duration; to the Committee on Foreign Relations.

EC–2238. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, a draft of proposed legislation entitled "The Overseas Private Investment Corporation Amendments Act of 1996"; to the Committee on Foreign Relations.

EC–2239. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to international financial institutions; to the Committee on Foreign Relations.

EC–2240. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the United Nations Civilian Police operation in Eastern Slavonia; to the Committee on Foreign Relations.

EC–2241. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of contributions to international organizations for fiscal year 1995; to the Committee on Foreign Relations.

EC–2242. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–2243. A communication from the Attorney General, transmitting, pursuant to law, the annual report of the Federal Prison Industries for calendar year 1995; to the Committee on the Judiciary.

EC–2244. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on the Judiciary.

EC–2245. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2246. A communication from the Postmaster General, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2247. A communication from the Director of the Judicial Conference of the United States, transmitting, a draft of proposed legislation to provide for the conversion of existing temporary U.S. District Judgeships to permanent status, and for other purposes; to the Committee on the Judiciary.

EC–2248. A communication from the Director of the Office of Governmental Ethics, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2249. A communication from the Executive Director of Government Affairs of the Non Commissioned Officers Association of the U.S.A., transmitting, pursuant to law, the report of financial statements for calendar years 1994 and 1995; to the Committee on the Judiciary.

EC–2250. A communication from the Commissioner of Social Security, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2251. A communication from the Director of Operations, Department of the Interior, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2252. A communication from the Acting Administrator, General Services Administration, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2253. A communication from the Assistant Secretary of Education (Civil Rights), transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Labor and Human Resources.

EC–2254. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Public Housing Primary Care program; to the Committee on Labor and Human Resources.

EC–2255. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the fiscal year 1995 report relative to the Arts and Artifacts Indemnity Program; to the Committee on Labor and Human Resources.

EC–2256. A communication from the President of the U.S. Institute of Peace, transmitting, pursuant to law, the report of financial statements for fiscal year 1995; to the Committee on Labor and Human Resources.

EC–2257. A communication from the Director of the Executive Office of the President, Office of Management and Budget, transmitting, a draft of proposed legislation entitled "The Electronic Depository Library Act of 1996"; to the Committee on Rules and Administration.

EC–2258. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of a proposed form; to the Committee on Rules and Administration.

EC–2259. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of legislative recommendations for calendar year 1996; to the Committee on Rules and Administration.

EC–2260. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, a report relative to an evaluation of health status; to the Committee on Veterans' Affairs.

EC–2261. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, a report relative to equitable relief for calendar year 1995; to the Committee on Veterans' Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources:

C.E. Abramson, of Montana, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2000.

Robert B. Rogers, of Missouri, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of three years. (New Position)

Elmer B. Staats, of the District of Columbia, to be a Member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 2001. (Reappointment)

David A. Ucko, of Missouri, to be a Member of the National Museum Services Board for a term expiring December 6, 1999.

Alberta Sebolt George, of Massachusetts, to be a Member of the National Museum Services Board for a term expiring December 6, 1998.

Ronnie Feuerstein Heyman, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 2000.

Terry Evans, of Kansas, to be a Member of the National Council on the Arts for a term expiring September 3, 2000.

Audrey Tayse Haynes, of Kentucky, to be a Member of the National Institute for Literacy Advisory Board for a term expiring October 13, 1998.

Mary Dodd Greene, of Texas, to be a Member of the National Institute for Literacy Advisory Board for a term expiring October 12, 1998.

Mark Edwin Emblidge, of Virginia, to be a Member of the National Institute for Literacy Advisory Board for a term expiring September 22, 1998.

Toni G. Fay, of New Jersey, to be a Member of the National Institute Literacy Advisory Board for a term expiring October 12, 1998.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated.

By Mr. LEVIN:

S. 1679. A bill to clarify the application of Federal preemption of State and local laws, and for other purposes; to the Committee on Governmental Affairs.

By Mr. COVERDELL:

S. 1680. A bill to amend title 18 of the United States Code to permit the judicial deportation of criminal aliens; to the Committee on the Judiciary.

By Mr. SPECTER (for himself and Mrs. Feinstein):

S. 1681. A bill to establish a commission to improve the policies and programs of the Federal Government for combatting the proliferation of weapons of mass destruction, and for other purposes; to the Select Committee on Intelligence.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:

S. Res. 246. A resolution to authorize the use of additional funds for salaries and expenses of the Special Committee to Investigate Whitewater Development Corporation and Related Matters, and for other purposes; considered and agreed to.

By Mr. SPECTER (for himself and Ms. Mikulski):

S. Res. 247. A resolution expressing the sense of the Senate regarding a resolution of the dispute between Greece and Turkey over sovereignty to the islet in the Aegean Sea called Imia by Greece and Kardak by Turkey; to the Committee on Foreign Relations.

By Ms. MIKULSKI (for herself, Mr. Akaka, Mr. Bingaman, Mr. Bond, Mrs. Boxer, Mr. Bradley, Mr. Bumpers, Mr. Byrd, Mr. Cochran, Mr. Cohen, Mr. Conrad, Mr. Craig, Mr. Dodd, Mr. Dole, Mr. Dorgan, Mrs. Feinstein, Mr. Glenn, Mr. Graham, Mr. Harkin, Mr. Hatfield, Mr. Helms, Mr. Hollings, Mrs. Hutchison, Mr. Inouye, Mr. Jeffords, Mr. Johnston, Mr. Kennedy, Mr. Kerrey, Mr. Levin, Ms. Moseley-Braun, Mrs. Murray, Mr. Pell, Mr. Pressler, Mr. Pryor, Mr. Reid, Mr. Rockefeller, Mr. Sarbanes, Mr. Simon, Mr. Simpson, Mr. Stevens, Mr. Thurmond, Mr. Warner, and Mr. Wellstone):

S. Con. Res. 52. A concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress; to the Committee on Labor and Human Resources.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. LEVIN:

S. 1679. A bill to clarify the application of Federal preemption of State and local laws, and for other purposes; to the Committee on Governmental Affairs.

THE PREEMPTION CLARIFICATION AND INFORMATION ACT OF 1996

• Mr. LEVIN. Mr. President, today I am introducing the Preemption and Clarification Act of 1996. It would require an explicit statement of Federal preemption in Federal legislation in order for such preemption to occur unless there exists a direct conflict between the Federal law and a State or local law which cannot be reconciled. Enactment of this bill would close the back door of implied Federal preemption and put the responsibility for determining whether or not State or local governments should be preempted back in Congress where it belongs.

State and local officials have become increasingly concerned with the number of instances in which State and local laws have been preempted by Federal law—not because Congress has done so explicitly, but because the courts have implied such preemption. Since 1789, Congress has enacted approximately 350 laws specifically preempting State and local authority. Half of these laws have been enacted in the last 20 years. These figures, however, do not touch upon the extensive Federal preemption of State and local authority which has occurred as a result of judicial interpretation of congressional intent, when Congress' intention to preempt has not been explicitly stated in law. When Congress is unclear about its intent to preempt, the courts must then decide whether or not preemption was intended and, if so, to what extent.

Article VI of the Constitution, the supremacy clause, states that Federal laws made pursuant to the Constitution "shall be the supreme law of the land." In its most basic sense, this clause means that a State law is negated or preempted when it is in conflict with a constitutionally enacted Federal law. A significant body of case law has been developed to arrive at standards by which to judge whether or not Congress intended to preempt State or local authority—standards which are subjective and have not resulted in a consistent and predictable doctrine in resolving preemption questions.

If we in Congress want Federal law to prevail, we should be clear about that. If we want the States to have discretion to go beyond Federal requirements, we should be clear about that. If, for example, we set a floor in a Federal statute, but are silent on actions which meet but then go beyond the Federal requirement, State and local governments should be able to act as they deem appropriate. State and local governments should not have to wait to see what they can and cannot do. Our bill would allow tougher State and local laws given congressional silence.

Our legislation also requires the Congressional Research Service, at the end of each Congress, to compile a report on the number of statutory and judicially interpreted preemptions. This will constitute the first time such a complete report has been done, and the information will be valuable to the debate regarding the appropriate use of preemption to reach Federal goals.

I introduced this bill in the 102d Congress with Senator David Durenburger. A form of the bill was included in the unfunded mandates law we passed in the spring of last year. That provision, now law, requires that when a committee of the Senate or House reports a bill, the report accompanying the bill is required to contain an explicit statement of the extent to which the bill is intended to preempt any State, local or tribal law and if so, an explanation of the effect of such preemption. That provision of the unfunded mandates law is an attempt to get congressional committees to address the issue of preemption before legislation is reported to the floor of the House or Senate. In reviewing several bills that are now on the Senate Calendar awaiting Senate action, I was disappointed to find that none of the ones I reviewed met the requirements of this provision. We can and should do better.

This bill, unlike the provision in the unfunded mandates law where silence in the report leaves the issue unresolved, this bill establishes a principle for the courts to follow in determining a preemption case where the bill is silent on the matter. This bill tells the court that if the statement of intent to preempt is not in the legislation then the court is not authorized to read it into the statute—unless there is a direct conflict between Federal and State law. If legislation is silent, there is no preemption.

Earlier this year the Governmental Affairs Committee held a hearing on a bill entitled the "Tenth Amendment Enforcement Act of 1996." It contains a section on judicial construction which is virtually the same as that contained in this bill and the bill I introduced in the 102d Congress. The tenth amendment bill, however, has other provisions that are troublesome. I am introducing my bill today in the hope that we can enact this provision into law, this year, and leave the more troublesome features of the Tenth Amendment Enforcement Act of 1996 for another day.

Mr. President, preemption clarification legislation has been endorsed by the National Conference of State Legislators, the Intergovernmental Affairs Committee of the Council of State Governments, the U.S. Conference of Mayors, and the Appellate Judges Conference of the American Bar Association.

I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preemption Clarification and Information Act of 1996".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the United States Constitution created a strong Federal system, reserving to the States all powers not expressly delegated to the Federal Government;

(2) on numerous occasions, the Congress has enacted statutes that explicitly preempt State and local government powers and describe the scope of the preemption;

(3) in addition to statutes that explicitly preempt State and local government powers,

VOL
142
PT
6
AP
15
—
24
1996
UMI

many other statutes that lack an explicit statement by Congress of its intent to preempt and a clear description of the scope of the preemption have been construed by the courts and Federal agencies to preempt State and local government powers; and

(4) without an explicit statement of Congress' intent to preempt State and local government powers and a clear description of the scope of preemption, preemptive statutes—

(A) provide too little guidance and leave too much discretion to Federal agencies which are required to promulgate and enforce regulations pursuant to statutes;

(B) create too great an uncertainty for State and local governments; and

(C) leave the presence or scope of preemption to be litigated and determined by the Federal judiciary, producing results sometimes contrary to or beyond the intent of Congress.

SEC. 3. PURPOSE.

The purposes of this Act are to—

(1) promote and preserve the integrity and effectiveness of the Federal system;

(2) set forth principles governing the interpretation of congressional intent regarding preemption of State and local government powers by Federal laws and regulations; and

(3) establish an information collection system designed to monitor the incidence of Federal statutory and regulatory preemption.

Sec. 4. DEFINITIONS.

As used in this Act, the term—

(1) "local government" means a county, city, town, borough, township, village, school district, special district, or other political subdivision of a State;

(2) "State" means a State of the United States and an agency or instrumentality of a State, but does not include a local government of a State; and

(3) "State and local government powers" means powers reserved under the ninth and tenth amendments of the United States Constitution to States or delegated to local governments by States.

SEC. 5. RULE OF CONSTRUCTION.

No statute, or rule promulgated under such statute, shall preempt, in whole or in part, any State or local government law, ordinance, or regulation, unless the statute explicitly states that such preemption is intended or unless there is a direct conflict between such statute and a State or local law, ordinance, or regulation so the two cannot be reconciled or consistently stand together.

SEC. 6. ANNUAL REPORT ON STATUTORY PREEMPTION.

(a) Report.—Within 90 days after each Congress adjourns sine die, the Congressional Research Service shall prepare and make available to the public a report on the extent of Federal statutory preemption of State and local government powers enacted into law during the preceding Congress or adopted through judicial interpretation of Federal statutes.

(b) Contents.—The report shall contain—

(1) a cumulative list of the Federal statutes preempting, in whole or in part, State and local government powers;

(2) a summary of Federal legislation enacted during the previous Congress preempting, in whole or in part, State and local government powers;

(3) an overview of recent court cases addressing Federal preemption issues; and

(4) other information the Director of the Congressional Research Service determines appropriate.

(c) Transmittal.—Copies of the report shall be sent to the President and the chairman of the appropriate committees in the Senate and House of Representatives.

SEC. 7. EFFECTIVE DATE.

This Act shall take effect on January 1, 1997. The requirements of section 5 shall apply only to statutes enacted or final regulations which become effective on or after January 1, 1997.•

By Mr. SPECTER (for himself and Mrs. FEINSTEIN):

S. 1681. A bill to establish a commission to improve the policies and programs of the Federal Government for combating the proliferation of weapons of mass destruction, and for other purposes; to the Select Committee on Intelligence.

COMBATING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION ACT OF 1996

Mr. SPECTER. Mr. President, it is well known that there is an enormous international threat posed by weapons of mass destruction.

Testimony which was recently heard by the Senate Intelligence Committee, which I chair, disclosed that some 25 nations have weapons of mass destruction including nuclear weapons, biological weapons, and chemical weapons.

In testimony offered by John Deutch in 1994, when he was Deputy Secretary of Defense, he pointed out that "If North Koreans build the Taepo Dong II missile, Alaska and parts of Hawaii would be potentially at risk." I think it is not well known that parts of the United States are potentially at risk from long-range missiles.

We have seen the development of biological weapons by Saddam Hussein which was confirmed last August by his son-in-law following his defection. We see the building of chemical weapons by Qadhafi noted recently by Secretary of Defense Perry with his statement that we could not tolerate the completion of those weapons of mass destruction. We have seen China sell missiles to Pakistan. We have seen the tremendous tension building up on the subcontinent with both Pakistan and India engaging in a missile race.

In the United States, Mr. President, while we have noted the enormous problems on weapons of mass destruction, we have seen a governmental structure which is extraordinarily complicated and really unable to deal in a coordinated method with this tremendous problem.

This chart depicts the problems in the United States of the numerous agencies which have jurisdiction in one way or another over weapons of mass destruction. This chart contains boxes depicting 96 different entities which have authority of one sort or another over this field.

We have some authority vested in the National Security Council. We have some authority vested in the Department of Defense, some authority vested in the Department of State, some in the Department of Justice, some in the Department of Energy, some with the Director of Central Intelligence, others even with the Secretary of Health and Human Services, still further authority in the Secretary of the Treasury and authority in the Secretary of Commerce.

This is on its face an enormously unwieldy Federal bureaucracy, and that is our response to the problem of weapons of mass destruction. And as shown by this chart it is obviously a bureaucracy which cannot function efficiently.

In 1993, when I studied the Clinton health program, I asked an assistant to make a listing of all the agencies, boards and commissions, and my assistant made a chart instead which depicted an enormous bureaucracy, which was influential in helping to defeat that health care program. If a picture is worth 1,000 words, a chart may be worth 1,000 pictures, Mr. President, and I think that this chart shows the urgency of some reorganization of the Federal Government to deal with this enormous problem.

The study of the congressionally mandated Commission on Roles and Missions of the Armed Forces pointed out that "Despite the declared national emergency, there is no evidence that combating proliferation receives continuous high level attention." The study's conclusion is worth noting and emphasizing:

> Mechanisms for effectively integrating the combating proliferation activities of all departments and agencies are lacking. Given the complexity of the tasks involved, the need for marshaling resources from many agencies, and the necessarily protracted nature of these efforts, the failure to assign clear and empowered leadership has impeded the United States effort.

That conclusion is obvious in taking a look at the enormous complicated bureaucracy in the United States assigned to deal with this problem.

In looking at the solution, I have considered a number of alternatives. One option is the creation of "czar," such as the drug czar empowered to coordinate activities against drugs in United States. I have considered the creation of a high-level position on the National Security Council staff. I have considered the option of having a second Deputy Secretary of Defense. I have also considered the option of a new Assistant Secretary of Defense [ASD], like the ASD for special operations and low-intensity conflict created in the late 1980's as a result of legislation introduced by Senator COHEN and Senator NUNN.

I have decided instead that this matter ought to be studied by a high level special commission like the Aspin-Brown Commission, which recently filed a comprehensive report to reorganize the U.S. intelligence community. This is a matter which can be most effectively dealt with by experts on a

commission. Rather than the introduction of legislation and the holding of hearings, the commission would have a much broader purview and that is the legislation which I am introducing today.

Mr. President, I ask unanimous consent that my legislation, together with a chart depicting this complicated bureaucracy which now seeks to deal with this problem of great national and international importance, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Combatting Proliferation of Weapons of Mass Destruction Act of 1996".

TITLE I—ASSESSMENT OF PROGRAMS AND POLICIES FOR COMBATTING PROLIFERATION

SEC. 101. ESTABLISHMENT OF COMMISSION.

(a) Establishment.—There is established a commission to be known as the Commission on Programs and Policies for Combatting the Proliferation of Weapons of Mass Destruction (hereafter in this Act referred to as the "Commission").

(b) Membership.—The Commission shall be composed of 12 members of whom—

(1) 6 shall be appointed by the President;

(2) 3 shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate; and

(3) 3 shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(c) Period of Appointment; Vacancies.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) Initial Meeting.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(f) Chairman and Vice Chairman.—The Commission shall select a Chairman and Vice Chairman from among its members.

(g) Meetings.—The Commission shall meet at the call of the Chairman.

SEC. 102. DUTIES OF COMMISSION.

(a) Study.—

(1) In general.—The Commission shall carry out a thorough study of the organization, policies, and programs of the U.S. Government related to combatting the proliferation of weapons of mass destruction.

(2) Specific requirements.—In carrying out the study, the Commission shall—

(A) assess the effectiveness of the policies and programs of all departments and agencies of the Federal Government including the intelligence community meeting the national security interests of the United States with respect to the proliferation of such weapons; and

(B) assess the current structure and organization of all Federal agencies and the cooperation between elements of the intelligence community and the intelligence-gathering services of foreign governments in addressing issues relating to the proliferation of such weapons.

(b) Recommendations.—In conducting the study, the Commission shall develop recommendations on means of improving the effectiveness of the organization, policies, programs of the intelligence community, and the programs and policies of the other departments and agencies of the Federal Government, in meeting the national security interests of the United States with respect to the proliferation of weapons of mass destruction.

(c) Report.—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 103. POWERS OF COMMISSION.

(a) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this title.

(b) Information From Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 104. COMMISSION PERSONNEL MATTERS.

(a) Compensation of Members.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Staff.—

(1) In general.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) Compensation.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) Procurement of Temporary and Intermittent Services.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 105. TERMINATION OF COMMISSION.

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 102(c).

SEC. 106. DEFINITION.

For purposes of this title, the term "intelligence community" shall have the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated for the Commission for fiscal year 1996 such sums as may be necessary for the Commission to carry out its duties under this title.

(b) Availability.—Amounts appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until the termination of the Commission under section 105.

TITLE II—OTHER MATTERS

SEC. 201. REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.

(a) Reports.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Director of Central Intelligence shall submit to Congress a report on—

(1) the acquisition by foreign countries during the preceding 6 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

(2) trends in the acquisition of such technology by such countries.

(b) Form of Reports.—The reports submitted under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

[The chart referred to by Senator SPECTER was not reproducible in the RECORD.]

ADDITIONAL COSPONSORS

S. 358

At the request of Mr. HEFLIN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 358, a bill to amend the Internal Revenue Code of 1986 to provide for an excise tax exemption for certain emergency medical transportation by air ambulance.

VOL
142
PT
6
AP
15
—
24
1996
UMI

S. 704

At the request of Mr. SIMON, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 968

At the request of Mr. MCCONNELL, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 990

At the request of Mr. WYDEN, his name was added as a cosponsor of S. 990, a bill to expand the availability of qualified organizations for frail elderly community projects (Program of All-inclusive Care for the Elderly (PACE)), to allow such organizations, following a trial period, to become eligible to be providers under applicable titles of the Social Security Act, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1150

At the request of Mr. SANTORUM, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 1150, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall plan and George Catlett Marshall.

S. 1491

At the request of Mr. GRAMS, the names of the Senator from Ohio [Mr. DEWINE], the Senator from Missouri [Mr. BOND], the Senator from New Hampshire [Mr. SMITH], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 1491, a bill to reform antimicrobial pesticide registration, and for other purposes.

S. 1613

At the request of Mr. COCHRAN, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1613, a bill to amend the National School Lunch Act to provide greater flexibility to schools to meet the Dietary Guidelines for Americans under the school lunch and school breakfast programs, and for other purposes.

S. 1624

At the request of Mr. HATCH, the names of the Senator from Ohio [Mr. GLENN] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1624, a bill to reauthorize the Hate Crime Statistics Act, and for other purposes.

S. 1635

At the request of Mr. DOLE, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1635, a bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes.

S. 1641

At the request of Mr. GRAMS, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1641, a bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes.

S. 1674

At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1674, a bill to amend the Internal Revenue Code of 1986 to expand the applicability of the first-time farmer exception.

S. 1675

At the request of Mr. GRAMM, the names of the Senator from Arizona [Mr. KYL] and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 1675, a bill to provide for the nationwide tracking of convicted sexual predators, and for other purposes.

SENATE CONCURRENT RESOLUTION 42

At the request of Mrs. KASSEBAUM, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Concurrent Resolution 42, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. DOLE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution concerning human and political rights and in support of a resolution of the crisis in Kosova.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE CONCURRENT RESOLUTION 52—TO RECOGNIZE AND ENCOURAGE THE CONVENING OF A NATIONAL SILVER-HAIRED CONGRESS

Ms. MIKULSKI (for herself, Mr. AKAKA, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BUMPERS, Mr. BYRD, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. DODD, Mr. DOLE, Mr. DORGAN, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. HATFIELD, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mr. KENNEDY, Mr. KERREY, Mr. LEVIN, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SIMON, Mr. SIMPSON, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE) submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 52

Whereas many States have encouraged and facilitated the creation of senior citizen legislative and advocacy bodies;

Whereas in creating such bodies such States have provided to many older Americans the opportunity to express concerns, promote appropriate interests, and advance the common good by influencing the legislation and actions of State government; and

Whereas a National Silver-Haired Congress, with representatives from each State, would provide a national forum for a nonpartisan evaluation of grassroots solutions to concerns shared by an increasing number of older Americans: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the congress hereby recognizes and encourages the convening of an annual National Silver-Haired Congress in the District of Columbia.

• Ms. MIKULSKI. Mr. President, I submit a concurrent resolution to recognize and encourage the convening of a national silver-haired congress. This concurrent resolution passed the Senate and the House of Representatives in 1994. Unfortunately, since each concurrent resolution was not voted on by the other Chamber, neither was technically adopted.

That is why I am resubmitting this legislation—I think it is important, and I want both Houses to formally endorse this plan. As ranking member of the Aging Subcommittee, I am joined by Senators COHEN and PRYOR, chair and ranking member of the Special Subcommittee on Aging, and many more of my colleagues on both sides of the aisle in sponsoring this important piece of legislation.

What is a national silver-haired congress? Well, it is the vision of a truly inspirational group of seniors. Beginning back in 1973, a group of Missouri seniors got together and decided to get involved. They formed a silver-haired legislature. They modeled their legislature after the State's and took up pieces of legislation that affected seniors.

That was 1973. Today, almost half the States have silver-haired legislatures. These mock legislatures take bills through the entire legislative process and present their bills that they pass to their State legislators. These recommendations are taken very seriously. The silver-haired legislatures have helped in the passage of many programs: from consumer protections and crime prevention to health care, housing, and long-term care.

I am submitting today a concurrent resolution to create the first national silver-haired congress. Based on the experience of the silver-haired legislatures in the States, this silver-haired congress would provide a national forum for aging issues—a forum patterned after the U.S. Congress. It will be completely staffed by older Americans, and serve to address the broad range of seniors issues. Like us, this silver-haired congress would be comprised of 100 senators and 435 representatives. But unlike us, all the members will serve without pay.

The population of older Americans is growing at a faster rate than any other age group. As this elderly population grows, it is more important than ever to encourage the input of seniors in our political process. At no cost whatsoever to the American public, a national silver-haired congress will provide a national forum for issues of concern to older Americans. The input and counsel that a forum like this will provide to the U.S. Congress is invaluable.

It is with great enthusiasm and excitement that I submit this concurrent resolution and ask my colleagues to support this wonderful proposal for a national silver-haired congress.•

SENATE RESOLUTION 246—RELATIVE TO THE SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 246

SECTION 1. FUNDS FOR SALARIES AND EXPENSES OF SPECIAL COMMITTEE.

There shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations, for use not later than June 17, 1996, by the Special Committee to Investigate Whitewater Development Corporation and Related Matters (hereafter in this Resolution referred to as the "special committee"), established by Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995) to carry out the investigation, study and hearings authorized by that Senate Resolution—

(1) a sum equal to not more than $450,000.

(A) for payment of salaries and other expenses of the special committee; and

(B) not more than $350,000 of which may be used by the special committee for the procurement of the services of individual consultants or organizations thereof; and

(2) such additional sums as may be necessary for agency contributions related to the compensation of employees of the special committee.

SEC. 2. TERMINATION OF THE SPECIAL COMMITTEE.

(a) HEARINGS.—Not later than June 14, 1996, the special committee shall complete the investigation, study, and hearings authorized by Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995).

(b) REPORT.—Not later than June 17, 1996, the special committee shall submit to the Senate the final public report required by section 9(b) of Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995) on the results of the investigation, study, and hearings conducted pursuant to that Resolution.

SENATE RESOLUTION 247—RELATIVE TO IMIA ISLET

Mr. SPECTER (for himself and Ms. MIKULSKI) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 247

Whereas Greece and Turkey are engaged in a dispute over sovereignty to an islet in the Aegean Sea called Imia by Greece and Kardak by Turkey:

Whereas the islet is a dependent of the Island of Calimnos, an island in the Dodecanese region of the Aegean Sea:

Whereas in Article 15 of the Treaty of Peace with Turkey, and other Instruments, signed at Lausanne on July 24, 1923, Turkey renounced in favor of Italy all right and title of Turkey over 12 islands in the Dodecanese region that were occupied at the time of the Treaty by Italy, including the Island of Calimnos, and the islets dependent on such islands;

Whereas the Convention Between Italy and Turkey for the Delimitation of the Territorial Waters Between the Coasts of Anatolia and the Island of Castellorizio, signed at Ankara on January 4, 1932, established the rights of Italy and Turkey in coastal islands, waters, and rocks in the Aegean Sea and delimited a maritime frontier between the two countries:

Whereas a Protocol to that Convention established a border between Italy and Turkey which placed the islet under the control of Italy;

Whereas in Article 14 of the 1947 Treaty of Peace with Italy, Italy ceded to Greece the Island of Calimnos and adjacent islets;

Whereas the Eastern Mediterranean region, in which the Aegean Sea is located, is a region of vital strategic importance to the United States;

Whereas both Greece and Turkey are members of the North Atlantic Treaty Organization and allies of the United States;

Whereas it is in the interest of the United States and other nations to have the dispute resolved peacefully; and

Whereas the International Court of Justice in The Hague was established to promote the peaceful resolution of international disputes in conformity with international law: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Government of Greece and the Government of Turkey should—

(1) submit to the International Court of Justice in The Hague the dispute of such governments over sovereignty to the islet in the Aegean Sea called Imia by Greece and Kardak by Turkey; and

(2) agree to be bound by the decision of the Court with respect to the dispute.

Mr. SPECTER. Mr. President, for thousands of years, the Aegean Sea, and the Eastern Mediterranean as a whole, has been a critical geopolitical region. I believe it is in the national interest of the United States to have the countries in this region resolve their disputes peacefully. As former Assistant Secretary of State Richard Holbrook recently noted, "you cannot have the southern flank of NATO in constant tension without having strategic instability, which will ultimately wreck NATO."

Unfortunately, Greece and Turkey—both members of NATO, and both allies of the United States—have been locked in bitter conflict for many hundreds of years. The case of Cyprus is a tragic recent example. I am concerned that in such a climate of hostility, relatively minor disputes could erupt into major conflict. It could be a war which would spread to that area.

The most recent manifestation of tension between Greece and Turkey centers on Imia and other islets in the Aegean. The sovereignty questions are quite complex, and involve treaties and other agreements signed after World War I and World War II, including the Paris Peace Treaty of 1947, the Italo-Turkish Agreement of 1932, and the 1923 Lausanne Peace Treaty. Simply put, each nation claims the islet of Imia, called Kardak by Turkey, as part of its national territory.

However, I believe that this dispute should be resolved in the International Court of Justice [ICJ] at The Hague. The ICJ was established to promote the peaceful resolution of international disputes in conformity with international law. The dispute over the islet of Imia is, in my judgment, an ideal candidate for adjudication by The Hague.

It is for that reason I am submitting this sense of the Senate resolution, which calls upon Greece and Turkey to submit their dispute to the ICJ, and agree to be bound by the decision of the court. The Eastern Mediterranean is a region of critical importance. I believe that it is essential to resolve conflict peacefully, and to work with the countries of the region to resolve key issues in a way that is consistent with the rule of law. This resolution, in my judgment, is a critical first step in ensuring that relatively minor conflicts do not escalate into major ones.

Mr. President, I will read the resolve clause of the resolution:

That it is the sense of the Senate that the Government of Greece and the Government of Turkey should—

(1) submit to the International Court of Justice in The Hague the dispute of such

VOL
142
PT
6
AP
15
—
24
1996
UMI

governments over sovereignty to the islet in the Aegean Sea called Imia by Greece and Kardak by Turkey; and

(2) agree to be bound by the decision of the Court with respect to that dispute.

AMENDMENTS SUBMITTED

THE HEALTH INSURANCE REFORM ACT OF 1996

THOMAS AMENDMENT NO. 3673

(Ordered to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to the bill (S. 1028) to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes; as follows:

At the end of the bill, insert the following new section:

SEC. . PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

(a) IN GENERAL.—Section 1876(a) of the Social Security Act (42 U.S.C. 1395mm(a)) is amended to read as follows:

"(a)(1)(A) The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than August 1 before the calendar year concerned—

"(i) a per capita rate of payment for individuals who are enrolled under this section with an eligible organization which has entered into a risk-sharing contract and who are entitled to benefits under part A and enrolled under part B, and

"(ii) a per capita rate of payment for individuals who are so enrolled with such an organization and who are enrolled under part B only.

For purposes of this section, the term 'risk-sharing contract' means a contract entered into under subsection (g) and the term 'reasonable cost reimbursement contract' means a contract entered into under subsection (h).

"(B) The annual per capita rate of payment for each medicare payment area (as defined in paragraph (5)) shall be equal to the adjusted capitation rate (as defined in paragraph (4)), adjusted by the Secretary for—

"(i) individuals who are enrolled under this section with an eligible organization which has entered into a risk-sharing contract and who are enrolled under part B only; and

"(ii) such risk factors as age, disability status, gender, institutional status, and such other factors as the Secretary determines to be appropriate so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such factors, if such changes will improve the determination of actuarial equivalence.

"(C) In the case of an eligible organization with a risk-sharing contract, the Secretary shall make monthly payments in advance and in accordance with the rate determined under subparagraph (B) and except as provided in subsection (g)(2), to the organization for each individual enrolled with the organization under this section.

"(D) The Secretary shall establish a separate rate of payment to an eligible organization with respect to any individual determined to have end-stage renal disease and enrolled with the organization. Such rate of payment shall be actuarially equivalent to rates paid to other enrollees in the payment area (or such other area as specified by the Secretary).

"(E)(i) The amount of payment under this paragraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(ii)(I) Subject to subclause (II), the Secretary may make retroactive adjustments under clause (i) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with an eligible organization (which has a risk-sharing contract under this section) under a health benefit plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the plan under this section, except that for purposes of making such retroactive adjustments under this clause, such period may not exceed 90 days.

"(II) No adjustment may be made under subclause (I) with respect to any individual who does not certify that the organization provided the individual with the explanation described in subsection (c)(3)(E) at the time the individual enrolled with the organization.

"(F)(i) At least 45 days before making the announcement under subparagraph (A) for the year, the Secretary shall provide for notice to eligible organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(ii) In each announcement made under subparagraph (A) for a year, the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that eligible organizations can compute per capita rates of payment for individuals located in each county (or equivalent medicare payment area) which is in whole or in part within the service area of such an organization.

"(2) With respect to any eligible organization which has entered into a reasonable cost reimbursement contract, payments shall be made to such plan in accordance with subsection (h)(2) rather than paragraph (1).

"(3) Subject to subsections (c)(2)(B)(ii) and (c)(7), payments under a contract to an eligible organization under paragraph (1) or (2) shall be instead of the amounts which (in the absence of the contract) would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the organization to individuals enrolled with the organization under this section.

"(4)(A) For purposes of this section, the 'adjusted capitation rate' for a medicare payment area (as defined in paragraph (5)) is equal to the greatest of the following:

"(i) The sum of—

"(I) the area-specific percentage for the year (as specified under subparagraph (B) for the year) of the area-specific adjusted capitation rate for the year for the medicare payment area, as determined under subparagraph (C), and

"(II) the national percentage (as specified under subparagraph (B) for the year) of the input-price-adjusted national adjusted capitation rate for the year, as determined under subparagraph (D),

multiplied by a budget neutrality adjustment factor determined under subparagraph (E).

"(ii) An amount equal to—

"(I) in the case of 1997, 80 percent of the input-price-adjusted national adjusted capitation rate for the year, as determined under subparagraph (D); and

"(II) in the case of a succeeding year, the amount specified in this clause for the preceding year increased by the national average per capita growth percentage specified under subparagraph (F) for that succeeding year.

"(iii) An amount equal to—

"(I) in the case of 1997, 102 percent of the annual per capita rate of payment for 1996 for the medicare payment area (determined under this subsection, as in effect on the day before the date of enactment of the Health Insurance Reform Act of 1995; and

"(II) in the case of a subsequent year, 102 percent of the adjusted capitation rate under this subsection for the area for the previous year.

"(B) For purposes of subparagraph (A)(i)—

"(i) for 1997, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent,

"(ii) for 1998, the 'area-specific percentage' is 85 percent and the 'national percentage' is 15 percent,

"(iii) for 1999, the 'area-specific percentage' is 80 percent and the 'national percentage' is 20 percent,

"(iv) for 2000, the 'area-specific percentage' is 75 percent and the 'national percentage' is 25 percent, and

"(v) for a year after 2000, the 'area-specific percentage' is 70 percent and the 'national percentage' is 30 percent.

"(C) For purposes of subparagraph (A)(i), the area-specific adjusted capitation rate for a medicare payment area—

"(i) for 1997, is the average of the annual per capita rates of payment for the area for 1994 through 1996, after adjusting the 1994 and 1995 rates of payment to 1996 dollars, increased by the national average per capita growth percentage for 1997 (as defined in subparagraph (F)); or

"(ii) for a subsequent year, is the area-specific adjusted capitation rate for the previous year determined under this subparagraph for the area, increased by the national average per capita growth percentage for such subsequent year.

"(D)(i) For purposes of subparagraph (A)(i) and subparagraph (A)(ii), the input-price-adjusted national adjusted capitation rate for a medicare payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type of service) of—

"(I) the national standardized adjusted capitation rate (determined under clause (ii)) for the year,

"(II) the proportion of such rate for the year which is attributable to such type of services, and

"(III) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying subclause (III), the Secretary shall, subject to clause (iii), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(ii) In clause (i)(I), the 'national standardized adjusted capitation rate' for a year is equal to—

"(I) the sum (for all medicare payment areas) of the product of (aa) the area-specific adjusted capitation rate for that year for the area under subparagraph (C), and (bb) the average number of standardized medicare beneficiaries residing in that area in the year; divided by

"(II) the total average number of standardized medicare beneficiaries residing in all the medicare payment areas for that year.

"(iii) In applying this subparagraph for 1997—

"(I) medicare services shall be divided into 2 types of services: part A services and part B services;

"(II) the proportions described in clause (i)(II) for such types of services shall be—

"(aa) for part A services, the ratio (expressed as a percentage) of the national average annual per capita rate of payment for part A for 1996 to the total average annual per capita rate of payment for parts A and B for 1996, and

"(bb) for part B services, 100 percent minus the ratio described in item (aa);

"(III) for part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved; and

"(IV) for part B services—

"(aa) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

"(bb) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in subclause (III).

The Secretary may continue to apply the rules described in this clause (or similar rules) for 1998.

"(E) For each year, the Secretary shall compute a budget neutrality adjustment factor so that the aggregate of the payments under this section shall be equal to the aggregate payments that would have been made under this section if the area-specific percentage for the year had been 100 percent and the national percentage had been 0 percent.

"(F) In this section, the 'national average per capita growth percentage' is equal to the percentage growth in medicare fee-for-service per capita expenditures, which the Secretary shall project for each year.

"(5)(A) In this section, except as provided in subparagraph (C), the term 'medicare payment area' means a county, or equivalent area specified by the Secretary.

"(B) In the case of individuals who are determined to have end stage renal disease, the medicare payment area shall be specified by the Secretary.

"(C)(i) Upon written request of the Chief Executive Officer of a State for a contract year (beginning after 1997) made at least 7 months before the beginning of the year, the Secretary shall adjust the system under which medicare payment areas in the State are otherwise determined under subparagraph (A) to a system which—

"(I) has a single statewide medicare payment area,

"(II) is a metropolitan based system described in clause (iii), or

"(III) which consolidates into a single medicare payment area noncontiguous counties (or equivalent areas described in subparagraph (A)) within a State.

Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.

"(ii) In the case of a State requesting an adjustment under this subparagraph, the Secretary shall adjust the payment rates otherwise established under this section for medicare payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall be equal to the aggregate payments that would have been made under this section for medicare payment areas in the State in the absence of the adjustment under this subparagraph.

"(iii) The metropolitan based system described in this clause is one in which—

"(I) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single medicare payment area, and

"(II) all areas in the State that do not fall within a metropolitan statistical area are treated as a single medicare payment area.

"(iv) In clause (iii), the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.

"(6) Subject to subsections (c)(2)(B)(ii) and (c)(7), if an individual is enrolled under this section with an eligible organization having a risk-sharing contract, only the eligible organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 1996.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to conduct three (3) consecutive hearings during the session of the Senate on Wednesday, April 17, Thursday, April 18, and Friday, April 19, 1996, on the President's budget request for fiscal year 1997 for Indian programs and related budgetary issues from fiscal year 1996. The hearings will be held at 1:30 p.m. each day in room 485 on the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday April 17, 1996, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, April 17, 1996, beginning at 10 a.m. until business is completed, to hold a hearing on campaign finance reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 17, 1996, at 2 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. HATCH. Mr. President, I ask unanimous consent that the Administrative Oversight and the Courts Subcommittee be authorized to meet during the session of the Senate on Wednesday, April 17, 1996, at 2 p.m., to hold an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, April 17, 1996, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider S. 128, a bill to establish the Thomas Cole National Historical Site in the State of New York; S. 695, a bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas; and S. 1476, a bill to establish the Boston Harbor Islands National Recreation Area.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, April 17, 1996, in open session, to receive testimony on the privatization of Department of Defense depot maintenance and other commercial activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

VETERANS AND SPENDING REDUCTIONS

• Mr. SANTORUM. Mr. President, I wanted to take a few additional minutes today to talk through my recent discussions with veterans' organization

VOL
142
PT
6
AP
15
—
24
1996
UMI

from Pennsylvania about legislation recently introduced by Senator SIMPSON.

Senator SIMPSON, at the request of four major veterans organizations, has introduced legislation addressing various inequities in the manner in which we treat the health of our Nation's veterans. Many of those issues addressed in the bill speak to issues I have witnessed, discussed, and worked on during my 5 years in Congress and as a former member of the House Veterans' Affairs Committee. Issues relating to the care and treatment of veterans and efforts to improve the veterans' health delivery system are very familiar and important to me.

Mr. President, I was born and raised on the grounds of a VA hospital facility, and I understand the concerns of veterans in this matter. My mother and father spent their careers working for veterans in Veterans' Administration hospitals. Our veterans fought on many battlefields to preserve the liberty of succeeding generations of Americans.

Today, one of the greatest threats to our children and grandchildren is not as much the imminent outbreak of war and the subsequent call to service, but rather the massive national debt and annual Federal deficits. If nothing is done, the next generation will face a future of diminished opportunity and a declining standard of living.

While service to our country has entitled veterans to very unique benefits that are available to no other single group of Americans, these benefits are by no means the root cause of our huge Federal deficits. I have fought against unnecessary cuts in veterans' programs that would have compromised our Nation's commitment to those who have served in defense of our freedom.

At the same time, however, any new spending on veterans' programs or benefits must be treated with an equal eye toward fiscal responsibility—sufficient spending reductions must occur within the Veterans' Administration itself or in other areas of Federal spending. At this time, the Simpson bill carries with it a revenue effect of $13 billion in new spending. I believe that the sponsor and I would both acknowledge that this bill should not move through the legislative process without a corresponding $13 billion in spending reductions.

These rules and budget realities are the same that I have operated under during my entire service in Congress. Recently, I fought on the Senate floor for sufficient spending reductions of $1.2 billion to cover and offset the costs of Federal disaster assistance, a large portion of which would benefit Pennsylvania communities as we rebuild from a blizzard and flood-ravaged winter. And in continuing to address the needs of our Nation's veterans, I will maintain this same standard.

Until such spending reductions are finalized and presented, Mr. President, I will temporarily withhold my own efforts and development on S. 1543. I understand that the administration is working on a legislative proposal similar to the Simpson bill, and that they are working through the same budget realities in producing a revenue neutral package. I remain committed to supporting our Nation's veterans. I support the direction and concept of the Simpson bill, and I will work with the sponsor to find cuts to pay for the costs of the bill.●

BOSTON'S ENGLISH HIGH SCHOOL

● Mr. KERRY. Mr. President, on Thursday, April 25, 1996, the English High School in Boston, MA, will be celebrating its 175th anniversary. The oldest public high school in the United States, English High School has changed with the times but has always maintained a high standard of education and compassion for its students. With award-winning teachers, students, and graduates, Boston English High is among the finest educational institutions in our Nation.

I would like to take this opportunity to recognize the English High School and join with the Boston Public Schools in celebrating its 175th anniversary.●

MISSED VOTES ON APRIL 16, 1996

● Mr. MURKOWSKI. Mr. President, while the Senate was in session yesterday, I was unable to participate in our proceedings because I was attending the funeral of my late uncle, Harry Murkowski, in Washington State.

My late uncle, Harry was 92 when he passed away late last week. He was the last of my relatives who was of my parents' generation and I felt it was important that I share my mourning with members of my family.

Harry, who was widowed several years ago, lived in Puyallup and Enumclaw, WA, worked his entire life as a fire fighter on the McChord Air Force Base. He is survived by his daughter, Beth Newman.

Mr. President, yesterday I missed two rollcall votes because of my attendance at the funeral. The April 16, CONGRESSIONAL RECORD reflects how I would have voted, had I been here to participate in the Senate debate. As the RECORD reflects, my vote would not have changed the outcome of either vote.●

BAD LAW ON AFFIRMATIVE ACTION

● Mr. SIMON. Mr. President, one of the recent decisions that was a most unfortunate one was the decision by the U.S. Court of Appeals that colleges and universities cannot keep in mind diversity as they put together a student body.

No one was advocating quotas in this case, nor advocating that people who are not qualified should be admitted.

But to deny that diversity is part of the learning experiences of colleges and universities is to deny reality.

I hope the decision will be overturned.

We have enough backsliding in the field of race relations. We do not need to add the handicap of a bad court decision as another barrier.

Recently, Anthony Lewis had a column titled, "Handcuffs on Learning"; and the New York Times had an editorial titled, "Bad Law on Affirmative Action". I ask that both articles be printed in the RECORD and I urge my colleagues to read them.

The articles follow:

[From the New York Times, Mar. 22, 1996]

BAD LAW ON AFFIRMATIVE ACTION

For two decades the governing principle of affirmative action in higher education has been that race and ethnicity may be a factor, but only one factor, in choosing among applicants in pursuit of the legitimate purpose of a diverse student body. That was the judgment of the Supreme Court in the celebrated 1978 case of Allan Bakke, a white applicant who sued for entry to a California state medical school.

Now a panel of the U.S. Court of Appeals for the Fifth Circuit declares that the Bakke decision is no longer good law. In a lawsuit by four rejected white applicants, the court strikes down a program of the University of Texas Law School to bring more blacks and Mexican-Americans into its student body. This tool is impermissible, say the judges, "even for the wholesome purpose of correcting perceived racial imbalance in the student body."

The ruling is hasty, aggressively activist and legally dubious. If the Bakke decision is no longer the law, it is for the Supreme Court to say so. We hope the high court does not, for its basic rule is sound. Rigid racial quotas are out, but no serious educational institution should be forced to disregard the goal of educating a diverse population.

To reach this result, the appeals judges engaged in exotic reasoning. They found that a now-retired Justice, Lewis Powell, who announced the judgment in Bakke, spoke only for himself on the racial diversity question. It is true that he was joined in the judgment by four other justices who relied on different legal grounds, but Justice Powell's announcement has soundly been regarded as the rule of the Bakke case for nearly a generation. Moreover, it has been widely hailed as the work of a respected moderate well grounded in experience as head of the school board in Richmond, Va.

Texas higher education officials have commendably sought diversity, but they cannot fairly be accused of adhering to rigid quotas. The diverse statewide population is 11.6 percent black and 25.6 percent Hispanic; while the 1992 law school entering class was 8 percent black and 10.7 percent Hispanic. Yet the appeals court says the school may not use "ethnic diversity simply to achieve racial heterogeneity, even as part of the consideration of a number of factors."

That is the doctrine of a "color-blind" Constitution, but it speaks to a time not yet here when the historic stain of racial oppression is erased, competition is truly equal and diversity comes more naturally. As another

former Justice, Harry Blackmun, observed in the same Bakke case, "In order to get beyond racism, we must first take account of race. . . . And in order to treat some persons equally, we must treat them differently. . . . The ultimate question, as it was at the beginning of this litigation, is: Among the qualified, how does one choose?"

The appeals court judges, eager to be the first to declare the battle for equal right over, have rendered a judgment that should not stand.

[From the New York Times, Mar. 22, 1996]

HANDCUFFS ON LEARNING

(By Anthony Lewis)

SAN DIEGO.—Universities around the world came to understand long ago that the quality of education improved if they had students with varying life experiences. That is why Oxford colleges sought working-class students. It is why Harvard, Yale and Princeton are far better universities today than when they were confined largely to privileged young white men.

In the life of Americans, race is a profound factor. Blacks may be bright or dull, rich or poor, but their experience in life has been different from whites'. And so, long before the phrase "affirmative action" was invented, universities thought it wise to have students of varied racial backgrounds.

The freedom of American universities to consider race along with other factors in choosing students has just been struck a devastating legal blow. It came in the decision of the United States Court of Appeals for the Fifth Circuit in the case of Hopwood v. Texas.

The University of Texas Law School some years ago had what amounted to a segregated admissions process. Minority applicants were considered by a separate committee and on different standards.

Cheryl Hopwood and other rejected white applicants sued, claiming that that system denied them the "equal protection of the laws" guaranteed by the 14th Amendment. The Fifth Circuit, ruling in their favor, could have limited itself to the particular admissions process at issue. But it went much further.

The court said that the Texas law school "may not use race as a factor" in admissions. It did not speak of a dominant or even significant factor but outlawed consideration of race as any factor at all. Moreover, in an extraordinary display of hostility, the court left the way open for the plaintiffs to collect money damages for what it said was "intentional discrimination."

The Equal Protection Clause of the Constitution, which the court found violated, applies only to state action. But private universities may also be affected. Civil rights laws forbid racial discrimination at private universities that receive any kind of Federal aid—and nearly all do.

The ultimate danger is to the freedom of American universities. The Fifth Circuit treated this case as if it were the same as the Supreme Court's recent decisions limiting set-asides for minority contractors and broadcast licensees. But education is different. Its freedom in decisionmaking—an urgent need in our society—has to be weighed against the rightful claims of equal protection.

Reading the Fifth Circuit's opinion, by Judge Jerry E. Smith, one feels a sense of detachment from reality. For instance, it rejects as racist the assumption that an individual "possesses characteristics" because of his race. Right. But the issue is not characteristics. It is experience. And any judge who thinks black Americans have not had a different experience is blind.

Think about women judges or Supreme Court justices. They are not wiser or less wise by virtue of their gender. But they have had a different experience from men, and that is why it is important to have them on the bench.

The reality of university admissions, as opposed to the mechanical abstractions of the Fifth Circuit decision, is on display here in California. Gov. Pete Wilson, playing to white male resentment, pushed through the Board of Regents a rule forbidding the use of race or gender as a factor in admissions to the University of California.

Now it turns out that regents who voted for what they called "merit" admissions had leaned on the University of California at Los Angeles to admit the children of friends. An investigation by The Los Angeles Times shows that U.C.L.A. gave special consideration to children of politicians and the rich.

In other words, we have affirmative action for the privileged. But not for the race that was enslaved for 200 years and abused for another 100 and more.

Universities, in their freedom, can increase understanding across the racial lines in this country. Unless the Supreme Court undoes this assault on their freedom, we are going to be an even more divided society.●

THE RECENT BOMBINGS IN ISRAEL

● Ms. MOSELEY-BRAUN. Mr. President, I would first like to congratulate President Clinton for his leadership at the "Summit of Peacemakers" conference which was recently convened in Egypt. I salute the President and the other world leaders who gathered in Sharm El Sheik for their avowed support of the Middle East peace process and their strong showing of international solidarity against terrorism.

I also want to extend my heartfelt sympathy and condolences to the families of those murdered in the recent terrorist attacks in Israel. May the Almighty comfort them among the mourners of Zion and Jerusalem. As the Nation of Israel mourns the loss of its sons and daughters, I pray that the story of Purim will serve to comfort the entire family of Israel and give it hope, knowing that God will deliver the Jewish people today as in the past.

Mr. President, I condemn in the strongest of terms the barbarous acts of organized and random terrorism against innocent Israeli civilians, including young children. Those responsible for these indiscriminate and cowardly acts of murder and violence must be held accountable for their actions and brought to justice. Their punishment must be swift, decisive and thorough, not only to serve as a deterrent, but as a reminder that the world community will never allow the evils of terrorism to triumph over the forces of peace.

I call upon the peace and freedom loving peoples of Gaza, the West Bank and the Arab world to condemn outright these heinous acts of barbarism allegedly committed on their behalf and in their name. These acts do not further Palestinian interests nor, I believe, do they represent the sentiments of the overwhelming majority of the Palestinian people. I further enjoin them to outlaw, expose, disarm and arrest members of paramilitary organizations within their midst and to deny them sanctuary and safe haven. Their presence and actions are a threat not only to the State of Israel, but also to the Palestinian self-rule national authority in the West Bank and Gaza.

Mr. President, we can no longer afford to look at terrorism and suicide bombings in Israel—and in other parts of the world —as a distant danger. The bombing of the World Trade Center in New York City in February 1993 and the bombing of the Federal building in Oklahoma City last April have shattered our false notions of security. Anti-terrorism units, swat teams, and bomb squads train with the same intensity and seriousness of purpose as sprinters, long distance runners, swimmers, and gymnasts in their preparation for this summer's Olympic games in Atlanta. In truth, every act of terrorism—in Israel or elsewhere—strikes at the essence of all free, democratic and open societies. Our disagreements are dealt with civility and without violence or the threat of violence.

With each terrorist threat against the Government, our citizens lose a measure of their freedom. When an American seeks to exercise even the most basic of rights—renewing a drivers license, boarding an airplane or picking up documents at a government building—he or she is often subject to a thorough search of his or her person and property. Even the street in front of the White House—the people's house—has been closed and street traffic rerouted. Moreover, streets around the House, Senate and Capitol buildings have been blocked-off and barricaded. All of these measures have been done because of our heightened sense of vulnerability to terrorism. The humiliation and inconvenience that these situations present are mitigated only by the American people's acquiescence and realization that such practices are unfortunately necessary in today's world. But it does not have to be this way, and we must not become accustomed to the threat of terrorism. To the extent that we refuse to accept it, to the extent we refuse to be desensitized to violence, we will invigorate the will to fight it.

The most recent bombings in Israel have also had a direct impact on my home State of Illinois. The celebration of the Jewish holiday of purim is traditionally one of the more colorful festivals in the city of Chicago. Children are dressed in costumes, friends exchange gifts and there is laughter and merriment. However, as events of yet another suicide bombing in Israel unfolded, grief, anxiety and depression replaced joy, laughter, and merriment.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The juxtaposition of bombs and purim provides a context for understanding how we can draw inspiration and strength from history. Just as the Jews in Ancient Persia responded to danger with prayer and courageous action, so too must we. Mr. President, I, for one, am tired of lighting candles, attending memorial services and waiting for news of the next terrorist attack. It is time for us to be proactive and not merely reactive. We must declare all-out war against terrorism and terrorist organizations and take the fight to them wherever they exist—at home or abroad. We must make it clear to terrorists, their organizations, and the countries which sponsor and harbor terrorists that their actions will not produce the desired result—the interruption or abandonment of the peace process—and that the United States and other nations will no longer permit their actions to go unpunished.

There must be a recognition, however, that terrorism cannot be defeated through unilateral action alone. World leaders must understand that it is in every country's interest to have this menace eradicated from the face of the Earth. Unless and until serious antiterrorist actions are implemented internationally, including the denial of safe haven and sanctuary for perpetrators of terrorism, we can expect more, not fewer, incidents like we witnessed in Israel these past 2 weeks.

Mr. President, we, the inhabitants of this planet, are one family. While differences and disputes are unavoidable, I believe all problems, no matter how intractable they may seem, are soluble. Peace and negotiations are not just the answer—they are the only answer.•

GENE R. ALEXANDER

• Mr. SIMON. Mr. President, I want to commend and congratulate Mr. Gene Alexander of Benton, Illinois. On April 25, 1996, the school library at the Benton Elementary School will be dedicated as the Gene R. Alexander Learning Resource Center. Mr. Alexander was a teacher and principal in the Benton School District for 32 years.

Now that he has retired, "Mr. A." spends his free time volunteering for these same children. He does everything from cleaning school desks to teaching children about the American flag. His commitment to these children is inspirational.

We need more leaders like this and having a library dedicated to him is a fitting tribute. I want to commend Mr. Alexander on his hard work and his lifetime of dedication to the children that he serves.•

REFORM OF OUR TAX CODE

• Mr. SANTORUM. Mr. President, I wanted to take a few minutes to talk about the tax burden that American families feel today and the drastic need for fundamental and comprehensive reform of our Tax Code.

During our brief break from legislative business over the past 2 weeks, I had the opportunity to visit with constituents in various communities in my State to discuss the effects of Federal tax policies on families. Quite clearly, the tax burden over the past few decades has greatly increased; the inequities of the Code have been exacerbated; and the incentives for savings have largely diminished. If it was anything that I heard during the course of nine town meetings, it was the demand for a fairer, simpler tax system and an even greater demand by taxpayers to keep more of what they earn.

As a Member of the House of Representatives, I served on the Ways and Means Committee, which has jurisdiction over tax legislation. I recognize that our current system of taxation is burdensome and intrusive, and I think we are all aware how complex our system is, given the large amount of time Americans spend in computing and filing their taxes each year.

On Monday, I had the pleasure of traveling through Pennsylvania with Senator SPECTER, along with our Governor, Tom Ridge, as we hosted the distinguished majority leader, Senator BOB DOLE. The significance of traveling across my State on tax day brings with it a renewed commitment to fight for Federal policies addressing and correcting not only the many inequities in our system, but demanding a fundamental reexamination by this Congress of the Federal Tax Code as a whole.

I strongly believe that Congress must continue to explore comprehensive simplification of our Tax Code. Several of my colleagues have introduced legislation to institute various alternative tax systems as well as proposals to provide varying degrees of tax relief to American families. To reaffirm this commitment to tax fairness, I am pleased today to join Senator DAN COATS as a cosponsor of his legislation to provide not only for middle-class tax relief, but also to encourage increased personal investment and savings while balancing the growth of Federal spending in general.

This Congress, as a direct result of the Republican majority, has come as close as a veto pen to enacting tax fairness for American families—fairness and relief that many would have realized in preparing their tax returns by Monday evening's filing deadline. A year after the political battle over tax relief and a year later on tax day, the same challenges and needs remain in devising a tax structure that provides greater balance, incentives, and benefits to American families and taxpayers. These next few weeks in the Senate are critical and serve as another opportunity to readdress, pass, and finally enact these changes.•

HONORING BRIAN PALMER HAFLER

• Mr. KERRY. Mr. President, I would like to take a few moments to acknowledge a very talented and promising resident of Massachusetts, Brian Palmer Hafler. Brian was chosen as a seventh place winner in the prestigious Westinghouse Science Talent Search, a national competition that recognizes the outstanding math and science achievements of high school students aged 16 to 18. Brian was recognized for his research involving T cells, research that may be instrumental in the future treatment of autoimmune diseases.

After graduation from the Roxbury Latin School, West Roxbury, MA, Brian intends to continue his scientific research as a molecular biology student at Princeton University. In addition to his scholarly accomplishments, Brian has won varsity letters in wrestling and cross country, numerous academic awards, and a service award for his work in tutoring inner-city students.

I applaud Brian on receiving the Westinghouse Science Award, and wish him success in his future endeavors.•

TESTIMONY OF JONATHAN KOZOL

• Mr. SIMON. Mr. President, I had a chance to read the testimony of Jonathan Kozol, an author who prods our conscience, before the House Committee on Economic and Educational Opportunities, which I ask to be printed in the RECORD after my remarks.

It is a summary of where we are, as he points out, on this year that celebrates the 100th anniversary of the unfortunate Plessy v. Ferguson decision.

The need to do a better job, the need to show care, the need to create opportunity for everyone is here. The question is whether we will pay attention to this obvious need or whether we will ignore it, ultimately at our own peril.

The article follows:

COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES—U.S. HOUSE OF REPRESENTATIVES, MARCH 5, 1996

TESTIMONY OF JONATHAN KOZOL

Mr. Chairman: As you know, this year commemorates the 100th anniversary of Plessy versus Ferguson, but few of the poorest children in our nation will find much to celebrate. Public schools throughout the land, with rare exceptions, are still separate and unequal.

In New York City, to take only one example, public schools for poor black and Hispanic children are nearly as segregated as the schools of Mississippi 50 years ago. The city spends less than half as much per-pupil as its richest suburbs—a differential found, of course, all over the United States.

For many years, the only force that helped consistently to militate against these inequalities has been the Federal government. Although Federal money represents only a tiny fraction of the total education budget in our nation, it has been targeted at schools and neighborhoods in greatest need; and, while Federal aid may represent, on average, only 6 percent of local education budgets, it represents as much as 20 percent in our low-income districts.

Now, as the dismantling of Federal aid is being contemplated, as block grants are proposed as substitutes for targeted assistance to the poor, the plight of children in the most impoverished districts will inevitably worsen.

I remind you also of the gross and cumulative deterioration of schoolbuildings in low-income neighborhoods. "Deferred maintenance"—an antiseptic term which means that water buckets must be scattered around classrooms to collect the rain that penetrates a hundred-year-old roof, while hallways stink of urine from the antiquated plumbing in the bathrooms of a school—is well above $100 billion.

Conditions like these do not just soil bodies. They also dirty souls and spirits, and they give our children a clear message. They tell them that, no matter what we say about "high expectations," no matter what exhaustive lists of "goals" and "standards" we keep churning out for the millennium, the deepdown truth is that we do not like them very much, nor value their potential as Americans.

Millions of children are going to class each day in buildings none of you would be prepared to work in for one hour. All the boosterism in the world, all the hype and all the exhortation, all the upbeat speeches by a visiting politician telling kids, "You are somebody," has no palpable effect if every single thing about the school itself—its peeling paint, its rotting walls, its stinking corridors, its crowded, makeshift classrooms in coat closets, on stair-landings, and in squalid corners of the basement—tells our children, "In the eyes of this society, you are not anyone at all."

The notion of "retrofitting" schools like these for the computer age has something of the quality of a Grimms fairy tale. How will a school that can't repair the toilets or afford to pay for toilet-paper find the money to buy IBM or Microsoft? The gulf between the national "goals" and the degrading day-to-day reality of life for children in these schools has something about it that suggests delusionary thinking. There is simply no connection between slogans and realities.

Despite all this, we face the strange phenomenon of being asked repeatedly, by those who spend as much as $20,000 yearly to enroll their children in exclusive private schools, whether money really matters when it comes to education of the poor. "Can you solve these kinds of problems," we are asked, "by throwing money at them?"

I always find this a strange question, but especially when it is asked by those who do precisely this for their own children. Money cannot do everything in life. It can't buy decency. It obviously does not buy honesty or generosity of spirit. But, if the goal is to repair a roof or to install a wiring system or remove lead poison or to pay for a computer, or persuade a first-rate teacher to remain in a tough job, I think money is a fine solution.

A rhetorical devise used by some politicians points to unusual districts such as Washington DC, or East St. Louis, Illinois, that spend a bit more money than some of the nearby districts but do poorly by comparison. This, we are told, is proof that "money does not matter." But, in most cases, there are districts that also plagued by pediatric illness like chronic asthma, by lead-poisoning, by astronomic rates of AIDS, and joblessness, and drug-addiction, and a global feeling of despair. Equality, as Dr. King reminded us, does not mean equal funding for unequal needs. It means resources commensurate with the conditions of existence.

It is true that there has been anarchic inefficiency in certain urban districts; this needs to be addressed. But even where efficiency has been restored, as in Chicago for example, funds are not forthcoming. Still we are told to "cut the fat" from the administration. But in New York, as in Chicago, there is no more fat to cut. We are now cutting at the bone and at the hearts of children.

And so we come at last to 1996 and to the present moment in the U.S. Congress, where the forces of reaction tell us it is time to "get tough" with poor children. How much tougher do we dare to get? How cold, as a society, are we prepared to be?

New York City, as things stand right now, can barely eke out $7,000 yearly for the education of a first grade child in a school I've visited in the South Bronx, but is spending $70,000 yearly on each child it incarcerates—$60,000 on each adult. If Title I is slashed by Congress, it will devastate the children in this school. In the 1980s, these impoverished children lost the dental clinic in their building. A year ago, they lost the afternoon program where they could be safe in school while mothers worked or looked for jobs. This June, their teen-age siblings will lose summer jobs as Congress lets that program die as well. Only 10 percent of these children are admitted into Head Start programs. The one place to which they are sure of being readily admitted is the city's prison island—now the largest penal colony on earth.

Beyond the cutbacks, there is one more shadow looming, and that is the everpresent threat of education vouchers—a modernized version of a hated memory from 40 years ago, when Southern whites fled from the public schools after the Brown decision, seeking often to get public funds to subsidize their so-called "white academies." They didn't succeed in this attempt, but now another generation—more sophisticated and more clever in concealing racial animus—is driving toward the same objective by the instrument of vouchers.

This time, they are smart enough to offer vouchers to black children and poor children too, but the vouchers they propose can never pay for full tuition at a first-rate private school and, in effect, will simply filter off "the least poor of the poor" who can enhance the voucher with sufficient funds to flee into small private sanctuaries that exclude their poorest neighbors. By filtering off these families from the common areas of shared democracy, we will leave behind a pedagogic wasteland in which no good teacher will desire to teach but where the masses of poor children will remain in buildings that are schools only in name. We are getting close to that point even now. Vouchers, combined with further fiscal cuts, will bring that day considerably nearer.

Some of us who stand up to defend the public schools may seem, at first, to be in an untenable position: We give the appearance of not wanting to change while pointing to how bad things are today. This is our fault, I think, because we tend to speak defensively about the status quo, and fail to offer a more sweeping vision for the future. We scramble to save Title I—and so we should. But Title I, essential as it is, is a remedial side-dish on the table of inequity. We should be speaking of the main course, but have largely failed to do so.

Our vision ought to be to build a public system that is so superb, so democratic, and well-run, that no responsible or thoughtful parent would desire to abandon it. To bring this vision to fruition, we would have to raise the banner of efficiency as high as any voucher advocate has done. We cannot defend dysfunction on the grounds that it is somehow one of the inevitable corollaries of democracy. But simply to support "efficiency" or to encourage innovations such as charter schools is not nearly enough. Innovative and efficient inequality is still unworthy of America. We also need to raise a bolder banner, one that cries out for an end to gross inequity, one that uses strong word for the savagery of what we do today: providing college preparation for the fortunate, bottom-level-labor preparation for the lower-middle class, and prison preparation for our outcasts.

None of my respected friends here in the House of Representatives believes that it is fair to rig the game of life the way we do. We wouldn't play Little League like this. We'd be ashamed. Our victories would seem contaminated. Why aren't we saying this in words Americans can hear?

There is too much silence on this issue among Democrats. It leaves the field to those who speak bombastically, with violence of spirit, as they swiftly mount their juggernaut of cutbacks, vouchers, and secession from the public realm. Virulent racism, as we know too well, is often just beneath the surface of discussion too. I heard few voices in the Congress that address this boldly. There is a sense of quiet abdication and surrender.

Despite my feeling of discouragement, I would like to add that I was reassured to see that Secretary Riley spoke out clearly on the voucher issue recently. As always, he was eloquence and fearless. The same eloquence and the same fearlessness are needed now among the Democrats in Congress. Some of those Democrats, whom I have had the privilege to know for many years, will be retiring soon. Before they do, I hope that they will find the opportunity to wage one final battle for those children who cannot fight for themselves. I hope they won't leave Congress quietly, but with an angry sword held high. In that way, even if they lose this battle, they will leave behind a legacy of courage that a future generation can uphold with pride.•

BURTON MOSELEY

• Ms. MOSELEY-BRAUN. Mr. President, at the time the world was mourning the terror in Israel, my family was mourning the loss of my beloved uncle, Burton Moseley.

Uncle Burt was my late father's only sibling. Both before and after my dad passed away, Uncle Burt was a mentor, a friend, and a role model. He was a simple, honest man, an upright man who brought joy to those whose lives he touched.

No one had a harsh word about him, he never spoke ill of another person. He was, for almost all of his adult life, a Chicago police officer. He epitomized the very best in law enforcement, a person who cared about the quality of life in his community, and who saw fighting crime as a way to contribute. He remained active in the Guardians police organization to the end.

He was our hero.•

VOL
142
PT
6
AP
15
—
24
1996
UMI

SPLIT OVER MORALITY

• Mr. SIMON. Mr. President, people are concerned about what is happening to our country and they are not simply concerned about economics. They are concerned about many issues that reflect our culture in ways that are not healthy.

E.J. Dionne, Jr., one of the most thoughtful journalistic observers of our scene, recently had a column in the Washington Post titled, "Split Over Morality," which I ask to be printed in the RECORD after my remarks.

For those of you who saw it originally in the Post, it is worth rereading, and for those who did not, it should be read and clipped and saved.

The column follows:

SPLIT OVER MORALITY

(By E. J. Dionne, Jr.)

It is remarkable how quickly political talk these days turns to the question: What does the religious right want? Variations on the theme include: How much must Bob Dole do to get the votes of Christian conservatives? Can't President Clinton help himself by hanging the religious right around Dole's neck?

All this might be taken as a great victory by Ralph Reed and the Christian Coalition he directs. The obituary of the religious right has been written over and over since the rise of the Moral Majority in 1980. Yet none of this has stopped the Christian conservative movement from expanding its influence.

Reed and his troops have already gotten a lot of credit for help Dole stop Pat Buchanan's surge dead in the South Carolina primary. That is the very definition of political power.

Reed and his followers have every right to do what they are doing. Religious people have the same rights as union members, environmentalists, business groups and feminists. President Clinton himself has spoken at hundreds of black churches. The president is often at his most effective from the pulpit, an exceptionally good venue for his favorite speeches about the links between personal responsibility and social justice, crime and unemployment.

Democrats thus have no grounds for challenging Reed's argument that his people deserve "a place at the table" of national politics. What does need real debate is more important. It has to do with how moral issues should be discussed in politics, and also how they should be defined.

A lot of Americans—including many who want nothing to do with Ralph Reed—have a vague but strong sense that what's going wrong in American life is not just about economics. It also entails an ethical or moral crisis. Evidence for this is adduced from family breakdown, teen pregnancy, high crime rates (especially among teenagers), and trashy movies, television and music.

But unlike many on the Christian Right, these same Americans see strong links between moral and economic issues. Their sense that commitments are not being honored includes family commitments, but it also includes the obligations between employer and employee and the question of whether those "who work hard and play by the rules," as the president likes to put it, are getting just treatment.

Democrats, liberals and other assorted critics of the religious right have no problem in discussing these economic matters. But they have made the reverse mistake of Reed and his friends: The religious right's foes have only rarely (and only relatively recently) been willing to understand that many American families see the moral crisis whole. It's possible, and reasonable, to be worried about both trashy entertainment and the rewards that go to the hard-working. Human beings are both economic and moral creatures. But liberals often cringe when the word "morality" is even mentioned.

Giving the Christian right a near monopoly on moral discussion has narrowed the moral debate. This narrowing needs to be challenged.

To hear leaders of the religious right talk in recent weeks, for example, one of the preeminent moral issues of our time is whether gay marriages should be sanctioned by state or local governments. But surely this is not even the 10th or the 25th most important issue for most Americans. The resolution of this question one way or the other will do virtually nothing about the moral issues such as crime or family breakup that actually do trouble lots of people.

It's easy enough to recognize why tradition-minded Americans are uneasy with this broadening of the definition of "marriage." But turning this question into yet another political litmus test will only push the political debate toward yet another ugly round of gay-bashing. Is that what 1996 should be about?

What needs to be fought is a tendency described movingly by Stephen Carter in his new book, "Integrity." It is a tendency Carter quite fairly discerns all across the political discussion.

"I must confess that the great political movements of our day frighten me with their reckless certainties and their insistence on treating people as means to be manipulated rather than as the ends for which government exists," he writes. "Too many partisans seems to hate their opponents, who are demonized in terms so creative that I weep at the waste of energy, and, as one who struggles to be a Christian, I find the hatred painful." So would we all.•

WEST VIRGINIA WESTINGHOUSE SCIENCE TALENT SEARCH

• Mr. ROCKEFELLER. Mr. President, today, I would like to take a moment to recognize the 40 finalists in the 55th Annual Westinghouse Science Talent Search. These exceptional American youth—hailing from 13 States, including my home State of West Virginia—are being honored as the Nation's brightest high school math and science students.

This program, sponsored by the Westinghouse Foundation, in partnership with Science Services Inc. since 1942, awards America's most prestigious and coveted high school scholarships in math and science. This year's finalists are among 1,869 high school seniors from 735 high schools located throughout the 50 States, the District of Columbia and Puerto Rico, including two West Virginia students, Namoi Sue Bates of Franklin and Bonnie Cedar Welcker of Parkersburg. Their independent science research project entries cover the full spectrum of scientific inquiry, from biology to solid state luminescence.

The honor of being named to this group far exceeds the value of the scholarships and awards bestowed. Over the years, finalists have included five winners of the Nobel Prize as well as those who have achieved brilliant careers in science, medicine, and related fields.

Mr. President, I want to commend each and every one of these outstanding American teenagers who truly embody the American dreams of discovering, curing, inventing, and changing the world.•

PENTAGON REPORT PREDICTS BOSNIA WILL FRAGMENT WITHOUT VAST AID

• Mr. SIMON. Mr. President, when the Bosnian intervention question came before the Senate, I strongly supported President Clinton's request, but added that I thought it was unrealistic to believe that we could go in and in 1 year pull out.

We made that mistake in Somalia and we should not make the same mistake again.

Recently the New York Times had an article by Philip Shenon titled, "Pentagon Report Predicts Bosnia Will Fragment Without Vast Aid," which I ask to be printed in the RECORD after my remarks.

It tells in very realistic terms why it is necessary to retain some troops in the Bosnian area in order to have stability in that area of the world.

If we fail to do that, we invite bloodshed and instability that will inevitably spread to Macedonia, Albania, and other neighboring areas.

The article follows:

[From the New York Times]

PENTAGON REPORT PREDICTS BOSNIA WILL FRAGMENT WITHOUT VAST AID

(By Philip Shenon)

WASHINGTON, March 19—The Pentagon has offered its grimmest assessment of the prospects for peace in Bosnia to date, warning that without an enormous international aid program to rebuild its economy and political institutions, the country will probably fragment after the withdrawal of NATO peacekeeping troops late this year.

The assessment for the Senate Intelligence Committee was prepared by the Pentagon's senior intelligence analyst, Lieut. Gen. Patrick M. Hughes, and it could signal an effort by the Defense Department to distance itself from blame if the civil war resumes shortly after the NATO withdrawal.

General Hughes, the director the Defense Intelligence Agency, offered reassuring words in his report for American troops stationed in Bosnia, suggesting that NATO forces face no organized military threat. If the war resumes, he said, it will not be until after the American peacekeepers and their NATO allies have pulled out.

But the report, dated Feb. 22, offered no similar solace for the people of Bosnia. General Hughes said that the "prospects for the existence of a viable, unitary Bosnia beyond the life" of the NATO deployment are "dim" without a large international program to revive Bosnia's war-shattered economy.

If his assessment is accurate, the peace effort in Bosnia could well be doomed, since the civilian reconstruction effort there is barely under way, its economy and physical infrastructure—roads, water and electricity lines, telephones—still in ruins. The last American soldiers are scheduled to withdraw from Bosnia in December.

General Hughes said that the strategic goals of the warring factions in the region "have not fundamentally changed" since the days of the civil war and that tensions among them would probably grow in the months leading up to the NATO pullout.

If that is true, the Clinton Administration might come under intense pressure from its NATO allies not to withdraw American troops by the end of December—a deadline that the Administration insists it will hold to.

The Pentagon assessment also implicity questions basic elements of the American-brokered Dayton peace agreement, which laid out what critics in Congress called unrealistic deadlines for political and economic reconstruction in Bosnia and for the withdrawal of peace-keeping troops.

"There's only so much our soldiers can accomplish," said another senior Defense Department official, echoing the report's central findings, "The military forces agreed to keep the peace for a year, and that's what we're doing. But this peace will not hold without an effort to rebuild the country. That's not being done yet. And that's not our job."

The job of organizing the economic and political reconstruction of Bosnia has been left to a European delegation led by Carl Bildt, a former Swedish Prime Minister.

But Mr. Bildt has complained repeatedly in recent months that foreign governments have been slow to make available the billions of dollars needed for civilian reconstruction—everything from building bridges to printing election ballots—and that the political component of the peace effort is lagging far behind its military component. In a meeting this month with donor countries, he pleaded that the donors "do more to honor the pledges we have made."

While questioning whether Bosnia was about to dissolve once again into civil war, General Hughes said in his report that "in the short term, we are optimistic" about the situation faced by the 18,400 American soldiers stationed there as part of the peacekeeping force.

"We believe that the former warring factions will continue to generally comply with the military aspects" of the peace accord, the report said. "We do not expect U.S. or allied forces to be confronted by organized military resistance."

The threat faced by the American forces would come instead from land mines "and from various forms of random, sporadic low-level violence," the report said. "This could include high-profile attacks by rogue elements or terrorists." So far only one American soldier has been killed in Bosnia, an Army sergeant who was killed in an explosion on Feb. 3 as he tried to defuse a land mine.

The report suggested that if the civil war resumes, it will flare up only after the NATO forces have pulled out, removing the buffer that has kept the factions at peace for most of the last four months.

"The overall strategic political goals of the former warring factions have not fundamentally changed," General Hughes said. "Without a concerted effort by the international community, including substantial progress in the civil sector to restore economic viability and to provide for conditions in which national (federation) political stability can be achieved, the prospects for the existence of a viable, unitary Bosnia beyond the life of IFOR are dim." The NATO forces in Bosnia are known as the Implementation Force, or IFOR.

General Hughes suggested that all of the fragile alliances created by the peace accord might collapse—with tensions between the Bosnian Muslims and Bosnian Croats threatening their federation, with the Bosnian Croats working toward "de facto integration" with Croatia, and with elections and the resettlement of refugees "delayed or stymied."

He said that the Bosnian Serbs were likely to consolidate their hold on their own territory, seeking "some form of political confederation" with Serbia.

Questions about whether any peace in Bosnia would outlast the presence of NATO troops—and whether American troops would be stuck there as a result—were at the heart of the debate in Congress that preceded votes to authorize the American military deployment. Senator Bob Dole, the front-runner for the Republican Presidential nomination, demanded and won an Administration pledge to play a role in arming and training the Bosnian Government's army.

The assessment by the Defense Intelligence Agency is only slightly more pessimistic than remarks heard elsewhere in the Pentagon. Senior Defense Department officials have long warned that the peace would fail without a huge effort to rebuild Bosnia and to give the people some hope of economic and political stability after years of slaughter.

"Ultimately I think the bigger problem is not the military implementation of the peace agreement," Gen. John Shalikasvili, the Chairman of the Joint Chiefs of Staff, told the House National Security Committee this month. "We need to make sure we understand that it is equally important to the overall effort—and also the safety of the troops—that we get on with the civilian functions that need to be performed."

"And when I say 'we,' I don't mean the military, but the nations that are involved in this effort," he added.

"The elections have to go forward, the refugees have to begin to return, reconstruction has to start, the infrastructure has to be rebuilt so that the people in the country can see an advantage to not fighting."•

MEASURE PLACED ON CALENDAR—H.R. 2337

Mr. SPECTER. Mr. President, I ask unanimous consent that H.R. 2337, which was just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, APRIL 18, 1996

Mr. SPECTER. Mr. President, I ask unanimous consent, on behalf of the leader, Senator DOLE, that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m., on Thursday, April 18; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of S. 1028, the Health Insurance Reform Act of 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SPECTER. Mr. President, on behalf of Senator DOLE, for the information of all Senators, the Senate will begin the health insurance reform bill tomorrow morning. Amendments are expected to be offered to that legislation. Therefore, Senators can expect rollcall votes throughout the day, and a late session is anticipated. The Senate may be asked to turn to any other legislative items that can be cleared for action.

ORDER FOR ADJOURNMENT

Mr. SPECTER. Mr. President, if there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order following the conclusion of the remarks that I shall make as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I seek recognition to comment on a number of subjects. The Senate has been in session for the last 2 days continuously on the terrorism bill, and there are a number of subjects that I have sought recognition to speak about at this time.

As we say, the Senate is on "automatic pilot," so when I conclude my remarks, the Senate will be in adjournment.

Mr. President, I ask unanimous consent that the following remarks appear under a caption of "Foreign Travel, April 2 through April 5, 1996."

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN TRAVEL, APRIL 2 THROUGH APRIL 5, 1996

Mr. SPECTER. Mr. President, on April 2, on behalf of the Senate Intelligence Committee, I traveled to Paris and then to The Hague, where I consulted with the prosecution teams of the war crimes tribunal to assess their progress. Then, on April 3, on to Belgrade. Then on to Tuzla on April 4, and back to Paris that evening.

While in Paris, I had the opportunity to observe the operation of the Paris Embassy, under the direction of Ambassador Pamela Harriman. I was very much impressed with what I saw of the operation there. Ambassador Harriman

VOL
142
PT
6
AP
15
—
24
1996
UMI

conducts a large Embassy. Really, Paris is the crossroads of the European continent. There are many complex issues that confront the Embassy involving security matters within NATO, involving commercial matters, involving activities that touch upon the Senate Intelligence Committee and the Central Intelligence Agency. I was very much impressed with those operations.

During the course of my discussions with Ambassador Harriman, I discussed with her the cuts in the budget of the State Department in the so-called 150 Account. And from the work I have done on the Appropriations Committee, and in the past having been on the subcommittee with jurisdiction over the Department of State, it is my sense that the cuts that have been imposed are excessive.

I asked Ambassador Harriman to prepare for me a list of specifics, which she has done, entitled "Disinvesting in Diplomacy," pointing out how hard hit large Embassies will be, like the Embassy in Paris, and with the specification of the cuts and the impact of those cuts on her operation. I was especially impressed with one of her offices, from which 17 officers had been cut, under last year's reduction, to 12, and if the anticipated cuts are put into effect for next year, down to 7.

Mr. President, at the conclusion of my remarks, I ask unanimous consent that the specification under the caption "Disinvesting in Diplomacy" be printed in the RECORD.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, while in Paris, and at the Embassy on the evening of April 2, I visited with Secretary of Commerce Ron Brown for whom a reception was held in his honor along with the Secretary of Labor Robert Reich.

As we all know, on the very next day Secretary Brown and his company met their untimely deaths with the crash of their plane making a landing approach into Dubrovnik.

When Secretary Brown and I spoke on the evening of April 2 at about 6:45 he was robust, enthusiastic, and very anxious to carry out his responsibilities as Secretary of Commerce. He had brought with him a group of United States businessmen who could be instrumental in the rebuilding and the revitalization of Bosnia.

It is well accepted that, if the peace in Bosnia is to stay and is to hold, there will have to be a buildup of the infrastructure there, and Secretary Brown was there in connection with those duties. He and I talked about meeting in Zagreb. But that meeting unfortunately did not take place. The next morning I departed for Serbia, was in Belgrade, and had a plan on April 3 to travel to Sarajevo. That plan was canceled because of weather. We did not go to Sarajevo, and the same weather conditions resulted in the fatal crash of Secretary Brown and his company.

I traveled the next day to Tuzla, arrived there early in the morning, was met by General Cherrie, and we immediately talked about Secretary Brown's visit the preceding day. Secretary Brown had arrived at 6:40 a.m. on April 3 and visited the United States military establishment in Tuzla, and departed at 1:58 p.m. And then, as we know, shortly thereafter the fatal crash occurred on the approach to the landing in Dubrovnik.

Secretary Brown was certainly a stalwart advocate of U.S. interests, and his loss will be deeply felt by the U.S. Government. On behalf of my wife Joan, I want to convey our deepest sympathies and condolences to Ron's wife, Alma, and their two children, Michael and Tracey, and the rest of their family.

EXHIBIT 1

DISINVESTING IN DIPLOMACY

Large projected cuts in the 150 account will hamper our ability to attain U.S. economic, security and political objectives worldwide for many years to come.

Among the hardest-hit will be our large embassies in Western Europe. These Embassies protect and promote vital U.S. interests. Western Europe is home to most of our biggest and most powerful trading and investment partners. NATO is our most important military alliance.

Our European allies share our democratic ideals and are willing to join us in coalitions to promote global stability. A few, such as France, have global military, economic, technological and commercial interests which parallel our own. In France, our diplomacy reaches well beyond bilateral relations to include cooperation and burdensharing on a broad range of global issues.

Embassy Paris, like most other major Embassies, is cutting back sharply its operations while trying to economize. The consulate in Lyon was closed in 1992. In 1996, the Bordeaux consulate also had to be closed. The latter had been in operation since George Washington's Presidency.

In 1996, the Embassy was required to close its travel and tourism office. Its ten person staff, which was handling 100,000 requests for information annually from potential foreign visitors to the U.S., was eliminated. The calls will have to be absorbed or redirected with no increase in staff.

In the past two years, Embassy Paris has cut the operating hours of its communication center by 65 percent. A hiring freeze has been in place for four years, and the Embassy's French work force has not received a pay increase in three years. Twenty-five French employee positions have been marked for elimination. The list of other reductions is long.

In view of these reduced resources, Embassy Paris is making a concerted effort to "work smarter" with fewer resources. It has formed "teams" to pool interagency assets more effectively. It has negotiated savings of $3,000,000 over five years in local service contracts. It instituted a new interactive automated telephone service for visa applicants which generates $8,000 to $10,000/month in revenues. A consolidation of warehouses is saving $400,000 per year. A new computerized pass and ID system allowed the Embassy to cut 10 Marine guards.

This kind of innovation has allowed cuts to be distributed and absorbed within the Embassy without drastic cutbacks in services thus far. However, this is now likely to change.

The State Department is calling for another round of deep personnel cuts. For Paris, this would entail a 43 percent drop in core diplomatic personnel in the 1996 to 1998 period. Reductions this large will impact heavily on core diplomatic strengths and the Embassy's effectiveness. Some of the effects will be:

Advocacy for U.S. trade and business interests will be reduced in frequency and effectiveness (recent investment problems handled by the Embassy included U.S. firms in the food processing, pharmaceutical and information industries).

The loss of the Embassy's ability to monitor the Paris Club, the organization which negotiates debt rescheduling affecting billions owed the USG by developing countries.

A 50 percent reduction in contacts with the key French officials we must reach if we are to influence French policy and advocate U.S. positions on questions of vital interest to us.

Closure of the Science office at a time when our cooperative exchanges with France on nuclear, space and health technology matters (to mention only three) should be growing rapidly.

Significant cutbacks and slowdowns in passport and welfare services to U.S. citizens. Passport issuance will take 3 to 5 days instead of one. Prison visits will be cut to one per year. Consuls will no longer attend trials of U.S. citizens. The consulate will be open to the public for only two hours per day.

A 60 percent reduction in State Department reporting from Paris, including the political and economic analysis we need on France's activities in Europe, Africa and the Middle East, and Asia.

These trends are disturbing and merit closer attention. The Administration and Congress must work together to assess carefully how budgetary and personnel cutbacks affect our core diplomatic capabilities in Western Europe and elsewhere. This is especially true at a moment when business and information is globalizing and our national interests dictate that we be even more intensively engaged with our key allies than in the past.

(The remarks of Mr. SPECTER pertaining to the submission of Senate Resolution 247 are printed in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

(The remarks of Mr. SPECTER pertaining to the introduction of S. 1681 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. I thank the Chair.

I yield the floor, and with that conclude the activities of the Senate today.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until tomorrow morning at 9:30.

Thereupon, the Senate, at 7:23 p.m., adjourned until Thursday, April 18, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 17, 1996:

DEPARTMENT OF DEFENSE

JOHN W. HECHINGER, SR., OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF 4 YEARS, VICE JOHN P. ROCHE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. DANIEL W. CHRISTMAN, 302-36-9745, U.S. ARMY.

VOL 142 PT 6 AP 15 — 24 1996 UMI

HOUSE OF REPRESENTATIVES—*Wednesday, April 17, 1996*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. GILLMOR].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 17, 1996.

I hereby designate the Honorable PAUL E. GILLMOR to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Reverend Dr. Ronald F. Christian, Office of the Bishop, Evangelical Lutheran Church in America, Washington, DC, offered the following prayer:

The heavens declare Your beauty, O God, and the firmament shows Your handiwork.

We pray, O God, that we may all more quickly recognize and give thanks for the beauty that surrounds us, and we pray that we may more reverently receive Your gifts and offer our gratitude for them daily.

For the hours of this day, we give You thanks. Help us, O God, to use each moment wisely so that neither sloth nor waste will occupy this time which will never be returned to us.

Dispose our days and our deeds in Your peace, O God. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Ohio [Ms. KAPTUR] come forward and lead the House in the Pledge of Allegiance.

Ms. KAPTUR led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 255. An act to designate the Federal Justice Building in Miami, Florida, as the "James Lawrence King Federal Justice Building";

H.R. 869. An act to designate the Federal building and United States courthouse located at 125 Market Street in Youngstown, Ohio, as the "Thomas D. Lambros Federal Building and United States Courthouse";

H.R. 1804. An act to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the "Judge Isaac C. Parker Federal Building";

H.R. 2415. An act to designate the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building"; and

H.R. 2556. An act to designate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building."

ANNOUNCEMENT REGARDING AMENDMENTS TO NATIONAL WILDLIFE REFUGE IMPROVEMENT ACT

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, the Rules Committee will be meeting at the beginning of next week to grant a rule on H.R. 1675, the National Wildlife Refuge Improvement Act.

Resources Committee Chairman YOUNG has requested an open rule. He has further requested that the rule make in order as original text for the purpose of amendment a new amendment in the nature of a substitute.

This amendment in the nature of a substitute by Chairman YOUNG reflects negotiations the Resources Committee has held with both the Department of the Interior and the Department of Defense.

Amendments should be drafted to the text of the amendment in the nature of a substitute offered by Chairman YOUNG, which has been printed in the CONGRESSIONAL RECORD of April 16, 1996, numbered 1. Priority in recognition may be given to those amendments which are preprinted in the CONGRESSIONAL RECORD. However, preprinting of amendments is optional.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

OSHA, AT IT AGAIN

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, I hope Mike Royko's column today is a joke, but unfortunately it is not. OSHA is at it again.

Apparently, a small business in Chicago recently received a set of instructions from OSHA on how to safely handle water. Yes, water, not waste water, not contaminated water, just water. The instructions include water's boiling point, its freezing point, its weight. The laboratory protective equipment recommended included safety glasses and a lab coat, and instructions include keeping the container lid on tightly closed and how to transport the water and a warning to protect it from freezing.

Yes, Mr. Royko points out, however, that OSHA did not document any effects of overexposure to water. Does OSHA not consider drowning a hazard? The bureaucrats at OSHA also failed to identify any conditions to avoid. What about the chance of burning your hand if the water is too hot?

Mr. Speaker, the time to reform OSHA is now.

UNITED STATES-JAPAN AUTO FIGURES

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, with the President in Japan, it is time to take stock of our abysmal trade accounts with that nation.

The administration is doing its best to put a public relations spin to last year's massive $60 billion trade deficit with Japan. Look at the facts: During the first 3 years of the Clinton administration, the United States has suffered over $185 billion in more trade deficits with Japan, a 39-percent increase over the abysmal trade deficit records under the Bush administration. U.S. auto manufacturers still have less than 1 measly percent of Japan's auto market, while Japan commands over one-third, 33 percent of this market. The value of the dollar against the yen has gone down by 40 percent since 1990, making our automotive goods 40 percent cheaper in their market. Yet the United States gained only one-third of 1 percent of Japan's auto market since 1995.

Mr. Speaker, let us save the high fives. We have scaled an ant hill. Now all that is left is the mountain.

WHAT HAPPENED TO THE MIDDLE-CLASS TAX CUT?

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, recalling my career in radio, here is a golden oldie I am sure our liberal friends will absolutely love. It is taken from one of Bill Clinton's 1992 campaign commercials:

> I'm Bill Clinton, and I think you deserve a change. That's why I've offered a plan to get the economy moving again, starting with the middle-class tax cut.

But after the election, Bill Clinton forgot about the middle class. He must have developed some sort of memory problem. For 2 years when he and the liberals had control of both the White House and this Congress, Bill Clinton still refused to honor his promise to cut taxes to the middle class. In fact, the record clearly shows he raised taxes, 250 billion dollars' worth.

Bill Clinton traded in his promise of tax relief for the largest tax increase in American history. And then, in this new Congress, he vetoed tax relief the new majority provided to most every American.

Mr. Speaker, the President had a chance. He blew it. The new majority is committed to letting Americans hang onto more of their hard-earned dollars.

CRUEL AND UNUSUAL PUNISHMENT OR NOT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, a male prisoner wanting to be a lady demanded hormone injections at taxpayer expense, citing the 14th amendment. A lower court said this would-be lady is a tramp, absolutely not.

But the 10th Circuit Court said, hey, let luck be a lady tonight, citing the 8th amendment, said to deny hormones for this prisoner would be cruel and unusual punishment.

Unbelievable. Who are these three judges? Larry, Moe, and Curly? Do they realize that these prisoners get free food, health care, libraries, TV's? What is next? Wonderbras, pantyhose? Beam me up, Mr. Speaker. I say injections are in order, not for the prisoner, but for the three judges. They should get a combination injection of Prozac and common sense.

Think about it. I yield back the balance of these injections.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Our guests in the gallery are reminded that demonstrations of approval or disapproval are not permitted under the rules of the House.

WORKING CHILDREN'S RIGHTS ACT

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, a year ago, a 12-year-old boy by the name of Iqbal Masih was murdered in Pakistan because he had dared to speak out against child slave labor.

Iqbal had been sold by his father for $16 when he was 4 years old. He was chained to a loom. When he made a mistake, he was savagely beaten.

With the help of an American firm, he escaped and spoke out against this practice, which is actually on the rise in Asia and Africa and Latin America, because there is so much profit to be made by exploiting children that poor governments are very easily corrupted.

He tried to make a difference. He was murdered. But it is up to us to follow his lead, to show his courage.

Today in honor of Iqbal and the millions of children who work as forced laborers, I am proud to introduce the Working Children's Rights Act. It will deny U.S. foreign aid to countries that refuse to enforce their own labor laws, it will deny aid to governments that continue to violate the most basic human rights of children, and it will require the State Department to investigate corruption and provide for yearly hearings, so that we will never forget the terrible plight faced by millions of children like Iqbal Masih.

REPEAL 16TH AMENDMENT

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, our current Tax Code has undergone 31 major revisions and 400 minor revisions over the past 40 years. It has grown from 11,000 words to over 7 million words. The IRS now prints about 480 different tax forms for Americans to fill out. But taxpayers shouldn't fear because the IRS will send you an additional 280 forms to explain how to fill out the first 480. Doesn't that sound simple?

All this complex nonsense costs Americans about 5.4 billion hours and $200 billion a year.

Is it any wonder that Americans are frustrated, angry, and just plain fed up with our current tax system. It's time to replace it. Join me in repealing the 16th amendment. We must get rid of the IRS. This country and her citizens deserve no less.

INCREASE THE MINIMUM WAGE

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, if NEWT GINGRICH and the radical right Republicans want to do something for the working poor, then let us have a minimum wage bill. Yesterday some of their Members stood in the well on that side and said, "Well, we have already proposed to take care of the working poor through our tax bill that we passed last year, and the President vetoed it."

Nothing is further from the truth. There is not one penny, not one penny, in that tax bill for the working poor. You take a two-wage earner family with two children, both working at minimum wage. They do not pay any taxes. There is nothing in your tax bill that helps them.

The only way that we can help the working poor get out of poverty, the only way we can help people get off welfare, is to increase the minimum wage.

Why, Mr. Speaker, do you and the radical right Republicans refuse to permit the Democrats to bring a minimum wage bill to this floor? I say to you, let us do it now.

AMERICANS PAYING TOO MUCH IN TAXES

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, the previous speaker apparently forgot the Bill Clinton tax increase, 4.3 cents in the gas tax. Did he forget that? That is on the working poor. How about taxing Social Security benefits of those people who had sense enough to save with $35,000 a year income each year?—$35,000, a couple, and they tax 85 percent of your Social Security benefits that you paid 16 percent of your payroll in each year of your working life. That is what Clinton has done for you.

Mr. Speaker, each day millions of Americans wake up early, get dressed, kiss their families good-bye and go to work. They then spend the next 2 hours 47 minutes working for the Federal Government to pay their taxes. That is more time than they spend working to feed, clothe, and earn money for their family's housing.

Mr. Speaker, this is an outrage. When American families are spending more time working for the Government than they do supporting their own families, something is wrong. Americans deserve to keep more, not less of their

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own income for their own families, and Congress should be doing everything we can to get this Government off their backs.

AMERICANS SUPPORT RAISING MINIMUM WAGE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, congressional Republicans are using every single trick in the book to block a vote on raising the minimum wage in this country a mere 90 cents, even though the minimum wage is at a 40-year low.

Yesterday Senate Republicans used a procedural maneuver to dodge raising the minimum wage. They march in lockstep with Speaker GINGRICH and his leadership team, who have been blocking every single effort to bring up a vote in this body on raising the minimum wage.

□ 1115

It is only the latest example of how Speaker GINGRICH and his Republican leadership are out of step with the mainstream of this country. They, in fact, wanted to give a $245 billion tax break to the richest Americans in this country, to give the richest corporations in this country a $17 billion windfall, but they do not in fact want to see the minimum wage raised by 90 cents.

The New York Times said today that 84 percent of the U.S. folks are for an increase in the minimum wage. Today 13 House Republicans, to their credit, will break ranks with their leadership to join those of us who said let us increase the minimum wage. Let us do that for the hard-working, responsible Americans in this country. Let us give them an increase in their salaries.

DO SOMETHING FOR AMERICANS BY PASSING HEALTH CARE REFORM AND INCREASING THE MINIMUM WAGE

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, Congress has a golden opportunity to actually do something for the American people. We can pass the necessary health care reform bills this year and also increase the minimum wage, like my colleagues have said.

The Kassebaum-Kennedy health care bill in the Senate will enhance the portability of coverage by ending permanent exclusion for preexisting conditions. However, the inclusion in the House of the medical savings accounts, malpractice reform, and also the taking away of State regulation of multiple employer welfare plans will hurt health care reform.

Key Senators, including Senator KASSEBAUM, have discouraged the inclusion of these medical savings accounts because it has no place in this bill. House Republicans want to federalize insurance regulations for self-insured small business. The States are now regulating these plans, and have served as a laboratory for innovation on improving coverage and combating fraud. Why do we want to bring that to Washington?

The Nation's Governors, State legislators, and insurance commissioners have opposed these provisions, but the majority Republicans have put it in. Let us give the people reasonable health care reform and a minimum wage increase.

LET US CELEBRATE EARTH DAY IN A BIPARTISAN WAY

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, next Monday we will celebrate Earth Day. I wonder if we will celebrate Earth Day in a bipartisan way.

It is true that in recent years, we had witnessed some improvement in environmental standards for clean air and water, due in large part to bipartisan support provided previously by Congress.

Yet, the 104th Congress has witnessed a dramatic change in attitude among many of my Republican colleagues.

Escapes and loopholes have been inserted in many measures on behalf of those who would pollute, weakening the very laws that protect the health of the Nation.

Thus, despite a quarter of a century of effort, investment, and concentration—toxic waste, unclean air, and unsafe drinking water is still a way of life for millions in the United States.

Competing interests between the air we breathe, the water we drink and the land on which we live, versus economic efficiencies and profit for business interests have resulted in legislative action and inaction that has delayed and denied environmental improvement.

Those who have suffered the most are the voiceless and the powerless.

Yet, in spite of it all, there remains hope for the future.

When we celebrate Earth Day on Monday, April 22, I hope all Members will pledge to provide something to celebrate about.

104TH CONGRESS HAS SHIFTED FOCUS ON ENVIRONMENT TO ENFORCEMENT, NOT WEAKENING, OF EXISTING REGULATIONS

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, let us think about and talk about, just for a moment, exactly what the 104th Congress has done with respect to the environment, because there is so much deception that is being propagated about it, it is difficult to separate the truth from the reality or from the fiction.

The reality is that for the first time ever this Congress actually passed a Clean Water Act that provides for relief from and accounting for nonpoint source pollution. We had never done that before.

This Congress increased the funding for the Clean Water Act from $1.2 to $2.4 billion, a tremendous increase.

This Congress did not weaken one single regulation with respect to the standards themselves, but what this Congress did do is, it shifted where the focus of enforcement will be. It shifted it away from Washington, Washington bureaucrats with a one-size-fits-all attitude and approach, and to the States.

There is, in fact, notwithstanding the fact that many would like us to believe otherwise, there is no difference with respect to the goal, but there is a tremendous difference with respect to the way we get there, the process.

AMERICA NEEDS AN INCREASE IN MINIMUM WAGE TO SUSTAIN ITS HIGH QUALITY STANDARD OF LIVING

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, we know what distinguishes America from Third World countries, not just its democratic processes but its standard of living, the high quality of life we have in this country. Well, at least that is the way it used to be when people could get good paying jobs in industry. That is not the case now.

USA Today says, "How would you like to raise a family on $8,800 a year?" That is what we get with the current minimum wage. We ought to raise it. I am appalled when I hear my Republican colleagues who make over $100,000 a year say that they will fight a 90-cent increase in the minimum wage with every fiber in their body. It is absolutely shocking.

We need to maintain a high minimum wage so that we can have the high standard of living in this country. The current minimum wage is $1,100 less than the poverty level. People cannot exist on the current minimum wage.

If we increase the minimum wage, 12 million Americans will benefit. And do not let the Republicans tell us they are just teenagers. Thirty-nine percent of those Americans, 39 percent of those 12 million, are breadwinners, heads of households.

Mr. Speaker, the equation is very simple. Decent minimum wages mean

less welfare. The people who are getting welfare are there because many of them cannot get a decent wage even though they work.

GIVING STATES AUTHORITY WILL ENHANCE ENVIRONMENTAL QUALITY

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I want to follow on the statement that was made eloquently by my friend from Cleveland about the issue of the environmental commitment of the 104th Congress.

I come from a State which is very sensitive to environmental concerns. In fact, the district which I represent has had the highest number of first stage smog alerts in the Nation. We have very serious groundwater contamination problems.

The fact of the matter is, this Congress is committed to moving in the next several weeks with very important legislation, the Safe Drinking Water Act, which continues to be a top priority. And as my friend said, this concept of one-size-fits-all regulations emanating from right here in Washington has failed.

In fact, we have seen improved environmental quality in spite of, not because of, the bureaucracy that has existed here. Every shred of evidence demonstrates that we will, in fact, be able to enhance environmental quality in this country and in my State of California if we are able to give the States the kind of authority that is desperately needed. That is the commitment that we have.

REJECT GET-GREEN GIMMICKS

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, our colleagues on the other side of the aisle have recently attempted to improve their environmental image to the public at large. They know that the American people want our environment protected, and they have felt intense heat for their relentless attacks on our public health and safety.

But we know better than to believe their get-green gimmicks. This Congress has the worst environmental record in 40 years. We have fought attacks on public health standards, meat inspection regulations, national parks, endangered species, and pesticide protections, to name only a few. And now, while these attacks in Washington continue, we are subjected to their pro-environment rhetoric. We can expect to witness them planting trees, adopting highways, or volunteering to clean up a river or lake in order to polish up their image.

As we prepare to celebrate Earth Day, we cannot stand for this hypocrisy. We must protect and cherish our environment, both in the laws we write—and in the lives we live.

POLLUTERS, NOT TAXPAYERS, SHOULD BEAR COST OF CLEANUP

(Mr. ROMERO-BARCELÓ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROMERO-BARCELÓ. Mr. Speaker, as we approach the celebration of Earth Day it behooves us to take the time to see what we have done to our planet. The Superfund Program helps us accomplish what we must, clean all polluted sites. Superfund is based on the principle that the parties responsible for the pollution should pay for the cleanups.

Unfortunately, some Members want to shift cleanup costs from polluters to taxpayers. Whose interest does it serve to shift this burden off the polluters and onto the backs of the public?

A high percent of the Superfund sites currently listed on the national priorities list involve human exposure to hazardous substances or threats to drinking water. Over 70 million people live within 4 miles of one Superfund site. In my district, more than 168,000 people get their drinking water from aquifers over which a site is located.

H.R. 2500, the Superfund reform bill, rejects the polluter-pays principle and undercuts responsible remedies, allowing polluters to walk away from sites. H.R. 2500 caps the national priorities list at 125 sites, while States have testified that there are 1,700 Federal caliber sites. Under this plan, responsibility for 1,575 sites would be left to the States, whether they have resources to clean them or not.

Although the program has been criticized for the slow rate of cleanups, 349 site cleanups have completed since the program started in 1981. Nearly 60 percent of these cleanup have been completed under the Clinton administration.

Under the last Democratic Congress, a compromise Superfund reform bill received the support of three committees and was supported by the Clinton administration, State governments, and environmental groups. The compromise dealt with reducing litigation, speeding cleanups, and narrowing liability.

As we celebrate Earth Day we should not allow lobbyists to rewrite out environmental laws in ways that benefit polluters and hurt the health of our good citizens. Let me pledge to seek new opportunities so that we can be proud to pass along a safer and healthier planet to our children.

A SERIOUS PLAN FOR WHAT AILS THE DISTRICT

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, the Washington Post front page story this morning is an urgent action alert for this Congress "In Threadbare D.C., Hopes Wear Thin."

This Congress, which claims constitutional responsibility for the Capitol of the United States, bears a heavy responsibility for the decline and fall of the District, at least this year: the shutdown of the Government, the hold-up in the appropriation, the cuts before a plan was in place against the recommendation of your own control board.

On April 15, I introduced the D.C. Economic Recovery Act, to give a tax break to D.C. residents, to stop the hemorrhage of taxpayers out of this city. The Washington Times calls it, in a headline in its editorial, "A Serious Plan for What Ails the District."

Save the Capitol of the United States before it is too late. It is, I remind you what you always tell me, your constitutional responsibility.

DO NOT RAISE TAXES ON WORKING AMERICANS

(Mr. TATE asked and was given permission to address the House for 1 minute.)

Mr. TATE. Mr. Speaker, 3 years ago my good friends across the aisle raised taxes on senior citizens, raised taxes on working Americans in the form of higher gas taxes, raised taxes on small business owners. But the new Republican Congress tried to provide tax relief for working Americans in the form of a $5,000 tax credit for working Americans that want to adopt a child, tax relief for small businesses.

Now it is an election year, and my good friends across the aisle say raise the minimum wage. Well, they controlled the Congress and the Presidency for 2 years. If I look at their record and look closely enough, what the folks across the aisle truly want to do is raise taxes on working Americans. That is what they are truly interested in.

REPUBLICANS WOULD ROLL BACK ENVIRONMENTAL PROGRESS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, I know that we are leading up to Earth Day next Monday. I was involved in the original Earth Day 26 years ago, and I think it is very unfortunate that now in this Congress under Speaker GINGRICH we see the worst environmental record in the history of the Congress.

In effect, what is happening is that the Republican leadership is doing their best to try to roll back 25 years or 26 years of environmental progress that we have seen in this Congress on a bipartisan basis since the first Earth Day.

□ 1130

The worst part, I think, is with regard to enforcement. One of the things that I have always said is that if you do not have proper enforcement and investigation to make sure that there are teeth in your environmental laws, then you in effect do not have any environmental laws.

This continued process with the Republican leadership where they do not provide enough funding for the EPA and other agencies that are involved in environmental protection so that there are not the enforcers or the environmental cops on the beat, if you will, out there doing the investigations, catching the polluters, indicating or making it possible to impose penalties against those who violate our environmental laws, this constant effort is hurting environmental protection in this country.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule.

Committee on Agriculture, Committee on Banking and Financial Services, Committee on Economic and Educational Opportunities, Committee on International Relations, Committee on the Judiciary, Committee on Resources, Committee on Science, Committee on Small Business, Committee on Transportation and Infrastructure, Committee on Veterans' Affairs, and the Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. GILLMOR). Is there objection to the request of the gentleman from California?

There was no objection.

LAYING ON THE TABLE HOUSE RESOLUTION 368

Mr. QUILLEN. Mr. Speaker, I ask unanimous consent that House Resolution 368, providing for consideration of H.R. 994, the Small Business Growth and Administrative Accountability Act of 1996, be laid on the table.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

TRUTH IN BUDGETING ACT

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 396 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 396

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed two hours equally divided among and controlled by the chairmen and ranking minority members of the Committee on Transportation and Infrastructure and the Committee on the Budget. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. QUILLEN] is recognized for 1 hour.

Mr. QUILLEN. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 396 is an open rule providing for the consideration of H.R. 842, the Truth in Budgeting Act. The rule provides 2 hours of general debate divided equally between the chairmen and ranking minority members of the Committee on Transportation and Infrastructure and the Committee on the Budget.

The rule makes in order the Committee on Transportation and Infrastructure amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment and provides that each section be considered as read.

This rule allows for priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD prior to their consideration, and it provides for one motion to recommit, with or without instructions.

Mr. Speaker, when I first came to Congress in 1963, I was privileged to serve on the House Public Works Committee. The name has changed, but the important agenda of the committee and the dedication and hard work put forth by the members of the committee over the ears has not diminished.

I've long supported efforts to take the four transportation trust funds off budget, and I commend chairman BUD SHUSTER and ranking member JIM OBERSTAR for finally giving the House an opportunity to debate and vote on this issue.

We'll hear a great deal of discussion about this bill today, and arguments will be made that these trust funds should not be exempted from budget cuts in attempts to balance the budget. But Congress made a commitment to use the proceeds of transportation user fees solely for transportation purposes. Presently, there is over $30 billion in the four transportation trust funds—money that could be and should be used to improve our highways, airports, harbors, and inland waterways. The public is no longer being fooled by using these funds to mask the true size of the Federal deficit. It's way past time to honor our commitment and release these funds to improve our Nation's transportation infrastructure.

Mr. Speaker, I'm proud to be a cosponsor of this bill and I urge my colleagues to vote for this open rule and to support passage of this important piece of legislation.

Mr. Speaker, I include the following extraneous material for the RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of April 15, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	60	59
Modified Closed[3]	49	47	26	25
Closed[4]	9	9	16	16
Total	104	100	102	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of April 15, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17 H.J. Res. 1	Social Security Balanced Budget Amdt	A: 255–172 (1/25/95).
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109 H.R. 2491	Social Security Earnings Reform Seven-Year Balanced Budget	PQ: 228–191 A: 235–185 (10/26/95).
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont.-Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).

VOL
142
PT
6
AP
15
—
24
1996
UMI

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of April 15, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H.Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/21/96).
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96).
H. Res. 388 (3/20/96)	C	H.R. 125	Gun Crime Enforcement	A: 244–166 (3/22/96).
H. Res. 391 (3/27/96)	C	H.R. 3136	Contract w/America Advancement	PQ: 232–180 A: 232–177, (3/28/96).
H. Res. 392 (3/27/96)	MC	H.R. 3103	Health Coverage Affordability	PQ: 229–186 A: Voice Vote (3/29/96)
H. Res. 395 (3/29/96)	MC	H.J. Res. 159	Tax Limitation Const. Amdmt.	PQ: 232–168 A: 234–162 (4/15/96)
H. Res. 396 (3/29/96)	O	H.R. 842	Truth in Budgeting Act	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. QUILLEN. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I thank the gentleman from Tennessee [Mr. QUILLEN] for yielding the customary half hour of debate time, and I yield myself such time as I may consume.

Mr. Speaker, although many of us believe that the so-called Truth in Budgeting Act that would be made in order by this rule is an irresponsible piece of legislation, we have no objections to the rule itself. It is the first open rule the House has considered this year, and we commend the majority for bringing this controversial legislation to the House floor in this manner.

We also commend the majority for providing an extra hour of general debate time—for a total of 2 hours—and allowing the chairmen and ranking minority members of the two committees of jurisdiction to control one-half hour of debate time each. That provision of time is adequate and fair for a measure that has been reported favorably by one committee of jurisdiction, the Transportation and Infrastructure Committee, and adversely by the other, the Budget Committee.

Mr. Speaker, proponents of this legislation make a good case that we need to increase spending for our Nation's transportation infrastructure. Many of our highways, airports, mass transit systems, and ports are in serious need of repair, modernizing, and expansion; and our failure to spend an adequate amount on these projects is costing our Nation dearly in terms of lower productivity. However, moving four transportation trust funds off budget, and out from under the discretionary spending caps, as H.R. 842 would do, is not the appropriate way to solve this problem.

By freeing transportation spending from the budget constraints that are currently imposed on all discretionary spending programs, it is likely that transportation spending will increase by about $20 to $21 billion over the next 5 years. But to compensate for that extra spending, Congress would have to increase the deficit by that amount, or make deeper cuts in other discretionary programs.

We may well decide that we want to spend an extra $20 billion on transportation projects over the next 5 years. But if we do, we should make that decision with full awareness of the consequences of such action for other Federal programs, and for our efforts to reduce Federal deficits.

However, if transportation spending is given the preferential budgetary treatment provided by H.R. 842, we would no longer determine the appropriate amount to spend on transportation projects in the context of our decisions on all other Federal spending; we would no longer be forced to make the necessary tradeoffs that we currently have to make whenever spending is increased for any program.

Furthermore, if special budgetary treatment is given to transportation spending, advocates of other programs that are funded by dedicated revenues will demand the same treatment. And there are nearly 160 other trust funds, and hundreds of similar special accounts, within the Federal budget. This bill could be the first step toward a fracturing of the Federal budget that would make the work of managing the spending of our Federal dollars, and determining the size of the Federal budget, far more complicated and difficult than it already is.

Finally, Mr. Speaker, this bill is based on a faulty premise—that we are raising more revenues dedicated to transportation than we are spending on transportation projects and therefore, those revenues mask the true size of the deficit. In truth, in 12 of the past 15 years, spending from the transportation trust funds has exceeded the amount of revenues received. The surpluses in the trust funds that currently exist result largely from interest that has been credited to the funds on balances that accrued many years ago.

Mr. Speaker, to repeat: We have no objection to the rule, since it is an open rule that will allow for a full debate on H.R. 842. But we strongly urge Members to reject the bill itself.

Mr. Speaker, I reserve the balance of our time.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GOSS], a very valuable member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the distinguished chairman emeritus, the gentleman from Tennessee [Mr. QUILLEN] for yielding time to me.

I rise in support of this good open rule. But I must say to my colleagues that I am perplexed that we are bringing this pleasure to the floor. I, of course, do have enormous respect for Chairman SHUSTER and his colleagues on the Committee on Transportation and Infrastructure who believe they are doing the right thing for the transportation infrastructure of our Nation with this bill. But I and others cannot agree with their conclusion because of our commitment to the higher goal of controlling Government spending.

Mr. Speaker, 2 days ago Americans were reminded in an extremely personal way of the extent to which Government feeds upon our families' budgets. Americans are working several hours each day just to fulfill their overall tax burdens now, and yet the Federal Government still cannot make ends meet. Despite concerted efforts to shrink Government spending, we remain nearly $5.5 trillion in debt. That is trillion. Given the fact that we spend over $200 billion every year just in interest to service that debt, it is obviously incumbent upon us to handle with care the process by which we consider and make all our spending decisions, and that is why I cannot support the bill before us today.

Not 2 days after tax filing and not 2 weeks after the President signed into law the historic line-item veto to increase control over our Federal budget,

this House is now considering a measure to weaken our hold on spending and make it likely that Government will spend more, not less, in the future. This bill, although very well intentioned and pleasantly titled, has the effect of shielding one type of Federal spending from all budget controls that would currently apply, and I would say that includes the line-item veto we worked so hard to get.

Although the Committee on Transportation and Infrastructure went to great lengths in its committee report to ensure Members that taking the four transportation trust funds off budget would not in and of itself lead to greater spending, the report went on to make the increase for greater transportation spending in the future. We can be fairly confident that moving these funds beyond the reach of budgetary controls will lead to more spending and more obligation by the American taxpayers.

Mr. Speaker, many Members feel, as I do, that our budget process is in need of comprehensive reform, precisely because we do not have effective spending controls and incentives to save rather than spend. In my view, H.R. 842 takes us in the wrong direction and weakens spending controls and boosts the incentive to spend. I have long championed users' fees, enterprise funds and other creative ways to fairly and reasonably raise revenues for necessary Government expenditures, but putting transportation in a special privileged budget category, I believe, is the wrong way to go.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman for yielding to me.

I am sure the gentleman would not intentionally mislead the body.

Mr. GOSS. Mr. Speaker, I would not.

Mr. SHUSTER. Mr. Speaker, the gentleman said that the line-item veto did not apply here. The line-item veto by the President does apply and the President would be able to exercise the line-item veto, which is simply one of the many spending constraints that would be retained if this legislation is passed.

☐ 1145

Mr. GOSS. Mr. Speaker, I am pleased to hear the chairman's assurance on that. Our reading of the bill did not include that assurance. I am pleased to have that assurance that the line-item veto will apply, and I think it will necessarily preclude an amendment that otherwise would have been made. So that is good news.

Mr. BEILENSON. Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. WELLER].

Mr. WELLER. Mr. Speaker, I rise in support of this open rule, and I rise in support today, in strong support, of H.R. 842. This bill is called the Truth in Budgeting Act for a reason. It is commonsense legislation that will take the four transportation trust funds off budget.

Think about it. Every time we go to the gas pump, we are paying into the Highway Trust Fund. Every time we fly on an airline, on a commercial flight, we are paying into the Aviation Trust Fund. These are user fees that are supposed to be used for improvements for our roads, our bridges, our ports, our airports, to widen congested highways, improve safety, and expand airport capacity.

In my own district these are the kind of funds that should be used to widen the Morris Bridge in my hometown from two to four lanes, to construct a south suburban airport to improve aviation capacity in the Chicago area, and they could also be used for quick replacement of the outdated, antiquated, 30-year-old equipment at our air traffic control systems.

Today I have with me a vacuum tube that is used in our computers in our air traffic control system. They need to be replaced. This legislation is a safety issue, as well.

Americans believe that when they are paying their user fees or gas taxes or ticket taxes, that they are going to be used for transportation purposes. Well, unfortunately, for accounting purposes these trust funds have been used to mask the deficit, and because of that my own State in the last 5 years has lost $260 million in trust funds that would have gone to improve transportation.

As we know, when we improve transportation, we create jobs. That is why groups like the NFIB, the Chamber of Commerce, the Farm Bureau, organized labor, the Conference of State Legislatures, the League of Cities and many others are supporting the truth in budgeting bill.

This legislation will create jobs. In fact, economists say that for every $1 billion in transportation spending you create 42,000 good paying jobs. This legislation is good for workers, it is good for good-paying jobs, it is good for working families. It is a tax fairness issue, as well, Mr. Speaker.

I urge a "yes" vote on the rule and a "yes" vote on final passage.

Mr. BEILENSON. Mr. Speaker, I yield myself one-half minute.

Mr. Speaker, this is the first open rule to be considered by the House this session, and we are happy to support it. However, we do want to point out that 72 percent of the legislation considered this session has not even been reported from committee. In fact, 11 of 16 measures brought up this session have been unreported.

Mr. Speaker, I include for the RECORD the following information:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes; PQ	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provide for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference; PQ2	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision; PQ.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.

VOL 142 PT 6 AP 15 — 24 1996 UMI

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered; PQ.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(l)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language; PQ.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(l)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins; PQ.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget; PQ.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments; PQ.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ); PQ.	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr; PQ.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment; PQ.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments; PQ.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority; PQ.	N/A.
H.R. 1977	Interior Appropriations	H. Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority; PQ.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority; PQ.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority; PQ.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 0f rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority; PQ. *RULE AMENDED*.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title.	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	1D.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title; PQ.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate, makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority; PQ.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes); PQ.	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes); PQ.	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res. 293	Closed; provides for the adoption of the Ways & Means amendment printed in the report, 1 hr. of general debate; PQ.	N/A.

VOL
142
PT
6
AP
15
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24
1996
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FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1745	Utah Public Lands Management Act of 1995	H. Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min).	N/A.
H. Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dorman), H. Res. 302 (Buyer), and H. Res. 306 (Gephardt); 1 hour of debate on each.	1D; 2R
H. Res. 309	Revised Budget Resolution	H. Res. 309	Closed; provides 2 hours of general debate in the House; PQ	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H. Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.
	PROCEDURE IN THE 104TH CONGRESS 2D SESSION			
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered. ** NR; PQ.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131. ** NR; PQ.	N/A.
H.R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the house the motion printed in the Rules Committee report; 1 hr. of general debate; previous quesetion is considered as ordered. ** NR; PQ.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed; ** NR; PQ	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate; makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law; Chairman has en bloc authority for amends in report (20 min.) on each en bloc; PQ.	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H. Res. 368	Open rule; makes in order the Hyde substitute printed in the Record as original text; waives cl 7 of rule XVI against the substitute; Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A.
H.R. 3021	To Guarantee the Continuing Full Investment of Social security and Other Federal Funds in Obligations of the United States.	H. Res. 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H. Res. 372	Restrictive; self-executes CBO langaage regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report; Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which if contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	2D/2R.
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735. ** NR.	6D; 7R; 4 Bipartisan.
H.R. 2202	The Immigration and National Interest Act of 1995	H. Res. 384	Restrictive; waives all points of order against the bill and amendments in the report except for those arising under sec. 425(a) of the Budget Act (unfunded mandates); 2 hrs. of general debate on the bill; makes in order the committee substitute as base text; makes in order only the amends in the report; gives the Judiciary Chairman en bloc authority (20 min.) of debate on the en blocs; self-executes the Smith (TX) amendment re: employee verification program; PQ.	12D; 19R; 1 Bipartisan.
H.J. Res. 165	Making further continuing appropriations for FY 1996	H. Res. 386	Closed; provides for the consideration of the CR in the House and gives one motion to recommit which may contain instructions only if offered by the Minority Leader; the rule also waives cl 4(b) of rule XI against the following: an omnibus appropriations bill, another CR, a bill extending the debt limit. ** NR.	N/A.
H.R. 125	The Gun Crime Enforcement and Second Amendment Restoration Act of 1996.	H. Res. 388	Closed; self-executes an amendment; provides one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee. ** NR.	N/A
H.R. 3136	The Contract With America Advancement Act of 1996	H. Res. 391	Closed; provides for the consideration of the bill in the House; self-executes an amendment in the Rules report; waives all points of order, except sec. 425(a)(unfunded mandates) of the CBA, against the bill's consideration; orders the PQ except 1 hr. of general debate between the Chairman and Ranking Member of Ways and Means; one Archer amendment (10 min.); one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; Provides a Senate hookup if the Senate passes S. 4 by March 30, 1996. **NR.	N/A
H.R. 3103	The Health Coverage Availability and Affordability Act of 1996	H. Res. 392	Restrictive: 2 hrs. of general debate (45 min. split by Ways and Means) (45 split by Commerce) (30 split by Economic and Educational Opportunities); self-executes H.R. 3160 as modified by the amendment in the Rules report as original text; waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA; makes in order a Democratic substitute (1 hr.) waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA, against the amendment; one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; waives cl 5(c) of Rule XXI (requiring 3/5 vote on any tax increase) on votes on the bill, amendments or conference reports.	N/A
H.J. Res. 159	Tax Limitation Constitutional Amendment	H. Res. 395	Restrictive; provides for consideration of the bill in the House; 3 hrs of general debate; Makes in order H.J. Res. 169 as original text; allows for an amendment to be offered by the Minority Leader or his designee (1 hr) ** NR.	1D
H.R. 842	Truth in Budgeting Act	H. Res. 396	Open; 2 hrs. of general debate; Pre-printing gets priority	N/A

* Contract Bills, 67% restrictive; 33% open. ** All legislation 1st Session, 53% restrictive; 47% open. *** All legislation 2d Session, 94% restrictive; 6% open. **** All legislation 104th Congress, 65% restrictive; 35% open. ***** NR indicates that the legislation being considered by the House for amendment has circumvented standard procedure and was never reported from any House committee. ****** PQ Indicates that previous question was ordered on the resolution. ******* Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today in strong support of the rule to bring H.R. 842, the Truth in Budgeting Act, to the House floor. It is time that the full House take action on this issue, and this open rule would allow such a debate to take place.

The Truth in Budgeting Act would simply take four trust funds off budget: the Highway Trust Fund, the Aviation Trust Fund, the Inland Waterways Trust Fund and the Harbor Maintenance Trust Fund. These are dedicated user funds which can only be used for infrastructure investment.

For those concerned that H.R. 842 will somehow allow infrastructure spending to grow unrestrained, I would point out that the legislation establishes automatic spending safeguards. Identical to the safeguard already contained in the Highway Trust Fund, H.R. 842 will ensure that the remaining trust funds are deficit proof and operate on a pay-as-you-go basis.

The Secretaries of Transportation and Treasury Department will have to review the Aviation Trust Fund annually to determine if expected receipts will cover the authorized aviation expenditures. If the trust fund does not cover unfunded aviation authorizations, then those authorizations must be reduced on a pro rata basis until the shortfall is covered.

The Army and Treasury Secretaries will review the Inland Waterways and Harbor Maintenance Trust Funds in the same manner.

For over 20 years now the spending from these trust funds has been capped in order to make the Federal deficit look smaller. This has allowed Congress and the administration to hold back funds from infrastructure development and instead spend additional money on social programs. While many of these programs have merit, they should not be paid for by holding back money from these trust funds.

My colleagues on the other side of this issue say by taking the trust funds off budget we will increase the deficit, and I would remind them again that by law these trust funds can only be used for transportation purposes, and if the trust funds are being used to pay for social programs or other programs, then we have got to find an alternative way to fund those programs or we must cut them back and restrain the growth in spending.

Mr. Speaker, this is first and foremost a tax honesty issue. As my colleagues know, every time a motorist buys gasoline or a traveler buys an airline ticket, taxes are paid into the highway and aviation trust funds. Congress imposed these taxes with the assurance that the collected funds would be spent for infrastructure improvements and infrastructure improvements only.

Most people in our Nation take our infrastructure for granted. We are very fortunate to have the resources and the planning needed to create a first-class system or a class system. But much remains to be done, and much deterioration is in our infrastructure. The cost of upkeep and maintenance alone runs very high. So it is essential that we take these trust funds off budget.

Currently, the Department of Transportation estimates that the backlog of needs for our Nation's highways and bridges totals $315 billion. Simply maintaining our current transit system is estimated to cost $8 billion annually for the next 20 years, and according to airport groups, airport investment needs are $10 billion a year.

As I said, the issue is truly one of honesty. In the President's first year in office he was interviewed by a reporter in my district in Arkansas, and my district happens to be the largest metropolitan area in the United States without an interstate highway. We are working on it, but that kind of need is so essential across this country, and the President was asked the question, "What can you do, Mr. President, to insure the construction of this highway needed in my district?"

His response was, "The most important thing this administration can do is to take the highway trust funds off budget."

I do not know what his position is on this today, but he was absolutely right when he made that statement. The most important thing we can do for building the infrastructure of this country is to take these funds off budget and be honest with the American people about the needs we face and the need that we have in the deficit. Let us be honest with the American people, lets be fair with them, by taking these trust funds off budget.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. GILLMOR). Pursuant to House Resolution 396 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 842.

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IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund, with Mr. DREIER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania [Mr. SHUSTER], the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from Ohio [Mr. KASICH], and the gentleman from Minnesota [Mr. SABO] will each control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, our Nation's infrastructure is crumbling. Even our vaunted Interstate System is filled with potholes. Our Air Traffic Control System is blacking out. We still have vacuum tube computers running the Air Traffic Control System. Across America we need to invest in infrastructure. Indeed, travel on our highways is growing at a compound rate of 3 percent a year; trucking, as we move into the next century, will see a 28-percent increase in travel on our highways. We will experience, as we move into the next century, a billion people traveling commercially in aviation a year, and it was only 230 million traveling just 15 years ago.

We need to invest in infrastructure. But that is not the most important reason why we should pass this legislation today. The reason that we should pass this legislation today, the most important reason, is because we need to keep faith with the American people, we need to have honest budgeting, we need to put the trust back in the trust fund, and that is what happened originally.

We hear a lot about the Contract With America this year, and I certainly think it is important, and many do, but the original Contract With America was a contract that Dwight Eisenhower and the Congress made in 1956. They said to the American people, "We're going to charge a gas tax when you drive up to the pump, and we're going to put that gas tax in the trust fund, a highway trust fund, and we're going to spend that user tax to improve your highways," and then later on they said, "We're going to create an aviation trust fund, and when you get on an airplane you're going to pay a 10-percent ticket tax, and we're going to take your 10-percent ticket tax, your user tax, for getting on that airplane, and we're going to put that in an aviation trust fund, and under the law that money won't be able to be spent for anything except to improve our aviation system, our airports, our runways, our terminals, our air traffic control system, so we can have a safe system."

Mr. Chairman, that is the way the highway trust fund and the aviation trust fund and the other trust funds worked until 1969, when Lyndon Johnson had a bright idea, trying to figure out how to mask the size of the deficit. He realized that while it is true under the law, this money cannot be spent in these trust funds for anything other than their highway, aviation purposes. If we do not spend the money, if we let the balances build up, then we can mask the size, we can hide the size, we can distort the size of the true general fund deficit. And so he created the so-called unified budget, and once that was done, over the years both Democratic and Republican Presidents have used this gimmick to distort and hide the size of the true general fund deficit.

What has happened as a result of it? Today there is over $30 billion in balances in the transportation trusts funds, transportation trust funds which, by the way, are different from many other trust funds in Washington in that they are totally user financed.

Mr. Chairman, I would like to remind my colleagues that back in 1964, before the unified budget, the American people were asked, "Do you have confidence that your government generally will try to do the right thing, your Federal Government," and 76 percent of the American people said, "Yes," and today, when asked that same question, "Do you have confidence that your Federal Government generally tries to do the right thing," only 19 percent of the American people say yes.

VOL
142
PT
6
AP
15
—
24
1996
UMI

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I submit to you that exhibit A is the way these transportation trust funds have been distorted and manipulated and used, so we have not kept faith with the American people.

Indeed, the Speaker of the House has said many times that we should either spend this money, these user taxes, for the purpose for which they were created, or if we do not have the needs, we should reduce the tax. Indeed, that is exactly right. I do not think there is anybody in this Chamber who would say we do not have the needs. Indeed, the user fees are the fairest form of taxation there is, because the person who benefits is the person who pays.

There are a couple of myths which have been floating around which should be answered. The first is that, well, the revenue that has come into the trust funds, the transportation trust funds over the years, has really equalled or even exceeded the amount that has been spent. That is only half the story, because what our colleagues who make these arguments do not tell us is that they are not counting the interest that has gone in on the balances in these trust funds.

Think about that for a minute. There is a minor little insignificant thing called the law of the land, which says if the Treasury borrows from a trust fund it has to pay interest. So for those who would argue do not count the interest, I would suggest, first of all, it is the law of the land; but secondly, if we do not want to count the interest in the trust funds, then we had better be very, very careful, because nearly 50 percent of the reserves in the Social Security trust fund is based on interest. Are we going to tell the American people we are not going to count the interest, the legal interest that is accruing in the Social Security trust fund? No, the interest under the law must be counted.

Further, Mr. Chairman, we are told that if this legislation passes today, it will remove all controls and we will simply be able to go out and spend whatever we want to spend on all these projects.

Mr. Chairman, simply, factually, that is not true. First, the Committee on Appropriations retains all of the jurisdiction that it now has, and can set the obligational limits, that is, the ceiling, on how much can be spent every year. Further, the line-item veto that the President has does apply, and that can be used.

Thirdly and perhaps most importantly, under the law not a penny can be spent from these transportation trust funds unless the money is there to pay the bill. These transportation trust funds are deficit-proof. Would that our other programs here in Washington were as deficit-proof as these transportation trust funds. If they were, we would not have a deficit.

So there are very substantial restraints and spending controls which exist if this legislation is passed. Yes, if we build America's infrastructure, for every $1 billion spent, 42,000 real jobs are created. Yes, if we spend the money to build America's infrastructure, we increase productivity in America, we save lives, we stimulate economic growth.

The Department of Transportation, in a recent study analyzing economic growth in America over the past quarter of a century, says that fully 25 percent of the economic growth, the increase in productivity in America, is attributable to building infrastructure. So, indeed, for all these reasons we should vigorously support this legislation today, not only because the needs are there, but because it is fair, it is right, it is just, it is the honest way to deal with the American people. I urge my colleagues to support this legislation.

Mr. Chairman, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. SHUSTER. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. SHUSTER. Mr. Chairman, how will the various committees be recognized?

The CHAIRMAN. The Chair was planning to rotate among the committees.

Mr. SHUSTER. We are not doing 1 hour per committee?

The CHAIRMAN. It is the intention of the Chair to rotate among those Members who seek recognition.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER], the distinguished chairman of the Committee on Science, in opposition to the bill.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I first of all want to say that my colleague, the gentleman from Pennsylvania [Mr. SHUSTER], chairman of the committee, is in fact someone who works very, very hard to preserve the Nation's infrastructure, and should be congratulated for the work that he does in terms of trying to make certain that the resources provided to the Nation's infrastructure are in fact adequate, and do in fact reflect the needs of a Nation that is expanding into our future.

My opposition to the bill that he has before us today has nothing to do with the commitment that he has shown over the years to that particular goal. I am concerned, however, about just exactly how this revenue balance moves forward.

The gentleman from Pennsylvania has just described the situation. That is, that the people who propose this bill want to spend not only the revenues that come in for the trust fund, but also want to spend the accumulated interest over a period of years, because they feel as though that interest is money that ought to be kept in place for improving the infrastructure of the country.

All of that is fine, except that it is all fungible. We just had the Director of the CBO before the Committee on the Budget. She explained that over the past several years, the amount of money flowing into the Treasury to pay for highways has been equalled by the amount of money flowing out of the Treasury to pay for highways. So they have remained in relative balance over a period of some years.

What this bill says is, oh, but in addition, we want the money in interest. Understand, the interest payments we are talking about here are not new money for the Government, they are taxpayers' money as well. It is, again, the same taxpayers' money. Therefore, the money, the $19 billion of interest that seeks to be spent under this bill is $19 billion of discretionary money that will have to be taken out of somewhere else in discretionary accounts.

So, if in fact you are going to do this, and you are going to achieve what the committee seeks to achieve with this bill, you are going to have to take it away from other spending. You are going to have to take it away from other things which are vital to the country, such as spending money on the research and development to take us to the economy of the future.

Mr. OBERSTAR. Mr. Chairman, I yield myself 3½ minutes.

Mr. Chairman, the initial purpose of the highway trust fund when it was crafted in 1956 was to finance the national system of interstate and defense highways, the world's largest infrastructure project and one of the marvels of engineering of the world, and was based upon the idea that we needed a dedicated revenue stream to finance projects that would take a long time to design, engineer, acquire right-of-way for the roadway to be built upon, and then to construct that roadway. So the framers of the Interstate Highway System Program conceived a dedicated revenue stream to be financed by a tax upon the users of the system, all those people who drive cars and trucks, and a tax upon fuel was agreed upon.

It was also agreed in that initial legislation that this fund should be held in trust for the purpose for which it was intended, and that it should be deficit-proof, as the chairman of the committee has already expressed.

It has been an enormously successful program. We have spent $120 billion on the Interstate Highway Program. It represents 1 percent of the Nation's highway mileage. It carries 26 percent of the Nation's highway traffic. That represented last year 990 billion miles traveled on just the Interstate Highway System alone.

But over time, the idea of retaining some of the moneys from that trust fund and not spending them became

very popular with the executive branch. Every dollar of tax revenue from the highway users tax is invested in U.S. Treasury notes. Those Treasury notes, like the World War II bonds, bear interest. The buyer of those bonds gets the principal plus the interest.

That was the idea that we applied in the highway trust fund, that revenues from the highway user tax on fuel would be invested in Treasury notes, which would bear interest, and which interest would go into the highway trust fund. In contrast to what our previous speaker said, the fact is this is not just free money, this is money owed to the highway fund. It is money owed to the users of the system by all taxpayers, by the Federal Government for the use of those dollars.

So over time, Mr. Chairman, what has happened is that the executive branch has withheld not only interest, but the principal that has been paid in by highway users into the highway trust fund, and conveniently kept it in the unified budget account to make the deficit look less than it really is.

Mr. Chairman, what we want to do is to free all of the transportation trust funds from the artificial and unnecessary constraints of the budget process and allow those funds to be used and invested to reverse the deterioration of our Nation's infrastructure. This is not adding to the deficit, it is a deficit-neutral step that we take here. We urge everybody to support our legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is one of the rare times I find myself on the opposite side of an issue with my good friend, the gentleman from Minnesota [Mr. OBERSTAR].

Mr. Chairman, I wish I could tell the House that Santa Claus was here, but Santa Claus is not here. The reality is that if one is trying to achieve a certain deficit target or trying to balance a budget within a specified period of time and one spends more on something, you have to spend less on something else. Those are the simple facts.

I like highways. Appropriate expenditures on highways are an important investment in this country. Appropriate expenditures on airports are an important investment in this country. Appropriate expenditures on transit are an important expenditure and investment in this country. But we have to make those judgments in relationship to the other choices we have to make.

I also happen to think that money spent on research and development is important, that investment in education is important, that investment in our housing supply and housing availability in this country is important. All of those are going to suffer if this proposal passes today, and the assumption is that somehow billions of new dollars appear to be expended. Those others inevitably have to suffer, because those are the choices we have to make every year in Congress. There is no free pot of money there, available, that has no impact on deficits, no impact on other expenditures. If this passes, if there is additional money spent on those programs beyond projection, something else has to come down. It is the simple fact.

What about the inner workings of these plans? Highways; when did this accumulation of surplus occur? In the 1960's, and in the 1970's. The fact is, since 1981 we have spent $18 billion more on highways than the receipts and the tax receipts of that fund; $3 billion more than total receipts, $3 billion more than total receipts, taxes, and interest.

One of the interesting things I discovered, and I have an amendment filed, and I do not know that I will offer it today, but I discovered to my amazement that the rate of interest credited to the highway trust fund is between 1 percent to 3 percent higher than the equivalent yield on a 1-year Treasury bill. Somehow, the drafters of this bill and of this law managed to get very lucrative interest rates credited to their account.

What about some of the other workings of some of these specific funds? The airport trust fund, we think it pays for aviation. The reality is that over the years, one of the fundamental reasons they have a surplus is that we have used the general revenue fund to subsidize the operations of FAA. Every study I have seen would indicate that about 85 percent of operations of the FAA should be tied or should come from the trust fund if they really paid their accurate share. Maybe 15 percent of it could be credited to defense and other governmental use of the airways. In reality, it has been about 50 percent of the operations that are paid for from the trust fund. If it would have paid its actual share, no surplus would exist.

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What about in recent years? Since 1981 we have spent more than excise taxes and interest on the highway trust fund. Has that changed in the last couple of years? No. 1994, 1995, we have spent more than interest and current revenues on highways. So this is a fund that has not been mistreated. This involves sort of this wish that somehow this pot of free money exists that somehow can be made available and not impact anyone else. I would hope the House would reject that argument and say that these funds are part of the overall budget strategy involved in the dynamic debate every year of how we set our priorities. There is one way we do that and that is by rejecting this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to my friend and neighbor, the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. I thank the gentleman for yielding me time.

Mr. Chairman, the Truth in Budgeting Act is nothing more than an act of keeping faith with the American people. It allows the transportation trust funds to do what they were originally intended to do.

The fact that we have to debate and vote on this bill is—I think—an admission that Congress has in recent years deceived the American taxpayer. When past Congresses first created these trust funds, several promises were made that were reflected in the original statutes. One was that Federal excise tax receipts would be dedicated to building and maintaining these transportation assets and that these activities would be self-sustaining. Another was that no general fund revenues would be used to support these programs. And a third was that activities funded by the trust funds could not run a deficit.

During the intervening years, these promises have been abrogated. Now trust funds are constrained—they're prevented from spending out at the same rate they take in revenues. And that is simply wrong. We have been practicing a grand scheme of deceit with the users of highways, airports, and inland waterways—meaning virtually everyone.

And believe me, there has been a price paid for this deceit: congestion, pollution, and higher costs for goods and services.

Many in this Congress have made great hay about not burdening future generations with the excesses of current and past spending practices. I maintain that the Truth in Budgeting Act is very much in the same vein. We have the money to build more capacity now, but we're not spending it, even in the face of growing highway and airport congestion. And if you project out over the next 7 years the growing balance in the trust funds should this legislation not be enacted, the backlog of work will grow tremendously. Do not punish future generations even more than we already have—vote to support H.R. 842.

Mr. SHADEGG. Mr. Chairman, I yield 6 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, I rise in strong opposition to this bill. Before I get into it, I want to pay my respect to the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the Appropriations Committee who has been so diligent in trying to solve this deficit. Also to the gentleman from Ohio [Mr. KASICH] who has been a warrior and his staff that have made all the difference. The fact is that if BOB DOLE has any sense, he will pick one of the

VOL
142
PT
6
AP
15
—
24
1996
UMI

three Johns as his Vice President—Jack Kemp, JOHN MCCAIN, or JOHN KASICH. All would be good for our ticket. JOHN has been a warrior, and to even be dealing with this bill now wipes out many of the things that he has been trying to do.

What we are dealing with today is money, power, and pork. Remember those words: Money, power, and pork.

Remember the words from Simon and Garfunkel's song "The Boxer", where it goes on, "I am just a poor boy though my story's seldom told."

He ends by saying, "A man hears what he wants to hear and disregards the rest."

Many in this body are hearing what you want to hear and disregarding the rest. More money has gone out to transportation than was in the trust fund. More money in the last 12 or 15 years has gone out than was in the trust fund. So many people are disregarding what they do not want to hear.

This bill presents and protects sand and gravel and cement. Then it says to those who are elderly with Alzheimer's disease, "We're not going to protect you."

"You may have cancer and you may be worried about cancer research, but we're not going to protect you."

"You may be worried about education, but we're not going to protect you."

"We're going to protect sand and gravel and cement and tar and pitch."

What about the 160 other trust funds? The Endeavor Teacher Trust Fund. "Who cares about the teachers?"

The Radiation Exposure Trust Fund. "We don't care if you've been involved in radiation. Who cares?"

The Civil Service Trust Fund. "Who cares about that?" And on and on and on.

Look what the experts have said. Alan Greenspan, what he said about this and others will go into detail. Paul Volcker, what he said; Herb Stein, what he said; Michael Boskins, what he said; what all of the people have said. "This is not a good idea."

What have some of the groups and newspapers said? The Concord Coalition has said, "Passage of this legislation would severely jeopardize the chances of balancing the Federal budget."

The National Taxpayers Union has said, "Placing these trust funds off-budget is nothing less than a ploy to increase spending." This Congress should not be involved in a ploy to increase spending.

The Citizens Against Government Waste says, "The Truth-in-Budgeting Act sounds great to the public, but it's simply a ruse to increase the $5 trillion debt."

The Americans for Tax Reform is opposed to it, the Committee for a Responsible Federal Budget, the Citizens for a Sound Economy. You name it and they are opposed to it. The New York Times, the Washington Post, the Washington Times, the Wall Street Journal, and you go on and on and they are opposed to this. This is a very bad bill. But for the main reason, for this side, I will not talk to this side but for our side, we have died and fought for a balanced budget. JOHN KASICH, the Speaker, the gentleman from Louisiana, Mr. LIVINGSTON, and others have done everything they can for a balanced budget. If we pass this, we will never have a balanced budget in your life in this Congress. You will never ever see a balanced budget in this Congress. There is no two ways about it. Because you are not going to have the guts to cut Alzheimer's, you are not going to want to go after Social Security, you are not going to want to cut the radiation fund, you are not going to want to go after defense, you are not going to want to go after crime, and therefore we will never ever have a balanced budget in our lifetime in this Congress.

The American people should know that. This vote today will determine whether or not we will ever have a balanced budget.

So in closing, let me talk about three words and maybe throw in one other word. What are we talking about today? We are talking about money. This town knows what money is. Members know what money is. We are talking about money. We are also talking about power. We are talking about power, raw power. And we are talking about something that this body says it does not like but it is sadly addicted to it, and that is pork. And lastly one other thing we are talking about. We are talking about fear. I sense there is fear in the body today. I sense in the hearts of some of the Members that I have talked to, there is fear. They really would rather not be where they are but yet there is a sense of fear.

Let me just close with a quote from Robert Kennedy that has always meant a lot to me. It is from his Capetown speech in 1966 in Capetown, South Africa, when he was speaking to the students, and this is what he said. He talked about fear and men and women in leadership being timid. I will close with this. I quote from Robert Kennedy, Capetown, 1966.

He said:

> Few men are willing to brave the disapproval of their fellows, the censure of their colleagues, the wrath of their society. Moral courage is a rarer commodity than bravery in battle or great intelligence. Yet it is the one essential, vital quality of those who seek to change a world which yields most painfully to change.

I strongly urge the defeat of this so we can validate what the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. SABO] and the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] have done.

Mr. Chairman, I rise in opposition to H.R. 842 and efforts to move transportation trust funds off-budget.

This issue has certainly engendered extensive debate and controversy and even a coalition of special interests and lobbying groups formed to promote taking the trust funds off-budget using the slogan that we have to "put trust back into the trust fund."

If only we could have directed the enormous energy, time, and talent focused on this issue to address broader—and frankly, much more important—transportation issues. I believe the coalition efforts are misdirected. Trust is not at issue.

If only we could have harnessed the zeal with which many have approached the trust fund issue and directed it to what I believe are greater issues in setting highway and transportation policy.

If only we could debate the highway funding formulas now in place, which dole out highway funds to States using 1980 census figures. Why are we relying on decade-and-a-half old population figures? If there is unfairness in highway transportation today, the on-off budget trust fund issue isn't it.

If only we could debate the whole issue of the Federal gasoline tax which many would argue should be turned back to the States which can better determine their individual needs, getting Uncle Sam out of the highway program.

If only. But we are where we are and today we will vote on this issue which has been simmering for over a year.

There are a few facts to keep in mind when considering this issue:

First, while balances may remain in transportation trust funds, these funds are already obligated. The cash balances in the trust funds do not represent unspent gas taxes. The highway program is a reimbursable program—lines of credit are provided to State agencies to plan and construct highways. Then, 3 or 4 years later, the States seek reimbursements from the trust fund to pay those bills. That's why the cash balances do not represent a surplus. These balances are like your checking account balance after you have deposited your paycheck but before your home mortgage and car payment checks have cleared the bank. Like your home mortgage and car payment, commitments have already been made against the balances in the trust fund. In fact, commitments have already been made in excess of the current cash balance by over $30 billion. In other words, if we were to stop collecting the gas tax at the end of this year, the trust fund would have a deficit of over $30 billion. How would we deal with this deficit? I don't think we could.

Not only that, highway funding has substantially exceeded trust fund tax receipts. In 12 of the past 15 years, highway trust fund spending exceeded tax revenues. That means that the amount of money the Government spends on transportation has exceeded the amount of money provided for transportation spending from dedicated trust fund taxes.

But the trust fund is not the only source of transportation spending. Not only are transportation trust funds tapped for roads and bridges, the general fund is also being used to pay for transportation programs.

How much money are we spending on transportation? According to the Congressional Research Service, in fiscal year 1995, general treasury funds provided more than $12 billion for transportation programs above and beyond funds provided from transportation trust funds. According to CRS, the general fund figure does not include Maritime Administration, Federal Maritime Commission, U.S. Army Corps of Engineers or Department of Defense spending on transportation programs, all of which also tap into the general fund to pay for transportation projects.

Second, while transportation is vital to the economic well-being of our country, there are other issues vying for priority status. There are many important programs demanding critical funding.

A third and possibly most important point: This issue is about reining in the Federal deficit and balancing the budget. Congress has had a very difficult time making the tough choices necessary to move toward a balanced budget. We still have a long way to go to meet our deficit reduction goals, and many more tough choices to make.

How much more difficult will these choices be if we have to find an additional $30 billion in cuts—$30 billion—that's the additional cuts we will have to make if transportation trust funds are moved off-budget. If transportation spending gets special treatment, we will have to find $30 billion in cuts in discretionary spending in other parts of the budget.

Are you prepared to cut Alzheimer's research funding? Cancer research? Research on other life threatening diseases? Veterans' health care? Head Start? Crime prevention? Education? Job training? Environmental protection and cleanup programs? National defense? These are the kinds of spending programs that would face cuts—potentially significant cuts—if transportation spending is treated as an entitlement subject to preferential budgetary treatment.

Mr. Chairman, I do not believe Congress or the American people want to subject these critical programs to even further cuts. Nor do I believe Congress or the American people are prepared to accept additional taxes which would be necessary to pay for increased transportation spending if offsetting cuts elsewhere in the Federal budget are not made. Are you prepared to vote "yes" for a tax increase?

When we are concerned about providing adequate funding to provide basic health care, education programs, protection for our country's natural resources, when we are working to provide safe streets and neighborhoods, and a sound and secure financial future for ourselves, our children and grandchildren, it is not the time to single out transportation and insulate it from these tough choices. I would also point out that there are some 160 other dedicated trust funds currently part of the unified budget. What if we move all of the trust funds off-budget and establish each and every one of them as an entitlement subject to preferential treatment. What makes these trust funds different from the transportation trust funds?

Sand, gravel, asphalt, and concrete. Are these more important than the Black Lung trust fund? Are the transportation trust funds a higher national priority than the Endeavor Teacher Fellowship trust fund, the Radiation Exposure Compensation trust fund, the Civil Service Retirement trust fund, the Federal Employees Life Insurance trust fund, or the Rail Industry Pension fund?

As important as transportation is, we have to balance transportation needs with all the other programs supported by the working men and women who are taxpayers. This country, all Americans, are in this together and we have to balance all the priorities and all the needs of all the people.

Another point: H.R. 842 will erode the checks and balances between the authorizing committees and the tax and appropriations committees. This bill will provide one committee with extraordinary ability to obligate U.S. taxpayers to long-term spending commitments. As Members know, there is constant pressure from the legislative committees to spend more and more money on their particular programs. This makes sense but there must be built-in controls in the budget process to counteract this natural advocacy.

Despite what the bill's proponents say, H.R. 842 will obviate the need for action by the Appropriations Committee and will eliminate annual controls in the budget process to set priorities. Make no mistake about it. By moving transportation trust funds off-budget, H.R. 842 virtually eliminates the checks and balances that the congressional committee structure now provides for transportation and the other Federal spending programs.

Proponents of H.R. 842 say that not a penny will be spent without the approval of the Appropriations Committee. That sounds good, but in reality, this is false. If H.R. 842 does not change the role of the Appropriations Committee, why are we going through this debate?

There has been a lot of rhetoric on both sides of this issue, so to get an objective view, I wrote to several dozen experts on the Federal budgetary process and transportation spending and asked their opinions on the status of transportation funds. I contacted economists, transportation, Government, and public policy analysts; professors; current and former officials of the General Accounting Office, Congressional Budget Office, and Office of Management and Budget; current and former members of the Federal Reserve Board; and current and former members of the President's Council of Economic Advisors.

The response has been clear and unequivocal: These experts—representing the entire spectrum of social, economic, budgetary, and transportation thinking and representing both Republican and Democratic administrations alike—say keep the transportation trust funds as part of the unified budget. Do not make the changes we are talking about today.

Mr. Chairman, I brought with me copies of these experts' views and ask that they be submitted for the record. Their views—and their unanimity—leave little doubt. Moving transportation trust funds off-budget does not represent sound fiscal policy or budgetary treatment.

I'd like to share a few thoughts from these experts.

Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve System, warns:

> [M]oving some spending categories off-budget would lead to fragmentation of the budgeting process and would detract from the unified budget as an indicator of the Government's fiscal operations and hence of the impact of the U.S. budget on credit markets and the economy. Moreover, it would weaken the ability of the Congress to prioritize and control spending effectively.

Mr. Greenspan concludes that:

> [M]oving programs off-budget raises the risk that resource tradeoffs would become obscured and could engender cynicism in financial markets and the public at large about the commitment and ability of the Government to control Federal spending.

Mr. Greenspan's views are echoed by Paul Volcker, former Chairman of the Board of Governors of the Federal Reserve System, who states:

> [T]he present practice of including the transportation trust funds in the unified budget should be continued. I am reinforced in that conclusion by the fact that nothing in the unified budget prevents the Congress and the administration from reaching a decision to maintain highway spending (or any other spending) at a particular level it deems a priority matter. Trust fund accounting within the unified budget may * * * be helpful in reaching that decision.

Herbert Stein, senior fellow at the American Enterprise Institute for Public Policy Research and previously a member of the Presidential Council of Economic Advisors, also opposes moving trust funds off-budget, noting:

> I would not favor moving the trust funds off the budget. We want to have a comprehensive measure of the Federal Government's fiscal activities.

One thought from Michael Boskin, currently a professor and senior fellow at the Hoover Institution, Stanford University, and previously a member of the Presidential Council of Economic Advisors. He said:

> I believe it is likely that moving one popular spending program primarily financed by earmarked revenues off-budget would lead to a stampede first of other trust funds off-budget and then all other spending programs seeking to be funded with earmarked revenue sources. This would quickly render sensible tax and budget policy impossible.

Mr. Chairman, let me share jsut two more. G. William Miller endorses:

> I do not believe a case has been made for excluding the transportation trust funds. From my experience as Secretary of the Treasury and Chairman of the Board of Governors of the Federal Reserve System, I would strongly recommend that you retain the present treatment of the transportation trust funds so that there is no opportunity for losing accountability or setting precedents for further off-balance sheet structures.

The Congressional Budget Office opposes moving transportation trust funds off-budget, too. According to James L. Blum, deputy director of CBO:

> [T]he Federal budget should be comprehensive. Setting selected programs aside, and looking at only the remainder, can distort budget decisionmaking. Giving the transportation trust funds a favored footing shifts the onus of deficit reduction to other programs that lack this protected status. Sound decisionmaking, in contrast, demands that spending and revenue proposals be evaluated

VOL
142
PT
6
AP
15
—
24
1996
UMI

on their merits and not on their budgetary status.

I think these experts express the critical issues best. A unified budget—which includes transportation trust funds—is essential to maintaining accountability and control over the Federal budget and Government spending. Moreover, a unified budget is necessary to allow Congress to make the difficult decisions on our budget in the fairest possible way. Creating another entitlement that is off the table is not fair. Nor is it the way to get a balanced budget.

The experts agree that H.R. 842 is bad legislation.

The chairman of the Ways and Means Committee, the chairman and ranking member of the House Budget Committee, the chairman and ranking member of the House Appropriations Committee, and others oppose this legislation.

Citizens for a Sound Economy, Concord Coalition, Heritage Foundation, National Taxpayers' Union, Taxpayers for Common Sense, Citizens Against Government Waste, and Committee for a Responsible Federal Budget are among the taxpayer watchdogs groups opposing H.R. 842.

The Wall Street Journal, Washington, Post, New York Times, and the Journal of Commerce oppose H.R. 842.

Mr. Chairman, when such diverse interests agree, it's surely time to take note.

H.R. 842 will make balancing the budget nearly impossible. Every fiscal conservative in the Congress—including those Members who signed onto the bill before knowing its full effect on spending—should look carefully at what CBO, GAO, OMB, taxpayer watchdog groups and a unanimous chorus of economists say about H.R. 842.

H.R. 842 is a bad bill. It files in the face of fiscal responsibility and budgetary restraint. It represents unsound public policy. It represents unfair attempts to bestow a preferential status upon one type of government spending at the expense of every other type of discretionary spending. It will either doom efforts to balance the Federal budget or it will force all other programs not granted sacrosanct status to absorb still more cuts to keep us on track to balance the budget. H.R. 842 would set transportation spending above all other types of domestic spending—above crime prevention, Head Start, veterans' medical care, education, and environmental programs.

This Congress came to Washington to balance the budget, to clear the budget debate of smoke and mirrors. Today's vote on H.R. 842 isn't a fight about trust funds or promises. It isn't a fight between authorizing and appropriating committees. It is a vote over priorities. It is a vote to test our resolve, to see if we as Republicans and Democrats are serious about balancing the budget.

If you are serious about cutting spending, vote "no."

If you are serious about balancing the budget, vote "no."

Enactment of H.R. 842 would break faith with sound economic policy and would cede control over the Federal budget and transportation spending to special interests. H.R. 842 should be defeated.

The choice is clear—vote "no" on H.R. 842.

JOHNS HOPKINS UNIVERSITY,
INSTITUTE FOR POLICY STUDIES,
Baltimore, MD, September 21, 1995.
Hon. FRANK WOLF,
Chairman, Appropriations Subcommittee on Transportation, House of Representatives, Washington, DC.

DEAR CONGRESSMAN WOLF: I am writing in response to your letter of August 23, 1995 to express my opposition to moving transportation trust funds off-budget. Thus, I would not support Congressman Shuster's legislation which would move four transportation trust funds off-budget. I think this would set a dangerous precedent which would have serious long-term implications for the nation's fiscal health as other user fee supported activities rush to be moved off-budget.

I would like to respond directly to the three main points raised in your letter. First, I agree with those opposed to moving the transportation trust funds off-budget that a unified budget is essential to maintaining accountability and control over the federal budget and government's claim on private resources. The unified federal budget has received bipartisan support since 1969. It describes the aggregate economic activity and health of the federal government. Receipts and expenditures are detailed in one comprehensive package, providing decision makers and citizens valuable information on the government's activity and claim on national income. Fragmenting the budget presentation only obfuscates the federal role in the economy and is totally inconsistent with efforta to reinvent government and improve its legitimacy with voters and citizens.

Second, the fact that these trust funds are financed from user fees is totally irrelevant to whether they should be moved off-budget. User fees are not synonymous with earmarked funds. User fees are proxies for prices which are necessary to provide suppliers of a service with information about the demand for specific services. Unfortunately, however, in the case of the transportation trust funds, user fees are generally poor price proxies because they do not accurately reflect the total cost of providing transportation services. In any event, you obtain the rationing affect of prices, irrespective of decisions about how to allocate the revenues generated from those user fees. From an economic efficiency perspective, the two are not linked.

In addition, earmarking of revenues is generally not a desirable budgetary practice because it limits policy makers flexibility to respond to changing circumstances and priorities.

Third, it is not clear how much more spending that nation needs on individual transportation modes. The demand for transportation services is a derived demand which depends on demographic, economic and international trends beyond the control of policy makers in the U.S. Policy makers need to understand those trends and the implications they have for the demand for transportation services in the U.S. The limited resources available for transportation purposes should then be allocated in a manner which addresses the nation's transportation needs as influenced by those trends. This may or may not be consistent with a policy of earmarking specific user fees for expenditures on the individual transportation mode that generated those revenues.

In an era of serious budget constraints at all levels of government, it is critical that policy makers have the flexibility necessary to respond to the changing transportation needs of the country. Thus, Congress may want to investigate new ways of applying transportation trust fund revenues to meet these changing needs. For example, the nation's transit needs have changed considerably since 1956 when the Highway Trust Fund was initiated. Perhaps it is time for the federal government to consider a single transportation trust fund, with resources pooled from various user fees, so that funds could be distributed to meet America's diverse transportation needs in a more efficient manner. This is the approach taken by the Maryland State Department of Transportation and it is consistent with the increased flexibility and selectivity in the Intermodal Surface Transportation and Efficiency Act. Maybe the federal government has more to learn in this area from the experimentation taking place in the states.

It is entirely appropriate in my view to rethink the model of transportation finance developed over the past fifty years. Proper investment in diverse transportation modes will yield greater productivity and long-term economic strength. Restructuring the federal budget process by moving transportation trust funds off-budget, however, is neither necessary, appropriate nor desirable.

Sincerely,
MICHAEL BELL,
Principal Research Scientist.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 26, 1996.
Hon. FRANK R. WOLF,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN: This letter is in response to your request for additional comments as to whether the transportation trust funds should remain part of the unified budget. My views are fully expressed in my previous letter, dated September 28, 1995, and I have nothing to add at this time.

I will simply reaffirm the main point stated in that letter: the federal budget should be comprehensive. Setting selected programs aside—that is, taking them "off-budget"—can distort budget decisionmaking. For example, giving the transportation trust funds a favored footing shifts the onus of deficit reduction to other programs that lack this protected status. In contrast, sound decisionmaking demands that spending and revenue proposals be evaluated on their merits and not on their budgetary status.

I have attached a copy of my earlier letter, which contains a more complete discussion of the possible consequences of designating certain programs as off-budget. I hope this information is helpful to you.

Sincerely,
JAMES L. BLUM,
Deputy Director.

Attachment.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 1995.
Hon. FRANK R. WOLF,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN: This is in response to your letter of September 20, 1995, asking for my views on whether the federal transportation trust funds should remain a part of the unified budget.

In short, I believe that the federal budget should be comprehensive. Setting selected programs aside, and looking at only the remainder, can distort budget decisionmaking. Giving the transportation trust funds a favored footing shifts the onus of deficit reduction to other programs that lack this protected status. Sound decisionmaking, in contrast, demands that spending and revenue

proposals be evaluated on their merits and not on their budgetary status.

The extent to which taking the transportation trust funds off-budget would distort budget decisionmaking depends on what budgetary procedures and controls would apply to them under their new status. This is not at all clear. For example, each of the three entities currently designated as off-budget—the Postal Service, Social Security, and Medicare hospital insurance—is treated differently under the rules and procedures of the Congressional Budget Act of 1974 (the Budget Act) and the Balanced Budget and Emergency Deficit Control Act of 1985 (the Balanced Budget Act). The Postal Service is exempt from both of these acts, although federal payments to the Postal Service or payments from the Postal Service to the federal government are subject to both sets of rules. Legislation affecting Social Security benefits or revenues is not subject to the pay-as-you-go procedures of the Balanced Budget Act or to the Budget Act constraints that apply to other programs. There are, however, special rules that govern consideration of such legislation in the House and the Senate. In addition, discretionary Social Security administrative costs are subject to the statutory caps that limit total discretionary spending (and to any sequestration that would be triggered if the caps are exceeded) and to the allocations of discretionary spending that enforce spending decisions set forth in the annual Congressional budget resolution. Despite its official off-budget status, the Medicare hospital insurance trust fund is not afforded any special treatment under either the Budget Act or the Balanced Budget Act (there is a limit on the sequestration percentage that would apply to Medicare, but there are similar limits or exemptions for many on-budget programs).

I assume the proponents of a proposal to move the transportation trust funds off-budget view the funds as self-financing entities that should be subject only to internal financing constraints. Under the existing budgetary rules, the receipts going into the trust funds and the spending from the trust funds are controlled by separate budgetary procedures. All outlays from the trust funds are counted as discretionary spending controlled by the caps set by the Balanced Budget Act and the allocations made pursuant to the annual budget resolution, while changes to governmental receipts are subject to the separate pay-as-you-go mechanism and the revenue floor set by the budget resolution. Under these procedures, legislated increases in trust fund receipts cannot be used to offset increased spending. Giving the transportation trust funds off-budget status might allow such offsets. Furthermore, if trust fund spending were exempt from the caps that apply to other discretionary spending, the Congress could approve additional spending without providing offsets—presumably as long as there were adequate balances in the first funds. This might create a closer long-term match between the income to the trust funds and the spending from the funds, which some would view as a more equitable outcome.

The arguments against giving these programs off-budget status involve a different view of federal trust funds. Under this view, which is held by the Congressional Budget Office, the transportation trust funds are simply an accounting mechanism, and spending on programs financed by trust funds should not be given a special status. Taxpayers' dollars are most effectively used if decisions about spending for transportation and other programs are made on the basis of the relative benefits to be derived, not on the basis of available earmarked revenues. For example, the Congress might decide that more money should be spent on certain transportation activities than is generated by the earmarked revenues—as it already does in the case of Federal Aviation Administration operations. At the same time, decisions about taxes should take into account factors beyond the level of spending on highways or other transportation programs. In 1990 and 1993, for example, the Congress increased fuel tax rates for deficit reduction purposes, placing part of the additional revenues into the general fund of the Treasury. Fuel taxes could also be considered a way of charging users for polluting the air.

I hope this analysis is helpful to you.

Sincerely,
JAMES L. BLUM,
Deputy Director,

STANFORD UNIVERSITY,
Stanford, CA, October 6, 1995.
Hon. FRANK R. WOLF,
Chairman, Transportation Subcommittee, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR FRANK: This note responds to your request for my suggestions concerning whether the federal transportation trust fund should remain a part of the unified budget. I strongly oppose moving the transportation trust fund off-budget.

Many would argue that transportation trust funds collected from transportation "user fees" should be used only for transportation spending and should be removed from the unified budget to ensure that occurs. I believe it is likely that moving one popular spending program primarily financed by earmarked revenues off-budget would lead to a stampede first of other trust funds off-budget and then all other spending programs seeking to be funded with ear-marked revenue sources. This would quickly render sensible tax and budget policy impossible.

I strongly side with those who, in this instance, support a unified budget as a (however imperfect) vehicle for maintaining accountability and control, as you put it in your cover note. I also believe that it is desirable to have everything the Government does reflected in one place, as the unified budget imperfectly attempts to do. This is the only way one can begin to hope that a sensible discussion of the trade-offs among budget priorities can occur.

I might add that while I am sure it is upsetting that not all of the transportation trust funds are currently being applied to transportation outlays, it is my understanding of the history over the last twenty years that highway account outlays have substantially exceeded trust fund tax receipts.

More generally, CBO estimates that if one were to take all activities which have some trust fund financing and ask the question "what is the net effect on the deficit of the revenues and outlays on those programs," the answer, perhaps surprisingly, is that general fund revenues fund major portions of activities that are partially and/or heavily financed by trust fund revenues. Thus, from another perspective the general treasury is "subsidizing" overall trust fund activity. Whether one should view the glass as half-empty or half-full I leave aside. My point here is only that it would be unwise to open a Pandora's box by moving transportation trust funds off-budget.

While there are many problems with the existing unified budget—by far the most important of which is the lack of serious accrual accounting—I believe that despite the concerns of people paying the user fees (we in California, myself included, drive a lot and thus pay lots of federal gasoline taxes), or those wishing to spend additional resources on transportation, the transportation trust fund should remain part of the unified budget. It would risk a serious accountability and control problem if Congress opens a Pandora's box of trust fund escape from budgetary discipline.

I hope these remarks are useful to you as you debate this and related issues. Best personal wishes.

Cordially,
MICHAEL J. BOSKIN.

RUTGERS,
Camden, NJ, September 5, 1995.
Hon. FRANK R. WOLF,
Chairman, Subcommittee on Transportation, Committee on Appropriations, U.S. House of Representative, Washington, DC.

DEAR CONGRESSMAN WOLF: In response to your letter of August 23, I am happy to send this answer to your question about whether the federal transportation trust funds, particularly the highway trust fund, should be taken "off-budget."

I must say that I agree with both James R. Miller and Alice Rivlen in strongly opposing the removal of the trust funds from the unified federal budget.

As a political scientist specializing in transportation policy, I have been researching and writing about the issue of the trust fund approach to highway and transportation funding for fifteen years. Taking the trust funds off budget represents just the latest in a long line of unjustified claims for special treatment for one particular type of revenue and expenditure. It reflects, not good government or good public finance, but the political strength of special interests, mainly the highway lobby.

The federal highway trust fund (and its state level cousins) has always been a bit of a fraud, designed to convince the public that their modest pennies per gallon highway taxes were paying all the costs of the road system. Overwhelming evidence has accumulated that this is not the case, and that at least forty percent of total highway construction, maintenance, and operations costs are subsidized by the general taxpayers.

The other unjustified contention is that it would be a "breech of contract" to "divert" motor fuel tax revenues to non-highway uses. This claim for special privilege for "highway user fees" has caused no end of mischief. The United States still has a long way to go before it reaches the point of being able to compare and evaluate investments of scarce public moneys across modes and between transportation and other uses that our major trading partners attained decades ago.

In my book, "Miles To Go; European and American Transportation Policies" (MIT Press), I recount how the British finally put paid to the notion that motor taxes deserved special treatment. When Winston Churchill was Chancellor of the Exchequer (Treasury Minister) in 1926–27, he began to take money from the Road Fund that Lloyd George had created in 1909 with a parliamentary promise to spend the proceeds from taxes on cars and petrol on roads. When motorists groups such as the Royal Automobile Club accused Churchill of "raiding" the road Fund like a pirate, he thundered back:

"Whoever said that motorists were to contribute nothing for all time to the general revenue of the country. . .? Entertainments

VOL
142
PT
6
AP
15
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24
1996
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may be taxed; public houses may be taxed; racehorses may be taxed; possession of armorial bearings and manservants may be taxed—and the yield devoted to the general revenue. But motorists are to be privileged for all time to have the whole yield of the tax on motors devoted to roads. Obviously this is all nonsense. Whoever said that, whatever the yield of these taxes, and whatever the poverty of the country, we were to build roads, and nothing but roads, from this yield? We might have to cripple our Trade by increased taxation of income; we might even be unable to pay for the upkeep of our Fleet. But never mind, whatever happens, the whole yield of the taxes on motors must be spent on roads . . . Such contentions are absurd, and constitute at once an outrage upon the sovereignty of Parliament and upon common sense."

It would be nice to see an American politician rise to his "finest hour" with this kind of challenge to entrenched interests.

In recent years the trend has been to move away from the inflexibility and the special treatment of rigid single mode trust funds. Granting off budget status would be a step backward. I strongly urge you to resist this effort, and I would be happy to provide you with further information and arguments if you so desire.

Sincerely yours,
JAMES A. DUNN, Jr.,
Associate Professor.

NATIONAL CENTER FOR
POLICY ANALYSIS,
Dallas, TX, October 6, 1995.

Hon. FRANK R. WOLF,
U.S. House of Representatives,
Washington, DC.

DEAR FRANK: Thanks for your kind letter of September 26th.

I don't know that my advice is technical enough to be included as part of your record, but I would say this:

In eight years as Governor, I fought very hard to keep all funds on budget and avoid setting up the many little pockets of privilege that separate budget items create for various interests. Once you have your own source of funds, you are not nearly as accountable to the Congress, nor is the Congress able to properly supervise the expenditures of the country.

The best way to handle finances is to have all the money come into a single place and then be appropriated out again through Congressional action. The transportation trust fund is one example, but there are legions of others in Washington, as you well know.

I think that keeping funds on budget is the better choice to make.

Sincerely,
PETE DU PONT.

THE UNIVERSITY OF IOWA,
September 6, 1995.

The Honorable FRANK WOLF,
Chairman, Subcommittee on Transportation,
Committee on Appropriations,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In response to your request, I am writing to offer my thoughts on the issue of moving the Highway Trust Fund off budget. As you are very well aware, there are reasonably compelling arguments for and against doing so. I will briefly assess these arguments and provide my conclusions.

In principle, the efficacy of a separate, off-budget Highway Trust Fund is largely based on two points:

In its pure form, the so-called pay-as-you-go concept means that users of the Nation's highway system should defray its entire cost, and they should be assured that their user fees will go to providing the services for which they are paying.

Moving the Highway Trust Fund off budget helps moderate the illusion that the Nation's deficit is less than actually is the case, if the Trust Fund's receipts exceed expenditures in a given year. The GAO report you sent suggests that this "masking" does occur in some years but not that many.

The main reasons for keeping the Highway Trust Fund and other trust funds part of the unified budget are:

It helps enable revenue generated from all sources to be allocated among the activities of government. Trade-offs among competing programs can be treated more explicity as the Nation's priorities are explored.

The overall magnitude of government spending, and hence the draw away from the private sector, can be more readily comprehended by decision makers and citizens alike. This, of course, facilitates debate on the appropriate scale of government activity.

Conceptually, fees paid by users of the Nation's highways can be thought of as just another revenue source. As you probably know, in Great Britain less than half of the highway user fees actually are spent on the highway system. There is not theoretical reason why highway user revenue or any other user revenue must be spent on the activity from which it is drawn. This point is significant because, as Alice Rivlin says, trust fund revenue accounts for about one-third of the total.

Whether or not to move the Highway Trust Fund off budget is in the end a political decision that unfortunately cannot be guided much by economic theory. It seems to me that the key points surrounding this decision are:

Treating the Highway Trust Fund as a separate account would enable a stable level of well-defined resources to be available for reinvestment in the Nation's highway system (and in ground transportation more generally). According to the Congressional Budget Office, the backlog of highway system resurfacing, restoration, rehabilitation, and reconstruction (4R) needs has grown to a level such that an annual reinvestment of over $27 billion would be required to eliminate this backlog. Oftentimes, 4R projects lack the political appeal of new of new construction, but reductions in the highway system performance will pose an increasing threat to the Nation's economy.

If the political will exists, the same or even a greater level of expenditures on transportation infrastructure is possible through a unified budget. As noted earlier and in the GAO document you sent, in recent years more has been spent for this purpose than has been paid by highway users (drawing down the Trust Fund's balance). I do not have a good sense of how likely Congress is to make transportation infrastructure a relatively high priority in its budgeting process during the coming years. Simply stated, a unified budget poses an opportunity and possibly a risk to transportation. Past indications are that this risk is normal, other than the deficit-reduction draw on the motor fuel tax of recent years.

The wisdom of using Highway Trust Fund resources for non-transportation purposes is in part dependent on the desirability of motor fuel and use taxes as revenue-generating mechanisms. Neither is seriously regressive, the administrative costs associated with them are nominal, and the fuel tax is comparatively invisible. To the extent that it is visible, the fuel tax contributes to fuel conservation. If fuel taxes were raised significantly, marginal changes in industrial location and choice of transportation mode could occur.

Using the argument of transportation investment as a means for strengthening the Nation's economic competitiveness is a double-edged sword. If individual projects or at least clusters of projects are selected on the basis of benefits to society exceeding costs, transportation investment can indeed strengthen competitiveness. But if projects are selected as demonstration projects and on other non-scientific bases, then the funds spent on transportation are much less certain to foster long-term growth. In my opinion, the process of determining how available Highway Trust Fund resources should be spent is more important an issue than whether or not to move the Trust Fund off budget.

Thank you for asking me to comment on this important policy issue. If I can be of any further assistance, please feel free to contact me.

Sincerely,
DAVID J. FORKENBROCK,
Professor and Director.

BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, DC, October 31, 1995.

The Hon. FRANK WOLF,
Chairman, Subcommittee on Transportation, Committee on Appropriations, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of myself and the other members of the Board, I am pleased to respond to your letter of September 26 requesting comment on proposals to move the transportation trust funds off-budget. As a general matter, it has been the practice of the Board not to take positions on the details of the individual tax and spending issues that are before the Congress. However, the shifting of certain spending categories off-budget raises some broader concerns, with implications for discipline and control over federal outlays. Notably, moving some spending categories off-budget would lead to fragmentation of the budgeting process and would detract from the unified budget as an indicator of the government's fiscal operations and hence of the impact of the U.S. budget on credit markets and the economy. Moreover, it could weaken the ability of the Congress to prioritize and control spending effectively.

As the letters from OMB Director Rivlin and former-OMB Director Miller make clear, responsible budgeting requires a comprehensive framework for setting priorities and assessing competing claims on national resources. The unified budget, as commonly presented to include the social security trust funds, combines all fiscal transactions in one place. It thus helps policymakers and the public understand the trade-offs among government programs, and between public and private spending. Moreover, as the focal point of the budget process, it places individual programs on a more comparable footing as they compete for federal funding and thus helps the President and the Congress to resolve competing demands on the nation's resources. Moving programs off-budget raises the risk that resource trade-offs would become obscured and could engender cynicism in financial markets and the public at large about the commitment and ability of the government to control federal spending.

We hope these comments are helpful in your deliberations.

Sincerely,
ALAN GREENSPAN.

HARVARD UNIVERSITY,
Cambridge, MA, October 2, 1995.

The Hon. FRANK R. WOLF,
Chairman, Subcommittee on Transportation, House of Representatives, Washington, DC.

DEAR CONGRESSMAN WOLF: Thank you for your letter of September 26 on the treatment of transportation trust funds in the budgetary process. I entirely agree with Alice Rivlin and James Miller that these trust funds should be considered as part of the unified budget. In fact, I cannot see the case for having a separate status for these trust funds nor for a policy of keeping them in balance over time.

Perhaps I may add that the heavy emphasis on gasoline taxes for the financing of highways is misplaced in my view. In many cases, especially for major rural roads, tolls are a more appropriate user fee. I also fail to understand why gasoline taxes could not be raised above the level used for highway construction and related expenditures.

Finally, I have long felt that the federal government plays too large a role in transportation. The primary responsibility should be left with the states.

Yours sincerely,
HENDRIK S. HOUTHAKKER.

BIRMINGHAM-SOUTHERN COLLEGE,
Birmingham, AL, October 16, 1995.

Hon. FRANK WOLF,
Chairman, Subcommittee on Transportation, Committee on Appropriations, Washington, DC.

DEAR CHAIRMAN WOLF: In my personal opinion, the proposal to move the transportation trust funds off-budget, as provided for in H.R. 842 would not be in the public interest. Here is why I think so.

Every effort should be made to enable interested and informed citizens to readily see and understand the extent and cost of the federal government's involvement in the affairs of the country. The task is already most difficult, if not impossible. Taking this well known and proper function of interstate transportation and removing it from budget totals makes an overall view even more difficult.

Our present practice of contingent credit enhancement by various federal programs has exposed the government to enormous possible future costs with little control of the risks. The recent debacle of the savings and loan industry and the costs of funding the Resolution Trust Corporation is a too vivid example. No one knows where the next such problem may arise. Nor can the Congress or the public measure the benefits of such programs with their possible costs.

Our repeated practice of regulating the use of private resources so as to meet public or even political goals continues to hide or disguise an enormous indirect tax borne by everyone. Moreover we have no way in which to measure either the costs or the benefits of this form of indirect taxation. But we all know the real costs are there.

When one looks at the extent of present obscure and indirect federal involvement, I think we will be better served to keep all possible programs on-budget and highly visible. The present earmarking of highway funds is not a reason to remove them from the unified budget.

Sincerely,
PHILIP C. JACKSON, Jr.,
Adjunct Professor.

HARVARD UNIVERSITY, JOHN F. KENNEDY SCHOOL OF GOVERNMENT,
Cambridge, MA, September 8, 1995.

Congressman FRANK WOLF,
Cannon Office Building,
Washington, DC.

DEAR CONGRESSMAN WOLF: In response to your letter of August 23, 1995 requesting my thoughts about the debate over the fate of transportation trust funds, I offer the following comments:

The Need for a Unified Budget: I tend to agree with analyses offered by OMB, GAO, and former OMB Director James Miller. Sound budgeting principals require a unified budget particularly in an era when deficit reduction is clearly the primary challenge facing the Congress and the executive branch. In this vein, I am particularly struck by GAO's assessment that efforts to take the trust funds off budget are driven primarily by "fear of future budget constraints not actual past restrictions on spending." As Congress and the executive branch make the difficult decisions required to balance the budget, all sources of spending and revenue should be on the table.

Meeting Investment Needs: Moving transportation trust funds off budget might increase short-term spending on transportation. However, it is not at all clear that such spending would be in the national interest. To begin with, there is little credible evidence that the nation is underinvesting in transportation infrastructure. Rather, most available evidence suggests that by picking up the bulk of the cost of many projects, the current system encourages inefficient decisionmaking at the state and local level and that redesigning current programs would provide more than enough money to meet current needs. (See, for example, work by both Edward Gramlich, Jack Tatorn, George Peterson, or Clifford Winston).

Encouraging Poor Decisionmaking: If taking transportation trust funds off-budget increases available federal funds, then problems in the current system are likely to worsen. There would, for example, be more demonstration projects. Moreover, moving transportation trust funds off budget could exacerbate tensions between so-called donor and recipient states. While both demonstration projects and funding disparities have some grounding in legitimate questions of public policy and in the logrolling necessary to keep the legislative process moving, difficult fiscal times demand that Congress exercise more, not less, control over such activities.

Recovering All Costs: If, for political reasons, trust funds are moved off-budget, Congress and the executive branch should seriously consider expanding the scope of programs funded by those programs. At minimum this suggests that some transit aid now provided from the general fund ought to be shifted to the Highway Trust Fund's Transit Account. More broadly, many (but not all) economists argue that when all externalities (such as policing, damage from air pollution, and costs created by accidents) are factored in, highway user fees do not cover the full costs created by highway users. This suggests that shifting trust funds off budget might be combined with an expansion of activities funded by those programs.

Seizing the Opportunity: The current budget fights offer policymakers such as yourself a rare opportunity to rethink the fundamental design of all federal programs. Moving the trust funds off budget would merely continue (and likely exacerbate) many well-recognized problems with the current federal-aid system and make it even harder to accomplish Congress' overarching goal of balancing the budget in seven years. It is, therefore, a step that should not be taken lightly and, if it is taken at all, one that should be linked to key structural reforms.

I hope these comments are useful.

Sincerely,
DAVID LUBEROFF,
Assistant Director.

SHERMAN J. MAISEL ASSOCIATES,
San Francisco, CA, October 20, 1995.

Hon. FRANK R. WOLF,
Chairman, Subcommittee on Transportation, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to your letter of October 13, 1995, requesting my views on the issue of moving the transportation trust funds off-budget.

I believe that it is important that we retain a unified budget that includes all trust funds. A key concept of the Federal budget is that it measures and reflects the total impact of the Government's receipts and expenditures on the economy.

In the past, the failure to obtain a measure of the Government's total effect on economic activity led to many untoward experiences. This was a key reason for adopting and maintaining the unified budget.

Action now to remove the trust funds and destroy the concept of a unified budget would directly contravene all of the efforts Congress is making through the Reconciliation bill to improve the economic effect of the Government on the economy.

Sincerely,
SHERMAN J. MAISEL,
Former Governor of the
Federal Reserve System.

G. WILLIAM MILLER & CO., INC.,
Washington, DC, October 18, 1995.

Re Transportation Trust Fund.

Hon. FRANK R. WOLF,
House of Representatives,
Cannon Building, Washington, DC.

DEAR FRANK: Many thanks for your letter of October 13 inviting me to express my views on the proposal for moving the transportation trust funds out of the unified budget.

The introduction of the unified budget came about after careful bipartisan study and support. Any decision to depart from or modify the system should be approached with great caution, and an exclusion of any trust fund from the unified budget should be done only if there is overwhelming demonstration that this would better serve the nation's budgetary process. I do not believe a case has been made for excluding the transportation trust funds. From my experience as Secretary of the Treasury and Chairman of the Board of Governors of the Federal Reserve System, I would strongly recommend that you retain the present treatment of the transportation trust funds so that there is no opportunity for losing accountability or setting precedents for further off-balance sheet structures.

You have received persuasive analyses from the General Accounting Office and from present and former heads of OMB. I will not go over the ground again, but do concur in the recommendations you received. I will point out, however, that the two points made by GAO-namely, masking and need for capital budgeting—can be solved in ways other than excluding trust funds from the unified budget. It would certainly be possible to present the unified budget on a fund account

VOL 142 PT 6 AP 15 — 24 1996 UMI

basis, so there would be transparency for all trust funds. It is also feasible to divide the present cash budget into a system of operating expenses and capital expenditures. These changes do not require removing any of the trust funds from the budget.

Your leadership can be very helpful in maintaining a strong system of budget accountability.

Best wishes.

Sincerely,

BILL.

PALO ALTO, CA,
October 1, 1995.
Hon. FRANK R. WOLF,
Chairman, Subcommittee on Transportation, Committee on Appropriations, House of Representatives.

DEAR MR. CHAIRMAN: In a letter of September 26, you requested my views on whether the transportation trust fund should remain a part of the unified budget. I agree with Jim Miller and Alice Rivlin that it should.

As most economists would agree, the overall budget allocates the amount of resources diverted from private hands to uses determined by the government; it also establishes the deficit, which subtracts from total savings in the United States and thus means either higher interest rates or the importation of more capital. Whether the transportation budget is officially included in the unified budget changes neither spending nor the deficit. In other words, defining the transportation budget as on or off budget is meaningless unless its status results in more government spending of higher tax receipts and thus in the size of government outlays and in the deficit. The proponents of moving the transportation trust fund off budget hope to be able to justify greater spending on transportation as a consequence. Unless offset elsewhere, this would boost both government spending and increase the size of the deficit.

I understand that proponents of moving the trust fund off budget view the gas tax as a users' fee that pays for transportation infrastructure. Although not an unreasonable argument, it ignores the major issues, the size of government and the budget deficit. It is the Congress's responsibility to determine the size of the government, a matter which should not be subject to the vagaries of the gasoline tax. Congress should also set priorities for the spending of taxpayers' funds, no matter what their source.

A surplus in the trust fund can provide a useful counter to some who would like to boost taxes on the transportation industries, ostensibly for environmental purposes. Since environmentalists often contend that the auto is being subsidized, the surplus in the trust fund helps offset that argument. They sometimes contend that motor vehicles have externalities that imply larger costs for society than are included in the normal outlays on highways. To the extent that this is true, running a surplus in the trust fund may in part counterbalance that externality.

Sincerely yours,

THOMAS GALE MOORE.

BROWN UNIVERSITY,
Providence, RI, September 29, 1995.
Hon. Frank R. Wolf,
Chairman, Subcommittee on Transportation, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR CONGRESSMAN WOLF: I am writing in response to your letter of 26 September 1995 inviting my views on whether federal transportation trust funds should be taken off budget.

In analyzing most economic issues relating to the federal budget, economists ignore the distinction between on-budget and off-budget revenues and expenditures. That is, economists work with total revenues and total outlays, often using the definitions in the national income and product accounts. Congressional decisions to remove certain activities from the unified budget will have little or no effect on economists' analysis of fiscal policy issues.

There is much to recommend the practice of financing certain activities that benefit particular individuals and/or firms with taxes and fees on those particular activities. The "user-pays" principle often promotes efficiency and equity; segregated accounts promote matching particular revenues with particular outlays. There is no necessary connection, however, between this principle and the overall accounting for federal outlays and revenues. No matter what the budget concepts, at the end of the day Congress will require an overall accounting to total revenues and total outlays, whether by including everything in "the" budget or by adding together on-budget and off-budget activities.

What the off-budget issue is really about is a policy debate on how to finance a particular activity and how to use revenues raised from a particular source. Taking an activity off-budget reflects a decision to support that activity by the earmarked revenues only, and to raise the earmarked taxes if the outlays on this activity are to rise. Conversely, revenues from the earmarked sources are to be used for the specified activities only, and not for general governmental purposes. An off-budget highway trust fund most definitely should not mean that we will spend on highways without regard to whether the highways are needed or not. What such a fund *should* mean is that revenues above those needed will be returned to the taxpayers through a cut in the gasoline tax.

The on-off budget issue is complicated by the current system of budgetary caps. Congress enacted these caps in an effort to impose more spending discipline on itself, and I believe that the caps have been useful in this regard. If the highway trust fund, or any other activity, is taken off budget to reflect a policy commitment to maintain a segregated accounting of earmarked revenues and particular outlays, then I strongly recommend that the activities nevertheless continue to be subject to the same caps process as before. That is, these activities should continue to be counted as on-budget for purposes of the caps calculations. Any other treatment is an open invitation to remove one item after another from budget discipline; that is sure to be a distracting, confusing, and counterproductive debate at this difficult time of dealing with major (and long overdue) revisions in the federal budget.

Sincerely,

WILLIAM POOLE.

CHESTERTOWN, MD,
September 30, 1995.
Congressman FRANK R. WOLF,
Washington, DC.

DEAR MR. WOLF: Because the result would be to hide the full magnitude of the flows of money into and out of the coffers of the federal government, a result that would seriously handicap the analyst in following what is happening in our economy, I hope that your committee will do all it can to prevent the transportation trust funds from being moved "off-budget." The reasons for keeping these funds "on budget" have been correctly and adequately spelled out in the responses to your committee by James Miller and Alice Rivlin, and I am glad to associate myself with their views.

Respectfully yours,

RAYMOND J. SAULNIER,
Chr., CEA, 1956–61.

THE BROOKINGS INSTITUTION,
GOVERNMENTAL STUDIES PROGRAM,
Washington, DC, August 25, 1995.
Hon. FRANK WOLF,
Chairman, Subcommittee on Transportation, House Committee on Appropriations, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to proposals that would remove the transportation trust funds from the federal budget. I share the view that the unified budget should be preserved to ensure effective use of the budget as an instrument of fiscal policy and strong spending control.

There is no right time for giving the transportation funds off-budget status, but now would surely be the wrong time. Doing so would undermine Congress's commitment to balance the budget and control federal spending. It would convey the message that the budget can be balanced on paper by excluding expenditures that are given preferred status. It would also convey the message that some programs can go on a spending spree while others are constrained by tight budget rules.

The greatest damage from taking these funds off budget would likely occur if a balanced budget requirement were placed in the Constitution. The balanced budget amendment approved by the House earlier this year provides that in any fiscal year, the outlays of the United States government shall not exceed the receipts of the United States government. It is important to note that this language would cover the receipts and outlays of the federal government, even those that were excluded from the budget. What this means is that once a balanced budget rule is operative, there will be a strong incentive to go a step further and remove transportation spending from the government by creating new entities such as government-sponsored enterprises or public authorities. If this were to occur, congressional and presidential control of trust funds would be greatly weakened.

The argument for off-budget transportation trust funds is often made in terms of the need to upgrade the nation's infrastructure. I am not convinced that the United States has seriously underinvested in transportation, but I do believe that the appropriate means of addressing this problem would be a capital budget rather than off-budget of off-government status. A capital budget would preserve the unified budget while providing better information on the condition of roads, airports, and other transportation assets.

Please call me if you want to discuss this matter further.

Sincerely,

ALLEN SCHICK,
Visiting Fellow.

AMERICAN ENTERPRISE INSTITUTE
FOR PUBLIC POLICY RESEARCH,
Washington, DC, September 26, 1995.
Hon. FRANK R. WOLF,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WOLF: I am replying to your letter of September 12, 1995 about the transportation trust fund. I would not favor moving the trust funds off the budget. We want to have a comprehensive measure of

the Federal government's fiscal activities. Keeping the transportation trust fund in the budget does not preclude any rules you may want to adopt about requiring that all receipts of the trust fund be spent for transportation, in every single year or over any specified number of years.

Sincerely yours,

HERBERT STEIN.

JAMES D. WOLFENSOHN, INC.,
New York, NY, October 18, 1995.
Hon. FRANK WOLF,
Chairman, Subcommittee on Transportation, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR FRANK: I am responding to your letter of October 13 asking for my view on the budgetary treatment of Federal transportation trust funds. I am glad to respond briefly to a question that has been reviewed frequently over the years and to which a succession of Administrations and most Congresses have, explicitly or implicitly, taken a consistent position.

At the start, I should point out that while your inquiry is specifically about transportation trust funds, a distinction between those funds and others would be difficult to sustain. That is one important consideration in my conclusion that the current treatment of including the transportation trust funds in the unified budget remains appropriate.

Obviously, conflicting considerations arise in determining appropriate budgetary treatment for trust funds. On the one hand, the decision to establish a trust fund may reflect a considered decision at a point in time to maintain designated spending in an amount related to specific revenues. Arguably, the designated spending may have particular attributes—for "investment" or for "social purposes"—that Congress may wish protected from cyclical or other budgetary exigencies. Moreover, an argument can be made that building up surpluses in the trust accounts, with the surpluses invested in government securities, tends to shield other spending from appropriate budgetary discipline. That is, of course, a consideration with respect to the large social security trust funds.

On the other hand, principles of administration and budgeting demand regular review and control of the full range of Government spending, balancing one priority against another. At the same time, effective fiscal policy forces consideration of the totality of spending in relation to revenues.

These latter considerations strike me as persuasive in reaching my conclusion that the present practice of including the transportation trust funds in the unified budget should be continued. I am reinforced in that conclusion by the fact that nothing in the unified budget prevents the Congress and the Administration from reaching a decision to maintain highway spending (or any other spending) at a particular level it deems a priority matter. Trust fund accounting within the unified budget may in some instances be helpful in reaching that decision.

To repeat I conclude that the Congress should maintain the present unified budget treatment, as both present and former Budget Directors have urged in writing you.

Sincerely,

PAUL A. VOLCKER,
Chairman.

JAMES D. WOLFENSOHN, INC.,
New York, NY, February 1, 1996.
Hon. FRANK R. WOLF,
Congress of the United States, House of Representatives, Washington, DC.

DEAR FRANK: I have reread my letter of October 18 on the transportation trust fund issue and really have no further thoughts. I realize moving some or all of the trust funds (particularly social security) off budget might well lend even further force to the urgency of our budgetary problem. That is a powerful argument right now, but I think longer run considerations of effective budgeting and of consistency over time should prevail.

I appreciate your interest.

Sincerely,

PAUL A. VOLCKER,
Chairman.

UNIVERSITY OF CALIFORNIA,
Los Angeles, CA, September 4, 1995.
Hon. FRANK R. WOLF,
Chairman, Subcommittee on Transportation, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR MR. WOLF: I am responding to your letter of August 23rd, in which you were kind enough to solicit my views on the question of whether or not the transportation trust fund should be moved "off budget." I have reviewed the materials included with your letter, and had already given a great deal of thought to this important question.

I believe that the highway trust fund should remain part of the unified budget. I support the maintenance of a separate trust fund into which highway user fees are deposited, and from which major highway related expenses of the federal government are paid. Maintenance of the integrity of the trust fund surely does not, however, require that it be taken "off budget." Full accounting of federal income and expenditures can be maintained by showing the trust fund as a separate account within the larger federal budget.

I oppose the use of trust fund revenues to "mask" a general fund deficit. We have enormous transportation needs in the United States, and it would be unfortunate if earmarked transportation funds were held unspent in the trust fund just to create the appearance that the federal deficit is thereby being reduced. This problem can also be addressed by properly accounting for the trust fund as a separate category within the unified budget, however, and does not require that the trust fund be removed from the unified budget.

From the materials which you forwarded to me, it would appear that my position is essentially identical to that taken by the Office of Management and Budget and the General Accounting Office. I encourage you to take a strong position of leadership on this important matter. The highway trust fund should both be kept "on budget" and should be protected from efforts to use it to "mask" the federal deficit.

Sincerely,

MARTIN WACHS,
Director, Institute of Transportation Studies.

CENTER FOR THE STUDY
OF AMERICAN BUSINESS,
St. Louis, MO, October 5, 1995.
Hon. FRANK P. WOLF,
U.S. Congress,
Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of September 26, 1995, with regard to the transportation trust funds. I believe they should stay in the budget so that the budget review process remains comprehensive and an effective way for Congress to exercise the power of the purse.

This was the position that, as an adviser, I urged the Commission on Budget Concepts to adopt several decades ago in developing the concept of the unified budget. The transportation taxes are revenues of the federal government; the transportation outlays are expenditures of the federal government. This is the basic justification for putting these funds into the federal budget.

The alternative—to keep them separate from the budget—shields these programs from being reviewed in the context of national priorities. That would be bad budgeting.

Best wishes.

Sincerely,

MURRAY WEIDENBAUM,
Chairman.

THE BROOKINGS INSTITUTION,
Washington, DC, August 25, 1995.
Congressman FRANK WOLF,
Congress of the United States, House of Representatives, Washington, DC.

DEAR CONGRESSMAN WOLF: I am responding to your letter of August 23, 1995 soliciting my views on the appropriateness of moving transportation trust funds off-budget. I should first tell you that I am not an expert on the budget process or the federal transportation budget. My field of specialization is transportation economics and my thoughts about your inquiry reflect that perspective.

That said, I think the issue you are concerned with is secondary to the important question to be asked about transportation spending. The important question is whether federal transportation spending is efficient? Based on the available evidence the answer appears to be no! Auto pricing ignores congestion, bus and rail prices are too low (below marginal cost), bus and rail service is inefficient and load factors are too low, bus and rail operations are inefficient, and so on. These problems are not the result of whether trust funds are on-budget. They are the result of poor transportation management at all levels of government. Prices must reflect marginal costs, service must reflect cost-benefit tradeoffs, and inefficiencies must be purged from operations. In this environment, there would be no need for trust funds. Indeed, the issue of whether a transportation system makes money would be irrelevant because its viability would be justified on social welfare considerations.

Current policy, which relies on the gas tax and trust funds, invites political debate instead of thwarting it. In short, my advice is to change your perspective on transportation spending by focussing on how to make it more efficient. The budgetary issue is largely irrelevant to that goal.

Sincerely,

CLIFFORD WINSTON,
Senior Fellow.

Mr. OBERSTAR. Mr. Chairman, I yield myself 30 seconds.

We have heard some interesting theater and dramatics, but the fact is that taking trust funds off-budget will not cause one dime of cuts in other discretionary programs. It only means that in the future, additional cuts in trust fund programs do not count toward spending targets such as discretionary caps or 602(b) allocations. Let us get down to reality and fact and talk reasonably.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. I thank the gentleman from Minnesota for yielding me the time.

Mr. Chairman, I rise in strong support of H.R. 842, the Truth-in-Budgeting Act, to take the four transportation trust funds off budget.

This bill is really quite simple. If you support jobs, investment, and keeping faith with the American people, then you support H.R. 842. That's all there is to it.

Every day, Americans who fly or drive contribute through user fees to the transportation trust funds. They do so in order to finance the public infrastructure which they utilize as they travel. If they don't drive, they aren't asked to contribute to road projects. If they don't fly, we don't expect them to finance air traffic control operations or airport improvements. The systems are designed to be user financed—those who use them pay for them.

But unless the trust funds are off-budget, the American people who pay for infrastructure investment aren't getting all they pay for. The balances in the four trust funds continue to grow, while infrastructure needs across this Nation go unmet.

I support infrastructure investment in the United States because it spurs economic growth and creates good jobs. The fact is that transportation represents 17 percent of the American economy. Since 1950, one-fourth of America's improvement in productivity is due to transportation investment.

But for me, the most important issue is jobs. Every $1 billion spent on infrastructure creates 42,000 good high-wage jobs. That's why the Laborers International Union of North America supports this legislation, and why you should too.

Mr. Chairman, as the ranking Democratic member of the Subcommittee on Aviation, I see every day the impact of our underfunded air traffic control system. There are reports almost every week of an outage of some kind at an air traffic control facility in this country. The equipment is old and needs to be replaced.

The FAA predicts that U.S. domestic passenger enplanements will grow from 530 million in 1995 to nearly 800 million in 2005. We are constantly looking to find the funds to meet tomorrow's needs. The best place to start is with the balance sitting in the aviation trust fund.

Mr. Chairman, this afternoon's vote is about keeping faith with the American people. The American people pay their gas tax and ticket tax to finance investment in our critical infrastructure. That's what the trust funds are meant to be used for.

Mr. Chairman, I urge every Member of this body to support H.R. 842 and keep faith with the people who sent us here.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. WAMP].

Mr. WAMP. Mr. Chairman, to kind of cut through the heavy air here today, where we have had some pretty high drama and a great sense of emotion, let me say from the freshmen perspective that 44 out of 74 of the freshman Republicans, I would argue the most ardent budget balancers to come here in a long time, have signed on in support of taking the transportation trust funds off-budget. You can in fact balance the Federal budget and return these user fees to the people who paid them. We see it as a matter of principle, and the principle is to the Federal Government: Don't take the money from users if you don't need it, if you don't need to spend it. Don't take it. Don't store up these trust funds and not put the money back for the use and from the people that you took it. That is the matter of principle. We would like to kind of draw a line in the sand on this issue and this is an important issue and it puts and invests the money back into our economy which we desperately need. These are user fees from roads, airports, harbors. Put them back to use. Support H.R. 842.

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Mr. SABO. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY], the ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I would simply note that the gentleman from Ohio, JOHN KASICH, the Republican chairman of the Committee on the Budget, the gentleman from Minnesota, MARTIN SABO, the Democratic ranking member of the Committee on the Budget, the gentleman from Louisiana, BOB LIVINGSTON, the Republican chairman of the Committee on Appropriations, and yours truly, the ranking Democrat on the Committee on Appropriations, are all strongly asking that you vote against this proposition.

Now, there is, I suppose, a high probability that even though all four of us agree, we are wrong, but I would respectfully suggest that if anyone is truly interested in achieving a balanced budget, over any time frame, whether it is 7 years, 5 years, you name it, that there is no way that you can in conscience vote for this bill.

Let me simply explain what I mean. Right now both parties have told the country that we are willing to balance the budget over a 7-year time frame. Yet what we are now being asked to do is to say to one huge segment of the budget—namely, the transportation portion of the budget—"Well, fellows, we are going to set you aside. Not only are you going to have a dedicated revenue source, but in addition to that special status, we are going to give you the ability to spend unlimited amounts of money, irrespective of the squeeze on any other portion of the budget."

The gentleman from Virginia [Mr. WOLF] is exactly right. What you are talking about if this bill passes is the requirement that you cut other portions of the budget over 7 years by an additional $50 billion, or else recognize that the deficit is going to increase by $50 billion. That is the hard-nosed fiscal reality.

Now, I take a back seat to no one, to no one, in my support for highway construction. Since my days in the legislature and through my days here, I have consistently and strongly supported adequate funding for highways. I have supported providing the funding to pay for that highway construction as well, in my own State legislature as well as here. I have fought to see to it that my own State ends its long-term status as a donor State.

In 1992, I led a successful fight in this House to break the defense "firewalls" in order to fully fund ISTEA with offsets from the military budget. I make no apology for that. I think that was the right thing to do for the country.

But I do not support saying that transportation must be considered sacrosanct while that requires further reductions in education, further reductions in mental health and veterans programs, further reductions in environmental protection enforcement, further reductions in job training, and do not kid yourself, that is exactly what this proposition requires.

Now, it is technically true that this bill in and of itself does not do that. But when you plug this bill into the context of existing law and into the context of the promise of both parties to provide a balanced budget over 7 years, then you are fooling somebody or you are smoking something that is not legal if you are telling people that this bill is not going to result in a squeeze on other high priority programs.

What we are really talking about is whether or not we are going to give one committee the ability to write a blank check for programs under their jurisdiction, regardless of the impact on any other committee and regardless of the impact on any other program or any other population group in this country. That is morally wrong, it is fiscally wrong, it is economically wrong, it is procedurally wrong, and you ought not to do it.

I would urge you not to speak out of both sides of your mouth. I would urge you to never again come to this floor and say that you are voting for a balanced budget and say that you are for fiscal responsibility and austerity, if in the next breath you are voting to allow the transportation budget to go off budget and to spend at any rate they want, regardless of the impact on other programs.

It is a question here of what you regard as your top priority. I do not regard that as my top priority. I think we need a balanced approach to spending and this bill does not give it to us.

Mr. KOLBE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I rise in opposition to the bill.

I rise to join my colleagues in opposing H.R. 842. While I commend the bill's proponents for trying to address the Nation's infrastructure needs, I do not believe that this bill will accomplish that objective.

I have listened to many voices on this issue and the ones who have rung among the clearest have been national leaders such as Warren Rudman who has said that, "Designating transportation trust funds as off-budget would further erode the integrity of the budget as a tool for fiscal accountability."

Former OMB Director Jim Miller says, "Off-budget status would * * * hide a major portion of federal spending from annual budget scrutiny."

Former Federal Reserve Chairman Paul Volcker says, "* * * principles of administration and budgeting demand regular review and control of the full range of Government spending, balancing one priority against another. At the same time, effective fiscal policy forces consideration of the totality of spending in relation to revenues."

Perhaps the voice that rings the clearest for me is that of the Ohio Department of Transportation that has been at the forefront of studying the current system of transportation funding and making recommendations for change. ODOT has concluded that it is not necessary to take the trust funds off budget in order to return more money to the States.

The Ohio plan recognizes that since 1976 expenditures from the trust fund have exceeded revenues and that the balance in the fund resulted from interfund borrowing. The Ohio plan proposes that a major portion of fuel taxes each State pays into the trust fund be turned back to that State, including the fuel taxes now going toward deficit reduction.

I urge my colleagues to take a closer look at the Ohio plan and that we use its concepts as a basis for devising a new system for highway funding—a system reached by consensus between authorizers, appropriators, and the Budget Committee.

Mr. KOLBE. Mr. Chairman, I yield 1½ minutes to the gentleman from Arizona [Mr. SHADEGG].

Mr. SHADEGG. Mr. Chairman, I would like to rise in support of this legislation, but I cannot. I cannot, notwithstanding its surface appeal. We would all agree that trust funds ought to be used for a trust purpose. But that is not the debate that is before us today. The debate that is before us has to begin with where we are, and where we are is that we have not managed these funds in the fashion we told the American people we would. In point of fact, we said we would not use general fund monies for this purpose, and we have, and this is not a debate about misuse of trust funds.

The chart I have put up makes this case fairly clear. Since 1980, total spending for highways from the trust fund we have brought in $214 billion, we have interest of $21 billion, we have spent a total of $235 billion. But we have added in general funds funding $63 billion on top of the trust fund spending of $228 billion, so we have spent a total of $291 billion.

The point is, for those Americans out there paying revenue taxes, gas taxes, other types of taxes, into these funds, please understand, this is not a debate about the misuse of those funds. We have used more than we have promised. But it is a debate about the budget control. If we enact this legislation, it will make it almost impossible to balance the Federal budget. That has to be our first priority. I urge a "no" vote.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from Missouri [Ms. DANNER].

Ms. DANNER. Mr. Chairman, when American motorists purchase gasoline or travelers purchase airline tickets and pay the Federal tax, they expect that the revenue collected by the Federal Government will go toward transportation system upgrades.

After all, that was the agreement the Federal Government had with the American people when the gasoline, aviation, and other transportation taxes were implemented.

For example, motorists paid into the highway trust fund with the expectation that they would receive highway improvements.

However, the transportation trust funds were merged into the general budget as part of an effort to hide the true costs of the Vietnam war.

It is precisely this sort of broken contract between the Government and the American citizenry that has led so many people to become understandably cynical about their Government and its leaders.

It is our duty to make certain that the moneys collected through the gasoline and other transportation taxes are used for the intended purposes.

The Truth in Budgeting Act, before Congress today will help us meet that obligation. Simply put, it is a tax fairness bill designed to ensure that transportation taxes go to pay for transportation improvements.

Currently, there is in excess of $30 billion in unspent balances in these trust funds, and under the administration's budget these balances could grow to $77 billion by 2002. That is money that should be used for such projects as repairing roads, building bridges, and improving air transportation systems.

The use of these funds in this way improves not only our transportation system, but would provide literally hundreds of thousands of well-paying jobs—a true win-win situation.

Ladies and gentlemen, this "Truth in Budgeting" bill is about restoring the public trust. My dictionary defines trust as "the confident reliance on the integrity, honesty, veracity of another." The "confidence, or obligation reposed in a person that he will fully apply the property according to such confidence."

I believe it is time—indeed past time—that we put trust back in the trust funds.

I would urge my colleagues to support this legislation.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, this debate is a classic congressional debate. I think there is rhetorical overkill on both sides. The future of Western Civilization does not hang in the balance depending on the outcome of this vote. I do not have any great statement to quote, but let me quote one of my favorite entertainers, Woody Allen, who once said in an address to graduates, "We are at the crossroads. One road leads to hopelessness and despair; the other to total extinction."

Let us pray that we have the wisdom to choose wisely. We are not faced with that predicament. Here is what we are faced with, plain and simple: We impose taxes on the American people, excise taxes, dedicated taxes. We say, for example, to the airline traveler, we are going to tax your airline ticket purchase and we are going to use the funds we raise to improve the airports, to improve aviation safety.

I think that is a pretty good contract. I think we ought to use the money for the intended purpose. And if we do not, we ought to cut the tax out.

But let us not kid the people. Let us be honest with them. Let us use the money for the intended purpose or cut the tax.

As the chairman of the Water Resources and Environment Subcommittee, I have witnessed firsthand the growing abuse of the Harbor Maintenance Trust Fund and the Inland Waterways Trust Fund. The Harbor Maintenance Trust Fund now has a balance in excess of $650 million and the Inland Waterways Trust Fund has over $300 million sitting dormant.

Hundreds of millions of dollars have been collected from shippers to improve the quality of America's ports and we should be using these revenues for their intended purposes. If you care about our Nation's global competitiveness, if you care about improving the environmental quality and safety of America's harbors and rivers you should support the Truth in Budgeting Act.

In many of America's leading ports we have an astounding backlog of dredging and environmental projects that are not being done while we sit on over $1 billion in trust fund revenues. A study of the transportation infrastructure needs on our major rivers has identified over $3 billion in needs by the year 2000. If you represent constituents along the Missouri, Mississippi, Hudson, Ohio, or Tennessee Rivers you should support the Truth in Budgeting Act.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Freeing these trust funds for their intended uses sends a powerful message to the American people—we are setting aside the "smoke and mirrors", and we are serious about using their hard-earned tax dollars to improve the safety of our waterways and the efficiency of our navigation infrastructure.

These trust funds are built on taxes intended to improve the economic and environmental quality of our Nation's rivers and harbors and it is time we use these trust funds for these uses.

Support the Truth in Budgeting Act—the truth will set you free.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Mr. Chairman, the issue before us today is one of the perennial budget questions of our time—whether to unravel the unified budget methods that have worked well since the 1960s and consider the Transportation Trust Funds off budget. Like my Appropriations Committee colleagues speaking before me, I believe moving the Transportation Trust Funds off budget would result in an irresponsible budgeting process that would jeopardize many of our most cherished programs, including Medicare, Medicaid, education, and environmental protection programs. So, I am here to urge my colleagues to vote against H.R. 842.

Let me state from the outset that as the ranking minority member of the Appropriations Subcommittee on Transportation, I am a strong supporter of maintaining and enhancing the Transportation Trust Funds. I believe our Nation must continue to invest an appropriate amount into transportation infrastructure projects in order to keep our economy strong and growing and prosperous. The Transportation Trust Funds are the primary vehicles which enable us to fulfill this responsibility, so we must act to keep them in good working order.

However, I am convinced that moving the Trust Funds off budget would cause much more harm than good. While I can easily understand and sympathize with the desire to invest more money into transportation projects, I believe moving the Transportation Trust Funds off budget would greatly confuse the budgeting process; create enormous pressures to either cut non-trust-fund programs further, increase spending on trust-fund programs more, or raise taxes; and that it will set a number dangerous of precedents. Allow me to detail a few of these problems for you.

First, the unified budgeting method is critical for assisting the Congress and the President in deciding how to treat all revenues and expenditures in a coherent manner. It is essential to bring together all Federal income and expenses in a unified way to avoid the problem of considering some programs in a vacuum. It is important to recognize that any Federal activity affects our Nation's economy as a whole. Clearly, the Transportation Trust Funds qualify as affecting our economy significantly. And because of their large economic impact, considering them separately from other accounts which affects economic activity would complicate and distort Federal economic considerations. In my mind it is far better to have all components of our economic strategy in plain view and as part of a unified whole in order to make decisions easier and more coherent, and to provide flexibility to the Congress.

Second, moving the trust funds off budget would needlessly further complicate and confuse the budget process. Considering transportation programs apart from all of the rest of the budget would mean adding another dimension to the process. Congress should not do this. Instead, we should avoid creating additional complications and restrictions on the legislative branch. In this way, we can fulfill our basic duty to at least do no further harm when crafting a budget.

Third, moving the trust funds off budget would lead to demands to move all other trust funds off budget—and perhaps rightly so. We should not fool ourselves into believing that this would not happen; we have plenty of legislative history to know it would. If the Transportation Trust Funds were taken off budget, it would be difficult to justify not doing the same with every other trust fund. We would be asked the following legitimate questions: Why are the transportation trust funds special? Why don't all other trust funds get the same preferential treatment? These questions can't be answered fairly without either placing Congress in the predicament of having to pick winners and losers among trust fund programs, or being forced to move all trust funds off budget with all of the severe headaches that would create for us.

Fourth, if, for reasons of fairness, all trust funds were moved off budget, I predict there would be greatly increased pressure to spend more money. In addition to using currently available surpluses for existing programs, I have no doubt many interests would create new needs for additional spending of trust fund surpluses, whether those needs were really as pressing as might be the case in other functions of our Government. I can also foresee pressure by interest groups to create more trust funds for favorite programs which currently don't have their own separate funding sources in order to insulate them from further budget cuts. In these times of fiscal austerity, it makes no sense to increase spending pressures and make the deficit larger.

Fifth, I am not convinced that moving the Transportation Trust Funds off budget would result in more expenditures for transportation projects. It seems fair and accurate to say that the interest payments from the Treasury to the trust funds have helped to increase the amount of surplus. While it can be argued that the interest payments are only fair returns for borrowing against the trust funds, they have also enabled greater spending from the trust funds than would have been possible without borrowing and then repaying with interest. So, moving the trust funds off budget and foregoing future interest payments may not really enhance transportation expenditures.

Sixth, removing the trust funds from the unified budget would result in decreased funding for transportation projects that receive their funding from general revenues. Not using the surpluses in the Transportation Trust Funds to calculate the amount of overall available funds means that spending levels for other programs have to be cut. In the case of transportation projects, we would be pitting some types of transportation needs against others. If we are truly concerned about building a solid transportation infrastructure, why would we want to play favorites and possibly secure the funding for some types of projects and not others?

We should also keep in mind that the unified budget does not prevent Congress from spending more on transportation projects if it chooses to do so. The Congress has all the authority it needs to authorize and appropriate more funds for transportation projects or other national priorities any time it wants. The only requirements for spending more are to be convinced of a genuine need and then to follow through with the appropriate legislation.

Finally, let me say that the experience of my home State of Texas shows that moving transportation funds off budget doesn't insulate that money from use for other purposes. Even though article 8, section 7(a) of the Texas State constitution clearly and specifically states that all State taxes on motor fuels collected to finance transportation projects must be spent on transportation projects, money from the off budget transportation funds have been used for other programs. For example, transportation fund money has been used to purchase land to build prisons. Now,. the transportation department holds the title to this land, so in theory it is still a transportation department asset. But, the actual use of the land to build a prison has little to do with fulfilling transportation needs. Similarly, the supposedly protected State transportation fund has been used to finance the construction and maintenance of parking lots for State mental health agency facilities. In my mind, neither of these examples fulfill transportation needs in the State of Texas.

Perhaps the most significant breach of security for the off budget Texas

transportation fund took place during the 1980's. The State's general revenue fund was running low, so an arrangement was made to borrow $280 million from the transportation fund. The payback provision of the agreement included the payment of interest, but because of the State's ability to repay the loan quicker than originally anticipated, no interest was actually paid to the transportation fund for the time its money was used. So much for a secure off-budget transportation fund.

In summary, Mr. Chairman, while I am a strong believer in the need to fund transportation projects to the greatest extent possible, moving the Transportation Trust Funds off-budget would unravel the unified budget process and make it more difficult to make proper decisions on economic matters. It would also needlessly further complicate the budget process, lead to demands to move other trust funds off-budget which would increase spending at the time we are trying to balance the budget, and probably not increase funding of transportation projects overall. And, as I have described to the House, the experience of my home State of Texas strongly suggests that moving trust funds off-budget doesn't really make them more secure. For all of these many reasons I urge the House not to endorse H.R. 842 by voting against this well-intended, but misguided legislation.

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Mr. KOLBE. Mr. Chairman, I yield 4 minutes and 30 seconds to the gentleman from Louisiana [Mr. LIVINGSTON], the very distinguished chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Chairman, I thank my friend from Arizona for yielding time to me.

Mr. Chairman, we have to fully appreciate what we are about today. The fact is that we will never eliminate the deficit if we give some programs exalted, protective status in the budget process requiring those less fortunate to shoulder heavier cuts than they currently do and making them compete with one another while those exalted programs simply are beyond reach. But that is what we will do.

We are effectively going to take $30 billion a year out of the nondefense discretionary pot and just put it beyond reach. Some would say, well, it goes into a trust fund; it is off budget. It is not off budget. It goes into that amorphous great big blue section on this chart that I have used before. It is a pie chart of the 1996 Federal budget. It becomes part of the uncontrollable portion of the pie, entitlements, which are in blue, plus interest on the debt.

Two-thirds of the budget is uncontrollable. One-third of the budget is discretionary. Half of that is defense, the other hald is the nondefense cost of running Government. We are going to take $30 billion out of that nondefense discretionary budget and add it into the blue section or out in the atmosphere where we will help all those wonderful contractors who want to build roads. We will make everybody else compete for their hard-earned dollars or the dollars that the American taxpayers throw at them. In doing so there will be less opportunity for other well-meaning programs, be they health programs, education programs, or the like, to be funded.

In fact, before the Committee on the Budget, Federal budget expert Allen Schick testified the general fund would be the residual fund for weak claimants who do not have sufficient clout to get earmarked revenue, their own trust funds, off budget protection, and exemption from budget enforcement rules and other controls. He says, if there is any truth in budgeting, it is that all spending must compete for scarce resources; not that there are protected enclaves and double standards.

But we will make a protected enclave of Federal highway spending. Backdoor spending in entitlements have already reduced the domestic discretionary share of the Federal budget, and those are my words, not Mr. Schick's, reduced the domestic discretionary share of the Federal budget to just 17 percent next year.

Now we are talking about gutting what is left, taking 12 percent of that, some $30 billion in outlays, money that will be spent immediately year after year, and declaring it off budget for the purposes of deficit reduction.

I just hope that every fiscally conservative Member of the body, including those who signed on to the off budget bill before knowing its effect on spending, fully appreciates what is happening and will examine what the CBO and the GAO and others say about the effects. It is devastating.

We are significantly trimming, trimming the nondefense discretionary budget, so much so that for the first time in modern history, instead of going up year after year after year in nondefense expenditures, we are going down year after year. This Congress, since January 1, 1995, has had tremendous effect on reversing the ever-increasing growth of nondefense spending. But this bill comes along and wants to take $30 billion out of what is left in nondefense discretionary and spend it on highways.

And, yes, we have seen those ads, radio, television, newspapers, the prospecial interest lobbyists, and they are all related to dealing with highways and airports and such things. Oh, they have a lot of them. They are all for it because it is money in their pocket. It is free money. But notice who is against it. The Committee on the Budget, the Committee on Ways and Means, the Committee on Appropriations, the Office of Management and Budget, the Citizens for a Sound Economy, the Concord Coalition, the Heritage Foundation, the National Taxpayers Union, the Taxpayers For Common Sense, the Citizens Against Government Waste, the Committee for a Responsible Federal Budget, Alan Greenspan, Federal Reserve Board. Those are the people whose job it is to look at whether or not we are actually meaning what we say when we are trying to cut the Federal budget, cut spending, and stop the pork barrel.

But here we are, despite all the rhetoric, right back at the pork barrel. I urge Members who are serious about what we have been saying for the last couple of years to vote against this measure. It is wrongheaded. It is the wrong thing to do.

Mr. Chairman, despite all the rhetoric, Members should see this bill for what it really is, a plain, old-fashioned power grab instigated by one committee of this body.

Members of the Transportation and Infrastructure Committee, and before them the Public Works Committee, stand united in pushing off budget, and with them stand the highway and airport construction lobbyists and State highway agencies. Against this formidable group always stands the Budget and Appropriations Committees.

We will never eliminate the deficit if we give some programs an exalted, protected status in the budget process, requiring those less fortunate to shoulder heavier cuts year after year.

If we start splitting up the Federal budget into off-budget fiefdoms that are outside the appropriations process, we are setting a terrible precedent. In testimony before the Budget Committee, Federal budget expert Allen Schick said that if trust funds started to go off-budget, "the general fund would be the residual funds for weak claimants who do not have sufficient clout to get earmarked revenue, their own trust funds, off budget protection, and exemption from budget enforcement rules and other controls."

He went on to say "If there is any truth in budgeting, it is that all spending must compete for scarce resources—not that there are protected enclaves and double standards."

Mr. Chairman, backdoor spending and entitlements have already reduced the domestic discretionary share of the Federal budget to just 17 percent next year. Now we're talking about gutting what's left, by taking 12 percent of the remainder and declaring it off budget for the purposes of deficit reduction. I hope every fiscally conservative Members of this body, including those who signed onto the off-budget bill before knowing its effect on spending, will look carefully at what CBO, GAO and others say about its effects.

If this bill becomes law:

Aviation safety would be undermined, according to the Secretary of Transportation;

Other domestic and defense programs would suffer up to $50 billion in additional cuts, according to OMB; and

Other trust funds will surely seek similar protection from future budget reductions, and we won't have a leg to stand on.

If this body were now to pass off budget, it would tell the American people we are willing

VOL
142
PT
6
AP
15
—
24
1996
UMI

to hide some expenditures from the budget; that we are willing to suffer further reductions in defense and social programs in order to provide continuous, permanent increases for highways, mass transit systems, and airport construction programs. This is not a fair and balanced budget plan, Mr. Chairman.

We weren't sent here to engage in budget shell games. We were put in control to eliminate our crippling deficit—a goal this very bad bill would make much harder. This bill is wrong because it would increase spending at just the wrong time in our Nation's history; it fundamentally alters the balance of power among committees of this Congress; and it panders to the special interests and lobbyists.

Finally, if you vote "aye," don't talk to me about the need to cut the budget. I strong urge Members to vote "no" on final passage.

Mr. OBEY. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Chairman, I rise in strong support of this important legislation to take the transportation trust funds off-budget. Historically, investment in transportation infrastructure has helped countries achieve and maintain world power status. Similarly, it has been our own commitment to infrastructure investment has been responsible for creating the most advanced and efficient economy in the history of the world.

In the past, it was this financial commitment to America's infrastructure that completed the transcontinental railroad, built the Interstate Highway System, and created world class airports and harbors. However, we all know that funding for future projects is increasingly difficult to secure today. And as a result, our ability to maintain, improve and build highways, roads, harbors, railways and airports is severely hampered—and commerce, transportation and recreation are all adversely restricted. We cannot continue this neglect and we must provide an opportunity to guarantee a sound financial future to both maintain and develop America's infrastructure needs.

Pumping gas and paying the Federal gas tax of 18.3 cents per gallon is probably the most common link the average American has with the Federal Government on a daily basis. Most of the money from this tax flows into the highway trust fund and has helped finance such San Diego highways as Interstates 8 and 15.

My own district has several infrastructure projects that are of national significance and need funding. Re-establishment of the San Diego & Arizona Eastern Railroad—the "Jobs Train"—and completion of State Route 905 and Interstate 15 would all facilitate the increase of international trade expected from our Nation's new Federal trade policy. Yet because transportation trust funds are not being spent for their intended use, these nationally important projects must compete for fewer available dollars and are viewed as pork for my congressional district. Transportation funding choices should not be between projects that mitigate congestion and pollution, increase safety or implement trade policy—these are all worthy projects.

We must release the trust fund surpluses from their budget bondage and stop this Federal game of Mask the Deficit. The existence of these surpluses only reinforces the public's belief that they are not getting an honest return for the taxes they pay to Washington.

This issue is not only about tax fairness, it's also about jobs and about economic productivity. Since the 1950's, as much as 25 percent of America's productivity growth can be credited to improvements in our transportation infrastructure. Recent Department of Transportation studies show that every $1 billion invested in highway construction and enhancements yields 42,000 high-wage jobs. Similarly, work to complete SR 905 and I-15 in San Diego and to re-establish the Jobs Train would create thousands of jobs.

The more that infrastructure spending is curtailed, the higher the yearly trust funds surplus grows. The higher that surplus goes, the more it offsets deficit spending in other general fund programs. It's a $31 billion bonanza, and it's a fraud!

For me, the Truth in Budgeting Act is about keeping faith with my constituents in San Diego—people who pay into these funds and expect their tax dollars to be spent on building and maintaining the world's premier transportation system. The people of America—and the people of San Diego—deserve to see their transportation dollars at work building and maintaining highways, railroads, airports, and harbors.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. KIM].

Mr. KIM. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I was a civil engineer prior to becoming a Congressman. I understand how important the transportation system is to our economy. I know that without a strong transportation system we cannot sustain a prosperous economy. That is why our Congress approved a gas tax over 40 years ago. The idea was simple: Collect a gas tax and spend that money to build and maintain our infrastructure.

The system worked fine in the past because all the money went to transportation projects. But now what happens? Highway projects get 12 cents out of 18½ cents of the Federal gas tax; the rest goes to social programs. It has been gutted. The highway trust fund money has been gutted all this time.

We need this infrastructure badly, I will tell the Members. Remember, these are not taxes, these are user fees. These are not taxes. The money should not be spent on social programs, it should be spent on the highway system. that is why our bridges are in bad shape. Twenty-five percent of our bridges are in bad shape and are not safe. No wonder why.

Mr. OBEY. Mr. Chairman, I yield 3½ minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I rise in my capacity as the ranking Democratic member on the Surface Transportation Subcommittee to give my colleagues 6.8 billion reasons why they should vote for H.R. 842, the Truth in Budgeting Act.

This, 6.8 billion, my colleagues, is the amount of highway and transit money the States have been shortchanged over the life of ISTEA to date.

The following chart shows these losses by State, 1992–96:

HIGHWAY FUNDING LOST BY STATE, 1992–96

States	FY92–96 difference
Alabama	$114,340,767
Alaska	89,763,732
Arizona	88,638,840
Arkansas	71,238,983
California	610,578,554
Colorado	86,443,852
Connecticut	143,579,955
Delaware	30,171,803
District of Columbia	39,333,139
Florida	241,309,719
Georgia	182,211,005
Hawaii	53,676,740
Idaho	48,737,851
Illinois	255,571,470
Indiana	135,427,278
Iowa	87,340,504
Kansas	83,069,151
Kentucky	100,474,056
Louisiana	106,457,783
Maine	36,512,958
Maryland	119,912,708
Massachusetts	387,512,184
Michigan	180,464,385
Minnesota	104,962,453
Mississippi	77,345,390
Missouri	147,406,231
Montana	69,282,108
Nebraska	59,194,272
Nevada	43,941,993
New Hampshire	35,149,613
New Jersey	208,863,217
New Mexico	76,499,357
New York	389,884,664
North Carolina	166,409,550
North Dakota	44,939,034
Ohio	242,935,031
Oklahoma	92,883,484
Oregon	85,194,850
Pennsylvania	312,864,880
Rhode Island	43,667,425
South Carolina	85,828,138
South Dakota	49,538,589
Tennessee	139,565,180
Texas	431,378,542
Utah	54,759,515
Vermont	32,204,791
Virginia	145,108,424
Washington	133,368,435
West Virginia	68,087,322
Wisconsin	123,104,240
Wyoming	47,996,810
Puerto Rico	33,650,675
Territories	2,184,372
Total	6,840,886,002

Source: U.S. Department of Transportation, Federal Highway Administration.

This is the amount of spending out of the highway trust fund, authorized to be obligated for needed highway and transit projects across the Nation, that has not been spent due to arbitrary obligation limitations placed on the trust fund in the annual appropriations bills.

Now, this is not to say that the highway trust fund could not have sustained an additional expenditure of $6.8 billion.

No, indeed.

There is an estimated balance of nearly $21 billion in the highway trust fund—$11 billion in the highway account and $10 billion in the transit account.

And let us be clear: This money is not general revenue. It is comprised of the Federal tax on motor fuels, paid for by highway users, and dedicated for transportation improvements.

Who, here, in this body, can say that the regions which they represent do not need additional transportation improvements, that they could not use some of that $6.8 billion that was duly authorized but instead is lying idle in some government trust fund.

I look to the California delegation: You have been shortchanged by $610.6 million.

To the Florida delegation: $241 million.

Ohio: $242 million.

Virginia: $145 million.

And my own State of West Virginia: $68 million.

The list goes on and on.

So I would say to my colleagues, vote to take the transportation trust funds off-budget.

Let us restore faith with the taxpayers.

Mr. Chairman, throughout this debate we continue to hear allegations that one of the motivations of the Transportation and Infrastructure Committee for promoting the pending legislation is that it would, in some unexplained fashion, remove any constraints on so-called pork barrel projects.

The distinguished chairman of the House Appropriations Subcommittee on Transportation in particular likes to make a big deal out of the fact that he refuses to earmark funds for highway demonstration projects.

He even advised House Members not to even try to present testimony before his subcommittee about specific highway projects.

Oh, how holier than thou.

And the press eats it up, showering him with praise for not engaging in so-called pork barrel projects.

Well, my colleagues, the facts show otherwise.

Let's see. I suppose earmarking $4 million in ITS funds for the Capital Beltway in the current fiscal year appropriations bill does not represent an earmark.

No, of course not!

I suppose that earmarking almost $41 million for 20 ITS projects in that bill is not really earmarking, now is it?

And I suppose that earmarking 100% of the section 3 bus money, to the tune of $333 million, for 81—count 'em—81 specific projects is not really earmarking funds at all.

Or what about the section 3 new starts; $80 million here, $130 million there. This isn't really earmarking, is it?

No, I suppose it's just chump change.

Ah, but these were not highway demonstration projects, were they?

No, apparently only earmarking funds for highway projects is bad.

Well, Mr. Chairman, if it walks like an earmark, if it quacks like an earmark—it is an earmark and subject to the same pork barrel label highway demonstration projects are often alleged to be.

I raise this because when we hear the next holier than thou—self-righteous—pronouncements from the House Appropriations Committee against our efforts to take the highway trust fund off budget, be advised:

They are living in a glass house and should not be throwing any stones at the authorizing committee.

Let me be clear.

I strongly believe in the right of the Congress to earmark funds for specific transportation projects. We used good criteria when considering highway projects during the NHS bill last Congress.

Circumstances change. Nothing remains static.

And the fact of the matter is that sometimes a State needs a little bit more help with a transportation project over and beyond its normal funding apportionment.

But, please, do not give me this bunk that earmarking discretionary program funds for ITS and transit projects is not really earmarking.

Mr. Chairman, with that, I respectfully submit: Who is afraid of the big bad wolf?

Not this gentleman from West Virginia and neither should this House.

I rest my case.

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Mr. KOLBE. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. Mr. Chairman, I thank the gentleman for yielding me the time.

Let us talk about truth in budgeting. This country is $4.9 trillion in debt, rapidly moving to $5.5 trillion in debt. That is truth in budgeting. This is an effort by one group to grab dollars, to grab turf and to expand its power. What do we need in 1996? We need people to step up, to be part of the solution, not to walk away and be part of the problem. What is reality?

This bill is like rearranging the deck chairs on the Titanic. This bill represents the effort of one group to get into its lifeboat, its own small lifeboat. Some may call the special interest group or this group of special interests selfish. I do not know if it is selfish. I do know it is wrong. A number of groups agree, the National Taxpayers' Union, the Citizens Against Government Waste, the Concord Coalition, the Citizens for a Sound Economy.

We do not need another entitlement. We do need a Congress willing to make tough decisions to protect future generations and to stand up to special interest groups.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I thank all the gentlemen here in charge of the time for the excellent work they have been doing.

Mr. Chairman, like others, I support needed investments in our transportation system. The First District of Connecticut relies on its roads, bridges, and airports to be its economic and commercial links to the rest of the country and the world.

But while we may have nearly endless transportation needs, we don't have an endless supply of tax money. And although transportation must be a top priority, there are tough choices to be made about where our limited funding goes. Taking these trust funds off-budget shelters them from those hard decisions.

In 12 of the last 15 years, we have spent more from the trust funds than taxpayers put in. Taking them off-budget will tilt the playing field even more toward transportation, at the expense of other priorities and at the expense of deficit reduction.

Calling the trust funds off-budget does nothing to change the reality that our budget is out of balance. In fact, this bill would put us $20 billion more in the red over 5 years.

I urge my colleagues to support fiscal responsibility and oppose H.R. 842.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan [Mr. EHLERS].

Mr. EHLERS. Mr. Chairman, I appreciate the opportunity to comment. From my background of 8 years in local government, 11 years in State government dealing with balanced budgets every year, I rise to support this bill and urge its passage. I recognize the original purpose of taking these funds and putting them on the budget was to hide the deficit during the Vietnam war, and for some years it served that purpose.

Mr. Chairman, I also recognize that now we do not perform that practice anymore. We do not try to use these funds to hide the deficit. At the same time, the public is angry. They still perceive this money as being diverted to other purposes. They still perceive this as being used to mask the deficit, and we have to get away from that perception or it is going to hurt our efforts to build a transportation infrastructure in this country.

I urge that we now do what is right, we do what is fair, that we take the trust funds off budget, that we use them for the purpose they are intended for, that we pass this bill and we restore the trust in the trust fund.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, first of all, let me begin by saying congratulations to my colleagues. We do not hear too often this kind of policy debate that completely crosses party lines and really is on a policy issue. I think everyone is to be commended for really getting into this policy debate here.

Let me make it clear where I stand on this. I do rise in strong opposition to the so-called Truth in Budgeting Act, H.R. 842. The title of it certainly sounds great, but the fact of the matter is it is a device for increasing the already huge $5 trillion national debt that we have. The title of it is misleading and the result is it is going to be very costly.

It does something that we already do too much, and that is have a shell game, with that chart that we saw here earlier by the chairman of the Committee on Appropriations with over half of all Federal spending off budget. This simply moves another piece of it off budget so it is not amenable to the changes that Congress would make through the appropriation process each year. It is a shell game. We call it taking it off budget, but in plain English, it means the spending is going to be exempt from the rules that apply to other Federal spending. In essence, we are creating yet another new entitlement program that just grows and grows without regard to the already overblown Federal deficit. The result would be that transportation simply does not get the same scrutiny as education, defense, a lot of our national parks do when it comes to prioritizing and controlling Federal spending.

Because of that, I think it is inevitable that this kind of spending rises ever faster. To balance the budget, then all other parts of the budget have to take an even harder hit, that is, the increasingly shrinking part of the discretionary pie of spending, so we have to increase taxes. And I think we all know that is not acceptable.

The fact of the matter is that Washington has spent more from the highway trust fund than it has received in earmarked tax in 12 of the last 15 years. In 1994 alone, the Federal Government collected $18 billion into the trust fund but it spent $22 billion on trust fund programs. The real issue here is whether or not we should be returning these programs to the States anyhow, whether we should set the standards and return them. I urge my colleagues to vote against this legislation.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MASCARA].

Mr. MASCARA. Mr. Chairman, I thank the gentleman for yielding me time.

During the Eisenhower administration, the Federal Government forged a compact with the American public, pledging to its citizens that in exchange for a gasoline tax a transportation trust fund would be established. The money generated by the tax was to be used strictly for transportation and infrastructure development. Forty years later, Americans continue to uphold their end of the bargain. Americans pay 18.4 cents Federal tax on every gallon of gas they purchase and a 10-percent excise tax on all airline tickets. Last year alone, these taxes added up to nearly $30 billion.

I find it simply inexcusable that the Government refuses to release these funds at a time when our Nation's infrastructure is crumbling. It is estimated that more than $300 billion is needed to remedy our unmet transportation and infrastructure needs.

By failing to use these funds for their intended purpose, the Federal Government has broken its promise and violated the principles that are central to the notion of a trust fund—the term "trust fund" in this case is a true oxymoron.

As a former Washington County, PA, commissioner, I witnessed first-hand the vital role a strong and viable transportation system plays in stimulating our Nation's economy. The Monfayette Expressway in my district is a classic example of this premise. Studies around the world have shown a strong correlation between infrastructure development and sustained economic growth.

It is simply unfair for the Federal Government to limit economic development opportunities by hoarding the transportation trust funds to mask the Federal deficit.

Today, Congress has an opportunity to fulfill the agreement that was established between the Federal Government and the American people in the 1950's. I support Chairman SHUSTER and ranking member OBERSTAR's efforts to return these trust funds to their rightful owners—the American people. I urge all Members on both sides of the aisle to vote for the Truth in Budgeting Act, H.R. 842.

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from the Virgin Islands [Mr. FRAZER].

Mr. FRAZER. Mr. Chairman, as a cosponsor of this legislation, H.R. 842, I understand the importance of investing in our infrastructure. On September 15 of last year, the U.s. Virgin Islands was devastated by Hurricane Marilyn.

Today we are still trying to repair the economy.

The CHAIRMAN. The Chair wishes to inform the manager that the time of the gentleman from the Virgin Islands [Mr. FRAZER] will be taken from the time of the gentleman.

Mr. OBERSTAR. Mr. Chairman, the gentleman is recognized for a unanimous-consent request, not for the time.

Mr. SHUSTER. Mr. Chairman, is it true that the gentleman may put his entire speech in the RECORD?

The CHAIRMAN. The gentleman's statement may be entered into the RECORD under the unanimous-consent request.

Mr. FRAZER. Mr. Chairman, am I being made to understand that it is less than 1 minute that I requested, that I merely submit for the RECORD?

The CHAIRMAN. If the gentleman from Minnesota wishes to recognize the gentleman for 1 minute.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from the Virgin Islands [Mr. FRAZER].

Mr. FRAZER. Mr. Chairman, I recognize that the Territory of the Virgin Islands does not have a vote in this institution, but it seems as though the proceedings are becoming so that the Territory of the Virgin Islands does not even need to be represented in this institution.

Mr. Chairman, I want to thank Chairman SHUSTER and ranking member Mr. OBERSTAR for bringing H.R. 842, the Truth in Budgeting Act to the floor.

As a cosponsor to this legislation I understand the importance of investing in our infrastructure. On September 15, 1995, the U.S. Virgin Islands was devastated by Hurricane Marilyn. Today, we are still trying to rebuild our economy. The first step in rebuilding our economy is our infrastructure. The airports, highways, and ports in the Virgin Islands are the keys to our economic prosperity.

The economy of the Virgin Islands is based on tourism. In order for our economy to grow, we must have a strong infrastructure. Our airports and highways must be fully operational and functional so that they can generate the revenue which will create jobs and funding for infrastructure development. Constituents pay to use these services and they are entitled to receive a benefit.

The aviation trust fund allotment for the Virgin Islands in 1994 represented $3 million. A reduction in funding for the Virgin Islands would have a negative impact on our ability to rebuild our economy.

Mr. Chairman, I urge my colleagues to vote "yes" on H.R. 842, so that we can use these funds to rebuild our infrastructure.

Mr. SABO. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in strong opposition to H.R. 842. I refer to the bill by number rather than name because I feel this legislation promotes anything but truth in budgeting, at least if that budgeting is supposed to be aimed in the direction of balance. In fact, this bill would reduce controls on Federal spending, the exact opposite of what we should be doing as we work toward a balanced budget.

Next week the Budget Committee, on which I am privileged to serve, is scheduled to begin the process of putting together the budget resolution for fiscal year 1997. This process will require many tough choices as priorities are set among worthy programs. All programs will be required to make sacrifices in the effort to achieve a balanced budget by 2002. My guess is that not a single program will receive the full amount of funding that its advocates would like. But essentially all programs will be together in the same boat, competing for priority status as we seek to determine how best to allocate the revenues coming into the U.S. Treasury.

This bill is an effort to circumvent this process for one segment of the budget. The debate today is really about whether the transportation trust funds should be exempted from the priority-setting process that tests every other program. A vote for this bill says that spending on transportation programs automatically should receive a higher priority than every other program of the Federal Government.

We have heard good augments today about the value of investing in our national infrastructure. I agree with much of what was said but I disagree with the venue. This debate should be heard in the midst of augments about the value of every other program, not standing alone without programmatic competition for numerous hours on the House floor.

We're talking about much more than the simple bookkeeping activity of moving the trust funds onto a different side of the ledger. The real impact of the bill is in removing trust funds from the statutory budget enforcement mechanisms and, to a lesser extent, the congressional budget process. Currently, spending from the trust funds is subject to the discretionary spending limits or pay-as-you-go rules. The discretionary caps have been quite successful in controlling discretionary spending and have played a major role in the significant deficit reduction we've witnessed in the past 4 years.

In my opinion, we should be expanding the spending caps to cover all programs, not reducing the number of programs subject to the caps as this bill seeks to do for transportation spending. Spending form the trust funds would have greater protection than any other spending program. Even Social Security spending is subject to pay-as-you-go rules.

During the debate Monday evening regarding the tax limitation constitutional amendment, there was a lot of rhetoric about the need to control Federal spending. I cannot understand how any Member who voted to amend the Constitution on Monday evening, or for that matter any Member who claims to care about deficit reduction, can vote for a bill that will make it much easier for Congress to increase spending without accountability.

The Director of the Congressional Budget Office stated that if trust fund spending was exempted from budgetary controls "transportation spending could increase significantly." The General Accounting Office made a similar point: "Whatever the immediate effect on the deficit, exempting one type of spending from the Budget Enforcement Act makes it likely that such spending will increase over time." Similarly, the reserved Fed Chairman Alan Greenspan said that taking trust funds off-budget "could weaken the ability of the Congress to prioritize and control spending * * * [and] could engender cynicism in financial markets and the public at large about the commitment and ability of government to control Federal spending."

This year, much ado has been made about differences in scoring between the CBO and the OMB, but the two are in agreement about this issue. They both have estimated that this bill would allow transportation spending to increase by $20 billion above an inflated baseline and $40 billion above 1995 levels over the next 5 years. I know that the drafters of this legislation claim that the bill is deficit neutral but they are not the referees who score Federal spending; CBO and OMB are the two entities we count on to do that job. At a time when programs for education, health, senior citizens, youth jobs, scientific research and so many other important programs are being cut or given increases well below inflation, I have a hard time justifying a $40 billion increase straight out of the gate for transportation spending.

Finally, granting special status to the trust funds will undermine the principle of shared discipline which is so critical to building consensus for reaching a balanced budget. Supporters of all other Federal programs, understandably, will be far less willing to accept cutbacks in their own programs if transportation, or any other specially anointed program, is exempt from sharing the burden. The credibility of the process will be severely undermined by the contrast of transportation spending receiving a full inflation increase plus as much as $20 billion beyond inflationary increases while other programs losing in actual dollar terms.

H.R. 842 also will make it more difficult to implement a deficit enforcement mechanism along the lines of the one included in the Coalition budget by exempting trust fund spending from sequestration. One of the weaknesses that led to the failure of Gramm-Rudman was that it exempted a large number of programs from sequestration, thereby reducing the number of people who have a stake in reducing the deficit. Taking the trust funds off budget would mean that the transportation industry would not have a stake in ensuring that a balanced budget plan works, because they would not be affected by its failure.

If you are serious about controlling Government spending, if you believe in the importance of a fair budget process, if there are other Federal programs that you rank at least of equal importance with transportation programs, then vote against this bill.

□ 1315

Mr. SHUSTER. Mr. Chairman, I yield such time as she may consume to the distinguished gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Chairman, I rise in support of H.R. 842, the Truth in Budgeting Act.

This bill will accomplish three goals.

First, it will restore honesty with the American taxpayer. The transportation trust funds are comprised of user fees—taxes paid by transportation users with the express understanding that their collection will be used to finance transportation improvements. To have these funds as part of the budget, masking the deficit, and not spent on transportation needs is simply not fair.

Second, the bill will spur economic growth. Transportation represents 17 percent of the American economy. Transportation improvements benefit us all and the use of these surplus funds will go a long way toward providing a boost for America's economy.

Third, every single State will benefit in increased transportation funds from enactment of this bill. Had the transportation trust funds been off budget since 1991, my State of Florida alone would have received an additional $241 million. As a donor State to begin with, this amount would help offset our significant transportation needs.

I urge my colleagues to support this bill and return fairness to these user fees.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, I rise in strong support of this bill which is critical to the future of our transportation systems.

According to the U.S. Department of Transportation, nearly 25 percent of our Nation's bridges are structurally deficient or functionally obsolete, and over 30 percent of our interstate pavement is in poor or mediocre condition.

The average fleet age for our transit buses is greater than the useful life of those vehicles.

And yet, because of obligation limitations imposed in annual appropriations bills, the ISTEA highway program has been under funded by $6.8 billion over the past 5 years. Let me be clear, this $6.8 billion was fully budgeted for and could have been supported by the highway trust fund. Each Member can look at this table here on the floor and clearly see the funding his or her State has lost.

This is $6.8 billion of contract authority—accounted for and contained in the budget resolution—which States have not been allowed to use for transportation improvements.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The Surface Transportation Subcommittee is now beginning the process of reauthorizing ISTEA. The future budget authority provided and the size of the program will be a determining factor in the type of transportation program we can enact to lead us into the 21st century.

This is a simple fact of life. We must be able to spend the gas taxes we collect on our future transportation program or we will be severely limited in the flexibility and creativity necessary to address today's transportation needs. For example, like more than a majority of House Members, I represent a donor State and want to revise the current outdated and inequitable formulas.

But, this will be hard to do, if not impossible to do, with a shrinking program—a program funded entirely by user fees that may be cut by as much as 40 percent according to some budget projections. This vote is important to the ISTEA reauthorization.

Don't be scared off by exaggerated claims make by opponents of this bill. There is no general fund subsidy of the highway trust fund.

The vast majority of general fund transportation spending that opponents have cited is from the now-defunct revenue sharing program, the community development block grant program, spending by nontransportation agencies, and other specific programs approved by the Appropriations Committee that are totally separate from and hardly relevant to the highway trust fund, the Federal-aid highway program, and this debate today.

In fact, it's the other way around—limitations on trust fund spending have subsidized other general fund spending.

This bill is not a budget buster and it will not automatically increase the deficit by some $30 billion as some have claimed. Appropriate controls and Congressional authority remain in place. But H.R. 842 will go a long way toward ensuring that, in the future, the user fees and taxes we have imposed on the traveling public and which are paid so dutifully by them day in and day out, will be spent for their intended and lawful purpose. Not to do so is dishonest and unfair to the American public.

Vote "yes" on H.R. 842—it's the right thing to do.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, I thank the gentleman from Minnesota for yielding this time to me.

I rise in opposition to this bill, not because I oppose spending the trust fund obligations for the purpose for which they were incurred. In fact, I would favor legislation that would mandate that the trust funds be expended for that very purpose, that would prohibit expenditures from the general fund, that would require us to raise the user fees if we need to spend more money. I am all in favor of that, but that is not what this bill does.

We have limitations placed upon the budget process for one purpose. The whole Budget Act of 1974 that we are operating under was placed there for one purpose, to put fiscal restraints in place so that we would have to make all of the decisions within the same context of a budget.

The purpose for the line-item veto was to allow the President to say here is certain spending that ought not to be spent. There is one area of spending that is exempt from the line-item veto. It is contract authority from the Committee on Transportation and Infrastructure so that they can designate money that has to be spent that cannot be vetoed by the President under line-item veto.

Now, what this bill attempts to do is remove all of that spending from the Committee on Transportation's authority, to remove it from the budget process so that there are no other fiscal restrictions or restraints that would require us to consider all spending within one specific decisionmaking process.

That is bad fiscal policy, it is bad budget policy; I would urge my colleagues to vote against it, and I will submit into the RECORD a letter from the Citizens Against Government Waste explaining why this is a bad bill.

Mr. SHAYS. Mr. Chairman, I yield 6½ minutes to the gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget.

Mr. KASICH. Mr. Chairman, it is always a little bit frustrating when we come to a vote on a bill like this, that we wonder whether people who are going to be voting on this, or their staff, are paying attention. Well, I guess, without a rollcall or anything like that, we just rely on the fact that those wonderful staff people have their eyes focused on this chart and what the impact is of this legislation.

Now, this highway trust fund was established in, I believe, 1956, and what we have done is we have added up cumulatively all the money that has ever been collected from taxpayers in highway taxes to pay for roads. We added it all up from 1956 to 1996. The total amount of money collected in highway gasoline taxes to pay for highways totals $214 billion. Now, we added to that that interest that we owe from just the highway section, and that adds up to $21 billion, for a grand total, and think of this as some kind of a telethon, a grand total of what we have raised since 1956, of $235 billion from our taxpayers in fuel tax to fix our roads.

Let me stress that number again: $235 billion total collected, plus interest.

Trust fund spending has been $228 billion. In other words, my colleagues, we collected $214 billion in gas tax money to fix the roads. But consistent with everything else we do in this town, and unlike what families do, instead of spending $214 billion on fixing roads, we spent $228 billion, and then when we add to that the money beyond the trust fund money, that is another $63 billion, another $63 billion, for a grand total, a grand total since 1956, of $291 billion. We have collected and had interest that cumulates $235 billion, and we have spent $291 billion on highways.

Now, anyway, and I have got limited time and we got a whole lot of debate going, let me just do this thought. The simple fact is, as my colleagues know, the argument here, the argument in this body, is somehow the people have been cheated, somehow they have paid a lot of money in gas taxes, and they have not got the roads fixed for the money they paid. Well, that is not true. Frankly, what we have done is, we have one more time gone into the piggy bank of our children. We have gone into their piggy bank to have more money spent on roads.

Now, it should be equal. It is not equal. We have overspent on highways from what we were dedicating revenue to fix roads with. It is not complicated.

Now, if my colleagues want to take this thing off budget, let me just give them the bottom-line impact. To everybody in this Chamber:

If you spend any of this accumulated interest, then what you are doing is you got to do one of two things. You are either going to raise the deficit, which means you got to borrow more money and increase the national debt, or you got to cut some other program. It is not a confusing, complicated deal. It is one or the other. Now, under the current situation, if you want to spend more on roads, and I am not opposed to doing that because roads is infrastructure, and if the roads are not determined by pure politics, they can generally help the economy. But I do not think we ought to put roads above anything else.

I mean we can develop a supercomputerized system, as individual instruction for our children using computer technology. Frankly, that is more effective to me than just making roads a priority.

Look, the reason why we are coming to the floor and what contractors think and what a lot of people think is, as my colleagues know, we did not spend all the money we took in, that we got this shoebox full of cash. We got this shoebox full of cash to build all these roads, and the simple fact of the matter is we "ain't" got no shoebox. We do not have any cash in the back drawer. This involves borrowing. It involves our children. That is what it involves.

So I say to my colleagues, if they want to come to the floor and pull this off budget, fine. They can vote that way. They can vote that way, and just understand the consequences: We either are going to have to borrow more money and drive up the deficit or we are going to have to cut other programs which we struggle to avoid doing in this Chamber, create tougher priorities.

So, I mean, I give a lot of credit to the gentleman from Pennsylvania. I have never seen anybody more tenacious on an issue. He believes in this

program, and I respect him for it. It is not a personal fight with anybody in this Chamber. It really is a matter of whether we are going to get our fiscal house in order and not put one priority ahead of another in times when we have got to choose or raise the national debt.

So I would urge my colleagues to keep our plan on schedule, and the gentleman from Virginia said this will be the end of balanced budgets. I am not going to be that gloomy here today. But it certainly makes our job more difficult. Do not support this bill, reject it.

☐ 1330

Do not support this bill. Reject it. We can continue to have robust highway spending if we deem that to be a top priority, but keep this total spending within the decision-making that we all make in this Congress. But no one should come here thinking that somehow we have cash.

This is what we spent, 291. This is what we collected, 235. No one should think that we have underspent or taken our highway money and used it for something else. It just simply is not true. Let us be honest with the public on the way in which we add our numbers up.

Mr. SHUSTER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would respond to the distinguished gentleman, it is very true, if you go back in history, there was substantial general fund money spent on highways and other transportation projects. CDBG grants were spent, revenue sharing was spent. All of this is true, back in history. It also, interestingly, indicates how important transportation is to local communities. Nevertheless, nobody disputes that.

But Mr. Chairman, facts are stubborn things. Does anybody in this body dispute the cold, hard fact that there is over $30 billion in the transportation trust funds today? Nobody disputes it. It is a fact. That is the balance in the trust fund. We should spend that money in a rational, careful way.

Mr. SABO. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I listened to the argument of our good friend, the gentleman from Pennsylvania. It would strike me that if one followed that logic, one should say that I think there is a surplus today in the Medicare fund, and we should spend it all today and it would not impact the deficit. That would be about the same logic.

Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I just wanted to follow up on what the gentleman from Ohio [Mr. KASICH] was saying, to make this point. In 12 of the past 15 years, the highway trust fund expended more than it collected in dedicated taxes. In 12 of the years since that trust fund's inception in 1956, the highway trust fund expended more than it collected in both dedicated taxes and interest paid into the trust fund from the general fund.

I repeat that. In 12 years since 1956, it expended more than it collected in both taxes and interest. We are not saying do not spend money on highways. I believe in spending money on highways. I am a strong supporter of that. But count it, just like you count everything else in the budget.

The gentleman from Ohio [Mr. KASICH] is exactly correct. We have had a very large excess expenditure above revenues out of this fund, and people ought to recognize that.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Chairman, I want to thank the distinguished gentleman for yielding time to me, and commend him and our outstanding chairman of the subcommittee for the great work they have done in bringing this bill to the floor today.

Mr. Chairman, today is our opportunity to restore honesty and truth to the Federal budget by voting to take the transportation trust funds off budget.

Chairman SHUSTER and Ranking Member OBERSTAR deserve high praise for their outstanding efforts to bring this bill to the floor.

Mr. Chairman, it makes no sense to me that we would ask the American people to pay taxes for these transportation trust funds and then not use the money.

These are dedicated funds that should be used for their intended purpose—the improvement of our Nation's transportation system.

Sitting on these dedicated funds which cannot be spent for anything else is simply a fraud on the American people.

We have been lying to the American people by telling them to pay their gas taxes and airline ticket taxes for an improved transportation system and then not investing the money in transportation.

In Philadelphia, we are faced with a vital need to rebuild Interstate 95, our key commuter and freight route that is used by 150,000 vehicles a day.

In the last month, I–95 has been closed and then restricted because of a fire that damaged the structure.

We have had massive traffic jams that have lasted the entire day, disrupted the surrounding neighborhoods, and produced chaos throughout the area.

The Pennsylvania Department of Transportation planned to invest $2 billion to make I–95 the highway of the 21st century.

Just this year, the Penndot plan was reduced to a $176 million resurfacing that will not solve our traffic problems and must be redone in 5 years.

By not investing the money in the trust funds, Washington is telling America's drivers who are sitting in traffic jams to get used to it.

It makes no sense to have a $20 billion balance in the highway trust fund—including $312 million for investment in Pennsylvania—when the money should be used for the reconstruction of I–95 and the many other roads throughout Pennsylvania that badly need improvement.

A vote against H.R. 842 is a vote against using this money to reconstruct I–95 and the many roads like it.

It may be a vote to fund other programs but it is a vote against reconstructing I–95.

In Philadelphia, our transit system, Septa, is an absolutely key part of our regional transportation system, carrying more than 1 million passengers each weekday.

Without Septa, we would have more traffic congestion requiring more roads and more parking facilities.

Right now, Septa is in trouble. Septa needs more money for upgrading track, stations, and equipment.

The entire Philadelphia region loses if Septa is allowed to continue on a downward spiral.

An improved, modernized Septa system benefits everybody in the region.

At the same time we have allowed a $9.6 billion cash balance to build up in the transit account—money that our Nation's transit systems desperately need.

A vote against H.R. 842 is a vote against using this money to help Septa and other transit systems. It is a vote against transit.

It may be a vote to support some other program but it is a vote against transit.

Philadelphia international airport has been trying to get funds to build a new commuter runway that will increase capacity by 40 percent.

Annual operating delays at Philadelphia cost airlines more than $70 million in wasted fuel and labor costs.

At the same time, however, we have allowed a balance of $11 billion to grow in the aviation trust fund.

A vote against H.R. 842 is a vote against funding projects such as the Philadelphia commuter runway.

It may be a vote to use the transportation trust funds for some other program but it is a vote against airport projects.

The inland waterways trust fund and harbor maintenance trust fund are also crucial elements of this bill.

The Nation's ports handle more than 1 billion tons of cargo annually, including 95 percent of our international trade.

Many ports are in a crisis today because of the need to expand capacity to meet new trade demands. It is estimated that $600 million will be needed for ports during the next 5 years to keep pace with the growth of commerce.

The outdated and antiquated locks and dams of our inland waterway system hinder shipments and require additional investment.

More than 40 percent of the locks are more than 50 years old and one is 150 years old.

Mr. Chairman, a vote for H.R. 842 is a vote for honesty in budgeting and for investment in economic growth.

We have told the American people to pay their money for transportation. Not spending the money is fraud.

Our long-term transportation needs are important enough to take the trust funds off

VOL
142
PT
6
AP
15
—
24
1996
UMI

budget and increase our investment. Each $1 billion of investment in infrastructure creates 42,000 jobs.

We should take the trust funds off budget and use the money the American people have already paid.

Mr. Chairman, 6 years ago, we took the Social Security trust fund off budget. This is the exact same situation.

Let's put trust back in the transportation trust funds and pass H.R. 842.

Mr. SHUSTER. Mr. Chairman, I am pleased to yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, by passing this legislation, we will be moving smartly from fuel tax fudging to truth in budgeting. How many of the Members would dare to stand at their gas pump and to tell each one of your constituents after you shake his or her hand, do you know that part of the tax that you are paying with each gallon of gas is going toward payment of welfare costs, toward foreign aid? Because that is the result of not spending their fuel tax for the dedicated purpose, just the opposite of what the opponents of this legislation are saying.

The opponents are saying that if we go through with this plan as envisioned by this bill, we will be robbing our social programs of moneys. That means they must be paying for them now through the fuel tax that they are paying. Is that not the obvious, logical conclusion? Truth in budgeting means that the American people, to whom we owe full faith and credit, have a right to expect that their fuel tax goes for nothing but highways.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I thank the gentleman for yielding time to me, and I also thank the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the committee.

Mr. Chairman, I rise in strong support of H.R. 842, the Truth in Budgeting Act and ask unanimous consent to revise and extend my remarks.

Mr. Chairman, I commend the leadership of our committee, Chairman BUD SHUSTER and Ranking Member JIM OBERSTAR, for introducing this legislation to take the transportation trust fund off budget. I want to share with my colleagues why I cosponsored this bill.

President Eisenhower was a visionary when he created the highway trust fund in 1956. He knew that by creating a new trust fund where those who benefit from the transportation program pay for the program, a steady, dependable stream of revenue would ensue. For many years the trust fund worked as promised: motorists paid into the fund and in return they received highway construction and transportation improvements.

But when Congress created a unified budget in 1968, the word trust was removed from the highway trust fund. I looked up the word trust in Webster's Dictionary, and this is what it says: trust is a dependence on something future or reliance on future payment. Webster's also defines trust as: to commit or place in one's care or keeping.

Mr. Chairman, I submit to you that after I read those definitions it became clear to me that the word trust in highway trust fund has no meaning.

Why do I say that? Because over time the Government has collected but withheld and diverted nearly $31 billion in trust fund dollars. This is money that should have been going to our Nation's infrastructure.

Americans have faithfully supported the concept of a highway trust fund by dutifully paying their gasoline tax for 40 years. What have they received in return? 176,000 miles of American highways in mediocre to poor condition. Severe road congestion on 30 percent of our Nation's major roads. A $290 billion backlog of bridge repair work.

Polls show that 72 percent of the American people believe the motor fuel fee is the fairest way to finance highway improvements. They want their money to go toward protecting our investment in our Nation's infrastructure. But this shell game being played with the moneys in the highway trust fund has only delayed this badly needed investment and helped fuel the prevailing cynical attitudes people have toward their elected officials and Government.

Let's stop the charade and pass H.R. 842.

Mr. SHUSTER. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Tennessee [Mr. DUNCAN], the distinguished chairman of the Subcommittee on Aviation.

Mr. SABO. Mr. Chairman, I yield 30 seconds to the gentleman from Tennessee [Mr. DUNCAN].

The CHAIRMAN. The gentleman from Tennessee [Mr. DUNCAN] is recognized for 1½ minutes.

Mr. DUNCAN. Mr. Chairman, I rise in strong support of H.R. 842, introduced by the very capable chairman of the Transportation Committee.

I do not want to repeat many of the comments that have already been made here today. But let me say that this, Mr. Chairman, our Nation needs this legislation.

No one disputes the fact that we need to spend more than we presently are to repair, maintain, upgrade, and improve our Nation's highway and aviation systems.

I have been very fortunate to serve as the chairman of the Aviation Subcommittee for 16 months now, so I will speak to the serious needs in our Nation's aviation and air traffic control system. Air passenger traffic is going to double in the next 10 years, from over 500 million a year now to almost 1 billion 10 years from now.

I am one of the most fiscally conservative Members of this House, so I have been very frugal in what and how we spend the taxes that are sent here from hardworking Americans.

Mr. Chairman, as it has been said earlier, this issue is a question of fairness to the taxpayer.

It is a question of whether or not we should keep our commitment with the people who pay taxes, to this Federal Government, every single day of the year.

Every time a person gets on a plane. He or she pays taxes. Every time a person puts gas in their car, he or she pays taxes.

Many years ago, Congress established a policy, a pact, with the American people. If you pay these taxes, we here in Congress will turn around and spend them on repairing our highways and bridges and we will update our antiquated air traffic control equipment.

Mr. Chairman, the aviation trust fund was established in 1970 to help bring our air traffic control system up to speed. But as we all have seen this has just not been the case.

Last year, air traffic control centers suffered more blank radar scopes, dead radios, downed computers, and failed power systems than in any previous year.

This 30-year-old equipment causes airplanes to be delayed and certainly shakes public confidence in the safety of flying.

There have been air traffic computer failures at FAA centers near Chicago, Dallas, Cleveland, New York, Pittsburgh, Boston, Atlanta, Houston, Oakland, and Miami.

In fact, just a few weeks ago the FAA issued a coast-to-coast grounding for aircraft going to Pittsburgh airport because of an outage.

While these outages have been occurring more and more frequently, the aviation trust fund has taken in billions, at least $5 billion last year alone, not including the $1 billion in interest.

At the end of the last fiscal year, the aviation trust fund has a cash balance of nearly $11 billion.

This enormous balance has not accumulated because of any sound policy reason but rather as an accounting gimmick to help hide the size of the Federal budget deficit.

Mr. Chairman, experts have testified before the Aviation Subcommittee that airport needs over the next 5 years will total $50 billion.

The FAA expects that air travel will increase from over 500 million passengers today, to well over 800 million by the year 2005. This is a 56 percent increase in air travel.

And, the FAA has reported that 23 airports across the Nation exceed 20,000 hours of delay per year.

Unless significant capacity improvements are made, the FAA expects that by the year 2002, 33 airports will experience delays of 20,000 hours or more, costing millions of dollars annually.

In 1995, the aviation trust fund took in $6 billion. The Administration has projected that the aviation trust fund, under current law, will take in $9.2 billion in 2002, a 46 percent increase.

Mr. Chairman, I believe Americans are paying too much already in taxes today.

Moreover, I have never voted for a tax increase since I have had the privilege of serving in this body.

However, in my opinion, if we are not going to spend the taxes we collect for the purpose of which they were intended, then we should return the money to the people.

We must take the transportation trust fund off-budget so that we can spend the aviation taxes to improve the safety of the air traffic control system.

We must pass H.R. 842 today and not wait until a tragic aviation accident embarrasses Congress into taking action.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I would ask the gentleman, why is it the trust fund only pays 50 percent of FAA operating costs, when all the studies show that 85 percent is related to civilian air travel? Has not, in effect, general revenue substantially subsidized the operation of FAA over the last several years?

Mr. DUNCAN. To some extent, yes. That is correct, I would say to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the answer to the question is that 75 percent of the overall budget of the FAA is funded out of the trust fund revenues. There is an additional amount that is paid out of general revenues from the DOD budget to account for air traffic control services to the military, and some people, some folks at OMB, account for the operating budget of FAA in a different way in saying that the operating budget, salaries and expenses are 50 percent. But that is an irrelevant argument.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, if we listen to the opponents of this particular bill, we would think that Dwight David Eisenhower was the father of pork in America. Ike was not a pork barrel President, and this is not just truth in budgeting, this is a truth in financing, truth in borrowing.

I should have offered an amendment calling for an investigation into congressional borrowing from trust funds. These user fees are taxes. The American people pay taxes to fix their roads. The money going to this account is already going for other services. It is not true. This a good bill.

Let us talk about this. Maybe we should take the Committee on Appropriations and keep them on budget and take the trust funds off. H.R. 842 does not say these matters still do not go through appropriation. They are still subject to appropriation. The trouble with America today is that everybody has their hands on trust funds. They should all have their own boards of directors. No one should be able to touch them. That Social Security trust fund is financing a debt, and we are not getting the truth on the deficit or the national debt.

There is no justification to use highway money for anything else. There is no justification to keep America second rate. This money has an intended purpose. There is a tax; not a user fee, a tax. That tax, Mr. Chairman, is directed towards maintaining our infrastructure, fixing our roads, and the appropriators still have a say.

The trouble is, if we are going to get some truth out of the whole budgeting process, tell us the truth of the national debt, tell us the truth of the deficit. You have been trying to mask it with this trust fund for too long. Open it up, use it for what it was intended. Anything else is hypocrisy and maybe against the law. Damn it, I wish I had offered that investigation amendment. I yield back the balance of these taxes.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Chairman, I rise today in support of H.R. 842, and commend Chairman SHUSTER for the work he has done to bring this bill to the floor.

Mr. Chairman, I rise today in support of H.R. 842, legislation to separate the four transportation trust funds from the unified Federal Budget. Before being elected to Congress, I served on a city council and listened to many residents who were concerned about funding basic infrastructure needs. These same citizens are under the mistaken impression that the money they spend every day on gasoline excise taxes will be used to improve roads, bridges, airports, and waterways across the country.

It is simply wrong to use the revenue dedicated to these trust funds for anything other than their original purpose—and we can act today to correct this matter. There are billions of dollars of unmet infrastructure needs in the United States and the sad thing is that we already have the money to pay for these projects—only it is not being spent. The cost to the taxpayer and our Nation to rebuild these roads will only increase if we continue to delay taking the four transportation trust funds off budget. I urge a "yes" vote.

Mr. SABO. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, let us be straight about some facts. Since 1981, we have spent more than we have collected in receipts and interest in these funds. The way we measure the deficit is expenditures versus revenue. In 1994 and 1995, the expenditures from the highway trust fund have exceeded total revenue. The same is true in the airport trust fund. They are not subsidizing the balance of the budget.

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Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. LAHOOD].

Mr. LAHOOD. Mr. Chairman, I would make the comment to the distinguished chairman of the Budget Committee and others who have been promoting a balanced budget that if we take these off-budget and use them for their purpose, we would actually be saving money, that we would not be spending in excess. That would answer their question. But I rise in strong support of this. I commend the gentleman from Pennsylvania [Mr. SHUSTER], the chairman, and the gentleman from Minnesota [Mr. OBERSTAR] for the leadership that they have exhibited over the last several months and years, I would add. This bill is a product of their tremendous efforts to restore fairness and accountability and we must have accountability in the transportation budgeting. In 1994 in my home State of Illinois, the gas tax amounted to $663 million. It is imperative that these trust funds be used for essential improvements and repairs to our infrastructure.

Mr. Chairman, it is time that our highways and airports receive the funding they deserve and this can only be done by moving the trust funds off-budget. Keeping the trust funds as part of the unified budget has had a severe impact on my home State of Illinois and the other States in the country.

I urge my colleagues to support honesty and fairness in the budgeting process and support this bill.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentlewoman from Missouri [Ms. MCCARTHY].

Ms. MCCARTHY. I thank the gentleman from Minnesota for yielding me this time.

Mr. Chairman, I rise in support of H.R. 842, the Truth in Budgeting Act. For more than 40 years Americans have been contributing to transportation trust funds designed to ensure a safe, efficient, and reliable transportation infrastructure.

Since 1969, these trust funds have been included as part of the unified budget for the purpose of masking the extent of our deficit spending. The budget chairman's chart revealed what's been spent—but no mention of the unmet needs of this Nation. In my State of Missouri, we have more than $1.7 billion in unmet highway needs, including 261 lane miles of 4-lane highway needs, and 136 bridges in need of major repair or replacement.

Mr. Chairman, balancing the budget was a priority when I campaigned for Congress, and I have worked hard to reach that goal. But in our quest for a balanced budget, it makes no sense to let our infrastructure fall into disrepair. Each year we will find ourselves in a greater dilemma if we refuse to seriously address our many transportation needs today.

VOL 142 PT 6 AP 15 — 24 1996 UMI

The Truth in Budgeting Act will remove the transportation trust funds from the artificial constraints that prevent needed money from being released. It will allow for greater investment in our Nation's future, and reward the American people's commitment to a strong transportation infrastructure.

I urge my colleagues to support H.R. 842.

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Chairman, I rise in strong support of H.R. 842, the Truth in Budgeting Act. I am a proud cosponsor of this much needed legislation, because I believe it reflects a strong commitment to improving and maintaining our Nation's transportation infrastructure.

Very simply, H.R. 842 will take the four Federal transportation trust funds out of the unified budget. This is the same budgetary treatment given the Social Security and U.S. Postal Service trust funds, and it is the right thing to do. Every day, millions of tax dollars are collected through the sale of motor fuel and airline tickets. These taxes are designed to build and maintain our transportation infrastructure system. Unfortunately, because the trust funds are part of the unified budget, their positive balances have been wrongly used to mask deficit spending.

Mr. Chairman, our continued investment in highways, airports, waterways and ports is of critical importance to the 19th Congressional District of Illinois. Taking the four transportation trust funds off budget is a fair way to ensure that tax dollars collected to improve and maintain our transportation infrasture, are used for that purpose. I urge my colleagues to join with me, and the other 224 cosponsors of H.R. 842, in supporting this important legislation.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Chairman, I support the Truth in Budgeting Act. You may ask why? I would like to give one example.

Federal highway transportation funds were designated to expand the Niblick Bridge in Paso Robles, within my district. The funds were appropriated, yet they could not be used immediately because an environmental impact statement needed to be conducted before the construction of the bridge could commence.

Hundreds of thousands of State and local dollars had been invested in repairing the bridge and conducting the mandated environmental reports to comply with regulations to build the bridge. This took time. In fact, 4 years to be exact. Because all the moneys could not be used immediately, the budgeters wanted to rescind these unprotected dollars to mask the deficit rather than use them for their intended use, which is to repair and strengthen our existing transportation infrastructure within the United States.

Well, I believe that if you collect a tax for a specific purpose, then, by golly, you should use it for that specific purpose. So for that reason, I urge my colleagues to strongly support the Truth in Budgeting Act.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, we have heard, I believe, some really interesting and creative accounting here with the chart from the chairman of the Committee on the Budget and the ranking member. They would have us believe that, over time and currently, that we are spending more than we collect in dedicated taxes to maintain the transportation infrastructure of our country, and they are most interested in balancing the budget and keeping the books straight.

If that were true, then I am confused as to why the Committee on the Budget chairman and the ranking member are not supporting this bill. If it is true that we are now subsidizing these trust funds, I am willing to live with reality. Let us only spend the dedicated taxes that we take in that are levied on the people of the United States, in gas taxes and in ticket taxes and other taxes that support this infrastructure. Let us only spend that.

I am willing to live with that. Are they? No, they are not, because in fact they are taking money out the back door to defray other expenses of the Federal Government. They are borrowing every penny that is accumulated in the trust fund balance, and it has been spent and replaced by IOU's.

It is also interesting to me that in a Congress that is interested in growth and investment, that we do not have a little more discussion from some of those in opposition about what it means to spend money that is invested. If you spend money in a bridge, a highway, in mass transit, that money will provide economic benefits for decades to come. Yet we treat that the same as money spent for a one-time expenditure of something consumable and thrown away by the Federal Government. Does that make any sense? It makes no sense whatsoever.

These funds are raised to be invested to improve the transportation and infrastructure of this country, and no one in this body can tell me or any other Member who is informed that we have met those needs, with bridges falling into the rivers and highways in disrepair and mass transit going unbuilt. We need to get these funds off-budget

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. QUINN].

Mr. QUINN. Mr. Chairman, I rise in strong support of H.R. 842, the Truth in Budgeting Act.

Mr. Chairman, I support this legislation for many reasons because I believe that the infrastructure of our Nation is vital to our economic viability. This is true, and it is backed up by statistics that say that more than 40 percent of highway use is by businesses and small businesses alone.

Mr. Chairman, I have heard from small businesses in my district that are currently paying the largest taxes. They are also the largest job producing segment in my district and in districts all across the country. They make the largest contribution, small businesses do, to these funds, and they want to make sure that these trust funds are restricted and they are not used for other things than they are intended for.

I have heard from a constituent in my district, Melvin Rupp, a small business owner. If those in opposition to this legislation think that the people back home do not know what it is about, then they are sorely mistaken. Mr. Rupp and others in my district have urged me to do what is right, to protect these funds for their intended use, to stop using these funds for masking the deficit and to support a real balanced budget.

I ask strong support for H.R. 842, and thank our chairman and ranking member for the work they have done on it.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Iowa [Mr. LATHAM].

Mr. LATHAM. Mr. Chairman, I thank the gentleman for this opportunity and rise in support of this bill.

The reason is, when you look at a rural district like I have in northwest Iowa and the tremendous infrastructure demands that we have in an agricultural area, our roads are crumbling. In the last 5 years the State of Iowa has been denied about $87 million that could have gone into roads and bridges, to build infrastructure, because we have decided to spend those dollars someplace else.

I am as conservative as anyone on the floor here as far as trying to balance the budget. If I thought that this was part of the problem, I would not be supporting this. But, in fact, our problem as far as the budget is our addiction to spending more money in social programs and consuming for today and not investing in the future.

What this is all about is putting dollars that are paid by users to go into infrastructure, to go into roads, to try and maintain our economy and to create jobs. I support this bill.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. LATOURETTE].

Mr. LATOURETTE. Mr. Chairman, I rise today in strong support of H.R. 842, the Truth in Budgeting Act. This is a measure that will affect every American who buys gasoline in his or her car or buys airline tickets. Americans currently pay an 18.4-cent tax on gasoline and a 10-percent tax on airline tickets. This money, approximately $80 million a day, is placed into the transportation trust fund and is supposed to be used to pay for urgently needed infrastructure such as maintenance of our highways. Instead, the Federal Government for years has been hoarding much of this tax money and using it to mask the true size of the deficit. This means the Federal Government is essentially stealing from Americans each time they travel.

What does this all mean to Ohio drivers? The Ohio Department of Transportation estimates that Ohio sends about $1 billion in Federal gas taxes to Washington annually. Unfortunately, the State gets back only about $600 million of that money. Of the remaining millions, $345 million is used to hide the size of the deficit while the rest of the money disappears into what ODOT calls a bureaucratic black hole inside the Beltway.

Mr. Chairman, I urge support and passage of H.R. 842.

Mr. SHUSTER. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman, as manager, is entitled to close debate.

Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey [Mr. FRELINGHUYSEN].

Mr. FRELINGHUYSEN. Mr. Chairman, I rise to oppose this proposal. This issue, Mr. Chairman, ultimately comes down to congressional accountability and integrity. If Congress removes the transportation trust funds from the budget and therefore budget scrutiny, it will set forth a dangerous precedent for the other 160 trust funds under Federal jurisdiction. The progress was made in last year's budget for funding the Pell grants, veterans health care and housing improvements for our military families would be at risk if the transportation trust funds were taken off-budget. If we take this action, where are these cuts going to come from?

Appropriations are not Houdini. If you tie our hands and drop us in a pool, do not expect us to get our heads above water.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. WISE].

Mr. WISE. I thank the gentleman for yielding me the time.

Mr. Chairman, I often hear the refrain which I agree with that you ought to treat the Federal budget like you do your family budget, your business budget, maybe even your State or county government budget. I happen to believe in that maxim and I believe in another maxim. You ought to get what you pay for. And if you pay a dedicated tax, you ought to get what it is dedicated to. And if you pay 18.4 cents at the gas pump for roads and bridges and maintenance and construction, you ought to get 18.4 cents worth of roads and bridges and construction. So that is one essential reason that this is such a crucial vote today.

There is another reason. I want to deal with those who say, "If you take this off-budget, then it hurts other areas of the discretionary budget." Well, there is one thing that Republicans and Democrats agree on and that is the need for growth. There is one thing that unfortunately neither the Republican nor Democratic budget has in it, and that is adequate growth. The best I have seen is a 2.5-percent increase every year. The worst is 2.3-percent and neither one is a growth budget. This is growth. The only way you grow is to invest in your country, in your stock, in your physical infrastructure—your roads, your bridges, your water systems, your sewer systems, your airports, your locks and dams. that is how you grow. It has also been documented that building infrastructure also improves productivity, another key to growth. So if you want to grow and we want to make sure that there is adequate money in that budget for all the programs that are so important, you have to support growth. That means you have to support investment. That means you have to support this bill because this does guarantee the investment that is so important.

□ 1400

Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Chairman, 1½ minutes is not very long. Let me tell you my version of why this is not a good bill.

Mr. Chairman, everybody is for using the gas tax receipts that go into the trust fund for the purpose of highway construction. I am for that. Let me make it very clear. Every cent raised in gas taxes has been spent for highway construction since it was first started in 1956.

Let me tell you my version of what the argument is really about. During the Vietnam war, we transferred some of the highway trust fund money for the war effort. That has now accumulated over the years additional interest, which is technically part of the trust fund. That interest now represents a cash balance of $19 billion. This is the issue. The authorizing committee would like to now have the authority to spend that additional $19 billion that has been accumulated in interest.

Let me tell you very briefly why that is not fair. Since 1956, we have spent approximately $41 billion out of the general fund for road and highway construction. We have spent approximately $41 billion out of the general fund for the construction of mass transit. We have authorized those amounts. That is why the cash balance has in fact already been spent. There should be a tradeoff. The $19 billion should not now be spent to shortchange other spending of the Federal Government and really disrupt our opportunity to balance the budget.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman is recognized for 3 minutes.

Mr. OBERSTAR. Mr. Chairman, we have heard now in the course of this rather lengthy debate from all the bogeymen with their scare arguments about unrestrained spending on transportation projects. The face is that there is restraint. It is written into the highway trust fund language, has been since the beginning in 1956, that this fund is antideficit, that it cannot run a deficit. It has not, and it will not.

But in addition to that, there is additional restraint or further restraint from the Office of Management and Budget, which must review and put its stamp of approval on highway funding requests from the Department of Transportation. There is review by the White House. There is review by the Committee on the Budget. There is review by the Committee on Appropriations. And there will continue to be, under this legislation.

The second argument about interest, you just heard a discourse a moment ago from our good friend from Michigan about interest. Would any of the members of the Committee on Appropriations, would any Member of this body argue that the Federal Government should not pay interest to purchasers of U.S. Treasury securities? Should we not have paid interest on war bonds for World War II or World War I? Should we not pay interest to those domestic and foreign interests that buy U.S. Treasury notes, that in fact underwrite our deficit? Should we welch to those who buy U.S. Treasury notes, not pay interest to them?

No, of course not. Nor should we welch on those highway users and aviation users and waterway users whose tax dollars are used to purchase U.S. Treasury securities and on which interest is owed.

That is what we are talking about here, fairness.

Then, finally, from various Members, that old pork-barrel nostrum, tired old argument, dragged out every time they run out of steam on the merits of the issues. The fact is, this is a fairness issue. People agreed to be taxed to build highways and bridges, to build runways at airports, to deepen our waterways and our ports. It was Abraham Lincoln who first said if you do not have a tax to build a waterway, you will never get the revenue out of that waterway to build this Nation, in 1848 as a Member of this body.

This is a basic fairness issue. You agree to be taxed for a benefit to be derived, and that is what this legislation is all about.

VOL 142 PT 6 AP 15 — 24 1996 UMI

GENERAL IMPORTANCE OF TAKING TRANSPORTATION TRUST FUNDS OFF-BUDGET

Trust fund: Dedicated revenue stream—freeing the Transportation Trust Funds from the artificial and unnecessary constraints of the budget process will allow those desperately needed funds to reverse the deterioration of the Nation's infrastructure; and

Improved infrastructure will create jobs and increase the productivity and efficiency of our industries, thereby enhancing the United States position in this fiercely competitive global economy.

DECLINE IN INFRASTRUCTURE INVESTMENT

Infrastructure investment as a percentage of the gross domestic product [GDP] fell from 1.2 percent in 1980 to 0.8 percent in 1995;

Infrastructure spending as a percentage of Federal spending declined over the past 30 years from a high of 6.3 percent in 1965 to 2.8 percent in 1994;

Infrastructure spending from 1981 to 1992 fell by $12 billion from $43.9 billion in 1980 to $31.9 billion by 1992, in constant dollars;

At the same time, our economic competitors have been devoting substantial resources to their long-term investments: Japan is spending $3 trillion over 10 years to improve its infrastructure; Germany is investing nearly $2 trillion in infrastructure to fully integrate its eastern states into Europe's most powerful economy; and even Taiwan is proposing to spend more than $100 billion over 5 years to improve and expand its infrastructure;

Overall, the U.S. ranks 55th in the world in infrastructure spending, based on 1993 statistics; and

Our lack of investment is affecting our Nation's ability to compete—from 1979 to 1989, the United States productivity growth rate was only 35 percent of the average of other industrialized countries.

REAL LIFE CONSEQUENCES OF DECLINE IN INFRASTRUCTURE INVESTMENT

Our failure to develop our transportation infrastructure has had serious, real-life consequences;

Commuters waste 2 billion hours annually sitting in traffic because of freeway delays—costing our economy $45 billion per year in wasted fuel and lost productivity in our Nation's 50 largest cities alone;

Fifteen locks on the inland waterway system average more than 3 hours of delay per barge ton because of antiquated and outdated locks and dams;

Projected growth will also occur under the budget proposals of the Republican Congress. In fact, that was the case with the budget resolution the Budget Committee brought to the House floor last year;

Taking the Transportation Trust Funds off budget would not add to the deficit; and

In scoring H.R. 842, CBO said, "By itself, taking programs off-budget does not change total spending or revenue estimates for Congressional score keeping purposes."

UNIQUENESS OF TRANSPORTATION TRUST FUNDS

They are wholly self-financed by the user;

They have dedicated revenue sources;

They are self-supporting, operating on a pay-as-you-go basis;

They are deficit-proof, with expenditures limited to receipts

They invest in infrastructure capital programs; and

They finance long-range construction programs, which benefit from certainty in funding.

TAKING THE TRUST FUNDS OFF-BUDGET DOES NOT MEAN WE WOULD LOSE CONTROL OF SPENDING

Taking the Transportation Trust Funds off-budget also does not alter the current authorization and appropriations process;

According to CBO, "The likelihood and amount of potential increase—in transportation investments—are very uncertain because they depend upon the future actions of both the authorizing and appropriations committees;"

Under H.R. 842, the Secretary of Transportation and the Secretary of the Treasury would review Aviation, Inland Waterways and Harbor Maintenance Fund spending annually and reduce proportionately for any trust fund in which projected revenues would exceed authorizations;

That review is similar to the so-called Byrd amendment in the highway program which insures that the Highway Trust Fund can never operate in a deficit;

All Transportation Trust Fund expenditures would be limited to receipts and subject to authorizations legislated by both Houses and signed into law; and

The Appropriations Committee could still continue to include an annual obligation ceiling on transportation programs to control spending further.

Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Chairman, I am completely opposed to this amendment because it is such horrible, horrible policy. It misses the fundamental point of how we raise money, of how we tax and why we tax and what the circumstances are for taxation.

The fact is, why do we tax gas? Sure, there is some connection between the tax that is raised and spending on the roads. But we tax gas because we can tax gas, because we are able to tax gas, the same way that we tax tobacco and alcohol and income and tariffs on goods that come into this country. It fundamentally misses the whole point. Once you go into this kind of a policy, you are running down a slippery slope that makes absolutely no sense whatsoever.

This is just terrible, terrible policy. Do we take all of the money that we tax alcohol and tobacco with and put it into the BATF? I do not think so. Do we take all of the money that we use taxing goods that come into this country under tariffs and use it to fund the customs agency? No.

This notion, and maybe what this means is we should not have had a trust fund in the first place. I will grant you that. But the idea that somehow this is separate and that it ought to be absolutely dedicated only to one thing just completely misses the fundamental model of taxation, the fundamental model of why we do this in the first place. When you understand that, then you understand that this whole bogey about interest and we should be paying interest on this phony trust fund that does not exist becomes a nonargument completely.

Mr. SABO. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I expect, like in all of these debates, certain things are overstated on both sides. But the reality is, again, there is simply no Santa Claus, no little secret pool of money, that someone can spend that does not impact deficits.

Deficits on a year-to-year basis are based on revenue coming in and outlays going out. The reality is, I listened to the advocates of this proposal, and it sounds like there is going to be a lot more money to spend on highways, but it is not going to cost anything. I do not know where the money is coming from.

The reality is that since 1981 we have spent more on highways that the total collected from the gas tax, even adding in that very generous interest allocation to the highway trust fund.

The reality is that in current years, 1994, 1995, we are spending more than what we are getting in gas tax, more than what the trust fund is getting in this very generous interest allocation to the trust fund. So the gas tax is not subsidizing anything else.

The question is whether we should take some of this surplus in this fund, which accumulated in the seventies, peaked in 1979, and start spending that now beyond current revenues, beyond interest, at a point in time we are trying to move to get our Federal budget balance of revenues and outlays in order.

The advocates say now we are going to do it. We are going to give this program priority over everything else, and if this goes up, the balance of funds coming down, something else has to be cut deeper. That is just simply the reality, if you want to hit a deficit target or try to get in balance.

If you do not want to hit a deficit target year by year, or if you do not want to be in balance within 6 or 7 years, or 5 or 8, whatever one has in mind, then you can do this. But if you have a deficit target in mind, this is a dollar-for-dollar trade-off with other priorities.

So I think we make a mistake when we set up these little kingdoms, removed from the normal budget process, that say you can go ahead and do what you like; removed from all the other arguments, the give-and-take of the legislative process, in setting our priorities on a year-to-year basis.

It is not going to be the end of the world, but it is just a foolish step to take at this point in time, so I would hope the House would defeat this bill.

Mr. SMITH of Michigan. Mr. Chairman, I yield the balance of my time to the gentleman from Connecticut, Mr. SHAYS, one of the distinguished leaders of the Committee on the Budget.

The CHAIRMAN. The gentleman from Connecticut is recognized for 1¾ minutes.

Mr. SHAYS. Mr. Chairman, there are arguments on both sides. It is not so cut and dry that it is so obvious to all of us. But while some call this the Truth in Budgeting Act, and they are right to call it that, there would be some truth in budgeting, I would call it the Unbalanced Budget Act of 1996, or, frankly, the pork barrel bill of 1996, because what it means is we are going to provide $50 billion more and make it available to people who want to spend on roads and bridges.

There is an opportunity cost. If you spend $50 billion more here, you have to do something to compensate. Are we going to cut defense? No. Are we going to raise taxes? Out of the question. So what it means is there will be, in my judgment, continued deficits to the tune of $50 billion.

Mr. Speaker, the Concord Coalition says, "Passage of this legislation would severely jeopardize the chances of balancing the Federal budget and would be detrimental to the budget process."

The National Taxpayers Union says, "Placing these trust funds off budget is nothing less than a ploy to increase spending."

The Citizens Against Government Waste say, "The Truth in Budgeting Act sounds great to the public, but it is simply a ruse to increase the $5 trillion national debt."

The Americans for Tax Reform say, "American taxpayers want real reform of the budget process and not business as usual. They are depending on you to lead the fight in protecting the American taxpayers from the special interests who are trying to escape the scrutiny of fiscal responsibility."

The Committee for Responsible Federal Budget says, "Proponents of H.R. 842 want to make some spending invisible, pretend that it pays for itself, and thus insulate favored programs from regular review and scrutiny."

Citizens for a Sound Economy say, "Shielding the transportation trusts from fiscal scrutiny and accountability perpetuates pork-barrel spending and works counter to all efforts to reduce the deficit control government standing."

This is happening under our Republican watch? We are going to all this to happen, when we have purported to want to balance the budget by the year 2002.

In my judgment, Mr. Speaker, this is a dead end, and I hope we reject it.

The CHAIRMAN. The gentleman from Pennsylvania is entitled to close debate and is recognized for 7 minutes.

Mr. SHUSTER. Mr. Chairman, many of the speakers today who have expressed their opposition to this legislation have said time-and-time again that if this passes, it would be more difficult to balance the budget.

Let us think about that for a minute. I would suggest that that is a clear, implicit, admission that their intention is to continue to use these transportation trust funds to mask the size of the deficit.

Now, nobody has had the courage really to stand up and say that directly, to say, yes, we want to use these transportation trust funds to mask the size of the general fund deficit, but that is the only logical inference one can draw. That is implicit in their statement. They apparently think it is right. Many think it is wrong. Some 224 Members of this body, a majority, have cosponsored this legislation.

My good friend talked about Republicans. Republicans historically in the past have voted, over 60 percent of Republicans, in favor of taking these transportation trust funds off budget, because they see this not only as a financial issue, but as an issue of honesty in government.

Indeed, many of us believe that it is wrong to tell the American people we are going to take your gas tax or we are going to take your airplane ticket tax, promise you we are going to use it for transportation improvements, and then instead not spend the money and use it to mask the size of the general fund deficit.

My good friend from Ohio said there is no difference between these trust fund taxes, these user taxes, and general taxes. He is certainly entitled to his point of view. However, that is not really what we are debating today.

Over the years this Congress has said the trust funds are different. Why would we call them trust funds if they were not any different? They are different because, in our case here today, these user fees are paid for and a promise is made they will be spent for the purpose intended.

Facts are stubborn things, and we have heard an awful lot of rhetoric and even a little bit of myth here today.

□ 1415

We have heard, quote, more money has come in to the trust fund than has gone out. That is interesting. Is there or is there not a $30 billion balance in the trust fund? Does anybody dispute it? Right there on the chart are the balances from the Treasury Department. Does anybody here dispute there is a $30 billion balance in the transportation trust funds? Well, I think not, because that is a fact. Facts are stubborn things.

We have heard that if this passes we will have a blank check for spending. We have heard that spending will be uncontrolled. We have heard this is a Santa Claus. Well, I would suggest that Pinnochio is a more accurate comparison, because this Government has played Pinnochio, lying to the American people and saying that if they pay their gas tax that we will spend it in transportation; pay your aviation ticket tax and we will spend it, and then we have not spent it. A $30 billion balance.

Indeed, we have also heard that the line item veto will not apply here. Well, we have said and I have said in the debate very clearly that the line item veto does apply. However, there seems to be some dispute over that, so I will offer an amendment to make it very clear that the line-item veto does apply. So this is unprotected? Unprotected with a line item veto?

But that is not all, Mr. Chairman. Does anybody dispute the fact that if this passes the Committee on Appropriations still has the jurisdiction and the authority to set the obligational ceiling? I have heard nobody disagree with that. I would expect nobody would because it is a fact. Facts are stubbon things, and the fact is if this passes, the Committee on Appropriations will continue to have the authority to set the ceiling on what can be spent each year.

We have even heard this referred to as an entitlement. Well, facts are stubborn things. It is not an entitlement. That is a fact. This is subject to annual control. The annual control of the Committee on Appropriations, the annual control of the President in his line-item veto.

So, indeed, facts are stubborn things, and there are substantial controls, perhaps the most important of which is, under the law you cannot spend a penny out of these trust funds unless the money is there to pay the bills. This program, these transportation programs are deficit proof.

Oh, if we only had other programs like this that would be deficit proof, then, indeed, we would not have the massive deficit that we have.

We have also heard that the interest technically, technically, is being counted here. Well, I guess it is a small technicality. It is called the law of the land, which says if an individual buys a Government bond they get interest on it. And so the Treasury Department, under the law, must pay that interest.

Indeed, the Social Security trust fund, in its reserves, nearly 50 percent of the reserves in the Social Security trust fund is based on interest. Are we going to tell the American people, aha, we are not really going to count the interest in the Social Security trust fund. Of course not. And let us be equally fair here. Obviously, under the law, the interest must be counted.

We have heard about the so-called special interests that support this. Well, I guess there are 260 million special interests called the American people who will benefit from better highways and better airports, but there are some other special interests. The National Federation of Independent Businesses, the Small Business Legislative Council, the American Farm Bureau, the National Grange, the Air Traffic Controllers, who care about safety. And we all better care about safety and spend some more money to make our

VOL 142 PT 6 AP 15 — 24 1996 UMI

air traffic control system safe. Women First. On and on the list goes.

But let me share with you some other so-called special interests. The National Association of Counties across America. Is that a special interest? The National Conference of State Legislatures. Is that a special interest? The National League of Cities, where our people live in urban areas. Is that a special interest? No. Many, many, many Americans strongly support this because we need fairness, we need honesty in budgeting and we need to live up to our promises to the American people.

And let me also emphasize in closing that while we have heard the argument what about the other trust funds, the transportation trust funds are the only trust funds that are totally user financed, that are deficit proof, that are not entitlements but annually controlled. These are, indeed, different, and for that reason we should vigorously support this legislation.

Mr. CRAMER. Mr. Chairman, I rise in support of the Truth in Budgeting Act of 1996 and in opposition to Mr. MINGE's amendment ending off-budget status of the trust fund if there is funding for transportation projects from general revenue.

Initially, the creation of the transportation trust funds assured our state and local governments a steady, dependable stream of Federal assistance necessary in undertaking long-term projects. Those who benefited from the transportation programs paid for the program.

Today, inclusion of these trust funds in the unified Federal budget has resulted in enormous surpluses—moneys which are desperately needed for improvements to our Nation's transportation systems.

Specifically, I must oppose Mr. MINGE's amendment. It provides off-budget status would cease if any general funds are spent on the construction, rehabilitation, and maintenance of highways or grants-in-aid for airports or for aviation-related facilities, equipment, and research engineering.

This amendment is too broad as it would cover any highway or aviation general-fund spending. For example, if a law coming from a committee, or a report accompanying a law coming from a committee provides general funds for any highway or aviation program, the off-budget status of the transportation trust funds would end.

On the issue of general funds, let me give a few examples: if there were general funds appropriated through EDA or DOD that could be used for highway purposes, then under the amendment the trust funds would no longer be off-budget. Even if there were general funds appropriated for highway or aviation research and development that too would put the trust fund back on-budget.

Mr. Chairman, anyone who supports H.R. 842 should oppose this amendment.

Mrs. KELLY. Mr. Chairman, I rise in strong support of H.R. 842, legislation which will restore honesty and integrity in the manner in which we utilize the transportation trust funds.

H.R. 842 will remove the four transportation trust funds—the highway trust fund, the airport and airway trust fund, the inland waterways trust fund, and the harbor maintenance trust fund—from the totals of the budget submitted by the President and the congressional budget.

In other words, the bill takes these trust funds off budget and puts a stop to the timeworn practice of using them to mask the size of the deficit.

The legislation should be adopted for a number of reasons, Mr. Chairman. Investment in infrastructure means jobs for American companies and American workers. Improved infrastructure also translates into a more productive economy, and boosts our competitiveness in the world market.

The most important reason to pass H.R. 842, however, is trust. Every time a motorist fills up at the gas pump, they do so with the understanding that the Federal gas taxes they are paying will be invested in new and improved roads, bridges, transit systems, and other needed infrastructure improvements. By failing to use these moneys for their intended purpose we are, in effect, violating that trust.

This failure to live up to the public trust comes at a price, as well. It is estimated that New York has lost nearly $390 million between the years of 1992 and 1996 due to the failure to fully fund the program at authorized levels.

Let's keep our promise to the American people, Mr. Chairman, and use the trust fund moneys for the purpose for which they were intended—developing and improving the Nation's roadways, airways, and waterways.

Mr. DOYLE. Mr. Chairman, as a cosponsor of H.R. 842, the Truth in Budgeting Act, I rise today to urge my colleagues to view this legislation not solely as a transportation issue, but as an issue on tax fairness.

The Truth in Budgeting Act would move our Federal transportation trust funds off budget, separate from the Federal unified budget. Currently, with these funds "on-budget" the surpluses are used to mask a portion of our true budget deficit which prevents these funds from being used in the manner they were intended. During this time of severe budgetary pressure, it is critical for State and local governments to receive general funding support, and should benefit equitable from the transportation taxes-user fees they send to Washington to be used for transportation purposes.

As I have the privilege to represent the 18th Congressional District of Pennsylvania, I can most assuredly tell you that my constituents are concerned about funding for vital transportation projects in the southwestern part of our State. Many of you are probably familiar with the equipment problems the towers at the Pittsburgh International Airport have been experiencing. Along with the FAA Revitalization Act, H.R. 2276, this bill will help to ensure that such incidents of grave public and transportation safety will receive the urgent response they demand.

The Truth in Budgeting Act would also enhance our communitys' abilities to plan important infrastructure investments and complete transportation projects. A community's mobility is a measure of its quality of life and the competitiveness of its economy. The efficient, cost effective movement of people and goods is vital for individuals and for the businesses that contribute and bolster our Nation's economy. The decline of the industrial corridor of southwestern Pennsylvania in the 1980's has been well documented. The loss of employment opportunities effected nearly one-half million people from the Mon Valley. A decade later, there remains a significant amount of work to be done to combat this economic devastation.

The Mon Valley Expressway would for the first time provide this region physical and economic access to Pittsburgh. I am confident that the Mon Valley Expressway will prove to be as much of an infrastructure and economic success as I–279, and the East and West Parkways. We cannot afford to not complete economically rejuvenating projects such as the Mon Valley Expressway.

As an advocate of capital budgeting and economic development, I urge my colleagues to support H.R. 842, the Truth in Budgeting Act.

Mr. EWING. Mr. Chairman, I rise today in support of H.R. 842, the Truth in Budgeting Act. Strong and persuasive arguments have been presented on both sides of the transportation trust funds off budget issue. However, I believe the overriding issue is that the American public should receive $1 worth of value for every dollar of dedicated user taxes for transportation improvements collected by the Federal Government and that such funds should not be used to mask the size of the Federal deficit. This is not a debate about balancing the budget, it is a debate about honesty in government! If all of the specific transportation user taxes are not going to be used for transportation improvements, then the amount of user taxes collected for the trust funds should be reduced.

Let's be clear about the debate today. The Budget and Appropriations Committees object to moving the dedicated transportation trust funds off budget because they will lose the ability to apply the unexpended balances in the trust funds back against other total discretionary spending levels in the budget—thereby keeping spending in other budget functions under the legal spending caps. They argue that removing the trust funds from the unified budget will result in more pork barrel spending, drastic cuts in other discretionary programs, and make it impossible to balance the budget.

The truth is most of the funds paid out of the transportation trust funds are disbursed to States through established formulas. The Appropriations Committee can always choose not to fund pork barrel highway demonstration projects. The president will have line-item veto authority starting in 1997. Appropriators and budgeteers are playing shell games when they apply paper excesses in one government account back against real borrowing for real deficit spending in other areas of the budget. Finally, collecting taxes for a dedicated purpose, and then using the taxes to support other unrelated spending is dishonest and not fiscally responsible, and it is certainly not the right way to balance the budget!

Testimony before the Transportation and Infrastructure Committee, from all segments of the transportation community, leave no doubt that the demands upon our Nation's existing transportation infrastructure are going to increase significantly over the next decade.

Since our Nation's transportation infrastructure is already under funded, it stands to reason that this disparity will only continue to grow under the current arrangement. This situation is particularly damaging to States like Illinois, which pays more in taxes than it receives in benefits. When the total appropriated amount is reduced it is donor States, like Illinois, Michigan, New York, and California that are hurt the most, because they must wait until other States are paid their guaranteed allotments before their greater needs are funded. Placing the transportation trust funds off budget is the best way to correct this funding disparity, and why not? The taxpayers of these donor States are already paying for it!

In closing, I want to urge my colleagues to accept the premise, if Congress is going to mandate dedicated transportation user taxes, then Congress has a responsibility to ensure the public that these taxes are being used for their intended purpose—not to hide other deficit spending. The condition of our Nation's transportation infrastructure is critical to our Nation's economic health, let's protect the transportation trust funds. Vote aye on H.R. 842.

Mr. EVANS. Mr. Chairman. I rise today in support of H.R. 842, the Truth in Budgeting Act which would restore our Nation's transportation trust funds to their original purpose of serving the people. This bill would also restore the trust of the American taxpayer who has contributed billions of dollars in taxes and user fees to maintain this country's transportation infrastructure.

We have certainly abused this trust by allowing our Nation's roads, trains, airways, and waterways to deteriorate. Our transportation infrastructure is in desperate need of the money that will be freed by removing the trust fund off budget. According to a recent Department of Transportation report, approximately 30 percent of the interstate pavement on our highways is in poor condition. In fact, there are about $360 billion in unmet highway and bridge needs in this country.

Because of fiscal constraints, the Centennial Bridge in Rock Island County, IL, has fallen into severe disrepair. However, if these trust fund dollars are released for the purposes intended, the bridge authority will be able to make infrastructural improvements needed to keep this major crossing of the Mississippi River safe and viable for years to come.

I also share the outrage of many of my constituents about last year's drastic cuts in transit funding. Hard-working Americans have paid their fair share to help maintain healthy mass transit systems. Mass transit is the lifeblood of our cities and our suburban and rural communities. It provides a way to work for millions of middle- and low-income Americans. We cannot continue to jeopardize their livelihoods by using these transit dollars for other unintended purposes.

We cannot continue to use the billions of dollars accrued in the transportation trust funds used to mask the true size of the deficit at the expense of deteriorating roads, bridges, and tunnels, and failing bus terminals and airports. The American people have suffered long enough. The time has come to allow these funds to rejuvenate our decaying infrastructure. We need to maintain a safe, efficient, and cost effective transportation infrastructure.

This vote presents us the opportunity to meet critical highway and transit needs with honesty and accountability. I urge my colleagues to restore the faith the American people have given us by supporting this Truth In Budgeting Act.

Mr. EMERSON. Mr. Chairman, I rise in strong support of H.R. 842, the Truth in Budgeting Act, because it does just that: it requires Congress to be truthful with the American people about where their money is going. We have made reducing the Federal deficit a major theme of this Congress, and yet some want to continue to use the transportation trust fund to hide the true size of the deficit. Ladies and gentlemen, that is smoke and mirrors, plain and simple. We must be consistent with our approach to tackling this country's fiscal problems. We cannot simultaneously talk about cutting the deficit and eliminating unneeded programs and yet continue to engage in a policy that does not honestly address the true size and nature of our deficit. This Congress needs to be truthful with the American people.

Mr. Speaker, we have been persistent and determined in our attempts to balance the budget because we know that our current spending patterns are taking away from future generations. The same issue applies here. Money set aside for the transportation trust fund should be used for transportation and infrastructure projects that will benefit our children and grandchildren. This money should not be subject to the political whims of the day because it is, quite literally, an investment in this Nation's future. By taking this fund off-budget we are ensuring that the money necessary to maintain and expand our current national transportation system will be available as this country moves into the 21st century. My home State of Missouri continues to fall behind in its infrastructure needs. It is imperative that as Missouri and other States expand their markets abroad and increase their exports that we maintain our vast network of highways, railways, ports, and airports.

Experts from around the country have told us that investment in our transportation system is a key ingredient to America's competitiveness and economic vitality in the next century. However, the 1995 budget resolution reduces transportation spending by 20 percent by the year 2002, precisely the time when our Nation will be in need of major infrastructure repairs. In fact, the Department of Transportation estimates that this country needs to invest an average of $74 billion annually over the next 20 years on transportation projects—that is double what was spent in 1994! Whether or not everyone agrees with these figures, the facts are obvious enough: the United States needs serious investment in our transportation system in the coming decades, and an off-budget trust fund ensures that we have the money that is necessary.

Mr. Speaker, this trust fund is made up entirely from user fees. It is very obvious that those fees should go to pay for infrastructure repairs and nothing else. That is what a user fee is for—to maintain and expand the services that require the fee. To spend it on anything other than what it is intended for is bad policy and downright dishonest, and I reject the notion that we can just take this money and use it as general revenue.

Mr. Speaker, for the safety of our children and to promote the economic growth of our country, we must ensure that the Nation's infrastructure and transportation system is not allowed to decay and collapse. That is why I urge my colleagues to be truthful with the American people and support the Truth in Budgeting Act.

Mr. COSTELLO. Mr. Chairman, I want to express my strong support for the bill, H.R. 842. As a cosponsor of this important legislation, I believe taking the self-financed trust funds off budget is not only appropriate but necessary.

Currently, the accumulated cash balanced of the highway trust fund, the airport and airways trust fund, the harbor maintenance trust fund and the inland waterways trust fund exceeds $30 billion and will reach as high as $77 billion by the year 2002. When these trust funds were credited, the users who contributed to the funds believed their taxes would go toward necessary improvements and maintenance of the Nation's transportation system. Because of the direct connection between the tax imposed and the benefit derived from improvements in transportation infrastructure, taxpayers strongly support the payment of transportation user fees. This support will not continue to exist if the trust funds continue to be used to make the Federal deficit appear smaller.

Taking the transportation trust funds off budget will restore faith with the taxpayers. But this issue is not only about tax fairness, it's also about jobs and economic productivity. Every dollar spent in highway, transit and aviation construction improves a nationwide system upon which the people and commerce of the United States depend. Our transportation system continues to be our Government's best investment. Since the 1950's, as much as 25 percent of America's productivity growth can be credited to infrastructure improvements. For example, recent Department of Transportation studies show that every $1 billion invested in highway construction and enhancements yields 42,000 good high-wage jobs.

These are among the reasons why I am supporting H.R. 842 and why I will work for passage of this important legislation.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise in strong support of H.R. 842, the Truth in Budgeting Act. This legislation is critical to the viability of the Nation's highway program and to ensuring tax fairness.

The transportation trust funds were created with a special obligation between Congress and transportation users—that these user fees would be used to construct, rebuild and maintain our Nation's transportation infrastructure. Currently highway users contribute over $5 billion annually toward deficit reduction. Further reductions in spending from this program will increase trust fund balances and ignore the commitments made to taxpayers.

Mr. Chairman, while budgetary manipulation restrains investment, America's transportation needs continue to grow. The Department of Transportation recently reported that just to maintain current conditions would require an

VOL
142
PT
6
AP
15
—
24
1996
UMI

annual investment of $44.8 billion for highways, $5.1 billion for bridges and $7.3 billion for transit systems. Actual 1993 outlays for these purposes were $34.8 billion by all levels of government. Airport needs alone are estimated at $10 billion annually. It is argued that transportation should make a contribution to reducing the deficit. The truth is, that since 1990 transportation users already have contributed more than $30 billion to deficit reduction through diversion of part of the Federal motor fuels tax to the general fund. Both congressional and administration budget plans would result in transportation spending reductions and increases in trust fund balances to offset the deficit.

Mr. Chairman, concerns have been expressed about the impact on the deficit and other programs of taking the transportation trust funds off budget. These concerns are unfounded. Removal of the trust funds from the unified budget itself will not increase the deficit, will not mandate cuts in other programs, will not restrict the Appropriations Committee's ability to set transportation spending levels. In a written cost estimate the Congressional Budget Office has ruled that taking the trust funds off budget would not result in any change to the deficit. Mr. Chairman, by passing this bill, Congress will retain its pivotal role in setting spending and policy priorities in transportation.

Mr. Chairman, it is necessary only to drive to work these days to be reminded that America's transportation infrastructure needs some heavy duty work. The winter's lingering potholes and the traffic jams are only part of the evidence that not enough is being done to improve the Nation's mobility. It is time to make the situation right and surely not allowing more and more deterioration. But making it right means allowing the balances in the trust funds to be spent down in a responsible manner. It means helping to meet the billions of dollars in unmet needs on highways, bridges, transit systems and airports.

Mr. Chairman, without this legislation it is likely that the balances in the trust funds will continue to increase and there will be fewer resources available for the Nation's transportation infrastructure. The transportation trust funds must be removed from the unified budget so that we can keep our commitments to the highway users and to future generations. I urge my colleagues to support H.R. 842 the Truth in Budgeting Act.

I yield back the balance of my time.

Mr. RAMSTAD. Mr. Chairman, I rise today in opposition to H.R. 842, which would take the transportation trust funds off-budget, thereby giving them special status so the rules that apply to almost all other portions of the budget would not apply.

I certainly appreciate the important role the Federal Government plays in maintaining Federal highways and helping States to build and repair State and local roads, highways, bridges and mass transit projects. I also understand the concerns of States whose citizens contribute more in taxes to the trust funds than they receive back in transportation assistance from the Federal Government.

While at one time I supported this proposal, I now believe that taking the trust funds off-budget is not the most responsible or appropriate solution to the transportation funding problem. I also believe it would cause a budgetary nightmare that would make our efforts to balance the Federal budget—already a Herculean task that we have yet to complete—virtually impossible.

Rather than having some States receive less than their fair share back from the highway trust fund, we should reform the structure by which the Federal Government collects taxes and returns money back to the States for transportation projects. If a State were allowed to keep the money, it would be better able to plan and execute highway construction and upkeep.

The main problem with H.R. 842 is the impact it would have on our efforts to balance the Federal budget. Balancing the budget must be our highest priority. The Congressional Budget Office [CBO] has estimated that taking the trust funds off-budget would increase the Federal budget deficit by more than $20 billion over the next 5 years. That means we would need to find an additional $20 billion in order to balance the budget. Where would the $20 billion in cuts come from? Education? Environmental protection? Medical research?

The Federal Government has spent $6 billion more on transportation projects than it has collected in gas taxes since the creation of the highway trust fund in 1957. The $19 billion surplus everyone talks does not exist in any form other than an accounting entry at the Department of the Treasury.

Because of my overriding concern about the impact this legislation would have on our efforts to balance the Federal budget, I must vote against this bill.

Mr. TRAFICANT. Mr. Chairman, I rise in strong support of H.R. 842, the Truth in Budgeting Act, which would take the Federal transportation trust funds off-budget. I want to commend the chairman of the Transportation and Infrastructure Committee, BUD SHUSTER, and the distinguished ranking member of the committee, JIM OBERSTAR, for their perserverence in getting this important legislation to the House floor.

H.R. 842 takes the highway, aviation, inland waterways, and harbor maintenance trust funds off budget. As one of the bill's original cosponsors I urge all of my colleagues to look past the "sky is falling" rhetoric of some of its opponents and support the bill.

The four transportation trust funds have proven to be an effective way to raise the necessary revenue to pay for many of the varied transportation needs of the country. Unfortunately, the vast revenues generated by the trust funds have been used to mask the true size of the Federal deficit.

Some have argued today—and they've bolstered their arguments with testimonials from some of the Nation's leading economic experts, the same experts, by the way, who brought us NAFTA and GATT, that the transportation trust funds should make a contribution to reducing the deficit. The fact is, since 1990 transportation users already have contributed more than $30 billion to deficit reduction through the diversion of part of the Federal motor fuels tax to the general fund.

There is a huge surplus in the trust funds—surpluses that are projected to grow by leaps and bounds in the years ahead. Under the President's most recent budget plan, the highway trust fund alone would make the third largest contribution to deficit reduction—only Medicare and Medicaid would be cut more.

Let's put this in perspective. According to the Alliance for Truth in Transportation Budgeting, from fiscal years 1996 to 2002, the balances in the highway trust fund will almost triple from $21 billion to $60 billion—an increase of $39 billion. The $39 billion increase will be used on spending in the rest of the Government—these are funds that are supposed to be used only for transportation purposes. There is no justification to collect transportation user fees for the purpose of hiding Government spending in other areas.

This is what today's debate is all about. Are we going to continue diverting the bulk of the balances in the transportation trust funds to shield the true size of the Federal budget deficit, or are we going to spend the revenues generated by the trust funds on their intended purpose? If we don't pass this bill, then we should be honest with the American people and do away with the trust funds and simply call the transportation user fees what they really are: taxes.

The current transportation and infrastructure needs of the country are indeed staggering. The U.S. Department of Transportation estimates the backlog of needs for our Nation's highways and bridges totals $315 billion. Airport investment needs are estimated at $10 billion a year, while it will cost an estimated $8 billion a year simply to maintain the Nation's transit systems.

Even if we spent all of the money generated every year by the transportation trust funds we would not be able to meet all of this Nation's transportation needs.

And H.R. 842 would not result in all of the money in the trust funds being spent every year. Under H.R. 842, spending from the trust funds would still have to go through the normal appropriations process. Congress would still have a final say on how much is spent on transportation.

But H.R. 842 will preserve the fiscal integrity of the trust funds by ensuring that the revenue is spent on transportation projects and not used to mask the size of the federal deficit.

Would H.R. 842 result in more Federal spending on transportation projects? Yes it would, and I say bravo. Keep in mind that this spending is not deficit spending—it is spending that will already have been paid for through the transportation user fees. H.R. 842 will ensure, for the first time, that these user fees are exactly that and not simply another tax that goes in the black hole known as the general fund.

One final note. If any of you are concerned that H.R. 842 will put a squeeze on other needed Federal programs, let me remind Members of two key points:

First, transportation spending would still have to be approved by the Appropriations Committee; and

Second, 42,000 jobs are created in America for every $1 billion invested in Federal transportation projects.

The bottom line is, Congress will never balance the Federal budget unless the American economy continues to grow. Unless the Congress takes action now to make the needed investments in our Nation's infrastructure, our economy will wilt on the vine, we will continue to lose jobs, and America will cease to be the economic leader of the world.

Vote "yes" on H.R. 842.

Ms. BROWN of Florida. Mr. Chairman, I want to thank the entire leadership of the Transportation and Infrastructure Committee for being so diligent in bringing the issue of investment in our Nation's infrastructure to the attention of the American people. You should be commended for all of your efforts in getting this bill to the floor for a vote, despite the strong opposition of H.R. 842 by powerful Members of the House.

As a cosponsor of H.R. 842, the Truth in Budgeting Act, I believe that moving the trust funds off budget is vital to ensuring that we will be able to meet the vast infrastructure needs of our Nation's transportation systems, provide adequate funding for the National Highway System, and ensure that ISTEA is fully funded.

The current, documented, unmet transportation infrastructure needs of our Nation are enormous. Those needs are $212 billion to fix 265,000 miles of highways which are below acceptable engineering standards; $78 billion to fix 238,000 bridges which are rated as structurally deficient; and $80 billion in public wastewater treatment facility needs.

I represent Florida's Third Congressional District which includes four interstate highways, two international airports, eight regional or commuter airports, a major seaport, and a river used extensively for intrastate commerce.

Every year, I assist these Florida transportation facilities in getting Federal dollars. But there is never enough money to meet all of their needs. I would like to enter into the RECORD a letter that I just received from the FAA talking about severely limited AIP funds and denying a funding request from the Gainesville Regional Airport. The city of Gainesville's airport is not the only airport affected by the AIP funding situation. Of the Nation's top 100 airports, 23 are incredibly congested, and would use additional funds for expansion purposes.

We would be able to address some of these transportation needs if the transportation trust funds are moved off budget. The four transportation trust funds, highway trust fund, aviation trust fund, inland waterways trust fund, and the harbor maintenance trust fund are unique in that they are wholly user financed, invest in transportation infrastructure, and are deficit proof. Taking highway trust funds off budget frees up $1.1 billion for ISTEA spending.

I urge all of my colleagues to support this good bill which will ensure that taxes paid by the American people for more roads, expanded transit systems, safer bridges, updated equipment for our air traffic control centers, adequate number of Coast Guard stations, and for many other transportation purposes are used for those purposes.

DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION,
Washington, DC, April 5, 1996.

HON. CORRINE BROWN,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN BROWN: Administrator Hinson has asked me to respond to your letter supporting a request for Airport Improvement Program (AIP) funding to reimburse the city of Gainesville for expenses involved in acquiring property through inverse condemnation.

The city of Gainesville's request for fiscal year (FY) 1996 noise discretionary funds was considered carefully. Because of severely limited AIP funds, including those funds designated for noise compatibility and planning, we rely strongly on our priority-rating system to select projects for funding. This rating system considers the type of work and the activity level of the airport when assigning the priorities. Unfortunately, based on its priority, we do not have sufficient funding to approve a grant for Gainesville's noise project at this time.

I assure you that the Federal Aviation Administration (FAA) will continue to work with the city to provide reimbursement for the land acquisition already completed. Toward that end, we will retain the city's grant application on file for future consideration as funds become available. We are hopeful that reauthorization of the AIP beyond FY 1996 will provide adequate funding and allow us to carry out these intentions.

The FAA continues to support the Gainesville Regional Airport through AIP entitlement funds. A current year project has been approved totaling $1.66 million in Federal funds to continue the expansion and renovation of the terminal building.

If we can be of further assistance, please contact Mr. A. Bradley Mims, Assistant Administrator for Government and Industry Affairs, at 202–267–3277.

Sincerely,

JAMES H. WASHINGTON,
Acting Associate Administrator for Airports.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to H.R. 842 and urge my colleagues to reject this legislation. While I understand and support the need for significant investments in our Nation's transportation infrastructure, I do not think that Congress should be unfairly protecting transportation spending from the current fiscal realities we face. The plain fact is that, if we pass this bill and take the transportation trust funds off-budget, we will be forced to cut remaining domestic discretionary on-budget programs deeply to make up the difference.

Sure, highways, airports, bridges, and roads are critical to the long-term economic strength of the Nation. But are they more important than say, education, health care, or the environment?

The present unified Federal budgeting system includes all Federal spending, revenues, and borrowing within its totals, exempting only Social Security and the Postal Service from its calculations. This system, although not flawless, provides us with the clearest picture currently available regarding the impact of the Federal budget on the economy, and allows us to objectively prioritize and weigh Federal spending needs.

Even Federal Reserve Chairman Alan Greenspan has been vocal in his opposition to moving the transportation trust funds off-budget. He has said such an action "would lead to fragmentation in the budgeting process" and would "weaken the ability of Congress to prioritize and control spending effectively."

If we take transportation trust funds off-budget, who next in Washington will be seeking similar relief? What interest groups will be flooding the hall of Congress seeking similar preferential treatment for their targeted trust fund dollars? One-third of total on-budget Federal spending is in trust fund programs, 160 programs across the board. Should these other programs also be taken off-budget, we would have total chaos in our Federal budgeting process and a completely disjointed view of the government's financial state.

The Office of Management and Budget has also weighed in on this issue, emphasizing that H.R. 842 would result in not only $20 billion in additional transportation spending over the next 5 years, but also offsetting cuts in other programs above and beyond this amount due to the lowering of discretionary spending caps by law to reflect the off-budget status of the transportation trust funds. This is inequitable and surely no way to tackle the tough budgeting choices we in this esteemed body were sent to Washington to make.

Finally let me say that the argument used by proponents of this bill that the Federal Government is somehow misusing highway tax dollars to hide the true size of the deficit and fool the American public is unfounded. In fact, since it was created 40 years ago, the highway trust fund has given more money back to the States than has been paid into the fund through tax revenues. In addition, since 1980, the Federal Government has actually spent about $14 billion more on highway trust fund initiatives than it has collected in taxes.

Again, Mr. Chairman, we need to make tough choices in Congress regarding our spending and investment policies. H.R. 842 exempts transportation from these tough choices. As the old saying goes, you can't have your cake and eat it too. I urge my colleagues to oppose this legislation.

Mr. TORKILDSEN. Mr. Chairman, I rise in opposition to H,R. 842, a bill to move transportation trust funds off budget. This change would increase the deficit and stymie future efforts to balance the budget.

This bill is the equivalent of telling someone to learn how to swim while they're drowning. Moving the trust funds off budget will make sense when Congress has its fiscal house in order, but it should not be implemented when the Federal Government is drowning in a sea of red ink.

Furthermore, the Congressional Budget Office estimates that exempting the transportation trust funds from spending cuts could increase the deficit by over $20 billion over 5 years.

Our goal of balancing the budget must come before attempts to restructure the budget. I am not opposed to moving trust funds off budget, in principle, but we must balance the budget first.

Mr. Chairman, I urge my colleagues to defeat this bill and ensure that our efforts to balance the budget stay on course.

Mr. HOSTETTLER. Mr. Chairman, today we are having a very controversial debate about where the truth in budgeting transportation funds really lies. I rise today in support of H.R. 842, The Truth in Budgeting Act.

Every time you or I pull into a gas station and fill up our cars or pay a tax on an airline ticket, we are sending money to Washington to build new highways and maintain our current transportation systems. Decades ago, these transportation trust funds were established to collect taxes from transportation

VOL
142
PT
6
AP
15
—
24
1996
UMI

users and invest in transportation capital. Today, we find the transportation trust fund balance at $30 billion. The existence of this on-budget trust fund surplus only reinforces the public's belief that they are not getting an honest return for the taxes they pay to Washington. This issue is about tax fairness.

Spending and investment in necessary transportation improvements has been held down to keep the balance of the trust fund artificially high in order to mask the true size of the deficit, this is just not honest. Those who pay into the trust fund should be able to count on those dollars going toward the purpose for which they were intended.

H.R. 842 does not add to the deficit. According to a March 20, 1996 estimate from the Congressional Budget Office, taking programs off budget does not change total spending of the Federal Government and does not affect spending or revenue estimates for congressional scorekeeping purposes.

H.R. 842 does not alter the transportation spending process. Congress will still have to approve every new dollar of trust fund spending.

H.R. 842, however, does assure this: When a taxpayer back home pays gasoline or airline ticket tax to the Federal Government, he knows it is going towards building or improving our national transportation system.

The CHAIRMAN. All time for general debate has expired.

The amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment, and pursuant to the rule, each section is considered as having been read.

During consideration of the bill for amendment the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Truth in Budgeting Act".

The CHAIRMAN. Are there any amendments to section 1?

Mr. SHUSTER. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. SHAYS. Mr. Chairman, reserving the right to object, I request to know why we would be doing it this way. There are only five sections.

Mr. SHUSTER. Mr. Chairman, if the gentleman will yield, for the convenience of the Members.

Mr. SHAYS. Mr. Chairman, I would be willing to consider the gentleman's request in the future, but until we consult, I do object.

The CHAIRMAN. Objection is heard.

Are there amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. BUDGETARY TREATMENT OF HIGHWAY TRUST FUND, AIRPORT AND AIRWAY TRUST FUND, INLAND WATERWAYS TRUST FUND, AND HARBOR MAINTENANCE TRUST FUND.

Notwithstanding any other provision of law, the receipts and disbursements of the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund—

(1) shall not be counted as new budget authority, outlays, receipts, or deficit for surplus for purposes of—

(A) the budget of the United States Government as submitted by the President,

(B) the congressional budget (including allocations of budget authority and outlays provided therein), or

(C) the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

The CHAIRMAN. Are there amendments to section 2?

AMENDMENT OFFERED BY MR. SHUSTER.

Mr. SHUSTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUSTER: Page 3, line 10, insert "except the Line Item Veto Act of 1996" before the comma.

Mr. SHUSTER. During the debate on the rule, Mr. Chairman, some concern was expressed as to whether the Line-Item Veto Act would apply to trust fund spending if this bill passes. We believe it will, and it certainly is our intent that it apply. However, because this question has been raised, I want to make it crystal clear that this is one more of the protections that exist in this legislation and, indeed, this amendment clarifies it, and I offer it on behalf of myself and the gentleman from Florida [Mr. GOSS], to clarify the fact that the line-item veto does apply. This amendment removes any ambiguity.

Mr. ORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, before stating opposition to the amendment, I would like to inquire about some further explanation of the amendment, and I may not actually oppose the amendment. I have not had an opportunity to see the wording of the amendment.

My inquiry to the chairman would be if it is the intent of this amendment to apply the line-item veto provisions as signed by the President to all expenditures of the trust fund, which would include contract authority as well?

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. ORTON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, the answer is yes, just as it applies to anything else.

Mr. ORTON. And so, then, contract authority spending by the Committee on Transportation and Infrastructure would be subject to line-item veto?

Mr. SHUSTER. Mr. Chairman, if the gentleman will continue to yield, that is the way it is today and that is the way it would be under our legislation. The answer is yes.

Mr. ORTON. Only above baseline.

Mr. SHUSTER. It applies just the way the bill currently applies.

Mr. ORTON. Well, Mr. Chairman, that is my concern, because as the gentleman will recall, during the debate of the line-item veto bill I rose to propose an amendment to the line-item veto bill, to apply the line-item veto to contract authority as well. The proponent of the amendment rose and vehemently opposed my amendment. My amendment failed.

Mr. SHUSTER. Mr. Chairman, I would say to the gentleman that the conference report includes all discretionary spending, including contract authority and, therefore, this would apply.

Mr. ORTON. Mr. Chairman, I am happy to hear the gentleman's interpretation of that. That, I think, clarifies, and if, in fact, that is an accurate interpretation, that this would apply to all spending from the trust fund, including all contract authority, not just an amount above the baseline.

Mr. SHUSTER. Mr. Chairman, I would say to the gentleman that it applies the same way the existing law applies today. The gentleman's amendment offered some months ago failed in this body.

Mr. ORTON. But, Mr. Chairman, I would ask if it is the gentleman's interpretation that all contract authority would——

Mr. SHUSTER. No, Mr. Chairman, it is my interpretation that this applies just exactly the way the law applies today.

Mr. ORTON. In other words, Mr. Chairman, the gentleman is saying that this does not apply to contract authority spending.

Mr. SHUSTER. Yes, it does apply to contract authority in the same way that is applied under the current law.

Mr. ORTON. Mr. Chairman, there is a question whether the current law does apply to contract authority, which is the issue I am raising, and that is why I wish for the chairman to be on record.

Mr. SHUSTER. Mr. Chairman, I am told by our counsel it does apply to contract authority.

Mr. ORTON. That is the point I wish to make. And if, in fact, as the gentleman has indicated, Mr. Chairman, that the line-item veto would, not only under current law but under his amendment, apply line-item veto to all contract authority, then I would favor the amendment and urge its adoption.

Mr. SHUSTER. No, not at all, Mr. Chairman. I would say to my friend

that it applies to contract authority in the same way that the current law applies to contract authority, which, indeed, is above the baseline.

Mr. ORTON. Mr. Chairman, may I ask the gentleman to amend his amendment to expand it so that, in fact, it would apply to all contract authority?

Mr. SHUSTER. No, I would not because we have offered this to have it apply exactly as the current law applies.

Mr. ORTON. Then, in fact, Mr. Chairman, I take back the balance of my time and I would simply make the point that if the gentleman is not willing to expand his amendment to make it absolutely clear that the line-item veto applies to all contract authority spending by the committee, then, in fact, the argument that was raised during the debate on the rule is, in fact, applicable.

Because there is a concern that there may be spending that is not covered by line-item veto; that, in fact, that spending may continue to be simply pork barrel spending; it may continue to be authorized under this legislation, so that a committee of Congress can directly authorize contract expenditures, which neither come within the fiscal restraints of the budget act nor comes within the fiscal restraints of the line-item veto, thereby completely avoiding and evading any type of fiscal restraint on that spending.

So, Mr. Chairman, I would oppose the amendment as it stands; would encourage the gentleman to expand the amendment to make it clear that the line-item veto does, in fact, apply to all contract spending by the committee, authorized by the committee; and if, in fact, he would do that, I would support the amendment and urge my colleagues to vote for it.

The CHAIRMAN. The time of the gentleman from Utah [Mr. ORTON] has expired.

(On request of Mr. SHUSTER, and by unanimous consent, Mr. ORTON was allowed to proceed for 3 additional minutes.)

Mr. SHUSTER. Mr. Chairman, if the gentleman will continue to yield, the gentleman is trying to rewrite the line-item veto law. I am informed what we have done here goes as far as we can go within this legislation. It would not be germane for us to attempt to rewrite the line-item veto law in this legislation. So we are simply offering this to conform with the line-item veto law, which is now the law of the land.

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Mr. ORTON. Mr. Chairman, I am simply suggesting that if needed the committee chairman wished to avoid all criticism of this bill as not pertaining under line-item veto, then in fact he could seek to waive the germaneness requirement under unanimous consent, could in fact ask to have that amended expanded:

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. ORTON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. If the gentleman can assure me that by doing so I would remove all criticism from this bill, I would certainly seriously consider doing that, but I do not think that is a reality. I thank the gentleman for yielding.

Mr. ORTON. Reclaiming my time, I think it will remove criticism from the amendment and in fact eliminate one of the objections that many people have had to this particular bill.

Mr. GOSS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was unable to be on the floor for the full discussion of the line-item veto. The chairman of the committee and I had a bit of a dialog about it this morning during the rule, and we came down to the conclusion that we were not sure whether we were clear on whether or not the legislation before us would or would not be subject to the line-item veto. In the interest of clarity, we wanted to make absolutely certain that this legislation was subject to the line-item veto as passed by the Congress, as signed by the President into law, and that, I believe, is the purpose of the chairman's amendment.

I certainly support what the chairman is trying to accomplish, if it is as I believe, to clarify that this legislation will be subject to the Line Item Veto Act of 1996, which is the way I read the one-line amendment that he has proposed.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield.

Mr. GOSS. I am happy to yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, this amendment will make this legislation subject to the Line Item Veto Act of 1996, the answer is yes.

Mr. GOSS. I thank the gentleman.

Mr. Chairman, reclaiming my time, I think that that was the clarification that we were all seeking with regard to the line item veto, and I think that to go any further than that, to try and somehow now amend the line item veto, would of course not only be inappropriate but nongermane and beyond the scope and so forth.

Mr. SABO. Mr. Chairman, will the gentleman from Florida yield?

Mr. GOSS. I am happy to yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I am just curious, how could this bill not have the Line Item Veto Act of 1996 apply to it.

Mr. GOSS. Reclaiming my time, my understanding from the Parliamentarian, the need for this amendment follows this reason. The main reason the trust fund bill is now exempt from the Line Item Veto Act is that the President can only exercise the line-item veto if he certifies that cancellation of the item will reduce the deficit. Since the trust fund bill would remove disbursements for purposes of calculating the deficit, the President would be prevented from exercising a veto authority absent compliance with the deficit reduction standard.

I am happy to yield further to the gentleman from Minnesota.

Mr. SABO. Now I understand why the gentleman may need this amendment, because of that language. Do I also understand that the Line Item Veto Act does not apply to contract authority in the same fashion as it applies to other discretionary spending?

Mr. GOSS. Mr. Chairman, I do not want to speak for the Line Item Veto Act. The Line Item Veto Act speaks for itself. As the gentleman knows, we did discretionary authority, new entitlements and targeted tax benefits in line-item veto. So to the extent what we are talking about falls into those areas under the act as written, the answer would be yes.

Mr. SABO. Mr. Chairman, my understanding is the Line Item Veto Act, that its application to contract authority is much more limited than it is to discretionary spending as exists in appropriation bills from year to year. Is that accurate?

Mr. GOSS. Reclaiming my time, I am not sure that it is. Again, I think that I should refer the gentleman to the act the way it is written. I believe it refers to contract authority, and I believe that the proper way to respond to the question is to refer the gentleman to the act. There may be some parliamentary interpretation.

Mr. SABO. I would ask the gentleman from Pennsylvania, is it his understanding that the Line Item Veto Act pertains to contract authority in the same fashion as it does to discretionary appropriated spending or is it a more limited application?

Mr. GOSS. Since the time is mine, I would be very happy to yield to the gentleman if he wishes me to. But I will tell the gentleman that what he is asking is contract authority and direct spending questions are covered already in the act.

Mr. SABO. But I am just curious, to what degree the line-item veto is different for the direct spending of contract authority versus that of appropriated discretionary funds.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I am happy to yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, all I can tell the gentleman is, it is our intention and our belief that in fact what we are doing here is saying that the line-item veto shall apply as it applies in the current line-item veto law. If the gentleman has questions about the nuances of that law, this gentleman is not prepared to answer them.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. GOSS. Reclaiming my time, contract authority is not discretionary. It is direct spending, and direct spending is covered but it is not discretionary. I am sorry, that is the way it is.

I yield further to the gentleman from Minnesota.

Mr. SABO. I thank the gentleman for yielding.

It is my understanding that the application of line-item veto to contract authority is much more limited than it is to any discretionary appropriated funds, and that in fact that it only applies to increases in baseline spending.

Mr. GOSS. My time is finished. I am not sure the gentleman's interpretation is correct. But the gentleman is entitled to his interpretation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. SHUSTER].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 2?

Mr. SHUSTER. Mr. Chairman, I ask unanimous consent that the remainder of the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The text of the remainder of the amendment in the nature of a substitute is as follows:

SEC. 3. SAFEGUARDS AGAINST DEFICIT SPENDING OUT OF AIRPORT AND AIRWAY TRUST FUND.

(a) IN GENERAL.—Chapter 471 of title 49, United States Code, is amended—

(1) by redesignating section 47131 as section 47132; and

(2) by inserting after section 47130 the following new section:

"§47131. Safeguards against deficit spending

"(a) ESTIMATES OF UNFUNDED AVIATION AUTHORIZATIONS AND NET AVIATION RECEIPTS.—Not later than March 31 of each year, the Secretary, in consultation with the Secretary of the Treasury, shall estimate—

"(1) the amount which would (but for this section) be the unfunded aviation authorizations at the close of the first fiscal year that begins after that March 31 and

"(2) the net aviation receipts at the close of such fiscal year.

"(b) PROCEDURE IF EXCESS UNFUNDED AVIATION AUTHORIZATIONS.—If the Secretary determines for any fiscal year that the amount described in subsection (a)(1) exceeds the amount described in subsection (a)(2), the Secretary shall determine the amount of such excess.

"(c) ADJUSTMENT OF AUTHORIZATIONS IF UNFUNDED AUTHORIZATIONS EXCEED RECEIPTS.—

"(1) DETERMINATION OF PERCENTAGE.—If the Secretary determines that there is an excess referred to in subsection (b) for a fiscal year, the Secretary shall determine the percentage which—

"(A) such excess, is of

"(B) the total of the amounts authorized to be appropriated from the Airport and Airway Trust Fund for the next fiscal year.

"(2) ADJUSTMENT OF AUTHORIZATIONS.—If the Secretary determines a percentage under paragraph (1), each amount authorized to be appropriated from the Airport and Airway Trust Fund for the next fiscal year shall be reduced by such percentage.

"(d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITHHELD.—

"(1) ADJUSTMENT OF AUTHORIZATIONS.—If, after a reduction has been made under subsection (c)(2), the Secretary determines that the amount described in subsection (a)(1) does not exceed the amount described in subsection (a)(2) or that the excess referred to in subsection (b) is less than the amount previously determined, each amount authorized to be appropriated that was reduced under subsection (c)(2) shall be increased, by an equal percentage, to the extent the Secretary determines that it may be so increased without causing the amount described in subsection (a)(1) to exceed the amount described in subsection (a)(2) (but not by more than the amount of the reduction).

"(2) APPORTIONMENT.—The Secretary shall apportion amounts made available for apportionment by paragraph (1).

"(3) PERIOD OF AVAILABILITY.—Any funds apportioned under paragraph (2) shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned under paragraph (2).

"(e) REPORTS.—Any estimate under subsection (a) and any determination under subsection (b), (c), or (d) shall be reported by the Secretary to Congress.

"(f) DEFINITIONS.—For purposes of this section, the following definitions apply:

"(1) NET AVIATION RECEIPTS.—The term 'net aviation receipts' means, with respect to any period the excess of—

"(A) the receipts (including interest) of the Airport and Airway Trust Fund during such period, over

"(B) the amounts to be transferred during such period from the Airport and Airway Trust Fund under section 9502(d) of the Internal Revenue Code of 1986 (other than paragraph (1) thereof).

"(2) UNFUNDED AVIATION AUTHORIZATIONS.—The term 'unfunded aviation authorization' means, at any time, the excess (if any) of—

"(A) the total amount authorized to be appropriated from the Airport and Airway Trust Fund which has not been appropriated, over

"(B) the amount available in the Airport and Airway Trust Fund at such time to make such appropriation (after all other unliquidated obligations at such time which are payable from the Airport and Airway Trust Fund have been liquidated).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 of title 49, United States Code, is amended by striking

"47131. Annual report."

and inserting the following:

"47131. Safeguards against deficit spending.
"47132. Annual report.".

SEC. 4. SAFEGUARDS AGAINST DEFICIT SPENDING OUT OF THE INLAND WATERWAYS TRUST FUND AND HARBOR MAINTENANCE TRUST FUND.

(A) ESTIMATES OF UNFUNDED INLAND WATERWAYS AUTHORIZATIONS AND NET INLAND WATERWAYS RECEIPTS.—Not later than March 31 of each year, the Secretary of the Army, in consultation with the Secretary of the Treasury, shall estimate—

(1) the amount which would (but for this section) be the unfunded inland waterways authorizations and unfunded harbor maintenance authorizations at the close of the first fiscal year that begins after that March 31; and

(2) the net inland waterways receipts and net harbor maintenance receipts at the close of such fiscal year.

(b) PROCEDURE IF EXCESS UNFUNDED INLAND WATERWAYS AUTHORIZATIONS.—If the Secretary of the Army determines with respect to the Inland Waterways Trust Fund or the Harbor Maintenance Trust Fund for any fiscal year that the amount described in subsection (a)(1) exceeds the amount described in subsection (a)(2), the Secretary shall determine the amount of such excess.

(c) ADJUSTMENT OF AUTHORIZATIONS IF UNFUNDED AUTHORIZATIONS EXCEED RECEIPTS.—

(1) DETERMINATION OF PERCENTAGE.—If the Secretary of the Army determines that there is an excess referred to in subsection (b) for a fiscal year, the Secretary of the Army shall determine the percentage which—

(A) such excess, is of

(B) the total of the amounts authorized to be appropriated from the Inland Waterways Trust Fund or the Harbor Maintenance Trust Fund, as the case may be, for the next fiscal year.

(2) ADJUSTMENT OF AUTHORIZATIONS.—If the Secretary of the Army determines a percentage under paragraph (1), each amount authorized to be appropriated from the Trust Fund for the next fiscal year shall be reduced by such percentage.

(d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITHHELD.—If, after an adjustment has been made under subsection (c)(2), the Secretary of the Army determines with respect to the Inland Waterways Trust Fund or the Harbor Maintenance Trust Fund that the amount described in subsection (a)(1) does not exceed the amount described in subsection (a)(2) or that the excess referred to in subsection (b) with respect to the Trust Fund is less than the amount previously determined, each amount authorized to be appropriated that was reduced under subsection (c)(2) with respect to the Trust Fund shall be increased, by an equal percentage, to the extent the Secretary of the Army determines that it may be so increased without causing the amount described in subsection (a)(1) to exceed with respect to the Trust Fund the amount described in subsection (a)(2) (but not by more than the amount of the reduction).

(e) REPORTS.—Any estimate under subsection (a) and any determination under subsection (b), (c), or (d) shall be reported by the Secretary of the Army to Congress.

(f) DEFINITIONS.—For purposes of this section the following definitions apply:

(1) AIRPORT AND AIRWAY TRUST FUND.—The term "Airport and Airway Trust Fund" means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986.

(2) HARBOR MAINTENANCE TRUST FUND.—The term "Harbor Maintenance Trust Fund" means the Harbor Maintenance Trust Fund established by section 9505 of the Internal Revenue Code of 1986.

(3) HIGHWAY TRUST FUND.—The term "Highway Trust Fund" means the Highway Trust Fund established by section 9503 of the Internal Revenue Code of 1986.

(4) INLAND WATERWAYS TRUST FUND.—The term "Inland Waterways Trust Fund" means the Inland Waterways Trust Fund established by section 9506 of the Internal Revenue Code of 1986.

(5) NET HARBOR MAINTENANCE RECEIPTS.—The term "net harbor maintenance receipts" means, with respect to any period, the receipts (including interest) of the Harbor Maintenance Trust Fund during such period.

(6) NET INLAND WATERWAYS RECEIPTS.—The term "net inland waterways receipts" means, with respect to any period, the receipts (including interest) of the Inland Waterways Trust Fund during such period.

(7) UNFUNDED INLAND WATERWAYS AUTHORIZATIONS.—The term "unfunded inland waterways authorizations" means, at any time, the excess (if any) of—

(A) the total amount authorized to be appropriated from the Inland Waterways Trust Fund which has not been appropriated, over

(B) the amount available in the Inland Waterways Trust Fund at such time to make such appropriations.

(8) UNFUNDED HARBOR MAINTENANCE AUTHORIZATIONS.—The term "unfunded harbor maintenance authorizations" means, at any time, the excess (if any) of—

(A) the total amount authorized to be appropriated from the Harbor Maintenance Trust Fund which has not been appropriated, over

(B) the amount available in the Harbor Maintenance Trust Fund at such time to make such appropriations.

SEC. 5. APPLICABILITY.

This Act (including the amendments made by this Act) shall apply to fiscal years beginning after September 30, 1995.

The CHAIRMAN. Are there further amendments to the amendment in the nature of a substitute?

AMENDMENT OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBERSTAR:

Page 3, line 10, strike "Notwithstanding" and insert "(a) IN GENERAL.—Notwithstanding".

Page 4, after line 14, insert the following new subsection:

(b) LIMITATION ON INTEREST PAID TO TRUST FUNDS.—

(1) IN GENERAL.—Paragraph (3) of section 9602(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: "The amount of interest credited to the Airport and Airway Trust Fund, the Highway Trust Fund, the Harbor Maintenance Trust Fund, or the Inland Waterways Trust Fund for any fiscal year shall not exceed the amount of interest which would be credited to such Fund if such interest were determined at the average interest rate on 52-week Treasury securities sold to the public during such fiscal year."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to fiscal years beginning after the date of the enactment of this Act.

Mr. OBERSTAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. OBERSTAR. Mr. Chairman, we had during the time of general debate extensive discussion about the role of interest paid on revenues from the highway trust fund that are collected at the pump and then used by the Treasury Department to purchase Treasury notes, as happens with all trust funds in the Federal Government. As I said in my remarks, my closing remarks, would anyone reasonably expect the Federal Government not to honor its obligation to pay interest on Treasury bonds, on our World War I bonds, on World War II bonds, on other securities of the Treasury Department that are purchased by U.S. citizens, by foreign interests, by foreign governments, which buy in great numbers Treasury securities which underwrite the deficit? No, of course not, not expected. So with the trust funds.

Mr. Chairman, those trust funds are used to purchase Treasury securities, and interest is required to be paid. Under current law, the interest earned by the highway trust fund is the average of all interest paid on the public debt. That average runs about 6.6 percent.

The amendment I offer proposes to limit the interest earned on highway trust fund dollars in an amount equal to the rate on a 1-year Federal Treasury note. That number is about 5 percent, just a little above, 5.1 percent.

The effect of the amendment would be to reduce the amount of interest earned by the transportation trust funds, thereby reducing the ever-increasing balance that has accumulated over a period of several years. Now, this is an amendment that I offer for myself, for the Chairman, with whom I have consulted in the preparation of this amendment. This is, again, a demonstration on our part of our good faith to limit in the future the growth of this trust fund and to gradually reduce that amount, not take that surplus all at once off budget, but gradually reduce it over a period of time. To help do that, we propose this limitation on the interest rate because over a period of time, the trust fund is being long-range dollars, have benefited from the longer term interest rate on Treasury securities. So in the spirit of fairness and comity I propose that we make this change.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I am happy to yield to my Chairman, the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I understand that this has indeed been worked out with the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Minnesota [Mr. SABO], Members on our side, and I think it is a fair approach and I support it.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to my colleague, the gentleman from Minnesota.

Mr. SABO. I thank the gentleman from Minnesota for yielding, and he has a good amendment, we should pass it.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I am happy to yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, I am happy to support the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. OBERSTAR].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Michigan: Page 12, after line 22, insert the following:

SEC. 5. APPROPRIATION OF INTEREST EARNINGS OF HIGHWAY TRUST FUND.

(a) PURPOSE.—It is the purpose of this section to offset the approximately $82,000,000,000 that has been appropriated from the general fund of the Treasury for Federal-aid highway and mass transit construction projects.

(b) APPROPRIATION OF INTEREST EARNINGS.—On September 30, 1996, there is hereby appropriated from the Highway Trust Fund to the general fund of the Treasury an amount equal to the aggregate amounts of interest credited to the Highway Trust Fund before such date.

Page 13, line 1, strike "5" and insert "6".

Mr. SHUSTER. Mr. Chairman, I reserve a point of order against the amendment until we know what the amendment is.

Mr. SMITH of Michigan. Mr. Chairman, this is amendment No. 8 printed on page 7723, amendment on page 12 after line 22.

Mr. SHUSTER. Mr. Chairman, I reserve the right to object until we have an opportunity to examine the amendment to see whether it is germane.

The CHAIRMAN. The gentleman from Pennsylvania reserves a point of order against the amendment.

The gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Chairman, this amendment takes into account the problem of the accumulated interest that is now in the highway trust fund in the amount of $19 billion. Again, the question is, should Congress, in past general fund appropriations for highway purposes, so designate that it was trust fund money rather than the general fund? General fund expenditures since 1956, when we started the highway trust fund, have exceeded $38 billion. The estimate is someplace between $38 billion and $40 billion. This is general fund appropriations for highway purposes that were not designated to come out of the trust fund.

So what we have been doing over the years is spending more and more money out of the general fund, at the same time we were spending every cent that came in from the highway gas tax. So it is reasonable, I am suggesting to my colleagues, to consider that money that has been spent out of the general fund an offset to the $19 billion now owed to the trust fund by the general fund. The accumulated interest on some of the trust fund money diverted in the 1960's is the question in this taking off-budget debate. Some have suggested that that $19 billion is the property of the trust fund and therefore should be spent for roads. I am suggesting that because of the fact that we have now spent approximately $40 billion out of the general fund for roads,

VOL
142
PT
6
AP
15
—
24
1996
UMI

an additional $40 billion out of the general funds for mass transit, that it is reasonable to consider those expenditures as an offset to the interest that has been accumulating which represents approximately $19 billion. This amendment negates that $19 billion.

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I understand that my colleague from Pennsylvania is going to pursue his point of order that this amendment is not germane. It is technically not germane, and, therefore, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan to withdraw his amendment?

There was no objection.

The CHAIRMAN. The amendment of the gentleman from Michigan [Mr. SMITH] is withdrawn.

AMENDMENT OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Michigan: Page 8, lines 10 and 11, strike "the receipts and disbursements of" and insert the following: "the amounts that after the date of the enactment of this Act are received by or disbursed from".

Mr. SHUSTER. Mr. Chairman, I reserve a point of order against this amendment until we have an opportunity to examine it.

The CHAIRMAN. The gentleman from Pennsylvania reserves a point of order.

The gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SHUSTER. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The gentleman from Pennsylvania withdraws his point of order.

The Chair recognizes the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. This amendment deals with the same issue. A lot of the concern about taking the Highway Trust Fund off budget is that the additional moneys that have now accumulated in interest and indebtedness from the Highway Trust Fund, in the amount of $20 billion, the Airport and Airway Trust Fund, amounting to additional $11 billion would be spent, thereby taking money away from other programs. This would result in one of two scenarios: Either we borrow more money or we reduce expenditures in other areas.

This amendment provides that the only funds coming off budget would be funds being received into those trust funds from this coming September forward. So what it does is it reserves and keeps on budget the so-called cash account or the accumulated interest and other assumed debt that now exists. It is my suggestion that that is reasonable because this body needs to deal with the question of whether or not those funds have already been paid back. It is my suggestion that, because there has been approximately $40 billion coming out of the general fund for highway construction, because of the fact that there has been another $40 billion coming out of the general fund for mass transit, that we have adequately paid back those funds. Therefore, at this time it seems reasonable that we not transfer these funds off budget and we amend this bill accordingly.

The question of taking the highway trust fund off budget or continuing to expend these moneys under current procedures misses the point of what our ultimate goal should be. I would hope that we all agree that our goal is to spend transportation money from the States in the most effective and efficient way and accommodate the transportation needs of each State.

Detouring gas tax funds through the Federal Government to be returned after paying Federal administration costs is not effective or efficient. Allowing politicians in power to get more than their fair share is not effective or efficient. Not only do we use up vast sums in administration and manipulate funding for political purposes but we send the remaining funds back to the States with Federal regulations and mandates such as the Davis-Bacon Act that add billions of dollars of increased costs to highway and mass transit construction. Gabriel Roth who wrote "Roads in a Market Economy" suggests that a State would have to get back 150% of what it sent to Washington in order to break even because of these Federal mandates. That means that there are only 10 States in the Nation that get back enough from Washington to equal what could be accomplished if the gas tax money stayed in the State to begin with.

If we agree that we want the most efficient use of the available funds for transportation, then I suggest that we leave these funds at the State level in the first place. The Federal Government should retain only funding to provide a transition for those States that are currently benefiting and for transportation safety. Each State would then levy the gas tax locally in order to fund its own transportation system. This would end the process of sending State money to Washington to have some of it drained off in administration, some of it redistributed, and then be forced to beg to get the remainder.

This suggestion is not new. The concept of returning responsibilities to the States has been at the forefront of the welfare debate. Senator MACK of Florida has been a leader on this issue on the Senate side. The Heritage Foundation suggested devolution of the highway program to the States in a report last year. The support for this concept is building.

We should not shy away from examining from time to time each of our Federal programs and see if conditions still warrant the program at all, and if they do, should another level of government be responsible. Having served in local and State government before coming to Congress, I can say that the benefit of the doubt should lie with the government closest to the people. We should not be afraid to examine the proper role of the various level of governments in the highway program. I believe that once one looks into the transportation system in detail, the arguments support a smaller Federal role and a greater State and local role.

This body should vote against this bill that would simply move the inefficient way we expend dollars for transportation infrastructure from one committee to another and truly take the highway trust fund off budget by devolving the responsibility and revenue base back to our States and communities.

Mr. SHUSTER. Mr. Chairman, I rise in strong opposition to this amendment.

There are several reasons why this amendment should be defeated. It is a killer amendment which really has the effect of prohibiting any spending of the accumulated balances in any of the trust funds.

Now, if we believe that it is fundamentally wrong to have a $30 billion balance, money paid in there by the users, and are now saying that it can never be spent, that is just fundamentally wrong. There are other ways to deal with this, more appropriate ways, and indeed the Committee on Appropriations which sets the annual ceiling. If our legislation passes today, the Committee on Appropriations will still set the annual ceiling, and that is the place to make that decision. But to say today that none of the $30 billion that has accumulated can ever be spent is just fundamentally wrong. This would artificially cordon off that nearly $30 billion in accumulated balances and hold them hostage.

Mr. SMITH of Michigan. Mr. Chairman, will the gentleman yield.

Mr. SHUSTER. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. But it is not a question of them not being allowed to be spent. It is a question of them being spent in the same way that it has been spent since the existence of the trust fund in 1956.

Mr. SHUSTER. Mr. Chairman, I do not believe that is what the amendment does. What the amendment does is say you cannot spend it.

Mr. SMITH of Michigan. No, it just does not take them off budget.

Mr. SHUSTER. Mr. Chairman, it does not take them off budget, and the fundamental issue here is that these should be taken off budget. This gets to the heart of the question. Indeed these are user fees paid in there. They should be taken off budget.

But I would be quick to emphasize that limits should be set on what can be spent, and those limits are what should be set by the authorizers and by the appropriators, and in fact for the past year we have been saying we want to sit down with the appropriators and the budgeteers in order to negotiate a compromise on this kind of an issue, but unfortunately they were never willing to sit down and negotiate with us. So now to come at the last minute with a proposal I think, while I would not want to say it lacks good faith, although others have said that, nevertheless I think that this should be defeated and we should set these limits through the normal process of the authorizing and appropriating committees.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

This amendment is like so many others that look benign but have a poison pill attached. Clearly, this amendment undercuts a vitally important purpose of this legislation, which is to enable the Congress to spend down in a phased and fiscally responsible manner the $30 billion in surplus built up in the highway trust funds and the aviation and the other trust funds.

The $30 billion of surplus that we have been debating about all afternoon, the gentleman would say, oh, sorry, we are not going to spend the surplus, we can just spend what comes in on an annual basis. That is what this debate is all about, about withholding funds and building up these accumulated surpluses that then are sued to mask the deficit.

These surpluses should be off budget with the trust fund. The surpluses have accumulated because of failure to spend the user taxes we agreed to be taxed for that we have agreeably paid for the purpose of building highways and bridges and airports and deepening our waterways and improving our navigation channels. As budgetary conditions permit, the surplus should be devoted to their intended purpose.

The surpluses will not be spent down overnight, as we have repeatedly said in the course of this afternoon's debate. The bill does not exempt funds or the surpluses from the authorization or the appropriation process. We will have complete control over whether and when the surpluses are drawn down. In fact, over the past year the gentleman for Pennsylvania [Mr. SHUSTER] has been working diligently with the Committee on Appropriations and Committee on the Budget leadership to try to work out a plan under which the spend down would occur. It can be done; we have done so in the past in the aviation bill of 1990, the AIP reauthorization bill.

We worked out a very fine accommodation of reasonable accommodation with the Committee on Appropriations, the transportation appropriation subcommittee, the Office of Management and Budget, the Department of Transportation, the Committee on Ways and Means, under which agreement over a period of time, the very complex adjustment, we would draw down the surplus built up in the aviation trust fund, those moneys to be invested in airport runways and taxiways and parking aprons that were needed to relieve congestion at the Nation's airports, and it worked. That money was not all drawn down overnight in one big fell swoop; gradually over a period of time. Unfortunately, now the surpluses have begun to build up again.

So take the trust funds off budget, the surplus will be spent down in a reasonable and responsible fashion under accommodations between our committee and the Committee on Appropriations, working with the Committee on the Budget as well. We do not need this amendment. This really is a killer amendment. It ought to be defeated and ought to be unmasked for what it is: an attempt to gut the bill.

Defeat the Smith amendment.

Mr. LAHOOD. Mr. Chairman, I move to strike the last word.

I just want to emphasize what the distinguished ranking member of the Committee on Transportation and Infrastructure said. If my colleagues vote for the Smith amendment, they kill the bill. This is a killer amendment. The gentleman from Michigan [Mr. SMITH] does not like this bill. So in the option that he has been given he has offered his amendment to simply kill the bill.

We know the purpose of the bill is to take trust funds off budget and permit Congress to set whatever levels of spending it deems appropriate. In the Truth in Budgeting Act this amendment would not allow Congress to determine what trust funds support the aviation and highway system needed.

So I want to support what the ranking member said and advise Members to defeat this amendment because it, in fact, will kill the bill.

Mr. SHAYS. Mr. Chairman, I move to strike the requisite number of words, and with that I yield to my colleague, the gentleman from Michigan [Mr. SMITH] to respond to some of the points made.

Mr. SMITH of Michigan. Mr. Chairman, just very briefly, by not having the so-called cash reserve or the accumulated interest transferred and taken off budget means it will be spent exactly how the total trust fund has been spent since it was first started in 1956. So it is not a question of not spending the money, it is a question of that $30 billion coming under the caps and being spent in such a way through the budget process and the appropriation process as it has always been spent.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. SMITH].

The amendment was rejected.

The CHAIRMAN. The Committee will rise informally.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. LAHOOD) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

TRUTH IN BUDGETING ACT

The Committee resumed its sitting.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. MINGE

Mr. MINGE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINGE: At the end of Section 2 insert the following:

(c) PROHIBITION ON EARMARKING OF HIGHWAY TRUST FUND AMOUNTS.—Subsection (a) shall no longer apply with respect to the Highway Trust Fund after the last day of any fiscal year in which amounts are made available for obligation from the Highway Trust Fund for any highway construction project or activity that is specifically designated in a Federal law, a report of a committee accompanying a bill enacted into law, or a joint explanatory statement of conferees accompanying a conference report, as determined by the Director of the Office of Management and Budget.

Mr. MINGE. Mr. Chairman, I yield to the gentleman from California [Mr. ROYCE].

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Mr. ROYCE. Mr. Chairman, I want to point out that this amendment is supported by both supporters and opponents of H.R. 842. Indeed, the authors of the amendment include both proponents and opponents of the bill, as well as those who are as yet undecided. But very simply put, Mr. Chairman, the amendment says that if the highway trust fund is placed off-budget, there will be no earmarks for specific projects. If earmarks occur, the fund comes back on budget.

Why is this amendment important? Because this bill, H.R. 842, this underlying bill, would have the effect of exempting highway trust fund spending from all budgetary controls, including discretionary caps, pay-go rules, and 602(b) allocations. If we are going to give highway funds special protection from budget rules, then it is reasonable to hold highway funding to a high standard of accountability, and that means no earmarking.

Highway users who pay into the trust fund deserve to have those funds expended in the most efficient and fair manner possible. Earmarking disadvantages everyone in every project not on the list, and projects should be judged on their individual merits, not on patronage.

This amendment guards against pork barreling and protects the integrity of

VOL
142
PT
6
AP
15
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24
1996
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the highway trust fund. Supporters and opponents of the bill should all agree on that point. By way of demonstration, I just want to remind the Members that in 1991, in the highway demonstration projects, 30 percent of those funds went to West Virginia. West Virginia is .7 percent of the population. In 1992, 30 percent went to West Virginia. In 1993, we had one-third of all highway demonstration project dollars going to West Virginia; in 1994, $54 million, which amounted to 43 percent of the highway demonstration dollars; and in 1995, the fiscal year past, Members know the story. West Virginia for two projects got 52 percent of the Senate's money, or 21 percent of the Nation's highway money for demonstration projects.

Mr. Chairman, while the people of western Virginia are fine people, in my view this is unfair, unjust, inequitable. Some might call it highway robbery. Mr. Chairman, I would like to urge all of the Members to vote for the amendment. It is supported by Citizens Against Government Waste.

Mr. MINGE. Mr. Chairman, we have heard a great deal of debate both today and during this session about the problems that we have faced in this institution with earmarking, with demonstration projects, and abuses of this part of the process.

I certainly respect what the chairman of this committee has attempted to do in regulating and limiting inappropriate earmarks and demonstration projects. I also wish to pay tribute to the Committee on Appropriations, and the work of the honorable chairman of the Subcommittee on Surface Transportation and the guidance he has provided this Chamber in stopping the demonstration highway earmarking process.

Mr. Chairman, the purpose of this amendment is to confirm that if the highway trust fund indeed goes off-budget, we no longer engage in this practice. Instead, what we are doing is, we are collecting funds, we are remitting the funds to the States on a formula basis, and the States are then allocating these funds for projects as the States establish their priorities.

Mr. Chairman, I recognize that some people have problems with the way the States function, but I think the day has come when we need to say to the States, "We repose in you a certain level of trust and confidence, and if you abuse that confidence we will hold you to a higher standard," not that we will attempt to determine on our own here in Washington how funds ought to be micromanaged around the country.

Mr. Chairman, this amendment is designed to avoid that temptation and to still comply with the goals that are motivating this basic bill, which is to make these funds available for public highway projects throughout this Nation.

Mr. SHUSTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there are several reasons why this amendment should be defeated. First, Mr. Chairman, the amendment would have the effect of preventing these trust funds from ever coming off budget, because it goes far beyond what it is purported to do. Let me explain. The amendment places the highway trust fund back on budget if any funds are made available for any highway construction project or activity that is specifically designated.

As the gentleman knows, funds for highway construction projects and activities were made available in ISTEA for fiscal 1997. Thus, this amendment would automatically return the trust funds on budget forever when the fiscal 1997 transportation appropriation bill passes. It is not our bill, it is not our bill which would cause this to kick in.

Second, a return to on-budget treatment is not only triggered by funds made available for highway projects, but also by funds being made available for virtually any purpose under the Federal Aid Highway Program. These include such basic programs as interstate maintenance, the National Highway System, emergency relief, ferry boat construction, rail-highway grade crossings, innovative financing/toll pilot programs, Orange County's private toll roads, among many others.

This provision would also return the trust funds on budget due to action made in bills reported in the past by other committees, other than this Committee on Transportation and Infrastructure. If this amendment were adopted, then another committee could prevent these trust funds from ever coming off budget simply by making funds available for any highway construction purpose in any appropriations bill, for example.

Fourth, the amendment singles out highway construction for special treatment among all types of transportation trust fund spending. Every year there are numerous earmarks for transit projects. In fact, there were over 130 transit earmarks in the fiscal 1996 transportation appropriations bill. There were also over 20 earmarks in that same bill which would not be prohibited by this amendment.

Finally, this amendment is completely unnecessary. Every dollar in the highway trust fund spending is subject to the recently enacted line-item veto. Congress will have ample authority to review any highway authorization bills that make highway trust funds available if such bill is passed, and indeed beyond that, the President could use his line-item veto.

Rather than being satisfied with this procedure, Mr. Chairman, this amendment would vest OMB with line-item veto authority. For all of these reasons, I would urge my colleagues to resoundingly defeat this amendment.

Mr. MINGE. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. MINGE. Mr. Chairman, there were two amendments printed in the RECORD. One of them was broader. I would like to make sure we are talking about the same amendment. There is nothing in this one that deals with transit funds.

Mr. SHUSTER. That is correct. That is exactly the point I am making to the gentleman. There is nothing here that deals with transit funds, which is only one of the many reasons this amendment should be defeated.

Mr. MINGE. But something that would happen with respect to transit funds would not be a highway project, unless it was a specific highway project. Therefore, it would not trigger the reaction that the gentleman is attributing to the amendment.

Mr. SHUSTER. What is good for highways ought to be good for transit.

Mr. MINGE. We would like to deal with transit as well, but as we understand the process within the Department of Transportation, the transit trust fund is handled in quite a different fashion.

Mr. SHUSTER. No, it is not. Mr. Chairman, I would inform the gentleman that the transit account is part of the highway trust fund, and indeed is handled as the highway funds are handled as well.

Mr. MINGE. We understand they have a priority system in the Department of Transportation for the transit trust fund. Is that correct?

Mr. SHUSTER. I am sure this Congress does not want to accede to a particular administration; what procedures they may deem wise to use, we may think they are very unwise, so we are not about to turn over to the bureaucrats downtown some procedure which they say they use for transit.

Mr. MINGE. Would the gentleman agree, then, that we should exclude transit because it is not adequately covered at the Department of Transportation?

Mr. SHUSTER. I agree that for many reasons that I have outlined here, that this amendment should be defeated.

Mr. MINGE. We appreciate it, because we did exclude transit for some of the reasons you have mentioned. That should win the gentleman's support for this.

Mr. SHUSTER. Mr. Chairman, I understand that the gentleman has sent our committee a request for a project which we have here, so I find it a bit amusing that the gentleman would now take this position when indeed we have in our possession a letter from the gentleman asking us to fund a special project for him.

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is another one of the killer amendments devised by

those who are not in accord with the purpose of taking trust funds off budget. In fact, even some who have originally signed on as sponsor of the bill obviously had second thoughts later on and said they do not want to support this concept, and now they find ways to undermine it, cut it and gut it.

Mr. Chairman, this amendment provides that the trust funds would no longer be off budget if at any time a highway project was specifically mentioned in a bill or a committee report.

What this means in plain English is that the Committee on Appropriations can kill off-budget status for the highway-aviation-waterway trust funds simply by earmarking a project in a bill or a law, in a committee report or in a bill that ultimately becomes law. This hands over to the Committee on Appropriations the total power over the trust funds and their status. What a crazy thing to do.

Mr. Chairman, the gentleman refers to demonstration projects and says he wants to stop pork barreling, and our colleague, the gentleman from California, the gentleman who spoke previously, also talks about pork barrelling. I am not quite sure what they mean by "pork barrel." It usually carries the implication of an individually designated project or fund without merit. That usually is an argument from the perspective of the Speaker. What is meritorious in one district may not be meritorious to a person in another district.

If I may have the attention of the gentleman from California [Mr. ROYCE], is he familiar with the Hacienda Boulevard project? Does the gentleman recall writing to our committee about the merits of the Hacienda Boulevard project? We agreed with the gentleman that it had merit in the 103d Congress, on both sides of the aisle. We thought it was a very meritorious project. We were prepared to support it.

The gentleman is supporting now a provision of law that would gut the ability to help the gentleman achieve a laudatory, necessary, and important purpose that he feels significant for his district, as for my colleague, the gentleman from Minnesota, who also has appealed to our committee in the past on the merits of need in his district.

We are prepared to support those needs, and we have done in the past. Now they come along and say, oh, sorry, we were only kidding. We did not mean it. We are going to give authority to kill the ability of the Committee on Transportation and Infrastructure to help Members respond to transportation needs that are not being met by their State.

In effect, we hand over authority over Federal funds, over tax dollars that we vote for in this body, to States, and let State governments and State highway departments earmark the designate and specify and determine where those dollars are going to go. That is not pork barreling? That is not individual designating? That is fair?

The reason we get bombarded, we Members of this Body get bombarded by our constituents, is that those very State governments are not responding to the needs of highway users in our respective districts. That is why we went through a very elaborate process of joining with State highway departments and the Federal Highway Administration to set up criteria, 17 criteria, by which we would judge whether a project is meritorious or not and ought to be included in a national piece of legislation.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, perhaps what I hear the gentleman saying is that there are those who think that if we designate worthy projects here, that is a terrible thing, but if we shovel the money back to the States, then there are angels in heaven in the State government who makes these dispassionate, objective decisions as to how to spend the money. Politics, that terrible, crass work, politics, never enters into a decision when the States decide how to spend the money that we send to them.

Mr. OBERSTAR. The gentleman is quite right. Actually, the dollars that leave here that go to the State government, and they are sprinkled with holy water and they are absolved of all sin. That is sheer nonsense. If Members believe that, I have some swampland out in Minnesota I would like to sell them.

Mr. Chairman, this is a killer amendment. It is foolish. It ought not to be adopted. We should roundly defeat it.

Mr. NEUMANN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to many things that were just said, and I to a certain degree, find some of them offensive. Let me just explain why. I do support this bill, and I think that the tax dollars that are collected from gasoline taxes should be spent back out on highway projects; but I also support the fact that the people in the State of Wisconsin have a right to receive the tax dollars that they pay into this system back in the State of Wisconsin.

When we permit projects to be earmarked, those projects that are earmarked take away from the overall kitty that is available to be redistributed in a fair manner to the people in the State of Wisconsin. So I support this amendment strongly, and I rise to support this amendment. I support the bill, but I do not want to see earmarks in the bill. The only way that I can see to eliminate the practice of pork barrel spending or earmarking things in the bill is to make sure this amendment actually goes through.

We do not have to look very far. The Almanac of American Politics noted that out of $6.1 billion, with a b, made available for ISTEA projects, one State received over $930 million. One district in that State received $300 million. That is not fair to the State of Wisconsin and it is not fair to the other States around this country.

The purpose of this amendment is to make sure this money gets distributed in a fair, well-thought-out manner around the country and people in States like the State of Wisconsin receive their fair share of the amount of money back.

The part that I disagree with adamantly is that people that are rising that support this bill would somehow have some other meaning. I support this amendment, and I support this amendment because I believe it is in the best interests for the future of this country and the manner in which we distribute these funds.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, the gentleman was not here in the previous Congress or the Congress previous to that, when we went through a very elaborate process in our committee on both sides of the aisle to determine the merits of projects.

Mr. NEUMANN. Mr. Chairman, reclaiming my time, is that the Congress where 30 percent plus of this money was allocated to one State consistently, year after year after year?

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That is what this new Congress is all about, is stopping that kind of practice.

Mr. OBERSTAR. That is simply not true.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from West Virginia.

Mr. RAHALL. I am advised that in the last ISTEA legislation we did, that Wisconsin was adjusted near the end, and it came out very well. So I am not sure what the gentleman's direct concern is here, but certainly in the future in agreeing with this amendment which he wholeheartedly supports, we will be glad to exempt Wisconsin.

Mr. NEUMANN. We would certainly hope that in the future years we make sure that Wisconsin receives a dollar back for every dollar sent in, and that would solve a vast majority of the problems that we have.

Mr. RAHALL. If the gentleman will continue to yield, if he is talking about highway funding formulas then, I believe that is properly addressed when our committee reauthorizes ISTEA at the proper time.

Mr. NEUMANN. We look forward to that redistribution back to the State of

VOL
142
PT
6
AP
15
—
24
1996
UMI

Wisconsin. I would conclude my comments by reiterating that I do support the overall bill, and in theory I support what is being said here, that the tax dollars that are collected at the gas pump from the gasoline users should be spent to build highways and should be reallocated in this manner.

What I do not think should happen is that that money should be pork barreled into certain districts. When we put it into certain districts, it is not available in the general kitty to be reallocated in the general well-thought-out manner that the formula would indicate.

Mr. RAHALL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we have been talking about here the Truth in Budgeting Act. I would submit that that label perhaps should apply to amendments as well, and that we ought to say we are for truth in amendments as well, and I would like to advance some criteria in just a moment for what truth in the amendment process should be about.

But let me say to the gentleman from Minnesota, one of the cosponsors of this amendment, very similar to remarks I made earlier in this debate addressed to the chairman of the Appropriations Subcommittee on Transportation, that is, these Members who get up and talk about earmarking projects, talk about pork-barrel projects and proceed to label themselves as porkbusters, knowing the way the press loves to headline and loves to pay such Members attention, I would remind the gentleman, as the gentleman from Pennsylvania [Mr. SHUSTER], our distinguished full committee chairman, has already done, and I am sure he is already aware of letters that he has written our committee requesting projects in the past.

Evidently these projects under the current amendment and under the debate that is being conducted are termed bad and thrown out for political purposes, the money is thrown out for political purposes, but the pending amendment that the gentleman offers should indeed be shown for what it is.

Under the truth in amendments criteria that I would advance, Mr. Chairman, I would say must reveal first the startling transformation that has occurred in the sponsor of this amendment, the gentleman from Minnesota [Mr. MINGE]. There is a highway project in Minnesota which I am sure he is aware. It is a good project. It is called trunk highway 212.

In 1994 the gentleman wrote to me in my then capacity as chairman of the Surface Transportation Subcommittee requesting an earmark of $12 million for this particular project. We were able to help the gentleman, maybe not to the full extent to which he was requesting, but nevertheless in that letter the gentleman from Minnesota noted that the project had already received two other congressional earmarks, both in ISTEA and in the fiscal 1992 appropriation bill.

I think it is strange today that the sponsor of this so-called pork-buster amendment now finds the earmarking of money for highway projects so onerous. But be that as it may, there is a more important reason for opposing this amendment, and that is simply the fact that it makes no sense.

The gentleman notes in his April 16 "Dear Colleague" in support of this amendment that if the trust funds were taken off-budget, highway demonstration projects will be completely exempt from obligation limitations. The truth is that today under the existing process, ISTEA demonstration projects are exempt from the obligation limits set in the appropriation bills. They are exempt from the obligation limits today. So, therefore, the pending amendment makes no sense and I would urge its defeat.

I would say also in response to the gentleman from California, in his earlier rendition of what he termed highway robbery and appropriations of money that have come to West Virginia, my home State, for highway demonstration projects, I am not entirely clear but I believe some of those moneys to which he was referring are out of general revenues, and that is not what we are talking about in this particular legislation today at all. Yes, West Virginia received those projects, yes, we deserved them, but, no, they would not be affected by this particular amendment. They would not be affected by this particular legislation that we are considering because those were revenues that were appropriated out of general funds of the United States, not highway trust funds.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. This is not the place to fight that battle. The place to fight this battle is when we bring ISTEA to the floor for reauthorization. I am sure there will be a bloody battle, in our committee and on the floor, over the whole question not only of special projects but of the formula which is used to apportion the money to the States. That is the place to fight this battle.

Mr. RAHALL. The distinguished chairman is entirely accurate. That is the format in which we should make that battle and also, in addition to that, we should not be trying to blur the distinction here between general revenues and highway trust fund moneys, either. If the gentleman has a problem with the appropriation process, then let us take that battle to the Committee on Appropriations and battle it out during the appropriation process.

Mr. MINGE. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Minnesota.

Mr. MINGE. I do not believe the gentleman received a letter from me in the 104th Congress requesting any funds for highway projects.

Mr. RAHALL. 103d Congress. If I misspoke, I stand corrected.

Mr. MINGE. And it would be correct to say that in the 104th Congress some of the rules changed, and we no longer had demonstration projects, so that we were not subject to this type of request from our constituents and, as a consequence, the process here in the House changed and we sort of cleaned up our act a little, if you will.

Mr. RAHALL. I know the gentleman is trying to relate his transformation to a possible transformation in the House rules, but we have not had a highway bill this year.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota [Mr. MINGE].

Mr. Chairman, the title of the pending legislation is the "Truth in Budgeting Act."

I would submit that we should apply that label to amendments as well.

Truth in amendments.

The gentleman from Minnesota has labeled himself a porkbuster. I have two "Dear Colleague" letters signed by the gentleman in which he berates so-called porkbarrel highway demonstration projects.

These types of projects are, in his view, apparently bad and as such, the pending amendment would make taking the transportation trust funds off-budget contingent upon there being no further earmarking of funds for a particular project.

Under the Truth in Amendments criteria I am advancing, I find that I must reveal there has been a startling transformation in the gentleman from Minnesota's views as they relate to earmarking of projects.

There is a highway project in Minnesota, and I am sure it is a good project, called "Trunk Highway 212".

Now, in 1994, the gentleman wrote to me in my then capacity as chairman of the Surface Transportation Subcommittee, requesting that I earmark $12 million for that project.

In that letter, the gentleman noted that the project had already received two other Congressional earmarks: in ISTEA and in the fiscal year 1992 appropriation bill.

Let it suffice to say that I find it passingly strange that today, the sponsor of this so-called porkbuster amendment, now finds the earmarking of funds for highway projects so onerous.

Be that as it may, there is one major reason to vote against this amendment.

It makes little to no sense.

The gentleman notes in his April 16 "Dear Colleague" that if the trust funds are taken off-budget, highway demonstration projects will be completely exempt from obligation limitations.

My colleagues, the truth is that today, under the existing, process, ISTEA demonstration projects are exempt from the obligation limitations set in the appropriation bill.

They are exempt from the obligations limitations today.

So I would urge a "no" vote on the pending amendment.

Mr. INGLIS of South Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have a great opportunity today to effectively continue the work that was just described, of eliminating these highway demonstration projects. As I understand it, highway demonstration projects were first designed to demonstrate new road construction techniques. Now they simply demonstrate the Members' ability to bring home the bacon to the district. That is what a demonstration project is all about.

The gentleman from West Virginia has made some point about others requesting demonstration projects. Let me, I guess, establish my credentials on that point.

In 1993, immediately upon being elected to this Congress, I said I would not support a demonstration project in my own district. It created quite a stir, because this is not what Members of Congress are supposed to do. They are supposed to seek the bacon for their district and bring it home. That is how they get reelected, so the story went.

Well, I opposed demonstration projects. I said I would not go to Congress. I said, "If you're choosing somebody to go on a looting mission for one's friends," as George Will has said, "pick somebody else, not me. And if you want to, throw me out after 2 years."

What happened? People in my district said, "That's right, BOB. No more demonstration projects. It's a lousy way to do government." What else did they say? Look at this, interesting thing. George Bush said no demonstration projects until he got into some trouble with reelection. Then Bill Clinton says no to demonstration projects. What do you make of it? President Bush and President Clinton agreeing, no demonstration projects.

So our honorable chairman of the committee over here has taken that action, and I am very excited about that. We need to do it right here. We need to make sure that in this bill we have a fail-safe, so if the committee starts spending demonstration money, it goes back on-budget. It is a nice accountability feature.

I think it would make a whole lot of sense to do that right now in this bill so that we make sure that we do not lapse into that old behavior of demonstration projects being clearly designed to win Members reelection. That is what this is all about, and that is why we have got to eliminate these demonstration projects.

The point was made earlier, it goes to holy water, the gentleman from Minnesota [Mr. OBERSTAR] said, when it goes to the State. I do not know about the holy water, but I do know this. If it goes to Columbia, SC, as a lump of money, in Columbia, SC, we are a relatively small State, we can figure out how to spend it. In 2½ hours you can get from Columbia to anywhere in South Carolina on the road system we have, and you can determine what the priorities are.

If I am given carte blanche to come here and be the demonstration project king, what happens is I start earmarking for my own district, and what happens to JIM CLYBURN's district or JOHN SPRATT's district or FLOYD SPENCE's district? It gets all irrational. It gets into complete politics way removed from the situation.

Columbia has no holy water but it is a small State. We can figure it out as a family. We want to send it back there freely, fairly and then let the State divide it up. That is the way it was designed.

Mr. NEUMANN. Mr. Chairman, will the gentleman yield?

Mr. INGLIS of South Carolina. I yield to the gentleman from Wisconsin.

Mr. NEUMANN. Listening to the gentleman, the phrase "trust but verify" comes to mind, that we trust the procedure that has been initiated in this Congress will continue and this is very simply a verification that what we have started, to make government cleaner and better for the American people, will continue. "Trust but verify" just keeps coming to my mind as I listen to the gentleman.

Mr. INGLIS of South Carolina. It says something about the SALT treaties and all that.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. INGLIS of South Carolina. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding. If ever there were a man of integrity in this body, it is the gentleman from South Carolina, and if ever there were a gentleman who could do heavy lifting for his district, it is this champion weight lifter who is at the microphone over there.

I am glad to hear that the gentleman has such great confidence in his State government to distribute funds equitably and fairly. I say to the gentleman, I cannot get anywhere in my district in 2½ hours. It is too big.

But there is nothing, in all seriousness, in this legislation that refers to earmarking or designating. That is an issue that will be taken up the next time we have an authorization bill. Furthermore, the language of the gentleman from Minnesota would invite earmarking by the Committee on Appropriations for the simple purpose of killing off-budget status of the highway trust fund.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. INGLIS of South Carolina. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. This amendment goes far beyond the issue of special projects. If we want to fight about special projects, ISTEA is the place to do that, not here. But this goes far beyond that. For example, if interstate maintenance, the national highway system, bridge, the ferry boat construction, if any one of these categories were included, it would kick in this amendment. Is that the gentleman's understanding, as well?

Mr. OBERSTAR. Yes.

Mr. INGLIS of South Carolina. If I may reclaim my time, if that were to happen, let us assume the Appropriations Subcommittee on Transportation decided to do such a thing. I would imagine it would be a fairly uncomfortable position and an unenviable position for them to be in, having taken a position against demonstration projects. It would be a rather awkward position.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support this amendment. I do not think it is going to pass. I hope it passes. But what we ought to be doing, and maybe this would be the prelude to next year, is we ought to just take a percentage of the 18.5 cent gasoline tax and turn it back to the States, because I think they know better about where the money ought to be spent than frankly we do in Congress. And when you have a problem in that individual State, then you go defeat that Governor or you change their legislature or you do something.

What the gentleman from Wisconsin was saying was a fact. The great State, my neighbor State of West Virginia, in that 1 year got 47 percent of all the highway demo money out of the Committee on Appropriations. Forty-seven percent.

There are three wonderful, and I like the gentlemen very much, three good Members of Congress and two outstanding Senators. Let me just say that for the record. I have great respect for Senator BYRD. I think he is a good person, a decent person. But the fact remains that that State has three Representatives, got 47 percent of the money and the rest of the country got 53 percent. Texas got nothing. Florida got nothing. California got nothing.

We in the Committee on Appropriations made a decision that was supported on a bipartisan basis, Republicans and Democrats, that we would do away with highway demo projects. Some people thought when I got to be chairman of the committee that we would just do everything for my State, and I said, "That's not why we're here, and we're going to do away with it," because I had watched the way that demonstration projects were determined. It was if you voted a certain way, if you did a certain thing. So I thought it was a good idea, and I thought the Minge amendment and the

VOL
142
PT
6
AP
15
—
24
1996
UMI

gentleman from California have a good idea. We should be changing the formula. Right now we are disbursing the money on 1980 census data, when the world has changed in 1996 in California and South Carolina. And the gentleman from South Carolina, your State gets 87 percent. You do worse than any other State.

□ 1530

So this is a good amendment. Hopefully it will not pit the two committees together. Some people said, "You are here because you have a jurisdictional issue." Let me say, if the highway trust fund is taken off budget and it passes the House and the Senate and is signed by the President, I am going to get out of this committee. It will be a joke. It will be a waste. It will be a fraud.

Second, even if this does not pass, I do not want to be chairman of the Subcommittee on Transportation of the Committee on Appropriations for the rest of my life. I sit publicly in hearings. I may ask the gentleman from Louisiana [Mr. LIVINGSTON], "Hey, put me on another committee." Put me on the Committee on Foreign Operations. I can do other things other than transportation. So it is not a jurisdictional thing.

I commend the gentleman from Pennsylvania [Mr. SHUSTER] for the effective work here, and the gentleman from Minnesota [Mr. OBERSTAR] for the effective work here, but this amendment makes sense.

Nobody should abuse this amendment, make it look like a stupid amendment. It is a good amendment, and I think it is a way the Congress ought to go. Let us reduce the gasoline tax; let us let the States run it. Whatever we keep at the Federal level, let us change on a formula based on census and fairness.

Last, let us not hold anyone accountable who may vote the wrong way because they voted their conscience.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I would just ask the gentleman from Virginia, what was that pledge he made if this became law?

Mr. WOLF. Mr. Chairman, reclaiming my time, I said if this bill becomes law and is signed by the President, I would step down as chairman of the Subcommittee on Appropriations, because I think it would be a fraud to be there.

Mr. RAHALL. I just wanted to hear it repeated.

Mr. WOLF. Is the gentleman looking forward to that date to take my place, my friend? Although West Virginia has lost a little bit under the change with regard to that, the gentleman was not involved in those other things. It came from the other body.

Mr. RAHALL. Mr. Chairman, if the gentleman will yield further, would the gentleman clarify in this particular Member's mind his distinction between highway demonstration projects and earmarking?

Mr. WOLF. Mr. Chairman, a highway demonstration project is the State, and we have found out many times the State does not want the money, but the Congress gives them the money for whatever reasons, and you can fill in the blank what those reasons are. After the money ends, the State stops building it.

We had the GAO look at it, and many of these highway demonstration projects were never completed because the States did not want it. Once they get the money, they use the money, once they run out, they end it.

I would like to give back to the States whereby the Governor of the States can make the decision, and not the handful of people up here based on the fact you like the way the guy voted, or he did not offend you, or whatever the case may be.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. WOLF] has expired.

(By unanimous consent, Mr. WOLF was allowed to proceed for 2 additional minutes.)

Mr. WOLF. Mr. Chairman, I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, as the gentleman is aware, in ISTEA, when I chaired the Subcommittee on Surface Transportation, with the complete cooperation of the gentleman from Wisconsin, Chairman PETRI, and the gentleman from Pennsylvania, Mr. SHUSTER, chairman of the full committee, and the gentleman from Minnesota, Mr. OBERSTAR, or then Chairman Mineta, we developed a set of criteria by which projects had to answer, a long list of questions. One of those questions at the very top was about whether the State supported the project or not. We did not put a project into ISTEA without full 100-percent written testimony from the States that they supported such projects.

As I said earlier, these projects were scrutinized, scrubbed, and there was not a one put in there without State support, not without State support.

Mr. WOLF. Mr. Chairman, reclaiming my time, what happens is though the States say "If I am going to get it, I will take it." Even my own State said we are against these projects, but if everyone else is doing it, can you do it.

So I think it is better that it fits into the overall State's plan. I think the Governor is the best one to determine it and the money ought to go back on a systematic formula.

There are good and decent people on both sides. I am not questioning anybody for the way they do this. I think the amendment makes sense, and I ask strong support for the amendment. I am not going to hold my breath until it passes, but it would be a good thing.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, the gentleman has been a strong supporter of the Woodrow Wilson Bridge rehabilitation. The gentleman understands that under the language of the amendment of the gentleman from Minnesota [Mr. MINGE] that any project or activity that is specifically designated in Federal law, that the Woodrow Wilson Bridge would specifically be stricken?

Mr. WOLF. The difference is, I would tell the gentleman, the Woodrow Wilson Bridge is the only bridge owned by the Federal Government.

Mr. OBERSTAR. It would still be stricken.

Mr. WOLF. It is in a totally different capacity. The Federal Government and Federal Highway Administration has come up to your committee and said that is their responsibility.

Mr. OBERSTAR. It would still be stricken by this language.

Mr. WOLF. It is a different situation, because it is a federally owned bridge.

Mr. OBERSTAR. It is still in the trust fund.

Mr. WOLF. I urge support of the amendment.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair must remind all Members to avoid personal reference to Members of the Senate.

Mr. ROYCE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, yes, we are trying to change the process here so that it is done in the future proportionately on the basis of fuel taxes paid in by the various States and not affected by earmarking. It is because earmarking favors Sates with Members on key committees and communities with the resources to hire Washington advocates at the expense of other States and localities.

State transportation departments, in my view, and State legislatures are in a much closer position of being closer to the people to determine which highway projects are most deserving of funding than Congress. This is my view. Although individual Members may be knowledgeable about projects in their district or State, Congress as a whole is not in a position to make decisions about the merits of individual projects across the country.

Lastly, the process of earmarking funds for demonstration projects encourages the use of transportation funds for high profile politically popular new construction projects at the expense of the less visible but more important repair and maintenance projects.

So I urge and an "aye" vote on the amendment.

Mr. MINGE. Mr. Chairman, will the gentleman yield?

Mr. ROYCE. I yield to the gentleman from Minnesota.

Mr. MINGE. Mr. Chairman, I would like to also point out, complimenting the gentleman on his remarks, that we have remarkably capable committee leadership in the Committee on Transportation and Infrastructure and many other committees in this Congress. I submit that if some States are not responsibly allocating the Federal funds that come through, that our committees have oversight jurisdiction. It provides us with an opportunity to watch what the States are doing, to correct it with legislative response immediately, if that is what is necessary.

But this is a function that we can play very well, oversight. We have a national vision. But it is very difficult for us to provide the local supervision and the local decisionmaking that is so important in allocating funds between communities, even within our respective districts.

I would also point out that I, and I expect almost every other Member, have from time to time requested a project. I and many other Members have had communities in our districts request support for specific projects. As long as the game plan in Congress is to have demonstration projects or earmarks, it is very difficult to represent an area without playing the game.

I am not here to say that the gentleman from West Virginia or the gentleman from Pennsylvania or my colleague from Minnesota has done anything untoward. I am simply saying, let us engage in the oversight function. Let us not engage in the business where we each beseech the other for some local project and try to evaluate what is going on in each others' districts.

This is an extremely difficult task to perform from Washington. I certainly compliment the gentleman from West Virginia or South Carolina on his resolution to avoid that type of temptation. I know that is a stronger temptation than almost anyone else in this body has been able to withstand.

In closing, I would like to urge the Members of this body to support the amendment. We see this as an opportunity to improve the functioning of our institution and to avoid some of the criticism which unfortunately from time to time has brought our institution into disrepute in the Nation's press.

This, I submit, is a way for America, for the Congress, to improve our function, and to improve the way that we handle the important task of allocating Federal funds.

Mr. BACHUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am here in vigorous opposition to this amendment. I think if you listen to the debate, you focus in on highway demonstration projects. I agree with much of what the gentleman from Wisconsin says and the gentleman from South Carolina. There are too many pork barrel projects. There are too many demonstration projects. But this amendment does not address highway demonstration projects. That is not what this amendment is about.

What this amendment does do is it would gut this legislation. That is why I am opposed to it. This legislation would assure that when people in our States pull up to the gas pump and they pay 18.5 cents a gallon in Federal taxes, which they believe will go to transportation projects, that when that money comes up here, all 18.5 cents goes back. It is not dipped in and taken out and spent on projects that are 1 million years and 1 million miles away from highway projects.

The gentleman from Wisconsin and I agree that this legislation before us is good. This amendment has a good sound to it, and I compliment the gentleman from Wisconsin for bringing it. But when I read it, I realized that it is not what he, I believe, even intended. Because what it would do in fact, I am concerned about these Canadian trailers, where you put three of them together, and a truck can haul trailers longer than a 10-story building. I want to stop that.

But this bill says that if we spend any money to address highway activities, if we try to stop these tractor-trailer trucks longer than a 10-story building, that we cannot do it, because we are obligating money for highway activities, and it goes out the window.

I am concerned about those four teenagers that died in Talladega County, AL, a few months ago at a grade crossing. I would like to address that. Several of us in this body are looking to make grade crossings safer. We would like to commit money to this activity. But it is a highway activity, and with this amendment, it goes out the window.

All someone would have to do that wanted to stop dedicated highway funds from highway projects, all they would have to do is slip something into our bill which was an activity, and it is out the window. So I vigorously oppose this amendment.

Mr. DUNCAN. Mr. Chairman, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Tennessee.

Mr. DUNCAN. I just want to comment to the gentleman from Alabama, I certainly agree with the points he is making. I might make a couple of comments in addition.

Any highway project at any time probably has been called pork by somebody. So we almost have a choice of doing no highway construction at all in the country or doing projects that possibly somebody, some small minority someplace, is going to call pork. But we have got to do this construction.

All of this legislation we deal with, whatever subject it involves, it has to get specific in many different ways. But we run the risk if this amendment passes that if we get specific in highway legislation from now on, it would put this money back on budget and it would start being used for all these other things, foreign aid and everything else, instead of being used for highway construction and the purposes for which it was designated, which is what the American people want.

So I rise in opposition and join the gentleman from Alabama in his opposition to this amendment.

Mr. BACHUS. Mr. Chairman, reclaiming my time, in conclusion, I want to warn the Members of this body, if you are concerned about those triple trailers, which in negotiations they are trying to turn loose on our highways, and they will kill our senior citizens, and if you are concerned about these string of trailers, if you want to do something about them, that is a highway activity. Read this amendment.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Alabama.

Mr. CRAMER. Mr. Chairman, I thank my colleague from Alabama. I accept the gentleman's points. I rise in opposition to this amendment as well, and I accept the points the gentleman has made.

I additionally want to say on behalf of Alabama that we have worked very constructively with this committee, with the chairman of the committee, the ranking member of the committee. We have dotted every i, crossed every t. That first question we answered was, our State in support of a specific project? We from the Alabama delegation worked with a delegation with the committee.

So I think many misunderstand this process and misunderstand what we have to do in order to look after certain projects in the State. I just think this is a bad way to accomplish what the sponsors of this amendment want to accomplish, and I would urge my colleagues to oppose this amendment.

Mr. BACHUS. Mr. Chairman, reclaiming my time, I will simply close by saying read the amendment. It not only says highway construction projects, it says any highway activity, totally tying our hands to address important safety issues.

□ 1545

The CHAIRMAN. The question is on the amendment of the gentleman from Minnesota (Mr. MINGE).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MINGE. Mr. Chairman, I demand a recorded vote.

VOL
142
PT
6
AP
15
—
24
1996
UMI

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 129, noes 298, not voting 5, as follows:

[Roll No. 121]

AYES—129

Allard
Andrews
Archer
Armey
Ballenger
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bereuter
Bilbray
Boehner
Bonilla
Brownback
Bunn
Bunning
Burr
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Coleman
Cooley
Cox
Crane
Cubin
Cunningham
Deal
DeLay
Dicks
Dixon
Doggett
Everett
Foglietta
Foley
Franks (CT)
Frelinghuysen
Funderburk
Furse
Gallegly
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hancock
Harman
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Hoke
Inglis
Johnson, Sam
Johnston
Jones
Kasich
Kennedy (MA)
Klug
Knollenberg
Kolbe
Largent
Leach
Lightfoot
Linder
Livingston
Luther
Maloney
Manzullo
McCrery
McInnis
Meehan
Meyers
Miller (FL)
Minge
Morella
Myrick
Nethercutt
Neumann
Nussle
Obey
Orton
Packard
Pelosi
Peterson (FL)
Porter
Portman
Pryce
Radanovich
Ramstad
Regula
Roemer
Rohrabacher
Ronkema
Royce
Salmon
Sanford
Sensenbrenner
Shadegg
Shaw
Shays
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Stark
Stearns
Stenholm
Stockman
Stump
Taylor (NC)
Thornberry
Thurman
Tiahrt
Torkildsen
Walker
Watt (NC)
Waxman
White
Wolf
Yates
Young (FL)
Zimmer

NOES—298

Abercrombie
Ackerman
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Barcia
Barr
Bateman
Beilenson
Bentsen
Berman
Bevill
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TN)
Bryant (TX)
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Chapman
Chrysler
Clay
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Coyne
Cramer
Crapo
Cremeans
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frisa
Frost
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Green (TX)
Greene (UT)
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hefner
Heineman
Hilliard
Hinchey
Hobson
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
LaFalce
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lincoln
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Lucas
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDade
McDermott
McHale
McHugh
McIntosh
McKeon
McKinney
McNulty
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Ney
Norwood
Oberstar
Olver
Ortiz
Owens
Oxley
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Poshard
Quillen
Quinn
Rahall
Rangel
Reed
Richardson
Riggs
Rivers
Roberts
Rogers
Ros-Lehtinen
Rose
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Serrano
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Spence
Spratt
Stokes
Studds
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Tejeda
Thomas
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Wamp
Ward
Waters
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Williams
Wise
Woolsey
Wynn
Young (AK)
Zeliff

NOT VOTING—5

Fattah
Jackson-Lee (TX)
Nadler
Neal
Wilson

☐ 1606

Messrs. BURTON of Indiana, RUSH, CONDIT, KINGSTON, LAFALCE, CREMEANS, DOOLITTLE, and Ms. MCKINNEY changed their vote from "aye" to "no."

Messrs. JONES, BILBRAY, BURR, DIXON, EVERETT, and Ms. PELOSI, Ms. HARMAN, and Mr. HALL of Texas changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill?

Mr. SHUSTER. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman,I rise in support of the Truth in Budgeting Act.

Mr. Chairman, I rise in strong support of H.R. 842, the Truth in Budgeting Act and commend its sponsor, the gentleman from Pennsylvania [Mr. SHUSTER] for his bringing this important measure to the floor.

H.R. 842 transfers the highway, aviation, inland waterways and harbor maintenance trust funds off budget and provides that trust fund balances will not be used in calculations by the Congressional Budget Office regarding the Federal budget.

This bill guarantees that transportation taxes such as, that taxes that our constituents pay when they fill up their gas tank or when they buy an airline ticket are used for their stated purpose, to improve and reinforce our country's transportation infrastructure. Currently cash balances in the transportation trust funds total $30 billion. It is wrong that this funding is being used to mask portions of our Nation's budget deficit as opposed to upgrading our country's transportation infrastructure.

H.R. 842 is a positive step toward ensuring that our highways and airports get the [illegible] they need. According to the Congressional Budget Office this is an action that is budget neutral.

Accordingly, Mr. Chairman, I urge our colleagues to support this worthy legislation.

AMENDMENT OFFERED BY MR. ROYCE

Mr. ROYCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROYCE:

Page 3, line 10, insert "(a) IN GENERAL.—" before "Notwithstanding".

Page 4, after line 14, insert the following:

(b) PROHIBITION ON EARMARKING OF HIGHWAY TRUST FUND AMOUNTS.—Subsection (a) shall no longer apply with respect to the Highway Trust Fund after the last day of any fiscal year in which amounts are made available for obligation from the Highway Trust Fund for any highway construction project or activity that is specifically designated in a Federal law, a report of a committee accompanying a bill enacted into law, or a joint explanatory statement of conferees accompanying a conference report, as determined by the Director of the Office of Management and Budget.

Mr. ROYCE. Mr. Chairman, this amendment is designed to comply with the spirit of the bill by providing for a complete segregation of highway trust funds and general funds. If the Highway Trust Fund is to be dedicated strictly to transportation programs, then the general fund should be dedicated exclusively to nontransportation programs. That is what this amendment does.

This principle should be supported by both supporters and opponents of H.R. 824, and I would just share with my colleagues that taking the transportation trust funds off budget will effectively reduce the amount of discretionary funds available under the discretionary spending limits for nontransportation programs. Allowing transportation projects that should be funded through the trust funds to receive general revenues in addition to trust fund revenues will further exacerbate the squeeze on all other discretionary spending.

It is unfair to both allow transportation programs to be funded off budget outside of the discretionary caps and

also receive funds from general revenues.

I urge an aye vote on the amendment.

The CHAIRMAN. The Chair believes that the incorrect amendment has been designated.

The Clerk will report the amendment offered by the gentleman from California [Mr. ROYCE].

The Clerk read as follows:

Amendment offered by Mr. ROYCE:

At the end of section 2, insert the following:

"(c) PROHIBITION ON FUNDING TRANSPORTATION PROGRAMS FROM GENERAL REVENUE.—Subsection (a) shall no longer be effective after the last day of a fiscal year in which any amounts were made available from the general fund of the Treasury of the United States for construction. rehabilitation and maintenance of highways, except for highways under the direct supervision of a department or agency of the federal government, as determined by the Director of the Office of Management and Budget."

☐ 1615

Mr. SHUSTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a well-intentioned amendment, but the consequences of it go far, far beyond what is apparent.

Stop and consider, if $1 from the general fund is spent on a highway, then the whole highway trust fund budget is thrown out. Consider, if my colleagues have a flood in their district, if they have an earthquake in their State and FEMA comes in and FEMA spends $1 to repair the highway from the earthquake or the flood, then this amendment kicks in.

If money goes to my colleagues' local community block grant development, we no longer have any control over that money; and my colleagues' local CDBG decides to spend some of that money on a highway, then this amendment kicks in. If money goes to my colleagues' State or their local community development district, and they decide to spend $1 on a highway, then this amendment kicks in.

So this goes far, far beyond, and for that reason I would urge its defeat.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, effectively, this amendment does the same thing as the amendment we just voted on. Effectively it is the same old thing.

Mr. SHUSTER. Sure. It is even worse in the sense that they spend $1, FEMA spends $1 on a flood on an emergency. They spend $1 out there in Oklahoma City near the building that was blown up to fix up the street, and this kicks in. It really does not make much sense.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Again I point out to all the supporters of the Appalachian Regional Commission program and Economic Development Administration program, $1 of those moneys going to a highway project kills off-budget status for the highway trust fund.

Mr. SHUSTER. Right.

Mr. MINGE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the purpose of this amendment is to say that either we have a highway trust fund that is off budget, that is dedicated to and used to fund the highway projects in the various States around this country, or we do it on the budget; and if we are going to mix general fund moneys for highway purposes with trust fund monies for highway purposes, we altogether too easily can engage in a shell game and the accounting is going to be frustrated.

So the purpose of this amendment is very simple. We are not saying that we should not use funds in the trust fund for highway purposes, we are not trying to eliminate the earmarking, the demonstration projects, such as was considered in the previous vote. We are simply saying let us have it one way or the other.

If we have a disaster, and if there are highway repairs to be made, finance the highway repairs out of the trust fund. If the trust fund is not adequate, we can look at the gasoline tax again.

But this is not an attempt to frustrate the bill. We have spoken with the appropriators. The appropriations subcommittee that has jurisdiction over transportation projects has assured us that they are not interested in somehow delving into this matter and trying to force upon this Chamber some small measure which would end up putting the trust fund back on budget.

I submit that the leadership of the committee, the Committee on Transportation and Infrastructure, is extremely capable. They will know when other committees are attempting to usurp their authority. They will identify this, they will report it to the body, and we can deal with it appropriately.

This is a situation where we are simply trying to say that we need to bring integrity to the accounting process and have the funds within the trust fund and off budget or on budget entirely.

Mr. ROYCE. Mr. Chairman, will the gentleman yield?

Mr. MINGE. I yield to the gentleman from California.

Mr. ROYCE. Mr. Chairman, according to the Congressional Research Service, over $38 billion has been spent from the general revenue on highway projects since the highway trust fund was created in 1957. These general funds have effectively masked the true cost of Federal highway spending. If these funds had been charged to the highway trust fund, arguably there would not be a surplus.

So this bill that we are going to vote on creates a firewall that would prevent gas tax revenues dedicated to the trust fund from being used for any programs outside the highway trust fund; very well. Then this amendment would create a corresponding firewall preventing transportation projects from being funded by general revenues.

I ask for my colleagues' "aye" vote.

Mr. KIM. Mr. Chairman, I rise in opposition to this amendment because it prohibits general fund expenditures on transportation.

This is not fair because gas taxes pay billions of dollars into the general fund each year.

GAS TAX

If you are not going to allow general fund expenditures for highway projects, then you should send all of the gas tax money to the trust fund.

But that doesn't happen now:

Take the 18.4-cent Federal gas tax: 6.8 cents for social programs/deficit reduction, 2.5 cents for mass transit, 0.1 cents for leaking underground storage tanks and only 12 cents for highways.

Over 30 percent of the gas tax goes to deficit reduction already.

This money should go to the trust fund.

AVIATION

The aviation trust fund is paid for by a 10-percent ticket tax.

This was created to pay for airport capital improvements.

That means airports, new towers, and runways.

The trust fund was not originally designated to pay for FAA operations.

That was always supposed to come out of the general fund.

But over the years, we've taken money out of the trust fund to pay for part of the FAA's operations.

Right now, the trust fund pays for about 70 percent of FAA operations.

If this amendment passes, then we would have to raise the ticket tax.

Perhaps if the sponsor would be willing to send all the gas taxes to the trust fund then I would support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROYCE].

The amendment was rejected.

The CHAIRMAN. Are there further amendments to the bill?

If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BARRETT of Nebraska) having assumed the chair, Mr. DREIER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and

VOL
142
PT
6
AP
15
—
24
1996
UMI

the Harbor Maintenance Trust Fund, pursuant to the House Resolution 396, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 284, noes 143, not voting 5, as follows:

[Roll No. 122]

AYES—284

Abercrombie
Ackerman
Allard
Andrews
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Bryant (TN)
Bunn
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Chambliss
Chapman
Chenoweth
Chrysler
Clay
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Collins (MI)
Combest
Conyers
Cooley
Costello
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Danner
de la Garza
Deal
DeFazio
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fields (TX)
Filner
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (NJ)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Heineman
Herger
Hilleary
Hilliard
Hinchey
Holden
Horn
Hostettler
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kelly
Kildee
Kim
King
Kleczka
Klink
Klug
LaHood
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Lucas
Manton
Martinez
Martini
Mascara
McCarthy
McCollum
McDermott
McHale
McHugh
McIntosh
McKeon
McKinney
McNulty
Meek
Menendez
Metcalf
Mica
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Myers
Neumann
Ney
Norwood
Oberstar
Ortiz
Owens
Oxley
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Poshard
Quillen
Quinn
Rahall
Richardson
Riggs
Rivers
Roberts
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roybal-Allard
Rush
Sanders
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Serrano
Shaw
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Solomon
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Tejeda
Thomas
Thompson
Thornton
Tiahrt
Torricelli
Towns
Traficant
Upton
Volkmer
Vucanovich
Walsh
Wamp
Ward
Waters
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Williams
Wise
Woolsey
Wynn
Young (AK)
Zeliff

NOES—143

Archer
Armey
Barrett (NE)
Barrett (WI)
Becerra
Beilenson
Berman
Boehner
Bonilla
Bonior
Brown (OH)
Brownback
Bryant (TX)
Bunning
Burr
Castle
Chabot
Christensen
Clayton
Coleman
Collins (IL)
Condit
Cox
Cunningham
Davis
DeLauro
DeLay
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Eshoo
Fazio
Fields (LA)
Flake
Foglietta
Frank (MA)
Franks (CT)
Frelinghuysen
Furse
Goss
Hall (OH)
Hancock
Hayworth
Hefner
Hobson
Hoekstra
Hoke
Houghton
Hoyer
Inglis
Jefferson
Johnson, Sam
Johnston
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kingston
Knollenberg
Kolbe
LaFalce
Lantos
Largent
Lazio
Levin
Livingston
Luther
Maloney
Manzullo
Markey
Matsui
McDade
McInnis
Meehan
Meyers
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moran
Morella
Murtha
Myrick
Neal
Nethercutt
Nussle
Obey
Olver
Orton
Packard
Pelosi
Peterson (FL)
Porter
Portman
Pryce
Radanovich
Ramstad
Reed
Regula
Roemer
Rogers
Roukema
Royce
Sabo
Salmon
Sanford
Schroeder
Sensenbrenner
Shadegg
Shays
Skaggs
Smith (MI)
Smith (TX)
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Taylor (NC)
Thornberry
Thurman
Torkildsen
Torres
Velazquez
Vento
Visclosky
Walker
Watt (NC)
Waxman
White
Wolf
Yates
Young (FL)
Zimmer

NOT VOTING—5

Jackson-Lee (TX)
McCrery
Nadler
Rangel
Wilson

☐ 1640

Mr. STOKES and Mr. SPENCE changed their vote from "aye" to "no."

Mrs. VUCANOVICH and Ms. DUNN of Washington changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, on Wednesday, April 17, 1996, I was away from the floor because of a family medical emergency. Had I been present I would have voted "no" on rollcall No. 121, on H.R. 842; and on rollcall 122, final passage on H.R. 842, I would have voted "yes."

PERSONAL EXPLANATION

Ms. MILLENDER-McDONALD. Mr. Speaker, I inadvertently voted "no" on H.R. 842 the truth-in-budgeting bill, thinking that I was voting on an amendment. Had I known that I was voting on final passage, I would have voted "yes."

PERSONAL EXPLANATION

Mr. RANGEL. Mr. Speaker, I missed rollcall vote 122 because I was at a meeting in a room that the bells did not ring in. Had I been here, I would have voted in the negative.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 45 legislative days within which to revise and extend their remarks on H.R. 842, the bill just passed.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

EXPRESSING APPRECIATION FOR EFFORTS IN SUPPORT OF H.R. 842

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I want to emphasize the extraordinary bipartisan support on this extraordinary victory here. Without the gentleman from Minnesota [Mr. OBERSTAR] and his colleagues, this simply never could have happened.

Beyond that, however, this has been a battle that we have been dedicated to for so many years, that there are many

former chairmen and ranking members of our committee who I know, those who are still alive have to be smiling, and those who are up there looking down have to be smiling as well.

On our side Bill Harsha, Don Clausen, Gene Snyder, John Paul Hammerschmidt, Jim Howard, God bless him, Glen Anderson, Bob Roe, Norm Mineta, they all contributed to this victory today, and I thank them.

☐ 1645

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I want to pay tribute, well deserved tribute to the gentleman from Pennsylvania for the leadership he has exhibited on this issue. He has worked tirelessly, brought together a coalition of people of different fiscal views on this issue, geographic views on this issue and brought them together to understand and to pass this very, very important, as the gentleman has stated, long-standing legislation. He has marshaled an extraordinary outpouring of support for a principle that will reestablish the trust of people in Government. The impact reaches far beyond this bill. For that, I salute our chairman.

Mr. SHUSTER. I thank the gentleman.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 735, COMPREHENSIVE TERRORISM PREVENTION ACT OF 1995

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104–522) on the resolution (H. Res. 405) waiving points of order against the conference report to accompany the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes, which was referred to the House Calendar and ordered to be printed.

1995 ANNUAL REPORT ON ALASKA'S MINERAL RESOURCES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. BARRETT of Nebraska) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Resources:

To the Congress of the United States:

I transmit herewith the 1995 Annual Report on Alaska's Mineral Resources, as required by section 1011 of the Alaska National Interest Lands Conservation Act (Public Law 96–487; 16 U.S.C. 3151). This report contains pertinent public information relating to minerals in Alaska gathered by the U.S. Geological Survey, the U.S. Bureau of Mines, and other Federal agencies.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 17, 1996.*

1995 ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE HUMANITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Economic and Educational Opportunities:

To the Congress of the United States:

I am pleased to present to you the 1995 Annual Report of the National Endowment for the Humanities (NEH). For 30 years, this Federal agency has given Americans great opportunities to explore and share with each other our country's vibrant and diverse cultural heritage. Its work supports an impressive array of humanities projects.

These projects have mined every corner of our tradition, unearthing all the distinct and different voices, emotions, and ideas that together make up what is a uniquely American culture. In 1995, they ranged from an award-winning television documentary on President Franklin Delano Roosevelt, the radio production *Wade in the Water*, to preservation projects that will rescue 750,000 important books from obscurity and archive small community newspapers from every State in the Union. *Pandora's Box*, a traveling museum exhibit of women and myth in classical Greece, drew thousands of people.

The humanities have long helped Americans bridge differences, learn to appreciate one another, shore up the foundations of our democracy, and build strong and vital institutions across our country. At a time when our society faces new and profound challenges, when so many Americans feel insecure in the face of change, the presence and accessibility of the humanities in all our lives can be a powerful source of our renewal and our unity as we move forward into the 21st century.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 17, 1996.*

HOW SERIOUS ARE WE?

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, 8 days ago I stood in the Oval Office as the President signed into law the historic line-item veto. But how serious is the Washington establishment when it comes to enforcing real change?

Today we read the first of what is likely to be many advertisements for Washington insiders pitching a seminar on how to circumvent the line-item veto. For a mere $245, people whose business it is to secure Federal money can learn, among other things:

> What can be done to insulate an appropriation, entitlement or tax provision from a line-item veto.

The law hasn't even gone into effect, and already people are seeking ways around it. And, later today, we consider a bill to take an entire category of Federal spending off budget, beyond the reach of the line-item veto.

Mr. Speaker, we crafted a tough and workable line-item veto to control runaway Government spending. How serious are we? I guess Americans will have to watch and see.

Mr. Speaker, I provide for the RECORD the advertisement referred to:

[From the Congress Daily, Apr. 17, 1996]

(Price Waterhouse LLP—Presents)

THE LINE-ITEM VETO: HOW IT WILL AFFECT APPROPRIATIONS, ENTITLEMENTS, AND TAXES

THE EXECUTIVE SEMINAR YOU NEED TO ATTEND!

Bedget and political analysts are calling the line item veto the most significant revision in the legislative process since Gramm-Rudman-Hollings. Many are predicting that it will require substantial changes in the way people in Washington conduct business.

Price Waterhouse LLP's highly respected budget and tax professionals will provide you with what you need to know about the line item veto when you need to know it—NOW! During this solid, no fluff, half-briefing you will learn how the line item veto will work, including answers to these key questions:

Which appropriations or parts of appropriations will be subject to a line item veto?

Who will determine which tax provisions are vulnerable?

What does the law mean when it said that only "new" entitlements will be subject to a line item veto?

How can Congress disallow or override a line item veto?

What can be done to insulate an appropriation, entitlement, or tax provision from a line item veto?

What role will OMB, CBO, and the Joint Committee on Taxation play in the line item veto process?

All of this and much more in just a half day . . . you'll be back in your office in time for lunch. And at only $245 per person (with a substantial discount for more than 4 people from the same organization), this special executive briefing is the easiest and least expensive way for you to learn what you need to know about the new challenges and opportunities the line item veto will create for you and your association or company.

Price Waterhouse LLP's

Line Item-Veto Executive Seminar

Wednesday, May 8, 1996—8:30 a.m. to 11:30 a.m.
Continental Breakfast Starting at 7:30 a.m.
Hyatt Regency Hotel On Capitol Hill, Washington D.C.
To Register, Or For a Copy Of The Full Agenda Call (202) 414–1757

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. LAHOOD). Under the Speaker's announced policy of May 12, 1995, and

VOL
142
PT
6
AP
15
—
24
1996
UMI

under a previous order of the House, the following Members will be recognized for 5 minutes each.

RECOGNIZING SUCCESSFUL TEEN PREGNANCY PREVENTION PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the current debate on welfare reform is accelerating the need to address the issue of out-of-wedlock teen births.

We want to "end welfare as we know it." But, I am afraid we will replace it with welfare as we do not want to know it.

We do not want to enact legislation that leads to a policy of national child abandonment.

Our current social crisis evolved over several generations. Consequently, we must realize that we cannot break this intergenerational cycle or eliminate the crisis overnight.

To break the cycle of teen pregnancy and poverty, we must implement pregnancy prevention programs that educate and support school age youths—10–21—in high risk situations and their family members through comprehensive social and health services, with an emphasis on pregnancy prevention.

I strongly support abstinence education and feel that it is critically important to fund abstinence programs for preteens as well as teenagers. Within 5 years, a concentrated abstinence program for preteens should bring about a decline in the number of teenagers who are sexually active.

However, we cannot ignore the fact that today so many of our teenagers are already sexually active with or without our permission. It is therefore imperative that we also provide funding for contraceptive prevention programs for them.

This evening, I wish to recognize a program in my district that exemplifies the kind of comprehensive social and health services that high risk teenagers need.

For over 13 years, the Division of Adolescent Health Services of Greene County has developed and implemented programs to help teenagers meet and successfully avoid the pitfalls of juvenile delinquency, child abuse, school drop outs, and teen pregnancy. In the past 2 years the program has expanded its services to include primary health care to improve health status of teenagers and to influence healthier behavior and lifestyles. A certified physician's assistant furnishes on-site treatment of acute illnesses, minor injuries, and developmental screenings as well as age-appropriate health education such as nutrition, diet, and personal hygiene.

'In addition, early intervention is provided for sexually active teens and teens with alcohol and substance abuse problems.

Other on-site services include: individual counseling, mental health prevention, first aid and family life classes—along with an array of other health and social services.

Off-site referrals are made for family planning with a tracking system to assure follow-up.

The program was started to provide a foundation of support for young teens as they encounter life's changes.

One of the strongest components in this foundation is the TAP Club—Teens Against Pregnancy. Membership is open to all girls in grades 9–12, with membership dues of $5 per year.

Another key component is the Teen Advisory Board. Adults do not view the world from a teenage perspective, therefore, they may not always know what is best for teens. Realizing this, the Green County Program established a Teen Advisory Board in 1985.

Ms. Helen Hill serves as the director of the Division of Adolescent Health Services of Greene County. From the beginning, she has been a guiding force through both the planning stage, and the implementation stages, and for over 13 years has successfully run the program that is known throughout North Carolina as the original school-based health model. It is also known as a program that truly works.

She not only has improved the quality of life and enhanced the opportunities of the county's teenagers but her efforts have meant a better quality of life for all Greene County's citizens. At the same time she has saved county, State, and Federal Government funds. She has saved the taxpayers money. Ms. Helen deserves our applause.

True welfare reform should end the need for monetary benefits if it eliminates programs and funding. A small percentage of the total funding currently paid to teen parents should be earmarked for contraceptive prevention programs. Every dollar spent on contraceptive prevention will be multiplied many times over in the Federal tax dollars that will be saved by preventing teen pregnancy.

The Division of Adolescent Health Services of Greene County is a shining example of what we can do.

Mr. Speaker, this is truly an outstanding program and I recommend it for all my colleagues.

Mr. ROEMER. Mr. Speaker, each year more than one million teenage girls become pregnant. Four out of 10 will become pregnant before the age of 20 with half of them giving birth and very few marrying the father. These numbers pose a serious problem not only to the young parents and the child, but to the larger community as well.

There are a number of programs working to assist young mothers and their children, including financial assistance and child care. These are important programs and we must continue to improve them. What we must also do is begin to more adequately address the issue of how to keep teenagers from becoming pregnant. As the old saying goes, "An ounce of prevention is worth a pound of cure." While we will never erase teen pregnancy completely, it is essential to create successful prevention programs.

In an environment of shrinking Federal Government involvement, State and local governments must begin to work in conjunction with their communities to provide the programs necessary to assist young teens in making responsible life choices. In response to this trend, the Progressive Policy Institute in cooperation with the Democratic Leadership Council has developed a seven part framework to help communities and local governments better understand the problem and begin to solve it. While this framework does not have all the answers, it provides a basic format on which to build successful programs catering to the needs of a particular locale.

The seven strategies are 1. Build state and local coalitions 2. Launch a sustained campaign to change attitudes. 3. Second chance homes for teen mothers. 4. Hold fathers accountable, and value their contributions to their children. 5. Crack down on sexual predators. 6. Reform foster care and adoption laws. 7. Create opportunities and incentives for young people at risk of becoming parents too soon.

Local communities can play a vital role in the actions and attitudes of young teens. Support from schools, churches, and civic organizations can offer both assistance and alternatives to teens. Each community must decide where to focus its attention; whether through education, offering part-time jobs, more after school activities, or mentoring programs. A number of communities already have resources in place, such as the Boys and Girls Club or 4–H. We need to draw from those resources, learn from them, and make them more effective.

I know that if all levels of government, various organizations, communities, and the public at large pull together, we can begin to address this important issue. Parenthood is an exceptionally important responsibility and we must prevent or delay that responsibility until teens are mature enough to accept it and the wonders that accompany it.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I am proud to join my colleagues in celebrating the efforts of communities across the country in fighting teen pregnancy. At a time when we are constantly bombarded with dismal statistics on teenage births, it is particularly important to recognize those individuals who have stopped talking about teen pregnancy prevention and have committed to action. The Latino Peer Council in my State of Rhode Island is a shining example of this commitment to action. Together, these young men and women are reaching out to the students who will follow in their footsteps in striving for better, brighter futures.

The Latino Peer Council was initiated in the summer of 1994 as the State was facing the highest teen birthrate in the Northeast. With teenage pregnancies particularly prevalent within the Latino- and African-American communities in Rhode Island, the Latino Council was developed to focus upon the specific needs of Hispanic families. The council is comprised of eight high school students who are trained by community educators to inform and educate their peers, teachers, and parents on teenage pregnancy, sexually transmitted diseases, AIDS, safe sex, birth control, relationships and abstinence.

Using humorous skits and lively discussions, the peer educators have effectively touched their fellow youths in the community. Through their leadership, they set an example not only to Latino teenagers but all young adults from every ethnic and racial background. At the same time, these students are cultivating leadership skills that will carry them throughout school, their careers and their lives. The Peer Educators build their confidence and develop a strong sense of self while engaging in public speaking and community education.

The Latino Peer Council is effective because of its innovative approach to tackling unplanned pregnancy. Shunning antique methods of teaching sexual health and awareness, the council presents teens as competent, responsible, intelligent leaders that share similar experiences with those whom they are educating. Teens are communicating with other teens about the issues and concerns that they face growing up in today's world. In this Congress we have heard a lot about "personal responsibility." I am proud to recognize today a group of teenagers talking, educating and taking responsibility not only for themselves, but for an entire generation.

Efforts like those of the peer educators are essential to building bridges between youngsters and adults that will ensure that the next generation is successful both personally and professionally. Keeping the lines of communication open between teens and adults is crucial to effective pregnancy prevention and family planning. If adults and teens can share, communicate and most importantly, understand one another, half of the battle has been won. I am proud of the Latino Peer Council for rising to the occasion. I urge other communities to start listening to their young people and working with them to put an end to teen pregnancy.

I would also like to salute the teen pregnancy prevention initiatives of Thundermist Health Clinic in Woonsocket, RI. Services like the Health Hut that provides family planning services to pre-teens at Woonsocket Middle School to the Mentoring Program that coaches and guides young mothers not to repeat their mistakes, are strengthening families and the greater community.

I want to thank the gentlewoman from North Carolina for highlighting this important issue and for providing us the opportunity to focus on the strengths of our youngsters—an area that receives too little attention.

Mrs. MORELLA. Mr. Speaker, members on both sides of the aisle and on both sides of the choice issue agree that we must reduce teenage pregnancy. Its costs are enormous; it is costly to the Government, costly to the futures of the young mothers, and costly to our society. It is clear that reducing teenage pregnancy will only be successful when parents, educators, community leaders, the business community and Congress make a serious commitment and become involved.

Costs associated with teenage pregnancy drain limited Federal, State and local resources. Each year, more than one million American teenage girls become pregnant. The teenage pregnancy rate for women under 20 has increased by more than 20 percent since 1970. Teenage mothers are more likely to be uneducated, unskilled and unmarried. Their children are at higher risk for prematurity, low-birth weight and birth defects.

Women who bear children outside of marriage and meet income requirements are eligible for AFDC benefits, food stamps, Medicaid, housing assistance and other benefits, and teenage mothers are particularly likely to need these benefits.

And what about the costs to the teenagers themselves? The opportunities forgone to teens who become pregnant are enormous. Certainly many career paths become nearly impossible for a teenage mother to attain. High school graduation becomes less important that the children's daily needs; teenage mothers have a 60 percent chance of graduating from high school by age 25, compared to 90 percent of those who postpone childbearing. The economic situation of most teenage mothers is such that most find themselves limited to low-income neighborhoods that are less likely to have good schools, safe drug-free streets and positive role models. And we know that teenage mothers are the most likely to the single parents and have an especially difficult time collecting child support.

Teenage pregnancy is costly to society in terms of lost productivity and in terms of the cycle of dependency that is passed on from generation to generation. Teens from poorer families are more likely to initiate sexual intercourse at a younger age and less likely to use contraception.

What should we do? It is clear to me that Congress does not have all of the answers, and cannot provide help where it is needed most: at home and in the community.

One example of effective community involvement is Best Friends, an organization designed to reduce teenage pregnancy. I have met with Elayne Bennett, the founder of the Best Friends, and she shared many encouraging stories with me. In 29 public schools across the country, including schools in Montgomery County, MD, the Best Friends Program has been a wonderful success. Of the 600 Washington girls who have participate for 2 years or more, 1.1 percent, have become pregnant, as opposed to the 25 percent city-wide rate for girls 13 to 18. The Best Friends Program is not a quick fix. It works because its mentors make a long-term investment in junior high and high school girls, taking them on outings, teaching them new skills, and going to weekly classes with them. The Best Friends Program builds teenage girls' self-confidence and teaches them that there are other options.

The Federal Government does, however, have an important role to play in the area of education, girls' sports, and community activities. These things all play an important role in reducing teenage pregnancy because they build self-esteem and present young girls with options for the future, making them much more likely to avoid teen pregnancy.

We have spent a significant amount of time this Congress debating welfare reform—deciding how limited resources should be used and how to most effectively move AFDC recipients from welfare to work. Reducing teen pregnancy must be part of the solution, and indeed, it has been a part of the debate—but few constructive solutions have emerged. Some Members advocate a family cap, a provision to deny benefits to welfare recipients who have additional children while on welfare.

Despite the heated debate over illegitimacy that we have heard in the context of welfare reform, answering the question of whether the welfare system increases nonmarital childbearing is very difficult. Some studies have shown that welfare has no effect on nonmarital childbearing while others have shown significant effects. Whether or not Government benefits actually lead to an increase in teen pregnancies, we do know that the teenage pregnancies that occur—for whatever the reason—are very expensive. While curbing teen pregnancy certainly needs to be addressed in the context of welfare reform, these punitive solutions are not the answer. Mr. Speaker, we have not spent enough time developing real solutions to reducing teenage pregnancy—solutions that involve prevention strategies, education and self-esteem building, community partnerships, and family planning.

We must also improve and increase efforts at the Federal level to prevent teenage pregnancy. There are very few Federal programs to reduce teenage pregnancy, and they are not comprehensive. Fully funding the title X Family Planning Program is one of the most direct ways that Congress can help prevent unintended pregnancies; publicly subsidized family planning services prevent an estimated 1.2 million unintended pregnancies annually in the United States. Title X, however, directs its dollars to critical health services for women of all ages, and only 20 percent goes toward adolescents. Although title X was threatened during the fiscal year 1996 appropriations process, a majority of Members recognized how important it is. No title X funds can be used for abortion services; clinics have always been prohibited from using title X funds for abortions. What title X does do is provide quality health care for low-income women—including teenagers—who are at risk of becoming pregnant. The Centers for Disease Control also has small grant to implement 13 community projects to examine ways to reduce teenage pregnancies, but its effects have been limited due to its size. The Adolescent and Family Life Act provides a small grant that goes toward care and parenting for adolescent mothers and adoption assistance, but most of the money goes toward an abstinence-only education. These programs help, but clearly they are not enough.

Adolescent pregnancy prevention is not only about family planning. We must examine the

VOL
142
PT
6
AP
15
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24
1996
UMI

reasons teenage girls become pregnant. What is it about our society that makes teenage girls think that to be loved, they must have a child of their own? Why do so many girls think that no opportunities worth waiting to have children will be available to them? Surely we can do better. Educational opportunities build self-esteem, as do girls' sports and community activities. Improving our education system, building our communities, increasing job opportunities, and giving young girls something to look forward to all will reduce teen pregnancy.

We all share the responsibility for preventing teen pregnancies. Parents, communities, religious organizations, State and local governments all have an important role to play, and many are making important progress toward reducing teen pregnancies.

Each year in Maryland over 8,500 adolescents give birth. I applaud the work done by the Governor's Council on Adolescent Pregnancy to combat this problem. The council promotes the reduction of unplanned adolescent pregnancies through strategies carried out in collaboration with state and local agencies and private and no profit groups. A sustained media campaign, including television, radio, and print media has been an integral part of efforts to raise awareness about adolescent pregnancy. Maryland has also developed programs to help teen parents prevent further early childbearing and programs to help teenage parents learn parenting skills and continue their education. It is important that we don't only focus on prevention, but focus on helping teenage parents improve their lives.

I applaud the efforts of the bipartisan National Campaign To Reduce Teenage Pregnancy, and I hope their recommendations provide new ideas and energy. I look forward to a hearing at the end of the month on teenage pregnancy in the Government Reform and Oversight's Human Resources Subcommittee

This is only the beginning of a dialog between the Congress, our communities, state and local governments and educators about how to reduce teen pregnancy. We know that providing teens with a solid education, teaching them how to avoid pregnancy and giving them hope for the future works. Now we must work together to achieve these goals.

A TRIBUTE TO RUSH LIMBAUGH, SR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. EMERSON] is recognized for 5 minutes.

Mr. EMERSON. Mr. Speaker, I rise today to pay tribute to a distinguished and gentle man from southeast Missouri, a man who embodied what is right and good about this great Nation, Rush Hudson Limbaugh, Sr., a gentle man who earned the affectionate disinction, patriarch of southeast Missouri.

Mr. Limbaugh passed away last week at the honorable age of 104 in his Cape Girardeau home of Sylvan Lane. He had a long and valuable life. His passing will inevitably leave a tremendous void. He was a dear friend and mentor of mine, and of countless others, from all walks of life.

What made Mr. Limbaugh such a special person was his uniquely simple character. Those who had the privilege to come in contact with him certainly were amazed at his breadth of knowledge and command of oratory skills. No question, Rush Hudson Limbaugh Sr. was a living testament to the american dream. But he was without pretense, truly a humble man, a devout Republican and a very committed democrat.

Born in rural Bollinger County, about 90 miles southwest of St. Louis, Mr. Limbaugh was the product of a one-room primary school. As with everything he approached in life, he excelled in his education. In fact, through diligence, organization, and keen focus, he put himself through high school, paying most of his expenses by doing carpenter work and farm labor. Following high school, he went to college at the University of Missouri at Columbia. His work on the university farm and various odd jobs, such as firing furnaces, carpentry, waiting tables, caring for animals, and assisting a Methodist minister all helped to foot the bill for his continuing education.

He always stressed that the more you can learn, the better off you would be. His list of personal accomplishments help to prove that he was indeed a man who lived by his own words and convictions. He prepared himself well, worked hard, and made his family, community, and country proud.

Among his most notable achievements, Mr. Limbaugh left this world last week as the oldest practicing attorney in the United States. That's right, at 104 years of age, Rush Hudson Limbaugh Sr. still went into the office at least twice a week to the Limbaugh, Russell, Payne and Howard law firm that he founded 50 years ago in Cape Girardeau. To help put his 80 years of service in perspective, he started practicing law in 1916 at the age of 24 when Woodrow Wilson was President.

Not only was Mr. Limbaugh a scholar in the law, but also in history, in political theory and Judeo-Christian tradition. He and I shared a pleasure of never-endingly researching Abraham Lincoln. When we would get together, inevitably a discussion about Lincoln would come up, and we both looked forward to swapping new stories or novel tales about our Nation's 16th President.

I would be remiss if I didn't mention Mr. Limbaugh's many contributions to our community and our Nation. He was a servant of the Methodist church, the Boy Scouts, and the Salvation Army among others. In 1958, one of his personal highlights came when the U.S. State Department invited him to lecture in a newly liberated India before lawyers, judges, and university students about constitutional government and the American judicial system. They were so impressed with his commentary and remarks that the All India Law Teachers Association subsequently honored him.

We will all dearly miss Mr. Limbaugh, the patriarch of the Limbaugh family, of Cape Girardeau and of southeast Missouri. Many folks know about his now famous national radio talk show grandson, Rush Limbaugh III. "Pop," as his family would call him, also is responsible for the great legal legacy of Limbaugh lawyers whom include son, a U.S. District Judge, a grandson, Justice of the Missouri Supreme Court, another grandson, a prominent attorney in southeast Missouri and throughout the Midwest, a son and grandchildren who are educators.

Throughout his extraordinary life, he was always true to his roots—hard working, composed, dedicated, and most of all humble. His life and character epitomize that America is the land of opportunity for those who have the heart and the will to make the most of it.

Rush Hudson Limbaugh Sr. was indeed a legend in his time.

[From the Southeast Missourian]

400 ATTEND LIMBAUGH FUNERAL

(By Chuck Miller)

The patriarch of the Limbaugh family was laid to rest Thursday afternoon next to his bride, who died almost 19 years before him.

For the most part, the funeral service for Rush Hudson Limbaugh Sr. was of typical United Methodist fanfare, probably the way the Limbaugh would have wanted it. The most extraordinary aspects of the service were the cross-section of people that paid their last respects and the "van loads" of flowers sent in remembrance of a man whose legal career spanned more years than most people's lives.

Limbaugh, 104, died Monday, April 8, 1996, at his home on Sylvan Lane. He practiced law for more than 80 years.

State officials, judges, community leaders and others—about 400 people in all—gathered at Centenary United Methodist Church for the service. The minister, the Rev. Dr. Neil Stein, delivered the eulogy.

Besides the eulogy, a violinist began the service, a soloist sang a Christian hymn and a trumpeter performed "Amazing Grace." It was a relatively simple service for a man who gained international fame as a lawyer and who lived through the Space Age and witnessed this country fight six wars. But Limbaugh enjoyed living a simple life in Cape Girardeau.

In addition to family members such as a U.S. district judge and nationally known radio and TV talkshow host, Secretary of State Bekki Cook, a former associate in the law firm Limbaugh founded, and State Auditor Margaret Kelly attended the ceremony.

Three justices from the Missouri Supreme Court also attended the service. One of the justices, Stephen N. Limbaugh Jr., was bidding farewell to his grandfather. Chief Justice John Holstein and Justice William Price also paid their respects.

A host of other officials from state representatives and senators to city leaders and lawyers also attended.

"No one can really tell the story of the life of Rush Hudson Limbaugh," Stein said. "He joined this church in 1911, before most of us came into being."

The minister said Limbaugh was a man who made everything—family, clients and God—take center stage in his life. "A grandson told me that Pop—that's what everyone called him—made each of them feel they were the most important one in his life," he said.

"Even though he is gone physically," Stein said, "it makes no sense to stop living up to his standard."

Limbaugh lived a long and quality life, Stein said, because of his ability to adapt to new things. "Most people resist change, but Rush never aged," he said.

The minister quoted a line from a book Limbaugh wrote but never published about his life with his wife, Bee. "On the night of her death, he wrote, 'For the first time in 63 years I was utterly alone except for the memories of the greatest soul I had ever known,'" said Stein.

A long funeral procession to Lorimier Cemetery followed the service.

[From the Southeast Missourian]

RUSH H. LIMBAUGH DIES AT AGE OF 104

(By Jay Eastick)

In 1902, on a small farm along the Little Muddy Creek in Bollinger County, a passion for the law first stirred in a 10-year-old boy.

A Daniel Webster oration the boy memorized had inspired him to become a lawyer. Fourteen years later, he set out on a legal career that spanned eight decades.

On Monday, the lifetime love affair between the man and the law ended.

Rush Hudson Limbaugh, one of Cape Girardeau's favorite sons and the nation's oldest practicing lawyer, died Monday afternoon at his home at 635 Sylvan Lane. He was 104.

Funeral arrangements are pending at Ford and Sons Mt. Auburn Chapel in Cape Girardeau.

Limbaugh's interest in law never waned and even in recent months, he headed into work about twice a week at the Limbaugh, Russell, Payne and Howard law firm that he founded 50 years ago in Cape Girardeau.

His love of the law now is a family legacy.

His son Rush H. Limbaugh Jr., who died in 1990, practiced law with him, along with another son, Stephen N. Limbaugh, who now is a federal judge in St. Louis.

Stephen practiced law with his father for 30 years before President Ronald Reagan appointed him to the federal bench.

"I remember him most of all as a tremendous inspiration as a lawyer and a teacher, not only from a professional point of view, but in our relationship as well," Stephen said Monday.

He always has been most impressed with his father's even temperament. Although he could be a "very fiery advocate" for his clients, the elder Limbaugh was able always to maintain his composure and craft solutions to legal quandaries, Stephen said.

Despite his own stellar legal career, Stephen said he "couldn't possibly ever measure up" to his father's stature.

The Limbaugh legal legacy extends to a third generation.

Four of his grandsons followed in his footsteps and pursued legal careers. John and Dan, sons of Rush's son, Manley, both are lawyers. Stephen's son, Stephen Jr., now is a Missouri Supreme Court judge, and Rush Jr.'s son, David, practices law at the firm his grandfather started.

David said his grandfather wouldn't want his family boasting about him. "But he was an extraordinary man, exemplary in every way, yet very humble," he said.

"He was a devoted Christian, a lawyer's lawyer, a community servant and a gentle and kind man whose family was the very center of his life.

David said the loss of his grandfather was "made easier with the knowledge that he led a rich and fulfilling life and that he is now residing in a happier, more peaceful place."

Rush Limbaugh's oratorical skills were passed down to his most famous progeny, Rush H. Limbaugh III, who hosts the nation's most-listened to radio talk show as well as a syndicated half-hour television show. He also is the author of two best-selling books.

By any measure, Rush Limbaugh's was a full life. His vita runs to several pages and reflects a commitment to excellence and the highest code of legal ethics.

He was known by his peers as a superb lawyer. More than that, he is remembered by those who knew him as an uncommon man, someone who combined public distinction with private character.

And so colleagues, when asked to name Limbaugh's achievements, are as likely to point to his work as a Sunday school teacher or scout leader as they are to his many career distinctions.

A former president of the Missouri Bar, charter member of the Missouri Bar Foundation and member of the American Bar Foundation, among other professional organizations, Limbaugh also was a member of the Cape Girardeau Board of Education, the Salvation Army Advisory Board and was chairman of the Cape Girardeau County Republican Committee.

He had been honored by the American Security Council, the All India Law Teachers Association, and the University of Missouri. He also was named "Mr. Cape Girardeau" by the Golden Eagles Marching Band of Southeast Missouri State University, and was an Honorary Citizen of "Father Flanagan's Boy's Town.

In 1985, then Missouri Gov. John Ashcroft declared May 17 "Rush H. Limbaugh Day" in the state in honor of the Cape Girardeau laywer.

At a dinner that night, President Reagan remarked in a letter that Limbaugh's contributions "read like a virtual who's who of accomplishment." U.S. Supreme Court Justice Lewis Powell called Limbaugh a "great credit of the legal profession."

Ashcroft, now a U.S. Senator from Missouri, said Monday that Limbaugh "set an example" for all who knew him.

"Rush Limbaugh exemplified the character, commitment and vision that has led this great state from the 1900s through the Great Depression, up until today," Ashcroft said. "He understood the promise of America because he embodied it."

One of the highlights of his career came in 1958, when the U.S. State Department invited Limbaugh to lecture in a newly liberated India before lawyers, judges and university students on the subject of constitutional government and the American judicial system.

The product of a one-room primary school in rural Bollinger County, Limbaugh attended Millersville High School before transferring to the Normal School in Cape Girardeau, where he paid most of his expenses doing carpenter work and farm labor.

At Normal School, he was elected to the Benton Literary Society, for which he won numerous oration and debating awards. In 1912, he was awarded the gold medal for participation in the Interstate Normal Oratorical Contest at Emporia, Kan.

He paid his way through college at the University of Missouri at Columbia by working on the university farm and various odd jobs—firing furnaces, carpenter work, waiting tables, caring for animals and assisting a Methodist minister.

At college, his oratory skills won him more awards and helped to hone the skills he later would employ in the courtroom.

He argued more than 60 cases before the Missouri Supreme Court and many prominent civil cases, Limbaugh was a specialist in probate law and helped draft the 1955 Probate Code of Missouri.

Limbaugh also tried cases before the Interstate Commerce Commission, the U.S. Labor Board, the Internal Revenue Appellate Division and trial and appellate agencies of the U.S. Coast Guard.

[From the Southeast Missourian, April 9, 1996]

COLLEAGUES CALL LIMBAUGH A LAWYER'S LAWYER

(By Chuck Miller)

Friends and colleagues of Rush Hudson Limbaugh, 104, said within hours of his death that other people should measure their personal and professional lives by the standard he lived by.

A Cape Girardeau Icon who also achieved international fame as a lawyer touting American jurisprudence abroad, Limbaugh died Monday afternoon.

"It's a sad day for Cape Girardeau," said U.S. Rep. Bill Emerson, "Mr. Limbaugh had a long and valuable life. His passing will inevitably leave a tremendous void. He was a dear friend and mentor of mine."

Emerson said he and Limbaugh shared a hobby of researching Abraham Lincoln. When the two men would meet, they would swap a new story about America's 16th president. "That was one thing we looked forward to," he said.

Emerson said one of his fondest memories always will be the dedication of a new school in Winona. The federal government funded half of the project, he said, and a Winona banker, represented by Limbaugh at age 96, funded the other half of the project.

"So it was Rush Limbaugh and Bill Emerson on the back of a flatbed truck for the dedication," he said. "And he made the most remarkable, beautiful statement: He was quoting off the top of his head about the importance of a public education. He just wove it together so beautifully.

"He was a legend in his time."

Cape Girardeau Mayor Al Spalding III said Limbaugh "made" Cape Girardeau in many ways.

"He put us on the map in a lot of respects," he said. "We hate to see his passing. He paid his dues and helped a lot of young attorneys over the years, which we're all grateful for."

A man devoted to his wife, community and his career was how John Blue, the former managing editor of the Southeast Missourian, described Limbaugh.

"He was president of the Rotary when I joined in 1949," Blue said. "He was one of our better presidents. He also was a top lawyer and a great orator. There was no hemming or hawing with him; it was just forthright speech."

Blue credited Cape Girardeau's growth in the 1920s and 1930s to Limbaugh the community leader. "We experienced phenomenal growth then, and he was responsible for that," he said.

VOL 142 PT 6 AP 15 — 24 1996 UMI

Al Lowes, a Cape Girardeau attorney, landed Limbaugh, a past president of the Missouri Bar as a lawyer's lawyer.

"He was a top-notch, all-around lawyer," he said. "He was extremely hardworking and ethical. He was really the epitome of what a lawyer ought to be."

Lowes said other aspiring lawyers should look to Limbaugh and his career when entering the profession. "You just couldn't have asked for a finer man to have been a lawyer," he said.

Another attorney, former state Sen. Al Spradling Jr., agreed: "He has to be one of the most outstanding lawyers that Cape Girardeau ever had. He had more honors bestowed upon him than any other lawyer in Southeast Missouri. He was honored by the Missouri Bar more than any attorney in Southeast Missouri."

Spradling said before he ever went to law school he was a gopher for the only meeting of the Missouri Bar held in Cape Girardeau.

"He was responsible for the Missouri Bar having a meeting in Cape Girardeau because he was president," he said. "It was the first and the last time the Missouri Bar has had a meeting here."

In addition to achieving the top spot in the Missouri Bar, Limbaugh also was a special envoy to India, touting American jurisprudence to that nation during President Dwight Eisenhower's administration.

But even though his legal career took him around the world, he continued to reside in Cape Girardeau where his law practice began in 1916.

Don Thomasson, another Cape Girardeau attorney, said he met Limbaugh in 1953 while serving as prosecutor in Marble Hill.

"I saw him sitting in Ward's Cafe," he said. "I thought he was God. He was such a gentleman and a great attorney."

Thomasson said he remembered speaking at a celebration a decade ago honoring Limbaugh for 75 years of practicing law.

"A few of us said some good words about Mr. Rush," he said, "and then he spoke. He sounded far more intelligent than any of us."

Morley Swingle, the Cape Girardeau County prosecutor, asked Limbaugh for help while compiling photographs and biographical sketches of every prosecutor who served in Cape Girardeau County, a position created in 1886.

"Rush Limbaugh personally knew every single prosecuting attorney," he said.

Swingle said he didn't have a picture for one of the prosecutors, Robert Whitelaw, who served in the late 1890s. But he did have a picture of a group of unknown county officials taken about the same time as Whitelaw was prosecutor.

"I took the photograph to Mr. Limbaugh," he said. "He got his magnifying glass out, looked at the picture and said, 'No, he's not in this batch."

Swingle said Limbaugh was an influence on his life because of his love for the law and the court system.

"He also was the very epitome of what one strives to be as a public speaker," he said.

[From the Southeast Missourian, April 10, 1996]

RUSH LIMBAUGH: A LIFE OF SERVICE TO CITY, COUNTRY

A decade or so ago, a high-ranking resident of Washington, D.C., was visiting relatives in Cape Girardeau. His hosts insisted on taking him to meet Cape's most distinguished citizen, Rush Hudson Limbaugh, Sr. When the visiting chief of staff to a U.S. senator met the elderly gentleman, who graciously received him at home, Limbaugh inquired as to his guest's hometown. "Oh, you won't know it—you can't possibly have heard of it," responded the visitor. "I'm from a little town in upstate New York." Limbaugh pressed his visitor for the name. Told the answer, he descended upon his visitor with encyclopedic thoroughness, delivering a detailed rendition of the strategic importance of that town in the Revolutionary War, how it related to the world-decisive Battle of Saratoga, and what this meant in the war for American independence. Awestruck—having heard facts about his own hometown he didn't know—the visitor departed, shaking his head in amazement. Longtime friends of Limbaugh will understand the visitor's reaction. Among people who have had the privilege of knowing him these many years, astonishment and amazement long ago became commonplace.

"Pop," said a certain nationally syndicated radio talk show host to a rare studio guest four and a half years ago, "Who was president the year you were born?" "Benjamin Harrison," came the reply, without a second's hesitation. When he was a guest on his grandson's national radio show that afternoon in September 1991 on the occasion of his 100th birthday, Limbaugh was rounding out only his first century. He was still going to the office and billing hours as the nation's oldest practicing attorney. That broadcast originated from Kansas City because Limbaugh was there with family to attend the annual meeting of the Missouri Bar Association, of which he and a son were former presidents.

A NATIONAL TREASURE

On that centennial, in a firm voice that belied his years, Limbaugh continued, describing to an astonished national audience a boyhood devotion to his first contemporary political hero: Teddy Roosevelt. On in detail Limbaugh went, describing what a heroic figure TR was, how crucial his decisive action in sending the American naval fleet worldwide, what this meant for an America beginning to emerge from 19th century isolation into the first rank of world powers, and why, therefore he, Limbaugh, followed the magnificent TR out of the Republican Party to join the Bull Moose insurgency in the great campaign of 1912. Through a living, breathing history text was an audience of millions introduced to a national treasure whom we here in Missouri, and especially Cape Girardeau, had long valued so highly.

Glowingly, the accolades pour in—from judges, congressmen, senators, fellow members of the bar, Rotarians, friends far and wide. Family man as brother, husband, father, grandfather, great-grandfather. Author of a legal textbook and of numerous articles. Accomplished orator. Leading Methodist layman and Sunday School teacher. Paul Harris Fellow of Rotary International. Life emeritus trustee of the Missouri Historical Society and its former president. Patriarch of a family of lawyers and Republicans. Limbaugh was a scholar in the law, in history, in political theory and in the Judeo-Christian tradition of ordered liberty. A scholar of the life of Patrick Henry, from memory he could quote William Makepeace Thackeray and Blackstone and so many others.

In 1985, family and friends packed into a local motel banquet room to honor Limbaugh at a surprise dinner celebration sponsored by local Rotarians. Tributes were read from President Ronald Reagan and from Justice Lewis Powell of the U.S. Supreme Court, long a Limbaugh friend. What stands out in the memory, though, is the address of the guest of honor. Few who were present that night will ever forget the throat-catching sense of excitement he evoked when he arose, without notes, for extemporaneous remarks. In a voice choked with emotion, Limbaugh told his audience that they didn't so much honor him as they did members of his family who, after his father's early death, "went without substance so that I could be the first in the family to leave the farm and go to Cape to the Normal School."

THE OPPORTUNITY OF EDUCATION

Limbaugh often spoke of his excitement upon traveling to Cape Girardeau—a day's ride by horse-drawn wagon—and glimpsing the spires of the school's main building. Here was a chance at education. From this hilltop, a great world beckoned. Prepare yourself, work hard, make your family proud, and you could accomplish anything. This, after all, is America, and this school, he told an audience at the university's 1973 centennial, is nothing less than "the fulfillment of a great national purpose."

How richly he added to this school, this community, this state and this nation. Few, then, there are of whom it can be said, as it can of Rush Hudson Limbaugh Sr., "Well done, good and faithful servant. Enter into my kingdom." Somehow, we all know Limbaugh heard those words this week when the Lord called him home.

[From the Southeast Missourian, Apr. 10, 1996]

RUSH LIMBAUGH, SR.

Funeral service for Rush Hudson Limbaugh Sr., 635 Sylvan Lane, will be held at 2 p.m. Thursday at Centenary United Methodist Church. Dr. Neil Stein will officiate, with burial in Lorimier Cemetery.

Friends may call at Ford and Sons Mt. Auburn Chapel from 4–8 p.m. today, and Thursday from 10–11:30 a.m.

Limbaugh, 104, died Monday, April 8, 1996, at his home.

He was born Sept. 27, 1891, near Sedgewickville, son of Joseph H. and Susan Presnell Limbaugh. He and Beulah "Bee" Seabaugh were married Aug. 19, 1914, in Cape Girardeau. She died Sept. 2, 1977.

Limbaugh, the oldest practicing attorney in the United States, had practiced law since 1916. He founded the law firm of Limbaugh, Russell, Payne and Howard 50 years ago. He was a member of Centenary Church.

Survivors include two sons, Manley Limbaugh of Chester, Ill., Stephen Limbaugh of St. Louis; 10 grandchildren, and 19 great-grandchildren.

He was preceded in death by a son, two daughters, four brothers and three sisters.

REACTION TO VETO OF BILL BANNING PARTIAL-BIRTH ABORTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, I was disappointed and appalled when President Clinton vetoed the partial birth abortion bill. The President's veto is in direct opposition to the will of the House and the Senate. Even more important, the President's veto is in direct opposition to the will of the majority of the American people.

No one really is sure how many partial birth abortions are performed or how many abortionists are using the method. However, we do know that the overwhelming majority are performed on perfectly normal and healthy babies.

Clearly this is an issue that crosses party lines. The bill passed the House with 214 Republicans and 72 Democrats voting for the legislation, and in the Senate with 45 Republicans and 9 Democrats. Yet the President has the gall to go against the American people.

In recent polls, national polls of registered voters conducted in December by the Tarrance Group, 71 percent favored the bill that we passed. In another poll, 65 percent of pro-choice Americans supported the ban, the partial birth abortion ban. Specifically, 78 percent of women voters support the ban that the House and the Senate passed.

Mr. Speaker, I would like to read for the RECORD a statement by Ralph Reed regarding the veto of the partial birth abortion ban, and I quote:

> Bill Clinton has taken his veto pen and pointed it like a dagger at the hearts of the innocent unborn. His veto is a brazen betrayal of his solemn promise to make abortion rare. It is an insult to millions of people of faith who consider abortion to be the taking of innocent human life. It will be very hard, if not impossible, for Bill Clinton to look Roman Catholic and Evangelical voters in the eye and ask for their support in November.

I further quote Ralph Reed and the Christian Coalition.

> I am proud to add my voice to those Roman Catholic bishops who are so courageous, and implore President Clinton to sign this legislation. The partial birth abortion is when a child's brains are removed and the baby is systematically executed as it comes down the birth canal. By allowing this procedure to continue unchecked, President Clinton has disappointed and deeply offended one of the largest voting blocks in the electorate. Bill Clinton has done more today than jeopardize the lives of unborn children. He has jeopardized his own reelection chances.

☐ 1700

Mr. Speaker, just one more letter I would like to make reference to before closing, because to the American people, this is an important issue to try to protect the life of the healthy unborn. This is from the Catholic Bishops and also from the Catholic Cardinals, and I happen to be Catholic.

"Your veto of this bill is beyond comprehension for those who hold human life sacred."

I further quote and read from the letter from the Catholic Bishops and Cardinals: "Mr. President, you and you alone had the choice of whether or not to allow children almost completely born to be killed brutally in partial birth abortions. Members of both Houses of Congress made their choices. They said no to partial birth abortions. American women voters have made their choices. According to a February 1996 poll by Fairbanks Mullin & Associates, 78 percent of women voters said no to partial birth abortions."

Further stated in the letter from the Bishops and the Cardinals, "We will also urge Catholics and other people of good will, including the 65 percent of self-described pro-choice voters who oppose partial birth abortions, to do all they can to urge the Congress to override this shameful veto."

Mr. Speaker, I thank you for allowing me this time. I think this is one of the most important issues that this Congress has had the privilege to debate. Again, I think it is appalling and discouraging and disappointing that the President of the United States vetoed the bill that was passed by the House and Senate to protect the healthy unborn.

FURTHER TRIBUTE TO THE LATE HONORABLE RON BROWN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, last evening our colleague, the gentlewoman from North Carolina, Representative EVA CLAYTON, called a special order to honor the memory of and celebrate the life of Secretary of Commerce Secretary Ron Brown. There were so many of us who wanted to participate that we have some overflow this evening. I am among those. I want to acknowledge the leadership of the gentlewoman in calling that special order. She asked us to focus not only on our personal, but our professional relationships with Ron Brown in remembering him.

First, I would like to say, Mr. Speaker, that our country suffered a staggering tragedy with the loss of our distinguished Commerce Secretary, Ron Brown. How he would enjoy seeing some of the tributes to him that were written in the past week. The Washington Post says "Best in the Business." Another headline, "Brown, a Pioneer at Home In Black and White America. Ex-Party Chief Had Key Role in Clinton Win." Indeed he did.

Another headline, "Builder of Bridges." How he would like to have seen this headline, "Devoted To Mission Until the End." "Ron Brown's contribution to his people," "Changing the face of America's executive suites, still lily white, is a tribute worthy of Brown."

And the list goes on and on of Ron Brown's contributions. Commerce Secretary Ron Brown showed endearing enthusiasm for whatever task he undertook. How true that is.

I call these to your attention, Mr. Speaker, and to the attention of our colleagues, because I know that Ron Brown would have enjoyed them. I hope that they are a source of comfort to the Brown family.

Our colleague the gentlewoman from the District of Columbia, Ms. ELEANOR HOLMES NORTON, when she made her presentation last evening mentioned some of the other people who, unfortunately, also lost their lives in the tragedy, and I would like to call attention to three others who I am familiar with. The First Lady attended the funeral of Adam Darling, an optimistic and interested person in politics who went on to work at the Commerce Department under Ron Brown's leadership. I note with particular sadness the death of Bill Morton, a dynamic and brilliant young man who devoted his life to advancing minorities in public service. And in our community in San Francisco, we are particularly grief stricken by the death of Don Terner, the BRIDGE Housing Corporation executive, who was a member of the delegation.

Don Terner is a great lost to the San Francisco Bay Area and the affordable housing community nationwide. In his life, he gave dignity and hope to American families by providing shelter. Don Terner died as he had lived, bringing hope to people in need.

Now I would like to return my focus to Secretary Ron Brown. I had the privilege of working with Ron Brown since the early eighties, when we worked together putting together the 1984 Democratic Convention in San Francisco, but also working on the delegate selection process. In the convention in 1992, I served as cochair with Governor Romer of the Platform Committee. I mention those two relationships with Ron because in both of those instances, whether it was participation in the party, in the delegate selection process, or whether it was policy formation in putting together a platform, Ron Brown gave no tolerance to discrimination. Our party would be open and our policy would be open to all people in our society. Indeed, I believe that is a hallmark of the Clinton administration, and Ron Brown's influence was surely felt there.

I hope it is a comfort to all of the families of all of the people in the delegation, I hope it is a comfort to their loved ones that they are mourned by an entire Nation, that they died in a mission of peace, bringing humanitarian and economic assistance to the Balkans, and that their sacrifice will never be forgotten.

I want to particularly commend Alma Brown and extend sympathy to her and to Michael and to Tracy, Ron and Alma's children. Across the world, people saw Alma Brown as dignified in her sadness. I happened to be in Indonesia when we got the news, and even at that distance, the press was one of great admiration and, of course, sympathy for Alma. But she led us through this tragic time, through this sadness,

VOL
142
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in a way that I know would have made Ron Brown very, very proud. But, of course, he knew that about Alma.

So I would say that as we mourn, the leaders of the delegation, we must also remember the patriotic members of the military on the flight and the members of the Commerce Department staff. The prayers of my family I know will always be with the Brown family, as well as with the families of this mission of peace.

THE NATIONAL CAMPAIGN TO REDUCE TEEN PREGNANCY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. THURMAN] is recognized for 5 minutes.

Mrs. THURMAN. Mr. Speaker, I would like to thank the gentlewoman from North Carolina for organizing tonight's special orders. I would also like to commend her for her leadership in urging Members to become more actively involved in President Clinton's National Campaign To Reduce Teen Pregnancy.

First, we must face a distressing reality. More and more teens in our Nation are getting pregnant every year. Births to mothers under the age of 18 are on the rise, and we must work together to address this crisis.

The statistics in my home State of Florida are disturbing. Florida ranks 10th in the Nation in births to children aged 10 to 14 and 16th for teens between the ages of 15 to 19. Even more disheartening is the fact that of Florida's 17,641 teen births in 1994, almost 1 in 5 were repeat pregnancies.

Yes—these figures are alarming. However, there is hope. In fact, some promising programs in my district have demonstrated success in preventing teen pregnancy. Tonight, I would like to highlight these successful programs—programs which offer preventive strategies to solve the dilemma of teen pregnancy. Rather than continue the punitive approach Congress has taken with the welfare debate, citizens in my district are taking positive action.

I am very excited that almost every county in my district has established a teen pregnancy task force. Made up of a cross-section of the community—teachers, public health nurses, parents, teens, and representatives from local civic groups and organizations—the task forces work together to increase awareness and education.

Let me tell you about the effective programs in my district. In Alachua County, for example, Planned Parenthood of North Central Florida has teamed up with the Alachua County Public Health Unit to develop an exciting pilot program called Planned Parenthood "in the "Hood."

Although just 4 years old, this wonderful program is an excellent example of the unique partnerships which can be formed when the entire community works together to tackle a program. "In the 'Hood" has begun to conquer the obstacles that teens typically face when attempting to use traditional health care services.

"In the 'Hood's" approach is unique because teens deal with one personal counselor throughout their ordeal, not just a faceless voice at the other end of a telephone line. Through home visits, one-on-one counseling, and follow-up with teens, "In the 'Hood" has become a model of innovative community dedication. Through active involvement and personal contact with teens, the "In the 'Hood" counselor has become both a role model and mentor for teens who have been fortunate enough to participate in this program.

More importantly, the program works. In 1994, of those teens who participated in this program, only 12.5 percent became pregnant for the first time, while 61 percent of those who participated in traditional programs had first-time pregnancies.

One of the most troubling realities associated with adolescent pregnancy is what comes after the birth of the child. Inevitably, many children who have children don't finish school. Therefore, they have limited job prospects, reduced earning capacity, and, in the end, often depend of public welfare to make ends meet.

Before coming to Congress, I taught middle-school math in Dunnellon, FL. I have seen the tragedy of promising young students becoming pregnant and dropping out of school—abandoning their dreams of college and a successful future. I know it makes sense for schools to emphasize pregnancy prevention in their curriculum to prevent this tremendous waste of potential.

Citrus County, in a collaborative effort between its Public Health Unit and School Board, is doing just that. As 1 of 11 pilot sites in Florida to receive what is known as an Education Now and Babies Later grant, [ENABL], Citrus County has been able to participate in Postpone Sexual Involvement, a multifaceted program designed to get to the heart of the teen pregnancy problem.

The Postpone Sexual Involvement Program begins with direct education of 5th and 6th graders, with major emphasis placed on abstinence. Through the program's curriculum, young people are taught both the consequences of early pregnancy and how to deal with peer pressure; it teaches them confidence so that they can say "no" to sexual involvement and have their "no" accepted. This program also involves parents by creating a curriculum that gives parents the tools necessary to discuss candidly the issue of sex and the need to postpone sexual involvement.

In addition to the many successful programs I have already mentioned, this discussion would be incomplete without a reference to a very successful teen parenting program in Pasco County. During my tenure in the Florida Senate, I became actively involved in the Youth and Family Alternatives Teen Parenting Program. This program is designed to provide pregnant adolescents the education and support they need. Through home visits, this program aims at assisting, supporting and educating young mothers during and after their pregnancies.

Mr. Speaker, in all of the successful programs I have been involved with, the key to their success has been getting the whole community involved: students, parents, teachers, churches and Government. This makes sense. Teen pregnancy is a problem for an entire community, not just one woman, or one family. We must continue to work together to solve this terrible problem. I am delighted we have the opportunity tonight to take an important step in this positive direction.

I have lots more I could say, Mr. Speaker. I hopefully will have an opportunity to continue this as time goes on. I have much more that I could offer than just in 5 minutes.

SUPPORT PARTIAL BIRTH ABORTION BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. FUNDERBURK] is recognized for 5 minutes.

Mr. FUNDERBURK. Mr. Speaker, I want to strongly express my support for the partial birth abortion ban. I consider this procedure a horrible one that people would not support if they saw it.

Mr. Speaker, President Clinton's veto of the partial birth abortion ban, which passed Congress with overwhelming support, shows once again his absolute loyalty to the most extreme abortion advocates. H.R. 1833 passed both Houses with wider margins than almost any bill this session.

Polls have revealed that the vast majority of Americans, more than two-thirds, support restrictions on abortion. Among just women, the numbers are even higher who support restrictions, especially in these late term abortions. These numbers tell a story that every man and woman of conscience understands. People do not want to see life casually ended, and they do not accept abortion as the highest and best offering of our Constitution. They are troubled by a 1.5 million-person death count every year. They are even more troubled by a gruesome procedure covered by this legislation, an abortion in which a child's brains are removed and the baby is systematically executed as it comes down the birth canal.

□ 1715

This is one of the most horrific medical procedures in the world today. President Clinton has disappointed and deeply offended one of the largest voting blocks in the American electorate. The overwhelming success of pro-life candidates in the last election, both Democrat and Republican, underscores the troubled electorate's concern for run away abortion rights turned into societal wrongs.

Bill Clinton has again aligned himself with the most extremist elements of the abortion lobby, those who see no value in life poised on the edge of birth. The President said he wants abortion to be rare, but he seems to see no life worth saving, not even a fully viable child whose living brain tissue issue is vacuumed out causing painful death.

Partial birth abortions take place on babies from 20 weeks up until 40 weeks. The House Committee on the Judiciary has compiled documentation of the practice of this procedure by physicians of its being used on living human fetuses, of the pain that these children likely incur and of its use for elective purposes. In describing one such partial birth abortion she witnessed, nurse Brenda Shafer stated, the baby's body was moving. His little fingers were clasped together. He was kicking his feet all the while his little head was still stuck inside.

In a Christian Coalition letter to Congress, they stated Americans across the Nation are now aware of this inhumane practice and please cast your vote on the side of protecting these little babies from this painful death. Enactment of a ban on partial birth abortions is a key element of the Christian Coalition's contract with the American family. A partial birth abortion ban act is the right thing to do and I support it.

THE INCREASED NEED FOR CIVILITY IN OUR SOCIETY TODAY SHOULD START IN CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, I want to shift gears for a second. I can be as partisan as anybody can, I think, and probably have been, but it has also become increasingly clear to me that there is a need for a nonpartisan approach to this institution, this institution called Congress.

There is a need for Members, all of us, to be thinking carefully about the messages that we send to the public, because if we say it enough times about ourselves, then after a while people begin to believe us. And the messages that go forth about this institution, Republican and Democrat alike sending them, I might add, I think have caused a lot of people to wonder.

The fact of the matter is that each of the Members who chose to run for this institution chose to run. And I believe deeply that Members who are here believe in what they are doing. It is in that capacity, then, that we need to make sure that we communicate the best of this institution as well as our constantly trying to change it.

I listened to a debate the other day on a contentious issue. It was not necessarily Republican or Democrat, it was just a very, very contentious issue. And I heard from both sides the charges back and forth of, well, this person is in the pocket of so-and-so, or this person who just spoke is speaking up for such-and-such a group. As it rang back and forth I thought how does this debate come across to those who are watching and listening. And the answer is these folks must know what they are talking about and maybe they are all in the pockets of so-and-so.

My feeling is, and I believe the way most people here feel, is that Members of Congress are not in the pockets of anybody and that they are here wrestling with some honest to goodness difficult questions.

I look around this Chamber and what I see in these seats is this is where the Nation comes together. This is the crossroads of the country and this is where the country comes to try to work out its problems. Somebody from California or someone who lives on the seacoast may not know what it is like to live up a mountain hollow in West Virginia. By the same token, I have to learn what it is like to live in many other parts of the country and the problems that are faced there, and sometimes that is a slow process and sometimes it requires a lot of deliberation. So it is a process of trying to come to a consensus and understand one another.

I will say this. This is probably about as divergent a Congress as I have ever had the privilege to serve in terms of political views, ranging from the extreme conservative to the extreme liberal. But I also know that the best hope that this country has is to be able to work this out within the confines of this institution. That is why it exists. It is called Congress. Congress means coming together. Obviously, with the divergent viewpoints we all have, it may take a little longer to come together.

We can have vigorous debate. We have to have that debate. We can have tough aggressive partisanship. But I also ask that we be thinking about respect for this institution. Because if we are truly leaders, and people elect us to be leaders, then that means people are following our example. And if we are in here wrestling around and calling each other names, then I wonder whether or not that becomes the commonplace form or method of operation or mode of communication for those of our contstituents. If it is okay for those folks in Congress, it must be okay for me.

There is a need for civility, an increased need for civility in our society today, and I think one place it needs to begin is here in Congress.

PRESIDENT CLINTON TAKES EXTREME POSITION ON VETO OF PARTIAL BIRTH ABORTION BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. CHABOT] is recognized for 5 minutes.

Mr. CHABOT. Mr. Speaker, like many of my colleagues, I am unapologetically pro-life. Recently we were joined by a number of our pro-choice colleagues in voting to outlaw partial birth abortions. Those folks also believed the procedure to be violent and gruesome and in no way consistent with their views that some abortions ought to be legal.

President Clinton, on the other hand, who has often said that he personally opposes abortion, says that he believes abortion ought to be legal but rare. In this particular instance I think he has finally shown his true colors. He has reached out to the most radical of the pro-abortion lobby by vetoing the partial birth abortion bill. The veto was a slap in the face to all of those who respect human life.

The President has shown once and for all that he favors abortion on demand, even in the final weeks of pregnancy, and that is a tragically extreme position.

I would remind my colleagues that the partial birth abortion ban was supported by 288 Members of this body, both Republicans and Democrats. Most thoughtful legislators did not consider the bill to be controversial and agreed it was something long overdue, a prohibition on a particularly grotesque and inhumane practice, yet the President did not see it that way.

Let us recap for a moment what it is we are talking about here. A partial birth abortion is performed by using forceps to pull a living baby, feet first, through the birth canal until the baby's body is exposed, leaving the head just within the uterus. The abortionist then forces surgical scissors into the base of the skull, creating an incision through which he then inserts a suction tube to evacuate the brain tissue from the baby. This causes the skull to collapse, allowing the baby to be pulled from the birth canal.

The Partial Birth Abortion Ban Act would outlaw such abortions. The President, who says that abortions should be rare, says that there is no question this is a gruesome procedure. The President says that abortions should be rare, but he vetoed this particular legislation. I think that was outrageous.

VOL 142 PT 6 AP 15 — 24 1996 UMI

Mr. Speaker, I will say one thing for the President, however, he has been consistent. He says one thing and then does another. He promised to end welfare as we know it. He vetoed welfare reform. He promised the middle-class tax cut and then he vetoed the middle-class tax cut that was passed by this Congress. He said that abortion should be rare, but his record shows that he supports abortions on demand at any time for any reason.

I would agree with Robert Casey, the former Democratic Governor of Pennsylvania, who said President Clinton says he wants abortions to be safe, legal, and rare, but he has helped make it safe, legal, and everywhere. Yesterday Cleveland Bishop Anthony Pilla, president of the National Conference of Catholic Bishops, joined by eight American cardinals, sent an extremely thoughtful, strongly worded letter to President Clinton in response to the President's veto, and I would like to quote from that letter at this time.

In the letter the bishop stated as follows: Your veto of this bill is beyond comprehension for those who hold human life sacred. It will ensure the continued use of the most heinous act to kill a tiny infant just seconds from taking his or her first breath outside the womb.

And the letter goes on: At the veto ceremony, you told the American people that you had no choice but to veto the bill. Mr. President, you and you alone have a choice of whether or not to allow children almost completely born to be killed brutally in partial birth abortions. Members of both Houses of Congress made their choice. They said no to partial birth abortions. Your choice was to say yes and to allow this killing more akin to infanticide than abortion to continue.

That is what the Catholic bishops had to say to the President of the United States. It would be an understatement to say that I am disappointed and saddened by President Clinton's unconscionable veto of the partial birth abortion ban. I think my sentiments are shared by many, including a large number of people who consider themselves to be pro-choice, and I cannot stress in strong enough terms my hope that this Congress when it is given the opportunity will vote to override the President's veto.

Mr. Speaker, we cast hundreds of votes in this body every year. This vote will not be forgotten and we hope that we override this terrible veto the President made.

TRIBUTE TO OUR FALLEN FRIEND, RON BROWN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. RANGEL] is recognized for 5 minutes.

Mr. RANGEL. Mr. Speaker, later on this evening, the gentleman from New Jersey, DON PAYNE, and other Members of Congress will continue to pay tribute to my fallen buddy, Ron Brown, but I just want to share some views as I saw Ron and 33 other coffins arrive in Dover, these flag-draped coffins covering the bodies of people that were in the business of selling the United States of America, and then heard the tributes that were paid to all of them, as well as attending at Arlington cemetery.

As the bands were playing and the flags were unfurled and the cannons were blasting, I could only think what a great country we live in and how many things we just take for granted; that here a young American who comes from one of the poorest communities can, in such a short period of time, capture the love and gain the respect of not only the President of the United States but so many Americans from seashore to seashore, and, at the same time, to know that in so many foreign countries, some not as friendly as we wish that they would be, that they lowered their flags at half mast for this great American, Ron Brown.

I think that when we start thinking about loving America, we have to think about what kind of person could love his country so much that he would try to climb mountains that other people would not even attempt, not only to show how great America was and what products we wanted to sell, and not how superior we were, but to actually talk with trade ministers and prime ministers and presidents in terms of the needs of their country. The poverty, the disease, the sickness, the hunger, the unemployment, the joblessness, and to be able to say to that country that America was there as a friend that wanted to help.

This was a part of the world that we never spent that much time in. This was the part of the world that we had to develop markets in. This was the part of the world that we had to increase their ability to have disposable income so that as we had once done in Europe under the Marshall plan, that we could regain the leadership that we have possessed since World War II. And how they loved him, because it was not just selling America, it was the interest he had in them.

I saw at the funeral Ambassadors that had flown in from Mexico, India, South Africa. They spoke, they talked, they loved, they cared. And I said what a wonderful country it is that we have in the United States of America, people that come from every country in the world.

☐ 1730

Unlike other countries where you just look at the country and you can feel just the narrow culture interest that they have, there is no country in the world that we cannot reach and show that Americans come from all over. To see what investing in the education of a Ron Brown, or Ron Gonzalez, or Ron Lee, or the women that have been denied the opportunity to show, to be given the opportunity to show that they are Americans, this is a great country, and go abroad and find out that they are making friends for us, as well as creating trade.

Mr. Speaker, I have received notices, as well as telephone calls, from Senator DOLE and from Haley Barbor, who is the chair of the Republican Party, to say to me, as they have said to others, this issue is too big to look at party labels. It is too big to look at the color of American skins. It is American to be able to say that we can make our country a greater place, create more jobs if only we cared enough to train our people for these type of opportunities and to share our talents with so many other countries in the world.

RIGHTFUL ROLE OF GOVERNMENT TO DEFEND THE DEFENSELESS

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from New York [Mr. FORBES] is recognized for 5 minutes.

Mr. FORBES. Mr. Speaker, I appreciate the sentiments of my colleague from New York.

Mr. Speaker, I take the well today to talk a little bit about an issue I think that is of great and paramount importance to both sides of the aisle that serve in this august body. For the last 15 months, we have watched as the House of Representatives struggles with public policy questions. What is the rightful role of government? To what extent do we fund these programs? What programs work? What programs do not work?

For 15 months, it has been a very healthy, although at times contentious, debate. It gets at the very heart of what democracy is all about. Taking these issues to the American people, to the floor of the House of Representatives and having a good give and take. We are trying to understand, as we are on the threshold of a new millennium, where to take America. What are our priorities? And I would say, Mr. Speaker, that as we think about those priorities, we think about a government that most of us would like to be benevolent, caring, there for those who cannot help themselves.

We need to think of the question that gets at the heart of the highest, most precious part of the human experience, and I speak with reference to those moments when a young woman and her husband, a young man and wife, learn the terrific news that there is going to be a birth of a child. Their excitement, their love, their exhilaration is unmatched by almost anything else that one could experience in life, and I do not think there is an American, whether they be described as pro-choice or

pro-life, that cannot appreciate that very important and most precious moment in the human experience.

It leaves me, Mr. Speaker, mystified, wondering if the rightful role of government is not to step forward, to indeed protect the most defenseless among us, that nurturing, growing life within the womb, that most precious experience in a woman's existence. What is the rightful role of government, I ask, if not to protect that defenseless life? Yet we had an issue, and I speak principally to the issue of the late-term partial birth abortion ban, and the question of government's rightful role to step in at a period when this baby, growing within the womb, is 4½ months along, or on the eve of a birth. Yet this procedure continues and will continue because a bill that was sent to the White House was rejected. Despite the safeguard stipulating that there must be an absolute threat to the life of the mother, the President chose to veto this bill. The same president who as Governor could have been at one point described as pro-life now sides with the radical left on this issue.

Mr. Speaker, I ask again, what is the rightful role of government if not to step forward at these most important moments to defend the defenseless, to step forward for our children? Is there anything so precious in life, in society as the birth of a child, as the potential growth of a new human life? And yet, this partial birth abortion procedure, which some say is a rare occasion, well, I would say one occasion is too many. There are, as I have been told, some very infrequent times when the life of the mother is so threatened that this procedure is performed. But I am also told that the American Medical Association, its college of legislative people and the 12 doctors therein, have said that this is an unnecessary procedure.

Mr. Speaker, as I yield the podium, I would just ask that if the rightful role of government is not to defend the defenseless, to defend precious life, then what is the role of government?

THE TRADE DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, over the weekend, here in Washington there was a public relations blitz organized by the administration to tell us and the world how United States trade relations with Japan have improved. National Economic Council Chair Laura Tyson went so far as to state we have had a great record of success with the Japanese in the area of trade with our exports increasing by one-third since 1993, and we have seen the trade deficit come down, she said, for the first time in 5 years, so we have a strong record of success.

Well, you know, people can twist numbers in amazing ways. If the administration had such a strong record of success, why has the United States trade deficit with Japan worsened during the Clinton watch and become even worse than during the Bush years when the United States trade deficit with Japan reached all-time highs? Look at the facts.

During the first 3 years of the Bush administration, the United States trade deficit with Japan reached over $133.5 billion. During the first 3 years of the Clinton administration, our trade deficit with Japan has soared to over $185 billion. That is $50 billion worse, according to my math, and a 39-percent increase. Wishing a problem away certainly will not make it so, and Japan knows it. Our Nation gains nothing by denial.

Facts again: During the Bush years, the 4 years, the total trade deficit with Japan reached over $183 billion, an all-time record. President Clinton has racked up that amount in just his first 3 years. In fact, during the Clinton watch, the trade deficit with Japan has rung in at all time record highs each year, $60 billion in the red in 1993, $65.7 billion in the red in 1994, and $60 billion in the red in 1995. We cannot project what the United States-Japan trade deficit will be this year, but all indicators are that the total for the 4 years of Clinton's time will easily be over $230 billion to the deficit side of the ledger.

Let us take a look at the automotive sector, which still accounts for over half of the deficit with Japan, more exports coming over here, fewer of our imports going into their market.

Remember when President Bush journeyed to Japan late in his Presidency and became ill at the official dinner held during the automotive trade rift? This is not a new problem. I personally have been working on opening Japan's market to United States goods for over a decade. I can tell Members Japan's auto market largely remains closed. They continue to believe we are not really serious.

United States auto manufacturers still have less than 1 measly percent of Japan's auto market, yet Japan holds upwards of one-third of our market. Think about this. With our low interest rates, the value of our dollar against the yen has fallen 40 percent since 1990, which means that our products are 40 percent cheaper in Japan. Yet we gained only one-third of 1 percent additional market penetration in Japan in 1995.

While we were able to sell about 58,000 cars there last year, Japan has sold over 100 times that amount in our country over the last decade. When I ask my local auto people, how are you doing, they smile and they look down.

In a recent survey of United States auto parts suppliers to Japanese customers, two-thirds of our suppliers say they are working hard to crack Japan's market with roughly half of those responding saying they are currently achieving either limited success, sporadic success or no success at all in really opening that market.

Can you imagine, in the second largest marketplace in the world, if we could get trade reciprocity with Japan, the amount of jobs we could create in this country, in shipping, in distribution, in manufacturing, in parts, et cetera? Compare the limited success of United States auto and auto parts manufacturers to crack Japan's market to the administration's exaggerated claims.

Friends, let us stop the denial. You cannot look at these numbers and not know that trade is going one way and not the other. We have scaled an ant hill in our efforts to open Japan's market. Now all that is left is the mountain of red ink to scale.

MORE ON THE PRESIDENT'S VETO OF PARTIAL BIRTH ABORTION BAN BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, a great Democrat who came from my State, perhaps one of the most articulate spokesmen for the Democratic Party over the last 30 or 40 years, Hubert Humphrey, once said that if you love your God, you must love his children.

Mr. Speaker, I rise today to talk about the tragedy of the partial birth abortion issue and what the President has done with his veto. I rise to congratulate the National Conference of Catholic Bishops because I think they have, in very strong words, expressed on behalf not only of Catholics but I think of millions of Americans that have conscience of both political parties the outrage of this grisly procedure and the action of the President by vetoing it, keeping it legal here in the United States.

This is not a Republican issue. It is not a Democrat issue. It certainly is not just a Catholic issue. I think it is an issue about our basic humanity and how we treat the most vulnerable among us.

I would like to read for the RECORD a letter from a gentleman in Texas. For those who may be watching, I would be happy to make available to them a copy of this letter as well as a letter from the National Conference of Catholic Bishops, because they are both extremely powerful letters. I think all Americans should have an opportunity to read them.

☐ 1745

I want to read this for the record, Mr. Speaker:

VOL 142 PT 6 AP 15 — 24 1996 UMI

Hon. BILL CLINTON.

DEAR MR. PRESIDENT: On Wednesday evening, when I learned that you had vetoed the partial birth abortion bill, I felt stunned and angry, but mostly I felt betrayed. Betrayal is a strong word. However, President Clinton, this is the anguish that I and many Democrats across the nation feel now.

As a dedicated Democrat, I believed Bill Clinton during the primary campaign in Texas in 1992 and in the general election as our nominee when you vowed to protect the rights of individuals and to forge an era of the new Democrat, an era that would avoid the extremism of either side.

I campaigned for that Bill Clinton and stood proudly in the cold in Washington at your inauguration when you gave your message of hope for those who have no voice. But Wednesday, with your veto, you ignored the rights of the innocent little children and literally sentenced them, thousands probably before this madness is brought to an end, to their deaths.

Unlike the debate over abortion that has been ongoing for decades, this procedure is clearly the brutal taking of a human life. The right-to-choose position of the Democratic Party has largely been driven by the belief that a fetus cannot survive outside the mother's womb. But in this case, medical evidence is clear that these babies could survive, but are destroyed in the most vicious and inhumane way possible. Our society demands that even dogs be destroyed in a more humane fashion.

For what purpose, Mr. President, did you do this? To satisfy a minority of extremists whose votes you would have gotten anyway? And please, consider again your rationalization that you acted to "protect the safety of the mother," when the bill permitted an exception if a doctor deemed the procedure was necessary to save the mother's life. You know full well that the bill would not have received the support of the Council on Legislation of the American Medical Society and 73 Democrats in the house if it did not. Mr. President, with all due respect, there is no valid reason for your action, ethically or politically. And it is certainly inconsistent with your positions that you have taken.

Your presence and comments in Oklahoma last week on the anniversary of the bombing tragedy reflected your deep concern for those who perished, especially the children. Yet, you signed the death certificate on Wednesday for countless equally innocent children. Several weeks ago I saw you visibly shaken when speaking of the mass murder of the children in Scotland. You had a chance, with your vote, to prevent a much greater tragedy. Mr. President, you chose instead to trade those future lives for votes that you perceive are crucial to your reelection.

In the past three years I have seen you time and time again speak out to the thousands, maybe millions, of young Americans who have been lost to the streets in a life of murder, destruction and mayhem, of drugs and disease.

Mr. Speaker, I would like to put the full text of this letter in the RECORD.

The letter referred to is as follows:

EL PASO, TX,
April 12, 1996.

Hon. BILL CLINTON,
President of the United States, Washington, DC.

DEAR PRESIDENT CLINTON: Wednesday evening when I learned that you had vetoed the partial-birth abortion bill, I felt stunned and angry. But mostly, I felt betrayed.

Betrayal is a strong word. However, President Clinton, this is the anguish that I and many Democrats across the nation feel now. As a dedicated Democrat, I believed Bill Clinton during the primary campaign in Texas in 1992, and in the general election as our nominee when you vowed to protect the rights of individuals and to forge an era of the New Democrat. An era that would avoid extremism of either side. I campaigned for that Bill Clinton and stood proudly in the cold in Washington at your inauguration when you gave your message of hope for those who had no voice. But Wednesday, with your veto, you ignored the rights of innocent little children and literally sentenced them (thousands probably before this madness is brought to an end) to their deaths.

Unlike the debate over abortion that has been ongoing for decades, this procedure is clearly the brutal taking of a human life. The right-to-choose position of the Democratic Party has largely been driven by the belief that a fetus cannot survive outside the mother's womb. But in this case, medical evidence is clear that these babies could survive—but are destroyed in the most vicions and inhumane way possible. Our society demands that even dogs be destroyed in a more humane fashion.

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In the past three years I have seen you time and time again speak out to the thousands, maybe millions of young Americans who have been lost to the streets in a life of murder, destruction and mayhem, of drugs and disease. You have pleaded with them to have respect for human life. But with this veto, you did the opposite. And we, as party officials, have been put in the untenable position of having to live with that decision.

Mr. President, I cannot and will not support this action. Therefore, I cannot in good conscience support your candidacy.

As I contempleted this matter over these past days, I was reminded of the words of the late President Kennedy when he said, "Sometimes party loyalty asks too much." Thus, it is with regret and sorrow that on this date, I have submitted my resignation as a member of the Texas State Democratic Executive Committee and Chair of the Mexican-American Caucus. I have informed our State Chairman, Bill White. While I do not intend to actively support of vote for any Republican or Independent candidate. I will be asking other Democrats to consider withholding their support of your candidacy while continuing to support Democrats for other offices.

Very truly yours,
JOSE R. KENNARD,
State Committeeman, District 29.

PARTIAL-BIRTH ABORTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I noticed how many of my fellow colleagues here this afternoon had been speaking about the outrageous and repugnant veto of the legislation overwhelmingly passed in both Houses of the U.S. Congress regarding partial-birth execution-style abortion.

During the debate I tried to get pro-life Members on both sides of the aisle in the oldest party of America, the great Democratic Party, and the grand old party over here, I tried to get them all to use this expression execution-style because the attack to the child, and it is a child that is almost always viable, can survive outside the womb even if it is what we called disabled, that the attack is similar to the Cosa Nostra, or organized crime, attack, sometimes with a .22 pistol, to keep down the sound to the base of the skull. This is a common assault, whether it was with sword, ax, or during the Chinese revolution, Stalin's purges, or Hitler's henchmen.

For example, at the trench at Babyar in the Ukraine, or many of the labor camps with sick people, Japanese warlords directed soldiers executing our men and our Filipino allies on the Bataan death march 54 years ago.

This execution to the base of the skull, it was used in the Balkans all this last 4-year period of horrible ethnic cleansing and human rights violations, a bullet or a knife to the base of the skull.

And here in debate in one of these two houses was a woman, no less, an elected woman, talking about defending that this was important to the life of the mother. And somebody got up who served in this House honorably for 8 years, Senator BOB SMITH, and said, wait a minute, if it is for the life of the mother, why is the abortionist holding the baby in the birth canal? Why is he interrupting the birth process? This is conversely to what you are saying, endangering the mother's life. It is truly infanticide.

And I think that to let people know how unprecedented it is, as it says in a front-page story in the Washington Times, and I have not looked at the Post today and the New York Times to see whether they buried it, but it is a front-page story about all eight U.S. Catholic cardinals hitting Clinton on abortion, and I am going to yield to the gentleman from California [Mr. HUNTER] and then read as much as I can of the bishop's letter and submit the rest, ask unanimous consent to submit the rest, for the RECORD, and I will return to the floor, as I am sure the gentleman from Minnesota [Mr. GUTKNECHT] will and the gentleman from California [Mr. HUNTER] will many times on this.

This has got to rip apart Stephanopoulos' so-called Catholic plan to win the election in 202 days.

Mr. HUNTER. I do not want to take much time from my friend.

Mr. DORNAN. You are not taking it from me, but from eight cardinals; go ahead, though.

Mr. HUNTER. In that case, I feel better.

But let me just thank him, thank BOB DORNAN, for all the great work that he has done on behalf of unborn children and the fact that you are carrying this fight, as you have carried it for many, many years on the House floor, and I agree with you that the President has gone too far, that he stepped too far even for people who are able to look the other way on this issue in his party, and I hope that it is going to pull people off of this bandwagon that the President is putting together for his 1996 presidential campaign.

Mr. DORNAN. Well, you know our colleague, Mr. SMITH from New Jersey, has been here. He is a classmate of yours, for 16 years almost, but he has this angelic face. I almost said he looked like an acolyte, and, therefore, he can stand where you are at this mike or down in the well and say tougher things than most of us can say.

He has been calling Clinton for 3½ years the abortion President. Nobody has ever jumped up and taken down his words, and I have refrained from doing that until this moment. But this shows, beyond all shadow of doubt, that Mr. Clinton is not a new Democrat, he is not a moderate Democrat, he is not even a run-of-the-mill liberal like many of our honorable friends on the other side of the aisle who are proud of their liberal philosophy, believe in a larger Federal Government than we do, basically to help the poor, to help children.

We have hurt children more on this House floor in the last 2 years than I ever dreamed it here in the House, and I do not question their good will, but I noticed that most of them who are sincere liberals of principle, classic liberals, are also against this partial birth.

So I will put in the cardinal's letter, Mr. Speaker, and then read it slowly tomorrow from today's RECORD.

NATIONAL CONFERENCE OF CATHOLIC BISHOPS, OFFICE OF THE PRESIDENT,
Washington, DC, April 16, 1996.

President WILLIAM CLINTON,
The White House,
Washington, DC.

DEAR PRESIDENT CLINTON: It is with deep sorrow and dismay that we respond to your April 10 veto of the Partial-Birth Abortion Ban Act.

Your veto of this bill is beyond comprehension for those who hold human life sacred. It will ensure the continued use of the most heinous act to kill a tiny infant just seconds from taking his or her first breath outside the womb.

At the veto ceremony you told the American people that you "had no choice but to veto the bill." Mr. President, you and you alone had the choice of whether or not to allow children, almost completely born, to be killed brutally in partial-birth abortions. Members of both Houses of Congress made their choice. They said No to partial-birth abortions. American women voters have made their choice. According to a February 1996 poll by Fairbank, Maslin, Aaullin & Associates, 78 percent of women voters said No to partial-birth abortions. Your choice was to say Yes and to allow this killing more akin to infanticide than abortion to continue.

During the veto ceremony you said you had asked Congress to change H.R. 1833 to allow partial-birth abortions to be done for "serious adverse health consequences" to the mother. You added that if Congress had included that exception, "everyone in the world will know what we're talking about.

On the contrary, Mr. President, not everyone in the world would know that "health," as the courts define it in the context of abortion, means virtually anything that has to do with a woman's overall "well being." For example, most people have no idea that if a woman has an abortion because she is not married, the law considers that an abortion for a "health" reason.

Similarly, if a woman is "too young" or "too old," if she is emotionally upset by pregnancy, or if pregnancy interferes with schooling or career, the law considers those situations as "health" reasons for abortion. In other words, as you know and we know, an exception for "health" means abortion on demand.

You say there is a difference between a "health" exception and an exception for "serious adverse health consequences." Mr. President, what is the difference—legally—between a woman's being too young and being "seriously" too young? What is the difference—legally—between being emotionally upset and being "seriously" emotionally upset? From your study of this issue, Mr. President, you must know that most partial-birth abortions are done for reasons that are purely elective.

It was instructive that the veto ceremony included no physician able to explain how a woman's physical health is protected by almost fully delivering her living child, and then killing that child in the most inhumane manner imaginable before completing the delivery. As a matter of fact, a partial-birth abortion presents a health risk to the woman. Dr. Warren Hern, who wrote the most widely used textbook on how to perform abortions, has said of partial-birth abortions: "I would dispute any statement that this is the safest procedure to use."

Mr. President, all abortions are lethal for unborn children, and many are unsafe for their mothers. This is even more evident in the late-term, partial-birth abortion, in which children are killed cruelly, their mothers placed at risk, and the society that condones it brutalized in the process.

As Catholic bishops and as citizens of the United States, we strenuously oppose and condemn your veto of H.R. 1833 which will allow partial-birth abortions to continue.

In the coming weeks and months, each of us, as well as our bishops' conference, will do all we can to educate people about partial-birth abortions. We will inform them that partial-birth abortions will continue because you chose to veto H.R. 1833.

We will also urge Catholics and other people of good will—including the 65% of self-described "pro-choice" voters who oppose partial-birth abortions—to do all that they can to urge Congress to override this shameful veto.

Mr. President, your action on this matter takes our nation to a critical turning point in its treatment of helpless human beings inside and outside the womb. It moves our nation one step further toward acceptance of infanticide. Combined with the two recent federal appeals court decisions seeking to legitimize assisted suicide, it sounds the alarm that public officials are moving our society ever more rapidly to embrace a culture of death.

Writing this response to you in unison is, on our part, virtually unprecedented. It will, we hope, underscore our resolve to be unremitting and unambiguous in our defense of human life.

Sincerely yours,
Cardinal Joseph Bernardin, Archbishop of Chicago; Cardinal James Hickey, Archbishop of Washington; Cardinal Bernard Law, Archbishop of Boston; Cardinal Adam Maida, Archbishop of Detroit; Cardinal Anthony Bevilacqua, Archbishop of Philadelphia; Cardinal William Keeler, Archbishop of Baltimore; Cardinal Roger Mahony, Archbishop of Los Angeles; Cardinal John O'Connor, Archbishop of New York; Most Rev. Anthony Pilla, President, National Conference of Catholic Bishops.

MILITARY AIRCRAFT SAFETY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, yesterday I convened a panel of the procurement subcommittee of the Committee on National Security to investigate the series of tragic mishaps with respect to F-14 crashed and Aviate B Harrier Marine Corps fighter aircraft crashes that have occurred since the beginning of the year, and, Mr. Speaker, it is very clear to us and to my friend, Mr. DORNAN, who has quite a bit of time in an Air Force cockpit, and my good friend, Mr. CUNNINGHAM, my seatmate from San Diego, that it is dangerous to be a pilot in the U.S. Air Force, the U.S. Navy, the U.S. Marine Corps; it is more dangerous to be a pilot when you have a government that will not pay the money that has to be paid to make that aircraft as safe as it can possibly be made.

The testimony from the U.S. Marine Corps yesterday was that Harriers are tough aircraft to fly. Almost one-third of the entire Harrier air inventory, aircraft inventory, has crashed since its inception, and we have had three tragic crashes this year of these Harrier Jumpjets. The Marine Corps told us yesterday that we could make that

VOL
142
PT
6
AP
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24
1996
UMI

plane 50 percent more safe than it is right now, and we do that by remanufacturing the aircraft and adding safety features. They told us that the Clinton administration has decided not to make 24 of those aircraft as safe as they can be, and when we asked why, we were told because of budgetary constraints.

So, Mr. Speaker, for the first time, we are seeing the Clinton defense budget come apart at the seams. We are seeing a defense budget which is costing us; it has been cut so drastically. by 72 percent in the area of modernization, that we are not able to make these aircraft, these Harrier aircraft, as safe as they can be for Marine pilots.

Well, Mr. Speaker, the Republicans are coming to their rescue. I have talked with the chairman of the full committee, our good friend, FLOYD SPENCE, and he concurs that we will fix all 24 of those aircraft that right now the Clinton administration does not plan to upgrade with safety upgrades so that the pilots will be more secure than they are flying the aircraft right now.

So I want to announce, as the chairman of the procurement subcommittee, that the Republican markup will reflect upgrades, it will cost about $26 million per plane for all 24 of the Harrier aircraft that the Clinton administration has decided, in their infinite wisdom, not to fund.

Additionally, on the F-14, and an F-14 crashed today, the Republicans are going to be adding about $83 million for several items that will make that aircraft safer. We are going to come up with a digital flight control system; we are going to install that. We are also going to come up with a system that indicates when the engine is getting overloaded and will advise people in the cockpit that they have to take action fairly quickly. Those are two safety upgrades that we will be funding in the procurement subcommittee for the F-14.

So, Mr. Speaker, the Republicans are riding to the rescue in national defense, and Mr. Perry, Secretary Perry, has come down to the House Armed Services Committee and told us that everything is fine with defense. These massive cuts that the Clinton administration has been making according to Dr. Perry have not harmed national defense at all.

Well, Mr. Speaker, the Clinton defense budget is coming apart at the seams, and these recent crashes and the lack of initiative on the part of the Clinton administration to make these planes as safe as they can be is only the tip of the iceberg, but the Republicans are going to fix these aircraft. We are going to be making these Harriers as safe as they can possibly be, and we will be funding upgrades to the F-14's to make them as safe as they can be.

I am happy to yield to my friend.

Mr. DORNAN. I flew the Harrier for the fourth time last August 8. Outstanding pilots down at Cherry Point and also at Yuma. It is a unique aircraft. It has stolen the show at every air show for over 2½ decades. But it is a difficult airplane to fly. And I will join in this fight, and I can guarantee you we will prevail.

I did not know an F-14 crashed today. Where did that happen?

Mr. HUNTER. That happened on the East Coast, I think at Oceana.

Mr. DORNAN. Right. Well, we will do the best we can.

Mr. HUNTER. That was an F-14B model crashed today.

Mr. DORNAN. Right. If we were in Israel, there would be no question that their first line of defense would get what they needed to be safe.

☐ 1800

ADVANCES BROUGHT ABOUT BY REPUBLICANS

The SPEAKER pro tempore (Mr. METCALF). Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, when I came to Congress 3 years ago, I was really appalled, like many other Americans, to find out that Congress really did not have to live under the laws that they imposed on everyone else.

I remember, when I ordered signs for my district office, I attempted to comply with the Americans with Disabilities Act. Then I came back to Washington and was shocked to find out that in Washington, they did not comply with the ADA Act, and they did not comply with the rest of the rules and regulations.

It was ironic, shortly thereafter, that I had visiting constituents from my district and around the country who were visually impaired. I really was embarrassed to see those folks try to find their way around this place, this maze, without any proper, even common courtesy identification for those with a disability.

I wrote on February 26, 1993, to the Democrat committee chairman who was in charge of the House oversight at that time. Mr. Speaker, I include that letter for the RECORD.

The letter referred to is as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 26, 1993.

Hon. CHARLIE ROSE,
Chairman, Committee on House Administration, The Capitol, Washington, DC.

DEAR REPRESENTATIVE ROSE: My recent experience in ordering signage for my district offices in Central Florida has prompted me to ask why the House of Representatives should not comply with a simple and necessary provision of the Americans with Disability Act with regard to use of braille for blind and visually impaired people.

After laborious efforts to get local district office signs approved by the committee on House Administration, the sign company informed me that ADA regulations also required that the suite numbers be in braille. After inquiring with committee staff as to why this was not addressed in the Congressional Handbook, I was informed that the House was exempt from the regulation. I did, however, request the addition of braille to my signs.

It was ironic in that the same week this happened, representatives for the blind and visually impaired around the country were visiting their Members of Congress and no Member suites in the House Office Buildings are equipped with braille signs.

I would like to request that House rules add braille directional signs located in the interior of local district offices and in the House offices buildings. I urge that consideration be given to this much needed service to our visually impaired citizens.

Sincerely,

JOHN L. MICA,
Member of Congress.

Rather than reading the whole letter that I wrote to the chairman of the Committee on House Oversight, I will summarize it. I told him our experience, that here we are, a Congress telling people to comply with the laws, and I just had these folks with visual infirmities and disabilities in the hallways, trying to find their way around the Capitol. Why could we not at least give them the courtesy of labeling our offices in compliance with ADA? I never got a reply. I brought it up again, and I asked and begged.

The American people made some changes here then. On the first day of the 104th Congress we passed, remember, the Congressional Accountability Act. That said that every Member of Congress and Congress must comply with the laws they impose on everyone else. Most people do not know that that is now the law. Sometimes around here there are great battles and little victories.

I am here tonight to tell you about one little victory. Here is the little victory. Going up around the Capitol Building and in my office, and I am so proud of this little improvement, little victory, are these signs. They are placed in compliance with ADA. If you are visually impaired, you can even find out whose office you are in. This is a small success, but we said when we took control of this Congress we were going to make some changes. We were going to make Congress obey these laws. This is one little victory that I am so proud of.

Not only did we do that, but how thrilled I was today to also find another sign which was going up. Heaven forbid we should have maps that should help those visually impaired to find their way around the maze of the Capitol Building, but we have these, and actually your can put your hands across these, and those visually impaired and who read Braille, they can find their way around this maze.

So Republicans said they would make changes, and they are making changes. I know this is not changing the world

as we know it; it is not changing everything, our freshman program, but it is a beginning.

There are some other things that people probably do not know about what we have done with the Congress and the congressional budget. I want to take a minute to thank, first of all, the gentleman from California, BILL THOMAS, who is chairman of the Committee on House Oversight, for his actions and leadership on this issue and other issues.

Mr. Speaker, the Republicans said they would cut the cost of operating this Congress, the legislative branch, and they did. We cut a quarter of a billion, $250 million, out of our budget. That is done.

Republicans said they would cut congressional staff, and we reduced the staff on the Hill somewhere in the neighborhood of 2,000 positions. I chaired the Civil Service Subcommittee, which was three subcommittees before. It had 54 staffers. We operate it with 7. We said we were going to make changes. We did make those changes. Republicans said they would privatize capital operations, and we did.

EARTH DAY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, my purpose tonight is to talk about Earth Day and the lessons of Earth Day and what it means for us now in 1996. I think many of our constituents know that Earth Day is 26 years old now. It will take place this year on April 22, and the first Earth Day was in April 1970.

The reason we are concerned and the reason that several Democrats are here tonight to talk about Earth Day is because we are very concerned that this Congress, under the Republican leadership of the gentleman from Georgia, NEWT GINGRICH, has essentially tried to roll back the bipartisan effort that has been made in the House of Representatives, in the Senate, by Presidents of both parties over the last 25 years to try to improve our laws and our enforcement with regard to environmental protection.

In the last 14 or 15 months or so that we have been here in this Congress, we have seen day after day, week after week, efforts by Speaker GINGRICH and the Republican leadership to weaken the laws that have been on the books, and to provide less funding for enforcement and investigation against polluters who are violating those laws.

Before I go on, though, I will yield to the gentlewoman from Florida [Mrs. MEEK] who would also like to address this issue. I am very pleased she is here tonight, because I know how important Earth Day is to her, and how important environmental protection is to her.

Mrs. MEEK of Florida. Mr. Speaker, I thank my colleague, the gentleman from New Jersey [Mr. PALLONE].

Mr. Speaker, in recognition of Earth Day, I rise to talk about some of the successes and failures since the first Earth Day in 1970. I have a vivid recollection of Earth Day and what it has done for all populations.

As a result of the increased awareness of environmental problems that was a direct result of Earth Day, the landmark legislation to create the Environmental Protection Agency passed the United States Senate in 1970 without a single dissenting vote, ushering in a new era of America's stewardship of our air, our water, and our land.

Mr. Speaker, we have made great strides over the years in cleaning up our air and our water. My home State of Florida has been a national leader in protecting these precious resources. But there are those who have been left out in the rising tide of environmental quality, which has not lifted all of the boats.

Mr. Speaker, since that original Earth Day, we have learned that racial minorities and low-income people experience high-than-average exposures to selected air pollutants, hazardous waste facilities, and to contaminated fish and agricultural pesticides in the workplace.

In 1992, a National Law Journal Investigation found that penalties against pollution law violators in minority areas were lower than those imposed for a violation in largely nonminority area. They also found the government took longer to address these hazards in the communities. In additional, they found that the racial imbalance occurred whether the community was wealthy poor.

Discrimination against racial or ethnic groups and against the poor in environmental efforts cannot be condoned. The effort to fight this discrimination is known as the environmental justice movement. It is becoming a very strong movement.

Many of my colleagues know, as most of the country knows, that the current Republican leadership has assaulted the environment to serve special interests at the expense of the land, the water, the air, and the health of the people of the United States. Through budget cuts and legislative riders, the Republicans have targeted not only the environment, but also the minority groups and the poor. Not only is their so-called environmental agenda good for polluters, it is bad for the environment, and it is worse for poor people in poor communities.

Mr. Speaker, we need clean air and clean water, just as any other person needs it, as much as the people from other communities. The poor just as much as the rich need dangerous waste sites cleaned up. Poor people do not have air filters, water filters, or vacation homes to escape from these environmental hazards. They do not have lobbyists or money to donate to influential committee members to slant legislation in their favor. But we need to open our ears here in the Congress and listen to these people as we consider environmental laws in Congress.

Polluted sites in poor urban areas often stand for years as health and environmental hazards. I know this because of the district I serve. They are eyesores, they are a breeding ground for crime, and places where development of industry and jobs should be revitalizing the community, but these environmental hazards are there preventing this.

At the same time, new businesses are developing areas far from the cities and the city labor pool, destroying vegetation and wildlife, and duplicating investments in infrastructure that have already been made in these urban and poor areas. This makes no sense, no environmental sense and no common sense, Mr. Speaker.

Dangerous waste sites must be cleaned up. I have introduced, last year, a bill, H.R. 1381, the Comprehensive Economic and Environmental Recovery Act of 1995, that would help achieve this goal. My bill and a lot of others would provide low-interest loans to stimulate voluntary cleanup of contaminated areas in targeted urban areas, and ensure that local people are hired to do the work. My bill also includes provisions for a training program so that local people can learn the skills necessary for environmental remediation.

Mr. Speaker, I am not the only one who has sponsored such legislation, but this Congress needs to pay that more attention. The gentleman from Michigan, Mr. DINGELL, one of our colleagues, in his Superfund Reform Act of 1995 had provisions that would address this environmental justice. Unfortunately, Mr. Speaker, these sections were not included in the Republican bill, thereby setting back the cause of environmental justice.

One provision of the Dingell bill would have required that the EPA study priority-setting, response actions, and public participation at waste sites to determine whether EPA's conduct was fair and equitable to the population, to the race, to the ethnicity and income characteristics of affected communities.

Why are Republicans unwilling to even allow a study of this issue? What are they afraid of finding out? Another provision in the Dingell bill similar to my provision would authorize a demonstration program for recruitment and training of local people in remediation activities and encourage the hiring of disadvantaged persons from the affected community who have been trained in remediation skills.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Again, this provision was not included in the Republican bill. Poor and minority communities do not deserve to be the dumping ground for the country. My home State of Florida has shown leadership in environmental justice by establishing a commission to collect information and address this issue head on. In this Congress, however, we are regressing, as I see it, moving backward, as we are in so many environmental areas. We would be even further behind if it were not for the strong support of the President for environmental justice and for improving the environment.

For example, his executive order on environmental justice will address that problem. This year, as we celebrate Earth Day, let us remember that environmental protection decisions should not be based on race, ethnicity, creed, or on wealth. Let us recommit ourselves to an effective and fair environmental policy so that the tide of environmental quality will rise and lift all boats. We do pay attention to that as Earth Day descends upon us. I thank the gentleman very much.

Mr. PALLONE. Mr. Speaker, if the gentlewoman will just let me comment briefly on some of the themes she mentioned, because I think they were very important, first of all it is interesting, coming from the State of New Jersey, which of course is a very densely populated State, New Jerseyans tend to think of Florida as having more open space, more pristine area. It is not always the case, but that is the general impression.

The fact that you are here talking about some of the urban areas and eyesores, I do not even tend to think that is true in the State of Florida, but obviously it is, and it goes to point out to me how universal the concerns are about the environment.

The other thing I wanted to mention is that I think it is so crucial to stress the need to have Federal programs to help with the cost of cleanup. The gentlewoman mentioned specifically, I think she was making reference to the Superfund program or something like that.

One of the biggest criticisms that I had of the Republican leadership is when the Superfund bill came up for reauthorization before our Committee on Commerce, we had Republicans who were making statements to the effect that "We do not really need the Superfund anymore, because that can be dealt with by the States and the localities. They can deal with those hazardous waste sites, they can come up with better ways of funding and providing cleanup of hazardous waste sites on the State or local level."

I know that is simply not true. New Jersey, which has probably done more than any other State to clean up sites that are not on the Superfund list, nonetheless continues to have problems in terms of coming up with the financing, and particularly when we are dealing with urban areas where the property tax base is not there; for them to find the money to do that kind of cleanup is just not going to happen, which is why we need a Superfund program.

I also appreciate the fact that the gentlewoman brought up this whole issue of environmental justice and that movement, because too often I think people associate the environmental movement with rich people or the elite, and you point out very well that that is simply not the case, that people who live in urban areas, poor areas, have just as much, if not maybe more, to be concerned about when it comes to environmental cleanup.

The last theme, if I could mention it, the whole idea with regard to jobs and the environment; your point that when we clean up sites, when we deal with environmental protection, we are creating jobs, that is so true. One of the biggest criticisms I have of the Republican leadership is that they constantly try to juxtapose the environment versus jobs; that somehow they are mutually exclusive, and to the extent we clean up the environment, we displace people. That is simply not true.

☐ 1815

The fact of the matter is that environmental protection and the progress we have made over the last 26 years since Earth Day in 1970 has really actually created more jobs and created a better economy and allowed for more job creation. I appreciate the gentlewoman's coming here tonight and expressing her views.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. I thank the gentleman from New Jersey [Mr. PALLONE]. I guess I am here to warn the American people about what I call 1-day environmentalism. Interest in Earth Day really has to be continued and kept in people's minds throughout the year. It is a yearlong problem to keep protecting the environment and we need to do that.

I would be the first, Mr. PALLONE, to say that the environment is not a partisan issue. Americans, regardless of their political persuasion, want and need clean air to breathe and clear water to drink. They are concerned about it.

There are many Republican Members in this body who are strong environmental leaders, but the Republican leadership of the Congress has not been friendly to the environment. I think that that is the point that we need to stress, that it is the way we do things beyond the bills that are introduced. We have to look at what happens behind the closed doors or in the economy, in the budget deliberations.

I think that the Republican leadership learned very quickly that the American people did not want a frontal attack on the environmental laws, because the American people believe that the environment needs to be protected and they also feel confident that we have passed a lot of laws that have protected the environment. So instead the leadership, under the disguise of what they call deficit reduction and balancing the budget, in fact put environmental laws on a starvation diet.

What happened was, rather than having a debate about environmental laws, whether they were important, whether we wanted them, whether we could afford them, what happened instead was that there was a slashing of the funds for the enforcement of environmental laws, and we all know in every community that you cannot enforce laws if you do not have the money there to do that.

For example, I do not know if people around the country know that the Environmental Protection Agency's budget was cut by 21 percent and their law enforcement account was cut by even more, by 25 percent. What does this mean?

It means that the people who we hire to protect the environment have not had the opportunity nor the budget to go out and even inspect the facilities they are supposed to inspect. That means the American people's health is put at risk, and yet they are perhaps not aware that these things are going on because they have not seen the law actually taken down, so I ask that the American people look very carefully at these budget decisions.

I was pleased that the gentleman mentioned this whole issue of jobs and the environment. I have a report here that was put together by a whole group of very well known economists, and it is called "Economic Well-Being and Environmental Protection in the Pacific Northwest."

What these economists show—and they are not Republicans or Democrats, they are economists—what they show is that there is a direct link between a clean environment and a healthy economy, that those two things go completely together. Of course we have seen that particularly in the Northwest.

The Northwest, the population is growing rapidly, and one of the reasons over and over and over again given by people who move into the Northwest is they come there because of our wonderful environment and the fact that we are on the cutting edge of environmental protection laws. So people are moving to that.

I find that some of the Republican leadership have forgotten why we have Earth Day, why we have these laws. I remember when the Cuyahoga River caught fire. Can you imagine a great, powerful river so polluted that it

caught fire? It was the stimulus for the Clean Water Act.

In my own State, we have a great river called the Willamette River that flows through the biggest city in Oregon. Just a few years ago that river was unsafe to swim in, our children couldn't use it, there were no salmon in that river.

Thanks to the Clean Water Act, that has been reversed. We now have a clean river, we have salmon in that river. But if we cut the budget as the Republican leadership is suggesting, we will not be able to enforce those wonderful laws that have protected our environment and our people.

So I think that we really have to focus on these cuts. These cuts in the budget are, in my view, extreme and unwise and they are underhanded. If we are going to say that everyone agrees that we must protect the environment, we must be green all the way through. We cannot be green on Earth Day, put on a little green hat, put on a little green tie, a little green suit and say, look, we are pro the environment.

What we really have to do is say we are pro the environment when it comes to making those hard decisions on the budget. We cannot go behind closed doors where the American people are not there and cut these budgets and ravage these environmental laws.

So I challenge the leadership to put their money where their mouth is on Earth Day and start funding these environmental laws again, because then we will indeed be a clean environment and we will give the American people what poll after poll shows they want. They want these laws to be in place.

I am very glad you are doing an Earth Day event, but I do think we need to say it goes further than 1 day. It goes throughout the year, and we need to be honest with the American people.

I thank the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. I appreciate what the gentlewoman from Oregon [Ms. FURSE] said. The gentlewoman again points out some very important themes, I think, that we need to stress for Earth Day.

First of all, there has been tremendous progress. You talk about clean water. My district is totally on the water, either on the Atlantic Ocean or the Raritan Bay or the Raritan River.

In the late 1980's, 1988, 1989, when I was first elected and came down here, we had beach closings. Some of the beaches were closed the entire summer because of the wash-ups that were coming from New York and north Jersey. Now that is totally changed. In the last few years the water has been relatively pristine.

A lot of it has just been because of Federal grants and loans to the local municipalities, to the counties, to upgrade their sewage treatment plants. Money is a very important factor here. I think a lot of people deemphasize money, but when you talk about clean water action money means a lot, because money means you can build the treatment plants, that you can do the enforcement, go out and catch the polluters, you can do the investigations.

When the Republican leadership starts to cut back as they have on these grants, we are getting less loans now for clean water because of cutbacks with these stopgap spending measures. We have less environmental cops on the beat, so to speak, less investigation being done, and the direct result of that is that we are going to see more pollution going into our waterways reversing, hopefully not too much, but reversing the trend of the last 25 years.

The other thing that I wanted to point out that you stressed, I think, as well is that the problem that we face is with the Republican leadership. I think that when Americans went out and voted for a new majority, a new Republican majority in 1994, none of them, or very few of them, thought that they were electing a Republican majority that was going to put into leadership positions people that were going to make an antienvironmental agenda part of their program here in the House of Representatives. That is what we have seen with Speaker GINGRICH, with DICK ARMEY, with some of the other Members who are in the Republican leadership. They have on a daily basis put forward legislation that would weaken environmental laws. It is not so much the individual perhaps Republicans that are doing this but the leadership. But they are the elected leadership and we have to hold them responsible for what is happening down here. It is a fact that this is what they are doing. I want to thank the gentlewoman for joining us here today.

Mr. WISE. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from West Virginia.

Mr. WISE. I thank the gentleman from New Jersey for doing this once again. You have been a tireless fighter in environmental causes. Let me just say I too join as everyone in this Chamber, Republican and Democrat, in appreciating the progress that has been made over the last 25 years and also saying we do not want it rolled back. But what happens is people forget how the progress was made. The progress was made by being willing to fund the environmental programs that are passed, the progress was made by being able to do the enforcement, the progress was made by people standing up and saying here are a set of standards and we are going to vigilantly enforce them. The problem is if you cut back the enforcement 25 percent, what message are you sending out? I too like everyone in this Chamber have my own memories of the Kanawha River in Charleston, WA, in which when I was growing up you were warned not to swim in it, children getting meningitis every summer, and the pollution that was in those rivers. Today because of an effort made across the board, from environmentalists to industry, to government, the result is that the Kanawha is clean again and that for the first time fresh water fish are being pulled out of it, for the first time people are now feeling good about the Kanawha. Same thing with our air. The air used to be atrocious in the Kanawha Valley with the second highest number of solid particulates in the country 25 years ago. That is no longer the case. Everyone delights in that. So no one wants to roll back the clock. The only problem is the way you keep the clock ticking is to make sure that you keep the enforcement going and that you keep the EPA able to do its job. Earth Day fascinates me, hearing everyone say that we are all going to go out and plant a tree or do something and I do not make light of planting trees but trees cannot overcome a lot that is being done to the environment. But Earth Day in some ways has become the Easter service of environmentalism, the one day where everybody shows up, the one day where everybody brings a shovel, wears a bonnet, and comes out and celebrates. But the problem is you have got to be in the church or in the movement every day, every week. And so Earth Day can remind us. Indeed, just like Easter, it is good to have people coming out and renewing those ties. But then the test is whether or not that carriers over to the next day and to the next week.

There is a point that I think ought to be made. Sometimes I hear the talk of burdensome regulation but it should be made that to step back now is actually bad for business. We have a number of companies in the Kanawha Valley and in West Virginia that have spent great sums to comply with the law and indeed many of our companies have greatly reduced emissions voluntarily far beyond what was required. What kind of message do we send out now if you say we are going to step back, that we are not going to fund enforcement so that that person who has always been skating right on the edge, who has not been willing to make the commitment, who has always played a bit fast and loose or who simply has not been willing to upgrade as fast as others have, they suddenly get rewarded? We give them a bonus for having never been as enthusiastic as others in the business community have been?

The thing that has impressed me in talking to our chemical industry at home is they understand the progress that has been made and they are committed to continuing to make it. But it gets a lot harder for them to justify if they see somebody else that may get

VOL
142
PT
6
AP
15
—
24
1996
UMI

off the hook now because that EPA inspector can get by now once every 6 years or something along those lines and only under the rarest circumstances. I support a tough enforcement program. That is why I voted against cutting the funding 25 percent.

There is a controversial pulp mill, for instance, that is now being debated, whether or not to construct in my area. Some say that it ought not to be built, others urge that it should. Regardless of how you feel, the best way to determine what the environmental impact will be is with a strong EPA. That is why I voted for the funding that would give the EPA the ability to continue doing its studies that are so necessary.

Environmentalism is good for business and indeed we are seeing more and more businesses learn that and make profits from it as well.

Finally, I just want to say, I do not think anybody want to hurt anybody but if you have got a doubt as to whether or not there needs to be continued rigid enforcement, just look at your tap in your kitchen or the faucet where you children brush their teeth and ask, am I totally confident about what is coming out of that tap and will I be totally confident if these cuts go through? Ask the victims and their families in Milwaukee, where 100 people died just a couple of years ago from cryptosporidium in the water supply. Ask those who have been under a boil water order, which is not uncommon. I wonder why it is regrettably that bottled water seems to be a growth industry in our supermarkets. What that tells me is that the job is not only not finished but it must be even more aggressively pursued.

So we have made progress, everybody agrees on that. But there is a price to progress and there is a need to make sure we keep the progress that we have made as well and to continue to progress. I thank the gentleman for all he has done to keep that in front of the American people.

☐ 1830

Mr. PALLONE. I appreciate the gentleman's remarks. If I could just add again a couple of things that you pointed out and bring them back to this issue of what the Republican leadership has been doing in this House, one of the things that we keep hearing from the Speaker and Republican leadership is we do not need the national laws, the environmental protection on the national level, because the States are doing a good job. Twenty-five years after Earth Day we can send those responsibilities, if you will, to enforce the environment, to protect the environment, back to the States.

As the gentleman so well points out, if each individual State has different laws when it comes to Superfund or clean water or whatever it happens to be, that does not solve the problem, because you get forum shopping; in other words, where a company will say "I will not go to West Virginia. I will go to another State, because they have weaker laws." And if each State starts competing, if you will have to have weaker environmental protection to attract industry or whatever, then the common denominator gets lower and lower.

Mr. WISE. I am from West Virginia and the gentleman is from New Jersey. Both are centers for the chemical industry. If you want to start a race for the bottom, pitting us against each other, each State having to set its own standards, as opposed to having a minimum Federal standard that at least sets the minimum benchmark, we all lose in that regard.

Mr. PALLONE. I yield such time to the gentlewoman from California [Ms. PELOSI] who has been an outspoken protector of the environment here in the House.

Ms. PELOSI. I thank the gentleman for yielding, and for his leadership on this important issue, and for calling this special order this evening.

I would like to follow up with the colloquy you were having with the gentleman from West Virginia [Mr. WISE] on the idea that we absolutely do need Federal standards. Not only do we need them, because you would have a race to the bottom as States might wish to attract certain kinds of industries which would not have to comply with State law, but also because pollution knows no State boundary. Without minimum environmental standards set by Federal law and Federal enforcement actions, the health of our communities, the environment and economy would be compromised across the board.

Testimony submitted by the Citizens Panel of the Chesapeake Bay shows that Federal oversight and enforcement helped States work cooperatively to address environmental problems. Before the creation of the EPA, the six States on the Chesapeake Bay watershed allowed the waters to become severely polluted. Without a strong Federal enforcement presence, citizens in States like Virginia, which had cut its environmental budget by 26 percent, would have little recourse against pollution coming from other States.

It is hard for young people to remember or even to know how it was before the EPA and before Earth Day. In the 40 years that the Democrats have been in control of Congress, great progress, as the gentleman has indicated, has been made. Twenty-five years ago my own beautiful San Francisco Bay could be smelled before it could be seen. I hate to tell you that. Major rivers caught on fire from industrial pollution. The Great Lakes resembled stagnant toxic pools rather than centers for recreation and commerce.

Since then, national environmental laws have led to cleaner air, safe drinking water, and better controls of toxic waste and hazards. But the work is far from done, and the Republican assault on environmental budget will hamper such efforts.

Due to recent cuts, the EPA has halted 68 waste cleanups in communities around the Nation. In New Jersey, your State, Mr. PALLONE, 81 Superfund sites need to be cleaned up.

I had an able article from a California paper, "Strapped EPA limits cleanups. With funds cut off, agency slashes staff, narrows work to 10 of the most hazardous sites in California." This means that the head of the EPA in our region has kept a skeletal crew of 35 to 40, down from 900, to oversee the most serious problems and to tend to the other business.

So we are faced with a terrible, terrible choice. This is not about only endangered species; this is about endangering the health of the people of our country, endangering our children. We are talking here about clean air, clean water, safe drinking water.

I once has a volunteer in one of my campaigns, and when we asked her why she was attracted too come into a campaign, she said, "I realize that politics has something to do with clean air and clean water, and I guess I have to be involved in politics, at least as long as I breathe air and drink water." And that is so true.

What has happened since Earth Day 26 years ago, the first Earth Day, is that the people have become engaged. Our Republican colleagues see the resistance to their backward looking policies. Now they are trying to give the appearance of being green on Earth Day.

But while they may try to act green for a day, the record shows that this has been the worst environmental Congress ever. The Republican Congress has attempted to roll back years of environmental progress in order to favor special interests.

Because of Republican cuts, EPA has missed thousands of inspections and enforcement actions, cleanups have been slowed at 400 toxic waste sites, and stopped at 60 Superfund sites. Six rules to clean our waters have been delayed, causing hundreds of millions of pounds in pollution that could have been prevented, and old growth forests are being logged without environmental protection. This is a serious, serious assault on the environment.

I heard our colleague talk about the environment and economics. I wanted to cite a report from California that says that, to the contrary, the environmental regulations do not produce a loss of jobs. The report that we have from the California State Senate shows clearly that rather than losing jobs, it promotes jobs. It promotes an environmental protection industry, it promotes the fishing industry, which depends on a clean environment. This

whole methodology that there is a job loss because we are trying to protect clean air and clean water is just that, mythology and not reality. It is an excuse to take actions, but it is not a reason to do so. So there is a great deal at risk.

I want to commend President Clinton for standing firm in this budget fight, standing firm to say, as Vice President GORE reiterated today, that he will veto legislation that has harmful environment riders or harmful anti-environment riders in them. Even with the riders gone, I am glad the President stood tall on the issue, in terms of the cuts to EPA which we have been talking about this evening and which have such damaging impact on the environment.

I would say to the gentleman from New Jersey [Mr. PALLONE] I serve on the Labor, Health and Human Services Subcommittee of the Committee on Appropriations, and on that committee we hear from scientists all the time. What they tell us is that pollution prevention is disease prevention. This is not just an environmental issue, if you could say "just an environmental issue." It is a public health issue. The parents of this country, the families of this country, as the gentleman from West Virginia [Mr. WISE] said, have to have the confidence that when their children go to the faucet and pour a glass of water, that they are not damaging their health.

So we have to have Earth Day, we have to uphold the principles of Earth Day every day of the week and every day of the year. And in this body we have a responsibility to make sure that whatever we vote for here is in furtherance of protecting the environment, and we must reject the extreme proposals of the Republican majority to set us back on the last generation of improvement in the environment.

Once again I want to thank you for your leadership on this, your relentless leadership on protecting the environment, and for giving me this opportunity to participate in this special order this evening.

Mr. PALLONE. Mr. Speaker, I want to thank the gentlewoman for the remarks that she made, and again she has made some points that I think are really crucial in terms of this whole debate relative to Earth Day.

I think that the Republican leadership consistently tries to pretend when we talk about the environment, that we are sort of the tree huggers. Not that there is anything wrong with hugging trees, but they forget the fact we are mainly talking about the public health and that when we talk about clean water, air and cleaning up hazardous waste sites, we are talking about direct health implications for the average person, for children, for mothers, whatever.

Also, I am glad the gentlewoman brought out, she certainly knows as a member of the Committee on Appropriations that we continue to operate under these stopgap funding measures which are still creating tremendous problems for the EPA and their ability to enforce the law to clean up Superfund sites, to do proper investigations. I am a little afraid that because we have not had the shutdowns that the Republicans brought us a few months ago, at that time people were vividly aware of the fact that the EPA was closed down, that Superfund sites were not being cleaned up, that there was not anybody out there going against the polluters or finding the polluters. But even though we do not have the Government shutdown or any agencies shut down now, the amount of money that is available for the EPA and other environment-related agencies is significantly cut back because of these stopgap measures.

I think this one we are under now extends to the 24th, sometime next week or so. We are just hoping if we get another continuing resolution or another appropriations bill it is going to be one that provides adequate funding for the EPA and these other agencies. Again, so far the Republican leadership has not indicated they are going to do that, so these agencies are being crippled in their ability to enforce the law and do the things important to us.

Ms. PELOSI. That is why I am so pleased President Clinton has stood firm on this issue, in addition to education and some other issues, Medicare, Medicaid, VA, that the President has stood firm and said that we cannot proceed unless we have the basic health and well-being of the American people protected in how we go forward.

I would like to elaborate on one point just for half a minute that I mentioned earlier, about a survey released last month in California by the California State Senate, refuting the claim that if you have environmental protection regulations you lose jobs.

This report looked at every major study by Government, universities, and private think tanks since 1973. Not a single reputable study found a negative impact from environmental laws. In fact, environmental regulations have created jobs, particularly in manufacturing, transportation, and utility industries, and as I mentioned, there are other industries like the fishing industry which are totally dependent upon a protected environment. There have been a boom in jobs in environmental technologies and services. The report says California, speaking for my State, California alone will have 200,000 environmental workers by the end of the year.

The environmental debate is really about protecting public health, as the gentleman has said. The jobs versus owls argument is dead.

Again, I thank you for allowing me this time.

Mr. PALLONE. You are absolutely right. In my district it is so vivid, your point, in the sense when we had these beach closings in the late eighties, billions of dollars literally were lost in tourism at the Jersey shore. There were no jobs at all in the summer. So I do not think I could find a better example. If we do not have clean water at the Jersey shore, we do not have an economy.

For the life of me, I do not understand why a lot of the Republicans or those in the leadership do not understand that. But a good environment means good jobs. So thank you again for participating.

I would like to yield now to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. I thank you for yielding and for your leadership concerning environmental protection. I thought that one of the other really important aspects of this GINGRICH attack on the environment, this GINGRICH attempt to essentially have unilateral disarmament of the environmental law protection relates to the whole problem of clean water drinking standards. Where I come from, the city of Austin, TX, Colorado on the Rocks, with the Colorado River running through there, is considered to be a pretty good drink. I have begun to get a series of calls and letters from people throughout central Texas expressing concern that this Congress, and particularly this House, given its atrocious environmental record during the last year, intends to weaken the safe drinking water standards.

Another concern that you may be familiar with, and the irony at a time when so many in this House have talked about more local responsibility, more community responsibility, is that they would come in and limit the community's right to know about dangerous substances in our water supply. I am wondering if the gentleman, in your leadership role with reference to the environment, is familiar with some of the dangers posed to our water supplies by the assault on the environment?

Mr. PALLONE. Let me say, first of all, when you talk about the Safe Drinking Water Act and the efforts to weaken those protections, it is a real problem. We are hearing now that because of the fact that the Republican leadership did some polling, they essentially found out that they were not doing too well with their constituents and possibly leading to next November's election, because they were perceived as antienvironment.

Mr. DOGGETT. That is reality. That demonstrates the ability of the American people to get past these stickers saying "I have been to the zoo" or "I planted a tree" or "I have a green sport coat," and get down to the fact that some people who say they are green at election time have been voting consistently to destroy the environment and

VOL 142 PT 6 AP 15 — 24 1996 UMI

to have an assault on environmental law enforcement.

☐ 1845

Mr. PALLONE. Before we are finished with this special order tonight, maybe one of the things we could do is to bring up this memo that was sent out by the Republican leadership that essentially gets right to the point the gentleman is making about going out and hugging trees and going to zoos and all that to pretend that a Member is environmental.

Mr. DOGGETT. The gentleman is talking about the House Republican strategy for this year. That is where they got the public relations firm in to help them put a smiley face on their commitment to the environment by doing things like petting their dogs and that sort of thing?

Mr. PALLONE. I will read it directly. It will not take long. It is a pamphlet that was put out, I guess in October 1995, after the 9-month assault on the environment when they did the polling and found out that the public really did not like it, and it is amazing to me where they say, and I am just quoting, your constituents will give you more credit for showing up on a Saturday to help clean up the local park or beach then they will give a press release from someone in Washington talking about environmental issues. And they specifically say that you should go out and plant trees and go door to door and hand out tree samples, and then, last, become active in your local zoo. Go for a visit, participate in fund-raising events, become active on the zoo citizens advisory board.

Now, do not get me wrong, I am all in favor of planting trees. I have done it myself. I go to the zoo all the time. I am a member of the zoo here in Washington and elsewhere. But the point is, this is just being used as a way to cover up a poor environmental record.

Mr. DOGGETT. A gimmick.

Mr. PALLONE. Exactly. Going back to the gentleman's point on the Safe Drinking Water Act, I am hearing that some in the leadership now are so concerned about their poor record on that statute that they have actually reached out to the Democrats and are talking about possibly coming up with some compromise legislation. But I will believe that when I see it.

Mr. DOGGETT. I am encouraged to hear that, though I read just this week in the April 15 issue of Congress Daily an announcement concerning a draft committee recommendation on clean water legislation, and it was an expression of great concern by the environmental working group that the committee draft, and this would be, of course, the Republican majority committee draft, would weaken community right-to-know provisions and allow new industry oriented peer review panels to veto EPA standards. That is that the people that pollute the water would be able to determine what pollution is and is not appropriate for our public law enforcement 'agencies to protect us against.

I would just point out that this is not, as this very cynical Republican strategy memo that the gentleman referred to, this is not just something coming from Washington. One of the people who wrote me within the last week is Pamela Garcia, who writes that Austin currently has the highest pure water standards in the State of Texas and I would like to see it stay that way. These high standards must be maintained to protect those most at risk from contamination.

I had a third grade teachers write, a woman who has committed her life to working with young people, to write to express concern about what she had heard about this same weakness in the community right-to-know provisions. Holly Long from Austin says that it may just be my imagination, but I thought the Government of our country is a place in the position that they are in to protect the rights of citizens that they represent. We should have the right to clean water and that right should be assured to us by the people that represent us.

I know the gentleman shares that view, that our job here is not to get on the side of whoever has the strongest lobby in Washington, but to stand up for people like Holly Long, who is out there trying to teach young people and bring them into the whole American dream; that we have a responsibility to ensure that she has an advocate here in Washington fighting for the right to be able to see endangered species in someplace other than a zoo, and to not have all those trees clearcut in our old growth forests, and certainly to be able to be sure when they get a drink of water out of the Colorado River in Austin, TX, that it meets the standards that we would expect and that the gentleman would want in New Jersey.

Mr. PALLONE. I agree, and I really appreciate the fact because I do not think anybody else tonight brought up this sort of Republican strategy which we have seen with a lot of the efforts to weaken environmental laws, where provisions that I call sunshine law provisions, let the light in and right-to-know provisions, the ability of citizen groups to bring suit, the ability of the Federal Government to provide grants to citizen action or activists who are going to look into or investigate environmental problems where they live.

These kinds of protections that basically get the public more involved and sort of let in the light so that we know what is going on, those are the very things that in many of these bills that have come up that we have seen the Republican leadership try to weaken those protections.

Mr. DOGGETT. Empowering the local communities to address these issues. And, of course, I am so amazed at those who will come here on the floor of Congress and they will say, well, I am against pollution. I mean I am not in favor of pollution, I am just against the Environmental Protection Agency. Well, that is like saying I am not in favor of crime, I am just not in favor of the police.

It is the Environmental Protection Agency and some of our other protection authorities that are the law enforcement authorities with reference to the environment, just as our police and our highway patrolmen and highway troopers are the law enforcement for some of the other areas that affect our lives.

Just to give you another example, if I might. I am sure you have some of these from New Jersey, but another person who contracted me expressing concern about what this Congress is doing, particularly in the area of water quality, and I think again it really brings it home, it is not a battle between political parties or between Washington and Texas or New Jersey, but the fact that this affects the lives of real people who are struggling out there in America to make ends meet and who do not need the Congress getting in the way of their standard of living.

Susan Truesdale writes me:

> Clean water is important to central Texans like me and my family. I can't imagine finding out 12 days after the fact that the water that my family and I had been drinking, bathing in, watering our pets and yards with, is contaminated with something that could possibly kill us or make us terminally ill. I don't want my kids drinking this stuff and not knowing. Vote to protect the right of Texans to be told immediately if our water is unsafe, for more protective standards not weaker ones.

And remember, she says, that many of our most vulnerable citizens are young people, are old people, people who have certain physical problems, certainly young women who are pregnant, who are most vulnerable to water that is polluted, to drinking water that does not meet clean water standards.

So I think, it is important that you have spent this time this evening bringing to the attention of our colleagues and to the American people how really far-reaching this very extremist agenda to undermine environmental law protection is, because I have found some people who are out there beginning to notice it and beginning to say, do not let this happen; that we have a responsibility to stand up and pose an obstacle to those who want to undermine environmental law enforcement.

Mr. PALLONE. I appreciate the gentleman's remarks, and maybe I could just briefly out sort the cynicism that I have seen around here on the part of the Republican leadership to the whole environmental issue.

I sort of started this evening by saying that when the Republican majority

was elected in November 1994, they put forward a Contract With America, so to speak. There really was nothing in there that would stand out to anybody who was voting that would suggest that they were putting forth an antienvironmental agenda.

But when Speaker GINGRICH was elected and when the House organized the Republican majority, very quickly we saw an effort by the Republican leadership to bring to the floor what we call reauthorization bills, where we revisit various environmental laws, like the Clean Water Act, and use those reauthorization bills as vehicles to try to weaken directly environmental legislation, whether it was the Clean Water Act or the Superfund coming out of committee or some of the other bills that we rely on as sort of the whole basis for environmental protection here.

Mr. DOGGETT. This was after they began the weekly meetings with the polluters behind closed doors here in the Capitol?

Mr. PALLONE. Absolutely, and it was well documented that much of the legislation coming out of committee was actually written at those meetings with the polluters or with the special interests, and that they were even directing when they were coming to the floor.

They were not terribly successful in accomplishing that goal of weakening those statutes directly because of course the Democrats in the House battled them, and even when the bills passed the House, they had difficulty getting them through the Senate because the Senate was not as responsive to trying to weaken the environmental laws.

So very quickly, after that first 6 months of trying to go directly at environmental protection standards and statutes, we saw the Republican leadership sort of regroup and look at the budget, if you will, and the appropriations bills as a vehicle to try to turn back the clock since Earth Day 1970. So we saw, as was mentioned by some of our colleagues here tonight, riders, legislative language, if you will, weakening language put into the budget.

We also saw, and most importantly, efforts to cut back on the amount of money that was appropriated for the agencies that protect the environment, like the EPA or the Department of the Interior, and even more so deep cuts in enforcement in those environmental cops on the beat, as you point out. Then, of course, by the end of 1995 we got to the point where we had these Government shutdowns, where those agencies were shut down and were not able to function at all.

I think at that point, and you and I recognize, I think, that at that point, at the end of 1995, Speaker GINGRICH and the Republican leadership started to do this polling which indicated to them that the public did not like what was going on with their antienvironment crusade. That is when we got the memo saying go out and plant the trees and join your local zoo.

Mr. DOGGETT. My concern is that that is all they plan to do; that they want to have good public relations but that they intend to continue, as far as I know they have not stopped their closed-door meetings with the polluters and special interest lobbies that they have here every week; that they will have the smiley face out there but they will still be trying to sneak attack with the environmental riders and the slashing of the law enforcement budgets for those that are there to try to assure that we have the clean drinking water that people in central Texas want and the clean air that I know people across the country want.

Mr. PALLONE. Exactly. That is one of the main points that we are trying to make here tonight and that the gentleman is making very effectively, which is that we cannot be fooled, if you will, by the fact that we are not seeing legislation coming directly to the floor now to strike the Clean Water Act, for example. Because we are still having, with these stopgap funding measures, significant cuts in enforcement, in the ability for environmental agencies to actually operate and to enforce the law.

That is continuing on a regular basis, and all efforts to try to sort of paper that over by suggesting that we are going to be a little better on the environment now is really nothing but smoke and mirrors.

Mr. DOGGETT. Or we could expect the same type of thing that we saw last year when there was a bill out here that was called the Clean Water Act amendments, but most everyone that looked at it referred to it as the dirty water act. Most of the commentators who studied it noted that it was not surprising that it was a dirty water measure that actually weakened, in the name of clean water, the existing law, because it had been written behind closed doors by the various polluters who had a vested interest in this matter.

Mr. PALLONE. Exactly. And the fact of the matter is a lot of the provisions in that dirty water bill are still attached as riders to these appropriations, as well as some of these stopgap spending bills that continue to come up, so they are not going away. They are still there, but now they are sort of hidden a little more.

I think it is incumbent upon us, as Democrats, and whether Democrat or Republican Members of this body who feel that the environment needs to be protected, in celebration, if you will, of Earth Day, that we continue to be vigilant and make the point that this Congress has been terrible, has been the worst Congress on record with regard to environmental protection. We have to bring to the light and to the public the fact of how they are going about this, and how the Republican leadership continues with this antienvironmental agenda.

So I want to thank the gentleman again for being here tonight, and I know we are going to continue to make this point leading up to Earth Day next Monday and beyond.

Mr. DELLUMS. Mr. Speaker, I rise today to focus our attention on the upcoming Earth Day commemoration. Earth Day is a day we should all pause and consider where we are, where we have been, and where we are going. Earth is our home; we have no other. If we exhaust her resources; if we pollute her water, air, and land, there is no other place we can go. Rachel Carson first apprised us of the danger to our environment in "The Silent Spring" in 1962. Consciousness about the overharvest of renewable resources, endangered species, and pollution resulted in efforts on the local, state, national, and international levels to address these issues. Acting in the best interest of all the people and in the long term, Congress passed a number of laws that significantly improved the living environment of all Americans and helped to heal the damage done out of ignorance and greed the previous decades.

The Clean Water Act was passed in 1972. It protects surface and ground water. It provides water quality standards to control industrial and municipal pollution. It also provides federal grants to help states modernize public sewage treatment plants and reduce sewage discharges. As a result of this act, millions of pounds of industrial pollutants have been eliminated from our drinking water and from our rivers and lakes. Although the nation's waters are cleaner than they've been for decades, 40 percent of the Nation's waters are still not clean enough for fishing and swimming. Thus, we still need to maintain a strong Clean Water Act.

However, the Republican majority wants to substantially weaken the Clean Water Act. They want to exempt 70,000 chemicals from the act, allowing industries to pollute the Nation's waters as much as they like without any hindrance. They want to slough off the costs of their industrial production onto the American people. The big industries want the American people to pay for industrial pollution, and we will pay—with environmental losses. Fish will be poisoned, rivers and lakes will die, and we will be unable to swim and fish. The Republican majority wants to reduce funding for cleanup projects, which may reduce taxes in the short-term, but it will raise them later, because if we don't clean up the mess now, our grandchildren will have to do it.

The Safe Drinking Water Act has also been the focus of Republican attacks. The Republican majority killed Safe Drinking Water Legislation in 1994, and has made significant cuts in funding the safe drinking water infrastructure. Currently, a weaker bill—the Safe Drinking Water Act Amendments of 1995—is being considered. Without a strong Safe Drinking Water Act, we will pay with our health, from the potential negative effect of ingesting chemicals over the long term.

VOL
142
PT
6
AP
15
—
24
1996
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The Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA] Superfund was created in 1980. Its purpose is to clean up the most polluted hazardous waste sites. It requires polluters to pay 75 percent of the costs of cleaning up the sites they pollute. The Federal Government pays the balance of the costs. Of the 1,400 sites identified for cleanup, only 349 have been completed. Because of the lack of commitment to cleanup by previous administrations, 60 percent of these sites have been cleaned up during the Clinton administration alone.

The CERCLA Superfund needs to be made more effective and efficient, not less. The Republican majority wants to change CERCLA to provide fewer cleanups. Instead of cleaning up hazardous waste sites, they want to merely contain them. They also want to shift more of the cost form the polluters to the government, making government—the taxpayers—pay 50 percent of the cost instead of 25 percent. The Republican majority has also halted designation of new sites and reduced the amount appropriated for cleanups.

The Republican majority has also been giving away America's natural resources to special interests. In years past, Congress created the National Park system, wildlife refuges, and National Forests. In 1995, the National Park system alone enabled 270 million people to commune with Nature. The National Park system includes National Parks, seashores, preserves, scenic riverways and trails. While these areas are in need of maintenance, the Republican majority has cut its operating funds.

In addition, the Republican majority wants to open up the Arctic National Wildlife Refuge (ANWR) to drilling for oil and natural gas without important environmental safeguards. ANWR is home to a wide variety of animals and plants, which will be negatively affected by drilling. They are also attempting to open up over 20 million acres of America's Redrock Wilderness to development.

The Republican majority wants to open up national forests to logging above the levels that are sustainable over the long term. They want to allow logging in old growth forests, the home of many endangered species of animals, birds, and plants. In the guise of salvage logging of dead and dying trees, they have passed legislation that opens up logging in these ancient forests, without compliance with environmental laws. The Republican majority is even proposing to dissolve the Tongass National Forest (America's largest rainforest), transfer ownership to the State of Alaska, and open it up to logging and other development. Thus, the heritage of all Americans is being sold to oil and timber companies, who don't care about the long-term health of the forests or the animals, birds, and plants that are dependent on them for their survival.

The Republican majority has also been attempting to gut the Endangered Species Act. Masquerading as reform, the bill was drafted by timber, mining, ranching and utility interests who would prefer to do business without regard to the harm it causes to endangered species and their habitat.

The Republican majority has resisted reform of the Mining Law of 1872, which allows mining companies to take minerals from federal lands without paying royalties for them. Companies need only pay $2.50 to $5.00 per acre to carry off all the minerals they can extract. These are nonrenewable resources that are literally being given away to mining companies. The American people has a right to a reasonable return for their common property. But the Republican majority is resisting this needed mining reform.

The Republican majority has done all they can to cripple federal environmental laws. In addition to weakening individual environmental laws, they are attempting to undermine the enforcement of environmental laws by drastically cutting the budget of the Environmental Protection Agency (EPA) and by limiting the authority the EPA has to implement and enforce those laws.

In the guise of "regulatory reform" the Republican majority is attempting to undermine the environmental laws passed during the past 25 years. Calling environmental safeguards "red tape," they are trying to trick the American people into allowing big businesses: to pollute America's water, air, and land; to pay less than full value for America's timber and minerals; and to destroy America's wilderness and wildlife. In true Orwellian fashion, the Republican majority is trying to steal the common heritage of the American people, obfuscating it with anti-government rhetoric.

Earth Day is an excellent time for all of us to take the time to consider what kind of home we want to live in, and what kind of home we want to leave for our grandchildren. Will there be clean water, air, and land? Or will they be polluted, ugly, and toxic? Will we have any forests left? Will there be any wilderness and wild animals left? Clean water, air, and land is the birthright of all Americans. Forests, wilderness, and wild animals are our heritage too. Will our grandchildren curse us because we wasted their inheritance?

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REFORM INITIATIVES

The SPEAKER pro tempore (Mr. METCALF). Under the Speaker's announced policy of May 12, 1995, the gentleman from Pennsylvania [Mr. FOX] is recognized for 60 minutes as the designee of the majority leader.

Mr. FOX of Pennsylvania. Mr. Speaker, I come to speak to my colleagues tonight here in the House to discuss some of the reforms that we have achieved thus far and where we need to go in the next few months to make sure we complete our agenda to create jobs, to have reforms and to make sure the institution that we are serving in and the public we are serving for are being properly represented in every way imaginable inasmuch as in a bipartisan way as possible, in that total effect.

Let me just review, Mr. Speaker, if I may, with you some of the important reforms we have achieved.

First on opening day we cut one-third of committee staff, eliminated 3 committees, 25 subcommittees. At the same time we also passed a rule for this 104th Congress in the House, there would be no tax increase unless with three-fifths of the Members present voting for that tax increase, and I can report to you we have had no tax increases to date.

We also have one-third cut in the franking privileges, the free mailing privileges that Members have, and since that time some other additional reforms I think are worth repeating and worth underscoring for my colleagues.

We have passed a ban on gifts from lobbyists. Up until December 1995, lobbyists could give gifts to Members, whether it be a trip, or a dinner, or anything like that. And we took a stand, I think very strongly, very properly, saying since no Member in this House would want the adverse inference that their vote would be changed by a lobbyist giving a gift, we have now banned those gifts, the first Congress in history.

And we certainly are on the right direction as well, requiring lobby disclosure. We now know because we passed a bill that is signed by the President, bipartisan Congress, House and Senate. Lobby disclosure for the first time has been effectuated here, and because of the task force on the form, which I now serve on, a bill will be forthcoming to bring about campaign reform, as well, which I think would be the final chapter of this Congress' achievement, a ban on gifts, lobby disclosure, and filing campaign reform.

We have already saved through these reform measures, Mr. Speaker, $150 million on just the operation of the House. I think that is a testimonial to the kind of hard work that the Republicans have initiated as a majority party, and we have had bipartisan support in all of those initiatives, and I think that says a lot about the membership reflecting the will of the people back home.

But beyond those reforms in the institution, we have also made great strides, moved forward to our agenda to try to make sure that we have a balanced budget. This House has passed for the first time since 1969 a balanced budget. Now, since we started that balanced budget, which was presented to the President and not yet signed, we have moved $440 billion closer to the President's figures in trying to achieve the kind of an agreement that will not only bring us a balanced budget, but we are still $440 billion on Medicare, Medicaid, environment and education, four areas that in a bipartisan way the Congress is moving to protect.

We just saw a week ago, Mr. Speaker, that a line-item veto was signed into law by the President. This will allow the President for the first time, like 43 Governors, to be able to cut out wasteful pork-barrel projects, ones that House Members in the past or Senators

may insert into the budget just to get a reelection effort or just to take care of their districts, but would not have regional or permanent value, that would be a project worthy. Now the President will have that line-item veto, and that is certainly a reform that this Congress can be very proud of.

We have also passed congressional accountability. That law says that anything that we pass will be applied to our staffs as well. In prior Congresses, as you know, Mr. Speaker, the fact is that the Congress itself was exempt from bills in the past, whether it is OSHA, or fair labor standards, or whether it is civil rights law. It is the last paragraph; Congress is exempt from the application of this law. And that was wrong in two ways. First, it was wrong because we did not understand the pain or the suffering put through some individuals and businesses with requirements of Federal law; and, two, it was unfair to the staffs of the Congress in being able to have the protections that laws can afford. And so the President did sign that law into effect, sometimes called the Shays Act, and CHRIS SHAYS, who is from Connecticut, deserves a great deal of credit for having moved that bill forward, and we adopted it here in the House and the Senate, and the President signed the law.

The unfunded mandates reform; I know that you back—Mr. Speaker, and served in Washington State, and you know that the Federal Government for years before you arrived here in Congress would send mandates back to Washington State or to your home community or your school district and said the Federal Government requires this, you got to pay for it. Well, that almost bankrupt some local communities, trying to see to the wishes of the Federal Government, least sensitivity of the funding that goes along with these programs that we implement.

So the unfunded mandates reform has been passed, and no longer can the Federal Congress, the House and the Senate, and together with the President, send back a mandate to home without the money that goes with it. I think the benefit of that is that we can make sure that what we send back is certainly going to be something that is worthy of having the Federal Government be involved with the funding as well as the initiative.

We also passed in this Congress a new crime bill, not just for more police on the street, which is certainly a positive step to take care of all local communities, but we also passed on this $10.2 billion new program more funds for police officers on the streets, more money for police equipment, for crime prevention, maybe for a drug court, and leave to each community, county and municipality, or State the initiatives on their own part to decide where the anticrime, where the prevention programs, should have the money best spent.

In some communities it might be establishment of drug court. In other communities it might be prevention programs. Still in others it might be rehabilitation programs to make sure first-time offenders no longer become full-time or professional criminals.

These kinds of initiatives will go a long way to improve our anticrime programs and to work with the attorneys general in each State and our U.S. Attorney General in trying to bring about more safety in our communities and in our States.

We have also passed initially in this House welfare reform. Now, the President said in 1992, when he ran, he wanted to end welfare as we know it. Now we send a bill over to the White House; it was welfare reform in a bipartisan fashion, passed by the House and Senate, has been vetoed, But we are still hopeful here in the House that there will be a bill upon which we can have the consensus and can get a final passage.

The kinds of things we are trying to get is to make sure there is a safety net for those who are unemployed or unemployable, but those who are able-bodied, what we are trying to do, Mr. Speaker, is make sure they have job counseling, job training, job placement, and day care, if necessary, to make sure that every individual who wants to work, who has the ability to work, will be able to work and have the pride of work.

But also part of the welfare reform legislation was appropriate funding and increased funding for food nutrition programs for schools and the WIC Program, the Women, Infants and Children Program. We think this goes a long way in trying to get the problems addressed because while we have spent 15 percent in the cost of one of those two programs, the WIC and the food nutrition, in the proposal that we have before the House right now is to have those programs block granted to the State, but the way we do it is we told the Governors you can only spend 5 percent on administration; with the other 10 percent that is in the budget, the money must go toward feeding more children more meals under the national standards of the National Science Foundation.

So, with those kinds of safeguards, we think the programs, closer to the people without the fraud, abuse and waste for anything will give us a better job back home, will give us a better chance to feed those children and to serve them well.

Our pro-jobs agenda has been one that I think that we can take a lot of pride. You know, many people said, well, what kind of health care provided for workers, for those employed? Well, H.R. 3103 passed last week in the House provides several things. Most notably, Mr. Speaker, H.R. 3103 is going to make sure that our people who employed, when they move from one job to the other, or if they lose their jobs, that the insurance is portable. And that is very, very important. It also insures that no matter what preexisting condition you have you cannot be denied the coverage. It also provides medical savings accounts.

So these are very positive things for workers that we want to make sure, hopefully the Senate will agree, and the President, as well, will sign.

We also want to try to get 100 percent deductibility on health insurance to encourage employers to provide the health insurance for their workers.

We also are discussing investment tax credits and research and development tax credits for the purpose of making sure we encourage investment, encourage new jobs, retaining jobs, and to make sure that we keep our businesses here in the country and not overseas.

We also are looking for regulatory relief, and our purpose is to try to make sure that we do not duplicate what States are already doing. Mr. Speaker, we cannot really have regulation upon regulation when they have already have made sure that they done in the States, they have to duplicate in the Federal Government.

We have with us tonight our colleague, Congressman TAUZIN, who I hope will join us here and talk about some of these reforms that we have had in the Congress and where we go in the future of this second session of the 104th Congress. I will yield to him to give us his thoughts on where he thinks the continuation of this revolution will go.

Mr. TAUZIN. I thank the gentleman for yielding.

I particularly wanted to join you because I listened to the special order that preceded you, and if you were to listen to that special order, you would assume that much of the regulatory reform efforts that you just referred to that were conducted during the previous year in this Congress were somehow aimed at destroying the environment, creating dirty water and dirty air and somehow making life unsafe and unhealthy for us, when nothing could be further from the truth.

The fact is, as we approach Earth Day and we celebrate a much cleaner environment for America, the fact is that we ought to reflect upon what we fought for earlier this year, that some of which remains yet undone and some of which needs to be accomplished in this session of Congress or the next.

Now, one of that is regulatory reform. Now, again, if you would listen to that special order that just occurred, you would think, for example, that the clean water bill that this

VOL
142
PT
6
AP
15
—
24
1996
UMI

House produced was somehow a partisan special-interest piece of legislation that was not designed to do anything about clean water in America. The truth was that it was supported by a large majority of this House, bipartisan in nature, Democrats joining Republicans, attempting to bring some rationality to the section of laws that deal with clean water regulations in America, particularly trying to define wetlands in a way that we can properly respect the preservation of real wetlands and at the same time respect the rights of property owners and people in America who are affected by those regulations.

Now, the properly rights bill itself was one that was supported by many Democrats in this House, and we sent it down to the Senate. It was a bill that simply set up due process rights for property owners who were affected by some of the regulations dealing with either the Endangered Species Act or the pull for wetlands regulations.

In regulatory reform, you will recall that when this House passed its regulatory reform bill, the Republican majority was joined by many Democrats who agreed with us that it was time to put some risk-benefit cost analysis into the process by which the government makes regulation. Why? Because we simply want to make sure that regulation makes common sense, that you look at the real risk you are going after, analyze it carefully and look for the least-cost method of achieving a reduction of that risk in our society, making sure, in fact, that regulations issued by bureaucrats made common sense.

Was that an attack on the environment? Of course not. We want a safer, cleaner, healthy environment for America, but we simply want the regulators in Washington, who are sometimes out of control, sometimes not living in the real world, to simply take people into account and to make their regulations make common sense.

This House overwhelmingly endorsed that proposal and sent it down to the Senate. We have still not seen that enacted into law. But we stand for those propositions tonight as we did earlier this year. We stand in this week when we celebrate the planet and clean air environment, we stand for a cleaner healthier, safer place for Americans to live, but one in which Federal bureaucrats start treating people with a little less arrogance, when they start making regulations that take risk and cost into account, that they start respecting property rights in America, that they start respecting the very people they are supposed to serve in America rather than ramming regulations down their throat that sometimes do not make sense.

In short, we are looking for more effective environmentalism, more effective regulatory structures that really work. We are looking for as much voluntary agreements and conservation, voluntary agreements, as possible, consultation with local folks, bringing, in fact, environmentalism back home where it belongs instead of here in Washington in some Federal agency.

I remember recently when Bruce Babbitt, Secretary of Interior, visited Louisiana, he went down and talked about the Republican assault on the great outdoors. My comment was, Mr. Babbitt, you don't understand something. Sir, we love the great outdoors as much as you do, perhaps more than you do, in Louisiana. We grew up in the great outdoors. It's the great indoors that we complain about, the indoors where all these Federal bureaucrats who have lost sight of reality and make all these regulations that just don't make sense that Americans can't live with and that in many cases disrespects constitutional rights, civil rights, like the right to own private property in our country.

And so as we fight to balance those things, as we fight to bring some common sense to regulatory reform, respect for property rights, and some regulations dealing with wetlands and clean water and clean drinking water that indeed are based on good risk analysis, cost-benefit analysis; in other words, regulations that achieve their results more accurately for Americans. As we make that fight, we will also celebrate with our colleagues on the other side Earth Day this week.

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We are going to try to see to it in the coming weeks and months, for example, that we make a new Superfund law for America, one that does not waste all the money that is collected in a courtroom with lawyers and others making all the money in the system and nothing getting cleaned up.

The President in his State of the Union address, his first State of the Union address, pointed out to us how awful that was, and called upon us to change that law. We are going to try to do that, Jon, to pass a good Superfund law, a good clean drinking water law, and get the Senate, hopefully, to agree with us eventually on good, safe, clean water acts and property rights and regulatory reform.

Mr. FOX of Pennsylvania. Mr. Speaker, I would say this to the gentleman. One of the items he brought up about being commonsensical about the environmental laws, our chairman of the Committee on Science, the gentleman from Pennsylvania, Bob Walker, said we should have strong environmental laws but they should be science-based, based on what—we know we can improve the environment, but based on those who are expert in the field coming forward and telling us how can we achieve that end. I think that is very important.

Certainly you hit an item on Superfund. We have seen since 1980 when Superfund was first created, most of the funds have been spent unfortunately not on the cleanups, which are in some cases not that great a deal of money, but we have been fighting over who the potentially responsible parties are under the Superfund law. So the money is going into lawsuits instead of the cleanups.

I think with the reform that you are speaking to, that the House is going to be addressing, it is going to finally get some of these cleanups going. Most of the companies that have been involved want to do the cleanup, but they are in court because of one party or the other is disputing what percentage of liability they have.

Mr. TAUZIN. Mr. Speaker, if the gentleman will continue to yield, why they do that, the reason they spend so much time in court battling over liability, is that the current law as it is written has this so-called deep pockets provision in it. So if you contributed 1 percent of whatever is in that site, you could be liable for 100 percent. If you are caught having contributed that 1 percent and you are told that the other parties are not found liable, you are going to have to cough it all up, you are going to try your best to bring them all to court and fight over that liability forever.

The result is the government spends the taxpayers' dollars in that courtroom, the private parties spend interminable amounts of time and money in that courtroom, and in the meantime the citizens out there waiting for the cleanup to occur wait and wait and wait, and the money is wasted and no cleanup occurs. That is what is wrong with this system. It lacks common sense.

If we had a system, for example, that said if you are known to have contributed 20 percent and you are willing to put up your 20 percent cost up front without a legal fight, so we can take that 20 percent and go start cleaning up that site, would that not make better common sense?

Mr. FOX of Pennsylvania. It certainly would.

Mr. TAUZIN. Of course it would. That is what we are trying to do in this reform. In short, we are trying to bring commonsense environmentalism to America. We are not trying at all to back away from our commitment to the environment.

I believe, and I know most Members of this House believe, that we are here as guests on this planet and that we share it with other forms of life, and we all breathe the same air and drink the same water. We all cherish clean water and safe environments for our family. But we ought to have commonsense regulation out of this Federal Government, and very often we do not.

We end up wasting the money, the precious dollars that ought to go to cleaning up places in America and making it a safer, healthier place for our children.

Mr. FOX of Pennsylvania. I think what we need to do is to work with the EPA, work with the advocacy groups, with our colleagues, to make sure this is a bipartisan issue, because there is no one party that is for the environment. Both parties are for the environment and both the Congress and the White House are for the environment. Now it is a question of how do we get up there.

Mr. TAUZIN. Yes, but you would not believe that by listening to some of this debate on the floor. The fact of the matter is there are quite a number of lobby groups in this town on both sides of this equation who have very special interests. There are environmental lobby groups who have very special interests in keeping a fight going, raising more money and fighting some more. There are other groups out here who obviously would like to not see any environmental protection in the land.

Neither one is right. What we have to do is find the balance to make sure that neither one of the lobby groups sneak away with the issue and we never get anything done, but that in fact Americans get a cleaner, healthier, and safer place to live in out of this maze of regulation and legislation.

The bottom line is we ought to be asking the simple question, does this work. If it does not work to bring us a cleaner, healthier place, if it does not work to save a species, if it does not work to really protect wetlands, then let us build a better system. Let us build one that makes common sense and works and delivers for Americans what they are paying for, which is cleanup of hazardous sites, which is protection of endangered species, which is protection of valuable wetlands, and protection of the clean water and the air and the lands upon which we live. If we deliver on that promise, it will be the best bipartisan gift we can give to America, not only on this Earth Day, but on every Earth Day.

But if you listen to some of the debate on this floor, I mean, you would believe that some of us really do not want clean air and clean water and a clean place for our families. Nothing could be further from the truth. The fact is we all want it, we just disagree on how to achieve it. We disagree on how in fact to attain that good environment for our families.

In the end, that is a debate that we ought to have, but we ought to do it with a little less of this partisanship, a little less of this acrimonious sort of name-calling and get-ready-for-the-next-election, which seems to preoccupy this Chamber too much.

If we remember as we approach Earth Day that we have a common goal here to make regulations work for the good not only of our environment but for the citizens who live in it, then I think we will be on solid ground.

Mr. FOX of Pennsylvania. I think we will.

Mr. Speaker, I think the gentleman's approach, which is one that is global, that is pro-environment, pro-people, and one that is going to bring about positive change with common sense, I think that is what the American people want. They do not want to see anymore rhetoric, they want results. I think by following the Tauzin plan, we will achieve that.

I think just as important as achieving the protection of our environment, as the gentleman has outlined, whether it be Superfund or endangered species, clean water, clean air, we also need to have FDA reform. I have been working with you and others on your Committee on Commerce, and I know the gentleman from Texas, Gene Green, was the task force chairman that the gentleman from Virginia, Tom Bliley, has appointed, and I am very excited about the progress we are going to make in that area not only on the drugs and medical devices, but also in the food area, to make sure that we speed up the approval of drugs and medical devices so life-extending drugs and life-saving drugs will be approved more quickly, because we do not want that technology or the work force or the jobs to be going overseas. We can keep it here, whether we reorganize FDA, that they need more people, or they need to be out of their morass of overregulation. We need to save lives. That is what the name of the game is. With FDA reform and environmental protection, we might find people living much longer and much better.

Mr. TAUZIN. Mr. Speaker, in all this process of RDA reform, we have to keep our eyes, again, on the ball. The ball in this case is to make sure that food products Americans enjoy are safe products. That has to be our preeminent goal. Our second preeminent goal ought to be to make sure as we regulate good and drugs in America, that we do have a climate where new inventions and developments can reach consumers as rapidly as possible after they have been appropriately tested, so Americans do not have to run to other countries to get treatments that should be available in America, so that new devices and new drugs and new treatments can be available to citizens here, and so that in fact they can be available at an early date to save a life or prolong a life.

FDA reform is critically needed in that regard. I want to join you in the hope that we can accomplish that before the year is out.

Mr. FOX of Pennsylvania. Mr. Speaker, the average drug now might take 12 years and $350 million to come to market. Some people cannot wait 12 years to get that miracle life-extending drug, and $350 million is a lot of money for a company to invest without ever getting approval.

Mr. TAUZIN. Guess what, too, after they have invested 12 years in that drug and $350 million, where do you think they get that money from? It goes into a much higher costing drug that Americans may need to save their lives or prolong their lives.

If we can simply have a better process that does not take 12 years, that does not cost $350 million, we will also be providing life-saving and life-prolonging drugs and treatments to Americans at more decent prices, which is a critical component of our health care reforms. We hope to accomplish again some of that this year.

Mr. FOX of Pennsylvania. The work that has been done so far by the gentleman from Texas, Joe Barton, the gentleman from Wisconsin, Scott Klug, and, as well, the work of the gentleman from North Carolina, Richard Burr, they have been appointed along with the gentleman from Pennsylvania, Jim Greenwood, in your committee to move this initiative forward. I am very much heartened that it has been a bipartisan area of legislation.

I think besides the environmental protections you have discussed and some of the pro-jobs things we have also discussed, getting FDA reform this year is one of the most important areas in which I think that we have accomplishment.

Mr. TAUZIN. Mr. Speaker, I would ask the gentleman, did he mention the success this House had in passing a health care reform bill this year? That came from our committee as well. For the first time, we finally got a bill out of this House that deals with the terrible issue of portability, as Americans move from job to job and lose their insurance.

This bill now says you can take your insurance with you when you move jobs. It also takes care of this terrible problem of preexisting conditions. When you move from one job to the next, you might not have been able to get insurance for the thing you had, that you had coverage for at your old job.

That bill dealt with that preexisting condition problem, and made other good cost-saving reforms in malpractice insurance, in paperwork reform, waste, fraud and abuse. It was the first real targeted effort to begin the process of reforming insurance for medical care in America, and reforming the availability and affordability of those systems for more Americans.

Mr. FOX of Pennsylvania. While still retaining the choice of doctor and hospital for each patient.

Mr. Speaker, I would like to have the gentleman from Minnesota, Mr. Gil

VOL
142
PT
6
AP
15
—
24
1996
UMI

GUTNECHT, join us in this dialog. It is very important. He has been one of the very hardworking reformers in this 104th Congress, trying to make sure we move forward in our agenda to be responsive to the American people, and I thought he might want to join us.

I yield to him for the purpose of giving his reflections on where we have been up until this point and where he might see us going for the remainder of the 104th Congress.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding to me.

Mr. Speaker, it has been a privilege to be part of this 104th Congress. The gentleman and I, and I think most of us, went home and had town meetings, the gentleman from Louisiana [Mr. TAUZIN], and I suspect you did as well. One of the most frustrating things that I found was how many times what we really have accomplished, what has really happened in this Congress, has been in some respects misrepresented by some of our adversaries and not always accurately reported by the press.

As a matter of fact, one of the things we did in our town meetings, talking about reform and saving the Medicare system, it has been difficult sometimes, because we have to go over the same ground, and I found in my town meetings where we could explain exactly how much we are spending today in Medicare, how much we are proposing to spend in Medicare, and it goes from about $161 billion in fiscal year 1995 to $247 billion in the year 2002.

Once people get those numbers, some of them actually scratch their heads and say, "Well, wait a second, I keep hearing you are cutting Medicare," when in fact we are making big increases in Medicare. As a matter of fact, a few say, "GIL, maybe that is true, you go from $161 billion to $247; yes, that is probably an increase, but if you divide it by the number of seniors, there are going to be more seniors in 7 years than there are today, so what is that number?" That number is $4,800, and it goes to over $7,100 in just 7 years.

Mr. TAUZIN. Even accounting for the increase in seniors.

Mr. GUTKNECHT. Exactly. That takes into account all the new seniors that are coming. One of the things that I found that really began to get people's attention is when I would stop after I had made that presentation, giving the real numbers and our budget numbers, and said if we do this we can save the system. If we continue to do what we have always done, the system goes bankrupt.

Then I would always tell them that I was born in 1951, and that may not be significant, but when I graduated from college, the Speaker at our commencement address was the director of the U.S. Census. He told us something that day that I think is very important. He said that there were more babies born in 1951 than any other year. We are the peak of the baby boomers. There are more people right now 45, and, well, that has probably changed somewhat, but at that time there were more people 22 than any other single age.

Both of my parents are living, and God bless them, I am happy to have my parents both living and we are delighted, and it is a blessing to have them with us. They are both on Social Security, they are both on Medicare. As a baby boomer, I feel that I have a moral responsibility to my parents. But on the other hand, I have three teenagers. I have a moral responsibility to them, too. I think we ought to offer them the same kind of opportunities, the same opportunities of the kind of standard of living which we enjoy today.

So in some respects, I think baby boomers stand on the hinges of history. I think we have a moral responsibility to seniors to make sure they get the kind of care and benefits they are entitled to, but on the other hand, if we allow the system—as my grandmother used to say, if you always do what you have always done, you will always get what you have always gotten. What we have got is a system that is going bankrupt.

Frankly, I think we have a moral responsibility to do what is right, to save the system, not only for current seniors but for future generations of seniors. I am proud to say this Congress has been tackling that issue head on, and by using competitive forces, some of the marketplace changes that are happening out there in health care today, we can save Medicare. The same is true with the environment.

One of my favorite Presidents was John Kennedy. He said that we all inhabit this same small planet, we all breathe the same air, and we all cherish our children's future.

□ 1930

I might add, parenthetically, we are all environmentalists. Is there anyone who does not want clean air and clean water for their kids? I do not think there is anybody. But the question is, will we continue to impose $50 solutions, Washington-based solutions on those problems out in the States and the districts?

I think if we work together, if we have an honest dialog, we can have a cleaner environment, we can have a balanced budget, we can have a lot of these things we are talking about, because we have got to get the whole notion that all good ideas reside in Washington, we have got to get that out of our system, because it has not worked. The evidence is overwhelming.

In fact, if Washington-based solutions worked, Washington, DC, would be the most efficiently run city in the world, and we all know that is not true, because we live here. We see it every day. There is a lot of common sense in Louisiana, in Pennsylvania, in Minnesota, all over this country. We have got to tap into it.

So I am proud of what we have done in the 104th Congress, I think we are doing the right things, making the reforms that need to happen. I must confess that we have not always communicated very well, but we have got to do a better job of that.

I think once the American people understand what we are trying to do and how we are trying to do it, to decentralize the bureaucracy, put more of the decision-making back in the districts and in the States and in the hands of individuals, all sharing the same goals, I think we are going to change the course of history. I think once the American people understand that, they are going to be far more supportive than sometimes the polls show them.

Mr. TAUZIN. I want to thank the gentleman for joining us and congratulate him on an excellent statement.

My mother is on Medicare. I got a wonderful call from her just today telling me that she is finally out of the hospital, been discharged, doing well. She is a twice cancer survivor on Medicare. Do not think for a second that I am going to not do everything I can to make sure Medicare does not go bankrupt, for her and for everybody's mother and father that we cherish and love as much as I love my own mother.

The bottom line is, we cannot let that system go bankrupt. If we do not face that problem head on, as the gentleman has said, and provide new solutions for it while at the same time increasing the benefits per beneficiary, as our plan did, and preserve for every Medicare recipient the right to go to the doctor of their own choice and to stay in the Medicare system if that is what they choose, if we do not do that kind of a reform, how are we going to save this system?

And if we do not save it, 7 years from now, when it is about to go bankrupt, are we going to let that happen? No. We know what is going to happen around here. There will be a doubling of the payroll taxes to save it, and then the next generation will be threatened with bankruptcy. We will have been imposing an undue burden on the children and grandchildren to save a system that we should have saved and could have saved today, and the gentleman is so right in that regard.

When it comes to the business of finding common sense in America, I agree with him. The best common sense resides in those town hall meetings back home. That is where I really learn the truth about many of the issues we debate here in Washington. That is where folks really tell us how the real world works and where the good ideas are, and more of us I think

ought to spend time in those town hall meetings and less time here in Washington.

Mr. FOX of Pennsylvania. They do not feel any qualms about telling us where to go and how to get there. That is good. That is how we learn.

But let me say this about the Medicare situation. We are the individuals in the majority party that said, look, we think seniors are very important. We want to roll back that unfair 1993 tax on Social Security. We passed a bill to that effect. We are the ones who said, look, we want to raise the income eligibility from $11,280 without deductions from Social Security for those under 70 to $30,000 a year. We passed that.

We are the same ones who are saying, look, we love our seniors, want to make sure they live long and well, as long as possible, but what we want to make sure of is we take out the waste, fraud, and abuse in the system, $30 million a year, and make sure we keep those savings for health care only, not to go somewhere else in the budget.

We also want to take the medical education, now part of Medicare, for direct and indirect costs for interns and residents, a very valuable program but it should be a separate line item in the government. We should make sure that those dollars also go to Medicare for seniors.

We want to see paperwork reduction from 12 percent of Medicare costs to 2 percent while still offering Medisave accounts and managed care for Medicare.

Doing all that together, we are talking about a 7.5-percent increase a year for Medicare, double the rate of inflation. And frankly, knowing the bipartisan House we have here now, if we need to make increases in Medicare, we will do it.

But to have people say through demagoguery or rhetoric that any one party does not want to do what is right for seniors is absolutely wrong, because we are looking for increases here to make sure Medicare works but get that fraud, waste, and abuse out of it, because I want to make sure those dollars are being spent for seniors' health care and not for a provider to become rich.

Mr. TAUZIN. The gentleman from Pennsylvania [Mr. FOX] said something worth repeating. At one of the town hall meetings during the break, it happened to occur on the 4-year anniversary of my father's death. I spent that morning with my mother.

We recalled together how one of the things my dad had always asked me to try to do as his Congressman, as his son and friend, was to do something about that awful income earnings limitations that we put on seniors under Social Security. My father was living under Social Security until his death, and the idea that we told him and other seniors, "Don't go try to earn more money to have a good life, because we're going to take your Social Security away if you dare go out and continue to work," was an insult to him.

One of the sterling accomplishments of this Congress has been to raise that earned income limitation now to $30,000, so now seniors can earn up to $30,000 without affecting their Social Security check. I remember telling the audience that night, I said, "Dad, this one's for you."

This one is for all the seniors who have been asking us to do that for so long, and to stop this awful tax on their Social Security benefits that was imposed during the early years of the Clinton administration, and this House did that. It has repealed the tax on the Social Security checks that seniors get around the country. I hope, frankly, we can see that enacted into law in a much bigger income tax reform that all Americans can benefit from before this Congress is over.

Mr. FOX of Pennsylvania. One of the other areas we are working on for seniors that the gentleman from Minnesota [Mr. GUTKNECHT] and the gentleman from Louisiana [Mr. TAUZIN] have been the leadership point for, and I think it is very important and worth repeating, is that we are also trying to make sure we have enough funds for in-home services. While people are living longer and better, we want them to live longer at home and less in a nursing care situation for as long as we can put that off by having additional funds for in-home services.

And also I think what is very important is that we are spending money, and it should be, on women's health care initiatives. That is a very important program that we in a bipartisan fashion are trying to move forward, additional funding of research for osteoporosis, for cardiovascular diseases, for cancer, for uterine, ovarian, and breast cancer, additional research in that area as well as for menopause. We are also talking about, instead of having every other year under Medicare for mammograms, doing them yearly.

Those are the kinds of changes this Congress is moving forward on because we want to make sure our seniors and others are living longer and living better.

Mr. GUTKNECHT. This is part of the frustration, the list that the gentleman just went through. I suspect most Americans, particularly American women, do not know how much this Congress has really done. It is so frustrating because it seems to me—and I do not mean to be critical of the press but maybe I guess I am—these are the kinds of things that need to be reported more, and frankly too many Americans do not know how much this Congress has accomplished.

But, again, I am proud of the 104th Congress. This has been a can-do Congress from the very first day. The gentleman from Pennsylvania [Mr. FOX] remembers as I do that very first day, and the gentleman from Louisiana [Mr. TAUZIN] was on the other side of the aisle that day, but it is great to have him with us now.

But the point is that from the very first day, we were enacting reforms which a lot of people, and I am sure the gentleman from Louisiana [Mr. TAUZIN] included, had been trying to get reformed here in this Congress for many, many years. The very first bill, H.R. 1, the Congressional Accountability Act, the Shays Act, to make Congress abide by the same laws as everybody else.

We actually for the first time in I do not know how many years had an audit of the Congress, and frankly what the auditors found was, this Congress itself has not been very good at managing its own funds and has not been very accountable for its own funds. If we look at item after item, this Congress has really changed the course of history and we have changed the nature of the debate in this body.

Frankly, it is frustrating sometimes to go home and have to re-explain that, because I think in some respects the press has done such a miserable job, in my opinion, of telling how many good things this Congress has done, and so sometimes it is very frustrating for us to have to go back and tell the story. But on the other hand, I guess that is part of our job, as well, to talk about what is happening.

Frankly, let us also admit we have made some mistakes. That is part of being a democracy, that is part of a democratic republic. We are going to make mistakes, but I think on balance I am proud of the record of accomplishment of this Congress.

It has been a Congress that has been dedicated to reform, whether it was welfare reform, Medicare reform, Medicaid reform, or even reforming the way we keep our environment clean and pure. We have been willing to take a look and take some of the tough votes, take some of the criticism, because I think in the long light at the end of the tunnel, at the end of the day, I think the American people will look back and say, hey, they were doing the right things, moving in the right directions, taking power away from Washington, decentralizing, using market forces wherever possible and ultimately trying to get more services, more good, more bang for the buck for the taxpayers who pay the bill.

I am proud of this Congress. I am delighted to have the gentleman from Louisiana [Mr. TAUZIN] with us as a Republican. The gentleman gave a great presentation at noon for the consumption tax, sales tax, whatever we want to call it. I think that is another issue.

VOL
142
PT
6
AP
15
—
24
1996
UMI

We saw on April 15 the American people have had enough with our current tax system. I do not want to take too much of the time, but 6 billion man hours are invested in keeping records and filling out forms for the IRS. Frankly, the time has come for all Americans, we need a national tea party, because this country was founded by tax protesters who said enough is enough.

Six billion man-hours, and put that in perspective. That is how many manhours that are used to build every car, every truck, and every airplane built in the United States. That is how much time is spent just keeping records and filling out forms for the IRS. We have had example after example. Money Magazine has surveyed, you can go to 50 different tax professionals, you can go to 3 different IRS offices and get different answers from all of them.

The truth of the matter is, we all know that the system we have in terms of collecting revenue for the Federal Government is broken. We have had the courage, the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Michigan [Mr. CHRYSLER], and others have had the courage to take this issue on, go forward and begin to put some programs on the table, some bills on the table, so we can have a national debate, a national dialogue, and really come to a conclusion in terms of what kind of tax policy we ought to have, what is the maximum amount the Federal Government ought to get and what is the simplest way, the most efficient way for the Federal Government to raise the revenue.

I congratulate the gentleman. His presentation at noon was one of the best I had ever heard. I congratulate the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from Michigan [Mr. CHRYSLER], as well, because they have all been working together. In fact, when they started on that proposal it was clearly bipartisan. We hope to encourage more Democrats to join that debate as well.

Mr. TAUZIN. I thank the gentleman. One of the reasons why I think this has been a do-something Congress that has been unrecognized is that much of what we have done and completed went to the White House and got vetoed. We have got to remember that.

We did pass Medicare reform through both houses of this Congress and it got vetoed. We did pass a balanced budget bill for this country and it got vetoed. We passed a Medicaid reform bill and it got vetoed. We passed welfare reform twice and it got vetoed. We passed product liability reform and it is scheduled to get vetoed.

We had a liability reform bill dealing with securities laws. That got vetoed. We mustered a two-thirds majority to override on that one, but most of these bills have been vetoed. We do not have a two-thirds majority to override.

But this Congress has produced and believe me, if we could, this Congress would produce a complete repeal of the IRS and the income tax, as our bill would do, and the whole mess of guilty until proven innocent and double taxation and the awful mess the IRS has created for this country. If we could appeal it this year and substitute an alternative tax system that was fair and made sense for Americans, I would love to see it done this year.

We have at least put an idea on the table. That is part of what this Congress has been all about, putting new ideas, new reform concepts on the table, passing many of them, as the gentlemen from Pennsylvania [Mr. FOX] has pointed out, some of which has become law, many of which we are still fighting over because they have been vetoed. But we are going to keep up that fight until we win those reforms.

Mr. FOX of Pennsylvania. I think the people driving it frankly are the people back home. They are saying they want a simpler, fairer, flatter tax. They also say they want the IRS to be changed. Some want to eliminate it, to be sure. But the Taxpayer Bill of Rights which the gentleman has been active on, with the gentlewoman from Connecticut [Mrs. JOHNSON], is going to provide, I think, part of the first antidote for the problem.

Mr. TAUZIN. That was passed yesterday with a huge bipartisan majority.

Mr. FOX of Pennsylvania. And it provides, if I recall correctly, that the taxpayer will have an advocate at the IRS who will intervene on their behalf. It waives the interest charges and penalties when the IRS is at fault. It extends time for taxpayers to pay delinquent taxes without being subject to interest charges from 10 to 21 days. It expands measures to protect rights of divorced filers. It provides the IRS with authority to return levied property. It increases the maximum award amount from $100,000 to $1 million for reckless collection actions by IRS, and establishes accountability by requiring the IRS to file an annual report to the tax writing committees, of which the gentleman is a part, documenting misconduct by IRS employees.

So I think that it does take for the first time a bold step, saying, sure, there are good employees at IRS, we are not saying that. We are saying we want a system that is fairer. They are doing their job. We are saying we want to make sure that the taxpayers also have rights, they also are heard, and not treated as a number but as people who want to pay their fair share, want to pay it but they want to make sure they have their rights protected. That is what this law does in a very strong way for the first time.

Mr. GUTKNECHT. I think if I could jump in here, I think the Taxpayer Bill of Rights is a giant step in the right direction, but ultimately what we need is a much simpler tax system than we have today.

☐ 1945

The idea that Americans are spending six billion hours, are intimidated by an agency that has 110,000 employees, that idea is an idea whose time has passed. The idea whose time has come is a much simpler tax system, whether it be the consumption tax, whether it be a flat tax, or whatever. I am not certain what the right answer right now is. Representative TAUZIN does a beautiful job. I hope he will have some special orders between now and the end of summer so the American people can begin to understand what we are really talking about, what the problem is, and how your particular solution will address that.

But I think we need that national dialogue, and ultimately what we need is a much simpler tax. Frankly, the taxpayers Bill of Rights does begin to level the playing field. Because heretofore the IRS had a huge advantage and they used the power of intimidation over individuals.

Mr. TAUZIN. Think about it, there is no other place in America, not even our Federal courts, where you go and you are presumed guilty. Even in Federal criminal court you are presumed innocent, and until the State proves you guilty you walk out a free person. With the IRS, you are presumed guilty until you prove yourself innocent. What an awful type of situation Americans find themselves in.

Worse than that, as you know JON, the IRS is a double taxation system. Not only does it tax your income, but every time you buy anything made in America, you are paying the tax of every business that contributed to the manufacture of that product. Economists tell us that could be a hidden tax of between 10 and 14 percent on the price of everything made in America. Unfortunately, we do not charge that tax to products imported. So, guess what? We import more products.

It is a system that tells us do not earn money, do not save money, do not invest because we are going to penalize you, do not try to leave anything for your kids because we got inheritance and gift taxes that will catch you then. Even when you spend money, you better buy foreign products, because if you buy anything made in America, we are going to double tax you.

It is a horrible system, and it is time we think about changing it for the good of every taxpayer; but, more importantly, for every wage earner and every business in America that would like to manufacture things here instead of manufacturing them all over the world.

If we have that debate, honestly and forthrightly and in a bipartisan fashion, to make sure whatever we substitute for this system is indeed a fair system, it is simpler, makes better sense, does not double tax us, does not tax American products only, but taxes fairly all products in our society, so we can encourage manufacturing again, if we have that debate as part of this agenda to do something in this Congress, move these reforms forward, I will feel a lot better than I do already about a Congress that has made some great progress to this date.

Mr. FOX of Pennsylvania. If I can ask you, Mr. TAUZIN, beyond the discussion we had on flat tax, with or without deductions for mortgage, the Armey and Specter versions, as well as the Forbes version, and the consumption tax and national sales tax, what other programs are your committees looking at as far as tax reform?

Mr. TAUZIN. The Committee on Ways and Means is the committee doing it. I do not actually serve on it. BILL ARCHER is the Chair, and we are working closely with BILL. Mr. ARCHER actually supports this consumption tax concept. But he is not making that decision right now.

What he is doing is the right thing. He is going to hold hearings on this proposal for a national sales tax. He is going to hold hearings on the Armey flat tax proposal. He will hold hearings on alternative proposals, such as the value added tax or anything anybody wants to come up with.

By October, the Committee on Ways and Means will report to the American public. Hopefully the candidates for President will join in that debate, and by next Congress, maybe we can have an American tea party, and Americans can express themselves and dump this whole system into the Boston Harbor and rewrite something that makes sense for Americans again.

What we recommend is to pull the IRS and the income tax out by its roots, to get rid of the whole mess, to throw away the inheritance and gift taxes along with it, and substitute a simple national retail sales tax at the end of every purchase, providing a complete rebate to incomes under the poverty level, so that no one is hurt under poverty, and providing the same treatment for home ownership the current code does to encourage families to own their homes and build their families here in America.

It is an awfully interesting concept, but it is only one of many. The Committee on Ways and Means is going to look at them all and hopefully report to the American people by October which one they think makes the best sense, and we will have this debate next Congress.

Mr. FOX of Pennsylvania. I think Congressman GUTKNECHT and Congressman TAUZIN, as much as it is important to reform the tax structure, and, believe me, the American people want that, they also want to make sure we have a more business friendly Congress and business friendly government.

What I am talking about now is people who have tried to deal with the Federal Government to do work. I had a gentleman who has a business in my district that wants to do business with the Federal Government, but he had 187 pages he had to fill out for a $25,000 contract. He had to hire an accountant, an attorney, and an engineer to assist him in that regard.

I do not think we are not a business friendly government if we cannot figure out a way to make sure that we encourage people to be vendors, those who can come forward with their Government, give a quality product, and try to sell it to the Government on a bid process.

I am talking about getting the best product for the lowest price. Well, he may have had the best product, but the Federal Government will never have the chance to buy it, because he did not want to go through 187 pages of paperwork.

So I think that has to be part of our initiative, to make sure this is a government that works leaner and works better.

Mr. TAUZIN. Indeed, to go back to taxes, the Kemp Commission reported that the average small business in America spends $4 complying with the Tax Codes for every $1 they send the Federal Government. Think about that, when our forms and our regulations are so complex that you have got to hire so many accountants and go through so much paperwork to send the Government $1 you have got to spend $4 in your business. And guess who pays all of that? The consumer does in the end. When our systems are so complex that people cannot bid to do Government work because they cannot get through the bureaucracy and the paperwork, when businesses cannot even pay their taxes without spending four times as much as the tax liability, spending it on paperwork and accountants and auditors, then something is wrong in America. We have got an inefficient system.

If it does say to people "Do not come do business with this government," we are locking out people that could be doing business for us, perhaps in a much more efficient way than our current vendors, our current suppliers. That ought to get changed.

Mr. FOX of Pennsylvania. It is just as important as the tax reform.

Mr. GUTKNECHT. I was going to say, whether you are talking about tax reform, health care reform, Medicare reform, welfare reform, reforming the way Congress does business, opening up the process, really what this debate is about is whose country is it, and whose government is it, and who is in charge, and whose money is it? And for too long we have sort of taken, or our predecessors have taken the attitude in Washington that it is Washington's money and Washington's government.

One of my favorite Presidents once observed we are a people with a government, and not the other way around. And really all of these reforms are about opening up the process. The beauty of this Congress is for the first time we are having honest and healthy debates about what kind of a Medicare system we are going to have, what kind of welfare system should we have?

We have agreed that the problem with our welfare system is not that it costs so much money. The problem with our welfare system in America today is that it costs too much in human potential. We have created dependency.

When Representative TAUZIN talks about our tax system, it is a system riddled with perverse incentives. Throughout all of our programs, it is a system of perverse incentives. No good deed goes unpunished. Frankly, it is wrong, and the America people know it is wrong.

If there is a reform party, I think once the American people get a chance to look at these issues, what has really happened in the 104th Congress, how the process has been opened up, how we finally had honest debates about real reform, returning more power back to the people, I think they will agree that there is a reform party in the United States of America, and it is our party, and it is this party that forged those reforms, it is this freshman class, if you will, that has really forced the agenda to make those changes, to change the attitudes in Washington, and begin the process of giving the people the power back. And that is what this Congress is about.

I hope that as we go forward, we will have more opportunities this spring to have this kind of a dialog, this kind of a discussion, because I believe facts are our friends, and once the American people have the facts, whether it is about our budget, about Medicare, about tax reform, all of those other issues, I think it makes it very easy for us to win the debate, for them to win the debate, because facts are our friends and, as John Adams said, "Facts are stubborn things."

Mr. TAUZIN. You know, the freshmen, JON, all of you guys, have taken a lot of heat in the press, being too hardnosed, too rigid, inflexible. The truth is, the freshmen came to this House with a very refreshing concept. It was a concept that the Government ought to be our servant, not our master. And you came with a simple notion that we needed to make Government user friendly again. It needed to be responsive to people and helpful to people, instead of control and mandating and, indeed, inaccessible to people because its formularies and regulations were too difficult for people to understand. It is a very refreshing attitude.

I often comment to folks back home, thank God we have a huge crop of

VOL
142
PT
6
AP
15
—
24
1996
UMI

freshmen that have that attitude. I think it is great that we have the infusion of new ideas and new thought. We have seen it in the form of a willingness to tackle issues that sometimes no one wanted to tackle before; to face head on the crush and calamity of Medicare collapsing into bankruptcy and to try to deal with it, to face head on the fact we have got a welfare system that is condemning people to dependency, instead of rescuing them from dependency; to face head on the fact that Medicaid in our country is about to cripple the ability of our States to take care of people who are uninsured and need the assistance of others for their health care; and to face head on complex issues like immigration policy, and issues like, indeed, environmental reform, which are very contentious and very difficult to debate sometimes.

Freshmen, in my view, have added a great deal to this Congress, and I am glad you are here.

Mr. FOX of Pennsylvania. Congressman TAUZIN, we certainly appreciate the fact you are an honorary freshman, you have joined us in that regard, because your enthusiasm to find bipartisan solutions and work to make a positive difference is what I think all the Congress is about.

You would not be here and would not have the privilege of serving if you could not make a positive difference. The thing we have to do is make sure we continue listening back home. Back home are the best ideas on keeping costs down, on keeping government accountable for what they want, and to make sure we in fact have a government that is user friendly. In that regard, for any final comments Congressman GUTKNECHT may have?

Mr. GUTKNECHT. I thank the gentleman from Pennsylvania and Louisiana for the special order. I appreciate the opportunity to participate. I want to thank you for the kind words about the freshmen. I think in many respects, though, the freshmen just represent the common sense values and views of the American people.

This Congress started with a lot of excitement and fanfare, but I will never forget the day after this Congress started, I was out in the hall, outside the House chambers, and a reporter came up to DICK ARMEY, the majority leader of the House Republican Conference, and she said to him, "How does it feel now that the American people have given you all this power?" And he said something very important and very profound. He said, "The American people did not give us power. They gave us responsibility. They loaned us power."

That is part of the attitude I think reflected in this Congress. The American people have given us responsibility. For as long as we have that responsibility, I think particularly speaking on behalf of the freshmen, we are going to do everything we can to give the power back to them, because we know that ultimately here in the United States it is the people who are sovereign. For too long, they felt as if there was a government that had the people, rather than a people with a government.

Frankly, I think we are bringing fresh attitudes, I think we are willing to tackle the tough issues. Have we done everything right. No. Have we made mistake? Yes. We may make mistakes in the future. But we are always guided by the basic notion that it is the people who are sovereign, and we work for them, and ultimately we have a responsibility to this generation, but, more importantly, to the next generation as well.

So I want to thank Representative TAUZIN and Representative FOX. It has been a great special order. We need to do this more often. As I said earlier, facts are our friends.

Mr. TAUZIN. I just want to reecho that thought, that this is the people's House, and in this House the people rule. That is an awfully statesmanlike approach to take, and it is surprising, indeed, that more folks do not realize that in this Chamber.

In the end, when we go back to the town hall meetings back home, we are asked a simple question: Have you advanced an American agenda? Not a Democrat or Republican agenda. Have you advanced the cause of this country? Have you made it a place where there is more liberty, instead of less liberty? Have you made it a place where we can advance our family's future more easy instead of more difficult. Have you made this a place where indeed our children can have a brighter future than we ourselves have?

If we can say yes to all of those questions, then we can go home proud and pleased with the work we have done here. I think we are well on the way. We have accomplished a lot. We have a lot left to do. But I think this "do something" Congress will be heard from much more in the days ahead.

Mr. FOX of Pennsylvania. I want to thank Congressman GUTKNECHT and Congressman TAUZIN for their leadership, not only in presenting the reforms that they have worked for, but in trying to forge a bipartisan agenda, one that is going to make this Congress continue to be pro-jobs, pro-reform, anti-tax, and one that relies more on the individual responsibility and relying on the fact that the Government does not run the country, the people do, and they do lend us that responsibility and that authority to act in their behalf.

So while we want to see term limits, we want to make sure the time we are here is made valuable, because what we have done is made positive changes. That will always be our guiding thought.

I thank you for letting us have this time period, Mr. Speaker, to have this dialogue. We will return again to give a further review in the future. We appreciate the input of our colleagues, from our constituents and the American people.

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TRIBUTE TO A TRUE PATRIOT, RON BROWN

The SPEAKER pro tempore (Mr. METCALF). Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PAYNE] is recognized for 60 minutes.

GENERAL LEAVE

Mr. PAYNE of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on and include therein extraneous material on the subject of the special order today by the gentleman from New Jersey [Mr. PALLONE].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. PAYNE of New Jersey. Mr. Speaker, as chairman of the Congressional Black Caucus, I wanted to take some time this evening to pay tribute to a man so many of us knew as a great friend and a real true patriot. Secretary of Commerce Ron Brown was a person we all knew and loved. So many people across this Nation have been inspired by Ron Brown, it is fitting that we celebrated his remarkable life and legacy.

Even in the midst of our grief over his untimely passing, we recognize that Ron was the kind of person who would want to be remembered for how he lived his life rather than how he died. It has been said that a man's reach should exceed his grasp. Throughout Ron Brown's wonderful life he kept reaching, seizing each challenge with boundless confidence, with enthusiasm, with energy, with vision. Both in the private sector and in the public life he displayed that all-American can-do attitude, refusing even to entertain the thought that any obstacles would be insurmountable.

It was this spirit that won him so many firsts. First black fraternity member at Middlebury College. First black to hold the position of Chief Counsel of the U.S. Senate. First black partner at Patton, Boggs & Blow, and then on to becoming the first black chairman of the Democratic Party before being appointed by President Clinton as the first black Secretary of Commerce.

Yet it was typical of Ron Brown that even as he built racial coalitions, he

downplayed the significance of race as he sought to take on new challenges in his life. He said that race was not important as an obstacle. He simply said he can continue to move on up a little higher.

I remember back in 1988, when I was a member of the Newark City Council and seeking election to the house of Representatives, Ron Brown was campaigning at that time to become chairman of the Democratic National Committee. I traveled to Washington with the New Jersey Chamber of Commerce early in February 1988 to their annual legislative visit, when we talked to legislators here and talked about policies for our State. During my stay I introduced our State Democratic chairman, Ray Durkin, to Ron Brown, knowing that Ron was seeking the office of chairman of the Democratic National Committee.

After hearing Ron's ideas and observing his enthusiasm and his approach to problem solving and his enthusiasm and his approach to problem solving and his vision, the State Democratic chairman, Ray Durkin, made a decision right on the spot to support Ron Brown. He said this is the man we need to lead our party.

I was pleased when our New Jersey U.S. Senator, BILL BRADLEY, immediately came on board to join in for the backing of Ron Brown to become the chairman of the Democratic National Committee. In fact, New Jersey was the first State to endorse Secretary Brown when he made his run for the chairmanship of the Democratic National Committee.

Ron Brown did not run a narrow campaign based on race, he reached out to a wide range of Americans, as he always did in his life, ultimately convincing the electorate to return the White House to the Democratic party for the first time in over a decade. As a matter of fact, our State of New jersey went overwhelmingly for President Clinton for the first time in almost three decades. It was because of Ron Brown and his vision, his imagination, his creativity, his gumption, his stick-to-itiveness. He embodied the power of positive thinking, always looking ahead, assuredness, and optimistic.

Secretary Brown became involved in politics in 1971, when he was a district leader in Mount Vernon, NY, in the Democrat party there. He made a name for himself in the Urban League with his innovative ideas and creative approaches. He loved both public service and politics. Before working for Senator KENNEDY on the Committee on the Judiciary, he served as director of the California for Kennedy committee and later organized for Jesse Jackson's run for President.

Another point that needs to be made, in this era when it is popular in some quarters to bash those who work for the Federal Government, that Ron Brown and those who perished with him out there, risking their lives under very dangerous conditions on a mission to improve the lives of people in Bosnia and to promote American products, American business opportunities in order to create American jobs.

Secretary Brown and his staff worked tirelessly over the years bringing in billions and billions of dollars of contracts to Americans. Let us hope that out of respect for the victims and their families this unfair debasing of Federal employees for cheap political mileage will cease.

Let me take a moment to pay tribute to the victims of the tragedy who were connected to my home State of New Jersey who were on that ill-fated trip that day. We are proud of their service and extend deepest sympathies to their families.

Lee Jackson, who was born in Montclair, NJ, part of my district, was Executive Director of the European Bank for Reconstruction and Development at the Treasury Department. He was a young, bright African-American fellow whose father was a former newspaper person, who, as a matter of fact, was a very close friend of my Newark district office manager. We sat, Rick Thigpen and myself, watching the television, very saddened, awaiting the news from over in Croatia.

Another person on that flight from New Jersey, Claudio Elia, was chairman and chief executive of Air and Water Technologies Corp. in Branchburg, NJ.

Walter Murphy was vice president of global sales at AT&T Submarine Systems in Morristown, NJ.

Our State also lost two young people who were serving our country in the military, as Secretary Ron Brown had done as a young U.S. Army captain early in his life. S. Sgt. Robert Farrington, Jr., was from Brierfield, NJ; and T. Sgt. Cheryl Turnege lived in Lakehurst before she joined the Air Force.

Ron Brown left us too soon. He had so many gifts and yet he was not to have the gift of long life. We do not understand how life is given out, it is beyond us. Yet we can take comfort in the fact that his spirit, his zest for living, and his monumental achievements will definitely live on.

Our heartfelt condolences go out to his loving family, his wife, Alma, his son, Michael, his daughter Tracey, and his grandchildren. We will keep them in our thoughts and in our prayers.

At this time, I would yield to the gentleman from Virginia, Representative BOBBY SCOTT.

Mr. SCOTT. Mr. Speaker, I want to thank the gentleman from New Jersey for having this special order. I rise to add my voice to the multitude of voices singing the praises of Ron Brown. With all that has been said about him in the last 12 days, some may feel that all that needs to be said has already been said; but as we frequently say, all that need to say it have not already said it.

The fact is that we have all been affected by Ron Brown's life in general and in unique ways, and feel the need to ensure that the record of his life and his good works reflects some of those unique contributions.

For example, Mr. Speaker, the Newport News shipyard in the Third Congressional District of Virginia, which I represent, was a beneficiary of his good works. Even before the collapse of the cold war, the shipyard knew it needed to diversify its business portfolio beyond just military shipbuilding, so it began to revive its commercial shipbuilding program.

Ron Brown stood ready when called upon to help the Newport News Shipyard, just as he had helped so many other businesses before. For the Newport News Shipyard, he took Pat Phillips, the former president of the shipyard, to the Middle East to meet with business and government leaders in Israel, Egypt, Kuwait, and the United Arab Emirates to market the frigate ship program, and they were very successful. Bill Fricks, the current president of the shipyard, stated upon the news of Ron's death that, and I quote:

> Ron Brown was a great advocate of our yard and voiced his support for Newport News Shipyard and other Tenneco subsidiaries during numerous trade missions overseas. Not only an advocate of stronger international ties, Brown was also a friend of Newport News Shipyard. He will truly be missed.

Mr. Speaker, there have been a lot of words used to describe Ron Brown and his life: trailblazer, bridgebuilder, fence mender, power broker, coalition builder, energizer, visionary, humanitarian, public servant, crusader, lawyer, businessman, politician, husband, father, friend; all extraordinaire. And to this descriptive list I have to add shipbuilder and a friend of the Third Congressional District of Virginia. We are all grateful for his life and his contributions and for the lives and contributions of those who were with him on that fateful trade mission.

Mr. Speaker, Ron Brown will truly be missed.

Mr. PAYNE of New Jersey. I thank the gentleman very much. I really appreciate the gentleman from Virginia for those kind remarks. Let me at this time recognize the gentlewoman from the great State of North Carolina, who has been doing special orders and has been talking about Ron Brown for the last day or two, the gentlewoman from North Carolina, Mrs. EVA CLAYTON.

Mrs. CLAYTON. Thank you, Mr. PAYNE.

I am indeed grateful to Mr. PAYNE for organizing this special order. I wanted to participate in this special order under the guidance of the Black Caucus, because I think it is appropriate in this leadership that we also have an opportunity to have a special order.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. Speaker, Ron Brown was a bridgebuilder, a peacemaker, a soldier for souls, a fisher for young men and young women.

Out of the ashes and wreckage of that faraway mountain in Bosnia—something remains—a blade of grass, an idea.

The idea—Ron Brown's living legacy—is that you can grow up in Harlem, and progress in Washington.

He left with us a prototype to follow, a style, a design, a mold, a model that we may never duplicate, but we can certainly replicate.

Under the careful counsel of his father and mother, he learned that it is far better to build bridges than to burn them. He knew that a bridge could arch a flood.

And so, he built bridges between the rich and poor, between people of every hue, between cherished views and fresh beliefs. Perhaps that is why his motorcade journey to his resting place in Arlington was as appropriate on U Street as it was on Constitution Avenue.

Ron Brown was a bridgebuilder.

His time spent in service to America, as an officer of the U.S. Army, apparently taught him that the best way to preserve world peace and avoid war is by doing business.

That is why he travelled to China, journeyed to India, took a trip to Turkey, and voyaged to Africa. And, that is why he risked a rainstorm to get to Tuzla.

He was opening doors, cementing relationships, serving his country, and promoting peace, even in a region torn by war.

Ron Brown was a peacemaker.

His rapid rise to the top was by measured steps from the bottom.

He worked by day and attended law school by night. He was a welfare social worker, a leader with the Urban League, a brilliant political strategist, a lawyer, the pilot of the Democratic Party and the architect of one of the greatest Presidential campaign victories in history.

Through it all, he never lost the common touch.

He was as comfortable playing pickup basketball in the Shaw neighborhood of Washington, DC as he was conversing with Kings and Queens and Prime Ministers.

Ron Brown was a soldier of souls.

But, perhaps the mark that he made that is most worthy of note is his mentoring, wherever he went, he took others with him, especially young men and women.

Ron knew how tough it was for an African-American to move from 125th Street in the heart of Harlem to the Commerce Building at the center of power in Washington.

With each career step he took, he embraced young people, forming and fashioning the Ron Brown's of the future.

They are there, at the Department of Commerce, at Democratic National Headquarters, in the public sector and in the private sector—the next Ron Browns.

He was a fisher of young men and young women.

Whether he was building bridges or closing divides, fighting the good fight or making peace, reaching with a helping hand or bringing others along—he always did his duty with dignity, pride, graciousness, vision and boundless energy. He filled each unforgiving minute with 60 seconds of long distance run.

Our thoughts and prayers go out to his lovely wife Alma, his loyal son Michael and his darling daughter Tracey. They have every reason to be proud.

Ron was a trailblazer, a tireless champion for all, a role model for role models. He has left his permanent imprint on the sands of time. God's finger has touched him, and he now sleeps.

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Mr. PAYNE of New Jersey. Thank you for those remarks.

As you know, we are talking about the life of Ron Brown, but there were a number of people. I mentioned several of those who lived in my great State of New Jersey who lost their lives on that mountainside in Croatia and return flight from Bosnia. There were other people who worked for the government.

As we talked about the fact that all too often it is made trite about working for the government, we hear people saying that Americans should not have to pay taxes. Why should we be involved in such things? What right do we have to take their money? We heard some of that dialog earlier here tonight.

Well, because we live in a country that is great. We live in a country where you can get on a road and the road will take you where you need to go, with pavement, with utilities, with lights. We live in a place where you can drink clear water and not worry about having bacteria in it. We live in a place that you can call the authorities or go to a courtroom and find that you can have your cases heard. And that is why it is a responsibility of Americans to have a responsibility.

As a matter of fact, at some other time we will get on to this subject, but people make it seem that here in America we are overtaxed. We pay about 29 percent. Japan used to pay 19 percent; they paid 29 percent. In the Western Europe countries, most pay 38 to 39 percent. We should take a look at the global situation, and I say that to say that Ron Brown was a person who had to take this unnecessary bashing. People in government took unnecessary bashing. We heard people criticize the Department of Commerce, but billions of dollars worth of business have been brought back to this country.

There were other people who gave their life for this country.

Bill Morton was a fellow who was always at Ron Brown's side. Bill was a deputy assistant secretary for international trade. He was a long time aide of Ron Brown. He graduated from Georgetown University, a native of Colorado, was always there when Ron Brown had to go. Did not like to fly at all, did not like travel at all, but he felt that it was his responsibility to his boss, Ron Brown. it was the responsibility to his country, and he went when called and did not want to go on that trip to Bosnia, but he was there.

These are the types of Americans who are the unsung heroes, people who dedicate their time, their life, their energy, time away from their family. The Bill Mortons of the world are the type that makes this country run, that make it as great as it is.

There were a number of people on that flight. Duane Christian, who was Ron Brown's chief security officer, a person who had been in this government for many years, used to work for the Office of Personnel Management, a former school teacher.

On that trip was Adam Darling, just a 29-year-old person, a confidential assistant for the Deputy Secretary of Commerce. He worked in international trade, wanted to make America strong, wanted to increase our balance of trade, wanted to reduce the balance of trade deficit, a young 29-year-old person was there serving our country.

Gail Dobert, acting director of the office of business liaison, a person who had worked many years on the Hill, who was there serving our country.

Carol Hamilton, the press secretary for Ron Brown, who was a person who had worked in business and industry, worked for Chase Manhattan Bank, but decided to give her time, her talents to the United States Government and came to work in the Commerce Department so that the work that that great department was doing could be better told.

We have Kathryn Hoffman, a special assistant to Ron Brown who was a person who was interested in politics, worked in the Clinton campaign during 1992, and actually was the person that produced the first African-American inaugural gala and leadership forum at the inauguration of the inaugural committee for President Clinton, a person who worked for Sony Pictures and in the past for Senator BIDEN and Julian Bond. A person with tremendous amount of ability, also lost her life.

We have Stephen Kaminski, who was a senior commercial officer who traveled a great deal, who tried to see that the market access of American companies could be enlarged in places like Japan, and worked in capitals of Hamburg and Dusseldorf and Vienna, and was a person, a real world leader.

Kathryn Kellogg, a confidential assistant, office of business liaison, who came to that office from a background with the Jay Rockefeller office and did a tremendous amount.

And we had a very senior person with us on that trip with Ron Brown, Charles F. Meissner who was the Assistant Secretary of Commerce for International Affairs, has been very active in government, and his wife was the Immigration and Naturalization Service commissioner, Miss Doris Meissner, and certainly our heart goes out to her, a person who is still contributing to our Government.

Also a part of our Government team was Lawrence Payne, a special assistant, office of domestic operations. He was a person who added a great deal to the mission.

Naomi P. Warbasse, who was a deputy director of Central and East Europe Business Information Center.

We had James M. Lewek, who was an intelligence analyst who worked on European economic issues. He was a person who was an analyst, a very bright individual who served very well.

So these were people who worked for our government who felt it was important, who felt they had a contribution to make, who felt that this great Nation of ours could do better. They never accepted enough was enough. They went on to move to higher heights.

Ron Brown had gone on a mission to India. No one ever looked at India as a place where we should take trade missions. It was never on the radar screen. But Ron Brown looked at the population, a population of over 900 million people, a country that in the next 20 years will have a population in excess of the population of the People's Republic of China.

It is estimated by the year 2020 the population of India will exceed 1 billion 250 million people—1 billion 300 million people. This is awesome.

The People's Republic of China currently has 1 billion 100 million people. The population of the United States is 250 million.

Ron Brown looked at India and said, after analysis, that India has as many middle-income people as the entire population of the United States of America. He was one that looked around and saw the poverty and saw the problems, but he also looked at the aggregate number, 900 million people, and found out that 250 million were middle-income people in India. And so he took a trade mission and, in less than a week, did over $7 billion worth of business on that trip. It was Ron Brown conceiving that there is opportunity in that great country of India.

He took trade missions to South Africa, worked with Mr. Mandela. As a matter of fact, Ron Brown was one of President Nelson Mandela's favorite persons. Mr. Mandela, who, as you know, is probably one of the greatest leaders in this world, has tremendous insight, and he was a person that opened his doors to his personal home to Ron Brown because of the camaraderie between the two. Of course, President Mandela, being much older than Ron Brown, Ron just looked up to him and went to South Africa, and through Ron Brown's creativity the Mbeke-Gore Bilateral Commission for Trade, directly the deputy president, Tabo Mbeke, Vice President AL GORE co-chaired this trade development that will increase imports and exports from these two great countries.

Ron Brown went to Asia and was very popular.

The Japanese trade officials enjoyed working with Ron Brown. They felt that he was very astute, and he did outstanding business in Japan. He was one, and we heard of Mickey Kantor and his debates in Geneva with the auto parts, but Ron Brown would go over to Japan, and it was, they call it, the "bad cop, good cop," Mickey Kantor being the bad cop, tough guy, mean guy, never smiled, and Ron Brown would come with his smile. He was a good cop. But Ron would always get the signature on the dotted line. So, as we have recently heard, the tremendous increase in the amount of autos and auto parts being sold to Japan, a record for this country. Part of that success for our big three auto makers is because of Ron Brown and the work that he has done.

He went to the People's Republic of China and was ready to do business all over the place. It was just that it was so large, Ron just took a little piece of it, but billions of dollars' worth of People's Republic of China.

And so I mentioned these various missions that he took. He was interested in the whole relationship between Mexico and the United States. He felt that Mexico has tremendous potential, but that the human rights of people in Mexico must be observed better. He talked about changing over the type of government, making it more people oriented, and he was a person that saw that one way that we could stop illegal immigration is that Mexico itself becomes a place that people feel they should stay, their country. Most people prefer living in their own country. They do not like traveling to other countries. They do not want to learn a foreign language. They do not want to be put in substandard jobs. They do not want to be pointed out as the problem. So most people, wherever they live in the world, prefer to stay where their home country is.

Ron Brown felt that, with Mexico developing, with opportunities in Mexico for Mexicans, that would be the biggest way to slow down and eventually stop illegal immigration and actually have people emigrate back to Mexico once opportunities developed there. But he also said that, as Mexico developed, that there would be markets for the United States, there would be trade opportunities, that it would not be a one-way street, but we would be able to solve a tremendous social problem in our country of illegal immigration.

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So Ron Brown's policies really affected the world, whether it was in the Far East, the Pacific rim, whether it was in the new independent States, or in Africa. He was a person who felt that we could do things best in this country, we make the best products, once we put our minds to it. He felt that all we had to do was to get an opportunity to introduce our business people to foreign markets, and that they would really jump on board on getting our products.

So as we wind down on our commemoration of Ron Brown, the man, Ron Brown, the leader, Ron Brown, the father, Ron Brown was a person that even when he was under attack, and I sat at a hearing of the Committee on International Relations where there was the move to abolish and eliminate the Department of Commerce. Some mean-spirited questions were asked, and the manner in which some of the questioners on the other side of the aisle were lashing out at the Secretary of Commerce. He answered every question. He answered the questions well. He had the facts.

As a matter of fact, when the hearing ended, most of the Members who started out with this mean-spirited slash and burn type of philosophy had to admit that the Department of Commerce had done an outstanding job; had to admit that, truly, this is the first Department of Commerce Secretary that the American people can say the name of the person. This is a Commerce Department person that people felt was doing the job. But in their fallacy, their preconceived notion was to eliminate the Department of Commerce. I think that that started to sort of slow down once Ron Brown really gave the facts to people.

We are here to say, Mr. Speaker, that we hope that we will remember Ron. We will once again say that he was a great American. We will once again say that he is the type of person that we can have young men and women, African-American, Caucasian, native American, whatever, point to and say that he is the measure of a man. Anyone can succeed if you try hard enough, that all you have to do is to have a vision, have creativity, and be ready to step up to the plate.

Once again, I would like to thank the Speaker for this time, and to express to my colleagues who came out tonight that I appreciate their participation this evening. I also appreciate the participation of many, many Members who have expressed their views during the past week that we have been back here, Monday, Tuesday, and today.

As a matter of fact, concluding, it was going to be on a week from today that he was going to visit the Congressional Black Caucus' weekly meeting.

VOL 142 PT 6 AP 15 — 24 1996 UMI

We talked before his trip, and April 24 was the date that he was scheduled to come to talk about women's opportunities, small business, the census. So we will certainly even more remember him next week when we meet in our weekly Wednesday meeting. He is a true American, a real American hero.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. JACKSON-LEE of Texas (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of family medical emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RAHALL) to revise and extend their remarks and include extraneous material:)

Ms. PELOSI, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. KENNEDY of Rhode Island, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mrs. THURMAN, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Mr. PALLONE, for 60 minutes, today.

Mr. PAYNE of New Jersey, for 5 minutes, today.

(The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:)

Mr. EMERSON, for 5 minutes, today.

Mr. JONES, for 5 minutes, today and on April 18.

Mr. CHAMBLISS, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today and on April 18.

Mr. FUNDERBURK, for 5 minutes, today.

Mr. CHABOT, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. ENGLISH, for 5 minutes, today.

Mr. TALENT, for 5 minutes, today.

Ms. ROS-LEHTINEN, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

Mr. FORBES, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. DORNAN, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RAHALL) and to include extraneous matter:)

Mr. STARK.

Mr. HAMILTON in two instances.

Mr. JACOBS.

Mr. FARR of California.

Mr. TOWNS in two instances.

Mr. SANDERS.

(The following Members (at the request of Mr. GUTKNECHT) and to include extraneous matter:)

Mr. SENSENBRENNER.

Mr. BAKER of California.

Mr. TALENT.

Mr. WATTS in three instances.

Mr. LAHOOD.

Mr. OXLEY.

Mr. CAMP.

Mr. CUNNINGHAM.

Mr. PORTER in two instances.

Mr. ZIMMER.

Mr. CRAPO.

Mr. LAZIO.

Mr. STUMP.

Mr. ZELIFF.

Mr. BRYANT.

Mr. WELLER.

(The following Members (at the request of Mr. PAYNE of New Jersey) and to include extraneous matter:)

Mr. GIBBONS.

Mr. BILIRAKIS.

Mr. GUTIERREZ.

Mr. HALL.

Mr. JOHNSTON of Florida, in two instances.

Mrs. JOHNSON of Connecticut.

Mr. DORNAN.

Mr. SHADEGG, in two instances.

Mrs. MORELLA.

Mr. DEUTSCH.

Mr. POSHARD.

Mr. PALLONE.

ADJOURNMENT

Mrs. CLAYTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Thursday, April 18, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2409. A letter from the Secretary of the Navy, transmitting notification that the joint tactical unmanned aerial vehicle-hunter and standard missile 2 block IV have breached the unit cost threshold, pursuant to 10 U.S.C. 2433(e)(1); to the Committee on National Security.

2410. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed issuance of export license agreement for the transfer of defense articles or defense services sold commercially to Japan (Transmittal No. DTC–13–96), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2411. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed issuance of export license agreement for the transfer of defense articles or defense services sold commercially to the Republic of Korea (Transmittal No. DTC–15–96), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2412. A letter from the Chairman, Merit Systems Protection Board, transmitting annual report of the Merit Systems Protection Board and review of OPM, pursuant to 5 U.S.C. 1206; to the Committee on Government Reform and Oversight.

2413. A letter from the Chairman, Pennsylvania Avenue Development Corporation, transmitting the Corporation's audited financial statements for fiscal year 1995; to the Committee on Government Reform and Oversight.

2414. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's summary by country program of the fiscal year 1996 budget allocation for the International Narcotics Control Program, pursuant to 22 U.S.C. 2291(b)(1); jointly, to the Committees on International Relations and Appropriations.

2415. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of intended reprograming of foreign aid funds, pursuant to 22 U.S.C. 2394–1(a); jointly, to the Committees on International Relations and Appropriations.

2416. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of foreign aid program changes, pursuant to 22 U.S.C. 2394–1(a); jointly, to the Committees on International Relations and Appropriations.

2417. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of foreign aid program changes, pursuant to 22 U.S.C. 2394–1(a); jointly, to the Committees on International Relations and Appropriations.

2418. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's listing of FDIC properties covered by the Coastal Barrier Improvement Act; jointly, to the Committees on Resources and Banking and Financial Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. PRYCE: Committee on Rules. House Resolution 405. Resolution waiving points of order against the conference report to accompany the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes (Rept. 104–522). Referred to the House Calendar.

Mr. GILMAN: Committee on International Relations. H.R. 3107. A bill to impose sanctions on persons exporting certain goods or technology that would enhance Iran's ability to explore for, extract, refine, or transport by pipeline petroleum resources, and for other purposes; with amendments (Rept. 104–523 Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 3107. Referral to the Committees on Banking and Financial Services, Government Reform and Oversight, and Ways and Means for a period ending not later than May 3, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SKEEN:

H.R. 3258. A bill to direct the Secretary of the Interior to convey certain real property located within the Carlsbad project in New Mexico to Carlsbad Irrigation District; to the Committee on Resources.

By Mr. COMBEST:

H.R. 3259. A bill to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and the Central Intelligence Agency retirement and disability system, for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. CRAPO:

H.R. 3260. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to proposed regulation of pharmacists; to the Committee on Commerce.

By Mr. FRANK of Massachusetts (for himself, Mr. DICKEY, Mr. CARDIN, Mr. KENNEDY of Massachusetts, Mrs. MALONEY, Mr. MEEHAN, Mr. NEAL of Massachusetts, Mr. POMEROY, and Mr. RAHALL):

H.R. 3261. A bill to provide for annual payments from the surplus funds of the Federal Reserve System to cover the interest on obligations issued by the Financing Corporation; to the Committee on Banking and Financial Services.

By Mrs. GREENE of Utah:

H.R. 3262. A bill to amend title XVIII of the Social Security Act to expand coverage under part B of the Medicare Program of certain antibiotics which are parenterally administered in a home setting, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JOHNSTON of Florida (for himself, Mr. FROST, Ms. LOFGREN, Mr. MCDERMOTT, Mr. THOMPSON, Mrs. THURMAN, Mrs. MEEK of Florida, Mr. SHAW, Mrs. MINK of Hawaii, Mr. CANADY, Mr. RAHALL, Mr. BRYANT of Texas, Ms. NORTON, and Mr. FRAZIER):

H.R. 3263. A bill to amend the Omnibus Crime Control and Safe Street Act of 1968 to establish a national clearinghouse to assist in background checks of law enforcement applicants; to the Committee on the Judiciary.

By Ms. NORTON:

H.R. 3264. A bill to waive the Medicaid enrollment composition rule for D.C. Chartered Health Plan; to the Committee on Commerce.

By Mr. QUINN (for himself, Mr. ENGLISH of Pennsylvania, Mr. SHAYS, Mr. GILMAN, Mr. WALSH, Mr. HORN, Mr.. HOUGHTON, Mr. BOEHLERT, Mr. TORKILDSEN, Mrs. JOHNSON of Connecticut, Mr. LEACH, Mr. MARTINI, Mr. LAZIO of New York, Mr. FRANKS of New Jersey, Mr. FORBES, Mr. DIAZ-BALART, Mr. RIGGS, Mr. CREMEANS, Mr. LATOURETTE, and Mr. BLUTE):

H.R. 3265. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under the act; to the Committee on Economic and Educational Opportunities.

By Mr. TANNER (for himself, Mr. CASTLE, Mrs. LINCOLN, Mr. SHAYS, Mr. STENHOLM, Mrs. MORELLA, Mr. PAYNE of Virginia, Mrs. JOHNSON of Connecticut, Mr. ORTON, Mr. CAMPBELL, Mr. MINGE, Mr. HOUGHTON, Mr. BROWDER, Mr. FOX, Mr. CRAMER, Mr. BOEHLERT, Mr. BAESLER, Mr. RAMSTAD, Mr. HOLDEN, Mr. FRELINGHUYSEN, Mr. LIPINSKI, Mr. HORN, Mr. ROSE, Mr. FAWELL, Mrs. THURMAN, Mr. LAZIO of New York, Mr. ROEMER, Mr. KOLBE, Mr. CLEMENT, and Mr. GORDON):

H.R. 3266. A bill to restore the American family, enhance support and work opportunities for families with children, reduce out-of-wedlock pregnancies, reduce welfare dependence, and control welfare spending; to the Committee on Ways and Means, and in addition to the Committees on Agriculture, Banking and Financial Services, Commerce, Economic and Educational Opportunities, Government Reform and Oversight, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE:

H. Con. Res. 163. Concurrent resolution expressing the sense of Congress that March 25 be recognized as the anniversary of the Proclamation of Belarusan Independence, expressing concern over the Belarusan Government's infringement on freedom of the press in direct violation of the Helsinki Accords and the Constitution of Belarus, and expressing concern about the proposed union between Russia and Belarus; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 127: Mr. KENNEDY of Massachusetts and Ms. WOOLSEY.

H.R. 218: Mr. HANSEN.

H.R. 350: Mr. WALSH, Mr. HAYWORTH, and Mr. TATE.

H.R. 351: Mr. PICKETT, Mr. BRYANT of Tennessee, Mr. SAXTON, Mr. EWING, Mrs. SEASTRAND, and Mr. HUNTER.

H.R. 403: Mr. SHAYS.

H.R. 573: Mr. BONIOR and Mr. ANDREWS.

H.R. 582: Mr. KNOLLENBERG.

H.R. 973: Mr. LEWIS of Georgia.

H.R. 1023: Mr. SHUSTER, Mr. STOKES, and Mr. LARGENT.

H.R. 1073: Mr. DINGELL and Mr. BROWN of California.

H.R. 1074: Mr. DINGELL and Mr. BROWN of California.

H.R. 1127: Mr. CALVERT.

H.R. 1179: Ms. NORTON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JEFFERSON, and Mr. STOKES.

H.R. 1202: Mr. PICKETT, Mr. EVANS, and Mr. CLYBURN.

H.R. 1462: Mr. MENENDEZ, Mr. GUTIERREZ, and Mr. SMITH of New Jersey.

H.R. 1496: Mr. SCOTT.

H.R. 1950: Mr. FILNER.

H.R. 2214: Mr. BRYANT of Tennessee.

H.R. 2335: Mr. LARGENT, Mr. PETE GEREN of Texas, Mr. SISISKY, Mr. CRAMER, Mr. MCINTOSH, Mr. BATEMAN, Mr. CAMP, Mr. SKELTON, Mr. ROGERS, Mr. BALLENGER, and Mr. BURR.

H.R. 2579: Mr. EHRLICH, Mr. MANZULLO, Mr. LINDER, Mr. EVERETT, Mr. TAYLOR of Mississippi, and Mr. VISCLOSKY.

H.R. 2654: Mr. GUTIERREZ.

H.R. 2655: Mr. HINCHEY, Mrs. LOWEY, and Mr. LOBIONDO.

H.R. 2665: Mr. FRAZER, Mr. LEVIN, Mr. GREEN of Texas, Mr. DEUTSCH, and Mr. FARR.

H.R. 2827: Mr. HINCHEY and Mr. SERRANO.

H.R. 2834: Mr. KILDEE and Mr. GRAHAM.

H.R. 2914: Mr. GUTIERREZ.

H.R. 2925: Mr. LIGHTFOOT, Mr. PETERSON of Minnesota, and Mr. PAYNE of Virginia.

H.R. 2959: Mr. WELLER.

H.R. 2976: Mrs. CLAYTON, Mr. GUTIERREZ, Ms. JACKSON-LEE, Mr. MATSUI, Mr. MENENDEZ, and Ms. WOOLSEY.

H.R. 2996: Mr. HEINEMAN.

H.R. 3004: Mr. RAMSTAD.

H.R. 3024: Mr. BISHOP, Mr. CLYBURN, Mr. WILLIAMS, Mr. OWENS, Ms. NORTON, MR. WYNN, Mr. HASTINGS of Florida, Mr. FRAZER, Mr. ENGEL, Mr. HALL of Ohio, Mr. HINCHEY, Mr. PAYNE of New Jersey, Mr. ACKERMAN, Mr. FILNER, Ms. MCKINNEY, Mr. ORTIZ, Mr. LEWIS of Georgia, Mr. DAVIS, Ms. WOOLSEY, Mr. HYDE, Mr. GIBBONS, Mr. BARCIA of Michigan, Mr. FARR, Mr. POMBO, Mr. TOWNS, Mr. STUMP, Mr. FORBES, Mr. SAWYER, Mr. TORRES, Ms. LOFGREN, Ms. SLAUGHTER, Mr. GILCHREST, Mr. RICHARDSON, Mr. KIM, Mr. PICKETT, and Mr. DOYLE.

H.R. 3039: Mr. HALL of Texas.

H.R. 3060: Mr. DOYLE.

H.R. 3067: Mr. WALSH, Mr. LEVIN, and Ms. HARMAN.

H.R. 3118: Mr. FALEOMAVAEGA and Mr. MANTON.

H.R. 3152: Ms. LOFGREN.

H.R. 3156: Mr. NETHERCUTT.

H.R. 3177: Mr. RAMSTAD, Mrs. MEYERS of Kansas, and Mr. VENTO.

H.R. 3180: Mr. HUTCHINSON, Mr. HOLDEN, Ms. MCKINNEY, and Ms. LOFGREN.

H.R. 3195: Mr. BUNNING of Kentucky.

H.R. 3224: Mr. CLEMENT, Mr. FROST, Mr. CLINGER, and Mr. SMITH of New Jersey.

H.R. 3238: Ms. LOFGREN and Mr. FROST.

H. Con. Res. 105: Mr. BAKER of Louisiana.

H. Con. Res. 135: Ms. SLAUGHTER and Ms. FURSE.

H. Con. Res. 136: Mr. HOKE, Ms. PELOSI, Mr. FUNDERBURK, Mr. LIPINSKI, Mr. BRYANT of Texas, Mr. CARDIN, Mr. CALVERT, and Mr. ROMERO-BARCELO.

H. Con. Res. 158: Mrs. LOWEY.

H. Res. 347: Mr. LIPINSKI, Ms. SLAUGHTER, Mr. DELLUMS, Mr. BONIOR, and Mrs. LOWEY.

H. Res. 404: Mr. CONYERS, Mr. FORD, Mrs. COLLINS of Illinois, Mrs. CLAYTON, Mr. RANGEL, Mr. OWENS, Mr. FIELDS of Louisiana, Mr. HILLIARD, Mr. FRAZER, Ms. NORTON, Mr. WYNN, Mr. DELLUMS, Mr. JEFFERSON, Mr. DIXON, Mr. RUSH, Ms. MCKINNEY, Mr. CLAY, Ms. JACKSON-LEE, and Mr. BISHOP.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1675

OFFERED BY: MRS. LINCOLN

AMENDMENT NO. 2: At the end of the bill add the following new section:

VOL
142
PT
6
AP
15
—
24
1996
UMI

SEC. . AUTHORITY OF SECRETARY OF THE INTERIOR TO ACCEPT STATE DONATIONS OF STATE EMPLOYEE SERVICES DURING GOVERNMENT BUDGETARY SHUTDOWN.

After section 2 of the Act, as redesignated by section 10(a)(4) of this Act, add the following new section:

"SEC. 3. AUTHORITY OF SECRETARY TO ACCEPT STATE DONATIONS OF STATE EMPLOYEE SERVICES DURING GOVERNMENT BUDGETARY SHUTDOWN.

"(a) IN GENERAL.—The Secretary shall accept from any qualified State donations of services of State employees to perform in a refuge, in a period of Government budgetary shutdown, fish- and wildlife-dependent recreation management functions otherwise authorized to be performed by Department of Interior personnel.

"(b) LIMITATIONS.—An employee of a State may perform functions under this section only—

"(1) within areas of a refuge that are located in the State; and

"(2) in accordance with an agreement entered into by the Secretary and the Governor of the State under subsection (c).

"(c) AGREEMENTS.—

"(1) IN GENERAL.—For purposes of this section, the Secretary may enter into an agreement in accordance with this subsection with the Governor of any State in which is located any part of a refuge.

"(2) TERMS CONDITIONS.—An agreement under this subsection shall—

"(A) contain provisions to ensure resource and visitor protection acceptable under the standards of the United States Fish and Wildlife Service;

"(B) require that each individual performing functions under the agreement shall have—

"(i) adequate safety training;

"(ii) knowledge of the terrain in which the individual will perform those functions; and

"(iii) knowledge of and adherence to Federal regulations relating to those functions; and

"(C) specify other terms and conditions under which a State employee may perform such functions.

"(d) EXCLUSION FROM TREATMENT AS FEDERAL EMPLOYEES.—A State employee who performs functions under this section shall not be treated as a Federal employee for purposes of any Federal law relating to pay or benefits for Federal employees.

"(e) ANTI-DEFICIENCY ACT NOT APPLICABLE.—Section 1341(a) of title 31, United States Code, shall not apply with respect to the acceptance of services of, and the performance of functions by, State employees under this section.

"(f) DEFINITIONS.—In this section—

"(1) the term 'Government budgetary shutdown' means a period during which there are no amounts available for the operation of the System, because of—

"(A) a failure to enact an annual appropriations bill for the period for the Department of the Interior; and

"(B) a failure to enact a bill (or joint resolution) continuing the availability of appropriations for the Department of the Interior for a temporary period pending the enactment of such an annual appropriations bill; and

"(2) the term 'qualified State' means a State that has entered into an agreement with the Secretary in accordance with subsection (c).".

EXTENSIONS OF REMARKS

SOMETHING IS RIGHT WITH AMERICA—IN COLUMBIA, TN

HON. ED BRYANT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. BRYANT of Tennessee. Mr. Speaker, we hear on every side today, loud and clear, about what is wrong with America. All too often the good that is being done never makes the news. May I tell you about the work being done by American Legion Post 19, Auxiliary Unit 19, the 40 & 8 and La Femmes in Columbia, TN?

Post 19, organized in the county on August 15, 1919, with 61 charter members, rose to a high of 1,270 members, and now stands at a membership of 933. From the very earliest days, this organization has been a driving force for good in the community. Men who served their country nobly in time of war returned home to assume leadership roles in the community.

Auxiliary Unit 19 was organized a year later, and membership stands now at 249. The oldest member is an active 94-year-old gold star mother, who lost a son in World War II, to a junior member, 2 years of age.

The 40 & 8 and La Femmes are also active. Let me begin with them. Five nursing scholarships, of $500.00 each, are given annually by this group. And during the past 2 years, a female veteran has been supported in nursing school in the amount of $3,000.00. The 40 & 8 engine is a familiar sight at all parades and fund raisers in this and adjoining counties. Many young children know how this organization got its name, if they know little else about American history. The veterans recycle aluminum cans to supplement their scholarship fund, which also helps the ecology by keeping the cans out of the landfill.

The American Legion may be best known in the community for their sponsorship of American Legion baseball. They support many teams annually, and this past year the Columbia team went all the way to the national finals. Boys in the program learn about sportsmanship, which helps them get along with people as they go forward with their lives.

Boy's State is also an important contribution to the Legion. Thirteen boys are sent by the Post to Boy's State where they learn about how our Government works. Many have gone on to become leaders in government as well as industry.

The Legion sponsors an oratorical contest annually, which is wonderful training for youngsters. And Post 19 hosted the State contest, after which members of Auxiliary Unit 19 provided a complementary lunch for those attending, many who had come from a great distance.

Scouting is also sponsored by Post 19, and many young men have gone on to become Eagle Scouts under the leadership of members of the post.

The post cares for veterans who are ill, or have fallen on hard times, and when veterans, whether or not members of the post, pass from this Earth and their families request it, provide military honors at their burial. There have been as many as four such funerals on a day, and the annual number is between 80 and 100, sad to say, the number is increasing as World War II veterans grow older.

Many, if not all, worthwhile charities find a sympathetic ear and a generous purse at Post 19. Their spacious meeting hall is used by many organizations. The Red Cross Bloodmobile is at the site monthly, and a recent fundraiser for the American Cancer Society was held there.

Post 19 is greatly enhanced by Auxiliary Unit 19. Many local, State, and national causes receive their wholehearted support. Americanism is promoted, especially in the schools. Essay contests are held and hundreds of classroom flags given each year. On Memorial Day, more than 1,000 flags are placed on graves of veterans.

Realizing the importance of education, Unit 19 gives an annual scholarship in the amount of $500. Many of the recipients would not have been able to further their education without this assistance, as would those who received the nursing scholarships. Members of the unit visit the elementary schools and read to the children. A gun safety program is being taught to elementary school students. Drugs are purchased for children whose parents have no insurance. Essay contests help children learn about their country. Many would otherwise get little instruction in American history. An outstanding Teacher of the Year is recognized by the unit, and a substantial sum is given each year to the Educational Foundation, which uses their funds to provide materials for the classroom not provided by the school system. Fourteen girls are sponsored to Girl's State.

As does the Legion, the auxiliary never turns a deaf ear on those seeking their support. Recently, it was learned that a local child who is suffering from cancer would attend Camp Horizon, if funding was found, and the unit voted unanimously to fund a scholarship in the amount of $386.00. This is only one example of their generosity.

Child and spousal abuse is a concern of all Americans, and unit 19 has generously supported a local home for battered women.

Monthly visits are made to VA hospitals, and approximately $2,500 spent on gifts, food, etc., annually. Monthly parties are also held at local nursing homes as well. At least $1,000.00 is spent locally on charities each year.

Realizing that the fear of crime is a leading concern of all citizens, unit 19 is focusing on crime prevention this year. Citizens are encouraged to form Neighborhood Watch organizations. Crime Prevention Call-In was featured on a local cable television station, under the leadership of the unit.

These are but a few of the good things being done by a group of veterans and their wives, sisters, and daughters. Will you not agree with me that something is right with America in Columbia, TN?

TRIBUTE TO OFFICER WARREN NEAL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. TOWNS. Mr. Speaker, I have concluded after years of public service and personal experience that the lifeblood of a stable and effective community is mutual cooperation. Today I am pleased to acknowledge a process of mutual cooperation that has served the Borough of Brooklyn and the community of Canarsie very well. I am referring to the relationship between the Canarsie Volunteer Ambulance Corp. and the work of police officer Warren Neal, community affairs officer of the 69th Precinct which encompasses the Canarsie community.

The Canarsie Volunteer Ambulance Corp. provides free emergency medical care and is funded solely through donations from the Canarsie community. Officer Neal, a professional with 28 years of experience, is being honored by the corporation for his distinguished and dedicated service. Mr. Neal embarked on his law enforcement career in 1968 with the New York City Police Department, assigned to the Times Square area. He was later transferred to Canarsie and served as a patrol officer and was subsequently assigned to be the auxiliary police coordinator. Officer Neal was promoted to Community Affairs Officer for doing an effective job in recruiting and training auxiliary police officers. In that capacity he has represented the precinct at local civic, fraternal, religious and educational events conducted within the Canarsie community. His selfless efforts have endeared him to the numerous Canarsie residents.

Officer Neal is a dedicated family man and has been married to his wife Patricia for 36 years. They have three children, James, Michael, and Suzanne, and five grandchildren.

I am pleased to acknowledge to two community success stories that are mutually linked. The Canarsie Volunteer Ambulance Corp. and its relationship with Officer Warren Neal has been a fruitful relationship that has nothing but positive results. I am pleased to highlight this exceptional example of community cooperation.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL
142
PT
6
AP
15
—
24
1996
UMI

PRESIDENTIAL AWARDS FOR EXCELLENCE IN SCIENCE AND MATHEMATICS TEACHING

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. TALENT. Mr. Speaker, I rise today to acknowledge, Linda Lee Hydar, Linda Marie Kralina, and Kathleen M. Vielhaber in recognition of their 1995 Presidential Awards for Excellence in Science and Mathematics Teaching.

The Presidential Awards for Excellence in Science and Mathematics Teaching Program, administered by the National Science Foundation, is designed to recognize and reward outstanding teachers from elementary and secondary schools. These teachers serve as models for their colleagues in many important areas. At the same time, through such awards, they are able to increase the visibility and rewards of teaching in hopes of encouraging high quality individuals to enter and remain in the educational field.

In addition to the individual recognition that Ms. Hydar, Ms. Kralina, and Ms. Vielhaber receive, the school at which each teaches will be given a $7,500 grant from the National Science Foundation. These funds are to be used under the direction of the recipients to continue their excellent work in educating our Nation's children.

Mr. Speaker, it is an honor and a privilege for me to pay tribute to these fine teachers, and commend them upon their efforts in ensuring the next generation of quality foundation from where they can pursue their ambitions. I join the National Science Foundation in honoring the excellent work that each of these three teachers has been able to accomplish.

THE LAW ENFORCEMENT AND CORRECTIONAL OFFICERS EMPLOYMENT REGISTRATION ACT OF 1996

HON. HARRY JOHNSTON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. JOHNSTON of Florida. Mr. Speaker, today I am introducing the Law Enforcement and Correctional Officers Employment Registration Act of 1996. This bill will establish a national clearinghouse to assist in background checks on applicants for law enforcement jobs. The bill is a companion to S. 484, introduced by my colleague in the other body, Senator BOB GRAHAM.

This legislation will establish a national data bank providing quick and accurate information regarding an officer's prior employment history. Maintained by the Department of Justice, it will be accessible to law enforcement agencies to assist in background checks of those seeking employment.

The intent of this legislation is to help prevent what have been commonly known as "Rogue Cops". These are police officers who have been dismissed or have been forced to resign from previous positions but conceal their employment history in job applications. Florida Department of Law Enforcement Commissioner James T. Moore said, "Experience has shown that, after being found guilty of misconduct, many problem officers resign or are fired, only to seek police jobs elsewhere."

The clearinghouse will simply be a pointer file, maintaining basic information on all certified officers, including name, date of birth, Social Security number, and dates of employment. To protect the rights of officers, it would not contain information relating to causes of dismissal. The potential employer would still hold primary responsibility for conducting a thorough background check, but this measure will mean officers could no longer conceal their prior employment history simply by moving from one State to another.

The 1990 beating death of Bobby Jewett in West Palm Beach is a devastating example of the consequences of concealed records. Once the employment histories of the two officers involved in the death were uncovered, it was revealed that they had gone through four States and eight different law enforcement agencies. Much of this had been left out of their job applications.

This legislation has the support of both national law enforcement organizations and local authorities. Few agencies have the personnel and resources to conduct thorough background checks on police applications. A nationwide data base is needed.

TRIBUTE TO THE CAREER OF WILLIAM THOMAS HART

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. GIBBONS. Mr. Speaker, Dedication. Integrity. Professionalism. Wisdom. Humility.

These are attributes that we hold in high esteem and seek in those who lead us. It is reassuring to recognize some of these attributes in individuals; it is remarkable when we can recognize all of them in a single individual. I would like to take a few moments to tell you about William Thomas Hart, one such individual.

This month marks the second anniversary of the signing of this century's most comprehensive multilateral trade agreements, the Uruguay Round of Multilateral Trade Negotiations under the General Agreement on Tariffs and Trade [GATT]. It also marks the first April since 1949 that the U.S. Government will not be able to call upon the expertise of William Thomas Hart.

For over 53 years Mr. Hart has served this country, first as a young naval officer in World War II, then as an outstanding civil servant. In July 1948, Mr. Hart joined the staff of the U.S. Tariff Commission, now the U.S. International Trade Commission, beginning a distinguished career of public service in the trade field that would span almost 50 years before his retirement in February 1996.

Mr. Hart specialize in the somewhat arcane but critically important area of tariff negotiations. He most recently served as the U.S. International Trade Commission's [ITC] Director of the Office of Executive and International Liaison, responsible for planning and directing the ITC's activities in support of U.S. trade agreement negotiations and implementation. During his years of service he advised U.S. trade negotiations in all of the principal rounds of multilateral negotiations conducted under the GATT. He was also a key adviser in the negotiation of the United States-Israel Free Trade Area Agreement, the United States-Canada Free Trade Agreement, and the North American Free Trade Agreement. His wise counsel and encyclopedic knowledge of events, both large and small, in the field of international trade have been sought out by innumerable government officials and business executives both here and abroad.

Not only did Mr. Hart provide invaluable advice during the course of negotiations, but when the trade negotiators' work concluded, Mr. Hart's most lasting contributions began. For example, after the hundreds of trade negotiators gathered in Geneva for the signing of the Uruguay round agreements had congratulated themselves on their success and returned to their capitals, Mr. Hart and a small number of his colleagues turned to the critical task of translating the political results of the negotiations into tangible benefits for U.S. businesses, workers, and consumers. Mr. Hart was personally responsible for the production, under very stringent deadlines, of almost 2,500 pages of documentation necessary to record our international tariff commitments and update our tariff schedules. Mr. Hart meticulously checked and cross-checked every line of information in these documents to ensure the United States commitments were accurately represented and new tariff rates properly calculated. This is but one example of the dedication and professionalism that Mr. Hart exhibited throughout his long career.

Mr. Hart's contributions and the critical support he provided to the agencies responsible for U.S. trade policy have been recognized by the President's trade representatives from Christian Herter, the first Special Trade Representative, to Mickey Kantor. The ITC also recognized the exceptional talents and dedicated public service of Mr. Hart by twice awarding him that agency's highest honor, The Commissioners' Award for Exceptional Service.

Mr. Hart's service to his country and to his fellow citizens deserves our recognition and our praise. Bill, congratulations on your retirement. You did you job well, and you did it with care and pride and warmth. Your sense of honor, as well as your vast historical knowledge of trade negotiations, will be greatly missed. Your career serves as a fine example for your colleagues and for the generations of Government employees who will follow in your path.

A GOOD MAN

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. POSHARD. Mr. Speaker, I rise to join the American chorus of praise for Commerce

Secretary Ron Brown and to join my colleagues in expressing our profound sorrow at the loss of his life in the plan crash in Croatia. And I also take this time to let the Nation know that a constituent of mine, Air Force Staff Sgt. Gerald V. Aldrich, of Louisville, IL, was a member of the crew and also perished in that terrible crash.

Because of that, the 19th district of Illinois was touched as much as any other in the Nation by the news from that rugged mountainside in a nation torn apart by civil war and cultural strife.

Unexplainable tragedies inevitably take with them outstanding people who are a credit to their families, friends, and communities. Certainly that is true with Sergeant Aldrich and Secretary Brown.

I have talked with the Aldrich family at length, and know that they are extraordinarily proud of their fine son. He entered the military shortly after graduating from high school and fashioned a career that was clearly taking him to leadership positions in the Air Force. On behalf of everyone in the 19th district, I send my deepest sympathies to his entire family.

As I comprehended Secretary Brown's death, I knew that most people would remember him for his efforts in the Democratic Party and for his global approach to supporting American economic interests. And while he must certainly be commended for those things, I knew that I would remember him much more for two very simple, relatively small projects which were extremely important to me and the people in my district. There are two major construction projects underway in my district right now because the communities made their case to the Commerce Department, and Secretary Brown made sure their needs were addressed. He was personally interested in how these projects would create jobs and improve the lives of working people, and I will always be thankful for that.

Mr. Speaker, two fine Americans were taken from us on that mountain in Croatia. I thank the Aldrich and Brown families for sharing their precious gifts with us for as long as they did, and commend their careers of public service to the rest of us to emulate and admire.

TRIBUTE TO GIRL SCOUT GOLD AWARD RECIPIENTS

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. LAHOOD. Mr. Speaker, today, I would like to salute a group of outstanding young women from my district who have been honored with the Girl Scouts of the U.S.A. Gold Award by the Kickapoo Council of Girl Scouts in Peoria, IL. The seven girls who received this award are the following: Jennifer Baker of Troop 47; Jennifer Grafelman of Troop 22; Nora Hegwood of Troop 1000; Aria Hoekstra of Troop 581; Lee Ann Kroppel of Troop 22; Jordan Maricle of Troop 144; and Jennifer Roth of Troop 345.

The Gold Award is the highest achievement award in Girl Scouting. It symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development. The Girl Scout Gold Award can be earned by girls aged 14–17 or in grades 9–12.

Girl Scouts of the U.S.A., an organization serving over 3.3 million girls, has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill five requirements: earn four interest project patches; earn the Career Exploration Pin; earn the Senior Girl Scout Leadership Award; earn the Senior Girl Scout Challenge; and design and implement a Girl Scout Gold Award project. A plan for fulfilling the requirements of the award is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

Jennifer Baker began working on the Girl Scout Gold Award in early 1994. Her project was completed by making presentations to high school students regarding the importance of making and keeping family values a priority in their life. She worked on this with the guidance and supervision of the Fulton County Health and Child Services Department.

Jennifer Grafelman began working on her Girl Scout Gold Award requirements in 1994. She completed her project by presenting a Children's Safety Awareness With Strangers Program for a local elementary school, grades K–3. This program not only gave valuable information to the students, but also provided parents with a photo of their child, fingerprints and video tapes of the children. The local school board was very supportive of this project.

Nora Hegwood started work on the Girl Scout Gold Award in 1993. Her project involved working with an Early Childhood Education Center to assess the abilities of children who do not have minimal playing skills and then to work with each of them in play therapy/play intervention to improve their level of play with other children. This involved an average of 2-hour-long play sessions several times over a 3-month period.

Aria Hoekstra began work on the Gold Award in 1993. She completed her project by making and gathering toys, games, and books and making a toy box for these items, then donating them to the children's ward of a local hospital. In addition, she visited the hospital on several occasions and read, played games, and became friends to the children.

Lee Ann Kroppel started her work on the Girl Scout Gold Award in 1994. She completed her project by presenting a Children's Safety Awareness With Strangers program for a local elementary school, grades K–3. Working with the local school board, she provided valuable information to students and parents, including a photo and video tape of the child, as well as fingerprints.

Jordan Maricle initiated work on her Gold Award in 1994. Her project was completed by teaching French in an elementary school where there are no classes in French. The school has cooperated in allowing this to be done with interested children. This project helps expand the horizons of children to another culture different from their own.

Jennifer Roth began work on the Gold Award in 1994. She completed her project by cleaning, recording, and setting up a database for all of the band trophies and awards in her high school. They have received over 450 honors. This project will be one that can continue and will be of historical value to the school.

The earning of the Girl Scout Gold Award is a major accomplishment for all of these young women, and I believe they should all receive the public recognition due to them for their significant service to the community and to the country.

SALUTE TO THE UPPER MONTGOMERY COUNTY FIRE DEPARTMENT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mrs. MORELLA. Mr. Speaker, I rise today to salute the Upper Montgomery County Volunteer Fire Department, which celebrates its 50th anniversary this year.

The Upper Montgomery County Volunteer Fire Department was incorporated in 1946 as a result of a major fire in the area. Before that time, the closest firefighting and emergency medical help had to respond from a distance of 18 miles. The department has grown to serve 80 square miles and currently covers almost one-fifth of the county.

The department is comprised of 80 members, with active volunteers and career firefighters making up one-half of the membership. For 50 years, these dedicated members have willingly placed themselves in great danger so as to make the community safer for others. In volunteering to undertake the risks inherent in firefighting, they have shown a rare dedication to helping others.

From the auxiliary to the board of directors to the firefighters themselves, the Upper Montgomery County Volunteer Fire Department's members are committed to keeping the community safe and fire-free. I would like to call special attention to George T. Hillard, who has served as the elected volunteer chief for every year but one since 1958, and the five charter members who are still with us: Charles Elgin, Sr., Charles Staub, A. Leland Clark, Benoni Allnut, and R. Edwin Brown. I would also like to recognize George Reid for the many years of comfort he has provided as the chaplain for the department.

I am certain my colleagues will join me in congratulating the Upper Montgomery County Fire Department on 50 years of dedicated service, and wish them equal success in the many years to come.

TRIBUTE TO MADGELEAN BUSH

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. BENTSEN. Mr. Speaker, I rise today to pay tribute to a very special friend and community leader from Houston. Ms. Madgelean

VOL
142
PT
6
AP
15
—
24
1996
UMI

Bush will be honored this Friday as the 1996 recipient of the Joint Action in Community Service, Inc.'s [JACS] National Volunteer of the Year Award.

Ms. Bush has been a JACS volunteer coordinator for 10 years and serves as the executive director of the Martin Luther King, Jr., Community Center's halfway house in Houston. A natural leader and administrator, she supervises a staff of 45 and manages two and a half million dollars in city, county, State, and Federal funds. Among other services, she and her staff and volunteers have assisted more than 2,400 Job Corps students in their transition from Job Corps training to community readjustment and the world of work.

Ms. Bush was selected for this year's honor from a group of 10 individuals nominated as outstanding regional volunteers.

JACS Southwest Regional Director Deloris Kenerson, who nominated Ms. Bush, described her as "a dedicated, humble, yet dynamic advocate for the Job Corps program." Ms. Kenerson added, "Harris County has more students returning home from Job Corps than any other county in the Southwest region. The assistance Ms. Bush provides helps promote self-sufficiency and self-worth among the young people returning to the Houston area from Job Corps training."

Ms. Kenerson attributes much of Ms. Bush's success to the fact that she refuses to accept that what is right is not always possible. If each person does his/her small part, then what is right can be accomplished. Ms. Bush has never given any of her staff the luxury of saying, It can't be done.

When not helping Job Corps youth, Ms. Bush volunteers for a host of other worthy causes. Over two decades of service, she has contributed to the Houston Inter Faith Hunger Coalition, the Riverside Health Clinic Advisory Board, Twilight Chapter No. 393 Order of the Eastern Star Prince Hall Masons, the Dodson Elementary Advisory Group, the United Methodist Church Conference of Church and Society, and the Texas Conference of Churches. She serves as a precinct judge and a member of the Texas Democratic Executive Committee from Precinct No. 247.

The mother of a grown son and daughter, Ms. Bush enjoys her grandchildren and 150 foster children.

I am proud to call Madgelean Bush my friend and congratulate her on becoming JACS National Volunteer of the Year.

TRIBUTE TO ANNE MARIE FOY

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. TALENT. Mr. Speaker, I rise today to recognize one of my constituents, Anne Marie Foy, a student at Cor Jesu Academy who was recently awarded a Voice of Democracy Scholarship from the Veterans of Foreign Wars. Ms. Foy's essay was one chosen as a national winner from over 116,000 submitted. The contest theme this year was "Answering America's Call" and I have included her winning essay below.

Good morning friends. I come today to speak with you about an issue that is both very dear to my heart and extremely vital to our nation's well-being. I speak about our answer as citizens to America's call. Today I want to take a moment to reflect on this call and to see it in its fullness, as a necessary element of our personal democracy. I hope to inflame your American passions with these few words. In fact, I dream to awaken everything about you that defines you as an American citizen.

In the past, to be an American was to determine your own destiny. It was to have a voice in your government and to take a considerable role in the governing of yourself and of your community. Never before in the history of the modern world had autonomy been so real, so tangible, and so evident. It was our political pluralism, the sovereign contract with our government as a democratic people, and our rights to assemble and disagree with our governing figures that united us as America. It was our political views that we transformed into civic activism and our personal involvement with the government that made us strong. The freedom we enjoyed as empowered citizens of this democratic nation led us to be one of the great superpowers of the world. We had found our strength as a country in our reply to the great American call.

The truest beauty of America is her people. Under a democratic government each individual enjoys protected rights and liberties, but this political system is dependent on civic activism. Thus to enjoy your political rights, you must fulfill your responsibilities as a citizen and accept a political role. We as Americans are owners of a political mechanism designed to pursue justice, yet somehow in contemporary American society we managed to misplace the operations manual and have forgotten how to keep this beautiful machine working. If we are a government of the people, why are the people so upset at the government? In order to look at the real root problems we must first quiet our partisan babble, we must calm our nationalistic frustrations, we must look fearlessly at ourselves and then we must listen. Listening for our genuine voice is the first step. It will require patience and integrity and ultimately it will lead to an answer. How do you reply to this democratic call?

You must first reply through education. We as citizens must become knowledgeable of our history, our laws, and our government structure. If we are not educated, these institutions will cease to exist. We must strive to be aware of current issues, and how our government is responding to them. We as United States citizens are the government. We cannot shut our eyes to what our representatives are doing.

Education must be followed with action. A democratic state is dependent on this integrity. Whether we sit in on city council meetings, write letters to our government officials, or protest against things we view unjust, we must reply to the American call. If we feel far from Washington D.C. or detached from government, then we should rise up and demand straightforward dialogue. We must get past this glossy, polished, television image of the government. For we are the government. We are real. We are not polished. We are human. We have mentally separated ourselves from the government in this country. Government officials are no longer extensions of the people but, professional television personas. If we are upset with public officials, then we must vote them out of office. If we are tired of corrupt politicians, then we must speak with honesty ourselves and elect honest citizens. If we are exasperated with government programs, then we must take our seat on planning committees.

In a world where so many fought and died for their independence, for their freedom, for their autonomy, America and her people should stand as an encouraging light and example. We have so many brilliant minds, and caring hearts, and noble spirits, and yet America seems lost, somewhat bewildered about her path, her future. We are her future. Our parents, our children, our countrymen, and our very selves, we are the ones that must decide her path. First we must hear the call and then as Americans, boldly and courageously, we must answer.

THE MARCH OF THE LIVING PROGRAM

HON. HARRY JOHNSTON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. JOHNSTON of Florida. Mr. Speaker, April 16 marks Yom Hashoah, Holocaust Remembrance Day, on which we pay tribute to the memory of he 6 million Jews who died in concentration camps during World War II and take pride in programs, such as the March of the Living, which educate new generations on the Holocaust.

I was first apprised of this program by my good friend, Ernest Goldblum of Delray Beach, FL, who has worked with great love to promote this international program. Since its inception in 1988, over 20,000 high school students of Jewish heritage have traveled to various countries to visit concentration camps and witness the gas chambers, crematoria, and stockpiles of clothing and shoes left behind by the victims of the Holocaust. This important program provides young students from around the world with the opportunity to come together to learn of their ancestors' contributions, the atrocities committed against them, and the triumph of the Jewish Nation to survive and create their own state—the State of Israel.

The March of the Living Program is a compelling program that fosters a deeper understanding of the Holocaust, reminds us of the dangers of complacency, and commemorates what happened during World War II and the human spirit that triumphs with the Jewish Nation. I am encouraged by the statements made by countries, such as Austria, who have expressed an interest in participating in the March of the Living Program in the future.

SIKH NATION CELEBRATES ITS 297TH BIRTHDAY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. TOWNS. Mr. Speaker, on April 13, 1996 the Sikh nation celebrated its 297th birthday. Sikhs call this day Vaisaakhi Day. It was on Vaisaakhi Day in 1699 that the tenth Sikh Guru, Guru Gobind Singh, baptized the Sikhs into nationhood. Sikhs refer to their nation as the Khalsa Panth.

Since becoming a nation, Sikhs have experienced periods of great prosperity and periods of immense, brutal repression. Sikhs ruled Punjab from 1710 to 1716 and again from 1765 to 1849, establishing an enlightened form of government that recognized the equality of all citizens regardless of religious affiliation or social class standing. Sikhs have also persevered through periods of immeasurable oppression from Mogul invaders who desecrated the holiest of Sikh shrines, the Golden Temple in Amristar and who slaughtered Sikhs who refused to deny their faith. Throughout their entire history Sikhs have persisted in the command given to them by Guru Gobind Singh to stand up against tyranny and oppression no matter where it exist.

Today Sikhs find themselves again standing up against tyranny and oppression. This time the oppressor is the Government of India. Indian forces have murdered over 150,000 Sikhs since 1984. In June 1984 the Golden Temple was again desecrated, this time by the Indian military. In that assault, over 20,000 Sikhs were killed. In November 1984, over 40,000 Sikhs throughout India were killed by mobs instigated to murder Sikhs by leading members of the ruling Congress (I) party. According to prominent human rights activists in the Sikh homeland, the number of Sikhs who have been "disappeared" or illegally killed in "fake encounters" may be over 100,000. One Sikh human rights activist, Jaswant Singh Khalra, was abducted by Indian police on September 7, 1995 after he released a report showing that the Indian regime has abducted, tortured, murdered and cremated over 25,000 Sikhs. On October 19, 1995, 65 Members of the Congress sent a letter to Indian Prime Minister P.V. Narasimha Rao demanding Khalra's release. Mr. Khalra's whereabouts remain unknown, 7 months after his abduction.

India desperately wants the world to believe that the Punjab is a tranquil place and that Sikhs eagerly want to remain part of India. I want my colleagues in the U.S. Congress to know that the only peace in Punjab is the silence of a nation suffocating in the stranglehold of Indian repression. Every Sikh who has been bold enough to stand up and advocate the freedom of Khalistan through peaceful means has felt the immediate sting of Indian brutality. In January 1995, Simranjit Singh Mann asked a crowd of 50,000 Sikhs if they supported the independence of Khalistan through peaceful means. All 50,000 Sikhs raised their hands in support. Mr. Mann was then arrested by Indian police for asking this question despite the fact that in 1992 the Punjab and Haryana High Courts in India ruled that waging a peaceful struggle for self-determination is no offense. The hypocrisy of the Indian Government is evident. It is clear to Sikhs and non-Sikhs alike that India simply wants to prevent the Sikhs from enjoying their right of freedom.

In the face of this kind of repression, Sikhs are reminded of their duty to stand up against tyranny wherever it exists. On October 7, 1987, the Sikh nation declared itself independent from India forming the separate country of Khalistan. This Vaisaakhi Day, Sikhs are emboldened to carry on their struggle for freedom in the face of immense brutality, because to be a Sikh means either to live free of tyranny or to persistently struggle against it.

I call on my colleagues in the Congress to join me in supporting the Sikhs nation's struggle for freedom. As Americans it is our duty to do so, because like Americans, the Sikhs are a freedom-loving people struggling to break the chains of tyranny. Sikhs want to live in peace and be allowed to develop to their fullest potential. Sikh and American ideals parallel one another to a great degree, and it is my firm conviction that an independent Khalistan would be America's strongest ally in South Asia. Khalistan would form a buffer nation between India and Pakistan, thus reducing the potential for armed conflict between the two countries. Khalistan would also agree to the nuclear nonproliferation efforts currently being made by the United States and the international community in South Asia. And unlike India which depends on IMF loans and U.S. assistance to feed its people, while secretly spending billions on developing nuclear weapons and crushing freedom movements, an independent Khalistan would develop itself along the lines of a South Korea or a Taiwan, cultivating economic self-sustainability.

For America, the Sikh vision of an independent Khalistan is an attractive alternative to the current state of affairs in South Asia—a vision of economic development, nuclear nonproliferation and regional stability. Today, however, Sikhs are reeling under the boot of Indian state repression. I call on my colleagues to support the independence of Khalistan and help the Sikh nation obtain the freedom it so rightly deserves.

HONORING THE 1995–96 BASKETBALL SEASON OF THE POPE COUNTY PIRATES

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. POSHARD. Mr. Speaker, perhaps nothing in sports is as thrilling as the underdog beating the odds and having success. The story of a small-town Indiana basketball team was made famous by the movie "Hoosiers." Well, this past season, the Pope County Pirates lived out a similar story line, as this school near Golconda, IL, with an enrollment of 191 students came within one game of making the State finals. Along the way, they energized the surrounding area with their overpowering play in the regular season while displaying gritty determination in the playoffs. I would like to congratulate the players and coaches on a fantastic, record-setting campaign.

Second-year head coach Andy Palmer led his cagers to a team record 27 victories against only 3 defeats, smashing the old mark, set the year before, by 6 wins. The Pirates advanced farther in the State tournament than any previous Pope County team. winning the school's first sectional game and championship before bowing out in their maiden trip to the super-sectional. Also, they had the smallest enrollment of any school to advance to the Sweet Sixteen. The senior-led ball club dominated their opponents by an average 18½ points a game, easily winning the Greater Egyptian Conference.

Mr. Speaker, we need only remember the NCAA basketball finals 2 weeks ago or the Masters golf tournament last weekend to know how much sports provide us in terms of excitement, commitment, and emotion. The players of the Pope County Pirates have given something to their parents, friends, and community that can never be taken away, and that they can cherish for the rest of their lives. For that special gift to all of us, I thank them, and would like to read their names for the record, as well as those of the assistant coaches. cheerleaders, and management staff, as they all played an integral part of the team's accomplishments. The players: Casey Dugan, Patrick Presser, Ryan Fritch, James Joyner, Jason King, Clint Taylor, Jackie Scarborough, Brad Maynor, Mark Brueggert, Robin Pfeifer-Thompson, Rich Eddington, Dustin Turner, Jason Teitloff, Gordon Dugan, and Eric Suits. The assistant coaches: Eric Messmer and Tyler Presser. The cheerleaders, Misty Boyd, Julie Jeffords, Becky Roper, Kim Faulkner, April Vasseur, Marty Eason, Courtney Leach, Janice Shetler, Alisha Morris, Amey Hogg, Keesha Swinford , Rachel Douglass, and Kara Suits. The management staff: Brandie Simmons, Brandy Maynor, Jenny Skaggs, and Travis Kluge.

TRIBUTE TO THE FIRST BAPTIST CHURCH OF WESTON, FL

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. DEUTSCH. Mr. Speaker, today I pay tribute to the First Baptist Church in Weston, FL, which will begin a great undertaking next week as they break ground on a new 18,000-foot facility.

As south Florida has grown over the past several decades, First Baptist has played an increasingly important role in southwest Broward County. This church home has grown from a small community to what is today a family of over 900 believers.

This very special group of people have reached out to the community and have focused their energies on including everyone in Weston. Led by an ever growing ministry, their outreach programs have already been a positive influence in the lives of many.

The new facility which they are constructing will offer new space for workship and for education. This facility will also provide a recreational area for this community, as well as, for the church and Weston Christian Academy.

Mr. Speaker, in today's world in which so many are building walls, First Baptist Church is breaking them down. Their inclusive mission and programs are to be commended, and I know that if every community in our Nation shared their spirit and their mission, we would not face nearly so many problems today.

VOL
142
PT
6
AP
15
—
24
1996
UMI

ALGONQUIN ARTS COUNCIL PRESENTS A TRIBUTE TO ERA TOGNOLI

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. PALLONE. Mr. Speaker, on Saturday, April 20, 1996, the Second Annual Algonquin Arts Ball, "A Tribute to Era Tognoli," will be held at the Warren Hotel in Spring Lake, NJ. On this occasion, Ms. Tognoli will receive the Algonquin Arts Award for Outstanding Service to the Arts for her contribution to the cultural life of the Jersey Shore area as founder and director of the Metro Lyric Opera Company and the Monmouth Opera Festival. Ms. Tognoli will also receive funding to establish an operetta series at the newly refurbished Algonquin Arts Theatre in Manasquan, NJ, and to continue opera education for children.

Saturday's ball will benefit the Algonquin Arts nonprofit corporation, which seeks to bring live performance programs and arts education to the Shore community. Proceeds from last year's ball sponsored a new children's concert series presented by one of the Shore area's great artistic traditions, Father Alphonse Stephenson and the Orchestra of St. Peter by the Sea. Live productions, children's theater, and educational programs have been highlights of the past season, while programming is being expanded to include ballet, jazz, and historic dramatizations.

Mr. Speaker, I am concerned that many people, including some Shore residents, do not realize the wonderful tradition of artistic and cultural offerings in coastal New Jersey. While the Jersey Shore is known for many things, many people often assume that you have to go to New York or Philadelphia for first-rate artistic events. Not true. I salute Era Tognoli, the Council of the Algonquin Arts Non-Profit Corporation, their board of directors and their many members and contributors, for continuing to contribute to excellence in the arts and further enhancing the quality of life in that unique region we proudly call the Jersey Shore.

TRIBUTE TO THE LATE THOMAS F. QUINLAN, SR.

HON. JOHN SHADEGG

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. SHADEGG. Mr. Speaker, it is with great sadness that I announce the death of a courageous American who fought for more than four decades on behalf of the principle that no worker should be forced to pay union dues as a condition of employment.

Thomas F. Quinlan, Sr., father, husband, teacher, small businessman, and public servant, died February 11 at his home in Wheaton, IL, where he moved after retiring to be near two of his six children.

As a history teacher in New Milford, CT, for 24 years and owner of a small lakeside resort for 20 years, Tom Quinlan appreciated the importance of right to work for both workers and small businessmen.

Mr. Quinlan also served three terms in the Connecticut general assembly, from 1954 to 1960. During those years, he worked tirelessly for enactment of a Connecticut right to work law, but was frustrated by the State's powerful union political machine, fed by the forced dues of the very workers whose rights Mr. Quinlan was working to protect.

But he never gave up.

After leaving electorial politics, Mr. Quinlan carried on his efforts, to bring the benefits of voluntary unionism to Connecticut's workers by helping to found, and serving as president of, the Connecticut Right to Work Educational Committee.

Tom Quinlan was also a leader in the fight against compulsory unionism on the national level, serving as a board member of the National Right to Work Committee, which has led the fight for worker freedom across the country for over 40 years, from 1965 until his recent passing.

As a member of the committee's board, Mr. Quinlan helped guide the right to work movement through its successful battles against big labor's attempt to repeal section 14(b) of the Taft-Hartley Act in the mid-sixties, the phony labor law "reform" bill of the seventies, and the so-called anti-striker replacement bill in the nineties.

His last service to the cause of freedom was helping to launch the campaign to pass the National Right to Work Act (S. 581/H.R. 1279), which will soon be voted on in the Senate.

That Congress is even considering repeal of those sections of Federal labor law that authorize forced-dues contracts is in no small measure due to Mr. Quinlan's work.

Remembering his departed colleague, National Right to Work Committee president Reed Larson recalled his optimism, "No matter how many temporary setbacks right to work forces suffered, Tom Quinlan remained confident that our cause was just and would prevail in the end."

I stand before this body to pay tribute to Tom Quinlan's achievements and to offer my condolences to his family and friends.

All Americans owe a debt of gratitude to this former history teacher and small businessman's tireless efforts on behalf of right to work, and those of us who remain active in this fight should share Tom Quinlan's firm belief in the eventual triumph of the right to work cause.

RECOGNIZING LAW DAY AT DIABLO VALLEY COLLEGE

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. BAKER of California. Mr. Speaker, on May 1, we will commemorate Law Day throughout America. The theme of "liberty under law" is as old as our Republic, and is central to understanding who we are as a people. Freedom without just legal restrain becomes license; law not moderated by respect for human rights is merely authoritarian.

At Diablo Valley College in my home district in California, Law Day will be celebrated under the theme of "We the People: The United States Constitution—the Original American Dream." A ceremony will be held at the College's Performing Arts Center and citizens from around the Contra Costa region will enjoy a presentation of what our Constitution, our laws, and our institutions mean to us all.

I am pleased to recognize Diablo Valley College for its commitment to the legal framework of our society, and most especially the College's reaffirmation of the value of our Constitution. The American Dream—a dream of "freedom and justice for all"—is alive and well, and Diablo Valley College deserves recognition for its role in honoring some of the best of our traditions.

A TRIBUTE TO THE HONORABLE RON BROWN FOR DISTINGUISHED SERVICE TO U.S. CITIZENS

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. SENSENBRENNER. Mr. Speaker, I rise today to pay tribute to the late Secretary Ron Brown, an American who distinguished himself as a leader in the Democratic Party and an outspoken supporter of free trade while serving as Commerce Secretary.

During his youth, Mr. Brown excelled in school. His success led him to Middlebury College in Vermont, which he attended on a ROTC scholarship. After graduating in 1962, Mr. Brown entered the Army and rose to the rank of captain.

Throughout his life he held many important positions in both the private and public sectors. Secretary Brown ably assisted Senator KENNEDY on his staff and with the Judiciary Committee. In addition, he was a highly sought lobbyist with Patton, Boggs & Blow.

Mr. Brown impressively unified the Jesse Jackson and Michael Dukakis supporters at the 1988 Democratic National Convention. His efforts propelled him to chairman of the Democratic National Committee, where he ably served for 4 years, culminating in Bill Clinton's 1992 election. Ron Brown deservedly received much of the credit for his work with the Clinton campaign.

Over the past 3 years, Mr. Brown had directed his efforts toward improving trade and commerce for the United States. He served as a proud emissary for American interests.

Mr. Brown was a talented and tireless adversary on the campaign trail as well as a distinguished member of the Clinton administration serving on behalf of the American people. I offer my condolences to the family and friends of Secretary Ron Brown.

IN RECOGNITION OF OPPORTUNITY INC.

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. PORTER. Mr. Speaker, I am pleased to rise today to recognize Opportunity, Inc., an outstanding organization located in Highland Park, IL.

Opportunity, Inc. is a unique, not-for-profit contract manufacturer that employs 150 persons, 80 percent of whom have developmental, physical and/or emotional disabilities. Founded by local construction executive John Cornell in 1976, who still serves on the board of directors, the company will be celebrating its 20th anniversary on May 7, 1996 at a benefit dinner to be held at the Hotel Nikko in Chicago, IL.

The company's mission is twofold: First, to provide a mainstream plant environment in which handicapable persons can work and earn a paycheck along with the dignity that comes from being employed productively on a full-time basis; and second, to provide its private sector customers with the best possible quality, price, and service.

In this age of fiscal restraint, Opportunity, Inc. stands as an outstanding example of how to accomplish an important social mission without using any Government subsidies. The key to the company's success is its determination to compete for business strictly on the basis of quality, price, and service.

Mr. Speaker, Opportunity, Inc. has demonstrated how competitive and productive handicapable employees can be. Opportunity, Inc. built and continues to operate the only not-for-profit, certified class "clean room" for medical and surgical packaging in the country. So stringent is Opportunity's commitment to quality that it has not had a lot rejected by its major medical/surgical customer—Baxter International—for more than 6 years.

Most important of all, however, is the pride of workmanship that you sense when you visit Opportunity, Inc. During a recent visit, I experienced firsthand how dedicated and competitive these employees are about their work. One man in his thirties said it best of all: "Congressman, all we need is a fair chance to compete. That's what we get here at Opportunity and just look at the results."

I am pleased to send congratulations to the employees, management and directors of Opportunity, Inc. on the occasion of this remarkable company's 20th anniversary, along with best wishes for their continued success into the next century. I also commend Opportunity, Inc. as a worthy example to my colleagues, who believe, as I do, that we must look to the private sector and to the local level for alternative solutions to difficult social problems such as unemployment among those with disabilities.

A TRIBUTE TO HARRY LARRISON, JR.

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. ZIMMER. Mr. Speaker, I rise today to honor a remarkable individual, Mr. Harry Larrison, Jr. of Ocean Grove, NJ. Mr. Larrison will be honored on Wednesday, April 17, 1996, at a testimonial dinner commemorating 30 years of service to the U.S. Freeholders. His years of service merit him the honor of being the dean of the U.S. Freeholders. I am proud that I have known Harry for many years both as a friend and a colleague in the State of New Jersey.

Harry's involvement in politics began at the age of 19 when he received an appointment to the Neptune Township Housing Authority. He went on to fill a vacancy and get reelected twice to the Neptune Township Committee. In 1966, Harry was asked to fill a vacancy on the Board of Chosen Freeholders. His appointment to this position began what has become a legacy of public service.

Over the years, Harry has been instrumental in the progressive development of Monmouth County government. The county has a number of distinguished facilities that can be attributed to Harry's dedication and insight, including an award-winning park system, the largest library system in New Jersey, and the county-owned Brookdale Community College.

Harry's foresight allowed him to recognize and develop a solution to the impending environmental problems associated with garbage waste disposal in Monmouth County. Despite significant opposition, Harry championed the development of a county-owned landfill which has improved the environment and generated a recycling problem that became the model for many programs around the State.

In 1995, Gov. Christine Todd Whitman appointed Harry to a seat on the prestigious New Jersey Highway Authority. In addition, he has served the State as a member of the State Department of Civil Service Intergovernmental Advisory Committee and as a former president of the New Jersey Association of Counties.

Harry Larrison remains an active member of the Eagle Hook and Ladder Fire Company of Ocean Grove where he served as chief. He also is a member and former captain of the Ocean Grove First Aid Squad, a member of the Neptune Township Citizens Advisory Committee, a member of the Ocean Grove Masonic Lodge No. 328, and Elks Lodge No. 128 of Asbury Park.

Although Harry has dedicated much of his life to Monmouth County and the State of New Jersey, nothing is more important to him than his family. I join his two daughters and two grandsons in thanking for his many years of dedication and service and wishing him all the best for the future.

AMERICA'S CABOTAGE LAWS ARE VITAL TO THE SUCCESS OF OUR U.S. FLEET

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. CUNNINGHAM. Mr. Speaker, earlier this week, all 14 members of the National Security Committee's Special Oversight Panel on the Merchant Marine circulated a "Dear Colleague" letter expressing our strongest support for America's cabotage laws, including the Jones Act, and our continuing opposition to changes in these laws. Effective at the beginning of this Congress, the National Security Committee became the committee of primary jurisdiction over cabotage matters such as the Jones Act. In addition, a majority of the members of the Coast Guard and Maritime Transportation Subcommittee also signed the "Dear Colleague."

In the letter, we noted the national security, economic, environmental and safety benefits of the cabotage laws. I have a particular interest in the national security importance of the U.S. fleet. Recently, 61 retired Navy admirals, including five former Chiefs of Naval Operations, penned an open letter to Congress calling the commercial maritime infrastructure of the United States—the domestic vessel operators, shipyards, seafarers and others operating under the cabotage laws—the true source of our maritime power. This is an extraordinary endorsement from the people who know best.

This "Dear Colleague" sends an unmistakable message to those who have spent the last year attempting to tear down the Jones Act and allow foreign ships into our domestic commerce. The Merchant Marine Panel's commitment to America's cabotage laws is unanimous. Although those 14 members—Democrats and Republicans, liberals and conservatives—disagree on many issues, there is an absolute agreements on the importance of cabotage. We will continue to oppose any changes to these important laws.

A copy of the "Dear Colleague" letter is attached. Signers of the letter include Representative HERB BATEMAN, chairman of the Merchant Marine Panel; Representative GENE TAYLOR, ranking member of the panel; Representative DUNCAN HUNTER, chairman of the Subcommittee on Military Readiness; Representative RON DELLUMS, ranking member of the full National Security Committee; Representative BOB CLEMENT, ranking member of the Coast Guard Subcommittee; Representative RANDY "DUKE" CUNNINGHAM; Representative WILLIAM J. JEFFERSON; Representative CURT WELDON; Representative JIM LONGLEY; Representative BOB BORSKI; Representative JOE SCARBOROUGH; Representative NEIL ABERCROMBIE; Representative TILLIE K. FOWLER; Representative JIM SAXTON; Representative PATRICK KENNEDY; Representative OWEN PICKETT; Representative DON YOUNG; Representative JANE HARMAN; and Representative SUSAN MOLINARI.

CABOTAGE LAWS PROVIDE IMPORTANT NATIONAL BENEFITS

DEAR COLLEAGUE: Congress has always supported the principle that vessels used to

VOL
142
PT
6
AP
15
—
24
1996
UMI

transport cargo and passengers between U.S. ports should be built in the United States, crewed by American citizens, and owned by American companies. The body of law affirming this principle is known as "cabotage" and is sometimes generically referred to as the Jones Act. (Other countries throughout the world, including major industrialized nations and key U.S. trading partners, have similar cabotage laws.) These laws provide critical national security, environmental, safety and economic benefits and deserve our support.

The national security benefit of the domestic fleet is substantial. In times of international crisis, the U.S. domestic fleet keeps goods flowing reliably and securely between U.S. ports, supporting military action overseas. In times of peace the cabotage laws help assure a vibrant, competitive marine infrastructure so critical to our nation's security. A recent letter to Congress from 61 retired Navy admirals, including five former Chiefs of Naval Operations, stressed the importance of the domestic fleet:

American maritime power is the sum of our national maritime infrastructure . . . Carrier battle groups and modern containerships are at the forefront, militarily and economically. However, it is the shipyards and their skilled artisans, the pool of experienced and trained seafarers, marine suppliers large and small, vessel insurers and financiers, and the federal, state and private maritime training establishments that constitute the true source of our total power.

Of particular significance, the U.S. fleet provides vessels and crews to meet U.S. security needs without requiring the Defense Department—and hence the taxpayer—to bear the substantial costs of building, manning, and maintaining a government fleet and logistics capacity already provided by the private sector.

Repeal of the cabotage laws would result in a takeover of our domestic waterborne transportation system by foreign companies. Those foreign companies could enjoy a significant competitive advantage by: 1) operating subsidized vessels (U.S. domestic fleet vessels are not subsidized); and 2) operating exempt from the American tax system, labor laws, safety statutes, environmental requirements and a host of other laws. Our maritime industry—as well as railroads, truckers, and others engaged in the competitive American transportation business—should not be asked to compete here under a system that institutionalizes a capital and operating cost advantage to foreign operators. The American government must not discriminate against American business in this fashion.

The cabotage laws promote the highest standards of marine safety and environmental protection in U.S. ports and waterways. These laws ensure that vessels moving between U.S. ports comply with the full range of applicable environmental and safety laws, all of which are among the world's highest. The U.S. Coast Guard's ongoing "Port State Control" initiative, which aims to crack down on substandard foreign-flag vessels calling at U.S. ports, underscores the important contribution made by the cabotage laws in preserving the health of our resources-rich waters and coastlines.

Finally, because of our cabotage laws, the economic benefit of the U.S. domestic fleet is substantial. Our fleet pumps some $15 billion into the nation's economy annually, including $4 billion in direct wages to the 124,000 American workers employed in the operation, construction, and repair of Jones Act vessels. Jones Act wages alone generate $1.4 billion in Federal and state tax revenues. Because the domestic fleet receives no operating or construction subsidies from the U.S. government, these benefits accrue to the nation at no expense to the federal government or to the U.S. taxpayer.

American cabotage laws greatly benefit the U.S. national security, economy, and natural environment and deserve our committed and continuing support.

THE LEGACY OF JIM ROUSE

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. LAZIO of New York. Mr. Speaker, when I decided last Wednesday that I wanted to come to the floor to speak about Jim Rouse, I realized that there is a lot to talk about. Jim's involvement in housing and community building spans seven decades and represents some of the most important changes in how this country lives.

Jim Rouse's legacy is enormous, but it is more than creating the idea of a shopping mall. It's more than a Presidential Medal of Freedom. It's more than his work for the Federal Housing Administration in its infancy during the Great Depression, when it played such an important part in Americans lives and forged a new path for home finance. His legacy is more than the work he did for President Eisenhower's task force on housing in 1953 or for President Reagan's task force on private housing in 1982.

Jim Rouse's legacy goes beyond places like Columbia, MD, a town not far from this very building where his vision of integrated, economically varied community of families took root. His legacy is more than the revitalized urban areas in Boston and Baltimore and other cities across the country whose citizens owe him such a debt for his hard work and vision of the healthy and vibrancy that their neighborhoods and communities could regain.

Jim Rouse's legacy goes beyond even the Enterprise Foundation that he created in 1982 with his wife Patty and the goal of seeing that all low-income people in this country should have decent housing and an opportunity to pull themselves out of poverty.

Jim Rouse's most important legacy is his belief that we, as a Nation and as a national community, cannot and will not abandon cities and the families and people who live in them. We must embrace inner-city neighborhoods and work to improve their economies and to renew their vibrancy. Jim Rouse believed in the importance of cities both as centers of commerce and as a fundamental basis of what makes up our national identity—our fundamental American character.

It's a proud and potent legacy.

More than 10 years ago Jim Rouse said in an interview that "we need to work from the neighborhoods, from the bottom up" to create the necessary systems to deal with low-income families and poverty-stricken neighborhoods. He was pursuing just that kind of model when he died. His work in Baltimore's Sandtown-Winchester community tried to address all of the needs of a dysfunctional community—housing, education, health care, public safety and employment—to create a community based strategy.

Mr. Speaker, this country was very fortunate, not only to have had him a part of our national community, but to have had him play such an important role in shaping our national character and in defining not only who we are, but who we ought to be. I hope that we can continue to work in the spirit Jim Rouse inspired.

IN RECOGNITION OF DAN RIEDL'S "ANSWERING AMERICA'S CALL" WINNING COMPOSITION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. OXLEY. Mr. Speaker, I want to take this chance to recognize Daniel Riedl, the Ohio State winner of the Voice of Democracy broadcast contest. This competition is sponsored by the Veterans of Foreign Wars and its Ladies Auxiliary.

Mr. Riedl exemplifies the civic and patriotic strength of much of today's youth. Mr. Riedl recounts the story of his immigrant grandfather who came to this country and worked his way through our educational system to earn his doctorate. His grandfather also defended this country in World War II. The United States is the land of freedom, but it is also a land where determined individuals use this blessing for a greater good. Mr. Riedl's grandfather did this and Mr. Riedl continues this responsibility today. America is the land of opportunity, but it would not be so if there were no people like the Riedls, who are willing to defend its ideals. I congratulate Daniel Riedl and his stirring account of freedom, responsibility, and sacrifice.

TRIBUTE TO RICHARD LEROY LEHNER

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. CAMP. Mr. Speaker, it is with great pleasure I rise today to congratulate Comdr. Richard Leroy Lehner of Sumner, MI, on his retirement as Michigan's State Commander of Foreign Wars.

Mr. Lehner has a long and distinguished career with the Veterans of Foreign Wars, first joining with the Mark Daniels V.F.W. Post #1735 in 1986. After years of hard work, and endless dedication, Richard was proudly elected as State commander on June 18, 1995.

His motto while State commander was "One Step Ahead" which clearly represents not only his personal commitment, but also the immense role he played in the progress and development of the V.F.W. Under Mr. Lehner's leadership were 86,479 members in the State of Michigan with 431 posts, 14 districts, and 10 county councils.

Mr. Speaker, Richard Lehner's active participation in the V.F.W. and community has

earned him the respect and admiration of friends, family, and fellow community leaders. Richard's love of and dedication to this country and the American veterans is clear. He has consistently gone beyond what was expected or required to achieve excellence. His reputation as an honest, dedicated, hard-working public servant will serve as an example for many years to come. I know you will join me in recognizing his achievements and wishing him a satisfying retirement.

SARAH L. WATSON-BLANDING

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. TOWNS. Mr. Speaker, I want to recognize the contributions of one of Brooklyn's most committed community activists, Sarah L. Watson-Blanding.

Sarah is a native of Cameron, SC, and the daughter of Mrs. Hester Bookhardt and Mr. Richard Watson. After an early education from Orangeburg, SC, schools, she graduated from Claflin College with a major in Social Science and a minor in Education. Sarah also did graduate work at New York University.

For the past 25½ years, Sarah Blanding has been an outstanding employee with the Department of Labor. For her work, Sarah received both the Merit Award and the Julius Shapiro Youth Award for the highest placement of youth in New York City.

Sarah has continued her collegiate activism with the Zeta Phi Beta Sorority and the NAACP. She is also an energetic member of the New Canaan Baptist Church and is presently the president of the Brooklyn Alumni Association of Claflin College. Sarah and her husband Jesse have one daughter, Renee, a graduate of Brown University who resides in Atlanta.

I comment Sarah Watson-Blanding on her exceptional commitment and dedication to youth and the Brooklyn community at large.

PHARMACIST'S PATIENTS PROTECTION ACT OF 1996

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. CRAPO. Mr. Speaker, I rise today to introduce the Pharmacist's Patients Protection Act of 1996. This legislation relates to an everyday common occurrence, namely getting a prescription filled at your local pharmacy. As we all know, when you go to your pharmacy for a prescription, the pharmacist not only offers to counsel you on how to take your medication safely and effectively, but the pharmacist also provides detailed written information that is understandable and user friendly when the prescription is dispensed.

Through the use of computer technology, consumers routinely receive written information about prescription drugs from their pharmacist in a variety of retail settings, such as pharmacies' located in supermarkets, chain drug stores and independent pharmacies. And not only are pharmacists providing the information voluntarily, more importantly this written information is often specifically tailored to the particular needs of the patient in order to achieve the maximum benefit from the prescribed medication.

I applaud community pharmacists for their dedication and commitment in this important area of patient education and information, but apparently these voluntary efforts aren't good enough for the Food and Drug Administration. Even though every survey conducted since 1994 shows that patients routinely receive written information on both new prescriptions and refills, FDA has decided that it wants to mandate this aspect of pharmacy practice and to restrict pharmacists so that only the information that FDA deems appropriate is distributed to patients.

In other words, FDA knows better than your personal physician and your pharmacist regarding the information you should receive. And on top of this, FDA wants everybody to get the same information, no matter whether you are elderly, a young child, male, female or pregnant.

The cost of this particular FDA initiative, called the Medguide Program will exceed $100 million each year to mandate what pharmacists are already doing voluntarily right now. FDA's Medguide Program is unnecessary, very costly and is the wrong approach.

Additionally, I should mention that FDA's Medguide Program exceeds the agency's statutory authority. While FDA does have legal authority over the content of a drug manufacturer's labeling and advertising, FDA has no authority whatsoever over the professional practice of pharmacy. Standards of professional practice, including patient care, counseling and the dissemination of written information to patients has always been and still are the responsibility of state boards of pharmacy—not FDA.

In summary, Mr. Speaker, the legislation I am introducing will prohibit the FDA from using any of its funding to implement its proposed Medguide Program.

We don't need this costly mandate from the FDA when the competitive retail pharmacy marketplace is making great strides in providing consumers with meaningful, accurate and easily understood written information about prescription drugs. I urge my colleagues to cosponsor and support the Pharmacist's Patients Protection Act of 1996. Let's stop the misguides Medguide Program.

RECOGNITION OF CONGREGATION AM SHALOM'S MITZVAH DAY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. PORTER. Mr. Speaker, I am pleased to rise today to recognize Congregation Am Shalom of Glencoe, a synagogue in the 10th District of Illinois whose members are making a positive and wonderful contribution to our community.

Congregation Am Shalom has designated Sunday, April 28, 1996, as a Mitzvah Day. In the Jewish religion, a mitzvah is a commandment to perform acts of kindness to others. Mitzvah Day will be a voluntary, congregationwide community service endeavor to reach out with philanthropic hearts and resolute hands to the surrounding community and to help people in all walks of life.

As many as 1,000 Am Shalom volunteers will take part in worthwhile projects on that day, including repairing and painting homes, delivering home-cooked meals to the homebound and the elderly, taking children on outings, and cleaning up local parks. In all of these ways, they will touch the lives of others.

Mr. Speaker, Am Shalom's commitment to make a difference through these various projects should not only be recognized, but applauded. I am proud to represent a district that includes people with such tremendous volunteer spirit, and I am pleased to recognize am Shalom's community leadership and to praise the outstanding contributions of every participant in the April 28 Mitzvah Day.

TRIBUTE TO RON BROWN

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. FARR of California. Mr. Speaker, it is with great sadness that I rise today to salute a man who did more to advance U.S. economic interests at home and abroad than any other in our nation's distinguished history. Ron Brown, whose other accomplishments include revitalizing the Democratic party and advancing race relations in America, died tragically 2 weeks ago on a trade mission in Bosnia.

As Commerce Secretary, Brown was accompanied by 34 other brave Americans, one of whom was my constituent. Adam Darling, a 29-year Commerce Department assistant who offered to bike cross-country from his Santa Cruz, California home to promote Bill Clinton's 1992 presidential campaign, also lost his life on that terrible flight. I had the honor of saluting Adam's life last Friday, along with the First Lady, his family and friends at a touching memorial service. He will be sorely missed by all.

Adam was on board, because as President Clinton put it, Ron Brown could see in him and the others "the promise of a new tomorrow and he knew they needed someone to reach down and give them the opportunity to serve." Ron Brown was truly one of a kind.

The son of a hotel manager, Ron Brown grew up in black America but bridged the gap between white and black from the earliest years of his life. Attending white private schools, Brown went on to be the only African-American in his class at Middlebury College, where he forged the desegregation of his fraternity. He later attended St. John's University Law School and subsequently worked as a prominent attorney in the largely white world of law. After that, Ron Brown became the first African-American chairman of the Democratic National Committee. As former National Urban League chief John Jacob said, "Ron could accomplish anything, because he didn't believe he coundn't do it.

VOL
142
PT
6
AP
15
—
24
1996
UMI

As Commerce Secretary, Ron Brown worked tirelessly to promote our economic interests both here an around the globe. He firmly believed that free, but fair trade was one of the best ways of advancing our country's national interests as we move into the 21st century. It was for this reason that Ron Brown enthusiastically led his mission to Bosnia. He believed that the untapped possibilities of the war-torn region held untold possibilities for the United States.

I personally have had the pleasure of working with Ron Brown on a number of occasions. Before his untimely death, he and I had been developing a unique initiative of sustainable development for my congressional district. We both eagerly looked forward to harnessing the creative energy of public and private enterprise to forget this new national model.

I don't believe a day has gone by since the tragic accident that I have not mourned what this country will miss without Ron Brown, and the others aboard his plane. While the important work of the Commerce Department will surely continue, America will never recapture the potential that traveled aboard that flight. We can never replace the enormous possibilities that traveled with Ron Brown.

IN RECOGNITION OF OFFICER KENNETH L. PONTIOUS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. STARK. Mr. Speaker, today I would like to join my constituents in commemorating the retirement of Officer Kenneth L. Pontious. Officer Pontious is retiring after 28 years of service to the community and citizens of Union City.

During his 28 years of service, Officer Pontious has contributed to the Union City Police Department in many different capacities. He has served as a Motorcycle Patrol Officer. In addition, he has worked as a Traffic Officer and a member of the Special Enforcement Response Team.

Officer Pontious has also assisted the community as a School Resource Officer giving his time directly to our young people. Finally, Officer Pontious has worked as a Field Training Officer, Rangemaster and Police Explorer Post Adviser.

Therefore, Mr. Speaker, I come before you today celebrating with my constituents the career of Officer Kenneth L. Pontious. I hope you and my colleagues will also join me in congratulating him for his contribution to the community.

IN MEMORY OF JOSE RIOS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a young Texas hero—Jose Rios, a 17-year-old who rescued a young boy from a house fire before tragically losing his own life during another heroic effort to save the life of the boy's brother.

There are no words to adequately express our sorrow when one so young, acting in such a courageous manner, should be taken so tragically. To his family and friends in the small community of Royse City, where he lived, he is a genuine hero. And as is common in small communities across America when tragedy strikes, the citizens of Royse City have united in their efforts to help the families of the victims and to make sure that Jose Rios will forever be remembered for his selfless act of courage.

Early in the morning of February 20, 1996, a fire broke out from a space heater in the bedroom shared by 11-year-old Aron Carreon and his 7-year-old brother, Ramon. Jose observed the fire coming from his neighbors' house and rushed over to help. He broke through the bedroom window and carried the wheelchair-bound Ramon to safety, apparently with the assistance of Ramon's brother, Aron. Without stopping to think of his own safety, Jose rushed back into the burning house in an effort to save Aron, but he was overtaken by smoke. Rescue efforts by the local fire department ended in vain. Both Jose and Aron died of smoke inhalation.

Jose was a student at Royse City High School. Principal Ruth Cherry said, "He's a hero. He helped a lot of the students who are new from Mexico. We'll miss him. I'm so happy to have known him." Aron was a student at Royse City Elementary School, where Principal Gary Evers described him as a "wonderful boy" who was respected and loved by everyone.

Royse City has been deeply moved by this act of courage and by the premature deaths of these two young boys. The story was carried in area newspapers. A memorial fund was established. There are plans for a permanent memorial. Jose Rios deserves this recognition, Mr. Speaker, and he deserves our respect. So as we adjourn today, I would like to ask my colleagues to join me in paying tribute to this courageous young Texan, Jose Rios, and to his young neighbor, Aaron Carreon, who died along with him. They will be missed by all those in Royse City who knew and loved them.

And they will be remembered. Jose Rios will be remembered as a genuine hero, one who gave his life to save the life of another. Mr. Speaker, Jose Rios is a hero for all times.

MEMORIALIZATION OF BRIG. GEN. RICHARD J. DIRGINS, U.S. ARMY RESERVE CENTER

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. TIAHRT. Mr. Speaker, the first officially named U.S. Army Reserve center located outside of American territory will be dedicated in the memory of Brig. Gen. Richard J. Dirgins on April 19, 1995, in Schwetzingen, Germany. Dirgins, a native of Fairfield, CT, and an alumnus of Norwich University, Vermont, led the 7th Army Reserve Command for almost 7 years. The general died January 14, 1995, just months after relinquishing command of the 7th ARCOM, which has 23 Army Reserve units in Germany and Italy. Presently 11 of the command's units are mobilized in support of Operation Joint Endeavor.

Dirgins's many years of service in the Army will be remembered in an outdoor ceremony at Tompkins Barracks that will include the unveiling of a bronze plaque and a portrait and the planting of a tree outside the building which will bear his name.

321ST MISSILE GROUP, GRAND FORKS AFB, ND

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. DORNAN. Mr. Speaker, I rise today to pay tribute to the dedicated young men and women of the U.S. Air Force 321st Missile Group at Grand Forks, ND. The 321st, commanded by Col. Robert P. Summers, is currently undergoing a very stressful but highly successful realignment of Minuteman III intercontinental ballistic missiles [ICBM's] while at the same time maintaining an active nuclear deterrent force. Despite the apparent end to the cold war, recent tensions with mainland China and elsewhere in the world clearly demonstrate the need to maintain a reliable and effective ground-based nuclear deterrent force. Colonel Summers and everyone in his command are to be commended for their personal sacrifice, professionalism, and dedication towards ensuring we have the best nuclear deterrent in the world both today and tomorrow. I am including for my colleagues a copy of the mission statement, values, and strategic goals for the 321st Missile Group, as well as a unit history. Again, to Colonel Summers and everyone in the 321st—job well done. And may none of us ever forget the 321st motto: "Global Power for Peace."

321ST MISSILE GROUP HISTORY

Serving in defense of its country, the 321st Missile Group has undergone a comprehensive hardware metamorphosis over the past 40 years. The development of the 321st Missile Group began June 26, 1942, as the 321st Bombardment Group (Medium); assigned under Twelfth Air Force. The group flew B-25 Mitchell bombers in the Mediterranean theater from March 7, 1943, to September 12, 1945. For their flying accomplishments the group was awarded two Distinguished Unit Citations. The group was later deactivated September 12, 1945, at Pomigliano, Italy, and returned to the United States. The 321st reactivated as an Air Force Reserve unit under 15th Air Force and designated the 321st Bombardment Group (Light) on March 31, 1946. It was again inactivated on June 27, 1949.

The 321st reactivated at Pinecastle AFB, Fla., under Second Air Force as the 321st Bombardment Wing (Medium) Dec. 15, 1953. The wing flew the B-47 strategic bomber and won the Fairchild Trophy in the 1957 Strategic Air Command annual bombing, navigation and reconnaissance competition. During this period, the wing transferred from Second Air Force to the 6th Air Division under

Eighth Air Force Jan. 1, 1959. With the phase-out of the B-47, the unit deactivated again Oct. 25, 1961.

On Nov. 1, 1964, the Air Force again activated the 321st, this time as the 321st Strategic Missile Wing. The Missile Wing found a home at Grand Forks Air Force Base and assigned to the 4th Strategic Aerospace Division under Second Air Force. In 1965, the 446th, 447th, and 448th Strategic Missile Squadrons were activated. Together, they worked toward making the 321st the first operational Minuteman II Intercontinental Ballistic Missile Wing in Strategic Air Command on Dec. 7, 1966. The 321st became the first unit to deploy the LGM-30F Minuteman II Intercontinental Ballistic Missile.

In 1969, the wing won the Blanchard Trophy for excellence during the annual SAC missile combat competition, becoming the only wing in the Air Force to win top awards for both bombardment and missile excellence. The 321st Strategic Missile Wing won the Blanchard Trophy again in 1969, 1974, and 1987.

From 1970 until 1988, the wing fell under Fifteenth Air Force's 57th Air Division, and later the 4th Air Division. Between 1971 and 1973, the wing changed weapons systems turning over Minuteman II's for Minuteman III's.

After 18 years with Fifteenth Air Force, the 321st Strategic Missile Wing was reassigned to the Eighth Air Force when the 42nd Air Division came to Grand Forks Air Force Base June 16, 1988. Under the Eighth Air Force, the 321st Organizational Missile Maintenance Squadron received the Air Force Outstanding Unit Award from 1988 through 1990. Strategic Air Command also selected the 448th Strategic Missile Squadron as the ICBM Operational Squadron of the Year for 1990.

On Sept. 1, 1991 during a reorganization, the 321st was redesignated the 321st Missile Wing and assigned under the newly reactivated Twentieth Air Force with the inactivation of the 42nd Air Division. Then on June 1, 1992, the 321st Missile Wing became assigned to the newly formed Air Combat Command. While in the Air Combat Command, the 321st continued a tradition of excellence when in 1992 Air Combat Command named the 447th, ICBM Missile Squadron of the Year.

On May 1, 1993, Detachment 3, 37th Air Rescue Squadron was redesignated as the 79th Rescue Flight. The change realigned the bases HH-1H Huey helicopters, pilots, and support personnel under direct control of the 321st Operations Group commander.

Further changes in the Air Force resulted with the 321st Missile Wing being realigned from Air Combat Command to Air Force Space Command on July 1, 1993. The missile wing's move transferred the daily management of the Air Force's land-based intercontinental ballistic missiles to a command familiar with missile and rocket technology.

On Nov. 1, 1993, the 321st Organizational Missile Maintenance Squadron earned the Air Force Space Command Maintenance Effectiveness Award, and later went on to win the award at the Air Force level.

The 321st Missile Wing was redesignated the 321st Missile Group on July 1, 1994, due to a command-level reorganization. On 12 August 1994, Security Police from the 321st Missile Group placed third out of eleven teams during the 1994 Peacekeeper Security Police Competition. In November, the 321st underwent its first 20th Air Force Combat Capability Assessment under the revised inspection system. The 321st did well with particularly high marks by the Codes and Pneudraulics flights, Operations Support Squadron Security Police, and with all Missile Combat Crews passing evaluations.

On April 4, 1995, the 321st Missile Group welcomed a group of Russian inspectors as one of the first Strategic Arms Reduction Treaty (START) inspection took place. The inspection was a multilateral arms control treaty between the United States and successor states to the former Soviet Union. The inspection marked a significant day in the history of Grand Forks Air Force Base.

On July 7, 1995, the 321st Missile Group dedicated the headquarters building in honor of the first commander of the 321st, Brigadier General Robert D. Knapp. The dedication was in conjunction with a 321st Association Reunion, and the annual "Friends and Neighbors Day." Twentieth Air Force Commander Major General Robert Parker presided over the 321st Association Banquet as 321st veterans and retirees were honored.

In 1995, the 321st Missile Group was directed to realign its Minuteman III force, and now has a dual mission. Its mission now is to both operate, maintain and secure combat-ready ICBM forces for the National Command Authority; while at the same time, safely and securely transfer its alert responsibilities to the 341st Missile Wing at Malmstrom AFB, Montana. The mission realignment involves the transfer of 120 missiles to Malmstrom, and 30 missiles to the Ogden Air Logistics Center, Utah. This process started in October 1995 and is expected to take three years to complete.

OUR MISSION

Professional Warriors Operating, Maintaining, And Securing Combat Ready ICBM Forces For the National Command Authority.

OUR VALUES

Integrity—Commit to truth, morality, and honesty in all that you do.

Courage—Physical, moral, and mental bravery to make the right decision.

Competence—Strive to be an expert.

Tenacity—Stubborn persistence to mission.

Service—Dedicated to a higher purpose and to customer satisfaction.

Patriotism—Sacrifice for greater good and do what is best for our most important customer.

Teamwork—Respect and commitment to each other, above self in mission.

Loyalty—Faithful allegiance to yourself, to each other and the mission.

Pride—Take delight in both your actions and the actions of your teammates.

Self-Discipline—Display and require the correct pattern of behavior at all times.

Openness—Willingness to listen and consider the views of others.

OUR KEY RESULT AREAS

KRA 1—reliable weapon system.
KRA 2—mission ready people.
KRA 3—safe practices.
KRA 4—secure weapons system.

OUR STRATEGIC GOALS

Maximize our ICBM combat capability.
Enhance safety and nuclear surety.
Embrace our environmental responsibility.
Practice a healthy lifestyle.
Nurture professional development.
Foster a quality improvement culture.

TRIBUTE TO JOHN MACRI

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. JACOBS. Mr. Speaker, surely in God's eyes greatness is measured mostly by kindness. By that measure John Macri was one of the greatest of God's children ever to live.

His restaurant, the Italian Village, was not only a landmark in Indianapolis, but an institution and a legend as well.

Few serve humanity better than restaurateurs. They provide not only food and drink, but very special occasions especially for those who have to count their pennies and save up for the proverbial night out—no cooking and no dishes to wash.

Indianapolis mourns his death and celebrates his wonderfully kind and generous life.

[From the Indianapolis Star, Mar. 30, 1996]

SILVO JOHN MACRI, RESTAURANT OWNER AND NUMEROLOGIST

Services for Silvo John Macri, 70, Indianapolis, retired owner of Italian Village Restaurant and numerologist, will be April 2 at 1 p.m. in Flanner & Buchanan Broad Ripply Mortuary and at 3 p.m. in Sacred Heart Catholic Church. Calling will be from noon to 8 p.m. April 1 in the mortuary.

He died March 26.

Mr. Macri owned and operated the restaurant 43 years, retiring in 1994. When the restaurant was located in Carmel, it was called The Macri Family Italian Village.

He was a professional numerologist for thousands of people, including pianist Liberace, mentalist the Amazing Kreskin and actress Rita Moreno. Mr. Macri was an instructor of numerology and held workshops throughout the country. He also cohosted the John and Jan Show of WIFE radio in 1980–81.

He founded Realities Inc., PSI Inc., Perceptions Inc., A course in Miracles Central Indiana study group and The Seven Inc. He cofounded Indianapolis Meals on Wheels and Indiana Growth Center. He was a charter board member of Indianapolis for Free University and a council member of Unity and Indianapolis Diversity.

He was the author of Message of the Numbers.

He was an Army veteran of World War II.

Memorial contributions may be made to Hear My Voice. Protecting Our Nation's Children, P.O. Box 314, 2138 Broad Ripple Ave., Indianapolis 46220.

Survivors: children Toni Macri-Reiner, Gina Hayden, Victor, Katelyn Macri, Giovanna Macri-Russell; sisters Vera Agostino, Ida DeBlase; brother Joseph Macri; nine grandchildren; three great-grandchildren.

SALUTE TO THE U.S. BUREAU OF RECLAMATION AND THE SALT RIVER PROJECT

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. STUMP. Mr. Speaker, today I rise to salute the U.S. Bureau of Reclamation and the

VOL
142
PT
6
AP
15
—
24
1996
UMI

Salt River Project [SRP] for their historic commitment to secure water resources for the economic vitality of central Arizona.

These two organizations worked together at the turn of this century to build the Theodore Roosevelt Dam, located about 80 miles northeast of what is today downtown Phoenix. On April 12, SRP and the Bureau, along with the Flood Control District of Maricopa County, a coalition of six Phoenix-area cities and the Tonto National Forest, will rededicate Roosevelt Dam. Over the last 5 years, these parties have worked together to add 77 vertical feet to Roosevelt Dam, providing for flood control and safety of dam storage as well as additional water conservation storage.

This $430 million reclamation safety of dams project, the largest in the Nation, will provide the metropolitan Phoenix area with additional water-storage capacity and a greater margin of safety from natural disasters like earthquakes and flooding.

On this historic occasion, I would like to review the background for this important Federal legislation. On the morning of June 5, 1976, Teton Dam, built in a steep-walled canyon 40 miles northwest of Idaho Falls, ID, failed. Thousands of farms and homes were washed away. Eleven people died. More than $400 million of property damage was done.

Though nothing could compensate for the destruction and pain caused by the Teton Dam failure, this disaster did result in a thorough review of all Bureau of Reclamation dams. That review led to the 1978 Federal Reclamation Safety of Dam Act. In its original form, the legislation appropriated $100 million to modify dams needing repair. By 1983, the estimated cost to repair a select group of dams had risen to $650 million.

Throughout the early 1980's, many in Congress argued persuasively for that $650 million appropriation for the dams needed repair in their States. Through their hard work, they succeeded in convincing skeptical colleagues that the repairs were indeed needed and that local entities would pay their fair share. The principle of cost-sharing with local entities was introduced and codified in reclamation law.

In Arizona, most of the dam modifications called for in the Safety of Dams Act have been completed, and without question, they have demonstrably improved the quality of life in central Arizona, which was subject to raging floods in 1978, 1980, and 1993. These modifications do not mean that Arizona will never again face flooding or other natural disasters. But the modifications have added an extra measure of safety to life in the Valley of the Sun.

At a time when Government-built dams are the target of criticism by some, I am encouraged that my colleagues in the House, and in the State and local government, have not lost sight of the many benefits that flow from multipurpose projects like the Theodore Roosevelt Dam.

CONGRATULATIONS TO THE TOWN OF ALTON, NH

HON. WILLIAM H. ZELIFF, JR.

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. ZELIFF. Mr. Speaker, let me extend my sincerest congratulations to the town of Alton, NH, as it celebrates its bicentennial anniversary on June 16, 1996. It is a pleasure to commemorate such a milestone event and recognize this New Hampshire village.

The people of Alton have preserved the town's historic past and traditions. Located on the southern tip of Lake Winnipesaukee, the town of Alton offers a pristine and unmatched beauty that attracts both residents and visitors of New Hampshire to this area. Whether it is the shores of Lake Winnipesaukee or the surrounding mountains, Alton offers unlimited enjoyment for all people throughout the year.

Alton's original town limits consisted of sections from: New Durham, Gilmanton, Gilford, and Wolfeboro. Over the years Alton has developed into seven neighborhoods: Alton Village, South Alton, East Alton, West Alton, Alton Bay, Alton Mountain, and The Gore. These seven boroughs have established their own identity, while strengthening and propelling the town of Alton into a leading New Hampshire community.

Once known as New Durham Gore, Alton established the traditional town meeting format of government that is still being practiced today. It is refreshing to be associated with people, such as the Alton residents, who have not forgotten their past and traditions.

I have had the opportunity to work with the people of Alton on many different occasions over the years. Most recently, I visited to evaluate the damage caused by the devastating dam break. After this visit I have come to fully understand the love, generosity, and bigheartedness of this town. I commend their independence, character, dedication, and mutual respect for one another.

Allow me to wish the town of Alton a happy bicentennial, and I appreciate the opportunity to be included in its celebration. It is an honor to represent the town of Alton in the U.S. Congress.

NEW BRITAIN ROTARY CLUB ANNIVERSARY

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is with great pride and appreciation that I rise today to congratulate the members of the Rotary Club of New Britain, CT, as they celebrate their 75th anniversary.

It was on April 20, 1921, that Leon Sprague, the Rotary's organizer and charter president, brought into being the first local organization of professional, industrial, and business executives to serve the community. From the very beginning, the members of the Rotary Club of New Britain have committed themselves to their creed, "service above self," by generously providing the community with time, money, and unselfish service in the important fields of education, orphanages, hospitals, civic amenities, and scholarships to needy students. I am so proud of the men and women of the Rotary who work tirelessly to assure that needs of citizens are met.

Today, I congratulate the Rotary Club of New Britain on its anniversary and I commend its members on their dedication and lasting contributions.

INTRODUCTION OF THE HIPPOCRATIC OATH AND PATIENT PROTECTION ACT OF 1996

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. SANDERS. Mr. Speaker, I would like to say a few words about disturbing trends in contemporary health care, and to discuss H.R. 3222, The Hippocratic Oath and Patient Protection Act of 1996, which I introduced to halt those trends and protect strong doctor-patient relationships.

Mr. Speaker, more and more doctors and patients are enrolled with managed care and HMO's. The Wall Street Journal reports on the financial success of HMO's by stating it has left them "so awash in cash they don't know what to do with it all."

U.S. Healthcare, for example, is a major, corporate HMO with 2.4 million members. It makes $1 million a day in profits. Is CEO, Leonard Abramson, walked away from his company's recent merger with Aetna with a personal profit of nearly $1 billion.

Clearly, there is a built-in conflict between a for-profit HMO and the needs of a patient. The less money spent on providing care for the patient, the more money the company makes. It's that simple.

Obviously, Mr. Speaker, we must all work to control health care costs. However, we must also ensure that health care decisions are made by doctors using medical rationale with their patients' interests at heart, not insurance administrators using financial spreadsheets with their own economic interests at heart. And most importantly, we must preserve the fundamental core of successful health care—the strong doctor-patient relationship.

Unfortunately, with the growth of managed care and the power of large insurance companies, serious problems are developing which, in my view, threaten the doctor-patient relationship.

Many HMO's use what are essentially "free-for-denying-service" systems, which pay doctors for denying care and penalize them for providing it. Doctors under some plans lose up to 50 cents of compensation for every dollar they order spent on emergency care. And according to a Mathematica Policy Research study, 60 percent of managed care plans in this country currently place their providers at some financial risk for the cost of patient care. This places doctors in very difficult situations, as they are asked to base their decisions on criteria that is contrary to what they were taught and swore to uphold.

You would have to be patently insane to sign on with an HMO you know is going to pay your doctor not to treat you. So some insurance companies are taking steps to make sure you don't know what they are doing. They keep their incentive plans secret from their customers, and in many cases keep both patients and doctors in the dark about the formulas used to approve or deny coverage. Therefore, doctors and consumers signing on do not know what they are getting themselves into, and insurers are free to make arbitrary decisions without outside scrutiny.

Further, many HMO contracts contain blatant gag rules that tell doctors what they can and cannot say to their patients. Last year, for example, Kaiser Permanente of Ohio told its doctors not to discuss any possible treatments with patients before checking with the company's consultants.

These outrageous clauses strike at the heart of informed consent and health care ethics—someone considering an operation should have all the relevant information to make their decision, and doctors must be able to provide that information.

These problems are serious enough that Massachusetts has already passed a law banning gag rules, while New York and several other State legislatures are considering bills to deal with these issues. Before recess, I introduced legislation that will take three steps to preserve strong doctor-patient relationships. My bill has already been endorsed by Consumers Union, the American Nurses Association, the Vermont Psychological Association, the American Psychological Association, the National Medical Association, and the Gray Panthers.

First, my legislation will ban outright incentives to deny appropriate care, and ensure safeguards are installed so doctors are not placed at substantial financial risk for patient care.

Second, my bill prohibits gag rules and other interference in doctors' communications regarding patient care. It is the only legislation that safeguards doctors' communications with their colleagues and the public as well as their patients.

Third, to ensure neither doctors nor patients are kept in the dark about what their insurer is doing, my legislation provides for open, honest discussion of practices key to patient care by requiring disclosure of utilization review procedures, financial incentives for providers, and all services and benefits offered under the health plan.

That disclosure may be half the battle, because I think no insurance executive will be willing to stand up and defend these outrageous practices once they are out in the open.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 18, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 19

1:30 p.m.
Indian Affairs
To continue hearings on the President's proposed budget request for fiscal year 1997 for Indian programs.
SR-485

APRIL 23

9:00 a.m.
Indian Affairs
Business meeting, to consider pending calendar business.
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings on proposed legislation authorizing funds for the Consumer Product Safety Commission.
SR-253

Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 1401, to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that Act with respect to surface coal mining and reclamation operations.
SD-366

Environment and Public Works
To hold hearings on S. 1285, to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980 (Superfund), as modified by S. Amdt. 3563, in the nature of a substitute.
SD-406

Special on Aging
To hold hearings to examine issues relating to Alzheimer's Disease.
SD-106

10:00 a.m.
Judiciary
To hold hearings on a proposed constitutional amendment to establish a bill of rights for crime victims.
SD-226

Small Business
To hold hearings to examine issues affecting home-based business owners.
SR-428A

11:00 a.m.
Foreign Relations
To hold hearings on the nominations of Prudence Bushnell, of Virginia, to be Ambassador to the Republic of Kenya, Charles O. Cecil, of California, to be Ambassador to the Republic of Niger, David C. Halsted, of Vermont, to be Ambassador to the Republic of Chad, Morris N. Hughes, Jr., of Nebraska, to be Ambassador to the Republic of Burundi, Tibor P. Nagy, Jr., of Texas, to be Ambassador to the Republic of Guinea, Dane Farnsworth Smith, Jr., of New Mexico, to be Ambassador to the Republic of Senegal, George F. Ward, Jr., of Virginia, to be Ambassador to the Republic of Namibia, and Sharon P. Wilkinson, of New York, to be Ambassador to Burkina Faso.
SD-419

APRIL 24

9:00 a.m.
Select on Intelligence
To resume hearings on the roles and capabilities of the United States intelligence community.
SD-106

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the U.S. Forest Service.
SD-138

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine distance learning, and on S. 1278, to establish an education satellite loan guarantee program for communications among education, Federal, State, and local institutions and agencies and instructional and educational resource providers.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
To continue hearings on S. 1285, to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980 (Superfund), as modified by S. Amdt. 3563, in the nature of a substitute.
SD-406

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Army programs.
SD-192

2:00 p.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine the need for additional bankruptcy judgeships and the role of the U.S. trustee system.
SD-226

Veterans' Affairs
To hold hearings on the President's proposed budget for fiscal year 1997 for veterans programs.
SR-418

APRIL 25

9:00 a.m.
Indian Affairs
To hold joint hearings with the House Committee on Resources on S. 1264, to

VOL
142
PT
6
AP
15
—
24
1996
UMI

provide for certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe.

SR–485

9:30 a.m.
Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings on S. 902, to authorize the Secretary of the Interior to assist in the construction of a building to be used jointly by the Secretary for park purposes and by the city of Natchez as an intermodal transportation center, S. 951, to commemorate the service of First Ladies Jacqueline Kennedy and Patricia Nixon to improving and maintaining the Executive Residence of the President and to authorize grants to the White House Endowment Fund in their memory to continue their work, S. 1098, to establish the Midway Islands as a National Memorial, H.R. 826, to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas, and H.R. 1163, to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, New York.

SD–366

APRIL 30

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Federal Emergency Management Agency.

SD–192

MAY 1

9:30 a.m.
Rules and Administration
To resume hearings on issues with regard to the Government Printing Office.

SR–301

2:30 p.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine airport revenue diversion.

SR–253

MAY 3

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Veterans Affairs.

SD–192

MAY 8

10:00 a.m.
Veterans' Affairs
To hold hearings to examine the reform of health care priorities.

SR–418

2:00 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Housing and Urban Development.

SD–192

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Internal Revenue Service, Department of the Treasury.

SD–138

MAY 15

2:00 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the National Aeronautics and Space Administration.

SD–192

MAY 17

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Corporation for National and Community Service.

SD–192

MAY 24

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Environmental Protection Agency.

SD–192

SEPTEMBER 17

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.

334 Cannon Building

POSTPONEMENTS

APRIL 25

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.

SR–253

HOUSE OF REPRESENTATIVES—*Thursday, April 18, 1996*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. QUINN].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 18, 1996.

I hereby designate the Honorable JACK QUINN to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We look at our world and too often we see distrust and strife, and yet we look elsewhere in our world and we see acts of kindness and deeds of good will. We live in our communities and are saddened by the strife of living and we also know people who work to strengthen our communities and build respect for every person. O gracious God, from whom comes the power for us to be people of good will, enable us to choose to be builders of character and models of integrity so we will contribute to the health of our Nation and strengthen the lives of those about us. Bless us today and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Kansas [Mr. TIAHRT] come forward and lead the House in the Pledge of Allegiance.

Mr. TIAHRT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 735) "An act to prevent and punish acts of terrorism, and for other purposes."

The message also announced that pursuant to Public Law 70–770, the Chair, on behalf of the Vice President, appoints Mr. BREAUX to the Migratory Bird Conservation Commission, vice Mr. PRYOR.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes on each side.

DANGER OF A COMMUNIST COMEBACK TO THE WEST

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, those of us who thought the end of the cold war ended the danger of communism to the West had better think again. The headline on the front page of the New York Times recently read "Fear of a Communist Comeback Has Many in Russia Packing Bags."

With all our attention on the advance of communism in Russia, we have taken our eyes off the resurgence of Stalinist style communism that threatens elsewhere. Next Sunday, the Italian people go to the polls in what is their most important election, for they must make a basic choice: Will they select these Communists, no matter what name they call themselves, to rule their nation?

We may be appalled by the thought, but it is not difficult to achieve in this disordered political system. These are the facts: There are more than 20 political parties. The center right is projected to win 45 percent of the vote. The Communists under the banner of "Progressive Democrats of the Left" will have 21 percent. A union of members of the discredited parties of the past will add 14 percent. The Northern League will probably give its 5 to 7 percent to make it 40 percent.

That leaves the Stalinist Communist Refoundation Party with its 11 percent. They are the swing vote, and the left must join them if they want to rule. Thus, Stalinist Communists will write national policy.

This scenario played out in the recent election for mayor of Rome.

At issue in this campaign is electoral reform. The center right parties want an American Presidential-type government, elected directly by the people, not by the political parties. The Communists bitterly oppose. They are against it, they say, and hold on to your hats with this one, because it is not democratic.

I bring this to your attention because what happens in Italy has consequences for NATO, Europe, and ultimately the rest of the world.

STOP CODDLING CRIMINALS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, I thought I heard it all. Richard Allen Davis, the murderer of 12-year-old Polly Klaas, now says, yes, I killed her. I admit I killed her, but I did not rape her.

Check this out. Davis abducted 12-year-old Polly Klaas from her own home. She was later found with her miniskirt above her waist and her skull completely separated from her body. Now Davis is ready to admit the murder, but he said "I didn't rape her."

Only as a ploy to avoid the death penalty, Mr. Speaker. Unbelievable. Davis should not live to see the month of May. And I say instead of free health care for Davis, free television for Davis, free food for Davis, Davis should only get one thing free from the American taxpayers: 50,000 volts.

And it is time for Congress to stop murdering our country by coddling criminals and letting the Constitution's amendments be used to get around the death penalty.

HOW TO DO THE RIGHT THING

(Mr. BAKER of California asked and was given permission to address the House for 1 minute.)

Mr. BAKER of California. Mr. Speaker, I could not agree more with the gentleman from Ohio [Mr. TRAFICANT]. That tragedy occurred in California; the trial has gone on long enough. Let us commence the execution.

Mr. Speaker, the American people inherently know that the Federal Government has no problem spending money. This Government has created a $5 trillion national debt, which will be paid off by our children, grandchildren, and great-grandchildren. It has created

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL
142
PT
6
AP
15
—
24
1996
UMI

a bureaucracy so large that almost every aspect of your life is somehow touched by it, either through regulation or through taxation.

Since the Republicans took over Congress, we may not have done everything we want to accomplish, but we have done one thing very important: We have changed the debate. It is not whether we should do the right thing, it is how to do the right thing.

For 40 years Congress has been dominated by the liberal impulse to spend more and tax more. Hopefully that philosophy has been laid to rest. The Republicans will continue to fight for the kind of change demanded by the American people in the 1994 elections, because it is wrong to steal from our children and our grandchildren, no matter how compassionate it might be.

Mr. Speaker, let us kill the tax-and-spend philosophy, the minimum wage philosophy, to spend through regulation.

TIME TO RAISE THE MINIMUM WAGE

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, you just heard it and the American people heard it. The Republicans are talking a lot about working families, but it is time that they did more than just talk about it. It is time they decided to actually raise the minimum wage.

Seventy percent of Americans believe that the minimum wage must be increased. Now at least 20 Republicans are backing the increase in the minimum wage. It is time, Mr. Speaker, that we bring this to a vote.

Yesterday the Democrats on our Committee on Economic and Educational Opportunities asked our chairman of the committee to hold hearings on the minimum wage. Democrats understand that the purchasing power of the minimum wage will soon be the lowest it has been in 40 years.

American families are working hard to get ahead, but it is tough to get by when working full-time does not even pay to get off welfare. An increase of $0.90 means an additional $1,800 a year in the pockets of full-time workers.

Republicans have an opportunity to join us in helping America's working families. It is time to pass the minimum wage increase bipartisanly.

AMERICANS DESERVE TAX RELIEF

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, for nearly 4 years now Bill Clinton has promised a middle-class tax cut. He promised a tax cut in the presidential campaign and he throws the words "tax cut" around at opportune times. But his actions speak louder than his words.

By a single vote, Bill Clinton rammed through the last Congress the largest tax increase in history. Then, earlier this week, 88 percent of his party opposed requiring a two-thirds supermajority to raise taxes. Increasing taxes on hardworking Americans should be as difficult as completing the tax forms.

What really gets me about Bill Clinton's veto of tax relief is that taxes not only hit Americans in the wallet, but also in the home and family. The current tax system makes Americans work harder, take second jobs, and put in longer hours just to meet their tax burden. Not only is the Government taking Americans' money, it is essentially taking the precious time they would normally spend playing with their children, going to PTA or church functions, or volunteering in their communities. Higher taxes have become a tax on free time too.

ALLOW VOTE TO RAISE MINIMUM WAGE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the House Republican leadership continues to pursue policies that hurt America's working families.

Just look at their continued opposition to the minimum wage. Even though the typical minimum wage worker is a woman in her twenties who is often the sole wage earner in the family, the House Republican leadership continues to dig in its heels in opposition to raising the minimum wage by a mere 90 cents from its 40-year low.

The fourth-ranking House Republican said yesterday that raising the minimum wage "is horrible economic policy." And the Republican majority leader says he would fight the minimum wage, "with every fiber of my being."

But despite their rock-like resistance, the Republican leadership can no longer duck voting to increase the minimum wage.

Stop toying with the lives of America's hard working families. Let us have a vote to raise the minimum wage.

STRANGE COMPASSION

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, with middle-class families paying 38 to 44 percent of family income in taxes, the claim that the era of big Government is over is utterly absurd. Think about it: 38 to 44 percent of middle-class family income goes to taxes. That means that the purpose of the second job in the household is to pay for taxes, which means you may think that your spouse is a computer operator or real estate agent or insurance agent or whatever, but the truth is your spouse is a government employee, working for the Government simply to pay taxes.

It got worse in 1993, when the President increased the gas tax 4 cents a gallon, increased Social Security tax, and increased taxes on small business. The Republican plan tried to counter this with a $500 per child tax credit, an adoption tax credit, and a senior dependent tax credit. But the President vetoed that.

Think about this: We have got a Democrat Party who is telling the American people, "We are compassionate because we want you to get 90 cents more an hour, but we are against the $500 per child tax credit offered by the Republican Party."

That is real compassion, comrades, real compassion.

THE NRA; AN ORGANIZATION WITH NO SHAME

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, tomorrow is April 19, the anniversary of the worst terrorist attach in U.S. history, the bombing in Oklahoma City. Timothy McVeigh, the person accused of the bombing, chose April 19, because that is the day the standoff with the Branch Davidians at Waco ended.

April 19 has become a holiday to some paranoid extremists, a day that to them symbolizes government's supposed tyranny. So the National Rifle Association, a group that gives aid and comfort to this paranoia and extremism by comparing law enforcement to Nazis, deliberately chose this day to hold their annual conference.

While most Americans will spend April 19 respecting the memory of those who died in Oklahoma City, the NRA will be at their convention bragging about their guns, thinking about AK–47's and their Uzis, instead of mourning the 169 people who died.

Simply put, the NRA leaders are thumbing their noses at the memory of those who died at Oklahoma City.

It is disgusting that the organization that called law enforcement storm troopers and jackbooted thugs is holding their convention tomorrow. The NRA is truly an organization with no shame.

THE OPPRESSIVE FEDERAL TAX BURDEN

(Mr. CHABOT asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, this is the week that we are reminded by the April 15 filing deadline just how oppressive the Federal tax burden is in this country. But Tax Freedom Day, the day on which the average working person gets to stop working for the Government and begin working for themselves and their families, does not come until May 7 of this year, the latest date ever.

Working people in this country are being abused and ripped off by our Government. If any taxpayer has the audacity to complain about the ripoffs, he or she is immediately labeled as a member of the so-called greedy rich.

The Government takes money out of the pockets of working people so it can subsidize big corporations to advertise their products overseas. You do not like it? I guess you must be a member of the greedy rich. The Government takes money out of the pockets of working people to subsidize big agribusiness and inflate the cost of sugar, peanuts, and cotton. You do not like it? You must be a member of the greedy rich. The Government takes money out of the pockets of my people in Cincinnati, money that should be going to educate their own kids, and the Government uses that money to pay a bunch of bureaucrats here in Washington to write manuals about school uniforms. You do not like it? I guess you must be a member of the greedy rich. Then the President vetoes a bill to give tax relief to working people.

Mr. Speaker, it is time to cut taxes.

AMERICANS DESERVE A RAISE IN THE MINIMUM WAGE

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, the 12 million Americans who earn the minimum wage aren't the only ones calling for an increase. In fact, 71 percent of Republican voters also support an increase in the minimum wage.

Moreover, 15 House Republicans are calling for a $1 increase in the minimum wage over the next 2 years—that's 10 cents an hour more than what even the President is calling for.

So, Mr. Speaker, why is it that the Republican leadership refuses to even allow a debate on the minimum wage? Well, it is because they don't even believe that there should be a minimum wage, period. In fact, the majority leader is on record as saying that he will oppose a minimum wage increase with every fiber of his being. That's strong language coming from someone who earns over $100,000 a year.

Mr. Speaker, America deserves a raise and it is time that we gave it to them.

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COSPONSOR H.R. 739, THE ONLY BILL THAT WILL DISMANTLE THE BILINGUAL EDUCATION

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, I want to tell you about a young boy named David. He lives in New York City and goes to public school in Brooklyn. David is like millions of other school age children across this country, except for one thing: He is being robbed, his grandmother says, of his opportunity to learn.

How can this be, you ask? Well, because David has been trapped in a bilingual education classroom for the past 6 years.

I first learned about David through a story his grandmother Ada wrote in the New York Times. Her account of the problems David encountered in his bilingual class is a cautionary tale of public policy failure and bureaucratic excess.

David and his mother speak English at home, and he grew up speaking English with his friends. Yet when he entered grade school, he was placed into a bilingual program. You see, David's last name is Jimenez, and the Brooklyn school bureaucrats reflexively place every child with Hispanic surnames into bilingual education classrooms. Six years later, David's parents had to sue the Bushwick School District in order to win the right to take him out of his bilingual classroom. You see, after 6 years David still couldn't read English.

Help me stop these tragedies from occurring. Cosponsor H.R. 739, the only bill that will dismantle the bilingual education bureaucracy. David and his grandmother shouldn't have to move heaven and Earth to give David an opportunity to learn English.

RICHARD ARMEY: THE LEADER OF THE CLUB

(Mr. SAWYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAWYER. Mr. Speaker, I guess it was in all the papers, but I had to see it to believe it. With the Speaker devoting more time to campaigning, they said the majority leader would be taking over the day-to-day management of the House and that there would be big changes.

And so there have been. We return to find a whole new way of legislating: not by hearings and committee work, but by special theme weeks like, the "Era of Big Government Is Over Week," "Defending America Week," and—I am not making this up—"Individual Freedom Versus Government Bureaucracy Week."

It kind of reminds me of 40 years ago when we would come home from school to enjoy Jimmy, Cubby, and Annette as they romped through "Circus Day," "Talent Roundup Day," and everybody's favorite, "Anything Can Happen Day!"

So it must be true. There are big changes. And when people ask the musical question, "Who's the leader of the club that's made for you and I?"

We can answer: R-i-c-h-a-r-d A-r-m-e-y.

INTRODUCTION OF THE CHILD PILOT SAFETY ACT

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, as chairman of the Subcommittee on Aviation of the Committee on Transportation and Infrastructure, I am introducing legislation today, along with the ranking Democrat, the gentleman from Illinois [Mr. LIPINSKI], and others that addresses the issue of child pilots.

One week ago today, 7-year-old Jessica Dubroff, her father and flight instructor were killed when attempting to set an age record that would have made Jessica the youngest pilot to fly across the United States. Mr. Speaker, I encourage parents to spend time with their children, teach them new things, and expose them to new ideas and challenges. Unfortunately, though, some parents become obsessed with pushing their children up the ladder of success or notoriety at too early an age, and often common sense is displaced by greed and recklessness.

Mr. Speaker, this legislation will impose an age limit on any person attempting to set a record with an aircraft. This legislation will stop the type of ridiculous publicity stunts that needlessly killed Jessica last week. Had she been successful, next year we would have seen a 6-year-old or a 5-year-old trying to break this record. Twenty-three similar accidents have happened in the last few years involving child pilots.

This legislation will not result in any cumbersome regulations, and I encourage my colleagues to cosponsor this bipartisan legislation.

RAISE THE MINIMUM WAGE NOW

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, the Speaker of the House has reportedly said that the House can "no longer duck" a vote on the minimum wage. It's about time, Mr. Speaker. Why have you been ducking for so long.

The minimum wage is at a near 40-year low in real terms. People earning

VOL
142
PT
6
AP
15
—
24
1996
UMI

the minimum wage deserve the right to a livable wage. No one can live on $4.25 an hour, much less support a family.

Republican Majority Leader DICK ARMEY has said he will fight an increase in the minimum wage with "every fiber in his being." While corporate CEO's earn 212 times the wage of the average worker, Republicans would deny the poorest workers in America a modest increase in the minimum wage. This is not right, it is not fair, and it is not just.

Stop the stonewalling, Mr. Speaker. Let's raise the minimum wage now. People deserve the right to earn a livable wage.

WHAT HAPPENED TO OUR MIDDLE-CLASS TAX CUT?

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, millions of Americans are asking this week, Mr. President, what happened to our middle-class tax cut? Twenty-nine million American families could have enjoyed a $500 per child tax credit. Three and a half million lower-income American families could have had their Federal income tax burden completely eliminated because of the $500 per child tax credit. Twenty-three million American couples could have received relief from the marriage tax penalty through a higher standard deduction. One hundred thousand American families could have benefited from a $5,000 credit to assist with adoption expenses. Americans that care for an elderly relative in their home could have benefited from a $1,000 elder care deduction. If Americans paid a tax on capital gains from selling their house or other asset, they paid twice as much as yon should have.

Under the Balanced Budget Act, millions of middle-class American families could have benefited from these tax cuts, except for one man. Mr. Speaker, taxpayers need to remember that President Clinton vetoed all of these middle-class tax cuts and a 7-year balanced budget.

RAISING THE MINIMUM WAGE IS THE DECENT THING TO DO

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, indeed it is time to raise the minimum wage. What is the argument that we hear the Republicans saying as to why we should not raise the minimum wage? They say when we do that we will reduce the opportunity for jobs; that, in fact, there are not a lot of people who are working at minimum wage, only teenagers.

Mr. Speaker, that is a false premise. In fact, two-thirds of the minimum wage earners are families with adults who are trying to support a livable income providing decent food, shelter, clothing. That is the basis for the minimum wage, a living wage.

Also, Mr. Speaker, it was said that if we do that, the economy will suffer. Why would it suffer? Where will that money go? As soon as the money comes in, it will go for food and shelter. It goes right back into there. What happened when the minimum wage was raised the last time? We did not have great inflation. That did not happen.

Who are we protecting? We are protecting the rich. That is the issue here. Are we equally concerned for those at the bottom of the scale as we are concerned about the 5 percent we are willing to give big tax breaks?

The minimum wage is the decent thing to do. It is also the economical thing to do. It is the fair thing to do. The American people want a minimum wage. We should do that.

PRESIDENT CLINTON VETOED MEASURES THAT WOULD HAVE HELPED MINIMUM WAGE EARNERS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, we are talking about raising the minimum wage because it is at a 40-year low? Well, we have raised the minimum wage several times, and yet it is still at a 40-year low. I do not think it is working.

Common sense is not working, because historically it does push inflation. Unions tell me that purchasing power is at an all-time low because of inflation, and yet that is what the problem is and we want to raise the minimum wage.

Well, 75 percent of the people on minimum wage are students. Most of them in minority communities. That is the area that is hit the worst when we increase the minimum wage, the minority communities—6.5 percent of the people on minimum wage are heads of households.

Now, we have tried to help the working poor, the heads of households on minimum wage, with an earned income tax credit, actually putting more money into their pocket, and it is not inflationary. That was vetoed by Mr. Clinton. We also had a $500 per child tax credit, which would have put more money in the pockets of the working poor. Mr. Clinton vetoed it. Neither of them inflationary, neither of them eating into the wages of working Americans and the working poor.

It is time for Congress to do the right thing for the working poor and the working families. Oppose the minimum wage.

RAISING THE MINIMUM WAGE WILL NOT CAUSE INFLATION IN AMERICA

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. I find it the height of hypocrisy when Members of this body making $113,000 a year stand before the United States of America and proclaim that persons who are making $4.25 an hour, if we move it beyond $5, that will cause inflation in America.

Let me tell my colleagues what causes inflation in America. The hundreds of people who are CEO's of major corporations collecting millions of dollars, getting their golden parachutes and moving out to their various places, moving jobs outside this country so that they can benefit by low wages from persons who are not Americans and yet shipping back to America the products they produce and selling them at the highest possible price.

If we want to talk about who deserves it, it is not the persons who are at the top but the persons at the bottom, many of them working every day still impoverished. How can we justify this in a Nation where we dare to export our democracy?

We should be ashamed of ourselves. We should talk more fairly about all of our citizens and how we can bring them up. We cannot do it by giving to those at the top and taking from those at the bottom. I hope that our Congress will realize this and the American citizens will realize the game that is being played.

LEGISLATION CREATING THE AMERICAN DISCOVERY TRAIL

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, on Tuesday, this Member introduced legislation to designate the American Discovery Trail as a component of the National Trails System. The bill, H.R. 3250, also creates a new category in the system—National Discovery Trails. The bill is already supported by a bipartisanly balanced 44 cosponsors.

This legislation represents an exciting step forward in the development and connection of trails in the United States. The multiuse ADT provides the connections which are needed to link existing trails and create a backbone for the National Trails System. While stretching from the Atlantic to the Pacific, it connects large cities and small communities with forests and remote areas.

The American Discovery Trail will provide outstanding, family oriented recreation for all Americans. It will also offer important economic development opportunities to the communities along its route.

The ADT also takes into account private property concerns since almost all of the trail is on public lands. The few exceptions are in locations where there are existing rights-of-way or agreements with existing trails or by invitation. The bill also mandates that no lands or interests outside the exterior boundaries of federally administered areas may be acquired by the United States solely for the American Discovery Trail.

The American Discovery Trail is national in scope, but it is made possible by the grassroots efforts on the State and local level. This Member urges his colleagues to support these local efforts by cosponsoring the American Discovery Trail bill.

PRESIDENT CLINTON SHOULD BE TOUGH AND CONFRONTATIONAL WITH MR. YELTSIN

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, today the President of the United States travels to Russia. I would hope that the President would not pose for photo opportunities with Mr. Yeltsin but would instead be very tough and very confrontational on three important issues to America:

First, the ongoing war in Chechnya that is killing thousands and thousands of people each month. We need to bring an end to that war immediately.

Second, the New York Times recently reported a secret project going on in the Ural mountains in Russia. We need to find out more about that.

Third, renegotiating the space station on the part of the Russians could cost the American taxpayers several hundreds of millions of dollars. I would hope the President, in a policy of engagement, would be tough and confrontational and not coddle the Russians on these very important issues.

TRIBUTE TO SECRETARY RONALD H. BROWN AND AMERICANS WHO LOST THEIR LIVES ON MISSION TO BOSNIA

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the resolution (H. Res. 406) in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia.

The Clerk read the title of the resolution.

The SPEAKER pro tempore (Mr. QUINN). Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The clerk will report the resolution.

The Clerk read as follows:

H. RES. 406

Whereas Ronald H. Brown served the United States of America with patriotism and skill as a soldier, a civil rights leader, and attorney;

Whereas Ronald H. Brown devoted his life to opening doors, building bridges, and helping those in need;

Whereas Ronald H. Brown lost his life in a tragic airplane accident on April 3, 1996, while in service to his country on a mission in Bosnia; and

Whereas thirty-two other Americans from government and industry who served the Nation with great courage, achievement, and dedication also lost their lives in the accident: Now, therefore, be it

Resolved, That the House of Representatives pays tribute to the remarkable life and career of Ronald H. Brown, and it extends condolences to his family.

Be it further resolved, That the House of Representatives also pays tribute to the contributions of all those who perished, and that we extend our condolences to the families of: Staff Sergeant Gerald Aldrich, Duane Christian, Barry Conrad, Paul Cushman III, Adam Darling, Captain Ashley James Davis, Gail Dobert, Robert Donovan, Claudio Elia, Staff Sergeant Robert Farrington, Jr., David Ford, Carol Hamilton, Kathryn Hoffman, Lee Jackson, Steven Kaminiski, Katheryn Kellogg, Technical Sergeant Shelley Kelly, James Lewek, Frank Maier, Charles Meissner, William Morton, Walter Murphy, Mathanial Nash, Lawrence Payne, Leonard Pieroni, Captain Timothy Shafer, John Scoville, I. Donald Terner, P. Stuart Tholan, Technical Sergeant Cheryl Ann Turnage, Naomi Warbasse, and Robert Whittaker.

SEC. 2. The Clerk of the House shall transmit a copy of the resolution to each of the families.

☐ 1030

The SPEAKER pro tempore (Mr. QUINN). The gentleman from Missouri [Mr. GEPHARDT] is recognized for 1 hour.

Mr. GEPHARDT. Mr. Speaker, I yield myself such time as I may consume. In a moment, I will yield to the distinguished Speaker of the House.

Mr. Speaker, I rise this morning with great sadness to offer a resolution in tribute to Commerce Secretary Ron Brown and all of the Americans who lost their lives in that awful tragedy on April 3 while they were all serving their country on a mission to Bosnia. I am pleased that we are able to make this a bipartisan resolution, in fact, a resolution of all the Members of the House. For when a highly and distinguished member of the U.S. Cabinet is killed overseas for the first time in American history, when we lose an individual, and individuals of such extraordinary ability and achievement, when we lose so many other dedicated business leaders and public servants, members of the Commerce Department, members of the U.S. Air Force, it is not a partisan tragedy, it is truly a tragedy for all of our citizens and all of our country.

In the week since Ron Brown's death, it has already become a cliche to speak of his brilliant political and public service career. Of his pioneering role as chairman of the Democratic Party and his efforts to almost single-handedly redefine the Commerce Department and its mandate. For those of us who considered Ron a friend, as I did, it is reassuring to know that the country remembers him as fondly as we do. But when there are so many tangible achievements to celebrate in a man's life, it becomes harder to recognize what is less tangible but perhaps as more important.

To me, there is a simple reason why Ron Brown broke down so many barriers in so many areas and shattered so many preconceptions, about politics, race, and America's place in the world. For all of his practical and political talents, Ron Brown was an idealist, pure and simple. His goals for himself, his party and his country were always based on what should be and not on what others thought could be. This is a rare quality in any of us, in a politician, a rate quality in a human being. But it is why so many people loved and respected Ron Brown and were so often willing to abandon their own goals and egos to work with him for a higher purpose.

Mr. Speaker, much has been said in recent days about Ron Brown's ability to heal divisions, to reconcile views, to focus on what unite people rather than on what divide them. He truly believed that you could always accomplish more by working together, by bringing others along with you. That is one reason why he nurtured so much talent in so many other people throughout his career. As party chairman, he really did bring the Democratic Party together, something that is hard to do, sometimes almost one person at a time.

To see the depth of his empathy and understanding, to see how far he would go to understand people who disagreed with him and opinions and then to find the common ground between them was to see the very essence of leadership. Commerce Secretary Ron Brown dramatically expanded his mandate, reinvigorating the foreign commercial service and becoming a real booster of U.S. exports on a scale that we have never seen before. He poured all of his passion and energy in his work at Commerce, as he had at the Democratic Committee, and I always admired the aggressive way in which he led that department, even in the face of criticism.

Mr. Speaker, our country could use more Ron Browns, for he pushed boundaries, broke down barriers almost instinctively, intuitively as if he simply refused to acknowledge that they were there in the first place. Perhaps in that sense, we can find a shred of meaning in Ron Brown's death, because no risk, no naysayers could ever have kept him from exploring new terrain, for reaching new challenges, and from trying to redefine the world in which we live.

VOL
142
PT
6
AP
15
—
24
1996
UMI

That he managed to do all of these things in so few years is a powerful legacy indeed. I also want to reach out on behalf of all of us to the families not only of Ron Brown but all of the Americans who died in this terrible tragedy. All of them together, in their own way, were trying to do something very important for the United States and for the world. The business people who were out there were out there to help rebuild an economy torn by war and strife.

Mr. Speaker, the truth is there was no real profit to be made by these companies. They were there on a mission of the United States to help the people of Bosnia. Unlike maybe many of the other trade missions that Ron Brown asked them to be on, this one was truly a mission of help. This was a mission of altruism in the highest sense of the business community and the people of this country.

So to the families of all of these people, whether it was business leaders, whether it is Ron Brown, whether it was the Air Force people who were trying to take them there, whether it was the staff people at Commerce, I want to reach out and deliver in as heartfelt a way as we can the deep sympathy and the feeling of gratitude and appreciation that all of us have for all of these people and their families.

There is no way that any of us can bring these lives back, but we can at least stand here today and on behalf of the American people give a heartfelt condolence of sympathy and heartfelt thanks and appreciation for the sacrifice of all of the people who died in this terrible tragedy.

Mr. Speaker, I yield such time as he may consume to the distinguished Speaker of the House, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Let me thank my colleague for yielding and let me thank the minority leader for proposing this resolution which I think every Member of the House will support and which I think every Member of the House wishes to reach each family touched by this tragedy.

The House, I believe, will want to extend condolences to every member of every family to realize that there were a number of Americans serving their country, serving the cause of freedom, seeking to help a war-torn region who found themselves willing to take real risks. This tragedy is a reminder that service in our armed services and at times service to our country is potentially dangerous and requires of our citizens a willingness to put duty above pleasure and to put country above self.

Mr. Speaker, Secretary Ron Brown is the first Cabinet Secretary killed on duty in over 150 years. I think it was an enormous shock to all of us to be reminded of the dangers traveling around the world that can affect those who serve even in civilian posts. I knew Ron Brown as a competitor. We did not meet in the same planning meetings. We were not involved in the same things when he was chairman of the Democratic National Committee, but I got to know him as somebody who was brilliant, who was charming, who was energetic and, maybe more important, who had a kind of creativity with a remarkable resilience. Whatever angle you came at Ron from, he came back with a new idea, a new approach, new intensity. He was a great competitor. I think that both Lee Atwater before his death and Haley Barbour since have found in Ron Brown a personal friend and somebody who shared their passion for democracy and shared their zest for partisan competition.

It is true that Ron Brown was at times very controversial and a lot of questions were raised, a lot of charges were made. Certainly, of all the Members of the House, I may be the most able to identify with being at the center of controversy at times. And I can say that every time we would meet and we would talk, there was a positiveness to his approach. There was an intensity and a willingness to live out whatever happened and whatever fights he was in, a willingness to move forward, to focus on getting things done that was quite remarkable.

At the Commerce Department, he traveled across the world, worked with senior executives, did, I thought, remarkably creative things to create American jobs through world sales. And again and again he would put together a team, they would go to a country and he would achieve breakthroughs for American workers and for American sales that had not occurred before. In his last mission, as my good friend from Missouri was pointing out, Ron Brown was on a selfless venture to help those who needed help, to help those who sought peace, recognizing that as Commerce Secretary, if he could help them begin to rebuild their economies, he might be able to begin to rebuild their cultures, and they might be able to find a way to seek prosperity together rather than to destroy their region in war.

I think we in the House want Ron Brown's family and the families of all of those who died in this accident to know that we are deeply grateful for the commitment they made to freedom, to the willingness they had to serve their country, and that our offices and our doors are open, both to Secretary Brown's family, but equally important, to the family of every American who was on that airplane, to the family of every person who died in service to their country.

Again, I thank my friend for offering this resolution which I so strongly support and which I would hope the House will pass unanimously in just a few minutes.

Mr. GEPHARDT. Mr. Speaker, I thank the Speaker for that fine statement and urge all the Members to vote for this resolution.

Mr. Speaker, I ask unanimous consent that the gentleman from Michigan [Mr. DINGELL] be allowed to manage the remainder of the time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I first want to commend our distinguished minority leader and the Speaker for introducing this important resolution and for bringing it to the floor in this expeditious manner.

I am pleased to be a cosponsor of this resolution, which pays tribute to Secretary of Commerce Ron Brown and the other 33 Americans who lost their lives in the tragic airplane crash on April 3.

In the past 2 weeks, we all have heard the tremendous accolades paid to Secretary Brown for his numerous contributions to this Nation. He was a great public servant, a loving husband and father, and a man who brought tremendous enthusiasm, vision, humor, and intelligence to every challenge he accepted.

The country is much better off because of Ron Brown. We have all heard the many tributes from American business leaders who have called him the best Secretary of Commerce in our Nation's history. These statements were made well before his tragic death. As Secretary of Commerce, Ron worked tirelessly and aggressively to create and protect American jobs. Under his leadership, the Department delivered more for less by making sensible investments in our communities, protecting intellectual property rights, stimulating advances in technology and telecommunications, increasing our competitiveness and exports, and providing essential weather forecasting, research, and environmental services.

I know many other Members with to speak this morning, so I will end by simply saying farewell and thank you to my dear friend Ron Brown and by extending my deepest condolences to his wife Alma, to his wonderful children, and to the families and friends of the other Americans who lost their lives in service to their country on April 3. The loss of their collective talents will be felt for years to come.

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Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Speaker, first of all I would like to thank, as a representative of the Congressional Black Caucus, to thank the leader, the gentleman from Georgia [Mr. GINGRICH], to thank our Speaker, and to say to our Speaker we thank him for bringing in the bipartisan part of this resolution, and I thank him very much,

Speaker GINGRICH, for adding this dimension to this resolution.

Secretary of Commerce Ron Brown and the other Americans who lost their lives on April 3 while in service to our country, they were true patriots, and they deserve the honor which patriots should receive.

The Congressional Black Caucus thanks all of this House for representing and paying a tribute to Secretary Brown. We also want to thank Senator BOB DOLE, who cosponsored the resolution in the Senate, and 98 of his colleagues properly and officially honored, just as we are doing, Secretary Brown and the other great Americans who died in the service of their country.

We pay tribute to Commerce Secretary Ron Brown and the others. He was the 30th U.S. Secretary of Commerce. He had been a strong and forceful advocate for not only American business, but Ron Brown stretched all out to the byways and the ghettos of this country, and they all had a model to follow, regardless of race, color, or creed. He was a beacon of hope for the divergent messages that make up this country.

Under Secretary Brown's leadership, the Commerce Department became one of the major success stories in the Clinton administration. He launched a national export strategy predicated on the very basic idea that American exports translate into jobs and opportunities for American business and working people. In the pursuit of this strategy, Secretary Brown conducted trade mission after trade mission.

He was a tireless worker or soldier in the American Army. He had the vision to see that beyond the horrors of war, behind the horrors of war-torn Bosnia lay opportunities, not only for American business, but for the Bosnian people. To be of service, he wanted to be, and he did it as well as to engage in commerce.

Ron Brown was a common man with an uncommon touch who, while fighting against this Nation's injustices, also believed he could be bettering this Nation and that all people could be lifted up to reach their highest potential. Because of Ron Brown, doors have been opened for many Americans that were never evern cracked before.

The Congressional Black Caucus is grateful for Secretary Ron Brown's legacy, which he left to all of us. He came from humble roots, but he did not internalize his race or his color or his creed. He did not internalize his humble beginnings. He made something out of each one. He did not relate himself to the roles which society had defined for him and others like him.

He was an unifying and driving force to indicate to all of us what a public servant should be like. He knew what it meant to be one. He put the needs of the American people ahead of his own. He lived for America, and ultimately, Mr. Speaker, he gave his life for America.

So I want to thank this House for bestowing this tribute on Ron Brown, and on behalf of the Congressional Black Caucus I would like to say, "Thank you to all of you."

Mr. DINGEL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Speaker, I rise in support of this resolution, and most importantly I rise in support to celebrate the life of the man that we knew as Ron Brown.

I am a new Member of this body, going on my 15th month, and early in my tenure Ron Brown reached out to me as one of those new freshmen Members, those Republican freshmen Members of the Congress, because Ron Brown, above all else, was the kind of man that built bridges, and, yes, we know his service as a great politician, and I say that in the most reverent and decent sense because he understood good politics, he understood the art of compromise and building bridges.

Ron Brown was a people person, he was a good and decent man, and I am so very honored to stand in this well with so many others who have come to revere and respect Ron Brown and to have called him my friend.

Mr. Speaker, over the last 15 months we spent many moments together, some of his more difficult personal moments. I was honored to have spent some time over in his office with him, and, Mr. Speaker, Ron Brown, as I said, was a tremendous individual, and he was a tremendous public servant. He built the Commerce Department in a way that I think few on either side of the aisle would dispute. It said that the work of Ron Brown has sowed the seeds for about $44 billion in new economic opportunity for American businesses as a result of his travels around the globe to build partnerships with other nations.

As I said, he was a good and decent man, and we shared something else in common: our love for a place on eastern Long Island called Sag Harbor, and he spent many wonderful private moments there with his dear wife, Alma, and with his children.

Mr. Speaker, Ron Brown, as I say, will be sorely missed. He was a man of good humor, good decency, and we reached out and spoke with each other many, many times over the last 15 months.

I disagree with some who think that, for example, we should change the way the Commerce Department is set up. I disagree with that, and Ron understood that, and we talked at great length about that.

I shared his interest in the National Marine Fishery Service, which was one of the many agencies under his charge at the Department of Commerce, and they did tremendous things, the National Marine Fishery Service, something again that we had in common with my eastern Long Island district, and, as I have acknowledge, he has built tremendous bridges across the world on behalf of all Americans in the area of international trade particularly, and during my last 15 months in this body I have heard repeatedly, long before the tragedy, of the tremendous accomplishments of the Secretary of Commerce, Ron Brown, in the area of exporting.

So I rise today in support of the resolution. I extend to the family of Ron Brown, to his dear wife, Alma, and his children, Tracy and Michael, and to all of the families of the 33 others whom we lost in the tragedy earlier this month, I extend our condolences, our heartfelt sympathies, and our prayers and thoughts are with all of you.

I stood in this well several evenings ago and made note of another individual whom we lost in this tragedy from my district, young Gail Dobert, who served with Ron Brown in his chairmanship of the Democratic National Committee, and with excitement and great promise went with him over to the Department of Commerce and served so ably to help build this international presence that Ron made possible.

So I rise in support of this resolution, and I appreciate the House taking this time today to celebrate the life of Ron Brown. He was a good and decent man.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, today we honor a dear friend and a great leader, the late Commerce Secretary, Ron Brown.

Every so often, fortunately, our country produces someone who reminds us of the hope, energy, and optimism that are the very essence of being an American. Ron Brown was such a person. He was a vital man—vital in his love of life, and vital in the energy that he brought to his work.

Those of us who had the joy of working with Ron Brown know the total dedication he brought to any job. Verve, style, and sheer energy were his hallmarks.

But beyond that dazzling surface lay an intellect of great depth in understanding the forces at work in the world today. He knew that in an increasingly complex and competitive world, Government officials must fight to gain a fair share of foreign projects and markets for U.S. goods. So Ron Brown pioneered commercial diplomacy. From his first day at the Commerce Department to his last tragic flight, Ron Brown proved himself to be the best advocate American business ever had. Against the world's toughest competition, he championed our country's industries, workers, and products.

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142
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He pioneered commercial diplomacy from his first day at Commerce to his last, tragic flight.

Ron Brown proved himself to be a strong voice for American business and for all Americans. Against the world's toughest competition, he championed our country. His knowledge, his good will, and his commitment to this country will all be missed deeply. With my colleagues, I send my deepest sympathy to his family.

But, Mr. Speaker, on a personal note, I just want to speak about Ron Brown as I knew him. He had something that always had me in awe. When Ron Brown talked to you, you thought he cared about you.

The last time I talked to Ron Brown was a week before he went on his trip. My colleagues would have thought this terribly busy man was waiting for my call. And my call was a request, another request of so many requests, to take up part of his very important time.

My sympathy to his family, my sympathy to the United States of America, because he is gone.

Ron, your thousands of friends are going to miss you.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Michigan, JOHN DINGELL, for being gracious with his time, and I will only take just a couple of minutes.

Mr. Speaker and colleagues, I rise as a conservative to pay tribute and give my sympathy to the family of Ron Brown.

Ron Brown was a liberal. We rarely shared the same philosophical views. But let me say to my colleagues there was no more trusted man in politics, in my opinion, than Ron Brown because he really believed what he said. He was truly genuine. I think we really need to learn from Ron Brown's spirit. Even though he was a partisan Democrat and I am a partisan Republican, we all could meet with him, and when that meeting was finished and when I was walking out of the room, it felt like walking out after having met with a friend even though we might have disagreed.

That is the kind of man that Ron Brown was. We need more people like that in Government, we need more people like that in this House of Representatives. We all, those of us who show emotion from time to time, could take a lesson from Ron Brown because he was truly a decent human being, liked by so many people, including me.

Our condolences also go out to all of the families of those who lost their lives in the terrible tragedy including the families from Glens Falls, NY, my hometown, Claudio Elia, the husband of Susan Day, who grew up next door, and to Walter J. Murphy, who also grew up in Glens Falls.

They and Ron Brown were just 2 of the 33 decent human beings who were doing their part in trying to bring peace and stability to that troubled part of the world.

May God Bless them all.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding this time to me, and I thank him for his leadership and his tribute to Ron Brown.

Seven Americans, seven public servants, went down on that fated plane in Bosnia. One of them was Ronald H. Brown. He was my friend of 30 years and my constituent. This was the city in which he was born, it is the city where he lived out his life, it was the city where he became known as both a public man and a public servant.

Many of us will remember him also as a family man. The most poignant photograph of Ron is the one with his twin grandsons.

☐ 1100

What Ron meant to his son Michael and his daughter Tracy is itself a model for how to be a parent in these days when so many have lost that art. Yet, this most busy of men was a wonderful parent to his children.

Ron will be remembered as a breaker of barriers on one hand, and as an extraordinary innovator on the other. He broke barriers that no man or woman before him had even attempted. This was, I have to say, my colleagues, a black man who simply did not know his place and refused to accept the notion that there was one for him. So when it came time to resurrect the Democratic Party, it was Ron Brown who stepped forward and said not "Not me," but "It must be me."

When he went to the Commerce Department he said not "How do you do this job?" but "I will do this job in a way it has never been done before." So after he broke the barriers, he did something much more important. He was a pioneer in turning around each of those institutions.

It was Ron Brown who engineered the comeback of the Democratic Party in 1992, and it was Ron Brown who perfected the art of diplomacy, of commercial diplomacy at the Commerce Department. Either one of these breakthroughs, either one of these pioneering efforts, would have left Ron's name written in the book of American history. He wrote new pages wherever he went. He wrote them in part because he had it all. He was an extraordinarily talented man, and because he understood the expanse of his talents, he gave it all.

Ron exemplified the best of our country, the American spirit of optimism, the refusal to recognize any limits. May our country also make that same refusal.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I rise in tribute today to a great America, Ron Brown, who was an outstanding father to Tracy and Michael, a loving husband to Alma, a fine Cabinet secretary, a trusted adviser to President Clinton, a champion of business. He helped increase the growth of this country's companies and, as well, increased jobs; a goodwill ambassador for the United States; a positive spirit; a modern-day Will Rogers. He never lost his cool.

The world gave him lemons and he made lemonade; a role model for our young people; for those who want to get involved in government, work for a good candidate, work for a good cause, and work for your country, just like Ron Brown did, a great American who we tribute today, and who will be greatly missed.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I proudly sponsor this resolution because Ron Brown was a friend and a rare American. He was African-American, but he transcended race and color. He was a party leader, and one of the best because he resurrected our party, but there was nothing ever small or petty or partisan about him. He had this enormous affinity for people, and he led by bringing people together, not by splitting us apart.

When he came before our committee to defend his embattled Commerce Department, he was a forceful advocate with the facts at his command, but he made his case without a trace of rancor or resentment. He could do that because he sat there as the single best argument for that embattled department.

Ron Brown was a bridge-builder at a time when so many of our differences seem unbridgeable. His goodness and his decency and his energy and charm are assets we sorely need in the public life of this country. We can ill afford to lose leaders like him, before his time, still in his prime.

But in the broadest sense, we have not lost Ron Brown, for he remains a lasting symbol of what America at its best can be. I extend to his family, and to the families of all those who perished in this tragic accident, my sympathy and our gratitude for the selfless service rendered our country in the cause of peace in a forlorn place.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. NEY].

Mr. NEY. Mr. Speaker, I thank the gentleman from yielding time to me.

Mr. Speaker, I also wanted to extend on behalf of my district and, obviously, all the Members of the House, condolences to the family of Ron Brown and all those who were aboard the airplane that crashed in Bosnia.

Also, Mr. Speaker, I wanted to point out that one of my constituents who was originally from Zanesville, OH, Shelly McPeck Kelly, was aboard that plane. She leaves behind a loving family in Zanesville, OH. That would be her mother, Shirley Clark, and also her stepfather, Sam Clark, and several siblings. She also leaves behind a loving husband, Dennis, and two children, Sean and Courtney.

Shelly McPeck Kelly was to retire in 2 years from the Air Force. She achieved the rank of technical sergeant. She was a loyal and devoted wife and a loving mother. She served faithfully her Government aboard a U.S. Air Force plane, and also had previously served for the President aboard Air Force One during the Bush administration.

I recognize her service to the country, and rise on behalf of the residents of eastern Ohio to say that we want to commend Shelly McPeck Kelly for her service to the United States of America during the Bosnia peacekeeping mission, and just also say that the residents of eastern Ohio join me in honoring the memory of Shelly McPeck Kelly and send condolences to her family, as we also send to the family of Ron Brown and the other devoted and loyal Americans aboard that plane.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. JACKSON].

Mr. JACKSON of Illinois. Mr. Speaker, I thank the distinguished gentleman from Michigan [Mr. DINGELL] for yielding this time to me, and for his forthright vision in honoring the late Secretary of Commerce.

Mr. Speaker, I rise this morning to join my colleagues in sponsoring this resolution in honor of Secretary Ron Brown and the others who lost their lives on Wednesday, April 3. The tragic plane crash and death of Secretary of Commerce Ron Brown is a personal loss, as well as a national loss of a great public servant. In addition to being a professional colleague, I was a close personal friend, not only of Ron Brown, but of his entire family, his wife Alma, his two children, Tracey and Michael, and his brother Chip Brown.

Our prayers are with Ron Brown's family and with all of the families who lost loved ones in this terrible tragedy—Bill Morton, Carol Hamilton, Duane Christian, Kathryn Hoffman, and the others. It is a reminder to all of us to be good stewards of the time and talent that God has given us on this Earth, and to use it to serve others to the best of our abilities.

I was with Secretary Ron Brown just a couple of weeks ago at a breakfast meeting. He came up to me and congratulated me on my election to Congress. He said, "I am so proud of you." The feeling was mutual, I was also proud of him.

I was appointed to the Democratic National Committee [DNC] by Paul Kirk, largely at the behest of Ron Brown, who shortly thereafter was chosen as the chairman of the DNC. As Chair of the DNC, he is credited with running a coordinated campaign, which not only elected Democrats to the Senate and House, but helped to elect Bill Clinton President of the United States. Shorty, thereafter, he was appointed Secretary of Commerce, where he did a splendid job for the President and for the country.

Ron Brown was the convention manager for my father's Presidential campaign in 1988, where he used his bridge-building skills to close the gap between progressives and the more conservative members of our party. In many ways, even more than business development, that is Ron Brown's legacy. He was a gifted bridge builder—bridging the gaps of human misunderstanding and fear; and building human trust and understanding.

Mr. DINGELL. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I got to know Ron Brown because I serve on the International Relations Committee, and because I also serve as Chairman of the Congressional Travel and Tourism Caucus. Ron Brown had a great sense of humor. He was also a fellow that helped Republicans. I hold an exports conference every year, and over 1,000 people come to that conference each year. Ron Brown was one of the keynote speakers at the conference 2 years ago.

As I said, he had a great sense of humor. When I spoke with him at the White House Conference on Travel and Tourism, he said to me, "You know, you are my favorite Republican." I was really proud of that until someone told me, Ron tells all the Republicans they are his 'Favorite Republican'."

We have a travel and tourism bill developed from the recommendations of the White House conference. The success of that bill is a testimonial to Ron Brown, because we have 225 cosponsors of that legislation.

Ron and I also worked together on another bill, the Export Administration Act. For 17 years, Congress was unable to put together an export administration act. Then, I want to Ron Brown and said, "I have to talk to the President about this." Thanks to Ron Brown, I did have a chance to talk to President Clinton three times on the legislation. That bill has been reported out of our full committee, and it is waiting for a full House vote in May.

Ron Brown was a great Democrat, and he worked hard for the party. I think the loss of Ron Brown to Clinton is comparable to the loss of Lee Atwater to President Bush. That is my opinion. That is how much I thought of Ron Brown.

Yes, he was the loyal opposition, but he knew when to put aside partisan politics. He went out of his way to help make my Exports Conference a success, and I happen to be a Republican. His help with the Export Administration Act was invaluable. That bill will increase our exports by $30 billion.

Mr. Speaker, I just want the people of this body to know that when Ron Brown went overseas, he worked hard. When he went down with a number of CEO's to Brazil, Chile, and Argentina, he worked as many as 35 hours in a row briefing people, talking to people, and trying to create jobs. Ron Brown did a lot for the economy of this country, and we are going to miss him. I thank the gentleman for yielding me the time.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, let me thank the gentleman from Michigan [Mr. DINGELL] for handling this resolution.

Mr. Speaker, last night we held a special orders session to honor our friend and a great American hero, Ron Brown. I rise now to join my colleagues in supporting this resolution paying tribute to this remarkable public servant.

As Secretary of Commerce, Ron Brown was known around the world as a tireless crusader for fair and free trade. A skilled negotiator, he kept America's interests in the forefront while winning the respect of our foreign competitors. Although Ron Brown's life was cut short, it was filled with extraordinary achievements: U.S. Army captain, vice president of the National Urban League, chief counsel, Senate Judiciary Committee, partner in the law firm Patton, Boggs & Blow; chairman of the Democratic National Committee, and his crowning achievement, Secretary of Commerce.

His dynamic energy was the force that propelled the Commerce Department forward. He and his energetic young staff brought billions of dollars of business home to the United States, transforming a lackluster Federal agency into a whirlwind of productive activity. We take a moment now to say thank you, Secretary Brown, for being both a dreamer and a doer. Your candle has not been extinguished; its light continues to burn.

Our deepest sympathy goes to his loving family—his wife, Alma and children Michael and Tracey and to the families of all of those dedicated Americans who died on that fateful mission.

We will miss Ron. He was a true American. He was an American who said that we can do it. He opened the eyes of this world to what can be done with dedication. Thank you very much for your service.

VOL 142 PT 6 AP 15 — 24 1996 UMI

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding time to me, and I thank my colleague, the gentleman from Connecticut [Mr. FRANKS], for letting me go a bit out of order.

Mr. Speaker, I want to pay my solemn and deep respects for Mr. Brown, who was an outstanding chairman of a major political party, the Democrat Party, and an outstanding Secretary of Commerce. He was someone who was extraordinarily energetic. I never met with him when he was not upbeat and excited and very dynamic. I wish to express my condolences to his wife, Alma, and to his two magnificent children, Michael and Tracy.

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This resolution also honors the others who died in this tragic plane crash in the former Yugoslavia, and I want to pay particular respect to Robert Donovan, who was the president and chairman of ABB, and, a resident of Fairfield, CT. I also want to pay respect to his magnificent wife Peg, and his two children, Kara and Kevin. I learned a lot from meeting with them after the death of their husband and father about the resilience of a great American family and how proud he could be of his family. I want to pay respect for his service to West Point and to his country. He was a true great American patriot.

At this time I also want to pay my respect to Claudio Elia, who was president and chairman of Air and Water Technology. He was a recent citizen of the United States, and I am told by his wife Susan and his children Mark and Christine that their father would have taken extraordinary joy, pleasure, and admiration—they would have been so proud to have heard the President of the United States call him and the others who went on this dangerous mission great American patriots. I was in awe of this family, the Elia family, in terms of my conversation and dialog with them, on how they dealt with the death of their husband and father.

My respects to Mr. Brown and to these two great families.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, let me thank my friend from Michigan for managing this bill for my dear friend Ron Brown.

One of the questions that I have found most difficult to answer was what made Ron Brown so different. I have to admit that I do not really have the answer, but one of the things that I think that made him different was the depth of which he loved this country and the fact that the country gave him an opportunity to show just how good he was.

When you think about that, you have to take a look at the history of our country, where we were and where we are going, and was Ron Brown not the right guy at the right time.

Everything that we have been taught in this country in our history deals with our relationship with England and with Europe. But now that they have their Common Market, we have to find other places to sell our goods: Central America, South America, Africa, China, all of these markets. And we have to do it in a way that we are not so hung up with our European connection as much as we are with our human being connection, and that was what Ron Brown was all about.

Ron Brown saw despair. He saw the need for economic development. He knew what a job would do for a person in terms of family values and dignity and planning a family and having a place to live. When he went to these countries, he did not just see a place to sell airplanes. He saw the pain and the misery and the opportunity to help build their economy, build friendships and, of course, while doing that, to create the jobs and the dignity and the disposable income that would be necessary for trade.

That is why when I have had the opportunity and the honor to travel with him, that he never just stayed with the big shots. He always went out there with the beneficiaries, the poor, those that sometimes seemed to be without hope. Even in South Africa, where he went to Soweto and spent more time than I would normally spend to see the people in Soweto, to sing their national anthem in his honor and his presence, meant that he did more than just sell goods to these people. He was selling the United States of America.

I hope those that have targeted the Commerce Department would realize that Ron Brown electrified everybody in Commerce. They love their country and they love what they are going. Whenever Ron Brown went overseas, our embassies turned overnight into being satellites of the Commerce Department, and our business people, instead of seeing staid diplomats and ambassadors, they saw those people that were there making deals for them.

I hope as this Congress moves forward and we have to go to the North American free trade countries and we have to go to China and Japan, that we really give other Americans the opportunities and change the complexion literally of the State Department, as Commerce has changed, and give America a better chance to show how good we really are.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. FRANKS].

Mr. FRANKS of Connecticut. I thank the gentleman from Michigan for yielding me the time this morning.

Mr. Speaker, I would like to read a letter that I sent to Alma Brown, Michael, and Tracy and the other members of the Brown family:

> It is with great sorrow that I write this letter of condolence to all the members of your extended family. Losing a family member is always difficult, particularly when it is someone who has been so vibrant and been so wonderful to this country, as well as one who would have such a great future that was taken away from him so abruptly.
>
> Secretary Brown dedicated his life to his country and, ultimately, died in service of it. There is no greater love that one can have for one's country than to die for it.
>
> Even though he died at a relatively young age, Secretary Brown's accomplishments were far greater than most people ever achieve at any age.
>
> I realize the feelings of grief that you must feel at this tragic time. However, the love of your family and the warmth and sincerity of neighbors, friends and the many people of our great country who are mourning the loss of Secretary Brown, will help sustain you in the days to come.
>
> I know that Secretary Brown's memory will be cherished by the many people whose lives he touched and affected.

My prayers are also being sent, Mr. Speaker, to the other passengers who died in the crash, including the two families from my State of Connecticut.

Mr. DINGELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank my friend from Michigan for yielding me the time.

Mr. Speaker, on April 3 of this year, 33 bright and shining stars of America lost their lives on a mission for their Government. Whether they came from the private sector, the armed services, or public service as Ron Brown and his colleagues from Commerce, they were all serving America and serving as a shining example to us, all of the best that is within us.

I, and a number of my colleagues, went to Dover Air Force Base to welcome back the 33 caskets containing those bodies. Their souls, of course, had gone to God. But as we paid tribute to them as human beings and expressed our sorrow along with their families at their leaving, we listened to the President's eulogy which was appropriate and, I thought, compelling. He said that these 33 lives show us the best of America, and indeed they did. And as this resolution does, the President named each and every one of those 33.

Ron Brown was, as he was to so many, my friend. I particularly remember an incident where we were going to Los Angeles to speak, and he had arrived at Dulles on an airplane, and I had gone there from here, and he had a very short connection. We got on the plane and we were flying to Los Angeles, and he had to speak that night at 5 o'clock and, lo and behold, his bags had not followed him and he was in casual clothes.

Now, Ron Brown was not one to speak in casual clothes, as we will recall. Luckily, I had two suits in my

bag, so we went in the men's room at the Denver Airport, and there we were, a black man and white man exchanging suits and dressing to speak that night. I am sure a lot of people said, "What's going on here?"

Ron Brown spoke that night, and he said, "I'm Ron Brown, but this is STENY HOYER's suit." He was so elegant, I am sure that he thought my suit was not quite up to his standards.

Ron Brown contributed greatly to this country in so many different ways. Yes, he was as shining an example of what a Secretary of Commerce ought to be as any in history, but he was much more than that. He was, as so many of my colleagues have indicated, a representation of what America is all about and what its best instincts produce.

Ron Brown was indeed a happy warrior. He was the embodiment of the joy of politics. Ron Brown, for all the young people of America, ought to be an example that there are no barriers too high, no mountains too hard to climb that should preclude you from accomplishing all that your character and your energy and your commitment will allow you to accomplish.

The President of the United States, as he closed the eulogy in Dover on April 6, said this:

> Today we bring their bodies back home to America, but their souls are surely at home with God. We welcome them home. We miss them. We ask God to be with them and their families.

The President said that we ought to pray that God bless America. And God did bless America. He did so through the lives of these 33 shining examples of the best of America.

Mr. Speaker, I include the remarks of the President on April 6 at this point in the RECORD.

REMARKS BY THE PRESIDENT AND BRIGADIER GENERAL WILLIAM J. DEDINGER, DEPUTY CHIEF OF CHAPLAINS, AT CEREMONY HONORING THE AMERICANS WHO ACCOMPANIED SECRETARY OF COMMERCE RON BROWN TO CROATIA

BRIGADIER GENERAL DEDINGER. Let us pray. Almighty God, source of all comfort and consolation, we ask your blessing as we receive the victims of this tragic accident. Though we walk through the valley of death and grief, we fear no evil, for you are with us with your comfort and consolation. You always prepare a table of refreshment for us, and surely your goodness and mercy will uphold us in our grief and sorrow in these days.

Help us always to remember these public servants, ever mindful of their willingness to share their talents and wisdom, not only with their own nation, but also with people seeking to recover from the ravages of war. May their example renew our personal vision of public service. Lord, give us this day a new hope, as we feel despair; new light, as we sense darkness; deeper compassion, as we experience loss. May this hope, this light, this compassion heal the brokenness of our hearts and minds.

This we ask in your holy name. Amen.

THE PRESIDENT. My fellow Americans, today we come to a place that has seen too many sad, silent homecomings. For this is where we in America bring home our own—those who have given their lives in the service of their country.

The 33 fine Americans we meet today, on their last journey home, ended their lives on a hard mountain a long way from home. But in a way they never left America. On their mission of peace and hope, they carried with them America's spirit, what our greatest martyr, Abraham Lincoln, called "the last, best hope of earth."

Our loved ones and friends loved their country and they loved serving their country. They believed that America, through their efforts, could help to restore a broken land, help to heal a people of their hatreds, help to bring a better tomorrow through honest work and shared enterprise. They know what their country had given them and they gave it back with a force, an energy, an optimism that every one of us can be proud of.

They were outstanding business leaders who gave their employees and their customers their very best. They were brave members of our military, dedicated to preserving our freedom and advancing America's cause.

There was a brilliant correspondent, committed to helping Americans better understand this complicated new world we live in. And there were public servants, some of them still in the fresh springtime of their years, who gave nothing less than everything they had, because they believed in the nobility of public service.

And there was a noble Secretary of Commerce who never saw a mountain he couldn't climb or a river he couldn't build a bridge across.

All of them were so full of possibility. Even as we grieve for what their lives might have been, let us celebrate what their lives were, for their public achievements and their private victories of love and kindness and devotion are things that no one—no one—could do anything but treasure.

These 33 lives show us the best of America. They are a stern rebuke to the cynicism that is all too familiar today. For as family after family after family told the Vice President and Hillary and me today, their loved ones were proud of what they were doing, they believed in what they were doing, they believed in this country, they believed we could make a difference. How silly they make cynicism seem. And, more important, they were a glowing testimonial to the power of individuals who improved their own lives and elevate the lives of others and make a better future for others. These 33 people loved America enough to use what is best about it in their own lives, to try to help solve a problem a long, long way from home.

At the first of this interminable week, Ron Brown came to the White House to visit with me and the Vice President and a few others. And at the end of the visit he was bubbling with enthusiasm about this mission. And he went through all the people from the Commerce Department who were going. And then he went through every single business leader that was going. And he said, you know, I've taken so many of these missions to advance America's economic interest and to generate jobs for Americans; these business people are going on this mission because they want to use the power of the American economy to save the peace in the Balkans.

That is a noble thing. Nearly 5,000 miles from home, they went to help people build their own homes and roads, to turn on the lights in cities darkened by war, to restore the everyday interchange of people working and living together with something to look forward to and a dream to raise their own children by. You know, we can say a lot of things, because these people were many things to those who loved them. But I say to all of you, to every American, they were all patriots, whether soldiers or civil servants or committed citizens, they were patriots.

In their memory and in their honor, let us rededicate our lives to our country and to our fellow citizens; in their memory and in their honor, let us resolve to continue their mission of peace and healing and progress. We must not let their mission fail. And we will not let their mission fail.

The sun is going down on this day. The next time it rises it will be Easter morning, a day that marks the passage from loss and despair to hope and redemption, a day that more than any other reminds us that life is more than what we know, life is more than what we can understand, life is more than, sometimes, even we can bear. But life is also eternal. For each of these 33 of our fellow Americans and the two fine Croatians that fell with them, their day on Earth was too short, but for our country men and women we must remember that what they did while the sun was out will last with us forever.

If I may now, I would like to read the names of all of them, in honor of their lives, their service and their families:

Staff Sergeant Gerald Aldrich
Ronald Brown
Duane Christian
Barry Conrad
Paul Cushman III
Adam Darling
Captain Ashley James Davis
Gail Dobert
Robert Donovan
Claudio Eli a
Staff Sergeant Robert Farrington, Jr.
David Ford
Carol Hamilton
Kathryn Hoffman
Lee Jackson
Stephen Kaminski
Katherine Kellogg
Technical Sergeant Shelly Kelly
James Lewek
Frank Maier
Charles Meissner
William Morton
Walter Murphy
Lawrence Payne
Nathaniel Nash
Leonard Pieroni
Captain Timothy Schafer
John Scoville
I. Donald Terner
P. Stuart Tholan
Technical Sergeant Cheryl Ann Turnage
Naomi Warbasse
Robert Al Whittaker

Today we bring their bodies back home to America, but their souls are surely at home with God. We welcome them home. We miss them. We ask God to be with them and their families.

God bless you all, and God bless our beloved nation. Amen.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I did not have the honor of personally knowing Ron Brown, but I knew him by reputation and by watching him work with flair and gusto in a very important job. He was a great role model for everybody. He was indeed a marvel.

VOL
142
PT
6
AP
15
—
24
1996
UMI

One searches tragedies for some meaning or for some glimmer of good. Out of Ron Brown's tragic end and out of the deaths of his passengers, it seems to me we can take comfort in the fact that he died as a public servant and elevated the category of public service through his sacrifice and through his example. And those of us who are very concerned about the low estate and esteem that public service has in people's minds, it seems to me can take some consolation.

God bless Ron Brown and his family and all of those on the plane.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Tennessee [Mr. FORD].

□ 1130

Mr. FORD. Mr. Speaker, I want to thank my friend from Michigan for yielding me 2 minutes.

Mr. Speaker, I certainly want to support the resolution that is before the House today in tribute to Secretary Ron Brown and other Americans who met their untimely death.

Ron Brown, and I really associate myself first with all of the remarks that have been made so far on this resolution before the House, and we all were saddened with the death of Ron Brown and others, for this Nation to know that Ron Brown was a good public servant, that Ron Brown not only served his Nation well, but I was a neighbor of Ron Brown's. That is true for Alma and Tracy, along with Mike and the two grandchildren.

Being a neighbor, I guess for the past 15 years here in the D.C. area, to know Ron Brown and his family, and to see and to watch how he was able to develop such a great family and a good support system for that family, and he was a good neighbor. Ron kept the neighborhood upbeat. He was one who was always available and had time for young people.

I can say that, because I have three sons myself, and my three sons have been somewhat raised in the presence of Ron Brown, and to know of his leadership and to know of his character and to know of his smartness. He was extremely bright while he was there at the law firm here in the District.

He went on to become the chairman of the Democratic National Committee. Then I was on the plane with him going to my hometown in Memphis back in 1992, the end of 1992, when he was called by the President-elect Clinton to be offered a Cabinet slot in the administration. We had that 2-hour flight. He left Memphis and went to the Little Rock area.

But to hear him and listen to him, and to know he was about serving this Nation, and to see Ron Brown as a corporate giant, leading corporate American into other ventures throughout the world, and to create jobs and to bring huge dollar amounts into this country, as a neighbor and as a friend and as a Member of this body, I would say that he made a great contribution to mankind, he made a great contribution to America, and Ron Brown will be missed.We are certainly praying for the family and other family members of the other deceased persons.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for giving me the opportunity to speak.

I was over at my office and I heard this, and I wanted to be here. Twelve years ago, fresh out of law school, I worked with Ron Brown as an international trade lawyer. At the time I was doing volunteer work for then Vice President Bush. So clearly we were on opposite sides of the political aisle. Yet Ron reached out to me and befriended me, and for the past 12 years that friendship continued.

Most recently at home on a Sunday he called me to talk about preserving the international trade functions at the Department of Commerce, a function that he exercised as well as any Secretary of Commerce in history, I think better than any Secretary of Commerce in history.

As Ron was so good at doing, he reached out to me again and found common ground, in this case our mutual back problems we were experiencing. Unfortunately, my back surgery kept me away from his funeral last week.

TOBY ROTH said he called him his favorite Republican, and apparently he called some other Republicans that. He never called me that, but he did call me his friend, and I cherish that, and will cherish that forever.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, I rise today in support of this resolution, and I would like to thank the Democratic leader and the Speaker for bringing this measure to the floor today.

First, I wish to extend my condolences to the Brown family and to the families of all those who went down on that fateful flight. Their loss is our loss, and America mourns the passing of some of our best and brightest.

Mr. Speaker, I personally admired Ron Brown as a role model and as a public servant. Moreover, his work touched the lives of my constituents who benefited from his vision of improving the lives of working families through investments and exports.

Ron Brown exemplified everything we as Democrats believe in and stand for. His belief in the human spirit and the American dream permeated every aspect of his life. His unwavering compassion and concern for the less fortunate was the moral compass by which he guided his work. As Democrats, we have lost one of our party's finest.

Mr. Speaker, it is not often that I get to meet the likes of a Ron Brown. Moreover, I am proud to have known him and appreciate what he has done for my constituents, for my party, and for my country.

A young woman from Atlanta was also on that plane, Kathryn Hoffman. My condolences are extended to her family and to her friends.

I was recently asked by a journalist about the loss of Ron Brown, a black leader. I corrected that journalist. Ron Brown was an American leader.

Mr. DINGELL. Mr. Speaker, I yield 30 seconds to my good friend and colleague, the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, all of those of us who were friends of Ron Brown certainly have their own personal stories, and I have mine, but I will not take the time to dwell in personal stories.

I simply wanted to be one of the Members who rose in support of this resolution and to express my condolences to the Brown family and the families of all the other brave Americans who lost their lives in this tragic accident.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to my good friend and colleague, the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Mr. Speaker, history will remember Ron Brown as one of the most dynamic, creative and brilliant leaders to ever serve in a Presidential Cabinet.

These characteristics stand out strong and clear in the many articles reviewing his career that were published after the plane crash that took his life and the lives of the staff Members and business leaders accompanying him on that fatal trip to the former Yugoslavia.

One national magazine, Jet, featured a number of photographs of Ron Brown at work. They showed Ron Brown in China, in Japan, in South Africa, in Egypt, in Saudi Arabia, in Israel, in Gaza, in Russia, in Germany, in Chile, in Indonesia, and in Bosnia, just hours before the crash on the mountain top.

He seemed to be everywhere during those few busy years he served as Secretary of Commerce, the first African-American to hold that office, even coming to the Second District of Georgia to deliver the commencement address at Albany State College.

In a span of less than 3 years, he made 15 trade missions to more than 25 countries. These trips produced a record 80 billion dollars' worth of new business contracts for U.S. made goods and services. His work in foreign trade led to a 26-percent increase in U.S. exports. But he also worked to enhance minority business enterprise in America and abroad.

Vice President GORE called him the greatest Commerce Secretary in history. But it was not just political allies

who recognized his extraordinary ability. Senator DOLE described him as a tireless advocate for American business and a gifted leader.

Born in Washington, DC, and raised in Harlem, Ron Brown was gifted at everything he did, as a student at Middlebury College and St. John's University, as an Army officer in Germany and Korea, as an official and social worker with the National Urban League, as a senatorial aide and chief counsel for the Senate Judiciary Committee, as chairman of the Democratic National Committee, as an attorney in a leading law firm, and as Secretary of Commerce, and as a friend.

Many of the articles about Ron Brown's career referred to him as a trailblazer. This was certainly true, and the trails he blazed brought jobs and a more secure economy for all Americans. He will be sorely missed.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I rise in strong support of the resolution and thank the gentleman for bringing it forth. We have lost a dear friend.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, the outpouring of feeling after Ron Brown's death was unique. It was a tribute to Ron, to his capacity for friendship, to his verve, his zest for life, his intelligence, his caring. It was also a tribute to Ron Brown's America.

Ron Brown's life showed that there are almost no limits to opportunity in America. You have to work for it. But we often talk about the limitlessness of opportunity. It is not always quite true. Ron tried so hard to make it true.

Like so many other dear friends of Ron Brown, I have mourned his death. I miss of him every day.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, Ron Brown, who was a good friend of many years, and I appeared on a program about 3 weeks into his position as Secretary of Commerce, and I was somewhat nervous for my friend, because the breadth and depth of areas covered by the Commerce Department are so vast. Within 3 weeks he had mastered the area of high-technology licensing and exports to a degree which most secretaries had not at the completion of their term, his interest length was such and his intensity and commitment to the areas he was in charge of. He knew his job, he executed it with dignity and grace and with an energy that ought to inspire everyone in both the public and private sector.

He fought for the economic strength of this country from every working man and woman's point of view. He wanted to make sure there were jobs so that each American would have the kind of opportunity he had made for himself.

He was a friend, he was incredibly capable. I cannot imagine that there is anyone who will serve in that capacity who will have the energy and intellect that Ron Brown had.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. DINGELL] has 1½ minutes remaining.

Mr. DINGELL. Mr. Speaker, I yield the balance of the time to the distinguished gentleman from Louisiana [Mr. FIELDS].

Mr. FIELDS of Louisiana. Mr. Speaker, I want to thank the gentleman for yielding me time.

Mr. Speaker, Ron Brown was a very personal friend of mine. I had an opportunity to meet him on a Presidential campaign in 1988, where he and I shared many platforms together. There is not another American that I have ever met in my lifetime who has worked as hard, who has had such a strong commitment to country, than Ron Brown.

Mr. Speaker, I stand before the House today to say that Ron Brown was indeed a scholar, a leader, and a role model, for people all across this country.

The last time Ron Brown and I had an opportunity to sit down and talk was actually in the Fourth Congressional District. I called him at the Department of Commerce and said, Mr. Secretary, I want you to come to Louisiana and talk about economic development. And right off the cuff he just said, I will be there. And in about 30 minutes, he called back and said, I will be there in about 3 weeks.

So I want to thank the Ron Brown family. I also want to give a special tribute to a family from Louisiana. The pilot of that plane was from my home State of Louisiana, Ashley Davis. To his wife and to his two little children, we want to say that we offer our condolences to them and to all of the families of those who lost their lives in this tragic accident. To them we say God bless you, and we will pray for you.

Mr. Speaker, I do not think it is possible for everyone to fully comprehend what a loss the Nation will suffer without the late Commerce Secretary Ron H. Brown. Not only was he a champion for the domestic and international development of American business, but also, and more importantly, his extraordinary character was an invaluable asset to the U.S. Government. Every project he touched was approached with a tireless devotion and a profound understanding of the initiative's impact on the Nation's economy. He led by example, urging others to work as partners instead of competitors to maximize opportunities.

Truly, this man was in the business of building bridges and reinforcing existing relationships to ensure opportunities for advancement of large and small business interests alike. Under his leadership, all facets of the Commerce Department flourished and enjoyed the benefits of innovative policies. He was instrumental in developing a comprehensive and coordinated plan for bringing together the many elements of the U.S. Travel and Tourism Administration; he sought to improve patent and trademark protection of U.S. interests in intellectual property; he worked diligently for telecommunications reform to create a competitive marketplace and to illuminate how technology can alleviate geographic barriers and enhance education; he instituted a long-term plan to assist the New England fishing industry—the list goes on and on.

A man of firsts, Ron Brown was the first African-American chairman of the Democratic National Committee and the first African-American to hold the office of U.S. Secretary of Commerce. He worked tirelessly to promote the Commerce Department's mission of long-term economic growth—to him we owe a debt of gratitude for our Nation's prosperity. At a time when diversity seems to be a dividing force in this country, Ron Brown demonstrated that diversity is our Nation's greatest asset. It is in this spirit that I offer these words of tribute.

During this time of remembrance, I would like to pay tribute to an Air Force pilot who lost his life serving our country, Capt. Ashley J. Davis. Captain Davis was from my hometown, Baton Rouge, LA. A victim of the tragic plane crash which ended the lives of 33 Americans who were serving their country, Captain Davis' mission was to pilot the dignitaries who visited Europe. He was chosen for the job just 18 months ago, over 38 other pilots. I offer my condolences to Captain Davis' family. He is survived by his wife Debra, and two children. A man of great spirit and patriotism, I know his family and friends will miss him. The Air Force has also suffered a great loss in his untimely death during his dedicated service to our country. Today, I extend my prayers to this family as well as the families of all the persons who lost their lives in Croatia.

Mr. FAZIO of California. Mr. Speaker, I rise today to commemorate former Secretary of Commerce, Ron Brown.

Throughout the past several days I have heard the accomplishments of Ron Brown extolled by my colleagues. Americans everywhere, and especially those who were close to Ron are deeply affected by this tragedy. Ron was much more than a great chairman of the Democratic Party and Secretary of Commerce, he was a true pioneer and an inspirational human being.

I feel extremely fortunate to have known Ron as a personal friend. Ron began to serve as chair of the Democratic Party around the time I became chair of the Democratic Congressional Campaign Committee. Ron exhibited unwavering optimism in the face of adversity and inspired others to do the same. Through his tireless efforts, Ron Brown restored the Democratic Party to greatness and brought a Democrat back to the White House.

Ron was the type of person who consistently exceeded people's expectations. As Commerce Secretary, Ron single-handedly defined his role. He succeeded in promoting American business and boosting exports to new heights.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Ron Brown was a pioneer in every sense of the word. He spent his life overcoming obstacles and opening up new doors for others to follow. His death occurred while he was cultivating the seeds of economic growth and creating greater opportunities for a country ravaged by war.

Ron Brown will be long remembered for the tremendous service he provided to his country. However, I will miss him as a close friend.

Adam Darling, a 29-year-old Commerce Department employee was also among those who perished in the crash. Darling had worked at the Department since 1993 and had helped plan the trip to the region. A former Davis, CA resident and graduate of the University of Pennsylvania, Darling had a promising future ahead of him. My deepest sympathy goes out to Adam's family.

Tim Schaefer, a Sacramento native, was among the six Air Force crew members who perished in the accident. Schaefer, the plane's copilot, had earned a degree in mechanical engineering from California State University, Sacramento. Also among the crew was Capt. Ashley J. Davis. Both men had been stationed at Beale AFB. I salute these members of the armed services who paid the ultimate price to serve their country.

Mr. MARTINI. Mr. Speaker, I rise today to honor Ron Brown, the United States Secretary of Commerce who was killed in a tragic accident on April 3, 1996. He and 35 other victims died when their plane went down on a stormy evening in Croatia. He was serving as a diplomat in the war-torn area, analyzing the economy and what actions needed to be taken in the former Yugoslavia in order to spur economic growth to secure the peace.

Ron Brown was indeed an asset to the United States. He was one of the ambitious, special people who is capable of performing multiple roles in their lives while at the same time succeeding in all arenas and remaining true to their ideology.

Ron Brown was a vocal and successful civil rights advocate, political strategist, corporate lawyer, and propagator of American business interests.

He tirelessly campaigned to make the interests of American businesses a foreign policy goal. He certainly deserves credit and thanks for market expansion.

It is because of his success in multiple arenas and in the international community that the United States and the world mourn together. Today we should all take a moment to remember the career and the man we lost.

Ms. ESHOO. Mr. Speaker, on April 3, 1996 the United States lost a leader. Secretary of Commerce Ronald H. Brown inspired us all with his ability to bring together people from different backgrounds, beliefs, and cultures to find and achieve a goal for the common good.

He inspired us by his commitment to finding opportunities for U.S. businesses overseas, recognizing that our country's trade deficit is harmful to our domestic economy and the jobs Americans want and need.

Because of his leadership, many California technology firms have increased their sales to foreign countries, which has increased employment and a rebounding California economy. According to the Joint Venture's Index of Silicon Valley, 46,000 jobs have been added to our region since 1992. The semiconductor industry, which has endured years of job loss due to a trade deficit with Japan, showed a gain of 4,300 jobs between 1994 and 1995. Business confidence of Santa Clara County companies reached an all-time high of 73 percent in 1995.

Secretary Brown advocated effectively for economic and employment improvements in Silicon Valley, and this is just part of his legacy. Members of Congress, the administration, business leaders, and citizens must work to preserve this legacy of proactive work on behalf of the people of our country.

America will miss his leadership. I will miss his friendship of almost two decades. Secretary Brown gave his life while serving his country. God rest his good soul.

Ms. DUNN of Washington. Mr. Speaker, today I wish to pay tribute to Commerce Secretary Ronald H. Brown and the 32 other Americans who lost their lives when their plane crash near Dubrovnik, Croatia, on April 3, 1996.

Throughout his tenure as Commerce Secretary, Ron Brown successfully worked on behalf of American companies and their workers in opening doors to the global market. For many companies in my home State of Washington, Secretary Brown was instrumental in promoting our products and cultivating new and/or improved business relationships with our international neighbors.

The most important role of any Commerce Secretary is the promotion of American companies and the workers they employ. Ron Brown will forever be remembered as being a success at this task.

The people who died aboard that plane gave the ultimate sacrifice in the name of democracy and a global free market. Prosperity and economic hope are essential in bringing long-term peace and security to that region of the world. Ron Brown and the other individuals on that plane knew this and recognized their role in spreading our Nation's democratic and free-market beliefs around the globe.

My heart goes out to each and every family member of those who died in that tragic crash. In this time of great sadness, these families should know that as Americans their loved ones will be missed, as patriots they will never be forgotten.

Mr. TRAFICANT. Mr. Speaker, "Fanfare to the Common Man" was played triumphantly at the funeral of the late Commerce Secretary, Ronald H. Brown. His family could have played some horn tooting type music, in view of the facts that Mr. Brown was truly a successful, high stakes Washington player and an overachiever in many respects. However, they know Ron would not have wanted it any other way.

Ron Brown did not see himself as a Democratic power broker or jet setter or trailblazer like we did. He saw himself as a middle-class kid who grew up in Harlem that loved the basic things in life: family, friends, work, and country. He was passionate about each. He was also passionately devoted to ensuring that everyone got an opportunity, a chance to do better. He believed in opportunity so much that he insisted that his Commerce Department staff memorize a one-sentence mission statement. It reads: "The mission of the Department of Commerce is to ensure economic opportunity for every American." We should all agree that this is still a noble cause.

Mr. Brown set several honorable examples for people from different walks in life. He encouraged young people to strive and reach for the gold. And indeed, he practiced what he preached, he had several raising stars on that ill-fated plane with him. He encouraged CEO's and business leaders to lend their expertise for the improvement of cities in our country and in foreign lands. On that plane were business leaders from across the country. Ron Brown always did what he could to provide an opportunity for everyone, everywhere.

We each will remember Ronald Brown, in our own way, but collectively we will remember him as a great, inspiring American.

Ms. DELAURO. Mr. Speaker, I rise to pay tribute to Ron Brown and to express my deep sorrow and sincerest condolences to his wonderful family. Ron Brown was my friend, and he was a great American.

As Secretary of the Commerce Department, Ron Brown played an instrument role in implementing the administration's economic plan that has created 8.4 million jobs nationwide since taking office. He was a major force behind job creation efforts and the chief architect of high-technology initiatives to provide greater employment opportunities for working Americans.

Previously, Ron Brown served as chairman of the Democratic National Committee. He was the first African-American in history to head a major national political party. At the DNC, Ron Brown rebuilt the party and laid the groundwork for the Democrats to win back the White House after losing three straight national elections.

Last summer, Ron Brown traveled to my congressional district to attend the closing ceremony of the Special Olympics in New Haven. We spent the glorious Connecticut morning touring events and had a great time with those wonderful Special Olympians who shared Ron's never-give-up spirit.

Mr. Speaker, Ron Brown lived the American dream and served as an inspirational role model for America's youth. Our country has lost a great leader.

I also want to convey my condolences to the friends and families of Robert Donovan, the chief executive officer of ABB, Inc., headquartered in Norwalk, CT, and Claudio Elia, the chairman and chief executive officer of Air and Water Technologies Corp. in Branchburg, NJ, who lived in Greenwich, CT. In addition, the Nation lost many fine, dedicated people in this tragedy who gave their lives in an attempt to heal a nation and a world ravaged by war. Connecticut and the Nation mourn the loss.

Mr. CLAY. Mr. Speaker, I am honored to join my colleagues in tribute to a truly remarkable man, the late Honorable Ron Brown. Ron Brown was a prominent black American who dedicated his life to building a better world for all people. Blessed with many talents and opportunities, Ron used them wisely and he shared his gifts generously.

Ron Brown was a compassionate man who thrived on challenge. He blazed new trails and often was the first black American in his field. Ron was the first black member of his college

fraternity, the first black counsel for the Senate Judiciary Committee, the first black chairman of the Democratic Party, and the first black Secretary of the Department of Commerce.

Ron had a charming manner and a graceful style. He showed a deftness for overcoming the odds and doing some impossible things. When many experts and political pundits said it could not be done, Ron rejuvenated the Democratic Party and spearheaded the campaign that elected Bill Clinton President, and when Ron did these things he made it look easy.

Ron Brown had the courage of convictions that inspired others to join in his crusades. He shared his vision and his faith in a brighter future. He was a force for unification of diverse groups and the resolution of conflict among them. His last mission was dedicated to rebuilding a war torn land and I am sure he would have made a great contribution to the rebuilding of Bosnia if only he had lived a little longer.

Ron lived his life sowing the seeds of peace and hope. He left this world way too soon, but he left it better than he found it. We will long feel the force of Ron Brown's smiling spirit and long celebrate the legacy of good will he left behind.

Mr. RUSH. Mr. Speaker, I rise today to honor the memory of a very special man, Ronald H. Brown. Most Americans will remember him as the Secretary of Commerce. However, he was much more. He was the personification of the concept of a bridgebuilder.

In his role as the Secretary of Commerce, Ron constantly promoted American trade. His zeal was premised upon the notion that if the commerce of the United States thrived it would directly translate to increased economic vitality for our Nation. Ron, who never forgot where he came from, knew that his efforts would result in jobs for the common man.

As chairman of the Democratic National Committee, Ron Brown set the stage for a resurgence of the Democratic Party. This is a resounding testament to his ability, for it was under his leadership that the Democratic Party was able to elect Bill Clinton as President. Ron accomplished this task on the heels of three consecutive Presidential defeats of Democratic candidates.

His memory deserves more than the mere recognition of his official position. For his title was but a small reflection of what he was. Drive, tenacity, compassion, and loyalty were his trademarks. Most of us hope to attain all of these attributes. Few of us attain them with the proper balance. And even fewer attain these attributes and are able to parlay them into avenues for even greater achievement. Ronald H. Brown was one of these rare individuals.

Whitney Young once said, "We can't * * * sit and wait for somebody else. We must go ahead—alone if necessary." Ron Brown was a trailblazer and a visionary. He never waited for opportunities, he created them. Because of this, all American people have benefited.

Mr. OWENS. Mr. Speaker, Ron Brown was a renaissance politician, a jack of all trades who mastered them all. He was a mentor for seasoned professional politicians and he was qualified to tutor most of us. Ron used his considerable influence and charm to become an extraordinary fundraiser for the Democratic Party. From the complex job of raising money to the details of election day engineering, Ron performed with great enthusiasm.

I first met Ron Brown in Chicago while campaigning for Harold Washington for mayor of Chicago. Former Majority Whip Bill Gray, Ron, and I were on a campaign swing through the public housing projects on Chicago's Southside. At that time, Ron was working with a well-known, prestigious, and powerful law firm in Washington. However, on that day, he was simply Ron the loyal friend, campaigning for a fellow Democrat. We went into huge, tall, cold concrete buildings and walked on floors which seemed to be completely out of this world.

The deterioration and garbage inside the halls were unbelievable even to a poor boy like me whose father had never earned more than the minimum wage. I had lived in some of the poorest neighborhoods of Memphis and worked in some of the poorest neighborhoods in New York, but never had I seen such despair. The only glimmer of light we saw in those highrise urban tunnels were the Harold Washington posters that the residents waved at us when they saw our familiar signs. We had connected with the most oppressed among us. As my eyes met Ron's he broke into his signature smile: "This is what politics has got to be all about," he said as we plunged into the crowd of outstretched hands and marched through the halls reminding folks that tomorrow was the day to go out and elect the first African-American mayor of Chicago.

Ron Brown was the unifying force behind the most successful and conflict-free convention the Democrats have had in nearly two decades. Ron was a star who kept his poise, kept peace among the many party factions, and made the Democratic National Committee an effective force to be reckoned with in politics. Ron Brown was a masterful strategist who began his tenure as party chairman with several special election victories despite great obstacles. He was a great communicator and a great cheerleader who also understood the nuts and bolts of winning campaigns.

Seldom in America does one man so gracefully transcend the racial chasm. Ronald H. Brown did, and in his journey, he deeply touched the heart and soul of a nation. As our Secretary of Commerce, he was our corporate ambassador to the world. As the chairman of the splintered, fractious Democratic Party, he was the glue that held it together, and in so doing, delivered the White House and became the most beloved chairman in history.

Ron Brown was undaunted and unfazed by challenges. Being a first was not unusual for him. He was the first African-American in his college fraternity, the first African-American counsel for the Senate Judiciary Committee, and the list goes on. Ron was a trailblazer and an eternal optimist. He saw no mountain that couldn't be climbed or moved or conquered.

The Nation has lost a great leader and statesman. I join Ron's many colleagues and friends not in mourning his death, but in celebrating his life, his accomplishments, his style, and his spirit. Ronald H. Brown will be missed, but never forgotten.

Mr. MCDADE. Mr. Speaker, I want to join my colleagues from both sides of the aisle today in paying tribute to former Commerce Secretary Ronald H. Brown and the 34 others who lost their lives in the tragic plane crash on April 3 in Croatia.

I had the privilege of personally knowing Ron Brown. I respected and liked him as a dedicated public servant, an individual of the highest caliber, and a man of great intellectual ability. A man of his abilities and experience, who possessed such tremendous personal characteristics, will be greatly missed.

Ron Brown leaves behind a legacy of achievement in the military, political, government, and business arenas that few people can match. He led an extraordinary life and we are all saddened by the loss of this talented, exceptional, and energetic man.

My sympathy and condolences go to his wife and two children and to all of the families of those who died in this tragic accident. As Americans, we all mourn the loss of life and note the sacrifice of these individuals who died in the service to their country.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I wish to join my colleagues, Mr. GEPHARDT and Ms. MEEK, in support of the resolution in tribute to Secretary of Commerce Ron Brown and the 32 other patriotic Americans, including several from my State of Massachusetts, who lost their lives on St. John's Hill outside of Dubrovnik, Croatia.

Ron Brown was truly a living American hero, and his loss will be sorely missed—and my heart goes out to his lovely wife Alma and his loving children, Michael and Tracy. I will miss Ron dearly. He was a colleague and a friend of more than 20 years, and his loss is a personal one.

In an era where cynicism too often wins out over optimism, where fear too often conquers hope, and where the art of politics is seen by most in a less-than-admirable light, Ron Brown showed that public service is indeed an honorable profession.

Whether in his service to his country in the U.S. Army, as a leader in the civil rights movement, as a public and private sector lawyer, as a political party professional, or as an advocate of business and job creation for all Americans, Ron Brown was a leader, a visionary, and a dreamer of what America could and should be. But most importantly, was a passionate advocate for expanding equal opportunity to all Americans.

In a world with too few heroes, we have lost a true American hero.

Ron Brown was truly a man who viewed politics as the art of the possible. Ron Brown's legacy will far outlast most of us—his unique and enviable ability to bring people together to find a common goal.

You had to know Ron Brown on a personal level to understand his unique ability—his intelligence, his boundless energy, his strong will, his resilience, his ability to grasp complex ideas and to advocate them in a way that always brought people together.

But you also had to appreciate how Ron Brown took on each and every opportunity with a spring in his step, a twinkle in his eye, and a smile on his face. It's been said before, but Ron Brown was Will Rogers in reverse: you never met anyone who didn't like Ron Brown.

Ron Brown had a passion for achievement that you rarely see in individuals, and he was

VOL
142
PT
6
AP
15
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24
1996
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an extraordinarily gifted man. I will always consider myself fortunate to have known Ron Brown as a friend.

He will indeed be remembered as a patriot and a friend, and we will miss him dearly.

Mr. GILMAN. Mr. Speaker, it is a sad responsibility to rise to join with my colleagues in paying tribute to an outstanding public servant who has been lost to us all too prematurely and in support of House Resolution 406.

Secretary of Commerce, Ron Brown, throughout his many years of public service—and let there be no mistake that he did indeed contribute many years of public service—was well known for his outstanding personality, his determined professionalism, and perhaps, most importantly of all, his charming sense of humor which won him the admiration of political allies and adversaries alike.

Ron Brown, before entering the public limelight, was well known as political mover and shaker behind the scenes here on Capitol Hill. While serving on the staff of Senator EDWARD KENNEDY of Massachusetts, he learned the importance of compassion in legislation, the importance of compromise, and the importance of consensus.

As Secretary of Commerce, Ron Brown was an inspiration to us all. He genuinely cared about the business community of this Nation, and understood that a strong economy is the cornerstone of national strength.

It was in pursuit of expanding trade opportunities in that part of the world which used to be called Yugoslavia that Ron gave his life. The tragic and untimely death of Ron Brown is a reminder that those who devote their lives to public service are in just as much jeopardy as are those who volunteer for the battlefield.

The fact that 33 young public servants also gave their lives with Ron Brown only underscores his ability to inspire others, especially young people, to public service. These devoted young people deserve our admiration.

It is with deep regret that I learned that one of those 33 victims was a constituent in my 20th Congressional District of New York. Lee Jackson, a 37-year-old native of the town of Greenburgh in Westchester County, was the son of Luther Jackson, Jr., a highly respected journalism professor at Columbia University, and Mrs. Nettie Lee Jackson, a long time community activist.

Lee was inspired to go into public service by Secretary Brown, under whom he served in the Department of Commerce. As we extend our condolences to the Jackson family—and to the families of the other victims—the bereaved families should be assured that many Americans share their loss.

Ron Brown, and his courageous coworkers, will long be remembered and will long be missed.

Mr. WATTS of Oklahoma. Mr. Speaker, it was with great sadness that I learned of the tragic accident that took the life of Ron Brown and 34 dynamic young Americans who were on a journey of hope to a dangerous part of the world.

I had never had the pleasure to meet Ron Brown until I came to Washington last year, but I knew long before that, that he was a crusader, an energetic advocate, and a dedicated public servant. In politics he was a more than worthy opponent to his Republican counterparts, and in Government he was clearly a most valued member of the President's Cabinet and an effective ambassador for America around the world.

Our country was well served by Ron Brown's enthusiasm, competence, and determination. His work as a member of the Cabinet earned him well-deserved praise, especially from the Nation's business community.

My heart and prayers go out to Ron Brown's family at this difficult time, and also to the families of all those who lost their lives on this mission of hope. They all shared in that great American gift of optimism and that great American belief that we can make the future better than today. They went to the Balkans to share that great American gift with a people whose history has stolen their hope and their optimism and their dreams for their children.

Our greatest tribute to these dedicated Americans would be to renew their journey of hope and to share their great dream of a better future with those who suffer around the world.

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise to pay tribute to a great American, the late Secretary of Commerce, Ron Brown. I am pleased to be a part of this resolution for tributes to distinguished leaders of our great Nation. Ron Brown's life work is a true American success story. It is that American agenda opportunity that I alluded to when I was sworn in; that gives an opportunity to every American, that hope that is embodied in our creed. They will soar to high of this Cosmos.

The loss of the Secretary of Commerce is tragic which is underscored by his commitment to jobs, social justice, and economic security. During the times that we met at several official occasions, I found him to be a charming, warm, intelligent, and always a gentleman. I have fond memories of my discussions with Ron Brown.

I remember watching the news in the immediate aftermath of the civil unrest in Los Angeles in 1992 following the Rodney King beating trial verdict, when he met with the angry and frustrated youth of south central Los Angeles. He and the President played basketball, demonstrating his ability to relate intergenerationally and across the socio-economic spectrum. That was perhaps his greatest attribute. He understood that we must work to help others, and he did that.

Ron Brown perished in Bosnia trying to acquaint a delegation of businesspeople with the market conditions there and to bring peace to a war-torn region. Speaks to his humanitarian efforts and as a parallel—he also worked to bring jobs to south central Los Angeles and improve the lives of the people, and finally bring peace to people who have desired it for so long. Ron Brown knew the value of a job to people and to a community. He worked to improve people's lives by bringing jobs to those who wanted to work.

I want to offer my condolences to Alma Brown, a woman of courage and strength, the Brown family and the families of the people whose lives were lost that day.

I am pleased to participate in this tribute to a wonderful American.

Mr. LAZIO of New York. Mr. Speaker, it is with great sadness that I rise today to pay tribute to the late Commerce Secretary, Ron Brown, and his colleagues who lost their lives while serving our country in Bosnia. Secretary Ron Brown, through his eloquence and determination, contributed greatly to our Nation. Even before his days at the Commerce Department, Ron Brown's capability and many successes advanced racial equality in America. His commitment to fostering relations between foreign governments and U.S. business is evident in America recovering its leadership role in world trade.

Mr. Speaker, one can never be prepared for such a sad and unexpected event. Secretary Brown and his colleagues brought hopes of prosperity to a war-torn region. Those of us from Long Island were especially saddened to find that Gail Dobert of the Commerce Department was among those who lost their lives in this tragic end to a mission of peace. We have witnessed a great loss, not only to friends and family, but to the Nation. I join with my colleagues today in offering my deepest sympathy.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 406.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SHAW). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DINGELL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 10, as follows:

[Roll No. 123]

YEAS—423

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss

Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Fields (TX)
Geren
Gibbons
Hayes
Hinchey
Jackson-Lee (TX)
Kasich
Lantos
Rose
Tanner

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Messrs. STOCKMAN, LAHOOD, KENNEDY of Rhode Island, and HASTERT changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 735, ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996

Ms. PRYCE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 405 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 405

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore (Mr. SHAW). The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. PRYCE. Mr. Speaker, I am pleased to bring to the floor today the rule providing for the consideration of the conference report on S. 735, the Antiterrorism and Effective Death Penalty Act of 1996, which was passed overwhelmingly by the other body last evening. This is a simple, fair rule which waives all points of order against the conference report, and against its consideration, in order to permit the House to consider provisions which may exceed the scope of differences between the House and the Senate.

Ms. Speaker, the devastating terrorist attack that took place in Oklahoma City nearly 1 year ago today serves as a poignant and powerful reminder that the threat of domestic terrorism is a very real and present danger in our society. One hundred and sixty-eight innocent people, including dozens of children, lost their lives in that attack. Combined with the nearly 500 people who were injured in the blast, the bombing of the Federal building in Oklahoma City ranks as the worst terrorist incident ever to take place on American soil. Unfortunately, it was not the first. The bombing of New York's World Trade Center building in 1993. Americans for the first time faced the sobering prospect that terrorists are at work right here in the United States.

Among the lessons we have learned from these tragic events is that law enforcement must be prepared to respond effectively and immediately to terrorism when it occurs. More importantly, as technology rapidly advances, law enforcement officials at all levels must have access to reasonable and legitimate tools that will enhance their ability to prevent terrorist acts before they result in the loss of human life.

The difficult task which this body has faced during the past year has been to balance the needs of law enforcement with the need to preserve essential civil liberties. Today, under the terms of this simple, straightforward rule, we will debate a conference report that I believe improves upon the House-passed bill, while still assuring the Federal Government an appropriately limited but responsible role in the fight against terrorism.

Several key provisions have been added to the House-passed bill in this bipartisan conference report that will assist our country's fight against terrorism. For example, it provides procedures to allow for the removal of alien terrorists, fairly and with due process, but also with adequate protections to safeguard sources and methods of classified information.

It provides improved steps for designating foreign terrorist organizations, and contains provisions that severely restrict the ability of terrorist groups to raise funds in the United

VOL 142 PT 6 AP 15 — 24 1996 UMI

States. As we all know, Mr. Speaker, money is the lifeblood of these ruthless organizations, and if we cut off their flow of funds, including the blocking of financial transactions, we will surely diminish their ability to carry out these cowardly, heinous acts here at home and abroad.

With regard to the exclusion of alien terrorists, the conference report authorizes State Department officials overseas to deny entrance visas to members and representatives of those same groups deemed to be foreign terrorist organizations, and it also allows the United States to stop or prohibit assistance to foreign countries that do not cooperate with our antiterrorism efforts.

And finally, in a move that will hopefully prevent future tragedies like the loss of Pan/Am flight 103 over Lockerbie, Scotland, the conference report requires that foreign air carriers traveling to and from United States airports follow the identical safety measures that our own American air carriers must follow under regulations issued by the FAA.

Equally important are other provisions contained in the conference report, including three key elements from the Contract With America: First, there are reasonable reforms to curb the abuse of habeas corpus by convicted criminals. This will help, finally, to free the judicial process from endless and frivolous appeals from prisoners convicted of capital offenses while victims and families of victims wait helplessly by for years and years for justice to finally be done.

Second, improved procedures for deporting criminal aliens are included which allow judges to order the deportation of aliens convicted of Federal crimes at the completion of their sentence.

Third, the bill calls for mandatory victim restitution. Securing the right to adequate restitution is a long overdue victory for crime victims and their families. For too long, our criminal justice system has devoted significant attention and resources to the plight of criminals. As a result, crime victims have often suffered twice—first at the hands of the criminals, and then by an inadequate, insensitive, inattentive justice system. By requiring fair restitution, we will give victims of crime some of the ranking and legal status they deserve while they recover from their unwanted and unwelcome trauma.

Mr. Speaker, as I have said before, this debate is not about who, or which political party, is more committed to fighting terrorism. I think we would all agree that keeping our Nation's cities and communities safe and secure is not a partisan issue. Rather, it is one of the fundamental duties and responsibilities of government.

This conference report accomplishes the very difficult task of providing our citizens with an increased level of safety and security, without trampling on our rights in the process. These provisions represent necessary, but narrowly drafted tools that will go a long way toward assisting our law enforcement professionals in combating the genuine threat of international terrorism.

So as we near the 1-year anniversary of the Oklahoma City bombing, I urge the House to accept the work of the conferees and send a clear signal to would-be terrorists that their cowardly, destructive acts will not be tolerated by the American people or by this institution. For the victims of Oklahoma City and victims of other tragic events, and their brave families, I urge your support for this conference report.

The Rules Committee reported this rule by unanimous voice vote yesterday, and I urge colleagues to give it their full support. Let's pass this fair rule, and let's pass the conference report without any further delay.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, much has been said about the tragic anniversary we will observe tomorrow. The loss of 168 men, women, and children in Oklahoma City because of an irrational and immoral act, has left a scar on our national psyche that will never really heal. But, Mr. Speaker, if something good is to come from such tragedy, then let it be a greater awareness that the freedoms we enjoy in this great Nation are indeed precious and that they are in need of protection.

Let us never forget those who died, those whose blood was spilled, those whose lives were irrevocably and irreversibly changed. Let us honor them by working diligently to protect the freedoms that embody the moral fabric of this great country of ours. The barbarous actions of one individual or of a group cannot be allowed to undermine the freedoms and liberties that constitute the American way of life. But, as we know all too well, in the world today, we must be ever vigilant and ever ready to come to the aid of those ideals we all hold so dear.

This legislation has come about because of the act of a terrorist. The conference report is not perfect: some Members may oppose it because of provisions relating to habeas corpus reform. Others may oppose it because it does not contain new wiretap authority for law enforcement officials to trace and track homegrown as well as international terrorists operating within our borders. But, I submit, it is the best we can produce when we must balance the need to vigorously defend and protect our safety while simultaneously defending and protecting our freedoms and liberties. I hope the legislation before us achieves that end.

This conference agreement does give us some tools which will help protect our shores and our people from the threat of international terrorism. The conference is to be commended for including new authorities to identify and designate foreign terrorist organizations, to prohibit fundraising on behalf of such terrorist organizations, and to exclude or remove alien members of those groups from our country. These authorities are essential if we are to begin to deal effectively with the unwelcome and unwanted intrusion of international terrorism.

However, Mr. Speaker, because the conference report does not contain language granting law enforcement agencies new wiretap authority, I am going to oppose ordering the previous question on this rule. While I am gratified that the conferees did include new powers to deal effectively with international terrorism, there is a concern that the fight against domestic terrorism is seriously handicapped because the wiretap authorities requested by the Department of Justice are not part of this agreement.

Therefore, a vote against the previous question is a vote to enhance this legislation by granting new wiretap authority that will allow law enforcement officials to keep up with the modern technologies used by almost every American, including those who plan barbarous acts like the one which killed 168 men, women, and children 1 year ago tomorrow.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I certainly thank the gentlewoman from Ohio for explaining the rule. It is not necessary to repeat her explanation.

Mr. Speaker, this Friday will mark the 1-year anniversary of the bombing of the Federal building in Oklahoma City. There have been a number of terrorist incidents like that in 1993. The New York Trade Center building was another terrible tragedy.

The deliberations on this bill have demonstrated that Members on both sides of the aisle do hold very strong, sincere views about the powers that should be granted to law enforcement to track and prosecute terrorists.

The balance between public safety and order, and individual rights, is always a difficult dilemma in a free society.

For this reason, significant time was needed to consider this legislation, and certainly the time has been devoted to it.

Today we have before us the final product. It achieves, I think, a fair balance and includes many provisions to not only prevent and punish terrorism,

but also includes the ultimate punishment for those who would kill others, the effective death penalty.

As a matter of fact, the very first provision in this conference report, title I provides for a reform of the death penalty process with specific time limitations to insure that the process does not drag on forever and ever and ever, sometimes as much as 10 and 15 years. This provision alone is so important that it is more than sufficient justification for supporting this conference report today.

The conference report also includes a provision dealing with mandatory victim restitution and provides for specified assistance to victims of terrorism, and that is so terribly, terribly important. For too long in this country we have paid too little attention to the victims of crime while we have focused huge resources to protect the rights of the accused criminal.

Mr. Speaker, there is also a section which prohibits providing material support to, or raising funds for, foreign organizations designated as terrorist organizations.

This and the other provisions in this conference report designed to limit terrorism will never be a complete solution to the problem, but this conference agreement is a huge step in the right direction of terrorism prevention.

I would particularly like to commend the chairman of the Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE], and the ranking minority member, the gentleman from Michigan [Mr. CONYERS], for all of their hard work in finally getting this bill here to the floor, along with the gentleman from New York [Mr. SCHUMER], who is sitting here. Without their help, this legislation certainly would not be here today. This has been an especially tough assignment in a long list of tough assignments for the Committee on the Judiciary.

In addition, sitting over to my right, I would like to recommend the gentleman from Georgia [Mr. BARR] for his extra efforts in shaping this final product. Without his efforts we never would have been here today either. The conference agreement before the House today includes many of the provisions sought by the gentleman from Georgia, and we take off our hat to him.

Mr. Speaker, adoption of this rule is necessary to allow the House to proceed to the consideration of the conference report. I would ask for a "yes" vote on the rule, and on the conference report and on the previous question, as well.

I do not know where this previous question fight has come from. This was not discussed in the Committee on Rules prior to today. Certainly the conference has already been abandoned because the Senate has already passed the bill. We should stop fooling around with this and making political points. We ought to get over here, vote for the previous question, vote for the rule, and then vote for this vital piece of legislation.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the gentleman from Texas [Mr. FROST] for yielding me the time, and this is on the rule. I am going to have more to say on the bill later.

But one the rule I would urge that we vote down the previous question, and that is because this bill has one glaring omission, and that is the ability to do multipoint wiretaps.

The bill, if we ask law enforcement what was the No. 1 thing they needed to fight terrorism, and I have talked to lots of them, they would say it would be the multipoint wiretap. The multipoint wiretap has no civil liberties problems. Let me explain to my colleagues what it is: Still have to go to court to get the wiretap, and still have the probable cause standard.

However, in the past we have tapped, when they got a tap, it is on the person's phone number. So they say, "I want to tap number 345-6789 because John Smith, there is probable cause to believe John Smith is doing illegal things, and we want to find him."

But these days technology has allowed criminals and terrorists to get ahead of that. Why? They get cellular phones, and they change their number every third day. It takes law enforcement time to find that new number, and then under present law they would have to go to court and get a new court order.

Mr. Speaker, that makes no sense, and in the original bill that was introduced by myself and the subsequent bill introduced by the gentleman from Illinois [Mr. HYDE], the multipoint wiretap provision was put in. However, it was taken out because of the objection of some. I do not know what the objection is, frankly. Part it of may have been misnomered. It was first called roving wiretap, and roving implied it would go to any person. So now the name has been changed to multipoint wiretap.

It is still opposed by the far right and by some in the civil liberties community on the far left. But, my colleagues, they are simply wrong.

Mr. Speaker, when we discussed it in conference, the Senator from Utah asked the gentleman from Georgia and others what is a reason to be against these taps, and none was given. The only explanation given by my good friend from Florida was, well, there is a lot of misinformation, and Mr. HYDE, Mr. HATCH, who have worked laboriously on this bill, and I salute them and I will in my later remarks, and the gentleman from Florida, Mr. McCOLLUM, all agree we should have that in a later bill and bring it to the floor.

Well, my colleagues, we should do it now. This bill is not strong enough.

I will vote for the bill. It is better than what we have now, and progress has been made since the Barr amendment stripped out the heart of the bill, and the gentleman from Georgia has changed his mind and supported some of the provisions that were stripped out in the House previously.

So, in my judgment. The bill is OK, but it could be a lot better. It is only half a full glass. And by voting down the previous question, and then voting on the concurrent resolution offered by the gentleman from Texas, we could restore the provision that law enforcement considers first and foremost what has been needed to fight the fight against terrorism.

So I would ask my colleagues to put down partisanship, to put down fear of some extreme groups who by misinformation and fear have mischaracterized this provision. Let us pass it now. We do not know what is going to happen in this Congress. I would say the odds are that we will not pass a multipoint wiretap later on in the year, despite the intentions of the chairman of the Committee on the Judiciary to get it.

So to toughen the bill up, to give law enforcement what they need without violating any civil liberties, we should vote down the previous question, add the multipoint wiretap provision, and then we could say we have passed a good bill.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. BARR] who was very instrumental in the drafting of this legislation.

Mr. BARR. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

Mr. Speaker, the gentleman from Georgia has not changed his mind on anything. The provisions that we have added back into this bill during the conference proceedings are different from those that were in the bill earlier and that were removed in the Barr amendment. The gentleman from New York may not be aware of that, but they are different. They are protective of civil liberties. They grant our law enforcement community the very specific narrowly crafted tools that it needs in certain key areas. But nothing has changed in terms of my regard for civil liberties, my regard for taking a very close look at those provisions and allowing those only insofar as I am able to be enacted into law that are absolutely essential.

The gentleman goes on and on about multipoint or roving wiretaps. The American people and Members of this body certainly are aware of the vast power that our Government currently has with which to wiretap. There indeed are provisions in current law in Title 18 of the United States Code that

VOL
142
PT
6
AP
15
—
24
1996
UMI

already provide for multipoint wiretap. They may not be the provisions that are the easiest to implement, but they are there, and they are used.

There may very well be civil liberties problems with the proposal of the other side. It is a vast expansion of current authority, and I do not feel that it would be at all appropriate to consider it precipitously as we would be doing today. Rather, Mr. Speaker, there is a provision in section 810 of this conference report, as presented to the House today, that provides for a comprehensive study by the administration, by the Attorney General, on the entire issue of wiretaps. That study would have to be completed in 90 days.

I and my colleagues who believe in effective but accountable law enforcement believe that that is the appropriate way to go so that we can study this with the deliberation that it requires, look at current law, which is vast in the area of wiretap authority for our Government, be very mindful of civil liberties and craft, if crafting new legislation is necessary, the most limited, not the most expansive, way of achieving that result.

☐ 1230

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, what we have here is a classic case of, once again, the Republican Congress moving in a way which links two completely separate issues, and therefore mixes up and puts a number of Members of Congress that are very interested in establishing tough new standards on antiterrorism law, it forces us to vote against the bill because of the irreparable damage this does to our constitutional rights under habeas corpus.

Mr. Speaker, I am a strong supporter of the death penalty in this country, but I also believe very strongly, absolutely as strongly, that we ought to give people the absolute right to appeal their decisions under the constitutional guarantees of this land, to make certain that we do not make mistakes once which impose the death penalty.

Why is it necessary, why is it necessary to link the death penalty and the constitutional guarantees of habeas corpus to a terrorism bill? This is just a political deal. It is a political deal to get votes on the right, to get them to link up and vote for a bill that should stand on its own hind legs. It should stand on its own forelegs.

But what we have is, instead, a glomming together of separate ideas that are necessary to patch together the votes because of the craziness that has invaded this body. Please, can we not recognize that there are severe threats, as we have seen in Oklahoma, as we have seen in New York, as we have seen in provisions which are included in this bill, which I was able to get passed in conjunction with the gentleman from Ohio [Mr. KASICH], to make certain that we protect against Government-sponsored labs from providing all sorts of terrorist agents, such as serin and other pathogens that we have seen, the Ebola virus and the like, that have been made too readily available to anyone who writes in to a Government lab and claims that they need these terrible pathogens that can be used for all sorts of destruction.

Those are good provisions, those are antiterrorism provisions. Habeas corpus has nothing to do with an antiterrorism bill. It forces too many of us to finally vote "no" on this bill. I urge a "no" vote.

Ms. PRYCE. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, in listening to the remarks of the distinguished gentleman from Massachusetts [Mr. KENNEDY], now I am confused. I remember they used to criticize a former President by ridicule, saying he could not walk and chew gum at the same time. It would seem to me that handling two ideas is not that difficult: habeas and antiterrorism, even if what he said is true, that they were not related; however, they are.

If someone gets convicted of bombing a building and killing people, people who are the victims of that, and survivors, would like to be sure that the appeals cannot go on and on and on, as they do now. So bringing to closure and bringing the sentence that is imposed into reality does have something to do with bombing buildings, and that has something to do with terrorism.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, I do not quibble with the fact that we can impose tougher sentencing on people involved in terrorist activities. That is, obviously, a terrorism issue. But I would say to the gentleman from Illinois [Mr. HYDE], there is no one in this Congress who has stood up more eloquently for this Constitution in so many cases, since I have been here over the course of the last decade, than he.

Mr. HYDE. Mr. Speaker, I thank the gentleman.

Mr. KENNEDY of Massachusetts. At times, when it cuts against even issues that the gentleman believes in, I have seen him stand up on the House floor to stand up for the Constitution of this country. What we have here is an undoing of the Federal Government's rights to intervene in the State courts. That is what is wrong with this bill.

The gentleman can make the argument that this is necessary because he is so angry at these terrorists and the kinds of activities that they are involved with, but that does not excuse us from intervening in a way that the Constitution has always protected this country. If we are going to do it, we ought to do it on its own two legs, not by linking it to this terrorism bill.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I know the gentleman's concern. It is a common one. It has to do with the deference that Federal courts will give to State court decisions. I believe that is what he is talking about. We will discuss that at some length in our debate on the bill, but the Federal judge always reviews the State court decision to see if it is in conformity with established Supreme Court precedence, or if it has been misapplied. So it is not a blank, total deference, but it is a recognition that you cannot relitigate these issues endlessly.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS], chairman of the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary.

Mr. GEKAS. Mr. Speaker, the debate has centered on the most important feature of this bill, in my judgment, and that is the habeas corpus provisions. It took us a generation to convince the people on the left that we ought to have a workable, reassurable, predictable death penalty that would inexorably exact the punishment that was intended.

We worked fro 20 years in this Chamber to try to accomplish a death penalty, because 80 percent of the American people wanted to see it happen. Then when we see the World Trade Center tragedy and other terrorism that has wreaked havoc across our land, then we reinstate the notion that we need the death penalty to allow a jury to exercise that ultimate option.

Now we have before us a habeas corpus procedure that forbade the final solution to the death penalty problem; namely, the execution of the killer. Here is a killer who viciously kills hundreds of people in one act, who can sit in a cell and file paper after paper, habeas corpus and other documents, to prevent the ultimate punishment that the jury prescribed for him.

In this antiterrorism bill, there is a strong, strong chain of events that lead from the kinds of acts that we abhor, like Oklahoma City, like the World Trade Center and others too horrible to conceive, where a jury is entitled to impose the death penalty. And we should not shrink from the responsibility of making sure that their final judgment is not set aside or weakened or laughed at by reason of the frivolous appeals that have been filed time after time in the history of these actions.

Mr. Speaker, I support the rule and I will support the conference report. It is a good antiterrorism mechanism that allows for the death penalty to be applied as a deterrent to future bombings like Oklahoma City, and as a punishment for those who do commit those kinds of acts.

Mr. FROST. Mr. Speaker, I yield 6 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I want to first thank my colleague, the gentleman from Texas [Mr. FROST], from the Committee on Rules, for being generous with his time, because I may not have time on the debate of the bill itself to make some of the points that I would like to make.

Mr. Speaker, I am as upset about the Trade Center bombing and the Oklahoma City bombing as anybody in America. I do not want anybody to be misunderstanding what I am saying. But we are about to perpetrate a fraud on the American people, because this bill is not any longer about terrorism, the bill is about matters that go well, well beyond terrorism and we are, unfortunately, using these two terrorist acts as the predicate for undoing some important constitutional protections.

I will not even spend my time talking about the death penalty provisions in this bill. What I will spend my time talking about is the importance of the Great Writ of Habeas Corpus, which most people are not going to understand, because a lot of people think habeas corpus is about the death penalty. It is not. Only 1 percent or less of habeas corpus petitions involve the death penalty at all. That is, less than 100 out of 10,000 habeas corpus petitions involve the death penalty.

Habeas corpus appeals have been brought by gun owners who feel that they have been unjustly imprisoned for exercising their second amendment rights. They have been brought by prolife protesters, who feel that they have been unjustly imprisoned by their first amendment rights being suspended. They have been brought by people who have been protesting on the pro-life side. They span the whole philosophical gamut of our Constitution.

Mr. Speaker, this is a constitutional attack that we are engaged in. First, petitioners are limited to one petition, 1 year of exhausting their appeals. By imposing this limitation, important new evidence, even new compelling evidence of one's innocence, can no longer be offered in a court of law to prove one's innocence. Compelling new evidence of one's innocence can no longer be offered, after that one bite within 1 year.

We have seen the advances that our country has made in DNA, and DNA evidence is now coming forward to reveal that people who have been in jail for 10 years, 15 years, are being held unjustly, without any contradiction, and we are willing to compromise the most basic thing, innocence, for political expediency.

Habeas corpus is only in the Federal Constitution, yet this bill says that the Federal courts must defer to State courts in the interpretation. That is unprecedented. Never has it happened in this country. Sandra Day O'Connor, not one of your liberal bastions, and you can call me anything, but she is certainly not there, she said that the Federal courts must presume the correctness of the State courts' legal conclusions on habeas, or that State courts' incorrect legal determination has ever been allowed to stand because it was reasonable.

What is a reasonable, unreasonable, interpretation of the Constitution? We have to defer only if the State court does something out of the ordinary, or unreasonable. It is the Federal court's prerogative and responsibility to determine our Federal constitutional rights.

Mr. Speaker, even Justice Rehnquist recently said that "Judicial independence is one of the crown jewels of our system of government."

Mr. Speaker, we cannot sacrifice our constitutional principles because we are angry at people for bombing. The constitutional principles that I am arguing for are for every single American, and the minute we start compromising them to get terrorists, to get anyone, we must compromise them for everyone.

Think about the number of cases in our judicial system that involve terrorist acts. They are few. We get angry about them. But think, on the other side, that our Constitution was written not to protect those people, but to protect every American. We are sacrificing our own individual liberties and our own constitutional rights for the political expediency that goes with passage of this bill.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the great State of Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, let me first say that I support the rule and I will support the conference report. I think there are a lot of positive things that are in the conference report, including mandatory victims' restitution, a bill that I have introduced in several Congresses and hope will finally get a signature for that particular provision, habeas corpus reform, which I have also supported, and particularly the FBI counterterrorism center and funds available for that counterterrorism center.

☐ 1245

I think that the conference committee overall did an excellent job in crafting this legislation. I have to agree, however, with my good friend from New York, Mr. SCHUMER, on one particular provision that was left out of the conference report, and that is the multipoint wiretap provision.

I can see no reason why that particular provision, which was requested specifically by the FBI and by Director Freeh, would be left out of the conference report. All of the safeguards that are currently in the law regarding wiretaps would be contained in that provision.

Wiretaps are an important tool of law enforcement to try to determine, before these kinds of tragedies exist and before they happen, to be able to catch the particular individuals involved. That is what law enforcement is all about.

Let us understand one thing here. The FBI and law enforcement is not the enemy. The enemy is the terrorists and people who would take advantage of our open system to further their political goals through the use of violence.

Our best protection against that kind of violence is the ability of law enforcement to ferret out beforehand those kinds of individuals, and use lawful techniques to investigate those perpetrators or those potential perpetrators. So let us give, hopefully, the benefit of the doubt to our judicial system and to our law enforcement officials to make those kinds of determinations.

Mr. Speaker, those of us who in the past have done this for a living understand how important wiretap evidence is. I am sorry it was not part of this conference report, but we ought to get to that later and I would suggest we do so.

Ms. PRYCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. I thank the gentlewoman for yielding me the time.

Mr. Speaker, today as we consider the antiterrorism bill, we do so in the memory also of those who were brutally killed when Libryan Government agents placed a bomb on Pan Am 103 on December 21, 1988. We can never forget the horror of that day.

As we learned of the loss of Pan Am 103, each of us thought of the great human tragedy that had struck the families of those who were passengers on that plane. Those passengers were flying home for the Christmas holidays, and each of us knew in our hearts how much their families were suffering.

For those who lost their loved ones in this despicable act of state terrorism, there can never be a moment's rest while those responsible for the murder of their loved ones remain at large.

My good friend Victoria Cummock of Coral Gables, FL, is president of a group called "Families of Pan Am 103/Lockerbie." Her husband, John Binning Cummock, was a victim of the Libyan terrorists that day.

Victoria and many others in her group have worked for many years

VOL
142
PT
6
AP
15
—
24
1996
UMI

with diligence and dedication to encourage the Congress to enact effective legislation against terrorism so that no other family will again experience the tragedy that befell the families of Pan Am 103. Although nothing can ever replace their loved ones and there is no word of comfort that any of us could say to alleviate their loss, we can bring the Libyan Government to justice by voting for this bill.

The bill creates a right for American citizens to sue in American courts any government that sponsors state terrorism. I am sure that an impartial jury, considering the nature of the Libyan act and its origin in Libyan Government policy, will conclude that financial compensation is indeed due to the families of the Pan Am 103 victims.

The administration, for reasons that no one has ever really satisfactorily explained, opposed giving the families of the victims of state-sponsored terrorism this right to compensation, but it has changed its mind in recent weeks. I am glad that the White House has agreed to sign this important bill into law.

The families of Pan Am 103/Lockerbie have endorsed this bill. I urge all of our colleagues in the House to support this legislation and send it to the President for his signature.

We grieve for the loss of the Cummock family and indeed all of the victims of the Pan Am 103/Lockerbie incident.

Ms. PRYCE. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I regret the gentleman from North Carolina has left the floor. I hope he can hear me, anyway. He said some rather harsh things.

He said this bill is a fraud. Since I am the chief sponsor of the bill, I guess I am trying to impose a fraud on America. Frankly, given the hyperbolic tendencies of all of us, even that is a little bit much.

He said the bill has nothing to do with terrorism. Then he talked about habeas corpus. I just wish he would read the bill, or at least the same bill that I read.

This bill provides for an open designation process of what is a foreign terrorist organization. It denies those terrorist organizations the ability to raise money in this country. It provides authority to the State Department to deny entrance visas to members of those designated foreign terrorist organizations. It provides a fair and even process to deport alien terrorists. It denies assistance to foreign countries that do not cooperate with us in our antiterrorism efforts.

It provides that foreign air carriers that travel to and from the United States abide by the same safety measures that American air carriers must follow; mandatory victim restitution, not discretionary; criminal alien deportation improvements; granting Federal courts jurisdiction to hear civil suits against state-sponsored terrorism; mandatory minimum penalties for explosive crimes; protection of all current and former Federal employees who are attacked on account of their employment.

That has nothing to do with terrorism? I find that incredible.

As far as the deference that a Federal judge must give in a habeas proceeding to a State court decision, I simply say the State judge went to the same law school, studied the same law and passed the same bar exam that the Federal judge did. The only difference is the Federal judge was better politically connected and became a Federal judge.

But I would suggest to my colleague when the judge raises his hand, State court or Federal court, they swear to defend the U.S. Constitution, and it is wrong, it is unfair to assume, ipso facto, that a State judge is going to be less sensitive to the law, less scholarly in his or her decision than a Federal judge. The Federal judge still has to look at the work product of the State court to decide if they got it right.

Somehow, somewhere we are going to end the charade of endless habeas proceedings, and this bill is going to do it.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will ultimately vote for the conference report. However, I again urge a "no" vote on the previous question on the rule.

If the previous question is defeated, I intend to offer an amendment to the rule which would provide that the House will have adopted a concurrent resolution directing the Clerk to correct the enrollment of this conference report by adding language granting law enforcement agencies new wiretap authority.

Mr. Speaker, the text of the amendment is as follows:

At the end of the resolution, add the following:

Section . Upon the adoption of this resolution, the House shall be considered to have adopted a concurrent resolution directing the Clerk of the House to correct the enrollment of S. 735 and consisting of the text contained in the next section of this resolution.

Section . *Resolved by the House of Representatives (The Senate concurring)*, that in the enrollment of the bill (S. 735) the Terrorism Prevention Act, the Clerk of the House of Representatives shall make the following corrections:

At the appropriate place, add the following:

SEC. . EXPANDED AUTHORITY FOR MULTI-POINT WIRETAPS.

Section 2518(11) of title 18, United States Code, is amended to read as follows:

"(11) The requirements of subsections (1)(b)(ii) and (3)(d) of this section relating to the specifications of facilities from which or the place where the communication is to be intercepted do not apply if in the case of an application with respect to the interception of wire, oral or electronic communications—

"(a) the application is by a federal investigative or law enforcement officer, and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or an Assistant Attorney General (or acting in any such capacity);

"(b) the application contains full and complete statements as to why such specifications is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

"(c) the judge finds that such specification is not practical."

Mr. Speaker, I yield back the balance of my time.

Ms. PRYCE. Mr. Speaker, I yield myself such time as I may consume.

Let me say in closing that the conferees have worked very hard to produce an agreement that I believe assigns the Federal Government a reasonable and legitimate role in the fight against terrorism. This legislation has not been developed hastily. In fact, it has been nearly a yearlong process to craft a bill that provides law enforcement with the tools they need to effectively deter and punish terrorism, but in a way that balances public safety and security with individual rights and liberties.

It is vitally important that would-be terrorists understand our firm commitment to protecting our citizens from the threat of terrorist acts, especially here in these great United States.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 274, nays 148, not voting 10, as follows:

[Roll No. 124]

YEAS—274

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)

Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Williams
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—148

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Coyne
Danner
de la Garza
DeLauro
Dellums
Dicks
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Peterson (FL)
Pomeroy
Radanovich
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Weller
Wilson
Woolsey
Wynn
Yates

NOT VOTING—10

Bartlett
Dingell
Fields (TX)
Gibbons
Hayes
Jackson-Lee (TX)
McIntosh
Skaggs
Souder
Tanner

□ 1314

Mr. STUPAK, Mr. GEPHARDT, and Ms. RIVERS changed their vote from "yea" to "nay."

Mr. HOLDEN, Mrs. CUBIN, Mrs. KENNELLY, and Messrs. OBEY, WAMP, PETERSON of Minnesota, MOLLOHAN, and WISE changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BARTLETT of Maryland. Mr. Speaker, on rollcall No. 124, I was off the Hill well within 15 minutes return time. My pager did not respond to the 15-minute call. It did respond to the 10-minute call.

Had I been present, I would have voted "yes."

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DICKS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 289, noes 125, not voting 18, as follows:

[Roll No. 125]

AYES—289

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crapo
Cremeans
Cunningham
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Green (TX)
Greene (UT)
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanford
Saxton
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)

VOL
142
PT
6
AP
15
—
24
1996
UMI

Weldon (PA)
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—125

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Berman
Bishop
Bonior
Brown (CA)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
Dellums
Dixon
Doggett
Dooley
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Jackson (IL)
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Klink
LaHood
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McDermott
McKinney
Meehan
Meek
Miller (CA)
Minge
Mink
Mollohan
Myers
Nadler
Neal
Oberstar
Obey
Olver
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Rahall
Rangel
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scarborough
Schroeder
Scott
Serrano
Skaggs
Slaughter
Souder
Spratt
Stark
Stokes
Studds
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weller
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—18

Crane
Cubin
DeFazio
Dingell
Fields (TX)
Forbes
Greenwood
Hayes
Hunter
Jackson-Lee (TX)
Largent
McIntosh
Millender-McDonald
Owens
Reed
Salmon
Tanner
Thompson

□ 1324

Mr. LUTHER changed his vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. MILLENDER-McDONALD. Mr. Speaker, I was unavoidably detained with constituents and unable to vote on rollcall 125. Had I been present I would have voted "aye."

PERSONAL EXPLANATION

Mr. REED. Mr. Speaker, it has come to my attention that on April 18, 1996, the House voting system did not record my vote on rollcall vote 125, final passage of the rule governing debate on the antiterrorism bill.

At the time the vote was held, I was on the floor of the House, having just voted against ordering the previous question.

It was my intent to vote for passage of the rule. Unfortunately, my vote was not properly recorded. I would ask the RECORD to reflect my presence in the Chamber and my intent to vote for passage of the rule.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2060

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2060.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 789 AND H.R. 2472

Mr. RIGGS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 789 and as a cosponsor of H.R. 2472.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON S. 735, ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996

Mr. HYDE. Mr. Speaker, pursuant to House Resolution 405, I call up the conference report on the Senate bill (S. 735), to prevent and punish acts of terrorism, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of April 15, 1996, at page 7433.)

The SPEAKER pro tempore. The gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on S. 735.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, 132 years ago, in a small cemetery in Pennsylvania, one of America's great presidents asked a very haunting question, whether a nation conceived in liberty and dedicated to the proposition that all men are created equal could long endure. Our answer to that question depends on how we legislate to protect a free people from those evil forces who seek our destruction through violence and terrorism.

The bill, the conference report that we have before us today, does that in exemplary fashion. It maintains the delicate balance between liberty and order, between our precious freedoms and defending this country, something we have sworn to do when we took our oath of office to defend the Constitution and the country behind it.

□ 1330

Now, this bill has had a stormy odyssey, and I think it is worthwhile to recapitulate a little bit. First of all, what has been added to the bill as it passed the House? Removal of alien terrorists. These provisions allow for the removal of alien terrorists fairly and with due process but also with protections adequate to safeguard sources and methods of classified information.

Under the conference report, the alien will be given a declassified summary of the classified information, and this summary must be sufficient to enable the alien to prepare a defense. If the district court judge presiding over the hearing determines that it is not adequate to prepare a defense, the hearing terminates and the alien goes free. But we must protect sources, we must protect methods. We must balance that with the need for a fair hearing.

So, we think this strikes the appropriate balance. There will be no secret proceedings or anything like that. Designation of foreign terrorist organizations, we got that back in the bill. It was taken out on the floor earlier. But we have provided that the Secretary of State, in cooperation with the Attorney General and the Secretary of the Treasury, can designate terrorist organizations.

We are not talking about countries now. That is under another law. They can designate terrorist organizations. They must notify Congress within 7 days. We have a chance to review that, and we can set it aside if we wish. With that authority, the Secretary of the Treasury can freeze assets in this country that belong to terrorist organizations.

Also back in the bill is the prohibition against terrorist fundraising. Raising money in this country is the lifeblood of many organizations, not excluding terrorists, and we put a stop to that with this bill.

We also, under this bill, we have a procedure for excluding alien terrorists. We authorize the State Department's embassy officials overseas to deny entrance visas to members and representatives of those same designated foreign terrorist organizations. The Washington Post had an editorial this morning talking about keeping out alien terrorists that we might want to come in so we can negotiate with them.

I suggest that the law has permitted that to happen, not this law but other laws. Yasser Arafat, Gerry Adams, people have come into this country under the law. And so this is not a hard and fast blanket exclusion. Prohibitions on foreign assistance, countries that do not cooperate with us in our antiterrorist acts will not get foreign assistance.

On foreign air carrier safety, the conference report requires foreign air carriers that come into our country and leave our country provide the same security and safety measures, the identical ones that American air carriers must follow under regulations promulgated by the FAA. Those are important antiterrorist laws that will help us protect ourselves in the future, and anyone who says that there are not serious antiterrorist measures in this bill as not read it.

Now, habeas corpus reform, that is the Holy Grail. We have pursued that for 14 years, in my memory. The absurdity, the obscenity of 17 years from the time a person has been sentenced till that sentence is carried out through endless appeals, up and down the State court system, and up and down the Federal court system, makes a mockery of the law. It also imposes a cruel punishment on the victims, the survivors' families, and we seek to put an end to that.

We are not shredding the Constitution. We are shaping a process to keep it within the ambit of the Constitution, but to bring justice to the American people. That is what we have done with habeas corpus reform, and I simply direct attention to quotations from President Bill Clinton, who has said in death penalty cases, it normally takes 8 years to exhaust the appeals. It is ridiculous, 8 years is ridiculous; 15 and 17 years is even more so. So heed the words of our President on this subject.

Now, we have a 1-year statute of limitations in habeas. Nothing wrong with that.

I would like to read. I have left the letter up there. Diane Leonard, who is the wife of a Secret Service agent who was killed in Oklahoma City, sent this letter, which I just received today:

> Dear Congressman HYDE, The antiterrorism bill has reached this far and represents a victory for the vast majority of Americans over extremists of the left and right. A victory over extremists whose volume sometimes overwhelms the quieter voice that differentiates between right and wrong. The people who killed my husband, his coworkers and other law-abiding Americans did not give a damn whether they were killing Republicans or Democrats. I am asking that you call on your colleagues to have a similar blindness to party to do one thing, only one thing: Give us justice.
>
> Diane Leonard, widow of Donald Leonard, U.S. Secret Service victim, Oklahoma bombing.

Mandatory victim restitution, right now it is discretionary. Under this bill, it is mandatory. Think of the victims and think of the victims first. Criminal alien deportation improvements, allowing for district court judges to order the deportatión of aliens convicted of Federal crimes, not just because they are aliens. They are in the slammer for Federal crimes. But at the end of their term, they can get deported with expedition rather than go through another and another and another hearing.

We also have maintained a taggant study. We put taggants in plastic which is used for bombs. But as for other substances, it is a fact, and this is not the NRA talking. It is a fact that we are not sure how safe and how efficacious, how efficient and how cost effective they are in things like fertilizer. We are going to have a study, and that study is going to be a scientific one, an objective one. Following that study, regulations may be promulgated and Congress will have a chance to look at them, 9 months of review to determine whether we should put taggants in other substances.

I think it is sensible, a mainstream solution.

On expedited asylum procedures, the conference report does not add any wiretap authorities that were not in the bill when it left the House. It does not give law enforcement any additional access to consumer credit reports or common carrier records. It does not give the military any increased role in civilian law enforcement.

Now, these are here, some things I would love to have in the bill. I would love to have the multipoint wiretapping authority. I would love to use the technology and expertise of the military when chemical, biological, and nuclear weapons are used in public, but that is not in the bill. We did not have the votes, and so we put that aside in the interest of getting a good bill.

The survivors want the habeas corpus. Habeas corpus is tied up with terrorism because when a terrorist is convicted of mass killings, we want to make sure that terrorist ultimately and reasonably has the sentence imposed on him or her. It is not incommensurate with the Constitution, it follows the Constitution and due process.

So let us answer Lincoln's haunting question yes, a country conceived in liberty can long endure.

Mr. Speaker, I include for the RECORD the following information:

SECTION 806

By enacting section 806, Congress intends that the Commission examine closely the priorities and structure of Federal law enforcement as we head into the 21st century. The large proliferation of Federal agencies with law enforcement authorities, overlapping jurisdiction, nonstandardized policies and procedures among the various agencies, and separate training and administrative functions require examination to determine if Federal law enforcement effectiveness can be increased in an era of fiscal austerity.

There are clear distinctions in procedures, planning, and capabilities of the various law enforcement agencies. This is especially so when, as has increasingly become the case, Federal and local officials are working jointly on investigations and operations. Congress intends the Commission to examine issues of coordination to ensure effective utilization of scarce resources and to ensure proper Federal support for State and local law enforcement.

Accountability for law enforcement operations has increasingly become an issue before Congress. Congress specifically intends that the Commission examine who within the executive branch should ultimately be responsible, short of the President, for interagency coordination, uniform standards, ethical standards and the other issues common to all Federal law enforcement agencies. Congress believes the current proliferation of agencies, the confusion and dangers that result therefrom and the lack of clear accountability and responsibility has lead to an unhealthy level of competition fostering operations and inefficiencies that are not in the best interests of public safety.

Congress does not intend by the establishment of this Commission to create an oversight function separate from that already performed by Congress. Congress historically has always been very mindful of the dangers inherent in examining specific cases, of protecting raw investigative information and from ensuring that the political process does not impede or intimidate those line investigators and prosecutors charged with enforcing the law. The managers realize that having an outside Commission examining cases and the details of investigations could have a chilling effect on those who must protect our public safety.

Congress believes that to ensure the protection of the privacy and civil rights of people investigated but not charged, the Commission must not examine specific investigations or investigative or prosecutive strategies. Likewise, to ensure that investigations remain unimpeded and investigators and prosecutors remain free of the potential for influence or intimidation, the Commission must avoid examining specific cases, calling as witnesses line personnel or seeking information the disclosure of which would have dire consequences, for example, informant identities, confidential witnesses, sensitive techniques, et cetera. Even in closed cases, examination of discretionary investigative and prosecutorial decisions risk not only the appearance of political influence and chilling aggressive prosecution, it also threatens the due process rights of suspects and defendants. The Commission is not established to put specific cases under the microscope. To the contrary, it is intended to focus on macro issues that go to effectiveness, coordination, efficiency and public safety.

Congress does not intend the Commission to examine issues or cases involving national security.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself 4 minutes.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. HYDE. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. CONYERS].

The SPEAKER pro tempore (Mr. LINDER). The gentleman from Michigan [Mr. CONYERS] is recognized for 4 minutes and 30 seconds.

Mr. CONYERS. Mr. Speaker, we are here to discuss this bill. We have received the quotations from President Clinton and former Presidents, but let us look at what the gentleman from Illinois [Mr. HYDE] is talking about.

He is proud of the fact that we implement the convention on marketing plastic explosives that was noncontroversial. Restrictions on biological and chemical weapons, hooray, that was uncontroversial. We got in the bill mandatory victim restitution. Do you remember anybody ever quarreling with that? Not hardly.

Mr. Speaker, now we come to all of the Barr provisions that were killed out of this bill by 246 votes, a majority. Remember that? That was not such a great day on the floor, because the gentleman from Georgia [Mr. BARR] thought we should not strengthen the criminal alien deportation procedure, so he kicked it out and it won. The gentleman from Georgia [Mr. BARR] thought that we should not expedite the deportation of terrorists, and it won and we kicked it out. The gentleman from Georgia [Mr. BARR] thought that there should not be a ban on fundraising by terrorist groups, and he won and we kicked it out. Now in the conference we got pieces of it back in.

I am very happy that the chairman of the Committee on the Judiciary wishes that we had wiretap authority for terrorists, not for stealing cars, not for hijacking, not for simple felony crimes, but terrorism, this one thing that we are dealing with so completely here this afternoon. But we do not want wiretap authority extended. Oh, yes, we got it already, but we do not have enough and it is not directed at terrorists, of all people.

What about identifying explosives, which could have stopped at least one bombing I know about? Well, we do not want to include powder and things that are used in great quantity around the country. We will exclude that. We will put in taggants, but we will leave out the two kinds of powder that are used most. What about cop killer bullets? Oh, do not bring that up. We will deal with that separately. Let us study the armor-piercing ability of the jackets that policemen wear. Do not worry about the bullet.

Why not make it easier to sue foreign governments? Well, we do not want to get into that. That is foreign policy. What about cooperation with the Federal law and the U.S. military? Oh, no, let us not do that. So what we have is a bill that has taken out the guts of everything that should have been in it, and everything that could have been agreed on 1 year ago is in it and we are real proud of that.

This is a gutless bill, and how dare those tough crime fighters suggest that this is going to stop something? Oh, yeah, and then we throw in habeas so that a suicide bomber is going to read the new habeas law and he will get executed quicker. I say to the gentleman from Illinois [Mr. HYDE], he is willing to blow himself up. He does not need your law to help him get executed.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, is the gentleman aware that at the World Trade Center there were no suicide bombers? Is the gentleman aware that at Oklahoma City there were no suicide bombers?

Mr. CONYERS. Then that makes it OK then to bring in habeas?

Mr. HYDE. No. That is an easy question to answer. Just yes or no.

Mr. CONYERS. Mr. Speaker, yes.

Mr. HYDE. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield 5 minutes to the gentleman from Georgia [Mr. BARR], the distinguished gentleman who played a key role in the shaping of this bill.

□ 1345

Mr. BARR of Georgia. Mr. Speaker, I thank the gentleman from Illinois, the distinguished chairman of the Committee on the Judiciary, for yielding time to me.

The gentleman from Illinois, the chairman, has done tremendous service to the people of America in his work on this piece of legislation, this historic piece of legislation, and I am proud to have been associated with him and with this legislation.

Mr. Speaker, today the American people have much to be proud of, much to be optimistic about for the future credibility, integrity and ability of our law enforcement system to seek out, prosecute, prevent, and sentence, and carry out sentences effectively, efficiently, and within the bounds of our Constitution in a reasonable period of time.

When I met earlier this year, Mr. Speaker, with the number of individuals who represented the families of victims in Oklahoma and Lockerbie, they did not come to us in the Congress and say the Government needs more wiretap power, give them whatever they need. They did not come to us, Mr. Speaker, and say the Government needs in order to bring justice to us, more power to gain access to personal records without a court order, so give them whatever they need or whatever they want. They did not come to us, Mr. Speaker, and say despite the fact that for over a hundred years we have held a very bright and fine and important line between the functions of our military and protecting our borders and domestic law enforcement, and we need to blur that line, and we need to have the military involved in domestic law enforcement, so give them whatever they want.

No, Mr. Speaker, the families of those victims, of those people who have lost loved ones, colleagues and friends to acts of terrorism, came to us and said give us justice, give us habeas and death penalty reform because the very credibility, all of the confidence that we want to have in our criminal justice system, is being eroded by the failure to deliver that to the American people.

And that is what this bill is about, and I also say, Mr. Speaker, that to those warped minds who might today or tomorrow or 1 year from now or 10 years from now contemplate, irrationally as it may be, an act of terrorism against one of our citizens, against one of our Federal employees, against one of the greatest institutions of this Federal Government, let them think longer and harder about it, as I believe they will, knowing that we have passed this legislation, because it will tell them in no uncertain terms, and they do listen to this; this thought process goes on in their mind. They will know that no longer will they be able to, within our borders or come into our country, and kill our citizens, and destroy our government institutions and know that they will be able to spend the next 25 years laughing at us, thumbing their nose at the families of victims, because they will know because of the work of the gentleman from Illinois and our colleagues on both sides, 91 strong in the Senate, has stood up this day and said no more, never again, enough is enough.

That is the importance of this legislation, and there is no clearer link, no stronger link, Mr. Speaker, between effective antiterrorism legislation and deterring criminal acts of violence in this country than habeas and death penalty reform. The American people are demanding it. Future generations who will have to face the constant problem of terrorism demand it. They know that it will work. They know we must have it.

That is why, Mr. Speaker, this legislation, with the important civil liberties guarantees enshrined in it, is so very important, and that is why I am proud to stand here today as a Representative of the American people, shoulder to shoulder with Mr. HYDE, with Senator HATCH in the other body, and say, yes, we have heard the cries of the American people, we have heard the needs of law enforcement, the National District Attorneys Association, attorneys general all across this country, police chiefs, and sheriffs all across this country that say, contrary to what the gentleman from New York

keeps saying, oh, we want more wiretap authority. They have come to us, in writing and in person, on the phone and over the fax machines of this country, and said we need habeas reform. That is the one thing, that most important element, the crown jewel here, that we must have. Let us today give it to the American people.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, the notion that the gentleman from Georgia [Mr. BARR], as he was saying, represented the interests of law enforcement here in this bill, that they were adequately represented when it was his amendment and his work that has allowed for a study of cop killer bullets to me is utter hypocrisy. That is all.

Mr. CONYERS. Mr. Speaker, I yield myself 2 minutes.

Letter to Chairman ORRIN HATCH, who has just distinguished us with his presence on the floor, from one of the surviving victims of the Oklahoma City bombing:

"I am sorry I missed you," the writer says to the gentleman from Utah [Senator HATCH], "when I was in Washington a couple of weeks ago. As the father of someone murdered by the Oklahoma City bomb, I write to urge you to reconsider the habeas corpus package in the bills you are being called into conference on.

"It utterly galls us as a family so devoted to my daughter that we and our loss should be used as a political football for politicians eager to posture themselves as tough on crime in order to reap some political advantage and to do the bidding of already powerful agencies who have demonstrated their inability to responsibly exercise enormous powers that they already possess. The habeas reform provisions in particular are not known or understood by the families who have used them to lobby on behalf of the bill. One family member even told me recently that she understood habeas corpus to be an antiterrorism investigation tool. Sincerely, Mr. Bud Welch."

Now I ask the gentleman from Illinois [Mr. HYDE], yes or no, is not it true that only 1 percent of the habeas cases involve the death penalty.

The answer the gentleman knows and I know.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. HYDE. I do not know.

Mr. CONYERS. The gentleman does not know. Ah, the chairman is not sure, or he is not even not sure. He just does not know.

Mr. HYDE. That is right.

Mr. CONYERS. I will help the gentleman along the way.

Now I will go to a quote of the gentleman's, and I am not picking on the gentleman. He is just my chairman on the wrong side of an important bill.

When the issue came up during the hearings the gentleman from Illinois [Mr. HYDE] said: "I don't really see the wisdom of revisiting the whole habeas argument again in this committee on this bill."

Now it is the keystone of the antiterrorist legislation.

I know the gentleman does not remember that either.

Mr. HYDE. As you get older.

Mr. CONYERS. I know, I know, I know.

Check the committee hearings.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. BUYER], a valued member of the committee.

Mr. BUYER. Mr. Speaker, I have several remarks I would like to make. One is, I have enjoyed being a conferee on this particular bill, moving matters of substance. Also, I think we have to be very careful here when we are talking about family victims, of acts of terror or acts of violence, whether it is the ranking member that has his particular letter that gives, espouses one position, or I have a letter also from victims who espouse another position.

Matters of statecraft have to be based on the intellect and not giving to the emotions of the moment, and that is what is important here.

So let me say another comment I would like to make is that with regard to the acts of terrorists, especially international terror, the world and the dynamics of the world in which we live in have drastically changed. These international organizations have changed the lethality and increased the lethality of their actions. They used to rely upon their carjackings, and now what they have done are these bombings that are in public places, that are cowardly acts of terror that actually move the emotions of people because their actions are so outrageous.

So what we must do in order to combat those outrageous forms of terror is, in fact, give law enforcement the necessary tools.

Now, what is so difficult here is, in a free society, how we balance the protection of individual civil liberties with that of promoting public safety, and in this bill I believe that, in fact, has been achieved. It is not as strong as what some would like, perhaps the gentleman from New York [Mr. SCHUMER], for example, but the bill is that balance that I just discussed.

The bill also addresses, though,the need to insure the United States does not become the haven for international terrorists. Well, this legislation, members of terrorist organizations can be denied entry into the United States; that is extremely important. An alien terrorist discovered in the United States can be deported expeditiously. Our silent proceedings will not be perverted to let international terrorists slip into our country, as happened with the mastermind of the World Trade Center bombing. Known terrorists organizations cannot take advantage of the generosity of American citizens to bankroll their heinous activities.

This bill includes mandatory victim restitution in Federal cases.

Finally, the victims of crimes are going to be seen not by Federal courts as deserving of compensation. Not only will the criminal have to pay a debt to society, the criminal will also have to make amends to the victim.

Finally, the essence described as that crown jewel of this bill is the reform of habeas corpus for an effective death penalty. The bill sets time limits on the application and considerations of habeas writs; I think that is extremely important. No longer will petition after petition be filed with the courts, delaying endlessly the carrying out of sentences handed down by judges or juries.

We have a paradox in our society whereby someone serves on death row for life. If, in fact, we are going to have a strong deterrence, retribution so that the victim can actually feel as though they have been vindicated, we need an effective death penalty. This bill will give it for America.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. WATT], one of the hardest working members of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker and my colleagues, I hate terrorists. They are the scum of the Earth. There is nothing lower than a terrorist. They are worse even than people who shoot folks in the back. And if this bill were limited to terrorists, emotionally I would be doing exactly what my colleagues are proposing to do here. But this bill is not limited to terrorists; it goes well beyond terrorists to common ordinary citizens.

I read recently with horror a story of parents who, because their child got involved in something they did not like, they locked the child in the room for days at a time. And I got outraged by it. I think a number of us read that story and got outraged. This goes beyond that because what we are doing is locking other children, who had nothing to do with what we are here to talk about, in our constitutional closet with unconstitutional means today, and we are doing it in the name of combating terrorism when we know full well that there is a significant dislike between the two things.

Only 100 out of 10,000 habeas corpus issues come from death penalty cases. Even less come from terrorist cases. Yet this bill is not limited either to death penalty cases or to terrorist cases. It is depriving every single

VOL
142
PT
6
AP
15
—
24
1996
UMI

American, every single child, every single one of us, of our constitutional protections of habeas corpus.

☐ 1400

The chairman asked the question that Abraham Lincoln asked: Can a country conceived in liberty long endure? The ones that do not endure, Mr. Speaker, are the ones who concoct secret courts and deny their citizens the right to confront their accusers, and deny their citizens the right to contest unjust imprisonments, even in the face of compelling evidence of innocence. That is what this bill does. We ought to be ashamed of ourselves today for the American people.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK], the second-ranking member of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the ranking minority member for yielding time to me.

Mr. Speaker, I am going to vote against this bill. I voted for it in committee. I believe we ought to be strengthening our defenses against terrorism. But I do not believe we ought to be doing it in a fashion that misleads people.

This bill, unfortunately, is excessively harsh where it ought not to be, and much too weak where we need toughness. Essentially what has survived in the assault of the Hamas wing of the Republican Party on this bill is virtually all of the added tools for law enforcement within the United States by which they could detect and prevent this kind of activity, those have gone out. We are very tough on foreigners. Once we catch you, we are going to be even tougher than we used to be.

By the way, as to habeas corpus and the threat to our safety that is presented, remember, by definition, you are not eligible for habeas corpus unless you are locked up. We are not talking, when we talk about habeas corpus, about anybody walking around. We are talking about people who are locked up and who are a danger, presumably, to other prisoners, but certainly not to general society. But here is what was knocked out of this bill by the Hamas wing of the Republican Party, and their price apparently for letting the bill come back was to keep this out.

Mr. HYDE. Point of order, Mr. Speaker.

The SPEAKER pro tempore (Mr. LINDER). The gentleman will state his point of order.

Mr. HYDE. Mr. Speaker, the gentleman talked about the Hamas wing of the Republican Party. I think that is a little extravagant. Does the gentleman want to withdraw that?

Mr. FRANK of Massachusetts. Yes, I do, Mr. Speaker. I would modify that to the wing that expressed they trusted Hamas more than the American Government.

Mr. HYDE. It was not a wing, I would tell the gentleman. Wing implies more than one.

Mr. FRANK of Massachusetts. Mr. Speaker, I would say that the gentleman was the one who said this on the floor, and he said it in a context that said it was representative of more than just one person. The gentleman from Illinois, in explaining why an amendment passed to weaken this bill, suggested that this was a person who was representative of a broader spectrum.

Here is what they did. Here is what remains. As a result of the changes that were made when the bill left committee and came here, if there is an attack of a terrorist nature involving a major explosion anywhere in the world, and the U.S. military has the expertise to help analyze the cause, not arrest anybody, not prosecute anybody, not pursue anybody, but if we need the expertise of the U.S. military in analyzing the cause of a terrorist explosion, that expertise can be tendered to any government in the world except one.

What is the one government in the world that is considered ineligible to benefit from the law enforcement expertise of the U.S. military? The American Government. The American Government, as a result of the appeasement of the right wing of the Republican Party, they are in control, and the U.S. Attorney General cannot get that expertise.

Similarly, the FBI and other Federal law enforcement agencies get no significant expanded powers for detection. We retard, here, the ability to use taggants. It is not as bad as it was, but it is still substantially weakened. As a result of the need to pacify the right wing of the Republican Party, this bill has been substantially weakened where it ought to be tougher, and law enforcement simply does not have the authority it ought to have to be able to protect us.

Mr. CONYERS. Mr. Speaker, I am delighted now to yield 2 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it is with a fair degree of hesitation that I rise in opposition to this bill, not that I am not fully committed in my opposition to this bill, but because of my deep and abiding respect for the chairman, the gentleman from Illinois [Mr. HYDE].

However, Mr. Speaker, this bill I feel does not just affect habeas corpus procedures for death row inmates, but it actually affects all of our rights to protections under the Constitution, that which habeas corpus has afforded. The rights to speak and assemble freely, to be ensured of due process of law, and to be protected against false imprisonment belong to all Americans. We cannot allow ourselves to be frightened into giving up these freedoms.

As Thomas Payne said in 1795, and true as ever today, he says: "He that would make his own liberty secure must guard even his enemy from oppression." This, Mr. Speaker, is a line-on-line runout by the Congressional Research Service of all the Federal antiterrorist criminal laws. I asked for CRS to run this out. Mr. Speaker, this is 17 pages long. We have enough laws on the books already. The problem is that we are not enforcing the laws we have. This law abridges some of our very precious freedoms.

Right now we have at least 353 Federal entities who already have police powers to enforce these kinds of laws. Mr. Speaker, it was Edmond Burke who said: "Seldom are men disposed to give up their liberties unless under some pretext of necessity." The Oklahoma City bombing was a tragedy that we never want to see repeated, but this bill will not add to our protections against that kind of horrendous terrorism.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN] who refused to sign the conference report.

Mr. BERMAN. Mr. Speaker, I rise in opposition to the conference report on the antiterrorism bill. Because the issues addressed in this legislation have been a major focus for me throughout the entirety of my career in Congress, I want to lay out very clearly the reasons why I will vote against the conference report, despite my strong support for many of its provisions.

I emphatically do think the case has been made that Federal law enforcement agencies must be granted expanded means to attack the scourge of terrorism, both international and domestic.

I believe that our freedoms, as well as those enjoyed by the citizens of other democratic nations, cannot survive if we do not create new tools to apprehend and punish those who engage in domestic and international terrorism. Our ultimate objective must be, of course, to prevent such crimes from being committed in the first place.

I want to acknowledge the fact that certain antiterrorism measures which I strongly support but which were ignominiously stripped from the House bill by the Barr amendment have now been restored in the conference report. It bears noting that valiant efforts were required to restore these provisions, for which I salute my colleagues on the conference committee.

In particular, I strongly support the prohibition on fundraising for terrorist organizations, and the expedited removal of alien terrorists, though as to the latter, I prefer the version in the substitute offered earlier by my colleagues Mr. CONYERS and Mr. NADLER, which more clearly protected the right to counsel and the ability to confront evidence.

I also strongly support the provision in the conference report which deletes impediments in current law to the ability of Federal law enforcement organizations to initiate investigations of suspected material support to terrorists, because I believe that the scourge of terrorism requires a careful recalibration from time to time of the balance between civil liberties concerns and law enforcement authority.

But despite my strong support for many provisions in this bill, I am compelled to vote against it because of my strenuous objection to title I, the habeas corpus provisions.

A decision was made by the Republican majority to jam into this bill, in the name of fighting terrorism, their long-sought objective of—for all intents and purposes—abolishing the ancient writ of habeas corpus. As former Attorneys General Levi, Katzenbach, Richardson, and Civiletti have written to us, "Nothing is more deeply rooted in America's legal traditions and conscience." The writ of habeas corpus is the guarantor of our constitutional rights, the bedrock of our Federal system, which has always provided an independent Federal court review of the constitutionality of State court prosecutions.

Indeed, the Habeas Corpus Act of 1867 was the first civil rights law enacted after the Civil War, intended to flesh out the habeas clause of the Constitution and thereby protect the rights of the newly freed slaves by giving Federal judges the power to hear "all cases where any person may be restrained of his or her liberty in violation of the Constitution."

Until very recently, only once did the Supreme Court undercut this authority, in the tragic case of Leo Frank, a Jewish man wrongly convicted and sentenced to die for the rape and murder of a Christian woman in Georgia. As too often happens when a brutal crime occurs, the cry went up in the community to find the perpetrator—or should I say, a perpetrator—and Leo Frank, a member of a despised minority, became a second victim in this case.

Leo Frank was unable to present a defense, because an anti-Semitic mob chased him from the courtroom. But when he filed a writ of habeas corpus to the Federal courts, the Supreme Court held that even though his trial was dominated by a mob, it would not order a new trial because the Georgia Supreme Court had held that the mob-dominated trial did not deprive Frank of due process, and the State supreme court's review was not corrupted by a mob.

The standard in the Frank case was overturned by the Supreme Court only a few years later, and has been deplored by Americans of conscience in the years since Leo Frank's execution and the subsequent emergence of an eyewitness to the crime who established Leo Frank's innocence, but who had been afraid to come forward in light of the hysteria that surrounded the crime and the trial.

Let me point out that according to reliable data, since 1978, 40 percent of the habeas petitions heard by Federal judges in capital cases resulted in the reversal of the conviction or death sentence because of constitutional violations. One can be dismayed by the number of State court trials impaired by constitutional error, as reflected in this statistic, but heretofore, we could be heartened that life-tenured Federal judges, shielded by constitutional design from local political pressures, could restore constitutional rights.

In this bill, in an action ill-befitting Members of Congress sworn to uphold the Constitution, we are about to obliterate the only effective means of vindicating those rights. It is not the bill's accelerated deadlines or limits on second or successive applications with which I differ. I believe that meritorious objections have been raised to protracted appeals which deprive families and communities of closure in heinous criminal cases. But to require deference by the Federal courts to State court determinations of Federal constitutional law, I cannot countenance.

Shame on those who invoke the names of innocents slaughtered in Oklahoma City and over the skies of Lockerbie in their quest to effectively abolish the writ of habeas corpus. We know that those charged with terrorism will invariably be tried in Federal court. Extinguishing the right to a writ of habeas corpus will have no bearing whatsoever on these cases.

A letter from the father of an Oklahoma City victim was recently shared with me. Mr. Bud Welch states,

> The habeas reform provisions . . . are not known or understood by the families who have been used to lobby on behalf of this bill. . . . Our family knows that meaningful, independent habeas court review of unconstitutional convictions is an essential fail-safe device in our all too human system of justice. And we have learned that this package of "reforms" you are being asked to vote for would raise hurdles so high to such essential review as to effectively ensure injustices of wrongful conviction will go unremedied. . . . We consider this a direct threat to us and our loved ones still living who may well find themselves the victim of abusive or mistaken law enforcement and prosecutor conduct and unconstitutional lower court decisions. Two wrongs have never made a right.

There is another provision in the bill to which I strongly object, and several which have not been restored to the bill which I support.

The summary or expedited exclusion provision of the bill applies to all asylum-seekers entering the United States with false or no documents, and has nothing whatsoever to do with our efforts to combat terrorism. The U.N. High Commissioner for Refugees is "deeply concerned," as am I, that this provision "would almost certainly result in the United States returning refugees to countries where their lives or freedom would be threatened."

Missing from the bill are several provisions which the Justice Department views as essential law enforcement tools if our fight against terrorism is to be successful, including adding terrorism-related crimes to the list of crimes which can be the basis for seeking a Federal wiretap order, and authorizing multipoint wiretaps. I deplore the absence of these provisions from the bill.

Mr. Speaker, the American Constitution is a living document which has thrived for two centuries because in its strength and vibrancy it has accommodated the realities of American life. And one of those realities, tragically, is terrorism—not a mere threat, but a reality. Because I believe that strong new measures are essential to combating terrorism, I support many of the provisions of this conference report.

But I cannot in good conscience vote for a bill which guts the historic means by which Americans enforce the Bill of Rights. That is why I will vote against the conference report.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia, Mr. BOBBY SCOTT.

Mr. SCOTT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, we find ourselves on the anniversary of the Oklahoma bombing with a bill with the title "antiterrorism." Mr. Speaker, I rise to oppose the conference report because it will do little, if anything, to reduce terrorism, while at the same time it will, in fact, terrorize our Constitution.

Mr. Speaker, we have a situation where the Secretary of State and Attorney General can designate terrorist organizations. In effect, politicians can designate which organizations are popular and which are not popular. The ANC in South Africa could be designated as a terrorist organization, and support of that organization would be in violation of the law. Politicians can choose which side in El Salvador we ought to be supporting or not supporting by designating one or the other as terrorist.

Mr. Speaker, what happens to our rights if we have secret trials where people can be deported, based on evidence presented in private, without the opportunity to be heard? The so-called crown jewel of the bill, the habeas corpus provision, Mr. Speaker, we have heard of the frivolous appeals. Forty percent of these appeals are in fact successful. People have been denied a fair trial. People are in fact sentenced to death who are factually innocent. These are not frivolous appeals. Those who have bona fide appeals will have their rights denied.

Mr. Speaker, we have a system where the innocent and the guilty are tried by the same procedure, so those who are guilty in fact may have a little more time on death row, but those who are innocent have an opportunity to present that evidence. If this bill is enacted, we will find that those who are factually innocent and can present evidence of innocence will in fact be put to death.

Mr. Speaker, that is not an effective death penalty when we put innocent people to death. Those who could show that they are probably innocent will not even get a hearing, under this bill. I would hope we would defeat this conference report.

Mr. HYDE. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from New Mexico [Mr. SCHIFF], and ask that he yield to me in return.

Mr. SCHIFF. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, there is so much said here that is not so. There are no secret hearings. Nobody gets deported. Even an alien terrorist does not get deported unless the evidence that

VOL
142
PT
6
AP
15
—
24
1996
UMI

convicts him is introduced in trial; in open trial, no secret trials, no secret hearings.

In addition, talking about shredding the Constitution, the National Association of Attorneys General has sent us a letter signed by 34 attorneys general of 34 States supporting habeas in the bill. The National Association of District Attorneys has a unanimous resolution. So the talk about shredding the Constitution is just far of the mark.

Mr. SCHIFF. Mr. Speaker, first, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to say, first, I rise in support of the conference report. I hope it will pass the House by an overwhelming margin. I want to compliment the chairman, the gentleman from Illinois [Mr. HYDE], for putting this bill together, and I want to particularly thank the conference committee for keeping two amendments that I wrote into the bill back in the Committee on the Judiciary. One extends victim compensation to victims of terrorist crimes. We hope there will not be anymore terrorist crimes, but if they do occur we think the victim compensation laws should apply.

The second amendment that I introduced allows the sharing of our antiterrorist technology to detect explosives, to set them off safely if they are detected, and to detect firearms and so forth. We are allowed to share that with other countries. We are allowed to share that for two reasons: first of all, to protect Americans who go overseas. Americans could have been the victims of terrorism, as I understand a number of Greek citizens were the victims of terrorism in Egypt just this week.

Second of all, the fact of the matter is that terrorists have more in common than they would like to admit to themselves. Regardless of whether they are terrorists from the extreme left or terrorists from the extreme right, they all have a hatred of democratic governments, and they will all attack any democratic government that they have the opportunity to attack. Therefore, efforts to stop terrorists in one country ultimately benefit the United States, and vice versa.

Mr. Speaker, I want to say that I think the civil liberties objections, that were raised in part to the bill at the beginning, I believe have been adequately addressed by the chairman and the other members of the conference committee. The objection that still remains is the maybe Members who have already said they think this bill should be stronger.

I think in certain respects they may be right. There are certain areas where, upon further inspection, law enforcement may deserve further authority. But that is not a reason to vote against this bill. This bill gives law enforcement a number of tools that law enforcement has requested to fight terrorism. This is a good bill. This is a bill that should pass. It does not have to be our last word on the issue.

Mr. CONYERS. Mr. Speaker, I yield 15 seconds to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I just need 10 seconds for the truth.

The gentleman from Illinois [Mr. HYDE], I am sure will admit that there is a provision in this bill that allows the consideration of secret evidence that the defendant will never even know about and can never refute. That is absolutely counter to everything that our country stands for.

Mr. CONYERS. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. SCHUMER], the former chairman of the Subcommittee on Crime in the Committee on the Judiciary.

Mr. SCHUMER. Mr. Speaker, I thank the gentleman from Michigan for his generous yielding of time, and for his leadership on this issue.

Mr. Speaker, I rise in support of the conference report. In all honesty, I have to say that we are faced with a glass that is only half full, which means that it is also half empty. Yes, we have made some good, solid improvements in this conference. I want to congratulate our conference managers, the chairman, the gentleman from Illinois, Mr. HYDE, and Senator HATCH, and the chairman of the Subcommittee on Crime, the gentleman from Florida, Mr. MCCOLLUM, for the leadership they displayed. Without their having stood up to extremists in their own party, this glass before us today would be empty, not just half full. They deserve to be congratulated for it.

But I also must say that this report is still not tough enough. It does not fully meet America's needs. The conference report has been whittled down to satisfy the small-minded fears of extremists, not beefed up to stop terrorism before it starts, and to swiftly track down those who commit it.

☐ 1415

Ironically, the managers of this very conference agree that we need the tough measures that the President, the Attorney General, and the Director of the FBI asked for. They admitted publicly that this report leaves out the single most important thing that the FBI needs to fight terrorism, effective surveillance through multipoint wiretaps to keep up with the new technology of cellular phones.

But the majority still left them out just like they left out a long list of other good tough ideas. Why? Why, I ask? Because the Republican majority simply cannot bring itself to stand up to extremism, particularly domestic extremism that it has bred and pampered from some within its own ranks, and to do the right thing for America.

Mr. Speaker, in America there have always been paranoid extremists, but the fact that their arms are so long that they had enough reach to influence this body and strike out provision after provision that law enforcement considers essential in the war against terrorism is profoundly troubling.

I have sat face to face with the victims of terrorism and the families of the victims of terrorism, from Pan Am 103 through the World Trade Center bombing to the atrocity in Oklahoma City. I have met them all. When I compare that pain and that danger to the exaggerated rhetoric I hear from extremists about this bill, I fear for America and I fear for the lives of ordinary Americans.

I wonder can it really be that a Member of this body said during our last debate that he trusts the bloody terrorists of Hamas more than he trusts his own democratic Government? Can that really be, I ask myself? Can anyone be that foolish?

Mr. HYDE. Mr. Speaker, will the gentleman yield on that point?

Mr. SCHUMER. I do not have much time. I would like to finish my point. I am sorry. On his time I would like to hear what he has to say about it because I respect him so.

But what I was saying was all of us here, we are part of that Government. If any Member really said it, I invite him to come to this floor today and explain that remark and tell the American people why it was said and what was meant by it.

Let me finally say this. Even though I think this report should be tougher, I will vote for it. The hour is late. I am convinced we cannot delay further.

Tomorrow is the anniversary of the terrible, bloody terrorist bombing in Oklahoma City that took the lives of 168 men, women, and children. We all hope and we pray that such a senseless and cowardly event will never again stain our country. But we cannot depend on hope, we cannot wait for perfection. We must act, and I urge that we act today.

Mr. HYDE. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Florida [Mr. MCCOLLUM], the chairman of the Subcommittee on Crime.

Mr. Speaker, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I want to say to my dear friend, and he really is my dear friend, from New York that this Hamas situation is terribly unfortunate, it is very painful to me. But I would say to the gentleman, I know some Democrats who trusted the Sandinistas more than they trusted Ronald Reagan, who attended meetings in Nicaragua and ordered our embassy people out. There may be some present here today. So it happens on both sides and it is regrettable, in my opinion.

Mr. MCCOLLUM. Mr. Speaker, I am very much concerned about the debate over this bill being misunderstood by the public. We have a very fine bill. It is not as good as some of us would like. That is, there are provisions that some of us think should have been in this bill. I concur with the gentleman from New York [Mr. SCHUMER] about some of them, and the gentleman from Illinois [Mr. HYDE]. But this bill is extremely good.

On one hand we deal with terrorism specifically by forbidding foreign terrorist organizations who are named by the President from being able to come to the country and raise money. A provision that I offered that was adopted as an amendment to this bill would prohibit Americans from being able to go abroad and get money from a foreign terrorist country that has been named.

We do all kinds of things relative to terrorism and then, in addition to that, this bill contains three of the seven crime bills that were in the Contract With America, the most significant of which has been debated a lot today but been voted on many times by this Congress. Finally, when the President signs this bill into law after years and years of struggle, we will have limited the appeals that death row inmates can take and we will have assured that sentences of death in this country will be carried out expeditiously, as the American public wants.

Second, we have victim restitution in this law that will be signed by the President, which provides a mandatory requirement on judges to make victims financially whole at the Federal level. We have a criminal alien deportation provision that eases the ability of the United States, without an additional hearing, to deport a person who has completed a prison term who is an alien.

But on top of that we have a provision I have worked on for more than 10 years that, when it is signed into law, will mean that when somebody lands at New York's airport or any other airport in the country, or a Haitian that in Florida, in Fort Lauderdale, on a beach sets foot on the soil, it means they will no longer automatically be able to tie up themselves in our court system and stay here. There is an expedited exclusion process so that when they claim political asylum, that "I'm fearful I will be politically persecuted if I'm sent home," whatever, the asylum officers can handle that early without getting all tied up in a court system that often meant and means today that aliens who are here illegally end up disappearing into our society and staying here forever.

This bill is extraordinarily important for all of these reasons and a whole host of others. It is positive legislation that I know some think, very minor thoughts I hope, undermines some liberties we have. I do not think it does in any way. It balances what is required between the responsibility of the Government to protect its citizens against foreign terrorists and to protect its citizens in the cases where we have heinous crimes, and to expedite the carrying out of penalties when the decisions of our court systems have been made to do so, and the interests of the individual which have always under our Constitution been paramount.

That balance is in the Constitution. It is in no way destroyed here. In fact, it is perfected. It is something that we have debated hard and long, and is why the conference report and all the work that the gentleman from Georgia and the gentleman from Illinois and many others of us have spent hours doing to make sure that we have not encroached in any way on personal liberties.

This bill, though, will fight foreign terrorism. It will be meaningful to the victims of Oklahoma City, especially in the habeas corpus provisions that, as I said earlier, after so many years when it is signed into law in a few days will mean that after all this fight, finally we will end the seemingly endless appeals of death row inmates and carry out with swiftness and certainty the sentence of justice in this country.

I thank the gentleman from Illinois for all of his work.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Speaker, rushing this bill to the floor just to meet a publicity deadline is irresponsible. Once again we are sacrificing our people to play election year politics. Americans and their civil rights are too important to allow this.

The right of habeas corpus is a national treasure. It is fundamental for all Americans—black and white; liberal and conservative. This conference report severely limits that right—all to fuel a national frenzy.

My colleagues, the Constitution says we are all entitled to equal protection under the law, but in today's society some of us are more equal than others. The reality is, if you have the money to hire a good lawyer, you can make it through our legal system. But, if you are a poor minority, lacking those resources, you will lose and not have the opportunity to prove you are innocent.

By severely limiting this ultimate right to appeal more innocent Americans will unfairly die. Their blood will be on your hands. I encourage a "no" vote on this conference report.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California [Ms. WATERS] who only shortly ago was nominated by the Democratic Steering and Policy Committee to join the House Judiciary Committee.

Ms. WATERS. Mr. Speaker, I would like to quote the sixth amendment to the United States Constitution. It simply says in all criminal prosecutions the accused shall enjoy the right of a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel for his defense.

That is the sixth amendment to the Constitution. Mr. Speaker, the tragic bombing is not a reason to repeal the sixth amendment to the Constitution.

The habeas corpus reform provisions in this bill which require Federal courts to ignore unconstitutional court convictions and sentences unless the State court decision, though wrong as a constitutional matter, was unreasonably wrong, innocent persons will be held in prison or executed in violation of the Constitution. The bill would impose unreasonable short time limits for filing a claim for habeas corpus relief, limit petitioners to only one round of Federal review, and mandates the petitioner meet an unreasonably high clear and convincing burden of proof in order to secure relief.

This business of the conviction or sentence may be a little bit unconstitutional, if so, that is OK, as opposed to unreasonably wrong or unconstitutional, is outrageous. Mr. Speaker, that is like saying one can be a little bit pregnant. You are either pregnant or you are not. The sentence or conviction either meet the constitutional muster or they do not.

We cannot and must not shred and defy our Constitution little by little, bit by bit. We American public policymakers are better than that. We love and respect the Constitution more than that. We cannot in the name of expedient politics disrespect the world's greatest document, the Constitution of the United States.

Terrorism is wrong. My sympathy is with the victims, but we must maintain our integrity and support the Constitution of the United Sates. I ask for a "no" vote on this measure.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I ask that this bill be defeated, and I am sorry to say that I have to disagree with my friend from Illinois, Mr. HYDE, on this. I speak to him personally now and request this, a reconsideration with respect to habeas corpus.

This past weekend I saw a student production, in an attic in a home in Honolulu, of "Death and the Maiden," Ariel Dorfman's play about Chile. The principal theme was when habeas corpus is absent, there we have

VOL
142
PT
6
AP
15
—
24
1996
UMI

authoritarianism and dictatorship. It leads to torture.

In Dorfman's essay on political code and literary code, and I am quoting from it:

> Terror then has a public character. As such it leads to a great ideological operation which authorizes, in the name of Western Christian values, a purifying crusade against the forces of the devil and of the anti-Nation.

He goes on to say:

> The principal obsession of authoritarian politics is to suppress history and those who could modify it, postulating an unchangeable and superior reality, God, father, and family, to which one owes loyalty.

This is the difficulty. If we abandon habeas corpus, we abandon one of the foundation stones of the United States of America.

□ 1430

You have heard me on this floor expound before on the right to a trial, the right to be able to vote freely, the right to sue, and the fourth leg of that foundation is habeas corpus, the right to be brought before a Federal court to say that your rights have been violated. If we take that away, then we are succumbing to terrorism. We are terrorizing the Constitution.

The time lapses. But the Constitution goes on. I ask, please, Mr. HYDE, reconsideration on the habeas corpus part of this bill, and then perhaps we could vote on the terrorist bill with full meaning.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2½ minutes to the distinguished gentleman from Oklahoma [Mr. LUCAS], in whose district the Federal building rests that was bombed.

Mr. LUCAS of Oklahoma. Mr. Speaker, I rise in support of the conference report to S. 735, the Terrorism Prevention Act.

A year has passed since downtown Oklahoma City was ravaged by the worst domestic terrorist attack our country has ever endured. Yes my friends, a year has passed since we as a nation watched in horror the images of the pain and suffering that this heinous act brought. The name Alfred P. Murrah will be etched in our minds for many years to come, and most assuredly April 19 will never be the same.

As you vote today and reflect on the events of tomorrow, I implore you to remember those who perished and have long since been laid to rest. Our citizen's scars are deep and open wounds still abound. Oklahoma City is an innocent slowly rebuilding itself back to the greatness it strives to attain. Although we cannot turn back the clock and prevent this horrendous act from occurring, we must pass this antiterrorism conference report.

This bill will bring an end to the abuse of our Nation's appeals process. It will ensure this country has an effective and enforceable death penalty. It means justice will be served, and that the guilty will receive their punishment in a swift manner.

Further, the measure provides for closed-circuit broadcasting of court proceedings in cases where a trial has been moved out of State, more than 350 miles from the location in which the proceedings would have taken place.

This provision is timely in light of the upcoming bombing trial. I believe all Americans who must endure such a tragedy, like the people of Oklahoma, deserve the opportunity to view the trial in their State. This measure provides the best way to ensure that those most severely impacted by this tragedy will have access to the court proceedings of those accused in this case.

I would like to thank Chairman HYDE and his staff for their assistance on this measure. You have done a great service for Oklahoma City and the entire country.

Mr. Speaker, I rise in support of the conference report to S. 735. It is truly the right thing to do.

Mr. CONYERS. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). The gentleman from Michigan is recognized for 3 minutes.

Mr. CONYERS. Mr. Speaker, this has been an important debate, and I think that it has become clear that this is a politically motivated bill, driven first by the National Rifle Association and Mr. BARR, and then finally by the 73 galloping freshmen Republicans who would not allow a deal to be made, and finally we were able to patch a little bit together.

We are dealing with a bill now that started off with no habeas corpus, we do not need it. But then, because there was nothing in the bill, we needed it.

So what do we have here? What we have is a bill that is missing, missing. Wiretaps for terrorist offenses, not in the antiterrorist conference report before this House. The current law allows for wiretaps for everything from fraud, embezzlement, destroying cars, numerous felonies, but the bill rejects on careful consideration the proposal that we be able to wiretap for crimes of terrorism and crimes where weapons of mass destruction are used.

Are you serious that this is an antiterrorist bill?

So while a Federal agent can get a wiretap if he believes a car is to be destroyed, he may not be able to get a wiretap if he believes an act of terror or mass destruction or murder is going to take out a building or someone is planning to gas the New York subway.

How silly and how unserious.

Similarly, while current law allows for emergency exceptions to the requirement of a court order for a wiretap in instances where the agent learns a criminal act is imminent, this bill refuses to extend that constitutionally permissible emergency circumstance exception to terrorism cases.

So, there you have it. Taggants? Oh, well, we put it back in, but we exempted black and smokeless powder. I wonder why? Well, it does not take a scientist to figure that one out.

So I guess you guys have proved your point. I mean, you are going to show that we got a terrorism bill on an anniversary and that, further, we put the President of the United States in a tremendously embarrassing position where he has to swallow a compromise of habeas corpus.

Mr. Speaker, reject this bill and let us in Committee on the Judiciary go back and do it right.

Mr. HYDE. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Illinois is recognized for 2 minutes.

Mr. HYDE. Mr. Speaker, I want to congratulate the gentleman from New York [Mr. SCHUMER] for his cooperation. He has been very helpful on this bill, and I did not want to let the time pass without doing that.

Mr. Speaker, we do not abolish habeas corpus. I keep hearing that. We strengthen habeas corpus by forbidding its abuse. That is what we do.

Now, I am the last one to instruct the newest member of the Committee on the Judiciary from California on the Constitution. I am the last one. I am not going to instruct her. I am going to instruct the world that the sixth amendment does not apply to deportation proceedings. That is a civil matter, not a criminal matter. I just thought I would throw that in the hopper.

There are no secret trials. There is classified information which will remain classified, but a fair summary of that is given to the alien and that has to be adequate to prepare a defense. If it is not, the proceedings are over.

Now, groups supporting this legislation are Citizens for Law and Order; the National Troopers Coalition, 45,000 members; the Christian Coalition; the Anti-Defamation League; the Leon and Marilyn Klinghoffer Foundation; Families of Pan Am 103 Lockerbie; Survivors of the Oklahoma City Bombing; International Association of Chiefs of Police; National Association of Police Organizations; the Law Enforcement Alliance of America; National Sheriffs' Association; National Rifle Association; International Association of Fire Chiefs; the Governor of the State of Oklahoma, a Republican; the attorney general of the State of Oklahoma, a Democrat; the National Association of Attorneys General passed a resolution that was unanimous; and the National Association of District Attorneys.

All of these folks love the Constitution and would not do anything to damage it or brutalize it.

Mr. Speaker, I urge an "aye" vote.

Ms. PELOSI. Mr. Speaker, tomorrow this country will pause in sorrowful remembrance as we observe the 1-year anniversary of the tragic bombing of the Murrah Federal Building in Oklahoma City. This incident shook the fabric of our Nation and illustrated the threat posed to us all by terrorism. Oklahoma City is the driving force behind the renewed push for anti-terrorism legislation. I believe we need an anti-terrorism bill. I do not believe that the conference report before us today is the anti-terrorism bill we need.

We, as Members of Congress, have a particular responsibility to be the guardians of the Constitution and the Bill of Rights. That responsibility is not always easy and it is not always popular. It is, however, always necessary. I oppose this anti-terrorism bill because I believe some provisions in it violate the Constitution. If we pass it, we are ignoring our duty to guard the basic principles upon which our great Nation is founded.

I oppose a number of provisions in this bill but will focus my remarks on my concerns about the habeas corpus reforms contained in it. To many people, habeas corpus sounds like an obscure legal phrase with minimal relevance to their lives. This misunderstanding could not be further from the truth. Habeas corpus is the mechanism by which a citizen in this Nation who is deprived of liberty can petition an independent court to test the legality of his or her detention. Habeas corpus safeguards our individual liberty and the bill before us today restricts habeas corpus appeals.

The habeas corpus provisions in this bill are dangerous to ordinary citizens. They increase the risk that innocent persons could be held in prison in violation of the constitution, or even executed. For the first time, a use it or lose it approach is being applied to a basic constitutional right. Constitutional rights are not timebound, they are timeless or they are worthless.

The bill before us mandates strict habeas corpus filing deadlines that ordinary citizens, especially those lacking financial resources, may not be able to meet. It limits their right in almost all cases to only one round of Federal review, and severely limits the power that Federal courts have to correct unconstitutional incarceration. It cuts off most opportunities for incarcerated citizens to appeal to higher courts for relief.

The habeas corpus provisions in this bill are reason enough to oppose it. They are certainly not the only thing wrong with this bill. I would also like to note for the record my concern about the bill's changes to asylum law which severely threaten our country's rich history of providing refuge for people fleeing persecution in their homelands. The bill eliminates the suspension of deportation for anyone who enters this country without inspection. It also establishes summary removal at ports of entry if people lack valid documents. Valid documents are often difficult to find or to protect in wartorn countries.

As some of my colleagues know, I have been particularly concerned over the years about the plight of victims of rape, torture, and domestic violence. I am pleased that the Justice Department has a heightened sensibility to the particular problems faced by women who have experienced these crimes in their homelands. Rape is being used as a tool of terror and war in civil conflicts around the world. In many of these countries, rape victims may be unable to articulate immediately their fear of persecution, especially to a stranger who is usually a man. As a result of the provisions in this bill, these women, lacking documentation, will be summarily returned to their homelands.

Mr. Speaker, I understand the need to fight terrorism and I can support anti-terrorism legislation which does so while preserving our precious constitutional rights. This conference report does not meet that test and I urge my colleagues to oppose it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I applaud the members of the House Judiciary Committee and other Members of the House who have worked diligently to get an antiterrorism bill passed in this Congress. As we commemorate the 1 year anniversary of those 168 Americans who lost their lives in the bombing of the Federal building in Oklahoma City, it is fitting and proper that we consider this bill.

This bill, however, is really a weak antiterrorism bill. It does not give law enforcement officials all of the tools that they need to combat antiterrorism. For example, they will not have the emergency wiretapping authority and the ability to engage in multipoint wiretaps. Moreover, the bill's provisions relating to a cop-killer bullet study have been severely watered down. The study would only focus on reviewing the quality of police armor instead of concentrating on the types of bullets used to kill police officers.

It is important to point out that the perpetrators of the World Trade Center bombing were successfully prosecuted under existing law. While the intent of this bill was good, it focuses on many matters unrelated to preventing international terrorism.

I have some further concerns about the impact of this bill on the fundamental rights of all Americans. It dramatically expands the powers of the Federal Government by granting authority to the Secretary of State and Secretary of the Treasury to designate certain organizations as terrorist organizations. While this designation is subject to congressional and judicial review, it still would result in a chilling effect on the rights of freedom of assembly and freedom of association that Americans enjoy today, because this bill may encourage false accusations against certain groups.

Additionally, the bill modifies the current application of the habeas corpus doctrine by requiring Federal courts to ignore unconstitutional court convictions and sentences by State courts unless the State court decision was unreasonably wrong. Four former U.S. Attorneys General, both Republicans and Democrats, have argued that this provision is unconstitutional. Federal courts would lose the power to correct unconstitutional incarceration. If this bill becomes law, it could result in innocent persons being held in prison in violation of the Constitution and—even executed—because the bill imposes unreasonably short time limits for filing a claim of habeas corpus relief. All of us can cite instances in which innocent persons were released as a result of a comprehensive and fair review of their cases through the habeas corpus process in Federal courts.

The petitioner must also file the petition within 1 year after conviction becomes final. It limits almost all petitioners to only one round of Federal review and requires the petitioner to meet an extremely high clear and convincing burden of proof in order to secure relief.

What this bill does is provide selective due process and selective civil liberties. It allows the Government to arbitrarily designate those who are terrorists, and infringes the fundamental privacy rights of all Americans. We must punish to the fullest extent of the law those who commit terrorist acts against our Nation, and innocent citizens. However, I equally believe that we must carefully consider the bill before us and firmly support the constitutional rights of all Americans.

This bill is not as strong on measures that would prevent terrorism but it is filled with special loopholes that will not effectively help law enforcement officials in their fight against terrorism.

I urge my colleagues to carefully review this bill and its potential impact on the real issue to fight against terrorism and how it would strike a balance in preserving the rights of our citizens.

Mrs. SMITH of Washington. Mr. Speaker, today, I was inadvertently recorded as a "yes" vote in favor of final passage of the House-Senate conference report for S. 735, the Terrorism Prevention Act. After voting, I did not check to see how the machine had recorded my vote. My vote should have been a "no" vote for reasons that I will enumerate below.

Presently, there are more than 270 Federal laws that address domestic incidents of terrorism including penalties for specific types of murder, kidnapping, and assault committed with political intent. I am not convinced that adding additional laws will do anything to prevent another Oklahoma City tragedy from occurring.

The expansion of Federal law enforcement agencies via an additional authorization of $1 billion is fiscally imprudent and only gives a rubber stamp to agencies like the Bureau of Alcohol, Tobacco, and Firearms [BATF] that have come under close scrutiny in recent years.

While the multiple wire tapping provisions are not in this legislation, provisions are in place for intercepting wireless data through e-mail and document transmission when done by a wireless modem or through a laptop connected to a cellular phone. Specifically, the Electronic Communications Privacy Act [ECPA] provided these protections which have now been eliminated in section 731 of the conference report. With the phenomenal growth of communication via the Internet and on-line services, I am concerned about the violation of privacy rights of law abiding Americans.

Finally, it is important to keep in mind that there is a very valid argument negating the need for any counterterrorism legislation or at least in its present scope and scale. We live in a very free society that places a high premium on civil liberties.

Mr. Speaker, thank you for the opportunity to clarify the record on this legislation.

Mr. MARTINI. Mr. Speaker, I rise today in support of the conference report to S. 735, the Terrorism Prevention Act, and to honor the victims and salute the survivors of the Oklahoma City bombing. Those 168 innocent people who died in the most heinous act of terrorism committed on American soil; 19 children

VOL
142
PT
6
AP
15
—
24
1996
UMI

and 149 adults perished. The destruction does not end with these haunting figures. Hundreds of lives have been altered and the mindset of the entire Nation has changed because of one irrevocable act. The entire country has been suffering together for 1 year.

The events of April 19, 1995, are ingrained in all of our minds, hearts, and souls. We no longer look at our lives through the prism of safety and rationality, rather we have been forced to confront the evils that lurk in the dark and manifest themselves in the light. It was at 9:02 a.m., in the full light of a spring day that our perceptions of civility were shattered.

The rise of extremism and militant fundamentalism within our borders is horrifying and sickening. We must not surrender to terrorism, we must conquer it. We cannot allow the seeds of destruction to be sewn in our country. We must send the message loud and clear that the United States will act decisively against those who attempt to undermine civility. While the antiterrorism bill is not a panacea, it is a step in the right direction.

The Federal building in Oklahoma City no longer stands, but the U.S. Constitution and the laws that govern our great Nation are our iron shield. We must strengthen the death penalty for terrorist crimes which result in the death of an American citizen abroad or at home, we must improve current law to facilitate Government deportation of criminal aliens, and we must allow U.S. citizens to bring suit against a sponsoring terrorist nation in Federal court. The Terrorism Prevention Act accomplishes these necessary goals.

The site of the Federal building in Oklahoma City is now an empty, fenced-in field but the memory of what occurred on that soil on April 19, 1995, will live on forever. On this day, let us remember those innocent men, women, and children whose lives were ripped out from underneath them. We cannot bring these innocents back, but we can work to assure that the perpetrators of violent terrorist acts will themselves be judged.

Mr. Speaker, I am also pleased that the conference committee included the Martini amendment death penalty language in this legislation. On March 21, 1995, in the early evening a man walked into the Montclair, NJ, postal substation in my congressional district and summarily killed two postal employees and two customers. I offered the Martini amendment because I wanted to ensure that criminal acts like the Montclair postal shooting would be covered by the death penalty.

Postal workers Stanley Scott Walensky and Ernest Spruill and Montclair residents Robert Leslie and George Lomoga had their lives cut short in a senseless crime. We cannot bring these victims back, but we can send a strong, clear message to criminals like Christopher Green that their actions will not go unpunished.

The Martini language, formally known as the Death Penalty Clarification Act of 1995 (H.R. 1811), would expand the Federal death penalty statute to include situations in which a defendant, "* * * intentionally kills or attempts to kill more than one person in a single criminal episode." This provision sends a clear message to the criminal that execution style multiple killings will not go unpunished because of a loophole in Federal law. It will ensure that just and fair punishment is administered to individuals who fail to live by society's rules.

My heart goes out to the survivors of the Oklahoma City bombing, and I wish them good health and happiness in their futures. We, as a nation, must continue to help each other in the healing process.

Mr. POSHARD. Mr. Speaker, I rise in support of the conference report on S. 735, the Anti-Terrorism and Effective Death Penalty Act.

As the people in the 19th Congressional District know, I voted against the House version of the antiterrorism bill. I was concerned that it was overly broad in scope and encroached on individual rights of law-abiding citizens.

As the conference committee worked to merge the House and Senate versions of the bill, I noticed a number of important changes which led me to the conclusion that I could support this bill, and hopefully provide a meaningful response to the threat of terrorism.

The final bill allows the State Department to designate foreign groups as terrorist organizations, bars members and representatives of groups designated as terrorists from entering the United States, and prohibits such groups from engaging in fundraising in this country. It prohibits U.S. aid to countries providing assistance or military equipment to terrorist nations, unless the President waives those provisions. It includes provisions taken from the House bill which will allow deportation of immigrants who are or may be engaged in terrorist activity, and allows the Government to use classified information to deport terrorists.

Importantly, the conference report did not increase investigative powers such as extended wiretap authority for Federal law enforcement officials. We all have a mutual interest in making sure that our law enforcement agencies and the men and women who put their lives on the line in performance of their duties are adequately trained and equipped. But our rights as individual citizens must not be compromised, and I opposed efforts to expand certain powers which I saw as too invasive. That is why I supported the Barr amendment during House deliberation, and why I am able to support the final version before us today. The final version is also stronger on issues of compensating victims of terrorist attacks.

I note today the strong, bipartisan support for the bill which is before us, and take note of the overwhelming vote in favor of the bill in the U.S. Senate. This has been a process of careful consideration, not a rush to react, and as we near the 1 year anniversary of the Oklahoma City bombing, I believe we have before a vehicle to move ahead with an appropriate law enforcement response which does not infringe on rights we hold dear as citizens of a free nation.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise in opposition to this bill. I do so with deep regret because I would have hoped that this Congress could do something meaningful to respond to the dangerous threat of terrorism. Americans need to be safe here and abroad, and if we are to fight this new threat to our security, we need new tools in the battle. But when it comes to the fight against terrorism, this bill does too little. Sadly this legislation does not confine itself to the fight against terrorism, and it is here where the bill goes too far.

Sacrificing our Constitution and the integrity of our judicial system is too high a price to pay for an antiterrorism bill that, sadly, does not do enough. The right of every American to a fair hearing in court will be severely undermined by this legislation. No punishment should be dispensed in a manner that violates an individual's right to a fair hearing. This bill jeopardizes that right, not just for those on death row, but also for those who face other punishments.

This bill increases the risk that innocent persons would be held in prison in violation of the Constitution—and possibly even executed—because the bill imposes unreasonably short time limits for filing a claim of habeas corpus relief, limits almost all petitioners to only one round of Federal review, and requires petitioners to meet clear and convincing burden of proof standard in order to get relief.

This is not right and I will not support such a move.

The bill leaves out provisions which would have: added terrorism crimes to the list of those for which wiretaps can be approved, included terrorism crimes under RICO statutes, and have permitted our law enforcement agencies to draw upon the expertise to address the threat of chemical or biological weapons of mass destruction.

When we need to give law enforcement officials new powers to investigate these new threats, we fail to produce.

As well, this bill caves in to the demands of the gun lobby when it comes to confronting the threat posed by cop killer bullets. I have joined many of my colleagues in calling for a ban on these bullets which have only one purpose—piercing body armor. We could not achieve this victory this year, but hoped that a study of this ammunition would alert the public to the need for action. But now even this study has been disarmed. Rather than study the bullets that can pierce armor and kill law enforcement officers, this bill dances around the subject to the tune called by the NRA.

We face a serious threat from terrorism. We need to respond in a meaningful and comprehensive way. Unfortunately this bill is not up to the task at hand. It makes too many compromises on the fundamental issues and threatens the rights of all Americans to a fair hearing in our judicial system.

This is not the way to fight terrorism and that is why I will vote against the measure before us.

Mrs. KENNELLY. Mr. Speaker, I rise in support of this antiterrorism legislation.

Those conversant with our Constitution know that, in almost its first words, it speaks of the duty to "insure domestic tranquility." That is a difficult task—especially in a country that values freedom as highly as our own. Yet it is a duty we must carry out, because, as our Founders understood, freedom requires tranquility to flourish.

This legislation will help us protect our freedom and tranquility at a time when violence is a fact of daily life. We have seen the scars left by terrorists in countries around the world, and now, tragically, in our own. So it is high time

we take these steps to strengthen law enforcement and protect Americans. I will support this conference report, and I urge my colleagues to do the same.

Mr. DEUTSCH. Mr. Speaker, as we get ready to vote on the Anti-Terrorism and Effective Death Penalty Act, I would like to focus on the fundraising provision of this legislation. Ever since the bombings at the World Trade Center and in Oklahoma City, exhaustive efforts have been made to curtail fundraising activities of terrorist organizations here in the United States. It is completely unacceptable that a terrorist organization like Hamas can establish a fundraising center just down the road from the United States Capitol.

The fundraising provision in the anti-terrorism bill serves as a crucial first step at ending extremist fundraising operations here in the United States. It enables the United States Government to designate those organizations, such as Hamas, that serve solely as agents of violence and destruction, and prevents them from raising money here in America. Additionally, it prohibits individuals from providing material resources to designated terrorist organizations.

But this is only a first step. During the House debate, I drafted an amendment that would have created an even stronger fundraising provision. It would have closed several of the loopholes that allow nondesignated organizations from serving as fundraising conduits for the benefit of outlawed terrorist groups. It would have broadened the scope of individuals prohibited from assisting these violent and ruthless organizations. I look forward to working with my colleagues in the near future to strengthen the current fundraising provision and pass legislation that would force violent extremists to leave the United States and look elsewhere to find their blood money.

Mr. SMITH of New Jersey. Mr. Speaker, I rise to call attention to section 422 of the conference report on S. 735, which provides for the summary exclusion of persons attempting to enter the United States without proper documentation.

It is important that we exclude persons who would abuse our generous immigration laws, and it is important that the process of exclusion be a speedy one. It is also important, however, that the process be fair—and particularly that it not result in sending genuine refugees back to persecution.

Section 422 provides that no person shall be summarily excluded if, in the opinion of an asylum officer at the port of entry, he or she has a credible fear of persecution. Unfortunately, the definitions of asylum officer and of credible fear of persecution are not as clear as they might be.

In particular, the definition of asylum officer requires professional training in asylum law, country conditions, and interviewing techniques, but does not state how much training or what kind. I am informed that assurances have been given from the staff members who worked on drafting the conference report that there is absolutely no intention that officers should be put in these positions who are not genuine asylum officers. Mr. Chairman, the INS now has a professionally trained corps of asylum officers, who have had substantial training in handling asylum cases. It should be clear that when we in Congress speak of asylum officers, we mean these professionally trained officers—people who by training and experience think of themselves as adjudicators rather than as enforcement officers—not some other officer who has been given a short course in asylum law and then given this extraordinary power to send people back to dangerous places.

Mr. Speaker, I think it should also be clear that our asylum officers will need to be very careful in applying the credible fear standard. In a close case, they must give the benefit of the doubt to the applicant. There are also some countries—such as Cuba, China, North Korea, Iran, and Iraq—in which persecution is so pervasive that any credible applicant would have a significant chance of success in the asylum process. Asylum applicants should not be returned to these totalitarian regimes without a full hearing.

I hope that regulations will be promptly adopted that explicitly provide for these and other safeguards in the summary exclusion process.

Mr. ALLARD. Mr. Speaker, I rise in support of this conference report.

Today I am going to vote in favor of S. 735, the Terrorism Prevention Act conference report. As I stated throughout debate on the antiterrorism bill I have had concerns that the bill might be used as a vehicle to expand Federal power over law-abiding citizens. This was my reason for opposing the original House bill, I was concerned that a House-Senate conference would add a number of undesirable Senate provisions. A number of bad ideas were in play, including expansive Federal wiretapping authority, included in the Senate bill, excessive power for certain Federal law enforcement agencies, and excessive spending.

I have followed the conference closely, and I am now satisfied that the civil liberties of law-abiding citizens are protected, and that Federal authority is appropriately restricted. The bill focuses on international terrorist organizations, a matter of Federal jurisdiction.

I want to strongly commend the death penalty reform measures of this conference agreement. I have always supported and cosponsored legislation to limit frivolous, repetitive appeals of convicted murderers on death row. I also strongly support mandatory victim restitution provisions included in this bill. For far too long we have ignored the rights of victims.

This bill helps focus our criminal justice system to where it should be, on swift and certain punishment for criminals and justice for victims.

Mr. NADLER. Mr. Speaker, I reluctantly rise in support of this conference report because despite some defects which, quite frankly, could easily have been fixed without compromising the fight against terrorism, it will give law enforcement important and overdue tools in the fight against international terrorism.

Thankfully, the conferees put back many important anti-terrorist provisions that were stripped out by a majority under the sway of the extreme right. I commend the conferees for their vision and courage.

This bill will give law enforcement the ability to crack down on fundraising by international terrorist organizations in the United States. No act of terrorism, anywhere in the world, should have a return address in the United States.

It will allow victims of terrorism to receive restitution from their victimizers whether the terrorists are governments or organizations.

It will add new criminal jurisdiction and penalties for terrorist acts so that law enforcement can reach the terrorists wherever they are.

It will give our Government an enhanced ability to deport alien terrorists.

It will enable law enforcement to battle terrorists who use chemical, biological, and nuclear weapons or who use plastic or other more conventional explosives.

It provides new resources to those law enforcement agencies charged with fighting terrorism.

At the same time, the conferees have repaired many of the dangerous and unnecessary civil rights violations in the bill reported by the Judiciary Committee, and which the distinguished ranking member, the gentleman from California and I sought to correct in our substitute. I am pleased that the conferees have responded to some of our concerns.

This bill no longer allows asylum officers summarily to send refugees back into the hands of their oppressors without review.

This bill no longer allows individuals to be deported without knowing the charges or basis of that deportation. They will now be allowed to select their own attorneys and those attorneys will have the ability to consult fully with their clients about the case.

This bill provides clearer standards for designating organizations as terrorist organizations and court review of that designation.

Unfortunately, this bill still guts the rules governing the writ of habeas corpus in ways that I am confident the courts will ultimately rule are unconstitutional and unenforceable. I wish we had the votes to strip these provisions from the bill, but I know we do not.

We will prevail in court on habeas, but today we prevail over terrorists and their cowardly and bloody handiwork whether they are in Cairo or Jerusalem or in Oklahoma City. We also prevail in the protection of many civil liberties that had been threatened by earlier versions of this bill. As with any compromise, I am unhappy with parts of this bill, but I am also pleased at the important progress we have made.

I urge my colleagues to vote "yes" on the conference agreement.

Mr. PACKARD. Mr. Speaker, today we will take up the most pro-victim bill Congress has considered in almost a decade. H.R. 2703 establishes tough new statutes to allow Federal law enforcement officials to combat and punish acts of domestic and international terrorism. This measure combines crime legislation from the Contract With America and additional provisions designed to bring criminals to justice while getting justice for victims.

H.R. 2703 makes the death penalty an effective and certain punishment by ending interminable delays and endless appeals. Further, the victim restitution act ensures that our judicial system pays victims of crime the utmost attention by implementing compliance standards for court ordered payments to crime victims as a condition for probation or parole.

For my district, where illegal immigration's impact is felt more than in any other region,

VOL
142
PT
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24
1996
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the bill includes essential initiatives to improve criminal alien deportation. This provision will expedite the immediate removal of aliens convicted of Federal offenses after they serve their prison terms. In addition, the bill will deny asylum procedure for such aliens.

Mr. Speaker, my Republican colleagues and I are committed to ensuring the safety and well being of every American. The Effective Death Penalty and Public Safety Act of 1996 guarantees Americans the protections they want and deserve while providing tough penalties on those who would break our laws. I encourage all of my colleagues to support this measure.

Mr. SMITH of Texas. Mr. Speaker, I strongly support the terrorism prevention act, and want to commend our distinguished Judiciary Committee chairman, HENRY HYDE, for his excellent work on this issue.

The escalation of criminal and terrorist activity in our country is robbing Americans of the freedom to walk their neighborhood streets, the right to feel secure in their homes, and the ability to feel confident that their children are safe in their schools.

We cannot protect American lives and safety or preserve national security without preventing alien terrorists from entering the country. Alien terrorists are often able to enter the United States despite the fact that their entry violates our national interests. In several cases, the Department of Justice has spent many years and hundreds of thousands of dollars to remove terrorist aliens from the United States.

Terrorist organizations have developed sophisticated international networks that allow their members great freedom of movement and opportunity to strike. The need for special procedures to adjudicate deportation charges against alien terrorists is evident.

An increasing number of crimes are being committed by noncitizens: both legal and illegal aliens. Over one-quarter of all Federal prisoners are noncitizens—an astounding 42 percent of all Federal prisoners in my home State of Texas. Recidivism rates for criminal aliens are high—a recent GAO study revealed that 77 percent of noncitizens convicted of felonies are arrested at least one more time.

Mr. Speaker, too few criminal aliens are being deported today. The deportation process can be years in length. S. 735 streamlines the deportation process by eliminating frivolous challenges to deportation orders; expanding the list of aggravated felonies for which aliens can be deported; and closing the gap between the end of an alien's criminal sentence and the date the alien is deported from the United States.

Americans should not have to tolerate the presence of those who abuse both our immigration and criminal laws. S. 735 ensures that the forgotten Americans—the citizens who obey the law, pay their taxes, and seek to raise their children in safety—will be protected from the criminals and terrorists who want to prey on them. I urge my colleagues to vote "yes" on the terrorism prevention act.

I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I rise today in order to voice my strong opposition to the conference report for the Terrorism Prevention Act. I did not support the House bill as my voting record indicates and I did not intend to cast my support for the conference report. I strongly feel this legislation is a knee-jerk reaction to a most heinous crime. This body has passed enough legislation in previous years to catch and punish criminals who commit these atrocious acts against humanity. Unfortunately, I cannot change my vote but I do wish to make it clear that I opposed the conference report for the Terrorism Prevention Act.

Mrs. MINK of Hawaii. Mr. Speaker, I rise to support S. 735, the antiterrorism bill. When H.R. 2703 the House counterpart bill passed the House on March 14, 1996, I voted against it largely because of the severe restrictions on the writ of habeas corpus for death row prisoners. I voted "no" to signal the Senate to strike this section from the bill. Unfortunately they did not.

Other unacceptable invasions of personal privacy in H.R. 2703 eliminated by amendment in the House were not restored by the Senate in conference.

In the current era of threats and acts of domestic terrorism I believe that the Government needs greater authority to act to prevent and apprehend terrorists before they act. However, we must be careful not to create a state where illegal surveillance, spying, wiretapping, and electronic eavesdropping become instruments of violations of rights of privacy of lawful citizens.

It is a fine line between law enforcement and a free society. But however fine, it must be distinguishable.

We must guard against foreign terrorists in particular. These individuals must not be allowed to pervade our open society with seeds of hate and destruction. I support efforts to stop their entry and to enable expedited expulsions.

A free society cannot conduct witch hunts for suspected terrorists. Our country went through such a black period in the fifties when we unleashed the un-American label on thousands of loyal citizens because of suspected associations.

We must not now begin another period of impugning guilt because of life style, ethnic background, or political associations.

But we cannot fail to safeguard our own people from foreign enemies.

I disagree with the restrictions of habeas corpus and fully expect they will be expunged by courts as unconstitutional.

I vote for this conference report with this expectation.

Moreover, I regret that this legislation is being used as a vehicle to advance antiimmigrant attitudes. This bill increases the number of criminal activities that legal aliens can be deported for. Most of the additional offenses are not required to be linked to terrorism. Listed among these offenses are; prostitution, bribery, counterfeiting, forgery, vehicle theft, false immigration documents, obstruction of justice, perjury, bribery of witnesses, and failure to appear in court.

I am deeply concerned that these provisions expand authorization for deportation of aliens with any association with crimes of violence or terrorism.

I believe legal aliens should be granted the same due process opportunities as U.S. citizens.

We are all legitimately disturbed with terrorism and violence in our communities. However, it is wrong to place upon legal immigrants a higher penalty for crimes which in themselves are not related to terroristic actions. Deportation should be reserved for only the most heinous of crimes rending the person unfit to remain in the country.

These anti-immigrant provisions have been wrongly attached to this bill. I am voting for this conference report, with these serious reservations which I hope can be stripped from this legislation at a later time.

The only way out for now is to encourage aliens to become U.S. citizens and avoid this jeopardy.

Mr. STOKES. Mr. Speaker, I rise in strong opposition to the conference report for the Antiterrorism and Effective Death Penalty Act. As the recent despicable acts of terrorism in Oklahoma City clearly demonstrate, America must do all that it can to put an end to acts of terror. Unfortunately, this legislation has failed to achieve an appropriate balance between our desire to take action against terrorist acts and our desire to protect the fundamental civil rights of all Americans.

In my view, the attacks on habeas corpus included in this legislation that purports to address the terrorist threat is so objectionable I must oppose this bill. I do support my Democratic colleagues' carefully crafted genuine antiterrorism bill, that is unencumbered by the provisions hostile to our constitutional rights that have been included in S. 735.

Throughout my career, I have believed in and fought for the protection of all Americans' fundamental rights under habeas corpus. As Chief Justice Salmon P. Chase described it in ex parte Yerger U.S. (1868), habeas corpus is the most important human right in the Constitution and the best and only sufficient defense of personal freedom. As a nation, we cannot afford to compromise the cherished habeas corpus protections guaranteed each of us in the U.S. Constitution.

Mr. Speaker, the arbitrary 1-year limitation on the filing of general Federal habeas corpus appeals after all State remedies have been exhausted entirely fails to address real problems inherent in the current capital punishment system. For example, S. 735 does virtually nothing to deal with the lack of competent counsel at the trial level and on direct appeal which constitutes the primary basis for the delay of many appeals.

It is also no secret that I am opposed to the death penalty. S. 735, among other things, would greatly expand the reach of the Federal death penalty which I believe is overly harsh—particularly because it fails to address the economic and social basis of crime in our most troubled communities. Furthermore, when closely examined, the sentencing history of the death penalty has clearly been arbitrary, inconsistent, and racially biased. Regardless of whether this double standard is intentional or not, the result clearly establishes that there continues to be an impermissible use of race as a key factor in determining imposition of the death penalty. This measure fails to include any provisions to end the repugnant practice of the disproportionate application of the death penalty on minorities.

Mr. Speaker, I share the national outrage expressed against terrorism. America should and must act swiftly and decisively to end these despicable acts. We must not, however, under the guise of fighting acts of terror, sacrifice our constitutional rights. As legislators, we must judiciously seek a balanced strategy to diminish the dangers of terrorism and injustice. I urge my colleagues to therefore vote down this measure; preserve our ability to enforce the Bill of Rights.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HYDE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 293, nays 133, not voting 7, as follows:

[Roll No. 126]

YEAS—293

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Combest
Condit
Costello
Cox
Cramer
Cremeans
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Everett
Ewing
Fawell
Fazio
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hefley
Hefner
Heineman
Hobson
Hoke
Holden
Horn
Houghton
Hoyer
Hunter
Hyde
Inglis
Istook
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kasich
Kelly
Kennelly
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Martini
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Mink
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Nadler
Neal
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Ramstad
Reed
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sawyer
Saxton
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Spratt
Stearns
Stenholm
Stupak
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vento
Volkmer
Vucanovich
Walker
Ward
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zimmer

NAYS—133

Abercrombie
Barcia
Barrett (WI)
Bass
Becerra
Beilenson
Berman
Bonilla
Bonior
Brown (OH)
Bryant (TX)
Bunn
Burr
Campbell
Chenoweth
Clay
Clayton
Collins (IL)
Collins (MI)
Conyers
Cooley
Coyne
Crane
Crapo
Cubin
DeFazio
Dellums
Dickey
Doggett
Duncan
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Funderburk
Furse
Graham
Gutierrez
Hancock
Hastings (WA)
Hayworth
Herger
Hilleary
Hilliard
Hinchey
Hoekstra
Hostettler
Hutchinson
Jackson (IL)
Jacobs
Johnston
Jones
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
King
LaFalce
LaHood
Lewis (GA)
Lewis (KY)
Lofgren
Manzullo
Markey
Martinez
McCarthy
McDermott
McKinney
Meek
Metcalf
Millender-
McDonald
Minge
Mollohan
Myers
Nethercutt
Neumann
Ney
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Pombo
Radanovich
Rahall
Rangel
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Scarborough
Schroeder
Scott
Serrano
Shadegg
Skaggs
Skeen
Slaughter
Souder
Stark
Stockman
Stokes
Studds
Stump
Tate
Torres
Towns
Velazquez
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Waxman
Weldon (FL)
Williams
Wilson
Wise
Woolsey
Wynn
Yates
Zeliff

NOT VOTING—7

Coleman
Fields (TX)
Hayes
Jackson-Lee
(TX)
Rose
Tanner
Thompson

□ 1457

Ms. FURSE, Ms. McKINNEY, Mr. WILSON, and Mr. GRAHAM changed their vote from "yea" to "nay."

Mr. CHAPMAN changed his vote from "nay" to "yea".

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, I was absent on Thursday, April 18, for a family medical emergency. Had I been present on rollcall 123, House Resolution 406, honoring Ron Brown, I would have voted "yes." On rollcall vote 124, ordering the previous question on S. 735, the antiterrorism bill, I would have voted "no." On rollcall vote 125, on S. 735, I would have voted "no." On rollcall 126, final passage, S. 735, I would have voted "yes."

□ 1500

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I rise to inquire of the distinguished majority leader of the schedule for the remainder of the week and for next week.

I yield to the gentleman from Texas [Mr. ARMEY], majority leader.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, before I announce the program for next week, I would like to take a moment and inform the body that the distinguished chairman of the Committee on the Judiciary has just completed work on a very, very important piece of legislation on the day of his birthday. I think it would behoove us all to congratulate Chairman HYDE on his 49th birthday.

Mr. Speaker, if the gentleman will continue to yield, I do appreciate the gentleman's indulgence with me.

Mr. Speaker, I am happy to announce that we have now concluded our legislative business for the week. There will be no votes on Monday, April 22. On Tuesday, April 23, the House will meet at 12:30 p.m. for morning hour and 2 p.m. for legislative business.

Members should be advised, Mr. Speaker, that we do not expect any recorded votes before 5 p.m. on Tuesday next. As our first order of business on Tuesday, the House will consider two bills on the Corrections Day Calendar: H.R. 3049, to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development;

VOL
142
PT
6
AP
15
—
24
1996
UMI

and H.R. 3055, to permit continued participation by historically black graduate professional schools in the Grant Program.

After the corrections bills, we will then take up seven bills under suspension of the rules. I will not read the list now. I believe the gentleman has a copy before him, but a list of suspensions will be distributed to all Members' offices this afternoon.

After consideration of the suspensions on Tuesday, the House will dispose of the President's veto message for H.R. 1561, the American Overseas Interests Act of 1995.

On Wednesday, April 24, and Thursday, April 25, the House will take up the following items, all of which will be subject to rules: The conference report for H.R. 3019, the fiscal year 1996 omnibus appropriations conference report; H.R. 2715, the Paperwork Elimination Act of 1995; and H.R. 1675, the National Wildlife Refuge Improvement Act of 1995.

We should finish business and have Members on their way home to their families by 6 p.m. on Thursday, April 25. I thank the gentleman for yielding me this time.

Mr. BONIOR. Mr. Speaker, I would inquire of the gentleman from Texas a couple of points, if he would indulge me in a few questions.

The gentleman mentioned in his remarks that after consideration of the suspensions on Tuesday, the House will dispose of the President's veto message basically on the State Department Authorization Act. Will we vote on the veto override on Tuesday?

Mr. ARMEY. Mr. Speaker, yes, we will.

Mr. BONIOR. So this is not just a matter of sending it back to committee.

Mr. ARMEY. No, there will be a recorded vote.

Mr. BONIOR. I thank my colleague for that.

Mr. Speaker, can my friend from Texas, in light of what happened before we adjourned here for the Easter Passover recess, when the Chair was in error with respect to the motion on the previous question with respect to the minimum wage, can the gentleman assure our side that we will have an opportunity to vote on the issue of the minimum wage in the near future?

Mr. ARMEY. Mr. Speaker, if the gentleman will continue to yield, I was just asked by one of my colleagues a moment ago why is it the minority did not raise the minimum wage last year when they had the majority in the House and they had the majority in the Senate and they had the White House? Mr. Speaker, I suspect the reason is they read page 27 of Time magazine on February 6, 1995, where the President was quoted as saying that raising the minimum wage is, and I quote, "the wrong way to raise the incomes of the low wage workers." Perhaps they did not dispute the President at that time.

Mr. Speaker, I will say to the gentleman, I know of no consideration being given to this subject in any committee of jurisdiction of the House at this time. Consequently, I would see no basis by which I would anticipate a bill being reported out and a request being made to schedule floor time.

Mr. BONIOR. Mr. Speaker, I would say to my friend from Texas that his comments remind me of the comments that he made originally at the beginning of the session when he said, and I believe this is a direct quote, that he would fight the minimum wage with every fiber in his body. And the Speaker had said yesterday, at least according to the paper reports this morning, that the Republicans would not be able to duck, the word "duck" was used in many of the accounts in the papers this morning, this issue any further.

So I was just trying to find out how we could reconcile those two concerns and whether or not the people in this country who are choosing work over welfare and trying to raise a family on less than $8,500 a year, can they expect any type of relief yet?

Mr. ARMEY. Mr. Speaker, I again will tell the gentleman that I know of no committee of this body that has jurisdiction on this subject that is considering any legislation on this subject. Obviously, I would have no basis to anticipate any committee reporting legislation or requesting floor time for consideration of such legislation.

Mr. BONIOR. Mr. Speaker, the only other comment I have on this subject, I would tell my friend from Texas that 70 percent of the bills that have come to this floor this year have not gone through committee. They have come right our of the Committee on Rules. So we hope and pray that in the near future those folks who are working hard and have children and are working for $8,500 a year will be able to get the break they deserve.

One other question on the budget resolution, Mr. Speaker. Should we be finished with the budget resolution this week as the schedule calls for and the budget calendar for the year?

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding. If the gentleman will continue to yield, I am told by the Committee on the Budget that they expect to be prepared to report a budget to the floor the week following next.

Mr. BONIOR. Mr. Speaker, I thank my friend and colleague.

ADJOURNMENT FROM FRIDAY, APRIL 19, TO MONDAY, APRIL 22, 1996

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow, Friday, April 19, 1996, it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore (Mr. PETRI). Is there objection to the request of gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, APRIL 23, 1996

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, April 22, 1996, it adjourn to meet at 12:30 p.m. on Tuesday, April 23, 1996, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2823

Mr. DEFAZIO. Mr. Speaker, I ask unanimous consent to remove my name as cosponsor of H.R. 2823.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

SALUTING MR. TAUZIN'S EFFORTS ON BEHALF OF LOUISIANA MISSIONARY CHARLES SONGE

(Mr. SCHAEFER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. SCHAEFER. Mr. Speaker, I would like to take this opportunity to recognize the efforts of one of our distinguished colleagues, the gentleman from Louisiana [Mr. TAUZIN], in securing the release from Russia of Rev. Charles Songe, a Christian missionary from Houma, LA.

Mr. Songe was arrested in Russia last year on charges of violating currency laws. However, the nature of his case indicates the real reason behind his arrest was the Russian Government continuing to harass him. Due to the serious nature of these charges and the hostility shown to Mr. Songe by the Russian Government because of his religious activities, Mr. TAUZIN swung into action, appealing to the United States State Department and to Vice President GORE.

Mr. TAUZIN spearheaded a joint letter to Russian officials which I signed as well as others. These efforts were richly rewarded when a Russian judge imposed a suspended 3-year sentence.

I want to congratulate Mr. TAUZIN today for his fierce devotion to the principle of freedom of religion in this country, one of the cornerstones of it.

I would also like to say that this is just one way that we, as Members of Congress, can satisfactorily help many, many people who are constituents throughout the country.

Mr. Speaker, I include for the RECORD the following articles:

[From the Houma, LA Courier, Apr. 12, 1996]

THE BEGINNING OF THE END IS FINALLY HERE FOR MISSIONARY

(By Dawn Crouch)

The Rev. Charles Songe is expected to return to Houma Sunday, ending a three-year odyssey that placed the Christian missionary at the center of cultural, religious and economic whirlwinds sweeping across Russia.

"He's on his way home," said Ken Johnson, a spokesman for U.S. Rep Billy Tauzin, R-Chackbay.

Johnson said he talked to Songe this morning before the Houma missionary boarded a train to Moscow.

"He was ebullient," Johnson said. "Clearly, he seemed as if he'd seen an angel. He just said how excited he was for this long ordeal to be finally over and how important it was for him to be united with his family and friends. He said he loved his family so much and was thankful that all this worked out."

In May, the Houma missionary was arrested in the town of Saransk on charges that he paid for goods and services using American dollars rather than Russian rubles.

Last week, Russian Judge Tatyana Yelina imposed a suspended three-year prison sentence and permitted him to leave the country voluntarily. Songe, 38, had faced the prospect of spending the rest of his life in jail until U.S. officials, led by Tauzin, waged a complex diplomatic effort to secure his release and return.

A Russian bureaucrat had refused to grant Songe an exit visa earlier this week, posing a potential last-minute hitch that could prevent the missionary from returning home. But Songe received a letter this morning from Yelina, who assured bureaucrats the missionary's case had been resolved.

"She assured the bureaucrats that they would not be held liable for cutting him loose," Johnson said.

After receiving his visa, Songe went to Russian police, who returned the property they had seized from him, including a journal of financial transactions that was used as evidence against him.

Songe's train ride from Saransk will take about 12 hours. He plans to board a plane in Moscow at 7 a.m. Saturday, arriving in New York that night. After a brief stop in Atlanta, Songe is expected to arrive at New Orleans International Airport at 5:30 p.m. Sunday aboard Delta Airlines Flight 2063. An entourage of relatives, church members and friends is expected to greet him, including Tauzin, who plans to fly in from Washington.

"It's been an extraordinary odyssey filled with happiness, sadness, disappointing setbacks and some major successes," Johnson said this morning. "I guess there's something to be said for the power of prayer."

IN THE BEGINNING

It all began when Songe, his wife Tina and their three children, members of Living Word Church in Houma, bought plan tickets to Russia in June 1993. Less than two years before, the Soviet hammer and sickle had been taken down from the Kremlin, marking the end of communist domination.

Charles and Tina Songe said this historic time offered a unique opportunity to spread the word of God as they understood it, in a country where religious freedom had been repressed for decades. Songe recalled those intentions in a final plea before Judge Tatyana Yelina and the two-member jury that heard his case.

"We came here to bless the people with the word of God, not to cause trouble," Songe said he told the judge.

But trouble was what he found, much of it having less to do with his own circumstances than with the larger political and social upheaval swirling around him.

After the fall of the Soviet Union's Iron Curtain of secrecy and censorship, chaotic winds of new-found freedom raced like wildfire across Russia. The country held its first truly free elections. A free press actively reported news of the nation and the world as its members saw fit.

Free-market reforms transformed a state-controlled economy into privatized industries. Many failed shortly after springing to life. Russia's currency, the ruble, was no longer subsidized and lost much of its value.

For seven decades, the government had tried to root out religious spirit and replace it with an atheism that set humanity, not God, as the master of its own destiny. One result of this new religious liberty was the opening of borders to foreign faiths for the first time since 1917.

The Songes arrived among many missionaries who flooded the Russian provinces, only too happy to do their part.

After reaching Moscow, the Songes traveled 200 miles southeast by train to Saransk, capital of the former Mordvinian Republic, now a region of Russia. The industrial town of 400,000, rooted in coal mining, sits on the banks of the Insar River in the Volga uplands. At first, the major and deputy mayor invited the Songes to locate in the town, and they quickly began their ministry.

But they were not as welcome as they thought. One of the most unwelcoming groups for Western missionaries is the Russian Orthodox Church, scholars say. The church had been the state religion under the czars prior to the rise of the Soviet Union, and its leaders longed to restore its pre-eminence in Russian society. Many Russian Orthodox church leaders in Saransk and throughout the country feel threatened by the increasing presence of Western missionaries, seeing them as religious and cultural competition.

The missionaries contend they are not trying to compete with Orthodox Church. Their following consisted mainly of young people, some of whom felt disconnected from the archaic language and rituals of Orthodox services.

LAYING A FOUNDATION

The Songes, working through an international missionary group called Global Strategies, built the Saransk Christian Center from the ground up. On weekends, the couple joined other missionaries, playing acoustic guitar and singing hymns on street corners.

As passersby stopped to listen, the Songes invited them to visit their small church for prayer and Bible discussions. Some accepted; others shunned the missionaries for their different religious beliefs. At its peak, the church had 150 members, but the number dropped by at least two-thirds as Songe's legal troubles dragged on.

On the night of last May 16, as the couple celebrated their 14th wedding anniversary, 11 Russian federal agents and two witnesses crowded at their apartment's front door, flashing a search warrant, the Songes said.

Through a translator, the agents demanded financial records and answers to questions. Items were confiscated, including the journal in which Tina had recorded all the family's purchases since arriving in Russia.

The next day, Charles Songe was arrested and charged with 74 counts of violating Russian currency laws. Each charge carries a maximum of 10 years in prison: 740 years total. The journal became a key piece of evidence in the legal proceedings that followed.

Russian media focused attention on the couple's plight, and Tina began to fear she would be charged as well. In July, the Songes' daughter, 13-year-old Heidi, required medical attention for a minor ailment and returned to Houma, where she remained with relatives. Tina and the Songes' two other children, Jonathan, 7, and Rene, 11, returned to Houma in August.

CHURCH AND STATE

Almost from the start, U.S. officials and members of Songe's church in Houma expressed grave concerns. Johnson suggested that Russian authorities might have singled Songe out because of his religious convictions.

"Our suspicions of religious persecution are fact, not fantasy," Johnson said in November. "Russian officials are flexing their muscles, showing other missionaries that they aren't welcome. A number of Russian leaders have admitted to the United States embassy that foreign missionaries have worn out their welcome."

Experts on the new Russian legal system agree that this was more than idle speculation. Foreign missionaries, seen by some Russian officials as spiritual predators in a land whose values and norms were undergoing rapid and dizzying change, were prohibited by an August 1993 version of the Russian Law on Freedom of Religion.

A provision of the Russian Constitution adopted by popular vote in December of that same year, however, made the ban moot, since broader religious freedom to all sects was granted—and protected. Attitudes die harder than laws, however, in any society. And the attitudes that sparked the missionary prohibitions—especially strong in provinces and towns removed from the urban centers of Moscow and St. Petersburg—remain.

Remote areas of any country—including the United States—are more prone to discretionary enforcement of laws, and Saransk is no different. The laws in Russia governing use of currency forbid the use of foreign currency—dollars included—for the purchase of goods or services.

Laws against using foreign currency were strengthened in about 1992 as a means of boosting the value of a plummeting ruble, experts on the post-Soviet legal system said. Greater devaluation of the ruble would mean inflation—which can have a disastrous effect on any economy.

Vratislav Techota, an adjunct professor of Russian law at Columbia University School of Law in New York, is among several experts who said that the currency law, with which Songe was charged with violating, is widely ignored.

"This is not a criminal offense in most cases," Techota said. "This is an administrative offense. Russia strictly regulates the circulation of foreign currency. It is not forbidden to bring the foreign currency into the

VOL
142
PT
6
AP
15
—
24
1996
UMI

country, but to bring the rubles out. You can exchange foreign currency for rubles at authorized banks."

Johnson is now convinced the currency charges were a ploy designed to harass Songe out of the country—and send a message.

"The case confirmed to me there is always another side to the story, and as a journalist, we always strive to get both sides. In this case we were getting it just from the embassy and the Russians—that he was guilty," said Johnson, a former news reporter. "Guilty of what? Guilty of breaking a law that everyone breaks or guilty of being a Christian in a country that didn't want him there?"

WATCHFUL EYES

Parts of Songe's ordeal reads like a spy novel. In May, he was placed under house arrest and prohibited from leaving Saransk. He and his wife, their landlord, a translator and fellow church members were interrogated by the FSB, Russia's equivalent of the United States' CIA. U.S. officials said the missionary feared his phones were being tapped, e-mail transmissions monitored and movements closely watched by Russian police.

One Friday night in February, Songe was attacked by two men as he walked along a Saransk street on his way to a prayer meeting. U.S. officials sought police protection.

"We have urged Charles to move into a new apartment and to have one or more church members staying with him at all times," Johnson said after the incident. "Charles' case is in the newspapers and on the TV. People know that his church at home sends him money. We suspect that someone was trying to cash in on this."

Songe's release rested heavily on diplomatic efforts. Early on, American officials reported trouble penetrating the Russian bureaucracy in an effort to open negotiations. After weeks passed with little progress, Tauzin appealed to Tom Pickering, American ambassador to Russia; and Rep. Ben Gilman, R-New York, head of the House International Relations Committee.

In September, Pickering sent a senior-level diplomat to Saransk. Tauzin also brought the case to the attention of U.S. Secretary of State Warren Christopher and Vice President Al Gore.

A LETTER FROM ON HIGH

By mid-October, a plea bargain was being arranged, and Tauzin's office said it was optimistic Songe could return home for Thanksgiving. Pickering appointed Richard Miles, the first ambassador to the former Soviet republic of Azerbaijan, to travel to Saransk and, as Johnson described it, "close the deal."

Back home, the family cautiously retained hopes that Songe would be home to celebrate his birthday Nov. 27.

"If this doesn't work, there will only be God," Tina, 37, said.

U.S. officials remained optimistic, but negotiations, dragged on. Russian authorities said the case would continue past Christmas.

At Tauzin and Pickering's request, two of the most powerful government officials in America sent a letter to Songe on Dec. 22. Senate Majority Leader and Republican presidential hopeful Bob Dole, along with House Speaker Newt Gingrich, said they were following the case and expressed hope for Songe's speedy return home.

"As American families all across the country celebrate this joyous season, we know how difficult it must be for you to be away from your loved ones," the Republican leaders wrote. "But please take heart that you are not alone. Members of Congress, as well as Americans around the nation, have you in their prayers."

HEADING FOR TRIAL

Efforts to negotiate a plea bargain failed, so officials focused on preparing Songe for trial. On March 22, the week-long proceedings against Songe and five other defendants began.

The prosecution's key witness was Oleg Kruchenkin, a Russian student who befriended the Songes early on. They said that later he turned against them. Kruchenkin reportedly described Charles Songe as the "ringleader of an illegal currency operation."

Songe pleaded "guilty in part," declaring that although he exchanged the money, he's been unaware that the transactions were illegal.

On April 3, Songe was convicted but given probation and allowed to return home voluntarily. The others on trial with him also were spared prison sentences.

Back home, a chorus of "hallelujahs" greeted Tina Songe as she stood before almost 100 members of Houma's Living Word Church, who gathered for a prayer service hours after learning that her husband's freedom was won.

Tina Songe noted that some had worried about the case greatly, but her faith in God kept her strong.

"I never lost a night of sleep during this, but I know some people would come to me and say, "I woke up in the night a couple of times and had to pray for Charles," she said.

Both Charles and Tina plan to continue their missionary work, perhaps traveling abroad once again.

"My one regret is that I didn't know the law," Charles Songe said in a telephone interview last week from Russia. "If I ever do it again, I will make sure to inform myself and be careful to observe that country's customs."

[From the Houma, LA Courier, Apr. 15, 1996]

CHARLES SONGE RETURNS HOME—ORDEAL ENDS FOR HOUMA MISSIONARY

(By Dawn Crouch)

NEW ORLEANS.—More than 200 well-wishers bearing banners and singing joyous songs greeted Houma missionary Charles Songe at the airport Sunday as he ended this three-year Russian odyssey.

"I was told there would be a lot of people, but when you come out into a place like this, you try to be prepared but you can never be prepared," Songe, clearly overwhelmed, told the crowd outside Gate 15-D at New Orleans International Airport.

Songe, 38, caught a train to Moscow on Friday for the first step in his journey back home. When his flight touched down here Sunday, his wife, Tina, and the couple's three children boarded the plane to welcome Songe before he emerged.

"We're just so thrilled that the separation is over," Tina Songe said beforehand. "It's like the closing of a chapter in our lives and the beginning of another. I knew that God was going to bring him home, It was just a matter of being patient enough for that to happen."

It was the first time Songe saw his wife and three children since he was charged with breaking Russian money-exchange laws 11 months ago in Saransk, where he had worked since 1993 organizing a Christian church.

Accused of buying goods and services with U.S. dollars, Songe was charged in May with 74 counts of currency violations, each carrying up to 10 years in prison.

Songe's wife; son Jonathan, 7; and daughters Renae, 11; and Heidi, 13; were allowed to leave Russia soon after his arrest.

Embracing his teary eyed wife. Songe emerged from the plane with his beige buttoned-down shirt half untucked and loosened gray tie. He then hugged his mother, whom he hasn't seen since he left for Russia. The crowd sand "Celebrate Jesus" as Songe embraced and greeted family, friends and members of Houma's Living Word Church.

Before reaching the end of the walkway, Songe met U.S. Rep. Billy Tauzin, R-Chackbay, who had flown in from Washington to greet the missionary. Tauzin introduced himself and, without words, Songe clinched the congressman's fist. The two men held their hands above the crowd as Songe said "I wouldn't be here today if it weren't for Billy Tauzin."

Tauzin helped lead diplomatic efforts to secure Songe's return and release. The congressman enlisted the help of several top U.S. and Russian officials after Songe was arrested in May. Both Tauzin and his spokesman, Ken Johnson, kept in contact with the missionary several times a week as the case dragged on.

Tauzin repeated his contention that Russian authorities prosecuted Songe more for his religious beliefs than money-exchange laws, which experts have confirmed are selectively enforced.

"He was out there preaching the gospel of the Lord and doing his work and he was doing nothing wrong that any other citizen wouldn't do in Russia," Tauzin said. "If this wasn't a case of religious persecution, I've never seen one."

Tauzin said the Russian authorities were using Songe to send a message to missionaries that they are not wanted in the country.

"This was not just about you," Tauzin told Songe. "This was about every citizen who wants to do missionary work in other countries."

Tina Songe, carrying a batch of white roses given to her husband by a friend, held Charles' arm as the couple thanked the people who prayed for them during the long ordeal. Songe also exclaimed at such a joyous homecoming.

Eleven-year-old Renae planned to be the first to hug her father. But, she said, "Mom got to do that. I didn't mind. The first thing I did was sing a song I wrote for him."

Renae said she was too startled to cry the first time she saw her father, but her song, "Praise God," allowed her to express her overwhelming emotions.

"I didn't cry and neither did Heidi or Jonathan. But my mom just grabbed him and cried," the girl said. "I feel like I've gone to the toy store and gotten my daddy as a gift."

Songe first touched American soil Saturday night after his 17-hour flight from Moscow landed in New York. Songe said he was too tired that night to do anything but call his family and sleep. He woke the next morning and ate an early breakfast of eggs, bacon, hash browns, orange juice and coffee.

"It was great," he said. I haven't had a meal like that in years."

Songe ate his second meal in America since his return in a restaurant with Tina and the children Sunday night in New Orleans.

"It's fantastic to see cars, nice cars. You can't see that in Russia," he said. "There is just a special air that tells you you're in America."

COMMUNICATION FROM THE HONORABLE DAVID E. SKAGGS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable DAVID E. SKAGGS, Member of Congress:

U.S. HOUSE OF REPRESENTATIVES,
April 15, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This letter notifies you, pursuant to Rule L [50] of the Rules of the House of Representatives, that a subpoena issued by the U.S. District Court for the District of Colorado in the case of United States v. Abbey was mailed to me at my Westminster, Colorado, district office.

I have been advised by the Office of the General Counsel of the House that the method of service of the subpoena did not comply with Rule 17(d) of the Federal Rules of Criminal Procedure. I have asked the Office of General Counsel to so advise the attorney who mailed the subpoena to me.

Sincerely yours,

DAVID E. SKAGGS.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

IN RECOGNITION OF NEAL WHITENER HAHN, JR., AND THE CHARLES GRAY MORGAN VFW POST, GREENVILLE, NC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, on April 25, 1996, the Charles Gray Morgan Veterans of Foreign Wars Post, in Greenville, NC, will celebrate their 50th anniversary by recognizing their charter members. They, like all of our veterans, have made great sacrifices to protect the American way of life.

Mr. Speaker, what stands out in my mind, is that this generation of veterans, gave so much for their country and asked for so little in return. They answered their country's call to arms, fought bravely on foreign battlefields, and returned home to work hard, and build strong families. Mr. Speaker, I would like to recognize one of these selfless individuals in particular, Neal Whitener Hahn, Jr., of Greenville, NC.

Mr. Hahn was born in Kinston, NC, on September 7, 1919. Raised with his two brothers and one sister, Mr. Hahn lived most of his younger life in Wilmington, NC. He is married to his wife of 50 years, Helen, and together they have raised four children.

In 1938, as WW II loomed in the horizon, Mr. Hahn joined the North Carolina National Guard, Company A, 105th Medical Battalion. He was trained as a medic. On September 16, 1940, he was inducted into the U.S. Army and stationed at Fort Jackson, SC. He spent the next 4 years training new troops. On February 12, 1944, Mr. Hahn was ordered overseas. Ten days later he landed in Scotland, where he trained for several months. On June 10, 1944, his unit landed at Omaha and Red Beach as part of the Allied invasion of France.

Mr. Hahn spent the next 337 days on the front lines, as a combat medic. He received five battle stars during that time. On January 10, 1945, he was wounded in Belgium, during the Battle of the Bulge, and was awarded the Purple Heart. Then, on April 12, 1945, Mr. Hahn was awarded the Silver Star for Valor, the military's second highest award for bravery. The following is an excerpt of the official citation:

> Neil W. Hahn, Jr., Medical Department, United States Army, for gallantry in action on 21 December, 1944, in Belgium. When they learned that men were lying seriously wounded in an open field, across a river, Private Hahn waded through icy currents of the river, and crawled for one hundred yards through intense enemy fire to the casualties. Finding that the wounded men were unable to move, Private Hahn and his comrade gave first aid and made three trips to evacuate them through the enemy fire and across the river. Their great heroism and unselfish devotion to duty, saved the wounded men, from death through wounds or exposure.

Mr. Speaker, what is even more remarkable, is that Mr. Hahn never actually received some of his military decorations and awards. For 50 years, this humble man kept quiet, never asking our Government for his medals. To Mr. Hahn, the medals were not important. What is important is that he served his country with courage and honor. Now, in conjunction with their 50th anniversary, the VFW Post in Greenville will conduct a special ceremony to finally present to Mr. Hahn all of the medals he has earned and so clearly deserves.

Mr. Speaker, Neal Hahn is certainly not alone, in deserving our recognition. I stand here today and salute all of our veterans, for their dedication to duty, for risking their lives to protect our families, and for their continued commitment to our way of life. Mr. Hahn, you, and men and women like yourself are the real heroes in our Nation. To Neal Hahn and veterans everywhere, I say, thank you for your dedication to our Nation.

☐ 1515

FINALLY, CORRIDOR H FOR WEST VIRGINIA REGION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, I want to talk today about a project that is very important not only to my State of West Virginia but indeed to this entire region, and that is corridor H.

Corridor H is a major four-lane road that has been on the books for 25 years and that we have been trying to build in West Virginia. The environmental impact statement after 6 years has finally been completed, and the public comment period begins on April 26 and will extend for 30 days. This is a time for citizens and groups and businesses and all those individuals who want to have another say and want to review the EIS to do so.

This EIS has been 6 years in the making. It has been one of contention. It has been one in which the State department of transportation has had to meet and accommodate many, many legitimate concerns: environmental, historical, terrain, cost. After a long time the State took four corridors and narrowed it down to a preferred corridor, and then within that 2,000-foot way the State has now accommodated the various concerns that have been made, whether it is a Civil War battlefield or whether it is a stretch of wetland.

After being in the Department of the Interior for a number of weeks, all questions about boundaries for historic battlefields have now been resolved. The Federal Highway Administration has signed off on corridor H and will review it, of course, again following the environmental impact statement. At that time, probably within the next few months, it will issue its final record of decision, or ROD. Then following that, the State can begin real estate acquisition and appraisal and, hopefully, go to bid at the end of the year.

I say this because corridor H is probably the single most important highway project, not only for West Virginia, but, I think, for this region of the country; 114 miles in West Virginia that are so crucial to not only opening up the eastern part of our State to the west but also then being a natural corridor that continues on out as once people get to Weston and then can continue north and then west toward the Ohio area or south and then west to Kentucky and points west.

Corridor H, I believe, is economically feasible. Indeed, the Appalachian regional studies demonstrate that countries that have a four-lane corridor of this magnitude see job creation three times that which is projected in counties without such a project.

This is a major east/west highway, and so my hope is that we can, with this completion of the environmental impact statement, I realize this is not going to make everyone happy, but with the completion of this environmental impact statement that we can get on about the business of building corridor H. It has been too long in contention, and at least in the West Virginia section it is important that this highway be completed and so to complete the Appalachian corridor system

VOL
142
PT
6
AP
15
—
24
1996
UMI

that has promised so much to our State.

So, Mr. Speaker, I just wanted to keep you up to date on this important project as it moves ahead. I encourage everybody to be involved in the public comment period, and I look forward to seeing this project actually go to bid sometime at the end of the year in the segments that have already been approved and where these issues have been resolved.

MONEY AND POWER INFLUENCE ON GAMBLING LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. WOLF] is recognized for 5 minutes.

Mr. WOLF. Mr. Speaker, money and power. That is the influence too often on Capitol Hill when it comes to the legislative process.

Money and power.

The American people more and more every day hold this institution in disrepute because of the influence they see wielded by special interests whose bottom line is money and power.

That influence has been evident throughout the legislative history of a bill to create a national commission to study what a front page article in today's Washington Post calls the "explosive growth in legalized gambling." And today, as Post reporter Blaine Harden reports, "Nevada-based gambling interests working with prominent Republican lobbyists" have "sabotaged" a bipartisan effort in Congress to pass legislation to establish a National Gambling Study Commission.

Money and power.

Those special interests are poised to effectively neuter legislation that would provide information to the American people on the effects of what has become a $40-billion-a-year industry that generates, according to the Post article, "six times the revenue of all American spectator sports combined." Think about that. Six times the revenue of all spectator sports combined. And when you add to spectator sports revenue other leisure activities for which American spend their money, such as movie box office totals, theme parks, cruise ships, and recorded music, that combined total is over $3 billion less than gambling revenues in a year.

As our colleagues will recall, we unanimously passed a responsible and fair National Gambling Study Commission bill in the House on March 5. There was bipartisan support for the legislation which has over 140 House cosponsors and which garnered the support of family interests groups across America and major newspapers including the Atlanta Journal and Constitution, Boston Globe, Chicago Sun-Times, Cincinnati Enquirer, Dallas Morning News, Los Angeles Times, Houston Chronicle, Philadelphia Inquirer, USA Today, Portland Oregonian, New Orleans Times-Picayune, Indianapolis News, and Washington Post, among others.

But money and power have an insidious way of spreading their tentacles of influence and the gambling interests unleashed their money and power and were ready this morning with killer amendments to the gambling study bill in the Senate that would have made a mockery of the legislation. Perhaps the light of the Post article today shone too brightly on this disgraceful show because the Senate bill was pulled from the markup.

But the fingerprints of the gambling industry are all over the current effort in the Senate to stop the National Gambling Study Commission. Gambling interests last year set up the Washington-based American Gaming Association headed by Frank Fahrenkopf, former chairman of the Republican National Committee, who the Post report says is being paid over a half million a year for his work. He, in turn, hired Kenneth Duberstein, former top adviser to President Ronald Reagan, and other Republican Party and Presidential aides, as well as a former Democrat Member of Congress and the former chief floor counsel to then Democrat Senate Majority Leader George Mitchell, among others, to carry the water for the gambling industry and wield its money and power influence.

Just what did the gambling interests get for their high-priced and well-placed cadre of lobbyists? They have managed to rewrite the gambling bill that was ready for markup today in the Senate with amendments which would turn the study commission into a library study group with no power to convene investigative hearings, no power to subpoena information, no authority to do any original research and confined to only reviewing information that already exists, and with a limitation to only make recommendations on Indian and Internet gambling.

And one more amendment from the gambling interests: the Commission is directed not to examine the economic impact of gambling on businesses, political contributions, the relationship between gambling and crime, a review of the demographics of gamblers, a review of law enforcement, a review of State, Indian and Federal gambling policy, advertising or other issues the Commission chairman may deem appropriate.

And a final amendment: for what is supposed to be an objective commission charged with the responsibility of studying the full effects of gambling on American society, the gambling interests successfully pushed their way to the study table with the amendment to provide that individuals with an interest in the gambling industry should be appointed to the Commission.

With these amendments, the National Gambling Study Commission may as well convene at the library and chat about the books the gambling interests check out to read. This is a sham and a disgrace and an insult to the American people who are being suckered in by an industry which thrives when it operates in the shadows, much like roaches which find their way around in the dark. When the light shines though, the gambling interests, much like the roaches, scurry to hide.

Money and power.

High-priced lobbyists and political connections at work to thwart an attempt to provide basic information to cash-strapped local and State governments being drawn into the promises of easy money from legalized gambling. Why are the gambling interests spending millions of dollars in political contributions and lobbying campaigns to stop a national study of gambling's effects on America? Why are they trying to stop a bill that will allow an objective, comprehensive, and impartial legal and factual assessment of gambling, a bill that does not outlaw gambling, that does not tax gambling, that does not regulate gambling?

Why would they turn a blind eye to the stories of poor mothers playing the slots with their children's lunch money, or teenagers so addicted to gambling that they prostitute their girlfriends to pay off their mob debts, or the accounts of Americans who are so distraught over their mounting gambling debts that their only perceived recourse is suicide.

From what information we have gathered today, we see a picture of gambling hurting people and businesses. How many suicides and near misses does it take to make the case? How many bankruptcies and broken homes? How many failed careers, failed marriages and broken dreams are needed to register on the misery meter?

What is the gambling industry afraid of? What is driving their effort to stop this national commission to study the explosive influence of gambling on the American culture?

Money and power.

Consider these facts:

In Missouri, the gambling lobby spent $11.5 million, mostly raised from out-of-state companies, on a successful 1994 referendum to allow slot machines in casinos. According to an Associated Press report by Jim Drinkard, "after failing in its first attempt to legalize slot machines on Missouri riverboats, the gambling industry took no chance and spared no expense." Following a pattern that has been repeated across the country, Drinkard reported that it hired the chief strategist for then House Democrat majority leader, considered to be Missouri's most visible politician, paying her $218,750 to help win passage of the 1994 referendum.

In Louisiana, the gambling lobby contributed $1.07 million to State legislators in 1993 and 1994, $1 out of every $5 given to lawmakers and three times as much as was given by the petrochemical industry.

In Florida, the gambling lobby spent $16.5 million on an unsuccessful referendum campaign to legalize casinos in 1994, only $1 million less than the Republican and Democrat gubernatorial nominees spent in the Governor's race combined.

In Connecticut, four gambling groups spent $4.9 million over the last 4 years in an unsuccessful campaign to lobby the State for a casino.

In my own State of Virginia, gambling lobbyists spent over $1.1 million over 2 years to convince the general assembly to legalize casinos.

In Illinois, the gambling lobby contributed $1.24 million to candidates for State office between July 1, 1993, and June 30, 1994. Also in that State at one point gambling interests in Illinois had under contract people who formerly were Governor State senate president, house majority leader, attorney general, State police director, circuit judge, Chicago mayor, and two U.S. attorneys. The former head of the State gaming regulatory board now lobbies for a major gambling group and at least three former board officials are on casino payrolls.

According to figures compiled by the Center for Responsive Politics, a nonpartisan research group in Washington, over the past few years the gambling industry overall gave at least $4.5 million to the Republican and Democrat parties and their candidates for Federal office, including $1.8 million in "soft money"—unregulated, unlimited contributions to party committees donated since 1991.

These money and power brokers have been at work since House passage of the national gambling study bill to negate any responsible, fair or objective effort in the Senate to pass similar legislation. And with their money and power, as today's Washington Post headline proclaims: "Don't Bet on a U.S. Gambling Study."

How much longer will the best interests of the American people take a backseat to the influence of money and power in Washington?

Money and power.

☐ 1530

GRAPES OF WRATH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. RAHALL] is recognized for 5 minutes.

Mr. RAHALL. Mr. Speaker, every country has the perfectly legitimate right to respond to terrorist attacks upon its borders and its people, regardless of whether those attacks were provoked or not. Such has been the case in southern Lebanon, the home of my grandfathers, where Israel has undertaken Operation Grapes of Wrath in order to end the terrorist Hezbollah attacks across the border into northern Israel.

This tit for tat, this eye for an eye, this cycle of violence has gone on for well over a decade now. Ever since Israel's bombardment into southern Lebanon, and indeed, into Beirut itself in 1982 to rid Lebanon of the PLO, they have occupied what they have called a buffer zone in southern Lebanon in order to protect its northern borders.

This Israeli occupation has led to the growth of Hezbollah, or Party of God. This Lebanese group has sought to end this occupation, and therefore has undertaken needless, uncalled for, unprovoked terrorist attacks into northern Israel. These have been undertaken, and in the past have been guided by unwritten agreements by which Israel and Syria, the two main power brokers in the region, have agreed not to attack each other directly. Therefore, Hezbollah operates as a proxy for outside powers, in this case obviously financed and trained by Iran and given the green light by Syria to operate in Lebanon.

In order to end these attacks, Israel undertook Operation Grapes of Wrath. As I say, every country has that perfectly legitimate right to respond to terrorist attacks across its border. Today we saw a dramatic change in its operation. We saw a dramatic turn of events in which innocent civilians who have been killed over the last week or so of this operation escalated into which the death count now stands at close to 100 innocent civilians killed in an Israeli bombardment of a U.N. base camp in southern Lebanon, these innocent civilians having tried to flee, according to Israeli warnings beforehand, in order to prevent harm to themselves.

Whether it was a mistake, whether it was just another message being sent in the long list of messages in which Lebanon is used as a chessboard in which outside powers play their game in Lebanon, remains to be debated, and is currently being debated in the highest echelons of Israeli government.

President Clinton, much to his credit and however late it may be, has, within the hour, from St. Petersburg, Russia, called for a cease-fire in the Middle East. He has issued his sympathy to the families of those innocent civilians killed in today's state-sponsored terrorist act, and he has called for a cease-fire to take place, I hope, immediately. The President is to be commended for this call, however late it is in coming.

But the final resolution, the final resolution of this conflict will only occur when a peace treaty is reached between those two main power brokers, Israel and Syria. It is time to quit using Lebanon as a chessboard. It is time to quit using the lives of innocent civilians, women and children, in order to send political messages to one party or another.

Let us hope that, as has happened in the past in the Middle East, with this outrageous action today and with this uncalled for action, that perhaps it will be the last salvo and we will see a true breakthrough and peace occur.

That peace will occur when the Lebanese Army, which in my opinion is quite capable of disarming Hezbollah, disarming them completely, put it in writing if need be, as Israel is demanding, with Syria guaranteeing the safety of Israel's northern border along with the Lebanese Government, and assurances that Hezbollah will stop these attacks once they are fully disarmed, and second, and at the same time, and no waiting until on down the road to see what happens, but at the same time, then I call upon the Israelis to recognize U.N. Resolution 425 and withdraw their forces from southern Lebanon at the same time.

Let us put it in writing. Let us do it, however, by unwritten agreement or whatever, but this is the only solution to the current eye-for-an-eye, tit-for-tat cycle of violence that has taken too many innocent lives, has caused too much suffering, and has inflicted economic damages upon a country friendly to the United States, upon a country that has not been responsible for these terrorist actions, the country of Lebanon, too weak to handle it, strong in my opinion, growing stronger militarily but not politically, because of the controls the Syrian Government has in that country.

But if we want to see peace, a truly just and comprehensive peace to which the President spoke today, to which all parties aspire, then it is time we get to the root of the problem. It is time we reach that agreement that would be a major step forward in Israel's recognition by all Arab countries in the region.

A EULOGY FOR RON BROWN

The SPEAKER pro tempore. Under a previous order of the house, the gentleman from California [Mr. MARTINEZ] is recognized for 5 minutes.

Mr. MARTINEZ. Mr. Speaker, earlier today there was a resolution that was passed by this Congress honoring former Secretary Ron Brown. I was unable to attend that because I was in a hearing of a subcommittee on which I am the ranking member, but I did want to do this then, and I take the time now to do it.

Mr. Speaker, one or two days after the tragic death of Ron Brown, I was traveling to an event in my district and listening to KNX news station. Dave Ross, reporting for CBS news

VOL
142
PT
6
AP
15
—
24
1996
UMI

radio, came on the air and gave what I consider to be a tremendous eulogy for Ron Brown.

I would like to share it with the Members of the House.

Mr. Ross entitled his tribute, "death of a salesman."

> A tragedy freezes time. Events you would otherwise ignore become significant.
>
> Pictures of a Cabinet official eating breakfast in a tent end up on the front page. And the story of a trade mission which otherwise couldn't compete with the FBI's latest unabomber suspect or the standoff in Montana becomes the center of attention.
>
> Before now the only time you heard of Ron Brown was when some new piece of evidence surfaced in his Justice Department investigation.
>
> He was suspected of spending too much on travel and using international junkets to reward campaign contributors.
>
> Some junket. Breakfast in a tent and travel in a plane so poorly equipped no passenger airline could legally fly it. But a salesman can't stop to wonder whether the plane is safe or what his critics are saying—there's a product to move.
>
> Instead of gun boat diplomacy, Brown's philosophy was MacDonalds diplomacy. If you want to spread democracy, sell American products. Sell a way of life where people spend their time making money instead of making enemies.
>
> The old Yugoslavia, which had a healthy economy, then killed it, seemed to defy that philosophy. But a good salesman keeps trying.
>
> My boss used to have a plaque on his desk which said, nothing happens until something is sold. It was there to remind us that those people in the sales department, the one's who got their hands dirty closing deals, were the people who kept our paychecks from bouncing.
>
> Trade missions, and I've attended a few, are pretty boring. Business executives talk about exchange rates, ownership rights, local taxes. It's nothing newsworthy. It just creates thousands of jobs.
>
> A toast then, to the salesman. Traveling on a shoe shine and a smile. Sometimes, on a wing and a prayer.

Thank you, Mr. Ross. I know that the family of Mr. Brown thanks you as well.

INCREASING THE MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, 28 years ago, I was a single working mother with three small children, receiving no child support and earning close to the minimum wage. Even though I was working, I was earning so little that I was forced to go on welfare to provide my children with the child care, the health care, and the food that they needed. Even though I was educated and had good job skills, I still was not earning enough to fully support my children. My story bears repeating tonight, because too many families today are in the same predicament I was 28 years ago.

Mr. Speaker, if this Congress is truly serious about reducing dependence on welfare, then let us increase the minimum wage. Let us make work pay, and let us make sure that paying working parents enough to support their families and take care of their children is a priority on our agenda.

Mr. Speaker, the minimum wage has not kept up with the increase in the cost of living. Workers these days can put in a full day of work, 40 hours a week, at minimum wage and still live below the poverty line. The new majority in Congress wants to cut the earned income tax credit, kick single moms and their children off welfare, and reduce health benefits for low-income families, but they will not even hold a hearing on increasing the minimum wage. If we want to reduce reliance on public assistance, Mr. Speaker, does it not make sense to make work pay? Should not entry level jobs pay more than public subsistence?

In addition to making economic sense, a minimum wage increase is also a matter of basic fairness for millions of working Americans. Mr. Speaker, in 1960, the average pay for a chief executive officer of some of the largest U.S. corporations was 12 times greater than the average wage of their factory workers. Today, those same CEOs receive wages and compensation worth more than 135 times the wages and benefits of their average employee, the average employee at the same corporation. In some instances, Mr. Speaker, the difference is more than 200 times. That is not fair, and it is not fair that about 70 percent of minimum wage earners are women, adult women with children. It is not fair that from 1973 to 1993, real income for working men, men with high school diplomas, dropped by 30 percent.

Businesses are doing well, Mr. Speaker. Private business productivity has been increasing. Profits are up, but wages are stagnant. What is wrong with this picture? Is it not time to let American workers share the fruits of their labor?

Speaker GINGRICH and his allies say they support traditional American values. Let us return to the traditional American value of paying an honest wage for an honest day's work. Let us raise the minimum wage, and let us do it now.

GROUNDS FOR OPPOSITION TO THE ANTITERRORISM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii [Mr. ABERCROMBIE] is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, I want to elaborate, if I might, on the remarks that I made with respect to the so-called antiterrorism bill earlier. As members know, we are constrained by time in our remarks, and by having 5 minutes today, perhaps I can make a little more clear or elaborate a bit on what the grounds were for my opposition.

Mr. Speaker, let me quote in part from a story written in today's Washington Post, as follows, excerpting from the story:

> It marks the first time in more than a century of law on the writ of habeas corpus that Federal judges would have to defer to State court determinations on whether a prisoner's constitutional rights were violated. A writ of habeas corpus is a way for Federal judges to assess whether a defendant's conviction is unconstitutional because, for example, his right to a fair trial was infringed. The writ orders the State to produce the prisoner, the body, or the corpus, so that he can make his case to a Federal court.

Mr. Speaker, I had indicated in my previous remarks that this past weekend my wife and I attended a play, were observers at a play that was given in Honolulu in a very small venue. I do not think there were 20 people there, mostly students. It was a student production, student-directed. The set was very simple. There are only three characters, if you will. The play was called "Death and the Maiden." It comes from a work by Schubert and is a beautiful piece, orchestral piece. Death and the Maiden was played by a doctor who is a participant in torture in an unnamed Latin American country. He plays the symphonic piece as he tortures people, to torment them.

In the play, a lawyer who has been named to a commission to examine what has happened in the country previously with respect to those who have been arrested and tortured and killed, disappeared, indicates that the reason that the regime was able to accomplish this in the first place was the abandonment of habeas corpus; that is to say, the capacity of the individual to be able to take a case to a Federal judge, in the context of the United States, to ask that judge to determine whether or not he or she is being fairly held.

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As my good friend from California, Mr. MILLER, said to me just very recently in discussion about these remarks and positions on the bill, the loss of our rights and our privileges do not come in grand sweeps. They come by degree, they come by circumstances that are deemed at the moment more than sufficient to erode that particular right.

And so I asked friends at the Library of Congress to provide for me a copy of the playwright's essays. Ariel Dorfman, the Chilean writer, is the author of the play "Death and the Maiden," and he was written a book of essays or compiled a book of his essays called "Some Write to the Future." I recommend it to the Speaker and to others who are concerned about this. I realize it was an agonizing vote for many.

But in the process of commenting on Chile, the country from which Mr. Dorfman comes, he wrote an essay once called the Political Code and the Literary Code, the testimonial genre in Chile today.

In it he says, in that essay:

> Terror, then, has a public character. As such, it leads to a great ideological operation, which authorizes, in the name of Western, Christian values, a purifying crusade against the forces of the Devil and of the antination. The principal obsession of authoritarian politics is to suppress history and those who could modify it, postulating an unchangeable and superior reality, God, fatherland, family, to which one owes loyalty.
>
> What is paradoxical about this ideological framework is that it excuses a repression that, in fact, is never admitted by official channels. Memory of the suffering must survive in gossip, in rumor, in the whispering of what they did, and even in official threats, but at the same time, in each concrete case, in each undeniable and undocumented case, with damaged teeth, genitals, and ribs, in spite of each relative's identification, in spite of the cries of pain, the truth of the violence is denied. The people are punished, but in the long run the relationship is made benevolently and paternally innocent, translating it into terms that are almost familial and intimate: expulsion and exclusion of the wayward, the recalcitrant, the disturbers of public order; reintegration, of the misguided and the repentant. Neo-colonial fascism takes the bourgeois dream to its totalitarian culmination.

Mr. Speaker, in that context we see, then, that to eliminate habeas corpus does damage to the Constitution beyond repair.

MILLER EXPRESSES CONCERN REGARDING TONGASS AND REPUBLICAN MASQUERADING ON EARTH DAY

The SPEAKER pro tempore (Mr. PETRI). Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, the Tongass National Forest in southeast Alaska is one of the jewels of the American forest system. It is America's only temperate rain forest that is intact, that can be protected and that can be preserved. It is also the subject of a rider on the appropriations bill to do great damage to the Tongass, contrary to the law that was passed a couple of years ago to reform the forest practices on this forest.

The gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the Committee on Appropriations, has asserted that the provision that is now in that legislation in fact is a decrease in the number of board feet eligible for cutting from 450 million board feet to 418 million board feet. The fact of the matter is that that is not accurate. The Tongass Reform Act of 1990 eliminated the 450 million board feet mandate for these lands and protected over 1 million acres from the forests for logging, reducing the amount of old growth timber that is eligible for harvesting by 51 million feet annually.

The number of board feet eligible for cutting is currently 399 million board feet. The rider would increase that by 19 million, to 418, which is over 100 million board feet above the average cut in the last decade.

The fact of the matter is that the rider is very detrimental to the future of the Tongass forest. It asks for cutting that is not sustainable, that will ruin this forest, that will put it into history, and far exceeds what the Forest Service just came out with today in terms of its preferred plan.

In fact, what it is, the Forest Service preferred plan, after going through the planning documents and how to sustain this forest for future generations and continue to be able to timber it, is 172 million board feet less than the 418 that the gentleman from Louisiana [Mr. LIVINGSTON] is talking about. That is because the rider is proposed to circumvent the public planning process, the public input into this process, and have the legislation dictate that cutting no matter whether it ruins the forest or not.

They say they are green, they say they honor the environment, they say they want to protect it, but do not look at what they say, look at what they do. This is another example. The law does not do what they say. In fact, it is very detrimental in this case to one of our prized national forests.

That is why today earlier Minority Leader GEPHARDT and many of my colleagues issued a warning, warning the American people to beware of Republican candidates coming to your hometown between now and election day saying that they support environmental protection, but who in fact have voted repeatedly in this Congress against environmental protection. These are Republicans practicing ecofraud. The only thing green about these Republican candidates is the camouflage they are using to mask their antienvironmental record and the money they take from special interests to gut environmental measures of this Nation.

To the Republican leadership and to those who follow them in this Congress, today we issue the following challenge: Stop your assault you are leading on the environment, stop the masquerade you are playing out on Earth Day to appear environmentally friendly, and work with us to protect those environmental laws that protect this Nation and to improve those that do not.

But do not pretend that because you bring to the House floor two minor bills that everybody supports, when you have voted in the past to destroy the basic environmental laws of this country, that somehow you are now pro-environment. You are not. Do not pretend that planting trees or cosponsoring a trails bill or a 1-day cleanup of the beach, as your campaign advisers have told you to do, makes you an environmentalist. It does not.

You cannot vote day in and day out, as you have in the Congress of the United States, to gut the Clean Water Act, to gut the Clean Air Act, to bankrupt the Environmental Protection Agency, to destroy the national parks and the public lands, and the forests of this Nation, and to give away those resources that belong to the taxpayers and the people of this Nation to the special interests. You cannot do that and then for 1 day dress up and pose as an environmentalist.

The fact is you will not get away with it. You will not do well on Earth Day. and you certainly cannot come to the well using the Republican Environmental Task Force to provide you cover, when the average environmental vote of the members of that task force is only 18 percent. That is the average vote. Think of how low you had to start at the top to get down to there.

The people will judge you by what you do and not what you say, and what you have done so far to lead the most comprehensive assault on environmental protection. The American people hold these values dear. They hold the protection of our air and our water to be very important. They will not give it away to a 1-day masquerade on Earth Day by the same forces who have gutted the essential environmental protection laws of this Nation.

CONGRESS ATTEMPTS TO COMBAT SCOURGE OF ILLICIT DRUGS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. HASTERT] is recognized for 60 minutes as the designee of the majority leader.

Mr. HASTERT. Mr. Speaker, first I yield to the gentleman from Pennsylvania [Mr. CLINGER], the distinguished chairman of the Committee on Government Reform and Oversight.

Mr. CLINGER. I thank the gentleman very much for yielding to me, and I would just, No. 1, commend him for holding this special order, and the gentleman from New Hampshire [Mr. ZELIFF] and the gentleman from Indiana [Mr. SOUDER]. You are three of the four Members who participated in what I consider to be perhaps the most significant and important congressional delegation of this year, certainly in terms of the work of the Committee on Government Reform and Oversight. This was an enormously important and very, very revealing, I think I might say, congressional delegation.

You visited five countries, and each one of them for a very specific purpose. In Mexico, because 70 to 80 percent of the drugs that enter this country come across that border, I think it is something that we need to be focused on.

VOL
142
PT
6
AP
15
—
24
1996
UMI

How can we do a better job? What are the problems that we are facing there, and how must we deal with them?

You visited Panama, which has major money laundering problems, and shares an uncontrolled jungle border with Columbia. And of course Colombia, which is the world capital, if you will, in terms of the supply of cocaine worldwide; Bolivia, which is the second largest producer of cocaine after Columbia; and Peru, which produces two-thirds of the world's supply of coca leaf. I know, because the gentleman from Illinois has briefed me very thoroughly, as has the gentleman from New Hampshire, on this trip.

I must tell you I have been dismayed and really disappointed at some of the media coverage of this trip. If we indeed are going to assume that no congressional travel has any merit, and that is what seems to me that the press is deeming in this case, this was an incredibly active, vigorous CODEL. You did not engage in, quote, junketeering. I think it is fair to say you were all exhausted by the time this trip was over, because it was very intense, very focused and extraordinarily productive.

I look forward to the report that will come out of this matter, and I look forward to perusing the results of this special order. I again commend the gentleman from Illinois [Mr. HASTERT] as a leader of the delegation for the very excellent work that was done on behalf of the Committee on Government Reform and Oversight.

Mr. HASTERT. I thank the gentleman from Pennsylvania.

One of the things that we wanted to look at is what are the contributing causes to something that would kill 10,000 people in this country, many, many of them our youth, our college students, our high school students and yes, even some of our junior high students. One hundred thousand deaths because of some unseen, unknown culprit, $300 billion in the 1990's alone, the cost and the deaths that have resulted by this phenomenon.

What is the phenomenon? It is drugs, it is speed, it is crack, it is cocaine, it is heroin. Where does it come from? Why is it here? Those questions are pretty relevant, especially if you are a family across this country that has had a child involved in drugs or a death in your family because of drugs, or you have had your home burglarized or your person held up because some drug addict had to get money to get a fix. Then you are drawn into this whole idea of where drugs come from and why they exist and what is the whole issue and mechanics that move drugs from South American countries and southeast Asian countries into our borders.

If you live in a neighborhood that you are imperiled to go out at night because you are afraid you might be mugged, held up, or somebody is on crack cocaine or on heroin and you feel that you or your family may be accosted, the reason is that we have drugs in this country. We are the demand source for literally billions and billions and billions of dollars of drug trade.

In our emergency rooms every year, in our hospitals, and we have just moved a health care bill through here, but clearly 500,000 emergency room incidents in this country alone come from drug abuse. There are 250,000 Americans serving time in our prisons, both in our Federal prisons and in our State prisons, because of drug law violations. Unfortunately, drug use is involved in at least one-third of all our homicides and assaults and property crimes.

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Now, something that would cause, and we do not have the exact numbers because it is pretty fluctuating, but something that would cost between $70 and $90 billion to the people in this country every year, the net, and that cost piles up day in and day out, that is pretty important.

I think it is pretty important for this Congress, who initiated a pretty strong drug policy in the 1980's and has gone from a Just Say No policy to "just say nothing" government over the last few years, I think we need to examine ourselves. We need to examine where the cause of this problem is, examine our problems in trying to stop the demand in this country, but, most of all, we need to find out where this comes from and stop the growth of coca leaf, the growth of heroin poppies, the manufacture of speed or methamphetamines. That is what this endeavor was about. Where does this come from? What do we do? How do we find out about it?

This chart right here shows the toll of drug abuse's estimated cost in the United States. The cost of illness is over $8 billion. The cost of death is over $3.4 billion, if you can put a price on death. The cost of AIDS, $6.3 billion, AIDS that people get through use of intravenous needles and passing those needles around from drug addict to drug addict. And the direct medical costs in this country are $3.2 billion. But the big cost is crimes and misdemeanors to the American people because of drug use is over $46 billion.

Now, if you want to count all the victims of crime and people who have been assaulted and people who have been beaten up, then you can move this cost of nearly $66.7 billion probably up to $97 billion. It depends on the accounting method you use.

But if we are going to do something and impact upon the value and quality of this life this country is going to have, then we are going to have to start doing something about one of the main reasons that this problem exists.

Now, when you start to look at what the costs are to the American people and look at what the costs are to what this Congress is trying to do, let us take a look. Some $13.2 billion expended. Where does it go? State and local assistance, almost 10 percent. Other law enforcement, the FBI, DEA, others, about 2.5 percent. The research and development to find out what drugs do is another 4 percent. Drug abuse prevention, which is a good program and certainly gets into our neighborhoods and schools, it is almost 14 percent. Drug abuse and treatment for those people who have been into drugs and need to be led back and hopefully on a path that will rehabilitate them, although it does not have very good results, 20 percent of our budget. Interdiction of drugs, where we go out and try to catch the drugs moving through other countries, coming into this country, and drugs moving in this country, is roughly under 10 percent of our budget. Regulatory and compliance 0.38 percent, investigations, 13 percent, international involvement, 2.3 percent.

Now, remember, almost 90 percent of the drugs coming into the United States of America come from other countries. Our international involvement is 2.3 percent. Prosecution, it passes a lot of money, it takes prosecutors and district attorneys and States attorneys to prosecute drug thefts and drug crimes, 6.4 percent every year. Corrections, the costs that we have in this country to keep people in prisons, is 15.5 percent. Intelligence, to find out on the street where the drugs are coming from, who is selling them, where it is being put together, where drugs are manufactured, are 2.3 percent. And the State and local assistance we give to cities and States is nearly 10 percent. So that is almost $3.5 billion that every State and municipality has to dole out to find the reason, to find the solutions.

Now, why did we take this trip? It is a good question. I think we need to answer it. Because in this country, when we look at Mexico, and if we would take Mexico as a V or triangle and look over here in Mexico, we have four huge drug cartels. Coming up through the area of the Gulf State area, it comes into southern Texas. We have the problem of drugs coming up through the cartel zone in Sonora, which is along our Arizona border. We have drugs coming up along the Tijuana cartel that comes up into California. We have drugs coming up into the Juarez area, it goes into El Paso, TX, and up through that area.

So we have four huge cartels. Where are they? Not United States cartels, they are Mexican cartels. So nearly 70 percent of all drugs that come in, that are grown in Peru and grown in Columbia and manufactured in Colombia and grown in Bolivia, come up either through Colombia or up through the airways and land in those cartel areas in Mexico.

Well, we had a meeting with the Mexican Congress, and we stressed to them that it was important that in Mexico, we better start doing something, they better started doing something, on a cooperative basis.

What should be done? Well, we need to have good legislation, and the Mexicans understand that, and they are stating to do that. So they have money laundering legislation so that they can start to find the money that comes in these cartels, and they can start to trace where it comes from. And it does not just come from Mexico, folks. It comes from New York, Philadelphia, Chicago, Los Angeles, and San Francisco. So we can start to stress where that money comes from, because if we can take money out of the drug equation, that is the most important thing to the drug traffickers and the drug pushers and the cartels and the Mafioso and the street gangs that all make their money off drug trafficking. If we can take that money away, find the way that they launder that money we can begin to solve the problem. We can begin to deny those people from the end results, from all the trouble they get in with drugs in the first place.

We also need to have wiretap authority so those criminals who do the drug deals, especially in Mexico, that Mexico has the ability to tap in and find out who they are and what their deals are.

We need to have anticospiracy legislation and antiorganized crime and asset forfeiture. If you find a drug cartel or pusher that is moving drugs up into the United States, so that they can take their planes and automobiles and haciendas and those things away, deny them the tools that they use to move drugs into the United States. And we need to aggressively pursue the naroctraffickers.

These are things we stressed to the Mexican Congress and things they pledged to us they will begin to work on in the next year.

Mr. ZELIFF. I would just like to first, Mr. HASTERT, thank you for the leadership that you provided to this effort. Our overall leadership asked us to put this thing together. We have worked on this effort now for a year and a half on the drug issue, and started back in March 9, 1995.

Before I get into what we have done as a committee, I would just like to mention one other thing in Mexico. As you know, the Clinton administration just certified Mexico and decertified Colombia. So one of the things we looked at down there and some of the things that were brought out, the President of Mexico has made a major commitment that drugs and crime are now their No. 1 issue, their No. 1 threat. I think we are starting to make some progress. We are starting to see the beginnings of a process. When the President of Mexico starts to send that signal all the way through they are going to get serious on it, then we are starting to turn the corner.

The other thing I would just like to mention in addition to certification and the President, we talked about NAFTA has an impact here, economic development has an impact. But there are many things we looked at throughout all these countries.

If I can, can I just mention a few things that the committee has done as we led up to this trip.

We started out with Nancy Reagan and her effort back in the Reagan administration on "Just say no." That, of course, affects the demand side. We had Judge Robert C. Bonner, former Director of the Drug Enforcement Administration, testify; Bill Bennett, Co-Director, Empower America; Hon. Lee Brown, former Director, National Drug Control Policy, testified; Thomas Hedrick, vice chairman of the Partnership for a Drug-Free America; Mr. James Copple, national director of CADCA; Mr. Robert Heard, director of program services, Texas War on Drugs; Adm. Paul Yost, former Commandant, U.S. Coast Guard under the Reagan and Bush administrations.

We have had several hearings with Dr. Brown. I traveled to Boston with him. We went into Framingham Prison for Women. That certainly is a scary effort, where we talked to several women who hit the bottom due to drug abuse and alcohol abuse. We have learned a lot from that as well.

We went into treatment centers, and we have done a trip with this subcommittee with the Coast Guard in the interdiction zones. If you want to use an example of a narco democracy where the country has lost control, take a look at St. Kitts. That is what the problem here is. Mexico is starting to realize if they do not get serious, they can lose control of their country. The same thing with Peru and Bolivia and other countries we visited.

I would like to also just, if I would, mention Bob Kramek, the Commander of the U.S. Coast Guard. What a great job they have done.

One other thing is we are working very closely with Barry McCaffrey, the new drug czar, former 4-star general in the Army, doing a great job in putting this thing together.

We are just very encouraged that we are starting to get our arms around this thing, but we cannot do it from Washington, DC. We have got to get out on the front lines and see what is working and what is not working.

Manchester, NH—Peter Favreau, the chief of police in Manchester, NH, had Operation Street Sweeper. He recognized how serious this issue was. He called in help from the Attorney General's office. We also got help from Federal, State, and local police forces that all worked together as a team. They are getting crack off the streets. They are closing down crack houses. They are sending drug sellers to jail, getting them off the streets. They are taking back their streets, taking back their community. We are starting to see evidence of people starting to wake up and realizing the significance of how important this thing is across America, across all these countries and throughout the world.

Mr. HASTERT. Before you stood up, I wanted to congratulate the gentleman and his subcommittee work on the intervention and looking at the oversight. You have the oversight responsibility in the Committee on Government Oversight. You have done a very good job. You have set up the premise on this action and this joint teamwork we are going to do.

The first step is, of course, laying out what the problem is. The second step is to take a look at it and try to find some solutions to it. You also were instrumental in bringing the former ambassador of Colombia with us, and he paid his own way to be a part of this, to try to solve the problem; former ambassador Morris Busby, who did an invaluable service trying to lay out what the predicate was and trying to move through this whole process.

But I commend the gentleman, and you certainly have done a good job. But we have a lot of work to do.

Mr. ZELIFF. We sure do. I would throw out one other thing you have been a big help with. We started a congressional breakfast, where we have 40 to 50 Members of Congress working with CHARLIE RANGEL, both sides of the aisle, from New York. He has been a big leader in this effort as well. We have had meetings with Louis Freeh, Director of the FBI; Tom Constantine, DEA Administrator. We have great respect for both of those gentleman. Now, Barry McCaffrey most recently. We are going to keep our Members updated. There was a lot of concern and a lot of commitment. I thank the gentleman.

Mr. HASTERT. I would like to wrap up a little bit what we did and saw in Mexico. We have done five countries. I would like to yield some time to the gentleman from Indiana first.

Mr. SOUDER. Mr. Speaker, I briefly wanted to say here at the beginning, too, I wanted to thank Mr. ZELIFF, the chairman of the subcommittee, for raising the issue of the drug war and the battle that we need to do, because we had abandoned it for some time, and say what a privilege it has been to work on his subcommittee, to do the hearings over time, and to initiate this trip.

We really had a strong team. Mr. MICA, who had experience as a staffer, as an international businessman, and on the plane we could work together, and in your skill as a Representative of leadership and for them to know that

VOL
142
PT
6
AP
15
—
24
1996
UMI

they had the subcommittee chairman of multiple committees.

It was amazing as we went into some of these countries, they heard of Mr. ZELIFF. They said, "Oh, yes, he is the person who has brought drugs back in front." I heard several leaders of those countries take them aside. Your smoothness when we went into Mexico, it was a difficult situation. They had just had the immigration border incidents that we were there on a narcotics mission, but in fact it turned into a very touchy diplomatic mission as well in a lot of these countries.

I want to commend the gentleman as to how he smoothly handled that as we met with the Members of Congress there for dinners and President Zedillo and the foreign minister, because these turned, in Colombia and other countries we will talk about here, and particularly in Mexico, into potentially explosive international incidents that we were able to help facilitate.

□ 1615

Mr. HASTERT. I thank the gentleman for his contribution. I would also like to recognize our good friend and fellow traveler, Mr. MICA, from Florida.

Mr. MICA. Well, I want to, first of all, Mr. Speaker, thank Mr. HASTERT for his leadership. When this trip was originally planned, about 11 people indicated they were going to go; and as it turned out, Mr. HASTERT, Mr. SOUDER, and Mr. ZELIFF, and myself were the only Members that went.

I want the Speaker and my colleagues to know that, and listen to this, despite cables indicating 22 deaths from terrorist bombings on April 10, that is just before we left, in Columbia, and the discovery of dynamite at the Colombia Supreme Court, also on April 10, codel members stood by their commitment, and those who stood by their commitment are on the floor.

This trip is a culmination of some of the efforts that I and a few others, CHARLIE RANGEL, BILL RICHARDSON, on the other side of the aisle, have attempted to get the attention of this administration and this Congress on this issue. In the last Congress I had over 100 Members sign a letter to the former Democratic chairman of the Government Operations Committee asking for an oversight hearing on our national drug policy, and two farcical abbreviated hearing were held. Nothing was really held, until Mr. ZELIFF took over this position. Mr. CLINGER and Mr. HASTERT have also shown their leadership.

I would say that required reading, and I have seen on the floor for this, this committee is taking this very seriously, and they have produced a document that every American parent, every Member of Congress, and every member of the media should look at, and this details the epidemic drug situation in this country. It is not just with adults, it is with our children. Every single drug, marijuana, cocaine, heroin, designer drugs, are absolutely just going off the charts. This is a national tragedy. We have 70 percent of the people in our jails and in our prisons that are overloaded with people who are convicted of crimes that have some drug relation to it.

We have an epidemic in this country and no one, except some of these Members, is paying any attention. And these Members risked their lives and also time with their families to go on this visit to see firsthand. The first codel in my memory in the last 3 or 4 years, and certainly in this administration.

Then, also in required reading, I ask everyone to get a copy of this trip report, Mr. Speaker and my colleagues. This is an unclassified report. I know the media could not care less about it, but it details what is going on in the drug war and where we are. We have the report that details the failure, we have the report that details this delegation's travel to these countries and why they traveled to Bolivia, to Peru, to Colombia, to Panama, and to Mexico.

First of all, in Bolivia and Peru, they have nearly 100 percent of the cocaine being produced. If my colleagues want to hear some shocking news, we learned in Colombia, which was originally a transit zone, even though now they are producing some cocaine, but every American, every Congressman, and the Speaker of the House should be concerned about this, there are 10,000 hectares of poppies being grown there. Heroin will be on the streets of this country in tremendous amounts.

What is another concern, we learned from some agents that we met with that for the first time in Peru they found some cultivation of poppies. So we can see that we have a long way to go.

Part of the history of how we got in this situation is the administration shifted most of its resources to drug treatment, which is at the far end. Anyone who looks at the problem of drugs in this country knows that we must have a four-pronged approach. It must be, first of all, interdiction, which is dramatically decreased in these countries. We must have enforcement. In this administration the number of prosecutions has dropped dramatically in drug prosecution. We must have education and then we must have treatment. But it must be a four-pronged approach, and we are losing the war.

These people met with the leaders and other people who are involved in this war. And I must take just a minute, too, if I may, to tell the Members of Congress, Mr. Speaker, and the American people, that we have some dedicated people out there. I am still itching from bug bites. Our staff, almost all the staff got sick. The DEA agent that traveled with us had to almost be hospitalized by going into some of these areas, getting sick and bitten, but we came back. The good news is we came back.

The other news that everyone should know is that we have hundreds of dedicated Americans, our ambassadors, our Department of Defense employees, these young men and women who are out there in the jungles working with these people that are dedicated young Americans, committed to this fight. The Department of State employees in the narcotics assistance unit.

I am one of the biggest critics of AID, Agency for International Development, and a lot of their programs was wasteful, but down in these countries they are trying to work with crop substitution and other programs where we should be putting our emphasis, not on giveaway programs where we can make a difference.

And the DEA people. I met a DEA agent who has been in DEA for 12 years, 6 years in South America, his name is Bill, and he is a committed person. And I cannot single out all of them, but we have dozens of these people who are out there in the jungle working every day trying to stop this narcotics trafficking, when sometimes the administration or Congress undermines their efforts. So there are American heroes, our Customs people and intelligence agency people, that are also involved and should be recognized.

Mr. HASTERT. I thank the gentleman.

Mr. MICA. So that is the problem, that is where we are, and I wanted to shed that background of what we are trying to do and what some people are doing out there in the field.

Mr. HASTERT. I thank the gentleman. What I want to do now is take a few minutes and sort of let the Speaker, and the Members of Congress know exactly what we did, where we went, what we found during that period of time, and we will try to move through that as quickly as possible and then come up with wind-up remarks on this.

As I started out and talked about Mexico, I think the key thing is in our meetings with the President of Mexico and with the Ambassador, Mr. Jim Jones, a former Member of Congress, that we found out in discussions with the President, that he thinks that the drug problem, the trafficking problem up through Mexico is really Mexico's number one problem, because it is a false indicator on their economy. The money laundering, which only forces legitimate people out of business, and the tremendous amount of drugs that move up through Mexico really cause violence and shooting and some guerrilla activity.

For instance, in the last few years, deaths in Mexico because of this grew

145 percent, and there were over 2,000 speed or what we call speed or methamphetamine-related deaths between 1991 and 1992, even in the borders along Mexico, in Los Angeles, and San Diego, and San Francisco alone.

So the incidence of increase and literally trainloads of marijuana, thousands of pounds of cocaine and crack, and literally thousands of pounds also of heroin that is moving up through Mexico is not only a United States problem, but the Mexican President in our discussions has admitted it is the number one problem in Mexico as well.

The next place that we stopped was in Panama, and we met with Ambassador Bill Hughes and the new Ambassador to Colombia and the country team there. Then we met with the SOUTHCOM, which is the U.S. command that is out of Panama City, that is literally the source that we can send our AWAC planes down to Colombia and off the Andes area in Peru and Bolivia and we can actually see foreign flights coming up and the flights that deliver and drop—pick up the cocaine or coca paste and bring them up north either into Colombia or then into Mexico to be processed. That is a very sensitive place.

But Panama itself has a problem because they are in a very precarious position and a vulnerable position. The city on the north coast, on the north part of the Panama Canal that empties into the Atlantic Ocean, has the free trade zone in that area, has virtually been overtaken by Colombians, and literally hundreds of tons or pounds of cocaine and coca leaf and coca paste move through that area; and they understand a country without a military, with just a police force, that they have to do a better job of cracking down on that.

Also, Panama has over 400,000 shell companies or paper companies that are used as fronts to launder illegal drug profits. In talking with the Vice President of Panama, he admitted this and said this is one of the most important things that they need to do and they need to try to control. They know that Colombia is a primary drug transit zone.

The United States is currently in the process of turning over military bases to the Panamanians, and that is a sensitive thing to the United States. I think Howard Air Force Base, where we base our P-3's and our helicopters, and is the repair base for many of the operations in South America, was very important to the United States in drug control. So that is something else the United States has to deal with in the next couple of years.

But Panama has no military. It has not been eligible for the military sales systems. And in the last couple of days we have passed a piece of legislation in this Congress to allow the Ambassador to be able to use some of that money to work on the counternarcotics in Panama. Panama can and will be likely the gateway for the overtake of the narcos if we do not get something done there and if we do not beef up our activities.

Now, people talk about, well, how come we are sending money to Panama or Mexico. We are not sending money, we are sending people; those people who on the ground can make a difference. We are sending intelligence officers, members of the DEA, so that they can actually get in and find out where the source is of the storage, where the transshipment is, where the manufacturing of these narcotics is, and they are doing a good job. But we cannot shut that faucet off, because if we do shut that faucet off, we will see a huge increase of infusion in drugs added to the drugs that we already have in this country.

I think the next place that—I know the next place that we went was Colombia, and I would like to have Mr. MICA from Florida give you a little bit of a review on what we found in Colombia.

Mr. MICA. I thank the gentleman for yielding and, again, we wanted to trace the trail of illegal narcotics coming into this country. As you know, Colombia traditionally has been one of the major transit areas. We have had a program to eliminate some of the kingpins, and the Colombians have been very aggressively pursued, destroying both the Cali and the Medellin cartels.

In Colombia, under some pretty heavy security I might add, the Congressmen and the other members who traveled with us of our staff met with our Ambassador Myles Ferchette, who again I commend on his efforts, his incredible living conditions; as well as Defense Minister Esguerra, and Commander of Armed Forces Delgado.

As I mentioned, too, nearly several dozen police officers had been killed just prior to our arriving, and I understand another several dozen people have been killed in incidents down there just the past few days, plus other terrorist activities. So you can imagine the conditions that our representatives and Ambassadors are under.

It was necessary for this tight security to meet in our embassy. We met there and conversed with our DEA agents and others who were involved in the various projects.

Two of the Colombian leaders, and I must say that there are questions surrounding some of the drug relationships to the current President of Colombia. There are 109 members, I understand, of the Colombia's Congress, over 100 members of the Colombian Congress that may have some problems, and there are some investigations going on there.

□ 1630

But we met with 2 stars in their drug war, who have done an incredible job, and one is the national police chief, Mr. Serrano. He told us that they have lost over 3,000 officers in this war.

As you know, the drug cartels have killed judicial members, they have killed members of congress, they have killed hundreds, literally thousands, of police officers in their struggle.

We also had an opportunity to meet with defense minister and commander of the Colombian Armed Forces Admiral Delgado. So we had an opportunity to hear firsthand what they are doing, some of the problems.

I might say that one of the problems that we had is in 1994 this administration reversed its policy on the drug shootdown policy. They stopped giving information and intelligence and radar to the Colombians in the Andean countries through a liberal interpretation of one of the attorneys in the administration.

As you may know, Members of Congress, Mr. TORRICELLI, Mr. RANGEL, others on the Republican side, Mr. GILMAN, raised extreme concerns with the President, the vice president, the national security adviser. Congress did amend this, and there have been some changes. But some damage was done in the program.

The Colombians do not shoot the planes down out of the skies with drug traffickers, but they do shoot them when they reach the ground. One of the problems that we have now is that some of the shipments are being shipped around Colombia directly into Mexico, and Mexico is now one of the greatest transshipment areas.

Another problem that we have are these small cocaine producers. With the drug cartels being destroyed, we now have small producers. And they discussed that problem. They do need our assistance, continued assistance in this war, additional equipment and supplies. There are people there that are willing to fight, and they have seen how it has destroyed their country.

So those are a couple of the things that we saw in Colombia.

One other thing that I must mention again is the alarming news of 10,000 hectares of poppy growing, and they are now producing heroin there. And as you know, they have a great flower production, probably the flower capital of the world, and poppy is another flower.

So they have an unbelievable capacity to produce a new, inexpensive, illegal narcotic, and it is flooding our schools and our communities and our society, and we will probably see even more of it.

So those are some of the folks that we met with, some of the heroes I talked about, and some of the leaders in Colombia who are helping in our effort.

Mr. HASTERT. I thank the gentleman from Florida. We also want to mention that in our time in Mexico, we

VOL 142 PT 6 AP 15 — 24 1996 UMI

were joined by Senator COVERDELL of Georgia, who also has taken, in the other body, a great interest in this issue.

Now I would like to yield some time to our good friend from Indiana, who has done a great deal of work on this narcotics issue, Mr. MARK SOUDER.

Mr. SOUDER. Thank you very much for yielding.

I want to first just sketch a little bit of the problem. The United States is basically up here in relationship to this map, with Mexico and Panama and Central America coming down into Colombia, Peru and Bolivia. It does not take a genius to figure out what is going on here.

One hundred percent of the cocaine coming in from outside the United States is coming from here. Roughly 60 percent is now coming from Peru, which we will hear more about in a minute. About 30 percent of the growth is in Bolivia, with some in Colombia. Not only that, it is coming from basically two places just on the other side of the Andes in Peru and in Bolivia. Bolivia has been growing; Peru has been slightly declining.

Furthermore, we are seeing more of the processing. As the pressure goes on in Colombia, the processing starts to move to these two countries in these two valleys. Not surprisingly, as you put the pressure on, and this is a chart that shows some of the success in the Chapare region of Bolivia, that they have had. You can see that they seized aircraft, they have seized coca leaf, they hav seized coca-based paste and base. They have eradicated crops. They have made a major effort in this zone to try to crack down.

If you look at this third chart, what has happened, and this shows the Mexico through Central American areas we were in, as they put the pressure in the air, it starts to move to maritime.

What we were in was literally the jungle, the rivers areas that were feeding into the Amazon River Basin. It was very disturbing, quite frankly, as somebody who, in spite of the earlier comments, does care about the environment, and I am a Republican; it was very disturbing to see how the rivers were being killed by the chemicals from the cocaine labs and what that was doing to the wildlife.

We hear a lot of times about cutting down the Amazon rainforest, and we get many letters from schools. But we could see it burning in different places, and we could see it being cut so they can put cocaine labs in.

I want to show, if I can have the pictures now, what we did in Bolivia. After we had our country team briefing, we flew up in a C–130 Vietnam-era transport plane up into the Chapare region to meet with the Puma powers, the soldiers who are busy working in the fields. We did a helicopter, a Huey helicopter, overflight where you can see they have had success in converting things into banana production, pineapple production and others.

You could also see that they were hedging their bets, and some places underneath the banana plants you can see the coca. But they were working to eradicate that. They passed tougher laws.

Then they took us back in after we had had lunch. They landed us in helicopters. We took four-wheel-drives. We went back down dirt roads. The day before, they had a tip, and they took down a primitive lab.

Here what you see is the lab where they are turning it into paste. Here you see we got to witness them blowing up a lab, watching it burn. This is very dark because it is a jungle. It is the literal Amazon jungle. You cannot see it from an airplane overhead. They find six to eight of these a day that they destroy in the jungle that these troops are going through.

Here you see leaf that has been pulled up, green leaf that is planted.

Later on in the day we stopped at a local market, walked in and there the coca leaf was for sale in those markets, not converted to cocaine where we were.

Here you see the coca field that is feeding into this particular lab and the soldiers destroying it.

In the back part of this field there was a small area where the little coca plants were planted that would then continue to feed this field.

In my home area in Fort Wayne, IN, there are kids dying. You do not see the blood on the coca plants, but there are kids dying; they are shooting each other; they are destroying each other because of the coca plants that are coming in from these countries.

What they are telling us, however, is also it is not all our problems, you can see their troops here, you can see their airplane flights and crops being destroyed. We listened to their governments.

It is their police that are dying as we heard in Colombia how many are dying. And they are saying, you know, we would not have this problem if you were not consuming it all in your country, too, and you are bringing the problems into our country. It is twofold. We need to stop the interdiction, we need to put more money into these efforts, because our kids and people are dying in our country, and back up the people there, and at the same time we need to work at the demand reduction on our side.

Mr. HASTERT. I appreciate the gentleman yielding back for a second, but he makes very important points that the reason we are doing this is our children. Kids in the streets of the United States and our neighborhoods, both middle-class neighborhoods, upper-class neighborhoods, lower-class neighborhoods, are being effected by this.

If a kid uses crack cocaine, he only has to use it twice, and he gives up his free will for the rest of his life. Now that is something that is pretty important. I think parents and teachers and community leaders need to understand that.

Only two times do you need to use the crack cocaine, the pictures that Mr. SOUDER showed us, and a kid is hooked for life, and what an expense, what a waste of human life, what a waste of the human vitality that we have in this country and the potential that every kid has in this country to be a better person, to make a living, to raise a family and to be an American.

So that is really the issue there, and, Mr. SOUDER, we really appreciate the work you have done on this.

Now I would like to yield to the gentleman who really has been at the crux of this whole issue, driving it forward for a number of years and working on his committee to bring this issue forward, and certainly a great American, somebody that we have all looked up to on this issue, Mr. ZELIFF of New Hampshire.

Mr. ZELIFF. I feel awfully good that as we have come back and renewed our commitment, we are pleased to have the opportunity to talk to Members of the House, both the Senate and the House, talking to Barry McCaffrey, the drug czar, and hope to visit with the President, as well, and get his commitment.

We need to renew the commitment to the drug war because it is vital, it is the most important single thing that we have facing us. Crime, drugs, and terrorism are all one, and it is costing us far too much in terms of the next generation.

I just would like to talk a little bit about Peru. Saturday morning we met with the President of Peru, quite a guy; our Ambassador Adams in the country team in Peru. We met with them all day Saturday afternoon and evening. What a guy; the President of Peru is totally committed. Two-thirds of the world's cocaine is produced in coca leaf form right here, and this photo right here, these are the coca fields, this is a plant, and these are the coca leaves themselves. But the field is two-thirds of the world's cocaine, produced in Peru.

Now, what has happened with his policies, frankly, it is called a very effective shootdown policy. If they have intelligence that a plane is loaded with cocaine, they will address that plane, send two fighters up, have the plane be warned, have them bring it down. If they do not come down, they shoot it down.

Now, what happens is that the 50 percent pure flights on the air bridge, and you got now, you have got in Bolivia, you got Peru, Bolivia and Colombia. The air bridge goes through all three of those countries in terms of bringing

the product up. So we basically have closed down 50 percent fewer flights in the air bridge and are now forced to do alternate routes, either into Brazil or boat by boat, up along the tributaries of the Amazon. We now have to ship policies and resources. There are small boats, small craft, and we need now to make sure we can fight the fight on the water as well.

The pilots before were making $25,000 a flight to fly a planeload of cocaine. Now, because of the shootdown policy, it has grown up to $200,000 a flight. And what is happening, by keeping the pressure on, the farmers have abandoned 20 to 40 percent of the coca fields in Peru. Peru and the United States have a delicate window of opportunity, while prices of coca are down and the risk of production is high, to get farmers out and start working with alternative crops. And this is true of Bolivia as well.

One of the things that I have to say is I was pretty biased, based on the GAO reports that we read, and we were told that programs and source countries eradication programs were badly managed and were not effective. Well, this may have been true a few years ago, but I believe, and I think all of us agree, that we are starting to see some signs, some light at the end of the tunnel, where programs are effective.

Mr. HASTERT. I think an important point that you started to bring out is that not only did the Peruvian campesinos or farmers start to abandon their fields, but the price of cocaine in Peru went down tenfold, and all of a sudden it was so cheap that they could not afford to grow other solid anymore.

So I think that is an important issue of the whole supply and demand, but it was directly because of Fujimora's actions.

Mr. SOUDER. He is a real hero in our books. I think we are all very impressed when we left, and we told him that.

And I think the other thing that we have to look at, an AID program and foreign policy programs need to be geared toward economic development, infrastructure improvements. And what is happening here is that if you leave it to their devices in working with the jungle, that is where the terrorism is. If the towns and the regular government give up the area, then we lose the war.

Let me just trace a very interesting article in the Union Leader back in February 26, an article, and I give him a lot of credit for bringing this out, and I believe that they are committed to this in a very strong way, Sissy Taylor, "Cocaine's Deadly Journey, Trip to New Hampshire Long and Costly." Just go through a little bit of how it all works.

☐ 1645

I will go through a little bit of how it all works. Coca leaves are bundled. Again you have the field. Coca leaves are bundled into bags. The bags are brought to pits where the processing begins.

This is the pit. This is about 4- by 12-foot long. The bottom is lined with a filtering canvas. They dump the leaves in, add lime and kerosene or diesel fuel, sulfuric acid, then grind them together with the leaves. A paste is then formed and dried and then washed again with either ether, diesel fuel, or kerosene and then washed again. At this point it becomes coca base.

Then the base is bundled and flown or transported into clandestine air strips in Colombia. It is then transported to processing laboratories in the jungles. It then undergoes another chemical process before it becomes cocaine hydrochloride or powdered cocaine.

It is packaged into kilos, kilo bags, weighing a little bit more than 2 pounds. The farmer gets about $2,500 a hectare, and a hectare is 2½ acres, so he does not get much for growing the crop. Then it goes into Bogota as processed cocaine, worth $500 a kilo. Then that is transported either to New York, Miami, or Manchester or other cities around the United States, and it could reach as much as $20,000 a kilo.

There is so much money in it. What is happening here in each of these countries—President Fujimori of Peru, the President of Mexico, a lot of the areas in the Caribbean, and I want to mention the great Governor of Puerto Rico and some of the fine work he has done—but what happens here is they are afraid of losing control of their countries, losing control of democracy, losing control to drug traffickers, and frankly the drug traffickers are the scum of the Earth. We have got to wake up.

Let me just read a note. I met with the Governor of Puerto Rico yesterday, who is leading a valiant effort. We are going to be doing two more hearings, one in Puerto Rico in July and one in the district of the gentleman from Indiana [Mr. SOUDER], in Fort Wayne, and one in the district of the gentleman from Illinois [Mr. HASTERT], in Chicago that day if we can work it out. We need to get on top of it.

What he said:

> I want to say a few words about Puerto Rico. Puerto Rico, along with Mexico, is a major transshipment point for Latin America's illegal drug cartels. Eighty percent of all the drugs that get into Puerto Rico end up in the continental U.S.

There is no customs. It goes right through.

> But Puerto Rico is ahead of the curve under the Governor's leadership. In 3 years, he has shown what a good Governor can do. He has implemented an effective prevention and law enforcement strategy, and rescued 23,000 public housing units. He has used the National Guard effectively, and brought 16 different State agencies together to make Puerto Rico more secure.
>
> Governor Rosello's model is key, because other Governors and leaders have to realize that we are now confronting what is clearly a national security threat that has gotten into every State in our Nation.
>
> I also hope that the Governor's Conference in Puerto Rico this July will focus on the leadership that this Governor has shown. But more—the drug issue must be front and center with all of us.

If Congress, this President and all of the Governors of the United States make this number one, if we can put a man on the Moon, we can win the war on drugs.

Mr. HASTERT. I thank the gentleman from New Hampshire. I just wanted to make another couple of comments.

When we saw what was going on, the results of President Fujimori's shootdown policy in Peru, what happens is that cocaine piles up there and now they are trying to take it out in the river system. So another country which has been involved somewhat unwittingly is out in the Amazon Basin of Brazil, and so many of those flights now, because they cannot fly up through Peru and through Colombia to get into Colombia, now what they do is they go around through Brazil. That is a real job for our ambassadorial corps and others, to make Brazil aware of the problem that they have with drug traffickers moving that cocaine supply out of Peru and out of Bolivia and on up into Peru through the river system and ultimately through airways.

Mr. SOUDER. If the gentleman will yield, I want to make one additional point on the pictures the gentleman was just talking about. To give you the scale of why the best drug prevention program is interdiction and as we get into some of the things we need to do, that third picture, that is on fire, and the fourth picture. We took down around 100 crack houses in Fort Wayne last year. That is how great our problem is in a city the size of 300,000, roughly, in the metro area. That little fire there would be the biggest drug bust in the history of Fort Wayne, and they can make it in those little labs, starting for $500. We destroyed the biggest drug bust in the history of Fort Wayne. If we can get it there and reduce the supply, it has a major impact on our cities.

Mr. ZELIFF. But if the gentleman will yield, it has got to be balanced. We have got to do education, prevention. We have got to do treatment, interdiction. We have got to do source country eradication programs. If we do not, if we skip 3 or 4 of these pieces, then we lose. We have got to do it in a balanced program across the board.

Mr. HASTERT. I yield to the gentleman from Florida.

Mr. MICA. I want to follow up on what the gentleman had said, Mr. Speaker. This strategy has to start right at the top. It has to start out at the White House.

Listen to this. The President has really hardly talked about the issue for

VOL
142
PT
6
AP
15
—
24
1996
UMI

the last 3 years. Of the seven major addresses to the Nation in 1993 and 1994, President Clinton mentioned drugs in none of those addresses. In 1993, he gave 1,628 statements, addresses and interviews, but mentioned drugs a total of 13 times. In 1994 there were 1,742 presidential statements and he referred to the drug problem 11 times.

This has to be a national priority from the administration. We have a new drug czar. He has been great to work with so far. We have a great working relationship with him. As the other Members have seen and as I saw, we need the cooperation of many agents, we need the cooperation of many committees of Congress in both bodies and everyone working in the same direction.

We also must look at how we are spending these resources, and when you see that most of the drug treatment and abuse programs, at the very end, they are failures. Very few of them have any success rate whatsoever. Then the international program is 2.34 percent, and you dismantle an interdiction program at this critical juncture, you are making a mistake as far as your priorities. It has to be interdiction, enforcement, education, and there must be treatment also.

Mr. ZELIFF. If the gentleman will yield further, one of the things we are finding out in Manchester, NH, again I cite Peter Favreau, who has done a great job along with the Federal, State, and local agencies that have worked with him. But we have worked with courageous people in the school systems. You can put a policeman in a school yard but we have to get inside the schools, work with the kids and be role models.

It is not just the President, it is all of us individually. We have got to get the media to wake up and pay attention to this. We have got to start talking to parents. Parents have to start talking to their kids. Business people have to be involved, communities have to be involved. We have to reconnect with basic values. If we do not, we are going to lose big time and we will not have anything left.

It is time now, and hopefully with the leadership of the gentleman from Illinois [Mr. HASTERT], you might just describe what we ultimately want to try to do here. We are trying to bring it all together to show to everybody the importance of this issue, and we really appreciate your effort.

Mr. HASTERT. Reclaiming my time, we have used the word "balance" a number of times, but this is a balance purely between supply and demand. We have to do our part. We promised those Presidents and those Congresses in those Central American countries of Mexico and Panama, and certainly in the Andean countries of Colombia and Bolivia and Peru, that we would work in our country to try to hold down that demand.

That is partly a result of the government. If we take this chart, we can see that from basically 1980 the demand for drugs, the kids' usage of drugs in this country had fallen rapidly until 1992. All of a sudden, the demand for drugs and the use of drugs goes up.

This chart here shows exactly what happens. Twelfth graders, in 1980 the use started to go down. In 1992, it went up. Tenth graders, it went up. Eighth graders, it went up. I am sure if you have a chart there, you will find that sixth and fourth graders' use went up too.

We have to change from a government that used to say "just say no," and we had good results during that time, to a government which has lately just said nothing, and we need to work and develop that as a huge issue in this country. Parents, and as the gentleman from New Hampshire [Mr. ZELIFF] said, everybody has to work together. I am sure we can get the job done, but it has to be a country effort. And we have to work in those countries that produce this, work with their governments, work with their presidents who are willing to work with this country and try to eradicate the supply side of this, as well.

You can see in these charts it is there. They are doing it. They are doing it today. Farmers are planting cocaine seedlings on sides of mountains, under the brush in Bolivia and Peru, and we have to help stop that.

I yield to the gentleman from Indiana.

Mr. SOUDER. I am not necessarily known as "Mr. Internationalist." In fact, I authored with the gentleman from New Hampshire [Mr. ZELIFF] an amendment that said unless Mexico worked harder in this effort, that we were going to cut off funding and support. I have been critical of a number of the trade missions.

One thing I have seen, and we did not shy away from communicating this to them, that all the issues that we are dealing with are related to narcotics in our country. At the same time we need to acknowledge that we have leaders around the world, as you said earlier, who are committed to democracy, who need our support, or we are going to lose the best chance for freedom around the world.

Mr. HASTERT. In closing, I thank all the gentlemen who have worked on this, the gentleman from New Hampshire, Mr. ZELIFF, who has taken the lead in committee, our friend from Indiana, Mr. SOUDER, and of course my friend from Florida, Mr. MICA. I thank the gentlemen.

RAISE THE MINIMUM WAGE NOW

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 60 minutes as the designee of the minority leader.

Ms. DELAURO. Mr. Speaker, I come tonight to the well to talk about an issue really of great importance for working middle-class families in this country.

Mr. Speaker, America needs a raise. I call on Speaker GINGRICH to take a pause from the Republican revolution and allow the people's House to vote on raising the minimum wage now.

The Nation's minimum wage today is a paltry $4.25 an hour. I am proud to join with my Democratic colleagues and President Clinton to sponsor legislation to boost this wage to $5.15. It is the least we can do.

Hard working American families need a break. The minimum wage has lot 27 percent of its value over the past 15 years, and now stands at a 40-year low. It buys less groceries. It buys less gasoline. It buys less clothes for the children of these hard working families than it has in four decades.

These statistics are particularly troubling considering the fact that corporate CEO salaries have risen at the fast clip of 9 percent a year since 1990. In fact, last year the median compensation for CEO's was a staggering $2 million a year. That's more than 200 times the salary of a minimum wage worker.

A recent poll in my home State of Connecticut shows that a full 80 percent of the people support raising the minimum wage—four out of five Connecticut residents favor this measure. A New York Times poll reports that 94 percent of Democrats, 86 percent of Independents, and even 71 percent of Republicans support raising the minimum wage to $5.15 an hour.

Yesterday, a brave group of my Republican colleagues joined the Democratic call for a vote on this issue. I congratulate my colleagues for having the courage to challenge Speaker GINGRICH's wrongful opposition to giving minimum wage workers a modest raise in pay. But the bottom line is the Republican leadership refuses to bring this legislation to a vote. It's all talk and no action. The Republican leader has said the minimum wage increase will come to this floor over his dead body.

This morning's Congress Daily reports Speaker GINGRICH's latest cynical ploy to stiff working Americans. "We're going to look at it," Speaker GINGRICH is quoted as saying, "There should be hearings."

Hearings. The revolutionary Republican leaders just 3 days ago wanted to rewrite the U.S. Constitution without a single hearing.

Hearings. The revolutionary Republicans last year passed $270 billion in Medicare cuts to pay for tax breaks for their rich political contributors—all without a single hearing. And now that the American people are making their

voices heard in support of raising the minimum wage, Speaker GINGRICH promises hearings.

Talk is cheap, Mr. Speaker, and so is the minimum wage. So too unfortunately is the cynical way the Republican leadership is treating this modest proposal. Forget the hearings. I call on Speaker GINGRICH to allow this House to vote to raise the minimum wage now. It is a no-brainer. We should do it without further delay.

Mr. Speaker, a livable wage is not exactly a revolutionary concept, but the American people need a raise nonetheless. If we are truly to move people from welfare to work, we must make work pay.

A great American once said, "No man can be a good citizen unless he has a wage more than sufficient to cover the bare costs of living . . . so that after his day's work is done he will have time and energy to bear his share in the management of the community, to help in carrying the general load." Which great American said that? Theordore Roosevelt, the former Republican President of the United States. He was not a revolutionary, but he did understand progress.

Workers who earn the minimum wage pocket only $8,500 a year. That is less than Members of this Congress made when they shut down the Government over Christmas.

Mr. Speaker, working American families do not ask for much. They work hard. They pay their bills. They play by the rules. They are not looking for a revolution. All they want is a little progress.

America needs a raise. I call on the House Republican leadership to stop the stalling tactics and allow the people's House to vote on raising the minimum wage. Now.

☐ 1700

Mr. ABERCROMBIE. Mr. Speaker, if the gentlewoman will yield, it might be of interest in the context that you have just established in regard to the minimum wage to note that the State of Hawaii already has a minimum wage at $5.25. We were an economy in Hawaii based on agriculture. We have moved into one of the most service-oriented economies it is possible to have; that is to say, a dependence on travel and tourism.

Yet the argument is always made that if you are in a service economy, you have to keep wages at an absolute minimum. If you are in an agriculture economy, you have to keep wages at an absolute minimum. Yet the prosperity of the State of Hawaii has been based upon the fact that we recognized that people who are working, families that have to work, are best able not just to survive, but to prosper, when they are able to earn more than just a living wage, more than just an adequate wage, but a wage which enables them to fully participate in the economy.

That economy is invested in by the very people who are doing the work. The money stays in the area where it is earned. It is not taken by multinational companies, by international companies, elsewhere. It is not moved into a global economy as such.

That money earned in that State, whether it is Connecticut, whether it is in Hawaii, whether it is anyplace, whether it is in Georgia, in Cobb County, in Mr. GINGRICH'S home district, that money stays in that district. That money is invested in that district. Small business people make money in that district as a result of it.

Those kinds of wages, the minimum wage, in service oriented jobs, when it is earned, is spent in the clothing store to buy shoes for the children right there in the local community. That is where it goes. The small investor, the small businesses, are the direct beneficiary of the raise in the minimum wage.

Ms. DELAURO. Mr. Speaker, I thank the gentleman from Hawaii for his comments. It just makes good sense, and he is absolutely right. The money that is earned stays in the community. The purchases are made in the community, and it helps that local economy to succeed.

Mr. Speaker, I yield back the balance of my time.

MINIMUM WAGE INCREASE BENEFICIAL TO ALL AMERICANS

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The Chair recognizes the gentleman from New York [Mr. OWENS] for the remainder of the hour as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, I would very much like to continue the discussion on the minimum wage. I serve as the ranking Democrat on the Subcommittee on Workforce Protections, which is directly responsible for the minimum wage, and I am certainly delighted that I hear rumors that suddenly there are manifestations taking place within both the House and the Senate, which means that our great logjam on the minimum wage may soon be broken.

I understand there are some Members of the Republican majority in this House who have begun developing a bill calling for an increase in the minimum wage, and this may lead to the call we hoped for for a long time. There are moments in this House when reason does prevail. There are times when parties lay aside their particular ideological bents and understand the best interests of the American people are served by a particular course of action and the two parties come together.

I hope we are on the way to doing that. I hope the Republicans will recognize that there is a terrible injustice that has been done to working people over the last 20 years. We have a wage gap that is increasing. The value of the dollar has fallen, the minimum wage value has fallen, and we should take steps to do something about that as soon as possible.

As the ranking Democrat on the Committee on Workplace Protections, I chaired a hearing on the minimum wage increase on Thursday, November 30 of last year. I invited several people to come. One of them was the minority leader for the Democrats, Mr. GEPHART. Mr. GEPHARDT'S testimony summarizes it very well.

That testimony I think is such that it would be good to quote it here again, because it does summarize very well where we are and it talks about where we should be going. Mr. GEPHARDT is the sponsor of the prime legislation that is now introduced in the House on increasing the minimum wage.

Mr. GEPHARDT and Mr. CLAY together are calling for a minimum wage increase of 45 cents per year for 2 years. We are talking about a 90-cent increase in the minimum wage over a 2-year period. This is a very modest increase, and the President has endorsed the increase, and indeed held a press conference at the White House where he announced that endorsement.

I just want to read some excerpts from the testimony of the Democrat minority leader, Mr. RICHARD GEPHARDT.

I would ask unanimous consent to include for the RECORD the statement in its entirety. I would like to note that I have requested unanimous consent on a few documents and they have not been entered in their entirety. In addition to entering this in its entirety, I will comment on it now. I would like at the end of the presentation to have it entered in its entirety.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OWENS. Mr. GEPHARDT said "I want to thank you for holding this important hearing—for realizing that, even as many Republican call for the outright abolition of the minimum wage—even as they refuse to schedule real hearings or a vote on a minimum wage increase—it is an issue we simply cannot ignore."

I might emphasize that we have repeatedly called for hearings in the committee. I am on the committee of jurisdiction. Just yesterday we called for hearings again on the minimum wage, and so far have had no response from the chairman of the subcommittee or the chairman of the committee.

Quoting Mr. GEPHARDT, "Real wages for all working people have been declining in this country for 20 years; some economists believe it is our longest and steepest income slide since 1820.

"And the people at the bottom of the income scale have been doing the

VOL 142 PT 6 AP 15 — 24 1996 UMI

worst. Between 1983 and 1989, two-thirds of all new wealth created in the United States went to the top 1 percent of American households. The bottom 80 percent actually saw their assets drop by about 3 percent. No wonder America has the greatest gap between the rich and the poor of any industrialized nation in the world."

Continuing to quote from the statement by the minority leader, "That is why we must question the wisdom of the Republicans' supply-side revival, which would shower more tax breaks on the wealthy, while raising taxes on the poorest working families, and making huge cuts in Medicare, student loans, and education. The Republican agenda would actually make America's income gap much worse.

"Democrats have a different philosophy. We believe in valuing and encouraging work—not passive profit and speculation. We believe in making work pay, and making sure that no working family has to live in poverty and deprivation. That's why, early this year, President Clinton joined with Congressional Democrats to propose a 90-cent increase in the minimum wage over the next 2 years—a way to lift up millions of hard-working families who have been falling behind."

Continuing to quote Minority Leader GEPHARDT, "Even before we announced this proposal, it came under fierce attack by Republicans who see stagnant wages and eroding job security not as problems, but as the solutions to their ultimate goal: 'Helping those at the top of the economic ladder, even while they're sawing off the bottom rungs. Why else would Republicans propose a tax plan that cuts taxes by $8,500 a year for the top 1 percent of families, while raising taxes on the poorest working families by slashing the earned income tax-credit, cutting back on one of the best ways for struggling families to lift themselves into the middle class:

"The fact is, for the millions of Americans who try to support a family on the minimum wage, real wages have plummeted by 30 percent since 1979.

"We're not talking about a bunch of kids working at summer jobs. The fact is one-third of America's 4.8 million minimum wage earners are the sole earners in their families. Seventy percent of them are adults. They are now faced with the virtually impossible task of raising a family on $8,700 a year. In fact, one in five of them are still living below the poverty line.

"Is that the message we want to send to working America? That you can work hard, and take responsibility for your family, and still live in poverty and deprivation?

"That is why it's time to raise the minimum wage by 90 cents. It's a matter of fundamental fairness. It's a matter of basic decency for those at the bottom of the ladder, struggling to climb up. But there are other reasons to support this proposal.

"Raising the minimum wage would help make work pay more than welfare—and too often, that's just not the case today.

"Republicans keep saying a minimum wage increase will cost jobs. But it has been proven time and again that raising the minimum wage won't cost jobs. The last time we raised the minimum wage, Republican Members of the House said it would be a 'death warrant * * * for small business,' and that it would destroy jobs, increase the Federal deficit, and raise inflation. It did none of those things.

"On the contrary, recent research—including a study of noted economists David Card and Alan Krueger—shows that a minimum wage increase has little or no effect on the number of jobs. Since when it is bad for our economy to put more money in the pockets of our workers and families and consumers?

"And it has been proven that raising the minimum wage pushes up wages for millions who already earn more than the minimum wage today.

"Republican leaders have already pledged to fight this increase, as they have resisted similar increases in the past. Republican Leader DICK ARMEY does not merely oppose an increase—he wants to abolish the minimum wage altogether. To the Republicans, lower wages—combined with huge corporate tax breaks—are just money in the bank. Never mind that people are suffering while those profits soar.

"The American people want this increase by overwhelming margins. After too many years of declining wages and opportunities, they deserve it. And Democrats are going to fight to give it to them—because it's right for our economy, and it is right for the hard-working families who are the heart of our country."

I end my quote from the statement made by Minority Leader GEPHARDT on November 30, 1995, at a hearing held by the Democrats on the workplace, Subcommittee on Work Force Protections, which I will include for the RECORD.

TESTIMONY BY HOUSE DEMOCRATIC LEADER RICHARD A. GEPHARDT IN SUPPORT OF MINIMUM WAGE INCREASE, HEARING OF DEMOCRATIC MEMBERS OF HOUSE ECONOMIC AND EDUCATIONAL OPPORTUNITIES COMMITTEE, THURSDAY, NOVEMBER 30, 1995, 10:00 A.M.

Ranking Member Clay, and Members of the Committee on Economic and Educational Opportunities:

I want to thank you for holding this important hearing—for realizing that, even as many Republicans call for the outright abolition of the minimum wage—even as they refuse to schedule real hearings or a vote on a minimum wage increase—it is an issue we simply cannot ignore.

Let's begin at the beginning: America needs a raise.

Real wages for all working people have been declining in this country for twenty years; some economists believe it is our longest, steepest income slide since 1820.

And the people at the bottom of the income scale have been doing the worst. Between 1983 and 1989, two-thirds of all new wealth created in the United States went to the top one percent of American households. The bottom eighty percent actually saw their assets drop by about three percent. No wonder America has the greatest gap between the rich and the poor of any industrialized nation in the world.

That is why we must question the wisdom of the Republicans' supply-side revival, which would shower more tax breaks on the wealthy, while raising taxes on the poorest working families, and making huge cuts in Medicare, student loans, and education. The Republican agenda would actually make America's income gap much worse.

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Even before we announced this proposal, it came under fierce attack by Republicans who see stagnant wages and eroding job security not as problems, but as the solutions to their ultimate goal: helping those at the top of the economic ladder, even while they're sawing off the bottom rungs. Why else would Republicans propose a tax plan that cuts taxes by 8,500 dollars a year for the top one percent of families, while raising taxes on the poorest working families by slashing the Earnest Income Tax Credit, cutting back on one of the best ways for struggling families to lift themselves into the middle class?

The fact is, for the millions of Americans who try to support a family on the minimum wage, real wages have plummeted 30 percent since 1979.

We're not talking about a bunch of kids working at summer jobs. The fact is, one-third of America's 4.8 million minimum wage earners are the *sole* earners in their families. Seventy percent of them are adults. They are now faced with the virtually impossible task of raising a family on $8,700 a year. In fact, one in five of them are still living below the poverty line.

Is that the message we want to send to working America? That you can work hard, and take responsibility for your family, and still live in poverty and deprivation?

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Raising the minimum wage would help make work pay more than welfare—and too often, that's just not the case today.

Republicans keep saying a minimum wage increase will cost jobs. But it has been proven time and again that raising the minimum wage *won't* cost jobs. The last time we raised the minimum wage, Republican Members of the House said it would be a "death warrant . . . for small business," and that it would destroy jobs, increase the federal deficit, and raise inflation. It did none of those things.

On the contrary, recent research—including a study by noted economists David Card and Alan Krueger—shows that a minimum wage increase has little or no effect on the number of jobs. Since when is it bad for our economy to put more money in the pockets of our workers and families and consumers?

And it has been proven that raising the minimum wage pushes up wages for millions who earn *more* than the minimum wage today.

Republican leaders have already pledged to fight this increase, as they have resisted similar increases in the past. Republican Leader Dick Armey does not merely oppose an increase—he wants to demolish the minimum wage altogether. To the Republicans, lower wages—combined with huge corporate tax breaks—are just money in the bank. Never mind that people are suffering while those profits soar.

The American people want this increase by overwhelming margins. After too many years of declining wages and opportunities, they deserve it. And Democrats are going to fight to give it to them—because it's right for our economy, and it's right for the hard working families who are the heart of our country.

Thank you for listening. Now I'm happy to take your questions.

Mr. Speaker, I now would like to yield to the gentlewoman from North Carolina [Mrs. CLAYTON] for a statement.

Mrs. CLAYTON. Mr. Speaker, I appreciate the gentleman from New York allowing me to participate in his time and particularly on the issue of the minimum wage.

□ 1715

Also, Mr. Speaker, and to those who are privileged to have heard the reading of the statement from the minority leader, indeed those same issues are as pertinent now as they were then, and it is indeed the fair thing to do, it is the right thing to do, and in the final analysis it is the economical thing to do; for all of us to have a livable wage so Americans can live better and therefore our economy prosper.

Mr. Speaker, it makes no sense that a person in America who wants to work, and who has a job and works more than 40 hours a week, can still fall below the poverty level. That is the situation we have under the current minimum wage.

The President has proposed, and many Members are supporting, and even a few Republicans are supporting a modest increase. And I want to repeat, it is a modest increase. Only 90 cents over a period of 2 years, 45 cents per year.

Yes; Mr. Speaker, I know that some in the business community have argued that an increase in the minimum wage will cause many businesses to lay off workers. Yes; I know that some of the business community have maintained that an increase in the minimum wage would cause many businesses to increase the price of their products and their services in order to recoup what they pay the workers who provide services for us.

But, Mr. Speaker, let us be honest and recognize the fact that while, over the course of the past few years, without the minimum wage, we have witnessed the economy prospering. Wall Street is boasting of a great margin of profits, and indeed our economy is moving. But it is not moving for all Americans. And the minimum wage simply says that the average worker also should see their wages go up as well.

In fact, the average wages have stagnated and the minimum wage, indeed, has not moved at all. Mr. Speaker, the value of the minimum wage is now 29 percent lower than it was in 1979. In fact, it has fallen nearly 50 percent in real value since it was last increased. Yet we hear the Republicans say, "Well, you had 2 years and you have not done it". Well, this may be the time we should go ahead and do it. Simply because we have not done it does not mean it should not be done now. That is why workers who work full time, 40 hours a week and more, are not able to provide, because the value of that has decreased over 50 percent in real value in the last few years.

And who are these people we are talking about? And by the way, why should we, those of us who make over $130,000, despair of other people getting a 50-cent increase? It is unbelievable that we have the gall, the arrogance, to be so uncaring about people.

Who are these workers we care about, Mr. Speaker? They are our fathers, our mothers, our children, our neighbors, their friends. Two-thirds of them are adults in working families, and only one-third of them are actually teenagers, which we hear thrown out as an excuse.

We also hear the excuse there are so few of them. Well, we are concerned about the top few of our economy; why not be concerned about the bottom few of our economy as well? Forty percent of those who are on minimum wage are the sole providers, the sole providers of their children.

Speaker GINGRICH often has compared this Congress with the New Deal under President Roosevelt, and he apparently is a great admirer of President Roosevelt, as I am; but I want to tell you there is no comparison. The New Deal Congress offered people hope, hope; it did not increase their economic insecurity or anxiety, where we are refusing to give people any hope. We are depressing their opportunity.

In this Congress, the Speaker offers only cynicism and anxiety by attempting to enrich the few at the expense of the poor.

It is unconscionable to me that the majority in control of this Congress would propose a huge tax cut for the wealthiest among us, while simultaneously attempting to eliminate the earned-income tax credit, and at the same time refusing to have any opportunity for increasing the minimum wage, as well as wanting to take Medicaid and other things that help the poor away.

True, Mr. Speaker, these are indeed tough times. Our Nation is faced with a staggering national debt, built up over the past decade, that is threatening to rob our children and our grandchildren. But what will rob our children and our grandchildren, Mr. Speaker, is an inability for their parents and their grandparents to earn for them, rather than to be dependent on welfare.

There is a growing gap between the rich and the poor, creating economic anxiety and fear, that has led many to question their place in society and to look with suspicion and envy at others of us. Nevertheless, Mr. Speaker, during these tough times, we must always remember the true test of a government is not where we stand when times are easy but, rather, where we stand when times are tough. History recalls how good government has responded during similar times, and I would say, Mr. Speaker, history will certainly ultimately judge this Congress and the this Government.

America has traditionally rewarded work. Why should we not reward work? It is better for us to reward work rather than welfare. If this Congress fails to pass a minimum wage, it would the tantamount to making the will to work a penalty rather than a prize. Reward work, raise the minimum wage. It is the right thing to do. It is the American thing to do.

Thank you, Mr. OWENS for allowing me to participate with you.

Mr. OWENS. I thank the gentlewoman from North Carolina, and I wonder if she knows that she has about 11.3 percent of her working population in North Carolina that earns a minimum wage. I wonder if she also knows a lot of fuss has been made about Davis-Bacon and how Davis-Bacon artificially inflates wages. The figures for North Carolina for Davis-Bacon, prevailing wages under Davis-Bacon, are only slightly higher than the minimum wage in North Carolina.

So the gentlewoman has a great depression of wages in her State. It is very interesting.

Mrs. CLAYTON. If the gentleman would yield, as those figures are depressing as a State, I want the gentleman to know that my district is even more disadvantaged because the earned-income tax credit eligibility is higher than it is for my State as a whole. Also, those who are working at lower wages in my district, which is the First Congressional District in North Carolina, again a higher percentage of my workers are working at lower wages.

So this is critical, critical to the survivability of a lot of my families in my district. It is not incidental. Their earned-income tax credit, Medicaid, minimum wage, all of these issues go to whether families in my district——

Mr. OWENS. Some of these people are at the very bottom of the rung. Although they are working, they are at

VOL
142
PT
6
AP
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24
1996
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the very bottom in terms of wages and income and were benefiting from the earned: income tax credit. You just mentioned that. But not only have the Republicans refused to allow a discussion of an increase in the minimum wage, but they have gone ahead and cut the earned-income tax credit also.

Mrs. CLAYTON. In some instances they wanted to eliminate it. They cut it, but they wanted to eliminate it in many instances.

Mr. OWENS. So there is a kind of war on the poor.

I want to yield to the gentlewoman from Georgia and say to her that her State is about the same in terms of the percentage of people who are making only the minimum wage, working people who are earning only the minimum wage, about 11.9 percent in Georgia.

Ms. McKINNEY. Well, I would begin by thanking the gentleman from New York for reserving this time so that we could talk about how America does need a raise, and our constituents, in particular, need to have a raise.

I brought with me a cartoon from the Washington Post, Saturday, April 13. I want to read this cartoon. It says: "The bad news, Johnson, is you are being let go. The good news is you can have your old job back at half your former pay." And then poor Johnson says: "I can't live on that." And then his boss says: "The rest of the good news is we can offer you a second job, also at half your former pay."

The title of this cartoon is job growth. And now at the bottom it says: "I'd offer you a third, but I'm afraid of overheating the economy."

Mr. OWENS. They have been reading Alan Greenspan.

Ms. McKINNEY. I think this poignantly demonstrates the situation that America's workers are facing today, even those people who had white-collar jobs, who thought that they were secure.

I have a constituent who was employed by IBM, who thought that that was a contract for life employment, and now, of course, finds himself among those others who have been downsized, dispossessed of their dignity, while corporate CEO's, of course, make salaries that even our athletes, our star athletes, begin to blush at.

Last year the heads of about 30 major corporations made 212 times more in compensation than the average American worker. And as we saw in the newspaper yesterday with Mr. Allen, the chairman of AT&T, he said that he really was not prepared to talk about his salary. And we saw him on "60 Minutes"; "60 minutes" did a thing, and he was not prepared to talk about his salary.

But, of course, what about those 43,000 who were downsized. What do they face? The fate that they face is jobs at half the pay, sometimes. If they are lucky, it is at half the pay of what they were formerly making.

I have another chart here. This is a quote from our right honorable majority leader. He says the minimum wage is a very destructive thing. I will resist a minimum wage increase with every fiber in my being.

Now, I do not know about my sister and my brother, my sister from North Carolina, my brother from New York, but I cannot imagine leadership of the United States of America that would resist giving people who are working every day——

Mrs. CLAYTON. Fifty cents.

Mr. OWENS. Forty-five cents.

Mrs. CLAYTON. Yes, 45 cents.

Ms. McKINNEY. A dollar. Because now we have some Republicans who have said, well, we are willing to support a dollar increase in the minimum wage. I would suggest just with my last little quote here from my charts——

Mr. OWENS. Would the gentlewoman yield for just a minute?

Ms. McKINNEY. I will.

Mr. OWENS. Most Americans do not realize that this is not a budget issue. An increase in the minimum wage will not cost the taxpayers a single penny. We are not talking about the Government paying an increase in the minimum wage. It is the people working out there for employers in the private sector who would receive the wages. It is not an item we put in the budget to increase the minimum wage. So we are not talking about downsizing the Government or helping to get rid of the deficit. We are talking about a humane action to make it possible for every American to pursue happiness

The Constitution and the Declaration of Independence talk about the right to pursue happiness. They need to have a decent wage before they can pursue happiness.

Ms. McKINNEY. But this is the same group of people who want welfare reform, and they want to kick people off of welfare and send them to work, but they want to send them to work at a job that does not even sustain a decent living.

Mr. OWENS. I think $8,400 a year is what the present minimum wage comes out to. Eight thousand four hundred dollars a year. And we just pointed out about 4 million of these people are the sole wage earners in their families.

Ms. McKINNEY. Kevin Phillips, a conservation political analyst, said the 104th Congress may be the worst in 50 years. Now, can you imagine that we are presiding over something that is going down in history, but going down in history the wrong way?

Mr. OWENS. Would the gentlewoman yield to correct that? We are not presiding over it.

Ms. McKINNEY. That is true.

Mr. OWENS. There is a Republican majority in power for the first time; they are presiding over it.

Ms. McKINNEY. Thank you very much for the correction. Perhaps this is one way that they can get on the right side of history, by doing something that is a moral obligation to working Americans so that they can at least go to work every day and then come home and not have to live in poverty.

Mrs. CLAYTON. Would the gentlewoman yield?

Ms. McKINNEY. I certainly will.

Mrs. CLAYTON. I think you are right, it is the moral thing to do. And so often we hear values about family and we hear values about trust and honesty and decency. Well, how we really cause families to unite is to give them the resources to be self-sufficient. And the best welfare reform to take away dependency is to have sufficient income to take care of yourself.

□ 1730

So that is indeed the right thing, the moral thing, the American thing, but in addition to that, this money goes right back into the economy. Why? Because people want to provide food, they want to provide shelter, they want to provide clothing. So this is not money that is going to be taken out. This money generates consumers who are purchasing services that they cannot purchase now; so this idea that it will be detrimental to the economy because it will reduce jobs, and think the comment that Congressman OWENS read earlier from the minority leader referenced a couple of studies that were made, one in New Jersey and the other in Pennsylvania, where they actually studied that there were increasing jobs. Why? Because there were demand for greater service. Philadelphia did not waste theirs, Pennsylvania did not raise theirs, New Jersey did raise theirs. New Jersey increased jobs; Pennsylvania did not.

In fact in my State, North Carolina, when they raised the minimum wage the last time, indeed there was a slowing of jobs. But when you looked at over a period of a year, that increase came back in, and I would ask some farmers, the minimum wage is, said you know what we have found out: you cannot keep good workers at the minimum wage. So people understand if you are going to sustain your company, you have to have a stable work force that you can depend on so it is good for the economy, it is the right thing to do, it is the moral thing to do.

And I agree with you. We do not want to be a part of a Congress that would be held accountable because I said earlier history records what we do and tough times, and indeed these are tough times, but there are a lot of people who are having tough times that government should give some hope to. The minimum wage gives just a little of that. Does not give a lot, but we should do that.

Mr. OWENS. I think it is important to point out at this point that I said

earlier that there are rumors that the Republicans or some Members who are beginning to generate a bill calling for an increase in the minimum wage. In fact, the increase, as you pointed out, they are calling for a 50 cent per year for 2 years which means maybe a $1 increase.

I welcome that, and I hope that the American voters out there will also begin to encourage their Congressmen, whether they are Republicans or Democrats, to go forward. We need this increase.

And some of the brightest moments of my 14 years here in Congress have been the times, all too few, when Republicans and Democrats have come together on something that makes sense. We did it in terms of sanctions against South Africa, very tough sanctions against South Africa. We did it to pass the law which created the Martin Luther King birthday. We have done it on the occasion of the Americans With Disabilities Act; you know, Republicans and Democrats coming together to do something that makes sense and benefits large numbers of people.

In the next few days and weeks nothing would make me happier than to see the Republicans join us and do the right thing. You know, let us go forward on a minimum wage increase.

Mrs. CLAYTON. My understanding is that the minimum wage has been traditionally a bipartisan. In fact, Speaker GINGRICH has voted for the minimum wage. Senator DOLE has voted for the minimum wage. Why not now vote for it? You are right. Why cannot we join in that bipartisan effort, because when you look at who has been voting for the minimum wage, they are already. So why you at this time are refusing to do the right thing which you already have done? History has reported you have had a vote on the minimum wage, and they voted for it. So why not now? Is this just a political effort? People are suffering, so they need that effort, and I agree with you. It would be the right thing to do, and the Republicans have a bill that says a dollar, I think the dollar is better than 45 cents. I certainly would want to join that.

Mr. OWENS. People in the poorest parts of my district would welcome an increase of 45 cents or 50 cents. We really need more. They do not care where it comes from Republicans or Democrats. There are people who are suffering that need that increase in the minimum wage.

Ms. McKINNEY. To deny an increase in the minimum wage and also to cut the earned income tax credit is nothing other than mean, and that is not the kind of government that the American people deserve, and I know that is not what they voted for.

Mr. OWENS. I think it is very important to note that 20 percent of those living on the minimum wage the last time it was raised in 1991 were in poverty. An additional 13 percent were near poverty. In 1993 the President expanded the earned income tax credit which we noted the Republicans have tried to cut out completely, but they certainly decreased, and it raised income to 15 million families that helped many working families move above the poverty line. Yet to complete the goal of insuring the full-time working families, getting them out of poverty, we need to raise the minimum wage.

Recent analysis by the economic policy institute and preliminary work by the Department of Health and Human Services suggest that 300,000 people would be lifted out of poverty if the minimum wage was raised to $5.15 an hour we are proposing. The figure includes 100,000 children who are currently living in poverty. The current poverty line for a family of four is $15,600. A family of four with one worker earning $4.25 an hour and working full-time year round earn $8,500, and they will receive a tax credit of $3,400 under the 1996 provisions of the earned income tax credit. They would collect food stamps worth $3,516 and would pay $615 in payroll taxes out of what they earn. This family would end up $834 below the poverty line.

With all that help, they go to work every day, they get the help from the food stamps, they get the earned income tax credit, they are still $835 below the poverty line.

On the other hand for a family of four with one worker earning $10,000, $300 a year, that would be a full-time worker on $5.15 an hour after the increase takes place. The EITC, the earned income tax credit, would provide the maximum tax credit of $3,560, food stamps would provide $2,876, and they would pay $788 and payroll taxes. The increase in the minimum wage, along with EITC and food stamps would lift this family out of poverty. A family of four with those kinds of, that kind of, assistance, plus working every day would be lifted out of poverty.

Ms. McKINNEY. That is certainly an inducement to those who would want to get off welfare but who find welfare more attractive because working every day pays less than welfare in some places. This is an inducement for those people who want to work to go to work and then to be able to live a decent life at the end of their work.

Mr. OWENS. Now the problem is we have a kind of elite minority decadent reasoning that takes place. Even though it does not cost the government one penny, the elite minority reasoning is that you do not want to do anything which might lessen the profits of the people who are making all the money already.

The corporations are making tremendous amounts of money. We are in a boom cycle. You got a bull stock market, you know. Why are they watching so closely to see to it that the bottom line should be kept so low? Why are they trying to keep our wages in this country at the same level of the wages in Bangladesh or China, Mexico? Or why are they trying to bring down the American workers? Why not let everybody share in the prosperity?

We have this kind of decadence that has been made into a very complicated philosophy. We have Alan Greenspan adding to this decadent economics. But Alan Greenspan argues that whenever you have unemployment up, that is good because it means that it keeps inflation in check, but unemployment goes down, it is bad because inflation will increase because the number of workers out there, if the supply is less than the demand, and when the supply is less than the demand and the workplace that drives up the ability of the wages because the workers can negotiate for higher level of wages.

So our Federal Reserve has been pursuing a policy of keeping wages low, keeping unemployment high. You know, we have the body that is set up to promote prosperity for everybody, deliberately joining forces with the kind of reasoning that says wages should be kept at the present level or not increased in order to keep down the amount of money paid by corporations to the lowest-level workers in America.

These are decadent institutions they must be challenged head on. The American people need to understand. We recently had Mr. Greenspan up for reappointment, and he sailed through. Everybody agrees that Alan Greenspan should be reappointed. And he is the great untouchable on the Federal Reserve Board. But I think we better stop and take a look at the policies being promulgated by the Federal Reserve Board, especially since that same Federal Reserve Board which is responsible for keeping our economy well managed, for seeing to it that we have policies which promote prosperity, for seeing to it that we minimize waste, that same Federal Reserve Board was found by the GAO to have $3.7 point billion in a slush fund. They have $3.7 billion lying around that they are not using that they have not returned to the Treasury. If we had that $3.7 billion in the Treasury, the deficit would be decreased by $3.7 billion.

Why is the Federal Reserve holding on to the money? I have an answer, Mr. Greenspan, but the General Accounting Office points out they say they keep the money for a rainy day, they keep the money in case their operations, which are quite huge, they earn money on the interest they charge the banks, they earn money on the services they provide the banks.

In the last 79 years they have never had a rainy day, the last 79 years they have never had a loss, never broken even. They always have a surplus, but the surplus is now increased to the point where it is $3.7 billion.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Now, Mr. Greenspan is in charge of this, the same mentality that says keep unemployment up, keep wages low, also said that, "I need $3.7 billion around in my slush fund just because I might have a rainy day."

We ought to do something about that. The American people ought to listen closely to what is happening. You know, it is just like what happened in another one of those sacred cow agencies, the CIA; they found $2 billion lying around in a petty cash slush fund of the CIA, you know. If we get all of these slush funds cleaned out, you know, we could balance the budget properly.

You know, my friend from New York, CAROLYN MALONEY, has done a study, and she shows that the debts owed to the U.S. Government by the Farmers Home Loan Mortgage, which is one of the worst perpetrators, and many others, section A, the royalties that are due by companies that are supposed to pay, oil companies that are supposed to pay royalties to the Government, when you add it all up, there is $55 billion out there uncollected that, if we were to pursue with more zeal, we could get that money, help balance the budget, and we would not be talking about keeping the economy in check with inflation so that it can generate for profits; hopefully those profits would be taxed, and that is the way we get our revenue.

Let us bring down the deficit. Let us take care of the minimum wage. Let us begin to manage our economy better, and let us not have a balancing of the budget, a driving of the economy by shortchanging the people who are at the very bottom who are earning the minimum wage. It is a decadent scenario that ought to be challenged by every fair-thinking American.

Mrs. CLAYTON. I want to add, too, it has been usually the principle that we have been working on that would reward work, that productivity is a factor of the profit, and that we reward that when the productivity goes up and the profit goes up, you share that with the workers. But somehow the wages have been stagnant even for those who are not at the minimum wage; I mean those who are middle income. The wages have been stagnant at the same time the profit has been going up. So the productivity, which is a factor of that high profit, is not necessarily a benefit of the workers, and we need to change that principle, as well, also.

The other principle we need to change, it seems to me, is that America is a country of great opportunity. It is the entrepreneurship and the opportunity to work that should give hope to all of us that we always will work harder, train and be better skilled to get the next job. However, when we give messages that create such a disparity between the top 5 percent and the lower 5 percent, and it is growing, it is growing and we seem not to even concern ourselves about that, I mean the distance between the richest of the individuals in America and the poorest of the individuals is larger now than ever before, and yet at the same time we are having great profit, great productivity. You would think that that would inure to the workers as well. Just as you share the profit with your stockholders, you reward people for doing a good job; they get an increase.

And also the minimum wage should move up. And by the way, the cost of living has gone up rather than wages now, so it is costing the people to get a gallon of milk or bread or Medicare; all of those things that they must provide for their families, that is going up.

Ms. MCKINNEY. And in order for the minimum wage to have the same purchasing power as it did in the 1970's, it would need to be $6.07 an hour. So when you talk about purchasing power and inflation, it has eroded the minimum wage, the purchasing power of the minimum wage.

☐ 1745

Mrs. CLAYTON. We are not talking about even taking people up to purchasing power, as you have indicated. This is just the beginning of the process.

Ms. MCKINNEY. That is correct. I would just like to say something about the notion of a social good. At some point we have got to start thinking about the community. We have got to think about the community that is America.

I know we went through the 1980's, and the 1980's was the "I-me" decade. We are seeing the fruits of that now. The fruits of that, as you have correctly pointed out, is the fact that we have got concentration of wealth in the hands of fewer and fewer Americans. They are getting more and more and more of the pie. The rest of us are being left out.

At some point when you have productivity increases, you would think that America as a whole, the community, would grow as a result of that productivity growth. But what we have seen is that we have got this "winner take all," and the winner is the CEO and those folks who are in that orbit. They get everything, and can even get rewarded by laying people off, by putting people on the streets, by telling them "We don't need you anymore."

At some point we also have to think about the dignity of work and how people define themselves and their self-worth by what they do in life. If they have nothing to cling to because their commitment that they thought they had with their company, with their corporation, has been broken, not for the social good, not for America's good but for the good of individual people, one or two people get all of the results, all of the rewards, and they have to pay the price.

At some point America and Americans have to wake up and say that it is one thing to be an individual who can soar to the top, but there is also some emptiness in being at the top if everyone else beneath you is way down at the bottom. We all can soar, and that is what is so good about this country, is that there is room for everybody, if the value is there that includes everybody.

Mrs. CLAYTON. That is what America was built on. Give me your weak and your frail.

Ms. MCKINNEY. That is correct.

Mrs. CLAYTON. This is what the Statue of Liberty is all about. That is why people want to come to America, for a better opportunity to live. So the quality of life adds to that community spirit, and also the quality of life and the community spirit adds to the stability in our communities.

When you find the family down the street who has no economic stake in that community, pretty soon he becomes a factor of the criminal element that finds themselves not feeling they need to protect you either. So we need to see how we keep our families together by ensuring that they have the resources to take care of themselves. That also will help stabilize our community as a place that is caring and protective.

We are all in this boat together. We are all in this American boat together. Obviously someone with greater skills is going to be rewarded but, as the gentlewoman said, we should be equally concerned for those who are at least among us, because their quality of life helps our quality of life.

Mr. OWENS. I thoroughly agree with both of my colleagues. We have a moral duty, and we are charged as public officials by our Constitution to promote the general welfare.

If you look at it in hard, cold terms in terms of promoting the general welfare, Henry Ford was a smart man. He might have had some problems with unions, et cetera, but he came to the reality that if he is going to sell his cars in large amounts, he has got to pay his workers enough wages to buy his cars, and that is just plain old American common sense.

We have serious problems in our economy right now with consumer spending. The retail establishments are suffering. Why they are suffering is because the people on the bottom, from the bottom up, are the ones who spend the money in the stores because they need immediate necessities. They need food, clothing, shelter, they need refrigerators, they need the kinds of things that you buy from our stores.

The people at the very top who are drawing large amounts of profits from Wall Street, they are the rich and the famous who pick up and travel around

the world, and spend their money all over the world and buy real estate all over the world, buy diamonds, jewels, and certain kinds of things that do not feed back into the economy. They do not turn the money over.

The great locomotive of the free world economy has been the American consumer. We are about to destroy the American consumer and end the great economy that has fed the free world for all these many years. If you do not have those consumers with basically good salaries on a steady basis, then you are going to take the heart out of what drives our economy.

Other economies recognize this more so than we do. A higher standard of living of workers now is not in America. It is in Germany. Japan, with all of its economic difficulties, has a far lower rate of unemployment than America. Japan does things to protect its workers, and its workers are considered a large part of its middle class.

Japan does not have to spend large amounts of money on prisons, on crime prevention or crime detection. They do not have to spend large sums of money on drug rehabilitation and drug-related crimes. They do not spend almost any money on guns and the results of people being destroyed, mangled, injured by guns. We have got something like 16,000 people killed by guns 2 years ago. The statistics are complete. At the same time less than 100 people were killed by guns in Japan.

A more stable society, including gun control laws, by the way, a more stable society with a middle class preserved. We criticize Japan a lot about the way they resist our imports coming in. They have all kinds of tricks to slow down the flow of goods from the outside because they protect each industry, the middlemen and all the folks down at every level in their economy to maintain a middle class. The biggest part of that middle class are the workers in the factories who earn wages which are good enough to make it unnecessary for them to have to have EITC or food stamps or all the other benefits that we have to generate as a result of our failure to pay our workers.

In Japan, in Germany, in France, in all of the industrialized nations, the executives, the chief executive officers and the middle management earn far less than the chief executives in the United States corporations. Far less. You will have to look for a long time to find a chief executive officer in Japan who was paid more than $1 million in compensation last year. You might find a few more in Germany but you will not find them in Japan.

Let us make a comparison. If Majority Leader ARMEY is really interested in doing what is good for the economy instead of saying he wants to abolish and eliminate minimum wage, let us put some kind of hold on the unbridled, forever escalating amount of money that the chief executive officers of corporations are earning. Of course the chief executive officer earns, what is it, the top guy is $20 something million. AT&T or Disney, I forget, somebody is past $20 million in compensation per year.

Ms. MCKINNEY. I saw a newspaper article from I believe the Washington Post about a company called Greentree, and that CEO was being compensated at around $60 million. It is absolutely unbelievable.

Mr. OWENS. $60 million. Oh, that is an aberration, most of them are at around $20 or $15 million.

Ms. MCKINNEY. That is correct.

Mr. OWENS. Nowhere in Japan will you ever find anybody earning $60 million or $20 million.

Ms. MCKINNEY. It is absolutely incredible. Two hundred and twelve times more in compensation than the average American worker.

Mr. OWENS. Let us take care of our economy. Mr. Greenspan wants to take up inflation. Seems to me Mr. Greenspan would address his concern to inflated salaries at the top levels, and deal not so much and scrutinize not so much the wages paid to people at the very bottom.

Ms. MCKINNEY. If the gentleman and the gentlewoman would recall the arguments around NAFTA, do you remember that some people were saying that if we pass NAFTA and NAFTA becomes law, that American standards then would become global standards? So we did not have to fear about workers' wages going down, because workers' wages would go up. We did not have to fear about environmental standards going down because environmental standards were going up.

I do not know that that has been the experience.

Mr. OWENS. Just the opposite has happened. The common denominator is becoming the prison laborer in China, the workers in Bangladesh, the workers in Mexico. The philosophy behind the assertion by the Republican majority that we need to keep our wages low is that in order to be competitive, the lowest wages in the world is what we are competing with. So just the opposite has happened as a result of GATT and NAFTA. We are pulling down the standards of the American workers.

I thank my colleagues for joining me on the special order on minimum wage. I hope everybody understands we are moving forward and common sense will prevail. I hope our colleagues on the other side of the aisle will soon join us in increasing the minimum wage.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON APPROPRIATIONS

The SPEAKER pro tempore laid before the House the following communication from the Honorable BOB LIVINGSTON, chairman of the Committee on Appropriations:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, April 18, 1996.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my committee has been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel, I will make the determinations required by the Rule.

Sincerely,

BOB LIVINGSTON,
Chairman.

CALL FOR AN INCREASE IN MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, I rise today in support of the increase in the minimum wage. As probably has been mentioned on the floor here this afternoon, if an individual works full time, he or she brings home $8,400 a year. In a family of 4, if you have two wage earners working full time at the present minimum wage, they make, well, we can do the math, under $17,000 a year. How could it be that in a country this great and this decent that we do not pay a living wage to the hardworking people, hardworking families who want to do the best for their children.

We must reward work and we must do it with a decent livable wage. I hope that this Congress will be increasing the minimum wage by at least $1, which would enable families to buy more groceries. We are talking about the basics.

Another point I want to make about the minimum wage is that by keeping the minimum wage as low as it is, we are increasing the cost to the U.S. taxpayer. We have to provide food stamps, housing assistance, and other assistance to supplement the meager earnings that these people make, even though they are working full time, even welfare benefits I some cases. So this is not about reducing the deficit or anything else. It is about providing adequate rewards to Americans who work.

There has been some discussion in the course of this year about the earned income tax credit. I believe that the cuts that were proposed for American working families were wrong. Our colleagues on the other side will say, no, we kept it in there. We kept it in for some but not for all of the people who were working, hoping to have families and contribute to our country.

We have and we need an earned income tax credit because we have this

VOL
142
PT
6
AP
15
—
24
1996
UMI

artificially low minimum wage. The American taxpayer is subsidizing American business with food stamps, housing assistance, earned income tax credit, because we have such a low minimum wage.

I saw a cartoon in the paper that I want to share with my colleagues. On one side it had a woman working for the minimum wage for 1 year, her salary, $8,400 a year, working full time, and in the other frame was an executive, and the average salary for corporate CEO's in our country would make, in 1 day, some say really in a half a day but let us be generous, in 1 day what this woman was making in 1 year.

☐ 1800

Certainly we want to reward success and we want to honor the entrepreneurial spirit. But how could it be OK for us to have one person working 1 day for the same as the average, and I am not talking about the highest, I am talking about the average corporate CEO's salary? I think it is a matter of conscience and decency, and a sign of a great country, that we reward work, we increased the morale of our work force, we give people a chance to take themselves out of poverty by saying we respect you, we respect what you do. We want to give you the dignity that you deserve as a hard-working person in our country. Not by throwing some crumbs to you and making you grovel for other benefits and be disdained for that, but instead by giving you a living wage.

Ms. McKINNEY. I did not necessarily want the gentlewoman to yield, but I was just thinking about the depth of your feeling and your compassion. It is a shame that we have leadership in this country, leadership that leads this country, that does not feel anything at all about leaving folks who are hard working, who go to work everyday, get up by the clock, punch out by the clock, and they want to leave them behind and leave the embrace of this Government away from them, yet they rush to those who already have.

Ms. PELOSI. Mr. Speaker, I appreciate the gentlewoman's comment on that. I was particularly concerned the majority leader, Mr. ARMEY, said he would fight the increase in the minimum wage with every fiber of his being. He is a good guy. Let us change his mind on that subject and show the support, which has always been bipartisan, has always been bipartisan, for an increase in the minimum wage.

REPORT FROM INDIANA: "MOTIVATE OUR MINDS"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. McINTOSH] is recognized for 5 minutes.

Mr. McINTOSH. Mr. Speaker, I rise today to give my report from Indiana.

In the Second District of Indiana, there are so many special people striving day and night to make a difference.

These are good people doing good things. And today I rise to commend the volunteers at the "Motivate Our Minds" program in Muncie.

These individuals, Mr. Speaker, are Hoosier heros. Hoosier heros because they care about our community and care deeply about helping others.

These heros reach out and lend a helping hand to at-risk schoolchildren.

Motivate Our Minds—MOM's for short—is a very special organization in my hometown of Muncie.

Mr. wife, Ruthie, visited the MOM's program just a few weeks ago. She shared with me the love and friendship the volunteers at the MOM program give to inner city schoolchildren.

MOM's first started in 1987, when two women, Mary Dollison and Raushanah Shabazz (Ra-shanna sa-bez) opened up their home and went to work helping "at risk" schoolchildren.

They knew in their hearts that the key to a bright future for a disadvantaged child is a strong and loving hand to guide them. Special children need motivators.

Mary Dollison knew that when children feel good about themselves they do well in school. They become successful adults. and their contribute positively to their communities.

MOM's has grown from helping 16 students tutored in Mary's home, to providing assistance for more than 69 at-risk students today on East Highland Street.

Mom's teaches at-risk students: "To think they can, until they know they can." Parent volunteers like, Lola McGregor, Ball State students, community leaders, parents, and the children can witness first hand young men and women striving to achieve new goals and forming new hopes and dreams for their own future.

Dedicated volunteers, and the true Hoosier Heroes of the MOM's program. Volunteers, like Wilma Ferguson, a retired school teacher, gives her time and friendship every single week.

Beth Quarles, the office manager, at the MOM program, has worked tirelessly to ensure that the program has the funds and the resources needed to keep the center growing. Frances Garrett makes sure that the students' school projects and their art work is displayed at the center.

Mrs. McGregor has two daughters—LaRessa and LaNeice, who are 5th grade students enrolled in the program. Mrs. McGregor witnessed how the MOM program helped her own daughters and she decided to give something back. She is now one of the top volunteer at the MOM program.

When I was young, I can remember my mom tacking my drawings and assignments to the refrigerator door—it was something so small, but it sure made me feel good, but you know, I took that for granted. Some of these children, have never had their work tacked up on the refrigerator door.

But Frances Garrett makes sure their precious drawings, paintings, spelling tests, and high scored homework assignments are displayed.

This is important to send a message that hard work and accomplishments are honored. Students leave MOM program knowing in their hearts that there is nothing they can't do.

No task is too big. No challenge is too great. These dedicated young people are faced with amazing challenges but they never give up.

A special gift that these young men and women have received, is something that I, too, learned at an early age: "Always do your best, hard work will be rewarded and never, never give in."

Mr. Speaker, the volunteers and especially the children involved with the MOM program in Muncie, Indiana are Hoosier heroes. That is my report from Indiana. God bless.

PRESIDENT'S CATHOLIC STRATEGY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the designee of the majority leader.

Mr. DORNAN. Mr. Speaker, in the full sense of collegiality here, I would like to yield, and I will stay on my feet, the first 20 minutes of my special order to my good friend, the distinguished colleague from Connecticut, CHRIS SHAYS, to speak about our budget crisis and getting America's fiscal house in order.

THE WORK ETHIC IN AMERICA

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding I will not be using the full time. I do appreciate his willingness to allow me to participate in your hour's time.

Mr. Speaker, this Republican majority, this new Congress, has three objectives. Our first objective is to get our financial house in order and balance our Federal budget, and at the same time grow this economy. That is the first objective, and it is absolutely essential that we succeed in it.

Our second objective is to save our trust funds for future generations, particularly Medicare, from ultimate bankruptcy. In fact, Medicare part B, the health services that Medicare recipients receive, started to go insolvent last year, not this year as expected.

Our third objective, Mr. Speaker, is to transform our caretaking social and corporate, I would even say farming welfare state, into a caring opportunity society.

Now, the words opportunity society are words used by conservatives primarily. They are great words, and are

words that have existed in this country in particular for well over 200 years. And they are preceded by the word "caring."

This is not a conservative agenda that throws up our hands in the air and says, "You live in the cities, you were raised by a crack mother, you did not have much of an education. Too bad. You are on your own."

That is not the agenda. This agenda is an agenda that is trying to help people grow the seeds.

Mr. Speaker, we have an incredible opportunity to do what we have failed to do for so many years. We are not looking to repeal the New Deal, but much of the Great Society simply did not work. Not all of it, but a good part of it.

I was coming to Washington this week, I noticed on my calendar, I have quotes on my calendar. This one happened to have been from Ann Landers. I think it defines something that is absolutely essential. It says, "In the final analysis, it is not what you do for your children, but what you have taught them to do for themselves that will make them successful human beings."

I look at this and say this is absolutely the center of what we need to do as a Government. In the final analysis, it is not what you do for your citizens, but what you have taught them to do for themselves that will make them successful human beings.

As a moderate Republican, someone who has voted for a number of programs that would be part of the Great Society, I have had to analyze and say, where have I been doing the right thing, where I have helped make a difference, and where have I actually caused problems?

If I am honest with myself, there is a part of me that recognizes that I could go and vote for some of these programs and say, you know, I have dealt with your need. I can pat myself on the back. I can go to certain groups and they can say, oh, isn't it nice that you care?

Well, I would contend that some of my caring has resulted in caretaking, not in caring, and that what I need to truly do is be a caring person. And a caring person is going to do more what Ann Landers says, and that is what have you taught them to do for themselves that will make them successful human beings?

I have made a point in the last 4 years of my 9 years in Congress of asking anyone who has had a difficult life, that is perceived as difficult, and obviously nobody walks in someone else's moccasins, all of us face difficult things, but people who have been raised in poverty, been raised by one parent in poverty, people who may have had an experience on drugs, a whole host of different challenges that have faced them, and I have said what made a difference in your life? Why are you the successful person you are today? What was it in your life that made you so successful?

Almost to a person, it was "Someone in my life, my father, my mother, my brother, my sister, my aunt or my uncle, my grandparent, somebody, a mentor, someone took an interest in me and taught me how to grow my own seeds."

I think of parents who are raising their children, and I think well, in the final analysis, it is what you did for your children or what you taught your children to do for themselves that made the difference? And to a person they would not tolerate doing something for their children without teaching them what they can do for themselves, making them independent.

So I speak as someone who has been part of this political process, saying I feel I have done a lot of things that have made a positive difference in people's lives, but I have also looked and seen that there are things that I have not done, or things that I have done that have been in fact the exact opposite of what I intended.

This may sound a little harsh, but I believe it to be true: Poor people do not create jobs. Poor people need jobs. And sometimes the people who are going to create those jobs happen to be people who are well-to-do.

I went to a housing seminar and I was confronted by a group of people who think that we have given tax cuts for the wealthy at the expense of the poor, which simply is not true, but that is what they think. But at the same time, they said to me, "Why aren't you a stronger advocate of the low income housing tax credit?"

This is a tax credit to provide housing for low income people. And I said to this group, think of what you are asking. It has a wonderful name. It is in fact a fairly effective program. But the low income housing tax credit is going to benefit the poor and the well-to-do. The people who get the tax credit are the well-to-do. So the very group that was accusing me of having a tax credit for the wealthy were asking me to vote for a tax credit for the wealthy that had an intention to help the poor.

This is really what we have to wrestle with as a country. We have to be honest with ourselves about a lot of things. One, poor people do not create jobs, they need jobs. The people who can help create these jobs are people who have the financial resources to invest in new plant and equipment and invest in jobs in the process.

There is another statement that I just have pondered a lot. I do not understand how people can be pro-jobs and antibusiness. How can you say you want to create more jobs and they you want to be against the very people who create jobs? The fact is, you cannot.

Now, the Republican majority decided to do something that no other majority in Congress has ever attempted to do in the past. We have decided to get our financial house in order, and we are doing it in a very reasonable way. I am not saying everything we are attempting to do is perfect. I would not make that claim. But I have never been more proud to be part of a party and part of a majority than I am today.

We are trying to slow the growth in spending so it ultimately intersects and is no greater than the revenue that we receive.

Now, people say we have a revenue problem. That would be a hard one to understand, since revenues keep growing. We do not have a revenue problem, we have a spending problem. Our spending keeps going up more than our revenue does. It never intersects, it means that we continually have revenue and then an expense, and that difference is the deficit. At the end of each year, these deficits just keep getting added to our national debt. That is what I want to focus in on.

The national debt in 1945 was $260 billion. Today it is $4.9 trillion. But I could go back to just 1974. After the Vietnam War, it was only about $430 billion. $430 billion. It is now $5.2 trillion, or $5,200 billion. It has gone up well more than tenfold, 10 times. Not one time or doubled or tripled, quadrupled. It has gone up tenfold, 10 times, in 22 years.

☐ 1815

That is a disgrace. It is just simply a disgrace. When people say to me that the deficits do not matter, I say I do not understand it. I simply do not understand how it does not matter that our national debt has grown 10 times in 22 years.

I think historians will look at the Congresses of the past and, frankly, the White House of the past, Republicans and Democrats. Some Members of Congress on both sides of the aisle have been wanting to control spending. The White House never submitted balanced budgets from either party, and Congresses never gave back balanced budgets.

So I basically make the argument that both parties have had their fingers in this mess called the national debt. But we have a party now in the majority that is willing to change that, willing to stop it, willing to slow the growth in spending so it, ultimately, in 7 years, equals the revenue that we receive. No more deficits; therefore, no increase to our national debt.

I think historians will look at the last 20 years, will look at it much the way they looked at the Reconstruction era after the Civil War, not a particularly proud time in our history. I do not think it is a particularly proud time in some respects in terms of the national debt and what has happened to our society in a while host of different ways since 1974 to this year now, 1996, 22 years.

VOL
142
PT
6
AP
15
—
24
1996
UMI

I look at the national debt and I look at what historians will say. I used to just blame Republicans and Democrats, the White House and Congress. I have come to the conclusion that the American people have a lot more to do with this than I ever realized in the past, and I speak from personal experience on this issue.

There was a Member of Congress who was a very liberal Republican named John Lindsey, and he ran for mayor of New York City. He won. This moderate to liberal, in fact very liberal Member of Congress, made a determination that he thought that the city could not afford the large increases in public salaries that were happening without a corresponding increase in productivity.

He felt it was wrong that sanitation workers completed their work before 11 o'clock in the day, did not work a full 8 hours. He thought it was wrong that welfare workers were not working as hard as they should, that police and firemen simply were getting increases in salary without corresponding increases in productivity, and this very liberal Republican said, "I am going to fight it," and he fought it.

The result was that the police went on strike, the firemen went on strike, the sanitation workers went on strike, the welfare workers went on strike, the subway workers went on strike. They all went on strike. The city shut down.

Did the people of New York City blame the workers for going on strike? No. They blamed the mayor. They thought he was incompetent, this incompetent mayor that could not keep the city running.

And I draw parallels today. People are saying we cannot shut down the Government; our job is to keep it running. Our job is to keep it running in the right way but not keep it running in the wrong way.

This mayor tried to confront that. What was the result? The result was that people thought he was incompetent. His polls went down, and he responded to the polls and the people of the city. He got the firemen back to work and the policemen back to work and the sanitation workers back to work. He got the welfare workers back to work. He got the subways running again, but he did it by selling the city down the river.

He basically caved in. He gave up, and he got reelected. That was the message: Cave in, get reelected, sell the city down the tubes. This city went bankrupt because of what happened. The city of New York went bankrupt, and then again he was considered incompetent. He was considered incompetent when they went on strike. They liked him when he put everybody back to work, failing to realize that in order to get them back to work he basically had to agree to their side of the position. He basically sold out and paid them the increases in wages without the corresponding increases in productivity.

I liken that to what I am experiencing today. I will not say it happens all the time, but when the Government shut down during Thanksgiving I did not want to open it up, and I would vote to this day to keep it shut until this generation is responsible to our children. I would not have increased the national debt because I think it is irresponsible to allow this national debt to keep growing when we have not controlled the growth of entitlements.

But let me give everyone an example of a letter I received from a constituent, a good friend. I received a letter from a constituent outraged that the Government had shut down. This happened to be the shutdown during the Christmas holidays, not a great time to have Government shut down, not something I particularly liked, but I did know why it happened.

It happened primarily, not entirely but primarily because the President had vetoed certain appropriations bills. When he vetoed these bills, we ended up with no budget. When we had no budget, we had to shut down the Government.

I had constituents who said, well, we should give the President a budget that he wants. The problem is the budget he wants, in my judgment, bankrupts this country. I did not feel right about that.

But this is the argument that I was receiving from some of my constituents. Some of my constituents, not all but too many, frankly, said—one of them said, in so many words, "Dear CHRIS, I have always liked you, I have always respected you and voted for you, but never again. Your job was to keep this government running. You failed in a very basic responsibility, and I will not only not vote for you again in the future, but I am going to actively work against you."

Now, I could have accepted all of that to that point, but then he gave me his big reason why. His big reason why was that his daughter wanted to study abroad, and she went to get her visa and the passport office was closed down. So basically he was saying for his daughter he was outraged.

I began to think about it, and I thought, this is unbelievable. Mr. Rabin, the former Prime Minister of Israel, said politicians are elected by the adults to represent the children, and I am thinking about this.

This is about his daughter, not about her getting a passport so she could study abroad. It is about the fact that if we continue our neglectful ways, our deficits will keep growing. Our debt will keep growing and ultimately his daughter, his precious dear daughter, will be paying anywhere from 60 to 80 percent of all the money she makes in taxes to Federal, State, and local governments. That is what this is about. It is about his daughter. And the fact is, he just did not get it.

Now, I have to blame myself, because I am an elected official and my job is to help explain it and to teach and to learn and to pay the consequences if I am not doing the right thing. There are many things that we could probably be criticized for, but the one thing we cannot be criticized for is not wanting to do the right thing about getting our financial house in order. This Republican majority is determined to grow this economy by ending these obscene deficits that add to this national debt that has grown 10 times in 22 years.

I had a number of constituents who said, "Don't you listen to the polls? Don't you see what is happening?" I am thinking, yes, I am listening to the polls. I see a lot of concerned and angry people. There is reason to be concerned. We have deficits that are growing and growing and growing. I am concerned.

There is reason to be disappointed with the growth of our economy that is only about 1 percent a year in the last 20 years on average. I would contend there is a very simple reason for it. There are probably a lot, but one that is right out there in front, our deficits are taking away money that could be invested in new plant and equipment, and the money that is being set aside in savings, 42 percent of it is being gobbled up to fund the national debt.

Why are we spending so much money of our savings to fund the national debt? Because our deficits keep growing and our national debt keeps growing.

I want to stop these deficits. I want interest rates to come down. I want businesses to be able to look at the interest rates and know that it can pay for them to invest in new plant and equipment.

So what about the polls? Well, the polls tells us that 47 percent basically say the President is right, Congress is cutting too much; 46 percent say Congress is right, we are cutting just right or not enough.

But they think that when we dealt with the earned-income tax credit we were cutting. They thought $19 billion was going to be less in the 7th year, but the fact is the earned-income tax credit is a payment paid to people who work but do not make enough. They actually get a payment from the taxpayers, a government check. Instead of giving the government money, as low-income workers they actually get money from the Government, from the taxpayers. That is growing from $19 billion to $25 billion under our plan.

The school lunch program is growing from $5.2 to $6.8 billion. That is not a cut; that is an increase. The student loan program is growing from $24 billion to $36 billion. Medicaid is growing from $89 billion to $127 billion. Medicare from $178 to $289 billion.

Only in this place when we spend so much more do people call it a cut. But

the press reports it as a cut, and the unbelievable thing is that they think we are cutting too much when we are spending more.

Now, when the pollsters point out that the student loan program is growing from $24 billion to $36 billion, and they tell Americans the student loan program is going to grow 50 percent, the 46 percent that says we are cutting just right or not enough actually grows to 66 percent, and the group that thinks we are cutting too much, that 47 percent, drops down to about 33 percent.

So one aspect of the polls is that when the American people learn the truth, they want us to do what we are doing. In fact, when we tell the American people the truth, they will tell us to do the right thing. I would contend that they are not really hearing or learning from what they hear from the press what is happening.

Earned-income tax credits, school lunch, student loans, Medicare, and Medicaid are growing. Medicare is growing on a per-person basis from $4,800 to $7,100 in the 7th year. It is growing, in dollar amounts, 60 percent from this year to the 7th year. Then people say, yes, but we have more people participating. Well, even with more people it is growing at 49 percent per person.

So in response to the polls, one, I say when the American people know the truth, the polls will tell us to do what we are doing. I really believe that. If I am wrong, I will be looking for a new job. But I also think something else about the polls. Sometimes at critical moments in our history we have to do what is right even if the polls tell us to do something slightly different or significantly different.

I would make this comparison to what Abraham Lincoln found when he came forward and was sworn in as President. When he was sworn in as President, they had to sneak him into Washington. I want everyone to imagine what it must have been like in Lincoln's time when they literally had to sneak him into Washington. They had to sneak him into Washington because his life was threatened.

When he was sworn in, seven States decided to leave the Union. They said, we are out of here. When the seven States left the Union, a lot of the people in the North said, what an incompetent President. Already, practically before he has done anything, we have lost our country. It is breaking apart. A lot of people in the North began to look with disdain at this, quote-unquote, incompetent, bumbling President.

After the first few battles, and the first year and second year and even into the third year, as the battles continued and there was tremendous loss of life and some of the battles went against the North, a good number, there was even a greater conviction. All the powerful people in the North, the businessmen and women who were tied in with the military-industrial complex, for the most part were looking to find a replacement for this, quote-unquote, incompetent president.

Abraham Lincoln could not have been listening to the polls when he went to Gettysburg, the greatest victory to that point, and he was there to celebrate the victory of the North. He went there and gave a speech, and part of the speech talked about the brave men, living and dead, who fought here. He did not say the brave northern men.

Think of the temptation, given the polls, to rally the North against the South, to get them to hate the South, to get people to say, what a great President, he is finally getting everybody together. He could have unified the only people who could really vote for him, the North.

He did not give in to that temptation because he was a great President. He did not give in to the polls. Had he given in to the polls, he would have said "the brave northern men who fought here." He just said "the brave men, living and dead, who fought here."

He knew our country, knew there were families that had to bury their northern son and their southern son. In fact, one father during that time buried both sons in the same grave and the tombstone read, "Only God knows which one was right."

□ 1830

Mr. Speaker, I would just conclude, thank God Abraham Lincoln did not listen to the polls. Had he listened to the polls, we would not be one Nation, under God, indivisible. We would be two nations, very much divided. And I put the context of the debate that we are having today in the same context that I put back in Lincoln's time. We are doing what Mr. Rabin said we should do. We were truly elected by the adults, but we are trying to represent the children. We are trying to make sure that our children have a future and a country they can be proud of.

And with that, Mr. Speaker, I just thank the gentleman from California [Mr. DORNAN]. You were very nice to give me this time, and I apologize to you for going over a little bit.

Mr. DORNAN. Mr. Speaker, when I said to my colleague I was enjoying it, I truly was.

PRESIDENT'S CATHOLIC STRATEGY

Mr. DORNAN. Mr. Speaker, sometimes when I take a special order because there are good folks across the country who follow the proceedings of this House, they will call and say, "I enjoyed your words." They never call, and say, and insult you, and say, "I am glad there was nobody there to hear you." I guess maybe the negative calls are smarter than the positive ones. They know that a million people are hearing you. But a lot of good people will call in and say, "I appreciated what you were saying, I appreciated what Mr. SHAYS was saying, but no one was listening."

Now the audience averages between a million and a million and a half, and because of that, again as I seem to have closed out the Congress on the last two breaks, my special order is final tonight, and I want to pick up on my 5 minutes last night where I said I would read in totality one of the most amazing letters in American history from any Christian cleric or Christian leaders; in this case, they are Catholic cardinals, every one of them an archbishop, joined by the bishop who is the head of the National Catholic Conference of Bishops against Mr. Clinton for his veto of an overwhelming, overwhelmingly passed bill in both the House and the Senate, a little tighter in the Senate, but overwhelmingly passed here, against execution-style partial-birth abortion of fetuses that are children and babies in the process of being delivered that absolutely could live outside the womb.

So what I have done is picked up an article that skillfully gives Mr. Clinton's Catholic strategy. That is the title of the article from the newspaper in Los Angeles, the Tidings; used to be my archdiocese newspaper, Mr. Clinton's Catholic strategy. It is a syndicated column, and it has different titles around America. I am going to read that to set the scene on how the Clintons think they will retake the White House, have 5 more years, become a rare Presidency like Eisenhower's, Reagan's; both had 8 years; Roosevelt's, 12 years and 82 days, small part of a fourth term, and Teddy Roosevelt's short term of 8 years because he achieved, was given the office, through the tragic assassination of William McKinley, and Wilson who had earned 8 years, World War I saving him, as it got Roosevelt a fourth term in the second World War I, part two of the greatest slaughter of all mankind, World Wars I and II. But other than Teddy Roosevelt, Wilson, Franklin Roosevelt, Eisenhower, and Reagan, those five people, nobody in this century has had two terms.

Clinton thinks the key to a second term is the, quote, Catholic vote, so I am going to read this analysis of what Mr. George Weigel, the President of the Ethics and Public Center here in Washington, DC, thinks is the Clinton strategy, then read an article from Jose Kennard, who is head in Texas of the Hispanic Caucus, and that letter was read in part yesterday or the day before by people on both sides of the aisle. I am going to read it in toto, and then I will read, as I promised yesterday, the full text of this amazing historical letter from eight princes of the Catholic Church plus the Most Reverend Anthony Piela, President of the

VOL 142 PT 6 AP 15 — 24 1996 UMI

National Council of Catholic Bishops. I will read this letter, and then I will leave it to people's imagination to figure out how rough this fight is going to be in the next 201 days, less than 200 days when we adjourn again for legislative business and votes on Tuesday next.

Then I will point out how we have a serious Catholic problem right in this House with the numbers, and I would suggest to all of my Jewish and Protestant brothers, please listen intently. If you think you have got division and problems in your denomination, listen to how split the Catholics are in this House. However, not a single Republican Catholic, good, bad or indifferent, voted for this partial-birth execution-style abortion in this Chamber when it came back from Senate conference with the slight differences worked out.

Before we do that, I want to take care of three housekeeping things here. One is the crash of Ron Brown's Air Force aircraft on my birthday, April 3. We had a unanimous vote for Mr. Brown, Secretary Brown, expressing our deep sorrow at losing for the first time in the line of duty a Cabinet officer in over almost a century and a half.

I said yesterday that I thought the majority of the crew was the crew that had flown me and five other Members, led by SONNY CALLAHAN of Alabama, to Tuzla and Sarajevo and Hungary, two of the bases in Hungary and to Zagreb, Croatia, and to our major air base, Aviano, in Italy. I was mercifully wrong, not for the four other crewmen that died, but of the six crewmen on that airplane, the pilot was the same as our pilot, Ashley J. Davis; that is a man's Ashley as in Ashley Wilkes. Ashley was the cocommander on our flight, on that C–43, used to be called a T–43, a civilian 737, and I was correct that T. Sgt. Shelly A. Kelly, who was the principal cabin steward for all of us in the congressional section up front and got to know her at Aviano, going through the PX to get some shaving gear. She told me a story about how on each trip she buys two bottles of wine, her husband is also assigned to Ramstein Air Base in Germany, and that he would do the same when he was on a cross-country, they would drink one in celebration of reuniting with their two children, and then they would save one. And she said, "We have quite a collection of wine from around the world".

Well, Shelly Kelly died serving her country, as did Capt. Ashley Davis, and I am going to fly flags on the Capitol next week for them, get every one of the Congressmen who were on CODEL Callahan; and fly flags for the other four crew members who were on the ill-fated Secretary Ron Brown delegation.

I will just briefly give their names now. On our aircraft on March 1, 2, 3, and again on my birthday, April 3, when 35 people were killed: 35-year-old Capt. Ashley J. Davis of Baton Rouge, LA, also married with two children; again, T. Sgt. Kelly, Shelly A. Kelly, 36, Zanesville, OH, husband, two children; and the other four crew members, Timothy Schafer, captain, 33 years of age, just outside my own district, Costa Mesa, CA, 33 I said. T.Sgt. Cheryl Turnage 37, Lakehurst, NJ; Sgt. Robert Farrington, 34, Briarfield, AL; and the youngest, 29-year-old S. Sgt. Gerald B. Adlrich, from Louisiana—excuse me, Louisville, IL; all six of them assigned to Ramstein.

Much has been talked about across the country, justifiably so, about Mr. Brown's service to country, captain in Europe and in Korea, and all of the CEO's who will be so grievously missed by their families and their children. But here are the six great Air Force young folks: 29, 33, 34, 35 and 37, that went down on that ill-fated flight.

Mr. Speaker, tomorrow I will be going to a funeral for a true one-of-a-kind, outstanding American hero, Medal of Honor winner, Vice Adm. John D. Bulkeley. Vice Adm. John Bulkeley became known to me as a young 8-year-old boy, child , in 1942, 54-years ago, when as a PT boat commander, PT–41, he, under orders from Washington, DC and Franklin Delano Roosevelt, tied up again in Corregidor and Bataan was soon to fall; this was March 11 of 1942; and took Gen. Douglas MacArthur, then a four-star, soon to be a five-star. Mrs. MacArthur and their young son, named after another Medal of Honor winner, Arthur MacArthur, Gen. Douglas MacArthur of course also a Medal of Honor winner, the only father-son team in that hall of valor in the Pentagon, the MacArthurs, young Arthur MacArthur was just a small child. I think he was under 10 years of age. The three of them and key staff got on PT–41, and through a Japanese submarine screen made it down to Mindenao and eventually to Australia.

That was in the end of Vice Admiral Bulkeley's service to his country. Building up to then he had earned the nickname "Wild Man From Borneo," and I will do a special tribute to him next week.

I had the honor of spending time with his daughters and sons-in-law and his lovely wife at D-Day on the morning of D-Day. Clinton infringed upon what was to be Admiral Bulkeley's moment of memorial to all the people who died at sea in the D-Day invasion 2 years and 3 months after he had saved General MacArthur. He commanded all the PT boats at the Normandy invasion, went on to be a destroyer commander and sink two German ships at the end of the war, but he was to throw the memorial wreath into the English Channel at dawn at the beginning of all the memorial ceremonies.

The Congressmen that I was with were not able to go out on the ship except two senior Democrat chairmen, and President Clinton asked to hold the wreath with John Bulkeley, throw it into the water. Given his own lack of service and avoidance thereof three times, it was a little rough for Admiral Bulkeley, but in the afternoon services I asked him, I heard that the honor was taken away from me. He said, well, we both held the wreath, but God understood.

So I will go to his funeral tomorrow morning, 10 o'clock, the Memorial Chapel at Fort Myer. Any naval folks in the area or Army, Marine Corps of Air Force, you may not be able to get in the church, but please come to the ceremony and send this Medal of Honor, great one-of-a-kind American hero; well, he is already in heaven, but give him a great fanfare and memorial sendoff. He was the Capitol here several times. I was planning a lunch with him with the freshmen, constructing a PT boat 41, PT–41, to present to him, and he always procrastinated, delay things with heroes, and suddenly they are gone to their regard. He was here in the crypt area, where Washington and Martha Washington were supposed to be interred, to put a beautiful ceremonial case to the Medal of Honor with the original parrot Medal of Honor for the great train chase in the Civil War and he was there for that.

When you call him at home, he would answer the phone, "Report." Quite a man. Served on active duty longer than any naval officer I can thing of, with the possible exception of our great nuclear scientist, the world's No. 1 submariner. But Vice Adm. John Bulkeley was either one or two.

Next week I will also do a special order on one of the most infamous traitors in American history, Alger Hiss. Here is an article from, not a conservative magazine, but tries to be fair, the New Republic, April 15 issue, Goodies from the Venona files. That is the name for some once top-top-top-secret Russian files. "Hiss' Guilt" by Eric Breindel.

☐ 1845

He is the editorial page editor of the New York Post, a well-read syndicated columnist.

Mr. Speaker, I include the article at this point in the RECORD:

GOODIES FROM THE VENONA FILES: HISS'S GUILT

(By Eric Breindel)

Earlier this month, the National Security Agency released another batch of Soviet intelligence cables intercepted during the Second World War and decrypted under the auspices of the long-secret Venona project. The cables in question, which span a three-year period (1943–1945), were dispatched to Moscow from New York, Washington and various other North American stations.

In serious quarters, the authenticity of the Venona cables has not been challenged. Even hard-left historians long committed to the innocence of Julius and Ethel Rosenberg have accepted them as genuine, despite the fact that the intercepts prove the guilt of the Rosenbergs and their confederates.

The intercepted messages show that Moscow, had at least 100 American agents providing Soviet intelligence with classified information during the war years. Even now, many of these agents remain unidentified—due both to the use of "covernames" and to Washington's failure to fully crack Moscow's code. But it's plain that most of the spies were members or close associates of the American Communist Party. And this puts the lie to the ancient claim that American Communists were merely New Deal idealists—"liberals in a hurry"—who didn't constitute any sort of fifth column.

The single most interesting document in the new Venona batch is a March 30, 1945, Washintgon-to-Moscow message concerning an agent whose covername is "Ales." The accompanying NSA glossary—prepared for internal use only, long before there was any indication that the intercepts might be released to the public—explains that "Ales" is "probably" famed State Department official and ostensible martyr of the American left, Alger Hiss. Among Hiss apologists, much will likely be made of the "probably." But careful perusal of the document—and the relevant corroborating evidence—demonstrates beyond doubt that Hiss was indeed a Soviet agent. In fact, almost everything in the message conforms to representations about Hiss made by previous sources, including Whittaker Chambers, the journalist (and Soviet agent) who first exposed him.

The cable in question was sent to Moscow by "Vadim"—or Anatoli Gromov (actual surname Gorski)—the NKVD's station chief in Washington, D.C. (The NKVD was the forerunner of the KGB.) "Vadim" reports on a "chat" between "A" and "Ales" [Hiss]. According to the codebreakers, "A" is Iskhak A. Akhmerov * * *. As an "illegal," Akhmerov wasn't attached to an official Soviet mission. He lived in America—mostly in New York and in Washington—under various false names, assisted by forged documents.

Akhmerov, it should be noted, was first identified as Hiss's control-agent by ex-KGB Colonel Oleg Gordievsky in the latter's 1990 memoir. Gordievsky, the KGB's London station chief, defected to the West in 1985; he'd served as a British mole in Soviet intelligence for the prior eleven years. In his book, KGB: The Inside Story, Gordievsky recalls having attended a training lecture early in his KGB career delivered by Akhmerov. According to Gordievsky, the "silver-haired" Akhmerov, who seemed to be in his 60s, discussed Hiss and other American agents he'd controlled. Gordievsky—who did not have access to the Venona cables when he produced his memoir—reports without reservation that Alger Hiss's Soviet codename was "Ales." In a 1989 essay in The New York Review of Books, intelligence historian Thomas Powers likewise declares that Hiss was known to Moscow as "Ales."

Akhmerov, meanwhile, also turns up in ex-NKVD General Pavel Sudaplatov's 1994 memoir, Special Tasks. It seems the high-level "illegal" had direct responsibility not just for Hiss, but also for Michael Straight, a young aide to Interior Secretary Harold Ickes. Straight, a former owner and editor of the NEW REPUBLIC, knew his Soviet control-agent as "Michael Green." Akhmerov also came to supervise Elizabeth Bently—later an FBI informant—who knew her control only as "Bill."

Gordievsky maintains that Akhmerov also managed to develop a secret relationship with Harry Hopkins, FDR's top lieutenant and closest political confidante. This claim provoked considerable controversy when KGB: The Inside Story first appeared. Indeed, the British historian Christopher Andrew—who co-authored the book with Gordievsky—prevailed upon the latter to depict Hopkins as an "unconscious rather than a conscious" Soviet agent, implying that Hopkins merely saw Akhmerov as a useful back-channel to Stalin.

The Venona documents, however, suggest otherwise. In one cable—released late last year—"deputy" is the covername for a Soviet agent who says he attended a May 1943 meeting in Washington, D.C., at which only two other parties were present. American archival records demonstrate that the meeting in question did, in fact, take place: the attendees were FDR, Churchill and—yes—Harry Hopkins. The decrypted cable makes reference to Roosevelt, to Churchill and to "deputy." The latter, apparently, briefed Akhmerov in detail directly after the session.

The meeting itself focused on an issue of enormous importance to Moscow: whether or not—and when—the Western allies would open a second front in the war on Hitler. Information about how Churchill and Roosevelt saw this matter certainly wasn't meant to reach Stalin—not by a back-channel and not by any other path.

"Vadim's" March 30, 1945, summary of Akhmerov's "chat" with "Ales"—who is identified specifically as a State Department official—confirms Chambers with respect to important details. The Washington-Moscow cable explains that "Ales" has been working with the "Neighbors continuously since 1935." The codebreakers determined that "Neighbors"—a term which appears regularly in the Venona intercepts—denotes a Soviet intelligence organization other than the NKVD. The contest in which it is used in other messages indicates that "Neighbors" refers to the GRU—Soviet military intelligence.

Chambers consistently described himself as a GRU—rather than NKVD—agent; and he claimed, by extension, that Hiss, too, was affiliated with the GRU. On this point, many will recall a ridiculous 1992 attempt to "exonerate" Hiss—trumpeted by The New York Times and the New Yorker—that came crashing down when Russian historian Dimitri Volkogonov, who'd announced his inability to locate archival material implicating Hiss in espionage, admitted that he hadn't examine any GRU files. (Volkogonov, a serious scholar, appears to have been misled by a Hiss acolyte affiliated with The Nation, long America's leading forum for Alger Hiss apologia.)

The key point is that Chambers—even on the issue of which Soviet intelligence service employed Hiss—is vindicated by an internal Soviet cable. Also noteworthy is "Vadim's" report that "Ales" had worked as an agency "continuously" since 1935. Chambers testified repeatedly that Hiss began providing information for transmission to Moscow in 1935. To be sure, Chambers also told authorities that he couldn't be sure whether or not Hiss continued to spy for Moscow after 1938, which is when Chambers himself broke with the communist underground. Judging from the 1945 cable, Hiss—undeterred by Chambers's defection and unaffected by the 1939 Hitler-Stalin Pact—served the Soviets at least through the end of the war.

The newly released document explains specifically that "Ales"—"for some years"—functioned as "the leader of a small group of Neighbor's probationers, for the most part consisting of his relations." Insofar as the term "probationers" translates as agents, it would seem that Hiss was running a small GRU agent-group dominated by "relations," i.e., family members.

Chambers—like Elizabeth Bentley—insisted to the FBI that Alger's brother, Donald Hiss, was also a Soviet agent; Chambers further claimed that Hiss's wife, Priscilla, was a communist who assisted her husband's espionage activities by copying classified State Department documents. Once again, therefore, Venona buttresses Chambers's testimony as well as Bentley's.

The March 30, 1945, cable refers to "Ales's" role as a member of the U.S. diplomatic team at the Yalta summit, which took place earlier that same year. Hiss, of course, was part of the American delegation at Yalta. This, in fact, is why the FBI focused on him shortly after Igor Gouzenko—a code clerk at the Soviet Embassy in Ottawa who defected in 1945—told Canadian and British security officials that Moscow had its own agent in Washington's Yalta delegation. Gouzenko identified the agent in question as an aide to Secretary of State Edward Stettinius. Hiss, though several levels beneath the Secretary of State in the bureaucratic pecking order, did enjoy a notably close working relationship with Stettinius. The two men even called each other "Alger" and "Ed."

According to the decrypted cable, "Ales" went on to Moscow after the Yalta summit. Here a single question seems central: Did Hiss, in fact, head to Moscow after Yalta? The answer is yes.

Actually, only four Americans who weren't U.S. Embassy staffers did so; most, like President Roosevelt himself, managed to avoid the grueling trip through wartime Russia. The four who traveled to Moscow—all of whom flew on the Secretary of State's plane—included Stettinius himself, two career diplomats and Hiss. None—apart from Hiss—can plausibly have been "Ales."

The chief significance of the "Ales" document consists not in the fact that it proves Hiss's role as a Soviet agent—only the willfully blind still believe in Hiss's innocence. What's important is that the intercepted cable provides strong new evidence that Hiss continued to serve Stalin long after Whittaker Chambers severed his own ties to Moscow. Alger Hiss, it's now plain, was still a Soviet agent in 1945—the year he traveled to Yalta and organized the founding session of the United Nations in San Francisco. No wonder, then, that the young soviet diplomat Andrei Gromyko—in a rare moment of post-war Soviet-American cooperation—told his U.S. counterparts in the summer of '45 that Moscow wouldn't object to the appointment of Hiss as Secretary-General of the U.N.'s founding conference. The gesture, obviously, wasn't as generous as it appeared.

This article puts it away for any intelligent thinking person. Alger Hiss, who is in his 80's, going to take a life of lying to his grave with him, kind of the counterpart to Admiral Bulkley. He was a Russian spy in the 1930's. He was the Secretary-General of the founding convention for the United Nations in San Francisco. He was at Yalta in a room alone with Stalin, Churchill, and Franklin Delano Roosevelt passing everything he could to the most evil regime in terms of killing human beings and torturing them than any regime in the world including Hitler. American boys and allied men and women died all over this planet to shut Hitler down in 12 years but Stalin

VOL 142 PT 6 AP 15 — 24 1996 UMI

had 29 years to kill and murder and tear that country apart and the issue is still in doubt whether the great Russian people can ever re-find their religious roots or seek the free enterprise, free market system they are fighting to achieve without crime completely swallowing them. They went from serfdom right into Communist slavery and American traitors like Alger Hiss helped extend that agony and he has his, I do not even want to call them liberals, they are beyond that, they are rock hard radical leftists still in a sense fellow travelers still running around the country trying to express doubt about his guilt from Ivy League colleges to great universities on the west coast. Unbelievable. Alger Hiss is guilty. It has never been said clearly on this House floor. I am going to ask other Members to join me and see if we can do an hour on that.

Now the theme from here on, this amazing historical letter. I am going to give the signatures first before I read George Weigel's column and the resignation from all positions of responsibility by Jose Kennard in Texas.

Signing the letter besides the aforementioned Bishop Pilla is Joseph Cardinal Bernardin, archbishop, Chicago; James Cardinal Hickey, archbishop of Washington, DC. I will read it the way they signed it because they took the traditional placing of "Cardinal" instead of the middle name and they put it at the beginning, so I should read it the way they did it.

Cardinal Bernard Law, archbishop, Boston; Cardinal Adam Maida, Detroit; Cardinal Anthony Bevilacqua, Philadelphia; Cardinal Keeler—who spoke from the pulpit about this driving a so-called Catholic U.S. Senator to get up and remove herself from the church—Cardinal Keeler of Baltimore; Cardinal Mahony, Los Angeles; Cardinal John O'Connor, my good friend up in New York.

Before I get to that letter, listen to this, Mr. Speaker. Here are George Weigel's words:

"Has your diocesan newspaper editor been invited to interview the President? Has Hillary Rodham Clinton made an appearance at your local Catholic orphanage? Has your bishop been brought to the Oval Office to discuss welfare reform?"

Or I might add the minimum wage.

"Do you detect a far milder, less confrontational State Department attitude toward the Holy See, the Vatican, at last September's world conference on women at Beijing?

World Conference on the culture of death.

"Did you notice the President invoking a conversation with the Holy Father when he made his case for sending U.S. troops to Bosnia?"

Boy, did I ever and could not find out if it was even true.

"Has Mrs. Clinton been spotted arm-in-arm with Mother Teresa on the front page of your local daily?

"To borrow from medievals: We may be reasonably sure that this is about substance, not accidents.

"Actually, that pun is philosophically misplaced. For the substance of Clinton administration policy, which has put it at cross-purposes with Catholic teaching on a host of issues, hasn't changed all that much. But the accidents—the appearances, or as the TV folks say, the images—have been retooled more extensively than the 1996 Ford Taurus.

"And the reason why is self-evidently clear: The President is seeking re-election and his handlers have concluded that the Catholic vote is the key to his success. Thus the administration and the Clinton re-election campaign have been aggressively conducting Operation Catholic Seduction for months.

"On the face of it, it seems a rather brazen strategy."

This is a month before the veto on execution style abortion, by the way.

"This is, after all, the President whose very first acts in office were to sign executive orders widening the availability of abortion-on-demand and lifting the ban on fetal tissue research. This is the President whose surgeon-general, the unforgettable Joycelyn Elders, was known for mocking a, quote, celibate, male-dominated church, unquote."

Attack on Catholicism.

"This is the administration that vastly expanded foreign aid funding for Planned Parenthood," the world's largest abortion provider.

"This is the administration that hired Faith Mitchell."

What a first name.

"You don't know Faith Mitchell? For shame. She was the State Department official who, during the administration's battle with the Vatican over a universal, quote, right to abortion, unquote, at the 1994 Cairo world population conference, said that the Clintonistas, quote, suspect that the pope's opposition to the Clinton position has to do with the fact that the conference is really calling for a new role for women, calling for girl's education and improving the status of women, unquote."

In other words, Faith Mitchell said that the Vatican was really trying to crush women and hold them down. That is why we objected to that disgrace in Cairo.

Weigel continues:

"This is, to make an end of it, the President whose own ambassador to the Vatican, a former Democratic mayor of Boston," I will put his name in, Ray Flynn, "said he was embarrassed by the, quote, ugly anti-Catholic bias shown by prominent Members of Congress and the administration, unquote."

Thank you, former Mayor Ray Flynn, Ambassador Flynn.

"Given this history, Operation Catholic Seduction set something of a record in campaign chutzpah." You have to go to a good Yiddish word to convey that hubris. Chutzpah.

"Imagine James G. Blaine, fresh from denouncing Rum, Romanism, that is, Catholicism, and Rebellion in 1884"—he lost, of course—"inviting Cardinal Gibbons to tea and pleading his undying affection for Pope Leo XII. But President Clinton, whose political skills no one should deny, can count. Catholics are heavily represented in the States the Clinton-Gore team has to win in November: California, and the big, electoral vote-rich states of the Northeast and Midwest.

"The Clinton handlers also know that, in the 1994 off-year election, the Catholic vote went majority Republican—for the first time in history—and the result was that the Democrats lost control of the House of Representatives for the first time since Dwight D. Eisenhower was resident at 1600 Pennsylvania Avenue Northwest. Fool me once, shame on you; fool me twice, shame on me.

"Does Operation Catholic Seduction have a chance?"

Does it, Mr. Speaker?

"It's already working in some quarters. One bishop, fresh from an encounter with the President in the Oval Office, reportedly told a friend, you know, he speaks our language on a lot of issues, quote-unquote.

"Perhaps he does. But there is abundant evidence that this President has a genius for suggesting one thing when you're in the room with him and doing something else after you leave. Moreover, shared but highly contingent judgments on welfare reform do not trump the encyclical evangelium vitae"—getting the word out on life, preaching life—"which poses a fundamental and unambiguous challenge to the administration."

It is coming up, that challenge by every single cardinal in America.

"Given what seems to be the Republican instinct for suicide"—I hear you, George, it is there—"Operation Catholic Seduction may be a sideshow by the fall. But it's going full blast, just now. And it's having an effect on experienced people who ought to know better."

Well, Operation Catholic Seduction may have come to a screeching halt. I do not know, but I believe Jose R. Kennard of El Paso, TX, is probably a loyal Hispanic American and a good loyal Roman Catholic. He writes to Clinton April 12, 6 days ago.

"Dear President Clinton:

"Wednesday evening when I learned that you had vetoed the partial-birth abortion bill, I felt stunned and angry. But mostly, I felt betrayed.

"Betrayal is a strong word. However, President Clinton, this is the anguish that I and many Democrats across the Nation feel now. As a dedicated Democrat, I believed Bill Clinton during the

primary campaign in Texas in 1992, and in the general election as our nominee when you vowed to protect the rights of individuals and to forge an era of the New Democrat. An era that would avoid extremism of either side. I campaigned for that Bill Clinton and stood proudly in the cold in Washington at your inauguration when you gave your message of hope for those who had no voice. But last Wednesday, with your veto, you ignored the rights of innocent little children and literally sentenced them, thousands probably before this madness is brought to an end, to their deaths.

"Unlike the debate over abortion that has been ongoing for decades, this procedure is clearly the brutal taking of a human life."

I want to repeat that line, Mr. Speaker. This partial-birth, execution-style procedure is clearly the brutal taking of human life.

"The right-to-choose position of the Democratic Party has largely been driven by the belief that a fetus cannot survive outside the mother's womb. But in this case, medical evidence is clear that these babies could survive but are destroyed in the most vicious and inhumane way possible. Our society demands that even dogs be destroyed in a more humane fashion.

"For what purpose, Mr. President, did you do this? To satisfy a minority of extremists whose votes you would have gotten anyway? And please, consider again your rationalization that you acted, quote, to protect the safety of the mother, unquote, when the bill permitted an exception if a doctor deemed the procedure necessary to save a mother's life."

That is never going to happen, because you do not protect any mother's life by holding a baby in the birth canal, Mr. Speaker, and killing it, and exaggerating in extremis the birth process for the mother. What an absurd thought. And that was made on the Senate floor and shut up one of the lady Senators when BOB SMITH of New Hampshire asked her how that helped the mother to delay the birth and hold the baby in the womb so you could kill it and not be charged with infanticide 60 seconds or 5 seconds later.

Back to Mr. Jose Kennard's letter:

"You know full well the bill would not have received the support of the Council on Legislation of the American Medical Society—and it did receive that—and 73 Democrats in the House if it did not."

"Mr. President, with all due respect, there is no valid reason for your action, ethically or politically. And, it is certainly inconsistent with other positions you have taken.

"Your presence and comments in Oklahoma last week on the anniversary of the bombing tragedy—which will be tomorrow—reflected your deep concern for those who perished, especially the children. Yet, you signed the death certificate on Wednesday—Easter week, Easter Wednesday—for countless, equally innocent children. Several weeks ago I saw you visibly shaken when speaking of the mass murder of children in Scotland. You had a chance, with your vote, to prevent a much greater tragedy. Mr. President, you choose instead to trade those future lives for votes that you perceive are crucial for your reelection."

What does it profit a man to regain the White House even than jeopardize his immortal soul. Those are my words, Mr. Speaker.

Jose continues:

"In the past 3 years I have seen you time and time again speak out to the thousands, maybe millions, of young Americans who have been lost to the streets in a life of murder, destruction and mayhem, drugs and disease. You have pleaded with them to have respect for human life. But, with this veto, you did the opposite. And we, as party officials, have been put in the untenable position of having to live with that decision.

"Mr. President, I cannot and will not support this action. Therefore, I cannot in good conscience support your candidacy.

"As I contemplated this matter over these past days, I was reminded of the words of the late President John F. Kennedy when he said: Quote, sometimes party loyalty asks too much, unquote."

It is unbelievable that his nephew JOE voted for this partial-birth, execution-style abortion.

"Thus, it is with regret and sorrow that on this date, April 12, 1996, I have submitted my resignation as a member of the Texas State Democratic Executive Committee and the Chair of the Mexican-American Caucus. I have informed our State Chairman, Bill White. While I do not intend to actively support or vote for any Republican or Independent candidate, I will be asking other Democrats to consider withholding their support of your candidacy while continuing to support Democrats for other offices.

"Very truly yours, Jose R. Kennard, State Committeeman, District 29."

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Mr. Speaker, let me see if I can get through the Cardinals' letter. This is dated on my 41st wedding anniversary, my wife's birthday, April 16, two days ago.

"Dear President Clinton: It is with deep sorrow and dismay that we respond to your April 10th veto of the Partial-Birth," and I add execution style, "Abortion Ban Act." Your veto of this bill is beyond comprehension for those of us who hold human life sacred. It will ensure the continued use of the most heinous act to kill a tiny infant just seconds from taking his or her first breath outside the womb."

Mr. Speaker, when did we ever believe that eight Catholic Cardinals, what in my faith we call Princes of the Church, two liberals, a couple of moderates, and the rest generally conservative on theological issues, all of them united, and they are deadly serious on this.

Clinton with his 4 year Jesuit Georgetown education; I had 7 years of Jesuit education. I asked my pal, Cato Byrne, what is his thinking there? As they say to people in the conservative wing of the Republican Party, where else are they going to go if we pick a pro-choice Vice President candidate? We always say we man the phone banks, we energize a lot of races across this country. Not a single pro-life person lost at the Governor, House or Senate level in 1994.

Cato Byrne told me the analysis is that Clinton said we not only need them, sure they will be with us if I accept this ban, but we have to have them energized. They are our core base, like the homosexual activists. They are our fund raisers, they are our phone bank people.

What a role of the dice he made here. I will read the words of one Bishop, all the Bishops are unified, 300 them, but eight Cardinals.

"It will ensure the continued use of the most heinous act to kill a tiny infant just seconds from taking his or her first breath outside the womb."

"At the veto ceremony you told the American people that you 'had no choice but to veto the bill.' Mr. President, you and you alone had the choice of whether or not to allow children almost completely born to be killed brutally in partial-birth abortions. Members of both Houses of Congress made their choice. They said no to partial-birth abortions. American women voters have made their choice. According to a February 1996 poll," it is only 2 months ago, "by Fairbank, Maslin, Maullin & Associates, 78 percent of women voters said no to partial-birth execution style abortions. Your choice was to say yes, to allow this killing more akin to infanticide than abortion, to continue.

"During the veto ceremony you said you would ask Congress to change H.R. 1833 to allow partial-birth abortions to be done for "serious adverse health consequences to the mother." You added that if Congress had included that exception, everyone in the world will know what we are talking about."

"On the contrary," the eight Cardinals say, "Mr. President. Not everyone in the world would know that 'health' as the courts defined it in the context of abortion means virtually anything that has to do with a woman's overall 'well beginning.' For example, most people have no idea that if a woman has an abortion because she is

VOL
142
PT
6
AP
15
—
24
1996
UMI

not married, the law considers that abortion a 'health' reason."

Mr. Speaker, I am going to jump to the signature page. "Writing this response to you in unison is on our part virtually unprecedented." I believe it is unprecedented, not virtually.

It will, we hope, underscore our," the Cardinals and all the 300 Bishops, "resolve to be unremitting and unambiguous in our defense of human life."

Overwhelmingly the Episcopalian Bishops, the Board of Governors of the Southern Baptists, and every other denomination will weigh in in the majority on this. Jewish Orthodox Rabbis have already condemned this.

This whole page, page 2 of the 3 pages, I do not have time to read, it is hard hitting language. I am coming back to the well to read this entire letter at the beginning of a special order. But I want to close in about the minute I have left with this.

We have a Catholic problem in this House, Mr. Speaker. We have 129 Catholics here, almost 30 percent, 29.4 percent of the House. That is beyond the 23 or 24 percent American average. This is the biggest denomination of Christians, by a long shot, in this House, 128.

Fifty-seven are regularly pro-life; 59 are regularly pro-death. Twelve are all over the place. All 12 voted against partial-birth execution-style abortion, as did all 57 pro-lifers. Of the 59 who have been pro-abortion for the last year and 3 months, 26 we won back. But that leaves 33 Catholics, every one of them a Democrat, who are subject to this letter from the eight Cardinals just as much as President Clinton is.

Two of them are running for the Senate with Catholic in their bio; one of them has already been banned from speaking in New York City high schools. I guess I figured he lost it all anyway. Three Republicans who regularly vote abortion did absent themselves. Out of courtesy to them I will not mention their names. Thank heavens they did that.

We got back a Catholic doctor from the heartland of America. One Senator was notably absent. We got back JOE BIDEN. God bless you, JOE. you have been through a lot in life with family and your own surgeries. You are back.

But here are 10 Catholic Senators with beautiful Polish names, mostly Irish-American names, and one of them is running for reelection in the senate, three are running for reelection. The whole Boston delegation of Catholics is torn apart by this. We won back a lot of Good Democrats on this one vote.

Mr. Speaker, I am going to put this list in the RECORD at the end of my speech. Then I will come back for page 2, as a matter of fact, all three pages, next week.

Mr. Speaker, Let people who care get the CONGRESSIONAL RECORD of Jimmy Doolittle's Bombing Tokyo Day, April 18th, 54th anniversary.

Get this RECORD and read these Catholic names and pray for these 33 people that would not come home and think they no more than Mother Theresa, the Vicar of Christ of Earth and every single Catholic Cardinal in America.

Mr. Speaker, the documents referred to follow:

NATIONAL CONFERENCE OF CATHOLIC
BISHOPS, OFFICE OF THE PRESIDENT,
Washington, DC, April 16, 1996.

President WILLIAM CLINTON,
The White House,
Washington, DC.

DEAR PRESIDENT CLINTON: It is with deep sorrow and dismay that we respond to your April 10 veto of the Partial-Birth Abortion Ban Act.

Your veto of this bill is beyond comprehension for those who hold human life sacred. It will ensure the continued use of the most heinous act to kill a tiny infant just seconds from taking his or her first breath outside the womb.

At the veto ceremony you told the American people that you "had no choice but to veto the bill." Mr. President, you and you alone had the choice of whether or not to allow children, almost completely born, to be killed brutally in partial-birth abortions. Members of both House of Congress made their choice. They said NO to partial-birth abortions. American women voters have made their choice. According to a February 1996 poll by Fairbank, Maslin, Maullin & Associates, 78 percent of women voters said NO to partial-birth abortions. Your choice was to say YES and to allow this killing more akin to infanticide than abortion to continue.

During the veto ceremony you said you had asked Congress to change H.R. 1833 to allow partial-birth abortions to be done for "serious adverse health consequences" to the mother. You added that if Congress had included that exception, "everyone in the world will know what we're talking about."

On the contrary, Mr. President, not everyone in the world would know that "health," as the courts define it in the context of abortion, means virtually anything that has to do with a woman's overall "well being." For example, most people have no idea that if a woman has an abortion because she is not married the law considers that an abortion for "health" reason. Similarly, if a woman is "too young" or "too old," if she is emotionally upset by pregnancy, or if pregnancy interferes with schooling or career, the law considers those situations as "health" reasons for abortion. In other words, as you know and we know, an exception for "health" means abortion on demand.

You say there is a difference between a "health" exception and an exception for "serious adverse health consequences." Mr. President, what is the difference—legally—between a woman's being too young and being "seriously" too young? What is the difference—legally—between being emotionally upset and being "seriously" emotionally upset? From your study of this issue, Mr. President, you must know that most partial-birth abortions are done for reasons that are purely elective.

It was instructive that the veto ceremony included no physician able to explain how a woman's physical health is protected by almost fully delivering her living child, and then killing that child in the most inhumane manner imaginable before completing the delivery. As a matter of fact, a partial-birth abortion presents a health risk to the woman. Dr. Warren Hern, who wrote the most widely used textbook on how to perform abortions, has said of partial-birth abortions: "I would dispute any statement that this is the safest procedure to use."

Mr. President, all abortions are lethal for unborn children, and many are unsafe for their mothers. This is even more evident in the late-term, partial-birth abortion, in which children are killed cruelly, their mothers placed at risk, and the society that condones it brutalized in the process.

As Catholic bishops and as citizens of the United States, we strenuously oppose and condemn your veto of H.R. 1833 which will allow partial-birth abortions to continue.

in the coming weeks and months, each of us, as well as our bishops' conference, will do all we can to educate people about partial-birth abortions. We will inform them that partial-birth abortions will continue because you chose to veto H.R. 1833.

We will also urge Catholics and other people of good will—including the 65% of self-described "pro-choice" voters who oppose partial-birth abortions—to do all that they can to urge Congress to override this shameful veto.

Mr. President, your action on this matter takes our nation to a critical turning point in its treatment of helpless human beings inside and outside the womb. It moves our nation one step further toward acceptance of infanticide. Combined with the two recent federal appeals court decisions seeking to legitimize assisted suicide, it sounds the alarm that public officials are moving our society ever more rapidly to embrace a culture of death.

Writing this response to you in unison is, on our part, virtually unprecedented. It will, we hope, underscore our resolve to be unremitting and unambigous in our defense of human life.

Sincerely yours,

Joseph Cardinal Bernardin, Archbishop of Chicago; James Cardinal Hickey, Archbishop of Washington, D.C. ; Bernard Cardinal Law, Archbishop of Boston; Adam Cardinal Maida, Archbishop of Detroit; Anthony Cardinal Bevilacqua, Archbishop of Philadelphia; William Cardinal Keeler, Archbishop of Baltimore; Roger Cardinal Mahony, Archbishop of Los Angeles; John Cardinal O'Connor, Archbishop of New York; Most Reverend Anthony Pilla, President, National Conference of Catholic Bishops.

List is as follows:

PRO-ABORTION CATHOLICS IN CONGRESS

Pastor, Becerra, Eshoo, George Miller, Pelosi, Roybal-Allard, DeLauro, Kennelly, Pete Peterson, McKinney, Durbin, Evans, Gutierrez, Visclosky, Baldacci, Joe Kennedy, Markey, Meehan, Luther, Vento, Clay, McCarthy, Pat Williams, Menendez, Pallone, Hinchey, Rangel, Velazquez, DeFazio, Coyne, Reed, Gonzalez.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ABERCROMBIE) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. RAHALL, for 5 minutes, today

Mr. MARTINEZ, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

(The following Members (at the request of Mr. JONES) to revise and extend their remarks and include extraneous material:)

Mr. MCINTOSH, for 5 minutes, today.

Mr. WOLF, for 5 minutes, today.

Mr. GOSS, for 5 minutes, today.

Mr. WELLER, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. PELOSI, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. MILLER of California, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HYDE and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,221.

(The following Members (at the request of Mr. ABERCROMBIE) and to include extraneous matter:)

Mr. CLEMENT.

Ms. DELAURO.

Mr. CLAY.

Mr. MCNULTY.

Mr. HAMILTON in two instances.

Mr. TOWNS.

Mr. BONIOR in two instances.

Mr. BENTSEN.

(The following Members (at the request of Mr. JONES) and to include extraneous matter:)

Mr. EHLERS.

Mr. NEY.

Mr. WATTS of Oklahoma in two instances.

Mr. TORKILDSEN.

Mr. ALLARD.

Mr. HORN.

Mr. BURTON of Indiana in two instances.

Mr. KING.

Mr. CUNNINGHAM.

Mr. RADANOVICH.

Mr. BLILEY.

(The following Members (at the request of Mr. DORNAN) and to include extraneous matter:)

Mr. PACKARD.

Mr. FRANKS of Connecticut.

Mr. ROBERTS.

Mr. BURTON of Indiana in two instances.

Mr. SPENCE.

Ms. ESHOO.

Mr. MARTINI.

Ms. FURSE.

Mr. LANTOS.

Mr. FAZIO of California.

Ms. JACKSON-LEE of Texas.

Mr. ROMERO-BARCELÓ.

Mr. FRELINGHUYSEN.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 255. An act to designate the Federal Justice Building in Miami, Florida, as the "James Lawrence King Federal Justice Building";

H.R. 869. An act to designate the Federal building and United States courthouse located at 125 Market Street in Youngstown, Ohio, as the "Thomas D. Lambros Federal Building and United States Courthouse";

H.R. 1804. An act to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the "Judge Isaac C. Parker Federal Building";

H.R. 2556. An act to redesignate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building"; and

H.R. 2415. An act to designate the United States Customs Administrative Building at the Ysleta/Zaragoss Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building."

ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 8 minutes p.m.), the House adjourned until tomorrow, Friday, April 19, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2419. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's report on conditions in Hong Kong of interest to the United States for the period ending March 31, 1996, pursuant to 22 U.S.C. 5731; to the Committee on International Relations.

2420. A letter from the Secretary of Veterans Affairs, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee on Ways and Means. H.R. 2754. A bill to approve and implement the OECD Shipbuilding Trade Agreement; with an amendment (Rept. 104–524 Pt. 1). Ordered to be printed.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2594. A bill to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that act, and for other purposes (Rept. 104–525). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2660. A bill to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge (Rept. 104–526). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2679. A bill to revise the boundary of the North Platte National Wildlife Refuge (Rept. 104–527). Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 2754. Referral to the Committee on National Security extended for a period ending not later than May 30, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DUNCAN (for himself, Mr. SHUSTER, Mr. LIPINSKI, Mr. WELLER, Mr. CLINGER, Mr. LIGHTFOOT, Mr. PAXON, and Mr. MARTINI):

H.R. 3267. A bill to amend title 49, United States Code, to prohibit individuals who do not hold a valid private pilots certificate from manipulating the controls of aircraft in an attempt to set a record or engage in an aeronautical competition or aeronautical feat, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. CUNNINGHAM:

H.R. 3268 A bill to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that act, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. CUNNINGHAM (for himself, Mrs. MINK of Hawaii, and Mr. BILBRAY):

H.R. 3269. A bill to amend the Impact Aid Program to provide for a hold-harmless with respect to amounts for payments relating to the Federal acquisition of real property and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. DOOLITTLE (for himself, Mr. MATSUI, Mr. FAZIO of California, Mr. POMBO, Mr. HERGER, Mr. RADANOVICH, Mr. CONDIT, and Mr. DOOLEY):

H.R. 3270. A bill to authorize and direct the Secretary of the Army to expeditiously construct a project for flood control on the Sacramento and American Rivers, CA, and to authorize and direct the Secretary of the Interior and the Secretary of the Army to enter into agreements that allow the State of California or other non-Federal sponsors to construct, without cost to the United States, a multipurpose dam and related facilities at Auburn on the American River; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. HOUGHTON, Mr. TRAFICANT, Mr. HOLDEN, Mr. GREEN of Texas, Mr. RAHALL, Ms. MCKINNEY, Mr. SPRATT, Mr. LIPINSKI, Mr. KENNEDY of Massachusetts, Mr. KLINK, Mr. CALVERT, and Mr. NEY):

H.R. 3271. A bill to amend the Trade Act of 1974 to extend the period of time within which workers may file a petition for trade adjustment assistance; to the Committee on Ways and Means.

By Mr. GILLMOR (for himself, Mr. FIELDS of Texas, Mr. BOUCHER, Mr.

VOL
142
PT
6
AP
15
—
24
1996
UMI

OXLEY, Mr. MANTON, and Mr. STEARNS):

H.R. 3272. A bill to amend the Securities Exchange Act of 1934 to require improved disclosure of corporate charitable contributions, and for other purposes; to the Committee on Commerce.

By Mr. GILLMOR:

H.R. 3273. A bill to amend the Securities Exchange Act of 1934 to require corporations to obtain the views of shareholders concerning corporate charitable contributions; to the Committee on Commerce.

By Mr. GOSS:

H.R. 3274. A bill to amend the Federal Election Campaign Act of 1971 to reform House of Representatives campaign finance laws, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. PRYCE (for herself and Mr. TIAHRT):

H.R. 3275. A bill to amend the Indian Child Welfare Act to exempt from coverage of the act child custody proceedings involving a child whose parents do not maintain significant social, cultural, or political affiliation with the tribe of which the parents are members, and for other purposes; to the Committee on Resources.

By Mr. RIGGS (for himself, Mrs. KELLY, Ms. LOFGREN, Mr. POSHARD, and Mr. NORWOOD):

H.R. 3276. A bill to provide that, to receive their pay, Members of Congress are required to certify that they have performed their congressional duties, and for other purposes; to the Committee on House Oversight.

By Mr. SMITH of Texas (for himself, Mr. CONDIT, Mr. DELAY, Mr. CLINGER, Mr. MCINTOSH, Mr. PETE GEREN of Texas, Mr. HASTERT, Mr. PETERSON of Minnesota, Mr. MILLER of Florida, Mr. WICKER, Mr. STOCKMAN, Mr. HERGER, Mr. ROHRABACHER, Mr. FUNDERBURK, Mr. WELLER, Mr. COBLE, Mr. PARKER, Mrs. CHENOWETH, Mr. BUNNING of Kentucky, Mr. LAUGHLIN, Mr. LEWIS of Kentucky, Mr. LARGENT, Mr. EMERSON, Mr. DEAL of Georgia, Mr. NORWOOD, Mr. THORNBERRY, Mr. DUNCAN, Mr. HOSTETTLER, Mr. GUTKNECHT, Mr. COBURN, Mr. COOLEY, Mr. FIELDS of Texas, Mr. GEKAS, Mr. BARTON of Texas, Mr. COMBEST, Mr. ARCHER, Mr. TAUZIN, and Mr. DAVIS):

H.R. 3277. A bill to ensure congressional approval of the amount of compliance costs imposed on the private sector by regulations issued under new or reauthorized Federal laws; to the Committee on Government Reform and Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 3278. A bill to direct the Secretary of Transportation to convey the St. Helena Island Light Station to the Great Lakes Lighthouse Keepers Association; to the Committee on Transportation and Infrastructure.

By Mr. WARD (for himself, Mr. HAMILTON, Mr. FAZIO of California, Mr. MATSUI, Mr. JACOBS, Mr. MYERS of Indiana, Mr. TEJEDA, Mr. LEWIS of Kentucky, and Mr. SHUSTER):

H.R. 3279. A bill to provide for early deferred annuities under chapter 83 of title 5, United States Code, for certain former Department of Defense employees who are separated from service by reason of certain defense base closures, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. WAXMAN:

H.R. 3280. A bill to amend the Safe Drinking Water Act to guarantee the public's right to know about contaminants in their drinking water; to the Committee on Commerce.

By Mr. ENGLISH of Pennsylvania:

H.J. Res. 172. Joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections; to the Committee on the Judiciary.

By Mr. BREWSTER (for himself, Mr. BURR, Mr. FRANKS of New Jersey, Mr. FRAZER, Mr. FROST, Mr. WAXMAN, Mr. WATTS of Oklahoma, and Mr. COBURN):

H. Con. Res. 164. Concurrent resolution honoring the national organization of Future Business Leaders of America—Phi Beta Lambda; to the Committee on Economic and Educational Opportunities.

By Mr. QUINN (for himself, Mr. BORSKI, Mr. FLANAGAN, Mr. KLECZKA, Mr. HOKE, and Mrs. JOHNSON of Connecticut):

H. Con. Res. 165. Concurrent resolution saluting and congratulating Polish people around the world as, on May 3, 1996, they commemorate the 205th anniversary of the adoption of Poland's first constitution; to the Committee on International Relations, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STOCKMAN:

H. Con. Res. 166. Concurrent resolution authorizing the use of the Capitol Grounds for the Washington for Jesus 1996 prayer rally; to the Committee on Transportation and Infrastructure.

By Mr. GEPHARDT (for himself, Mr. GINGRICH, Mrs. MEEK of Florida, Mr. DINGELL, Mr.PAYNE of New Jersey, Mr. CONYERS, Mr. FORD, Mrs. COLLINS of Illinois, Mrs. CLAYTON, Mr. RANGEL, Mr. OWENS, Mr. FIELDS of Louisiana, Mr. HILLIARD, Mr. FRAZER, Ms. NORTON, Mr. WYNN, Mr. DELLUMS, Mr. JEFFERSON, Mr. DIXON, Mr. RUSH, Ms. MCKINNEY, Mr. CLAY, Ms. JACKSON-LEE, Mr. BISHOP, Mr. HOYER, Mr. MATSUI, Mrs. MINK of Hawaii, Mr. RAHALL, Mr. BARRETT of Wisconsin, Mr. GEJDENSON, Mr. COLEMAN, Mr. GORDON, Mr. BROWN of California, Ms. HARMAN, Mrs. KENNELLY, Mr. SAWYER, Ms. LOFGREN, Mr. BONIOR, Mr. FAZIO of California, Mr. FROST, Mr. LEWIS of Georgia, Ms. DELAURO, Mr. EDWARDS, Mr. CARDIN, Mr. PALLONE, Mr. STENHOLM, Mr. LEVIN, Mr. STUPAK, Mr. SCHUMER, Mr. JOHNSTON of Florida, Ms. PELOSI, Mr. REED, Mr. BERMAN, Mr. MILLER of California, Mr. SABO, Mr. VOLKMER, Mr. OBERSTAR, Mr. SKAGGS, Mr. DURBIN, Mr. NEAL of Massachusetts, Mr. FRANK of Massachusetts, Ms. WOOLSEY, Mr.BENTSEN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OBEY, Mr. OLVER, Mr. ABERCROMBIE, Mr. BORSKI, Mr. STUDDS, Mr. STOKES, Mr. MEEHAN, Mr. BALDACCI, Mr. MCHALE, Mr. SKELTON, Mr. MASCARA, Mr. CLYBURN, Mr. FILNER, Mr. BARCIA of Michigan, Mr. KLECZKA, Mr. ACKERMAN, Mr. HINCHEY, Mr. DEUTSCH, Mrs. MALONEY, Mr. JACKSON, Mr. DOYLE, Ms. BROWN of Florida, Mr. TAYLOR of Mississippi, Miss COLLINS of Michigan, Mr. FATTAH, Mr. TRAFICANT, Mr. TOWNS, Mr. YATES, Mr. THORNTON, Mr. SCOTT, Mr. KANJORSKI, Mr. POSHARD, Mr. LANTOS, Mr. EVANS, Mr. MARTINEZ, Mr. HALL of Ohio, Mr. ANDREWS, Mr. BOUCHER, Mr. NADLER, Mr. ROMERO-BARCELO, Mr. MARKEY, Mr. STARK, Mr. MANTON, Mr. COYNE, Mr. WATT of North Carolina, Mr. MOAKLEY, Mr. GREEN of Texas, Mr. UNDERWOOD, Mr. KLINK, Ms. ESHOO, Mr. RICHARDSON, Mr. WARD, Mr. COSTELLO, Mr. SPRATT, Mr. ENGEL, Mr. VISCLOSKY, Ms. WATERS, Mr. LUTHER, Mr. KENNEDY of Massachusetts, Mr. FARR, Mr. WAXMAN, Ms. FURSE, Mr. THOMPSON, Mr. DE LA GARZA, Mr. FLAKE, Ms. MILLENDER-MCDONALD, and Mr. FORBES):

H. Res. 406. Resolution in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia; considered and agreed to.

By Mr. SCHUMER:

H. Res. 407. Resolution condemning the National Rifle Association for holding its annual convention on the anniversary of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, OK; to the Committee on Government Reform and Oversight.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. BAKER of California and Mr. DICKEY.

H.R. 103: Mr. BISHOP.

H.R. 109: Mr. STARK.

H.R. 303: Mr. BAKER of California, Mr. COBURN, and Mr. DICKEY.

H.R. 488: Mr. GUTIERREZ.

H.R. 598: Mr. POMEROY, Mr. LUTHER, Mr. CALLAHAN, and Mr. BRYANT of Tennessee.

H.R. 739: Mr. LAUGHLIN and Mr. MONTGOMERY.

H.R. 820: Mr. MILLER of California and Mr. CREMEANS.

H.R. 885: Mr. LAZIO of New York and Mr. FRISA.

H.R. 940: Mr. MCHALE.

H.R. 941: Mr. SMITH of New Jersey and Mr. OLVER.

H.R. 997: Mr. FRANK of Massachusetts.

H.R. 1000: Mr. ANDREWS and Mr. PORTER.

H.R. 1078: Mr. DEFAZIO.

H.R. 1363: Mr. SAM JOHNSON.

H.R. 1386: Mr. HEINEMAN, Mr. LATHAM, and Mr. COOLEY.

H.R. 1462: Mr. STUPAK, Mr. HOLDEN, Mr. MCHALE, Mrs. SCHROEDER, Mr. KANJORSKI, Mr. MCDADE, and Mr. LONGLEY.

H.R. 1484: Ms. MCKINNEY.

H.R. 1684: Mr. GEKAS, Mr. GOSS, Mr. MCCOLLUM, Mr. MILLER of Florida, Mr. PACKARD, Ms. ROS-LEHTINEN, Mr. THOMAS, Mr. WALKER, Mr. YOUNG of Florida, and Mr. TRAFICANT.

H.R. 1713: Mr. THORNBERRY and Mr. LEWIS of Kentucky.

H.R. 1776: Ms. PELOSI, Mr. OLVER, Mr. GUTIERREZ, Mr. TEJEDA, Mr. HEINEMAN, Mrs. MINK of Hawaii, Mr. FRANK of Massachusetts, Mr. CUNNINGHAM, Mr. LEACH, and Mr. HUNTER.

H.R. 1797: Ms. ROYBAL-ALLARD, Ms. LOFGREN, and Mr. STUPAK.

H.R. 1841: Mr. LATHAM.

H.R. 1957: Mr. GUTIERREZ.

H.R. 2011: Ms. ROYBAL-ALLARD.

H.R. 2019: Mr. SAXTON, Mr. GILMAN, and Mr. BARTLETT of Maryland.

H.R. 2134: Mr. MCKEON.

H.R. 2185: Mr. RAHALL, Mr. DEUTSCH, Mr. OLVER, Mrs. MALONEY, Mr. MORAN, Mr. BOUCHER, Mrs. KELLY, Mr. COYNE, and Mr. KILDEE.

H.R. 2244: Mr. SALMON.

H.R. 2247: Mr. ENGEL, Mr. GORDON, Mr. HASTINGS of Florida, Mr. OBERSTAR, and Mr. OWENS.

H.R. 2271: Mr. DELLUMS, Mr. ENGEL, and Mr. LIPINSKI.

H.R. 2320: Mrs. MEYERS of Kansas, Mr. POMEROY, Mr. TALENT, Mr. GALLEGLY, and Mrs. SEASTRAND.

H.R. 2472: Mr. LEWIS of Georgia, Mr. MASCARA, Mr. ABERCROMBIE, Mr. PALLONE, and Mr. HINCHEY.

H.R. 2508: Mr. MATSUI, Mr. BEVILL, and Mr. TRAFICANT.

H.R. 2531: Mr. BUNNING of Kentucky.

H.R. 2548: Mr. LATOURETTE, Mr. CREMEANS, and Mr. NETHERCUTT.

H.R. 2579: Mr. KIM and Ms. ROYBAL-ALLARD.

H.R. 2602: Mr. HASTINGS of Florida.

H.R. 2634: Mr. RAHALL.

H.R. 2724: Mr. ABERCROMBIE, Mr. OLVER, Mr. CONYERS, Mr. KLINK, and Mr. BORSKI.

H.R. 2725: Mr. ABERCROMBIE, Mr. OLVER, Mr. CONYERS, Mr. KLINK, and Mr. BORSKI.

H.R. 2757: Mrs. THURMAN and Mr. LUCAS.

H.R. 2807: Mr. LEWIS of Georgia and Mr. DOOLEY.

H.R. 2843: Mr. BILIRAKIS.

H.R. 2856: Mr. PALLONE, Mrs. MALONEY, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2931: Ms. VELAZQUEZ.

H.R. 2938: Mr. CAMP, Mrs. FOWLER, Mr. UPTON, Mr. LARGENT, Mr. QUINN, Mr. GUNDERSON, Mr. CRAPO, Mr. THORNBERRY, Mr. LAHOOD, Mr. FOLEY, and Mr. HALL of Ohio.

H.R. 3012: Mr. SCARBOROUGH, Mr. BROWN of California, Mr. LIPINSKI, Mr. STUPAK, Mr. ABERCROMBIE, Mr. RAHALL, Mr. WOLF, Mr. ORTIZ, Mr. HALL of Texas, Mr. EHRLICH, Mr. VOLKMER, Mr. GONZALEZ, Mr. TORRES, and Mr. OLVER.

H.R. 3050: Mr. SKELTON.

H.R. 3059: Mr. FILNER, Mr. DELLUMS, and Mr. YATES.

H.R. 3060: Mr. SENSENBRENNER, Mr. BARTLETT of Maryland, and Mr. WELDON of Florida.

H.R. 3078: Mr. ENGLISH of Pennsylvania, Mr. BALLENGER, Mrs. KELLY, Mr. BLUTE, and Mr. PICKETT.

H.R. 3081: Mr. STARK, Mr. FRAZER, Ms. PELOSI, Mr. UNDERWOOD, Mr. FATTAH, Mr. DELLUMS, Mr. BLUTE, Ms. LOFGREN, Mr. TORRES, Mr. THOMPSON, and Mr. DOOLEY.

H.R. 3119: Mr. FALEOMAVAEGA and Mr. MANTON.

H.R. 3142: Mr. HOYER, Mr. FAZIO of California, Mr. SPRATT, Mrs. VUCANOVICH, Mr. MILLER of Florida, Mr. SCHAEFER, Mrs. MORELLA, and Mrs. SCHROEDER.

H.R. 3152: Mr. CAMPBELL.

H.R. 3161: Mr. BEREUTER.

H.R. 3167: Mrs. MALONEY.

H.R. 3168: Ms. PELOSI.

H.R. 3173: Mr. EVANS, Mr. REGULA, Mr. GUTIERREZ, Mr. NADLER, and Mr. WELDON of Pennsylvania.

H.R. 3174: Mrs. JOHNSON of Connecticut, Mr. MCDERMOTT, Ms. PELOSI, Mrs. CLAYTON, Ms. DANNER, Mr. FILNER, Mr. HILLIARD, Mr. FROST, Ms. NORTON, Mr. STUDDS, Mr. FRAZER, Mr. HINCHEY, Ms. WATERS, Ms. LOFGREN, and Ms. ROYBAL-ALLARD.

H.R. 3176: Mrs. JOHNSON of Connecticut, Mr. MCDERMOTT, Ms. PELOSI, Mrs. CLAYTON, Ms. BROWN of Florida, Ms. DANNER, Mr. FILNER, Mr. HILLIARD, Mr. FROST, Ms. NORTON, Mr. STUDDS, Mr. FRAZER, Mr. HINCHEY, Ms. WATERS, Ms. LOFGREN, and Ms. ROYBAL-ALLARD.

H.R. 3187: Mr. TRAFICANT, Ms. BROWN of Florida, Mr. RAHALL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. THOMPSON, and Mr. HILLIARD.

H.R. 3195: Mr. PARKER.

H.R. 3223: Mr. BEREUTER.

H.R. 3224: Mr. FOX and Mr. SKEEN.

H.R. 3236: Mr. BRYANT of Tennessee, Mr. MCCRERY, Mr. THOMPSON, Mr. MCHUGH, and Mr. WALSH.

H.R. 3238: Mr. THOMPSON.

H.R. 3246: Mr. MEEHAN, Ms. LOFGREN, Mr. MILLER of California, Mr. BARRETT of Wisconsin, Mr. FROST, and Mr. LIPINSKI.

H.R. 3248: Mr. BILIRAKIS.

H.R. 3250: Mr. LIPINSKI and Mr. POSHARD.

H.J. Res. 167: Mr. HANCOCK, Mr. HOKE, Mr. LIPINSKI, and Mr. CALVERT.

H. Con. Res. 47: Mr. BARCIA of Michigan and Mr. THOMPSON.

H. Con. Res. 83: Mr. GREEN of Texas.

H. Con. Res. 154: Mr. ARMEY, Mr. BAKER of Louisiana, Mr. BARR, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BENTSEN, Mr. BILBRAY, Mr. BOEHLERT, Mr. BONILLA, Mr. BROWNBACK, Mr. BRYANT of Tennessee, Mr. BURR, Mr. CALVERT, Mr. CAMPBELL, Mr. CANADY, Mr. CHABOT, Mr. CHAMBLISS, Mr. CHRISTENSEN, Mr. CHRYSLER, Mrs. CLAYTON, Mr. COBURN, Mr. COLLINS of Georgia, Mr. COMBEST, Mr. CONDIT, Mr. COSTELLO, Mr. CRANE, Mr. CRAPO, Mr. CREMEANS, Mr. CUNNINGHAM, Mr. DAVIS, Mr. DELAY, Mr. DIAZ-BALART, Mr. DICKEY, Mr. DICKS, Mr. DOOLITTLE, Mr. DORNAN, Mr. DREIER, Mr. DUNCAN, Ms. DUNN of Washington, Mr. EHLERS, Mr. EMERSON, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Ms. ESHOO, Mr. EWING, Mr. FALEOMAVAEGA, Mr. FLANAGAN, Mr. FOX, Mr. FRANK of Massachusetts, Mr. FRELINGHUYSEN, Mr. FRISA, Mr. GALLEGLY, Mr. GANSKE, Mr. GEJDENSON, Mr. GEKAS, Mr. GILCHREST, Mr. GILMAN, Mr. GREEN of Texas, Mr. GUNDERSON, Mr. HALL of Texas, Mr. HANCOCK, Mr. HAYWORTH, Mr. HEINEMAN, Mr. HERGER, Mr. HOEKSTRA, Mr. HOKE, Mr. HORN, Mr. HOSTETTLER, Mr. HOUGHTON, Mr. HUNTER, Mr. HUTCHINSON, Mr. SAM JOHNSON, Mr. KASICH, Mr. KIM, Mr. LAHOOD, Mr. LANTOS, Mr. LARGENT, Mr. LATHAM, Mr. LATOURETTE, Mr. LAUGHLIN, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LIVINGSTON, Mr. LOBIONDO, Mr. LONGLEY, Mr. MANZULLO, Mr. MCCRERY, Mr. MCINTOSH, Mr. MCKEON, Mrs. MEEK of Florida, Mr. METCALF, Mrs. MEYERS of Kansas, Mr. MICA, Mr. MONTGOMERY, Mr. NETHERCUTT, Mr. NEUMANN, Mr. NORWOOD, Mr. NUSSLE, Mr. ORTIZ, Mr. PARKER, Mr. PORTMAN, Ms. PRYCE, Mr. QUILLEN, Mr. RADANOVICH, Mr. ROBERTS, Ms. ROS-LEHTINEN, Mr. ROSE, Mr. ROTH, Mr. ROYCE, Mr. SABO, Mr. SANFORD, Mrs. SEASTRAND, Mr. SHADEGG, Mr. SMITH of Michigan, Mr. SOUDER, Mr. STEARNS, Mr. STENHOLM, Mr. STOCKMAN, Mr. STUMP, Mr. TALENT, Mr. TAYLOR of Mississippi, Mr. THOMAS, Mr. THORNBERRY, Mr. THORNTON, Mr. TIAHRT, Mr. TORKILDSEN, Mr. TOWNS, Mr. TRAFICANT, Mr. VOLKMER, Mrs. VUCANOVICH, Mrs. GREENE of Utah, Mr. WAMP, Mr. WATTS of Oklahoma, Mr. WELDON of Florida, Mr. WELLER, Mr. WHITE, Mr. WHITFIELD, Mr. WICKER, Mr. WOLF, Mr. YOUNG of Alaska, and Mr. ZIMMER.

H. Con. Res. 156: Ms. LOFGREN, Mr. TORRES, Ms. ROYBAL-ALLARD, Mr. STUPAK, Mr. THOMPSON, Mr. WATT of North Carolina, and Mr. COBURN.

H. Res. 49: Mr. BONIOR, Ms. VELÁZQUEZ, Mr. REED, and Mr. DELLUMS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 789: Mr. RIGGS.

H.R. 2060: Mr. BURTON of Indiana.

H.R. 2472: Mr. RIGGS.

H.R. 2823: Mr. DEFAZIO.

VOL
142
PT
6
AP
15
—
24
1996
UMI

SENATE—*Thursday, April 18, 1996*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

In our prayer this morning, let us think magnificently about God so that we may serve Him magnanimously throughout the day.

O God, whose love never lets us go, whose mercy never ends, whose strength is always available, whose guidance shows us the way, whose spirit provides us supernatural power, whose presence is our courage, whose joy invades our gloom, whose peace calms our pressured hearts, whose light illuminates our path, whose goodness provides the wondrous gifts of loved ones, family, and friends, whose will has brought us to the awesome tasks of this Senate today, and whose calling lifts us above party politics to put You and the good of our Nation first, we dedicate all that we have and are to serve You today with unreserved faithfulness and unfailing loyalty.

To God be the glory. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

SCHEDULE

Mr. DOLE. Mr. President, we will immediately begin consideration of Calendar No. 205, S. 1028, the Health Insurance Reform Act of 1996. Amendments are expected to be offered. Rollcall votes can be anticipated throughout the day and into the late evening. We want to finish this bill today. We had hoped to start it last evening.

It is also possible that the Senate could resume immigration legislation if agreement can be reached with respect to relevant amendments. That is probably unlikely.

Then, on next Monday, or tomorrow, we hope to start the debate on term limits. We will be announcing more on that later. But we do hope to complete action on the Health Insurance Reform Act of 1996 today or tomorrow. So we will be making an announcement about votes on tomorrow later today.

Mrs. KASSEBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

HEALTH INSURANCE REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consider S. 1028, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1028) to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Insurance Reform Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

Subtitle A—Group Market Rules

Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.

Subtitle B—Individual Market Rules

Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.

Subtitle C—COBRA Clarifications

Sec. 121. COBRA clarifications.

Subtitle D—Private Health Plan Purchasing Cooperatives

Sec. 131. Private health plan purchasing cooperatives.

TITLE II—APPLICATION AND ENFORCEMENT OF STANDARDS

Sec. 201. Applicability.
Sec. 202. Enforcement of standards.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. HMOs allowed to offer plans with deductibles to individuals with medical savings accounts.
Sec. 302. Health coverage availability study.
Sec. 303. Sense of the Committee concerning Medicare.
Sec. 304. Effective date.
Sec. 305. Severability.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(10) PLAN SPONSOR.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(11) SECRETARY.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(12) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

Subtitle A—Group Market Rules

SEC. 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements under the terms of such plan, except that such requirements shall not be based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, or disability.

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(c) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARTICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this Act.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan, a group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status or insurability of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 202(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan; and

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(ii) all group health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status or the insurability of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treatment of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan;

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnancy.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries whose coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation to such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or a group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsections (a) and (b) may be excluded, except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse selection as approved by the applicable certifying authority (as defined in section 202(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITION.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUERS.—

(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law,

or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates;

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1995, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and the Health Insurance Reform Act of 1995 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—With respect to an individual desiring to enroll in an individual health plan, if such individual is in a period of previous qualifying coverage (as defined in section 103(b)(3)(A)(i)) under one or more group health plans or employee health benefit plans that commenced 18 or more months prior to the date on which such individual desires to enroll in the individual plan, a health plan issuer described in paragraph (3) may not decline to offer coverage to such individual, or deny enrollment to such individual based on the health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, or disability of the individual, except as described in subsections (b) and (c).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph is a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) ELIGIBILITY FOR OTHER GROUP COVERAGE.—The provisions of subsection (a) shall not apply to an individual who is eligible for coverage under a group health plan or an employee health benefit plan, or who has had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact, or who is otherwise eligible for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or under an equivalent State program.

(c) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENTS.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this Act shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan;

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status or insurability of particular individuals.

(2) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 202(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status or the insurability of particular individuals.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing

VOL
142
PT
6
AP
15
—
24
1996
UMI

and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) IN GENERAL.—With respect to any State law with respect to which the Governor of the State notifies the Secretary of Health and Human Services that such State law will achieve the goals of sections 110 and 111, and that is in effect on, or enacted after, the date of enactment of this Act (such as laws providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, or mandatory conversion policies), such State law shall apply in lieu of the standards described in sections 110 and 111 unless the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(b) DETERMINATION.—

(1) IN GENERAL.—In making a determination under subsection (a), the Secretary of Health and Human Services shall only—

(A) evaluate whether the State law or program provides guaranteed access to affordable coverage to individuals described in sections 110 and 111;

(B) evaluate whether the State law or program provides coverage for preexisting conditions (as defined in section 103(e)) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111;

(C) evaluate whether the State law or program provides individuals described in sections 110 and 111 with a choice of health plans or a health plan providing comprehensive coverage; and

(D) evaluate whether the application of the standards described in sections 110 and 111 will have an adverse impact on the number of individuals in such State having access to affordable coverage.

(2) NOTICE OF INTENT.—If, within 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that the State intends to enact a law, or modify an existing law, described in subsection (a), the Secretary of Health and Human Services may not make a determination under such subsection until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1997, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) NOTICE TO STATE.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making a final determination under subsection (a).

(c) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, adopts a model standard or standards for reform of the individual health insurance market; and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC standard or standards, that such standards comply with the goals of sections 110 and 111;

a State that elects to adopt such model standards or substantially adopt such model standards shall be deemed to have met the requirements of sections 110 and 111 and shall not be subject to a determination under subsection (a).

SEC. 113. DEFINITION.

(a) IN GENERAL.—As used in this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital or fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1995"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(2) ELECTION.—Section 2205(1)(C) of the Public Health Service Act (42 U.S.C. 300bb–5(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof;

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 2202(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb–6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb–8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) PERIOD OF COVERAGE.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1995"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) ELECTION.—Section 605(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof;

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 602(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section";

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1995"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) ELECTION.—Section 4980B(f)(5)(A)(iii) of the Internal Revenue Code of 1986 is amended—

(A) in subclause (I), by striking "or" at the end thereof;

(B) in subclause (II), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new subclause:

"(III) in the case of an qualified beneficiary described in the last sentence of paragraph (2)(B)(i), the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring on or after the date of the enactment of this Act for plan years beginning after December 31, 1996.

(e) NOTIFICATION OF CHANGES.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this Act, the term "health plan purchasing cooperative" means a group of individuals or employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) CERTIFICATION.—

(1) IN GENERAL.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion. Each such cooperative shall also be registered with the Secretary.

(2) STATE REFUSAL TO CERTIFY.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this Act, the Secretary shall certify and oversee the operations of such cooperatives in such State.

(3) INTERSTATE COOPERATIVES.—For purposes of this section, a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a broad cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of individual health plans or group health plans may not hold or control any right to vote with respect to a cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(3) CONFLICT OF INTEREST.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant for, be a member of the board of directors of, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first-come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries may not be established on the basis of health status or insurability of the populations that reside in the area.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible;

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State;

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this Act, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers; and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers;

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, or disability;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, or disability; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this Act.

(g) LIMITED PREEMPTION OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—With respect to a health plan issuer offering a group health plan or individual health plan through a health plan purchasing

VOL
142
PT
6
AP
15
—
24
1996
UMI

cooperative that meets the requirements of this section, State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) Exception.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of a health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new rating period that is in excess of that which would be permitted under State rating laws.

(C) Benefits.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category or care, or services of any class or type of provider.

(D) Exception.—In those States that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) Rules of Construction.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives;

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State;

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans; or

(6) confer authority upon a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) Application of ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health plan purchasing cooperative as if such plan were an employee welfare benefit plan.

TITLE II—APPLICATION AND ENFORCEMENT OF STANDARDS

SEC. 201. APPLICABILITY.

(a) Construction.—

(1) Enforcement.—

(A) In general.—A requirement or standard imposed under this Act on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this Act. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements or standards imposed under this Act shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this Act.

(B) Limitation.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this Act as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a State enforce the requirements or standards of this Act as they relate to employee health benefit plans.

(2) Preemption of state law.—Nothing in this Act shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this Act; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this Act and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) Rule of Construction.—Nothing in this Act shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) Continuation.—Nothing in this Act shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) Health Plan Issuers.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this Act pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement plan.

(b) Employee Health Benefit Plans.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this Act in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) Failure To Implement Plan.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this Act with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this Act in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this Act, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) Applicable Certifying Authority.—As used in this title, the term "applicable certifying authority" means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this Act for the State involved; and

(2) an employee health benefit plan, the Secretary.

(e) Regulations.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this Act.

(f) Technical Amendment.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1995" before the period.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. HMOS ALLOWED TO OFFER PLANS WITH DEDUCTIBLES TO INDIVIDUALS WITH MEDICAL SAVINGS ACCOUNTS.

(a) In General.—Section 1301(b) of the Public Health Service Act (42 U.S.C. 300e(b)) is amended by adding at the end the following new paragraph:

"(6)(A) If a member certifies that a medical savings account has been established for the benefit of such member, a health maintenance organization may, at the request of such member reduce the basic health services payment otherwise determined under paragraph (1) by requiring the payment of a deductible by the member for basic health services.

"(B) For purposes of this paragraph, the term 'medical savings account' means an account which, by its terms, allows the deposit of funds and the use of such funds and income derived from the investment of such funds for the payment of the deductible described in subparagraph (A).".

(b) Medical Savings Accounts.—It is the sense of the Committee on Labor and Human Resources of the Senate that the establishment of medical savings accounts, including those defined in section 1301(b)(6)(B) of the Public Health Service Act (42 U.S.C. 300e(b)(6)(B)), should be encouraged as part of any health insurance reform legislation passed by the Senate through the use of tax incentives relating to contributions to, the income growth of, and the qualified use of, such accounts.

(c) Sense of the Senate.—It is the sense of the Senate that the Congress should take measures to further the purposes of this Act, including any necessary changes to the Internal Revenue Code of 1986 to encourage groups and individuals to obtain health coverage, and to promote access, equity, portability, affordability, and security of health benefits.

SEC. 302. HEALTH COVERAGE AVAILABILITY STUDY.

(a) In General.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conduct a two-part study, and prepare and submit reports, in accordance with this section.

(b) Evaluation of Availability.—Not later than January 1, 1997, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a non-group basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) Evaluation of Effectiveness.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a non-group basis.

SEC. 303. SENSE OF THE COMMITTEE CONCERNING MEDICARE.

(a) Findings.—The Committee on Labor and Human Resources of the Senate finds that the Public Trustees of Medicare concluded in their 1995 Annual Report that—

(1) the Medicare program is clearly unsustainable in its present form;

(2) "the Hospital Insurance Trust Fund, which pays inpatient hospital expenses, will be able to pay benefits for only about 7 years and is severely out of financial balance in the long range"; and

(3) the Public Trustees "strongly recommend that the crisis presented by the financial condition of the Medicare trust fund be urgently addressed on a comprehensive basis, including a review of the programs's financing methods, benefit provisions, and delivery mechanisms".

(b) Sense of the Committee.—It is the Sense of the Committee on Labor and Human Resources of the Senate that the Senate should take measures necessary to reform the Medicare program, to provide increased choice for seniors, and to respond to the findings of the Public Trustees by protecting the short-term solvency and long-term sustainability of the Medicare program.

SEC. 304. EFFECTIVE DATE.

Except as otherwise provided for in this Act, the provisions of this Act shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1996; and

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1996.

SEC. 305. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any person or circumstance shall not be affected thereby.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, Congress has spent significant time during the past 4 years debating comprehensive health care reform and major reforms to the Medicaid and Medicare Programs. While we have filled pages of newspapers and the CONGRESSIONAL RECORD and hearing records, our actions have not equaled our words.

Meanwhile, many American families worry about the availability, portability, and cost of their own health care coverage.

The health insurance problem is not merely one of perception. The health care market continues to transform itself. An example is the rapid movement toward managed care. At the same time, the number of uninsured and underinsured Americans has continued to climb. There are now over 40 million Americans without health insurance, and that number continues to grow.

Over 1 million working Americans have lost health insurance in the last 2 years alone, and over 80 million Americans have preexisting conditions that could make it difficult for them to maintain health coverage when they change jobs.

The current health insurance system provides too little protection for individuals and families with health problems and makes it too difficult for employers, particularly small employers, to obtain adequate coverage for their employees. It also locks people into jobs out of fear they will lose their health care coverage if they change jobs or if they lose their jobs.

Let me remind my colleagues that Federal law preempts States from providing portability to the majority of Americans who get their coverage through so-called self-insured health plans. Therefore, only Congress, only the Federal Government, can guarantee insurance portability and an end to job lock. That is one of the main reasons all major organizations representing the States have endorsed S. 1028.

The Health Insurance Reform Act before the Senate today passed the Senate Labor and Human Resources Committee in August by a unanimous vote. It now has 65 cosponsors, 27 Republicans and 38 Democrats. It is clear that, if this bill were to come to a vote in its current form, it would have more than enough votes to overcome any potential filibuster. The House of Representatives already has passed legislation containing health insurance reform similar to S. 1028.

Moreover, the bill has been endorsed by a wide range of organizations, including the National Governors' Association, the National Association of State Insurance Commissioners, the Consortium for Citizens with Disabilities, Small Business United, the National Association of Manufacturers, the National Federation of Independent Business, the U.S. Chamber of Commerce, the American Medical Association, American Hospital Association, Families USA, Consumers Union, the American Association of Retired Persons, and the AFL–CIO.

The portability provisions of this bill are even supported by many health insurers, including the American Association of Health Plans, Aetna, Prudential, Cigna, United Healthcare and the Blue Cross and Blue Shield Association, which is the largest health insurance carrier in the individual market.

Doctors, hospitals, insurers, HMO's, large business, small business, organized labor, and consumer groups all support the bill before us today. When one looks at the history of health care reform and the difficult tradeoffs and policy choices that must be made, that fact alone, I suggest, is remarkable.

The majority of these organizations have made clear that their support is conditioned on S. 1028 remaining free of contentious amendments.

We have a historic opportunity to pass limited, but real, health reform for the American people. We must not squander this opportunity by expanding the scope of this bill. The lessons of the past are clear. If we try to do too much, we will fail to do anything.

This bill is too important to people who may not have a voice in the Halls of Congress by any major organization, but who will be helped tremendously by this legislation. People like Tom Hall, a retired construction worker and farmer from Oklahoma City.

After 30 years of being covered by his employer, Tom started his own company and tried to buy an insurance policy for his family. However, the same insurer that had covered him while he was employed turned him down. Several years later, he did find an insurance policy that covers everything but his preexisting heart condition.

Mr. Hall testified before our committee, and it was very powerful testimony in its own significant way. Clearly, Mr. Hall would be protected by the group-to-individual portability provisions of this bill.

There are other families who would benefit. One is from Herndon, VA. A daughter who has cerebral palsy is excluded from coverage for at least 12 months every time the husband, Robert, changes jobs. While they have waited for these preexisting conditions to expire, they have had to pay both COBRA coverage and coverage under the new employer plan.

Mr. President, I also visited with a young woman who is an employee of the U.S. Senate. She has cancer. Her husband is completing his graduate work, and they hope to move to Florida. She is afraid to leave the coverage she has under her Federal employees health insurance for fear if they move to Florida, she may not be able to get insurance which would cover her because of her having cancer.

These are just some examples of people who would be helped directly by this legislation.

Only a year after President Clinton waved his veto pen and said he would not sign any bill that did not contain universal coverage, the President now says he will sign this carefully targeted health insurance portability bill. We should take him up on that offer.

The bill before us today does not achieve universal coverage. It is a far cry from the comprehensive health reform proposals that were considered by Congress only in the last Congress. However, it would immediately and measurably improve the lives of millions of Americans.

Through sensible, market-based reforms, the Health Insurance Reform Act would, first, limit the ability of insurers and employers to impose exclusions for preexisting conditions; second, prevent insurers from dropping

VOL
142
PT
6
AP
15
—
24
1996
UMI

coverage when an individual changes jobs or family members become sick; and third, help small companies gain more purchasing clout in the marketplace.

Despite its limited scope, the General Accounting Office estimates that the Health Insurance Reform Act would help at least 25 million Americans each year, and the Congressional Budget Office predicts that it would do so without any cost to the American taxpayers.

Mr. President, I do not know whether it is 25 million. I do not know if it is 10 million or if it is 5 million. What matters is each and every one of us in this U.S. Senate knows someone it would help. And if it only helps those few that we know even, it would be well worth positive consideration on the floor of the Senate.

I believe the legislation has achieved broad consensus for two main reasons. First, it is narrowly focused. It does not contain employer mandates, mandatory purchasing alliances, new taxes or new bureaucracies. Instead, the legislation focuses only on those areas where broad bipartisan agreement existed during the health care debate in the 103d Congress and where State insurance reforms have demonstrated the ability to work.

Second, the legislation was crafted with a significant input from consumers, insurers, businesses, hospitals and doctors. It is carefully attuned to the rapidly changing private health care market.

The Health Insurance Reform Act is not without some detractors. We have worked closely with the health insurance industry, and insurers generally support the bill. For example, the Health Insurance Association of America submitted testimony in favor of the vast majority of the bill's provisions. However, some continue to raise concerns about one provision of the legislation that is designed to help individuals and families who have played by the rules to maintain health coverage if they lose their job or leave a job to work for an employer that does not offer coverage.

I believe, however, that this provision strikes a careful balance between the need to provide consumers access to individual coverage and the need to protect the fragile individual insurance market.

The Health Insurance Reform Act would provide access to individual insurance only for those who have maintained prior continuous coverage under an employer-sponsored health plan for at least 1½ years, who have exhausted their COBRA benefits, and who are ineligible for coverage under another group policy.

Moreover, S. 1028 contains no restrictions on premiums. There are many who wish that it did, and it leaves broader reforms, such as guaranteed issue for individuals who have not had prior coverage, guaranteed issue for self-employed and portability between individual health plans to the States.

As a result, the bill requires individuals to pay into the system before being able to use its provisions for continued health coverage. This group-to-individual portability provision is carefully circumscribed precisely to avoid potential premium increases and adverse selection problems that could result from broader individual market reforms.

The American Academy of Actuaries, the Congressional Budget Office, the Rand Corp., the Hay Huggins Group and other credible independent actuaries have confirmed that this narrow provision would have only a minimal impact on the cost of health coverage in the individual market. There are some who have vastly exaggerated what the premium increase would be, but those that I have mentioned are sources that have no ax to grind in this area and whose reliability on projections are totally objective.

The substitute goes even further. It expressly provides that if a State has adopted or adopts in the future a high-risk pool or other means of allowing individuals to maintain health coverage, that State law or program will apply in lieu of the group-to-individual portability provision contained in the bill.

Instead of preempting State reforms that are working or prescribing a one-size-fits-all solution from Washington, S. 1028 allows each State to fashion individual market solutions that are appropriate for individuals in that State. This is another reason why both the Governors and the State insurance commissioners support the bill.

Mr. President, I think we all know those who would be helped by this legislation, as I said. The Health Insurance Reform Act does not strike out in a bold new direction, but it is a positive step forward that will help reduce barriers to health coverage for millions of working Americans. It is also an opportunity to demonstrate to the American people that Republicans and Democrats can work together to address their most serious concerns regarding health care.

As Robert Samuelson stated in his column on April 17 in the Washington Post:

> The virtue of this proposal is its modesty. There is nothing wrong with constructive tinkering. We've had enough of grand reforms, which promise much and deliver little. However, if enacted, it would provide a little extra peace of mind for those who have already had employer-paid insurance.

He concludes:

> This legislation isn't exciting but then again good government often isn't.

Mr. President, it may not be exciting, but let me tell you, if you know one person this legislation would help, it is, indeed, exciting.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want, first of all, as we begin the consideration of the legislation which can make such an extraordinary difference to millions of our fellow citizens in this country, mention at the outset my great respect, and I think the respect all of us in the Senate should have, for the chairperson of our committee of the Labor and Human Resources Committee.

I can remember going back the last time that the Senate was considering major legislation—we have had other legislation in the meantime—the comprehensive legislation that we considered now some 2 years ago. During that period of time, Senator KASSEBAUM was tireless in trying to find some common ground. We had some areas of agreement. We were unable, obviously, to get to the full measure of agreement during those considerations. But I think all of us who were a part of that effort knew that Senator KASSEBAUM was trying to find the areas of common ground on which we could move forward. At the end of the consideration of that legislation, I can remember a conversation that we had.

In her typical manner, she expressed a very compelling view that we should not let the issues of health care fall by the wayside and that we ought to try to look through the various proposals that had been considered at that period of time and that we ought to try to piece what we could together that could make an important difference for the American people and see if we could not work out a bipartisan effort.

It was really from that initiative and from that energy that she has spent hour after hour after hour in small meetings, large meetings, hearings, in visiting with various interested members of our committee and other Members of the Senate, and really helped in developing this legislation. In an extraordinary committee action, we were able to bring all the members and get a unanimous vote in support of this legislation, which is really an extraordinary achievement and accomplishment at any time. It certainly is now in this Congress, which in many instances has had more contentious debates and less agreement on many public policy issues.

But in this area, it is really a result of her own particular skills and talents and energy and strong commitment that we are here today with the extraordinary support that she has mentioned in regard to both Republicans and Democrats. I think all Members of the Senate, obviously, who know her and know her perseverance pay tribute to her extraordinary leadership on this issue.

I certainly at the outset of this debate and discussion acknowledge that and pay tribute to it. I think when the history of health policy is written, her imprint on not just this legislation but on so many other measures of health will be very, very much recognized, as it should be. It has been a personal pleasure to have the chance to work with her. I know all the members of the committee feel the same way.

Mr. President, the legislation we are considering today will end many of the most serious health insurance abuses and provide greater protection to millions of families. It is an opportunity we cannot afford to miss.

The abusive practices addressed by this bill create endless, unnecessary suffering. Millions of Americans are forced to pass up opportunities to accept jobs that would improve their standard of living or offer them greater opportunities because they are afraid they will lose their health insurance. Many others have to abandon the goal of starting their own business because health insurance would be unavailable to them or members of their families.

Children who age out of their parents' policies often find themselves unable to obtain their own insurance if they have any significant health problems. Early retirees can find themselves uninsured just when they are entering the years of highest health risks.

Other Americans lose their health insurance because they become sick or lose their job or change their job, even when they have faithfully paid their insurance premiums for many years.

With each passing year, the flaws in the private health insurance market become more serious. More than half of all insurance policies impose exclusions for preexisting conditions. As a result, insurance is often denied for the very illnesses most likely to require medical care. The purpose of such exclusions is reasonable to prevent people from gaming the system by purchasing coverage only when they get sick, but current practices are indefensible.

No matter how faithfully people pay their premiums, they often have to start over again with a new exclusion period if they change jobs or lose their coverage. And 81 million Americans have conditions that could subject them to such exclusions if they lose their current health care coverage. Sometimes the exclusions make them completely uninsurable.

Insurers impose exclusions for preexisting conditions on people who do not deserve to be excluded from the coverage they need. Sometimes insurers deny coverage to entire firms if one employee of the firm is in poor health or exclude that employee from the coverage. In other cases, entire categories of businesses with millions of employees are red lined out of coverage.

Even if people are fortunate enough to gain coverage and have no preexisting condition, their coverage can be canceled if they have the misfortune to become sick, even after paying premiums for years.

Robert Frasher from Mansfield, OH, works for an employer who offers health coverage to employees, but the insurance company will not cover him. Why? Because he has Crohn's disease.

Jean Meredith of Harriman, TN, and her husband Tom owned Fruitland USA, a mom-and-pop convenience store. They had insurance through their small business for 8 years until Tom was diagnosed with non-Hodgkin's lymphoma, and their insurance company dropped them. When the Merediths asked why, they were told they were no longer profitable insurance risks. Without health insurance, Tom Meredith had to wait a year to get the surgery he needed. After spending $60,000 of his own funds, his cancer recurred and he died of cancer about a year ago. Tom Meredith might still be alive today if he had not been forced to wait that year.

One of the most serious consequences of the current system is job lock. Workers who want to change jobs to improve their careers or provide a better standard of living for their families must give up that opportunity because it means losing their health insurance. A quarter of all American workers say they are forced to stay in a job they otherwise would have left because they are afraid of losing their health insurance.

Diane Bratten, from Grove Heights, MN, her family had insurance through Diane's employer. Because of a history of breast cancer—now in remission—Diane and her family will not be able to get decent coverage if she decides to change jobs or is laid off.

The legislation that Senator KASSEBAUM and I have introduced will address these problems effectively. The Kassebaum-Kennedy Health Insurance Reform Act is a health insurance bill of rights for every American and for every business as well. The legislation contains many of the provisions from the 1994 health reform debate which received bipartisan support, such as an increased access to health insurance, increased portability, protection of health benefits for those who lose their jobs or want to start their own business, and greater purchasing power for individuals and small businesses.

Those who have insurance deserve the security of knowing that their coverage cannot be canceled, especially when they need it the most. They deserve the security of knowing that if they pay their insurance premiums for years, they cannot be denied coverage, be subjected to a new exclusion for a preexisting condition when they change jobs, join another group policy, or when they need to purchase coverage in the individual market. Businesses, especially small businesses, deserve the right to purchase health insurance for their employees at a reasonable price.

Our Health Insurance Reform Act addresses these fundamental flaws in the private insurance system. The bill limits the ability of insurance companies to impose exclusions for preexisting conditions. Under the legislation, no exclusion can last for more than 12 months. Once someone has been covered for 12 months, no new exclusion can be imposed as long as there is no gap in coverage, even if someone changes jobs, loses their job, or changes insurance companies.

The bill requires insurers to sell and renew group health policies for all employers who want coverage for their employees. It guarantees renewability of individual policies. It prohibits insurers from denying insurance to those moving from group coverage to individual coverage. It prohibits group health plans from excluding any employee based on health status.

The portability provisions of the bill mean that individuals with coverage under a group health plan will not be locked into their job for fear that they will be denied coverage or face a new exclusion for a preexisting condition. These provisions will benefit at least 25 million Americans annually, according to the General Accounting Office. In addition, the provisions will provide greater security for the 131 million Americans currently covered under group health plans.

The bill will also help small businesses provide better and less expensive coverage for their employees. Purchasing cooperatives will enable small groups and individuals to join together to negotiate better rates in the market. As a result, they can obtain the kind of clout in the marketplace currently available only to large employers.

The bill also provides great flexibility for States to meet the objective of access to affordable health care for individuals who leave their group health plans.

During the debate on health reform in the last Congress, even the opponents of comprehensive reform urged Congress to pass at least the reforms that everyone supported—portability of coverage, guaranteed availability of coverage, and limitations on exclusions for preexisting conditions. These are exactly the provisions included in this bill.

Senator PHIL GRAMM, over 2 years ago said:

> We can fix the system and make it possible for people to change jobs without losing their health insurance. Every one of the proposals that has been made to reform health care—every single bill—has a provision that would make it possible for people to change jobs without losing their insurance.

Majority Leader DOLE, in his statement on the floor of the Senate in August 1994 said this:

VOL
142
PT
6
AP
15
—
24
1996
UMI

We will be back . . . And you can bet that health care will be near the top of our agenda. . . . There are a lot of plans and some have similarities. Many of us think we ought to take all the common parts of these plans, put them together and pass that bill.

Here is our chance. This is the bill.

The Health Insurance Reform Act is a modest, responsible, bipartisan solution to many of the most obvious abuses in the health insurance marketplace today. The bill was approved by the Senate Labor and Human Resources Committee last August by a unanimous vote of 16 to 0. It is similar to proposals made by President Clinton in his recent balanced budget plan.

The measures it includes are also virtually identical to provisions of legislation offered by Senator DOLE in the last Congress—legislation supported by virtually every Republican Member. Sponsors range from the most conservative Members of the Senate to the most liberal—because these reforms represent simple justice. They are not issues of ideology or partisanship.

Support for the bill by outside groups is equally broad. Almost 200 groups have expressed their support. These include business associations like the chamber of commercve, National Small Business United, the National Association of Manufacturers, the ERISA Industry Committee, and the Association of Private Pension and Welfare Plans. The AFL–CIO has endorsed the program, so that on this issue business and labor are united. The program is also supported by the National Governors' Association and the National Association of State Insurance Commissioners, who believe the legislation represents an appropriate balance between Federal and State responsibilities.

Responsible insurance companies support this bill, including the insurance companies in the Alliance for Managed Care, the American Association of Health Plans, Phoenix Life Insurance Co., the Blue Cross/Blue Shield Association, and other insurance companies. Blue Cross and Blue Shield are the largest carriers in the individual insurance market. The American Association of Health Plans has millions of individual subscribers. These responsible companies know that the insurance system is broken and needs to be fixed.

The Independent Insurance Agents of America—the largest association of agents in the country—sees the tragedies created by the current system every day. They support this bill.

Doctors, hospitals, and other health providers see those tragedies as well, and they support the legislation. It has been endorsed by the American Medical Association, the American Hospital Association, and over 44 medical specialty societies. This bill also enjoys the support of a number of the consumer groups that understand the need for legislation so well, including the Consortium for Citizens with Disabilities, and Consumers Union.

In fact, the only opposition to this legislation comes from those who profit from the abuses in the current system.

In his State of the Union Address last January, President Clinton challenged Congress to pass this bill. Now that the legislation has been brought to the floor of the Senate, I believe it will pass overwhelmingly—unless some in the Senate insist on following the Republican majority in the House of Representatives by addressing controversial and harmful provisions like medical savings accounts, federalization of multiple employer welfare arrangements, Federal caps on malpractice awards, repeal of MediGap rules protecting senior citizens against profiteers, or provisions making it more difficult to combat the waste, fraud and abuse in the current Medicare and Medicaid Programs. Almost all of the 200 groups that support the legislation have urged the Senate to pass a clean bill, without these controversial amendments.

These objectionable provisions of the House bill may serve the special interests, but they have no place in this legislation. Their adoption will almost certainly kill this bill, and destroy the hopes of millions of Americans for the kind of modest but effective reform that leaders of both parties have supported in the past.

Medical savings accounts, which are included in a major amendment to be offered later in this debate are particularly objectionable. They are opposed by virtually every credible health policy expert. They attract the healthy and wealthy, and add up to an unjustified $1.8 billion Federal giveaway to those who need it the least. They are a gift to the insurance companies with the worst record of abusive practices—a poorly disguised reward for millions of dollars of campaign contributions. And by pulling the healthiest individuals out of the conventional insurance market, they will raise premiums for everyone else, including those who need coverage the most.

In fact, the Congressional Budget Office concluded that, "In the long run, the existence of any type of catastrophic plus MSA option that would be attractive to a large number of people could threaten the existence of standard health insurance."

Members of the Senate who are serious about insurance reform should vote against all controversial amendments—including medical savings accounts. Senator KASSEBAUM and I have agreed that we will vigorously oppose all such amendments—even those that we might support under other circumstances. The Democratic leader, and many other Senators of both parties have joined us in this pledge. This is a test of the Senate's seriousness and ability to put the interest of the American people ahead of the special interests.

This legislation is not comprehensive health reform. It will not solve all the problems in the current system. But it is a constructive step forward—a step that will help millions of Americans. I urge its adoption.

Mr. President, if we are looking for just a shorthand explanation of what the legislation achieves, effectively, it is the Health Insurance Reform Act, the health insurance bill of rights. It guarantees that your insurance cannot be taken away because you, first, lose your job; second, change your job; third, become sick; or, fourth, start your own business. It protects against unfair preexisting conditions exclusion which affect millions of American citizens who virtually have no control over those preexisting conditions. In an important way it increases the purchasing power of small businesses so that they will be able to provide health insurance to the millions of Americans who work in small businesses and have no coverage at this time.

This is a modest bill, an important bill. It deserves overwhelming passage. It deserves, most importantly, to become law. Every day that we delay the legislation, there are other fellow citizens in this country that continue to be unable to get the kind of protections that they need and that they deserve. Hopefully, we will have overwhelming bipartisan vote on this legislation.

Mr. President, I see a number of our colleagues that will be speaking. I just hope that those that do have amendments—we hope there are not many of those—will make their amendments available to us at the earliest possible time so we can have a chance to review those amendments and to see what disposal we can make of them.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that members of the staff, four fellows, Lauren Ewers, Susan Castleberry, Sara Thom, and Anna Marie Murphy, be granted privileges of the floor during the debate on health insurance reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that Anne Rufo and Kevin McShane be extended floor privileges during the duration of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I want to express my appreciation to Senator KENNEDY for his thoughtful statement. He is one who has been involved in health care issues for many, many years and cares deeply about it. He would, I am sure, like to have expanded this bill much further. But we worked hard to construct, as he mentioned, something that we felt could be

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passed and could be approved by the widest number in both the U.S. Senate and the House of Representatives. So I have greatly appreciated his leadership in the Labor and Human Resources Committee, as we have worked hard and constructively on both sides of the aisle in the committee, as well as on the floor, to bring this to fruition today.

One who has been a great asset in working with us is the Senator from Tennessee, who is waiting to speak. Not only has he been an exceptional legislator on this issue, he comes to it also with an expertise that the rest of us do not have—as a renowned cardiologist. So we have valued his willingness to be very engaged in this issue.

I have greatly appreciated his help on the Labor and Human Resources Committee as the ranking member. Senator KENNEDY and I have worked together to achieve this bill we are presenting today.

I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I rise to congratulate Senators KASSEBAUM and KENNEDY for introducing what I consider to be a fair, balanced, focused, and excellent bill that will be to the benefit of over 25 million Americans. I welcome this opportunity to focus today on the Health Insurance Reform Act.

The bill before us provides protection for some 25 million Americans, who, each year—it is a rolling number—are at risk for becoming uninsured. Too many Americans today have to live each day with that fear of the loss of health insurance for preexisting illness—for example, if they have heart disease or if they have a stroke—and for the lack of insurance portability when they move from one job to another job.

I commend Senator KASSEBAUM for her leadership in crafting this legislation because it truly is balanced, bipartisan, and focused. There has been much misinformation and misunderstanding of what the provisions in this bill truly accomplish. Its objectives are very well-defined, very specific.

I reject the notion that this bill, in any way, resembles, as has been alleged, or is similar to President Clinton's very large, massive, failed health care plan. This bill is very different and should not be confused with the President's. This bill contains the very provisions which had broad, very bipartisan support throughout the entire health care debate.

The bill before us today proves that we can move forward incrementally, rationally, step by step, to fix the problems in our health care system today—without a massive Federal Government takeover of the entire delivery system.

I am a physician, and as we talk about this bill and as we look at the provisions of this bill, I see those faces of hundreds—in fact, even thousands—of patients who I have had the opportunity to serve in the past. Too many of those faces, when I picture them, are faces of terror, of fear, that one day they will lose the insurance they have, which they have purchased and that they have been a player in purchasing, historically, that they will lose it, and that it will be taken away simply because they want to change jobs or leave a group plan, leave an insurance plan to go out and set up their own business.

As the only physician in this body, I do feel a very special responsibility to speak out loudly, clearly, and forcefully in support of those very practical solutions and patient protection when the Senate considers matters dealing with these challenging issues of health care. Each time I make a decision in this body regarding health care legislation, I apply some very stringent tests that go back to my experience as a physician delivering care to individuals, one on one, who need that care, who depend on that care for their quality of life and for their well-being.

In my practice as a heart and lung transplant surgeon, I shared daily the obstacles that patients face. They tell you about that every day in your office. For example, after a patient receives a new heart, has a heart transplant, and after they are ready to return to the work force and productive lives, there is a huge barrier there today, a barrier that, once we remove it with this bill, will allow that individual to live a more productive life, a life more fulfilling, a better quality of life. When I give a person a new heart today, the next day they start asking questions because they are petrified that they are not going to be able to go back to their old job, to go back and get insurance if they decide to change jobs.

They get trapped in a current situation for the rest of their lives because of this lack of portability of insurance coverage. The cost of their care, by no fault of their own, restricts their freedom of movement within the workplace.

I cannot help but to think back to last July during our Labor and Human Resources Committee when a man from Oklahoma, Tom Hall, testified before us. He reminded me so directly of the hundreds of patients who have told me this same story. He was denied individual coverage because of what we call a preexisting heart condition. But it was denied by the same insurer that he had insurance with for the last 30 years. It was denied because he wanted to go out and start his own company. The insurance company who he had worked with for 30 years—the same person, the same condition—when he wanted to go out and start his own company, initially denied that insurance. Eventually, yes, he got that insurance. But, remember, he had a heart condition. He got that insurance, but it did not cover his heart condition.

Well, this bill will address that. It passed the Labor Committee unanimously and is currently supported by well over half of the U.S. Senate. It limits exclusions for preexisting medical conditions, it guarantees renewability of health coverage, and it reduces this concept of job-lock—being locked in a job—by making health insurance coverage portable from one job to another. In other words, when this bill becomes law, people like Tom Hall will no longer be locked into jobs or prevented from starting their own businesses for fear of losing their health coverage.

As a doctor, there is nothing worse than having a patient tell me that he or she cannot afford health care due to denial of coverage by an insurance company. Tragically, over 1 million working Americans have lost health insurance over the last 2 years. Over 80 million Americans have preexisting conditions of some sort that could make it difficult, if not impossible, for them to maintain coverage when they change jobs. Many of these people are willing to pay the insurance premiums. In many cases, those insurance premiums could be costly. But they cannot find coverage at any price.

As a physician and as someone who is a real advocate of the free market system, I find this unacceptable, unconscionable. People who are willing to play by the rules—and again, this bill addresses people who currently have insurance coverage, who have paid in, or had their employer pay in, and have coverage. These are people who have played by the rules in the system. These people should not be denied the opportunity to lead productive lives.

I applaud Majority Leader DOLE, who has a long record of support for health care reform, for bringing this bill to the Senate floor. It is important to debate, and it is important for us to take this step and vote on this legislation.

Before I entered the public service as U.S. Senator a year and a half ago, the Senate had already debated and even passed provisions almost identical to this bill—debated and passed. Unfortunately, as the scope of many of these bills grew larger and larger, the support for the overall bill dwindled. As a result, we are here today still debating those long-awaited insurance reforms.

In closing, while this bill is not a cure-all—and we should not pretend it to be a cure-all, but it is a good first step—it is incremental, it is straightforward, it is rationale, it is focused, and it is direct. The bill will correct many of those imperfections in the market that we have today for health insurance.

I am confident that this Congress will be the one—this Congress will be

VOL
142
PT
6
AP
15
—
24
1996
UMI

the one—to deliver these much-needed reforms.

I thank the President. I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

PRIVILEGE OF THE FLOOR

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that Greg Jones, a legislative fellow in my office, be allowed privileges of the Senate floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I want to congratulate the Senator from Tennessee for the remarks just made. There is really an extraordinary synergy between Senator KASSEBAUM and Senator KENNEDY which has produced this legislation. It is interesting.

I was home last week in my State, and I was talking about this bill. As I talked, a lot of the feelings that a lot of us had 2 or 3 years ago began to come back. When the larger comprehensive health legislation failed, it was just pulled to the ground by Harry and Louise, special interests, and other things, there may be a feeling out there in the land that, well, since that did not pass, I guess things must be going better. Of course, that is not true. Things are really worse. The system is in worse condition than it was at that time, and people, I think, increasingly know that.

I think what we have to do is wait for a renewed demand, a broader demand, a broader anger on the part of the American people so that they will speak to us with more clarity than happened in the last go-around and we can respond. But in the meantime, Senator KASSEBAUM and Senator KENNEDY saw an opportunity to take certain very specific and important parts of this problem and solve them, and they did so in a way which was so successful and so agreeable that the vote was unanimous from that committee. The Labor and Human Resources Committee has a reputation for having a good deal of bipartisanship. But it is also a committee where there are sharp differences of views and, therefore, the unanimity of the vote I think is a very, very good sign for the Health Insurance Reform Act of 1995.

I think that we have to be fully aware that people in this country desperately want and thoroughly deserve the security that health insurance will not disappear the way it does now. The Senator from Tennessee was talking about how he could see that fear in people's faces. I am not a physician, but I hear that constantly in my State of West Virginia. When it disappears, it disappears cruelly. It disappears without warning. It disappears often because people are simply just laid off because of downsizing or because of other economic factors. It always affects, it seems, millions of hard-working men and women, people who are playing by the rules every day. I think today is our chance to really do something. I think we can do our job for the West Virginians, for the South Dakotans, the Kansans, and other Americans everywhere who are out there doing their job but still fear the loss of health insurance.

Health insurance is a little bit like air. Sometimes you take it for granted. All of a sudden it is not there. You panic very quickly, and I think a lot more Americans are doing that. Some people, in fact, are estimating—a lot of people are—that by the year 2000, which is really only 3-plus years off, that 50 percent of Americans who work for a living—not 50 percent of Americans but 50 percent of Americans who work for a living—will not have health insurance.

So, this problem just continues to get worse and worse. Yet, the Labor and Human Resources Committee has made a substantial improvement if we are able to pass this bill and if we can do it without controversial amendments. I will have more to say about that as the day goes along.

I have, frankly, waited for this day for a long, long time, and I am filled with a sense of gratitude and a sense of relief that we are finally, as a body, going to do something which is meaningful. If everything really goes well, we may do this by the end of the night or tomorrow night. But the point is we really have a chance to do this.

I do not know of a great deal of criticism about this bill on the part of my colleagues. Relatively few people on the outside are criticizing it, and, therefore, I have a good feeling about it.

The so-called Kassebaum-Kennedy bill, the Health Insurance Reform Act, would establish some of the most fundamental and far-reaching changes in health insurance since the creation, in fact, of Medicare and Medicaid in 1965. I, therefore, again salute the two Senators, the chairman and the ranking member, for their really inspiring bipartisan partnership in crafting and advancing this very important legislation. I think we all remember, as I indicated—it seems like a long time ago, but it really was not—that there was a mighty debate in this body about guaranteeing health insurance for every man, woman, and child in this country. I believe that must still be the goal and the vision for America. I believe that as strongly as I did at the time. I believe in that even more strongly as I watch what is happening to more and more people as they lose their health insurance even though they are working.

Mr. President, that comprehensive effort at that time to reform our country's health care system was stopped. But, again, the problems of losing health insurance continue. That is why in a sense we have won, through the good work of Senator KASSEBAUM and Senator KENNEDY, we have won another chance to enact something which is really meaningful in the way of health care reform. The people of our States are still writing, calling, visiting, and asking for help. I am going to do whatever I can to make sure that we do not let this opportunity pass us by—that we will not fail on this and that we will make a real difference in people's day-to-day lives.

That is why we simply have to also exercise restraint and not kill this bill with extra baggage. It is tempting, but it cannot happen. Amendments, whether they are well-intentioned or not, which are controversial will have the effect of bringing this bill down, and we all know that. We have to be very careful as we go through this exercise that we do not accept controversial amendments.

I think this bill is going to solve some really horrible problems for real people. So why would we accept controversial amendments which we might otherwise support, as the Senator from Massachusetts said, when it could pull down the chance to do something really good for a lot of people?

During debate on comprehensive health care reform several years ago, many of my colleagues—especially those on the other side of the aisle—said repeatedly that we should only enact those health reforms on which there is a strong bipartisan consensus and support. Well, here we have it. Here we have that piece of legislation. That is the precise description of this bill, S. 1028, which is before us today. It was so carefully crafted by the chairman and the ranking member; it came out of the committee by unanimous vote; it is a bill which should be sent to the President for his signature, and I am certain, although one never knows, that he would sign it.

Loading up this bill with extraneous provisions which will please certain special interests but only delay enactment of health reform just does not make any sense at all. So, Mr. President, I intend to join the floor managers of this bill and Minority Leader DASCHLE in opposing any controversial amendment that will delay enactment of this bill—any controversial amendment, even if it means voting against amendments that, as I have indicated and so have others, have merit on their own and I would fight to enact in other terms and other circumstances. We cannot be distracted from the basic purposes of this bill, which are terribly important.

Almost 40 million Americans lack basic health coverage today. It is going up about a million plus every year, Mr. President. It has been doing that regularly, and it will continue to do that,

perhaps at an accelerating rate. One cannot be sure. Most of the people who are not lucky enough to have health insurance, with cards in their wallets or back pockets, are in fact the people we revere and honor in this body, and that is they are the hard-working, middle-class families who are victims of layoffs and downsizing or just plain profit gouging.

This country offers the best health care in the world. Nobody has ever denied that. It is terribly true. Unfortunately, that health care continues to be beyond the reach of too many of our fellow citizens who do not deserve that lot in a country that is as outstanding and great as ours.

As both Senator KASSEBAUM and Senator KENNEDY said, this bill before us today will not solve all of the problems in the health care marketplace. I think it was Senator KASSEBAUM who said that the so-called guarantee issue, or guaranteed coverage, for that matter, for every man, woman and child in this country has not diminished. The bill is not going to solve it.

I still believe it is a fundamental right for each and every one of us, not just for those who can afford it or are healthy enough to keep insurance companies profitable. But again, the machinery of our health care system is breaking down, and this bill helps substantially. If we cannot therefore enact a complete overhaul, if we are not going to be able to do that in this session, we must enact the individual fixes and the individual reforms that will at least keep the engine of this system running.

Evidence of this need for an overhaul of our health care system is everywhere. It is found in the emergency rooms of our public hospitals, collapsing under the demand of the growing millions who need medical treatment but cannot pay for it. It is found in our schools where far too many children go without immunization and preventive care. It is found in the rooms of our nursing homes with so many residents being uprooted from their homes and neighborhoods because of their inability to afford community-based alternatives. They are forced onto Medicaid. They are institutionalized because their savings have been exhausted, and on and on.

Mr. President, individuals and families go uninsured for several reasons. Often health insurance coverage is simply not available, or what is available is not affordable. The effect is the same. Health insurance often lapses after a worker is laid off and COBRA extensions that affect certain larger industries have expired.

Entrepreneurs who leave their jobs to start their own businesses, which is what we glory in America—IBM used to have it all and then people started going out and creating all kinds of other things. That is what we do in America. We are a country of entrepreneurs. Entrepreneurs who have to leave their jobs or want to leave their jobs to start their own companies because they think they have a better idea are sometimes unable to convert their group health insurance policies to an individual health plan, and, even more tragic, insurance coverage is often terminated by an insurer just when that insurance policy is needed the most, when an individual or a family member experiences a really serious, devastating illness or disability.

How reliable is a guarantee, so to speak, of health coverage when the health plan issuer acts in its own self-interest or cuts the safety line by either terminating a policy or increasing the premiums beyond the ability of the individual to pay, thus, in effect, accomplishing the same end—cutting that person off.

The Health Insurance Reform Act of 1995 makes significant strides to address each of these two problems, and that is why it is such a good bill and needs to be passed. The Health Insurance Reform Act will strengthen the safety net for millions of Americans by improving portability and security of private health insurance, especially in the small group and the individual insurance markets. I support this bill because I personally have heard the stories of hundreds of West Virginians who have fallen between the cracks of our health care system.

Mr. President, I wish to just give three personal examples that I know of and then end with a statement from the White House.

Mr. President, I want to start—and these are all people who would be helped by this bill, and the examples are so many—with one Norma Schoppert, who lives in Piedmont, WV—not large, near the top of our State. Several years ago, she developed diabetes. Lots of people do. When her husband was working, Mrs. Schoppert was covered by the health plan offered by his employer. That is understandable. But then he retired in 1991 and became eligible for Medicare. When that happened, she was able to extend her own health insurance coverage for 3 years because of the COBRA provisions that affected his health insurance, and thus she was able to pay monthly premiums of $354 and continue full health insurance coverage under COBRA for 3 years. But that only lasted from 1991 to 1994, those 3 years.

Mrs. Schoppert was offered an individual policy when her COBRA extension expired at a monthly premium, Mr. President, of $1,800. So you understand the effect, $354 in the COBRA extension, $1,800 without it. In effect, obviously, she could not pay that. She could not afford to pay this amount, so she has now no medical coverage at all. And unless the system is reformed, she will have to go without insurance until she qualifies for Medicare, which is still 3 years away.

Now, Mr. President, that means, as the Senator from Tennessee indicated, 3 more years of anxiety, 3 more years of fear, worrying about the risk of losing everything that she and her husband worked all of their lives to build. And we say that sentence so easily; it just rolls off our tongue. But these are gigantic tragedies in the lives of real people.

Second example. Juanita Taylor of Elkins, WV. Just a few years ago, she was a hard-working employee at Davis & Elkins, which is the local private college, but then she developed multiple sclerosis. She kept right on working, struggling to overcome the advancing weakness that her illness caused her. When she was, in fact, really too weak to meet the demands of her job, she lost her job and eventually the health insurance that had provided.

Her neighbors and her friends pitched in to help her pay for a wheelchair, so that she could stay connected and involved with her community, so that her morale would be better.

Those friends and neighbors told me that she was forced to pay out-of-pocket costs of $1,000 per treatment to help slow the advance of her multiple sclerosis. How many people can pay $1,000 per treatment? Although she now has Medicare, her medical expenses ate up all of her savings. Juanita Taylor courageously faced and fought a ravaging disease, only to be victimized by a system that cared more about how much money she had in her pocket than it did, quite honestly, about her health condition.

But the final story, and the saddest one of all, it seems to me, comes from Falling Waters, WV, which is in Berkeley County. In 1990, Walter McPeak and his wife, Karen, were granted custody of Mr. McPeak's two sons, Anthony and Thomas. They wanted these boys. Both the boys have severe hemophilia and hepatitis, as well as the social and the emotional difficulties that come from living in constant fear that even the slightest injury could result in terrible trauma or instant death.

At the time the boys came to live with them, both Walter and Karen McPeak were employed in high-paying management jobs. Together they earned a little over $80,000. But their employer's health plan would not issue coverage for Anthony or for Thomas. Their need for special clotting factors and other treatments means medical costs of several thousands of dollars each week.

So it was not long before the McPeak family had used up all of their savings. They had to sell their house and then they sold their first car, and then they sold their second car, but still the costs climbed and there was no help in sight. When they tried to apply for Medicaid—which you can imagine they did

VOL
142
PT
6
AP
15
—
24
1996
UMI

not want to have to do—because Medicaid would have helped pay for their sons' treatments, they were told that their family income was too high for the boys to be eligible for SSI, which would automatically make them eligible for Medicaid.

So, what choice did Walter and Karen McPeak have to make? In order to qualify the boys for SSI, which was their moral and parental responsibility, they gave up their management jobs, both of them, over $80,000 a year, and took minimum wage, unskilled jobs so their income would not exceed allowable limits for them to qualify for SSI and hence Medicaid.

This is a tragedy and this is a travesty. It should never happen in America. Anthony and Thomas got health insurance; yes, they did. But the McPeaks lost their savings, their home, their car, their jobs, probably a good deal of self-esteem—although not on a moral basis; and their employers, of course, lost two highly skilled managers. So we must pass health insurance reform in the form of this bill.

The bill we are considering is not a perfect solution and nobody has made that claim. But it will go a long way toward ensuring that working Americans and their families are able to keep the health insurance that they have, if they lose or if they change jobs. This legislation will mean that families like the McPeak's, who have children with special needs, will have the protection and have the security of insurance coverage. And it will mean that talented and hard-working individuals with new and creative ideas, entrepreneurs, will be free to go out and start their own businesses, because of this reform bill, without the fear of losing their health insurance.

Again, I thank and congratulate Senators KASSEBAUM and KENNEDY for their enormous leadership that gives us this historic—and it is historic—chance to do something that Americans deserve and want so badly. I conclude with a statement of administration policy. This is just for the edification of the membership.

I read from the administration's latest statement of administrative policy:

> Certain provisions included in the House-passed bill are so controversial and so potentially damaging to the health care system that they jeopardize enactment of the insurance reform that Americans want signed into law this year. Specifically, the inclusion of amendments that, one, provide for medical savings accounts, MSA's; two, deregulate multiple employer welfare arrangements—MEWA's; three, impose federally defined caps on punitive and noneconomic medical malpractice awards; four, undermine Medicare fraud and abuse efforts; and, five, weaken the ban on the sale of duplicative insurance policies to the Medicare beneficiaries, would call into question the seriousness of the commitment of the Senate to health insurance reform this year.
>
> The administration views such provisions as an effort to undermine a bipartisan consensus on health reform. If such amendments are adopted, they would create a grave risk to the passage and enactment of this bipartisan legislation.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I thank my friend and colleague from West Virginia for an excellent presentation on the current legislation and also for his really extraordinary leadership on the whole health care issue. As he mentioned, he was right in the vanguard of leaders when we debated the more comprehensive program over a year ago. I think he is tireless, as a member of the Finance Committee, in pursuing good health care policy. So I thank him for his comments. I am very hopeful he will be involved during the course of debate on this measure, because he brings great interest and knowledge to his comments.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I second those observations. Senator ROCKEFELLER has cared for a long time, as well, about a wide breadth of health issues, particularly as regards to children. I ask unanimous consent that the Senator from New Mexico [Mr. DOMENICI] be added as the 66th cosponsor of the bill before us.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. The next speaker is the leader of the Republican health care task force. Senator BENNETT has been a very, very strong and constructive Member of the Senate, working with health care issues. I have certainly valued his advice and support in this endeavor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I thank the Senator from Kansas for her kind and generous words. It has been an interesting odyssey for me to get involved in the health care issue. It came up in the 1992 campaign, when I ran for the Senate in the first instance. I must confess, the first time the question came up I was pretty much stumped for any kind of an answer as to what we ought to do on health care. I do not like being stumped for an answer, so I have plunged into this issue ever since I have been in the Senate, and the more I get into it, the more certain things become clear.

One of the things that is very clear is that we need insurance reform now. It is something we can do now. And we should be careful not to attempt a complete overhaul of the system just to get insurance reform. That was one of the errors, in my view, that was made strategically by the President of the then majority party in the last Congress.

I always said, and repeat again, that the President deserves credit for having raised this issue. It is such a thorny issue that the instinct of most politicians is to flee from it. I learned in the days when I was working with the Congress, before I came here, that all you needed to do in order to defeat a bill was, not convince Congress that it was a bad bill, all you had to do was convince them that it was a controversial bill and they would flee from the controversy. So I salute the President and have always done so, since coming to the Senate, for his courage in raising the issue.

But in the last Congress, I seriously departed from the President because of his insistence that the entire system had to be fixed at once with a single bill and a single Congress. I thought that was the height of arrogance and, ultimately, it proved to be impossible.

I remind people that the Clinton health care plan was not voted down in the 103d Congress. It simply died, collapsed of its own weight, and a vote was never taken on it because it could never be put together in such fashion that it was ready for a vote.

So I commend the Senator from Kansas and the Senator from Massachusetts in their willingness to say, "Let's step aside from the attempt to do everything in a single bill. Let's pick out the most pressing problems and see if we can address those."

Those of us who tried to put forth this strategy in the last Congress were attacked as incrementalists, and we were denounced as being insufficiently compassionate and concerned. I do not know anybody in this body who is more compassionate and more concerned than the Senator from Kansas. I stand now to say that the incremental approach that we proposed in the 103d Congress is now bearing fruit in the 104th, primarily due to her leadership and her compassion and her concern. So I am delighted to be a cosponsor of the bill and to participate in this debate.

I do have to make a few general observations, however, before I get into talking about this bill, so that people who have heard me on health care in the past will know that I have not abandoned those observations.

I believe that we have the system that we have in the country today primarily because of the tax laws in this country. We have a system that is distorted, for a whole series of reasons. Not to go through the whole litany but to, again, lay down certain principles so that I am not accused of abandoning them, we have not one health care system in this country but two.

The first one is the delivery system, and it is run by doctors and nurses and hospital administrators and researchers and research hospitals and foundations and all of the rest of it, and it is dedicated to delivering the finest

health care medical result for our citizens as possibly can be.

The second system is the payment system, and it is run by insurance companies and adjustors and, to a very large extent, the Federal Government. Forty percent of the health care bills in this country are paid by the Federal Government.

The payment system, to a certain extent and certainly to a larger extent than is proper, in my view, distorts the delivery system. Delivery system decisions are made on the basis of payment system decisions, and that is where we get into all of the difficulty, in my view.

If we could devise a way that the delivery system goes forward with the focus primarily on producing the best medical result for the patient, undistorted by the payment system, we would have the ultimate circumstance.

If I may give us an example—I realize it is not perfect, but it is one we ought to look at—I have been in Shriners hospitals. The Shriners raise every dollar that they spend for health care, which means that they do not interface with a single insurance company or a single Government bureaucrat. They simply raise the money to pay the bill for the kids, and they make the decision as to what will be done in a Shriners hospital solely and entirely on the question of medical need.

Here is the result of not having to deal with insurance companies or the Government at the Shriners Hospital in Salt Lake City: The cost per day, per-bed night, or whatever the appropriate medical term is, in the Shriners Hospital in Salt Lake City is $95. What could we do in medical costs if the per-night cost in a hospital were $95 for every 24-hour period?

The administrative costs of running the Shriners hospital system are 4 percent, which means that 96 percent of every dollar they raise to take care of the medical needs of these kids goes to the kids and only 4 percent goes to administration.

That is what happens when you do not have to deal with an insurance company or with the Government bureaucrat. That is the goal for which we should aspire somewhere out there to clean up the enormous costs and complexity of the system in which we are engaged.

I think the answer to that lies in restructuring our tax laws in the way we deal with health insurance. That is a speech I have given before; it is not a speech I will give today, but I lay that down because I do not want anyone who is listening to me to think that for one moment I have abandoned that as my ultimate goal: To get to the circumstance where we clear up the enormous complexities that now beset the whole health care issue.

That having been said then, Mr. President, let me address S. 1028 and my support for it. As I said at the outset, I believe in the incremental approach. I believe that when you are dealing with a trillion dollars' worth of economic activity, trying to fix it all at once with a single piece of legislation is a major mistake, and I think we learned that lesson in the 103d Congress.

The most pressing issue for most Americans is the question of job lock, the question of insurance through the employer keeping people tied to a particular employer or to a particular job.

During the campaign, whenever this came up, I had a little exercise I would go through, and it never failed to produce exactly the same result. As people would turn to me and say, "What is the biggest problem with health insurance," I would answer with a question. I would say, "How many of you here know of someone—either yourself, a member of your family, or friend—who is locked in a job he or she hates because he or she is afraid to lose health insurance?"

I would just sit back and watch the hands go up, and they would always go up in sufficient number around the room to make my point: That portability of health insurance is, for most Americans concerned with this issue, the No. 1 challenge, and portability of health insurance is at the core of S. 1028.

If we can make it possible for people to ultimately control their own destiny and not be under the control of their employer, then we have solved the problem for many, many Americans.

I am not one who subscribes to the statistics about the tremendous number of uninsured. I point out that for most of the uninsured, they are just passing through that category. I give this example.

In my own family, I have a son who, when he turned 24, went off the family policy. The insurance company says he should be through with school at age 24. I said, "I agree with you he should be through with school at age 24, but he's not, so what do we do?"

Well, I called him up and said, "Jim, go down to the student health center and sign up for the student health policy at the University of Southern California."

He said, "Sure, dad, I'll take care of that."

Those of you who have children know that it took about 6 months for him to finally get around to taking care of that. During that 6-month period, he was one of those statistics of the uninsured. He had gone off my policy because he was too old to be a dependent and he had not gotten around to signing up with the other, and so he ended up in that statistical pool of the uninsured.

Frankly, it is not my son, Jim, we are worried about here. It is the people who, in that statistical pool, have a real problem.

I raise that only because I think it is unfair to use the huge statistical number of 37 or 40 million or whatever it may be, to try to highlight the problem that is really severe and significant for roughly a third or even a quarter of that number. But the people who are in that quarter, the 10 million, whatever, have real problems, and this bill addresses those problems.

We should understand that this terror of losing health insurance that has caused job lock can become more than just a personal problem for the individual involved. It can have consequences throughout the entire economy.

The Senator from West Virginia spoke about the entrepreneurs who leave a secure business to go start another one. I have been one of those entrepreneurs and had the experience of walking out of a secure company where I had health insurance, being told, "OK, you have COBRA coverage for 18 months, and in that 18-month period, good luck in lining up some other kind of health insurance."

I was able to line up another kind of health insurance for me, but discovered a very difficult problem. My secretary, who left with me when I left the company to start my own activity, was also covered by COBRA, and in that COBRA period while we were putting together a health insurance plan for our little tiny company—just the two of us; we were the only two employees—she came into my office one day and said she had to see a doctor, she was not feeling well. She came back from the appointment and said, "I have a brain tumor. It is operable. It can be handled, but the problem of dealing with it is going to take a timeframe longer than the 18 months of COBRA. What are we going to do?"

I will not bore the Senate with the details. We were able to solve the problem. We were able, through the State of Utah and some of the things that it does on health insurance, to find an insurance pool that would accept her. But I saw firsthand how difficult that can be. People who are normal and healthy and have no problems at all in the 18-month period of COBRA are suddenly faced with this kind of circumstance.

So that is why I have joined in cosponsoring S. 1028. It is focused on a single problem. It is not an attempt to solve all of the issues simultaneously and thereby get gummed up in all of the challenges that face our health insurance and health care problems. It deals with the most pressing problem for most Americans who fall in this category. It does so in such a way that it does not close the door to the kinds of solutions I want to see down the road. It does not close the door to the kind of tax reform that I think will ultimately bring us the ultimate health care solution.

So, for those who say, "Well, Senator BENNETT, you have been a voice for the

VOL
142
PT
6
AP
15
—
24
1996
UMI

entrepreneurial approach, the market approach, and don't endorse anything until you can restructure everything," I say, we have not got that luxury. We have to deal with the problem of job lock, the problem of portability of health insurance as quickly as we can, even as we have these other discussions for the solution a long way down the road.

Again, Mr. President, I congratulate the Senator from Kansas for her leadership and her tenacity. I say, as I have said before, that the loss of her membership in this body will be keenly felt. She brings an aura of civility and intelligence, combined with a tenacity and a sense of steel in her back that sometimes her pleasant exterior will cause people to misjudge. We have been honored with her service in the Senate. I think this will be a monument to her service in the Senate. I am delighted to be one of those who raises a voice in support of that concept. Mr. President, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to express appreciation to the Senator from Utah, who gave such a very thoughtful opening statement, I think, by example, showing concretely why the provisions of this bill are important. I know that the majority leader, the senior Senator from Kansas, has also over the years been cognizant of the very things that Senator BENNETT, as the leader of the Republican health care task force, spoke so eloquently and sincerely about. I am very appreciative.

Mr. DOLE. Mr. President, I understand there are a number of my colleagues who wish to make opening statements. I just want to indicate that I am prepared to offer the so-called tax amendment. We are trying to get some agreement that is acceptable on both sides as far as a motion to strike one provision of that. So I ask unanimous consent that, following opening statements, I be recognized to offer the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. First of all, I would like to thank the distinguished Senator from Vermont for permitting me to go ahead of him. I know he has been waiting. I assured him my statement would be brief, so I am going to be held to that.

Mr. President, I would like to take this opportunity to reaffirm my support for the Kassebaum-Kennedy health reform legislation. The sponsors of this legislation have worked for a number of years to enact reforms in the private insurance market. I applaud them for their considerable efforts in bringing this legislation to the floor.

It is interesting to note this legislation is quite similar to that which Senator Durenberger first presented in the Finance Committee, as I recall, or perhaps in the Labor Committee several years ago. Although he has left the Senate, I think he would be pleased to know we are making progress with the legislation he was so involved with.

In the wake of attempts in recent years to completely overhaul our health care system, this legislation has been characterized, as the distinguished Senator from Utah noted, as incremental. It has been criticized as even meager. But I urge my colleagues, as the Senator from Utah noted, not to underestimate the importance of this legislation.

One of the major failings of our health care system in this country is the difficulty thousands of Americans face each year when they change jobs or look for new jobs. But they find they cannot change jobs because they will no longer be eligible for health insurance. This is what is known in the trade as "job lock." This problem for many Americans would be addressed under the Kassebaum-Kennedy bill. Insurers would be required to offer coverage, with no preexisting condition exclusions, for those moving from one group plan to another or from a group plan to an individual plan.

I expect, Mr. President, we will see many amendments to this proposal, many of which I have supported in the past. Though laudable, these additional provisions could jeopardize the more immediate and important goal of enacting insurance market reforms. Those of us who worked to enact health care reform 2 years ago know all too well the consequences of attempting to do too much with respect to health care reform. We failed to enact comprehensive health care reform in 1994. You try to do too much and you end up getting nothing. We have been through that experience, Mr. President, not only with the health care measure that we tried in 1994, but in other efforts in the past.

In the last 2 years, over a million Americans lost their health insurance coverage. Although this proposal, the Kassebaum-Kennedy proposal, does not include many of the health reforms which I advocated 2 years ago, I strongly support its enactment as a sound first step toward reform and improvement in our Nation's health care system.

So I congratulate the two principal cosponsors of this legislation and am delighted to be listed as a cosponsor myself. I thank the Chair.

Mrs. KASSEBAUM. I thank the Senator from Rhode Island. He, too, has been a long-time worker in the vineyards of health care, a staunch leader in the last Congress to find some answers and to bring people together to present health care reform. I value his support in helping us work through the language in this bill.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

PRIVILEGE OF THE FLOOR

Mr. JEFFORDS. Mr. President, first, I ask unanimous consent that Theresa Stathas, a fellow in my office, be granted the privilege of the floor for the duration of the consideration of S. 1028.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I rise today in support of the Kassebaum-Kennedy bill. Before I do that, I want to express my deep appreciation for the efforts that were put in, in 1994, by Senator CHAFEE, in trying to reach a consensus on what we can do to move health care forward. We worked long and hard, many of us, and the issues which we are involved with today in S. 1028 were some of those which gave us the greatest concern.

I also want to thank Senator BENNETT for his work with the Republican task force on health care. His work has been invaluable to us as we move forward to try and find, again, the kind of consensus that is necessary to get us good health care reform. What a refreshing experience it is to have Senator Frist with us, who has given us the invaluable knowledge of a practicing physician, who kept us from going too far astray in our efforts. It is wonderful that we have this kind of a coalition. Senator ROCKEFELLER, who I have worked with, also, is so helpful in the health care reform area.

I am beginning to feel confident that we will do something constructive here in health care reform, and hopefully it will happen in the next few days. Of course, my chairman and my ranking member, Senator KENNEDY, who both have shown outstanding leadership in getting our committee to come out 16 to 0 on a bill, this is a miracle in itself. I am deeply appreciative of all their efforts.

I rise in support of the Kassebaum-Kennedy Health Insurance Reform Act. If we send this legislation to the President, the 104th Congress will be remembered in history for taking the first steps toward real market-based health care reform. Market reform is not as easy as it may sound, for the simple reason you must take into consideration the State's responsibility for regulating insurance versus the Federal responsibility for regulating ERISA, employee benefit plans.

That word, ERISA, is one that troubles many. The reason it troubles people is because there is not much there. We have the authority and the responsibility to provide good health care

conditions for the self-funded plans, but we have exempted the self-funded plans from State regulations. That is why we are here today and why this is an important move forward.

Finding the right balance between insurance regulation and employee benefits, while trying to incrementally reform the market, is something like mastering the Rubic's cube. Just when you think you have all the sides lined up, you find out one square is out of place. Last August, the Labor and Human Resources Committee lined up that Rubic's cube and it all seemed right with the world.

As I mentioned, in a unanimous 16 to 0 vote, the committee voted favorably on S. 1028, the Health Insurance Reform Act of 1995. I must commend the chairman and the ranking member for that incredible feat. It is not an easy task putting together a health care reform bill that every member of the committee can vote for, but it happened. The Health Insurance Reform Act makes great strides in addressing many of the problems in the insured market and also begins to level the playing field in the self-funded ERISA market by apply the same national rules to both segments of the marketplace.

Chairman KASSEBAUM's approach from the beginning was to build a bill around two areas of consensus—portability and elimination of discriminatory treatment of preexisting condition rules. The Kassebaum-Kennedy bill provides Americans the security of knowing that their health insurance will be portable from job to job and that all people who have insurance today will be able to purchase affordable insurance tomorrow even if they get sick. That is a critical phrase—even if they get sick, or change or lose their jobs.

This is accomplished by converting the rules in today's insurance market which reward excluding people into rules where health plans can take all comers. There is a tendency to want to exclude sick people, naturally. You make more money if that happens. This will step in and say, "Hey, no." S. 1028 provides much-needed improvements at the national level, but at the same time allows States the flexibility they need to move ahead in their own reform efforts.

As we attempt to make coverage more widely available, we must also not lose sight of affordability, particularly in a market where employers and individuals are not mandated to purchase insurance. We must be very careful as we reform the insurance market, because if we are not, reforms that we hope will reduce costs and improve access may do just the opposite.

How is this possible? Today, over 92 percent of the people who have private health coverage are part of a group—92 percent are part of a group. Most of these people get it through their employer under an ERISA health benefit plan. The key concern regarding ERISA is the risk segmentation that occurs in the private market due to the preemption clause. ERISA preemption effectively blocks States from regulating most employer-based health plans. ERISA preempts States from being in this area.

Although many employers still purchase health coverage from a State-regulated health insurer that is subject to State insurance regulation, employer plans that cover 44 million people have elected to self-fund and avoid the State insurance laws. These laws deal with financial solvency, market conduct, benefit coverage, and premium taxes. States impose taxes on insurers for general revenues, as well as for financing specific programs like State guaranty funds and high-risk pools.

Preemption made a lot of sense 20 years ago when the multistate employers and unions were looking for a way to offer uniform benefits to employees throughout the country. Most of the plans were offered through insurers. Most of the plans were offered through insurers. As States started to weigh down the insured market with mandated benefits, employers saw self-funding as a means of flexibility and plan design.

These are two reasons why employers have left the insured marketplace. In a preliminary report I just received from GAO, the estimated additional costs of these mandated benefits range from a high in Maryland of 22 percent additional cost and low in Iowa of 5 percent.

Mr. President, I ask unanimous consent that excerpts of the GAO preliminary estimate be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

GENERAL ACCOUNTING OFFICE,
Washington, DC, April 15, 1996.

Hon. JAMES M. JEFFORDS,
U.S. Senate,
Washington, DC.

DEAR SENATOR JEFFORDS: The Congress is considering proposals intended to enhance the availability of health insurance. This debate has led to specific questions about the state regulation of health plans, including mandated benefit laws. In particular, you asked us to provide information on—

1. state requirements affecting fully insured health plans and how they compare with federal requirements affecting self-funded health plans,
2. the number of states that have enacted particular mandated benefit laws,
3. estimates of the costs of mandated benefits in particular states, and
4. the extent to which commonly mandated benefits are provided by self-funded health plans that are exempt from state laws.

This letter provides interim information based on our ongoing work for you on the factors affecting the costs of state health insurance regulation. As part of this effort, we interviewed officials from the National Association of Insurance Commissioners (NAIC); several state insurance commissions; and national organizations representing actuaries, health insurers, and self-funded employers. We reviewed documents and used data provided by these groups as well as available studies on mandated benefits. In addition, we included and updated information from previous GAO reports on state insurance regulation and the Employee Retirement Income Security Act of 1974 (ERISA). Our review was conducted between January and March 1996 in accordance with generally accepted government auditing standards. We expect to issue a report to you later this year that will provide a more detailed analysis of the factors affecting the costs of state health insurance regulation.

RESULTS IN BRIEF

We found that states have an average of 18 mandated benefits that health insurers must cover but the number of mandated benefits varies from a low of 6 in Idaho to a high of 39 in Maryland. However, assessing the costs of mandated benefits is difficult because their impact varies depending on state laws and employer practices. Published studies provide a range of cost estimates. For example, a recent study found that Virginia's mandated benefits accounted for about 12 percent of claims costs; earlier studies estimated that mandated benefits in Maryland cost 22 percent of claims and in Iowa cost 5 percent of claims. In general, cost estimates are higher in states with more mandated benefits and in states that mandate more costly benefits, such as mental health services and substance abuse treatment. We also found that self-funded health plans often offer similar benefits, even though they are exempt from state-mandated benefit laws. For example, a survey by KPMG Peat Marwick found that a large percentage of self-funded health plans offer benefits similar to those mandated for health insurers in many states.

REGULATORY FRAMEWORK DEPENDS ON WHETHER A HEALTH PLAN IS FULLY INSURED OR SELF-FUNDED

While states are able to regulate health insurance, state regulation does not directly affect everyone with private health coverage. ERISA preempts states from directly regulating employer provision of health plans. This results in a very different regulatory framework depending on whether an employer purchases its health care coverage from an insurer that the state regulates or self-funds its health plan is not directly affected by state regulation.[1]

States focus their regulation on the financial soundness of insurers and their market conduct, including benefit coverage. In addition, states impose taxes on insurers for general revenues as well as for financing specific programs. While federal requirements include fiduciary and other responsibilities, in many other areas no federal requirements exist for self-funded health plans that are comparable to state requirements for health insurers. In particular, self-funded health plans are exempt from state laws that mandate insurers to include coverage for specific benefits. Table 1 companies the requirements that fully insured and self-funded health plans must meet.

VOL 142 PT 6 AP 15 — 24 1996 UMI

TABLE 1.—COMPARISON OF RELEVANT STATE AND FEDERAL PROVISIONS AFFECTING FULLY INSURED AND SELF-FUNDED HEALTH PLANS

	State insurance regulations affecting fully insured health plans	ERISA provisions affecting self-funded health plans[1]
Financial requirements:		
Licensing	States license insurance companies and the agents who sell insurance to ensure that companies are financially sound and reputable and that agents are qualified.	No comparable requirements.
Financial solvency	States set standards for and monitor financial operations of insurers to determine whether they have adequate reserves to pay policyholders' claims. States restrict how insurers invest their funds.	No solvency requirements but fiduciary duty to act in a prudent manner solely in the interests of plan participants and beneficiaries.
Rate reviews	States review and approve rates to ensure that they are both reasonable for consumers and sufficient to maintain the solvency of insurance companies.	No comparable requirements.
	Some states regulate insurer rating practices in the small group market to determine the factors insurers may use in setting premiums[2].	No comparable requirements.
Market conduct requirements:		
Plan benefit coverage and description	States review and approve insurance policies to make sure that they are not vague or misleading and to ensure that they meet state requirements, such as mandatory benefit provisions.	Disclosure requirements to provide summary plan description to participants and the Department of Labor. No requirements to provide specific benefits.
Consumer protections and complaints	States monitor insurers' actions to make sure that they are not engaging in unfair business practices or otherwise taking advantage of consumers by investigating their complaints, answering questions, and conducting educational programs.	Plan must reconsider denied claims at participant's request. States have no authority to pursue consumer complaints regarding self-funded plans. Department of Labor has responsibility for complaints regarding self-funded health plans.
Small group reforms	Most states require insurers selling to small employers to accept and renew employees who want health insurance coverage, establish short waiting periods for preexisting conditions, and require portability of coverage even when an individual changes jobs or insurers[2].	States are preempted from applying small group reforms to self-funded health plans.
Tax requirements:		
Premium taxes	States assess premium taxes on insurers	States are preempted from assessing premium taxes on self-funded health plans.
Guaranty funds	States assess insurers to finance guaranty funds that provide financial protections to enrollees who have outstanding medical claims in the case of an insurer insolvency.	States are preempted from requiring self-funded health plans to participate in guaranty funds.
High-risk pools	Some states assess insurers to finance losses in high-risk pools that provide health coverage for individuals who otherwise had been denied health coverage due to a medical condition.	States are preempted from requiring self-funded health plans to participate in high-risk pools.

[1] ERISA requirements apply to all private employer and union health plans, including fully insured and self-funded health plans. See Employer-Based Health Plans (GAO/HEHS–95–167, July 25, 1995). While states are preempted from regulating self-funded health plans directly, some states regulate third-parties that provide administrative services for self-funded health plans and stop-loss insurance carriers that reimburse self-funded health plans for claims that exceed a predetermined threshold.

[2] For a listing of states that have enacted these reforms, see Health Insurance Regulation: Variation in Recent State Small employer Health Insurance Reforms (GAO/HEHS–95–161FS, June 12, 1995).

NUMBER AND TYPE OF MANDATED BENEFITS ADOPTED BY STATES VARY

On average, states have enacted laws mandating about 18 specific benefits. As shown in figure 1, 15 states have over 20 mandated benefits while 9 states have 10 or fewer mandates. Maryland (39), Minnesota (34), and California (33) are the states with the highest number of mandated benefits. In contrast, Idaho has only 6 mandated benefits; Alabama, Delaware, Vermont, and Wyoming each have 8 mandated benefits.[2]

States most frequently mandate coverage for preventive treatments like mammograms and well-child care or for treatment of mental illness or alcohol and drug abuse. (See table 2.) In addition, states often require coverage for some types of providers like optometrists and chiropractors. States typically mandate that insurers cover specific benefits in all plans sold, whereas some states merely mandate that each insurer make this service available in at least one plan that it offers. In some cases, the mandates are limited to particular types of plans such as health maintenance organizations or group insurance plans.

TABLE 2.—COMMONLY MANDATED BENEFITS.

	Number of States		
	Cover	Offer	Total
Treatment-related:			
Mammography screening	42	4	46
Alcoholism treatment	23	16	39
Mental illness	15	16	31
Well-child care	21	4	25
Drug abuse treatment	13	10	23
Pap smear	17	0	17
Infertility treatment/in vitro fertilization	12	2	14
Temporomandibular joint disorders	11	3	14
Off-label drug use	13	0	13
Maternity care	11	2	13
Breast reconstruction following mastectomy	9	2	11
Provider-related:			
Optometrists	46	1	47
Chiropractors	43	3	46
Psychologists	42	0	42
Podiatrists	38	0	38
Social workers	26	0	26
Osteopaths	21	0	21
Nurse midwives	15	0	15
Physical therapists	14	0	14
Nurse practitioners	13	1	14

Source: NAIC, Compendium of State Laws on Insurance Topics: Mandated Benefits (Kansas City, Missouri: NAIC, 1995).

STUDIES VARY IN THEIR ESTIMATES OF THE COSTS OF MANDATED BENEFITS

Studies conducted in several states between 1987 and 1993 provide varying estimates of the costs associated with mandated benefits. (See table 3.) Among the most recent, the Virginia State Corporation Commission has required insurers to report cost and utilization information annually for each of the mandated benefits in the state. Overall, the commission reports that Virginia's mandated benefits accounted for about 12 percent of group health insurance claims in 1993. An earlier study in Maryland, the state with the most mandated benefits, estimated that mandated benefits represent 22 percent of average claims costs in 1988. At the other extreme, a 1987 study in Iowa estimated that the potential costs of introducing several commonly mandated benefits would be about 5 percent of claims costs.

TABLE 3.—STUDIES OF THE COSTS OF MANDATED BENEFITS IN SELECTED STATES

State	Year	Percent of total claims costs
Maryland	1988	22.0
Massachusetts	1990	18.0
Virginia	1993	12.2
Oregon	1989	8.1
Wisconsin[1]	1989	7.9
Iowa[2]	1987	5.4

[1] Includes six mandated benefits: alcohol and other drug abuse treatment, chiropractic care, diabetes care, home health care, skilled nursing facility care, and kidney disease treatment.

[2] The study in Iowa examined potential costs of six commonly mandated benefits, including mental health, alcohol and drug abuse, podiatrists, optometrists, registered nurses, and physical therapists. Iowa has not adopted all of these mandates; according to the Blue Cross and Blue Shield Association, Iowa's current mandates are mammography screening, well-child care, chiropractors, dentists, registered nurses, optometrists, and diabetic education.

To some extent, the differences in the cost estimates reported by the various studies are related to the number of mandated benefits included in each state. For example, the studies that showed the highest estimated costs were for Maryland and Massachusetts, states that have more mandated benefits than most states. Thus, these cost estimates cannot be generalized to other states.

While the studies report varying cumulative costs in different states, they generally agree that several specific mandated benefits account for a large share of the additional costs. In particular, mental health and substance abuse are often cited as the most costly mandated benefits whereas other commonly mandated benefits, such as mammography screening, account for fewer than 1 percent of costs. Furthermore, in some cases, mandated benefits covering services offered by some alternative types of providers, such as nurse midwives, may reduce costs because they substitute for more costly forms of care. However, some provider mandated benefits may also increase the demand for services, thereby increasing costs. For example, while chiropractic services may be a less expensive alternative for some treatments, mandating their coverage may also lead to increased use.

One limitation of most studies on mandated benefits is that they have examined the impact of mandated benefits on claims costs, which does not necessarily capture the actual effect on employers' costs. In particular, multistate employers note that varying state-mandated benefits result in additional administrative cost. Employers that purchase health insurance must modify their plans to meet these differences in state-mandated benefits. Furthermore, employers are concerned that mandated benefits limit their flexibility in designing the most cost-effective health benefit plan to best meet the needs of their employees.

SELF-FUNDED HEALTH PLANS OFTEN COVER BENEFITS COMMONLY MANDATED BY STATES

The actual cost impact of mandated benefits to employers also depends on whether the employer offers a comprehensive or limited health plan, which in turn is often related to the size of the employer. Many of the commonly mandated benefits are often offered by employers, even those who self-fund and are not subject to the state mandates. In general, large employers are more likely to self-fund their health plans and also tend to offer more comprehensive benefits than small employers. For small employers, who typically purchase fully insured health plans and are less likely to offer health coverage at all, mandates may impose claims costs for benefits that they otherwise might not have covered.

Studies have shown that self-funded health plans typically offer many of the benefits that are commonly mandated by states for fully insured health plans. For example, as shown in figure 2, a KPMG Peat Marwick survey of employer benefits among all firm sizes indicates that self-funded health plans are more likely to offer well-child care outpatient alcohol treatment, outpatient drug treatment, mental health benefits, and chiropractic care than fully insured health plans. This survey also reports similar patterns for other benefits that are not typically mandated, including prescription drugs, adult physicals, and dental benefits.[3] Similarly, a survey of Wisconsin insurers also found that: "self-funded health plans provide at least as many of the managed benefits as insured health plans and in some cases provide more generous coverage."

This result may partially be due to the tendency of large employers to both self-fund and offer more comprehensive benefits.

Although self-funded plans often offer the same types of benefits as are commonly mandated by states for insurers, they may include features that differ from the requirements of state mandates. For example, state mandates generally specify a minimum number of days of care that insurers must cover for inpatient mental health care. One employer association indicated that many employers prefer designing more flexible mental health benefits; for example, requiring case management rather than specifying a limited number of days of care. Thus, even though 97 percent of self-funded plans offer inpatient mental health care services, all these plans would not meet the state requirement for fully insured health plans.

Assessing the cost differences between self-funded and fully insured health plans resulting from mandated benefits is difficult. To the extent that self-funded health plans offer benefits that are similar to state-mandated benefits, they do not have lower claims costs due to their exemption from state-mandated benefit laws. For less commonly offered benefits, such as in vitro fertilization, self-funded employers would face additional claims costs if they were required to meet the state mandates.

Please contact me at (202) 512–7119 or Michael Gutowski, Assistant Director, at (202) 512–7128 if you or your staff have any questions. Other major contributions to this letter are John Dicken and Carmen Rivera-Lowitt.

Sincerely yours,

JONATHAN RATNER,
Associate Director,
Health Systems Issues.

FOOTNOTES

[1] ERISA preemption effectively blocks states from regulating most employer-based health plans, but it permits states to regulate health insurers. The majority of employers purchase health coverage from a third-party insurer that is subject to state insurance regulation. However, for plans covering about 44 million people in 1993 the employer chose to self-fund and retain at least some financial risk for its health plan. Because these self-funded health plans are not deemed to be insurance, ERISA preempts them from insurance regulation and premium taxation. For a fuller discussion of the regulatory differences, see Employer Based Health Plans (GAO/HEHS-95-167, July 25, 1995).

[2] The calculation of the number of mandated benefits includes requirements that insurers provide or continue coverage for specific populations, such as dependent students, as a mandated benefit. Thus, the number of mandated benefits per state includes these requirements as well as treatment-related and provider-related mandated benefits. See Blue Cross and Blue Shield Association, State Legislative Health Care and Insurance Issuers: 1995 Survey of Plans (Washington, D.C.: Blue Cross and Blue Shield Association, 1995) for a list of mandated benefits for each state.

[3] The data in figure 2 represent the percentage of covered workers in conventional health plans. KPMG Peat Marwick reports similar findings for workers in preferred provider organizations and point-of-service plans that are either self-funded or fully insured. KPMG Peat Marwick is currently examining to what extent these differences in the rates of benefits coverage among self-funded and fully insured health plans can be explained by differences in firm size and premium levels.

Mr. JEFFORDS. Because the employer frequently pays a significant portion of the premium, a large majority of the eligible employee—both young and old, sick and healthy—choose to enroll in an employer-sponsored plan. Since so many people participate in group plans, the average per employee price of coverage stays relatively low and remains affordable for each employee, since the insurance risk is spread over a large pool of people.

The individual market, on the other hand, contrasts in many ways from the group market. For instance, those who buy individual health insurance pay the entire premium out of their own pockets, whereas, in most cases, a business picks up most of the tab. If an individual buys it, it is out of his own pocket. Not only do the people receive no subsidy from the employer, they also do not receive the same tax advantages afforded to employer-sponsored health plans. This is a critical difference. Therefore, costs to the individual is a major concern. When individuals leave a group coverage situation and decide not to purchase in the individual market, it is because they cannot afford it or because they are healthy and have decided they do not need the coverage and do not want to pay the amount of money they would have to pay.

The individual market is so price sensitive, as prices go up, healthy and less costly people leave the market, causing the prices to continue to spiral upward. This vicious cycle makes it inevitable that individual coverage will become less affordable for hundreds of thousands, if not millions, of Americans.

What is the solution? We must encourage purchasing cooperatives in the individual and small group market. Group purchasing is the first tool to bring down costs of individuals. The key concern regarding ERISA is the risk of segmentation.

I was very pleased when Senators KASSEBAUM and KENNEDY included in the health plan purchasing coalition section my own bill which I offered with Senator NUNN, S. 1062. I believe that the key to making health insurance more affordable for individuals and small employers is properly designed voluntary group purchasing arrangements.

Employer group purchasing is not in the concept. Many employers have been pooling funds and contracting with entrepreneurs to offer health benefits to their employees at reduced rates for many years through something defined as multiple employer welfare arrangements, referred to as MEWA's, under ERISA. A MEWA is an arrangement where two or more employers group together to purchase health benefits. The more that group together, the lower the per employee cost or employer cost.

While a number of MEWA's form important gaps in our health care system, some MEWA administrators have taken advantage of the confusion as to who bears responsibility for regulatory oversight, the Feds or the States. It is very, very confusing. They have been able to create and run ponzi schemes, designed to take premium payments with no intention of covering any major health claims. My esteemed cosponsor of S. 1062, Senator NUNN, led the effort to uncover the corruption of fraudulent MEWA's when he chaired the Senate Permanent Committee on Investigations. He was instrumental in drafting the section of the bill that addresses MEWA reform. It is important. I bring it up, also, as I will mention later, because of what is in the House bill.

The bill Senator NUNN and I introduced makes clear, once and for all, that the States are responsible for regulating all MEWA's. Therefore, the number of States that have moved forward in this area will no longer have to be involved in costly litigation, using precious State resources, to prove they are regulated.

I must say, I am very concerned about the way the House bill handles the group purchasing in the small group market. First, continuing to segment the market by creating different rules for insured and self-insured MEWA's is a mistake.

Second, giving the Department of Labor the additional responsibility of now being the insurance regulator for all self-insured MEWA's takes away a current State responsibility and hands it over to the Federal Government. This seems totally inconsistent with the philosophy and fiscal reality of less Federal Government and more responsibility for the States. I think we should be careful when we are looking at this in the conference committee.

Requiring purchasing cooperatives to offer only fully insured products, as in the case of S. 1028, is a much better solution. Although the group purchasing section of the Kassebaum-Kennedy bill is good, I hope we will be able to improve upon it in conference with the House. I hope we can take the lead from Governor Whitman accomplished in New Jersey. She saw the need to look at the impact overburdened State-mandated benefits laws can have in a small group market and developed a variety of distinct benefit packages that small employers can choose to purchase for their employees. This strikes me as a critical step at expanding health care coverage.

Fixing what is broken in our current health insurance system should be

VOL
142
PT
6
AP
15
—
24
1996
UMI

what is accomplished in this year of incremental reform. Although I believe the Kassebaum-Kennedy bill is a good bill, I believe it can be a great one. That is the main reason Senator SIMON and I plan to offer an amendment that would raise lifetime limits, caps, to $10 million. We want to ensure that this bill lives up to its basic promise. What good does it do to pass a law that prevents insurers from excluding individuals with preexisting conditions if you let employers set lifetime caps at $50,000—which is probably 1 day or 1 week for those people—to meet the needs of those conditions?

It is critically important, in my mind, that we make sure that we make this remain a good bill and that we pass a good bill. I will mention that I offered this amendment in committee, and they said at that time that we wanted to come out with a 16 to 0 bill. This was the step that people have to understand—that I would not offer this in committee, but I said I would offer it on the floor. There was some concern raised about having amendments to this bill. But I point out that this is important to the bill in order to make it work.

This is not an extraneous amendment, unrelated to the purpose of the bill. If we do not prevent insurers from reducing lifetime caps, then we have the very likely situation where they will reduce the caps if they have to take sick people in. If we do that, we will have lost the great benefit of what we are trying to do today.

Let me talk about the lifetime cap amendment. In a letter I received from the American Academy of Actuaries addressing my amendment, they stated:

> . . . this amendment is unlike State mandates that require coverage of specific medical services. This is a Federal mandate that appears to greatly increase the security provided plan participants by raising their potential benefits to $10 million.

This is also important. CBO has estimated that premiums would only increase by 0.16 of a percent, while at the same time reducing Federal and State expenditures in the Medicaid Program. So what we would do is to prevent the horrendous situation we have now.

How do you take care of the sick people in this country that have an insurance policy that has a lifetime cap? What happens? You reach the cap and then you have to, under the present situation, drain all your resources until you are poor. And then you apply for Medicaid, and you are eligible for Medicaid. I want to point out that I think that is a terrible way to handle things.

I also point out that other information that we have received from reputable organizations has backed us up in the fact that this is a de minimus cost to most employers, and it is a huge benefit to the Federal budget. The National Taxpayers Union has said that the net savings could be as much as $2 billion in Federal savings and $3 billion in State and local savings by just passing this amendment, at a very minimal cost to employers.

As U.S. Senators, we have the peace of mind in knowing that our health insurance will be there if a catastrophic illness or injury strikes one of our families. In our plan, there is no cap. Anything can be covered. In a large number of HMO's, there are no lifetime caps, and in some other group policies there are no lifetime caps. So I want to focus your attention on that. Hopefully, in the time before I offer the amendment, you will learn more about this and agree with us.

For now, I would like to, once again, commend both Senators Kassebaum and Kennedy for bringing this bill to the floor of the Senate. I urge my colleagues to vote for its passage. I am hopeful that when we finally do get to my amendment, you will keep in mind that what we will do will be almost an unmentionable expense to most employers, but will save people from incredible experiences of having to go through bankruptcy in order to get health care coverage, and also will allow us to reduce the cost of Medicaid to State, local, and Federal Government.

Mr. President, I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

PRIVILEGE OF THE FLOOR

Mr. KERREY. Mr. President, I ask unanimous consent that Karen Davenport, a fellow in my office, be allowed privileges of the Senate floor during our debate and consideration of S. 1028.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I rise to support the Kassebaum-Kennedy bill, S. 1028. I believe it is a long-overdue change. As the Senator from Rhode Island and others have said already, it is regarded by some as very incremental. I regard it as one of those very important pieces of legislation.

Earlier, we enacted a piece of legislation, ironically, that Senator KASSEBAUM actually took the lead on last year, which consolidated the job training programs and gave the States a lot more flexibility in designing their own programs. I said at the time that I thought this law was the second most important thing we could take up this year because we know, with certainty, that it is going to effect some 20 million people. It does not cost the taxpayers any money. It does make a change of the law, the Federal law and will alter the way the market works. But it is not the first time that we have interfered with the health care market.

One of the most expensive interferences that we have with the health care market is that we allow health insurance to be deducted with offsets against FICA by employers, as well. It is a very important deduction, but it also must be seen by citizens as an interference with the market because it is for upper income people in particular. For people like myself, if I am buying private health insurance, it provides me with a substantial subsidy.

It has been a very important way to allow people who otherwise would not be able to purchase health insurance to buy it. So it is not as if this kind of action is without precedent. There is no doubt that close to 21 million Americans will be positively affected by this. They will be able to purchase with their own money health insurance, and still in many cases it is going to be quite high. But nonetheless they are going to have an opportunity to buy it. They are not going to be denied the opportunity to purchase. It does not obliterate the high-risk pool States like Nebraska. We started one when I was Governor. It does not affect States that worked on this for years to try to provide some way to have all of us share a bit of the risk.

This bill, as I see it, is designed to accommodate or rather radically change the economy where we are seeing a lot of downsizing, particularly in larger corporations. You have individuals that are covered by group policies from those corporations. They will find themselves very quickly running out of their benefits and having to purchase individual policies. And very often they find themselves faced with the inability to make the purchase. This law will basically say we are all going to share the risk of that in the marketplace so that these individuals can make the purchase. As has already been pointed out, nearly 25 percent of all working Americans who have private sector jobs have job lock as a result of the lack of portability and the lack of ability to be able to purchase with preexisting conditions. Nearly 3.8 million American workers lost their jobs in March. It is a rather substantial paradox that it has become a fact of life that even at a time when the economy continues to grow, even as we have a recovery underway, that we have layoffs that are close to the same number that were occurring during the last recession that we experienced in the early 1990's. Thus, this change in the law accommodates rather substantial change in our economy.

One of the things that a lot of us who are older—I am 52—sometimes fail to recognize is that the cost of health care as it has gone up has changed the way people in the market, working people and particularly younger people, face health care expenditures. For example, when my babies were born 20 and 19 years ago I was able to pay cash for them. I did not insure against the risk of having a baby because it was a

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relatively modest amount of money. You paid for it out of pocket. It was not considered to be a big deal. Today you need to be insured because the normal delivery is expensive. But almost any extended stay in the hospital can put a young family in a great deal of financial distress.

That is just one of many, many examples that one could cite; a very relevant example because it is a rather common experience. There are 4 million live births a year in the United States, and an awful lot of those births are in families that are uninsured. This will make it more likely that those families will have insurance and have coverage.

It certainly will not get us to where I would like to see us; and, that is, at a point where every single American and legal resident knows with certainty that they have insurance. I hope this is a first step.

I will support Senator KASSEBAUM's and Senator KENNEDY's request to vote against all amendments. I believe that this bill needs to go across in an amendment-free fashion. I do not know if I ever stated what Senator KASSEBAUM is going to support. But I believe this bill is too important for me to be supporting, as Senator JEFFORDS earlier indicated, an amendment that I would under normal circumstances support. I will vote against that amendment because I believe the bill needs to be clean and clear. It came out of the Labor Committee with unanimous support. We have an opportunity to help 21 million Americans. I think it is very important, in spite of my respect for the Senator from Vermont and admiration for him personally, as well as my normal inclination to vote for that amendment. I believe an amendment-free strategy is the right one to adopt.

Mr. President, one of the things that I think we need to do as we move toward universal coverage—and I hope that is the goal—we spend $400 billion a year in Federal direct spending in tax benefits for health care. We spend a sufficient amount. If we would change the way eligibility occurs, one of the things we have to do in order to be able to get there is we all have to face the true cost of health care and very often we do not. Somebody else is paying for it. The insurance company is paying for it—the Government. So we really do not worry about whether or not the bill is high or the bill is low. The more that we can face that cost directly and understand that, if we do not have the resources to pay for it—it is paid for out of an insurance pool, paid for with Medicaid or Medicare, somebody else is essentially paying our bills—the more that we can face that fact the more likely it is that we will move quickly to a point where, if you are an American or legal resident, you will know for certainty that you have health insurance.

This morning June O'Neill, the Director of the Congressional Budget Office, appeared before the Senate Budget Committee and laid down a rather stark warning; that is, even if the President's budget or the Republican budget were adopted, we still have not controlled the growth of entitlement programs. I say that to colleagues because I think once we get beyond the Presidential election we are going face in 1997 a really rather difficult fact. And I believe June O'Neill laid it out for us this morning; that is, we have commitments on the mandatory side that are going to make it difficult for us to fund education, to fund transportation, to fund defense, to fund space, to fund law enforcement, and to fund all sorts of other things that are going on. Unfortunately, very often that occurs because people believe that they have a right to something, that they have a benefit that actually is paid up, the money is all there, and it is set aside for them—no problems, do not worry about it—when in fact that is not the case.

It gets back, it seems to me, to a problem that we have whether it is the tax deductibility, or whether it is Medicare part B. There is sort of a sense that somebody else is paying for it. Why should I have to worry about it? As a consequence, we just are not engaged personally as we ought to be in trying to control the cost of health care, and as a result, it seems to me, it is difficult for us to take the next step.

So again I want to say how much I really appreciate very much and applaud the determination of the Senator from Kansas, and the Senator from Massachusetts. They and the Labor Committee voted this out unanimously, and 21 million Americans will be affected positively. Taxpayers will not be on the hook for this thing. It has been measured. It will cost no more than 2 percent in premiums across the country and with reasonable changes in the law given what is happening out in the marketplace.

I hope this body will pass it as quickly as possible and get it on to the President for his signature.

I yield the floor.

Mr. JEFFORDS. Mr. President, I want to comment briefly on the comments of the Senator from Nebraska about my amendment. I point out that, unlike all of the other amendments, this one is very relevant to this bill and will improve the bill. It is not extraneous to it. If we do not keep track of what the lifetime caps are, then this bill will be a mockery because, if we require the insurers to take sick people on, one way of getting out of that is to reduce the lifetime caps so that as soon as they come in they are out the other end. It was offered in committee with the understanding that it would be brought forward at this time.

I just wanted to bring that to the Senator's attention and hope that I will make an exception to his decision in that regard.

Mr. President, I yield to the Senator from Iowa.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am very glad that this debate is taking place before this body. Having had an opportunity on two separate occasions to push concepts similar to what is in this legislation to accomplish the same goal in maybe not exactly the same way, I am glad that we are here today and that there is a bipartisan effort to get this legislation passed. I think being truly bipartisan is a continuation on these issues of guaranteeing some health insurance to people who can afford it—things that we have tried to accomplish before in a bipartisan fashion.

I respect Secretary of Treasury Bentsen because when he was chairman of the Senate Finance Committee he had proposals which I think were bipartisan with the ranking Republican at that time included in H.R. 11, a major tax bill. And those health insurance provisions went through without any debate on the floor of this body because they were accepted as things that should be done. To see that happen was good. Obviously, President Bush vetoed that bill because he did not like the tax provisions that were in it.

Then, if you remember the next step, there was a fairly bipartisan effort to make these provisions part of basic law. It was during the health care reform debate of 1993 and 1994. They were relatively noncontroversial provisions of much more controversial efforts by the Clinton administration to have the Government totally dominant in the delivery of health care in America and do it through a provision that we called employer mandates, meaning every employer, large or small, would have to provide health insurance to their employees.

Of course, that came down to total defeat in 1994 because the middle class and the small business people of America woke up to a couple of things: First, that small-business America could not afford an employer mandate because they could not pass it on to their consumers like big corporations can do; second, middle-class, taxpaying people saw their rates going up, or if their rates did not go up the services that they received from the health care industry and from the health insurance industry would have gone down.

You remember that was part of a big effort we had in 1993 and 1994 where we were going to insure everybody. Obviously, when there is 13 or 14 percent of the people who do not get insurance and a large percentage of them that cannot afford it, somebody is going to pay. There is no doubt about it. There is no free lunch in our system of doing business in America.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The middle class saw this problem, that we were trying to reduce the coverage, affordability and quality of health care to middle class working America as we were trying to solve the problems of the 13 or 14 percent of the American people who did not have any health insurance. Of course, it only took about 3 or 4 months until working, taxpaying American citizens found out what Congress was proposing to do, and they turned against the Clinton health care proposal.

Then that message really did sink in to the President of the United States because after the November election in 1994, when the Republicans took over the Congress, the President said he was not going to attempt to have that complete overhaul of the American health care provisions he incorporated in his 1993 and 1994 proposals, and that if he was going to do anything it was going to be done incrementally.

So you have a President, thankfully, waking up to the realities of what grassroots America wants, particularly what middle class America wants, they liked their health care plans and wanted to keep them from being diluted. You have the President waking up to that reality, on the one hand, and then you have Republicans who had accepted these noncontroversial parts of the President's health care provisions, the noncontroversial parts, being debated in this Chamber today, which bring together the bipartisan efforts that are going to make this legislation very successful.

So I just wanted to give that background before I express my words of support for and cosponsorship of this very important piece of legislation, because the American people for the last 6 or 7 years, as expressed by this history I just gave you, believe it is high time Congress passed legislation which provides basic health insurance protections for individuals and small businesses. The Kassebaum bill is our opportunity to respond to these concerns.

This bill would assure greater portability of health insurance for individuals. It would limit the ability of insurers to deny health insurance coverage because an individual has a preexisting condition. It would require insurers to offer health insurance to individuals who have lost jobs and seek such insurance. And it would require insurers to issue health coverage to individuals who want to purchase insurance for their employees on a group basis.

The bill defers to health insurance reforms passed by the States. This is very important for my State of Iowa, because in my State we have enacted a very good health insurance reform law. It went into effect on April 1 just past.

Enactment of the Kassebaum bill should not disrupt the reforms that are going on in my State. So, in my State, Iowans would continue to receive health insurance under the terms of the Iowa reforms.

I thank Senator KASSEBAUM and her very capable staff for working with me and my staff and with some of the Iowans who helped put together the Iowa reforms. The modifications Senator KASSEBAUM will offer to her bill would help make sure that Iowa and similar State reforms would not be disrupted when this bill is enacted. As a consequence of these changes, Iowa, and probably several other States should be able to carry out their own reforms without undue interference from the Federal level.

For States which have not implemented their own reforms, this bill would then reform both the group and the individual health insurance markets in those particular States. As I said earlier, these reforms would respond to some of the most pressing problems encountered by small businesses and individuals when they need health insurance.

For the group market, this bill would require insurers who offer group health plan coverage to offer such coverage to all groups that apply. This would prohibit insurers from denying health insurance coverage to employers whose work force the insurer believes is not healthy enough to insure.

Next, the Kassebaum bill would require insurers to offer coverage to all individuals in a group without regard to their health status. This would prohibit insurers then from denying coverage for an individual member of a group plan based on that individual's health status. This legislation would require insurers to renew group health plans at the option of the employer. Renewal may not be denied for reasons of health status of those in the plan. Thus, an insurer would not be able to refuse to renew a health insurance plan to a group based on changes in the health profile of the individual.

This legislation would limit an insurer's ability to deny coverage for preexisting conditions to 12 months. This waiting period would be reduced by 1 month for every month during which an individual was continuously covered under a prior health plan. Thus, Mr. President, an individual who had maintained continuous coverage for 12 months could not be denied coverage because of preexisting conditions.

I think it is simple to say, Mr. President—as far as I can tell—the provisions I have just outlined in this bill, the provisions which apply to the group health insurance market only, are relatively unopposed.

This bill would also reform the individual market. This bill would guarantee the availability of health insurance coverage for individuals leaving group coverage, who want to get individual insurance coverage, as long as they have been covered under their previous group plan for 18 months.

If those individuals were eligible for coverage under current Federal law, and we call that law by the acronym COBRA, these individuals must have exhausted that coverage before they can be guaranteed coverage in the individual market. But that is the only requirement that keeps these individuals from getting insurance.

This legislation would require that health plan insurers renew individual policies at the discretion of the individual, similar to group policies being renewed at the discretion of the employer providing the group policy. Now, without a doubt, there has been a lot of concern expressed about this provision, and it continues to be expressed. It continues to be expressed by insurers who operate primarily in the individual market.

I might say to these companies that I am talking about here, that have this concern—and I am not going to say that this concern is not legitimate—but, as far as practical matters are concerned, I want to remind these companies that if we were to have passed the Clinton health reform plan of 1993, there would not have been any individual market out there. These companies would have been out of business. A lot of the companies in my State that do a majority of group coverage still have a vast minority of their business in the individual market. That portion of their market would have been wiped out. I hope these companies that have some concern about this provision I am speaking about here realize that they have a lot of friends in this body that believe in the free market and do not want to hurt individual insurance coverage. A lot of Americans want individual insurance coverage, not necessarily because it is better than group, but because that may be the only way they can have it and get the type of health care that they want. These companies have that business today because we stopped the Clinton health care reform plan that would have wiped out individual insurance coverage for health care.

Now, what do these companies fear? They fear that the group to individual provisions in the Kassebaum bill would have the ultimate effect of greatly raising premiums in the individual market and hence, I suppose, cutting out a lot of their business because some people might drop it. The marketplace kind of dictates as the price goes up you sell less of something. So these insurers feel the numbers of insured are going to go up. Some of them would say the numbers would increase greatly. But going up greatly, compared to not having any of this business had these reforms been adopted in 1993, is the difference between night and day, as far as I can tell.

It is the case that the bill would not forbid health insurers from rating individuals and charging them a higher

premium if such rating indicates that they are greater health risks than any other individuals. I would think that would help this problem for these individual policy companies to some extent. But as far as we can tell from analysis done by the independent actuaries, the premium price increases caused by the bill should be very modest.

The analysis done by the health insurers' association, the Health Insurance Association of America, wants us to believe that the premiums would increase in the neighborhood of 15 percent. But in making my decision to support the Kassebaum bill vis-a-vis this problem I am just describing, I took into consideration the analyses done by independent actuaries such as the American Academy of Actuaries, and Hay Huggins, which was done under contract with the Congressional Research Service at the request of Senator KASSEBAUM, and even the nonpartisan Congressional Budget Office. All these found that any premium increases attributable to the enactment of this legislation should be very modest, in the range of 1 to 5 percent. The Congressional Budget Office estimates that this increase would be no more than 2 percent as a result of the group to individual portability provisions. If this bill is enacted, it should help provide some peace of mind for a lot of people.

But we should make it clear to the public what this bill would not do. As a lot of people have said here already, it would not solve the problems of those people who cannot afford to have health care insurance. But that is what the term "incremental" meant. When President Clinton, after the November 1994 election, when the Republicans gained control of Congress, was asked about health care reform, he indicated he had learned a lesson from the debate of 1993 and 1994, and he was going to promote the incremental approach. Basically that means we should provide a marketplace out there so people who want and can afford health insurance are going to be able to buy it.

We are going to be able to get a better handle on what the cost is out there, for those who cannot afford insurance. Maybe we can help those people without screwing up the best health care system in the world, which would have been done with the effective Government takeover of health care, if the Clinton health care proposal had gone through in 1993.

But peace of mind for this percentage of people that can afford it is only one goal. That peace of mind should not be enough for everybody to buy into this, because there are some shortcomings that we have to admit to the American people. This bill would not completely eliminate the denial of coverage for every preexisting condition. It would not require employers to offer insurance to their employees. It would not provide portability between different individual policies. And it would not necessarily mean that currently uninsured individuals would have to be sold a health insurance policy.

It is for these reasons that I support the addition to the bill of provisions which would increase the tax deductibility of health care costs for the self-employed. That is not only to pick up a hole that is in this bill but to also bring some equity to the difference between the deductibility at 30 percent of health insurance for self-employed and the 100-percent deductibility for health insurance for employees of corporations. In my State of Iowa, that is like saying that the farmers of my State are denied equity when they can only deduct 30 percent of their health insurance from their income tax, where John Deere, for its workers, can deduct 100 percent of the cost of insurance for that corporation.

I support the addition of medical savings accounts. Both the tax deductibility of health care costs for the self-employed and MSA's, together, at a minimum should make health insurance more affordable, improve portability, as well as providing a greater degree of tax fairness. In any case, if enacted, the bill would be a step forward. The majority of those who are paying attention to our debate since it began several years ago very much want to see Senator KASSEBAUM's bill enacted. We have been promising these reforms, as I indicated at the opening of my remarks, since the Bentsen bill passed this body in 1992, without any debate—indicating, then, that it was the best thing to do. It was a good thing to do. It was a bipartisan thing to do.

So most of us have been saying since that date in 1992, or years before that, we could easily enact such reforms as those that are in this bill. Remember, then, what incremental health reform is. Incremental reforms were what most Republicans were saying was the way to go and we have the President of the United States, in November 1994, saying the same thing. Now we have before us a bill that will deliver incremental health insurance reform if it is enacted. We should pass it.

We have before us a bill that will deliver these incremental health insurance reforms if this bill is enacted—and it will be enacted—and we should pass it. Thank you.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you, Mr. President.

I rise to voice my very strong support for this health insurance reform. This is a tremendous opportunity today to provide greater access to health care for millions of Americans and their families. The Kassebaum-Kennedy health insurance bill, of which I am a cosponsor, is an excellent step in that direction.

This bill will be a great relief for most working Americans. They will not have to worry about losing their insurance if they change jobs. Insurance companies will not be able to deny coverage or make it prohibitively expensive for a preexisting condition.

What this means, Mr. President, is that this bill is a safety net for working Americans and their families. This legislation will make health insurance portable and affordable, and it will give a benefit package that is both reliable and renewable.

I was disappointed that we were not able to enact comprehensive health insurance reform. After that debate came to a close, I pledged to continue the fight to reform health care. This is an important step in that direction, and Senator KASSEBAUM and Senator KENNEDY should be thanked for their great effort in bringing us this far.

Many Americans have medical histories of preexisting conditions that make it difficult for them to get insurance coverage. They stay locked in their jobs and unable to move to improve their standard of living because they fear they will not be able to get insurance coverage. This legislation will end job lock. This legislation will end the penalty for having a preexisting condition, like diabetes. People who work in small business, especially many women, will now be able to get health insurance.

The bill before us today goes a long way toward eliminating the barriers to coverage. For 81 million Americans who have preexisting medical conditions, insurance companies can no longer exclude them from coverage.

Millions of Americans will be able to be secure in the knowledge that if they change or lose their jobs, they will not lose their health insurance. And for those entrepreneurs who start and work in small business, this legislation will provide increasing purchasing power for them and their families.

I am pleased that the bill has the potential to help millions of women and their families. This legislation will help women who start a new job with an employer who provides health insurance. A woman will not be denied insurance for herself and/or family if there is a preexisting condition. Like when she is pregnant, she will be able to get immediate coverage for the pregnancy, even if she is already pregnant. Her newborn or adopted child will receive health insurance coverage as well.

This bill will stop the terrible practice of denying women insurance if they are victims of domestic violence. I think that is crucial. This bill will stop that horrible practice of denying women health insurance if they are victims of domestic violence.

VOL
142
PT
6
AP
15
—
24
1996
UMI

There is much more that I would like to be able to do to make insurance coverage affordable, accessible, portable and undeniable. I would like to see coverage for long-term care, and I would like to see a comprehensive benefit package for women and children, but this is a very important step. We have a tremendous opportunity to improve the lives of many Americans, and I am pleased to support this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Wyoming.

Mr. THOMAS. Mr. President, I rise in support of the Kassebaum bill. I suppose most of us today and on through the night will be saying much the same thing. We have not all said it yet, so we will have to keep doing it. But this is a bill that is very important to us, and we ought to comment on it.

It provides, I think, long-awaited reforms. We have all worked on health care for a very long time. I have had a particular interest in rural health care in that the delivery systems in rural States are necessarily quite different than they are in other States.

This is an incremental move, and I am for that. The portability is important so that people are not afraid to change jobs. Certainly, not prohibiting preexisting conditions and allowing small businesses to form purchasing cooperatives are terribly important. So these are practical and affordable reforms that we need—really relief from trying to change the whole system. I think Congress will meet this challenge.

The Health Insurance Reform Act helps each and every American, more than any other bill that has passed this year. Wyoming ranchers and farmers and owners of small businesses and folks in the mineral industry will no longer be excluded from care they deserve. S. 1028 is compassionate, and I challenge President Clinton to sign this bill for the sake of all Americans.

There has been a major shift in the debate, of course, over the last couple of years. It is historical when you look at how far we have come since we initially discussed health care reform. No longer are we considering the Clinton approach to a Government-run system. That was rejected by Americans, and I think properly so. Instead, we are going to move incrementally into some commonsense reforms. There will be some changes, and there have been some changes suggested by the managers, moving closer to the House proposal, in terms of high-risk pools.

In 1991, my State of Wyoming responded to the health care concerns of individuals with serious illnesses establishing a State insurance pool, a high-risk pool allowing States to continue these measures, rather than be forced to enact other individual insurance reforms. I think this is very helpful to rural States like Wyoming.

Moving incrementally does not mean keeping every worthwhile proposal off the table, however. I think we should promote solutions that expand health care choices and, most of all, in the final analysis, do something about cost. When you talk about health care, what do you usually end up talking about? Cost. Availability, of course, then cost.

I happen to favor medical savings accounts. I think this gives the kind of discipline to health care costs that individuals give when they are responsible for making some of the decisions.

Self-employed deductibility is fair and equitable, and we should have done it long, long ago. Eighty percent of that is good. Administrative simplification, of course. And I believe when we talk about costs, we ought to concern ourselves with malpractice reform. I do not think there is any question but what there are substantial costs there.

Mr. President, I have been dismayed that the President is threatening to veto health insurance reform over some of these provisions. I believe the veto flies in the face of what the American people want.

As part of the changes that have occurred in Washington last fall, I am committed to bringing quality health care to rural America, some equity to rural America, and that is why I have an amendment to offer that corrects the formula used to set payments for rates under managed care plans that participate under Medicare. We will see increasing numbers of managed care plans, and more and more people in Medicare going into them.

The formula is not fair, the formula is not equitable, and we need to make some adjustments. To give an example, the payments made in rural areas of South Dakota are $177 a month. Payments for similar services in New York are $678 a month based on historical utilization. That needs to be changed. That is unfair. When we have a program like Medicare that is treated somewhat uniformly, that is a 367-percent gap, and we can change that, and I think we should.

The longer these disparities exist, the longer rural seniors will be left with less health care choices.

So I am in support of this bill. I think it could be stronger. I hope it is. But I am supporting it. I think we should have this bill. Access to health insurance is, of course, a little comforting for those who need it.

Mr. INHOFE. Will the Senator yield?

Mr. THOMAS. Yes, I yield.

Mr. INHOFE. I recall the Senator bringing up and discussing some of these things that need to be done within our health care system. I remember so well back when we had the proposal by the President to have Government take over a system that has been run well but needed some improvements, we committed ourselves at that time to incremental improvements.

I think the bill that is before us today is good. But I also think that the amendments that will be offered, some of the provisions of which the Senator has talked about, are going to make it better. The MSA element of this bill I think is very significant. You know, this is the only product or service anywhere in America where it has built in a factor to pay more. I do not know of anyone in America, that once they pay their deductible on a health policy, watches what they spend as much as if they were paying their own money. This is human nature.

I am hoping that this bill that is a good bill, can be made a much better bill and we can come through and take care of some of the things that the Senator is talking about. I am particularly interested in some items that are not going in there. I would like medical malpractice reform but I also realize that would be a very heavy thing that would cause it to go down and perhaps cause a veto. I think with these very moderate and modest reforms that the Senator is talking about, I think it will be a better bill, better bill for our health delivery system in America. I applaud the Senator for bringing these up and discussing them.

Mr. THOMAS. I thank my colleague. Before I sit down, I do want to compliment the Senator from Kansas. This is the product of a great deal of work and great deal of leadership and something that we do need to do. I want to say, however, in closing, that I think we have made some real progress in the last couple years in the industry, in the private sector. And even though I think there are some problems that we will have to deal with as we go about it, managed care has been helpful, managed care has done something to control prices.

I think more and more people are becoming aware of their responsibility with regard to payments. I think it is true that third-party payers have been part of the problem of costs. We can work that out. So in any event, I rise in support of the basic bill. It guarantees coverage of the type of insurance particularly important today, and I compliment the Senator for it. I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. I thank the Presiding Officer.

Let me start by saying what I would imagine has already been said a number of times; that is, to compliment the junior Senator from the State of Kansas, Senator KASSEBAUM, and the senior Senator from the State of Massachusetts, Senator KENNEDY, for bringing together a unique, I think in these times, coalition of Members to support a major, major legislative effort in one

of the most important areas that this Congress could be dealing with, and that is the health care of the citizens of this country.

This body is going to miss the Senator from Kansas for her wisdom and her balance and her willingness to work in a bipartisan fashion to accommodate the various interests of the Members of this body. It has been a real pleasure to work with her in the so-called Chafee-Breaux Group where we have been trying to come together to come up with a balanced budget. I commend her for her efforts in that regard, but particularly in bringing this Kassebaum-Kennedy bill to the floor; and, of course, for the years of tireless service by the senior Senator from Massachusetts, because he has really been dedicated over the years in trying to come up with health care legislation that really serves the needs of the people of this country.

Let me start by saying that this indeed is a large coalition. It is a large coalition—65 Members of Congress in the Senate alone have endorsed and have agreed to cosponsor this legislation. So that in itself is very rare in today's atmosphere of high partisanship that we see more and more, unfortunately. So anytime you can get a coalition of 65 cosponsors of a major piece of legislation indeed that is very, very good news.

Let me also say that while the coalition is large, the coalition is very fragile. It is very fragile because it does not do as much as what many Members would like to see it do. And there are still things that this legislation does not do that it should address. It probably does more than some people would like to see done with requirements from a Federal level that certain things be required when you sell health insurance in this country.

But the real accomplishment of the two Senators in bringing this legislation today to the floor of the Senate is the fact that it is a large coalition, it is a bipartisan coalition. It does, I think, accomplish some very important things that need to be done in the area of health insurance for the people of America.

In my own State of Louisiana there are nearly a million people who are uninsured, a million people who do not have enough money to buy a private insurance policy or who earn more than they are allowed to earn and qualify for Medicaid, the Federal-State health insurance program. So a million people walk around my State every day—go to work in most cases every day—but do not know how they are going to treat their children, their spouses, if they should get seriously ill other than through the charity of others or the charity of the hospital systems in my State of Louisiana.

Many people do not have insurance for reasons that are corrected by this legislation. For instance, there are many people who had insurance but when they got sick and needed it the most, it was canceled. How many of us as Members know a family or perhaps a member of our own families that have had health insurance, but then when they need it the most, when they get sick, after the illness is over, they get a little note in the mail from an insurance company that says, "Well, we're going to cancel your insurance"? And the only reason they really give is because you got sick. That was what they bought insurance for in the first place. If you get sick you have insurance. It takes care of the hospital and the doctor bills.

But today, unfortunately, in this society we have people who get sick and then have their insurance canceled just when they need it the most. So they do not have it today. This legislation, for the first time, says that you are not going to be able to cancel someone's health insurance because they got sick—sort of a logical thing I think we should have done a long time ago. But this legislation does accomplish that.

The second point is, people, in my State and other States, that have tried to buy health insurance, and, sometimes, because they have had a preexisting condition, they are prohibited from buying a health insurance policy. I do not think that is basically fair. Health insurance shares the risks. There are a lot of sick people that are in the insurance pool. There are a lot of well people in the insurance pool. On balance, the insurance companies make money and people get health insurance.

That is how the system is supposed to work. So this legislation addresses the problem of people who have had preexisting conditions and brings them in a fair fashion into the system in a way that I think makes a great deal of sense.

The other problem of all those people who do not have health insurance in my State and, again, in the other 49 States is because they have had to change a job. And we all know in this mobile society as people change jobs because of downsizing, or because of changes in technology, they are able to get a better job through education and training, they could move on to another field, the problem is that many people will not change jobs, will not get a better job even if it means better economic conditions for themselves and their families. Guess why? Because they will lose their health insurance.

So we have a situation referred to as "job lock" where our people would like to move on to better jobs—or maybe even forced to change to a new job because of downsizing—and cannot do so because they lose their health insurance, which is one of the most important things that the job market can provide. But if you cannot be guaranteed that coverage you have today will be with you tomorrow when you are in a different job, well then, people say, "I'm just going to stay right here." Or if they get laid off and they have to move to another job, they do so perhaps without any insurance because they are uninsurable when they move into the new position.

So what we have today through the Kassebaum-Kennedy legislation is a major, major health reform package which I enthusiastically am a cosponsor of and congratulate the people who have brought this monumental piece of legislation to us. It will, when it passes, and President Clinton signs it, be, I think, a shining example of what Congress can do when we are willing to work in a bipartisan fashion to accomplish something as monumental as this legislation does.

I know the majority leader has a package of amendments that he is going to present at a later time. I as an individual Senator and a member of the Finance Committee looked over a lot of the suggestions in the proposed amendments that he has submitted. You know, a lot of them are good ideas. They have not yet worked their way through the committee. That gives me a little concern about how these new ideas are going to be paid for. Our staffs are now, as we speak, looking at the legislation and the series of amendments. I think, by and large, most of them are pretty good—80 percent tax deductibility for self-employed people who buy insurance. All the people around the country that are self-employed, now, can only deduct about 30 percent of their premiums. With this amendment, you would be able to deduct 80 percent of your health insurance premiums. I think that is pretty darn good, just like a company that contributes to a policy can deduct 100 percent of their contributions. So we should do something for the self-employed people in this country. That amendment does that.

Penalty-free IRA, individual retirement accounts, withdrawals for large medical expenses and for the unemployed to pay their health insurance premiums. That is a good idea. We have talked about that. I think this should be bipartisan in that amendment. I think that is good.

My point, as I reach to a conclusion here, is that we have a large coalition, but it is a fragile coalition. I suggest that if people come up with amendments that are very controversial, that there is not a consensus on, or that we have not had hearings on, or amendments that have not been reported out, like this bill has, by a full committee of the Senate, that we will run into problems, and we will miss what I think is a golden opportunity to, in fact, create legislation which makes a lot of sense for all Americans.

One of the amendments I will just mention is a so-called medical savings

VOL
142
PT
6
AP
15
—
24
1996
UMI

account. This is a classic example of "if it sounds too good to be true, it probably is." I think that when you look at this concept—and I found after looking at it—that it, in fact, is too good to be true and causes problems that greatly outweigh the benefits. It is not to say that medical savings accounts do not have some benefits; they do. But I do not think that we are certain enough about those benefits as opposed to the negative problems that will occur to automatically accept this provision without a great deal of discussion.

I hope when that amendment is offered we will be able to strike out that section of the proposed Dole amendment and proceed to pass this legislation, hopefully with the other amendments that the majority leader is prepared to offer.

Let me tell you why I think medical savings accounts are a bad idea. I say, first of all, at one time I thought they were a great idea. At one time I introduced legislation to create medical savings accounts. Boy—they sound terrific. I asked my staff—"What is the problem?" At the time, we—like many others—did not have the full picture to understand the problems. Few had analyzed the effects of medical savings accounts.

The problem was that while it is really terrific for healthy people, it is not so terrific, in fact, potentially very bad, for people who are not healthy. If you take, for example, young people—I have four children who are relatively young and very healthy, thank goodness—a medical savings account is very attractive for them. Their employer can contribute money to an account, and they would use that account to pay for their initial medical bills during the course of the year. If they did not have to use it at all, they get to keep the money. What a great deal if you are 20, 25 years old and very healthy.

So, in the past, we had only looked at how it affected one group of people—healthy, basically young people. A terrific idea for them. What we failed to look at is how it affected other people who buy insurance because they may get sick—generally, more elderly people, and people who do get sick during the course of their life. If they have a very high deductible policy, as high as $3,000 for a family, they have a problem, because they will incur medical expenses during the year. If they have to pay for it out of their pocket, it is a really serious problem for them. Again, it is not a problem for people who are young and never have to go to the doctor during the course of the year.

Incentives for the medical savings account have a tendency to suck out all the healthy people from the insurance pool, put them into a medical savings account where they will not be using a lot of medical health care, but leaving behind people who do get sick, who do have to go to the doctor and do have to go to a hospital during the course of a year. If the only people remaining in an insurance pool are people who have to use doctors and hospitals, the risk becomes so great because of the loss of healthy people, that their premiums would rise so high that insurance would soon be unaffordable for them as well.

My fear is that while a medical savings account takes care of one group of people, it causes far greater problems than are justified for everybody else, which is the vast majority of the remaining people in this country.

I think at the appropriate time we should set aside the medical savings account, with an amendment if we have to, look at the other amendments that Senator DOLE has offered, and I think most of them, from my personal observation, are good. I think we should accept them. But certainly not the medical savings account at this time.

Let me conclude, once again, saying to Senator KENNEDY and Senator KASSEBAUM, my congratulations to you for bringing to the Senate a real opportunity to do real health care reform in 1996. We hope that the Senate and the House would ultimately pass this legislation, and the President should sign it.

Mr. FEINGOLD. Mr. President, I rise in support of this bipartisan health insurance reform bill, a measure that I was pleased to cosponsor. There are a number of reasons to support this legislation introduced by my good friends, the Senator from Kansas and the Senator from Massachusetts.

Let me focus my remarks on ways in which this measure should provide some meaningful help for one group in particular. That is our Nation's small businesses.

From existing companies trying to maintain health care coverage to individuals who are trying to start a small business, this bill addresses several problems confronting smaller firms trying to provide health insurance for their employees.

First, Mr. President, and I want to emphasize this, the measure addresses the barriers often posed by preexisting conditions. An estimated 81 million Americans have some kind of preexisting medical condition that could, unfortunately, affect their insurability. The legislation limits the ability of insurers to impose exclusions for preexisting conditions.

In addition, the bill requires insurers to sell and renew group health policies for all employers who want coverage for their employees, and it prohibits group health plans from excluding any employee based on health status.

Now, Mr. President, this can be especially helpful to our small businesses. The problem of getting insurance does not just affect individuals with preexisting conditions. Whole industries have been denied coverage by certain insurers because they are not to employ people who are more likely than others to get sick.

A study by the Congressional Research Service found that several insurers routinely denied coverage to dozens of different types of businesses ranging from some of the following: auto dealers, barber shops, beauty parlors, hotels, lodges, and restaurants. Mr. President, even businesses and individuals that have health insurance cannot be sure of maintaining their coverage if illness strikes.

Insurers can, therefore, collect premiums for years and then just suddenly refuse to renew coverage in individuals or employees who begin to incur large health care costs. So, requiring insurers to renew policies can certainly help address that problem. This bill finally helps move us down this road.

Mr. President, the bill also guarantees renewability of individual policies and prohibits insurers from denying insurance to those moving from group coverage to individual coverage. We know that the inability to retain health care coverage once somebody leaves a job can trap many people in the jobs they wish to leave. This is often referred to as "job lock," a problem, according to one survey, that may touch one quarter of all American workers—individuals that stay in jobs they would otherwise leave, because they fear losing their health care coverage.

Mr. President, this job-lock effect has an impact on small business, as well. Unless you inherit wealth, or maybe win the lottery, the chances are pretty good that anyone who wants to start a small business will be somebody's employee—at least as they make the decision to become a small business person. If you or a member of your family have any kind of preexisting condition, you may be faced with this job lock. The inability to get health insurance prevents those individuals from leaving their existing jobs to start their new business.

Mr. President, I think this barrier has a major impact on our economy by discouraging new business startups. We all know that small business is the real foundation of our economy. We have an insurance practice that discourages people from taking their good ideas and starting new businesses that will employ many more people. That is a real, real restraint on the growth of our economy.

Mr. President, finally, I want to commend the authors of this measure for the provisions that help make it easier for small businesses to form private, voluntary coalitions to purchase health insurance, and to also negotiate with providers in health plans.

While the economic power of big businesses has enabled many larger firms to contain health care costs and improve the quality of health care for their employees, small businesses continue to see health care costs climb.

The Senate Labor and Human Resources Committee reported that while health care costs for large employers declined 1.9 percent in 1994, small employers saw an average increase of 6.5 percent. This is a very large discrepancy, and one that really discourages small business at the same time that larger businesses are benefited.

By providing small employers and individuals with the kind of economic leverage in the marketplace that is currently enjoyed by large employers, these provisions should help bring the costs of health insurance down for small businesses and individuals.

Mr. President, as you know, there are over 50 cosponsors of this measure, pretty evenly divided between Democrats and Republicans. Of course, this is an indication of the broad desire for health insurance reform. But it is also an indication of the care taken by Senator KASSEBAUM and Senator KENNEDY in crafting a measure that, finally, has a real good chance of becoming law, at a time of very heightened political sensitivities on this issue.

Before any measure is enacted, it has to navigate the choppy waters of each body, a conference committee, going back to each body again, and, finally, receive Presidential approval.

That is no mean feat at any time, but it is especially difficult in the political environment of a Presidential election year.

If this bill becomes law, as I hope it will, its enactment would be in no small part due to the legislative skills of the Senator from Kansas and the Senator from Massachusetts, and, I might add, to the fondness and respect many of us in this body have for both of them.

Mr. President, I congratulate my friends, and I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, first of all, I ask unanimous consent that Dr. Maimon Cohen, a fellow on my staff, have the privilege of the floor during the pendency of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I think every Senator who came to the floor has thanked both Senator KASSEBAUM and Senator KENNEDY for their fine work. I wish to join in that. I also say to the Senator from Kansas, who is chair of the Labor and Human Resources Committee, that along with everyone else, I will miss her. I think she has been a great Senator for Kansas and for the benefit the country. I mean that sincerely.

Mr. President, I think this is a very important piece of legislation for a number of different reasons. I would like to start out talking about that. I am going to be relatively brief, I say to other colleagues, who may want to come down to the floor for opening statements.

I think this is important because, first of all, we will not be able to have any kind of regulation if we do not do it at the Federal level because of ERISA exemption—in other words, preemption. In other words, so many citizens in our States are insured by self-insured plans, and really it is impossible for States—and Minnesota has run into this—to pass reforms that, in fact, will help people and cover everyone because self-insured plans are exempt from that coverage. We ran into this the other day when we marked up an important piece of legislation that I hope will come to the floor, where we said, look, you really do not want to have a family be put in the situation where a mother with a newborn is told, after 24 hours, regardless of circumstances, "You are out." I mean, that is something that people in the country do not think is fair.

But the fact of the matter is that even though my State of Minnesota has passed such a piece of legislation, saying, no, that is not fair, there has to be a mother and a doctor and the family in consultation making decisions about what is good for that mother, about 40 percent of the citizens in Minnesota would not be covered because they are in a self-insured plan.

This is an extremely important piece of legislation. I hope it is not so weighted down with killer amendments that it does not pass. This is a bipartisan effort, and I think we ought to take this step for one reason more than any other; it is just a matter of elementary fairness. I have not seen polls on this, but I think the Senator from Kansas and the Senator from Massachusetts, and all the rest of us that are cosponsors, would go forward regardless, but I just bet that 99 percent of the country would agree with the proposition that if you have paid your premium on time, just because you now have a bout with breast cancer, or some other kind of illness, it would be outrageous to all of a sudden find yourself without coverage, or you should leave one job and go to another job and not be able to obtain coverage.

Most all Americans just find that to be an outrageous proposition. My wife, Sheila, has been my teacher when it comes to domestic violence issues. And with the support of both the Senators from Kansas and Massachusetts in markup, we have a provision in here that we think is important dealing with issues of family violence. I wish these issues were not out there. But we want to make sure battered women are not battered again. If a woman is beaten up and comes to a hospital with her children and reports that, which is what she should do, and which is the first step in being able to leave a very dangerous home—and, unfortunately, homes are not always the safest places in the world—she would not find herself without coverage for that condition.

So this is really a piece of legislation that is a matter of basic fairness. I know GAO has estimated that some 25 million Americans could benefit. I also want to make the point that most of the uninsured in our country are uninsured because they cannot afford coverage, not because they are denied coverage.

So, in other words, we have a piece of legislation that deals with accessibility and with portability. For those of you listening to the debate, that means you can go from one job to another and not lose your coverage or be locked out because of a preexisting condition. We are not still dealing with affordability. In Minnesota, there are 400,000 Minnesotans without insurance coverage, and 91,000 of them are children. In the main, that is not because of preexisting conditions, it is because the families cannot afford the coverage. Nationwide, the uninsured now number 40 million people.

I hope that we will get to the point, again, in this Congress when, in fact, we make sure that every citizen in our country has at least as good a health care coverage as we have as Senators and Representatives. This piece of legislation does not do all that, but it is an important step forward.

One other concern I have, Mr. President—and I just want to make this point—you cannot do everything in one piece of legislation. I am out here to support it. I worry a little bit that what might happen is that the insurance companies might say, "OK, when you shift from job to job, or you move from one job and now you want to set up your own small business, or whatever, we will not deny you coverage because of a preexisting condition, but we will raise your premium to $8,800 a year or $9,000 a year," in which case, my fear is that it will become the functional equivalent of preexisting condition discrimination. Let us hope we have the cooperation of the insurance industry. But I just flag that as a potential problem.

Last point, Mr. President. I have been doing a lot of work with my colleague from New Mexico, Senator DOMENICI. A couple of years ago, we started a working group on mental health. Both of us, and other Senators, feel very strongly about this issue. We are working on an amendment that I think is real important. It is an amendment that would provide equitable health care coverage for mental illness and substance abuse services. In other words, what we want to make sure of is

VOL
142
PT
6
AP
15
—
24
1996
UMI

that we, once and for all, put a stop to the discrimination that all too often takes place in the health care field. We are simply talking about parity—parity in coverage for physical and mental health and substance abuse services, and not different co-pay requirements, not arbitrary caps on visits with physicians or other health care providers. I have to say that I believe this amendment, which we have worked very hard on, is an extremely important amendment.

I believe that Senators, regardless of political party—Senator DOMENICI and I certainly do not agree on all issues, but we have been immersed in this issue for several years now. We have seen all of the ways in which people, who are struggling with these health care problems, fall between the cracks. We have seen the discrimination. And this amendment, which will really focus on the importance of parity, which will make sure there is no discrimination in this area, I think, is extremely important.

I will have data to bring to the floor. I will talk about some of the insurance plans right now that do not discriminate and will talk about why this part is so important. I will talk about the differences it can make for women and men being able to work, to live lives of dignity, and to contribute to the community.

But I do look forward at some point in time as we move along with this piece of legislation to bringing this amendment to the floor with my colleague, Senator DOMENICI. Mr. President, I do not know that there has been another Senator who has been a stronger voice in this area for those citizens who are struggling with mental illness. The same thing can be said for his wife Nancy. For Sheila and I, this has emerged as a professional and a personal friendship. I look forward to being able to proudly bring this amendment out to the floor with my colleague and good friend, Senator DOMENICI, and I hope in the spirit of what I think is bipartisanship that we will be able to get good, strong support.

I yield the floor.

Mrs. KASSEBAUM. Mr. President, may I respond for a moment to the Senator from Minnesota, who is a valued member of the Labor and Human Resources Committee?

When he mentioned the rate increase possibly coming if we do not cap any of the premiums, I would just say also that we do not preempt States from doing community weighting or a cap, if a State so desires. That is one of the flexibilities that I believe is important. It is one of the reasons we have the strong support of the State insurance commissioners. That flexibility which has been built into this also has strong support from the National Governors' Association.

Mr. WELLSTONE. Mr. President, I never argue or disagree with the chairman of my committee. I think it is a point well taken. I do hope at the State level we will have in fact that oversight and that accountability.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, thank you very much.

Mr. President, I take the floor today to speak on behalf of this extremely important bill. In doing so, I want to commend the chair, Senator KASSEBAUM, and also Senator KENNEDY for what I think is exactly the kind of spirit of bipartisan effort that is needed to produce an important health bill.

The reason this legislation is very important is it will provide a new path for upward mobility in American life. I have seen again and again in my home State—this goes back to the days when I was director of the Grey Panthers, a senior citizens group at home—I have seen citizens cut off from economic opportunity because this bill was not law. You could have, for example, a young person just starting their career in Oregon. They are working hard. They are committed, doing well in the marketplace, playing by the rules, and showing the kind of discipline to get ahead in the work force. But they, in effect, end up being cut off because they have a medical problem. So, if they hear about a better job across town, another economic opportunity where they can make a better wage, they lose out simply because today's insurance system does not work all that well unless you are healthy and wealthy.

With this legislation, it is going to be possible to make the health insurance system work for all Americans so that all Americans can get access to health insurance and get it when they need it most, which is when they have serious medical problems.

I would like to give special thanks to the chair, Senator KASSEBAUM, and to Senator KENNEDY for their efforts to work with those of us from Oregon. Oregon has been one of the States, as the Chair knows, that has consistently been out in front in terms of health reform. We have done it with the Oregon Health Plan, for example, innovative in terms of senior programs, and we have been on the cutting edge with insurance reform as well. There is a very special State effort supported by Republicans and Democrats alike at home. We have initiated a number of important insurance reforms at the State level that we felt had to be protected. Through the good offices of the chair, Senator KASSEBAUM, and Senator KENNEDY that has been possible.

I have been notified in writing that the Oregon insurance reforms that have been initiated on a bipartisan basis are working well according to the insurance industry, and consumer groups alike are protected under this legislation.

Finally, Mr. President, let me add that no one should be mistaken about how much more is left to do in the area of health reform. If I had my way, for example, a very important, albeit modest, change that we would add to this legislation would be to open up the national practitioner data base to the public so that the citizens of this country could get access to the disciplinary record where the medical profession has disciplined one of their colleagues. I wrote this law as a Member of the House of Representatives—again, a statute that has bipartisan support. Today in that data bank lay thousands and thousands of names of physicians who have been disciplined formally by their colleagues, and the American people cannot find out about it.

Senator BOXER has done yeoman work on this issue. A number of our colleagues on both sides of the floor have approached me on this. If I had my way, we would be on the floor today including this important change that would be of benefit to consumers.

But as a number of our colleagues have noted, it is not possible to get all the way to health reform in America. It is not possible today to get all of the work done that needs to be done to protect consumers and to insure universal coverage. But I think it is quite clear that a major step forward is being taken as a result of the bipartisan work done by Senator KASSEBAUM and Senator KENNEDY.

I urge my colleagues to support this legislation and then, as it goes to conference, to reject the number of anticonsumer provisions that were added in the House. For example, in the House—it seems, again, incredible to see this kind of anticonsumer retreat—the House wants to roll back the protections for older people who buy policies to supplement their Medicare care. The late Senator Heinz of Pennsylvania and others fought for years for this legislation. The House wants to roll it back. The House wants to roll back the fight against fraud and waste.

So, I hope today that the Senate will vote for this important bipartisan legislation—it is an important step forward—and then to reject the legislation in conference coming from the House.

Mr. President, I ask unanimous consent that my letter to Senator KENNEDY on the Oregon reform proposal and his reply to me be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 29, 1996.

Hon. EDWARD M. KENNEDY,
Ranking Member, Committee on Labor and Human Resources, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: The development of S. 1028, the "Health Insurance Reform Act

of 1995," certainly is one of the current Congress' most important advances in assuring access to quality health care. I look forward to the debate of this significant legislation on the floor of the Senate.

I am, however, concerned that our efforts to extend health insurance coverage and end "job-lock" not impede significant advances made by individual states in the health insurance reform arena. One such effort is coming to culmination in my home state of Oregon, and I write to you today to inquire if the Oregon reform proposal likely would be subject to a favorable exemption ruling by the Secretary under the language of Section 112 of your legislation. The section's flexibility in this regard will be an important element in my consideration of the overall legislation.

Embodied by Oregon State Senate Bill 152, our group-to-individual portability plan was designed by a working group of state insurance officials, insurance carrier representatives and health insurance agents. This enacted state law will extend affordable health insurance coverage by mandating that all state-regulated group insurance carriers offer portability plans to persons leaving groups after having had six months of continuous insurance coverage.

This plan also demands that carriers offer a choice between both a moderately priced insurance package based on the average of the State's most popular HMO plans, and a lower-priced, catastrophic coverage option.

Finally, group carriers that have individual products can offer them as their portability products as long as they offer both the prevailing (HMO average-best) and low-cost options.

The Oregon insurance reform program, due to go into effect October 1, 1996, with portability plans on the market by January 1, 1997, has other encouraging elements as well. For your information, I attach a copy of a March 22, 1996, letter to me by two members of the working group which produced the plan. Should you have any questions regarding this letter, please don't hesitate to contact me, or Steve Jenning of my staff at 224-1084.

Thank you for your consideration of this matter. I look forward to working with you on this issue, and on other important health matters.

Sincerely,

RON WYDEN,
U.S. Senator.

U.S. SENATE, COMMITTEE ON
LABOR AND HUMAN RESOURCES,
Washington, DC, April 18, 1996.

Hon. RON WYDEN;
U.S. Senate,
Washington, DC.

DEAR RON: Based on my understanding of the Oregon plan, it would clearly meet the requirements for an alternative State mechanism under the State flexibility mechanism of the Kennedy-Kassebaum bill. My understanding is that your program offers a program for all individuals leaving insured group coverage that allows them to remain in a pool with employed persons remaining in the entire insured market. For those individuals leaving self-insured coverage, access to an open high risk pool meeting the standards of the bill is guaranteed.

Yours sincerely,

EDWARD M. KENNEDY.

Mr. WYDEN. Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I would like to say a few words in support of the pending legislation.

Our distinguished colleagues, the Senator from Kansas and the Senator from Massachusetts, I believe, have crafted a sensible piece of legislation that really represents the broadest possible consensus on health reform that we can achieve at this point.

Back in 1994 when I was a candidate for the U.S. Senate, the President was trying to get Congress to enact a health reform bill. That was a health reform bill that went substantially further than the national consensus on health care would allow. For better or for worse, the American people made a decision. They made a decision and determined that they would not support a bill that threatened a large expansion of Federal involvement in health care. They made the decision that that simply was not good.

During that debate when I was running for the Senate, I said that the failure to enact the President's plan did not mean that we would have to give up on health care reform. And we should not. In fact, what we should do, as I said at the time we should do, is to try to get a consensus, that there were things that we could agree on, there were things that Democrats and Republicans could agree on, liberals and conservatives. We ought to agree on those things. We ought to put that into legislation, and we ought to pass it. I think what we have in front of us today is just that. It is that bipartisan consensus. It is a consensus of what we can agree on.

There was, going back 2 years ago, a broad agreement on several aspects of this health care reform—disagreement on some areas but agreement on others. One of the areas where there clearly was agreement was on the problem of portability, or the challenge of portability or the need for portability. Basically, there was agreement on the issue of letting people who have preexisting conditions get health insurance. That was very important. Let small businesses form purchasing pools so that their employees could get a better price for health insurance. There was and is agreement on that.

These are basic mainstream principles. I am happy to say that they are embodied in the legislation that we have before us today.

The Kassebaum-Kennedy legislation would create major positive changes in the health insurance market, and it would do so without imposing new mandates on employers or creating new Government bureaucracies. It would give workers the flexibility to change jobs without losing their health insurance coverage. It would protect families from losing their health insurance if a family member loses his or her job.

Mr. President, according to the General Accounting Office, the bill would provide health care security to 25 million additional Americans. This is genuinely a far-reaching health reform that I believe does in fact preserve the bipartisan support it is receiving in the Chamber. I am glad today to be able to add my voice in support of this legislation.

Let me, if I could, turn very, very briefly to another issue, and I had intended to speak and still intend to speak sometime today or tomorrow or early next week at length on this, but I wish to take a minute right now to call my colleagues' attention to this and also the American people.

Next week is National Organ Donor Awareness Week. I again will speak at length about this in the future. But the basic facts are that we lose people every day in this country, 7, 8, 9, 10 people, people who medical science, medical capabilities could save, but we lose these people, their families lose them, because they are on a waiting list, a waiting list to get an organ donor transplant.

They die because, frankly, there simply are not enough organ donations made in this country every day. The reason that there are not enough is very simple. It is that too many families, when faced with life's most horrible tragedy, and that is the loss of a loved one, do not really know what to do when they are asked whether or not they will donate their loved one's organ or organs.

I encourage my colleagues and families across the country to talk about this issue because I am convinced that the vast majority of American people are caring, loving people who want to help other people when they can and who, if they think about this for any period of time at all, will conclude that if, heaven forbid, something traumatic would happen to them and they would be killed, they would want their organs to be donated to somebody else, so somebody else could see, so somebody else could live, so somebody else could carry on a productive life.

As I said, I will speak more about this at length later. I see my colleague from North Dakota is present and ready to speak. I am not going to hold him up at this point. But I just again call my colleagues' attention to this. National Organ Donor Awareness Week is next week. It is one of the rare times in public office or in public debate in this country where, when we talk about an issue, we can help solve it. It does not cost any money to do it. It is just a question of getting people to be more aware of the tragedy that occurs every single day to someone who could be saved, when someone who could remain with their family and be productive and live a good life dies because other individuals, not knowing really what to do, make a decision not to allow their loved one's organs to be donated.

VOL
142
PT
6
AP
15
—
24
1996
UMI

So, Mr. President, I appreciate the Chair's indulgence and my colleagues' indulgence, and I will today or tomorrow be talking further at length about this important issue.

I thank the Chair.

Mrs. KASSEBAUM. Mr. President, I should like to recognize first the valuable work that the Senator from Ohio has done on the Labor and Human Resources Committee. Senator DEWINE has worked hard to help us get this put together. He was worked hard on all the other health issues that have come before the committee, and as he mentioned is a major leader along with Senator FRIST on the organ donation issue. So I appreciate his assistance with the legislation.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I too commend the Senator from Ohio. I know he has done a great deal of work on the issue of organ donation—work that I support very strongly. I hope we will advance public understanding and knowledge about organ donation, not only in this legislation but in other pieces of legislation as we move forward.

I did want to say as I begin—and I will be very brief since there are others in the Chamber who wish to speak—I cannot think of two more able Senators to bring a piece of legislation like this to the floor than Senator KASSEBAUM and Senator KENNEDY. This Senate will be diminished when Senator KASSEBAUM leaves, but she has done outstanding work on this legislation and she and Senator KENNEDY deserves to be complimented for bringing this to the floor. In my judgment, the approach we've taken to this legislation—finding the issues that we all agree on—is the kind of thing we should be doing routinely. I did not support the Clinton health care plan. I did not cosponsor the Clinton health care plan because I believed then that it was too bureaucratic. But he was asking the right questions. We needed to address health care for two reasons. One, to provide broader access to health care. And two, to try to do something about the escalating costs of health care.

I happen to think the proposal that he made was too bureaucratic. It would have not advanced the solution in both of those areas that I think was appropriate. But that does not mean we do not have problems in both areas that we must address. This piece of legislation addresses one of those. It addresses the issue of access to health care.

Again, this is exactly what we should be doing when we have a disagreement, a substantial disagreement about a major policy issue. What we ought to do in those instances is find where is there an area of agreement, and that is what happened with this legislation.

This legislation addresses the issue of access. It brings together those varying viewpoints in the Senate into one bill on which we can all agree that, yes, this advances the issue of access to health care. That is why I am pleased to have been a cosponsor of the legislation and am pleased today to speak in favor of it.

The health care system in this country is a remarkable system. You do not see very many Americans who get sick and decide to get on an airplane and go to some other country for health care. That would be a very unusual thing to see. What you see instead is people getting on an airplane or getting on some other means of transportation and coming to America to get health care because we have a wonderful system of health care.

But we have two problems. One, not everyone has access to it, and, two, its cost is escalating. It has diminished a little bit in recent years, but it has been escalating double and triple the rate of inflation every year for many years, and that prices health care out of the reach of too many of our American citizens.

All of us understand that our health care system is a system that offers miracles to many Americans—new hips, new knees, cataract surgery, even heart transplants. The list is endless.

I would suggest that anyone who wonders about where all of this comes from might go out to the National Institutes of Health. Take a look at something they have out there called the "Healing Garden," where they do research on a range of plants and all kinds of other things that produce all of these wonderful new medicines. They do research on a whole range of health care issues and develop new surgical techniques and new approaches.

We have invested a substantial amount of money that has produced enormous rewards for our society. And with all of those miracles and all of this wonderful medicine, the two remaining questions are, one, how do we provide to people more access to this wonderful system, and, two, how do we bring the cost down so it does not rise out of the reach of too many American people?

This bill addresses that issue of access—not for everybody, but it does it in a way that pulls together those things that we agree on. This includes dealing with the limits on exclusions for preexisting conditions. This bill is a very modest approach that solves part of that problem, a major part of that problem, for many of the American people.

A whole lot of people are locked in their jobs because of this issue of preexisting conditions. They are unable to move, because if they move they cannot carry that insurance with them and no other insurance carrier will pick them up because they have had a preexisting condition. This piece of legislation deals with that in the right way.

This legislation says to insurance companies: if someone has been a good customer of yours, buying your policy for years, you cannot drop coverage simply because that person gets sick. This piece of legislation also addresses the issue of portability, and does it in exactly the right way.

So I am pleased that we are here on the floor with this piece of legislation. It is exactly the kind of thing we ought to do. Instead of continually talking about what we cannot agree on, we should find the areas where we can agree to begin moving toward a solution to a problem. That is exactly what this piece of legislation does.

Let me end where I began, by complimenting the Senator from Kansas, Senator KASSEBAUM. This body will be diminished by your leaving at the end of this year, but you will have left your mark here in many, many ways. You and Senator KENNEDY will have left an indelible mark, if we can pass this legislation, by advancing this issue of access to a wonderful health care system to millions and millions of additional Americans who ought not be left out of the system.

So I compliment Senator KASSEBAUM and Senator KENNEDY for their diligent work and I hope we can do exactly the same thing on other issues in the coming weeks. If we disagree, let us figure out where we disagree, but then let us find the center. We ought to come to the floor to move toward solving problems, rather than being so intractable in our own camps and deciding we simply cannot solve problems.

I look forward to casting a final vote, an aye vote on this legislation. I hope it does not get too loaded down as it moves along. I hope the Senate will act with some haste to try to move this to a conference.

I yield the floor.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Idaho, [Mr. CRAIG], is recognized.

Mr. CRAIG. Mr. President, I come to the floor this afternoon in support of the intent of S. 1028. Let me join my other colleagues in thanking the Senator from Kansas for her work in getting this kind of health care reform legislation to the floor, and also the Senator from Massachusetts for the work that he has done in this area.

Health care in some form has been on the congressional agenda for several years. It is an important issue, and I hope by the end of this process we will have a health care insurance reform proposal that will make health care insurance more accessible and more affordable.

The purpose of S. 1028, the Health Insurance Reform Act of 1995, is to increase access to health care insurance, improve the portability of benefits,

give people greater security, and increase the purchasing power of individuals as well as small employers. The bill does this through a series of insurance market reforms. For example, the bill would reduce the duration of exclusions for preexisting conditions by crediting enrollees for maintaining continuous coverage through a previous employer. Another important component would be the portability of coverage from a group plan into the individual insurance market.

The bill also includes a proposal that would create new State-based health insurance purchasing cooperatives, or HIPC's, based on a program that was included in the Clinton-Mitchell health care reform bill. These HIPC's are intended to give small businesses and individuals greater purchasing power in negotiating more favorable rates.

Many Idahoans complain that they are locked into their current jobs because they fear losing their health care insurance. Several of my colleagues have been on the floor in the last few hours, giving examples of this kind of very real problem that Americans face. In some instances, entrepreneurs avoid starting their own businesses because they are unsure that they would be able to provide health care insurance for their families in the way that they were covered under their current employer. This is a problem that has existed in this country in an increasing way over the last decade, and it simply needs to get corrected. This legislation offers that correction.

Another problem commonly raised is that individuals who have had major illnesses or preexisting conditions cannot obtain coverage if they change jobs. In other words, once you have a medical record, insurance companies, by that record, can disallow you coverage for that problem under a new insurance policy. These kinds of fears are real. Real life examples are given, and they are faced by individuals and families every day. The security issue I mentioned, as part of the intent of this bill, is a very important component of health care insurance reform.

We must all be mindful that health insurance reform will have an impact on the marketplace. These kinds of reforms that are being proposed in this legislation are not without cost. As we cause the insurance market to change, the marketplace will price itself differently. In our effort to improve access to health care coverage we need to be extremely cautious and ensure that there is a minimal impact on the cost, or the increased costs of insurance, especially in the individual market.

One thing we can do is to address the issue of cost in this bill. A number of valuable provisions for addressing these consumer concerns were included in the Balanced Budget Act. However, that was vetoed by the President, so they are not yet available to correspond with this legislation when it becomes law.

Therefore, Mr. President, while I agree on the intent of S. 1028, to improve access, I do have concern about the issue, of affordability. In order to fully address access to health care coverage we must look at affordability. While we create potential flexibility in the marketplace, if we drive the cost beyond the reach of the individual, the family or the employer, then what have we solved? What old problems have we only changed into new ones?

In order to fully address access to health care coverage, we must look at the whole issue of affordability. There are several key amendments that I think are going to be offered by the leader which will help us a great deal in solving this potential problem, such as increasing tax deductions and implementing medical savings accounts, or MSA's, as the public has grown to know them. MSA's should be a part of this bill. That amendment will be offered. I certainly hope the Senate will respond as they should to the question of affordability, rounding out this legislation by addressing the cost component.

Title III of this legislation, S. 1028, includes a sense of the committee language that MSA's should be enacted. If they should be enacted—and that is what the committee says and what the legislation says—then why do we not do it? Let me read what the sense of the committee is.

> It is the sense of the committee on Labor and Human Resources of the Senate that the establishment of medical savings accounts, including those defined in . . . the Public Health Service Act . . . should be encouraged as part of any health insurance reform legislation passed by the Senate, through the use of tax incentives relating to contributions to, the income growth of, and the qualified use of, such accounts.

That is what the legislation says. That is what the law would say. But, if we do not add an amendment to it, it is fine rhetoric but it does not address the needs of the American people. And it does not, in my opinion, create the component of affordability that this Senate must be responsive to, if we are to bring about this kind of insurance reform.

I said the language is supportive, but it does not change anything. Instead of using this bill to speak to the issue, we should be using it as an opportunity to give consumers this valuable tool to finance health care costs.

MSA's work much like individual retirement accounts, something that the consuming public of this country knows about and likes. They are often coupled with a catastrophic health care policy, but some models have been conducted in combination with managed care plans. A limited amount can be deposited annually, usually equaling the amount of the high deductible. At the end of the year, the unused amount is rolled into the next year, allowing for savings to accrue.

If an individual does experience a catastrophic illness, savings can be used to meet the annual deductible, as well as cover any copayment that may be included as part of the catastrophic plan.

MSA's are portable because they belong to the individual. If we are reforming health care insurance, why do we not create a vehicle that provides increased opportunity for individuals to possess health insurance?

Regardless of your employment status, your MSA's stay with you. So, the job-lock question is less likely to occur. In addition, savings you accrue can then be taken with you and used to pay for insurance premiums if you are between jobs. If you want to start your own business and step away from an employer who provides insurance, the MSA stays with you. You can buy your own insurance with it.

It certainly creates tremendous choice and flexibility for the individual and families, and that is what we are concerned about here, the freedom of the individual and families to make sure they can provide for themselves. Health care insurance coverage and MSA's can play a tremendous role in doing just that.

Because MSA's have a higher deductible and lower premiums, they are a workable alternative for small employers who currently cannot afford to provide insurance as a benefit. So they even offer the small employer greater opportunity to provide health insurance benefits to his or her employees.

A catastrophic policy and a deposit in an MSA for the annual deductible are lower in cost than any other type of insurance coverage. In addition to the lowering of cost to the employer providing insurance, MSA's provide the beneficiary greater flexibility in how those health care dollars are spent and limit out-of-pocket exposure.

Finally, because savings can accrue, this is an opportunity to save over an individual's lifetime for those hefty, late-in-life health care costs such as long-term care. That is real health care reform. That is real health care insurance reform.

The cost of long-term care is a big problem that Senators have tried to deal with on this floor and that certainly the seniors of our country have faced themselves for a long time. Many of us at our age in life, who have parents who are nearing a time when they may need long-term care, all of a sudden begin to factor some of those financial costs into our own budget, if we are capable of doing so, in caring for the elderly of our family.

MSA's could help solve this problem in a generational way if this Senate and this Congress would simply quit talking about the value of them and allow them to become available to all Americans.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. President, I have been frustrated by some of the references about MSA's, that they are an extreme idea that will help only the healthy and the wealthy. It could not be further from the truth. Rather, I argue that MSA's are a commonsense response to the current problems of our health care system, incorporating individual choice and responsibility. The American people understand that and I think the American people are ready to use this health care insurance tool in a way that works to their benefit.

The history of this issue has been one of bipartisan support. In both the House of Representatives and the Senate, MSA bills have been cosponsored and supported by Republicans and Democrats alike.

I have a copy of an old "Dear Colleague" letter on a bipartisan bill, S. 2873, the Medical Cost Containment Act of 1992. Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 8, 1992.

DEAR COLLEAGUE: The United States is faced with a crisis in health care on two fronts: access and cost control. So far, most of the proposals before Congress attempt to deal with access but do not adequately address the more important factor—cost control. We have introduced legislation that will begin to get medical spending under control by giving individual consumers a larger stake in spending decisions.

We have introduced a bill, the Medical Cost Containment Act of 1992 (S. 2873), which would allow employers to provide their employees with an annual allowance in a "Medical Care Savings Account" to pay for routine health care needs. This allowance would not be subject to income tax if used for qualified medical expenses. Any money not spent out of a given year's allowance could be kept by the employee in an account for future medical needs during times of unemployment or for long term care. In order to protect employees and their families from catastrophic health care expenses above the amount in the Medical Care Savings Account, an employer would be required to purchase a high-deductible catastrophic insurance policy.

Unlike many standard third party health care coverage plans, Medical Care Savings Accounts would give consumers an incentive to monitor spending carefully because to do otherwise would be wasting their "own" money. That is, money that they would otherwise be able to save in their account for future needs.

Once a Medical Care Savings Account is established for an employee, it is fully portable. Money in the account can be used to continue insurance while an employee is between jobs or on strike. Recent studies show that at least 50% of the uninsured are uninsured for four months or less.

Today, even commonly required small dollar deductibles (typically $250 to $500) create a hardship for the financially stressed individual or family seeking regular, preventive care services. With Medical Care Savings Accounts, however, that same individual or family would have this critical money in their account to pay for the needed services.

We feel that, while the Medical Care Savings Account concept does not provide the total solution to the crisis in health care access, it does begin to address the critical aspects of increasing costs and utilization by consumers.

We hope that you will join us as cosponsors of this legislation. If you have any questions please contact us or have your staff contact Laird Burnett of Senator Breaux's staff.

Sincerely,

JOHN BREAUX.
DAVID BOREN.
TOM DASCHLE.
RICHARD LUGAR.
DAN COATS.
SAM NUNN.

Mr. CRAIG. Mr. President, this letter outlines many of the beneficial aspects of MSA's, or medical savings accounts, in addition. I found it quite interesting that as part of his pension simplification proposal, President Clinton would allow withdrawals from individual retirement accounts for catastrophic health care insurance needs. That is a great idea. But that is an MSA. Whether Bill Clinton knew it or not, by his endorsement of this approach, he has, in effect, endorsed medical savings accounts, and I applaud him for doing so.

Since the healthy-and-wealthy assertions have been made, I want to take a moment to address this issue, because it is phony, phony, phony.

Anyone who has experienced chronic health problems or a catastrophic illness realizes how difficult it is to cover out-of-pocket expenses. If that health care problem is not covered by insurance, you get no assistance in helping finance the cost incurred. We have people who have minimal coverage and are making limited incomes, and they cannot afford the out-of-pocket costs to get across the deductible threshold to get the benefits of their insurance, in many instances. For families and individuals on fixed incomes, this is especially problematic.

I had a constituent who expressed to me a frustration that even though she had great health care insurance, it did not provide comprehensive dental benefits. She needed to get a tooth capped, which would cost her at least $500 out of pocket. Her alternative was that she should live with the discomfort until more serious problems occurred with the tooth that would be covered by her insurance.

Her frustration was that this was the only health care problem she had experienced in the last 2 years and the only cost incurred other than her annual physical and dental checkup. She had not met her deductible, but would have to find $500 in her monthly budget to pay for capping a tooth or go take out a loan, if she could qualify, to cap a tooth and then spread that cost over several months. If my constituent had an MSA, the $500 would have been covered by funds in her account.

Medical savings accounts would also benefit individuals with chronic illnesses, such as diabetes. A few years ago, several individuals who live with diabetes complained to me that many of the health care costs they incurred are not covered by insurance. For example, the glucose testing strips, the syringes for insulin, dieticians or nutritional services, and the pharmaceuticals are not always fully covered by insurance but are necessary in order to avoid more expensive, catastrophic illnesses.

With a medical savings account, a diabetic could pay for these expenses from his or her MSA. In addition, if they did experience a catastrophic illness, they would be covered once their high deductible was met.

Mr. President, some will claim that MSA's will cause people to forgo needed health care treatment. This is simply not the case. I must say, while that allegation is made, there is no proof that MSA's would have that effect. Unlike most health care coverage plans, MSA's give consumers an incentive to stay healthy because the money you spend is your own. In addition, they provide access to funds for preventive health care services which may not be covered by insurance plans.

Let me respond to the other half of the argument that MSA's are just another tax break for the rich. Working families will benefit greatly from MSA's. The United Mine Workers of America have a provision similar to MSA's in their current contracts. Mine workers and other working families, in my opinion, do not meet the definition of those who claim this is just for the rich. I think those are hard-working people who want and need good health care coverage for their families. That is exactly why the United Mine Workers Union negotiated it with their employers, because it was something the employers could afford and it gave those working men and women greater opportunities for coverage.

I must say I grow saddened by the kind of rich demagoguery that is played on the floor of this Senate on a variety of issues when we try to expand the base and expand the opportunity for all Americans by giving tax incentives or tax breaks that allow them to do certain things beneficial to their well-being.

Mr. President, regardless of income, if you get an MSA and catastrophic plan from your employer, your employer will be making the same contribution to your account. In addition, MSA catastrophic plans are a less expensive option for an employer, especially small businesses, providing another affordable option for employers who currently do not provide insurance. That is what insurance reform should all be about; as I said, to create affordability and to expand the opportunity for access to this kind of coverage.

Finally, MSA's give lower income individuals an account to draw from for

primary care and other preventive services that otherwise would be paid out of pocket. The out-of-pocket issue to those less fortunate in our country is a very real issue, Mr. President. In other words, MSA's eliminate the upfront deductible required with most insurance policies and provide, in essence, by this very action, first-dollar coverage.

For example, with a traditional employer-provided insurance policy, a deductible must be reached before the insurance policy kicks in. A low-income parent with a sick child has to find funding out of his or her monthly budget to pay for the doctor or for any prescription. With an MSA, the worry is gone because the money has been placed by the employer in the MSA. Furthermore, if the problem is catastrophic, once the deductible is met from funds in the MSA account, the catastrophic policy provides the coverage.

In most cases, out-of-pocket exposure for individuals with MSA's is less than with other types of insurance coverage policies. In fact, low-income families have an opportunity to benefit from the savings that would accrue in an MSA over time.

Consider the following: Janet earns $13,000 a year. She is 20 years old and keeps her MSA through to age 60. If her employer deposits $1,800 a year in her medical savings account and she remains in good health and spends an average of $250 a year from her MSA, by the age of 60, assuming an 8 percent interest rate per year, Janet would have $433,661 in her medical savings account. Now, that is an optimum scenario.

Let me give a more likely one. Under the same scenario, with Janet experiencing more health problems, and let us say she is spending $1,000 a year from her medical savings account for health care, she would still accrue $223,000-plus in her medical savings account by the time she is 60. That is the opportunity that exists today if this Senate and this Congress will awaken to what the American consuming public wants.

Under a traditional fee-for-service HMO–PPO program, Janet would have health care coverage as long as she stayed with her employer. She would have to pay her annual deductible out of pocket and a copayment for service once she met that deductible. At age 60, if she retired, she would have no health care insurance and no medical savings account. That is the current law. Even this legislation does not really address that problem upon retirement, for those individuals who are not yet 65. Medical savings accounts do.

So, let us change S. 1028 from rhetoric to reality by amending it and putting medical savings accounts in it. While Janet may not be a real person, there are plenty of real Janets waiting to benefit from medical savings accounts.

Mr. President, my home State of Idaho was one of the first States to implement a statewide MSA program. Early reports and reactions to Idaho's program have been very, very favorable. Ada County, the largest metropolitan county in my State, was the first major employer in Idaho to offer the plan. It is saving the county a lot of money and providing greater flexibility for county employees. Passing a Federal MSA plan will enhance what is already a beneficial program in my home State of Idaho. It will allow our MSA program to be even more effectively used across the State. In short, Mr. President, passing a federal MSA plan will enhance what is already a beneficial program in Idaho.

Let me tell you about one of our county commissioners in Idaho who has been a great advocate of medical savings accounts and was instrumental in bringing that county on line with an MSA policy once the State legislature passed the law. Gary Glenn, an Ada County commissioner, participates in the optional MSA plan, as do about 20 percent of the Ada County employees.

Ada County's medical savings account plan saves taxpayers' dollars, maximizes patients' choices, and rewards responsible health care consumption. The benefits to Gary's six-member family are illustrated in these examples. The county's old indemnity program provided Gary's family typical coverage, $100 per person deductible, with a maximum of $300 per family, plus a 20-percent copay. The monthly premium was $494, of which Gary and his family paid $158 a month.

Under the new MSA, Gary's family has catastrophic coverage with a $2,000 per person deductible—the maximum per family, though, is $3,000—and 100 percent coverage or payment above that deductible. The new monthly premium is $194. Gary still pays $158, but the county pays $36 per month instead of $336.00 for the old indemnity plan. This is a dramatic reduction in the overall cost of insurance on a per month basis. This provides a savings of $3,600 per year. Out of the savings, the county will deposit $2,100 in Gary Glenn's medical savings account.

Under the old indemnity plan, Gary's family faced a much higher financial risk. In the worst case, they would be forced to pay $5,100 in deductibles and copays out of pocket and after taxes. Under the medical savings account, with a $3,000 deductible, no copayment, and $2,100 in his medical savings account, the most they would have to spend out of pocket in 1 year would be $900. That is important to remember. Instead of $5,100 out of pocket, they would spend $900. And the county is saving literally thousands of dollars as the employer.

In addition, by reducing Gary's out-of-pocket family risk by 82 percent and providing them with maximum flexibility in how they spend their health care dollars, any portion of the $2,100 deposit in their account—Gary Glenn's account now—is left to spend on health care, state income tax-free, or to carry forward and earn interest.

So under the Idaho medical savings account plan in Ada County, the taxpayers of that county and Gary's family are realizing real benefits. Mr. President, why cannot we be smart enough to provide that to all Americans—to give them at least the option, the choice? That is real insurance reform. That is real flexibility. That is real portability. MSA's are an idea whose time has come. We ought to do it. Today, though, in this bill we only offer the rhetoric. I hope the amendment that will be offered by the majority leader will pass and become a part of this important law.

Let me say in closing that S. 1028 is a good bill. What I have talked about is making it a better bill, a more complete reform of the health care system. Not the adjustments around the edges, but major reform in a way that fits 21st century Americans. It gives them the freedom of choice, access, the individual decisionmaking authority, the buying power they need, and it is effective for all levels of our society, the poor and the rich alike. That is what it should be about.

Mr. President, I ask unanimous consent that an editorial from the Idaho Statesman be printed in the RECORD. The headline says "Congress Can Follow County Lead on Medical Savings Accounts."

This editorial urges this Congress, this Senate, and the President himself to become modern, to become thinkers and not prohibitors, and add to this major reform package the concept of medical savings accounts. I hope we can accomplish that.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Idaho Statesman, Apr. 1, 1996]

CONGRESS CAN FOLLOW COUNTY LEAD ON MEDICAL SAVINGS ACCOUNT

Ada County is leading the way in health-insurance reform by its use of medical savings accounts. Too bad many Democrats in Congress and President Clinton are among those most afraid to follow.

The U.S. House endorsed medical savings accounts Thursday as part of its legislative package on health care, but the outcome in the Senate is less certain, especially with Clinton's threat of a veto looming over the whole bill.

The nation loses if medical savings accounts are stripped out of the final legislation in a compromise.

As local experience shows, they can be an effective way to save insurance expenses and give consumers more control over decisions about their own health care.

Instead of traditional and expensive health-insurance policies, Ada County buys only catastrophic policies for the 20 percent of its work force signed up for the program.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The savings are put into the accounts of participating individuals and can be used for routine medical expenses.

The measures in Congress works about the same.

Individuals could make tax-deductible contributions of up to $2,000 (or $4,000 for families) in a medical savings account and would be required to purchase a high-deductible health insurance policy for catastrophic illnesses.

The system saves money because workers have an incentive to shop around for medical care. Bargain hunters can motivate doctors and hospitals to compete, which in turn injects needed market forces into the health industry.

By eliminating the middle man—insurance companies—the accounts allow people more direct control of how, when and where they spend their medical dollars.

Sadly the issue of medical savings account has become embroiled in partisan politics in Congress. But reforming health care and giving consumers more options should not be a partisan issue.

It is simply a matter of giving consumers greater clout as the nation seeks an improved health-care industry.

Mr. KENNEDY. Mr. President, just for the information of the Senators, we have been on the legislation since 9:30 this morning, 5 hours, and we have not had amendments. In the earlier part of the day, I think both Senator KASSEBAUM and I were urging our colleagues to come over and make comments about it. We have been blessed with so many bipartisan comments on the legislation.

We are expecting an amendment by the majority leader momentarily to be put down, also a unanimous-consent agreement in the process of being circulated so we might be able to move toward the consideration, or we are going to find a situation as the evening time comes that Members will say, "Why can we not attend to some of our other responsibilities in the evening?" We want to try and accommodate everyone, but we are open for business. But the first business, we had hoped, would be the majority leader's amendment, and then to have a good debate on that. Part of the debate will be on the medical savings account, and we will address that issue in a more complete way at that time.

I just wanted to at least give some indication to our colleagues about where we are in the course of the debate.

Mr. SIMPSON. Mr. President, I certainly will not take 10 minutes.

I want to add my voice to the bipartisan chorus of support for S. 1028, the Health Insurance Reform Act. I am proud to say I was an early supporter of this one. I signed on as a cosponsor back on July 17, 1995, just 4 days after it was introduced by Senator KASSEBAUM.

I commend her and I commend Senator KENNEDY for their determined efforts to advance this legislation through the Senate in the politically charged atmosphere of an election year. She has created a bill that deserves the support of Republicans and Democrats alike.

The provisions of this bill have been well covered—portability, guaranteeing availability and renewability of coverage, preexisting medical conditions, and maintaining continuous health coverage, making it easier for small employers to voluntarily form purchasing cooperatives—and would bring about changes that a vast majority of us agree upon.

Even President Clinton, in a dramatic departure from his earlier proposal for a Government-run health care system, has now embraced health insurance reforms that are remarkably similar to those which President George Bush proposed back in 1992. Whatever one might be attempted to say about the irony of all of that, it clearly indicates that we now have a unique opportunity to correct the problems that pose the most serious threat to the health coverage of millions of Americans.

Though each of us can think of various ways in which we would like to expand upon the pending legislation, the reality is that the bipartisan appeal of the bill will be lost if we go too far in amending. I intend to be very cautious about amendments that are offered for the Senate's consideration, even in cases where I might support the amendment on its merits. I say this because I would rather pass legislation that actually becomes law, even if it is not as far reaching and perfect as I would like it to be, than to make a legal statement with legislation that ends up in the great scrap heap of unfinished business—and there will be plenty of that in this session of Congress, things that stood on principle and could not get into law because you did not have the votes to get them into law. Unfinished business—that stack.

When I hold town meetings in Wyoming—I do not know how many of us still do that; I do—the message I always come away with is that people are thirsty for action. They are not interested in excuses or rhetoric or political maneuvers from either party. No matter how clever or imaginative we are in explaining ourselves, they just do not buy it. They have had a bellyful of petty partisan squabbles. What they long for is to see a Congress identify areas of agreement, as Senators KASSEBAUM and KENNEDY have done with this legislation, and then act in the best interests of the American people, without agonizing who will win or who will lose, who will be the top dog, who will be the underdog when it is finished, or politically, how to simply portray Members of the other party in the worst possible light.

The pending bill would allow us to do something beneficial, I think, for millions of Americans who are at most risk of losing their health coverage. The General Accounting Office reports as many as 21 million Americans would benefit if preexisting-condition exclusions are waived for people who maintain continuous health coverage, and, furthermore, another 4 million would no longer experience job lock if portability of health insurance is insured.

I believe it is time to move forward, adopt these protections to the extent that more sweeping measures are needed to make health insurance more affordable, more accessible. I will help with that. I surely agree that there is much more we can do.

I worked with Senators CHAFEE and BREAUX on issues of a bipartisan nature. I think that is very important. Let us consider those items separately that might serve to bring this down and view them at another time in such a way that we do not jeopardize the enactment of the pending bill.

I think what we need, sometimes, is an old-fashioned trait known as self-restraint. Perhaps we could even adopt self-restraint as the theme for the next several hours as we consider the bill. It would surely be an appropriate manner in which to recognize Senator KASSEBAUM's tremendous leadership on this issue, and to preserve a thoughtful bill that will provide important health insurance protections to millions of Americans.

Finally, I note the senior Senator from North Dakota is not on the floor. I hope he will have an opportunity to address my remarks. I admire him. He is a friend. We have worked together. He has come forward and said that we should put aside our agendas, put aside our own causes, work in harmony and concert. I hear that, yet I also hear each and almost every day my good friend from North Dakota stirring up some issue in some way, usually with a partisan twist. I think that if we are going to do that, just note the pending business of the Senate on the calendar. The pending business of the Senate is the illegal immigration bill. It is not moving simply because the Senator from North Dakota wishes to place an amendment on it with regard to the balanced budget and Social Security.

I am not speaking in a partisan way. I have been here before. I remember my dear friend Senator John Heinz placed amendments on illegal immigration bills. Even my ranking member has done such heinous activity from time to time, the Senator from Massachusetts. I have seen him do that. I am not talking about partisanship. If we are going to do this—we have a bill that is stalled right now. We will see how long it will stall out. There are three amendments ready to be voted upon. Where it is all held up, that bill is held up for a single particular reason: Because of the Senator from North Dakota, because of an eternal amendment that he has with regard to Social Security, saying that no balanced budget

can ever be done, and we do not do anything with Social Security, which is an extraordinary thing in itself because Social Security is going broke. The people that are telling us it is going broke are the trustees, the stewards of the system, who are saying the system will go broke in the year 2020.

So how do you keep ducking it, unless you are just carrying water for the AARP and the Committee for the Preservation of Social Security and Medicare and other 800-pound gorillas in that particular Social Security debate.

So I hope that we will proceed. I say to my friend from North Dakota—my friend and sometimes adversary—heed thine own advice. I will be waiting.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, about 2 years ago, this Congress blocked attempts to act on comprehensive health care reform. While that year's effort to achieve the major reforms that are so needed and so long overdue did not succeed, the problems that led the President to make that proposal have not disappeared. Far from it.

There are over 40 million Americans without health insurance, and over 23 million of those are employed. Over a million working Americans have lost health care coverage over the past 2 years; 60 percent or more of all Americans currently worry about losing their current health insurance coverage.

Over the last few years, the rate of private health care cost increases has dropped substantially, but there are now increasing concerns about the quality of care. Public health care costs continue to increase at an unsustainable rate. The case for reform, therefore, is perhaps even more compelling now than it was 2 years ago when we first took up this issue.

I am, therefore, proud to be one of the cosponsors of S. 1028, the Health Insurance Reform Act. It is not the comprehensive reform that we looked at to begin with, but it is a good and important step in the right direction. Indeed, this may well be the first step on the road to reform that everyone can agree upon. I say to the Senator from Kansas and the Senator from Massachusetts that this legislation is brilliant in its simplicity, precisely because it cuts to the heart of the issues that concern the American people most about health care coverage.

Mr. President, in my view, there are four cornerstones of health care reform: Universal coverage, cost containment, maintaining the quality of care that we enjoy in this country, and retaining freedom of choice for the American people in terms of health care delivery and the providers of health care.

This bill moves us in the direction of universal coverage by keeping people insured who might otherwise not be. If there is any concern which everyone has regarding health insurance, it is the trap of preexisting conditions. All too often, individuals find themselves excluded from coverage because of a preexisting condition. In some cases, the individuals themselves are not even aware of the existence of that preexisting condition.

By limiting exclusions for preexisting conditions, by making health insurance coverage available for small businesses, and by ensuring portability and ending job lock, this legislation deals with the concerns of millions of Americans. It will help to make health insurance coverage more available for millions of Americans and for small businesses, help hold down health care costs for Americans, and further help to expand access to health care. That, in my opinion, is real reform, or a step in the right direction.

In my own State of Illinois, over 2 million people are currently without health insurance. This bill will make a critical difference in their lives and in the lives of similarly situated people all across our Nation.

Those who are now without insurance are far from the only beneficiaries of this legislation. For Americans who might want to leave their jobs and start their own businesses, or who might have to leave their jobs because of corporate restructuring, but who might have a preexisting condition or family medical history that would currently make it difficult or impossible for them to purchase an individual health policy, this bill will make a huge difference. It will guarantee their ability to access health insurance.

This bill will also guarantee that small businesses with only a few employees would not lose their group health care coverage because one of the people in the group develops a serious health problem, as is the case now. Moreover, it will make health insurance more affordable for those small groups, making it more likely that more small businesses will provide health insurance benefits for their employees.

Families with small children suffering from a serious health problem will no longer face the prospect of being unable to obtain health insurance if the child's parent changes jobs, ensuring that the child's parents are not themselves job locked because of the condition of a member of the family. It is tough enough for families to deal with serious health problems affecting one of their children without having to face the additional problem of losing access to health insurance if they are laid off or restructured out of their jobs or if they want to change jobs for a new, perhaps better paying job that could help their families in other ways.

Women who have had breast cancer or other diseases will no longer face higher premiums or loss of access to health insurance altogether if they change jobs once this bill becomes law. And young college graduates starting their first jobs would not be barred from access to health insurance simply because they suffer from a childhood ailment or a continuing disability from an unfortunate accident.

The Health Insurance Reform Act, therefore, represents a practical, caring set of reforms to deal with the real health care problems facing so many Americans, based on their everyday realities. It does not require Americans to radically change their behavior. It does not add another bureaucracy or a huge new paperwork system. It does not require new Federal spending or new taxes. It does not create any new unfunded mandate on State or local governments. At most, it will increase the costs for private health insurance companies by less than one-quarter of 1 percent.

This bill is about incremental reform, but real reform nonetheless. It will help virtually every working American, as well as millions of Americans who are temporarily out of the work force. The bill itself will work because it is based on what is actually going on in the world of real people who need health care.

Mr. President, it is worth thinking a moment about those everyday realities. Statistics tell us that the average American works at a job for about 4½ years. Over the course of a working career, therefore, an average working American could hold seven or more jobs. That fact alone makes it all too clear just how important it is for the American people to have portable health care coverage. That fact alone is a good indication of how necessary it is to end preexisting condition restrictions that result in Americans having to pay enormous sums for new health care policies, losing access to the one they had, or end up with no access to health insurance at all.

Eighty-one million Americans have preexisting conditions that could affect their insurability. More than half of all American workers are enrolled in health insurance plans that impose some form of preexisting condition exclusion. As I stated earlier, when you consider that most of us will change jobs several times in the course of a lifetime, the preexisting condition problem affects virtually every American family.

Mr. President, every American wants and needs health care security. It is as important to them as retirement security, an objective that should command absolute consensus in this country. That vision and importance of retirement security led to the creation of Social Security. That is why we provide tens of billions of dollars in annual tax incentives to companies to provide pension plans for their workers. That is

VOL
142
PT
6
AP
15
—
24
1996
UMI

why we support pension plans and retirement programs and savings.

Health care security is no less essential to the American people than retirement security, not only because you cannot enjoy retirement if you are in poor health, but because lack of access to affordable health care insurance can literally mean bankruptcy. Being able to roll over your insurance coverage, therefore, is just as important as being able to roll over pension savings. Maintaining health security deserves the same level of attention that we give to retirement security, and measures that protect and enhance that kind of health security deserve the same kind of consensus support.

Mr. President, the really good news is that so many of our colleagues—57, in fact—and so many different organizations, and the President, support this legislation. The American people support this. Facing the fear of loss of health insurance, facing the preexisting exclusion, those kinds of uncertainties will be resolved when we take this step in the direction of incremental reform.

This legislation has been carefully worked out. It represents a real compromise by both Democrats and Republicans who support it. I congratulate the chairman of the Labor and Human Resources Committee, Senator KASSEBAUM, and the ranking Democratic member, Senator KENNEDY, for their leadership and for all the hard work they have put into bringing this bill to this point. As I said earlier, it really is brilliant in its simplicity. I congratulate them for the bipartisan nature of this debate so far and for the efforts in bringing us together as representatives of the American people, whatever political party, bringing us together to get this badly needed legislation passed.

If there is one matter that commands consensus, it is what this bill addresses because it addresses it so brilliantly, in my opinion.

I urge Senators on both sides of the aisle to put aside partisan differences, put aside other good ideas, and let us move forward and pass this legislation so that it can be law and so we will have done the job the American people have every right to expect that we will do.

Thank you very much.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas, [Mr. GRAMM], is recognized.

Mr. GRAMM. Mr. President, I want to talk about the bill that is before the Senate and the amendment that Senator DOLE will offer on behalf of himself and others. I will also cosponsor that amendment. I want to try to explain why it is essential that we have measures which will promote efficiency and cost savings if we are going to adopt this bill.

Let me say that making insurance portable and permanent is something that I support. But I think that, if we are going to be honest with ourselves, it is very hard to do this with a straight face, which is what has been done in virtually every speech that has been given on the floor of the Senate this morning. We are talking about 25 million Americans who are going to benefit from this bill. This is a number that has been established independently of the Senate. We all rejoice in it—25 million beneficiaries of this bill, which is supposedly just a technical amendment. Yet I would point out to my colleagues, if you look through this bill, it does not appropriate one penny. It does not provide one cent.

Now ask yourself, how are 25 million people going to benefit from this bill, through greater availability of health insurance and lower prices, if the Government and the Congress which passes this bill are not providing one single penny? Is it somehow magic that through Government edict we can bestow billions of dollars of benefits on our fellow citizens at no cost and no dislocation whatsoever? The answer to that is clearly no.

I would like to begin by making a prediction. That prediction is, if we adopt this bill as it is written, at the end of the first full year of its implementation, the cost of individual private health insurance policies will rise by a minimum of 10 percent. I also believe that this is a conservative estimate.

I believe that group policy rates will go up because we are going to produce, through this effort, several undesirable effects. I want to go through them to be absolutely sure that anybody who really wants to understand can do so, and because I think they make the argument for medical savings accounts and other reforms to try to offset the basic cost increase that is going to result from this bill as it is currently written.

First of all, this bill guarantees that if a person wants private health insurance, they can get it. There may be a delay in the availability of benefits, depending on where the person works and when they have private health insurance, but under this bill, anybody who wants private health insurance at any time, under some circumstances, can get it. Furthermore, when someone comes into a group plan, no matter what the state of their health, they cannot be charged more than any other member of that group and if somebody leaves a private employer, they must be offered an individual insurance policy.

What is the result of this going to be? It seems to me there are going to be positive as well as negative results. The entire debate so far has been about the positive result: 21 million people that do not have private health insurance will be able to get it, because we are saying by law that insurance companies must sell it to them. An estimated 4 million people who are locked into their job because they fear the loss of their health insurance if they move will benefit since they will be guaranteed the issuance of health insurance when they change jobs. These are the positive impacts of the proposed changes.

But it is generally true, in the real world we live in, that not all impacts of dramatic changes are positive; let me outline some of the negative impacts.

No. 1, we are going to end up, by guaranteeing availability, distorting health coverage. Young, healthy people, knowing that they are going to be able to qualify for private health insurance in some form—either through a group or as individuals—are going to have a greater incentive to not obtain the coverage that they have today.

Why do young workers who are basically healthy buy private health insurance right now? Some might buy it because they are risk averse. But many buy it because they want to guarantee that in the future, when they may not be as healthy, they will have locked in their coverage.

What this produces is a balanced distribution of people who are buying private health insurance—many people who are young and healthy and who are very modest users of health care as well as many people who are older and less healthy and who are heavy users of health care are all buying insurance. Since many young people buy private health insurance in order to lock in guaranteed health coverage in the future, to the degree that we mandate that insurance companies sell people health insurance no matter what the state of their health is, we eliminate one of the primary reasons that young people buy private health insurance. So the first negative impact of this bill is the creation of a new incentive for young people not to buy private health insurance.

Under this bill we also have some rather extreme provisions. Before I mention one of them, let me say that I understand, when you are talking about health care, that it is hard to have a rational debate because you are talking about sick people who we can all empathize with. But I think it is important that we understand what we are doing if we are going to have a real debate in the Senate because, after all, that is our job—to understand what the implications are and to try to see that we make a rational decision.

Under this bill, not only will young people with guaranteed ability at a later point to buy private health insurance have an incentive not to buy it today, but in designating a series of health benefits for which there is no waiting period, we create a special

class of people who will buy health insurance when they know they are going to need it, such as in a pregnancy, and then cancel the policy after they receive the benefit—only to buy another policy when they are ready to use the benefit again.

It is very difficult to quantify this, but anyone who read the article in the April 5 issue of the Wall Street Journal knows this is happening in States which have done exactly what we are proposing to do.

So the first negative impact of this bill is that it eliminates one of the prime incentives for young, healthy people to buy private health insurance, and the second negative impact is that it distorts the risk pool in the process.

The third thing it is going to do, which is part of the positive impact, is that the 21 million people who are sick today and as a result of being high risk have opted not to pay the going market rate—or in some cases they simply have not been able to afford health insurance—the positive thing for them will be that they will now be able to buy health insurance. The fact that they will opt for coverage, while younger healthier people, knowing they can get it later, will opt not to get the coverage, however, will further distort the risk pool of insurance. What this will mean is that in America there will be more young, healthy people who do not opt for health insurance than we have today, and there will be more older, less healthy people who do. Given the inherent cost of changing the mix of people who are buying private health insurance, the inevitable result of this is going to be that you drive up the cost of insurance premiums.

This is not just something that is theoretical, I know we have some study which says that costs are going to go up by some minuscule amount. I do not believe, however, that anybody who has looked at the experience of States like Washington could possibly believe this. I think what we are really looking at in this bill, independent of any other changes, is younger, healthier people dropping out and older, sicker people opting in. The net result of these shifts is going to be a substantial increase in insurance rates for those who have bought health insurance, for those who, in many cases, bought it when they were young and healthy in order to have a guarantee of insurability. The net result of this bill is going to be rising insurance costs.

Now, this bill, in fact, anticipates this result and sets up a series of powers to help the States try to deal with these potential impacts. At some later point I am going to debate and possibly offer an amendment dealing with a provision on page 40 that gives the Secretary of Health and Human Services the power to disallow a State program to deal with rising costs unless it implements a mechanism to spread the risk and to limit rate increases. I do not think we ought to be dictating to the States what they can and cannot do in order to deal with a problem that this bill is going to cause.

We have before us a bill that is going to help people, 25 million of them, and for these individuals it is going to be a godsend. But another 100 million people, who already have private health insurance and who are going to see their rates go up, are going to be losers from this reform. We are going to change behavior by inducing younger people to not buy into the system, and as a result rates will be raised. We are also going to bring sicker people into the system, and the final result is going to be a spike in insurance rates—just as has happened all over the country in States with similar programs.

We have now some 29 States that have gone about this in a different way by creating risk pools to help people who have a preexisting condition get health insurance. We are, in essence, going to kill that off this approach by mandating that the insurance policy be sold in the way we dictate at the Federal level.

There is a way to get the advantages to the 25 million people who will benefit from the bill and offset the cost to the 100 million who will lose from it. The way to do that is with fundamental reform which, it seems to me, can take two basic approaches. No. 1 is with medical savings accounts as will be offered by the majority leader. The idea behind the medical savings account is to change the Tax Code to allow an individual or a family to choose a high deductible insurance policy instead of a low deductible policy, and to put the savings from the resulting lower premiums into an account which is designated solely for the purpose of paying the policy's deductible. At the end of the year, if they do not spend that money on the deductible, they can roll it over for their retirement or take it out as income and pay taxes on it.

What that means is that for routine type care they are spending their own money. Medical savings accounts empower the individual consumer to be cost conscious and provide a mechanism that will save the concept of fee-for-service medicine so those who do not want to be members of an HMO or a prepaid system can opt to stay in fee-for-service medicine and yet have incentives to be cost conscious.

If we adopt the amendment of the distinguished majority leader, we will fundamentally change the health care market, and those savings will offset several times over the cost that is involved in driving up insurance rates for 100 million Americans to help the 25 million who will be beneficiaries of this program.

A second reform, which is not contained in the Dole amendment, deals with medical liability. We have some estimates which indicate that 20 percent of the cost of medical care in America comes from expenditures that are aimed at keeping people out of the courthouse instead of keeping people out of the hospital and out of the grave.

If we are going to make the changes envisioned in this bill, which in essence transfers costs to the people who have private health insurance—by raising their premiums—from people who do not have health insurance today, the way to offset that burden on people who have in essence done what we wanted them to do—bought private health insurance—is by allowing for medical savings accounts and dealing with medical liability.

If we do not make these two changes, my fear is that 2 years from today, insurance rates, especially on individual policies outside of group plans—because under this bill we guarantee the availability of a policy to somebody who leaves their group plan—I am concerned that without medical savings accounts or without medical liability reform, we are going to see insurance rates spike and we are going to see States try to hold them down with rationing mechanisms and price controls. I think they are going to fail, as they are failing in Washington State today, and I think we are going to be right here 2 years from now debating a health care bill again, and the demand will be made to do something about exploding costs. Yet we will have produced these exploding costs with this bill.

We have it in our power to help 25 million people and yet not hurt another 100 million people in order to pay for it. The way to do that is with a medical savings accounts and medical liability reform.

In and of itself, this bill simply transfers income and assets from one group of Americans to another, and in the whole you have 25 million winners but you have 100 million losers.

With reform, we can see that virtually every American family wins. If all we are doing is simply shifting risk, we are not dealing with the fundamental health care problem in America.

So I hope my colleagues will vote for the Dole amendment. I think it is very important. I totally reject the idea that this is a simple bill and that we ought not to load it up with other items. If we do not have fundamental savings, this bill is going to cause insurance rates to explode, and we are going to be right back here 2 years from now debating socialized medicine again. I have debated that once, I am not eager to do it again, but if it is required, I certainly will.

I yield the floor.

Mr. HELMS. Mr. President, more than 80 percent of Americans younger than 65 are covered by health insurance, but if one of them changes jobs,

VOL
142
PT
6
AP
15
—
24
1996
UMI

or is laid off, he or she may be denied health insurance because of a preexisting problem, or because his health insurance cannot move with him or her. A genuine fear therefore exists that the security of health insurance could very well be lost. In fact, opinion polls show that as many as one-third of employees fear that if they switch jobs they will be unable to obtain new health insurance.

The American people believe, and I agree, that they should be able to change jobs without losing their health insurance. Congress needs to insist that health insurance be made portable so that the fear of losing their health insurance should not plague the American people when they change or lose their jobs. This bill permits insured employees who leave one employer to be covered immediately upon taking another job that offers employees health insurance, regardless of their health status.

This bill does not establish community rating. Community rating is a grave threat to the insurance market. I have heard many cite the dismal failure of guaranteed issue in States such as New York. These States coupled guaranteed issue with price controls that kept premium prices equal for everyone regardless of age, health status, etc. This combination ensures collapse of the health insurance market. However, S. 1028 narrowly defines guaranteed issue in order to avoid the devastating effects of pushing healthy people out of the health insurance market.

There must be a limit to preexisting condition restrictions that now prevent many citizens from obtaining or holding onto health insurance. I am convinced, Mr. President, that small businesses should be encouraged to form groups to build joint purchasing power when buying health insurance for their employees.

These provisions of the Kassebaum bill will be welcome and overdue improvements in the health insurance market, and I wholeheartedly support them.

However, Mr. President, in the debate on health insurance reform, perhaps the most innovative solution has been given the shortest shrift—the medical savings account. This solution—that will provide the greatest freedom—has been successfully used by many businesses to keep their health care costs down and employee satisfaction up. In a truly American way, medical savings accounts harness the free enterprise profit motive to promote sorely needed efficiencies in the health care economy. MSA's confer upon individuals an incentive, a reason, to spend their health care dollars wisely by turning part of the savings over to the employees, in effect rewarding efficiency.

Mr. President, many private businesses are already using cash incentives and medical savings accounts to reduce their health care costs while, at the same time, achieving great employee satisfaction with the health care afforded them.

One company cut its health care costs significantly. In 1992, Forbes magazine was spending $2.3 million per year for health insurance from CIGNA at an average cost of about $5,000 per employee. In order to encourage employees to be more cost conscious, Malcolm Forbes, Jr., decided to reward his employees with a bonus for not filing major-medical and dental claims.

Forbes explained the choice to its employees: If, during the year, an employee minimized the number of claims filed with the insurance company, Forbes agreed to pay that employee a bonus of up to $1,200. Employees enthusiastically embraced this plan; insurance claims dropped dramatically. As of 1994, while premiums for other CIGNA clients rose between 21 and 25 percent, Forbes' major-medical premiums fell 17.6 percent.

The obvious lesson learned from the Forbes example is that employees will control their health spending—if they are allowed to keep the savings. Of course, in the case of employees who are really sick, they file the necessary claims and receive bonuses in lesser amounts. Employees choosing to pay out-of-pocket for routine health expenses instead of filing claims, get the bonuses at the end of the year.

Consider, Mr. President, how this kind of commonsense incentive will change the public attitudes about health care costs. For example, one Forbes employee regularly needs four different prescriptions filled, but as a result of the Forbes bonus program, this employee now shops around for the best price. Before, he didn't care how much a prescription cost because insurance paid it. And when insurance pays, we all pay, in the form of higher insurance premiums and lower income.

Forbes is not the only company to benefit from an incentive-based program. Dominion Resources, a public utility holding company in Richmond, VA, has likewise developed an innovative method of reducing its health care expenses, a medical savings account.

An MSA works: The employer buys its employees a health insurance policy with a high deductible. This kind of policy has two attributes: First, it protects the insured against catastrophic health care expenses; and second, its premiums are less expensive.

The employer then establishes a special account for each employee to pay for routine medical treatment. What the employee does not spend from the account, he keeps. This incentive encouraged 75 percent of Dominion's employees to enroll in a high-deductible plan. And guess what—since 1990, Dominion's health care costs have risen less than 1 percent per year; premiums have not increased in 3 years.

Forbes and Dominion Resources are but two examples of private industry enterprise coming up with health care solutions that work. Incentive-based solutions work for the company and they work for the employee. As one economist, Gerald Musgrave, put it, "We have thousands of years of experience with how people handle their own money."

So, why not let Americans continue to handle their own health care dollars and help them realize their role in cost savings? Time and time again, Americans have shown that they can and will make cost-conscious health care decisions when given a sensible incentive to do so.

So, Mr. President, insurance can be made more accessible by assuring Americans that their policies will not be canceled because of an illness or when they are changing jobs. These are some obvious flaws in the market and I believe further progress can be made by addressing the Tax Code. But I am convinced that we're on the right track.

Mr. President, I ask unanimous consent that an April 17, 1996 Wall Street Journal article entitled "A Way Out of Soviet-Style Health Care" by Milton Friedman be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 17, 1996]

A WAY OUT OF SOVIET-STYLE HEALTH CARE

(By Milton Friedman)

In a chapter in his novel "The Cancer Ward" titled "The Old Doctor," Alexander Solzhenitsyn compares "private medical practice" with "universal, free, public health service" through the words of an elderly physician whose practice predated 1918. A byproduct is an eloquent statement of the major advantages of medical savings accounts for the U.S. in 1996.

Mr. Solzhenitsyn himself had no personal experience on which to base his account and yet, in what I have long regarded as a striking example of creative imagination, his character presents an accurate and moving vision. The essence of that vision is the consensual relation between the patient and the physician. The patient was free to choose his physician, and the physician free to accept or reject the patient.

In Mr. Solzhenitsyn's words, "among all these persecutions [of the old doctor] the most persistent and stringent had been directed against the fact that Doctor Oreschenkov clung stubbornly to his right to conduct a private medical practice, although this was forbidden."

"EASIER TO FIND A WIFE"

In the words of Dr. Oreschenkov in conversation with Lyudmila Afanasyevna, a longtime patient and herself a physician in the cancer ward: "In general, the family doctor is the most comforting figure in our lives. But he has been cut down and foreshortened. . . . Sometimes it's easier to find a wife than to find a doctor nowadays who is prepared to give you as much time as you need and understands you completely, all of you."

Lyudmila Afanasyevna: "All right, but how many of these family doctors would be

needed? They just can't be fitted into our system of universal, free, public health services."

Dr. Oreschenkov: "Universal and public—yes, they could. Free, no."

Lyudmila Afanasyevna: "But the fact that it is free is our greatest achievement."

Dr. Oreschenkov: "Is it such a great achievement? What do you mean by 'free'? The doctors don't work without pay. It's just that the patient doesn't pay them, they're paid out of the public budget. The public budget comes from these same patients. Treatment isn't free, it's just depersonalized. If the cost of it were left with the patient, he'd turn the ten rubles over and over in his hands. But when he really needed help he'd come to the doctor five times over. . . .

"Is it better the way it is now? You'd pay anything for careful and sympathetic attention from the doctor, but everywhere there's a schedule, a quota the doctors have to meet; next! . . . And what do patients come for? For a certificate to be absent from work, for sick leave, for certification for invalids' pensions; and the doctor's job is to catch the frauds. Doctor and patient as enemies—is that medicine?"

"Depersonalized," "doctor and patient as enemies"—those are the key phrases in the growing body of complaints about health maintenance organizations and other forms of managed care. In many managed care situations, the patient no longer regards the physician who serves him as "his" or "her" physician responsible primarily to the patient; and the physician no longer regards himself as primarily responsible to the patient. His first responsibility is to the managed care entity that hires him. He is not engaged in the kind of private medical practice that Dr. Oreschenkov valued so highly.

For the first 30 years of my life, until World War II, that kind of practice was the norm. Individuals were responsible for their own medical care. They could pay for it out-of-pocket or they could buy insurance. "Sliding scale" fees plus professional ethics assured that the poor got care. On entry to a hospital, the first question was "What's wrong?" not "What is your insurance?" It may be that some firms provided health care as a benefit to their workers, but if so it was the exception not the rule.

The first major change in those arrangements was a byproduct of wage and price controls during World War II. Employers, pressed to find more workers under wartime boom conditions but forbidden to offer higher money wages, started adding benefits in kind to the money wage. Employer-provided medical care proved particularly popular. As something new, it was not covered by existing tax regulations, so employers treated it as exempt from withholding tax.

It took a few years before the Internal Revenue Service got around to issuing regulations requiring the cost of employer-provided medical care to be included in taxable wages. That aroused a howl of protest from employees who had come to take tax exemption for granted, and Congress responded by exempting employer-provided medical care from both the personal and the corporate income tax.

Because private expenditures on health care are not exempt from income tax, almost all employees now receive health care coverage from their employers, leading to problems of portability, third party payment and rising costs that have become increasingly serious. Of course, the cost of medical care comes out of wages, but out of before-tax rather than after-tax wages, so that the employee receives what he or she regards as a higher real wage for the same cost to the employer.

A second major change was the enactment of Medicare and Medicaid in 1965. These added another large slice of the population to those for whom medical care, though not completely "free," thanks to deductibles and co-payments, was mostly paid by a third party, providing little incentive to economize on medical care. The resulting dramatic rise in expenditures on medical care led to the imposition of controls on both patients and suppliers of medical care in a futile attempt to hold down costs, further undermining the kind of private practice that Dr. Oreschenkov "cherished most in his work."

The best way to restore freedom of choice to both patient and physician and to control costs would be to eliminate the tax exemption of employer-provided medical care. However, that is clearly not feasible politically. The best alternative available is to extend the tax exemption to all expenditures on medical care, whether made by the patient directly or by employers, to establish a level playing field, in terms of the currently popular cliche.

Many individuals would then find it attractive to negotiate with their employer for a higher cash wage in place of employer-financed medical care. With part or all of the higher case wage, they could purchase an insurance policy with a very high deductible, i.e., a policy for medical catastrophes, which would be decidedly cheaper than the low-deductible policy their employer had been providing to them, and deposit all or part of the difference in a special "medical savings account" that could be drawn on only for medical purposes. Any amounts unused in a particular year could be allowed to accumulate without being subject to tax, or could be withdrawn with a tax penalty or for special purposes, as with current Individual Retirement Accounts—in effect, a medical IRA. Many employers would find it attractive to offer such an arrangement to their employees as an option.

Some enterprises already have managed to do so despite the tax penalty involved. MSAs have proved very popular with employees at all levels of income, and they've been cost-effective for employers. The employee has a strong incentive to economize, but also complete freedom to choose a physician, and the equivalent of first-dollar coverage. There are no out-of-pocket costs. Until the employee spends more than the total amount in the MSA. Such costs are then limited to the difference between the amount in the account and the deductible in the catastrophic policy. Moreover, the employee can use money in the MSA at his or her discretion for dental or vision care that is typically not covered under most health plans. No need to get "authorization" from a gatekeeper or an insurance company to visit a specialist or to have a medical procedure—until the catastrophic policy takes over.

LIMITING COMPETITION

The managed care industry has come to recognize that MSAs might threaten its growing control of American medicine by offering a more attractive alternative. As a result, the managed care industry has recently become a vigorous enemy of MSAs. Every believer in competition will recognize that opposition for what it is: a special interest using government to limit rather than expand competition.

Medical savings accounts are not a panacea. Many problems would remain for an industry that now absorbs about a seventh of the national product. However, I believe that they offer the closest approximation that is currently feasible to the private medical practice that Dr. Oreschenkov cherished.

Mr. BRYAN. Mr. President, today is remarkable. At long last—on the floor of the Senate—we are considering health care reform legislation that the American people both want and support. And at long last, it is legislation with significant bipartisan support.

I am proud to be a cosponsor of this bill. It will provide health care insurance protection for thousands of Nevadans, and millions of Americans. This incremental bill is our best opportunity to get working Americans the health care access they deserve.

We have been close to this point before. It seems like ancient history when I think back to cosponsoring former Senator Lloyd Bentsen's small business insurance health care reform. It too had incremental insurance coverage improvements that many in this body supported—yet once again, the final hurdle could not be overcome.

Many times—and over many years—Nevadans have shared with me their heart breaking stories. Families whose children have medical conditions that prevent the family from being able to purchase health insurance, because no insurer will take a child with a preexisting condition. Working individuals who develop chronic health conditions, and cannot leave their current employment for fear of not being able to get health insurance in their new job.

Health insurance is often denied for the very illnesses most likely to require medical care. Eighty-one million Americans have conditions that could subject them to such exclusions if they lose their current coverage, and sometimes these exclusions make them completely uninsurable.

People with preexisting conditions are penalized twice. First, they have a serious health care condition that requires medical care—a situation they did not choose. Second, they are at the mercy of insurers who decide whether they will have coverage, or be cut off.

For the person with a preexisting medical condition, who has been lucky enough to get health care insurance through his or her job, the secondary fear is keeping their job.

If the job is eliminated, it may mean no more health care insurance—ever. For the person who wants to better himself or herself by taking a new job, or starting a new business, it may mean no more health insurance—period. We can all imagine that fear.

These insurance company decisions affect working people who play by the rules. They pay their insurance premiums when they can get coverage. But they find themselves in untenable situations.

They are unable to have the most basic insurance of all—for themselves

VOL 142 PT 6 AP 15 — 24 1996 UMI

and their families—to not have to worry about health care coverage.

It is demeaning to all Americans if people cannot better themselves and their families' situations for fear of losing health care insurance. This legislation will free many working people from the stagnation of being unable to accept new job opportunities.

The Health Insurance Reform Act guarantees that private health insurance coverage will be available, renewable, and portable to working Americans.

This legislation will make it easier for individuals and employers to buy and keep health insurance, even when a family member or employee has a preexisting condition. This legislation makes health care coverage portable so workers would no longer be locked into jobs or prevented from starting their own business for fear of losing their health coverage.

Small businesses and self-employed individuals are particularly victimized under the current system, because they lack the bargaining power of larger corporations. This legislation addresses their problem by encouraging them to form private, voluntary coalitions for purposes of purchasing health plans and negotiating with providers. By forming these groups, the costs of health plans would be more competitive for small employers and individuals, as compared to large employers, by giving them more clout in the marketplace.

This bill is the foundation for incremental health reform. Although this insurance reform legislation will not solve all of the problems of the Nation's health care system, it will promote greater access and security for health coverage for all Americans. Private insurance carriers will compete based on quality, price and service, instead of by their ability to refuse coverage to those who need it the most.

We all know there will be attempts to add amendments to this legislation. Some of those amendments are going to be very hard to vote against.

But we must keep focused on what it is we are trying to accomplish here.

We have the opportunity to provide access to health care insurance for millions of Americans who each and every day face the uncertainty of whether they will have coverage.

We can do something to allay those fears.

Passing this bill is a big step to ensuring health care coverage is available to working Americans. Other steps are needed—but they need not be taken today.

Let us first take this big step, and get the job started. And from there, we can and will, work to ensure even better health care for all Americans.

Mrs. MURRAY. Mr. President, during the 103d Congress many of us worked very hard to try to enact comprehensive health care reform. Despite our efforts and what felt like endless debate, politics prevailed and we came up emptyhanded. Perhaps we were too optimistic to think we could accomplish such broad and sweeping reforms in 1993; but unfortunately health reform remains a critical high priority issue for every family in this country.

Well, political realities are still very real factors in determining the outcome of legislative initiatives here in Congress. And here we are again discussing health care reform, only in a much more limited and focused way.

I am encouraged that the dialogue is open once again, and that we are taking positive steps toward addressing the many health-related issues confronting people across our country.

If I had it my way, we would not just be talking about health insurance reform today. We would be doing more, especially for our most precious resource, children. We should be doing more, like: ensuring better pre- and post-natal care for women and their babies; boosting rates of immunization even higher for children across our nation; working even harder to reduce adolescent health problems like teen pregnancies, substance abuse and STD's; improving child nutrition programs and strengthening our overall national commitment to children and family health and well-being.

But, I recognize the realities of the 104th Congress, and realize that sometimes progress comes one step at a time. I am proud to be a cosponsor of S. 1028, the Health Insurance Reform Act. I believe this is a commonsense measure that will directly benefit working families across our country. I sincerely hope we can pass this bill and send it to the President for his signature.

We should not weigh this bill down with amendments that could undo the broad bipartisan support we so rarely see in this Congress. I applaud Senators KASSEBAUM and KENNEDY for their ongoing leadership and commitment to enacting this legislation.

S. 1028 was carefully crafted so that we could pass it overwhelmingly and see it enacted into law with the full support of the White House. For this reason, I will join my colleagues in opposing any controversial amendments that are offered, even those which I support in principle. We should learn from the past, Mr. President, and not try to bite off more than we can chew.

As I said, this bill is not a cure-all. We need to do more, of course. But, this is a reasonable, sensible first step and will go a significant distance toward guaranteeing coverage for millions of American workers and their families.

Mr. President, we owe it to those families to pass this bill, and pass it in its current form. To do anything which could jeopardize the fragile coalition of support for this bill would be irresponsible and bad public policy.

I appeal to my colleagues not to try and load up this bill with amendments that will ultimately kill the bill. Let us show our constituents that we can work together and we can put political differences aside for the greater good.

Much of what we are discussing here will not be news to people in my State. In 1993, we passed one of the most comprehensive health care measures in the country, and even after serious modification the people in Washington still have many of these same protections.

In some areas, like limits on pre-existing conditions, my State actually has a shorter limit of 3 months, which the Kassebaum-Kennedy bill will not preempt.

Earlier I said that we owe it to working families to pass this bill. I am talking about people across the country who have to worry about their health care coverage, people who want to work and take care of themselves and their families. People like:

The working family of three. Dad wants to change jobs to a higher paying company, but his daughter has multiple sclerosis. Under this bill, he wouldn't have to worry that she will not be able to get coverage under the new employer's plan. He plays by the rules, he pays his premiums—this family will not be confronted with a preexisting condition exclusion period.

By requiring insurance companies and employers to credit prior insurance coverage, this bill will give workers with disabled family-members peace of mind and the flexibility to change jobs without fear of losing their insurance.

Or a woman who had breast cancer who is starting a new job. Today, she could possibly be denied coverage or charged a higher premium because of her cancer history. But, tomorrow—under S. 1028—because insurance companies and employers would be prohibited from discriminating against workers because of past medical problems, this woman would be treated no differently than anyone else covered under the same plan.

And, the new small business owner and her three children. Mom was abused in her former marriage and is trying to start over. A woman in this situation is going to need all the help she can get to provide for herself and her kids.

Today, she could be facing not one but two obstacles to starting her new life for herself and her family. First, she could be denied coverage for herself for any preexisting condition that was caused by her years of being abused. Second, she is a new business owner and maybe can't afford to purchase insurance for her handful of employees.

S. 1028 will give this woman a chance to succeed. She will not be discriminated against because of her preexisting condition, and under the provisions of this bill—small businesses and individuals are permitted to form cooperatives to purchase insurance and negotiate with providers and health plans. This arrangement will spread administrative costs and empower the participants to negotiate for better prices.

In other words, S. 1028 will help this woman and her children put their troubled pasts behind them.

Mr. President, the examples are endless. We have heard many stories today, and as Senator KASSEBAUM pointed out—we all know someone who could be helped by this bill.

Even though this bill may not be as comprehensive as I personally would like, I want to reiterate my strong hope that we can pass S. 1028 without any controversial additions and move forward to address the many other issues facing America's families. That's why we're here.

Mr. COHEN. Mr. President, I rise in support of S. 1028, the Health Insurance Reform Act, which promises to relieve the anxiety that millions of Americans are feeling that they may lose their health care coverage if they change their jobs, lose their jobs, or become ill.

Health care reform is certainly not a new issue for any of us. In fact, I introduced my first comprehensive health care reform bill back in 1990. It was 76 pages long and it dealt with these same issues—the availability and affordability of health insurance.

Over the subsequent 6 years, we have spent countless hours studying and debating the issue. If we have learned anything, it is that the American people want health care reform, but they want something they can understand and afford, and something that builds upon rather than reinvents the current system.

The American public wisely rejected the big-government approach proposed in the last Congress by the administration—that 1,400 page proposal literally collapsed under its own weight. More Government bureaucracy is clearly not the way to lower health care costs or ensure access to care.

But rising health care costs and expanding gaps in coverage are still very much on the minds of the American people. Poll after poll continues to show that health care remains a top priority. In fact, a poll conducted late last year by Princeton Survey Research Associates found that more Americans are concerned about their own health care coverage than they are about crime, high taxes, the political system, or the economy.

Americans clearly want health care reform. But what they mean when they say that is: "If I lose my job or get sick, I want to keep my health insurance and I don't want it to cost so much." They want Congress to enact sensible, targeted reforms to make health insurance more affordable and available, and to ensure that they do not lose the coverage that they currently have.

We have that opportunity today. Despite the partisan and sometimes bitter debate over this issue in recent years, there is now broad-based, bipartisan support for this bill, which would benefit as many as 25 million Americans each year, at no additional cost to the taxpayers. The legislation currently has 65 Senate cosponsors and is supported by a wide range of diverse organizations including the National Governors' Association, the U.S. Chamber of Commerce, the American Association of Retired Persons, and the American Medical Association.

The Health Care Reform Act of 1996 builds upon and strengthens our current private insurance system to make it easier for individuals and their employers to buy and keep their health insurance. It contains a number of common sense, market-based reforms that are designed to guarantee that private health insurance coverage will be affordable, available, and portable. Most of these reforms have been included in my own health care bills over the years, and they have also been common elements of legislation introduced in past Congresses by both Republicans and Democrats.

First, the bill limits the ability of insurers and employers to restrict or exclude coverage for pre-existing health conditions like heart disease or cancer, making it easier for workers to change jobs and eliminating job lock. Insurers will also be prohibited from dropping or denying coverage for an individual when they or a family member becomes ill.

The legislation also provides a safety net for people who lose their employer-paid coverage—insurers will now be required to sell them individual policies. Some have expressed concern that this provision will cause premiums in the individual market to skyrocket. However, our experience in Maine—where insurers have been required to sell policies to any individual who applies since 1993—shows that this change should have only minimal price consequences. In fact, one Maine insurer reduced rates for its individual policies by 16 percent last year.

And finally, the bill assists employers and individuals in forming private, voluntary coalitions to purchase health insurance and negotiate with providers and health plans. These kinds of arrangements can provide small employers and individuals with the same kind of purchasing clout enjoyed by large employers, making insurance coverage more affordable.

No one pretends that the reforms contained in this bill are the answer to all of our Nation's health care woes. They are targeted and they are specific. But they will provide all Americans with what Robert Samuelson of Newsweek has termed "a little more peace of mind."

We should not underestimate the importance of providing this peace of mind to people like Susan Rogan, of Herndon, VA, who testified before the Labor Committee last summer.

She told the committee that the experience of obtaining health insurance after her husband's employers had gone bankrupt had been a nightmare, even though he quickly found a new job. Insurers were reluctant or unwilling to cover the family because their daughter has cerebral palsy.

She urged us to work together, saying:

> It is your responsibility, in Congress, to find a solution to the insurance problems that have caused so much heartache for so many American families. We voted for you, and we expect no less of you.

And Susan Rogan is right. She should expect no less of us. It is our responsibility to work together and take this positive step forward to tear down the barriers that millions of working Americans and their families face in obtaining and keeping essential health care coverage.

I therefore join the chairman and ranking member of the Labor Committee in urging my colleagues to resist the temptation to weigh down this important piece of legislation with highly controversial or extraneous amendments.

Some of the amendments that may be offered today are ones that I would, under other circumstances, support. For instance, I have been a long-time supporter of Senator DOMENICI's legislation to provide people with serious mental illness with health benefits and coverage that are comparable to those provided to people with physical illness.

However, this is neither the time nor the vehicle, and I intend to vote against all such extraneous amendments. We simply do not want to run the risk of having this very sensible and eminently doable package grow into yet another 1,400-page bundle of expensive mandates, more Government bureaucracy, and untested proposals.

We should not let the ghosts of health reform past destroy the promise that this important piece of legislation holds for resolving some of the most serious problems plaguing our health care system, and I urge my colleagues to join me in supporting it.

Mr. GORTON. Mr. President, let me make an important point about this bill. It is very narrow in scope, addressing portability and health coverage for preexisting conditions. It in no way resembles the expansive Clinton health care proposal this body defeated 2 years ago.

In the summer of 1994, many hundreds of Washington state citizens gathered in Westlake Mall in downtown Seattle to protest the proposed

VOL
142
PT
6
AP
15
—
24
1996
UMI

Government takeover of their health care. They were outraged by the hubris and the arrogance of that health care plan, and rightly so. The plan focused on setting up new bureaucracies, that it completely ignored the people who would have been affected by it.

This legislation takes a clear-headed approach, responding to one problem that people face regarding preexisting conditions. It follows the conclusions of the Senate health care task force, of which I am pleased to have been a member for several years. We came up with the lessons learned from the Clinton health care debacle, and topping the list was the fact that there simply cannot be a government-run health care system. Period. The only sane, responsible way to address particular problems that may arise is to take a very narrow, targeted approach. In other words, you don't solve a problem with grandiose, wholly unworkable schemes. You solve a problem with a commensurate response.

In this case, we have the problem of coverage for preexisiting conditions. The goals of this bill are strickly defined and few. They are to:

First, develop insurance reform legislation that builds upon and strengthens the current private market system;

Second, make it easier for individuals to keep and obtain private health insurance coverage, including measures to limit preexisting condition exclusions and expand portability;

Third, increase the purchasing clout of individuals and small groups.

With that said, let me enunciate what this bill will not do.

It will not require employers to offer or pay for health insurance coverage.

It will not require individuals to purchase health insurance.

It will not impose new and expensive regulatory requirements on individuals, employers, or States.

It will not create new Federal boards, commissions, or regulatory bodies.

It will not contain a standard benefit package or mandated benefits.

It will not subject ERISA plans to state regulation.

It will not impose any new taxes.

This is not "Clinton Lite;" this is a modest, narrow, targeted proposal. This is the way health care reform should be accomplished: not consumed with utopian visions and grand schemes of expensive government power, but realistic and down-to-earth.

I believe we have finally got it right. I know that many of my constituents in Washington State, and many Americans, are concerned any time Congress addresses the issue of health care reform. With the memory of the Clinton plan fresh in their minds, they certainly have reason to be wary. But I believe that, once they know what is in this bill, they will be pleasantly surprised. This Congress has neither the intention nor the desire to let the government take over American health care, the best health care system in the world. This Congress wants to take a very limited approach to specific problems.

The Health Insurance Reform Act is in concert with the beliefs of most Americans, who do not want government-run health care, but who do expect Congress to address and resolve certain problems in the system. That is what this bill does, and I am glad to support it.

Mr. GLENN. Mr. President, as a cosponsor of S. 1028, the Health Insurance Reform Act, I am pleased that the Senate is considering this important legislation, and I urge its passage. I commend Senator KASSEBAUM and Senator KENNEDY for their leadership in crafting this bipartisan measure which will help many working Americans keep important health insurance protection for themselves and their families.

The purpose of the Health Insurance Reform Act is to ensure that people who have employer-provided health insurance will not lose their insurance if they change jobs, lose their jobs or become sick. This legislation makes changes in the private insurance market to protect employees, and to make insurance more affordable for small businesses and individuals.

The Health Insurance Reform Act requires insurers and health maintenance organizations to provide and renew group coverage to employers with two or more employees who want to purchase it, and this coverage must be available to all employees regardless of their health status. In addition, this legislation makes insurance portable by limiting pre-existing condition exclusions and by requiring group to individual coverage.

S. 1028 limits to 12 months exclusions for pre-existing conditions which occurred within the 6-month period prior to receiving insurance coverage. This 12-month limit will be imposed only one time for individuals who maintain continuous coverage even if they change jobs or insurance plans. Individuals who lose employer-provided health insurance will be guaranteed the opportunity to purchase an individual policy if they had continuous coverage for 18 months in a group plan, if they have exhausted their COBRA continuation coverage, and if they are not eligible for coverage under another group health plan. These provisions will go a long way toward ending the current problem of job lock, and ensuring that people who have been participating in health insurance plans do not lose protection when they change jobs or become sick.

S. 1028 is not comprehensive health care reform. It does not provide universal coverage for all Americans, and insurance costs will be unaffordable for others. However, it is a very important step forward in addressing problems in our current health insurance system, and it will provide peace of mind to many working Americans who have health insurance but fear losing it.

Mr. HATCH. Mr. President, I rise in strong support of the Health Insurance Reform Act, S. 1028. This important legislation represents a significant and reasonable step in extending health insurance coverage to a larger segment of the American population.

I am proud to serve as an original cosponsor of this bill and would like to take this opportunity to commend the distinguished chairman and ranking minority member of the Committee on Labor and Human Resources, Senator KASSEBAUM and Senator KENNEDY, for the outstanding contribution they have made in helping to provide literally millions of Americans with peace of mind that they will not lose their health coverage.

As my colleagues are aware, insurance market reform is a bipartisan issue and it is something we have been working toward for many years. I am thinking back to the Bentsen-Durenberger bill which many of us cosponsored 4 years ago.

Indeed, as most of my colleagues know, the Senate and House have spent considerable time and energy over the past 5 years debating various proposals designed to address problems with our Nation's health care system overall.

Perhaps no other issue in recent years has captured the attention and concern of the American people than the issue of health care reform and the role of the Federal Government in shaping that reform.

But I submit that today is not the time to debate measures of such tremendous scope.

Unlike the President's approach, S. 1028 is targeted and narrowly focused reform aimed at assisting nearly 25 million Americans in obtaining health insurance coverage.

Most of us in the Senate recall the innumerable hours spent considering President Clinton's legislation that was ultimately rejected by the American people and by the Congress.

One of the lessons we learned from that endeavor was the need to provide for greater access to health insurance than what is currently available.

And access to health insurance is unquestionably one of the fundamental problems facing Americans today.

The current health insurance market provides too little protection for individuals and families with significant health problems and makes it too difficult for employers—particularly small employers—to obtain coverage for their employees.

The health insurance reform bill is specifically designed to address this problem.

It will reduce many of the current barriers to obtaining health coverage

by making it easier for people who change jobs or lose their jobs to maintain adequate coverage, and by providing increased purchasing power to small businesses and individuals.

The bill will not only increase access to health care coverage, but will also provide portability of insurance coverage and increase the purchasing power of individual and small employers who wish to seek to purchase insurance.

Specifically, the bill restricts the use of preexisting condition limitations by insurance carriers.

Some insurers today impose preexisting condition limitations or exclusions on individuals when they first become covered by an insurer.

These exclusions may limit coverage of a medical condition for a certain period or longer or may exclude coverage of a medical condition—forever.

Under the provisions of S. 1028, insurers, HMO's, and self-insured firms would be limited in the ability to use preexisting condition limitations to no more than 12 months after the enrollment date.

In addition, benefit limits or exclusions could not be imposed for newborns, newly adopted children, children newly placed for adoption, or for benefits for pregnancy.

Another important component of this bill is the provision regarding the guaranteed issue of health coverage benefits.

Under this provision, an insurer or health plan is required to cover any group or individual who applies, without regard to health status or claims experience. The bill would require all insurers who offer group coverage to accept coverage for all groups that apply.

Insurers would be required to offer individual coverage to all individuals moving from group coverage to individual coverage as well. However, to be eligible for this guarantee, the individual must satisfy the following four criteria:

First, the individual must have been covered under one or more group health plans for at least the past 18 months;

Second, the individual must not be eligible for group health coverage, or, if eligible for continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, or COBRA, or a similar State program, then they must have elected, and exhausted that coverage;

Third, the individual must apply for individual coverage not more than 30 days after the last day of coverage under the group plans, or the termination date of COBRA benefits; and

Fourth, the individual must not have lost group coverage due to nonpayment of premiums or fraud.

Accordingly, in order to be eligible for insurance coverage in the individual market, we have incorporated important benchmarks to foster individual responsibility and accountability in the purchasing or insurance plans.

We are all aware that this bill has engendered considerable debate on how it would impact existing premiums.

The American Academy of Actuaries has studied this issue in great detail and estimates that people who are newly eligible for individual coverage would pay an average of two to three times the standard-risk premium rate, unless States restrict premiums.

The Academy further states that S. 1028 will have no effect on individual insurance premiums for those currently purchasing coverage in the vast majority of States.

In States that restrict premiums, S. 1028 would lead to individual market premium increases in the range of 2 to 5 percent, spread out over a 3-year period.

Thus, I believe that fears the bill will lead to large increases in premiums are unwarranted. However, I recognize those concerns, and I will be monitoring this situation closely.

Another important provision in this legislation addresses insurance portability.

During our consideration of health care reform, it was clear that the use of preexisting condition provisions in insurance plans has contributed to a problem referred to as "job lock".

In effect, employees are locked into their current jobs because changing jobs might subject them to periods without health insurance coverage because of a preexisting health condition.

For an employee with a medical condition, or a dependent with a medical condition, loss of coverage during a limitation period, or worse, exclusion of coverage of the condition forever could mean significant out-of-pocket health care expenditures.

As a result, guaranteed issue and limits on the use of preexisting condition provisions by insurers provide needed portability of coverage for American workers.

It is also important to note that the legislation provides specific guidance with respect to State flexibility in compliance with this new law.

Federal provisions for group to individual portability only become effective if States do not have programs meeting Federal requirements for access.

S. 1028 will provide for state flexibility for compliance with Federal provisions.

State mechanisms could include guaranteed issue or open enrollment programs by one or more plans, a high risk pool, or mandatory conversion policies.

In my State of Utah, we have already enacted many of these reforms.

The legislation would permit a waiver from Federal law if a State could demonstrate that its law achieved the objectives of affordable individual market portability and renewability.

And finally, S. 1028 promotes group purchasing by small businesses by assisting employers and individuals in forming private, voluntary coalitions to purchase health insurance and negotiate with providers and health plans.

These coalitions will provide small employers and individuals with the kind of clout in the marketplace currently enjoyed by large employers.

It's important to note what this bill does not contain.

S. 1028 does not impose new, expensive regulatory requirements on individuals, employers or States.

S. 1028 does not create new Federal bureaucracies or agencies.

S. 1028 does not contain any new taxes, spending, or price controls.

S. 1028 does not require employes to pay for health insurance coverage.

And, S. 1028 contains no unfunded mandates on State, local, or Indian tribal governments.

In effect, this bill contains none of the onerous provisions contained in the ill-fated Clinton health care reform bill.

Mr. President, I will state in all candor that initially I had reservations about supporting this legislation.

As a general rule, I believe the Federal Government should not intervene in areas where consumer choice and natural marketplace conditions determine the level and costs of products and services.

And, indeed, in the past I have supported what I believe were true market-based reform proposals in the health care area. However, the problem of access to health insurance has long been a problem to millions of Americans.

This problem remains, and it will continue to remain until appropriate Federal action is taken.

Over the course of the past year, we have worked to develop and fine-tune the provisions embodied in S. 1028.

Most of these modifications were developed to more clearly reflect the intent of the bill.

These revisions were principally designed to provide more certainty to States and insurers as well as to respond to concerns that the Secretary of the Department of Health and Human Services was given too much discretion over alternative State programs.

I am pleased that the manager's amendment deals with concerns expressed to me from constituents in Utah over the need to revise the bill's provisions regarding conflict of interest language as it applies to purchasing cooperatives.

And, I would like to thank Senator KASSEBAUM's cooperation in resolving these issues.

This legislation will now permit insurers, agents, and brokers to serve on

VOL
142
PT
6
AP
15
—
24
1996
UMI

purchasing cooperative boards or be employed by a cooperative as long as they do not personally benefit from the sale of services or products to that cooperative.

I believe we have come as close as possible in this present political environment in developing a viable measure that will appropriately address the problem of access to health insurance for millions of Americans.

The General Accounting Office estimates that passage of S. 1028 will help at least 25 million Americans each year.

According to the GAO, an estimated 43 million Americans or 18.7 percent of the nonelderly population were without health insurance coverage for some period of time in 1995.

This bill will truly help people, and I believe it deserves our strong support.

It is clear that insurance market reform is one area which enjoys wide bipartisan support in both houses of Congress. The fact that the bill currently has 65 cosponsors and was reported unanimously by the Labor and Human Resources Committee serves as a testimonial to its strong bipartisan support in the Senate.

It is clear that this important piece of legislation with its strong bipartisan support has the potential to be signed into law by the President as he indicated in his State of the Union Address in January.

I commend Senators KASSEBAUM and KENNEDY, and all the cosponsors, and hope that we can move this key legislation forward today.

Mr. ROTH. Mr. President, I rise in support of the pending legislation. Labor and Human Resources Committee Chairman KASSEBAUM and Senator KENNEDY deserve to be commended for there efforts in crafting the bill before the Senate which assures that workers who intend to change jobs will no longer experience the fear of losing their health care coverage. Not only have Senator KASSEBAUM, other members of her committee, and their staffs labored many long hours to draft the bill, they have also successfully built a strong coalition of support. Thanks to Senator KASSEBAUM and Senator KENNEDY this bill is supported by big business, small business, a wide array of advocacy groups, many insurance companies, and many Americans.

While I do think the Kassebaum-Kennedy bill could be improved, I think it is a critical step forward. At a later time, I will join the majority leader in offering an amendment which makes health insurance more affordable.

The Kassebaum-Kennedy health insurance reform bill has an important focus. The bill will assist people who want and need to make necessary and correct decisions about their health care needs—people who work, people who join their group health care plans and have paid their premiums continuously for no less than 12 months. The bill eliminates "job-lock" for workers who fear they will lose their health coverage when they change jobs, and the bill eliminates the fear of losing coverage for individuals who have maintained their group coverage and have a preexisting condition.

Recently my office was contacted by a lady who has always been insured and paid her premiums. Yet she finds herself today in a situation where she is unable to obtain health care coverage because of a preexisting condition. Nancy Miller is 56 years old, after a divorce from a 27-year marriage, she was allowed access to continued group health coverage through her former spouse's employer plan at the group premium rate for 3 years. Mrs. Miller's 36 month COBRA coverage expires at the end of May. To make sure she will not have a gap in health coverage, Mrs. Miller has worked with her current insurer, called many other insurers, contacted our office, worked with an insurance broker and yet she has been rejected from every health plan she has applied to. Mrs. Miller has a preexisting condition. She can not get health care coverage because she contracted breast cancer 2 years ago.

Mrs. Miller's situation could apply to anyone, because anyone could get sick. Mrs. Miller has not gamed the system seeking insurance only when she needed it. For years she was healthy, and for her entire life she has been insured. The letter Mrs. Miller's insurance broker recently wrote her could be a letter received by many women. The following is the letter she received from her broker:

> This letter is to inform you that we have contacted all of our standard individual health insurance carriers and are unable to find one that is capable of writing a policy for you because of your pre-existing condition. We have been advised by all of the carriers that they will not consider you for insurance until you are 5 years out from your time of release from the doctor.

The Kassebaum-Kennedy bill will provide assurances to responsible Americans. In particular, the bill provides portability in two settings: When individuals change from one group health plan to another group health plan (group to group), and when individuals leave their group health plan and seek coverage as an individual policyholder in the market (group to individual).

For group to group portability, the bill establishes uniform Federal standards for insurers, health maintenance organizations [HMO's], and employers who self-fund their health plan. There is a broad consensus that these measures should be enacted, and a very broad coalition of business as well as the insurance industry and advocacy groups support these provisions. There is a need to establish uniform Federal standards for the group to group portability measures as the bulk of employer sponsored health coverage is self-funded and exempt from State regulation. Under the Employee Retirement Income Security Act [ERISA], the Federal Government regulates private self-funded employer plans. ERISA prohibits States from regulating employer sponsored self-insured plans. Therefore, States cannot achieve all the reforms needed to assure portability when workers change jobs because the Federal ERISA law prohibits States from regulating any group health plan which is self-funded.

For those individuals leaving their group health care coverage and seeking coverage in the individual market, the bill provides access to coverage to individuals. The bill also provides States with important flexibility to meet the goals of this section of the bill. While there have been concerns raised regarding the bill's provision to guarantee that insurers make health coverage available to individuals, I think this section is important if we are to truly guarantee portability and access to coverage. States currently regulate insurance provided to individuals who are not in a group plan. The Federal role in this area of the marketplace has been minimal; therefore I agree with the bill's goal to retain a strong state role in the individual market. This section of the bill provides the needed flexibility for States to be creative.

It's important to note that the bill builds on responsible behavior because it requires that individuals have previous continued group health care coverage in order to qualify for the portability provisions. This is the case with Mrs. Miller who responsibly maintained her group coverage.

The pending bill provides that health plans can not impose preexisting condition limits on individuals who had prior group coverage. In fact no preexisting condition limits can be imposed on individuals who join a group health plan if they had continuous group health coverage for the previous 12 months. For individuals leaving a group plan, they must have had 18 months of continuous coverage in order to qualify for an individual policy without any preexisting condition limits. In either case, if individuals have less than the required months of coverage, their new plan would have to credit them for the time that they were covered.

Most Americans with private health insurance receive their coverage through their employers, and the majority of the uninsured are also tied to the workplace. The Kassebaum-Kennedy bill will strengthen the employer-based health care system we now have, and it will help responsible Americans like Mrs. Miller retain their coverage. In fact, the General Accounting Office estimates that as many as 21 to 25 million people per year could be affected by Federal portability standards in all markets. This is a good first step.

Mr. KOHL. Mr. President, I rise as an enthusiastic cosponsor of the Health Insurance Reform Act of 1995 and call on my colleagues to keep this straightforward measure clear of legislative land mines.

Passing this bill will help address a problem all too common in our health care system—the fact that people can lose their insurance coverage when they get sick even if they have paid their premiums.

Mr. President, there are a number of bipartisan initiatives that can and should be passed before we adjourn this fall. Chief among these proposals is this Health Insurance Reform Act.

Under the strong bipartisan leadership of Chairman KASSEBAUM and Senator KENNEDY, the bill unanimously passed the Labor and Human Resources Committee 8 months ago. It has since languished in the confounding waste zone between full Committee endorsement and Senate floor action because some are opposed to even narrow health reform.

Last Congress the American people called for comprehensive health reform. Unfortunately, consensus could not be reached on a single plan. Instead, the country watched in disappointment as a golden opportunity for health reform fizzled out. Partisan fights and interest group influence won the day.

It will serve no good purpose to rehash the health reform battles of the past. We now have the opportunity to move beyond party squabbling. Congress can clearly demonstrate the will to enact a bipartisan health reform bill. Or we can choose to remain gridlocked and at the mercy of special interests. I believe that choice is an easy one.

Fortunately, there still is a broad consensus in this country in favor of health insurance reform. Americans want to know that they won't lose coverage if they or someone in their family gets sick. Individuals and businesses want the ability to pool resources to get the best insurance coverage possible at an affordable price.

The Health Insurance Reform Act does not seek to change our Nation's health care structure drastically. Instead, it takes a careful approach to remedy widely acknowledged problems in the health insurance market. For the first time, preexisting condition exclusions would be limited, health coverage availability and renewability would be guaranteed, and small business group purchasing would be easier. At the same time, State flexibility would be maintained.

Many States have taken the initiative and made notable progress by enacting market-related reforms. But States are unable to achieve the most effective reforms because some businesses have federally protected self-insured health plans. This bill provides continuity by applying the same standards to all employment-based plans.

The bill is also notable for what it does not do. It won't require employer mandates, limit provider choice, set up new bureaucratic health structures, or create a global health spending budget.

Many strongly believe that health care reform should go farther than this bill. In fact, many Senators, including myself, worked hard last Congress on comprehensive measures to control health costs and expand health coverage. But those efforts turned out too complex to retain broad support.

We now have a more narrow consensus measure that can pass. Yet some Senators may offer a whole host of amendments to address special concerns. A few of these are popular, others problemmatic. The sponsors of this bill have taken careful steps to ensure that the bill is narrow and bipartisan. It should remain that way. For that reason, I too will oppose controversial, special interest amendments.

As we learned from previous attempts at reform, a consensus bill may be the only way we can pass health reform this year. I urge my colleagues to refrain from condemning this bill under a weight of controversial additions.

Nonetheless, we should not hold out on improvements if they are bipartisan and avoid endangering final passage.

As a long-time supporter of health care fraud and abuse legislation, I believe it is imperative that we act to tackle rampant abuse. If strong anti-fraud provisions, such as those included in Senator COHEN's anti-fraud bill, can be added without stalling the bill, they most certainly should. Similarly, provisions helping the self-employed afford insurance and incentives for long-term care may be possible.

However, there are other compelling issues that, if attached to the Health Insurance Reform Act, may kill this bill. We should not ingore those issues. They can and should be taken up at a later date.

Mr. President, if we keep this bill clean, we will take a huge step toward addressing compelling insurance problems facing the Nation. In the process, Congress will prove that it can act in a bipartisan fashion to help hard working Americans.

There are over 40 million people without health insurance in our country. I am proud to say that Wisconsin has one of the lowest numbers of uninsured people. However, there are still too many Wisconsinites without health coverage and still too many who fear losing their coverage.

The Health Insurance Reform Act will not solve all of the problems plaguing our health care system, but it does fill a huge gap by solving job lock. Workers will no longer have to live with the fear that if they change their jobs, they may lose their health coverage.

No doubt, there is special interest opposition to this bill. It is a rare legislative initiative that doesn't have critics. But this bill is a positive first step.

The Health Insurance Reform Act does not provide a handout to the public. No one gets a free ride at the expense of insurance companies. People must maintain their payments for a full year-and-a-half before qualifying for coverage guarantees. They also must be ineligible for another group policy and exhaust their COBRA benefits. Finally, people will still have to pay the rates charged by insurance companies. These requirements were added to minimize affects on insurance premiums. However, it is important to note that States would not be prevented from going further on insurance reform.

Mr. President, you cannot satisfy everyone, but this bill comes close. While there are opponents and critics on both sides, a large majority of Americans support passage.

If Senators need more impetus to allow this bill to go forward, the General Accounting Office estimates that passing the Health Insurance Reform Act will help 25 million Americans each year obtain or retain health coverage. That evidence alone is a compelling reason to pass a clean bill.

Mr. President, Americans have had little proof this session that Congress can act to help solve problems plaguing their families. Let's give them one good reason to have greater confidence in their elected officials and this institution. We should get the job done and pass the Health Insurance Reform Act now.

Mr. BAUCUS. Mr. President, I rise in support of this bill. I am very pleased to see that today, Congress is putting aside its petty divisions and rivalries to work together on a bill that will help people. Today, when the Senate votes on the Health Insurance Reform Act, we show our support for a bipartisan effort that will address the health needs of millions of Americans and thousands of Montanans.

RECORD OF THE CONGRESS

That is a truly important step forward for this Congress, and not only on health policy. At the beginning of 1995, a lot of Montanans had high hopes for this Congress.

But those hopes have vanished in the mess of bumbling revolutionary experiments and government shutdowns which the leadership, particularly in the House has created.

Rather than make people a little more prosperous and secure, the Congress seems to have deliberately done just the opposite. It has gone from closing Yellowstone and Glacier, to a proposal to let Medicare wither on the vine, to bills that would set up a Commission on closing National Parks and dump all the public lands on the States.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The fact is, the 104th Congress has let our state down pretty badly. All too often, rather than do something good and positive for the people, it has done something irrational and destructive.

A SECOND CHANCE

But this health insurance reform is a second chance for the Congress. A sign that with some more maturity and experience, we can accomplish something good.

This bill, taken as a whole, means some more security and stability for hard-working people.

It means that if you lose your job, you won't also face the loss of your health insurance and the constant threat of lifelong debt in the case of an accident.

It means that if you own a small business, you will have more ability to buy insurance for yourselves, your family and your employees.

And it means you can upgrade your skills and change your job without being denied insurance due to health troubles.

BELINDA BYRD

Look at the case of Belinda Byrd from Great Falls, Montana.

She wrote to me last year to explain her case and that of her sister. Belinda suffers from hydrocephalus, or "water on the brain," and she is about to undergo her fourth brain surgery.

She is fortunate enough to receive coverage through the Government Champus program. But she wrote to me about the problem with pre-existing conditions because of the problems her sister is having getting health insurance. Belinda's sister has the same condition and can not get affordable health insurance because of her health problem.

MONTANA AND HEALTH INSURANCE

Mr. President, that is wrong. We should not tolerate it even in one case. And the sad fact is that it is not just one case. Thousands of Montanans, and millions of Americans, have concerns just about as grave as those of the Byrd sisters.

As I have walked across the State in the past 2 years, a few subjects come up everywhere. In towns, on ranches, at small businesses, and in roadside coffee shops. The need to raise the minimum wage. The low cattle prices. And the fear of losing health insurance.

For individuals, today's bill will make a big difference. It will let self-employed people deduct most of their health insurance costs. Big businesses can already do this. Folks who are self-employed and buy their own health insurance out of pocket should be able to deduct it too. That is basic fairness and decency. With this reform, we raise the deduction from today's 30 percent of insurance costs to 80 percent. It is not all the way to 100 percent, but it is a very big step forward.

For farmers, ranchers, and small business owners, health insurance will be available and more affordable. We may have to do more down the line, but we are making a good start here.

And for people like the Byrd sisters who have pre-existing health conditions, this means justice and security. No longer will having an illness, no matter how treatable it is, mean going without affordable health insurance.

MEDICARE FRAUD AND ABUSE

Finally, we take some initial steps to fight health care fraud and abuse, particularly in Medicare and Medicaid. Today, anywhere from 5 percent to 10 percent of our Nation's entire trillion dollar health care bill goes to fraud. We need to step up our Federal efforts to fight this problem and I support efforts to do so.

However, I would caution that the savings we get from fighting fraud and abuse in Medicare or Medicaid must go to guarantee solvency for these essential programs. It should not pay for new tax breaks as last year's Medicare cuts would have done, nor to pay for untested ideas like Medical Savings Accounts.

CONCLUSION

Mr. President, I am very happy to be here supporting this bill. It is a sign that Congress is getting the message. Moving away from partisanship and revolutionary experiments. And moving toward practical, effective steps that makes life better and more secure for Montanans and all Americans.

I appreciate the work of the Labor Committee Chair, Senator NANCY KASSEBAUM and her counterpart, Senator TED KENNEDY. They have done this country a great service with their work on crafting this bill and moving it through the legislative process. I hope it will get the Senate's support.

Mr. BRADLEY. Mr. President, I am very pleased to lend my strong support to the Kennedy-Kassebaum health insurance reform bill. At long last, we are actually moving forward on the basic reforms that will make health insurance once again serve the function of insuring and protecting American families against devastating illness or injury.

The problem of health insurance is right at the center of the economic insecurity gripping American families. The 40 million or so people who have no insurance live in fear that a headache or stomach-ache will turn out to be a costly illness. But other workers, who have health insurance, are hardly blessed with security and comfort. As the American economy changes, they know that they can lose their jobs at any moment, with no certainty of being able to find new insurance, or if they do find new insurance, it might not cover the one medical concern that is most likely to become a problem.

We have lost the idea of health insurance as real insurance, in which we all pay premiums to spread our own risks over a lifetime, and to share risks across a larger number of people. Instead, health insurance has increasingly become a short-term privilege, that comes and goes with the job, that only comes with certain kinds of jobs, and that comes with exceptions and uncertainties. When you combine that with the increasing insecurity about jobs, working families can't afford the risk. People are trapped in jobs just to keep their insurance, rather than moving on to find the job that would better use their skills, or setting out as an entrepreneur, as many dream of doing.

This bill would restore the original concept of insurance to health care. It would allow workers to change jobs without putting insurance coverage at risk, to move from group to individual plans, and to buy insurance despite a preexisting condition. It will help small businesses afford insurance, and help people who want to start their own businesses to do so without worrying about the arbitrary nature of health insurance. It will help only some of the 40 million without insurance to become insured, but it will prevent that number from continuing to increase.

Mr. President, I hope that after this legislation becomes law, we will not stop here but continue to closely watch the health insurance market and make whatever further changes need to be made to keep the focus on health and security. The first such change, which I hope will occur by Mother's Day, and perhaps even before this bill gets through conference, is to end the practice of insurance companies forcing new mothers and their infants out of the hospital within a few hours, even against the best judgment of the mother's doctor. In general, I am concerned that this bill, because it is so narrowly targeted at certain insurance practices, could have unintended consequences. I hope that if rates do increase sharply, or if insurers cut back certain areas of business, Congress should be willing to look at slightly broader solutions that would address the health care crisis without unintended consequences.

I am generally confident, however, that this legislation will serve the purpose of protecting American families from the double risk of economic and health insecurity. I hope action will be completed quickly so that the President can implement these reforms without delay.

Mrs. FEINSTEIN. Mr. President, I rise to support the Kennedy-Kassebaum legislation on health insurance reform. This legislation, while not the comprehensive health care reform called for earlier, takes an important and long overdue step in addressing the insecurity many Americans feel about their health insurance.

Americans expect their insurance to be there when they need it. That is why we buy it. And yet many Americans find that, just when they need their

health insurance, it is not there, or they are denied coverage, or they can't afford the policy premiums.

This bill provides a measure of health security in a number of ways.

No arbitrary, discriminatory terminations: This bill protects employers from having their policy terminated if their employees incur large medical costs. Insurers could not impose preexisting condition limitations for more than 12 months. This means that employees could change jobs without fear of losing their insurance.

Guaranteed access: Under this bill, insurers are required to offer insurance to all groups, regardless of the health status of any member of the group.

Nongroup coverage guaranteed: It protects people who leave their job from losing access to coverage. People who have had 18 months of prior employer group coverage and have exhausted their extended coverage—through COBRA—would be guaranteed access to an individual policy.

Enlarging small groups: The bill creates incentives for small employers to form cooperatives to strengthen their bargaining power with insurance companies.

Need for the bill: The need for insurance reform is very real:

Over 41 million Americans have no insurance. That is a 4-million increase since 1993;

In California, almost 23 percent of the population is uninsured—7.4 million people. And two-thirds of these uninsured people are under the age of 34;

Twenty-three million Americans lose their insurance every year;

Eighteen million people change insurance policies annually when someone in their family changes jobs;

Employer sponsored insurance is declining, going from 61 percent of employed workers in 1986 to 54 percent in 1996;

In California, it's even worse with only about 50 percent of people covered by employer sponsored insurance in 1994; and

With California's unemployment remaining above 7 percent for the last 5 years—employer sponsored insurance is getting more scarce.

Preexisting conditions: The problem of people being denied insurance because of preexisting health conditions is one of the most serious concerns people have today about their health care.

As a matter of fact, 81 million Americans have preexisting health conditions that could affect their health insurance;

Over 9 million Americans changed jobs in 1995; and

Millions more want to change jobs. The GAO estimates that as many as 4 million employees are "locked into" their jobs because they fear that the insurer for the next employer would refuse to insure them because of a preexisting health condition.

Take cancer as an example:

Over 1 million people are diagnosed with cancer each year. Over 10 million Americans alive today have a history of cancer.

About 184,300 new cases of breast cancer will be diagnosed this year—the most common form of cancer among women. And, 44,300 will die of breast cancer this year.

We probably all have some condition. And yet most policies sold to individuals, and over half of all plans provided by employers, deny coverage for some period of time for the conditions most likely to require insurance.

This bill addresses this serious problem by prohibiting insurers from imposing preexisting conditions for more than 12 months.

The Problem for Small Employers: Small employers acting alone often lack the leverage to negotiate good prices and benefits that large employers can get. More than half of all uninsured employees work in small firms.

Administrative costs are higher for small groups. One survey shows that health costs for large employers declined 1.9 percent in 1994, while small employers had an increase of 6.5 percent.

This bill creates incentives for small employers to form cooperatives to strengthen their bargaining power with insurance companies.

This approach can work. In 1993, California formed a health insurance purchasing cooperative for small businesses; 2,500 small businesses joined.

One year after formation, rates were 10 percent to 15 percent lower than conventional insurance plans.

Individuals: Finally, there are 10 to 20 million individual Americans seeking to buy insurance on their own. These people, who are not part of a large pool where risk can be offset, often find themselves excluded or unable to afford the premiums.

Genetic discrimination: I especially appreciate the agreement of Senators KASSEBAUM and KENNEDY to include in the managers' amendment provisions barring genetic discrimination by employer-based plans.

The language included in this bill is similar to S. 1600, a bill I introduced with Senator MACK, to prohibit health insurers from denying health coverage based on genetic information of the insured or applicant for insurance

Last fall, as co-chairs of the Senate Cancer Coalition, Senator MACK and I held a hearing on the status and use of genetic tests. Witnesses testified about the great promise of genetic testing in predicting and managing a range of diseases, but they also cautioned about the potential for discrimination.

In the past 5 years, there has been a virtual explosion of knowledge about genes. Scientists are decoding the basic units of heredity.

We know that certain diseases have genetic links, including cancer, Alzheimer's disease, Huntington's disease, cystic fibrosis, and Lou Gehrig's disease. Altered genes play a part in heart disease, diabetes, and may other more common diseases.

These advances pose some potential problems. Witness after witness at our hearing discussed the potential and the reality of health insurance discrimination based on genetic information.

They recounted actual cases where insurers denied or refused to renew coverage based on genetic information. This type of discrimination could have a catastrophic impact if it is not addressed:

About 15 million people are affected by one or more of the over 4,000 currently identified genetic disorders; genetic disorders account for one-fifth of all adult hospital occupancy, two-thirds of childhood hospital occupancy, one-third of pregnancy loss and one-third of mental retardation; and an even larger number of people are carriers of genetic disease. The June, 1994 issue of Scientific American estimated that every person has between 5 and 10 defective genes though they often are not manifested.

Insurance companies are poised to discriminate:

In a 1992 study, the Office of Technology Assessment found that 17 of 29 insurers would not sell insurance to individuals when presymptomatic testing revealed the likelihood of a serious, chronic future disease.

Fifteen of the thirty-seven commercial insurers that cover groups said that they would decline an applicant; and

Underwriters at 11 of 25 Blue Cross-Blue Shield plans said they would turn down an applicant if presymptomatic testing revealed the likelihood of disease.

The study also found that insurers price plans higher—or even out of reach—based on genetic information.

Another study conducted by Dr. Paul Billings at the California Pacific Medical Center, reached similar conclusions.

Here are a few examples of real-life cases:

An individual with hereditary hemochromatosis—excessive iron—who runs 10K races regularly, but who had no symptoms of the disease, could not get insurance because of the disease.

An 8-year-old girl was diagnosed at 14 days of age with PKU—phenylketonuria—a rare inherited disease, which if left untreated, leads to retardation. Most States require testing for this disease at birth. Her growth and development proceeded normally and she was healthy. She was insured on her father's employment-based policy, but when he changed jobs, the insurer at the new job told him that his daughter was considered to be a high risk patient and "uninsurable."

The mother of an elementary school student had her son tested for a learning disability. The tests revealed that

VOL
142
PT
6
AP
15
—
24
1996
UMI

the son had Fragile X Syndrome, an inherited form of mental retardation. Her insurer dropped her son's coverage.

After searching unsuccessfully for a company that would be willing to insure her son, the mother quit her job so she could impoverish herself and become eligible for Medicaid as insurance for her son.

Another man worked as a financial officer for a large national company. His son had a genetic condition which left him severely disabled.

The father was tested and found to be an asymptomatic carrier of the gene which caused his son's illness. His wife and other sons were healthy.

His insurer initially disputed claims filed for the son's care, then paid them, but then refused to renew the employer's group coverage. The company then offered two plans. All employees except this father were offered a choice of the two. He was allowed only the managed care plan.

A woman was denied health insurance because her nephew had been diagnosed as having cystic fibrosis and she was found to carry the gene that causes the disease. The insurer told her that neither she nor any children she might have would be covered unless her husband was determined not to carry the CF gene.

These are real horror stories.

If people with genetic conditions or predispositions cannot buy health insurance on the private market, they usually have nowhere to turn. To qualify for Medicaid, the primary public health insurance program for the nonelderly, families have to "spend down" or impoverish themselves.

Fear of discrimination can also have adverse health effects. If people fear retaliation by their insurer, they may be less likely to provide their physician with full information. They may be reluctant to be tested. This means that physicians might not have all the information they need to make a solid diagnosis or decide a course of treatment.

This bill can help make health insurance available to many who need it and who want to buy it. It can bring peace of mind to millions of Americans. It can restore insurance to what insurance is supposed to be.

I hope my colleagues will join me today in voting for this important bill.

Ms. SNOWE. Mr. President, I rise in support of The Health Insurance Reform Act of 1995, and would like to thank the Chairwoman of the Labor and Human Resources Committee, Senator KASSEBAUM, for bringing this common sense health care reform bill to the floor. Her knowledge and efforts in the area of health care have made progress on this issue possible, and her ability to craft consensus on this complex issue deserves enormous praise from both sides of the aisle.

I would also like to compliment the ranking Member, Senator KENNEDY, and the rest of my colleagues who serve on the Labor and Human Resources Committee—the strong bipartisan vote that brought this bill out of Committee restores my hope that bipartisanship is not completely lost in this Chamber.

It has been interesting to me, having "survived" the health care wars of the last Congress, to read some of the things that have been written about this bill. Talk about role reversal—you now have some members on this side of the aisle complaining that S. 1028 does not go far enough, and we have members on the other side of the aisle complaining that the bill isn't small enough. What a difference a year makes!

But one thing that has not changed is the fact that the American people continue to demand changes in the health care system. This bill, while not as large or as complex as the changes we considered in 1994, would provide security to millions of Americans—25 million according to the General Accounting Office. It would reassure them that their health care coverage could not be taken from them if they changed jobs, if they became pregnant, if their family situation changed, or if they lost their jobs.

It does not solve all our Nation's health care problems—but we tried the complicated, complex, approach with a more than 1,000 page bill in 1994 and we got nowhere. So what is wrong with taking a step in the right direction? It doesn't mean that this is the only change that Congress can or should make.

It is said that every journey begins with a single step. So let us consider the Kassebaum-Kennedy bill before us today as Congress' first step on the road to overhauling our health care reform system so that all Americans will have access to affordable, quality health care by the provider of their choice that can never be taken away.

The Health Insurance Reform Act of 1995 will achieve part of that shared goal by ensuring access to health care that can not be taken away. It will ensure that workers who are offered a new job opportunity with a different company will be able to accept it—instead of turning it down because they are afraid that a pre-existing condition will prevent them from obtaining health care coverage at their new firm.

It will ensure that workers who lose their job and have had insurance coverage for the last 18 months will be able to obtain an individual policy. They will still have a lot to worry about—but at least they will know that they can obtain insurance for their family.

And it will ensure that small businesses will no longer find themselves dropped from the insurance roles because one of their workers has medical problems.

Every Senator—every Member of Congress—has received letters or spoken with individuals who have been denied coverage or had their coverage—or their firm's coverage—dropped because of a preexisting condition. Yet these are the people who need the coverage most. It is estimated that 81 million Americans suffer from a preexisting medical condition that endangers their access to health care coverage. This bill will provide them that protection.

The Kassebaum-Kennedy bill restricts health insurance exclusions on preexisting conditions by prohibiting insurers and employers from limiting or denying coverage under group plans for more than 12 months for a medical condition that was diagnosed or treated during the previous 6 months. For example, if an individual had been covered under another employer's plan for 8 months, they would only have to work for 4 months in their new job before being covered.

The bill also prevents group health plans from excluding any employee from coverage based on health status and requires insurers to renew coverage for both groups and individuals as long as the premiums were paid.

Once an individual had been covered for 12 months, no new pre-existing condition could ever be imposed, even if they changed jobs or insurance plans.

The bill also will help make health care coverage more affordable for America's small businesses by lifting barriers to the formation of private, voluntary coalitions to purchase health insurance. For states like Maine, where small businesses are the backbone of our economy, this provision will be particularly helpful. Banding together to obtain health insurance coverage will give our small businesses the ability to spread the risk among a larger population and to use their negotiation power to get quality coverage at the best price. This bill will give employers and employees the ability to obtain quality coverage at a competitive price.

The Health Insurance Reform Act of 1995 is a commonsense approach to a serious problem in this country—access to affordable, quality health care that can never be taken away. It is not the complete answer to our health care problems, but it is a big step in the right direction and will help millions of Americans retain their health care coverage.

I would like to address one of the arguments being made against this bill. Opponents of reform have argued that while the bill ensures access, the practical problem will be that the cost of premiums will soar, making coverage unaffordable for many. The American Academy of Actuaries, however, has estimated that any premium increases would be quite small, ranging between 2 and 5 percent. In fact, this potential increase is lower than the increases we

have seen in recent years: over the last 10 years the average rate paid for individual insurance premiums has increased between 8 and 15 percent annually.

And in my own State of Maine, which has had a law on the books guaranteeing issue for employers with fewer than 25 employees since 1992 and guaranteed issue for individuals since 1993, these changes have not resulted in premium increases that are outside the bounds of the normal increases in the cost of health care coverage.

By passing this bill we will be renewing our commitment to the American public that we have heard and have understood their demand that we act on health care reform. It will provide security for millions of Americans who currently fear losing their health care coverage, and will provide access to more affordable coverage for our small businesses as they band together to enhance their purchasing power. Passage of this bill will leave us with a long road ahead of us to address the outstanding issues of health care reform, but at least we will finally be on the road.

I urge my colleagues to join me in supporting passage of this bill and I yield the floor.

Mr. CONRAD. Mr. President, I want to express my strong support for S. 1028, the Health Insurance Reform Act.

Over the past several years, access to health care has been one of the most important issues facing Americans. Far too many Americans—over 40 million this year—are uninsured, and an equal number are affected each year by preexisting condition exclusions and the job lock that results when workers fear that they will lose all or part of their insurance if they change jobs.

Two year ago, I and many of my colleagues spent countless hours trying to find a compromise health care reform bill that would ensure access to health insurance and health care, maintain choice and quality for consumers, and control the skyrocketing growth in health care costs. Given the importance of this effort to millions of Americans, I was disappointed that our effort to find a moderate solution to these issues was blocked.

The bill before us today takes a modest step in the right direction. It attacks the most egregious barriers to health insurance: the use of preexisting condition exclusions to deny coverage to those who most need health insurance, and the lack of portability when workers change jobs. Addressing these issues will guarantee access to health insurance for an estimated 25 million Americans who would otherwise be subject to these barriers.

However, it is important to remember that, although this is an extremely important step, it is only a first step. It guarantees access to health insurance, but it does not guarantee that the available insurance will be affordable. And, as a representative of a rural State, I wish this bill improved access to health care services in medically underserved areas. Thus, when we complete the first step by enacting this bill, our health insurance reform journey will not be complete. There is lots of room for further progress in making health care available and affordable.

Mr. President, with that caveat, let me explain why this bill is so important. Today, millions of Americans are denied insurance because they or someone in their family have so-called preexisting conditions. This means the family of a child born with a heart murmur can't find insurance because no insurance company wants to take the risk of covering the costs of treating this heart condition. And it means that someone who has paid insurance premiums through an employer-sponsored plan but then leaves that job because she needs a major medical procedure—for example, an organ transplant—may not be able to get insurance when she tries to return to the workplace. That's just wrong. No one should be forced to stay in a job she hates because she fears she will lose her health insurance if she tries to change jobs. And no one who has paid insurance premiums faithfully for years should lose his insurance because he becomes sick and an insurance company refuses to renew his employer's policy.

This bill fixes these problems. It strictly limits preexisting condition exclusions when a person or a family applies for health insurance for the first time. It prohibits any preexisting condition exclusions for people who have faithfully paid their insurance premiums for at least 18 months and then need to get new insurance because they change jobs or lose their jobs. This means that people who change jobs can rest assured that their new insurance policy will fully cover them.

The bill also requires insurance companies to provide coverage to any employer with two or more employees. This keeps insurance companies from denying insurance to certain types of business just because the company thinks the employees are likely to get sick. It prevents the cancellation of coverage for a company just because one of its employees has gotten sick and incurred large medical costs. And it allows small businesses and other groups to band together in voluntary cooperatives to bargain as a larger group for lower premiums and better coverage.

Finally, the bill requires individual insurance companies to provide coverage to individuals who lose their job or become self-employed and exhaust their conversion coverage under COBRA. Coming from a State with large numbers of self-employed farmers and other small business men and women, I am keenly aware of the fragility of the individual insurance market. Average premiums in this market are much higher than in the group insurance markets because of adverse selection.

Although critics of this so-called group-to-individual portability provision greatly exaggerate its likely effect on this market, their arguments are not groundless. This provision will result in more sick people entering the individual market. In order to prevent this from greatly increasing premiums for those who are already in this market, I hope States will proceed very carefully in applying rating restrictions that could inadvertently worsen the adverse selection inherent in this market. I am encouraged that the bill gives States great flexibility in designing their own approaches to meet the goals of this legislation. This allows them to develop innovative solutions tailored to the special needs of their population while ensuring that workers still have access to affordable health insurance without unreasonable preexisting condition exclusions.

Mr. President, this legislation takes a major step forward in reforming the private insurance market. It removes the biggest barriers to health insurance and will enable Americans to change jobs freely without fear of losing all or part of their insurance coverage. I urge my colleagues to reject the controversial special-interest provisions added in the House that threaten to kill this important effort, and to instead pass a bill that commands broad bipartisan support.

Mr. CAMPBELL. Mr. President, I take this opportunity to support the health insurance reform bill, offered by Senators KASSEBAUM and KENNEDY. I am pleased to be a cosponsor of this legislation.

Reforming our Nation's health care system has been a concern for many Americans. I believe the bill before us today, although limited to the health insurance industry, is a significant step toward addressing some of the issues we face with health insurance—cost, portability, and preexisting conditions. Although this legislation will not fix all of our health care problems, I think we all need to recognize that it does make some progress toward addressing these issues.

Currently, reports indicate there are an estimated 40 million uninsured Americans. This, in and of itself, highlights one of the biggest problems within the health care industry—the availability of affordable, flexible insurance policies.

All too often, people are forced into a situation where they feel they must remain in a job they would rather leave just because they have long-term health care needs and have no other source for insurance other than through their employer. This "job

VOL
142
PT
6
AP
15
—
24
1996
UMI

lock," coupled with skyrocketing health care costs, makes the prospect of paying for your own medical costs without insurance, a frightening, and financially crippling situation. People simply can't afford to take this risk.

Over the past few years, my home State of Colorado has taken a very progressive approach in dealing with the issues of health insurance portability and preexisting conditions and has worked cooperatively with the health insurance industry to develop what everyone seems to recognize as a positive step forward. I have often had constituents tell me how surprised they are to learn how little other States have done in the area of health insurance reform. The Colorado State legislature was instrumental in making this law, and in conjunction with employers, have forged a partnership that seeks to cover as many Coloradans as possible in the most cost-effective manner. In fact, many of the safeguards and reforms already instituted within the State of Colorado are very similar to the Kassebaum-Kennedy bill. Currently, there are roughly 20 States that don't have this kind of insurance protection, and I believe that through this bill, we can cooperatively work to mirror at the Federal level some of the provisions the State of Colorado already enjoys.

I feel this bill will establish a much-needed standard for the health insurance industry and will work toward achieving the goal that all Americans have access to more cost-effective and affordable insurance. I don't believe anyone can deny the need for this.

Mr. President, I yield the floor.

Mr. SARBANES. Mr. President, I rise today to express my support for S. 1028, The Health Insurance Reform Act of 1995. While S. 1028 is not the comprehensive reform of our health system which would be necessary to guarantee quality health care for all Americans, it does make important strides in reducing the barriers to coverage for over 25 million people in this Nation.

The legislation before us today, S. 1028, would attempt to make modest incremental reforms in the health insurance market by addressing only those provisions upon which there is broad bipartisan agreement. In fact, the President and over 65 of my Senate colleagues are in agreement, supporting this legislation which would have an immediate impact on the lives of over 25 million people.

For these Americans who are unable to change jobs, who cannot leave their jobs to start a new business, or who lose their jobs, S. 1028 would provide an assurance of continued access to health insurance coverage. It would end the incidence of job lock in this country by limiting the ability of health insurers to deny coverage for people with preexisting medical conditions. Once an initial exclusion period of no longer than 12 months was exhausted no preexisting condition exclusion could ever be applied to a policy holder again. It would also guarantee that a group or individual who purchased an insurance policy and faithfully paid their premiums, could never have their coverage taken away from them or canceled.

Mr. President, the health care debate is one that goes to the heart of the quality of life of all Americans. Access to quality health care is a fundamental human need and is in my view a fundamental right in a democratic society. Our challenge is to achieve a situation in which every American has access to affordable, quality health care. While there is much more that I would like to do to ensure that each and every American is guaranteed the same high quality comprehensive care, the bill before us today makes important steps toward accomplishing this goal and improving the lives of over 25 million Americans and I urge its immediate passage.

The PRESIDING OFFICER (Ms. SNOWE). The Senate majority leader.

Mr. DOLE. Madam President, I think we have partial agreement here so we can move ahead. I want to associate myself with most of the remarks, probably all of the remarks made by my colleague from Texas. We do not want to have to refight that battle again. I think he raised some excellent points. I hope in part they have been addressed in the so-called Dole-Roth amendment, that I think does improve this bill substantially.

But I ask unanimous consent that during the consideration of S. 1028, the health insurance reform bill, and following opening statements and adoption of the managers' amendment as original text, the majority leader or his designee be recognized to offer his amendment concerning tax provisions and medical savings accounts.

I further ask that during the pendency of the Dole amendment, Senator KASSEBAUM be authorized to move to strike the medical savings account provision, there be 2 hours equally divided in the usual form on the motion to strike, and that no amendments be in order to the Dole amendment or the language proposed be stricken prior to the vote on or in relation to the motion to strike.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

Mrs. KASSEBAUM. Reserving the right to object, I would just like to ask the majority leader, when we first discussed this we had 2 hours equally divided. So much time elapsed since then, I suggest that we would like to have the vote no later than 3:45, and time then be equally divided until that time because we have already eaten up so much. It had been my hope we could get through to some other amendments as well, since we had some considerable time, and still will, on discussing the provisions of the Finance Committee package. If that would be agreeable?

Mr. DOLE. Obviously, I would have no objection to that. I will modify the request to say the vote occur not later than 3:45 p.m., and that any time between the time we start the debate on that motion and 3:45 p.m. be equally divided.

Mr. GORTON. Madam President, reserving right to object.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Madam President, the Senator from Washington would like a clarification. I have just presented a small technical amendment to the Dole amendment to the chairman of the Finance Committee. I want that amendment to be in order.

If the understanding is that second-degree amendments would be in order if the Dole amendment is not tabled or rejected, then I will have no objection. I just want to make certain that before the Dole amendment is adopted that it is itself subject to amendment. Is that correct? Under the unanimous-consent request?

Mr. DOLE. That will be—let me just proceed with the request.

Mr. GORTON. I just want clarification my amendment will be in order some time before the adoption of the Dole amendment.

Mr. DOLE. Is it an amendment to the Dole amendment or a separate amendment?

Mr. GORTON. An amendment to the Dole amendment.

Mr. DOLE. I think the way it is going to work, it would be in order. Because I would hope to have, if the motion to strike fails, we would then get on the Dole amendment. But I could not get that agreement, so the answer would be yes.

Mr. GORTON. I have no objection.

Mrs. BOXER. Madam President, I think this could be accommodated easily. I have been waiting just to make a 3-minute statement on the overall bill. I greatly would appreciate having that opportunity before we get into the debate on the medical savings account.

Mr. DOLE. I will be happy to accommodate the Senator from California.

Mrs. BOXER. I thank the majority leader.

The PRESIDING OFFICER. Is there any objection? Without objection, it is so ordered.

Mr. DOLE. The vote will occur then. Also following that vote the Senator from North Dakota would like 15 minutes in a general statement. Prior to discussion, then, the Senator from California would have 3 minutes.

I also ask, if the Kassebaum motion to strike is agreed to, then the Dole amendment be immediately modified to reflect that chapters 2 and 3 of subtitle (f) of title IV be withdrawn.

Let me explain what that is.

In other words, they were "pay-fors," and if the MSA's were stricken we will take those "pay-fors" out of the bill. I think it has been cleared by both Senator KASSEBAUM and Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I will send the amendment to the desk on behalf of myself, Senator ROTH, and others.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Amendment No. 3675

(Purpose: To provide for a substitute amendment)

Mrs. KASSEBAUM. Madam President, first I send to the desk a substitute amendment and ask it be considered original text for purpose of further amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] for herself and Mr. KENNEDY, proposes an amendment numbered 3675.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Under the agreement, the amendment is agreed to and is considered as original text.

The amendment (No. 3675) was agreed to.

AMENDMENT NO. 3676 TO AMENDMENT NO. 3675

(Purpose: To amend the Internal Revenue Code of 1986 to improve health and long-term care coverage in the group and individual markets by making health and long-term care insurance more accessible and affordable)

Mr. DOLE. Now I ask my amendment be called up.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. ROTH, Mr. NICKLES, Mr. PRESSLER, Mr. LOTT, Mr. CRAIG, Mr. MCCONNELL, Mr. COVERDELL, Mr. GRASSLEY, Mr. D'AMATO, Mr. GREGG, Mr. SANTORUM, Mr. SHELBY, and Mr. FAIRCLOTH, proposes an amendment numbered 3676 to amendment No. 3675.

Mr. DOLE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOLE. Madam President, I will explain, as will the distinguished chairman of the committee, Senator ROTH, explain in some detail what this amendment does. It is a very important amendment. It is about a $10 billion amendment. It is paid for. And it does help make health care more available and more affordable. That is the thrust of this bill and that is why, even though we certainly want to accommodate Senator KASSEBAUM and Senator KENNEDY, as far as amendments are concerned, we think this amendment does improve the bill and it does provide a great deal of opportunity for many Americans who are now denied health care. Let me tell you why.

I am committed to passing this bill and the amendment is designed to help make that happen.

For many years self-employed individuals have been uncertain as to whether they could deduct their health insurance premiums. And the Democrat-controlled Congress refused to make the deduction permanent to ensure that it would apply year after year.

Last year, one of the first things Republicans did when we took control of the House and Senate was to make this deduction permanent, and to increase it to 30 percent.

But we said then and we say now that 30 percent is not enough. The amendment I now offer would raise the deduction for the self-employed to 80 percent by phasing in increases over the next 10 years.

This will provide equity and much needed tax relief to farmers, small business men and women, and other self-employed Americans.

My attempts to raise the deduction for the self-employed are not new. An amendment I offered last year passed the Senate with strong bipartisan support, but that did not stop the President from vetoing it, just as he vetoed our $500 per child tax credit.

My amendment will also provide important tax relief regarding long-term care expenses. The Internal Revenue Service has not seen the wisdom to allow taxpayers a deduction for long-term care expenses or premiums paid on long-term care policies.

So this amendment is needed to force the IRS to recognize that expenses to care for those unable to care for themselves are legitimate medical expenses that should be deductible.

It is in the best interest of the country to provide appropriate incentives for families to give proper long-term care for family members or to plan for future expenses, such as by purchasing long-term care insurance. Families want to care for their own and the IRS should not stand in the way.

This provision is particularly important for Americans who are likely to face these expenses in the near future for their parents and grandparents. Expenses to provide long-term care of a disabled or elderly relative could bankrupt a family. We cannot and will not let that happen. And neither should my Democratic friends, although they have voted against this relief in the past and the President has already vetoed this tax relief once before.

I have also included medical savings accounts in this amendment. You may have heard a lot about MSA's already. But let me tell you about them. First of all, they are hardly a radical new concept. They are being used today in 13 States and have enjoyed bipartisan support for many years.

MSA's provide individuals with choice and flexibility. If an individual chooses to accept an MSA, the individual can tailor his or her own health care to his or her own needs. Individuals would have their own personal savings accounts dedicated to health care spending—similar to the way they have IRA's for their retirement savings.

Under the MSA proposal in this amendment, individuals could purchase a high-deductible plan and then use the money they accumulated in their savings account, up to the deductible limit, for health care expenses. They could deduct the amount they contribute to the MSA and the savings would accumulate tax free.

Who could argue against providing additional options and flexibility? The answer is the same people who thought that the best way to reform the health care system was to hand it over to the Federal Government—to impose more mandates and Government controls. The American people are thankful that the Democrat efforts to turn the health care system over to the Government failed, and they hope that Democrats will fail in their effort to block this amendment.

Let us remember that the Joint Tax Committee recently analyzed this MSA proposal and concluded that 88 percent of the MSA tax benefits would go to those making under $100,000 a year, with 78 percent of the benefits going to those making under $75,000 a year.

I urge my colleagues on both sides of the aisle to join with me in support of substantial tax relief for Americans.

Madam President, health insurance reform is, by no means, a newly debated issue in this Chamber. In fact, it predates many individuals in this town. The concern about the availability and affordability of health insurance goes back as early as the Nixon administration when President Nixon declared that the American health care system was in need of repair, particularly when it came to affordability.

Madam President, that was 25 years ago. Since then, there have been dozens of health care bills debated in this Chamber—the Bentsen bill, the Dole-Packwood bill, and others, all of which were drafted with the sole purpose of making health care more available and more affordable.

To this date, Madam President, none has been signed into law.

We now have before us a bipartisan bill that contains the kinds of commonsense insurance reforms that this Senator and many of my Republican colleagues have long advocated. I commend my colleague from Kansas, Senator KASSEBAUM, for her hard work and

VOL
142
PT
6
AP
15
—
24
1996
UMI

determination to craft a health insurance reform bill that could be supported by the vast majority—if not all Members—on both sides of the aisle.

Madam President, as I stand here, I have to say that I feel a great sense of relief—as I am sure many Americans will feel—that common sense has finally prevailed.

For nearly a decade now Republicans have been trying to pass an incremental health insurance bill that would solve many of the problems with the availability and affordability of insurance.

During the Bush administration, however, the Democrat-controlled Congress refused to give President Bush's proposal the time of day.

And then came the Clinton administration, and President Clinton's insistence that turning the American health care system over to the Federal Government was the only solution. It was a solution chock full of mandates, Government intrusion, and untold costs. And the American public took one good look at it and said, "No thanks."

From almost the very first day of the Clinton administration through the entire long national debate over the President's plan, I said the same thing day after day after day. And what I said was this: Fix what needs fixing, makes changes in the insurance market so that more Americans are able to obtain and afford health care, and leave the many very good parts of American health care alone.

Here we are, however, 2 years later, and still talking about insurance reforms that are still badly in need. And the tragedy of that, Mr. President, is that there are millions of Americans who could have been helped these past 2 years, had President Clinton not insisted on his plan or nothing.

Madam President, our first priority is to start with portability. This will assure that no American is denied coverage because he or she changes or loses a job. I am committed to passing that change because it will help millions of job-locked Americans with preexisting medical conditions and their families.

As I have said, eliminating job lock should have passed at least 2 years ago. Regrettably it did not.

Before we get much further into this debate, I want to underscore at the outset that it is very important that we pass a bill, once and for all, that can be signed into law. There is no hidden agenda—no surprises—no smoke and mirrors. This is serious work that we have promised to the American public for a very long time.

I also want to take a moment now, that I will elaborate on later, to describe an amendment Senator ROTH and I plan to offer to this bill. In that amendment there will be a number of tax provisions that will enhance the insurance reforms in this bill.

Again, I want to underscore, this amendment is not meant to defeat this bill or diminish its chances of being signed by the President. To the contrary, my amendment will strengthen this bill and help more people obtain affordable health insurance—all without the overdose of Government control the American people already rejected.

My amendment will include an increase in the deduction of health insurance premiums paid by the self-employed and provides deductions for long-term care expenses so that families have real incentives to plan for their later years. It also provides for tax-exempt high-risk pools, and allows for tax-free accelerated death benefits. In addition, this amendment makes medical savings accounts available to all Americans.

Medical savings accounts are not a new concept and have enjoyed bipartisan support. My view is that medical savings accounts are another choice for Americans. They may not be right for everyone. They may appeal to many others. They are included in this amendment as another option. Choice, after all, is one of the greatest virtues of American health care.

These are all provisions to help make insurance more affordable thereby increasing the number of people who are insured.

Madam President, this Congress has worked very hard to keep the promises we made to the American people when they gave us a majority. This bill represents relatively noncontroversial needed change—change we have promised for a long time. We owe it to the millions of Americans who need our help to do today what we should have done several years ago.

Passage of this bill will not only improve our health care system, it could very well restore the faith of the American public that the work for the Congress is not just a series of political stalemates. Even in an election year, we can work on a bipartisan basis to pass legislation that will improve the lives of so many Americans.

Let me indicate that the distinguished Senator from Maine, Senator COHEN, will discuss his part of this amendment, proposals to clamp down on health care fraud and abuse. Senator COHEN has been working on it for a number of years, and they save about $3 billion. They are a very important part of this overall amendment.

I will just say, as I said earlier, this is a very important piece of legislation. It is a bill that should be passed. It is a bill that can be signed into law. There is no hidden agenda, no surprises, no smoke, and no mirrors. This is a serious work product that we have promised to the American people for a long time. It seems to me we can get this done yet today. The House has passed a different version. We will go to conference. In my view, we can come up with a very reasonable proposal that I think President Clinton will sign.

We have offered what we believe will be an amendment to strengthen this bill. I happen to believe the medical savings account is another addition that will strengthen this bill. I know there is some objection to it. But all this is done without an overdose of Government control which the American people rejected just a few years ago.

For all the reasons I can think of, I urge the adoption of this amendment without anything being stricken from it. I hope at 3:45 the motion to strike will be defeated, and then we can determine if we can vote on the Dole-Roth amendment or should there be other amendments. Maybe the Senator from Washington has other amendments or maybe other people. We can then dispose of those amendments.

I yield the floor, and I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, will you tell me when my 3 minutes are up? That is all I really need.

I believe we can have a rational debate about this bill. The Senator from Texas said it is hard to be rational when you debate health care, but I think Senator KASSEBAUM is a very rational woman, and I think Senator KENNEDY is a very rational Senator. I think the two of them have come together. They have brought us a bill that I am very proud to support.

In 1993, I authored a bill that would make it unlawful to cancel or reduce an employee's benefits because the employee suffered from a particular disease or illness, and it made it unlawful for employers to impose different benefit caps for different diseases.

What happened, as we all know, is we got off track with health care reform. It was derailed, and it took us some time to mend some frayed feelings, and now we are back here in a bipartisan effort. We are on the brink of a bipartisan success to bring some fairness to this world of health insurance coverage.

Clearly, millions and millions of Americans are going to be better off as a result of the Kassebaum-Kennedy bill, because we know we will have portability now of health care coverage. Many Americans who are locked in jobs because they fear losing their insurance—and I know so many myself who are in that situation—will no longer be fearful of that.

We think that will impact 25 million Americans. This bill will prohibit group health plans from excluding any employee based on their health status. We know that we do not want to encourage people just buying insurance when they get sick, so we require a 12-month waiting period, and then they cannot be denied for a preexisting condition. We think 81 million Americans, Madam President, have conditions that could subject them to such exclusions, so we are talking about more than 100 million Americans benefiting from this, as well as small businesses.

I strongly urge us to support the Kassebaum-Kennedy bill. I think if we can support Senator KASSEBAUM's amendment to the Dole amendment, it would be far better off, because the medical savings accounts are good for some of the wealthiest and healthiest in our Nation but would be damaging to the vast majority of Americans.

So I look forward to voting for this bill. I think it will be a bright moment for this U.S. Senate.

I yield the floor, Madam President.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Madam President, the purpose of the leadership amendment to the Kassebaum-Kennedy health insurance reform bill is to help individuals and employers purchase affordable health and long-term care insurance, and it will particularly help small business men and women go a long way toward combating fraud and abuse in the Medicare system.

Affordability of health and long-term care insurance has long been a major problem in our country, and the leadership amendment provides concrete solutions. By eliminating many of the financial barriers to affordable health and long-term care insurance, Americans will take greater responsibility for their health and long-term care needs, relying less on the Federal Government.

The leadership amendment provides affordable health and long-term care insurance and personal responsibility by increasing the health insurance deduction for self-employed individuals to 80 percent. On average, employers pay about 80 percent of their employees health insurance costs. But under current law, employers can exclude this benefit tax.

In comparison, Madam President, under current law, self-employed individuals can only deduct 30 percent of their health insurance. Raising the health insurance deduction for self-employed individuals will eliminate this inequity and will be a good first step toward putting self-employed individuals on a par with workers who receive health insurance from their employer.

But this is not all this amendment provides. It provides tax clarification for long-term care insurance. Under this amendment, long-term care insurance that meets certain consumer standards will receive the same favorable tax treatment as medical insurance. The consumer standards require insurance companies to disclose information to consumers that will aid them in buying a long-term care policy that best fits their individual needs.

Long-term care insurance tax clarification will provide the much needed incentive for Americans to buy this insurance. All too often individuals without long-term care insurance end up depleting their life savings for their care and end up on Medicaid. Long-term care insurance will give Americans with long-term care needs the dignity of providing their own care and at the same time reducing the burden on Medicaid.

Additionally, Madam President, this amendment allows tax-free benefits from the early termination of life insurance. It permits terminally and chronically ill individuals to take tax-free withdrawals from their life insurance. Many terminally and chronically ill individuals end up depleting their life savings for their care and end up on Medicaid. This provision will provide an additional source of funds for the terminally and chronically ill to attend to their health care needs and at the same time will reduce the burden on Medicaid for their care.

This amendment also includes tax-favored medical savings accounts. Our medical savings account proposal permits an individual with a high-deductible health plan to make tax-deductible contributions to an MSA. Contributions to the medical savings account are limited to $2,000 for single coverage and $4,000 for family coverage. Distribution from the medical savings account can be used for medical expenses without being taxed.

Excess funds in a medical savings account can be carried over to the next year, would be available to pay for unexpectedly high health costs, long-term care insurance, or to continue health insurance during periods of unemployment, often called COBRA coverage. Madam President, among the great freedoms that Americans cherish is the ability to make choices and decisions about how to take care of their families. Medical savings accounts will place control of America's health care back in the family. It does so in significant ways that create the right incentives for health care.

With the medical savings accounts, Americans will be able to choose their physician, their hospital, and their health care plan. Not only will Americans be allowed to go to the doctor of their choice, but to the optometrist, the dentist, or the chiropractor of their choice as well. Traditional low-deductible health insurance may not cover visits to the dentist or optometrist, but the medical savings accounts will.

In addition, Madam President, many traditional low-deductible health insurance plans do not pay for preventive care. For working poor Americans, this feature of medical health savings accounts will be especially helpful. That is because Americans with medical savings accounts will have the money to pay for preventive care for their families, whereas they may not have the money in the absence of a medical savings account.

Beyond offering patients a choice, medical savings accounts will lower health care spending by empowering people to become knowledgeable about health care costs. As a result, medical savings account users become more effective consumers of health care and reject unnecessary or duplicative treatment. Unused medical savings account funds will accumulate from year to year, providing an incentive for people to remain healthy and consume medical care wisely.

In addition, Madam President, medical savings accounts will also restore the physician-patient relationship, something that has eroded over time. Patients are finding their choice of health care providers being limited and bureaucracies are interfering with their doctor-patient relationships. With medical savings accounts, a patient can go to any doctor, nurse, or other health care provider of their choice without worrying about whether their insurance will cover the bill.

Madam President, we already know about the success of medical savings accounts because hundreds of companies, including the United Mine Workers, are experimenting with them with great success. Companies that offer medical savings accounts have experienced significant reductions in health care spending by their employees. Most of these companies find that medical savings accounts are attractive to workers in both low- and high-income categories and workers in all health conditions. In fact, the Joint Committee on Taxation anticipates that about 78 percent of medical savings account users will have an annual income of less than $75,000.

Madam President, the problem with current medical savings accounts is that employees are treated worse under the tax laws by selecting a medical savings account and high-deductible health plan. At the end of each year the employee must include the full amount of the money deposited in his or her medical savings account as income. That is a grossly unfair result when employees with traditional low-deductible insurance do not pay tax on their employer provided insurance.

Furthermore, medical savings accounts advance an important goal of Senator KASSEBAUM's health insurance reform bill, and that is health insurance portability. Health insurance portability is something Americans have been requesting for years. The lack of health insurance portability is a problem with the current health insurance market and results in job lock for millions of Americans. Medical savings accounts will help end job lock for millions of American workers because

VOL
142
PT
6
AP
15
—
24
1996
UMI

they will be able to take their medical savings account with them when they change jobs. This would promote continuity of insurance coverage.

Another feature of a medical savings account is that it will allow a lower cost insurance alternative to millions of self-employed Americans. American farmers and small businesses will be able to buy high-deductible health insurance and fund a medical savings account to provide for their family's health care needs. This feature has the potential of removing millions of people from the ranks of the uninsured.

Madam President, it is interesting to note that 13 States and at least one city have passed medical savings account legislation and dozens more are moving to pass similar legislation. For example, Jersey City, NJ, has implemented medical savings accounts as an alternative for their city employees. Ohio is implementing a test program for State employees. Clearly, medical savings accounts offer Americans a choice about their health care that should be fundamental in a country built on free-market principles. It is the Federal Government that must now move ahead with the idea.

Madam President, strong efforts have been made to defeat medical savings account legislation by those who have a vested interest in the current health care system that is not working for millions of Americans. The real winners under medical savings accounts will be the hundreds of thousands of Americans who will grab control over their family's health care spending.

I hope the encouragement from hundreds of companies with successful medical savings account programs and the many States that are pioneering in medical savings accounts will serve as strong incentives for my fellow colleagues to join me in supporting the medical savings account provisions and the leadership amendment.

Madam President, I ask unanimous consent to have an editorial in the Wall Street Journal by Nobel Prize-winning economist Milton Friedman entitled "A Way Out of Soviet-Style Health Care" printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 17, 1996]

A WAY OUT OF SOVIET-STYLE HEALTH CARE

(By Milton Friedman)

In a chapter in his novel "The Cancer Ward" titled "The Old Doctor," Alexander Solzhenitsyn compares "private medical practice" with "universal, free, public health service" through the words of an elderly physician whose practice predated 1918. A byproduct is an eloquent statement of the major advantages of medical savings accounts for the U.S. in 1996.

Mr. Solzhenitsyn himself had no personal experience on which to base his account and yet, in what I have long regarded as a striking example of creative imagination, his character presents an accurate and moving vision. The essence of that vision is the consensual relation between the patient and the physician. The patient was free to choose his physician, and the physician free to accept or reject the patient.

In Mr. Solzhenitsyn's words, "among all these persecutions [of the old doctor] the most persistent and stringent had been directed against the fact that Doctor Oreschenkov clung stubbornly to his right to conduct a private medical practice, although this was forbidden."

EASIER TO FIND A WIFE

In the words of Dr. Oreschenkov in conversation with Lyudmila Afanasyevna, a longtime patient and herself a physician in the cancer ward: "In general, the family doctor is the most comforting figure in our lives. But he has been cut down and foreshortened. * * * Sometimes it's easier to find a wife than to find a doctor nowadays who is prepared to give you as much time as you need and understands you completely, all of you."

Lyudmila Afanasyevna: "All right, but how many of these family doctors would be needed? They just can't be fitted into our system of universal, free, public health services."

Dr. Oreschenkov: "Universal and public—yes, they could. Free, no."

Lyudmila Afanasyevna: "But the fact that it is free is our greatest achievement."

Dr. Oreschenkov: "Is it such a great achievement? What do you mean by 'free'? The doctors don't work without pay. It's just that the patient doesn't pay them, they're paid out of the public budget. The public budget comes from these same patients. Treatment isn't free, it's just depersonalized. If the cost of it were left with the patient, he'd turn the ten rubles over and over in his hands. But when he really needed help he'd come to the doctor five times over. * * *

"Is it better the way it is now? You'd pay anything for careful and sympathetic attention from the doctor, but everywhere there's a schedule, a quota the doctors have to meet; next! * * * And what do patients come for? For a certificate to be absent from work, for sick leave, for certification for invalids' pensions; and the doctor's job is to catch the frauds. Doctor and patient as enemies—is that medicine?"

"Depersonalized," "doctor and patient as enemies"—those are the key phrases in the growing body of complaints about health maintenance organizations and other forms of managed care. In many managed care situations, the patient no longer regards the physician who serves him as "his" or "her" physician responsible primarily to the patient; and the physician no longer regards himself as primarily responsible to the patient. His first responsibility is to the managed care entity that hires him. He is not engaged in the kind of private medical practice that Dr. Oreschenkov valued so highly.

For the first 30 years of my life, until World War II, that kind of practice was the norm. Individuals were responsible for their own medical care. They could pay for it out-of-pocket or they could buy insurance. "Sliding scale" fees plus professional ethics assured that the poor got care. On entry to a hospital, the first question was "What's wrong?" not "What is your insurance?" It may be that some firms provided health care as a benefit to their workers, but if so it was the exception not the rule.

The first major change in those arrangements was a byproduct of wage and price controls during World War II. Employers, pressed to find more workers under wartime boom conditions but forbidden to offer higher money wages, started adding benefits in kind to the money wage. Employer-provided medical care proved particularly popular. As something new, it was not covered by existing tax regulations, so employers treated it as exempt from withholding tax.

It took a few years before the Internal Revenue Service got around to issuing regulations requiring the cost of employer-provided medical care to be included in taxable wages. That aroused a howl of protest from employees who had come to take tax exemption for granted, and Congress responded by exempting employer-provided medical care from both the personal and the corporate income tax.

Because private expenditures on health care are not exempt from income tax, almost all employees now receive health care coverage from their employers, leading to problems of portability, third party payment and rising costs that have become increasingly serious. Of course, the cost of medical care comes out of wages, but out of before-tax rather than after-tax wages, so that the employee receives what he or she regards as a higher real wage for the same cost to the employer.

A second major change was the enactment of Medicare and Medicaid in 1965. These added another large slice of the population to those for whom medical care, though not completely "free," thanks to deductibles and co-payments, was mostly paid by a third party, providing little incentive to economize on medical care. The resulting dramatic rise in expenditures on medical care led to the imposition of controls on both patients and suppliers of medical care in a futile attempt to hold down costs, further undermining the kind of private practice that Dr. Oreschenkov "cherished most in his work."

The best way to restore freedom of choice to both patient and physician and to control costs would be to eliminate the tax exemption of employer-provided medical care. However, that is clearly not feasible politically. The best alternative available is to extend the tax exemption to all expenditures on medical care, whether made by the patient directly or by employers, to establish a level playing field, in terms of the currently popular cliché.

Many individuals would then find it attractive to negotiate with their employer for a higher cash wage in place of employer-financed medical care. With part or all of the higher cash wage, they could purchase an insurance policy with a very high deductible, i.e., a policy for medical catastrophes, which would be decidedly cheaper than the low-deductible policy their employer had been providing to them, and deposit all or part of the difference in a special "medical savings account" that could be drawn on only for medical purposes. Any amounts unused in a particular year could be allowed to accumulate without being subject to tax, or could be withdrawn with a tax penalty or for special purposes, as with current Individual Retirement Accounts—in effect, a medical IRA. Many employers would find it attractive to offer such an arrangement to their employees as an option.

Some enterprises already have managed to do so despite the tax penalty involved. MSAs have proved very popular with employees at all levels of income, and they've been cost-effective for employers. The employee has a strong incentive to economize, but also complete freedom to choose a physician, and the equivalent of first-dollar coverage. There are

no out-of-pocket costs until the employee spends more than the total amount in the MSA. Such costs are then limited to the difference between the amount in the account and the deductible in the catastrophic policy. Moreover, the employee can use money in the MSA at his or her discretion for dental or vision care that is typically not covered under most health plans. No need to get "authorization" from a gatekeeper or an insurance company to visit a specialist or to have a medical procedure—until the catastrophic policy takes over.

LIMITING COMPETITION

The managed care industry has come to recognize that MSAs might threaten its growing control of American medicine by offering a more attractive alternative. As a result, the managed care industry has recently become a vigorous enemy of MSAs. Every believer in competition will recognize that opposition for what it is: a special interest using government to limit rather than expand competition.

Medical savings accounts are not a panacea. Many problems would remain for an industry that now absorbs about a seventh of the national product. However, I believe that they offer the closest approximation that is currently feasible to the private medical practice that Dr. Oreschenkov cherished.

Mr. ROTH. Madam President, in his editorial, Dr. Friedman recognizes medical savings accounts can be an important factor in restoring the freedom of choice for both the patient and physician and to control health care costs.

These important provisions in the leadership amendment are not all that we are offering. Our amendment also permits penalty-free withdrawals from IRA's for health and long-term care insurance. The leadership amendment encourages people to purchase health insurance by allowing penalty-free withdrawals from IRA accounts to buy health and long-term care insurance and to pay for major medical expenses.

This provision will allow unemployed workers the ability to access their IRA funds to continue their health insurance for their families.

The leadership amendment provides tax exemptions to State-sponsored, high-risk insurance pools, a provision that will encourage States to set up insurance pools from which high health risk individuals can purchase affordable insurance.

Madam President, the leadership amendment also contains new tools for law enforcement to aggressively attack fraud and abuse in health care. GAO estimates that as much as 10 percent of health spending in the United States is lost to fraud and abuse. Law enforcement officials believe that most health care fraud goes undetected.

The leadership amendment makes substantial new funds available to the Justice Department, the FBI and the IG of the Department of Health and Human Services for investigation and prosecution of health care fraud. These provisions also create for the first time a criminal statute for health care crimes, tough new penalties for fraud in Federal health programs, including Medicare and Medicaid.

Madam President, these health care fraud and abuse provisions were crafted by Senator COHEN over the past 3 years. I commend him and his staff on their tireless and important work. Madam President, the leadership amendment is actually paid for. The offsets are, first, large corporations will no longer be permitted to borrow corporate-owned life insurance and deduct the interest. The provision is a major corporate tax loophole that will be closed. The same proposal was included in the Balanced Budget Act of 1995 and is similar to the administration's proposal in its fiscal year 1997 budget.

Second, expatriates, those persons who leave the United States for tax avoidance purposes, will be subject to taxation upon exit from the United States. The proposal is similar to the expatriation provision in the Senate version of the Balanced Budget Act of 1995.

Third, starting in 1996, thrift institutions will calculate their tax deduction for bad debts the same way as banks. This provision will facilitate future legislation to harmonize the bank and thrift charters, and has widespread support. A similar proposal was included in the Balanced Budget Act of 1995 as well as an administration revenue proposal in the fiscal year 1997 budget.

Fourth, a measure to combat fraud and the earned-income credit program. This proposal is identical to the earned-income credit compliance provisions in the House health care bill.

Mr. President, I recognize that there are many other popular tax proposals championed by other Members that would likely find their way into this bill. However, this is a health insurance reform bill. The focus of this and other amendments should be on expanding the affordability of health and long-term care insurance for Americans. To stray from the purpose of this amendment may doom the entire health insurance reform effort. I suggest that no Senator wants to do that.

Mr. COATS. Madam President, the Congressional Budget Office reported that health care spending, rather than cost, is the major problem in U.S. health care. The report states that "a major reason for high and rapidly rising health cost is the failure of the normal discipline of the marketplace to limit the quantity of services supplied."

Today, nearly 80 percent of medical expenses are paid by somebody other than the patients themselves.

Out-of-pocket expenditures have declined from 60 percent of the Nation's total health bill in 1960 to 20 percent today. Since that time, the Government's share has doubled to 46 percent.

This means that most health care expenditures in the United States today are paid for by someone other than the consumer of health care—by the Government or by insurance carriers. Unlike any other purchase, when Americans receive medical care, they use someone else's money.

Our health care system has effectively insulated Americans from the cost of care. There is little incentive to spend wisely. There is no need to look for the best buy for the health care dollar.

Six years ago, I introduced the first MSA legislation in the Senate. My plan provides a financial incentive for Americans to choose a healthy lifestyle and to be better consumers of health care. Under my plan, employers provide an umbrella catastrophic policy and invest the rest of the money in a tax free account for each employee. I am pleased to be a cosponsor of the Finance Committee amendment which builds on these same principles.

For example, the average employer spends $4,500 on health benefits for an employee. Under the typical MSA, an employer would buy a catastrophic policy—with a $3,000 deductible—at an average cost of $1,500. The remaining $3,000 would be given to the employee to cover out-of-pocket medical expenses. Whatever is unused would be given to the employee. We would provide a financial incentive both to stay healthy and to shop for bargains in the system.

I was discussing this idea with some constituents in Indianapolis. One woman told me she knew exactly what I was driving at. She called her local hospital to inquire how much a mammogram would cost. When told $300, she asked if they ever offered any sales. Sure enough, Mother's Day week, the screenings cost only $50. However, because her insurance covered the cost, she had no incentive to purchase the care at the reduced price.

This sounds complicated, but the effect would be simple. People would be allowed to choose their own doctors, make their own health care decisions, have a financial incentive to live a healthier life, and control medical costs through increased competition.

Medical savings accounts are working. People with these plans are looking for and finding bargains. And they are getting more preventative care from their doctors.

Listen to a letter from one woman in Indiana:

> When the MSA account became an option at my company, I decided to try it with my family. For the last half of [the first year], our family will be receiving a refund for our unused portion. With five on our policy, this was a nice surprise.

"I was told I would be needing surgery performed in the near future. I have already made arrangements to pay our [catastrophic] deductible in full * * * the total surgeon's charge was $9,843. However, they have agreed to take off $3,797. With this account I have realized there is no set doctor's charge."

VOL
142
PT
6
AP
15
—
24
1996
UMI

This Indiana woman has become a wise consumer of health care services. She bargained and saved nearly $4,000 in surgery costs. She scrutinizes her bills and makes sure that she is getting what she pays for.

Another Hoosier had this to say:

"The MSA plan has helped me become a more frugal shopper of health care for myself and my family. I now ask the doctor for generic prescriptions when available, and try to utilize our family doctors when available, instead of the more expensive immediate care centers."

Another Indiana resident was surprised to learn that the price of treatment does vary depending on the status of her insurance. Treatment to an ear damaged in an auto accident was $900 through insurance, but only $200 since she paid out-of-pocket.

A resident of Indianapolis writes, "I am a single parent who receives no outside support. Therefore, it is very important for me to have insurance coverage for my 12-year-old daughter and I. I made the decision to try the medical savings account because although vision and dental expenses were not covered under the traditional plan, I would be able to use the MSA money for these expenses * * * both my daughter and I wear glasses. Both our prescriptions had changed this past year, therefore I incurred the cost of the exams along with the cost of new glasses.

"I did have necessary medical expenses last year that used all but $37 of my MSA fund. While I may have received less than others who had MSA's last year, I gained a great deal more than those who had the traditional plan. I had no out-of-pocket expenses and still had $37 come back to me. There was nothing to lose, and everything to gain."

In addition to empowering people, medical savings accounts help control the costs of providing coverage for many companies.

In Indiana, 81 percent of employees at Golden Rule Insurance elected the medical savings account option the first year it was offered. These workers got $468,000 in reimbursements from their MSA's. Not surprisingly, the next year, 90 percent of the employees selected the MSA option. Golden Rule benefited as well—the company saw no increase in health care costs for 2 straight years, with $734,000 refunded to employees, an average of $1,000 per employee.

Dominion Resources has encouraged workers to opt for a high deductible plan and to place the monthly premium savings into a health account. Some 80 percent of Dominion's employees have selected this plan and the company has seen no increases in premiums since 1989.

Knox Semiconductor in Rockport, ME, has experienced only one rate increase in the last 4 years under its Health-Wealth Program. Its president, John Marley, claims that the program saved his company more than $100,000 in 3 years—a significant savings for a small business.

These savings are particularly impressive given the cost increases experienced by companies in conventional plans. The Clinton-Mitchell bill, for instance, claims it will achieve its major savings through encouraging HMO styled delivery of services. But even HMO costs are rising—13.6 percent a year between 1988 and 1992. In 1993, they jumped another 6.5 percent.

MSA's could potentially achieve savings in another significant way. Not only would they unleash the collective bargaining power of the American consumer, but they could significantly reduce the administrative burden on our health care system. Less than 15 percent of all Americans spend $3,000 a year on medical care, and therefore the accumulated cost of paperwork processing are for small claims. By paying these bills directly, our health care system would realize significant savings in paperwork reduction and substantially reduce the $90 billion in administrative costs we spent each year.

Forbes magazine has experimented with this concept. In order to cut down small claims, they give each employee an annual account of $1,200. For every dollar filed in medical claims, the employee loses $2 from the account. Employees can keep what is left in the account at the end of the year. This system obviously encourages employees to pay for small claims out-of-pocket. After the system was implemented, the paperwork on routine claims fell dramatically. The company's health costs fell by 17 percent in 1992 and by 12 percent the following year.

We are paying a high price for our social and behavioral attitudes, our personal lifestyle choices. The United States pays $52 billion each year on illnesses related to smoking. Unhealthy eating habits contribute directly to 5 of the 10 leading causes of death in the Nation. Two out of three deaths in the United States can be linked to tobacco use, alcohol use and abuse, controllable high blood pressure, overeating, traumatic injury, and lack of preventative care.

One man in Indiana commented, "the plan has also given me a better outlook on staying healthy. It provides financial incentive for not over utilizing health care, but at the same time provides a way to cover the more routine expenses which one would incur at regular intervals. Getting a regular check up could help prevent more costly health care bills. Its nice to have an outlet to pay for expenses when you really should go to the doctor instead of waiting to the last minute because our deductible is not satisfied."

The MSA is the only health reform plan that provides incentives to remain healthy. Indeed, the Kennedy bill entitles those at high risk of sexually transmitted disease more health care than it does to others not considered at risk. The Kennedy bill requires all Americans to pay for smoking cessation classes regardless of whether or not you smoke. So smokers get more care than nonsmokers under the Kennedy bill. Under the MSA, non-smokers, who likely will remain healthier than smokers, reap the rewards of their behavior.

The Wall Street Journal recently editorialized, "Most of the health bills before Congress remind us of Henry Ford's philosophy behind the Model-T car: "You can have any color you want as long as its black." [but] health care reform that includes medical savings accounts would represent real consumer sovereignty; patient self-interest would be harnessed to keep costs down, and workers would build up tax-free health care funds for when they were between jobs. Health care security would be enhanced, but not at the cost of quality or freedom of choice."

This Congress faces a fundamental choice. We can use the lessons of our experience—Americans empowered choose wisely—competition in the free market enhances quality and drives down costs—principles which guide reform through medical savings accounts. Medical savings accounts leave health care choices where they belong—in the hands of individuals. I urge my colleagues to support real reform—and to retain medical savings accounts.

AMENDMENT NO. 3677 TO AMENDMENT NO. 3676

(Purpose: To strike medical savings accounts)

Mrs. KASSEBAUM. Madam President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 3677 to amendment No. 3676.

The amendment is as follows:

> Strike subtitle C of title IV.

Mrs. KASSEBAUM. Madam President, the purpose of this amendment is to strike the portion of the package put forward by Senator DOLE and Senator ROTH regarding medical savings accounts. It is difficult for me to stand here and do so because I think the rest of the provisions in the package that have been put forward are ones that are generally agreed to on both sides of the aisle. Senator DOLE has been a long-time leader of efforts to increase the deductibility for those who are self-employed. It is a very positive amendment. It will be a very positive part of this bill.

Also, Senator DOLE has been a long-time leader in wanting to address long-term care and to be able to provide some means of helping those families who have high costs and long-term care needs. This will provide tax credits to do so.

The chairman of the Finance Committee, Senator ROTH, has also been a long-time proponent of such measures. I think the way in which the measure is crafted is a very constructive addition to the legislation before the Senate.

When the ranking member of the Labor Committee, Senator KENNEDY, and myself completed the work of the committee in a unanimous vote last August, we agreed that we would not support any additional amendments that were highly contentious. This included amendments that individually we would support, as well as those that we would oppose. Cumulatively, they could cause a real collapse if they carried too much baggage, plus or minus. Therefore, we have agreed, whether we individually supported those amendments or not, to not support any amendments which would prove to be controversial.

I would like to speak for a moment about medical savings accounts and my own concerns regarding them. As has been pointed out, 13 States have now in place such savings accounts and I think that is going to be useful to analyze the effect of medical savings accounts. The proponents say MSA's will bring down health care costs by encouraging consumers to shop more wisely for health care, that they will increase coverage by making health care more affordable for individuals, and they will reduce health care spending for employers.

Nevertheless, we are not really certain, and I still believe that we need to carefully consider what medical savings accounts are about. To me, it is not a question of either/or. Medical savings accounts should be considered and we should debate the merits of medical savings accounts. However, I strongly question whether they should be attached to this particular bill as they do not really enhance the provisions of this bill that we are debating today.

I do believe that medical savings accounts are of benefit, particularly to the healthiest and most financially secure Americans. They do not really address those with preexisting conditions, nor those with catastrophic illnesses, nor those without a job or income who need coverage the most.

Medical savings accounts could also provide a false sense of security. It lends encouragement to invest wisely. It lends to a shelter in the Tax Code which would allow one to build up support that could be used at times that are important. However, it is a false sense of security, Madam President, I believe.

They are sold as giving Americans freedom to exercise choice and protecting people when they get catastrophic illnesses. However, as our colleague Senator JEFFORDS knows, most so-called catastrophic policies have very low lifetime limits. He will be offering an amendment, as a matter of fact, to address that concern. So, even with medical savings accounts people are not protected for truly catastrophic illnesses. Medical savings accounts are an experiment, not without merit. From the States that are already experimenting with the accounts and have passed legislation, we will be able to gather data which will be useful to us. But, as I said earlier, they should not be included in this bill.

I suggest that Blue Cross Blue Shield of Ohio has shown that MSA's would increase, not decrease, employer costs because there would be less money in the traditional insurance pool to cover above average costs of high-risk individuals. There needs to be the ability to have a risk pool, to have reinsurance, so that those costs can be spread more broadly.

Blue Cross and Blue Shield has observed that there is a concern that MSA's will segment the market into people who are very healthy and people who are not healthy. If that happens, you lose the ability to spread risk broadly and to protect the current insurance. Senator BREAUX spoke to that earlier this morning. So for all those reasons, Madam President, I have some serious reservations. Senator COHEN from Maine, as Senator ROTH pointed out, has legislation regarding fraud and abuse that helps provide savings, which has been incorporated in this amendment. I think that is a positive part of the package put forward by Senator DOLE and Senator ROTH.

But as long as medical savings accounts have such a high degree of uncertainty, I think the Dole-Roth amendment should be viewed with some skepticism. As we debate the Health Insurance Reform Act before us, which has universal support, we must be extremely careful about amendments which may cause us to lose that consensus.

I have the highest regard for the efforts of the majority leader, as he has put forward what I believe are positive additions to our bill. It is my hope that those additions can be accepted and that medical savings accounts, with my motion to strike, will be defeated.

I yield the floor.

Mr. KENNEDY. Madam President, how much time does the Senator from Connecticut need?

Mr. DODD. Seven minutes.

The PRESIDING OFFICER. The Senator is recognized for 7 minutes.

Mr. DODD. Madam President, 2 years ago the 203d Congress spent a great deal of time discussing the merits of comprehensive health care reform.

The Committee on Labor and Human Resources held more than 40 hearings debating the issue.

And in the end those opponents of comprehensive reform, who said we needed to go slow, won the day.

I, for one, thank that was a mistake.

But, at the same time, I understand the apprehension of my colleagues about comprehensive reform.

Well today, the legislation before us today—the Kassebaum-Kennedy Health Insurance Reform Act—gives us the opportunity to pass sensible, incremental and common-sense health reform measures that will help millions of Americans.

This bill may not solve every problem in our health care system. But, it is good public policy.

And it will make a real difference in the lives of millions of Americans.

And if we, as a body, believe that American workers should not live in fear of losing their health care when they change their job, then we must pass these sensible reforms.

In fact, recollecting our debates from 2 years ago, it's hard to imagine that this bill would not pass on a unanimous vote.

Not once in our many committee meetings did any member argue for the preservation of exclusions based on preexisting conditions.

Not once did anybody argue against insurance portability. Even while we were debating health care reform on the Senate floor, not once did anybody raise objection to the sort of market reforms that are included in this bill.

THE HEALTH CARE PROBLEM

And, I think we all recognize the huge scope of the problem.

Almost 40 million Americans have no health care insurance.

Approximately 12 million of those uninsured are children under the age of 21.

In my State of Connecticut, 300,000 people were uninsured in 1993.

That is 12.1 percent of the population, up from 9.7 percent in 1992. That's a 25 percent increase.

In fact according to a recent poll, 22 percent of Connecticut Residents who needed health care did not go to a doctor or receive health care services because it was either too expensive or simply inaccessible.

These are unacceptable statistics, and they make clear the need for reform.

JOB LOCK

And, throughout Connecticut and the Nation as a whole, millions of others live in fear that if they change their job, they will lose their health care as well.

Various surveys have found that as many as 30 percent of Americans report that either they or a family member suffer from job lock.

Too many Americans are being forced to stay at a job because they simply can not afford to lose their health care coverage.

But if this legislation passes, the provisions in this bill would relieve as

VOL
142
PT
6
AP
15
—
24
1996
UMI

many as 3 to 4 million Americans from the burden of job lock.

KASSEBAUM-KENNEDY IS A GOOD FIRST STEP

While I think that even my colleagues Senator KENNEDY and Senator KASSEBAUM would agree that this bill will not solve every problem with America's health care system, it is a crucial step in the right direction.

The Kassebaum-Kennedy bill would limit exclusions for pre-existing conditions.

It would allow small businesses to form purchasing alliances, which would be a difference for the 30 percent of employees at firms with 10 or less workers who do not have health insurance.

And most important it would guarantee to every American worker that if you change your job, you will not lose your health insurance.

The GAO estimates that 25 million Americans would be helped by this legislation.

These are common sense reforms and I believe that is one of the main reasons this bill is receiving huge bipartisan support.

The Kassebaum-Kennedy bill not only has more than 60 cosponsors, of which I am one, but it also passed our committee unanimously.

CLEAN BILL

With this clear level of bipartisan support it is hard for me to understand why many of my colleagues are insisting on offering amendments to this bill, that they know will make it impossible for it to pass.

Unfortunately, over the past few years it has become increasingly difficult for this body to reach compromise on any issue.

I think all my colleagues, from both sides of the aisle, bemoan this lack of bipartisan agreement.

And today we have a bill with over 60 cosponsors, with wide bipartisan support and with endorsement from much of the health insurance industry and yet several of my colleagues stubbornly insist that we allow amendments to be tacked on to this bill.

In particular, the insistence of some of my colleagues to add medical savings accounts, or MSA's, to this bill threatens the enactment of any health reform measure this year.

We all have provisions we would like to see included in this legislation. I, for one, would like to see greater health care coverage for our Nation's children.

But, this is not the time to be focusing on our individual projects, particularly at the expense of genuine reforms that we can all agree upon.

Today, we have the opportunity to help 25 million Americans with the Kassebaum-Kennedy bill and applying MSA's or any other provision to this bill will only undermine that effort.

The Kassebaum-Kennedy bill truly represents common sense, effective reform.

These are reforms that will spare millions of Americans the pain and suffering of losing their health care or being denied coverage because of preexisting conditions.

Today, we have a historic opportunity to make a real difference in the lives of millions of Americans.

As I do not need to remind most of you, cynicism toward Congress runs rampant in this Nation.

Too often the American people look to Washington and they shake their head at the partisan political games we play.

In the last two elections they have demanded that we start working together, Democrats and Republicans, and pass legislation that makes a real difference in their lives.

And I believe that if we polled the American people and asked them: Should Congress remove preexisting conditions in the health insurance industry?

Should Congress make health insurance more portable?

Should Congress guarantee that if you lose your job you do not lose your health insurance?

I think, the vast majority of the American people would respond with a resounding yes.

So today, let us uphold our responsibility to the American people and pass these sensible and commonsense reform measures.

Madam President, I ask unanimous consent to have printed in the RECORD a letter dated today from Cecil E. Roberts, international President of the United Mine Workers of America.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED MINE WORKERS OF AMERICA,
Washington, DC, April 18, 1996.

Senator BOB DOLE,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOLE: In recent days, certain special interest groups have wrongly portrayed members of the United Mine Workers of America as recipients of Medical Savings Account akin to those that would become more widely available under an amendment you are slated to offer to S. 1028.

The UMWA has been grossly misrepresented by these groups who have wrongly counted us as supporters in their effort to weaken the health care system through Medical Savings Accounts.

In recent collective bargaining agreements, we have negotiated a comprehensive health care plan for our members. Our members also receive a bonus and are responsible for pay equivalent deductibles under their medical plan. This plan is not an MSA.

Representing more than 200,000 working and retired coal miners and their dependents, the Mine Workers know that MSAs are not a panacea for the health care crisis. It would be unthinkable to leave such a group of people, many of whom suffer from injuries or disease brought on from working in the mines, dependent on MSAs for their health care coverage.

Sincerely,

CECIL E. ROBERTS,
International President.

Mr. DODD. Madam President, I commend our two colleagues. It has been a long ordeal, dealing with this very important piece of legislation. They deserve our universal acclaim for their efforts. It was a very good process in our committee. As the chairman of the committee, Senator KASSEBAUM, pointed out, this particular proposal was unanimously voted out of committee. To the credit of all of our members on the committee, Republicans and Democrats alike, we all have ideas that we would have liked to have incorporated in this legislation. But the agreement was that we would try and limit the bill to those areas where there was consensus, so that we could deal with the problems that 25 million Americans face today. With the passage of this legislation, and a Presidential signature, we would solve the problems immediately for 25 million Americans. It would immediately solve the problems they face with portability and preexisting conditions—not to mention some of the proposals in the leadership amendment, which the Senator from Kansas pointed out we all agree with and go back many years supporting.

We have a wonderful opportunity here. It has been almost since last August that this bill came out of committee. We are almost in May now, and the weeks are rolling by. Here is a chance to do something for 25 million Americans, without getting into a real disagreement and argument over a controversial proposal—the medical savings accounts.

Madam President, I would like to spend a few minutes on that particular subject matter. I will leave the remarks I have inserted in the RECORD that go to the general provisions in the bill, which have been discussed today at some length. I compliment my colleague from Kansas and my colleague from Massachusetts for doing a remarkably fine job in putting those provisions together.

I have inserted the letter from the United Mine Workers because there has been some discussion here on the floor that this was one organization that has a medical savings account. Without reading the entire letter, let me read paragraphs 2, 3, and 4 of the letter:

> The UMWA has been grossly misrepresented by these groups who have wrongly counted us as supporters in their effort to waken the health care system through Medical Savings Accounts.
>
> In recent collective bargaining agreements, we have negotiated a comprehensive health care plan for our members. Our members also receive a bonus and are responsible for paying equivalent deductibles under their medical plan. This plan is not an MSA.
>
> Representing more than 200,000 working and retired coal miners and their dependents, the Mine Workers know that MSAs are not a panacea for the health care crisis. It would be unthinkable to leave such a group of people, many of whom suffer from injuries or disease brought on from working in the mines, dependent on MSAs for their health care coverage.

I think that is important, since their names have been used as an example of

an organization with an MSA, and by implicit suggestion that they are supporters of MSA's. I voted twice for medical savings accounts, back when we considered the larger health care package. I am proud of those votes. I have no inherent objection to the idea of a medical savings account. But they need to be, as the Senator from Kansas suggested, in the context of a larger discussion of health care.

Whether you agreed or disagreed with the large health care proposal of a year or so ago, in that context, medical savings accounts make sense. In the absence of it, you are running the risk of leaving people aside who cannot afford to get into these programs.

It is very controversial, too. As many have pointed out, the major insurance groups and consumer groups, which rarely agree on these matters, all agree on this point—that this could create some real problems. They all agree that this would segment and undermine the insurance market. They would divide the health care system and cater to the healthier and wealthier people at the expense of those with financial constraints, leaving those in traditional plans to pay a higher price tag on health care costs, as their risk pool shrinks and as the percentage of individuals with serious health conditions increases.

They point out that according to the Joint Committee on Taxation, it would cost taxpayers about $1.8 billion.

Again, I am not talking about one group versus another. The insurance industry, consumer groups, the Blues, are not saying that they are totally opposed to this, but that in this context, it does not make a great deal of sense.

I also point out there have been some studies done on the medical savings accounts. According to the Congressional Budget Office, medical savings accounts could threaten the existence of standard health insurance, placing a far greater burden on lower-income patients, individuals with chronic ailments, and patients with disabilities, who have larger out-of-pocket expenses. The Blue Cross and Blue Shield of Ohio, as the Senator from Kansas pointed out, says, "MSA's would bankrupt our current system of financing health care and significantly add to the cost of medical care." That is their language, not mine.

The American Academy of Actuaries said, "Less healthy individuals will likely pay more for their coverage, since the most healthy and highest persons in the group are likely to select MSA programs." That is not the Senator from Connecticut, or the Senator from Massachusetts, or the Senator from Kansas. That is the American Academy of Actuaries speaking.

We have a wonderful opportunity to deal with something we all agree on, in a bipartisan way. The current bill is bipartisan, as we have some 60 cosponsors. Why take on an MSA issue that is highly controversial with major private sector groups and consumer groups that are saying, "Please do not do this"? This is not the right suggestion at this hour. It jeopardizes what we could do for 25 million Americans, by eliminating the problem of portability and preexisting conditions, issues that we all agree on.

I do not know of anybody who stood up and suggested that we ought not to make those changes. We have the chance to do that in a bipartisan way. If you add the MSA's, given all the arguments raised by the private sector, consumer groups, and others, including the American Academy of Actuaries, and the Blues, who have looked at this issue carefully, then you do great damage and jeopardize what we can accomplish this afternoon by passing a good bill and showing the American public we care about their concerns and we are determined to see to it that they are addressed.

I strongly urge the adoption of the Kassebaum amendment to strike the MSA provisions, adopt the other provisions, and then adopt this overall piece of legislation.

I yield the floor.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator has 24½ minutes.

Mr. KENNEDY. I yield myself 10 minutes of our time.

Mr. President, our distinguished colleague and friend, Senator KASSEBAUM, has outlined, I think very effectively, the reasons why we should reject the part of Senator DOLE's proposal that deals with medical savings accounts. Senator KASSEBAUM has outlined the principal issues which are at stake—both the cost and the health implications of MSAs, and I am in total agreement. My friend and colleague from Connecticut has expanded on those thoughts in a very effective way.

I think many of the provisions that the majority leader has introduced are useful and, by and large, helpful. He brings focus on the need for long-term health care for the American people. If there is a part of our Social Security system that has been really left out over the period of the recent years, it has been the failure to deal effectively with long-term care for our parents, for neighbors, for friends, for communities, and for the American people. We are blessed and fortunate to have people living longer lives and more productive lives. That is an increasing phenomenon. The fragile elderly increasingly are an important concern before us. To be able to attend to their particular needs in a thoughtful way either through long-term care, through nursing homes, or through home care is immensely important. The idea that we have long-term care insurance included in this legislation, I think, is commendable.

The leader as well has identified additional areas—providing the deduction for the self-employed; the small businesses around this country, in rural towns and in cities as well, have a particular disadvantage in terms of the cost of health care for their employees. And certainly there is a strong justification for that provision.

I believe the provisions which apply as well in terms of terminal illnesses, to help those that have terminal illness, to give them at least some assistance in terms of the tax system, again, to give them some tax relief, is a commendable system.

So I hope at the time we have an opportunity to address those particular issues that we will find broad bipartisan support throughout the Senate on those measures. There may be a feature or two that we might discuss, but I commend the leader for bringing attention to that and for adding that particular measure.

Mr. President, I agree that those issues have been debated and discussed. There is broad understanding of them and broad support for them, and we are certainly justified in accepting those. But the issue in terms of the medical savings account is another matter entirely.

For the reasons that have been outlined, the overall Kassebaum/Kennedy legislation has broad support. Senator KASSEBAUM and I are in agreement that we will resist amendments that do not have the overwhelming support of the Members. There are many different provisions that I would like to see which I think have been tried and tested and for which there is a very important need.

My good friend from Vermont has talked about lifting the lifetime limits in terms of health insurance because many of those that have serious disabilities run up against the top limits in their health insurance. I would like to support that measure. Senator JEFFORDS spoke passionately about it, and he believes in it, and I look forward to working very closely with him on a different health care proposal. I am convinced that we will pass that proposal here in the U.S. Senate and the House of Representatives.

I agree with my friend, Senator DOMENICI from New Mexico, who is one of the real leaders in this body in terms of mental health issues. During the course of the debate the last time we addressed the comprehensive issues of health reform, one of the real important features that we effectively worked out was that we were going to consider the challenges of mental illness as well as physical illness similarly and treat them equitably. They are not treated equally under current law. I have supported that. We debated it. There is broad support for it. It is

VOL 142 PT 6 AP 15 — 24 1996 UMI

justified as a health improvement measure.

I support mandatory preventive services for children. That has been an issue where there has been broad support. It passed overwhelmingly in the Finance Committee as part of our previous discussions. There is strong justification for providing the range of services—immunizations, preventive, screening, and attention for children in our society. It is not costly. We have the expenditures for that proposal. Out of the list that is included in here, we certainly could have worked on that measure. There is broad support. But we have resisted that. Why? Because, as has been pointed out before, the range of different supporters that we have been able to gather for this measure—we have said that on this issue, on this bill, we will not accept provisions which are going to be untested, untried, and controversial in terms of their health implications and their cost implications.

There is not a lot of difference in this body—Republican and Democrat—about providing preventive health care services for children. There is not a lot of difference in this body in trying to equate mental health with other physical challenges. There is not a lot of difference I say in raising lifetime limits.

Those are measures that I feel strongly about and that I would like to support, but we do not have those measures up here. The reason we do not have them up here is because we have an understanding; we have an agreement that we are going to keep this legislation as close to the target as we possibly can in trying to deal with the problems of preexisting conditions so that individuals who are working and are playing by the rules of the game and are paying their premiums are going to be able, if they lose their job or change their job, to take their insurance with them. We are going to provide the incentives in terms of small business so that they can pull together and develop the economic advantages that the major corporations have. We have agreed to move in that area.

Now we have medical savings accounts. I have myself serious problems with that issue. Others have expressed support. The question should not be so much how we stand on these particular issues, but I want to just express very briefly my very serious concerns about it. But, nonetheless, it is highly divisive, highly controversial, and highly unacceptable. I think all of us understand that if this measure is included in the proposal, school is out—school is out in terms of amendments; school is out in terms of what may be added or what may be subtracted; school is out in terms of the focus and attention on a very important proposal that has the broad support and the unanimous support of Republicans and Democrats out of our committee.

So I hope that the proposal of Senator KASSEBAUM to strike this provision will be acceptable.

Let me mention briefly why I am opposed and others are opposed to medical savings accounts. First of all, over 10 years this is $3.2 billion. It is going to cost $3.2 billion. The fact of the matter is, we have to ask ourselves: Are we going to raise the deficit by $3.2 billion when many of us were around here trying to increase education programs, trying to even increase the various programs on Head Start? We were told we did not have the money when we tried to expand support for education on the Goals 2000, increasing academic achievement. We do not have that money. When we were out here trying to do something about increasing child care, we did not have the money. Now suddenly we have $3.2 billion. That is the cost, $3.2 billion.

So we have to ask ourselves: Well, $3.2 billion, who is going to benefit from the $3.2 billion? Is this going to be something that is going to be across the board in terms of beneficiaries? We can start right out and say, as the Joint Tax Committee has pointed out, no one whose income is below $20,000 will benefit one nickel—not one. Only one percent of all the benefits from the MSA proposal, will go to individuals who earn less than $30,000—only 1 percent of the benefits. Ninety-seven percent of the benefits will go only to people above the median family income in this country—only 3 percent of the benefits from MSAs will go to those below the median family income.

Who benefits from this? Who benefits are the wealthiest individuals. Sound familiar? Sound familiar? The higher income individuals are the ones that will be participating in this program.

So we ask ourselves at the beginning: Can we afford the $3.2 billion? If we get it, not according to my estimates, not by the various actuary and other groups, but by the Joint Tax Committee, Republican and Democrat alike, it has been pointed out that the great majority of Americans will not be eligible.

And why? It is quite understandable. They do not have the income to pay the deductibles for the MSA's. So therefore it does not do them any good. In order to be able to benefit from an MSA, an individual has to be able to afford the deductibles, and ordinary working Americans simply will not be able to do that; they won't be making enough money.

Second, we can ask, what is going to be the impact on our whole health care system? Well, the various reports that we have received—and we will have a chance perhaps to get into them in greater detail—demonstrate that what is going to happen in this situation is that the younger people and the wealthier people are going to take this opportunity to participate in the MSA's. They are going to take the opportunity. Why? Because they know they are not going to need to spend up to $3,000 for a sickness over the period of that next year. That is the deductible, $3,000. They know that by and large they are not going to get sick during that period of time. So they are not really at risk. They know they only need help if something serious is going to happen to them.

So the healthy and the individuals who have the resources are going to be the ones who use those MSA's. What about everyone else? Are they going to use it? Probably not. Because they know they are going to have deductibles and they know that they are going to have particular health care needs like every family has.

And the health implications of this are profound. It means that the general insurance pools are going to continue to include the sicker people, and the premiums are going to go up for everyone because they are going to have the sicker Americans and they are going to have the working Americans who can't afford the MSA's. And what is going to happen, the premiums are going to go up and therefore workers are going to begin to disband their commitment to health care for themselves because the costs are going up.

We have to ask ourselves: Does this really have an advantage in terms of savings? Is this a new process of delivering health care that many of us had hoped the HMO's would be? We hoped that by having the payment for health care at the beginning of the year and the incentives on the various kinds of HMO's to develop preventive programs that they would keep people healthier so they save money through prevention. But with MSA's, this won't happen.

To the contrary, every time a woman goes and gets a mammography test, they are going to have to pay out. Is that covered by your health insurance? No. Because you are not up to $3,000. Every time a woman gets a pap smear, she has to pay out. Is that going to be offset by health insurance? Absolutely not. They are going to have to pay out. All the screening for children, for the sons and daughters of working families, are they going to be encouraged to go to preventive health care? Absolutely not, because they are going to have to pay out.

Finally, make no mistakes—medical savings accounts are also part of the long-term Republican anti-Medicare agenda. Every senior citizen and every Senator who cares about Medicare should be aware of this Trojan horse. The special interests who are urging this provision now are part of the ongoing effort to undermine Medicare by turning it over to the private insurance

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industry. If we open the door to medical savings accounts for the non-elderly today, we will be opening the door to medical savings accounts for the elderly tomorrow and that is not a step Congress should take.

So, Mr. President, in summary, this proposal is skewed financially. The financial benefit goes to the wealthiest individuals and to the healthiest people. It is poor health policy because it is going to disadvantage the incentives in the areas where you can provide true savings on health care, and that is going about the business of providing preventive health care.

One of the extraordinary ironies in terms of our budget policy here is you do not get any credit in terms of CBO when you move towards preventive care. Even though you save the Government millions and millions of dollars over the period of years, you cannot get credit for any kind of preventive care. That is where savings come about—when you immunize children, when you give well-baby care, when you give an expectant mother good kinds of care and nutrition so the child is going to be healthy rather than have medical complications at birth.

This vote is not just about medical savings accounts. It is also about whether Americans will get the genuine health insurance reform they deserve. Senator KASSEBAUM and I have pledged that we will resist controversial amendments, because they will kill this bill. We intend to vote against even controversial amendments that we support. Many other Senators on both sides of the aisle have made the same pledge. This vote is the test. If Senators insist on their narrow agenda, this health reform will die.

This is an unwise, untested, unjustified measure. It is effectively a poison pill. There are many other, more deserving health care issues that we ought to be accepting or addressing ourselves to that are a lot less costly than this particular measure, and I hope that Senator KASSEBAUM's amendment is accepted.

I would be glad to yield 12 minutes——

Mr. NICKLES addressed the Chair.

Mr. KENNEDY. Twelve minutes to the Senator, 12 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Massachusetts controls 10 minutes.

Mr. KENNEDY. Twelve minutes to the Senator from West Virginia.

The PRESIDING OFFICER. Does the Senator from Oklahoma have an inquiry?

Mr. NICKLES. Mr. President, I believe that both the Senator from Delaware and the Senator from Massachusetts have control of the time, and I also think the Chair has usually recognized Senators seeking recognition, and then the Senators delegate how they allocate that time, I think is the normal procedure.

Mrs. KASSEBAUM. Mr. President, not to intervene here, but I would suggest that I think the Senator from Oklahoma has been waiting quite some time to speak. And while I am not in charge of the time at this point, it would seem to me best to let that back-and-forth proceed.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I yield 10 minutes of the leader's time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for up to 10 minutes.

Mr. NICKLES. Mr. President, I thank you. I thank my colleague from West Virginia. I will be happy to accommodate my friend as well. I think it would be better if we go back and forth a little bit, if that is possible. I say to my colleague from Massachusetts, that was my interest because my colleague from Massachusetts has generated a little interest in me to respond.

I also compliment the Senator from Massachusetts and the Senator from Kansas for their work, but particularly I wish to compliment the Senator from Delaware and the Senator from Kansas, the majority leader, for this amendment. This amendment is probably the most significant health care provision that the Senate has considered in a long time.

I have heard a lot of people say we want to make insurance more portable; we want to make insurance more affordable. If you do, then we need to support Senator DOLE and Senator ROTH's amendment. That would include some tax equalization. The Tax Code is really skewed. It is really inequitable. It is not fair.

Let me just give you a couple of examples. The amendment that we have dealing both with the medical savings account and deductibility for self-insured help fix the problem—not totally, but they certainly improve it.

The Tax Code right now discriminates against people who do not work for generous employers. If you work for a generous employer, they can pay for your health care benefits and the individual can receive that tax free benefit, does not have to pay anything for it. It is nice. If you work for General Motors, they can deduct 100 percent for health care costs.

What if you do not work for a generous employer? What if you work for an employer who maybe cannot afford it or does not subsidize your health care? Then as an individual you have to pay for your health care with after-tax dollars. That is not fair.

What if you are self-employed? Right now, if you pay for your health care, you get a 30-percent deduction. Let me make sure everybody understands that. If you work for General Motors or a generous corporation, they get a 100-percent deduction, the company does. If you are self-employed, you get a 30-percent deduction.

That is not right. I used to run a manufacturing company, and at one time we paid 100 percent of health care costs. It was all deductible, a tax-free benefit for employees. I also used to be self-employed. Right now, they get 30 percent. I used to have a janitor service when I was self-employed. They only get 30 percent. But a big manufacturing company or a little manufacturing company, a corporation, they get 100 percent.

Now, what is right about that? That makes no sense, no sense whatsoever. This bill is going to help fix this.

What about an individual who maybe does not work, is unemployed. They need health care just as much as anybody else. This bill helps fix that. And the Senator from Massachusetts does not want to allow it to happen. He said, well, school is out if we allow medical savings accounts. Medical savings accounts are the only thing, the only thing, that will benefit somebody who does not have a job and wants to get health care. We do not help them in other areas. We are going to help them. We are going to say, yes, you can get health care; you can have your medical savings account; it is yours; it is portable; you do not have to have a job; it goes with you. It is not contingent on a job.

We use the Tax Code to encourage homeownership and so we say, you are entitled to an interest deduction on your home. And we do not say you have to have a job to get the interest deduction; it is yours; you designed the house, or you can buy the house. That is your decision, and it is your deduction. We do the same thing for other things. You make that decision. But we do not do it on health care. We say, well, you have to work for a generous employer. You get a real nice benefit. You work for yourself, you only get a third as much. You get a 30-percent deduction.

This bill takes it up to 80 percent for self-employed. And that is about what the average of a lot of companies is. So that is pretty equitable. It takes some time to get there, I might mention. We do not do it overnight. But at least it gets it up to 80 percent. That is a good move.

I compliment Senator DOLE. When we passed this originally in the Balanced Budget Act, it only went to 50 percent and Senator DOLE said, "Let's make it 80 percent." He was right. That is equitable, and that means that Don NICKLES' janitor service gets just about as good a deal as a manufacturing company in 7 years.

That is a good provision. It needs to pass. But equally as important is that individual who does not have a job or

VOL
142
PT
6
AP
15
—
24
1996
UMI

that individual who is unemployed or that individual who works for an employer that does not give anything to their health care. Right now, they have to buy their health care with after-tax dollars. And they need health care as much as somebody working for any company in America. Let us help them. Medical savings accounts will help them, and they are not something untested and untried, as my colleague from Massachusetts said. We have something like 3,000 firms right now offering those.

Seventeen States now have MSA laws, an additional 11 States have called on Congress to enact MSA legislation. We ought to do it. Everybody ought to have the opportunity to have this choice. We are not mandating it on anybody, but it should be a choice. They should have the opportunity.

What is the choice? Yes, they can buy insurance, I think pretty good insurance. They can buy insurance that is for the catastrophic illness. We say a medical savings account is very comparable to an Individual Retirement Account. Individuals can put in $2,000, families or couples can put in $4,000, and then use it for medical expenses. They have to buy at least catastrophic coverage, to cover the really expensive care. That makes sense.

We are encouraging this with medical savings accounts. A lot of the private sector is doing the same thing. In our company we used to ensure the first dollar coverage on anything. That is very expensive and it is not what insurance is for. When you buy car insurance you do not buy car insurance to fill the car up with gasoline or fill it up with oil. You buy car insurance for collision or something that is really expensive that you need insurance for. That also makes sense in the medical field, to let people use their own dollars for the small things, the routine things, the doctor's office visit. And they will use their own money. If they do not use it they can save it. It is not use it or lose it. They can save it, accumulate it. We encourage savings and they can use that money later for something that really is serious, that is problematic. Or they can use it for long-term health care.

This is a good provision. This will help countless middle-income families. Mr. President, 88 percent of the benefit falls to individuals who make less than $100,000. It is not for wealthy people, it is for American families and it will help people who get no help whatsoever from the present Tax Code. If we want to eliminate a lot of this tax inequity, medical savings accounts will go a long way to doing that. Let us give them some benefit. Right now they get zero. An individual who is unemployed, an individual who works for a corporation that does not subsidize his or her health care, they get zero tax benefits. Finally, if we pass this they will get something and to me that is a very positive contribution.

So I urge my colleagues, let us not make this a partisan issue. I know Senator BREAUX introduced a MSA bill in 1992. Senator DASCHLE, Senator NUNN, Senator BOREN, Senator Dixon—they cosponsored the bill. Representative GEPHARDT, in 1994—almost all Members but one of the Democrat Party on Ways and Means supported Mr. GEPHARDT's provision that had medical savings accounts. So why all of a sudden are we being partisan? This is a good provision. It is a bipartisan provision. It should be passed.

We should help individuals. We are not helping individuals. We should make insurance truly portable and we do that with medical savings accounts. It is not contingent on a job. If they lose their jobs they still have their medical savings account. It is portable. It stays with them. It is not contingent on employment. It is a good provision. So I am very disappointed in some of the comments that have been made.

This is a good provision. It will make health care more portable. It is the most portable health care plan you can have. It goes with the individuals. It is theirs. If they save the money and they do not spend it, it grows, it accumulates. They can use it for later times.

Also, it makes it more affordable. People are a lot more frugal with their own money than they are with employer money or than they are with Government money.

Mr. President, I urge my colleagues to pass the medical savings account provision, to vote against the amendment to delete this provision, and then also to pass the underlying Dole-Roth amendment. It is an excellent amendment that will help expand coverage to countless Americans that right now, because of inequities in the Tax Code, really come up short.

Again, I thank my colleague from Delaware for his leadership. And also Senator DOLE for proposing this amendment. I hope my colleagues will agree to it.

Mr. ROTH. Before we conclude action on the measure before us, I want to specially commend the Senator from Kentucky, Senator MCCONNELL, for his invaluable contribution to this effort. His introduction of S. 1658, the Family Choice in Long-Term Care Act, along with his behind-the-scenes advocacy on this issue, has made the difference in getting long-term care on the must-do list of health care reforms. Senator MCCONNELL has shown tremendous concern for the long-term care needs of elderly Americans and their families, and he has played a key role in proposing common sense and compassionate solutions to the problem. We all know how some people just talk about an issue; the junior Senator from Kentucky works issues, and the legislation before us reflects the work that Senator MCCONNELL has devoted to this crucial health care concern.

Mr. MCCONNELL. Let me thank the chairman for his generous remarks and for his tremendous work on this legislation. The need to provide meaningful long-term care coverage cannot be overstated. It is estimated that at least 40 percent of those aged 65 and over will require nursing home care at some point, costing an average of $38,000 per year. As the chairman knows, this poses a terrible Hobson's choice for most seniors and their families. Many seniors are forced to liquidate their life savings and sell off family heirlooms just to pay for this expensive care, and only when they have depleted nearly all of their assets will Medicaid pick up the tab. Because of the massive costs involved, private insurance has thus far played a negligible role in the financing of long-term care, accounting for less than 2 percent of long-term care payouts. The dearth of private planning options for long-term care is also having a devastating impact on strained State Medicaid budgets. Long-term care costs are draining away Medicaid resources that are needed to provide health care for indigent and disabled Americans. We cannot continue to rob Peter to pay Paul much longer. America's elderly population is expected to increase by almost 25 percent between 1993 and 2011, and this will place an unbearable burden on the Medicaid Program unless decisive action is taken. This bill provides essential private financing options for long-term care, and takes a positive step toward meeting the long-term care needs of future generations of Americans. Again, I want to thank the chairman for addressing this issue in his amendment, and look forward to having it signed into law.

Mr. SANTORUM. Mr. President, I wanted to take some time to discuss a specific provision included in the majority leader's amendment.

I have had the pleasure of working with the long term care industry in Pennsylvania during my service in Congress. I am extremely pleased that the leadership amendment included long-term-care provisions which will fill a void in the security of older Americans. I wrote my Senate colleagues this past week as well as the majority leader directly urging the inclusion of the long-term-care language. The long-term-care section will improve this bill by giving long-term-care insurance the same Federal tax treatment as health insurance and by establishing Federal long-term-care insurance standards and consumer protections.

The cost of long-term care is easily the biggest financial threat facing elderly Americans. The average cost of nursing home care has risen to $38,000 per year. We also know that more than 40 percent of those who turn 65 this

year will require nursing facility care at some point in their lives. Medicaid does pay for nursing home care, but only after the costs of long-term care makes the recipient destitute. Basically, people in need of long-term-care services must pay for the care out of pocket until they spend down all their assets to the point of poverty. Then and only then do they qualify for Medicaid.

The real crime here is that people do not know that they will have to lose all their assets to obtain long-term-care services. They think Medicare covers it.

Even after 30 years of Medicare, many Americans remain confused regarding what Medicare does and does not cover—particularly regarding long-term care. Year after year, public surveys show that nearly half of Americans believe that Medicare covers long-term care. Because of this misconception, many Americans come to a rude awakening when they need long-term care for which they have not prepared. Helping individuals and families understand the limits on Government long-term-care assistance and giving them incentive to prepare for their needs will encourage more Americans to plan for, save for, and insure against the costs of long-term care.

We currently allow acute health care expenses and insurance premiums to be deducted. State laws require car insurance, home or flood insurance, and other protections for individuals and families. Yet we do not require, much less encourage, people to plan for something that more than likely will impact them—the need for long-term-care services.

The language in the leadership amendment would correct this. Specifically, the provisions will give long-term-care insurance the same Federal tax treatment as health insurance and link tax provisions to Federal long-term-care insurance consumer protections. This second part is so important because it ensures that policies offer value to consumers and pay appropriately and adequately for quality long-term care when needed.

Not only would greater use of long-term-care insurance help protect individuals and families from impoverishment due to long-term-care costs, but it would also help control Medicaid costs. Mr. President, in the long run this will save money for the Medicaid program.

In a 1994 article in Health Affairs, Marc Cohen, Nanda Kumar, and Stanley Wallack estimated that having a long-term-care insurance policy reduces the probability of spending down to Medicaid eligibility levels by some 39 percent. The authors estimate that, in the aggregate, Medicaid expenditures would be reduced by $8,000 to $15,000 for every nursing home entrant who had a long-term-care insurance policy. According to the analysis, this translates into cutting what Medicaid pays per nursing home entrant in half for long-term-care policy purchasers. It is in our best interest to encourage people who can meet their long-term-care needs to do so. Medicaid will then take care of truly needy individuals.

The majority leader's amendment assists America's elderly and their families with long-term care by putting policies in place that help assure the affordability and value of long-term-care insurance. Giving Americans tax incentives to insure against the potential costs of long-term care will also save Medicaid dollars in the long run. Since we cannot continue to rely so heavily on scarce Government dollars to pay for long-term care, individuals and families should be encouraged to plan for, save for, and insure against the potential long-term-care costs. I urge my colleagues to vote for this amendment and to support this specific language.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that there be 10 additional minutes for debate, equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. I am sorry, I did not hear.

Mrs. KASSEBAUM. There will be 10 additional minutes added, equally divided.

Mr. ROTH. I ask whether, because we agreed to a very brief time, whether at least on our side we could have another 10 minutes, total of 15 minutes.

Mr. KENNEDY. I will give you my 5.

Mrs. KASSEBAUM. That gives you 10 minutes additional.

Mr. ROTH. Can I have 15?

Mrs. KASSEBAUM. I think maybe you better take it. A bird in the hand is worth two in the bush.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 14 minutes and 55 seconds.

Mr. KENNEDY. I yield 10 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for up to 10 minutes.

Mr. ROCKEFELLER. Mr. President, I agree with the Senator from Oklahoma that this could be the most significant health care legislation that we have passed in a long time, which is why I think it is terribly important that we pass it. What has been made very clear, very distinct throughout this discussion, is that we are in an argument now on MSA. We have not been in an argument on anything else. We are in an argument on MSA. The agreement, from the very beginning, was to take the controversial stuff out; leave that for now, and do it later. It will probably pass on its own, but now is not the time.

To back that up, I have a letter from the NFIB. This NFIB letter, signed by Dan Danner, says, "The NFIB opposes the adoption of any amendment to S. 1028 which would draw a Presidential veto or cause the bill to be defeated in the Senate."

I repeat the statement of administration policy from the White House, in which they indicated, as their first priority, that for the bill to include medical savings accounts would, as they say, "create grave risks to the passage and enactment of this bipartisan legislation." I think those who are pushing the MSA, for whatever the various interesting reasons that have floated around here for the past several days, ought to bear very carefully in mind that they are putting the entire bill in jeopardy. If the amendment passes with MSA's, as the Senator from Massachusetts said, "school is out." Everything else comes in. The bill is down. The bill is gone. An opportunity is finished.

I hope people will take moral responsibility in considering the decision which they are making. In fact, every single serious health policy analyst—and you can laugh at them, except when you realize they are just about the whole gamut—they all say that giving a tax break for medical savings accounts is a very bad idea. I repeat—it is a very bad idea. Medical savings accounts, they say, would cherry pick the healthy people —yes—and drive up health care costs for the sick—yes. Medical savings accounts would further destabilize an already seriously fragmented insurance risk pool. And of course we understand what that means.

The insurance risk pool gets fragmented when companies self-insure; many big companies do that now. They did not 25 years ago. That puts more pressure on the small business market where you have individual insurance. It is a very, very risky business in any event, without thrusting MSA into it.

Another thought worries me. The Republicans put MSA's into reconciliation, with respect to Medicare. CBO has determined that only about 1 or 2 percent of Medicare beneficiaries would, in fact, select a medical savings account. But let there be no doubt in the mind of anyone here that what is hoped is that the MSA's would spread, indeed, to the whole concept of Medicare. This should represent to every one of my colleagues a very severe threat to the future of Medicare. That,

VOL 142 PT 6 AP 15 — 24 1996 UMI

I think, is what is in mind here. Furthermore, CBO concluded that healthy seniors would opt in and out of traditional Medicare based on whether they thought they would be using health services in that particular year. In other words, there would be no predictable pattern.

Lewin-VHI, a well respected consulting firm, concluded that "An optional health coverage program that promises potential cash benefits to persons who are able to keep their health spending low will experience extreme selection bias."

The American Academy of Actuaries has also been quoted. This is an interesting quote from them. "Those who have little or no health care expenditures. . .would save money on MSA's. The greatest losses will be for those employees with substantial health care expenditures. Those with high expenditures are primarily older employees and pregnant women.

A report from the Congressional Research Office, written by the nonpartisan folks there says, "If MSA's only attracted the healthy, the cost of insurance for everyone else would increase due to adverse selection."

The Kaiser Family Foundation has concluded that, "Enrollees who leave the traditional Medicare plan would be healthier on average than those who remain in the traditional plan."

Again, notice that threat—the Medicare beneficiaries lost to MSA's would be healthier on average than those who remain in the traditional plan."

That foreshadows an ominous future for Medicare. And you have this broad, broad coalition that is saying exactly the same thing.

Mr. President, I do not think it is any secret that there have been special interests working very hard on this in the last several days, and those who are in the process of making up their mind at this point, I think, might consider that there is really one group that is especially interested in this particular medical savings account activity. Their president was working the entire Capitol yesterday and saw a number of people. In exchange, they are hoping to win approval of a special tax break that they hope will throw millions of dollars in new insurance business their way. Is that a crude thing to say? I do not know. I think it is a major part of this debate, and I think it is a major part of the reason that we are in a debate we should not be in at all. Debate on this bill was to be based on the clear premise that we agree that controversial stuff should be left out—so we can take, as the Senator from Oklahoma said, 25 million kids and adults and improve their lives substantially, in terms of health care.

This is a bill which enjoys strong bipartisan support. MSA's do not enjoy strong bipartisan support. I have to conclude that the vote on this will be very close, and I hope as people vote, they will consider the pressures which have been brought, particularly by one single company, on Members on both sides of the House and the Senate.

Are we really going to do their bidding, or are we going to help 25 million people in this country when we have a historic chance to do it? I think the answer is easy. I hope my colleagues will move to strike the MSA provision. I thank the Presiding Officer.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 4 minutes to Senator FAIRCLOTH.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for up to 4 minutes.

Mr. FAIRCLOTH. Thank you, Mr. President.

Mr. President, what a difference 2 years makes. All of us remember that at this time 2 years ago, the Clinton administration was struggling to keep afloat their Health Security Act—the Clinton plan for a nationalized health care system.

In case anyone's memory needs refreshing, I have reproduced the chart that Senator SPECTER used to illustrate the workings of the Clinton plan. Once Members of Congress and the American people saw what was behind the President's rhetoric, nothing could save the Clinton plan. Once the American people realized that the Clinton plan was a big-government power grab on the most enormous scale ever attempted in this country, they rejected it.

Mr. President, in contrast, the general philosophy of Republicans in Congress supports health care reform that benefits and empowers Americans and their families on an individual scale. As these charts illustrate, this philosophy is about improvements for individuals, not big government.

On my chart, I have included four principles: affordability, availability, flexibility, and portability. In the bill we are now debating, Senator KASSEBAUM has done a fine job of addressing two of these principles. In the provisions for insurance reform and for insurance purchasing pools, Senator KASSEBAUM'S bill takes important steps to improve the availability and portability of health care coverage.

It is my strong and sincere hope that we can further improve this legislation by amending it to include provisions that enhance the flexibility and affordability of health care coverage for all Americans on an individual basis. The provisions I have in mind include those that I have placed on my chart: medical malpractice reform, increased deductibility of insurance for self-employed individuals, and medical savings accounts.

The majority of uninsured Americans are adults who work full-time jobs, usually in small businesses. Measures like more favorable rules for the formation of voluntary purchasing pools, increased deductions for health care expenses, medical malpractice reform, and medical savings accounts would give small employers more options at lower costs to help them offer the health coverage they currently cannot afford. Under these proposals the decisionmaking will remain where it belongs, with individuals and their employers.

To reduce the number of uninsured Americans, President Clinton proposed an employer mandate that would have required all businesses to cover their employees with a Cadillac plan designed in Washington. The result of this policy would have been hundreds of thousands of lost jobs, and hundreds of billions of dollars in increased costs for businesses.

President Clinton also proposed that his nationalized health care system would have been run by a system of health alliances. Through a complex system of cost controls and rationing, the bureaucrats who ran these alliances would have decided what Americans spent health care dollars on, and how much they spent individually and collectively. If medical savings accounts were available to Americans, any individuals who chose them would gain full control of their own health care decisions.

As chairman of the Labor Committee, Senator KASSEBAUM has done a commendable job of advancing the difficult issue of health insurance reform within the jurisdiction of her committee. But, medical savings accounts fall within the jurisdiction of the Finance Committee.

Mr. President, the rules of the Senate should not deprive the American people of the most meaningful free-market health care reform measure that we could give them.

Perhaps the most important debate that we can have is a debate on medical savings accounts. It is unfortunate that the administration has already tried to poison this debate by threatening to veto a health care reform bill that contains them. Their accusation is that anyone who wants to include medical savings accounts wants to kill the Kassebaum bill. That simply is not true. The truth is the President knows that if medical savings accounts become law, they will drive the final nails in the coffin of the Clinton plan, and bury his dream of nationalized health care.

Once individual Americans have the power to control how their own health care dollars are spent, they will never allow the Government to take that power back.

In his last State of the Union Address the President stated that "the era of big-government is over." I wonder if he really meant it, or if he was just echoing a decision already made by the voters in the last elections. Regardless, the decision has been made. We should pass health care reform that ensures that the power to make health care decisions is placed in the hands of individual Americans, not big-government. That means health care reform that includes medical savings accounts.

I applaud the decision of Chairman ROTH and the majority leader to bring an amendment to the floor that contains medical savings accounts. Just as he has done so many times in the past Senator DOLE has shown the leadership necessary to make the difficult decisions, and push aside the administration's rhetoric.

Mr. President, there are very different goals involved in this debate. Our goal should be health care reform based on improvements for individuals, not health care reform based on big-government solutions.

I plan to strongly support the Dole-Roth amendment, and I urge my colleagues to do the same.

Thank you Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FAIRCLOTH. I plan to support the Dole amendment and urge my colleagues to do the same.

Mr. ROTH. I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. SANTORUM. Thank you, Mr. President. I appreciate that.

As I always like to say, I was one of the first Members of Congress in either the House or Senate to introduce a medical savings account bill. I introduced a bill with JOHN KASICH, TOM DELAY and John Miller, a former Member from Washington, back in January 1992. I have followed it for a long, long time prior to corporate lobbyists being up here on the Hill, and I believe very strongly in its concept.

Let me explain. I guess we had a lot of talk about what is going on here with this specific MSA bill. Let me explain the concept behind medical savings accounts and the fear many of us have with, the best way I can put it, the "corporatization" of the health care field and how we see medical savings account as, really, the last chance for patient choice and for compassion in an industry that is becoming more and more regulated by third parties in the fundamental relationship between doctors and patients.

If I can, let me just walk back to the system we had before managed care came into place. What we had was a doctor/patient relationship. That was the problem. There was nobody in this relationship who had any incentive to control costs. As a rule, costs escalated out of control. Why?

If you were the patient and had first-dollar coverage, who asked how much things cost? Who asked whether you needed one or two or five of these? You took whatever the doctor suggested and you did not pay for it, so why did you care?

So, on the other side is the doctor, and what is the doctor's incentive in this doctor/patient transaction? The more the doctor does, the more money he gets paid. The more the doctor does, the less chance the doctor gets sued. So you have a doctor who gets more money, with less chance of being sued, and you have a patient who does not pay for anything.

Then we sat back and wondered several years ago, gee, why are health care costs going up? It was very simple. There was nobody with any incentive to control costs. We understood that and companies understood that and insurance companies understood that, and they did a very logical thing. They brought someone in to control costs, the gatekeeper, the insurance company, who came in; and now they are governing the relationship between the doctor and patient. If you want something done, you go through the insurance company. You get approval, and it can be done. That is now the governor, the one who is in charge of this relationship.

What many of us believe is that that is not the most compassionate, and some would suggest that it may not result in the best quality of care. It certainly does not result in the maximization of patient choice. So what we have put forward is a concept called medical savings. I think it is really misnamed. I think we should call it "patient choice accounts," because that is what is left. If we do not do medical savings accounts, if we do not do patient choice accounts, the doctor-patient relationship which we know will disappear in America. It will disappear. It is disappearing, has disappeared, in a lot of communities already in this country.

We hear so much from so many people on both sides of the aisle about being compassionate, about caring for people, about doing things to give people choices and to give people the ability to do what is best for them and their families. What we have here is a situation going on in the private sector in America where that choice is going away. Private practice is almost a thing of the past in many communities and is growing more apparent in all States across this country.

What medical savings accounts do is provide a chance, an opportunity, for the traditional doctor-patient relationship to be restored where now the incentive is on the patient to be cost conscious. How? Because, instead of the old system where you had first-dollar coverage and the insurance company pays for everything, we are going to say, look, we are going to take a higher deductible policy like an auto insurance policy—we do not pay, as Senator NICKLES said, for gasoline or oil changes—but you pay for the incidental costs of health care, the day-to-day costs, and we insure you for the catastrophic illness or for a year where you had a lot of serious problems.

So you take a high-deductible policy and you pay for the out-of-pocket expense and you afford that because, when you take a higher deductible policy, the cost of that policy is less.

Senator CRAIG gave an example earlier where a policy with a $250 deductible and a $500 cap and a 20-percent copay cost $458 a month for a family. A $3,000 deductible policy, same coverages, no copay, costs two-thirds less, costs under $200 a month. Where did that savings go between the $200 and $450? It went into the pocket of the person who had the medical savings account.

It would go, under this bill, tax free into an account you set up at your bank. You get a little debit card. You could then use it to purchase health care. You could use it to make choices about what doctor you wanted to go to, what hospital, and how much you wanted to spend.

I always ask people, "Who are the lowest paid doctors in this country?" Well, they are pediatricians and family practitioners and dentists because they are not covered under insurance. Why? They have to charge people who pay out of pocket, so they have to keep their costs down. Just imagine if we did that to most of the health care sector in this country. It would be an enormous contraction, I believe, in costs in our society. It would not lead to higher costs in other areas, in other insurance pools. I think this is a dramatic step forward. This is the reason that I applaud Senator DOLE for fighting to the end because this is the kind of dramatic reform that this country needs to preserve freedom of choice for patients.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I yield 2 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for up to 2 minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

I appreciate the chairman's generosity in letting me talk on this very important issue. I wanted to speak on two points on the amendment. First, the deductibility for the self-employed is such an important step forward that the people who are self-employed will be encouraged to get health care coverage for themselves, and that is what we are trying to do here. It is what we have been trying to do for 2 years. To increase the tax deductibility for them to 80 percent from 30 percent is a big step in the right direction to encourage more people to get health care coverage.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The issue of medical savings accounts—"patient choice accounts" is a great name for it because it really will make a difference for so many people and so many small businesses in this country, giving them an opportunity they would not have had.

Senator KENNEDY's bill in 1994 had language saying that they hoped there would be medical savings accounts included in the health reform bill passed by the Senate. This is not a partisan issue. Congressman JACOBS and Congressman TORRICELLI today wrote the President of the United States asking him to support MSA's.

Let me give you some examples of companies that have benefited from MSA's, medical savings accounts, patient choice accounts.

Dominion Resources in Richmond, VA. Since 1989, the company's health care costs have risen less than 1 percent a year while other health care costs all over this country have risen over 10 percent. Here we are at 1 percent a year. Not only have their costs come down, but their employees are happy because they have had improved and expanded medical benefits under their medical savings accounts.

Knox Semiconductor in Rockport, ME. Their president says they have saved the company $100,000 over 3 years. That is with just 42 employees.

The National Center for Policy Analysis in Dallas, TX, has been on the leading edge of giving their employees the choices. They have been able to contain their health care costs, and their employees are happier with their coverage.

Mr. President, medical savings accounts are a key part of the reform that is necessary to give more health care coverage to more people, more working people, in our country. That is why it is important to keep this amendment, the medical savings account, in the bill. Thank you, Mr. President. I thank the chairman.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 4 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Delaware controls 2 minutes 30 seconds.

Mr. ROTH. With 1½ minutes of leader time, we have a total of 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized for 4 minutes.

Mr. GRASSLEY. Mr. President, the best thing we can do for health care reform is to let the marketplace operate to a greater extent in the delivery of health care. This issue is the most important one that faces us today. You know how strong our argument is from the weakness of the argument made by those on the other side of this question.

The other side's argument is that we should leave this medical savings account provision out of this bill because it happens to be controversial. Well, that is the strength of their argument: it is controversial in Washington, DC; that is, inside the beltway. Well, Mr. President, medical savings accounts are not controversial outside of Washington, DC.

The people who oppose this amendment are some of the same people who believe that Washington knows best, that Washington knows how to dictate the delivery of health care better than the people themselves do, particularly people at the grassroots. It seems to me a weak argument when the strongest argument against this legislation is that it is controversial. Since when is giving people more choice in health care controversial? That is what people want. That is what people know will work better. This is the usual big Government argument against any changes.

It is the argument in favor of big government versus letting the free marketplace work. It is the old in favor of big government making decisions for people, as opposed to letting people themselves make decisions.

Medical savings accounts give people choice. It is letting people control their resources for health care. Quite frankly, it is going to save us a lot of money and reduce health care costs.

I am very happy that the leadership puts forth this amendment, because allowing medical savings accounts is a step in the right direction. They are basically like IRA's, giving people an opportunity to save for their retirement. Medical savings accounts are giving people an opportunity to save for themselves and to control their resources for their own medical expenses.

There is a widespread use of medical savings accounts already in this country that speaks better than any of us can to their legitimacy and to their hope for success. They should reduce health care costs. Administrative costs are lower. Consumers with MSA's should use health care services in a more discriminating manner. Consumers with MSA's should be more selective in choosing providers. This should cause those providers to lower their prices to attract medical savings account holders as patients. Medical savings accounts can also help to put the patient back into the health care equation.

Patients should make more cost-conscious choices about routine health care. Patients with medical savings accounts would have complete choice of providers. Medical savings accounts should make health care coverage more dependable. Medical savings accounts are completely portable. Medical savings accounts are still the property of the individual, even if they can change jobs.

Hence, for those reasons, I support medical savings accounts. I very much thank the leadership for providing this amendment. I yield the floor.

Mr. DASCHLE. Mr. President, I know that we want to have a vote by 4 o'clock so I will divide the time remaining with the distinguished Senator from Delaware.

How much time remains?

The PRESIDING OFFICER. Six minutes and twenty-two seconds.

Mr. DASCHLE. I yield 3 minutes to our side and leave the Senator from Delaware the final 3 minutes.

Mr. President, given the very short period of time we have remaining, and the fact that all of the arguments have been made, let me simply summarize the case against including MSA's on this bill.

Two years ago we all agreed that comprehensive health care reform would not pass. In the last year and a half we have all agreed that we can only pass something which enjoys broad bipartisan support. It was with that understanding and with the remarkable leadership of the Chair of the Labor Committee, the distinguished Senator from Kansas, and the Senator from Massachusetts, we now have a bill that we all agree is the only health reform legislation that can pass this Congress with broad, bipartisan support. This narrowly drafted bill some of the most pressing health problems facing Americans.

Portability and coverage for preexisting conditions are two of the most important issues we face. So let there be no mistake, we have an opportunity today to pass something, but we also have an opportunity to kill that very bill with this MSA provision in this amendment. The NFIB clearly stated in a letter dated today, and they have said very clearly, "We oppose any amendment which will bring about a defeat of the legislation before us."

They recognize the importance of this moment. They recognize what an opportunity we have before us. We should not blow it. We should not kill this bill. Let us recognize there will be another day to have yet another debate about many other health care issues. But let us not destroy the golden opportunity we have today to pass meaningful legislation, by adding something as controversial as MSA's. We can do better than that. We will do better than that if we can, on a bipartisan basis, strike the MSA portion of the Dole amendment and pass this bill intact, as we know we can.

If we do that we can look back on this Congress with some satisfaction that we have done our best under these circumstances to address some of the real health care problems working Americans face.

I yield the floor.

Mr. ROTH. Mr. President, medical savings accounts are among the most important steps that must be taken to address this country's health care

needs, particularly the need for portability. MSA's are of such importance in our effort to address our health concerns that on September 8, 1992, several of my distinguished colleagues signed a letter calling for the introduction of MSA's as part of their bill.

Let me quote a portion of that letter:

> Unlike many standard third-party health care coverage plans, Medical Care Savings Accounts would give consumers an incentive to monitor spending carefully because to do otherwise would be wasting their "own" money. . . Once a Medical Savings Account is established for an employee, it is fully portable. Money in the account can be used to continue insurance while an employee is between jobs or on strike. Recent studies show that at least 50 percent of the uninsured are uninsured for four months or less. . . . Today, even commonly required small dollar deductibles (typically $250 to $500) create a hardship for the financially stressed individual or family seeking regular, preventative care services. With Medical Savings Accounts, however, that same individual or family would have this critical money in their account to pay for the needed services.

Mr. President, these are important arguments that were made for MSA's over 3 years ago. They are equally, if not more, important today. That letter was signed by Senators BREAUX, BOREN, DASCHLE, LUGAR, COATS, and NUNN, a formidable bipartisan coalition of Senators taking a necessary stand on a critical issue.

Mr. President, I have a copy of a letter received from the Vice President of the NFIB that makes it clear that they are supporting the MSA. This letter, dated today, April 18, 1996, to the Honorable DON NICKLES says, "Overall, NFIB members need health care reform. It has been a top priority for years. MSA's are among the provisions we have consistently supported. These also include portability, no preexisting condition exclusion, deductibility, and small business purchasing groups. We will continue to fight for all these provisions of importance to small business."

For these reasons, Mr. President, I urge my colleagues on both sides of the aisle to vote against the motion to strike. I yield the floor.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the KASSEBAUM amendment No. 3677.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] and the Senator from Colorado [Mr. CAMPBELL] are necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 72 Leg.]

YEAS—52

Akaka
Baucus
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NAYS—46

Abraham
Ashcroft
Bennett
Brown
Burns
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Campbell
Mack

So the amendment (No. 3677) was agreed to.

Mrs. KASSEBAUM. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAIG). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, we had hoped that we might have a vote on the Dole amendment, a rollcall vote here. I need to check with one Senator on this side. Is there any objection on the other side to having a vote at this time or not? Are you prepared?

Mr. DASCHLE. Yes.

Mr. DOLE. I would say with reference to the last vote, I think it was a close vote. As one of the conferees on the tax side, I think there will still be opportunities in conference. We wanted as many votes as we could have. We have one absentee so I think we have about 47 or 48 votes, which puts us in a strong position in the conference.

But, in any event, the outcome here may permit us to conclude action on this bill today, hopefully. I trust that is what the managers have in mind.

So, perhaps maybe Senator DORGAN might proceed at this time so we would not lose any time, if he wants to take his 15 minutes now while we are checking to see if we can go ahead and have the vote?

Mr. DORGAN. I say to the majority leader, if the majority leader wishes to proceed I will defer my time until after the vote. I do not need to intervene at this point. All I want to do is get the appropriate time following the vote.

Mr. BUMPERS. Will the majority leader yield for a question?

The PRESIDING OFFICER. The Senate is not in order.

Mr. DOLE. I will be happy to yield to the Senator.

Mr. BUMPERS. Mr. President, I wonder if it is too early for the majority leader to tell us if plans have been made for a session tomorrow and, if so, will votes be included tomorrow?

Mr. DOLE. If we can complete action on this bill tonight I do not anticipate any votes tomorrow. We will probably move to term limits, unless we could have some agreement. There would not be any votes.

I do not believe there are that many amendments left on this bill. So, as soon as I check with the Senator from Texas, we will be able to proceed.

Mr. COHEN. Will the Senator yield? I inquire whether or not he included the antifraud provision in his amendment?

Mr. DOLE. We included the Cohen antifraud provision, which I think will save $3 billion.

Mr. COHEN. According to the CBO, they scored a $3 billion savings. I want to commend Senators DOLE and ROTH for including it in the package. We are losing roughly $18 billion a year just out of the Medicare Program itself, and we are losing about $100 billion itself throughout the health care system. It works out to about $275 million a day, $11.5 million an hour. I would also like to thank Mary Gerwin, Helen Albert, and Priscilla Hanley from the Aging Committee for all their hard work on the fraud legislation.

Mr. President, last spring the Medicare trustees, on a bipartisan basis, issued an urgent warning that the Medicare hospital trust fund will go broke by the year 2002, unless major changes are made to protect the system. Since that alarm was sounded, the Congress has been wrestling with ways to bring Medicare spending under control, in order to forestall impending bankruptcy and to strengthen Medicare for both current and future beneficiaries.

The debate over how—and how much—to control the unsustainable growth of Medicare spending was part of the budget reconciliation process which now remains stalled.

A major step we can and must take toward Medicare reform is to crack down on the fraud and abuse that drives up the costs of health care for

VOL
142
PT
6
AP
15
—
24
1996
UMI

senior citizens and taxpayers. Estimates are that Medicare loses over $18 billion each year to fraud and abuse, and that fraudulent schemes cost the entire health care system and our economy over $100 billion each year.

The investigation of the Senate Special Committee on Aging, which I chair, has revealed that it is shockingly simple to commit health care fraud, and that the size, complexity, and splintering of the current health care system creates an environment ripe for abuse.

Health care fraud is equal opportunity employer that does not discriminate against any part of the system. All Government health care programs—Medicare, Medicaid, CHAMPUS, and other Federal and State health plans, as well as private sector health plans, are ravaged by fraud and abuse.

Similarly, no one type of health care provider or provider group corners the market on health care fraud. Scams against the system run the gamut from small companies or practitioners who occasionally pad their Medicare billings because they know they'll never get caught, to large criminal organizations that systematically steal millions of dollars from Medicare, Medicaid, and other insurers. According to the FBI, health care fraud is growing much faster than law enforcement ever anticipated, and even cocaine distributions are switching from drug dealing to health care fraud schemes because the chances of being caught are so small—and the profits so big.

Of particular concern is the growing evidence that health care fraud has infiltrated the health care industries providing services to our nation's elderly and disabled Americans, and in turn, contributing to the runaway costs of these entitlement programs.

The Inspector General of the Department of Health and Human Services, for example, has cited problems in home health care, nursing home, and medical supplier industries as significant trends in Medicare and Medicaid fraud and abuse. Padding claims and cost reports, charging the government and patients outrageous prices for unbundled services, and billing Medicare for costs that have nothing to do with patient care are just a few of the schemes that are occurring in these industries.

Unscrupulous providers are enjoying a feeding frenzy on Medicare and Medicaid, while taxpayers are picking up the tab for their feast.

It is time that we crack down—and shut down—these schemes that are bilking billions of dollars from Medicare and other health care programs. If we have asked honest health care providers to take cuts in reimbursement and asked Medicare and Medicaid recipients to pay more out-of-pocket costs to bring spending under control, we have an absolute duty to ensure the American public that their health care dollars are not lining the pockets of criminals and greedy providers who are manipulating the system through fraud and abuse.

I was very pleased that the budget reconciliation bill includes anti-fraud legislation that I introduced last year as a result of an investigation of the Special Committee on Aging and I am pleased that my legislation is included in the leadership amendment on the Kassebaum bill.

Specifically, the proposal creates tough new criminal statutes to help prosecutors pursue health care fraud more swiftly and efficiently, increases fines and penalties for billing Medicare and Medicaid for unnecessary services, overbilling, and for other frauds against these and all Federal health care programs, and makes it easier to kick fraudulent providers out of the Medicare and Medicaid Program, so they do not continue to rip off the system.

Most importantly, the bill establishes an antifraud and abuse program to coordinate Federal and State efforts against health care fraud, and substantially increases funding for investigative efforts, auditors, and prosecutors.

According to the Congressional Budget Office, these provisions will yield over $3 billion in scorable savings to Medicare—without costing a penny to senior citizens. I am convinced that the long-term savings are much greater, and that billions more will be saved once dishonest providers realize that we are cracking down on fraud, and that they can no longer get away with illegally padding their bills to pad their own pockets.

The legislation has received the support of the FBI Director, the Attorney General, the HHS' Secretary, and the Congress, which passed it as part of Budget Reconciliation. We should not let an opportunity to pass this bill go by. We lose as much as $275 million per day or as much as $11.5 million per hour to health care fraud and abuse. Every day we wait, will be a victory to those unscrupulous providers who are bankrupting our public health programs.

I urge my colleagues to support this important endeavor and I would like to thank Senators ROTH and DOLE for including this proposal as part of the leadership amendment.

Mr. HATCH. If my colleague would yield for a moment, I would like to take this opportunity to discuss some concerns I have with the section which pertains to establishment of a new health care fraud and abuse data collection program.

Mr. COHEN. I would be glad to yield to my colleague.

Mr. HATCH. As you may be aware, the alternative medicine community has expressed concerns about this provision. I have received communications from, for example, the American Preventive Medical Association and the National Nutritional Foods Association. In general their concerns—which I share—focus on the potential abuse of the fraud provisions we are passing today. I am sure my colleague is aware, for I know he shares my strong support for alternative medicine, that providers of alternative medical treatments sometimes find themselves in the cross hairs of the more traditional medical establishment. Personally, I believe that both alternative and traditional medicine are important and that both can benefit patients. But, this cooperative coexistence has not been fully realized it seems.

While we are all supportive of strong efforts to weed out health care fraud and abuse, I hope the Senator from Maine will agree that we do not want to create an opportunity for those who might want to eliminate or discourage such alternative treatments by threatening fraud actions under the new language we are considering today.

Mr. COHEN. My colleague is correct. I have long been interested in promoting alternative medical treatments and I do not have any desire to enact a new law which might treat such providers unfairly. Could the Senator from Utah share with me specific concerns?

Mr. HATCH. I would be glad to. I have concerns in four specific areas. First of all, would the Senator agree that the mere practice of unconventional or non-standard therapies would not fall within the definition of fraud? I am not asking you to amend the bill here, but rather to give me your assurances and the implementing agencies your guidance that such is the case.

Mr. COHEN. I agree with my colleague that the practice of alternative medicine in itself would not constitute fraud.

Mr. HATCH. Thank you. My next concern relates to creation of the health care fraud and abuse data collection program. As you know, some people are concerned about the very establishment at the Federal level of this new program. I understand those concerns, but I also am very sympathetic to my colleague's argument that this would be a strong weapon in our Federal arsenal to fight the fraud and abuse which are costing our health care system so many billions of dollars each year and robbing us of valuable resources which would be better used for patient care.

The specific concern I want to raise now is that the program not duplicate existing data bases which already collect information about credentialing, licensing, and malpractice violations against providers. Is that the Senator's intent?

Mr. COHEN. My language does not cover malpractice at all. Further, it is my intent that the new data collection system be coordinated with existing data bases, so that there is no costly and burdensome duplication of effort. I have revised the language to reflect my colleague's concerns in this area. The new language makes it clear that there should be coordination with existing databases.

Mr. HATCH. I appreciate my colleague's actions to accommodate my concerns here. Turning to another concern I have with respect to reporting action on licensing and certification of health care providers, suppliers and licensed health care practitioners, I understand that the Senator intends that the actions to be reported are final actions, after completion of due process. Is my understanding correct?

Mr. COHEN. That is correct. I would want to make certain that participants in the system can avail themselves of due process guarantees, and that only final actions be included in the new database.

Mr. HATCH. The last issue I wish to raise is with respect to a data base requirement of reporting providers, suppliers, and licensed health care practitioners who are excluded from participation in Federal or State health care programs. This is my concern. Increasingly, managed care organizations are excluding providers from participation solely because of economic concerns, not because of any wrong-doing or program violations. For example, a physician could be excluded from a managed care organization certified by the State to care for the Medicaid population solely because that provider may have ordered more services than the managed care plan allows. If a provider were excluded from participation in such a plan because of such "economic decredentialing," could that provider be reported to the data base?

Mr. COHEN. That is certainly not my intent. I have revised the language in the bill to state specifically that only exclusions for program violations are to be reported.

Mr. HATCH. I thank Senator COHEN very much for his work in this area, and specifically for his efforts to clarify the bill with respect to the treatment of alternative medical providers. I think that his changes have improved the bill greatly. I appreciate his efforts in this regard.

Mr. PELL. Mr. President, I ask unanimous consent to speak as in morning business for 4 or 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TRAGEDY IN LEBANON

Mr. PELL. Mr. President, I am deeply upset by this morning's news from Lebanon. As many of my colleagues have heard, Israeli shells hit a United Nations base in the village of Cana near the city of Tyre, within which approximately 500 Lebanese civilians had taken refuge from the recent fighting between Israel and Hezbollah. According to early press reports, the shelling caused the death of at least 75 Lebanese refugees—and perhaps many more than that—including men, women, children, and the elderly. At least 120 have been wounded, and two Fijian peacekeepers were killed.

Both the United Nations and Israel agree that minutes before the Israeli attack, Hezbollah guerrillas had fired Katyusha rockets at Israel from a position roughly 300 meters from the refugee camp. Clearly the Israelis were responding to the Katyusha attack, and unintentionally hit the refugee camp. Israeli officials, including Foreign Minister Barak, have issued assurances that Israel is not targeting civilians and would not have fired intentionally on a U.N. base.

If today's early news reports are correct, then we have witnessed a tragedy in the classic sense of the word—the deaths of these innocent civilians need not have occurred. Hezbollah has no right to launch rockets in such proximity to a refugee camp, apparently hoping to use the refugees as a shield against Israeli retribution. Israel, by the same token, has no right to respond as it did if it had any inkling that civilians would be harmed. If either party had put the best interests of the refugees first, then some 75 innocent noncombatants would be alive right now.

I do not dispute that Israel has a right to its own self-defense. I have taken care not to criticize Israel for its actions in Lebanon for the past 8 days because I understand well the threat that Hezbollah poses to Israel's security. I am keenly aware of—and condemn—Hezbollah's actions and intentions towards Israel. There can be no doubt that Hezbollah aims squarely to undermine the Middle East peace process, and I, in fact, agree with the widely held public sentiment that Israel was prodded into this latest operation in Lebanon. The overwhelming carnage of the past 8 days, however, compels me to call attention to what increasingly looks to be a disproportionate Israeli response. We cannot wring our hands about Hezbollah attacks against civilians and say nothing of Israeli excesses, whether or not they were intentional. Human life, after all, means as much on one side of the border as the other.

In the effort to root out Hezbollah, the Israelis appear to be attempting to cripple Lebanon's civilian economy and infrastructure. But as it tries to turn Lebanon against Hezbollah, Israel is running the risk that Lebanese Government and people will lose any stake in settling their differences with Israel peacefully. I fail to see how such an outcome serves Israel's long-term interests.

In being critical of Israel, I do not wish to absolve the Lebanese Government or Syria of their own responsibilities. Lebanon does not have the luxury of throwing up its hands and saying that it has no control over Hezbollah, and then complaining when Israel takes matters into its own hands. That is having it both ways. And I reserve special criticism for Syria. Syria has both the power and the means to shut down Hezbollah, but cynically lacks the will and has allowed Hezbollah's terrorism to go unchecked.

President Clinton has just announced that U.S. Special Middle East Coordinator Dennis Ross—and subsequently Secretary of State Christopher—will go to the region to try to end the violence. I join the President in calling for an immediate cease-fire. After today's tragedy, I would urge Israel—our friend, ally, and presumably the most advanced democracy in the region, to show greater restraint. As the stronger and more enlightened party, Israel even should contemplate a unilateral cease-fire. I understand fully that Israel faces enormous security risks, but its obligations to avoid miscues such as today are equally great.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate majority leader.

HEALTH INSURANCE REFORM ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, I wonder if we can get the yeas and nays on the Dole-Roth amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Maybe that vote can follow the statement of the Senator from Delaware, if it is all right with the Senator from North Dakota to wait for a later time.

Then after 3 minutes for the Senator from Delaware, we can start the vote on the Dole-Roth amendment.

TRAGIC MISTAKE IN LEBANON

Mr. BIDEN. Mr. President, I thank the majority leader. I was not going to take the occasion today, but in light of the distinguished Senator from Rhode Island speaking on this issue, I do not take issue with what he said but emphasize a very important point, from my point of view: this issue of sovereignty in Lebanon and whether or not there was a tragic mistake made in this particular raid. I do not deny there was a tragic mistake that was made.

I know we all know and heard that the Israeli military had no intention of striking the target they, in fact, struck. That happens in war. But the full responsibility, in my view, falls on

VOL
142
PT
6
AP
15
—
24
1996
UMI

the Lebanese Government and the Syrian Government. How can we talk about sovereignty, how can we talk about the notion that you cannot violate a nation's borders when, in fact, one nation—and the nation in this case, Lebanon—has within its borders Hezbollah that is, in fact, not under its control but within its mandate, and take no action to stop the action they are taking, firing Katyusha rockets into civilian populations into Israel and Syria, which has control of much of that area, refusing to do anything to stop it, and then criticize Israel for acting.

I just ask you all, what would happen if across the Mexican border Katyusha rockets were being fired into El Paso, TX, on a regular basis and the Mexican Government did nothing whatsoever to stop the terrorists from that action? Is there any American who would say we should withhold taking action on the grounds that we are crossing an international border? I think we would not even think twice about it.

I regret deeply the mistaken target that was, in fact, hit. I am confident the Israelis do as well. But we should be putting international pressure on Syria and Lebanon to act and deal with the Hezbollah operating almost in plain view across the Israeli border terrorizing Israeli citizens.

I yield the floor and thank my colleagues.

HEALTH INSURANCE REFORM ACT

The Senate continued with the consideration of the bill.

VOTE ON AMENDMENT NO. 3676, AS AMENDED, AS MODIFIED

The PRESIDING OFFICER. The question occurs on agreeing to amendment No. 3676, as amended, as modified, offered by the majority leader.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado [Mr. CAMPBELL] and the Senator from Florida [Mr. MACK] are necessarily absent.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 73 Leg.]

YEAS—98

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NOT VOTING—2

Campbell
Mack

So the amendment (No. 3676), as amended, as modified, was agreed to.

Mr. MCCONNELL. Mr. President, 2 years ago, the Senate debated President Clinton's massive, 1,400-page proposal to radically restructure America's health care system. After great fan fare, this big-government era proposal faltered under the crushing weight of its 8 new entitlements, 17 new taxes, 50 newly-minted government bureaucracies, 177 new State mandates, and nearly 1,000 new Federal powers and responsibilities.

Republicans promised then that we would provide the focused, consumer-based health care reform plan that Americans have asked for by an overwhelming margin. Today, under the leadership of Senator KASSEBAUM, Senator ROTH, and Senator DOLE, we deliver on that promise.

S. 1028, the Health Insurance Reform Act, focuses on alleviating key burdens that restrict the ability of Americans to obtain and maintain health care coverage—a lack of portability and the barrier of preexisting conditions. Today when Americans change jobs or face layoffs, they are at-risk of becoming uninsured or subject to preexisting condition exclusions. When employers are forced to frequently change health care plans to control costs, employees with medical conditions find themselves further exposed to coverage gaps.

S. 1028 presents reforms that definitively address these problems. This bill limits the ability of insurers and employers to impose preexisting condition exclusions. It prevents insurers from dropping coverage when an individual changes jobs or a family member becomes sick. It helps small companies gain more purchasing clout in the market by allowing them to voluntarily form purchasing coalitions. According to GAO, S. 1028's portability reforms will help 25 million Americans each year.

By alleviating job lock and providing States with greater flexibility to address the coverage needs of high-risk consumers, S. 1028 presents broadly supported, commonsense reforms that build upon successful State health care initiatives.

I am proud to join with 64 of my colleagues in cosponsoring S. 1028's reasonable plan to promote private sector competition and market-driven innovation. This proposal fulfills Americans' request 2 years ago for sound, focused solutions to our Nation's health care concerns.

S. 1028's reforms to enhance the availability of health care coverage is further supported by the Finance amendment's provisions to address the affordability of health care insurance.

First, the Finance amendment increases the tax deduction for self-employed who purchase health insurance by 5-percent increments from the current 30 percent to 80 percent.

Second, it provides tax exemptions to State-sponsored risk pools which help bring down the cost of health insurance for businesses and high-risk individuals.

I am particularly supportive of the long-term care provisions included in the Finance package. The ability to access quality, private long-term care insurance plans is pivotal to families facing the emotional and financial challenges of long-term care.

Traditionally, a family member, most likely a wife or daughter, has cared for an ailing spouse or parent at home. However, today's pressures of work, child-rearing, and family mobility greatly restrict the ability of adult children to administer to the day-to-day needs of a chronically ill parent. In addition, the rigors of home-based care can have a debilitating impact on the health and well-being of a caring spouse.

As America's population ages, the need for long-term care increases. In 1993, almost 33 million Americans were over the age of 65, and by 2011, the elderly population is estimated to number close to 40 million. While the opportunity for a happy and healthy retirement is better than ever, an October 1995 long-term care survey by Harvard/Harris revealed that one in five Americans over age 50 is at high risk of needing long-term care during the next 12 months.

Today, a variety of long-term care services are available, from help in cleaning one's home and getting groceries to skilled nursing care with 24-hour supervision. However, the means to pay for long-term care are still very limited and the expense can be overwhelming. For example, $59 billion was spent on nursing home care for the elderly in 1993, and 90 percent was covered by out-of-pocket payments and Medicaid.

The cost of paying out-of-pocket for 1 year in a nursing home is more than triple a senior's average annual income. Long-term care expenses put a lifetime of work and investment at risk. To gain Medicaid coverage, seniors must "spend down" their assets in order to meet State eligibility requirements. While Medicare takes care of

hospital costs and home care, it provides only limited coverage for short-term stays in skilled nursing facilities.

The medical side of long-term care has seen enormous advances over the years in new technologies, facilities, treatment methods, and even psychological studies of the effects of long-term care on patients. But the financing side of long-term care has simply failed to keep up, and as a result it is ill-prepared for seniors' future needs. Today, private insurance pays for less than 2 percent of long-term care costs. As Federal mandates for Medicaid coverage have increased, States have attempted to contain costs by restricting services for the elderly. State-imposed caps on the number of Medicaid-sponsored nursing home beds has separated families from their loved ones because the only Medicaid beds available were hundreds of miles away from their community. Most disturbingly, the remaining assets of a deceased elderly couple can be tapped through an estate recovery action to compensate the State for the couple's Medicaid expenses.

Since 1990, Medicaid expenditures for long-term care have been increasing by almost 15 percent annually, causing costs to double every 5 years. Medicaid's service as the sole long-term care safety net for middle class seniors may seriously impair the program's ability to serve the underprivileged. While low-income families accounted for 73 percent of Medicaid's beneficiaries in 1993, nearly 60 percent of expenditures went to nursing home care and other long-term care services. For example, in 1993, Kentucky's Medicaid spending per enrollee for children was $964; while the cost for elderly beneficiaries was $6,540. Without relief, a harsh battle between generations may emerge.

Mr. President, I am pleased that my work with Senator ROTH has produced a sound plan in response to this critical health care need. The Finance amendment includes several reforms which I supported through my own long-term care bill: providing long-term care insurance with the same favorable tax treatment now available to medical insurance; allowing tax-free withdrawals from life insurance policies for terminally and chronically ill patients; and establishing sound consumer protections.

Private long-term care insurance translates into quality, flexible care for seniors, more Medicaid funds for low-income families and the disabled, and essential support for families who want their loved ones to be safe and secure. These are priorities that all members of Congress share. We should not miss this opportunity to help America's families prepare for the challenges of long-term care.

I regret that the Senate was unsuccessful in retaining Finance's proposal to provide Americans with the choice of Medical Savings Accounts, better known as MSAs. Today, we have witnessed a full-court press against MSAs by those who favor greater government management of health care rather than the expansion of private-sector health care choice. They raise the specter of how MSAs would wreck havoc across our Nation's health care system, and present the threat of a Presidential veto of any health care bill that contains MSAs.

Mr. President, I find this attitude starkly contrasts the promotion of MSAs by the Democratic leadership just a few years ago. In 1992, Senator DASCHLE viewed MSAs as a means to effectively control medical spending by allowing employers to provide their employees with an annual allowance through a MSA to pay for their routine health care needs. During the 1994 consideration of the Clinton health care plan, Representative GEPHARDT offered a MSA plan in his leadership proposal, and all but one Democratic member of the House Ways and Means Committee supported it.

Just last week, President Clinton called for an expanded use of retirement accounts to pay for certain health care expenses. Ironically, Democratic members tell us today that the President firmly rejects the specific establishment of a medical account to pay for health care costs.

This inconsistent rhetoric blurs the potential benefits of a MSA option. In 17 states, 3,000 businesses as well as state and local governments are using MSAs. Based on a recent survey by Blue Cross/Blue Shield, 67 percent of employers surveyed were interested in MSAs. For employers who can not afford conventional coverage, and particularly for lower income workers, MSAs offer an affordable option to securing much-needed health care insurance.

As the House health care bill contains MSAs, it is my hope that this provision will be included in the conference committee's final legislative proposal for health care reform.

Mr. President, in sum, S. 1028 and the reforms included in the Finance amendment provide sensible, fundamental solutions to America's health care concerns. President Clinton has promised that "the Era of Big Government is over." In fulfillment of his promise, the President should support S. 1028's effort to provide health care security through greater consumer choice, not greater Federal regulation.

Mr. KENNEDY. Mr. President, it is a little after 5 now. We started off early today at 9:30. We had a number of speeches, a good debate, and, I think, we had two enormously significant votes here which, I believe, open up the way for an early conference. Hopefully, if our good friends in the House view the medical savings accounts the way it was reflected here in the Senate, we can have this bill on the President's desk in very short order.

The leaders have instructed that we will stay here through this evening. We want to deal with these various measures. Earlier today, we asked Members, if they had amendments, to come up and see us. We are working through some, which are effectively universally accepted. We will try and make sure they are. If they are controversial and not unanimously supported, we will resist them. We want to try to move this along.

We have had a good day. We still have some outstanding amendments, but there is no reason we cannot finish this by 8 or 9 o'clock this evening. So we hope the Members who have amendments will come in now. There are some people that will just wait and see. But Senator KASSEBAUM and I are committed to trying to get this finished up in short order. We will ask those that planned to offer their amendments, if they would, to contact us right away. Otherwise, we will move to third reading.

Mr. DOLE. Mr. President, let me indicate and underscore what the Senator from Massachusetts just stated. We want to complete action on this bill. If we do, we will not have votes tomorrow. We may have debate on term limits, but no votes. We need to complete this to keep on schedule here. We still have to go back and finish illegal immigration. We have a day or two to make up there. Maybe we can do that next week, and, if not, the following week.

I hope anybody who has amendments will come to the floor. I know the Senator from North Dakota wishes to speak. That will be 15 minutes. So anybody that has an amendment, if you can be on the floor at, say, 5:30, it would be helpful to the managers.

Mr. LOTT. Mr. President, I want to talk about a needed addition to the Kennedy-Kassebaum legislation.

If you are an employee of a Fortune 500 company, you will probably make out okay under Kennedy-Kassebaum. If you are a union member, you'll definitely come out ahead.

But there is not enough in Kennedy-Kassebaum to address the needs of working families and small businesses. How can you have health care portability when you cannot afford health care, like many small businesses cannot afford to provide for their employees?

In the House-passed health portability bill, there was a pro-small business provision that I think we should include in any bill sent to the President.

The provision, which the House called the Health Coverage Availability and Affordability Act of 1996, clarifies existing law. It allows small employers to join together to purchase health insurance for their employees.

VOL
142
PT
6
AP
15
—
24
1996
UMI

This act also included provisions allowing individuals to open medical savings accounts—something I support.

But let me dwell on the small-business pooling aspect of this act. Right now, before we pass any bill in this Chamber, certain groups can pool their resources to buy lower cost insurance for their members or employees. These certain groups are large corporations and unions. For years, these groups could bargain for lower prices with insurers. If you are bigger, you can dictate better terms. That is just economics.

Unions and big business also could exempt themselves from burdensome State regulations. Each State has a different list of benefits that insurers usually must pay for.

Back in 1974, there were only 158 State-mandated benefits. Now, there are over 1,000 State-mandated benefits that insurers usually must cover. Some benefits covered in various States included massage therapy, acupuncture, hairpieces—and there are more exotic treatments. Many of these mandates are expensive. No wonder health costs are going up each year.

I said that insurers usually must cover these benefits. Under the Federal ERISA law, unions and large corporations are exempted from some State rules, and can set their own benefits. They also have less paperwork—complying with one general standard as opposed to 50 different State standards saves a lot of trees.

So we see that unions and big business have it easy when it comes to covering their members or workers. What about the small businessperson?

Well, the self-employed or small business owner does not have the bargaining power of a large corporation or union. They do not qualify for ERISA exemption. They have to comply fully with State regulations.

So, says the National Federation of Independent Businesses, small businesses' premiums are 30 percent higher than large corporations due to State mandates. Also, small businesses pay 30 percent more for similar benefits than larger corporations.

We talk a lot about the uninsured in this body. The Kennedy-Kassebaum bill is one way of addressing part of the problem. A large source of uninsured Americans though, is the inequity between small businesses and large businesses and unions. Kennedy-Kassebaum does not adequately address this issue.

Any final bill should include what the House did, and allow small businesses to form groups to purchase full health coverage or cover their employees under self-insured health plans. Allowing small companies to join together would give them bargaining powers similar to big businesses or unions. They would be exempt from certain burdensome State mandates.

Also, the House proposal allows States that allow small employers access to the small group market to opt out of the bill. The House bill balances the need for uniformity of laws across States, while maintaining States' rights.

The House bill is a good bill, and would have an immediate effect.

About 85 percent of the 40 million uninsured are in families with at least one employed worker, many of whom work for small businesses. That is a lot of people who could be covered if we changed the rules.

The National Center for Policy Analysis says that one in five small companies that do not now offer health insurance would do so if they could get free of heavy State mandates.

If these companies could have the same opportunity as big companies and unions, 6.3 million people would have access to health care. Immediately, you would take care of almost 16 percent of the uninsured in America. Others say 50 percent of the uninsured could probably have access to health care.

Whatever the number, we can take a substantial leap toward providing health care for all Americans—all without new taxes or unfunded mandates.

I am not the only one who thinks this is a good idea. Mr. President, I will soon submit for the RECORD two letters to the House leadership from the National Association of Manufacturers and the National Restaurant Association in support of the House bill.

Also, the chamber of commerce, National Association of Independent Businesses, National Retail Federation, and other groups supported the bill I have been talking about here.

So there is much support for this, and I hope at least in conference we can look at this issue, and provide some relief for small business and the self-employed. I personally believe that we have been unfair to the job creators and those who want to be their own boss.

Right now, self-employed people can only deduct 30 percent of their health care costs. Big businesses and unions can deduct 100 percent. This year, Congress passed a bill that would have raised this 30 to 50 percent. Guess what? The President vetoed it! Is this fair? Is this pro-business? Is the President for entrepreneurship in this country?

I think it is high time that the President signs the bill he vetoed, and we should eventually pass the House bill that expands health care for Americans who work for small businesses.

The large companies and the unions have had the benefits and advantages for too long. If they can do it, a small businessman in Pascagoula should be able to cover his family and employees.

Let us help small business in this Chamber. Remember them in this debate we are having about health care.

I ask unanimous consent that the letters I mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, DC, March 8, 1996.

Hon. J. DENNIS HASTERT,
Chief Deputy Whip, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE HASTERT: I am delighted to hear that the House Republican leadership has put together a package of realistic and achievable health care reforms and will pursue them as part of the 1996 legislative agenda. It is my understanding that these reforms include:

Portability reforms to ensure that employees won't be denied health coverage if they change or lose their jobs;

Medical malpractice reforms so that valuable dollars intended for health care won't be wasted on frivolous litigation;

Increased health insurance deductibility for the self-employed to further mitigate unfair differences based solely on the form of doing business;

Reforms to facilitate small group pooling and thereby improve both affordability and access for small businesses;

Medical savings account provisions to further improve both choice and affordability for all Americans; and

Accountability provisions to curb fraud and abuse, leading to lower costs throughout the system.

These are all provisions which NAM has supported in the past and continues to support. In our view, this kind of targeted, incremental approach, which retains the private, voluntary health system while improving and strengthening it, is exactly the right approach. The NAM is therefore pleased both to endorse and to enthusiastically support your plan.

Sincerely,

JERRY JASINOWSKI,
President.

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, March 27, 1996.

House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the National Restaurant Association and the 739,000 foodservice units nationwide, we urge you to support H.R. 3103, the Health Coverage Availability and Affordability Act.

As you may know, our industry has been working to enact healthcare reform legislation for years. Our research continues to demonstrate that the basic reason why employers and individuals do not purchase health insurance is because of the cost. This legislation takes a major step forward by eliminating some of the barriers that prevent people from purchasing health insurance, while at the same time helps keep down the cost.

The restaurant industry is dominated by small businesses. More than four out of ten eating and drinking places are sole proprietorships or partnerships. Nine out of ten eating and drinking places have less than 50 paid employees. Seventy-two percent of eating and drinking places have sales of $500,000 a year or less. While many would like to offer their employees health benefits, the cost has proven to be prohibitive.

In addition to addressing key concerns about portability and preexisting condition

limitations, H.R. 3070 would increase the deductibility of health insurance for the self-employed from 30 percent to 50 percent. For small businessmen and women—and their families—deductiblity of health insurance premiums is a must. Other important components of the legislation tackle medical malpractice reform, fraud and abuse and administrative simplification. Also, this legislation will allow small businesses to form voluntary purchasing pools which would help level the playing field by giving them some of the negotiating tools of large businesses and reducing the cost of providing coverage.

The National Restaurant Association is strongly opposed to any amendment that would raise the cost of health coverage with federal mandates or by expanding COBRA coverage. If employers cannot control the costs of their own health care plans because Congress mandates certain types of coverage, employers will be forced to drop their coverage altogether.

We urge you to support H.R. 3103, the Health Coverage Availability and Affordability Act.

Sincerely,

ELAINE Z. GRAHAM,
Senior Director, Government Affairs.
CHRISTINA M. HOWARD,
Legislative Representative.

Mr. LOTT. Mr. President, I had an amendment that I drafted, which I will not offer at this time for a variety of reasons. I do want to move this legislation along. But in the House-passed bill, there was a pro-small-business provision, and I think we should include that in any bill that we send to the President. The provision, which the House called the Health Coverage Availability and Affordability Act of 1996, clarifies existing law. It allows small business employers to join together to purchase health insurance for their employees.

This act also included provisions allowing individuals to open the medical savings accounts that we have already dealt with this afternoon. I really do think there is a real justification for small businesses to be able to join pools and provide coverage for their workers. That could be a pool through the Restaurant Association, the National Federation of Independent Business, or within their own corporation.

I realize that it is not as simple as it sounds, but it is something that should be done. I think it would help a lot of people now that work for small businesses—particularly fast food services—be able to get access to insurance through these pools.

So I will be working with the conferees to try to get them to take a look at this and see if we cannot perhaps perfect some of the language that was in the House bill and allow this coverage to be available.

I know of many instances where people are working for hamburger places or pizza places, where most employees have no coverage. They cannot afford it, and the employer cannot provide it. This would give them a way to get it through pools.

I hope we will look at this approach in the conference, since it is in the House bill. If we cannot work it out there, let us see if we cannot find an opportunity to give serious consideration to this at the earliest opportunity.

Mr. KENNEDY. Mr. President, we have some provisions in here to encourage pooling among small businesses. We would be glad to work with the Senator from Mississippi in reviewing that language, since the House has similar language, to find out how we may be able to make that more effective. And we will certainly be glad to visit with him prior to the time of the conference and see if we cannot find ways of making it more effective. He has identified a very important problem and challenge, and we attempted to make some important, modest steps, but very important steps, I think, to encourage this kind of activity and programs. He has additional ideas, and we look forward to talking with him.

Mr. LOTT. I thank the Senator. I will be glad to work with him on this issue.

AMENDMENT NO. 3678

(Purpose: To provide equitable relief for the generic drug industry)

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 3678.

Mr. BROWN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title III, insert the following:

SEC. . EQUITABLE TREATMENT FOR THE GENERIC DRUG INDUSTRY.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the generic drug industry should be provided equitable relief in the same manner as other industries are provided with such relief under the patent transitional provisions of section 154(c) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act of 1994 (Public Law 103–465; 108 Stat. 4983).

(b) APPROVAL OF APPLICATIONS OF GENERIC DRUGS.—For purposes of acceptance and consideration by the Secretary of an application under subsections (b), (c), and (j) of section 505, and subsections (b), (c), and (n) of section 512, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b), (c), and (j), and 360b (b), (c), and (n)), the expiration date of a patent that is the subject of a certification under section 505(b)(2)(A) (ii), (iii), or (iv), section 505(j)((2)(A)(vii) (II), (III), (IV), or section 512(n)(1)(H) (ii), (iii), or (iv) of such Act, respectively, made in an application submitted prior to June 8, 1995, shall be deemed to be the date on which such patent would have expired under the law in effect on the day preceding December 8, 1994.

(c) MARKETING GENERIC DRUGS.—The remedies of section 271(e)(4) of title 35, United States Code, shall not apply to acts—

(1) that were commenced, or for which a substantial investment was made prior to June 8, 1995; and

(2) that became infringing by reason of section 154(c)(1) of such title, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4983).

(d) SUBSTANTIAL INVESTMENT.—For purposes of this Act and section 154(c)(2)(A) of title 35, United States Code, with respect to a product that is subject to the requirements of subsections (b)(2) or (j) of section 505, or of subsections (b)(2) and (n) of section 512, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(2) and (j), and 360(b)(2) and (n), the submission of an application described in subsection (b), and only the submission of such an application, shall constitute substantial investment.

(e) NOTICE.—

(1) IN GENERAL.—Unless the notice required by this subsection has previously been provided, when an applicant submitting an application described in subsection (b) receives notice from the Secretary that the application has been tentatively approved, such applicant shall give notice of such application to—

(A) each owner of the patent which is the subject of the certification or the representative of such owner designated to receive such notice; and

(B) the holder of the approved application under section 505(b) or section 512(c)(1), respectively, for the drug which is claimed by the patent or a use of which is claimed by the patent or the representative of such holder designated to receive such notice.

(2) CERTIFICATION OF NOTICE.—The applicant shall certify to the Secretary the date that such notice is given. The approval of such application by the Secretary shall not be made effective until 7 calendar days after the date so certified by such applicant.

(f) EQUITABLE REMUNERATION.—For acts described in subsection (c), equitable remuneration of the type described in section 154(c)(3) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4983) shall be awarded to a patentee only if there has been—

(1) the commercial manufacture, use, offer to sell, or sale, within the United States of an approved drug that is the subject of an application described in subsection (b); or

(2) the importation by the applicant into the United States of an approved drug or of active ingredient used in an approved drug that is the subject of an application described in subsection (b).

(g) APPLICABILITY.—The provisions of this section shall govern the approval or effective date of approval of all pending applications that have not received final approval as of the date of enactment of this Act.

Mr. BROWN. Mr. President, this is not a new subject for Members of Congress. This is one we have considered before. I will make my remarks very succinct. I know other Members are waiting to speak.

What this does is complete our consideration of GATT. In the GATT agreements, the provisions with regard to exclusive use of drugs was extended. But the GATT provided specifically for exceptions where people have made substantial investments in generic drugs. This goes along with the language in the GATT agreement. It puts

VOL
142
PT
6
AP
15
—
24
1996
UMI

us in conformity with what other countries are considering. It allows us to provide the original length of protection that was planned for drugs.

Without action on this amendment, what we stand to have is American consumers lose roughly $5 million a day. The impact on U.S. consumers is roughly $5 million. Every day we delay enacting this means a day in which consumers are denied generic drug alternatives, which can save them $5 million a day. We have already delayed to a point where, by the end of this month, U.S. consumers will have lost over $700 million, and the price tag rises dramatically.

A bill we had up in committee was put off. It is, thus, imperative that we offer this on this vehicle. It is an enormous savings to American consumers.

Mr. President, it is fairness because it gives drug companies the same protection for which they planned on all along. But it does not give them a windfall, or more than what was planned.

Mr. President, I yield the floor at this point.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

Mr. President, I am very pleased and honored to join with my friend from Colorado, Senator BROWN, in the introduction of this amendment. This is the so-called GATT Glaxo amendment. The issue has been presented here on the floor. In fact, this is a simple way of correcting a major mistake that Congress made in adopting the GATT Treaty. It was an oversight. It has been testified to time and time again by Mickey Kantor—our then U.S. Trade Representative who negotiated this particular treaty—that it was a mistake, and that it needs to be corrected. The Patent Office said it was a mistake, and all up and down the line people agree that this was an enormous mistake that we need to correct at this time.

The first time we brought this issue to a vote on the floor was December 7, 1995. On that particular vote, the vote cast in the Senate was 48 to 49. There was one abstention. There was one absent Senator. And since that day, since that particular delay, I think it might be interesting to note that very few—a handful of drug companies—Glaxo specifically, have made a profit, or a gross income, because of this variation in the GATT Treaty giving a particular exception, a particular benefit, to a handful of drug companies. There has been an extra $5 million per day in income to these companies. Since December 7, 1995, we have seen an income of $665 million extra to these drug companies that is being paid out of the pockets of the consumers especially for drugs such as Zantac; $665 million—a windfall profit gift that we have given to these particular companies, and especially to a company called Glaxo.

We also note that Senator HATCH wrote a letter to us, the sponsors of this amendment, on December 13. He said he promised hearings on February 27, 1996. So we waited and waited and waited around for that hearing. According to his promise, the distinguished chairman, Senator HATCH, held a hearing. By that time another $310 million had been given to the drug companies in a windfall profit situation.

We waited another month—until March 28, 1996. The Judiciary markup was scheduled, and it was abruptly canceled. So once again there was a delay.

This morning, on April 18, 1996, another Judiciary markup on S. 1277 to correct this egregious error in GATT was held. And, when the Senators arrived at the markup, it was noted that a Senator had put a hold on the markup, that there would be no actual vote on S. 1277. And, therefore, Mr. President, another $665 million in profits for a very few drug companies.

Now it is noted that the chairman this morning stated that if possible we will have a hearing in the Judiciary Committee next week on the 25th of April, and possibly we could mark this bill up, S. 1277.

But in the meantime, Mr. President, the clock is running. We feel that this is a health bill, that this is the proper way to bring this bill to the attention of our colleagues, and it is the proper measure to attach this correction to the GATT Treaty.

We hope that our colleagues will support this measure.

Mr. President, I thank the Chair for recognizing me. I yield the floor.

Mr. HATCH. Mr. President, although I understand that the Senator from Colorado plans to withdraw his amendment, I want to take this opportunity to express my opposition to both the Brown/Pryor/Chafee amendment and the idea that it should be included as part of the Kassebaum-Kennedy health insurance reform measure.

I said it on December 7, and I say it today: "Here we go again."

Four months ago, we considered the Pryor language in this chamber. That time, it was an amendment to the partial birth abortion ban bill the President just vetoed. We agreed then, by a vote of this body, that the Judiciary Committee should hold hearings on the issue.

On December 13, I sent a letter to Senators PRYOR, BROWN, and CHAFEE, and I made a commitment to hold a hearing on February 27 and a markup by the end of March.

In fact, the committee did hold the hearing on February 27, as I promised. I agreed to hold a markup the week of March 25, but had to delay that because of lengthy committee consideration of the immigration bills. I rescheduled the markup at the first opportunity. In fact, it was to have been today, but as my colleague may have heard, we did not get a quorum.

I still intend to press forward expeditiously for consideration of this issue in the committee. It will be on the agenda for the next markup and that is my commitment.

I find it ironic that proponents of this amendment are using the same timetable as I. There is no disagreement here. The process is moving forward.

In sum, I have lived up to my word.

As a matter of fact, I have bent over backwards to accommodate the interests of this body in a full and fair examination of the issue.

We had 10 witnesses at the February 27 hearing, 5 on each side. It was a good session, one during which I believe we all learned a lot.

I plan to go ahead with the markup. We will try to work out a resolution. I hope we will be able to. I don't think that the Brown amendment today meets that test.

The GATT/pharmaceutical patent issue is unquestionably one of the most complicated we have seen, as it involves the confluence of patent law, trade policy and food and drug law and regulations.

Its resolution has potentially enormous consequences, both on the future of biomedical research in this country and on the ability of consumers to have access to the most safe, effective, and low cost drugs possible.

The proponents of this amendment argued today, as they have in the past, that this is a case of Congress making a simple mistake and that now we should act to fix this mistake by adopting this technical mistake.

This is the type of argument that is often made when this body acts through unanimous consent.

I wonder how many times we have debated a purported technical corrections bill for 3 hours—as we did on December 7—then split almost down the middle on a 49–48 vote that cut across party lines.

There is no foundation for the argument that this is a simple perfecting amendment that would achieve a result which is clearly intended by Congress.

Again today we heard the now familiar litany on the issue of intent. We heard about Ambassador Kantor, FDA Deputy Commissioner Bill Schultz, and all the other Administration representatives who attend the school of revisionist history on this issue.

What has become apparent to me during this debate, a fact which has not been revealed today by any of my colleagues, is that the argument on intent has been rejected by the Court of Appeals for the Federal Circuit, which could find no definitive evidence of intent.

In the November, 1995 Royce decision, the Federal Circuit stated:

> The parties have not pointed to, and we have not discovered, any legislative history on the intent of Congress, at the time of passage of the URAA, regarding the interplay between the URAA and the Hatch-Waxman Act.

Perhaps some day my colleagues can explain why it is that the Federal Circuit, a neutral judicial tribunal, is having so much trouble finding any evidence on the question of intent, a question that seems to lie at the center of this debate.

Perhaps some day my colleagues can explain why, in their quest to "level the playing field," they have created a special benefit for one industry. I challenge them to identify any industry that has attempted, let alone succeeded, to use the GATT transition rules to reach the market prior to expiration of the newly extended patents. It just hasn't happened, and it probably will not unless anyone can identify acts that would not have been infringing before we enacted the URAA that continued and became infringing after the URAA was enacted.

It is curious to me that a lawyer for the generic drug industry would argue to the Supreme Court that "the most obvious intended beneficiary of this statutory licensing system was the generic drug industry . . . In fact, since the adoption of TRIPS and the URAA, no industry other than the generic drug industry has emerged as being potentially affected by the equitable remuneration system."

I will not prolong my remarks today. I look forward to exploring these and other issues in much greater detail at the markup.

In closing, I want to reiterate my strong opposition to the amendment, and my disappointment that we are considering it here today prior to the Judiciary Committee's scheduled markup.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I request to be able to use the 15 minutes that I am allotted under the former UC that was decided by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

MINIMUM WAGE AND SOCIAL SECURITY

Mr. DORGAN. Mr. President, I intend to yield some of that time to the Senator from South Carolina.

Mr. President, everyone has a right to characterize or mischaracterize the activities of the Senate. A colleague of mine during the previous debate on the motion to strike came to the floor and in that debate characterized the series of things that had happened earlier this week—or rather mischaracterized them—and described the certain circumstances as highly partisan, just politics, and so on.

I felt it necessary that I correct the RECORD and not allow this moment to pass without responding. I want everyone to understand that there are times here in the Chamber when amendments are offered that it is not convenient for people, amendments are offered that just are uncomfortable for people. But the way the system works here is sometimes you do not have an opportunity to offer an amendment except in the certain circumstance, and then you must offer it, or you are never going to have a chance to have the Senate consider it.

We had a circumstance earlier this week where a bill was brought to the floor of the Senate. Senator KENNEDY, I, and some others were intending to offer an amendment. Senator KENNEDY was going to offer an amendment on the minimum wage, which I support. That is inconvenient for some people. They do not want to debate the minimum wage. Some in this Chamber say we do not want to deal with the minimum wage issue. Some of us do. Some of us think when you have gone 6 years without a change in the minimum wage that at least those on the lower rung of the ladder have lost one-half dollar of their purchasing power from the minimum wage, and maybe people in this Chamber ought to care a little about that. I know there are no high-paid lobbyists out beyond this Chamber saying, "Yes, we care about the people at the bottom of the economic ladder." If we are working on issues that dealt with the people at the top of the ladder, you can bet the halls would be full of high-paid lobbyists. But not for the minimum wage.

Some of us insist that these are issues that we ought to be debating.

Is it partisan? No. It is public policy.

The second issue which I introduced as an amendment on Monday dealt with the Social Security issue. It is mischaracterized as totally partisan, irrelevant, and a troublemaking amendment.

Let me describe what this issue is. Let me go back to 1983. In 1983 this Congress passed the Social Security Reform Act. I know that because I helped write it. I was a member of the Ways and Means Committee in the U.S. House. If anybody wants to go back to the record of the markup, you will find that I offered the amendment in 1983 during the markup that said let us not use the Social Security revenues we are going to begin to save to meet our needs when the baby boomers retire. Let us not use them as other operating revenues. Let us truly save them. So let us create a firewall. Let us prevent people from misusing, or taking, the Social Security trust funds and using them for other purposes. In 1983 I offered that amendment. It was defeated in the Ways and Means Committee.

I have tried since repeatedly. The Senator from South Carolina has tried, and in some cases successfully. The fact is we have a law that prevents the Social Security funds from being misused for other purposes, and the law is ignored.

My intention was to bring to the floor on Monday an amendment that I offered that angered some people, an amendment that said, if we are going to consider a constitutional amendment to balance the budget which the majority leader said he will require us to do under reconsideration, a procedure that will allow no amendments and no debate—if we are going to do that—I said let us have the Senate vote on a sense-of-the-Senate amendment to create a firewall between the Social Security trust funds and other revenues because, if we do not do that, what will happen is $600 to $800 billion of Social Security trust funds will be misused. That is not trivial, and is not partisan. It is policy.

I understand that for some it is a nuisance. For some it is inconvenient. For some it is troublesome to have to deal with this.

So the result was people got in a pique and decide to put the Senate into a recess so one person or another cannot speak. It is not the way this place works.

We will vote on that sense-of-the-Senate resolution. We did not on Monday. But we will vote on it. We have the right to offer it, and we have the right to insist on a vote on it.

The same will be true with minimum wage, and the same will be true with several other issues that we think are important matters of policy. This is not about individuals on the Senate floor.

The PRESIDING OFFICER. If the Senator will suspend for a moment, will those Members in the Senate who are having discussions please retire to the Cloakroom, and members of staff as well?

The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes and 20 seconds.

Mr. DORGAN. Let me finish, and then I will yield to the Senator from South Carolina under the 15 minutes.

My only point is this: I respect any Member who stands up and ascribes motives to others, but if they are motives that, in my judgment, do not comport with what we are trying to do, then I think we have a right to say that is not the case.

With respect to Social Security, Social Security is going to have problems beginning in the year 2018. That is the point at which the surplus discontinues accumulating. From 2019 down to 2029 or so we run out of surplus. The fact is in order to accumulate that surplus, we must set the surplus trust funds aside.

VOL
142
PT
6
AP
15
—
24
1996
UMI

That is what the Senator from South Carolina and I have been trying to do for a long while. I encourage those who wonder about motives to go back to 1983 and the Ways and Means records and see who was making those motions 13 years ago on this very issue, and then call them political today, if you will. But you are wrong.

The Senator from South Carolina has been on this floor many times and I have been on the Senate floor and the House floor many times in the last 13 years on this subject, and I will continue to do so. It might be inconvenient to have offered the sense-of-the-Senate resolution last Monday, but we will vote on it at some point. I said then I would agree to a 20-minute time limit; it does not matter to me. I just want this Senate to go on record on those issues. Maybe that is partisan in the minds of some. To me it is a very important public policy.

Mr. President, I yield the remaining time to the Senator from South Carolina [Mr. HOLLINGS].

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from North Dakota. We have been working in the vineyards together in trying to end the practice of applying Social Security surpluses toward the deficit. Everyone is interested in balancing the budget. But what happens in all of these budgets, both the Republican and the administration budgets, is that they use Social Security trust funds to obscure the size of the deficit.

This minute, we owe $502 billion to Social Security. Over the next 6 years, we will borrow another $600 billion from that trust fund. So even if we succeed in enacting these so-called balanced budget plans, by 2002 we will have destroyed the Social Security program; we will owe Social Security over $1 trillion. No one is going to raise taxes some $1 trillion to make good on the Social Security trust fund.

The time to stop that nonsense is here and now. In order to do so, 98 Senators in this Chamber, as the Senator from North Dakota stated, voted for the Heinz-Hollings-Moynihan amendment on October 18, 1990. President George Bush, on November 5, 1990, signed section 13301 of the Budget Enforcement Act into law.

Republicans charge that offering the Dorgan amendment is delaying action on the immigration bill. But what is good for the goose is good for the gander. On yesterday afternoon, in the middle of the terrorism bill, the distinguished majority leader saw fit to come to the floor to talk about balancing the budget through spectrum auctions. Fine. That is his privilege and no one disrespects it. But we should not cry foul when other members talk about Social Security and balancing the budget.

The truth of the matter is that we are in a Catch-22. This Senator has produced balanced budgets. I had a AAA credit rating as the South Carolina's Governor. I voted for a balanced budget in 1968–69. Since that time, as chairman of the Budget Committee, I have proposed freezes, Gramm-Rudman-Hollings, and, yes, tax increases to try and balance the budget. So this is not a casual political maneuver to get high ground in any political campaign. It is done in an attempt to get us to keep our word—to not use Social Security trust funds in calculating the deficit. We cannot keep it when the leadership, in considering the constitutional amendment to balance the budget, which this Senator has voted for already three times——

The PRESIDING OFFICER. If the Senator will suspend, let the Chair try to get order in the Senate. If those Members who are having discussions, please, could retire to the cloakroom. The Senator is entitled to be heard.

Mr. HOLLINGS. I thank the distinguished Chair.

I voted for a balanced budget. I wish to vote for a balanced budget amendment to the Constitution. But I will not vote to repeal the firewall that we have in the law for the Social Security trust fund. Let us have really truth in budgeting.

I commend the distinguished Senator from North Dakota in bringing his amendment up in this particular fashion. It is unfortunate that we had no other option. We are not trying to delay the immigration bill. I commend the Senator from Wyoming and the Senator from Massachusetts on their leadership on immigration. I am ready to vote for their bill. We are ready to agree to a time agreement. But we want to vote on this issue to really fix into the conscience of the body that when we say it is a trust fund, we mean to protect it and not dip into those surpluses. That is what the chairman of the Budget Committee on the House side said they did last evening. They dipped once again into our children's piggy bank.

That piggy bank is there to protect retirement. Senator THURMOND and I, we are going to get ours. In fact, we are getting ours now. But I can see some young folks around here; when their time comes, they are never going to be able to receive it. Why? Because we have got this nonsense about a unified budget.

Here is the budget law. If you can find the word unified in there, I'll jump off the Capitol dome. There is no such thing as a unified budget in the budget law, but the administration goes along with it; the Congress goes along with it. They violate the law. Let us join with the distinguished Senator from North Dakota and stop violating the law.

I yield back the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I am just going to take one moment and then yield the floor. We have a measure that is before us, and I see the Senator from Vermont, who has an amendment, who had spoken to us earlier today and is waiting to move towards that amendment.

We are going to, in just a few moments, ask unanimous consent to finalize the list of amendments. We have been able to work through many of them. So we are expecting probably some votes that will be continuing along until we are able to hopefully get this concluded. We can do that in a period of time, but I hope that our membership will not be coming to us at 7, 7:15 asking for windows and other kinds of things, because we were able to really move this and follow the admonition of both the majority and minority leaders. So we are going to ask for a consent that we have received all the amendments in just a few moments. So if any of the Members are interested, this is really the last call.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

BALANCED BUDGETS AND SOCIAL SECURITY

Mr. SIMPSON. Mr. President, I just want to speak for a few moments on this issue of Social Security and balanced budgets. I have the greatest respect for Senator FRITZ HOLLINGS and my colleague Senator KENT CONRAD, who sits there, and his friend and mine BYRON DORGAN. They are a very remarkable duo from North Dakota, and they have been working hard on this issue a good long while, and so has my old friend Senator HOLLINGS.

If we are going to debate this issue of Social Security, we are going to have to deal with reality. The reality has come to me and should come to everyone in this Chamber simply by studying the work of the entitlements commission, the Bipartisan Entitlements Commission, where Senator BOB KERREY and Senator JOHN DANFORTH of Missouri sat for a year and presented to 32 Americans, including many of us in this Chamber, what is going to happen to Social Security.

There is no way to duck it. There is no way to finesse it. There is no way to demagog it. That is no way to go. Because if you are going to talk about something that is worth $360 billion and leave it "off the table" in a fashion that no one in this body is supposed to touch it or say a word about Social Security while the senior citizens groups beat your head in and my head in and not allow us to even touch a system and keep telling us, and warning us, "Oh yes, it will need to be corrected"

and, "Oh yes, we have a way to tell you how to do that"—and their solutions always have to do with raising the payroll tax, ladies and gentlemen, and guess who pays the payroll tax? Not the senior citizens.

Now, if we are going to deal with this issue, then I am going to begin to come to the floor each and every time we come to this issue of Social Security and balanced budgets concepts and begin to get one singular thing across. Hear it. There is no Social Security trust fund, ladies and gentlemen. There is no Social Security trust fund. None. And the reason there is none is because, when Franklin Delano Roosevelt and the Congress put this package together, they said that if there is any surplus in the Social Security system it will be invested in the securities of the United States Government, secured by the full faith and credit of the United States. And every shred of this surplus—and it is big and it is going to get a lot bigger—every shred of it is invested in the securities of the United States Government in a series of IOU's.

You know that and I know that. But, better yet, the trustees know that. And who is this group of people telling us about this? They are called the trustees of the Social Security system, three of whom are in the President's Cabinet: Robert Rubin, Donna Shalala, and Robert Reich; one Republican, one Democrat, and the Commissioner of Social Security. And they are the stewards of Social Security. There are no other designated stewards of it.

In the trustees little booklet of their annual review which is about that thick, and I hope you will read it, it says that in the year 2029, without doing something for Social Security, it will go broke. It will be out of business. But, more important, in the year 2012, when the payments coming in will not cover the payments going out, you are going to start cashing in the bonds. And then you begin to use up the interest. And between the year 2012 and the year 2029, it is history.

So, every time we hear this old saw, I want to be right here too and tell the American people, just as the trustees would if they were here—I will speak for them—that there is no Social Security trust fund. It is a floating pile of IOU's. You know it and I know it. So, when we come here to this Chamber to talk about cooperation, coordination, subjugating our own obsessions or our own agenda's to the body work of this then let us talk about that fact every time.

I have been through this plenty of times in this Chamber. I do not keep score of how many times I may have come to the floor on any issue. But I can tell my colleagues I do know how many times some people have come to the floor on this singular issue—time after time after time; and fully knowing that there is no trust fund.

We were just involved in a bill, talking about a rather interesting issue called illegal immigration reform. Several years ago—and I have done this too long, remember for 17 years—my dearest friend, Senator John Heinz, proposed an amendment on—guess what? Social Security. What was it that time? Listen to this one. I said to John Heinz, my old friend—and remember, we put together a package that said that the COLA would always be paid out, but if the inflation was ever 3 percent or less that we would not increase the COLA. If it was less than 3 percent we would not give a COLA on Social Security."

It was that year at 1.5 percent or something, or perhaps 2. And we came to the floor and Senator Heinz, who really was spectacular—in fact—if he were here today we would not be in the health care conundrum we are in. He was that good. He could have led us out of that.

I said, "John, you know it will pass. All you have to do is mention Social Security or a COLA and you know it will pass—or if you mention veterans, you know it will pass." We have all been there. We are all bright people. We know this.

So, there it was. An impasse. And finally he removed it from the immigration bill, placed it on another one, and so it is much like this one. We all know what this is. There is not a soul in this building, a soul in this city, a soul who follows this, like BOB KERREY and JACK DANFORTH did, who does not know that there is no Social Security trust fund—zero—zip—nothing. To hear it continued to be bandied about is an extraordinary adventure in fantasy.

Mr. HOLLINGS. Will the distinguished Senator yield?

Mr. SIMPSON. I will yield for a question.

Mr. HOLLINGS. With respect to Senator KERREY and Senator DANFORTH's recommendations, fine—I support their particular report. It is not a question of fixing Social Security. It is a question of not using the surpluses to obscure the size of the deficit and using them for Social Security.

I am sure the Senator was with me, on October 18, 1990. And I am sure he supports that law.

You and I act like there is some difference. There is no difference in our belief that changes will have to be made to protect the integrity of social security. But the law says thou shalt not use the Social Security moneys to obscure the size of the deficit? That is the law, 13301. The chairman of the Budget Committee is here, he is totally familiar with it. Isn't that correct?

Mr. SIMPSON. Mr. President, I do not think anybody would try to obscure anything—at least this Senator is not. The obfuscation and the obscuring is to tell the American people that there is a trust fund that we are using moneys from. There is not any trust fund there to be using. It is not there. It is a series of IOU's. So, when we say, "Oh, you are doing a terrible thing. You are hiding something or you are using the money that should have been there for us," that is simply not the case.

Let me just review just for the body in 4 more minutes eight rather recent votes on this issue. I can only find eight in the last 30 minutes, since I knew that this would come up on the floor. The amendments are not always offered up by the same Senator. They are offered by different people each time. It is kind of like we do with a "rolling hold." You kind of fire the one barrel and then you fire another barrel. So here it all is, of recent vintage.

On January 26, 1995, Senator HARKIN offered an amendment. Senator KEMPTHORNE made a second-degree amendment on it. The Kempthorne amendment said that implementing legislation should not cut Social Security. We all agree with that. You cannot miss on that one. If you simply, each time, want to talk about the balanced budget and add to it that we will never "cut" Social Security, that is a snapper in here—except for a few of us who will cast that opposite vote and know very well that it just does not fit.

Then Senator REID tried to table that. That failed. Senator KEMPTHORNE's amendment then passed. Then Senator HARKIN tried a perfecting amendment to add his language back, saying that the balanced budget itself should exempt Social Security. That was tabled.

On February 10, 1995, Senator DOLE offered the amendment to ask the Budget Committee to report instructions not affecting Social Security. That passed 87 to 10, like we all knew it would. Then it was done.

Then Senator REID presented an amendment, February 14 of 1995, saying Social Security is now counted in the balanced budget amendment. And Senator DOLE tabled that, 57 to 41.

On February 28, 1995 Senator FEINSTEIN offered a substitute for the balanced budget amendment with the exclusion of Social Security. That was tabled 56 to 39.

On February 28, 1995, Senator GRAHAM put forward an amendment to eliminate "held by the public" from the debt limit, so as to get the balanced budget to exclude Social Security. That was tabled 59 to 40.

Another Graham amendment was tabled 57 to 43.

This issue has been voted on time and time and time again. I think it is time that it not be voted on again, especially for this issue, on either illegal immigration or health care. Find a new line of work.

Several Senators addressed the Chair.

Mr. DORGAN. Will the Senator yield for one brief question? I wonder if the Senator will yield for a brief question?

VOL
142
PT
6
AP
15
—
24
1996
UMI

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. SIMPSON. I yield for a question.

Mr. DORGAN. I appreciate that. I guess it is the Senator's contention that there is no Social Security trust fund. I just ask this question.

We were told early on that the Social Security trust fund was not being used for any other purpose. Then we were told by those who wanted an affirmative vote on the constitutional amendment to balance the budget that the Senator supported that, even though they had argued that it was not being used to balance the budget, they would stop using it to balance the budget by the year 2008.

How does one reconcile that if there is not a trust fund? If there is not a trust fund, how can you stop using it in the year 2008?

Mr. SIMPSON. Mr. President, I say to my friend from North Dakota that the travesty is that it is not being used. It is a series of IOU's. There is no Social Security trust fund. And the money is being invested.

You can say we will cut it back. You cannot. It is in T-bills. Some people here own T-bills. Banks own T-bills. There is no Social Security trust fund. I have never gone to my people and said we are stealing from the Social Security trust fund because I just stepped up to the plate and said there is none. So, when you bring that up, you are bringing up a fiction.

Mr. HOLLINGS. Mr. President, how would it be if we had IOU's for the same time, I ask the Senator?

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. HOLLINGS. How can it be invested and become an IOU? If it is invested, it is presumably going to be paid back? That is our problem, it is being spent on the deficit. That is my point.

Mr. SIMPSON. Mr. President, not only the fiction of it, but since 1938, by law, the trust fund buys T bills which are IOU's that the Government must pay back. FDR did that, and that is what it is. There is no mystery to it. It is a series of IOU's, and when those are outstanding and then the revenue from Social Security will not cover—it is a pay-as-you-go, do not forget, Social Security is pay-as-you-go, and if it does not cover, you have to cash in the IOU's and you have to get more money through the payroll tax, or reducing benefits or issuing some new kinds of securities.

Mr. HATCH. Will the Senator yield for a unanimous consent request?

Mr. SIMPSON. Yes.

HEALTH INSURANCE REFORM ACT

The Senate continued with the consideration of the bill.

Mr. HATCH. Mr. President, I understand the pending business is the BROWN amendment. It is my understanding that he will make his arguments and then withdraw the amendment; am I incorrect on that?

Mr. BROWN. Mr. President, the Senator is correct.

Mr. HATCH. I am correct.

Mr. SIMPSON. I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, prior to returning to Senator BROWN's amendment, if I may propose a unanimous consent request on behalf of Senator DOLE.

Let me yield and say, evidently, this has not been cleared fully on both sides, so we will return to Senator BROWN's amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we want to try and accommodate the greatest number of Members. We have several Senators who are here with their amendments ready to address them and ready to act on them. We believe that if we are able to do that, we can afford, whoever wants to speak, as much time as they want to speak on other kind of matters. But we are here to deal with this legislation.

We have been urging Senators to come over here and offer their amendments. They are here now, and we can either do this later—I plan to stay here until it is done, but the greater numbers of Members would like to have at least some finality to the legislation. I believe we can do it. It is 6 o'clock now and we had the chance for general discussion during the course of the day. Many of our colleagues have come over here to address these issues and to vote on them, and they have been waiting as well.

I hope we will urge our colleagues who are not going to talk on these matter—we know they can; people can get up and address any other matters—but out of consideration of other Members, please try and see if we cannot focus on the matter that is at hand, and that is the Kassebaum-Kennedy bill, which is of enormous importance to many American families.

I see other Members here, and I am sure they will do what they have to do, but we are trying to conclude this and then to let others speak so that at least others will not be here tomorrow. We are going to end up being here tomorrow as sure as I am standing here unless we are able to make progress. That is fine with me, if that is what it is. But with some cooperation of the Members, we have a very good chance of finishing this. Otherwise, Members ought to understand we are going to be here late tonight voting and end up starting the votes later this evening and tomorrow.

We are just about to ask for the final list so that we can agree with that. But in the meantime, we have the Senators who are here who are prepared to move ahead. Senator BROWN is here, and Senator JEFFORDS was here just a few moments ago to deal with an extremely important measure and has been here now for an hour and a half trying to gain the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 3678

Mr. CHAFEE. Mr. President, I am going to address the amendment that is before us, the Brown amendment, but I say to the managers of the bill, I join with them in their enthusiasm to finish it up. I do not see why we do not seek time agreements, in case we get off on another Social Security argument, whatever it might be. But that is up to the managers.

Mr. President, I have a statement that I wish to make that deals with the subject Senator BROWN has been addressing, and Senator PRYOR, likewise, and which I joined in the past.

All I can say, Mr. President, is I just wish we would address this matter, both in the committee, and I understand Senator BROWN has been trying to achieve that, but also on the floor of the Senate. We have had one vote. It was a one-vote margin difference. Perhaps people's minds have been changed since then. Nonetheless, I support the efforts of Senators BROWN and PRYOR.

Congress and the administration made a simple—but costly—error in drafting the Uruguay Round Agreements Act of 1994. That inadvertent error is costing consumers, State governments, and the Federal Government millions of dollars, while providing an unintended windfall to a handful of drug companies. I don't believe we should let that error stand.

What happened? The facts of the case are straightforward. Back in 1994, Congress was drafting omnibus trade legislation designed to bring the United States into conformity with the important new global trade agreement known as the GATT. As part of our commitment to fulfill our new GATT obligations, the United States pledged to increase patent protection for future patents. In addition, the United States also pledged to boot protection for patents already in existence—a key point that goes to the heart of the issue before us today.

Accordingly, the trade bill that Congress wrote, boosted existing patent terms by up to 3 years, giving current patentholders a valuable extension on their patents. To be fair to generic manufacturers who had been preparing to go to market on the old patent expiration date, Congress fashioned a compromise: generic companies who had made a substantial investment in preparing for market would be allowed to

proceed as planned, but would have to pay equitable remuneration—that is, a royalty—during the extended term. This carefully balanced compromise became law as part of the 1994 Uruguay Round Agreements Act.

However, in drafting this 653-page bill, Congress and the administration made a small—but very costly—mistake. A simple conforming amendment to an FDA statute was omitted. Yet the impact was enormous: the omission singlehandedly prevented the generic drug industry from going to market during the extended term. The result is that a handful of brand-name drug companies have received a staggering $4.3 billion windfall, at the expense of consumers, that Congress, United States trade officials, and even the brand-name companies themselves, neither intended nor expected.

The cost to consumers is enormous. The drugs that are covered by the windfall are widely prescribed, and are used for everyday ailments that affect millions of Americans. Keeping the generic version off the shelf for up to 3 years means that Americans—including and especially older Americans—are paying far more than was ever intended for their medications.

Not only are consumers paying for this error, but so are State governments and the Federal Government—in the form of higher reimbursements for prescription drugs for the elderly, veterans, and low-income Americans.

This is not right. We made a mistake. We should fix it. In this case, the solution is obvious and easy: simply enact the missing conforming amendment. That is exactly what Senator PRYOR, Senator BROWN, and I—and many others—have been working to do.

Let me take a moment to put to rest a few red herrings. Our amendment would not affect our GATT commitments or our efforts to promote patent protection worldwide. Our amendment would not upset the balance in U.S. drug patent laws, nor impede research and development of new drugs. If any of these misrepresentations were true, we simply would not be sponsoring this amendment. It is that simple.

It is time to correct this injustice—an injustice to consumers in our Nation, an injustice to the Federal and State governemnts that are paying extra and needless sums into Medicaid and Medicare and an injustice to the generic manfuactures who made the investment in reliance on the law as it was supposed to be.

It is time we fixed this unfairness.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, it is my intention to try and expedite the deliberations here tonight. In that regard, my thought would be to make a statement, hopefully, shedding some light on this amendment. I know Senator PRYOR has worked so hard in this area. He wants to make a statement, and then it will be my intention to withdraw the amendment. I withdraw it reluctantly, because I think it needs to be considered and dealt with as soon as possible. But I am persuaded that we will not have some votes that we need to adopt it if we insist on attaching it to this measure.

Having said that, let me simply outline the issue that is before us. It is well described in a New York Times editorial of February 28. I will quote a portion of that, because I think it is quite succinct and to the point:

> Congress finds it hard to remedy the simplest mistakes when powerful corporate interests are at stake. In 1974, when Congress approved a new trade pact with more than 100 other countries, it unintentionally handed pharmaceutical drug companies windfall profits. More than a year later, Congress has yet to correct the error. The trade pact obliged the United States to change its patent laws to conform with those of the rest of the world. They had the effect of extending some American patents for up to 20 months.

Mr. President, those are the opening lines of the editorial.

The simple fact is this. We had people research drugs and put the investment into it and receive the full length of their exclusivity that this Congress has supported and put into statute. The GATT agreement gave a serendipitous extension to that. In other words, under the GATT agreement and the conforming changes of law that this Congress adopted, people who had invested in and relied on our laws got a longer period of patent protection than they have ever planned for. But the GATT agreement also had a provision, an exception for that extended protection when someone had made a substantial investment in reliance on our laws in providing competitive products.

In other words, what we propose in this amendment is nothing more than absolutely the process that was contemplated and planned for under GATT. And, I might mention, Mr. President, many countries have done exactly the same thing. As a matter of fact, this country has done a similar kind of thing with other products.

What this amendment simply suggests is that where we have given someone an unexpected, unplanned extension in their patent protection, that we make an exception for that extension where someone else has made a substantial investment in producing and providing a competitive product—in this case, a generic drug.

If we do not adopt this, we will have said to people who produce products in reliance to our laws, "After you have made the investment, after you have put the money into it, after you have made under the terms of what will be the statute a substantial investment on reliance of our laws, we are going to pull the rug out from under you and change the rules retroactively."

Mr. President, that is not right. That is not honest. That is not fair. That is not a good way to do business. We have talked about the horrible damage—and it is enormous damage—done to consumers by this unjustified quirk of the ratification document.

But I want to focus the Members' attention on what is unfair to business. I believe it is unfair to business to say, "Look, here are the laws. Here is how long you have for patent protection. And by the way, we're going to change the law retroactively, and even though you made substantial investment in producing a competing product, we're not going to let you compete." Now, that is what has happened.

If we do not pass this bill as it is in committee or the amendment as we offer it on the floor, what you are going to do is not only impact consumers to the tune of billions of dollars, but you are going to say to businesses that have relied on the law, that it is tough luck, you should not have believed us. You should not have relied on what we did.

Why is it important to pass it on this bill or pass it quickly? I think that is a fair question. I must tell the Members, I am disappointed I have not been able to persuade all the other people who support the concept that it is important to pass it on this measure.

It is important because the impact of this, if it goes uncorrected, could be over $2 billion, according to the Washington Post. It is important because this costs consumers up to $5 million a day while we delay. Mr. President, let me repeat that because I am not sure people have focused on the impact of delay. It costs up to $5 million a day to consumers in this country if we do not act. Some estimates indicated it may have cost consumers already $700 million.

Mr. President, this is not anything other than fairness. This is not anything other than saying the patent protection that was planned in the law ought to be delivered as it was planned in the law.

Mr. President, I will not prolong the argument. I know the distinguished Senator from Arkansas has worked on this and has some remarks, but I ask unanimous consent to have printed in the RECORD the editorial from the Washington Post, a letter from The Seniors Coalition, a letter from the National Committee to Preserve Social Security and Medicare, a letter from the National Women's Health Network, a letter from the Citizen Action, a letter from the Gray Panthers, a letter from the Generic Drug Equity Coalition, a letter from the Consumer Federation of America, and a letter from the Citizen Advocacy Center, all pertaining to this subject and advocating the position of this amendment. I ask unanimous consent that all of these letters be printed in the RECORD.

VOL
142
PT
6
AP
15
—
24
1996
UMI

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 4, 1995]

THE ZANTAC WINDFALL

All for lack of a technical conforming clause in a trade bill, full patent protection for a drug called Zantac will run 19 months beyond its original expiration date. Zantac, used to treat ulcers, is the world's most widely prescribed drug, and its sales in this country run to more than $2 billion a year. The patent extension postpones the date at which generic products can begin to compete with it and pull the price down. That provides a great windfall to Zantac's maker, Glaxo Wellcome Inc.

It's a case study in legislation and high-powered lobbying. When Congress enacted the big Uruguay Round trade bill a year ago, it changes the terms of American patents to a new worldwide standard. The effect was to lengthen existing patents, usually by a year or two. But Congress had heard from companies that were counting on the expiration of competitors' patents. It responded by writing into the trade bill a transitional provision. Any company that had already invested in facilities to manufacture a knock-off, it said, could pay a royalty to the patent-holder and go into production on the patent's original expiration date.

But Congress neglected to add a clause amending a crucial paragraph in the drug laws. The result is that the transitional clause now applies to every industry but drugs. That set off a huge lobbying and public relations war with the generic manufacturers enlisting the support of consumers' organizations and Glaxo Wellcome invoking the sacred inviolability of an American patent.

Mickey Kantor, the president's trade representative, who managed the trade bill for the administration, says that the omission was an error, pure and simple. But it has created a rich benefit for one company in particular. A small band of senators led by David Pryor (D-Ark.) has been trying to right this by enacting the missing clause, but so far it hasn't got far. Glaxo Wellcome and the other defenders of drug patents are winning. Other drugs are also involved, incidentally, although Zantac is by far the most important in financial terms.

Drug' prices are a particularly sensitive area of health economics because Medicare does not, in most cases, cover drugs. The money spent on Zantac is only a small fraction of the $80 billion a year that Americans spend on all prescription drugs. Especially for the elderly, the cost of drugs can be a terrifying burden. That makes it doubly difficult to understand why the Senate refuses to do anything about a windfall that, as far as the administration is concerned, is based on nothing more than an error of omission.

THE SENIORS COALITION, PROTECTING
THE FUTURE YOU HAVE EARNED,
Washington, DC, April 17, 1996.

Hon. HANK BROWN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BROWN: The Seniors Coalition urges you to support legislation offered by Senator Brown in the Judiciary Committee to correct an egregious mistake made in the implementation of the GATT treaty. This mistake has cost the consumers, and primarily the elderly, of this nation millions of dollars. This loophole has allowed a few drug companies to take advantage of a situation that was unintended and to line their pockets with unearned money from American citizens.

I ask you to read the article "What you don't know about brand name drugs is costing you millions" (pp. 4-5) in our latest edition of The Senior Class which outlines the problem and then to vote to support the correction. Your support for this effort is critical to the financial well being of thousands of senior citizens.

I submitted testimony to the Senate Judiciary Committee on this issue when the committee held hearings on this issue in February. At that time I called for the Congress to correct the mistake and reject the efforts of brand name companies to thwart the correction. The so-called "compromise" that has been drafted by Glaxo and may be offered by a member of the Judiciary Committee is nothing more than a thinly veiled effort to codify the mistake that was made. A careful reading of the language will find that it does even more damage to the ability of consumers, especially seniors, to find safe and affordable pharmaceutical products in the marketplace.

Again, please support Senator Brown and his effort to correct this mistake. Now is the time for the Congress to do something for the American public.

Sincerely,

THAIR PHILLIPS,
CEO.

NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE,
Washington, DC, March 27, 1996.

Honorable HANK BROWN,
Senate Judiciary Committee, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BROWN: We understand the Senate Judiciary Committee plans to markup legislation addressing and General Agreement of Tariff and Trade (GATT) patent pharmaceutical issue tomorrow. We urge you to support legislation (S. 1277) sponsored by Senators Chafee, Pryor, and Brown to correct an oversight in the GATT implementing legislation that will save consumers and taxpayers billions of dollars in prescription drug costs. We urge you to oppose any alternative measures that would maintain this costly and unintended loophole under GATT.

As you know, because of an oversight in patent changes approved under the GATT treaty implementing legislation, the availability of lower-priced generic versions of more than 25 widely-prescribed drugs must be delayed for up to an additional three years. As a result, seniors and other consumers will wait longer for access to less-costly generic drugs.

Every day Congress delays in correcting this oversight costs consumers $5 million dollars in additional prescription drug costs. In fact, the delay has already cost consumers an additional $500 million dollars. The biggest losers among U.S. consumers are senior citizens, as older Americans consume about one-third of the prescription drugs sold in the United States. On fixed incomes and with no pharmaceutical coverage under Medicare, three out of four seniors cite prescription drugs as their largest out-of-pocket expense.

On behalf of our millions of members and supporters, the National Committee to Preserve Social Security and Medicare urges you to support and report out of Committee the Chafee/Pryor/Brown generic drug legislation.

Sincerely,

MARTHA A. MCSTEEN,
President.

NATIONAL WOMEN'S HEALTH NETWORK,
Washington, DC, March 21, 1996.

DEAR JUDICIARY COMMITTEE MEMBER: In this time of federal, state and local budget-cutting, threats to Medicare and Medicaid, and continually rising medical costs, health care savings are more important than ever to the American public. Given the seriousness of skyrocketing health care costs, it is unconscionable that Congress has so far failed to address an error that needlessly increases the cost of health care for millions of Americans, and unnecessarily boosts costs to the federal government, as well.

More than a year ago, Congress discovered that the legislation implementing the GATT Treaty contained an unintended loophole for some pharmaceutical drug companies. An error of omission granted the manufacturers of brand-name drugs treatment unique in all of American industry.

By failing to include generic drugs in its rules concerning transition to new patent terms under the GATT Treaty, Congress has done a disservice to women's health, specifically, and to consumers and taxpayers, generally. While the mistake was unintentional, the consequences are grave. Each day that passes without Congressional action to correct this error costs millions of dollars; the total cost is expected to exceed $2 billion.

The beneficiaries of the current situation are the handful of giant pharmaceutical corporations that will enjoy windfall profits for three additional years. Their glee at this unanticipated windfall is evidenced by the fierceness with which the lobbyists for these companies are fighting to preserve their protected status.

The exemption of drug companies from the GATT transition rules was a mistake. It would be intolerable to compound this mistake by failing to correct it. Please support the solution proposed by Senators BROWN, CHAFEE and PRYOR.

Sincerely,

CYNTHIA PEARSON,
Program Director.

CITIZEN ACTION,
Washington, DC, March 26, 1996.

DEAR JUDICIARY COMMITTEE MEMBER: On behalf of Citizen Action and our three million members, I would like to ask your support for a proposal which will shortly be offered by Senators Brown, Chafee and Pryor. This proposal would undo a legislative error which, if not corrected, will cost U.S. consumers hundreds of millions of dollars in unnecessary prescription drug costs.

When Congress passed new patent terms under the GATT Treaty, it failed to include prescription drugs under its transition rules. GATT extends patent terms of U.S. products from 17 to 20 years. Because many manufacturers had already invested millions of dollars in competing products in expectation of the 17-year limit, Congress adopted transition rules to allow those companies to introduce generic alternatives on the date that the 17-year patent would have expired.

The omission of prescription drugs in the transition rule means that makers of lower-cost generic drugs will be unable to bring their products to market until the full 20-year term of patent protection has expired. This loophole will allow a few large pharmaceutical companies to reap more than $2 billion in windfall profits. Because lower-cost generics will be kept off the market, consumers will be forced to pay higher prices for more than a dozen drugs, including big-sellers Zantac and Capoten.

Without a correction, taxpayer-funded federal and state health programs, as well as individual purchasers of prescription drugs,

will be forced to pay higher than necessary costs. The Department of Veterans Affairs estimates that it alone will spend $211 million in additional costs over the next three years.

The Judiciary Committee has an opportunity to correct a provision that will have grave consequences for consumers. Again, Citizen Action urges that you act now to remove this unique loophole which rewards certain large pharmaceutical companies at the expense of taxpayers and consumers.

Sincerely,

CATHY L. HURWIT,
Legislative Director.

GRAY PANTHERS PROJECT FUND,
AGE AND YOUTH IN ACTION,
Washington, DC, February 29, 1996.

Hon. HANK BROWN,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR BROWN: Attached please find copies of Tuesday's ABC World News Tonight news story focusing on the negative impact that the GATT loophole will have on American consumers like Eleanor Black and her mother Sally. In addition, attached are copies of the testimony submitted to the Judiciary Committee from Ms. Black and myself, as well as Wednesday's New York Times editorial on the issue.

With the Senate Judiciary Committee hearings on GATT now behind us, Senators Chafee, Brown, and Pryor have vowed to introduce legislation within the next few weeks that will correct this loophole and bring relief to millions of consumers like the Blacks who rely on the savings that generic pharmaceuticals offer.

In December, an effort to bring the Chafee-Brown-Pryor amendment to the Senate floor was narrowly defeated by one vote. When the Chafee-Brown-Pryor amendment is introduced in the near future, I urge you and your colleagues to do the right thing and correct this Congressional oversight and save American taxpayers from a costly mistake.

Please support the Chafee-Brown-Pryor amendment and close the GATT loophole.

Sincerely,

DIXIE D. HORNING,
Executive Director.

GENERIC DRUG EQUITY COALITION,
Washington, DC, March 29, 1996.

To: Members, United States Senate
FR: Generic Drug Equity Coalition
RE: No More Delays, Pass Chafee/Pryor/Brown

When the Senate adjourns today for the Spring recess, consumers and taxpayers will have paid $580 million more for prescription drugs than they should have because of a mistake Congress and the administration made in December 1994, $580 million. Everyday that passes costs consumers and taxpayers $5 million more.

By the time you return in two weeks, the cost to consumers and taxpayers will have reached $650 million.

Yet, despite written commitments to markup a bill to close the GATT loophole in the Senate Judiciary Committee in March, nothing has happened.

A few companies continue to reap unintended windfall profits at the expense of American consumers, taxpayers and generic drug manufacturers.

While you are away observing the Easter and Passover Holidays be sure to think about Americans like 69-year old Eleanor Black and her 89-year old mother Sally who spend $339 a month, one quarter of their monthly income, for Zantac because of the GATT loophole.

The Generic Drug Equity Coalition urges you to support the Chafee/Pryor/Brown proposal and close the GATT loophole.

The Judiciary Committee leadership has missed its own, self-imposed deadline. It is time for a vote on the Senate floor.

CONSUMER FEDERATION OF AMERICA,
Washington, DC, March 27, 1996.

DEAR SENATE JUDICIARY COMMITTEE MEMBER: The Senate Judiciary Committee plans this week to examine the loophole in the General Agreement on Tariffs and Trade (GATT) which exempts the pharmaceutical industry from patent transition terms. We urge you at this time to support the efforts of Senators BROWN, CHAFEE, and PRYOR to redress this unintended and potentially costly, effect of the GATT Treaty.

As you know, an error of omission in the legislative language implementing the GATT Treaty has exempted the pharmaceutical industry from the patent transition terms. As a result, the pharmaceutical drug industry—alone among all industries—enjoys a 20-year patent term, and generic manufacturers are unable to market long-planned products.

The unintended effects of the patent extension include diminished market competition, an undeserved windfall to pre-GATT patent holders, and further inflated costs to millions of Americans. The Congressional Budget Office (CBO) has estimated that this simple mistake will cost consumers and taxpayers as much as $2 billion as drug companies reap windfall profits in the absence of competition. This windfall was not intended by Congress, nor envisioned in the GATT treaty itself.

Senators, BROWN, CHAFEE, and PRYOR have proposed closing the loophole, thereby protecting consumers' health and taxpayers' wallets. This solution would not convey special status on the generic drug industry; instead, this amendment provides for equal treatment, and would compel brand-name drug manufacturers to live under the same rules as every other American industry.

In the interest of consumers, taxpayers and fairness, we urge you to support the efforts Senators, BROWN, CHAFEE, and PRYOR have made to redress this costly error.

Sincerely,

MERN HORAN,
Legislative Representative,
Consumer Federation of America.

CITIZEN ADVOCACY CENTER,
Elmhurst, IL, March 25, 1996.

DEAR JUDICIARY COMMITTEE MEMBER: An oversight in the legislation implementing the GATT Treaty has granted the pharmaceutical industry a privileged status at the expense of consumers and taxpayers. More than a year after the implementing legislation was adopted, Congress has yet to correct this windfall benefit. Now, Senators Brown, Chafee, and Pryor have developed a solution that is fair and reasonable and deserving of your support.

GATT is premised on opening world markets to competition. Under our implementing legislation, however, manufacturers of generic drugs, alone among all industries in the United States, are prohibited from bringing products to market until the full twenty-year patent term has expired for brand-name drugs. This anticompetitive windfall is estimated to be worth two billion dollars in profits. Health care consumers are thus forced to pay higher costs, as will taxpayers, who fund drug purchases through a number of government programs. The City of Elmhurst has a high percentage of Senior Citizens, a group that is disproportionately harmed by high health care costs, and the adverse effects of the as yet uncorrected legislation.

Congress did not intend to bestow this windfall on drug companies when it adopted the transitional rules for GATT. We urge you, in the interest of consumers, seniors, and taxpayers, to correct this oversight and to not be lulled into inaction by the multimillion dollar lobbying blitz of the companies enjoying this windfall daily.

Senators Brown, Chafee and Pryor have proposed a simple solution that would protect the balance of interest between generic and brand-name manufacturers envisioned in the Hatch-Waxman Act of 1984. It's time to support their proposal.

Very truly yours,

THERESA AMATO,
Executive Director,
Citizen Advocacy Center.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, my apologies to the Senator from Colorado. Has the Senator from Colorado finished his statement?

Mr. BROWN. Yes.

Mr. PRYOR. Mr. President, I will take but a few moments of the Senate's time this evening. We need to move on. The distinguished managers have requested that we move to final resolution of this very important measure. But I would like to take, Mr. President, in opening, a few moments to discuss our particular concerns over this uncorrected error in our laws which has led to unnecessarily high drug prices.

I would like to quote from my good colleague who is departing the Senate and is a great friend, Senator PAUL SIMON of Illinois. Senator SIMON recently spoke on the issue of correcting this problem in the GATT treaty. I quote from Senator SIMON when he said, "This is a classic example of special interests versus the public interest."

Mr. President, that is what this debate, I am afraid, has boiled down to. I know my friend from Colorado, Senator BROWN, in his eloquent statement has placed into the RECORD a recent editorial of December 4, 1995 from the Washington Post. I will read a paragraph from that editorial:

> All for lack of a technical conforming clause in a trade bill, full patent protection for a drug called Zantac will run 19 months beyond its original expiration date. Zantac, used to treat ulcers, is the world's most widely prescribed drug, and its sales in this country run to more than $2 billion a year.

I continue quoting from the Washington Post editorial:

> The patent extension postpones the date at which generic products can begin to compete with it and pull the price down. That provides a great windfall to Zantac's maker, Glaxo Wellcome, Inc.

That is the beginning paragraph, Mr. President, of the Washington Post editorial. To conclude from that editorial, let me read:

VOL 142 PT 6 AP 15 — 24 1996 UMI

That makes it doubly difficult to understand why the Senate refuses to do anything about a windfall that, as far as the administration is concerned, is based on nothing more than an error of omission.

Well, once again, this issue is with us. We failed by one vote back on December 7 to rectify this mistake. Since that time, a few companies like Glaxo Wellcome have earned more than $600 million in extra revenues because of a congressional error. It also means that the Veterans Administration, the Medicaid programs, the consumers of America, and especially the elderly of America are having to pay double for Zantac than what they would be paying had we allowed a generic to come into the marketplace and compete.

This is not fair, Mr. President. We know that this is not fair. The Judiciary Committee this morning had scheduled a markup, one which has already been delayed from last month. They continue to promise that they are going to mark up S. 1277, the measure offered by Senator BROWN and Senator CHAFEE and myself to correct this mistake in the GATT treaty.

But, once again, this morning an unnamed Senator objected to the Senate Judiciary Committee marking up this measure, and, once again, it means more and more windfall profits for undeserving companies at the expense of consumers. These delays are completely unacceptable and unwarranted. The American public simply cannot abide further delays on behalf of special interests.

What is at stake? Back on November 27, 1995, an editorial in the Des Moines Register stated that:

> A month's supply of Zantac ordinarily sells for around $115; the generic price—meaning the same drug without the Zantac label—would be around $35, the generic makers contend.

Mr. President, I ask unanimous consent that a copy of that Des Moines Register editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Des Moines Register, Nov. 27, 1995]

A COSTLY OVERSIGHT

FINE PRINT IN GATT LAW COULD COST ZANTAC USERS MILLIONS

The nation's prescription drug makers are at war again, with a $1 billion-plus purse going to the winner. If the brand-name drug manufacturers win, the losers will include the millions of Americans who suffer from ulcers or heartburn, and take the drug Zantac regularly to combat the problem. It's going to cost each of them about $1,600.

Zantac is made by GlaxoWellcome, the biggest in the business.

Here's what started the current war:

When a new prescription drug hits the market, generic drug manufacturers await the patent expiration so they can enter the market with the same drug. They offer it for sale without the brand name, usually at a fraction of the brand-name price.

The new international GATT treaty signed by the United States and 122 other countries sets the life of a patent at 20 years from the date of application. Former U.S. law provided patent protection for pharmaceuticals for 17 years from the date of approval. Because the difference could have a significant impact on the number of years a firm could market its patented drug without competition. Congress made special provisions for drugs under patent at the time GATT was approved last summer.

But when the legal beagles got done reading all the fine print, it turned out that Zantac was granted a 19-month extension of its patent life—and it is such a hugely popular drug that that translates into a multimillion-dollar windfall.

Generic drug makers call the windfall a congressional oversight, and estimate the difference is worth $2.2 billion to Glaxo, because the generics can't enter the market for 19 more months. Glaxo counters that Congress made no mistake, that the extension was part of the compromise with generics. It won't wash. Nothing in the GATT treaty was intended to further enrich the happy handful of brand-name drug makers who hold lucrative patents—or to personalize the users of the drugs.

A month's supply of Zantac ordinarily sells for around $115; the generic price—meaning the same drug without the Zantac label—would be around $35, the generic makers contend. Unless Congress changes the wording of the law regarding transition to GATT provisions, Zantac users will pay the difference for 19 months longer.

Some generic drug manufacturers had already spent a bundle preparing to enter the market before the GATT treaty took effect. They lose. So do taxpayers, who pay for Medicaid prescriptions. The Generic Drug Equity Coalition estimates that the higher costs of Zantac and some other drugs affected by the mistake (such as Capoten, for high blood pressure) will cost Iowa Medicaid $3.5 million. Further, say the generic drug makers, it will tack another $1.2 million onto the cost of health-insurance premiums for Iowa state employees.

Glaxo's political action committee has doubled its contributions to Congress in recent months. Glaxo wants the mistake to stay in the law. Generic drug manufacturers want it out.

So should ulcer sufferers. So should taxpayers. So should Congress.

Mr. PRYOR. Mr. President, finally, let me say we all know what this issue is about. We have debated this issue to some extent on the floor of the Senate and to a great extent in the Judiciary Committee. We heard our U.S. Trade Representative, Ambassador Kantor conclusively explain the situation, and I quote:

> The provision was written neutrally because it was intended to apply to all types of patentable subject matter, including pharmaceutical products. Conforming amendments should have been made to the Federal Food, Drug and Cosmetic Act and section 271 of the U.S. Patent Act, but were inadvertently overlooked.

One other quote from Ambassador Kantor:

> We intended to apply this grandfather provision to the pharmaceutical area. S. 1277 would result in a level of protection that is consistent with our original intent.

Mr. President, let me say, Senator BROWN, Senator CHAFEE and myself have tried to proceed in good faith. There are Members on each side of the aisle that have stated their concern about, and in some cases their objection to, certain language that we had in this legislation. We have attempted to meet with them. We have attempted to compromise. We have certainly gone to the negotiating table and attempted to bargain in good faith and see what their concerns are.

Truly, Mr. President, I believe that we now have come together and crafted an amendment that is acceptable to all those concerned with doing what is right for consumers, businesses which have relied upon the law in good faith and for our compliance with a very important treaty. The amendment represents the simplest and best means for us to correct the egregious flaw that persists today because of unconscionable delays and the efforts of special interests.

Mr. President, I want to say in conclusion that I have thoroughly enjoyed working with Senator BROWN of Colorado and Senator CHAFEE of Rhode Island, my colleagues on the other side of the aisle. I hope we can bring this matter to a resolution in the very near future.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Colorado.

Mr. BROWN. Mr. President, the vote on this measure was close, as has been noted. Since that time, I believe we have persuaded others to join us in advocating this amendment. The amendment has been compromised to the point that specifically we have spelled out in the compromise version that is before the Senate right now a very clear, bright-line test of what substantial investment is. It is easy and clear to work with. I think we have addressed the problems. I am confident we have the votes.

However, because of the urgency of the particular underlying measure that is here, some Members whose votes we need and count on are unable to support this amendment because they fear it would bring controversy to the bill. It is, therefore, necessary for me to reluctantly withdraw this measure.

I must mention, Mr. President, it does seem to me this is the appropriate kind of thing that ought to be considered on a prompt basis. Literally, to fail to act costs consumers $5 million or more a day, and literally if we fail to act very promptly, the issue becomes moot because the time simply runs out. I believe in fairness to companies that have reinvested, and, in fairness to consumers, we should and must act quickly.

I simply want to serve notice that we will be looking for other vehicles to offer on this floor in a rather prompt fashion.

With that, I reluctantly withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment.

So the amendment (No. 3678) is withdrawn.

Mrs. KASSEBAUM. Mr. President, I very much appreciate the sponsors of the amendment withdrawing it. Senator BROWN and Senator PRYOR are very persuasive in their arguments, as Senator CHAFEE was as well. I am sympathetic to the purpose of the amendment.

As was noted by the sponsors, it is controversial. For that reason, we would have to oppose it on the health insurance reform bill. I appreciate the thoughtfulness in their withdrawal.

UNANIMOUS-CONSENT AGREEMENT

Mrs. KASSEBAUM. Mr. President, I put forward on behalf of the majority leader a unanimous-consent agreement.

I ask unanimous consent during the remainder of the Senate's consideration of S. 1028, the following amendments be the only first-degree amendments in order, that they may be subject to relevant second-degree amendments, and following the disposition of the listed amendments and the committee substitute, the bill be advanced to third reading, and the Senate then proceed to the House companion bill, that all after the enacting bill be stricken, the text of the Senate bill be inserted, the bill be advanced to third reading and the Senate proceed to vote on passage of H.R. 3103, as amended, without any intervening action or debate.

The list that I have of the amendments would be: Nickles, relevant; Jeffords, lifetime caps; Thomas, rural health; McCain, biological medical devices; Gramm, relevant; Coats, medical volunteer liability coverage; Domenici, mental health; Specter, public health; pecter, public health; Specter, public health; Gregg, choice care; Helms, study of access by HHS; Senator BROWN has withdrawn his amendment; McConnell, medical malpractice; Bond, administration simplification; Pressler, CRNAS; D'Amato, fair tax treatment; Kassebaum, relevant; Dole, relevant; Roth, relevant; Simpson, commission; Bennett relevant; Burns, telemedicine; Boxer, ban HMO gag rules; Conrad, nurse practitioner, nurse anesthetists, advance nurse practitioner; Feinstein, nonprofit insurance; Graham-Baucus, Medicare fraud; Harkin, fraud and abuse; Harkin, fraud and abuse; Kennedy, relevant; Pryor relevant; Wellstone, two domestic violence; Simon is a sense-of-the-Senate resolution; Dorgan, organ donations; Lieberman, MM data banks; Kennedy, nursing care; Daschle, relevant; Boxer, biomed devices.

Mr. KENNEDY. Would the Senator add Wellstone, relevant, sense of the Senate.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I believe Senator JEFFORDS has been waiting, and I believe he is next to be recognized.

Mr. JEFFORDS. Mr. President, I yield to the Senator from Arkansas.

Mr. PRYOR. Mr. President, if we could ask a question, Mr. President, while the two distinguished managers are on the floor. It is 6:15; I did not realize there were quite as many amendments.

Mrs. KASSEBAUM. Neither did we.

Mr. PRYOR. Are we planning to go on into the evening?

Mrs. KASSEBAUM. Yes, Mr. President, I say to the Senator from Arkansas, I think it is the hope not only of the managers but also of the minority leader and the majority leader that we finish tonight.

Mr. PRYOR. Good night, Mr. President, thank you.

AMENDMENT NO. 3679

(Purpose: To establish a minimum amount that may be applied as an aggregate lifetime limit with respect to coverage under an employee health benefit plan or a group health plan)

Mr. JEFFORDS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] PROPOSES AN AMENDMENT NUMBERED 3679.

Mr. JEFFORDS. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

At the end of section 103, add the following new subsection:

(g) LIMITATION ON LIFETIME AGGREGATE LIMITS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an employee health benefit plan or a health plan issuer offering a group health plan may not impose an aggregate dollar lifetime limit of less than $10,000,000 (such amount to be adjusted for inflation in fiscal years subsequent to the fiscal year in which this subsection becomes effective) with respect to coverage under the plan.

(2) SMALL EMPLOYERS.—Paragraph (1) shall not apply to a group health plan offered to or maintained for employees of a single employer that employs 25 or fewer employees.

(3) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting the application by an employee health benefit plan or a health plan issuer offering a group health plan of any limits, exclusions, or other forms of cost containment mechanisms with respect to coverage under the plan other than the aggregate limit permitted under paragraph (1).

(4) DISCLOSURE.—Any limits, exclusions, or other cost containment mechanisms permitted under paragraph (3) shall be disclosed as provided for in section 105(c).

(5) APPLICATION OF SUBSECTION.—This subsection shall not apply to a health maintenance organization that meets the requirements of title XIV of the Public Health Service Act.

(6) EFFECTIVE DATE.—This paragraph shall become effective with respect to health plans on the date that is 2 years after the date of enactment of this Act.

At the end of section 105, add the following new subsection:

(c) DISCLOSURE OF LIMITS AND EXCLUSIONS.—An employee health benefit plan or a health plan issuer offering a group health plan shall disclose, as part of its solicitation and sales materials and in a form and manner that is conspicuous and understandable to a reasonable individual, any limits, exclusions, or cost containment mechanisms with respect to coverage provided under the plan.

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—

"(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the Secretary of the Treasury; and

"(B) upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim.

"(2) Paragraph (1) shall not apply—

"(A) to any debt or claim that—

"(i) is in litigation or forelosure;

"(ii) will be disposed of under an asset sales program within 1 year after the date the debt or claim is first delinquent, or a greater period of time if a delay would be in the best interests of the United States, as determined by the Secretary of the Treasury;

"(iii) has been referred to a private collection contractor for collection for a period of time determined by the Secretary of the Treasury;

"(iv) has been referred by, or with the consent of, the Secretary of the Treasury to a debt collection center for a period of time determined by the Secretary of the Treasury; or

"(v) will be collected under internal offset, if such offset is sufficient to collect the claim within 3 years after the date the debt or claim is first delinquent; and

"(B) to any other specific class of debt or claim, as determined by the Secretary of the Treasury at the request of the head of an executive, judicial, or legislative agency or otherwise.

"(3) For purposes of this section, the Secretary of the Treasury may designate, and withdraw such designation of debt collection centers operated by other Federal agencies. The Secretary of the Treasury shall designate such centers on the basis of their performance in collecting delinquent claims owed to the Government.

"(4) At the discretion of the Secretary of the Treasury, referral of a nontax claim may be made to—

"(A) any executive department or agency operating a debt collection center for servicing, collection, compromise, or suspension or termination of collection action;

"(B) a contractor operating under a contract for servicing or collection action; or

"(C) the Department of Justice for litigation.

"(5) nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

"(A) maintain competition in carrying out this subsection;

VOL
142
PT
6
AP
15
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24
1996
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"(B) maximize collections of delinquent debts by placing delinquent debts quickly;

"(C) maintain a schedule of contractors and debt collection centers eligible for referral or claims; and

"(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.

"(6) Any agency operating a debt collection center to which nontax claims are referred or transferred under this subsection may charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the nontax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund an activity from another account or from revenue received from the procedure described under section 3720C of this title. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(7) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (in this subsection referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of Governmentwide debt collection activities. Costs properly chargeable to the Account include—

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, and other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including services and utilities provided by the Secretary, and administration of the Account.

"(8) Not later than January 1, of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year, minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(9) To carry out the purposes of this subsection, the Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary considers necessary.

"(h)(1) The head of an executive, judicial, or legislative agency acting under subsection (a)(1), (2), or (3) of this section to collect a claim, compromise a claim, or terminate collection action on a claim may obtain a consumer report (as that term is defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)) or comparable credit information on any person who is liable for the claim.

"(2) The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).".

Mr. JEFFORDS. Mr. President, I know that we have had a difficult day today. We are having a difficult time trying to face the facts of life that the bill we are amending is a very important one, one which I have been an original cosponsor and one which part of the bill is mine. It is something that I worked very hard on. I believe it is an excellent job.

However, I also believe that it has a very serious flaw in it. Thus, at the time the committee was meeting—and I want to point out that we have already made an exception today—the Finance Committee came and said, "Hey, we have a bunch of amendments." Most of them have been accepted. So we have already made several exceptions to the nonamendment rule. I want to remind people of that.

Now, I submitted this amendment, which I have before this body, at the committee. I am a member of the committee, ranking Republican on the committee. At that time it was said, "Hey, we want to get out of here a unanimous bill. We may have problems." So I said, "OK, I will wait until the floor." So I come to the floor to offer an amendment, which I think about everybody agrees ought to be on it, and they said, "No. No amendments—except for the Finance Committee amendments."

I understand that the ranking Republican and the chairman of the committee are bound by their commitment to no amendments, but nobody else is. Nobody else is in this body. So I hope Members would say he deserves to be heard. He has told me I could raise this amendment on the floor, and here it is.

Now we will talk about what the amendment is and why we are here. The bill is one which provides, if a person is working for a business and changing jobs, or whatever else, has a health problem, that they are guaranteed an issuance of a policy or a continuance of a policy, notwithstanding the fact that they are sick. That is very important. This is an important breakthrough. That is why I supported the bill.

However, what we were not aware of at the time and I brought to the committee's attention, but perhaps there was too little time to consider it, is the fact that there is no requirement now under the Federal law for any kind of a certain level of cap.

Now, what could happen to us is, OK, we require the insurance company to take a sick person, but then the insurance company has the right to change its benefits, or it can say, "OK, we will lower the lifetime cap. So when we take you on, as soon as we pay whatever level of funds we reduce the limit to, you are gone, finished, you have no more coverage."

Well, this amendment would rectify that and say we have to put—as a nationwide standard, with the exception, we admit it could cause some problems with small businesses, so we exempt 25 and under. We say you have to have $10 million of coverage. Why the $10 million? The $10 million lifetime cap is because the standard for the industry for many years was a million dollars. But that was 20 years ago. That million dollars is worth about $100,000 now. So we say, let us go back to the standard of 20 years ago and put on that cap.

I want to point out that when we do this, we are obviously going to cause some costs. I will explain that later. But let us take a look at who we are talking about when we are talking about those covered under this provision. We are talking about those that are working for businesses, as I say, that get sick. All of a sudden they have some pretty big bills. Remember, some of the lifetime caps out there on these insurance plans are $50,000. That is one day in a hospital sometimes. So you go in there sick, and all of a sudden you have no coverage. We are trying to correct that.

Now, let me point out to you, again, what we are talking about from a national policy perspective. What happens now to that sick person? That person is sick. They have been allowed to be covered and then chopped off because they have reached the lifetime limit of, say, $50,000. What happens? Under the law right now, in order for them to qualify for Medicaid, they cannot have resources beyond a certain level. So what we are talking about—and I will give some examples in a minute—is middle income people, or even higher income people, who suddenly are placed in a position where the only way they can get care for their loved one is to get rid of all of their assets and then they will qualify for Medicaid. So the household has to go through that—getting rid of its assets—and then they qualify for Medicaid. Should our policy in this Nation do that? I say no, and I am sure you will, too. This is not good policy.

Let me talk a little about some of the people involved. I think all of you have probably heard the ads of Christopher Reeve, or watched them on television, or read the editorials in the newspapers and the stories that have covered this. If you want an example as to whether or not it could happen to you, here is "Superman," who was involved in a very serious accident. He was thrown off his horse and he becomes a C–2, which is a broken neck. He has lost the functions below the neck level, without some assistance. He has a cap of $1.2 million, and it is costing him $400,000 a year. In 3 years, he will be past that cap.

Let us take Jim Brady, who is another one—not an example of the lifetime cap, because he is on worker's compensation, but he had a head injury caused by a bullet when he was with

President Reagan. He would be far beyond a million-dollar cap, to say nothing of a $50,000 cap at this time.

Let me talk about some of the people that do not have the resources of a Christopher Reeve, or the protection of the law with respect to worker's comp, like Jim Brady. Let me go through some of these so that you understand better what kind of people we are talking about.

This story is about Donelle and Kyle Meniketti, from the Washington Post. For 4 years, Donelle Meniketti waged a tremendous fight to save her son Kyle from suffering death or severe brain damage as a result of a rare breathing disorder that struck when he was 18 days old. It says:

> When he sleeps, said the Livermore, CA, woman, his airway collapses and his brain does not tell him to breathe. He needs a breathing machine at night and an oxygen monitor. When he sleeps, he must have someone there all the time to make sure he is breathing.

Home nursing care costs alone can be $10,000 a month, and even though Mrs. Meniketti has spent sleepless nights watching over her son rather than pay for a nurse, his medical care is making constant claims on the health insurance plan of her husband Keith. As these claims mounted, they face the terrible prospect of the child's expenses soon reaching the million-dollar cap.

He is 4 years old. So far he has escaped it. But they will be forced into Medicaid if this amendment does not succeed.

Then there is Heather Fraser. I wish you would have seen her. She appeared at our press conference the other day. She is 23 years old and suffers from cystic fibrosis. She has suffered already many times. She does not know from one day to the next whether she is going to have one of these respiratory infections. She has had chronic problems of all different kinds and will continue to do so. She graduated from college, is 23, and is looking forward to the future. What is going to happen? The average cost per year to treat a moderate case of cystic fibrosis is $46,000. More severe cases cost roughly $79,000. To date, Heather's medical expenses have exceeded $800,000. Research is going on, but right now she will be beyond the cap and on Medicaid.

Another one is Lauren Yandell of Williston, VT. Her policy has a cap of $1 million. Lauren has a son who has suffered from a chronic and very rare neurological disease since birth. Because of medications and frequent surgery and personal care, his medical expenses are extremely high—last year alone, over $70,000. He is only 5 years old. At this rate, Lauren believes her son will exhaust the limit within 10 years.

Barbara Church, in Shelburne, VT—these are Vermonters, but there are people like this all over the Nation. Barbara has a 12-year-old son who was in a car accident 3 years ago. He has a very similar condition to Christopher Reeve. Since the accident, medical expenses have ranged from $20,000 to $50,000 annually. Her policy through her employer does not have a cap, and she is wary because if she loses her job, as it is under this law now, and she tries to go somewhere, she will not have the cap, or it may be only $50,000. There is no protection for her.

These are the kinds of real-life situations. Is it appropriate for us to say that the way these people should get their continuous care is to get rid of all their assets and live in poverty for the rest of their lives, as long as their child survives? No, that is not what the policy of this Nation ought to be. This amendment would make sure that those occurrences do not occur.

I hope that people will take into consideration that this is an amendment which will correct the deficiencies in the bill before us by saying that there will be a cap out there, which will be sufficient to take care of the expenses of these people to whom we are saying, "You have a good deal because you can continue your coverage." Right now, the expectations are not there, and they can be changed at any moment.

So I want to urge you to consider that this is something that is important to the bill before us. It is an amendment to the bill before us. It is to correct the serious problem in the bill before us. What we are talking about here, as far as the impact, is, obviously, if somebody is paying some money, somebody is going to have to shell out some money somewhere else. If they are being paid to have their health taken care of—first of all, let me review for a moment the kinds of costs involved with these actions.

Look at this chart. It will show you about children with hemophilia. There are about 7,000 children with hemophilia, not many in terms of 250 million. The average cost per year per person is $100,000. Life expectancy is 40 years. Lifetime cost per person for hemophilia is $4 million. Do you want to put them all under Medicaid?

Cystic fibrosis, the case I talked about earlier; the prevalence is about 4,000 in this country. That is not many relative to the huge population. It is easy to spread around the cost. The average cost per person per year is $18,000, and the average life expectancy is 30 years; $2.5 million.

This is the kind of situation which we are talking about.

Let us take a look. There are other examples. Spinal injury and head trauma, you can also see where the costs are—around $5 million for a lifetime situation.

Now let us review the question of why this is going to be a reasonable cost with respect to the existing situation. Again, insurance—the main purpose of insurance is to spread costs over a larger population so that the cost is small to the employer and to the employee with the insurance policy. But because of the huge number for which we spread it, it makes it reasonable for a family to afford.

Let me remind all of my colleagues that we all have no lifetime cap. None of the Federal employees have anything to worry about. We are all covered, whatever the costs are. In addition to that, as this chart shows, we are one of the 20 percent in this country that have no limits whatsoever. There are those that have more than $1 million, about 6 percent. The biggest group is that one that has been carrying the $1 million forward for the last 20 years as long they have been in business. That is 46 percent. So already we are at over 70 percent. Then we go on down.

I will be candid with you. The lower, of course, your lifetime caps, especially when you get to the really low levels, you obviously start covering more things than normally, and you end up with more cost. But the thing I am trying to make sure you understand is the cost that is spread around is not that high.

Let us take a look at what some of the people say about what those costs would be. First of all, let me run through some of these that have given us some costs.

The American Academy of Actuaries, for instance, has given us a cost analysis which demonstrates what we are talking about. Let me go to Price Waterhouse first. Price Waterhouse is a noted accounting firm, which we often look to give us accurate information, estimates that the Jeffords amendment would save $7 billion in Medicaid costs—$7 billion—over 7 years. And more importantly, the cost to businesses would be somewhere in the area of—especially those in the larger areas—would be somewhere around 1 percent of their premiums.

Let us go to another one. We have several on this.

Also the National Taxpayers Union; let me tell the people on my side of the aisle what the National Taxpayers Union says. They are supporting it. They say it will be scored as a direct spending reduction in the Medicaid Program by approximately $2.8 billion over a 5-year period. In addition, $2.1 billion may be saved through State and local Medicaid Programs.

How can you say that this is not something that should be done when we know what it is going to do to help us address the budget problems which we have? Do you know what that amount of money means? That is going to be replaced by the insurance premiums? But it does not even cover the money that is drained out of all those families that went out for expenditures on health care.

The Consumers Union, the other side of the aisle usually looks forward to

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the lifetime cap amendment which would significantly benefit consumers. The Consumers Union agrees that, if health insurance policies have lifetime caps, it would be no lower than $10 million to the people exposed. They say it is important and essential.

Then, of course, we have to look to the Congressional Budget Office and we have CBO's estimates. This came to us today. The Congressional Budget Office says the amendment would increase the Federal deficit. They are the only ones who say it is a cost after you balance out the deductions for taxes—$120 million. So by the worst-case scenario we have an offset for this. You could have a tiny, itty-bitty negative impact of $120 million over 5 years.

So it is almost a no-brainer. It is hard to find out why anybody is against it.

This is the Congressional Budget Office again. The proposal would initially raise private insurance premiums by 0.4 percent. You want to keep in mind that, if you are an employer, you have options. You can increase your premiums, or you can increase your deductibles.

So it may not even cost the businessman anything. So again, the Congressional Budget Office says that we have something here which either costs nothing or something which is going to save the Treasury billions of dollars over 7 years.

So it is just hard for me to figure out why there can be any opposition to do this. Not only that. But Senator KENNEDY, and I think Senator KASSEBAUM, have suggested that this is a great amendment and that it ought to be on some other bill. What other bill? Why not the one it is most relevant to? Why not on the one with which we are trying to make sure is helping people with their transfer from job to job?

I understand the complexity of trying to get a bill through without any amendments on it. But I remind everyone that we have already granted exceptions to the Finance Committee, and I asked the committee that be one of those exemptions because I offered it at the committee level, and they said, "No way. Take it to the floor." I come to the floor. They say, "Sorry. No amendments even though it is relevant to the bill." It will save the middle-income people billions of dollars. It will not cost employers hardly anything, and it will establish for the first time a good policy in this situation so that we do not drive people through poverty to qualify for Medicaid.

Mr. President, I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

PRIVILEGE OF THE FLOOR

Mr. SIMON. Mr. President, I ask unanimous consent that Jayson Slotnik, a fellow on my staff, be permitted to be on the floor during the action on S. 1028.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I rise in support of Senator JEFFORDS' amendment. I am blessed to be a cosponsor of that. He mentioned the case of Christopher Reeve. Christopher Reeve and an actor named Robin Williams, when they were students, made a pact that they would support one another if they ever faced this kind of an emergency. Robin Williams, as an actor who makes a great deal of money, is able to help Christopher Reeve. But what about the thousands of Americans who do not have a Robin Williams?

It is very interesting. Senator JEFFORDS talked about the cost. We changed the Federal insurance. In other words, all Federal employees, including everyone here in the Senate right now—all of us—had some changes. We had two major changes. The most costly was adding mental health coverage for all Members—not only Members but all Federal employees. Do you know what that cost? It costs 27 cents each pay period. That is the additional mental health coverage cost. Twice a month we pay 27 cents. I tried to find out what taking the $1 million cap off cost us, and nobody knows what it cost. It is such a small amount.

My guess is, if you took that chart that Senator JEFFORDS has there of companies that have a $1 million limit and the 22 percent that do not have any limit, that you would find really no difference in the rates charged; no pattern of difference. You are talking about something that does not affect very many Americans. So the total cost is very limited.

I talked earlier today—four reporters stopped me out here, as they stop all of us. I said to the reporters, when they were asking me about this, "Do you know what kind of limits you have on your insurance?" Well, Adam Clymer of the New York Times knew, but the other three reporters did not know. I think very few Americans have any idea what kind of limit they have. They just know they are covered by insurance or they are not.

We should not impoverish people before we protect them. That is what we do with Medicaid. I think the Jeffords amendment makes a great deal of sense, and I am proud to support it and proud to be a cosponsor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it grieves me greatly to rise to indicate my reservation about this amendment on this particular bill. I know how hard the Senator has worked on this project, and in any other forum I would be a strong supporter. I am very familiar with Chris Reeve. He is a resident of my State out in the Berkshires. He was a strong supporter of mine in the last campaign, a personal friend as well. I am very familiar with the real challenges—first of all, the extraordinary courage of this absolutely incredible human being. It is what I think of first when I think of Christopher Reeve. As he has pointed out so well, the human tragedy of others who are facing these kinds of situations is incredible and incredibly difficult, and all of us are familiar with stories of families being bankrupt because of these ceilings which are out there. Most of them were about $1 million just until very recently, some of them as high as $2 million.

I agree with the Senator, and it pains me to oppose him on this particular measure. I was mindful of that during his presentation.

I ask the Senator what his disposition is, whether he might take a voice vote here. Does he prefer that we make a tabling motion, or is he willing to take——

Mr. JEFFORDS. That, of course, is the Senator's option. I cannot stand here representing 100 groups who support this amendment and taking into consideration the tremendous effort that Christopher Reeve has put into this personally to try and convince this body to do this reasonable thing, and not, unfortunately, from the Senator's perspective, ask for a recorded vote. I do not mean to embarrass the Members on this, but I just remind them that I was told I could come to the floor and offer it, and I am being precluded. But I understand that all got changed as we went along the way, and I do not hold any grudges against anybody. I understand you have to stand by that no amendment outside of the Finance Committee. I just would suggest to my colleagues that they are not bound by any such thing and would urge them to vote in favor of the amendment.

Incidentally, I have now heard something which occurs when you get people nervous here, that there has been a rush to find a new cost from CBO, and apparently they are ready to rush over and claim I do not have enough money.

Well, I am always ready for those circumstances, and we are rushing over with an amendment which will put a sufficient amount of money in it so I do not get into a budget problem. If they are not around, if we can just get the yeas and nays without going through the necessity of me amending the amendment, that is fine, too.

Mr. SIMON. Will my colleague yield?

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. I want to be very clear. I had joined with the chairman of the committee in indicating I would oppose amendments on this that virtually were not unanimously accepted. I should like very much to accept it.

As I mentioned earlier in the day, there are many different features which I should like to add.

I can remember very well I had a son who was in an NIH program, and they terminated the NIH support. It was $3,200 for the treatment they had to give those children every 3 weeks for 3 days for 2 years, and I was able to afford it. Mothers and families were out there saying, well, my child only gets 5 months, 6 months. What chance does that child have to live?

I am very mindful of these situations. I feel very strongly about them, and I feel very sympathetic, too. But I am also mindful that we need this legislation, and we have made a commitment at the time which I hope the Senator from Vermont will understand. I joined with the chairman of the committee to that effect. But I will be glad to join with him at another time. But we are going to abide at least by the assurances we gave to the other members of the committee. At the appropriate time I will, or the chairman of the committee can, make a motion to table.

Mr. SIMON. Will the Senator from Massachusetts yield?

Mr. KENNEDY. I will be glad to yield.

Mr. SIMON. I cannot speak for the chief sponsor, but when you ask for a voice vote, the Senator from Massachusetts has a strong voice. If he will be fairly silent in that voice vote, I would be willing to take a voice vote, but I cannot speak for the Senator from Vermont.

Mrs. KASSEBAUM. Mr. President, if I may, I, too, am very sympathetic to the issue that Senator JEFFORDS is addressing. I think we all recognize—I believe the figures are almost 1,500 Americans at least that would benefit from this legislation. It is more than just the enormous financial cost. It is an emotional and difficult issue.

However, our agreement was not just with the Finance Committee. Unless there is a consensus of support on both sides of the aisle, then we have to oppose the amendments. I think the Senator from Vermont knows there are many in the business community, particularly the small business community, that have been opposed to this, who worry a great deal about the implications of it and have said they would oppose the whole bill if amendments like this one would be added. We felt that the underlying amendment offered so much that we then had to also oppose those other amendments which I think have much merit, and it is with regret that I would, too, have to oppose it. I certainly am willing to have a rollcall vote. I think it will be up to the sponsor of the legislation to determine that.

Mr. KENNEDY. I make a motion to table the Jeffords amendment.

Mr. JEFFORDS. I would like to amend my amendment first to have plenty of money in there so nobody can——

Mr. KENNEDY. I am not going to make that argument. That is fine.

Mr. JEFFORDS. All right.

Mr. KENNEDY. If it is all right with Senator KASSEBAUM. I have no objection to either doing it—we are not making a point of order on the money or questioning it at this time.

AMENDMENT NO. 3680 TO AMENDMENT NO. 3679

(Purpose: To reduce delinquencies and to improve debt-collection activities government-wide, and for other purposes)

Mr. JEFFORDS. I want to preclude that objection from being registered, so, Mr. President, I have an amendment to my amendment.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Is this an amendment to the amendment?

Mr. JEFFORDS. Mr. President, it is an amendment to the amendment. I will ask to have it reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 3680 to amendment No. 3679.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with or we will be here the rest of the evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. JEFFORDS. What this does, Mr. President, is take an amount of money which has been verified by CBO, which has yet to be utilized and also verified by OMB, that will cover any conceivable cost of this bill, to make sure someone does not come back and say I failed to cover any cost of that.

I understand there will be maybe a motion to table. Let me just urge my colleagues to please remember what we are trying to do here. You have 100 disability groups of people who are in favor of this amendment. You have estimates which indicate that we have eliminated all the small businesses 25 or under. We have not pulled lifetime caps. We have gone to $10 million, which is exactly the value of what they were many years ago when the million dollar cap was in fashion.

What we are trying to do is prevent people going into bankruptcy in order to qualify for Medicaid in order to take care of their sick ones. It also improves this bill because this bill would allow an insurance company—although they are forced to take somebody on the policy, they can lower the lifetime caps and chop them off after a year again, and then they are back out on the street looking for care and back onto Medicaid.

With that, I would suffer the indulgence of a tabling motion at this time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3680) was agreed to.

Mrs. KASSEBAUM. Does any Senator wish further debate on the amendment, as amended?

If not, I move to table the amendment of the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Kansas has moved to table the amendment of the Senator from Vermont, as amended.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. KASSEBAUM. Mr. President, I ask if there could be about a 5-minute delay to notify everybody to come.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I ask that we now proceed to vote on the motion to table the amendment of the Senator from Vermont. The yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Vermont, No. 3679.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado [Mr. CAMPBELL] and the Senator from Florida [Mr. MACK] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 74 Leg.]

YEAS—56

Abraham
Akaka
Ashcroft
Bennett
Bond
Bradley
Breaux
Brown
Bryan
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
Daschle
Dodd
Exon
Faircloth
Ford
Frist
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inhofe
Inouye
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kohl
Kyl
Lieberman
McCain
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pressler
Reid
Rockefeller
Sarbanes
Simpson
Thomas
Thompson
Thurmond

NAYS—42

Baucus
Biden
Bingaman
Boxer
Bumpers
Burns
Byrd
Conrad
D'Amato

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15
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24
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UMI

DeWine
Dole
Domenici
Dorgan
Feingold
Feinstein
Glenn
Graham
Grams
Harkin
Helms
Jeffords
Kerry
Lautenberg
Leahy
Levin
Lott
Lugar
McConnell
Pell
Pryor
Robb
Roth
Santorum
Shelby
Simon
Smith
Snowe
Specter
Stevens
Warner
Wellstone
Wyden

NOT VOTING—2

Campbell
Mack

So the motion to lay on the table the amendment (No. 3679) was agreed to.

Mr. KENNEDY. Mr. President, Senator DOMENICI has been seeking recognition, and I believe he is willing to enter into a time agreement.

Mr. DOMENICI. Senator WELLSTONE, how much time?

Mr. WELLSTONE. I think I need about 15 minutes.

Mr. DOMENICI. From the standpoint of proponents, we will settle on 35 minutes. You all can take whatever you would like.

Mr. KENNEDY. Mr. President, I ask that we have 40 minutes on the Domenici-Wellstone amendment, 35 minutes to be under the control of Senators DOMENICI and WELLSTONE, and 5 minutes under the control of Senator KASSEBAUM.

Mr. JOHNSTON. Does the Senator from Massachusetts know how many amendments and when we might expect to finish tonight?

Mr. KENNEDY. On our side there would probably be—we have Senator BOXER's amendment, which I think will take a very short period of time. We have Senator CONRAD on visa, which I think we can work out. We are waiting for the report of the chairman on the immigration control. Senator SIMON, a sense-of-the-Senate which I think will be very short. We are on the Domenici-Wellstone now. There is one by Senator DORGAN on the organ cards, which hopefully we can accept.

I do not think we have any amendments here that would require very much time to deal with.

Mrs. KASSEBAUM. Mr. President, if the Senator from Massachusetts would yield, there may be some amendments offered that will be withdrawn—not all have been agreed to or cleared. I think we are moving forward. We wish to complete this by 9:30 or 10 o'clock tonight at the latest. We need to know exactly who will be wanting a rollcall vote on their amendments. I think that is what everyone would like to know.

Senator DOMENICI's amendment will be next. There will be a rollcall vote I believe. At that point, we should know how many more votes would actually be ahead of us.

Mr. JOHNSTON. Will the Senator yield for a question?

Mrs. KASSEBAUM. I am happy to.

Mr. JOHNSTON. Would it be out of the question to stack some votes tonight?

Mrs. KASSEBAUM. We thought not. We thought it best to move forward. After the next vote, we will be able to tell you exactly how many more rollcall votes there will be.

Mr. DOMENICI. When you ask the Senator from Kansas a direct question, she gives you a direct answer, right?

The PRESIDING OFFICER. There is no unanimous-consent agreement before the Senate. The Senator from Massachusetts was propounding one, but it was not formally propounded.

UNANIMOUS-CONSENT AGREEMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that on the Domenici amendment that there be 40 minutes, with 35 minutes under the control of Senators DOMENICI and WELLSTONE, 5 minutes under the control of Senator KASSEBAUM and the Senator from Massachusetts, and that there be no second-degree amendments in order to the Domenici amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3681

(Purpose: To ensure that parity is provided under health plans for severe mental illness services)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. WELLSTONE, proposes an amendment numbered 3681.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOMENICI. Mr. President, I yield myself 10 minutes and ask that I be advised when I have used 9 minutes of that time.

Mr. President, it is with a degree of regret that I have to bring this amendment to the floor on this bill because I understand that Senators KASSEBAUM, KENNEDY, and the committee of jurisdiction have worked very hard on the basic bill that is before us. They have made some commitments, which I gather, based on the last vote, that they take very seriously. They are going to try to keep this bill clean.

I have to say to my fellow Senators that when you are involved and understand what is going on out there in America with reference to the mentally ill people and their inability to get adequate insurance coverage, which I will explain in a little more detail to the Senate, you have to take every opportunity you can to try to effect some major change.

The country, in terms of insuring people for various physical disabilities has come a long way. But this country, in terms of insuring mentally ill people, is going backward instead of forward, because as insurance costs go up, insurance company after insurance company is finding a way to try to write cheaper and cheaper insurance, and they look for ways to drop groups of people from coverage by saying they are not covering them, or are covering them so inadequately that they are left back in the arms of their parents or relatives. So this is happening dramatically across America. When it comes to mental illnesses, I submit that I know a little bit more about severe mental illnesses because I have worked actively in committees on that issue for a long time.

But if you happen to be a parent of somebody who has schizophrenia, a very serious mental disease, and not some figment—it did not come because somebody's mother did not take care of them properly; it is a severe disease of the brain. If you happen to have one of those kinds of persons in your family and you have an insurance policy that is typical in America, it will, for the most part, not cover very much, it will have a cap that is very insignificant, and it will be very distinct from the rest of the policy coverage. In other words, they will go out of their way to cover mental illness differently and with less coverage than the basic coverage they are giving to physical ailments, diseases that we all understand.

The time has come—and we can wait once again, but I believe it is tonight—to send a signal that while we have a bill before us that is going to alter some serious shortcomings in insurance coverage in America—and we understand what they are and we compliment the committee for taking one good bite at this problem—but those of us who are worried about the problem of mental health and mental illness, including severe mental illnesses, like manic depression, severe depression, bipolar or serious depression, we understand that there is medication available, there is treatment available. But, occasionally, they have to be treated in an atmosphere that costs a lot of money, in an environment that costs a lot of money.

This amendment is very simple. I am offering it with my friend, Senator WELLSTONE. Essentially, Mr. President, it prohibits insurers and health plans from imposing treatment restrictions or financial requirements on services for the mentally ill that it does not impose on services for the physically ill.

We offer this today, although this country has come a long way in understanding and recognizing the special

problems of people suffering from mental illness. We understand that structural and institutional discrimination continues and persists in our society. Stigmas are rampant in this area, and I am referring to another kind of discrimination—that is, the way health insurers and health plans treat these individuals, and I believe this situation represents one of the real continuing injustices in America today.

Although we now understand that mental illnesses are, in fact, for the most part, physical illnesses, they are still treated differently than other physical conditions. The only difference between the other physical ailments and mental illness is that mental illness is a disease of the brain, and it may be more complicated, but we are making excellent strides at understanding it. Because this disease manifests itself in our centers of thought, reason, and emotion, many find it easy to deride those problems and to deride those who are afflicted, or turn their back on the problem, or act as if the problem does not exist. Mental illness is not due to sinful behavior. It is not due to a weakness, or frail character. These illnesses are real, and they are debilitating, and there are many who suffer from them. Nearly 5 million Americans suffer from severe forms of mental illness. I will repeat just a few of them.

Schizophrenia affects about 2 million adults a year. And I repeat, nobody is at fault because somebody has schizophrenia and acts differently and reasons differently. They are just as sick as your neighbor who has cancer.

Yet only 2 percent of all individuals with mental illnesses are covered by insurance which provides benefits equal to the coverage for physical illnesses. I stated that in generalities a while ago. Now, here is the objective number. Through narrowing down the definitions through caps that are irresponsible but save money so insurance companies do it in their own self-interest, only 2 percent of Americans with mental illness are covered with the same degree of coverage as if they got tuberculosis or cancer instead of manic-depression or schizophrenia.

You can walk down any street in urban America and you will find them. It is time to give these people access to care they need, and as you see them in urban America sleeping on grates and other things, you should realize that they probably started out as wonderful teenage children in some beautiful family. And when the costs got prohibitive and the behavior uncontrollable, they are abandoned. In fact, you find more of them in jails than in the institutions which we ought to have to help them. Most studies reveal that most of the severely mentally ill are in prisons or county or city jails because of misbehavior than in places we put together to treat them. Part of that is because resources are not applied, and part of the reason resources are not applied is because the insurance companies—I am not here angry at them, I am not here fighting with insurance companies. Because what they say is, "How do we make money? So if we lessen the coverage for mental health, we get a better bargain for people who want coverage for the other things." But I am submitting that sooner or later we have to say to them that you all have to cover them. If you are covering physical illness and they get 6 months of hospitalization, you have to do the same for mentally ill people. If not, nobody is going to care for them.

Let me tell you, I have seen purposely and intentionally how this destroys families. I have been to the National Alliance for the Mentally Ill meetings with 1,000 of the finest people in America who are there talking about their children, and in many cases they are lost because they could not afford to pay for them when they were 19 and 20, and they do not even know where they are. Somebody in this society is paying for that. For the most part, the ill are paying for it, for they are not getting taken care of right.

I thought a bill that was aimed at correcting the lack of coverage in the private insurance industry of America—because you choose and pick insurance companies to cover what you want and what you do not want you do not cover—we came today to the Senate and in 1 day or 2 are going to pass a marvelous bill that says, in two areas, you are all going to cover something. I am just asking tonight that, in three areas, you say you are going to cover something.

I know the motion to table will be made, and the argument will be made that this is not the right time. And, of course, I am taking a gamble, because with that kind of power, I might lose this amendment. But let me suggest, if we do—and I hope we do not—you can count on it, we are going to be back here, and we are going to find and look until we find a vehicle that sets this thing straight.

Mr. President, when that bill was sent to the desk, I saw some Senators watch it go up there and they saw this very thick bill. I do not want you to think there is all kinds of language in there about mental illness. What we have to do is pay for this.

So much of that bill is to defer the cost in the first 5 years of this bill, and we have used offsets that are acceptable, which Senator WELLSTONE and I have used at other times here but have not become law. So we have offset it as best we could. That is what most of that is.

It is a rather simple bill. We could narrow it down. We chose not to. We talk about mental illness. That includes all of the severe ones, but it includes more, and it says as part of treatment, no more discrimination, no more treating them differently.

We have cost estimates. If it was done across the board in all policies, it would add about 1.6 percent net to the insurance coverage across the land. It obviously would not happen overnight. It would take some time. But, essentially, we want to give the Senate an opportunity to vote on this tonight.

That is my explanation for now. I want to say thanks to Senator WELLSTONE. He has been kind of my friend working on this for a long time. There are some other Senators on board.

I want to yield to him now 7 minutes of my time for him to tell us his version of why we ought to do that.

Thank you very much.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I am very pleased to be here with my colleague, Senator PETE DOMENICI, to introduce an amendment on an issue that I feel very strongly about. Our amendment deals with one issue, and we hope that we have our colleagues' vote tonight: equitable health care coverage for mental illness services.

Mr. President, let me say it has been a real honor to work with Senator DOMENICI on this issue. He has been a real leader, as has his wife, Nancy, and I personally appreciate all of their efforts.

I am proud to cosponsor this amendment, which would require that health plans to provide coverage for mental health services commensurate with what is provided for other physical illnesses.

For too long, mental health has been put in parenthesis; we did not want to talk about it, and we did not take it seriously as a country. The stigma of mental illness has kept many in need from seeking help, and it has prevented policymakers from providing it. And for too long, persons in need of mental health services who reach private coverage discriminatory limits have been dumped onto Government-funded programs.

Mr. President, I support a universal health coverage plan, and comprehensive benefits for mental health services. While we failed to enact legislation to achieve this during the 103d Congress, we did increase awareness. But now we are talking about parity, and awareness is not enough.

Our amendment would require health plans to provide parity in their coverage of physical and mental health. Plans would be prohibited from requiring copays, or deductibles, for mental health benefits, or establishing lifetime limits for mental health benefits, or establishing visit limitations for mental health services unless the same restrictions apply to other health services.

All we ask for is equitable treatment. That is all this amendment does. All

VOL
142
PT
6
AP
15
—
24
1996
UMI

this amendment does is say, please let us stop this discrimination.

Mr. President, many people, or most people's instinctive reaction is to assume that this amendment would be expensive. This is not the case. As a matter of fact, in my State of Minnesota, where we have already passed legislation requiring full parity for mental health and substance abuse services, this was implemented August 1, 1995, and the cost of the parity mandate was estimated to be 26 cents per member provided. Minnesotans who were unable to work full time either because they were too sick or they were forced to impoverish themselves in order to qualify for Medicaid benefits, are now able to work and pay taxes and be productive. Because of this discrimination, all too often people cannot work so that they can receive medical assistance. People are forced to impoverish themselves in order to qualify for the medical assistance they need.

Now, in Minnesota—this is what we propose to do for our Nation, because we have parity and we have ended this discrimination—these same Minnesotans are now able to work, to live a life with dignity, and to pay their taxes.

Mr. President, we have a tremendous body of evidence, new evidence, proving that, without a doubt, mental health disorders can be diagnosed and treated in a cost-effective manner.

In fact, we can show that within a very short period of time it costs less to treat those disorders directly and appropriately than not treat them at all. We can say that this is true based upon studies of every sector of our population—insured and employed, uninsured and unemployed, people who now use the private system and those who now use the public system.

Mr. President and colleagues, there are several arguments for requiring parity for mental health services. First, we now have cost-effective treatments for mental illnesses and high rates of success are being achieved across the spectrum of diagnosis. For example, 80 percent of individuals with depression respond to treatment. Second of all, mental illness results in physical illness, inability to work, impaired relationships, and sometimes crime and homelessness.

Would it not be better to end the discrimination and have less of the homelessness? Would it not be better to end the discrimination and enable people to work and be productive citizens? And finally, Mr. President, mental health services are already part of health delivery in the United States.

Let us have no doubt about it, this amendment leaves all decisions about the delivery of services to the private marketplace. The amendment does not require the provision of mental health services to employees, specify what care should be provided, interfere with the discretion of employers and health plans to negotiate reimbursement rates as they see fit, or mandate the use of any particular kind of delivery of needed care.

What this amendment calls for is just parity. Mental illness has touched many of our families and many of our friends. It is for this reason and many others that it is not a partisan issue. Mental illness is a problem affecting all sectors of American society. It shows up in both the rural and urban areas. It affects men and women, teenagers and the elderly, every ethnic group and people in every tax bracket. It can be effectively treated just like heart disease or diabetes. Treatment not only saves lives but it also saves dollars. That is why this amendment is so important.

I look forward to the adoption of this amendment and to continuing to work with Senator DOMENICI to end discrimination against this very vulnerable population and their families. It is only old data and old ideas that keep us from covering mental health, the same way we cover any other real illness, whether it is acute or chronic.

I know there has been some agreement on amendments, but I plead and implore my colleagues to please vote for this amendment. Senator DOMENICI is right. Tonight is just the beginning. If we do not win tonight—and I hope we get a very significant vote, and I hope we do win—then, of course, we will come back.

Colleagues, please support us. Please end the discrimination. That is what this amendment is all about.

I do not usually do this on the floor of the Senate, but I would like to dedicate my remarks to my brother who has struggled with mental illness almost his whole life. He is doing great now.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time does the Senator from New Mexico have?

The PRESIDING OFFICER. The Senator has 13 minutes and 5 seconds.

Mr. DOMENICI. My good friend, Senator SIMPSON, desires to speak, and I yield him 5 minutes. And then, I say to the Senator from North Dakota, I will yield him some time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I hope that all Members will read the amendment. I know sometimes we forget to do that from time to time, it is perhaps one of our failings. It is a very simple amendment. It is described as "parity." I think the Senator from New Mexico and the Senator from Minnesota have covered it very well.

The important thing that you want to hear regarding it is about the rule of its construction. It is just one construction because people say that it is going to be tremendously costly; or that this is going to "open the doors" or that this is the first step toward incurring tremendous cost. But what the amendment says is this:

> Nothing in [the subsection previous] shall be construed as prohibiting an employee health benefit plan, or a health plan issuer offering a group plan, or an individual health plan from requiring preadmission screening prior to the authorization of services covered under the plan or from applying other limitations that restrict coverage for mental health services to those services that are medically necessary.

I think that is a very important thing. That is a very critical part of this.

Let me just tell you that about 4 years ago a most beautiful girl in our family, the niece of my wife—my wife's twin sister's daughter, whom we had watched grow and mature from her birth—left our midst. She was a dancer; she was an artist; she was a poet; she was a guitarist; she was a singer; she was the rainbow of life.

We did not get or understand the signals in time, and the signals were very clear as we all look back now out of sheer guilt and anguish. She was tough minded, independent, loving, strong, and forceful. She would come into your kitchen and just cook up a batch and leave the stuff in the sink, and family would say, "Why doesn't Susan clean up afterwards?" And then, "Why doesn't Susan work? How old will she be before she ever works?"

She began to withdraw, and then she went into some religious and almost cultish activities, and she had a child. And that is a beautiful child. I know that child. That is the wonderful part of it now—because Susan is gone. And after years of reaching out to us in her way and us not hearing and us not knowing, she one day decisively purchased a pistol and a few hours later purchased the ammunition and went to an isolated field, removed her shoes, sat in a the crouched position in Bowling Green, KY, and blew her chest away.

That is what sometimes happens to these people, and we think, "well, but they should have tried to do something for themselves.

We thought we were doing something for her. We thought she was finally doing it for herself. She was taking medication, and it was working. But then something, something unknown, entered her mind and her life and she decided not to take the medication —knowing what would happen if she did not—and then her tragic plan of ultimate rejection came to pass.

There is a group of humans—a particular vulnerable group in society that the mental health workers and professionals tell us about who now are in their 37th to their 45th year, who somewhere along the line were perhaps those involved in the early experimentation with drugs, yes. Yes, of course, but that penalty should not be something visited upon them forever. So I say there is not a soul in this Chamber that has not been grievously affected in some way by these things. It is time for healing. It is time for understanding more than anything. It is time to minister. It is time to love and to be compassionate and time to learn so much more about these tragic things. For these are the people who you know and see every day, and they are making it, and they never did before, but they are now. If we can put this in this bill in this way with this language, I think it would be a tremendous benefit to them—and they are our first charge—and to the rest of us in society.

I thank the Chair.

Mr. DOMENICI. How much time do we have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 8 minutes and 50 seconds.

Mr. DOMENICI. Mr. President, I yield 5 minutes to Senator CONRAD.

Mr. CONRAD. Mr. President, I personally thank Senators DOMENICI and WELLSTONE for bringing this amendment to the Chamber tonight.

I rarely take the time of my colleagues, in the evening hours, to speak, because I often feel that it is an imposition on their time. Tonight, I think this amendment is so important that it requires all of us to speak. This amendment simply asks that mental illnesses be treated on a parity basis with other illnesses. It is inescapable: An illness is an illness. There should be no differentiation between how we treat those who have a mental illness and a physical illness.

When I was the assistant tax commissioner in North Dakota, Senator DORGAN was the tax commissioner. We had a young woman who was our receptionist. She was a beautiful and vibrant young woman. She was somebody who absolutely lit up an office. One day, she just went off the deep end with a mental illness that none of us knew that she had. Pictures were speaking to her. She had all kinds of aberrant thoughts. It led to her institutionalization. It led to her attempting to take her own life. That was a young woman, because of a suicide attempt, who did enormous damage to herself from which she will never fully recover.

That young woman had a mental illness, and that illness deserved to be treated like any other illness. She is not alone. There are millions like her all across America. As we sought to reach out and help this young woman, I became somewhat educated about what was happening in our communities. One thing I learned is that we actually treat differently those with a physical illness and those with a mental illness, and it is a tragedy.

In our State, we have taken the step to recognize that there should not be discrimination between illnesses. What we have found is it does not cost more money. Oh, it does as you begin, but as you go forward, it does not cost more money, and it does not cost more money because, if you fail to treat, the physical ailments mount and become much more expensive.

I would say to my colleagues, we passed this amendment. We passed this in the Finance Committee on Medicaid, during reconciliation. I offered the amendment. It was adopted. It passed here on the floor of the U.S. Senate. It was only taken out in conference.

We passed it in the Finance Committee based on the best evidence that shows over time this will not cost money. I submitted detailed studies from North Dakota that demonstrate that.

I hope my colleagues will vote for this amendment tonight. It is the right thing to do. I hope my colleagues will agree to the Domenici-Wellstone amendment. They will be proud the rest of their lives that they did.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 2½ minutes.

I have difficulty in not commending, which I do, my good friends and colleagues with whom I have worked over a very considerable time on the issues of mental health. This is obviously an awkward position for me to have these amendments come up and to be fighting these issues. One of the first pieces of legislation passed during President Kennedy's administration was the community health programs which got people out of institutions, and into the community. I worked with Senator DOMENICI and Senator WELLSTONE in 1990 to move the whole mental health research out to NIH, against strong opposition at that time. In the health insurance bill that we passed last year, we had effective equivalence between mental health and physical health, though there were some aspects of hospitalization that were phased in over a period of time.

So I am strongly sympathetic. I just regret this. Hopefully, it will be defeated. Maybe we are going to continue to have these votes so people are able to speak to them. Once again, I can understand the frustration because we have not gone ahead on it.

It is painful for many of us who are strongly committed to the whole issue of eliminating preexisting condition and our strong commitment to that, to have to go on record in opposition to these amendments. But if that is the cost, and Members of the Senate feel that is what they want to do to many of us who have been out there working on precondition year in and year out, we are prepared to do it.

I will join in urging that the Senate table this at the first opportunity.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from New Mexico has 4 minutes 26 seconds.

Mr. DOMENICI. Mr. President, I certainly do not intend by my action tonight to make it painful for Senator KENNEDY, who has been a staunch advocate. I hope that is not what he said tonight. I just believe very, very sincerely that the time is now to get something done.

I want to explain one more time in just a brief, few words what this amendment does not do, because I think there could be some confusion. Let me clear up what it does not do. It does not provide an open-ended entitlement to whatever mental health services an individual wants. It does not limit the ability of an insurer or health plan to limit services to only those who are medically necessary. It does not institute a service-by-service equivalency between physical and mental illness. It does not mandate a benefit package.

It simply makes the following common situations illegal. Let me cite a few:

Policies that allow 365 days in-patient care for physical illness allow only 45 days for in-patient psychiatric care.

Policies that provide a lifetime cap of $1 million for physical care have a $50,000 cap for mental illness.

Policies providing unlimited outpatient visits for physical care allow only 20 outpatient visits for mental illnesses.

Mr. President, 90 percent of employer-sponsored plans impose such limits, despite the proven efficacy of treatments for mental illness. Treatment for schizophrenia has a 60 percent success rate; manic depression, 80 percent; major depression, 65 percent. Yet commonly reimbursed procedures such as angioplasty and arthrectomy have only a 41-percent and a 52-percent ratio, and nobody seeks to treat them with limitations that are imposed on mental illnesses.

The era of managed care is upon us, making tight management of patient care the norm, and artificial cost measures to reduce utilization are a thing of the past.

I have a number of examples of companies that have covered with parity of treatment and, believe it or not, they have saved money and added to their work force in ways that are measurable and objectively beneficial to the companies that have so seen fit.

So, from my standpoint, from the standpoint of the Senator from New Mexico, I do not seek to kill this bill. I think it is a marvelous step in the right direction. But I ask my fellow Senators when, if not tonight, will we ever get around to this issue? If I thought there was another bill coming

VOL
142
PT
6
AP
15
—
24
1996
UMI

down this year, I would probably have made an agreement so that I could have the full support of my friend from Massachusetts and my colleague and friend from Kansas, Senator KASSEBAUM. But I do not see that coming.

I believe there is plenty of evidence that the discrimination continues. It grows more rampant. The stigma, since that discrimination is rampant, is growing instead of diminishing, in an era when knowledge is beginning to grow almost exponentially.

So, now is the time. Tonight is the time to send this to conference. Deny the motion to table. Let our Senate colleagues take this to conference. Let us work on the various interests that will be part of that conference and see if we cannot make this a better bill because it would have this amendment attached than it would if it fails tonight.

I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I know that many here would like to vote in favor of this amendment offered by Senator DOMENICI, and Senator WELLSTONE is one. It has been carefully crafted.

There is no greater dedication to this legislation than from those who have spoken to us, as well as Senator KENNEDY who, for a long time, has been a great supporter.

So it is with real disappointment, if all debate is over, that I will have to move to table, as it is not an amendment that has consensus of support. And so for that reason, I only hope we can find some other avenue later through which we can address this.

I move to table the Domenici-Wellstone amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Has all time expired?

The PRESIDING OFFICER. The Senator from New Mexico has 14 seconds remaining. The Senator from Kansas has 2 minutes.

Mr. DOMENICI. I yield back my time.

Mrs. KASSEBAUM. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3681.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado, [Mr. CAMPBELL] and the Senator from Florida [Mr. MACK] are necessarily absent.

The PRESIDING OFFICER (Mr. JEFFORDS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 65, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—33

Ashcroft
Bond
Breaux
Brown
Bryan
Chafee
Coats
Cohen
Craig
Daschle
Dodd
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Gregg
Hollings
Inhofe
Johnston
Kassebaum
Kempthorne
Kennedy
Kohl
Kyl
McCain
Nickles
Reid
Rockefeller
Roth
Smith
Thompson

NAYS—65

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Boxer
Bradley
Bumpers
Burns
Byrd
Cochran
Conrad
Coverdell
D'Amato
DeWine
Dole
Domenici
Dorgan
Exon
Feingold
Feinstein
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hutchison
Inouye
Jeffords
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Pell
Pressler
Pryor
Robb
Santorum
Sarbanes
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thomas
Thurmond
Warner
Wellstone
Wyden

NOT VOTING—2

Campbell
Mack

So the motion to lay on the table the amendment (No. 3681) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I think we are making progress. I wonder if the managers might be able to identify those amendments that would require rollcall votes and have the debate on those amendments, and then we can advise our other colleagues that did not have amendments that we would probably be voting, say, at 10 o'clock or 9:30, or whatever it might be. That would save everybody from having to stay on the floor. When you stay on the floor, sometimes you get excited and talk.

Mrs. KASSEBAUM. Mr. President, I say to the majority leader, on our side, I understand that Senator SPECTER would like to have a vote. He has two amendments.

Mr. DOLE. En bloc?

Mrs. KASSEBAUM. I would assume we could vote en bloc.

Mr. SPECTER. I am right here and ready to go, madam manager.

Mrs. KASSEBAUM. All right. I am not sure about Senator THOMAS, whether he will want a vote on his, and Senator GRAMM. I believe those are the only amendments that I have listed that would require—Senator BURNS, I believe, has one on telemedicine.

Mr. COATS. I have one, also.

Mrs. KASSEBAUM. I thought we were going to try to work that out.

Mr. COATS. We are not able to work that out, so we are going to have to have a vote on it.

Mr. DOLE. How many from the Senator from Massachusetts?

Mr. KENNEDY. We have the Conrad amendment on J–1 visas, which is acceptable. We have one other amendment where somebody wants to introduce it, speak, and withdraw it. Senator DORGAN's amendment on organ donor, which, I believe, has been accepted, with Senator FRIST. We have Senator HARKIN's, and we are waiting to see whether Senator WELLSTONE wants to work out an exchange of language or a vote. And there is a Senator Boxer sense of the Senate.

Some of those, as I mentioned—the Conrad visa amendment, and the organ donor amendment—have been worked out. I think they will just take very brief comments.

Mr. DOLE. So that will be two votes?

Mr. KENNEDY. Potentially, four. I hope we get it down to three.

Mr. DOLE. Let me encourage my colleagues, if there is an opportunity to work these out on either side, we hope we can do that and not require a rollcall vote. If you are going to work out your amendment and it is accepted without rollcall votes, I will look very kindly on those amendments. I will be a conferee.

Mr. DOMENICI. Mr. President, I ask that the yeas and nays be vitiated on the Domenici amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is agreed to.

So the amendment (No. 3681) was agreed to

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I think the distinguished Democratic leader wanted to add a word.

Mr. DASCHLE. Mr. President, I ask the majority leader whether or not, to accommodate a couple of our colleagues, who, I think, were working under the understanding that we might be able to stack votes, whether or not it may be possible to stack the next two or three votes so as to accommodate some of those who may have left with that understanding. Would that be possible?

Mr. DOLE. I am satisfied with that. I think it is a good idea.

Mrs. KASSEBAUM. As long as there are so few left.

Mr. DOLE. We can stack three or four votes back to back, accept the rest of them, and have final passage.

Mr. LEAHY. Will the majority leader yield for a question?

Mr. DOLE. Yes.

Mr. LEAHY. If we are going to stack them, do we know approximately when the votes will start?

Mr. DOLE. How much time will the Senator from Pennsylvania take?

Mr. SPECTER. Mr. President, responding to the majority leader's question, I think it can be disposed of in 20 minutes, 10 minutes a side.

Mr. DOLE. Each amendment, or both?

Mr. SPECTER. I am going to start with the first amendment.

Mr. KENNEDY. We would take 5 minutes.

Mr. DOLE. Let us say an hour from now.

Mr. LEAHY. Votes will start then, an hour from now?

Mr. DOLE. Yes.

AMENDMENT NO. 3682

(Purpose: To reauthorize and expand the healthy start program to target areas in need and to implement community driven strategies to reduce infant mortality)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 3682.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title III, insert the following new section:

SEC. . REAUTHORIZATION OF HEALTHY START PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—To enable the Secretary of Health and Human Services to carry out the healthy start program established under the authority of section 301 of the Public Health Service Act (42 U.S.C. 241), there are authorized to be appropriated $100,000,000 for each of the fiscal years 1997 through 2001.

(b) EXISTING PROJECTS.—

(1) IN GENERAL.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall reserve $30,000,000 for such fiscal year among demonstration projects that received funding under the healthy start program for fiscal year 1996.

(2) ELIGIBILITY.—To be eligible to receive funds under paragraph (1), an existing demonstration projects shall demonstrate to the satisfaction of Secretary of Health and Human Services that such project has been successful in serving needy areas and reducing infant mortality.

(3) USE OF PROJECTS.—A demonstration project that receives funding under paragraph (1) shall be utilized as a resource center to assist in the training of those individuals to be involved in projects established under subsection (c). It shall be the goal of such projects to become self-sustaining within the project area.

(c) NEW PROJECTS.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall allocate the remaining amounts for such fiscal year among up to 35 new demonstration projects. Such projects shall be community-based and shall attempt to replicate healthy start model projects that have been determined by the Secretary of Health and Human Services to be successful.

Mr. SPECTER. Mr. President, this is an amendment which provides for reauthorization of Healthy Start. This amendment would reauthorize the Healthy Start program for an additional 5 years at $100 million a year. It is important that the reauthorization occur on this bill because, given the Senate calendar, it is highly doubtful that this issue will be raised on any other bill.

In my capacity as Chairman of the Appropriations Subcommittee for Health and Human Services, I can say with some authority that we need the authorization so that we are prepared to make the appropriate appropriations.

Healthy Start is a program which is designed to provide prenatal care to infants. I saw my first 1-pound baby more than a decade ago at the Alma Ellery Clinic in Pittsburgh and, at that time, I saw a baby about as big as my hand, weighing a pound. Some babies weigh as little as 12 ounces, and they are human tragedies, carrying scars for a lifetime, and they are very expensive for our society, costing as much as $250,000 each.

In my position on the Appropriations Committee, I worked to start this program of Healthy Start, and it has had a really remarkable success. It has been in existence for 5 years, which is a relatively short period of time. But we already have statistics available that show the success of the program.

The 1994 statistics received from the projects demonstrated that from 1984 to 1988, baseline statistics in Philadelphia show that infant mortality had decreased some 28 percent. In Pittsburgh, the infant mortality rate decreased 20 percent since the start of the Healthy Start Program in 1993.

The Maternal and Child Health Bureau reports that for the State of New York, between 1990 and 1994, infant mortality rates decreased by 38 percent in the Healthy Start project area, compared to a 22 percent decline citywide.

Without going into any greater demonstration of statistics, Mr. President, I think it is apparent that Healthy Start is an important program. Dr. Koop commented that with these minimal four prenatal visits, women carrying children would not give birth to low-birthweight babies. It, obviously, has been a very important program. It exists in some 22 cities at the present time: Boston; New York; Philadelphia; Pittsburgh; Baltimore; Washington, the DCPD region; South Carolina; Birmingham, AL; Cleveland, OH. I read these listings so that my colleagues will know how many of these units are in existence in their locales. Troy, IN; Chicago, IL; New Orleans; the Northern Plains Indian Reservations; communities in South Dakota, North Dakota, Iowa; Oakland, CA; and special projects in Dallas, TX; Essex County, NJ; the Florida Panhandle; Milwaukee, WI; the Mississippi Delta; Richmond, VA; and Savannah, GA.

The plan is to expand these projects from the 17 projects which are now—from the 22 projects which are now in existence, to an additional 35 projects.

Mr. President, I think the value of this program is apparent on its face. It has been in existence for 5 years. It has been very successful and does not encumber or impede this bill in any way.

It is a little hard to understand why it is not accepted, but I think it ought to command the attention of this House and the House of Representatives. And I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. KASSEBAUM. Mr. President, is the Senator from Pennsylvania going to offer a second-degree amendment at this time?

Mr. SPECTER. I am not.

Mrs. KASSEBAUM. Is the Senator going to wait until quarter of 10 to speak on that? We are stacking the votes.

Mr. SPECTER. I understand we are stacking the votes. At this time I am offering this amendment and speaking about this amendment.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I understand the floor is open for amendments.

The PRESIDING OFFICER. There is a pending amendment which needs to be set aside by unanimous consent.

Mr. HARKIN. I understand, if I am not mistaken, that we are going to stack these votes. Is the Senator getting a vote right now under the regular order? The yeas and nays were ordered.

Mr. SPECTER. As I understand it, we are stacking the amendments. But I am not prepared to set the amendment aside at this point. I would like to see if the managers have contrary argument.

Mrs. KASSEBAUM. Mr. President, yes. This is not acceptable. The reason is that it is authorizing legislation which I believe needs to come through committee and the committee procedure before we would authorize this on this bill regarding health insurance reform.

That would be the objection of the managers of the bill.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, in response to the comments of the Senator

VOL
142
PT
6
AP
15
—
24
1996
UMI

from Kansas, it is my strong view that a healthy start program is directly germane and directly relevant to the pending legislation on health care and that it is a jurisdictional question. I do not quite understand the argument. This program has been in existence, has been a success, and there has been no denial by the managers that it is in existence and has been a success. It is hardly the kind of program which is going to require additional hearings. It seems to me that it is right for disposition. That is why I am offering the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mrs. KASSEBAUM. Mr. President, I stated the reasons why we have an objection. It is a program that has had some success. That is very true. And healthy start is very important. It is part of other programs in the public health sector to which that is directed. As I say, I think it should be really reviewed in oversight so we can analyze what is being done and what should be done. I just feel strongly that in this instance it needs to be handled through the authorizing process rather than an amendment.

The PRESIDING OFFICER. For clarification, there is no unanimous consent to stack the votes at this time. So the pending business is the amendment of the Senator from Pennsylvania.

Mrs. KASSEBAUM. Mr. President, just so I understand, I thought the majority leader asked that votes would be stacked until 9:45. Did I misunderstand?

The PRESIDING OFFICER. My understanding is that it was not posed as a unanimous consent request.

Mr. DOLE. I now make that request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENT NO. 3683 TO THE COMMITTEE SUBSTITUTE, AS AMENDED BY NO. 3675

(Purpose: To reduce health care fraud, waste, and abuse)

Mr. HARKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Mr. BAUCUS, proposes an amendment numbered 3683.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HARKIN. Mr. President, this is offered on behalf of myself and Senator BAUCUS.

Mr. President, this amendment deals with the continuing problem of waste, fraud, and abuse in the Medicare system. Over the last several years we have had numerous IG investigations, reports, GAO investigations, and GAO reports. The data is overwhelming. No one can dispute the findings. The Director of HCFA himself has testified before the Labor, Health and Human Services Appropriations Subcommittee as to the validity of these findings. No one disputes that there is tremendous waste, fraud, and abuse in Medicare. The GAO has estimated that up to 10 percent of Medicare funds are lost to waste, fraud, and abuse every year.

Out of a $180 billion program, 10 percent, that is up to $18 billion lost to waste, fraud, and abuse. That is $500 per beneficiary per year.

I know that we are not going to be able to get all of it out. I understand that. But at least we can make some important strides in saving a lot of this money. The amendment that was adopted earlier—the Dole-Roth amendment—had some provisions in it to combat fraud and abuse that I have pushed and supported for a long time, including increased resources for the HHS Inspector General and increased resources for Medicare contractors to fight fraud and abuse, and tougher penalties for fraudulent activities. These were in the amendment adopted.

I say that these are positive and long overdue steps. As I said, they are steps that I have pushed and promoted for years. However, they are inadequate. There is much, much more that needs to be done and can be done right now to really make a dent in the massive amounts of waste and abuse in the system.

Mr. President, every time I go to town meetings in Iowa and I meet with the elderly—or just basically anyone that has been involved in the Medicare system, like people who have had parents or grandparents who have received Medicare help and assistance—whenever you talk about waste and abuse you get an immediate response. They know it exists all too well. When you talk about looking at their bills and ask if they ever look at a bill and see an item on there that they did not really think they received, or maybe paid too much for—you watch the heads nod—they all have, and they are outraged about it. But what they will show you is they will hold up the form that they got from Medicare, and it will have stamped on the front of it, "This is not a bill."

A couple of years ago a woman by the name of Shirley Pollock from Atlantic, IA, got hold of me. She had received one of these for her mother-in-law who had been in a nursing home.

For something short of 5 weeks' time, she was billed over $5,000 for bandages. She was outraged, because she knew there was no way her mother-in-law had used that many bandages. But on the front it said, "This is not a bill." So Shirley Pollock complained to the Medicare payor about this and was told: Do not worry about it. You do not have to pay it anyway.

Well, as Shirley later told me, "I got so mad because I knew somebody's got to pay it. Obviously taxpayers or people paying into Medicare are paying for it. Someone is paying for it. I know we didn't receive $5,000 in bandages, and I want to do something about it."

So she contacted my office, and we worked it through and found out, indeed, that she was absolutely right. Her mother-in-law had never received $5,000 in bandages—maybe $500 worth but not $5,000, and yet the bill was paid. The bill was just paid as if nothing had happened.

So we know this is going on. And like I said, you can ask any person in a town meeting about this, especially those who have been in Medicare, and they will tell you that they know what we are talking about, too.

So I am offering this amendment to add what I believe are a few more important commonsense weapons in this fight against waste and abuse.

Now, I will for the benefit of my colleagues state at the outset that there is one provision I have been pushing for for some time that I do not have in this amendment because I know there is opposition to it on the floor. I have offered it before. And that is the idea of competitive bidding. I am not offering that as part of this package because I know they want to get the bill through, and I am for this bill; I am a cosponsor of it. I wish to get it through. But, obviously, unbelievable as it may seem to me and to others, there are some who do not believe that Medicare should adopt competitive bidding when it comes to medical supplies so that seniors and the taxpayers get the best price possible.

So I did not include it. I took it out because I know that that some have said it's too controversial. But I am going to be offering that again to get us to competitive bidding, just like the Veterans Administration has been doing for years. It's an outrage Medicare is losing millions because its payment system is prone to abuse and waste. Over a period of years I've compared like bills, like items between Medicare and the Veterans Administration, same city, same supplier. Medicare is often paying 30 to 50 percent more than what the Veterans Administration is. Why is that? Because the Veterans Administration engages in competitive bidding and Medicare does not. But as I said, I have not included that in this amendment. I wanted to make that clear.

All of the provisions in this amendment that I have offered are the result of extensive hearings held by the Labor, Health and Human Services Appropriations Subcommittee over the

past several years. They are all recommendations of the General Accounting Office, the inspector general of the Department of Health and Human Services or other private sector medical experts. All of them are commonsense steps, and I just want to review very briefly what they are.

First, this would provide for improved information to seniors to allow them to better help in the fight against Medicare fraud, waste, and abuse. Seniors would be guaranteed the right to receive itemized bills instead of a summarized report from which it may be difficult to detect billing errors or abuses. Every Medicare payment statement would also have to include a toll-free hotline number to report suspected cases of fraud, waste, or abuse.

Now, to those who may say this is a burden, let me just point out that those who are sending in the bills have to keep an itemized record. But when they send it to the beneficiary, they can just summarize it. So the beneficiary can look at it, and a lot of times not even know what they are paying for and a lot of times Medicare does not know what it is paying for. They just pay it, but they really do not know what the itemized bill is.

The reason I know that you can go back and find the itemized bills is that the investigations we have done by the General Accounting Office have gone after some of these summarized bills, gone back to the claimant, back to the hospital or the nursing home or the doctor or whoever it might be and said, OK, what made up this summarized statement? Well, they had to produce the itemized bill so that the General Accounting Office could look at it. So they do have that itemized bill. I am saying it is no more of a problem for them just to print that out on the bill they send to Medicare. This amendment would guarantee seniors that they could get an itemized bill so that they know exactly what they were being charged for and how much they were being charged for it. And, as I said, it would also require Medicare to put on each explanation of Medicare benefits a toll-free hotline number so that a person could report any suspected case of fraud or abuse.

That is the first part of my amendment. The second part of my amendment establishes rewards of up to $10,000 for those providing information that leads to a health care fraud conviction. Again, it is to get people to step forward, to provide the information that we need, and if it leads to a health care fraud conviction they would be entitled to a reward up to $10,000.

The third part of my amendment prohibits Medicare payments for wasteful and unnecessary items such as sports cars for corporate executives, lucrative gifts to executive families and friends, tickets to sporting and other entertainment events, and other items not related to medical care.

In one of the most infuriating cases of abuse we found that health care executives were padding Medicare bills with all sorts of outrageous items identified as indirect costs. For example, we found the following items charged to Medicare: $2,433 for a trip to Italy to inspect a piece of sculpture; $10,215 billed to Medicare for clocks, watches, and bowls for employees and friends; thousands of dollars for a golf tournament that was only held for executives; a $4,200 bill for a sporting event, all billed to Medicare as indirect costs. That is outrageous.

Now, Medicare did take one step after I prodded them at hearings. No longer will they pay for alcohol or for lobbying expenses as indirect costs. Well, that was a good first step, but they still have not specifically excluded these other items. My amendment would change that.

Next, my amendment says that we would reduce Medicare waste by giving the private companies that administer Medicare the authority to reduce payments for items they identify as grossly overpriced. Currently this can only be done on a national basis by HCFA and has only been done once, a process that took HCFA 3 years.

I am familiar with that because I initiated it several years ago. We found a blood glucose monitor, a little device that you can buy at Kmart or any discount store; it is for people who have diabetes. They can get an accurate check on what their blood glucose level is. It is a little pocket device with a battery in it. We found that Medicare was reimbursing up to $200 for each one of those. I sent my staff down to the local Kmart. They bought one for $49.99—50 bucks. Medicare was reimbursing up to $200 for it.

So I went to Medicare, to HCFA. I said, "Okay, we have to stop it. You can go down and buy it for 50 bucks. Why are you paying $200?"

Believe it or not, from that moment to the day that they actually reduced the price to $50 took 3 years—3 years for them to do that. Well, this amendment would give a private company that administers Medicare the authority to reduce payments on items that they identify as grossly overpriced. So if they found something like a blood glucose monitor that they were reimbursing $200 for and they could buy it for 50 bucks, they could reduce the price down themselves. Again, right now, it takes HCFA over 3 years just to do one simple thing like that. This is a change that has been praised both by Medicare and the HHS Inspector General.

Next, my amendment would better assure that rapidly growing home health services are not subject to abuse by requiring that Medicare payments are not inflated by bills being filed in a higher payment area outside of where the service was provided, by establishing a fine for knowingly providing a false certification that a patient meets Medicare home health coverage criteria and by requiring that bills submitted for surgical dressings are itemized.

I will just read a little bit from this GAO report that covered excessive payments for medical supplies. Here is what happens. It says:

> Fiscal intermediaries pay medical supply claims without knowing specifically what they are being asked to pay for on behalf of beneficiaries. The claims submitted by providers have no detailed information that would allow fiscal intermediaries to assess the claims' reasonableness. This lack of detail exists because HCFA guidance allows providers to bill all medical supplies under 10 broad codes. Billed items are not listed by type or amount. A code frequently used to record medical supplies is code 270, that is medical/surgical supplies, which we found included many different items such as a $21,437 pacemaker, a 75 cent sterile sponge, and even daily rental charges of $59 for an aqua pad. Consequently, unless fiscal intermediaries identify these claims for review and request additional documentation before payment, they will pay for the claims without knowing what the specific purchase was or whether it was covered or medically necessary.

Again, my amendment would address that and allow them to get that necessary information so that they would know exactly what they were paying for. That change was recommended and drafted by the General Accounting Office.

Next, my amendment would require Medicare to replace its outdated computer systems with state-of-the-art private sector computer software to detect and stop billing abuse. The General Accounting Office found that this simple change would save about $600 million a year. Again, this provision carries out their recommended changes to save seniors and taxpayers money.

GAO found, in fact, that a number of the private companies that process Medicare claims use the more sophisticated computer software on their private sector business but are not allowed to use it on their Medicare claims. They actually have to have two computer systems. They have their own that they submit claims to. Then they have another set that they have to have and another set of software just for Medicare.

As I said, the General Accounting Office said that just by making this one change, this one change would save $600 million a year, and the cost for doing that was about $20 million. So, again, it would require Medicare to replace its computer systems with state-of-the-art private sector computer technology, just what most private companies are using today to detect and stop billing abuse. As the GAO said, the private sector ones were so much better at detecting fraud and abuse than the Medicare ones were. We

VOL
142
PT
6
AP
15
—
24
1996
UMI

have been after Medicare. They say they are going to do this; maybe by the end of 1999 they might have it changed. We could change it right now and, as GAO said, save up to $600 million a year.

Last, my amendment saves money and reduces hassle by cutting excessive Medicare and Medicaid paperwork. There would be a uniform application and benefit claims form that would be established and would eliminate duplicative forms.

Mr. President, these are really modest steps. Again, these are all steps that the GAO, the inspector general's office, and other private sector health care experts have said are necessary to at least stem this tremendous hemorrhaging of waste and abuse that we have in Medicare. When you are talking about up to $18 billion a year, even if we cannot get all of it, if we could just get half of it, that is $9 billion a year. That is a lot of money. I see no reason why we could not get at least half of it with these modest steps that I am proposing here.

As I said, I did not include the one on competitive bidding. We will revisit that at another time. But I thought in the spirit of moving this legislation along and offering something that I thought was modest, that would move us in the right direction, that is why I took out competitive bidding.

I offer this amendment to enhance this bill and hopefully make it a better bill for health care in America. That is what this bill is about, is to help us in health care reform. You cannot have real health care reform until you stop the waste, fraud and abuse in Medicare. It is in that spirit I offer this amendment.

I thank the Senator from Montana for his strong support over the years, trying to weed out this waste, fraud and abuse in Medicare. He has been a leader on this subject. I am happy to have him as a cosponsor on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I hope my colleagues listened very closely to the Senator from Iowa. The big debate here is how to save Medicare. Senators on one side of the aisle say we have to cut Medicare to save it. We had this big debate over whether we should cut $270 billion out of Medicare in the next 7 years. We spent a lot of time debating this issue. Unfortunately, the majority Members in this body ended up deciding that, yes, we should cut that much money out of Medicare over 7 years. I think every Member on this side of the aisle voted against that.

Obviously, if we are going to save Medicare, we ought to first look at waste. It is clear there is waste in Medicare. We all know there is waste in Medicare. The General Accounting Office has documented the waste. The Senator from Iowa has listed all the Federal agencies that documented the millions of dollars lost to waste. Each of us, at home, talks to senior citizens, to providers and others who, on an anecdotal basis, tell us about waste in Medicare. We all know there is waste in Medicare.

We also know it takes a long time to get something done around here, way too long. Too many times we debate issues, not months but years. It takes way too long to get something meaningful accomplished around here. I think tonight we are debating a very important bill. We are going to pass this bill, hopefully tonight, that will take solid steps to provide better insurance coverage for millions of Americans and thousands of Montanans. This is important and I strongly support this bill. At the same time, we have the chance to take the steps necessary to cut some of the waste in Medicare.

Tonight, let us pass this amendment. It is not perfect. There will be a lot of opportunities to work with it, during the conference committee, but let us get started. Let us pass this. We all know we should. Let us just do it. It might not be perfect, but we should not let perfection be the enemy of the good. Every Senator here tonight knows that this is a good amendment. We all know it is on the right track. I, for the life of me, do not understand why we just do not accept it tonight, work on it in the conference committee, maybe fix it up a little bit, get it enacted into law, and begin to attack a lot of the waste that exists in Medicare.

I hope Senators listened to the examples the Senator gave tonight. There are many more. They are outrageous—trips to Italy, sports cars. You would be amazed what waste, fraud, and abuse occurs in our Medicare program. It is outrageous. So, let us begin to do something about it; just begin. We heard the figures. GAO says up to 10 percent. That is $18 billion.

Let us be honest, we are not going to get a full $18 billion recovered. We know that. But, as the Senator from Iowa says, let us at least make a start. Let us not say we are not going to do it tonight because we have a no-amendments policy. We have already adopted one amendment, and another one, already tonight. Certainly this is in the category of amendments that we know should be passed. Otherwise, we run the risk that nothing will happen to fight fraud and abuse in the Medicare program this year.

What is going to happen next year? We do not know, as we attempt to address the waste that exists in Medicare.

I am not going to belabor the issue. It is getting late tonight. The Senator from Iowa has listed all the various provisions of his amendment. I just hope we can leave the partisan fighting and political rhetoric behind and do something which we know the people at home whom we represent want. Let us begin to take some very critical and concrete steps to address the waste and fraud that does exist in Medicare. That is where we should begin, rather than just cutting Medicare. First, let us cut the waste out of Medicare and the fraud out of Medicare before we cut Medicare services and programs that help millions of seniors nationwide.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas, the majority manager, is recognized.

Mrs. KASSEBAUM. Mr. President, I am speaking somewhat on behalf of Senator COHEN from Maine. He has worked many years on this issue, and has worked with Senator HARKIN as well, trying to address the issues of fraud and abuse.

The language that Senator COHEN had worked on is now part of the bill. It is an important issue, and the very things that Senator HARKIN raised are issues Senator COHEN raised. But there have also been some concerns, and we have to be careful, if there are some problems, to see if we cannot get them worked out or else it poses a problem for the underlying bill.

I yield time to the Senator from Maine.

Mr. KENNEDY. Mr. President, I wonder if we can possibly get a time understanding. We have several Members here. I know people want to address this, and Senator COHEN wants to speak on it. I am wondering if the proponents of the amendment are willing to agree to a time limit.

Mrs. KASSEBAUM. There is very little time we need, Mr. President. My guess is, if Senator COHEN says 5 minutes, that is fine.

Mrs. BOXER. I am sorry, this is a time agreement?

Mr. KENNEDY. Just with regard to the Harkin amendment, can we agree that there be 10 minutes evenly divided? I ask unanimous consent that there be 10 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

Mr. COHEN. Mr. President, if I can be as brief as I can within the 5-minute limitation, the fraud and abuse provisions that we adopted in the leadership amendment is something that I have worked on now for over 3 years. It passed both the House and the Senate last year as part of the budget reconciliation act. It was included in the administration's budget reconciliation proposal.

So the legislation we have passed and adopted is something that has been completely vetted; it has been negotiated through a lengthy process; it has been through the hearing process; it has been on the floor on several occasions—in fact, numerous times.

Additionally, it has received the endorsement of the administration, the Attorney General, Secretary of Health and Human Services, the Finance Committee of the House and Senate, as well as many private groups. The Harkin legislation has not gone through any such review or scrubbing; it has not received these endorsements, to my knowledge. In fact, I am sure we do not know of all the objections to his provisions. I do believe that there are several that are the subject of controversy.

I am not here to argue the merits of each of the items I am about to raise, but I know that both Health and Human Services and HCFA, the Health Care Financing Administration, object to the section that requires HCFA to acquire commercial software technology for Medicare claims processing. I know HCFA has concerns with the Harkin section that requires Medicare payments for certain items.

Again, I am not here to argue the merits of these particular items tonight. I merely say to my colleagues, they are not without controversy. If our objective is to pass the Kassebaum-Kennedy bill because we want to see legislation that guarantees access, affordability and portability, it seems to me the best thing we can do is stay with the legislation we adopted. That is why it was included in the leadership amendment.

So we have adopted it on several occasions. There may be some merit to Senator Harkin's proposal, but I think because of the items that are in controversy, it is only going to jeopardize the legislation. I believe the fraud and abuse provisions we have adopted are an enormous step forward. CBO has scored the amendment we adopted as saving some $3 billion, and that is going to pay for a number of items in the bill itself.

So, Mr. President, I hope that my colleagues, when the appropriate time comes, will move to table the Harkin amendment, that we will enjoy the support of our colleagues, because I believe the Harkin amendment does raise controversial issues, and the last thing we need at this time is more controversy on this bill.

Mr. KENNEDY. I yield myself 2 minutes.

Mr. President, I have worked very closely with the Senator from Iowa, and I admire all of his extraordinary work in all of this area. I think it is very commendable, and I do not think we have really ensured that a number of the recommendations have been enacted. So I am, again, very sympathetic and supportive of the concept.

This is a matter really for the Finance Committee, and there has been an objection raised on that vote in support of tabling the amendment. But I give assurances to the Senator, as a member of the conference and given the fact the whole issue of fraud will be a matter of conference, I will do the best I can to see that we are able to include some of those measures in the conference. That is the best at least I can do, but I admire his work and look forward to joining with him on another occasion.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I appreciate Senator KENNEDY's comments, and I hope we can get some of these adopted in conference. I say, again, I appreciate what the Senator from Maine has done over the last few years. He has done a great job of going after these issues of waste and abuse. I have no major objections to what was adopted earlier. Overall, I think it is a great step in the right direction.

We probably have been working along parallel paths. I am on the Appropriations Committee and the Senator is on another committee, but I first started having hearings on this 6 years ago, so we have been working on parallel tracks. I do not think there is any need to debate that.

I was just saying I do not know that it is necessary before we pass anything around here that we have to have the approval of the administration. I find that kind of an odd concept at this time in the Senate that we have to have that kind of approval. We are the legislative branch.

I point out that every single item I just mentioned has gone through a process of hearings. We have had numerous hearings on this. We have had the approval of the inspector general's office and the GAO.

The Senator from Maine did mention one item. Out of all of these, there is only one item that HCFA opposes, and that is the provision in there that mandates they use state-of-the-art computer technology. That is because HCFA has been trying to develop its own. I have had some pretty fair battles with HCFA on this. I guarantee the Senator from Maine is right that they do not want that provision.

I am going to tell you they are wrong. There is high quality computer software out in the private sector that Medicare can adopt right now. They are wasting money developing their own. And I'm afraid by the time that the system they are developing won't solve the problem. The GAO study and investigation showed that. I have had Medicare intermediaries say that they have the software that Medicare could adopt, and, in fact, I say to the Senator from Maine that Medicare did adopt some changes of the type I've advocated in January of this year. They adopted a little bit of it. It will save some money, but much more could be saved.

Lastly, let me just say the amendment of the Senator from Maine does save $3 billion over 7 years. We do not have an estimate on how much this would save. All I know is, just on the computer software alone, that was $600 million in savings. I believe this amendment would save much, much more.

Again, I do not see anything here that is controversial but for that one item where HCFA says they are opposed to adopting private sector computer technology. As I said every single item in this amendment is a direct recommendation from the Inspector General, the General Accounting Office or other experts as effective methods to stop waste, fraud and abuse in Medicare.

This should be a completely noncontroversial amendment. I hope, again, as the Senator from Montana said, that we will not get caught up in jurisdictions.

Let us do what is right. What is right is to adopt this and start saving some money in the Medicare system. The amendment of the Senator from Maine is going to save some money. Darn right it is going to save some money. But we can save much more by adopting these other provisions.

The PRESIDING OFFICER. The Senator's time has expired. The minority manager is recognized

Mr. KENNEDY. I was going to make the tabling motion and then set that aside. What we had tried to do before is have the few amendments that we have here incorporated.

But I am reminded by my chairman that we had one over here and that it would be reasonable and fair to do one over there, and then we would come back to try and do all three of these here.

Mr. CONRAD. I wonder if we can get at least an order that would be acceptable so that those of us who have been waiting for an extended period might get a timeframe so that we will not just be waiting around and then find the list somehow gets altered and we wait some more.

Mr. KENNEDY. I was prepared to accept Senator CONRAD's amendment. It is going to take a minute.

Mr. KASSEBAUM. We are accepting it. So if the Senator wants to proceed—Senator COATS has been waiting too, but that is fine. It is acceptable.

Mr. KENNEDY. Mr. President, I make a motion to table the Harkin amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask that the Harkin amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOL
142
PT
6
AP
15
—
24
1996
UMI

AMENDMENT NO. 3684

(Purpose: To extend State requested waivers of the foreign country residence requirement with respect to international medical graduates, and for other purposes)

Mr. CONRAD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes amendment numbered 3684.

Mr. CONRAD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking "June 1, 1996" and inserting "June 1, 2002".

(b) CONDITIONS ON FEDERALLY REQUESTED WAIVERS.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1184(e)) is amended by inserting after "except that in the case of a waiver requested by a State Department of Public Health or its equivalent" the following: "or in the case of a waiver requested by an interested United States Government agency on behalf of an alien described in clause (iii)".

(c) RESTRICTIONS ON FEDERALLY REQUESTED WAIVERS.—Section 214(k) (8 U.S.C. 1184(k)) is amended to read as follows:

"(k)(1) In the case of a request by an interested State agency or by an interested United States Government agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver; and

"(B)(i) in the case of a request by an interested State agency—

"(I) the alien demonstrates a bona fide offer of full-time employment, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest; or

"(ii) in the case of a request by an interested United States Government agency—

"(I) the alien demonstrates a bona fide offer of full-time employment that has been found to be in the public interest, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest;

"(C) in the case of a request by an interested State agency, the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than three years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

"(D) in the case of a request by an interested State agency, the grant of such a waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed 20.

"(2)(A) Notwithstanding section 248(2) the Attorney General may change the status of an alien that qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of the contract with the health facility or organization named in the waiver application shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

"(3) Notwithstanding any other provisions of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien in clause (iii) of that section who has not otherwise been accorded status under section 101(a)(27)(H)—

"(A) in the case of a request by an interested State agency, if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C); and

"(B) in the case of a request by an interested United States Government agency, if at any time the alien engages in employment for a health facility or organization not named in the waiver application.".

Mr. CONARD. Mr. President, this is very simple. It is an extension of the popular J–1 visa program for 6 years. If we fail to do this, the authority runs out June 1. Mr. President, the J–1 visa waiver permits each of our States to extend 20 waivers a year. And 21 of our States have already done it. More are interested in doing it. They will not have a chance if the authority runs out June 1.

Mr. President, the amendment I am sponsoring would extend what has become known by some as the "Conrad State 20 Program." In 1994, I added a provision to the visa extension bill that allows state health departments or their equivalents to participate in the process of obtaining J–1 visa waivers. This process allows a foreign medical graduate (FMG) who has secured employment in the United States to waive the J–1 visa program's 2 year residency requirement.

As a condition of the J–1 visa, FMGs must return to their home countries for at least 2 years after their visas expire before being eligible to return. However, if the home countries do not object, FMGs can follow a waiver process that allows them to remain and work here in a designated health professional shortage area or medically underserved area. Before my legislation became law, that process exclusively involved finding an "interested federal agency" to recommend to the United States Information Agency (USIA) that waiving the 2 year requirement was in the public interest. The law now allows each State health department or its equivalent to make this recommendation to the USIA for up to 20 waivers per year.

This law as necessary for several reasons. Despite an abundance of physicians in some areas of the country, other areas, especially rural and inner city areas, have had an exceedingly hard time recruiting Americans doctors. Many health facilities have had no other choice but turn to FMGs to fill their primary care needs. Unfortunately, obtaining J–1 visa waivers for qualified FMGs through the federal program is a long and bureaucratic process that not only requires the participation of the "interested federal agency" but also requires approval from both the USIA and the Immigration and Naturalization Service.

Finding a federal agency to cooperate is difficult enough, considering that the Department of Health and Human Services does not participate. States who are not members of the Appalachian Regional Commission, which is eligible to approve its own waivers, have had to enlist any agency that is willing to take on these additional duties. These agencies, such as the Department of Agriculture or the Department of Housing and Urban Development, often have little or no expertise in health care issues. Once an agency does agree to participate, the word spreads quickly and soon that agency can be flooded with thousands of waiver applications from across the country.

Because states can clearly determine their own health needs far better than an agency in Washington, DC, my legislation now allows states to go directly to the USIA to request a waiver. It also is relieving some of the burden that participating federal agencies have incurred in processing waiver applications.

The Conrad State 20 Program is still very new, and not every state has yet elected to use it. But the program is beginning to work exactly as I had hoped. At least 21 States have reported using it to obtain waivers. More states are expected to participate in the coming months. Unfortunately, the Conrad State 20 program is scheduled to sunset on June 1, 1996, unless Congress approves an extension. The amendment I am offering would extend the program

for 6 more years. This is not a permanent extension. The amendment would sunset the program on June 1, 2002.

My amendment also puts new restrictions and conditions on FMGs who use the federal program. As a condition of using the Conrad State 20 program to acquire a waiver, FMGs must contract to work for their original employer for at least 3 years. Otherwise, their waiver will be revoked and they will be subject to deportation. My amendment would apply the same 3-year contractual obligation for those who obtain a waiver through the Federal program.

We all know that State empowerment has been a major issue of the 104th Congress. The Conrad State 20 Program is one way of giving States more control over their health care needs. States that are using the program want to keep it operating for a few more years. They understand that this program does not take away jobs from American doctors, but instead is one more valuable tool to help serve the health care needs of rural and inner city citizens. The Senate passed my original legislation with strong bipartisan support. I am hopeful the Senate will agree that creating the Conrad State 20 program was very worthwhile, and will agree to accept this modest, 6-year extension.

I hope we can accept this amendment.

Mr. KENNEDY. Mr. President, we have talked to the chairman of the Immigration Committee, Senator SIMPSON. And I, as the ranking minority member on that committee, say this makes sense. It is targeting doctors in underserved areas. We welcome this. This is effective. It is time sensitive in terms of the reauthorization. We urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

The question occurs on agreeing to the amendment.

The amendment (No. 3684) was agreed to.

Mr. SIMON. Mr. President, I recognize Senator COATS is going to have his amendment next. But Senator CONRAD's point that we would like some kind of knowledge as to what order we are going to come in here—some of us have been waiting a long time. And it will take a few minutes. I wonder if there can be some agreement following the Coats amendment as to who is going to be up here with their amendments.

Mrs. KASSEBAUM. After the Coats amendment there are only two amendments I know of at this point that will require votes on this side, one is a Gramm amendment and, I believe, perhaps a Burns amendment.

Mr. KENNEDY. Mr. President, I ask Senator COATS, how long does he expect to take?

Mr. COATS. There are one or two people that may want to speak on it. They are not on the floor. I do not intend to take all that long, 15 minutes or so, 10, 15 minutes.

Mr. KENNEDY. All right. The Senator from Illinois was just trying to get through this. He has been here and has been prepared, and Senator BOXER. I ask unanimous consent that at the conclusion of the consideration of Senator COATS' amendment, Senator BOXER be recognized, and at the conclusion of Senator BOXER, Senator SIMON be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Could we get a time, for the benefit of our colleagues here? Could we set a time for the Senator's amendment?

Mr. COATS. Well, it is difficult for me to determine how much opposition there will be to this amendment.

Mr. KENNEDY. I think the opposition will not take very much time. We would request maybe 4 minutes for the opposition.

Mr. COATS. I think we can do this then in a total of 15 minutes equally divided.

Mr. KENNEDY. Mr. President, I ask unanimous consent that there be an allocation of 20 minutes, 15 minutes for the Senator from Indiana, and 5 minutes for this Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. I thank the Chair.

Mr. KENNEDY. Mr. President, I ask unanimous consent that we vitiate that unanimous consent request until I get agreement on our side.

The PRESIDING OFFICER. Without objection, it is so ordered. The request is vitiated.

AMENDMENT NO. 3685

(Purpose: To encourage the provision of medical services in medically underserved communities by extending Federal liability coverage to medical volunteers)

Mr. COATS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes amendment numbered 3685.

Mr. COATS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title III, insert the following new section:

SEC. . MEDICAL VOLUNTEERS.

(a) SHORT TITLE.—This title may be cited as the "Medical Volunteer Act".

(b) TORT CLAIM IMMUNITY.—

(1) GENERAL RULE.—A health care professional who provides a health care service to a medically underserved person without receiving compensation for such health care service, shall be regarded, for purposes of any medical malpractice claim that may arise in connection with the provision of such service, as an employee of the Federal Government for purposes of the Federal tort claims provisions in title 28, United States Code.

(2) COMPENSATION.—For purposes of paragraph (1), a health care professional shall be deemed to have provided a health care service without compensation only if, prior to furnishing a health care service, the health care professional—

(A) agrees to furnish the health care service without charge to any person, including any health insurance plan or program under which the recipient is covered; and

(B) provides the recipient of the health care service with adequate notice (as determined by the Secretary) of the limited liability of the health care professional with respect to the service.

(c) PREEMPTION.—The provisions of this section shall preempt any State law to the extent that such law is inconsistent with such provisions. The provisions of this section shall not preempt any State law that provides greater incentives or protections to a health care professional rendering a health care service.

(d) DEFINITIONS.—For purposes of this section:

(1) HEALTH CARE PROFESSIONAL.—The term "health care professional" means a person who, at the time the person provides a health care service, is licensed or certified by the appropriate authorities for practice in a State to furnish health care services.

(2) HEALTH CARE SERVICE.—The term "health care service" means any medical assistance to the extent it is included in the plan submitted under title XIX of the Social Security Act for the State in which the service was provided.

(3) MEDICALLY UNDERSERVED PERSON.—The term "medically underserved person" means a person who resides in—

(A) a medically underserved area as defined for purposes of determining a medically underserved population under section 330 of the Public Health Service Act (42 U.S.C. 254c); or

(B) a health professional shortage area as defined in section 332 of such Act (42 U.S.C. 254e);

and who receives care in a health care facility substantially comparable to any of those designated in the Federally Supported Health Centers Assistance Act (42 U.S.C. 233 et seq.), as shall be determined in regulations promulgated by the Secretary.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Department of Health and Human Services.

Mr. COATS. Mr. President, the amendment I offer extends the Federal tort claim coverage to a health care professional if that health care professional volunteers his or her medical services to a medically underserved person. This is the same type of coverage—this is not new. We are not breaking new ground here. We extend that same type of Federal tort coverage for medical services provided in Indian health care facilities, in Federal community, migrant, homeless, and public housing health centers.

What I am attempting to do here is extend it to those volunteer efforts—

VOL 142 PT 6 AP 15 — 24 1996 UMI

not paid—but volunteer efforts on the part of health care professionals if those medical services are provided to people from underserved areas that are deemed by the Secretary of Health and Human Services as medically underserved or medically needy.

We have built into this significant patient protection, indicating that the patient must receive notice before providing the care, and that the provider has agreed not to charge the party for any health care that is provided, and that the medical malpractice liability is shifted to the Federal Tort Claims Act.

We are not in any way limiting the plaintiff's right to receive compensation for negligence or for a successful award in a suit. We are just simply shifting it from the provider's insurance coverage to the Federal Tort Claims Act. The provider is deemed, for the purposes of providing that voluntary service, an employee of the Federal Government and therefore covered under the act.

The providers have to be licensed in the State in which the care is provided. The care must be covered under Medicaid in that State. In addition, the patient must receive the care in a health care facility that is substantially comparable in nature to the Federal migrant and community health centers that provide care to underserved populations. This is the protection that is needed in order to ensure that the care is provided in adequate facilities. So those facilities that are deemed by the Secretary of Health and Human Services as federally certified—if they are provided in substantially comparable facilities—the coverage will qualify.

What we are attempting to do here is to provide a way that medical personnel can provide medical services to people who otherwise cannot afford them, people who are uninsured but where doctors and professionals and providers in the community come together and volunteer their time.

We all know the horrendous cost of medical liability insurance. In many instances these medical providers cannot pay or do not choose to pay the additional liability cost. One of the primary reasons for this is that many of these individuals are retired. They are retired doctors or dentists or health care providers. So they do not have umbrella liability policies because they are not necessarily practicing on a full-time basis. But we want to encourage these individuals—as many of them already do—to engage in providing medical services.

I think the amendment is pretty straightforward. There has been a question about the cost. It is interesting to note that when we provided this liability coverage for community health centers, the Congress set aside $10 million a year to cover potential liability costs. It is important to note that none of this money has been used in the 2 years that this has been in operation.

People receiving free health care from professional providers generally are very grateful for the care and obviously are not looking to sue, yet we have protected their rights to do so if negligence occurs or if any liability occurs under the services. That is provided. It just simply is that the coverage comes under the Federal tort claims procedure rather than under the private insurance liability coverage of the medical provider.

Again, the purpose here is to encourage the provision of free medical services to people who either live in underserved areas—and who of us do not represent a State that has underserved areas—or to those people of such income level that do not have insurance or do not have the personal wherewithal to purchase the medical service that is needed.

This is widely supported. The American Medical Association supports this, the Catholic Health Association, the Christian Medical and Dental Society. Senators FRIST and KASSEBAUM have been cosponsors of this bill. And it is supported by professionals throughout our States and throughout our communities.

I have seen some marvelous examples of efforts where community medical professionals gather together, provide an acceptable clinic, volunteer their time and provide very needed services to people that need these free services in order to receive medical care.

I hope that our colleagues could support this amendment. I thought this was something that we might be able to work out. We were not able to do that. I will address any questions that might be raised in opposition to this. I reserve the balance of my time.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

This idea is a good idea. As the author of the community health centers, we had the Tort Claim Act covering all the medical personnel in there. Then there was a downsizing of service corps, we had other doctors that came in there, and we had an increase in the insurance costs for the neighborhood health centers as a result of that.

About 4 years ago, again, we worked out with the Treasury and the administration an indemnification program for those doctors in the neighborhood health centers. It has worked very well. The reason that has worked well is because there is supervision and accountability at the neighborhood health centers.

That aspect is missing in this program. That is why I will vote to table this measure. Then we will come back, one, on the issue of what the funding level would be in terms of it; and second, whether an overall program can be worked in terms of the accountability. Without an accountability, without some ideas of funding, this is not the place, the time. It is a good idea.

I commit to working with my friend from Indiana to try and see if we cannot make it a reality in the very near future.

Mr. COATS. Mr. President, I appreciate the offer of the Senator from Massachusetts to work with us on this. I hardly think this needs additional work.

First of all, it is important to understand that the bill itself addresses the issue that the Senator raised. In the definition of "medically underserved person" it says the term "medically underserved person" means a person who receives care in a health care facility substantially comparable to any of those designated in the federally-supported Health Centers Assistance Act as shall be determined in regulations promulgated by the Secretary. The Secretary of Health and Human Services has a sufficient amount of control by the promulgation of regulations to certify the types of facilities, and there is accountability.

If you feel that you need to have a Federal agency or a Federal supervisor standing over the shoulder of a health care professional, a doctor who might be earning $200 or $300 an hour performing services but who volunteers his time for free, if you say we cannot trust this person to provide adequate medical care, I think we are selling the medical profession very, very short and we are crediting the Government with an ability to supervise that it does not have.

We do not need a Government agency to oversee the efforts of nurses and doctors who volunteer their time—volunteer their time—to provide needed free medical services to underserved and low-income individuals. Again, we are not limiting the liability of anybody that is served here. We are not saying they cannot bring a claim. We are simply saying that claim, if brought and if successfully brought, will be paid for under the Federal Tort Claims Act and not paid for under the liability insurance of the professional.

Why do we need to do that? We need to do that so we can encourage these people to provide the care. Why is it necessary for most? Because many of these people are retired and they are not able or in a position to continue to pay the exorbitant medical liability insurance, sometimes running $50,000, $60,000, or $80,000, depending on the specialty, in order to cover themselves for the volunteer service they get. The last thing we need is more Federal oversight in a program that does not need oversight.

The PRESIDING OFFICER. Under the previous order the hour of 9:45 having arrived the question is on agreeing to the Specter amendment No. 3682.

Mrs. KASSEBAUM. Mr. President, I ask if we could delay this for 15 minutes. There are a couple more amendments that need to be offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Reserving the right to object, Mr. President, I do not wish to object, but I would like to know how much time is left and what the order will be. As I understand it, Senator KENNEDY mentioned I would go next, but if you are just going to finish everything up in 15 minutes, that would leave virtually no time for Senator SIMON and virtually no time for me.

I am confused about whether we will continue after the vote, I guess is the point. I only wish to take 5 minutes on my amendment.

Mr. SPECTER. Mr. President, while we are doing the order here, I think it might be appropriate to spend just a minute on a discussion which I had with the distinguished manager, the Senator from Kansas, talking about hearings before the Labor Committee, hopefully, by the end of May, looking for reauthorization or authorization of the healthy start program.

Mrs. KASSEBAUM. Mr. President, I wish the Senator from Pennsylvania might wait until we worked out the order here.

Mr. SPECTER. I am glad to do that.

Mrs. KASSEBAUM. I suggest at this point perhaps we could go an extra half hour, which I think will then take care of every amendment that is there to everyone's satisfaction.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. I respond, if I may, Mr. President, to the Senator from Indiana. I am a cosponsor, as a matter of fact, of the Senator's Medical Volunteer Act. I think it is a very positive step forward. It encourages medical voluntarism and brings some small measure of relief to the current liability system. There are objections that have been raised to this on the Democratic side, principally, and because of our need to try and get as strong a consensus as possible for the underlying measure I have to object.

At the appropriate time, after all debate is concluded, I would move to table the amendment of the Senator from Indiana.

Mr. KENNEDY. As a matter of order, I think we request to conclude with Senator BOXER and Senator SIMON and then come back to the other side. I think that is what is the order.

The PRESIDING OFFICER. Is there further debate on the Coats amendment?

Mrs. KASSEBAUM. If not, I ask for the yeas and nays and ask that the amendment be set aside.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered on the motion to table the Coats amendment.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized.

AMENDMENT NO. 3686

Mrs. BOXER. Thank you very much, Mr. President. I would like to be advised when I have utilized 4 minutes and then I will wrap up my side of the argument.

I send an amendment to the desk and ask for its immediate consideration as a sense of the Senate.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from California [Mrs. BOXER], proposes an amendment numbered 3686.
>
> The Senate finds that:
>
> Patients deserve to know the full range of treatments available to them and,
>
> Patients should know if doctors receive bonuses for withholding treatment from them.
>
> It is the sense of the Senate that Congress should thoughtfully examine these issues to ensure that all patients get the care they deserve.

Mrs. BOXER. Mr. President, this is such a straightforward and simple sense-of-the-Senate. It is rather shocking to me that Members on the other side of the aisle have objected to it. I have to thank the chairwoman of the committee and Senator KENNEDY, who were quite willing to accept such a sense-of-the-Senate resolution. I do not know what Members oppose this. I cannot imagine why they have not identified themselves to me, Mr. President. I just hope that Members will read the sense-of-the-Senate.

Let me tell you a little story about why it is so important.

This is an L.A. Times story, entitled "HMO 'Gag Clauses' on Doctors Spur Protests." I will read just a few paragraphs:

> The Santa Monica oncologist thought she was being a strong advocate for her patient.
>
> In May, she referred the patient—a Los Angeles woman in her forties, who was rapidly losing her battle with metastatic colon cancer—to a Johns Hopkins University specialist using an experimental drug that had proven effective with similar cancers. It was, in the doctor's view, perhaps the best chance of extending the woman's life.
>
> But the patient's managed care group had a different view of the oncologist. It saw a doctor who said too much and broke the rules. She received a reproachful letter from the managed care group, stating that the Johns Hopkins specialist was not "in network" and that the patient should not have been referred there.
>
> "This occurrence," the letter warned, "had been noted in the computer, and a future occurrence may result in suspension of referral privilege or, in an extreme case, a recommendation for termination."

Mr. President, this is what is happening across the country in HMO's. Doctors, who refer patients to specialists are being warned that they may be fired. Doctors are receiving bonus payments from the HMO's for not giving care to patients.

Now, all I am asking in this sense-of-the-Senate is that we look into this. Already, we have looked into this in Medicare and, thank goodness, something is being done. Last month, the Department of HHS announced a regulation mandating that managed care plans serving Medicare and Medicaid patients reveal any arrangements in which doctors may face financial pressures to limit services or referrals to specialists.

What about those who are not on Medicare, who are not on Medicaid? Do they not deserve the same protections, at a minimum? Doctors across the country are protesting managed care companies' practices that they contend impede their ability to have candid discussions with patients about treatment options.

In this time of shifting health care needs and our attempt to restructure the health care delivery system, we must not lose sight of the valuable doctor-patient relationship. We should revere it, we should honor it. We should not allow the HMO's, because of the almighty bottom line, to interfere in this relationship and gag our physicians from telling their patients that there are other treatments for cancer, or whatever other condition it might be.

I really do not understand why we cannot get a simple sense of the Senate through this body.

In closing, I am going to read it to you one more time:

> The Senate finds that patients deserve to know the full range of treatments available to them, and patients should know if doctors receive bonuses for withholding treatment from them. It is the sense-of-the-Senate that Congress should thoughtfully examine these issues to ensure that all patients get the care they deserve.

Mr. President, we have a very good bill here. We can make it better, I believe, by just pledging to look into this situation and making sure that all of our people throughout this Nation are told all of the options, because if they are not told, they may lose their lives. I do not think we ought to have that on our hands.

Thank you, Mr. President. I reserve whatever time I have remaining.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Boxer amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 3687

(Purpose: To express the sense of the Senate regarding the need to ensure adequate health care coverage for all children and pregnant women)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

VOL
142
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The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 3687.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING ADEQUATE HEALTH CARE COVERAGE FOR ALL CHILDREN AND PREGNANT WOMEN.

(a) FINDINGS.—The Senate finds the following:

(1) The health care coverage of mothers and children in the United States is unacceptable, with more than 9,300,000 children and 500,000 expectant mothers having no health insurance.

(2) Among industrial nations, the United States ranks 1st in wealth but 18th in infant mortality, and 14th among such nations in maternal mortality.

(3) 22 percent of pregnant women do not have prenatal care in the first trimester, and 22 percent of all poor children are uninsured, despite the medicaid program under title XIX of the Social Security Act.

(4) Of the 1,100,000 net increase in uninsured persons from 1992 to 1993, 84 percent or 922,500 were children.

(5) Since 1987, the number of children covered by employment based health insurance has decreased, and many children lack health insurance despite the relative affordability of providing insurance for children.

(6) Health care coverage for children is relatively inexpensive and in 1993 the medicaid program spent an average of $1,012 per child compared to $8,220 per elderly adult.

(7) Uninsured children are generally children of lower income workers, who are less likely than higher income workers to have health insurance for their families because they are less likely to work for a firm that offers insurance, and if such insurance is offered, it is often too costly for lower income workers to purchase.

(8) In 1993, 61 percent of uninsured children were in families with at least one parent working full time for the entire year the child was uninsured, and about 57 percent of uninsured children had a family income at or below 150 percent of the Federal poverty level.

(9) If Congress eliminates the Federal guarantee of medicaid, an estimated 4,900,000 children may lose their guarantee of health care coverage, and those same children may be added to the currently projected 12,600,000 children who will be uninsured by the year 2002.

(10) Studies have shown that uninsured children are less likely than insured children to receive needed health and preventive care, which can affect their health status adversely throughout their lives, with such children less likely to have routine doctor visits, receive care for injuries, and have a regular source of medical care.

(11) The families of uninsured children are more likely to take the children to an emergency room than to a private physician or health maintenance organization.

(12) Children without health insurance are less likely to be appropriately immunized or receive other preventive care for childhood illnesses.

(13) Ensuring the health of children clearly increases their chances to become productive members of society and averts more serious or more expensive health conditions later in life, and ensuring that all pregnant women receive competent prenatal care also saves social costs.

(14) Although the United States has made great improvements in health care coverage through the medicaid program, it is still the only developed nation that does not ensure that all of its children and pregnant women have health care coverage.

(15) The United States should not accept a status quo in which children in many neighborhoods are more likely to have access to drugs and guns than to doctors, or accept a status quo in which health care is ensured for all prisoners but not for all children.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the issue of adequate health care for our mothers and children is important to the future of the United States, and in consideration of the importance of such issue, the Senate should pass health care legislation in the 105th Congress that will ensure health care coverage for all of the United States's pregnant women and children.

Mr. SIMON. Mr. President, all this does, very simply, is say it is the sense of the Senate that in the next congressional session, starting in 1997, the 105th Congress pass health care legislation that protects pregnant women and children. That is all it does.

It is very interesting. Two years ago, we were discussing health care legislation, and virtually everyone in this body, including the majority leader, said, "We are going to work out some kind of health care for all Americans." I have to say, in fairness to Senator PHIL GRAMM, he said right from the start, "Over my dead body. We are not going to have any national health care program."

We are the only western industrialized nation that does not protect all of our citizens. Listen to this, Mr. President. I ask my colleagues on the other side to listen to this.

In accepting the Republican nomination for President in 1928, Herbert Hoover said, "The greatness of any nation, its freedom from poverty and crime, its aspirations and ideals are the direct quotient of the care of its children. . .There should be no child in America that is not born and does not live under sound conditions of health."

That was in 1928, and we have not achieved Herbert Hoover's dream yet in 1996.

Let me add, providing coverage for children is the least expensive part of health insurance. As we get older, it is more demanding in terms of expense. But still we do not provide it for all children.

All women and children in Italy have health care coverage, but not in the wealthy United States of America.

All women and children in France have health care coverage, but not in the wealthy United States of America.

All women and children have health care coverage in Canada, but not in the wealthy United States of America.

All women and children have health care coverage in Great Britain, but not in the wealthy United States of America.

All women and children have health care coverage in Germany, but not in the wealthy United States of America.

All women and children have health care coverage in Luxembourg, but not in the wealthy United States of America.

All women and children have health care coverage in Belgium, but not in the wealthy United States of America.

All women and children have health care coverage in The Netherlands, but not in the wealthy United States of America.

All women and children have health care coverage in Portugal, but not in the wealthy United States of America.

All women and children have health care coverage in Spain, but not in the wealthy United States of America.

All women and children have health care coverage in Finland, but not in the wealthy United States of America.

All women and children have health care coverage in Austria, but not in the wealthy United States of America.

All women and children have health care coverage in Denmark, but not in the wealthy United States of America.

All women and children have health care coverage in Norway, but not in the wealthy United States of America.

All women and children have health care coverage in Sweden, but not in the wealthy United States of America.

All women and children have health care coverage in Japan, but not in the wealthy United States of America.

Mr. President, what we are just saying here is, let us in the next session of Congress—and I am not going to be here—at least protect pregnant women and children. That is all we ask. It is a sense of the Senate resolution.

I regret that 2 years ago—and I blame myself as much as anyone—that we did not even get a vote on the floor of the U.S. Senate on the fundamental issue of health care. Today, my friends, we are going to get a vote. We do not say how it should be done; we just say it is the sense of the Senate that in the next session of Congress, we are going to at least protect pregnant women and children.

I do not know how we can do anything less than that. That is what my amendment asks for.

Mrs. KASSEBAUM. Mr. President, I recognize it is just a sense-of-the-Senate resolution. But it is about 6 pages, and it is a fairly extensive direction for the next Congress. While there would be certainly a great deal of support for health care coverage for pregnant women and children, we are having a hard enough time in this Congress figuring out what we want to do, let alone applying some issues and directions to the next Congress.

For that reason, Mr. President, I would have to oppose.

Mr. KENNEDY. Mr. President, could we ask for the yeas and nays?

Mr. SIMON. I ask for the yeas and nays.

Mr. KENNEDY. That it would be in order to ask for the yeas and nays on the Boxer amendment.

Mrs. KASSEBAUM. Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SIMON. If the Senator from Kansas will withhold for 30 seconds for me to respond, she mentions a 5-page amendment. These are all whereases. The conclusion is that it is a sense of the Senate. If she wants to agree to this, I will knock out all of the whereases and we will just take the sense of the Senate that we ought to, next session of the Congress, pass health care legislation for pregnant women and children.

Mrs. KASSEBAUM. Mr. President, I very much appreciate that Senator SIMON is always very accommodating. The Senator from Illinois is a superb debater. I would still have to object. If there is no further debate, I will move to table the Simon amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Are there further amendments?

Mr. KENNEDY. Mr. President, as I understand, the Senator is also asking for the yeas and nays on the tabling motion of the Boxer amendment.

Mrs. KASSEBAUM. Yes. Mr. President, if I may just speak for a moment, this is objected to by the Republican Members of the Senate because it references controversial regulations issued by HCFA regarding Medicare. They would like to debate that at another time, even though it is just a sense-of-the-Senate resolution.

Mrs. BOXER. Mr. President, if my friend will yield for a minute, we took out any reference to Medicare and Medicaid at the Senator's suggestion. It has nothing to do with Medicare and Medicaid. The way it reads now is simply that we should look to see whether patients are being denied the information they need. We deleted all reference to Medicaid and Medicare and asked just for the Congress to look at this matter.

So I tried to be very accommodating, if my friend would try to help me. As I say, we do not have any reference in here at all. We simply ask that the Congress should thoughtfully examine the issue of patients, finding out the full range of their treatment, and patients should know if doctors are receiving bonuses from the treatment. It does not mention Medicare and Medicaid.

Mr. BYRD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. BYRD. Is not a motion to table now pending?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. There is no debate on a motion to table.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Shall we vote?

The PRESIDING OFFICER. We have a previous order to table the votes in sequential order and vote at 10:15.

Mr. BYRD. Very well. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority manager is recognized.

AMENDMENT NO. 3688

(Purpose: To encourage organ and tissue (including eye) donation through the inclusion of an organ and tissue donation card with individual income refund payments, and for other purposes)

Mr. KENNEDY. Mr. President, there are two amendments which have been agreed to dealing with the organ transplants and information on organ transplants, the Dorgan-Frist amendment, in terms of information on the organ transplants. I would like to send it to the table and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for Mr. DORGAN, for himself and Mr. FRIST, proposes an amendment numbered 3688.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title III, add the following:

SEC. 3 . ORGAN AND TISSUE DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall include with any payment of a refund of individual income tax made during the period beginning on February 1, 1997, and ending on June 30, 1997, a copy of the document described in subsection (b).

(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ and tissue (including eye) donation, prepare a document suitable for inclusion with individual income tax refund payments which—

(1) encourages organ and tissue donation;

(2) includes a detachable organ and tissue donor card; and

(3) urges recipients to—

(A) sign the organ and tissue donor card;

(B) discuss organ and tissue donation with family members and tell family members about the recipient's desire to be an organ and tissue donor if the occasion arises; and

(C) encourage family members to request or authorize organ and tissue donation if the occasion arises.

Mr. KENNEDY. Mr. President, I have described what it is. It is information on organ transplant in behalf of Senator DORGAN and Senator FRIST.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from North Dakota.

The amendment (No. 3688) was agreed to.

AMENDMENT NO. 3689

(Purpose: To prohibit the establishment of certain health plan requirements based on information relating to domestic violence)

Mr. KENNEDY. Mr. President, this amendment is in behalf of Senator WELLSTONE, and it is in regards to information relating to domestic violence. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for Mr. WELLSTONE, proposes an amendment numbered 3689.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 13 insert after evidence of insurability "(including conditions arising out of act of domestic violence);".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 3689) was agreed to.

Mr. WELLSTONE. Is it the Senators' understanding that this language that we have accepted from the House bill ensures that women covered in an employment-based health plan, will not be discriminated against because of a medical condition caused by domestic violence, because of a history of domestic violence, or because of their status as a victim of domestic violence?

Mr. KENNEDY. Yes; that is my understanding.

Ms. KASSEBAUM. Yes; that is my understanding.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I thank my friend from Kansas. We are redrafting different language where one committee says the first shall be the last and the last shall be first.

I would like to yield the floor to my friend from West Virginia who has, I believe, an amendment to offer.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, the Senator from West Virginia would ask simply for 1 minute to make the following observation.

Earlier this evening there was substantial nonpublic discussion as to nondiscrimination and long-term care. There was then a very helpful, constructive, and useful colloquy on the floor which agreed that in the tax preferential treatment of long-term care,

VOL
142
PT
6
AP
15
—
24
1996
UMI

that nondiscrimination would be completely treated. There was some disagreement as to what Treasury was saying constituted nondiscrimination and what the Finance Committee staff said constituted nondiscrimination. There seemed to be a difference.

I simply, as a member of the Finance Committee, wanted to go on record as saying that the nondiscrimination aspect—this is not just racial, but we are talking just about the higher employer as opposed to the lowest employer—that nondiscrimination be done in the usual, customary, and effective manner for the tax preferential long-term care matters that we are now discussing.

AMENDMENT NO. 3690

Mrs. KASSEBAUM. Mr. President, I have here a study request that I cosponsored with Senator HELMS which would ask HHS to study options on point of service. It has been agreed to on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM], for Mr. HELMS, for himself and Mrs. KASSEBAUM, proposes an amendment numbered 3690.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend Title III—Miscellaneous Provisions, Section 302 (a) by striking "two part study" on line 19, and inserting "three-part study" and adding Section 302 (d):

"(d) EVALUATION OF ACCESS AND CHOICE.—Not later than June 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate Committees of Congress a report concerning—

(1) an evaluation of the extent to which patients have direct access to, and choice of, health care provider, including specialty providers, within a network of providers, as well as the opportunity to utilize providers outside of the network, under the various types of coverage offered under the provisions of this Act;

(2) an evaluation of the cost to the insurer of providing out-of-network access to providers, and the feasibility of providing out-of-network access in all health plans offered under provisions of this Act.

(3) an evaluation of the percent of premium dollar utilized for medical care and administration of the various types of coverage offered, including coverage which permits out-of-network access and choice of provider, under provisions of this Act.

Mr. HELMS. Mr. President, one of the many reasons for my having opposed the Clinton health plan was the well founded fear that the American people would have been denied their right to choose their medical care. The enormous bureaucracy of the Clinton plan made that apprehension a certainty—which is why the American people rejected it.

In the interest of time, I will not offer my amendment to guarantee patients the freedom to choose their health care provider.—This amendment was originally approved by the Senate last October by a vote of 79 to 20 when we considered Medicare reform.—I have no doubt that this provision continues to have strong bipartisan support in the Senate.

However, instead of offering the original amendment I submit this amendment to require the Department of Health and Human Services to conduct a study to make certain that any changes in the health insurance market will not result in the loss of the American people's freedom to choose their health care provider.

Whether Congress considers Medicare reform or health insurance reform, patients must not be deprived of the right to choose their own doctors. Even when Congress attempts to provide access to health insurance, that is only half of the equation. Equally important is that patients must not find themselves unknowingly thrown into health care coverage that limits their freedom to choose their own health care providers.

The purpose of my provisions is to provide to Congress the information Congress may need to evaluate whether patients continue to have direct access to specialist and choice of health care provider, both in-network and out-of-network, as we make changes to the health insurance market place. It will also determine the cost to the insurer of providing this freedom to choose, and if the premium dollar collected is effectively going toward patient care.

This study will not only go a long way to provide our Nation with useful information about health care delivery, but it will also emphasize the importance of preserving the patient's freedom of choice when it comes to their own doctor.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the amendment is agreed to.

The amendment (No. 3690) was agreed to.

AMENDMENT NO. 3691

(Purpose: To direct the Health Care Financing Administration to determine reimbursement rates for telemedicine services)

Mr. BURNS. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for himself and Mr. HARKIN, proposes an amendment numbered 3691.

Mr. BURNS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 71, line 19, add the following:

"SEC. 302.5. REIMBURSEMENT OF TELEMEDICINE.

The Health Care Financing Administration is directed to complete their ongoing study of reimbursement of all telemedicine services and submit a report to Congress with a proposal for reimbursement of fee-for-service medicine by March 1, 1997. The report shall utilize data compiled from the current demonstration projects already under review and gather data from other ongoing telemedicine networks. This report shall include an analysis of the cost of services provided via telemedicine.

Mr. BURNS. Mr. President, this amendment is sponsored also by my friend from Iowa Mr. HARKIN.

The Health Care Financing Administration has been reviewing telemedicine demonstration projects across the country. They have been studying them about 2 years now. They are analyzing the cost effectiveness of providing health services via telecommunications and how to reimburse health care providers.

Telemedicine is a technology that is spreading—thankfully—because rural areas and inner-city areas are in desperate need of health care. Getting health care services can be a challenge, especially if you are 180 miles away from a specialist. But even if that specialist is willing and able to visit his patients via telemedicine, HCFA will not reimburse him for those services. And as you can imagine, many health care providers aren't too willing to give their time without being compensated.

The study is already underway. But there is no anticipated deadline to finish the study and put the issue of reimbursement behind us. In fact, at a recent telemedicine conference, a HCFA representative stated that there would be no decision until Congress mandated one.

My amendment basically instructs HCFA to decide on reimbursement of telemedicine services by March 1, 1997. That gives them almost an entire year—in addition to the time they have already spent studying the issue—to compile their data, gather data from other ongoing demonstrations, if they choose, and determine the fee-for-service reimbursement for services provided via telemedicine.

There is no cost associated with this, since the study is already ongoing. I am simply asking that they finish the study and let rural areas and urban residents access the health care services that are currently out of their reach.

The Health Care Financing Administration has been in this process now for a couple of years and we think it is about time that they bring this to a close and recommend to the Congress how they are going to deal with it. We have this new technology. We passed a telecom bill that allows a lot of things to happen in distance learning, telemedicine, and these kinds of things,

and we think it is now time that we move into the next generation of providing health care to our rural areas via telecommunications.

I appreciate my good friend from Iowa being a part of this.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I wish to congratulate the Senator from Montana for offering this amendment. I am proud to join with him in this.

When I was chair of the Labor, Health and Human Services Appropriations Subcommittee, Senator SPECTER and I initiated the funding 3 years ago for the demonstration projects for telemedicine. I know Montana was one State, Iowa was another, and there were several other States, I think Georgia, West Virginia, others that were involved in the demonstration projects in telemedicine.

One of the reasons that we had the demonstration projects was so that HCFA could develop a reimbursement means and determine how to reimburse.

We have enough data. They know. We have had 3 years of these projects. The date the Senator has there, they can do that easily. They can actually do that a lot sooner than that. I think the Senator is generous in giving them that much time.

Nonetheless, there is no doubt they have enough data—they have it now—that they can do this.

To echo what the Senator from Montana said, telemedicine will improve access to care in rural areas. It will attract more doctors to rural areas because then they will have the necessary backup they need for correct diagnosis and treatment. It will lower costs in rural areas by cutting down on travel, and it will allow more services to be done like at our rural health clinics where they can reach out over a broader area.

So this is a very good amendment and one that is going to help a lot in a lot of rural areas in the United States.

I hope it will be adopted.

The PRESIDING OFFICER. Is there further debate on the amendment?

The vote now is on agreeing to the Burns amendment.

The amendment (No. 3691) was agreed to.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The majority manager is recognized.

AMENDMENT NO. 3682 WITHDRAWN

Mrs. KASSEBAUM. I would like now to have a colloquy with the Senator from Pennsylvania. Senator SPECTER and myself and Senator KENNEDY have discussed his amendment regarding healthy start and my objection had been it was authorization on this bill which I felt needed to go through the committee with some hearings, review what has always been an appropriations matter rather than an authorization, and I believe this has been agreed to by Senator SPECTER and we will have a hearing if possible by the end of May.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. The distinguished Senator from Kansas expresses it accurately. I think that will accomplish the purpose and lead to authorization, or a reauthorization. That is acceptable, and I formally withdraw the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The minority manager is recognized.

AMENDMENT NO. 3686, AS MODIFIED

Mr. KENNEDY. Mr. President, the Senator from California, Senator BOXER, proposed a sense-of-the-Senate. In her behalf, I have a revised sense-of-the-Senate and I ask unanimous consent that it be in order to send it to the desk and that it be in order for consideration at the appropriate time in the list of amendments.

The PRESIDING OFFICER. Is the Senator modifying the underlying Boxer amendment?

Mr. KENNEDY. The Chair is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment as modified is as follows:

At the appropriate place add:

It is the sense of the Senate that patients deserve to know the full range of treatments available to them.

Congress should thoughtfully examine these issues to ensure that all patients get the care they deserve.

Mr. KENNEDY. I will ask for a vitiation of the yeas and nays on that particular amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The hour of 10:15 having arrived, the question is on agreeing to the motion to table amendment No. 3683. That is the amendment offered by the Senator from Iowa, Senator HARKIN. The yeas and nays have been ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. I wanted to get consent that votes occur in the order in which they were debated, with 1 minute of debate after the first vote to be equally divided for explanation; that all votes after the first vote be reduced to 10 minutes in length. I think that is satisfactory to the managers.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

VOTE ON AMENDMENT NO. 3683

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Harkin amendment No. 3683. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado [Mr. CAMPBELL] and the Senator from Florida [Mr. MACK] are necessarily absent.

The result was announced—yeas 62, nays 36, as follows:

[Rollcall Vote No. 76 Leg.]

YEAS—62

Abraham
Ashcroft
Bennett
Bond
Breaux
Brown
Bryan
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kohl
Kyl
Lott
Lugar
McCain
McConnell
Moynihan
Murkowski
Nickles
Nunn
Pressler
Reid
Robb
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—36

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bumpers
Byrd
Conrad
Dorgan
Exon
Feingold
Feinstein
Glenn
Graham
Grassley
Harkin
Heflin
Hollings
Inouye
Jeffords
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Pell
Pryor
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—2

Campbell
Mack

So the motion to table the amendment (No. 3683) was agreed to.

The PRESIDING OFFICER. Under the previous order there is a minute to be utilized by the sponsor of the bill and the opposition.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I ask unanimous consent that after all the amendments are disposed of this evening, the vote occur on final passage of H.R. 3103, as amended, on Tuesday at a time to be determined by the majority leader after consultation of the Democratic leader. Let me indicate why I am doing that. Senator MACK's father passed away. He would like to make the final passage vote, unless there is some objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Is it the intention of the leader that we move to third reading tonight?

Mr. DOLE. Oh, yes. I think there is only one additional vote. I believe this will be the last vote.

VOL 142
PT 6
AP 15 — 24
1996
UMI

The PRESIDING OFFICER. Does the sponsor of the amendment wish to debate the amendment? If not—

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois, Senator SIMON, is recognized.

AMENDMENT NO. 3687, AS MODIFIED

Mr. SIMON. Mr. President, I ask unanimous consent to vitiate the vote on my amendment and to modify it by dropping 4 words that I have given to the clerk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, as modified, follows:

At the appropriate place in the bill insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING ADEQUATE HEALTH CARE COVERAGE FOR ALL CHILDREN AND PREGNANT WOMEN.

(a) FINDINGS.—The Senate finds the following:

(1) The health care coverage of mothers and children in the United States is unacceptable, with more than 9,300,000 children and 500,000 expectant mothers having no health insurance.

(2) Among industrial nations, the United States ranks 1st in wealth but 18th in infant mortality, and 14th among such nations in maternal mortality.

(3) 22 percent of pregnant women do not have prenatal care in the first trimester, and 22 percent of all poor children are uninsured, despite the medicaid program under title XIX of the Social Security Act.

(4) Of the 1,100,000 net increase in uninsured persons from 1992 to 1993, 84 percent or 922,500 were children.

(5) Since 1987, the number of children covered by employment based health insurance has decreased, and many children lack health insurance despite the relative affordability of providing insurance for children.

(6) Health care coverage for children is relatively inexpensive and in 1993 the medicaid program spent an average of $1,012 per child compared to $8,220 per elderly adult.

(7) Uninsured children are generally children of lower income workers, who are less likely than higher income workers to have health insurance for their families because they are less likely to work for a firm that offers insurance, and if such insurance is offered, it is often too costly for lower income workers to purchase.

(8) In 1993, 61 percent of uninsured children were in families with at least one parent working full time for the entire year the child was uninsured, and about 57 percent of uninsured children had a family income at or below 150 percent of the Federal poverty level.

(9) If Congress eliminates the Federal guarantee of medicaid, an estimated 4,900,000 children may lose their guarantee of health care coverage, and those same children may be added to the currently projected 12,600,000 children who will be uninsured by the year 2002.

(10) Studies have shown that uninsured children are less likely than insured children to receive needed health and preventive care, which can affect their health status adversely throughout their lives, with such children less likely to have routine doctor visits, receive care for injuries, and have a regular source of medical care.

(11) The families of uninsured children are more likely to take the children to an emergency room than to a private physician or health maintenance organization.

(12) Children without health insurance are less likely to be appropriately immunized or receive other preventive care for childhood illnesses.

(13) Ensuring the health of children clearly increases their chances to become productive members of society and averts more serious or more expensive health conditions later in life, and ensuring that all pregnant women receive competent prenatal care also saves social costs.

(14) Although the United States has made great improvements in health care coverage through the medicaid program, it is still the only developed nation that does not ensure that all of its children and pregnant women have health care coverage.

(15) The United States should not accept a status quo in which children in many neighborhoods are more likely to have access to drugs and guns than to doctors, or accept a status quo in which health care is ensured for all prisoners but not for all children.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the issue of adequate health care for our mothers and children is important to the future of the United States, and in consideration of the importance of such issue, the Senate should pass health care legislation that will ensure health care coverage for all of the United States' pregnant women and children.

Mr. DOLE. Mr. President, I urge that the amendment be agreed to.

The amendment (No. 3687), as modified was agreed to.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The majority manager is recognized.

Mrs. KASSEBAUM. Parliamentary inquiry. Mr. President, I believe I moved to table the amendment of the Senator from Indiana, is that correct, and that I had asked for the yeas and nays at that time?

The PRESIDING OFFICER. The Senator is correct.

Mrs. KASSEBAUM. So this is a tabling motion.

VOTE ON AMENDMENT NO. 3685

The PRESIDING OFFICER. There is no debate on the amendment. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Indiana, [Mr. COATS]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado [Mr. CAMPBELL] and the Senator from Florida [Mr. MACK] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 77 Leg.]

YEAS—47

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
Dodd
Feingold
Feinstein
Ford
Gorton
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Shelby
Simon
Snowe
Wellstone
Wyden

NAYS—51

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Frist
Glenn
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lautenberg
Lieberman
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Roth
Santorum
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Campbell
Mack

The motion to lay on the table the amendment (No. 3685) was rejected.

Mr. COATS. Mr. President, I move to reconsider the vote.

Mrs. KASSEBAUM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. FORD. Mr. President, on amendment numbered 3681, I am recorded voting "yea." Since it will not change the outcome of the vote, I ask unanimous consent to be changed from "yea" to "nay."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I understand that Senator BOXER's amendment is ready for final disposition.

Mr. REID. Mr. President, would my friend yield for a unanimous consent request?

Mr. KENNEDY. I think I will get acceptance for the Boxer amendment.

AMENDMENT NO. 3686

The PRESIDING OFFICER. The question is on agreeing to the Boxer amendment, Amendment 3686, as modified.

The amendment (No. 3686), as modified, was agreed to.

Mrs. BOXER. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. REID. Mr. President, on rollcall vote 75, it was my intention to vote "nay." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way affect the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF VOTE

Mr. BRYAN. Mr. President, on rollcall vote 75, I voted "yea" and intended to vote "nay." I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, today over 62,000 Vermonters are included in the 39.7 million Americans without health insurance. Unfortunately, this number is increasing every year. Health insurance has simply become less available and affordable, especially for small businesses and individuals. I am proud to cosponsor S. 1028, the Health Insurance Reform Act, that will address some of the issues blocking access to coverage that the uninsured face today.

This bill is a good bill and a step in the right direction. The bill increases the availability of insurance by ensuring that anyone who wants it, and can afford it, will be able to buy it. I am hopeful that provisions to encourage small employers to form voluntary purchasing pools will give some relief from rising health insurance premiums by giving them more leverage to negotiate lower premiums and better conditions of coverage.

To be clear, however, this bill does not address the larger issue of the skyrocketing cost of health care which will continue to be a looming problem that Americans face.

What the bill does do is end insurance practices that restrict the availability of insurance to people with preexisting medical conditions, or avoid enrolling or renewing coverage for older or sicker individuals and groups. The GAO estimates that up to 21 million Americans a year would benefit from federal laws waiving preexisting condition exclusions for persons who had prior coverage.

What these reforms add up to is portability of health insurance—an end to "job lock." Currently, some employees are "locked" into their current jobs because changing jobs might subject them to periods without comprehensive coverage while preexisting condition limitations were met. Under this bill, a person with previous group coverage would receive credit from this coverage toward any new limitation period. These portability provisions do not guarantee that an individual currently insured would be covered after a job change—the new employer must offer coverage for this guarantee to exist. The GAO estimates that ending job lock will benefit as many as 4 million Americans who have stayed in their jobs due to concerns about their preexisting conditions.

The individuals who will benefit from this bill are real people who have preexisting conditions that they were born with or people who become sick or have had a severe accident. Without the Kassebaum/Kennedy bill, insurance companies can continue to impose restrictions on the coverage they offer to these people whose health conditions are beyond their control. Even worse, someone seeking insurance who has an adverse health condition can be denied insurance altogether. These are children, teenagers, young people trying to get jobs for the first time, our brothers, sisters, parents, and our grandparents. We cannot, in good conscience, risk the well being of people whose health could be dramatically affected if denied coverage for the care they need.

I am proud to say that Vermont has already addressed many of the health insurance reforms included in S. 1028. In 1991, Vermont was the first state in the nation to prohibit insurance companies from denying coverage or charging excessive rates to high-risk groups. In 1992, the state extended this to the individual market. Today in Vermont, no one can be denied health insurance at a reasonable cost from a carrier doing business in the state.

However, there is a large exception to this rule. Due to a Federal law, the Employee Retirement Income Security Act [ERISA], the State of Vermont's insurance reforms do not apply to businesses that self-insure their health benefits programs.

For example, during the health reform debate in 1994, I was contacted by a Vermont woman who shared with me her husband's experience of losing health coverage due to a preexisting condition. This gentleman had worked for the same business for over 20 years. He had a heart condition, but had always been covered under his employer's health insurance plan. When his employer was bought out by a self-insured company from another state, the new employer deemed the heart condition a preexisting condition and denied insurance coverage.

Because of stories like this, I have sought to address the issue of self-insured employer plans being exempt from State regulation because of ERISA in past Congresses. I am very pleased that a key component of S. 1028 extends these nondiscrimination and portability requirements to self-insured plans. The GAO has estimated that about 44 million Americans are in self-insured health plans that states cannot regulate.

S. 1028 is long overdue. Nearly 2 years ago, Congress was engaged in a great battle over how to get health care costs under control and make health care services available to all Americans. That battle heeded few results and left millions of Americans frustrated and disappointed that health care would continue to be out of their reach. The obstacles that prevented Americans from buying health insurance have not gone away and Congress now owes it to Americans to pass the Kassebaum/Kennedy bill to address some of the issues that these individuals face.

We must pass this bill and make the modest changes that will make it easier for people to get the health care coverage they need. I hope in the future we will be able to come to agreement on further health reforms that will address the skyrocketing cost of health care—simply requiring access to health insurance coverage does not address this looming issue.

Mr. WARNER. Mr. President, at the close of debate during the series of rollcall votes, I was prepared to vote in favor of the amendment offered by the distinguished Senator from California, Senator BOXER, proposing a Senate Resolution that the Congress fully examine administrative practices of Health Maintenance Organizations [HMO's] in which physicians may be precluded from providing full and complete medical counsel, or referral for specialized care.

I am pleased that Senator BOXER's amendment was accepted but wish to take this opportunity to indicate that had there been a rollcall vote, I would have voted in favor of the Boxer Amendment.

No physician should feel that they are being subjected to a "gag rule" in the course of their professional practice. Patients are entitled to a full and open discussion of all medical options and physicians should not feel restrained in the process.

LIABILITY FOR BIOMATERIALS

Mr. MCCAIN. Mr. President, I had planned to offer an amendment which would ensure the availability of raw materials and component parts for implantable medical devices. This provision is necessary if Americans are to have continued access to a wide variety of life-saving devices, such as brain shunts, heart valves, artificial blood vessels, and pacemakers. Unfortunately, we were unable to obtain agreement for this amendment from my colleagues on the other side of the aisle.

Currently, the manufacturers and suppliers of materials used in implantable medical devices are subject to substantial legal liability for selling relatively small amounts of materials to medical device manufacturers. These sales generate relatively small profits and are often used for purposes beyond their direct control. Due to their small profit margins and large legal vulnerability for these sales, some of the manufacturers and suppliers of these materials are now refusing to provide them for use in medical devices.

It is absolutely essential that a continued supply of raw materials and component parts is available for the invention, development, improvement and maintenance of medical devices. Most of these devices are made with materials and parts that are not designed or manufactured specifically for

VOL
142
PT
6
AP
15
—
24
1996
UMI

use in implantable devices. Their primary use is in non-medical products. Medical device manufacturers use only small quantities of these raw materials and component parts, and this market constitutes a small portion of the overall market for such raw materials.

While raw materials and component parts suppliers do not design, produce or test the final medical implant, they have been sued in cases alleging inadequate design and testing of, or warnings related to use of, permanently implanted medical devices. The cost of defending these suits often exceeds the profits generated by the sale of materials. This is the reason that some manufacturers and suppliers have begun to cease supplying their products for use in permanently implanted medical devices.

Unless alternative sources of supply can be found, the unavailability of raw materials and component parts will lead to unavailability of life-saving and life enhancing medical devices. The prospects for development of new sources of supply for the full range of threatened raw materials and component parts are remote, as other suppliers around the world are refusing to sell raw materials or component parts for use in manufacturing permanently implantable medical devices in the United States.

The product liability concerns that are causing the unavailability of raw materials and component parts for medical implants is part of a larger product liability crisis in this country. Immediate action is necessary to ensure the availability of raw materials and component parts for medical devices so that Americans have access to the devices they need. Addressing this problem will solve some important aspect of our broken medical product liability system.

This issue came to my attention when I was contacted by one of my constituents, Linda Flake Ransom, about her daughter Tara who requires a silicon brain shunt. Without a shunt, due to Tara's condition called hydrocephalus, excess fluid would build up in her brain, increasing pressure, and causing permanent brain damage, blindness, paralysis and ultimately death. With the shunt, she is a healthy, happy and productive straight-A student with enormous promise and potential.

Tara has already undergone the brain shunt procedure five times in her brief life. However, the next time that she needs to replace her shunt, it is not certain that a new one will be available due to the unavailability of shunt materials. This situation is a sad example that our medical liability system is out of control. It is tragic, but not surprising that manufacturers have decided not to provide materials if they are subject to tens of millions of dollars of potential liability for doing so.

It is essential that individuals such as Tara continue to have access to the medical devices they need to stay alive and healthy. 'This amendment would have helped to ensure the ongoing availability of materials necessary to make these devices. It would not, in any way, have protected negligent manufacturers or suppliers of medical devices, or even manufacturers or suppliers of biomaterials that make negligent claims about their products. However, it would have protected manufacturers and suppliers whose materials are being used in a manner that is beyond their control.

Mr. President, we must act to ensure the continued availability of biomaterials to ensure that the lives of Tara and thousands of other Americans are not jeopardized. Because this is a life and death situation, I will do everything I can to assure that the Senate addresses this issue in the near future.

HEALTH INSURANCE REFORM AND GENETIC INFORMATION

Mr. HATFIELD. Mr. President, as we are all too aware, the past several months, it has grown exceedingly difficult for Members of Congress to focus their attention on anything other than sad circumstances of our Federal budget. As chairman of the Appropriations Committee, I share in the frustration. Fortunately, I am pleased to see that in the midst of our negotiations, and setbacks, excellent progress has been made in the area of health insurance reform. Senators KASSEBAUM and KENNEDY are to be commended for their efforts this past year. While compromise may not be in fashion, they have utilized this tool with extreme skill, crafting a bill that makes great strides towards improving the infrastructure of health care in the United States.

Accessibility to health care was the focus of debate in the 103d Congress and it has become our focus again. Many of you know that the State of Oregon is already on the cutting edge of improving accessibility for many groups. The Oregon Health Plan, with its focus on providing health care coverage under the Medicaid program, has successfully prioritized those health care services most important to its citizens. Oregon is therefore able to provide coverage to thousands of low-income individuals who would otherwise be uncovered. Oregon is also making progress improving its health insurance system. But issues to accessibility, affordability and portability are national issues as well.

Several of my colleagues have already discussed the merits of the Health Insurance Reform Act. As one who is about to change jobs, I strongly support the goal of increasing health insurance portability. We must keep this focus in mind. Several amendments are being offered, which I would normally tend to vote for. However, in light of our need to ensure that this reform is passed and signed, I will not be supporting such amendments. Again, several of these amendments being considered today are excellent. But if their passage only serves to make health insurance reform impossible to pass, my support would be in vain and our goal to increase portability would be unmet.

Increasing the availability and renewability of health coverage for millions of Americans is a reform Congress has sought for years. Individuals should not be refused the opportunity to renew or change health plans based on their preexisting conditions. Senator KASSEBAUM's bill addresses this problem and it is estimated it will serve over 25 million Americans each year. But I also want to thank Senator KASSEBAUM for clarifying in her bill that individuals with genetic information that predisposes them to a disease will also benefit from the Health Insurance Reform Act's portability conditions. This clarifying language is a first step toward bringing important issues surrounding genetics to their forefront. I would also like to thank Senator HARKIN for his leadership on the Labor Committee in working to see that genetic information is protected in the health insurance reform bill.

New biomedical technologies have resulted in scientific breakthroughs unimaginable just a generation ago. Scientists are working to decode our DNA and will ultimately map and sequence every gene in the human body. Such genetic research is our most advanced tool in the search for treatments and cures to diseases such as breast cancer, Alzheimer's or Huntington's disease. These are exciting medical frontiers, but if the fruit of this labor is to be realized, an unhindered commitment to genetic research must be promoted, and this includes protecting an individual from the threat of genetic discrimination. There have already been cases cited where a physically fit individual, with no previous health problems, is denied insurance on the basis of a single genetic test result.

This is a problem for two reasons. First, information about our genes tells us much about who we are, but is not accurate enough to tell us the state of our health in the future. Our future medical condition is a complex puzzle, of which our genetic makeup is just one piece. Health plans should not be discriminating on the basis of this single piece. Second, cases have been documented of individuals who wanted to participate in a genetic test, but when they were told that their participation may threaten their insurability, they turned around and walked out of the lab.

This is not in the best interest of research; this is not in the best interest of society; and it is certainly not in the best interest of the individual. Furthermore, while including genetic discrimination in the Health Insurance Reform Act is a good start, but is just the beginning of a process aimed at protecting the privacy and insurability of individuals, regardless of their genetic information or family history.

As I mentioned earlier, it is estimated that this bill will affect about 25 million each year. I have sponsored a separate piece of legislation, the Generic Privacy and Nondiscrimination Act, S. 1416, with Senator MACK, which addresses the needs of millions of Americans who may not fit within the boundaries of the bill we are discussing today. S. 1416 also addresses issues of genetic privacy and employer discrimination. I am hopeful that the Senate's consideration of genetic information in this legislation will open the door wider to a deeper understanding of these important issues.

Mr. KENNEDY. Mr. President, I want to raise two concerns about the long-term care provisions in the leadership amendment to the Kassebaum/Kennedy health insurance reform bill.

First, under the leadership amendment, long-term care insurance receives the same tax treatment as medical insurance. Since long-term care insurance is treated as medical insurance, I want to make sure long-term care insurance provided to employees by an employer is subject to the same nondiscrimination rules as health insurance.

Second, I have a concern that the long-term care provisions in the leadership amendment (which includes the National Association of Insurance Commissioners' model long-term care consumer protections) precludes States from enacting stronger long-term care consumers protections.

Mr. ROTH. Mr. President, with respect to the first point, long-term care insurance is treated the same as medical insurance for tax purposes under the leadership amendment. Since long-term care insurance is treated as medical insurance it is intended that it will be subject to the nondiscrimination rules applicable to medical insurance provided to employees by an employer.

On the Senator's second point, it is not the intent of the leadership amendment to preclude States from enacting stronger long-term care consumer protections. A clarification of this issue can be addressed in the conference report to the bill if necessary.

JEFFORDS-SIMON AND DOMENICI-WELLSTONE AMENDMENTS

Mr. BREAUX. Mr. President, tonight the Senate voted on two amendments to S. 1028. The first offered by Senator JEFFORDS and SIMON, would increase the maximum lifetime benefit caps in health insurance plans to $10 million. The second, offered by Senators DOMENICI and WELLSTONE, would require health plans to provide mental health benefits comparable to their other medical benefits. I believe both of these amendments are good policy—providing meaningful and equitable coverage for those who purchase health insurance. Following the no amendment strategy of the bill's managers—Senators KASSEBAUM and KENNEDY—I regretfully voted to table these amendments. It is the unfortunate outcome the no-amendments strategy to have to table good policy such as these. However, the purpose is intended to maintain an important yet fragile bipartisan coalition to pass necessary insurance reform. I would otherwise support these policies.

Mr. MOYNIHAN. Mr. President, the Dole/Roth amendment adopted earlier today includes a provision designed to address the problem of renunciation of U.S. citizenship by Americans who move abroad in order to avoid U.S. taxation. On April 6, 1995, shortly after this issue first came to light, I introduced S. 700, a bill to close the loophole in the Tax Code that permits expatriates, as they have come to be called, from evading U.S. taxation. I said here on the floor that the Senate would act expeditiously to end this abuse, and would act in a careful and judicious manner to do so. The amendment before us today, which includes a modification of S. 700, would do just that.

Although expatriation to avoid taxes occurs infrequently, it is a genuine abuse. The Tax Code currently contains provisions, dating back to 1966, intended to prevent tax-motivated relinquishment of citizenship, but these provisions have proven difficult to enforce and are easily evaded. One international tax expert described avoiding them as "child's play." Individuals with substantial wealth can, by renouncing U.S. citizenship, avoid paying taxes on gains that accrued during the period that they acquired their wealth—and while they were afforded the many benefits and advantages of U.S. citizenship. Moreover, even after renunciation, these individuals are permitted to keep residences and reside in the United States for up to 120 days per year without incurring U.S. tax obligations. Indeed, certain wealthy individuals have renounced their U.S. citizenship and avoided their tax obligations while still maintaining their families and homes in the United States. They need only take care to avoid being in the United States for more than 120 days each year.

Meanwhile, ordinary Americans who remain citizens continue to pay taxes on their gains when assets are sold or when estate taxes become due at death.

I regret to say that the expatriation issue has been the subject of more controversy than it probably deserves, so in the interest of setting the record straight, I will briefly review the history of its consideration in the Congress. On February 6, 1995, the President announced a proposal to address expatriation in his fiscal year 1996 budget submission. Three weeks later, on March 15, 1995, during Finance Committee consideration of legislation to restore the health insurance deduction for the self-employed, I offered a modified version of the administration's expatriation tax provision as an amendment to the bill. My amendment would have substituted the expatriation proposal for the repeal of minority broadcast tax preferences as a funding source for the bill. The amendment failed in the face of united opposition by members of the majority on the Committee. The vote against the amendment was 11–9.

Subsequently, Senator BRADLEY offered the expatriation provision as a free-standing amendment, with the revenues it raised to be dedicated to deficit reduction. Senator BRADLEY's amendment passed by voice vote. That is how the expatriation tax provision was added to the bill that came before the Senate.

After the Finance Committee reported the bill, but before full Senate action and before our conference with the House, the Finance Committee held a hearing to review further the issues raised by expatriation. At our hearing, we heard criticisms of some technical aspects of the provision, as well as testimony raising the issue of whether the provision comported with Article 12 of the International Covenant on Civil and Political Rights, which the United States ratified in 1992. Section 2 of Article 12 states: "Everyone shall be free to leave any country, including his own."

Robert F. Turner, a professor of international law at the U.S. Naval War College, testified that the expatriation provision was problematic under the Covenant because it constituted a legal barrier to the right of citizens to leave the United States. The State Department's legal experts disagreed, as did two other outside experts who provided written opinions to the Committee: Professor Paul B. Stephan III, a specialist in both international law and tax law at the University of Virginia School of Law; and Mr. Stephen E. Shay, who served as International Tax Counsel at the Department of the Treasury in the Reagan administration.

Given this division in authority, it seemed clear that the Senate should not act improvidently on the matter. Genuine questions of human rights under international law, and the solemn obligations of the United States under treaties, had been raised. We therefore sought the views of other experts. Opinions concluding that the expatriation provision did not violate international law were received from Professor Detlev Vagts of Harvard Law School and Professor Andreas F. Lowenfeld of New York University School of Law. The State Department issued a lengthier analysis supporting the legality of the provision, and the

VOL
142
PT
6
AP
15
—
24
1996
UMI

American Law Division of the Congressional Research Service reached a like conclusion. However, there were dissenting views, most notably the powerful opinion of Professor Hurst Hannum of the Fletcher School of Law and Diplomacy at Tufts University, who first wrote to me on March 24, 1995.

This is where things stood when the House-Senate conference met on March 28, 1995. Although the weight of authority appeared to support the validity of the provision under international law, very real questions remained. Yet the underlying bill had to move at great speed. As my colleagues well know, the legislation restoring the health insurance deduction for the self-employed for calendar year 1994 needed to be passed and signed into law well in advance of the April 17, 1995 tax filing deadline, so that self-employed persons would have time to prepare and file their 1994 tax returns. The conference committee had to decide immediately whether to retain the expatriation provision; there was no time for further inquiry into its validity under international law. We accordingly chose not to risk making the wrong decision with respect to international law and human rights, and so the expatriation provision was not included in the conference report. The conferees instead adopted a provision directing the Joint Committee on Taxation to study the matter and report back.

This decision, which was the only prudent one at the time, met with some not very pleasant criticism in the Senate. This was surprising, since I believed it was axiomatic that government should proceed with great care when dealing with human rights—particularly the rights of persons who are despised. The persons affected by the expatriation proposal—millionaires who renounce their citizenship for money—certainly fall into that category.

Since that time, a general consensus has developed that the provision does not conflict with the obligations of the United States under international law. Professor Hannum, after receiving additional and more specific information about the expatriation tax, wrote a second letter of March 31, 1995 stating that he was now "convinced that neither its intention nor its effect would violate present U.S. obligations under international law."

In the interim, there has been time to consider other approaches to the problem. On June 1, 1995, the Joint Committee on Taxation published its report on the tax treatment of expatriation. Shortly thereafter, on June 9, 1995, Chairman ARCHER introduced an expatriation bill that adopted a different approach than S. 700, the bill introduced by the Senator from New York. The Archer bill, rather than impose a tax on accrued gains, would build on the current law approach of taxing only a portion of the income of an expatriate received during the 10-year period following expatriation. A version very similar to the Archer bill was included in House-passed version of the Balanced Budget Act of 1995.

We held a second Finance Committee hearing on expatriation on July 11, 1995 to consider the two competing approaches. Soon thereafter, the Senate in the Senate-passed version of the Balanced Budget Act of 1995 adopted the accrued gains approach from my bill, rather than the House alternative, as the superior response to the problem.

During the conference on the Balanced Budget Act of 1995, the conferees opted for the House approach. This was, I believe, a serious error. Fortunately, that version did not become law because the President vetoed the conference agreement. The conferees on the pending bill will be faced with the same choice. The House version of the expatriation provision is included in the House-passed companion to the Kassebaum-Kennedy bill. We ought not repeat the mistake made in the Balanced Budget Act.

I am convinced that the House approach has serious defects and would fail to eliminate the very substantial tax advantages that currently accrue to those willing to give up their citizenship. Under the House proposal, several categories of taxpayers would continue to owe no tax at all should the IRS be unable to prove a tax avoidance motive for expatriating. As under current law, taxpayers who are patient would avoid all tax on accrued gains by simply holding their assets for 10 years. A wealthy expatriate in need of funds during the 10-year period could simply borrow money using his or her assets as security. Since the income from foreign assets generally would remain exempt as under current law, clever tax practitioners would continue to find ways to convert U.S. assets into foreign assets in order to avoid tax on the income earned during the 10-year period.

The House approach also would be destined to fail because it relies on the voluntary payment of taxes by people who have moved beyond the reach of U.S. courts. In contrast, the Senate version would collect tax while the individual is still subject to the taxing power of the United States, which is surely a more administrable approach.

A separate objection to the House bill is that it would unilaterally override existing tax treaties. In its report on expatriation, the Joint Tax Committee staff stated that the House version may ultimately require that as many as 41 of our 45 existing tax treaties be renegotiated and that it might be necessary for the United States to forego benefits to accomplish renegotiation. This is a serious matter.

Article VI of our Constitution states:

> . . . [A]ll Treaties made, or which shall be made, under the authority of the United States, shall be the supreme Law of the Land.

Further, our treaties come into being through a singular exacting sequence. Treaties are entered into by the United States with other nations either directly or through adherence to a common document. They are signed by a member of the executive branch. Thereafter, the Senate of the United States must by resolution, two-thirds of the Senators present concurring therein, give its advice and consent to ratification. This advice and consent having been given—by an extraordinary majority—the President then ratifies and confirms the treaty in an instrument of ratification. Only at that point shall the said treaty become "the supreme Law of the Land." Matters that survive this singularly exacting process should not be abrogated lightly.

One final point, of utmost importance. During the time we have taken to write this law carefully and well, billionaires have not been slipping through the loophole and escaping tax by renouncing their citizenship. The President announced the original proposal on February 6, 1995 and made it effective for taxpayers who initiate a renunciation of citizenship on or after that date. This was an entirely appropriate way to put an end to an abusive practice under current law. Likewise all the proposals considered by the Senate, including my bill S. 700, used February 6, 1995 as their effective date. The House conferees on the self-employed bill had proposed moving the effective date forward to March 15, 1995, the date of Senate Finance Committee action on the provision. But the two chairmen of the tax-writing committees ultimately—and wisely—resisted that overture, and issued a joint statement giving notice that February 6, 1995 would be the effective date of any legislation affecting the tax treatment of those who relinquish citizenship.

Now that the Senate has had adequate opportunity to fully explore the best way to address the expatriation problem, it is time to act. As the first Senator to have introduced legislation to end tax avoidance by so-called expatriates, and as one who urged that it be acted upon by the Senate expeditiously, I am pleased that the Dole/Roth amendment incorporates the expatriation changes I have favored. I hope that the conferees will retain the superior Senate expatriation provision, and that it will be enacted as soon as possible.

Mr. KOHL. Mr. President, earlier today I noted the serious problem this Congress faced in 1994 when it tried to take on too many health care-related issues under one bill. We learned that painful lesson during debate on the President's health care reform proposal.

For that reason, I mentioned that some amendments that would come up

today, no matter how meritorious, should be considered on future measures and not impede passage of the Health insurance Reform Act.

Several amendments required votes today that, in another context, I would have strongly supported. The issue of life-time caps, and treatment of mental health coverage were passionately debated and deserve the attention of this Congress.

My votes on these issues were not intended to approve or disapprove of their merits. My overriding concern was that they could complicate this narrowly crafted proposal and jeopardize any chance at health reform this year. The sooner we pass this bill to address insurance problems of pre-existing condition exclusions, portability and renewability, the sooner we can address other pressing problems that affect the quality of health care in this Nation.

In the interest of time, I believe we should pass a clean health reform bill. I also believe that Congress should carefully consider several of the measures that failed today as soon as possible.

Ms. MOSELEY-BRAUN. Mr. President, subpart (a)(1)(B) of Section 101, Subtitle A of Title I of the bill now before us provides that "an employee health benefit plan or health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements under the terms of such plan, except that such requirements shall not be based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, or disability." As I understand it, this formulation is intended to ensure that, among other things, that participants and beneficiaries are not excluded from health care coverage because they participate in activities such as motorcycling, skiing, horseback riding, snowmobiling, all-terrain vehicle riding, or other similar kinds of activities. I would like to ask the distinguished manager of the pending bill whether my interpretation of this provision is a correct one.

Mrs. KASSEBAUM. The Senator from Illinois is correct.

Mr. McCAIN. Mr. President, Americans deserve the security of knowing that they will not lose their health care coverage if they get sick or lose their job or if they can change jobs. Currently, our system does not provide this security, and as a result many of our workers have to choose between changing jobs and retaining adequate health care for themselves or their families. Others live in fear of losing their health insurance if they lose their job. And many who have paid insurance premiums for years cannot get insurance at any price if they get sick. Clearly these Americans deserve to know that when they are sick or injured, they will get the medical attention that they need when they need it, without having to worry about losing their homes, savings and financial security.

Rather than attempting to change the entire health care system at once, this is an incremental approach which targets these specific problems. It will make it easier for those who change or lose their jobs to keep their health insurance, and by limiting exclusions for preexisting conditions, it will assure access to health care for many who are sick. By making health care portable, the legislation will allow millions of Americans to move to better jobs and improve their standard of living. And by ending "job lock," the legislation will improve the fit between workers and their jobs and increase the overall productivity of American workers. Finally, this legislation will make it easier for small employers to obtain adequate coverage for their employees. As a result, health insurance will be available to more Americans.

In addition to providing portability of health insurance and limiting exclusions for preexisting conditions, this legislation contains certain other important provisions. It will increase the tax deduction for health insurance for the self-employed to 80 percent, granting long overdue tax relief to the owners of small businesses and farms. The legislation also provides tax deductibility for long term care and insurance, making it possible for more Americans to avoid financial difficulty as the result of chronic illness.

Although there is broad bipartisan support for this legislation, I am aware of the concerns that it may increase individual health insurance premiums. The legislation addresses this issue in two ways. First, the legislation imposes no limit on the rate which individual insurers may charge those with preexisting illnesses, allowing premiums to be set at a level which would not raise costs for others. Therefore any increase in premiums which does occur will not be the result of this legislation but of how each State chooses to regulate its individual insurance market. Second, the legislation gives States considerable flexibility in how they address the requirements of the bill. This will allow States to devise strategies which fit their individual situations.

In the past several years, many States have taken significant steps to reform their health care systems, and they are to be commended for these efforts. For example, my home State of Arizona was one of the first to use managed care to improve the efficiency of publicly funded health care, and has passed legislation which encourages the use of Medical Savings Accounts. There are certain reforms, however, which only the Federal Government can make. These reforms fall in that category, and it is our responsibility to make them.

FUNDING MEDICARE FRAUD AND ABUSE CONTROL

Mr. DOMENICI. Mr. President, earlier today we adopted an amendment, now that we have had a chance to review, we find creates a concern.

In effect, in our proper and correct effort to address fraud and abuse in the Medicare Program, we converted spending that previously had been subject to appropriations into entitlement funding.

Because of the consent agreement it is too late to fix this problem.

I had an amendment, however, that would have corrected the problem.

My amendment would have provided a different funding mechanism for the Medicare fraud and abuse control program. Instead of funding this program by creating a very large new entitlement program, my amendment would have provided a different funding mechanism.

The issue is not whether we should fund the Medicare fraud and abuse control program, but how we should fund this program.

I strongly support the Medicare fraud and abuse control program, but I am troubled by the fact that the bill in its current form would create $1.5 billion in new mandatory spending for the administrative expenses for three agencies.

Congress already addressed this issue on the funding mechanism for the Continuing Disability Reviews [CDR's]. As part of the debt limit, we provided for funding for CDR's by providing a mechanism to give these programs additional funding through the appropriations process. My amendment would have essentially taken the same approach as we did with CDR's.

Mr. President, Medicare fraud and abuse control is currently funded through discretionary spending. Discretionary spending is the funding we provide annually for programs through the appropriations process.

My amendment would have replaced the unprecedented new entitlement spending for enforcement in this bill with a mechanism that would have provided an automatic upward adjustment for Medicare fraud and abuse control spending in the appropriations process.

The Medicare Fraud and Abuse Control allowance proposed in this amendment would have provided an automatic upward adjustment in the discretionary spending caps to make sure additional funding for the Inspector General of the Department of Health and Human Services, the FBI, and HCFA is not curtailed by budget limits.

However, under my amendment Congress would still have been required to annually review and fund these programs.

VOL
142
PT
6
AP
15
—
24
1996
UMI

I want to emphasize two important points, Mr. President. First, this amendment would have done exactly what we did for increasing funding for continuing disability reviews in the debt limit bill.

Second, the policy effects for Medicare fraud and abuse control are exactly the same as in the current bill. The increased funding for fraud and abuse control would have still occurred, and the savings would still have resulted.

Mr. President, we will never gain control of Federal spending unless we gain control of entitlement spending. My amendment would have kept us from heading down the slippery slope of creating new entitlements for administrative expenses.

I hope that laying down this concern now, conferees on this bill will attempt to correct his problem before we take final action.

I ask unanimous consent that a copy of the amendment I would have offered be printed in the RECORD.

There being no objection, the text of the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place, insert the following:

SEC. . MEDICARE FRAUD AND ABUSE.

(a) ADJUSTMENT TO DISCRETIONARY SPENDING LIMITS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding the following new subparagraph:

"(I) Health care fraud and abuse control.—

"(i) Whenever a bill or joint resolution making appropriations for fiscal year 1997, 1998, 1999, 2000, 2001, or 2002 is enacted that specifies an amount for health care fraud and abuse control under the heading 'Health Care Fraud and Abuse Control' for the Office of the Inspector General of the Department of Health and Human Services, under the heading 'Health Care Fraud and Abuse Control' for the Federal Bureau of Investigations, or under the heading 'Health Care Fraud and Abuse Control' for the Health Care Financing Administration, the adjustments for that fiscal year shall be the additional new budget authority in that Act for such health care fraud and abuse control for that fiscal year and the additional outlays flowing from such amounts, but shall not exceed—

"(I) with respect to fiscal year 1997,

"(aa) $14,000,000 in additional budget authority and $13,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

"(bb) $8,000,000 in additional new budget authority and $6,000,000 in additional outlays for the Federal Bureau of Investigations; and,

"(cc) $18,000,000 in additional new budget authority and $29,000,000 in additional outlays for the Health Care Financing Administration;

"(II) with respect to fiscal year 1998,

"(aa) $29,000,000 in additional budget authority and $28,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

"(bb) $17,000,000 in additional new budget authority and $15,000,000 in additional outlays for the Federal Bureau of Investigations; and,

"(cc) $78,000,000 in additional new budget authority and $89,000,000 in additional outlays for the Health Care Financing Administration;

"(III) with respect to fiscal year 1999,

"(aa) $41,000,000 in additional budget authority and $40,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

"(bb) $27,000,000 in additional new budget authority and $24,000,000 in additional outlays for the Federal Bureau of Investigations; and,

"(cc) $143,000,000 in additional new budget authority and $154,000,000 in additional outlays for the Health Care Financing Administration;

"(IV) with respect to fiscal year 2000,

"(aa) $54,000,000 in additional budget authority and $53,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

"(bb) $37,000,000 in additional new budget authority and $34,000,000 in additional outlays for the Federal Bureau of Investigations; and,

"(cc) $213,000,000 in additional new budget authority and $224,000,000 in additional outlays for the Health Care Financing Administration;

"(V) with respect to fiscal year 2001,

"(aa) $70,000,000 in additional budget authority and $68,000,000 billion in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

"(bb) $49,000,000 in additional new budget authority and $58,000,000 in additional outlays for the Federal Bureau of Investigations; and,

"(cc) $263,000,000 in additional new budget authority and $274,000,000 in additional outlays for the Health Care Financing Administration; and,

"(VI) with respect to fiscal year 2002,

"(aa) $88,000,000 in additional budget authority and $86,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

"(bb) $62,000,000 in additional outlays for the Federal Bureau of Investigations; and,

"(cc) $283,000,000 in additional new budget authority and $294,000,000 in additional outlays for the Health Care Financing Administration.

"(ii) As used in this subparagraph—

"(I) the term 'health care fraud and abuse control' means the administration and operation of the health care fraud and abuse control program including the following activities—

"(aa) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(bb) investigations;

"(cc) financial and performance audits of health care programs and operations;

"(dd) inspections and other evaluations; and

"(ee) provider and consumer education regarding compliance with the health care fraud and abuse program;

"(II) the term 'additional new budget authority' means new budget authority provided for a fiscal year for health care fraud and abuse control under the heading 'Health Care Fraud and Abuse Control' for—

"(aa) the Office of the Inspector General of the Department of Health and Human Services in excess of $53,000,000;

"(bb) the Federal Bureau of Investigations in excess of $39,000,000; and,

"(cc) the Health Care Financing Administration in excess of $407,000,000; and

"(III) the term 'additional outlays' means outlays flowing from the amounts specified for health care fraud and abuse control under the heading 'Health Care Fraud and Abuse Control', including outlays in that fiscal year flowing from amounts specified in Acts enacted for prior fiscal years (but not before 1997), in excess of—

"(aa) $56,000,000 in a fiscal year for health care fraud and abuse control by the Office of the Inspector General of the Department of Health and Human Services;

"(bb) $38,000,000 in a fiscal year for health care fraud and abuse control by the Federal Bureau of Investigation; and

"(cc) $396,000,000 in a fiscal year for health care fraud and abuse control by the Health Care Financing Administration."

(b) BUDGET ALLOCATION ADJUSTMENT BY BUDGET COMMITTEE—Section 606 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding the following new subsection:

"(f) HEALTH CARE FRAUD AND ABUSE ADJUSTMENT.—

"(1) IN GENERAL.—

"(A) When the Committee on Appropriations reports an appropriations measure for fiscal year 1997, 1998, 1999, 2000, 2001, or 2002 that specifies an amount for health care fraud and abuse control under the heading 'Health Care Fraud and Abuse Control'' for the Office of the Inspector General of the Department of Health and Human Services, the Federal Bureau of Investigations, or the Health Care Financing Administration, or when a conference committee submits a conference report thereon, the Chairman of the Committee on the Budget of the Senate or House of Representatives (whichever is appropriate) shall make the adjustments referred to in subparagraph (C) to reflect the additional new budget authority for health care fraud and abuse control provided in that measure or conference report and the additional outlays flowing from such amounts for health care fraud and abuse control.

"(B) the adjustments referred to in this subparagraph consist of adjustments to—

"(i) the discretionary spending limits for that fiscal year as set forth in the most recently adopted concurrent resolution on the budget;

"(ii) the allocations to the Committees on Appropriations of the Senate and the House of Representatives for that fiscal year under sections 302(a) and 602(a); and

"(iii) the appropriate budgetary aggregates for that fiscal year in the most recently adopted concurrent resolution on the budget.

"(C) The adjustments under this paragraph for any fiscal year shall not exceed the levels set forth in section 251(b)(2)(I) of the Balanced Budget and Emergency Deficit Control Act of 1985 for that fiscal year. The adjusted discretionary spending limits, allocations, and aggregates under this paragraph shall be considered the appropriate limits, allocations, and aggregates for purposes of congressional enforcement of this Act and concurrent budget resolutions under this Act.

"(2) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under paragraph (1), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations pursuant to sections 302(b) and 602(b) of this Act to carry out this subsection.

"(3) DEFINITIONS.—As used in this section, the terms 'health care fraud and abuse control', 'additional new budget authority', and 'additional outlays' shall have the same meanings as provided in section 251(b)(2)(I)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(c) CONTROL OF MANDATORY SPENDING.—Notwithstanding section 502(b) of this Act, funding for medicare fraud and abuse control provided by this Act shall only be available to the extent provided for in advance by appropriations Acts.

Mr. HARKIN. Mr. President, I am pleased to support and serve as a cosponsor of the Health Insurance Reform Act of 1995. Senators KASSEBAUM and KENNEDY have worked together in a bipartisan manner to craft legislation that every Senator should support because it will help millions of American families. As a member of the Labor and Human Resources Committee, I was proud to join in unanimous support for the bill in committee.

This is not perfect legislation. It does not fix many of the flaws in the current health care system. But it represents an important step toward reforming health care and injecting some fairness and common sense into the system.

While supportive of comprehensive health care reform in the last Congress I also offered a down payment that would have provided for insurance reform, enhanced tax deductibility of health insurance costs for the self-employed, and increased efforts to crack down on fraud, waste, and abuse in health care—all provisions contained in the bill the Senate is considering today.

Millions of Americans would benefit from the insurance reform provisions in S. 1028. Provisions that would gradually raise the percentage of health insurance costs that the self-employed can deduct from 30 percent to 80 percent over the next 10 years would provide greater equity with larger businesses. And, I am pleased that the bill includes provisions to increase funds for the inspector general to combat Medicare fraud and establish tougher sanctions for committing fraud.

Mr. President, Americans should not be denied health care coverage for changing jobs, getting sick or having a preexisting medical condition. And if someone loses their job, they shouldn't have to lose their health insurance, too. This legislation is designed to respond to those concerns.

The Health Insurance Reform Act will provide American families with more security and choices. It will offer some welcome relief for American families worried about losing their health insurance. It will help prevent people from losing their health insurance when they become sick. And it will limit preexisting conditions. These are all fundamental, necessary reforms.

I want to thank both Senators KASSEBAUM and KENNEDY for working with all the members of the committee to strengthen the bill. I am particularly grateful for their help in making sure that the legislation prohibits group and individual health plans from establishing eligibility, continuation, or enrollment requirements based on genetic information. I offered an amendment on this issue during committee consideration of S. 1028 and am pleased it is included in the bill.

I am also grateful for their help in ensuring that States are given appropriate flexibility. The legislation takes into account the progress already made by States like Iowa which just implemented additional and very significant insurance reforms on April 1 of this year. S. 1028 would allow States to preserve laws such as high risk pools that help small groups and individuals purchase insurance.

The provisions in the legislation related to preexisting conditions are important and add some common sense to the current health insurance market. The bill limits the ability of insurers to impose exclusions for preexisting conditions. Under the legislation, no such exclusion can last for more than 12 months. Once someone has been covered for 12 months, no new exclusions can be imposed as long as there is no gap in coverage—even if someone changes jobs, loses their job, or changes insurance companies.

The bill also requires insurers to sell and renew group health policies for all employees who want coverage for their employees. It guarantees renewability of individual policies.

It prohibits insurers from denying insurance to those moving from group coverage to individual coverage. It prohibits group health plans from excluding any employee based on health status.

The preexisting condition provisions will help real people who have already experienced an illness and want to switch insurers or change jobs.

For example, just last week a father from Iowa City called my office about his daughter who has a chronic health condition and will graduate from college this spring. He was worried that when she graduates and is no longer covered under his health insurance policy she will not be able to find insurance coverage for her chronic health condition.

Because the Health Insurance Reform Act would require insurers to credit prior insurance coverage, his daughter can move to another health insurance plan without being denied coverage for her preexisting condition.

The portability provisions in the bill will help with so-called job lock. Workers who want to change jobs for higher wages or advance their careers often have to pass up opportunities because it might mean losing health coverage. The portability provisions contained in this legislation would benefit at least 25 million Americans annually according to the General Accounting Office. And, these provisions will provide greater security for the millions of Americans currently covered under group health plans.

I've heard from Iowans who have had to pass up new job offers or forego starting their own small business because they or someone in their family has a preexisting condition. Workers with a sick child are forced to pass up career opportunities because their new insurance may not cover a preexisting condition for 6 months or more. These families have played by the rules and have been continuously insured—they deserve to know that if they pay their insurance premiums for years, they cannot be denied coverage or be subjected to a new exclusion for a preexisting condition because they change jobs. The Health Insurance Reform Act would allow people to switch jobs without worrying about denied coverage for preexisting conditions.

Many States, including Iowa, have already enacted standards for insurance carriers. In fact, legislation passed in Iowa is more comprehensive in many respects and includes provisions that help make insurance more affordable for small groups and individuals. But, Federal legislation is necessary because States are prevented from regulating self-funded health plans—the type of plans that cover the majority of Iowans. This legislation will also provide a national floor and a guaranteed level of protection for all Americans.

I support this bill and urge my colleagues to not offer amendments that will weaken it. We should keep this bill free of the objectionable provisions that were included in the House bill—provisions which will surely prompt President Clinton to veto the bill, and that will ultimately deny long-needed assistance to millions of middle-class American families.

ORGAN DONATION INSERT CARD ACT

Mr. DORGAN. Mr. President, first and foremost, I would like to thank the distinguished managers on both sides for agreeing to include this critical provision in the Health Insurance Reform Act.

The Senate's passage of the Organ Donation Insert Card Act is particularly timely. Next week is National Organ and Tissue Donor Awareness Week, and the need for organ and tissue donors is more crucial than ever. Right now, the national waiting list for an organ transplant has topped 45,000 people, and a new name is added to the list every 18 minutes.

The Organ Donation Insert Card amendment represents a simple, cost-effective way for the Federal Government to help save the lives of those who are waiting for an organ transplant. The amendment will provide millions of Americans with organ and tissue donor information with their income tax refund checks in 1997. This one-time insert will give taxpayers the opportunity to learn more about this important subject and to fill out cards to become donors.

Each year, we miss thousands of opportunities for organ transplantation

VOL
142
PT
6
AP
15
—
24
1996
UMI

because of a hesitancy among next-of-kin to authorize donation when they do not know their loved ones wishes. Of the 20,000 deaths each year that fulfill the medical criteria for becoming organ donors, only about one-fourth actually become donors.

As a result, eight people die every day while waiting for a transplant. At least some of these deaths could be prevented through the information campaign authorized by the Organ Donation Insert Card Act.

I understand that authorizing donation is a difficult decision for a grieving family to make, and their task is made much harder when they do not know their loved one's wishes. For that reason, I would like to take a moment to acknowledge a few of the families I have heard from who authorized donation.

Gary and Bobbie Schroeder say they did not give a lot of thought to organ transplantation. I suspect that is true for many of us.

But on November 26, 1989, their 21-year-old son Jeff was in a fatal car accident. Gary wrote to me,

> Jeff was a 4th year pre-med college student in Southern California, when he and his roommate, returning from playing in a college basketball tournament, ran into wet and slippery roads and had a single car accident. Jeff sustained a head injury, even though wearing his seat belt, causing brain death. * * *

Jeff was on life support, but tests showed absence of brain activity, and he was declared brain dead 4 days later.

We were then given the opportunity of making a decision that would give some purpose to a tragic situation. * * * Donating Jeff's organs gave us the opportunity to start the healing process. * * *

Jeff was a giver in life, always helping others; we know he would want to continue helping others, even in death.

Jeff's organs helped sustain life to four other individuals, by giving his heart, liver, and kidneys. He helped give hope and extended life to the recipients and their families. Our decision to give has been a step toward healthy grieving, and we would make the same decision again."

Patrick Pins, a high school Social Studies teacher in Mandan, ND, also knows firsthand the difficult decision that families face when a loved one dies. In 1992, his wife Barbara was attending a family reunion with her family when she developed a severe migraine, nausea, and neck pain. Although she was rushed to the hospital, she had suffered severe brain trauma and died within 24 hours of arriving at the hospital.

While only a machine kept Barbara's body alive, Patrick and the couple's three children struggled with their grief and talked and prayed. Ultimately, they decided to donate Barbara's organs.

Today, like the Schroeders, Patrick says that confronted with the same decision again, "I'd do the very same thing."

Throughout her life, Barbara's family and friends say the popular Head Start teacher constantly gave of herself and taught the children in her care and the people around her important lessons. Through the donation of her organs, she has been able to do the same even in death.

As I have worked for the enactment of this bill, I have also been motivated by the many families who have shared with me their stories of agonizing months spent waiting for a suitable organ and of the joy of receiving a chance to live. I think it would be appropriate to share some of those stories to remind us all that there are names and faces behind the statistics.

Donna Grendahl is a Minnesota mom whose son, Robby, received a heart transplant in 1986. In her letter to me, Donna wrote:

> My son received the gift of a new heart in transplant surgery 9 years ago. * * * Now 9 years later, he is a 24-year-old college graduate. He teaches American history/civics and coaches hockey and baseball at the high school level. * * *
>
> Thanks to the availability of a donor, he has been able to enjoy the gift of his second chance at life to the fullest.

Bonnie Simonet, a wife and mother and a double-lung transplant recipient, told me: "I suffered for 10 years with a disease to my lungs. . . .

> Oxygen kept me alive, but my lips and fingernails were blue. I was on oxygen 24 hours a day, and I was only 47-years young, which I consider too young to die. I had a life left to live. . . .
>
> When my doctor suggested a lung transplant, it seemed so drastic, but I wanted to live. I went through a week of evaluation, many tests and had to get approval from my insurance company. When this was set in motion, I was put on the waiting list for a double lung transplant. . . .
>
> On August 4, 1994, after waiting on the list for 9 months, I was called. . .. I was in surgery 6 hours and came out a new person with a 2nd chance at life and a new attitude about what is important.

Janet Johnston's 19-month-old grandson, Colton, is alive today because he received a new liver. According to Janet,

> My grandson, Colton, went through his first surgery at a month and a half old, which didn't take care of his problem. He was put on a list in January for a liver transplant. We waited six long months, always worried if he was going to live long enough before a liver became available. On July 16th we got our gift.
>
> We are pleased to support your proposed "Organ Donation Insert Card Act. Please continue to work hard. There are people who do benefit and have happy endings.

Finally, Gary Rux, a heart transplant recipient shares his story:

> I recently received a copy of your proposed legislation for an "Organ Donor Insert Card." I want you to know that I support this legislation with all of my new heart. . . .
>
> I have firsthand knowledge of what it is like to spend over 2 years dying, not knowing for sure if I would be around to provide for my family. In spite of the time I spent waiting for a heart, I ask that you offer no sympathy to me. I am one of the lucky ones. . . . There are many, however, who are not so lucky. It is they who need and deserve our sympathy. Fortunately for them, you are in a position to do more than simply offer sympathy. I thank you on behalf of the many individuals who are waiting, and dying, at this very moment. Bear in mind as you promote this legislation that some of these individuals who are dying are just children. I believe they deserve a chance, and with your and our support, perhaps they can have that chance.

Fortunately, these stories all have happy endings and they are heartwarming to hear, but we must also remember the many families who do not have a happy ending. In my view, the most common tragedy of organ transplantation is not the patient who receives a transplant and dies, but the patient who has to wait too long, dying before a suitable organ can be found.

But today, the Senate has taken a step to prevent some of these needless deaths.

In closing, I want to thank the many organizations and supporters who have endorsed this bill and that worked tirelessly for its enactment. I also want to mention my Senate colleagues who have cosponsored the bill, Senators BRADLEY, COCHRAN, DEWINE, FRIST, HELMS, INOUYE, BOB KERREY, JOHN KERRY, LEAHY, LEVIN, MOSELEY-BRAUN, MURKOWSKI, ROBB, AND SIMPSON.

Finally, I want to again thank the managers, Senators KASSEBAUM and KENNEDY, for accepting this amendment, and I look forward to working with them to retain it in conference.

Mr. KYL. Mr. President, the U.S. Congress has begun the debate on legislation that will affect the way millions of Americans get their health insurance. Both the House and the Senate bills are intended to address a serious concern among millions of working Americans who currently have employer provided health insurance: the threat of losing private health insurance when they lose or change jobs or, try to obtain coverage when they have a preexisting medical condition.

The Kennedy-Kassebaum bill contains some useful provisions and addresses some important problems in the health insurance market. However, I believe these problems are more effectively addressed in the health insurance reform plan passed on March 27 in the House of Representatives—and reportedly contained in the Finance Committee amendment.

I believe the Kennedy-Kassebaum bill could be improved and expanded by incorporating important provisions in the House bill—and in the proposed Finance Committee amendment. These provisions more successfully address the health care problems faced by millions of Americans, such as:

The Problem: An ambitious worker who wants to pursue a career opportunity, but can't change jobs because his son has cancer, and wouldn't be covered by a new employer's insurance.

The Solution: The House bill guarantees that anyone with employer provided insurance can move to another job with employer provided insurance without losing coverage for a preexisting condition.

The Problem: A worker is laid off, and can't get coverage for a preexisting condition in the individual market.

The Solution: The House bill includes group-to-individual portability, so that when you leave a job that provided coverage for a chronic condition, you cannot be denied coverage in the individual market.

The Problem: An uninsured entrepreneur who can't afford insurance as a self-employed person today.

The Solution: The House bill allows the self-employed to deduct 50 percent of their premiums from their taxes. Increasing deductibility makes health insurance more affordable for self-employed individuals. The Finance Committee amendment may increase the deduction to 80 percent.

The Problem: An uninsured person, out of work, who can't afford a costly individual policy because it is loaded down with State mandated benefits.

The Solution: The House bill includes medical savings accounts, so that an individual can buy a high-deductible policy, with a much lower, more affordable premium.

Mr. President, MSA's offer the ultimate in portability and affordability, and I want to further address this critical issue later in my remarks.

The Problem: A small business employee, whose employer can't afford to purchase insurance for his five employees, because one of them has a chronic illness.

The Solution: The House bill allows small businesses to group together to purchase health insurance.

By grouping together, they can share risk and spread administrative costs over a larger group, lowering premiums for everyone.

These ERISA regulated arrangements would be exempted from state mandated benefits and pooling prohibitions that can drive up the cost of care.

The Problem: The federal tax code often discourages citizens from providing for their own health care needs.

The Solution: The House bill provides for tax deductibility for long-term care insurance premiums and expenses and, tax free use of accelerated life-insurance benefits for health expenses.

The Problem: Fear of frivolous lawsuits and outrageous recoveries forces many doctors to practice costly "defensive medicine."

The Solution: The House bill reforms medical malpractice claims. Patients who are injured as a result of malpractice deserve to be fully compensated.

But in today's system, an enormous amount of money that should be dedicated to health care spending goes instead to lawyers—sometimes as much as 40 percent to 50 percent.

The Problem: Fraud, waste, abuse and administrative inefficiency cost the health care system billions per year in wasted resources.

The Solution: Tougher penalties for waste, fraud, and abuse along with administrative simplification through electronic billing and uniform forms.

II. Mr. President, during this debate I plan to support the proposed Finance Committee Amendment. The provisions in this amendment will increase portability, tax equity, and affordability.

Mr. President, it is my understanding that the following provisions will be included in the Finance Committee Amendment to the Kennedy-Kassebaum Health Care Reform Act: an increase in the self-employed health care tax deduction to 50 percent or higher; medical savings accounts providing for deposits of $2,000 for individuals and $4,000 for families; deductibility for long-term care premiums and expenses; and, tax-free treatment of accelerated death benefits for the terminally ill.

Mr. President, assuming these provisions are included in the committee's amendment, it would not be my intention to offer any amendments; further, I would not object to a unanimous consent (UC) agreement.

However, in the event that any of the above provisions are not included in the amendment, I will offer and support amendments to replace these provisions.

III. The importance of MSAs. MSAs are one feature of the House bill—and reportedly the Finance Committee Amendment—that will increase the portability, availability, and affordability of health insurance. MSA are a simple, low cost alternative to traditional health care insurance for the millions of Americans who cannot afford today's health insurance options or, who are not happy with available insurance options.

Here is how an MSA can work: The employer purchases a high-deductible health insurance policy and places an amount of money equal to the employees' deductible in a special savings account called a medical savings account. The money in the MSA, tax-free, to cover most medical costs. The individual keeps what is not used after one year, collects interest, and the balance rolls over into the next year, when the employer makes additional contributions to the account.

In addition to covering basic medical services, these funds can be used to cover services not covered by health insurance, such as elective surgery and long-term care. Money accumulated in an MSA can only be withdrawn for medical expenses as established by the Internal Revenue Code. For MSAs to receive the same tax treatment as employer-provided health benefits plans, a high-deductible plan would have to be combined with the MSA. A high-deductible plan would have a deductible of at least $1,500 in the case of an individual, and $3,000 for a family. Individuals—including the self-employed—could make tax-deductible contributions: up to $2,000 if single, $4,000 if married. The inside build-up would be tax-free. The amounts could be withdrawn from the MSA tax- and penalty-free if used for medical purposes. Employer contributions to an MSA would not be taxable to the employee on whose behalf the contribution is being made.

While Congress has been considering MSAs, many companies have gone ahead on their own and have developed highly successful MSAs or MSA-type programs. A March 1995 study by the Evergreen Freedom Foundation analyzed the experience of 1037 companies nation-wide who had implemented MSAs. For instance, in 1994, the Valley Surgical Group Health Plan of Phoenix implemented an MSA plan for its 14 employees. According to the Evergreen Report, annual employer costs were reduced by $400 per employee in the first year alone. Mr. President, here is why MSAs will work:

1. Parity in tax treatment: MSAs grant high-deductible health plans—paired with an MSA—comparable tax treatment to that of other forms of employment-based group health plans, and allow people to claim the deduction even if they do not otherwise itemize taxes.

2. Positive incentives: MSAs provide Americans the incentives to purchase health care more carefully by letting them keep what they don't spend.

The current unlimited exclusion for employer-based health care encourages unnecessary spending.

3. Major medical protection: MSAs insure that the necessary coverage will be there in the event of an illness or accident.

4. The ultimate in portability: MSAs provide for real portability. Unlike other forms of employer-based health plans, medical savings in the MSA can be taken from job to job.

5. More choices for consumers: The MSAs empower people to make their own health care decisions.

Funds in the MSA may be spent, on qualified medical expenses that may not be covered under high-deductible plan (e.g., prescription drugs, durable medical equipment, etc * * *).

6. MSAs Help meet long term care needs: MSAs will help people who want to protect themselves against future long-term care needs.

MSA funds can be used to purchase long-term care insurance or services.

7. States are moving toward MSAs: Arizona is one of 15 states that have already passed laws granting favorable tax treatment to MSAs.

The failure to establish federal tax rules regarding MSAs will inhibit innovations that many states have decided is good health policy.

Mr. President, in spite of the overwhelming evidence that MSAs are a

VOL
142
PT
6
AP
15
—
24
1996
UMI

viable health insurance alternative with wide appeal, there are still a few who say MSAs favor only the healthy and wealthy. This is inaccurate. While MSAs will be attractive for the healthy, they will be equally attractive for the sick. The reason: The MSA gives individuals the ultimate freedom to choose their health care providers, thereby allowing individuals to seek out the best health care services that meet their budget.

The accusation that MSAs will work only for the wealthy is also inaccurate. According to a 1996 analysis by the Joint Committee on Taxation, middle-income Americans will choose MSAs. According to the Joint Committee, one million Americans are expected to sign up for MSAs. An estimated 650,000 people who earn between $40,000 and $75,000 a year would chose MSAs., 120,000 with incomes between $30,000 and $40,000 would choose MSAs.

MSAs could lower overall health care costs. Voluntarily uninsured workers might receive an incentive to obtain health insurance as a result of MSAs. Younger, healthier workers who don't purchase health insurance because they believe they will never get sick, would now have an incentive to be covered against major illnesses as a result of MSAs. This would increase the number of healthy people in the insurance pool and would lower overall health costs.

Are supporters of MSAs out of the mainstream? No. As part of the Kennedy/Kassebaum bill, the Labor Committee passed a "Sense of the Committee" resolution that said:

> It is the sense of the Committee that the establishment of medical savings accounts . . . be encouraged as part of any health insurance reform legislation passed by the Senate.

Also in the Kennedy/Kassebaum bill, there is a provision that allows Medicare risk HMOs to offer medical savings accounts.

The Democratic support MSAs. In 1994, all the Democrats on Ways and Means voted to include MSAs in the Clinton plan. In 1994, Representative GEPHARDT included them in his Democratic Leadership bill. In 1992, Senator JOHN BREAUX introduced a bipartisan MSA bill. Senators TOM DASCHLE, SAM NUNN, ALAN DICKSON, RICHARD SHELBY, and DAVID BOREN co-sponsored the legislation. In 1994, Senator PAUL SIMON was a cosponsor of MSA legislation.

Mr. President, MSAs are one of the keys to portability, affordability, and choice of health insurance for millions of Americans. I believe the Senate must pass MSAs.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 3103.

The legislative clerk read as follows:

> A bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage, and for other purposes.

The PRESIDING OFFICER. By previous order, all after the enacting clause is stricken and the text of S. 1028, as amended, is inserted in lieu thereof and the bill is deemed read a third time.

Under the previous order, the vote on final passage will occur on Tuesday, April 23, at a time to be determined by the majority leader.

MORNING BUSINESS

Mr. ABRAHAM. Mr. President, I ask that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRESS MUST STOP JUNK GUN VIOLENCE

Mrs. BOXER. Mr. President, in 1968, Senator Robert Kennedy was assassinated in California by an assailant carrying a junk gun. That terrible event convinced Congress that something had to be done about the dramatic increase in gun violence. Specifically, Congress concluded that it had to act to stem the proliferation of these junk guns, or as they are also known, Saturday night specials.

Later that year, Congress passed the Gun Control Act of 1968, which barred the importation of junk guns. The guns affected by the import ban had several things in common: They were cheap. They were poorly constructed, and they lacked important safety devices.

Shortly after the passage of the Gun Control Act, unintended consequences began to emerge. Many new companies were formed to manufacture junk guns domestically. Protected from foreign competition and given a virtual monopoly over the U.S. market, the domestic production of junk guns skyrocketed. In fact, all of the companies that produce today's criminals' favorite junk guns were founded after 1968.

In 1972, Congress tried to end the double standard that allows the domestic manufacture of junk guns. Sixty eight Senators—including BOB DOLE and STROM THURMOND—voted to close the loophole permanently. Unfortunately, despite its more than two to one support in the Senate, that bill was killed in a House committee.

Along with my cosponsors, JOHN CHAFEE and BILL BRADLEY, I have introduced legislation, S. 1654, that is closely modeled after that 1972 bill.

The principle of that bill that passed the Senate so overwhelmingly nearly 25 years ago and the bill I have introduced is simple: if a gun is such a great threat to public safety that its importation is banned, then its domestic manufacture should also be prohibited. Its point of origin is irrelevant.

By every measure, the problem of gun violence has grown worse since passage of the Gun Control Act. This indisputable fact was most recently demonstrated in the release last week of a study by the Children's Defense fund. Among CDF's findings was the chilling statistic that a child dies from gunfire every 92 minutes in the United States. And over the last 10 years, the rates of child gun deaths have nearly doubled.

A Center for Disease Control survey found that on an average day, 1 in 20 high school students carries a gun to school. But it is not just a high school problem. A few years ago in San Francisco, a 7 year old second grader was suspended for bringing his mother's junk gun to school, where he threatened to shoot a classmate.

What can we do to fight this problem? One Step is to end this junk gun double standard.

In my State of California, a bill to prohibit the manufacture and sale of junk guns passed the State senate last year, but was blocked in an assembly committee in January.

However, this is a problem that the U.S. Congress created, and it is one that the Congress should fix. Clearly, a nationwide ban would be the most effective way to keep these firearms out of the hands of criminals.

My bill applies prospectively only. It does not affect any guns currently in circulation.

I am proud that my legislation has been endorsed by the California Police Chiefs Association and the chiefs of some of California's largest cities including Willie Williams of Los Angeles, Fred Lau of San Francisco, Art Venegas of Sacramento, and Louis Cobarruviaz of San Jose. In all, 27 California police chiefs and sheriffs have endorsed my legislation. It has also been endorsed by the Coalition to Stop Gun Violence, a leading national antiviolence organization.

I am introducing this measure at the same time that Congress is moving backward on gun issues by reopening the assault weapons ban. I am confident that with the leadership of President Clinton, Senators DIANNE FEINSTEIN, PAUL SIMON and others, we will defeat efforts to roll back our progress on assault weapons, but I believe that just holding our ground is not enough. We must continue to move forward.

What is a junk gun? There are many differences between models, but they have certain traits in common. They are small and light, which make them highly concealable. They are made of inferior materials like zinc, instead of higher quality metal alloys. And they lack important safety features that can help prevent accidental shootings. Junk guns are cheap—some can be bought for as little as $69. The most striking feature in common is that junk guns are used disproportionately in crimes.

One recent study conducted by the U.C. Davis Violence Prevention Center found that junk guns are 3.4 times as likely to be used in crimes as are other firearms. This view was confirmed by Chief Ronald Lowenberg, president of the California Police Chiefs' Association who wrote to me, "There is no doubt that 'Saturday Night Specials' are disproportionately represented in homicides and other crimes." According to the Bureau of Alcohol, Tobacco, and Firearms, of the 10 guns most frequently traced at crime scenes, 8 are junk guns.

Junk guns' price and concealability—the factors that make them so attractive to criminals—are also the factors that make them unsuitable for general use.

What about junk guns for hunting and target shooting? According to firearms experts, they are totally unsuitable because of low accuracy and high failure rates. And what about home and self protection? Again, junk guns are ill suited for the job. These guns are inaccurate, poorly constructed, and lacking important safety features. Keeping a junk gun in the house is an invitation to disaster.

I know of one case in which a man was killed when his gun fell from its holster as he bent over to get a drink of water from a fountain. In another case, a man was critically injured when a junk gun he kept in his car fired when the car hit a bump in the road. These tragedies could have been prevented if these junk guns had better safety features.

I plan to fight hard for this bill, and I am confident that with the strong support of law enforcement and citizens' groups around the country, we will prevail.

TRIBUTE TO EDMUND S. MUSKIE

Mr. SARBANES. Mr. President, I wish to pay tribute to our wonderful colleague and dear friend Ed Muskie who passed away late last month. A distinguished public servant, an accomplished legislator, and a man of great integrity and humanity, Edmund Sixtus Muskie represented the best of the Senate and of the Nation.

Throughout his career in public service Senator Muskie exhibited a rare and remarkable gift; his extraordinary ability to see opportunities where others could not and to translate those opportunities into positive changes for the people of Maine and the Nation.

Ed Muskie began his career of dedicated public service in the Maine Legislature where he initially served as part of a small Democratic minority. From this modest beginning, he assumed the reins of the Maine Democratic party and revitalized it by exercising the vision and leadership necessary to involve people more fully in the political process. His efforts led to his own election as Maine's first Democratic governor in 20 years, and in 1958, he became the first popularly elected Democratic Senator in Maine's history.

But the depth and breadth of Ed Muskie's vision extended far beyond Maine politics. Upon his arrival in the U.S. Senate, he continued to exhibit the same straightforwardness and independent thinking that won him the trust of the citizens of Maine. These traits enabled him to make the Environment and Public Works Committee the forum which produced this Nation's landmark environmental protection legislation, the Clean Air Act and the Water Quality Act. These critical environmental statutes changed the way Americans view our precious natural resources and his work provided the foundation upon which all subsequent environmental protection statutes have been built.

In addition, his efforts were instrumental to the passage of the Congressional Budget Act of 1974, establishing the beginnings of the modern coordinated Congressional budget process. As the first chairman of the Senate Budget Committee, Ed Muskie was committed to the effective disciplined Federal spending; demonstrating that promoting fiscal responsibility and meeting the needs of our people were complementary objectives.

Throughout his lifetime of public service, Ed Muskie was a man his country could turn to in a time of crises. As a U.S. Senator, a vice-presidential and then presidential candidate, and as Secretary of State, he demonstrated an unsurpassed commitment to improving the welfare of all Americans. In his candid, forthright and honest way, he encouraged the free exchange of ideas within the democratic process, working to transcend partisan boundaries and foster what he called a "politics of trust" in this Nation.

One of his many legacies to our country is the large number of former Muskie staff members who under his leadership made such extraordinary contributions to our Nation's welfare. Many of these individuals continue to render dedicated public service and they constitute a national asset which is yet another tribute to Ed Muskie's sterling qualities.

Mr. President, I would like to take this opportunity not only to honor the life and service of Edmund Muskie, but to extend my deepest and heartfelt sympathies to his wife, Jane, and to his children, Stephen, Ellen, Melinda, Martha, and Ned, and their families. We thank them for sharing their husband and father with the Nation—America is a far better place for Ed Muskie's contributions.

On Saturday, March 30, 1996, an exceptionally moving service for Ed Muskie was held at the Church of the Little Flower in Bethesda, Maryland, followed by burial at Arlington National Cemetery. At that service, eloquent and heartfelt eulogies were delivered which greatly moved all of us who were present. In testimony to Ed Muskie's life of quality and honor, I ask unanimous consent that these eulogies be printed in the RECORD.

There being no objection, the eulogies were ordered to be printed in the RECORD, as follows:

REMARKS BY STEVE MUSKIE

Rev. Clergy, President and Mrs. Carter, Ed Muskie colleagues, family and friends. From my mother and everyone in our family, I want to thank you for coming here today to remember and honor my father. I expect that you will hear others speak about Dad's political life and the work he did over his long career of public service. But I would like to take a few minutes to tell you a little about some of the things that we, his wife, children and grandchildren, remember fondly. Thursday night we had a family dinner to celebrate Dad's 82nd birthday. We drank a toast to him, sang happy birthday and the youngest of Mom and Dad's seven grandchildren blew out the candles on two birthday cakes that we brought to the party. Of course, the celebration was bittersweet because Dad was not physically present. But he was present in spirit, in the thoughts of all of us who learned from him and loved him, you could see and hear the evidence all around the room—in the sixteen people there—some blood relations others bonded by marriage into the Muskie family. I saw it in their mannerisms, vocal inflections, proclivity for puns or quiet contemplation, in a hearty laugh or a mischievous twinkle of an eye. They were the telltale signs of Dad's lasting imprint on our lives. We have all been recalling images of Dad, many of which had been lost for a long time, tucked away in the recesses of our memories.

For me, one of the most vivid is an image of cold summer mornings at our Birch Point cottage on Maine's China Lake, forty years ago. The odor of smoke and the crackling sound of a fire just coming to life greeted Ellen and me when we padded down the stairs and climbed on to Dad's lap as he sat next to the fireplace in a big leather chair. While we warmed ourselves by the fire it was Dad's way to repeat the story that we most enjoyed hearing, a tale of young Biddo Bear who woke one cold morning, just as we had, and went with his father on a fishing trip. The story was replete with the kind of sound effects the public never heard from Dad during speeches. For example, Dad talked about Biddo Bear's father's tug on the starter cord of their small boat's outboard motor—Paroom! Putt-putt-putt! "They drove down the lake to catch some fishes," he said. That was a time when Dad was governor and the demands on his time were less than they were by the time the last of his children

VOL
142
PT
6
AP
15
—
24
1996
UMI

were almost grown. My brother Ned recalls that even when Dad was secretary of state, he regularly showed up at school, casually dressed and surrounded by security agents to attend a baseball game in which Ned might be pitching or to help Ned haul luggage and boxes into a new dormitory room. Ned of course swears the security agents didn't do any of the work.

Another powerful image is of Dad seated at the dining table surrounded by several of the youngest grandchildren. They always wanted to be near him at meal time, because he inevitably played games with them, walking his fingers across the table to tickle them or to catch their tiny hands in his big ones until Mom gently chastised him "now stop that poppa." The kids grinned feeling they had gotten away with something. As much as I would like to stand here displaying my photographs of Dad, these images and others like them are much more powerful than those captured by a camera because they improve and evolve with age and the mix of other memories we recall. They will never leave us. However wonderful and comforting those images are, more important are the lessons we learned and the characters we developed as a result of watching and trying to follow Dad's strong examples. My youngest sister, Martha, told me yesterday that her interest in social work really grew from some of those examples. She said:

"Dad believed that all people really are equal. That the color of your skin, the source of your beliefs, where you live or how much money you have doesn't matter."

When Greg Singleton, from the SW side of Washington, lived with us for several summers, "It was never any question," said Martha, "that he would be treated exactly like the rest of us." Martha's statement made me realize that we have all grown up and lived under the strong influence of both the public and private Ed Muskie. Today we acknowledge our love and gratitude and share with you a celebration of his life.

Remarks by Leon Billings

People who loved Ed Muskie, welcome. As was so often the case in the thirty years I worked for Ed Muskie, 15 of which I was paid, I have the honor of speaking for the staff. Those who actually worked for the Senator and those he thought worked for him. The nameless, faceless staff. A couple of years ago, I had lunch with the Senator. By then I was in my early 50s, about the same age he was when he hired me. I decided that I could start calling him Ed. So we sat down and I used his first name and he looked at me and said, so its going to be Ed now is it? So Senator * * * Before I tell a couple stories I remember of some of our lighter moments, I want to say something about your role as this nation's most important environmental leader. Many times you would take a globe of the earth in your hand and point out that the earth's atmosphere was no thicker than that thin patina of shellac that covered that globe. And you would say, "that's all that protects human life. That thin layer, no thicker than that layer of shellac is all that is between humankind and extinction." That analogy in simple terms stated your commitment to achievement of a healthy environment. A concept you invented, a concept you institutionalized and a concept that you internationalized. You changed the way the world acts towards the environment. That legacy will endure as long as people breathe on this earth. From the Clean Air Act of 1970 to Global 2000 as Senator and Secretary of State, you took a problem too few people cared about and converted it into a movement and then into a reality. I recall after the Senate unanimously passed the Clean Air Act in 1970, Senator Eugene McCarthy said to Senator in the elevator, he said "Ed," (he could call him Ed) he said, "Ed you found an issue better than motherhood, there are even some people opposed to motherhood." So everyone here, please take a deep breath, and while holding that breath think just for a moment that each of us, our children, our grandchildren and the children of centuries yet to come, owe a single debt to you, Senator Muskie.

Sometimes working for you wasn't a day at the beach. But we were rewarded by your brilliance, your courageousness and your creative public policy mind. You evinced incredible loyalty. People stayed with you for years, for decades. What a luxury it was to be associated with someone about whom there were no doubt, no doubts about intellect, commitment and integrity. And Senator you gave us a lifetime of stories. Some are even repeatable. Each of us has a favorite and I'm going to tell a couple. Senator Muskie was an avid fisherman and though I was never invited to accompany him, I want to recall two occasions both of which involved President Carter. On the way back from the funeral of Prime Minister Ohira in Japan, the President and Senator Muskie went fishing in Alaska. And when they came back I learned that the President had caught many fish, and the Senator got one. I asked him to explain the difference and he said gruffly, "its easy to catch them if the secret service ties them down." And you know that's all the explanation I got!

On the other occasion, and this will be particularly memorable to some of you who are on the Senate staff. I was on the Senate floor during a budget debate and he called me over. I assumed he wanted my advice on the issue at hand. He said, "I can't find my fishing pole." He said, "President Carter is coming to Maine to fish and I can't find my fishing pole." So I called Gayle Cory, the longest and the loyalist of the Muskie staffers. She was out at his house and I asked her to find the pole and I went back and said, Gayle is at the house and she'll find the pole. And he said, "Gayle wouldn't know what a fishing pole looks like." Needless to say, Gayle found the pole, I didn't have to go out to the house to look for it, and I never learned how many fish he caught on the trip.

I want to close with one story which will be poignant to those who had the opportunity to travel with the Senator, and particularly to Jane, I think. The Senator always took the window seat on the airplane and the staff, and Jane, sat on the aisle to ward off intruders. It was his want to get on a plane and lose himself in a book or magazine and sometimes not talk to anyone for the entire five hour trip. On the occasion that Eliot Cutler remembers on a trip to Los Angeles, the Senator said not a word and at the end of the trip as they arrived to the gate, Eliot got up to proffer him his coat and he looked at Eliot and he said "what are you doing here?" He is smiling now, because I suspect he would say to us today, "what are we doing here?" Senator we came here to say good-bye. We came here to say thank you for five decades of public service and personal friendship and most of all, we came here to thank you for being the first steward of the planet earth.

Remarks by Madeleine Albright

Dear friends, my heart is sad for I have lost a friend. I asked myself why I feel such a void. Its not only the personal memories, memories that I share with many of you, although that is surely a part of it. It is also the fear that what Edmund Muskie represented, what he lived for and stood for, might somehow go with him. He has been our connection to each other, he has been our link to a proud democratic heritage. He gave validity to a vision of our country and service to it that has influenced each of our lives. There is an army of us in Washington, Maine and around the country who worked for him as he rose through the ranks of service to America. Whether we were interested in state government or just plain good government, clean air and water, a budget process that worked, a generous foreign policy that reflected our goodness and strength or just because we believed that politics and principles go together. He attracted us. Even today, when members of the Muskie team see each other any where, we exchange the political equivalent of the high-five. The reason that such a diverse group would have so much in common is that Ed Muskie didn't see his public service as compartmentalized. The federal government was not the enemy of state government. Democrats could work with Republicans. A healthy environment was important not only here, but globally. While as budget chairman, he often asked what was so liberal about wasting money, he worried about jobs and he never denied the resources needed to keep America strong. Can you imagine that he actually believed in the United Nations and Foreign Aid, not only when he was Secretary of State, but even when he was in the Senate. Edmund Muskie made history because he understood history. A lot of it he read, a lot of it be experienced personally and what he didn't know, he asked about. All of us who have been on the receiving end know how persistently he could ask questions. The look on his face or the "not so gentle" reproach when we didn't know the answers became an enormous incentive to learn. As a result, we grew with him, In his book we all, but mostly he himself, were accountable. His roots became ours. The great American leaders and their principles became ours. When he arrived at the State Department in May 1980, having been named by President Carter, he brought with him his capacity for endless questions. He brought Leon, Carole, Gayle and Berl. The foreign policy bureaucracy had a bit of trouble with the approach, not to mention with Leon. In the department and over at the national security council, there were rumblings. "Why all these questions about environmental consequences, fiscal implications, congressional consultations and public opinion." As Secretary of State he did not leave his old identities behind. He was still Mr. Clean, the father of the budget process, the chief sponsor of the War Powers Act, an elected official responsive to the people. Still he insisted on looking at all sides, still he wanted to reason everything out. That is why he got along so famously with his deputy, Warren Christopher, another who values principle and reason. Together, they worked patiently to answer the questions and solve the problems our nation faced. Most important they negotiated the safe return of the hostages from Iran. Reuniting families and leaving for the successor administration a clean slate from which to begin. When he left his official foreign policy post, along with the rest of us in January, 1981, he simply began pursuing public policy by private means. Although he was quite in the opposition he did not use his various platforms or chairmanships, of the Center for National Policy and Georgetown's Institute for the

Study of Diplomacy to mention two of my favorites, for the politics of protest but characteristically for the politics of healing. For example to consider mending relations with Cambodia and Vietnam, and in this, as in so many other things he was often ahead of his time.

Before I end with a personal message from President Clinton, I must say one more thing. I would obviously be here in my capacity as a proud member of the Muskie political family no matter what. But I would definitely not be here or anywhere else representing the President of the United States if it were not for Ed Muskie. It might not be the right answer for feminist groups and I do love Eleanor Roosevelt. But the truth is that this man was my role model. While we all had a good laugh when he sometimes slipped into political incorrect vocabulary or shielded his female staff members from some of his salted language, he was the man who earlier than others enabled women to take their place as public servants. Because he had faith in us, we had faith in ourselves. He was the first to name a woman, Karen Hastie-Williams, Chief Counsel of the Budget Committee, as head of the Congressional Budget Office, Alice Rivlin, he gave me the responsibility as his chief legislative director, for coordinating Leon, Al From, Doug Bennett and John McKvoy. The U.N. Security Council is a piece of cake. No wonder I learned about the politics of foreign policy. Finally I want to read a letter:

"DEAR JANE: Hillary and I were so sorry to learn of Ed's death and our hearts go out to you. Our nation was blessed to have Edmund Muskie in public service for so long. As governor, as Senator and Secretary of State. He was a leader of conscience and conviction and I will always be grateful for his wise counsel. His broad knowledge of both international and domestic affairs. His stalwart protection of our precious natural resources and his unshakable integrity as a public figure and private citizen earned him support of millions of Americans and the respect of all of us who were privileged to know him. As a mark of that respect, citizens across our country and around the world are lowering the American flag to half staff today. Hillary and I extend our deepest sympathy to you and your family and we hope you will take comfort in remembering that your husband has left an enduring legacy of public service that continues to inspire us all. We are keeping you in our thoughts and prayers.

"Sincerely

"Bill Clinton, President of the United States."

Dearest Jane, thank you for sharing this great man with us.

Remarks by George Mitchell

Jane, Steve and Lexi, Ellen and Ernie, Melinda and Eddie, Martha, Ned and Julia, and other members of the family, Cardinal Hickey, Bishop Gerry and other members of the clergy, President and Mrs. Carter and other distinguished guests and friends of Ed Muskie. Senator Muskie once said that he didn't like being called "Lincolnesque" but it fit. With his lanky frame, his long and craggy face, his powerful voice, he was an imposing figure. He was loved and trusted by the people of Maine because they saw in him the qualities they most admire, independence, fairness, the lack of pretense, the willingness to speak the truth even when it hurt. He was plain spoken even blunt at times and they admired him for it. He had his faults and he made mistakes as do all human beings but he conquered his faults and he learned from his mistakes and as a result, he became the greatest public official in Maine's history and one of the most effective legislators in our nation's history. He accomplished much in a long and distinguished career. In that impressive record, nothing surpasses what he did to protect America's natural environment. Harry Truman once said that men make history, not the other way around. In periods where there is no leadership society stands still. Progress occurs when courageous skillful leaders seize the opportunity to change things for the better. Ed Muskie changed things for the better. When he went to the Senate, there were no national environmental laws, there was no environmental movement, there was hardly an awareness of the problem. Industries and municipalities dumped their wastes into the nearest river and America's waters were, for the most part, stinking open sewers. The air was unhealthy, the water polluted, Ed Muskie changed that. It's one thing to write and pass a law, it's another thing to change the way people live, it's yet another and a far more difficult thing to change the way people think. Ed Muskie did that. With knowledge, skill, determination and patience he won approval of the Clean Air Act and the Clean Water Act and America was changed forever for the better. Any American who wants to know what Ed Muskie's legacy is need only go to the nearest river. Before Ed Muskie it was almost surely not fit to drink or to swim or to fish in, because of Ed Muskie it is now almost surely clean. A source of recreation even revenue. Despite the efforts of some to turn back the clock, these landmark laws will survive because the American people know what a difference he has made in their lives. It has been said that what we do for ourselves, leaves this world with us, what we do for others remains behind. That's our legacy, our link with immortality. Ed Muskie's legacy will stand as a living memorial to his vision. It is his immortality. Each of us could say much more about Ed Muskie's public career but we are here today to pay tribute to Ed Muskie the man, so I would like to say a few words about the man who was my hero, my mentor, my friend. Thirty-four years ago this week, I received a telephone call that changed my life. It was from Don Nicoll, Senator Muskie's Administrative Assistant and close friend who is here today. He invited me to come to Capitol Hill to meet the Senator who was looking for someone from Maine to fill a vacancy on his staff. To help him evaluate me, Don asked that I prepare a memorandum on the legal aspects of an issue that was then being considered by the Senate. I prepared the memo and went up for the interview. I thought the memo was pretty good, but unknowingly I had made a huge mistake. I reached a conclusion that was the opposite of the Senator's. I had never met him but he didn't bother with any small talk. Within minutes of our introduction, he unleashed a ferocious cross-examination. He came out from behind his desk, he towered over me, he shook his finger at me and he took my memo apart, line by line. I was stunned, so intimidated that I couldn't control the shaking of my legs even though I was sitting down. I tried as best as I could to explain my point of view and we had what you might call a lively discussion. As I left he said the next time you come in here, you'll be better prepared. That's how I learned I'd been hired and I sure was better prepared the next time. Ed Muskie was even more imposing intellectually than he was physically. He was the smartest person that I ever met with an incisive analytical mind that enabled him to see every aspect of a problem and instantly to identify possible solutions. He challenged everyone around him to rise to his level of excellence. No one quite reached his level, but those who took up the challenge were improved by the effort. Those who knew him learned from that relationship, those of us who worked for him, most of all. Just about everything I know about politics and government I learned from him. Just about everything I have accomplished in public life, can be traced to his help. No one ever had a better mentor or a better friend. No discussion of Ed Muskie would be complete without mention of his legendary temper. After he became Secretary of State, a news magazine in an article described his temper as entirely tactical, something that he turned on and off at will to help him get his way. I saw him a few days later, he showed me the article, in fact he read it to me, and then he said laughingly, "all these years you thought my temper was for real." Well, I said, you sure fooled me, and a lot of other people. I think the reality is that it was both. When he yelled at you it was terrifyingly real, but you could never be sure that it wasn't also a tactic to move you his way, to get you to do what he wanted done and that's the way he wanted it and liked it. Almost as unnerving as one of his eruptions was the swiftness with which it passed and was forgotten. He was a passionate man and expressed himself with emotion. His point having been made, he moved on, he didn't believe in looking back or nursing grudges and maybe that's how he got past the disappointments he suffered. It surely also helped that he was a secure man, confident in, and comfortable with his values. Those values were simple, yet universal in their reach and enduring in their strength. They were faith, family and country. He was constant in his faith. He was comforted by it and he was motivated by its message. The prayer printed on the back of the program today written by Senator Muskie more than a quarter century ago with its emphasis on compassion and tolerance was the essence of his faith. He was totally devoted to his family, especially to Jane. They would have celebrated their 48th anniversary in May and for all those years, she supported him, she comforted him, she helped him. He was a passionate believer in democracy and especially in American democracy. I had the privilege of traveling all over Maine and all this country with him. Back when I was on Senator Muskie's staff we didn't have the resources available today so we used to share a motel room in small towns all across Maine as I drove him from one appearance to another. And I can recall the many times he spoke of his Father who he greatly admired and who he was very influenced by. His Father was a Polish immigrant who, like many others who fled from tyranny, flourished in the free air of this blessed land. No person I have ever heard and few in our history could match Ed Muskie's eloquence on the meaning of America. Once in public office, his profound respect for American democracy led him to act always with dignity and restraint, lest he dishonor those he represented. As a result, he was the ideal in public service, a man who accomplished much without ever compromising his principles or his dignity. Character is what you are when you are alone in the dark as well as with others in the daylight. Ed Muskie's character was strong. Strong enough to light up other people's lives. He taught us that integrity is more important than winning. That real knowledge counts more than slogans or sound bites. That we should live our

VOL
142
PT
6
AP
15
—
24
1996
UMI

values rather than parading them for public approval. Many years ago, Maine's greatest poet, Henry Wadsworth Longfellow, wrote of another great man these words: "Were a star quenched on high for ages would its light still traveling downward from the sky shine on our mortal sight. So when a great man dies for years beyond our kin, the light he leaves behind him lies upon the paths of men." A great man has died and for years his life will shine upon our paths. Goodbye Ed, may God bless you and welcome you.

Remarks by President Jimmy Carter

Ed Muskie had the appearance, the mannerisms, the actions of a true statesman. I first knew about him was when I became Governor and faced the almost overwhelming lobbying pressure from the power companies with their smokestacks spewing forth back smoke and the thirteen pump mills in our state that were destroying our rivers. I saw the difficulty then of an incredible political battle. But there was a hero in Washington which has been mentioned several times who faced much greater lobbying pressure from nationwide pollutants of our streams and air. Ed Muskie changed all of that. One of my heroes in Georgia was Dr. Benjamin Mays a graduate of Bates College which was very close to Ed Muskie. And in an unpublicized way, Ed Muskie was also a champion of basic civil rights at a time when it wasn't popular to be so. And he and Dr. Benjamin Mays worked hand-in-hand to inspire people like me and other governors and public servants around the country who looked on him with great admiration. I hope everyone here will read the prayer on the back of the program that George just mentioned that was given by Ed Muskie at a Presidential prayer breakfast in 1969, and see how pertinent it is to our nation's capital today, how Ed Muskie is needed. We saw then a budget problem in Washington and he decided to do something about it. He helped orchestrate and get passed a new budget law. He became the first Chairman of the Budget Committee and despite the equally formidable challenges that we now face, that he faced then, he was able to bring order out of chaos and to work harmoniously not only with the Senators, but members of the House of Representatives, jealous of their own prerogatives and with the Presidents who served with him. Democrats and Republicans, President Nixon, President Ford, and President me. I think that Ed was so successful in bringing this coalition together and healing the disparities between Capitol Hill and the White House, because when he spoke you knew at least three things: First, he deeply believed what he said, second, he knew what he was talking about, and third, it was the absolute truth. So I admired him from a distance until the Spring of 1972 when Ed was campaigning for President and he came down to Atlanta for a fund-raiser. I very eagerly invited him to spend the night with me at the Governor's mansion because of my admiration and because I had in the back of my mind, you won't believe this, the thought that he was going to get the nomination and he might be looking for a southern governor to be his running mate. So I wanted to make a good impression on him and I wanted him to think that I was a little more sophisticated than I was. So that night in the so-called Presidential suite in the front of the Governor's mansion, late at night he was very tired, he had been campaigning all day, and I said "Senator would you like to have a drink?" He said "yes Governor I believe I would." I said "well what would you like," he said "I'd like Scotch and milk." I was taken aback. I knew about Bourbon and Branch Water and a few other drinks of that kind but I tried to put on the appearance of being knowledgeable and I left him in the room and went down to the kitchen to prepare a drink. I got about halfway down the hall and a terrible question came to me and I went back into the room and I think ruined all my chances of being on the ticket. I said "is that sweet milk or buttermilk?" He very gently said "sweet milk." Later when I was elected President, I turned to Ed Muskie as one of my closest and most valued advisers. He was still a hero to me and I turned to him often. In 1980, as some of you would remember, my administration was in trouble. Fifty-three hostages were still being held by militants in Iran. In April we tried to rescue them and my Secretary of State in protest resigned with a great deal of public fanfare. I was facing a revolution in my own party from Senator Kennedy and others who were more liberal than I and it seemed very doubtful that I would even be renominated as an incumbent President. I turned to Ed Muskie who had a secure seat in the U.S. Senate and I ask him if he would serve as Secretary of State, and after checking with George and others, he said "yes." In a way I thought that I was doing him a big favor but when we had the little ceremony in the White House, I introduced him as the new Secretary of State being willing to serve and his comment was, "Mr. President, I'm not going to say thanks, I'm going to wait a few months and then make a judgment about whether I thank you or not." But he brought to the State Department, as Madeleine just pointed out, his formidable knowledge as a long-time Chairman of the Budget Committee, of every domestic and foreign policy program that our nation had and that statesmanship from Maine that let the members of our Congress, the people of our nation and leaders throughout the world know, that here was a man who spoke with absolute integrity. When the Prime Minister of Japan passed away, Ohira, who was one of my closest friends as Leon has pointed out, I wasn't going to mention this, we went to the funeral with a very devout expression on our face but arranged to stop in Alaska for a day of fishing which Ed suggested as a way for me to forget my troubles. I don't guess he was worried about his own troubles. We went to a little lake about an hour and one-half helicopter flight from Anchorage and were fishing for Grayling and I have to confirm part of Leon's story, I did catch 15 or 20 Grayling, the Secret Service were quite a distance from me I might add, and Ed only caught one fish. So after we got through fishing, Ed came up to me and said "Mr. President, I'd like to make a comment about the trip" and I waited for his approval and he said "you really need to practice your cast" and I said "thank you very much, Mr. Secretary." Later he sent me a wonderful fishing rod that I still have Leon. In the last few days of our administration it was Ed Muskie's integrity, his sound judgment, his wisdom and his determination and his patience that had made it possible for us to bring every hostage home, safe into freedom. Typically, Ed Muskie did not seek any credit for that achievement, he let others take the credit. I looked up last night the citation I read when I gave Ed Muskie the Presidential Medal of Freedom. "As Senator and Secretary of State, candidate and citizen, Edmund Muskie has captured for himself a place in the public eye and in the public's heart. Devoted to his nation and our ideals, he has performed heroically and with great fortitude in a time of great challenge." His response was you forgot that I was also Governor. This week I made a statement about my friend Ed Muskie and I closed the statement by saying of all the people I've ever known, no one was better qualified to be President of the United States but Jane, I'd like to say now that I don't believe many Presidents in history have ever contributed as much to the quality of life of people in our nation and around the world as your husband, Edmund Muskie. I am grateful to him. Thank you very much.

Remarks by Edmund S. Muskie, Jr.

I could not be more proud than to be here to read to you a prayer that my father wrote. He delivered this prayer at the Presidential Prayer Breakfast here in Washington, DC in January of 1969.

"Our father, we are gathered here this morning, perplexed and deeply troubled. We are grateful for the many blessings You have bestowed upon us.—the great resources of land and people—the freedom to apply them to uses of our own choosing—the successes which have marked our efforts. We are perplexed that, notwithstanding these blessings, we have not succeeded in making possible a life of promise for all our people. In that growing dissatisfaction threatens our unity and our progress towards peace and justice. We are deeply troubled that we may not be able to agree upon the common purposes and the basis for mutual trust which are essential if we are to overcome these difficulties. And so, our Father, we turn to you for help. Teach us to listen to one another, with the kind of attention which is receptive to points of view, however different, with a healthy skepticism as to our own infallibility. Teach us to understand one another with the kind of sensitivity which springs from deeply-seated sympathy and compassion. Teach us to trust one another, beyond mere tolerance, with a willingness to take the chance on the perfectibility of our fellow men. Teach us to help one another, beyond charity, in the kind of mutual involvement which is essential if a free society is to work. We ask it in Jesus' name, Amen."

CRISIS IN LIBERIA

Mr. PELL. Mr. President, the resumption of violence in Liberia is of great concern to me. A factional standoff over an ousted government minister has led to widespread looting, arson, and murder, plunging the country into a state of chaos. This spasm of violence is the first major interruption of the Abuja Accords, which have held peace together in Liberia since last August.

The deterioration of Liberia is disheartening. Since 1989, the civil war has caused the deaths of more than 150,000 people and has displaced more than 800,000. Thousands of children have been conscripted to the armed forces. The resumption of violence threatens the lives of even more Liberians. The potential of a massive humanitarian disaster is high, as supplies of food and water dwindle, sanitary conditions deteriorate, and outbreaks of cholera erupt.

Mr. President, The United States has a special responsibility toward Liberia. Founded in the early 19th century by freed slaves, the United States and Liberia have had almost 150 years of uninterrupted friendship. In World War II,

the airfields and ports of Liberia were a key part of the link to supply the battlefields in North Africa and Europe. During the cold war, the people of Liberia were at many times the only reliable ally of the United States in Africa. Liberia served as a "listening post" and headquarters to the United States intelligence services. At the United Nations, Liberia consistently voted for the United States position even when this position was unpopular with other developing nations.

In addition, I would like to add that I have a special interest in this war-devastated country as so many emigrants from Liberia have settled in Rhode Island. Just this morning, a delegation of approximately 400 Liberian-Americans who live in my State participated in an impressive demonstration of their eagerness for peace to be restored to this tragically war-torn country.

These Rhode Islanders, led by long-time community leader Lady Bush, marched several miles into downtown Providence where they demonstrated in front of the Federal Courthouse Building and met with members of my staff and the staff of my colleague, Senator CHAFEE.

The demonstrators presented a petition, entitled "Plea for an Immediate End To the Human Carnage in Liberia." It urges active U.S. Government efforts to end the fighting and places the blame for the latest outbreak of terror and fighting squarely on the assorted warlords whose forces control various portions of the capital and the country.

I ask unanimous consent that a copy of that petition be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PELL. Mr. President, it is understandable that the international community is hesitant about investing anything more in Liberia. It is up to the faction leaders who constituted the last Council of State and who control the rival forces to stop the looting and killing and to rebuild a sense of national unity. The rival warlords must demonstrate that they are ready for peace. The people of Liberia should not have to endure any more violence. If the United States pulls out of Liberia, it will certainly put the last nail in the coffin for this poor, African nation. Moreover, if the situation in Liberia continues to unravel, the regional implications will be of monumental proportions.

I believe the United States must have an immediate response to this crisis. As a result, I am cosponsor of the resolution introduced this afternoon by my distinguished colleague from Wisconsin, Senator FEINGOLD. Among others, this resolution urges the administration to support West African peacekeepers, to influence other nations to support the peacekeeping force, and to lead efforts in the United Nations to sanction those parties which violate the U.N. arms embargo on Liberia.

I would like to add that it is imperative that the international community, at its highest levels, make public their views on the atrocities in Liberia. The international community, moreover, must actively engage with ECOMOG and ECOWAS, to find a lasting solution. And most importantly, I call upon the competing warlords to stop the pillaging of Liberia. There has already been too much bloodshed, too much hope lost.

EXHIBIT 1

LIBERIAN COMMUNITY ASSOCIATION
OF RHODE ISLAND, INC.,
Providence, RI, April 18, 1996.

Petition of the Liberian Community Association of Rhode Island to the Government of the United States

Subject: Plea for an Immediate End To the Human Carnage in Liberia

Whereas the Republic of Liberia was founded and funded by humanitarian societies in the United States, with the appropriation and assistance of the American Government as a safe haven for emancipated people of color;

And whereas throughout its one hundred forty nine years of independence, the people and Government of these United States of America have manifested friendly and benign interest in Liberia's right to exist as a sovereign state, lending aid in times of national exigencies and emergencies;

And whereas Liberia has always shown its gratitude and appreciation to the Government and people of the United States by being staunch ally and trusted African friend during times and circumstances critical to the national interest of the United States;

And whereas the on-going genocidal civil conflict in Liberia resulted from the rash, diabolical, dictatorial, and military rules which set the stage for subsequent atrocities and infrastructure destruction, causing the displacement at home and abroad of over one half the population, many of whom are stranded in the United States;

And whereas the civil war since 1989 has resulted into the slaughter of a quarter million people, most of whom are civilians; women, children and the elderly;

And whereas the war-lords do not have the fortitude to honor the many peace accords that they themselves signed, resulting into the carnage that began on April 5, 1996 and continues to date, described by the international press and the United States Government as the worst in three years;

And whereas the EMOMOG has proven that it cannot enforce the cease-fire, monitor the disarmament process and protect innocent civilians;

And whereas the rebels and government troops, some as young as six are still heavily armed;

And whereas the recent carnage that began April 5, 1996 is so war torn that the United States is evacuating its citizens from Liberia;

And whereas the recent massacre of women and children is so contiguous that Americans, Americans of Liberian descent, and Liberians residing in Rhode Island convened on April 14, 1996 and after deliberation resolved that the organization petitions the United States Government to intervene to help bring the carnage to an immediate end.

We therefore, appeal to the United States to:

1. intervene directly to bring the carnage to an end;
2. use it economic, diplomatic and military leverages to encourage the warring factions to call for, and honor a true cease-fire and disarmament;
3. convene a meeting of the war-lords in the United States to work out modalities for the enforcement of the cease-fire as in the case of Bosnia;
4. to help plan, monitor, and enforce the disarmament process;
5. impose an embargo on the shipment of arms to any of the warring factions;
6. freeze all assets of the war-lords, their family members, and representatives; and
7. deny all war-lords, their family members and representatives visas to travel to the United States except for a conference to resolve the conflict.

We call on all peace loving countries of the world, the United Nations and other international organizations to join the United States, a country of goodwill that has practically resolved all conflicts in modern times, to do the same for Liberia. We are pleading. Please help us.

NUCLEAR SECURITY

Mr. BIDEN. Mr. President, I rise today to call attention to the single greatest security threat to Americans in the post-cold war ERA—the possibility that weapons of mass destruction could be acquired by rogue states, criminal organizations, or terrorists, and used against American targets.

In the coming weeks, I hope that this body will have the opportunity to act on the Chemical Weapons Convention and reduce one portion of this threat.

Today, however, as President Clinton prepares to join President Yeltsin and the G–7 leaders in Moscow for a nuclear safety and security summit over the next 2 days, I would like to focus my remarks on the nuclear threat.

President Clinton has placed nuclear nonproliferation at the top of the U.S. national security agenda—he is clearly committed and willing to lead on this issue. Vice President GORE's regular meetings with Russian Prime Minister Chernomyrdin also have advanced nuclear security. Indeed, in the last 3 years we have seen important agreements and cooperative projects between U.S. officials and their counterparts in Russia and other Republics of the former Soviet Union.

Despite these positive steps, however, the threat before us remains immense, and the path to nuclear security remains long and difficult. We need to understand the potential magnitude of the threat, and muster the resolve and resources to address it effectively.

THE NATURE OF THE THREAT

Mr. President, Soviet nuclear missiles no longer point at American cities. With the START process, we have also seen and hopefully will continue

VOL
142
PT
6
AP
15
—
24
1996
UMI

to see significant reductions in strategic nuclear weapons in the former Soviet Union. But these arms control successes should not give us a false sense of security.

Over 100,000 weapons or weapons equivalent material remain strewn—literally strewn—about Russia, Ukraine, Kazakhstan, and Belarus. The centralized system that prevented the possible theft or diversion of this immense quantity of fissile material during the cold war no longer exists.

I should also note that each year as more nuclear warheads are dismantled, additional tons of weapons-grade material move from relatively more secure military facilities to less secure nuclear storage facilities. The 3,000 warheads that are dismantled each year yield 15 tons of plutonium and 45 tons of highly-enriched uranium.

Of this veritable cornucopia of dangerous fissile material spread across the territory of the former Soviet Union, only a small fraction would be required to wreak unspeakable damage.

It takes only 25 kilograms of highly enriched uranium or 8 kilograms of plutonium to create a weapon capable of massive destruction. We are talking about an amount of uranium the size of a softball—or a baseball in the case of plutonium. That small amount of material could be easily concealed and transported in a sturdy briefcase or a backpack.

As my colleagues know, the greatest barrier to overcome in manufacturing a nuclear weapon is acquiring the appropriate grade and quantity of fissile material. After that, it just takes a little time, money, and technical know-how.

A determined terrorist or rogue state does not even need to build a perfectly designed atomic bomb with the highest grade fissile material to create unimaginable terror. A weapon built of crude, low-grade nuclear material such as a nuclear radiological device would be sufficient to generate widespread panic.

This is not just doomsday rhetoric. Does anyone actually deny that there exists a great demand today for nuclear material? Those who are not yet convinced need only consider the chilling incidents that have occurred over the last few years. As my colleagues are well aware, gram and kilogram quantities of weapons-grade uranium—almost surely leaked from the former Soviet Union—have been seized in Moscow, Munich, and Prague. In addition, dismantled parts of Soviet nuclear missiles have made their way to Iraq.

We know that the demand exists. We also know that the supply exists. Elementary economics tells us that without intervention, a supply curve and a demand curve will intersect—and you will have a transaction. It is incumbent upon us to intervene and prevent even one of these potentially deadly transactions from occurring.

These are the key challenges we face in doing so:

How do we develop a comprehensive accounting system for all nuclear material in the former Soviet Union?

How do we gather and physically protect nuclear material in a limited number of secure sites?

How do we safely dispose of excess nuclear material?

How do we prevent the theft and smuggling of nuclear material?

And, how do we prevent former Soviet nuclear experts from selling their knowhow to rogue states or terrorists?

The answers to these questions are not exclusively of concern to the United States. They are vitally important to Western Europe, Japan, and even to Russia.

THE SITUATION IN THE FORMER SOVIET UNION

Perhaps it would be useful if I briefly walked through what we know about the situation in Russia today to demonstrate the difficulties we face in meeting these challenges.

First, the collapse of the Soviet command and control security system has been replaced by chaos and the absence of many controls at sites where nuclear materials are stored. In the context of Russia's current tumultuous social and economic conditions, we are talking about an environment conducive to theft and extortion.

Second, the Soviet Union had no comprehensive accounting system for nuclear weapons and fissile material—certainly no computerized inventory. In other words, we—including the Russians—do not even know exactly where all of the Soviet nuclear material is stored or how much of it exists. We think most nuclear material is located in 80 to 100 sites. But there may be another 40 sites. We think the Soviet Union produced some 1,200 metric tons of highly enriched uranium and some 200 metric tons of plutonium. Needless to say, it would be difficult to determine if a few kilograms of this material were misplaced here and there.

Third, the lack of physical protection of nuclear material in the former Soviet Union is shocking. Nuclear material is stored in containers without seals to prevent tampering. Many of the labs, research centers, and power plants with nuclear material do not have perimeter fences, electronic sensors, or monitoring cameras to deter and detect intruders. Instead, U.S. officials have seen nuclear rods stored in metal lockers secured with padlocks. According to the Russian Government, 80 percent of its nuclear facilities—80 percent—do not have radiation detectors to prevent those on the inside from walking out the door with nuclear material.

Fourth, there are nuclear technicians and guards at these facilities who have not been paid in months. I have heard that the senior staff of one nuclear facility abandon their posts a few hours a day to tend to their potato gardens, so that they will have food to eat. It seems to me that these conditions are so ripe for corruption that the threat of an inside job is much greater than the threat of an outside thief entering a nuclear facility—as easy as that may be.

Fifth, current border controls throughout the former Soviet Union are notoriously weak. If smuggled nuclear material passes through Europe, we have some chance that intelligence officials and law enforcement can interdict it. However, trafficking routes through the Caucasus or Central Asia are another story—the chances of successful interdiction are slim to none.

Finally, we have the problem of the thousands of nuclear scientists and technicians in the former Soviet Union with knowledge about nuclear weapons who are looking for ways to make a living in the new world order. Their expertise would certainly be welcome in some aspiring nuclear states that immediately come to mind.

THE U.S RESPONSE

After a slow start 4 years ago, many of these problems are now being addressed by our Departments of Defense and Energy. The Energy Department, for example, has equipped a number of nuclear facilities in the former Soviet Union with fences, monitors, and sensors. The United States Enrichment Corporation has arranged for the purchase of 500 metric tons of highly enriched uranium to be converted into commercial reactor fuel. Newly created international research institutes have employed hundreds of Russian nuclear scientists. Such cooperative efforts need to be evaluated and duplicated on a much larger scale.

I commend my distinguished colleagues Senator NUNN and Senator LUGAR for bringing attention to global proliferation threats through Senator NUNN's recent hearings of the Permanent Subcommittee on Investigations and Senator LUGAR's hearings last august on the issue of Loose Nukes. I might add that Senator LUGAR's hearings are the only hearings that have been held on this critical issue in the Foreign Relations Committee in the 104th Congress.

Mr. President, I think that it is worth asking: are we directing America's limited resources proportionately to meet a clear and present threat which I and many of my colleagues regard as our greatest national security challenge?

In 1991, my colleagues Senators NUNN and LUGAR had the foresight to devise the cooperative threat reduction program to assist the states of the former Soviet Union in dismantling nuclear warheads and protecting nuclear materials. Over the last 5 years funding for the Nunn-Lugar program has totaled $1.5 billion—an average of $300 million per year, or about one-tenth of 1 percent of our annual defense budget. In addition, this year's funding level was cut 25 percent from last year's level.

In contrast, consider how much time, money, and energy we have spent on the proposed missile defense system to meet the improbable long-range ballistic missile threat, which we are told is at least 15 years away. We have spent some $35 billion over the years on missile defenses. I find it hard to believe that this disparity in spending corresponds to the threats we face.

As I have repeatedly stated on this floor, a long-range ballistic missile will not be the most likely means of delivery of a weapon of mass destruction to the United States. No. A much more likely scenario is that a terrorist group will smuggle material and parts for a nuclear, chemical, or biological device onto our shores—perhaps by any of the many routes used by narcotics traffickers—and then reconstruct a weapon of mass destruction, put it in a van, and detonate it in near an important American landmark.

That is the more likely threat, and that is where we should be focusing the bulk of our energies, not on reviving star wars.

THE NUCLEAR SUMMIT

Mr. President, I hope that my colleagues recognize that we are engaged in a race against time. Either we will help secure this material and provide our citizens with the safety to which they are entitled, or rogue elements will procure this material and use it to blackmail civilization.

The danger of uncontrolled nuclear material is a first level national security threat to the United States of America and a first level national security threat to our friends and allies. We cannot simply ignore the problem and leave if for Russia to solve on her own. Likewise, Russia cannot simply downplay the potential threat and delay implementing concrete measures. Indeed, Russia itself is a target—just last November Chechen separatists placed radioactive material in a Moscow park.

To be successful, the nuclear safety and security summit must build a global consensus on the nature of the threat before us and generate wider cooperation for swift action.

The critical first step must be to improve the physical protection of nuclear material at the source—secure the material at a limited number of sites and institute a comprehensive accounting system. That, in my opinion, is the most important agenda item for the leaders of the G–7 and Russia at the nuclear summit.

World leaders at the summit will also discuss ways to improve cooperation in countering nuclear material smuggling. Given the limited success we have had in interdicting narcotics traffickers, I am not optimistic about the prospects of interdiction alone to prevent the proliferation of nuclear material. Nonetheless, much more can and should be done to improve border controls and intelligence cooperation.

Mr. President, it is my hope that the nuclear safety and security summit in Moscow this week will help propel the world's leaders to take immediate preventative and rational steps toward nuclear security. The alternative is to delay action until after our first nuclear terrorist incident—whether in a Moscow park, a Tokyo subway, or a New York office building.

Mr. President, no other nation can match the expertise and resources of the United States. We must be the leader in promoting cooperative efforts to reduce the nuclear threat. Investments we make in this area today will reap a future return in the form of enhanced security for all Americans.

TRIBUTE TO FORMER ALABAMA AGRICULTURE COMMISSIONER A.W. TODD

Mr. HEFLIN. Mr. President, my longtime friend A.W. Todd, who served 3 terms as Alabama's commissioner of agriculture, passed away at his home on March 29, 1996. He was regarded as one of our State's most popular government leaders and one of the most colorful and effective politicians to ever hold office in Alabama.

A long-time Democrat, A.W. Todd represented Franklin, Colbert, and Marion Counties in the State Senate from 1950–1954. Colbert is my home county. His terms as commissioner of the Department of Agriculture and Industries ran from 1955–1959, 1963–1967, and 1991–1995. He was also a gubernatorial candidate in 1958 and 1966. He had boundless energy and was a tireless campaigner. In fact, the last time I saw him, A.W. told me that he was planning to run again for agriculture commissioner in 1998.

He is regarded by many as the best agriculture commissioner Alabama ever had. The small, family farmer was always foremost in his mind, and the agriculture community in the state benefitted directly from his devotion and hard work. Among his many accomplishments as commissioner was the coliseum program, which resulted in 6 coliseums being built statewide. He also oversaw the expansion of the farmers' market program to Birmingham, Montgomery, Slocomb, and Mobile. The quality of eggs sold in the State was dramatically improved through the Todd Egg Law, which placed new inspection requirements on eggs and established a grading system.

While serving in his last term, A.W. Todd had the distinction of being the oldest elected State official in Alabama and was among the oldest in the entire country. He took pride in introducing himself as the country's oldest "Young Democrat." He was an old-school Democrat who grew up in Belgreen, Alabama. When he was only 13, he was permanently injured in a hunting accident that resulted in his left arm being severed.

This did not slow him down at all. He used a job on Auburn University's experiment farm to work his way through college. After graduating, he returned to Franklin County, where he operated a feed mill and poultry company and served in State government. One of his children, Elizabeth Campbell, followed him into public service, becoming a Federal magistrate in Birmingham.

A.W. Todd was an outstanding public servant who will be greatly missed. I was proud to have known and worked with him over the years. I extend my sincerest condolences to his wife, Robbie, and their entire family in the wake of this tremendous loss.

TRIBUTE TO CHARLES E. GRAINGER

Mr. HEFLIN. Mr. President, one of the major reasons that Huntsville, AL, has been nationally recognized as one of the country's top high-technology growth areas is the strength and vitality of its community leadership. One of these visionary leaders is Charles E. Grainger, vice president of administration at Teledyne Brown Engineering and 1992 chairman of the Huntsville-Madison County Chamber of Commerce. Recently, he received the chamber's Distinguished Service Award.

As chairman of the chamber 4 years ago, Charlie Grainger expanded its economic development emphasis to create a coordinated Partnership for Economic Development. Madison County led all Alabama's counties in new plant and equipment investments that year.

As vice president of administration at Teledyne Brown, a major defense contractor, Charlie is responsible for coordinating governmental relations activities with agencies and Congress. He has overall management responsibility for the departments of human resources, facilities, public relations, administrative services, security, technical communications, and computing resources and technology. He has held his current position since 1978, having served as director of administration from 1967 to 1978. He joined Brown Engineering as assistant to the director of administration in 1963.

Charlie was elected to the Alabama House of Representatives in 1968 and 1970, and was an award-winning legislator. He sponsored a water pollution control act and a school bus safety act, both of which became national models. Both pieces of legislation were named after their sponsor by joint resolution, which is somewhat rare. As a member of the Ways and Means Committee, he

VOL
142
PT
6
AP
15
—
24
1996
UMI

secured funding to begin the University of Alabama in Huntsville nursing education program, to establish physical health facilities at Alabama A&M University, and to complete the Huntsville-Madison County Mental Health Center. He served as an elected member of the Alabama Democratic Executive Committee from 1966 through 1990, serving as a delegate to the 1980 Democratic National Convention. He was a presidential campaign coordinator for Senator John GLENN in 1984 and Vice President AL GORE in 1988.

A native of Lawrence County, Alabama, Charlie grew up in Sheffield, attended Florence State College, and earned a master of science degree in management from Southeastern Institute of Technology. His work as a member of the Base Realignment and Closing Commission Community Task Force was invaluable during the base closure rounds of 1991, 1993, and 1995. He has received the Governor's Air Pollution Control Award; Madison County Good Government Award; Alabama Water Conservationist of the Year Award; and Huntsville-Madison County Mental Health Distinguished Service Award.

He was originally a journalist. He spent several years as a reporter for the Birmingham News. He served as editor and publisher of the Valley Voice, a weekly newspaper published in Tuscumbia.

One of the secrets to Charlie Grainger's phenomenal success is that he truly understands that in order to thrive and grow, the various groups and resources within a community must be united in supporting the bottom-line economic imperatives. In Huntsville's case these are the defense and space industries. He is an instrumental unifying force who sees the big picture and Huntsville's role in that picture. He is a leader who brings people from divergent points of view to common understandings so they can work together for the common good.

I congratulate and commend Charlie for all his accomplishments and for his superb leadership role in the development, growth, and vitality of the Hunstville area. He is a unique role model and a living testament to the tremendous results which can be realized through strong partnerships between government and industry.

TRIBUTE TO JAMES STILLMAN FREE

Mr. HEFLIN. Mr. President, on April 3, James Stillman Free, a native of Gordo, Alabama and for 33 years the Washington correspondent for The Birmingham News, passed away at the age of 87. Jim enjoyed a rich and colorful career as a journalist and historian. Back in November 1993, I had the opportunity to attend his 85th birthday celebration and it was a wonderful experience for his many friends and associates as we gathered with him to celebrate and reflect.

Jim Free attended the public schools of Tuscaloosa, AL; earned his bachelor's degree at the University of Alabama; and obtained his master's degree from Columbia University. He was part owner and editor of a weekly Tuscaloosa newspaper shortly before joining the News in 1935.

Jim's 33 years as The Birmingham News' Washington correspondent was the longest tenure for any Washington correspondent for Alabama newspapers. He spent a total of 35 years with that paper, his name and writings becoming synonymous with Alabama political coverage and analysis in the nation's capital. He also served as the Washington correspondent for the Chicago Sun, Raleigh News and Observer, and Winston-Salem Journal during the 1940's and '50's.

His coverage extended from the Great Depression and New Deal through World War II preparations and his own combat duty as a Navy Captain in the Pacific; the McCarthy "Red Scare" era; the Civil Rights movement; the assassinations of John and Robert Kennedy and Martin Luther King; and all national defense, medical, educational, and environmental issues that affected Alabama. He was an on-the-scenes, eye witness to much of the social change and history of this century.

His many "scoops" included President Truman's 1946 order for the Army to take over strike-threatened railroads, and he led the national press with his stories on the Justice Department's civil rights decisions. Jim filed overseas reports on the 1957 Berlin crisis and NATO operations in the North Sea, Western Europe, and the United Kingdom in 1966. He served as the historian for the Gridiron Club and was the author of "The First One Hundred Years: a casual chronicle of the Gridiron Club."

His World War II service allowed him to bring special insight into his coverage of national defense issues. In an October 1961 article on his time in Berlin, he said, "* * * our test of strength with Russia in the months and years ahead * * * will be 90 percent non-military. It will be political, economic, scientific, and educational. It will be a showdown of our way of life against theirs." Indeed, history proved him right.

While covering the Justice Department, Jim relayed messages from Alabama moderates to then-Attorney General Robert Kennedy during the Freedom Rider bus burning crisis. He was also one of the first reporters to question in print the validity of charges brought against public officials and private citizens by Senator Joseph McCarthy.

Jim held a number of leadership positions in his field and received a number of honors. In 1967, he was elected president of the Washington chapter of the Society of Professional Journalists. In 1989, he was inducted into the society's hall of fame. The Raymond Clapper Award committee gave him a special citation for exceptional reporting on national affairs and he received the Outstanding Alumnus Award from the University of Alabama alumni association.

It is a grand understatement to say that Jim Free was a highly regarded and respected figure. He was a well-rounded professional and a genuine person of integrity. Jim never tried to purposely harm anyone's reputation through his reporting. His professional ethics dictated that he would let the facts speak for themselves. He never tried to make a career of finding dirt on government officials. He was not a practitioner of yellow journalism and was not a purveyor of scandal.

Jim was a gentleman who possessed all the traits that one would expect to find in a gentleman—civility, an educated mind, sensitivity, courteousness, and a healthy respect for the views of others.

I was proud to have known Jim Free, who will long be remembered in the dual worlds of journalism and politics for his lifetime of service to the cause of informing citizens about the world around them. I extend my condolences to his family in the wake of their tremendous loss.

BUSINESSWOMAN EULA SIMS DURBIN

Mr. HEFLIN. Mr. President, Eula Sims Durbin, who was a pioneer of the modern poultry industry in Alabama and throughout the southeast, passed away late last month at the age of 98. She earned a place in the annals of Alabama business history during the dark years of the Great Depression when she and her husband Marshall used her $500 in savings to finance a new business venture, a fish concession. Eventually, the Durbins switched to dressed chickens because of the great difficulty in keeping fresh fish, and opened their own processing plant in Birmingham. Today, the Birmingham-based Marshall Durbin Companies is the nation's 10th largest poultry producer.

On April 2, the Birmingham Post-Herald carried an excellent story detailing the history and growth of Marshall Durbin Companies and of the crucial role Mrs. Durbin played in its enormous success. I ask unanimous consent that the text of the article be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. HEFLIN. Mr. President, Mrs. Eula S. Durbin will long be remembered for her astute business instincts,

for her willingness to take risks, and for her perseverance in the face of great uncertainty and adversity. I extend my condolences to her family in the wake of their loss.

EXHIBIT 1

[From the Birmingham Post-Herald, April 2, 1996]

MRS. DURBIN'S RISKS ARE REMEMBERED

(By Patrick Rupinski)

When they write about the seeds of Alabama's successful businesses, the gamble of Eula Sims Durbin will be recorded.

Mrs. Durbin risked all of her personal savings in a move that helped build the poultry industry in both Alabama and the Southeast.

Mrs. Durbin, who co-founded Marshall Durbin Cos. with her husband—the late Marshall Durbin Sr., died Thursday. She was 98.

"She worked to build this company and kept an active interest in it even in her 90s," said Pat Shea, a spokeswoman for Birmingham-based Marshall Durbin Companies, the nation's 10th largest poultry producer.

Mrs. Durbin's place in Alabama's business history occurred as the Great Depression gripped Birmingham in the 1930s.

Her husband wanted to start a business even though businesses were failing in record numbers.

Money was tight, but Mrs. Durbin believed in her husband enough to give him her $500 in savings to finance the venture, a fish concession at a Birmingham market.

The business struggled, particularly in the hot Alabama summers when a lack of refrigeration made keeping fish fresh difficult. But Mrs. Durbin never shied from taking a risk and supported her husband's decision to begin selling dressed chickens.

The move proved popular and soon chicken sales replaced fish. In time, the Durbins opened their own chicken processing plant in downtown Birmingham.

It started small with Mrs. Durbin doing the bookkeeping and other chores, said Ms. Shea, who had interviewed Mrs. Durbin for a history of the company.

By the 1950s, the poultry industry was changing. No longer did farmers with a few hens sell directly to poultry processors. The industry was becoming highly integrated.

By the 1960s, Marshall Durbin Companies had become part of the changes. It added more processing plants plus feed mills, hatcheries, growing facilities and distribution centers.

Today, the family-owned company has annual sales of about $200 million with facilities in three states—Alabama, Mississippi and Tennessee.

The chickens—processed at a rate of more than 2 million a week—end up as everything from frozen breaded nuggets at local supermarkets to cut pieces at KFC restaurants in California and frozen leg quarters shipped to Russia.

Ms. Shea said Mrs. Durbin however, always seemed to take the most pride in how her husband taught their son the business.

Durbin died in 1971. The couple's son, Marshall Durbin Jr., runs the company today.

Mrs. Durbin's interest in the company never waned. Even in her 90s when she was legally blind, she would have someone read her the monthly employee newsletter, Ms. Shea said.

Mrs. Durbin was born in Brookhaven, Miss., and moved to Sulligent after finishing her education, becoming a secretary to the president of a lumber company. She met her future husband while in Sulligent.

Their courtship blossomed after Mrs. Durbin moved to Birmingham to take another secretarial job.

Mrs. Durbin's funeral will be at 2 p.m. today at Ridout's Valley Chapel, followed by a private family burial. Survivors besides her son include two granddaughters, two great-grandsons and six sisters.

In lieu of flowers, the family suggests memorials to the Eula Sims Durbin Scholarship Fund at Birmingham-Southern College, Box 549003, Birmingham, Ala. 35254.

TRIBUTE TO BUCKY MILLER

Mr. HEFLIN. Mr. President, one of the most interesting people and charming characters I have met in my lifetime is Aura J. "Bucky" Miller, who celebrates the 55th anniversary of first coming to work at the Marriott Grand Hotel Resort and Golf Club in Point Clear, AL, on April 18, 1996. He just celebrated his 79th birthday on April 12 and, thankfully, has no plans to retire.

As an associate at the Grand Hotel over the course of these many years, Bucky Miller has become the very embodiment of hospitality. For many years, he has served as the hotel's resident expert on mint juleps, all-around hospitality ambassador, and official historian. He is well-known throughout Alabama and the South. Once he meets a guest, he never forgets the name or face. He has taken care of a seemingly endless number of politicians, sports figures, actors, and business people who have been guests at the hotel over the decades.

As an extraordinary hospitality ambassador, he has received a great deal of recognition and attention for his natural skills in making people feel welcome and comfortable. In 1989, the town of Fairhope, which is near Point Clear, declared the first week of June "Bucky Miller Week." That same year, he was chosen along with 17 other Marriott associates nationwide to receive the J.W. Marriott Award of Excellence in recognition of exceptional hospitality skills.

As a people-person, Bucky has a caring attitude that really endears him to his guests. He has a talent for making people feel like they are special.

Over the years, Bucky has worked as a housekeeping aide, wine steward, bartender, and kitchen steward. He left the hotel for a time to serve in World War II and to teach mathematics, but soon returned for good saying, "This hotel is in my blood." His outgoing personality soon earned him the title "Mr. Hospitality," and resulted in a continuous flow of favorable guest comments and feature articles in newspapers and magazines.

His legendary mint juleps, which he makes from his own recipe with fresh mint he grows in a garden outside the lounge, are internationally known. Seagram's published his recipe in its recipe book and named Bucky one of the country's 100 best bartenders. Bucky's other specialties include his country lemonade, the Grand Hotel brunch punch, and his hot mint toddy.

An avid sports fan, he is well-known for his philosophical conversations about football with such notable figures as Alabama Coach "Bear" Bryant and sportscaster Howard Cosell.

I am proud to be among those many privileged patrons of the Grand Hotel to have enjoyed the unique charm and natural hospitality of Bucky Miller over the years. He has always practiced what he preaches, which is, "Let simplicity, sincerity, and service be your motto." As I look toward retirement, I want to thank and commend him for all his hard work and achievements. I am looking forward to enjoying more of his simplicity, sincerity, and service when I return to Alabama next year.

TRIBUTE TO DAVE HARRIS

Mr. HEFLIN. Mr. President, earlier this year, Dave Harris retired from his position as head of the public affairs office for Redstone Arsenal and the Army Missile Command in Huntsville, AL. He was a dedicated and outstanding public servant for 33 years.

An editorial which appeared in The Huntsville Times at that time discusses his career and the characteristics which make him a truly unique individual and pleasure with which to work. I ask unanimous consent that a copy of the editorial, "One Who Made a Difference," be printed in the RECORD following my remarks.

The PRESIDING OFFICER. without objection, it is so ordered

(See Exhibit 1.)

Mr. HEFLIN. I commend and congratulate Dave Harris for all his accomplishments and hard work on behalf of the Army over the years, and hope he is enjoying his well-earned retirement.

EXHIBIT 1

[The Huntsville Times, Friday, Dec. 8, 1995]

ONE WHO MADE A DIFFERENCE

There are a handful of people who make a difference in any community. They're usually visible personalities like government or community leaders, businessmen or clergy. Dave Harris has made an impact behind the scenes for 33 years.

Harris, 65, will retire Jan. 3 as the head of the public-affairs office for Redstone Arsenal and the Army Missile Command. During that time, he's been a trusted source of information for the media on subjects ranging from high-tech missiles to traffic accidents. He's also been a trusted source for Army employees, squelching unfounded rumors that could affect morale or raising legitimate concerns to management's attention.

Less well known has been his role as adviser to Redstone commanders, project managers and community leaders on matters of importance to each.

Harris is uncommon partly because he has been at the same job for so long. He knows who to call for answers. He has a historical perspective on weapons development and the community and knows how to put both in the proper context for generals, soldiers, civil servants and citizens.

Very few media spokespersons today have any actual media experience. Harris worked

VOL
142
PT
6
AP
15
—
24
1996
UMI

for a newspaper. He is a skilled writer and knows how a story will play. He not only understands reporters and tolerates their eccentricities, he likes working with them. Those qualities make news stories more accurate and cast the Army in a more positive light.

He has believed in what his Army was doing at Redstone Arsenal. Generals to whom Harris reported describe him as "the heart and soul" and "conscience and ombudsman" of the command.

Dave Harris possesses intelligence, honesty, integrity, common sense, a sense of duty and responsibility, and a long-standing reputation for all the above. He will be difficult to replace.

U.S. FOREIGN OIL CONSUMPTION? HERE'S TODAY'S WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that, for the week ending April 12, the U.S. imported 7,635,000 barrels of oil each day—1,155,000 barrels more than the 6,480,000 barrels imported during the same period a year ago.

Americans now rely on foreign oil for more than 50 percent of their needs, and there are no signs that this upward trend will abate. Before the Persian Gulf war, the United States obtained about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians better ponder the economic calamity that will occur in America if and when foreign producers shut off our supply, or double the already enormous cost of imported oil flowing into the U.S.—now 7,635,000 barrels a day.

Mr. President, Joseph J. Romm and Charles B. Curtis wrote in the April 1996 Atlantic Monthly an extensive analysis of the impending crisis due to U.S. dependence on foreign oil. The article, "Mideast Oil Forever?" is very thorough and detailed—and I commend it to Senators and staff. At the very least, I hope Senators will read several paragraphs from this article under the subheading "The Coming Oil Crisis." Mr. President, I ask unanimous consent that the text be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Atlantic Monthly, Apr. 1996]

MIDEAST OIL FOREVER?

THE COMING OIL CRISIS

Given that the most recent war America fought was in the Persian Gulf, let's start by examining the likelihood that an oil crisis will occur in the coming decade. Forecasting is always risky, especially where oil is concerned, but consider what a variety of experienced energy hands from every point on the political spectrum have said in the past year alone. Donald Hodel, who was a Secretary of Energy under Ronald Reagan, has said that we are "sleepwalking into a disaster," and predicts a major oil crisis within a few years. Irwin Stelzer, of the American Enterprise Institute, says that the next oil shock "will make those of the 1970s seem trivial by comparison." Daniel Yergin says, "People seem to have forgotten that oil prices, like those of all commodities, are cyclical and will go up again." James Schlesinger, who was the Secretary of Energy under Jimmy Carter, has said, "By the end of this decade we are likely to see substantial price increases." In March of last year Robert Dole, the Senate majority leader, said in a speech at the Nixon Center for Peace and Freedom, "The second inescapable reality of the post-twentieth-century world is that the security of the world's oil and gas supplies will remain a vital national interest of the United States and of the other industrial powers. The Persian Gulf . . . is still a region of many uncertainties. . . . In this 'new energy order' many of the most important geopolitical decisions—ones on which a nation's sovereignty an depend—will deal with the location and routes for oil and gas pipelines. In response, our strategy, our diplomacy, and our forward military presence need readjusting." The chairman of the Federal Reserve, Alan Greenspan, not known for being an alarmist, in testimony before Congress last July raised concerns that a rising trade deficit in oil "tends to create questions about the security of our oil resources."

Concerns about a coming oil crisis have surfaced in the financial markets as well. Last October, in an article titled "Your Last Big Play in Oil," Fortune magazine listed several billionaires and "big mutual fund managers" who were betting heavily that oil prices would rise significantly. The magazine went on to suggest an investment portfolio of "companies that are best positioned to profit from the coming boom."

Fundamental trends in oil demand and supply underlie this emerging consensus. First, the world will probably need another 20 million barrels of oil a day by the year 2010, according to the Energy Information Administration (EIA). The International Energy Agency projects an even greater growth in demand, following the inexorable tide of population growth, urbanization, and industrialization.

Second, the world's population is expected to increase by 50 percent by 2020, with more than half those additional people born in Asia and Latin America. And as farm workers move to the city, much more energy and oil will be needed. The fundamentals of urbanization—commuting, transporting raw materials, constructing infrastructure, powering commercial buildings—all consume large amounts of oil and electricity. At the same time, fewer farms will have to feed more people, and so the use of mechanization, transportation, and fertilizer will increase, entailing the consumption of still more energy and oil. An analysis by one of the Department of Energy's national laboratories found that a doubling of the proportion of China's and India's populations that lives in cities could increase per capita energy consumption by 45 percent—even if industrialization and income per capita remained unchanged.

Finally, industrialization has an even greater impact on energy use. As countries develop industries, they use more energy per unit of gross national product and per worker. Crucial industries for development are also the most energy-intensive: primary metals; stone, clay, and glass; pulp and paper; petroleum refining; and chemicals. In the United States these industries account for more than 80 percent of manufacturing energy consumption (and more than 80 percent of industrial waste).

As Fortune has noted, if the per capital energy consumption of China and India rises to that of South Korea, and the Chinese and Indian populations increase at currently projected rates, "these two countries alone will need a total of 119 million barrels of oil a day. That's almost double the world's entire demand today."

Barring a major and long-lasting worldwide economic depression, global energy demand will be rising inexorably for the foreseeable future. The Persian Gulf, with two-thirds of the world's oil reserves, is expected to supply the vast majority of that increased demand—as much as 80 percent, according to the EIA. Within ten to fifteen years the Persian Gulf's share of the world export market may surpass its highest level to date, 67 percent, which was attained in 1974. The EIA predicts that in the face of increased demand, oil prices will rise slowly to $24 a barrel (1994 dollars) in 2010. If, instead, they remain low, the Gulf's share of the world export market may rise as high as 75 percent in 2010.

Although non-OPEC nations did increase production by almost 15 percent from 1980 to 1990, they increased proven reserves of oil by only 10 percent. The net result is that the remaining years of production for non-OPEC reserves has actually fallen from eighteen years to seventeen years. On the other hand, while OPEC increased production by 20 percent in the 1980s, it increased its proven reserves by 75 percent. As a result, OPEC's reserves-to-production ratio doubled to ninety years.

The growing dependence on imported oil in general and Persian Gulf oil in particular has several potentially serious implications for the nation's economic and national security. First, the United States is expected to be importing nearly 60 percent of its oil by ten years from now, with roughly a third of that oil coming from the Persian Gulf. Our trade deficit in oil is expected to double, to $100 billion a year, by that time—a large and continual drag on our economic health. To the extent that the Gulf's recapture of the dominant share of the global oil market will make price increases more likely, the U.S. economy is at risk. Although oil imports as a percent of gross domestic product have decreased significantly in the past decade, our economic vulnerability to rapid increases in the price of oil persists. Since 1970 sharp increases in the price of oil have always been followed by economic recessions in the United States.

Second, the Persian Gulf nations' oil revenues are likely to almost triple, from $90 billion a year today to $250 billion a year in 2010—a huge geopolitical power shift of great concern, especially since some analysts predict increasing internal and regional pressure on Saudi Arabia to alter its pro-Western stance. This represents a $1.5 trillion increase in wealth for Persian Gulf producers over the next decade and a half. That money could buy a tremendous amount of weaponry, influence, and mischief in a chronically unstable region. And the breakup of the Soviet Union, coupled with Russia's difficulty in earning hard currency, means that for the next decade and beyond, pressure will build to make Russia's most advanced military hardware and technical expertise available to well-heeled buyers.

The final piece in the geopolitical puzzle is that during the oil crisis of the 1970s the

countries competing with us for oil were our NATO allies, but during the next oil crisis a new, important complication will arise; the competition for oil will increasingly come from the rapidly growing countries of Asia. Indeed, in the early 1970s East Asia consumed well under half as much oil as the United States, but by the time of the next crisis East Asian nations will probably be consuming more oil than we do.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, on Friday February 23, 1996, the Federal debt broke the 5 trillion dollar sound barrier for the first time in history. The records show that on that day, at the close of business, the debt stood at $5,017,056,630,040.53.

Twenty years earlier, in 1976, the Federal debt stood at $629 billion, after the first 200 years of America's history, including two world wars. The total Federal debt in 1976, I repeat, stood at $629 billion.

Then the big spenders went to work and the interest on the Federal debt really began to take off—and, presto, during the past 2 decades the Federal debt has soared into the stratosphere, increasing by more than $4 trillion in 2 decades—from 1976 to 1996.

So, Mr. President, as of the close of business yesterday, Wednesday, April 17, 1996, the Federal debt stood—down to the penny—at $5,146,356,518,536.99. On a per capita basis, every man, woman and child in America owes $19,445.43 as his or her share of that debt.

This enormous debt is a festering, escalating burden on all citizens and especially it is jeopardizing the liberty of our children and grandchildren. As Jefferson once warned, "to preserve [our] independence, we must not let our leaders load us with perpetual debt. We must make our election between economy and liberty, or profusion and servitude." Isn't it about time that Congress heeded the wise words of the author of the Declaration of Independence?

THE 12TH ANNUAL TUFTONIA'S WEEK CELEBRATION AT TUFTS UNIVERSITY

Mr. KENNEDY. Mr. President, next week Tufts University in Medford, MA, will hold its 12th Annual Tuftonia's Week Celebration. Tufts alumni from around the world will gather to honor their outstanding university. This celebration has special meaning for me because my daughter, Kara, is a graduate of Tufts, and I am proud to count myself as a member of the Tufts family.

Tufts was founded in 1852, and it now has over 8,000 students from all 50 States and more than 100 foreign countries. The university offers degrees in a wide range of disciplines, including Liberal Arts, Engineering, Occupational Therapy, Nutrition Science and Policy, Medicine, Dentistry, Veterinary Medicine, and Law and Diplomacy.

This year, the theme of Tuftonia's Week is community service. The occasion will honor the large number of Tufts graduates across the country who are volunteering in their communities and helping to improve the lives of others in their neighborhoods through the TuftServe program. Last year, Tufts alumni contributed more than 19,000 volunteer hours, and an even higher level of participation is anticipated this year. Tufts deserves great credit for its leadership among universities in emphasizing the value of service learning and providing opportunities for students to combine community service with their academic curriculum.

I am honored to take this opportunity to congratulate Tufts' President, John DiBiaggio, and the others in the Tufts community for their impressive accomplishments.

THE TEAM ACT

Mr. BURNS. Mr. President, I recently became a co-sponsor of S. 295, the Teamwork for Employers and Management Act, a bill that is scheduled for markup today in the Labor Committee and which the Small Business Committee, on which I sit, will consider tomorrow. This bill is very important to small businesses. It is important to all business but, with 98 percent of Montana's businesses considered small, those are the folks I'm hearing from.

Many of the businesses that have contacted me were in shock. They had no idea that the committees they had formed with their employees were in violation of the law. As far as they were concerned, they were just good business practice. The committees kept the employees involved in operations and improved customer satisfaction.

But according to the National Labor Relations Act, employee involvement is illegal. The intent of the law, established in the 1930's, was to prevent employers from dominating a labor organization. And labor organization is defined as a group of employees that discusses terms or conditions of employment with the employer. That may be well and good as far as collective bargaining is concerned—at the time, the NLRA wanted to stop employers from establishing these company unions to keep independent unions out—but the law is being interpreted to mean that discussions of safety, productivity, and quality are considered conditions of employment. That's causing more than a little heart burn.

Let me give you an example. There is a Montana company I have heard from, and I will not name them since, understandably, many small businesses are afraid of having their practices brought to the attention of the NLRB. But this company, with diversified interests, has formed a committee on safety—safety not only of employees who work with a variety of equipment but of the thousands of visitors who use their facilities every day. This committee gives the employees ownership of their surroundings and results in a safer workplace for everyone.

This same company also has a committee on customer satisfaction. The employees survey the facilities periodically and decide on changes in decorations, improvements in the surroundings, how to make the area more customer friendly—basically how to draw business in and keep it. Once again, this is not only a good business practice, it is a way to keep the employees energized about their work conditions. How can this possibly be against the law? That is not only the question they are asking, it is one we should all ask.

Yet, if the National Labor Relations Board learned about these employee involvement teams, according to the law, they could penalize the employer. And in a number of cases, they already have. That does not even make sense.

Now, I know that the Government is famous for not making sense—and that is what our regulatory reform efforts are about—but here is one specific place we can make a difference. By passing this bill, the Teamwork for Employees and Management Act, without any taxpayers dollars, without any new volumes of paperwork, we can let business get back to business without fear of the heavy hand of Government coming down on them.

By simply amending the National Labor Relations Act, we can allow teamwork to continue, and allow businesses to form teams to safeguard working conditions, improvement productivity and efficiency, and boost the quality of their products. This does not just benefit the employer and the employee, it helps our economy.

Mr. President, this provision of the law may have served its purposes 60 years ago, but it is not necessary today. Small businesses need all the help they can get to survive in today's competitive market and being flexible is vital to that success. Small business owners need the input, the advice, the cooperation, and the labor of their employees. To prohibit that involvement is to squash innovation and prosperity, the very ideals that make up the American Dream.

I strongly support this legislation, Mr. President. I hope we can bring this to the floor quickly and relieve the stress on our small businesses around the Nation who have learned of their allegedly "illegal" business practices. Let us get the government off their backs once again, and let business do what they do best—create jobs and produce high quality goods and services for the world to enjoy.

VOL 142 PT 6 AP 15 — 24 1996 UMI

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT REAUTHORIZATION

Mr. BURNS. Mr. President, an important bill was recently reported out of the Senate Labor Committee and I hope it will make its way to the Senate floor quickly. This is a bill that was designed with not only children in mind—and that is foremost—but with the needs of teachers, administrators, and parents of children with disabilities. That can be a delicate balance, but I think it was achieved.

S. 1578, the Individuals With Disabilities Education Act reauthorization, ensures that children with disabilities have access to a free appropriate public education. At first, that may sound like something we would assume is a guaranteed right of any American citizen. And it is. But many children with disabilities have special needs—needs that neither the parents nor the schools can meet without sacrifice. And it seems that when this bill was first enacted in 1975, the burdens on some were increased. And 21 years later, we have the opportunity to make some positive changes.

Let me just highlight a few of the changes that are proposed that prompted me to sign my name on this bill. To begin with, S. 1578 reduces the bureaucratic maze that schools have been required to fight their way through. Right now, State and local education agencies must submit a plan or application every 3 years. Now, they will only have to prepare that plan once, unless they institute substantial changes. And the data they are required to collect is cut in half.

Some may say, "But how will that affect my child's education?" As I've visited with school administrators and teachers around Montana, it has amazed me to hear how many resources are tied up with paperwork generating, reporting requirements, and tracking. If it wasn't required by law, I wouldn't be surprised if schools refused to enroll children with disabilities. The amount of time it takes a school employee to keep up with the regulations, the amount of financial resources that are used to document school activities and student performance—it's almost a miracle that the school has the time to educate the children.

When we reduce the paperwork, the reporting requirements, the documentation, we free up time and money to devote to the education of our children and we allow those children with disabilities to achieve as much as they can possibly achieve. It allows the teacher to get back to the classroom, the administrator to get back to making sure the school is safe and the curriculum is top-notch, and the parents to rest easy knowing that their child is receiving the same educational opportunities every other child is receiving.

But one of the most common remarks I've heard from Montana schools is that they need more flexibility. And this bill gives them that. In particular, the question of discipline is often raised. Current law prohibits schools from suspending a disabled child for more than 30 days even if the child brought in a dangerous weapon or threatened a teacher or student. S. 1578 gives the school some flexibility in deciding how to handle that violation. If a child with a disability violates such a policy, that child may be suspended for up to 10 school days. In that time, the IEP team may designate an alternative placement for up to 35 days. And, if the behavior was not related to the disability, the child can be disciplined as any other nondisabled child would be.

Mr. President, I want to make sure that all children have access to a free, appropriate public education. Whether a child has a disability, mental or physical, whether a child is poor or disadvantaged, whether the parents of schoolaged children have the resources to afford special care or not—we need to take the responsibility of educating our future generations very seriously.

And there is a balance we need to maintain. Order and discipline in our schools is essential to creating an environment conducive to learning, for disabled and nondisabled children alike. There should be a balance between the parents involvement and the schools efforts in educating a child with disabilities. And there is a balance to be kept between making sure schools are accountable for the Federal dollars they receive and overburdening them with red tape. This bill, S. 1578, strikes that balance.

I join my colleagues in supporting this important legislation and I commend Senator FRIST for his hard work in making sure that both parents and schools were consulted in proposing these changes. With the bipartisan support it enjoyed in the Labor Committee, I look forward to seeing this bill brought to the Senate floor soon. Our Nation's future—our children—depend on it.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:54 a.m:, a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 842. An act to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund.

ENROLLED BILLS SIGNED

At 2:07 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the speaker has signed the following enrolled bills:

H.R. 255. An act to designate the Federal Justice Building in Miami, Florida, as the "James Lawrence King Federal Justice Building."

H.R. 869. An act to designate the Federal building and U.S. Courthouse located at 125 Market Street in Youngstown, Ohio, as the "Thomas D. Lambros Federal Building and U.S. Courthouse."

H.R. 1804. An act to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the "Judge Isaac C. Parker Federal Building."

H.R. 2415. An act to designate the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Ysleta in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building."

H.R. 2556. An act to redesignate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building."

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

At 4:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes.

MEASURED REFERRED

Pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged, the following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 842. An act to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; to the Committee on the Budget and the Committee on Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2262. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated April 1, 1996; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Armed Services, to the Committee on Environment and Public Works, to the Committee on Finance, and to the Committee on Foreign Relations.

EC-2263. A communication from the President of the United States, transmitting, pursuant to law, a report of proposed rescissions of budgetary resources; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, and to the Committee on Armed Services.

EC-2264. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report of activities for fiscal year 1995; to the Committee on Commerce, Science, and Transportation.

EC-2265. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report relative to requests for extraordinary contractual relief; to the Committee on Commerce, Science, and Transportation.

EC-2266. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, a report relative to foreign aviation authorities; to the Committee on Commerce, Science, and Transportation.

EC-2267. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, a report relative to the Traffic Alert and Collision Avoidance System; to the Committee on Commerce, Science, and Transportation.

EC-2268. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the report of the Aviation System Capital Investment Plan; to the Committee on Commerce, Science, and Transportation.

EC-2269. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the report of accomplishments during fiscal year 1994; to the Committee on Commerce, Science, and Transportation.

EC-2270. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to export vessels; to the Committee on Commerce, Science, and Transportation.

EC-2271. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "The Department of Transportation Regulatory Reform Act of 1996"; to the Committee on Commerce, Science, and Transportation.

EC-2272. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on waste disposal sites; to the Committee on Commerce, Science, and Transportation.

EC-2273. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report entitled "The Automotive Fuel Economy Program"; to the Committee on Commerce, Science, and Transportation.

EC-2274. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Airport Improvement Program; to the Committee on Commerce, Science, and Transportation.

EC-2275. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on tanker simulator training; to the Committee on Commerce, Science, and Transportation.

EC-2276. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on tanker navigation safety standards; to the Committee on Commerce, Science, and Transportation.

EC-2277. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the evaluation of oil tanker routing; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 811. A bill to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop such facilities, and for other purposes (Rept. No. 104–254).

EXECUTIVE REPORTS OF COMMITTEES

The following executive report of committee was submitted:

By Mr. Stevens, from the Committee on Governmental Affairs:

Robert E. Morin, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SARBANES:

S. 1682. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Liberty*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WYDEN:

S. 1683. A bill to amend part E of title IV of the Social Security Act to require States to regard adult relatives who meet State child protection standards as the preferred placement option for children, and to provide for demonstration projects to test the feasibility of establishing kinship care as an alternative to foster care for a child who has adult relatives willing to provide safe and appropriate care for the child; to the Committee on Finance.

By Mr. REID:

S. 1684. A bill to require that applications for passports for minors have parental signatures; to the Committee on Foreign Relations.

By Mr. KERRY:

S. 1685. A bill to provide income and economic security to the American family, and for other purposes; to the Committee on Finance.

By Mr. FORD (for himself, Mr. COATS, Mr. LUGAR, Mrs. HUTCHISON, and Mr. MCCONNELL):

S. 1686. A bill to provide for early deferred annuities under chapter 83 of Title 5, United States Code, for certain former Department of Defense employees who are separated from service by reason of certain defense base closures, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KERRY:

S. 1687. A bill to provide for annual payments from the surplus funds of the Federal Reserve System to cover the interest on obligations issued by the Financing Corporation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOLE (for himself, Mr. SIMON, Mr. ABRAHAM, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Ms. MIKULSKI, Mr. HELMS, Mr. ROTH, Mr. SANTORUM, and Mr. LUGAR):

S.J. Res. 51. A joint resolution saluting and congratulating Polish people around the world as, on May 3, 1996, they commemorate the 205th anniversary of the adoption of Poland's first constitution; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself, Mrs. KASSEBAUM, Mr. SIMON, Mr. LEAHY, Mr. JEFFORDS, and Mr. PELL):

S. Res. 248. A resolution relating to the violence in Liberia; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN:

S. 1683. A bill to amend part E of title IV of the Social Security Act to require States to regard adult relatives who meet State child protection standards as the preferred placement option for children, and to provide for demonstration projects to test the feasibility of establishing kinship care as an alternative to foster care for a child who has adult relatives willing to provide safe and appropriate care for the child; to the Committee on Finance.

THE KINSHIP CARE ACT OF 1996

• Mr. WYDEN. Mr. President, I introduce the Kinship Care Act of 1996. Today Representative Connie Morella is introducing companion legislation in the House.

Grandparents caring for grandchildren represent one of the most underappreciated natural resources in our Nation. They hold tremendous potential for curing one of our society's

VOL
142
PT
6
AP
15
—
24
1996
UMI

most pressing maladies: The care of children who have no parents, or whose parents simply aren't up to the task of providing children a stable, secure and nurturing living environment.

There is such a great reservoir of love and experience available to us, and more especially to the tens of thousands of American children who desperately need basic care giving. We provide public assistance to strangers for this kind of care, but the folks available to provide foster care homes are in short supply.

At the same time, inflexibility in current regulations often force us to ignore a precious alternative that is right at our doorstep. Our public policy planners have missed the forest for the trees. Grandparents can fill the gap. They are ready, willing and able to provide the kind of care these youngsters so desperately need.

The legislation I plan to introduce in the Senate today will give States the flexibility to provide the support these grandparents need, so that our seniors can help fill the care gap.

The House included my legislation, similar to today's bill, as part of the welfare reform measure last year. My new legislation will continue the process of shifting the focus of our child welfare system from turning children over to strangers, to granting them the loving arms of grandparents and other relatives.

States have been moving in this direction for over a decade. Over the past 10 years the number of children involved in extended family arrangements has increased by 40 percent. Currently, more than 3 million children are being raised by their grandparents. In other words, 5 percent of all families in this country are headed by grandparents.

It's time that the Federal Government get with the program and start developing policies that make it easier, instead of more difficult, for families to come together to raise their children.

My bill has several parts. The first would require States to give preference to relative providers when a child is removed from their parents' home. Too often I have heard stories of grandparents or other relatives, not finding out that their grandchildren have been removed from their children's home. By the time they know what is happening, the grandchildren are locked into the foster care system.

Often I have heard stories where brothers and sisters are split up and grandparents spend years in court trying to reunite their own families. As we rethink our child protection system, we need to rededicate ourselves to looking to families, including extended families, for solutions. When a child is separated from their parents, it is usually a painful and traumatic experience. Living with people that a child knows and trusts gives children a better chance in the world and gives families a better chance to rebuild themselves.

The second part of my bill allows States to obtain waivers to set up kinship care guardianship systems where grandparents and other relative providers can receive some financial assistance without having to turn over custody of the child to the State, and without having to go through the paperwork and bureaucratic hurdles of the foster care system.

Our child protection system is where our welfare system was about 10 years ago. We know it isn't working well, but States and the Federal Government are still fumbling for solutions. What we need to do now, as we did for our welfare system, is start opening the door for States to try new ideas to both protect children and keep families together.

As we reevaluate the effectiveness of our country's child protection systems, it's time that we identify new ideas and new ways to find loving environments for our Nation's most vulnerable children. Grandparents can provide the lynchpin for such a new system.●

By Mr. REID:

S. 1684. A bill to require that applications for passports for minors have parental signatures; to the Committee on Foreign Relations.

THE MIKEY KALE PASSPORT NOTIFICATION ACT OF 1996

Mr. REID. Mr. President, I rise to introduce legislation I intended to offer as an amendment to the immigration bill. Unfortunately, it does not appear I will have the opportunity to offer this as an amendment to that bill. I therefore decided to offer this as a freestanding bill as I believe it is an issue that needs to be addressed whether or not we decide to go back to this bill.

Much of the debate on the immigration legislation involves complex issues and arcane areas of the law. My legislation is pretty easy to understand. It is a common sense legislative solution to a simple, but troubling, issue. The issue my bill attempts to resolve is that of international parental abductions. Significantly, my bill does not attempt to right a wrong. Rather, it attempts to prevent future wrongs from occurring. And there is little dispute that absent legislation, future wrongs will occur.

The wrong that occurs is best illustrated by a living nightmare forced upon an American family from Henderson, NV. No parent should ever have to go through what Fred and Barbara Spierer went through in 1993. That year, on Valentine's Day, Barbara Spierer's ex-husband took her son to his native country, war-torn Croatia. She would soon learn that upon their arrival, her ex-husband initiated official custody proceedings in a Croatian court.

Through tremendous emotional and financial costs, Fred and Barbara Spierer were able to secure the return of young Mikey. Incredibly, this could all have been prevented if our laws didn't permit such easy procurement of passports for minors. Few would disagree that parental consent should be given before a passport is issued to a minor child. Both parents ought to be notified before the State Department issues a document permitting their child to be taken out of this country.

Presently, such joint notification is not required. Under current law, one parent can apply for a U.S. passport for his or her child, receive it, and then depart from the country with that child. Again, this can all be accomplished without the notification of the other parent. Current law is an invitation to engage in the grossest of misbehavior by a scurrilous parent. And engage in it they do. Sadly, the case of Fred and Barbara Spierer is not an isolated incident.

International parental abductions are a growing problem. In 1994, there were over 600 cases of children being abducted from the U.S.A. Thousands of parents are attempting to bring home their children who were taken from this country by a mother or father. While these cases are tracked by the State Department, children's advocates believe many more go unreported. Often, the children are snatched during a divorce. The abducting parents usually have strong ties to a foreign country. But sometimes an American-born mother or father will take off for an unfamiliar nation to flee U.S. law. Regrettably, such surreptitious travel is made quite easy because of current law. Why? Because one parent can procure the child's passport without the other one knowing.

Left-behind parents are faced with wading through a maze of foreign laws and customs in their efforts to secure their child's return. Imagine how difficult it is to find a missing child in the United States and then multiply it by 1,000. That's about how difficult it is to locate and return a child abducted overseas. And finding a missing child is only the start.

A parent must then take their case to the foreign country's legal system. Most nations do not recognize custody orders from U.S. courts. Even when criminal charges have been filed against the abducting parent in the United States, many nations will not honor a U.S. request for extradition. Some countries simply discriminate against women. The decision to fight for a child's return consumes enormous amounts of time and money. Many parents are simply without the financial wherewithal to engage in a protracted international legal battle.

For a variety of reasons, the Government is able to do very little to assist these parents. The current budgetary

constraints realistically preclude doing more to secure the return of abducted children. But they do not preclude efforts to implement additional barriers to prevent these tragic abductions from occurring.

My bill takes cost effective steps toward preventing future abductions. It implements a system of checks prior to the issuance of a minor child's passport. Both parents would be required to sign the passport application of a child under the age of 16. Or, if the parents were already divorced, the application would have to be signed by the parent of the child having primary custody. If such a law had been in place by 1993, Barbara Spierer's ex-husband would not have been able to abduct their child to Croatia. The passport would not have been issued because her written permission had not been given. I believe it is drafted in such a manner so as to give the State Department the discretion to implement a reasonable and flexible rule.

This bill is not just about parental rights and preventing these tragic international abductions. It is also about protecting the rights of our children. No one disagrees that the rights, liberties and freedoms provided in our Nation make it the best country in the world. No child should be forced to lose these rights. No child should be forced to undergo what Mikey Kale lived through. No American child, regardless of his age, should be abducted to the middle of a war torn part of the world. American parents should not be forced to endure the living nightmare that the Spierers' were forced to go through. If my bill prevents only one family from having to endure this nightmare it will be judged a success. I believe that more can be done but this is the most cost effective step we can take today.

I encourage my colleagues to cosponsor this legislation and support it should we return to consideration of the immigration bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PASSPORTS ISSUED FOR CHILDREN UNDER 16.

(a) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking "Before" and inserting "(a) IN GENERAL.—Before", and

(2) by adding at the end the following new subsection:

"(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

"(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

"(A) both parents of the child if the child lives with both parents;

"(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

"(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

"(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed on or after the date of the enactment of this Act.

By Mr. KERRY:

S. 1685. A bill to provide income and economic security to the American family, and for other purposes; to the Committee on Finance.

THE AMERICAN FAMILY INCOME AND ECONOMIC SECURITY ACT

Mr. KERRY. Mr. President, today I am introducing the American Family Income and Economic Security Act.

Not long ago the Treasury announced that the leading economic indicators were up 1.3 percent for February, the gross domestic product rose half a percent, the stock market is at record levels, inflation is subdued, interest rates are stable, unemployment is the lowest in the industrial world, job growth is the highest with over 8 million jobs since 1993; and—to topoff all of these positive indicators—the Democratic economic plan—that passed without one Republican vote—has cut the deficit by more than half—down from $290 billion to $140 billion.

We worked hard with the President against Republican stonewalling, gridlock, and continued opposition to make this happen so that even the Republican Chairman of the Federal Reserve, Alan Greenspan, told me 2 weeks ago, at a Banking Committee hearing, that this is the longest period of the most robust and sustained economic growth since the end of the Second World War, and he expects the economy to continue to grow "at a steady clip."

But this economic growth is best reflected in corporate boardrooms—businesses are finding it easier to borrow money, interest rates are low, executive salaries are up and continue to mushroom, regulations are being eased in every sector from financial services to basic manufacturing. But, in living rooms across Massachusetts there is extraordinary anxiety about jobs, health care, education, wages, and retirement.

Mr. President, I have talked to family after family in Massachusetts who told me that people at the top are doing great, but their friends on the shop floor are not. Statistics show that corporate executives are earning 170 times that of their lowest paid worker. Just last year CEO's had an average salary increase of 15 percent while their workers are downsized into the street. These workers—whose real wages have fallen half-a-percent every year since 1973—worry about the future, about elderly parents getting sick, about their kids' education, about their own health care if they lose their job, about the debt they are carrying, and about their retirement.

I understand how difficult it is when productivity rose 7 percent but real wages fell 3 percent in the first 6 years of the 1990's. A family that used to take out a loan for a major expense like a car, now put gas on their credit cards. They took out loans to send kids to college, now they take out loans to send kids to the pediatrician. The American family is sinking further and further into debt and this Republican Congress is making it worse.

In 1995 commercial banks earned an all-time record high profit of $48.8 billion while consumer debt has soared 39 percent in the last 5 years and now exceeds $1 trillion. Personal bankruptcies rose by 6 percent in 1 year, and consumers owe $360 billion on their credit cards. And families in Massachusetts, fourth in the Nation in loan delinquencies, have defaulted on $80 million in consumer loans.

Mr. President, in these economic times, the average American family has four credit cards—each with balances of $4,800. It's no wonder we are anxious. Thousands and thousands of families are one paycheck away from economic disaster. But, it took Pat Buchanan to wake up the Republican Party to do something the Democrats have been doing since the Roosevelt administration—fighting for working families and people struggling to make ends meet. Yet the Republicans have done nothing to alleviate this anxiety. They will not even raise the minimum wage—in fact they have downsized the American dream for millions of hard working families, but voted time and again to increase corporate welfare, and give huge tax breaks to the wealthiest Americans.

Therefore, today, to fight back, I am announcing that I will introduce the American Family Income and Economic Security Act.

It helps families by increasing the minimum wage, helps them educate their kids and re-educate themselves, helps secure portable, affordable, health care with no preexisting conditions clause, and makes investments for retirement easier. I believe that this legislation can go a long way to restoring faith in the American dream.

The American Family Income and Economic Security Act gives incentives to businesses that become better corporate citizens and that foster a family-friendly environment that provides high-wage jobs for the 21st century.

It includes 10 new approaches to family economic problems, and 10 initiatives that I have sponsored before. But,

VOL
142
PT
6
AP
15
—
24
1996
UMI

what makes this proposal unique is that it takes simple, necessary, common sense steps in the right direction. Each element of this plan can stand alone. It uses the Tax Code to help workers keep up, and rewards businesses that reward workers.

I believe that these proposals are what real families need to make ends meet and to feel that they have a chance in the new economy.

Let us start with wages. Under this proposal we reward work—those who are on the job and off the dole—by increasing the minimum wage from $4.25 and hour to $5.15 an hour. Maybe my Republican opponents don't know what an increase means in real terms: It means an additional $1,800—the equivalent of 7 months of groceries.

Second, when it comes to educating kids—while the Republicans are cutting Pell grants and student loans for average working families—I want to use the Tax Code creatively. This proposal gives every family a $10,000 maximum deduction for tuition costs; and it allows their sons or daughters, who take out a student loan, to deduct the interest on that loan so they are not saddled with debt as soon as they graduate.

But more than helping families pay for tuition costs, I want to help parents get the lifetime education and training they will need to compete. That is why my proposal encourages companies to provide education and training with a $5,200 per employee tax deduction for training.

These proposals are real-life solutions to real-life family problems. How can we say that everyone should go to college—everyone should be trained and retrained—and then make it as difficult as we can to do it. How can we not provide incentives to help educate our workforce when we know that in 1972 people with advanced degrees earned 72 percent more than high school graduates—when we know that by 1992 those with graduate degrees made 2.5 times more than high school graduates—and when we know that today high school dropouts earn scarcely half as much as high school graduates and the education gap is widening?

But education costs and retraining are not the only hurdles families are facing. Health care costs and the fear of catastrophic illness of a loved one add to America's insecurities. Every American has the right to feel secure that if they get sick, or their child or parents get sick, they will not face financial ruin. So, my plan endorses the Kennedy-Kassebaum bill that makes health insurance portable and limits preexisting condition clauses. But it goes one step further.

We know too well the horrors of a family who has tragically lost a loved one at a young age. The entire family, in a time of grief, can be faced with mounting medical bills. This proposal provides some security for younger families who are forced to sell family property because of a terminal illness. It zeroes-out capital gains taxes for them to give them a chance to recover.

I am tired of going around Massachusetts and hearing stories of a family that took 10 years to crawl out from under the burden of debt caused by the loss of a loved one to breast cancer—which strikes 1 in every 9 Massachusetts women—or AIDS—which is the leading killer of Massachusetts residents aged 25 to 44. I am tired of going back to Washington to see Republicans continue their attempts to cut Medicare and Medicaid and cruelly leave so many of these young families in their political wake.

Young families are the strength of this Nation. If they work hard they have every right to expect success, security, and a piece of the dream—and it is up to us to help them achieve it. I came to the Senate when my daughters were young and I know how hard it is to have a career and be a good parent. Many families cannot afford the cost of daycare, and do not want to be separated from their children. That is why I am proposing that businesses get a tax credit of up to 50 percent of their investment up to $150,000 for establishing on-site daycare centers for employees. Since the average American family spends $9,000 a year on daycare, it makes sense to help businesses keep families together—kids can be a few floors away rather than a few miles away, and we can take away parental anxiety while we raise their productivity. The Glass Ceiling Commission and others said that on-site daycare raises the productivity of American workers by 10 percent. So what are we waiting for?

These are proposals to put more money in people's pockets, and there is one more proposal that is especially important to Massachusetts and working families everywhere: I am proposing to create a Federal tax deduction for local sewer and water fees to help those hardest hit by soaring water rates that are above 1 percent of a taxpayers adjusted gross income.

In and around Boston, water rates continue to escalate—from $185 per year in 1985 to $525 per year in 1992 and $618 for 1996. By the year 2000, the rate is projected to rise to $800. The Tax Code allows deductions for State and local taxes, and this will similarly avoid the double tax on water and sewer rates for homeowners.

And most importantly I reiterate my strong desire to double the income levels for those who participate in IRA's. I want individuals with incomes of $50,000 and couples who make $80,000 to be allowed to deduct IRA contributions. And I want them to be allowed early distribution to finance education, first time home buying, medical bills associated with catastrophic illness and long-term unemployment. This is a common sense approach to increasing the national savings rate without breaking the Treasury. This is an innovative approach that gives families the flexibility to grow and build and cope with economic reality.

These are the creative programs we should incorporate into the Tax Code instead of giving tax breaks to MacDonalds to finance their foreign advertising budget. That is why I sponsored a bipartisan bill to cut $60 billion in corporate welfare and that is why I am proposing to stop companies from deducting the salaries of employees who earn over $1 million a year.

No wonder the average American does not trust Government to help them.

To begin helping business move us in the right direction I am proposing today a seven part business-to-family plan that provides direct assistance to high-growth, high-wage, job-producing businesses; and punishes businesses that put the bottom-line first and families last.

On the positive side, I am proposing to completely eliminate capital gains taxes for investors who hold stock for more than 10 years in qualified small, high-growth, job-creating, critical-technology companies that do at least 75 percent of their business in the United States; and I am proposing to reduce the tax burden by 50 percent for investors who hold stock for at least 5 years.

Massachusetts leads the Nation in these cutting-edge technology-driven businesses, and is a model for the Nation on making investments count for American working families. Let us make the Massachusetts high-tech experience, America's experience.

These businesses are doing it right and expanding into the global market, and we should be encouraging that expansion. That is why this plan encourages small businesses to export and that is why it levels the playing field in Federal export financing between the Export-Import Bank's 90-percent guaranteed coverage and the Small Business Administration's 75 to 80 percent coverage. The Coalition of New England Companies for Trade strongly supports this export enhancement idea because they know it will work. But, most importantly, it encourages companies to keep jobs in this country and—like Aaron Feuerstein—it encourages them to recognize that their employees are an asset not a liability.

My friends, as I meet people across this State, I find that many are concerned about their retirement. Employee pension plans should be sacred. That is why this proposal makes sure that private pension plans are not the toybox of corporate America. I am proposing that we prohibit companies from using pension plans when considering financing mergers and acquisitions; and we prohibit companies from deducting merger and acquisition expenses if the merger results in a 15 percent reduction in the work force.

And we should not be rewarding corporate behavior with misguided tax loopholes that gives favorable tax treatment to companies that move offshore. If nothing else, a good corporate citizen keeps jobs in America, stays in America, and builds the American economy. I am proposing that we close those loopholes immediately.

To take corporate citizenship one step further, I think we should punish Federal contractors that hire illegal immigrants. The Federal Government should lead by example and not allow its contractors to hire undocumented foreign workers at the expense of an American job. That is common sense and its the kind of corporate citizenship that we have every right to demand.

I am also proposing that Congress give its unequivocal support to the idea of companies granting stock options to people they layoff and downsize out of a job. Why should not CEO's with guaranteed golden parachutes give loyal workers at least a tin parachute to make downsizing easier?

I am also proposing that we retroactively and permanently extend the Research and Development tax credit that is so critical to a pro-growth, future oriented economy that understands that responsible, thoughtful investment in research and development can and will create the kind of high-wage jobs we need. This provision is, perhaps, the most critical of all. It establishes our commitment to investing in the future. It is not a gamble or a waste of taxpayers' dollars. It is a sure bet; and we should be willing to make it.

We should be willing to accept the costs of any and all of these proposals—first because they can be offset by the $60 billion in savings we get from stopping corporate welfare under the bi-partisan bill that Senator MCCAIN and I sponsored; and second, because we have to step up to the plate for what's right for working families and what's right for America.

So, what does my American Family Income and Economic Security Act do? It helps workers, it supports businesses, and it rewards corporate citizenship. It addresses the anxieties of American working families, and it begins to move us in the right direction. It fights against the wrong-headedness of Republican policies that have downsized the American dream and shifted wealth to the top 10 percent of Americans.

It is time to begin the shift back at least enough to protect hard working families from the extreme political agenda of the Republicans in Congress. So, this proposal is a hedge against the incredible odds that working families face every day in meeting the bills for health care, education, and a decent retirement. It is a hedge against stagnant wages, and it is a challenge to businesses to be good corporate citizens, and to build a family friendly workplace so that, together, we can build a better stronger American economy.

By Mr. FORD (for himself, Mr. COATS, Mr. LUGAR, Mrs. HUTCHISON, and Mr. MCCONNELL):

S. 1686. A bill to provide for early deferred annuities under chapter 83 of Title 5, United States Code, for certain former Department of Defense employees who are separated from service by reason of certain defense base closures, and for other purposes; to the Committee on Governmental Affairs.

DEFENSE PRIVATIZATION AND WORKER PROTECTION LEGISLATION

Mr. FORD. Mr. President, this country has undergone tremendous changes over the last few years as a result of military downsizing and base closures. Making the transition has proved very difficult to communities all across the country and today, in an effort to ease that transition, I am introducing legislation with original cosponsors Senators COATS, LUGAR, HUTCHINSON, and MCCONNELL directed at specific problems we've seen with privatization of these bases.

I know many of my colleagues are aware of the job loss that results from downsizing. That is because many jobs have become obsolete or redundant. But, there's also a whole other category of affected employees, whose skills and expertise are still needed by the military in the same roles, but in new privatized facilities. Under the 1995 Base Closure and Realignment Commission (BRAC), these employees are still eligible to work for the Federal Government and receive a Federal pension.

However, this would defeat one of our major goals in privatization—to save the taxpayer money. The idea under privatization is to continue utilizing these workers' much-needed skills, but in the private sector, at a reduced cost to the taxpayer. Yet, by sending these workers out into the private sector, we are asking a huge portion of them to give up their retirement benefits.

These workers are in a catch-22. If they move into the privatized facilities, where they would be performing the same mission and jobs as they had as Federal employees, they lose hard-earned pensions. If they remain in the Federal Government, they could face lower paying positions, while the community loses those workers altogether.

With little incentive to move into the private sector, these employees could create a vacuum that private contractors are unable to fill. Under that scenario everyone loses: Highly skilled workers will be underemployed and underpaid. Private contractors won't be able to meet the challenge of taking over government facilities. And the taxpayer will foot the $390 million cost-avoidance bill the Navy estimates the government faces if they have to keep these workers on the payroll and deal with the failure of privatization.

This problem was brought to my attention when the Louisville Naval Ordnance Station began the process of privatization, where unlike other base closings, moving the work would be a far greater cost than privatizing. But, it is a problem faced by workers in the same situation all across the country.

That is why I am introducing legislation to provide a deferred annuity for those Department of Defense employees who are targeted for privatization, but stand to lose their benefits under the Civil Service Retirement System (CSRS). With this legislation, we can make good on the promise our Government made with these employees when they entered Government Service, and assure private contractors that a skilled work force will be available to them when they assume control of former Defense Department facilities.

Most Federal employees hired before 1984 participate in the CSRS, while workers hired after 1984 belong to the Federal Employees Retirement System (FERS). Unlike CSRS, FERS is a portable plan, allowing a Federal employee to move between Federal and non-federal employment, without significantly penalizing the accrual of Federal benefits. Unfortunately, CSRS participants do not enjoy this same flexibility, because CSRS is a single component defined benefit plan.

Because CSRS-covered employees are forced to separate from Federal employment before they're eligible for an immediate annuity, they see their federal retirement benefits lose considerable value. And, employees who withdraw their retirement contribution not only forfeit all benefits, but also cost the government money up front.

I think we can all agree that privatization is a key component of reorganizing our defense priorities in this post-cold-war era of military downsizing. But, I believe my legislation is critical to ensuring that privatization works.

It can accomplish these goals by providing a deferred annuity with indexing pension benefits for CSRS Department of Defense employees. Their positions will be immediately transferred to contractors assuming the workload designated for privatization. In this way we can provide a very restricted, but common sense way of keeping our military infrastructure running smoothly as we embark on military privatization's maiden voyage.

And perhaps equally important, my legislation sends a clear message to

VOL
142
PT
6
AP
15
—
24
1996
UMI

this work force that their loyalty and dedication did not go unnoticed. These workers provided our men and women in uniform with the finest maintenance, supply and logistics system in the world. The best way we can repay this commitment to excellence is to uphold the Federal Government's end of the contract made when these workers first entered Government Service. That's in the workers' best interest and in the best interest of the Nation.

I would also like at this time to thank Mrs. Carolyn Merk of the Congressional Research Service for her outstanding professional work in helping craft this legislation that we're introducing today.

Mr. President, I ask unanimous consent that additional material be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EARLY DEFERRED ANNUITIES OF CERTAIN FORMER EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) Definitions.—For purposes of this section—

(1) the term "Civil Service Retirement System" means the retirement system under subchapter III of chapter 83 of title 5, United States Code;

(2) the term "defense contractor" means any entity that—

(A) contracts with the Department of Defense to perform a function previously performed by Department of Defense employees;

(B) performs that function at the same installation at which such function was previously performed by Department of Defense employees or in the vicinity of that installation; and

(C) is the employer of one or more transferred employees;

(3) the term "early deferred retirement age" means the first age at which a transferred employee would have been eligible for immediate retirement under subsection (a) or (b) of section 8336 of title 5, United States Code, if such transferred employee had remained an employee within the meaning of section 8331(1) of such title continuously until attaining such age;

(4) the term "severance pay" means severance pay payable under section 5595 of title 5, United States Code;

(5) the term "separation pay" means separation pay payable under section 5597 of title 5, United States Code; and

(6) the term "transferred employee" means a former employee of the Department of Defense (other than a temporary employee) who—

(A) while employed by the Department of Defense at a military installation to be closed or realigned pursuant to recommendations of the Defense Base Closure and Realignment Commission that were approved by the President in 1995 under section 2903(e) of the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and while covered under the Civil Service Retirement System, was separated from Federal service in a reduction-in-force resulting from conversion from performance of a function by Department of Defense employees at that military installation to performance of that function by a defense contractor at that installation or in the vicinity of that installation;

(B) is employed by the defense contractor within 60 days following such separation to perform substantially the same function performed before the separation;

(C) remains employed by the defense contractor or a successor defense contractor, or subcontractor of a defense contractor until attaining early deferred retirement age or is involuntarily separated from employment by the defense contractor before attaining such age for reasons other than misconduct;

(D) at the time separated from Federal service, was not eligible for an immediate annuity under the Civil Service Retirement System;

(E) does not withdraw retirement contributions under section 8342 of title 5, United States Code; and

(F)(i) has not received separation pay or severance pay due to a separation described in subparagraph (A); or

(ii) has repaid the full amount of such pay with interest (as determined by the Office of Personnel Management) to the Department of Defense before attaining early deferred retirement age.

(b) Retirement Benefits of Transferred Employees.—Notwithstanding the age requirement under section 8338(a) of title 5, United States Code, payment of a deferred annuity for which a transferred employee is eligible under that section shall commence on the first day of the first month that begins after the date on which the transferred employee attains early deferred retirement age.

(c) Computation of Average Pay.—(1)(A) This paragraph applies to the computation of the annuity of a transferred employee who retires under this section who immediately before separation from Federal service as described under subsection (a)(6)(A) was employed in a position classified under the General Schedule.

(B) Subject to subparagraph (C), in the computation of an annuity referred to under subparagraph (A) for a transferred employee, the average pay of the transferred employee under section 8331(4) of title 5, United States Code, shall be adjusted at the same time and by the same percentage that rates of basic pay are increased under section 5303 of title 5, United States Code, during the period beginning on the date on which the transferred employee separates from Federal service as described under subsection (a)(6)(A) and ending on the date on which the transferred employee attains early deferred retirement age.

(C) Average pay as adjusted by this paragraph may not exceed the limitation on maximum pay, final pay, or average pay (as applicable) under section 8340(g)(1) (A) or (B) of title 5, United States Code.

(2)(A) This paragraph applies to the compensation of an annuity of a transferred employee who retires in accordance with this section who immediately before separation from Federal service as described under subsection (a)(6)(A) was a prevailing rate employee as defined under section 5342(2) of title 5, United States Code.

(B) In the computation of an annuity referred to under subparagraph (A) for a transferred employee, average pay under section 8331(4) of title 5, United States Code, shall be adjusted at the same time and by the same percentage that pay rates for positions that are in the same area as, and are comparable to, the last position the transferred employee held as a prevailing rate employee, are increased under section 5343(a) of such title during the period beginning on the date on which the transferred employee separates from Federal service as described under subsection (a)(6)(A) and ending on the date on which the transferred employee attains early deferred retirement age.

(d) Service for a Defense Contractor Relating to Creditable Service and Health Insurance.—(1) Service performed by a transferred employee for a defense contractor after separation from Federal service as described under subsection (a)(6)(A) shall not be treated as creditable service for purposes of computing the amount of an early deferred annuity in accordance with this section.

(2) Nothing in this section shall be construed to require employee or agency contributions under chapter 89 of title 5, United States Code, for any period of service performed by a transferred employee for a defense contractor after separation from Federal service as described under subsection (a)(6)(A).

(e) Receipt of Benefits While Employed by a Defense Contractor.—A transferred employee may commence receipt of an early deferred annuity in accordance with this section while continuing to work for a defense contractor.

(f) Lump-Sum Credit Payment.—If a transferred employee dies before attaining early deferred retirement age, such employee shall be treated as a former employee who dies not retired for purposes of payment of the lump-sum credit under section 8342(d) of title 5, United States Code.

(g) Implementing Regulations.—The Office of Personnel Management shall promulgate regulations to carry out the provisions of this section.

(h) Effective Date.—This section shall take effect on August 1, 1996, and shall apply to transferred employees separated from Federal service on or after that date.

BRAC Privatization: The CSRS Issue

ISSUE

The 1995 Base Realignment and Closure (BRAC) Commission recommended the privatization of certain military facilities. The President has directed the Air Force to privatize two Air Force logistic centers. For privatization to succeed, the maintenance of an experienced workforce is critical. Retirement benefits have become recognized as a major impediment to the privatization of the Louisville and Indianapolis Navy facilities and other Department of Defense (DOD) facilities.

Without legislation to protect their retirement benefits many employees will—and are—transferring to other Federal positions to maintain and protect their retirement benefits under the Civil Service Retirement System (CSRS).

If many key employees transfer within the Government rather than work for a private sector contractor, privatization savings to the Government may not be fully realized. The Department of the Navy estimates that privatization of Louisville and Indianapolis would provide up to $390 million in "cost avoidance" to the Government. Unlike other Base closings, the cost to the Federal government to close and move the work at Louisville and Indianapolis is far greater than the cost of privatization. The retention of the Federal employees at these facilities is essential to the private contractor.

BACKGROUND

The 1995 BRAC Commission directed privatization of two Navy facilities with a large

federal workforce, the Naval Surface Warfare Center, Louisville, Kentucky and the Naval Surface Warfare Center, Indianapolis, Indiana. In addition, President Clinton directed the Air Force to try and privatize two Air Force logistic centers, one in Texas and one in California which were ordered to be closed by the 1995 BRAC.

These Federal employees are different from other employees adversely affected by downsizing. The key difference is that these employees are not being separated because their services are no longer needed or because the work they accomplished is redundant or unnecessary. Under the BRAC "Close and Move" scenario, these employees would have been eligible to continue their Federal employment (and qualify for an annuity) at another federal installation. These employees are expected to continue accomplishing the same mission as before, but they will be working as private sector employees.

Most Federal employees hired before 1984 currently participate in the CSRS. Those workers hired after 1984 participate in the Federal Employees Retirement System (FERS). FERS is different than CSRS because it is a portable plan that allows a Federal employee to move between Federal and non-federal employment. In doing so, the accrual of Federal benefits is not significantly penalized.

However, employees under CSRS have no portability because it is a single component defined benefit plan. Therefore, when CSRS-COVERED workers are forced to separate from Federal employment before they are eligible for an immediate annuity, their retirement benefits lose considerable value. Employees who lose their Federal position and withdraw their retirement contribution early will forfeit all benefits from the Federal government and thereby are not eligible for a pension.

Employees with the most experience tend to be covered under CSRS. These are the employees the contractor taking over the work at a government facility considers to be very valuable. For example, 46% of the employees at the Louisville Naval Surface Warfare Center are covered by CSRS and are not eligible for retirement. Many of these employees, and those in Indiana, Texas and California who are highly skilled, are seeking to transfer to other Federal positions. Some are even accepting lower paid positions within DOD so they may maintain their CSRS retirement benefits. As a result, there is little incentive for CSRS employees to accept positions with the private contractor. Therefore, the privatization of Federal facilities could fail at a significant cost to the Government and the U.S. taxpayers.

LEGISLATIVE REMEDY:

To rectify the CSRS issue, the attached draft legislation proposes to index a deferred annuity for certain DOD CSRS Employees. The legislation would address the issue of CSRS employees receiving a retirement benefit by:

Indexing the average pay on which the annuity is computed, and

Allowing a Federal deferred annuity to be paid to specific CSRS employees at the individuals optional retirement age.

The legislation will apply only to Transferred Employees of the Department of Defense. A Transferred Employee is one whose job is privatized pursuant to a 1995 decision of the BRAC Commission and pursuant to a President directive privatizing a base to be closed by the 1995 BRAC. This indexedial deferred annuity will be available only to individuals participating in CSRS, and not to those participating in FERS. The proposed legislation will apply to only those CSRS employees who are ineligible to retire and who accept work with the private contractor. They will be ineligible for severance pay.

Reasons for legislation:

At this time there are no administrative remedies.

Treats employees equitably and thus stabilizes the work force for privatization.

By Mr. KERRY:

S. 1687. A bill to provide for annual payments from the surplus funds of the Federal Reserve System to cover the interest on obligations issued by the Financing Corporation; to the Committee on Banking, Housing, and Urban Affairs.

THE FEDERAL RESERVE SURPLUS ACT OF 1996

• Mr. KERRY. Mr. President, I am introducing the Federal Reserve Surplus Act of 1996 to provide a solution to an impending crisis in our financial services industry, and to avoid once again having to use taxpayers' money to bail out another round of S&L failures. I am happy to join my colleague in the House, Congressman Barney Frank as well as other members of the Massachusetts delegation, Congressmen Joe Kennedy, Marty Meehan, and Richard Neal, who introduced the companion bill in the House of Representatives.

This bill will ease the obligation remaining from the savings and loan crisis of the 1980's with a creative approach that does not burden the banking institutions or taxpayers, but uses an existing $3.7 billion fund at the Federal Reserve. The GAO tells us that because the Federal Reserve's interest income so far exceeds its expenses, we believe it is highly unlikely the System will ever incur sufficient annual losses such that it would be required to use any funds in the surplus account.

Savings and loans are required to pay almost $800 million per year in interest on financing corporation bonds which were sold to cover depositor claims on S&L's that failed in the 1980's. This legislation would use $3 billion from the Federal Reserve's surplus fund as a contribution toward the payment of the FICO interest obligation. This would leave about $1 billion in the fund.

It is generally believed, within the financial community, as Congressman Frank has said, that "continuing to require the savings and loans to pay the entire FICO interest obligation would worsen the disparity between what banks must pay to such a degree as to risk default by the SAIF, which would ultimately result in a further drain on the Treasury."

Mr. President, this just makes sense. The Federal Reserve is controlling a fund with no specific purpose—paid in by banks—and the Congress should turn to this fund first before asking bankers in this country to bear the burden of recapitalizing the savings association insurance fund.

Mr. President, I ask unanimous consent to have the bill printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1687

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Reserve Surplus Act of 1996".

SEC. 2. TRANSFER OF FEDERAL RESERVE SURPLUS FUNDS TO MEET FICO CARRYING COSTS.

(a) In General.—Section 7(a) of the Federal Reserve Act (12 U.S.C. 289) is amended by adding at the end the following new paragraph:

"(4) FICO payments.—

"(A) In general.—During the period beginning on the date of enactment of the Federal Reserve Surplus Act of 1996 and ending on the date on which the Financing Corporation ceases to have any obligations outstanding under section 21(e) of the Federal Home Loan Bank Act, the Board shall annually transfer (in addition to the transfers of funds required under paragraph (3)) to the Financing Corporation, from amounts in the surplus funds of the Federal reserve banks, an amount equal to $3,000,000,000 divided by the number of calendar years any portion of which falls within such period for use in accordance with section 21(f)(1) of the Federal Home Loan Bank Act.

"(B) Allocation.—The Board shall annually determine, on the basis of such factors as the Board considers appropriate, the manner in which the amount of the obligation of the Board under subparagraph (A) shall be allocated among the surplus funds of the Federal reserve banks.".

(b) Conforming Amendment.—Paragraph (1) of section 21(f) of the Federal Home Loan Bank Act (12 U.S.C. 1441(f)) is amended to read as follows:

"(1) Federal reserve surplus.—

"(A) In general.—Amounts transferred to the Financing Corporation by the Board of Governors of the Federal Reserve System from the surplus funds of the Federal reserve banks in accordance with section 7(a)(4) of the Federal Reserve Act.

"(B) Treatment in case of bank insurance fund member assessments.—To the extent Bank Insurance Fund members (as defined in section 7(l)(4) of the Federal Deposit Insurance Act) are subject to any assessments under this subsection, the total amount of such assessments which, but for this subparagraph, would be imposed on all such members for any year shall be reduced by the transferred amount referred to in subparagraph (A) with respect to such year.".•

By Mr. DOLE (for himself, Mr. Simon, Mr. Abraham, Ms. Moseley-Braun, Mr. Murkowski, Ms. Mikulski, Mr. Helms, Mr. Roth, Mr. Santorum, and Mr. Lugar):

S.J. Res. 51. A joint resolution saluting and congratulating Polish people around the world as, on May 3, 1996, they commemorate the 205th anniversary of the adoption of Poland's first constitution; to the Committee on the Judiciary.

VOL
142
PT
6
AP
15
—
24
1996
UMI

POLAND CONSTITUTION 205TH ANNIVERSARY COMMEMORATION JOINT RESOLUTION

Mr. DOLE. Mr. President, today I am introducing a joint resolution which salutes and congratulates Polish people around the world on the occasion of the 205th anniversary of the Polish Constitution. I am pleased to be joined by Senators SIMON, ABRAHAM, MOSELEY-BRAUN, MURKOWSKI, MIKULSKI, HELMS, ROTH, SANTORUM, and LUGAR. This resolution is being introduced today in the House by Congressman JACK QUINN of New York and a number of bipartisan cosponsors.

Poland is one of America's oldest and closest friends. Many of its sons and daughters have crossed the ocean to our shores over the past 200 years. Indeed, from the very birth of our great nation we have benefited from the talent and dedication of the Polish people. When we fought for our independence, Thaddeus Kosciuszko—a native son of Poland—fought alongside General Washington. Today, memorials to Kosciuszko's courage, military skill, and genuine friendship, can be found in our Capital and in many cities across the United States.

Following the War of Independence, Kosciuszko carried back to Poland the American concept of constitutional democracy. Poland's 1791 Constitution was the first constitution in Central and Eastern Europe to secure individual and religious freedom for all persons. It also formed a government much like ours, composed of distinct legislative, executive, and judicial powers. I would like to quote from the Polish Constitution which declares, "All power in civil society should be derived from the will of the people."

Tragically, this Constitution was only in effect for less than 2 years. However, its principles endured for 2 centuries. And over the last 5 years—since the disintegration of the Warsaw Pact—Poland has finally realized the promise of freedom and democracy held in the 1791 Constitution.

So, on May 3, 1996, when the citizens of Poland celebrate the 205th anniversary of the adoption of Poland's first Constitution, we want them to know that the United States Congress shares in their celebration. No doubt, all across our 50 States, Polish-Americans will be celebrating and taking pride in their rich heritage. This joint resolution salutes and congratulates all Polish people, wherever they may now reside, on this great and historic occasion.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 51

Whereas, on May 3, 1996, Polish people around the world, including Americans of Polish decent, will celebrate the 205th anniversary of the adoption of the first Polish constitution;

Whereas American Revolutionary War hero Thaddeus Kosciuszko introduced the concept of constitutional democracy to his native country of Poland;

Whereas the Polish constitution of 1791 was the first liberal constitution in Europe and represented Central-Eastern Europe's first attempt to end the feudal system of government;

Whereas this Polish constitution was designed to protect Poland's sovereignty and national unity and to create a progressive constitutional monarchy;

Whereas this Polish constitution was the first constitution in Central-Eastern Europe to secure individual and religious freedom for all persons in Poland;

Whereas this Polish constitution formed a government composed of distinct legislative, executive, and judicial powers;

Whereas this Polish constitution declared that "all power in civil society should be derived from the will of the people";

Whereas this Polish constitution revitalized the parliamentary system by placing preeminent lawmaking power in the House of Deputies, by subjecting the Sejm to majority rule, and by granting the Sejm the power to remove ministers, appoint commissars, and choose magistrates;

Whereas this Polish constitution provided for significant economic, social, and political reforms by removing inequalities between the nobility and the bourgeoisie, by recognizing town residents as "freemen" who had judicial autonomy and expanded rights, and by extending the protection of the law to the peasantry who previously had no recourse against the arbitrary actions of feudal lords;

Whereas, although this Polish constitution was in effect for less than 2 years, its principles endured and it became the symbol around which a powerful new national consciousness was born, helping Poland to survive long periods of misfortune over the following 2 centuries; and

Whereas, in only the last 5 years, Poland has realized the promise held in the Polish constitution of 1791, has emerged as an independent nation after its people led the movement that resulted in historic changes in Central-Eastern Europe, and is moving toward full integration with the Euro-Atlantic community of nations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the people of the United States salute and congratulate Polish people around the world, including Americans of Polish descent, as on May 3, 1996, they commemorate the 205th anniversary of the adoption of the first Polish constitution;

(2) the people of the United States recognize Poland's rebirth as a free and independent nation in the spirit of the legacy of the Polish constitution of 1791; and

(3) the Congress authorizes and urges the President of the United States to call upon the Governors of the States, the leaders of local governments, and the people of the United States to observe this anniversary with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 881

At the request of Mr. PRYOR, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 953

At the request of Mr. CHAFEE, the names of the Senator from Nebraska [Mr. KERREY], the Senator from Maine [Ms. SNOWE], the Senator from Iowa [Mr. HARKIN], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 968

At the request of Mr. MCCONNELL, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 984

At the request of Mr. GRASSLEY, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 984, a bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

S. 1028

At the request of Mr. WYDEN, his name was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

At the request of Mrs. KASSEBAUM, the names of the Senator from Colorado [Mr. CAMPBELL], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 1028, supra.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1183, a bill to amend the Act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the Act, and for other purposes.

S. 1355

At the request of Mr. DORGAN, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Nevada [Mr. BRYAN], the Senator from Arkansas [Mr. PRYOR], the Senator from California [Mrs. BOXER], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 1355, a bill to amend the Internal Revenue Code of 1986 to end deferral for United States shareholders on income of controlled foreign corporations attributable to property imported into the United States.

S. 1400

At the request of Mrs. KASSEBAUM, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1400, a bill to require the Secretary of Labor to issue guidance as to the application of the Employee Retirement Income Security Act of 1974 to insurance company general accounts.

S. 1473

At the request of Ms. SNOWE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1473, a bill to authorize the Administrator of General Services to permit the posting in space under the control of the Administrator of notices concerning missing children, and for other purposes.

S. 1505

At the request of Mr. LOTT, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1505, a bill to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes.

S. 1537

At the request of Mr. ROBB, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 1537, a bill to require the Administrator of the Environmental Protection Agency to issue a regulation that consolidates all environmental laws and health and safety laws applicable to the construction, maintenance, and operation of above-ground storage tanks, and for other purposes.

S. 1563

At the request of Mr. SIMPSON, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1563, a bill to amend title 38, United States Code, to revise and improve eligibility for medical care and services under that title, and for other purposes.

S. 1568

At the request of Mr. HATCH, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1568, a bill to amend the Internal Revenue Code of 1986 to provide for the extension of certain expiring provisions.

S. 1578

At the request of Mr. FRIST, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1578, a bill to amend the Individuals with Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1623

At the request of Mr. WARNER, the names of the Senator from Virginia [Mr. ROBB] and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the names of the Senator from Virginia [Mr. WARNER] and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week."

SENATE RESOLUTION 248—RELATIVE TO LIBERIA

Mr. FEINGOLD (for himself, Mrs. KASSEBAUM, Mr. SIMON, Mr. LEAHY, Mr. JEFFORDS, and Mr. PELL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 248

Whereas, the war in Liberia begun in 1989 has devastated that country, with more than 150,000 people killed, up to 1 million forced to flee as refugees to neighboring countries, and thousands of children conscripted into the rebel armies;

Whereas, the Abuja Accords signed in August 1995 represented the most realistic path for lasting peace;

Whereas, the Senate passed a resolution on September 20, 1995, expressing the sense of the Congress that the United States should strongly support the peace process in Liberia, including support for the west African peacekeeping force;

Whereas the U.S. committed $10 million in support for the west African peacekeeping force, but has delivered only $5.5 million, most of which arrived only in February 1996;

Whereas, the peacekeeping force has fewer than 6,000 soldiers, but needs over 15,000 to carry out its mission;

Whereas, violence characterized by massive looting, shelling, and ethnic hostilities broke out in Monrovia on April 6, 1996, forcing tens of thousands of people into hiding, without food and water, halting most humanitarian assistance programs in Liberia, and signifying a failure of the west African peacekeeping force to maintain order and stability in Monrovia;

Whereas, 214 U.S. armed forces and 1400 support personnel have been deployed to Liberia to facilitate the successful evacuation of approximately 1800 people, including over 300 Americans, from Liberia;

Whereas, while the U.S. is the only functioning diplomatic mission in Monrovia, some nations, such as Japan, have continuing economic concerns in Liberia and other nations, such as France, have national interests in western Africa; and

Whereas, negotiations for a ceasefire and the peaceful release of hostages are being led by Ghanian Kojo Tsikata, and Cote D'Ivoire, Burkina Faso and others are trying to use their influence to moderate combatants.

Therefore, be it resolved, that the Senate

(1) commends the U.S. Armed Forces and the U.S. Embassy personnel for the successful evacuation of over 1795 people from Liberia;

(2) declares that a breakdown of the Abuja process would have disastrous humanitarian ramifications and seriously threaten other U.S. interests in west Africa;

(3) calls upon all factions to reach a ceasefire and re-commit themselves to the Abuja process; and

(4) urges the Administration to:

a. scrutinize the Federal budget to identify funds that could be either re-programmed or transferred and used to support additional non-Nigerian West African peacekeepers;

b. consider the provision of excess defense articles for communications and logistical support and training for crowd-control techniques for non-Nigerian troops to participate effectively in a west African peacekeeping force;

c. use its influence with other nations with interests in Liberia to solicit further support for west African peacekeeping forces, including their participation at the April 26 meeting of a newly-formed Contact Group in Liberia; and

d. lead efforts in the United Nations to activate a Commission in the United Nations to develop an implementation plan and sanctions against those parties violating the U.N. arms embargo on Liberia.

Mr. FEINGOLD. Mr. President, I am submitting a resolution today on behalf of myself, and Senators KASSEBAUM, SIMON, LEAHY, JEFFORDS, and PELL, which includes proposals for United States action in support of the Liberian peace process. I will be speaking at length on this later this week.

AMENDMENTS SUBMITTED

THE IMMIGRATION AND NATIONALITY ACT AMENDMENT ACT OF 1996

FAIRCLOTH AMENDMENT NO. 3674

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REVIEW OF CONTRACTS WITH STANDARDIZED CITIZENSHIP TEST CENTERS.

(a) IN GENERAL.—The Attorney General of the United States shall investigate and submit a report to the Congress regarding the

VOL
142
PT
6
AP
15
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24
1996
UMI

practices of test centers authorized to administer the standardized citizenship test pursuant to section 312.3(a) of title 8, Code of Federal Regulations. The report shall include any findings of fraudulent practices by the centers.

(b) PRELIMINARY AND FINAL REPORTS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a preliminary report of the findings of the investigation conducted pursuant to subsection (a) and shall submit to the Congress a final report within 275 days after the submission of the preliminary report.

THE HEALTH INSURANCE REFORM ACT OF 1996

KASSEBAUM (AND KENNEDY) AMENDMENT NO. 3675

Mrs. KASSEBAUM (for herself and Mr. KENNEDY) proposed an amendment to the bill (S. 1028) to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Insurance Reform Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

Subtitle A—Group Market Rules

Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.

Subtitle B—Individual Market Rules

Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.

Subtitle C—COBRA Clarifications

Sec. 121. COBRA clarifications.

Subtitle D—Private Health Plan Purchasing Cooperatives

Sec. 131. Private health plan purchasing cooperatives.

TITLE II—APPLICATION AND ENFORCEMENT OF STANDARDS

Sec. 201. Applicability.
Sec. 202. Enforcement of standards.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. HMOs allowed to offer plans with deductibles to individuals with medical savings accounts.
Sec. 302. Health coverage availability study.
Sec. 303. Sense of the Committee concerning medicare.
Sec. 304. Effective date.
Sec. 305. Severability.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))), or any health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)), that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(10) PLAN SPONSOR.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(11) SECRETARY.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(12) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

Subtitle A—Group Market Rules

SEC. 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish, under the terms of such plan, eligibility, enrollment, or premium contribution requirements for individual participants or beneficiaries, except that such requirements shall not be based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, genetic information, or disability.

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(c) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market or to require a health plan issuer to involuntarily issue a group health plan to a group health plan purchaser in a particular market if the group health plan was specifically designed for a different market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with more than one employee and not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARTICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this Act.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan, a group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status or insurability of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 202(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan; and

(ii) all group health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status or the insurability of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may, with respect to a participant or beneficiary, impose a limitation or exclusion of benefits, otherwise available under the terms of the plan only if—

(1) such limitation or exclusion is a limitation or exclusion of benefits relating to the treatment of a preexisting condition; and

(2) such limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan.

VOL
142
PT
6
AP
15
—
24
1996
UMI

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to a participant or beneficiary described in subsection (e)(2)(A) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries whose coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation to such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or a group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsections (a) and (b) may be excluded, except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse selection as approved by the applicable certifying authority (as defined in section 202(d)). During such an affiliation period, the plan may not be required to provide health care aervices or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITION.—

(1) IN GENERAL.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(2) BIRTH, ADOPTION AND PREGNANCY EXCLUDED.—The term "preexisting condition" does not apply to—

(A) an individual who, within 30 days of the date of the birth or placement for adoption of a child (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; or

(B) pregnancy.

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3); or

(3) require health plan issuers to have a lookback period that is shorter than the period described in subsection (e)(1);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUERS.—

(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates;

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsections (c) and (d), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (described in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to, or deny enrollment of, such individual; or

(B) impose a limitation or exclusion of benefits, otherwise available under such plan, for which coverage was available under the group health plan or employee health benefit plan in which the individual was previously enrolled.

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph is a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) DEFINITION OF ELIGIBLE INDIVIDUAL.—As used in subsection (a)(1), the term "eligible individual" means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans or employee health benefit plans for not less than 18 months (without a lapse of more than 30 days) immediately prior to the date on which such individual applies for enrollment in the individual health plan ;

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, elected coverage and exhausted the maximum period of coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under a State program providing an extension of such coverage.

(c) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENTS.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this Act shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

(4) CONSTRUCTION.—Nothing in this Act shall be construed to require that a State replace or dissolve high risk pools or other similar State mechanisms which are designed to provide individuals in such State with access to health benefits.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan;

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status or insurability of particular individuals.

(2) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 202(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status or the insurability of particular individuals.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

VOL
142
PT
6
AP
15
—
24
1996
UMI

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) Adoption of Alternative Mechanisms.—

(1) In general.—A State, in accordance with this section, may adopt alternative mechanisms (public or private) that are designed to provide access to affordable health benefits for individuals meeting the requirements of sections 110(b) and 111 (such as mechanisms providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, mandatory conversion policies, or any combination thereof).

(2) Procedure for state election.—If, not later than 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that—

(A) the State has adopted an alternative mechanism that achieves the goals of sections 110 and 111; or

(B) the State intends to implement an alternative mechanism that is designed to achieve the goals of sections 110 and 111;

such State alternative mechanism shall, except as provided in paragraphs (3) and (4), apply in lieu of the standards described in sections 110 and 111.

(3) Nonapplication of mechanism.—A State alternative mechanism adopted under paragraph (1) shall be presumed to achieve the goals of sections 110 and 111 and shall apply in lieu of such sections, unless the Secretary of Health and Human Services, in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, finds that the State alternative mechanism fails to—

(A) offer coverage to those individuals who meet the requirements of sections 110(b) and 111;

(B) prohibit a limitation or exclusion of benefits relating to treatment of a preexisting condition that was covered under the previous group health plan or employee health benefit plan of an individual who meets the requirements of sections 110(b) and 111;

(C) offer individuals who meet the requirements of sections 110(b) and 111 a choice of individual health plans, including at least one plan comparable to comprehensive plans offered in the individual market in such State or a plan comparable to a standard option plan available under the group or individual health insurance laws of such State; or

(D) except as provided in paragraph (4), implement a risk spreading mechanism, cross subsidy mechanism, risk adjustment mechanism, rating limitation or other mechanism (such as mechanisms described in the NAIC Model Health Plan for Uninsurable Individuals Act) designed to reduce the variation among the cost of such plans and other individual health plans offered by the carrier or available in such State.

(4) Choice of plans.—The Secretary of Health and Human Services shall waive the requirement in subparagraph (D) of paragraph (3) with respect to a State if individuals who meet the requirements of sections 110(b) and 111 in such State are provided with a choice of all individual health plans otherwise available in the individual market.

(5) Future adoption of mechanisms.—With respect to a State that implements an alternative mechanism under paragraph (1) after the period referred to in paragraph (2)—

(A) the State shall provide notice to the Secretary that such alternative mechanism achieves the goals of sections 110 and 111;

(B) the State alternative mechanism shall apply in lieu of sections 110 and 111;

(C) except as provided in subsections (d) and (e), the Secretary may make a determination as provided for in paragraph (3); and

(D) the procedures described in subsection (c) shall apply.

(b) Timeframe for Secretarial Determination.—

(1) In general.—With respect to a State election under subsection (a)(2)(B), the Secretary of Health and Human Services shall not make a determination under subsection (a)(3) until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later.

(2) Rule applicable to certain states.—With respect to a State that makes an election under subsection (a)(2)(B) and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary of Health and Human Services shall not make a determination under subsection (a) prior to January 1, 1999.

(c) Notice to State.—If the Secretary of Health and Human Services determines that a State alternative mechanism fails to meet the criteria described in subsection (a)(3), or that such mechanism is no longer being implemented, the Secretary of Health and Human Services shall notify the Governor of such State of such preliminary determination and permit the State a reasonable opportunity in which to modify the alternative mechanism or to adopt another mechanism that is designed to meet the goals of sections 110 and 111. If, after an opportunity to modify such State alternative mechanism, the mechanism fails to meet the criteria described in subsection (a)(3), the Secretary shall notify the Governor of such State that sections 110 and 111 shall apply in the State.

(d) Adoption of NAIC Model.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, has adopted a model act or acts including provisions addressing portability from a group health plan or employee health benefit plan into the individual health insurance market; and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC model act or acts, that such act or acts comply with the goals of sections 110 and 111;

a State that elects to adopt such model act or acts shall be deemed to have met the requirements of sections 110 and 111 and shall not be subject to a determination under subsection (a)(3).

(e) State High Risk Pools Deemed in Compliance.—If the Governor of a State notifies the Secretary of Health and Human Services in a timeframe consistent with either subsection (a)(2) or (a)(5) that such State has a high risk pool open to those individuals meeting the requirements of sections 110(b) and 111, that limits preexisting condition waiting periods consistent with section 110(a)(1)(B) and that with respect to premium rates and covered benefits is consistent with standards included in the NAIC Model Health Plan for Uninsurable Individuals Act, such State high risk pool shall be deemed to have met the requirements of sections 110 and 111 and shall not be subject to a determination under subsection (a)(3).

SEC. 113. DEFINITION.

(a) In General.—As used in this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) Arrangements Not Included.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital or fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) Public Health Service Act.—

(1) Period of coverage.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb-2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(2) Notices.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb-6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(3) Birth or adoption of a child.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb-8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) Employee Retirement Income Security Act of 1974.—

(1) Period of coverage.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) Notices.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(3) Birth or adoption of a child.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) Internal Revenue Code of 1986.—

(1) Period of coverage.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section";

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1995"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) Notices.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(3) Birth or adoption of a child.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) Effective Date.—The amendments made by this section shall apply to qualifying events occurring on or after the date of the enactment of this Act for plan years beginning after December 31, 1997.

(e) Notification of Changes.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) Definition.—As used in this Act, the term "health plan purchasing cooperative" means a group of employees or a group of individuals and employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers.

(b) Certification.—

(1) Requirement.—If a group described in subsection (a), desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion and shall oversee the operations of such cooperative in order to ensure continued compliance with the requirements of this section. Each such cooperative shall also be registered with the Secretary.

(2) State refusal to certify.—

(A) In general.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this Act, the Secretary shall certify and oversee the operations of such cooperatives in such State.

(B) Exception.—The Secretary shall not certify a health plan purchasing cooperative described in this section if, upon the submission of an application by the State to the Secretary, the Secretary determines that under a State law in effect on the date of enactment of this Act, all small employers have a means readily available that ensures—

(i) that individuals and employees have a choice of multiple, unaffiliated health plan issuers;

(ii) that health plan coverage is subject to State premium rating requirements that are not based on the factors described in subsection (f)(3) and that contains a mandatory minimum loss ratio; and

(iii) that comparative health plan materials are disseminated consistent with subsection (e)(1)(D);

and that otherwise meets the objectives of this Act.

(3) Interstate cooperatives.—For purposes of this section, a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) Board of Directors.—

(1) In general.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a broad cross-section of representatives of employers, employees, and individuals participating in the cooperative.

(2) Limitation on compensation.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(d) Membership and Marketing Area.—

(1) Membership.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) Marketing area.—A State may establish rules regarding the geographic area that must be served by health plan purchasing cooperatives to ensure that cooperatives do not discriminate on the basis of the health status or insurability of the populations that reside in the area served. A State may not use such rules to arbitrarily limit the number of health plan purchasing cooperatives.

(e) Duties and Responsibilities.—

(1) In general.—A health plan purchasing cooperative shall—

(A) objectively evaluate potential health plan issuers and enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible;

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State;

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) broadly solicit and actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) Permissible activities.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this Act, including—

(A) collecting and distributing premiums and performing other administrative functions;

VOL
142
PT
6
AP
15
—
24
1996
UMI

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers; and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers;

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, enrollment, or premium contribution requirements for individual participants or beneficiaries based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, genetic information, or disability;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization or organizations—

(A) in which membership in such organization is not based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, genetic information, or disability; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of an employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this Act.

(g) CONFLICT OF INTEREST.—

(1) PROHIBITION.—No individual, partnership, or corporation shall serve on the board of a health plan purchasing cooperative, be employed by such a cooperative, receive compensation from such a cooperative, or initiate or finance such a cooperative if such individual, partnership, or corporation—

(A) fails to discharge the duties and responsibilities of such individual, partnership or corporation in a manner that is solely in the interest of the members of the cooperative; or

(B) derives personal benefit (other than in the form of ordinary compensation received) from the sale of, or has a financial interest in, health plans, services or products sold by or distributed through that cooperative.

(2) CONTRACTS WITH THIRD PARTIES.—Nothing in paragraph (1) shall be construed to prohibit the board of directors of a health plan purchasing cooperative, or its officers, at the initiative and under this direction of the board, from contracting with third parties to provide administrative, marketing, consultive, or other services to the cooperative.

(h) LIMITED PREEMPTION OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—Except as provided in subparagraph (B), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section shall comply with all State rating requirements that would otherwise apply if the health plan were offered outside of the cooperative.

(B) EXCEPTION.—A State shall permit a health plan issuer to reduce premium rates negotiated with a health plan purchasing cooperative that meets the requirements of this section to reflect savings derived from administrative costs, marketing costs, profit margins, economies of scale, or other factors, except that any such reduction in premium rates may not be based on the health status, demographic factors, industry type, duration, or other indicators of health risk of the members of the cooperative.

(C) BENEFITS.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category of care, or services of any class or type of provider.

(D) EXCEPTION.—In those States that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(i) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives;

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) preempt a State from requiring licensure for individuals who are involved in directly supplying advice or selling health plans on behalf of a purchasing cooperative;

(5) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State;

(6) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans;

(7) confer authority upon a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, association plans, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section; or

(8) except as specifically provided otherwise in this subsection, prevent the application of State laws and regulations otherwise applicable to health plan issuers offering group health plans or individual health plans through a health plan purchasing cooperative.

(j) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health plan purchasing cooperative as if such plan were an employee welfare benefit plan.

TITLE II—APPLICATION AND ENFORCEMENT OF STANDARDS

SEC. 201. APPLICABILITY.

(a) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this Act on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this Act. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements or standards imposed under this Act shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this Act.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this Act as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a State enforce the requirements or standards of this Act as they relate to employee health benefit plans.

(2) PREEMPTION OF STATE LAW.—Nothing in this Act shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this Act; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this Act and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) CONTINUATION.—Nothing in this Act shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary, to all participants or beneficiaries, or to any class or group of participants or beneficiaries, in excess of or other than those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this Act pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement plan.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this Act in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this Act with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this Act in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this Act, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term "applicable certifying authority" means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this Act for the State involved; and

(2) an employee health benefit plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this Act.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1996" before the period.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. HMOS ALLOWED TO OFFER PLANS WITH DEDUCTIBLES TO INDIVIDUALS WITH MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 1301(b) of the Public Health Service Act (42 U.S.C. 300e(b)) is amended by adding at the end the following new paragraph:

"(6)(A) If a member certifies that a medical savings account has been established for the benefit of such member, a health maintenance organization may, at the request of such member reduce the basic health services payment otherwise determined under paragraph (1) by requiring the payment of a deductible by the member for basic health services.

"(B) For purposes of this paragraph, the term 'medical savings account' means an account which, by its terms, allows the deposit of funds and the use of such funds and income derived from the investment of such funds for the payment of the deductible described in subparagraph (A).".

(b) MEDICAL SAVINGS ACCOUNTS.—It is the sense of the Committee on Labor and Human Resources of the Senate that the establishment of medical savings accounts, including those defined in section 1301(b)(6)(B) of the Public Health Service Act (42 U.S.C. 300e(b)(6)(B)), should be encouraged as part of any health insurance reform legislation passed by the Senate through the use of tax incentives relating to contributions to, the income growth of, and the qualified use of, such accounts.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the Congress should take measures to further the purposes of this Act, including any necessary changes to the Internal Revenue Code of 1986 to encourage groups and individuals to obtain health coverage, and to promote access, equity, portability, affordability, and security of health benefits.

SEC. 302. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conduct a two-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a nongroup basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 303. SENSE OF THE COMMITTEE CONCERNING MEDICARE.

(a) FINDINGS.—The Committee on Labor and Human Resources of the Senate finds that the Public Trustees of Medicare concluded in their 1995 Annual Report that—

(1) the Medicare program is clearly unsustainable in its present form;

(2) "the Hospital Insurance Trust Fund, which pays inpatient hospital expenses, will be able to pay benefits for only about 7 years and is severely out of financial balance in the long range"; and

(3) the Public Trustees "strongly recommend that the crisis presented by the financial condition of the Medicare trust fund be urgently addressed on a comprehensive basis, including a review of the programs's financing methods, benefit provisions, and delivery mechanisms".

(b) SENSE OF THE COMMITTEE.—It is the Sense of the Committee on Labor and Human Resources of the Senate that the Senate should take measures necessary to reform the Medicare program, to provide increased choice for seniors, and to respond to the findings of the Public Trustees by protecting the short-term solvency and long-term sustainability of the Medicare program.

SEC. 304. EFFECTIVE DATE.

Except as otherwise provided for in this Act, the provisions of this Act shall apply as follows:

(1) With respect to group health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997.

(2) With respect to individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after the date that is 6 months after the date of enactment of this Act, or January 1, 1997, whichever is later.

(3) With respect to employee health benefit plans, such provisions shall apply to such plans on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 305. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any person or circumstance shall not be affected thereby.

DOLE (AND OTHERS) AMENDMENT NO. 3676

Mr. DOLE (for himself, Mr. ROTH, Mr. NICKLES, Mr. PRESSLER, Mr. LOTT, Mr. CRAIG, Mr. MCCONNELL, Mr. COVERDELL, Mr. GRASSLEY, Mr. D'AMATO, Mr. GREGG, Mr. SANTORUM, Mr. SHELBY, Mr. FAIRCLOTH, Mr. GRAMS, and Mr. WARNER) proposed an amendment to amendment No. 3675 proposed by Mrs. KASSEBAUM to the bill S. 1028, supra; as follows:

At the end, add the following new titles:

TITLE IV—TAX-RELATED HEALTH PROVISIONS

SEC. 400. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Health Insurance and Long-Term Care Affordability Act of 1996".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE IV—TAX-RELATED HEALTH PROVISIONS

Sec. 400. Short title; amendment of 1986 Code; table of contents.

Subtitle A—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

Sec. 401. Increase in self-employed individuals' deduction for health insurance costs.

Subtitle B—Long-Term Care Provisions

CHAPTER 1—LONG-TERM CARE SERVICES AND CONTRACTS

SUBCHAPTER A—GENERAL PROVISIONS

Sec. 411. Treatment of long-term care insurance.

Sec. 412. Qualified long-term care services treated as medical care.

Sec. 413. Certain exchanges of life insurance contracts for qualified long-term care insurance contracts not taxable.

Sec. 414. Exception from penalty tax for amounts withdrawn from certain retirement plans for qualified long-term care insurance.

Sec. 415. Reporting requirements.

SUBCHAPTER B—CONSUMER PROTECTION PROVISIONS

Sec. 421. Policy requirements.

Sec. 422. Requirements for issuers of long-term care insurance policies.

Sec. 423. Coordination with State requirements.

Sec. 424. Effective dates.

VOL
142
PT
6
AP
15
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24
1996
UMI

CHAPTER 2—TREATMENT OF ACCELERATED DEATH BENEFITS

Sec. 431. Treatment of accelerated death benefits by recipient.
Sec. 432. Tax treatment of companies issuing qualified accelerated death benefit riders.

Subtitle C—Medical Savings Accounts

Sec. 441. Medical savings accounts.

Subtitle D—High-Risk Pools

Sec. 451. Exemption from income tax for State-sponsored organizations providing health coverage for high-risk individuals.

Subtitle E—Penalty-Free IRA Distributions

Sec. 461. Distributions from certain plans may be used without penalty to pay financially devastating medical expenses.

Subtitle F—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

Sec. 471. Revision of tax rules on expatriation.
Sec. 472. Information on individuals expatriating.
Sec. 473. Report on tax compliance by United States citizens and residents living abroad.

CHAPTER 2—REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS

Sec. 481. Repeal of bad debt reserve method for thrift savings associations.

CHAPTER 3—REFORM OF THE EARNED INCOME CREDIT

Sec. 491. Earned income credit denied to individuals not authorized to be employed in the United States.

CHAPTER 4—COMPANY-OWNED INSURANCE

Sec. 495. Denial of deduction for interest on loans with respect to company-owned insurance.

Subtitle A—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

SEC. 401. INCREASE IN SELF-EMPLOYED INDIVIDUALS' DEDUCTION FOR HEALTH INSURANCE COSTS.

(a) IN GENERAL.—Section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended—

(1) by striking "30 percent" in paragraph (1) and inserting "the applicable percentage", and

(2) by adding at the end the following new paragraph:

"(6) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means the percentage determined in accordance with the following table:

"In the case of taxable years beginning in:	The applicable percentage is:
1997	35
1998	40
1999	45
2000	50
2001	55
2002	60
2003	65
2004	70
2005	75
2006 and thereafter	80."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Long-Term Care Provisions

CHAPTER 1—LONG-TERM CARE SERVICES AND CONTRACTS

Subchapter A—General Provisions

SEC. 411. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE.

"(a) IN GENERAL.—For purposes of this title—

"(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

"(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

"(4) except as provided in subsection (e)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

"(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—For purposes of this title—

"(1) IN GENERAL.—The term 'qualified long-term care insurance contract' means any insurance contract if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

"(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(C) such contract is guaranteed renewable,

"(D) such contract does not provide for a cash surrender value or other money that can be—

"(i) paid, assigned, or pledged as collateral for a loan, or

"(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C), and

"(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits.

"(2) SPECIAL RULES.—

"(A) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) SPECIAL RULES RELATING TO MEDICARE.—

"(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(ii) No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

"(C) REFUNDS OF PREMIUMS.—Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

"(A) are required by a chronically ill individual, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) CHRONICALLY ILL INDIVIDUAL.—

"(A) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity,

"(ii) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i), or

"(iii) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

"(B) ACTIVITIES OF DAILY LIVING.—For purposes of subparagraph (A), each of the following is an activity of daily living:

"(i) Eating.
"(ii) Toileting.
"(iii) Transferring.
"(iv) Bathing.
"(v) Dressing.
"(vi) Continence.

Nothing in this section shall be construed to require a contract to take into account all of the preceding activities of daily living.

"(3) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

"(4) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(d) AGGREGATE PAYMENTS IN EXCESS OF LIMITS.—

"(1) IN GENERAL.—If the aggregate amount of periodic payments under all qualified long-term care insurance contracts with respect to an insured for any period exceeds the dollar amount in effect for such period under paragraph (3), such excess payments shall be treated as made for qualified long-term care services only to the extent of the costs incurred by the payee (not otherwise compensated for by insurance or otherwise) for qualified long-term care services provided during such period for such insured.

"(2) PERIODIC PAYMENTS.—For purposes of paragraph (1), the term 'periodic payment' means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

"(3) DOLLAR AMOUNT.—The dollar amount in effect under this subsection shall be $175 per day (or the equivalent amount in the case of payments on another periodic basis).

"(4) INFLATION ADJUSTMENT.—In the case of a calendar year after 1997, the dollar amount contained in paragraph (3) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(11).

"(e) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as a part of a life insurance contract—

"(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

"(2) APPLICATION OF 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(3) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

"(4) PORTION DEFINED.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a qualified long-term care insurance contract."

(b) RESERVE METHOD.—Clause (iii) of section 807(d)(3)(A) is amended by inserting "(other than a qualified long-term care insurance contract, as defined in section 7702B(b))" after "insurance contract".

(c) LONG-TERM CARE INSURANCE NOT PERMITTED UNDER CAFETERIA PLANS OR FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—Section 125(f) is amended by adding at the end the following new sentence: "Such term shall not include any long-term care insurance contract (as defined in section 4980C)."

(2) FLEXIBLE SPENDING ARRANGEMENTS.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) INCLUSION OF LONG-TERM CARE BENEFITS PROVIDED THROUGH FLEXIBLE SPENDING ARRANGEMENTS.—

"(1) IN GENERAL.—Effective on and after January 1, 1997, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(c)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

"(2) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage."

(d) CONTINUATION COVERAGE EXCISE TAX NOT TO APPLY.—Subsection (f) of section 4980B is amended by adding at the end the following new paragraph:

"(9) CONTINUATION OF LONG-TERM CARE COVERAGE NOT REQUIRED.—A group health plan shall not be treated as failing to meet the requirements of this subsection solely by reason of failing to provide coverage under any qualified long-term care insurance contract (as defined in section 7702B(b))."

(e) AMOUNTS PAID TO SPOUSE OR RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—Section 213(d) is amended by adding at the end the following new paragraph:

"(10) CERTAIN PAYMENTS TO SPOUSE OR RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

"(A) by the spouse of the individual or a relative (directly or through a partnership, corporation, or other entity) unless the spouse or relative is a licensed professional with respect to such services, or

"(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in any of paragraphs (1) through (8) of section 152(a). This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance."

(f) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of qualified long-term care insurance.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after December 31, 1996.

(2) CONTINUATION OF EXISTING POLICIES.—In the case of any contract issued before January 1, 1997, which met the long-term care insurance requirements of the State in which the contract was issued at the time the contract was issued—

(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), and

(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

(3) EXCHANGES OF EXISTING POLICIES.—If, after the date of enactment of this Act and before January 1, 1998, a contract providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

(4) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a rider which is treated as a qualified long-term care insurance contract under section 7702B, and

(B) the addition of any provision required to conform any other long-term care rider to be so treated,

shall not be treated as a modification or material change of such contract.

SEC. 412. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702B(c)), or".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(2)(A) Paragraph (1) of section 213(d) is amended by adding at the end the following new flush sentence:

"In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (11)) shall be taken into account under subparagraph (D)."

(B) Subsection (d) of section 213 is amended by adding at the end the following new paragraph:

"(11) ELIGIBLE LONG-TERM CARE PREMIUMS.—

"(A) IN GENERAL.—For purposes of this section, the term 'eligible long-term care premiums' means the amount paid during a taxable year for any qualified long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

VOL
142
PT
6
AP
15
—
24
1996
UMI

"In the case of an individual with an attained age before the close of the taxable year of:	The limitation is
40 or less	$200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	2,000
More than 70	2,500.

"(B) INDEXING.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(ii) MEDICAL CARE COST ADJUSTMENT.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(II) such component for August of 1996.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence."

(3) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(4) Paragraph (7) of section 213(d) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 413. CERTAIN EXCHANGES OF LIFE INSURANCE CONTRACTS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS NOT TAXABLE.

(a) IN GENERAL.—Subsection (a) of section 1035 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting "; or", and by adding at the end the following new paragraph:

"(4) a contract of life insurance or an endowment or annuity contract for a qualified long-term care insurance contract (as defined in section 7702B(b))."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 414. EXCEPTION FROM PENALTY TAX FOR AMOUNTS WITHDRAWN FROM CERTAIN RETIREMENT PLANS FOR QUALIFIED LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

"(D) PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3), to the extent such distributions do not exceed the premiums for a qualified long-term care insurance contract (as defined in section 7702B(b)) for such individual or the spouse of such individual. In applying subparagraph (B), such premiums shall be treated as amounts not paid for medical care."

(b) DISTRIBUTIONS PERMITTED FROM CERTAIN PLANS TO PAY LONG-TERM CARE PREMIUMS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for the payment of premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of the employee or the spouse of the employee."

(3) Subparagraph (A) of section 457(d)(1) is amended by striking "or" at the end of clause (ii), by striking "and" at the end of clause (iii) and inserting "or", and by inserting after clause (iii) the following new clause:

"(iv) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".

(c) CONFORMING AMENDMENT.—Section 72t(2)(B) is amended by striking "subparagraph (A) or (C))" and inserting "subparagraph (A), (C), or (D))".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996.

SEC. 415. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

"SEC. 6050Q. CERTAIN LONG-TERM CARE BENEFITS.

"(a) REQUIREMENT OF REPORTING.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the person making the payments, and

"(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) LONG-TERM CARE BENEFITS.—For purposes of this section, the term 'long-term care benefit' means any amount paid under a long-term care insurance policy (within the meaning of section 4980C(e)).".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

"(ix) section 6050Q (relating to certain long-term care benefits),".

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

"(Q) section 6050Q(b) (relating to certain long-term care benefits),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050Q. Certain long-term care benefits."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits paid after December 31, 1996.

Subchapter B—Consumer Protection Provisions

SEC. 421. POLICY REQUIREMENTS.

Section 7702B (as added by section 411) is amended by adding at the end the following new subsection:

"(f) CONSUMER PROTECTION PROVISIONS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any contract if any long-term care insurance policy issued under the contract meets—

"(A) the requirements of the model regulation and model Act described in paragraph (2),

"(B) the disclosure requirement of paragraph (3), and

"(C) the requirements relating to nonforfeitability under paragraph (4).

"(2) REQUIREMENTS OF MODEL REGULATION AND ACT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any policy if such policy meets—

"(i) MODEL REGULATION.—The following requirements of the model regulation:

"(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

"(II) Section 7B (relating to prohibitions on limitations and exclusions).

"(III) Section 7C (relating to extension of benefits).

"(IV) Section 7D (relating to continuation or conversion of coverage).

"(V) Section 7E (relating to discontinuance and replacement of policies).

"(VI) Section 8 (relating to unintentional lapse).

"(VII) Section 9 (relating to disclosure), other than section 9F thereof.

"(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

"(IX) Section 11 (relating to minimum standards).

"(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

"(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(ii) MODEL ACT.—The following requirements of the model Act:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

"(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

"(3) DISCLOSURE REQUIREMENT.—The requirement of this paragraph is met with respect to any policy if such policy meets the requirements of section 4980C(d)(1).

"(4) NONFORFEITURE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any level premium long-term care insurance policy, if the issuer of such policy offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

"(B) REQUIREMENTS OF PROVISION.—The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

"(i) The nonforfeiture provision shall be appropriately captioned.

"(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying policies approved by the appropriate State regulatory authority for the same policy form.

"(iii) The nonforfeiture provision shall provide at least one of the following:

"(I) Reduced paid-up insurance.

"(II) Extended term insurance.

"(III) Shortened benefit period.

"(IV) Other similar offerings approved by the Secretary.

"(5) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this subsection, the term 'long-term care insurance policy' has the meaning given such term by section 4980C(e).".

SEC. 422. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

"SEC. 4980C. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

"(a) GENERAL RULE.—There is hereby imposed on any person failing to meet the requirements of subsection (c) or (d) a tax in the amount determined under subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be $100 per policy for each day any requirements of subsection (c) or (d) are not met with respect to each long-term care insurance policy.

"(2) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

"(c) RESPONSIBILITIES.—The requirements of this subsection are as follows:

"(1) REQUIREMENTS OF MODEL PROVISIONS.—

"(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

"(i) Section 13 (relating to application forms and replacement coverage).

"(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

"(iii) Section 20 (relating to filing requirements for marketing).

"(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

"(I) in addition to such requirements, no person shall, in selling or offering to sell a long-term care insurance policy, misrepresent a material fact; and

"(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

"(v) Section 22 (relating to appropriateness of recommended purchase).

"(vi) Section 24 (relating to standard format outline of coverage).

"(vii) Section 25 (relating to requirement to deliver shopper's guide).

"(B) MODEL ACT.—The following requirements of the model Act must be met:

"(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

"(ii) Section 6G (relating to outline of coverage).

"(iii) Section 6H (relating to requirements for certificates under group plans).

"(iv) Section 6I (relating to policy summary).

"(v) Section 6J (relating to monthly reports on accelerated death benefits).

"(vi) Section 7 (relating to incontestability period).

"(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(f)(2)(B).

"(2) DELIVERY OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the issuer shall deliver to the applicant (or policyholder or certificateholder) the policy (or certificate) of insurance not later than 30 days after the date of the approval.

"(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificateholder (or representative)—

"(A) provide a written explanation of the reasons for the denial, and

"(B) make available all information directly relating to such denial.

"(d) DISCLOSURE.—The requirements of this subsection are met if the issuer of a long-term care insurance policy discloses in such policy and in the outline of coverage required under subsection (c)(1)(B)(ii) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b).

"(e) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the term 'long-term care insurance policy' means any product which is advertised, marketed, or offered as long-term care insurance.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

"Sec. 4980C. Requirements for issuers of long-term care insurance policies.".

SEC. 423. COORDINATION WITH STATE REQUIREMENTS.

Nothing in this subchapter shall prevent a State from establishing, implementing, or continuing in effect standards related to the protection of policyholders of long-term care insurance policies (as defined in section 4980C(e) of the Internal Revenue Code of 1986), if such standards are not in conflict with or inconsistent with the standards established under such Code.

SEC. 424. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this subchapter shall apply to contracts issued after December 31, 1996. The provisions of section 411(g) of this Act (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 422 shall apply to actions taken after December 31, 1996.

CHAPTER 2—TREATMENT OF ACCELERATED DEATH BENEFITS

SEC. 431. TREATMENT OF ACCELERATED DEATH BENEFITS BY RECIPIENT.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, the following amounts shall be treated as an amount paid by reason of the death of an insured:

"(A) Any amount received under a life insurance contract on the life of an insured who is a terminally ill individual.

"(B) Any amount received under a life insurance contract on the life of an insured who is a chronically ill individual (as defined in section 7702B(c)(2)) but only if such amount is received under a rider or other provision of such contract which is treated as a qualified long-term care insurance contract under section 7702B.

"(2) TREATMENT OF VIATICAL SETTLEMENTS.—

"(A) IN GENERAL.—In the case of a life insurance contract on the life of an insured described in paragraph (1), if—

"(i) any portion of such contract is sold to any viatical settlement provider, or

"(ii) any portion of the death benefit is assigned to such a provider,

the amount paid for such sale or assignment shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

"(B) VIATICAL SETTLEMENT PROVIDER.—The term 'viatical settlement provider' means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

VOL
142
PT
6
AP
15
—
24
1996
UMI

"(i) such person is licensed for such purposes in the State in which the insured resides, or

"(ii) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes—

"(I) such person meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners, and

"(II) meets the requirements of the Model Regulations of the National Association of Insurance Commissioners (relating to standards for evaluation of reasonable payments) in determining amounts paid by such person in connection with such purchases or assignments.

"(3) Definitions.—For purposes of this subsection—

"(A) Terminally ill individual.—The term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 24 months or less after the date of the certification.

"(B) Physician.—The term 'physician' has the meaning given to such term by section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)).

"(4) Exception for business-related policies.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer."

(b) Effective Date.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1996.

SEC. 432. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) Qualified Accelerated Death Benefit Riders Treated as Life Insurance.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) Qualified Accelerated Death Benefit Riders Treated as Life Insurance.—For purposes of this part—

"(1) In general.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) Qualified accelerated death benefit riders.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract if the only payments under the rider are payments meeting the requirements of section 101(g).

"(3) Exception for long-term care riders.—Paragraph (1) shall not apply to any rider which is treated as a long-term care insurance contract under section 7702B."

(b) Effective Date.—

(1) In general.—The amendment made by this section shall take effect on January 1, 1997.

(2) Issuance of rider not treated as material change.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), and

(B) the addition of any provision required to conform an accelerated death benefit rider to the requirements of such section 818(g),

shall not be treated as a modification or material change of such contract.

Subtitle C—Medical Savings Accounts

SEC. 441. MEDICAL SAVINGS ACCOUNTS.

(a) In General.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. MEDICAL SAVINGS ACCOUNTS.

"(a) Deduction Allowed.—In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to a medical savings account of such individual.

"(b) Limitations.—

"(1) In general.—Except as otherwise provided in this subsection, the amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed—

"(A) except as provided in subparagraph (B), the lesser of—

"(i) $2,000, or

"(ii) the annual deductible limit for any individual covered under the high deductible health plan, or

"(B) in the case of a high deductible health plan covering the taxpayer and any other eligible individual who is the spouse or any dependent (as defined in section 152) of the taxpayer, the lesser of—

"(i) $4,000, or

"(ii) the annual limit under the plan on the aggregate amount of deductibles required to be paid by all individuals.

The preceding sentence shall not apply if the spouse of such individual is covered under any other high deductible health plan.

"(2) Special rule for married individuals.—

"(A) In general.—This subsection shall be applied separately for each married individual.

"(B) Special rule.—If individuals who are married to each other are covered under the same high deductible health plan, then the amounts applicable under paragraph (1)(B) shall be divided equally between them unless they agree on a different division.

"(3) Coordination with exclusion for employer contributions.—No deduction shall be allowed under this section for any amount paid for any taxable year to a medical savings account of an individual if—

"(A) any amount is paid to any medical savings account of such individual which is excludable from gross income under section 106(b) for such year, or

"(B) in a case described in paragraph (2)(B), any amount is paid to any medical savings account of either spouse which is so excludable for such year.

"(4) Proration of limitation.—

"(A) In general.—The limitation under paragraph (1) shall be the sum of the monthly limitations for months during the taxable year that the individual is an eligible individual if—

"(i) such individual is not an eligible individual for all months of the taxable year,

"(ii) the deductible under the high deductible health plan covering such individual is not the same throughout such taxable year, or

"(iii) such limitation is determined under paragraph (1)(B) for some but not all months during such taxable year.

"(B) Monthly limitation.—The monthly limitation for any month shall be an amount equal to 1/12 of the limitation which would (but for this paragraph and paragraph (3)) be determined under paragraph (1) if the facts and circumstances as of the first day of such month that such individual is covered under a high deductible health plan were true for the entire taxable year.

"(5) Denial of deduction to dependents.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(c) Definitions.—For purposes of this section—

"(1) Eligible individual.—

"(A) In general.—The term 'eligible individual' means, with respect to any month, any individual—

"(i) who is covered under a high deductible health plan as of the 1st day of such month, and

"(ii) who is not, while covered under a high deductible health plan, covered under any health plan—

"(I) which is not a high deductible health plan, and

"(II) which provides coverage for any benefit which is covered under the high deductible health plan.

"(B) Certain coverage disregarded.—Subparagraph (A)(ii) shall be applied without regard to—

"(i) coverage for any benefit provided by permitted insurance, and

"(ii) coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.

"(2) High deductible health plan.—The term 'high deductible health plan' means a health plan which—

"(A) has an annual deductible limit for each individual covered by the plan which is not less than $1,500, and

"(B) has an annual limit on the aggregate amount of deductibles required to be paid with respect to all individuals covered by the plan which is not less than $3,000.

Such term does not include a health plan if substantially all of its coverage is coverage described in paragraph (1)(B).

"(3) Permitted insurance.—The term 'permitted insurance' means—

"(A) Medicare supplemental insurance,

"(B) insurance if substantially all of the coverage provided under such insurance relates to—

"(i) liabilities incurred under workers' compensation laws,

"(ii) tort liabilities,

"(iii) liabilities relating to ownership or use of property, or

"(iv) such other similar liabilities as the Secretary may specify by regulations,

"(C) insurance for a specified disease or illness, and

"(D) insurance paying a fixed amount per day (or other period) of hospitalization.

"(d) Medical Savings Account.—For purposes of this section—

"(1) Medical savings account.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a rollover contribution described in subsection (f)(5), no contribution will be accepted—

"(i) unless it is in cash, or

"(ii) to the extent such contribution, when added to previous contributions to the trust for the calendar year, exceeds $4,000.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(2) Qualified medical expenses.—

"(A) In general.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder for medical care (as defined in section 213(d)) for such individual, the spouse of such individual, and any dependent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise.

"(B) Health insurance may not be purchased from account.—

"(i) In general.—Subparagraph (A) shall not apply to any payment for insurance.

"(ii) Exceptions.—Clause (i) shall not apply to any expense for coverage under—

"(I) a health plan during any period of continuation coverage required under any Federal law,

"(II) a qualified long-term care insurance contract (as defined in section 7702B), or

"(III) a health plan during a period in which the individual is receiving unemployment compensation under any Federal or State law.

"(3) Account holder.—The term 'account holder' means the individual on whose behalf the medical savings account was established.

"(4) Certain rules to apply.—Rules similar to the following rules shall apply for purposes of this section:

"(A) Section 219(d)(2) (relating to no deduction for rollovers).

"(B) Section 219(f)(3) (relating to time when contributions deemed made).

"(C) Except as provided in section 106(c), section 219(f)(5) (relating to employer payments).

"(D) Section 408(g) (relating to community property laws).

"(E) Section 408(h) (relating to custodial accounts).

"(e) Tax Treatment of Accounts.—

"(1) In general.—A medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) Account terminations.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(f) Tax Treatment of Distributions.—

"(1) Amounts used for qualified medical expenses.—

"(A) In general.—Any amount paid or distributed out of a medical savings account which is used exclusively to pay qualified medical expenses of any account holder (or any spouse or dependent of the holder) shall not be includible in gross income.

"(B) Treatment after death of account holder.—

"(i) Treatment if holder is spouse.—If, after the death of the account holder, the account holder's interest is payable to (or for the benefit of) the holder's spouse, the medical savings account shall be treated as if the spouse were the account holder.

"(ii) Treatment if designated holder is not spouse.—In the case of an account holder's interest in a medical savings account which is payable to (or for the benefit of) any person other than such holder's spouse upon the death of such holder—

"(I) such account shall cease to be a medical savings account as of the date of death, and

"(II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such holder, in such holder's gross income for the last taxable year of such holder.

"(2) Inclusion of amounts not used for qualified medical expenses.—

"(A) In general.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of the account holder or of the spouse or dependents of such holder shall be included in the gross income of such holder.

"(B) Special rules.—For purposes of subparagraph (A)—

"(i) all medical savings accounts of the account holder shall be treated as 1 account,

"(ii) all payments and distributions during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) Excess contributions returned before due date of return.—If the aggregate contributions (other than rollover contributions) for a taxable year to the medical savings accounts of an individual exceed the amount allowable as a deduction under this section for such contributions, paragraph (2) shall not apply to distributions from such accounts (in an amount not greater than such excess) if—

"(A) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

"(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the individual for the taxable year in which it is received.

"(4) Penalty for distributions not used for qualified medical expenses.—

"(A) In general.—The tax imposed by this chapter on the account holder for any taxable year in which there is a payment or distribution from a medical savings account of such holder which is includible in gross income under paragraph (2) shall be increased by 10 percent of the amount which is so includible.

"(B) Exception for disability or death.—Subparagraph (A) shall not apply if the payment or distribution is made after the account holder becomes disabled within the meaning of section 72(m)(7) or dies.

"(C) Exception for distributions after age 59½.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account holder attains age 59½.

"(5) Rollover contribution.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) In general.—Paragraph (2) shall not apply to any amount paid or distributed from a medical savings account to the account holder to the extent the amount received is paid into a medical savings account for the benefit of such holder not later than the 60th day after the day on which the holder receives the payment or distribution.

"(B) Limitation.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in the individual's gross income because of the application of this paragraph.

"(6) Coordination with medical expense deduction.—For purposes of determining the amount of the deduction under section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care.

"(7) Transfer of account incident to divorce.—The transfer of an individual's interest in a medical savings account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a medical savings account with respect to which the spouse is the account holder.

"(g) Cost-of-Living Adjustment.—

"(1) In general.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount in subsection (b)(1), (c)(2), or (d)(1)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the medical care cost adjustment for such calendar year.

If any increase under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

"(2) Medical care cost adjustment.—For purposes of paragraph (1), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(A) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(B) such component for August of 1996.

"(h) Reports.—The Secretary may require the trustee of a medical savings account to make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary determines appropriate. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) Deduction Allowed Whether or Not Individual Itemizes Other Deductions.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) Medical savings accounts.—The deduction allowed by section 220."

(c) Exclusions for Employer Contributions to Medical Savings Accounts.—

VOL
142
PT
6
AP
15
—
24
1996
UMI

(1) Exclusion from income tax.—Section 106 (relating to contributions by employer to accident and health plans), as amended by this Act, is amended by adding at the end the following new subsection:

"(c) Contributions to Medical Savings Accounts.—

"(1) In general.—In the case of an employee who is an eligible individual, gross income does not include amounts contributed by such employee's employer to any medical savings account of such employee.

"(2) Coordination with deduction limitation.—The amount excluded from the gross income of an employee under this subsection for any taxable year shall not exceed the limitation under section 220(b)(1) (determined without regard to this subsection) which is applicable to such employee for such taxable year.

"(3) No constructive receipt.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions referred to in paragraph (1) and employer contributions to another health plan of the employer.

"(4) Special rule for deduction of employer contributions.—Any employer contribution to a medical savings account, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

"(5) Definitions.—For purposes of this subsection, the terms 'eligible individual' and 'medical savings account' have the respective meanings given to such terms by section 220".

(2) Exclusion from employment taxes.—

(A) Social security taxes.—

(i) Subsection (a) of section 3121 is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c)."

(ii) Subsection (a) of section 209 of the Social Security Act is amended by striking "or" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting "; or", and by inserting after paragraph (18) the following new paragraph:

"(19) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c) of the Internal Revenue Code of 1986."

(B) Railroad retirement tax.—Subsection (e) of section 3231 is amended by adding at the end the following new paragraph:

"(10) Medical savings account contributions.—The term 'compensation' shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c)."

(C) Unemployment tax.—Subsection (b) of section 3306 is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting "; or", and by inserting after paragraph (16) the following new paragraph:

"(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c)."

(D) Withholding tax.—Subsection (a) of section 3401 is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c)."

(d) Medical Savings Account Contributions Not Available Under Cafeteria Plans.—Subsection (f) of section 125 is amended by inserting "106(c)," before "117".

(e) Exclusion of Medical Savings Accounts From Estate Tax.—Part IV of subchapter A of chapter 11 is amended by adding at the end the following new section:

"SEC. 2057. MEDICAL SAVINGS ACCOUNTS.

"For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any medical savings account (as defined in section 220(d)) included in the gross estate."

(f) Tax on Excess Contributions.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "medical savings accounts," after "accounts," in the heading of such section,

(2) by striking "or" at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 220(d)), or", and

(4) by adding at the end the following new subsection:

"(d) Excess Contributions to Medical Savings Accounts.—For purposes of this section, in the case of a medical savings account (within the meaning of section 220(d)), the term 'excess contributions' means the sum of—

"(1) the amount by which the amount contributed for the taxable year to the accounts (other than rollover contributions described in section 220(f)(5)) exceeds the amount allowable as a deduction under section 220 for such contributions, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of distributions out of the account included in gross income under section 220(f) (2) or (3) and the excess (if any) of the maximum amount allowable as a deduction under section 220 for the taxable year over the amount contributed to the accounts.

For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 220(f)(3) applies shall be treated as an amount not contributed."

(g) Tax on Prohibited Transactions.—

(1) Section 4975 (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(4) Special rule for medical savings accounts.—An individual for whose benefit a medical savings account (within the meaning of section 220(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 220(e)(2) to such account."

(2) Paragraph (1) of section 4975(e) is amended to read as follows:

"(1) Plan.—For purposes of this section, the term 'plan' means—

"(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medical savings account described in section 220(d), or

"(E) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph."

(h) Failure To Provide Reports on Medical Savings Accounts.—

(1) Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) Reports.—

"(1) In general.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) Provisions.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans), and

"(B) section 220(h) (relating to medical savings accounts)."

(i) Exception From Capitalization of Policy Acquisition Expenses.—Subparagraph (B) of section 848(e)(1) (defining specified insurance contract) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any contract which is a medical savings account (as defined in section 220(d))."

(j) Clerical Amendments.—

(1) The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following:

"Sec. 220. Medical savings accounts.
"Sec. 221. Cross reference."

(2) The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end the following new item:

"Sec. 2057. Medical savings accounts.".

(k) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle D—High-Risk Pools

SEC. 451. EXEMPTION FROM INCOME TAX FOR STATE-SPONSORED ORGANIZATIONS PROVIDING HEALTH COVERAGE FOR HIGH-RISK INDIVIDUALS.

(a) In General.—Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end the following new paragraph:

"(26) Any membership organization if—

"(A) such organization is established by a State exclusively to provide coverage for medical care (as defined in section 213(d)) on a not-for-profit basis to individuals described in subparagraph (B) through—

"(i) insurance issued by the organization, or

"(ii) a health maintenance organization under an arrangement with the organization,

"(B) the only individuals receiving such coverage through the organization are individuals—

"(i) who are residents of such State, and

"(ii) who, by reason of the existence or history of a medical condition, are unable to acquire medical care coverage for such condition through insurance or from a health maintenance organization or are able to acquire such coverage only at a rate which is substantially in excess of the rate for such coverage through the membership organization,

"(C) the composition of the membership in such organization is specified by such State, and

"(D) no part of the net earnings of the organization inures to the benefit of any private shareholder or individual.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle E—Penalty-Free IRA Distributions

SEC. 461. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PAY FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) In General.—Section 72(t)(3)(A) is amended by striking "(B),".

(b) Penalty-Free Distributions for Payment of Health Insurance Premiums of Certain Unemployed Individuals.—Paragraph (2) of section 72(t), as amended by section 414, is amended by adding at the end the following new subparagraph:

"(E) Distributions to unemployed individuals for health insurance premiums.—Distributions from an individual retirement plan to an individual after separation from employment—

"(i) if such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation,

"(ii) if such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year, and

"(iii) to the extent such distributions do not exceed the amount paid during the taxable year for insurance described in section 213(d)(1)(D) with respect to the individual and the individual's spouse and dependents (as defined in section 152).

To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of clause (i) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed.".

(c) Conforming Amendment.—Subparagraph (B) of section 72(t)(2), as amended by section 414, is amended by striking "or (D)" and inserting ", (D), or (E)".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle F—Revenue Offsets

CHAPTER 1—Treatment of Individuals Who Expatriate

SEC. 471. REVISION OF TAX RULES ON EXPATRIATION.

(a) In General.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) General Rules.—For purposes of this subtitle—

"(1) Mark to market.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

"(2) Recognition of gain or loss.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) Exclusion for certain gain.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(4) Election to continue to be taxed as United States citizen.—

"(A) In general.—If an expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph) shall not apply to the expatriate, but

"(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

"(B) Limitation on amount of estate, gift, and generation-skipping transfer taxes.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

"(C) Requirements.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) Election.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) Election To Defer Tax.—

"(1) In general.—If the taxpayer elects the application of this subsection with respect to any property—

"(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain from such property for the taxable year of the sale, but

"(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

"(2) Deferred tax amount.—

"(A) In general.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

"(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

"(ii) an amount of interest on the amount described in clause (i) determined for the period—

"(I) beginning on the 91st day after the expatriation date, and

"(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

"(B) Allocation of losses.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

"(3) Security.—

"(A) In general.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

"(B) Adequate security.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(4) Waiver of certain rights.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(5) Dispositions.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

"(A) immediately before death if such property is held at such time, and

"(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

"(6) Elections.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(c) Covered Expatriate.—For purposes of this section—

"(1) In general.—The term 'covered expatriate' means an expatriate—

"(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

"(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar

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amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

"(2) Exceptions.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) Property to Which Section Applies.—For purposes of this section—

"(1) In general.—Except as otherwise provided by the Secretary, this section shall apply to—

"(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be includible in the gross income of the expatriate if such interest had been sold for its fair market value on such date in a transaction in which gain is recognized in whole or in part, and

"(B) any other interest in a trust to which subsection (f) applies.

"(2) Exceptions.—This section shall not apply to the following property:

"(A) United states real property interests.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(B) Interest in certain retirement plans.—

"(i) In general.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(ii) Foreign pension plans.—

"(I) In general.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(II) Limitation.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) Definitions.—For purposes of this section—

"(1) Expatriate.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) Expatriation date.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) Relinquishment of citizenship.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) Long-term resident.—

"(A) In general.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) Special rule.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) Special Rules Applicable to Beneficiaries' Interests in Trust.—

"(1) In general.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(2) Special rules for interests in qualified trusts.—

"(A) In general.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) Amount of tax.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) Deferred tax account.—For purposes of subparagraph (B)(ii)—

"(i) Opening balance.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) Increase for interest.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

"(iii) Decrease for taxes previously paid.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) Allocable expatriation gain.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) Tax deducted and withheld.—

"(i) In general.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) Exception where failure to waive treaty rights.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) Disposition.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) Definitions and special rule.—For purposes of this paragraph—

"(i) Qualified trust.—The term 'qualified trust' means a trust—

"(I) which is organized under, and governed by, the laws of the United States or a State, and

"(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(ii) Vested interest.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

"(iii) Nonvested interest.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) Adjustments.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(3) Determination of beneficiaries' interest in trust.—

"(A) Determinations under paragraph (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) Other determinations.—For purposes of this section—

"(i) Constructive ownership.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) Taxpayer return position.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) Termination of Deferrals, Etc.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) Imposition of Tentative Tax.—

"(1) In general.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) Due date.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) Treatment of tax.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) Deferral of tax.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) Coordination With Estate and Gift Taxes.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) to prevent double taxation by ensuring that—

"(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

"(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

"(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

"(k) Cross Reference.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).".

(b) Inclusion in Income of Gifts and Inheritances From Covered Expatriates.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) Gifts and Inheritances From Covered Expatriates.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.".

(c) Definition of Termination of United States Citizenship.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(47) Termination of united states citizenship.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).".

(d) Conforming Amendments.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(f) Application.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.".

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

"(3) Cross reference.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).".

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence: "For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).".

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).".

(e) Clerical Amendment.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(f) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) Gifts and bequests.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) Special rules relating to certain acts occurring before february 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) Due date for tentative tax.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

VOL
142
PT
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AP
15
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24
1996
UMI

SEC. 472. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

"(2) TIMING.—

"(A) CITIZENS.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

"(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

"(ii) provided to the person or court referred to in section 877A(e)(3).

"(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

"(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(e) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals expatriating.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

SEC. 473. REPORT ON TAX COMPLIANCE BY UNITED STATES CITIZENS AND RESIDENTS LIVING ABROAD.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report—

(1) describing the compliance with subtitle A of the Internal Revenue Code of 1986 by citizens and lawful permanent residents of the United States (within the meaning of section 7701(b)(6) of such Code) residing outside the United States, and

(2) recommending measures to improve such compliance (including improved coordination between executive branch agencies).

CHAPTER 2—REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS

SEC. 481. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

"(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

"(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

"(A) such change shall be treated as a change in a method of accounting,

"(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

"(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

"(i) shall be determined by taking into account only applicable excess reserves, and

"(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

"(2) APPLICABLE EXCESS RESERVES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

"(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before January 1, 1996, over

"(ii) the lesser of—

"(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

"(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

"(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

"(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

"(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

"(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve; except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

"(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

"(A) IN GENERAL.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

"(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

"(ii) such taxable year shall be disregarded in determining—

"(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

"(II) the amount of such adjustment.

"(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

"(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

"(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of

the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

"(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

"(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995:

"(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

"(B) TREATMENT UNDER ELECTIVE CUT-OFF METHOD.—For purposes of applying section 585(c)(4)—

"(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

"(ii) no amount shall be includible in gross income by reason of such reduction.

"(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(c) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

"(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

"(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

"(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spin-offs, and other reorganizations.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking "by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "by a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

"(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987),".

(C) The second sentence of section 593(e)(1) is amended by striking "the association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(D) The third sentence of section 593(e)(1) is amended by striking "an association" and inserting "a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(E) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581) to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect."

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The",

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(11) Paragraph (3) of section 992(d) is amended by striking "or 593".

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(14) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7)(B).—The amendments made by subsection (b)(7)(B) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

CHAPTER 3—REFORM OF THE EARNED INCOME CREDIT

SEC. 491. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) (relating to individuals eligible to claim the earned income credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.".

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 is amended by adding at the end the following new subsection:

"(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).".

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income credit) to be included on a return, and

"(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

CHAPTER 4—COMPANY-OWNED INSURANCE

SEC. 495. DENIAL OF DEDUCTION FOR INTEREST ON LOANS WITH RESPECT TO COMPANY-OWNED INSURANCE.

(a) IN GENERAL.—Paragraph (4) of section 264(a) is amended—

(1) by inserting ", or any endowment or annuity contracts owned by the taxpayer covering any individual," after "the life of any individual", and

(2) by striking all that follows "carried on by the taxpayer" and inserting a period.

VOL
142
PT
6
AP
15
—
24
1996
UMI

(b) Exception for Contracts Relating to Key Persons; Permissible Interest Rates.—Section 264 is amended—

(1) by striking "Any" in subsection (a)(4) and inserting "Except as provided in subsection (d), any", and

(2) by adding at the end the following new subsection:

"(d) Special Rules For Application of Subsection (a)(4).—

"(1) Exception for key persons.—Subsection (a)(4) shall not apply to any interest paid or accrued on any indebtedness with respect to policies or contracts covering an individual who is a key person to the extent that the aggregate amount of such indebtedness with respect to policies and contracts covering such individual does not exceed $50,000.

"(2) Interest rate cap on key persons and pre-1986 contracts.—

"(A) In general.—No deduction shall be allowed by reason of paragraph (1) or the last sentence of subsection (a) with respect to interest paid or accrued for any month to the extent the amount of such interest exceeds the amount which would have been determined if the applicable rate of interest were used for such month.

"(B) Applicable rate of interest.—For purposes of subparagraph (A)—

"(i) In general.—The applicable rate of interest for any month is the rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

"(ii) Pre-1986 contract.—In the case of indebtedness on a contract to which the last sentence of subsection (a) applies—

"(I) which is a contract providing a fixed rate of interest, the applicable rate of interest for any month shall be the Moody's rate described in clause (i) for the month in which the contract was purchased, or

"(II) which is a contract providing a variable rate of interest, the applicable rate of interest for any month in an applicable period shall be such Moody's rate for the last month preceding such period.

For purposes of subclause (II), the taxpayer shall elect an applicable period for such contract on its return of tax imposed by this chapter for its first taxable year ending on or after October 13, 1995. Such applicable period shall be for any number of months (not greater than 12) specified in the election and may not be changed by the taxpayer without the consent of the Secretary.

"(3) Key person.—For purposes of paragraph (1), the term 'key person' means an officer or 20-percent owner, except that the number of individuals who may be treated as key persons with respect to any taxpayer shall not exceed the greater of—

"(A) 5 individuals, or

"(B) the lesser of 5 percent of the total officers and employees of the taxpayer or 10 individuals.

"(4) 20-percent owner.—For purposes of this subsection, the term '20-percent owner' means—

"(A) if the taxpayer is a corporation, any person who owns directly 20 percent or more of the outstanding stock of the corporation or stock possessing 20 percent or more of the total combined voting power of all stock of the corporation, or

"(B) if the taxpayer is not a corporation, any person who owns 20 percent or more of the capital or profits interest in the employer.

"(5) Aggregation rules.—

"(A) In general.—For purposes of paragraph (4)(A) and applying the $50,000 limitation in paragraph (1)—

"(i) all members of a controlled group shall be treated as 1 taxpayer, and

"(ii) such limitation shall be allocated among the members of such group in such manner as the Secretary may prescribe.

"(B) Controlled group.—For purposes of this paragraph, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as members of a controlled group.".

(c) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to interest paid or accrued after December 31, 1995.

(2) Transition rule for existing indebtedness.—

(A) In general.—In the case of—

(i) indebtedness incurred before January 1, 1996, or

(ii) indebtedness incurred before January 1, 1997 with respect to any contract or policy entered into in 1994 or 1995,

the amendments made by this section shall not apply to qualified interest paid or accrued on such indebtedness after October 13, 1995, and before January 1, 1999.

(B) Qualified interest.—For purposes of subparagraph (A), the qualified interest with respect to any indebtedness for any month is the amount of interest which would be paid or accrued for such month on such indebtedness if—

(i) in the case of any interest paid or accrued after December 31, 1995, indebtedness with respect to no more than 20,000 insured individuals were taken into account, and

(ii) the lesser of the following rates of interest were used for such month:

(I) The rate of interest specified under the terms of the indebtedness as in effect on October 13, 1995 (and without regard to modification of such terms after such date).

(II) The applicable percentage rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

For purposes of clause (i), all persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 or subsection (m) or (o) of section 414 of such Code shall be treated as one person.

(C) Applicable percentage.—For purposes of subparagraph (B), the applicable percentage is as follows:

For calendar year:	**The percentage is:**
1995	100 percent
1996	90 percent
1997	80 percent
1998	70 percent.

(3) Special rule for grandfathered contracts.—This section shall not apply to any contract purchased on or before June 20, 1986, except that section 264(d)(2) of the Internal Revenue Code of 1986 shall apply to interest paid or accrued after October 13, 1995.

(d) Spread of Income Inclusion on Surrender, Etc. of Contracts.—

(1) In general.—If any amount is received under any life insurance policy or endowment or annuity contract described in paragraph (4) of section 264(a) of the Internal Revenue Code of 1986—

(A) on the complete surrender, redemption, or maturity of such policy or contract during calendar year 1996, 1997, or 1998, or

(B) in full discharge during any such calendar year of the obligation under the policy or contract which is in the nature of a refund of the consideration paid for the policy or contract,

then (in lieu of any other inclusion in gross income) such amount shall be includible in gross income ratably over the 4-taxable year period beginning with the taxable year such amount would (but for this paragraph) be includible. The preceding sentence shall only apply to the extent the amount is includible in gross income for the taxable year in which the event described in subparagraph (A) or (B) occurs.

(2) Special rules for applying section 264.—A contract shall not be treated as—

(A) failing to meet the requirement of section 264(c)(1) of the Internal Revenue Code of 1986, or

(B) a single premium contract under section 264(b)(1) of such Code,

solely by reason of an occurrence described in subparagraph (A) or (B) of paragraph (1) of this subsection or solely by reason of no additional premiums being received under the contract by reason of a lapse occurring after October 13, 1995.

(3) Special rule for deferred acquisition costs.—In the case of the occurrence of any event described in subparagraph (A) or (B) of paragraph (1) of this subsection with respect to any policy or contract—

(A) section 848 of the Internal Revenue Code of 1986 shall not apply to the unamortized balance (if any) of the specified policy acquisition expenses attributable to such policy or contract immediately before the insurance company's taxable year in which such event occurs, and

(B) there shall be allowed as a deduction to such company for such taxable year under chapter 1 of such Code an amount equal to such unamortized balance.

TITLE V—HEALTH CARE FRAUD AND ABUSE PREVENTION

SEC. 500. AMENDMENTS AND TABLE OF CONTENTS.

(a) Amendments to Social Security Act.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) Table of Contents of Title.—The table of contents of this title is as follows:

TITLE V—HEALTH CARE FRAUD AND ABUSE PREVENTION

Sec. 500. Amendments and table of contents.

Subtitle A—Fraud and Abuse Control Program

Sec. 501. Fraud and abuse control program.
Sec. 502. Medicare integrity program.
Sec. 503. Beneficiary incentive programs.
Sec. 504. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health care programs.
Sec. 505. Guidance regarding application of health care fraud and abuse sanctions.

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

Sec. 511. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 512. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.

Sec. 513. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.
Sec. 514. Sanctions against practitioners and persons for failure to comply with statutory obligations.
Sec. 515. Intermediate sanctions for medicare health maintenance organizations.
Sec. 516. Additional exceptions to anti-kickback penalties for risk-sharing arrangements.
Sec. 517. Effective date.

Subtitle C—Data Collection and Miscellaneous Provisions

Sec. 521. Establishment of the health care fraud and abuse data collection program.

Subtitle D—Civil Monetary Penalties

Sec. 531. Social Security Act civil monetary penalties.

Subtitle E—Amendments to Criminal Law

Sec. 541. Health care fraud.
Sec. 542. Forfeitures for Federal health care offenses.
Sec. 543. Injunctive relief relating to Federal health care offenses.
Sec. 544. False Statements.
Sec. 545. Obstruction of criminal investigations of Federal health care offenses.
Sec. 546. Theft or embezzlement.
Sec. 547. Laundering of monetary instruments.
Sec. 548. Authorized investigative demand procedures.

Subtitle A—Fraud and Abuse Control Program

SEC. 501. FRAUD AND ABUSE CONTROL PROGRAM.

(a) Establishment of Program.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"Sec. 1128C. (a) Establishment of Program.—

"(1) In general.—Not later than January 1, 1997, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to health plans,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse,

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D, and

"(E) to provide for the reporting and disclosure of certain final adverse actions against health care providers, suppliers, or practitioners pursuant to the data collection system established under section 1128E.

"(2) Coordination with health plans.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) Guidelines.—

"(A) In general.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) Information guidelines.—

"(i) In general.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) Confidentiality.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) Qualified immunity for providing information.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) Ensuring access to documentation.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) Authority of inspector general.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) Additional Use of Funds by Inspector General.—

"(1) Reimbursements for investigations.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payor, or otherwise.

"(2) Crediting.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) Health Plan Defined.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) Establishment of Health Care Fraud and Abuse Control Account in Federal Hospital Insurance Trust Fund.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) Health Care Fraud and Abuse Control Account.—

"(1) Establishment.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) Appropriated amounts to trust fund.—

"(A) In general.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 541(b) and 542(c) of the Health Insurance Reform Act of 1996, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) Authorization to accept gifts.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) Transfer of amounts.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) Appropriated amounts to account for fraud and abuse control program, etc.—

"(A) Departments of health and human services and justice.—

"(i) In general.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (C), to be available without further appropriation, in an amount not to exceed—

"(I) for fiscal year 1997, $104,000,000, and

"(II) for each of the fiscal years 1998 through 2003, the limit for the preceding fiscal year, increased by 15 percent; and

"(III) for each fiscal year after fiscal year 2003, the limit for fiscal year 2003.

"(ii) Medicare and medicaid activities.—For each fiscal year, of the amount appropriated in clause (i), the following amounts shall be available only for the purposes of the activities of the Office of the Inspector General of the Department of Health and Human Services with respect to the medicare and medicaid programs—

"(I) for fiscal year 1997, not less than $60,000,000 and not more than $70,000,000;

"(II) for fiscal year 1998, not less than $80,000,000 and not more than $90,000,000;

"(III) for fiscal year 1999, not less than $90,000,000 and not more than $100,000,000;

"(IV) for fiscal year 2000, not less than $110,000,000 and not more than $120,000,000;

"(V) for fiscal year 2001, not less than $120,000,000 and not more than $130,000,000;

"(VI) for fiscal year 2002, not less than $140,000,000 and not more than $150,000,000; and

VOL
142
PT
6
AP
15
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24
1996
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"(VII) for each fiscal year after fiscal year 2002, not less than $150,000,000 and not more than $160,000,000.

"(B) FEDERAL BUREAU OF INVESTIGATION.—There are hereby appropriated from the general fund of the United States Treasury and hereby appropriated to the Account for transfer to the Federal Bureau of Investigation to carry out the purposes described in subparagraph (C)(i), to be available without further appropriation—

"(i) for fiscal year 1997, $47,000,000;

"(ii) for fiscal year 1998, $56,000,000;

"(iii) for fiscal year 1999, $66,000,000;

"(iv) for fiscal year 2000, $76,000,000;

"(v) for fiscal year 2001, $88,000,000;

"(vi) for fiscal year 2002, $101,000,000; and

"(vii) for each fiscal year after fiscal year 2002, $114,000,000.

"(C) USE OF FUNDS.—The purposes described in this subparagraph are to cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(ii) investigations;

"(iii) financial and performance audits of health care programs and operations;

"(iv) inspections and other evaluations; and

"(v) provider and consumer education regarding compliance with the provisions of title XI.

"(4) APPROPRIATED AMOUNTS TO ACCOUNT FOR MEDICARE INTEGRITY PROGRAM.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under section 1893, subject to subparagraph (B) and to be available without further appropriation.

"(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1997, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1998, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1999, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 2000, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2001, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2002, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For each fiscal year after fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 502. MEDICARE INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(5) Developing (and periodically updating) a list of items of durable medical equipment in accordance with section 1834(a)(15) which are subject to prior authorization under such section.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement;

"(4) the entity meets such other requirements as the Secretary may impose; and

"(5) in the case of any contract entered into for years prior to 2000, the entity has entered into an agreement under section 1816 or a contract under section 1842.

In the case of the activity described in subsection (b)(5), an entity shall be deemed to be eligible to enter into a contract under the Program to carry out the activity if the entity is a carrier with a contract in effect under section 1842.

"(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

"(1) Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to Federal acquisition and procurement.

"(2) Competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary, except that the Secretary may contract with entities that are carrying out the activities described in this section pursuant to agreements under section 1816 or contracts under section 1842 in effect on the date of the enactment of this section.

"(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

"(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.".

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No payment may be made for carrying out any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.".

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No payment may be made for carrying out any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).".

SEC. 503. BENEFICIARY INCENTIVE PROGRAMS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide an explanation of benefits under the medicare program under title XVIII of the Social Security Act with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(b) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(c) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 504. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(1) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(2) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(3) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(4) In the second sentence of subsection (a)—

(A) by striking "a State plan approved under title XIX" and inserting "a Federal health care program", and

(B) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(5) In subsection (b), by striking "title XVIII or a State health care program" each place it appears and inserting "a Federal health care program".

(6) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(7) By adding at the end the following new subsection:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government (other than the health insurance program under chapter 89 of title 5, United States Code); or

"(2) any State health care program, as defined in section 1128(h).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

SEC. 505. GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 501, is amended by inserting after section 1128C the following new section:

"GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS

"SEC. 1128D. (a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

"(1) IN GENERAL.—

"(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1997, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

"(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

"(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

"(iii) interpretive rulings to be issued pursuant to subsection (b); and

"(iv) special fraud alerts to be issued pursuant to subsection (c).

"(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

"(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the 'Inspector General') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

"(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

"(A) An increase or decrease in access to health care services.

"(B) An increase or decrease in the quality of health care services.

"(C) An increase or decrease in patient freedom of choice among health care providers.

"(D) An increase or decrease in competition among health care providers.

"(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

"(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

"(G) An increase or decrease in the potential overutilization of health care services.

"(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

"(i) whether to order a health care item or service; or

"(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

"(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

"(b) INTERPRETIVE RULINGS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B (in this section referred to as an 'interpretive ruling').

"(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

"(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 90 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

"(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 60 days after receiving such a request and shall identify the reasons for such decision.

"(2) CRITERIA FOR INTERPRETIVE RULINGS.—

"(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

"(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

"(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

"(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

"(c) SPECIAL FRAUD ALERTS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under the medicare program or a State health care program, as defined in section 1128(h) (in this subsection referred to as a 'special fraud alert').

VOL
142
PT
6
AP
15
—
24
1996
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"(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

"(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

"(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

"(B) the volume and frequency of the conduct that would be identified in the special fraud alert.".

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

SEC. 511. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Insurance Reform Act of 1996, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Insurance Reform Act of 1996, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Insurance Reform Act of 1996, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 512. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 513. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—(A) Any individual—

"(i) who has a direct or indirect ownership or control interest in a sanctioned entity and who knows or should know (as defined in section 1128A(i)(6)) of the action constituting the basis for the conviction or exclusion described in subparagraph (B); or

"(ii) who is an officer or managing employee (as defined in section 1126(b)) of such an entity.

"(B) For purposes of subparagraph (A), the term 'sanctioned entity' means an entity—

"(i) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(ii) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 514. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 515. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1997.

SEC. 516. ADDITIONAL EXCEPTIONS TO ANTI-KICKBACK PENALTIES FOR RISK-SHARING ARRANGEMENTS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) any remuneration between an organization and an individual or entity providing items or services pursuant to a written agreement between the organization and the individual or entity if the organization is an eligible organization under section 1876, or if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services, or a combination thereof, which the individual or entity is obligated to provide, whether through a withhold or capitation, or other similar risk arrangements which places the individual or entity at substantial financial risk.".

(b) REGULATIONS.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended by adding at the end the following new paragraph:

"(4) The Secretary, in consultation with the Attorney General, not later than 1 year after the date of enactment of Health Insurance Reform Act of 1996, and not less than every 2 years thereafter, shall promulgate regulations to define substantial financial risk as necessary to protect against program or patient abuse.".

SEC. 517. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect January 1, 1997.

Subtitle C—Data Collection and Miscellaneous Provisions

SEC. 521. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 501 and 505, is amended by inserting after section 1128D the following new section:

"HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

"SEC. 1128E. (a) GENERAL PURPOSE.—Not later than January 1, 1997, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

"(b) REPORTING OF INFORMATION.—

"(1) IN GENERAL.—Each Government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

"(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

"(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

"(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

"(C) The nature of the final adverse action and whether such action is on appeal.

"(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

"(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

"(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

"(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

"(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

"(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

"(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

"(B) procedures in the case of disputed accuracy of the information.

"(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

"(d) ACCESS TO REPORTED INFORMATION.—

"(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

"(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

"(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

"(f) COORDINATION WITH NATIONAL PRACTITIONER DATA BANK.—The Secretary shall implement this section in such a manner as to avoid duplication with the reporting requirements established for the National Practitioner Data Bank under the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11101 et seq.).

"(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) FINAL ADVERSE ACTION.—

"(A) IN GENERAL.—The term 'final adverse action' includes:

"(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

"(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

"(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or

"(III) any other negative action or finding by such Federal or State agency that is publicly available information.

"(iv) Exclusion from participation in Federal or State health care programs due to program violations.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) EXCEPTION.—The term does not include any action with respect to a malpractice claim.

"(2) PRACTITIONER.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

"(3) GOVERNMENT AGENCY.—The term 'Government agency' shall include:

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

"(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

"(D) State law enforcement agencies.

"(E) State medicaid fraud control units.

"(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

VOL
142
PT
6
AP
15
—
24
1996
UMI

"(4) Health plan.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(5) Determination of conviction.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(i).".

(b) Improved Prevention in Issuance of Medicare Provider Numbers.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.".

Subtitle D—Civil Monetary Penalties

SEC. 531. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) General Civil Monetary Penalties.—Section 1128A (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(f)(1))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Insurance Reform Act of 1996 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C).".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))",

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)", and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) Excluded Individual Retaining Ownership or Control Interest in Participating Entity.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection—

"(i) retains a direct or indirect ownership or control interest in an entity that is participating in a program under title XVIII or a State health care program, and who knows or should know of the action constituting the basis for the exclusion; or

"(ii) is an officer or managing employee (as defined in section 1126(b)) of such an entity;".

(c) Modifications of Amounts of Penalties and Assessments.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(d) Claim for Item or Service Based on Incorrect Coding or Medically Unnecessary Services.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)), as amended by subsection (b), is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking the semicolon and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or should know is not medically necessary; or".

(e) Sanctions Against Practitioners and Persons for Failure To Comply With Statutory Obligations.—Section 1156(b)(3) (42 U.S.C. 1320c–5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(f) Procedural Provisions.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 515(a)(2), is amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (B)(i) or (C)(i) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128A(a).".

(g) Prohibition Against Offering Inducements to Individuals Enrolled Under Programs or Plans.—

(1) Offer of remuneration.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program (as so defined);".

(2) Remuneration defined.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Insurance Reform Act of 1996; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(h) Effective Date.—The amendments made by this section shall take effect January 1, 1997.

Subtitle E—Amendments to Criminal Law

SEC. 541. HEALTH CARE FRAUD.

(a) In General.—

(1) Fines and imprisonment for health care fraud violations.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health care program, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care program in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.".

(2) Clerical amendment.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) Criminal Fines Deposited in Federal Hospital Insurance Trust Fund.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 501(b), an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 542. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) In General.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act; and

"(iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.".

(b) Conforming Amendment.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) Property Forfeited Deposited in Federal Hospital Insurance Trust Fund.—

(1) In general.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 501(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) Costs of asset forfeiture.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 543. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) In General.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

(b) Freezing of Assets.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".

SEC. 544. FALSE STATEMENTS.

(a) In General.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1033. False statements relating to health care matters

"Whoever, in any matter involving a health care program, knowingly and willfully—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or

"(2) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry,

shall be fined under this title or imprisoned not more than 5 years, or both.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"1033. False statements relating to health care matters.".

SEC. 545. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) In General.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1518. Obstruction of criminal investigations of Federal health care offenses

"(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

"(c) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"1518. Obstruction of Criminal Investigations of Federal Health Care Offenses.".

SEC. 546. THEFT OR EMBEZZLEMENT.

(a) In General.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 669. Theft or embezzlement in connection with health care

"Whoever willfully embezzles, steals, or otherwise willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care program, shall be fined under this title or imprisoned not more than 10 years, or both.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or Embezzlement in Connection with Health Care.".

SEC. 547. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 548. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) In General.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§ 3486. Authorized investigative demand procedures

"(a)(1)(A) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control.

"(B) A custodian of records may be required to give testimony concerning the production and authentication of such records.

VOL
142
PT
6
AP
15
—
24
1996
UMI

"(C) The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served.

"(D) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(E) A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any health care program, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care program in connection with the delivery of or payment for health care benefits, items, or services.

"(b)(1) A subpoena issued under this section may be served by any person designated in the subpoena to serve it.

"(2) Service upon a natural person may be made by personal delivery of the subpoena to such person.

"(3) Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

"(4) The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c)(1) In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena.

"(2) The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony required under subsection (a)(1)(B).

"(3) Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(4) All process in any such case may be served in any judicial district in which such person may be found.

"(d) Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e)(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefor.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3405 the following new item:

"3486. Authorized investigative demand procedures".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

KASSEBAUM AMENDMENT NO. 3677

Mrs. KASSEBAUM proposed an amendment to amendment No. 3676 proposed by Mr. DOLE to amendment No. 3675 proposed by Mrs. KASSEBAUM to the bill S. 1028, supra; as follows:

Strike subtitle C of title IV.

BROWN AMENDMENT NO. 3678

Mr. BROWN proposed an amendment to the bill S. 1028, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. . EQUITABLE TREATMENT FOR THE GENERIC DRUG INDUSTRY.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the generic drug industry should be provided equitable relief in the same manner as other industries are provided with such relief under the patent transitional provisions of section 154(c) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act of 1994 (Public Law 103-465; 108 Stat. 4983).

(b) APPROVAL OF APPLICATIONS OF GENERIC DRUGS.—For purposes of acceptance of consideration by the Secretary of an application under subsections (b), (c), and (j) of section 505, and subsections (b), (c), and (n) of section 512, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b), (c), and (j), and 360b (b), (c), and (n)), the expiration date of a patent that is the subject of a certification under section 505(b)(2)(A) (ii), (iii), or (iv), section 505(j)(2)(A)(vii) (II), (III), (IV), or section 512(n)(1)(H) (ii), (iii), or (iv) of such Act, respectively, made in an application submitted prior to June 8, 1995, shall be deemed to be the date on which such patent would have expired under the law in effect on the day preceding December 8, 1994.

(c) MARKETING GENERIC DRUGS.—The remedies of section 271(e)(4) of title 35, United States Code, shall not apply to acts—

(1) that were commenced, or for which a substantial investment was made prior to June 8, 1995; and

(2) that became infringing by reason of section 154(c)(1) of such title, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103-465; 108 Stat. 4983).

(d) SUBSTANTIAL INVESTMENT.—For purposes of this Act and section 154(c)(2)(A) of title 35, United States Code, with respect to a product that is subject to the requirements of subsections (b)(2) or (j) of section 505, or of subsections (b) (2) and (n) of section 512, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(2) and (j), and 360(b)(2) and (n), the submission of an application described in subsection (b), and only the submission of such an applications, shall constitute substantial investment.

(e) NOTICE.—

(1) IN GENERAL.—Unless the notice required by this subsection has previously been provided, when an applicant submitting an application described in subsection (b) receives notice from the Secretary that the application has been tentatively approved, such applicant shall give notice of such application to—

(A) each owner of the patent which is the subject of the certification or the representative of such owner designated to receive such notice; and

(B) the holder of the approved application under section 505(b) or section 512(c)(1), respectively, for the drug which is claimed by the patent or a use of which is claimed by the patent or the representative of such holder designated to receive such notice.

(2) CERTIFICATION OF NOTICE.—The applicant shall certify to the Secretary the date that such notice is given. The approval of such application by the Secretary shall not be made effective until 7 calendar days after the date so certified by such applicant.

(f) EQUITABLE REMUNERATION.—For acts described in subsection (c), equitable remuneration of the type described in section 154(c)(3) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103-465; 108 Stat. 4983) shall be awarded to a patentee only if there has been—

(1) the commercial manufacture, use, offer to sell, or sale, within the United States of an approved drug that is the subject of an application described in subsection (b); or

(2) the importation by the applicant into the United States of an approved drug or of active ingredient used in an approved drug that is the subject of an application described in subsection (b).

(g) APPLICABILITY.—The provisions of this section shall govern the approval or effective date of approval of all pending applications that have not received final approval as of the date of enactment of this Act.

JEFFORDS AMENDMENT NO. 3679

Mr. JEFFORDS proposed an amendment to the bill S. 1028, supra; as follows:

At the end of section 103, add the following new subsection:

"(g) LIMITATION ON LIFETIME AGGREGATE LIMITS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an employee health benefit plan or a health plan issuer offering a group health plan may not impose an aggregate dollar lifetime limit of less than $10,000,000 (such amount to be adjusted for inflation in fiscal years subsequent to the fiscal year in which this subsection becomes effective) with respect to coverage under the plan.

"(2) SMALL EMPLOYERS.—Paragraph (1) shall not apply to a group health plan offered to or maintained for employees of a single employer that employs 25 or fewer employees.

"(3) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting the application by an employee health benefit plan or a health plan issuer offering a group health plan of any limits, exclusions, or other forms of cost containment mechanisms with respect to coverage under the plan other than the aggregate limit permitted under paragraph (1).

"(4) DISCLOSURE.—Any limits, exolusions, or other cost containment mechanisms permitted under paragraph (3) shall be disclosed as provided for in section 105(c).

"(5) APPLICATION OF SUBSECTION.—This subsection shall not apply to health maintenance organization that meets the requirements of title XIV of the Public Health Service Act.

"(6) EFFECTIVE DATE.—This paragraph shall become effective with respect to health plans on the date that is 2 years after the date of enactment of this Act.".

At the end of section 105, add the following new subsection:

"(c) DISCLOSURE OF LIMITS AND EXCLUSIONS.—An employee health benefit plan or a health plan issuer offering a group health plan shall disclose, as part of its solicitation and sales materials and in a form and manner that is conspicuous and understandable to a reasonable individual, any limits, exclusions, or cost containment mechanisms with respect to coverage provided under the plan.".

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—

"(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the Secretary of the Treasury; and

"(B) upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim.

"(2) Paragraph (1) shall not apply—

"(A) to any debt or claim that—

"(i) is in litigation or foreclosure;

"(ii) will be disposed of under an asset sales program within 1 year after the date the debt or claim is first delinquent, or a greater period of time if a delay would be in the best interests of the United States, as determined by the Secretary of the Treasury;

"(iii) has been referred to a private collection contractor for collection for a period of time determined by the Secretary of the Treasury;

"(iv) has been referred by, or with the consent of, the Secretary of the Treasury to a debt collection center for a period of time determined by the Secretary of the Treasury; or

"(v) will be collected under internal offset, if such offset is sufficient to collect the claim within 3 years after the date the debt or claim is first delinquent; and

"(B) to any other specific class of debt or claim, as determined by the Secretary of the Treasury at the request of the head of an executive, judicial, or legislative agency or otherwise.

"(3) For purposes of this section, the Secretary of the Treasury may designate, and withdraw such designation of debt collection centers operated by other Federal agencies. The Secretary of the Treasury shall designate such centers on the basis of their performance in collecting delinquent claims owed to the Government.

"(4) At the discretion of the Secretary of the Treasury, referral of a nontax claim may be made to—

"(A) any executive department or agency operating a debt collection center for servicing, collection, compromise, or suspension or termination of collection action;

"(B) a contractor operating under a contract for servicing or collection action; or

"(C) the Department of Justice for litigation.

"(5) nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

"(A) maintain competition in carrying out this subsection;

"(B) maximize collections of delinquent debts by placing delinquent debts quickly;

"(C) maintain a schedule of contractors and debt collection centers eligible for referral of claims; and

"(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.

"(6) Any agency operating a debt collection center to which nontax claims are referred or transferred under this subsection may charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the nontax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund an activity from another account or from revenue received from the procedure described under section 3720C of this title. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(7) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (in this subsection referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of Governmentwide debt collection activities. Costs properly chargeable to the Account include—

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, and other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including services and utilities provided by the Secretary, and administration of the Account.

"(8) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year, minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(9) To carry out the purposes of this subsection, the Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary considers necessary.

"(h)(1) The head of an executive, judicial, or legislative agency acting under subsection (a) (1), (2), or (3) of this section to collect a claim, compromise a claim, or terminate collection action on a claim may obtain a consumer report (as that term is defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)) or comparable credit information on any person who is liable for the claim.

"(2) The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).".

JEFFORDS AMENDMENT NO. 3680

Mr. JEFFORDS proposed an amendment to amendment No. 3679 proposed by him to the bill S. 1028, supra; as follows:

(Purpose: To reduce delinquencies and to improve debt-collection activities government-wide, and for other purposes)

Strike pages 4, 5, and 6 of amendment No. 3679, and insert:

SEC. 101. SHORT TITLE.

This Act may be cited as the "Debt Collection Improvement Act of 1995".

SEC. 102. EFFECTIVE DATE.

(a) Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act shall become effective October 1, 1995.

(b) The amendments made by title III of this Act shall become effective for levies issued after the date of enactment of this Act.

SEC. 103. TABLE OF CONTENTS.

TITLE I—GENERAL DEBT COLLECTION INITIATIVES

Subchapter A—General Offset Authority

Sec. 201. Enhancement of Administrative Offset Authority.
Sec. 202. House of Representatives as Legislative Agency.
Sec. 203. Exemption From Computer Matching Requirements Under the Privacy Act of 1974.
Sec. 204. Technical and Conforming Amendments.

Subchapter B—Salary Offset Authority

Sec. 301. Enhancement of Salary Offset Authority.

Subchapter C—Taxpayer Identifying Numbers

Sec. 401. Access to Taxpayer Identifying Numbers.
Sec. 402. Barring Delinquent Federal Debtors from Obtaining Federal Loans or Loan Guarantees.

Subchapter D—Expanding Collection Authorities and Government-Wide Cross-Servicing

Sec. 501. Expanding Collection Authorities Under the Debt Collection Act of 1982.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Sec. 502. Government-wide Cross-servicing.
Sec. 503. Compromise of Claims.

Subchapter E—Federal Civil Monetary Penalties

Sec. 601. Adjusting Federal Civil Monetary Penalties for Inflation.

Subchapter F—Gain Sharing

Sec. 701. Debt Collection Improvement Account.

Subchapter G—Tax Refund Offset Authority

Sec. 801. Offset of Tax Refund Payment by Disbursing Officials.
Sec. 802. Expanding Tax Refund Offset Authority.
Sec. 803. Expanding Authority to Collect Past-due Support.

Subchapter H—Definitions, Due Process Rights, and Severability

Sec. 901. Technical Amendments to Definitions.
Sec. 902. Severability.
Sec. 903. Scope.

Subchapter I—Reporting

Sec. 1001. Monitoring and Reporting.

TITLE II—JUSTICE DEBT MANAGEMENT

Subchapter A—Private Attorneys

Sec. 1101. Expanded Use of Private Attorneys.

Subchapter B—Nonjudicial Foreclosure

Sec. 1201. Nonjudicial Foreclosure of Mortgages.

TITLE III—IRS LEVY AUTHORITY

Sec. 1301. Provision for Continuous Levy.
Sec. 1302. Modification of Levy Exemption.
Sec. 1303. Confidentiality and Disclosure of Returns and Return Information.

TITLE I—GENERAL DEBT COLLECTION INITIATIVES

Subchapter A—General Offset Authority

SEC. 201. ENHANCEMENT OF ADMINISTRATIVE OFFSET AUTHORITY.

(a) Section 3701(c) of title 31, United States Code, is amended to read as follows:

"(c) In sections 3716 and 3717 of this title, the term 'person' does not include an agency of the United States government, or of a unit of general local government.".

(b) Section 3716 of title 31, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) Before collecting a claim by administrative offset, the head of an executive, legislative, or judicial agency must either—

"(1) adopt regulations on collecting by administrative offset promulgated by the Department of Justice, the General Accounting Office and/or the Department of the Treasury without change; or

"(2) prescribe independent regulations on collecting by administrative offset consistent with the regulations promulgated under paragraph (1).";

(2) by amending subsection (c)(2) to read as follows:

"(2) when a statute explicitly prohibits using administrative 'offset' or 'setoff' to collect the claim or type of claim involved.";

(3) by redesignating subsection (c) as subsection (d); and

(4) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as provided in subparagraphs (B) or (C), a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, or any disbursing official of the United States designated by the Secretary of the Treasury, is authorized to offset the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

"(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

"(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under Title IV of the Higher Education Act of 1965, as amended, shall not be subject to offset under this subsection.

"(2) Neither the disbursing official nor the payment certifying agency shall be liable—

(A) for the amount of the offset on the basis that the underlying obligation, represented by the payment before the offset was taken, was not satisfied; or

(B) for failure to provide timely notice under paragraph (8).

"(3)(A) Notwithstanding any other provision of law (including sections 207 and 1631(d)(1) of the Act of August 14, 1935 (42 U.S.C. 407 and 1383(d)(1)), section 413(b) of Public Law 91–173 (30 U.S.C. 923(b)) and section 14 of the Act of August 29, 1935 (45 U.S.C. 231m)), all payments due under the Social Security Act, Part B of the Black Lung Benefits Act, or under any law administered by the Railroad Retirement Board, shall be subject to offset under this section.

"(B) An amount of $10,000 which a debtor may receive under Federal benefit programs cited under subparagraph (A) within a 12-month period shall be exempt from offset under this subsection. In applying the $10,000 exemption, the disbursing official shall:

"(i) Apply a prorated amount of the exemption to each periodic benefit payment to be made to debtor during the applicable 12-month period; and

"(ii) Consider all benefit payments made during the applicable 12-month period which are exempt from offset under this subsection as part of the $10,000 exemption.

"For purposes of the preceding sentence, the amount of a periodic benefit payment shall be the amount after any reduction or deduction required under the laws authorizing the program under which such payment is authorized to be made (including any reduction or deduction to recover any overpayment under such program).

"(C) The Secretary of the Treasury shall exempt means-tested programs when notified by the head of the respective agency. The Secretary may exempt other payments from offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under the standards prescribed by the Secretary. Such standards shall give due consideration to whether offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program.

"(D) The provisions of section 205(b)(1) or 1631(c)(1) of the Social Security Act shall not apply to any offset executed pursuant to this section against benefits authorized by either title II or title XVI of the Social Security Act respectively.

"(4) The Secretary of the Treasury is authorized to charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring the claim. Fees charged to the agencies shall be based on actual offsets completed. Fees charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title. Fees charged under this subsection shall be deposited into the 'Account' determined by the Secretary of the Treasury in accordance with section 3711(g) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

"(5) The Secretary of the Treasury may disclose to a creditor agency the current address of any payee and any data related to certifying and authorizing such payment in accordance with section 552a of title 5, United States Code, even when the payment has been exempt from offset. Where payments are made electronically, the Secretary is authorized to obtain the current address of the debtor/payee from the institution receiving the payment. Upon request by the Secretary, the institution receiving the payment shall report the current address of the debtor/payee to the Secretary.

"(6) The Secretary of the Treasury is authorized to prescribe such rules, regulations and procedures as the Secretary of the Treasury deems necessary to carry out the purposes of this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations and procedures.

"(7) (A) Any Federal agency that is owed, by a named person a past-due legally enforceable non-tax debt that is over 180 days delinquent (other than any past-due support), including non-tax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such non-tax debts for purposes of offset under this subsection.

"(B) An agency may delay notification under subparagraph (A) with respect to a debt that is secured by bond or other instruments in-lieu of bond, or for which there is another specific repayment source, in order to allow sufficient time to either collect the debt through normal collection processes (including collection by internal administrative offset) or render a final decision on any protest filed against the claim.

"(8) The disbursing official conducting the offset shall notify the payee in writing of—

"(A) the occurrence of an offset to satisfy a past-due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the debtor against which the offset was executed;

"(B) the identity of the creditor agency requesting the offset; and

"(C) a contact point within the creditor agency that will handle concerns regarding the offset.".

"Where the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but no later than the date of the offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such offset.

"(9) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for offset received from other agencies.

(c) Section 3701(a) of title 31, U.S.C., is amended by adding at the end the following new paragraph:

"(8) 'non-tax claim' means any claim from any agency of the Federal Government other than a claim by the Internal Revenue Service under the Internal Revenue Code of 1986.".

SEC. 202. HOUSE OF REPRESENTATIVES AS LEGISLATIVE AGENCY.

(a) Section 3701(a) of title 31, United States Code, is amended by adding the following new paragraphs after paragraph (7)—

"(8) For purposes of subchapters I and II of chapter 37 of title 31, United States Code (relating to claims of or against the United States Government), the United States House of Representatives shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Clerk of the House of Representatives shall be deemed to be the head of such legislative agency.

"(9) Regulations prescribed by the Clerk of the House of Representatives pursuant to section 3716 of title 31, United States Code, shall not become effective until they are approved by the Committee on Rules of the House of Representatives."

SEC. 203. EXEMPTION FROM COMPUTER MATCHING REQUIREMENTS UNDER THE PRIVACY ACT OF 1974.

Section 552a(a) of title 5, United States Code, is amended—

(1) in paragraph (2), by inserting "acting in an individual, not a business capacity" after "residence";

(2) in paragraph (8)(B)—

(A) by striking "or" at the end of clause (vi);

(B) by inserting "or" at the end of clause (vii); and

(C) by adding after clause (vii) the following new clause:

"(viii) matches for administrative offset or claims collection pursuant to subsection 3716(c) of title 31, section 5514 of this title, or any other payment intercept or offset program authorized by statute;".

SEC. 204 TECHNICAL AND CONFORMING AMENDMENTS.

(a) Title 31, United States Code, is amended—

(1) in section 3322(a), by inserting "section 3716 and section 3720A of this title, section 6331 of title 26, and" after "Except as provided in"; and

(2) in section 3325(a)(3), by inserting "or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A, or pursuant to levies executed under 26 U.S.C. 6331," after "voucher"; and

(3) in sections 3711, 3716, 3717 and 3718, by striking "the head of an executive or legislative agency" each place it appears and inserting instead "the head of an executive, judicial or legislative agency".

(b) Subsection 6103(*l*)(10) of title 26, United States Code is amended—

(1) in subparagraph (A), by inserting "and to officers and employees of the Department of the Treasury in connection with such reduction" adding after "6402"; and

(2) in subparagraph (B), by adding "and to officers and employees of the Department of the Treasury in connection with such reduction" after "agency".

Subchapter B—Salary Offset Authority

SEC. 301. ENHANCEMENT OF SALARY OFFSET AUTHORITY.

Section 5514 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by adding at the end of paragraph (1) the following: "All Federal agencies to which debts are owed and are delinquent in repayment, shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. Matched Federal employee records shall include, but shall not be limited to, active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, and records of seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.";

(B) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(C) by inserting after paragraph (2) the following new paragraph:

"(3) The provisions of paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to $50 or less, provided that at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.";

(D) by amending paragraph (5)(B) (as redesignated) to read as follows:

"(B) For purposes of this section, 'agency' includes executive departments and agencies, the United States Postal Service, the Postal Rate Commission, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of government, and government corporations.";

(2) by adding at the end of subsection (b) the following new paragraphs:

"(3) For purposes of this section, the Clerk of the House of Representatives shall be deemed to be the head of the agency. Regulations prescribed by the Clerk of the House of Representatives pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules of the House of Representatives.

"(4) For purposes of his section, the Secretary of the Senate shall be deemed to be the head of the agency. Regulations prescribed by the Secretary of the Senate pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules and Administration of the Senate.".

(3) by adding after subsection (c) the following new subsection:

"(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for offset received from other agencies.".

Subchapter C—Taxpayer Identifying Numbers

SEC. 401. ACCESS TO TAXPAYER IDENTIFYING NUMBERS; BARRING DELINQUENT DEBTORS FROM CREDIT ASSISTANCE.

Section 4 of the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1749, 26 U.S.C. 6103 note) is amended—

(1) in subsection (b), by striking "For purposes of this section" and inserting instead "For purposes of subsection (a)"; and

(2) by at the end thereof the following new subsections:

"(c) FEDERAL AGENCIES.—Each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.

"(1) For purposes of this subsection, a person is considered to be 'doing business' with a Federal agency if the person is—

"(A) is a lender or servicer in a Federal guaranteed or insured loan program;

"(B) an applicant for, or recipient of—

"(i) a Federal guaranteed, insured, or direct loan; or

"(ii) a Federal license, permit, right-of-way, grant, benefit payment or insurance;

"(C) a contractor of the agency;

"(D) assessed a fine, fee, royalty or penalty by that agency;

"(E) in a relationship with a Federal agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan; and

"(F) is a joint holder of any account to which Federal benefit payments are transferred electronically.

"(2) Each agency shall disclose to the person required to furnish a taxpayer identifying number under this subsection its intent to use such number of purposes of collecting and reporting on any delinquent amounts arising out of such person's relationship with the government.

"(3) For purposes of this subsection—

"(A) The term 'taxpayer identifying number' has the meaning given such term in section 6109 of title 26, United States Code.

"(B) The term 'person' means an individual, sole proprietorship, partnership, corporation, non-profit organization, or any other form of business association, but with the exception of debtors owing claims resulting from petroleum pricing violations does not include debtors under third party claims of the United States.

"(d) ACCESS TO SOCIAL SECURITY NUMBERS.—Notwithstanding 5 U.S.C. 552a, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with the Social Security Administration records to verify name, name control, Social Security number, address, and date of birth.".

SEC. 402. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN GUARANTEES.

(a) Title 31, United States Code, is amended by adding after section 3720A the following new section:

"SEC. 3720B. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN GUARANTEES.

"(a) Unless waived by the head of the agency, no person may obtain any Federal financial assistance in the form of a loan or a loan guarantee if such person has an outstanding Federal non-tax debt which is in a delinquent status, as determined under the standards prescribed by the Secretary of the Treasury, with a Federal agency. Any such person may obtain additional Federal financial assistance only after such delinquency is received, pursuant to these standards. This section shall not apply to loans or loan guarantees where a statute specifically permits extension of Federal financial assistance to borrowers in delinquent status.

"(b) The head of the agency may delegate the waiver authority described in (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.

VOL
142
PT
6
AP
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24
1996
UMI

"(c) For purposes of this section, 'person' means an individual; or sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association."

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720A the following new item:

"3720B. Barring Delinquent Federal Debtors from Obtaining Federal loans or Loan Guarantees.".

Subchapter D—Expanding Collection Authorities and Governmentwide Cross-Servicing

SEC. 501. EXPANDING COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION ACT OF 1982.

(a) Subsection 8(e) of the Debt Collection Act of 1982 (Public Law 97–365, 31 U.S.C. 3701(d) and 5 U.S.C. 5514 note) is repealed.

(b) Section 5 of the Social Security Domestic Employment Reform Act of 1994 (P.L. 103–387) is repealed.

(c) Section 631 of the Tariff Act of 1930, as amended (19 U.S.C. 1631) is repealed.

(d) Title 31, United States Code, is amended—

(1) in section 3701—

(A) by amending subsection (a)(4) to read as follows:

"(4) 'executive, judicial or legislative agency' means a department, military department, agency, court, court administrative office, or instrumentality in the executive, judicial or legislative branches of government, including government corporations."; and

(B) by adding at the end the following new subsection:

"(d) Sections 3711(f) and 3716–3719 of this title do not apply to a claim or debt under, or to an amount payable under, the Internal Revenue Code of 1986;

(2) by amending section 3711(f) to read as follows:

"(f)(1) When trying to collect a claim of the Government, the head of an executive or legislative agency may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if notice required by section 552a(e)(4) of title 5, United States Code, indicates that information in the system may be disclosed to a consumer reporting agency.

"(2) The information disclosed to a consumer reporting agency shall be limited to—

"(A) information necessary to establish the identity of the individual, including name, address and taxpayer identifying number;

"(B) the amount, status, and history of the claim; and

"(C) the agency or program under which the claim arose."; and

(3) in section 3718—

(A) in subsection (a), by striking the first sentence and inserting instead the following: "Under conditions the head of an executive, legislative or judicial agency considers appropriate, the head of an agency may make a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. No head of an agency may enter into a contract to locate or recover assets of the United States held by a state government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets; and

(B) in subsection (d), by inserting ", or to locate or recover assets of ," after "owed".

SEC. 502. GOVERNMENTWIDE CROSS-SERVICING.

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) At the discretion of the head of an executive, judicial or legislative agency, referral of a non-tax claim may be made to any executive department or agency operating a debt collection center for servicing and collection in accordance with an agreement entered into under paragraph (2). Referral or transfer of a claim may also be made to the Secretary of the Treasury for servicing, collection, compromise, and/or suspension or termination of collection action. Non-tax claims referred or transferred under this section shall be serviced, collected, compromised, and/or collection action suspended or terminated in accordance with existing statutory requirements and authorities.

"(2) Executive departments and agencies operating debt collection centers are authorized to enter into agreements with the heads of executive, judicial, or legislative agencies to service and/or collect non-tax claims referred or transferred under this subsection. The heads of other executive departments and agencies are authorized to enter into agreements with the Secretary of the Treasury for servicing or collection of referred or transferred non-tax claims or other Federal agencies operating debt collection centers to obtain debt collection services from those agencies.

"(3) Any agency to which non-tax claims are referred or transferred under this subsection is authorized to charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the non-tax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund the activity from an account. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(4) Notwithstanding any other law concerning the depositing and collection of federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (hereafter referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of governmentwide debt collection activities. Costs properly chargeable to the Account include, but are not limited to:

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including but not limited to, services and utilities provided by the Secretary, and administration of the Account.

"(5) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts, an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(6)(A) The head of an executive, legislative or judicial agency shall transfer to the Secretary of the Treasury all non-tax claims over 180 days delinquent for additional collection action and/or closeout.

"(B) Subparagraph (A) shall not apply—

"(i) to claims that—

"(I) are in litigation or foreclosure;

"(II) are eligible for disposition under the loan sales programs of a Federal department or agency;

"(III) have been referred to a private collection contractor for collection;

"(IV) are being collected under internal offset procedures;

"(V) have been referred to the Department of the Treasury, the Department of Defense, the United States Postal Service, or disbursing official of the United States designated by Secretary of the Treasury for administrative offset;

"(VI) have been retained by an executive agency in a debt collection center; or

"(VII) have been referred to another agency for collection;

"(ii) to claims which may be collected after the 180 day period in accordance with specific statutory authority or procedural guidelines, provided that the head of an executive, legislative or judicial agency provides notice of such claims to the Secretary of the Treasury; and

"(iii) to other specific class of claims as determined by the Secretary of the Treasury at the request of the head of an agency or otherwise.

"(C) The head of an executive, legislative or judicial agency shall transfer to the Secretary of the Treasury all non-tax claims on which the agency has ceased collection activity. The Secretary may exempt specific classes of claims from this requirement, at the request of the head of an agency, or otherwise. The Secretary shall review transferred claims to determine if additional collection action is warranted. The Secretary may, in accordance with section 6050P of title 26, United States Code, report to the Internal Revenue Service on behalf of the creditor agency any claims that have been discharged within the meaning of such section.

"(7) At the end of each calendar year, the head of an executive, legislative or judicial agency which, regarding a claim owed to the agency, is required to report a discharge of indebtedness as income under the 6050P of title 26, United States Code, shall either complete the appropriate form 1099 or submit to the Secretary of the Treasury such information as is necessary for the Secretary of the Treasury to complete the appropriate form 1099. The Secretary of the Treasury shall incorporate this information into the appropriate form and submit the information to the taxpayer and Internal Revenue Service.

"(8) To carry out the purposes of this subsection, the Secretary of the Treasury is authorized

"(A) to prescribe such rules, regulations and procedures as the Secretary deems necessary; and

"(B) to designate debt collection centers operated by other Federal agencies."

SEC. 503. COMPROMISE OF CLAIMS.

Section 11 of the Administrative Dispute Resolution Act (Public Law 101–552, 104 Stat.

2736, 5 U.S.C. 581 note) is amended by adding at the end thereof the following sentence:

"This section shall not apply to section 8(b) of this Act".

Subchapter E—Federal Civil Monetary Penalties

SEC. 601. ADJUSTING FEDERAL CIVIL MONETARY PENALTIES FOR INFLATION.

(a) The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410. 104 Stat. 890, (28 U.S.C. 2461 note) is amended—

(1) by amending section 4 to read as follows:

"SEC. 4. The head of each agency shall, not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1995, and at least once every 4 years thereafter, by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency, except for any penalty under title 26, United States Code, by the inflation adjustment described under section 5 of this Act and publish each such regulation in the Federal Register.";

(2) in section 5(a), by striking "The adjustment described under paragraphs (4) and (5)(A) of section 4" and inserting "The inflation adjustment"; and

(3) by adding at the end the following new section:

"SEC. 7. Any increase to a civil monetary penalty resulting from this Act shall apply only to violations which occur after the date any such increase takes effect.".

(b) The initial adjustment of a civil monetary penalty made pursuant to section 4 of Federal Civil Penalties Inflation Adjustment Act of 1990 (as amended by subsection (a)) may not exceed 10 percent of such penalty.

Subchapter F—Gain Sharing

SEC. 701. DEBT COLLECTION IMPROVEMENT ACCOUNT.

(a) Title 31, United States Code, is amended by inserting after section 3720B the following new section:

"SEC. 3720C. DEBT COLLECTION IMPROVEMENT ACCOUNT

"(a)(1) There is hereby established in the Treasury a special fund to be known as the 'Debt Collection Improvement Account' (hereinafter referred to as the 'Account').

"(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that programs are credited with the amounts described in subsection (b) and with allocations described in subsection (c).

"(b)(1) Not later than 30 days after the end of a fiscal year, an agency other than the Department of Justice is authorized to transfer to the Account a dividend not to exceed one percent of the debt collection improvement amount as described in paragraph (3).

(2) Agency transfers to the Account may include collections from

"(A) salary, administrative and tax referral offsets;

"(B) automated levy authority;

"(C) the Department of Justice; and

"(D) private collection agencies.

"(3) For purposes of this section, the term 'debt collection improvement amount' means the amount by which the collection of delinquent debt with respect to a particular program during a fiscal year exceeds the delinquent debt baseline for such program for such fiscal year. The Office of Management and Budget shall determine the baseline from which increased collections are measured over the prior fiscal year, taking into account the recommendations made by the Secretary of the Treasury in consultation with creditor agencies.

"(c)(1) The Secretary of the Treasury is authorized to make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, payments may be credited to subaccounts designated for debt collection.

"(2) For purposes of this paragraph, the term 'qualified expenses' means expenditures for the improvement of tax administration and agency debt collection and debt recovery activities including, but not limited to, account servicing (including cross-servicing under Section 502 of the Debt Collection Improvement Act of 1995), automatic data processing equipment acquisitions, delinquent debt collection, measures to minimize delinquent debt, asset disposition, and training of personnel involved in credit and debt management.

"(3) Payments made to agencies pursuant to paragraph (1) shall be in proportion to their contributions to the Account.

"(4)(A) Amounts in the Account shall be available to the Secretary of the Treasury to the extent and in the amounts provided in advance in appropriation acts, for purposes of this section. Such amounts are authorized to be appropriated without fiscal year limitation.

"(B) As soon as practical after the end of third fiscal year after which appropriations are made pursuant to this section, and every 3 years thereafter, any unappropriated balance in the account as determined by the Secretary of the Treasury in consultation with agencies, shall be transferred to the Treasury general fund as miscellaneous receipts.

"(d) For direct loan and loan guarantee programs subject to Title V of the Congressional Budget Act of 1974, amounts credited in accordance with section (c) shall be considered administrative costs and shall not be included in the estimated payments to the Government for the purpose of calculating the costs of such programs.

"(e) The Secretary of the Treasury shall prescribe such rules, regulation, and procedures as the Secretary deems necessary or appropriate to carry out the purposes of this section.".

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720B the following new item:

"3720C. Debt Collection Improvement Account.".

Subchapter G—Tax Refund Offset Authority

SEC. 801. OFFSET OF TAX REFUND PAYMENT BY DISBURSING OFFICIALS.

Section 3720A(h) of title 31, United States Code, is amended to read as follows:

"(h)(1) The term 'Secretary of the Treasury' may include the disbursing official of the Department of the Treasury.

"(2) The disbursing official of the Department of the Treasury—

"(A) shall notify a taxpayer in writing of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the identity of the creditor agency requesting the offset; and

"(iii) a contact point within the creditor agency that will handle concerns regarding the offset;

"(B) shall notify the Internal Revenue Service on a weekly basis of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the amount of such offset; and

"(iii) any other information required by regulations; and

"(C) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as defined in 26 U.S.C. 6109), and any other necessary identifiers.".

SEC. 802. EXPANDING TAX REFUND OFFSET AUTHORITY.

(a) Section 3720A of title 31, United States Code, is amended by adding after subsection (h) the following new subsection:

"(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h) may implement this section at its discretion.".

(b) Section 6402(f) of title 26, United States Code, is amended to read as follows:

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States, and includes a government corporation (as such term is defined in section 103 of title 5, United States Code).".

SEC. 803. EXPANDING AUTHORITY TO COLLECT PAST-DUE SUPPORT.

(a) Subsection 3720A(a) of title 31, United States Code, is amended to read as follows:

"(a) Any Federal agency that is owed by a named person a past-due, legally enforceable debt (including past-due support and debt administered by a third party acting as an agent for the Federal government) shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of such debt.".

(b) Section 664(a) of the Act of August 13, 1935, as amended (42 U.S.C. section 664(a)) is amended—

(1) in paragraph (1), by adding at the end thereof the following: "This subsection may be implemented by the Secretary of the Treasury in accordance with section 3720A of title 31, United States Code."; and

(2) in paragraph (2)(A), by adding at the end thereof the following: "This subsection may be implemented by the Secretary of the Treasury in accordance with section 3720A of title 31, United States Code.".

Subchapter H—Definitions, Due Process Rights, and Severability

SEC. 901. TECHNICAL AMENDMENTS TO DEFINITIONS.

Section 3701 of title 31, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) 'administrative offset' means withholding money payable by the United States (including money payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.";

(2) by amending subsection (a)(4) to read as follows:

"(4) 'executive, judicial or legislative agency' means a department, agency, court, court administrative office, or instrumentality in the executive, judicial or legislative branches of government, including government corporations.";

(3) by amending subsection (b) to read as follows:

"(b)(1) The term 'claim' or 'debt' means any amount of money or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation, money owed on account of loans insured or guaranteed by the Government, non-appropriated funds, over-payments, any amount the United States is authorized by statute to collect for the benefit of any person, and other amounts of money or property due the Government.

VOL
142
PT
6
AP
15
—
24
1996
UMI

"(2) For purposes of section 3716 of this title, the term 'claim' also includes an amount of money or property owed by a person to a State, the District of Columbia, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico.";

(3) by adding after subsection (d) the following new subsection:

"(e) In section 3716 of this title—

"(1) 'creditor agency' means any entity owed a claim that seeks to collect that claim through administrative offset.

"(2) 'payment certifying agency' means any Federal department, agency or instrumentality and government corporation, that has transmitted a voucher to a disbursing official for disbursement.".

SEC. 902. SEVERABILITY.

If any provision of this title, or the amendments made by this title, or the application of any provision to any entity, person, or circumstance is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected.

SEC. 903. SCOPE.

This Act, the Federal Claims Collection Act of 1966, as amended, the Debt Collection Act of 1982, as amended, and the remaining provisions of chapter 37 of title 31, United States Code shall not be deemed to apply to claims or debts involving foreign persons. For purposes of this section, 'foreign person' means any person, sole proprietorship, partnership, corporation, organization or other entity that is an agency, department or instrumentality of a government of a foreign country, is owned, controlled, operated or managed by a government of a foreign country or any agency, department or instrumentality thereof, is a citizen of a foreign country, is organized under the laws of a foreign country, or has its principal place of business outside the United States, and 'foreign country' means a country other than the United States.

Subchapter I—Reporting

SEC. 1001. MONITORING AND REPORTING.

(a) The Secretary of the Treasury, in consultation with concerned Federal agencies, is authorized to establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.

(b) Not later three years after the date of enactment of this Act, the Secretary of the Treasury shall report to the Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in section 3711(g) of title 31, United States Code, as added by section 502 of this Act.

(c) Section 3719 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by amending the first sentence to read as follows: "In consultation with the Comptroller General, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding nontax claims to prepare and submit to the Secretary at least once a year a report summarizing the status of loans and accounts receivable managed by the head of the agency."; and

(B) in paragraph (3), by striking "Director" and inserting instead "Secretary"; and

(2) in subsection (b), by striking "Director" and inserting instead "Secretary".

(d) Notwithstanding any other provision of law, the Secretary of the Treasury is authorized to consolidate all reports concerning debt collection into one annual report.

TITLE II—JUSTICE DEBT MANAGEMENT

Subchapter A—Private Attorneys

SEC. 1101. EXPANDED USE OF PRIVATE ATTORNEYS.

(a) Section 3718(b)(1)(A) of title 31, United States Code, is amended by striking the fourth sentence.

(b) Sections 3 and 5 of the Federal Debt Recovery Act (Pub. L. 99–578, 100 Stat. 3305) are hereby repealed.

Subchapter B—Nonjudicial Foreclosure

SEC. 1201. NONJUDICIAL FORECLOSURE OF MORTGAGES.

Chapter 176 of title 28 of the United States Code is amended by adding at the end thereof the following:

"Subchapter E—Nonjudicial Foreclosure

"3401. Definitions.
"3402. Rules of construction.
"3403. Election of procedure.
"3404. Designation of foreclosure trustee.
"3405. Notice of foreclosure sale; Statute of limitations.
"3406. Service of notice of foreclosure sale.
"3407. Cancellation of foreclosure sale.
"3408. Stay.
"3409. Conduct of sale; postponement.
"3410. Transfer of title and possession.
"3411. Record of foreclosure and sale.
"3412. Effect of sale.
"3413. Disposition of sale proceeds.
"3414. Deficiency judgment.

"SEC. 3401. DEFINITIONS.

"As used in this subchapter—

"(1) 'agency' means—

"(A) an executive department as defined in section 101 of title 5, United States Code;

"(B) an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office);

"(C) a military department as defined in section 102 of title 5, United States Code; and

"(D) a wholly owned government corporation as defined in section 9101(3) of title 31, United States Code.

"(2) 'agency head' means the head and any assistant head of an agency, and may upon the designation by the head of an agency include the chief official of any principal division of an agency or any other employee of an agency.

"(3) 'bona fide purchaser' means a purchaser for value in good faith and without notice of any adverse claim who acquires the seller's interest free of any adverse claim.

"(4) 'debt instrument' means a note, mortgage bond, guaranty or other instrument creating a debt or other obligation, including any instrument incorporated by reference therein and any instrument or agreement amending or modifying a debt instrument.

"(5) 'file' or 'filing' means docketing, indexing, recording, or registering, or any other requirement for perfecting a mortgage or a judgment.

"(6) 'foreclosure trustee' means an individual, partnership, association, or corporation, or any employee thereof, including a successor, appointed by the agency head to conduct a foreclosure sale pursuant to this subchapter.

"(7) 'mortgage' means a deed of trust, deed to secure debt, security agreement, or any other form of instrument under which any interest in real property, including leaseholds, life estates, reversionary interests, and any other estates under applicable law is conveyed in trust, mortgaged, encumbered, pledged or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of any other obligation.

"(8) 'of record' means an interest recorded pursuant to Federal or State statutes that provide for official recording of deeds, mortgages and judgments, and that establish the effect of such records as notice to creditors, purchasers, and other interested persons.

"(9) 'owner' means nay person who has an ownership interest in property and includes heirs, devisees, executors, administrators, and other personal representatives, and trustees of testamentary trusts if the owner of record is deceased.

"(10) 'sale' means a sale conducted pursuant to this subchapter, unless the context requires otherwise.

"(11) 'security property' means real property, or any interest in real property including leaseholds life estates, reversionary interests, and any other estates under applicable State law that secure a mortgage.

"SEC. 3402. RULES OF CONSTRUCTION.

"(a) In General.—If an agency head elects to proceed under this subchapter, this subchapter shall apply and the provisions of this subchapter shall govern in the event of a conflict with any other provision of Federal law or State law.

"(b) Limitation.—This subchapter shall not be construed to supersede or modify the operation of—

"(1) the lease-back/buy-back provisions under section 1985 of title 7, United States Code, or regulations promulgated thereunder; or

"(2) The Multifamily Mortgage Foreclosure Act of 1981 (Chapter 38 of title 12, United States Code).

"(c) Effect on Other Laws.—This subchapter shall not be construed to curtail or limit the rights of the United States or any of its agencies—

"(1) to foreclose a mortgage under any other provision of Federal law or State law; or

"(2) to enforce any right under Federal law or State law in lieu of or in addition to foreclosure, including any right to obtain a monetary judgment.

"(d) Application to Mortgages.—The provisions of this subchapter may be used to foreclose any mortgage, whether executed prior or subsequent to the effective date of this subchapter.

"SEC. 3403. ELECTION OF PROCEDURE.

"(a) Security Property Subject to Foreclosure.—An agency head may foreclose a mortgage upon the breach of a covenant or condition in a debt instrument or mortgage for which acceleration or foreclosure is authorized. An agency head may not institute foreclosure proceedings on the mortgage under any other provision of law, or refer such mortgage for litigation, during the pendency of foreclosure proceedings pursuant to this subchapter.

"(b) Effect of Cancellation of Sale.—If a foreclosure sale is canceled pursuant to section 3407, the agency head may thereafter foreclose on the security property in any manner authorized by law.

"SEC. 3404. DESIGNATION OF FORECLOSURE TRUSTEE.

"(a) In General.—An agency head shall designate a foreclosure trustee who shall supersede any trustee designated in the mortgage. A foreclosure trustee designated under this section shall have a nonjudicial power of sale pursuant to this subchapter.

"(b) Designation of Foreclosure Trustee.—

"(1) An agency head may designate as foreclosure trustee—

"(A) an officer or employee of the agency; or

"(B) an individual who is a resident of the State in which the security property is located or

"(C) a partnership, association, or corporation, provided such entity is authorized to transact business under the laws of the State in which the security property is located.

"(2) The agency head is authorized to enter into personal services and other contracts not inconsistent with this subchapter.

"(c) Method of Designation.—An agency head shall designate the foreclosure trustee in writing. The foreclosure trustee may be designated by name, title or position. An agency head may designate one or more foreclosure trustees for the purpose of proceeding with multiple foreclosures or a class of foreclosures.

"(d) Availability of Designation.—An agency head may designate such foreclosure trustees as the agency head deems necessary to carry out the purposes of this subchapter.

"(3) Multiple Foreclosure Trustees Authorized.—An agency head may designate multiple foreclosure trustees for different tracts of a secured property.

"(f) Removal of Foreclosure Trustees; Successor Foreclosure Trustees.—An agency head may, with or without cause or notice, remove a foreclosure trustee and designate a successor trustee as provided in this section. The foreclosure sale shall continue without prejudice notwithstanding the removal of the foreclosure trustee and designation of a successor foreclosure trustee. Nothing in this section shall be construed to prohibit a successor foreclosure trustee from postponing the foreclosure sale in accordance with this subchapter.

"SEC. 3405. NOTICE OF FORECLOSURE SALE; STATUTE OF LIMITATIONS.

"(a) In General.—

"(1) Not earlier than 21 days nor later than ten years after acceleration of a debt instrument or demand on a guaranty, the foreclosure trustee shall serve a notice of foreclosure sale in accordance with this subchapter.

"(2) For purposes of computing the time period under paragraph (1), there shall be excluded all periods during which there is in effect—

"(A) a judicially imposed stay of foreclosure; or

"(B) a stay imposed by section 362 of title 11, United States Code.

"(3) In the event of partial payment or written acknowledgement of the debt after acceleration of the debt instrument, the right to foreclose shall be deemed to accrue again at the time of each such payment or acknowledgement.

"(b) Notice of Foreclosure Sale.—The notice of foreclosure sale shall include the following:

"(1) the name, title, and business address of the foreclosure trustee as of the date of the notice;

"(2) the names of the original parties to the debt instrument and the mortgage, and any assignees of the mortgagor of record;

"(3) the street address or location of the security property, and a generally accepted designation used to describe the security property, or so much thereof as is to be offered for sale, sufficient to identify the property to be sold;

"(4) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(5) the default or defaults upon which foreclosure is based, and the date of the acceleration of the debt instrument;

"(6) the date, time, and place of the foreclosure sale;

"(7) a statement that the foreclosure is being conducted in accordance with this subchapter;

"(8) the types of costs, if any, to be paid by the purchaser upon transfer of title; and

"(9) the terms and conditions of sale, including the method and time of payment of the foreclosure purchase price.

"SEC. 3406. SERVICE OF NOTICE OF FORECLOSURE SALE.

"(a) Record Notice.—At least 21 days prior to the date of the foreclosure sale, the notice of foreclosure sale required by section 3405 shall be filed in the manner authorized for filing a notice of an action concerning real property according to the law of the State where the security property is located or, if none, in the manner authorized by section 3201 of this chapter.

"(b) Notice by Mail.—

"(1) At least 21 days prior to the date of the foreclosure sale, the notice set forth in section 3405 shall be sent by registered or certified mail, return receipt requested—

"(A) to the current owner of record of the security property as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a);

"(B) to all debtors, including the mortgagor, assignees of the mortgagor and guarantors of the debt instrument;

"(C) to all persons having liens, interests or encumbrances of record upon the security property, as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a); and

"(D) to any occupants of the security property. If the names of the occupants of the security property are not known to the agency, or the security property has more than one dwelling unit, the notice shall be posted at the security property.

"(2) The notice shall be sent to the debtor at the address, if any, set forth in the debt instrument or mortgage as the place to which notice is to be sent, and if different, to the debtor's last known address as shown in the mortgage record of the agency. The notice shall be sent to any person other than the debtor to that person's address of record or, if there is no address of record, to any address at which the agency in good faith believes the notice is likely to come to that person's attention.

"(3) Notice by mail pursuant to this subsection shall be effective upon mailing.

"(c) Notice by Publication.—Notice of the foreclosure sale shall be published at least once a week for each of three successive weeks prior to the sale in at least one newspaper of general circulation in any county or counties in which the security property is located. If there is no newspaper published at least weekly that has a general circulation in at least one county in which the security property is located, copies of the notice of foreclosure sale shall instead be posted at least 21 days prior to the sale at the courthouse of any county or counties in which the property is located and at the place where the sale is to be held.

"SEC. 3407. CANCELLATION OF FORECLOSURE SALE.

"(a) In General.—At any time prior to the foreclosure sale, the foreclosure trustee shall cancel the sale—

"(1) if the debtor or the holder of any subordinate interest in the security property tenders the performance due under the debt instrument and mortgage, including any amounts due because of the exercise of the right to accelerate, and the expenses of proceeding to foreclosure incurred to the time of tender; or

"(2) if the security property is a dwelling of four units or fewer, and the debtor:

"(A) pays or tenders all sums which would have been due at the time of tender in the absence of any acceleration;

"(B) performs any other obligation which would have been required in the absence of any acceleration; and

"(C) pays or tenders all costs of foreclosure incurred for which payment from the proceeds of the sale would be allowed; or

"(3) for any reason approved by the agency head.

"(b) Limitation.—The debtor may not, without the approval of the agency head, cure the default under subsection (a)(2) if, within the preceding 12 months, the debtor has cured a default after being served with a notice of foreclosure sale pursuant to this subchapter.

"(c) Notice of Cancellation.—The foreclosure trustee shall file a notice of the cancellation in the same place and manner provided for the filing of the notice of foreclosure sale under section 3406(a).

"SEC. 3408. STAY.

"If, prior to the time of sale, foreclosure proceedings under this subchapter are stayed in any manner, including the filing of bankruptcy, no person may thereafter cure the default under the provisions of section 3407(a)(2). If the default is not cured at the time a stay is terminated, the foreclosure trustee shall proceed to sell the security property as provided in this subchapter.

"SEC. 3409. CONDUCT OF SALE; POSTPONEMENT.

"(a) Sale Procedures.—Foreclosure sale pursuant to this subchapter shall be at public auction and shall be scheduled to begin at a time between the hours of 9:00 a.m. and 4:00 p.m. local time. The foreclosure sale shall be held at the location specified in the notice of foreclosure sale, which shall be a location where real estate foreclosure auctions are customarily held in the county or one of the counties in which the property to be sold is located or at a courthouse therein, or upon the property to be sold. Sale of security property situated in two or more counties may be held in any one of the counties in which any part of the security property is situated. The foreclosure trustee may designate the order in which multiple tracts of security property are sold.

"(b) Bidding Requirements.—Written one-price sealed bids shall be accepted by the foreclosure trustee, if submitted by the agency head or other persons for entry by announcement by the foreclosure trustee at the sale. The sealed bids shall be submitted in accordance with the terms set forth in the notice of foreclosure sale. The agency head or any other person may bid at the foreclosure sale, even if the agency head or other person previously submitted a written one-price bid. The agency head may bid a credit against the debt due without the tender or payment of cash. The foreclosure trustee may serve as auctioneer, or may employ an auctioneer who may be paid from the sale proceeds. If an auctioneer is employed, the foreclosure trustee is not required to attend the sale. The foreclosure trustee or an auctioneer may bid as directed by the agency head.

"(c) Postponement of Sale.—The foreclosure trustee shall have discretion, prior to or at the time of sale, to postpone the foreclosure sale. The foreclosure trustee may

VOL 142 PT 6 AP 15 — 24 1996 UMI

postpone a sale to a later hour the same day by announcing or posting the new time and place of the foreclosure sale at the time and place originally scheduled for the foreclosure sale. The foreclosure trustee may instead postpone the foreclosure sale for not fewer than 9 nor more than 31 days, by serving notice that the foreclosure sale has been postponed to a specified date, and the notice may include any revisions the foreclosure trustee deems appropriate. The notice shall be served by publication, mailing, and posting in accordance with subsections 3406 (b) and (c), except that publication may be made on any of three separate days prior to the new date of the foreclosure sale, and mailing may be made at any time at least 7 days prior to the new data of the foreclosure sale.

"(d) Liability of Successful Bidder Who Fails To Comply.—The foreclosure trustee may require a bidder to make a cash deposit before the bid is accepted. The amount or percentage of the cash deposit shall be stated by the foreclosure trustee in the notice of foreclosure sale. A successful bidder at the foreclosure sale who fails to comply with the terms of the sale shall forfeit the cash deposit or, at the election of the foreclosure trustee, shall be liable to the agency on a subsequent sale of the property for all net losses incurred by the agency as a result of such failure.

"(e) Effect of Sale.—Any foreclosure sale held in accordance with this subchapter shall be conclusively presumed to have been conducted in a legal, fair and commercially reasonable manner. The sale price shall be conclusively presumed to constitute the reasonably equivalent value of the security property.

"SEC. 3410 TRANSFER OF TITLE AND POSSESSION.

"(a) Deed.—After receipt of the purchase price in accordance with the terms of the sale as provided in the notice of foreclosure sale, the foreclosure trustee shall execute and deliver to the purchaser a deed conveying the security property to the purchaser that grants and conveys title to the security property without warranty or covenants to the purchaser. The execution of the foreclosure trustee's deed shall have the effect of conveying all of the right, title, and interest in the security property covered by the mortgage. Notwithstanding any other law to the contrary, the foreclosure trustee's deed shall be a conveyance of the security property and not a quitclaim. No judicial proceeding shall be required ancillary or supplementary to the procedures provided in this chapter to establish the validity of the conveyance.

"(b) Death of Purchaser Prior to Consummation of Sale.—If a purchaser dies before execution and delivery of the deed conveying the security property to the purchaser, the foreclosure trustee shall execute and deliver the deed to the representative of the purchaser's estate upon payment of the purchase price in accordance with the terms of sale. Such delivery to the representative of the purchaser's estate shall have the same effect as if accomplished during the lifetime of the purchaser.

"(c) Purchaser Considered Bona Fide Purchaser Without Notice.—The purchaser of property under this subchapter shall be presumed to be a bona fide purchaser without notice of defects, if any, in the title conveyed to the purchaser.

"(d) Possession by Purchaser; Continuing Interests.—A purchaser at a foreclosure sale conducted pursuant to this subchapter shall be entitled to possession upon passage of title to the security property, subject to any interest or interests senior to that of the mortgage. The right to possession of any person without an interest senior to the mortgage who is in possession of the property shall terminate immediately upon the passage of title to the security property, and the person shall vacate the security property immediately. The purchaser shall be entitled to take any steps available under Federal law or State law to obtain possession.

"(e) Right of Redemption; Right of Possession.—This subchapter shall preempt all Federal and State rights of redemption, statutory of common law. Upon conclusion of the public auction of the security property, no person shall have a right of redemption.

"(f) Prohibition of Imposition of Tax on Conveyance by the United States or Agency Thereof.—No tax, or fee in the nature of a tax, for the transfer of title to the security property by the foreclosure trustee's deed shall be imposed upon or collected from the foreclosure trustee or the purchaser by any State or political subdivision thereof.

"SEC. 3411. RECORD OF FORECLOSURE AND SALE.

"(a) Recital Requirements.—The foreclosure trustee shall recite in the deed to the purchaser, or in an addendum to the foreclosure trustee's deed, or shall prepare an affidavit stating—

"(1) the date, time, and place of sale;

"(2) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(3) the persons served with the notice of foreclosure sale;

"(4) the date and place of filing of the notice of foreclosure sale under section 3406(a);

"(5) that the foreclosure was conducted in accordance with the provisions of this subchapter, and

"(6) the sale amount.

"(b) Effect of Recitals.—The recitals set forth in subsection (a) shall be prima facie evidence of the truth of such recitals. Compliance with the requirements of subsection (a) shall create a conclusive presumption of the validity of the sale in favor of bona fide purchasers and encumbrancers for value without notice.

"(c) Deed To Be Accepted for Filing.—The register of deeds or other appropriate official of the county or counties where real estate deeds are regularly filed shall accept for filing and shall file the foreclosure trustee's deed and affidavit, if any, and any other instruments submitted for filing in relation to the foreclosure of the security property under this subchapter.

"SEC. 3412. EFFECT OF SALE.

"A sale conducted under this subchapter to a bona fide purchaser shall bar all claims upon the security property by—

"(1) any person to whom the notice of foreclosure sale was mailed as provided in this subchapter who claims an interest in the property subordinate to that of the mortgage, and the heir, devisee, executor, administrator, successor or assignee claiming under any such person;

"(2) any person claiming any interest in the property subordinate to that of the mortgage, if such person had actual knowledge of the sale;

"(3) any person so claiming, whose assignment, mortgage, or other conveyance was not filed in the proper place for filing, or whose judgment or decree was not filed in the proper place for filing, prior to the date of filing of the notice of foreclosure sale as required by section 3406(a), and the heir, devisee, executor, administrator, successor or assignee of such a person; or

"(4) any other person claiming under a statutory lien or encumbrance not required to be filed and attaching to the title or interest of any person designated in any of the foregoing subsections of this section.

"SEC. 3413. DISPOSITION OF SALE PROCEEDS.

"(a) Distribution of Sale Proceeds.—The foreclosure trustee shall distribute the proceeds of the foreclosure sale in the following order—

"(1)(A) to pay the commission of the foreclosure trustee, other than an agency employee, the greater of—

"(i) the sum of—

"(I) 3 percent of the first $1,000 collected, plus

"(II) 1.5 percent on the excess of any sum collected over $1,000; or

"(ii) $250; and

"(B) the amounts described in subparagraph (A)(i) shall be computed on the gross proceeds of all security property sold at a single sale;

"(2) to pay the expense of any auctioneer employed by the foreclosure trustee, if any, except that the commission payable to the foreclosure trustee pursuant to paragraph (1) shall be reduced by the amount paid to an auctioneer, unless the agency head determines that such reduction would adversely affect the ability of the agency head to retain qualified foreclosure trustees or auctioneers;

"(3) to pay for the costs of foreclosure, including—

"(A) reasonable and necessary advertising costs and postage incurred in giving notice pursuant to section 3406;

"(B) mileage for posting notices and for the foreclosure trustee's or auctioneer's attendance at the sale at the rate provided in section 1921 of title 28, United States Code, for mileage by the most reasonable road distance;

"(C) reasonable and necessary costs actually incurred in connection with any search of title and lien records; and

"(D) necessary costs incurred by the foreclosure trustee to file documents;

"(4) to pay valid real property tax liens or assessments, if required by the notice of foreclosure sale;

"(5) to pay any liens senior to the mortgage, if required by the notice of foreclosure sale;

"(6) to pay service charges and advancements for taxes, assessments, and property insurance premiums;

"(7) to pay late charges and other administrative costs and the principal and interest balances secured by the mortgage, including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the debt instrument or mortgage and interest thereon if provided for in the debt instrument or mortgage, pursuant to the agency's procedure.

"(b) Insufficient Proceeds.—In the event there are no proceeds of sale or the proceeds are insufficient to pay the costs and expenses set forth in subsection (a), the agency head shall pay such costs and expenses as authorized by applicable law.

"(c) Surplus Monies.—

"(1) After making the payments required by subsection (a), the foreclosure trustee shall—

"(A) distribute any surplus to pay liens in the order of priority under Federal law or the law of the State where the security property is located; and

"(B) pay to the person who was the owner of record on the date the notice of foreclosure sale was filed the balance, if any,

after any payments made pursuant to paragraph (1).

"(2) If the person to whom such surplus is to be paid cannot be located, or if the surplus available is insufficient to pay all claimants and the claimants cannot agree on the distribution of the surplus, that portion of the sale proceeds may be deposited by the foreclosure trustee with an appropriate official authorized under law to receive funds under such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure trustee files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure trustee's necessary costs in taking or defending such action shall be deducted first from the disputed funds.

"SEC. 3414. DEFICIENCY JUDGMENT.

"(a) In General.—If after deducting the disbursements described in section 3413, the price at which the security property is sold at a foreclosure sale is insufficient to pay the unpaid balance of the debt secured by the security property, counsel for the United States may commence an action or actions against any or all debtors to recover the deficiency, unless specifically prohibited by the mortgage. The United States is also entitled to recover any amount authorized by section 3011 and costs of the action.

"(b) Limitation.—Any action commenced to recover the deficiency shall be brought within 6 years of the last sale of security property.

"(c) Credits.—The amount payable by a private mortgage guaranty insurer shall be credited to the account of the debtor prior to the commencement of an action for any deficiency owed by the debtor. Nothing in this subsection shall curtail or limit the subrogation rights of a private mortgage guaranty insurer.".

TITLE III—IRS LEVY AUTHORITY

Subchapter A—Amendments to the Internal Revenue Code of 1986

SEC. 1301. PROVISION FOR CONTINUOUS LEVY.

Section 6331 of the Internal Revenue Code of 1986 (26 U.S.C. 6331) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) Continuing Levy on Non-Means Tested Federal Payments.—The effect of a levy on non-means tested Federal payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such levy shall attach to up to 15 percent of any salary or pension payment due to the taxpayer. For the purposes of this subsection, the term 'non-means tested Federal payment' refers to a Federal payment for which eligibility is not based on the income and/or assets of a payee, or that is not a loan.".

SEC. 1302. MODIFICATION OF LEVY EXEMPTION

Section 6334 of the Internal Revenue Code of 1986 (26 U.S.C. 6334) is amended by adding at the end the following new subsection:

"(f) Levy Allowed on Certain Non-Means Tested Federal Payments.—Non-means tested amounts—

(1) described in subsections (a)(7) and (a)(9) of this section; and

(2) annuity or pension payments under the Railroad Retirement Act and benefits under the Railroad Unemployment Insurance Act described in subsection (a)(6) of this section, shall not be exempt from levy if the Secretary approves the levy of such property.".

SEC. 1303. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) Section 6103 of the Internal Revenue Code of 1986 (26 U.S.C. 6103) is amended by adding at the end of subsection (k) the following new paragraph:

"(8) Levies on Certain Government Payments.—

"(A) Disclosure of return information in levies on Financial Management Service.—The Secretary may disclose to officers and employees of the Financial Management Service return information, including taxpayer identity information, the amount of any unpaid liability under this title (including penalties and interest), and the type of tax and tax period to which such unpaid liability relates, in serving a notice of levy, or release of such levy, with respect to any applicable government payment.

"(B) Restriction on use of disclosed information.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Financial Management Service only for the purpose of, and to the extent necessary in, transferring levied funds in satisfaction of the levy, maintaining appropriate agency records in regard to such levy or the release thereof, notifying the taxpayer and the agency certifying such payment that the levy has been honored, or in the defense of any litigation ensuing from the honor of such levy.

"(C) Applicable Government Payment.—For purposes of this paragraph, the term 'applicable government payment' means any non-means tested Federal payment, as defined in section 6331(h) certified to the Financial Management Service for disbursement and any other payment certified to the Financial Management Service for disbursement and which the Commissioner designates by published notice.";

(b) Section 6301(p) of the Internal Revenue Code of 1986 (26 U.S.C. 6301(p)), is amended—

(1) in paragraph (3)(A), by inserting "(8)" after "(6),"; and

(2) in paragraph (4), by inserting "(k)(8)," after

"(j)(1) or (2),".

(c) Section 552a(a)(8)(B) of title 5, United States Code, is amended by adding at the end the following new clause:

"(ix) matches performed incident to a levy described in section 6103(k)(8) of the Internal Revenue Code of 1986.".

DOMENICI (AND WELLSTONE) AMENDMENT NO. 3681

Mr. DOMENICI (for himself and Mr. WELLSTONE) proposed an amendment to the bill S. 1028, supra; as follows:

At the end of title III, add the following:

SEC. ___. PARITY FOR MENTAL HEALTH SERVICES.

(a) Prohibition.—An employee health benefit plan, or a health plan issuer offering a group health plan or an individual health plan, shall not impose treatment limitations or financial requirements on the coverage of mental health services if similar limitations or requirements are not imposed on coverage for services for other conditions.

(b) Rule of Construction.—Nothing in subsection (a) shall be construed as prohibiting an employee health benefit plan, or a health plan issuer offering a group health plan or an individual health plan, from requiring preadmission screening prior to the authorization of services covered under the plan or from applying other limitations that restrict coverage for mental health services to those services that are medically necessary.

TITLE IV—INTERNAL REVENUE CODE AND OTHER PROVISIONS

SEC. 400. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Foreign Trust Tax Compliance

SEC. 401. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) In General.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) Notice of Certain Events.—

"(1) General rule.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) Contents of notice.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

"(3) Reportable event.—For purposes of this subsection—

"(A) In general.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) Exceptions.—

"(i) Fair market value sales.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) Deferred compensation and charitable trusts.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) Responsible party.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) United States Grantor of Foreign Trust.—

VOL 142 PT 6 AP 15 — 24 1996 UMI

"(1) In general.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) Trusts not having united states agent.—

"(A) In general.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) United states agent required.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) Other rules to apply.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) Reporting by United States Beneficiaries of Foreign Trusts.—

"(1) In general.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) Inclusion in income if records not provided.—

"(A) In general.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) Application of accumulation distribution rules.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) Special Rules.—

"(1) Determination of whether united states person receives distribution.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) Domestic trusts with foreign activities.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) Time and manner of filing information.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) Modification of return requirements.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information."

(b) Increased Penalties.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) Civil Penalty.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) Special Rules for Returns Under Section 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) Gross Reportable Amount.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) Reasonable Cause Exception.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(c) Conforming Amendments.—

(1) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting ", or", and by inserting after subparagraph (T) the following new subparagraph:

"(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements)."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts."

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts."

(d) Effective Dates.—

(1) Reportable events.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) Grantor trust reporting.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) Reporting by united states beneficiaries.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 402. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) Treatment of Trust Obligations, Etc.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) Transfers at fair market value.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property.

For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value."

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) Certain obligations not taken into account under fair market value exception.—

"(A) In general.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) Treatment of principal payments on obligation.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) Persons described.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust."

(b) Exemption of Transfers to Charitable Trusts.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) Other Modifications.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) Special rules applicable to foreign grantor who later becomes a united states person.—

"(A) In general.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) Treatment of undistributed income.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) Residency starting date.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) Outbound trust migrations.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph."

(d) Modifications Relating to Whether Trust Has United States Beneficiaries.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) Certain united states beneficiaries disregarded.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer."

(e) Technical Amendment.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) Regulations.—Section 679 is amended by adding at the end the following new subsection:

"(d) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(g) Effective Date.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 403. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) General Rule.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) Subpart Not To Result in Foreign Ownership.—

"(1) In general.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) Exceptions.—

"(A) Certain revocable and irrevocable trusts.—Paragraph (1) shall not apply to any trust if—

"(i) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) Compensatory trusts.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) Special rules.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) Recharacterization of purported gifts.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) Special rule where grantor is foreign person.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases."

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) Credit for Certain Taxes.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income."

(c) Distributions by Certain Foreign Trusts Through Nominees.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) Distributions by Certain Foreign Trusts Through Nominees.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person."

(2) Section 665 is amended by striking subsection (c).

(d) Effective Date.—

(1) In general.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Exception for certain trusts.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) Transitional Rule.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the

VOL 142 PT 6 AP 15 — 24 1996 UMI

assets of such trust being transferred to a foreign trust.

SEC. 404. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) In General.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) In General.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) Foreign Gift.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) Penalty for Failure To File Information.—

"(1) In general.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) Reasonable cause exception.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) Cost-of-Living Adjustment.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) Clerical Amendment.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons."

(c) Effective Date.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 405. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) Modification of Interest Charge on Accumulation Distributions.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) General Rule.—For purposes of the tax determined under section 667(a)—

"(1) Interest determined using underpayment rates.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) Period.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) Applicable number of years.—For purposes of paragraph (2)—

"(A) In general.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) Product described.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) Undistributed income year.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) Determination of undistributed net income.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) Periods before 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996."

(b) Abusive Transactions.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) Abusive transactions.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes."

(c) Treatment of Loans From Trusts.—

(1) In general.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) Loans From Foreign Trusts.—For purposes of subparts B, C, and D—

"(1) General rule.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) Definitions and special rules.—For purposes of this subsection—

"(A) Cash.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) Related person.—

"(i) In general.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) Allocation.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) Exclusion of tax-exempts.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) Trust not treated as simple trust.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) Subsequent transactions regarding loan principal.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(2) Technical amendment.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)," before "or 1274" each place it appears.

(d) Effective Dates.—

(1) Interest charge.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) Abusive transactions.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) Loans from trusts.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 406. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) Treatment as United States Person.—

(1) In general.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust."

(2) Conforming amendment.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) Foreign estate or trust.—The term 'foreign estate' or 'foreign trust' means any

estate or trust other than an estate or trust described in section 7701(a)(30)(D)."

(3) Effective date.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) Domestic Trusts Which Become Foreign Trusts.—

(1) In general.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust."

(2) Penalty.—Section 1494 is amended by adding at the end the following new subsection:

"(c) Penalty.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a)."

(3) Effective date.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

Subtitle B—Repeal of Bad Debt Reserve Method for Thrift Savings Associations

SEC. 411. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) In General.—Section 593 (relating to reserves for losses on loans) is hereby repealed.

(b) Conforming Amendments.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7) Sections 595 and 596 are hereby repealed.

(8) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The",

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(9) Paragraph (3) of section 992(d) is amended by striking "or 593".

(10) Section 1038 is amended by striking subsection (f).

(11) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(12) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(13) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(14) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 593, 595, and 596.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) Repeal of section 595.—The repeal of section 595 under subsection (b)(7) shall apply to property acquired in taxable years beginning after December 31, 1995.

(d) 6-Year Spread of Adjustments.—

(1) In general.—In the case of any taxpayer who is required by reason of the amendments made by this section to change its method of computing reserves for bad debts—

(A) such change shall be treated as a change in a method of accounting,

(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

(i) shall be determined by taking into account only applicable excess reserves, and

(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

(2) Applicable excess reserves.—

(A) In general.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

(i) the balance of the reserves described in section 593(c)(1) of such Code (as in effect on the day before the date of the enactment of this Act) as of the close of the taxpayer's last taxable year beginning before January 1, 1996, over

(ii) the lesser of—

(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

(II) the balance of the reserves described in subclause (I), reduce by an amount determined in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

(B) Special rule for thrifts which become small banks.—In the case of a bank (as defined in section 581 of such Code) which is not a large bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995—

(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserve as of the close of its last taxable year beginning before January 1, 1996, if the additions to such reserve for all taxable years had been determined under section 585(b)(2)(A), and

(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5), (6), and (7).

(3) Recapture of pre-1988 reserves where taxpayer ceases to be bank.—If during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in subparagraph (A)(ii) except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

(4) Suspension of recapture if residential loan requirement met.—

(A) In general.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for a taxable year beginning after December 31, 1995, and before January 1, 1998—

(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

(ii) such taxable year shall be disregarded in determining—

(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

(II) the amount of such adjustment.

(B) Residential loan requirement.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

(C) Residential loan.—For purposes of this paragraph, the term "residential loan" means any loan described in clause (v) of section 7701(a)(19)(C) of such Code but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

(D) Base amount.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning before January 1, 1996. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after December 31, 1995, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary of the Treasury or the Secretary's delegate.

(E) Controlled groups.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1) of such Code, subparagraph (B) shall be applied with respect to such group.

(5) Continued application of fresh start under section 585 transitional rules.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995:

(A) In general.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii) of such Code, there shall be taken into account only the excess of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

(B) Treatment under elective cut-off method.—For purposes of applying section 585(c)(4) of such Code—

(i) the balance of the reserve taken into account under subparagraph (B) thereof shall

VOL
142
PT
6
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15
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24
1996
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be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

(ii) no amount shall be includible in gross income by reason of such reduction.

(6) Continued Application of Section 593(e).—Notwithstanding the amendments made by this section, in the case of a taxpayer to which paragraph (1) of this subsection applies, section 593(e) of such Code (as in effect on the day before the date of the enactment of this Act) shall continue to apply to such taxpayer as if such taxpayer were a domestic building and loan association but the amount of the reserves taken into account under subparagraphs (B) and (C) of section 593(e)(1) (as so in effect) shall be the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

(7) Certain Items Included as Section 381(c) Items.—The balance of the applicable excess reserves, and the balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection, shall be treated as items described in section 381(c) of such Code.

(8) Conversions to Credit Unions.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c)(14)(A)—

(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

(9) Regulations.—The Secretary of the Treasury or the Secretary's delegate shall prescribe such regulations as may be necessary to carry out this subsection, including regulations providing for the application of paragraphs (4) and (6) in the case of acquisitions, mergers, spin-offs, and other reorganizations.

Subtitle C—Other Provisions

SEC. 421. EXTENSION OF MEDICARE SECONDARY PAYOR PROVISIONS.

Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking clause (iii) and redesignating clause (iv) as clause (iii); and

(B) in the matter following clause (ii) of subparagraph (C), by striking ", and before October 1, 1998"; and

(2) in paragraph (5)(C), by striking clause (iii).

SEC. 422. ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY; RESTRAINT ON RENT INCREASES.

(a) Annual Adjustment Factors for Operating Costs Only.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended—

(1) by striking "(2)(A)" and inserting "(2)(A)(i)";

(2) by striking the second sentence and all that follows through the end of the subparagraph; and

(3) by adding at the end the following new clause:

"(ii) Each assistance contract under this section shall provide that—

"(I) if the maximum monthly rent for a unit in a new construction or substantial rehabilitation project to be adjusted using an annual adjustment factor exceeds 100 percent of the fair market rent for an existing dwelling unit in the market area, the Secretary shall adjust the rent using an operating costs factor that increases the rent to reflect increases in operating costs in the market area; and

"(II) if the owner of a unit in a project described in subclause (I) demonstrates that the adjusted rent determined under subclause (I) would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary, the Secretary shall use the otherwise applicable annual adjustment factor.".

(b) Restraint on Section 8 Rent Increases.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), as amended by subsection (a) of this section, is amended by adding at the end the following new clause:

"(iii)(I) Subject to subclause (II), with respect to any unit assisted under this section that is occupied by the same family at the time of the most recent annual rental adjustment, if the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor, and if the rent for the unit is otherwise eligible for an adjustment based on the full amount of the annual adjustment factor, 0.01 shall be subtracted from the amount of the annual adjustment factor, except that the annual adjustment factor shall not be reduced to less than 1.0.

"(II) With respect to any unit described in subclause (I) that is assisted under the certificate program, the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area in which the unit is located.".

(c) Effective Date.—The amendments made by this section shall be construed to have become effective on October 1, 1995.

SEC. 423. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) Effectiveness and Applicability.—Section 407 of The Balanced Budget Downpayment Act, I (Public Law 104–99) is amended—

(1) in subsection (c)—

(A) by striking "Except as provided in subsection (e), the" and inserting "The"; and

(B) by striking "only with respect to mortgages insured under the National Housing Act that are originated before October 1, 1995" and inserting "to all mortgages insured under the National Housing Act"; and

(2) by striking subsection (e).

(b) Technical Amendment.—Section 230(d) of the National Housing Act (12 U.S.C. 1715u(d)) is amended by striking "the Departments" and all that follows through "1996", and inserting "The Balanced Budget Downpayment Act, I".

SPECTER AMENDMENT NO. 3682

Mr. SPECTER proposed an amendment to the bill S. 1028, supra; as follows:

At the appropriate place in title III, insert the following new section:

SEC. . REAUTHORIZATION OF HEALTHY START PROGRAM.

(a) Authorization of Appropriations.—To enable the Secretary of Health and Human Services to carry out the healthy start program established under the authority of section 301 of the Public Health Service Act (42 U.S.C. 241), there are authorized to be appropriated $100,000,000 for each of the fiscal years 1997 through 2001.

(b) Existing Projects.—

(1) In general.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall reserve $30,000,000 for such fiscal year among demonstration projects that received funding under the healthy start program for fiscal year 1996.

(2) Eligibility.—To be eligible to receive funds under paragraph (1), an existing demonstration projects shall demonstrate to the satisfaction of Secretary of Health and Human Services that such project has been successful in serving needy areas and reducing infant mortality.

(3) Use of projects.—A demonstration project that receives funding under paragraph (1) shall be utilized as a resource center to assist in the training of those individuals to be involved in projects established under subsection (c). It shall be the goal of such projects to become self-sustaining within the project area.

(c) New Projects.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall allocate the remaining amounts for such fiscal year among up to 35 new demonstration projects. Such projects shall be community-based and shall attempt to replicate healthy start model projects that have been determined by the Secretary of Health and Human Services to be successful.

HARKIN (AND OTHERS) AMENDMENT NO. 3683

Mr. HARKIN (for himself, Mr. Baucus, and Mr. Graham) proposed an amendment to the bill S. 1028, supra; as follows:

At the end of the bill, insert the following new title:

TITLE V—ADDITIONAL STEPS TO REDUCE HEALTH CARE FRAUD, WASTE, AND ABUSE

SEC. 500. SHORT TITLE.

This title may be cited as the "Health Care Fraud, Waste, and Abuse Reduction Act of 1996".

SEC. 501. MEDICARE/MEDICAID BENEFICIARY PROTECTION PROGRAM.

(a) Establishment of Program.—Not later than July 1, 1996, the Secretary of Health and Human Services (referred to in this title as the "Secretary") (through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall establish the Medicare/Medicaid Beneficiary Protection Program. Under such program the Secretary shall—

(1) educate medicare and medicaid beneficiaries regarding—

(A) medicare and medicaid program coverage;

(B) fraudulent and abusive practices;

(C) medically unnecessary health care items and services; and

(D) substandard health care items and services;

(2) identify and publicize fraudulent and abusive practices with respect to the delivery of health care items and services; and

(3) establish a procedure for the reporting of fraudulent and abusive health care providers, practitioners, claims, items, and services to appropriate law enforcement and payer agencies.

(b) Dissemination of Information.—The Secretary shall provide for the broad dissemination of information regarding the Medicare/Medicaid Beneficiary Protection Program.

SEC. 502. IMPROVING INFORMATION TO MEDICARE BENEFICIARIES.

(a) Clarification of Requirement To Provide Explanation of Medicare Benefits.—

Section 1804 of the Social Security Act (42 U.S.C. 1395b-2) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall provide a statement which explains the benefits provided under this title with respect to each item or service for which payment may be made under this title which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to such item or service.

"(2) Each explanation of benefits provided under paragraph (1) shall include—

"(A) a statement that, because billing errors do occur and because medicare fraud, waste, and abuse is a significant problem, beneficiaries should carefully check any statement of benefits received for accuracy and report any questionable charges;

"(B) a clear and understandable summary of—

"(i) how payments for items and services are determined under this title; and

"(ii) the beneficiary's right to request a itemized bill (as provided in section 1128A(n)); and

"(C) a toll-free telephone number for reporting questionable charges or other acts that would constitute medicare fraud, waste, or abuse, which may be the same number as described in subsection (b).".

(b) Request for Itemized Bill for Medicare Items and Services.—

(1) In general.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended by adding at the end the following new subsection:

"(m) Written Request for Itemized Bill.—

"(1) In general.—A beneficiary may submit a written request for an itemized bill for medical or other items or services provided to such beneficiary by any person (including an organization, agency, or other entity) that receives payment under title XVIII for providing such items or services to such beneficiary.

"(2) 30-day period to receive bill.—

"(A) In general.—Not later than 30 days after the date on which a request under paragraph (1) has been received, a person described in such paragraph shall furnish an itemized bill describing each medical or other item or service provided to the beneficiary requesting the itemized bill.

"(B) Penalty.—Whoever knowingly fails to furnish an itemized bill in accordance with subparagraph (A) shall be subject to a civil fine of not more than $100 for each such failure.

"(3) Review of itemized bill.—

"(A) In general.—Not later than 90 days after the receipt of an itemized bill furnished under paragraph (1), a beneficiary may submit a written request for a review of the itemized bill to the appropriate fiscal intermediary or carrier with a contract under section 1816 or 1842.

"(B) Specific allegations.—A request for a review of the itemized bill shall identify—

"(i) specific medical or other items or services that the beneficiary believes were not provided as claimed, or

"(ii) any other billing irregularity (including duplicate billing).

"(4) Findings of fiscal intermediary or carrier.—Each fiscal intermediary or carrier with a contract under section 1816 or 1842 shall, with respect to each written request submitted to the fiscal intermediary or carrier under paragraph (3), determine whether the itemized bill identifies specific medical or other items or services that were not provided as claimed or any other billing irregularity (including duplicate billing) that has resulted in unnecessary payments under title XVIII.

"(5) Recovery of amounts.—The Secretary shall require fiscal intermediaries and carriers to take all appropriate measures to recover amounts unnecessarily paid under title XVIII with respect to a bill described in paragraph (4).".

(c) Effective Date.—The amendments made by this section shall apply with respect to medical or other items or services provided on or after July 1, 1996.

SEC. 503. REWARDS FOR INFORMATION LEADING TO HEALTH CARE FRAUD PROSECUTION AND CONVICTION.

(a) In General.—In special circumstances, the Secretary and the Attorney General of the United States may jointly make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution for health care fraud.

(b) Ineligible Persons.—A person is not eligible for a payment under subsection (a) if—

(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

(2) the person knowingly participated in the offense;

(3) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

(A) in a criminal, civil, or administrative proceeding;

(B) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

(C) by the news media, unless the person is the original source of the information; or

(4) in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

(c) Definitions.—

(1) Health care fraud.—For purposes of this section, the term "health care fraud" means health care fraud within the meaning of section 1347 of title 18, United States Code.

(2) Original source.—For the purposes of subsection (b)(3)(C), the term "original source" means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

(d) No Judicial Review.—Neither the failure of the Secretary of Health and Human Services and the Attorney General to authorize a payment under subsection (a) nor the amount authorized shall be subject to judicial review.

SEC. 504. UNIFORM MEDICARE/MEDICAID APPLICATION PROCESS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish procedures and a uniform application form for use by any individual or entity that seeks to participate in the programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.). The procedures established shall include the following:

(1) Execution of a standard authorization form by all individuals and entities prior to submission of claims for payment which shall include the social security number of the beneficiary and the TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner providing items or services under the claim.

(2) Assumption of responsibility and liability for all claims submitted.

(3) A right of access by the Secretary to provider records relating to items and services rendered to beneficiaries of such programs.

(4) Retention of source documentation.

(5) Provision of complete and accurate documentation to support all claims for payment.

(6) A statement of the legal consequences for the submission of false or fraudulent claims for payment.

SEC. 505. STANDARDS FOR UNIFORM CLAIMS.

(a) Establishment of Standards.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish standards for the form and submission of claims for payment under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.).

(b) Ensuring Provider Responsibility.—In establishing standards under subsection (a), the Secretary, in consultation with appropriate agencies including the Department of Justice, shall include such methods of ensuring provider responsibility and accountability for claims submitted as necessary to control fraud and abuse.

(c) Use of Electronic Media.—The Secretary shall develop specific standards which govern the submission of claims through electronic media in order to control fraud and abuse in the submission of such claims.

SEC. 506. UNIQUE PROVIDER IDENTIFICATION CODE.

(a) Establishment of System.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a system which provides for the issuance of a unique identifier code for each individual or entity furnishing items or services for which payment may be made under title XVIII or XIX of the Social Security (42 U.S.C. 1395 et seq.; 1396 et seq.), and the notation of such unique identifier codes on all claims for payment.

(b) Application Fee.—The Secretary shall require an individual applying for a unique identifier code under subsection (a) to submit a fee in an amount determined by the Secretary to be sufficient to cover the cost of investigating the information on the application and the individual's suitability for receiving such a code.

SEC. 507. USE OF NEW PROCEDURES.

No payment may be made under either title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.) for any item or service furnished by an individual or entity unless the requirements of sections 505 and 506 are satisfied.

SEC. 508. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Notwithstanding any other provision of law, including any regulation or payment policy, the following categories of charges shall not be reimbursable under title XVIII of the Social Security Act:

(1) Tickets to sporting or other entertainment events.

(2) Gifts or donations.

(3) Costs related to team sports.

(4) Personal use of motor vehicles.

(5) Costs for fines and penalties resulting from violations of Federal, State, or local laws.

(6) Tuition or other education fees for spouses or dependents of providers of services, their employees, or contractors.

VOL
142
PT
6
AP
15
—
24
1996
UMI

SEC. 509. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) of the Social Security Act (42 U.S.C. 1395m(a)(15)) is amended by striking "Secretary may" both places it appears and inserting "Secretary shall".

SEC. 510. IMPROVED CARRIER AUTHORITY TO REDUCE EXCESSIVE MEDICARE PAYMENTS.

(a) General Rule.—Section 1834(a)(10)(B) of the Social Security Act (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "paragraphs (8) and (9)" and all that follows through the end of the sentence and inserting "section 1842(b)(8) to covered items and suppliers of such items and payments under this subsection as such provisions (relating to determinations of grossly excessive payment amounts) apply to items and services and entities and a reasonable charge under section 1842(b)".

(b) Repeal of Obsolete Provisions.—

(1) Section 1842(b)(8) of the Social Security Act (42 U.S.C. 1395u(b)(8)) is amended—

(A) by striking subparagraphs (B) and (C),

(B) by striking "(8)(A)" and inserting "(8)", and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(2) Section 1842(b)(9) of such Act (42 U.S.C. 1395u(b)(9)) is repealed.

(c) Payment for Surgical Dressings.—Section 1834(i) of the Social Security Act (42 U.S.C. 1395m(i)) is amended by adding at the end the following new paragraph:

"(3) Grossly excessive payment amounts.—Notwithstanding paragraph (1), the Secretary may apply the provisions of section 1842(b)(8) to payments under this subsection.".

SEC. 511. REQUIRED BILLING, PAYMENT, AND COST LIMIT CALCULATION TO BE BASED ON SITE WHERE SERVICE IS FURNISHED.

(a) Conditions of Participation.—Section 1891 of the Social Security Act (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) A home health agency shall submit claims for payment of home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the secretary.".

(b) Wage Adjustment.—Section 1861(v)(1)(L)(iii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "agency is located" and inserting "service is furnished".

SEC. 512. STANDARDS FOR PHYSICAL THERAPY SERVICES FURNISHED BY PHYSICIANS.

(a) Application of Standards for Other Providers of Physical Therapy Services to Services furnished by physicians.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph 14;

(2) by striking the period at the end of paragraph (15) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(16) in the case of physicians' services under 1848(j)(3) consisting of outpatient physical therapy services or outpatient occupational therapy services, which are furnished by a physician who does not meet the requirements applicable under section 1861(p) to a clinic or rehabilitation agency furnishing such services.".

(b) Conforming Amendment.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w-4(j)(3)) is amended by inserting "(subject to section 1862(a)(16))" after "(2)(D)".

(c) Effective Date.—The amendments made by this section shall apply to services furnished on or after July 1, 1996.

SEC. 513. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.

(a) In General.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a–7a(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

"(i) $5,000, or

"(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

"(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act.

SEC. 514. ITEMIZATION OF SURGICAL DRESSING BILLS SUBMITTED BY HOME HEALTH AGENCIES.

Section 1834(i)(2) (42 U.S.C. 1395m(i)(2) is amended to read as follows:

"(2) Exception.—Paragraph (1) shall not apply to surgical dressings that are furnished as an incident to a physician's professional service.".

SEC. 515. IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS REGARDING MEDICARE CLAIMS PROCESSING.

(a) In General.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by regulation, contract, change order, or otherwise, require medicare carriers to acquire commercial automatic data processing equipment (in this title referred to as "ADPE") meeting the requirements of section 516 to process medicare part B claims for the purpose of identifying billing code abuse.

(b) Supplementation.—Any ADPE acquired in accordance with subsection (a) shall be used as a supplement to any other ADPE used in claims processing by medicare carriers.

(c) Standardization.—In order to ensure uniformity, the Secretary may require that medicare carriers that use a common claims processing system acquire common ADPE in implementing subsection (a).

(d) Implementation Date.—Any ADPE acquired in accordance with subsection (a) shall be in use by medicare carriers not later than 180 days after the date of the enactment of this Act.

SEC. 516. MINIMUM SOFTWARE REQUIREMENTS.

(a) In General.—The requirements described in this section are as follows:

(1) The ADPE shall be a commercial item.

(2) The ADPE shall surpass the capability of ADPE used in the processing of medicare part B claims for identification of code manipulation on the day before the date of the enactment of this Act.

(3) The ADPE shall be capable of being modified to—

(A) satisfy pertinent statutory requirements of the medicare program; and

(B) conform to general policies of the Health Care Financing Administration regarding claims processing.

(b) Minimum Standards.—Nothing in this title shall be construed as preventing the use of ADPE which exceeds the minimum requirements described in subsection (a).

SEC. 517. DISCLOSURE.

(a) In General.—Notwithstanding any other provision of law, and except as provided in subsection (b), any ADPE or data related thereto acquired by medicare carriers in accordance with section 515(a) shall not be subject to public disclosure.

(b) Exception.—The Secretary may authorize the public disclosure of any ADPE or data related thereto acquired by medicare carriers in accordance with section 515(a) if the Secretary determines that—

(1) release of such information is in the public interest; and

(2) the information to be released is not protected from disclosure under section 552(b) of title 5, United States Code.

SEC. 518. REVIEW AND MODIFICATION OF REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary shall order a review of existing regulations, guidelines, and other guidance governing medicare payment policies and billing code abuse to determine if revision of or addition to those regulations, guidelines, or guidance is necessary to maximize the benefits to the Federal Government of the use of ADPE acquired pursuant to section 515.

SEC. 519. DEFINITIONS.

For purposes of this title—

(1) The term "automatic data processing equipment" (ADPE) has the same meaning as in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)).

(2) The term "billing code abuse" means the submission to medicare carriers of claims for services that include procedure codes that do not appropriately describe the total services provided or otherwise violate medicare payment policies.

(3) The term "commercial item" has the same meaning as in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(4) The term "medicare part B" means the supplementary medical insurance program authorized under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j–1395w–4).

(5) The term "medicare carrier" means an entity that has a contract with the Health Care Financing Administration to determine and make medicare payments for medicare part B benefits payable on a charge basis and to perform other related functions.

(6) The term "payment policies" means regulations and other rules that govern billing code abuses such as unbundling, global service violations, double billing, and unnecessary use of assistants at surgery.

(7) The term "Secretary" means the Secretary of Health and Human Services.

SEC. 520. NONDISCHARGEABILITY OF CERTAIN MEDICARE DEBTS.

(a) Payment to Providers.—Section 1815(d) of the Social Security Act (42 U.S.C. 1395g(d)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, amounts due to the program under this subsection are not dischargeable under any provision of title 11, United States Code.".

(b) Payment of Benefits.—Section 1833(j) of the Social Security Act (42 U.S.C. 1395l(j)) is amended by adding at the end thereof the following new sentence: "Notwithstanding

any other provision of law, amounts due to the program under this subsection are not dischargeable under any provision of title 11, United States Code.".

SEC. 521. APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM SANCTIONS.

(a) Exclusion of Individuals and Entities From Participation in Federal Health Care Programs.—Section 1128 of the Social Security Act (42 U.S.C. 1320a–7) is amended by adding at the end the following new subsection:

"(j) Applicability of Bankruptcy Provisions.—An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.".

(b) Civil Monetary Penalties.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended by adding at the end the following sentence: "An exclusion imposed under this subsection is not subject to the automatic stay imposed under section 362 of title 11, United States Code, and any penalties and assessments imposed under this section shall be nondischargeable under the provisions of such title.".

(c) Offset of Payments to Individuals.—Section 1892(a)(4) of the Social Security Act (42 U.S.C. 1395ccc(a)(4)) is amended by adding at the end the following sentence: "An exclusion imposed under paragraph (2)(C)(ii) or paragraph (3)(B) is not subject to the automatic stay imposed under section 362 of title 11, United States Code."

CONARD AMENDMENT NO. 3684

Mr. CONARD proposed an amendment to the bill S. 1028, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) Extension of Waiver Program.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking "June 1, 1996" and inserting "June 1, 2002".

(b) Conditions on Federally Requested Waivers.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1184(e)) is amended by inserting after "except that in the case of a waiver requested by a State Department of Public Health or its equivalent" the following: "or in the case of a waiver requested by an interested United States Government agency on behalf of an alien described in clause (iii)".

(c) Restrictions on Federally Requested Waivers.—Section 214(k) (8 U.S.C. 1184(k)) is amended to read as follows:

"(k)(1) In the case of a request by an interested State agency or by an interested United States Government agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver; and

"(B)(i) in the case of a request by an interested State agency—

"(I) the alien demonstrates a bona fide offer of full-time employment, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest; or

"(ii) in the case of a request by an interested United States Government agency—

"(I) the alien demonstrates a bona fide offer of full-time employment that has been found to be in the public interest, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest;

"(C) in the case of a request by an interested State agency, the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than three years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

"(D) in the case of a request by an interested State agency, the grant of such a waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed 20.

"(2)(A) Notwithstanding section 248(2) the Attorney General may change the status of an alien that qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of the contract with the health facility or organization named in the waiver application shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

"(3) Notwithstanding any other provisions of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien in clause (iii) of that section who has not otherwise been accorded status under section 101(a)(27)(H)—

"(A) in the case of a request by an interested State agency, if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C); and

"(B) in the case of a request by an interested United States Government agency, if at any time the alien engages in employment for a health facility or organization not named in the waiver application.".

COATS AMENDMENT NO. 3685

Mr. COATS proposed an amendment to the bill S. 1028, supra; as follows:

At the appropriate place in title III, insert the following new section:

SEC. . MEDICAL VOLUNTEERS.

(a) Short Title.—This title may be cited as the "Medical Volunteer Act".

(b) Tort Claim Immunity.—

(1) General rule.—A health care professional who provides a health care service to a medically underserved person without receiving compensation for such health care service, shall be regarded, for purposes of any medical malpractice claim that may arise in connection with the provision of such service, as an employee of the Federal Government for purposes of the Federal tort claims provisions in title 28, United States Code.

(2) Compensation.—For purposes of paragraph (1), a health care professional shall be deemed to have provided a health care service without compensation only if, prior to furnishing a health care service, the health care professional—

(A) agrees to furnish the health care service without charge to any person, including any health insurance plan or program under which the recipient is covered; and

(B) provides the recipient of the health care service with adequate notice (as determined by the Secretary) of the limited liability of the health care professional with respect to the service.

(c) Preemption.—The provisions of this section shall preempt any State law to the extent that such law is inconsistent with such provisions. The provisions of this section shall not preempt any State law that provides greater incentives or protections to a health care professional rendering a health care service.

(d) Definitions.—For purposes of this section:

(1) Health care professional.—The term "health care professional" means a person who, at the time the person provides a health care service, is licensed or certified by the appropriate authorities for practice in a State to furnish health care services.

(2) Health care service.—The term "health care service" means any medical assistance to the extent it is included in the plan submitted under title XIX of the Social Security Act for the State in which the service was provided.

(3) Medically underserved person.—The term "medically underserved person" means a person who resides in—

(A) a medically underserved area as defined for purposes of determining a medically underserved population under section 330 of the Public Health Service Act (42 U.S.C. 254c); or

(B) a health professional shortage area as defined in section 332 of such Act (42 U.S.C. 254e);

and who receives care in a health care facility substantially comparable to any of those designated in the Federally Supported Health Centers Assistance Act (42 U.S.C. 233 et seq.), as shall be determined in regulations promulgated by the Secretary.

(4) Secretary.—The term "Secretary" means the Secretary of the Department of Health and Human Services.

BOXER AMENDMENT NO. 3686

Mrs. BOXER proposed an amendment to the bill S. 1028, supra; as follows:

At the appropriate place add:

The Senate finds that—

Patients deserve to know the full range of treatments available to them and,

Patients should know if doctors receive bonuses for withholding treatment from them.

It is the sense of the Senate that Congress should thoughtfully examine these issues to ensure that all patients get the care they deserve.

VOL
142
PT
6
AP
15
—
24
1996
UMI

SIMON AMENDMENT No. 3687

Mr. SIMON proposed an amendment to the bill S. 1028, supra; as follows:

At the appropriate place in the bill insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING ADEQUATE HEALTH CARE COVERAGE FOR ALL CHILDREN AND PREGNANT WOMEN.

(a) FINDINGS.—The Senate finds the following:

(1) The health care coverage of mothers and children in the United States is unacceptable, with more than 9,300,000 children and 500,000 expectant mothers having no health insurance.

(2) Among industrial nations, the United States ranks 1st in wealth but 18th in infant mortality, and 14th among such nations in maternal mortality.

(3) 22 percent of pregnant women do not have prenatal care in the first trimester, and 22 percent of all poor children are uninsured, despite the medicaid program under title XIX of the Social Security Act.

(4) Of the 1,100,000 net increase in uninsured persons from 1992 to 1993, 84 percent or 922,500 were children.

(5) Since 1987, the number of children covered by employment based health insurance has decreased, and many children lack health insurance despite the relative affordability of providing insurance for children.

(6) Health care coverage for children is relatively inexpensive and in 1993 the medicaid program spent an average of $1,012 per child compared to $8,220 per elderly adult.

(7) Uninsured children are generally children of lower income workers, who are less likely than higher income workers to have health insurance for their families because they are less likely to work for a firm that offers insurance, and if such insurance is offered, it is often too costly for lower income workers to purchase.

(8) In 1993, 61 percent of uninsured children were in families with at least one parent working full time for the entire year the child was uninsured, and about 57 percent of uninsured children had a family income at or below 150 percent of the Federal poverty level.

(9) If Congress eliminates the Federal guarantee of Medicaid, an estimated 4,900,000 children may lose their guarantee of health care coverage, and those same children may be added to the currently projected 12,600,000 children who will be uninsured by the year 2002.

(10) Studies have shown that uninsured children are less likely than insured children to receive needed health and preventive care, which can affect their health status adversely throughout their lives, with such children less likely to have routine doctor visits, receive care for injuries, and have a regular source of medical care.

(11) The families of uninsured children are more likely to take the children to an emergency room than to a private physician or health maintenance organization.

(12) Children without health insurance are less likely to be appropriately immunized or receive other preventive care for childhood illnesses.

(13) Ensuring the health of children clearly increases their chances to become productive members of society and averts more serious or more expensive health conditions later in life, and ensuring that all pregnant women receive competent prenatal care also saves social costs.

(14) Although the United States has made great improvements in health care coverage through the Medicaid program, it is still the only developed nation that does not ensure that all of its children and pregnant women have health care coverage.

(15) The United States should not accept a status quo in which children in many neighborhoods are more likely to have access to drugs and guns than to doctors, or accept a status quo in which health care is ensured for all prisoners but not for all children.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the issue of adequate health care for our mothers and children is important to the future of the United States, and in consideration of the importance of such issue, the Senate should pass health care legislation in the 105th Congress that will ensure health care coverage for all of the United States's pregnant women and children.

DORGAN (AND FRIST) AMENDMENT NO. 3688

Mr. KENNEDY (for Mr. DORGAN, for himself and Mr. FRIST) proposed an amendment to the bill S. 1028, supra; as follows:

At the end of title III, add the following:

SEC. 3. ORGAN AND TISSUE DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall include with any payment of a refund of individual income tax made during the period beginning on February 1, 1997, and ending on June 30, 1997, a copy of the document described in subsection (b).

(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ and tissue (including eye) donation, prepare a document suitable for inclusion with individual income tax refund payments which—

(1) encourages organ and tissue donation;

(2) includes a detachable organ and tissue donor card; and

(3) urges recipients to—

(A) sign the organ and tissue donor card;

(B) discuss organ and tissue donation with family members and tell family members about the recipient's desire to be an organ and tissue donor if the occasion arises; and

(C) encourage family members to request or authorize organ and tissue donation if the occasion arises.

WELLSTONE AMENDMENT NO. 3689

Mr. KENNEDY (for Mr. WELLSTONE) proposed an amendment to the bill S. 1028, supra; as follows:

On page 9, line 13 insert after evidence of insurability "(including conditions arising out of acts of domestic violence);".

HELMS (AND KASSEBAUM) AMENDMENT NO. 3690

Mrs. KASSEBAUM (for Mr. HELMS, for himself and Mrs. KASSEBAUM) proposed an amendment to the bill S. 1028, supra; as follows:

Amend Title III—Miscellaneous Provisions, Section 302(a) by striking "two part study" on line 19, and inserting "three-part study" and adding Section 302(d):

"(d) EVALUATION OF ACCESS AND CHOICE.—Not later than June 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate Committees of Congress a report concerning—

(1) an evaluation of the extent to which patients have direct access to, and choice of, health care provider, including specialty providers, within a network of providers, as well as the opportunity to utilize providers outside of the network, under the various types of coverage offered under the provisions of this Act;

(2) an evaluation of the cost to the insurer of providing out-of-network access to providers, and the feasibility of providing out-of-network access in all health plans offered under provisions of this Act.

(3) an evaluation of the percent of premium dollar utilized for medical care and administration of the various types of coverage offered, including coverage which permits out-of-network access and choice of provider, under provisions of this Act.

BURNS (AND HARKIN) AMENDMENT NO. 3691

Mr. BURNS (for himself and Mr. HARKIN) proposed an amendment to the bill S. 1028, supra; as follows:

On Page 71, line 19, add the following:

"SEC. 302.5. REIMBURSEMENT OF TELEMEDICINE.

The Health Care Financing Administration is directed to complete their ongoing study of reimbursement of all telemedicine services and submit a report to Congress with a proposal for reimbursement of fee-for-service medicine by March 1, 1997. The report shall utilize data compiled from the current demonstration projects already under review and gather data from other ongoing telemedicine networks. This report shall include an analysis of the cost of services provided via telemedicine.

NOTICE OF HEARING

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that the hearing previously scheduled before the Subcommittee on Forests and Public Land Management on S. 1401, Surface Mining Control and Reclamation Amendments Act of 1995 on Tuesday, April 23, 1996, at 9:30 a.m. has been rescheduled for Thursday, May 2, 1996, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

In addition to S. 1401, we will receive testimony on S. 1194, to amend the Mining and Mineral Policy Act of 1970 to promote the research, identification, assessment, and exploration of marine mineral resources.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Michael Flannigan of the subcommittee staff at 202–224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 5 p.m. on Thursday,

April 18, 1996, to receive testimony in executive session to mark up S. 1635, the Defend America Act of 1996—National Missile Defense—and to discuss markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 18, 1996, to markup a resolution to authorize the committee to conduct an investigation of Madison Guaranty Savings and Loan Association and related matters, amend the committee's rules to facilitate the investigation and related public hearings, and to authorize the issuance of subpoenas.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Thursday, April 18, 1996, session of the Senate for the purpose of conducting a hearing on spectrum use and management.

The PRESIDENT OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, April 18, 1996, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the Tongass land management plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 18, at 2 p.m. to hold a business meeting to vote on pending items.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to conduct three consecutive hearings during the session of the Senate on Wednesday, April 17, Thursday, April 18, and Friday, April 19, 1996, on the President's budget request for fiscal year 1997 for Indian programs and related budgetary issues from fiscal year 1996. The hearings will be held at 1:30 p.m. each day in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, April 18, 1996, at 10 a.m. to hold an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing on Thursday, April 18, 1996, at 9:30 a.m., in room 428A of the Russell Senate Office Building, to conduct a hearing focusing on "Small Business and Employee Involvement: The TEAM Act Proposal."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Tradê Promotion of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 18, 1996, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NATIONAL RECORDS AND INFORMATION MANAGEMENT DAY

• Mr. FRIST. Mr. President, I rise today to note the observance of National Records and Information Management Day which occurred on April 2, 1996 while the Senate was in recess. The management and control of information are increasingly critical to every industry, business and government agency, and the systematic creation, distribution, storage and retrieval of records are of critical importance to the continued and efficient operation of any good organization.

The organizations that excel today and tomorrow will be those recognizing information as a major resource and structuring it as efficiently as they do their assets. An effective records management program assures the availability of information as a basis for sound decisionmaking by providing security and control against loss by mismanagement, natural disaster, theft or inadvertent destruction. All Americans should recognize the significant and important role that records management professionals render in maintaining appropriate business, civic, and government records. I commend businesses such as ARMA International who have brought National Records and Information Management Day to my attention and wish them every success as they educate the business community regarding the importance of records management.•

EARTH DAY/ARBOR DAY TRIBUTE TO THE CITY OF DETROIT

•Mr. LEVIN. Mr. President, I rise today to pay tribute to the city of Detroit for its efforts to beautify its neighborhoods and improve its natural environment. The city of Detroit on Earth Day/Arbor Day, Monday, April 22, 1996, is holding a ceremony kicking off a week long program to plant trees in parks around the city.

For its tree planting efforts, Detroit, for the ninth time, has been named a Tree City USA by the National Arbor Day Foundation. Detroit recognizes the importance that trees play in not only making our communities more attractive, but by providing tremendous environmental benefits as well. Trees produce oxygen, help clean the air, provide a habitat for wildlife and provide humankind with great visual beauty.

The city of Detroit recognizes the importance of tree planting and is committed to the continuation of its exemplary reforestation programs. I am proud of the efforts of my home city and I ask that my colleagues join me in congratulating the city of Detroit.•

THE ANTITERRORISM BILL

• Mr. MACK. Mr. President, I wish to apologize for my absence during consideration of the conference report to S. 735 due to the passing of my father. I believe that this is an essential piece of legislation to address the current deficiencies in our judicial system which made it that much easier for the tragedy in Oklahoma City to take place. In addition, this bill makes much-needed revisions to the current habeas corpus system in our country.•

STEVE JESSMORE

•Mr. LEVIN. Mr. President, I rise to honor Steve Jessmore of Saginaw, MI, who has been awarded the Robert F. Kennedy Journalism Award for outstanding coverage of the problems of the disadvantaged. Mr. Jessmore won the award in the photojournalism category for his photo essay, "Blind Faith."

"Blind Faith" follows the life of Carl, a yellow labrador retriever puppy raised by a Carrolton Township elementary school class. Carl was trained as a leader dog for the blind and eventually placed with a visually impaired man in Kansas City, MO.

Judges for the Kennedy award included journalists from the Washington

VOL
142
PT
6
AP
15
—
24
1996
UMI

Post, Knight Ridder, CNN, the Wall Street Journal, and NBC. "Blind Faith" has also won the national Lincoln University of Missouri 43d Annual Unity Awards in Media, as well as several other awards in State, regional, and national contests.

"Blind Faith" marks the first time that someone has followed the story of a leader dog since 1939, when the Rochester-based nonprofit organization that trained Carl was founded. The photos from "Blind Faith" will now be permanently on display in the Robert F. Kennedy collection of the John F. Kennedy Library in Boston.

On hearing that he had won the award, Jessmore said, "I'm real happy that so many other people get to see it now, because it's such a tremendous, positive story—kids learning early how to help other people."

I know my Senate colleagues join me in honoring Steve Jessmore for his outstanding work in the field of photojournalism. ●

WHITEWATER INVESTIGATION

● Mr. GLENN. The Whitewater investigation is the longest running congressional inquiry in the recent past. At 20 months, it exceeds Abscam—9 months—the POW/MIA hearings 17—months and Watergate 16—months. It has cost the American taxpayers over $30 million which could have vaccinated 107,000 children, paid the Medicare costs of 9,200 seniors, and provided health care for nearly 7,000 families.

Mr. President, I was disappointed to learn that an agreement had been reached to continue the Whitewater investigation. Because I thought it was a poor use of the taxpayer's money, I voted against the original resolution and had the current resolution been brought to a rollcall vote, I would have voted to discontinue proceedings dealing with Whitewater.

The Whitewater investigation duplicates the ongoing independent counsel's investigation and wastes the limited time we have left in this session to pass important legislation. The independent counsel has full authority and budget to continue the investigation as long as he thinks is practicable. Calling an end to the Senate Whitewater investigation only stops the duplication of investigations, neither of which have so far resulted in anything of substance.

The current resolution extends the committee's deadline until June 14 and will cost the taxpayer's an additional $480,000. I believe this investigation could have been completed by the original promised deadline of February 29. ●

SAGINAW HIGH SCHOOL

● Mr. LEVIN. Mr. President, on March 28, 1996, I spoke about the inspiring victory of Saginaw High School in the Michigan Class A State Basketball Championship. However, I neglected to mention the names of the players and coaches. I submit the list of Saginaw's valiant victors for the RECORD.

Saginaw High School varsity basketball team and coaching staff. Players: Deon Anderson, Lawandzo Harris, Montell Lewis, Marcus McCray, Dwayne Nash, Jason Peoples, Deronnie Pitts, Andre Reed, Terrance Reed, Antoine Tatum, Armar Vansant, Terry Washington, Torrance Whitson, and Freeman Battle. Head coach: Marshall Thomas. Assistant coaches: Ronnie Bryant, Brian Humes, Larry Kelly, and Shevonne Weems. ●

VOTE IN SUPPORT OF THE ANTI-TERRORISM BILL

● Mr. WELLSTONE. Mr. President, much has happened in the year since this bill left the Senate. Oklahoma City has begun the healing process from the senseless violence it suffered at the hands of a terrorist bomber. Prime Minister Yitzhak Rabin was killed by a terrorist. Terrorism in the Middle East, against subway riders in Tokyo and elsewhere have reminded us of the vulnerability of free societies to this kind of senseless violence. The unabomber's reign of terror has apparently been brought to an end by the FBI. And the antiterrorism bill that left this Senate has come back, in some ways, a better bill: It is less invasive of civil liberties when it comes to eavesdropping by Federal agents, and it prevents defendants from being deported based only on evidence they are not allowed to understand.

What happened to Rabin shows us all that terrorism is not going away. What may have been a success in stopping the unabomber shows that the Federal Government can fight back. I support this bill because I recognize that terrorism is a threat that puts all our lives at risk, and that we must bolster national antiterrorism efforts, including by providing to law enforcement and the courts new tools to combat cutting edge technologies of violence and increasingly bold villains, in order to stem the tide of destruction.

I have made it clear that I do not support everything in this bill. I voted against the Senate bill last year largely because of its broad habeas corpus provisions, which will limit Federal court review in death penalty cases. I am also opposed to this bill's provisions to weaken protections for refugees and asylees fleeing persecution in other countries which has nothing to do with antiterrorism efforts. While I am still profoundly opposed to these provisions, I have concluded that on balance this bill should pass.

There is much in this bill that is good, that will address concerns Minnesotans have expressed to me. This bill will make a real difference in the fight against terrorism. It includes many necessary changes to our Federal criminal laws. It will make it a Federal crime to plan or to carry out terrorist attacks in the United States. It will make it a Federal crime to plan terrorist attacks in the United States, even if the attacks are carried out overseas. It includes increased penalties for conspiracies involving explosives. It will make it easier to detect plastic explosives, and to track chemicals of which most bombs are composed. It will make it harder for terrorist groups to raise funds in the United States. It provides mandatory restitution for victims of terrorist acts. It will help prevent the sale of arms to terrorist states by third parties. And it expands the authority of government officials to deal with threats posed by chemical, biological, and nuclear technologies, involving deadly nuclear materials.

While I did not agree with every aspect of the 1994 crime bill I supported it because I concluded that, on balance, it contained many effective provisions to fight crime and violence. By the same token this is a bill that on balance can make an impact against terrorism.

I voted against provisions in this bill that I fiercely opposed, and supported many changes that were not agreed to. The President and Members of both parties on both sides of Capitol Hill have nearly unanimously come together in this statement against destruction and violence. Because this bill successfully addresses a threat that endangers all of us and because a unified effort makes a strong statement and therefore my voice can help make it stronger, I join my colleagues in its support. ●

COL. JAMES C. BARBARA

● Mr. LEVIN. Mr. President, I rise today to honor Col. James C. Barbara on his retirement from the U.S. Army after 32 years of dedicated service. Colonel Barbara has had a far-reaching and successful career which has had a profound effect on the evolution of our Nation's armored vehicles.

Col. Jim Barbara was commissioned in armor through the Reserve Officer Training Corps and has served in Europe, Vietnam, and the United States. He has been the commander of five companies; adviser to Alabama, Mississippi, and Tennessee National Guard units; and the Secretary of the General Staff XVIII Airborne Corps.

From 1981–85, Colonel Barbara was the TRADOC systems manager and assistant manager for tanks, becoming responsible in 1986 for M1A1 initial production, follow-on evaluation, and live fire testing. From 1988–90, he led the common chassis advanced technology transition demonstrator, the largest, competitive weapons system program in the history of the Army.

In 1993, Colonel Barbara led a process action team focusing on ways to develop and implement reengineering techniques to support acquisition streamlining. In 1995, Jim became the deputy program executive officer for tactical wheeled vehicles, where he was responsible for organizing the tactical vehicle community's emergency efforts to design, test, produce, and field armor protection kits for use in Bosnia.

Jim holds bachelor's and master's degrees from Boston College and an MBA from Northwood University. Colonel Barbara's awards and decorations include the Legion of Merit, Bronze Star of Valor, Meritorious Service Medal, and Army Commendation Medal. He is married to the former Eleanor B. McMorrow of Worcester, MA.

I know that my Senate colleagues join me in congratulating Col. James C. Barbara on his 32 years of dedicated service to our Nation. ●

THE BUDGET DEBATE

● Mr. ABRAHAM. Mr. President, as the Senate continues to debate our proper budget priorities, I have noted the presence of a number of inaccurate arguments. These arguments, in my opinion, are distracting us from the central question of how our taxing and spending policies affect middle-class Americans. Particularly worrisome to me are inaccurate views concerning the historical performance of tax cuts, and their impact on middle-class income in particular. Specifically, some are arguing that tax cuts in the 1980's produced lower incomes for our middle class, and saddled them with a larger percentage of total tax receipts.

In an attempt to focus debate more effectively on questions of what will and will not work for the American people, I would like to have inserted into the RECORD an article of mine, published recently in The World & I. In this article I set forth my view of the real effect of tax cuts in the 1980's. As published, the article is accompanied by spirited responses and defenses from several distinguished observers, including Gary Burtless of the Brookings Institution, Michael Meeropol of the Center for Popular Economics, Bruce Bartlett of the National Center for Policy Analysis, Norman B. Turé of the Institute for Research on the Economics of Taxation, and Paul M. Weyrich of the Free Congress Foundation.

I argue that the pro-growth and profamily tax policies of the 1980's contributed significantly to the prosperity of America's middle-class families. In addition, I point out that tax cuts produce lower, not higher, deficits and that tax cuts help the middle class and poor more than the rich. Not all the respondents agreed completely with my argument. But I believe the article can help all of us form more useful, coherent arguments as we face the budget challenges ahead.

The article follows:

THE REAL 1980'S

(By Spencer Abraham)

The debate over the budget is becoming a debate over the 1980s. Opponents of tax cuts and spending restraints are claiming that these policies wreaked havoc when tried before under Ronald Reagan. The policies of the 1980s, in this view, hurt American families and the American economy, and so should not be repeated.

To answer this criticism, one must explode three interrelated myths that are exercising undue influence over the budget debate today:

The progrowth and profamily tax policies of the 1980s actually hurt America's middleclass families.

Tax cuts necessarily increase the budget deficit.

Tax cuts disproportionately benefit the rich at the expense of the middle class and poor.

Using these myths, defenders of the status quo paint reformers as heartless friends of rich people and enemies of the poor and middle class. By exploding them, we can return the focus of our budget debate to the question of how best to reform tax and spending policies for the benefit of all Americans. But to do this, we must reestablish the truth about how our nation's middle class really fared under the low-tax, limited-government policies of the 1980s.

MYTH NO. 1

The claim that middle-class families suffered under conservative reforms is based on an inaccurate representation of the income data. For example, opponents of reform have said over and over that household income fell over a 15-year period, from $38,248 in 1979 to $36,959 in 1993, and that this decline was the direct result of the policies of Ronald Reagan and the Republicans. They wield a frightening graph, much like figure 1.

But the graph does not reflect reality. These 15 years did not constitute one monolithic era of Republican policy dominance. Rather, they included two periods characterized by overtaxation and overregulation (1979–81 and 1990–93) and one period (1982–89) during which Republican policies of lower taxes and less regulation were in place. An accurate portrayal of this overall period would look like figure 2.

In truth, this 15-year period consists of one era of middle-class prosperity under low-tax, limited-government policies and two eras of middle-class pain under policies of high taxes and increased regulation. Americans had 8 years of improvement in middle-class incomes from 1982 to 1989. Unfortunately for the middle class, the periods from 1979 to 1981 and 1990 to 1993 were dominated by overtaxation and overregulation, policies that resulted in declines in middle-class incomes.

Opponents of reform attempt to paint Ronald Reagan's low-tax, limited-government policies as harmful by treating the 1979–93 period as if all of it were in the Reagan era. They wrongly imply that Reagan was president and Republicans were in control throughout this period.

On closer inspection, it becomes clear that the first 3 of the 15 years were under high-tax and heavy regulatory policies. It is also clear that, during this first period, real median family income fell precipitously from over $38,000 to under $36,000, for a total loss of over $2,500, according to Census Bureau data. In fact, one of the sharpest declines in median family income on record occurred in the year 1980.

As anyone with a working knowledge of the calendar and even a passing interest in American politics Knows, Ronald Reagan was not president in 1979 or 1980. Jimmy Carter was. Further, Republicans controlled the Senate for only the first 6 years of Reagan's tenure.

What is more, Republicans did not control the House of Representatives at any time during this 15-year period. Democrats were in charge the entire time. And, in 1979 and 1980, they controlled both the legislature and the presidency.

Yet opponents of lower taxes and slower spending growth almost always include 1979 and 1980, the last years of the Carter era, in describing the impact of the Reagan administration's conservative tax and regulatory reforms. But no matter how much one opposes tax cutting and deregulation, it is difficult to argue that these policies, pursued under Ronald Reagan and the GOP in 1981 and beyond, were bad enough to cause income declines in the years before they were implemented.

Unlike the 1993 Clinton income tax increases, many of which were implemented retroactively, the 1981 Reagan economic policies did not take effect until the middle of 1982. And what happened after these policies went into effect in 1982? As anyone can see from figure 2, real, postinflation median family income in the United States rose between 1982 and 1990, from $35,419 to $39,086, for an increase of 10.4 percent.

COLD WATER ON THE ECONOMY

But in 1990, the Democratic majority in Congress began insisting that tax-revenue increases had to be part of any effort to reduce the budget deficit. The result was the budget summit deal of 1990.

After that, again shown in figure 2, we saw a different pattern. Between 1990 and 1993, median family income plummeted 5.4 percent, from $39,086 to $36,959. The most severe drop in middle-class income began in 1993, the year the Clinton retroactive tax increases took effect. In that year, there was a remarkable $709 (1.9 percent) plunge in real median family income.

So what conclusion should we reach? The answer seems clear: Republican economic and tax policies helped the middle class. Thus, to get middle-class incomes moving upward again, we should return to the low-tax, deregulatory policies of the 1980s. These policies produced one of the most dramatic increases in middle-class incomes in the last 30 years.

Nineteen million new jobs were created between 1982 and 1989—2.4 million in 1989 alone. And 82 percent of these jobs were in higher-paying occupations: technical, precision production, and managerial and professional. Clearly then, tax cuts helped the middle class in the best way possible, by producing economic opportunity and good jobs.

This brings us to a subset of the first myth: that the rich got richer and the poor got poorer during the 1980s. Once again, this claim is unsubstantiated by the facts. First, let us look at a graph (fig. 3) that surfaced during the economic policy debate.

According to this figure, the 15 years between 1979 and 1993 produced:

A 15 percent decline in real family income for the bottom 20 percent of America taxpayers.

A 7 percent drop in income for the second-lowest 20 percent of taxpayers.

A 3 percent drop in income for the middle 20 percent.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Meanwhile, this 15-year period saw:

A 5 percent increase in income for the fourth 20 percent.

An 18 percent increase in income for the richest 20 percent of taxpayers, which was most problematic of all for critics of taxcut policy.

Once again, however, the use of this 15-year conglomeration produces misleading figures. The data look bad for the poor and middle class on this graph because, once again, the figure lumps in the effects of Jimmy Carter's high-tax, high-regulation policies with those of low taxes and low regulation.

When we separate out the 1979–81 period (fig. 4) from the 1983–90 recovery years (fig. 5), we find that everyone got poorer under the high-tax, high-regulation policies of 1979–81—the poor much more so and much more devastatingly than the rich. From 1979 to 1981, the poorest fifth experienced a drop in income of 9 percent, the next fifth a drop of 6.8 percent, the middle fifth a drop of 5.4 percent, the following fifth a drop of 3.5 percent, and the top fifth a drop of 4.5 percent.

Meanwhile, when the government lowered taxes and regulations during the 1982–90 period, everyone got richer.

During the 1982–90 Reagan-Bush era, everyone was better off. The bottom fifth experienced an 11 percent increase in income, the next fifth experienced a 9.7 percent gain, the middle fifth a 10.3 percent increase, the next fifth an 11.8 percent rise, and the highest fifth a 17.9 percent increase.

After the 1990 budget deal, everyone again became worse off. And after President Clinton's retroactive tax hike took effect in 1993, average Americans were hit hard.

Perhaps some would complain that people with high incomes did even better than other Americans during the prosperous 1980s. But government's goal should not be to make all people the same. It should be to allow everyone to become better off. And policies of low taxes and fewer regulations did precisely this.

It really is very simple: Lower taxes and less regulation help the poor, along with everyone else, while higher taxes and more regulation hurt the poor, along with everyone else.

MYTH NO. 2

What about the notion that we cannot afford tax cuts and that the tax cuts of the 1980s produced the burdensome deficits our economy is staggering under today?

This myth, unfortunately, has led some in Congress to abandon their commitment to tax cuts in the name of common sense. They now argue that common sense demands that we delay, cut back, or abandon entirely any tax cuts, at least until we achieve a balanced budget.

In fact, tax cuts can help America achieve the goal of balancing the budget. Tax reductions—particularly those that strengthen incentives to work, save, and invest—increase the rate of economic growth and thereby produce higher tax revenues for the Treasury than would be the case under a high-tax regime.

It is a paradoxical truth—to paraphrase what President John F. Kennedy said in 1962—that tax rates are too high today and tax revenues are too low. And the soundest way to raise revenue in the long run is to cut the rates now.

Kennedy was right and for a simple if somewhat unexpected reason: Irrespective of the top marginal tax rate, the government will take in about the same amount as a percentage of gross domestic product (GDP).

Research by economist W. Kurt Hauser shows that government receipts as a proportion of GDP have continued to hover at 19.5 percent since 1960. In 1982, the tax share stood at 19.8 percent of GDP. By 1989, the tax share had declined slightly to 19.2 percent of GDP—much the same as it had been back in 1960.

In short, whether we have raised or lowered tax rates, the percentage of GDP in taxes has hovered at 19 percent. The issue, of course, is 19 percent of what? Is it 19 percent of a large and growing GDP, or of an anemic, stagnant one?

Here again, the real numbers destroy the myths and tell the true story. According to the federal Office of Management and Budget (OMB), in 1982, the year the tax cuts were implemented, tax receipts stood at $617.8 billion. By 1989, tax receipts had increased to $990.7 billion.

How did this come about? By lowering taxes, the government freed up capital and entrepreneurial spirit, creating jobs and wealth and expanding the size of the economic pie. From 1982 to 1989, GDP increased from $3.1 to $5.4 trillion. Therefore, while tax revenues as a share of GDP remained relatively constant at just over 19 percent, the dollar amount of tax revenues collected by the federal government rose dramatically, because the economy grew dramatically.

Tax cuts will increase economic growth and thereby reduce the deficit. The question is, by how much? Economist Bruce Bartlett, a former assistant secretary of the Treasury, notes that the OMB figures show that increases in real GDP significantly reduce the deficit. By the year 2000, the deficit would be diminished by more than $150 billion if the economy grew just 1 percent faster than currently projected over the next five years.

Of course, Bartlett says, there is no guarantee that the Republican tax cuts will achieve a 1 percent faster growth rate. But there is no doubt they will increase growth above what would otherwise have occurred. If growth is just 0.4 percent faster per year it would be enough to make the tax cut deficit-neutral, based on the OMB data.

Thus, a dispassionate review of the figures shatters the myth that the Reagan tax cuts increased the deficit. The problem was not our revenue stream, either in terms of the percentage of GDP paid in taxes, or in real tax dollars received. The problem was too much spending. From 1982 to 1989, government spending rose from $745 billion to $1.14 trillion, a 53 percent jump.

Tax cuts in the 1990s can help produce the same type of economic growth they generated in the 1980s. This growth in turn will help us reduce the deficit. All we must do is reduce the rate at which government spending grows. CBO figures show that, if we simply hold the rate at which federal spending grows to a little over 2 percent per year, we can cut taxes by $189 billion and balance the budget by the year 2002.

MYTH NO. 3

But this reference to tax cuts brings us face to face with another myth, namely, that tax cuts disproportionately benefit the rich at the expense of the poor.

The myth explodes, however, on contact with IRS data conclusively show that lower income-tax rates actually increase the percentage of the total tax bill paid by the rich while decreasing the tax burden on the poor.

There is an amazing historical correlation between decreases in the marginal tax rate and increases in the share of revenue paid by the top 1 percent of income earners. And, of course, along with this increase in taxes paid by the most wealthy went a decrease in the taxes paid by the lower 50 percent of income earners.

For example, by 1988, the share of income taxes paid by the bottom 50 percent of taxpayers assumed just 5.7 percent of the income tax burden. Also in 1988, the average tax payment of the top 1 percent of taxpayers amounted to 27.5 percent of the total.

On the other hand, after the budget summit deal of 1990, the top marginal tax rate was increased from 28 to 31 percent. This produced a 3.5 percent decrease in the revenue share paid by the top 1 percent—down to 24.6 percent of the total. That is, as marginal rates decreased, the rich paid more, and as marginal rates increased the rich paid less, leaving more for the middle class and poor to pay.

Clearly, then, if we want to help the middle class, the last thing we should do is increase marginal tax rates. Such an increase will lead to lower productivity, lower tax revenues from the rich, and an increased tax burden for those who are not rich.

The answer to our dilemma, then, is not to keep our current high taxes but to cut taxes while bringing spending under control.

By bringing together disparate kinds of tax cuts, from a $500-per-child tax credit to a reduction in the capital-gains tax rate that will strengthen small businesses and entrepreneurs, we can increase the well-being and productivity of America's middle-class families. These tax cuts would allow middle-class families to build a better future for their children.

The proposed $500-per-child tax credit directly benefits the middle class. The Joint Committee on Taxation has reported that three-quarters of the benefits from this tax cut will go to people with incomes less than $75,000.

A capital-gains tax cut will accrue to the middle class as well. IRS data show that 55 percent of taxpayers who report long-term capital gains earn $50,000 or less. And 75 percent of them earn $75,000 or less.

These tax cuts will bring real relief to America's middle class. They will help the economy and thereby help lower the deficit.

The 1980s teach us—if only we will examine their lessons properly—that a vibrant economy, spurred by low taxes and fewer regulations, will produce balanced budgets and economic well-being for the middle class. We need only trust Americans to spend and invest their own money as they see fit. We need only trust the people, rather than government, to make their own decisions about how to take care of their families and improve their lot in life.●

CONGRESSIONAL REVIEW TITLE OF H.R. 3136

● Mr. NICKLES. Mr. President, I will submit for the RECORD a statement which serves to provide a detailed explanation and a legislative history for the congressional review title of H.R. 3136, the Small Business Regulatory Enforcement Fairness Act of 1996. H.R. 3136 was passed by the Senate on March 28, 1996, and was signed by the President the next day. Ironically, the President signed the legislation on the first anniversary of the passage of S. 219, the forerunner to the congressional review title. Last year, S. 219, passed the Senate by a vote of 100 to 0 on March 29, 1995. Because title III of H.R.

3136 was the product of negotiation with the Senate and did not go through the committee process, no other expression of its legislative history exists other than the joint statement made by Senator REID and myself immediately before passage of H.R. 3136 on March 28. I am submitting a joint statement to be printed in the RECORD on behalf of myself, as the sponsor of the S. 219, Senator REID, the prime cosponsor of S. 219, and Senator STEVENS, the chairman of the Committee on Governmental Affairs. This joint statement is intended to provide guidance to the agencies, the courts, and other interested parties when interpreting the act's terms. The same statement has been submitted today in the House by the chairmen of the committees of jurisdiction over the congressional review legislation.

The joint statement follows:

STATEMENT FOR THE RECORD BY SENATORS NICKLES, REID, AND STEVENS

SUBTITLE E—CONGRESSIONAL REVIEW SUBTITLE

Subtitle E adds a new chapter to the Administrative Procedure Act (APA), "Congressional Review of Agency Rulemaking," which is codified in the United States Code as chapter 8 of title 5. The congressional review chapter creates a special mechanism for Congress to review new rules issued by federal agencies (including modification, repeal, or reissuance of existing rules). During the review period, Congress may use expedited procedures to enact joint resolutions of disapproval to overrule the federal rulemaking actions. In the 104th Congress, four slightly different versions of this legislation passed the Senate and two different versions passed the House. Yet, no formal legislative history document was prepared to explain the legislation or the reasons for changes in the final language negotiated between the House and Senate. This joint statement of the authors on the congressional review subtitle is intended to cure this deficiency.

Background

As the number and complexity of federal statutory programs has increased over the last fifty years, Congress has come to depend more and more upon Executive Branch agencies to fill out the details of the programs it enacts. As complex as some statutory schemes passed by Congress are, the implementing regulations are often more complex by several orders of magnitude. As more and more of Congress' legislative functions have been delegated to federal regulatory agencies, many have complained that Congress has effectively abdicated its constitutional role as the national legislature in allowing federal agencies so much latitude in implementing and interpreting congressional enactments.

In many cases, this criticism is well founded. Our constitutional scheme creates a delicate balance between the appropriate roles of the Congress in enacting laws, and the Executive Branch in implementing those laws. This legislation will help to redress the balance, reclaiming for Congress some of its policymaking authority, without at the same time requiring Congress to become a super regulatory agency.

This legislation establishes a government-wide congressional review mechanism for most new rules. This allows Congress the opportunity to review a rule before it takes effect and to disapprove any rule to which Congress objects. Congress may find a rule to be too burdensome, excessive, inappropriate or duplicative. Subtitle E uses the mechanism of a joint resolution of disapproval which requires passage by both houses of Congress and the President (or veto by the President and a two-thirds' override by Congress) to be effective. In other words, enactment of a joint resolution of disapproval is the same as enactment of a law.

Congress has considered various proposals for reviewing rules before they take effect for almost twenty years. Use of a simple (one-house), concurrent (two-house), or joint (two houses plus the President) resolution are among the options that have been debated and in some cases previously implemented on a limited basis. In *INS* v. *Chadha*, 462 U.S. 919 (1983), the Supreme Court struck down as unconstitutional any procedure where executive action could be overturned by less than the full process required under the Constitution to make laws—that is, approval by both houses of Congress and presentment to the President. That narrowed Congress' options to use a joint resolution of disapproval. The one-house or two-house legislative veto (as procedures involving simple and concurrent resolutions were previously called), was thus voided.

Because Congress often is unable to anticipate the numerous situations to which the laws it passes must apply, Executive Branch agencies sometimes develop regulatory schemes at odds with congressional expectations. Moreover, during the time lapse between passage of legislation and its implementation, the nature of the problem addressed, and its proper solution, can change. Rules can be surprisingly different from the expectations of Congress or the public. Congressional review gives the public the opportunity to call the attention of politically accountable, elected officials to concerns about new agency rules. If these concerns are sufficiently serious, Congress can stop the rule.

Brief procedural history of congressional review chapter

In the 104th Congress, the congressional review legislation originated as S. 348, the "Regulatory Oversight Act," which was introduced on February 2, 1995. The text of S. 348 was offered by its sponsors, Senators Don Nickles and Harry Reid, as a substitute amendment to S. 219, the "Regulatory Transition Act of 1995." As amended, S. 219 provided for a 45-day delay on the effectiveness of a major rule, and provided expedited procedures that Congress could use to pass resolutions disapproving of the rule. On March 29, 1995, the Senate passed the amended version of S. 219 by a vote of 100–0. The Senate later substituted the text of S. 219 for the text of H.R. 450, the House passed "Regulatory Transition Act of 1995." Although the House did not agree to a conference on H.R. 450 and S. 219, both Houses continued to incorporate the congressional review provisions in other legislative packages. On May 25, the Senate Governmental Affairs Committee reported out S. 343, the "Comprehensive Regulatory Reform Act of 1995," and S. 291, the "Regulatory Reform Act of 1995," both with congressional review provisions. On May 26, 1995, the Senate Judiciary Committee reported out a different version of S. 343, the "Comprehensive Regulatory Reform Act of 1995," which also included a congressional review provision. The congressional review provision in S. 343 that was debated by the Senate was quite similar to S. 219, except that the delay period in the effectiveness of a major rule was extended to 60 days and the legislation did not apply to rules issued prior to enactment. A filibuster of S. 343, unrelated to the congressional review provisions, led to the withdrawal of that bill.

The House next took up the congressional review legislation by attaching a version of it (as section 3006) to H.R. 2586, the first debt limit extension bill. The House made several changes in the legislation that was attached to H.R. 2586, including a provision that would allow the expedited procedures also to apply to resolutions disapproving of proposed rules, and provisions that would have extended the 60-day delay on the effectiveness of a major rule for any period when the House or Senate was in recess for more than three days. On November 9, 1995 both the House and Senate passed this version of the congressional review legislation as part of the first debt limit extension bill. President Clinton vetoed the bill a few days later, for reasons unrelated to the congressional review provision.

On February 29, 1996, a House version of the congressional review legislation was published in the Congressional Record as title III of H.R. 994, which was scheduled to be brought to the House floor in the coming weeks. The congressional review title was almost identical to the legislation approved by both Houses in H.R. 2586. On March 19, 1996, the Senate adopted a congressional review amendment by voice vote to S. 942, which bill passed the Senate 100–0. The congressional review legislation in S. 942 was similar to the original version of S. 219 that passed the Senate on March 29, 1995.

Soon after passage of S. 942, representatives of the relevant House and Senate committees and principal sponsors of the congressional review legislation met to craft a congressional review subtitle that was acceptable to both Houses and would be added to the debt limit bill that was scheduled to be taken up in Congress the week of March 24. The final compromise language was the result of these joint discussions and negotiations.

On March 28, 1996, the House and Senate passed title III, the "Small Business Regulatory Enforcement Fairness Act of 1996," as part of the second debt limit bill, H.R. 3136. There was no separate vote in either body on the congressional review subtitle or on title III of H.R. 3136. However, title III received broad support in the House and the entire bill passed in the Senate by unanimous consent. The President signed H.R. 3136 into law on March 29, 1996, exactly one year after the first congressional review bill passed the Senate.

Submission of rules to Congress and to GAO

Pursuant to subsection 801(a)(1)(A), a federal agency promulgating a rule must submit a copy of the rule and a brief report about it to each House of Congress and to the Comptroller General before the rule can take effect. In addition to a copy of the rule, the report shall contain a concise general statement relating to the rule, including whether it is a major rule under the chapter, and the proposed effective date of the rule. Because most rules covered by the chapter must be published in the Federal Register before they can take effect, it is not expected that the submission of the rule and the report to Congress and the Comptroller General will lead to any additional delay.

Section 808 provides the only exception to the requirement that rules must be submitted to each House of Congress and the Comptroller General before they can take effect. Subsection 808(1) excepts specified rules relating to commercial, recreational, or subsistence hunting, fishing, and camping. Subsection 808(2) excepts certain rules that are

VOL
142
PT
6
AP
15
—
24
1996
UMI

not subject to notice-and-comment procedures. It provides that if the relevant agency finds "for good cause . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, [such rules] shall take effect at such time as the Federal agency promulgating the rule determines." Although rules described in section 808 shall take effect when the relevant Federal agency determines pursuant to other provisions of law, the federal agency still must submit such rules and the accompanying report to each House of Congress and to the Comptroller General as soon as practicable after promulgation. Thus, rules described in section 808 are subject to congressional review and the expedited procedures governing joint resolutions of disapproval. Moreover, the congressional review period will not begin to run until such rules and the accompanying reports are submitted to each House of Congress and the Comptroller General.

In accordance with current House and Senate rules, covered agency rules and the accompanying report must be separately addressed and transmitted to the Speaker of the House (the Capitol, Room H-209), the President of the Senate (the Capitol, Room S-212), and the Comptroller General (GAO Building, 441 G Street, N.W., Room 1139). Except for rules described in section 808, any covered rule not submitted to Congress and the Comptroller General will remain ineffective until it is submitted pursuant to subsection 801(a)(1)(A). In almost all cases, there will be sufficient time for an agency to submit notice-and-comment rules or other rules, that must be published to these legislative officers during normal office hours. There may be rare instance, however, when a federal agency must issue an emergency rule that is effective upon actual notice and does not meet one of the section 808 exceptions. In such a rare case, the federal agency may provide contemporaneous notice to the Speaker of the House, the President of the Senate, and the Comptroller General. These legislative officers have accommodated the receipt of similar, emergency communications in the past and will utilize the same means to receive emergency rules and reports during nonbusiness hours. If no other means of delivery is possible, delivery of the rule and related report by telefax to the Speaker of the House, the President of the Senate, and the Comptroller General shall satisfy the requirements of subsection 801(a)(1)(A).

Additional delay in the effectiveness of major rules

Subsection 553(d) of the APA requires publication or service of most substantive rules at least 30 days prior to their effective date. Pursuant to subsection 801(a)(3)(A), a major rule (as defined in subsection 804(2)) shall not take effect until at least 60 calendar days after the later of the date on which the rule and accompanying information is submitted to Congress or the date on which the rule is published in the Federal Register, if it is so published. If the Congress passes a joint resolution of disapproval and the President vetoes such resolution, the delay in the effectiveness of a major rule is extended by subsection 801(a)(3)(B) until the earlier date on which either House of Congress votes and fails to override the veto or 30 session days[1] after the date on which the Congress receives the veto and objections from the President. By necessary implication, if the Congress passes a joint resolution of disapproval within the 60 calendar days provided in subsection 801(a)(3)(A), the delay period in the effectiveness of a major rule must be extended at least until the President acts on the joint resolution or until the time expires for the President to act. Any other result would be inconsistent with subsection 801(a)(3)(B), which extends the delay in the effectiveness of a major rule for a period of time after the President vetoes a resolution.

Of course, if Congress fails to pass a joint resolution of disapproval within the 60-day period provided by subsection 801(a)(3)(A), subsection 801(a)(3)(B) would not apply and would not further delay the effective date of the rule. Moreover, pursuant to subsection 801(a)(5), the effective date of a rule shall not be delayed by this chapter beyond the date on which either house of Congress votes to reject a joint resolution of disapproval.

Although it is not expressly provided in the congressional review chapter, it is the authors' intent that a rule may take effect if an adjournment of Congress prevents the President from returning his veto and objections within the meaning of the Constitution. Such will be the case if the President does not act on a joint resolution within 10 days (Sundays excepted) after it is presented to him, and "the Congress by their Adjournment prevent its Return" within the meaning of Article I, §7, cl. 2, or when the President affirmatively vetoes a resolution during such an adjournment. This is the logical result because Congress cannot act to override these vetoes. Congress would have to begin anew, pass a second resoiution, and present it to the President in order for it to become law. It is also the authors' intent that a rule may take effect immediately if the President returns a veto and his objections to Congress but Congress adjourns its last session sine die before the expiration of time provided in subsection 801(a)(3)(B). Like the situations described immediately above, no subsequent Congress can act further on the veto, and the next Congress would have to begin anew, pass a second resolution of disapproval, and present it to the President in order for it to become law.

Purpose of and exceptions to the delay of major rules

The reason for the delay in the effectiveness of a major rule beyond that provided in APA subsection 553(d) is to try to provide Congress with an opportunity to act on resolutions of disapproval before regulated parties must invest the significant resources necessary to comply with a major rule. Congress may continue to use the expedited procedures to pass resolutions of disapproval for a period of time after a major rule takes effect, but it would be preferable for Congress to act during the delay period so that fewer resources would be wasted. To increase the likelihood that Congress would act before a major rule took effect, the authors agreed on an approximately 60-day delay period in the effective date of a major rule, rather than an approximately 45-day delay period in some earlier versions of the legislation.

There are four exceptions to the required delay in the effectiveness of a major rule in the congressional review chapter. The first is in subsection 801(c), which provides that a major rule is not subject to the delay period of subsection 801(a)(3) if the President determines in an executive order that one of four specified situations exist and notifies Congress of his determination. The second is in subsection 808(1), which excepts specified rules relating to commercial, recreational, or subsistence hunting, fishing, and camping from the initial delay specified in subsection 801(a)(1)(A) and from the delay in the effective date of a major rule provided in subsection 801(a)(3). The third is in subsection 808(2), which excepts certain rules from the initial delay specified in subsection 801(a)(1)(A) and from the delay in the effective date of a major rule provided in subsection 801(a)(3) if the relevant agency finds "for good cause . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." This "good cause" exception in subsection 808(2) is taken from the APA and applies only to rules which are exempt from notice and comment under subsection 553(b)(B) or an analogous statute. The fourth exception is in subsection 804(2). Any rule promulgated under the Telecommunications Act of 1996 or any amendments made by that Act that otherwise could be classified as a "major rule" is exempt from that definition and from the 60-day delay in section 801(a)(3). However, such an issuance still would fall within the definition of "rule" and would be subject to the requirements of the legislation for nonmajor rules. A determination under subsection 801(c), subsection 804(2), or section 808 shall have no effect on the procedures to enact joint resolutions of disapproval.

A court may not stay or suspend the effectiveness of a rule beyond the period specified in section 801 simply because a resolution of disapproval is pending in Congress

The authors discussed the relationship between the period of time that a major rule is delayed and the period of time during which Congress could use the expedited procedures in section 802 to pass a resolution of disapproval. Although it would be best for Congress to act pursuant to this chapter before a major rule goes into effect, it was recognized that Congress could not often act immediately after a rule was issued because it may be issued during a recesses of Congress, shortly before such recesses, or during other periods when Congress cannot devote the time to complete prompt legislative action. Accordingly, the authors determined that the proper public policy was to give Congress an adequate opportunity to deliberate and act on joint resolutions of disapproval, while ensuring that major rules could go into effect without unreasonable delay. In short, the authors decided that major rules could take effect after an approximate 60-day delay, but the period governing the expedited procedures in section 802 for review of joint resolution of disapproval would extend for a period of time beyond that.

Accordingly, courts may not stay or suspend the effectiveness of any rule beyond the periods specified in section 801 simply because a joint resolution is pending before Congress. Such action would be contrary to the many express provisions governing when different types of rules may take effect. Such court action also would be contrary to the authors' intent because it would upset an important compromise on how long a delay there should be on the effectiveness of a major rule. The final delay period was selected as a compromise between the period specified in the version that passed the Senate on March 19, 1995, and the version that passed both Houses on November 9, 1995. It is also the authors' belief that such court action would be inconsistent with the principles of (and potentially violate) the Constitution, art. I, §7, cl. 2, in that courts may not give legal effect to legislative action unless it results in the enactment of law pursuant that Clause. See *INS* v. *Chadha*, 462 U.S. 919 (1983). Finally, the authors intend that a court may not predicate a stay on the basis of possible future congressional action because it would be improper for a court to rule that the movant had demonstrated a "likelihood of success on the merits," unless and until a joint resolution is enacted into law. A judicial stay prior to that time would raise serious separation of powers concerns because it would be tantamount to the court making a prediction of what Congress is likely to do and then exercising its own power in furtherance of that prediction. Indeed, the authors intend that Congress may have been reluctant to pass congressional review legislation at all if its action or inaction pursuant to this chapter would be treated differently than its action or inaction regarding any other bill or resolution.

Time periods governing passage of joint resolutions of disapproval

Subsection 802(a) provides that a joint resolution disapproving of a particular rule may be introduced in either House beginning on the date of the rule and accompanying report are received by Congress until 60 calendar days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress). But if Congress did not have sufficient time in a previous session to introduce or consider a resolution of disapproval, as set forth in subsection 801(d), the rule and accompanying report will be treated as if it were first received by Congress on the 15th session day in the Senate, or 15th legislative day in the House, after the start of its next session. When a rule was submitted near the end of a Congress or prior to the start of the next Congress, a joint resolution of disapproval regarding that rule may be introduced in the next Congress beginning on the 15th session day in the Senate or the 15th legislative day in the House until 60 calendar days thereafter (excluding days either House of Congress is adjourned for more than 3 days during the session) regardless of whether such a resolution was introduced in the prior Congress. Of course, any joint resolution pending from the first session of a Congress, may be considered further in the nest session of the same Congress.

Subsections 802(c)-(d) specify special procedures that apply to the consideration of a joint resolution of disapproval in the Senate. Subsection 803(c) allows 30 Senators to petition for the discharge of resolution from a Senate committee after a specified period of time (the later of 20 calendar days after the rule is submitted to Congress or published in the Federal Register, if it is so published). Subsection 802(d) specifies procedures for the consideration of a resolution on the Senate floor. Such a resolution is highly privileged, points or order are waived, a motion to postpone consideration is not in order, the resolution is unamendable, and debate on the joint resolution and "on all debatable motions and appeals in connection therewith" (including a motion to proceed) is limited to no more than 10 hours.

Subsection 802(e) provides that the special Senate procedures specified in subsections 802(c)-(d) shall not apply to the consideration of any joint resolution of disapproval of a rule after 60 session days of the Senate beginning with the later date that rule is submitted to Congress or published, if it is so published. However, if a rule and accompanying report are submitted to Congress shortly before the end of a session or during an intersession recess as described in subsection 801(d)(1), the special Senate procedures specified in subsections 802(c)-(d) shall expire 60 session days after the 15th session day of the succeeding session of Congress—or on the 75th session day after the succeeding session of Congress first convenes. For purposes of subsection 802(e), the term "session day" refers only to a day the Senate is in session, rather than a day both Houses are in session. However, in computing the time specified in subsection 801(d)(1), that subsection specifies that there shall be an additional period of review in the next session if either House did not have an adequate opportunity to complete action on a joint resolution. Thus, if either House of Congress did not have adequate time to consider a joint resolution in a given session (60 session days in the Senate and 60 legislative days in the House), resolutions of disapproval may be introduced or reintroduced in both Houses in the next session, and the special Senate procedures specified in subsection 802(c)-(d) shall apply in the next session of the Senate.

If a joint resolution of disapproval is pending when the expedited Senate procedures specified in subsections 802(c)-(d) expire, the resolution shall not die in either House but shall simply be considered pursuant to the normal rules of either House—with one exception. Subsection 802(f) sets forth one unique provision that does not expire in either House. Subsection 802(f) provides procedures for passage of a joint resolution of disapproval when one House passes a joint resolution and transmits it to the other House that has not yet completed action. In both Houses, the joint resolution of the first House to act shall not be referred to a committee but shall be held at the desk. In the Senate, a House-passed resolution may be considered directly only under normal Senate procedures, regardless of when it is received by the Senate. A resolution of disapproval that originated in the Senate may be considered under the expedited procedures only during the period specified in subsection 802(e). Regardless of the procedures used to consider a joint resolution in either House, the final vote of the second House shall be on the joint resolution of the first House (no matter when that vote takes place). If the second House passes the resolution, no conference is necessary and the joint resolution will be presented to the President for his signature. Subsection 802(f) is justified because subsection 802(a) sets forth the required language of a joint resolution in each House, and thus, permits little variance in the joint resolutions that could be introduced in each House.

Effect of enactment of a joint resolution of disapproval

Subsection 801(b)(1) provides that: "A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule." Subsection 801(b)(2) provides that such a disapproved rule "may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule." Subsection 801(b)(2) is necessary to prevent circumvention of a resolution disapproval. Nevertheless, it may have a different impact on the issuing agencies depending on the nature of the underlying law that authorized the rule.

If the law that authorized the disapproved rule provides broad discretion to the issuing agency regarding the substance of such rule, the agency may exercise its broad discretion to issue a substantially different rule. If the law that authorized the disapproved rule did not mandate the promulgation of any rule, the issuing agency may exercise its discretion not to issue any new rule. Depending on the law that authorized the rule, an issuing agency may have both options. But if an agency is mandated to promulgate a particular rule and its discretion in issuing the rule is narrowly circumscribed, the enactment of a resolution of disapproval for that rule may work to prohibit the reissuance of any rule. The authors intend the debate on any resolution of disapproval to focus on the law that authorized the rule and make the congressional intent clear regarding the agency's options or lack thereof after enactment of a joint resolution of disapproval. It will be the agency's responsibility in the first instance when promulgating the rule to determine the range of discretion afforded under the original law and whether the law authorizes the agency to issue a substantially different rule. Then, the agency must give effect to the resolution of disapproval.

Limitation on judicial review of congressional or administrative actions

Section 805 provides that a court may not review any congressional or administrative "determination, finding, action, or omission under this chapter." Thus, the major rule determinations made by the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget are not subject to judicial review. Nor may a court review whether Congress complied with the congressional review procedures in this chapter. This latter limitation on the scope of judicial review was drafted in recognition of the constitutional right of each House of Congress to "determine the Rules of its Proceedings," U.S. Const., art. I, §5, cl. 2, which includes being the final arbiter of compliance with such Rules.

The limitation on a court's review of subsidiary determination or compliance with congressional procedures, however, does not bar a court from giving effect to a resolution of disapproval that was enacted into law. A court with proper jurisdiction may treat the congressional enactment of a joint resolution of disapproval as it would treat the enactment of any other federal law. Thus, a court with proper jurisdiction may review the resolution of disapproval and the law that authorized the disapproved rule to determine whether the issuing agency has the legal authority to issue a substantially different rule. The language of subsection 801(g) is also instructive. Subsection 801(g) prohibits a court or agency from inferring any intent of the Congress only when "Congress does not enact a joint resolution of disapproval," or by implication, when it has not yet done so. In deciding cases or controversies properly before it, a court or agency must give effect to the intent of the Congress when such a resolution is enacted and becomes the law of the land. The limitation on judicial review in no way prohibits a court from determining whether a rule is in effect. For example, the authors expect that a court might recognize that a rule has no legal effect due to the operation of subsections 801(a)(1)(A) or 801(a)(3).

Enactment of a joint resolution of disapproval for a rule that was already in effect

Subsection 801(f) provides that: "Any rule that takes effect and later is made of no

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[1] In the Senate, a "session day" is a calendar day in which the Senate is in session. In the House of Representatives, the same term is normally expressed as a "legislative day." In the congressional review chapter, however, the term "session day" means both a "session day" of the Senate and a "legislative day" of the House of Representatives unless the context of the sentence or paragraph indicates otherwise.

VOL
142
PT
6
AP
15
—
24
1996
UMI

force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect." Application of this subsection should be consistent with existing judicial precedents on rules that are deemed never to have taken effect.

Agency information required to be submitted to GAO

Pursuant to subsection 801(a)(1)(B), the federal agency promulgating the rule shall submit to the Comptroller General (and make available to each House) (i) a complete copy of the cost-benefit analysis of the rule, if any, (ii) the agency's actions related to the Regulatory Flexibility Act, (iii) the agency's actions related to the Unfunded Mandates Reform Act, and (iv) "any other relevant information or requirements under any other Act and any relevant Executive Orders." Pursuant to subsection 801(a)(1)(B), this information must be submitted to the Comptroller General on the day the agency submits the rule to Congress and to GAO.

The authors intend information supplied in conformity with subsection 801(a)(1)(B)(iv) to encompass both agency-specific statutes and government-wide statutes and executive orders that impose requirements relevant to each rule. Examples of agency-specific statutes include information regarding compliance with the law that authorized the rule and any agency-specific procedural requirements, such as section 9 of the Consumer Product Safety Act, as amended, 15 U.S.C. §2054 (procedures for consumer product safety rules); section 6 of the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §655 (promulgation of standards); section 307(d) of the Clean Air Act, as amended, 42 U.S.C. §7607(d) (promulgation of rules); and section 501 of the Department of Energy Organization Act, 42 U.S.C. §7191 (procedure for issuance of rules, regulations, and orders). Examples of government-wide statutes include other chapters of the Administrative Procedure Act, 5 U.S.C. §§551–559 and 701–706; and the Paperwork Reduction Act, as amended, 44 U.S.C. §§3501–3520.

Examples of relevant executive orders include E.O. No. 12866 (Sept. 30, 1993) (Regulatory Planning and Review); E.O. No. 12606 (Sept. 2, 1987) (Family Considerations in Policy Formulation and Implementation); E.O. No. 12612 (Oct. 26, 1987) (Federalism Considerations in Policy Formulation and Implementation); E.O. No. 12630 (Mar. 15, 1988) (Government Actions and Interference with Constitutionally Protected Property Rights); E.O. No. 23875 (Oct. 26, 1993) (Enhancing the Intergovernmental Partnership); E.O. No. 12778 (Oct. 23, 1991) (Civil Justice Reform); E.O. No. 12988 (Feb. 5, 1996) (Civil Justice Reform) (effective May 5, 1996).

GAO reports on major rules

Fifteen days after the federal agency submits a copy of a major rule and report to each House of Congress and the Comptroller General, the Comptroller General shall prepare and provide a report on the major rule to the committee of jurisdiction in each House. Subsection 801(a)(2)(B) requires agencies to cooperate with the Comptroller General in providing information relevant to the Comptroller General's reports on major rules. Given the 15-day deadline for these reports, it is essential that the agencies' initial submission to the General Accounting Office (GAO) contain all of the information necessary for GAO to conduct its analysis. At a minimum, the agency's submission must include the information required of all rules pursuant to 801(a)(1)(B). Whenever possible, OMB should work with GAO to alert GAO when a major rule is likely to be issued and to provide as much advance information to GAO as possible on such proposed major rule. In particular, OMB should attempt to provide the complete cost-benefit analysis on a major rule, if any, well in advance of the final rule's promulgation.

It also is essential for the agencies to present this information in a format that will facilitate the GAO's analysis. The authors expect that GAO and OMB will work together to develop, to the greatest extent practicable, standard formats for agency submissions. OMB also should ensure that agencies follow such formats. The authors also expect that agencies will provide expeditiously any additional information that GAO may require for a thorough report. The authors do not intend the Comptroller General's reports to be delayed beyond the 15-day deadline due to lack of information or resources unless the committees of jurisdiction indicate a different preference. Of course, the Comptroller General may supplement his initial report at any time with any additional information, on its own, or at the request of the relevant committees or jurisdiction.

Covered agencies and entities in the executive branch

The authors intend this chapter to be comprehensive in the agencies and entities that are subject to it. The term "Federal agency" in subsection 804(1) was taken from 5 U.S.C. §551(1). That definition includes "each authority of the Government" that is not expressly excluded by subsection 551(1)(A)–(H). With those few exceptions, the objective was to cover each and every government entity, whether it is a department, independent agency, independent establishment, or government corporation. This is because Congress is enacting the congressional review chapter, in large part, as an exercise of its oversight and legislative responsibility. Regardless of the justification for excluding or granting independence to some entities from the coverage of other laws, that justification does not apply to this chapter, where Congress has an interest in exercising its constitutional oversight and legislative responsibility as broadly as possible over all agencies and entities within its legislative jurisdiction.

In some instances, federal entities and agencies issue rules that are not subject to the traditional 5 U.S.C. §553(c) rulemaking process. However, the authors intend the congressional review chapter to cover every agency, authority, or entity covered by subsection 551(1) that establishes policies affecting any segment of the general public. Where it was necessary, a few special exceptions were provided, such as the exclusion for the monetary policy activities of the Board of Governors of the Federal Reserve System, rules of particular applicability, and rules of agency management and personnel. Where it was not necessary, no exemption was provided and no exemption should be inferred from other law. This is made clear by the provision of section 806 which states that the Act applies notwithstanding any other provision of law.

Definition of a "major rule"

The definition of a "major rule" in subsection 804(2) is taken from President Reagan's Executive Order 12291. Although President Clinton's Executive Order 12866 contains a definition of a "significant regulatory action" that is seemingly as broad, several of the Administration's significant rule determinations under Executive Order 12866 have been called into question. The authors intend the term "major rule" in this chapter to be broadly construed, including the non-numerical factors contained in the subsections 804(2)(B) and (C).

Pursuant to subsection 804(2), the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget (the Administrator) must make the major rule determination. The authors intend that centralizing this function in the Administrator will lead to consistency across agency lines. Moreover, from 1981–93 OIRA staff interpreted and applied the same major rule definition under E.O. 12291. Thus, the Administrator should rely on guidance documents prepared by OIRA during that time and previous major rule determinations from that Office as a guide in applying the statutory definition to new rules.

Certain covered agencies, including many "independent agencies," include their proposed rules in the Unified Regulatory Agenda published by OMB but do not normally submit their final rules to OMB for review. Moreover, interpretative rules and general statements of policy are not normally submitted to OMB for review. Nevertheless, it is the Administrator that must make the major rule determination under this chapter whenever a new rule is issued. The Administrator may request the recommendation of any agency covered by this chapter on whether a proposed rule is a major rule within the meaning of subsection 804(2), but the Administrator is responsible for the ultimate determination. Thus, all agencies or entities covered by this chapter will have to coordinate their rulemaking activity with OIRA so that the Administrator may make the final, major rule determination.

Scope of rules covered

The authors intend this chapter to be interpreted broadly with regard to the type and scope of rules that are subject to congressional review. The term "rule" in subsection 804(3) begins with the definition of a "rule" in subsection 551(4) and excludes three subsets of rules that are modeled on APA sections 551 and 553. This definition of a rule does not turn on whether a given agency must normally comply with the notice-and-comment provisions of the APA, or whether the rule at issue is subject to any other notice-and-comment procedures. The definition of "rule" in subsection 551(4) covers a wide spectrum of activities. First, there is formal rulemaking under section 553 that must adhere to procedures of sections 556 and 557 of title 5. Second, there is informal rulemaking, which must comply with the notice-and-comment requirements of subsection 553(c). Third, there are rules subject to the requirements of subsection 552(a)(1) and (2). This third category of rules normally either must be published in the Federal Register before they can adversely affect a person, or must be indexed and made available for inspection and copying or purchase before they can be used as precedent by an agency against a non-agency party. Documents covered by subsection 552(a) include statements of general policy, interpretations of general applicability, and administrative staff manuals and instructions to staff that affect a member of the public. Fourth, there is a body of materials that fall within the APA definition of "rule" and are the product of agency process, but that meet none of the procedural specifications of the first three classes. These include guidance documents and the like. For purposes of this section, the term rule also includes any rule, rule

change, or rule interpretation by a self regulatory organization that is approved by a Federal agency. Accordingly, all "rules" are covered under this chapter, whether issued at the agency's initiative or in response to a petition, unless they are expressly excluded by subsections 804(3)(A)–(C). The authors are concerned that some agencies have attempted to circumvent notice-and-comment requirements by trying to give legal effect to general statements of policy, "guidelines," and agency policy and procedure manuals. The authors admonish the agencies that the APA's broad definition of "rule" was adopted by the authors of this legislation to discourage circumvention of the requirements of chapter 8.

The definition of a rule in subsection 551(4) covers most agency statements of general applicability and future effect. Subsection 804(3)(A) excludes "any rule of particular applicability, including a rule that approves or prescribes rates, wages, prices, services, or allowances therefore, corporate and financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing" from the definition of a rule. Many agencies, including the Treasury, Justice, and Commerce Departments, issue letter rulings or other opinion letters to individuals who request a specific ruling on the facts of their situation. These letter rulings are sometimes published and relied upon by other people in similar situations, but the agency is not bound by the earlier rulings even on facts that are analogous. Thus, such letter rulings or opinion letters do not fall within the definition of a rule within the meaning of subsection 804(3).

The different types of rules issued pursuant to the internal revenue laws of the United States are good examples of the distinction between rules of general and particular applicability. IRS private letter rulings and Customs Service letter rulings are classic examples of rules of particular applicability, notwithstanding that they may be cited as authority in transactions involving the same circumstances. Examples of substantive and interpretative rules of general applicability will include most temporary and final Treasury regulations issued pursuant to notice-and-comment rulemaking procedures, and most revenue rulings, revenue procedures, IRS notices, and IRS announcements. It does not matter that these later types of rules are issued without notice-and-comments rulemaking procedures or that they are accorded less deference by the courts than notice-and-comment rules. In fact, revenue rulings have been described by the courts as the "classic example of an interpretative rul[e]" within the meaning of the APA. See *Wing* v. *Commissioner*, 81 T.C. 17, 26 (1983). The test is whether such rules announce a general statement of policy or an interpretation of law of general applicability.

Most rules or other agency actions that grant an approval, license, registration, or similar authority to a particular person or particular entities, or grant or recognize an exemption or relieve a restriction for a particular person or particular entities, or permit new or improved applications of technology for a particular person or particular entities, or allow the manufacture, distribution, sale, or use of a substance or product are exempted under subsection 804(3)(A) from the definition of a rule. This is probably the largest category of agency actions excluded from the definition of a rule. Examples include import and export licenses, individual rate and tariff approvals, wetlands permits, grazing permits, plant licenses or permits, drug and medical device approvals, new source review permits, hunting and fishing take limits, incidental take permits and habitat conservation plans, broadcast licenses, and product approvals, including approvals that set forth the conditions under which a product may be distributed.

Subsection 804(3)(B) excludes "any rule relating to agency management or personnel" from the definition of a rule. Pursuant to subsection 804(3)(C), however, a "rule of agency organization, procedure, or practice," is only excluded if it "does not substantially affect the rights or obligations of non-agency parties." The authors' intent in these subsections is to exclude matters of purely internal agency management and organization, but to include matters that substantially affect the rights or obligations of outside parties. The essential focus of this inquiry is not on the type of rule but on its effect on the rights or obligations of non-agency parties.•

10TH ANNIVERSARY OF CHERNOBYL

• Mr. LEVIN. Mr. President, on April 26, 1986, reactor number 4 at the V.I. Lenin Atomic Power Plant in Chernobyl near Kiev, Ukraine exploded. The explosion released a cloud of radioactive steam into the atmosphere reported to contain about 200 times more radio activity than was released at Hiroshima and Nagasaki.

The explosion took an enormous toll on the people directly exposed to the radiation emitted from the plant. Shortly after the explosion, Soviet officials admitted to 31 deaths among reactor operators and the team attempting to contain the damage. Thousands of workers were eventually exposed at the site.

However, children have been the first among the general population to suffer from the effects of the explosion at Chernobyl. Children are most susceptible to the radioactive iodine emitted from Chernobyl because of their active thyroid glands. Researchers in the region have seen a dramatic increase in thyroid cancer among children. However, this is only the earliest problem to make itself known and one of the few to be studied. The problem with estimating the toll on human life in the region is that 10 years is a short period of time to see all of the impacts. Radioactive fallout is only beginning to show its damaging effects on the population.

At the time of the explosion, the prevailing winds carried much of the radiation north into Belarus and points beyond. Excessive levels of radiation were recorded in Scandinavia, Great Britain, the Mediterranean, and Alaska in the first weeks after the explosion. About 1000 acres of pine forest in the path of the first plume of the Chernobyl explosion died immediately as a result of direct fallout. A permanent 30-kilometer dead zone was established around the power station where human habitation is still forbidden today because of the high level of contamination. The Chernobyl area, known as the Polissia region, was once famous for its old-growth forests rich with mushrooms, berries and medicinal herbs. The community's well-being revolved around the health of the forest. Their dependency on the forest resulted in a very unique spirituality and culture in the region. After the accident, residents were forced to leave their homes and move to completely different environments. The inability to return to the land they once knew and worries about possible exposure to radiation now cause great stress among the population. Two of Chernobyl's four units remain functional today. Ukraine says it wants to completely close Chernobyl, but cannot function without the energy it provides and cannot afford to properly close the plant, even though radioactive material is now threatening water tables in the area. The American people should specifically lend their support to the efforts to make the area around Chernobyl as safe as possible. We should also work to improve the health, economic and environmental well-being of areas affected by the Chernobyl disaster. The Chernobyl explosion has been a devastating event for the entire world. Ukrainian-Americans have worked strenuously to lend support to their homeland. In my home State, the Michigan Committee—Chernobyl Challenge 1996 will be holding events to commemorate the 10-year anniversary of the explosion. On April 28, 1996, a commemorative program will be held at St. Josaphat Ukrainian Catholic Church in Warren, MI. The guest speaker will be Ukraine's Ambassador to the United Nations, Anatoly Zlenko. There will also be blood drives held at the Ukrainian Cultural Center and at St. Michael Ukrainian Catholic Church in cooperation with the American Red Cross, where volunteers will bring to the public's attention the ongoing tragedy in Ukraine. I salute their efforts to help Ukraine recover from the tragedy that occurred a decade ago at Chernobyl.•

SUBMITTING CHANGES TO THE BUDGET RESOLUTION DISCRETIONARY SPENDING LIMITS, APPROPRIATE BUDGETARY AGGREGATES, AND APPROPRIATIONS COMMITTEE ALLOCATION

• Mr. DOMENICI. Mr. President, section 103(c) of Public Law 104–121, the Contract With America Advancement Act, requires the chairman of the Senate Budget Committee to adjust the discretionary spending limits, the appropriate budgetary aggregates and the Appropriations Committee's allocation contained in the most recently adopted Budget Resolution—in this case, House Concurrent Resolution 67—to reflect

VOL
142
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6
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24
1996
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additional new budget authority and outlays for continuing disability reviews—CDR's, as defined in section 201(g)(1)(A) of the Social Security Act.

I hereby submit revisions to the nondefense discretionary spending limits for fiscal year 1996 contained in sec. 201 of House Concurrent Resolution 67 in the following amounts:

	1996
Budget authority:	
Current nondefense discretionary spending limit	$219,668,000,000
Adjustment	15,000,000
Revised nondefense discretionary spending limit	219,683,000,000
Outlays:	
Current nondefense discretionary spending limit	267,725,000,000
Adjustment	60,000,000
Revised nondefense discretionary spending limit	267,785,000,000

I hereby submit revisions to the budget authority, outlays and deficit aggregates for fiscal year 1996 contained in sec. 101 of House Concurrent Resolution 67 in the following amounts:

	1996
Budget authority:	
Current aggregate	$1,285,500,000,000
Adjustment	15,000,000
Revised aggregate	1,285,515,000,000
Outlays:	
Current aggregate	1,288,100,000,000
Adjustment	60,000,000
Revised aggregate	1,288,160,000,000
Deficit:	
Current aggregate	245,600,000,000
Adjustment	60,000,000
Revised aggregate	245,660,000,000

I hereby submit revisions to the 1996 Senate Appropriations Committee budget authority and outlay allocations, pursuant to sec. 302 of the Congressional Budget Act, in the following amounts:

	1996
Budge authority:	
Current Appropriations Committee allocation	$772,349,000,000
Adjustment	15,000,000
Revised Appropriations Committee allocation	772,364,000,000
Outlays:	
Current Appropriations Committee allocation	$807,374,000,000
Adjustment	60,000,000
Revised Appropriations Committee allocation	807,434,000,000

Public Law 104–121 also requires me to adjust discretionary spending limits for any future fiscal year—1997–2002—when the Committee on Appropriations reports an appropriations measure specifying an amount in excess of a 1995 base level amount for continuing disability reviews. The allowable adjustment to the outlay cap amounts to $2.7 billion over the period 1996 to 2002. CBO estimates that the additional CDR's flowing from the increased appropriations would result in savings in the Social Security, SSI Medicare and Medicaid programs of roughly $3.5 billion over the 7-year time frame.•

TRIBUTE TO PRINCE GEORGES COUNTY

• Mr. SARBANES. Mr. President, I rise to join the people of Maryland in celebrating the tricentennial anniversary of the founding of Prince Georges County on April 23, 1696. Over the centuries the residents and leadership of Prince Georges County have demonstrated a remarkable commitment to preserving their rich historic legacy, while encouraging economic growth and cultural enrichment.

While evidence suggests that the first human settlements in the area later to be called Prince Georges County existed over 10,000 years ago, the first documented visit to the region occurred in 1608 when Captain John Smith sailed up the Potomac River to map the Chesapeake Bay region and search for food for the fledgling Jamestown Colony. Captain Smith paid only a brief visit to this region which, less than a century later, would be home to about 1,700 Marylanders. This rich land extending from Mattawoman Creek in the south all the way to the Pennsylvania border was proclaimed a self-governing county by the colonial Governor in 1696, and was named Prince Georges County in honor of Prince George of Denmark, husband of Princess Anne, heir to the throne of England.

Due to the abundance of fertile farm land, agriculture dominated the local economy in colonial times, contributing to the livelihood of almost every Prince Georges County inhabitant. Preservation of this important aspect of colonial life has remained a priority to the residents of Prince Georges County who, through groups such as the Accokeek Foundation, work to maintain the National Colonial Farm, displaying to all a continuum of American farm life from the 1600's through the 18th century.

Evidence of the importance of the agricultural economy in southern Maryland remains in many aspects of Prince Georges County life, including the Maryland higher education system. In 1856, in order to educate the sons of colonial farmers and to foster the exchange of new ideas, the Maryland Agricultural College—the first of its kind in the Nation—was established in Prince Georges County. Today we know the Maryland Agricultural College as the University of Maryland College Park, the flagship institution of the University of Maryland system.

While agriculture was the predominant force in the Prince Georges County economy, the push for western expansion in Maryland led to the growth of thriving commercial and trading centers such as Upper Marlboro, Laurel and Bladensburg. Cotton mills, steamboats, and railroads resulted in increased commercial development, strengthening the county's ties with Europe and other American colonies and leading to increased economic development.

This early entrepreneurial spirit continues to flourish and thrive today. Prince Georges County is now home to over 13,600 businesses which employ over 223,700 workers. Major employers including Giant Food, United Parcel Service, and Dimensions Health Corporation serve to make Prince Georges County a prime example of a large and prospering business community, while the Prince Georges County Economic Development Corporation has been nationally recognized for its programs to assist individual entrepreneurs and small minority-owned businesses.

The county's close proximity to the District of Columbia has been another factor in its evolution and maturation. Over the years towns and cities have sprung up to meet the needs of a growing community of Federal employees who increasingly choose to live outside the Federal city in suburban Maryland. Towns such as Takoma Park, New Carrollton, Greenbelt, and District Heights are home to the over 87,000 Federal employees who work both in the District and at the many Federal installations which are located in modern Prince Georges County.

Prince Georges County is today one of the Nation's largest and most vibrant subdivisions, winning widespread acclaim and national recognition for its success in promoting diversity and opening up the doors of opportunity for all of its citizens. This well-deserved reputation as a national model is due to a strong sense of community and cooperation among its residents and to enlightened and visionary leadership. In the forefront of these efforts have been our respected Governor and former Prince Georges County Executive Parris Glendening, two of my distinguished colleagues in the Congress, Representatives STENY HOYER and ALBERT WYNN, and the present dynamic County Executive Wayne Curry.

Such citizens and leaders throughout history have guided Prince Georges County from a region of frontier wilderness and rural plantations to today's modern urban communities and advanced agricultural centers. Prince Georges County has adapted to meet the changes wrought by the centuries, while preserving the evidence of 300 years of growth and progress. This tricentennial celebration pays tribute to the rich legacy of our Maryland ancestors and bears testament to the limitless promise and potential of Prince Georges County.•

A FOND FAREWELL TO AN HISTORIC AIRCRAFT

• Mr. KEMPTHORNE. Mr. President, on April 20, 1996, the last of the Idaho Air National Guard's F–4G "Wild Weasels" will be retired.

As we bid farewell to this reliable workhorse that has served this Nation well for nearly three decades, let me recognize the historic accomplishments of the Wild Weasel and the superb men and women of the 124th Fighter Group stationed at Gowen

Field in Boise, ID, who have flown and maintained this remarkable aircraft.

Since June 1991, the 124th has flown the F–4G Wild Weasel. It is a two-seat, twin engine jet that can travel at more than twice the speed of sound. Armed with radar and heat seeking missiles as well as conventional bombs, the Wild Weasel is often the first aircraft to enter combat and the last to leave. Its mission is to find and attack enemy radar and missile sites—clearing the path in a hostile environment for friendly fighters and bombers to enter enemy airspace.

When the Wild Weasels first arrived at Gowen Field, the 124th converted to the new mission and was combat ready in record time.

Six months later, these men and women were called on to leave their homes, families and jobs to serve their Nation. Without a Presidential call-up, these troops volunteered for service and became the first Air National Guard unit activated for a combat mission during peace time when they were deployed to Saudi Arabia as part of Operation Southern Watch.

The Group was fully integrated into the Air Force Wing deployed to the region. They were given day to day mission responsibilities for patrolling southern Iraq and escorting coalition aircraft into enemy airspace that had proven over time to be a hostile environment.

As I visited the men and women of the Idaho Guard stationed in Saudi Arabia, I saw how effectively the active duty and National Guard forces were working together to defend our Nation's interest. I also heard British and French pilots state they would not fly over Iraq unless they knew the Wild Weasels were also in the sky to protect them against surface to air missiles.

Maj. Gen. Darrell V. Manning praised his men and women for their critical role in this international enforcement effort. He said, "They were the only trained organization in place that could perform this mission and we had the trained and motivated people required to succeed in this critical role."

But this success required the support of hundreds of personnel who performed their duties to near perfection. The mechanics, refuellers, weapons handlers, and every other member of this team—and I mean team—contributed to the effectiveness of the 124th Fighter Group.

The 124th was again called to service in Operation Provide Comfort—this time to Turkey where they enforced the northern Iraq no-fly zone as part of combat-ready patrol along with other United States, British, French and Turkish coalition forces.

In the fall of 1995, the Idaho Air National Guard made Air Force history by flying the 50,000th aerial mission in support of Operation Provide Comfort II.

I had the privilege of visiting the 124th Fighter Group in Turkey in early October, 1995. Once again I saw a well trained and well disciplined group of men and women serving our Nation's interests. I also saw the pride that these men and women from Idaho had in their venerable aircraft, the Wild Weasel. And while there, I let them know their State and country were proud of the 124th's dedication and commitment to peace in that troubled region.

Mr. President, it is clear the men and women of the 124th Fighter Group have established themselves as one of the premier Guard units in the country. And while I have some parochial pride in making that statement, that distinction was hard-earned and well-deserved.

Based on the Wild Weasel's performance in Saudi Arabia, the Secretary of the Air Force came to Boise, ID in December 1993 to honor the 124th Fighter Group. Secretary Sheila Widnall and Maj. Gen. Philip G. Killey, Director of the Air National Guard, presented the men and women of the 124th Fighter Group with the Air Force's Outstanding Unit Award for their role as the leading edge of force projection during peacetime, and the first to assume this new and difficult role for Air Reserve forces.

Mr. President, we all knew the time would come for the Wild Weasel to be retired, and with the downsizing of active and reserve units that has taken place, there were concerns over future missions for Gowen Field.

As we looked for a new mission for Gowen Field, it was clear the men and women of the Idaho Air National Guard had already presented their case. The performance of the Wild Weasel was well-documented. The dependability of the Idaho Air Guard was second to none. Together, they had earned not one, but two new missions to replace the Wild Weasels—the A–10's and the C–130's.

And while we say goodbye to this trusted airframe, we know the tradition of the Wild Weasel will live on with the men and women of the Idaho Air National Guard where the motto is "First Class or Not At All."•

AMENDING THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3034 just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3034) to amend the Indian Self-Determination and Education Assistance Act to extend for two months the authority for promulgating regulations under the Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3034) was deemed read the third time and passed.

ORDERS FOR FRIDAY, APRIL 19, 1996

Mr. ABRAHAM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m., on Friday, April 19; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour deemed to have expired, and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business until the hour of 12 noon, with Senators permitted to speak therein for up to 5 minutes each, with the first 75 minutes under the control of Senator COVERDELL, or his designee, and the last 45 minutes under the control of Senator DASCHLE, or his designee, with 10 minutes of that time reserved for Senator MURRAY; further, that at the hour of 12 noon the Senate begin consideration of Calendar No. 201, S.J. Res. 21, regarding a constitutional amendment to limit congressional terms.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ABRAHAM. Mr. President, for the information of all Senators, the Senate will convene at 10 a.m. Shortly after convening, the Senate will consider a sense-of-the-Senate resolution regarding the anniversary of the Oklahoma City bombing. The Senators are asked to be on the floor promptly at 10 a.m., as there will be a brief period of silence to remember the tragedy.

Following morning business, the Senate will then begin consideration of the term limits legislation. No rollcall votes will occur during Friday's session.

When the Senate completes debate Friday, it will resume consideration of the term limits legislation on Monday. No rollcall votes will occur during Monday's session. However, Senators are encouraged to debate the legislation and offer any amendments during Friday's and Monday's sessions of the

VOL 142 PT 6 AP 15 — 24 1996 UMI

Senate. The Senate may also be asked to turn to any other legislative items that can be cleared for action.

ORDER FOR ADJOURNMENT

Mr. ABRAHAM. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following the remarks of Senator LAUTENBERG.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

TOXIC WASTE CLEANUP

Mr. LAUTENBERG. Mr. President, at this moment, though the hour is late, and I apologize to those who are inconvenienced while I make my remarks, this is a topic of great importance to me and my home State of New Jersey, and a number of communities across the country—that is, the cleanup of toxic waste.

Mr. President, 73 million Americans live near toxic waste sites. That is about one of every four of our citizens. Many people think of hazardous waste as a problem of ugly dump sites that harm a community's appearance and property values. But it is far more than that, Mr. President. Toxic waste is a huge threat to public health. By contaminating our drinking water, our air and our soil, dangerous waste contributes to a wide range of health problems, and these include cancer, birth defects, cardiovascular problems, immune disorders, and even something as simple and obvious as dermatitis.

Now, Mr. President, it is difficult to say how many people are harmed because of exposure to toxic waste. But the number is considerable. Unfortunately, New Jersey, where there are more Superfund sites than any other State, is being hit especially hard. Recent studies found that in all but one of New Jersey's 21 counties, cancer rates and areas around hazardous waste sites exceeded the national average.

Studies from other parts of the country also suggest that those living near toxic waste sites have suffered disproportionately from serious health problems. Beyond the public health problems associated with toxic waste, these sites also have serious economic effects on local communities. They discourage investment and occupy otherwise valuable real estate that could be used for productive economic activity. If we do not clean up these sites, we are depriving communities of good jobs and local tax revenues.

Mr. President, Congress created the Superfund Program in 1980, largely to respond to health problems, to save lives and protect and restore the environment. The program was designed to ensure that toxic waste sites were cleaned up promptly and that polluters took responsibility for cleaning them up.

Unfortunately, as many know, the Superfund Program got off to a very slow start for a variety of reasons, including a lack of Presidential commitment. Many cleanups were delayed. However, in recent years, the program has turned around. Under the Clinton administration, toxic waste cleanups have been 20 percent faster, 25 percent cheaper, and there is real progress in cleaning up sites. Although we have a long way to go, many more sites are being cleaned up, and delays have been reduced significantly.

Like any program, Mr. President, Superfund has its share of problems and critics. And there are many legitimate concerns that must be addressed. We do need to speed cleanups, reduce unnecessary litigation, and make the program work more efficiently.

Still, Mr. President, there has been tremendous progress. And President Clinton and EPA Administrator Carol Browner deserve real credit for that.

Unfortunately, just as the program has picked up steam, the Congress has permitted its funding mechanism to expire. This funding source simply must be reestablished, or the whole program could be threatened.

It is important, in my view, to pass a Superfund reform bill. Many of us in the Congress have been working long and hard, and in a bipartisan way, to develop reform legislation, and to make needed improvements in the program.

As ranking minority member of the Senate's Superfund Subcommittee, I have worked with many of my colleagues on this issue for several years now, especially my distinguished colleague from Montana, Senator BAUCUS, the ranking member of the Environment and Public Works Committee.

Last congress, after a long and arduous process involving all affected parties, we developed a bill that would have made comprehensive changes in the Superfund program.

Our bill would have made Superfund fairer, more efficient, and less costly. It addressed every major issue raised by those affected by Superfund, and provided relief on every front.

It would have fostered greater and earlier community involvement in cleanup decisions. It speeded up cleanups and made them more efficient. It would have slashed private litigation costs in half, and established a mechanism to efficiently resolve disputes involving polluters, their insurers, and the Government.

It allowed qualified States to play a greater role in remedy selection and cleanup of sites, including federally-owned facilities. It promoted the voluntary cleanup and economic redevelopment of contaminated properties. And it provided much-needed relief to lenders, small businesses, municipalities and others who have been caught up in the liability scheme.

Unfortunately, despite very broad support from environmentalists, industry, small businesses, State and local governments, communities, lenders, and others involved in Superfund, this reform bill was killed in the waning days of the 103d Congress. And so, last year, a new effort began to reauthorize the Superfund Program.

Senator SMITH, our new chairman of the Superfund Subcommittee, introduced a proposal last October.

And for the past few months, Senator CHAFEE, chairman of the Committee, and Senators BAUCUS, SMITH, and myself have spent countless hours trying to resolve our differences and produce a bill that can enjoy broad, bipartisan support. Representatives from the Clinton administration have worked with us virtually every day to support this effort.

Last month, Senators CHAFEE and SMITH introduced another measure that proposed a new liability scheme and made some other changes.

Mr. President, I remain hopeful that we can reach an agreement on comprehensive reform, and note that the latest bill introduced by Senators CHAFEE and SMITH—apart from the provisions on liability—include improvements over the earlier draft.

For example, the new measure would require that Superfund cleanups continue to meet Federal and State cleanups standards, and would allow States to impose their own liability and cleanup requirements. I am pleased by this progress and hope that it continues. Of course I would like to see it continue.

At the same time, I remain deeply concerned about provisions in the chairmen's latest proposal that would dramatically reduce the responsibility of polluters to clean up their own waste.

Before I go further, Mr. President, let me emphasize that Senators CHAFEE, SMITH, BAUCUS and I share many goals. And I know every one of these senators is genuinely committed to making progress. We all want to reduce unnecessary litigation, and make Superfund more fair. Yet, I believe the approach embodied in their legislation has serious flaws.

Their legislation essentially would eliminate polluters' liability for all actions causing pollution that took place before 1980.

By letting so many polluters off the hook entirely, the proposal would fundamentally alter a basic principle of the Superfund Program: the principle that, in general, polluters—not taxpayers—should pay for cleaning up their own toxic waste.

Mr. President, abandoning this principle would have serious consequences. It would lead to fewer cleanups. It would impose huge new burdens on State and local governments, which would be left holding the bag for cleaning up hundreds, if not thousands, of sites. And it would mean, in the end, that many fewer toxic waste sites will get cleaned up.

Mr. President, Senator BAUCUS and I, along with the administration, have developed a different approach to reforming Superfund liability. I ask unanimous consent that an outline of our proposal be printed in the RECORD. I hope my colleagues will take a close look at it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIABILITY COUNTERPROPOSAL TO S. 1285

I. RELIEF FOR SMALL BUSINESS

A. Exempt all businesses which are liable solely under CERCLA sections 107(a)(3) or (a)(4) as generators or transporters for activities occurring wholly before 1/1/96, where the party seeking the benefit of the exemption demonstrates that the business (including its parents, subsidiaries and other affiliates):

1. had annual gross revenues of no more than $2 million as reported to the Internal Revenue Service for each of the preceding three years;
2. has 25 or fewer employees;
3. provides full cooperation, assistance and facility access in connection with the implementation of response actions at the facility; and
4. is not affiliated with any other party liable for response costs at the facility (through any direct or indirect family relationship, or any contractual, corporate, or financial relationship other than a contract for the treatment or disposal of hazardous substances)

unless the President determines:

1. that the party seeking the exemption has not complied with all requests made under authority of CERCLA section 104(e); or
2. that the materials containing hazardous substances generated or transported by the business have contributed significantly or could contribute significantly to the costs of the response or to natural resource damages.

B. Funding. Shares of responsibility attributed by an allocator to the exempt small businesses that do not also qualify for the de micromis exemptions in III.A and IV. shall be included in the orphan share, subject to the provisions of section VI.

C. Recognition of Limited Ability to Pay of Businesses with Fewer than 100 Employees: For parties not exempt under I.A. above, EPA will implement expedited ability to pay settlements for those small businesses with fewer than 100 employees, including small business owner or operators that demonstrate a limited ability to pay.

II. RELIEF FOR MUNICIPAL OWNERS AND OPERATORS

A. Liability Cap:

1. For a municipality with a population of greater than 100,000 that is or was an owner or operator of a landfill listed on the NPL that contains predominantly municipal solid waste (MSW) or municipal sewage sludge (MSS), its response costs liability at the facility shall not exceed the cost of closing the facility under RCRA Subtitle D.

2. For a municipality with a population of fewer than 100,000 that is or was an owner or operator of a landfill listed on the NPL that contains predominantly municipal solid waste (MSW) or municipal sewage sludge (MSS), its response costs liability at the facility shall not exceed the lesser of the cost of closing the facility under RCRA Subtitle D or 10% of the total response costs for remediation of the site;

unless the President determines that the municipal owner or operator seeking the liability limitation does not meet the following criteria:

1. the municipality has complied with all requests made under authority of CERCLA section 104(e);
2. the municipality provides full cooperation, assistance and facility access in connection with the implementation of response actions at the facility;
3. the municipality, during its period of ownership or operation, accepted predominantly MSW or MSS, and any materials, other than MSW or MSS, containing hazardous substances accepted at the site do not contribute significantly to the costs of the response or to natural resource damages; and
4. for activities occurring after 1/1/96, the municipality had a qualified household hazardous waste collection program in effect, and accepted for disposal only materials that it was permitted to accept by law.

B. Funding: Shares of responsibility attributed to municipal owners or operators in excess of the amount specified under II.A. above shall be included in the orphan share, subject to the provisions of para. VA below.

C. Recognition of Municipalities' Limited Ability to Pay: EPA will implement expedited ability to pay settlements for all municipalities which demonstrate a limited ability to pay.

III. EXEMPT GENERATORS AND TRANSPORTERS OF MUNICIPAL SOLID WASTE

A. Small MSW contributors: Exempt all generators and transporters of MSW or MSS that are businesses with fewer than 100 employees, residential homeowners, and small non-profit organizations who:

1. are liable solely under CERCLA sections 107 (a)(3) or (a)(4) as generators or transporters;
2. contributed only MSW or MSS;
3. have complied with all requests made under authority of CERCLA section 104(e); and
4. provides full cooperation, assistance and facility access in connection with the implementation of response actions at the facility.

B. Other MSW contributors: Exempt all other generators and transporters of MSW or MSS (including federal government entities) at NPL sites for activities occurring wholly prior to 1/1/96. The party seeking the exemption must demonstrate that:

1. it is liable solely under CERCLA sections 107 (a)(3) or (a)(4) for activities occurring prior to 1/1/96;
2. a) it contributed only MSW or MSS; or
   b) it contributed predominantly MSW or MSS—in which case the exemption under this paragraph shall apply only to the portion of its waste that is demonstrated by the generator or transporter to be solely MSW or MSS, and the generator or transporter shall become an allocation party, or an expedited settlement party, and shall pay its allocated share for the waste that is not demonstrated to be MSW or MSS;
3. it has complied with all requests under authority of CERCLA section 104(e); and
4. it provides full cooperation, assistance and facility access in connection with the implementation of response actions at the facility.

For activities occurring after 1/1/96, no generator or transporter that otherwise demonstrates that it satisfies criteria (1)-(4) above shall be liable for more than 10 percent of total response costs at a facility listed on the NPL, provided its waste was disposed of pursuant to a qualified household hazardous waste collection program. Where more than one generator or transporter qualifies under this paragraph, the 10% limitation shall apply to the aggregate liability for response costs of all such generators and transporters.

C. Funding: The allocator shall not assign a share of responsibility to the parties exempt under paragraph III.A. above. Shares of responsibility attributed to parties exempted under paragraph III.B. above shall be included in the allocation and shall be attributed to the orphan share, subject to the provisions of para. VI below.

IV. EXEMPT DE MICROMIS CONTRIBUTORS OF HAZARDOUS WASTE

A. Exempt all generators and transporters (including federal government entities) who contributed to a site 110 gallons or less of liquid materials containing hazardous substances or 200 pounds or less of solid materials containing hazardous substances wholly before 1/1/96, provided that:

1. the party has complied with all requests made under authority of CERCLA section 104(e); and
2. the party provides full cooperation, assistance and facility access in connection with the implementation of response actions at the facility,

unless the President has determined that the waste contributed significantly or could contribute significantly to the costs of response or natural resource restoration.

B. Funding: The allocator shall not assign a share of responsibility to exempt de micromis parties.

V. EXPEDITED DE MINIMIS SETTLEMENTS

The government will provide expedited settlements to any small volume (de minimis) waste contributors (including federal government entities). A "small volume" is presumed where the President estimates the volume to be 1% or less of the total waste at the site. The President may determine that site specific conditions indicate that another amount constitutes a small volume. To provide finality for these settling parties, such settlements shall include premia that cover the risks of, among other things, cost overruns. Recovery from these settlements will be used to reduce the liability of other settling responsible parties.

VI. FULL FUNDING—MAINTAINING THE PACE OF CLEANUP

A. Orphan share includes shares of responsibility for response costs specifically attributable to:

1. identified but insolvent or defunct allocation parties who are not affiliated with any other person liable for response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship;
2. the ability to pay settlement "delta";
3. small businesses that are exempt under section I.A. and that do not also qualify for the exemptions described in sections III.A. IV.;
4. municipal owners and operators for whom liability is limited under section II.A., to the extent that their shares of responsibility exceed this liability limitation; and
5. the shares of responsibility attributable to parties exempt under section III.B.

B. Responsibility for hazardous substances that the allocator cannot attribute to any identified party shall be distributed among the allocation parties, including the orphan share.

VOL
142
PT
6
AP
15
—
24
1996
UMI

C. The bill shall authorize up to $450 million per year for orphan share payments funded under para. A.

D. The amount of funding available for orphan share payments in any fiscal year:

1. shall not exceed the amounts that have been specifically appropriated by Congress for that purpose in the fiscal year in which the claim for payment is presented; and

2. must be in excess of the President's budget request for Superfund (excluding those amounts identified in section VI.A.) or the budget for the Superfund program as established in a Budget Reconciliation Act signed by the President (excluding those amounts identified in section VI.A.).

Shortfall: If claims for such payments exceed available funds, any deficit shall be allocated pro rata among the parties presenting the claim in that fiscal year. If funds appropriated for this purpose are not fully obligated in the fiscal year appropriated, the funds shall be carried over and made available for claims in subsequent years.

VII. OTHER ISSUES

A. NPL Listing Cap: Delete the cap in NPL listings.

B. Burden of proof: For each liability exemption or limitation described in this document, the party claiming the benefit of the exemption or limitation or seeking to establish the availability of an orphan share payment shall demonstrate the applicability of that exemption or limitation.

C. Related allocation issues: Establish an allocation process to enable PRPs to reach settlement with the United States based on their allocated shares and to provide a mechanism for determining the Trust Fund payments provided for above. The allocation process would have the following key features:

1. Allocations shall be required for sites with 2 or more potentially responsible parties, for which

a. a remedial action is selected after enactment; and

b. a remedial action was selected prior to enactment, if requested by the parties performing the remedial action.

2. The Administrator shall have discretion to provide allocations at other sites.

3. Allocations shall not be required for sites where there has been a previous adjudication or settlement determining liability of all parties or the allocated shares of all parties, or at sites where all parties are liable under sections 107(a)(1) and (2).

4. Allocations under 1.b. and 2. shall not be construed to require the payment of orphan shares, to confer reimbursement rights, or to permit the reopening of a settlement.

D. *Additional exemptions, limitations and clarifications:* Liability exemptions, limitations and clarifications should be provided, as appropriate, for the following additional parties: lenders; fiduciaries; bona fide prospective purchasers; inheritors of real property; federal, state and local governments who own rights-of-way or issue business licenses; federal agencies providing disaster relief; contiguous landowners; religious, charitable, scientific or educational organizations who receive property as gifts; owners of railroad spurs; and recyclers.

E. *Settlements:* any settlement or judgment signed or entered prior to date of enactment shall not be affected by any exemption or limitation set forth above.

F. *Fee Shifting:* Any party who seeks to bring a non-liable party or a party who has fully resolved its liability to the United States into the allocation system will be responsible for paying the attorney fees and other costs of the nominated party for participating in the allocation system. Any party who sues another party during the allocation moratorium or who sues a party who has fully settled its liability to the United States will be responsible for paying that party's attorney fees and other litigation costs.

G. *Small business ombudsman:* The Administrator shall establish a small business assistance section within EPA's small business ombudsman office, to act as a clearinghouse of information for small businesses regarding CERCLA. The office will also provide general advice and assistance to small businesses regarding the allocation and settlement process, but will not give legal advice or participate in the allocation process.

Mr. LAUTENBERG. Mr. President, we think our proposal addresses many of the concerns that have been raised about Superfund's liability system. It would increase fairness, increase efficiency, and reduce transaction costs. At the same time, it would protect both the pace and protectiveness of cleanups.

It would provide greater fairness and efficiency by establishing an allocation system under which those responsible for pollution pay only their fair share. Under this system, they would be able to do this quickly and without litigation.

Second, the proposal increases fairness and efficiency, and cuts down on lawsuits, by pulling out of the process people who never should have been pulled in. This is accomplished through a series of exemptions and limitations on liability for small businesses, contributors of small amounts of waste, municipalities, charities, lenders, and other parties.

The proposal would exempt as many as 30,000 small businesses from Superfund liability. It would limit the liability of up to 525 municipal owners and operators of municipal landfills. It would exempt countless individuals, businesses, and small nonprofit organizations that otherwise would be liable as a generator or transporter of municipal solid waste.

It would exempt cities whose involvement is due solely to household trash created by its citizens. And it would exempt approximately 10,000 contributors of small amounts of waste.

This means that parties like the Girl Scouts, local taxpayers, pizza parlors, and churches will be protected from frivolous lawsuits—suits brought by polluters who have tried to force innocent parties to bear cleanup costs, simply because they have sent ordinary household garbage to Superfund sites.

At the same time, Mr. President, our proposal would reaffirm the principle that polluters should pay. It would ensure the availability of funding for more cleanups. And it would ensure that those responsible for pollution are held accountable for cleaning up the mess they have made.

It is important to provide relief to many who have been swept into the Superfund system unfairly. But it is equally critical that toxic waste sites not be left untended as a result, or passed off as a burden to local taxpayers.

Mr. President, I remain committed and hopeful about the possibility of enacting a Superfund bill in this Congress. I also want to express my appreciation to Senators SMITH and CHAFEE for their acknowledgment that the only way to get Superfund reform this year is through a bipartisan effort.

That kind of cooperation is part of a long tradition at the Environment and Public Works Committee, and it has resulted in landmark legislation protecting our citizens and environment. It will also be necessary if President Clinton is to sign a reform proposal into law.

Chairman CHAFEE has scheduled hearings next week on Superfund, and I hope we will have an opportunity to discuss this proposal, among others.

We have shared this proposal with our Republican colleagues, and we hope they will view it favorably. If we work together, we believe there is still time left in this session of Congress for the full Senate to consider a bill and work with our colleagues in the House of Representatives to approve a bipartisan, consensus bill the President can sign.

We believe our proposal is a serious effort to address concerns raised by our Republican colleagues. It also has the strong endorsement of the Administrator of the Environmental Protection Agency, Carol Browner, and the White House.

Mr. President, I believe that this proposal represents the best hope of securing a bipartisan Superfund bill this year that not only will be approved by the Senate, but which will be signed into law. And I remain committed to working hard with my colleagues to reach an agreement.

Mr. President, we can have a Superfund program that is both more fair and more efficient at protecting public health and the environment. To accomplish this goal, we need to continue working together in a cooperative fashion.

Seventy-three million Americans in every State of the country are counting on us to get the job done. I hope we will not let them down.

With that I conclude my remarks. I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 10 a.m. Friday, April 19, 1996.

Thereupon, the Senate, at 11:15 p.m., adjourned until Friday, April 19, 1996, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 18, 1996:

THE JUDICIARY

ARTHUR GAJARSA, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT, VICE HELEN WILSON NIES, RETIRED.

LAWRENCE E. KAHN, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK, VICE NEAL P. MCCURN, RETIRED.

WALKER D. MILLER, OF COLORADO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLORADO, VICE JIM R. CARRIGAN, RETIRED.

VOL
142
PT
6
AP
15
—
24
1996
UMI

EXTENSIONS OF REMARKS

INTRODUCTION OF THE IDEA IMPROVEMENT ACT OF 1996

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. CUNNINGHAM. Mr. Speaker, today I introduce the renewal of America's special education law, the Individuals with Disabilities Education Act [IDEA] Improvement Act of 1996.

This measure is the product of 16 months of work, building consensus to improve this law that has transformed the lives of children with disabilities. For 20 years, children with disabilities have been assured a free, appropriate public education. But as one of my Democrat colleagues said in one of our IDEA hearings, we no longer question whether children should be educated, but how well their education is being done. We see and know that education transforms individuals who were once thought to be helpless into productive, working, taxpaying citizens.

This legislation, which I will summarize, is based upon certain foundational principles.

First, we need to improve IDEA because children with disabilities can and should have a fighting chance to achieve the American dream. We need to make the system work better for children and their families, for teachers and schools, and for the taxpaying citizens who work hard to pay the bill. We want quality education for children, not just a process.

Second, where we recognize that resources are tight, we direct more money to schools to provide services to children. We also reduce paperwork and other administrative burdens, freeing more resources to educate young people.

Third, where we find unnecessary and costly conflict and discord, this legislation renews a focus on education and cooperation.

And fourth, where we have identified confusion in the process of educating children with special needs, we have sought to provide certainty and understanding, based upon consensus and common sense. The area of this law that has probably drawn the most attention is the area of discipline. The IDEA Improvement Act of 1996 contains clear procedures for removing dangerous students from the classroom, with instructions to determine whether the behavior is a manifestation of a student's disability. If a child's wrongdoing has nothing to do with his or her disability, schools should have authority to discipline in a manner consistent with the way they discipline other children. Schools need authority to maintain safe classrooms, and children with disabilities need protections against arbitrary discipline.

Let me say a few words about the process which has brought us to this point, and where we go from here. For 16 months, through three staff drafts, numerous hearings and public and private meetings, we have sought to find agreement in the many difficult issues affecting renewal of our Nation's special education law. This bill represents much of that consensus, but not all of it, and certainly not the end of it. And while I believe this is an excellent bill, no individual or organization will wholeheartedly support it all. That is the nature of this process. But the process thus far has given me, and should give all Americans, hope for a successful conclusion.

For the past several weeks, my friend from Michigan, Representative Dale Kildee and I have been negotiating on many issues in this bill. We have come to many agreements which are reflected in this legislation. There are some issues reminding. Between today and the House Subcommittee on Early Childhood, Youth and Families markup, scheduled for Wednesday, April 24, Members and committee and personal staffs from both parties will continue seeking to resolve issues. Some may be completed in time to be included in a chairman's mark. Others will be held for possible bipartisan amendments, in subcommittee or full committee.

In the interest of citizens and Members who wish to review this bill, its text will be available most quickly on the House Opportunities Committee World Wide Web site, which is "http://www.house.gov/eeo/", and soon through the Thomas service of the Library of Congress. I welcome comments and cosponsors, encourage citizens to understand that this is a work in progress, and urge Members to support the bill.

Following is a summary of how the IDEA Improvement Act of 1996 addresses key issues of interest:

OVERVIEW OF THE IDEA IMPROVEMENT ACT OF 1996 AS INTRODUCED APRIL 18, 1996

The following are the major improvements to the Individuals with Disabilities Education Act in the IDEA Improvement Act of 1996:

1. Funding Formula (§611). The bill makes a ten-year transition from a "head-count formula based on the number of children with disabilities counted in the State, to a population-based formula with a factor for child poverty. The new formula would be based 85% on number of children in the State and 15% on State poverty statistics. Transition years would use a declining fraction (90% in FY 1997 to 0% in FY 2006) under the current formula and an increasing fraction (10% in FY 1997 to 100% in FY 2006) under the new formula.

2. Least Restrictive Environment and State Funding Formulae (§612(a)(4)). The bill requires States to use "placement neutral" funding formulae for distributing funds within the State.

3. Discipline/"Stay-Put" (§615). Under current law, a school cannot suspend or expel a disabled student for more than 10 days except where the student has brought a gun to school. With guns, the school may remove a student from school for 10 days, and then may place the student in an "interim alternative placement" for up to 45 additional days. During that period, the student's Individual Education Program (IEP) team must agree on a new placement. If the parents and school disagree, the student will remain in their interim alternative placement for the pendency of any due process proceedings. This bill addresses the classroom safety issue, but maintains protections against arbitrary placement changes.

The student's IEP will include behavior management techniques to help avoid disruptive, dangerous, and inappropriate behavior.

The bill adds the following categories to the "firearms" category in current law, permitting removal from the classroom to an alternative educational placement for up to 45 days:

Bringing weapons to school;

Bringing illegal drugs to school or illegally distributing legal drugs;

Engaging in an assault and battery (striking another person with the intention of bringing about harmful or offensive contact which is not legally consented by the person); or

By proof of substantial evidence, representing a danger to oneself or others.

These terms and, in the case of the first three categories, which school official would have the discretion to remove the student would be defined through State law or policy.

The bill requires a review by the IEP team of whether the child's action was a manifestation of the disability. The team will consider the implementation of behavior management strategies in the child's IEP, the appropriateness of the placement, and other information presented by the parents. Where an action is not disability related, any school discipline policy applied to nondisabled students may be equally applied to the disabled student.

4. Mediation (§615(d)). Three-fourths of the states have established mediation systems on their own accord and have been successful in reducing the number of formal disputes. The bill requires states to offer voluntary mediation to parents prior to any administrative or judicial dispute. Attorneys would not be permitted to participate for either side in mediation, and attorney's fees would not be available for mediation proceedings.

5. Categorization/Eligibility (§602(3)(B)). The bill permits States to extend use of the "developmental delay" definition for children aged 3 to 5 (current law) up to age 9, but otherwise maintains the current categories.

6. Discretionary Programs (Part D). The bill reorganizes and consolidates the existing discretionary programs (currently Parts D–G), and I). Subpart I grants broad authority for national projects to the Secretary of Education. Subpart 2 permits State grants for reform and improvement of their special education and early intervention systems, with an emphasis on in-service and preservice professional development for general educators and special educators. Subpart 3 maintains the current Parent Training Center program.

7. Reduction of State Education Agency Funds Reservation (§611(c)). Current law only requires that at least 75% of IDEA funds flow through to local schools. The bill would require states to pass at least 90% through to LEAs, with the remainder reserved for administrative and statewide activities, unless the State seeks a waiver permitting retention of an additional 15%.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

8. Restructuring of Parental Notice Requirements (§615(c–d)). IDEA currently promotes the use of consolidated notices that notify parents of a host of procedural and other rights under the act. The prior written notice and the notification of procedural safeguards requirements in current law have been separated for the purpose of clarity. The prior written notice will only address actions proposed or refused by the local education agency (LEA). The new procedural safeguards notice provision details the frequency and content of the notice to be given to parents.

9. Attorney's Fees (Part B). The bill maintains the current law on attorney's fees by permitting them for parents who prevail against the school. Parents are required to have notified the school district of their concerns at some point prior to filing to obtain attorney's fees. In cases where there are multiple issues in dispute, the judge will be permitted to award fees only on the issues upon which the parents prevailed.

10. Policy Letters (§605(c)). Currently, many U.S. Dept. of Education "policy letters" are treated as having regulatory authority without being submitted to public comment or without having underlying regulatory authority. The bill limits the applicability of such letters to the parties to whom they have been addressed.

11. Parent's Right of Refusal for Initial Evaluation and Consent for Evaluation Not Construed as Consent for Services (§614(a)(1)(C)). The bill clarifies that the parents of a child who has been referred for an initial evaluation have the right to refuse that evaluation placing the onus of making an administrative appeal on the school district where it believes that a child needs special education services. This provision would also clarify that parental consent for a child's evaluation shall not be construed as consent for delivery of special education services based on that evaluation.

12. Commingling of Funds (current §613(a)(9)(A)). The bill maintains the requirement that funds must be expended for the benefit of special education students, but removes the prohibition on commingling of funds. This provision will only permit commingling of Federal and state special education funds. This change will not permit consolidation of Federal special education funds with other Federal funds or with other non-special education funds.

13. Personnel Standards and Personnel Development. The bill maintains the current requirement that States establish and enforce personnel standards (§612(a)(15)). In the bill's newly configured discretionary programs, the State Improvement Grant program will dedicate 75% of appropriated funds to personnel development (§674).

14. Narrow Exceptions for Maintenance of Local Education Agency (LEA) Effort (§613(a)(2)(B)). The bill permits school districts to reduce special education expenditures in the following limited circumstances: replacement of higher cost staff with lower cost staff, such as with retirement; departure of particular high-cost students from the LEA; decreases in special education enrollment; and one-time expenditures of funds by the LEA.

15. Payment for Placement of Students in Private Schools without the Consent of or Referral by the Public Agency (§612(a)(9)(C)). This change would prevent tax-payer financed private school education where the public schools have never been given the opportunity to determine if the child can be served in public schools. This section would require parents to give 10-day written notice to receive reimbursement private, special education school tuition without LEA consent.

The bill would establish that local schools must be permitted to conduct an initial evaluation of a student prior to publicly-funded private school placement. Exceptions would include: (1) where parents are illiterate or cannot write English; (2) where providing notice would result in delay that would likely result in physical or serious emotional harm to the child; (3) where the school prevents the parent from providing notice; and (4) where parents did not receive notice of this requirement.

16. Disclosure of Evaluations and Recommendations (§615(f)). This provision would require schools and parents to disclose to the other party any evaluations and recommendations based on those evaluations 15 days prior to any due process proceeding. This change will ensure that both parties are given the opportunity to review evaluations of a child's special education needs that the other party intends to use in a due process hearing.

17. Modification of Requirements to Achieve Innovative Delivery of Services (§613(g)). This provision will apply to 10 LEAs or groups of LEAs selected by the Secretary of Education who have demonstrated excellence in providing services to students with disabilities and who have obtained the cooperation of parents of students with disabilities in the area. Selected LEAs will be permitted to modify existing Part B requirements for improving services to disabled students and for improving the operation of the local special education system. Analytic instruments will be developed to quantitatively determine the effectiveness of the modification, and determine the ability for replication of successful changes.

18. State Application for Part C (formerly Part H) (current §678). The bill essentially maintains the current Part H program as Part C. The bill will enable Part C funding applicants to reduce application process paperwork by eliminating the requirement that all State policies and assurances pertaining to Part C be filed with every application to the U.S. Department of Education. This language corresponds to the language in Part B.

PHOTOGRAPHIC TRIBUTE TO FORMER ISRAELI PRIME MINISTER YITZHAK RABIN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. LANTOS. Mr. Speaker, I rise today to call the attention of my colleagues to an excellent exhibition of photographs—Yitzhak Rabin Remembered—which displays in pictures the life and accomplishments of assassinated Israeli Prime Minister Yitzhak Rabin. This superb exhibit is now on display in the rotunda of the Cannon House Office Building. Last January when my wife, Annette, and I were in Israel on a private visit, we saw an outstanding photographic exhibit about Prime Minister Rabin in the Israeli Knesset, and right there, Annette and I determined that we should make every effort to have those photographs brought here to Washington so that the Members of the Congress could have a greater understanding and appreciation of this great man of peace.

Through the efforts of the Speaker of Knesset, Prof. Shevach Weiss, and the Embassy of Israel here in Washington, we were able to arrange for these photographs to be displayed in the Cannon rotunda. Last night, we held a reception to mark the opening of this exhibit and to pay tribute to this most distinguished Israeli leader, this man of war who became a leader in the effort to bring peace and cooperation.

Those who paid tribute to Prime Minister Rabin last night were: Our distinguished colleague from Georgia, the Speaker of the House, Newt Gingrich; Pro. Shevach Weiss, Speaker of Knesset; Dalia Rabin Filosof, the daughter of Prime Minister Rabin; His Excellency Itamar Rabinovich, the Ambassador of Israel to the United States; and Walter Reich, executive director of the U.S. Holocaust Memorial. Those of our colleagues who sponsored this event, in addition to Speaker Gingrich, were Senators Orrin Hatch of Utah and Joe Lieberman of Connecticut; Democratic leader of the House, Richard Gephardt; and our House colleagues Congressman Benjamin A. Gilman of New York, the chairman of our International Relations Committee; Congressman John Porter of Illinois; and Congressman Howard Berman of California. A number of our colleagues joined us in paying tribute, including Congressman Bill Martini of New Jersey and Howard Coble of North Carolina.

Mr. Speaker, it is entirely appropriate that we pay tribute to Prime Minister Rabin for his contributions to the State of Israel, our only stable democratic ally in the Middle East, and for his contributions to the peace process in that region.

Yitzhak Rabin was born in Jerusalem in 1922. He was only 26 years of age when the State of Israel was proclaimed in 1948, and in many ways his biography is the biography of Israel. He has played pivotal roles throughout his country's history.

In the war of Israeli independence in 1948, Yitzhak Rabin commanded the Harel brigade, which opened the road to besieged Jerusalem. He served in positions of command in the Israel Defense Forces, culminating with his appointment as chief of staff in 1964, when he led IDF forces to victory in the Six-Day War. Following his retirement from military service in 1968, he became Ambassador of Israel to the United States for a period of 5 years.

In 1973 when he returned to Israel, he was elected a member of the Knesset, and a year later in June 1974 he became Prime Minister, serving until 1977. During this period, disengagement agreements were signed with Egypt and Syria, followed by an interim agreement with Egypt. These were the key agreements that prepared the way for Egyptian President Anwar Sadat's historic visit to Jerusalem. During the period of the coalition government, Rabin served as Minister of Defense from 1984–90.

In July 1992 he became Prime Minister for the second time and also Minister of Defense.

VOL
142
PT
6
AP
15
—
24
1996
UMI

This period in office was marked by major landmarks in the peace process. On September 13, 1993, he signed the Israel-Palestinian Declaration of Principles on the South Lawn of the White House. On October 26, 1994, he signed the Treaty of Peace between Israel and Jordan. On September 28, 1995, he signed the Israeli-Palestinian Interim Agreement at the White House. In recognition of his major contributions to Middle East peace, he was awarded the Nobel Prize for Peace in December 1994 along with Israeli Foreign Minister, now Prime Minister, Shimon Peres and PLO Chairman Yasser Arrafat.

Few of us will ever forget the tragedy of his death on November 4, 1995. He was assassinated by an Israeli citizen shortly after speaking at a massive peace rally in Tel Aviv. In tribute to his contribution to the peace, kings, presidents and other heads of state and government from around the world participated in a memorial service honoring him at his burial in Jerusalem.

Mr. Speaker, I urge our colleagues to pause in the Cannon rotunda to see these photographs—Yitzhak Rabin Remembered—and to honor the memory and the outstanding achievements of this great man.

A TRIBUTE TO TARA SAKRAIDA

HON. WES COOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. COOLEY. Mr. Speaker, the Veterans of Foreign Wars of the United States recently concluded its annual Voice of Democracy scriptwriting contest. One of the winners of this year's competition is a bright young student from North Medford High School in Medford, OR. Tara Sakraida has won the first place award for the entire State of Oregon. Her submission, entitled "Answering America's Call," serves as a moving tribute to the type of civic-minded community involvement that has motivated so many of our Nation's veterans.

If I may, Mr. Speaker, I would like to submit Tara Sakraida's award-winning essay for the record. "Answering America's Call"—by Tara Sakraida of Medford, OR.

ANSWERING AMERICA'S CALL

Hi. You've reached 555-Americans, and we're either too busy or too lazy to answer the phone, so leave a message and we may call you back.

Hello? Hello? This is America, your country, calling. Is anyone home? Well, I needed to talk to someone . . . I'm feeling pretty low. People are burning my flag, Old Glory, as I speak. They are yelling and protesting that desecrating Old Glory is freedom of speech. Why are they doing this? After everything I have given them. A constitution, a democracy, freedom to make choices and decisions. I don't understand—they've chosen to dishonor me. Where are you, Americans? If you're sitting at home, please pull yourself away from the television and answer my call. We need Help.

When some people say the Pledge of Allegiance, they don't even place a hand over their hearts. They recite it unenthusiastically, like lyrics to an outdated song. And when my melodic, patriotic anthem is played, some do not stand or remove their hats, for they feel it is unnecessary or trite. The polls are no longer overflowing with anxious voters; many don't believe their vote makes a difference. And the meaning of Veteran's Day is often lost in the excitement of a vacation. Americans, are you doing something to solve these problems?

I'm asking each and every American to take time to listen and answer my cries. Begin by volunteering at a Domiciliary, giving blood to the Red Cross, or serving in the military. You can show patriotism by flying my flag; show your pride by standing when my anthem is played; and acknowledge those military crusaders by observing Veteran's Day. I hope you understand my message, Americans. I need you to come together as a community so my message can be heard.

I called Mr. Retired the other day. You know, your elderly neighbor across the street? His social security checks stopped coming, and he can't afford his high medical bills after breaking his hip. He needs your help.

I called a grieving mother yesterday. Her sobs and tears rang over the phone as she described her young son's death after being caught in a gang cross-fire. She needs your help.

I called a lonesome, homeless teenager today. He told the violent story of being beaten at home and turning to the streets for refuge. He needs your help.

Now I'm calling you, Americans. Please answer the call of rising health care costs by electing officials who will work to change the system. Answer the call of crime by educating children about the dangers of drugs, guns, and violence. And answer the call of abuse by confronting the problem and volunteering for Crisis Intervention Organizations or homeless shelters.

You've heard my call, Americans. Now don't hang up on me . . . I need you. I have given everything I can, and now it is up to you. I hope to hear from you soon, Americans. Good-bye.

*If you don't answer America's call, you may be disconnected.

THE FARM BILL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. HAMILTON. Mr. Speaker, I am inserting my Washington Report for Wednesday, April 3, 1996 into the CONGRESSIONAL RECORD:

THE 1996 FARM BILL

Congress recently passed the 1996 farm bill, and the President signed it into law. This seven-year bill makes sweeping reforms toward a free-market agricultural system. It also includes agricultural research, rural development, conservation, nutrition, and agricultural export and food assistance programs. Saving more than $2 billion, the bill passed with my support.

Passage of the bill was helped because Congress was months late. On January 1, the 1990 farm bill expired, and the 1949 "permanent law" came into effect. Everyone agreed that the expensive 1949 law would be changed before harvest, but Congress took no action, and farmers were forced to make important business decisions in the dark. The congressional leadership's decision last year to put farm legislation in the huge, omnibus budget bill was clearly a mistake, because it delayed action on this important, bipartisan measure.

CROP PROGRAMS

The heart of the bill is the so-called "Freedom to Farm" approach, which replaces commodity programs with a yearly payment to farmers—declining each year—based on their past production. The payment would be separated from specific crop production, letting farmers choose which crops to plant. Previous policy had used complicated payment formulas and required some land to be idled. Instead, the new bill gives farmers flat payments and independence. The only requirement is that farmers meet current conservation standards.

I have always supported a more market-oriented farm policy. This measure is a good step in that direction. The elimination of most planting restrictions will allow farmers to plant according to supply and demand, and to respond more efficiently to global markets. Reduced regulation will also ease the burden of paperwork on farmers.

DRAWBACKS

I agree with criticism of the Freedom to Farm approach that it fails to require farmers to farm in order to receive payments. This is a common-sense requirement, and it is disappointing that the leadership blocked an opportunity to vote on this issue. My suspicion is that farm issues will come back to Congress sooner than many expect. It was easier to pass major changes because crop prices are at their highest levels in decades. If falling prices threaten family farms, farmers may demand a better safety net in later years.

WETLANDS AND CONSERVATION

The final bill includes some limited wetlands reform, similar to a bill I helped introduce last year. Under current law, farmers are not allowed to farm on wetlands for environmental reasons. But it is difficult to determine exactly what a wetland is—particularly in tiny areas. An area that was dry one month might be wet the next, and two scientists can make different determinations. Moreover, farmers risk drastic penalties for even the smallest violation, even if they make a good faith effort to correct the situation.

The 1996 farm bill consolidates authority for agricultural wetlands in the Agriculture Department, and makes penalties proportional to any violation. The wetlands reforms in the farm bill are significant, but they fall short of the reforms that passed the House last year, but stalled in the Senate. This other measure addressed wetlands protection in a more comprehensive manner, narrowing the definition of wetlands, ensuring that the costs and benefits of regulation are analyzed with sound scientific evidence, and consolidating agricultural wetlands authority in USDA. Congress should revisit and pursue these important reforms.

The farm bill also reauthorizes the Conservation Reserve Program (CRP). In effect, CRP leases environmentally sensitive farmland from farmers to reduce soil erosion, protect water quality, and promote wildlife. This program is credited for restoring numerous threatened species, including ducks and quail. CRP was not included in the original House bill, but it was added on the floor with my strong support. The new bill also includes provisions to assist livestock producers in protecting water supplies from animal waste.

EXPORTS

The 1996 farm bill includes an amendment I offered on the House floor to renew export and food assistance programs. Exports are critical to the average Hoosier farmer, who receives some $32,000 in export sales each year. Export promotion and food assistance have been key to the success of U.S. agriculture in world markets.

The farm bill reauthorizes export and food aid programs through 2002 to help open new markets and counter unfair foreign subsidies. These efforts are especially important as we pursue additional reductions in foreign tariffs. We made progress in the Uruguay Round of the General Agreement on Tariffs and Trade (GATT), but we must maintain our leverage to push our competitors to reduce their trade barriers further. The bill provides export credits for purchasing U.S. products, authorizes measures to help promote U.S. food products in tough foreign markets, and boosts the role of private entities in distributing U.S. farm products under food aid programs.

RESEARCH AND RURAL DEVELOPMENT

The new farm bill makes agricultural research and rural development a higher priority with a "Fund for Rural America". The fund would invest in rural infrastructure and housing, and make competitive research grants for technological advancement. These efforts pay for themselves dozens of times over in economic growth, increased productivity, and innovative uses for agricultural products. Many Hooseir farmers expressed their support for making research a higher priority, and I agree.

CROP INSURANCE

The farm bill includes provisions from a bill I cosponsored to allow farmers to waive crop insurance mandates if they forego future disaster payments. Under the old crop insurance program, farmers who chose to participate in USDA programs were required to purchase catastrophic insurance from the government, even if it made little sense for a particular farmer's crop or size of operation.

OTHER PROVISIONS

The new bill includes dairy reforms that phase out price supports and replace them with market loans. Unfortunately, the bill made only modest reforms to the sugar and peanut programs. These programs impose production quotas that protect a few sugar and peanut farmers at the expense of consumers. I voted to phase out both the sugar and peanut programs, but the effort failed.

CONCLUSION

The 1996 farm bill passed with broad bipartisan support. While not perfect, this legislation includes many important reforms. I believe it will strengthen the American farmer, both at home and abroad, and maintain the U.S. food supply as the cheapest and safest food supply in the world.

SUSAN AND ROBERT H. FRIEBERT, RECIPIENTS OF AMERICAN JEWISH COMMITTEE'S HUMAN RELATIONS AWARD

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. KLECZKA. Mr. Speaker, I rise today to congratulate my friends Susan and Robert Friebert on receiving the American Jewish Committee's 1996 Human Relations Award.

Susan and Bob Friebert, together and as individuals, have left a lasting mark on their community and have touched the lives of literally thousands of people in the Milwaukee area.

Susan Friebert, through her involvement in organizations such as the Quality Education Commission, the Wisconsin Council on Children and Families, and the White House Commission on Presidential Scholars, has made the education and well-being of Wisconsin's children a top priority. She is also very proud of her Jewish faith and heritage and has assumed leadership positions in the National Council of Jewish Women, the Wisconsin Jewish Conference, the Milwaukee Jewish Council for Community Relations, and the Milwaukee Jewish Federation. Susan's involvement in these outstanding organizations has helped to ensure that Milwaukee's Jewish community remains an active and vital voice in Milwaukee's civic life.

Through his involvement in Wisconsin's legal community and the Democratic Party of Wisconsin, Bob Friebert has helped to shape our State's legal and political landscape. Bob was instrumental in organizing Wisconsin's State Public Defender's Office and also served as State chair of the Wisconsin Civil Liberties Union. While serving as chairman of the Wisconsin Jewish Conference, Bob helped to author and secure passage of Wisconsin's hate crimes law. He is also a leading Democrat and through the years, has played key roles in numerous local, State, and national political campaigns. Like his wife, Bob is also very proud of his Jewish heritage and has assumed leadership positions with organizations such as the Wisconsin Jewish council, the National Jewish Democratic Council, and the Milwaukee Jewish Council on Community Relations.

I commend Susan and Bob Friebert on receiving the 1996 Human Relations Award and on their outstanding service to our community.

GRAND OPENING OF MAIN BRANCH, SAN FRANCISCO LIBRARY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. LANTOS. Mr. Speaker, I rise today, on the 90th anniversary of the devastating 1906 San Francisco earthquake, to celebrate with the city of San Francisco a monumental achievement of community cooperation and commitment. I invite my colleagues to join me in conveying our congratulations and admiration to the people of San Francisco who have committed their precious resources to the construction of the new main branch of the San Francisco Library, a beautiful and highly functional testament to the love that San Franciscans have for their city and for books and education. It is a love that has found its voice through the coordinated efforts of corporations, foundations, and individuals.

A library should reflect the pride, the culture, and the values of the diverse communities that it serves. The San Francisco main library will undoubtedly be successful in reaching this goal. The library will be home to special centers dedicated to the history and interests of African-Americans, Chinese-Americans, Filipino-Americans, Latino-Americans, and gays and lesbians. The library will be designed to serve the specialized needs of the businessman as well as the immigrant newcomer. It will become home to the diverse communities that make San Francisco unique among metropolitan areas of the world. It will also become a home, most importantly, that serves to unite.

The new San Francisco main library represents an opportunity to preserve and disperse the knowledge of times long since passed. The book serves as man's most lasting testament and the library serves as our version of a time machine into the past, the present and the future. This library, built upon the remains of the old City Hall destroyed 90 years ago today, is a befitting tribute to the immortality of thought. Buildings will come as they will most definitely pass, but the books of this new library and the information that they hold are eternal and serve as an indelible foundation that cannot be erased by the passage of time.

The expanded areas of the new main library will provide space for numerous hidden treasures that no longer will be hidden. The people of San Francisco will have the opportunity to reacquaint themselves with numerous literary treasures previously locked behind the dusty racks of unsightly storage rooms.

Although the new San Francisco main library serves as a portal into our past, it also serves to propel us into the future. It is an edifice designed to stoke the imagination by providing access to the numerous streams of information that characterize our society today. The technologically designed library will provide hundreds of public computer terminals to locate materials on-line, 14 multimedia stations, as well as access to data bases and the Information Superhighway. It will provide education and access for those previously unable to enter the "computer revolution." The library will provide vital access and communication links so that it can truly serve as a resource for the city and for other libraries and educational institutions throughout the region. The new library will serve as an outstanding model for libraries around the world to emulate.

Like an educational institution,the San Francisco Library will be a repository of human knowledge, organized and made accessible for writers, students, lifelong learners and leisure readers. It will serve to compliment and expand San Francisco's existing civic buildings—City Hall, Davies Symphony Hall, Brooks Hall, and the War Memorial and Performing Arts Center. The library serves as a symbiotic commitment between the city of San Francisco and its people. In 1988, when electorates across the country refused to support new bond issues, the people of San Francisco committed themselves to a $109.5 million bond measure to build the new main library building and to strengthen existing branch libraries. Eight years later those voices are still clearly heard and they resonate with the dedication of this unique library, built by a community to advance themselves and their neighbors.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. Speaker, on this day, when we celebrate the opening of the new main branch of the San Francisco Library, I ask my colleagues to join me in congratulating the community of San Francisco for their admirable accomplishments and outstanding determination.

TRIBUTE TO DAVID J. WHEELER

HON. WES COOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. COOLEY of Oregon. Mr. Speaker, on February 1, 1996, the President signed H.R. 2061, a bill to designate the Federal building in Baker City, OR in honor of the late David J. Wheeler. As the congressional representative for Baker City, and as the sponsor of H.R. 2061, I recently returned to Baker City for the building dedication ceremony. Mr. Wheeler, a Forest Service employee, was a model father and an active citizen. In honor of Mr. Wheeler, I would like to submit, for the record, my speech at the dedication ceremony.

Thank you for inviting me here today. It has been an honor to sponsor the congressional bill to designate this building in memory of David Wheeler. I did not have the privilege of knowing Mr. Wheeler myself, but from my discussions with Mayor Griffith—and from researching his accomplishments—I've come to know what a fine man he was. I know that Mr. Wheeler was a true community leader, and I know that the community is that much poorer for his passing. With or without this dedication, his spirit will remain within the Baker City community.

Mayor Griffith, I have brought a copy of H.R. 2061—the law to honor David Wheeler. The bill has been signed by the President of the United States, by the Speaker of the House, and by the President of the Senate. Hopefully, this bill will find a suitable place within the new David J. Wheeler Federal Building.

I'd like to offer my deepest sympathy to the Wheeler family, and to everyone here who knew him. And, I'd like to offer a few words from Henry Wadsworth Longfellow—who once commented on the passing-away of great men. His words—I think—describe Mr. Wheeler well:

If a star were quenched on high,
For ages would its light,
Still traveling down from the sky,
Shine on our mortal sight.

So when a great man dies,
For years beyond our ken,
The light he leaves behind him lies
Upon the paths of men."

So too with David Wheeler. His light will shine on the paths of us all—particularly of his family—for the rest of our days.

THE MINIMUM WAGE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 17, 1996, into the CONGRESSIONAL RECORD.

RAISING THE MINIMUM WAGE

Rewarding work is a fundamental American value. There are many ways to achieve that goal, including deficit reduction to boost the economy, opening markets abroad to our products, improving education and skills training, and investing in technology and infrastructure. Increasing wages must be a central objective of government policies.

The economy is improving. It has in recent years reduced the unemployment rate of 5.6%, cut the budget deficit nearly in half, and spurred the creation of 8.4 million additional jobs. Real hourly earning has now begun to rise modestly, and the tax cut in 1993 for 15 million working families helped spur economic growth.

But much work needs to be done. We must build on the successes of the last few years, and address the key challenges facing our economy, including the problem of stagnant wages. This problem will not be solved overnight, but one action we can take immediately, and which I support, is to raise the minimum wage.

RAISING THE MINIMUM WAGE

The minimum wage was established in 1938 in an attempt to assist the working poor, usually non-union workers with few skills and little bargaining power. The wage has been increased 17 times, from 25 cents per hour in 1938 to $4.25 per hour in 1991. Currently some 5 million people work for wages at or below $4.25 per hour, and most of them are adults rather than teenagers.

I support a proposal to increase the minimum wage 90 cents over two years, from its current level of $4.25 per hour to $5.15 per hour. The first 45 cents of the new increase would not even restore the buying power the minimum wage has lost since the last increase five years ago. Inflation has already eaten away 81% of that increase. If we do not act to increase the minimum wage this year, it will fall to a 40 year low in terms of purchasing power.

WHO EARNS MINIMUM WAGE

The typical minimum wage worker is a white woman over age 20 working in the service sector or the retail industry. About 60% of the minimum wage earners are women, and about 70% of the 12 million workers who would benefit from a minimum wage increase—since their wages are less than $5.15 per hour—are 20 years of age or older. The average minimum wage worker brings home half of the family's earnings, so an increase in the minimum wage can make a real difference.

An increase in the minimum wage would benefit over 315,000 Hoosiers, or 12.4% of the Indiana workforce, and would mean an additional $1800 in earnings each year.

EFFECT ON JOBS

Opponents of a minimum wage increase claim that it will wipe out jobs. But the weight of the evidence today supports the conclusion that a moderate minimum wage increase would not have a significant impact on job levels, because it would help boost productivity and lower employee turnover. Over 100 economists, including several Nobel laureates, have urged the President and Congress to approve a minimum wage increase and have affirmed that it would not have a significant effect on employment.

Opponents of a minimum wage increase also criticize it as being an inefficient way to alleviate poverty. In a sense they are right. A minimum wage increase is not as well targeted as the earned income tax credit, which directly benefits low-paid workers either by cutting their taxes or, if they owe no tax, giving them a check from the Treasury. The credit is structured to encourage the poor to go to work without hitting their employers. My view is that the best anti-poverty strategy is probably to mix minimum wages with tax credits.

There are limits, however, to how much higher Congress can push the tax credit. The problem, of course, with increases in the earned income tax credit is that it costs the government billions of dollars that it does not have, and won't for many years. I do not, however, support efforts by Speaker Gingrich to reduce the earned income tax credit.

A MATTER OF FAIRNESS

Surely we want to help ensure that people who work hard can get ahead. Raising the income of America's lowest paid workers is part of meeting that challenge. If we value work, we ought to raise the value of the minimum wage. Most people believe that somebody who works a 40-hour week ought to make a wage they can live on. It is hard to believe that people can oppose that notion.

I have been particularly troubled by growing income inequality in this country, an the declining value of the minimum wage only contributes to that problem. For most of the past four decades the minimum wage averaged between 45% and 50% of the average hourly wage in the economy. After a small gain in 1990 and 1991, the minimum wage has now dropped to 38% of the average hourly wage.

My view is that the minimum wage should be increased as a simple matter of fairness to unskilled workers. These workers are not protected by unions. They cannot and do not lobby Congress. The minimum wage offers a margin of security to those who want a job rather than a handout. For a rich country like America, that's not too much to provide.

I have been frustrated in Congress in recent weeks when we were even denied an opportunity to vote on a raise in the minimum wage. It is unfair to refuse to allow a vote on the increase in the minimum wage, which is supported by 75% of the American people.

CONCLUSION

I don't for a moment think that an increase in the minimum wage is ultimately the cure for low working wages in this country, but until we find an answer to that broader question fundamental decency requires us to increase the income of the lowest-income working Americans.

I talked to a person earning minimum wage the other day. When pay day comes, she is several days late on the rent, the fuel tank on her automobile has to be filled, she is unable to buy enough food, her family is not healthy and needs medical help, and the utility companies are about ready to shut the power off. She is faced with miserable choices. But she said she was proud to be a working person, and only wished she could make a living for her family.

An increase in the minimum wage would help families get by. It would reward work, giving 12 million workers a direct increase, and it would be good for the American economy.

A PROCLAMATION REMEMBERING SHELLY McPECK KELLY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

Whereas, Shelly McPeck Kelly, a United States Air Force Technical Sergeant that died in the plane crash along with Commerce Secretary Ron Brown, and

Whereas, Shelly McPeck Kelly, was a loyal and devoted wife, and loving mother of two; and,

Whereas, Shelly McPeck Kelly, served faithfully as an airplane stewardess in the United States Air Force achieving the rank of Technical Sergeant, and

Whereas, Shelly McPeck Kelly, should be commended for her service to the United States of America during the Bosnian Peacekeeping Operation; and,

Whereas, the residents of Eastern Ohio join me in honoring Shell McPeck Kelly for her brave and loyal citizenship to the United States.

TRIBUTE TO JOHN O. HEMPERLEY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. PACKARD. Mr. Speaker, I rise today to pay tribute to John O. Hemperley, the budget officer of the Library of Congress, who passed away last Saturday. As former chairman and now as ranking member on the Legislative Branch Subcommittee of Appropriations, Congressman VIC FAZIO, worked with John for many years and joins me in honoring his memory.

Appropriations Committee members and staff rely heavily on the expertise, efficiency, and responsiveness of agency budget officers. John embodied the highest standards of dedicated public service. Both VIC and I counted on his unsurpassed knowledge and understanding of the Library's budget. John fervently supported the Library's mission and the budget funding that mission. However, he always presented the facts honestly and faithfully executed the budget enacted by the Congress.

For 196 years, the Congress of the United States supported and nurtured the Library's development. Today, it stands as a unique and treasured institution—the greatest repository of knowledge in the history of the world. The Library continues to explore new frontiers, expanding its mission to provide electronic services to all its constituent groups while maintaining its traditional services to the Congress and the Nation.

John O. Hemperley was a unique and treasured individual. For the past 23 years, he developed and cultivated the relationship between the Library of Congress and the Committee on Appropriations. He will be sorely missed, not only by those who knew and loved him here in the Congress and in the Library, but by all those who may never have known him but who benefit daily from the enormous resources the Library provides. The challenges the Library faces will be more daunting without him.

Mr. Speaker, as chairman of our Legislative Branch Appropriations Subcommittee, and for all other members of the Appropriations Committee, and our staff, I would like to express our great sorrow and extend our sincere condolences to John's wife, Bess Hemperley, their children, and grandchildren.

CHILDREN ARE OUR MOST PRECIOUS POSSESSION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. OWENS. Mr. Speaker, our children are our most precious possessions. Both Republicans and Democrats theoretically and philosophically agree on this self-evident, but nevertheless profound truth. In practice and policymaking with respect to programs that benefit children; however, there is a deep chasm of disagreement between the two parties. Since it gained control of the House of Representatives the Republican majority has waged a cruel and unrelenting war on children.

While trumpeting its support for the "right-to-life" for unborn children, the Republican majority has made survival much more difficult for living children. Aid to Families with Dependent Children has been eliminated as a Federal entitlement in House legislation. Within the next few weeks it is expected that the White House will surrender and agree to remove this Federal protection for poor children that has existed since the New Deal. The entitlement for MedicAid which protects the health of our poorest children is also under attack with all of the State's Governors voting to eliminate it. The new Government-health care industrial complex has already begun to endanger the lives of newborn infants and their mothers by forcing them out of hospitals within 24 to 48 hours after birth.

Immigrant children will now be searched out in schools and denied school lunches if Republican legislation prevails. And, of course, immigrant children will be denied access to Medicaid. Cuts in funding for education threaten the provision of opportunity for all poor children. Republicans have proposed to cut even the very successful HeadStart Program. Teenagers who have benefited from the Summer Youth Employment Program for more than 20 years may be the victims of the zero funding passed by the Republican majority and find there are no jobs in this summer of 1996. Children in poor working families will continue to suffer despite the fact that their parents go to work every day but are still unable to adequately provide for their families on the present hourly minimum wage.

The "right-to-life" is just an empty slogan unless it is accompanied by programs and policies which provide an even playing field of opportunity for all children. On June 1 the Children's Defense Fund is sponsoring a great summit in Washington called "Stand For Children." This is a gathering which deserves the support of all Members of Congress. We should all join the "Stand For Children" on that specific day. And for all the days before and after June 1 Congress should refocus on the business of protecting our most precious resource—children outside of their mothers' wombs as well as children inside the wombs.

MESSAGE FROM THE NEWBORN TO THE FETUS

Man stay in there
The womb is where its at
Until tots slide out and breathe
The right-to-life is guaranteed
You never had it so good
Out here in America
They don't treat us
Like they promised they would
Right away at the hospital
They put us out
Cause my welfare Mom
Didn't have no clout
Stay where you are man
The womb is where its at
A smart fetus can live
Like a rich lady's cat
No food stamps for immigrants
But long picket lines protect
Our pre-birth rights
The womb they glorify
Outside they watch us die
The womb is where its at
Curled up in that nice nest
You always get the very best
But out here only fear
They'll take my entitlement
Man stay in there
Cash in on this fetus fetish
Be a hero embryo
Pro-life politicians
Offer nine months of love
But at birth's border
Immigrants from heaven
Receive a hellish shove
Until tots slide out and breathe
The right to life is guaranteed
Long protest lines protected
Our pre-birth rights
We crave the medals they gave
When we were hidden
Intimately way out of sight
The womb is where its at
Safely grow soft and fat
Immigrant school lunches are now gone
Budget cuts down to the bone
Newborns sound the trumpet
This land is littered
With ugly infant tombs
Babies must unite in battle
Make war to regain
Out wonderful respected wombs
The womb is where its at
Until tots slide out and breathe
The right-to-life is guaranteed
We appeal to the United Nations
We cry out to the Almighty Pope
The holy right of return
Is now our only hope
Man stay in there
The womb is where its at.

TRIBUTE TO MS. MARGARET SIMMS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. CLAY. Mr. Speaker, I rise to pay tribute to a magnificent lady, Ms. Margaret Simms, who retired from 23 years of service to the

VOL 142 PT 6 AP 15 — 24 1996 UMI

National Democratic Club [NDC] at the end of March. She played an important role in the daily lives of Members of Congress, political party representatives, lobbyists, and friends of the NDC. She will be sorely missed.

Margaret labored faithfully on behalf of the NDC. She performed her job with grace and perfection. She greeted all patrons with respect and courtesy. My constituents, family, friends, and I were beneficiaries of her geniality on numerous occasions. She was cherished by all of us.

On April 2, Members of Congress and friends of the National Democratic Club gathered to pay tribute to Margaret and to thank her for making their lives in Washington more pleasant. I was among those Members who took time during the recent congressional recess to personally express my appreciation to Margaret. In addition, I presented her with a proclamation, designating Tuesday, April 2, 1996 as "Margaret Simms Day" in the First Congressional District of Missouri, in recognition of her dedication, excellence, and hospitality to citizens of the First District. It was an honor much deserved.

I wish Margaret Simms great health and wonderful fellowship in her retirement.

A TRIBUTE TO THE VARICK FAMILY LIFE CENTER

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Ms. DELAURO. Mr. Speaker, this Saturday, April 20, 1996 the Varick Family Life Center will celebrate its official opening. The Center is a multi-service resource and support center for children and families in the Dixwell Avenue neighborhood of New Haven. It is with great pleasure that I rise today to commend this wonderful organization.

The Varick Family Life Center adheres to the Old African proverb "It takes a whole village to raise a child." The proverb encapsulates one of the main goals of the Center which is to make already existing services more available to the residents of the neighborhood. Parents will be guided through the use of family services and have an advocate as they seek the resources they need. Effectively bringing parents into contact with community resources will go a long way toward making parents feel connected to the community and neighborhood.

The second goal of the Center is to provide families with the tools to become self-sufficient. I believe that this dual focus of family and community will be the cornerstone of the Center's success. By integrating the many human services and programs available in New Haven neighborhoods, the Center hopes to insure that all the needs of the family are attended to and that no family slips through the cracks. By truly coordinating family services, the Center will make vital community resources more available to the families that need them.

The Center will maintain its focus on families by appointing four neighborhood residents and training them to act as Family Resource Specialists. These specialists will focus on the social, health and financial concerns of needy families. I believe that this is the most crucial aspect of the Center. The Family Resource Specialists will work with parents to help them become more proactive rather than reactive in situations that affect their lives and families. Economic and financial concerns are addressed by the Center through job training and educational programs in the areas of budgeting and money management. By providing parents and families with these valuable tools we are enabling them to become more self-reliant and independent. We are giving them a chance to make a difference in their own lives and to feel that they have some control over their life's course. This is ultimately the most important and best solution to the problems and challenges faced by the residents of the neighborhood.

I commend the congregation and leadership of the Varick Memorial AME Zion Church for their amazing dedication to this worthwhile project. They have every reason to believe that their vision and hopes for the project will be realized. The Center is a wonderful community resource that should serve as a model for other cities and towns in Connecticut and in the Nation.

IN HONOR OF DR. HENRY PONDER

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. CLEMENT. Mr. Speaker, it is an honor and a privilege for me to pay tribute to one of Nashville's favorite citizens, Dr. Henry Ponder. Dr. Ponder is retiring from his position as President of Fisk University shortly, and he will be missed at that fine institution and in the Nashville community more than words can say.

I am certain, however, that we will not find Dr. Ponder resting on his laurels. In fact, he will be coming to Washington to head an organization whose mission is to further the cause of minority higher education. I look forward to having Henry and his lovely wife Eunice as neighbors in our Nation's Capitol. I am certain he will continue to make all of us very proud.

I have had the great pleasure over the years to interact professionally with Dr. Ponder on several occasions. Most recently, he came to Washington and we both testified in front of the House Subcommittee on National Parks, Forests and Lands in support of legislation I introduced that would provide much-needed monetary support for the restoration of historic buildings on the campuses of America's Historically Black Colleges and Universities. As a college president, Dr. Ponder has always attended to the needs of every aspect of university life. Not only was he responsible for eliminating a $4 million debt at Fisk, he also staged an extremely successful 5-year, 25 million capital campaign that revitalized and reenergized the school.

By the same token, Dr. Ponder realized the importance of obtaining funds to restore badly deteriorating buildings, such as Administration Hall, whose history and significance are an embodiment of all that Fisk stands for. The health of the complete university—from fundraising to student recruitment to building maintenance to school spirit—is Dr. Ponder's mission. By all accounts, he is leaving Fisk University in a state of wonderful health.

Dr. Ponder is a native of Oklahoma. He received his Bachelor of Science from Langston University, his Masters Degree from Oklahoma State University and his Ph.D. from Ohio State University. Prior to becoming president of Fisk, Henry Ponder served in various academic and administrative positions at universities throughout the Southeastern United States: president of Benedict College in Columbia, SC; vice president and dean of the College of Alabama A&M University; chairman of the department of agribusiness and assistant professor of that department at Virginia State College in Petersburg, VA.

Henry Ponder is also an economist of national and international renown. He has served as a consultant for and on special assignment to the Federal Reserve Bank of New York, Philadelphia National Bank, Chase Manhattan Bank, the Irving Trust Co. and Omaha National Bank. Dr. Ponder also serves on the Bishop Desmond Tutu Southern Africa Refugee Scholarship Fund committee. In 1986, he was chosen as one of the "One Hundred Most Effective College Presidents in the United States."

On behalf of all Nashvillians, Dr. Ponder, thank you for all you have done to improve the quality of life at Fisk and in the community. People with your dedication and energy are rare indeed, and those of us who have had the pleasure of working with you can only consider ourselves blessed for the lessons you have taught us and the example you have been. You have left an outstanding legacy of growth and achievement that will stand for decades to come. We wish you well in your new career. You will be missed.

SHERROD RAYBORN, LONGTIME LAWRENCE COUNTY CHANCERY CLERK, IS HONORED

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. PARKER. Mr. Speaker, today I stand in the Halls of Congress to ask you to join me in paying tribute to the late Sherrod Rayborn, who died March 24, 1996, at the Mississippi Baptist Medical Center following heart surgery.

Sherrod Rayborn was elected to his first term as Lawrence County chancery clerk in 1972, and he served in that position for 24 years. At the time of his death at age 60, he had recently begun serving his seventh term. A native of Walthall County, he attended school in Lawrence County and spent his adult life in Monticello. Mr. Rayborn was a member of Bethel Baptist Church, where he served as a deacon. He also was minister of music at the church for the last 26½ years.

In addition to his career in politics, he also was known for his musical talents, his sense of humor, and his positive outlook. Several friends describe Sherrod Rayborn and his service to the county and the church as "irreplaceable." But I was particularly moved by

what his friend Carey Hedgepath told a local reporter: "He was a man of character. You could take for granted the accuracy of anything he told you."

These words are a fitting tribute to Sherrod Rayborn. Indeed, he is irreplaceable and truly an unforgettable friend to those who knew him. He will be greatly missed by his friends and family. He is survived by his wife, Madeleine; two sons, Mitch and Kevin; a daughter, Mali Rayborn Powell; a brother, W.T.; two sisters, Willene Alexander and Alyne Sumrall; and a grandson, Jerrod.

Mr. Speaker and my colleagues in the U.S. House of Representatives, I ask you again to join me in honoring a man of character, Sherrod Rayborn, his willing sacrifice of his time and energy for the public good, and his representation of all that is good, true, and steadfast in our society.

CAMP TALL TURF MAKING A DIFFERENCE

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. EHLERS. Mr. Speaker, it is with great pleasure that I take this time to tell you about an extremely important and effective program for inner-city children and families in my district. Every summer since 1968, hundreds of children, ages 8–16, have been given the opportunity to get away from it all by attending Camp Tall Turf. The camp is appropriately named for its location among very large trees in Walkerville, MI. At Camp Tall Turf campers learn that God is present and that there can be no taller turf than that. The camp was established in response to racial strife that was prevalent during the sixties in cities across the Nation. Since that first summer over 15,000 young people have benefited from the positive Christian activities and messages presented by the caring, committed, and dedicated staff of Camp Tall Turf.

When the founders of this camp first came together, little did they know that their ideas and visions would reach this level almost 30 years later. The camp, located on Lake Campbell, provides an environment conducive to growing both mentally and spiritually. Through daily chapel, cabin devotions, drama, and singing, each camper gains a new outlook on his or her life and is able to store away these lessons for the future. These valuable lessons have helped prepare hundreds of children, who might not have received the opportunity otherwise, for roles of service and leadership in their young adult and adult lives.

It is important to point out that Camp Tall Turf is not just a one day, week, or month gathering. Staff members work year round to continue relationships that have been established at the summer camp. These relationships are so very important for the young people who need Christian role models and friends. In addition to encouraging meaningful and positive social relationships, the interaction between the staff and the child helps promote cooperation, companionship, and respect. Camp Tall Turf also helps to provide opportunities and experiences that strengthen self confidence and build character in youths who are involved with the camp.

Mr. Speaker, far too often we read or hear negative stories involving children. Camp Tall Turf and its staff should be praised for their continuous effort to change the negatives that we read and hear about, and make them positive. Their work to enhance the quality of life and relationships of others should not go unnoticed and should serve as an example for others to follow. It is a great pleasure and honor for me to commend the founders, board and staff of Camp Tall Turf for their outstanding work.

HOLOCAUST REMEMBRANCE DAY

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. WATTS of Oklahoma. Mr. Speaker, today is Holocaust Remembrance Day. It is a time to pause and pray for the day when mankind will value understanding over hate, respect over contempt, and life over death. Today we must take time to remember this event. We cannot let the day slip by without a solem moment for remembrance.

I cannot know their names nor see their faces, but in my heart, in my mind, and in my prayers, I pause today to remember the millions of men, women, and children whose lives were taken in one of history's most heinous events—the Holocaust.

I ask my colleagues and the people of the world to do the same. Please pause for a moment today and recall the needless loss of mankind that was the Holocaust. While it must never be repeated, we must never forget its occurrence. Let the people of the world take time to recognize what happened and to recall those who perished. We owe them the time to remember.

IN MEMORY OF RUBY WORTHEN

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a longtime civic and political leader from east Texas—Ruby Irene Worthen of Terrell—who died recently at the age of 95. Mrs. Worthen was an outstanding citizen who devoted a lifetime to helping those in her community, and she will be missed by all those who knew her.

Born on January 22, 1901, Mrs. Worthen served her community as a teacher, home demonstration agent for the Texas A&M Extension Service, real estate agent, and as a moving force in community activities in Terrell—especially in the development of services for senior citizens. On her 95th birthday this year, the Kaufman County Commissioners' Court recognized her life of dedication to others by proclaiming the day as Ruby M. Worthen Day in Kaufman County. The proclamation noted her many accomplishments and contributions to the community and stated that "she is perhaps most widely known and highly acclaimed as a loving and selfless caregiver to anyone in need, having provided meals and a place to live for many through the years."

Mrs. Worthen was active in the Democratic Party. She taught the senior adult ladies Sunday school class at the First Baptist Church for several years. She also was active in the AARP.

Mrs. Worthen was preceded in death by her husband, Don; a sister, Idella Coffman; and a brother, T.O. Mashburn. She is survived by a brother, Eugene Mashburn of Dallas, a sister, Thelma Mashburn of Terrell, and other relatives and friends. She was well-loved and well-respected in Terrell, and she will be missed by all those who knew her. Mr. Speaker, I am honored today to pay a final tribute to this outstanding community leader, Ruby Irene Worthen of Terrell, TX.

IN REMEMBRANCE OF APHIS EMPLOYEES

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. DE LA GARZA. Mr. Speaker, 1 year ago, on April 19, 1995, 168 people were murdered in the bombing of the Alfred P. Murrah Federal Building in Oklahoma City. The explosion killed scores of innocent children and adults, injured hundreds, and devastated thousands of lives. We remember and honor them all.

I took part in a ceremony in South Texas in which the Kika de la Garza Elementary School in the La Joya school district planted a tree in memory of the children who died in the Oklahoma bombing to link themselves to the loss. I was particularly moved by this ceremony because although they did not know any of the children personally, they had a common bond in that they were children also.

I, too, have a common bond with some of the victims. In this case the bond is the agricultural community.

Among the victims were seven employees of the Department of Agriculture's Animal and Plant Health Inspection Service—dedicated workers who left a legacy of service and believed that protecting American agriculture was a goal worth achieving.

These were people who were loved by their families and friends and respected by their colleagues. Today, we especially remember and honor these APHIS employees.

We honor as well the survivors and the many people who gave of themselves to aid in rescue efforts and reach out with helping hands and loving hearts. In their hope, we found hope: in their strength, we found strength; in their actions, we found the power to act. In adversity, America came together.

Robert Green Ingersoll said "in the night of death hope sees a star and listening love can hear the rustle of a wing." We remember those who lost their lives in Oklahoma. We embrace those who were left behind, and we hope our caring helps soothe their grief.

Together, we all listen for the rustle of a wing that whispers of hope.

VOL
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PROBLEMS WITH TRUTH IN BUDGETING

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. ORTON. Mr. Speaker, yesterday, the House considered and passed H.R. 842, the so-called Truth in Budgeting Act. During my statements in opposition to this unwise bill, I made reference to a letter sent last year by the Council for Citizens Against Government Waste, in opposition to this bill.

I would now like to enter this letter into the RECORD. I believe it makes a compelling case against enacting this bill into law.

> COUNCIL FOR CITIZENS AGAINST
> GOVERNMENT WASTE,
> *Washington, DC, March 16, 1995.*
>
> DEAR REPRESENTATIVE: We were intrigued when we learned of proposals to move the various transportation trust funds off-budget and out of the hands of the usual budgeting and appropriations process. Despite proponents' arguments for "truth in budgeting," we discovered that advocates of off-budget transportation trust funds seek not to increase fiscal accountability but to increase the ease of pork-barrel spending.
>
> While the Committee on Transportation and Infrastructure does not have a corner on congressional pork-barrel spending, the committee's record is seriously tarnished. The 1991 Intermodal Surface Transportation Efficiency Act (ISTEA), replete with such dubious pork as studying the use of zebra mussels as an infrastructure building material or building bicycle paths with highway funds, is as much evidence as we need to conclude that the off-budget trust funds proposal lacks credibility.
>
> There is also alarming and vicious counter-attack from pork-barrelers to Rep. Bill Orton's suggestion that line-item veto authority extend to "contract authority" for which transportation authorizations are famous. Since the Council for Citizens Against Government Waste (CCAGW) testified at joint line-item veto hearings in favor of presidential authority over contract authority as proposed by Rep. Orton, you can understand that we are suspicious that the off-budget transportation trust funds gambit is yet another end-run for the pork-barrel goal line.
>
> The past pattern of pork-barrel abuse in funding highway, airport and waterway projects compels us to recommend in the strongest possible manner that you defeat any attempt to move the transportation trust funds off-budget. Indeed, a message needs to be sent to the entire Transportation and Infrastructure Committee—majority and minority—that we had an election last November. The old days are gone.
>
> A final note: Not gone, apparently, are threats to cancel projects in the districts of legislative opponents, an all-too-frequent bullying tactic of the folks who used to run Congress that showed up again in the debate on the Orton amendment to the line-item veto bill. CCAGW deplores such threats and, knowing that the public would not take kindly to such intimidation and threats, hopes Members will make them known when they occur.
>
> Sincerely,
> TOM SCHATZ,
> *President.*
> JOE WINKELMANN,
> *Chief Lobbyist.*

THE FUTURE IS OURS TO CREATE

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. MCDERMOTT. Mr. Speaker, I am pleased to welcome the Wound, Ostomy and Continence Nurses Society [WOCN] to my congressional district, Seattle, WA, on June 15–19, for their 28th annual conference. The theme of the conference, "The Future is Ours to Create," will focus on future opportunities and challenges relating to the changing and expanding role of enterostomal therapist [ET] nurses and other nurses specializing in wound, ostomy, and continence care.

Founded in 1968, the WOCN is the only national organization for nurses who specialize in the prevention of pressure ulcers and the management and rehabilitation of persons with ostomies, wounds, and incontinence. WOCN, an organization of ET nurses, is a professional nursing society which supports its members by promoting educational, clinical, and research opportunities, to advance the practice and guide the delivery of expert health care to individuals with wounds, ostomies, and incontinence.

In this age of changing health care services and skyrocketing costs, the WOCN nurse plays an integral role in providing cost-effective care for their patients. This year's Seattle conference will provide a unique opportunity for WOCN participants to learn about the most current issues and trends related to their practice. I am honored that WOCN has chosen Seattle to host its conference and wish them every success.

AMERICA DESERVES A RAISE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. PACKARD. Mr. Speaker, while the President offers a politically appealing, yet ineffective plan to give Americans a raise, my Republican colleagues and I have a very sound plan to give millions of working American families more money in their paychecks and greater power to decide how and where the Federal Government spends their hard earned pay.

Under the President Clinton's plan to raise the minimum wage, countless employers will have to rob Peter to pay Paul. Millions of working men and women will lose job opportunities, employment security, and pay raises. The Republican plan gives Americans the raise they deserve. It provides tax relief for families with children. Over 6 million new and more secure high-wage jobs will result from a balanced budget and less Washington red-tape.

Mr. Speaker, the President's plan to raise the minimum wage is a bad policy. It is simply a political ploy designed to divide America along class, ethnic, and gender lines. Even some of the President's own advisers, agree that his proposal hurts the people most in need: low-skilled workers, women and inter-city residents. It does not help working families.

American families deserve more. They deserve to keep more of their hard earned money, they deserve lower interest rates and they deserve better, higher wage jobs. My Republican colleagues and I provide working families a true raise—the President's policies do not.

THANK YOU, VIRGINIA CARTER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. BARCIA. Mr. Speaker, dedicated individuals who are willing to put the interests of those in their community ahead of their own comforts are people we should admire. The people of Sanilac County within my congressional district have been blessed with such an individual, Mrs. Virginia Carter, who is retiring after 20 years as a member of the Sanilac County Mental Health Board's Recipient Rights Advisory Committee.

People who have benefited from the excellent care provided by Sanilac County Mental Health Services have most assuredly benefitted from programs either pioneered by Virginia Carter—supported employment, for example—or thriving because of her devotion to maintaining these important programs.

Not only has Virginia Carter served for 20 years on the recipient rights committee, she has been elected chairperson for 18 of those years, a real testimony to the fact that she is held in high esteem by her colleagues on the committee.

Mental health care can be a particularly trying field. Most people have a more difficult time dealing with the identification and treatment of mental health problems. Signs are not as easily identified as is a cold, nor is treatment as easy as a prescription for several days. Those who deal with the needs for mental health services must be patient, understanding, and resilient. They also need to have the support of understanding people like Virginia Carter who knows the meaning of pursuing quality care.

It has been my privilege and pleasure to know many fine, dedicated people who live in Sanilac County. It is a particular pleasure to join with so many of them who will be honoring her at a special retirement event this Friday evening.

Mr. Speaker, I urge you and all of our colleagues to join me in wishing her the very best.

TRIBUTE TO DR. ROBERT E. HENDERSON

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. SPENCE. Mr. Speaker, I rise today to recognize Dr. Robert E. Henderson, as he retires as President and Director, Chief Executive Officer of the South Carolina Research

Authority [SCRA]. The SCRA was established in 1983 as a nonprofit scientific and engineering corporation to address national and international manufacturing issues through the development of new technologies. For the past 12½ years, Dr. Henderson has shaped the SCRA into the dynamic organization that it is today, and South Carolinians are most appreciative of the contributions that he has made to our State and to the Nation.

Under the leadership of Dr. Henderson, nearly one-half billion dollars have been invested, sold, and/or contracted through SCRA research parks and technology management programs. In addition to leading South Carolina to the cutting-edge of technology, the SCRA has become a recognized leader nationally, through SCRA projects, technology, and corporate teams representing activity in almost every State in the Union.

Dr. Henderson has always responded to the call of his country and his community. During World War II, he served as a staff sergeant in the infantry of the U.S. Army, and was awarded the Purple Heart medal. He then received the bachelor of arts degree in physics from Carlton College, as well as the masters of arts degree in physics and the doctor of philosophy degree in physics from the University of Missouri.

Dr. Henderson has distinguished himself in the fields of physics and engineering, and he has published numerous scholarly articles. He has been appointed to the Defense Science Board and the Defense Manufacturing Board, in addition to having served as president of the Indianapolis Scientific and Engineering Foundation, director of the International Solar Energy Society, and a member of the Board of Visitors of Clemson University. He recently received South Carolina's highest recognition, The Order of the Palmetto.

Dr. Henderson has made great contributions to South Carolina and to our country through an outstanding career that has been diverse and exemplary. He is wished much continued success as he moves on to face new challenges and rewards.

TALENTED HIGH SCHOOL STUDENTS REPRESENTING OREGON

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Ms. FURSE. Mr. Speaker, on April 27–April 29, 1996, more than 13,000 students from 50 States and the District of Columbia will be in Washington, DC, to compete in the national finals of the "We the People . . . The Citizen and the Constitution" Program. I am proud to announce that the class from Lincoln High School from Portland will represent Oregon and the First Congressional District. These young scholars have worked diligently to reach the national finals by winning local competitions in their home State.

The distinguished members of the team representing Oregon are: Students: Vasiliki Despina Ariston, Jereme Rain Axelrod, Rebekah Rose Cook, Tawan Wyndelle Davis, David Eyre Easterday, Amanda Hope Emmerson, Tiffany Ann Grosvenor, William John Hawkins IV, Soren Anders Heitmann, Stacy Elizabeth Humes-Schulz, Martissa Tamar Isaak, Heather Brooke Johnson, Katherine Mace Kasameyer, Christopher Michael Knutson, Jeanne Marie Layman, Daniel Hart Lerner, Casey James McMahon, Lindsay Katrina Nesbit, Gerald William Palmrose, Mary Ruth Pursifull, Catherine Clare Rockwood, Daniel Boss Rubin, Elizabeth Leslie Rutzick, Mark Richard Samco, Kathryn Denelle Stevens, Simon Brendan Thomas, Miles Mark Von Bergen, Lauren Elizabeth Wiener, and Farleith Aiken Wolfe.

I would also like to recognize their teacher, Mr. Hal Hart, who deserves much of the credit for the success of the team. The district coordinator, Mr. Daniel James, and the State coordinator, Ms. Marilyn Cover, also contributed a significant amount of time and effort to help the team reach the national finals.

The "We the People . . . The Citizen and the Constitution" Program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the "We the People" Program, now in its ninth academic year, has reached more than 70,400 teachers, and 22,600,000 students nationwide at the upper elementary, middle and high school levels. Members of Congress and their staff enhance the program by disucssing current constitutional issues with students and teachers.

The "We the People" Program provides an excellent opportunity for students to fain an informed perspective on the significance of the U.S. Constitution and its place in our history and our lives. I wish these students the best of luck in the national finals and look forward to their continued success in the years ahead.

THE WATER QUALITY PUBLIC RIGHT-TO-KNOW ACT OF 1996

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. WAXMAN. Mr. Speaker, today I am introducing the Water Quality Public Right-To-Know Act of 1996. This bill will guarantee the public's right to know about the contaminants that they are exposed to in their drinking water.

Under current law the public has no information about the presence of serious contaminants in their drinking water. Every year millions of Americans unknowingly drink tap water contaminated with cryptosporidium, carcinogens, and arsenic. If we can't prevent this contamination, we should at least give our constituents the ability to protect themselves.

The Water Quality Public Right-To-Know Act of 1996 will require water systems to annually report to their customers a plainly worded explanation of the health implications of contaminants present in their drinking water. It also allows States the flexibility to shape this program.

During the last 2 years many of my Republican colleagues have argued for a devolution revolution. They have urged that we move power from the Federal Government to the State and local level. My legislation goes one step further. It requires that information be given directly to our constituents, which will allow them to make individual choices about the level of exposure to dangerous contaminants.

A TRIBUTE TO CHARLOTTE J. VISCIO

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. MCNULTY. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct the Voice of Democracy broadcast scriptwriting contest. This year more than 116,000 secondary school students participated, competing for 54 national scholarships.

I am pleased to announce that my constituent, Ms. Charlotte J. Viscio, a senior at Guilderland Central High School in Guilderland, NY, has been named a national winner and recipient of the Larry W. Rivers Scholarship Award.

This year's theme was "Answering America's Call." I found great inspiration in Charlotte's words and wanted to share them here with my colleagues. They are as follows:

> It doesn't sound like a trumpet or an angel's harp. Nor does it echo like a cannon or fire crackers on the Fourth of July. It's not about war or winning. Nor is it about uniforms or medals. It's not just for leaders or peacemakers, soldiers or sons. Nor is it only for women. Whether ten or eight times ten, age makes no difference. The call of America is simply what United States citizens, proud and loving of their country, answer to when their services are needed.
>
> In some, the call is not loud, while in others, it's the only thing that they hear. For the President of the United States, this call is his job description. If he fails to answer, he's failed as America's leader and role model. Some Americans hear the call loud and clear and enlist in the military. Often, they are sent to foreign countries to strive for an American goal, realizing that they might lose their lives for America. And what, exactly, in America is worth fighting for? What is in our country's history that is worth preserving? It is the strongest nation in the world. It is a symbol of hope for countries striving for democracy. It is a place on the earth where all nationalities, religions, sexes, races and colors are unified by equality. America screams of hope and strength and leadership. And this is within every American.
>
> To be an American is a choice. Just because a person lives in the United States does not mean that he or she is a true American. A true American recognizes the call and is willing to answer it. It is not hard to answer. Some answer by volunteering their services to fire companies, food drives and

VOL 142 PT 6 AP 15 — 24 1996 UMI

charities. Others collect litter from the sides of roads, improving the appearance of American land. Many people answer the call by casting their votes on election day for the candidates they feel will make strong American leaders. All these activities are examples of how people answer America's call, giving of themselves for the betterment of their country.

What called these Americans to their duty? Was it a television or radio advertisement? Were they inspired by a hero or a role model? Or, was it simply the voice inside them, the voice of their conscience leading them to serve their country? Within every true American's heart, the call exists.

Answering this call is the duty of an American. The United States is a proud country, but it isn't self-centered. It has concern for other nations around the world and strives to help these nations. This is a reflection of its people. Since they are willing to give their services to their country they make life better not only for themselves but for their fellow Americans and others around the world.

America is the voice of democracy. It is not the voice of one person but of all Americans, an accumulation of answers they have given to their calls. Nothing sounds louder than America's response. Nothing is more powerful. This is the foundation of the United States of America. A person simply needs to listen closely for the call within and then respond with the conviction that shows and professes, "I'm proud to be an American."

CONGRATULATIONS HERITAGE CHRISTIAN HIGH SCHOOL STUDENTS—"WE THE PEOPLE" CHAMPIONS

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. KLECZKA. Mr. Speaker, I rise today to congratulate a group of students from Heritage Christian High School in West Allis, WI, and their teacher, Mr. Tim Moore, on being judged this year's State of Wisconsin "We the People" champions.

The "We the People" program, funded by the U.S. Department of Education by an act of Congress, promotes the study of our Nation's Constitution. Mr. Moore's students have displayed an exceptional foundation of knowledge of its history, as well as the constitutional issues of today.

The Heritage Christian High School group has been given the honor of representing the State of Wisconsin in the national "We the People" competition to be held here in Washington, DC. I am very proud that these students come from Wisconsin's Fourth Congressional District and commend their hard work and dedication.

Once again, I congratulate Mr. Moore and his students and wish them the very best of luck in the upcoming competition.

RONALD J. DEL MAURO HONORED FOR OUTSTANDING LEADERSHIP BY MENTAL HEALTH ASSOCIATION

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor Mr. Ronald J. Del Mauro, president and CEO of St. Barnabas Health Care System. On April 20, 1996, Mr. Del Mauro will be honored by the Mental Health Association of Essex County for his outstanding leadership and philanthropy in serving as head of the St. Barnabas Behavioral Health Care System. His worked has helped thousands of residents who are often the most vulnerable members of our population—the mentally ill.

Mr. Del Mauro created the St. Barnabas Behavioral Health Network because, unfortunately, for many parents and their children, a number of health services are often separated for those with psychiatric problem and those with substance abuse problems. Mr. Del Mauro, recognizing this, created the St. Barnabas Behavioral Health Network to provide parents and their children with a place to turn get appropriate diagnosis and treatment.

Mr. Del Mauro is also responsible for the St. Barnabas Health Care System which includes, in addition to St. Barnabas Medical Center, the 201-bed Union Hospital, four nursing homes with 660 beds, 10 corporate affiliates and 20 for-profit business ventures. The St. Barnabas Health Care System operates in 13 facilities throughout New Jersey and the Behavioral Health Network has 17 locations in the tristate area. More than 7,000 employees, including 1,800 physicians, treat a total of 59,000 inpatients, and provide treatment and services for more than 300,000 outpatient visits annually.

I recently had the opportunity to visit St. Barnabas and tour their facility in Livingston, NJ. The health care delivery system Mr. Del Mauro has developed is an outstanding one and I would strongly recommend any of my colleagues look to at St. Barnabas as a national model.

Mr. Del Mauro is also an active and effective leader in other areas. He serves as chairman of the New Jersey Hospital Association, as well as being a member of the Center for Health Affairs, Inc., Life Sciences Advisory Committee of the CIT Group, Inc., Seton Hall University Center for Public Services Advisory Council, board of trustees of the Paper Mill Playhouse and the Essex/Hudson/Union Hospital Council.

He is a graduate of Seton Hall University, where he served as a adjunct professor at the Graduate School of Public Administration from 1983 to 1985.

Mr. Speaker, today I honor Mr. Del Mauro for his leadership in helping to make our communities a healthier place to live and for his ongoing commitment to the mentally ill in New Jersey.

MORE INDIAN OPPRESSION

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. BURTON of Indiana. Mr. Speaker, on Thursday, April 18, the Indian police detained six Kashmiri leaders when they tried to peacefully walk to India's military headquarters in the Kashmiri capital of Srinigar to protest India's human rights violations.

The six, who are well known on Capitol Hill for their tireless efforts to win the right of self-determination for Kashmiris and are all executive members of the All Parties Hurriyat—Freedom—Conference, were stopped by police as they approached the United Nations Military Observer Group's office. Syed Ali Shah Geelani, Abdul Gani Lone, Shabir Shah, Abdul Gani Bhat, Moulana Abass Ansari, and Yasin Malik were only allowed to walk 2 kilometers—1 mile—through the deserted streets on Srinigar before being detained by police.

Mr. Speaker, as you may know, the Government of India has banned public gatherings in Kashmir to prevent protests against India for its terrible human rights violations against the people of Kashmir. In response to this continual brutality, the Hurriyat had called a strike in the Kashmir Valley and asked Kashmiris to remain indoors. Why did these leaders risk their lives to challenge India? According to Abdul Gani Bhat—one of the detainees, we walked to offer our lives to the Indian army for peace and stability in the whole sub-continent.

Most of these leaders have already narrowly escaped attempts on their lives by renegade militant groups which have been armed and supported by India's intelligence agencies. So perhaps for them—risking their lives one more time is business as usual. Nevertheless, their bravery to secure peace and happiness for the people of Kashmir should not be ignored here in the U.S. Congress.

Mr. Speaker, while I wish I could say that this most recent incident is isolated—it is not. For the last decade, the Government of Indian has used every measure at its disposal to suppress the peace-loving people of Kashmir who desire nothing more than the internationally-recognized right of self-determination. As Thursday's events demonstrate, the leadership of India only respects the right of free speech when the words are spoken by the majority Hindu population. The time has come for the U.S. Government to forcefully condemn this tyrannic behavior and demand the immediate release of these six Kashmiri leaders.

If India ever hopes to be treated as the world class power it believes it is—it must respect human rights.

IN HONOR OF THE HOMETOWN TREES PROGRAM

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize the Hometown Trees Program for

its dedicated service toward improving and preserving hometown landscapes. The program which began 4 years ago will plant its 4 millionth tree on Earth Day, April 22, 1996. I would also like to take this opportunity to honor Kristin Hyman, the 9-year-old grand-prize winner in a nationwide contest on the importance of trees.

The Hometown Trees Program has prospered since its inception 4 years ago. Every spring, the program teams up with thousands of local volunteers who plant trees in their communities to ensure that future generations will enjoy their natural beauty. To date, through the Hometown Trees Program, more than 3 million trees have been rooted in over 1,500 cities in 43 States.

The program's pledge to enhance, protect and generate awareness about the environment is of great importance. The planting of one tree today will serve the community for hundreds of years to come. This program also develops amongst our children an appreciation for nature that will serve our Nation for generations that follow.

In February, a nationwide essay contest was held to increase children's environmental awareness and appreciation. I am pleased to announce to my colleagues that the winner of the nationwide event was 9-year-old Kristin Hyman of Bayonne, NJ. Her poem, "Tree Reasons," was selected from the hundreds of entries received in her age group for its creativity and uniqueness. I am proud to say that she will be honored in a special ceremony in her hometown on Earth Day.

I ask that my colleagues join me in honoring the achievements of the Home Trees Program and its continuing commitment to the environment. I would also like to pay tribute to Kristin Hyman, a special young lady who has demonstrated to her community that no one is ever too young to care for and appreciate the environment. I am proud to have such a talented young woman living within my district.

RAISE THE MINIMUM WAGE

HON. CARLOS A. ROMERO-BARCELÓ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thusday, April 18, 1996

Mr. ROMERO-BARCELÓ. Mr. Speaker, I rise in strong support of the Democratic efforts to raise the Federal minimum wage.

The proposal for a moderate 90-cent increase in 2 years is needed because workers at the minimum wage level have actually seen their real incomes decrease in the last decades. In 1979, the minimum wage was the equivalent of about $6 per hour in 1996 dollars.

Real wages and the purchasing power of millions of families have become stagnant. We must support the incentives that reward hard work, such as a minimum wage.

When I was Governor of Puerto Rico, I took the bold step of asking the Federal Government to extend minimum wage laws to Puerto Rico, where at the time they did not apply. Special interests and many corporations lobbied hard against it, predicting economic havoc and job displacement.

Such bleak scenarios did not materialize. In fact, the minimum wage has been a blessing for the 3.7 million American citizens of Puerto Rico. It raised the standard of living of thousands of working class families, took tens of thousands of working families out of welfare and brought them added dignity.

Both sides of the aisle should seek to promote and assure a decent standard of living for all Americans. Raising the minimum wage is a wise move, based on solid economic policy and common sense.

I urge our colleagues to support raising the minimum wage to $5.15 an hour over the next 2 years. Millions of hard working Americans who deserve better economic opportunities will appreciate our leadership.

SALUTE TO DON NICOLAI, CHEVRON USA AND OLYMPIC HIGH SCHOOL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. MILLER of California. Mr. Speaker, today I rise to salute the contributions of Chevron USA and particularly their dedicated employee Don Nicolai, manager of business products and services, to Olympic High School in Concord, CA.

Mr. Nicolai first became involved with Olympic High School when he served as "principal for a day" in 1994 through a local schools and business partnership initiative. That service for a day turned into much, much more, prompting the Olympic staff and students to vote to rename their guest principal "hero of the year." The expanse of Mr. Nicolai's contributions includes a donated van for transporting students, numerous pieces of equipment and furniture, work experience and summer employment opportunities for Olympic students and sponsorship of ongoing employability skills training seminars. Additionally, Mr. Nicolai has made it possible for several other Chevron employees to be present in the classrooms, working directly with students to share their professional expertise and personal talents.

Don Nicolai and Chevron USA have formed a substantive, long-term partnership with Olympic High School that goes far beyond the rhetoric of school-business partnerships or school-to-work transition. They see the value in a well-prepared work force and recognize that changing the social and economic conditions that plague our communities today must be addressed by individuals and businesses which can lend a helping hand.

I am pleased to rise today to recognize Mr. Don Nicolai, and I am confident that my colleagues join me in this tribute.

IN TRIBUTE TO DAVID LEON FORD

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. DINGELL. Mr. Speaker, 33 Americans were taken from us far too early in the plane that crashed April 3 near Dubrovnik. This morning, we paid tribute to our good friend, Secretary Ron Brown. At this time, I want to commemorate one of those brave souls traveling with the Secretary, Mr. David L. Ford.

David Ford was one of 12 American business executives accompanying Secretary Brown on a mission with the most noble goal of helping the people of Bosnia and Croatia to rebuild their war-ravaged countries. An executive with Guardian Industries, headquartered in Michigan, David was to donate 23 metric tons of flat glass to Sarajevo, enough to produce about 8,000 windows for use in rebuilding the Bosnia capital. After the trade mission ended in tragedy, the glass was delivered to Sarajevo as planned and donated to the people by the U.S. Embassy.

David Ford's career at Guardian began in 1971, and he spent time at its facilities around the country, including several years at the Guardian plant in Carleton, MI, in my congressional district. He helped lead his company's expansion into the European market, and at the time he was taken from us he headed Guardian's European operations.

We will remember David Ford as a successful businessman, but more importantly, his wife and two children will remember him as a loving husband and devoted father. He was a deeply religious man, who before his passing was able to provide some desperately needed relief to the people of Sarajevo. There, his final effort will be honored by a plaque.

I know that my colleagues join me in sending our thoughts and prayers to his family.

TRIBUTE TO RAKI NELSON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. TOWNS. Mr. Speaker, I am pleased to acknowledge Raki Nelson, a young man who is destined to achieve greatness. Raki is the 1996 Watkins Award Winner, and has been honored as the premier African-American student-athlete in the country.

Raki has committed to attend Notre Dame University as a wide receiver on a full football scholarship. He has achieved recognition for not only his dazzling display on the football field, but his contributions to his community. As the recipient of the Watkins Award, he is being honored for exemplifying leadership. Franklin Watkins was one of the founding fathers of the National Alliance of African-American Athletes. The alliance lists a host of professional athletes who support the organization's endeavors, including Reggie White, Green Bay Packers; Charlie Ward, New York Knicks; and Royce Clayton of the St. Louis Cardinals.

Raki's sterling career as a wide receiver ended with 185 catches for 34 touchdowns which generated 3,132 total yards. However, the hallmark of his efforts was his community action poster. He and a fellow team member distributed and autographed posters for grade school and midget football programs throughout his home State of Pennsylvania. I am pleased to recognize one of college football's

VOL
142
PT
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1996
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future stars, and a shining light in his own community.

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA 100TH ANNIVERSARY DINNER-DANCE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. PALLONE. Mr. Speaker, on Saturday, April 20, 1996, at the Hyatt Regency in New Brunswick, NY, the United Brotherhood of Carpenters and Joiners of America, Local No. 65, of Perth Amboy, NJ, will hold its 100th anniversary dinner-dance.

It is a great honor for me to join the members of Local No. 65 for this momentous occasion. The Carpenters and Joiners have consistently been a strong supporter and a tireless fighter, not only for the needs of their own members, but for the American worker in general. In a time when labor unions are being attacked and the gains that organized labor has made over the past century are under constant threat, I have stood up to defend the livable wages and good working conditions that have contributed to the creation of the great American middle class.

Mr. Speaker, this 100th anniversary is a great occasion for us all to remember the important contributions that labor unions have made and continue to make to improve the quality of life at home and abroad.

A SALUTE TO CHARLES ALFRED ANDERSON, TRAINER OF TUSKEGEE AIRMEN

HON. GLEN BROWDER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. BROWDER. Mr. Speaker, Members of the House will be saddened to know that Charles Alfred Anderson, who trained the Army's first black fliers in Alabama and formed the famed Tuskegee Airmen during World War II, has died. He was 89.

Mr. Anderson was a self-taught pilot who served as the chief instructor of Tuskegee University's pilot training program from 1938 through 1945. To thousands of fliers, he was known affectionately as "Chief."

Members may recall "The Tuskegee Airmen," an HBO movie last year, which told the story of the 332d Fighter Group and its exploits over North Africa, Sicily, and Europe. Those African-American flyers destroyed 260 enemy planes, damaged an additional 148, and sank a Nazi destroyer. No U.S. bomber under the protection of the Tuskegee airmen was ever shot down.

The roster of fliers who trained under "Chief" Anderson includes Gen. Daniel "Chappie" James, the Nation's first four-star black general; Coleman Young, who became mayor of Detroit; and William Coleman, Transportation Secretary under President Gerald Ford.

Mr. Anderson was an aviation pioneer, a teacher, and a great American. I wish to extend my condolences and deep sympathy to his two sons, Alfred Forsythe Anderson of Seattle and Charles A. Anderson, Jr. of Tuskegee, and to his three grandchildren and one great-grandchild.

The Opelika-Auburn News published a wonderful account of Mr. Anderson's career and his exploits in the early days of flying. This salute to the father of black aviation was written by men who knew "Chief" well. I am attaching the article for publication in the CONGRESSIONAL RECORD.

An equally impressive article was published in the Tuskegee News and that is included for publication also.

[From the Opelika-Auburn News, Apr. 17, 1996]

FAMED TUSKEGEE AIRMAN DIES

(By Vascar Harris and Roosevelt J. Lewis, Jr.)

TUSKEGEE.—Charles Alfred "Chief" Anderson, a self-taught pilot who trained the military's first black flyers and formed the famed Tuskegee Airmen, died Saturday at age 89 after a lengthy battle with cancer.

Anderson was born to Janie and Iverson Anderson of Bryn Mawr, Pa., and was a 56-year resident of Tuskegee Institute.

"Chief" was an inductee of the Alabama Aviation Hall of Fame (1991), The International Order of the Gathering of Eagles (1990), winner of the famous Brewer Trophy (1985), and held other aviation awards. An honorary doctorate of science was conferred by Tuskegee University in 1988.

His first love was teaching new students to fly, and he amassed more than 52,000 flying hours in his lifetime.

He is best remembered as the chief flight instructor and mentor of the famed "Tuskegee Airmen" of World War II. His 40-minute flight with First Lady Eleanor Roosevelt during her Tuskegee visit in 1941, was the catalyst that led to the training of the first African-American military pilots, the "Tuskegee Experiment."

He also flew Vice President Henry Wallace from Tuskegee to Atlanta during that period.

As a boy of 6, "Chief" was fascinated with the idea of airplanes and knew he had to fly. At 8, he ran away from home looking for airplanes rumored to be barnstorming in the area, he had to have a ride. As a teen-ager, no one would give him a ride because of racism.

At 22, he borrowed $2,500 from friends and relatives, bought a used airplane and taught himself to fly. By 1920, he had learned so well he received a private license and in 1932, an Airline Transport Rating (#7638), the equivalent of the Ph.D. in the act of science of flying an airplane.

In 1932, he would wed his childhood sweetheart, Gertrude Elizabeth Nelson, who died in 1995.

That same year, with a friend and flying partner, Dr. Albert Forsythe, an Atlantic City, NJ surgeon, he became known for long distance flying. East coast-West coast and back to the East coast. They also flew the first overseas flight by Negroes to Montreal, Canada, where Foresythe had studied medicine.

In preparation for a Pan American Goodwill Tour in 1934, they brought a Lambert Moncoupe airplane in St. Louis, Mo., where they met Charles Lindbergh. Lindbergh also bought an aircraft. Separated by one serial number, it hangs in the Lambert St. Louis airport today. Linbergh discouraged their plan to fly.

"Chief" and Foresythe continued to Tuskegee, where the aircraft was christened the "Spirit of Booker T. Washington." He and Foresythe made the first land plane flight from Miami to Nassau in 1934.

They island hopped throughout the Caribbean, to the Northeastern tip of South America. They overflew the Venezuelan straits and landed in Trinidad as national heroes. "Chief," at the age of 86, recreated the trip 59 years later, as his birthday present to himself. He was accompanied in his aircraft by Roscoe Draper, lifelong friend and Tuskegee Airmen instructor, and Dr. and Mrs. Lawrence Koons.

With his credentials as a Certified Flight Instructor and Airline Transport rated pilot, "Chief" touched thousands of the nation's military and civilian pilots, such as Gen. B.O. Davis Jr.; Gen. Daniel "Chappie" James; Col. Herbert Carter, and other Tuskegee Airmen during the Tuskegee Experiement.

"Chief" gave countless free airplane rides to the youth of the world, and was a founding member of the NAI, Black Wings in Aviation; the Tuskegee Chapter bears his name. For 22 years, youth from 16–19 have received intensive ground and flight training during the last two weeks in July at the NAI Summer Flight Academy, in order to prepare them for pilot ratings.

Many of his students, such as Capt. Raymond Dothard, U.S. Air, and president Mandella's U.S. pilot; Southeast Asian standouts much as Lt. Col. Robert V. Western, (Bob Mig Sweep); Judge John D. Allen, F–4 Flight Commander, Columbus, Ga; Col. James Otis Johnson, USAF, and many others, have continued in the footsteps of "Chief."

He also soloed the late Capt. "Pete" Peterson of the USAF Thunderbirds Flight Demonstration Team.

At 84, Chief turned over the reins of his beloved Moton Field training site airport to Col. Roosevelt J. Lewis Jr., USAF, another aviation protege, who flew his aircraft to Trinidad with "Chief" in 1993. They proceeded to facilitute 18 young people into military training needs since 1991.

Two of his last students, Capt. Kevin T. Smith and Lt. Greg West, were the first two blacks in the history of the Alabama Air National Guard. With 385 hours in the F–16, Capt. Smith scored "Top Gun" honors for the USAF in March 1996 Red Flag competition. "Chief" was thrilled.

He is survived by sons, Alfred and Charles; Charles' wife, Peggye; his grandchildren, Vincent, Christina and Marina; his great-granddaughter Krystal; his nieces and nephews, in-laws, and his dog, "Stinky."

[From the Tuskegee News, Apr. 1996]

PIONEER AVIATOR "CHIEF" ANDERSON DIES AT AGE 89

C. Alfred "Chief" Anderson, one of America's last aviation pioneers, died Saturday morning, April 13, 1996, at his Tuskegee home after a lengthy bout with cancer. He was 89.

Born to Janie and Iverson Anderson of Bryn Mawr PA, and a 56-year resident of Tuskegee, "Chief" Anderson was a inductee of the Alabama Aviation Hall of Fame (1991), the International Order of the Gathering of Eagles (1990), and winner of the famous Brewer Trophy (1985).

He held many other aviation awards. An Honorary Doctorate of Science was conferred

by Tuskegee University in 1988. His first love always was teaching students to fly. He amassed over 52,000 flying hours.

Universally known as "Chief," he is best remembered as the Chief Flight Instructor and mentor of the famed "Tuskegee Airmen" of WWII.

His 40-minute flight with First Lady Eleanor Roosevelt during her Tuskegee visit in 1941 was the catalyst that led to the training of the first African American military pilots, known as the "Tuskegee Experiment."

He also flew Vice President Henry Wallace from Tuskegee to Atlanta during that period. Chief Anderson's life has been a shining example of integrity, self reliance, adventure and contributions to others.

As a young boy of six, Chief Anderson was fascinated with the idea of airplanes and knew that he had to fly. At eight he ran away from home looking for airplanes rumored to be barnstorming in the areas he had to have a ride.

As a teenager, no one would give him a ride because of racism. At the age of 22, he borrowed $2,500 from friends and relatives, bought a used airplane and taught himself to fly. By 1929, he had learned so well until he received a private license and in 1932 an Airline Transport Rating, an equivalent of the Ph.D. in the art and science of flying an airplane.

More importantly that year (1932), he married his childhood sweetheart, Gertrude Elizabeth Nelson, who preceded him in death in 1995.

Later in 1932, with a friend and flying partner, Dr. Albert Foresythe, an Atlantic City, N.J. surgeon, he became known for long distance flying; East coast-West coast and back to the East coast.

They also flew the first overseas flight by Negroes to Montreal, Canada, where Dr. Foresythe had studied medicine. In preparation for a Pan American Goodwill tour in 1934 they bought a Lambert Monocoupe airplane in St. Louis, Mo., where they met Charles Lindbergh.

HONORING THE VICTIMS AND SURVIVORS OF THE OKLAHOMA CITY BOMBING

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. ROBERTS. Mr. Speaker, 1 year ago today, the Nation was gripped by the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, OK. We looked on in shock and horror as rescue workers and members of the community tried valiantly to reach the victims still trapped in the rubble—victims who were young and old, victims who were somebody's child or parent, husband or wife, brother or sister, friend or colleague. The magnitude of the tragedy was incomprehensible, the sense of loss overwhelming. We were left, in the words of the Roman philosopher Virgil, with "a grief too much to be told."

As the hours and days passed, our grief continued to mount. Mixed with the grief was a sense of empathy and compassion so strong that it gave birth to courage and hope and a resolute spirit. We watched the faces of thousands of heroes as they reached out with gestures large and small. We knew as a community and as a nation that we would endure.

Some 168 lives were lost that day, including the lives of 7 employees from the Department of Agriculture's Animal and Plant Health Inspection Service [APHIS]. A little over a month after the bombing, we paid tribute to the seven APHIS employees on the floor of this Chamber. Last year in this Chamber I paid tribute to Olen Bloomer, Jim Boles, Peggy Clark, Dick Cummins, Adele Higginbottom, Carole Khalil, and Rheta Long. I spoke of the lives they had led—good, productive, loving lives—and remembered their dedication to their work and their families. Today, we honor their memory and we remember as well the other victims, the survivors, and all the people whose lives were so sadly transformed by the events in Oklahoma.

SALUTE TO THE SIKH NATION

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. KING. Mr. Speaker, I would like to take this opportunity to congratulate the Sikh Nation on Vaisakhi Day, the anniversary of the founding of the Sikh Nation. The 297th birthday of the Sikh Nation occurred this past Saturday, April 13. I salute the Sikh Nation on this occasion.

The Sikh religion is a revealed, monotheistic religion which believes in the equality of all people, including gender equality. Its principles are found in the Guru Granth Sahib, the writings of the 10 Gurus, founders of the Sikh religion. Vaisakhi Day marks the anniversary of the consecration of the Sikh Nation by the tenth and final Guru, Guru Gobind Singh. The Sikh Nation has always tried to live in peace with its neighbors. The Sikhs suffered disproportionate casualties in India's struggle for independence, and Punjab, the Sikh homeland, was the last part of the subcontinent to be subdued by the British.

Sikhs ruled Punjab from 1710 to 1716 and again from 1765 to 1849. When India achieved its independence, the Sikh Nation was one of the three nations that were to receive sovereign power. However, the Sikh leaders of the time chose to take their share with India on the promise of autonomy and respect for Sikh rights—an arrangement similar to America's own association with the people of Puerto Rico. Many of us have spoken about Indian violations of the fundamental human rights of the Sikhs and others. The abduction and "disappearance" of human rights activist Jaswant Singh Khalra is one prominent example. Despite the solemn promises of Gandhi and Nehru, these violations have been going on since the Union Jack was taken down for the last time in 1947. As a result, no Sikh to this day has ever signed the Indian constitution. If the people of New York, California, or Illinois had not agreed to the U.S. Constitution, would we consider them part of this country?

When India attacked the Golden Temple, the Vatican or Mecca of the Sikh Nation, in 1984, more than 20,000 people were killed. Another 20,000 were killed in simultaneous attacks on 38 other Sikh temples, or Gurdwaras, throughout Punjab, Khalistan.

The Indian regime also has imposed "Presidential rule"—that is, direct rule from the central government which supersedes the elected state government—on Punjab nine times. It is likely that if Punjab, Khalistan makes any move toward freedom after the elections, Presidential rule will be imposed for a tenth time. This is one more way to deny the Sikh Nation the freedom that is its birthright.

On October 7, 1987, the Sikh Nation declared its independence and the sovereign country of Khalistan was born. The Sikh Nation is set unalterably on a course to freedom, although this movement is nonviolent and democratic. Khalistan will secure its freedom the same way that India secured its independence. India cannot keep together an empire which has 18 official languages. Many experts predict that India will unravel within ten years, if not sooner. It is falling apart in front of our eyes, and too many of my colleagues do not even recognize it. The collapse of the Soviet empire shows that you cannot keep an empire of many nations by force permanently.

America is a country founded on the idea of freedom. Let us remember America's mission: in the words of John F. Kennedy, "to secure the survival and success of liberty." We must support freedom around the world because we are the land of the free. The American idea requires us to support freedom for the Sikhs, the Muslims of Kashmir, the Christians of Nagaland, the peoples of Assam and Manipur, and all the oppressed peoples of the Indian subcontinent. Two bills are pending which address this issue. The first, H.R. 1425, would cut off United States development aid to India until basic human rights are respected. The second, House Concurrent Resolution 32, calls for self-determination in Indian-occupied Khalistan. I call upon my colleagues to support these bills. They will help to end India's brutal occupation of Khalistan and insure that when we congratulate the Sikh Nation on its 300th anniversary three years from now, we can offer those congratulations to the leaders of a free and sovereign Khalistan.

TRIBUTE TO LYNDEN B. MILLER

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mrs. MALONEY. Mr. Speaker, I am especially pleased today to bring to the attention of my colleagues Mrs. Lynden B. Miller, my close personal friend, whose years of behind-the-scene service to the public is deserving of a very special tribute. We owe a debt of gratitude to Lynden who, as a designer of public gardens, has made an immeasurable contribution of beauty and grace to the great parks and public spaces of New York City.

Lynden Miller's most recent and notable contribution is on view in Bryant Park, on 6 acres located behind the New York Public Library. The city of New York closed Bryant Park in the late 1980's because it had become a haven for crime. In 1992, after 5 years of renovation, and with gardens newly designed by Lynden, Bryant Park was triumphantly reopened. Since its opening, 10,000 visitors

VOL 142 PT 6 AP 15 — 24 1996 UMI

walk through the garden each day, rejuvenated by Lynden's pallet of spiraeas, hydrangeas, foxgloves, sedums, phlox, hollyhocks and Japanese anemones set in borders 300 feet long by 12 feet deep. Today, due largely to Lynden's vision of the possibilities for public space, Bryant Park has been transformed into an oasis of peace and elegance in the midst of busy midtown Manhattan.

As the director of the Conservatory Garden in Central Park since 1982, Lynden has again defied expectations. This northeastern most area of Central Park was designed in the 1930's as an Italianate estate garden. Fifty years later, at the time Lynden was appointed to take on its renaissance, it has been abandoned. After 14 years of Lynden's direction of garden design, relentless fundraising and staff supervision, the Conservatory Garden of Central Park has become one of the great jewels in the greatest public park in the world. Under Lynden's guidance, the Conservatory Garden has also remained a community institution serving residents of both upper Fifth Avenue and some of the blighted neighborhoods of East Harlem.

Other public spaces which bear Lynden's signature include the garden at the Central Park Zoo, portions of the New York Botanical Gardens, Wagner Park at Battery Park City, spring and summer annuals at Grand Army Plaza in Brooklyn, gardens at the Cooper-Hewitt Museum, and Herald & Greeley Squares. She is on the Boards of Directors of the United States National Advisory Council for the National Arboretum in Washington, DC, and New York City's Central Park Conservancy and The Parks Council, among others. Lynden also lectures and participates in symposiums in the United States and abroad. She has written several articles and essays on garden design.

Lynden owes her sense of color to her training as an artist. She was a successful studio artist from 1967 until 1982 and has had several gallery shows in London and New York. She was educated at Smith College, the New York Botanical Gardens, Chelsea-Westminster College in London, and the University of Maryland.

I am very proud to pay tribute to Lynden Miller, who for fourteen years has been quietly dedicated to the well-being and beauty of New York City's most frequented public spaces. I ask my colleagues to join with me today in celebration of Lynden for her many wondrous botanical gifts to the millions of residents and visitors of the city of New York.

HAVERHILL GIRLS BASKETBALL CHAMPS

HON. PETER G. TORKILDSEN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. TORKILDSEN. Mr. Speaker, this morning I spoke on the floor praising the UMASS Minutemen basketball team—the best college basketball team in the country. Now I rise to applaud and celebrate the best women's basket ball team in Massachusetts—from Haverhill High School—on their championship win. These athletes have proven they possess the necessary edge to be champions and rightfully deserve heartfelt congratulations.

On Saturday, March 16, 1996, at the Worcester Centrum in Massachusetts, Haverhill won its third consecutive Division I girls crown with a 74–46 victory over Pittsfield High School. With nine seniors leading the team to victory, UMASS-bound Kelly Van Heisen netted 12 points in the championship game.

Other members of this championship team include Julie Szabo, Jaimie DeSimone, Samantha Good, Sara Jewett, Allison Godfrey, Julie Dirsa, Tricia Guertin, Cheryl Leger, Nicole Lacroix, Kelly Van Keisen, Melissa Rowe, Melissa Cerasuolo, Meghan Buckley, Heather Langlois and Caitlin Masys.

Thirteen-year head coach Kevin Woeflel had led his teams to win six State titles in the last 10 years, finished second twice and has a stunning overall record of 275–37, for a winning percentage of 88 percent.

To be a champion athlete requires dedication, perservance, skill and drive. The young women who make up this winning team possess all of these characteristics and combined them to produce a group of unbeatable champions.

I'm very proud to have such an outstanding team from my district. Success in any field demands a great deal of commitment and hard work, and it's obvious from these championship victories that these women have what it takes to win.

These incredibly talented young women have not only proven themselves to be the best this past season, but to possess a record of six championship wins in the past 10 years reflects the dedication of their coach, Mr.Kevin Woelfel. In the equation for success, effective leadership and guidance are as necessary as talent and commitment from the players.

Once again, congratulations to this winning team, and I wish you nothing but continued success as you continue on to college and throughout the rest of your lives. You are excellent role models for those who follow in your footsteps, and you are outstanding representatives of both your school and the State of Massachusetts.

CONGRATULATIONS TO SIKHS ON VAISAAKHI DAY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. BURTON of Indiana. Mr. Speaker, I rise today to recognize the 297th celebration of Vaisaakhi Day, the birthday of the Sikh nation. On Vaisaakhi Day in 1699, Guru Gobind Singh, the tenth and last Guru of the Sikh religion, formally baptized the Sikhs into nationhood, creating the order of the Khalsa Panth.

The Sikhs are a proud, hard-working, and freedom-loving people. At times they have prospered. At times they have persevered under immense tyranny. They have always conducted themselves according to the axiom uttered by Guru Gobind Singh: "Recognize ye all the human race as one."

Sikhism is a monotheistic, independent religion that should not be confused with Hinduism or Islam. Sikhism dates back to the first of the ten Sikh Gurus, Guru Nanak, born in 1469. He laid the foundation of Sikhism by preaching a simple creed based on three principles: 1.) Pray daily, meditating on God's name; 2.) Work hard and earn an honest living by the sweat of your own brow—live a family life and practice honesty in all dealings, and 3.) Be charitable, sharing the fruits of your labor with others.

Most importantly, the Guru instructed Sikhs to stand up against tyranny wherever it exists. On many occassions, Sikhs have lived up to this high calling, defending Hindus from the aggression of Mogul invaders from Afghanistan. Today Sikhs find themselves in a position of defending themselves from the brutal tyranny of the Indian Government. Over the past ten years, over 100,000 Sikhs have been killed by Indian security forces. Yet Sikhs continue to look to the spirit imbued in them on Vaisaakhi Day in 1699.

Mr. Speaker, the Sikh people remain bloody but unbowed in the face of the campaign of murder, torture and rape being waged by the Indian military. Because of India's bloody rule, the Sikh people are seeking to exercise their right to self determination and declare an independent Sikh homeland. In October 1987, three years after India's bloody assault and massacre at the Golden Temple in Amritsar, every major Sikh political group joined together to issue a declaration of nationhood and independence.

I ask all of my colleagues to support two pieces of legislation: H.R. 1425. "The Human Rights in India Act, which would cut off U.S. aid to India until it stops the human rights abuses; and House Resolutions 32, which would recognize the Sikh people's right to self-determination. America stands for freedom, human rights and democracy, and we should support these ideals.

FOR SURVIVORS OF THE ARMENIAN GENOCIDE

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. RADANOVICH. Mr. Speaker, between 1915 and 1923 the Ottoman Turkish Empire committed a terrible genocide against Armenians. In a systematic and deliberate campaign to eliminate the Armenian people and erase their culture and history of 3,000 years the Turks committed this atrocity. As a result, over one-half million Armenians were massacred. The Armenian genocide is a historical fact, and has been recognized by academicians and historians all over the world. The documentary evidence is irrefutable and beyond question. Unfortunately, the Turkish Government is still persisting in their denial that the genocide took place.

Many survivors of the genocide have made the United States their new home. On April 24, 1996 Armenians all over the world will commemorate the 81st anniversary of the Armenian genocide. Commemoration activities will occur in Washington, D.C., Los Angeles, and in my district in Fresno, California. I have

the honor of representing thousands of Armenians in California's 19th Congressional District, and I send my sincerest condolences on this solemn occasion to all members of the Armenian community. As a member of the Congressional Caucus on Armenian Issues, I intend to join my colleagues, Representatives JOHN PORTER and FRANK PALLONE in a special order on April 24, 1996 on the floor of the House of Representatives to commemorate the genocide victims.

I am an original cosponsor of House Concurrent Resolution 47 which calls on Congress to officially recognize the Armenian genocide and encourages the Republic of Turkey to do the same. This legislation would call on the Government of Turkey to turn away from its denials of the Armenian genocide, and instead, to openly acknowledge this tragic chapter in its history. By doing so, the Turkish Government can help to raise the level of trust in a strategic, yet highly unstable, region of the world and facilitate the normalization of relations between Turkey and Armenia. I encourage my colleagues to vote for the passage of H. Con. Res. 47.

Remembering this genocide against the Armenians will help ensure that this type of tragedy is never allowed to occur again.

VOL
142
PT
6
AP
15
—
24
1996
UMI

HOUSE OF REPRESENTATIVES—*Friday, April 19, 1996*

The House met at 10 a.m.

The Reverend Dr. Ronald F. Christian, Office of the Bishop, Evangelical Lutheran Church in America, Washington, DC, offered the following prayer:

Almighty God, on this day, when our thoughts are focused on the violence that is all about us, we remember, reflect, and give thanks for individuals, young and old, who innocently lost their lives as a result of that violence. When a Cain kills an Able, we must confess that all of humanity is less because of it and all of humanity is pained from the act.

From shootings on city streets to the horrors of bombings bringing great loss of life and grief to people, our hearts cry out, Why, O God, Why?

With violence so commonplace, hatred so prevalent, anger so much a part of our lives, we must pray, O God, for a new understanding of Your peace.

We pray for a peace that will allow the lion and lamb to lie down together.

And, we pray for a peace where brother or sister will not again willfully or maliciously harm another human creature in Your kingdom.

So, for a few moments, as the work of the day begins in this place, we let our souls speak to You, O God, in words and thoughts that rise up in our innermost being. May the moments and our quiet personal expressions be a fitting tribute to the many who died a year ago and throughout this year as a result of humanity's violence. May our thoughts be also prayers for all those who now are left only with memories. Let us each in our own way remember and pray.

Hear our prayers, O Lord. Amen.

MOMENT OF SILENCE IN TRIBUTE TO OKLAHOMA CITY BOMBING VICTIMS

The SPEAKER. The Chair asks the House to join in a silent prayer for 168 seconds in honor and memory of the 168 Americans who died 1 year ago in Oklahoma City.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Mississippi [Mr. MONTGOMERY] come forward and lead the House in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

EXPRESSION OF CONDOLENCES TO FAMILIES OF VICTIMS AND THE PEOPLE OF OKLAHOMA CITY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I want to rise today and on behalf of the entire House to express to the families of those who were killed 1 year ago and to the people of Oklahoma City who have borne up under such a tragedy the House's condolences, our sense of commitment to working with the people of Oklahoma City. I want to express the grief that all of us feel, both at the personal level for the loss of loved ones, for families torn apart, for children left without parents, for parents who lost children, but also to express what I think was the shock and the outrage of the whole House, and I believe of the whole country, that an American could do such a thing to other Americans.

I believe everyone in this House joins in condemning that kind of vicious and mindless violence against our fellow citizens, and on this day, in memory of the citizens of Oklahoma City, this House, I am sure, unanimously would want to extend our prayers, our concerns, and our thoughts to those families and in memory of their loved ones.

IN REMEMBRANCE OF OKLAHOMA CITY BOMBING VICTIMS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, on behalf of the minority leader, Mr. Gephardt, and from my side of the aisle, we join with the Speaker in expressing our sadness of what has happened in Oklahoma City and where 168 were killed. We just had a silence of the whole House of 168 seconds in memory of those people who did lose their lives, so we should never forget or let this happen again, if possible.

I am not sure whether we could control sad incidents such as this, but to the people and individuals who were involved in government work, visiting that facility at Oklahoma City, we certainly go out and reach for them. As mentioned by the Speaker, some of these individuals were severely wounded, and watching in the news, these persons are fighting back, they are taking their wounds and they are moving ahead, and that is what we have to do in this great country.

So on behalf of my other colleagues, this is a sad day for us. Let us hope that it will never happen again.

LIBERAL JUDICIAL APPOINTEES

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, I believe that the American peoples' values do not reflect the values of President Clinton's liberal judicial appointees. Recently, disturbing evidence has come to light about liberal judges who have let criminals off the hook because their social conscience got the best of them.

Mr. Speaker, we do not need judges who care more about criminals than they do victims. We do not need judges who try to blame society for individual wrongdoings. The American people want our judicial system to hold people personally accountable for their actions.

Mr. Speaker, one thing is clear—judges make a difference in the lives of all Americans. Judges set the benchmark for what criminals think they can get away with. President Clinton's judges do not represent the values of our citizens. The Clinton judges are letting criminals off the hook.

THE ISSUE OF CRIME

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute.)

Mr. SCARBOROUGH. Mr. Speaker, we have been talking so much about crime and about the prevention of crime, I am going to tell you, we are not going to be able to tackle the issue of crime until we get tough on criminals and, unfortunately, the Clinton administration continues to coddle criminals through the judges that they appoint.

Mr. Speaker, I am going to tell you, being from Florida, I am distressed by what a Florida judge recently wrote that was appointed by Bill Clinton. Rosemary Barkett, a Clinton judge, voted to reduce the death sentence of a murderer who sent a tape to the mother of the murdered victim, boasting about his crime and killing her daughter. Judge Barkett wrote:

> The killer's impatience for change, for understanding, for reconciliation matured into taking the illogical and drastic action of murder. His frustration, anger and obsession of injustice overcame reason. The murder victim was a symbolic representation of the class which caused the perceived injustices.

She went on to say he matured into the decision of killing this person, then bragging about it by mailing a tape to the mother of the murdered victim. And so she reduced the sentence. Let me tell you over the next 4 years, President Clinton or President Dole will elect and select one out of every four Federal judges that we appoint. It does not matter what laws we pass in this Chamber, so long as the President nominates justices that coddle criminals. We have got to get tough on crime by pushing the existing laws that we have and not by making new ones.

LIBERALS AND CRIME

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, well, we have just heard it, today we are celebrating that sad tragedy of a year ago, and while this House and the liberals talk about taking away private citizens' right to own a weapon, we do almost nothing to those heinous killers and criminals who violate society's rules. We have heard about Harold Baer until we are sick of it. Harold Baer decides that it is OK to run away from policemen. From kindergarten we are taught policemen are our friends and we, even if a red light is in front of them and they tell to you go through the light, do what the policeman says.

They run away from the policeman and Harold Baer says that is a natural thing to do in that neighborhood so they should not have searched the poor, sorry individual who only had 80 pounds of cocaine in the trunk of their car.

Then Rosemary Barkett, who we just heard about, and I am going to read her famous line because nobody could even believe this. She says this about a killer who killed someone and then sent a tape recording mocking the killing to the victim's mother. This is what she said about that inhuman human being:

> His impatience for change, for understanding, for reconciliation matured to taking the illogical and drastic action of murder. His frustration, his anger and his obsession of injustice overcame reason. The murder victim was a symbolic representation of the class which caused the perceived injustice.

You talk about it is society's fault, what nonsense. Let us get a new President and some new judges.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PETRI). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE OKLAHOMA CITY TRAGEDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, today, on the first anniversary of the tragedy that shook Oklahoma City and the entire Nation, I join with my colleagues on both sides of the aisle in offering condolences to the friends and families of those who lost their lives—gratitude to those Federal workers and citizens whose bravery saved lives—and resolve to do all we can to prevent such acts of hateful terrorism and violence from happening again.

No words or deeds of this Congress can ever bring back the dedicated public servants, citizens, and innocent children who lost their lives in the Oklahoma City bombing. Even 1 year after this awful tragedy, it is hard to find meaning in their loss—to make sense of the random hatred they suffered. And as we move toward enacting crucial antiterrorism legislation in the Congress, the image of those who lost their lives 1 year ago—especially the precious young children—reminds us of how fragile human life can be, and how each day is truly a blessing for ourselves and for our families.

My hope is that by remembering what happened on April 19, 1995, we will not only redouble our efforts to secure the safety and security of our citizens—beyond all boundaries of party or partisanship—but that we will also come to appreciate the gifts of service and citizenship we receive from our fellow Americans each and every day. Such gifts, like the good works of those who died in Oklahoma City and those who risked their lives to save others, are all too easy to take for granted.

THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 5 minutes.

Mr. SCARBOROUGH. Mr. Speaker, there has been so much debate over the past 6 months to 1 year over the balanced budget, and the budget battle, and Americans have been so swept away with sort of the currents of the demagoguery that is coming out of the White House and the debate that is going back and forth that we have really lost sight of really what has been happening here.

We have been governing by CR, continuing resolutions, where, since we cannot get the President to agree to a balanced budget deal, we go from month to month to month. I have been disappointed that we have not been able to get a balanced budget and wish that we could have moved swifter, wished that we would have had a President that would have signed the first balanced budget plan in a generation. But I found out something very interesting this past week.

What I found out was, even governing by CR, we are ahead of schedule to balancing the budget. We are further along on that 7-year track to balancing the budget than we would have been even if we had passed our 7-year plan last year. And this is great news. On the front page of Investors' Business Daily this morning, had a wonderful quote. The quote said that, while Bill Clinton has been winning the PR battle with the public, the Republicans have been quietly winning the war. This is great news for all of America today.

Mr. Speaker, I yield to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. It is good news, and I try and keep this fact well hidden, but I am one of the few budget analysts on the floor. For 4 years I worked for the department of finance in the State of California. If I had had a little more personality, I would have become an accountant. But studying these figures, what we found out was we cannot change the way Washington does business. Over two-thirds of our budget is entitlements locked into law. That means an entitlement is when you show up at the window and you say, I would like some money, the Government shells it out. Until you change those laws, either requiring work from welfare recipients or requiring that people be citizens or making these other changes in laws, you are going to have the budget on automatic pilot.

Where we have made the improvements is in the discretionary funds, that small area outside of defense and outside of the entitlement areas where we can change. But there is only so much longer you can squeeze the parts in the other areas of the budget to make them efficient. It would be like asking IBM to get all of their salary savings out of the clerical help and not to do it out of the executives or any of the sales force. So IBM has to have a more balanced view as they try and downsize their corporate structure in order to make themselves profitable.

We in Government have to do the same thing. We have to change the entitlement process to make sure those people who receive a Government check are actually in need. That is what our welfare reform is about, and that is what all of the changes in immigration are about.

Mr. SCARBOROUGH. Mr. Speaker, there has been a lot of discussion, especially during the presidential campaigns that Americans do not care about balancing the budget, Americans have moved their attention to something else. I can tell you that I got elected and the majority of the 73 freshmen, Republican freshmen got elected in 1994 because we promised

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL
142
PT
6
AP
15
—
24
1996
UMI

first and foremost to balance the budget.

Social issues aside, all this other stuff aside, we said we were going to spend only as much money as we take in. We are going to balance the budget. I am still hearing Americans tell me, at the 75 townhall meetings I have held over the past year and a half, they are still saying the same thing: Balance the budget, get Washington's business in order and you guys live by the same rules that we have to live by across the country. So this is great news.

Mr. BAKER of California. Mr. Speaker, if the gentleman will yield for one more thought, that is this is not even partisan. The demographics are what are crushing us. When the baby boomers, people younger than me, even, retire, 37 million people are going to stop paying 16 percent to Social Security and welfare and SDI, and they are going to start receiving.

Mr. SCARBOROUGH. Right.

Mr. BAKER of California. The ship goes upside down. This is not debate over whether we want to balance or whether we want to stop living off our grandkids.

Mr. SCARBOROUGH. Sure.

Mr. BAKER of California. By 2010 it is over. We have 14 to 16 years to straighten this out. While the others drag their feet, my own Senator ran ads saying, I will vote for the balanced budget, vote for me. She got here and reneged. It was the one vote that killed the balanced budget amendment.

We do not have the luxury any longer to debate whether. It is when and how, and those are tough decisions. I have projects in my district that I would like to see expanded, too, but we are going to have to suck it up, take our medicine and balance this budget. I appreciate the gentleman bringing up the point.

Mr. SCARBOROUGH. Reclaiming my time, you said something very important. This is not an ideological issue. If the environment is important to you, if you think we need to fund environmental cleanups, if somebody thinks that welfare is poverty to them, if somebody thinks Social Security is important, defense, it does not matter what the issue is.

MORE ON THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BAKER] is recognized for 5 minutes.

Mr. BAKER of California. Mr. Speaker, I yield to the gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. I was just going to say, regardless of what is important to you on issues, we must balance the budget first. We have got to make sure that on April 15 that Americans are not paying more of their tax money to service the debt than take care of the things that Government needs to take care of.

Again, the news today is great news. I read the news today, great news. We are actually winning the war against the deficit despite the fact we have had no cooperation from the White House.

Mr. BAKER of California. Mr. Speaker, next year we will go over the line. We spent more on the interest on the national debt than we do on defense. You know, this President is not hesitant about deploying our troops in all kinds of foreign wars. We have to say strong in defense. Interest on the national debt will exceed what we spend on defense.

Mr. SCARBOROUGH. The same people that vote against balanced budget are the same people that say we are spending too much money on defense.

Mr. BAKER of California. Fifteen percent of the budget.

Mr. SCARBOROUGH. If we are spending too much money on defense, we are really spending too much money on interest on the Federal debt. I say it is time we do what middle-class Americans have done for years, spend only as much money as you take in, balance the budget and cause an economic revival in this country that is unprecedented that will lift all the boats.

Mr. BAKER of California. Amen.

Mr. SCARBOROUGH. Mr. Speaker, I thank the gentleman.

CYNICISM IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, this is the anniversary of the Oklahoma explosion, which made everybody stop in their tracks and ask very deep questions about the cynicism that is raging in America and about the cynicism that has been unleashed, I think most unfairly, on Government employees. They have been the scapegoats for so much of talk radio, so much of the hate that has been unleashed.

A year ago today, we suddenly saw the faces of Federal employees, that they were like us, that they had families, they were hard-working, they were there, they were trying to live their lives and serve their country. Suddenly, many of their lives stopped or many of their lives will never be the same. I hope that we continue to fight very hard to come out of this big hole of cynicism that we have dug ourselves in.

I remind people that the word "cynic" comes from the old Greek word about yapping dogs. Cynics really do not contribute anything positive, they just yap, yap, yap, yap, yap. And that type of thing ends up in destruction. It is very easy to destroy things. It is very difficult to rebuild. So if anyone has criticism, fine, but then tell us what you are going to do about it after your criticize.

I must also say, as I rise today to talk about this year anniversary, how very proud I am of my congressional district. Denver, CO, has been selected as the place to have the trial for the outcome of this Oklahoma explosion. Obviously the citizens of Denver were not particularly thrilled about that for fear that it just painted a big bull's eye on them for all sorts of security problems at our own Federal building, which is where the Federal courthouse is near, and all the other issues that might come from this trial, which will clearly be a very high-profile trial.

Yet, as we all know, as citizens, it is our part to make sure everybody gets a fair trial. It was determined a fair trial probably could not be held in Oklahoma City. So Denver, Colorado bit its lip and said OK, we have to do our part. I guess this goes on. This big media carnival will go on there, and we only hope justice comes out of the media carnival rather than something else. But in the interim, one of the very moving things that has happened that Coloradans have done has been their reaching out to the families of the Oklahoma victims. Many of the Oklahoma victims' families want to be present at these trials, want to come and want to see justice be done, want to sit in the courtrooms, want to participate in some way or another, to make sure that this awful, awful tragedy does not go totally without anyone paying a price and they want to do that.

Yet, for them to come to Colorado is expensive for them, to stay in Colorado is expensive. The amazing thing that has been happening in Colorado is, as we hear these stories, the number of people, churches, community centers and everyone that have said we will open our doors. People can stay here. We will try and help fund folks who want to come and be here to help them through this grieving period and to try and make sure that they can witness this system that we call justice and we hope ends up being that I think is very moving.

So the saga of what Oklahoma City has done for Americans continues. It continues in my district by people continuing to reach out and try to help those who were struggling to deal with this as we are all struggling to deal in our own way with this. But I must say we also need to not only just tend to the wounds that came. Let us look at what caused those wounds to come, and it is the cynicism that has been unleashed in an unchecked manner in this country. Until we get that cynicism under control, there are no guarantees that this cannot happen again.

So, yes, continue to reach out, but also I hope everybody starts looking into what they have been doing and have they been contributing to the

cynicism or have they been really trying to get on to constructive criticism. There is a huge difference between those two things. Somehow I think in the 1990's we forgot that distinction. Let us revitalize it.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. MONTGOMERY) to revise and extend his remarks and include extraneous material:)

Mr. GEPHARDT, for 5 minutes, today.

(The following Members (at the request of Mr. SCARBOROUGH) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes each day on April 19 and 22.

Mr. SCARBOROUGH, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Mrs. SCHROEDER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BAKER of California, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. MONTGOMERY) and to include extraneous matter:)

Mr. LANTOS.

ADJOURNMENT

Mrs. SCHROEDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 29 minutes a.m.), under its previous order, the House adjourned until Monday, April 22, 1996, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2421. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule and interim rules—amending the Defense Federal Acquisition Regulation Supplement [DFARS], pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

2422. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the People's Republic of China (China), pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

2423. A letter from the Director, Financial Crimes Enforcement Network, transmitting the Network's interim rule—exemptions from the requirement to report large currency transactions pursuant to the Bank Secrecy Act, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

2424. A letter from the Director, Audit Oversight and Liaison, General Accounting Office, transmitting a report entitled, "Financial Audit: U.S. Government Printing Office's Financial Statements for Fiscal Year 1995" (GAO/AIMD–96–52) April 1996, pursuant to 31 U.S.C. 9106(a); to the Committee on Government Reform and Oversight.

2425. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2426. A letter from the Postmaster General, CEO, U.S. Postal Service, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2427. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing news stories and candidate debates staged by cable television organizations (11 CFR Parts 100, 110, and 114), pursuant to 2 U.S.C. 438(d)(1); to the Committee on House Oversight.

2428. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

2429. A letter from the Clerk, U.S. Court of Appeals, District of Columbia Circuit, transmitting an opinion of the U.S. Court of Appeals for the District of Columbia Circuit (No. 95–7051—*Fawn Mining* v. *Hudson*) April 5, 1996; to the Committee on Ways and Means.

2430. A letter from the Director, Audit Oversight and Liaison, General Accounting Office, transmitting a report entitled, "Financial Audit: Independent Counsel Expenditures for the Six Months Ended September 30, 1995" (GAO/AIMD–96–67) March 1996, pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Reform and Oversight and the Judiciary.

2431. A letter from the Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, transmitting the Administration's final rule—implementing provisions of the Domestic Chemical Diversion Control Act of 1993, pursuant to 5 U.S.C. 801(a)(1)(A); jointly, to the Committees on the Judiciary and Commerce.

2432. A letter from the Secretary of Veterans Affairs, transmitting the Department's sixth report describing the administration of the Montgomery GI bill—active duty educational assistance program, pursuant to 38 U.S.C. 3036; jointly, to the Committees on Veterans' Affairs and National Security.

2433. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes; jointly, to the Committees on National Security, Ways and Means, Transportation and Infrastructure, Commerce, and International Relations.

MEMORIALS

Under clause 4 of rule XXII,

217. The SPEAKER presented a memorial of the House of Representatives of the State of Georgia, relative to urging the U.S. Congress to appropriate funds at the fully authorized level for payments in lieu of taxes to local governments; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1050: Ms. WATERS.
H.R. 2976: Mr. NETHERCUTT.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

Petition 12 by Mrs. SMITH of Washington on House Resolution 373: Jack Metcalf, Thomas M. Foglietta, Thomas M. Davis, Fortney Pete Stark, Richard J. Durbin, Brian P. Bilbray, Patrick J. Kennedy, Joseph P. Kennedy II, Paul McHale, Sidney R. Yates.

VOL
142
PT
6
AP
15
—
24
1996
UMI

SENATE—*Friday, April 19, 1996*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, a year ago at this very hour we were shocked and stunned by the catastrophic bombing of the Federal building in Oklahoma City. At this sacred moment of remembered grief, we join with millions of people across our land in mourning for the victims, especially the children, of this violent terrorism.

We ask You very specifically for two things this morning. Dear God, bless the families of these victims. Heal their grief and grant them a special sense of Your comfort and strength. May the outpouring of love from all over our Nation be a balm in the raw nerves and the aching wounds of their pain and anguish. And then, Holy Lord, press us forward in our battle against the fanatical forces of organized terrorism.

We thank You for the decisive legislation passed by this Senate. Now we unite our hearts in prayer that You will stay the hand of those who willfully cause suffering through acts of violent destruction. Rise up with mighty indignation, O God, and save our land from this danger. Lord God of Hosts, be with us lest we forget, lest we forget. In the name of our Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

EXPRESSING THE SENSE OF THE SENATE ON THE ANNIVERSARY OF THE OKLAHOMA CITY BOMBING

Mr. DOLE. I send a resolution to the desk and ask that its title be read.

The PRESIDENT pro tempore. The Secretary will read the resolution.

The Secretary of the Senate read as follows:

A resolution (S. Res. 249) expressing the sense of the Senate on the anniversary of the Oklahoma City bombing.

Mr. DOLE. I ask unanimous consent that the resolution and its preamble be agreed to.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 249) was agreed to.

The preamble was agreed to.

Mr. DOLE. Mr. President, the resolution just agreed to expresses the sense of the Senate on this first anniversary of the tragic Oklahoma City bombing that took 168 lives. One of the provisions of the resolution is that the Senate join with the Nation in observing a moment of silence at 9:02 a.m. central daylight time. That moment now having arrived, I invite all Senators to join with me and with the staffs of Senators NICKLES and INHOFE who are in the gallery in observing 168 seconds of silence.

[A period of silence.]

Mr. DOLE. Mr. President, I now ask that the entire resolution be read.

The PRESIDENT pro tempore. The resolution will be read.

The Secretary of the Senate read as follows:

Whereas, on Wednesday, April 19, 1995, at 9:02 a.m. Central Daylight Time, a bomb exploded at the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, collapsing the north face of this nine-story building, killing 168 men, women, and children and injuring scores of other innocent victims;

Whereas, today, Friday, April 19, 1996, marks the one-year anniversary of this tragic event which is without equal in our nation's history;

Whereas, in the words of the Reverend Billy Graham to the families and survivors, "Someday the wounds will heal, and someday those who thought they could sew chaos and discord will be brought to justice. The wounds of this tragedy are deep, but the courage and the faith and determination of the people of Oklahoma City are even deeper";

Whereas, this was the deadliest terrorist attack ever on U.S. soil; and

Whereas, the United States Senate passed by an overwhelming margin the Comprehensive Terrorism Prevention Act on Wednesday, April 17, 1996; Now therefore be it

Resolved, That the Senate of the United States:

Observes a moment of silence at 9:02 a.m. Central Daylight Time in remembrance of the innocent children and adults who lost their lives or were injured in this heinous attack one year ago;

Remembers the families, friends, and loved ones of those whose lives were taken away by this abhorrent act;

Salutes the people of Oklahoma for the courage, faith and determination they have exhibited throughout the past year;

Commends the rescuers, federal agencies and countless volunteers who gave of themselves and their resources to provide aid and relief;

Commends the federal employees from across the nation who came to the aid of their co-workers during this crisis; and

Reaffirms its trust in our system of justice to ensure that the perpetrators of this heinous crime be convicted and appropriately punished so that justice may be served and carried out swiftly.

Mr. DOLE. Mr. President, I have long been inspired by the Kansas State motto: "To the Stars Through Difficulties."

The people of Oklahoma have persevered this past year through almost unimaginable difficulties with grace, with grit, and with courage. Our thoughts and prayers will remain with them as they continue to reach for the stars.

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

● Mr. NICKLES. Mr. President, today, we look back from the distance of a year's time to a tragic event without equal in our Nation's history. It is still almost impossible to believe that it actually happened—that such an abhorrent, evil act could have been committed in the heartland of America.

However, Oklahomans did not suffer through this tragedy alone. The sheer enormity of it drew the entire Nation to our side. People thought, "If something like this could happen in Oklahoma City, it could happen anywhere."

It was that awareness, I believe, coupled with the innate goodness of the American people that brought the flood of rescuers from all corners of the Nation. They came as strangers and left as friends. We will never forget them. They made us know we were not alone.

I know for many this first awful anniversary brings back the pain with a fresh intensity. But we should also recall the words of the Reverend Billy Graham who, at a memorial service in the aftermath of this evil deed, gave us hope.

He said, "Someday the wounds will heal, and someday those who thought they could sow chaos and discord will be brought to justice. The wounds of this tragedy are deep, but the courage and the faith and determination of the people of Oklahoma City are even deeper."

He was right.

We are introducing this sense-of-the-Senate resolution today because we remember. This resolution calls for a moment of silence at 9:02 a.m. central daylight time in remembrance of the innocent children and adults who lost their lives one year ago.

We remember the families, friends, and loved ones of those innocent victims, and we send you our sincerest prayers.

We remember the countless hundreds who were injured, physically and emotionally by the blast.

We remember the many more from all corners of the state and all corners of the Nation who came together to help in the rescue process and then in the healing process.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

And we also are introducing this resolution because we recognize and pay tribute to the spirit of recovery, courage, and faith that has been an example and an encouragement to everyone.

I have never been more proud to be an Oklahoman.

In honor of those who lost their lives, I ask that their names be printed in the RECORD at this point.

The names are as follows:

Victims of the Oklahoma City Bombing

Names	*Ages*
Charles E. Hurlburt	73
John Karl Vaness III	67
Anna Jean Hurlburt	67
Donald Lee Fritzler	64
Eula Leigh Mitchell	64
Donald Earl Burns, Sr.	63
Norma Jean Johnson	62
Calvin C. Battle	62
Laura Jane Garrison	61
Olen Burl Bloomer	61
Luther Hartman Treanor	61
Kathy Cregan	60
Rheta Ione Bender Long	60
Raymond Johnson	59
Juretta Colleen Guiles	59
Robert Glen Westberry	57
Carolyn Ann Kreymborg	57
Leora Lee Sells	57
Mary Anne Fritzler	57
Virginia Mae Thompson	56
Peola Y. Battle	56
Peter Robert Avillanoza	56
Richard Leroy Cummins	55
Ronald Vernon Harding	55
LaRue Ann Treanor	55
Ethel Louise Griffin	55
Antonio C. Reyes	55
Thompson Eugene Hodges, Jr.	54
Alvin Junior Justes	54
Margaret Goodson	54
Oleta Christine Biddy	54
David Jack Walker	54
James Anthony McCarthy	53
Carol L. Bowers	53
Linda Coleen Housley	53
John Albert Youngblood	52
Robert Nolan Walker, Jr.	52
Thomas Lynn Hawthorne, Sr.	52
Robert Chipman	51
Dolores Marie Stratton	51
Jules Alfonso Valdez	51
John Thomas Stewart	51
Mickey Bryant Maroney	50
John Clayton Moss III	50
Carole Sue Khalil	50
Emilio Tapia-Rangel	50
James Everette Boles	50
Donald R. Leonard	50
Castine Deveroux	49
Clarence Eugene Wilson	49
Wanda Lee Watkins	49
Michael Lee Loudenslager	48
Carrol June Fields	48
Frances Ann Williams	48
Claudine Ritter	48
Ted Leon Allen	48
Linda Gail Griffin McKinney	47
Patricia "Trish" Ann Nix	47
Betsy Janice McGonnell	47
David Neil Burkett	47
Michael George Thompson	47
Catherine Mary Leinen	47
Sharon Louise Wood Chesnut	47
Ricky Lee Tomlin	46
Larry James Jones	46
Richard Arthur Allen	46
Harley Richard Cottingham	46
Lanny Lee David Scroggins	46
Gilberto Martinez	45
George Michael Howard	45
Jerry Lee Parker	45
Judy Joann Fisher	45
Diane Elaine Hollingsworth Althouse	45
Michael D. Weaver	45
Robert Lee Luster, Jr	45
Peter Leslie DeMaster	44
Katherine Ann Finley	44
Doris Adele Higginbottom	44
Steven Douglas Curry	44
Michael Joe Carrillo	44
Cheryl E. Bradley Hammon	44
Aurelia Donna Luster	43
Linda L. Florence	43
Claudette Meek	43
William Stephen Williams	42
Johnny Allen Wade	42
Larry Laverne Turner	42
Brenda Faye Daniels	42
Margaret Louise Clark Spencer	42
Paul Gregory Broxterman	42
Paul Douglas Ice	42
Woodrow Clifford "Woody" Brady	41
Clause Arthur Medearis	41
Teresa Lea Lauderdale	41
Terry Smith Rees	41
Alan Gerald Whicher	40
Lola Renee Bolden	40
Kathy Lynn Seidl	39
Kimberly Kay Clark	39
Mary Leasure Rentie	39
Diana Lynn Day	38
Rebecca Anderson	37
Robin Ann Huff	37
Peggy Louise Jenkins Holland	37
Victoria Jeanette Texter	37
Susan Jane Ferrell	37
Kenneth Glenn McCullough	36
Victoria Lee Sohn	36
Pamela Denise Argo	36
Rona Linn Chafey	35
Jo Ann Whittenberg	35
Gilbert Xavier Martinez	35
Wanda Lee Howell	34
Saundra Gail "Sandy" Avery	34
James Kenneth Martin	34
Lucio Aleman, Jr.	33
Valerie Jo Koelsch	33
Teresa Antionette Alexander	33
Kim Robin Cousins	33
Michelle Ann Reeder	33
Andrea Y. Blanton	33
Karen Gist Carr	32
Christi Yolanda Jenkins	32
Jamie Lee Genzer	32
Trudy Rigney	32
Ronota Ann Woodbridge	31
Benjamin Laranzo Davis	29
Kimberly Ruth Burgess	29
Tresia Jo Mathes-Worton	28
Mark Allen Bolte	28
Randolph Guzman	28
Sheila R. Gigger Driver	28
Karan Denise Shepherd	27
Sonja Lynn Sanders	27
Derwin Wade Miller	27
Jill Diane Randolph	27
Anita Hightower	27
Carrie Ann Lenz	26
Cynthia Lynn Campbell Brown	26
Cassandra K. Booker	25
Shelly Deann (Turner) Bland	25
Scott Dwain Williams	24
Dana LeAnne Cooper	24
Kathry Ridley	24
Julie Marie Welch	23
Frankie Ann Merrell	23
Christine Nicole Rosas	22
Lakesha Levy	21
Cartney J. McRaven	19
Aaron M. Coverdale	5
Ashley Megan Eckles	4
Zackary Taylor Chavez	3
Kayla Marie Haddock	3
Peachlyn Bradley	3
Chase Dalton Smith	3
Anthony Christopher Cooper II	2
Colton Smith	2
Elijah Coverdale	2
Dominique R. London	2
Baylee Almon	1
Jaci Rae Coyne	1
Blake Ryan Kennedy	1
Tevin D'Aundrae Garrett	1
Danielle Nicole Bell	1
Tylor S. Eaves	8 months
Antonio Ansara Cooper, Jr.	6 months
Kevin Lee Gottshall II	6 months
Gabreon Bruce	4 months●

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

● Mr. INHOFE. Mr. President, the 1-year anniversary of the bombing of the Murrah Federal Building in Oklahoma City reminds us of many things. We recall the emotional shock and grief. We visualize the physical destruction and devastation. We revisit the still unanswered questions: Why this terrible deed and why Oklahoma, of all places?

But at the same time, we must also remember the remarkable flowering of the true spirit of our great Nation. In the wake of unspeakable pain and adversity, there came extraordinary acts of heroism, compassion, and voluntarism. There came a unity of purpose and strength of faith few would have believed possible.

We were moved beyond words by the outpouring of help and assistance which came without solicitation from friends far and wide, from caring individuals, public servants, private organizations, and communities throughout Oklahoma and throughout America. We were reminded what a truly great country this is and how blessed we are here in the land of the free and the home of the brave.

On behalf of all of us in Oklahoma, thank you, America. Thank you for helping. Thank you for caring. Thank you for being there in this most difficult time of need.

Nothing anyone can do will erase the indelible scars, pain, and loss that innocent citizens in our State have suffered. But the memories of the generosity and compassion displayed by so many will live in our hearts forever.●

Mr. DOLE. Let me now yield to my distinguished colleague from Illinois.

Ms. MOSELEY-BRAUN. I thank the Senator.

I join my colleague, the majority leader, in his prayers for the families of the victims of the Oklahoma City bombing and the entire American family for the great tragedy that event caused to all of us.

REMEMBERING THOSE WHO LOST THEIR LIVES IN BOSNIA

Ms. MOSELEY-BRAUN. At this time, Mr. President, I also call upon my colleagues and the American people to offer a prayer in behalf of the late Secretary of Commerce, Ron Brown, and

VOL
142
PT
6
AP
15
—
24
1996
UMI

the 34 others who died with him that tragic day in Bosnia. They were serving our Nation. They were pursuing the goals of peace, and their deaths all came too soon. Because of those losses, as a country we have lost so much.

I appreciate the majority leader giving us this opportunity to express our great sympathy and condolences to their families and again to give us a chance to reaffirm the mission; that they have all given their lives in pursuit of the higher goals of our Nation.

Thank you very much, Mr. President. I yield the floor.

Mr. DOLE. I now ask, in response to the statement by my colleague from Illinois, that we now observe a moment of silence in honor of the memory of Ron Brown and others who died in that tragic accident.

[A period of silence.]

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

MORNING BUSINESS

Mr. KERREY. Mr. President, is the order morning business?

The PRESIDING OFFICER. The Senator is correct. We are in morning business, but the first part of morning business is controlled by the Senator from Georgia, Senator COVERDELL.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I ask unanimous consent to speak for 5 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I wonder if following the Senator, I could speak for 4 minutes in morning business?

Mr. COVERDELL. Mr. President, reserving the right to object, I say to the Senator from Alaska, we have people trying to catch aircraft. Is it an absolute necessity he have the time? Otherwise, on the time we control, I am trying to accommodate people who are trying to catch aircraft, so I cannot relinquish and relinquish. Does that create a problem for my colleague?

Mr. MURKOWSKI. What is the order of business, if I may ask the Chair?

The PRESIDING OFFICER. The order of business at the present time is we are in morning business and the Senator from Nebraska, under a previous order, has 5 minutes.

Mr. COVERDELL. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Is it not true the Senator from Georgia has control of 1 hour and 15 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. COVERDELL. We relinquished 5 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. That is correct. The Senator from Nebraska is recognized.

Mr. MURKOWSKI. The Senator from Alaska has asked for 4 minutes following the Senator from Nebraska.

The PRESIDING OFFICER. Is there objection?

Mr. COVERDELL. Reserving the right to object, I am going to grant the 4 minutes, but I want it to be known that I will ask to recover these 10 minutes at the end of it, because we have people who are lined up. Again, I am trying to accommodate people, so this will be the last I will acknowledge.

The PRESIDING OFFICER. Without objection, the time will not be taken out of the time of the Senator from Georgia.

The Senator from Nebraska is recognized.

IRAN-BOSNIA

Mr. KERREY. Mr. President, I rise to discuss the investigation which the Select Committee on Intelligence has undertaken at the majority leader's request regarding allegations that the administration may have secretly acquiesced in or facilitated Iranian arms shipments to the Bosnian Moslems in 1994 and 1995, in violation of stated United States policy. This is a serious request made by a Senator long involved with United States policy in Bosnia. Some have said this request was made for political reasons. Perhaps that is the case. But there is also sufficient reason to believe the Senator from Kansas would have made this request regardless of the political climate or season.

The Intelligence Committee begins this task with a solid base of information because we received some, but not all, of the intelligence available to the administration at the time the Iranian arms shipments were occurring. Our committee has been reviewing and adding to that information base in the 2 weeks since Chairman SPECTER received the majority leader's request. We are well positioned to do a through job for the Senate on the sensitive intelligence issues surrounding this matter, particularly the question of whether or not the administration conducted a covert action without informing Congress.

In addition to our familiarity with the topic, the Intelligence Committee is also likely to do a good job on its part of this investigation because we are a bipartisan committee. In setting the strength and composition of the committee, the Senate directed, in Senate Resolution 400, that our membership be close to balance at nine majority members and eight minority, regardless of the composition of the Senate floor, and that the senior minority member function as a vice chairman, not as a ranking member. In creating the Intelligence Committee, the Senate clearly believed that intelligence was too sensitive to be overseen in a partisan, adversarial manner. Chairman SPECTER approaches his leadership duties on the committee in that nonpartisan spirit, and so do I.

The history of this committee is replete with conduct like that of Senators COHEN and WARNER, BOREN, NUNN, MOYNIHAN, and others, who have come to this committee and said we are not going to serve in a partisan fashion. We are not going to answer the call of our party, we are going to answer the call of our country. The present and future course of this committee should as well.

Open allegations against the administration, and a requirement to investigate those allegations, can strain even the most sincere commitment to bipartisanship. Those strains have not yet been felt in the Intelligence Committee in this case. Chairman SPECTER and I have tasked a single group of professional staff to support all committee members and all information which comes into the committee's hands will be shared equally with all members. This is the way we have always operated.

As for myself, I don't see the vice chairman's role to be an advocate of the administration. As we pursue questions, I will not be a Democratic Senator defending fellow Democrats, but rather a U.S. Senator following the facts wherever they lead and reaching a conclusion based on those facts. I am confident Chairman SPECTER feels the same way about his role.

I spoke of the Intelligence Committee's readiness to do a thorough job. Our thoroughness will be improved if we get all the relevant information from the administration. As many colleagues are aware, the committee has been denied the opportunity to read the intelligence oversight board's report on this case. The implication is clear that if we subpoena the report, the President will assert executive privilege.

The intelligence oversight board is wholly within the Executive Office of the President, so there may be legitimate executive privilege here. But if the report is off limits to Congress, then the administration should not cite the report as having determined

that no covert action occurred. The administration can't have it both ways. They should either give Congress the report, or stop citing it as vindication.

An Associated Press story yesterday quoted a White House spokeswoman, Mary Ellen Glynn, saying, "the point is not to withhold information. The point is to protect sources." Mr. President, this rationale for denying information to Congress has no basis. The Intelligence Committee has received and stored the most highly classified material for years, and its record for protecting sources and methods is far better than that of the executive branch. So security is simply no excuse, and an invalid reason to deny information to Congress. My advice to the administration is, fully inform Congress.

The committee lacks all the facts, but on the basis of what we have, I do not see evidence of a covert action. But I stress that is a preliminary assessment and not a conclusion. I am open to the evidence. Certainly, if there was a covert action, Congress should have been informed, and the Intelligence Committee received no such information. If press reports are correct, in later 1994 CIA Director Woolsey sensed from information he was getting from CIA channels that a United States covert action, an action he and presumably other CIA personnel were not privy to, was in progress in Croatia. Director Woolsey reportedly came to the White House with his concerns. The Intelligence Committee needs to know what evidence was the basis of Director Woolsey's concerns. We also need to know why he did not share his concerns with the oversight committees.

Mr. President, my interest in getting to the bottom of this case is not based solely on the majority leader's request. In my view, if the press reports are correct, the United States chose a course of action in Croatia and Bosnia with very serious down-side risks. The Bosnian situation was and is exceptionally complex and presented few good options to policymakers. But our alignment with Iran, even if it was a passive and accidental alignment, was very dangerous. Every President since Jimmy Carter has declared a state of emergency with respect to Iran, and United States laws and Executive orders have embargoed imports from Iran, limited United States exports to Iran, banned United States trade and investment in Iran including the trading of Iranian oil overseas by United States companies or their foreign affiliates, and placed sanctions on persons or countries who supply Iran with any goods or technologies that could contribute to Iran getting destabilizing conventional weapons or any weapons of mass destruction technology. These laws and Executive orders are there for a reason: to contain and isolate a country which conducts and supports terrorism and attempts to proliferate nuclear and chemical weapons. A policy which depends on such an amoral country to arm the otherwise defenseless Bosnian Moslems is dangerous—not merely politically dangerous, but potentially threatening to our allies and eventually to our own forces, when they deployed a year later. To turn a blind eye to Iranian shipments is to turn a blind eye to the possibility of United States casualties at the hands of the very people we have allowed to be armed, especially with a United States deployment imminent.

Critics of this policy have to admit an inconvenient fact: risky as it was, the policy worked. Our allies did not pull their forces summarily out of the former Yugoslavia, which they might have done if we had unilaterally lifted the arms embargo. The Bosnian Moslems were not overwhelmed; in fact, they defended themselves creditably and even went on the offensive. The policy brought about a balance which made possible the Dayton Accords and the peace which IFOR is enforcing today.

But even though the administration's risky Bosnia policy has worked, at least so far, the Intelligence Committee is obligated to investigate whatever may have been the United States role in the Iranian arms shipment. I take that obligation very seriously, and I look forward to joining with my chairman in rendering a full report.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my distinguished colleagues from Alaska and Georgia for yielding me a moment. I compliment my distinguished colleague from Nebraska for his eloquent statement. I think it is very important, as Senator KERREY has outlined, the bipartisan, nonpartisan nature of the Intelligence Committee being emphasized.

As Senator KERREY, I approach this investigation with a total open mind and no predisposition and determination to see the inquiry is totally nonpolitical, bipartisan, nonpartisan, as we take a look at the shipment of Iranian arms to the Bosnian Moslems.

I thank my colleagues and yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska is recognized.

IN THE SPIRIT OF EARTH DAY

Mr. MURKOWSKI. I thank the Chair and my colleague.

Mr. President, on the eve of Earth Day, I want to alert Members of legislation that I will be introducing to help raise funds from the private sector to support our national parks, particularly with regard to repair. In this regard, I think it is appropriate that we thank the thousands of people and organizations who are answering the call to help repair and preserve an important part of this Nation's past and future: the historic C&O Canal.

That canal extends 184 miles between Cumberland, MD, and Georgetown in the District of Columbia. The C&O Canal National Historic Park is a major recreation attraction and a part of our national heritage. As we know, the flooding of the Potomac River in the blizzard of 1996 has taken a heavy toll. Repairs require funds at a time when our Federal budget is already stretched to the hilt.

That is where the sweat and ingenuity of the private sector is going to come in. Let me tell you about it, because it is going to come in a big way.

In the spirit of Earth Day, which asks every one of us to do what he or she can to help make the Earth a better place, people and organizations are rising to the challenge and giving their money, time, and effort.

The National Parks and Conservation Association, with the help of WRC–TV Channel 4 and others, has organized and publicized tomorrow's March for Parks along the canal route. The purpose is to raise funds for the canal. These organizations have done an outstanding job on the project and thousands of dollars are already pouring in. They are doing a wonderful service to the Nation.

In an effort to keep these private donations coming in, I am today announcing the introduction of legislation which will help raise as much as $100 million in each year in support of our national parks, specifically for repairs.

First, the legislation will revitalize and expand the scope of the operation of the National Park Foundation so it can work with the private sector to raise additional funds for parks. It would encourage business relationships similar to those engaged by the National Fish and Wildlife Foundation and the National Forest Foundation.

Second, it will grant the sort of authority already enjoyed by the U.S. Olympic Committee to sanction appropriate private sponsorship of the parks.

Third, each year publishing, advertising, movie making, and similar pursuits make use of the intellectual property and assets of our national parks with virtually no return to the parks. Reform is needed to enable the Park Service, through the National Park Foundation, to capture some of the potential income through licensing and other marketing agreements.

Fourth, the legislation will contain safeguards to negate improper commercialization of our parks, but it will allow new revenue-generated opportunities outside the parks in partnership with the private sector.

The National Park Foundation was created by Congress in 1967 as an official nonprofit partner of the National

Park Service. It serves as a vehicle for donors who want to contribute with the assurance that gifts will be carefully managed and used wholly and exclusively for the purpose specified by the donor. It is governed by a board of civic and distinguished leaders committed to helping the parks, with the Secretary of the Interior serving as chairman, and the Director of the Park Service serving as secretary. None of this is going to change, Mr. President.

During the last 5 years, the foundation has made over $10 million in grants to our national parks, but the changes contained in my legislation will empower it to contribute much more for the repair and preservation of the C&O Canal and other elements of our park system.

Obviously, none of this will or should detract from the Federal Government's or the Park Service's responsibility to our parks. The goal is to augment that involvement with additional private funds, much like those currently being raised by the March for Parks, and I commend the Secretary of the Interior for his effort in this regard.

Finally, we need the private sector, including those for-profit organizations who have used the National Park Service facilities and property and given little or nothing in return to help sustain our parks for the future.

The private sector can help by providing additional funds for resource management and infrastructure repair required in our parks across the Nation.

The C&O Canal National Historical Park and our other park units across the Nation connect us to our past and provide us with a vision of the future. They are some of the most beautiful and historic parcels of land to be found. In the spirit of Earth Day and American generosity and philanthropy, it is time for us to make the effort to meet the challenge.

Thanks to the NPCA, WRC-TV and the thousands of marchers and volunteers who tomorrow will be helping to show us the way. In the spirit of Earth Day, I ask for each Senator's help in passing this legislation to help our parks, and I commend our leader, Senator DOLE, for supporting this.

I thank the Chair and thank my friend from Georgia.

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia is recognized.

A TRAGIC ASSAULT: DRUG USE AMONG TEENAGERS

Mr. COVERDELL. Mr. President, this morning we gathered in the Senate Chamber to remember a very solemn moment in American history: the needless loss of 168 citizens in Oklahoma City. It reminds me of another tragic assault that goes on against the youth of our country on a day-to-day basis.

In the last 36 months, drug use among our teenagers 8 to 15 years of age has doubled, and we are in the midst of a new epidemic. What does that mean? That means that nearly 2 million—2 million—American youth have been ensnared in the assault by the drug lords of this hemisphere and their lives are potentially ruined, devastated and stunted.

Not only will their lives be impaired and ruined, but a chain of events will follow because as these youngsters are consumed by drugs, they are driven into a life of crime, an effect on our Nation which is immeasurable.

Of the 35,000 prisoners in Georgia this morning, 80 percent of them are there today because of drug-related offenses. The impact of this war, this assault on the youth of our country is having a devastating impact across the land as it drives crime, assault and battery, murder, theft, robbery, burglary.

Mr. President, I spent a few minutes with President Zedillo of Mexico not long ago. He said the drug war was the single greatest threat to his country. I said, "I agree with you, Mr. President, with one amendment. The drug war is the single greatest threat to this hemisphere of democracies, to all of our nations in this hemisphere of democracies."

Mr. President, I yield up to 10 minutes to my distinguished colleague, the Senator from Iowa, the chairman of a drug task force and eminent figure in this issue and assault on the youth of our country. I yield 10 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

PRESIDENT CLINTON'S JUDICIAL NOMINEES SOFT ON CRIME

Mr. GRASSLEY. Mr. President, today we do remember what happened 1 year ago in Oklahoma City, a very horrible crime. People are concerned about crime in America. People expect the Congress of the United States to do something about crime. We have this week taken a giant step by passing the antiterrorism bill that the President says he will sign.

So I rise this morning to talk about crime as the Senator from Georgia indicated. The war on drugs has a lot to do with the whole subject of crime, but I also want to make some reference to the negative effect that this administration has had on the Federal courts.

I think it is fair to say that President Clinton's judicial appointments communicate the President's vision of the kind of America that the President would like to have. I do not share his soft-on-crime vision. I do not think most Americans do. Mr. President, you can say that you are putting all the cops on the streets all you want, but unless you appoint Federal judges who will enforce the law and protect victims over criminals, all the cops in the world will not make any difference.

In regard to the appointments that the President made, I read with amusement in this morning's Washington Post where Vice President GORE attempted to defend President Clinton's record on judicial nominations. I believe that the Vice President's efforts fall far short. For instance, one of his primary arguments is that this administration's nominees have enjoyed more support from the American Bar Association than the last three administrations. Mr. President, this just goes to show how out of touch the Vice President is with the American people and with even the President's own appointees.

President Clinton has a powerful ally in his judicial jihad to protect criminals, and that happens to be the American Bar Association, because somehow the ABA mysteriously and without input from the American people set itself up as the ultimate arbiter of who should or should not be a judge. The ABA happens to share the President's own frightening vision of criminals' rights over victims' rights.

We just passed a very fair and balanced antiterrorism bill in this body. That bill contained habeas corpus reform, badly needed, to permit prisoners just one bite at the apple and to limit that bite in order to stop frivolous and successive postconviction appeals that allowed people to stay on death row for 10 to 15 years. Vice President GORE uses the ABA as a mantle to say that the President's judges are ideal appointees. Yet the American Bar Association strongly opposes these necessary anticrime provisions that were in the antiterrorism bill.

Unfortunately, I believe that the current administration has then done a disservice to the American people by gathering liberal activists from every coffee house and every street corner in America and nominating them to some of the most important and influential Federal courts in America.

Few Americans would dispute and few in this body dispute the fact that in the arena of criminal justice, the legacy of the Earl Warren Supreme Court of the 1960's and 1970's has been devastating. Violent criminals who have committed heinous, shocking crimes are routinely freed on bogus technicalities first invented during the Earl Warren period. We are still paying that price. These violent individuals go back out on the streets and commit even more crimes and victimizing more people.

Until the President came on to the scene, I thought that we had turned a corner on that sort of Warren Court thinking. I had thought there was a broad consensus that law enforcement should not have their hands tied by highly technical rules. I had thought that there was a broad consensus that serving time in prison for committing crimes should be punishment and not a blissful vacation at taxpayers' expense.

But, Mr. President, I was wrong. President Clinton has sent up a number of law professors and liberal activists to sit on the Federal bench and impose their preconceived, unrealistic ideas on the rest of America. Now, a simple fact of American Government: Bad judges are worse than even bad Presidents, because we can vote bad Presidents out of office, but we are stuck with bad judges for life. We cannot send them back to their coffee houses and street corners. To be honest, the Republican-controlled Senate has been somewhat to blame, as we trusted the President to do the right thing. But now with this record, Mr. President, I think it is time that we start giving judicial nominees the scrutiny that they obviously deserve.

We have been lax, in deference to the President. But that needs to end given his poor performance of nominating judges intent upon protecting criminals over victims' rights. Of course, we in the Senate have a right under the Constitution to comment on the direction the country is taking and how the courts have played a role in this. So the concept of the separation of powers remains untouched and intact and alive and well.

Take a good, hard look at some of the President's more notable judges. In the first circuit Judge Sandra Lynch overturned a life sentence imposed for a brutal murder. This is a pattern that we see over and over again—liberal, soft-on-crime, Clinton judges lending convicted felons a hand.

In the Second Circuit Court of Appeals, Judge Guido Calabresi dissented from an opinion which denied a prisoner the right to receive pornography in his jail cell. This is another theme with Clinton judges, making sure that prisoners have all the amenities that they want. The logic must be that prison should not be too uncomfortable or too difficult.

In the Third Circuit Court of Appeals, Judge H. Lee Sarokin has issued a few zingers. This judge has ruled that prisoners have a constitutional right to prevent prison officials from opening and inspecting mail. This judge has voted to overturn the death sentences of two murderers who brutally ended the lives of two elderly couples.

In the fourth circuit, Judge Blane Michael argued in a dissenting opinion that a criminal who had tried to murder a Federal prosecutor could not be found guilty under Federal statute prohibiting the mailing of a bomb to Federal officials because the bomb was poorly made and unlikely to actually explode. Mr. President, how could this judge have done any more to help that criminal?

In the Fifth Circuit Court of Appeals, District Judge Robert Parker ruled that it was unconstitutional for the police to search for hidden marijuana plants by using an infrared device. Mr. President, what more could drug dealers ask for to help them?

In the Eleventh Circuit Court of Appeals, Judge Rosemary Barkett wrote an opinion granting a hearing for a man who had been convicted of setting his former girlfriend's house on fire and killing her two children.

Lest anyone think that the President has seen the errors of his ways and will start putting more mainstream judges on the Federal bench, let us look at a nonconfirmed nominee to the eleventh circuit. At his recent judiciary confirmation hearing, Mr. Stack was asked what he thought of the applicable law of search and seizure law relative to the now infamous New York case in which Judge Baer initially suppressed evidence of millions of dollars worth of illegal drugs.

Mr. Stack was unable to cite even the most fundamental criminal law precedents. In fact, his only comment that he made was that he would "applaud the use of all evidence * * * legally obtained in the courtroom" but would not want to "throw * * * away the constitutional guarantees that each of us in America is afforded." I do not believe this is a response worthy of a Federal circuit court nominee. This is unacceptable from a circuit court nominee who is supposed to have the necessary credentials and qualifications for appointment to the Federal bench.

Next to the Supreme Court, the Federal court of appeals is the most important court in the country. It appears as though Mr. Stack's qualifications for the eleventh circuit post has been based solely on raising $11 million for President Clinton's 1992 Presidential campaign and another $3.4 million for the National Democratic Committee, and not on Mr. Stack's legal capacity, his competence, or his temperament. If this does not a least give the appearance of buying a Federal court seat, I do not know what does.

In fact, Mr. Stack has little, if no experience, in criminal law or practice before the Federal courts. He has no substantive legal writings to speak of.

Further, Mr. Stack was surprisingly ignorant about recent developments in the law. Mr. Stack was comfortable telling the Senators at his confirmation hearing that he would seek guidance from other judges and the Federal Judicial Center if he was not knowledgeable about a particular area of law. So I look to him asking Judge Barkett, that what she can teach him and mold him about Mr. Stack's views of criminal law as a fierce defender of criminals—I think it is clear that the American people find this extremely disturbing.

In conclusion, with Clinton-appointed judges, I think a pattern has emerged. In those rare circumstances when Clinton judges believe that criminals should go to prison, they certainly want to make sure that prison is not too inconvenient. While Clinton judges write on and on about the rights of prisoners, they are silent about the rights of crime victims. That is why it is so important for the Senate to speak out to be the champions of the victims and not of the predators.

Mr. COVERDELL. Mr. President, I thank the Senator from Iowa for his thoughtful remarks. They were very eloquently presented.

I yield up to 10 minutes to the distinguished Senator from Texas.

CRIME IN AMERICA

Mrs. HUTCHISON. Thank you, Mr. President. I thank my colleague from Georgia.

Mr. President, today all Americans will stop and remember the terrible tragedy that occurred 1 year ago today in Oklahoma City. We extend, all of us in the U.S. Congress and all over America, our prayers and our thoughts to those who lost family and friends in that senseless tragedy.

Last week, Congress passed laws to make it harder for criminals to inflict the kind of terror we saw in Oklahoma City and at the New York World Trade Center before that. This antiterrorist law is just one small step toward taking back our cities, our towns, and our communities. Taking them back from dangerous and predator criminals who have made us afraid to walk the streets at night, who have forced us to put bars on our windows, and who have caused us to place metal detectors in our Federal buildings and in some public schools in our country.

Mr. President, one thing the law we just passed does is make it harder for prison inmates to file years and years of appeals that tie up our courts for years, dulling the sword of justice. Often, to many Americans, it seems as if our court system cares more about criminals' rights than the rights of law-abiding citizens. But there is more the American people expect of us. They have had enough of liberal judges who think it is their responsibility to turn dangerous criminals out to society, when society would like to keep them behind bars. They are tired of a revolving-door justice system.

According to a recent study by the Bureau of Justice statistics, an incredible 94 percent of State prisoners are violent criminals or repeat offenders.

I introduced legislation this year that is on its way to the President. It will permit the States to take back control of their prison systems away from Federal judges who are out of touch with the everyday concerns of working, law-abiding families. In my own State, one Federal judge has taken it upon himself to say that prison cells

VOL
142
PT
6
AP
15
—
24
1996
UMI

in the State prisons are too small and there is not enough recreation space. What is his remedy? His remedy is to release prisoners early. As a result, in Texas, violent criminals serve 6 months of every year of their sentences.

Mr. President, what we need is judges who understand it is not cruel and unusual punishment for a criminal who has a victim to endure a hot, uncomfortable jail cell without color TV, without his or her favorite foods, without indoor and outdoor recreational facilities.

Mr. President, Americans are ready for a prison system that does not more for prisoners, but less for prisoners and more for law-abiding citizens. No prisoner should be eligible for early release or parole who is not drug free, able to read, and trained in a skill that will enable that person to get a job outside. If you cannot function in society outside, you should remain inside the prison if you have not served your time.

We should say very clearly to those who commit crimes and end up behind bars, we want you to learn to cooperate with society. We want to give you a chance. You are locked up because you did not cooperate with society and you have a victim.

The Speaker of the House said, "We ought to require prisoners to work 48 hours a week and study 12 hours a week. If we kept them busy 60 hours a week doing something positive, I think they would be different people when they go out into the word. Recidivism would fall and victims would be spared."

Mr. President, what is the first and foremost responsibility of Government? The first and foremost responsibility is to provide law-abiding citizens the conditions to live freely. But for too long, the Federal Government and Federal judges have interfered with the responsibility of States to meet their first responsibility to their citizens. Texans and Americans all over this country have had enough. They are tired of politicians and judges that blame society for crime. They blame criminals for crime. They would like for Government to do the same thing.

There were 10 million violent crimes in America in 1993. Those were the ones that were reported. Mr. President, 100,000 criminals were sent to prison to serve time for violent crimes. What has happened to a criminal justice system that imprisons 1 person in 100 for every violent crime committed in this country?

Mr. President, we can put barricades in front of the White House, but too many Americans do not have that luxury. Ordinary citizens are faced each day with the threat of violent crime. They have had enough. They want their streets back. They want their communities back.

Mr. President, I want to end with a recollection that I had 1 year ago today. It was from a victim of the Oklahoma tragedy. I will never forget watching television, as so many of us in this country did, and I saw this man, bandaged, his eyes swollen shut, you could not see anything else on his face, and a news reporter put a camera and a microphone in front of this victim. He was a man who had gotten up and gone to work that day. His life had blown up in front of him in just a few short minutes. The reporter said, "How do you feel?" This man, through his bandages and his swollen eyes, said, "I feel like I live in the greatest country on Earth, and I'm going to have to work harder to make it better."

Mr. President, that victim's spirit will do more to return this country to its bearing than any laws that Congress could pass.

Our Nation's leaders must strive to do what is legally possible to give our citizens a society in which they can go to work and raise their families freely.

But, Mr. President, even more important, our leaders should never forget the victims' spirit from Oklahoma City and all the people who came to help after that tragedy in the great spirit of this country. We must remember that spirit is what will rebuild this country, that is the spirit on which this country's future is based.

We will provide the laws. We have done that. We have done that this week and we must do more. But we must also come back to our bearings. What made this country great was people who love this country no matter what victimization they have had. They are going to work harder to make it better.

Thank you, Mr. President. I yield the floor.

Mr. COVERDELL. Mr. President, I appreciate the remarks of the Senator from Texas. As always, she is an eloquent voice on this subject, and I am most pleased that she could be here this morning.

Mr. President, I yield up to 10 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for up to 10 minutes.

GUNS AND CRIMINALS

Mr. DEWINE. I thank my friend and colleague from Georgia for putting this time together this morning.

Mr. President, I want to talk this morning about the question of guns and criminals who use guns. We have debates—and often they are very contentious debates—about a lot of issues concerning crime. We talk on this floor about contentious issues, such as the Brady bill and assault weapons. And these are important issues. They are important. I happen to favor these bills. But I think we need to recognize what really is important, and we need to step back a little bit and talk about what really makes a difference when we talk about what we do to deal with the crime problem.

These two issues—the Brady bill and assault weapons—are highly contentious. Second, frankly, they, at best, only have a marginal impact on the problem. Third, they tend to attract somewhat overblown rhetoric, frankly, on both sides of the issue. I think both sides of the Brady bill debate and both sides of the assault weapon debate overemphasize what the importance of this debate is.

I am, frankly, puzzled that we cannot seem to move forward on more effective proposals that everyone ought to favor—proposals that will really make a difference. These proposals that I am talking about may not be very exciting, but they are real, they work, they make a difference, they make a difference out on the street.

Mr. President, we all agree that we, as a society, ought to do more to protect our citizens from armed career criminals. There are predators out there—predators, Mr. President—who are repeat violent criminals who use a gun while committing a crime. We, as a society, have to make a strong, effective response to this threat.

Mr. President, in this area, as in all areas of national concern, we really need to be asking the following questions: One, what works? What really makes a difference? Two, what level of Government should do this particular job?

In the area of gun crimes, we have a pretty good answer. We have an answer that is based on experience and based on history. Now, we all know that there is some controversy over whether general restrictions on gun ownership would help to reduce crime. But there is no controversy over whether taking guns away from felons would reduce crime. Democrat, Republican, liberal, conservative—I think everyone gets that, everyone understands it, and there should not be any controversy about it. If you take guns out of the hands of felons, you are going to reduce crime.

When it comes to felons, Mr. President, unilateral disarmament of the thugs is simply the best policy. Let us disarm the people who hurt people. Although we can quibble about statistics, the facts are that the vast majority of crimes in this country today, the vast majority of violent crimes, the vast majority of crimes that hurt people are committed by a small number of the criminals. One estimate is that 70 percent of all violent crime in this country is committed by less than 6 percent of the criminals, which is a relatively small number of people.

And so what I say that we need to do, Mr. President, is to target the violent career criminals, particularly those who use a gun to commit a felony—target them, convict them, get them off

the street, lock them up, and keep them locked up.

Mr. President, we have actually tried this, and we know it works. One of the most successful crime fighting initiatives of recent years was known as Project Triggerlock. This project was wildly successful precisely because it addressed a problem squarely head on, and it placed the resources where they were most needed.

Let me talk for a moment and share with you the story about Project Triggerlock. The U.S. Justice Department began Project Triggerlock in May 1991. The program targeted for prosecution in Federal court armed, violent, repeat offenders. Under Project Triggerlock, U.S. attorneys throughout the country turned to their local, State prosecutors and said this: "If you catch a felon, and you catch that felon with a gun, and if you want us to, the U.S. attorneys, we, the Federal prosecutors, will take over the prosecution for you. We will prosecute this individual under Federal law—Federal law that many, many times, in regard to violent repeat offenders who use a gun in the commission of a felony, is tougher than State law. We will prosecute this individual. We will convict this individual, and we will hit this person with a stiff Federal mandatory sentence. And then we will lock him up in a Federal prison at no cost to the State or local community. Basically, we will deep-six this guy, get him out of society. We will take the cost of prosecution and then we will pay to house him for 10, 15, 20 years while he is out of society."

That is the type of assistance to local communities that makes a difference. That is what Project Triggerlock did. Triggerlock was an assault on the very worst criminals in America. Mr. President, it worked.

Listen to these figures. This program took 15,000—15,000—criminals off the streets in an 18-month period of time. Triggerlock caused a dramatic increase in Federal firearms prosecutions. In the first 12 months of Triggerlock, the program initiated firearms prosecutions against 6,454 defendants. It worked.

Now, incredibly, Mr. President—incredibly—the Clinton Justice Department has chosen to deemphasize Project Triggerlock. They tell us they still have it; they just do not talk about it. Apparently, they do not even keep the statistics on it. They do not make it a priority.

Mr. President, Project Triggerlock was the most effective Federal program in recent history for targeting and removing armed career criminals. But the Clinton administration Justice Department, today, acts like Triggerlock simply does not exist. While the Clinton Justice Department says that Triggerlock remains important, the facts, the statistics do not bear this out. They, apparently, no longer keep records on these prosecutions—and, I guess, for very good reason.

If you look at the records kept in Federal courts—go to the Federal courts to get your statistics, here is what you learn: Since the advent of the Clinton administration we have seen a substantial decrease in the prosecution for weapons and firearms offenses.

That is a shocking fact.

We also see a substantial decrease in actual convictions for these firearm related offenses in Federal court.

Let us look at the numbers. In 1992, there were 4,501 prosecutions of gun criminal charges for these crimes. In 1993, the number of prosecutions dropped slightly to 4,348. But in 1994, the number plunged all the way down to 3,695. We should have been seeing an increase. Instead, we started going the wrong way. That is a 19-percent drop in weapons and firearms prosecutions in the Federal courts during the Clinton administration—a 19-percent drop.

Mr. President, who in this country can believe that this is justified? Who in this country believes that the threat of gun criminals to the society is less than it was 2 years ago? Clearly, it is not.

Mr. President, the number of total convictions for firearm-related prosecutions in Federal court has dropped as well. Again, let me go back to 1992. In 1992, 3,837 of these defendants were convicted. In 1993, there was a drop, a drop to 3,814. But in 1994, we see a more severe drop—down to 3,345. Again, instead of going up in prosecutions, which is what you would have expected, we see the trend lines going down. Mr. President, that is going in exactly the wrong direction.

Last year, I introduced a crime bill that would have restored Project Triggerlock. It would have required a U.S. attorney in every jurisdiction in this country to make a monthly report to the Attorney General in Washington on the number of arrests, the prosecutions and convictions that they had achieved in the previous month on gun-related defenses. The Attorney General under my bill should then report semiannually to the Congress on the work of these prosecutors. Then we would know the information would be available.

It is like anything else. When you start counting, when you start publicizing the results, you start holding people accountable, and people then respond.

Let me say that there are a lot of U.S. prosecutors who are doing a good job in this area who on their own are emphasizing the prosecution of people with guns. But it should not just be left up to every U.S. attorney in the country to decide one way or the other. This should be a national policy. It should be a national policy that is driven by the Attorney General and driven by the President of the United States. Quite frankly, nothing short of that, in my opinion, is acceptable.

The truth is that, like all prosecutors, U.S. attorneys have limited resources. So like all prosecutors, U.S. attorneys have to exercise discretion about whom to prosecute. We know that. We all recognize that Congress can and should not dictate to prosecutors whom they should prosecute. But it is clear that we as a Congress, that we as a Senate, should go on record with the following proposition. There is nothing more important in fighting crime than getting armed career criminals off the streets.

Mr. President, I think the Project Triggerlock is a very important way to keep the focus on the prosecution of gun crimes. Getting gun criminals off the streets is a major national priority. I believe that we should behave accordingly.

This is no time to turn our backs on a proven, promising mainstream anticrime initiative; an anticrime initiative that is not controversial, an anticrime initiative that would not tie up 5 minutes of debate on the Senate floor in regard to whether or not we should do it. Everyone understands that we need to do this. What we need is the will from the executive branch to really reinstitute Project Triggerlock and make it work.

Mr. President, families who are living in crime-threatened communities need to know that we are going to do what it takes to get guns off their streets. We are going to go after the armed career criminals. We are going to prosecute them, we are going to convict them, we are going to lock them up, and we are going to keep them locked up.

Mr. President, in conclusion, this is why we have a Government in the first place—to protect the innocent, to keep ordinary citizens safe from violent predatory criminals.

I think Government needs to do a much better job at this very fundamental task, and it is inherently the fundamental task of the Government. That is why targeting the armed career criminal is such a major component of our national policy.

The Clinton administration, I believe, should reverse its opposition to Project Triggerlock, and should do so immediately.

I thank my colleague from Georgia for the time. I thank the Chair.

I yield the floor.

Mr. COVERDELL. Mr. President, I appreciate the remarks of the Senator from Ohio.

I now yield up to 5 minutes to the senior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

VOL 142 PT 6 AP 15 — 24 1996 UMI

PRISON CONSTRUCTION AND CRIME IN TEXAS

Mr. GRAMM. Mr. President, I want to thank our colleague from Georgia for leading this effort. We are always looking for good news in our war on violent crime and the threat that it poses to our families. This morning I want to share some good news. This good news is based on hard facts presented in a major study done by the National Center for Policy Analysis, which is located in my State. I think that when you listen to the numbers, they speak as loudly and as clearly as a clap of thunder.

Five years ago, Texans finally had enough of violent crime, so we launched the largest prison building program in the history of the United States of America. Over a 4-year period, we expanded the size of the Texas prison system from a 49,000 criminal capacity to a 150,000 criminal capacity.

In terms of our population, Texas started out having a per capita violent criminal incarceration rate that was roughly equal to the national average. Four years later, we have the highest criminal incarceration rate of any State in the Union. I believe that this is a direct result of building new prisons, putting people in jail, and beginning to approach what we call "truth in sentencing," so that when somebody is sentenced to prison for 10 years, they actually, honest to God, serve 10 years in prison.

We have seen the following things happen in Texas in terms of expected punishment for committing major crimes. Over the 6-year period between 1988 and 1994, the expected punishment in Texas for murder rose by 360 percent. For rape, the expected punishment rose by 266 percent; for larceny, 167 percent; for aggravated assault, the expected punishment rose by 360 percent. For burglary, the expected punishment rose by 299 percent; for robbery, 220 percent; and for motor vehicle theft, 222 percent.

In other words, we built prisons, we got tough, we sent people to prisons, and we extended the amount of time criminals actually spend in prison. What happened? Well, what happened is that the overall crime rate in Texas has fallen by 30-percent since 1988. Let me repeat that. We increased the number of prison beds. We more than doubled the expected punishment for crimes ranging from murder to car theft, we increased the number of people in prison, and the crime rate fell by 30 percent.

Let me put that in more meaningful terms: As compared to 5 years ago when we started building prisons and putting violent criminals in prison in Texas—as compared to 1991—the 30-percent lower crime rate we have today means that in this year alone, 1,140 people in Texas who, at the crime rate of 5 years ago would have been murdered in my State, will not be murdered. It means that in 1996, 450,000 less serious crimes will be committed than would have been committed had we not tripled the capacity of our prisons.

The lesson is very clear. We have a small number of violent predator criminals who commit a huge percentage of our violent crimes. When you are willing to put them in jail and keep them there, the crime rate falls.

The time has come for us to get serious at the Federal level. We have three major statutes that criminalize prison labor. We are one of the few countries in the world which cannot make people in prison work to produce something that can be sold in order to help pay for the cost of incarceration. Three depression-years laws make it a crime to require prisoners work, make it a crime to sell what they produce, and make it a crime to transport what is produced. In other words, we can require taxpayers to work in order to pay for building and maintaining prisons, but we cannot make prisoners work in order to do the same. We should repeal those three statutes. We should turn our Federal prisons into industrial parks. We should cut the cost of prison construction by stopping the building of prisons like Holiday Inns. We need to put people in jail for violent crimes. We need to have sentences of 10 years in prison without parole for possessing a firearm during the commission of a violent crime or drug felony, 20 years for discharging it, and the death penalty for killing one of our neighbors.

If we do those things, we can end this wave of violence. We are allowing our fellow citizens to be brutalized by violent criminals because we will not do something about it. In Texas, we have shown that you can do something about it and I would like us to follow that lead at the Federal level. I commend the National Center for Policy Analysis for conducting this study which was released in January of this year. Every Member of Congress should read this study and I would be happy to supply it to anyone who is interested in doing so.

Mr. President, I thank you for listening.

Let me now yield 10 minutes to the Senator from Michigan [Mr. ABRAHAM].

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. ABRAHAM. I thank the Chair.

CONTROL OF PRISONS

Mr. ABRAHAM. Mr. President, I should like to pick up on some of the topics which the Senator from Texas was discussing and particularly focus on one aspect of the Republican agenda on crime, prison reform. I would like today to discuss the proposals we Senate Republicans have developed under the leadership of the majority leader, Senator DOLE, to end frivolous lawsuits brought by prisoners, to remove our prisons from the control of Federal judges, and return control over them to our State and local officials.

Mr. President, let me begin by outlining the problem. In 1995, 65,000 prisoner lawsuits were filed in Federal courts alone. To put that in context, 65,000 lawsuits is more than the total number of Federal prosecutions initiated in 1995. In other words, prisoners incarcerated in various prisons brought more cases in the Federal courts than all Federal prosecutions last year combined.

The vast majority of these lawsuits are nonmeritorious. The National Association of Attorneys General estimated that 95 percent of them are dismissed without the inmate receiving anything.

Let me just list a few examples.

First, an inmate claimed $1 million in damages for civil rights violations because his ice cream had melted. The judge ruled that the right to eat ice cream was clearly not within the contemplation of our Nation's forefathers.

Second, an inmate alleged that being forced to listen to his unit manager's country and western music constituted cruel and unusual punishment.

Third, an inmate sued because when his dinner tray arrived, the piece of cake on it was "hacked up."

Fourth, an inmate sued because he was served chunky instead of smooth peanut butter.

Fifth, two prisoners sued to force taxpayers to pay for sex change surgery while they were in prison.

On and on the list goes, Mr. President, with more and more ridiculous lawsuits brought by inmates in penitentiaries. A prisoner who sued demanding LA Gear or Reebok "Pumps" instead of Converse tennis shoes.

These kinds of lawsuits are an enormous drain on the resources of our States and localities, resources that would be better spent incarcerating more dangerous offenders instead of being consumed in court battles without merit.

Thirty-three States have estimated that they spend at least $54.5 million annually combined on these lawsuits. The National Association of Attorneys General has extrapolated that number to conclude that the annual costs for all of these States are approximately $81 million a year to battle cases of the sort that I have just described.

In addition to the problems created by the lawsuits the courts have dismissed, we have what is, if anything, a more serious problem—lawsuits the courts have not dismissed that have resulted in turning over the running of our prisons to the courts.

In many jurisdictions, including my own State of Michigan, judicial orders entered under Federal law have effectively turned control of the prison system away from elected officials accountable to the taxpayers and over to

the courts. The courts, in turn, raise the costs of running prisons far beyond what is necessary and undermine the very legitimacy and deterrent effect of prison sentences. Judicial orders entered under Federal law have even resulted in the release of dangerous criminals from prison. Thus, right now, our existing Federal laws are actually wasting the taxpayers' money and creating risk to public safety.

Let me explain a little bit about how this works. Under a series of judicial decrees resulting from Justice Department lawsuits against the Michigan Department of Corrections back in the 1960's, the Federal courts now monitor our State prisons to determine: first, how warm the food is; second, how bright the lights are; third, whether there are electrical outlets in each cell; fourth, whether windows are inspected and up to code; fifth, whether a prisoner's hair is cut only by licensed barbers; and sixth, whether air and water temperatures in the prison are comfortable.

Complying with these court orders, litigating over what they mean, and producing the reports necessary to keep the courts happy has cost the Michigan taxpayers hundreds of millions of dollars since 1984.

This would be bad enough if a court had ever found that Michigan's prison system was at some point in violation of the Constitution or if the conditions there had been declared inhumane, but that is not the case. To the contrary, nearly all of Michigan's facilities are fully accredited by the American Corrections Association.

We have what may be the most extensive training program in the Nation for corrections officers. Our rate of prison violence is among the lowest of any State. And we have spent an average of $4,000 a year per prisoner for health care, including nearly $1,700 for mental health services.

Rather, the judicial intervention is the result of a consent decree that Michigan entered into in 1982, 13 years ago, that was supposed to end a lawsuit filed at the same time. Instead, the decree has been a source of continuous litigation and intervention by the court into the minutia of prison operations.

The Michigan story is a bad one, Mr. President, but let me tell you a story that causes me even more concern, and that is on the public safety side, the example that is going on even today in the city of Philadelphia. There a Federal judge has been overseeing what has become a program of wholesale releases of up to 600 criminal defendants per week to keep the prison population down to what the judge considers an appropriate level.

As a result, a large number of defendants have been released back onto the streets. Following their release, thousands of these defendants have been rearrested for new crimes every year including 79 murders, 90 rapes, 959 robberies, 2,215 drug dealing charges, 701 burglaries, 2,748 thefts, and 1,113 assaults.

Under this order, there are no individualized bail hearings based on a defendant's criminal history before deciding whether to release the defendant pretrial. Instead, the only consideration is what the defendant is charged with the day of his or her arrest.

No matter what the defendant has done before, even, for example, if he or she was previously convicted of murder, if the charge giving rise to the specific arrest on the specific date is a nonviolent crime, the defendant may not be held pretrial.

Moreover, the so-called nonviolent crimes include stalking, carjacking, robbery with a baseball bat, burglary, drug dealing, vehicular homicide, manslaughter, terroristic threats, and gun charges. Those are charged as nonviolent and consequently those arrested are not detained.

Failure to appear rates, needless to say, for crimes covered by the cap are up around 70 percent as opposed to noncovered crimes for aggravated assault where the rate is just 3 percent.

The Philadelphia fugitive rate for defendants charged with drug dealing is 76 percent, three times the national average. Over 100 persons in Philadelphia have been killed by criminals set free under this prison cap.

Mr. President, I think this is all wrong. People deserve to keep their tax dollars or to have them spent on progress they approve. They deserve better than to have their money spent on keeping prisoners and prisons in conditions a particular Federal judge feels are desirable but not required by the Constitution or any law.

They certainly do not need it spent on endless litigation over these matters.

Meanwhile, criminals, while they must be accorded their constitutional rights, deserve to be punished. Obviously, they should not be tortured or treated cruelly. At the same time, they also should not have all the rights and privileges the rest of us enjoy. Rather, their lives should, on the whole, be describable by the old concept known as "hard time." By interfering with the fulfillment of this punitive function, the courts are effectively seriously undermining the entire criminal justice system.

Our distinguished majority leader, Senator DOLE, working with Senator HATCH, Senator KYL, Senator HUTCHISON, and myself, has developed legislation to address these problems. Our proposals will return sanity and State control to our prison systems.

To begin with, we would institute several measures to reduce frivolous inmate litigation. We would require judicial screening, before docketing, of any civil complaint filed by a prisoner seeking relief from the Government.

This provision would allow a Federal judge to immediately dismiss a complaint if either the complaint does not state a claim upon which relief may be granted, or the defendant is immune from suit. In addition, State prisoners would have to exhaust all administrative remedies before filing a lawsuit in Federal court.

We would also create disincentives for prisoners to file frivolous suits. Under current law, there is no cost to prisoners for filing an infinite number of such suits. First, we would require inmates who file lawsuits to pay the full amount of their court fees and other costs. We also would make that requirement enforceable by allowing their trust accounts to be garnished to pay these fees. If a prisoner is unable to fully pay court fees and other costs at the time of filing a lawsuit, 20 percent of the funds in his trust account would be garnished for this purpose. Every month thereafter 20 percent of the income credited to the prisoner's account would be garnished until the full amount is paid off.

We would also allow Federal courts to revoke any good-time credits accumulated by a prisoner who files a frivolous suit. Finally, we would prohibit prisoners who have filed three frivolous or obviously nonmeritorious in forma pauperis civil actions from filing any more unless they are in imminent danger of severe bodily harm, and we would cap and limit the attorney's fees that can be obtained from the defendant in such suits.

As to the powers of judges to overrule our legislatures, we would forbid courts from entering orders for prospective relief—such as regulating food temperatures—unless the order is necessary to correct violations of individual plaintiffs' Federal rights. We also would require that the relief be narrowly drawn and be the least intrusive means of protecting the Federal rights. We would direct courts to give substantial weight to any adverse impact on public safety or the operation of the criminal justice system caused by the relief. And we would impose important new requirements before a court can enter an order that requires the release of prisoners, including that such orders may be entered in the Federal system only by a three-judge court.

We also would provide that any party can seek to have a court decree ended after 2 years, and that the court will order it ended unless there is still a constitutional violation that needs to be corrected. As a result, no longer will prison administration be turned over to Federal judges for the indefinite future for the slightest reason. No longer will public safety be jeopardized by capricious judicial prison caps. And no longer will the taxpayers be socked for enormous, unnecessary bills to pay for all this.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Instead, the States will be able to run prisons as they see fit unless there is a constitutional violation. If there is, a narrowly tailored order to correct the violation may be entered.

This is a balanced set of proposals, allowing the courts to step in where they are needed, but puts an end to unnecessary judicial intervention and micromanagement of our prison system we see too often.

These proposals were included as part of the Commerce, State, Justice appropriation bill. Unfortunately, President Clinton vetoed this legislation. As a result, we continue to have more frivolous prisoner lawsuits and we continue to have some courts running prisons.

President Clinton said his veto was based on other parts of the legislation. Accordingly, we will shortly be sending him a new version of an omnibus appropriations bill that again includes these proposals. This is one measure we can take that will plainly advance our fight against crime. We hope this time, President Clinton will help.

Mr. President, at this time, I yield the floor to the Senator from Tennessee for up to 10 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

TOUGH RHETORIC ABOUT CRIME

Mr. THOMPSON. Mr. President, we are listening to a lot of rhetoric about crime and being tough on crime. But no matter how many cops we put on the street, no matter how many laws we pass, unless we have strong law enforcement efforts at the very top of the Justice Department and the very top of the executive branch of this Government, we are going to be letting out the back door whatever we are putting in our prison system in the front door.

In fact, the policies of an administration are much more important than any other component of our law enforcement system. An administration's decisions as to who to prosecute, how effectively to prosecute, what cases to appeal, and what positions to take, affect thousands and thousands of cases. They affect not only the specific cases that are brought but maybe even can determine what cases are brought in the future.

In other words, an administration needs to be strong in its law enforcement position. It needs to advocate the legitimate interests of the Federal Government, when Federal criminal statutes are involved. The President has engaged in strong law enforcement rhetoric. The President states that he is for the death penalty. But it is my unfortunate duty to report that the rhetoric does not match the action.

I am specifically referring to the actions of the Solicitor General. The Solicitor General in this country is the Government's lawyer. The Solicitor General advocates the Government's position before the Supreme Court of the United States. The Solicitor General is appointed by the President of the United States and confirmed by the U.S. Senate. Time after time, the position taken by the Solicitor General has been inconsistent with the rhetoric coming out of the White House.

The Solicitor General, in case after case, has refused to appeal cases in which lower courts have overruled the Government, have overturned the defendant's convictions or have made it practically impossible that the defendant be prosecuted. Instead of appealing that case, even when in some decisions there are strong dissents saying, "No, no, no, the Government is right here and the defendant is wrong," in case after case, the Solicitor General has taken the position of the defendant, essentially, and not appealed that case to at least give a higher court an opportunity to hold for the Government.

When the Solicitor General makes a decision whether to appeal an adverse ruling, he is not in the position of a judge making an objective determination. The Solicitor General is supposed to be an advocate for us, an advocate for the people trying to enforce the law in this country. If there is a legitimate position to take in an important case—and these dissents, if nothing else, would indicate there would be in those cases—the Solicitor General is supposed to take that position and give the courts an opportunity to hold with the Government and against the defendant in those cases.

We will have more to say about that later on next week with regard to some specific cases. But there is one particular point that is very relevant. It has to do with the recent bombing case that we all know about. It has to do with the so-called Cheely decision. There, a panel of the court, not even the full court, ruled that death penalties provided in two Federal statutes, essentially statutes prohibiting sending bombs through the mails, were unconstitutional. That is the ninth circuit decision; by a lower court. It was a panel of the full court that made that decision. The Solicitor General chose not to appeal to let the full court of the ninth circuit even have an opportunity to overrule the panel.

So, as far as it stands out there, the death penalties contained in the mail bomb statutes are unconstitutional as far as that circuit is concerned. Obviously, that has some great relevance to what we are seeing now. We are all pleased that a suspect has been taken into custody with regard to the Unabomber case. Whether or not this man is charged with any of the three killings, or the terrorizing of many other people through a series of mail bombs, a jury hearing the Unabomber case should have the option of imposing the death penalty. But I fear that if he is charged in the Unabomber killings, the Justice Department may well have made it so that it is impossible for the jury or the court out there to impose the death penalty.

The problem is that the most recent Unabomber killing occurred in California. California is in the ninth circuit. The ninth circuit decided the case I referred to a minute ago in 1994, called Cheely versus United States. Cheely had been convicted of murder. He and his coconspirators arranged for a mail bomb to be sent to the post office box of a key witness against them in a trial. The witness' father was killed when he opened the packaged bomb.

Obviously, the facts are similar to the Unabomber case. Cheely was charged with interstate transport of an explosive that resulted in death and for death resulting from mailing nonmailable items. The Bush administration, which was in office at the time, asked for the death penalty. The ninth circuit panel ruled, however, that the death penalty statutes for mail bombings were unconstitutional.

The ninth circuit held that the class of persons eligible for the death penalty under these statutes was unconstitutionally broad. Now mind you, a Carter-appointed judge on that same panel dissented from that decision.

Given that President Clinton publicly supports the death penalty, it would seem reasonable to expect that the Justice Department would automatically have sought to appeal that sort of decision which struck down a Federal statute allowing the death penalty, with a strong dissent included. But the Solicitor General did not file a petition for rehearing by the full court.

In an extraordinary move, however, the full ninth circuit ordered the parties to address whether an en banc hearing should be granted. Surprisingly, the Justice Department argued that the ninth circuit should not grant review in this case.

Mr. President, the Justice Department wound up arguing against itself. Not so surprisingly, the ninth circuit then failed to grant rehearing. The Clinton Justice Department did not file an appeal with the Supreme Court.

The Judiciary Committee held an oversight hearing this past November. At that hearing, I asked Solicitor General Days why he did not file a rehearing petition in Cheely and in another case in another circuit. He indicated that although there was an argument to be raised on the other side, he did not think that the cases raised large enough concerns to justify asking for a rehearing. Of course, the constitutionality of many death sentences obtained on the basis of pre-1976 Federal statutes was at issue. He also indicated that he had discussed the case with Attorney General Reno.

The effects of this are obvious, because if this man is charged under the

Federal mail bomb statutes for the Unabomber killing in California, he cannot be given the death penalty. Had the Sacramento Federal building, and not the Oklahoma City Federal building, been bombed, the death penalty might not be available to be sought against Timothy McVeigh in Federal court.

According to the Saturday Washington Post, Justice Department officials say they are "pondering whether to bring charges against Koczynski," in the Unabomber case, "initially in Sacramento, the site of the last bombing in April 1995, or in New Jersey," where a 1994 killing occurred. I have a good idea why they are pondering. Any other time, the prosecutor might bring charges where the most recent case occurred, and where the evidence is fresher. And, in fact, the Unabomber sent more bombs to California than anywhere else.

But the case maybe cannot be brought there if the administration desires to seek the death penalty. I do not know if the New Jersey case is as strong as the California case. The third circuit, which includes New Jersey, has not issued opinions striking down the Federal death penalty statutes.

I am deeply disturbed, however, that this administration has precluded one death penalty prosecution of the Unabomber, and now we will all have to live with the consequences.

Thank you, Mr. President.

Mr. COVERDELL. Mr. President, the statement by the Senator from Tennessee underscores the majority leader's emphasis on a tough judiciary, and just points, once again, to what we have been hearing from Majority Leader DOLE with regard to how important the judiciary system is and the judges we appoint to maintain civil order in our country.

Mr. President, I now yield up to 10 minutes to the Senator from Washington.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Washington.

ANTITERRORISM BILL

Mr. GORTON. Mr. President, the day before yesterday, this Senate completed a vitally important task. A part of that task, an antiterrorism bill, was brought into being as a consequence of the tragedy 1 year ago in Oklahoma City. Another part of that accomplishment is the result of the work of many Members on this side of the aisle, some on the other side of the aisle, extending over a period of well over a decade to reform and make more just our criminal justice system.

There are those among our constituents, a number of whom have called my office, who oppose the antiterrorism bill simply because they did not wish any enhancement of the criminal justice powers of Federal agencies.

I believe their apprehension to be misdirected. I am convinced that to face the possibility of terrorism, both foreign and domestic, a possibility which has clearly been a terrible reality both in Oklahoma City and in New York City, that some enhancement of Federal law enforcement was, in fact, necessary, and, as a consequence, I supported the antiterrorism elements in that bill.

At the same time, Mr. President, I am convinced that the reform in what is known technically as habeas corpus will be of a more profound and a more positive nature in connection with our criminal justice system.

It is a simple truism that justice delayed is justice denied, and with respect to myriad State court convictions for serious criminal violations, including the most serious criminal violations resulting in capital punishment sentences, we have a spectacle in the United States of America unseen anyplace else in the world.

Here, of course, with our unique and uniquely valuable system of dual sovereignty, most criminal justice prosecutions take place in our State courts. Many here claim a sophistication by asserting some kind of second-rate justice at the State court system. Those observations do not accord with my own practice as attorney general of the State of Washington, but, nevertheless, they are reflected in the nature of our habeas corpus proceedings.

A normal prosecution proceeds through a trial before a jury in a State court, a conviction, a sentence, at least one and usually two appeals to an intermediate appellate court and then to a State supreme court in connection with any serious violation. In most other jurisdictions in the world, including other countries as free as the United States, that would be the end of the process. But in the United States, any convicted person can say, "No, I don't accept that proceeding," no matter how great the protections of the rights of the individual accused. "I'm going to start all over again in the Federal court system and assert some violation of my constitutional rights."

We have the paradox California situation—I believe, again, Mr. President, unprecedented in the world—in which a single trial level Federal judge can say that everything that the State trial judge did, everything that the State appellate system, everything that the State supreme court did was wrong and violated the constitutional rights of this individual convicted person. And you have to start all over again or perhaps even dismiss the case entirely.

Even if that single Federal court judge says, no, everything was done in accordance with the Constitution, the accused person can then take that to a circuit court of appeals as a matter of right and try it in the Supreme Court of the United States to succeed in his or her claims.

But, Mr. President, at the present time it does not stop there. You can go all the way up on one claim of a constitutional violation and then say, oh, by the way, I forgot, I have another claim of a different constitutional violation. And we will start all over again in another Federal district court and repeat the process.

Mr. President, when I spoke here during the debate of one of the motions to recommit of the distinguished Senator from Delaware, [Mr. BIDEN], I talked about Charles Campbell.

Charles Campbell, a released rapist, almost immediately after his release from a prison in Washington State went to the home of the person he raped and in cold blood murdered her, her child, and a neighbor who happened to be there at the time. This took place in 1982, Mr. President.

By 1984 Mr. Campbell had been tried, convicted, sentenced to death, and had exhausted his appeals in the Washington court system. But, Mr. President, that was only the beginning. From 1984 to 1994 Charles Campbell cheated justice by endless appeals to the Federal courts of the United States. After literally millions of dollars had been used, his judgment was finally confirmed and he was executed in mid 1994.

Mr. President, that was a misuse of the system. It taught disrespect of the law to the people of the State of Washington who had to follow this through the newspapers and over television for more than 10 years. And, Mr. President, fundamental respect for and obedience to our law requires a public opinion that believes that the legal system does work. This kind of misuse undercuts that trust and confidence. We simply cannot have it, Mr. President.

Finally, as a result of this bill, and the intense decade-long work of the Senator from Utah, Senator HATCH, we do have reforms in this habeas corpus set of procedures. It is not an abolition, not a way to deny true constitutional violations, but a way that requires them to be asserted within a reasonable time and concluded within a reasonable time. And as a consequence, Mr. President, I believe that we have made a huge step forward in a campaign which has lasted for an extended period of time.

Just going back in the RECORD to 1980—I find a bill 2 years after that by Senator East. It did not get out of committee. The next year there was one by Senator THURMOND that actually passed the Senate, but was killed in the House. The next year a similar bill by Senator DOLE, without action. During that same year 1984, a proposition from Congressman Foley from my own State, before he was Speaker, that said we could not do anything in Congress about habeas corpus until there had been a study and recommendations from the U.S. Supreme Court, which study has been completed.

VOL 142 PT 6 AP 15 — 24 1996 UMI

Then again in 1992 another proposal by Senator THURMOND. In the various crime bills in the 4 years leading up to 1994, tiny little proposals, minor changes—major changes constantly defeated on the floor of the Senate or the floor of the House. And finally now in this Congress with appropriate leadership a reform in the system that really works. Mr. President, this is a real triumph.

The PRESIDING OFFICER. All the time under the previous order has expired at this point.

Mr. COVERDELL. Mr. President, I would like to ask unanimous consent that our time be extended by 6 minutes. I have spoken to the Senator from Connecticut.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent, upon the conclusion of that time period, that Senator DODD be recognized for the purposes of making some remarks, and following that I be recognized for 20 minutes in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE ADMINISTRATION AND DRUG USE BY OUR YOUTH

Mr. COVERDELL. Mr. President, I think what we have seen here this morning is that there are consequences from policies. This administration has presided over significant policy changes and decisions for which there have been extraordinary consequences.

Mr. President, the interdiction effort of drugs on our borders, particularly between the United States and Mexico, have been reduced by 40 percent. The drug czar's office under this administration until recently was reduced by 80 percent. This administration has presided over the appointment of such judicial figures as Judge Baer who is now a celebrity in his own right for an initial resistance to a drug case brought in a celebrated case in New York.

These isolated incidences though need to be looked at and reviewed again in the context of what has resulted from these decisions. And what has resulted is an alarming epidemic of drug use among American citizens, particularly our youth.

Drug use among teenagers has doubled in the last 36 months. From 1980 to 1992 drug use among teenagers was cut in half. It has now skyrocketed and as I said has virtually doubled. Mr. President, drug use among our youth age 12 to 17 since 1992 has gone from 2.4 to 3.8 million. That is all illicit drugs. It has gone from 1.6 to 2.9 million for marijuana. Drug use among 12th graders in that same 36 months is up 60 percent. For 10th graders it is up 95 percent. For eighth graders, Mr. President—eighth graders—it is up 110 percent.

The emergency room episodes of cocaine-related incidents has gone from 110,000 to 147,000. The role of substance abuse and violence has skyrocketed and is involved in 70 percent-plus of rapes in the United States. Every statistic, Mr. President, we can review is up and we are now presiding over a new drug epidemic in the United States. These statistics are a direct result of major changes in policy.

That is where we need to revert to truth-in-sentencing, new interdiction and being tougher on the judges who sit on the bench to fulfill and honor the laws of our land.

This is a war, Mr. President, that we cannot afford to lose, because to do so is to condemn millions, millions of Americans to devastation.

ADM. JAMES S. RUSSELL: IN MEMORIAM

Mr. GORTON. Mr. President, Jim Russell died last Sunday. My life and the lives of a legion of others are diminished as a result. Today the flags in Lakewood, WA, will fly at half mast for retired Adm. James Russell, who died last Sunday at the age of 93.

It is difficult to compress a panegyric for Admiral Russell into a few short minutes, but he was, after all, a modest man who sought out neither praise nor glory. He eschewed grandiloquence, and so shall I. A simple retelling of his remarkable life will suffice.

James Russell was born in Tacoma, WA. When he was 15 he tried to join the Navy, but was turned away. Undeterred, he joined the Merchant Marine. His official naval career began in 1922 when he entered the U.S. Naval Academy. He went to the California Institute of Technology to get a master's degree in aeronautical engineering. In 1939 he worked on the design of the Essex-class aircraft carriers. Seventeen of the Essex-class were built, and none were sunk during World War II. He not only helped design, but also helped serve on the carriers, where he was, as the Tacoma News Tribune points out, the first naval aviator to take off from and land on the first six U.S. aircraft carriers.

In the war Admiral Russell served as a lieutenant commander of a patrol squadron in the Aleutians. He defended Dutch Harbor, and America against a Japanese fighter attack. Later on he fought in the Pacific aircraft carrier offensive that destroyed the Japanese fleet and helped assure the American victory. For his service, he received the Distinguished Service Medal twice, the Distinguished Flying Cross, and the Air Medal for Heroism.

Admiral Russell was part of the military occupation in Japan. In 1946 he became commander of the carrier USS *Bairoko*. In 1958 he rose to the No. 2 position in the Navy: vice chief of naval operations. From 1962 to 1965 he was commander in chief of NATO forces in Southern Europe. In 1965 he retired.

During the post-war period Admiral Russell helped develop the F–8 Crusader, the first of the Navy's aircrafts to fly 1,000 miles-per-hour, for which he was awarded the Collier Trophy in 1956. The Seattle Post-Intelligencer quotes Admiral Russell saying in 1994 that, "one of his proudest accomplishments was to have personally flown Navy aircraft 'ranging from biplanes to supersonic fighters.'"

After his retirement Admiral Russell was active in his community, and always kept abreast of military matters. He garnered respect and admiration from the people around him. Dignified, courteous, gracious, kind—these are some of the words his friends and associates use to describe him. His son Donald remembers that his father not only did not harbor ill feelings against his former Japanese enemies, but sought to reconcile with some of them. When two Japanese veterans—former pilots who had attacked the base where Admiral Russell served in the war—came to the Tacoma area to attend ceremonies marking the anniversary of the surrender, he insisted they stay with him, at his home. One can hardly think of a more apt example than this to describe the word "gracious." It was for this and for a lifetime of unimpeachable behavior that Admiral Russell was known as Gentleman Jim.

It was in his retirement that I met Jim Russell, who provided constant encouragement to me in my career—and constant wise counsel about the security of our beloved country as well. And so I will greatly miss him.

Admiral Russell is survived by his wife, Geraldine; a son and daughter-in-law, Donald and Katherine Russell; a daughter-in-law, Anitha Russell; a stepson, Fred Rahn; a stepdaughter, Barbara Frayn; five grandchildren and three great-grandchildren. His first wife, Dorothy, died in 1965. My condolences and prayers go to his family.

A few years ago Admiral Russell expressed his concern over all the honors he had received. "It worries me a little," he said. "I wonder if I've lived up to it." Clearly, the admiral was not a boaster. He did what he enjoyed; he served his country and his community, and he did not expect to be fussed over.

The Tacoma News Tribune mentions the mayor of Lakewood, Bill Harrison's, recollection of Admiral Russell:

> Harrison said he still remembers seeing Russell during a military parade, dressed in white, a sword gleaming at his side.
>
> He was absolutely resplendent, Harrison said. That was the first time I ever saw him, and that's the way I will always think of him.

What a treasure was James Sargent Russell. His life, of simple dignity,

bravery, service, enthusiasm, and kindness, reminds us of the better angels of our nature.

One of Admiral Russell's nicknames was the ancient mariner. And so, in Coleridge's words, let us bid "Farewell, farewell, the Mariner is gone." Farewell, Admiral.

Mr. President, I ask unanimous consent that a front page article dated April 16, 1996, and a lead editorial dated April 17, 1996, from the Tacoma News Tribune be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Tacoma News Tribune, Apr. 16, 1996]

ADMIRAL RUSSELL, A LEADER AND A GENTLEMAN, DEAD AT 93

(By Hector Castro)

He was known as Gentleman Jim, the Gray Eagle, the Father of Naval Aviation and in recent years, the Ancient Mariner.

On Sunday, the man with so many titles, retired Adm. James S. Russell, died at his Lakewood home. He was 93.

"I have very fond memories of him," Lakewood Mayor Bill Harrison said. "He became one of my heroes."

Russell was a Tacoma native who went away to sea as a boy and returned 43 years later as a four-star admiral.

In a career that began before World War II, Russell was a Navy flier, a designer of aircraft carriers, commander of nuclear tests in the Marshall Islands and commander-in-chief of NATO forces in Southern Europe.

Russell's elder son, Donald Russell of Lakewood, said his father always loved the sea and the water.

"The last day he was alive he looked at me and said, 'I want to go to the lake. I want to go to the lake.'" Donald Russell said.

James Russell was 15 when he graduated from Stadium High School and immediately tried to join the Navy. He was turned away because of his youth. But he wasn't put off so easily and joined the Merchant Marine.

His naval career began in 1922 when he enrolled in the U.S. Naval Academy. He later attended the California Institute of Technology to study aeronautical engineering.

That education, plus his experience as a Navy flier, proved invaluable when he helped design the Essex-class aircraft carriers shortly before the start of World War II. The ships proved to be among the toughest in the Navy. None of the 17 built by the start of the war was sunk.

Donald Russell remembers the start of the war, and his father's last words to him before shipping out.

"If I don't come back from the war, take care of your mother," Donald Russell said he was told. He was 11 years old at the time.

James Russell was a lieutenant commander of a patrol squadron during the war. At one time, he patrolled in the Alaskan Theater and helped fend off an attack by Japanese fighters on the American base at Dutch Harbor.

His actions during wartime earned him the Distinguished Flying Cross and the Air Medal for Heroism.

After the war, Russell rose to become second in command of the U.S. Navy. When he retired in 1965, he was commander-in-chief of NATO forces in Southern Europe, based in Italy.

That's when Harrison first met him. At the time, Harrison was a captain in the Army, though he retired as a three-star general.

The admiral, he said, immediately impressed him with his dignity and courtly manners.

Harrison saw the admiral's diplomacy at work, whether he was negotiating a peace between Greece and Turkey for smoothing over the boorish remarks of a fellow officer at a social function.

"I never saw him when he wasn't spic and span, doing and saying the right things," Harrison said.

Russell married Dorothy Johnson in 1929 and they had two sons, Donald and Kenneth. Dorothy Russell died in 1965, and Russell married Geraldine Rahn in 1966. She survives him.

Friends and family members said Russell enjoyed talking about his experiences, but never boasted.

"He was a very modest man," said Paul Hunter, staff commodore of the Tacoma Yacht Club. "He was not arrogant."

After his retirement, Russell became very involved in local community and military affairs. His popularity was such that last year civic leaders from around Tacoma pushed for a maritime park for him.

The park was not named for Russell, but he has received plenty of other honors.

They include France's highest award, the Legion of Honor, Greece's Order of King George I, Italy's Order of the Republic, Peru's Great Cross of Naval Merit, and Brazil's Order of Naval Merit. The USO Center at SeaTac bears his name.

His grandson, Malcolm Russell, also of Lakewood, said his grandfather's home could pass for a military museum. Walls and bookcases are filled with medals, awards and signed photos from such people as John F. Kennedy and King Paul of Greece.

Donald Russell said his father never hated his wartime enemies, and had invited Japanese military men and veterans of the war to his Lakewood home.

"He reconciled with his enemies," the younger Russell said. "It was extraordinarily important to him."

Harrison said he still remembers seeing Russell during a military parade, dressed in white, a sword gleaming at his side.

"He was absolutely resplendent," Harrison said. "That was the first time I ever saw him, and that's the way I will always think of him."

[From the Tacoma News Tribune, Apr. 17, 1996]

ADMIRAL RUSSELL GAVE A LIFETIME OF SERVICE

Retired four-star admiral James S. Russell, the most distinguished military leader to come out of Tacoma, was reflecting a few years ago on all the honors that had come his way.

"It worries me a little, I wonder if I've lived up to it," he said with typical modesty.

The admiral shouldn't have worried. The honors were well-deserved, and he wore them with surpassing grace.

Russell died peacefully at his Lakewood home Sunday at the age of 93. He is remembered not only for his 43 years of service to the nation as a much-decorated naval aviator and commanding officer, but for the years he spent here since his retirement in 1965 as a goodwill ambassador to military newcomers and visitors.

Russell graduated from Stadium High School at 15, and too young to enlist in the Navy, joined the Merchant Marine. A U.S. Naval Academy graduate, he earned a master's degree in aeronautical engineering at Cal Tech and went on to help design the tough Essex-class aircraft carriers in 1939. He was the first naval aviator to take off from and land on the first six U.S. aircraft carriers.

After distinguished service as a patrol squadron lieutenant commander in the Aleutians during World War II, Russell took command of his first carrier, the USS Bairoko, in 1946. He became vice chief of naval operations, the Navy's No. 2 position, in 1958, and was commander in chief of NATO forces in Southern Europe from 1962 until he retired in 1965. He was recalled to active duty twice.

One of the more revealing stories about Russell was about the graciousness he showed to one-time enemies. Two former Japanese pilots who had attacked the Aleutians base where Russell served in World War II were in the area last summer to participate in ceremonies marking the anniversary of the surrender. Russell, who insisted they stay in his home, said he felt no animosity toward those who once tried their hardest to kill him.

It's entirely professional. There were in their service, I was in mine, and we understand one another."

That attitude was typical of "Gentleman Jim" Russell, the consummate professional who earned the respect of everyone from swabbies to heads of state.

The PRESIDING OFFICER (Mr. GORTON). Under the previous order, the Senator from Connecticut is recognized.

IN MEMORY OF OKLAHOMA CITY

Mr. DODD. Thank you, Mr. President. Mr. President, first of all, I have two sets of remarks I want to make on separate subjects. The first has to do with the subject matter that has been discussed already this morning over a period, I gather, of some 75 minutes. That is, of course, the 1-year anniversary of the tragedy of the bombing in Oklahoma City.

Allow me on behalf of my constituents, if I may, of the State of Connecticut, to express condolences to our colleagues here from Oklahoma as well as to the people of Oklahoma, particularly the people of Oklahoma City, and of course the family, friends, and associates of the 168 people who lost their lives a year ago today in one of the worst, if not the worst, incidence of terrorism in the history of the United States.

In addition, among that 168 people who lost their lives a year ago, Mr. President, 19 were innocent children, mostly in a day care center in that building in Oklahoma City. Of the rest, the vast majority, as we know, were Federal employees, Government workers. It was not, apparently, just any building in Oklahoma City that was the target of this deranged individual or individuals, as only time will tell through the various proceedings, it was a Government building and it was Government employees. They did not belong to any particular cause, these employees. They were not opposed because they were a particular group of people engaged in some political activity. They were people that worked at

VOL 142 PT 6 AP 15—24 1996 UMI

HUD and the Social Security Administration, the Veterans' Administration, people that were going to work that morning, doing what they do across this country in a building like it, serving our constituents.

Because they were Government employees in a Government building, and because people had decided they needed to send a message about their Government, they were targets, including 19 innocent children. This was a crime committed, obviously, by a violent, aberrant American or persons. We all know that. I think it is important to remember that the vast majority of Americans were repulsed by what happened, that they wholly reject violence as a method of political change in this country, and that all of us share in the grief that the families and friends of the people of Oklahoma and Oklahoma City are remembering today.

Mr. President, on behalf of my constituents and certainly myself and our office here, we wish to express our deepest condolences to those people and to rededicate ourselves here to take all necessary steps to try and stop those who would engage in that kind of activity as a way of expressing their political views.

I point out that I supported the antiterrorism bill yesterday, as most of us did in this body. I felt it could have been a stronger bill, Mr. President. I must say that. I deeply regret we did not take additional actions such as identified by our colleague from Delaware, Senator BIDEN, and others to strengthen the hand of law enforcement in areas where, for instance, people on the Internet now, instruct people how to make bombs with the intent that they be used—we do not prohibit that. We cannot allow our military forces at the direction of the Attorney General to step in where terrorism may be used. I think that is regrettable. I think we ought to be able to use our forces where appropriate. That is not in the bill. It was struck from the bill.

Hopefully, we can come back and make some of these changes and strengthen the legislation. Nonetheless, it is a positive step forward. I am glad Congress has gone on record in pressing its opposition to terrorism, and hope we can do more in the coming weeks and months before this Congress is adjourned.

The major point today is that all of us here, not to use this as a forum somehow to express our oppositions to various policies, but at least for a moment or two, to express our deep, deep sense of sorrow to the people of Oklahoma City, and particularly to the families and friends of the 168 individuals who lost their lives.

TRIBUTE TO RON BROWN

Mr. DODD. Mr. President, just 2 weeks ago, this Nation was saddened and anguished by the tragic death of Commerce Secretary Ron Brown and 32 other Government and business leaders in Croatia. As a very close personal friend of Ron Brown's, I regret deeply, Mr. President, that I could not be here to console his widow, Alma, and his children, Michael and Tracy, in their time of grief. My thoughts and prayers today, as they have been over the last several weeks, are with the Brown family and with the families of all of the victims of this terrible tragedy.

Although we have many pressing issues before us in this body, Mr. President, I want to take just a few minutes, if I can, to reflect and remember the extraordinary and distinguished legacy of Ron Brown. As I stand before the Senate here today, many thoughts come to mind, Mr. President, about Ron Brown—civil rights activists, Democratic Party chairman, Commerce Secretary, bridge builder, and certainly a very close and dear personal friend.

Beyond my great sense of personal loss, Mr. President, when I think of Ron Brown I also think of public service and public servant. From all the time that I knew Ron Brown, from when he was a trusted aide to our colleague, Senator KENNEDY, to when he was chairman of the Democratic Party and his last role as Secretary of Commerce, Ron Brown epitomized, in my view, what public service is all about. Ron Brown labored tirelessly for what he believed in. It seemed that no obstacle could prevent him from attaining his goals.

At a time when respect for public service and public servants has diminished, when pundits too often cynically demean those who serve America, Ron Brown presented the quiet dignity that comes with superb public servants. Ron believed that one person committed to a task with conviction in their heart could make a difference, and he certainly did. His labors were the embodiment of George Bernard Shaw's timeless words, "You see things, and you say why; but I dream things that never were and say why not."

On April 3, when Secretary Brown's plane crashed in Croatia, Mr. President, I was in Ireland to fulfill a longstanding commitment. Together with Ambassador Jean Kennedy Smith and Prime Minister Bruton, we attended and participated in a wonderful memorial service dedicate to Ron Brown's memory at St. Patrick's Cathedral.

I say as an aside, Mr. President, we anticipated 30 or 40 people would show up, maybe from the Embassy staff, to come by and pay their respects. In fact, over 500 people unannounced showed up at the cathedral that morning to participate in that service. I want to thank Dean Stewart, who was in charge of St. Patrick's Cathedral, along with other members of the clergy from throughout Ireland who participated that morning, as well as some very distinguished people who sang and purchased musical pieces in memory of Ron Brown, not to mention the 500 people that came from across the island of Ireland to express their sense of loss.

For all of us there that morning, Mr. President, our remembrances of Ron Brown hearken back to the visit he had made to Ireland 2 years ago, to which I was a member, a trip not unlike the one to Croatia, involving some 15 chief executive officers of businesses in this country, as well as others from the House and the Senate that were part of an economic mission to Northern Ireland.

A visit, Ambassador Smith reminded us, which led to President Clinton to dub Ron Brown an "honorary Irishman," and it was mentioned again by her that morning at St. Patrick's Cathedral. Ron Brown, Mr. President, had come to Ireland with an ambitious but challenging goal: To make the dream of peace during the formal cease-fire in Northern Ireland a reality. Certainly, it was no easy task, as we know, even today.

For anyone who knew Ron Brown, there were not too many challenges that phased him. While I had known him for many years, it was on that trip to Ireland that I had the opportunity to see firsthand the enthusiasm and optimism that infused him.

Remarkably, Mr. President, I watched an African-American man, born and raised in Harlem, with no ethnic or religious connection to Ireland, come to that island and champion the peace process and the opportunities for economic development. While on that trip, Ron Brown became the first U.S. Cabinet secretary to make an official visit to Belfast.

The success of Ron's trip to Ireland prompted President Clinton to send Ron on many other missions across the globe, including the one to the former Yugoslavia, a mission which ended so tragically on that rainy and windswept mountain in Croatia. This final mission, Mr. President, was one of many that Ron tirelessly made to the world's troubled spots promoting American companies and American workers.

As Secretary of Commerce, on one level, Ron's job, of course, was to promote U.S. business interests, which he did very, very well. But for all who knew Ron Brown well, his interests ran much deeper than that. Ron Brown used the legitimate goal of increasing U.S. economic opportunities as a means of advancing other interests as well.

Ron traveled to many places that are beginning the difficult journey toward reconciliation and economic revitalization because, as a public man, a public servant, he believed that the dynamism of private enterprise could help bring lasting peace to regions that, for years, had known only violence and hatred.

But Ron Brown understood that these trips were about more than just helping business or free enterprise. As Ambassador Smith noted in her eulogy in Dublin a week ago, these trips were truly—to use her words—"peace and democracy missions, too, missions of hope and idealism."

Mr. President, these trips were about promoting the importance of work, and the notion that through economic opportunity, the process of political reconciliation could begin and, more importantly, could last.

In the absence of it, of course, no permanent healing will ever occur.

From Ron Brown's earliest days, at his first job carrying records and reading public service announcements at WLIB-AM, a radio station in Harlem, he understood the critical importance of work. He understood that there is nothing as rewarding, for individuals or a nation, as waking up in the morning, going to work, and coming home in the evening knowing that you have earned a true wage.

That is why Ron Brown went to Ireland and so many other places, and it is why he was in the Balkans on that tragic evening.

Ron Brown knew that after the peace treaties were signed and when the guns were finally laid to rest, the possibility of a truly lasting peace anyplace around the globe would depend on every person having the same opportunity to realize today the dream of a far better tomorrow for themselves and their families.

When Ron Brown journeyed to the Balkans, he took with him the unquenchable spirit of American optimism. He sought to use American enterprise and the American can-do spirit to promote economic development as a means of bringing a truly lasting peace. And he sought to heal the lingering anguish of ethnic violence with a promise of a brighter future for all the peoples of the region.

Ron Brown leaves this world, Mr. President, with an amazing legacy. He was the first African-American to head a major political party in our country. He was the first African-American to be Secretary of Commerce. He rebuilt the Democratic Party, and he certainly helped to elect President Clinton in 1992. He used the Commerce Department to create millions of jobs for American workers and spread the doctrine of economic development and cooperation across the globe.

Ron Brown enjoyed a full and all-too-brief life on this Earth and must be a source of inspiration to all of us, in not just Government, but in our Nation as a whole.

In Ireland, Prime Minister Bruton described Ron Brown in these words, which I think bear repeating—as a role model "for those looking for inspiration as to how a life can be led for the good of others."

Ron Brown understood, Mr. President, that our lives must have purpose and direction. And we can best remember him by emulating the way he lived his life. Mr. President, I think the poet Ralph Waldo Emerson said it well when he said, "I expect to pass through this world but once. Any good therefore that I can do or any kindness that I can show for any fellow creature, let me do it now. Let me not defer or neglect it, for I shall not pass this way again."

Ron Brown's life symbolized these solemn words. While he passed through our world, Mr. President, he did good. He showed kindness and, regrettably—so regrettably—he will not pass this way again.

Mr. President, I ask unanimous consent that the comments of our Ambassador, Jean Kennedy Smith, along with an article that appeared in the Irish Times, which captured, as well, the remarks of Prime Minister Bruton, who spoke at the memorial service in Dublin, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY AMBASSADOR JEAN KENNEDY SMITH AT MEMORIAL SERVICE FOR SECRETARY OF COMMERCE RON BROWN AND HIS DELEGATION

Taoiseach, distinguished guests, and friends of Ron Brown, of Chuck Meissner, and of the other brave pioneers for peace whose lives of courage and service were so tragically cut short last week.

This has, indeed, been a sad week for America, a sad week for Ireland. We have lost friends. But today, we gather not only to mourn them, but to celebrate their lives.

Last night, I spoke with Alma Brown and told her of the memorial service we were holding today. She was so pleased that Ron was to be remembered in this way by the people of Ireland, because this country was so important to him.

I first met Ron Brown in the fall of 1979. My brother, Ted, was about to begin a campaign for President of the United States in 1980. My husband, Steve, was to manage the campaign, as he had done for my brothers, Jack and Bob. Steve needed a deputy campaign manager for civil rights, and everyone said that Ron Brown was the perfect choice—a new young leader in the civil rights movement, and a worthy heir of the Reverend Martin Luther King.

We all loved Ron from the start. He served far above and beyond the call of duty in the campaign. He gave his heart to Ted and Steve and all of us in the Kennedy family gave our hearts to Ron.

In the years since, I saw him often, most recently during his frequent visits to Ireland. He once told me that he felt a special welcome and sense of humanity in Ireland, even for those who are not of Irish descent. In fact, he enjoyed his time here so much that President Clinton dubbed him an honorary Irishman.

Ron Brown was an original. I never met a person who had greater ability to go into a hornet's nest, come out with the honey, and leave all the bees laughing. No tunnel was too long or too dark for Ron to not see the light at the end. His warmth, and wit, and optimism were inspiring and infectious.

He was a charismatic leader, who was good at every job he ever took on—as a leader in the civil rights movement, chairperson of the Democratic National Committee, and as the Secretary of Commerce. A son of Harlem, he was a remarkable American success story, and he dedicated his life to helping others achieve their potential and their dreams, as he had one.

He brought that same spirit of optimism to Ireland. As he said during President Clinton's historic visit, he found a "belief in self that wasn't here before."

"We are on a path," he said, "and we won't be denied."

Ron was deeply committed to public service, and he instilled that commitment in all who worked for him; in Chuck Meissner, his tireless assistant secretary of commerce, who felt very strongly the pulse for peace in Northern Ireland, and in all those from the Department of Commerce who are here today. The mission Ron Brown led to South Africa and China, to the Middle East and Northern Ireland, and, finally, to Bosnia, were more than trade missions. They were peace and democracy missions too, missions to hope and idealism. The understood that peace, prosperity, and economic justice go hand in hand.

As President Clinton has said, "Ron Brown walked and ran and flew through life. He was a magnificent life force."

In the wake of that force, in the wake of that remarkable life, all of us who knew Ron Brown, Chuck Meissner, and the members of the delegation, all of us who were fortunate to be touched by their warmth and share their vision must try to carry on their work for peace, for that is their legacy to us.

[From the Irish Times, Apr. 11, 1996]

BRUTON SAYS BROWN WAS A MODEL FOR ALL WHO WANT TO HELP OTHERS

(By Mark Brennock)

Politicians, business people and many others who knew Ron Brown gathered in Dublin's St. Patrick's Cathedral yesterday to honour an African-American whom President Clinton had dubbed "an honorary Irishman."

As one who had not known him the Dean of St. Patrick's the Very Rev Maurice Stewart, said he had two images of the late U.S. Commerce Secretary in his mind.

The first was of a man who had been praised after his death by Northern Irish politicians of both persuasions.

The second was that when Mr. Brown was seen on television, "he always seemed to be smiling. He was a happy man, and these days, that is as good an image as any politician could project."

Mr. Brown was among 33 people killed last week when their plane crashed in Crostia. He had been on a trade and aid mission to Bosnia and Crotia, He was also a key figure in the US Administration's involvement in the Northern Ireland peace process.

The US Ambassador, Ms. Jean Kennedy Smith, told the congregation Mr. Brown had once said he felt "a special welcome and sense of humanity in Ireland, even for those who are not of Irish descent. In fact, he enjoyed his time here so much that President Clinton dubbed him an honorary Irishman.

"The missions Ron Brown led to South Africa and China, to the Middle East and Northern Ireland and, finally, to Bosnia, were more than trade missions. They were peace and democracy missions too, missions of hope and idealism. He understood that peace, prosperity and justice go hand in hand."

VOL 142 PT 6 AP 15 — 24 1996 UMI

She said everyone who had known Mr. Brown, Mr. Chuck Meissner and the others who died in the plane crash "must try to carry on their work for peace, for that is their legacy to us."

US Senator Chris Dodd, who had travelled to Ireland with Mr. Brown in recent years, said on one level he had been in Ireland to promote US business, but "Ron Brown understood that these trips were about far more than promoting business.

"He knew that after the peace treaties were signed and the guns laid to rest, the possibility of a truly lasting peace depended on each person having the same opportunity to realize their dreams of a better tomorrow. He sought to heal the lingering anguish and ethnic violence with the promise of brighter opportunities.

"On the trip to Ireland, I . . . watched an African-American born and raised in Harlem with no ties here come and champion the cause of peace and economic opportunity in Ireland."

The Taoiscach, Mr. Bruton hailed Mr. Brown as a role model "for those looking for inspiration as to how a life can be led for the good of others". He said Mr. Brown had brought his experience of a Harlem upbringing and his involvement in the civil rights movement to work towards the creation of "a structure of peace" in the world.

"As head of the Irish Government I want to thank him for the enormous interest he took in peace and prosperity on this small island."

Ireland was not a major strategic interest for the US, he said. The US could have confined itself to expressing pious words and the occasional reference to Ireland at election time. But the Clinton Administration had gone far beyond that.

The President, who is in the west of Ireland, was represented at the service by her aide-decamp, Col. Bernard Howard. The attendance included the Lord Mayor of Dublin, Mr. Seán D. Dublin Bay Loftus.

The Government was also represented by the Minister for Finance, Mr. Quinn; the Minister for Enterprise and Employment, Mr. Bruton; and the Minister for Tourism and Trade, Mr. Kenny. Ministers of State present included Mr. Pat Rabbitte and Mr. Austin Currie.

Other politicians attending included the ?ianna ??il deputy leader, Ms. Mary O'Rourke, the Progressive Democrats leader, Ms. Mary Harney, and the former PD leader, Mr. Desmond O'Malley Sinn Féin was represented by Monaghan, counsellor Mr. * * *

There was a large representation from the US Embassy. Among the other diplomatic missions represented were those of Norway, Thailand, Nigeria and Israel.

A large contingent from the Department of Foreign Affairs included the second secretary, Mr. Seán O hUiginn, the Chief of Protocol, Mr. John O. Burke and Mr. Brendan Scannell of the Anglo-Irish division. The Taoiscach's programme manager. Mr. Seán Donlon, and representatives of a number of other government Departments were also present.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I appreciate the unanimous consent to speak for 20 minutes. Let me associate myself strongly with both sets of remarks by the Senator from Connecticut—first, as to our good friend and great loss with regard to Secretary Brown, who we will miss greatly. And, second, nothing could be more on our minds today than the horror of last year in Oklahoma City. The moments of silence here and across the country were a fitting reminder of that tragedy, but also a time to feel some real gratitude toward the employees of our Federal Government, who do not always get treated with all the respect and admiration they deserve. They had a very rough year in 1995. I, for one, want to thank them for their services and the sacrifices of their families throughout the country, particularly with regard to those who suffered the loss in Oklahoma City.

I thank the Senator from Connecticut for his remarks.

CAMPAIGN FINANCE REFORM

Mr. FEINGOLD. Mr. President, it looks like a very ambitious agenda has been announced for this session until Memorial Day. I welcome much of that agenda, and I especially welcome the type of bill that we handled yesterday, the so-called Kennedy-Kassebaum bill.

That bill regarding health care reform is a classic example of a good, bipartisan effort that I think the American people are really starved for. They want nothing more than to see those of us who have the honor of being elected to Congress work together on a bipartisan basis. What we did yesterday, I think, exemplifies better than anything else the possibilities of working together in this body for the good of the country.

In fact, Mr. President, in his State of the Union, President Clinton endorsed the Kennedy-Kassebaum bill, saying that that bipartisan effort was acceptable to him and that he would be happy to sign it. That gave the bill a lot of impetus, and I think it was a very important moment in the State of the Union.

Mr. President, the President of the United States also endorsed another bipartisan bill that night on another topic that might be even more fundamental—I would say it is even more fundamental than the important bill we passed yesterday. The topic that the President was referring to was campaign finance reform, and the bill that he endorsed was S. 1219, the first bipartisan bill on campaign reform in this body in about 10 years.

Mr. President, I rise today—and, in a moment, a couple of my colleagues will also rise—to say that the time is now to take up the issue of campaign finance reform on this floor, to take up this bipartisan effort, which, among other things, will, for the first time, voluntarily limit the overall amount a candidate can spend when they run for the U.S. Senate or the House of Representatives, and for the first time say that you have to get a majority of your campaign contributions from individuals, from the people from your own home State, not from PAC's or from out-of-staters, but the majority from your own home State, if you want to get the benefits of the bill; and finally, for the very first time, some reasonable incentives to get people to not spend unlimited amounts of their own cash, so that people get the sickening feeling that elections can be bought.

All of this is highlighted in S. 1219. In doing so, of course, Mr. President, I especially pay tribute to the first sponsor of the bill, who has been central to the bipartisan reform efforts in the 104th Congress, the senior Senator from Arizona, Senator MCCAIN.

He has been steadfast and very dedicated to this effort. He, I, and the others who are involved in this speak almost every day about how we can move this effort from concept to fruition during the 104th Congress.

In addition, my friend who will speak next, the Senator from Minnesota, Senator WELLSTONE, and others have worked together almost on a daily basis to try to move this issue forward. We have been very encouraged that this is not just happening in this House. It is also happening in the other body where another very similar bipartisan effort is being led by a group of people from very disparate ideological viewpoints. It is one of the rare examples, I am told, where there is not just a bipartisan effort going on but a bicameral effort, a real groundswell of effort in both Houses working together for campaign finance reform.

Of course, I would be remiss not to mention the tremendous public support we are finding for S. 1219—groups like Common Cause, Public Citizens, and over 50 newspapers have endorsed the bill.

So I think it is fair to say we are in an excellent position to say that the time is now to have this issue debated on the floor.

So I, Senator MCCAIN, and the others who have been working together on this bill have come to the conclusion that it may well be necessary now to seek to amend another piece of legislation, perhaps the next appropriate vehicle, to move this issue forward given the inability of having this bill scheduled on its own at this point. I would prefer—I think we would all prefer—that the bill be scheduled separately. But, given the passage of time, I think we have very little alternative.

Mr. President, given the unprecedented level of bipartisan support, there is clearly a consensus among the public that S. 1219 ought to come to the floor. Admittedly, there was a time some years ago when I did not think we could, having passed campaign finance reform in both Houses in the 103d Congress and see it die. I was skeptical. When I read the Contract With America and saw the other party win the election, campaign finance reform was

not even mentioned in the Contract With America.

Nonetheless, Mr. President, thanks to Members of both parties, this is truly a bipartisan effort. The reform agenda has arisen in the 104th Congress. It has been proven by not just introducing but by succeeding on the issues of the gift ban and lobby reform for which my friend from Minnesota was very central to in both causes. These are among the very few real accomplishments thus far in the 104th Congress. So the reform agenda has done surprisingly well.

Mr. President, I want to especially remind the body today that it is important to do this. This is not just one Senator's view of what ought to be on the floor or just the view of the cosponsors of the bill. This is the will of the body of the U.S. Senate as voted on a bipartisan basis in July of 1995.

Mr. President, last July I authored a bipartisan resolution that simply said we should consider campaign finance reform during the 104th Congress. I thought it would be a quick voice vote and be put away. But it was tested. It was sorely tested. The majority leader left his office and came to the floor personally and urged that that resolution which I had proposed be defeated, and called for a rollcall. As we know, the majority leader rarely fails to prevail. The majority leader almost never fails to get a majority. But on this one he did, and 13 Republicans joined with many Democrats so that on a 57 to 41 vote the Senate voted not to table our resolution that campaign finance reform should be considered during the 104th Congress. Subsequently, in the next vote, campaign finance reform was added to a list of items that we all voted to say ought to be considered in the 104th Congress.

Mr. President, I think that was a very key sign of the desire of this body to do campaign finance reform. I certainly believed that every Senator, when they said they wanted the issue considered, meant that they wanted it considered in a timely manner so that campaign finance reform could become law. In other words, I did not consider this to be something that Senators would want to do so late that it would not wind its way through this difficult process, and so that it would not get to the President who has said he is ready to sign the bill.

Mr. President, since that time, many other items that were on that list that we all voted for have been passed or dealt with. Welfare reform has been dealt with, the Defense Department authorization, Bosnia arms embargo, job training, and legislative branch appropriations have all been considered on the floor of the Senate—but not campaign finance reform.

Here we are in mid-April in the second year of the 104th Congress with no debate on campaign finance reform, no consideration, and thus far no votes on the issue.

So this is obviously somewhat troubling, and it becomes much more troubling when we have a spate of news articles this week announcing what the agenda will be during this floor period ending with Memorial Day. In fact, we have begun the first of several days now that are going to be devoted not to campaign finance reform but just to the issue of term limits. Admittedly, many Americans want that debate on term limits. But where is the mention in the agreement about when campaign finance reform will come up?

Some might say the bill need hearings. It has had extensive hearings in front of the Senate Rules Committee—helpful, meaningful hearings. But that opportunity has now been given, and the time has come to move forward.

So, Mr. President, before I yield to my other colleagues, let me say that I remain very optimistic about this bill. We have preferred to go the route of a separate bill, and maybe that can still happen. But we have no choice at this point but to move forward and try to amend another piece of legislation.

Some are saying that there is already not enough time to pass this bill in this Congress. But do know what that is? That is wishful thinking on the part of those who want this bill to go away. That is what you say when you hope you will try to slow the momentum of those pushing this issue. You tell everyone there is not enough time and we cannot do it until they move on to other things. But supporters of this bill all across the country know that we have bipartisan momentum and that we will come to the floor in the near future. And once that act begins, the public support and feeling about this issue will keep the issue moving in this Congress.

Mr. President, on this one, the public knows because of the bipartisan support that they will reject excuses that there was not enough time. They know that 6 months remain, at least, before we adjourn, and they will certainly tell anyone who tries to tell them there was not time, they will say that, if there is a will, there is a way.

So, Mr. President, I am very encouraged that we are ready to move.

I now yield 5 minutes of my time to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, first of all, let me just say that I am really proud to have introduced this bill with Senator FEINGOLD, Senator MCCAIN, and Senator THOMPSON. Now we have Senator GRAMM and Senator KASSEBAUM. I think that is a really good, bipartisan working group.

I am also especially proud to be out here with my colleague from Wisconsin from the Midwest. I think both of us see this issue in really the same way. This is all about trust.

There was in the Washington Post not too long ago an article about the Harvard-Kaiser Foundation study—really, the erosion of trust that people have in basic institutions of American life. By the way, right there at the top of the Congress is politics. I think it is because of the money choice and the appearance of corruption and gifts. By the way, I am not arguing that there is individual corruption. I do not believe that. But the point is people want to have a political process that they believe in. They yearn for a political process that they believe in. All too often money is too important in campaigns.

When I first came here almost 6 years ago, I came to the floor of the Senate. I said that the whole question of the way in which money dominates politics has become the ethical issue of our time. I have given many, many speeches on the floor of the Senate about the need for campaign finance reform. I have introduced many amendments and many bills. I thought at the end of the last Congress we were going to pass a bill. But it was filibustered and blocked at the end.

But, Mr. President, let me just say that it just looks awful for the Congress to try to stonewall this issue. I do not think symbolic politics is going to work. On the House side they are talking about some committee or commission and another study. This has an Alice in Wonderland quality to it—appoint another study by another commission followed by the same recommendations, followed by the same inaction, followed by nothing happening.

We know what the problems are. The problems are clear. There is too much money in the political process. It is too important in determining the outcome of elections. It gives the appearance of corruption. We should have a more open political process, and we should make every effort possible to try to get a lot of this big money out of politics.

Mr. President, I do not have time to go into the features. But trying to get some agreed-upon limits makes all the sense in the world. Trying to have some accountability about where the money comes from makes all the sense in the world. Trying to move toward debates and have a political process more accountable to people makes all the sense in the world.

I do not agree with every provision. I think the $250,000 limit on what an individual can spend on his campaign is too high. A lot of us cannot afford that.

I also think there is a variable campaign limit that goes up if your opponent does not agree, and I would like to work on improving that.

We came together as a bipartisan working group because we decided the

VOL
142
PT
6
AP
15
—
24
1996
UMI

time is now. The idea of campaign finance reform is an idea, colleagues, Democrats and Republicans alike, whose time has come in America. The idea for campaign finance reform for politics, for campaigns and for elections that people can believe in, this is an idea whose time has come in America.

This is deja vu to me, I say to my colleague from Wisconsin. We tried to do it on gift ban and lobbying disclosure. We kept getting put off and put off and put off. In all due respect to my colleagues, it just looks to me as if some people are not listening. We are not out here for symbolic reactions. We just announced, all of us together, we will bring this to the floor in May as an amendment if we do not get a time certain for an up-or-down vote on this piece of legislation, and we intend for the Senate to go on record in May. It is important that all of us do it. It is important we do it in a bipartisan way.

Let me just say again this is all about trust. We want, Democrats and Republicans alike, people to trust this political process. We want people to trust their Congress. We want people to have trust in their public officials. I am just telling you that this system in which all of us have to operate is fundamentally flawed. It is a core problem. It is badly needing reform. There is enough time that has gone by, and we are not going to let this Congress stonewall it. We are going to make sure that action is taken by this Senate and that action will be taken this May.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FEINGOLD. Mr. President, I appreciate the comments of the Senator from Minnesota. I yield the remainder of my time to the junior Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. I thank the Chair. I thank my colleague.

I join in the proposition that it is time we address the issue of campaign finance reform in this body. It is too bad that we are having to consider it in what may be considered the midst of a Presidential campaign year. It should not be a partisan matter. Senator JOHN MCCAIN, of course, has been the leader, along with Senator FEINGOLD, on the bill on which I am privileged to be one of the original cosponsors. So we are trying to take a bipartisan look at it.

We have spent entirely too much time in times past as parties trying to figure out what would be to our advantage and our disadvantage, and both parties have done that. Nobody really knows the result of reforms we might make in terms of the success of political parties. I continue to believe that the primary ingredient is the quality of the candidate and the quality of the message regardless of what rules we play under.

I have the simple belief that there is too much money in the system. I know that it is becoming currently in vogue to say there is not enough money in the system; we need to have more. I do not believe that. I have had the opportunity in very short order to run as a challenger. I am now running for reelection after 2 years. Because I had the unexpired term of Vice President GORE, I am now running as an incumbent. I have seen it from both sides. It takes entirely too much time to raise the millions of dollars it takes to run for political office in this country, time that we ought to be spending on the Nation's business.

People are cynical of the system that we now have. After a brief rise in public opinion, it seems, after the last Congress, we are going right back to where Congress has always been in the view of the American people, and that is basically abysmally very low. People look at the huge amounts of money in the system that both parties raise, that all candidates raise if they have any hope of being successful, and they simply do not think there is no relationship between the huge amounts of money being paid out and the actions that are being taken.

That is one of the reasons why people have less and less faith in their Government. It is heavily weighted toward incumbents. As I have said, I have seen it from both sides now, as the old song goes, and incumbency brings the finances that a challenger cannot bring against a well-entrenched incumbent who has had the opportunity to spend the last several years raising money and putting it back. Someone must have the temerity to go out and challenge him and overcome that big advantage the incumbent has.

That is not a good system. It is not serving us well. We can look at the bottom line and tell it is not serving us well. It is not producing the results. Whether it is the fiscal policy or social policy or anything you want to look at in terms of the indicators as to what direction our country is going, it is not producing the results we want to see produced in this country.

There are a lot of problems with any particular piece of legislation. I am sure there are problems with the piece that we will be supporting. To me, it is a much broader and more basic question than whether you have a $1,000 limit or a $500 limit or $250 or $5,000 or even whether you have PAC's or not. Political action committees were touted as a great reform measure just a few years ago. Now they are out of favor. I do not think it makes any difference. Individuals can contribute around PAC's anyway. PAC's at least are fully disclosed and there are some limitations on them. The same people contributing to the PAC's can contribute individually. So that is all kind of a sideshow as far as I am concerned. I think if we can do something about the overall amounts we will be making real progress.

So I join with my colleague's statement, and I am looking forward to making some progress on this, this year.

Mr. WARNER. Mr. President, we have heard from several of my colleagues about the need to move forward on campaign finance reform. I wholeheartedly agree—but we must not move forward without reviewing, analyzing, and understanding what those reforms entail.

Campaign finance reform is indeed a very important issue and one that has received increasing publicity and discussion among the American people.

The Senate Rules Committee has taken a bipartisan lead in bringing the full spectrum of the issues surrounding campaign finance to this discussion, and there are many important and significant issues surrounding the reform efforts.

In a series of hearings specifically designed to permit the examination and full discussion of this very important subject, the Rules Committee has heard from Senators MCCAIN, FEINGOLD, THOMPSON, WELLSTONE, FEINSTEIN, and BRADLEY, about legislation they have proposed. We have also received testimony from Members of the House—Messrs. SHAYS and MEEHAN, and Mrs. SMITH—on legislation they introduced in the House.

We have benefited in our understanding of the scope of these proposals from several distinguished lawyers and scholars who have raised significant—and serious—concerns about the constitutionality of some of the proposed reforms. This should cause every Senator to tread slowly, and ensure we have the benefit of full analysis. It remains my greatest concern that many of the reform proposals carry a high risk of being held unconstitutional. The American people would be rendered a serious disservice if we were to knowingly pass legislation which would likely prove to be an empty solution to the problems associated with campaign financing. To this end I have asked—just this past Wednesday—that the chairmen of the Republican and Democratic National Committees provide us with their analysis of the constitutionality of several of the major reform proposals, including: The ban on political action committees; the limitations placed on independent expenditures; and the soft money restrictions placed on the political parties.

In addition to appreciating the constitutional problems with some of the reform proposals, we need to understand the effects of these proposals. We should not head into a darkened tunnel without benefit of a light.

To this end, we heard pros and cons for various aspects of campaign finance reform from prestigious policy institutes—CATO Institute, Brookings Institute, and Heritage Foundation, as well as general calls for significant reform by several advocate groups.

Our hearings have permitted organizations and individuals to provide us with their perspective of campaign finance reform proposals that would eliminate political action committees [PAC's] and the bundling of funds.

We have also learned about the costs and management problems associated with the proposals that candidates for election be given reduced-fee postage. There is no free lunch—reduced-fee postage ultimately means increased prices to the American postal user. This does not necessarily mean the idea is bad, but we should understand what the costs are and who we are asking to bear those costs.

The committee has also heard positive, thought-provoking testimony about new ideas for reform that should be considered in any campaign reform evaluation. Ideas such as increasing the spending limits to adjust for inflation and increasing the role of the political parties in supporting campaigns.

In our continuing effort to cover the issues in a complete and timely manner, our next hearing is scheduled for May 8. We will bring representatives of the broadcast industry to address the costs and mechanics of implementing the reduced-fee broadcast proposals. We also hope to have testimony on the broadcast industry's efforts to voluntarily provide free broadcast time for the Presidential election—and assess the applicability of this effort to Senate elections.

In addition, we will hear from a panel of experts on the issue of campaign financing and reform, who will hopefully present meaningful analysis of the proposals as well as provide us with concrete and clearly constitutional suggestions for meaningful reform.

These bipartisan hearings are providing the basis for intelligent and meaningful floor discussion and knowledgeable voting when the vote is taken.

We should not proceed without hearing from those who are directly affected; without understanding the constitutional concerns associated with some of the reform proposals; or without permitting those who have studied this matter to present their understanding of the consequences of the proposed reforms and their suggestions for improvement.

I assure my fellow Senators, the Rules Committee will continue to hold hearings at an aggressive pace to cover the remaining issues.

The PRESIDING OFFICER. The 4 minutes yielded to the Senator from Tennessee have expired. The Senator from California is informed there are 10 minutes remaining.

Mrs. FEINSTEIN. I thank the Chair.

ALIEN SMUGGLING

Mrs. FEINSTEIN. Mr. President, last evening, I had a brief opportunity to indicate to the majority leader my view of the importance of the illegal immigration bill and my hope that it would be restored to the floor very shortly.

Yesterday, the Justice Department made a series of arrests on the west coast which I believe underscore the need for this bill to be rapidly considered by this Senate and hopefully passed.

Arrests were made yesterday in San Francisco of persons involved in large-scale alien smuggling. They capped a 3-year investigation by the Immigration and Naturalization Service and the U.S. attorney in the northern district of California. This operation was known as Operation Sea Dragon, and the investigation resulted in a sealed four-count indictment of 23 people, all of whom were members of organized and violent gangs.

The investigation revealed that a number of powerful New York-based gangs, including the White Tigers, the Fuk Ching, and the Broom Street Boys, joined forces with two Bay Area gangs to smuggle several hundred aliens from China into the United States in 1993.

According to the U.S. attorney's office, a San Francisco-based Vietnamese gang was responsible for furnishing the fishing vessels to ferry the smuggled aliens from the mother ship to the coast. A Chinese gang operating out of Oakland then arranged for land transportation and drop houses to facilitate the aliens' travel to New York. More than 270 illegal Chinese aliens were detained when the two fishing boats, the *Angel* and the *Pelican*, landed in San Francisco Bay. As many as 15 passengers escaped and an additional 24 smuggled aliens were arrested later at a drop house in New York City.

Initially, five people were arrested in San Francisco in connection with the arrival of the two ships. These five smugglers were sentenced in June 1994 to just—to just 2 years in prison.

What is interesting is that it is clear from the level of sophistication in this particular operation that organized smuggling of illegal aliens is now becoming a huge business. It is estimated at more than $3 billion a year. It is also clear from the relatively light sentences imposed on those involved that the current penalties do not outweigh the fortune illegal alien smugglers win by breaking the law. And that is the point of my remarks today.

Since August 1991, at least 21 boatloads carrying almost 3,000 illegal aliens have been intercepted in U.S. waters by American authorities, 3 near Los Angeles, 4 outside San Diego, and 3 in San Francisco, including the 2 ships involved in this story.

The State Department estimates that today there are at least 50 ships used by smugglers, or being constructed to smuggle immigrants. Smugglers cram hundreds of illegal immigrants into decrepit ships in inhumane, cramped quarters where all kinds of abuse often occurs. They are often subject to near starvation. They arrive to lives as indentured workers, and they struggle to pay off their crossing debts which reportedly are around $25,000 to $30,000.

Currently the maximum penalty for this kind of smuggling is 5 years. The 23 people indicted in these sealed indictments, these sealed arrest indictments, will be charged with 4 counts, including conspiracy, transportation and harboring of illegal aliens. Each count carries a maximum penalty of just 5 years and a fine of $250,000.

If past sentences handed down in similar cases serve as any indication, it is likely that most of these 23 will serve either a year-and-a-half or maybe somewhat more. So, less than 3 years will be served for smuggling nearly 300 people into the country. That is one of the reasons why present Federal sentences do in no way, shape, or form deter this kind of activity.

The illegal immigration bill proposed by the Judiciary Committee, and which was taken down by the majority leader, provides much stronger sentences. Federal prosecutors around my State have asked that the Congress increase the penalties against alien smugglers, and the bill does just that. It doubles the maximum sentence for alien smuggling from the current 5 years to 10 years for the first and second offenses. If a third offense occurs, the maximum penalty is increased to 15 years.

The bill would make alien smuggling a predicate act under RICO. This would mean that longer prison sentences could be handed down if other crimes were committed, and in general that the racketeering statutes could be applied.

It would also allow fines amounting to twice the profit made through smuggling to be imposed. And it would change the penalty so that smugglers can be charged with a violation for each person smuggled. Current law makes it one criminal act, regardless of the number of people smuggled.

It would also make any person who knowingly hires an illegal alien or smuggled alien subject to a fine and up to 5 years in prison. It would increase prison sentences for smugglers who bring an alien into this country who later commits a crime, and it would allow asset forfeiture laws to be applied.

The U.S. attorney says to us, if this legislation had already become law, the sentences to these 23 smugglers arrested yesterday would be increased by 50 to 100 percent. Instead of facing maximum sentences of 20 years, they would be 30 to 40 years, and the end result would be that the actual time served would increase.

VOL
142
PT
6
AP
15
—
24
1996
UMI

I would like to particularly congratulate U.S. Attorney Michael Yamaguchi, the INS, and all the Federal agents involved in this successful investigation.

Now the Congress must do its job to see that the laws in place are adequate to deter this kind of illegal alien smuggling. The bill also provides an opportunity to stop illegal immigration—a huge, huge problem in the State of California, with 2 million people there now illegally—the ability to stop it at the borders.

It would include an additional 700 Border Patrol officers. It would include $12 million for infrastructure, for roads and for fencing. And it would include an additional 300 INS investigators. It would also toughen the so-called employer sanctions promulgated in 1986.

I can only tell you that Proposition 187 passed overwhelmingly in the State of California, the largest State in the Union. If this is not a message that reaches this Congress, I do not know what kinds of actions it takes. So I would simply like to say, please, majority leader, I say this very sincerely, reschedule this bill soon so the many amendments pending can be considered, so this floor can engage in a practical, a fair, and a just debate, and so that those sanctions that can prevent illegal immigration into this country can be revised and based on modern-day needs.

I yield the floor.

TRIBUTE TO THE LATE HONORABLE EDMUND S. MUSKIE

Mr. COVERDELL. Mr. President, I rise today to join my colleagues from both sides of the aisle in paying respect to a giant of contemporary politics. Edmund S. Muskie, loyal son of Maine, selflessly gave his entire life to public service. His passing is a profound loss, but his shining example of integrity and decency is a legacy for all Americans to admire.

A man of deep intellect, wisdom, and passion, Edmund Muskie graduated from Maine's Bates College to serve three terms as State legislator, two terms as Maine's Governor, and 22 years in the U.S. Senate. He answered President Carter's call to resign from the Senate to become Secretary of State.

As David Broder of the Washington Post has pointed out, Muskie was a politician of rare vision, one who addressed two overriding national issues decades before most others—shifting responsibility from the Federal Government to the States, and putting America's fiscal house in order.

While often supporting activist Government, Muskie recognized that many programs needed to be tailored to the varying situations in each of the 50 States. Indeed, he was ahead of his time. He was the first chairman of the Senate Budget Committee and he fought to keep deficits of the 1960's a minute fraction of what they have become today.

Perhaps standing above all his many achievements is his lead in creating a cleaner environment. He worked tirelessly to create bipartisan support for landmark environmental laws which have allowed our children to grow up in a more healthy and beautiful America.

So today, we pay tribute to a man who cared deeply for his native State, his New England, and his country. We grieve with his family, and hope their time of suffering is alleviated in some way by knowing that America is grateful for his service and shares in their loss. Edmund Muskie, a great man, made the United States a greater nation.

RECOGNITION OF NATIONAL TEACHER OF THE YEAR

Mr. GRAMS. Mr. President, I take this opportunity to recognize an outstanding Minnesotan who has been chosen as the national Teacher of the Year.

A resident of Worthington, MN, Mary Beth Blegen has been teaching for 30 years. This year she was selected as the national Teacher of the Year for her significant contributions to education.

Mary Beth Blegen teaches social studies and English at Worthington Senior High School. Her principal, Bruce Blatti, describes her as a teacher who cares for her students inside and outside of the classroom.

Mary Beth Blegen's theater arts background allows her classroom to become an interactive learning center where student participation is an integral part of the process.

Whether it is history, humanities, or English literature, she allows her students to form their own ideas, discuss them and implement them.

This environment allows her to listen to her students and engage in conversation that enables students to bring out the best in themselves.

Teachers like Mary Beth Blegen represent the key to America's future. As our children face the challenges of the 21st century, it is dedicated educators like Mary Beth Blegen who accept the challenge of turning the young people of today into the leaders of tomorrow.

Mr. President, I hope that you and the rest of my Senate colleagues will join me in congratulating one of America's outstanding educators.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate Joint Resolution 21, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms.

The Senate proceeded to consider the joint resolution, with an amendment to strike all after the resolving clause and inserting the part printed in italic;

S.J. RES. 21

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other persons was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 3692

(Purpose: To amend the joint resolution to change the length of limits on Congressional terms to 6 years in the House of Representatives and 12 years in the Senate)

Mr. THOMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. ASHCROFT, proposes an amendment numbered 3692.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

"*(two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

Mr. THOMPSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3693 TO AMENDMENT NO. 3692

(Purpose: To permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate)

Mr. THOMPSON. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. BROWN, proposes an amendment numbered 3693 to amendment No. 3692.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposal to be inserted, insert the following: "*(two-thirds of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several State within seven years from the date of its submission to the States by the Congress.".

AMENDMENT NO. 3694

(Purpose: To provide a perfecting amendment)

Mr. THOMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. ASHCROFT, proposes an amendment numbered 3694.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the language proposed to be inserted, strike all after the first word and insert the following: *of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

Mr. THOMPSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3695 TO AMENDMENT NO. 3694

(Purpose: To permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate)

Mr. THOMPSON. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. BROWN, proposes an amendment numbered 3695 to amendment No. 3694.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein*), That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

AMENDMENT NO. 3696

(Purpose: To amend the joint resolution to change the length of limits on Congressional terms to 12 years in the House of Representatives and 12 years in the Senate)

Mr. THOMPSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON] proposes an amendment numbered 3696.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following: "*of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

Mr. THOMPSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3697 TO AMENDMENT NO. 3696

(Purpose: To permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate)

Mr. THOMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. BROWN, proposes an amendment numbered 3697 to amendment No. 3696.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein)*. That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

VOL
142
PT
6
AP
15
—
24
1996
UMI

MOTION TO RECOMMIT

Mr. THOMPSON. I now send a motion to recommit the joint resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON] moves to recommit.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion to recommit is as follows:

Motion to recommit the resolution to Committee on the Judiciary with instructions to report the resolution back to the Senate without amendment forthwith.

AMENDMENT NO. 3698

(Purpose: To amend the motion to recommit to change instructions to report back with limits on Congressional terms of 6 years on the House of Representatives and 12 years in the Senate)

Mr. THOMPSON. Mr. President, I send a first-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. ASHCROFT, proposes an amendment numbered 3698.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the proposed instructions, insert the following: with instructions to report the resolution back to the Senate forthwith with an amendment as follows: "*(two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term, as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

Mr. THOMPSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3699 TO AMENDMENT NO. 3698

(Purpose: To amend the motion to recommit to change instructions to report back with language allowing each State to set the terms of members of the House of Representatives and the Senate from that State)

Mr. THOMPSON. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. BROWN, proposes an amendment numbered 3699 to amendment No. 3698.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the proposed instructions, insert the following: with instructions to report the resolution back to the Senate forthwith with an amendment as follows: "*(two-thirds of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

Mr. THOMPSON. Mr. President, for the information of all Senators, the Senate is now considering the constitutional amendment regarding congressional term limits. I have just sent to the desk a series of amendments to the joint resolution, the effect of which is to ensure that the debate remains on the issue of congressional term limits. If the amendment process had not been completed, it was the fear of this Senator and many others on this side of the aisle that other Members were intending to offer an amendment which would not be relevant to the pending term limits legislation. With the so-called amendment tree now filled, it is the hope of this Senator that the debate will now stay focused on this very important legislation.

It is also the understanding of this Senator that later today, the majority leader will file a cloture motion on the joint resolution which will allow for a cloture vote on Tuesday, April 23, 1996.

I appreciate the cooperation and support of the majority leader for bringing this issue before the Senate in such a timely manner, and I look forward to a vigorous debate today, Monday and Tuesday.

The PRESIDING OFFICER. Does the Senator from Tennessee yield the floor?

Mr. THOMPSON. I will yield the floor. I note my colleague from Montana seeking recognition, and I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, in 1994, in my campaign for reelection to the U.S. Senate, term limits was part of that campaign, and the Senator from Tennessee has picked up the yoke, so to speak, and is trying to do something about that. I was not convinced, when I first came to the U.S. Senate, that term limits was needed, but I am even more convinced now.

Mr. President, I ask unanimous consent that I may proceed as in morning business for just the next 4 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMERICANS ARE ON MY MIND

Mr. BURNS. Mr. President, I thank my friend from Tennessee. I thank the Chair. I have Americans on my mind today, and I am concerned that maybe some of us are not listening, especially the President and the Democrats, to America as closely as they should.

One stark realization, when I was home over the Easter break a few days ago, is that I filed and paid my taxes, like 115 million other Americans did. I imagine that most of them were a little bit upset after they paid the taxes. More than two-thirds of all taxpaying Americans, in a recent poll, think taxes are too high. Well, that is not a very revealing thing, because we know two-thirds of them probably pay taxes and they probably think they are too high. A third think they are about right, and just 1 percent think they are too low.

Americans are a little upset—the people I talked to—and they have good reason to be. The Federal Government demands more and more of their hard-earned money and gives less and less in return. But there may be a blessing in that. Maybe we are lucky we are not getting all the Government that we pay for.

But I believe that this President, in the 1993 tax bill or the budget that at that time would put the biggest tax increase on the American people that this country had ever seen, was wrong on taxes and was also wrong on spending—both ends of the spectrum.

I think it is time that we extended the debate on the role of the Federal Government. In fact, if 1994 taught us anything, it is to say, "Let's reexamine the role of Government at all levels, State, local, and Federal, and identify what we are supposed to be doing."

Americans are on my mind, because the average hard-working American now works 2 hours 47 minutes of every single day just to pay their taxes. The average family pays 38.2 percent of the total income in taxes paid each year. This means that he or she will work 128 days, until May 7 of this year, just to pay its taxes.

A typical family pays the Federal Government before it pays its mortgage, before it puts food on the table, before it puts clothes on their kids' back. We must change the direction that the curve is headed. We must change and we must stop that curve. Government is hard put because taxes are easy to raise. Most Americans may be astonished to know that their taxes have been raised 16 times in the past 30 years, as opposed to being lowered only once. With only a simple majority required to raise taxes, it is easier to pass a tax hike than it is to cut runaway entitlement programs.

President Clinton proved this in 1993 when he pushed through the Democratic Congress the largest tax increase in Congress, and I alluded to that before. Even today, the Federal debt continues to skyrocket because President Clinton refuses to sign a budget that brings down the yearly deficit. Not only has the President blocked passage of a balanced budget, but he has also taken away the middle class tax cut that Republicans promised in 1994 and that he also promised in 1992.

I want to bring up one figure, too, that a lot of folks do not realize. Here is how important this is. Forty percent of the income taxes you paid this year to the Federal Government just went to service the national debt, to pay the interest on the national debt—40 percent. We cannot allow that to happen if our children and their children are to have the same opportunities that we had in our growing up and the opportunities to live in a great and free country.

Americans are on my mind today because of high taxes on American families, businesses are strangling, the economy is hurting, and they are hurting our children's future. They have to come down.

So, as Americans are on my mind, and I think they are on the minds of many of my distinguished colleagues who represent real people in a real world, we must demand this Government to tighten its belt first rather than making you tighten yours. It is a problem that is magnified every day in the private sector. All one has to do is go home and just go down that path. Before we ever become Senators or Representatives, before we ever have anything to do with Government, in our private life, we should talk to the real folks that make America great.

AMERICA CONTINUES TO BE GREAT

Mr. BURNS. Mr. President, I associate my remarks with those recognizing Oklahoma City. That tragedy and what we learn from it is another sign that America continues to be great. The wounds will heal. There will always be scars, but we pick up and we continue to thrive and thrive in this great and free country.

So we salute Oklahoma, Oklahoma City, and all the Americans whose lives were touched by that tragedy.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The Senate continued with the consideration of the joint resolution.

Mr. THOMPSON. Mr. President, I would like to take up once again the business before the Chamber, the constitutional amendment on term limits. This amendment would provide for a limitation of 12 years for Members of the U.S. Senate and 12 years for the House of Representatives. It is a constitutional amendment which will require two-thirds vote of this body and then ratification by the States. It is prospective in nature. That is what we are about here today.

It has been a long time coming. I believe this is the first time that a constitutional term limits amendment has worked its way through the committee system. I was proud to be able to sponsor the amendment coming out of the Judiciary Committee, and now we find it finally on the floor of the U.S. Senate for the first time in history.

I appreciate the leadership and the assistance of the majority leader in seeing that this has come about.

There was a term limits vote in 1947, as I read my history. I think term limits got one vote at that time. So it has been right at 50 years now since there has been any vote at all on the issue of term limits.

I find that absolutely remarkable because poll after poll after poll indicates that upward of 70 to 75 percent of the people in this country support term limits. I cannot think of anything else that enjoys such broad popular support that cannot even find its way on to the floor, much less get passed, before the Congress.

In a day and time when we are all hooked up with all kinds of electronic devices in order to monitor the pulse of the American people almost on an hourly basis—some say too much—there is such little time we have to reflect and deliberate, but that is what we do. At a time when we take public opinion polls, it looks like about every couple of hours in this country, in order to test what the people want, and at a time when we pick up the fact that 50 to 55 percent of the people want something in this country and we seem to jump through hoops around here in order to get it done and be responsive to the American people, we find that when it comes to term limits, although an overwhelming majority of people consistently say that they want this, it takes 50 years to even get it to a vote in the U.S. Senate.

I find that somewhat remarkable. Obviously, the reason is because in our daily lives here in regulating other people's lives and in spending other people's moneys, when it comes to us, when it comes to maybe short-circuiting what would otherwise be a lifetime political career, we turn the other way and we are not quite as interested in what the majority of the people want, or we come up with ingenious arguments why in this particular case we must show our independence and not give the majority of the people what they want.

We cannot say no to any kind of spending program that would balance our budget. But in this particular instance, we need to show our independence because what choice do we have if we accede to the wishes of the people? We would only have an additional 12 years in the U.S. Senate—an additional 12 years—as if this were an onerous proposition.

It is not an onerous proposition. It is not revolutionary. It is something that was contemplated by our Founding Fathers, who knew that from time to time circumstances would change and who provided in the Constitution a way to address those changing circumstances. Circumstances have indeed changed, and we will address those and why we need this particular amendment.

Let us talk for a moment about what the effort to get the constitutional amendment for term limits on to the floor is not all about. It is not about simply changing new faces for old faces. It is not about simply replacing people for the sake of replacing people. It is not because of any vindictiveness because we are mad at Congress, as a lot of people are, and that we want to punish somebody. It is not about that at all.

As a matter of fact, it is about just the opposite. It is about making Congress more credible with the American people. It is about enhancing the stature of Congress. Syndicated columnist George Will wrote a book a few years ago entitled "Restoration." It was about term limits and the need for term limits. He is an individual who, he says, opposed term limits for many, many years; and for a variety of reasons he came to believe that this was perhaps the only way that we would be able to work our way out of our problems that we are getting deeper and deeper into in this country.

VOL
142
PT
6
AP
15
—
24
1996
UMI

But why would he call his book on term limits "Restoration"? It is because he believes that term limits would be something that would restore and enhance the credibility and the stature of the U.S. Congress. Indeed, how could it get much lower? Poll after poll after poll, again, indicates that after a brief blip after this last election, we are back down there in the view of public opinion, the American people, where we have been for so long that is abysmally low.

People have less and less confidence in their Government, have less and less confidence in their Congress. It is Mr. Will's view, and it is my view, that if we had more of a system that was contemplated by our Founding Fathers who could not have dreamed of a professional legislature at that time, that if we went back more to a citizen legislature type approach, that people would feel closer to their Government and have more respect for it.

I mention our Founding Fathers. I was reading recently, again, after George Washington served two terms, they beseeched him to stay on. "How can we lose the services of the father of our country? Surely the republic will fall if George Washington does not stay on past his two terms." George Washington knew better. That is why he goes down into the history books in the manner that he has and is viewed in the manner that he is viewed. He knew better. He got on his horse, road out of town, and history records that he never even set foot back in Washington, DC.

The same thing with Thomas Jefferson after serving two terms. Surely—surely—we need Jefferson to run again because we know what kind of respect and admiration we have for him, and back then also. He took his slings and arrows by his opponents and the press at the time, but he was greatly admired and respected. He, too, knew it would be a bad precedent.

We are talking about the Presidency in those cases, but it was before term limits, which, of course, we have on the Presidency. People who fight most vigorously against term limits for Members of Congress, who are usually Members of Congress, seem to be quite content to keep the term limits on the Presidency, which we have. But at a time before we had the term limits on the Presidency, those two great men saw the wisdom of serving a couple of terms and then moving on. History will reflect that we have had some pretty good ones to follow them, also, who would not have been serving at the time that they served had the others chosen to stay.

So that is what it is not about. It is not about change for change's sake. There is nothing that inherently goes wrong with an individual when he reaches a certain age or you have served in Congress for a certain period of time. There is no biological changes that necessarily take place. He does not become evil because of that service.

We are talking about doing something that will enhance the stature and effectiveness of the Congress. What it is about is more than the individual Members who serve in this body or who have ever served in this body. It is no reflection on them. It is about us as an institution, and it is about us as a nation and about our future and about equipping ourselves in a way that will more effectively allow us to deal with what some believe to be insurmountable problems that we already have, fundamental problems that we really show no indication that we are capable of solving.

Mr. President, it is no less true that we are bankrupting this Nation simply because it is heard so often. But it has happened. We know it is happening. We know that the demographics are catching up with us. We know that when the baby boomers start retiring, it is going to wreak havoc on many of our social programs. We know that Social Security is in dire jeopardy. We know that Medicare is in dire jeopardy. Yet we cannot get to first base in doing anything about it.

We continue, after this so-called congressional revolution when my party was rewarded at the polls and we were all brought in, even after all of that, we have found that as an institution—I will even include the Presidency in that certainly—as a working government we cannot get to first base in solving the most dire fiscal problem that this country has ever faced.

We probably cannot do enough wrong to mess things up in the next few years. We will be OK. Most of us will be out of office and drawing our pensions, and we will once again have handed the problem over to the next generation. But down the road, as surely as I am standing here, we know the demographers tell us that we cannot continue down the road that we are on. It is just that simple. Everybody in Washington, DC, behind closed doors will acknowledge that.

Doing something about it, of course, is the hard part. We have not shown any indication that we can really do anything about it. We are talking about a 7-year balanced budget plan. The Republicans have tried mightily to get that done. We passed in the Senate for the first time in decades a balanced budget. The President vetoed it.

But even if we had that plan according to what we wanted, at the end of the 7 years, our country would still be looking at a $6 trillion debt, a $6 trillion debt. We talk about addressing this problem to the extent that we claim to be addressing it with the assumption there are not going to be any recessions and not going to be any international conflicts and not going to be all the things that always happen—that always happen.

What are we doing to try to get to the first step? We are arguing over the division between entitlement spending and discretionary spending. Nobody really wants to do anything about entitlement spending because where the problem is is also where the votes are. It is tough to tell people we cannot continue to do things the same old way and we cannot continue to increase every year at the rate of 10 percent. Everybody knows it. We do not have the ability to tell that to anybody, because we are afraid to, because we want to get reelected, and we want the campaign contributions that come from it.

The plans that have been laid on the table, and I will be as bipartisan as I can about this, all the plans that have been laid on the table back end load the problem. The President's plan does it more than any of the rest of them, but all of them back end load the problem. So when we come up with a so-called balanced budget, all we are doing is putting numbers down on a piece of paper, hoping that years later some future Congress will have the guts to do what we do not have the guts to do, and we claim we will slash discretionary spending in the outyears, after we are out of office.

That is what will happen. That is the way we balance the budget. That is hogwash. It will not happen and everybody knows it is not going to happen. That is the best-case scenario. That is the best-case scenario.

If we made that initial downpayment, that is what we would be doing. It is not really a downpayment. If it really were a downpayment, we would still be looking at very bleak fiscal circumstances on down the road. That is not even to address the need that we have in so many other areas.

We talk about—we who call ourselves conservatives—talk about the need to reduce the rate of growth of some of these spending programs which has surely got to be done—and will be done, also, one way or another or we will monetize the debt and inflate our way out of it and become a second-rate country.

What we do not talk about sometimes is the fact that we need to spend more in certain areas in terms of our infrastructure, in terms of research and development, things of that nature. What do those things have in common that the things I have been talking about do not? It has to do with the future. There is no immediate payoff for infrastructure and research and development and things that will make our industry stronger, policies that will make our industry stronger down the road. There is no immediate political payoff for that. It is difficult to explain that to people.

What is not difficult to explain is a check in the mail 10 percent more than the check you got in the mail last

year. That is what is driving the process. That is why we are in the position we are in.

So not only are the demographics going to catch up with us as far as our spending problems are concerned, we are going—without taking care of some basic fundamental needs that any strong nation has, because all this money is being eaten up with regard to a handful of programs which, with the increased interest on the national debt, is facing us with catastrophic circumstances.

You will hear the debate now that the deficit has gone down a little bit. Well, it does not make any difference if you look down the road just a little, if we look past our nose—and that is about as long range as we look or plan anymore in this country. When our competitors think in terms of decades, we think in terms of the next election and next quarterly statement if we are a corporation. If we look past our nose, the temporary ups and downs, the demographics and what is built into the system is simply going to kill us. It cannot be sustained.

That is what term limits is about. You wonder maybe where this comes in, that and what term limits is all about. It is not about kicking a bunch of people out. It is a system, a system. What kind of a system is it that produced what I just described? What kind of a system is it that we have that has produced those circumstances?

In the first place, it is not a system that we have had since the history of the country. I mentioned changed circumstances and our constitutional framework being such and our Founding Fathers being wise enough to see that there would be times and circumstances when we would have to adjust our underlying document to meet those changing circumstances. You look back in the days of the Founding Fathers and look at the challenges that they faced, it seems to me like, in many cases, or in most cases, it was more of an intellectual challenge. You needed people who understood history. You needed people who knew about other governments. You needed people who understood human nature. You needed some philosophers. Yes, you even needed some lawyers and people who understood Constitutions and how laws were written. But you needed those intellectual traits that really laid down the most noble document in the history of the world as far as what secular man has produced. We got it.

Then it seems to me that as time came along in the 1930's and the 1940's, new challenges were presented. We had the Great Depression, which my mother tells me about. We had a major war, a world war. At that time we needed inspiration. We needed programs. We need the Government to do the things that the Government maybe had not done before. We needed unifying actions. That was the era in the beginning of what some referred to as the "rhetorical Presidency," when FDR—and Woodrow Wilson was a great advocate of this—we needed somebody who could rally the people and get them together to a concentrated course of action. That was needed during those times.

Those circumstances have changed now. We do not need what we needed before because we are not faced with what we were faced with before. In many cases, we have to go back and revisit what we have already done, because since those times the very nature of our Government and society has changed. We, as an institution, are less well equipped to deal with the problems than we have ever been before. Our basic problem now is not one of intellectual leadership. It is not one of rhetorical leadership. Our problem now is the lack of will, the lack of will to do what we know that somebody, either us or our successors, have to do. We do not have the lack of will.

Why is it we are in such a system now? I think it is because of many reasons. Look at what has happened since then—the growth of Government. Government has grown mightily since then. That means spending, the cult of spending, the political reward you get from bribing taxpayers with their own money. It sounds pretty harsh, but that is essentially what it amounts to. No politician was ever turned out of office simply because he said yes to somebody, that, yes, they could have whatever they wanted. That is kind of what we feel like we are there to do, is to listen to people who want money, want programs, want increases and want more and respond to that. It is the cult of spending.

Because of our desire not to ever want to say no to anybody, because that could endanger our career, we more likely than thought, "Go along with it." That is a shorthand for the basic problem we have. There are other factors—the overall philosophy that you need somebody in the Senate, for example, who has been around for a long time. The idea is you come up here and you stay as long as you can and then at the end of the day you are in a position to get more pork for your State than anybody else.

That is the philosophy that still holds over to this day. You do not worry about the Nation necessarily; it will take care of itself. For a long time, the Nation did take care of itself. It was like one old Texan said one time, "I have watched those folks from up North talk about this. They do not do it better than we do, and every time they get a ham, I'm going to get a hog." That is the way he worked his career, and he got a lot of hogs.

That might have been all right for a while. But now, what is good for the Nation is good for the State; what is bad for the Nation is bad for the State. Nothing is going to be good for any particular State if it is bad for the Nation. We all live in the same world. We are bringing kids up in the same world. They are all going to be suffering from the consequences of what we are doing right now. But usually, again, getting back to spending, they are the ones that are going to be paying 80 percent tax rates and paying astronomical interest rates when they go to buy their first home or automobile. They are the ones who are going to suffer the consequences. It is not going to make any difference to them whether or not we got an extra road built somewhere.

The interest groups have proliferated every year, and more and more come to town. People have a right to come and petition their Government. I have never been one of those who criticize people who come in and petition their Government, whether they do it personally or through a hired lobbyist. If we are going to pass laws that affect people's lives, we have to expect people to come in and tell us what effect that is going to have. But we have passed so many laws, regulating so many aspects of life in America and business in America, and everybody now has a stake up here, and they interpret that stake in terms of how much more can they get from up here. It is not a matter of concentrating on making the pie bigger anymore, it is a matter of making sure you get a bigger share of the pie, which means taking it away from somebody else. That is the fight up here.

As the interest groups grow and become more powerful, they have a carrot and a stick for every Member of Congress. The carrot is financing them. The stick is working against them for their reelection. Those are powerful motivations, all under pressure and going toward the ultimate result of more and more spending—more and more spending.

Someone said one time that the ultimate test of a democracy was whether or not, once the people learn they can pay themselves out of their own treasury, they will never have interest rates. That is the question we are going to have to answer in this debate. I am not sure that the answer is looking all that good.

So what will term limits do? It is no panacea, we know that. There is no short-term solution. This constitutional amendment process in and of itself certainly is not a short-term process. But what I think it will do is better give us a chance to deal with these problems, to ameliorate the influence of the cult of spending that we have all fallen into in this town. In the first place, it will open up the process. People will know that certain positions will be open from time to time, and if they ever want to serve their country a little bit and come up here and look

VOL
142
PT
6
AP
15
—
24
1996
UMI

after the interests of their children and do the right thing, they do not have to go up against some well-entrenched incumbent who has all the money he can possibly use because that is where the money flows, but it is going to be open. They say, yes, I have done something with my life already. I have a career, I am a small business woman, or I am a farmer, or I am a professional person. But I can give a few years, knowing that I will be coming back home before too long. I can give a few years of service. What is the motivation? What is going to be the motivation of that person to go build a political career and be timid and say, yes, and spend and spend? No, he cannot, because after a certain number of years, under this constitutional amendment, he is out. Two terms in the Senate.

I ask my colleagues, most of whom are going to oppose me on this amendment, I regret to say, what it would be like to run or serve 6 years in the U.S. Senate, knowing you are not going to have to raise any more money, and knowing that you are not going to have to worry about being turned out of office. Some people do that anyway—under self-imposed circumstances. I have committed to do that. I do not say that that is the only way to go. It is not the only way to go. I admire my colleagues who say let us change the system, including me, but until then I am not going to do it myself. I do not personally have any desire to stay past that allotted amount of time. That is my own personal decision. I am looking forward to the time when I can spend all of my time doing what the people sent me up here to do. That is the kind of system that we would have under term limits.

A third of the people, at all times, in this body would be under those circumstances. Would that not be more likely to produce people who would be willing to take some risks in leveling with the American people, and saying we cannot consume any more right now because we are taking it from the unborn, we are taking it from your daughter's unborn child, because they will be the ones that have to pay the consequences. So we cannot have that right now. How many times have you heard anybody say that recently? I think if we had a different kind of system, we would be more likely to see that on a consistent basis. I think we would be more likely to do something about the cynicism that we have seen, which has been too prevalent for too many years.

I see other colleagues on the floor, Mr. President. So at this time, I will relinquish the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Parliamentary inquiry. Mr. President, under what order are we? Is the Senator yielding and controlling the time?

The PRESIDING OFFICER. There is no order with respect to that.

Mr. COVERDELL. Mr. President, I rise in support of the efforts of the Senator from Tennessee, and the Senator from Missouri, in support of the amendment to the Constitution to limit terms.

Mr. President, wherever I travel in my State, the citizens of my State are vastly in support of term limits. The Senator from Tennessee said it is not a panacea, and that is right. But I do believe that the reason the American people are so supportive of term limits is because they have come to view the Nation's Capital as a bastion, a fortress, a place where their accessibility is difficult to accomplish. I think they have come to believe that the responsive nature of our Capital City is lacking. And they are seeking to support every tool, every form of discipline, which they envision might contribute to opening it up—like opening windows to air things out in the springtime. They are looking for tools that they believe will help break through this fortress, that will help bring change to the way things are managed in our Capital City, and that will make the Government, their elected officials, more responsive.

There can be no doubt but that over the last half century Washington has become a professionalized institution. The politician of today does not remotely resemble what our forefathers had envisioned. They envisioned legislators for an interim period. They envisioned legislators who dedicated a certain portion of their lives of each year to legislating, but were still connected in the workplace at home. They were still farmers, they were still merchants, they were still engaged in the life-making activities. They were not separated from the trials of their own fellow citizens. But today, as we have changed, and Senators talked about change, it is an entirely different process.

If you go over here to the Russell Building, which is where my office is, named after one of the most distinguished Members of this body, Richard B. Russell, of Georgia, and if you look up at the top of the doors, they were all numbered differently. The reason is that each one of those cubicles was the entire office of a U.S. Senator. Of course, it is half the floor now. That Senator had a personal secretary and maybe one other assistant. They got on a train, or they traveled by car in that day. They came to Washington, and they were here for a period of time entirely and then they went back. That Senator and that one employee were enough to respond to all the inquiries.

Today those are vastly enlarged offices. I do not know about the Presiding Officer's office. But we receive 1,000 to 2,000 inquiries a day—a day. It vastly changed the manner in which we function, and it tends to separate us.

Term limits will cause an opening up of the process. It will free and make more independent the voting of the membership. Perhaps, Mr. President, the single most important thing that term limits will do is to bring to Washington contemporary thought about the day and about the time.

Mr. President, in another life I had an opportunity to be director of the U.S. Peace Corps. In that role, I probably met more of our ambassadors than any other individual in the Government, with perhaps the exception of the President, and I might have met more of them. There has always been an argument that they should be professional and not political appointees, and there is always a pressure that there be fewer and fewer political appointees. I always argued against it. I thought the majority should be Foreign Service in training. But I thought both the Foreign Service and the world were well served by mixing with these professionals contemporary thought, people who came from the workplace and who recently came from the workplace so that the Foreign Service in the countries around the world could get a feel for what was being thought in the country at that very time.

It is very easy to get disconnected in the Foreign Service, and it is very easy to get disconnected in this service because you are removed. It is not an intentional effort, but you are removed from day-to-day affairs, so contemporary thought is left behind. I think term limits addresses that issue, just as I believe that there is a purpose and use for involving in the Foreign Service's political appointments people who come from the workplace, who come into that apparatus and who have been dealing with the trials of the day because they are a better reflection and mirror of who we are as we send these people abroad. They can talk in very contemporary terms about what is happening on the streets, so to speak. I think that turnover, or that bringing to the Capital City the most contemporary thought, is useful.

Both the Presiding Officer and the Senator from Tennessee are contemporarily elected, and I think both agree with me that our attitudes are quite different than some of the colleagues who have been here for an extended period of time—not necessarily better, but certainly different because we have been on the hustings. We have been in our cities and towns. We brought the newest thoughts, one of which is term limits, to the Capital City. We were running for change, and I think term limits would be a perpetual agent of change.

Mr. President, I will make a couple more comments and then yield.

For the life of me, I do not understand why we have term limits for mayors, for Governors, for Presidents, for State legislators, but that for some reason it would have a dilatory effect on the U.S. Senate. Somehow my State has survived rather adequately with stringent term limits. At one time you could only serve as Governor for one term. At one time the terms were only 2 years. Yet, the State prospered and grew and became better. I cannot find any empirical evidence where term limits have diminished the expertise, or talent, or ability of Government. In fact, I think it has had the capacity of energizing it because there was always a new personality coming into the picture, a new emphasis. I think it has stimulated citizen thought because we are seeing an array of different personalities and ideas that are being brought into the system. I think again that is what term limits will ultimately produce.

I do not believe it will diminish this institution. I think it will help the institution as it has in our States as Governors and in our cities as mayors. This device has been a useful tool to bring contemporary thought to invigorate the debate of ideas to our institutions.

I commend the Senator from Tennessee, I commend the Senator from Missouri, and others who have joined in this historic effort to bring this institutional change.

The Senator was talking about the vast difference in our times. It was de Tocqueville who warned us of the one frailty he saw in our new democracy which was that as time went on, would it be able to have the will to discipline itself from the pressures of elections, the pressure to stay elected mounting a burden on that constantly seeking of elections? I think it is right to raise that issue because it is clearly an issue of independence and intimidation that has produced a financial dilemma for our country that could bring about the fact that we are sitting here today in the U.S. Senate faced with, in the decade, five different programs consuming 100 percent of the U.S. Treasury. It is clearly a result of a citizenry that is not functioning the way our forefathers intended it to function.

So I commend you and the others, and I am pleased to have had an opportunity to come to the floor.

Mr. President, I yield the floor.

Mr. THOMPSON. Mr. President, I thank my colleague from Georgia. He has been a leader in this effort for some time and a leader before I got here. I would like to refer again to the thought that he expressed, that term limits would not diminish this institution; it would enhance the institution, going back to the proposition of restoration, and restoring it.

Mr. Will pointed out in his book that back when the country was founded, people would line the streets and say, "Long live Congress, long live Congress." Can you imagine someone—anyone—much less lining the streets, today saying "Long live Congress"?

I think this would do more to enhance the U.S. Congress in the eyes of the American people, make it a part of them, and open it up for them. It would give the 250 million people in this country—we have 250 million. They say, "My goodness, if we had term limits, we would not have had Senator Jones here for all of these years. We all acknowledge that our Republic would surely have fallen if we had not had Senator Jones." But we have 250 million people. How many potentially wonderful contributors to our society are there out there, if we open up that system for them and let them compete in the political marketplace without having to overcome the insurmountable odds and money that our system has thrown in their way?

I see my colleague from Missouri, whom I am proud to say I have walked shoulder to shoulder with through this process. He and I have been here. No one has worked harder in this area. I see he is present.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator from Missouri.

Mr. ASHCROFT. Mr. President, thank you very much. I want to thank the Senator from Tennessee for his leadership and commitment on this issue.

Term limits, at its core, is about fundamental American values. More than anything else, a free society respects the will of the people. It is understood that from time to time the passion of the people will move wildly in one direction or other. But when we are talking about term limits, we are not talking about some passionate wave of support for a novel concept.

Term limits is a considered understanding of a reform which is working. It is a limitation on service that has been operative for the duration of our democracy in terms of the executive branch, with the exception of President Roosevelt. It is in place in States all across America. So it is indeed consistent with one of the basic values upon which this Nation was founded—a respect for the will of the people.

Our ability to receive communication from the people and to respond constructively is one of the reasons that I have sponsored and opened the first electronic on-line petition to the Congress of the United States, from the people of the United States, so that groups and individuals can show their support for congressional term limits.

I think it is important that we provide this opportunity for the people of America to indicate their support and demonstrate their interest in this issue. And for groups, interest groups and citizens, that have worked together on other projects, they can knock on the door of the U.S. Congress through the Internet and alert us. We have had more than 40,000 people visit the term limits petition page.

Mr. GRAMS. Mr. President, I was wondering if I could ask the Senator from Missouri a question regarding just what he has said about this petition bill which the groups are trying to help with on the World Wide Web and Internet. Where do you find the most of the support coming from? Who has been out there knocking on the door offering their support, and, maybe more importantly, who has not been there when we have needed this type of help and support?

Mr. ASHCROFT. I thank the Senator from Minnesota. We have gotten lots of support from groups, of course, who are focused on term limits—United States Term Limits, Americans Back In Charge, the American Legion, the American Conservative Union, the Christian Coalition—politically focused groups that understand the need for the revolution, which the American people have asked for, and a change in the way Washington does business.

Individuals all across this great land have flooded our term limits home page. It has been especially interesting to see what has happened on the Internet because it allows people who might not have the capacity to come to Washington the chance to communicate. I have had blind people use the Internet. I have also had paraplegics write thanking us for opening this link of communication.

Interestingly enough, I am pleased to say to the Senator from Minnesota, the community at large has been willing and eager to help us open this link of communication. C-SPAN linked our term limits home page to their home page. USA Today, the newspaper, linked our term limits home page and our petition to their home page. CNN, the Cable News Network, provided a link. Politics USA, which is on the net, provided the services of CompuServe and America Online. We have had a tremendous outpouring of assistance and support. It has been very interesting to see the surge of interest and support that individuals have rendered which have made it possible for Americans to express themselves.

(Mr. GRAMS assumed the chair.)

Mr. ASHCROFT. The Senator asked who has not been here. We have had people from virtually every walk of life, but there have been a few notable absences, and that has caused substantial disappointment. For instance, United We Stand, Ross Perot's organization, has always advocated term limits, but I have not heard a thing from Ross Perot about this. That is a disappointment. I certainly hope that his commitment to term limits is not just lip service. People want commitment to revolution—change or reformation—

VOL
142
PT
6
AP
15
—
24
1996
UMI

to be substantial, and I believe that Americans want a real commitment to this kind of revolution.

An important aspect of this debate is the fact that Senator DOLE first scheduled it last fall, and it was clearly sent as a signal. With such advanced notice, we had the ability to set up the home page for term limits. Not every issue comes to the Senate with this much advanced publicity. With that kind of open communication, people who really care about term limits have had the opportunity to get involved.

That is why I thank Americans Back in Charge, US Term Limits, the American Legion, the Christian Coalition, the American Conservative Union, and numerous other groups. And I thank groups like USA Today and CNN who allowed us to have a link from our home page to theirs. It is disappointing that those I expected to be there, who have given lots of voice to a commitment to term limits, have not shown up. However, I believe we have very broad-based support. Yes, there are a few disappointments, such as Ross Perot, but that does not mean they do not favor term limits.

Speaking of those who favor term limits and what we have done with it nationally, let me go to a chart which illustrates some important points.

About 7 or 8 out of 10 people, according to all the polls, favor term limits. These States have sought to enact term limits for the U.S. Congress, saying that people who represent their State should be limited in the number of terms they can serve.

It is interesting to know that these are the States, by and large, that have the initiative process for enacting legislation, meaning that if you are in one of these States and you do not like what your legislature is doing, you can start a petition drive. You can actually initiate a move to enact, to enshrine in the law, a concept that the people want regardless of what the legislature wants.

The fact is, you would find that there are 23 States that, on their own motion, simply took the matter into their own hands. They said, "We want term limits. We are probably not going to get it from the professional politicians, but we will do it by signing petitions; we will take to the streets; we will provide the impetus for this revolution."

Arkansas is a good example of a State which took such initiative. Arkansas was one of the more recent States to attempt to limit the number of terms the individuals from their State could spend here in Washington, DC representing them. And out of that enactment came a famous case which was handed down by the U.S. Supreme Court last year saying the States cannot do this. The States cannot individually decide on their own that they will limit the terms of the individuals they send to Congress. So, it is 23/50 of the States generally. It is almost 100 percent of the States with initiatives by the people.

The Arkansas case, which was ruled on by the U.S. Supreme Court, said that the States cannot limit the period in which their own representatives serve. In effect you have the U.S. Supreme court saying that States do not have the authority. You have the courts, public servants who upon appointment are there for life, against term limits.

One of the reasons we had the judiciary against term limits is that the administration, the executive branch, argued before the court in opposition to term limits. With both the executive branch and the judicial branch standing before the will of the American people their only hope is for the United States Congress to be for term limits.

I suppose it is true that the Congress is for term limits—term limits for everybody but the Congress. It reminds me of that old saying in my legislature back in Missouri. They would say, "I will not tax you and I will not tax me, we will tax the fellow behind the tree." We are willing to have discipline for everybody but ourselves.

The whole idea of term limits is not novel. Senator THOMPSON, from Tennessee, has done a masterful job of talking about this concept. It is not novel. George Washington set the standard for term limits in this country when he said we should distinguish America from the monarchs of Europe, that we needed to have that renewing flow of creative energy from the citizenry of the country regularly. And he walked away because he understood the value of new life, of new input, of the new energy that comes from new people coming forth from the American citizenry.

Term limits reflects George Washington's view of the depth of the talent pool of a free society. He may have looked to some casual observers like the only person with the integrity and capacity in America who could have led the country. There have been times, I suppose, when it may have appeared that there was only one. But I happen to have a view of the talent pool of America that is similar to that of George Washington, and that is that we have enough talent that we do not have to lock a few people into office, thinking they are the only ones who can do the job.

I do not think there is any concept that is more ridiculous—and it is almost amusing except it is tragic—than the thought by some Members of this body that we are the only 100 people who could make good decisions in the U.S. Senate. As a matter of fact, we may not be capable of the good decisions, and I think the marketplace of public opinion will determine that. But this country is rich in terms of individuals with the capacity to make good judgments. We need not fear that we do not have enough talent to change public officials once in a while.

We have established a history of term limits in this country. In the early 1950's, we checked term limits for the President of the United States. We had a President in the mid-1930's and 1940's who ran four times and, with the tilted field of incumbency, snowballed himself into office four times. The American people understood that the value of incumbency is the No. 1 perk of public office. You can talk about election reform. There is no election reform more important than the election reform of term limits. The American people understood that the tilted field that came from long-term exploitation of incumbency simply had to be leveled, and they leveled the field for President back in the early 1950's, with the 22d amendment to the U.S. Constitution. The President became a term-limited office.

To hear some of the academics talk about term limits, you would think that would have been the ruination of America. Not so. Not so at all. As a matter of fact, there are a number of States that have long embraced the concept of term limits for Governor. As my friend from Georgia, Senator COVERDELL, indicated, some of those term limits were very short. But the States prospered, finding that the talent pool available in their jurisdictions was always adequate to supply the need for good public officials. There are 41 States that have sought to limit their terms.

Mr. President, 23 States tried to limit the terms of Members of Congress, and most of those came as a result of the will of the people specifically, and there are about 20 States where the State legislatures themselves have limited themselves in their terms, because they have understood the value of term limits.

I say this to make a point that I hope can be made fundamentally clear. Term limits is not an experimental, novel theory. We have only had one time when we did not have a limit of two terms on President of the United States by virtue of the respect for the term-limits policy of George Washington, and now we have it by virtue of the 22d amendment to the U.S. Constitution.

We have 41 Governors who are term limited. We have 20 State legislatures that work under term limits. We have a Congress of the United States which should have been term limited, I suppose, in 23 States, were the courts to allow the will of the people to prevail. But the courts said that had to be set aside. So that the American people have a vast experience with term limits.

Not only do we have term limits at the State level but at the municipal level as well. Cities have term limits,

notably the largest city in America, Los Angeles, and the second largest city in America, New York City.

The President of the United States works under term limits. The Governors of the States are term limited. You have the State legislatures that are term limited. And you have the individuals who work in the cities that are term limited. You say, "Wait a second, who is out of step here? Members of Congress or the American people?"

You also have the academics and those from the think tanks who say that term limits simply cannot be respected and that they cannot be expected to operate. It is a terrible concept. It will destroy Government. I say to those guys in the think tanks, "You may not be able to work this out in theory, but the American people have worked it out in practice." It may not work inside the ivy-covered tower of academia, but it has for centuries, and in hundreds and hundreds of circumstances. And what is more impressive to me than that is, where are the people rising up to set term limits aside?

You have this incredible array of term-limit operations all across America, and the people operate in the context of term limits, where it is there, and they like it. They do not overthrow it. They do not have petitions to get rid of it. They do not have demonstrations against it. As a matter of fact, when the people see it operate in all these segments and the big zero here around the Congress of the United States, what do the people want to do? Does their aspiration reflect their displeasure with term limits as a concept or their endorsement of term limits as a concept? I submit it takes no rocket scientist to figure this one out. Mr. President, 70 to 80 percent of the American people endorse the concept of term limits for the U.S. Congress.

I just want to point out they do not endorse the concept out of ignorance. They do not endorse the concept out of a lack of familiarity. They do not endorse the concept because they do not know what they are talking about. They endorse the concept on a basis, a very substantial basis, of watching, observing and living with the observable impacts of the concept as it is related to the President of the United States, as it is related to the Governors of their States, as it is related to legislatures in their States, as it is related to city, county, and local officials in their States. And, all of a sudden, we come to the judgment: Wait a second, maybe—maybe—the people could be right about this. Of course, it is part of the definition of democracy that we value the input of the people, especially when the people are not responding to some cataclysm, but they are reflecting their considered judgment after a rich heritage of experience.

It reflects their confidence that America is not a shallow pool containing scarcely 100 people who could serve in the Senate. No, it reflects their understanding that with individuals who can use the perk of incumbency to vote themselves back into office by dealing out the resources of the next generation, they look at that and say, "There's a difference between what we do at the State and local level and what the Congress does."

Mr. LEAHY. Will the Senator yield for a question?

Mr. ASHCROFT. Certainly.

Mr. LEAHY. I do not know if the Senator was aware that in the Judiciary Committee I had offered an amendment and included in the Committee report that I intended to offer an amendment during this debate which would basically make term limits effective immediately. Obviously, you could finish the term that you are in; the Constitution would require that. But if, at the end of that term, you fit the number, whether it is two in the Senate and whatever it might be in the House, you would have to leave. That would be true term limits.

I say this because I have heard a number of Members of the House who have been here for 20 years who say they are for term limits, and we have at least one senior Member of this body who has been for term limits literally before I was born but is still here.

Would the Senator from Missouri support my amendment to make term limits effective immediately, that is, at the end of whatever term you are in? If you fit the bill you are out?

Mr. ASHCROFT. First, I was aware of the Judiciary Committee's deliberations on this. Second, I am aware of your position. Now, let me tell you what I support.

I support a measure which would limit the terms of Members of the House of Representatives to three terms and Members of the Senate to two. It would be no problem for me to limit my own terms, particularly since I am new to this Chamber. Indeed, I came here intending to limit my own terms to two.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 3699, AS MODIFIED

Mr. THOMPSON. Mr. President, I modify amendment No. 3699 with the text I now send to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and the amendment is so modified.

The amendment, as modified, is as follows:

Strike all after the first word and insert the following: "instructions to report the resolution back to the Senate forthwith with an amendment as follows:

"*(two-thirds of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

Mr. THOMPSON. Thank you, Mr. President.

Mr. ASHCROFT. Mr. President, if I may reclaim my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. LEAHY. Will the Senator yield for a further question?

Mr. ASHCROFT. The Senator will be pleased to yield at the conclusion of his remarks. I would add that I happen to be one of the few people in this body who has been term limited. I think it was a good thing.

I have observed the operation of term limits at the State level and, believe me, it is appropriate. I think it is important that the Senator understand what differences there might be if we were to have term limits.

Term limits change the way decisions are made. It is of interest to me that Stephen Moore of the Cato Institute conducted a study to determine what life under term limits might be like. What he found is we would have passed the balanced budget amendment three times. Concurrently, we could have equipped the President with the line-item veto as long ago as 1985. Can you imagine? Life under term limits would be different alright.

It is my belief that the people of this great land have said, "We are tired of displacing the costs of our own consumption to generations yet to come. We are tired of the fact that every new child has a debt at birth of $18,000." And yet, commonsense reforms like these continue to fall short of the support needed for passage.

Mr. President, those are the things that did not pass. The study went on to note things that did. It is interesting. I see my friend, the Senator from Tennessee, is nodding his head because he knows what the issues are. Neither of the last two tax increases would have passed, and the last two pay increases would have failed as well.

I do not think that we should have term limits in order to get specific legislation. I think we ought to have term limits because it reflects well on the fundamental values of America. We should give the people what they ask for, what they know they want. We should at least give them the opportunity to vote on it. What stuns me is that Members of this body do not even

VOL
142
PT
6
AP
15
—
24
1996
UMI

want to let the States have a chance to consider it. That is a rather troublesome thing.

There are a wide variety of arguments that people bring up against term limits. It is said, "Well, won't term limits increase the power of nonelected bureaucrats and staffers?" I think in theory you might think the staffers will know everything. That has not been the way things have happened, however. It was not too long ago that PHIL GRAMM came to the Senate and tried to upset the apple cart of spending in his very first term. I think the 1994 newcomers have brought new ideas and energy as well.

Somebody said, "Well, it will increase the influence of lobbyists." I think the basis of lobbyist relationships is long-term. As a matter of fact, most of the lobbyists I have talked to are opposed to term limits. They make big investments. They want those relationships to be as cozy as possible. I do not think we ought to have individuals in the Congress looking forward to long careers in Washington, DC. I think we need people looking forward to service in their district or State.

I believe the people of America have a strong understanding of term limits. The people have enacted term limits for 41 State Governors. In every State where they have had the initiative process, they have added Congress to the mix.

The beltway around Washington is the barrier to reform. Roughly 74 percent of the people want term limits. We have the opportunity to give it to them. And we have resisted. It is our fundamental duty to reflect the will of the people, to offer them the opportunity to embrace term limits for the Constitution of the United States.

The Senator from Vermont inquired earlier about retroactive term limits. What is interesting to me is that, to my knowledge, everywhere the people have had an opportunity to enact term limits on their own, they have made the limits prospective. I believe that is why we should have the kind of bill which has been proposed. It is not that you could not have another kind of concept. Instead, it is because this is what the American people prefer.

So I think the will of the people themselves is instructive. There may, of course, be a theoretical reasons why people would want a different approach. I do not know what that might be. But given the experience that the American people have had, and the durability of their understanding, I think it would behoove us to make our approach consistent with what they have requested in the past and with what they have specifically asked for themselves. That is consistent with the fundamental value of democracy for which this country stands.

Ultimately, term limits and our ability to offer it to America for inclusion into the Constitution at the adoption of the States is something that should foster, underscore, emphasize, improve, and strengthen the values for which we stand. I yield the floor.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Vermont.

Mr. LEAHY. Mr. President, I listened to this whole debate on term limits with some interest. I am well aware of the fact that the Republican leadership has tried to set this up so that nobody can introduce any amendments. The Republican leadership has filed for cloture within 5 minutes of beginning proceedings and is apparently going to do everything possible to block anybody from raising questions.

I succeeded a Republican Senator. Everybody who has ever been elected from Vermont has succeeded a Republican Senator because I am the only Democrat our State has ever elected. We are the only State in the Union that has elected only one, and, for better or worse, that is me. My predecessor, a distinguished Republican, was elected the year I was born and served until I arrived here. This Republican Senator was considered the dean of the Senate. The fact that he served from the year I was born until I came here probably gives some sense of term limits in our State.

Frankly, I have a great deal of respect for our distinguished majority leader, Senator DOLE. On term limits, I would have only gotten a chance to serve with him for one term, way back in the 1970's. Then he would have been gone. The distinguished President pro tempore, Senator THURMOND, who held elective office long before I was born, I would not have gotten a chance to serve with him at all. In fact, virtually the whole Republican leadership would have been long gone by now.

What I worry about when the amendment is written so as not to apply to current Members is that this is a little bit of a shell game on the American public. It is a bit of a con. It was probably not meant that way, but it amounts to this: You could have a Senator who has been here for, say, three or four terms and vote for term limits. They are up for election this year, knowing that a constitutional amendment cannot be ratified in time this year. That same three- or four-term Senator if reelected this year, could proceed to serve that 6-year term and two additional 6-year terms, 18 more years, after voting to impose a 12-year limit on all those who are first elected to the Senate after the amendment is ratified. Or somebody who had served five terms, say, a Senator who has been here for 30 years, could vote for term limits and, having served 30 years, serve 18 more. Then they would say, "I am for term limits." Now, be honest. Vote for it or do not vote for it. Everybody has to make a determination.

There are, of course, term limits. Every 2 years in the House of Representatives there is a term limit. It is called an election. In my State, every 2 years there is a term limit for Governor, and virtually every other office has a term limits. It is called an election. Every 6 years is a term limit for Members of the Senate. It is called an election.

However, do not call this proposed constitutional amendment one of term limits when it is set up in such a way that most of the Senators in this place could vote for it, and no matter how many terms they had already served, could count on serving for 12 to 18 more years. You have Senators who served here before people were born, who could be serving here long after they are retired under these so-called term limits. Now, that is not term limits.

Make sure that the American public understands, under this proposal, any Senator, no matter how long he or she has been here, could vote for this, see it go into the Constitution and still be in office for another 12 to 18 years, even if they have already been here for 20 years, 30 years or whatever else it might be.

I hope, Mr. President, that even though the Republican leadership—all of whom have served here for many more than two terms—have done their best to block any chance for my amendment to come up, I hope they would change their mind and realize that blocking a vote on it might appear a tad hypocritical to those people who live in the real world. Those are the people who do not rely on their elective office, who do not, as the distinguished Senator from Missouri said, live in think tanks, but the men and women of the streets of Vermont, Missouri, or anywhere else. Those people may see a bit of hypocrisy if they see somebody who has been here for 24 or 30 years, whatever, vote for a proposal which would still allow them to serve for another 12 to 18 years, and call it term limits.

I think the American public will see through that hypocrisy, especially when the American public knows that they can set term limits anytime they want, every single election. That is something to keep in mind.

Some say we do not have it in our power to pass term limits. We have it in our power. Every one of us has to file petitions or take steps in our States to qualify for election. Any one of us can say, "I am setting term limits. I am leaving at the end of this term." No constitutional amendment is needed to that. It is term limits.

I wonder how many Senators are here who are now in their fourth, fifth, or sixth term, who every single time they run say, "We need term limits, we need term limits, and I will keep on saying it for the next 20 years, we need term limits." They could limit it simply by leaving.

Do not call this amendment term limits, where a Senator in his third,

fourth, fifth or sixth term could vote for this and still run for three more terms. That is not term limits. That is a bumper-sticker slogan. That is a political fundraising device. That is rhetoric for the campaign trail. But that is not term limits.

Term limits are imposed when Senators, and we have had a number on both sides of the aisle, who say, "I came here to serve two terms, or one term, or three terms," and then leave when they say they would. We have had many, many Senators on both sides of the aisle who were facing an easy reelection, but said, "This is the time to go. I leave."

Ultimately, in my State, where my Republican predecessor was elected the year I was born and served until I arrived, enjoying greater popularity every year, this is reflective of what happened. I think every so often we have to make it clear what is really happening here. I would vote to bring this amendment up for a vote. I think we should. But we should bring up each aspect of it and not do as the Republican leadership has: Stack the deck and do everything possible to block the chance that somebody might bring up an amendment that would raise a real question. Let us test whether those who claim they are for term limits would be for such limits being applied to them. Let them vote on something that might limit them at the end of this term, not at the end of this term plus another 18 years.

What this is, this amendment is an incumbent's protection limit bill, not real term limits. This is saying that somebody elected in the future will have term limits, but those of us who are already here after several terms, we are protecting ourselves for another 18 years. If you are brandnew out there, a few years from now, we will term limits for you, but, boy, we are sure protecting us. Because if we have been in the Senate for 24 years or 30 years or 36 years, we are going to make sure we can stay around for another 18 years. We have protected ourselves in this.

No one who votes for term limits should stand up and say, "See how brave I am." Go back to the American public and say, "We are so brave, we limited somebody else to two terms, but for those still there, we have another three terms."

We will limit the men and women out there who have not yet run to two terms, but we will protect every single term we have already served and give ourselves another two to three terms. That is not term limits, that is campaign fodder, that is a bumper sticker, that is sloganeering rhetoric, but it is not term limitation at all.

FEDERAL JUDGES

Mr. LEAHY. Mr. President, every so often we have to remember that this is an election year, when a lot of campaign rhetoric comes up, just as it has in the past few weeks about the Federal judges nominated by President Clinton and confirmed by this Senate, which is now under Republican control.

I am a member of the Judiciary Committee and I have served on these nominations. I am familiar with the outstanding backgrounds of these nominees. I believe the U.S. Senate was right when we confirmed them and the President was right when he appointed them to the Federal bench around the country.

President Clinton took a Federal judge, the chief district judge in our State, a Republican, appointed by a Republican President, and moved him to the Second Circuit Court of Appeals. I believe that was the right move. The President then appointed J. Garvin Murtha, of Dummerston, Vermont, as the chief Federal district judge for the District of Vermont—another very good move. He appointed William Sessions of Cornwall, Vermont, as a Federal district judge, another good move and one applauded by Republicans and Democrats alike throughout our State—all three of these. Two of them were former prosecutors. I served as a prosecutor with two of them.

I am troubled by efforts to characterize President Clinton's appointments as soft on crime. Ask some of the people that have been sentenced by some of these Federal judges whether they think they are soft on crime. There was one reference made in one of the sentencings, "If you ever have to have a heart transplant, you would want the judge's heart because it has not been used yet." These are tough judges.

I was privileged to serve for 8 years as a prosecutor before being elected to the Senate by the people of Vermont. I know a little bit about law enforcement, and I also know a little bit about political campaigns.

If you want to play a game of, "Oh, look at these judges President Clinton has appointed," and pick out an isolated case here and there—and there are tens of thousands of cases—you can play that game. If someone were cynical, they could play that game. If somebody wanted to pick out selected cases, they could play the game.

If I wanted to—and I do not, of course—I could talk about some of the decisions of judges appointed by Presidents Reagan and Bush, who reversed convictions or sentences of defendants that juries found guilty beyond a reasonable doubt of atrocious crimes.

If I wanted to, I could talk about Judge Deanell Tacha. I believe she was suggested by the distinguished Republican leader for an appointment to a seat on the tenth circuit. A good Republican appointment. She recently wrote an interesting opinion that suppressed evidence seized by a Utah State trooper. After a lawful stop, upon learning that the license of the driver had expired and after receiving suspicious responses from the vehicle occupants, the State trooper asked for and received permission to search the trunk of the car. Let us be clear that he had a right to do that on the face of it. He found a gun, scales, and a duffel bag that had crack cocaine in it. Despite the fact that the driver consented to the search, this Republican Judge ruled that once the trooper determined that the car was properly registered, he could no longer detain the defendant and, thus, the search was unlawful. The judge ruled that the crack cocaine was to be suppressed. If I were cynical, I would say that was an indication of how the Republican judiciary feels. But I am not going to.

In another case, a 13-year-old boy was murdered by four young men because the boy caught them stealing a bicycle worth $5. These men stomped this 13-year-old boy to death and stifled his screams by shoving stones down his throat. All four men were convicted by a State court, and their appeals were rejected. But then Judge Edward Korman, a Reagan appointee, decided that the State appellate court was incorrect. He found "troubling inconsistencies" in the story told by law enforcement officials. As a result, he decided to free the convicted murderers—these men convicted of stomping to death this 13-year-old—on $3,000 bail. I have seen traffic cases that got higher bail than that.

Now, if I was cynical, I would blame President Reagan for appointing them. But, instead, I will praise three other judges appointed by President Reagan—no, actually I cannot. I was going to say that they overturned this decision when it went to the court of appeals. But these other three appointees of President Reagan affirmed this. They did not even bother to issue an opinion. Is that an indication of the judicial philosophy of President Reagan? No, I do not think so at all. But is it an indication of some of the judges appointed?

Judge William Cambridge of Nebraska, a Reagan appointee, overturned the death sentence of a defendant who not only confessed to killing three young boys, but who said that he would do it again if he were ever set free. One of the boys was pinned to the ground by a knife through his back and was slashed and stabbed to death as he pleaded for his life. One of the other victims endured a similar fate, and when they found his body, it had a drawing of a plant cut into his torso. Judge Cambridge vacated the sentence because he concluded that the State statute's use of the term "exceptional depravity" was too vague. If this is not exceptional depravity, I do not know what in Heaven's name is.

On appeal, the deciding vote to reverse Judge Cambridge and affirm the

VOL 142 PT 6 AP 15 — 24 1996 UMI

death sentence, the deciding vote to reverse the Reagan appointee's decision was cast by Judge Diana Murphy—and she, incidentally, was a Clinton appointee. She helped correct what I think was an egregious mistake and concluded that under any reasonable interpretation of the statute, these crimes certainly qualified as depraved and for the sentence.

In another recent case from Nebraska, Judge Richard Kopf, an appointee of President Bush, reversed the death sentence of a convicted double murderer. The defendant was given two capital sentences in the stabbing deaths of his cousin and her house guest. Despite suffering seven stab wounds, the defendant's cousin was able to make her way to a phone, summon help, and then died. After the Nebraska Supreme Court twice rejected appeals, Judge Kopf granted a habeas corpus petition, concluding that the Nebraska Supreme Court had misinterpreted its own State law by reweighing the aggravating and mitigating circumstances involved in the case. It went up on appeal, and the eighth circuit reversed the decision, finding that Judge Kopf had exceeded his authority by contesting the Nebraska Supreme Court's interpretation of a Nebraska statute.

These were all Reagan and Bush appointees, and one of the most egregious decisions made was reversed by a Clinton appointee.

Those of us who have tried a lot of cases know that sometimes cases do not turn out the way you want. That is why you have appellate courts. Sometimes judges rule in a way that you just cannot understand. But I am not going to condemn President Reagan's appointees as judges and President Bush's appointees as judges, or President Reagan or President Bush, because of a few aberrations, decisions about which I do not know all the facts and in connection with which I have not reviewed all the evidence. I would not do this and no one else should try, in a political year, to condemn President Clinton, who I must say has appointed some darned good men and women to the judiciary—just as President Bush appointed some darned good men and women to the judiciary, and President Reagan did, and President Carter did, and President Ford did. All of these Presidents have appointed judges on whom I had the opportunity to vote.

I have voted for some Republican nominees and against some. I voted for some Democratic nominees and against some. But that is where we get involved. We can vote for them or against them. But do not take some isolated incident and try to turn it into a Presidential election year thing.

If we did that, we could go to the notorious 911 murders in Detroit. One of the victims was shot repeatedly while frantically calling for police assistance. The entire episode was recorded by the 911 operator, and the defendant ultimately pleaded guilty to two counts of murder. Sixteen years after the fact, the convicted murderer filed his second habeas corpus petition claiming that comments made by the African-American State judge, several years after the case was over, somehow revealed bias against fellow African-Americans. Make sure you understand this. The defendant said that based on the comments made by the African-American judge 16 years after the case concluded the judge had expressed bias against African-Americans. Most judges would just toss this out the window it is so far-fetched. But Judge David McKeague, a Bush appointee, granted relief and ordered resentencing. Fortunately, the prosecutor appealed and the decision was unanimously reversed.

The defendant in another case broke into his neighbor's home and brutally attacked four young children. Three children died from multiple skull fractures, and the fourth survived an apparent sexual assault. The defendant was convicted of murder and sentenced to death. Because the jury had not been presented with mitigating evidence concerning the childhood abuse and mental disorder the defendant allegedly suffered, Judge Sam Sparks, an appointee of President Bush, vacated the sentence. That decision, incidentally, was unanimously reversed on appeal.

Another defendant brutally murdered his ex-wife in the basement of her residence, stabbing her over 40 times. He was convicted by a jury of murder. Judge Thomas O'Neil, a Reagan appointee, reversed the conviction. That decision was unanimously reversed on appeal.

Does that mean that President Reagan was soft on crime? Of course not, even though obviously a number of his judges made decisions that I as a former prosecutor find very, very difficult to understand.

Just like Judge Huff, an appointee of President Bush, who sentenced a defendant to 2 years and 9 months in prison for smuggling illegal aliens into the country even though three of the illegal aliens died during the attempt. That is hard to understand. But I do not consider President Bush, whom I happen to know and admire, as being soft on crime because of that.

Judge Vaughn Walker, appointed by President Bush, publicly called for the legalization of drugs. He has repeatedly refused to abide by binding Supreme Court precedents, the sentencing guidelines, and mandatory minimum sentencing statutes based on his personal beliefs about the propriety of decriminalizing narcotics. The ninth circuit has frequently and summarily reversed him.

He has also issued a number of rulings that stymied efforts to prosecute drug traffickers. The U.S. attorney's office for the Northern District of California, which is headed by a U.S. attorney appointed by President Clinton, has found itself frustrated with the judge's rulings in major drug cases. In a case involving the seizure of 1,000 pounds of heroin—incidentally, the largest bust of heroin in U.S. history at the time—Judge Walker repeatedly dealt setbacks to prosecutors, including suppressing several key pieces of evidence and releasing two defendants on bail. In one of his suppression orders, he minimized heroin trafficking as little more than mercantile crimes. Two of these were reversed.

Does that mean that President Bush favored legalizing heroin or drugs? I doubt that very much—any more than I do. It is unfortunate that the Clinton appointee, the person that President Clinton appointed as U.S. attorney, who is trying to clean up drug trafficking and is trying to stop heroin trafficking, is frustrated by the judge appointed by the previous Republican administration. But I do not think it reflects the views of President Bush.

I think what is more accurately reflected is that a U.S. attorney can be replaced very easily. In fact, you have a tough U.S. attorney out there who really wants to prosecute drugs and who reflects President Clinton's views.

Chief Judge Richard Posner of the seventh circuit, is another appointee of President Reagan, who has similarly taken a public position advocating the legalization of drugs.

If I was cynical, which, fortunately, I am not, being from a small State like Vermont, I could come to the floor and make the case that Republican judges let off criminals on technicalities and that they are soft on crime. Some might even call for impeachment of the judges that made such decisions and took such positions. But in the recorded words of another Republican President, for whom I have a lot of affection, I say, That would be wrong.

As I said in my statement 2 weeks ago on this floor, no one should be making such statements or demagoging judges based on isolated decisions. We disserve our system of justice, our system of government, and the American people when we engage in such rhetoric.

As anyone who is at all familiar with our criminal justice systems knows, in the overwhelming majority of cases, Federal judges, regardless of whether they were appointed by Republican Presidents or Democratic Presidents, uphold the law, and they do an excellent, if often difficult, job.

We have been fortunate, Mr. President, in this country that Presidents of both parties have appointed some of the finest men and women in this country as Federal judges. Those men and

women have upheld the liberties of every one of us, no matter what our political party might be, no matter what our ideology might be, no matter whether we are wealthy or poor, and no matter what our backgrounds are.

We have been blessed in this country with very, very good Federal judges. We have had a few clunkers. Yes, we have a few clunkers. I probably appeared before some at one time or another. But the vast, vast majority of our Federal judges do a very difficult, very honorable, and a very good job.

The Presidents who appoint them ought to be praised for it. I think that it demeans the Office of the Presidency and it demeans the Federal judiciary and it demeans the Senate to make this some a political thing where we go after the incumbent President and claim that he is not doing a good job in appointing judges.

In fact, President Clinton's judicial appointees have won praise around the country as well qualified and centrist. That is why we have confirmed each of them—the Republican-controlled Senate has, and the Democratic-controlled Senate has. Each of them has had an exhaustive and intrusive examination before the Judiciary Committee, and each has been confirmed by this body. In fact, only 3 of the 185 lower Federal court judges who President Clinton appointed to the bench have even been the subject of contested votes.

We hear a lot of criticism now, but the distinguished majority leader and the chairman of the Judiciary Committee voted for 182 of the 185 judges now on the courts of appeals and districts courts appointed by President Clinton.

In fact, the Legal Times says of President Clinton's judges:

> From the beginning, his philosophy toward judicial selection has differed from that of his two immediate predecessors [who] engaged in a crusade to put committed conservatives on the bench. President Clinton's criteria, by contrast, seem less ideological. He has primarily sought two attributes in his judicial candidates—undisputed legal qualifications, and gender and ethnic diversity.

In a comprehensive report at the midpoint of President Clinton's first term, the New York Times reported:

> Political scientists, legal scholars and nonpartisan groups like the American Bar Association who have studied the new judges' records also said Mr. Clinton's choices were better qualified than those of Mr. Reagan or President George Bush.
>
> The new judges were deliberately chosen to fit squarely in the judicial mainstream and were, by and large, replacing liberal Democrats.

Everyone always talks about making the judicial selection process less political. Now election year politics threaten to bring political rhetoric about judges to the forefront. Let us not make judges or isolated decisions into political issues. Let us work together to increase respect for our system of justice and for those who serve within it.

Mr. President, I see my good friend from Tennessee in the Chamber and I know he seeks—I see both of my good friends from Tennessee in the Chamber. I know one or the other is going to want to talk. So I yield the floor.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. I thank the Chair.

Mr. President, the fundamental question of the debate on term limits to me can be put very simply. Are we as a nation better served by a system that encourages career politicians who over time grow entrenched in Washington and increasingly removed from the concerns of the very people who elected them or are we better served by an ever-changing legislative body of citizens who bring with them those vast experiences that color America, who have no political career to protect and who serve and then return home to live under the laws that they helped pass?

Next week, the Senate will get its chance to answer that fundamental question. I draw upon my own personal experiences. I came directly to the Senate a year and a half ago from the private sector. In fact, I contrast this very Chamber before us, with its rich history and its culture and its historical significance, with what I was doing 3 years ago, and that is moving every day and too many nights in an operating room.

It is that contrast, it is that perspective that colors much of what I have to say about term limits. I have never served in elective office, and I have had no previous ties to Washington, DC, or the Federal Government before coming to this body. I ran on the issue of term limits, and I pledged personally to serve no more than two terms. It is because I believe in that fundamental concept of the citizen legislator contributing in his or her own way based on his or her own past experiences to a citizen legislature.

That unique perspective on Washington encouraged me to promote not only the issue of term limits but to strongly support Senate Joint Resolution 21. I now, having been here a year and a half, feel even more strongly than 2 years ago when I was campaigning. Senate Joint Resolution 21, a constitutional amendment providing for term limits, serves as a steppingstone down that long road—and we have a long road to go—to renew the citizens' respect, the citizens' faith, the citizens' trust in their Federal Government.

Too often, Members of Congress are forced in the current system to spend their time focusing on reelection, focusing on fundraising, watching the polls, instead of doing what we need to be doing, and that is doing what is best for the country. As a result, I truly feel that Washington has become much more of a 2-year town, focused on the short term rather than what it should be, a 20-year town with long-term thinking.

One need look no further than the recent debate over Medicare and entitlement reform to see how true this is. Because of the unrestrained growth of entitlements, our Nation faces a true fiscal disaster within 15 years, yet this past Congress has been unable to have a reasoned, meaningful debate on this most critical of issues. Why? Because of the political ramifications of taking on, of addressing middle-class entitlements. We missed a valuable opportunity to take real steps toward reducing the deficit, eventually reducing the debt and truly reining in entitlements.

I think it is time for us to pause a moment and ask a simple question. If Members of Congress had been freed in large part from reelection concerns, would politics have destroyed the debate that prevented us once again from addressing these fundamental problems? The answer to me is clear and the reason is obvious. As long as there are careers to protect, there will be politics to play almost by definition. The longer politicians stay in Washington, the more risk averse they become. They become more attached and more detached from that average citizen and they become more eager to spend the hard-earned dollars of America's taxpayers. The answer is this resolution before us today, Senate Joint Resolution 21.

What are the arguments against term limits? Many of my colleagues oppose term limits on the grounds that we should not alter the Constitution, and I think they have a point. As a conservative, I think we have to be very careful before we alter the Constitution in any way, and only in rare circumstances should this take place. In fact, the first bill that I introduced in the Senate was the Electoral Rights Enforcement Act of 1995, and it was a very simple statute that would have given the States additional authority to enact term limits on Members of their congressional delegation. Unfortunately, the U.S. Supreme Court's decision in U.S. Term Limits versus Thornton mooted that bill and made it clear that the only alternative, the only remaining course available to us is a constitutional amendment.

Others cloud the debate on issues as to whether or not the term limits will be retroactive or should be retroactive or the technicalities or whether the real answer should be campaign finance reform. The American people are not going to be fooled. They understand. They have spoken loudly that they want term limits. Others will say that

VOL
142
PT
6
AP
15
—
24
1996
UMI

we have term limits at the ballot box; that we can always vote somebody out we do not like.

Once again, the American people recognize that you cannot vote someone out easily. In fact, the statistics are that about 90 percent of Senators running for reelection will win. And if you look at the election of 2 years ago, when a new revolution took place, there were 11 new Senators and only 1 of those defeated an incumbent, full U.S. Senator. The power of the incumbency is too strong. The answer is term limits.

Finally, some opponents will contend that term limits will rob Congress of experienced legislators who are necessary to the proper functioning of our Government. And, yes, experienced legislators who are good, who have contributed significantly will, after a period of time, have to leave this body. Yet, the second half of that is, are they absolutely necessary to the proper functioning of our Government? And I would argue no. If our Government is so complex and so complicated and so convoluted that only a full-time career politician, a class of politicians that is here to stay forever, can run it, that is not an argument against term limits; it is an argument for drastically changing the way our Government does business.

Mr. President, I have an interest in history. As the only physician in the U.S. Senate today, I have gone back to look at the number of physicians in the Senate over time. It has been fascinating. Over the last 100 years, there have been only eight physicians who served in the U.S. Senate. Over the period of 1800 to 1899, that 100-year period, in contrast to the 8 for the last 100 years, 37 physicians served in the U.S. Senate.

You can argue that is good or that is bad, I would say, not necessarily because they are physicians, but because they are another profession, not just another lawyer in this body but another profession. I would argue that is good; that is what the American people want. It represents America today.

It is interesting to look back at that period of 1800 to 1849. Mr. President, 23 physicians served in that period. If you look down the list, Dr. Bateman was a Senator for 3 years, Dr. Borland for 5 years, Dr. Campbell for 4 years, Dr. Harrison for 3 years, Dr. Kent for 4 years. The length of time these Senators served was short, was narrower.

Shall we argue they did not contribute in a substantial way in that period of time? I would argue absolutely not. You do not have to be here for 12 years or for 18 years or for 24 years to contribute.

As I look through this history of physicians in the U.S. Senate, it causes me to go back and reflect on that concept upon which this country was founded, and that is the citizen legislator, someone who comes from running a filling station, someone who comes from having a farm, someone who comes from the practice of medicine here for a period of time, from real jobs, after which they go back home and live under the laws that were passed.

In closing, Americans understand that Government truly works best when it is composed and comprised of citizens who have worked alongside them, who still consider themselves part of the communities from which they came. Yes, I truly feel that term limits will focus Members of Congress on the issues at hand rather than that next election, or that next fundraiser in preparation for that election. Members will not shy away from tough decisions. The doors of Congress will be thrown open with new ideas, innovative ideas, all brought to the table of citizen legislators.

Yes, I feel we need term limits. The question remains for our Senate colleagues, how long can we, will we, ignore the will of the American people?

Mr. President, I ask unanimous consent that the tally by half century of physicians in the Senate that I referred to earlier be printed in the RECORD, and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

"PHYSICIANS IN THE SENATE" SPEECH TALLY BY HALF CENTURY

1750–1799: Bradford (1793–1797), Clayton (1798), Elmer (1789–1791), Latimer (1795–1801).

1800–1849: Bateman (1826–1829), Bibb (1813–1816), Borland (1848–1853), Campbell (1809–1813), Chambers (1825–1826), Condit (1803–1817), Harper (1826), Harrison (1825–1828), Hunter (1811–1821), Jones (1807), Kent (1833–1837), Leib (1809–1814), Linn (1833–1843), Logan (1801–1807) Mitchell (1804–1809), Morril (1817–1823), Naudain (1830–1836), Pinkney (1819–1822), Spence (1836–1840) Storer (1817–1819), Sturgeon (1840–1851), Tiffin (1807–1809), Ware (1821–1824).

1850–1899: Bates (1857–1859), Chilcott (1882–1883), Conover (1873–1879), Cowan (1861–1867), Deboe (1897–1903), Dennis (1873–1879), Fitch (1857–1861), Gallinger (1891–1918), Gwin (1850–1855, 1857–1861), Miller (1871), Mitchell (1861), Nourse (1857), Wade (1851–1869), Withers (1875–1881).

1900–1949: Ball (1903–1905, 1919–1925), Copeland (1923–1938), Ferris (1923–1928), France (1917–1923), Hatfield (1929–1935), Lane (1913–1917).

1950–present: Frist (1995–?), Gruening (1959–1969).

Total: 49 physicians in the Senate.

Note: Five Senators who overlapped half-centuries are listed only under the half-century when their first terms began.

Mr. GRAMS. Mr. President, I wanted to note I am a strong supporter of this term limits resolution, and I will engage in this debate again next week as well and plan to vote for this.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I thank my colleague, Senator FRIST, from Tennessee, because he made a very interesting point there, talking about the number of physicians who served in this body for the first 100 years. I think the number was 37. We were just talking about that. That was back when there were many fewer Members of the Senate. There were only 15 States by 1800 or so, so we only had about 30 Senators. Yet, a great number of them seem to have been physicians.

I think you can say that about a lot of other professions back then, too. As time has gone on, that number has diminished. We have fewer and fewer people who have done anything except be in politics. So, again, I think he is a good example of the citizen legislator.

He and I both came to the Senate together a little over a year ago, neither one of us having run for office before. We vowed, together, that we would do what we could to advance the concept of a citizen legislator and fight for term limits. As we said earlier, this is the first time in 49 years that we will have a vote on term limits in this body.

I would like to just very briefly respond to a couple of the comments that the Senator from Vermont made earlier about term limits. The opponents of term limits, of course, are a little bit between a rock and a hard place. They have a tremendous burden to overcome. One of those burdens is the fact that, as this chart indicates here, 75 percent of the people—according to Luntz Research Co.—75 percent of the people are in support of term limits and only 16 percent of the people oppose it. So, what many of the opponents have done is tried their best to talk Members here into not supporting the term-limits concept. In the process, they have personalized the debate.

They talk in terms of how it will affect this Member or how it will affect that Member or the majority leader's situation, the President pro tempore's situation, individual Members on both sides of the aisle. I think that points up a problem that we have in this body overall. It is a problem with this debate; that is, the personalizing of the debate, the personalizing of it. The point is that it does not matter how it affects individual Members. It does not matter that some Member might have served here for a long time and might be entitled to another two terms. What we are trying to do is fashion something that eventually has a chance of passing and becoming law. It is irrelevant as to what has gone on in the past. What is relevant is this country and what is relevant is this body as an institution as we go into the next century.

If you want to make the argument that this would lower the quality of this body, that this would hurt the United States, then that is, I think, a valid argument. But to argue that a person cannot support term limits because he has already been here for

awhile, I think that is an invalid argument. That is an attempt to label people as hypocrites. So the opponents of term limits say this is not real term limits. You have a proposition here that will allow two more terms, 12 years. That is going to be extremely difficult to get passed. It has taken 49 years to get another vote on it as it is.

So we say, let us have something reasonable, regardless of the past. The system has served us pretty well in the past. We balanced the budget up to 1967. Let us concentrate on the future —another 12 years. But opponents of term limits say, no, that is not good enough. Let us fashion something that we know is impossible of getting passed, like making it retroactive. That will be consistent. That will be nonhypocritical.

Perfection should not be the enemy of the good. The strategy is obvious on its face. The opponents of term limits are not interested in what they would call real term limits or genuine term limits. The opponents of term limits are interested in deflecting the debate from the future of this Nation onto individual Members and saying you cannot vote for term limits because you think that now we have dug ourselves into this hopeless ditch of debt, that you cannot vote for term limits for the future knowing it would be a few years before the ratification process would even have an opportunity to be completed. Then you have another 12 years. You cannot vote for that because you would be accused of being a hypocrite because you have been here for a while.

That is a part of the "me" generation, Mr. President. We criticize our kids for a lot of things and ourselves as part of the "me" generation—me, me, me, self-centered. The same thing is true with this body—totally, totally consumed with ourselves as individuals and how things will affect us.

Senator Jones here, we would have lost the benefit of his services if we had term limits. Well, there are millions of Mr. Joneses out there who might be Senator Joneses who might be better than Senator Jones. We have 250 million people in this country, and I do not even know what fraction of 1 percent have ever served in this body.

Are we so self-centered and conceited and blinded that we think that this fraction of 1 percent are the only people qualified because we spent a few years up here spending other people's money and regulating other people's lives that we have the only expertise in America that qualifies us to sit here?

Let us, as we go forward with this debate next week, not personalize this thing. Let us not personalize this debate. Let us not accuse people of being hypocrites. Let us not concentrate on the past. You can make an argument that in the past we did not need this. We fought two world wars, we went through a Great Depression, and we were always able to come back and balance the budget in short order. We balanced the budget up until 1969.

Recently things have gotten out of hand with the growth of Government and the growth of spending, the proliferation of interest groups and the pressures on this body, of the desire for constant reelection, never having the will to say no to anybody, but always wanting to say, "Yes, you can have this. We can increase this program at 10 percent a year because we want your vote and we want your financial support and we want this system of professional politicians that we have always had."

It has gotten us into a quagmire that our kids will find it hopeless to dig themselves out of. We are bankrupting this country in short order. We all know it, and it constitutes criminal negligence if we do not do what we can about it.

I have heard many, many times, and I heard again today, "We have term limits; we have term limits, they are called elections." If you want to call the present system term limits, you are going to have to convince me that people have a decent shot at getting what they want from the present system, what they demand.

If you are talking about electoral politics, unless you are an incumbent, you are not going to have access to the money to even run. We have millions of citizens out there who would like to serve and have the opportunity to serve, but they know, with all of the advantages of incumbency and all of the money that incumbency brings in terms of contributions, why bother? Why bother?

They say, "Well, there is a lot of turnover." That is for various reasons. Some people want to run for other offices; some people leave town one step ahead of the sheriff; some people want to go back and live in the real world. There are a lot of reasons for that. But the fact of the matter is, of those who want to stay, of those who run for reelection, about 90 percent still get reelected in the middle of all this turnover.

So, the question is not what the turnover rate is. It goes up and down. The question is, What is the motivation of the overwhelming majority of the people who serve? If they ultimately decide to leave for whatever reason, or even maybe within their term for whatever reason, that still does not answer the question, what was their motivation while they were there?

I firmly believe that if that motivation is, in large part, not totally, but in large part, simply staying and getting reelected and doing the things necessary to stay in office year in and year out, because the longer you stay the less touch you have with the real world and, in some cases, the less you feel like you will be able to do, and then age catches up with you perhaps and you become more and more desperate to stay and you are willing to do more and more things to stay—what is the motivation of those kind of people?

The motivation of those kind of people to point out that "We cannot increase your program, madam, at 10 percent this year. We maybe could increase it 6 or 7 percent. But your check might be a little less than what you were expecting it to be from the Federal Government." That is dangerous. That is dangerous, and we need people in this body who are willing to risk a little danger. That is what we do not have, and that is what this is all about.

So as I say, next week we can get back on the central issue here: What is best going to equip this country to meet the challenges of the next century—as we, as sure as I am standing here, are bankrupting this country—not how it affects some individual Members. We will be lucky if we are remembered 24 hours after we leave. It does not have to do with that.

So with that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMPSON). Without objection, it is so ordered.

CLOTURE MOTION

Mr. DOLE. Mr. President, I send a cloture motion to the desk relating to the committee substitute to Senate Joint Resolution 21.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the committee substitute to Calendar No. 201, Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit Congressional terms:

Bob Dole, Fred Thompson, Spencer Abraham, Rod Grams, Mike DeWine, John Ashcroft, Craig Thomas, Jon Kyl, Trent Lott, John McCain, Slade Gorton, Rick Santorum, Bill Frist, Larry E. Craig, Paul Coverdell, Lauch Faircloth.

Mr. DOLE. Mr. President, I ask unanimous consent that the cloture vote occur at 2:15 p.m. on Tuesday, April 23, and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DOLE. Mr. President, I now ask that there be a period for the transaction of routine morning business, not to extend beyond 4 p.m.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Thursday, April 18, 1996, the Federal debt stood at $5,099,448,998,247.15.

On a per capita basis, every man, woman, and child in America owes $19,267.75 as his or her share of that debt.

TRADE WITH JAPAN

Mr. THOMAS. Mr. President, as the chairman of the Subcommittee on East Asian and Pacific Affairs, I come to the floor today to discuss briefly an issue that causes me some concern.

I see from press reports and statements released by the White House that during his recent visit to Japan, President Clinton touted his successes vis-a-vis trade with Japan, claiming that his administration has steered that trade relationship in the most positive direction in years. These statements follow others President Clinton made last week stating that recent increases in automobile and automotive parts exported to Japan are the result of an auto trade agreement his administration signed with Japan last August.

Now, you'd think that after two recent articles in the Journal of Commerce and the Washington Post—entitled respectively "More Auto Exports to Japan: Who Gets the Credit?" and "Clinton Claims on Auto Trade Disputed"—the President would have thought twice about taking credit for something that's going on anyway. Since the articles speak for themselves, I would ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follow:

MOVE AUTO EXPORTS TO JAPAN: WHO GETS THE CREDIT?

(By John Maggs)

WASHINGTON.—The closer one looks at the upturn in U.S. automotive exports to Japan, the tougher it gets to lay all the credit at the feet of President Clinton and his top trade negotiator Mickey Kantor.

President Clinton is expected to trumpet those trade results in a White House event today marking the first six months since last year's landmark U.S. Japan auto trade pact.

Claiming credit for that agreement is a small but significant piece of Mr. Clinton's re-election strategy, in which he will argue that his "free and fair" trade policy has created thousands of U.S. jobs.

As the center of that strategy, the Japan agreement mandates some of the biggest reforms Japan has ever undertaken to loosen formal and informal barriers to imports.

U.S. officials cite numerous regulatory changes they expect to yield results in additional imports. The trickier part is making the connection between these reforms and the statistics on auto trade that Mr. Clinton is expected to cite today.

The numbers are impressive. Exports to Japan by American and Japanese-owned auto factories in the United States were up 50% in 1995, and exports by Ford, Chrysler and General Motors alone are up 36% in the first two months of 1996.

U.S. auto parts exports to Japan—the real focus of the trade agreement—seem to be increasing steadily, although the rise in 1995 was smaller than the year before.

The U.S. parts-content of cars made at Japanse-owned "transplant" factories in the United States, meanwhile, increased 14% in 1995.

The problem is the sheer number of factors affecting the huge U.S.-Japan auto trade, including currency shifts—which made U.S. products much more competitive in 1995—and the lead time to design parts into Japanese models, a factor that makes higher import part levels more likely after 1998.

Among replacement parts, there is very encouraging anecdotal evidence of new retail outlets opening in Japan that will carry U.S. parts, but little evidence that this has yet had a trade effect.

Mr. Clinton will note that auto parts exports to Japan have increased 60% since 1992 but the growth rate is slowing.

CLINTON CLAIMS ON AUTO TRADE DISPUTED

(By Paul Blustein)

The hoopla is scheduled to start around 2 p.m. today at the White House. President Clinton will be there, as will representatives of the Big Three U.S. auto companies and the United Auto Workers. Three new American cars will be on display, with the steering wheels on the right-hand side—made to order for the Japanese market.

The purpose? To celebrate rising automobile and parts sales to Japan and make the claim—which critics call hype—that a major cause was an auto trade agreement that the administration negotiated with Tokyo last year.

The White House has marshaled some impressive-sounding statistics to make the accord look like a job-generating winner. An administration report due to be released today will highlight the fact that in the six months after the pact was signed last August, sales of U.S.-made General Motors Corp., Ford Motor Co. and Chrysler Corp. vehicles in Japan rose 33 percent over the same period a year earlier, according to people familiar with the report.

It also trumpets higher sales of U.S. auto parts to Japanese companies, citing an anticipated increase of 14 percent in the North American content of 1996 model vehicles at Japanese factories on this side of the Pacific.

But many experts question whether such recent increases can be attributed to an agreement reached just a few months ago. While the administration can reasonably claim it created new business opportunities in Japan's repair parts market, they say, most of the latest surge in sales of automotive products is part of a longer-term trend stemming from prior trade deals, the weakness of the U.S. dollar and other factors.

It's "a notable achievement" that U.S. auto parts are making inroads in Japan, said Marcus Noland, a Japan expert at the Institute for International Economics and former senior economist at Clinton's Council of Economic Advisers. But "the administration is probably taking credit for something that's going on anyway." Other skeptics note that sales in Japan of European carmakers like AB Volvo and Volkswagen AG have risen at roughly the same sizzling pace over the past few months as those of the Big Three—without the benefit of a trade deal.

The upbeat nature of today's event will set the tone for Clinton's trip to Tokyo next week, which is shaping up as one of the friendliest U.S.-Japan summits in years as the two sides concentrate on shoring up their security alliance. While Clinton is expected to raise simmering trade disputes over film, computer chips and insurance, the administration is planning to try to focus attention on successes in other trade areas.

U.S. Trade Representative Mickey Kantor is fond of pointing out that U.S. exports to Japan soared 20 percent last year, to $64 billion, yielding the first decline since 1990 in the U.S.-Japan trade gap. But many economists ascribe Japan's rising appetite for foreign goods to the strength of the yen, which makes foreign goods cheaper to Japanese buyers, and market-opening measures adopted long ago, rather than to the 20 U.S.-Japan trade deals struck during the Clinton era.

But in an election year, the White House is eager to claim that its aggressive trade diplomacy is producing results. That's particularly true for the auto pact, which came after a high-stakes confrontation.

On one score, the accord has clearly helped generate business for U.S. firms. Tokyo's loosening of its rules concerning the parts used in required periodic auto repairs enabled Tenneco Automotive, among others, to strike a lucrative deal for distribution of its Monroe shock absorbers in Japan.

But can the administration claim that it is responsible for the sizable rise in sales of cars and components to Japanese consumers and factories? "Whatever success you see today, the seeds were planted for that many years earlier," said a Bush administration trade official, who noted that Japanese auto companies typically choose their parts suppliers several years before a car model is produced.

Moreover, the pact has fallen short of administration hopes in one area—agreements by Japanese auto dealers to sell U.S. cars. When the deal was signed, Washington declared (without Tokyo's concurrence) that over the remainder of this decade, 200 dealers a year should sign up with GM, Ford or Chrysler. Only 30 have done so in the months since the accord was struck, although sources said yesterday that Chrysler may soon announce a deal for 60 or 70 more.

Mr. THOMAS. While I would agree that our Trade Representative Mickey Kantor has done an impressive job, not only in negotiations with Japan but with other countries as well, most notably China, but I would also agree with the vast majority of economic analysts who believe that most of the improving climate for American cars in Japan is due to natural market forces. For example, over the last year or so the yen has grown stronger compared with the dollar, making American goods cheaper in Japan. Matsushita Noriyuki, a senior economic analyst at the Nikko Research Centre, attributes increased sales of U.S. cars in his country primarily to the fact that the price of those cars has decreased. In addition, Matsushita points to major changes made by American car manufacturers to accommodate Japanese tastes and habits—such as increased

attention to quality, right-hand steering wheels, and smaller model sizes—as a major factor in increased sales. More importantly, trade agreements struck before Mr. Clinton took office—under Republican administrations—are finally bearing fruit.

Mr. President, since 1992 we've grown used to a Clinton foreign policy that is an oxymoron, to a foreign policy that is reactive rather than proactive. We've grown used to a wide credibility gap between what Governor Clinton said as a candidate and what his actions are as President—I've spoken before on this floor about the irony of a President who accused George Bush of coddling China now doing more coddling of that country than President Bush could ever have been accused of. We've grown used to President Clinton coopting as his own such Republican initiatives as the line-item veto, budget cutting, and calls for an end to the era of big government.

I guess that now, as the November elections approach, it should come as no surprise that we can now also look forward to President Clinton's rhetoric far outpacing his performance in the foreign policy arena and for him to increasingly take credit for the hard work of others.

VIOLENCE IN LEBANON

Mr. ABRAHAM. Mr. President, I rise today to express my deep concern regarding the most recent violence in Lebanon. I have immediately contacted the Clinton administration and urged them in the strongest possible terms to do everything in the power of the United States to cease the hostilities between Israel and Hezbollah in Lebanon. Many innocent civilian men, women, and children have been killed and there have been thousands of refugees who have been forced to flee their homes.

The Arab-American community, many who have family and friends in Lebanon, have communicated to me first-hand accounts of the recent violence and tragedy. The most disturbing fact is the great loss of civilian lives, especially the children. These deaths, no matter where they occur, are always tragic.

To help us immediately address the plight of these innocent victims, I have requested emergency assistance for the Lebanese civilians and refugees from the Department of State, the Agency for International Development, and the Department of Defense. The Lebanese are in need of food, medicine, water, emergency electric generators, beds, and other necessities. Mr. President, I am hopeful that my colleagues will support this request for aid and I am hopeful that this administration will use all of American's influence to cease the fighting in Lebanon immediately.

PRAISING THE LATE SENATOR EDMUND MUSKIE

Mr. CONRAD. Mr. President, the death of Ed Mudkie marks a deep personal loss for me, and a loss for our Nation. Senator Muskie was a close personal friend and leader in both the Senate and our national political scene. As a young man, I can remember my admiration for his integrity and dedication when I served as a midwestern State coordinator for his Presidential campaign in 1972. In the Senate he was the leader in urging creation of a Senate Budget Committee so the Chamber would have a committee with a board overview of the budget process. In this time of public concern over the Federal budget, it is important we remember that as the first chairman of the Budget Committee, Senator Muskie warned the Congress and the Nation of the need to balance our Federal budget to protect America's future. Those of us who serve on the committee today are still mindful of the foresight he showed, and are working to see that his legacy is fulfilled. Americans of this generation also owe a debt to the former Senator from Maine for his vision and his tireless efforts in awakening Congress and the Nation to the critical importance of enacting comprehensive laws to protect our Nation's environment for future generations. Our Nation owes him a deep debt of gratitude we can never repay.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:45 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following resolution:

H. Res. 406. Resolution in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1422. A bill to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, New York, for inclusion in the Amagansett National Wildlife Refuge, and for other purposes (Rept. No. 104–255).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BUMPERS:

S. 1688. A bill to establish a National Center for Rural Law Enforcement, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAMM (for himself and Mrs. Hutchison):

S. 1689. A bill to provide regulatory fairness for crude oil producers, and to prohibit fee increases under the Hazardous Materials Transportation Act without the approval of Congress; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for Mr. Nickles (for himself, Mr. Inhofe, Mr. Dole, Mr. Daschle, Mr. Lott, Mr. Ford, Mr. Abraham, Mr. Akaka, Mr. Ashcroft, Mr. Baucus, Mr. Bennett, Mr. Biden, Mr. Bingaman, Mr. Bond, Mrs. Boxer, Mr. Bradley, Mr. Breaux, Mr. Brown, Mr. Bryan, Mr. Bumpers, Mr. Burns, Mr. Byrd, Mr. Campbell, Mr. Chafee, Mr. Coats, Mr. Cochran, Mr. Cohen, Mr. Conrad, Mr. Coverdell, Mr. Craig, Mr. D'Amato, Mr. DeWine, Mr. Dodd, Mr. Domenici, Mr. Dorgan, Mr. Exon, Mr. Faircloth, Mr. Feingold, Mrs. Feinstein, Mr. Frist, Mr. Glenn, Mr. Gorton, Mr. Graham, Mr. Gramm, Mr. Grams, Mr. Grassley, Mr. Gregg, Mr. Harkin, Mr. Hatch, Mr. Hatfield, Mr. Heflin, Mr. Helms, Mr. Hollings, Mrs. Hutchison, Mr. Inouye, Mr. Jeffords, Mr. Johnston, Mrs. Kassebaum, Mr. Kempthorne, Mr. Kennedy, Mr. Kerrey, Mr. Kerry, Mr. Kohl, Mr. Kyl, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lieberman, Mr. Lugar, Mr. Mack, Mr. McCain, Mr. McConnell, Ms. Mikulski, Ms. Moseley-Braun, Mr. Moynihan, Mr. Murkowski, Mrs. Murray, Mr. Nunn, Mr. Pell, Mr. Pressler, Mr. Pryor, Mr. Reid, Mr. Robb, Mr. Rockefeller, Mr. Roth, Mr. Santorum, Mr. Sarbanes, Mr. Shelby, Mr. Simon, Mr. Simpson, Mr. Smith, Ms. Snowe, Mr. Specter, Mr. Stevens, Mr. Thomas, Mr. Thompson, Mr. Thurmond, Mr. Warner, Mr. Wellstone, and Mr. Wyden)):

S. Res. 249. A resolution expressing the sense of the Senate on the anniversary of the Oklahoma City bombing; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUMPERS:

VOL
142
PT
6
AP
15
—
24
1996
UMI

S. 1688. A bill to establish a National Center for Rural Law Enforcement, and for other purposes; to the Committee on the Judiciary.

THE NATIONAL RURAL LAW ENFORCEMENT ACT OF 1996

• Mr. BUMPERS. Mr. President, I am introducing the National Rural Law Enforcement Act of 1996. This bill is not very complicated. It establishes a National Center for Rural Law Enforcement, to provide rural police and sheriff departments with the training they need to meet the demands of modern rural law enforcement.

Consider a few facts and figures about rural crime and law enforcement:

One third of all Americans live in rural areas.

Ninety percent of the law enforcement agencies in our country serve populations of 25,000 or fewer citizens. Three quarters of those departments serve fewer than 10,000 citizens.

Crime in rural communities has risen more than 35 percent during the last decade.

The Criminal Justice Institute at the University of Arkansas at Little Rock has been the headquarters of a movement by rural law enforcement administrators to fill the training void they face. The Institute has sponsored a number of conferences in five regions around the country to identify the training needs of rural law enforcement and prescribe measures to meet those needs. This bill is a response to their efforts and the needs they have documented and described.

The National Center for Rural Law Enforcement will: Provide rural law enforcement managers training tailored to rural law enforcement needs; provide research and technical assistance to rural law enforcement agencies; provide a communications network linking rural agency heads around the country, develop curriculum tailored to the needs of rural law enforcement officers; articulate the viewpoint of rural law enforcement professionals; and project its training capability to sites in communities all over the United States.

Every Senator represents rural communities. As we travel our States, we hear time and again about sophisticated and vicious crime in small rural communities, the sort of crime we used to believe was found only in big cities. The National Center for Rural Law Enforcement will help to equip rural law enforcement professionals to deal with those problems in the most effective manner, with the same tools their urban colleagues enjoy.

The NCRLE will enjoy the participation and input of the FBI and the Justice Department and some Federal funding, but its heart and soul will be the State and local law enforcement officers of rural America. It represents the kind of Federal State local cooperation that is so vital today. I hope that arrangement, along with the obvious need for a National Center for Rural Law Enforcement, will bring bipartisan support for this bill. The National Center for Rural Law Enforcement is necessary. It will meet a vital need for rural America, at low cost in the context of a true Federal partnership. I urge my colleagues to cosponsor the National Rural Law Enforcement Act of 1996. •

By Mr. GRAMM (for himself and Mrs. HUTCHISON):

S. 1689. A bill to provide regulatory fairness for crude oil producers, and to prohibit fee increases under the Hazardous Materials Transportation Act without the approval of Congress; to the Committee on Commerce, Science, and Transportation.

THE CRUDE OIL TRANSPORTATION FAIRNESS ACT OF 1996

Mr. GRAMM. Mr. President, I rise to introduce legislation to remove an onerous and, I believe, unintended regulatory burden from independent oil and gas producers. The Crude Oil Transportation Fairness Act of 1996 would exempt oil and gas producers who do not transport crude oil themselves from the registration and fee requirements of the Hazardous Materials Transportation Act. Those who actually transport crude oil would continue to register and pay fees as under current law. Also, the bill removes the Secretary of Transportation's unilateral authority under current law to raise these fees on transporters. My colleague from Texas, Senator HUTCHISON, has joined me in introducing this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD, and that letters of support from the Independent Petroleum Association of America and the Texas Independent Producers and Royalty Owners Association also appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1689

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crude Oil Transportation Fairness Act of 1996".

SEC. 2. REGULATORY FAIRNESS FOR CRUDE OIL PRODUCERS.

Section 5108(a) of title 49, United States Code, is amended by adding at the end the following:

"(5)(A) Notwithstanding any other provision of law, a person who offers crude oil or condensates for transport in commerce shall not be required to file a registration statement or pay a fee otherwise required under this section if that person transfers title to the crude oil or condensates to a transporter at the time that the crude oil or condensates are initially transported in commerce from a storage location by the transporter.

"(B) Subparagraph (A) does not apply to any person who transports crude oil in commerce in a quantity that is subject to the requirement of this section.".

SEC. 3. PROHIBITION OF FEE INCREASES WITHOUT THE APPROVAL OF CONGRESS

Section 5108(g)(2)(A) of title 49, United States Code, is amended in the second sentence, by striking "at least $250 but not more than $5,000" and inserting "not more than $250".

INDEPENDENT PETROLEUM
ASSOCIATION OF AMERICA,
Washington, DC, March 27, 1996.

Hon. PHIL GRAMM,
U.S. Senate, 370 Senate Russell Office Building, Washington, DC.

Re Crude Oil Transportation Fairness Act of 1996

DEAR SENATOR GRAMM: The Independent Petroleum Association of America (IPAA) strongly supports The Crude Oil Transportation Fairness Act of 1996 and appreciate your efforts on behalf of independent oil and natural gas producers. As you know, IPAA represents approximately 5,500 independent oil and natural gas producers in 33 states. The regulatory problem which is addressed in the proposed legislation has been particularly onerous for our membership as they are primarily small businesses with less than 20 employees that can not afford the annual fee assessed under this program.

The Hazardous Materials Transportation Registration and Fee Assessment Program, which was implemented under the Hazardous Materials Transportation Uniform Safety Act of 1990, requires registration for persons engaged in transporting or offering for transportation certain categories and quantities of hazardous materials in intrastate, interstate, and foreign commerce. Persons subject to the registration program are required to annually file a registration statement with DOT and pay a total annual fee of $300. Last year, DOT unsuccessfully proposed a graduated filing fee that would in many cases raise the registration fee to $5050.

After a major educational effort led by IPAA, with strong congressional support, the proposal was defeated. However, even at the $300 per year level, IPAA has strongly opposed the inclusion of persons who "offered for transportation" in the registration program as both burdensome and unnecessary. Crude oil producers sell their oil to purchasers who take possession of it on the lease directly from the crude oil storage tank. The purchaser owns the crude oil before it ever reaches a public road. While the oil is in the storage tank the facility owner is subject to numerous state and federal safety requirements.

At a time when our domestic oil production has fallen to its lowest point in 40 years, and over 500,000 jobs in the industry have been lost in the last decade, we cannot continue to penalize domestic producers. The current financial state of the domestic oil and gas industry is illustrated by the following indicators:

Jobs. Since the early 1980s, oil and gas employment has been cut in half. Employment in the industry through 1996 stood at 305,100 employees compared to 332,800 in 1995. There has been a loss of 9500 employees since 1995 and nearly 500,000 since 1985.

Crude Oil Production. Crude oil production in 1995 fell to an estimated 6.5 MMb/d, compared to 6.7 MMb/d during 1994, representing a 200,000 b/d decrease. Crude oil production in the lower 48 states has fallen to 5 MMb/d, the lowest level since 1946.

Rotary Rig Activity. In 1995, the rotary rig count averaged 723 rotary rigs for the United

States, a decrease of 52 rigs from 1994. This is the second lowest rig count since World War II. Forty-five percent of the rigs were drilling for oil, 53 percent for gas and 2 percent miscellaneous.

Well Completions. In 1995, total well completions totaled 19,756, with 8,114 wells completed for the production of natural gas, 6,917 wells completed for the production of crude oil and 4,725 dry holes. There were 2,037 fewer completions in 1995 than 1994. In 1985, 70,806 wells were completed, a 72% decline in 10 years.

In conclusion, IPAA strongly supports the Crude Oil Transportation Fairness Act which will have the effect of eliminating the DOT Hazardous Materials Transportation fee for individuals and companies that only offer for sale, but do not transport crude oil or condensates.

Thank you again for your legislative leadership in this area.

Sincerely,

DENISE A. BODE,
President.

TEXAS INDEPENDENT PRODUCERS &
ROYALTY OWNERS ASSOCIATION,
Austin TX, March 27, 1996.

Hon. PHIL GRAMM,
U.S. Senate, 370 Russell Building, Washington, DC.

DEAR SENATOR GRAMM: On behalf of Texas independent oil and gas producers, I wish to thank you for introducing the "Crude Oil Transportation Fairness Act of 1996." As you know, this bill is badly needed to ensure that another unnecessary, onerous regulation does not play a role in the demise of the small independent oil and gas producer.

Your bill will ensure that the regulation is properly applied to those who transport crude and not those who only sell it. Some of our members are also transporters and should be paying this fee, but far more are producers who produce crude and sell it at the lease. Those producers have unfortunately been required to pay this transporter fee needlessly. Soon after the program began, we narrowly defeated an effort by the Department of Transportation to increase the annual fee of $5,050—which in many cases is more than the annual revenue from a single well.

Your bill appropriately places the responsibility on crude transporters. We appreciate your interest in correcting this regulation.

Sincerely,

REX H. WHITE, JR.,
President.

ADDITIONAL COSPONSORS

S. 800

At the request of Mr. COCHRAN, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 800, a bill to provide for hearing care services by audiologists to Federal civilian employees.

S. 1578

At the request of Mr. FRIST, the names of the Senator from Virginia [Mr. WARNER] and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 1578, a bill to amend the Individuals With Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

SENATE CONCURRENT RESOLUTION 41

At the request of Mr. INOUYE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Concurrent Resolution 41, a concurrent resolution expressing the sense of the Congress that the George Washington University is important to the Nation and urging that the importance of the university be recognized and celebrated through regular ceremonies.

SENATE RESOLUTION 248

At the request of Mr. FEINGOLD, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Resolution 248, a resolution relating to the violence in Liberia.

SENATE RESOLUTION 249—EXPRESSING THE SENSE OF THE SENATE ON THE ANNIVERSARY OF THE OKLAHOMA CITY BOMBING

Mr. DOLE (for Mr. NICKLES (for himself, Mr. INHOFE, Mr. DOLE, Mr. DASCHLE, Mr. LOTT, Mr. FORD, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN)) submitted the following resolution; which was considered and agreed to:

S. RES. 249

Whereas, on Wednesday, April 19, 1995, at 9:02 a.m. central daylight time, a bomb exploded at the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, collapsing the north face of this nine-story building, killing 168 men, women, and children and injuring scores of other innocent victims;

Whereas today, Friday, April 19, 1996, marks the one-year anniversary of this tragic event which is without equal in our nation's history;

Whereas, in the words of the Reverend Billy Graham to the families and survivors, "Someday the wounds will heal, and someday those who thought they could sow chaos and discord will be brought to justice. The wounds of this tragedy are deep, but the courage and the faith and determination of the people of Oklahoma City are even deeper";

Whereas this was the deadliest terrorist attack ever on U.S. soil; and

Whereas the United States Senate passed by an overwhelming margin the Comprehensive Terrorism Prevention Act on Wednesday, April 17, 1996; Now therefore be it

Resolved, That the Senate of the United States:

Observes a moment of silence at 9:02 a.m. Central Daylight Time in remembrance of the innocent children and adults who lost their lives or were injured in this heinous attack one year ago;

Remembers the families, friends, and loved ones of those whose lives were taken away by this abhorrent act;

Salutes the people of Oklahoma for the courage, faith and determination they have exhibited throughout the past year;

Commends the rescuers, federal agencies and countless volunteers who gave of themselves and their resources to provide aid and relief;

Commends the federal employees from across the nation who came to the aid of their co-workers during this crisis; and

Reaffirms its trust in our system of justice to ensure that the perpetrators of this heinous crime be convicted and appropriately punished so that justice may be served and carried out swiftly.

AMENDMENTS SUBMITTED

CONGRESSIONAL TERMS LIMIT CONSTITUTIONAL AMENDMENT

ASHCROFT AMENDMENT NO. 3692

Mr. THOMPSON (for Mr. ASHCROFT) proposed an amendment to the joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms; as follows:

In lieu of the matter proposed to be inserted, insert the following: "*(two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

BROWN AMENDMENT NO. 3693

Mr. THOMPSON (for Mr. BROWN) proposed an amendment to amendment

VOL
142
PT
6
AP
15
—
24
1996
UMI

No. 3692 proposed by Mr. ASHCROFT to the joint resolution (S.J. Res. 21) supra; as follows:

In lieu of the matter proposed to be inserted, insert the following: "*(two-thirds of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

ASHCROFT AMENDMENT NO. 3694

Mr. THOMPSON (for Mr. ASHCROFT) proposed an amendment to the joint resolution (S.J. Res. 21) supra; as follows:

In the language proposed to be inserted, strike all after the first word and insert the following: "*of each House concurring therein*), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

BROWN AMENDMENT NO. 3695

Mr. THOMPSON (for Mr. BROWN) proposed an amendment to amendment No. 3694 proposed by Mr. ASHCROFT to the joint resolution (S.J. Res. 21) supra; as follows:

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE—

SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

THOMPSON AMENDMENT NO. 3696

Mr. THOMPSON proposed an amendment to the joint resolution (S.J. Res. 21) supra; as follows:

Strike all after the first word and insert the following: "*of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

BROWN AMENDMENT NO. 3697

Mr. THOMPSON (for Mr. BROWN) proposed an amendment to amendment No. 3696 proposed by Mr. THOMPSON to the joint resolution (S.J. Res. 21) supra; as follows:

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

ASHCROFT AMENDMENT NO. 3698

Mr. THOMPSON (for Mr. ASHCROFT) proposed an amendment to the motion to recommit proposed by Mr. THOMPSON to the joint resolution (S.J. Res. 21) supra; as follows:

In lieu of the proposed instructions, insert the following: with instructions to report the resolution back to the Senate forthwith with an amendment as follows: "*(two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

BROWN AMENDMENT NO. 3699

Mr. THOMPSON (for Mr. BROWN) proposed an amendment to amendment No. 3698 proposed by Mr. ASHCROFT to the joint resolution (S.J. Res. 21) supra; as follows:

In lieu of the proposed instructions, insert the following: with instructions to report the resolution back to the Senate forthwith with an amendment as follows: "*(two-thirds of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. THOMPSON. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to conduct three consecutive hearings during the session of the Senate on Wednesday, April 17, Thursday, April 18, and Friday, April 19, 1996, on the President's Budget Request for fiscal year 1997 for Indian programs and related budgetary issues from fiscal year 1996. The hearings will be held at 1:30 p.m. each day in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

OKLAHOMA CITY BOMBING

• Mr. INHOFE. Mr. President, as we commemorate the 1 year anniversary of the horrific bombing of the Murrah Federal Building in Oklahoma City, I would like to share with my colleagues excerpts from poem written by S.L. (Spud) Beckes the day after the bombing.

April 19th, of 95;
A day Oklahoma and the world
will remember, for the rest of their lives;

It's nine a.m. and most is calm;
Then comes nine-0-two and straight from hell
comes devastation in the form of a bomb;
Quickly, we turn to the TV, we see panic and fear,
we see death and destruction and for some,
death grows near,

Death and destruction by terrorist, how can this be;
it's just not heard of in OKC;
We listen close, as the body count grows;
then we realize "Oh my God" that can't be, that's someone I know;

Then comes the helplessness, from within;
because, we realize there's nothing to justify this act, that cost us relatives and friends;

We ask ourselves, "Why Oklahoma" but if
we stop and think, the answer is simple;
the actions of the hunter, is to kill not cripple;

The hunter, goes for the heart and the rest of the body falls;
but the cowards, that hit the heart of the United States, did
not know, how strong faith in Oklahomans can be and this
they did not anticipate;

Oklahoma is not only, the heart of America, it is the backbone;
and our pride in faith will show the world, even in tragedy,
we will hold our head up, trust in god and walk tall;

We think of the loss, Men, Women and Children, and ask the Lord "Why";
We try to be strong at first but it's too much, we are but man, so for most,
We bow our head and cry; but when the tears stop and our eyes clear;
Nothing on this earth can stop an American, and even in tradegy, we will show the world, there is nothing to fear;

"We" are a proud Country, the best on the planet; and from our childhood,
to our death, our pride in faith, become part of us and this we never regret;
So for the good of the world, I say this;
"Be with God, fear not the evil from Hell, for hell has not the courage,
the pride, the body or the heart of an American, and this day,
today, the world and Oklahoma will never forget;
"God Bless America"

By S.L. (Spud) Beckes, The Oklahoma Poet.•

STATEMENT ON LIBERIA

• Mr. FEINGOLD. Mr. President, as the United States military winds up its spectacularly successful evacuation of over 1,795 people from Liberia, I rise today to pay tribute both to our 214 soldiers who conducted this very difficult mission, and to the United States personnel, led by Chargé D'Affaires Bill Mylam, who are working under dire circumstances to try to bring some stability to Liberia. These people have undertaken magnificent and courageous endeavors, endeavors of which the American people should be very proud.

Today I also want to focus on the challenge that must be faced in dealing with this unfortunate turn of events in West Africa.

After a few months of guarded optimism that there might be peace in Liberia, it appears that this woeful country is once again on the brink of collapse. Looting and fighting have overtaken the capital, halting implementation of the Abuja Accords, suspending humanitarian operations and limiting food and water supplies. In addition to the 1 million-odd refugees around Liberia, 60,000 people have been newly displaced in Monrovia, and 15 to 20,000 Liberians are crowded into the Barclay's Training Center [BTC], seeking protection from tribal warfare. After United States evacuation efforts, only 19 Americans remain in Liberia in an official capacity, and humanitarian efforts are endangered. The prospects look bleak, but our resolve to contain the fighting and disintegration must remain steadfast. We have so few alternatives.

Since September 1995 when the Abuja Accords were signed by all the warring factions, the United States, along with other interested members of the international community, has tried to help implement them. The primary tasks were deploying West African peacekeeping forces through ECOMOG throughout the country, militarily disengaging and disarming the factions, and quickly investing in an economy that had virtually nothing to offer the citizens of Liberia.

Mr. President, this has not been overly successful. While thee have been many false hopes in Liberia, Abuja represented a reasonable plan, but only if each phase of that plan was fully met. It has not been—not by the Liberian factions, not by the international community, and not by the United States.

ECOMOG has never been strong enough to help create an atmosphere of stability needed for peace to survive. Nigerian elements have remained dominant in ECOMOG, while new forces—such as a Ghanaian battalion that had previously succeeded at peacekeeping missions—have not been funded. This is a failing of the international community, including the United States, that had pledged to support the Abuja Accords. At the pledging conference, the United States committed $10 million for ECOMOG—a small sum for peace in any case. We have only delivered $5.5 million of that.

Mr. President, strengthening ECOMOG to help it carry out its mission is a commitment the United States made, correctly, to help prevent an explosion like the current one in Monrovia from occurring. But the fact that we barely delivered on our commitment has been damaging to the peace process. Two months ago, Senator KASSEBAUM and I made a proposal to transfer $20 million from democracy programs at AID to help fund a new battalion for ECOMOG. An unusual source of funding, perhaps, but indicative of the high priority we placed on the funding of ECOMOG, and a statement that ECOMOG is part of our development efforts in West Africa. The administration opposed this particular transfer, but promised to work to come up with other sources of funding for ECOMOG. Not only did the administration not find the money, but it also did little in this time frame to solicit contributions from others. Crises like these demand creative responses, so I would propose we take a hard look at other programs for this purpose. Strong cases can be made that Liberia is relevant to both these accounts. I will work with the administration to continue to look for resources which we can redirect to this cause.

In theory I support the proposals I have heard about on the table today to extend communications and other logistical support and training to new battalions for ECOMOG, but I can't resist asking why the administration didn't focus on this earlier? Why did it take massive looting and displacement in Monrovia to solicit this response? And if the fighting lulls, will the interest in Liberia be sustained long enough to actually realize a support package for the Abuja Accords? I will be anxious to see what plan the European Command submits to the United States at the end of this week, and, if appropriate, will do what I can to assist the administration in making these plans operational.

While I understand and sympathize with the tight budgets under which the administration must live, this is symptomatic of a larger trend to resistance to reinvent U.S. activities in the realm of peacemaking that I see. For example, at the time of the Abuja Accords, the United States pledged $75 million to help implement the peace process; $10 million of that was for ECOMOG, and $65 million for humanitarian assistance. I fully support emergency aid, Mr. President, but I think it is shortsighted—and perhaps even becomes as self-fulfilling prophecy—when we under-finance peace and development efforts, because we are invested in humanitarian funding. In Liberia, it is to some degree a chicken-and-egg scenario, given the destruction and desperation in the country. However, this

VOL
142
PT
6
AP
15
—
24
1996
UMI

should not deter us from investing in creation of an infrastructure for peace and development. As we ignore development needs, we only increase the potential for violent outbreaks, which, in turn, as we saw in Bosnia and Rwanda, could lead to the use of United States troops. While I understand that the use of United States military in Liberia is quite unlikely, if we do not invest in the peace process and in Liberia's development, we could very well face calls for United States military engagement, which in my view would be tragic and unwise.

Regional peacekeeping is a peace and development idea worth investing in, Mr. President. In a post-cold-war era, as we restructure U.S. and U.N. doctrines for the use of force, it will become inevitable that regional forces, in most cases, will be the best deterrent early on to contain the spread of violence and instability. If the international community ignores, or does not work to strengthen, these organizations then it will all too often lead to pressure for the deployment of foreign—and in some cases American—troops. Bosnia is a prime example: for several years we tried to work with the Europeans to address effectively the Balkan war. But when it was clear the Europeans had completely failed, for a variety of reasons, it was U.S. troops that stepped in to fill the vacuum and lead the way to a peace implementation force. I still disagree with the decision to deploy United States troops in Bosnia, and I see the potential for calls for a similar path in Liberia if we do not support ECOMOG at this important juncture.

Another serious failure of Abuja has been the process of disarmament. Under Abuja, all parties were to disengage and disarm completely by February of this year. Of course, without any economic alternative other than soldiering, or any hope of protecting themselves without their weapons, most Liberians did not disarm. The lack of logistical support also made it difficult for ECOMOG to deploy to supervise the disarmament. Then, factions such as Charles Taylor's NPFL placed conditions on disarmament—in effect, reopening the delicate Abuja Accord. Another problem in the disarmament effort has been the last of effort by Liberia's neighbors—namely Burkina Faso, Cote D'Ivoire, and Guinea—in halting the arms—on both the black and gray markets—that cross their borders into Liberia.

Mr. President, this is an issue we should take quite seriously. I have raised the issue directly with parties involved in public and private, and am aware that high-ranking administration officials have done the same. Yet even as Abuja had its most reasonable chance to succeed, arms have flowed to the parties each country it favors. I will work to finally activate the U.N. Commission that was created after the U.N. arms embargo was imposed against Liberia, and establish sanctions for those flaunting the international embargo. I will also submit that if this practice continues, the United States consider sanctions of its own against those working to undermine the Abuja Accords. At a minimum, we should revive the sanctions against individuals working against democratization efforts that were lifted when Abuja was concluded.

At this point, I request that an op-ed in yesterdays' New York Times by Jeffery Goldburg be printed in the RECORD. I do not agree with all the conclusions it draws, particularly the proposal that the preferable course of action is to have U.S. marines occupy Monrovia. However, I do recommend the article as a cogent analysis of what went wrong, and what the United States can try to do the repair the Abuja process.

The article follows:

[From the New York Times, Apr. 15, 1996]

LIFTING LIBERIA OUT OF CHAOS

(By Jeffrey Goldberg)

George Boley stood in a clearing deep in a Liberian rain forest and said that he was misunderstood. "I am not a warlord," he told me in late 1994. "I don't know why they use this term to describe me."

Behind the self-styled chairman of the wildly misnamed Liberian Peace Council stood 80 soldiers. Most were teen-agers, some were as young as 9. All were armed, many were drunk. "These are professional fighting men," he said, without irony.

Mr. Boley, who holds a Ph.D. in educational administration from the University of Akron, is most assuredly a warlord, as are the other Liberian faction leaders who last week drove their country back into chaos.

Fighting in the capital, Monrovia, has killed untold numbers. United States troops have evacuated more than 1,600 Americans and other foreigners. But the United States must take stronger action to restore peace—and it can do so without endangering American troops.

The civil war began in 1989 when Charles Taylor, the warlord of the National Patriotic Front of Liberia, invaded from neighboring Ivory Coast. The next year, Liberia's dictator, Master Sgt. Samuel Doe, was killed, setting off six years of gang warfare among several factions.

A peace accord struck in Abuja, Nigeria, last August was supposed to end the war. It handed Monrovia over to the warlords, who agreed to share power peacefully. But they never came through on their pledge to disarm their supporters.

So it was inevitable that violence would erupt this month after Mr. Taylor sent his men to arrest a rival, Roosevelt Johnson, on murder charges. Mr. Johnson's faction has indeed murdered civilians. But Mr. Taylor's fighters have also indiscriminately killed civilians, including five American nuns in 1992.

The fault for this new spasm of violence rests mostly with the warlords, of course. But the United States is also to blame. Last year, it missed a chance to adequately finance a disarmament effort by the United Nations and West African Peacekeeping Force, which has been in Liberia since 1990.

The peacekeeping force—with soldiers from nine countries—successfully defended Monrovia from a 1992 attack by Charles Taylor's faction. But it is now demoralized, cashstrapped and undermanned. Its ground forces, once at 12,000, are down to 5,000 or so poorly equipped men. Their commanders are for the most part Nigerian Army generals and are widely considered corrupt.

For Liberia, the best scenario would have United States Marines occupying Monrovia. But with Somalia still fresh on Americans' minds, this is probably not politically feasible. Still, a strong West African force of about 15,000 men could disarm the ragtag factions and weaken the warlords. This would take American cash and equipment—from ammunition and food to armored vehicles and helicopters. The United States would also have to send military trainers and communications equipment to Ghana and other willing and capable West African nations.

All this would cost more than $20 million. But over the past six years, Washington has poured almost half a billion dollars of humanitarian aid into the country, not including the cost of the current evacuation—the third such operation since 1989.

America has a special responsibility to Liberia, founded in 1847 by freed American slaves. Liberia was also an American ally in the cold war, and $500 million in American aid propped up the brutal Doe regime.

The only way to end the terror of the warlords is to take their guns away. If Washington helps West African troops do so, not a single American soldier would be endangered. And it would ultimately cost less than airlifting Americans out of Monrovia every time the city explodes.

Mr. FEINGOLD. Situations like Liberia—and indeed other conflicts that have not been resolved by post-cold-war politics—demand creative responses by the international community. Liberia poses challenges that do not fall under the traditional definitions of United States national security, but they do include threats to our well-being and national interests. For instance, as Liberian refugees spill over into Guinea, the stresses on some of the last remaining tropical rainforest in West Africa become untenable, and the rainforest shrinks, causing shortages of resources, food, and medicine. Large concentrations on refugees and displaced persons also heighten potential for outbreaks of disease. One case of Ebola or typhoid in a refugee camp, and we have a humanitarian disaster that can spread anywhere in just a plane ride.

Unfortunately, our option is not to pull out of Liberia and wash our hands of the problem: because of regional ramifications and threats of disease and environmental degradation, the issue is whether we meet the challenge of Liberia, or invest more after more destruction in the tragedies that would unravel in Sierra Leone, Guinea, Cote D'Ivoire, Burkina Faso, Ghana, and perhaps elsewhere in West Africa. So, Mr. President, we don't really have a choice: the problem is maintaining stability in West Africa, whether we call it Liberia or Burkina.

For these reasons, yesterday I introduced a resolution, Senate Resolution

248 with Senators KASSEBAUM, SIMON, LEAHY, JEFFORDS, and PELL, declaring the breakdown of the Abuja process would have serious ramifications for United States interests in Liberia and throughout West Africa, and urging the administration to consider a number of steps. These include scrutinizing the budget to find funding for ECOMOG; this is key. We also suggest considering the provision of excess defense articles for communications and logistical support for troops willing to participate in ECOMOG. The resolution also urges the administration to use its influence with other governments to solicit interest in ECOMOG, and finally, it calls on the administration to lead U.N. efforts to establish finally a committee to enforce the U.N. arms embargo against Liberia. These are all suggestions that the administration should consider, and it is not an exhaustive list. The point is, we need decisive and creative action in Liberia—and part of that must be real support for the west African peacekeeping force.

So, once again I applaud the work of our diplomatic and military forces in Liberia today, and compliment the administration on its efforts to help calm the situation. At the same time, I urge them to focus fully on Liberia—not just to quell the current tensions, but invest in trying to prevent them from erupting again.

I also want to express our gratitude to Ghana's President Jerry Rawlings and his senior diplomatic team which has worked tirelessly and somewhat successfully to negotiate a ceasefire. Other ECOWAS states, particularly Cote D'Ivoire, have been very helpful in trying to reach the same goal. We also owe a debt of gratitude to Sierra Leone for making Freetown available as a transit point for those evacuated. While multilateral efforts may have failed to this point in Liberia, with each step—as painful as it is—the United States, ECOWAS, and the rest of the international community seem to be strengthening their abilities. We must learn from the past and look creatively to the future: we have no choice, unless we are willing to confront what could be even bigger disasters in the near future.●

HEALTH CARE

● Mr. GORTON. Mr. President, yesterday the U.S. Senate moved in a positive direction in reforming our Nation's health care system. S. 1028, a bill narrow in scope that builds upon and strengthens the current private market system, moved one step closer to becoming law.

During yesterday's debate, the merits of including medical savings accounts in the legislation were discussed at great length. I believe MSA's are a good idea. MSA's give people control over their health care dollars and encourage them to make their own decisions about health care benefits. They preserve medical freedom and provide plenty of incentives for cost control.

Choice is the keystone of MSA's. As many of my colleagues have pointed out, with MSA's people can choose their physician, their hospital, their health care plan. Additionally, MSA's will bring about lower health care spending. Consumers will become more savvy about their health care options, and certainly the system will benefit as a result.

The problem, Mr. President, is that it was absolutely clear that including an MSA provision would derail the entire bill and a real opportunity to enact meaningful health care reform would be lost. If the legislation had included that provision, my Democratic colleagues indicated they would filibuster the bill and the President indicated he would veto the entire measure. In short, this targeted, commonsense bill would have been killed.

I am dedicated to the passage of health care reform and I do not want a good bill to be sacrificed for one provision, however worthy that provision may be. It was for this reason that I did not support the inclusion of MSA's in the final bill, and it's also the reason this MSA effort failed.

Yes, Mr. President, medical savings accounts are a good idea. Although S. 1028 was not the right vehicle, I will look for other opportunities to promote and encourage them.●

TRIBUTE TO THE CADDO MAGNET ORCHESTRA

● Mr. JOHNSTON. Mr. President, I rise today to pay tribute to an exceptional group of students from my hometown of Shreveport, LA. The Caddo Magnet Orchestra, combined of 103 high school and middle school students from Caddo Parish in northwestern Louisiana, has for years been recognized as one of the most outstanding student orchestras in our State. Since its inception in 1980, the orchestra has consistently received superior performance ratings in all regional and State competitions and has won several prestigious awards from music festivals around the Nation. In light of its impressive reputation, this year the orchestra was invited to perform at Carnegie Hall, a rare privilege offered to very few young performers.

After many months of intensive rehearsal and fundraising, the Caddo Magnet Orchestra traveled to New York City last month for its March 24 Carnegie Hall debut, where its performance was met by a standing ovation from the 1,000 audience members in attendance. The evening's performance, consisting of pieces by English composers Gustav Holst, John Ireland, Edward Elgar and John Rutter, was flawless and has earned this orchestra national recognition.

Louisiana is enormously proud of these outstanding young people, not only for their individual talents, but also for their overall commitment to excellence and their spirit of community. The students worked together to make beautiful music, and the harmony they created represents all that can be achieved when we put forth our best efforts to reach a common goal. This is citizenship at its finest.

The members of the orchestra have represented the State of Louisiana with great distinction. I congratulate these musicians and their director, Ms. Johnette Parker, as well as the parents and faculty of Caddo Magnet High School and Caddo Middle Magnet School for their marvelous collective effort in reaching this pinnacle and for setting an example of excellence from which we all can benefit.●

TRIBUTE TO JUDI BAYLY AND HER IRISH SETTER, LYRIC

● Mr. SMITH. Mr. President, I rise today to congratulate a Nashua, NH, resident, Judi Bayly and her 8-year-old Irish setter, Lyric, who dialed 911 and helped save Judi's life when she noticed Judi had stopped breathing.

Last month, Judi Bayly who has asthma and sleep apnea, stopped breathing temporarily. When the oxygen generator she uses became unplugged and the alarm sounded, Judi did not hear it as she slept. Lyric, her Irish setter, did and tried to alert Judi by barking, pawing and sniffing at her. Unfortunately, Judi didn't wake up so Lyric dialed 911. When rescuers arrived at Judi's house, Lyric continued to bark and guided them to her.

Amazingly, Lyric has also saved Judi's life twice before by dialing 911. Although Lyric is trained by Service Dogs America in New York to recognize Judi's seizures, Lyric has a special loyalty to Judi and is by her side constantly. As an emergency medical technician, Judi also trains dogs professionally. She has bred Irish setters before and she and her husband own three of Lyric's puppies. I admire Judi's devotion to her dogs and her promotion of the use of trained dogs.

Lyric is an exceptional dog and deserves the national recognition she has seen over the past few weeks. Lyric is an example of a truly sensitive and astute dog. As a dog lover myself, I congratulate Lyric and her owner on a job well done!●

REV. ROOSEVELT AUSTIN

● Mr. LEVIN. Mr. President, I rise to honor Rev. Roosevelt Austin and his wife, Dr. Nurame Austin, who will be celebrating their 40 years of dedicated service to the Saginaw community and the State of Michigan. Reverend Austin is the pastor of Zion Missionary Baptist Church in Saginaw, MI.

VOL 142 PT 6 AP 15 — 24 1996 UMI

Reverend Austin was ordained June 25, 1953, at Western Seventh District Association in Opelousas, LA. This day was the start of a long and fruitful career of community service. Reverend Austin's pastoral experience began as a youth minister at Mt. Calvary Baptist Church in Opelousas, LA, the church where he was converted on April 7, 1936. Reverend Austin went on to receive bachelor's and master's degrees in theology. He received a doctorate of divinity degree with honors from the American Divinity School in Chicago, IL.

Reverend Austin has always stressed the importance of education. He has become a shining example to the community of what a lifetime of learning can accomplish. He has served on local, State, and national congresses of Christian education. He has also served as a board member on the Commission on Quality Education for All Children for Saginaw Public Schools. Reverend Austin sees that improving the condition of our inner cities begins with improving the education of our children.

Reverend Austin's dedication to improving the condition of our Nation's inner cities has been a driving in his life s work. During the course of his career, Reverend Austin has taken part in many institutes, organizations, and community groups that focus on solving problems associated with poverty. He is a board member of the Saginaw chapter of the NAACP and also serves as a spiritual advisor to inmates at the Saginaw County Jail.

On May 4, 1996, Reverend Austin will be awarded an honorary doctor of humanities degree from Saginaw Valley State University for the leadership role he has played in seeking neighborhood improvement.

Through his life's work, Reverend Austin has touched and improved the lives of countless people. I know that my Senate colleagues will join me in congratulating Rev. Roosevelt Austin on his 40 years of outstanding service to the community.•

HIGHLAND HIGH SCHOOL ACADEMIC DECATHLON TEAM

• Mr. BINGAMAN. Mr. President, I rise today to commend the students and coach of the Highland High School Academic Decathlon Team. This team, comprising of 15 New Mexico students, is the New Mexico representative to the 1996 National Academic Decathlon competition in Atlanta, GA.

The academic decathlon is a unique program that encourages academically well rounded students to compete in a variety of events. The decathlon encourages students to develop a greater respect for knowledge, promotes wholesome competition in academic areas of study and interest, stimulates intellectual growth and achievement, and encourages public interest and awareness of outstanding programs in our schools. This valuable program challenges students to strive for goals and to work hard academically.

Mr. President, these 15 students and their coach have worked extremely hard since early fall to prepare themselves for this event. Through their hard work and their extensive efforts, they have been able to overcome obstacles and achieve very high goals. Too often, Mr. President, we reward students for their athletic prowess instead of their academic abilities. Today, I want to highlight the achievements of these students. Our students can be champions in the classroom as well as on the athletic field.

Mr. President, for their outstanding accomplishments, and their sincere commitment to academics, I commend the members of the Highland High School Decathlon team. I believe that I speak for all New Mexicans when I wish them the best of luck and congratulate them on their success.•

THE DOMENICI-WELLSTONE MENTAL HEALTH PARITY AMENDMENT

• Mr. BRADLEY. Mr. President, last night Senators DOMENICI and WELLSTONE introduced an amendment to establish parity in treatment between mental health and physical health. I want to thank them for their leadership. Their remarks, along with those by Senators CONRAD and SIMPSON, were moving and sometimes very personal. I know they were inspiring to me, and I believe to many others, as the strong vote in favor of their amendment suggests. I congratulate them.

There is little doubt remaining even among the most skeptical people that biochemical disturbances are major precipitating factors for the major mental illnesses like schizophrenia, bipolar disorder, and major depression. Nonetheless, longstanding biases, which are really fears in disguise, still frame our understanding and treatment of mental health disorders and mental illness. As Senators DOMENICI and WELLSTONE have said so well, it is time for this country to speak more openly and forcefully about the broad scope of mental health issues. Mr. President, last night we began the important work of reforming our health insurance practices so that more Americans have access to health insurance and greater protection against losing coverage. We will complete this step of that work on Tuesday. With this work, we have an excellent opportunity to begin to build a healthcare insurance structure that recognizes both physical and psychological factors in health and illness.

One of the most promising directions in healthcare is the increased recognition of social and psychological variables. We know that depression is a better predictor of relapse among coronary patients than is a high cholesterol level. We know that breast cancer patients who participate in support groups experience greater longevity than those who do not. We know that 50 to 60 percent of patients who visit a primary care physician do not have a physical condition that can be diagnosed. Instead, they bring the sequelae of trauma, violence, and abuse. They bring masked drug and alcohol problems; they bring rage and impulse control problems that are often amplified by the loss of employment, marital and family strains. They bring a sense of hopelessness that can get so bad that suicide seems like the only way out.

Mr. President, we know that emotional and behavioral factors, including tobacco use, obesity, and a sedentary lifestyle are ones contributing to physical health problems and huge healthcare costs.

By treating physical, psychological, and other factors together in a collaborative setting, we can begin to control and change many of the manifestations of illness.

This insurance reform debate has provided an occasion to highlight this model of health and subsequent opportunities to work toward greater parity for mental health treatment.

Last night Senator DOMENICI has called the inequities in the treatment of mental illness and physical illness "one of the real, continuing injustices in America today * * * someone with schizophrenia is just as sick as your neighbor with cancer."

Senator DOMENICI is right. Serious mental illness is devastating in a way that few of us can imagine. Enough of the discrimination we have shown toward those who are mentally ill. Enough of the blind eye and deaf ear we have turned toward mental health. Today, Mr. President, I am asking that this country catch up with science, catch up with the reality of who goes to the doctor with what kind of problem. Today, Mr. President, we need to understand that compassion does not have to be costly. We can use our brains and show our heart and say it is time to work toward parity between mental health and physical health. We can work toward health care treatments that show that mind and body are not separate.

As Senator WELLSTONE said last night, "for too long mental health has been put in parentheses." I agree. I ask that we take away those parentheses that are more like prisons to those suffering and begin to study how we can provide better, comprehensive health care that is fair to all.•

NATIONAL COUNTY GOVERNMENT WEEK

• Mr. BURNS. Mr. President, I rise today to recognize National County Government Week from April 21 to 27.

National County Government Week is an important opportunity to remember the values on which our country was founded. County governments have an advantage over the mammoth Federal bureaucracy—county governments are able to keep in touch with their constituency.

Before the voters in Montana asked me to represent them in Washington, DC, the voters in Yellowstone County asked me to be their commissioner. I know from experience that county governments can easily maintain a high level of efficiency.

Local governments don't compromise the sovereignty of the individual, which tends to be the case with the Federal Government. Mr. President, as the role of today's Federal Government expands, so does its intervention into the privacy of individuals.

The Montana Association of County Governments, also known as MACO, along with its national parent organization NACO, has the ability to reallocate the power of the Federal bureaucracy in a manner that would benefit all Montana taxpayers.

The goal of the Republican agenda, a goal I heartily support, is the redistribution of Federal power to the State, county and local governments. As a former Yellowstone County commissioner, I had face-to-face encounters with Montana taxpayers on a daily basis. If a Montanan had a concern about local, State, and even Federal issues, all they had to do was pick up the phone and call me at the office or at home—my number was listed. And whether they wanted to talk about the neighbors' cattle that seemed to always be loose or potholes you could lose a tractor in, my experiences as a Yellowstone County elected official were a valuable lesson in where the rubber really meets the road.•

TRIBUTE TO THE NEW HAMPSHIRE BUSINESS PERSON OF THE YEAR, CHUCK HENDERSON

• Mr. SMITH. Mr. President, I rise today to congratulate a hard-working New Hampshire entrepreneur, Chuck Henderson, on being named the 1996 New Hampshire Small Business Person of the Year. The New Hampshire Small Business Administration (SBA) recently honored Chuck with this award, and in June, he will receive special recognition from the President.

In 1969, as a young high school student, Chuck started a business by developing his first skiing product. Twenty-six years later, Chuck is the proud owner of Chuck Roast Equipment, Inc., which now offers more than 100 products for cold weather. His company is nationally known and employs 47 people.

Chuck grew up in Conway, NH, and undoubtedly saw a need for warm clothing during the severe winter months. Snow gaiters were the first products he developed while in high school in response to wet socks and pants during cross country skiing. Chuck Roast Equipment, Inc., now has an extensive line of high-quality outerwear. His company has been one of the leaders in the production of pile clothing, and its brightly colored and patterned fleece jackets and pullovers are popular across the country. Other products include hats, mittens, blankets, daypacks, and baby buntings. He now sells to over 300 retailers, exports to six countries, and operates three retail stores in the State.

As a dedicated entrepreneur, Chuck attributes the success of his business to perseverance, hiring and keeping competent and loyal employees while also diversifying the product line when the need arises. He also donates baby bunting to every baby born at Memorial Hospital in North Conway and is involved in other community service projects.

He credits the SBA and its resource partners, the Service Corps of Retired Executives [SCORE] and the New Hampshire Small Business Development Center [SNDC] with helping Chuck Roast get started and grow to be the success company it is today. His company received several SBA loans and the assistance from the agency's export finance program.

Small business is the backbone of our economy in the United States. I am proud to honor Chuck for preserving and establishing a thriving business in New Hampshire. He has devoted himself to working hard and providing our State with warm clothes during the harsh winters. Congratulations to Chuck and all the employees at Chuck Roast Equipment, Inc., for this prestigious recognition.•

THE 100TH ANNIVERSARY OF THE HYANNIS FIRE DEPARTMENT

• Mr. KENNEDY. Mr. President, May 8, 1996, marks the 100th anniversary of the establishment of the Hyannis Fire Department and the Hyannis Fire District. It is a privilege to take this opportunity to commemorate this important milestone and to commend Commissioner Richard Gallagher and all the brave men and women who have served in the Hyannis Fire Department over the past 100 years.

Over the years, the members of the department have done an outstanding job protecting the people of Hyannis, and they have also been valued friends and neighbors. My family and I, as longtime residents of Hyannis, have many friends in the department, and we greatly admire their ability and dedication.

I welcome this opportunity to join many others in Massachusetts in praising the Hyannis Fire Department on this auspicious centennial anniversary, and I ask that an article by Edward F. Maher published in 1930, entitled "The History and Functioning of the Hyannis Fire District," be printed in the RECORD.

The article follows:

THE HISTORY AND FUNCTIONING OF THE HYANNIS FIRE DISTRICT

The history of the Hyannis Fire District, as given by Edward F. Maher before the Hyannis League of Woman Voters on Tuesday, Dec. 29th last, was of such general interest and so informing in detail that it is printed herewith in its entirety:

The science of Civil Government enlightens us on the great aspect of National life, describes the divisions and sub-divisions of the great body politic into which our nation is divided and sets forth the laws and methods by which they are administered.

The National government, at Washington levies taxes, makes and executes laws applicable to the country as a whole and to the territories thereof. The various state governments make and execute laws applicable to the states as a whole.

The states are divided into counties which have functions dealing with large sections of the state and separated from the rest for political or judicial purposes.

The counties of the state are divided into cities and towns.

The cities are the large populous and compact sections incorporated as muncipalities usually having a mayor and council in charge.

The towns are the more numerous sub-divisions, often large in area but of not sufficient wealth and population to be incorporated as a city. The rights and duties of a city. The rights and duties of the voters of towns are unique in that the matter of raising moneys and its appropriation is exercised by the voters themselves whereas in cities, counties and other large divisions this power is delegated to others. It has been said that the New England town meeting is the ideal form of Democratic government.

Now it may transpire that there is a certain populous, and important community within a town that desires certain conveniences, improvements and protection that the town as a whole may not wish to provide funds for. In that case the law provided that this community may petition the town to set it aside as a Fire District and define its boundaries. If the town refuses to comply the petitioners may proceed to organize a Fire District under the general laws.

A Fire District may be formed also by special act of the legislature.

In the course of events it came about that the village of Hyannis required improvements, conveniences and protection comparable with its material growth, and it was evident these could only be acquired through the incorporation of the village of Hyannis as a Fire District.

Now a Fire District is in some respects like a little town with restricted rights. Its powers being the right to raise money by taxation for the maintenance of a Fire Department, including fire houses, fire engines, chemical engines, hook and ladder trucks, articles used in the extinguishment of fires, hose carriages, hydrant rental, pay for firemen, a few other minor matters and the installation and maintenance of street lights. Its activities are limited to these matters, unless by special act of the legislature.

Now the establishment and organization of the Hyannis Fire District was achieved in this manner:

VOL
142
PT
6
AP
15
—
24
1996
UMI

An article was inserted in the warrant for the annual town meeting held, on March 2, 1896 on petition of a number of citizens, inhabitants of Hyannis, to see if the town of Barnstable will receive and act on said petition for the establishment of a Fire District in the village of Hyannis.

Following such refusal a petition signed by a number of freeholders, inhabitants of Hyannis was addressed to the selectmen of the town of Barnstable asking them to notify a meeting of the inhabitants of the proposed District to meet in Hyannis for the purpose of considering the expidiancy of organizing the Fire District and establishing a Fire Department.

The selectmen of the town of Barnstable called a meeting of the voters of Hyannis the same being held in Masonic Hall, Hyannis on May 6, 1896 and there after fullfiling all the legal requirements was voted to stablish the Hyannis Fire District with the same limits as set forth in the petition to the selectmen of the town of Barnstable.

At this meeting the Fire District organized by the choice of Henry H. Baker, Jr., as clerk and appointed a committee consisting of Messrs. Franklin Crocker, James H. French and Charles C. Crocker to investigate water works and other methods of fire protection.

The first Prudential Committee of the District elected May 20, 1896 consisted of F. Percy Goss, Charles C. Crocker and George M. Smith.

On May 29, 1896 it was voted to purchase a chemical engine, a hook and ladder truck, four hand, extinguishers and to build a house for the use of the department the whole entailing an expenditure of $1,500.00. It was voted at this meeting to establish a Fire Department and at a subsequent meeting O. Howard Crowell was chosen the first Chief Engineer of the District.

On May 23, 1902 the sum of $1,100.00 was raised and appropriated with which to purchase a new chemical engine the first one not being deemed adequate as it had been in use elsewhere before coming to Hyannis.

During this period and at each annual meeting there were discussions, suggestions and investigations concerning street lightning by the District but nothing was really accomplished until the year 1904.

The matter of lighting the streets of Hyannis had always been one of much concern. Years ago the individual would place a kerosene lamp in front of his house and would keep it lighted. This was done here and there throughout the village.

Then the Village Improvement Society was organized and with such leaders as Miss Ida Bearse, Miss Clara J. Hallett, Mrs. Sarilla H. Smith, Mrs. Maud P. Chase, Mrs. Cleone Chase, Mrs. Ida Frost and others a more general system of lighting the streets was accomplished.

Later under the management of the Hyannis Womans Club the matter was gone into more seriously, more lights were added. A system of gas lighting was introduced and a man employed to care for the lights and light them at the proper time. Much progress was made under that management and through their untiring labors and efforts.

On May 25, 1904, the following vote was passed at the Annual meeting of the Hyannis Fire District: Voted to accept certain street lamps, poles and other appurtances, together with a certain sum of money from the Social Service Department of the Hyannis Woman's Club. That sum of $325 was raised and appropriated at this meeting for the erection and maintenance of street lights within the District, and thus the Fire District formally assumed the duties of street lighting. (20 street lights on moonlight schedule).

And thus began through the instrumentality and Co-operation of the women of Hyannis a system of street lighting which has steadily increased and today compares favorably with the best in any town in the state.

In the year 1905 a movement was started to investigate the installation of Hydrant and Water service in the District and it was voted to petition the legislature for an act authorizing it to produce pure water to the said District for domestic, fire and other purposes.

The Legislature, in June 1906, passed an act to provide for a water supply for the Hyannis Fire District to become operative upon its access to the District.

The matter was twice formally presented to the voters of the District and each time rejected.

Many believe that had we than accepted the provisions of that act and installed our own water system, today we would be free from debt and water would be had at a very low rate.

In 1907, a new chemical engine was purchased at an expenditure of $1,300.

In 1909, the street lighting system had been so extended as to call for an appropriation of $1,000.

Since its establishment and up to the year 1911, the District through its Fire Department depended upon the valor of its firemen and the use of hand drawn chemical engines, hand fire extiguishers and the hook and ladder equipment to cope with any conflagration and wish to say that on all occasions the Fire Department has done the best of work.

In 1911 the Barnstable Water Company installed a water system in Hyannis and the Fire District in 1912 appropriated $2,380.00 to cover the rental of 68 hydrants which was at the rate of $35.00 per hydrant, per annum. We have one of the best water systems in the state there being a pressure of 80 lbs. to the square inch at the hydrants and capable of throwing three streams of water from the same hydrant to a height of more than 70 ft.

Much can be accomplished by the chemical engines if they reach a fire early, but water is the most effective agent after a fire is well started.

In 1914 a substantial and artistic drinking fountain dedicated to the use of human beings and dumb animals and erected at a cost of several hundred dollars was presented to the Hyannis Fire District. This fountain is located in Depot Square and is a monument to the benevolence, charity and humanity of the Hyannis Womans Club.

The appropriation for Street lighting was increased from year to year according as additional lights were needed and is 1922 electric lights were installed on that part of Main Street between Ocean Street and the residence of Dr. Harris. For a number of years there had been a division of opinion as to whether pole locations should be granted on that part of Main Street, but this matter having been amicably adjusted Main Street received the lights as was its due.

In 1922 the Fire District was * * * was given further attention and Main Street from the Yarmouth line to Sherman Square was converted into a great white way by the installation of forty 250 watt lights throughout its length. This has been very satisfactory and strangers entering our village are favorably impressed.

The Distrct seems to be very well taken care of at present. There was appropriated for Street lighting at the last annual meeting the sum of $4,728.00 which provides one hundred sixteen 40 watt lights equitably—distributed throughout the district and the forty 250 watt lights on Main Street.

For many years a fire alarm system was considered and there was appropriated the sum of $1,100 in 1923 and the following year a siren was purchased and through the courtesy of the officers of the Federated church, it was installed in the belfry of the church. The telephone company have co-operated cordially with the District and when notice of a fire is received the operator through a system of wires connected with the siren sends out the alarm.

Heretofore all the equipment in use by the District was drawn by hand or conveyed by horse or automobile but in 1923 a new motorized chemical engine was purchased at a cost of $3,500 which is really a credit to the community.

In 1923 the Fire District was enlarged by the addition of adjacent territory at the request of the residents.

The organization of the Hyannis Fire District is as follows:

A Prudential Committee of three members whose duties in the Fire District are similar to the duties of Selectmen of towns.

The following have served at various times since the organization of the District:

Chas. Grocker, Percy Goss, George H. Smith, Arthur G. Guyer, Edw. L. Chase, Luther G. Hallet, Irving W. Cook, Edw. C. Hinckley, N.A. Bradford and the present board—Frank Thacher, Chas, W. Megathlin and Edw. F. Maher.

The following have served as Clerk and Treasurer: Henry H. Baker, Edw. F. Maher, Walter S. Chase and the present incumbent Wm. G. Currier.

The following have served as Chief Engineer: O. Howard Crowell, N. Alphonso Bradford, Irving W. Cook, W.R. Nickerson and the present Chief, Everett O. Bond.

The present Asst. Engineers are Winslow K. Thacher, Frederic Scudder and J. Lester Howland.

All the officers of the District serve without pay with the exception that for the last few years the Clerk and Treas. held by the same person is paid $50 per year.

The Fire Department is organized under the engineers in to Fire Policy Day Crew, Night Crew, and are on call at all times and should the apparatus be called out of town at any time, competent men are always on duty at Hyannis.

The money appropriated at Fire District meetings is assessed by the assessors of the town and collected by the tax collector of the town and paid over to Treasurer of the Fire District.

A total of $118,416.33 has been appropriated in the Fire District since its establishment.

The assessed valuation of property real and personal within the District in 1898 was $970,000.00 and on April of this year it amounted to $2,757,610.00 and at the present time it is probably more than $3,000,000.00 and is larger than most towns in Barnstable County.

For some years the old engine house has been inadequate for the needs of the Fire Department and last year the District voted to expend the sum of $28,000.00 for a plot of land and the construction of a new engine house.

A plot of land was purchased on Barnstable Road for the sum of $3,000.00 and there has been erected thereon a model fire proof engine house complete in all details and it is believed it will serve the needs of the District for years to come.

There is ample room to store the engines, hook and ladder truck, hose reels and other equipment. There is an apartment for drying the hose after a fire. There is an assembly room for the firemen. The building is heated with a modern Spencer heater so there is no danger of the radiators freezing in the cold weather. It is a building that any city might be content with and I am recently told by the Chief Engineer that the assembly will soon be furnished after which open house is to be held to which the public including this worthy gathering are to be invited to attend.•

THE USE OF FOREIGN TRUSTS TO AVOID TAXES

Mr. MOYNIHAN. Mr. President, last evening the Senate adopted a proposal I introduced in September of last year to curb the use of foreign trusts to avoid U.S. tax responsibilities.

The Treasury Department first called attention to this problem early in 1995. Thereafter, I worked with Representative GIBBONS to develop legislation to prevent taxpayers from evading taxes by transferring assets offshore. Legislation very similar to the bill that I introduced (S. 1261) was included in the Senate-passed health insurance reform bill late yesterday.

There is disturbing evidence of the extent of tax avoidance through the use of foreign trusts. Although taxpayers are required to report the value of their assets held in foreign trusts, only $1.5 billion were reported in 1993, according to the IRS. Yet it is estimated that total U.S. source funds held abroad in tax haven jurisdictions are in the hundreds of billions.

In 1989, the New York Times reported that financial institutions in the Cayman Islands, Luxembourg, and the Bahamas had $240, $200, and $180 billion, respectively, on deposit from the U.S. New York Times, October 29, 1989, page 10. More recently, Barron's estimated that a total of $440 billion was on deposit in the Cayman Islands in 1993, with 60 percent of that amount—$264 billion—coming from the U.S. Barron's, January 4, 1993, page 14. To put this in some perspective, Barron's calculated that there was more American money on deposit in the Cayman Islands than in all of the commercial banks in California. Although only a portion of U.S. funds abroad are held in foreign trusts, the Treasury Department estimates that tens of billions of dollars are held in offshore asset protection trusts established by U.S. citizens and residents.

Once assets move offshore, it has been difficult for the IRS to enforce the tax laws. Foreign bank secrecy laws preclude the IRS from uncovering the information necessary to determine what is owed. Central to the legislative solution that I have proposed are provisions designed to provide the IRS with better information on foreign trusts. The bill would substantially strengthen the obligations of taxpayers to report information to the IRS and impose penalties with genuine deterrent effect for failure to do so. Among other changes, the bill includes new rules designed to lead most foreign trusts established by U.S. persons to appoint a U.S. agent that can provide trust information to the IRS.

The bill would also close a number of loopholes in the existing grantor trust tax rules. These rules specify when the existence of a trust will be ignored for tax purposes because the creator of the trust retains sufficient control over the assets transferred to be treated as continuing to own the assets. For example, a foreign person; generally not taxable in the United States, transferring assets to a trust for the benefit of U.S. persons generally would not be treated as the tax owner of the assets in the trust unless the trust was fully revocable. Instead, the U.S. beneficiary receiving income from the trust would be taxed on receipt of that income.

I am pleased that the Senate has adopted these changes. These are practical rules that would dramatically improve tax compliance without unduly burdening legitimate financial transactions.

LEBANON

• Mr. LEVIN. Mr. President, I am deeply distressed by the events of recent days in southern Lebanon. The deaths of innocent civilians is a horrible human tragedy and our hearts go out to the families of those who have been lost. The U.S. Government should continue to attempt to facilitate an end to the fighting and to provide humanitarian assistance.

I support the President's call on all sides for a cease-fire in the area. The cycle of violence, of attack and counterattack, must be broken immediately.

The Secretary of State has been consulting with leaders in the region in an effort to reach an agreement which will restore calm to the area. I support those efforts. The Secretary will travel to the Middle East tomorrow. I am hopeful that he will be able to facilitate diplomatic efforts to reach a peaceful settlement and an end to the bloodshed and violence.

I have joined with Senator ABRAHAM and others in a letter to the Secretary of State, the Secretary of Defense, and the Director of the Agency for International Development calling for emergency humanitarian assistance for civilian refugees in Lebanon.•

TRIBUTE TO ROWAN COLLEGE

• Mr. BRADLEY. Mr. President, I rise today with great pleasure to congratulate New Jersey's very own Rowan College. As you may know, the Profs of Rowan College recently defeated Hope College by a score of 100 to 93 to become the 1995–96 NCAA Division III men's basketball champions.

Rowan's basketball team is special in more ways than one. Having finished the year with a 28–4 record, the Profs have once again risen to the challenges and competition of college basketball. This is hardly Rowan's first trip to the Final Four. Under the tutelage of their coach, Dr. John Giannini, the Profs have proven to be no flukes, as they have reached the Final Four three years running.

This championship season also marks the end of Terrence Stewart's stellar career. Terrence leaves Rowan College as its all-time leading scorer. Having been named this year's tournament most valuable player, Terrence has much to be proud of. As I can attest to, though, a championship team consists of a group of players who are all dedicated to the game, the work ethic, and the goal of being the best. Indeed, the entire team deserves praise and admiration.

Having played in a Final Four tournament myself, I know first hand how much hard work, time, and energy these players have put into achieving this tremendous goal. For college athletes face not only the pressures of the hardwood floor, but also the day-to-day pressures of performing in the classroom.

In closing, Mr. President, I would like to once again offer congratulations to Rowan College. Success in the sports arena, like many other endeavors, requires a great deal of dedication, hard work, and courage. I am very proud to have Rowan College represent our State.•

AN ANNIVERSARY STATEMENT—THE TECHNOLOGY REVOLUTION FOR PEOPLE WITH DISABILITIES

Mr. DOLE. Mr. President, Sunday, April 14, was a special anniversary for me. It was on that date during World War II I was wounded and joined the ranks of America's disability community.

We are a large, diverse community, from all walks of life, of every race and creed, and with the same hopes and dreams as other Americans.

Since joining the Senate, it has been my custom to remember this anniversary each year by speaking about an issue important to Americans with disabilities.

So today I will discuss a revolution in technology for the disabled—a quiet but extraordinary revolution that is bringing us closer to our national goals of independence and full participation.

NEW TECHNOLOGIES FOR THE DISABLED

Mr. President, today's technologies for the disabled are yesterday's science fiction pipedreams.

For my friend Kyle Hulet in Hutchinson, KS, technology provides a new

VOL
142
PT
6
AP
15
—
24
1996
UMI

world of independence. Kyle has only limited use of his hands, and has had to depend on others for the simplest things—even turning the lights on in his room.

But with a new environmental control unit strapped to his wheelchair, which operates much like a TV remote control, Kyle can run 16 appliances, including lights, TV, and stereo.

Jenni Koebel of Topeka, who cannot speak and has limited use of her hands, taps out words on the keyboard of a communication device—that then speaks with a voice synthesizer. Sure, the voice is a little mechanical, but Jenni's intelligence and charm shine through.

When Jenni visited me sometime back, she was a high school student. Today, she is enrolled in my alma mater, Washburn University. Technology has helped make this possible.

Even the venerable wheelchair has gone high technology. For too long wheelchair users have been described as "wheelchair bound" or "confined to a wheelchair." This stereotype unfortunately contained some truth—wheelchairs were heavy and awkward.

That is, until innovators like Marilyn Hamilton came along. Marilyn, who became a wheelchair user following a hang-gliding accident in 1978, asked why chairs couldn't be light, compact, fast—and good looking.

And when no one could give her a good answer, she went out and built a chair that was all these things. And then helped set up a company, Quickie Designs, to build those chairs for others.

And for the amputee, artificial legs made of new plastics can now mimic the spring and bounce of the natural footstep.

Perhaps the toughest test for these artificial limbs is sports. And the toughest sports events for disabled athletes can be found at the Paralympic games.

For example, in 1992, Tony Volpentest of Edmonds, WA, ran the 100-meter dash in 11.63 seconds, just 1.83 seconds off Carl Lewis' Olympic record. Tony was born without hands or feet, and uses two high technology artificial legs.

The 1996 Paralympics will be held later this year in Atlanta, following the Olympics. Over 120 countries will be represented—and with talent like Tony's, we are talking real competition among world class athletes.

In the future, we can expect even more astounding devices—such as systems that will allow blind people to freely navigate city streets using signals beamed from global positioning satellites overhead. And sophisticated voice recognition systems that will automatically closed caption videophones of the future.

The bottom line here is simple. For people with every kind of disability—whether sensory, cognitive, motor, or communication—technology can provide tools to speak, hear, see, learn, write, be mobile, work, and play—in short, to live as fully and independently as possible. Technology increasingly allows people with disabilities to make the same choices about their lives—good and bad—that other Americans often take for granted.

THE INFORMATION SUPERHIGHWAY

Mr. President, one can hardly open a newspaper or turn on the TV these days without hearing about the Internet—the worldwide hookup of thousands of computers. For the price of a local phone call, an individual can retrieve information from almost anywhere on the planet.

But for Holly Haines, the Internet is about a job. Holly lives in rural Pennsylvania. The nearest traffic light is 8 miles away—a lot like western Kansas where I grew up. Because of muscular dystrophy, Holly rarely leaves home.

Several years ago Holly called my office, asking for some help in getting access to the Internet through a local university. She had a job offer at a national database company, but to call the company's computer directly every day would have meant huge, unaffordable long-distance phone bills.

Well, Holly got on the Internet and went to work. And about a year ago the Microsoft Network called to offer her a job as supervisor of Chat World.

Every day hundreds of network subscribers talk on-line in the virtual town square of Chat World. Life in the virtual world can get pretty wild, and Holly is Chat World's mayor and Miss Manners rolled into one. She oversees a staff of 75 people.

By the way, Microsoft never had a clue that Holly was disabled when they hired her. And here's the important lesson. For Holly, and for millions of Americans with disabilities, the Internet is both a great equalizer and a great opportunity.

FULFILLING THE PROMISE OF TECHNOLOGY

Mr. President, the news is not all good. Thousands of Americans with disabilities cannot afford these technologies, some of which cost thousands of dollars. In my home State of Kansas, the legislature has recognized this problem and recently authorized an annual appropriation of $100,000 to help pay for technology.

And in the Balanced Budget Act, I sponsored a provision with Senator CONRAD to allow Medicare beneficiaries to use their own funds to pay for more sophisticated technologies, by supplementing Medicare's payment for a standard item.

But we need to do much, much more.

The second big issue is that we must be careful that new technologies—whether personal computers, the Internet, or whatever—are designed to be accessible to the disabled from the start. We have learned the hard way how expensive it can be to retrofit buildings and streets. We do not need to learn that lesson twice.

In this regard, the new Telecommunications Act has several provisions designed to encourage companies that manufacture telecommunications equipment or provide services to make their products accessible to the disabled. Another provision in the act also provides for more closed captioning of TV and video programs.

Mr. President, in closing, I would like to say a few words about the Americans With Disabilities Act. ADA was passed 6 years ago. Some people claim that I have backed off my support for ADA. That is simply not true. But I believe, and have always believed, that ADA can work, must work, for everyone—people with disabilities, Government, and business. I am trying hard to see that happens.

The poet Archibald MacLeish once wrote, "America was always promises." The technology revolution, together with important laws like ADA, are helping people with disabilities realize America's promises.

MEASURE PLACED ON THE CALENDAR—S. 1028

Mr. DOLE. Mr. President, I ask unanimous consent that S. 1028 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAITI POLICY

Mr. DOLE. Mr. President, this week marks the final withdrawal of United States Armed Forces from Haiti. It is an appropriate time to ask, "What did our second intervention of the century in Haiti achieve?" Congress and the American people were deeply divided over the wisdom of Operation Uphold Democracy. Many of us were concerned that the American intervention to restore President Aristide would not lead to lasting and durable change in Haiti.

Unfortunately, it is now clear that U.S. policy has not achieved its stated goals of establishing a rule of law, fostering genuine democratic change, and creating sustainable economic development. A bicameral staff delegation visited Haiti over the April recess and has completed a report which details serious failures of American policy—failures in each of the three critical areas of politics, security, and the economy.

HUMAN RIGHTS

The report concludes that the Clinton administration and the United States Embassy have not taken human rights seriously in Haiti. A particularly disturbing incident involves the event leading up to the assassination of Mrs. Bertin on March 28, 1995—3 days before President Clinton visited Haiti. The U.S. Government had concrete information about a plot to kill Mrs.

Bertin which implicated Aristide government officials, including the Minister of Interior. Inexplicably, no one in the U.S. Government warned Bertin of the plot. Instead, U.S. officials decided to rely on the same government planning Bertin's murder to provide her with warning of the plot. This incident deserves, as the report recommends, full investigation by the executive branch and by the Congress to examine why U.S. officials neglected to act effectively on information that they possessed.

NO PROGRESS ON DOLE AMENDMENT

The report details lack of progress in meeting the conditions of the so-called Dole amendment on investigating political murders. The report also details the lack of action by the U.S. Embassy in examining and reporting on a wide range of human rights and police issues. The compromise of police investigations by Aristide loyalists was not reported. Basic information about murders involving the U.S.-trained police forces was not even gathered. It seems clear that the attitude of the United States Government was they did not want to know about government death squads which would prove embarrassing to the claim of Haiti as a foreign policy success.

ADMINISTRATION'S CONFLICTING STORIES

The report also details the sustained campaign by the administration, chiefly the Agency for International Development [AID], to blame Congress by providing intentionally misleading information about U.S. assistance programs. The Clinton administration cannot even get its own story straight. For example, while AID criticizes Congress for delaying aid to the Haitian police because of human rights concerns, the State Department takes credit for suspending aid to the Haitian police for the same human rights concerns. And while AID was holding up health programs because of their concerns about the competence of the Haitian Minister of Health, AID officials in Washington, regularly criticized Congress for holding up health projects in Haiti.

A FOREIGN POLICY SUCCESS?

There has been much in the media about the success of President Clinton's Haiti policy. There has been little about the fundamental flaws detailed in this report. It is clear, however, that the administration knows it is on thin ice: changes in their Haiti policy have already been announced in recent days. Earlier this year, congressional pressure led to the dismissal of some of the worst human rights violators in the Haitian security forces. This week, the administration announced it was suspending aid because the Dole amendment conditions could not be met. The administration is reportedly considering reopening a fund for the victims of human rights violations. Most notably, the administration now points to the importance of thwarting former President Artiside's effort to undermine important policy goals. Long the defender of Aristide, even the Clinton administration now admits he refused to allow progress on police reform or free market economics. What a difference congressional pressure can make.

PLAYING POLITICS WITH HAITI POLICY

Mr. President, there is no difference between congressional Republicans and the stated goals of the Clinton administration in Haiti—democracy, economic recovery, and the rule of law. Our differences are about the very real problems which have been swept under the rug—in the name of defending policy failures. Our differences are over the administration's effort's effort to make Haiti a political football by blaming Congress for their own shortcomings.

Mr. President, the U.S. military did its job. There is no security threat to the government of Haiti. The dictatorship is destroyed and the Haitian army no longer exists. It is on the civilian side where our policy has fallen short.

What have we achieved in our Haiti intervention after 18 months and more than $2 billion? The answer is disappointment and missed opportunities. The answer is not nearly as much as could have been achieved if the administration had been more honest and more able. For the sake of the long-suffering people of Haiti, I hope the administration will jettison its political approach, and begin working with Congress to fashion a workable Haiti policy. I hope they begin soon.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
Washington, DC, April 17, 1996.

HON. BOB DOLE,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: Pursuant to your authorization, we traveled to Haiti from March 30, 1996, to April 3, 1996, to examine political, economic, security and assistance issues. We met with a wide range of U.S., Haitian, and international officials and visited a number of sites including the Haitian National Police Training Center, U.S. Agency for International Development projects, and U.S. Armed Forces headquarters.

As the final withdrawal of U.S. Armed Forces is underway, we believe our findings and recommendations are particularly timely. Still, if the United States is ever to achieve a truly bipartisan policy toward Haiti, the Clinton Administration must cease its efforts to blame Congress for the shortcomings of its own policy. Our seven principal findings are:

More than eighteen months after Operation Uphold Democracy began, Haiti's social, political and economic situation remains troubled and tenuous. The U.S. intervention successfully destroyed the military dictatorship, and significantly reduced human rights violations, at a cost of more than $2 billion. However, the U.S. intervention in Haiti has not yet laid the foundation for lasting progress in establishing genuine democracy, in generating economic reform and sustainable development, or fostering respect for the rule of law.

The conditions set forth in section 583 of Public Law 104–107 (the "Dole Amendment") on conducting thorough investigations and cooperating with the United States on investigations of extrajudicial and political killings have not been met and will not be met in the foreseeable future.

The U.S. Embassy in Port-au-Prince has failed to devote sufficient attention or resources to the critical issues of extrajudicial killings and human rights abuses perpetrated by officials of the Haitian government.

The work of the SIU has been severely compromised by the presence of three American attorneys and one American "investigator" closely identified with many who have publicly and regularly questioned the overwhelming evidence of Haitian government involvement in extrajudicial killings. These individuals are paid by the government of Haiti on terms they refused to disclose to the staff delegation, and have had total access to all SIU investigative files. Prior to the arrival of two American contractors hired by the Department of State to work with the SIU, all SIU investigations were supervised and controlled by these attorneys.

The Clinton Administration has conducted a sustained and coordinated inter-agency effort designed to blame the legislative branch for the shortcomings of its own policies in Haiti. By repeatedly seeking to politicize Haiti policy, the Clinton Administration has done a disservice to the appropriate role of Congress and, more importantly, to the Haitian people. They have also, as a result of systematic obfuscation, kept their own program managers in the dark about these matters, risking the effectiveness of important programs.

In a striking and profound reversal, U.S. and international officials in Haiti now argue that the Preval government deserves U.S. support in order to *prevent* former President Aristide from thwarting important policy objectives, especially on economic and judicial reform. The staff delegation consistently heard numerous officials cite policy initiatives—moribund under the Aristide government—which could actually proceed under the Preval government if U.S. and international support was provided. Such criticisms of the Aristide regime, voiced now in retrospect, were not voiced when they could have made a difference.

The Haitian economy remains highly dependent on foreign assistance, including food aid, and remittances from Haitians living abroad; at least 65 percent of the 1995 budget was provided by international assistance. Despite attempts to promote private investment, adverse internal political developments have reinforced foreign and Haitian investor concerns about the political and security outlook in Haiti. The 1985 level of private investment in Haiti—a very low baseline—is not likely to be restored in this century.

We have attached our full report with appendices. Finally, we wish to express our appreciation for the efforts of U.S. Ambassador to Haiti, William Lacy Swing, and his staff for facilitating our visit. Despite our differences over elements of U.S. policy in Haiti, Ambassador Swing, our control officer Julie Winn, and the Embassy staff provided invaluable support for our visit.

Sincerely,

RANDY SCHEUNEMANN.

VOL
142
PT
6
AP
15
—
24
1996
UMI

CHARLES FLICKNER,
CHRISTOPHER WALKER,
LOUIS H. DUPART,
ROGER NORIEGA.

REPORT OF CONGRESSIONAL STAFF DELEGATION TO HAITI

From March 30, 1996 to April 3, 1996, a delegation of Congressional staff members traveled to Haiti to assess political, economic and human rights issues, and to examine U.S. assistance programs. Our staff delegation was assisted by Karen Harbert, a former AID and International Republican Institute official who traveled to Haiti at her own expense.

Our delegation included:

Randy Scheunemann, Adviser on National Security, Majority Leader, United States Senate;

Louis Dupart, Chief Counsel, Permanent Select Committee on Intelligence, United States House of Representatives;

Charles Flickner, Staff Director, Subcommittee on Foreign Operations, Committee on Appropriations, United States House of Representatives;

Roger Noriega, Professional Staff Member, Committee on International Relations, United States House of Representatives;

Christopher Walker, Senior Professional Staff Member, Committee on Foreign Relations, United States Senate.

FINDINGS

More than 18 months after Operation Uphold Democracy began, Haiti's social, political and economic situation remains troubled and tenuous. The U.S. intervention successfully destroyed the military dictatorship, and significantly reduced human rights violations, at a cost of more than $2 billion. However, the U.S. intervention in Haiti has not yet laid the foundation for lasting progress in establishing genuine democracy, in generating economic reform and sustainable development, or fostering respect for the rule of law.

RULE OF LAW

Human rights and extrajudicial killings

The conditions set forth in section 583 of Public Law 104–107 (the "Dole Amendment") on conducting thorough investigations and cooperating with the United States on investigations of extrajudicial and political killings have not been met and will not be met in the foreseeable future.

The U.S. Embassy in Port-au-Prince has failed to devote sufficient attention or resources to the critical issues of extrajudicial killings and human rights abuses perpetrated by officials of the Haitian government.

Despite general statements about the importance of human rights and the rule of law in Haiti by senior U.S. policymakers, no unequivocal or specific statement on more than 25 extrajudicial killings or the emergence of government-sponsored death squads in Haiti has been made. Serious inattention in Washington to systematic human rights violations contributed to the Embassy's uneven and incomplete attention to the critical issues of human rights and the rule of law. Moreover, there is no commitment to incarceration and prosecution of anyone involved in political murders.

Examples of the Embassy's failure to gather, act on, or report on information concerning extrajudicial killings and human rights abuses includes the following examples:

One week prior to the assassination of Mireille Durocher Bertin, the U.S. Embassy and U.S. Armed Forces in Haiti received concrete information concerning a plot to murder her which implicated senior Haitian government officials, including the Minister of Interior. For reasons which remain unclear, no American official ever directly warned Bertin or her family of the assassination plot. The decision not to provide a direct warning based on information in the possession of the United States Government had grave and quite possibly fatal consequences. Apparently, the final decision was made—and not challenged by the U.S. Embassy—by the U.S. Military Commander in Haiti, Major General George Fisher.

Until facilitating a meeting requested by the staff delegation, the American Embassy had no contact with the family of slain lawyer Mireille Durocher Bertin more than one year after her murder—despite the dispatch of some 20 U.S. Federal Bureau of Investigation Special Agents to investigate the murder. The family provided the staff delegation with new and useful information about the killing.

Until facilitating a meeting requested by the staff delegation, the U.S. Embassy had made no contact with the relatives of the March 6, 1996, Cite Soleil massacre in which eight people were killed and 11 were wounded.

The November 7, 1995, shooting in which parliamentarian Jean Hubert Feuille was killed and his colleague Gabriel Fortune was injured has not been investigated adequately. This attack had many similar characteristics to other extrajudicial killings. Fortune publicly claimed that the killers were sent by the "Palace" because of Fortune's anti-corruption campaign in the Parliament. The Embassy has made no apparent independent effort to follow-up on Fortune's explosive allegations or determine the status of the material evidence and investigation.

The Embassy has made no effort to determine basic facts surrounding the May 22, 1995, murder of Michel J. Gonzalez, a neighbor of President Aristide's who was shot and killed near his home by four gunmen riding two motorcycles; the attack was witnessed by Gonzalez' daughter, a U.S. citizen. In a meeting with members of the delegation, sources close to the Gonzalez family confirmed persistent rumors that Gonzalez had been pressed repeatedly to move from his rented home so that President Aristide could acquire the property. Despite these widespread rumors, which might suggest a motive in the attack, neither the Embassy nor MICIVIH has made any effort to determine whether the Gonzalez property (where the house has reportedly been demolished) has been incorporated into Aristide's growing 17-hectare compound.

Duly Brutus, a member of the democratic PANPRA party, was arrested briefly in July 1995 and his home was attacked by a 300-person mob in October, less than a week after his testimony before the House International Relations Committee's Subcommittee on the Western Hemisphere. Brutus became aware of threats on his life in November 1995. He was advised by the U.S. military in Haiti to contact the U.S. Embassy with regard to the threat. The Embassy was totally unresponsive to his urgent pleas for help. Because the threats persisted and no one at the Embassy would help, Brutus called the Department of Defense in Washington to request there assistance. DoD interceded on his behalf to ensure that he received safe escort to the airport in Port-au-Prince an onto a airplane bound for the U.S. In a bizarre turn of events, the Embassy vocally protested DoD's help, which ironically probably saved Mr. Brutus's life. Mr. Brutus has now sought temporary refuge in the United States.

Just before the delegation's arrival in Haiti, Mr. Brutus' wife heard a disturbance during the night at her home in Port au Prince, after which she found five bullets wrapped in stationery of the Ministry of the Interior. An Embassy political officer called Mrs. Brutus after hearing of the incident but took no further action after being assured by Mrs. Brutus that the HNP authorities appeared to be responding adequately to the incident.

Carl Denis and four other persons associated with the "Political Organization for Democracy in Haiti" (founded by Mireille Durocher Bertin shortly before her murder) were arrested on August 18, 1995, a day after a four-person demonstration in Port au Prince. They have since languished in the Haitian National Penitentiary without being charged with any crime, reportedly in violation of Haitian criminal procedure. Mr. Denis told members of the delegation that the lone U.S. Embassy visit was by a "staff sergeant"; Mr. Denis' arrest was reported in the State Department's 1995 human rights report on Haiti. In early March, Mr. Denis was visited by a representative of the Minister of Justice, who told him that there was no merit to the case; he and his companions remain in prison today.

The Embassy terminated its human rights victims fund shortly after the U.S. intervention. The fund provided more than $219,000 for more than 1,700 victims of human rights abuses and their relatives during the de facto regime's rule. Terminating the fund after the installation of President Aristide sent a clear signal that victims of human rights abuses under the Aristide and Preval governments are of less importance to the U.S. government that victims of abuses under the de facto regime.

The U.S. Embassy's Political Section is now fully staffed—which was not the case when one member of the delegation traveled to Haiti in August 1996. The section includes three officers covering political-military issues on a full time basis and one full-time human rights officer. Given the adequate staffing, the Embassy's apparently complete reliance on non-U.S. sources (such as foreigners serving with the United Nations) for reporting on high-profile cases ostensibly important to Washington is perplexing and disturbing.

In light of Washington's silence and the Embassy's inaction, it is difficult to escape the conclusion that U.S. officials did not attempt to develop independent information on extrajudicial killings because U.S. policymakers did not want to know the truth.

U.S. government lack of interest and attention to extrajudicial killings—until forced by Congressional pressure to act—sent a signal to successive Haitian governments that the U.S. would tolerate these actions.

The "Presidential Commission on Truth and Justice," which was established after President Aristide's return, to investigate human rights violations that took place during his exile, presented its report to Aristide on February 5, 1996. Although the Commission's findings have not been made public, its recommendations reportedly include compensating victims and establishing an international tribunal with foreign assistance to adjudicate some of the "5,000 cases" covered in the Commission's report. The Commission relied on support from the Canadian government and the UN Development Program since USAID failed to deliver on its promise to provide the Commission $50,000 for vehicles, computers, and office equipment.

Police dismissals

Eight individuals in the police and security apparatus of the Aristide regime have been

implicated in extrajudicial murders by credible evidence. After pressure from Congress, including passage of the "DOLE Amendment" and objection to obligation of police assistance by House International Relations Committee Chairman Gilman, the Preval government agreed these individuals would not serve in any police and security force.

Congressional Republicans had long raised concerns about these individuals even before Operation Uphold Democracy began. President Aristide consistently refused to take any action against these individuals, and many of them remained in Aristide's inner circle until the end of his rule. Many of them remain close to Aristide today. President Preval deserves credit for doing what his predecessor would not: acting against the most egregious violators of human rights in the Haitian security forces.

Haitian National Police

Creation of a 5,000 person Haitian National Police (HNP) has been a massive undertaking costing the U.S. taxpayers more than $45 million to date. Despite the assistance provided by the Department of Justice's International Criminal Investigative Training Assistance Program (ICITAP), the HNP continues to be plagued by the absence of qualified leadership, lack of equipment, and lack of clear political support at the highest levels of the Haitian government.

The March 6, 1996 killings in Cite Soleil will be a critical watershed for the Haitian National Police. Reliable reports—including eyewitnesses interviewed by the staff delegation—implicate members of the HNP in the murders. Beyond the alleged direct involvement of HNP officers in the crimes, senior HNP officials must bear responsibility for the loss of control of the situation. The new HNP Inspector General—dismissed under the Aristide regime for actually trying to investigate a political murder—has begun to investigate the Cite Soleil incident.

In addition to Cite Soleil, HNP officers have been involved in a number of shootings, beatings and other human rights abuses. In addition, at least one officer has been murdered in circumstances which remain unclear.

Although the HNP has developed its manuel de directives, a code of regulations and operating procedures, most HNP officers are not familiar with it, making disciplinary action against HNP officers for violations of law or human rights infrequent. Staff were informed by MICIVIH officials in Goniaves that a local HNP commissaire was known to have committed at least two abuses, including severely beating a civilian, but was merely demoted to the rank of officer.

The delegation learned from U.N. Civilian Police (CIVPOL) trainers that HNP officers recently destroyed two new U.N. vehicles during routine patrols in Gonaives and that the drivers of the vehicles possessed no driver's licenses nor had been taught how to drive. CIVPOL field personnel estimate that 98 percent of all HNP officers do not know how to drive. According to the U.S. State Department, 300 of the 500 vehicles provided to the HNP have been wrecked.

In addition to the Haitian National Police, numerous other armed governmental security forces exist in Haiti, including the National Intelligence Service (SIN), the Ministerial Guards, the National Palace and Residential Security Unit (NPRSU) and the Presidential Security Unit. Particularly in the cases of the SIN, the NPRSU and the Ministerial Guards, it is unclear who in the Government of Haiti controls their activities. There are widespread and credible reports of serious human rights abuses by these security forces.

Special Investigative Unit (SIU)

The much-trumpeted Special Investigative Unit (SIU) of the Haitian National Police is woefully ill-prepared to undertake the criminal investigations with which it has been charged.

SIU investigators have no more than one week of specialized training in skills necessary to conduct criminal investigations.

The SIU is only at 25 percent of the strength proposed by the U.S., and has yet to receive any of the 100 percent increase in investigators promised by the Haitian government. The SIU currently consists of only 10 officers, charged with more than 80 cases.

SIU investigators do not have access to vehicles, communications equipment, office supplies, and basic investigative equipment. The SIU received office space large enough and secure enough to accommodate its needs.

The work of the SIU has been severely compromised by the presence of three American attorneys and one American "investigator" closely identified with many who have publicly and regularly questioned the overwhelming evidence of Haitian government involvement in extrajudicial killings. These individuals are paid by the government of Haiti on terms they refused to disclose to the staff delegation, and have had total access to all SIU investigative files. Prior to the arrival of two American contractors hired by the Department of State to work with the SIU, all SIU investigations were supervised and controlled by these lawyers.

U.S. Embassy officials did not comprehend or report on the significance of critical issues relating to extrajudicial killings, including crucial developments at the Special Investigative Unit (SIU) of the Haitian National Police. The Embassy official responsible for police issues visited the SIU less than once a month since its creation in October, 1995.

Even if the American lawyers and "investigator" who have tainted SIU actions to date are physically removed and receive no further access to SIU investigators and information, severe damage has already compromised the activities of the SIU on the most important cases. One lawyer was present for the December, 1995 FBI briefing of Haitian government officials on the Bertin case, and all SIU files have already been available for their unlimited perusal.

It is unclear why the vast majority of the SIU's caseload involves crimes from the de facto years. These cases were the subject of the Truth Commission report, and these crimes were an important factor leading to U.S. intervention. It is also unclear why, in light of the decision to include cases prior to September 1994, cases from the first seven months of President Aristide's rule were excluded.

Narcotics

For years, endemic corruption and unpatrolled borders, water, and ports have made Haiti a prime target for the smuggling of illicit drugs. After months of inaction under Aristide, the new Haitian government has named a chief of its anti-narcotics unit. The police chief has promised but not yet delivered adequate nationwide staffing or resources. Members of the inexperienced police force will require basic investigative and anti-drug training. A full time DEA office and a State Department Narcotics Assistance Section resident in Miami is moving to implement training and cooperation plans.

Judicial reform

Haiti's judicial system is almost completely dysfunctional. Despite more than $3 million in AID assistance already obligated (AID has programed $18 million through FY 1999), even the most basic training and equipment needs remain unmet. While AID claims that 400 judges and prosecutors have benefited from short-term training seminars, AID has "detected a steady pattern of judges selected by the Ministry for training only to be fired shortly after—or even during—the two week course." Even if HNP investigations bring prosecutions against those responsible for the politically motivated murders, it is unlikely that the judicial system can swiftly, much less impartially, act on these cases.

CLINTON ADMINISTRATION POLITICIZATION OF HAITI POLICY

The Clinton Administration has conducted a sustained and coordinated inter-agency effort designed to blame the legislative branch for the shortcomings of its own policies in Haiti. By repeatedly seeking to politicize Haiti policy, the Clinton Administration has done a disservice to the appropriate role of Congress and, more importantly, to the Haitian people. It has also, as a result of systematic obfuscation, kept its own program managers in the dark about these matters, risking the effectiveness of important programs.

The staff delegation heard numerous examples of incomplete, inaccurate, and intentionally misleading information about the role of Congress provided by Clinton Administration officials in Washington to staff, the AID mission, government of Haiti officials and the Haitian business community.

The Embassy and senior Administration officials have repeatedly stated that they welcome Congressional pressure because it leverages their pressure on the Haitian government. Unfortunately, the staff delegation found an absence of pressure by the Administration unless there was Congressional interest.

While senior AID officials assert that Congress is responsible for delays in providing police training programs in Haiti, State Department officials take credit for suspending police training assistance because of the presence of alleged criminals in senior police positions. ICITAP officials in Haiti were not informed of key policy decisions impacting police training programs nor the basis for such decisions.

Senior Administration officials in Washington also criticize Congress for failing to make available funding for certain AID projects in Haiti, yet they conceal the complete picture of serious problems with U.S. assistance programs in Haiti.

While criticizing Congressional concerns about $4.2 million in development assistance programs alleged to be "humanitarian", AID itself has delayed obligation of more than $5.5 million for similar programs because of serious concerns about the competence of the Haitian cabinet minister responsible for administering these funds.

AID, not Congress, has withheld since 1995 a $4.6 million cash transfer to the Haitian treasury because of that government's failure to meet mutually-agreed upon privatization goals.

AID officials have criticized a congressional hold on an environmental project known as "Agricultural Sustainable Systems and Environmental Transformations" (ASSET). Yet at a bipartisan congressional staff briefing in February, 1996, AID officials stated that they intended to withdraw the project altogether because, according to internal AID documents, the project "has been

VOL
142
PT
6
AP
15
—
24
1996
UMI

stymied" by the Haitian Ministry of Environment. Other AID electronic mail messages reveal that AID did not withdraw the project because AID's Assistant Administrator of Latin America and the Caribbean sought political advantage in blaming Congress for holding up the project.

In Washington, the Administrator of AID blames Congress for withholding humanitarian aid, but in Haiti, AID internal documents state that "the $50 million Health Systems 2004 Project "is languishing" because of problems with the Haitian Minister of Health.

The impact of the "Dole Amendment" has been consistently misrepresented by officials in Washington and within the U.S. Embassy in Haiti. Despite the clear exemptions for humanitarian and electoral assistance, numerous Haitian and U.S. officials have been informed—incorrectly—that the "Dole Amendment" is responsible for delays in such programs.

DEMOCRATIZATION AND POLITICAL ISSUES

Haiti's political power struggle

In a striking and profound reversal, U.S. and international officials in Haiti now argue that the Preval government deserves U.S. support in order to prevent former President Aristide from thwarting important policy objectives, especially on economic and judicial reform. The staff delegation consistently heard numerous officials cite policy initiatives—moribund under the Aristide government—which could actually proceed under the Preval government if U.S. and international support were provided. Such criticisms of the Aristide regime, voiced now in retrospect, were not voiced when they could have made a difference.

Although Lavalas formally controls the executive, legislative and judicial branches of government, a three way struggle for political power is thought to be underway in Haiti: President Preval has the government, Gerard Pierre Charles has the Lavalas political organization, and former President Aristide has the popular support. Unfortunately, while President Preval's stated objectives most closely match U.S. policy goals, he is the weakest of the three contenders.

Presidential elections

Presidential elections were held on December 17, 1995. Aristide's hand-picked successor, Rene Preval, won 88 percent of the vote with only 25 percent of eligible voters casting ballots. Preval campaigned as Aristide's "twin," touting "Five More Years of Lavalas." Although these elections were run more efficiently than the controversial June 25 parliamentary balloting, a level playing field did not exist. Aristide's Lavalas movement dominated the Provisional Electoral Council (CEP) on national and regional levels. Lavalas partisans routinely harassed opposition figures, driving some center-to-right leaders out of the country altogether. The presidential filing deadline coincided with widespread political riots, incited by President Aristide's November 11, 1995 eulogy for slain parliamentarian Jean Hubert Feuille.

Opposition parties, whose many valid complaints about the parliamentary elections were unheeded, boycotted the elections altogether. What remained of the "independent media" (where radio is most important) practiced "self-censorship," avoiding stories that might offend Lavalas partisans. And, international observers (including the United States government, the OAS, and the UN), in a rush to vindicate their mission, rubber-stamped the parliamentary and presidential results.

The 1995 elections

Haiti's series of elections in 1995 were deeply flawed and did little to advance genuine democracy in Haiti. The egregious flaws before, during and after the June, August, September and November elections cast a serious and lingering cloud over the limited progress toward democratic pluralism in Haiti.

The democratic opposition in Haiti is demoralized and fragmented. U.S. credibility with the democratic opposition never recovered from two serious blows: refusal to acknowledge systematic problems before the June 25 elections; and the rapid U.S. stamp of approval issued the day of the elections before the polls closed by the head of the official U.S. observer delegation, AID Administrator J. Brian Atwood. Overwhelming evidence of insecure ballots, candidate exclusion and a host of other problems has been detailed comprehensively by the International Republican Institute and the Carter Center. AID documents published recently have dropped the word "fair" from its descriptions of the 1995 electoral process.

A U.S. government-brokered accord between the democratic opposition and Aristide government after the June 25 elections were belated, and ultimately ineffective. The most significant potential breakthrough in these negotiations was halted by President Aristide's own intransigence.

There still has not been a full and satisfactory accounting of all U.S. election support assistance in 1995 (in excess of $12 million). Because of this failure, AID has no funds programmed for the 1996 Territorial Assembly and Senate elections and refuses to provide any election support until the United Nations and the Haitian Provisional Electoral Council (CEP) undertake and release a complete accounting of all USAID funds in the Haitian Election Trust Fund.

Haitian Parliament

The Lavalas-dominated bicameral parliament has demonstrated unusual independence from the executive branch by rejecting Aristide's choice for police chief, negotiating prime minister and cabinet candidates, and scrutinizing Preval's budget request. Preval is moving slowly to educate and inform a skeptical, populist Parliament that will be called upon, within a few months, to consider budget cuts, civil service reform, privatization of state enterprises, among others. Many parliamentarians have no government experience, and the institution has no research staff or facilities to carry out basic analytical or deliberative functions. For these reasons, despite the guarded optimism about the Preval government's commitment to economic reform, the parliament may prove to be a battleground—and a bottleneck.

INTERNATIONAL PRESENCE

O.A.S./U.N. civilian monitoring mission in Haiti (MICIVIH)

A case has been made for a continued international presence in Haiti after the expiration of the UNMIH II and MICIVIH mandates, but it is by no means certain that extension of either of these operations under their current mandate is the best form for such a presence to take.

MICIVIH's current mandate expires on May 31 and an internal U.N. Security Council dispute may preclude extension. In its current scaled-down form, MICIVIH has 64 observers in Haiti (each paid $5–6000 monthly) down from a peak of 170, and has 7 offices down from a peak of 12. MICIVIH currently spends almost $600,000 monthly.

MICIVIH has adopted a passive role in observing human rights conditions in Haiti, with the mission's director describing conditions today as "relatively quiet." MICIVIH has identified more than 20 murders in the past year as "commando-style executions", the victims of which include political opposition leaders and business persons. U.S. officials acknowledge publicly that several of these killings are linked and that Haitian government officials appear to have been involved in the murders and the subsequent cover-up. MICIVIH, which played an activist role when the de facto regime held power, has made little effort to press the Haitian government for investigation or prosecution of these killings.

U.S. MILITARY PRESENCE

All U.S. military forces associated with UNMIH operation are scheduled to leave Haiti by April 23. The U.S. bilateral military engineering, medical, and civil affairs exercise "Fairwinds", consisting of active duty and reserve forces, will continue through 1997.

The U.S. military continues to provide important engineering and civil works support in Haiti. Despite the persistent refusal of the government of Haiti to respond to requests about priority projects, the U.S. military has undertaken a series of successful civil works efforts to rehabilitate roads, sewers, schools and health clinics.

The Administration recently decided to keep two Chinook heavy-lift helicopters and 40 personnel in Haiti to support the Canadian contingent of UNMIH through May 10. After that, a U.S. contractor will operate helicopters in support of UNMIH forces. On April 10, 1996, the State Department notified Congress of its intent to finance the air support (at least $1.2 million during the next six months) from its voluntary peacekeeping account.

ECONOMY AND DEVELOPMENT

Haitian Economy

The Haitian economy remains highly dependent on foreign assistance, including food aid, and remittances from Haitians living abroad; at least 65 percent of the 1995 budget was provided by international assistance. Despite attempts to promote private investment, adverse internal political developments have reinforced foreign and Haitian investor concerns about the political and security outlook in Haiti. The 1985 level of private investment in Haiti—a very low baseline —is not likely to be restored in this century.

A major problem for Haitians seeking to break their nation's cycle of misgovernance and poverty is the simple fact that revenues (at about 3 percent of GDP) do not come close to the admittedly inadequate level of government spending (about 7 percent of GDP). Ambitious U.S. Embassy and AID attempts to "irreversibly and fundamentally change Haitian society" through projects aimed at Haitian institutions over several years will fail if Haiti cannot pay its government workers and police. They will also fail if Haiti cannot correct its macroeconomic policy. Sustainable development is a distant dream under these circumstances.

Privatization

President Preval renewed the commitments he made in Washington, D.C. in late March 1996 to resume the privatization program halted by former President Aristide in October 1995. Whether the new President can overcome strident opposition to privatization from his predecessor and a skeptical parliament remains to be seen.

An ambitious schedule for comprehensive economic reforms calls for negotiations between the Preval Government and international donors to begin on April 15, possibly resulting in signed agreements by the end of May. The untested new Haitian Minister of Finance and the remaining Preval economic team will have to stretch their limited political mandate and untested political skills to the limit if there is to be hope of reaching agreements acceptable to both Washington and the Lavalas coalition.

Privatization will continue to be a major sticking point. Both the U.S. and the World Bank appear to be insisting on completion of the process of turning over to private management on a lease basis the local flour mill and cement plant—both of which are idle. Both became symbols of Aristide's resistance to economic reform when he refused to open bids for management of the mill and plant in October 1995. This led to the resignation of reformist Prime Minister Smarck Michel, and the termination of nascent economic recovery in the months since.

At the beginning of April, some elements of Haiti's economic team were searching for a way to proceed with privatization while taking into account popular resistance to the concept. A draft proposal would accelerate the outright sale of 50 percent of the flour mill and cement plant. The remaining 50 percent would be assigned to a holding company representing local authorities who could eventually benefit from any distributed profits.

Bureaucratic waste, fraud and corruption continue to be a major drag on the Haitian government. More than 90 percent of the entire Haitian budget is dedicated to salaries, and up to 30 percent of the Haitian civil service consists of "phantom" employees drawing 50 percent of the payroll.

International financial institutions

The International Monetary Fund (IMF), the World Bank, and the Inter-American Development Bank (IDB) are committing far more economic resources to Haiti than the major bilateral donors, the United States, Canada, and France. About $230 million was made available by the IFIs in 1995 through the simple device of releasing funds frozen during Aristide's exile. An equal or greater amount is scheduled for 1996. Of course, the military costs absorbed by the United States and Canada in restoring President Aristide have not been taken into account when measuring bilateral foreign aid contributions.

More than $100 million in IFI assistance is frozen because of the Haitian government's refusal to meet mutually-agreed upon privatization goals.

The IMF and World Bank are approaching their 1996 negotiations with the Preval Government with some determination to avoid repeating the exceptional procedures used to disburse funds to the Aristide Government in early 1995. Those loans lacked specific conditions and were heavily front-loaded, precluding any opportunity to match promises with performance.

By summer, IMF and World Bank disbursements will be needed in order to meet GOH payrolls and balance of payments requirements. Without a viable economic reform package in place by June 1, that schedule will not be met. Any delays or breakdown in negotiations with the IFIs will result in a renewal of Clinton Administration efforts to fill the resulting budget gap through use of bilateral ESF, of which up to $60 million may remain from the 1996 appropriation. Much of the ESF for Haiti is now allocated to projects.

The IDB representative in Haiti may be more willing than his IFI counterparts to advance up to $350 million in additional concessional loans to the Preval Government. He appeared to measure success by the level of loans committed, not their contribution to sound policies in Haiti. It should be noted that the IDB and the World Bank were willing to co-finance public works projects in Haiti undertaken by U.S. armed forces engineers when AID appeared unable to do so.

AID mission in Haiti

Many AID projects do not meet the basic criteria of "sustainability". For example, according to an internal AID evaluation of its community development projects in one area of Port-au-Prince, a majority either failed or were unsustainable. AID's internal auditor notes in the case of renovations to the school, Ecole La Sanctification, "This was a gift, not a project!" and for another project AID writes, "This project was a one time affair without a sustainable component towards development."

AID's sole contribution to privatization in Haiti has been a $2 million grant to the International Finance Corporation to fund IFC-sponsored reports and, according to AID, a "public awareness campaign". In light of the strong—and ill-informed—public opposition to privatization in Haiti, any public awareness campaign has failed.

Through AID's new "Results Review and Resource Requirements" ("R4") process, it is difficult to assess AID's successes and failures since AID now claims credit for projects in which it has no financial or technical stake. For example, AID claims it "assisted the U.S. military. . .to identify infrastructure projects." Senior U.S. military officials claim that no collaboration exists between the U.S. military and USAID. Further, the project in question, repairs to Harry Truman Blvd.—the city's main thoroughfare which runs in front of the U.S. Embassy—were paid for by the Inter-American Development Bank.

As part of its short term jobs program, AID contracted to develop a data-base of Haitians and Haitian-American residents with marketable technical skills. An AID contractor was paid to develop the skills bank database, which includes 1,171 listings, and it completed its work in October 1995. Despite AID's purported goal of the project which was "rapid mobilization of individuals", today—five months later—no part of the data-base has been made available to the Haitian government or local organizations.

AID lacks innovative methods for dealing with the critical problems facing Haiti. For example, AID's ASSET project seeks to plant more trees in Haiti, continuing a program which has resulted in the planting of 90 million trees over 15 years. Regrettably, there is little evidence that additional tree planting will be effective since Haitians continue the massive deforestation of their country at a rate of 30 million trees annually.

AID's grantee to work with the Parliament, has little experience working with legislatures or working with Haiti, is moving slowly in its critical work. A previous contractor with extensive experience in Haiti and in parliamentary development, was dropped by AID, apparently because of the contractor's previous work with the democratic opposition to President Aristide.

AID takes credit for a training program for 3,000 demobilized enlisted former members of the Haitian armed forces (FAd'H), and for 2,400 ex-members of Interim Public Security Force. While AID claims 2,800 "employment opportunities with private employers have been identified," AID documents omit the fact that less than 4 percent of the former FAd'H members have actually found employment. AID officials also reportedly boycotted graduation ceremonies for the former FAd'H trainees for ideological reasons.

U.N. development program

As with all UNDP projects, it is difficult to determine their success, failure or sustainability since nearly all of UNDP projects are subcontracted out to other United Nations agencies or to private contractors to provide "technical assistance." Staff did learn that UNDP's contribution to Haitian privatization consisted of a single technical report, which, despite 15 months of preparation and review, has not yet been submitted to the government of Haiti nor disseminated to the private sector. The U.S. Embassy also remains at odds with UNDP over a prison reform project, repeatedly yet unsuccessfully urging UNDP to do more than offer seminars.

Staff visited a $10,000 pilot project designed by UNDP to teach rural farmers basic agricultural methods to alleviate soil erosion from hillside farming. It is curious that UNDP is only now undertaking a pilot project of this nature since environmental destruction due to this method of farming has been evident in Haiti for decades.

RECOMMENDATIONS

Rule of Law

Haitian National Police

The Government of Haiti should immediately demonstrate its commitment to the Haitian National Police and the Special Investigative Unit. President Preval's visit to the SIU immediately after the delegation left Haiti was a positive step—unfortunately, the visit was not well-coordinated and no one was at the unit's headquarters during the visit.

ICITAP should repair the critical flaws apparent in its Haiti training program, especially in supervisory and investigative personnel, revising future training programs it carries out. The desperate lack of trained supervisory and investigatory personnel must also be immediately addressed if the Haitian National Police and its specialized units are ever to operate effectively. Both shortages should have been foreseen much earlier, and should be addressed in future ICITAP programs.

Visas to enter the United States should be immediately withdrawn for all current or former Haitian officials suspected on the basis of credible evidence to be involved in extrajudicial killings or other gross violations of human rights until they are formally cleared by the Haitian judicial system.

In light of the fact that the report required by the "Dole Amendment" cannot be honestly made, U.S. assistance to the government of Haiti must be immediately reviewed, and all ongoing assistance programs, except for legitimate humanitarian or electoral assistance, to the government should be suspended pending the outcome of the review.

Special Investigative Unit

No further assistance to the HNP or the SIU should be obligated or expended until the following conditions have occurred:

A credible, respected head of the SIU is appointed.

A full-time prosecutor is assigned to the SIU.

Additional investigators are assigned to the unit, reflecting the U.S. preference for 40 full-time investigators.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Priority in manpower and other resources is given to cases of extrajudicial killing after the return of former President Aristide.

Access to SIU investigations, investigators and material is completely and demonstrably denied to the American lawyers and "investigator" who have been working with the SIU or anyone else who might compromise the integrity of the investigations.

If the above conditions have been met, and after prior consultation with Congress, ICITAP should move immediately to augment training and technical assistance for the Inspector General of the HNP and the Special Investigative Unit, including forensics, communication and other much-needed aid.

After the modus operandi of the SIU is clearly defined to ensure the security of sensitive material, the FBI should cooperate fully, including sharing complete files, with the U.S. SIU contractors to ensure timely access to all evidence and reports needed to conduct a thorough investigation of extrajudicial killings.

U.S. Embassy

The Embassy must make human rights a priority. The Embassy should immediately reconstitute its human rights fund to assist victims of political violence and their families. The Embassy should assume responsibility for monitoring, gathering information and reporting on extrajudical killings, including the murders of Mireille Bertin, Jean Hubert Feuille, Michael Gonzalez, and those killed in the Cite Soleil massacre.

The Inspectors General at the Department of Defense and the Department of State, the General Accounting Office and the U.S. Congress should conduct independent investigations into the reasons why no U.S. government official warned Mireille Durocher Bertin of an assassination plot against her involving senior Haitian government officials, despite possessing clear and credible information of such a plot. The investigation should include the role of U.S. Embassy and U.S. Armed Forces personnel in the decision not to directly inform Bertin about the assassination plot.

Politicization

The Administration should cooperate fully with all Congressional Committee requests for documents related to U.S. policy in Haiti. Timely responses to all Congressional requests for information regarding the Administration's policies in Haiti would be a positive, good faith step in restoring bipartisan cooperation in Haiti.

Administration officials should end their intentional mischaracterizations of the "Dole Amendment" and should make available to the U.S. Embassy, the USAID mission in Haiti, the government of Haiti, nongovernmental organizations and the media accurate information about the reasons for the withholding of U.S. assistance.

Economy and development

AID and assistance issues

AID should not consider releasing the Fiscal Year 1995 $4.6 million cash transfer to the government of Haiti until true privatization has taken hold. Under current circumstances, the staff delegation does not foresee the situation in Haiti improving to the point at which there would be justification for releasing any Fiscal Year 1996 funds for balance of payments support. Without swift action by the government of Haiti to substantially cut its civil service payroll, any U.S. balance of payments support will only be wasted.

Congress should not approve any additional Administration requests to use scarce ESF funds in Haiti until a sustainable economic reform program has been implemented. Congress should also carefully monitor the use of the $60 million in ESF made available from the FY 1996 appropriation.

Given that AID claims it cannot move forward on its ASSET project due to government of Haiti intransigence, AID should immediately withdraw this Congressional Notification.

AID should immediately terminate projects which are not sustainable. While many of the short term jobs programs and training aid have given the perception that Haiti's economy is progressing and that AID's efforts in this area have been successful, that is simply not the case. As seen by the staff delegation, when AID resources for these projects are exhausted, the projects have failed.

Privatization

The Government of Haiti must accelerate the rate of privatization. Privatizing the cement factory and the flour mill, while important, should not represent the culmination of the government's efforts, rather they should serve as a useful first step catalysts to further privatization.

The International Financial Institutions should hold firm on their insistence on steps toward privatization, requiring that reforms be enacted before assistance is disbursed. Congress should carefully review the 1997 request for the IADB's Fund for Special Operations to ensure that its use in Haiti would not result in the postponing of economic and civil service reform and privatization. Further, U.S. executive directors at these institutions should use significant American leverage, including their voice and vote, to ensure that reforms precede assistance.

Democratization and politics

AID must intensify its effort to provide material and technical support so the Parliament can function as efficiently as possible. Current delays, in large part due to AID's change of contractor midstream, should be immediately resolved. Support should include timely, practical assistance on substantive issues which are expected to be taken up by the Parliament soon.

AID should demand a full and complete accounting from the United Nations and the government of Haiti for all U.S. assistance provided for the 1995 elections. No additional election assistance should be provided until this accounting is made public and made available to Congress.

International presence

The MICIVIH mission should not divert all its attention toward long-term institution building in Haiti at this time, rather it should be more aggressive in its basic human rights monitoring and reporting activities. MICIVIH should further press the Preval government to investigate all human rights violations, especially those cases under the investigative jurisdiction of the SIU and the Truth Commission.

ORDERS FOR MONDAY, APRIL 22, 1996

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. on Monday, April 22; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date; no resolutions come over under the rule; the call of the calendar be dispensed with; the morning hour be deemed to have expired; the time for the two leaders be reserved for their use later in the day; and that there then be a period for morning business until the hour of 2 p.m. with Senators to speak for up to 5 minutes each with the first 90 minutes under the control of Senator DASCHLE, or his designees, and the last 90 minutes under the control of Senator COVERDELL, or his designee; further, that at the hour of 2 p.m. the Senate resume consideration of Calendar No. 201, Senate Joint Resolution 21 regarding a constitutional amendment to limit congressional terms.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask unanimous consent that following the 2:15 p.m. cloture vote on Tuesday, notwithstanding rule XXII, the Senate proceed to the vote on final passage of the health insurance reform bill, H.R. 3103.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask unanimous consent that at 12 noon on Tuesday, April 23, there be 30 minutes equally divided in the usual form with respect to closing remarks on the health insurance reform bill which was considered and debated throughout yesterday's session of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. I just say for the information of all Senators and members of their staffs, we will convene at 11 o'clock on Monday. There will be 3 hours of morning business, and following morning business the Senate will then resume consideration of term limits legislation. No rollcall votes will occur during Monday's session of the Senate. Senators are reminded that under rule XXII all first-degree amendments to the term limits legislation must be filed with the clerk by 1 p.m. on Monday. Second-degree amendments must be filed no later than 1 hour prior to the cloture vote on Tuesday.

Since the Senate will be in recess for the weekly party caucuses to meet, I now ask unanimous consent that Members have until 12:30 p.m. on Tuesday, April 23, to file their second-degree amendments to the term limits legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. When the Senate completes debate on Monday, it will resume consideration of the term limits legislation Tuesday morning until 12 noon. No rollcall votes will occur during Tuesday's session prior to the hour of 2:15 p.m.

At 2:15 p.m. on Tuesday, two votes will occur back to back, the first being a cloture vote with respect to the term limits legislation, and the second vote will be on passage of the health insurance reform bill. Senators are encouraged to debate the term limits legislation during the session of the Senate on Monday and Tuesday morning. The Senate may also be asked to turn to any other legislative items to be cleared for action.

Unless there is some objection, I ask unanimous consent that that second vote be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I am not certain what we will have to do after the vote, depending on whether cloture is obtained. If it is not obtained, we may move on to other business. We could go back to the immigration bill. I am not certain of that. But we would like to stay on schedule, and we need to complete action on the immigration bill.

Let me indicate there is widespread support all across America, nonpartisan, bipartisan support for immigration reform, and I hope we can complete action on that bill sometime next week.

ADJOURNMENT UNTIL 11 A.M. MONDAY, APRIL 22, 1996

Mr. DOLE. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:50 p.m., adjourned until Monday, April 22, 1996, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate April 19, 1996:

IN THE COAST GUARD

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD TO BE MEMBERS OF THE PERMANENT COMMISSIONED TEACHING STAFF AT THE COAST GUARD ACADEMY IN THE GRADE OF LIEUTENANT COMMANDER:

VINCENT WILCZYNSKI
JOHN B. MC DERMOTT

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD TO BE A MEMBER OF THE PERMANENT COMMISSIONED TEACHING STAFF AT THE COAST GUARD ACADEMY IN THE GRADE OF LIEUTENANT:

JAMES R. DIRE

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. WESLEY K. CLARK, 432-80-5682, U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE STAFF CORPS IN THE NAVY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

MEDICAL CORPS

To be rear admiral (lower half)

CAPT. ALBERTO DIAZ, JR., 214-58-0577, U.S. NAVY.

SUPPLY CORPS

To be rear admiral (lower half)

CAPT. DAVID P. KELLER, 210-38-7903, U.S. NAVY.

CIVIL ENGINEER CORPS

To be rear admiral (lower half)

CAPT. PETER W. MARSHALL, 015-36-0436, U.S. NAVY.

IN THE AIR FORCE

THE FOLLOWING CADETS, U.S. MILITARY ACADEMY, FOR APPOINTMENT AS SECOND LIEUTENANT IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 531 AND 541, TITLE 10, UNITED STATES CODE, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

RYAN C. BERRY, 502-84-4155
MATTHEW K. BRANDT, 391-72-8910
IAN S. CURRIER, 541-13-3163
STEPHEN P. PIRNER, 509-94-9838
JAMAR D. SCOTT, 225-29-9362
GERALD T. YAP, 150-68-7447

IN THE ARMY

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE:

ARMY COMPETITIVE

To be lieutenant colonel

ROBERT A. CHILDERS, 430-88-4404

THE FOLLOWING-NAMED INDIVIDUALS FOR A RESERVE OF THE ARMY APPOINTMENT, WITHOUT CONCURRENT ORDER TO ACTIVE DUTY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 12203, 12204, 3353 AND 3359:

MEDICAL CORPS

To be lieutenant colonel

CARL E. DAWKINS, JR., 504-30-6656
JOHN B. LEARY, 470-34-2876
LEON I. STEINBERG, 548-54-7932

VOL
142
PT
6
AP
15
—
24
1996
UMI

EXTENSIONS OF REMARKS

SOUTH DAKOTA VOICE OF DEMOCRACY WINNER

HON. TIM JOHNSON

OF SOUTH DAKOTA
IN THE HOUSE OF REPRESENTATIVES
Friday, April 19, 1996

Mr. JOHNSON of South Dakota. Mr. Speaker, Ms. Nicole Sanderson of Wagner, SD, was recently selected as a State winner in the Voice of Democracy broadcast script writing contest conducted each year by the Veterans of Foreign Wars of the United States and its ladies auxiliary. The contest theme for this year was answering America's call, and of the more than 116,000 secondary school students who participated in this year's contest, Nicole was also named a winner at the national level. Mr. Speaker, I ask that Nicole's winning script be reprinted in the CONGRESSIONAL RECORD. She deserves to be commended for her exceptional efforts in writing this script and participating in this contest. Nicole's insights and enthusiasm will serve as a model to others her age.

ANSWERING AMERICA'S CALL

(By Nicole Sanderson, Post 7319, WAGNER, SD)

Alexander Hamilton once said, "The sacred rights of mankind are not to be rummaged for, among old parchments, or musty records. They are written, as with a sunbeam in the whole volume of human nature, by the hand of the divinity itself; and can never be erased or obscured by mortal power." Not in the course of human events would one discover a more substantial remark or a clearer understanding of the prospect of the American dream than that of Alexander Hamilton's. Hamilton truly believed that the so-called "American experiment" would succeed and over generations would prove to be a powerful existence. Hamilton realized that to simply live under the wrath of tyranny with no objections would be surrendering the very rights he deemed necessary, but to fight for the rule of one's own hand was justification for every rebellion in the cause for justice and freedom.

In the two hundred years since our forefathers signed the Constitution, America has gained the respect of those very nations who believed we were a failing idea from the start. She has grown to be the strong, influential nation Hamilton and many others had foreseen, regarding with utmost respect those ideas we were founded on. Today, however, America is lacking the respect from her own citizens that we once so eagerly prided ourselves on.

Many Americans have turned to the idea of hatred, deceit, and revenge. But why? Has the American dream failed them or have they simply failed the American dream? With crime rate on a drastic increase and disregard for the law a common occurrence, Americans have lost the sense of direction that the founders of this great country so generously provided and intended for us. We must not sit back and watch as the destruction of our country continues, but we must speak out to those who are disrespectful to the constitution and to the American people. We must prove to them that America is not the villain they see, but merely one modest voice in the choir of heroes.

When Abraham Lincoln was assassinated, that was not the dream intended for our country, and when the innocent people of the Oklahoma City bombing were so brutally victimized, that was not the dream America would one day prosper from either, but merely the blatant disrespect for human life and the rights of all who care for this country. Once again, I ask why? America is about freedom and responsibility. America is the dream of unity and everlasting respect. Why, then, are there demonstrations burning the very flag in which we should so gratefully salute, burning the very idea our forefathers worked, fought and died for. The authors of the Constitution did not attempt to establish a government and a symbol for all to honor so that one day their descendants could flagrantly burn and degrade their accomplishments. We must encourage those voices that they did not choose America, but America chose them, and now they must return her kind favor and participate in the Government which tries so very hard to guarantee their freedom, their responsibility, and their prosperity.

Never have I been so disappointed with my fellow citizens as when I see such horrendous disregard for human rights. Does not the Declaration of Independence directly state that "all men are created equal, that they are endowed by their creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness?"

Then why are people committing such acts of violence against one another, so unthinkable to our choice of freedom, hindering every possibility of justice among free, self-governed men? As a young citizen of this remarkable country, I feel it not only my privilege, but also my duty to protect and honor her at all times and to create within her the direction our fathers intended.

We must not blind ourselves to the needs of our nation, but we must stand up and fight to regain the pride and honesty we once knew. America is calling us, pleading for us to help her. As the future of this great nation, we must not only believe in the ideas of unity among the people, freedom and equality for all men, and the pleasure and possibilities of good government, but we must also act on them. Answering her calls will not be easy, but it will be necessary to fight the hatred that is growing stronger every day.

This nation calls to us from the graves of those long since gone, from the patriotic memorials of those we honor, and from the very idea we hold strong in our hearts, the idea of freedom, asking us kindly to remember those who gave so graciously to this country their lives and their freedom so that we might have ours. We must never forget how fortunate we are to be Americans and how wonderful it is to be free. America is calling out to you. Are you listening?

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HOUSE OF REPRESENTATIVES—*Monday, April 22, 1996*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mr. FUNDERBURK].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 22, 1996.

I hereby designate the Honorable DAVID FUNDERBURK to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

In this moment of quiet and reverence remind us, O God, that we can hear Your word in the hushed moments of life, when the detractions of every day are put aside and we allow our senses to listen and to hear Your words of faith and hope and love. Open our senses so we are alert to Your leading and unlock any perception we have that hinders us from Your blessings. Be with us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Louisiana [Mr. LIVINGSTON] come forward and lead the House in the Pledge of Allegiance.

Mr. LIVINGSTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, April 19, 1996.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Friday, April 19, 1996 at 12:40 p.m.: That the Senate passed without amendment H.R. 3034.

With warm regards,

ROBIN H. CARLE,
Clerk.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Friday, April 19, 1996: H.R. 3034, to amend the Indian Self-Determination and Education Assistance Act to extend for 2 months the authority for promulgating regulations under the act.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3019, BALANCED BUDGET DOWN PAYMENT ACT, II

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, Monday, April 22, 1996, to file a conference report on the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES AND COMMITTEE ON INTERNATIONAL RELATIONS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Economic and Educational Opportunities and the Committee on International Relations:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 22, 1996.

Hon. NEWT GINGRICH,
Speaker, the Capitol,
Washington, DC.

DEAR MR. SPEAKER: I hereby resign my position as a member of the Economic and Educational Opportunities Committee and the International Relations Committee effective upon ratification by the full House of my membership on the House Commerce Committee.

I wish to thank Chairman Gilman, Ranking Member Hamilton, Chairman Goodling, Ranking Member Clay and all the members of these committees for the many courtesies extended to me during my service on these two panels.

While I am honored to serve as the newest member of the Commerce Committee, I look forward to also returning to my assignment on the International Relations Committee where I have been a member for more than seven years.

Thank you for your assistance with this matter.

Sincerely,

ELIOT L. ENGEL,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 22, 1996.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Capitol Building, Washington, DC.

DEAR MR. SPEAKER: This letter serves as my formal resignation from the House Committee on Small Business. This resignation is effective as of the date of this letter.

Sincerely,

BENNIE G. THOMPSON,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FAZIO of California. Mr. Speaker, I offer a privileged resolution (H. Res. 408) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

HOUSE RESOLUTION 408

Resolved, That the following named Members be, and, that they are hereby, elected to the following standing committees of the House of Representatives:

To the Committee on the Budget, Sander Levin of Michigan; Bennie Thompson of Mississippi; to the Committee on Commerce, Eliot Engel of New York; to the Committee on Small Business, Jesse Jackson, Jr. of Illinois; Juanita Millender-McDonald of California; to the Committee on Transportation and

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Infrastructure, Juanita Millender-McDonald of California.

The resolution was agreed to.

A motion to reconsider was laid of the table.

HONORING THE LEGACY OF THEODORE ROOSEVELT ON EARTH DAY

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I am proud to have with me a group of outstanding high school students from southwest Florida. They are participating in a unique congressional classroom program designed to examine the role of Government. Today—Earth Day—we are heading to Roosevelt Island, a living monument to a President who defined the proper role of Government in conservation. In 1907, Teddy Roosevelt said:

> To waste, to destroy our natural resources, to skin and exhaust the land instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought by right to hand down to them amplified and developed.

These stirring words ring just as true today. I hope all Americans will join in honoring the legacy of Teddy Roosevelt, reflecting upon the importance of careful stewardship of our planet.

Mr. Speaker, this is not a partisan matter, this is not a matter of extremism. This is a matter of good sense and good will that all Americans will share in.

PRESIDENT CLINTON IS APPOINTING JUDGES WHO AGREE WITH HIS VIEW OF SOCIAL AND JUDICIAL LIBERALISM

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, the philosophy of the 1960's was to "do your own thing" and to ignore the consequences. This philosophy has crept into almost every institution in American life, including the law. Instead of dispensing justice, jurisprudence today seems more like a competition to see which judge or lawyer can come up with the most unusual or creative way to let criminals off the hook.

Perhaps the clearest evidence of this is Bill Clinton's appointments to the Federal bench. District Judge Harold Baer, Circuit Judge Rosemary Barkett, and District Judge Leonie Brinkema—just to name a few. All of these judges, Mr. Speaker, have devised new and interesting ways to excuse blatant criminal behavior, including armed robbery, drug dealing, and murder.

Bill Clinton's record is clear. As a product of the touchy-feely 1960's, he is willing to excuse criminal activity and is now appointing judges who agree with his view of social judicial liberalism.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Member will be recognized for 5 minutes.

A POSITIVE SIGN FOR JUSTICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. Goss] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, at the end of last week we learned of a breakthrough in a long stalemate between approximately 8,000 American hemophiliacs infected with HIV and the manufacturers of blood-clotting products that led to the hemophiliacs' infection. News reports indicate a settlement offer of $600 million if certain conditions are met. This is certainly a welcome development after years of fingerpointing and frustrated court proceedings. As I have said many times, it is time the victims of this tragedy in the United States achieved some closure in this case. It is my strong hope that this settlement proposal will lead to a concrete result for the victims and their families. These folks have suffered since the early 1980's with the knowledge that a product they relied on to improve their quality of life actually carried the virus that causes deadly AIDS. For many years, people in the hemophilia community have charged that more could have been done to make those products safe. While recognizing that hindsight is always crystal clear, many experts have concluded that efforts to develop and market safer products sooner were not given a high priority in the face of powerful incentives to preserve the status quo.

Mr. Speaker, as Members know, I have sponsored legislation to provide compassionate assistance to these victims from the Government. It is my conclusion—and one reached by a distinguished panel of objective experts from the Institute of Medicine [IOM] at the National Academy of Sciences—that Government shares responsibility for this tragedy. The IOM panel outlined the failure of the regulatory system to recognize and respond to the early warning signs of blood-borne AIDS. According to the IOM report, the system "Did not deal well with contemporaneous blood safety issues such as hepatitis and was not prepared to deal with the far greater challenge of AIDS." Citing the extent to which Government officials lacked independent analysis of scientific information or a strong interest in encouraging development of techniques to make blood products safer, the IOM report found "a failure of leadership and inadequate institutional decision-making processes," which led Federal officials to "consistently [choose] the least aggressive option that was justifiable." The IOM found that the Government "did not adequately use its regulatory authority and therefore missed opportunities to protect the public health." As part of its concluding recommendations for changes in the system to prevent this type of crisis from recurring, the IOM panel suggested a compensation program involving the government—one similar to that which exists for vaccines. Well, Mr. Speaker, that is what I and 224 of my bipartisan colleagues in this House—and Senator DeWine and four of his colleagues in the other body—have sought to do with the Ricky Ray Hemophilia Relief Fund Act. This legislation is based on the premise that Government has a unique responsibility for regulating the safety of blood products and that Government failed to live up to that responsibility during the 1980s. We have not changed our view on that point, even in light of last week's welcome news about a potential settlement between the product manufacturers and the victims. It was never our intention to substitute public money for private settlement—but rather to stand up to a share of the obligation we believe rests with the Government. As Members know, in Japan recently a settlement was announced that involves both the industry and the Government. The Japanese proposal offers a significantly larger financial settlement than is being discussed in this country, with the Government shouldering 44 percent of the burden. In addition, apologies were extended to the victims and their families and the responsibility of the Japanese Government and the blood products companies was clearly acknowledged. While I commend the blood products companies for their offer to the American victims, I still think it is important that all parties involved stand up to their obligations and that means we must explore Government sharing in the compensation. Only in that way will real justice be reached in the United States.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Goss) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes each day, on April 23, 24, and 25.

Mr. PORTER, for 5 minutes, on April 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Goss) and to include extraneous matter:)

Mr. Waxman.

Mr. Cardin.

(The following Member (at the request of Mr. Goss) and to include extraneous matter:)

Mr. LoBiondo.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3034. An act to amend the Indian Self-Determination and Education Assistance Act to extend for two months the authority for promulgating regulations under the act.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

On April 19, 1996:

H.R. 255. An act to designate the Federal Justice Building in Miami, Florida, as the "James Lawrence King Federal Justice Building";

H.R. 869. An act to designate the Federal building and United States courthouse located at 125 Market Street in Youngstown, Ohio, as the "Thomas D. Lambros Federal Building and United States Courthouse";

H.R. 1804. An act to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the "Judge Isaac C. Parker Federal Building";

H.R. 2415. An act to designate the United States Customs Administrative Building at the Yeleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building"; and

H.R. 2556. An act to designate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building."

On April 22, 1996:

H.R. 3034. An act to designate the Indian Self-Determination and Education Assistance Act to extend for two months the authority for promulgating regulations under the act.

ADJOURNMENT

Mr. GOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, April 23, 1996, at 12:30 p.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2434. A letter from the Director, Defense Security Assistance Agency, transmitting a report of enhancement or upgrade of sensitivity of technology or capability for Saudi Arabia (Transmittal No. D–96), pursuant to 22 U.S.C. 2776(b)(5)(A); to the Committee on International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1772. A bill to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex; with an amendment (Rept. 104–528). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1836. A bill to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, NY, for inclusion in the Amagansett National Wildlife Refuge (Rept. 104–529). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X an clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BATEMAN (for himself and Mr. Taylor of Mississippi) (both by request):

H.R. 3281. A bill to authorize appropriations for fiscal year 1997 for certain maritime programs of the Department of Transportation, and for other purposes; to the committee on National Security.

H.R. 3282. A bill to authorize expenditures for fiscal year 1997 for the operation and maintenance of the Panama Canal, and for other purposes; to the Committee on National Security, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN (for himself, Mrs. Morella, and Mr. Davis):

H.R. 3283. A bill to require the Administrator of the Environmental Protection Agency to issue a regulation that consolidates all environmental laws administered by the Agency and health and safety laws applicable to the construction, maintenance, and operation of aboveground storage tanks, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE:

H.J. Res. 173. Joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crime; to the Committee on the Judiciary.

H.J. Res. 174. Joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crime; to the Committee on the Judiciary.

By Mr. FAZIO of California:

H. Res. 408. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LONGLEY introduced a bill (H.R. 3284) for the relief of Nancy B. Wilson; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 324: Mr. Meehan.

H.R. 447: Ms. DeLauro.

H.R. 835: Mr. Watt of North Carolina, Ms. Roybal-Allard, Mr. Thompson, and Mrs. Collins of Illinois.

H.R. 1023: Mr. Hastert, Mr. Schaefer, and Mr. Montgomery.

H.R. 2745: Mr. Payne of Virginia and Mr. Clement.

H.R. 2749: Mr. Ney and Mr. Bliley.

H.R. 2996: Mr. Torkildsen.

H.R. 3002: Mr. Latham.

H.R. 3107: Mr. Ward, Mr. Lewis of Georgia, Mr. Frelinghuysen, Ms. Furse, Mr. McCrery, Mr. Reed, Mr. LaHood, Mr. Campbell, Ms. Slaughter, Mr. Bentsen, and Mrs. Roukema.

H.R. 3139: Mr. Schumer, Mr. Towns, Ms. Molinari, Mrs. Maloney, Mr. Rangel, Mr. Engel, Mr. McNulty, and Mr. Hinchey.

H.R. 3213: Mr. Walsh.

H.R. 3246: Mr. Torres, Mr. Stark, Mr. Franks of New Jersey, and Mr. Rangel.

H.R. 3265: Mr. McHale, Ms. Ros-Lehtinen, Mr. Metcalf, and Mr. Hinchey.

VOL
142
PT
6
AP
15
—
24
1996
UMI

SENATE—*Monday, April 22, 1996*

The Senate met at 11 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, infinite, eternal, and unchangeable, full of love and compassion, abundant in grace and truth, we praise You for being the faithful initiator and inspiration of prayer. We need not search for You, because You have found us; we need not ask for Your presence, because You already are impinging on our minds and hearts; we need not convince You of our concerns, because You know what we need even before we ask. What we do need are humble and receptive minds. Awe and wonder grip us as we realize that You want our attention and want to use us to accomplish Your plans for our Nation. We openly confess the inadequacy of our limited understanding. Infuse us with Your wisdom.

The week ahead is filled with crucial issues to be debated and decided. Reveal Your will for what is best for our Nation. We yield our minds to think, and then communicate, Your thoughts. Invade our attitudes with Your patience so that we will be able to work effectively with those who differ with us. Help us to listen to others as attentively as we want them to listen to us. In the midst of controversy keep us unified in the bond of our greater commitment to be servant-leaders of our Nation.

As we press on with the work You have given us to do here, we commit to You the care of loved ones and friends who need Your physical healing and spiritual strength. In Your holy name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, today there is a period for morning business until 2 p.m., with the following Senators controlling debate: Senator DASCHLE or his designee controlling the first 90 minutes, Senator COVERDELL or his designee in control of the second 90 minutes.

At 2 o'clock we resume consideration of Calendar No. 201, Senate Joint Resolution 21, proposing a constitutional amendment to limit congressional terms. No votes will occur today; however, Senators are expected to debate the joint resolution and pending amendments. A cloture motion was filed on the committee amendment on Friday and, under the consent, that vote will occur tomorrow at 2:15. Following that vote there will be a vote on the passage of the health insurance reform bill. So there will be two consecutive rollcall votes beginning at 2:15.

In accordance with rule XXII, Senators have until 1 o'clock today to file first-degree amendments and until 12:30 tomorrow to file second-degree amendments to the committee amendment to the congressional term limits resolution.

Mr. DOLE. Mr. President, was leader time reserved?

The PRESIDING OFFICER (Mr. THOMAS). It was. The majority leader is recognized.

TRIBUTE TO BROOK BERRINGER AND TOBEY LAKE

Mr. DOLE. Mr. President, today is a very sad day in the northwest Kansas community of Goodland. For today is the day when much of the community will gather to say their final farewells to one of Goodland's favorite sons.

Much of America came to know Brook Berringer for his leadership on the football field, and for the role he played in helping to quarterback the Nebraska Cornhuskers to back-to-back national championships in 1994 and 1995.

More important than being a champion on the field, however, is being a champion off the field.

And in the days that have followed the tragic death of Brook and his friend and former Goodland resident Tobey Lake, countless Kansans and Nebraskans have testified to the fact that Brook was a champion in all aspects of his life.

"Unassuming," "modest," "role model," "a great kid"; these are some of the words that Brook's family, friends, teachers, and coaches have used to describe him. Brook used his status as a football hero to make a difference in the lives of others.

He was active in church and charitable activities, and was a dedicated member of the Fellowship of Christian Athletes.

He returned to Goodland often during his college years to visit with family and friends, and to provide an inspiration to young people.

Brook's tragic death occurred just 2 days before the National Football League draft, in which he surely would have been selected. In a gesture typical of this outstanding young man, Brook had said that he hoped he would be selected by Kansas City or Denver, so he could remain close to home.

Mr. President, as I think about Brook Berringer, I am reminded of the famous poem by A.E. Housman entitled "To an Athlete Dying Young."

The last four lines of that poem read:

Now you will not swell the rout
Of lads that wore their honors out
Runners whom renown outran
And the name died before the man.

In countless communities in Kansas and Nebraska, the name and the memory of Brook Berringer will live on for years and years to come.

Mr. President, I know I speak for all Senators, particularly my colleague Senator KASSEBAUM and my two colleagues from Nebraska, Senator EXON and Senator KERREY, in extending our sympathies to the families and friends of Brook Berringer and Tobey Lake.

TRIBUTE TO VICE ADM. JOHN BULKELEY

Mr. DOLE. Mr. President, it is with deep sorrow I note the passing of Vice Adm. John Bulkeley. Friday morning a memorial service was held at Memorial Chapel at Fort Myer to honor Admiral Bulkeley, and I think it only appropriate that the Senate takes a few minutes to honor this true American hero.

Admiral Bulkeley had a long and distinguished military career. However, he is best remembered for his service during World War II. In August 1941, then-Lieutenant Bulkeley assumed command of Motor Torpedo Boat Squadron 3, which participated in one of the most spectacular events of the Philippine campaign.

Lieutenant Bulkeley helped break through Japanese lines to transport Gen. Douglas MacArthur and his staff from Corregidor and Bataan to Mindanao. From there MacArthur flew to Australia, where he assumed command of the Allied Forces in the Southwest Pacific.

Shortly thereafter, Lieutenant Bulkeley returned to Negros Island and located and transported the President and Vice President of the Philippine Islands through the Japanese lines to Mindanao to be flown to Australia.

For his service in defense of the Philippines, Admiral Bulkeley was awarded the Medal of Honor. The citation read in part:

> For extraordinary heroism, distinguished service and conspicuous gallantry above and beyond the call of duty, as Commander of Motor Torpedo Board Squadron Three, in Philippine waters during the period December 7, 1941 to April 10, 1942. The remarkable achievement of Lieutenant Bulkeley's Command in damaging or destroying a notable number of Japanese enemy planes, surface combatant and merchant ships, and in dispersing landing parties and land based enemy forces during the four months and eight days of operations without benefits of repairs, overhaul or maintenance facilities for his squadron, is believed to be without precedent in this type of warfare. His dynamic forcefulness and daring in offensive action, his brilliantly planned and skillfully executed attacks, supplemented by an outstanding leader of men and a gallant and intrepid seaman. These qualities coupled with a complete disregard for his own personal safety reflect great credit upon himself and the Naval Service.

Admiral Bulkeley's service did not end there. He went on to further distinguish himself in the European theater. In 1944, while in command of 110 mine sweepers and escorting motor torpedo boats, he spearheaded the invasion of Normandy by sweeping the Baie de LaSeine assault area prior to the arrival of the assault force. In July he conducted an operation which successfully deceived the Germans into believing that the main landings for the invasion of Southern France would come in the Baie del Ciotat. Consequently, Admiral Bulkeley engaged in a running gunfight with two German corvettes, both of which were eventually sunk.

Admiral Bulkeley also served with distinction in the Korean conflict, during which he commanded a destroyer division. Later he commanded the naval base at Guantanamo Bay, Cuba.

Finally, in June 1967, Admiral Bulkeley reported to Washington, where he headed the Board of Inspection and Survey, a position he held for an unprecedented 21 years.

So I think it is fair to say Admiral Bulkeley's life was marked by courage, dedication, and sacrifice. He is a man who loved his country and served it with distinction. We would all do well to emulate Admiral Bulkeley, a true American hero who will be greatly missed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DASCHLE. Mr. President, it is my understanding that we are in morning business.

The PRESIDING OFFICER. We are. The minority leader controls 90 minutes.

Mr. DASCHLE. I thank the Presiding Officer.

SENATE DELEGATION VISIT TO THE FORMER YUGOSLAVIA

Mr. DASCHLE. Mr. President, I want to touch on a couple of matters this morning. The first relates to the opportunity that I had during the recent recess to travel to the former Yugoslavia. I was fortunate enough to travel with two colleagues who, in the past, have indicated a great deal of interest in Bosnia and other countries of the former Yugoslavia, the distinguished Senator from Nevada, Senator REID, and the senior Senator from Utah, Senator HATCH.

Our purpose was really threefold: First, to assess the progress of the Dayton accords; second, to examine, as carefully as we could, the role of the United States military and our Foreign Service personnel in the implementation of those accords; and third, to assess the longer term issues of democratization and privatization as they are developing in the former republics of Yugoslavia.

It was with a great deal of sadness that we left on the very day that the Secretary of Commerce lost his life in a plane crash near Dubrovnik. He and I were supposed to have attended a reception the following evening in Zagreb, Croatia.

I was extraordinarily saddened and disturbed by the early reports that we were given regarding his accident. There has been no one more dedicated to the causes of economic development in troubled countries than the Secretary of Commerce. There has been no one who has carried the message of new opportunities for U.S. business all over the world more diligently than Secretary Brown.

Last week, I addressed my thoughts with regard to the many extraordinary accomplishments of Secretary Brown. I will not do so again this morning except to say that his loss will be mourned and his effort will, again, be realized for what it was: a major achievement in peace, a major achievement in creating new-found opportunities for U.S. businesses abroad, and a major opportunity for countries to continue to find new ways to work and to conduct business with the United States.

His peace effort, on behalf of this country and the people of the former Yugoslavia, was deeply appreciated. And I must say, every place we went, it was the first issue to be raised with me by governmental leaders and others who mourned his loss and recognized his contribution. They expressed the hope that his effort would continue, that through other people and in other ways, the extraordinary accomplishments of the Secretary of Commerce would be continued.

So, while our trip began on a very sad and somber note, our entire delegation chose to continue with it, in part, to show the people of Bosnia and the entire region that the United States remains committed to the peace and development effort for which Ron Brown gave his life.

The Dayton accord has meant a lot of things to a lot of countries and a lot of people, but I think it is fair to say that today in the former Yugoslavia there exists what is termed a "cold peace." We see a lot of opportunity for those who have confronted one another politically and militarily to find peaceful solutions, and there has been progress in that regard. But there is a long, long way to go.

As we traveled to all of the countries that comprise the former Yugoslavia—Bosnia, Serbia, the former Yugoslav Republic of Macedonia, Croatia, Slovenia—as well as Albania and Hungary, we could see the tremendous success that has been generated, in part by the courageous new leadership in each of these countries.

There can be no better success story thus far in this area than what we witnessed in Slovenia: a dynamic private sector working daily and weekly to become more a part of the West; economic success very evident as we walked the streets; political success, very evident as we listened to the debate.

Slovenia may be the first and the strongest, but there are others, too.

We were extremely pleased at the progress we saw in the former Yugoslav Republic of Macedonia, the only country of the former Yugoslavia to make a completely peaceful transition to independence. Without a doubt, their peaceful existence today can be tied directly to a decision made initially by former President George Bush—and later carried out by President Bill Clinton—to send a meager 200 troops along the Macedonian border. There are now 550 U.S. troops stationed there.

Were it not for those troops, there is no doubt, in my mind at least, that Macedonia, too, could have been engaged in war. Those troops singlehandedly stopped the conflict that we see so prevalent in so many other areas of the former Yugoslavia. We owe a great debt of gratitude to those brave people who still today patrol the Macedonian border in 10 remote locations for 21 days at a time, patrolling, watching, observing with great diligence the activity along the Macedonian border.

The visibility of American peacekeepers in Bosnia and at the Macedonian border—the knowledge that they are there—has served as a very strong warning to all countries in the region that we will not tolerate—we will not tolerate—the conflict that we have seen elsewhere. Because of that presence—I must say, only because of the U.S. presence—we see peace today.

In terms of successful transitions toward democracy, much can also be said for Albania, frankly. The work there under President Berisha has been extraordinarily impressive. I must say, of

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

VOL
142
PT
6
AP
15
—
24
1996
UMI

all countries I have ever visited, none has needed democracy and privatization more. Under the Communist regime, the construction of more than 600,000 concrete and steel bunkers is evident regardless of where you are. They are ubiquitous reminders of the paranoia of the past, demonstrated through virtually every aspect of public policy in that country.

It is clear the Albanians have suffered a great deal. My generation, those people who were born after the war, feeling the full brunt of Communist rule, a totalitarian dictatorship, could not possibly have imagined what freedom could now entail. But it is freedom they are now enjoying. It is democracy they are now growing. It is free enterprise they are now pursuing. We applaud them in their efforts and find remarkable progress in the very short time that they have had the opportunity to pursue that freedom, to pursue that new future.

Perhaps our travels to Slovenia, Albania, and the other republics of the former Yugoslavia made our visit to Bosnia all the more tragic. Bosnia is a beautiful country, with mountains and idyllic scenes of winding streams through small villages of burnt orange tile roofs. The idyllic areas and the extraordinary beauty make all the more tragic the scene there now.

In all my travels, and having seen all the pictures we are provided on television and in the newspapers and magazines and books, there is no way one could be prepared for the incredible scene that one witnesses as soon as you get off the airplane in Sarajevo. The devastation cannot be fully appreciated unless you see it with your own eyes. There is no building untouched. Most buildings are virtually blown away, roads completely destroyed, bridges out, buildings without windows, houses without roofs, rubble in virtually every direction.

Not only is there devastation, but there is danger. We are told there are more than 3 million landmines planted throughout that country. Almost daily people become victims of these mines. Limbs blown away, lives destroyed, given up because those mines continue to be so dangerous.

Unfortunately, it is hard to describe what this conflict has been all about. It is not over political philosophy. It is not over economic determinism. It is over ethnic differences and ultranationalism, fanned in the flames of rhetoric by leaders outside Bosnia.

Admira Ismic and Bosko Brekic were two people who felt the full brunt of this ultranationalism and this war between ethnic groups. They lived outside of Sarajevo, both 25 years old. They grew up together, fell in love as high school sweethearts and decided to go to college together in Sarajevo. They were chemistry students, very good students.

In 1992, as they became increasingly concerned with the thousands and thousands of weapons raining in on Sarajevo, they, like many others, asked for safe passage out of that war-torn city. They had been given assurances from both sides that they would be given safe passage. They packed their meager belongings as college students, put them on their backs, and began walking down a road and across a bridge. They were only about halfway across the bridge when Bosko was shot in the back. It was not long after that—moments—that Admira was shot, too. They both fell in the middle of that bridge, embracing one another; and there they died.

They were left there in the sun on that bridge for 8 days, according to Associated Press reports. Finally, during the middle of the night, because both sides continued to argue as to who was at fault, they were buried right next to the bridge, and there they lay for 3 years.

During the week we were there, Admira's and Bosko's bodies were exhumed and moved to another cemetery in Sarajevo.

Cemeteries carry a special significance in Bosnia. You see them everywhere. Soccer fields are now cemeteries; city parks are now the sites of thousands and thousands of additional graves. Admira's and Bosko's grave will be among them. They were buried together during the week we were there. Her father expressed both sadness and exhilaration. Sadness that life could be taken from two such young, promising students who could give so much to their country, but exhilaration that, after 3 long years, in peace he could bury them in a permanent location.

He said, "I was worried that I, too, would be killed prior to the time I could accomplish this task." Admira and Bosko's story is but one of thousands and thousands of stories just like that. The number of people buried in mass graves now is estimated to be over 300,000—tens of thousands of people amassed together, their families robbed of even the opportunity to mourn for them individually. They are mourned, but not forgotten.

Mr. President, now there is peace. There is no more war. The shooting has ended. People are crossing that bridge freely. Life is coming back to the city. One day, in my view, Bosnia and all the other countries that once comprised Yugoslavia can flourish. They can flourish, like Slovenia, like Macedonia. There is no doubt in my mind that with proper political leadership, with the opportunity to continue to experience some stability, indeed, there is a possibility that all of these countries could experience democracy.

So, I have four observations in closing, having had the opportunity to travel through this war-torn, yet extraordinarily beautiful area. The first is that this President, this administration, Assistant Secretary of State Richard Holbrooke, and so many others who personally made the contribution to achieve meaningful peace in Dayton deserve a great deal of credit. It was courageous. Everyone recognizes how many times others have tried and failed, but this worked. This worked, in my view, because the United States put its moral, military, and diplomatic strength behind it.

We would have failed had the United States not been willing to commit its credibility, its resources, and its talent to the task in spite of the political risks involved. This administration ought to be given our gratitude and the credit it deserves for showing the kind of leadership required at times like this.

Second, let me say that we have never been better served by anybody than we are now being served by our U.S. military and Foreign Service personnel. Adm. Leighton Smith, Gen. Bill Nash, our Ambassadors, those who are attempting in what has to be some of the worst circumstances any of our personnel have faced in post-cold-war periods anywhere deserve our thanks.

We have not been served better. We were told that in Sarajevo for many months Foreign Service personnel were not only required to work in what were clearly unacceptable circumstances, but they were required to live there, to eat there, to sleep there, to exist there for month after month after month without even the opportunity to leave the Embassy. And yet they did so, demonstrating all the professionalism that we could probably expect, even as they watched this Congress shut the Government down, and as they attempted to explain to those Bosnian nationals who were working for the United States Government, in particular, why we could not pay them. They worked anyway. They carried on their mission as best they could.

So it was with our U.S. military. In mud that had to have been 10 inches deep, in tents and in buildings on top of a hill, they tried as best they could to establish a presence from which to carry on their operations. Soldiers told us that one night, after having just constructed their tents and established their infrastructure in this base, 80-mile-per-hour winds blew it down, blew down equipment, blew down tents, blew down virtually everything that was standing. So, again, the next morning, with the determination we have come to expect from the U.S. military, they put it all back, determined to carry out the mission as only the U.S. military can.

As we traveled all through Bosnia and all the former Republics of Yugoslavia, the one thing we were told over and over again is that while it may be a 32-country mission, the fact is one

country made the difference, one country made it happen, one country made it all possible. One country had the credibility, the stature, the power to bring peace to this region. That one country is well represented by our military and Foreign Service personnel.

My third observation is that we must applaud the people of the former Yugoslavia, especially those in Bosnia, for their resiliency, their determination to find peace, tranquility, stability, economic vitality, and, yes, a political opportunity to achieve the same level of democracy as others in the region. That determination could not have been more evident.

I thought it was a poignant metaphor to be standing on a hill in Sarajevo overlooking two soccer fields. One soccer field was filled with crosses, thousands and thousands of crosses marking the graves of casualties of the war. The other soccer field was filled with mud and young boys playing soccer, mud on every inch of their bodies, determined to play, recognizing that in the field just next to them lay their former friends and relatives, brothers and sisters.

It is that determination, that willingness to survive it all; to confront it all, that we found in great abundance throughout the country. Certainly, we applaud the people in all of these Republics, in all of these countries, struggling to achieve democracy, for their determination and their ability to accomplish what they know they can.

Finally, Mr. President, we ask frequently as we traveled through each country, "Tell us why a skeptical South Dakotan or a skeptical American ought to agree that our presence there is in our best interest. How would you tell him or her that our troops, our personnel ought to be there, and what is it about the American interests that would convince a skeptical American that they should stay, at least through the end of this year?"

I think the answer, as given on so many occasions in such eloquent fashion, simply came down to this: "Only you can make it happen. Only you can ensure that the progress you are seeing continues." A Slovenian perhaps said it best when he looked me in the eye as we were discussing this, and he said, "Let me tell you very honestly, in the short-term there is nothing in it for you—nothing. But in the long term, you who espouse democracy, who have enjoyed it for 200 years, have the opportunity to see people who have lived for generations under tyranny, under dictatorship, under communism, now breathe freely under democracy. We, the small, struggling republics, could be like you."

"What is that worth? How much is that worth to you?"

He said, "New little countries are like children: They fight sometimes, often unnecessarily. They need a firm hand. They need guidance. They need somebody to watch over them as they struggle to grow. And you—well, you are like a big brother. You are the only one we've got. You can turn away or you can stay. It's up to you."

Mr. President, let us hope these democracies—these children—continue to grow. Let us hope that the people of these wonderful little countries continue to experience democracy and free enterprise. Let us hope that as they do, we have the courage and the dedication and the opportunity to make little, weak democracies strong ones. That is what this is all about.

Let me say it again, were it not for the courage and the commitment of this administration, our military, and Foreign Service personnel, little countries would have no reason to dream, would have no opportunity to experience what we in this great country experience each and every morning when we wake up.

Mr. President, I see the distinguished Senator from Washington waiting to speak. I had another statement, but I will wait until she has concluded before I make that statement. I yield the floor.

Mrs. MURRAY. Mr. President, let me congratulate my colleague, the minority leader, for an excellent statement. I hope that all of our colleagues take time to read it. Certainly, we do stop and question our role in the world often on this floor, and I think the words that Senator DASCHLE just gave to us are words that we all should heed. I appreciate his statement.

IN OPPOSITION TO RIDERS ATTACHED TO THE INTERIOR APPROPRIATIONS BILL

Mrs. MURRAY. Mr. President, today is Earth Day. It is a day that many young people and adults across our country take time out to plant a tree, clean up a river or a lakeside, and to make the statement that each of us has a responsibility to pass on a safe, clean, healthy, and secure environment to the generations that come behind us.

Mr. President, today I use Earth Day to voice my concerns with the many riders that are attached to the Interior section I of the omnibus appropriations bill that is currently in conference. These riders, I believe, are not good policies for today or for tomorrow, and they certainly go against the concept that Earth Day was designed to highlight.

Mr. President, I am particularly concerned about three riders that most directly affect my home State of Washington. The riders are the limitations to the interior Columbia basin ecosystem management project, the restricted timber salvage provisions, and the threats to the Lummi Nation.

Mr. President, let me begin with the Columbia basin ecosystem management project. Most people in this Chamber know little about the Columbia basin project. I would like to change that today by explaining briefly what the project is and what its creators hope to accomplish.

This project is a joint planning effort by the Forest Service and the Bureau of Land Management to develop a scientifically sound ecosystem-based strategy for managing the forests and the lands of the interior Columbia basin. Its most salient feature is that it is one of the first attempts made in natural resource policy to get ahead of the problem, rather than simply reacting to it. Its original proponents, Senator HATFIELD and former Speaker Foley, had dealt firsthand with the spotted owl controversy and wanted to attack the problems of the inland West differently.

In addition—and this may come as a surprise to my colleagues—almost everyone, from commodity interests to environmental activists, agrees that we have problems with the ecosystems of the inland West. They agree on something. So let us use that consensus to figure out how to manage these damaged or unhealthy lands. We need to develop a plan to ensure sustainable commodity production, healthy fish stocks and wildlife populations, and protection of ecosystems. That is what the Columbia basin project attempts to do.

Unfortunately, some commodity interests are afraid of this project. I don't want to discount their fear, because I know some businesses have been hurt by changing Federal policies and lawsuits. However, the limitations imposed in the Interior appropriations rider will too severely restrict sound resource management, ecosystem restoration, and decisionmaking.

At every stage of this lengthy appropriations process, I have tried to improve the Columbia basin provisions, since I knew I did not have the votes to strike the section. I was successful in two areas. First, we have allowed the agencies to spend up to $4 million to finish this important project. This is a dramatic improvement over the original House bill, which prohibited any money from being spent for implementation of the project and which allowed only $600,000 to be spent to complete the project.

The second important change I fought for was the removal of shackles from the scientists. The bill had limited the scientific assessment to such things as forest land management and had prohibited study of anything else. The omnibus appropriations bill now allows a scientific assessment of the entire ecosystem, not just that portion of the system primarily affecting commodity production.

So, the Columbia basin project provisions have improved somewhat from

VOL
142
PT
6
AP
15
—
24
1996
UMI

what the House originally proposed. However, serious, serious problems remain. The most wrongheaded provision is that shielding many timber sales, mining operations, and other projects from Endangered Species Act consultation. Any national forest or BLM district may, at its discretion, amend the plans in place for protecting threatened fish and wildlife, namely PACFISH and INFISH, and thereby avoid later consultation on potentially harmful activities.

This provision is made worse by another limitation imposed in the appropriations bill: The agencies may not select preferred management alternatives in the draft environmental impact statements or publish a record of decision. These restrictions on implementation of the National Environmental Policy Act thwart decisionmaking about management decisions that affect diverse and wide-ranging species, such as salmon and bull trout. It allows individual forests to alter existing fish and wildlife protections in any manner they desire and then escape ESA consultation scrutiny on individual projects and timber sales.

Mr. President, sufficiency language regarding the ESA and NEPA is very popular with this Congress. I believe that limiting consultation, restricting public review, and piecemeal management of public lands is a bad way to manage our Nation's resources. I urge the conferees to strip the entire Columbia basin project section. In the alternative, the conferees should delete the ESA and NEPA sufficiency language and allow the agencies to select a preferred alternative and publish a record of decision providing direction regarding the best management alternative.

TIMBER SALVAGE

Last month I offered an amendment to repeal the timber salvage rider and replace it with a long-term timber salvage program. Unfortunately, the majority voted against my amendment, deciding the agencies should not be required to comply with environmental laws and should be protected from public challenge of their decisions. After the defeat of my amendment, the omnibus appropriations bill went forward with language contained in the chairman's mark designed to solve a few of the problems associated with the timber salvage rider, by only a few.

Let me be clear. I appreciate the efforts of Chairman HATFIELD to get these modest changes included in the timber salvage rider. They move in the right direction, but simply do not go far enough.

The major flaws with the salvage provisions in the omnibus appropriations bill are: First, they do not give the agencies sufficient authority to withhold sales and/or suspend harvesting where there is serious environmental damage; second, they extend the sufficiency granted these controversial old growth sales indefinitely; third, they provide language in the report that attempts to influence ongoing marbled murrelet litigation; fourth, they give too much power to timber sale contract holders in negotiations; fifth, they restrict the timeliness for buy-one provisions and alternative volume; and sixth, they provide no money to fund buyouts.

I urge the conferees to work with the administration to improve these provisions because they could provide needed flexibility on these highly controversial and damaging old growth sales. We need to provide timber purchasers with fair replacement volume or buy out their contracts as quickly as possible and ease growing tensions in the Pacific Northwest.

The anger and frustration of many citizens concerned about ecosystem health and protection of our forests is increasing. We must act quickly to avoid harming key watersheds and important old growth ecosystems. The time is now.

THE LUMMI NATION

Another provision I continue to oppose is that preventing the Lummi Nation, and potentially other tribes, from exercising their water rights on tribal lands. The Lummis and other parties, including non-Indian landholders, are engaged in negotiations that appear to be going very well. I appreciate the willingness of Senator GORTON to remove language that would likely have derailed these negotiations. However, the language still existing in the omnibus appropriations bill is counterproductive and simply ignores the history of the dispute. In addition, that language represents a threat to tribal sovereignty and sets an extremely poor precedent for government-to-government relations.

From the day I first became aware of this language I have been trying to remove or modify it because I respect tribal and local efforts to resolve the issue. Unfortunately, despite repeated efforts to develop compromise language that would serve all parties' interests; despite repeated opposition from leading tribal policy experts in Congress; despite veto threats, as evidenced in the statement of administration policy; and despite the continued progress of negotiations, the provision remains virtually unchanged.

There is only one purpose for this provision: to threaten and coerce the Lummi people. This is the wrong way to encourage negotiated settlement of a controversial, far-reaching, and complicated dispute over tribal water rights. I urge the conferees to remove the punitive language and allow the affected people and governments to solve this problem.

Mr. President, some of my colleagues have argued that the concerns expressed by the administration have been sufficiently addressed. While I agree that progress has been made and appreciated the many concessions both sides have made in the omnibus appropriations bill, I want to state clearly that serious concerns, expressed in writing by the administration, myself and others, remain unaddressed.

Mr. President, we are already more than halfway through fiscal year 1996. We need to rid this bill of these three controversial riders, other antienvironmental riders, and others, such as those addressing individual transferable quotas for our fisheries and HIV-positive military personnel.

We need to govern. We need to fund our Government through the appropriations process and set policy through the authorizations process. Let us strip these riders and send a clean spending bill to the President—and get on with governing. It would be the right message for Earth Day.

UNANIMOUS-CONSENT AGREEMENT

Mrs. MURRAY. Mr. President, I ask unanimous consent that 15 minutes of the Democratic leader's time be reserved for Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to be recognized for the purposes of morning business for such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

EARTH DAY

Mrs. FEINSTEIN. Mr. President, today marks Earth Day. It is a day to celebrate our past achievements in protecting the environment. It is also a day, I hope, to rededicate ourselves to environmental protection.

I think, without question, over the last 26 years since the first Earth Day in 1970, we have made enormous environmental gains. We have taken steps to clean up our air and our water, cut toxic emissions from factories by 50 percent—that is in half—and we have taken steps to prevent pollution that threatens our children's health.

I remember when my own city, San Francisco, used to pollute the bay and the ocean through 40 different outlets all around the city. The water in the San Francisco Bay has been cleaned

up. Dungeness crab has come back to the bay. And I know that this is appreciated by all our citizens: Lead levels in children's blood has been cut by 70 percent. We have worked to protect our remaining wild places and to wisely manage irreplaceable natural resources. But in spite of these accomplishments, much, much work remains to be done.

According to the Environmental Protection Agency, 50 million Americans every year drink tap water which fails to meet at least one Federal health standard. About 1 million people each year become ill from drinking unsafe tap water, the Centers for Disease Control reports.

Toxic air pollutants need to be regulated to protect public health. According to the Environmental Protection Agency, exposure to particulate matter may result in as many as 70,000 premature deaths each year. In my own State, in Los Angeles County, children actually grow up in Los Angeles with reduced lung capacity because of pollution.

There are 1,290 toxic sites on the Superfund national cleanup priority list, and they include 96 in my own State of California. One in four Americans lives within 4 miles of a Superfund site. These sites must be cleaned up. So we need to move forward. Instead, our past environmental achievements are being threatened often by this very Congress, by efforts to roll back existing environmental laws.

Of immediate concern is the omnibus appropriations bill which contains more than a dozen riders, riders which would roll back existing environmental protection. Many have proposed cuts in funds that assist States in providing clean, safe drinking water to Americans. They have proposed cuts that would affect the Environmental Protection Agency's ability to enforce the Clean Air Act and to issue new standards for toxic air pollutants. They have proposed cuts in the Superfund Program, which would jeopardize cleanup of over 400 of the worst toxic waste sites around the country.

One of them is Iron Mountain mine in Redding, CA. This is an old vacant chemical mine with a huge hole in it. The hole is as big as a 30-story office building, and when it rains the water and the air interact with the metals within the mountain, and it throws off sulfuric acid, which then drains into the river and metallizes the river banks. This is one of California's urgent priority Superfund sites that needs cleanup.

Also of particular interest to me and to the people of California is the rider on the Mojave National Preserve, the newest unit of our National Park Service System. The conferees on the omnibus appropriations bill have agreed to a revised rider for the National Mojave Preserve that, like the earlier versions, is intended to overturn provisions of the California Desert Protection Act and strip national park protection for the Mojave National Preserve. The new rider reinstates multiple-use management of the east Mojave, management which allowed open pit mining, cross-country motorcycle racers, and other destructive activities to occur in the area.

In 1994, Congress overwhelmingly approved the California Desert Protection Act, which I authored, and which established the Mojave National Preserve. That national preserve was already a compromise. I would have had it a national park, but Congress agreed that the Mojave qualified as a national park and should be managed by the National Park Service under park, not multiple-use, regulations. The Desert Protection Act transferred management of the Mojave from the Bureau of Land Management to the National Park Service so the area would receive the protection and the care that it deserves.

The National Park Service opened a new visitor center and improved law enforcement. It actually made arrests and shut down a methamphetamine lab, and it improved resource protection. Visitation to the area increased substantially and motels, restaurants, and other businesses in the nearby communities flourished as a result.

Now the Mojave rider on the omnibus appropriations bill seeks to reverse that decision. The omnibus appropriations bill appropriates funding for the National Park Service to manage the Mojave National Preserve, but it requires the agency to administer the area as a multiple-use area before passage of the California Desert Protection Act. In other words, it pretends that the Desert Protection Act, overwhelmingly passed by both Houses and signed by the President, does not really exist.

This multiple-use management permits a wide variety of development activities which degrades the area's outstanding natural and cultural resources. Specifically, the new rider requires the National Park Service to manage the Mojave under the historic management practices of the Bureau of Land Management rather than under the policies and regulations of the National Park Service.

This establishes a dangerous precedent.

While early language that attempted to transfer control of the Mojave to the Bureau of Land Management has been dropped, the new rider could be interpreted to require the National Park Service to approve resource-damaging activities that were previously allowed within the Mojave before its designation. That would include off-road vehicle races, open pit mining, garbage dumps, and uncontrolled use of firearms.

Many are particularly concerned that one of the reasons for this rider is to permit this kind of open pit mining in the New York mountains.

In my legislation, we very carefully maintain that existing mining uses, those with existing permits, would be able to continue, so that no jobs would be lost. But apparently there are those who even want to go in and open pit mine some of the more fragile areas of this preserve.

This new rider could be interpreted to allow unlimited use of motorized vehicles in wilderness areas. The new rider sets the stage for litigation over its interpretation, and the new rider limits funding for the Mojave to less than one-half what the Park Service estimated would be required in FY 1996.

The statement of managers accompanying the rider requires the Appropriations Committees to approve the preserve's general management plan. This gives authority to committee members to dictate provisions of a park management plan for the first time in the history of this kind of legislation. In sum, it leaves the east Mojave a national preserve in name only, and no one is fooled by that.

The Mojave has been discussed and debated in the House and Senate for 8 years now. The California Desert Protection Act, which passed in the last Congress and was signed by the President, as I have already stated, was a substantial compromise. Rather than carrying out the intent of the legislation, which was to have a national preserve under National Park Service management, we see in the omnibus appropriations bill further efforts to erode and destroy the Desert Protection Act. This, frankly, is unconscionable. It is absolutely contrary to the wishes of the people of the State of California.

A Field Institute poll, an objective poll, conducted in December of last year, shows continuing, overwhelming support; 85 percent of Californians support keeping east Mojave a national park—85 percent. In every region of the State, people overwhelmingly support keeping the Mojave as a national park.

As we celebrate Earth Day, Congress, I believe, should strip all environmental riders, including the Mojave rider, from the omnibus appropriations bill. That is what Congress can do right now to continue our commitment to environmental protection.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). Who seeks recognition?

Does the Senator note the absence of a quorum?

Mrs. FEINSTEIN. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota is recognized.

EARTH DAY LEGACY

Mr. DASCHLE. Mr. President, Teddy Roosevelt said that, "Conservation is a great moral issue, for it involves the patriotic duty of ensuring the safety and continuance of the nation."

As a result of the translation of that ethic into the legislative process, and the foresight of our political predecessors, the United States today leads the world in efforts to protect the environment.

Our laws have become models for other nations' efforts to grapple with their own air and water pollution and wildlife conservation challenges. And, as a result of this commitment to a healthier environment, the United States has succeeded in reversing the course of environmental degradation that we followed for too long.

Today, on Earth Day, rivers and lakes are cleaner, waste is being disposed in a more secure and responsible manner, and the air most of us breath contains fewer dangerous pollutants, such as lead. We can rejoice at the progress made.

Congress and a number of Republican and Democratic Presidents can and should take credit for this accomplishment.

The tangible environmental success this Nation has experienced over the last three decades is one of the reasons I have been so disappointed by the direction of the debate over the environment in the 104th Congress.

It is as though too many of us have forgotten the environmental challenges we have faced and overcome since President Nixon create the Environmental Protection Agency and Congress began its legislative journey that produced: The Safe Drinking Water Act, the Clean Water Act, Superfund, the Resource Conservation and Recovery Act, and the rest of the laws that make up the canon known as American environmental law.

Collectively, that body of law represents one of the most important legacies we will leave our children and grandchildren.

I hope the fabric created by those laws will not be stretched and torn. I hope the quality of our environment that results from implementation of those laws will not be sacrificed to short-term political considerations.

We need to embrace opportunities to improve and refine the impressive body of environmental law that has been developed over the last three decades.

In the spirit of that bipartisan legacy, today—Earth Day—I urge my colleagues on both sides of the aisle to embrace their legislative heritage and work to protect and strengthen it. The contribution of this generation of lawmakers to that impressive body of law should be one of thoughtful improvement, drawing upon the lessons learned from past implementation of those very laws.

We should continue to search the fabric of our laws and seek to repair the rips and the frayed ends.

We should seek commonsense solutions to our remaining environmental problems.

In doing so, we should work to find consensus, as we have even in this partisan year with the passage in the Senate, unanimously, of the Safe Drinking Water Act and the recently enacted small business regulatory reform bill.

As we stand here on Earth Day and survey the few months remaining in this legislative session, let us resolve to keep the fabric of American environmental law whole. Let us not turn back the clock on the accomplishments of a generation.

In that regard, just on Friday, 41 of our colleagues here in the Senate joined with me in sending a letter to our majority leader and the Speaker, to indicate our strong determination not to roll back the standards affecting clean air; not to weaken the regulations relating to safe drinking water or industrial polluters; not to slow down or stop the cleanup of hazardous waste sites; not to weaken the community right-to-know laws, such as the toxic release inventory; not to abolish protections for endangered species and all the other efforts that are underway.

It is our view that we have a sufficient number of votes to extend debate for whatever length of time, if that is required to protect the laws that we have steadfastly supported over the last generation. It is our strong desire, our sincere hope, that extended debate on any of these efforts will not be necessary, that we can work together to resolve our differences and to continue to build upon the impressive record that we have now generated over the last three decades.

So, as we stand here on Earth Day, let us again renew our commitment to work together to eliminate those threats to the environment that we see yet today. Let us eliminate the antienvironmental riders from the appropriations bill this week, to demonstrate our commitment to Earth Day, to demonstrate our resolve, continuing to build on the impressive record that we have achieved. On the major environmental laws that are being reauthorized, let us work to find ways in which to strengthen those laws, enact new ones where we identify new ones are needed, and leave future generations with a clean and healthy environment.

As Teddy Roosevelt stated nearly a century ago, that is truly our patriotic duty. It is one I believe every Member of this body can and should embrace on this day, on all days.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. COVERDELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia has the floor.

Mr. COVERDELL. Mr. President, parliamentary inquiry. It is my understanding that the time from 12:30 to 2 o'clock has been designated to myself or management; is that correct?

The PRESIDING OFFICER. The Senator is correct.

EARTH DAY AND THE ENVIRONMENT

Mr. COVERDELL. Mr. President, as we all know now, today is Earth Day, a day dedicated to remembering our commitment to the environment, to the future, a commitment on the part of every generation of Americans to assure that those who come behind us will not be jeopardized by contemporary actions and, better, that those who follow us will have the opportunities to enjoy a healthy environment—an environment in which recreation can be pursued, an environment in which future generations will not be troubled by the water they drink, by the air they breathe, by the environment in which they live.

There has been a lot of rhetoric in this 104th Congress, finger pointing about who is for the environment and who is not for the environment. I do not know anybody who is not for an improved environment; at least I have not met them.

In all the discussion, though, a little-told story is that this Congress has passed one of the most historic pieces of environmental legislation in the history of our country. I will quote from F. Graham Liles, Jr., who is executive director of the Georgia Soil and Water Conservation Commission. It is a letter addressed to me dated April 11, 1996. He says:

> With regard to the new Farm Bill, I feel this is probably the strongest conservation legislation to have been signed in decades.

I do not believe that, when we were considering the farm bill, it was generally acknowledged that that legislation is monumental environmental legislation that this Congress can take credit for, that it will be a legacy of the 104th Congress. Yes, the farm bill does bring about monumental change in marketing reforms, in flexibility in terms of farmer planning, vast savings in these Government programs. But the untold story is the environmental effect of the legislation.

Another general thought—I am going to describe some of these achievements, but this is the kind of environmental legislation that is logical, that in my judgment creates the appropriate balance between the stewards of the land and public policy. It is characterized by a word called "partnership." I do not think we can say this is the case in each of our environmental laws. But here in this new farm bill the concept of partnering, shared responsibility, working together to produce a positive result is well rooted in the legislation. Therefore, it can become a benchmark, a guide, something to point to in terms of the manner in which we should design future legislation designed to protect the environment.

Under the farm bill conservation title, as I said, the bill is hailed by many, including the American Farm Bureau, as "the most environmentally responsible farm legislation in history." In the State of Georgia, the soil and water conservation commission, as I just quoted, calls it the strongest conservation legislation to have been signed in decades.

Under the conservation title, it reauthorizes the following programs:

The Conservation Reserve Program. Under this program landowners idle highly erodible farmland in exchange for payments—partnership. This is the Government working with the stewards of the land. Under this program soil erosion rates in my State of Georgia have dropped 50 percent. The Speaker often refers to producing effect more than effort. This is effect—reducing erosion rates in Georgia by 50 percent. And 36.5 million acres of sensitive farmland nationwide is being protected under the Conservation Reserve Program.

We hear a lot of discussion about wetlands and our desire to protect them. This new farm bill focuses on wetlands. Under this provision of the bill, farmers enter into cooperative easement arrangements with the Government. Once again, Mr. President, partnership. Generally, permanent or 30-year easements are arranged and a farmer is compensated. It is a cooperative arrangement. Under these provisions, we will protect nearly 1 million acres of wetlands nationwide.

Fish and Wildlife Service oversight is replaced by State technical committees. We are moving the decisions to the States.

The Forestry Incentive Program. Farmers are provided with cost share agreements with the Department of Agriculture designed to plant trees on private land. The program is simple—incentives to plant more trees. In my State, we have over 800 participants. We have planted over 10,000 acres of new trees. That is just Georgia alone; 10,000 acres of new trees. This program has put trees on land that would have ordinarily been used for other purposes.

New programs that were authorized in this bill:

The Environmental Quality Incentive Program, the EQIP program. This is the cornerstone of the conservation title for soil and water quality restoration and enhancement. Its highlights are: The program targets $1.2 billion over 7 years to assist crop and livestock producers in building environmental improvements on the farm, including animal waste facilities, grass waterways, filterstrips, and other practices geared toward land preservation.

Mr. President, partnership. Here, again, in each one of these titles we see a new roadmap to the work on the environment, working with, as partners and facilitators, stewards of the land itself.

Farms for the Future Program. This program will provide $35 million to buy easements on prime American farmland in areas where they are threatened. Some of the best farmland is being swallowed by development. This program understands that and tries to ease the burden of the development. This money will protect our country's best farmland from urban sprawl and will preserve it for future generations, as I said a moment ago, trying to preserve and keep for our future generations historical and environmentally sound areas for them to visit and study and review.

Wildlife Habitat Enhancement Program, the WHEP Program. You have to have an acronym for everything here. The WHEP Program will provide $10 million per year for cost-share payments to farmers who improve their wildlife habitat for upland and wetland wildlife. Again, partnership, Mr. President, working with the stewards of the land. This is especially important for States like mine with extensive bird and riparian populations. This is a win-win for naturalists and sportsmen alike.

The Florida Everglades restoration. Congress has resolved to clean up the Florida Everglades by providing $200 million for acquisition, easements, and other restoration activities. Congress here, instead of talking, has taken action by cleaning up the Everglades. This method of cleanup will allow farmers to survive and will repair the land in a unique partnership.

So, Mr. President, I reiterate that we have created in this historic piece of legislation conservation efforts, efforts to protect wetlands and include wetlands in the reserve. Forestry, the planting of new trees, the protection of environmental quality, the Farms for the Future Program, wildlife habitat and the Everglades—all of these environmental programs are encompassed in the new farm bill. This is a new historic piece of legislation, not only with regard to the farm programs, but with regard and with the intent to partner with the stewards of the land, these great protectors of the land, because no one has a greater interest in protecting the environment than our farming and agricultural community.

This is the stamp that demonstrates that very fact.

Mr. President, in the debate with regard to environmental legislation, as I said when I made an opening statement, there is a lot of rhetoric that follows the environment. It is often politicized extensively. We do, as I said in scoping out the word "partnership" have to be conscious of a balance between protecting the environment and protecting the fundamental rights of the owners of our land, of securing an appropriate balance in terms of the burden and costs of the environmental legislation. We cannot ignore the fact that some of our work in the environment has posed great questions for us with regard to cost and logic.

Some of the bureaucrats, some of the regulators, in my judgment, have forgotten this concept we call partnership. They are in the business of imparting a word that was more reminiscent of arrogance, bossism, pushiness. Let me just give a couple of examples of the kind of thing that I think most Americans find illogical.

There is a gentleman by the name of Junior Childress. He is from Alabama. He has a radiator repair store. He thought he could be environmentally correct and start a nest egg at the same time when he took a load of car batteries to Interstate Lead Co. for recycling in 1985. Here we have a radiator repairman. He took several batteries to the Interstate Lead Co. in 1985 and sold them to this other company for the monumental sum of $337.50. I repeat, he sold a handful of batteries to this other company for $337.50—an absolutely legal transaction, normally.

Subsequently—and by subsequently, I mean 9 years later; 9; a decade later—this company, Interstate Lead Co. was determined to be a Superfund site which alleged that they had not managed toxic material appropriately. They came under the scope of the Superfund cleanup. The problem is that the owner of Interstate Lead Co. had left the country in the decade and was residing somewhere in Germany. So under our new regulatory system they go through the transaction records and find everybody who has ever done business with this outfit and put them on a liability list. If the person responsible for it does not have the resources or has disappeared or died then we start going through the records and seeing anybody that ever did business with this Interstate Lead Co.

VOL 142 PT 6 AP 15 — 24 1996 UMI

Lo and behold, 9 years ago, Junior Childress sold them $337.50 worth of batteries, and because of that, 9 years later, finds himself and his family liable—liable—for the full responsibility, which is $90 million. That is not a very good financial transaction—$337.50; now he is on the hook for $90 million—he and 900 other people who were interacting and selling goods to this company.

This is the kind of illogical conclusion that, in my judgment, has done so much damage to the environment, because it makes people cynical. It makes them lose faith. Everybody who reads this story is going to say, "My heavens, what logic could there be in this? How in the world will we go back and unload on this man who sold a handful of batteries to this company 9 years ago," and wrap the arms of the Government around him and cause him to bear the burden of this liability?

I happen to know an individual in my own State who is in the business of recycling, recycling metal, recycling other goods, who has experienced this same threat. This company, no need to name it, is 100 years old. It is 100 years old. That family has been doing business in Atlanta, GA, for 100 years. They are as good a public citizen as you will ever meet. They are committed at every level of the community. They are good citizens. They are good stewards. They are good business people. Their company, after a century of operation, is at risk, all of their savings, all that they have built, all that they have stored, all of their work is at risk, for an incident just like this.

It is this kind of illogical behavior that is at the core of people asking us to change some of the way we manage our pursuit of a sound environment. This man, Junior Childress, my friend in Atlanta, GA, should not be staring down a double-barreled shotgun called the U.S. Government. They simply do not have any liability here. They have been good stewards. They did things the way they thought they should be done. Yet they are at risk.

It is this kind of illogical behavior—this does not help our pursuit of cleaning the environment, Mr. President. This hurts. I just described the farm bill and the logical flow of events between stewards and the Government. That helps. That produces a better environment. This hurts.

Mr. President, I see I have been joined by my good colleague from the State of Wyoming. I am going to yield up to 10 minutes to my colleague, the Senator from Wyoming.

Mr. THOMAS. Mr. President, I appreciate our colleague bringing us to the floor to talk today about the environment. Certainly, this is Earth Day, and we ought to talk about it.

We just have one Earth and one planet. There is more and more of us and we have the same amount of space. Clearly, we will have to pick up after ourselves. I suspect there is no one in this body, and indeed, very few anywhere, who would not agree with that.

There are differing views of the best way to do it, of course, to provide a healthy environment. There are questions of who should do it. Should it be left entirely to the central Government, to the Federal Government? Should we take advantage of the State and local expertise? Should there be incentives for the private sector to perform? Those are the kinds of questions that I think we need to be asking.

There should be questions about the balance between use and the economy and the environment, and how we have jobs and how we protect the environment at the same time. There is reason to disagree on those kinds of things. There is a question of whether or not there should be congressional oversight of the statutes of laws that have been passed. Many of them—indeed most of them—passed 20 years ago. Or whether or not there should be opposition to every effort to restructure some of these laws and, indeed, to sort of demonize every effort as if it is going to be gutted or rolled back when, in fact, the effort is to take a look at a bill that has been in place for 20 years and see if there are better ways to do it, to see if it could be done more efficiently. That is what it is about.

I am sorry there has been this sort of politicizing of this issue in this Congress. I think it is appropriate that we use Earth Day not just to look at the past environmental successes but to look to the future as well. The successes have been numerous, to say the least. You would not know it by the kind of "Chicken Little" rhetoric that comes from, I think, environmental extremists who would rather scare folks than deal with the facts. I hope we can stick with the facts. We do not do enough of that here. There is too much overstatement about "gutting" and "rolling back" when that is really not what is happening.

Look how far we have come since Earth Day in 1970. Our rivers, lakes and streams are vastly improved. The Potomac is a good example. It was a wasteland 20 years ago, and now families fish there on the weekends. I suppose we all come from a little different life experience. I grew up in Wapiti, WY, which I am sure you all have heard of. It is just a post office and a school halfway between Yellowstone Park and Cody. It is called by some the "most scenic 50 miles in the world." And it could be. In fact, we had the last place next to the forest, and all around us were wilderness areas. I do not think there is anybody who has a stronger feeling or a caring for the environment than I do coming from there.

On the other hand, you may have come from a city where there was excessive pollution, and that is your experience. But now our air is cleaner, according to EPA. Particulate matter emissions have been reduced 60 percent. VOC's have been reduced 25 percent. Carbon monoxide has been reduced 40 percent. Lead emissions have been reduced by 96 percent. All emissions have been reduced by a third. That is great.

Wildlife populations are increasing, such as the bald eagle, white-tailed deer, elk, moose, bighorn sheep, and wild turkey. Simply put, the environment is cleaner now than at any time in the last 50 years. Americans are living longer and healthier because of that. We can be very proud of that. Both Democrats and Republicans have been a big part of this success during the 26 years since the first Earth Day. For 18 of those years, there was a Republican President in the White House. So we can all share in this movement forward on a nonpartisan issue.

However, despite all that we have done, we still have some things to address, certainly. Unfortunately, we are now trying to solve 21st century environmental problems with laws designed a quarter of a century ago. One of the areas in which I happen to be involved is endangered species. I do not know of anybody that does not want to protect endangered species. Certainly, I do, and everybody I know on our committee wants to do that. It has been up for reauthorization now for 3 years. It has not been reauthorized. It is not doing as well as it might be. It is not doing as well because we need to do something about peer review for science.

I went to a hearing out west, and we had scientists from both sides of the issue, from lumber people to environmentalist scientists, and you would never know they were talking about the same thing. If you want science to be the basis, we need to change that. We need peer review. We need to set priorities. There is a finite amount of money, so which of these endangered species do we put our money into. Are they all equally valuable? I do not know.

We have to do something to encourage private landowners to be more interested in endangered species. Now, frankly, in my State, if someone discovers an endangered species on their ranch or property, they are hesitant to know about it, because it might mean you cannot use your property for anything else. We need to find a way so that private owners can say, "Let us work on that."

So we have to update these things. That is what we are seeking to do. But this year, unfortunately, every time we take a look at how we might change it and make it more effective and efficient, then we are confronted with this "we are going to save you" idea. Frankly, the administration has led that. Regarding everything that has happened, the President is going to

"save you" from those crazies in the Congress.

We have to start using some facts and we have to start really dealing with what the issues are. And I hope that this Earth Day will cause us to help do that. I think we can utilize the vast expertise local people have. All of these efforts will help us. I think there has to be, obviously, some balance. There are different kinds of environmental places, of course—parks and wilderness and forests—and many of those things should be set aside for single use. But the vast majority of Federal lands should be managed for multiple use. I am thinking about the West, particularly, because that is where I am from. Those are multiple use lands and we can find a balance between jobs, the economy, and protecting the environment; I am confident of that. It does not have to be one or the other. That is what we are seeking to do.

Superfund legislation. I am, frankly, disappointed. It is designed, of course, to clean up sites that have hazardous waste. We have spent billions of dollars, mostly that comes from a tax, to do that job. Do you know what most of it has gone for? Litigation. Lawyers and courtrooms. That is where the money has gone. A great deal of it comes from insurance policies for people involved. Someone said that nearly 90 percent of that money has gone to legal activities, not cleaning up the sites. That is what we really need to do.

So there has been a status quo opposition almost at every turn. I hope we get by that. I think there has been some deliberate misleading of people. This idea of somehow we are going to poison the children is silly. I am just as interested in my children as Carol Browner is or as Vice President GORE is. So we ought not to be talking about that. Some of that stuff is downright misleading.

The idea that one political party cares more about the environment than the other is laughable. We all live here together. We need to make some changes. I hope we can upgrade the Superfund in the next few months and that we can do something about the Endangered Species Act, Clean Water Act, and the Safe Drinking Water Act. We are ready to do that. We need to get the bogeyman out of the closet and quit talking about the sky is falling and take a real factual approach to making these things work better. We, indeed, can do that.

So, Mr. President, thanks to the efforts of lots of folks in this country, thanks to the efforts of people who care about the environment, the sky is not falling, it is in pretty good shape. We need to take care of it. We have some responsibility. Every citizen has some responsibility and we can do that. I am glad it is Earth Day. I look forward to this country being in even better shape next Earth Day, and all of us need to contribute to do that.

I yield the floor.

Mr. COVERDELL. Mr. President, I thank my colleague from Wyoming, and I appreciate his remarks. The exact figure on the Superfund is $25 billion that has been spent, and we have corrected 12 percent of the problem. So that is an issue in and of itself.

At this point, I yield up to 5 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Mr. President, I rise with great pleasure on Earth Day. Environmental legislation has been one of the most enjoyable areas of legislation in the 16 years I have had in Congress and the 4 years that I served in the Colorado State Senate.

I was a sponsor of Colorado's conservation trust fund, a measure that set money aside to be used to purchase open space, preserving it for future generations. We, in Colorado, prize our environment and our open space and are determined to make sure we do not repeat the mistakes of the east coast and west coast, as they have seen cities grow together without adequate open space. It could only be done through a positive program. That is why the Colorado trust fund was such a monumental effort—not because the money is as great as we would like—it is not, but it is growing. It represents a positive step for the environment. Instead of saying "no," we can say "yes."

I am convinced that real environmental progress is going to be a product of saying "yes," of thoughtful and assertive action that does positive things, not just negative things. I am a sponsor of the minimum stream flow statute, sought to recognize minimum stream flow as a proper use of water and recognize it as a property right in the State. It is a fundamental step toward adding minimum stream flow to all of our streams.

Mr. President, on the national level, one of the most enjoyable things I have done are three additions to the Rocky Mountain National Park. The Rocky Mountain National Park is perhaps one of the most beautiful areas in the entire world, and it attracts literally millions of visitors every year.

Tragically, in recent years, Democratic Congresses have dramatically increased the cost of entering the park so that it becomes a preserve for only those who can afford to enter it rather than the poor. It has been a tragic mistake, in my view, because Democratic Congresses' actions have served to restrict young people who may not be wealthy from having an opportunity to visit that park. Our natural wonders of beauty, I believe, should be available to all Americans.

Mr. President, I am the sponsor in Colorado of the only wild and scenic river, the Cache La Poudre River. It was with great pride that we put it together. It was a compromise between those who use the river and those who enjoy it from an environmental and scenic point of view. It set aside areas where water storage can be added, which is important for preserving our water quality and our water flow in the State. But it also set aside specific large portions of the river for wild, recreational, and scenic uses.

Mr. President, I am the sponsor of three studies on the Cache La Poudre River examining a portion of the river to be included as a national heritage area. Before this Congress right now is a bill that I have worked on for more than a decade. The Cache La Poudre River National Water Heritage Area bill is one that will set aside the flood plain of the Cache La Poudre River as it flows down from the mountains through Fort Collins and through Greeley just below the areas that are designated as wild and scenic.

It is a wonderful opportunity because through land exchanges—that is, taking land that is declared surplus in the State owned by the Federal Government and exchanging it for ownership in the flood plain—we can preserve the area in the flood plain along an important stretch of river that, if no action is taken, will become city within two to three decades. Literally, we have the chance to do what they wished they had done in New York or what they wished they had done in San Francisco or what they wished they had done in Los Angeles—leave open space and beauty.

Mr. President, I have been shocked at the very partisan nature of some of the attacks by Democratic Members on this floor upon Republicans. I cannot help but reflect that this bill, which has unanimous support at home from both Democrats and Republicans, appears to be in jeopardy of dying simply because of the actions of the Democratic Senator from New Jersey, who put a hold on the bill for months and months, and may well have achieved killing it. It is an environmental bill. I must say I cannot understand the action of that Democratic Senator and why he would want to kill it. But to claim that interest in the environment falls along partisan lines is just silly. It is widely shared by all Americans, and it is why we honor this day.

I am convinced that we have to take strong, bold, affirmative action if we are to do our part. Simply saying no is not enough.

Mr. President, most important of all, refusing to look at the statutes that have been passed with an eye to improving them is not enough either. No one can look at the Superfund and not be ashamed of what has happened. Ninety percent of the money that was spent on the Superfund, money designed to clean up our environment, is

VOL
142
PT
6
AP
15
—
24
1996
UMI

spent for lawyers and process costs. That is a disgrace. Anyone who comes to this floor and decries the efforts to reform Superfund simply has not taken the time to look at it or does not genuinely care about the environment, and I know that cannot be true.

The reality is we need to use that money in the Superfund to clean up the environment—not simply pay lawyers. The actions with regard to environmental reform should not be dictated by trial lawyers who donate large amounts of money to political campaigns. They ought to be dedicated in our interest and our need to reform and improve the environment.

Mr. President, I yield the floor.

[Disturbance in the Visitors' Galleries.]

The PRESIDING OFFICER. The Chair will note that no demonstrations are allowed from the galleries.

Mr. COVERDELL. Mr. President, I yield 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

HOLISTIC RESOURCE MANAGEMENT, EARTH DAY 1996

Mr. BENNETT. Mr. President, I am delighted to join with my colleagues in commenting on Earth Day and, I hope, adding some information and perspective to the debate on Earth Day that will move in the direction that will be good for our country as a whole.

Mr. President, I appreciate the opportunity to speak on this 26th anniversary celebration of Earth Day. Many natural factors influence grazing on western public lands, with precipitation or the lack thereof probably being the single most important one. Without moisture, and specifically, moisture falling at the correct time, the amount of potential forage can be severely impacted. We can try but there is usually little, outside of asking for divine intervention, that humans can do to influence natural events. But we can change perceptions about public land grazing. We can manage the conflict that arises based on these perceptions. Never before in the history of this country has there been an issue so divisive, emotional and surrounded by perception, myth and hysteria as the issue of western public land grazing. Yet there are solutions; solutions that can solve conflict through planning, science, consensus, and shifting from traditional paradigms.

I speak to you today about a solution that has my support. It blends new ideas about natural resource management, planning and science with a healthy dose of old-fashioned hard work and common sense. Coordinated resource management is not about the management of grazing; any issue that has polarized western public land managers, public land users and lawmakers. CRM is a process that offers solutions to natural resource problems, requiring the cooperation of landowners, Government agencies, and other interested individuals and groups. Coordinated resource management is a voluntary and cooperative solution to natural resource management issues. CRM is based on the work of many, but notably the work of Allan Savory culminated in his book "Holistic Resource Management."

Conflict about management and use of western public lands has festered for years especially over multiple uses on lands managed by the Bureau of Land Management. This low profile agency, often overlooked by most Americans, has become the focus of intensive battles over the variety of uses it manages. Western public lands have gone from being the lands that no one wanted, to lands targeted by special interest groups for designation or special uses. This has been done without regard for traditional uses of the land and the families and industries that have adapted to the use of these lands. Conflict between users perceptions about management and the future of western public land agencies are the issues. These can be resolved by careful implementation of coordinated resource management.

Using the best efforts of local people, private landowners, interested Federal, State, local and State agencies, CRM integrates and coordinates resource uses to accomplish specific goals. The process is designed to achieve comparability between land and resources uses. There are a number of success stories world wide where CRM has been used to solve resource management issues. In my State, one of the notable examples is the Desert Ranch in northeastern Utah. Once a ranch troubled by apparent downward trends in forage production, conflicts with wildlife, incidents of extreme erosion, and degraded riparian areas, it is now a model of natural resource management efficiency. After implementing a holistic or coordinated resource Management plan, the ranch now graze more livestock than it has traditionally and produces some of the finest big game hunting in the West. Cattle have been used at such intensities as to make traditional private and public land range managers blanch. In most instances several hundred more cattle than normal graze pastures, which rebound with dramatic increases in forage production. Riparian areas have improved significantly, after being grazed at such intensities, to the point that streams are stocked by naturally breeding populations of trout instead of the Utah Division of Wildlife resources. Compare this to adjacent public and private lands where decreases in the numbers of livestock are almost annual, and where erosion and over grazing impact riparian areas and their value. Why this dramatic difference? Hard work, vision and a coordinated resource management plan. There are many other successes, especially tied to grazing. But the value of CRM is that the process can be applied to almost any resource management issue including the designation of wilderness.

CRM addresses the dilemma of managing areas with multiple use ownership, conflicting management objectives and requirements, conflicting land-use demands and off-site impacts. The overall goal of coordinated resource management is to serve as a vehicle to reach agreement on natural resources issues that will improve natural resources values for all users and to promote quality natural resource management through collaborative efforts. In other words, if people come to the table with the goal of reaching consensus, regardless of the diversity of agendas, many natural resource conflicts can be solved and perceptions changed. I support the concepts of CRM and encourage the use of the process to solve natural resource problems. We can set a goal to use the coordinated resource management process as a dynamic, long-term tribute to Earth Day 1996.

I remember as a freshman Member of this body sitting on the Energy and Natural Resources Committee when someone came before that committee for confirmation. I will not identify him because I do not want to embarrass him. The exchange that occurred between him and the then chairman of the committee, the Senator from Louisiana [Mr. JOHNSTON], speaks for itself and does not need to necessarily be personalized.

In the process of the confirmation hearing, Chairman JOHNSTON said to this man, somewhat startling me, "When you make your decisions on the environment, will you make those decisions on the basis of sound science or superstition?" Well, I sat there as a new member of the committee and thought this is a very easy question to answer. I wondered why the chairman raised it. Then I heard the response from the witness. He started to give all kinds of discussions about considerations that had to be examined and constituencies that should be heard from, and so on. Chairman JOHNSTON interrupted him. He said, "You are not answering my question. When it comes to issues of the environment, will you make your decisions on the basis of sound science or superstition?" The answer came back in the same mode, that there are many constituencies of the Department of Energy and the constituencies have to be heard. A third time Chairman JOHNSTON stopped him and asked the question. "Do not evade it. Give me a direct answer. Will you make your decisions on the basis of sound science or superstition?" For the third time the answer started to come out, and the chairman cut him off, and said, "It is clear that you do not want

to answer the question, and we will move on."

I was sufficiently disturbed by that. But when it finally came my turn to question the witness, I said to him, "Do you realize what this Record says as it currently stands? You have been asked three times by the chairman of this committee, a senior member of the Democratic Party, a major figure in the party that controls both Houses of Congress, and the administration, that, 'Will you make your decisions on the basis of sound science or superstition?' and each time you have failed to answer. Unless you do answer that, the Record is going to stand quoting you as saying you do not believe that sound science should rule over superstition when it comes to the environment. Do you really want the Record to show that?" At that point he said to me, "Well, no, Senator, I do not want the Record to show that. Of course we will pay attention to science." I said, "That is the point that gets lost in all of this debate about the environment. We have a number of misconceptions about the environment to make us feel good, and I am delighted that you have finally made it clear that at least in your area under your jurisdiction environmental decisions will be based on sound science instead of response to the superstitions that are going around."

That particular exchange, long since passed into history, has stuck in my mind. I repeat it here on Earth Day because I think that is the crux of the various controversies that we are involved in when we talk about the environment.

Let me address one of the misconceptions that I find as I go around and talk to people about the environment. That is the notion that Nature is perfect, human beings are despoilers, Nature does things in an orderly way, and human beings just mess things up. That, I think, is the misconception that surrounds this whole environmental debate.

I sat in the chair one evening during the debate on the grazing bill, and the senior Senator from Wyoming, Senator SIMPSON, showed us some photographs. I was sufficiently impressed by that. I think we ought to take a look at them again. I brought them along.

It so happens that over 100 years ago, in 1870, a photographer went out in Wyoming and started to take pictures of the magnificent scenery that is available in Wyoming.

Here is the photograph taken on August 12, 1870, of a particular vista in Wyoming. In 1976, a photographer went back to the same spot and took a picture from the same location.

If you will examine the difference, you will see that under wise management by human beings, the grasses are much healthier, the area and vegetation is much lusher. Human beings, instead of despoiling the ground, have in fact improved it.

The Senator from Wyoming had a number of such pictures. I have brought along two of them. Here is another one. Here is the 1870 photograph—pretty barren, pretty bleak. Here is the 1976 photograph, 100 years later—much healthier vegetation, much healthier conditions.

In the debate on the Utah wilderness bill, I produced this photograph for our colleagues to see. This is not 100 years. This is only 50 years. The Escalante River in 1949. You can see how barren this is. After 50 years of wise management in the area, you can see now that this area is revegetated.

I showed this in Utah during the Easter break, and I was attacked by some people who said, "Senator, just because its pretty doesn't mean its wilderness."

They pointed to the lower photograph and said, "That's a violation of nature because," Senator, "you're not smart enough to know this. We are. Some of that vegetation down there is not indigenous to Utah. These trees that ended up here came from outside of Utah. It's a violation of the purity of this wilderness to have Asian species in that area."

I went back to some land managers to ask them about that, and they said, "Yes, there is some tamarisk there. Some of the green vegetation around the river area—you see no vegetation whatever here—some of the green vegetation is tamarisk, but most of the vegetation is cottonwood, shrubs, and grasses indigenous to Utah. Tamarisk is not a weed. It is a tree that was imported ironically for soil conservation reasons. The tamarisk was planted to prevent erosion.

Now, if we adopt the notion that everything nature does is perfect and everything we need to do should be geared toward preserving things in their absolutely natural state, we run into a very serious problem. That problem is this: Nature is not constant. Nature changes the face of the land all the time.

Secretary Babbitt has just spent 4 days walking along the C&O Canal to try to raise our awareness of Earth Day. Why the C&O Canal? Because with one storm, nature devastated the C&O Canal. It was all scenic, protected, and preserved, but nature came along and after one storm, with the winter floods the C&O Canal was devastated.

If you go back to my home State of Utah and say we want our land to remain in the condition that nature decreed that it should be, the argument could be made that the entire State should be under water. There was a time—and it can be demonstrated by the geologic features along the benches around the Salt Lake Valley, and throughout the mountains, that Lake Bonneville, as we call it, once covered most of the State of Utah and southern Idaho. It was bigger than any of the Great Lakes—bigger than Lake Michigan or Lake Huron or Lake Superior—it was a huge body of inland water.

Is it not wonderful that nature has created this magnificent, inland, freshwater sea? And then something happened. Nature changed it. One day, in southern Idaho, up by Lone Rock, the lake burst its banks and an outlet to that freshwater sea was created. It started, over the many millennia, to disappear.

What we have remaining in Utah now is another magnificent gift of nature. It is the Great Salt Lake. The salt flats to the west of the lake are the remnants of Lake Bonneville which over the millennia. In that area now you have this unique natural phenomenon called the Bonneville Salt Flats created by nature. If we are going to say that in the name of the environment we must preserve nature as it was, we have to go back to the boundaries of Lake Bonneville and try to find some way to fill it all up with water again because that is what nature once had.

The fact of the matter is—and this is sound science, Mr. President—nature changes. It changes daily. It changes over the years. It changes in ways that are good, and, as the C&O Canal, it changes in ways that are bad.

Our responsibility as proper, sound stewards of the land and environment is to make intelligent decisions and not get carried away with superstition, nor rely on misconceptions as fact.

Mr. COVERDELL. Mr. President, I yield up to 15 minutes to the Senator from Idaho.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Wyoming is recognized.

Mr. KEMPTHORNE. I thank the Chair. I wish to thank the Senator from Georgia very much for his leadership as we debate this issue.

Mr. KEMPTHORNE. Mr. President, today, as we celebrate Earth Day, we should stop to consider our air, the quality of life, and the world we will leave our children. And because of the lessons that he taught that we should pass on to our children, this is the right occasion to look back on the legacy of Teddy Roosevelt, a great Republican, a true conservative, who first taught America the importance of conservation. Under President Roosevelt's stewardship, America first endorsed the wise use of our natural resources, established the National Park System, and preserved for all time the great Yellowstone National Park.

In a message to Congress on December 3, 1907, President Roosevelt said:

> To waste, to destroy our natural resources, to skin and exhaust the land instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought—by right—to hand down to them amplified and developed.

President Roosevelt's words are as true today as when spoken 90 years

VOL
142
PT
6
AP
15
—
24
1996
UMI

ago. We Republicans can be proud of President Roosevelt's heritage, but as a nation we must implement President Roosevelt's vision of leaving our children an environment and an economy better than that which we inherited.

We are all environmentalists. We have to be. Who can be against our life support system? Our own personal experiences make the environment an emotional issue. All of us have great stories of the outdoors.

Being from Idaho, I can tell you that I have had some tremendous trips down the white-water rapids where, as you begin to hear the first roar of the rapids, you are filled with anticipation, and then when you make it through those rapids the exhilaration that you feel camping under the majesty of the canopy of ponderosa pines, with the full moon above.

I know the great splendor of Idaho's Sawtooth Mountains, and I wish to leave my children a legacy of conservation of which they can be proud.

Before coming to the Senate, I served as mayor of Boise, ID. Boise is graced with the Boise River. This river serves many uses. It provides about a third of our drinking water. It serves as a major recreational and fishing amenity, and it provides habitat to many diverse species.

How many cities in America can boast of bald eagles and blue heron just 5 minutes from the center of downtown? Boise is fortunate, but Boise is not unique. From the Puget Sound to the Everglades, this country is blessed with some of the most magnificent natural and scenic treasures on the planet. We are also blessed with the largest and most vibrant economy on the planet. We must preserve these gifts of economy and environment.

If you have a high-paying job but you live in a community where the air and the water is polluted, weeds and trash have overrun your parks, you do not have quality of life. But conversely, if your community enjoys clean air, clean water, beautiful open spaces, but you do not have a job and you cannot provide for your children, then you do not have quality of life either. So, our challenge is to reach that balance between a clean environment and a sound economy. I believe that we can. In fact, this Senate has already taken major steps to make that happen.

I am proud of the work that we did on the Safe Drinking Water Act reauthorization. Working in a bipartisan way, we passed a bill that is strong on public health protection; in fact, we ought to call it the "safer" drinking water act. It takes into consideration the costs of providing clean and safe water.

The Safe Drinking Water Act should serve as a model for accomplishing sound environmental law. Everyone had a seat at the table and a say in drafting the legislation. The environmental and public health advocates, water utilities, States, cities, counties, businesses, all worked cooperatively on the bill. Republicans and Democrats put aside partisan politics for the good of the Nation.

As a result, the Senate passed the Safe Drinking Water Act 99 to 0, and everyone in this Chamber can be proud of that legislation. That is an example of a bill that improves public health and safety and leads to good quality of life. It is good for the environment, and it is good for our communities.

There were lessons learned during the 10 months we negotiated that bill, and those lessons will serve us well as we look at other environmental issues. One key was the active participation of State and local governments. Who knows better what each community needs, a local leader or a Washington bureaucrat, who quite often has never been to your State or your community? Believe me, as a former local official, I had much more confidence in my city's ability to meet its needs than any orders from Washington, DC.

True, Congress must set national standards, but we should allow local and State governments the flexibility to let those standards work in their specific situations. The only way to do this efficiently and economically is by bringing the local leaders and the State leaders into the process. We should also let local communities solve their problems without the burden of Government redtape.

One example is the Henry's Fork Watershed Council in northeastern Idaho. The council grew out of years of conflict between fly fishermen and irrigators. Each group had what they believed to be legitimate claims to the waters of Henry's Fork system. The river is a blue-ribbon trout fishery, revered by fly fishermen from across the world for is crystal clear water and trophy rainbow and brown trout. But the farmers in Fremont and Madison Counties need the water from the Island Park Reservoir also. They need the water to irrigate their acres of potatoes and barley. A great number of Idaho's famous potatoes are grown in this region, and those crops help sustain the economy of that part of Idaho.

Finally, after years of fighting, the Fremont-Madison Irrigation District and the Henry's Fork Foundation fly fishermen realized that while they argued, the quality of the resource that they both so desperately needed was deteriorating. So they put aside their differences and they started working together for the common good.

It has worked. Last summer, for example, when the water temperatures soared and threatened the fish, the irrigators voluntarily agreed to release the water from the dam, filling the streambeds with cold water and saving the fish. Before this cooperative agreement, it might have taken weeks of negotiations and miles of redtape before anything was done.

I will add that the Federal Government is a partner in this sort of situation—the U.S. Fish and Wildlife Service, the Forest Service, the Bureau of Reclamation, the Natural Resources Conservation Service. But the key is it was the local parties that got together and found the solution—local people, local solutions.

In another pristine part of Idaho, industry has taken the lead in environmental protection and restoration. Potlach Corp. has voluntarily set aside valuable forest land along Mica Creek. I have been to that location. I took with me the chairman of the full Environment and Public Works Committee, Senator JOHN CHAFEE. The goal of the Mica Creek project is to establish baseline management data surrounding natural events and conditions. The project is proof that there are so many, many businesses in this great land of ours who want to do the best possible job that they can to protect and even enhance the environment. And just as in the case of Mica Creek, they did not need Government to tell them to do this. They did this on their own, because they know it is the right thing to do.

Local people, local solutions—they can also help with other monumental tasks facing Congress, tasks such as the Endangered Species Act.

There is a growing recognition in this country that the Endangered Species Act must be reformed. Last year I introduced legislation to improve the Endangered Species Act, to make it more effective in recovering species and to make it more fair. Last month I began bipartisan discussion with my colleagues on the Environment and Public Works Committee and the administration with the goal of developing a bill over the next few weeks that will actually preserve endangered species, improve their habitat while recognizing the legitimate needs of people and making the act work. This is a goal that we can all share.

My view is that too often the interpretation and the implementation of the Endangered Species Act has gone far beyond the original intent. The Endangered Species Act should not be a tool that places entire communities at risk by threatening their economic survival. At the same time, we cannot turn our backs on the efforts to save endangered species.

For now, though, this Endangered Species Act, on its present course of heavy regulation, putting people at risk, is not working. To single out individual communities to carry the full brunt of recovery of an endangered species when the entire national community is the beneficiary is wrong. But to say that the extinction of a species is no big deal and just the luck of the draw of that particular species is also

wrong. The extreme entities that would advocate both positions, in all honesty, probably deserve one another, on some remote desert island where the only way they will survive is to help each other.

So, what is right? Should we make concerted efforts to save species? Absolutely. Can we prioritize which species we should make greater efforts towards? We must. Can we do this without undermining private property rights and putting whole communities at risk? We had better, or the outcry against the act will kill it.

Reauthorization of the Endangered Species Act is, without question, one of the most politically polarized issues that we will ever deal with. It may also be one of the most important environmental issues for us and for our children. As lawmakers, we have a duty to rise above the rhetoric. So, let us get real and let us get practical.

A lot has changed since the Endangered Species Act was enacted in 1973. For one thing, scientists have made tremendous advances in every discipline. Biology, botany, genetics, and other sciences are much more sophisticated than they were 23 years ago. But the rules and the regulations of the Endangered Species Act have not changed to keep up with the science. So we need to acknowledge the advances and use them to balance an improved Endangered Species Act.

Untold millions of dollars have been spent to save species with very few results. Of the more than 1,500 species of plants and animals that have been qualified for protection in the 23 years the law has been in effect, only 20 have been removed from the list, either because they have gone extinct or were placed on the list by mistake. Only six can be claimed as successes under the Endangered Species Act, and even they were largely recovered due to the efforts of private conservation groups.

One such group is the Peregrine Fund at the World Center for Birds of Prey in Boise, ID.

The efforts of this private group has led to a proposed delisting of the peregrine falcon. Just 20 years ago, there were only 39 known pairs of peregrine falcons in the lower 48 States. Today, recovery and reintroduction efforts have produced nearly 1,000 pairs. More than 81 percent of the falcons released have reached independence. The success of the Peregrine Fund should be a model for reforming the Endangered Species Act. If at all possible, we want to avoid putting species on the endangered list. We would like to take them off, and the only acceptable way is through recovery. This cooperative effort shows that we can use good science and manage a species early in its decline and bring about these kinds of results. We can recover species, and the work of the Peregrine Fund shows that if Government will provide incentives and then get out of the way, that we can, through innovation and good science, achieve the very results that all of us applaud.

I envision an Endangered Species Act that uses good science, innovation, incentives, and, where necessary, public financial resources to do what we, the stewards of this wonderful land, can do to benefit not only other species but ourselves as well.

I envision an Endangered Species Act that encourages all of us to participate willingly to conserve rare and unique species.

I envision an Endangered Species Act that treats property owners fairly and with consideration and that minimizes the social and economic impact of this law on the lives of citizens.

Working together, we can draft legislation that takes that important step in that direction. We can make the act smarter, and we can make that act better.

I believe that Congress has abdicated its responsibility by not dealing with the Endangered Species Act sooner. I can see why. Advocate change and you are immediately labeled as antienvironmentalist.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KEMPTHORNE. I ask for 2 additional minutes.

Mr. COVERDELL. I grant the Senator from Idaho 2 additional minutes.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, this should not be a contest to see who is more for the environment. We should all be in favor of a cleaner, safer, healthier America for our children and their children.

I have called myself a probusiness environmentalist. We have been able to strike a balance between development and the environment. A good environment makes good business and, therefore, good business will invest in protecting the environment. Economic growth and quality environment are not mutually exclusive. They, in fact, can and should and must support one another.

With that, Mr. President, I yield back the remainder of my time.

Mr. COVERDELL. Mr. President, at this time, I yield up to 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

EARTH DAY, 1996: A DIFFERENT SHADE OF GREEN

Mr. GRAMS. Mr. President, on a day set aside to recognize the importance of protecting our environment and preserving our natural resources, I am pleased to join with my colleagues in this frank discussion of the substantial progress we have made and the steps we have yet to take.

But first, it is important to recognize that environmental protection is not a partisan matter. It is not about Republicans or Democrats. This is one issue which should bring us together, because on this issue, we share the same goal: We all want a clean America, where our children can breathe clean air and drink clean water. And there is not a man or woman in this Congress who would demand anything less for their families.

I am so proud, Mr. President, that over the past 20 years, we have made such great strides toward achieving that goal.

Our urban landscapes are no longer polluted by the thick, black smoke of industrial smokestacks. Our lakes and rivers are no longer the dumping ground for toxic sludge. We are recycling newspapers, glass, and plastics in record numbers. Through efforts such as the Conservation Reserve Program, Congress is working in partnership with the American people to ensure our generation leaves behind a cleaner Earth than the one we inherited.

We acknowledge that government at all levels can and should play a strong role in protecting our environment. Maybe that is why the United States spends more per capita on environmental protection than any other Western, industrialized nation.

The question is no longer whether or not we want to protect the environment—we all do. The question is, How do we achieve it?

It is an interesting coincidence that just a week ago, the American people were filing their Federal income tax returns and thinking about Government and how it impacts the family finances.

Today, exactly 1 week after Tax Day, we are marking Earth Day. And once again, the American people have an opportunity to think about Government—this time, its impact on the environment. But in the 26 years since Earth Day was first celebrated, Americans have grown concerned with Washington's environmental activism: What it is doing to jobs and salaries, and the bite it takes out of the family checkbook.

What they are telling us is yes, government ought to protect the environment. But they are also saying it can do better by the taxpayers, too. And so they have asked this Congress to find a better balance, a "different shade of green" for Earth Day, 1996.

Over the past two decades, the Federal Government has worked toward better environmental protection by passing new legislation and imposing necessary new regulations. But in our zeal to protect the environment, we have often neglected to consider the serious, unintended consequences of the actions we are taking here in Washington.

We have cleaned up neighborhoods by clamping down on pollution, but we

VOL
142
PT
6
AP
15
—
24
1996
UMI

have handcuffed job-providers from finding better ways to achieve the same results.

We have sought out and protected wetlands and other unique environmental areas, but we have often commandeered people's land, without compensation, to do it.

We have demanded a great deal of the American people through our environmental regulations, but we have forgotten about the burdensome costs and confusing bureaucracies our vigilance have imposed on everybody.

It is hard to measure the benefits of our well-intentioned, environmental safeguards when these Federal regulations come at such a high cost.

The American people are telling us that Washington has gone too far, especially given the estimates that complying with environmental regulations cost an estimated $850 billion every year. That is $850 billion no longer available to pay higher wages and better benefits, and creating new jobs.

Is it possible that the environmental policies of the past have a cost that can be measured in terms greater than just dollars? Could they be costing human lives as well? According to researchers at Harvard University, the answer is yes. Because the government has increasingly focused its precious resources guarding the public against minuscule, theoretical risks, they are ignoring much greater dangers—a situation Dr. John Graham of the Harvard Center for Risk Analysis labels "statistical murder." It is a policy, say researchers, that costs 60,000 lives every year.

In other words, we have spent a lot of our taxpayers' hard-earned money on wasteful and nonproductive programs, rather than spending those dollars on finding a cure for, say, cancer, leukemia, or heart disease.

That kind of micromanagement, undertaken at such a horrible cost, is the wrong approach. No wonder so many average Americans feel they are being victimized by oppressive environmental legislation. In many cases, the Government has caused more damage than it has improved, and our goal should be to balance environmental protection with the need for economic growth as well. We always talk about the best welfare program being a job, but we have unnecessarily lost thousands of jobs because we have ignored the end result of bad policy. If we are ever going to achieve balance, the solutions will not be dictated from Washington, DC, where layers of bureaucracy and waste cloud every decision. Sensible relief will only be found outside the beltway, by reining in the Federal regulators and giving our constituents the freedom to achieve the environmental goals everyone shares.

The Government can set goals or limits, but we should then step back and let the creative genius of Americans work on the solution in less costly, innovative ways. Expensive, one-size-fits-all dictates from Washington are not the answer, nor is using old technology to treat new problems. If experience has taught us anything over the past 26 years, it is that wisdom and compassion does not flow from the Federal Government.

That has clearly been the lesson of the Superfund program, a classic example of Washington-knows-best gone wrong.

Let us look at the facts.

Mr. President, 25 billion taxpayer dollars have been spent over the past 15 years cleaning up toxic waste sites on Superfund's National Priorities List. Yet as of today, only 12 percent of these sites have actually been cleaned up. Excessive administrative costs and a bloated bureaucracy have eaten away a lot of the money, while billions of dollars have gone to line the pockets of trial lawyers, who continue to delay Superfund's important work. The lawyers are benefiting while the American taxpayers get burned.

The end result? Fewer hazardous sites are being cleaned up and more Americans are being put at risk.

Clearly, the Superfund program is broken. Congress has an opportunity this year to reform Superfund and redirect the taxpayers' dollars away from the bureaucrats and lawyers, and toward meeting the original intent of the law: and that was cleaning up the environment.

The Endangered Species Act is another well-intentioned, but problematic, piece of legislation.

I have always believed the Federal Government can assist landowners in being the best stewards of their lands. But the Endangered Species Act provides an incentive for them to actually harm endangered species.

Under the act, if a landowner is told by the Government that their property is home to an endangered species, they are stripped of their ability to use their own land. Not only are they deprived of that land—and the enjoyment and revenue it might generate—but they are also denied any compensation from the Federal Government.

While that is obviously not the intent of the Endangered Species Act, it has become an unfortunate, perverse byproduct of the legislation.

One way Congress could improve the endangered species legislation is to provide incentives for property owners that would enable them to protect the environment, instead of forcing them into desperate actions when they've been threatened by Federal bureaucrats.

Mr. President, what is most often lacking in Washington's attempts to improve the environment through regulation is an effort to get the big picture—a scientific approach to assess the various risks, and then direct resources where they can do the most good. Risk assessment and cost-benefit analyses are commonsense approaches undertaken out in the real world, but sorely missing in the Federal Government.

When businesses or individuals make important decisions, they usually perform their own version of a risk assessment. To best serve the taxpayers—who deserve to know what kind of bang their getting for their bucks—Federal agencies ought to be targeting their resources in the same way, eliminating overzealous regulation by asking the Environmental Protection Agency to focus on real solutions to real problems. This will not only free up more funds for financially strapped Federal agencies, but also provide a higher level of environmental and public health protection.

Giving our job creators more flexibility in meeting national standards is another way to eliminate the pervasive command and control approach that has infected many Federal programs. A pilot program called Project XL is proof that these efforts do work.

I have been working on Project XL with the Minnesota Pollution Control Agency, Minnesota-based 3M, and the EPA. This popular program allows participating companies to come up with their own methods to go beyond minimum environmental compliance. Allowing business to best determine how to meet all Federal standards is an innovative idea that should be expanded. As long as those standards are met, the path traveled to reach compliance should be open to experimentation.

And finally, the Federal Government needs to promote a better partnership between all levels of government, job providers, environmental interest groups, and the taxpayers. The most effective way for the Federal Government to play a strong role in protecting the environment is to do it in concert with those closest to the problems. Local solutions, not Washington domination.

That means setting reasonable national standards and giving technical advice to State and local governments and businesses. I have always believed that Minnesota taxpayers and our elected officials in St. Paul are much more aware of local problems and how to solve them than Washington will ever be.

"It is not easy being green," went the lyrics of a popular song from the 1980's. Maybe not, if being green in the 1990's means promoting an environmental agenda that flies in the face of common sense and treats the taxpayers with contempt.

Americans are looking for a different shade of green, Mr. President, an approach to the environment that strengthens the protection of our precious natural resources, promotes better health and safety measures, and

helps rein in the exploding regulatory costs that are threatening people's paychecks.

Government does have an important role in ensuring a strong environmental safety net. But we can do better. In closing, Mr. President, by reforming the system and providing balance, we will enhance environmental cleanup and preservation while we protect landowners from undue Government interference, reduce costly, arbitrary regulations, and ultimately, save more lives.

So, Mr. President, on Earth Day, 1996, that is the shade of green this Congress is working to deliver.

I yield the floor.

Mr. COVERDELL. I thank my colleague from Minnesota. I yield up to 10 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I thank the Chair. And I thank the Senator from Georgia for his effort to organize this group of conversations regarding the protection of our environment.

I noticed from some of the comments that certain Democrats, anyway, I should say, have appeared to take offense that Republicans are actually working to protect the environment, apparently under the belief that Earth Day is a special day for them to demagog and politicize environmental issues. The real purpose of Earth Day is to recognize important work being done to protect our environment.

Today I want to discuss briefly two specific projects undertaken by a broad group of interests in my home State of Arizona that do exactly that.

The first has to do with ranchers in southeast Arizona who are acting as true stewards of the lands for the purpose of protecting the grasslands on which they currently are grazing. Many ranchers are working in harmony with nature not only to earn a living but also to protect the environment upon which they are earning that living. They are using their natural resources in a way that it is meant to be used.

In his forward to Dan Dagget's book called "Beyond the Rangeland Conflict—Toward a West That Works," David Getches, who is chairman of the board of trustees of the Grand Canyon Trust, said of ranchers on the Colorado Plateau—I am quoting—

> It's not hard to find ranchers on the plateau who share some of our most heartfelt values. Most want their grandchildren to know a region with a healthy ecosystem and places of wonder, beauty and solitude. And most can understand that economic stability and permanence of communities are intertwined with the permanent health of the surrounding land, water, and wildlife.

Certainly Professor Getches is correct because some of the people who care the most about the land are those ranchers. I speak specifically of a new group called the Malpai Borderlands Group which is the essence of this commitment for protection. I met with representatives of the Malpai Group over the Easter recess when I was in Douglas, AZ. I was very impressed with the work they are doing as a combined group of ranchers, representatives of environmental groups, Federal agencies, and other people in the community.

The area in which they are working together is an area of thousands of acres in both New Mexico and Arizona which is the home of a great many endangered species and an environment that needs help. The land ownership is about half private and half Federal agency, the Federal lands being the Bureau of Land Management and the Forest Service as well as some State trust land.

But in 1990 this group got together to begin discussing ways of dealing with what they thought was a deteriorating situation, an attack on ranching generally, and also a deteriorating environment. The grasslands, with some shrubs, were moving inexorably to shrub lands with some grass. And this occurred for many reasons. But the principal one was the absence of a very natural element—fire.

For years fire used to sweep through this area every decade or so and, in effect, cleanse it of all of the woody shrubby plants which then promoted very shortly thereafter fresh new grass for the wildlife then to thrive on. But because of the fire suppression that has not occurred in the last 100 years or so, the result is that the grasslands have gradually now become woods where there are shrubby lands that cannot support grazing.

So the agenda of this group was to address both the threat of fragmentation of the landscape—selling off smaller parcels for development—and the decreasing productivity and loss of biological diversity accompanying the encroachment of these woody species on the grasslands.

What they did is form the 501(c)3 organization called the Malpai Borderlands Group with 45 rancher members. And its 19-member board includes local ranchers, a scientist, and a businessman, and, as I said, representatives of various environmental groups. It has a 5-year plan for ecosystem management that targets three key concerns.

First, conservation and land protection, including such things as on-the-ground projects, use of fire, and holding of conservation easements; second, sustaining rural livelihoods, including innovative approaches to grazing, possibly the cooperative marketing of beef, and exploring other opportunities with low impact to the environment; and, third, science and education, including a comprehensive resource inventory of the area.

The Malpai Group has taken an evolutionary, if not revolutionary, approach to ranching, working with biologists, soil conservation specialists, BLM and Forest Service representatives, and the Nature Conservancy to find ways to keep this area literally a working wilderness.

As I alluded to, reintroducing fire is a crucial element of the Malpai group's plan to restore the range. As a result, they have worked in several experimental areas restoring that element of fire and bringing back the grasslands.

The success of this group, as I said, is really due to a commitment of the landowners. Participation is purely voluntary. The enthusiasm of this group of land stewards is clearly a shining example to those who would like to create such organizations and protect their own areas, working together.

As Bill McDonald, Malpai Borderlands Group president, says of the group: "In a political climate where the traditional position on the issue of land use is usually to be at one end of the spectrum or the other, we find ourselves in the 'radical center.' We invite you to join us right there."

Mr. President, I joined that group just a couple of weeks ago to try to help them clear away some of the bureaucratic underbrush that might prevent them from moving forward with their very important, innovative experimentation.

Now, the second key thing relates to the forests in the arid Southwest. Natural fire is not just a friend of the grasslands but has also helped to maintain the health of our forests over the years. Once again, because of fire suppression and other problems, our forest health has deteriorated because that natural phenomena that used to keep it healthy is no longer part of our management process. Instead, what happens is that because we suppress fire, the fuel in the forests builds up and the growth begins to become very concentrated, with the result that when the fire comes, it burns not only the underbrush as it used to do, thus clearing the forest of the smaller, scrubbier kind of plants, but quickly crowns to the top of the trees and literally jumps from tree to tree, devastating entire forests.

The other problem with the forests is the health condition today. Too many trees are crowding into too small an area which then sucks all of the nutrients and the moisture from that area, thus providing a more disease-prone forest. Rather than the open and rather park-like environment that existed 100 years ago, tree densities now make a very unattractive and unhealthy forest. Mr. President, 100 years ago the tree density was typically 20 trees per acre, with most trees of a relatively large diameter. By contrast, the present forest averages about 850 trees per acre, with an average diameter of less than 4 inches. I have three cross

VOL 142 PT 6 AP 15 — 24 1996 UMI

sections of trees in my office. One is about this big, one this big, and one is this big. All three trees are 60 years old, but the big tree exists in the open park-like environment, and the little tree exists in a cramped environment with 850 or 1,000 trees per acre. Obviously, all are competing for the same nutrients and water.

What we need to do is open the forests up. Two professors from Northern Arizona University have begun an ambitious program to do precisely that. Professors Wally Covington and Margaret Moore have begun to use what they call adaptive management techniques to restore the southwestern ponderosa forests to their natural presettlement conditions. Their partners are the Bureau of Land Management, the U.S. Forest Service, and Northern Arizona University. Their work is being supported by Secretary Bruce Babbitt, Secretary Glickman, and others in the region who understand the importance of bringing environmental groups and other persons interested in forest health together to reintroduce some of the natural methods of forest management that have been lacking in recent years, including both the thinning of the small, unhealthy trees and the use of fire to get rid of the brush and the fuel which could, of course, create the fire danger.

In October 1995, these scientists initiated the Southwest forest ecosystem restoration project near Mount Trumbull, AZ. This is roughly a 5,000-acre pilot project in which these new management techniques will be utilized to determine whether or not they can truly restore the health of the forest and whether these management techniques would then be useful throughout the arid Southwest. They will remove the dense, young growth to restore the open forests of large older trees and hope to do ecological sampling that include overstory trees, understory trees, understory shrubs, grasses, wildflowers, and forest floor fuels. Sampling will also extend to birds, mammals, and insect communities.

I saw a pilot project just west of Flagstaff which had only been under experimentation for 2 years, but it is amazing that sap contents of the trees—which did not mean anything to me before I heard about it—had grown by an order of magnitude in just 2 years, thus making the tree almost impervious to bark beetles.

Mr. COVERDELL. Mr. President, we worked with the other side. We have another speaker. I ask unanimous consent our time be expanded by 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I yield 2 additional minutes to the Senator from Arizona.

Mr. KYL. I see the majority leader is here.

Just increasing the sap content of the trees makes them more impervious to beetles, and thus disease, thereby creating more nutrients in the grasses because the forest has opened up. Wildlife needs less grass because the protein content has quadrupled. There are so many benefits to this kind of management that it is clear we need to expand it to broader sectors of our forest environment.

The point is there are innovative things being done to protect our fragile environment, with land stewards and environment groups and others all working together. These two examples I have discussed today show that through this kind of cooperation and innovation, we can truly protect the environment in a very bipartisan and cooperative way.

I commend these two experiments to my colleagues.

Mr. COVERDELL. Mr. President, I compliment the Senator from Arizona on his remarks.

I yield up to 10 minutes to the Senator from New Hampshire.

Mr. SMITH. Mr. President, I thank the Senator from Georgia for yielding.

As we celebrate the 26th anniversary of Earth Day, Americans will again have an opportunity to reflect on many of our past environment successes and, frankly, some shortcomings, which I hope we will be able to address. We should also take this opportunity to set a course to correct any past failures regarding the protection and restoration of our precious environment, as well as dwelling and focusing on those that have been successful.

Let me, as many of my colleagues before me have done, set the record straight once again, Mr. President. We are all environmentalists here in the Senate. I think most of us would call ourselves environmentalists in the United States of America as citizens. This is a beautiful country. It is home to all of us. The environment is not a Democratic issue. It is not a Republican issue. It should be a bipartisan issue. I very frankly and honestly, as one who has worked for the past 2 years on the Superfund bill, take great issue with those who would somehow accuse me or anyone else in my party of being antienvironment. Yet that is happening.

Unfortunately, the political environment has become so partisan during this Congress that it is almost outrageous. My children, I think, would like to drink clean water. I certainly recognize the fact that President Clinton's daughter might like to drink clean water. I hope you will recognize that my two sons and my daughter would like to drink clean water as well.

My family breathes the same air as Vice President GORE and his family and the President and his family. I have enjoyed fishing and hiking in the trails and ponds and lakes and streams of New Hampshire, probably some of the same lakes and streams that some of the people in the administration have. We are very proud of the fact that in northern New Hampshire we have the great northern forests which are protected by landowners, as well as the Federal Government. But landowners take good care of that land and have been good stewards. We are very proud of what they have done to protect that land.

I think most of the environmental laws on the books today were initiated—not just signed; were not vetoed, certainly—but were initiated by Republican Presidents—Theodore Roosevelt, George Bush, Richard Nixon, to name just a few. They have very strong environmental protection records. Our National Park System was started under President Theodore Roosevelt. The EPA was started under Richard Nixon. The Clean Air Act amendments and the Oil Pollution Act were under George Bush. They were all initiated under Republican administrations. Yes, the Congress, many Democrats in Congress, sent those bills to the President's desk. My point is it is a bipartisan matter, and these bills were signed.

One statute, though, I have been involved in stands out as one of the least effective. That is a bill called Superfund. Mr. President, $30 billion has been spent over 15 years to clean up 50 sites. If you do the math on that, it does not work out very well. I have devoted many hours on developing appropriate reforms to this failed program. Our goal is to change this program from one of litigation and wasted resources and delay to one that actually cleans up hazardous sites expeditiously.

While Republicans and Democrats agree on the need for reform, there is still some disagreement on how to get there. One of the basic problems with the current Superfund Program is that it is more focused on process than results, more focused on litigation and arguing than on getting results.

I issue a challenge now to my Democrat colleagues on the other side of the aisle and say that we are ready—Majority Leader DOLE is ready, I am ready, and Senator CHAFEE is ready to get a bipartisan Superfund bill and put it on the President's desk. I challenge my colleagues not to play politics with this bill and help us get it there.

A number of environmental laws are long overdue. For 3 years, I have been involved in efforts to reauthorize the Safe Drinking Water Act as was Senators CHAFEE, KEMPTHORNE, and others. The vote was 99 to 0. I find it hard to believe that we can be accused of being antienvironment.

There is no doubt that the environmental movement in the 1970's served an important purpose. Our air and water are cleaner today and continue to improve. Now is the time to reflect on the successes and build upon them and address some of the failures, so that we can get more bang for the buck. Let us face it, many of the things that have been done to clean up the environment have been done, but pollution controls from this point forward will be very expensive. We need to be able to pick and choose the best technology and be up to speed on that. Carol Browner, the EPA Administrator, said, "We need to develop better, smarter, cheaper regulations."

I could not agree more. Is the environment getting cleaner? Yes, thanks to a lot of bipartisan leadership over a lot of years. Are there less expensive efforts to achieve the same or higher level of protection? I think the answer is yes. I think we have an obligation to look at those least expensive methods, and one condition is that it does not detract in any way from the pace of cleanup of the environment.

To what degree should the Federal Government mandate regulations on States and local communities without providing adequate resources to comply? That is another question we need to ask. But there are a number of themes that my Republican colleagues and I believe should be the foundation for effective improvements in current environmental law. One should be that we ought to promote sound, effective market-based environmental regulations, because when you bring the market in, you save the taxpayers money and you bring the businesses in as a partnership. Therefore, since they are responsible for some of the problems, they are willing to help us clean them up. We must recognize that States and local communities often do a better job of protecting the environment within their borders than the Federal Government can. So, partners, not enemies.

We must incorporate better risk management and cost-benefit analysis in our environmental regulations that will enable us to prioritize our goals. We must base our environmental decisions on the highest quality, peer-reviewed science, not questionable, unreliable data and unfair politics. Finally, and most important, our goal is to enhance, not detract from, a cleaner environment, to enhance it. That is our goal, not just to save dollars for the sake of saving dollars. If it detracts from our environment, then we spend the money. And if we can spend less and do more and accelerate the pace, why not do it? We have an obligation to do that.

I ask my colleagues to take a look at that and realize that just because we say we can do it better, not less efficiently, that does not necessarily mean it is negative. We all want a clean, healthy environment to pass on to future generations. It is one of our most important responsibilities.

However, the American people also believe we need to reduce Government waste and bureaucracy, to update environmental programs, to address problems more effectively and allow American business to remain more competitive. If we can do all of those things and enhance the environment, we ought to do it.

My Republican colleagues and I are trying to accomplish these goals. We consider such things as cost benefits and risks and rewards not as trivial, but as very important. We must strive to prioritize risk reduction and get the biggest bang for the buck in every American program. That is just common sense.

Environmental policy is at a crossroads, Mr. President. We have a historic opportunity to improve our environmental laws so that they better serve the American people. That is not to say that we have failed in the past. We have many, many, many successes, including the Merrimack River in my State, which is now beginning to see fish and recreation again. It should not be controversial. We all live on this planet, and we should be working together on this. If there is anything we ought not to be partisan about, it ought to be the environment.

I will close on this point. This week, as Earth Day commences, the Senate Environment and Public Works Committee begins hearings on a Superfund bill. During the Earth Day festivities, Americans will be presented with a number of conflicting images of what is good for the environment and what is not. It is my hope that the President and Members of Congress, as I said earlier, will rise above the urge to exploit this event for short-term political gain and join our efforts to inject common sense and fairness into the Nation's Superfund Program, which is the one program which I happen to be involved in because I chair the subcommittee.

So, Mr. President, at this point, I yield the floor and thank my colleagues, and I thank the Senator from Georgia for the opportunity to speak on this very important issue.

Mr. COVERDELL. How much time remains, Mr. President?

The PRESIDING OFFICER. One minute remains.

Mr. COVERDELL. I thank all of the Senators who came to the floor to honor Earth Day and to talk in very meaningful terms about how to manage our environment. This legislation, wherever it falls in the environment, should be guided by a working relationship between the Government and the stewards of the land. In too many cases, recently, we are seeing the Government taking on the form of arrogance. We have threatened the constitutional rights of personal property. That is a very high law, the Constitution. If it becomes public policy to take interests of private property owners, the public will have to assume the responsibility for that. That has to be a working partnership. We have to protect our constitutional rights. We must learn to work together on this legislation. We have heard words like partnership, balance, working together, common ground, nonpartisan. This is the answer to our modern environment.

I appreciate the Senate's time this afternoon, and I yield back whatever seconds are remaining.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, is leader time reserved?

The PRESIDING OFFICER. The leader time has been reserved.

Mr. DOLE. Mr. President, first, I thank the distinguished Senator from Georgia for his efforts this morning on Earth Day and on the environment. I will be making a statement later on that.

I thank Senator SMITH for his efforts on Superfund. He has been working on this, I know, month after month after month, and we have been trying to come together with a bipartisan bill. Hopefully, that will be accomplished and we can pass Superfund legislation in the next 30 to 60 days.

NOMINATION OF CHARLES STACK TO ELEVENTH CIRCUIT COURT OF APPEALS

Mr. DOLE. Last Friday, I outlined some of my views on the issue of judicial nominations, one of the most lasting legacies of any President. I said that Federal judges should respect the clear language of the Constitution as it is written; that judges should understand that society is not to blame for crime, criminals are; that judges should protect the rights of crime victims, not invent new and more expansive rights for criminal defendants.

Today, let me make another point: Those who seek to sit on the Federal bench should be well-grounded in the basics of constitutional law. Unfortunately, Charles "Bud" Stack, one of President Clinton's nominees to the Eleventh Circuit Court of Appeals, does not meet this standard.

During his recent confirmation hearing, Mr. Stack was unable to cite any fourth amendment case concerning the law of search and seizure. He demonstrated little knowledge about Supreme Court precedent on capital punishment. And despite the Supreme Court's highly publicized decision in the Adarand case, Mr. Stack was unable to discuss any Supreme Court or Federal case concerning discrimination or affirmative action.

When asked how he would remedy his own ignorance of key aspects of the law, Mr. Stack said he "Could attend some courses" or ask other judges for help.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Yet Mr. Stack has been nominated to sit on one of the Nation's most influential judicial panels, the court that effectively serves as the court of last resort for the citizens of Florida, Georgia, and Alabama.

Apparently, Mr. Stack's most important qualification is his prowess as a political fundraiser. According to news reports, administration aides had discussed offering Mr. Stack an ambassadorship and a seat on the Federal district court as a reward for his rundrasing efforts, but that Mr. Stack had his heart set on a court of appeals position.

Mr. President, I understand that Mr. Stack raised millions and millions of dollars for President Clinton and the Democratic Party, but does that qualify him to be on the next highest court in the land? I do not think so. That is not what the judicial system is all about.

Mr. President, I understand that the American Bar Association has given Mr. Stack a qualified rating, but in my judgment, this rating is yet another example of why we should not rely on the ABA to review the qualifications of our judicial nominees.

Although I do not know Mr. Stack personally, I have no reason to challenge his integrity. I am sure he is a fine man who has contributed much to his community and to his country. But that is not the point. The question we must ask is whether Mr. Stack is, in fact, qualified to sit on the Eleventh Circuit Court of Appeals, the second highest court in the land? The answer, or course, is, "No." President Clinton should withdraw the Stack nomination without delay.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

NO MORE GAMES—RAISE THE MINIMUM WAGE

Mr. KENNEDY. Mr. President, I know that under the rule we will move very swiftly to the term limit legislation, but I would like to speak before that debate starts on another matter which, although not directly before the Senate today, is very much in the thinking of Members of the Senate and the House of Representatives, certainly the President and, most importantly, working families and needy working families, and that is the issue of the increase in the minimum wage.

On "Face the Nation" yesterday, Senator DOLE was asked whether he would allow a straight up or down vote on the minimum wage. Senator DOLE said, "No, our view is that it needs to be packaged with other things—maybe comp time, flex time."

Let me be very clear in response. There is no reason to delay or saddle the minimum wage with other controversial measures. I intend to offer a clean vote on increasing the minimum wage on the nuclear waste bill or any other bill this week or next week that is open to amendments. There is no excuse for further delay in raising the minimum wage.

Raising the minimum wage is a matter of basic economics, not politics, for millions of American families. More than 10 million people will receive a direct pay increase if the minimum wage is raised to $5.15 or $5.25 an hour. To those millions of working Americans, the issue is not politics. It's paying the rent and putting food on the table for themselves and their families.

An overwhelming majority of Americans want the minimum wage increased. They do not want to see this legislation buried in procedural maneuvers, or loaded up with antiunion amendments. They want to see it increased, and increased now.

Yet, ignoring the clear interest of low-wage workers and the desire of an overwhelming majority of the American people, Senator DOLE intends to prevent a straight up-or-down vote on the minimum wage. We can only wonder why. Senator DOLE says it is politics, but it is hard to believe that this kind of inside-the-beltway politics will work to his advantage.

A Lou Harris poll released 2 weeks ago found that 85 percent of surveyed adults support an increase to $5.15 an hour, and Chilton Research Services found that 80 percent support such a raise. Even 73 percent of Republicans support raising the minimum wage to $5.15.

But no group feels more strongly about this than women. The Chilton survey asked about the strength of the respondents' feelings and found that a clear majority—57 percent—feel strongly that the raise should be enacted. But 64 percent of women strongly agree with the legislation.

What explains the strength of women's support?

First, 60 percent of the 10 to 12 million people who will get a pay increase from this legislation are women, and 77 percent of those women are adults.

That means 7 million women, and 5 million adult women will get a pay raise from this bill.

Second, who are these 5 million adult women? Two million are single heads of households with at least one dependent. They are raising families, caring for children, and trying to get by on poverty level wages.

Third, 60 percent of minimum wage workers are married. They contribute, on average, 51 percent of family earnings. We are not talking about teenagers earning pocket money. We are talking about people whose families depend on them for their survival and well-being.

Fourth, what kinds of work do these 7 million women do? Many of them are in the retail, hospitality, and food service industries, where they work as cashiers, serve meals, clean hotel rooms, and work in laundries. Their jobs are hard and unrewarding, but they do them with dignity, working to provide for their families.

Fifth, but many of these women work directly with children in occupations that are almost entirely held by women, such as child care. The vast majority of child care workers would get a pay increase from a raise in the minimum wage to $5.15. Teachers aides, too, hold low-paid jobs dominated by women. These people deserve more for the care they give the Nation's children—it is time they got a raise.

Sixth, the other major industry that employs large numbers of women at or just above the minimum wage is health care, including occupations such as nurses aides and home health care aides. These are some of the hardest jobs in our society, caring for the sick and helpless, washing them, feeding them, cleaning their bedpans. The women who hold these jobs deserve a raise.

Seventh, raising the minimum wage is the best, most targeted solution we have to the problem of the income gap between the richest and poorest American families. Its distributional effects are powerful and positive.

Since 1979, the bottom three-fifths of American families have experienced a loss in their real income, while the top 1 percent of families saw its income grow 62 percent.

The bottom 40 percent of American families, whose incomes have suffered the most since 1979, would get 60 percent of the gains from raising the minimum wage.

That says that those workers who are out there now working 40 hours a week, 52 weeks of the year, the ones that have fallen the furthest behind since 1979, they would get 60 percent of the benefits of the increase in the minimum wage, and they are the ones who have been left furthest behind.

This is the single most effective thing Congress can do for those families. Compared with balancing the budget—I ask the attention of our colleagues on this issue—compared with balancing the budget, for example, which the Congressional Budget Office claims will raise average wages one-half of 1 percent by the year 2002, the Congressional Budget Office says, if you pass the Republican balanced budget amendment by the year 2002, average wages will increase one-half of 1 percent. Raising the minimum wage will increase the earnings of people in the bottom 40 percent by 4 percent in just 2 years—the bottom 40 percent. If you go down to 30 percent or 20 percent it becomes 8 or 10; down to just the bottom line, you go up to about 20, 22 percent, because you will go from $4.25 to $5.15, or $5.25, as suggested over in the House of Representatives. That represents almost 25 percent of the wages.

But just with this very modest increase, we are seeing for the bottom 40 percent of American workers that they will go up 4 percent while just the balanced budget in and of itself will provide one-half of 1 percent.

Eighth, women will not lose jobs, despite the scare tactics of the Republicans. The economy has added 10 million new jobs since the last increase 5 years ago. A dozen studies show that even teenagers won't lose jobs. In fact, the Card & Krueger study of New Jersey and Pennsylvania showed that employment in the fast food industry increased after New Jersey raised its minimum wage. Other studies have also found employment increases. There are two reasons: First, better wages attract more employees to the job market; second, because workers have better pay, they have more to spend and the economy gets a boost that leads to more employment.

Massachusetts raised the minimum wage to $4.75 an hour as of January 1, 1996. Unemployment has fallen in Massachusetts since the start of the year, while in neighboring New Hampshire, which left its minimum wage at $4.25, unemployment has increased.

In Massachusetts, we have seen the continued reduction in the unemployment figures virtually across the State, even with that increase up to $4.75 an hour.

The opponents of raising the minimum wage cry crocodile tears about its effect on the employment of people at the bottom of the economic ladder, but the people at the bottom of the economic ladder want the raise.

Lou Harris' most recent poll showed that 94 percent of Americans with household income of $7,500 or less support the legislation.

So to all those on the other side from whom we hear the arguments that they are most concerned about those poor workers, many of them women, many of them minorities; we do not want to have them thrown out of a job, the fact is the poor workers are the ones who overwhelmingly say they want the increase in the minimum wage.

Industry lobbyists probably should not try to speak for families at the bottom of the economic ladder.

This is an issue about women and the children they raise; 100,000 of whom will be lifted out of poverty with this bill's passage—100,000 Americans lifted out of poverty when this bill passes. Two million single heads of households who have to feed their children on poverty wages, get them to school while getting themselves to work, arrange for child care and provide them shelter is the issue in this legislation.

Mr. President, $1,800—the annual increase in the earnings this bill will provide to minimum wage workers—provides 7 months' of groceries for those families, 9 months' worth of utility bills, and an entire year of health care costs; the tuition for a community college or a State 2-year college.

This is an issue of fairness. CEO pay is up 30 percent and corporate profits are higher than they have been since the 1960's. It is time businesses shared that wealth with the lowest paid of their workers. Productivity has increased 25 percent over the last 20 years, but the value of the minimum wage has fallen 25 percent.

Is that not an interesting phenomenon? Productivity has increased 25 percent and generally at other times when we have had a level playing field, where all of the country moved up in terms of wages, the standard of living, the hopes and dreams for everyone, for the families and for their children, and for the parents, everyone moved up together. Now we have seen a 25-percent increase in productivity, which is usually associated with the increase in the wages for those workers, and we have seen a 25-percent reduction for those individuals at the lowest level of the economic ladder, again men and women that are working.

Finally, Mr. President, this legislation could mean important savings to the Government. This is an argument that is forgotten by those who are unalterably opposed to the minimum wage. It would mean savings to the Government in food stamps, Medicaid, and other public welfare programs. We can save more than $600 million in AFDC, $350 million in Medicaid, $300 million more in food stamps.

In a two-earner family where both parents earn the minimum wage, $3,600 in additional pay would make a dramatic difference in their dependence on public support. Why? Because their income would be sufficiently raised that they would no longer qualify for that kind of safety net. And if they no longer qualified for it, that would be a savings. And what should that mean savings for? Workers and workers' families because they are the principal ones paying taxes.

Or you can ask the question the other way. Why should all American workers, who are the bulk of the taxpayers, subsidize certain companies that are using sweat labor and refuse to pay the minimum wage for those who are working in the workplace?

That is what is happening today. So this is action in the interest of saving American taxpayer funds because it will raise sufficient numbers of needy people out of eligibility for these various support payments.

Mr. President, it is time to stop playing games and raise the minimum wage. I urge the majority leader to schedule a clean up-and-down vote on our bill to raise the minimum wage to $5.15 an hour. We need that. American workers need it.

It is interesting to those of us who had introduced at the start of the last Congress the increase in the minimum wage; that could have taken effect a year ago. We have already lost that year. Purchasing power has already declined. At that time, it was 50 cents, 50 cents, 50 cents. Instead, we went 45, 45, 45 as a way of compromise, and it is time we address this issue. This issue is not complex, nor complicated. It is a simple, straightforward issue that every Member is familiar with. We do not need to have more studies, more hearings. It is a matter of fundamental economic justice and fairness for hard working Americans. It is about time we get about that business.

I thank the Senator from Tennessee for allowing me the opportunity to speak at this time. I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. I thank the Chair. Before I discuss the pending business, I might make one comment. It certainly seems that partisan accusations are still alive and well. I sit here and listen to Republican this and Republican that. Of course, we are in the middle of an election year, but it occurs to me that in a 2-year period when the President of the United States was a Democrat, the Democrats controlled the Senate and Democrats controlled the House, we did not hear these calls on behalf of women and children and lower income workers. Such a bill was not introduced, and no committee hearings were held. In fact, the President indicated that was not the way to go. So now I am relieved that we have discovered women and children and the lower paid workers of this country and perhaps we can have a debate on it and do the right thing. But I would like to discuss something that should be of bipartisan concern.

Mr. KENNEDY. Could I just respond?

Mr. THOMPSON. Yes.

Mr. KENNEDY. Will the Senator yield?

Mr. THOMPSON. Yes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I just wanted to mention the fact that, of course, during that debate in the earlier Congress we were debating comprehensive health care. The value of the comprehensive health care was between 40 and 50 cents an hour. It was the request of the workers at that time that we focus on that rather than the minimum wage, and the minimum wage came back into play right after that was defeated. It was very easy and understandable for those of us who had been working on it, but I just mention to our colleague that the last time we had a bipartisan increase in the minimum wage, as the Senator knows, was in 1989. At that time we had two-thirds of the Republicans who supported it. We had a Republican President, Democratic Congress, and now we have a Republican

VOL
142
PT
6
AP
15
—
24
1996
UMI

Congress and a Democratic President. Presidents Eisenhower and Nixon supported it as well.

So this is, as we have tried to point out over the period of time, what Republicans and Republican Presidents and Republican Congresses have supported, as Senator DOLE and Congressman GINGRICH did at other times. So it is a bit of a stretch to say that they would have supported it another time if it was just a partisan issue but not supporting it now.

I know we may have differences on the understanding of those series of events, but I wanted to just have a chance to add those brief comments to the RECORD.

Mr. THOMPSON. I would just say to my colleague that it is not I who was making it a partisan issue or saying it was a partisan issue. It has not been that in times past. It seems as if recently it has become a partisan issue. And I think the point still is well made that for a period of 2 years, both before and after the health care debate, certainly after the health care debate, when control of the Congress was well within the power of the other side, this could have been brought up and discussed. And the President did indicate that the minimum wage was not the way to go. As I understand it, the position is that there was other legislation which would obviate the need for the minimum wage, and some would say today there is other legislation that could obviate the need for the minimum wage. I am not even saying where this Senator would come down. I would like to listen to the debate on it. We have not had a chance to debate it.

I just find two things that are happening very strange. First, is now it is an issue that is first and foremost in the minds of some of my colleagues on the other side. And, second, they seem to be the ones who are trying to make this a partisan issue. I say, let us consider it on its merits, both sides of the aisle, and do the right thing about it. But, if we start off in the very beginning making it a partisan issue and trying to draw lines and distinctions when the people on the other side of the aisle have sat and done nothing with regard to the minimum wage when they had it within their power to do so, we are not going to have much progress.

Mr. KENNEDY. Could I have one final moment in the exchange? Of course, as the Senator knows, we have had good Republican support on the last vote for an increase in the minimum wage. That, I think, was something that was notable.

Second, as the Senator knows, we have not been given an opportunity to get to this issue scheduled as an order of doing business. As we have said—and I am sure the Senator is familiar with this—if we were able to get a time agreement on a clean bill, we would certainly welcome that opportunity. We have indicated we would be glad to let time go, as the Senator knows, on the two last occasions where the Senate has addressed it. We have had Republican support, the majority of the Members. There was Republican support.

Finally, as the Senator knows, we have both the minimum wage and the EITC, both of which affect the working poor. The increase in the minimum wage has the greatest advantage for single individuals, which, increasingly, are numbers of single women. The EITC has a greater impact on those families where they have a number of children. Really, if we are interested in doing it, these matters ought to be embraced and put on together. We have seen the expansion of the EITC in recent times, although there were attempts to cut back on that during the budget consideration.

So I agree with my colleague and friend. I would welcome the opportunity to join with him so we could have a good discussion. Let Members of this body have a look at these items and then make a judgment. I am just concerned, as the time goes on, and as we know we have less than 40 days legislatively where we expect the Congress to meet and where the House has not taken action, it might be appropriate to do so at a particular time. But I am grateful to the Senator for his comments, and I certainly welcome the chance to engage in further discussion when we focus on this particular matter.

Mr. THOMPSON. I appreciate the comments of my colleague, and I share his view this is something that ought to be considered deliberately and fully at the appropriate time. I think it is wise that we approach it from the standpoint of what is good for the country; that neither side try to make undue political points at the outset. Otherwise, we are not going to get anywhere. I simply say, I share my colleague's concern and desire to get anything up for a vote.

It has taken 49 years to get the matter I am about to discuss up for a vote in this body, so I would like to turn to that now unless my colleague has any more comments.

Mr. KENNEDY. I thank the Senator.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. GRAMS). Twenty minutes has expired. Morning business is now closed.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of Senate Joint Resolution 21, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms.

The Senate resumed consideration of the joint resolution.

Pending:

Thompson (for Ashcroft) amendment No. 3692, in the nature of a substitute.

Thompson (for Brown) amendment No. 3693 (to amendment No. 3692), to permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate.

Thompson (for Ashcroft) amendment No. 3694, of a perfecting nature.

Thompson (for Brown) amendment No. 3695 (to amendment No. 3694), to permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate.

Thompson amendment No. 3696, to change the length of limits on Congressional terms to 12 years in the House of Representatives and 12 years in the Senate.

Thompson (for Brown) amendment No. 3697 (to amendment No. 3696), to permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate.

Thompson motion to recommit the resolution to the Committee on the Judiciary with instructions.

Thompson (for Ashcroft) amendment No. 3698 (to the motion to recommit), to change instructions to report back with limits on Congressional terms of 6 years in the House of Representatives and 12 years in the Senate.

Thompson (for Brown) modified amendment No. 3699 (to amendment No. 3698), to change instructions to report back with language allowing each State to set the terms of members of the House of Representatives and the Senate from that State.

Mr. THOMPSON. Mr. President, this is a constitutional amendment to limit the terms of Members of Congress. It calls for a limitation of 12 years, 2 terms in the U.S. Senate; a limitation of 12 years, 6 terms in the House of Representatives.

As I indicated, the last vote on term limitations in this body was in 1947, so it has taken about 49 years to get the second vote on this, not that anybody has been particularly pushing for it.

I believe it is the first constitutional amendment for term limits to ever come out of committee. This had a full committee hearing. It passed out of the Judiciary Committee, and now, for the first time, a committee bill is on the floor ready for consideration. I think it is long overdue.

In this body, it has been my observation that we pay as close attention as we can to what the American people want. We pay as close attention as we can to what our constituents want. We have offices all across the various States. We go to those offices, we listen, we get tallies on what people are calling in about, what people's concerns are. We go out and we pride ourselves, as elected Members, having town hall meetings, and we say a large part of the purpose of that is to listen, to see what is going on so we can be reflective of the opinions of the people that we represent.

We run our campaigns on the same basis. We say, let us be your Representative and we will go up and listen to the people. Let us turn the Congress back to the people. We try to respond every time we get the feeling that 51 percent of our constituents want something. There is nothing more responsive than someone who has been elected to office, who feels his constituents are pressing for something, even by the barest of margins—except in one area. That is the area we are dealing with here today, term limits.

We see poll after poll after poll, and we poll early and often. Sometimes it is like all that is happening around here is a rendition of those polls. My colleague from Massachusetts was talking about how many women favored minimum wage, how many Republicans, how many Democrats, all based on polling results. Who is ahead in the Presidential race? All these various issues. Who is for us and who is against us? By what margin? The distinction between last week, when 52 percent of the people were for this proposition, and the week before last when only 49 percent of the people were for this proposition, so we see a little movement there.

There is extreme, extreme attention to the temperature of the American people and to our constituents, except about one thing, and that is term limits. Poll after poll indicates that upward of 75 percent of the American people favor term limits, and the overwhelming majority of States and localities that have had the opportunity to vote on term limits have come out in favor of term limits. Mr. President, 22 States have imposed term limits on themselves, even while other States were not doing so, saying: We think it is an idea whose time has come. It would be for the benefit of America for us to set the example, and we are willing to impose it on ourselves even though there is no obligation for other States to do so.

Yet, even in light of this overwhelming majority of the American people who feel something is basically going wrong with their country and they are searching for something fundamental to do about it, we pay absolutely no attention to what is going on. We pay no attention to the overwhelming sentiment of the American people with regard to this one area.

The case can be made that we ought to be more reflective in some cases, that we ought to be a little more isolated. This is supposed to be a deliberative body and sometimes we do not take enough time to really reflect on the important issues that are facing us. Sometimes we get too caught up in the number of bills that we can pass and the gamesmanship of what is going on in this town. But, why is this the only one area where this rule seems to apply to this body, and no other area? The answer, of course, is because in a Congress that busies itself in regulating other people's lives and purifying other institutions, other businesses, other individuals, that changes when it comes to doing something about ourselves, even something as innocuous as a 12-year term. This constitutional amendment would not even need to be ratified for 7 years. Then it would be prospective. It is the most minimal first step toward trying to put us in a position to face the 21st century that we could possibly think of. It probably would not affect anybody in this body right now, another 12 years on top of what they have already served, and on top of the 7 years it might take for ratification of the constitutional amendment. That is not exactly a drastic move, not exactly a revolutionary change. Yet we have all this difficulty even getting to first base.

Let us talk about what this is not all about, because the detractors of term limits, in their scrambling around to try to come up with reasons why in this particular case the overwhelming majority of the American people are wrong, have set the terms of the debate for us, in many cases.

What it is not about is vindictiveness. A lot of people are angry with the Congress of the United States, but this is not about vindictiveness. Life is too short for that.

On the contrary, Mr. President, I really believe that imposing term limits on ourselves would do more to restore the dignity and the esteem of Congress with the American people than anything else. I pointed out the other day that columnist George Will wrote a book awhile back called "Restoration," and it was about term limits. Most people would have a hard time seeing that connection until they got into it and read it.

The point is, and a very valid point, I think, indeed, is that at the time our country was founded, people would line the streets and say, "Long live Congress, long live Congress." Can you imagine what most of them would be saying today if they had a shot at making a comment at us parading down the street together?

What has changed in that period of time? We have lost the respect of the American people. I believe this self-imposition is something that the people feel in their hearts is right and something that would, in one way, be to our own detriment—it might cut a few careers a few years short—but would do more to restore the faith of the United States people in the U.S. Congress than anything else. And that, Mr. President, is probably more important than anything else, because Congress is the message deliverer, and we have some tough messages to deliver to this country. A lot of it is not going to be well received. A lot of it is not being well received, but it is the truth, and it has to do with the future of our country and the things we need to do to make sure we fulfill that tacit understanding that each generation is supposed to have with the next, and that is, that we will leave this place a little better off than we found it. We are not fulfilling that commitment now.

Another thing it is not about is simply changing new faces for old faces. There is nothing that inherently goes wrong with someone because they have been around a place for a while. There is nothing beneficial about changing a new face for an old face if a new face comes in with the same attitude as the old one had. That is not what it is all about.

In fact, I am willing to concede that you could make a pretty good case for the proposition that for the majority of our history in this country, our system served us pretty well. We went through two world wars in this country, we went through a Civil War, we went through a Great Depression, and we had to dip into the till pretty deep sometimes, but we always came back and balanced our budget. We had a balanced budget as late as 1969 in this country.

Our Founding Fathers did not address term limits. It never occurred to them that we would wind up with the professionalism and the careerism that we see today.

So, for a long, long time, we could get by with what we had, because we did not have the culture of spending, we did not have the growth of Government and all the demands and pressures that are on us day in and day out to spend more and more and more. We did not have members so faced with the proposition, are we going to get along with people and get reelected by saying yes to any and every spending measure that comes down the pike, or are we going to risk our political future and say, "We can't do things the same old way anymore; we can't necessarily grow each program at 10 percent a year anymore."

Everybody in this town knows that—both ends of Pennsylvania Avenue and both sides of the aisle. We know that, and yet we are afraid, basically, to say that. Or somebody says it and somebody else will get up and say they are trying to harm old people and trying to harm young people to get political advantage out of it for the next election. We get into that cycle: scare people momentarily. Sometimes it works, and yet the American people have this sense, this innate sense that something is really going wrong, something is not working right.

So it is not about vindictiveness or even throwing the rascals out. My goodness, we in this body, anything that we are able to accomplish, we stand on the shoulders of giants. Many giants have been in this body. I hold this body in the highest esteem. I have

VOL 142 PT 6 AP 15 — 24 1996 UMI

reverence for this body. I have never understood why somebody would want to be part of an institution for which they did not have any respect.

I used to come here as a very young man and sit up in the gallery and watch the great debates that would take place, even at that stage, and that has not been that long ago. People were talking about the issues. People seemed to have a little bit more time to deliberate. We were still right at the point where we were capable of balancing the budget. That time has changed.

So what is it about? What it is about is not all the little things that you hear debated back and forth on the 6 o'clock news. If you cannot get it out in 15 or 20 seconds, it is going to be totally lost. It is not about new faces, it is not about experience, it is not about whether the lobbyists or the staffs are for it or against it. It is about dealing with the monumental problems that are facing this country, problems that are so great and so ingrained that many thoughtful people on both sides of the aisle think that it is already too far gone for us to do anything about. And it is about the fact that we are proving ourselves incapable under current circumstances of dealing with it.

We are mortgaging our future, and it has to do with nothing more basic than our need to perpetuate ourselves and to avoid risk, which too often means avoiding the truth, and, therefore, we continue to go down the road that we know is bound to lead to disaster unless we make significant changes.

What does this desire for reelection and staying do to us? It causes us to spend. It all comes down to the growth of Government and the culture of spending. This is not a partisan issue. You can pick your administration or you can pick who is in control of Congress—the House or the Senate—and go back for the last few decades, and I am willing to say that there is enough fault on either side; that neither side can take partisan advantage of this if you view it objectively.

Every time someone stood up to speak the simple truth about the future and took their eyes for a few minutes off the next election and tried to do something that would make this country stronger for the future, the other side would invariably get up and take partisan advantage of it, scare people, go on television with 30-second ads, and whoever brought it up would cower back to their corner, not to be brought up again for a while.

Mr. President, there is no simple solution to what I am talking about. It is fundamental. We have gotten ourselves into a deep ditch. We did not get there overnight, and we will not get ourselves out of it overnight, but we have to start examining possibilities that will put us in a position of doing something about it.

How can we continue down this road? This proposal will not affect me personally either way and it will affect hardly any of the Members in this Congress, I would think. But if we had a system that concentrated on how best could we operate in the next century in order to solve these problems, I think that term limits would be a major, major step toward doing that.

I believe if we open the system up so that people knew that these jobs would be open from time to time, in the first place you would draw more people into the system. Right now, unless you have access to millions of dollars—and usually through incumbency, which allows you to raise millions of dollars—it is not a participation that you can enjoy as an average citizen. We have 250 million citizens in this country, and one small fraction of 1 percent are all that have any realistic shot of ever setting foot on this floor.

So bring more people in. What kind of motivation would those people have? If people were coming into the system knowing from day one that this could not be their career, that, hopefully, they have already had a career and, hopefully, they will have another one and this will be an interruption to a career and not a career in and of itself, would they be as frightened of the special interests?

Would they be as frightened of the poll numbers? Would they be as frightened of the proposition that 51 percent of the people might get temporarily mad at them if they spoke the truth and said, "You can have a 7 percent increase this year but you can't have 10 percent"?

I think we would have people who would come in with a different agenda. I think we would have people who would come in with the idea, more likely—not universal, because nothing is—more likely that, I'm going to give a few years to my country. Just because it is 12 years does not mean you have to stay 12 years either. That is a maximum. Give a few years to my country the way they used to, the way they used to some years ago, and try to do the right thing. It is called public service. That is what it used to be. Citizens used to come in and do that. That is what the Founding Fathers had in mind, and that would go on. I think it is only a Congress which is peopled by individuals who have that attitude that is ever, ever going to get us out of the monumental straits we are in.

By the year 2000, the net interest paid on the national debt will surpass defense spending and is projected to become the second largest Federal expenditure after Social Security. This is from the Bipartisan Commission on Entitlement and Tax Reform —the bipartisan commission. By 2012, unless appropriate policy changes are made, projected spending on entitlement programs and interest on the debt will grow so rapidly they will consume all tax revenues collected by the Federal Government—all tax revenues. In 2030, to bring the deficit down to the current level, the Bipartisan Commission on Entitlement and Tax Reform concluded that either all Federal taxes would have to be increased by 85 percent or all Federal spending programs would have to be cut in half. This bipartisan commission is telling you what is going to happen. Have you heard it anywhere else?

By 2012, mandatory spending, interest, and entitlements will exceed all Federal revenues, leaving no money for the Federal Government to spend at its discretion on programs like education, law enforcement, research and development, national defense, and health research. By 2030, entitlement spending alone is projected to exceed all Federal revenues.

We have had a philosophy now for several years in this town that a Senator is judged in large part by the amount of pork he can bring back to his State, not realizing that ultimately what is good for Tennessee is good for America and what is bad for America cannot be good for Tennessee or any other State.

We have a proliferation of interest groups as we pass more and more laws and regulate more and more things. Those who are the objects of those laws and those who are being regulated naturally come to town to tell us what we are doing to them. When these programs are ingrained and people are used to receiving these moneys, there is no turning back. It is always more and more and more.

You attend hearings for a month, and you will never hear anybody coming back in saying they want to give some money back to the Federal Government. It all goes the other way. We are now facing what one philosopher said a long time ago; that is, the ultimate test for any democracy is whether or not, when they discover they can pay themselves out of their own treasury, there can ever be any turning back.

The other thing we need to address, along with the absolutely horrendous fiscal problem that lies for our children to keep up with, is the public cynicism. Out of all of this trying to be responsive, out of all of this poll taking, out of all this technology that we have to monitor the pulse so we can claim we are doing just exactly what the people want us to do, what do the people think about their Government?

A very thoughtful gentleman by the name of Haynes Johnson wrote a book a year or so ago called "Divided We Fall." He stated the following:

> For at least a decade, and in reality far longer, people at the bottom have grown increasingly alienated from those at the top, and especially from leaders who seem unable and often unwilling to address their concerns. Over the last generation, surveys on public alienation have tracked America's steadily eroding confidence in its leaders and in its institutions—a decline so uniform and so steep that it raises the most serious questions about public faith in the democratic system and therefore the ability of that system to function.

Mr. President, that is serious stuff. Mr. Johnson went around the country talking to people, and spent a long time in researching this book. He pointed out a recent Harris poll indicating that, "At the bottom in public esteem were law firms, with only 11 percent of Americans expressing great confidence in them. Barely above them was Congress at 12 percent." Thank God for law firms.

He further states:

> Traditionally, American politicians are driven by the short-term approach. From city council members to members of Congress, emphasis is on the "quick fix" to complex problems and on claiming political credit for responding to immediate needs. The result, as we have seen, is postponement of decisions on major long-term issues. Thus, the real size of the budget deficit is masked. Genuine attempts to reduce it are put off to the next session of Congress—and the next and the next. Action is not taken today; it is always planned for tomorrow, to take place in what Washington policymakers, in typical semantic obfuscation, call "the out years." The out years never quite arrive; they continue to lie beyond grasp. So the debts increase and the charade continues with each new congressional session.

I ask my colleagues whether or not that sounds familiar.

Finally, he states that:

> These are among the many reasons the political system remains under siege. A more elemental one involves the public conviction that the American political system has produced a generation of politicians in both parties who can't, or won't, tell the truth, because if they do, they will not win; and that lie permeates American politics.

It is a sad situation, Mr. President, sad situation. For those of us who simply say, the status quo, we cannot make any fundamental changes, things are going great, I think the evidence is overwhelmingly to the contrary.

So, Mr. President, I say let us give the States an opportunity. That is all we are doing with this constitutional amendment. Let us give the States an opportunity to address this issue and see whether or not the people really believe what the polls indicate that they do. I feel like that is the least we can do and is our foremost responsibility to see if we cannot better derive a system in the future that would allow us to cope with this unbelievable cynicism of the American people toward us and our clear inability to get a handle on problems that are going to be the ruination of the next generation. I yield the floor.

[Disturbance in the visitors' galleries.]

The PRESIDING OFFICER. Just to mention to those in the gallery, it is against Senate rules to have any show of approval or disapproval of any statements made on actions taken on the Senate floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Thank you, Mr. President.

Let me begin by offering my appreciation and compliments to the Senators from Tennessee and Missouri for having worked as hard as they have on the issue of term limits and bringing the issue of term limits to the attention of the U.S. Senate.

I think our freshman class is strongly supportive as a group of the term limits effort. I think that Senators who have led this battle deserve special acknowledgement for the support they have given. I rise today and thank them and also make some comments of my own which are pertinent to this debate.

Mr. President, in my State of Michigan, the people have already spoken on an important issue the Senate will consider here this week; that is, term limits. In 1992, Michigan voters passed term limits for Federal officials by an overwhelming margin—6 years for the U.S. House of Representatives and 12 years for the U.S. Senate.

I repeat, it was an overwhelming margin, Mr. President. This was not a close vote. In 1993, as a candidate for the U.S. Senate, and in 1994 I ran on a platform committed to trying to make certain that the will of the people of my State was acknowledged and was followed by the Congress of the United States.

The fight for term limits in Washington, however, must continue. I pledge to fight in Washington and make sure that the limits the people of Michigan voted for would be permissible. Term limits are widely observed at other levels of Government, Mr. President.

The President of the United States, 41 Governors, 20 State legislators, and hundreds of State and local officials currently abide by term limits. Why not Congress?

There has been an overwhelming expression of support for term limits in State after State. Since 1990, more than 25 million votes have been cast by voters in 22 States supporting congressional term limits. Polls have consistently shown that more than three-quarters of the American people favor term limits. I believe, Mr. President, that it is our obligation to fight to make sure that the people's voice does not go unheard.

The 104th Congress is the first Congress to have recorded votes in either Chamber on term limits. The Senate vote this week will join the 1995 House vote to produce first-ever votes in both Houses. The vote in the House was held in March 1995 and received a majority of 227 votes. Passage, however, of a constitutional amendment would have required a two-thirds majority, or 290 votes.

For the first time in history, the Senate will vote on term limits. While the measure is not currently expected to receive the necessary 67 votes required for passage, this vote is an important beginning to what I believe is an inevitable outcome. While approval by two-thirds of the House and Senate will not be easy, the support of 75 percent of the American people will make a difference as we continue this important effort.

When I campaigned for the Senate in 1994 in my State, I heard from one end of Michigan to the other a consistent and very, very responsive, positive public outpouring of support for term limits. People felt that the Congress, in particular, and Washington as an institution was out of touch. They felt that a lot of factors were at play, but, most importantly, they felt that too many people ran for Congress or for the U.S. Senate, went to Washington, and ultimately stayed so long that they lost sight of the reasons that they ran for in the first place.

Promises in campaigns were seldom, if ever, kept. Indeed, by the end of a term the promises of the previous campaign had often been totally forgotten. People felt that this lack of contact and communication, this out-of-touch, Washington, inside-the-beltway mentality was the reason that Washington had not been able to deal with important problems confronting America and, in particular, the problems of the Federal budget deficit and runaway Federal spending.

People in my State believe that they have sent too many of their hard-earned earnings to Washington. They would like to keep more of what they earn. They feel the Federal tax burden is too high. They cannot understand why they have to balance their family budget, but we in Washington have not been able for 25 years to balance the Federal budget.

The reason, they feel, more than any other that has led to this problem, this lack of responsiveness, is that too many Federal officials have been away from home too long, too many Federal officials have lost touch with voters back home and do not understand the things that motivate the average working families in Michigan.

Mr. President, I do not think Michigan is atypical. I suspect that virtually every Member of this body hears the same thing in their State. I suspect Members of the House of Representatives, likewise, hear the same sentiments expressed to them when they are in their constituency.

Now, this Congress has begun to move, I believe, in the right direction to address some of these concerns. Last year, for the first time we voted in the very first action taken by the Congress, to apply the laws that apply to the rest of the country to Members of Congress themselves. We put an end, in the Congressional Accountability Act, to the double standard that said that

VOL
142
PT
6
AP
15
—
24
1996
UMI

things we adopted here as Federal law were fine for the rest of America but not fine for ourselves. That has begun to change the way we do things here in the U.S. Senate.

I have been intrigued by the fact that so many of my colleagues and I have found that meeting the various labor and other laws, requirements that we now are required to follow, have changed the way we operate our office and made us more mindful and concerned about labor relations and other issues that come on a day-to-day basis before us in our Senate offices. In the same way that has put us more in touch, I think nothing will put Congress more in touch with people back home than a frequent and regular turnover in the composition of the House and Senate of the United States.

Mr. President, I believe that the term limits movement is a movement that will only grow. If 75 percent favor term limits today, I believe it will be even a higher percentage in the years to come. That is why whether or not we are able to succeed this year in passing term limits, it is only a matter of time, I believe, before we will have term limits as part of our Constitution.

To that, I want to commend the majority leader, Senator DOLE, for scheduling the vote on term limits here in the Senate. For all the talk about bringing reform to Congress, I believe our best approach to make Congress better is through term limits. I urge all of my colleagues to support this much-needed reform of our political system. I urge them to support it because it is the right direction to take. I urge them to support it because it has such strong popular support. I also urge them to support it because I think it is only right that the citizens of the various States have the chance to set the limits on terms of Federal officials.

To conclude, that the citizens of Michigan do not have the constitutional authority to determine how long their Members of Congress and their U.S. Senators may serve, is, in my judgment, a strong repudiation of the rights of people in a free democracy to make decisions for themselves.

Mr. President, I close on this note, by urging my colleagues to support the term limit efforts we are undertaking this week.

Before I yield the floor, I will ask unanimous consent to speak as in morning business for 2 minutes to make a brief statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SYMPATHY TO MICHIGAN FAMILY

Mr. ABRAHAM. Mr. President, I rise today to express my deep condolences to the entire Bitar family of Dearborn, MI, who lost their two sons due to the most recent violence in Lebanon that occurred last Thursday. Hadi, who was age 8, and his brother, Abdul Mohsin, age 9, were visiting their grandmother in their home village of Qana during their spring break from school when the fighting broke out last week. They sought refuge in the United Nations shelter, which was tragically bombed.

The loss of civilian lives, Mr. President, no matter where it occurs, is always devastating, but it is especially tragic when children, in this case, 8- and 9-year-old children, are killed senselessly. When a loss such as this occurs so close to home, as it did in an important city in my State, many individuals in the Michigan community were affected. They feel this very deeply. I am here today to speak on their behalf.

This occurrence highlights both the urgency and the necessity of bringing peace to the Middle East. I strongly urge the administration to persist in trying to negotiate a cease-fire in Lebanon and to bring an end to the hostilities immediately. I sincerely hope that no more tragedies such as this occur and that no more innocent lives are lost while these negotiations persist. Yesterday, I attended a special prayer service for the two boys who were killed last week. The ribbon I am wearing today, Mr. President, was given to me at that service as a tribute to the lives that have been lost. All I can say, Mr. President, is I intend to be on the floor every day to talk about what is going on, and these tragedies, until, hopefully, we will see a cease-fire and an end to the senseless killing and the bloodshed.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The amendment before the body is amendment 3698.

Is there further debate?

Mr. ASHCROFT. Mr. President, thank you for the recognition. I want to thank my friend, the Senator from Michigan, for his outstanding analysis. I also want to express my sympathy to him and to those citizens of Michigan whose children were victims of the latest bombings. I commend him for his work in this area and thank him for bringing our attention to this matter.

Mr. President, I want to talk about term limits. I want to mention some important reasons why I think it is essential that Members of this body support the opportunity of the States to ratify a constitutional amendment.

The Senate does not have the authority to amend the Constitution. We merely have the authority to extend to the States the right to ratify a proposed amendment to the Constitution. To vote against this proposal is basically to say that the wisdom of the Congress is so superior to that of the States that we should not even entrust them with decisionmaking power on limited tenure.

Why, then, should we have congressional term limits? Why should we send to the States this opportunity for ratification? I believe we ought to because that potential for ratification is consistent with the central values of this Republic, the central political themes and understandings of our democracy. The first of those is that we are representatives of the people. We come here to provide the people a voice. And while we are to exercise our own judgment, we are to represent the people of the State or district from which we hail.

What do the people of America think about term limits? Well, the polling data indicates that 74 percent of them favor term limits. And 41 States have imposed term limits on their Governors. As it relates to city councils, many cities—from New York to Los Angeles—have imposed term limits on their own city councils.

As you look at the political map, you find out that there is a glaring hole in the term limits net: the U.S. Congress. It exists for the President, not the Congress; it exists for Governors, for State legislatures, for cities, counties, and towns. all kinds of things across America. But there is one place where it has not existed.

There is another fundamental value of American culture that term limits respects and reinforces. It is the value of access and participation. When a few people believe they are the only people that have the capacity to do a particular job, they tend to shut others out of the process. The unfortunate effect of incumbency is that it has closed down the system even further.

The American people are understanding folks. They have watched as 91 percent of the incumbents who run for office win reelection. That means that a challenger has a 1-in-10 chance to defeat a sitting Member. Now, you do not have to be a math wizard to understand that, in an open seat situation, the two challengers have a 50 percent chance of winning. Furthermore, the data suggests that when there is the prospect of an open seat, the number of candidates increases exponentially. In other words, there is a substantial broadening of the variety of choices that the American people have from which to choose.

I think we ought to make sure that happens more and more frequently. Those who study political science indicate that as you approach an open seat race there are increasing numbers of individuals who prepare themselves for the vacancy by offering themselves as candidates.

That is one of the reasons why I think the 6-year limit in the House is so valuable. It would virtually guarantee that we would have enhanced levels

of choice for the American people in every elections.

It is also important to look at the history of term limits. I think the word "history" is important here. So often people debate term limits as if this were some theory that needs to be hashed out in the think tanks before the American people could understand it. This is not a decision made in a vacuum of facts or experience. It is a decision made in an arena with which the American people are fully familiar.

The American people have a history of term limits. It is not the passion of the moment. It is not the whim of a particular time. It is an understanding about the way government works. And they have said, yes, we want it for the Presidency of the United States. So you have term limits for the Presidency of the United States.

Let me also say that I believe that those who indicate that there are not enough qualified people in the country to replace qualified Members of the Congress have a view of a talent pool in America which is unduly shallow.

When George Washington walked away from the Presidency after his first two terms in office he understood that America was a place filled with knowledgeable citizens whose judgment and capacity would sustain this Republic, and he did not allow himself to be swayed by the arrogant nonsense that there are just a few people in America who are bright enough, or capable enough, or sound enough to make decisions. He understood that the tree of liberty would be nourished by an influx of creativity that would be found as individuals stepped aside to return to citizenship and as citizens stepped in to accept the responsibilities of government.

It is high time that we had the same understanding of the talent pool in the United States. The pool of available talent in this country is incredibly deep. We have great resources. We have tremendous citizens. There are outstanding persons, and we ought to tap them and call them into the process. Then we ought to send ourselves home to live under the very laws for which we vote.

I do not want to be a part of those who underestimate the strength and the capacity of the people of this great land. We have a tremendous capacity in America. We should open the door of self-government to those individuals so that they can participate in government by virtue of coming in and being a part of the U.S. Congress.

What would the United States look like if we were to have had term limits? What kind of changes would there be? Mind you that I am prepared to say that I believe we ought to make the decision about term limits based on the fundamental values of this country, based on the sense that we ought to have open access and that we ought to have more participation based on the fact that we represent the people.

But what would America look like? When Stephen Moore of the Cato Institute conducted a study, he indicated that we would have had a balanced budget amendment, something we have yet to get. In 1990, 1992, and in 1994, we would have approved the balanced budget amendment.

Not surprisingly, the line-item veto, which we only passed this month, would have been enacted more than 10 years ago, in 1985. Think of the thousands, tens of thousands, think of the millions of dollars that might well have been saved had we had the capacity to knock pork out of Federal budgets as early as 1985. I believe that newcomers do reflect something special about the process.

Let me make another point. Some people have said that we need experienced people in Washington. I could not agree more. But I have to say that I do not believe that the only experience we need in Washington is government experience. Some of the very best Members of this body are individuals who have brought a wealth of experience from the private sector. To suggest that we need people who have years and years of experience in government is a bankrupt idea which fails to understand that experience happens in places outside the public sector.

A couple of other things that are significant to me about the Cato study.

And what are the things which would have failed? You guessed it. The last two tax increases and the last two congressional pay increases would not have passed the Congress. Interesting. All of the things that would restrain Government would have passed, and the things which fund Government would not have.

It comes down to this fundamental set of values as to whether government exists for the benefit of government or whether government exists for the benefit of the people. In "The Federalist Papers," Madison wrote of a Congress with a "habitual recollection of its dependence on the people." Unfortunately, we find ourselves in a democracy where the citizens all too frequently have a constant recollection of their dependence on government.

Just think of the agriculture bill we passed early this month. Farmers were waiting to find out what they could plant. It was a country dependent upon government, instead of a government that was dependent upon, and cognizant of, the citizens.

The principal value here is that we recognize what it is the people want. In this case, it is a constitutional amendment on term limits. I believe we should reinforce a reform which would promote access and participation, and which would level the playing field so that individuals who offer themselves for service have a fair shot.

One last footnote. A term-limited Senate would be a different Senate because it would require the Chamber to operate on the basis of merit, rather than seniority. While I respect the individuals whose dedication to their country has allowed them to serve this body, I do not concede that they are, by virtue of their service, the most qualified to lead committees or determine policy. I believe we should think about developing, and would develop if we had term limits, a leadership framework based on merit, not rank seniority. Incidentally, the 3–2 constitutional amendment I proposed would do just that.

Mr. President, it is time for us to respect the values of the American people; 70 percent of them would like to consider a term limits constitutional amendment. The time for us to extend them that opportunity is now.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

(Mr. ASHCROFT assumed the chair.)

Mr. THOMPSON. Mr. President, I thank my colleague from Missouri. He has been a leader in this fight for a long time. His points are so well made. He mentioned the precedent set by George Washington, that after serving two terms, purportedly got on his horse and rode out of town never to return to Washington. People asked him to stay, but he knew better. He knew there were other people who were qualified to serve, and because he left when he did, other people were able to serve. He set a good example.

The same example was set by Thomas Jefferson. He served two terms back when a President could serve for as long as they could continue getting elected. So this is the example that was set for us. And, of course, the people who were in the Congress at that time would not have thought of serving many, many years in Congress. They were citizen legislators who came to town to interrupt their career and not make a career. So I think that the Senator's point is very well made.

I see my colleague from Colorado is in the Chamber. I yield the floor.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. I thank the distinguished Senator from Tennessee for his leadership on this issue, as well as the distinguished Senator from Missouri. Both of these first-term Senators have made an enormous difference in the body, and I think their service speaks volumes about the talent that is available in this Nation.

Mr. President, this is a hotly debated item, and while opinion in this country overwhelmingly supports term limits,

VOL 142 PT 6 AP 15 — 24 1996 UMI

it is not a secret that it is not the most popular item ever presented in this Chamber. We have had difficulty getting votes. The first vote on this was in 1947 by a Senator from Texas. He succeeded in getting one vote—his own—and it was a long time before it was raised again.

In the last several years, we have been able to get several votes, but they have never been clear and on the point. I think we should note at least that Senator DOLE's leadership provides the first opportunity in the history of our country to have this issue aired in this Chamber in a clear fashion. He is the first majority leader of the Senate to bring it to the floor and hopefully provide us with the opportunity for a vote. It is a courageous thing to do because there is enormous pressure in this body and outside this body not to allow it to come forward.

Over 200 years ago, Thomas Jefferson wrote a friend and he suggested some interesting things. He said three things were missing in the American Constitution: a Bill of Rights, of course, which was passed later on; limits on the tenure of the chief executive—he was about 150 years too early, but he got that right, because, as all the Senators are well aware, that was eventually passed and added to our Constitution—and lastly, the third item Thomas Jefferson mentioned was rotation in office for Members of Congress.

What prophetic words. Two of the three have come to pass. Mr. President, I believe with all my heart the third will come to pass as well.

Many Members for whom I have deep respect have spoken on this subject and expressed real regret about this issue. To some, they have taken the issue personally, as a question of the value of their service or a question of the value of their continued effort to serve this country.

Speaking for myself, but I believe speaking for others as well, no such intent or castigation of their service is intended at all. As a matter of fact, there could be nothing more American than putting a limit on power. That is really what this is all about. It is not just about the example of Cincinnatus returning to his farm after serving his country. It goes to the very core and very heart of what Americans believe about government. We are unique. We are not simply the longest surviving democracy in the history of mankind, but we are a shining example to the rest of the world of what can blossom forth when people are free, what can happen when the power of the Nation is primarily centered in the individual and not in those who govern.

The world's history, recorded for some 4,000 to 5,000 years, is replete with examples of people who performed great service. It is also replete with examples of countries where power corrupted. Americans, when we drafted our Constitution, were more aware than any people in the history of mankind of the value of governments in the past. The writings of Polybius, Montesquieu, and Cicero were on the minds and words and lips of the drafters of the Constitution.

They understood the cycle of government that Polybius had observed, so many, many centuries ago; the tendency of power to corrupt. The tendency of democracy to turn into an aristocracy, ruling by the few; and the tendency of an aristocracy to devolve into a dictatorship, and the corruption that comes from dictatorship; followed by anarchy and then the process starting all over again.

Those evils were on the minds and in the hearts of the people who drafted our Constitution. They sought for something different and greater than anything in the history of mankind, any government in the history of mankind. They sought to find a government that would last. They sought to find a government that would provide the blessings of tranquility and order and liberty; that would not be simply temporary, as every government had been in the past, but that would be as close to permanent as we could achieve.

They believed that reliance on the individual and a stable form of government could bring about blessings to mankind that had never before been seen. This great experiment in democracy, in republican democracy, has shown exactly what they had hoped for. The very essence of what American government is all about is an understanding that power corrupts and a firm belief that, to have a stable, lasting government, we need to limit power. We need to limit power because power can corrupt and destroy and harm the stability and the freedom that we so highly prize.

For those who think that term limits is out of touch with the American experience, who have not read the words of Jefferson, who have not looked at the history of this country, where the pattern was for a turnover in Congress—for those who have not focused on that and somehow doubt that term limits is in the tradition of the American experience, think about the limits we put on power. It is the very essence and the very genius of what the American experience is. We designed a Government where the House is able to check the Senate and the Senate check the House. We do not allow a rush to judgment. We think a longer view, a more thorough analysis, can be beneficial. Is it slower? Yes. Does it limit one body's power? Yes. Would the Senate be more efficient without a House? I suspect you could get an argument on that. But our founders thought the essence was to limit power to cause good deliberation and also prevent corruption.

It is not just the House and the Senate that balance each other. It is an executive that has the power of a veto. And it is not just the executive and the Congress that face limitations, we have a Supreme Court and a court system that limits our power as well. The founders thought long and hard and they set up a system of government whose very essence, whose very core is a limitation on power.

They were concerned, some would say obsessed, with preventing the corruption that comes with too much power so they set up a system that puts its primary focus on individuals and not in government, not in the hands of a few but in the hands of many. And what power we gave to the Federal Government we limited.

It is not just the checks and balances in the Federal system that exist, but a separation of powers between the Federal and the State level. Specific provisions, article X, the Bill of Rights, leaves those powers to individuals and States not specifically given to the Federal Government. All Members know this. They are familiar with it. But to say or to think for one moment that term limits is not the very essence of the spirit of the American experience of government is to miss the point. Our whole approach has been an understanding of the corruption power can bring about, and the need to make sure—the need to make absolutely sure—that no one can rule without limitations. This is not an aberration. This is not a change of the spirit of the American government. This term limit is the embodiment of it.

Some will say wait a minute, we have gotten along pretty well without it. For those, I suggest they look at the history of this Nation. For one, term limits was not included in the Constitution because people never thought Congress would turn into a lifetime career. Service in the U.S. Congress was thought to be just that, a service. One of the big issues early on was raising of the pay to $6. For that they threw out most of the Congress, for that huge pay increase. Service in the House and the Senate was thought to be a time where you would serve your country, not gain financially. That has changed. Some will say Members of Congress are overpaid. Others, many here, think they are underpaid. But whether you believe we are overpaid or underpaid, there is no question that the salary for a Member of Congress is much different than what it once was.

There is no question that it is a good living compared to any standard in America today. Are there people here who could earn more? Yes, I hope so. There are some who could earn less on the outside. But the point is this. Serving in Congress has changed from a period of service that costs people money to serve, where the remuneration was much less than what they could get on

the outside, to a compensation that, even by the most meager description, is fairly adequate; something quite good.

The phenomenon of people serving a long period in Congress has accompanied a number of things. One, a dramatic increase in compensation, and a dramatic increase in the power that is here. Service now is different than it was in the 1800's. There are financial motives that did not exist.

Do we want to go back to those days where Members of Congress received little or nothing? No, perhaps not. But neither should we close our eyes to the impact of that change. The simple fact is, this country has changed. Because of the power and because of the rewards, people now wish to serve long periods of time.

There are three areas that I believe will change dramatically if we pass term limits. Here they are.

First of all, I believe the background of the people who serve in this body in both the House and the Senate will change if we have term limits. One need only look at the lengthy service of time that some Members have. But even more significant, I think, is that when we debate legislation we debate without the benefit of people having fresh experiences in the real world with regard to that legislation. I cannot tell you how many times I have come and listened to millionaires discuss the minimum wage, when they never held a minimum wage job in their life. Let me tell you, if you got through school by working and paying your own way with a series of minimum wage jobs, you have a different view of minimum wage jobs than if you inherited your money.

If spring break meant you had a chance to get a second job to make your tuition payment instead of taking a yacht tour on your daddy's yacht, you have a different view of what that issue is.

If you are concerned about welfare, I can tell you, if you have had to work for a living, if you have had to scratch for a living, you have a different view of what welfare is and ought to be than if you have been wealthy all your life.

If you are talking about regulating businesses and jobs, you have a different view if you have been subject to that regulation. Members of Congress for the first time—and I think it is of great benefit to this Nation—are now being subjected to the same laws, or almost the same laws—we are not quite there but we are close—almost the same laws that working men and women in this country are. Does that make a difference? You bet it makes a difference. I see, day after day, thoughtful, reasonable, intelligent people on this floor talk about imposing regulations on the working men and women of this country.

Mr. President, with due respect, I cannot help but think if they had actually had those jobs, if they had actually done that work, they would have a much different view. I believe term limits will change some of that. Term limits will mean some turnover in the people who serve. I think it is much more likely we will have people serve here who have actually had working experiences in the areas they attempt to regulate.

I see the distinguished Senator from Tennessee here, a physician, in our midst. All of us have grown to respect and admire him greatly as we have gotten to know him and seen the integrity that he brings to his job. But he brings something more than just a bright mind and great integrity. He brings firsthand experience of his profession as a physician. It is not a secret that when Members have questions about that, they turn to the Senator from Tennessee for a practical view. Do they always agree with him? No. But they at least have access to someone who has actually done it, who understands it, who has been there firsthand. How much more effective this body could be if we had more Members who had real lifetime experiences like the Senator from Tennessee.

I believe, as I listen to these issues debated, if we had that, we would have much more effective laws. One thing else I would suggest. If we had people who worked for a living and a real turnover, I do not believe we would have had 65,000 pages of new regulations put in the Federal Register last year.

For Members who are not aware of it, that is what it was—over 65,000 pages of new regulations were added last year. That is not the total regulations that Americans are subjected to; that is just what we added last year.

If you sat down today to read the regulations to which you are subjected and for which you can go to prison if you violate them or at the very minimum face heavy fines, if you simply wanted to find out what it is you are required to do, and you read 300 words a minute, which is pretty good for regulations, and you read all day long, 8 hours a day, with no coffee breaks, 5 days a week with no holidays and 52 weeks a year with no vacations, you would barely get halfway through. You literally could not read them if you devoted yourself full time, and those are what we expect the American people to follow. That is just the new ones; that is not the ones that are already on the books.

(Mr. THOMPSON assumed the chair.)

Mr. BROWN. Mr. President, one of the great benefits of term limits is to bring into this body a group of people who have a broader wealth of practical experience. By that turnover, I think what we will find is that we have become better legislators.

There are a few subjects, no matter the most liberal Democrat or conservative Republican who, if they sit down and get their facts right, cannot come to agreement on. Yes, there are differences; yes, there is a different philosophy. But generally when men and women have the same basis of facts, they are able to come to a similar logical conclusion.

I believe one of the great advantages of term limits is it will give our Members broader background, a greater basis of personal facts and, as a consequence, they will be able to work better together. I think you are going to find them able to do a much better job.

There is no society in the history of mankind that has ever produced 65,000 pages of new regulations every year, not Hammurabi, not Napoleon with his code, nobody ever came close.

If we think we can continue to be effective and competitive in a world market when we have committed to tying ourselves in redtape and regulations, we are dreaming. That is not going to change until we have legislators who have had real-life experiences. That is one reason I think term limits will be a great blessing for this Nation.

Second, it is my observation, from having spent 10 years in the House and 6 years in the Senate, that unlimited terms has led to a corruption of the process. Mr. President, I do not make that charge lightly. Let me be specific about it.

One of the political action committees or groups that supported me when I ran for an open seat for the Senate was very frank. They said, "If we had an incumbent that had a decent record, we would never have supported you, no matter how much we like you, no matter how you would vote, no matter what you would do. Our policy is to support incumbents."

Is it a good policy on their part? I do not think it is good for the country, but it is probably good for their narrow issues. I do not mean to give shortchange to those issues. I agree with this particular group and many of the things they do, but not with their announced policy to only support incumbents. Is that unusual? Tragically, it is not. The reality is many of our political action committees support incumbents if they have a voting record that is close to what they want.

Instead of being viable competitive races, what we have seen is a system where the funding for campaigns has become huge and incumbents have had an enormous advantage. Let us not kid ourselves. Anyone who says, "Look, we don't need term limits because democracy will take care of the process," has not looked at the facts.

In 1 year in the House, we had more people indicted than we had incumbents defeated. Let me repeat that. One of the years in the House, we had more Members of Congress indicted than we had incumbents defeated. Does that mean some people who were indicted

VOL 142 PT 6 AP 15 — 24 1996 UMI

got reelected? Yes, that is exactly what that means.

Mr. President, this is not a fair fight; this is not a fair process. Incumbents have an incredible advantage. Those who say, "We don't need term limits because the voters will take care of it," overlook the fact of what happens when one candidate is on the air and can outspend the other candidate 3 and 4 to 1. They are closing their eyes to the reality. The simple fact is, as long as you have long-term incumbency, you are going to have an enormous advantage for incumbents in this Congress. We have corrupted the process.

In the House of Representatives, even in years when you have huge turnovers, you have had more than 90 percent of incumbents reelected. The Senate incumbency is of little less value, I suspect, because there are slightly more competitive races. But make no mistake about it, incumbents in the Senate have a huge advantage in terms of fundraising.

If you believe in viable, competitive races, you are going to want term limits. The process has been corrupted and it is not going to change until we put a limit on the number of terms a Member of Congress may serve.

Third, Mr. President, I think there will be an advantage to this Nation with term limits with regard to the pork-barrel spending. Let me put it as succinctly as I can.

This Nation, in 1945, was the greatest creditor nation in the history of the world. More people owed us more money than any in the history of mankind. We produced 50 percent of the world's GNP. One nation, 6 percent of the world's population, produced half the world's products and services, and we were the greatest creditor nation on the face of the Earth.

Today, we are the biggest debtor nation on the face of the Earth. We owe more money than any nation in the history of mankind.

How does that happen? How could thoughtful, reasonable people spend themselves into potential insolvency? How could we set up trust funds that promise benefits, require people to pay in for their whole life on a chain-letter financing scheme? If private insurance companies did what the Federal Government does, we would put them in jail for fraud.

How could this happen? All of us know how it has happened. All of us know how this spending went wild. It happened because we set up a system where people would be in place for long periods of time, and the way to get along was to go along.

Members have heard this on the floor. This does not shock or surprise anyone. Perhaps someone will come down and say, Hank, that's not true, but, Mr. President, it is true.

I cannot mention how many times I have been in debate on farm bills and we will offer an amendment to eliminate the honey program. Some Members sincerely believe, if we did not have a subsidy program for honey, that bees would lose interest in flowers. Perhaps their parents did not give them a talk about the birds and the bees. But, they either believed that or they voted for the honey program for another reason, and that reason, if you review the debate, is pretty clear.

People said, "Look, this may not be the best program in the world, but if you do not vote for the honey program, I will not vote for your cotton program." And, "If you don't vote for the cotton program, I won't vote for the tobacco program." And "If you don't vote for the tobacco program, we won't vote for the peanut program."

Mr. President, how does this happen? Everybody here knows that is what happened. Everybody knows and understands how we got into these silly programs. We got into these silly programs because people said, "I can get what I want for my State if I will simply support these programs for other States."

Term limits make a big difference in that. Are you going to go against the chairman of the Appropriations Committee who you know is going to be there for another 20 years and you know that if you ever want anything out of that Appropriations Committee, that person, that man or woman, is going to remember you and is going to penalize you?

The simple fact is, the majority of Members of Congress over the last quarter century, and perhaps the last 50 years, have not done it. It is part of how we got into this circumstance. The pork-barrel spending, spending not on what each of us felt in our heart was a good program—we have passed programs that are nonsensical.

How do you defend a subsidy program for tobacco, for heaven's sake? I do not think anybody comes here thinking that makes sense—maybe there are some—but it gets passed and it stays in law. And it does, not because people think it is such a great idea, but because they know to get along you have to go along.

Mr. President, if you have term limits the world changes. Suddenly the person who could retaliate against you, if you did not support every one of his appropriations or her appropriations is not there permanently. Yes, you may not get what you want this year, but next year or the year after there will be a new chairman, there will be a rotation, there will be fresh ideas, there will be new people, there will be a turnover in thoughts and ideas and personnel and the ability to enforce the go-along, get-along rule will be dramatically reduced. Will it be ended? No. I wish there was a way to end it. But this will dramatically reduce the ability of people to enforce a go-along, get-along policy. It will dramatically cut back on pork barrel spending.

Mr. President, I am persuaded that all three of these things will happen if we have term limits. We will have much more knowledgeable people. We will eliminate some of the corruption in the process by having a turnover rather than having the built-in advantage for incumbents. We will strike a blow at pork barrel spending in a way that will be more effective than anything that is currently being done.

But, Mr. President, I am persuaded not just by these three things, but by something much more important. There are people who can come to this body and serve and keep their confidence and keep their independence and keep their integrity. I salute them. Many serve in this body right now, and America is a better place for it. But we must decide whether or not it is better to have a rotation of those who serve in public office. It is better to have a turnover. Will some great talent be lost? Of course there will. But, Mr. President, some great talent will be found. This is not a zero-sum game. For every person who retires we bring in someone new with fresh, new vibrant ideas and new experiences.

This Nation was founded on the precept that we will reflect the will of the people. Almost 80 percent of the American people in every survey that is found support this idea. Some surveys go as low as 75, others to 85 and 90. But the reality is the American people support term limits. They support that because they do not believe that anyone in American Government should be that powerful or that this should be a lifetime job.

I believe, Mr. President, we will find an enormous benefit to the American public with term limits. Is it going to pass this time? I do not know. The vote count seems to indicate that we are short. But, Mr. President, I do believe it will pass. I do believe Thomas Jefferson's third suggestion for the Republic will be enacted. I believe we will be a stronger, greater, more productive and creative people because of it. I yield back, Mr. President.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I associate myself with the remarks of Senator BROWN. He has outlined the issue very, very well, as has the Presiding Officer, and as others.

Mr. President, as Americans from across this great Nation demand true congressional reform and greater accountability from their elected officials, I rise today to strongly support this resolution which would impose term limits on Congress.

When I ran for the U.S. House of Representatives in 1992, I made a firm commitment to the voters of Minnesota's Sixth District that I would support

Federal term limits. When I ran for the Senate in 1994, I made that same commitment. And amidst a political climate of voter distrust and disgust with the system, I firmly believe that my strong support for term limits is one of the reasons I won both of those elections.

On January 5, 1993, after I was sworn into public office for the first time, the very first thing I did was cosponsor a bill to establish term limits for Members of Congress: two 6-year terms for Senators, and six 2-year terms for Members of the House.

After 2 years in the House, and now into my second year of serving in the Senate, my enthusiasm for term limits has not wavered. If anything, I am even more convinced that congressional term limits would be the single most important reform measure Congress could pass this session.

When we look at the problems facing our Nation today, and the inability of Congress to deal with our skyrocketing budget deficit and national debt, much of the responsibility rests upon career politicians, because studies have shown, the longer elected officials are in Washington, the more they come to believe that government has all the answers. More spending will solve the problems.

The longer they serve in Congress, the more likely they are to support even larger spending programs which means they believe—maybe they have been here too long—that Congress or Government has all the answers, not the individual.

Congress is no longer the body of the people that was envisioned by our Founding Fathers. Instead of citizen legislators, it has become a body of professional politicians whose ultimate goal, again, is to spend the entire balance of their careers in public office. Public service has become the basis of their way of life. Again, I would like to add, public service in itself is not bad. But, again, too much power or control in the hands of too few for too long is bad.

But when individuals have a vested interest in maintaining their elected positions, they are hardly the people you should entrust to reduce the size of Government and reform the institution that keeps them fed.

Career politicians too often put their own short-term personal interest in seeking reelection ahead of the long-term good of the country.

Too often, they are the first to cave in to special interests and too often, career politicians are the last people in Washington who really want to cut spending.

And again, statistics show, the longer a person serves in Congress, the more spending he or she supports, because they believe Washington has all the answers.

During the 1980's, it was easier to remove a member of the Soviet Politburo than it was to remove a Member of the U.S. Congress.

The arrogance of power exhibited by these career politicians has led many voters to become disenchanted, frustrated with Congress' inability or unwillingness to put aside personal motives of protecting political careers and honestly deal with the Federal Government's budget problems.

Fortunately, Mr. President, times have changed. Some of the most ardent opponents of term limits are no longer among us. I believe one of the reasons for this change is the commitment of so many of our new Senators and Representatives to the concept of term limits. And it is a message that resonates mightily across this country. National polls have shown time and time again that the American public overwhelmingly supports term limits.

Throughout my campaign in 1994, I spoke with voters across my great State—Minnesotans young and old, Republican and Democrat, from factory workers to corporate executives. And these individuals impressed upon me the importance of term limits.

Opponents of term limits claim that Congress will lose effective leaders, which it will. I will say there are many who have served many years and served well, but, at the same time, Congress will gain effective new Members, who will take up where others have left off. In the private sector, many corporations and factories replace their CEO's, every 5 to 10 years, mainly to get new life, new ideas, and new enthusiasm, new direction for their business, times change and needs change.

In the words of former Minnesota Congressman Bill Frenzel, "All the titans of Congress were pea-green freshmen once. They were good when they got there. Experience did not make them smarter. It just gave them more staff and made them harder to say no to." Like Congressman Frenzel, I, too, believe that "Congressional term limits would restore balance to our system by extending to the legislative branch the noble precedent of term limits applied by the 22d amendment to the executive branch only. Both branches need limits."

The 1994 elections were a mandate for change. Establishing term limits will deliver on a promise we made to the American people. It was a promise, I can assure you, from which this Minnesota Senator will not back down. Because service in this institution should be exactly what our forefathers intended it to be—that is, a temporary period of service to the Nation, followed by a return to our jobs, to the family business or to other careers, a return home, to live under the laws he or she helped to enact.

We talk about the lack of faith Americans have in Congress and those who serve here. We joke about those polls which show Members of Congress at the lowest levels when it comes to the public trust. But, Mr. President, it is not a joke. We have got to restore the public confidence which has been stripped away by years of abuse by powerful, lifelong politicians.

Mr. President, let me conclude by saying that term limits are a first step toward restoring that trust. I believe that is a vital step. I urge my colleagues to support the passage of this resolution which will go a long way toward restoring the faith of the American people in their elected representatives here in Washington.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWN). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I want to thank our friend and colleague, Senator FRED THOMPSON of Tennessee, for what he is doing and the way he is doing it. He does it out of the utmost sincerity, the utmost authenticity. I have known him a long time, since back in the days when he worked with our leader, Howard Baker, in a different role. He ran on this issue. A lot of people did. This was just one of many issues that he laid himself out to the voters on. He said, "I believe in this." And they said, "We believe in you." So that is why he is here.

There are those in both parties who would hope to avoid this measure, obviously. I want to indicate my strongest support for this measure which is offered by our friend, to limit the terms of service in the U.S. Congress—contentious, a bitter pill for some, difficult to grasp for others, but seen pretty clearly by the people of the United States, especially in my own State, where 77 percent of the people voted for term limits. Of course, they did not do that when I was running for my third term. But I was always very, very much in favor of limitation of terms, as I say, until I got to my third one. Then I had a lapse, just a light lapse, and now I am restored. I am back. Of course, not running again, but I will get to that in proper context.

Let me tell you why I am here to support Senator THOMPSON. I did not come quickly or early to this position. I came painfully to this position about term limits. I really thought they were a mistake at first. I say facetiously—obviously, when I ran for my third term, but I cannot help but notice now there is a certain strain in some editorial commentary about this measure, implying that it is some kind of "feel-good", toothless symbolic action, a

VOL
142
PT
6
AP
15
—
24
1996
UMI

way of diverting us from our real challenges. Saying if we would only do our work, "if you would just do your work, you would not need all these remarkable dodges and sophistries."

I cannot disagree with those charges any more strongly than I do right now. I will briefly describe for my colleagues the real-world road which I took to my current opinion—book, page, and hymn number, with no musical accompaniment. Here it is. My interest come only when I first served this party in this Senate as the Republican whip—I hope you hear this—when I became the whip, the second in my party serving under this remarkable man, Senator Bob Dole, who I have the richest admiration and regard for, in every respect. I served him loyally and will continue to do that in any capacity that he would request of me—here or whatever the endeavors of his life take him. It was when I was the Republican whip that I began to appreciate the severe need for some kind of term limitation.

Let me tell you how that work went on, even though many of my colleagues know exactly what that work is, the work of the whip. We would have a very tough vote ready on this floor. The troops would be out, the deputy whips, and the leader would say, "This is a critical national issue," and I and my colleagues would go to each Senator and say, "This is a tough bill, but this is a critical national issue. This is bigger than you, bigger than me, bigger than any individual item. Are you with us?" About once every 2 months, sometimes even once a month, one of my colleagues would say, "You know, I would love to do that, but I can't, because if I do that, I'll be history. I'll be out of here. I've got a tough campaign and you are asking me to cast this vote—forget it. I'm gone if I vote that way. They will just use it against me, and I'm out of here. I'll be history."

So we would go down the list. Both parties do this—do not miss this. I hope the American people do not miss it. OK, you go down the list and say, "This Senator is up for reelection. So we cannot ask too much of him or her, that would be terrible. We cannot put the heat on them. But this other Senator was just reelected. We can get him or her to go with us," and so on, down the list. Everyone around here knows how very solicitous we become of our colleagues on our own side of the aisle when they have a tough reelection fight. That is the way this remarkable arena works. Help so-and-so, he is coming up, get the heat off of him, put it on this fellow who has 5 more years, and they will forget his vote by the time it is time for his reelection. On and on it goes. That is the way it is played.

On every even-numbered year, one-third of the Senate and the entirety of the House is quaking in its political skin, afraid to cast any of the really, really tough votes, because they dare not do anything but cast the really political vote, the one, if it is called political, for which there is only one reason, and that is to get reelected.

That is what I found. It was very clear to me what was happening. There is this large number, every even-numbered year, all of the House Members, a third of the Senate, a large number of legislators in Washington, thinking too much about politics and not sufficiently about principle and about the best interests of their Nation. It is no wonder that it is terribly hard around here to take action against the challenges that so vex this country.

That is what I observed. What I felt then and now, if we do term limits, then after it kicks in—I shall tell you what you have after it kicks in. You will have one-third of the U.S. Senate voting right. That is what you will have. Then you go find 18 other people, and that will give you 51. You can always find those other 18 people because they are in that pool of about 40 Democrats and Republicans in this body who are "always right there." They are always there. They are steady, thoughtful, they watch, they sometimes do their partisan strut—often, and we are all good at that—and they are always there. They are the ones from whom you would draw 18 and then with the 33 you have voting right with no pressure, you find the 18 out of the pool of 40 and move on with the Nation's business.

The astonishing and truly regrettable aspect about all of this is, even when there is a broad consensus about the nature of the problem, pure politics will keep us from addressing it.

If you want a few examples, well, I just happened to drag a few in. Case in point. This year, the Consumer Price Index—this is a pure "no-brainer," and there was not a shred of substantive controversy here until the senior citizens groups got worked up. Every economist who testified before the Finance Committee said that it is overstated. Every single one of them. Every budget analyst agrees that so long as the Government indexes inflation at too high a rate, we will overspend on COLA's—and in everything from Social Security to Federal retirement, to military retirement. And we will also collect too little in tax revenues as a consequence of improper indexing. That, my friends, results in larger and larger deficits. This is no secret. We all know this is the case.

There is not a thing that I will relate in these remaining minutes that is not consistent with the facts. We all know this is the case. The economists who have testified know it to be true. That CPI overstates inflation by 0.7 to 2.2 percent. CBO knows it is true. OMB knows it is true. And that is why neither of them is using CPI to index our discretionary appropriations caps. I hope you heard that. No, they both use a "chain-weighted GDP index." I am going to try that one on the floor. I know that is a mouthful. But if it is good enough for OMB and CBO, surely it should be good enough for us, as we wander through the wilderness here. So we will try that chain-weighted GDP index, which will knock off about 0.4, and that will be a lot better progress than what we are getting right now.

But the politics have been diagnosed as the problem. The President does not want to offend anyone who might be receiving a COLA. I understand that. Even if the COLA they are now getting is certifiably too large and even though it has nothing to do with your net worth or your income. Try that one. That is the way it works. It does not matter what your net worth or your income is. CPI, Consumer Price Index—oh, is that a COLA? They are not the same. Heed the words of our able friend from New York, Senator Pat Moynihan, about how the distortion has come about with the cost-of-living allowance and CPI. They do not fit. But they have been fitted. .

So even if the COLA is now certifiably too large, we do nothing. And so the President, being the very savvy political person he is, in a political year, intends to use this as a political weapon. A Republican-controlled Congress will refuse to jump off the cliff, then, because of that effect, not wanting to give him any political benefit. As a consequence—both parties playing what is called partisan politics—nothing gets done, even when we all agree that it is a must and could be done without really setting back this country in any sense. And a 1-percent reduction in the CPI—and nobody is suggesting that—in 10 years lops $680 billion off the pile. It is a lot smaller in 7 years, about $68 billion. So that shows you the exponential growth, if 1 percent of the CPI would save $68 or $70 billion in 7 years in 10 years it will save you $680 billion. You are saying that is impossible, but it is not. That is what is happening here, and that is what we should address—and we do nothing.

When we did this and discussed it in the Bipartisan Commission on Entitlement and Tax Reform, we actually, naively, thought that it would be like falling off a log, to simply do something with the CPI, which is so overstated at every turn. But, no, the AARP did not like that idea at all. No, indeed. And the Commission for the Preservation of Medicare and Medicaid thought that was an ugly trick. And so they will help us administer it on into bankruptcy.

I am grateful to my colleagues for hearing me out, because I deal with these issues regularly, and I have been talking about these things all of my political life. This is not something new or some swan song caper in the middle of the night. I am grateful for those who come up and say, "You are

right, Al, we need to do something about CPI." I wish I could count all of my colleagues who have said that; yet, nothing gets done. How can that be?

The answer lies wholly in the area of political fear. That is a word I want to use. The word is "fear." Forget all the rest of it. "Fear."

So there is an example just right off the bat—and that is the meat part of the bat, not the end—how term limits might immediately save future taxpayers untold billions in deficit spending. One percent in 10 years would be $680 billion. And we are not even asking that.

So, as I say, in 1994, I served on the President's Bipartisan Commission on Entitlement and Tax Reform. And like that movie, "The Man Who Knew Too Much," I almost wish I had not been appointed to do it. I have shown you a copy of our report. This is the interim report. This was approved by a vote of 30 to 1. Who was on this Commission? Who were these dastardly people that were pointing out these things with regard to Medicare, Medicaid, Social Security, bankruptcy in the system? I will tell you who they were. Let me read the names: Chairman Bob Kerrey and Vice Chairman John Danforth, two very fine men that I have come to enjoy. Who was on the Commission? I am not going to read the titles because the names will be so familiar: Bill Archer; Dale Bumpers; Mike Castle; Eva Clayton; Thad Cochran; Chris Cox; Kika de la Garza; Robert Denham; John Dingell; Pete Domenici; Tom Downey; Sandra Freedman; Porter Goss; William Gray, former Congressman; Robert Greenstein; Judd Gregg; Karen Horn; Tom Kean; Alex McMillan; Carol Moseley-Braun; Daniel Patrick Moynihan; Pete Peterson; Harry Reid; Roy Romer; Dan Rostenkowski; Martin Sabo; Jim Sasser; Myself; Richard Trumka, and Malcolm Wallop of Wyoming. Those are the Members who served on the Commission. Some did not attend any meetings. I think you might be able to pick out one or two.

There we were. That is the work we did and we put out this statement. It was signed by all but one of these people. I have shown you the remarkable cross-pollinization of the issue with those people that I just described and some of them we enjoy and work with every day. Then why did we sign this—30 of 31 of us? It was because it is a report of a statement of fact. It is not about ideas, not about ideology, not about partisanship. These are facts.

One fact is very evident—and remember we were appointed by our President—and that one fact is that we are on an unsustainable course. We have locked into the law a huge promise of benefits that far exceed our country's ability ever to pay. The unfunded mandates for these programs will simply wipe us away. We all know this to be the case. Largely due to the growth of Social Security, Medicare, Medicaid, and Federal retirement, this country stands, by the year 2012—now here is what the report disclosed: That with no increase in revenues—that means no more taxes, no more, never, never, ever no taxes—and having done a perfect health care bill, which we know would—as we see in our votes with regard to the Kassebaum-Kennedy proposal—be tough to do, and ours is presently an incremental approach and has to be—but if we were to do a "perfect health care bill" and no further taxes now, and of course that would please all of our constituents. Then hear this scenario;

Were this the case then in the year 2012, there will then be only sufficient revenue—that is, money—to pay for Medicare, Medicaid, Social Security, Federal retirement, and interest on the national debt. There will be not one penny for transportation, education, defense, WIC, WIN, Head Start, NEA, NIH, the National Institutes of Health, or anything else in this Government. Remember too—I do so hope the people of America can remember that those of us in this body do not even vote on 67 percent of the national budget. Those of us in the Congress of the United States do not cast a single vote on 67 percent of the national budget. It goes right on out the window, period Automatic pilot. In 7 years we will not be even casting a vote on 73 percent of the national budget. It will just be going out, being paid out and it goes out regardless. It goes out without regard to means testing or "affluence testing." It just gets paid out. It goes to people regardless of their net worth or their income. Every year that we are here—you have seen it, and I have seen it—we spend our time hacking around on the Appropriations Committee on the only things we can find that we can cut, which is defense, education, transportation, WIC, WIN, Head Start, and we don't lay a hand on all the things we call "mandatory spending."

So we are trapped. We are trapping ourselves daily ever more deeply. These things cannot be sustained. That is the situation which is impervious to ideology, or philosophy. It really does not matter whether your highest priority as an elected Senator is placed on a strong national defense, or on the children, or on vaccinating our kids, or the NIH, or the NEA, or roads, or whatever, or veterans, or seniors, or whatever it is we most want to do ourselves—or on keeping the size of the Federal Government within reasonable bounds.

It is a reality that we cannot escape unless we radically reduce the growth of the largest entitlement programs.

What has been our response? The first response was to leave Social Security "off the table". That is a remarkable thing to do—to leave off the table an item that is $360 billion a year, and it is now "off the table." Both Republicans and Democrats did that. If one single Senator can demonstrate to me that this was the result of substantive critical analysis rather than political positioning, I would be most intrigued to hear the rationale. The truth is we all know better—as we admit in a jocular way to each other when the cameras are not rolling.

Let me show you Social Security, the one we left off the table, which we are never supposed to talk about. I do like to talk about it. I take these charts to my town meetings to ward off the gray-haired cat in the back of the room. When I ask for a final question, I will often say, "I will take a final question from the gray-haired gentleman in the back." Then the fellow will respond, "I'd rather have my hair turn gray than turn loose," which is disturbing, when you look at my hairline, that I have to take that kind of terrible abuse.

So then he will say, "I put in it from the beginning. Simpson, I want it all out, every bit of it. That is the contract." I say, "By George, you are right. I agree with you. You put in from the beginning, did you?" "Yes, I did." "Great. Let us then review for everybody here in the town meeting how much you put in because, if you put it in it from the beginning"—and any 64-year-old, gray-haired cat like me cannot escape this because we all put in the same. "So, if you put it in from the beginning, you never put in over 30 bucks a year for the first 8 years. And then you never put in over 174 bucks a year for the next 18 years, ladies and gentleman." Not one of them did.

Then, finally you got stuck 300 bucks a year, 800 bucks a year, $1,000 a year, $1,500 a year, $2,000 a year, $3,000 a year, and in the 1980's, $4,000. Now I think I am putting in $5,000 a year, which is my Medicare and Social Security.

So when I am all finished up with contributions of payroll tax" if I retire next year at 65, I will have put into the Social Security system about $55,000 in an entire lifetime. I will get it all back in 6½ years. Everybody knows that. Everybody knows that. And if you retired in the 1980's, the early 1980's, you got everything back you put in, plus interest, in only 2½ years. And those are people who still show up at your town meeting.

There is no means test of benefits, no affluence test of their COLA, and that is the way that is. But take a look at this.

This is a chart about me, Alan K. Simpson. This is a blow-up of my Social Security earnings record for a lifetime. It started between 1937 and 1950. I went to work at the Cody Bakery at the age of 14; got the Social Security card that year. My particular role in that particular confectionery was to place the pink glob in the midst of that

VOL
142
PT
6
AP
15
—
24
1996
UMI

white, crusty sugary business on top of the mushy sweet roll. I have never touched one of those since; never will eat another one of those because that was my job—plop, plop, plop. I was paid $583, to which I coughed up a real chunk into Social Security—5 bucks that year. The next year he paid me less—for they found what I had been doing with the confectioneries.

Then I went off to the University of Wyoming and paid nothing because I never earned over $3,600 in a summer. I worked every summer, but I never earned $3,600. Remember, ladies and gentleman, you could make a million bucks, but you never paid anything over this lid here. So, if you made 40,000 bucks this year, you never paid any Social Security over $4,800 in this year. Then they slowly raised that through the years.

So, anyway, I finished the Army, finished college, went on to practice law, and in the first year of practice when my father took all the money and I did all the work, I put in 42 bucks—42 bucks. I made a little over $1,600.

Then, in the most productive years of my life to that point, for 18 years of practicing law, I never put in over 816 bucks a year. Nobody else did either. Not one person in this country put in any more in those years as a self-employed person than 816 bucks a year.

That is where we are. And you are telling us that this is sustainable? How absurd. But it is "off the table." The biggest gorilla in the jungle is now off the table.

So, then, finally I came here in 1979, and put 615 bucks into Social Security that first year. Then the next year, 951. Then, you know. There it is—in 1989. My total contribution was $2,980. So was it for everybody else in America; period. So, if you total it all up, over a lifetime it is about $55,000.

Now here is the slot machine handle. Here is what I will get, and so will anybody else my age. This is my estimate of benefits. This is a photocopy of the document directly from the Social Security Administration. Thank Heaven they are sending this to people now. It is going out automatically to people. Millions of copies are going out thanks again to Senator MOYNIHAN. We owe him a great deal.

We owe him a great deal because, do not forget, he was very involved in the blue ribbon commission that met in the early 1980's and said to us all: We can save Social Security with a deft blend of payroll taxes and some other changes, and if we do—and we all voted on it—if we do, it will save the Social Security System until the year 2063.

Do you remember that? I hope you all do. Because now we are told by the trustees of the system that Social Security can only now be saved until the year 2029. So from 1983 to 1996, we have compressed the drop dead date from 2063 to 2029, and everybody knows it. Everybody knows it.

So if I were to retire at age 65, I will receive $1,170 a month. But if I wait until age 70, I will get $1,555 per month, with a life expectancy of—well, it is cheerful news. My father lived to be 95, my mother 94, my grandmother 100. I will be rolling and rolling over in it, and it will not matter what my net worth or income is. Then also add to it a COLA every year.

Does anybody within the range of my voice believe this is a sustainable system? It is not. Senator KERREY and I are trying to restore long-term solvency to this system, because it will be broke in the year 2029, and will begin to go broke in the year 2012 when we start cashing in the bonds and Treasury securities.

Remember, ladies and gentlemen—and please do not lob anything—there is no Social Security trust fund. There is no such fund. You know it. I know it. All we have is what Franklin Delano Roosevelt as President and the Congress set for us, which is this: That if there is any surplus, any surplus at all in the Social Security funds, it must be invested in securities of the United States, backed by the full faith and credit of the U.S. Treasury. So when there are reserves, the Treasury purchases T bills, savings bonds, whatever. Some of those are purchased by those of us in this body. They are purchased by banks. By other Americans. The interest on those securities is not paid out of some kitty called the Social Security trust fund. It is paid out by the General Treasury, ladies and gentlemen. We all know that. Everybody knows that. We do not "steal" from the Social Security trust fund and in profligate ways just poof it on down the street. We do not do that. But we go back to the town meeting and they will say, "Now, that's what you did. You stole from the Social Security trust fund and blew it. You never put it back." I said, "My friend, there was nothing there to blow." It is a series of IOU's that would stack to the top of this Chamber.

It is all good stuff. It is good financial paper, but it is not—it is not—some kind of separate fund. If it was a separate fund, it would be, right now, over $220 billion. Do you think we would leave that untouched if we could find our way into it? Of course not.

The thing about it is that those reserves could reach $2 trillion before the year 2012, but then when we get to the year 2012, that is it. That is it, because there will not be enough revenue coming in to take care of the monthly payments going out—period, nothing.

This is a pay-as-you-go system. It has nothing to do with a rolling trust fund or anything else. The people who are paying their Social Security payroll tax in today, that tax is going right out this month to senior citizens regardless of their net worth or their income.

Now, that is the way it is, and the sooner we get to dealing quite honestly with what this system is, I think we might have some semblance of ability to get out of it.

Then came the proposal to reduce the growth in Medicare below catastrophic rates—not "cut" it, but to slow the growth in the way that every objective analysis has shown that we must. The President was suggesting slowing the rate of growth when he dealt with his very controversial health care plan which was defeated. The President then later talked about letting Medicare go up 7.6 percent or 7.8.

I admired that. I said that at the time. Republicans are trying to let it to go up 6.4. The President might be at 7 now. We are not that far apart. That gap could be closed very well. We could close that gap because both the President and the Congress know that we must slow the growth in Medicare. Because why? Who is telling us all this bizarre business? The people telling us this bizarre business are the trustees of the Social Security and Medicare Programs. Slowing the growth in the way that every objective analysis has shown us that we must.

Are we going to get a severe political lesson from that one, an example of what the Washington Post had called "Medagoguing?" President Clinton and too many others of us, Republicans and Democrats, have decided to run for office this November on the assertion that we are saving America from "cuts" in Medicare while at the same time "behind the scenes" every single one of us agrees somewhat on what kind of target needs to be hit to bring Medicare within reasonable bounds. We all know that. As a consequence, what have we accomplished? Not much on the Medicare front. That spending continues to spiral upwards unabated.

Get this one. A few weeks ago what were we told? A little miscalculation there. Instead of a surplus of $4.2 billion that month in Medicare, we found a $37 million deficit. That is the trustees telling us this too. It was startling to them. So maybe Medicare will not go broke in 2002; it will only go broke in 2001.

But do not forget this. If the Republicans get away with all these terrible tricks and do everything that we have proposed to do to balance the budget in 7 years, and do it, Medicare will not go broke in 2002; it will go broke in 2010. What a deal. What a deal that we have "balanced the budget" and Medicare will not go broke in 2002; it will go broke in 2010. Everybody knows that. Everybody.

So as the spending continues to spiral upwards unabated, the only real accomplishment of the exercise possibly will be to elect some new legislators who have pledged on their highest honor to stop any cruel efforts to ever deal with that silly problem again. Oh no, we will not do that one again, because obviously too many people got beat when they tried to do that.

Then I do have this other document here which is worth everyone's attention. It is a little yellow booklet entitled, "Status of the Social Security and Medicare Programs." It comes to us from the Board of Trustees of Social Security, and those persons are three of the President's Cabinet, Robert Rubin, Robert Reich, Donna Shalala; and Shirley Chater, Stanford Ross, and David Walker.

Then let me read this from page 11 in the section entitled "Need For Action." Remember, these are the trustees of the system, the stewards of the system telling us this:

> During the past 5 years, there has been a trend of deterioration in the long-range conditions of the Social Security and Medicare Programs and an acceleration in the projected dates of exhaustion in the related trust funds.

I paraphrase what the words "projected dates of exhaustion" mean—that is, going flat broke is what that means.

And further then:

> To some extent, the increasingly adverse projections have come from unforeseen events and from the absence of prompt action in response to clear warnings that changes are necessary. These adverse trends can be expected to continue and indicate the possibility of a future retirement crisis. We urge that concerted action be taken promptly to address the critical public policy issues raised by the financing projection for these programs.

To repeat the line I found most interesting: This situation arises "from the absence of prompt action in response to clear warnings that changes are necessary."

In other words, we know fully that we must act, and yet we refuse, out of political fear, to do so. That, to my mind, is well defined as irresponsibility, or as akin to chickens, as I have patterned upon my tie here. I wore this appropriately today. These are chickens that I try to show to people between 18 and 40, so that they know that they will be picking grit with the chickens when they are 65 and that they must get in this game and figure out what is going to happen to them. That is why I wear this beautifully patterned haberdashery.

I could go on, but I can see my colleagues rising and heaving at their desks. My colleagues have heard me speak on this issue before. Perhaps somewhat tiring is the message. But remember this. It will not work to say SIMPSON is off the rail, or easy for him to say, he is not running, because I have said these things back in time immemorial, every time I ran. But I assure you I, too, am tiring of the inaction. If we want to be spared the alarm bells that will be coming in this area, all we need do is meet our responsibility to our citizenry and cast the tough votes to correct these problems. I have heard that one, too. Do not think I have not cast these politically correct votes, too, as a chicken. I have done that. But we will not get there by enacting tax cuts. That was something the President wanted, something we wanted. I was ready to go for capital gains. I will still go over the cliff, but we will not get there by doing that.

We will not get there by increasing the minimum wage. We will not get there with line-item veto. We will not get there by getting rid of fraud and abuse. That will not get you there. More of it. The only way you get there is to deal with Medicare, Medicaid, Social Security, Federal retirement—period. All other is true fiction.

And we will not get there by saying we are going to slavishly posture to protect Social Security from the balanced budget amendment and thus let it go bankrupt on its own. We will not get there by giving out more money to employed seniors with no affluence test, and I voted for that one, too. We will get there only by slowing the growth of spending to the point where revenues can keep the pace, and that is it, substantively. That is very difficult politically. That is, alone, why it does not happen.

Finally, I just could not let this go by. I have a new missive from the remarkable group, the National Committee to Preserve Social Security and Medicare. These people are something, they really are, not quite as slick as the AARP, but nearly. Do not forget the AARP is simply a group of 33 million Americans bound tightly together by a common love of airline discounts and automobile discounts and pharmacy discounts, and they are really a rugged and remarkable group. They are. They live in poverty downtown here in a building they lease for $17 million a year—$17 million a year. They have about $345 million in T-bills in the bank and rake in about $106 million a year from Prudential Insurance Co., getting 3 percent of the premiums on the MediGap policies.

And guess who helped kill off any reform and helped stall the Government? Do not miss this one. You remember why we shut down the Government? One of the reasons is because part B—a totally voluntary program—premiums in Medicare were going to go up $7 a month. Some said, "We cannot have that." So the AARP rose in high indignation, then helped kill that off, and, at the same time, they watched the increase in the MediGap monthly insurance policies they placed with Prudential go up 31 bucks a month—all while they killed off the ability for us to say that those who have more should pay more for part B premiums—like $7 a month.

You have a current situation in America about which every thoughtful American must scratch his or her head. Part B premiums are paid, 25 percent by the beneficiary and 75 percent by the people working here in the Senate kitchen. Those folks pay 75 percent of the premium for us, or for anyone else, regardless of their net worth or their income. And we cannot even change that.

So here is AARP, through Prudential raising their own premiums $31 a month while they are killing off a program in America to raise it $7 a month on something which is totally voluntary. You do not want anything to do with a group like that. Yes, I know people stay in AARP because you can get a room at Westin Hotel for $80 instead of $140—I know those things—and the senior discounts here and there and at the movies. I know those things. I do not want to detract. I am a member. I am using some of those.

But here is this new one, just this little one from this remarkable group, regarding the type of political pressure I am talking about. This is the most recent mailing from one of our most intriguing senior citizen organizations, the National Committee to Preserve Social Security and Medicare. It is labeled as "The 1996 Benefit Cut Impact Survey." Very interesting stuff.

Question 1: "After promising never to touch Social Security, many political leaders in Washington are discussing proposals that will result in smaller Social Security COLA's, making it impossible for your benefits to keep pace with the real inflation you experience." This is best described—in the West, we would have a different term, a different, perhaps, appellation for it—it is a lie right off the bat. Because no one is talking about taking COLA's below the true size of inflation—nobody, not a soul.

Next question, "Should your congressional representatives pose any measure that would result in lower Social Security COLA's?"

Oh, that one should not be too difficult to answer for the citizen that receives it. It is a rather brazen appeal to the recipient's financial self-interest without any accompanying discussion about the country as a whole and it skillfully say the seeds for wrath to be expressed subsequently at the ballot box. That is very important, that you do that when these mailings go out.

Question 2: "If such COLA legislation goes through, would you support your national committee in an all-out campaign to repeal it?"

That is pretty easy to understand, I think, pretty easy. Another way of saying it is: "Will this committee be able to bilk you out of more contributed bucks to our organization as compensation for raining political threats down upon the bald or hirsute domes of those in Washington and environs?"

Question 4: "If a balanced budget amendment, one that did not protect the Social Security trust funds, came to a vote in Congress this session,

VOL
142
PT
6
AP
15
—
24
1996
UMI

would you urge your elected representatives in Congress to oppose it?" How nice. We have seen that campaign brought to the floor of the Senate several times, the use of the Social Security "hot button" as a means of derailing the balanced budget amendment. And it worked. It was also marvelously done when we repealed catastrophic health care. If we had done that 1 year ago, we would not be in this box today. And the AARP, although they say they never did have any official fingerprints on that, I mean, it looked like the Abominable Snowman footprint when you got right down underneath it all—much more than a fingerprint, a giant track, a gaping hole, a crevasse in the ice. And there they were, then, and it worked, and it continues to be a source of political agitation to this day and on into the future.

So this—and I conclude my remarks—this mailing is but one example of the cottage industries which have sprung up all over this country which aim to drain the Treasury of everything they can get by whipping credulous Americans and senior citizen into a frenzy and scaring elected representatives half to death. It matters not that these mailings are filled with sophistry and distortion and emotion and obfuscation. What matters is that they have a political impact and raise big bucks, and too many here are afraid to buck the tide which they produce.

By the way, I should note that the final request on page 6 of this missive is for additional bucks, for the poor, ragged committee, a curious way to protect the meager finances of the poor senior citizens, is it not? Asking them to give up $10 of their hard-earned Social Security money for this committee's sake? And one effect of term limits, in its most succinct form, is the one effect it would hopefully have on organizations like this, who are dedicated, apparently, to the bankruptcy of our country, is that it is very likely such groups would vanish without a trace. And no one would miss them.

Then lacking any substantive basis for their position and lacking any further clout stemming from political fear, what reason would still persist for their existence? I can bet you that the national committee here is not too excited about term limits legislation. They would find it far more effective to frighten legislators, simply continue to do it, to do their bidding. What a bunch. Martha and Max should be ashamed, but I can tell you they are not.

So, I am very pleased to support my colleague, Senator THOMPSON, with his initiative.

I, of course, have been forcing my own brand of term limitations this year by retiring from Washington and going on to other work. But it is extremely refreshing and like a splash of mountain spring water not to have concerns about November mixed in with one's vote recommendations. I can say to you, it is a rare tonic which I recommend in large doses to the entirety of the House and the Senate, and I believe if we enact this measure, we will have taken one significant step toward resolving some of the largest, greatest and most serious challenges facing this country.

We all know it, we like these jobs; we want to continue. None of these critical things I describe will be done without a term limit. None. After it kicks in, I can only say one-third of the U.S. Senate will be voting right every time, and the Democrats or Republicans who are leading this body at that time will be able to find those other 18 to get the 51 votes to do the Nation's business. I think that is a very important thing to do, is to be about the Nation's business and not just continue to be assailed and hammered flat by the groups who are so skilled at peddling fear, but ever more skilled at raising bucks, as they terrify the American senior citizens.

I thank the Chair.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I think that I may be the first person today to speak against this resolution, but let me say, first of all, I am delighted to do so. It is, admittedly, a freebie. You can vote for it in the absolute certainty that it is going nowhere, and you can send out your newsletters and press releases and tell your constituents that you did your best.

I have heard a lot of speakers this afternoon say, "Well, this is popular with the American people." Slavery was once popular also, but I don't hear any of my colleagues arguing that slavery was a good idea.

Prohibition was also once popular. Do you know what we got out of prohibition because it was popular? Organized crime, and that is all we got out of prohibition. Organized crime is still ensconced as part of our society because we voted for a constitutional amendment because it was popular.

In my State of Arkansas in 1992 the voters approved term limits, by a 60–40 margin, for both State and Federal officers. As you know, the Supreme Court, by a very narrow vote of 5 to 4, ruled that the people of Arkansas did not have the right to limit the terms of Federal officials which had been set by the Constitution. It is still in effect.

Interestingly, while 60 percent of the voters of Arkansas were voting by a 60-percent margin for term limits, they reelected me to a fourth term by a margin of 60 percent. You can only conclude that it is all those other guys who they are wanting to get rid of. I do not quarrel with the popularity of this proposition with the American people. They have a right to favor it. But I also want to say that one of the biggest responsibilities Members of Congress have is to be an educator as well as a legislator, and I have never passed up the opportunity at a Rotary Club or a chamber of commerce banquet to express my unalterable opposition to term limits. It is not meant to demean, it is meant to give people a side that they never hear at the coffee shop and why I think it is a bad idea, why Alexander Hamilton thought it was a bad idea, and why the Founding Fathers dismissed it almost summarily.

People have a right to believe something is a good idea, but I have an obligation, if I happen to disagree with that, to try my very best to educate them, at least to an alternative view.

This whole idea is based on the assumption that every man and woman who seeks public office does so, not to serve the public good, not to promote a national agenda, which is good for our people, but to feather his own nest, to pursue a personal agenda. "You just cannot trust those people in the U.S. Senate for more than 12 years, because you give them 13 years and they lose all of their integrity, all of their interest in the national good."

Unhappily, occasionally somebody around here proves that to be true. Somebody proves himself to be dishonest or unethical or just a lousy Member of Congress. But I tell you, Mr. President, the vast majority of the 535 Members of Congress are honest, they are ethical, they are hard working and they are fighting for what they believe is in our national interest.

Ethics has become a very big issue around here. Most secretaries and office managers keep the Ethics Committee on autodial. So intent are they in complying with arcane rules that a lot of people around here do not understand, and the ethics manual gets thicker and thicker each year.

In 1960, 70 percent of the people in this country said they had quite a bit of confidence in Congress. In 1960, while 70 percent of the people were saying they had quite a bit of confidence in Congress, Members of Congress could take a $100,000 contribution in $100 bills and did not have to report it to anybody.

Members of Congress could make a speech and take $5,000 in honoraria and did not have to report it to anybody. They could practice law. They could take the people who came into their offices soliciting their favors, lobbyists and could refer them to their law firms back home and then share in the profits of that law firm that fall. And 70 percent of the people in this country thought things in Washington were just hunky-dory, because they did not know it.

Today, the ethics manual grows thicker and thicker, to the point that people are afraid to take an insulated coffee mug from the Rotary Club, and

you dare not risk allowing anybody to buy you a dinner for fear that it might exceed $50, if you are a Senator, or any amount if you are a House Member.

Every Member must file an ethics report of what stock he owns, the value of it, where his income came from last year. It is all there, and the press microscopically examines it every year, and it is appropriate. That is the way it ought to be.

So today, you have to report every significant contribution made to your campaign and lay bare your own personal net worth. And you cannot receive honoraria for any speeches that you give. And today, 1996, 23 percent of the people of this country have quite a bit of confidence in Congress.

Can you imagine the people in this Chamber voting aye on this resolution, and essentially saying, "You're right." I will be a good, decent, ethical, honest Senator for 12 years. But if you elect me to a third term, look out, I'm going to be uncontrollable. If you allow me 6 more years, don't count on anything."

That is what we are saying here. I cannot be trusted with more than 12 years in this body. What we are engaged in here is the height of pandering. This is not a serious debate. If it were, why would the manager of the resolution offer immediately seven amendments which are identical to the resolution to make sure that no Senator can offer an amendment to improve the resolution?

That is right. We are going to talk about this resolution until 2:15 tomorrow afternoon. We are going to have a cloture vote, and cloture is going to fail miserably. Everybody here knows it is going to fail miserably. Everybody knows this is a freebie.

Do you know something else? Of the 45 Senators that voted for Senator ASHCROFT's resolution in support of term limits last year, 25 of them have been here longer than two terms, which is what this resolution would deal with. Do you know why else they filled the tree? To keep anybody from offering an amendment to it, because they knew that Senator LEAHY or I would offer an amendment to make the term-limits resolution apply to terms already served.

They did not want any of that retroactive stuff. You have been here five terms, and you are hot for term limits? Of course you do not want it to be retroactive so you cannot even run again.

I do not mean this personally because I admire him and I like him and I consider him my friend. The senior Senator from South Carolina will be eligible for four more terms if this resolution were to pass and it took 7 years for the people of this country to adopt it—four more. He would be 117. I would be eligible for three more terms.

Oh, it has all been carefully crafted to take care of those who have. We have a saying in Arkansas "them what has, gets." Oh, it is very popular. You know, when you are standing before an audience and there is a question: "Senator, how do you feel about an amendment to the Constitution to balance the budget?"

"I'm for that."

"How do you feel about flag burning?"

"You bet. Count me in."

"Well, how about term limits?"

"You bet. I'm for term limits."

It is so easy to agree with what you know is popular among the group you happen to be speaking to.

I saw a story the other day in the Hill newspaper discussing how the Republicans requested that term limit supporters not punish the junior Senator from Kentucky because he is adamantly opposed to this resolution. I guess only the Democrat opponents of term limits are worthy of criticism.

You think about even considering punishing somebody for the courage of their convictions. The proponents of term limits say that is the reason they want it, so people will be courageous and stand up for what they believe.

Mr. President, do you know what a courageous vote is? It is an unpopular vote. If it were not unpopular, it would not be courageous. So the people say, "If we limit them to 12 years, they will be courageous knowing they cannot run again. If we won't let them run again after 12 years, they are going to be statesmen. They will say what they really believe. And they are going to say courageous things. They are going to be men of principle."

Here is what Alexander Hamilton said about that in Federalist paper No. 72:

> There are few men who would not feel much less zeal in the discharge of a duty when they were conscious that the advantage of the station with which it was connected must be relinquished at a determinant period, than when they were permitted to entertain a hope of obtaining, by meriting, a continuation of them.

That is right. Let them stand for reelection on the merits of their past 6 years' performance. Do not pass some kind of undemocratic nonsense saying the people do not have enough sense to know who they want to vote for.

I daresay, my colleague, Senator PRYOR, would probably have run without opposition this time if he chose to run again. But if he had an opponent, I can tell you he would have won overwhelmingly. Do you know why? Because he has been a man of conviction, he has been a man of courage, he has not jumped under his desk every time the National Rifle Association issued a press release. He has talked sense to his people. And they love him for it. And Alexander Hamilton says that is what Members of Congress are supposed to do. Why take away that right of the people to elect whomever they choose?

What was the origin of term limits? Let me tell you, I have so many friends on the other side, I do not like to describe them in terms of partisanship a lot of times—but I think organizations, many times ultraconservative organizations, have made up their minds that the Democrats were never, never going to lose control of Congress if we did not have term limits. So it became fashionable.

Congress was losing credibility and respect and prestige with the people all along. As I said, down to 23 percent. So they said, "We believe we can sell this constitutional amendment to limit people to 12 years in the Senate and 6 or 12 years in the House." So what happened? The American people said, we will decide for ourselves. The two Senators—one from Tennessee and one from Arizona—are sitting here and are the beneficiaries of the American people saying, "We're tired of the Democrats. We're going to give the Republicans a chance." That is the reason those Senators were elected in 1994. That is what is called term limits, allowing the people to vote. They just did it. I personally hope the American people are not happy with their decision, but in any event that is their call, not mine.

Mr. President, I think about some of the greatest Senators this body has ever had, who would not even be an asterisk in the history books if they had been limited to 12 years. When I came to the U.S. Senate, Abe Ribicoff, Jack Javits, Cliff Case, Jim Pearson, Scoop Jackson, Ed Muskie, Hubert Humphrey, on and on the list goes of truly great Senators, Republican and Democrat, that would be a footnote in the history books if this thing had been on the books.

Finally, let me just close by expressing my utter contempt for trying to solve every single problem from whether drinking water ought to be on the Senator's desk, to term limits, by an amendment to the Constitution. There are a few people in this body who apparently feel the Constitution is just a rough draft for them to finish up. I am one of those people who believe that Hamilton, Adams, Ben Franklin, James Madison, and the other Framers was the greatest assemblage of minds ever under one roof in the history of the world, who produced the document second only in its powerfulness to the Holy Bible.

I do not vote often for constitutional amendments. I am not saying I never would. All this nonsense that comes through this place—"Let's amend the Constitution," think about it. Over 17,000 efforts to amend the Constitution since 1789—17,000, count them. Taking the Bill of Rights out, the first 10 amendments which were adopted almost as part of the Constitution, and the American people, out of those 17,000 efforts, have chosen to amend the Constitution 18 times. You take prohibition which was ratified in the late

VOL
142
PT
6
AP
15
—
24
1996
UMI

1920's, and the repeal of prohibition, take those two out, and the people of this country have tinkered with the Constitution 16 times out of 17,000 to 18,000 resolutions offered since 1789. There have been 83 amendments introduced in this Congress, and 2,000 since I came to the Senate. How can we conclude that Members of the Congress do not think the Constitution is just a rough draft, when they treat it with such contempt?

As I said a moment ago, who likes flag burning? I do not. But it is presented in political terms. It is not presented the way things were presented in Philadelphia 206 years ago. It is always politics.

Let me digress just a moment to say I have been reading a book by James Fallows called "Breaking the News: How the Media is Undermining American Democracy," and he makes this point, that if you watch "Face the Nation," "Meet the Press," and David Brinkley on Sunday morning, you hear how well Medicare or Medicaid is working. Do you hear anything about the environment and how it is working and the new regulations coming out of EPA? No, those are policy decisions. For a writer to write about a policy, that writer has to go to the stacks and do some work, find out the history of them. Why do we have Medicaid? Because we do not want elderly people laying in the streets, we do not want children without health care—a policy decision that was debated a very long time here before we adopted Medicaid policy. Why do we have school lunches? So children are not hungry. Why do we have food stamps? So nobody is hungry. We did not do that willy-nilly. That was debated in the Senate. We adopted it as a policy, as a great nation who believes in trying to help people.

So when you hear all the gurus on the Sunday morning talk shows: "What do you think about block grants? Do you think that will help Bill Clinton or hurt him? Do you think that will help BOB DOLE or hurt him?" Not a question of whether the States can do a better job administering it. Will they comply with the policy we made that we do not want children to go without health care, we do not want the elderly to be lying on the streets, we want them taken care of in nursing homes? No, you do not hear that. It is the politics of this issue. So it is with this.

What is the politics of it? Well, you do not have to be brilliant to know what the politics of this is. If you want to go home and tell the townhall meeting and the chamber of commerce and Rotary Club, if you want them to stand up and clap, you vote "aye." If you took your oath when you came here to perfect and defend the Constitution of the United States against all kinds of assaults on it, vote "no."

I promise you, when the people of this country voted the way they did in 1994, they were not saying they wanted to turn their back on the environment. They were saying they did want the budget balanced, but they did not say they wanted to cut educational funds, because the one thing people in this country would still vote taxes for is for the education of their children. They did not say they wanted Medicare whacked, though everybody knows Medicare is going to have to be reformed. Be honest about it and talk sense about it.

Mr. President, this will be the last time we will address term limits for some time to come and get it off the agenda. Everybody knows it is going nowhere, but everybody can go home and say they did their best. But they did not. They did their worst. I yield the floor.

Mr. THOMPSON. Mr. President, I am sorry that my friend from Arkansas thinks that this is such a partisan debate. This is my second day in the midst of this debate, and until a few minutes ago I had not known it was.

If my colleague had been following closely, he would have heard a discussion by several Members of this body, some of whom are new to the body, some of whom have been here for a while, who are greatly concerned about the future of their country and are struggling for means and methods to do something about it. He would have heard that the bipartisan commission, which my friend from Arkansas is a member of, reported that in 2030 to bring the deficit down to its currents level, either all Federal taxes would have to be increased by 85 percent or all Federal spending programs would have to be cut in half. That by 2012, mandatory spending and interest and entitlements will exceed all Federal revenues, leaving no money for the Federal Government to spend on programs like education, law enforcement, research and development, national defense, health research and all the other programs he mentioned. By 2030, entitlement spending alone is expected to exceed all Federal revenue.

That is what this debate is about. I find it unfortunate that certain Members who choose this particular occasion to exhibit courage to stand against the overwhelming will of the people will not address the true nature of this debate and what is happening to this country. It is equated with slavery. Term limits, I heard just a few minutes ago on this floor, being equated with slavery. That is how much some Members want to cling to their profession, as professional politicians.

I heard that no amendment, no amendment ever is a good idea. I assume that would include the 13th amendment which abolished slavery. I hope we would have all been for that. I wish the strong stands on principle had resulted over the past few decades and some hope for the next generation, instead of bankruptcy and total loss by the American people in the confidence of the legislative branch of Government, which is exactly what we have today. It may not go anywhere because everybody is hunkered down in their offices, feeling confident that their colleagues, when it comes right down to it, will not vote for term limits.

Yes, they can stand in the face of the will of 75 percent of the American people, because at a time when we rush to get the American people's opinion on everything and anything that comes across the horizon, in this particular case, we will stand firm against it as a matter of principle. Yes, we can be confident when it comes right down to it. We may not have the votes, because there is only one thing worse than risking the wrath of the American people on term limits. It is just one issue. That thing is actually putting your career in jeopardy. That is what it is. That is not what our Founding Fathers envisioned. We can quote Alexander Hamilton, but Alexander Hamilton, that aristocrat, that Federalist, wanted lifetime tenure for Senators. So I can see why some of my colleagues might want to line up with him.

This is not based on the assumption that Members of Congress and Members of the Senate are only interested in feathering their own nests. This is not a get-even strategy, and not something that is mean spirited to get at people. We all have Members whom we admire. As I said earlier, I sat in the lobby and watched, as a boy, what went on in this body. I had the opportunity to serve with Senator Sam Ervin of North Carolina and Senator Howard Baker of Tennessee as I was counsel on the Watergate committee many years ago. I did not go through what it took to get here to become a member of a body that I had no respect for. What I am trying to do is to try to help get that body back to the level of esteem with the American people that the American people once had for that body.

When my colleague points out that, once upon a time, we had no ethics rules, we could take money and do lectures and all these things; yet, 70 percent of the people approved of Congress. Now we have all these ethics rules and nobody approves of Congress. To me, that demonstrates that it is not matters of ethics rules that are concerning the American people. The low esteem they have for us has to do with other things. Those other things have to do with the fact that just like Senator SIMPSON said, we are bankrupting the Nation, Mr. President. We are bankrupting the Nation, and just because we get used to hearing it makes it no less true.

Yet, we hear on and on and on again about these favorite programs that we cannot touch. No, I agree; this is the reason for the abysmal decline of confidence of the American people, barely

above, according to some surveys, 12 percent approval—only law firms had lower at 11 percent approval—by the American people. We want to stand up and be proud of these last few decades and all the people who have served, proud of what we have done as an institution, and all the people who would not have been able to serve if we had not had the system that we have now.

What about those 250 million people who have no hope of serving under the system that we have now? To my colleague, it may be inconsistent for his State to pass term limits and reelect him. To me, it is not. We have a closed system, whereby, regardless of the disgust the American people have with the Congress of the United States, or the distrust they have, or the feeling of revulsion, even, according to some of these surveys, we get reelected at a 90 percent rate. Does that have to do with some schizophrenia in the American people, or does it have to do with the fact that the incumbents get all the money? Most people with good judgment do not even try to break into a system like that. He mentioned my colleague from Arizona and myself as being a part of the system. I believe those were both open seats. If those seats had not been open and we knew we were going to have to go against a well-entrenched incumbent, the decision might have been different because the odds are not good.

In the 1950's, a vote was taken on who the best five Senators in history were. Five Members were voted the best, and their portraits adorn the reception room of the Senate. These are Webster, Calhoun, Clay, La Follette, and Taft. Only one of these great Senators served more than two full terms—Senator La Follette.

So let us not worry too much about the proposition that it takes 20 years in order to make an impact in this body. We know different. We know different. We heard yesterday from the Senator from Vermont and today from the Senator from Arkansas. The basic criticism, as I understand it, of this constitutional amendment—which they vigorously oppose—is that it does not go far enough. They would be for retroactivity; that this is not real term limits. They want real term limits, and they are concerned they are not going to get a vote on that. The reason we filled up the tree, of course, was the fact that the Senator from Arkansas and his colleagues wanted to add amendments totally unrelated to term limits so we would never get a true vote on term limits. Everybody knows that.

Mr. President, I just urge, as this debate goes on, hopefully, we can shed a little more light on the subject than heat. Hopefully, we can keep it from being a partisan issue. It should not be a partisan issue. Those young kids coming up today, and those yet to be born, are going to be Democrats and Republicans. It does not matter what party we are a member of or what party they are going to be members of. They are going to bear the consequences of the system we have now. We do not have the political will to do the things that we know we have to do to save this Nation from bankruptcy. We do not have the political will because, as Senator SIMPSON said, it is fear. It is stark fear of having to do something else for a living. We are willing to put our own professional careers ahead of the welfare of the next generation.

I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I rise today to continue our discussion of Senate Resolution 21, a constitutional amendment providing for a limit of six terms in the House and two in the Senate. As a freshman Senator who came directly from the private practice of medicine, I believe strongly that Washington would not be out of touch with average Americans if Members of Congress were not permitted to make a career out of serving in Congress, and instead came to Washington to serve only for a time, and then return to live under the laws they passed.

More than 200 years ago, the Founders of this great Nation fought and won a war that replaced a tyrannical, permanent government in London with a democratic Republic where the people, not an aristocracy, rule. James Madison wrote in Federalist 10 of his concern about the influence special interests—he called them factions would have if Members of Congress were permitted to remain in office for too long. He argued that without the regular rotation of citizens into and *out* of elected office, those elected would put the interests of the well-connected ahead of the interests of the country.

Mr. President, Madison was right. Unfortunately, the Constitutional Convention in 1787 did not adopt Madison's approach. Why? Not because the Convention attendees believed in political careerism—they had just fought a war against a permanent government back in England. They did not include term limits on Congress because they felt it was unnecessary. Who would want to stay in Congress for year after year, traveling back and forth on horseback to this city, which was literally in the middle of a swamp, WITHOUT a staff, without air conditioning, without an office, for a tiny salary, with no pension? Very few, Mr. President. And for more than 150 years, the Founders were right. Citizens would often come to Congress, serve a single term, and then leave voluntarily. Others would leave after serving only two or three terms, either voluntarily or after having been defeated at the ballot box. The era of career politics is a relatively new one in our Nation's history.

Our Founding Fathers believed in a citizen legislature. They believed, as I do, that for the Congress to accurately reflect the will of the people, rather than the factions Madison feared, it must have the frequent and regular rotation of its Members into and out of private life.

Yet today, Mr. President, we have drifted from that principle. No longer do citizens from every walk of life come to Washington to lend their expertise to the Nation, then return home to live and work under the laws they passed. Over the last 40 years, we have seen the ideal of the citizen legislator displaced by the career politician—and the American people are not happy about it.

Mr. President, since the end of World War II, the Federal Government has swollen to a point where it now consumes more than $1.6 trillion every single year. We have incurred a total debt of nearly $5 trillion, a debt that we will shamefully pass on to our children and grandchildren, a debt that threatens the ability of every child born today to achieve the American dream.

In fact, by the year 2012—16 years from now—our entitlement programs Medicare, Medicaid, welfare, retirement, and Social Security plus interest, will be greater than all Federal receipts, leaving no funds for spending on other priorities such as our Nation's defense, roads and bridges, education, national parks, or the environment. And worse yet, last year's debate over the Balanced Budget Act of 1995 showed that reelection politics will continue to thwart any serious debate regarding how to solve the entitlement situation. Unfortunately, demagoguery and scare tactics rendered true reform of unbridled entitlement spending impossible.

When politicians have careers to protect, there will be politics to play. Washington is a 2-year town, focused on the next election—short-term thinking. It should be a 20-year town, focused on long-term thinking and on the true problems facing America. Two weeks ago, one of my constituents told me that he thinks America lacks statesmen. He said, "Senator Frist, what we really want are statesmen. People who will put the interest of the country ahead of party and politics and self-interest. People who will make the tough calls." Mr. President, he's right. I think a vast majority of Americans would like to see so much more of that in Washington, and term limits is the way to accomplish it.

Mr. President, we must ask ourselves how we've ended up in this position. And more importantly, what's the solution?

The problem lies not with the individual men and women who are elected to Congress, but with a system of perpetual incumbency that has become so

VOL 142 PT 6 AP 15 — 24 1996 UMI

entrenched that it shields the Governors from the governed, and creates a culture that separates Washington from the rest of America. The longer Members serve in Congress the more removed they become from the rich blend of experience of American life. More importantly, career legislators become ever more risk averse, avoiding tough but necessary decisions because of consideration for political constituencies needed for reelection. A true citizen legislature would suffer from neither of these problems.

Still, the American people know that Members of Congress have a tough time with the issue of term limits. It is, after all, our own jobs that are at stake. That's why, beginning in Colorado in 1990, the American people took matters into their own hands and began voting, at the State level, to enact term limits on their Federal delegations. Twenty-two States followed, Mr. President. From Alaska to California to Florida to Massachusetts, and several States in between, more than 25,000,000 people voted for term limits.

Mr. President, I think the American people have made their point. Unfortunately, in May of last year, the U.S. Supreme Court invalidated the term limits laws of 23 States and made it clear that the only remaining course to impose term limits is to enact a constitutional amendment.

So here we are. And the question is what we will do. Will we swallow self-interest and career protectionism and do the will of the people? Or will we stonewall the will of the people and tell them we know better here in Washington?

There are some who argue that the American people can already decide when they want new representation by simply voting us out of office at the next election. That claim, Mr. President, assumes that incumbents and challengers compete on a relatively level playing field. They don't. Look at the 1994 elections. In 1994, a year of radical political change in America, 92 percent of all Members of the Senate and 90 percent of the House Members who sought reelection were returned to office. The power of incumbency is vast.

Mr. President, I was the only Member of this body elected in 1994 to have defeated a full-term incumbent Senator. Now, some have said that my election proves it's possible to defeat an incumbent, and they're right. But I believe, as do the American people, that it should be more than merely possible for ordinary citizens to be elected to Congress. What of the ordinary citizens who never even come forward to challenge incumbents because of extraordinary odds against them? Surely the current system, which gives so much power to incumbents, discourages some of our finest citizens from ever running in the first place, clearly depriving the electorate of the widest possible choice of candidates. Every Member of each body should know that there is a date-certain when they will return home to make room for another citizen to serve in Congress. That is not a radical idea; it's an idea that is embraced by over 80 percent of the American people.

And to those who argue that the American public is served well by legislators who have years of experience in Congress, I say that the Federal Government should not be so large and complicated that only a professional class of politicians can possibly understand or oversee it. We should restructure, streamline and downsize the Federal Government so that Americans from all walks of life can serve in Congress without having to become professional politicians to master its inner workings.

President Andrew Jackson who occupied the seat I hold in the Senate said it well, nearly 170 years ago: "I can not but believe that more is lost by the long continuance of men in office than is generally to be gained by their experience." Later Presidents agreed. A former Member of this body from Missouri by the name of Harry Truman said in a way that only Harry Truman could, that term limits would "cure both senility and seniority, both terrible legislative diseases."

Mr. President, I do not believe the Constitution should be amended any time there is another way of reaching the same legislative goal. That's why the first bill I introduced in this body was the Electoral Rights Enforcement Act of 1995, a statute that would have given the States and the people additional authority to enact limits on the terms of their delegations in Congress. I also believe, as Justice Thomas argued in his dissenting opinion in U.S. Term Limits versus Thornton, that the States already have the right to enact term limits under the 10th amendment to the Constitution, which states that:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Nevertheless, Mr. President, the Supreme Court of the United States has ruled that the only way to implement the American people's demand for term limits on Members of Congress is through a constitutional amendment. If Tuesday's vote is unsuccessful, I intend to support the grass roots term limits movement that grows ever stronger outside the beltway. This movement will not be quelled with the Senate's failure to enact a constitutional amendment this week. In fact, this vote may well fuel an even stronger groundswell in favor of a term limits constitutional amendment.

For those who oppose the reforms which I consider to be of seminal importance, a term limits constitutional amendment and a balanced budget constitutional amendment, they should take note of article V of the Constitution, which would allow the calling of a Constitutional Convention upon a vote of two-thirds of the States. That is only 34 States, Mr. President, and 23 States have already voted in favor of term limits. Term limits activists approach their cause seriously and tenaciously, and I support their efforts to enact a term limits constitutional amendment in whatever way is possible. I look forward to Tuesday's vote, and I hope that each Member of this body will consider his or her vote carefully, with the knowledge that a vote against this measure is a vote against the will of the people.

I thank the chair and yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

THE VOID IN MORAL LEADERSHIP—PART 5

Mr. GRASSLEY. Mr. President, on March 19, I began a series of speeches on this floor. The subject—the common thread in these speeches—has been the void in moral leadership at the White House. What this means is simply this: The President and the First Lady are failing to set a good example for the American people.

These are failures of the most basic principles that Americans expect from their leaders: Failures like accountability; taking responsibility for one's actions; straightforwardness and candor; the public trust. The breakdown of these principles has eroded the President's ability to show strong leadership. It has undercut his moral authority to lead. The best way to lead is by example. If this is true, then White House leadership is truly lacking.

In my previous speeches, I gave illustrations of my observations. I identified specific actions from each of Whitewatergate, Travelgate, and Cattlegate. And I showed how these illustrations are of great significance to the average citizen.

In my March 22 speech, I referred to a familiar quote from John Mitchell. He was an Attorney General in the Nixon administration. He's remembered as saying, "You will be better advised to watch what we do instead of what we say."

People all across America now are discovering the secret of politicians who give the profession a bad name. People in this town have known this little secret for a long time. The secret is this: Say what the public wants to hear, but then do whatever you want. By the time they figure out what you did, you can point the finger at someone else.

The governing-industry in Washington has mastered this game.

It has created a process designed to avoid accountability. It is designed to

avoid taking responsibility for one's actions. Most data are presented in a way that avoids measuring performance. They are designed to show that everything is always rosy under their watch.

Think of how a used car dealer often buffs up a lemon of a car until it gleams—to gloss over all the defects. Unless you know about cars and what to look for, you might be tempted to buy that pile of junk because it looks so pretty. A few months later, you suddenly discover that the parts are falling off right there on the highway.

This is what our Government is like. They tell the taxpayers all the great things they are getting in this budget, or that bill. What a deal. And the people buy it. But after a while, all they see are piles of debt, a rising tax burden, growing job insecurity, serious social pathologies, and rampant crime and drug use. Do you see the analogy, Mr. President?

The question is, How can we be told everything is going to be rosy, and yet it turns out so bad? The answer is, We listened to what they said, not what they did. We made the mistake of falling for the ol' political soft shoe routine, the ol' used car pitch. They did a bait and switch on us, and we took the bait. Many of us here in Congress have worked hard to shine a big spotlight on this racket. We have tried to expose some of the games played that create the illusions—just like Dorothy exposed the Wizard of Oz.

For instance, by showing systematic bias in budget estimating, we were able to cause the Congressional Budget Office to produce more realistic estimates of Congress' budget decisions. For the lay person, all this means is, we can now better estimate how much our income and outgo will be. Before that, we were always unjustifiably optimistic. We always assumed we would have a flood of revenues pouring into the Treasury.

Why? Because that way we could keep the spending faucets on full blast. Things did not look so expensive as long as we could cook the books and show a rising tide of revenues. The shell game was on, Mr. President. It got us all re-elected, but it also got us in a ton of debt. I call this problem the Narcotic of Optimism.

There are other examples of attempts by some of us to expose Government by illusion. Let me just describe some that I have taken the lead on, just to illustrate what I am saying:

First, most recently, I and my colleagues in both the House and Senate forced the President's AmeriCorps Program to clean up its act. It is a program that was paying $29,000 per volunteer. Imagine the taxpayers paying $29,000 per volunteer. This gave boondoggles at the Pentagon a real run for their money.

We poured through AmeriCorps' documents during a 2-year battle. We shined a big spotlight on the program's activities and costs. We showed where the bulk of the money was going—overhead and buréaucracy. We have now reinvented the program.

Before this, the program never lived up to the President's lofty rhetoric. Now, it has a chance to do what the President says it will do.

Second, I worked hard, with the help of many of my colleagues, on protecting whistleblowers, who are the footsoldiers of the war to expose Government illusions. Every administration waxes poetic about how much they honor whistleblowers. But as soon as our backs are turned, Government managers search them out like a heat-seeking missile.

That is because whistleblowers, want the truth out; Government does not. Congress has toughened up the laws protecting whistleblowers. And we are always on the vigil.

Third, I have worked to pass or bolster initiatives that detect and measure bureaucratic sleight of hand at the Pentagon. We created an independent office of testing to make sure our troops have fully and effectively tested equipment. We were not getting that before.

We have also worked on numerous financial reforms that expose cost and budget problems. All of these are designed to make it easier for us to see what the Pentagon is actually doing, as opposed to what they say they are doing.

I have been at this kind of reform since I first joined the Senate in 1981. Sometimes it is a lonely battle. I often think I can live to be 100 years old and work on reforms non-stop, but I will still only make a dent because the problem is so big.

That is what Presidents are for. Presidential leadership can make the biggest difference in the world. The credibility of the presidency, as leader of the executive branch, can bring leadership to bear on the system and really shake things up. The President has not just the ability to do this, but the responsibility to do it as well.

In fact, Mr. President, these were the types of things that Bill Clinton pledged to do as a Presidential candidate in 1992. He would expose and put an end to the illusions game in Washington. That is what he promised. And that would help put on an equal footing those who had played by the rules, yet had failed to get ahead. And so the American people put their thrust and faith in Bill Clinton to lead the way.

After 4 years, however, a different picture has emerged. As I have specifically laid out in my previous speeches, the President has failed in such leadership, because he has failed to set the proper example.

For instance: How can this President end cronyism and favoritism? He fired innocent, low-level public servants in the White House Travel Office, and gave the travel business to a family member and a slick Hollywood buddy. What kind of example is that for equal treatment and fairness?

How can this President end the failure in this town to take responsibility for one's actions? When the Travelgate Seven were fired, fingers were pointed at others for having made the decision to fire them. What kind of leadership is that? What kind of example is that? How can this White House end the enormous problem in this town of cover-up, and lack of candor and straight shooting?

The mysterious appearance of the Whitewater documents in the White House reading room were blamed on the Document Fairy. Whenever the First Lady or her staff are questioned in either the Whitewatergate or Travelgate affairs, no one can recall a thing.

In my speech of March 28, I gave an example of this. On March 21, the First Lady responded to questions from Chairman CLINGER of the House Committee on Government Reform and Oversight. The subject matter was, who knew what, when, about the firing of the Travelgate Seven. In 16 pages of responses, I counted 54 instances of "I cannot recall;" "vague recollection;" "it's hard to remember;" and so on. Anything but candid, Mr. President. And this from people who are at the very top of their profession—the legal profession—in terms of intelligence and competence. That is kind of hard to swallow.

Moral leadership means leading by example. If you are a leader, that means the people expect you always to be candid in what you say; they expect you to treat everyone fairly and equally; they expect you to be accountable and take responsibility for what you do, both good and bad. That is what people expect in their leaders.

The American people are not getting that kind of leadership from this White House, Mr. President. Instead, they are seeing their leaders commit acts of favoritism, cronyism, avoiding responsibility, cover up. When people who work for such leadership see this, they follow the leader. People tend to do what their leaders do. Could this be why there are an unprecedented four independent counsels looking into questionable actions of Clinton cabinet secretaries?

We certainly should not be surprised at this record-setting pace for investigating high-level government officials.

I have been searching for an explanation for why an administration that promised to change all this is instead caught up in it, at record levels. I think I may have found a clue. It is a quote from this week's Time magazine. The article is called "Clinton's Stealth Campaign." It is written by Eric Pooley.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Here is what it says:

> Since the Republicans control Congress, he [meaning, President Clinton] opted for an illusion of control, which suits him just fine. In this almost holographic approach, speeches are as important as substance and rhetoric becomes its own reality. For this President, says senior adviser George Stephanopoulos, "words are actions."

Do you see, Mr. President? Here is a senior adviser to the President saying "words are actions." There is no distinction. Either this shows a breakdown of leadership, or it reflects very questionable leadership from the top down—remember I mentioned that workers tend to do what their leaders do. This practice—as articulated by a White House senior adviser—turns John Mitchell's adage into something you would read in Kafka, or Orwell. It turns Mitchell's statement on its head. In effect, it is a sly, Washington way of saying "watch what we say, not what we do." It says "watching what we do is irrelevant; only words are relevant."

This clarifies a lot for me, Mr. President. It reinforces my perception of the void in moral leadership in this White House. But it also gives us a glimpse into how the continuing charade of illusions is being conducted and perpetrated by this White House. It does so precisely because of an absence of leadership.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE OAK RIDGE BOYS

Mr. DOLE. Mr. President, I apologize for being a bit late, but I was listening to the Oak Ridge Boys next door. You might be able to hear them.

The PRESIDING OFFICER. The Chair was listening, too.

Mr. DOLE. They were very good.

EARTH DAY

Mr. DOLE. Mr. President, as America marks Earth Day 1996, I would like to remind my friends across the aisle that the environmental heritage we are all so proud of was forged under Republican stewardship. Our Republican environmental heritage stretches back to Ulysses S. Grant, who established Yellowstone as the first of the crown jewels of our precious national parks. President Theodore Roosevelt set up the National Wildlife Refuge System and promoted the value of conservation.

It was Republicans, under President Nixon, who created the Environmental Protection Agency and enacted the first Clean Air and Clean Water Acts. Under Presidents Ford, Reagan, and Bush we enacted and implemented the majority of the enabling statutes to protect our environment. An important Clean Air Act revision in 1990, which introduced new initiatives like using markets to achieve our goals, has helped to set new directions for the future.

The progress we have made as a nation over the last 25 years deserves praise. We saw problems that needed to be addressed—setting pollution standards to protect public health and dealing with pollution that crosses State and international boundaries. We responded with laws that I was proud to support—laws that addressed those problems in the best way we knew then.

We have learned a lot over these 25 years of environmental experience and progress. America's ability to create innovative ways of dealing with environmental protection and, at the same time, have continued economic growth is the envy of the rest of the world. Now we are at a crossroads about how to make further progress. I want to improve the system so it protects people's health and the environment better with less cost and complexity. I want to put more trust in the ability of all Americans—at all levels of government—and their desire to do the right thing. The old ways won't help much as we face new problems in the future.

During the last 25 years, the States have become very knowledgeable about the best way to deal with most environmental problems. The States have become laboratories of innovation on better ways to deal with many issues of concern: Welfare and health care reform—and environment as well. California, for example, is leading the way in setting up an integrated approach that calls for simpler permits and dealing with air, water, and waste in a coordinated way that goes after the worst problems first. Other States also lead the way.

Wisconsin, for example, has a Brownfields program in place which allows appropriate clean up for urban areas previously written off for development. That makes good sense and shows a sense of the right priorities.

Eighteen States—including Kansas, Texas, Indiana, Colorado, and Oregon—are encouraging their own companies to voluntarily find and fix environmental problems on their own. This is a partnership that works. We should follow that example and encourage rather than punish our communities and businesses for trying to do the right thing.

The States and localities are leading the way in these and other areas. We should use the most appropriate level of Government for the problem at hand. Try the local level first, States next. Try regional solutions when environmental issues involve more than one State. The Federal Government should step back when it can and use its expertise when it is most helpful to the States: To provide scientific or technical help.

Farmers, ranchers, businesspeople, families—all are partners, not villains. We should acknowledge that these people do the right thing every day. Let us measure environmental protection not by the size of a Federal bureaucracy or the number of regulations on the books but by the desire of our people to work together to protect the environmental values that we all treasure.

One of the things I have tried to promote this last year was that we must use good science to set environmental priorities, and then we should tackle the most important problems first. We know we could do better. The Harvard Center for Risk Analysis, for example, estimates that 60,000 lives per year could be saved with the same level of spending if we targeted our money at the worst problems.

It takes leadership to make choices. We need to be wiser about what we go after and at what level that is done.

I want to say one word about individual private property rights, which are so precious that they are protected by the Constitution. Owning property is a right that makes us strong and is a powerful force for the environment. If the Government takes someone's property for a public purpose, that person should be compensated. If we as a society believe that that person's property is needed for an important purpose, let us make that choice as a nation and ensure that we are not diminishing our citizens' rights.

I am proud of what we have done this year on the farm bill. It is the most environmentally sensitive farm bill ever. The conservation title of the farm bill reflects a commonsense approach. The bill continues the Conservation Reserve Program, expands the Wetlands Reserve Program, making this program the Nation's biggest and most successful environmental efforts. In addition, we provided $300 million to restore the Everglades. This was an immediate response to a need identified by the people of Florida.

The farm bill provides a good example of what we can do in other areas: Injecting simplicity, common sense, and flexibility, and lifting the heavy hand of the Government. These goals were also met in the Safe Drinking Water Act and resulted in a bipartisan bill that passed the Senate 99 to 0. We have set the same goals for Superfund reform, to get the lawyers out and get sites cleaned up. Yet today, no Democrats have joined us in this effort. We can get things done when we focus on the goals and not the rhetoric.

Today I received a letter from my Democrat colleagues. I share their environmental goals. But there are better

ways to achieve these goals. No one is interested in repealing or weakening environmental protections. Years ago, we accomplished our work by using typewriters. Today our offices are run by computers. Were we rolling back our desire to communicate efficiently by moving from typewriters to computers? I think not. Let's take the same approach on the environment.

That proud tradition and the strong Republican values of personal stewardship, good science, trust in the people, and respect for the States and localities will be used to build a better environmental future for our children.

MORNING BUSINESS

Mr. DOLE. Mr. President, I now ask that there be a period for the transaction of routine morning business, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the impression will not go away: The $5 trillion Federal debt stands today as an increasingly grotesque parallel to the energizer bunny that keeps moving and moving and moving on television—precisely in the same manner and to the same extent that the President is allowing the Federal debt to keep going up and up and up into the stratosphere.

A lot of politicians like to talk a good game—"talk" is the operative word here—about cutting the Federal spending and thereby bringing the Federal debt under control. But watch how they vote on spending bills.

Mr. President, as of the close of business Friday, April 19, 1996, the exact Federal debt stood at $5,100,053,596,414.66 or $19,268.51 per man, woman, and child on a per capita basis.

STATEMENT HONORING THE McWORKMANS ON THEIR 60TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "til death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Mr. Robert A. and Mrs. Clara Belle McWorkman of West Plains, MO, who on May 30 will celebrate their 60th wedding anniversary. They understand the meaning of the word "covenant." My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The McWorkmans' commitment to the principles and values of their marriage deserves to be saluted and recognized. I wish them and their family all the best as they celebrate this substantial marker on their journey together.

HONORING THE SHANNONS FOR CELEBRATING THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data is undeniable: individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Paul and Thelma Shannon of St. Peters, MO, who on June 8, 1996 will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. Paul and Thelma's commitment to the principles and values of their marriage deserves to be saluted and recognized. I wish them and their family all the best as they celebrate this substantial marker on their journey together.

TRIP TO PEOPLE'S REPUBLIC OF CHINA, HONG KONG, AND TAIWAN

Mr. THOMAS. Mr. President, I recently returned from a trip to the People's Republic of China, Hong Kong, and Taiwan over the April recess in my capacity as chairman of the Senate Subcommittee on East Asian and Pacific Affairs. While I would like at some time to share my observations of that trip with my colleagues, some confusion has arisen in the Asian press over a remark I made on that trip which I feel I need to correct sooner rather than later.

On April 3, I was privileged to have an hour-long meeting with Chinese President Jiang Zemin at Zhongnanhai in Beijing. A central focus of our discussion was the tense situation in the Taiwan Straits and strained relations between the PRC and Taiwan. When the conversation turned toward what President Jiang perceived to be the then-current situation and prospects for a return to a more stable cross-strait relationship, he replied paraphrasing a Chinese saying to illustrate his position. The President said, "When the wind blows through the pavilion, it means the rains will come," or, in Chinese, "Shan yu yu lai feng man lou di xing shi si hu yi jing guo qu le." After a brief pause, he then added, "But in this case, I think the rain is over." I took this to be an encouraging sign that, perhaps with the conclusion of Taiwan's presidential election and the PRC's somewhat worrisome military exercises in the Strait, the situation might be calming down and the two sides might be ready to resume cross-strait contacts through the Association for Relations Across the Taiwan Strait and the Straits Exchange Foundation, the two semi official bodies set up to handle that relationship.

After visiting other cities in China and then Hong Kong, I spent a day in Taipei, Taiwan, on the way back to the United States. There I met with Foreign Minister Chen and President Lee Teng-hui, both of whom I told of my conversation with President Jiang, and Jiang's statement about the "rain being over." They found the statement to be encouraging, just as I had. In meetings with the Taiwan press during my stay, I made it clear that I was not delivering a message from the government of the PRC to the Government of Taiwan; I had simply relayed the particulars of my conversation with President Jiang to Chen and Lee. This is where the confusion arose.

One of the Taipei newspapers, on hearing that President Jiang had said "the rain is over" incorrectly assumed that he had cited another Chinese saying: "the rain is over and the sun is shinning"—in Chinese "yu guo tian qing." The Taiwan press sometimes tends to shoot first and ask questions later, and other papers were soon picking up the inaccurate statement. As a result, by the next day papers islandwide were reporting that Jiang had made statements that were much more rosy than what was actually said. Not only were the newspaper reports inaccurate, but they missed the entire gist of Jiang's statement. By referring to the saying "the rain is over * * *" but leaving off the part of the saying "* * * the sky is blue," President Jiang was making the specific point that while the storm had passed things were still far from "sunny."

Anyway, Mr. President, soon other newspapers in Asia were repeating the inaccurate Taiwanese reports. As a result, the Chinese Government, through two newspapers in Hong Kong known to be directed by Beijing—Ming Pao and Wen Wei Po—began to publish articles denying—correctly of course—that Jiang had made the statement attributed to him by me as reported by Taiwan's press.

I became aware of the confusion when I returned to Washington last week, and issued a press release to several Asian papers in an effort to correct the inaccuracies. Although many papers ran articles correctly reflecting

VOL
142
PT
6
AP
15
—
24
1996
UMI

the actual comments made by President Jiang, the confusion still persists.

So, Mr. President, I come to the floor today to publicly set the record straight once and for all in the hopes of removing the last vestiges of confusion. I did not travel to Taipei to deliver a specific message from the PRC to Taiwan; I simply reported to the Taiwan Government the details of my conversation with President Jiang. In that conversation, President Jiang said, "When the wind blows through the pavilion, it means the rains will come. But in this case, I think the rains are over"—no more, no less. I hope this will lay the issue to rest.

THE PASSING OF COMMERCE SECRETARY RON BROWN

Mr. ABRAHAM. Mr. President, I rise to note the passing of our Commerce Secretary, Ron Brown, in a plane crash outside Dubrovnik, Bosnia. This tragic accident took with it a vast amount of talent and expertise in the persons of numerous American business people, and specifically in the person of Secretary Brown. A dedicated member of his party and this administration, Secretary Brown fought hard for the ideals and programs in which he believed. His commitment to the Commerce Department he led was shown by his willingness to brave the dangers of Bosnia, business leaders in tow, in pursuit of opportunities to help rebuild that war-torn country.

Secretary Brown also was a committed family man, and I know that his death is a great loss to his wife, his family, his friends, and his neighbors. I extend my condolences to his family in particular and hope that they can find solace in the knowledge of God's grace and in memories of the life they had with Ron Brown.

COMMEMORATING SECRETARY OF COMMERCE RON BROWN

Ms. MOSELEY-BRAUN. Mr. President, it is always painful when death comes too soon. It is even more so when the circumstances are so overwhelmingly dramatic and tragic as the airplane crash in Bosnia that took the life of our Nation's Secretary of Commerce, Ron Brown, and 34 others.

Ron Brown was a dear and personal friend. His loss was compounded by my personal friendship with four other people who died that day. The shock of it still resonates.

His family, and the families of the others who died with him in the service of their country feel the pain most directly. There is no substitute for the love and the loss of a husband, a father, and relative. I want to offer them my sincere condolences and prayers at this sad time.

His colleagues in the Government and in the private sector will miss him and his leadership. Ron Brown not only energized the Democratic Party, but the Department of Commerce as well. The result of his efforts ranged from the creation of jobs for hundreds of thousands of American workers, to a special job for a singular American, Bill Clinton, now President of the United States.

Ron Brown's legacy of achievement is a beacon of hope to all Americans, precisely because he exemplified the possibilities when the higher angels of the American character prevail. He overcame potential limitations, and turned liabilities into assets by dint of commitment, effort, and talent. His was the essential American success story. But his was also a success story for all humanity. Ron Brown was not a selfish person. His life was dedicated to reaching out to others in pursuit of the common good. That legacy is no more poignantly demonstrated than in the young people to whom he gave opportunity and guidance and a chance. Ron Brown did not pull the ladder of success up behind him.

I count myself among the fortunate proteges of Ron Brown. He helped make my history-making election to the U.S. Senate possible. I was only one of many of his students. Several others died with him that day.

Ron Brown's passing has been publicly mourned by millions, and created an opportunity for a public expression of gratitude for his public service. I hope the families of those who perished with him will take some measure of that expression as gratitude in mourning for the lost ones: Ron Brown, Kathryn Hoffman; Duane Christian; Carol Hamilton; Bill Morton; Chuck Meissner; Gail Dobert; Lawrence Payne; Adam Darling; Steve Kaminski; Naomi Warbasse; Kathy Kellogg; Jim Lewek; Lee Jackson; Dragica Lendic Bebek; Niksa Antonini; Nathaniel Nash; Barry Conrad; Paul Cushman; Robert Donovan; Claudio Elia; Leonard Pieroni; John Scoville; Donald Terner; Stuart Tholan; David Ford; Frank Maier; Walter Murphy; Robert Whittaker; Ashley Davis; Tim Schafer; Gerald Aldrich; Robert Farrington, Jr.; Cheryl Turnage; Shelly Kelly.

We will, as a community, have to close ranks to go forward without them, but with God's grace the mark they made in service to us all will carry on.

TRIBUTE TO "CHIEF" CHARLES ALFRED ANDERSON, FATHER OF BLACK AVIATION

Mr. HEFLIN. Mr. President, one of the great pioneers of aviation passed away on Saturday, April 13, at the age of 89 at his home in Tuskegee, AL. Charles Alfred Anderson, who as a young boy dreamed of soaring through the skies as a pilot, leaves a legacy of breaking down racial barriers in the field of aviation. He did this by training a famed unit of black fighter pilots during World War II, known since as the Tuskegee Airmen.

Among the members of Chief Anderson's unit were Coleman Young, who later became the mayor of Detroit; Gen. Daniel "Chappie" James, the Nation's first four-star black general; and William Coleman, Transportation Secretary under former President Ford. The inspirational story of the 332d Fighter Group was told in a 1995 movie, "The Tuskegee Airmen."

In 1939, a decade after obtaining his own flying license, Charles Anderson began a civilian pilot training program at Alabama's Tuskegee Institute, now Tuskegee University. In 1940, First Lady Eleanor Roosevelt visited the campus and decided to take a plane ride. At that time, an erroneously-held view was that blacks could not fly planes. Mrs. Roosevelt brushed aside the nervous warnings of her Secret Service detail and went on a long ride with Anderson, landing safely nearly an hour later.

Soon after, Tuskegee Institute was chosen for an experimental Army Air Corps Program designed to determine whether black men could be successful pilots. The participants, many of whom came from small towns all across America, passed rigorous tests to join what became the 332d Fighter Group. Anderson was the chief flight instructor, thus earning him the nickname "Chief," by which he was widely known throughout the rest of his life.

The Tuskegee Airmen overcame extreme prejudice to win combat status, allegedly only after Mrs. Roosevelt pressed their case with her husband. The unit escorted American bombers over Europe and North Africa, providing a virtually impenetrable shield while downing hundreds of German fighters. After the war, Anderson managed an aircraft-sales business and continued to give flight instruction at Tuskegee. By this time, he had earned the title of "Father of Black Aviation."

Chief Anderson borrowed $2,500 from friends and relatives and bought a used airplane when he was only 22. He learned to fly by reading books and getting tips from the white pilots who were willing to be cooperative. He eventually became the first black pilot to hold an air transport license. He flew a round trip transcontinental flight in 1933 and is believed to have flown the first land plane to the Bahamas in 1934. He flew up until a few years ago, still willing to teach anyone who wanted to learn.

Chief Charles Anderson was a great American and an outstanding, committed teacher who will forever be remembered as someone who overcame unfair barriers and prejudice to change the course of history. I extend my sincerest condolences to his family in the wake of this tremendous loss and share their

enormous pride in all that he accomplished.

TRIBUTE TO FORMER CONGRESSMAN LAURIE CALVIN BATTLE

Mr. HEFLIN. Mr. President, former Alabama Congressman Laurie Calvin Battle will be inducted into the Birmingham-Southern College Sports Hall of Fame on Saturday, April 27. As a member of the Sports Hall of Fame's Class of 1996, Congressman Battle will be honored and recognized for his many athletic achievements while at Birmingham-Southern and since.

Laurie Battle was born in Wilsonville, AL in 1912, attended elementary school in Jefferson County, and moved to my hometown, Tuscumbia, in 1926. He graduated from Deshler High School in 1930 and went on to obtain his bachelor's degree in psychology at Birmingham-Southern, my alma mater. He later earned his master's degree in sociology at Ohio State University. During World War II, he served in the U.S. Army Air Corps, rising to the rank of major, with service in the Asiatic-Pacific theater. He was awarded a Bronze Star for his bravery and remained in the Reserves until 1972.

He was first elected to the U.S. Congress in 1946, serving four consecutive terms from 1947 until 1955. After retiring from the House of Representatives, he began a career in the insurance business in Birmingham. The former Congressman later served as a government relations executive in Washington, DC, and as staff director and counsel for the House of Representatives Rules Committee from 1966–76. He was later a special adviser to the U.S. League of Savings Associations.

Laurie Battle is well-renowned for his athletic ability. Although he is now retired, he still plays paddleball with one of his constituents, former Alabama Congressman Ben Erdreich, now chairman of the U.S. Merit Systems Protection Board. They play twice a week in the House gymnasium, even as Congressman Battle approaches his 84th birthday on May 10. He was Ben's Congressman when he was in high school in Jefferson County.

I am pleased to commend and congratulate former Congressman Laurie Battle for accomplishing so much during his outstanding and colorful career, and especially for this latest honor of being inducted into Birmingham-Southern's Sports Hall of Fame.

KATHRYN HOFFMAN AND GAIL DOBERT—LIVES OF PROMISE CUT SHORT

Mr. KENNEDY. Mr. President, the tragic plane crash in Croatia on April 3 that took the life of Secretary of Commerce Ron Brown also took the lives of 34 other men and women of great talent, promise, and dedication, including 11 other employees of the Department of Commerce.

Since that tragedy, many eloquent words have been spoken and written about all of the victims. In two of the most eloquent articles I have seen. Michael Wilbon wrote extremely movingly in the Washington Post on April 5 about his friend Kathryn Hoffman, and Cindy Loose wrote equally movingly in the Post last week about the life of Gail Dobert. Sadly, these two lives of great promise have been suddenly and tragically cut short. I know that many others will be interested to learn more about the lives of these two dedicated employees, and I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 5, 1996]

THE DEATH OF MY FRIEND IS OUR LOSS

(By Michael Wilbon)

One of my dearest friends, Kathryn Hoffman, was on that plane. I have no idea of her official Commerce Department title, but I do know she was Ron Brown's right hand, his scheduler. When he went to Africa, she went with him. When he went to Asia, she went with him. I have her postcards from South America and Eastern Europe and other corners of the world in a kitchen drawer.

Kathryn was the girl you dreamed about meeting as a little boy: stunningly pretty, smart, quick with a comeback, and a sports enthusiast. Okay, she wasn't perfect; she was a Knicks fan. But Boys Night Out often was amended to Boys & Kathryn. Never Kathy. Kathryn. I called her from the 1988 Summer Olympics in Seoul and made her give me play-by-play on the fourth quarter of a Bears game, and she was seamless. Another time we drove from Chicago to Capital Centre in 10 hours, just in time to see Tyson knock out Spinks in the first round on closed circuit. She used to say I had the greatest, most glamorous job—traveling the world in search of games, but last week there was this late-night phone call. I was going to the Final Four; she was going to France, then Bosnia. I told her I couldn't believe a basketball fan such as Ron Brown was leaving during the Final Four, and she laughed.

She had taken her dogs, Max and Bo, to Fredericksburg to the breeder where they stay when she's traveling. She had a house now and a four-wheel drive vehicle and a garden, for crying out loud, and I couldn't help but ask if finally, having seen the entire world and then some, if she still thought this life of hopping planes was so glamorous. And she said, no, not anymore, but there are people who love their work and are addicted to excitement in a way no desk job can satisfy. It's the truth. We made the promise we always made about getting more balance in our lives, about traveling less. We planned dinner for Saturday—tomorrow night.

Most of us who live our lives this way don't think about dying on a plane, not when you're single and 35 has yet to come and the career—in Kathryn's case, public service—keeps you on a high. You get on the plane and read, work, go to sleep. It becomes, perversely enough, the place you can relax. I never, not for one split second, thought a U.S. military jet would fail to bring her back alive.

Four of my closest friends have worked for Ron Brown at Commerce, which made the moments immediately following the news of the crash, well, numbing. Through them, I got to know. "The Secretary" (as they'd call him) a little bit and to admire him a lot. His death, and the recent deaths of Arthur Ashe and entrepreneur Reginald Lewis, depress me to the point of despair, not just because inspired and productive men were snatched from earth in the primes of their lives, but because they were the hedge against hopelessness. They were the healers, the men who could negotiate any situation—men who looked at bigots and fools and laughed inside while brushing them aside. It's sick, debating whether Michael Irvin or Mike Tyson is a role model when Ron Brown was on TV every night, dressed up, looking good, sounding even better, jetting hither and yon, networking with world leaders and businessmen to do work that mattered, helping save the Democratic Party from itself, being a patriot. No, you couldn't find him on "SportsCenter," and he didn't have stats or a trading card, but he was a role model. He defined it.

I wonder, in the wake of his death, how many Division I scholarship football and basketball players (outside of Washington) can tell you what Ron Brown did for a living, why he needed to go to Dubrovnik and why his death has caused so much anguish among people who never met him. No Ashe, no Lewis, no Brown. Sports, business and government. Are there people in the ranks like them? Can we be certain the intellect and relentless work they provided will be replenished in the near future? Perhaps the worst thing about the crash is that it deprived us not only of the general, but of his lieutenants such as Carol Hamilton and Bill Morton and Kathryn Hoffman, people who had made public service their lives, their passion. We have to hope there's no shortage of worthy candidates to take up their missions.

This was to be a festive weekend, and not just because of Easter. For the first time since last August, just about all the members of the crew going to be off the road, off the planes and out of the hotels. Many of us made plans here in Washington. Age 35, which Kathryn would have been in August, is about the time you start to realize life isn't everlasting, when you become more serious and consistent about those silent prayers for your friends in flight, when it first hits you that just because you planned dinner doesn't mean everybody's going to be there.

I joined a couple of my friends from Commerce late last night because sleep wasn't coming, and misery needs company most when nobody's got any answers. I tried to think of all the safe, productive trips abroad that Kathryn made with The Secretary, all the trade and business their missions helped generate, all the goodwill their junkets created for the country. But the head is never any match for the heart, and that didn't change last night. What I wanted was another postcard in the mailbox, one from Singapore or Venezuela that let me know she was safe, one signed, like so many others, "Be home soon, Love, Kathryn."

[From the Washington Post, Apr. 15, 1996]

(By Cindy Loose)

AFTER FUNERAL, A CELEBRATION OF A RICH LIFE—BIRTHDAY PARTY BECOMES TRIBUTE TO CROATIA VICTIM

Gail Dobert was always up to something. She was the one to organize the beach house rental at Rehoboth Beach, Del., every summer, inviting so many people that you never

VOL
142
PT
6
AP
15
—
24
1996
UMI

got your own room—and felt lucky if you got a bed.

She could get tickets to anything and persuade her friends to go anywhere, even a business dinner. "I have to go talk to a Bonsai tree woman," she once told her friend Krista Pages. "Come on, you'll have a great time." Believe it or not, it turned out to be fun, Pages said.

If she could have been at her 35th birthday party, which she organized before leaving for Bosnia with Commerce Secretary Ronald H. Brown, she would have loved it.

The barbecue and keg party took place Saturday, just as she had planned, a few hours after her burial in a Maryland cemetery. Dobert, the acting director of the Commerce Department's Office of Business Liaison, was among the 35 people who died when Brown's airplane crashed into a Croatian hillside. Like her, several of the victims were young and most were in the middle ranks of government service.

Her friends and family memorialized her in all the traditional ways. On Friday, the anniversary of her birth, a funeral was held in her home town on Long Island. On Saturday morning, hundreds gathered at St. Peter's Church on Capitol Hill to eulogize her, then followed the hearse for a graveside service.

It might seem strange to follow that with a party, conceded her friend Chris Wilson. But if you knew Gail Dobert, he said, it would not seem that extraordinary. She was, he explained, a festive, life-loving person who would have wanted her family and friends—well in excess of 100, it turned out—to hold the party she had planned for them.

Besides, they couldn't just all go home alone. What else, then, could they do? "This party has got to be the beginning of getting better—her death has been so hard, it just has to be," Wilson said.

Despite working grueling hours at the Commerce Department, Dobert was always the life of the party. If anyone could persuade a shy person to sing along at a karaoke bar, belting out, "These boots were made for walking," it would be Dobert.

"There is so much to celebrate about Gail's life and so many fun things to remember," Pages said. "For her to live on, you have to talk about the good times."

So there they were, eating and drinking and sharing pictures in the Alexandria home and back yard of Chip Gardiner, a congressional aide.

"This is such a tribute these young people are paying our Gail," said Dobert's mother, Maureen. "When people think of Washington, they think of a huge bureaucracy. I wish they knew how many idealistic, hard-working young people there are. The politics in the halls of Congress may be the engine, but the train is run by them."

"She made us very proud," said Dobert's father, Ken. "We always said that if parents got paid, we'd have to take half pay because she and her brother made our job so easy." Dobert's brother, Ray, turned 33 the day of his sister's burial. There was a cake for him at her birthday party, just as she had intended.

Small groups at various times surrounded photo albums, laughing. "There's the famous raincoat," someone said, pointing at a photo snapped at a wedding reception as the band played "It's Raining Men." No one was dancing until Dobert decided to enliven things by hopping on the dance floor with a tambourine and the bright pink and iridescent yellow coat.

Eileen Parise had a picture from the time she got Dobert and two other friends tickets to the Baltimore reception Vice President Gore gave in honor of Pope John Paul II. As happened not infrequently, Dobert's battered car broke down, this time on Route 50 near the Baltimore airport.

"The other people in the car were praying and saying Hail Marys," Parise said. "Gail starts schmoozing the state trooper that came by. He not only had the car towed but then drove everyone to the reception."

From inside, someone shouted, "Here's Gail," and about a dozen people, expecting to see a vacation videotape from Rehobeth, ran inside. Instead, it turned out to be the evening news, with a snippet of Dobert's memorial service that day. The clip went by quickly, segueing into another memorial for another crash victim. There was pained silence. Then someone moved to turn off the television, and another guest arrived.

"We brought a semi-good bottle of wine," the new guest told Gardiner.

"You can drop the semi—it's full isn't it?" Wilson asked. "Hey, it even has a cork."

The celebration and jocularity were real, but so were the moments of pain expressed on every face at some point. Maureen Dobert sang along when a birthday cake was brought out for her son and another guest with an April 13 birthday. But she confided that she was using her public face. The private one, she said, gives into grief sometimes.

"You know, one day they go to kindergarten, and you have to let them go," she said. "Then they want to ride their bike around the corner, and you tell them to be careful and let them go. Before you know it, they're adults and you say, okay, I'm going to let them go.

"But this is the hardest letting go you ever have to do. I wanted her longer, but it's not going to work. It's the hardest letting go, but somehow you have to do it."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate message from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on April 19, 1996, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 3034. An act to amend the Indian Self-Determination and Education Assistance Act to extend for two months the authority for promulgating regulations under the Act.

Under the authority of the order of the Senate of January 4, 1995, the enrolled bill was signed subsequently on April 19, 1996, during the adjournment of the Senate, by the President pro tempore [Mr. THURMOND].

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2278. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-216 adopted by the Council on February 6, 1996; to the Committee on Governmental Affairs.

EC-2279. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-228 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2280. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-227 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2281. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-229 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2282. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-230 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2283. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-231 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2284. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-232 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2285. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-233 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2286. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-234 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2287. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-235 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2288. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-236 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2289. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of

D.C. Act 11-237 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2290. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-238 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2291. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-240 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2292. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-242 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2293. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-243 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC-2294. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the report on the Mayor's budget for fiscal year 1997 and multiyear plan; to the Committee on Governmental Affairs.

REPORT OF COMMITTEE

The following report of committee was submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1324. A bill to amend the Public Health Service Act to revise and extend the solid-organ procurement and transplantation programs, and the bone marrow donor program, and for other purposes (Rept. No. 104-256).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. PRYOR, Mr. BUMPERS, Mr. HEFLIN, Mr. KERREY, Mr. DORGAN, Mr. DASCHLE, and Mr. PRESSLER):

S. 1690. A bill to provide a grace period for the prohibition on Consolidated Farm Service Agency lending to delinquent borrowers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN:

S. 1691. A bill to provide for a minimum presence of INS agents in each State; to the Committee on the Judiciary.

S. 1692. A bill to bar Federal agencies from procuring goods and services from employees of illegal aliens; to the Committee on Governmental Affairs.

By Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. HATCH, and Mr. CRAIG):

S.J. Res. 52. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crimes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. PRYOR, Mr. BUMPERS, Mr. HEFLIN, Mr. KERREY, Mr. DORGAN, Mr. DASCHLE, and Mr. PRESSLER):

S. 1690. A bill to provide a grace period for the prohibition on Consolidated Farm Service Agency lending to delinquent borrowers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL LEGISLATION

• Mr. CONRAD. Madam President, the farm bill enacted 2 weeks ago has changed the Farm Service Agency's loan eligibility rules for thousands of producers only a few weeks from planting. It has become very clear that the effective date of the new loan eligibility provisions is causing hardship for producers in the midst of implementing farm and ranch plans for the year. Farmers and ranchers are being informed that, although their loan applications were approved, the Secretary is now prohibited from providing the loan funds to the farmer under the new farm bill. Thousands of farmers will be forced to cancel seed, fertilizer, machinery, and land contracts with local, main street businesses. Many businesses have already delivered seed and fertilizer based on the Government loan commitment. Many farmers who expected to plant a crop this year when prices are high will simply have to move to town and look for other work. This is not sensible policymaking. My legislation will delay the effective date of some of the loan eligibility provisions to give farmers and ranchers, and the businessmen who depend on doing business with the farmers and ranchers, time to adjust to the new loan eligibility law.

Section 648(b) of the credit title of the farm bill was made effective on the date of enactment. My bill will change the effective date of section 648(b) to make the provisions effective 90 days after enactment, or July 5, 1996. It is my hope that my colleagues will support this legislation.

During conference, I and many of my colleagues hoped that section 648(b)'s effective date would be deferred to allow farmers some warning of the new restrictions and avoid the problems farmers are now experiencing. However, the majority insisted on making the provisions of section 648(b) effective upon enactment. As a result, the Secretary is prohibited from allocating funds and making those loans, even if there were pending applications or approved applications or borrowers who had relied on approved applications to their detriment. The immediate and harsh effect of this provision was part of the reason I opposed the farm bill conference report.

It is my opinion that the entire farm bill should be revisited and corrected. However, the case for correcting the harsh effective date of section 648(b) is particularly compelling and that is why I am introducing this legislation today.

It is April 1996 and no one can argue that many farmers and ranchers, who are now prohibited from borrowing under section 648(b), have relied to their detriment on approved applications for ownership loans, operating loans, and emergency disaster loans. It is also too late in the season to provide these farmers and ranchers with time to obtain some other form of financing.

During my time in the Senate and on the Agriculture Committee, I have supported measures to make the Federal Government a more responsible and practical agricultural lender. I have worked to reduce and eliminate the amount of debt the Farm Service Agency carries on its books. By introducing this legislation, I am not encouraging the Farm Service Agency to make risky loans. However, for those farmers who have been approved for loans, have relied on that approval to their detriment, and find themselves days away from planting, it is just too late to secure other forms of financing. The timing of the immediate effective date in the Farm Bill is plain mean-spirited. I hope my colleagues support this bill to give farmers and ranchers 90 days to adjust to the Farm Bill's new restrictions.•

• Mr. GRASSLEY. Madam President, I am pleased to join in introducing legislation establishing a transition period to help our farmers who are attempting to obtain financing under the Consolidated Farm and Rural Development Act. The comprehensive farm bill that was signed into law earlier this month made a number of significant reforms to our Federal agriculture policy. Among these reforms was a change in how the U.S. Department of Agriculture extends credit to certain types of borrowers. This new policy is necessary to ensure the sound investment of taxpayer dollars.

Specifically, section 373 of the act prohibits the Secretary of Agriculture from making or guaranteeing loans to borrowers who have received debt forgiveness in the past. Debt forgiveness is defined as a writeoff or reduction of a direct or guaranteed loan or discharge of debt through bankruptcy.

Although I was not on the Agriculture Committee last summer when the credit title was marked up, it is my understanding that no member from either side of the aisle objected to this provision. Also, this section was not subject to amendment during the floor debate in February.

So we are not necessarily arguing with the policy of this section. But there are farmers who had applied for their annual operating loans in February or March, who expected to receive this financial assistance. They

VOL
142
PT
6
AP
15
—
24
1996
UMI

have been caught in the pipeline, so to speak, through no fault of their own. This group of farmers were eligible for these loans when they applied. But under the new farm bill they are ineligible.

It is only fair to give these farmers a period to adjust to the new rules. That is all this bill does. It does not change the reform-minded policy put in place by section 373. It merely moves back the implementation date of the section to allow the Farm Service Agency to process these loan applications and release the money to these borrowers. More importantly, this bill gives the farmers subject to this section an opportunity to adjust to a significant change in policy that could adversely affect their business.

This Congress passed a revolutionary farm bill, characterized by long-needed reforms. But we must remember that these changes affect real people, like family farmers. Therefore, it is necessary that sufficient transition time be given so that farmers can adjust and modify their business practices accordingly.●

Mr. PRESSLER. Mr. President, now that the farm bill is in place, farmers are doing their spring planting for the 1996 crops, or soon will begin. However, an unintended glitch has been discovered in the implementation of the new farm bill. Certain sections of the credit title of the new farm bill are being implemented to the detriment of farmers who have had any debts forgiven by the Government in the past.

This has come as quite a surprise to many farmers in South Dakota and other parts of the Nation. I have heard from several farmers who had applied for operating or emergency disaster loans who are now being told they are ineligible because of past debt forgiveness. That is not right. That is not what Congress intended. Most important, this is the last thing a farmer needs to hear, especially when he needs a loan to get this year's crop in. In some cases, Mr. President, I have learned that farmers who had approved loans that had not been disbursed by April 4, are also now being told they are no longer eligible. Again, this is not what Congress intended.

You can imagine how a farmer would feel when, after having his loan approved and a date set for disbursement, he's told the check's no longer in the mail.

Mr. President, already Members of Congress are seeking to correct his unintended development. The chairmen of the Senate and House Agriculture Committees have written to U.S. Secretary of Agriculture, Dan Glickman, to express their concerns about this implementation. It is clear we need legislation to ensure pending and future loans can go through. Therefore, today we are introducing a bill that would delay the implementation of section 373 of the Consolidated Farm and Rural Development Act, until July 5, 1996. This would provide the time for USDA to disburse loans to farmers for this year's spring planting.

I am pleased to undertake this corrective effort along with Senator GRASSLEY and others. Similar legislation has been introduced in the House of Representatives and I urge congressional adoption of these measures as soon as possible. Time is running out and we must act.

Mr. HARKIN. Mr. President, I want to commend Senator CONRAD for introducing this legislation to correct a provision in the newly passed farm bill that threatens to leave thousands of farm families in the lurch as they attempt to get a crop in the ground this spring. This feature of the new farm bill hits especially hard farmers, such as those in parts of Iowa, who are trying to recover from the hardships caused by disaster situations beyond their control. It is my understanding that some 30 to 40 percent of the approximately 8,000 USDA borrowers in Iowa are likely to be adversely affected by this provision.

The provision involved here prohibits USDA from making any type of operating, farm ownership, or emergency loan to a person who has at any time received any debt forgiveness from USDA on such a loan in the past. This provision was by clear terms made effective immediately upon enactment of the new farm bill, which was signed into law on April 4 of this year. As a consequence, many farmers who were in the process of having loans approved are cut off at the very last moment from credit that they were fully justified in counting on for planting this year's crop. Farm families have enough to worry about during planting season without having Congress create a whole new set of unanticipated problems and worries for them.

The consequence of this provision of the farm bill is that no matter how small the amount forgiven, no matter whether the forgiveness was due to reasons entirely beyond the control of the borrower, no new credit may be provided even if the farmer is now a sound credit risk—except for limited circumstances in the case of annual operating loans for borrowers whose debt was restructured under section 353. For example, even if a portion of interest, but no principal, was forgiven on a loan during the farm crisis a decade or more ago, for reasons beyond the control of the borrower, this provision says no more loans.

There may be reasonable arguments over the fairness of that policy, but clearly the harshest aspect of the new farm bill's loan ineligibility provision is that it kicked into effect on the date the bill became law, with little or no warning to farmers whose loans were in the process of being approved. The farm bill was long overdue by the time it passed Congress, and the problems caused by the lateness of the bill were compounded by the specific preclusion of any grace period for the new prohibition against loans to borrowers receiving past loan forgiveness. Farmers were left with virtually nowhere to turn because it was too late in the season to have a realistic chance to arrange other financing.

There has been some discussion whether USDA has misinterpreted the language of the bill or the legislative intent as to the effect of the new ineligibility provision, but the language of the bill is quite clear. Moreover, the matter of a reasonable grace period was specifically discussed during conference, but was rejected by the majority conferees.

I believe USDA should be careful in lending money, but the new farm bill is too extreme and too harsh.

This bill is a limited remedy for the harshness of the new ineligibility provision in the farm bill and the serious hardship it is causing. I am hopeful that legislation can be passed yet this week to address this very unfair situation created by the new farm bill.

By Mr. HARKIN:

S. 1691. A bill to provide for a minimum presence of INS agents in each State; to the Committee on the Judiciary.

THE IMMIGRATION CONTROL ENFORCEMENT ACT

● Mr. HARKIN. Mr. President, much of the debate on this floor is focused on how to strengthen our immigration laws. But whatever we pass will not mean much if we do not make sure that our States have the tools and support they need to enforce those laws in the first place.

That is why I rise today to offer this bill that would require the Attorney General to provide at least 10 full-time active duty agents of the Immigration and Naturalization Service in each State. These can be either new agents or existing agents shifted from other States.

In America today, immigration is not simply a California issue or a New York issue or a Texas or Florida issue. I can tell you that it is a real issue—and a real challenge—in my own State.

But today there are three States—including Iowa—that have no permanent INS presence to combat illegal immigration or to assist legal immigrants. In fact, in Iowa every other Federal law enforcement agency is represented except the Immigration and Naturalization Service.

This is a commonsense amendment. Ten agents is a modest level compared to agents in other States. According to INS current staffing levels, Missouri has 92 agents, Minnesota has 281 agents, and the State of Washingon has 440. And Iowa, West Virginia, and South Dakota have zero. This just does not make any sense.

Clearly every State needs a minimum INS presence to meet basic needs. My bill would ensure that need is met. It would affect 10 States and only require 61 agents which is less than 0.3 percent of the current 19,780 INS agents nationwide.

Let me speak briefly about the situation in my own State. Currently, Iowa shares an INS office located in Omaha, NE. In its February report, the Omaha INS office reported that they apprehended a total of 704 illegal aliens last year for the two-State area. This number is up by 52 percent from 1994.

The irony here is that in 1995, the INS office in Omaha was operating at a 33-percent reduction in manpower from 1994 staff levels. Yet the number of illegal aliens apprehended increased by 52 percent that year.

This same report states that there are about 550 criminal aliens being detained or serving sentences in Iowa and Nebraska city/county jails. Many of these aliens were arrested for controlled substance violations and drug trafficking crimes.

A little law enforcement relief is on its way to Iowa. The Justice Department announced that it will establish an INS office in Cedar Rapids with four law enforcement agents. That is a good step. And it is four more agents then we had before.

But we need additional INS enforcement to assist Iowa's law enforcement in the central and western parts our State.

In fact, the Omaha district office assessed in their initial report to the Justice Department that at least eight INS enforcement agents are needed simply to handle the issue of illegal immigration in Iowa.

Mr. President, in the immigration reform legislation before the Senate this week, the Attorney General will be mandated to increase the number of Border Patrol agents by 1,000 every year for the next 4 years. Yet for Iowa, the Justice Department can only spare four law enforcement agents and no agents to perform examinations or inspections functions.

By providing each State with its own INS office, the Justice Department will save taxpayer dollars by reducing not only travel time but also jail time per alien, since a permanent INS presence would substantially speed up deportation proceedings.

There is also a growing need to assist legal immigrants and to speed up document processing. The Omaha INS office reported that based on its first quarter totals for this year the examinations process for legal immigrants applying for citizenship or adjusting their status went up 45 percent from last year. Even though, once again, the manpower for the Omaha INS office is down by one-third.

I have recommended that a permanent INS office in Des Moines be located in free office space that would be provided by the Des Moines International Airport. Placing the office in the Des Moines International Airport would benefit Iowa in three ways. First, it would cut costs and save taxpayers money. Second, it would generate economic benefits for Iowa because the airport could then process international arrivals and advance Iowa's goal of becoming increasingly more competitive in the global market. Third, the office would be able to process legal immigrants living in Iowa.

I urge my colleagues to join in support of my bill. It is common sense, it is modest, and it sends a clear message to our States that we are committed to enforcing our immigration laws and giving them the tools they need to do it.●

By Mr. HARKIN:

S. 1692. A bill to bar Federal agencies from procuring goods and services from employees of illegal aliens; to the Committee on Governmental Affairs.

THE ILLEGAL WORKER PREVENTION ACT

● Mr. HARKIN. Mr. President, the chief magnet drawing illegal immigrants into the United States and enabling them to stay—is jobs. Border control is an effective strategy against illegal immigration but the lure of jobs will continue to attract illegal workers. We must reduce the job magnet that draws illegal immigrants to this country and deprives American workers of their livelihood.

For years, illegal aliens entering the United States have found employers ready and willing to hire them, often for wages which were substandard and under conditions which ranged from improper to illegal and inhumane. We passed the Immigration Reform and Control Act of 1986 which made it illegal to hire undocumented workers. We have recently beefed up enforcement of this legislation but must continue to do more.

Today I am introducing legislation to keep Federal contracts from going to businesses who knowingly hire illegal workers. My legislation makes permanent, President Clinton's February 13 Executive order. Employers who knowingly hire illegal workers should not benefit from Government business and tax dollars.

Consider the following two incidents which occurred at work sites in Maryland in March of this year. On March 21, INS agents arrested four illegal immigrants working on Fort Meade Army base. They were building Government town homes under a $24 million Federal contract. A week later, INS agents arrested 12 illegal immigrants removing asbestos from the Fallon Federal Building in downtown Baltimore.

Benedict Ferro, INS Director for the Maryland district, noted, "* * * there is a willingness by employers to hire them. Without that willingness, we wouldn't have this problem. It hurts, these are not jobs that permanent residents of the United States wouldn't want. These are jobs that could be filled by the unemployed in Maryland."

These are examples of the employers we need to focus our efforts on. Most employers want to comply with the law but for the few that spoil it for everyone, we have to have a tough strategy.

Any effort to stem the flow of illegal immigration into our country cannot succeed if the lure of U.S. jobs remains. American jobs belong to lawful workers. A strong worksite enforcement policy discourages illegal workers from crossing the border into the United States in addition to supporting American jobs for citizens and other legal workers.

Curbing illegal immigration by enforcing worker protection laws has a direct, if too seldom noted, policy connection. Illegal immigrants are frequently subjected to subminimum wages, dangerous workplaces, long hours, and other poor working conditions because they are desperate for work and in a weak position to insist on their rights. Knowingly hiring illegal immigrants both reveals, and rewards, an employer's willingness to break the law, and undermine wages and working conditions for legal workers. My legislation would ensure that the Federal Government does not reward such conduct with U.S. tax dollars.

Labor law enforcement not only helps ensure fairness and minimally acceptable employment standards in the workplace, but also helps to foster a level competitive playing field for employers. Businesses who knowingly hire illegal workers at substandard wages and working conditions have an advantage over employers who do not exploit their workers. INS agents note that companies are willing to hire illegal workers to slash costs and increase profits. This is blatantly against the law and not only unfair to American workers who need the jobs but to other employers who abide by the law and do not boost profits by exploiting their labor.

At the same time, by introducing this legislation, I want to make clear that employment discrimination will not be tolerated. Existing Federal laws prohibit employers from discriminating against employees on the basis of national origin or race. Enforcement of this legislation will not undermine antidiscrimination protection for legal workers.

From its beginning, our Nation has been a land of immigrants—people from the world over seeking refuge, opportunity, and a better life for themselves and their families. Like my mother, who came to Iowa from Slovenia. America is the land of opportunity, but America is also a land of responsibility. I remain adamantly opposed to discrimination at the workplace but feel that we must do more to

VOL
142
PT
6
AP
15
—
24
1996
UMI

crack down on illegal immigration and those who violate our laws at the expense of American workers.●

By Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. HATCH, and Mr. CRAIG):

S.J. Res. 52. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crimes; to the Committee on the Judiciary.

RIGHTS OF CRIME VICTIMS CONSTITUTIONAL AMENDMENT

Mr. KYL. Mr. President, April 21–27 is National Crime Victims' Rights Week.

To ensure that crime victims are treated with fairness, dignity, and respect, I rise—along with my colleague Senator FEINSTEIN—to introduce a joint resolution proposing a constitutional amendment to establish and protect the rights of crime victims.

Representative HENRY HYDE will introduce a companion joint resolution in the House. The Senate Judiciary Committee will hold a full committee hearing on the resolution tomorrow, Tuesday, April 23. And I would like to thank Senator HATCH for recognizing the importance of this issue and moving so quickly to hold hearings. This should be a signal to my colleagues and to all America that the time for justice for crime victims is at hand..

The proposed constitutional amendment will give victims fundamental rights to be informed, present, and heard at critical stages throughout their case, and the rights to a speedy trial, reasonable protection, and full restitution from the convicted offender—the least the system owes to those it failed to protect.

The text of the amendment is clear and straightforward. It reads:

> SECTION 1. To ensure that the victim is treated with fairness, dignity, and respect, from the occurrence of a crime of violence and other crimes as may be defined by law pursuant to section 2 of this article, and throughout the criminal, military, and juvenile justice processes, as a matter of fundamental rights to liberty, justice, and due process, the victim shall have the following rights: to be informed of and given the opportunity to be present at every proceeding in which those rights are extended to the accused or convicted offender; to be heard at any proceeding involving sentencing, including the right to object to a previously negotiated plea, or release from custody; to be informed of any release or escape; and to a speedy trial, a final conclusion free from unreasonable delay, full restitution from the convicted offender, reasonable measures to protect the victim from violence or intimidation by the accused or convicted offender, and notice of the victim's rights.
>
> SECTION 2. The several States, with respect to a proceeding in a State forum, and the Congress with respect to a proceeding in a United States forum, shall have the power to implement further the rights established in this article by appropriate legislation.

Mr. President, these simple words will help to restore justice to a system fraught with injustice.

SUPPORT

The amendment is supported by major national victims' rights groups: Parents of Murdered Children, Mothers Against Drunk Driving [MADD], the National Organization for Victim Assistance, the National Victim Center, the National Victims' Constitutional Amendment Network, the Victim Assistance Legal Organization, and the Doris Tate Crime Victims Bureau.

NEED TO PROTECT VICTIMS' RIGHTS—SCALES OF JUSTICE IMBALANCED

There is a need to protect victims' rights because the scales of justice are imbalanced.

Those accused of crime have many constitutionally protected rights; They are innocent until proven guilty; they have the right to due process; right to confront witnesses; right against self-incrimination; right to a jury trial; right to a speedy trial; right to counsel; right to be free from unreasonable searches and seizures.

Yet, despite rights for the accused, the U.S. Constitution, our highest law, does not protect the rights of crime victims.

The recognized symbol of justice is a figure holding a balanced set of scales, but in reality the scales are heavily weighed on the side of the accused. These protections are sadly one-sided. My proposal will not deny or infringe any constitutional right of any person accused or convicted of a crime. But it will add to the body of rights we all enjoy as Americans.

Each year, about 43 million Americans are victims of serious crime. These victims have no constitutional rights. They are often treated as mere inconveniences, forced to view the process from the sidelines. Defendants can be present through their entire trial because they have a constitutional right to be there. But in many trials, victims are ordered to leave the courtroom.

Victims often are not informed of critical proceedings, such as hearings to consider releasing a defendant on bail or allowing him to plea bargain to a reduced charge. Even when victims find out about these proceedings, they frequently have no opportunity to speak.

Today, victims have no right to reasonable finality. It is not uncommon for cases to last years and years after the jury verdict, while courts again and again review the same issue. These lengthy delays cause terrible suffering for crime victims, especially the loved ones of homicide victims. What others consider as a mere inconvenience can be an endless nightmare for the victim.

PATRICIA POLLARD

Consider the case of Patricia Pollard—a woman from my home State of Arizona. In July 1974, on a road just outside of Flagstaff, AZ, Patricia Pollard was silenced—first by an attacker, and then by the judicial system. Eric Mageary used the jagged edge of a ripped beer can to inflict deep slash wounds in her body. He broke her ribs and her jaw. He choked her into unconsciousness and left her for dead by the side of the road.

Patricia survived. Mageary was convicted and sent to prison. Ten years short of serving his minimum sentence, he was paroled. No notice was given to Patricia. If given the opportunity, Patricia would have wanted to tell the judge about the crime, about how dangerous Mageary was, and how a long prison sentence was needed to protect the community from this vicious criminal. But the law gave Patricia no right to be heard, and society paid for its silencing of her. Mageary's parole was soon revoked for serious narcotics violations, and he was back in prison.

In 1990, the people of Arizona amended their State constitution to add a victims' bill of rights, which established the right of victims to be informed, present, and heard at every critical stage in their case.

Incredibly, in 1993, in direct violation of Patricia's new constitutional rights, the parole board voted to release Mageary—again without hearing from Patricia.

But this time there was a remedy for this injustice. An action was filed to stop the release and force the board to hold another hearing in which Patricia's rights would be protected. The Arizona Court of Appeals acted swiftly and stopped the release. The second time around, after the board took the time to hear directly about the horrible nature of the crime, they voted for public safety and for Patricia, and kept Mageary behind bars. Without constitutional rights for Patricia, the safety of the community would have been jeopardized again.

Constitutional rights restored Patricia's voice. Not all Americans have these rights, and even those that exist are not protected by the supreme law of the land, the U.S. Constitution. That is why today, during National Crime Victims' Rights Week, Senator FEINSTEIN and I are introducing a victims' bill of rights to the U.S. Constitution to extend to victims throughout the country a threshold of basic fairness. Victims must be given a voice—not a veto, but a real opportunity to stand and speak for justice and the law abiding in our communities.

STATISTICS

Patricia Pollard is not an isolated example. As I noted earlier, each year 43 million Americans are victims of serious crime, according to the Department of Justice.

According to DOJ statistics released last week, during 1994 there were 10.9 million violent crimes, 6.6 million simple assaults, 2.5 million aggravated assaults, 1.3 million robberies, and 430,000 rapes or other types of sexual assault.

Also, one of every nine persons from 12 through 15 years old was a violent crime victim during 1994.

And just this week the Clinton administration reported that crime costs Americans at least $450 billion a year.

These numbers are staggering and sobering. And they demonstrate the enormous burden that crime forces its victims to carry.

The breakdown of social order and the crisis of crime that accompany it, have swelled the ranks of criminals, and those who suffer at their hands, to proportions that astonish us, that break our hearts, and that demand collective action. And the process of detecting, prosecuting, and punishing criminals continues, in too many places in America, to ignore the rights of victims to fundamental justice.

TWENTY STATES HAVE CONSTITUTIONAL AMENDMENTS

The need for a constitutional amendment was first recognized in 1982 by a President's Task Force on Victims of Crime, which concluded that the criminal justice system has lost its essential balance. Since then, 20 States have adopted victims' amendments.

The average electoral support for these amendments was 78 percent. In 1994, six States approved constitutional amendments—all by landslides: Alabama, 80 percent; Alaska, 87 percent; Idaho, 79 percent; Maryland, 92 percent; Ohio, 77 percent; and Utah, 68 percent.

But this patchwork of State constitutional amendments is inadequate. A Federal amendment would establish a basic floor of victims' rights—a floor below which States could not go.

VICTIMS NEED RIGHTS IN THE FEDERAL CONSTITUTION

Some may say, "I'm all for victims' rights but they don't need to be in the U.S. Constitution. The Constitution is too hard to change. All we need to do is pass some good statutes to make sure that victims are treated fairly."

But statutes have not worked to restore balance and fairness for victims. The Federal Government has well-written statutes that were intended to establish rights for victims in Federal proceedings. Yet the promise of those statutes lies largely unfulfilled. The whole history of our country teaches us that constitutions are needed to protect the basic rights of the people. The original Bill of Rights was adopted to guarantee that the Federal Government would never infringe on inalienable rights enjoyed by the people—neither at the hands of an overreaching executive nor an inflamed majority in Congress. Some argued that because the Federal Government did not possess the power in the Constitution to infringe these rights, the express protection of them in the Constitution was unnecessary. History soon taught us the wisdom of including the Bill of Rights.

Who would be comfortable now if the right to free speech, or a free press, or to peaceably assemble, or any of our other rights were subject to the whims of changing legislative or court majorities? When the rights to vote were extended to all regardless of race, and to women, were they simply put into a statute? Who would dare stand before a crowd of people anywhere in our country and say that a defendant's rights to a lawyer, a speedy public trial, due process, to be informed of the charges, to confront witnesses, to remain silent, or any of the other constitutional protections are important, but don't need to be in the Constitution?

Such a position would be rightly subject to ridicule. Yet that is precisely what critics of the victims' bill of rights would tell crime victims. Victims of crime will never be treated fairly by a system that permits the defendant's constitutional rights always to trump the protections given to victims. Such a system forever would make victims second-class citizens. It is precisely because the Constitution is hard to change that basic rights for victims need to be protected in it.

Our criminal justice system needs the kind of fundamental reform that can only be accomplished through changes in our fundamental law. Today we have a system of justice that accommodates the interests of its professionals fairly well, but it all too often treats its citizens, its victims, with hostility, and almost always with indifference. Attitudes will not change without a constitutional reform that recognizes the rights of victims as a core value.

AMENDING THE CONSTITUTION IS A BIG STEP, BUT A NECESSARY ONE

Amending the Constitution is, of course, a big step—one which I do not take lightly—but, on this issue, it is a necessary one.

As Thomas Jefferson once said:

> I am not an advocate for frequent changes in laws and constitutions, but laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times.

CONLCUSION

In closing, I would like to thank Senator DIANNE FEINSTEIN for her hard work on this amendment and for her tireless efforts on behalf of crime victims.

Mr. President, for far too long, the criminal justice system has ignored crime victims who deserve to be treated with fairness, dignity, and respect. Our criminal justice system will never be truly just as long as criminals have rights and victims have none. We need a new definition of justice—one that includes the victim.

Today, as we begin National Victims' Rights Week, in courtrooms across America, victims will be forced to sit outside while their attackers are tried. Today and every day, critical proceedings will be held in criminal cases and victims will not be informed of those proceedings or given the opportunity for their voices to be heard. Today, and every day, victims will be forced to endure endless delays.

Mr. President, with this joint resolution, we can cure this injustice. Victims groups across America support this effort and are watching to see if Congress has the will to make this Victims' Rights Week truly a celebration for crime victims.

ADDITIONAL COSPONSORS

S. 296

At the request of Mrs. KASSEBAUM, the names of the Senator from Montana [Mr. BURNS] and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 704

At the request of Mr. SIMON, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 953

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 1043

At the request of Mr. STEVENS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1043, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1072

At the request of Mr. THURMOND, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1072, a bill to redefine "extortion" for purposes of the Hobbs Act.

S. 1166

At the request of Mr. LUGAR, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 1166, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide

VOL
142
PT
6
AP
15
—
24
1996
UMI

Act, to improve the registration of pesticides, to provide minor use crop protection, to improve pesticide tolerances to safeguard infants and children, and for other purposes.

S. 1578

At the request of Mr. FRIST, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1578, a bill to amend the Individuals with Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

S. 1579

At the request of Mr. GLENN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1579, a bill to streamline and improve the effectiveness of chapter 75 of title 31, United States Code (commonly referred to as the "Single Audit Act").

S. 1608

At the request of Mr. MCCAIN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 1608, a bill to extend the applicability of certain regulatory authority under the Indian Self-Determination and Education Assistance Act, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1644

At the request of Mr. BROWN, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1644, a bill to authorize the extension of nondiscriminatory treatment—(most-favored-nation)—to the products of Romania.

S. 1660

At the request of Mr. GLENN, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 1660, a bill to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes.

SENATE CONCURRENT RESOLUTION 42

At the request of Mrs. KASSEBAUM, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of Senate Concurrent Resolution 42, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE RESOLUTION 217

At the request of Mrs. KASSEBAUM, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of Senate Resolution 217, a resolution to designate the first Friday in May 1996, as "American Foreign Service Day" in recognition of the men and women who have served or are presently serving in the American Foreign Service, and to honor those in the American Foreign Service who have given their lives in the line of duty.

At the request of Mrs. MURRAY, her name was added as a cosponsor of Senate Resolution 217, supra.

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week."

SENATE RESOLUTION 247

At the request of Mr. SPECTER, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Resolution 247, a resolution expressing the sense of the Senate regarding a resolution of the dispute between Greece and Turkey over sovereignty to the islet in the Aegean Sea called Imia by Greece and Kardak by Turkey.

AMENDMENTS SUBMITTED

CONGRESSIONAL TERMS LIMIT CONSTITUTIONAL AMENDMENT

LEAHY AMENDMENT NO. 3700

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms; as follows:

In the committee substitute strike all after the words "Section 1" and insert the following:

"No person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

"SECTION 3. A member of the Senate serving a term of office on the date of the ratification of this article, who upon completion of that term will have served two or more terms in the Senate, may complete that term. A member of the House of Representatives serving a term of office on the date of ratification of this article, who upon completion of that term will have served six or more terms in the House of Representatives, may complete that term."

LEAHY AMENDMENT NO 3701

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the motion to recommit proposed by Mr. THOMPSON to the joint resolution Senate Joint Resolution 21, supra; as follows:

In lieu of the proposed instructions, insert the following: with instructions to report the resolutions back to the Senate forthwith with an amendment as follows: That the following article is proposed as an amendment to the Constitution of the United States;

"ARTICLE —

"SECTION 1. No person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

"SECTION 3. A member of the Senate serving a term of office on the date of the ratification of this article, who upon completion of that term will have served two or more terms in the Senate, may complete that term. A member of the House of Representatives serving a term of office on the date of ratification of this article, who upon completion of that term will have served six or more terms in the House of Representatives, may complete that term."

LEAHY AMENDMENT NO. 3702

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to an amendment to the joint resolution Senate Joint Resolution 21, supra; as follows:

In the language proposed to be stricken, strike all after the words "Section 1" and insert the following:

"No person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

"SECTION 3. A member of the Senate serving a term of office on the date of the ratification of this article, who upon completion of that term will have served two or more terms in the Senate, may complete that term. A member of the House of Representatives serving a term of office on the date of ratification of this article, who upon completion of that term will have served six or more terms in the House of Representatives, may complete that term."

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs has rescheduled the business meeting that was originally scheduled for 9 a.m. on Tuesday, April 23, 1996, to 9:30 a.m. on Tuesday, April 23, 1996.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will conduct a joint hearing with the Subcommittee on Native American and Insular Affairs of the House Committee on Natural Resources during the session of the Senate on Thursday, April 25, 1996, on S. 1264, a bill to provide certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe, and for other purposes. The hearing will be held at 9:00 a.m. in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

ADDITIONAL STATEMENTS

TAX FREEDOM DAY

• Mr. ABRAHAM. Mr. President, I rise today to recognize the novel approach one business in my State has undertaken to educate the public about the high Federal tax burden suffered by working families in our country.

The Lockwood Companies, based in Bingham Farms, are a group of seven construction, housing-material procurement, and development services firms. In the past 50 years, Lockwood has built more than $1.25 billion of housing in Michigan, including affordable and luxury multifamily housing, as well as independent living, assisted, and skilled care communities. In the previous 2 years, Lockwood has been Michigan's leading apartment builder.

In early 1995, Lockwood management was discussing the high, unfair tax burden imposed upon average employees. Someone observed a major problem in our country is the general lack of public awareness as to how high our tax rates actually have risen. A suggestion was given that some sort of creative effort be made to highlight Tax Freedom Day.

Tax Freedom Day is determined each year by the Tax Foundation, a nonpartisan, nonprofit, public policy research group based in Washington, DC. Tax Freedom Day is estimated to be the day average Americans must work to from January 1 just to pay their Federal, State, and local taxes for that year.

To exemplify just how much taxes have risen over the years, I point out that in 1944, the year Lockwood was founded, Tax Freedom Day would have been March 30. In 1995, Tax Freedom Day was May 7, more than 5 weeks later.

To draw attention to this situation, Lockwood management devised the idea of an employee strike on Tax Freedom Day, and declared it a paid company holiday. Lockwood's protest last year drew significant media coverage, both local and national.

Encouraged by the positive response, Lockwood will again this year publicize Tax Freedom Day giving its employees a paid day off. Among the other Michigan companies that have been persuaded to join in this year's protest and do likewise are Sartech Distribution & Building Supply, Jordan Oliver Building Systems, and Schneider & Smith Architects.

In announcing Lockwood's repeat observance of Tax Freedom Day, President Rodney Lockwood said his firm has, "helped start more than 10 new woman- and minority-owned companies by awarding them contracts, supplying funding, or training their workers . . . If the tax situation were more favorable, we could help even more companies because we'd have more money available for that kind of discretionary spending."

Undoubtedly, countless other job providers in Michigan and the rest of the country would appreciate tax relief that would allow them to assist fledgling small businesses as well.

The Lockwood Companies' unique manner of protesting high levels of taxation deserves to be recognized. Increased awareness of the oppressive tax burden on American families can only yield positive results. The Lockwood Companies, and those who will strike alongside with them this year, are providing an invaluable public education, and I commend their efforts.•

CHINA: WHERE DO WE GO FROM HERE

• Mrs. FEINSTEIN. Mr. President, I recently delivered a speech to the World Affairs Council of Los Angeles. I took the opportunity to lay out some of the areas in which I believe the United States needs to improve its policy toward the People's Republic of China. I thought my colleagues would find this speech to be of interest. I ask that the full text of the speech be printed in the RECORD.

The speech follows:

CHINA: WHERE DO WE GO FROM HERE?

(Remarks of U.S. Senator Dianne Feinstein to World Affairs Council, April 11, 1996)

It is a great pleasure to be in the City of Los Angeles. And it is my honor to be introduced by such a distinguished resident of this great city.

I'm delighted to be at the World Affairs Council, I've had the privilege of speaking at the World Affairs Council in San Francisco on several occasions, but never in this major capital city, so I'm delighted to be here.

I want to share with you today some candid thoughts that I have about what I believe to be one of the most important issues for peace and stability in the world today: The current crisis in negotiations on Sino-American relations, and to discuss for a moment how we can forge a new, and better, era in this important relationship.

One hundred years from now, I have no doubt that when historians look back, the remarkable rise of China as a world power will be considered one of the most important international events of the latter half of the twentieth century.

More than the tragic war in Bosnia, more than the unsteady march toward peace in the Middle East, more even than the collapse of the Soviet Union, China's ascendence as a great power—and the content and quality of U.S.-Chinese relations—will shape the direction of global history in the Pacific Century.

Following what the Chinese view as a "century of humiliation" at the hands of western imperial powers, and fifty years of war-lord rivalries, revolution, and economic stagnation, China today is poised at the brink of a remarkable renaissance.

For close to two decades the Chinese economy has grown by a staggering 10% a year. China is now the world's 11th largest exporter—that's where Japan was in 1980—and moving up fast. By most estimates, by early in the next century China will have the world's largest economy.

In a little more than a decade, U.S. trade with China has grown from some $1.2 billion to over $50 billion per year. China has emerged as a major presence on the world stage.

It is a shame that we do not have the benefit of the hindsight that our children and grandchildren will have, because I believe that most Americans—including many policymakers—do not understand the magnitude or breadth of the changes currently underway in China and what they mean for the future peace and stability of Asia and, yes, the world.

U.S. POLICY MISSTEPS

This fundamental lack of understanding is unfortunate—and could turn out to be tragic—because how we manage our relationship with China will have a greater effect on stability in Asia and peace in the world than nearly anything else we do.

In recent months U.S.-China relations have reached perhaps their lowest level since President Nixon's historic trip to China in 1972. Our relationship is plagued by tensions in nearly every area in which we interact: a large trade imbalance; China's failure to curb pirating of U.S. intellectual property; China's transfers of sensitive weapons, nuclear materials and technology to Pakistan, Iran, and others; clashing visions of human rights; most importantly, U.S. concerns about Taiwan, Hong Kong, and Tibet, these are perceived as deep threats to Chinese sovereignty.

This situation is made even more complicated by domestic politics in both countries.

In the U.S., the relationship between China and the U.S. has been buffeted by the vicissitudes of a Presidential election year and provocative Congressional actions. For example, the recent Department of State Authorization Conference Bill contains ill-advised policy mandates, including an invitation for a 1996 visit by Lee Teng-hui to the U.S. "with all appropriate courtesies," and an elevation of the Taiwan office in Washington.

VOL
142
PT
6
AP
15
—
24
1996
UMI

In China, the lingering of Deng Xiaoping has prevented, in a sense, the cementing of new leadership, resulting in jockeying and in-fighting among China'a political hierarchy. It is difficult for any Chinese leader to take bold action to improve relations with the United States for fear of being accused of weakness.

Fundamental to the worsening of relations between our two countries is the lack of any conceptual framework or long-term strategy on the part of the U.S. policy with respect to China—a strategy which sets specific goals for the relationship five and ten years down the road.

Instead, U.S. policy has been reactive and "event-driven," responding to whatever happens to be the current revelation, which generally concerns human rights. This calls into question our entire relationship with China each time we lurch from crisis to crisis.

A whole host of events have contributed to the current downward spiral in our relations: Tiananmen Square, the sale of F-16's to Taiwan, Congressional opposition to China's bid for the Olympics, U.S. opposition to the construction of Three Gorges Dam project, and Taiwan President Lee Teng-hui's visit to the United States last year.

Each of these events has helped create the current atmosphere. Let me say a few words about why these events were so important.

Americans were understandably horrified by the globally-televised scenes of Chinese tanks advancing on unarmed civilians at Tiananmen Square in 1989. Unfortunately, those images have come to color our perception of nearly every aspect of the U.S. relationship with China. For most Americans Tiananmen Square is all they know of the China of today.

In the wake of Tiananmen, the U.S. made a number of policy decisions that further antagonized China. In 1992, for example, President Bush, who understands China better than most Americans, made what, I believe, was an unfortunate decision to sell 150 F-16 aircraft to Taiwan.

The sale, announced during an election campaign, was made without strong evidence that Taiwan faced a significantly enhanced threat from China that made these advanced military planes necessary. For China, the sale was a violation of the "One China" policy which has been the bedrock of Sino-American relations since 1972.

China put forth an extensive effort to host the Summer Olympic games in 2000: they built a large stadium, apartments and several other facilities, and made a strong pitch to the International Olympic Committee. This was going to be China's introduction to the world—a moment of great national pride.

But, the U.S. reaction was distinctly negative. The House of Representatives passed a resolution urging the IOC not to give the games to Beijing and a majority of U.S. Senators sent a letter urging denial to the IOC. The IOC decided, by one vote, to give the games to Sydney, Australia, and, again, China felt the sting of humiliation.

Another American effort to thwart Chinese development, from China's perspective, has been our reaction to the Three Gorges Dam project. This massive undertaking, designed to generate power for the enormous Chinese market, is considered a critical step in China's economic development program.

Anyone that has been to Beijing has seen the choking clouds of high sulfur coal dust and lacking sufficient power for the basic necessities of life for millions of its people, the Three Gorges Dam represents an important national priority for the Chinese. But the United States has criticized the project, on environmental grounds and last year the Administration indicated it would oppose multilateral and U.S. financing of Three Gorges.

The current crisis in U.S.-China relations came to a head last year with the U.S. decision to allow Taiwanese President Lee Teng-hui to visit the United States last summer to receive an honorary degree at Cornell University.

The Administration had told the Chinese—as late as May of last year—that allowing the visit would be inconsistent with the United States' longstanding "One China" policy. Congress then voted overwhelmingly—myself included—to allow this "private" visit, and the Administration changed its policy about the visa.

The Chinese President, Jiang Zemin, learned of the decision by reading it in the newspaper, as he told me when I visited him in August. You can imagine what the impact was.

President Lee's visit, although billed as a private visit, turned out to be much more than that. Members of the Senate met him, he spoke at Cornell and spoke about opportunity for representation in the United Nations. Again generating a deep visceral reaction within the Chinese leadership, not only within the leadership, and this is what Americans must come to understand, but within the Chinese people itself. And this gave rise to a new wave of nationalism among its people. The Chinese showed their anger by overreaction— engaging in missile tests and live ammunition war games in the Taiwan Straits just prior to the Taiwanese elections.

These provocative and unneccessary actions prompted President Clinton to place two carrier groups in the immediate area, sending a clear message that the U.S. would not tolerate military action against Taiwan.

It is clear that none of us fully understood the depth to which Taiwan presents a deep and fundamental sovereign imperative to China. We must understand this if we are to deal directly with China.

These events, occurring against a background of little dialogue between our two nations and constant criticisms in the American press, added to the strain and distance.

The Chinese, for their part, have contributed to the downward apiral in our relations by failing to carry out commitments made. For example, China's failure to carry out last year's Intellectual Property Rights agreement signed last May has cost American copyright-holders over $2 billion in 1995, and less than full compliance with nuclear Non-Proliferation and violations of missile reduction treaties are areas which have drawn considerable and legitimate U.S. concern.

THE COSTS OF U.S. MISSTEPS

The consequence of this confused and reactive relationship is that —precisely at the time when we should be doing everything we can to strengthen and encourage reform in China by increasing relations with the West—some in China believe that the U.S. is intentionally encouraging China's increasing hardline attitudes with the purpose of pushing China toward an adversarial posture reminiscent of Cold War years with the Soviet Union.

As you know, a long, drawn-out leadership struggle has been going on in China for the past several years as the elderly Deng Xiaoping has disappeared from public life. Although a new leadership is in place, competitive forces within that leadership appear to be growing stronger. Hardline actions are more prevalent.

For example,

China's provocative war games in the Taiwan Straits leading up to the Taiwanese election.

China's continued provision of sensitive nuclear and missile technology to Pakistan.

The increasingly strong rhetoric toward Hong Kong, such as announcing that the elected Legislative Council will be dissolved and that Hong Kong civil servants will be required to take an oath of loyalty to Beijing.

And just last week, when Chinese police tried to stop fundraising for Chinese orphanages at a dinner attended by U.S. Ambassador James Sasser and prevented Chinese-American author Amy Tan from delivering a speech.

Additionally, U.S. policy has not enabled those within the Chinese leadership who favor greater cooperation with the West to advance their program. In my conversations with President Jiang Zemin and Executive Vice Premier Zhu Rongji, I have become convinced of their genuine desire to reach out to the United States and build a much more cooperative relationship. In fact, Deng Xiaoping himself, empowered Jiang Zemin to be in charge of American relations and this was ratified by the 14th People's Congress.

But to do that, they need our help. They need to be able to engage in a genuine dialogue with U.S. leaders, at the very highest levels. Our President and the President of China need to be able to sit and talk face-to-face, and to pick up the phone and call one another on a regular basis. But they do not yet have that kind of relationship.

When the Administration decided not to invite President Jiang Zemin to Washington for a state visit, I believe we lost a valuable opportunity to give "face" and support to a moderate, pro-Western leader, thereby enabling the Chinese to see greater value in increased ties and pro-Western views.

MOST-FAVORED NATION STATUS

In approximately two months, Congress will consider whether to grant the President's request to renew China's Most-Favored Nation trading status. I believe this issue will spark a definitive debate in the Congress on the future of the United States' China policy.

The political implications of revoking MFN for China are great, and dangerous. Revoking MFN would be seen, I believe, as a complete break in U.S.-Chinese cooperation.

For a country such as China, where face and respect are such central issues, revoking MFN—a trading status the U.S. grants to all but a handful of rogue nations—would be seen as tantamount to the United States telling China that we no longer accept them as a member of the family of nations. More importantly, thousands of businesses and millions of jobs in this country and in China who are now dependent on MFN status would be lost. To deny it would be shooting ourselves in the foot. Also, our ability to work with the Chinese on other trade issues, on Asian security, on non-proliferation, on Taiwan, and on human rights would be severely diminished, if not incapacitated.

WHERE DO WE GO FROM HERE?

Many of you may be wondering if there is anything we can do to repair a relationship that many feel has already been irreparably harmed. As a Chinese proverb goes, "Laughter cannot bring back what anger has driven away." But there is another Chinese proverb that is perhaps more relevant—"By hard work one can succeed in moving two mountains to open a road."

First, we must elevate the importance of the relationship with China. President Clinton, Secretary Christopher and high officials must become much more directly involved. With China, in many cases, the messenger is as important as the message.

Most Americans know little of China and less about the importance of this relationship. The President must speak to Americans directly of the importance of this relationship and make the case for an improved relationship to the American people. He has not done so thus far. It must be done.

Secondly, Secretary Christopher who has visited China only once, must devote to this relationship the same time and energy as he has so effectively applied in the Middle East.

Third, we must realize that despite recent tensions, China and the United States have many more common interests than is generally realized, and we must build on those common interests.

Four areas in which our shared interests outweigh our differences include: Taiwan, trade, security and nuclear non-proliferation, and improving the quality of life for people.

Taiwan: The role of the United States in constructing a relationship between China and Taiwan must, by necessity, be supportive. We should not attempt to impose a solution on either party. The United States can, however, provide the underlying stability for Chinese-Taiwanese cooperation by continually and publicly reaffirming our commitment to a "One China" policy.

We must also continue to encourage China to refrain from aggressive military actions and rhetoric. The key to a solution remains peaceful reunification. How and when that takes place is up to the two parties involved. Our interest must be to see that peace is maintained, to encourage the two sides to talk, to be an honest broker.

Both Taiwan and China should be encouraged to restart the Cross-Strait Initiative that was conducted by China's Association for Relations across the Taiwan Strait and Taiwan's Strait Exchange Foundation. This dialogue showed much promise until it was derailed last summer. Even at the nadir of relations earlier this year, Chinese Prime Minister Li Peng renewed President Jiang Zemin's offer from last year for a Taiwan-China summit. And the Chinese offer to begin direct air, sea, and postal service with Taiwan can only be beneficial.

Trade: Trade issues have all too often become flashpoints in U.S.-China relations, with blame to be shared by both sides.

This past January, while I was in Beijing, Executive Vice Premier Zhu Rongji, who is in charge of Central Economic Planning, told us that, effective this month, China will lower tariffs by 34% across the board and bring its tariff rate schedule in line with the average of developing countries within two years.

Our Trade Representative, Mickey Kantor, told me that he is now reviewing this proposed schedule. The U.S. should work with China to increase U.S. exports to China, now growing at a rate of 17% per year. China states it wants to increase U.S. exports, and this would lower our trade deficit with China. The U.S. should also review provisions of our laws which restrict high value exports.

At the same time, the United States should continue to insist that China live up to fair trade policies, in particular, its agreements to protect U.S. intellectual property rights. For example China must prevent the illegal production of pirated CDS, CD-ROMs, and Lds.

The best way to accomplish this goal is the development of joint ventures between U.S. copyright holders and Chinese manufacturers, which could transform factories from illegal to legal operations with little job cost. In January, I presented to both the President, the Executive Vice Premier and to the Trade Minister, a letter from the Recording Industries of America containing a proposal that six major American copyright holders are prepared to enter into such joint agreements.

As I left China and was in Hong Kong, I noted that a Chinese representative said, "but we already have these joint ventures." And that is exactly the key, the joint ventures are not with the copyright holders, and in order to carry out the intent of the law the venture must be with the U.S. copyright holder.

As the world's 11th largest exporter and moving up fast, China's entry into the World Trade Organization is strongly in the United States' interests and holds the best promise for preventing trade disputes from escalating into major conflicts. Although it will take time, we need to continue to work with China to help them develop the commercial legal structure and fair trade policies that are necessary for their membership in that organization.

Security: It is vital that China be engaged in a new security partnership, one that is cooperative rather than confrontational. With more than a fifth of the world's population, a permanent seat on the United Nations Security Council, and an arsenal of nuclear weapons and intercontinental ballistic missiles, isolating China is a very dangerous course.

Such a partnership suggests that China be encouraged to become an active and responsible party to international organizations, treaties, and regimes. As such, China should be granted an equal say in setting the "rules of the game." The corollary of this, of course, is that China must agree to abide by those rules.

One area that immediately suggests itself as a testing ground for this type of partnership is the threat of nuclear proliferation in South Asia. China was helpful in preventing nuclear proliferation in North Korea, a situation that still remains problematic.

It is also clearly in the interests of both China and the United States to ensure that tensions are de-escalated in the highly unstable India-Pakistan relationship. Both India and Pakistan have the ability to launch 10 to 20 kiloton nuclear devices, that is twice the size of Hiroshima, in a matter of weeks. Both countries are on China's Southern border, and both suffer from major internal instability. Acting alongside other local and regional powers, the United States and China must work together to de-escalate growing tensions between these two countries.

Quality of Life: Finally, despite the bad press that China has received in this country of late regarding human rights, I believe that here too there is opportunity for progress. However, to believe that China will change its ways merely to please America is naive. The real key to change is convincing China that it is in China's interests to change.

We have tried lecturing China on individual human rights cases, and have found that method to be unsuccessful. A more productive approach would be to work with China to develop an independent judicial system that can guarantee due process and the rule of law—an area in which China has asked for our help.

By engaging China in a larger dialogue about good governance, through exchange programs, assistance in the drafting of criminal and commercial codes, and in establishing an independent judiciary with due process of law, we will do much more to advance the cause of human rights in China in the long run than through constant castigation.

Even without our help, China is moving in this direction. Last month, the National People's Congress enacted legislation that provides individuals greater protection from arbitrary punishment by police and government agencies, which sets stricter standards on government agencies for imposing fines and fees, and which requires the ruling State Council to secure the approval of the People's Congress before declaring martial law.

Evidence of the past twenty years suggests that China is changing. You must remember back to the 1960's, when 10–15 million people were harmed or lost their lives. When I first went to China in 1979, it was impossible to have an open political discussion. People were simply too afraid.

Last month, international journalists openly interviewed ordinary Chinese citizens on the street about their views of the Taiwanese elections. Some supported the government's response, others did not. This change should not be underestimated. It is the unavoidable result of improving conditions and interaction with the West.

One has but to look back at the Cultural Revolution of 35 years ago to see the contrast and improvement in freedoms, in the increasing standard of living, wages and savings, and better education of the people, to know that things are changing and improving. As Minister of Trade Wu Yi said to me, "It isn't easy to go from a China which has been ruled by man for 5000 years to a China ruled by law." And that is what is happening.

With the Taiwan elections behind us, we now have the opportunity to move past some of the events that soured Sino-American relations earlier this year.

To do this, President Clinton must immerse himself fully in the details of this most delicate and critical of American relations. In the final analysis, the goal of American policy must be to encourage China toward a full and active relationship with the West and to work together toward a China that is able to take its role as a stable leader of peace and security in Asia, and an America that can be her ally.•

NATIONAL ENDOWMENT FOR DEMOCRACY TRIBUTE TO PRESIDENT LEE TENG-HUI, PRESIDENT OF THE REPUBLIC OF CHINA

• Mr. **MURKOWSKI**. Mr. President, I rise today to call my colleagues' attention to a recent event hosted by the National Endowment for Democracy honoring the first popularly elected President of the Republic of China, Lee Teng-hui. I was honored to serve as a cosponsor of this event with Senator LIEBERMAN.

It is entirely appropriate that this reception was organized by the National Endowment for Democracy [NED]. The recent direct, free and fair multiparty election for President in Taiwan is a model example of the activities supported by NED. I want to use this occasion to congratulate the NED for its continued involvement in

VOL
142
PT
6
AP
15
—
24
1996
UMI

encouraging free and democratic institutions throughout the world through private sector initiatives. A copy of the National Endowment for Democracy's tribute to President Lee is included at the end of my statement.

Americans everywhere should congratulate the people of Taiwan in casting ballots to complete their transition to a democracy during trying times—the first such transition in Chinese history. It is a tribute to the people's spirit and determination that bullets did not deter people from casting their ballots. And President Lee, who received 54 percent of the vote, can proudly take credit for having led Taiwan to this important juncture. He has set an example in leading his countrymen in deciding that the leadership of Taiwan will forever more be settled at the ballot box.

His victory on March 23 culminated a series of reforms—including lifting martial law, deregulating the media, legalizing opposition parties, and holding popular elections for all parliamentary seats—that have taken place in a peaceful and prosperous environment. This is an accomplishment for which all the free world should be proud.

President Lee deserves not only our well-wishes, but also our continued support as he now moves forward to map out Taiwan's destiny. As Taiwan continues to emerge as a force for democracy, freedom, and stability in Asia, I believe the United States should encourage their efforts to be represented in international organizations such as the World Trade Organization. The United States should also do what it can to encourage dialog between Taiwan and Beijing, and to contribute to peace and stability in the region.

I join my many friends in Taiwan in celebrating President Lee's triumph as Taiwan marks a milestone in civilization's march down the road of self-determination leading to liberty, human dignity, and personal and societal fulfillment.

I ask that a statement from the National Endowment for Democracy be printed in the RECORD.

The statement follows:

Tribute to President Lee Teng-hui

(By the National Endowment for Democracy, April 16, 1996)

The election of Lee Teng-hui on March 23, 1996, as the first popularly elected President of the Republic of China was the culmination of a 10-year process of transition which The Encyclopedia of Democracy has called "a political miracle in twentieth-century Chinese politics, making Taiwan the first Chinese democracy." President Lee was the central figure and driving force behind this remarkable political transformation.

From the moment he assumed the presidency on January 13, 1988, becoming the first native-born Taiwanese to hold this office, he devoted himself entirely to the historic task of democratic transformation launched by his predecessor Chiang Ching-kuo. The process was at once swift and methodical, with each bold step coming in the proper sequence, laying the foundation for each subsequent advance.

Acting in the Confucian tradition of governance through consensus, he initiated the process with a conference on national affairs that achieved a political reconciliation between his own Nationalist Part and the opposition Democratic Progressive Party. There followed an agreement to establish a memorial and pay compensation to the victims of the uprising of February 1947; the elaboration of an approach to the issue of unification which became the basis for a new, pragmatic policy toward the People's Republic; the election of a new National Assembly representing only the voters of Taiwan that amended the constitution, preparing the way for the popular election of the president and vice-president by 1996; the voluntary retirement from the government of the party elders from the generation of Chiang Ching-kuo; and the first election for provincial governor and for mayors of Kaohsiung and Taipei, the race in Tapei being won by a member of the DPP who was a former political dissident.

This stunning process of change, leading ultimately to President Lee's election and the establishment of the first Chinese democracy, was all the more significant because it took place against a background of mounting threats from the mainland—which fears a Chinese model of democracy—and skepticism emanating from some capitals to the effect that democracy is a Western system unsuited to Asian cultures.

But it is precisely on this point, having to do with the roots of Chinese democracy in Confucian culture, that President Lee has spoken with unusual power and eloquence. At the conference on third wave democracy sponsored last August by the Endowment and the Institute for National Policy Research, President Lee expressed his confidence that "by injecting into our modern democratic order the political precepts long inherent in Chinese culture—of exalting the people's will and claiming that the government and the people form a unity—we can infuse democracy with a new vitality."

Lee Teng-hui is thus a unique figure in Chinese history, an individual with the wisdom to understand the need to integrate the two competing camps of contemporary Chinese political thought: the Confucianists and the advocates of Westernization. In so doing, he has embodied the Confucian ideal of ren, described in the entry on Confucianism in The Encyclopedia of Democracy as "cultivating benevolence, developing one's faculties, sublimating one's personality, and upholding the right to education, the right to subsistence, and the right to social and political mobility without distinction according to class." Ren, according to the Encyclopedia, represents "a new democratic ideal of society."

It is this ideal which President Lee Teng-hui has sought for his country and for the Chinese people. The National Endowment for Democracy is therefore proud to honor President Lee by presenting him with an embossed four-volume set of The Encyclopedia of Democracy, which recognizes his extraordinary contribution and confirms his philosophical vision. We do so in the belief that his message of democracy and reconciliation, rooted in Chinese history and culture, have an enduring relevance for China's future.●

CITIZENSHIP U.S.A. DAY IN CHICAGO

● Mr. SIMON. Mr. President, our Nation's immigrant heritage is exemplified best in the city of Chicago. Generations of immigrants, from Europe, Latin America, and more recently Asia and Africa have chosen to come to Chicago and have contributed immensely to the vitality and fabric that makes it such a great city.

Recently, the city of Chicago sponsored a naturalization ceremony for 1,200 new citizens at historic Navy Pier with the Immigration and Naturalization Service Chicago District Office.

To help immigrants fully integrate into our city and our society, Mayor Richard M. Daley established a citizenship assistance council to help thousands of immigrants complete the often complicated naturalization process. The council has attracted leaders from various ethnic communities and corporate leaders from Fannie Mae, United Airlines, and First Chicago. Through the citizenship council, Mayor Daley has committed to sponsor several large scale citizenship ceremonies with INS in the coming months.

The naturalization program in the city of Chicago is truly a joint effort between the Federal and local government. I applaud Mayor Daley's effort and ask that his speech welcoming the new U.S. citizens on March 18, 1996, and his proclamation declaring the day to be Citizenship U.S.A. Day in Chicago be printed in the RECORD.

The material follows:

Mayor Richard M. Daley's Remarks, Chicago Citizenship Assistance Council—Naturalization Ceremony, March 18, 1996

I want to begin by congratulating everyone here on becoming United States citizens.

As Mayor, I attend many events—but swearing-in ceremonies are always very special.

Two years ago, I formed Chicago's Citizenship Assistance Council to coordinate the efforts of community groups that help immigrants become citizens. Today's ceremony is made possible thanks to a strong partnership among the Citizenship Assistance Council, the federal government, and the private sector.

Together, we are working to help the INS relieve the backlog of over 50,000 citizenship applications in the Chicago area. People have been waiting for as long as 17 months to be sworn in as citizens.

Throughout the year, we will work with the INS to increase the number of swearing-in ceremonies to help speed up the process.

We will conduct several large-scale citizenship ceremonies in the summer and fall.

Our corporate leaders on the Council include Fannie Mae, United Airlines, and First Chicago.

They will provide assistance in finding the necessary facilities and help to cover associated costs.

This is a wonderful example of how local and federal government can work with the private sector to get the job done.

Immigrants built Chicago and our country. And the business community understands this better than anyone.

America has always been strong because we have been a beacon for people who want to work hard, make something of their lives, and become Americans. We lose part of our national character when we shut ourselves off to different cultures.

Some politicians are trying to use immigrants as scapegoats. They have gone beyond blaming illegal immigrants for our problems—now they are even calling for more restrictions on legal immigration.

Legislation now pending before Congress would keep U.S. citizens from bringing their parents or children to this country.

This is wrong and unfair because it tears families apart and it sends the wrong message.

Proposed restrictions on employment-related immigration will also damage our country.

A flexible legal immigration system is essential to our economic growth and well-being.

Until last week, these restrictions were found in one piece of legislation that dealt with all aspects of immigration.

I want to thank Senator Paul Simon for helping to restructure that legislation into two bills—so that they address legal and illegal immigration separately.

And, I want to encourage the members of the House to do the same thing when the issue comes up for debate.

Immigrants help build this country—and they are still making us strong. We can't turn our backs on them now.

I urge Congress to keep this in mind as they debate restrictions on immigration.

Now, I'd like to read a proclamation designating March 18th as "Citizenship U.S.A. Day" in Chicago.

Office of the Mayor,
City of Chicago,
Chicago, IL, March 14, 1996.

Proclamation

Whereas, thousands of people have left their homes in other lands to come and live in America; and

Whereas, these immigrants have contributed their dreams, labor, and talents to making America a great country filled with opportunity and freedom; and

Whereas, these same people wish to show their commitment to their new country by pledging allegiance as new citizens; and

Whereas, today, we acknowledge the dedication of Commissioner Doris Meissner and the Immigration and Naturalization Service in assisting immigrants through the naturalization process; and

Whereas, Commissioner Meissner has made citizenship a priority, and has charged the Immigration Service to make major improvements in the processing of applications, working side by side with local governments and community organizations:

Now, Therefore, I, Richard M. Daley, Mayor of the City of Chicago, do hereby proclaim March 18, 1996, to be Citizenship U.S.A. Day in Chicago, and extend the City of Chicago's appreciation to Commissioner Meissner for helping to make thousands of immigrants' dreams come true.

Richard M. Daley,
Mayor.●

CONGRATULATING THE UNIVERSITY OF MICHIGAN ICE HOCKEY TEAM ON WINNING THE 1995–96 MEN'S DIVISION I CHAMPIONSHIP

● Mr. ABRAHAM. Mr. President, I rise today to congratulate the University of Michigan ice hockey team on winning the 1995–96 NCAA Men's Division I Championship. With their 3-to-2 victory over Colorado College on March 30, the Wolverines captured the school's eighth NCAA National Championship, and first since the 1963–64 season.

The win was especially significant for head coach Gordon "Red" Berenson. After 12 seasons in Ann Arbor, Berenson, already the winningest coach in school history, celebrated his 300th career victory with the national championship. In the past 6 seasons, the Wolverines have won at least 30 games each year, the only team in college hockey to do so.

The Wolverine's accomplishments this season are certainly deserving of recognition. In addition to compiling an impressive 34 wins, tying a team record, the Wolverines were also the CCHA Playoff Champions, CCHA regular season cochampions, and Great Lakes Invitational champions. In the postseason, U-M's play was brilliant as well, managing three one-goal victories and one shutout in three different buildings in three different weekends on their road to the championship.

The 1995–96 University of Michigan men's hockey team has represented their school and themselves with distinction. Our State has every reason to be proud of these student-athletes, and we salute their dedication and excellence.●

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

HUMAN RIGHTS IN CHINA

● Mr. KERRY. Mr. President, the U.N. Human Rights Commission is preparing to consider a resolution that expresses the concern of the international community over human rights abuses in the People's Republic of China. As has been well-documented over the last year by the State Department, U.N. officials, and numerous human rights organizations, the Government of China has been responsible for an alarming number of human rights violations. In particular, there have been reports of arbitrary arrests and detention, torture, persecution of religious and ethnic minorities—particularly in Tibet, and censorship of expression. The evidence clearly demonstrates a deterioration in the human rights situation in China.

Despite this overwhelming evidence, apparently some of the members of the Human Rights Commission are reluctant to support a resolution that criticizes China. Unfortunately, this seems to be a response to intensive diplomatic pressure from Beijing. In fact, the Chinese diplomatic pressure began even before a resolution was introduced at the U.N. Commission.

At the end of March, I learned from the State Department that some members of the European Union [EU] were reconsidering their commitment to introduce a resolution on China at the Commission meeting this spring. I strongly believe that multilateral efforts, in institutions such as the Human Rights Commission, are potentially the most effective tool for pressuring China to improve its human rights record. Therefore, I authored a letter, signed by 10 of my colleagues from the Foreign Relations Committee, urging the Europeans to maintain their commitment to introduce a resolution on China at the Human Rights Commission. I am pleased that the EU members ultimately decided to introduce this resolution, and I hope that our letter encouraged this decision.

The European initiative, however, will be in vain if the Commission does not act upon the resolution. This is an important and opportune moment for the members of the Commission to join together in a multilateral effort to persuade China to improve its human rights record. I urge all member states to support the resolution. Even more importantly, we must reaffirm the prerogative of the Commission to consider any country's human rights record and to hold a vote on any resolution that is offered. That prerogative is being challenged by China, which is attempting to prevent the Commission from even considering the European resolution.

On December 10, 1948, the U.N. General Assembly adopted the Universal Declaration of Human Rights. For the first time in history, the countries of the world made a commitment to recognizing international human rights. Motivated by a conviction to prevent future atrocities, such as those committed during World War II, this declaration defined the human rights basic to every human being and pledged an international effort to protect these rights. Since the adoption of that declaration, many other international conventions have been signed and ratified by the international community. These conventions address a variety of internationally recognized human rights, including political and civil rights, the right to be free from torture or religious or ethnic persecution, the rights of refugees, and the rights of the child.

Why has the international community taken these steps to codify international human rights law? Because all societies around the world have recognized these principles as standards that should govern every state's behavior toward its own and other citizens. When a country violates the human rights of its citizens, it should be censured by the entire international community. We cannot allow any country—no matter how powerful or wealthy—to ignore the international legal norms of human rights. The United States has always supported the right of the international community to raise concerns over human rights violations in any country. In fact, last

VOL 142 PT 6 AP 15 — 24 1996 UMI

year the Government of Cuba introduced a resolution in the U.N. Commission on Human Rights condemning the United States for human rights violations. While this resolution was obviously ridiculous, the United States did not block a vote and the members of the Commission voted against Cuba's proposal. The important message here is that the United States recognizes the right of the international community to review every country's human rights record.

It is therefore all the more outrageous that China seeks to prevent international consideration of its own dismal human rights record. Whether or not countries support the resolution, which I fervently hope they do, all members should reject China's effort to prevent the Commission from carrying out its mission of calling attention to and censuring human rights violations wherever they occur around the world.

Mr. President, I urge all member states of the Human Rights Commission to vote against China's motion to prevent a vote and to support the resolution criticizing China's human rights record. It is only if the international community continues to work together multilaterally that we will be able to compel all countries—particularly China—to uphold internationally recognized human rights standards.●

ORDERS FOR TUESDAY, APRIL 23, 1996

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m., Tuesday, April 23; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the Senate immediately resume consideration of Senate Joint Resolution 21, the term limits legislation, with debate between 10 a.m. and 12 p.m. equally divided in the usual form; I further ask that the Senate stand in recess from the hours of 12:30 to 2:15 for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, the Senate will resume the term limits legislation at 10 a.m. At 12 noon on Tuesday, under a previous order, there will be 30 minutes of debate regarding the health insurance reform bill. It is hoped that an agreement can be reached Tuesday morning enabling the cloture vote on the term limits legislation to occur at 3:45 or 4 o'clock tomorrow afternoon. This would allow for the final passage vote on the health insurance reform bill to occur at 2:15 on Tuesday, immediately following the recess for the party conferences. The Senate may also turn to other legislative items that can be cleared.

So if we can work out this vote on term limits, that would probably be another 1½ hours for debate equally divided.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DOLE. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:46 p.m., adjourned until Tuesday, April 23, 1996, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 22, 1996:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

VICTOR H. ASHE, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2000, VICE ANDREA N. BROWN, TERM EXPIRED.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

ALAN G. LOWRY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING MAY 29, 2001, VICE ROBERT W. NAYLOR, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER TITLE 10, UNITED STATE CODE, SECTIONS 12203 AND 8373:

TO BE MAJOR GENERAL

BRIG. GEN. WALLACE W. WHALEY, 247-80-1451, AIR FORCE RESERVE.

EXTENSIONS OF REMARKS

TRIBUTE TO JAMES I. GRACYALNY, A DEDICATED CIVIL SERVANT

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 1996

Mr. LEWIS of California. Mr. Speaker, I rise to pay tribute to James I. Gracyalny, the Associate Deputy Assistant Secretary for Budget at the U.S. Department of Veterans Affairs. Jim is retiring after 35 years of Federal service.

Jim has appeared many times before the Appropriations Subcommittee on VA, HUD, and Independent Agencies in defense of VA's budget requests. Over the years he has been of great assistance to the subcommittee in its day-to-day dealings with the Department. We have always valued his counsel.

Jim is, I believe, a truly dedicated civil servant. His high standards represent what is best about the civil service.

Mr. Gracyalny began his Federal service at the VA in 1964. During his 32 years of service with the VA he has held a variety of positions. Since 1990, he has been Associate Deputy Assistant Secretary for Budget. Throughout his career, he has been a champion of his coworkers and has provided them with the inspiration to further their education and training.

Mr. Gracyalny received his undergraduate degree at La Salle University. He received a masters in public administration from George Washington University. Jim served his country during the Korean war as a line medic in the Army and continued serving after active duty, retiring from the Army Reserve as a colonel.

Mr. Speaker, Tuesday, April 30, 1996, is Jim's last day at VA. We will miss him. I know that you join me in wishing him and his wife, Barbara, a long, happy, and healthy retirement after 35 years of distinguished Federal service.

TRIBUTE TO THE LATE EDMUND G. (PAT) BROWN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 1996

Mr. WAXMAN. Mr. Speaker, on February 16, 1996, the State of California lost Edmund G. (Pat) Brown, one of its most beloved statesmen. All Californians have mourned the passing of this great leader, who was unmatched in his political skill, courageous leadership, and benevolence. He used his talents to make government an instrument of public good and his accomplishments as California's Governor from 1958 to 1966 are legendary.

Pat Brown embodied all of the qualities the American people yearn for in their elected officials. Columnist David Broder captured him in a way we can all appreciate in a column he wrote shortly after Pat died. April 21, 1996, would have been Pat's 91st birthday. In memory of his long and rich life, I invite you to take a moment to read David Broder's words, which are reprinted below.

CALIFORNIA IS HIS MONUMENT

(By David Broder)

If California were a nation, and not just a nation-state, the visage of Edmund G. (Pat) Brown Sr. would be carved into the Sierra equivalent of Mount Rushmore. Brown, who died last week at 90, shaped his megastate as surely as the greatest of the presidents have shaped this country. Reporters who covered him during his eight years as governor, from 1958 through 1966, and visited with him over the last 30 years mourn him as one of the true blithe spirits of 20th century politics. He was the most amiable of companions, a grand storyteller who liked nothing better than to tell or hear jokes at his own expense.

For years after it happened, you could get "the Guv" laughing so hard that his eyes teared by describing to him the spectacle he made when he missed John Kennedy's campaign train during a whistle-stop tour of California's Central Valley in September 1960. Brown had introduced the candidate from the back platform in one of the Valley towns, then climbed down and began schmoozing with people in the crowd.

Engrossed in conversation, Brown missed Kennedy's cue lines for departure—a quotation from "Colonel Davenport" that staff members and reporters took as a signal to jump back aboard—and made an unsuccessful lunge for the back platform. As Kennedy joined the others laughing, the portly governor jogged down the track, puffing heavily until the train was halted so he could reboard.

But there was nothing comical about what Brown accomplished in Sacramento. Elected at a time of burgeoning population and economic growth, Brown put in place the three ingredients vital for sustaining his state's progress: improved transportation, education and water systems.

His administration built 1,000 miles of freeways to keep the state from traffic gridlock. He opened almost a dozen new campuses of the University of California and the state colleges, giving California—for a time—the most accessible and inexpensive higher education system in the world. The Berkeley campus was one of the crown jewels of research and graduate education.

Perhaps his greatest achievement was the legislation creating the California water system. A native of San Francisco, Brown recognized that water was the issue that could deepen the long-simmering division between his own northern California, eager to protect its rich water resources, and the fast-growing but arid south.

At that time, before the Supreme Court's one-man-one-vote edict, small rural counties dominated the state Senate, where Los Angeles' millions of people had only one vote. It fell to Brown to cajole and pressure the Senate to authorize a 444-mile aqueduct that brought almost 2 billion gallons of water a day to the south, and later to obtain approval of the project in a closely fought referendum.

It was a battle that only a visionary would have waged, but Brown was a man who believed—in a way few politicians do now—that government has enormous capacity to improve life for people.

He also had an enormous capacity to enjoy people, whatever their politics. He started life as a Republican and once gained both Democratic and Republican nominations for attorney general under California's now-defunct cross-filing system.

Martin Smith, the retired political columnist of the Sacramento Bee, recalled Brown saying of Ronald Reagan, who thwarted his bid for a third term in 1966, "What an extraordinary human being. . . . Of course, I disagree with him 90 percent of the time."

Lyn Nofziger, Reagan's former press secretary, who was here helping Sen. Bob Dole, told me that just a few years ago, when he was crossing a street in Washington, "a big car rolled up, and Pat Brown rolled down the window, and asked, 'How the hell are you, Lyn?' He tied up traffic for 10 minutes just wanting to talk."

Jack Burby, who handled the press for Brown, recalled a different kind of encounter in 1963, a year after Brown beat Nixon to win his second term. The governor and Burby and their wives were having dinner at a restaurant in Paris. "The Nixons and a small entourage walked in. Pat, being Pat, wanted to jump up and lick his face. I suggested that he send him a note and invite him to join us for coffee and dessert. The waiter took the note over—and a few minutes later, the Nixon party walked past us without a word, and left the restaurant."

"It used to drive me crazy," Burby said, "that Pat had no mean streak. I would tell him, 'Even FDR got even.' but he wasn't interested in that."

The things he was interested in gave California its future. The whole state is his monument.

TRIBUTE TO THE ALLIANCE FOR THE CHESAPEAKE BAY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 1996

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to the Alliance for the Chesapeake Bay, an environmental organization concerned with cleaning up and preserving Maryland's greatest environmental treasure, the Chesapeake Bay.

It is very appropriate that today, Earth Day, we turn our attention to the fine job done by the Alliance for the Chesapeake Bay. The bay is a national resource that has a profound affect on much of the east coast. It is 64,000-square-mile drainage basin—from the Finger Lakes in New York to the ports of Baltimore and Hampton Roads—provides millions of us with food, energy, recreation, and water.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Since its inception in 1971, the alliance has been dedicated to creating a healthier, cleaner bay. It has proven equal to the task. The alliance's nonadversarial approach has enabled it to work with a wide range of people for a better, cleaner bay. Over the years, the alliance has successfully rallied support from the business community, citizens groups, environmentalists, industry, scientists, farmers, sports enthusiasts, and others to preserve and restore the Chesapeake Bay.

The alliance has accomplished its mission by establishing several important programs. The alliance's public policy program builds consensus on issues that directly affect the bay; the Information Services Program provides unbiased information about issues; and the Watershed Restoration Program gets people involved in hands-on habitat restoration work.

I urge my colleagues to acknowledge the fine work of the Alliance for the Chesapeake Bay and to commit themselves to preserving the important programs that are so vital to the health of the Chesapeake Bay.

PATRIOTISM IS ALIVE AND WELL IN AMERICA

HON. FRANK A. LoBIONDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 1996

Mr. LoBIONDO. Mr. Speaker, I commend to my colleagues and all Americans the following letter I received from Vincent E. Pellegrino, Adjutant of the Veterans of Foreign Wars Post 386 in Cape May, NJ. Patriotism is indeed alive and well in America.

VETERANS OF FOREIGN WARS
OF THE U.S.,
Cape May, NJ, April 1, 1996.

Congressman FRANK LoBIONDO,
Cannon House Office, Washington, DC.

DEAR CONGRESSMAN LoBIONDO: On Sunday, March 24, 1996, we both attended the Fiftieth Anniversary celebration of the Veterans of Foreign War Petrella, Repici, Caprionini, Champion Post 6257 in Belle Plain, New Jersey. The celebration was also attended by many veterans groups from the surrounding area, as well as the Gold Star Parents of Leland Champion, Jr., one of the veterans for whom this post is named.

I only wish that all of your colleagues in Congress could have been with us, to hear a very patriotic and emotional speech given by Commander Frank DiLorenzo, a veteran and Commander of Post 6257 in Belle Plain, N.J.

Commander DiLorenzo pointed out that it is no longer fashionable to salute or respect the flag of the United States, our greatest symbol of freedom. He also reminded us that Congress had refused to pass a law making it a crime to deface or destroy the American Flag.

As a veteran of World War II who served in the European theatre, I sometimes become discouraged at the direction this country is going. It appears that our Democratic system has failed, with high crime rates in our cities, failure of our children to be properly educated, families struggling to survive, high taxes, corruption in government, and a political system that appears to be in chaos. These concerns are also shared by many of my fellow veterans. We sometimes wonder if the sacrifices that were made in World War II, Korea, Vietnam, Lebanon, Somalia and Desert Storm are appreciated by our fellow Americans.

On Sunday, March 24, 1996, my faith in our Democratic way of life was restored, after listening to the speech given by Commander DiLorenzo. I know that he and many other Frank DiLorenzos throughout this country will continue to carry the message that patriotism is still alive in America.

I was also encouraged as we paraded through the streets of Belle Plain, N.J. to see American flags displayed on every home along our parade route.

Belle Plain, N.J. is a small rural community and during World War II had approximately two hundred residents. Twenty five men enlisted in the service and in 1944, Belle Plain, N.J. was notified that four of their young men, Joseph Petrella, Frank Repici, Thomas Caprioni, and Leland Champion, Jr. were killed in action. This is a close knit community where patriotism and family values are high.

Congressman LoBiondo, there are many communities like Belle Plain, N.J. in this country and my faith in the American system has been renewed.

I know that you are able to make a one minute speech in Congress before the regular session begins.

Please give your fellow Congressmen the message conveyed by Commander DiLorenzo, that patriotism still lives in America. Let them know that the sacrifices made by the residents in Belle Plain, N.J. through the four veterans Corporal Joseph Petrella, Private 1st Class Frank Repici, Private 1st Class Thomas Caprioni, and Staff Sergeant Leland Champion, Jr., who gave their lives for their country were not in vain.

God Bless Our Flag.
God Bless America.

Very truly yours,
VINCENT E. PELLEGRINO,
Adjutant.

EARTH DAY AND AST LEGISLATION

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 1996

Mr. MORAN. Mr. Speaker, today we commemorate the 26th anniversary of Earth Day and recommit ourselves to protecting and improving our environment. We celebrate the progress we have made in cleaning our air and our water. We recognize, however, that we still have much more to do to ensure that our natural resources are preserved and protected for future generations.

It is in this spirit of protecting and preserving our environment that I rise today to introduce legislation that will provide greater protection for our ground and surface water against leaks from aboveground petroleum storage tanks [AST's]. Currently there are approximately half a million aboveground storage tanks located throughout this country. According to the Environmental Defense Fund [EDF], between 20 and 25 percent of AST's nationwide are leaking, posing threats to our ground water and surface water.

In northern Virginia, we learned all too well the problems that leaking tanks can cause. In September 1990, a petroleum sheen was discovered in a neighborhood creek in a Fairfax, VA, community. It was the beginning of a continuing nightmare for a number of local residents, who had to live with the knowledge that more than 200,000 gallons of petroleum products had seeped into their ground water and spread underneath their community, posing risks of fire and explosion. Home values plummeted, many people living in the community suffered from respiratory ailments, and Star Enterprise, a Texaco affiliate, spent more than $100 million cleaning the leak and settling claims.

No one wants these leaks to occur. But, unfortunately they do. Problems with leaking AST's are not restricted to northern Virginia. Leaks have occurred across the Nation, from Anchorage, AK, to Everglades, FL.

I have introduced comprehensive AST legislation in the past to address these leaks. In this session of Congress, I have moved away from the idea of a comprehensive regulatory program for AST's. Instead of duplicating efforts undertaken by States and the petroleum industry to improve AST safety, this bill builds on and enhances those efforts.

This bill represents a commonsense approach to ensuring better management of AST's. It acknowledges that five different Federal offices currently regulate AST's and that tankowners feel overwhelmed and overburdened by duplicative regulations.

To address these concerns, the bill requires the EPA to consolidate AST offices within EPA. In performing that consolidation, EPA must review all regulations that currently apply to ASTs and eliminate those that are duplicative. This consolidation will lead to simplification of the regulatory program and will ensure that tankowners understand the current regulations with which they must comply.

By improving the organization of the current AST program we allow EPA to do more with less. We also permit tank owners the opportunity to benefit from a streamlined, understandable regulatory structure.

In 1995, the General Accounting Office conducted a study of the AST regulatory program and identified seven areas where the program needed improvement. The bill provides EPA the authority to correct those deficiencies in federal law identified by the GAO. Any new regulations must be designed in the most cost-effective manner and substantial weight must be given to current industry standards.

This needed regulatory reform will improve the effectiveness of current regulations, lead to greater prevention and containment of releases from AST's and improve the environment. This new, streamlined approach to AST regulation has been developed with the guidance and input of a diverse coalition of industry and environmental groups, from the American Petroleum Institute, to the Petroleum Marketers Association of America, to the Environmental Defense Fund. Together, we have drafted a bill which both industry and environmental groups can support.

I am proud to have both Congressman DAVIS and Congresswoman MORELLA as original cosponsors of this legislation. In addition, I want to thank Senator ROBB for his work on similar legislation which has bipartisan support in the Senate.

This bill is a commonsense proposal to help improve our environment through regulatory reform. I look forward to working with my House colleagues and with the chairman of the relevant congressional committees to ensure that this legislation becomes a reality.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 23, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 24

9:00 a.m.
Select on Intelligence
To resume hearings on the roles and capabilities of the United States intelligence community.
SD–106

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the U.S. Forest Service.
SD–138

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine distance learning, and on S. 1278, to establish an education satellite loan guarantee program for communications among education, Federal, State, and local institutions and agencies and instructional and educational resource providers.
SR–253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366

Environment and Public Works
To continue hearings on S. 1285, to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980 (Superfund).
SD–406

Labor and Human Resources
Business meeting, to mark up S. 1643, to authorize funds for fiscal years 1997 through 2001 for programs of the Older Americans Act, and S. 1360, to ensure personal privacy with respect to medical records and health care-related information.
SD–430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Army programs.
SD–192

Special Committee To Investigate Whitewater Development Corporation and Related Matters
To resume hearings to examine issues relating to the Whitewater Development Corporation.
SH–216

2:00 p.m.
Foreign Relations
To hold hearings on the nomination of Princeton Nathan Lyman, of Maryland, to be Assistant Secretary of State for International Organization Affairs.
SD–419

Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine the need for additional bankruptcy judgeships and the role of the U.S. trustee system.
SD–226

Veterans' Affairs
To hold hearings on the President's proposed budget for fiscal year 1997 for veterans programs.
SR–418

Select on Intelligence
Closed business meeting, to mark up proposed legislation relating to intelligence renewal and reform.
SH–219

APRIL 25

9:00 a.m.
Indian Affairs
To hold joint hearings with the House Committee on Resources on S. 1264, to provide for certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe.
SR–485

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on domestic air service in the wake of airline deregulation, focusing on challenges faced by small communities.
SR–253

Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings on S. 902, to authorize the Secretary of the Interior to assist in the construction of a building to be used jointly by the Secretary for park purposes and by the city of Natchez as an intermodal transportation center, S. 951, to commemorate the service of First Ladies Jacqueline Kennedy and Patricia Nixon to improving and maintaining the Executive Residence of the President and to authorize grants to the White House Endowment Fund in their memory to continue their work, S. 1098, to establish the Midway Islands as a National Memorial, H.R. 826, to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas, and H.R. 1163, to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, New York.
SD–366

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Transportation.
SD–192

Judiciary
Business meeting, to consider pending calendar business.
SD–226

Special Committee To Investigate Whitewater Development Corporation and Related Matters
To continue hearings to examine issues relating to the Whitewater Development Corporation.
SH–216

2:00 p.m.
Foreign Relations
Business meeting, to consider pending calendar business.
SD–419

APRIL 26

10:00 a.m.
Commission on Security and Cooperation in Europe
To hold a briefing on the ethnic Turkish minority of Greece.
2200 Rayburn Building

APRIL 30

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Federal Emergency Management Agency.
SD–192

Commerce, Science, and Transportation
To hold hearings on the proposed nomination of Michael Kantor, of California, to be Secretary of Commerce.
SR–253

10:00 a.m.
Judiciary
To hold hearings to examine affirmative action in Califlornia.
SD–226

2:30 p.m.
Commerce, Science, and Transportation
Oceans and Fisheries Subcommittee
To hold hearings On S. 1420, to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean.
SR–253

MAY 1

9:30 a.m.
Rules and Administration
To resume hearings on issues with regard to the Government Printing Office.
SR–301

2:30 p.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine airport revenue diversion.
SR–253

VOL
142
PT
6
AP
15
—
24
1996
UMI

MAY 2

9:30 a.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 1401, to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that Act with respect to surface coal mining and reclamation operations, and S. 1194, to amend the Mining and Mineral Policy Act of 1970 to promote the research, identification, assessment, and exploration of marine mineral resources.
SD–366

MAY 3

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Veterans Affairs.
SD–192

MAY 7

10:00 a.m.
Judiciary
To resume hearings on S. 1284, to amend title 17 to adapt the copyright law to the digital, networked environment of the National Information Infrastructure.
SD–106

Joint Library
Business meeting, to consider a report of the General Accounting Office on the Library of Congress.
SR–301

MAY 8

10:00 a.m.
Veterans' Affairs
To hold hearings to examine the reform of health care priorities.
SR–418

2:00 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Housing and Urban Development.
SD–192

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Internal Revenue Service, Department of the Treasury.
SD–138

MAY 15

2:00 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the National Aeronautics and Space Administration.
SD–192

MAY 17

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Corporation for National and Community Service.
SD–192

MAY 24

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Environmental Protection Agency.
SD–192

SEPTEMBER 17

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.
334 Cannon Building

CANCELLATIONS

APRIL 25

10:00 a.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year1997 for the Department of State.
S–146, Capitol

POSTPONEMENTS

APRIL 25

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.
SR–253

SENATE—*Tuesday, April 23, 1996*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear Father, help us to use things and love people rather than using people and loving things. Enable us all through this day to communicate esteem and affirmation to the people with whom we work. Help us to take time to express our gratitude for who people are, not just for what they do. Make us sensitive to those burdened with worries, problems, or heartaches and help us to make time to listen to them. May we take no one for granted.

Gracious God, we want to live this entire day with a sure sense of Your presence with us. Our desire is to do every task for Your glory, speak every word knowing You are listening. Remind us that every thought, feeling, and attitude we have is open to Your scrutiny. We commit ourselves to work for You with excellence so that when this day is done we will have that sheer delight of knowing we did our best for You. In the name of our blessed Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator LOTT of Mississippi, is recognized.

SCHEDULE

Mr. LOTT. Thank you, Mr. President.

Mr. President, this morning the Senate will immediately resume consideration of Calendar No. 201, Senate Joint Resolution 21, the constitutional amendment limiting congressional terms. Debate between now and 12 noon is equally divided in the usual form. Under a previous order, at noon the Senate will begin 30 minutes of debate on H.R. 3103, the health insurance reform bill.

Following that debate, the Senate will recess between the hours of 12:30 and 2:15 for the weekly policy conferences to meet.

Shortly, it is expected, we will be able to reach unanimous consent which will allow for the vote on passage of the health insurance reform bill to occur at 2:15 this afternoon.

Following that vote, the Senate will debate the cloture motion on term limits with the vote on cloture occurring at 3:45 today.

The Senate may consider any other legislative items during today's session that can be cleared on both sides for action.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SANTORUM). Under the previous order, leadership time is reserved.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment limiting congressional terms, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms.

The Senate resumed consideration of the joint resolution.

Pending:

Thompson (for Ashcroft) amendment No. 3692, in the nature of a substitute.

Thompson (for Brown) amendment No. 3693 (to amendment No. 3692), to permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate.

Thompson (for Ashcroft) amendment No. 3694, of a perfecting nature.

Thompson (for Brown) amendment No. 3695 (to amendment No. 3694), to permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate.

Thompson amendment No. 3696, to change the length of limits on Congressional terms to 12 years in the House of Representatives and 12 years in the Senate.

Thompson (for Brown) amendment No. 3697 (to amendment No. 3696), to permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate.

Thompson motion to recommit the resolution to the Committee on the Judiciary with instructions.

Thompson (for Ashcroft) amendment No. 3698 (to the motion to recommit), to change instructions to report back with limits on Congressional terms of 6 years in the House of Representatives and 12 years in the Senate.

Thompson (for Brown) modified amendment No. 3699 (to amendment No. 3698), to change instructions to report back with language allowing each State to set the terms of members of the House of Representatives and the Senate from that State.

The PRESIDING OFFICER. Under the previous order, the time for debate until noon today is equally divided and controlled in the usual form.

Who yields time?

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I thank the Chair.

Mr. President, several of my colleagues have expressed a desire to speak on the term limits amendment. As they work their way to the floor, I would like to make a couple of comments.

We have had a good debate in the last couple of days on term limits. It has taken about 50 years to get such a clear vote to the floor, and I can assure the President that it will not take another 50 years to get another vote on it. It is an idea that is not only demanded by the American people, but I think more and more the people in this body understand that we are incapable institutionally now of dealing with the problems facing this country under the current setup.

One could not be anything but amazed and somewhat saddened to listen to that giant oak of a man, Senator ALAN SIMPSON from Wyoming, yesterday as he recounted his experiences of three terms in this body. It was with a twinkle in his eye—because he always has a twinkle in his eye even under the most serious circumstances—but somewhat with a heavy heart as he is leaving this body after this year that he had to recount one more time what everyone in this body knows behind closed doors; that is, that we are bankrupting our country; that our Social Security system cannot survive as currently constituted; that Medicare will fall; that within a relatively few years a handful of programs and the interest on the national debt will take all of our revenues. He has seen this happen in his work on the entitlement commission, which is a bipartisan entitlement commission, and it comes to this same result, Democrats and Republicans alike. It was an almost unanimous report coming out of there saying basically that we are on the road to destruction for this country.

We probably cannot do enough wrong over the next 2 or 3 years, or maybe even past that, to really run our ox totally in the ditch. But just as sure as I am standing here, catastrophe lies down the road, and we are all fiddling while Rome continues to burn. That is what this constitutional amendment for term limits is all about because we are putting reelection above all else. Reelection requires spending because that is the way we buy votes with taxpayers' own money—by giving it back to them a little bit at a time. That is the cruel, hard truth. I do not claim to be the first one that said it.

In looking over some old documents in books, I ran across a quotation from

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Senator Danforth of Missouri who served in this body, who had the respect, I believe, of everyone on both sides of the aisle. As he left, he said these words:

> Deep down in our hearts, we believe that we have been accomplices to something terrible and unforgivable to this wonderful country. Deep down in our hearts, we know that we have bankrupted America and that we have given our children a legacy of bankruptcy. We have defrauded the country to get ourselves elected.

Those are harsh words spoken by a gentle man just as Senator SIMPSON did yesterday. All of the pundits and folks in the media who are only concerned about wins and losses and numbers of votes will have their day perhaps this time because we will have a vote this afternoon. But I can assure you that on down the road, as the consequences of our actions become clearer and clearer and clearer, the time will come with the success of a constitutional amendment for term limits.

One of our distinguished colleagues took the floor yesterday opposing term limits, and it seems that he took the matter somewhat personally. He operated under the assumption that this amendment cannot possibly be anything other than an attack, a personal attack, on Members who have been here for a long time, and he seems to take it as such; it cannot be anything but based on an assumption that everybody that comes to the U.S. Congress is coming to line their own pockets. He said that he thought basically that was the assumption for the term limits movement—that we wanted to get even with somebody; that we wanted to punish somebody.

That is not it, Mr. President. That is not it. Had he listened to the debate, listened to Senator SIMPSON, listened to Senator BROWN, who served in the House and the Senate—and he is also leaving this body of his own volition to return to private life—Senator ASHCROFT, and the other Members, I think he would have found a gentleness of approach, a gentleness of spirit, of sincerity, and a concern for the future of this country.

This is not about getting even. This is not about besmirching the reputation of those who have served here before so gallantly. This is not about defiling the names of the giants who have walked these aisles.

As I said, yesterday, I used to sit up here in the galleries, not much more than a small boy, and look at these giants whose shoulders we stand on today, and listened to their debates. Back in a time not too long ago when we had more time to debate, we had more time to reflect, the Government had not grown quite so large. We were still balancing the budget in this country as late as 1969.

A good argument can be made that our system has worked pretty well now for a long period of time. The only problem is now that circumstances have changed. Our Founding Fathers never could have anticipated a professional Congress, but our Founding Fathers could anticipate changes in society and circumstances. They could not probably have ever guessed of the modern technological miracles we have today such as television, such as the fax machine, such as airplanes, and the vast numbers of things bringing people to Washington, DC, wanting more—wanting more programs, wanting more money, wanting a bigger share: "Yes, I know you have to balance the budget but take a look at ours; this is different," which we get day in and day out, day in and day out.

Over the past relatively few decades, it has resulted in a situation where, as I said before, a relatively few, a handful of programs are going to take all of the revenues that we have. Those who are concerned about children, there will be no money for children's programs. Those who are concerned about the elderly, there will be no money for that. Infrastructure, many thoughtful people in this country, with whom I agree, say that in some areas we ought to be spending more on infrastructure—roads and bridges are falling into disrepair; research and development, things that will make us stronger in the future, we are not spending enough on that.

The reason, of course, is that there is no immediate political payoff. If you cannot send somebody a check in the mail before the next election, there is no immediate political payoff, and it comes right back around again. Our desire for constant reelection pushes the spending, pushes the growth of Government, and pushes the next generation into bankruptcy just as surely as I am standing here.

That is what this is about, trying to come up with a system, adjusting under the Constitution as our Founding Fathers anticipated and as they provided for in the Constitution, a thoughtful deliberation, which is very difficult to get. It has to pass here by a two-thirds vote and then be sent to the States, and the States have 7 years to ratify it—a very long and difficult process. So it is not radical. It is a conservative process based on the principles of the Founding Fathers.

So that is what it is about, trying to come up with a system, trying to adjust our system in a way so that we are better equipped to deal with the problems we do not seem to be able to deal with today.

Would it solve all of our problems? Certainly not. Would we immediately start balancing the budget and would the prestige of Congress immediately change? Probably not. But we would be on the right path. If we try something long enough and keep getting the same results, is it not, when the stakes are so high, incumbent upon us to try something a little bit different? As much as most of us respect and revere this institution—and I do—it has never made any sense to me to struggle so hard and sacrifice so much to become a Member of a body that you do not respect. But despite our respect, we must recognize that among the American people it is not there anymore. It is not there the way it should be.

So in our constant scramble to supposedly be responsive and give people what they want, that is, money, programs, expanded in many cases at 10 percent a year ad infinitum, which we all know cannot be sustained, we are creating the enmity of the American people at the same time, as if they were not aware of all of these wonderful things we were supposedly doing for them.

It has been pointed out that we would lose the benefit of the services of many people who have served long terms in this body before, and that is true. There is no question but that term limits would deprive us of the services of some good people. But I urge, Mr. President, that as we continue this debate we refrain from personalizing this debate. This has nothing to do with myself. This has nothing to do with individual Members who are currently serving in this body. We will be lucky if they remember us 24 hours after we leave.

This has to do with the institution. This has to do with the country. This has to do with the kind of institution that this country needs in order to carry us into the next century to cope with these terrible problems. Certainly we would lose some valuable experience, but in all candor the experience that we have has not shown or demonstrated the ability to keep us out of the fiscal and reputation quagmire we see in Congress today.

We would lose some expertise, but what would we gain? We have 250 million people in this country. Under the current system where the incumbent has all of the advantages because of the spending I referred to and because of the reciprocation by those who have the money spent on them, usually in terms of campaign support, incumbents even in revolutionary years are reelected at the rate of 90 percent if they choose to stand for reelection.

So we have a small fraction of 1 percent of the people who have a realistic chance, a realistic opportunity to serve in this body. Most good people now do not bother. If the system were opened up to these positions after 12 years, 12 years is by some measures not a great deal of time but by some measures it is not a short period of time either. It is much longer than George Washington served. It is longer than Thomas Jefferson served. They managed to make a name for themselves in less than 12 years. So it is not an onerous, punishing type of proposition. But look at what expertise and experience we would bring into the system if people knew these positions were going to be open from time to time. We would have people coming in from the private sector. We would have people with acknowledged experience in business and labor, in farming, in being a mother and a father to mix and mingle with those who have already been here for a while.

Senator FRIST, my colleague from Tennessee, pointed out the number of physicians we used to have in this body, a high percentage of physicians when the country was first founded, members of the clergy. You do not see that much anymore. I simply think that if we had the system open, it would encourage more people, knowing they could not stay forever when they came, that it would be not a career for them but an interruption to a career, and they would come in with that experience, bring it to bear on their public service and, while they were here, I think would be more likely to do what it would take to speak the plain truth even if they risked the voters getting angry at them and sending them home a little prematurely because they are going home anyway. It would not be a catastrophic condition. I believe we would see a little more courage, a little more ability to stand up to the tough challenges that this country is going to face.

So just to attempt to refocus as we begin the morning—I see Senator BYRD is in the Chamber—I reiterate this is not about vindictiveness. It is not about personalities. It is not about quick fixes. It is a sincere effort on the part of many people around this country and in this body to think in terms of how best can we be equipped.

The current system arguably has served us very well for a long period of time. But is it not incumbent upon us to make adjustments as we go along to better equip ourselves to cope with the problems that we are leaving the next generation?

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the Chair.

Mr. President, I compliment those Senators on both sides of the aisle and those on both sides of the question. Everyday we disagree about one thing or another, and so we can expect to disagree in this instance, on this issue. I have nothing but the utmost respect, however, for those Senators who hold a different viewpoint from the one that I hold and that I will undertake to express.

Mr. President, proposing to amend the Constitution of the United States is one of the most serious and profound endeavors that this or any other Congress can undertake. It is not an act that any Senator or any Member of the House of Representatives, having sworn to support and defend the Constitution, can take lightly or inadvertently or absent great deliberation. On the contrary, a constitutional amendment must be considered thoroughly and exhaustively if it is going to be adopted here and ratified in the States. All of its ramifications must be rooted out and fully understood.

While some may believe that it is important to consider an amendment with deference to the views of the American people—and I think that is important—I believe it is equally important that we also maintain a deep respect for the wisdom and the vision of those Framers who painstakingly crafted the Constitution 209 years ago.

It is extremely important, then, particularly as we consider a constitutional amendment to limit the service of Members of the House of Representatives and the Senate, that each of us looks beyond the opinion polls, beyond the radio talk shows, beyond the op-ed pages. We must, as I believe our duty requires, go beyond the rhetoric, the political posturing and pandering and the 30-second sound bites that have enveloped this issue.

Instead, we must look back, back to the history of the Federal Convention of 1787. Cicero said, "To be ignorant of what occurred before you were born is to remain always a child." So, let us look back. It is paramount, I think, that we take the time to understand and reflect on what the Founding Fathers intended, but before proceeding down that path, I think it is also important to point out the often overlooked fact that a limit on the terms of the Members of Congress already exists in the Constitution.

Here in my hand is my Contract With America. I took an oath to support and defend it. I have taken that oath many times. It is the Constitution of the United States, and in article I, section 2, a limit is placed on the terms of the Members of the House of Representatives, and in article I, section 3 of the Constitution—not the so-called Contract With America—the Constitution, article I, section 3, a limitation of 6 years is placed upon the terms of U.S. Senators.

And so, Mr. President, by that very language that was written into this Constitution, one can see that Members of Congress have already been subjected to limited terms—2 years in the case of the House and 6 years in the Senate.

Consequently, what we are debating here with respect to this proposed constitutional amendment is not a term limits amendment, per se, but rather an amendment that would limit the tenure, an amendment that would limit the service of a Member of Congress; a vastly different proposition, a limitation on the service of Members of the Senate, a limitation on the service of Members of the House.

I am hardly surprised that when proponents of the so-called term limits amendment refer to the Framers, they do so to evoke the image of a citizen legislator as a way of bolstering support for their cause. They say we need to amend the Constitution in order to preserve the Framers' original vision of individuals who would set aside their plows—as did Cincinnatus in the year 458 B.C.—to serve this great Republic, only to return to their fields as swiftly as possible. Citizen legislators! Well, I am a citizen. I am a citizen legislator. I do not look at service here as a hobby, something I should engage in for one or two terms. I look upon it as a service which I can contribute to my State and my country.

When I think about those men who labored to write the Constitution—men like James Madison who served in the other body four terms, not a maximum of three terms, he served four terms in the House of Representatives—George Mason, James Wilson, Benjamin Franklin and others who labored to write the Constitution—I have serious doubts about the veracity of that claim. That such men could truly embrace that bucolic notion is, at best, dubious, particularly in light of the fact that these were men who devoted nearly all of their adult lives to public service. No one, then, should be misled by this romanticized interpretation of the Framers' views.

The lack of a provision in the Constitution limiting the tenure of Members of Congress was certainly no oversight. In fact, the issues of terms and tenure were discussed by the delegates on several different occasions.

As early as May 29, 1787, days after the requisite number of delegates had taken their place in Philadelphia, the so-called Virginia plan was laid before the participants. May 29, that is my wedding anniversary. Next May 29, the good Lord willing, my wife and I will have been married 59 years. So it is easy for me to remember the day on which Edmund Randolph submitted his plan—May 29, 1787. That plan, which would become the basis from which the convention worked, was offered by the State's Governor, Edmund Randolph, on behalf of his fellow delegates from Virginia. The Virginia, or Randolph, plan proposed 15 resolutions for the formation of a government, with the fourth and fifth resolutions directly addressing the issues of terms and tenure.

It is instructive to note that with respect to tenure for Members of the House and Senate, both the fourth and fifth resolutions of the Virginia plan remained silent. Neither offered the assembled delegates a specific recommendation. On the contrary, the spaces on the page stipulating how

VOL 142 PT 6 AP 15 — 24 1996 UMI

long it would be before a Member would be "incapable of reelection," were simply left blank. Moreover, by June 12, after initially debating the issue of term length, the Convention unanimously agreed to strike the clauses in both the fourth and fifth resolutions limiting reelection. Here we have, then, the assembled delegates to the Federal Convention refusing to limit the number of terms a member of the proposed national legislature could serve.

Mr. President, notwithstanding their unanimous agreement on the matter of tenure, we also know from Madison's notes on the debates that there was a wide range of views among the delegates as to how long a Senator's term should be. While there was a general consensus that, of the two legislative bodies, the Senate was to be the one of greater deliberation, greater stability, greater continuity, the duration of that term was the subject of much debate.

On June 12, which happens to be my lovely wife's birthday—but she was not around on the June 12 that I am talking about—on June 12, 1787, for example, before striking the clause limiting tenure, the delegates turned their attention to the issue of term length. While in the Committee of the Whole, the first proposal for senatorial terms came from Richard Spaight of North Carolina, who thought that 7 years would be a proper amount of time. Roger Sherman thought 7 years was too long, arguing that if Senators did their jobs well, they would be reelected, and if they "acted amiss, an earlier opportunity should be allowed for getting rid of them." As a compromise, Sherman thought a term of 5 years suitable.

Edmund Randolph, who offered the original Virginia plan, weighed in on the matter with the observation that the object of the Senate would be to control the House. If it were not a firm body, according to Randolph, the House, by virtue of its superior number of Members, would overwhelm the Senate. Madison agreed. He considered a 7-year term appropriate and not giving too much stability to the Senate. On the contrary, Madison "conceived it to be of great importance" that a stable and firm government, "organized in the republican form," was what the people desired. With that, the delegates adopted a 7-year Senate term by a vote of 8 to 1.

On June 25 and June 26, the delegates returned to the issue of senatorial terms. Nathaniel Gorham of Massachusetts initially suggested a 4-year term, with one-fourth of the Senate to be elected every year. Roger Sherman of Connecticut proposed a 6-year term. George Read of Delaware went so far as to suggest that Senators hold their offices "during good behavior," thus, in effect, constituting a lifetime term.

Despite these differences, the delegates did, as we know, eventually agree to a 6-year term. But even that decision was tempered with a "check" by requiring that one-third of the Senate stand for election every 2 years, a provision aimed at ensuring the frequent participation in the electoral process of the State legislatures, whose members, prior to the adoption of the 17th amendment in 1913, were charged with selecting Members of the U.S. Senate.

Mr. President, clearly, the underlying issue for the delegates to the Federal Convention, as it should be for us here today, was the degree to which limited tenure, the degree to which limited service in office would adversely impact on the level of experience gained by a Member of Congress.

Mr. President, one of the great advantages that comes from allowing voters to return their Representatives and Senators to Congress again and again is that Members of Congress are able to gain experience in the legislative process—the experience. It is a process that has become increasingly difficult to master. James Madison understood that. He told us right there in Federalist No. 53 that a crucial part of experience "can only be attained, or at least thoroughly attained," by the actual experiences a person gains as a result of practicing his craft.

I shall read from Federalist Paper No. 53 this excerpt:

> No man can be a competent legislator who does not add to an upright intention and a sound judgment a certain degree of knowledge of the subjects on which he is to legislate. A part of this knowledge may be acquired by means of information which lie within the compass of men in private as well as public stations. Another part can only be attained, or at least thoroughly attained, by actual experience in the station which requires the use of it.

No Senator, Mr. President, can garner more experience as a legislator, and no Member of the House can become a more seasoned Member of that body, through the route of constitutionally mandating limited service in the Senate or in the House.

I know of no other profession in which we actually consider experience a disadvantage. Would anyone needing open heart surgery seriously consider going to someone who had never performed the operation? Or would one tend to seek out a seasoned surgeon who had performed many such operations, perhaps hundreds?

I recently had the experience of having a root canal done. It was the second such that I had experienced. Would I have felt confident in the hands of someone who just walked in off the street or in the hands of someone who had practiced only, say, for 6 months? When that drill starts twirling and whirling and cutting, throwing the dust, I feel better that the person who is handling that drill is a person long experienced. The individual who performed my root canal had done perhaps 40,000 to 50,000 such operations over a long period of time. I submit that the answer is obvious. Only in the area of public service are the people being asked to believe that less is really more.

I do not like to fly. I never have liked to fly, and when I have been on an airliner in a storm I have always felt better believing that that pilot possessed the long experience that gave me the confidence that I needed so much at that point in time.

Mr. President, we are discussing an amendment to the Constitution that would, by definition, create a class of legislators who would, for virtually all of their service, remain relatively inexperienced. Patrick Henry said in a speech delivered in the Virginia House of Delegates, in 1775, "I have but one lamp by which my feet are guided, and that is the lamp of experience." Benjamin Franklin, in "Poor Richard's Almanac," said, "Experience keeps a dear school, but fools will learn in no other."

There is no substitute for it—none! It takes years to master many of the difficult issues with which this country must contend, but here we are, discussing an amendment to the Constitution that would, by definition, create a class of legislators who would, for virtually all of their service, remain relatively inexperienced.

Clear comprehension of national defense policy or the Federal budget or tax issues does not come without long, long years of study and experience. Yet, this amendment implies that we can cure the Nation's ills if only we can find a way to eliminate, or at least reduce, experience. It is really a turning of logic on its head.

Additionally, I wonder if the proponents of the amendment have considered the effect which limiting terms may have on the careful attempt by the Framers to balance the power of the small States and those with larger populations. There has historically been a desirable offset, an advantage that such experience can bring to a State like Rhode Island or North Dakota or Montana or my own State of West Virginia. As it is now, a small State can have confidence that if its Members are in the other body long enough under the system of seniority, they may become chairmen of important committees.

Under this amendment, the small States will be at the mercy of the large States. The few large States will control the House of Representatives under this amendment. They would determine who would serve as chairmen of the committees. The small States will be at a great disadvantage. The large States will be able to control the committee chairmanships in the other body. The other States will not be in a position to control, but will be controlled by the large States. How can a small State, stripped of even the advantage of an experienced legislator, hold its own against the more populous States, which have a numerical advantage in the House of Representatives?

Mr. President, I will also point out that the issue of experience goes well beyond the ability of a single Member of Congress to offer effective representation to a State or district. Indeed, the lack of experience on the part of the whole would affect each and every one of us in this Chamber or in the House of Representatives. For to whom is the inexperienced legislator to look for guidance if all of his colleagues are inexperienced? When we have our debates on national defense, I listen to SAM NUNN. He has no equal in this body when it comes to knowledge of military affairs—national defense. I listen to him. I do not have that knowledge. I serve on his committee. I have been serving there 3 or 4 years. But SAM NUNN possesses the knowledge that not only benefits him and his own constituents, but benefits me and my constituents, and benefits every other Member of this body. We look to him for guidance.

What about a PAT MOYNIHAN, when we think about legislation affecting Social Security or welfare? He has been here 19 years, and he has gained through the experience. So I listen to him. With whom do Members of the Senate discuss defense issues if there is no SAM NUNN? Or foreign affairs, if there is no J. William Fulbright, or if there is no RICHARD LUGAR? From whom do the less experienced Members seek advice on the difficult issue of immigration? I go to ALAN SIMPSON on matters affecting immigration. I do not serve on the committee that has jurisdiction over that subject matter, so I go to someone who serves on that committee and who, by virtue of his long service and experience, is in a position to advise me. The same thing can be said about the freshman legislator who is concerned with the issue of Medicaid or Medicare. Again, I would look to PAT MOYNIHAN.

So each of us seeks out the advice of senior colleagues on these other matters. Each of us looks to the more experienced Senator when trying to understand the great issues that face this body. Each of us seeks advice. All of us benefit from that advice and that experience.

The problem with the issue of term limits is that it is but another quick fix in the growing list of quick fixes which have been advocated by those who seek easy answers to our Nation's complex problems. Well, there is an easy answer to every problem. But, unfortunately, those easy answers are usually the wrong answers.

In each of the last six congressional elections, less than 40 percent of the voting age population in this country actually voted—less than 40 percent. Interest in Government, generally, is not very high. I believe that putting congressional elections on a sort of automatic pilot would very likely have the unintended effect of further lessening that voter interest—meaning that Members of Congress would, instead of drawing closer to the folks at home, likely become even more distant. Voters would, I fear, tend to not even bother to follow the views of a Member in his or her second term, since that individual could not run for the same office again anyway.

Consider that what we may be doing here, in the case of the second term for a Senator, should this amendment be adopted—which God avert—is to create an individual accountable to absolutely no one in his second term in the Senate. Once he is elected to that second term and walks up there and takes the oath, he can forget about his constituents. He need not be obligated to them. He cannot be elected to a third term. He or she could vote any way they pleased, cutting a deal that benefits them or rip off the Public Treasury with wild abandon, because there would be no election or voter scrutiny to worry about. Why even bother to answer the mail in that second term? He will be looking at every lobbyist who walks in the door of the office as a potential employer. "That is the guy I will be working for, perhaps, after this 6-year term is up. I cannot run again for reelection. So he is a potential employer. I should align myself with his interests and feather my own nest in that fashion."

Mr. ASHCROFT. Will the Senator yield?

Mr. BYRD. I am happy to yield.

Mr. ASHCROFT. Is the Senator representing that, because a person is term limited he will automatically ignore his constituency? I ask that question because I spent two terms as Governor of my State. In my second term as Governor, I was term limited. But the kind of considerations which the Senator appears to be suggesting are really foreign to my mentality. I did not seek to rip off the public treasury, and I did not ignore my constituents. I did not view people who came to my office as potential employers. I sought to serve the people of my State. I am just not sure what the line of reasoning is. I inquire of the Senator, is this projection something that he thinks is an inevitable consequence of term limits?

Mr. BYRD. Mr. President, I heard the distinguished Senator from Tennessee [Mr. THOMPSON] say a little earlier today that it was his hope that we would avoid dealing in personalities. Of course, I do not imply anything of the sort of the distinguished Senator from Missouri. He may read that implication into what I have said. But I do not intend to imply that. I wish that he would not infer such. I am simply saying that Members who are elected to the Senate for a second term, under the pending constitutional amendment, could—and in some instances would, human nature being what it is—tend to forget their constituents, the people who sent them to this body, and look upon the lobbyist as a potential employer. That is plain language, and it should be easy to understand.

Mr. ASHCROFT. I thank the Senator.

Mr. BYRD. I thank the Senator.

Mr. President, one of the arguments put forth in favor of term limits is that Members of Congress, over a period of years, become corrupt as they acquire power. Well, let us see. BOB DOLE has been a Member of this body 28 years. Has he been corrupted? If he has, why does some Member not take action to haul him up before the Ethics Committee? I have never heard even a whisper of corruption directed toward BOB DOLE. But he has been here 28 years. What about Senator Russell, who was here 38 years? Not a whisper. Not a whisper of corruption. According to term limit advocates, the longer legislators stay around, the worse the corruption. What about Henry Jackson? He was here 30 years in this body, serving here the day he died. Was he corrupt? What about Everett Dirksen, a great Republican leader. I served here when Everett Dirksen was the Republican leader. He had been here 18 years when he died in office. Was he corrupt? What about TED STEVENS, who has been here 28 years. Is he corrupt? No. He is an experienced, dedicated legislator. His constituents are fortunate in having a man like TED STEVENS here, with all the experience he brings to bear in their behalf.

So to avoid this corruption, they say, limit legislators to a specific number of terms. Well, no one doubts that some individuals will abuse power. They always have since the beginning of the human race. Whether they are in the private sector or in the public sector, in the legislative, executive, or judicial branches, the examples of corruption are obvious.

It is highly specious, however, to jump to the conclusion that corruption is a result of long service in office. Yes, of course, there are examples of legislators abusing their power over the years. But there are many more examples of legislators using their office, tenure, and experience for the public good, without thought of private reward, other than the satisfaction of seeing a job well done.

If we believe that tenure breeds corruption, why not extend that theory to other occupations? At the very moment when surgeons, engineers, teachers, carpenters, electricians, and other specialists master their jobs and hone their skills, down comes the decision to end their careers. "Sorry, you might be good at your job, but you are apt, over the years, to abuse the trust we have placed in you and become corrupt. We

VOL
142
PT
6
AP
15
—
24
1996
UMI

are replacing you with neophytes and amateurs."

What a transparently arid theory. What a colossal loss of talent. What a lamentable waste of money.

If there had been a constitutional amendment limiting service in the other body to six terms, John Quincy Adams would not have served there 17 years after he had been President of the United States—17 years, and he died while serving in that office. TRENT LOTT would not have served in the House of Representatives for 16 years before coming to this body.

Howard Baker would not have served 18 years in this body, had this amendment been in place.

Sam Ervin, one of the great constitutional experts in our Nation's history, would not have served in this body 20 years and given to those of us who served with him, to his constituents, and to the people of the country the benefit of his valuable service.

Ed Muskie, who was the father of the Clean Water Act and the father of the Clean Air Act, served 21 years in this body. But with this amendment in place we would not have had an Ed Muskie.

Arthur Vandenberg, a great Republican statesman, who was steeped in foreign affairs, was able to give to the service of this country 23 years in this body.

Look at PETE DOMENICI from the State of New Mexico. Nobody in this body is his peer on budget matters when it comes to knowledge in depth about the budget. PETE DOMENICI is a man who is, in my judgment, the best informed on the budget of anyone in this Chamber. With this amendment in place, he could not have served the 23 years by virtue of which he has acquired that knowledge.

Thomas Hart Benton of Missouri would not have served 30 years in this body.

Moses would not have led the Israelites from Egypt through the wilderness to bring them to view the Promised Land—he led them for 40 years—if there had been a limit on service. He would have been out a long time ago. Cato would not have served long in the Roman Senate, and Cicero would not have served long in the Roman Senate.

Winston Churchill served the people of England 50 years in Parliament. I am told that Churchill served 50 years in the Parliament. Would the people of Great Britain have had the path of leadership of that great giant Churchill in World War II, who talked about sweat, blood, and tears? Not if there had been a term limitation. If there had been a limitation on terms, they would not have had that leadership, nor would the free world have had it.

The awful simplicity of the term limits idea is even more obvious when we think about the practical results. Right now, Members of Congress can remain in office so long as their interest in public office continues and they are successful in primary and general elections. Their thoughts are devoted to reelection and service in office.

Mr. President, do you know how many Senators in this body today have served less than two full 6-year terms? More than half—51 Senators—51 percent of the Senators, have served less than two full terms in this body as of this moment. In the other body, almost half of the membership has served less than 4 years—less than two full 2-year terms. One-hundred and ten came into the House in 1992, and six more by special election in between, and 87 freshmen last year.

So there are 203—almost half—218 would be half. Almost half of the other body has served less than two full terms.

Then why do we talk about term limits? The American people already have it within their hands to limit the service, the tenure, of Members. Look at the membership in both of these bodies, and you will see that the scheme which was laid down by the Framers of the American Constitution has been working, and working well.

It takes little imagination to realize what happens when legislators, under the shadow of term limits, meet with lobbyists and members of the private sector. No longer are these meetings limited to an exchange of ideas and information. The agenda widens. Legislators look at lobbyists as potential employers after they leave Congress. Lobbyists treat legislators as future members of their work force.

What could be more corrupting? Legislators would then be tempted, from the start, to perform their public jobs with an eye toward private employment. Legislative decisions, trips, speeches, meetings, and other activities would be carried out not by focusing on public policy but on private ends: the private ends of legislators seeking jobs and the private ends of people in industry seeking special favors.

Talk about corruption? There it is, front and center. Why should legislators be concerned about the well-being of their own constituents? Why not, instead, feather their own nests? Why not elevate private interests over the public good?

That will be the contribution of this amendment to the Constitution.

Madison warned us against amending the Constitution too often. And, since that Constitution was written, there have been 10,869 constitutional amendments proposed—10,869. How many have been adopted and ratified? Twenty-seven, and the first 10 of those 27 constituted the American Bill of Rights.

(Mr. THOMAS assumed the chair.)

Mr. DORGAN. Mr. President, I wonder if the Senator will yield for a question?

Mr. BYRD. Yes. Let me say that I intended to yield the floor soon because I see other Senators here who are wanting to speak.

Yes. I yield.

Mr. DORGAN. Mr. President, I have listened with interest to those who have made their case, and the Senator from West Virginia, as always, makes a compelling case against term limits. It occurs to me that the term "term limits" is used to suggest somehow that it will limit those in politics.

Is not the case that this proposed constitutional amendment really limits the choices of the American people?

As I was thinking about that, there are very few examples, it seems to me, in the history of this country where we have changed the Constitution in a way that takes power away from the people. Prohibition was one, for example, and, of course, the country changed its mind on that after discovering its failure. But there are only a couple of instances in which proposed changes to the Constitution have diminished the people's opportunities and the people's right of expression.

This constitutional amendment, it seems to me, would say to the people in Arizona, or in Minnesota, that you cannot have the service of Barry Goldwater, even if you want him, beyond 12 years.

You are prevented from selecting Hubert Humphrey to serve beyond 12 years even if you choose to want that to happen. So is not this constitutional amendment one that is one of those unusual circumstances proposing to limit the choices the American people can make?

Mr. BYRD. The Senator is preeminently correct. It is a very undemocratic amendment. It is saying to the people: You are not smart enough to make a choice, so we are going to put into automatic pilot the limitation on the service of your Senators or your Members of the House of Representatives.

Mr. THOMPSON. Will the Senator yield?

Mr. BYRD. We are not going to leave to the people that choice. That choice will be taken away from them.

Yes, I yield.

Mr. THOMPSON. But is it not true that we often as a people place restrictions on ourselves as a part of our process? Is it not true that if 51 percent of the people or 60 percent of the people or 75 percent of the people want to abridge my speech, they cannot do that because of the Constitution, because of limitations we have placed on us, and specifically limitations we have placed on Congress, our elected representatives, that prohibit certain things regardless of how appropriate they may be? But it is a deliberate decision of the American people to restrict themselves. It is not that unusual. That is called the Bill of Rights and happens in other constitutional amendments.

Mr. DORGAN. Will the Senator yield for one additional question?

Mr. BYRD. Yes. Let me comment on what has been said by the distinguished Senator from Tennessee.

People may restrict themselves, but here we are talking about an amendment that restricts the people from exercising their own good judgment as to selecting for additional terms men and women who have served them honestly and well. So we are doing the restricting here through this amendment. Let us look at what the constitutional Framers did and see how well it has worked. They discussed that restriction and rejected it.

Yes, I yield.

Mr. DORGAN. I appreciate the Senator yielding. The point made by the Senator from Tennessee is an interesting one. I sat in the room in Philadelphia where they wrote the Constitution, and those who visit that room, called the "Assembly Room," will see George Washington's chair still in the front of the room, Ben Franklin, Madison, Mason. You will sit in there and experience the goose bumps, understanding what was done there over a couple of hundred years ago.

The point I was making was that with respect to constitutional change, it has been very rare that we would change the Constitution in a way that would provide a limitation on people. The Constitution largely sets out what are the powers of the Government specifically and all other powers vest in the people of this country. And so it has been only very rarely that anyone has successfully proposed placing limitations in the Constitution on the rights of the people—the right of the people from Tennessee to say to Howard Baker: We would like you to serve a third term. This change would say to the people of Tennessee: You no longer have that right. We are going to take that right away from you by amending the Constitution.

That is the point I was making. We certainly have the capability of changing the Constitution to do that. The point I was making is that we have done that only rarely because in most cases proposed constitutional changes are done to take rights away from Government and say, no, there is too much encroachment here. This by contrast is to say, no, we will diminish somehow the rights people now have. That is the point.

Mr. THOMPSON. Will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. THOMPSON. I appreciate that. The Senator makes a very good point. But I would ask, what do we say to those people who go to the ballot box in their own States on a referendum and vote overwhelmingly to restrict themselves and say we choose for our own good reasons to restrict our Members as, what, 22 States have done? And now the Supreme Court, of course, has said you cannot do that. That is the one of the reasons we are here today.

I thank the Senator.

Mr. BYRD. Mr. President, I thank both Senators. Not only is this amendment undemocratic, but it also weakens the only branch of Government in which all of the members are elected by the people. Look at the executive branch and the judicial branch. Only two members, the President and the Vice President, are elected by the people, and they are not directly elected by the people. They are indirectly elected by the people, who elect the electors, who, in turn, elect the President and Vice President. But in this body and in the body across the way, on the other side of the Capitol, all Members are elected by the people. So this amendment would weaken the only branch of Government that is wholly elected by the people. It is going to say: You can only elect this person for two terms to the Senate, only three terms in the House.

I see in this ill-advised "solution-for-everything" called term limits, yet a further weakening of the people's branch. Few Americans realize how severely we have already tipped the checks and balances toward the executive branch. Thousands of executive branch bureaucrats, elected by no one remain in their posts for 20 or even 30 years. Congress is supposed to be the watchdog of executive branch activity. We are already badly outnumbered. Are we to totally cripple our ability to perform our oversight function by stripping ourselves of our one possible advantage, the ability of Members to become specialists, and, in many instances, experts in certain critical areas? This proposed change will leave Members of Congress mostly dependent upon the advice of executive branch bureaucrats, because they will have the only reservoir of indepth knowledge around.

In a country that tends to lurch and knee-jerk on questions of public policy, intentionally destroying any hope of institutional memory—and this body is lacking in institutional memory, almost totally lacking, and it will be more lacking when some of our good Members retire this year, and if this amendment is added to the Constitution it will be gone—seems to be a peculiar course to advocate.

As a matter of fact, the word "peculiar" fairly well sums up my own personal view of the popularity of this term limits idea, for it seems to imply that voters are not intelligent enough to decide for themselves when they wish to get rid of any single representative of the Senate or the House and put someone else in that person's place. This approach would make that decision for the voter, a sort of unfounded Federal mandate, if you will excuse the play on words. It would say, whether you want this person or not for a third or fourth term, you cannot make that decision. Whether or not a good job is being done for your State is an irrelevancy.

Such an approach is arbitrary. Such an approach diminishes the quality and depth of our national leadership overall, and is based on very little in the way of concrete evidence to recommend it. It is instead, an idea rooted in popular anger, whipped up by demagogues who peddle simplicity for political advantage.

This so-called term limits idea is little more than an over-sold bromide, purporting to fix everything from budget deficits to corns and bunions. In reality, it will do none of the above and should be roundly rejected in this body as it has already been in the House of Representatives. I urge Senators to vote against cloture later today on the resolution proposing this amendment to the Constitution.

I yield the floor.

Mr. President, I thank the Chair and I thank all Senators.

I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

UNANIMOUS-CONSENT AGREEMENT

Mr. THOMPSON. I ask unanimous consent that the vote on the passage of H.R. 3103, the health insurance reform bill, occur at 2:15 today, and further that immediately following that vote, the Senate resume consideration of Senate Joint Resolution 21, with the vote on the motion to invoke cloture occurring at the hour of 3:45, with all debate prior to the vote equally divided in the usual form, for debate only.

I understand this meets with the Democratic leader's approval.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. THOMPSON. Mr. President, I ask unanimous consent that Senator GRAMS and Senator THURMOND be listed as cosponsors of Senate Joint Resolution 21.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMPSON. Mr. President, I ask unanimous consent that Senator ABRAHAM be listed as cosponsor of amendments Nos. 3693, 3695, 3697, and 3699.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMPSON. Mr. President, I yield 10 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 10 minutes.

Mr. COATS. Mr. President, I thank my colleague for yielding.

It is really not my purpose today to criticize the 104th Congress. I have been a long-time advocate of congressional reform, and I think a number of important reforms have been undertaken and at least debated and discussed in this Congress. For the first

VOL
142
PT
6
AP
15
—
24
1996
UMI

time in my experience in Congress, we have actually addressed in a serious manner some of the reforms that I think the American people have advocated and that many of us who have studied the institution believe are necessary to respond to a more effective and efficient means of doing business.

We have finally applied those laws and regulations that we impose on others to ourselves. I think that alone will bring about a fairly dramatic way in which we analyze and review those laws, because for too long, we have followed the unconscionable practice of saying, "It is good enough for you but not good enough for us."

We have also passed the line-item veto, returning accountability to the budget process, an extraordinary transfer, voluntary transfer of authority and power from the Congress to the executive branch in recognition of our inability to grasp and get ahold of necessary spending limitations in order to be responsive to the principle of not spending more than we take in or ask from the people who we represent.

We have not only paid lip service to a balanced budget, but this Congress passed what I think was the most courageous budget in a generation, which, unfortunately, the President vetoed.

Some may argue that this issue of term limits is now less urgent or even unnecessary given these changes that we have made. But I argue that this is not the case. We have learned that changes in our laws must be accompanied by changes in the procedures of our institutions if change is to be meaningful and if it is to be lasting. Term limits remain, in my opinion, the single most important reform that will restore this institution to a position of public trust, and the trust in this institution is near an all-time low.

Mr. President, I believe that the most effective method for turning the tide of public cynicism toward Congress to a positive vein is to break the tie between careerism and power.

Prior to the Civil War, it was the common conviction that the surest protection from an imperial Congress—we hear a lot of words about an imperial Presidency here—but the best protection from an imperial Congress—and we have had imperial Congresses—was a frequent rotation of office.

Americans expected a Government of citizen legislators then, not career politicians. Though the principle was voluntary, it worked, because during the first half of the 19th century, between 40 and 50 percent of the Congress left office in every election. The theory is simple: Public servants will pass better laws, or perhaps no laws at all, when they expect to go home and live under the product of their work.

One delegate to the American Constitutional Convention warned, "By remaining in the seal of Government, they would acquire the habits of the place, which might differ from those of their constituents."

Mr. President, I am certainly not opposed to professionalism, but limits on a career would make the normal time-consuming, wasted business of reelection less urgent, because no amount of effort would guarantee job security. This would leave more time to the serious work of Congress, and strengthen the trust of this institution in the minds of the citizenry.

In addition, term limits, by forcing representatives to have one foot in the real world, might help restore their ability to empathize and their capacity for outrage.

A story about a former Senator George McGovern, I think, is instructive here. After retiring from public life, he opened an inn in Connecticut, a lifetime dream of his. After covering startup costs, meeting payroll, complying with regulations, and the general ups and downs in the free market, the inn, unfortunately, went belly up.

His comment on these events is instructive, and I quote him:

> I wish someone had told me about the problems of running a business. I have to pay taxes, meet payroll. I wish I had a better sense of what it took to do that while I was in Washington.

And, therefore, we are back to the concept of citizen legislator. Those who have had one foot in the real world, those who have experienced the problems of meeting a payroll, running a business, performing in a profession, being apart from the governmental process, have learned lessons that are invaluable when they give to public service and bring that experience with them.

Term limits serve two very important purposes: They rotate politicians back into the private sector to labor under the results of their work, and they create more opportunity for people of broad experience to come to Washington with the practical knowledge and innovative ideas in the private sector, assuring that our laws pass the reality check. We need public servants connected to their community by experience, not just by sympathy.

Do we risk losing the contributions of some very fine people? Without question, we do. However, as John Taylor said in 1814: "More talent is lost on long contrivances in office than by a system of rotation."

The hard fact is that our greatest problem is not the lack of talented men and women waiting in the ranks to take the place of those who leave; rather, it remains a surplus of entrenched power.

Some have argued that term limits would vest too much power with congressional staff, and that is hardly true either. The average length of service for House staff is 5 years; for Senate staff, 5.7 years. This is hardly a problem. Further, when you have new Representatives and Senators who come to office, they generally bring their own people with them, rather than inherit an entrenched staff. Term limits would more likely limit the tenure of powerful staffers who would lose their longtime patrons.

Others argue that term limits would restrict the public's choice. The Senator from North Dakota just argued that a few moments ago. I think just the opposite is true. By denying the American people the opportunity through their States and their State legislatures to ratify under the constitutional process what this Congress has done is a limitation on the power of people, not as the Senator from North Dakota said, term limits being a limitation.

It is clearly a more democratic process to give the people the right to make this decision as to their elected representatives through a constitutional ratification process than for 100 people to stand here arrogantly and say, "We're not going to give the people those choices. We're going to deny them that opportunity. And even though they exercise those powers through their State legislatures and impose those restrictions on us, we're going to draw an iron curtain across that process and say, 'No, you cannot reach into the Federal level to impose that.'"

So I think it is just the opposite of what the Senator from North Dakota has said. Well over three-quarters of the American people have chosen term limits. Opinion polls show that constantly. Aside from the balanced budget amendment, which has always been denied to the American people, there is no other issue that has so much popular support.

Only in Washington could an idea ensuring a rotation from office creating entirely new choices for office be seen as a limitation on the American people. It certainly is not seen that way by the people outside of Washington. It is an example, Mr. President, of the newspeak that has produced so much cynicism on the part of the American people toward their Government.

This measure may not pass the Senate. As the past year has demonstrated, even with the revolutionary changes of the last election, the system continues to be weighted against change.

We are now faced with a procedural process here where we need to obtain the 60 votes in order to just bring this issue to debate and to a vote. The vote that will be taken this afternoon at 3:45 is not a direct vote on the measure, it is simply a vote on whether or not we will go forward to examine the legislation, to offer amendments, to modify it, and then to bring it to a final vote, which appears we may not get to that point.

We will, however, I believe, ultimately prevail in this battle. The question comes down to individuals. Will a candidate for Congress commit to limited terms even if it is not the law? Will those of us in the Congress make the commitment to limited terms even though it is not in the law?

Mr. President, one of the first bills that I introduced in the Congress when I was a Member of the House of Representatives was a term limits bill, a limitation of 12 years of service in the House, no more than six 2-year terms, and 12 years in the Senate, no more than two 6-year terms. I made an exemption in that legislation for those who served partial terms, appointed because of a death of a sitting Member or the resignation of a sitting Member. I thought it was fair for them to be able to fill out that term and then have the full term limit apply. I never realized that that would apply to me. A serendipitous act. I would call it an act of providence. I received an appointment to the Senate to fill the unexpired term of the recently resigned Senator from Indiana, Senator Quayle, who then became Vice President. I fulfilled that unexpired term.

At the time I pledged to the people of Indiana that I was a strong advocate of term limits and felt, whether or not it was the law of the land, I should abide by it. And I pledged to the people of Indiana that I would not serve more than two full terms in the U.S. Senate. I hold to that pledge.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COATS. Mr. President, I ask for 1 additional minute to conclude my statement.

The PRESIDING OFFICER. Is there objection? Hearing none, without objection, it is so ordered.

Mr. COATS. Mr. President, as I said, this is a procedural bill. Even though this bill will not completely conform to my own legislation regarding unexpired terms, I do believe that the debate should go forward. If changes are necessary, amendments obviously can be offered. This is too important an issue, too vital a reform to die in a procedural vote here today. The American people deserve full consideration, and only a vote of 60 Senators to invoke cloture will allow that full consideration to take place.

So I urge my colleagues to join with me in voting for cloture. Hopefully we can garner 60 votes so that we can, in this important debate, fulfill the wishes of more than 80 percent of the American people, that we address this fairly, and give them a fair opportunity to weigh in, as I think they deserve.

Mr. President, I thank Senator THOMPSON and Senator ASHCROFT for their diligent efforts in this and the additional time they have yielded me, and I yield the floor.

Mrs. HUTCHISON addressed the Chair.

Mr. THOMPSON. Mr. President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

I want to thank Senator THOMPSON and Senator ASHCROFT for taking the lead on this very important measure.

Mr. President, our Founding Fathers crafted a Constitution that was built around balance. The checks and balances have made this Constitution endure for over 200 years. Part of the balance was that the Federal Government would be limited, that Federal Government would have very narrow responsibilities. It would be strong in its responsibilities, but nevertheless the social programs, the education, the time-consuming, more detailed areas of responsibility were clearly left to the States and to the people.

So, Mr. President, our Founding Fathers intended for us to have a small Federal Government, made by citizen legislators, citizen legislators who would come to Washington to do the business of the Federal Government, which was limited, and go home and have professions. The people that wrote the Constitution were not full-time writers of the Constitution. The Congresses in the early days were not full-time Congresses. They were made up of citizens who had vocations, who understood what the problems of the States were, who came together on a limited basis to correct those problems.

Mr. President, we have gotten out of kilter. The balance is no longer there because we have a full-time Congress, because we have people who have been here as a career for 20, 25, 30 years, some of whom are wonderful people.

This is not a personal attack in any way on those people. They are good people. I think every Member of this Congress is sincere about what he or she is trying to do. But, nevertheless, because it is career politicians who are making the laws, our Government has grown and grown, and the Federal Government is out of control. Part of the reason is because we have a Congress that is out of touch with the real world, with the small businessperson that is trying to make it, trying to make ends meet with all of the regulations and the taxes and the litigation that is complicating our lives today.

To bring back the balance, Mr. President, we need term limits because we need citizen legislators. We need small businesspeople who have lived with the regulations and the taxes that keep them from growing and creating the new jobs that will really make this economy strong. We need the working people of this country who know what it is like to go into a workplace and not be sure if they can walk inside the line on the factory floor or outside the line on the factory floor.

Mr. President, we need citizen legislators because we need people who have experienced how hard it is to deal with the morass of Federal regulations, with the fines that come from minor infractions. Sometimes our small businesspeople think that Government does not want them to succeed. They forget, people in Government, that the American dream is that you can work hard and do better. The Federal Government should not be there to tamp you down. It should be there to build you up, to let more people have access to the American dream. If we can have term limitations, Mr. President, we can get the balance back in our Government structure because we will have people who have come from the real world and who are going back to the real world.

Mr. President, our seniority system is a waiting game. The average number of years of a Senate committee chairman is about 22; a House committee chairman is about 25. So when we talk about all this free access that the voters have to vote somebody out of office, we are talking about giving up this seniority system, and it does become a dilemma because even if someone is out of touch, they are powerful. They are able to produce for their districts.

So it is a dilemma for someone going in the voting booth to say, "I'm going to oust someone who has been there 25 years, who is high in the seniority system, who is a committee chairman," or whatever. It is very difficult. It happens when there is a real movement like happened in 1994. The people did rise above that seniority system. But it is very rare, Mr. President.

My distinguished colleague from West Virginia, who I admire greatly, talked about Winston Churchill serving in Parliament for 50 years. Yes, but back then and even to an extent now, Parliament was part time, except in the British system, of course. Members of Parliament are also the Cabinet officers, if they are in the front bench, but if they are back benchers, they do something else. Winston Churchill at the time he was a back bencher wrote, gave speeches. That was his vocation. Cicero, the Roman Senator, also wrote a little bit. I think many of us remember many of the things that he wrote.

We have had citizen legislators in our best Senates and Congresses through the ages. That is because it works best when the people who are trying to make this country what we want it to be are the people who decide to give a little time for public service and then go back out and live in the real world of business and commerce, working people that understand best what it takes to get this country going in the right direction. They are the people that have the values. They are the Sunday school teachers. They are the people that go to PTA meetings, that work with their children in their

VOL
142
PT
6
AP
15
—
24
1996
UMI

schools. They give back to their communities.

Those are the kind of people that we want in Congress. That is why we are trying to have term limitations, so that we can bring back the concept of a citizen legislator; so that we can meet a few months every year, go home and be in a real vocation, so that we will not have new laws with new regulations and new things that bureaucrats can dream up to do to tamp down the spirit of entrepreneurship that built this country.

That is why we are fighting so hard today. It is why we have to have a constitutional amendment, because we cannot do it by State law, because States have tried and the Supreme Court said last year that will not work. You have to amend the Constitution. This was not Senator THOMPSON's first choice. He would love to have gotten 51 votes because we could pass it with 51 votes, but we will probably not be able to have the two-thirds vote required to amend the Constitution. That is why it is so important for the people of this country to understand that the fight is going to continue.

We will try to get cloture today. If we do not get cloture, I have a bill I have introduced that I will try to put on some other measure coming down. It is going to be a national referendum on this issue. Let the people speak. Let the Congress hear. Let people ask their Member of Congress that is running for reelection, or their Senator that is running for reelection how they feel on this issue, so that they get committed.

We are going to have to keep working at it. I hope I can get a national referendum, if we do not get cloture today, to do what we ought to do. That is, amend the Constitution. This is a basic tenet of the balance of powers in our Government. A citizen legislator is a basic part of the balance that is necessary to keep the Federal Government from getting so big and overblown that they start encroaching on States rights. The government that is closest to the people at the State level—this is part of the balance. It is part of reform that is necessary to get this country back on track, so that more people can realize the American dream, so that the immigrants who come to our country, because it is the beacon of opportunity anywhere in the world, they come to this country for the American dream, which is if you work hard and you start a small business you can keep the fruits of your labor. In America, success that is gotten from someone by the sweat of their brow or by their hands or by their brains—working, writing—we want those people to succeed. We do not look down on success. We want everyone to have that opportunity.

If we are going to keep the American dream, Mr. President, it is going to be with people who are understanding that the Federal Government is limited and those people are going to be citizen legislators, not career politicians.

Mr. President, I want to thank Senator THOMPSON and Senator ASHCROFT for bringing this to us. This is the first step in a very long march, Mr. President. This is not going to end today, but we are going to be there with the American people to fight for what we know will bring back the values and the dreams and the opportunity of this country through citizen legislators that will work with us to do it.

Mr. THOMPSON. Mr. President, I yield 10 minutes to the Senator from Idaho.

Mr. CRAIG. Mr. President, if I could indulge you for just a moment this morning, I would like to incorporate you in my discussion on term limits, because I want to tell a little story to my colleagues who are here and for the record.

A good number of years ago I engaged in a conversation with the former Senator from Wyoming, Malcolm Wallop, who you followed to the Senate. We were talking about the advantage of freshmen, new people, coming to the U.S. Congress. I alluded at that time that you can always tell the difference between a freshman and a more senior Member by this simple adage: Freshmen were always going around asking why Government did certain things, and more senior Members were going around saying "because."

In other words, what has often happened as a result of seniority and longevity of service in the U.S. Senate or the U.S. Congress in general is that Members of those bodies become advocates of Government, defenders of Government, instead of responsible citizen critics of their Government.

One of the things that I know the chairman, the President, and I have tried to do, and I mean the President of the Senate, the presiding Chair of the Senate and I have tried to do is be constant critics of Government, critics of Government.

Oftentimes we find out that the longer Members are here, while they may serve well, they become the advocates of an ever-increasing Government. It was under that belief in my years of service, while I think I remain a responsible critic, that I have grown to support term limits, because I believe they are a rejuvenator of the system. It creates, once again, the process that our Founding Fathers had intended. That was the citizen legislator coming to this Congress to direct the affairs of Government, not to be the advocate but to be the friendly critic.

Now that both the House and the Senate are under the control of a Republican Congress, we are going to have votes on this issue. We are going to be able to stand up and express our wishes, hopefully reflecting the will of the American people, that has been spoken to by the Senator from Tennessee, who has done such a fine job of bringing this issue to the floor, and the Senator from Missouri, that 77-plus percent of the American people believe that term limits are a responsible way of governing, and that those of us who seek to serve in public life at this level be limited to a certain number of years in our public service, and in doing so, hopefully, retaining those concerns or those issues that brought us to this Congress.

It is because of a Republican-controlled Congress that we will have the privilege to vote today on this important issue. Hopefully, we can take this issue to the American people. It is significantly important. We are asking the American people to change the way their Government has operated for well over 200 years.

That is why I am pleased that we are moving to the constitutional amendment approach. Yes, the courts have said we must strike uniformity in the terms of Federal officers, and that is what we all are who serve in this body, and that all States must be served and represented equally. Beyond that court edict and the responsibility that is being taken here today in the debating of and the voting on this constitutional amendment, remember our civics lesson, to understand that the Congress can only propose an amendment. That in proposing it, what we are really doing is sending it out to all 50 States for what will be a fundamentally important national debate on term limits.

Every State legislator, if this passes the Congress, will engage in a debate at the State level on the validity of term limits and the responsibility of those limits and how they ought to be carried out under the edicts of this constitutional amendment. That is what representative Government is all about. That is why I recognize these two Senators for the work they have put in in the leadership of this issue.

While I have been a strong and outspoken supporter of term limits, we have not had the opportunity to vote on them in previous years. Now we are guaranteed that opportunity. I am pleased to join with my colleagues in support of this amendment.

Thomas Jefferson and George Washington were ardent supporters of term limits. Maybe they saw something that some of our other Founding Fathers did not see. Maybe they recognized there could be a time when Government would grow to a point that those who served in it would ultimately become individuals who would seek a lifetime of service here.

While there are a tremendous number of dedicated Members of the U.S. House and the U.S. Senate who have served well beyond the limits that are proposed within this amendment, I believe the concept of term limits, as I have

spoken to, serve as a phenomenally rejuvenating factor in what we believe to be the founding premises of this country, that States would not have lost as much control as they have lost over the last 200 years if we had term limits. Citizens who had served and would serve in Congress would find themselves much more subject to the laws they passed because they would not spend a lifetime here, a lifetime in an environment that was relatively sheltered, relatively protected from the citizen on the street of America, who had to live under the laws that the Congress had passed.

For 200-plus years, Congress has been exempt from all of those laws. It is only in the last few years, under phenomenal pressure from the citizens, that we are finally saying we are not special and we are not something different. Thank goodness we are saying that. I have been pleased to support the fact that we now subject our offices to the same labor laws that the average employer must subject his work force to and the average worker must be subjected to.

Why should we be different? Why should we be special? We should not be. But it has been under a protected environment of continual service that that kind of situation existed. It is my guess that if term limits had been imposed some time ago, that would not have been allowed to happen. The Congress would not have become the special, unique haven that it was for so many years, while at that time it might have been observed as the right thing to do. In an America of today that wants to see a limited Government, to see a great deal more authority returned to the States, this amendment, and our debate on this amendment, fits that approach in a most important way.

I look forward to an opportunity to continue to work on this, and I hope we can get the vote this afternoon. But as the Senator from Tennessee admonished us when the debate began, this is an issue that will not go away. If we are not successful this time, I am confident we will be back, and I will be a supporter of that effort. If that cannot occur, you heard the Senator from Texas talking about the allowance of a national referendum that causes this debate and a vote of the people of this country on this type of an issue.

So while a Senator from Wyoming chose, a few years ago, to limit his terms, which gave opportunity for the Presiding Officer to be a new face in the U.S. Senate, bringing new debate and new ideas, I believe this is an issue that we ought to respond to in a representative way to the citizens of our country, who have spoken so clearly on it.

While the issue of rotation in office—term limits—for elected Federal officials has been around as long as our country itself, this current Congress will make history on the issue of term limits.

In prior Congresses, neither the House nor the Senate had voted on a congressional term limits amendment, despite the efforts of myself and others.

Finally those efforts have paid off. This Republican Congress has kept its promises, and is trying to pass a term limits constitutional amendment.

It is the first U.S. Congress ever which the House and the Senate will both have floor debates and recorded votes of all the Members on a constitutional amendment to limit congressional terms.

The term limits constitutional amendment that I am an original cosponsor of will impose a uniform, national term limit of 12 years in the House and 12 years in the Senate.

It is critical that if we impose term limit, we do it across the board, State by State. No State should be singled out to be disadvantaged by the loss of seniority in Congress.

My support of this grew out of my observation of how this business on Capitol Hill works—or does not work.

Why do I feel so strongly that congressional term limits are an important and fundamental step in restoring our Nation's political health?

The Governors of 40 States, including my State of Idaho, are subject to term limits. Why not Congress?

The State legislatures of 21 States, including Idaho, are subject to term limits. Why not Congress?

Thomas Jefferson and George Washington were two ardent supporters of term limits.

The issue of term limits for Members of Congress is favored by 77 percent of the American people, according to a national poll conducted in January.

Support for term limits never falls below 64 percent in any demographic group; white, black, Hispanic, male, female, young, old, Republican, Democrat, Independent, or geographic residence.

Term limits received more votes in the 14 States where it appeared on the ballot in 1992 than Ross Perot received in all 50 States in the 1992 Presidential election.

According to studies conducted by the National Taxpayers Union, the shorter the tenure of a Member of Congress, the more likely that Member of Congress is to vote against tax and spending increases for the Federal Government.

The bottom line is this: if we want to change the mindset in Washington, DC, we must change the players.

A limited central government and limited tenure in that government are essential elements on which our form of government is based.

We must embrace the principles articulated by the Founders of our country and supported today by an overwhelming number of American people.

To do otherwise is to forget our roots and responsibilities as representatives of the voters. We are not free agents doing whatever we want in Washington.

When I joined in the battle for term limits years ago, I knew it would not be a quick, easy process. My fight for a balanced budget amendment to the Constitution has showed me that.

But, like the balanced budget amendment, we must let the people of our country decide whether they wish to ratify the term limits amendment. If Congress passes the term limits amendment, it must still be ratified by 38 States.

That is my goal here today: to pass this legislation so that the people of Idaho and everywhere else will be able to let their State legislatures know whether or not to support this term limits amendment.

Let the people decide, not us. I will be proud to cast my vote in favor of term limits on behalf of the people of the great State of Idaho.

I strongly urge my colleagues to do the same.

Mr. HATFIELD. Mr. President, the Senate has before it today an issue that goes to the heart of our democratic system of government. Limiting congressional terms has been one of the most consistently visible issues in our Nation's political arena for the past 6 years. In addition to being a significant plank of congressional campaigns, several States have voted to limit the terms of those elected to Federal offices. The Supreme Court ruled last year in the Thornton case that statutory efforts by Congress or individual States to impose term limits on Federal officials are unconstitutional.

In lieu of this recent action by the Supreme Court, the only remaining option is a constitutional amendment limiting the number of terms a Member of Congress may serve. The Senate has before it and will soon vote on such a measure. I oppose amending the Constitution to limit the number of terms a Member of Congress may serve and will vote against this resolution. I will, however, vote in favor of cloture on this resolution so that debate on this important issue can be brought to a timely conclusion.

It should be recognized that, despite their recent visibility, proposals to limit congressional terms are not a new phenomenon. This is a debate that has been evolving for many years. Our Founding Fathers considered including term limits in the Constitution. They grappled with the question and rejected the idea, preferring to allow such authority to be exercised by the citizenry at the ballot box.

At the beginning of my career in the U.S. Senate, I introduced legislation to restrict Senators to no more than two

VOL
142
PT
6
AP
15
—
24
1996
UMI

terms. When this measure did not pass and my own second term came to an end, I decided I could be more effective for the people of Oregon by continuing my service in the Senate. My constituents agreed with me and, at the ballot box, chose to continue my term of service in this body.

During the years of debate over term limits, many have argued the only way to remove entrenched incumbents from Congress is to override the will of the voters by placing a mandatory limit on the number of terms a member may serve. However, the American voters currently have the authority to limit the terms of any member of Congress during each election. Voters in the 1992 election gave 110 new individuals the opportunity to serve in the House. In 1994 86 new Members were elected to the House of Representatives and 11 to the Senate. The 1996 cycle, at least for the Senate, has already achieved the distinction of having the most retirements of any cycle in this century. An analysis of our recent elections shows that over half of the Members of the House of Representatives and nearly a third of the Members of the Senate have been elected since 1990.

Mr. President, term limits are an important issue worthy of debate, but they are not a panacea for reforming Congress or improving the public's perception of this institution. In fact, I believe they have the potential to cause significant damage by depriving voters and this institution of the best qualified candidates. Congressional turnover is something best left in the hands of the local voters.

The 1994 elections not only brought numerous new Members to Congress, but they also gave the Republican Party control of both Houses for the first time in over 40 years. This drastic change was accomplished by the American people exercising their constitutional right to vote for the candidate of their choice. It was not accomplished by imposing a structural change upon the electoral process so thoughtfully conceived by the Framers of the Constitution.

As the Nation deliberates the issue of term limits, I would encourage proponents of limitation to consider each candidate individually. The difficulty in setting arbitrary limits is, simply, that they are arbitrary. Citizens should not be denied the service of the effective, elected representative of their choice merely because that person had already served them well.

Candidates should not be judged by a constitutional provision that looks only at the length of their prior service. Rather, candidates should be judged by their constituents, who invariably look at the quality of the service provided in past terms and the likelihood of satisfactory representation over the next time-limited term.

Mr. HEFLIN. Mr. President, I rise in opposition to Senate Joint Resolution 21, which provides for a constitutional amendment to limit congressional terms.

Nearly 1 year ago, the U.S. Supreme Court ruled that State-imposed term limits on Federal legislators are unconstitutional. The only way to institute such limits is, therefore, through a U.S. constitutional amendment such as that embodied in Senate Joint Resolution 21. Altering our cherished Constitution in such a way would be a huge mistake in my opinion.

The idea of term limits for Members of Congress addresses the general disapproval voters seem to consistently have for Congress as an institution. However, they do not address the issue of losing good, productive leaders through arbitrary limits on their time of service. Many believe the experience gained from serving in Congress is a valuable resource for serving effectively as a legislator and as a questioner in an oversight role over agencies and departments of the executive branch of the Federal Government. This experience can only be gained over a period of years. Even those who support term limits acknowledge that the many years of service to our Nation by many long-time Members of Congress have made a meaningful difference in countless lives.

In this body, leaders such as Senator BYRD, Senator DOLE, Senator BIDEN, Senator STEVENS, Senator BUMPERS, Senator LEAHY, Senator SIMPSON, Senator HOLLINGS, Senator NUNN, Senator THURMOND, Senator KASSEBAUM, and Senator HATFIELD, to name only a few, would not be here if term limits were in effect today. This is not a partisan issue; term limits would deny the Nation the service of outstanding leaders on both sides of the aisle.

Term limits are an unwarranted restraint on democracy. I think the limit on Presidential terms passed in the wake of Franklin Roosevelt's long tenure in the Oval Office was a mistake. The most fundamental and basic right citizens of this country have is the right to vote for the candidates of their choice. This right should not be abridged just because some Government leaders are reelected with regularity and are labeled as being bad because of that. If they are reelected, common sense would suggest that the voters are generally happy with the job he or she is doing. If not, they can vote for the opposing candidate. They already have the right to limit the term of any officeholder they wish by voting.

In effect, term limits suggest that the ultimate judges in the political arena, the voters, are not competent to make decisions after a public servant has served for a few years. Voters should view term limits as a slap in the face that restricts their discretion and their right to be represented by those whom they so choose.

If term limits are instituted, what we will see is a Congress run by a staff of unelected bureaucrats with no limits on the time they can work in the legislative branch. Members will increasingly come to depend on staff as the institutional memory and precedent that guide much of the work here are eliminated. Term limits will also shift more power to the executive branch and its legions of unelected and unaccountable careerists.

Simply put, there is no reason to deny voters the right to elect an individual to Congress simply because of that person's previous service. In their wisdom, the Founders correctly chose not to incorporate term limits in the Constitution for Members of Congress or the President. Alexander Hamilton called them "ill-founded," "pernicious," and "a diminution of the inducements to good behavior." The Constitution already provides a check on the power of Members of Congress by requiring that each Member of the House and one-third of the Members of the Senate be presented for reelection every 2 years.

The clamoring for term limits is a byproduct of the bumper sticker admonition to just "throw the bums out!" It is a populist slogan that in no way addresses the issue of making Congress more effective. This specious argument is based on the notion that anyone who has been in office for any length of time is automatically corrupt and incapable of being responsive to the views of their constituents. But, how responsive will they be when they do not have to face the voters for reelection? They will be free to simply ignore the wishes of the people.

The process of learning issues and policy takes time. Voters might prefer a long-distance runner over the sprinter, a representative for the long haul, not just for the short term. Voters should have the option of electing a person who will work in the long-run for the best interests of the district or State they represent and the Nation which they serve. Voters can make up their own minds about the effectiveness and worthiness of a candidate regardless of the length of service. There is no more effective or dependable means for applying term limits than election day, the second Tuesday of November every 2 years. All Americans should think carefully before this precious freedom is abridged by this amendment.

Mr. THOMPSON. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Approximately 8½ minutes.

Mr. THOMPSON. Does the Senator from North Carolina wish to be recognized?

Mr. FAIRCLOTH. Yes.

Mr. THOMPSON. I yield the Senator from North Carolina 8½ minutes.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I am delighted and proud to join with Senator THOMPSON and cosponsor Senate Joint Resolution 21, which would provide for national term limits for 12 years for any Member of the U.S. House of Representatives or Senate.

In the past, Congress has avoided taking a vote on term limits. We have tried to have it both ways—to tell the people at home that we support term limits, but we have simply bottled it up in Washington.

Under Senator DOLE's leadership, with the support of many others, I want to thank them for bringing this resolution to the Senate floor. It will be the first-ever recorded vote, and it will be the right move. Regardless of the outcome of the vote, I think it is a historic moment that we will all be proud to have participated in.

There are many reasons for limiting the terms of all Members of Congress. First, the Founding Fathers, led by James Madison, intended that service in Congress would be that—a service, not a permanent job. We would not have so many burdensome, expensive, and often useless rules and regulations if we had more people in the Congress who had spent some time in the workplace in the private sector.

The President of the United States has term limits, and the country is better off for it. So why should not the Congress have term limits? The custom of voluntary rotation in office was once followed by the President and Congress alike. But it became necessary to pass a constitutional amendment to restore the two-term limit on the Presidency, and it certainly is clear now that we need to do the same thing with the House and Senate to limit the tenure.

A second reason for term limits is that a governing elite is more likely to decide that what the citizens earn through their work belongs to the Government and not to the people that earned it. That is one of the dismal results of career bureaucrats in the National Capital. They are so caught up in government and its activities that they have lost sight of the fact that our system was founded on the spirit of free enterprise and individual rights.

Third, the people of North Carolina and the rest of America overwhelmingly support term limits. One national poll of registered voters in January 1996 found that 77 percent of the American people favor term limits, and only 17 percent oppose them. Further, 62 percent of the American people say they wanted their Congressmen and Senators to vote "yes" on a constitutional amendment for term limits that provides a 12-year limit.

Will term limits pass the Senate this time? Maybe not. I certainly hope so. As we all know, it is difficult to get a two-thirds vote, which will be necessary to adopt this. The Constitution was designed for it to be difficult to amend it. So for term limit supporters, we know that the upcoming vote is just the beginning of our efforts and not the end. We will stay with it until we do get it passed.

By committing ourselves to supporting term limits for as long as it takes to get the job done, we are committing ourselves to making the national Congress the model of citizen representation it was intended to be, and restoring our Federal Government to its proper role, and limited role, in our national life.

I strongly support this resolution and am delighted to be a cosponsor on it. I yield the remainder of my time.

Mr. THOMPSON. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator has 2 more minutes.

Mr. THOMPSON. I yield back the remainder of our time.

The PRESIDING OFFICER. All time is yielded.

HEALTH INSURANCE REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3103, the health insurance reform bill, which the clerk will report.

The bill clerk read as follows:

> A bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuation of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term-care services and coverage, to simplify the administration of health insurance, and for other purposes.

The Senate resumed consideration of the bill.

Mr. THOMPSON. Mr. President, to clarify, the term limits debate will resume again immediately after the health care vote, is that correct.

The PRESIDING OFFICER. The Senator it correct.

Mr. THOMPSON. We will have a vote on term limits at approximately 3:45.

The PRESIDING OFFICER. The Senator is correct.

Mr. SPECTER. Mr. President, I am pleased to support the Health Insurance Reform Act of 1995 and want to commend my colleagues, Senator KASSEBAUM and Senator KENNEDY, for their excellent work on this important subject. As a cosponsor of this bill, I believe that enactment of legislation improving health insurance coverage is long overdue. We owe it to the American people to pass this bill.

The Health Insurance Reform Act represents the type of incremental health care reform which I have long supported. It targets the problems with our current health care system while leaving in place a system that works well for most Americans.

Mr. President, in June 1993, I had my own health problem when a magnetic resonance imaging machine discovered an intercranial lesion in my head. I was the beneficiary of the greatest health care delivery system in the world—the American health care system. That experience made me ever more aware, knowledgeable of, and sensitive to the subject than I had been in the past.

There are some who believed health care reform was dead and declared as much in the fall of 1994 when Congress failed to enact comprehensive health care reform legislation. I am hopeful that they will be proven wrong by the enactment of this bill. President Clinton was in error when he proposed health care by Government mandate and massive bureaucracy. But anyone who read the repudiation of the Clinton bill as an excuse to do nothing is equally in error. We still have a great need to correct the problems in our health care system for the 15.2 percent or 39.7 million Americans, for whom the system does not work. In my own State of Pennsylvania, there is even a greater need, because the number of uninsured under the age of 65 has grown from 10.8 percent to 13.4 percent of the population while we in Congress have done little but debate the correct approach to take concerning health reform. It is high time that Congress takes a real step forward in health care reform, without big government and without turning the best health care system in the world on its head.

To be sure, health care reform remains a very complex issue for Congress to address. But it is not so complex that we cannot act on a bipartisan basis. This is something we should have done years ago. Sixty-five Democrats and Republicans have agreed to cosponsor a bill containing policy matters we all agree on, such as the need to limit exclusions for preexisting conditions and make health insurance more portable for workers changing jobs. Of course, more can and should be done. But this is what we can agree on now. We will be helping a great many people who desperately need these critical changes in law by acting now.

By way of background, I would note that the legislation before the Senate today, S. 1028, contains provisions very similar to those contained in title I of my own health care reform bill, the Health Assurance Act of 1995,—S. 18—which I introduced on January 4, 1995. I have heard for years from constituents, friends, and family on how important it is that we pass basic insurance market reforms to protect those who are not in perfect health but have some preexisting medical condition. We all are aware of people who are afraid to leave their jobs because they have a heart condition or another medical condition and therefore would be unable to obtain insurance for this problem outside of their present employer. Under the Kassebaum-Kennedy bill, a

VOL
142
PT
6
AP
15
—
24
1996
UMI

person can be assured that no preexisting condition exclusion can ever last more than 12 months for conditions discovered in the 6 months prior to coverage. Equally important, the bill enables those workers that were covered under a group health insurance plan to reduce this 12-month preexisting condition exclusion for each month they were covered by a plan. So if an employee with a medical problem is covered by a plan under her current job for more than 12 months, if she takes a job elsewhere, she will be covered under the plan of the new employer.

S. 1028 also contains language similar to my legislation which extends the COBRA health benefits options in a limited manner. S. 1028 specifically extends this option when a former employee or family member becomes disabled during the initial coverage period, and allows newborns and adopted children to be covered immediately under a parent's COBRA policy. Also, S. 1028 provides individuals access to affordable insurance through purchasing groups, which was also allowed under S. 18. This and the other elements of S. 1028 will give the 228 million workers who now have insurance the security of knowing that health coverage options exist if they change jobs, or become unemployed for a limited period of time.

Mr. President, as my colleagues are aware, I have been advocating incremental health care reform in one form or another throughout my 15 years in the Senate, and have introduced and cosponsored numerous bills concerning health care in our country since 1983. In my first term, I sponsored the Health Care Cost Containment Act of 1983, S. 2051, which would have granted a limited antitrust exemption to health insurers, permitting them to engage in certain activities aimed at curtailing then escalating health-care costs. In 1985, I introduced the Community Based Disease Prevention and Health Promotion Projects Act of 1985, S. 1873, directed at reducing the human tragedy of low birthweight babies and infant mortality.

During the 102d Congress, I again pressed for Senate action on this issue. On July 29, 1992, I offered an amendment to legislation pending on the Senate floor that would have increased the deductibility for health care insurance purchased by self-employed persons from 25 to 100 percent, and would have made health coverage more affordable for small businesses through insurance market reforms. This amendment included provisions from legislation introduced by Senator CHAFEE, which I cosponsored, and which was previously proposed by Senators Bentsen and Durenberger. My amendment was defeated on a procedural motion by a vote of 35 to 60 along party lines, and the Senate did not consider comprehensive health care legislation during the balance of the 102d Congress. The substance of that amendment, however, was adopted later by the Senate on September 23, 1992 as an amendment to H.R. 11, the broader tax legislation introduced by Senators Bentsen and Durenberger and which I cosponsored. This latter amendment, which included substantially the same self-employed deductibility and small group reforms that I had proposed on July 29, passed the Senate by voice vote. Unfortunately, these provisions were later dropped from H.R. 11 in the House-Senate conference.

On August 12, 1992, I introduced legislation entitled the "Health Care Affordability and Quality Improvement Act of 1992," S. 3176, that would have enhanced informed individual choice regarding health care services by providing certain information to health care recipients, lowered the cost of health care through use of the most appropriate provider, and improved the quality of health care.

On January 21, 1993, the first day of the 103d Congress, I introduced comprehensive health care legislation entitled the "Comprehensive Health Care Act of 1993," S. 18. This legislation was comprised of reform initiatives that would have improved both access to and the affordability of insurance coverage, and would have implemented systemic changes to lower the escalating cost of care in this country.

On March 23, 1993, I introduced the Comprehensive Access and Affordability Health Care Act of 1993, S. 631, which was a composite of health care legislation introduced by Senators COHEN, KASSEBAUM, BOND, and McCAIN, as well as my bill, S. 18. I introduced this legislation in an attempt to move ahead on the consideration of health care legislation and provide a critical mass as a starting point. On April 28, 1993, I proposed this bill as an amendment to the legislation then pending on the Senate floor, the Department of Environment Act, S. 171, in an attempt to urge the Senate to act on health care reform. My amendment was tabled by a vote of 65 to 33, largely along party lines.

As I mentioned earlier, on January 4, 1995, I introduced S. 18, the Health Assurance Act of 1995, which improved upon many provisions included in my health care legislation from the 103d Congress and provided a framework for targeted reform that could be built upon if needed. In addition to addressing the portability issue, S. 18 has three other important objectives: First, to provide affordable health insurance for the 40 million Americans now not covered; second, to reduce health care costs for all Americans; and third, to improve coverage for underinsured individuals and families. All of these objectives are accomplished through initiatives that our health care system could readily adopt without creating an enormous new bureaucracy.

In total, I have come to the Senate floor on 14 occasions over the past 4 years to urge the Senate to address health care reform. As early as June 26, 1984, I stated that the issue of health care is one of the most important matters facing the Nation today. That statement continues to ring true today, nearly 12 years later. According to the Health Care Financing Administration, national health expenditures totaled an estimated $949.4 billion in 1994, representing 13.7 percent of GDP. The Congressional Budget Office [CBO] projected that national health expenditures will total an estimated $1 trillion for 1995, or 14.1 percent of GDP. According to CBO, spending for health care grew about 6 percent in 1994, and was expected to grow about 7 percent in 1995.

I believe we have learned a great deal about our health care system and what the American people are willing to accept from the Federal Government as a result of debate over President Clinton's proposal in the fall of 1994. The message we heard loudest was that Congress was acting too hastily, and that Americans did not want a massive overhaul of the health care system. Instead, our constituents want Congress to proceed more slowly and to target what isn't working in the health care system while leaving in place what is working.

As I have said both publicly and privately, I was willing to cooperate with President Clinton in solving the problems facing the country. However, there were many important areas where I differed with the President's approach and I did so because I believed they were proposals that would have been deleterious to my fellow Pennsylvanians, to the American people, and to our health care system. Most importantly, I did not support creating a large new government bureaucracy because I believe that savings should go to health care services and not bureaucracies.

On this latter issue, I became concerned about the creation of such a bureaucracy, and asked my staff to review the President's 1,342-page Health Security Act when it was transmitted to Congress on October 27, 1993. My staff found an increase of 105 new agencies, boards, and commissions and 47 existing departments, programs, and agencies with new or expanded jobs. This chart received national attention after being used by Senator Bob DOLE in his response to the President's State of the Union address on January 24, 1994. The response to the chart was tremendous, with more than 12,000 people from across the country contacting my office for a copy. Numerous groups and associations, such as United We Stand America, the American Small Business Association, the National Federation of Republican Women, and the Christian Coalition, reprinted the chart in their publications amounting to hundreds of thousands more in distribution.

In addressing our health care problems, let me be clear: In creating solutions it is imperative that we do so without adversely affecting the many positive aspects of our health care system which works for 85 percent of all Americans. The pending legislation, the Health Insurance Reform Act, achieves this objective and should be viewed as the first step of an incremental approach to health care reform. It is my hope that we can accomplish some additional health care reforms that are equally necessary but would also not disrupt our system, such as increasing the deduction for the health care of the self-employed. Further, we should continue to pursue other initiatives to help reduce health care costs and increase the quality of health care that the majority of this body can agree upon.

The Health Insurance Reform Act of 1995 deserves our strong support and I urge my colleagues to enact this much-needed legislation.

Mr. KERRY. Mr. President, I want to thank Senators KASSEBAUM and KENNEDY for their leadership in putting together this bill which the General Accounting Office [GAO] estimates will help over 21 million people.

I also want to talk today about a woman from Florence, MA, who wrote me about her daughter. She supports this bill, she said, because her daughter has diabetes and the family had a terrible time finding health insurance that would cover her. In her letter she told me, "I think it's immoral for health insurance companies to cut off coverage even while the people they cover are paying their premiums. No health insurance company should have the power to do this to their clients."

Millions of Americans have medical histories or preexisting conditions that make it difficult to get comprehensive insurance coverage. As many as 81 million Americans have preexisting medical conditions that could affect their insurability. Many people are locked in their jobs because they fear they will be unable to obtain comprehensive insurance in new jobs. And many people who work in small businesses often have trouble getting insurance especially if one employee has medical problems.

I am hopeful that this important bill will pass Congress and will be enacted into law this year. It is time that we help the American people get the health insurance they rightfully deserve.

This bill takes very important steps forward. But we must do more, so that ultimately we have coverage for all Americans. Currently, 40 million Americans live without health insurance, and 23 million of the 40 million are workers, according to a study by the Tulane University School of Public Health. Furthermore, an average of more than 1 million children a year have been losing private health insurance since 1987. In Massachusetts alone, there are more than 130,000 children—one-tenth of all the children in my State—who are without any health insurance, private or public, for the entire year. And many more children lack health insurance for part of the year. A recent study in the Journal of the American Medical Association reported that almost one-quarter of U.S. 3-year-olds in 1991 lacked health insurance for at least a month during their first three years, and almost 60 percent of those lacked insurance for 6 or more months.

Mr. President, this Congress has an unacceptable record when it comes to addressing the real needs of American workers and families. Political divisions and Presidential politics have become an everyday feature of Senate floor action, making it impossible for us to do much of the people's business. This bill still holds the promise of being a notable exception.

I applaud the vision, commitment, and political savvy of the distinguished chairman of the Labor and Human Resources Committee, Senator KASSEBAUM, whom I greatly admire, and the distinguished ranking member of that committee who is the senior Senator from my State. They have crafted a bill which will provide real help to meet the needs of real Americans, and have brought it to the Senate in a form that can become law. I urge all my colleagues to vote for this bill and the conferees to speedily send it to the President's desk for his signature. I will proudly vote for passage this afternoon.

Mr. HEFLIN. Mr. President, for the past 5 years, the issue of health care reform has been at the top of our national agenda. The need for an overhaul in our health care delivery system was a centerpiece of President Clinton's campaign, and our inability to enact comprehensive reform legislation 2 years ago was a profound disappointment.

The debate on the size and scope of the Federal budget and on various items within the so-called Contract With America have dominated congressional business for much of the last year and a half. Nevertheless, there remains a firm national consensus that something must be done to reform the health care system.

In light of all the money spent on the provision of health care in this Nation, it is surprising that we have not already found a way to deliver a sufficient level of care to the millions of citizens who do not have health insurance. The Department of Health and Human Services estimates that between 32 and 37 million Americans have no health insurance, and an additional 50 to 60 million are underinsured. As translated by the Office of Management and Budget, a total of 13 percent of all Americans are completely uninsured, with as many as 28 percent without insurance for 1 month or more. The Labor Department reports that each year, one million people lose their health insurance.

As currently structured, the private health insurance market provides an insufficient level of coverage for individuals and families with major health problems and makes it difficult for employers to obtain adequate coverage for their employees. This is especially true of small businesses.

The bill before us—S. 1028, The Health Insurance Reform Act—will reduce many of the existing barriers to obtaining insurance coverage by making it easier for people who change jobs or lose their jobs to maintain adequate coverage. It will also provide increased purchasing power to small businesses and individuals. I am proud to support this legislation, which is aimed at covering millions of those who do not have insurance or who have an inadequate level by addressing the issues of portability and preexisting conditions.

S. 1028 builds upon innovative and successful State reforms and enhances the private market by requiring health plans to compete based on quality, price, and service instead of refusing to offer coverage to those who are in poor health and need it the most. Passage of this measure is being called a relatively modest first step toward the kind of comprehensive reform legislation we tried to pass in 1994. I agree that it is only a first step, but feel instead that it is a rather major first step in that it goes a long way toward reaching the goal of universal health care.

The General Accounting Office estimates that enactment of S. 1028 would help at least 25 million Americans each year. This would be a major step in the right direction. It would also provide much-needed momentum for future reform efforts. Equally important, it would not increase Federal spending, impose new or expensive requirements on individuals, employers, or States, or create new Federal layers of bureaucracy.

This measure enjoys wide bipartisan support in Congress and from a host of organizations, including the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Governors Association, the American Medical Association, the American Hospital Association, Independent Insurance Agents of America, and the Consortium for Citizens with Disabilities.

Specifically, the bill does the following: Limits exclusions for preexisting

VOL 142 PT 6 AP 15 — 24 1996 UMI

conditions; guarantees insurance availability; guarantees renewability; ensures portability; and allows small employers and individuals to increase their purchasing power by negotiating for more competitive rates with health plans and providers.

S. 1028 was passed unanimously by the Labor and Human Resources Committee under the leadership of Senators KASSEBAUM and KENNEDY. During this year's State-of-the-Union address, President Clinton challenged Congress to pass it quickly, and described it as the very least that can be done to help some of those 37 million with inadequate care or no care at all. It is a sound, targeted, market-based reform measure that will make it easier for millions of Americans to change jobs without the fear of losing their health coverage. It is a consensus-building approach that can lead to comprehensive reform down the road.

While it is true that this measure does not make all the necessary changes we need in the health care system, it does make a series of valuable reforms that will make a discernible difference in the lives of millions of our citizens. It does this without interfering with those parts of the system which work and without taking away the ability of States to implement their own reforms. I congratulate the bill's managers for their work and the majority leader for scheduling this debate, and urge its swift passage.

Mr. WARNER. Mr. President, it is a pleasure to rise as a cosponsor of H.R. 3103, the Health Insurance Reform Act of 1996. Over the last few years, the Senate has been on a long road on health care reform, and it is a matter of great satisfaction that we have finally reached this important milestone.

H.R. 3103, the so-called Kassebaum-Kennedy bill, represents the core of market-based health insurance reforms on which there has always been wide agreement. The provisions of H.R. 3103 were, in essence, the heart of the Republican Health Care Reform bill developed in 1994 as an alternative to the big-government top-down Clinton health plan.

The 1994 elections, which brought the first Republican majority to Congress in 40 years, provided a clear indication of the overwhelming rejection of President Clinton's plan by the American people. More than any other factor, it was the mandate of the 1994 election which shaped the policy that has guided this debate.

I cannot praise highly enough the remarkable leadership brought to this legislation by the chairman of the Labor and Human Resources Committee, Senator NANCY KASSEBAUM of Kansas. Her careful management has been discreet, thoughtful, responsive, and thorough. With her partner for the minority in this endeavor, ranking member Senator EDWARD KENNEDY, they have shepherded a unique bipartisan measure—devoid of any real controversy—which could in itself extend health insurance access to an estimated 25 million Americans who, as we say, have fallen through the cracks of health insurance coverage.

This is not a universal coverage bill. Nor does it prescribe specific benefits. It does, however, provide the level playing field which the health insurance industry has long needed to eliminate the 50–State patchwork of different rules and standards for coverage of preexisting conditions, portability, and renewability. As insurance companies will no longer have broad discretion in excluding people from coverage, all companies will be accomodating the costs of high-risk employees.

When speaking of preexisting condition problems, I always remember the case of the young father employed at a lumber mill in northern Virginia. His wife gave birth to a severely disabled child resulting in abnormally high costs for his employer's health insurance company. At the end of the year, that insurance company approached the mill owner with an impossible choice: If you retain coverage for the disabled child, your premiums will go up by 150 percent. If you exclude coverage for the disabled child, your premium will only go up by 12 percent. The mill owner absolutely could not afford the higher premium and was forced to drop the young family with the disabled child.

So, here you had a case in which an employee wished to stay with his company but had to seek coverage elsewhere. Ironically, current insurance coverage in this country may also cause the reverse: Individuals who wish to move on to another employer but cannot because a preexisting condition can preclude future coverage. They are essentially locked in their jobs for fear of losing their health insurance.

These examples of discriminatory treatment are precisely what we are trying to remedy with the Kassebaum-Kennedy bill. The legislation is good medicine for American health care.

For preexisting conditions, American workers would be required to comply with a maximum 1 year waiting period for coverage by their insurance plan. Were there no waiting period, individuals would be tempted to only purchase health insurance when they or their family members were ill—a practice which would understandably substantially undermine the fiscal strength of the insurance industry.

Once the preexisting condition waiting period has been met, and as long as health insurance premiums are paid up, there should not be a lapse in coverage if you remain with covered employers.

If you should be required to seek individual rather than group coverage, the legislation includes important safeguards for the individual market from the costs of preexisting conditions. One must first have been in group coverage for a minimum of 18 months and then fully used and paid for an additional 18 months of COBRA coverage.

Upon meeting these conditions, the individual health insurance market will be required to offer full benefits without a preexisting condition clause.

I commend the managers of the bill for their efforts to keep the legislation as uncluttered as possible with unrelated or controversial amendments. With the exception of the Dole-Roth Finance Committee amendment, which I was pleased to cosponsor, the bill has the best chance of reaching the President's desk if it remains clean.

I regret that the Medical Savings Account [MSA] provision of the Finance amendment was not retained, but I understand that it might have prompted a Presidential veto. I did support and have cosponsored in the past Senator DOMENICI's successful mental health parity amendment. I sincerely hope that it too will be retained.

Above all, this legislation must pass. We can not allow this opportunity to pass us by. These are the vital health insurance reforms we first learned of in the historic health care debate of the 103d Congress, and it is our job in the 104th to see the job through.

Mr. President, in closing, I must state that this bill is extremely significant to me on a personal level.

My father was a physician who cared deeply about his patients, regardless of their ability to pay. He died when I was only a young man, but I have always revered his legacy of caring for others. If, with this bill, we can extend health insurance coverage to 25 million Americans who now are being denied benefits, my father would be the first to urge its swift passage.

Mr. BIDEN. Mr. President, when comprehensive health care reform went down to defeat in 1994, many of us in the Senate were frustrated because we had let yet another opportunity for reforming the health care system slip away.

At that time, there was wide agreement on some elements of health care reform. I, for one, wanted to go forward with those items—even if they fell short of addressing all of the problems in the health care system. Unfortunately, political considerations on both sides of the aisle and at both ends of Pennsylvania Avenue prevented us from passing even those things we all agreed on.

Today, it appears that cooler heads will prevail. Today, it appears that the Senate will pass—and I will proudly vote for—the Kassebaum-Kennedy health insurance reform bill.

Who would have believed less than 2 years ago that we would be on the verge of passing a bipartisan health care bill. And, who would have believed

that the bill would provide real reform by addressing the most pressing problem faced by middle-class Americans—the possibility that they will lose their health insurance just because they change jobs or get sick.

Four years ago, a national survey showed that nearly one-third of all Americans had at some time in their lives been the victim of "job lock." Fearing the loss of health insurance, they stayed in a job they did not want and did not like. Two years ago, I asked Delawareans that same question—and in responding to my questionnaire, 21 percent of Delawareans said they had experienced job lock. Addressing this problem is long overdue. But, it may finally happen.

With the bipartisan Kassebaum-Kennedy bill, no longer will insurance companies be able to deny coverage for most pre-existing conditions. No longer will Americans be locked in jobs they do not want because changing jobs means losing health insurance. And, no longer will insurance companies be able to cancel a person's policy just because they get sick.

Last year, a General Accounting Office study showed that nearly 25 million Americans could benefit from legislation similar to what we are considering today. It will provide security and peace-of-mind to millions of middle-class Americans and their families.

Mr. President, the Kassebaum-Kennedy bill also provides some important help to small businesses—those who have been most devastated by the rapidly rising costs of health care. First, the bill would increase the self-employed health insurance tax deduction to 80 percent. I am a cosponsor of legislation to increase the deduction to a full 100 percent. This bill falls short of that goal, but it continues to move us in the right direction.

Second, the bill would make it easier for small businesses to join together to purchase health insurance. By pooling their employees, small businesses can spread the health risks among a large number of people and get cheaper insurance rates as a result.

And, third, the bill guarantees that all small businesses will have health insurance available to them. It prohibits insurance companies from cherry picking the businesses with the healthiest employees and refusing to sell to all other businesses. It says, if an insurance company sells to small businesses, it must sell to all small businesses. This sounds simple—even unnecessary. But, in the real world, it is crucial. When just one employee in a small business has a problem pregnancy, or has a disabled child, or suffers from some other medical condition, it often means that no one that works in that small business can get health insurance.

Finally, Mr. President, I want to address the provisions in the bill regarding health care fraud. This is something I have worked on for 4 years now. In 1992, I introduced legislation to crack down on the small number of health care providers who engage in fraud against their patients, insurance companies, and the American taxpayers.

Those who perpetrate fraud are few in number, but their crimes are large in dollars. During a hearing I held in the Judiciary Committee in 1992, it was reported that up to 10 percent of total health care spending in this country is fraudulent. That is over $100 billion in health care fraud this year alone.

My bill would have cracked down on these cynical manipulators of the system by increasing the number of Federal investigators and prosecutors going after health care fraud; doubling the penalties for those found guilty; providing rewards for patients and health care workers who come forward with information about fraud; and making sure that the guilty make restitution to the victims. My legislation passed the Senate in 1992 but was never taken up in the House.

A year later, with the leadership of Senator COHEN, health care fraud provisions were included in the Biden crime bill. But, again, the House would not go along, and they were dropped during the conference.

Now, they are back again. And, the fraud provisions in the Kassebaum-Kennedy bill are very similar to the legislation I first introduced in 1992. I want to commend Senator COHEN for his diligence in this area. But, I wish to note that while the House health care bill also contains fraud provisions, some of those provisions would actually weaken the anti-fraud laws. I urge the Senate to insist that they be stripped during the conference.

Mr. President, despite all of the good about this bill—protecting Americans from losing their health insurance, helping small businesses, and cracking down on health care fraud—it will not solve all of America's health care problems. And, it is not intended to.

The fact that it does not address a whole host of problems—including comprehensive cost control and the nearly 40 million uninsured Americans, including 100,000 in Delaware—does not mean these problems do not exist and should not be addressed. Failing to deal with these matters may be a weakness of the legislation. But, ironically, it is also the bill's strength.

Precisely because the bill deals only with the most pressing health care problems, we have a very real chance of passing a health care reform bill for the first time in my nearly 24 years in the Senate. We are on the verge of breaking the gridlock on health care reform.

The fact that it is an incremental—not comprehensive—bill is not a reason to vote against it. In fact, Mr. President, I would argue that it is a reason to vote for the bill. By passing the Kassebaum-Kennedy legislation, we will have made a downpayment on health care reform—addressing some important problems and helping meet real needs of the American people. If we show that responsible Government action can work—and work well—we will have opened the door to possible future bipartisan agreements to solve other health care issues.

I hope that we will be back to address those issues. But, in the meantime, I hope that we will not let another opportunity slip away. I hope that we will pass the Kassebaum-Kennedy bill.

Mr. SMITH. Mr. President, I rise in support of S. 1028, the Health Insurance Reform Act. This is a good bill that will help millions of Americans obtain health care.

Today, I would like to discuss four provisions that I believe are central to meaningful health care reform. For years, I have said that Congress should pass targeted reforms that take care of these core issues, and this bill does address three of them. They are: health insurance portability, full tax deductibility for long term care insurance, and deductibility of health insurance for the self-employed.

Let me just say for now that we missed a tremendous opportunity to enact tax deductions for medical savings accounts, or MSA's. I will go into that issue in more depth later, but I am very disappointed about its removal from this bill. I can only hope it will prevail in conference.

Health care reform is a very complicated and sensitive issue. Before we start restructuring one of the most important sectors of our economy, we need to study the issue thoroughly. We must make sure we approach it in the proper manner, and listen to all concerns.

In 1994, I was host to a statewide health care conference that featured leading policy experts from every facet of the health care system. I invited doctors, providers, nurses, patients—everyone who would be impacted by health care reform. From this, everyone who participated gained a greater understanding of the complexities of our health care system.

Since that time, I have held citizens' forums to discuss the issue in each of the 10 counties in New Hampshire. In addition to this outreach, I also met privately with every interested group to discuss their specific concerns more deeply.

This is the way to approach this issue—open, public forums, where all of the interested parties get to voice their concerns and share their views. I think the lesson of the White House Task Force, which produced the Clinton reform proposal, is that secret meetings and back room deals are not the way to

VOL
142
PT
6
AP
15
—
24
1996
UMI

approach a critical issue like this. Congress must act from a position of genuine consideration and understanding.

The very best part about open forums is that you get a very good sense of what people want, and don't want. In my experience, I hear overwhelming opposition to a Clinton-style government-run health care system. At the same time, I also hear avid support for the four reforms that I will now discuss.

The first concern is that health insurance should be "portable." I feel very strongly about this issue, as I know the rest of my colleagues do. It is of particular concern to individuals who have preexisting conditions. These are people who are terrified of leaving their jobs, being fired or laid off, changing their jobs, or starting their own businesses—because of the risk of becoming uninsured.

The freedom to change jobs, or even to become self-employed, is one of the cornerstones of our free market economy. When we picture the America dream, we think of a family, a home, children, a college education. But, I think a big part of the American dream is finding a job that you enjoy, one that fits your interests and skills, and working your way up the ladder of success.

This is not always easy. Some people get lucky early in life. They find a good employer and work their way up the company ladder. This was the predominant trend years ago. But for most of us today, the ladder does not go straight up. An individual works at a job for a while and finds that it does not suit him. He may not get along with his boss. Or, maybe he wants to move. Perhaps he wants a larger salary. There are countless reasons why people change jobs these days, and it is a very healthy process. In fact, it has been reported that individuals today hold an average of seven jobs over the course of a lifetime.

I have held a number of different jobs throughout my career: teacher, real estate broker, public servant. As I think back, I don't know whether I would have been as comfortable making some of the career decisions I did if I had to risk losing health coverage for myself and my family.

The greatest fear that most Americans have in changing jobs is the fear of losing their health coverage. There is a term for it now: "Job Lock." It is the one concern that I hear about over and over again at my citizen forums and constituent meetings.

And, it is a concern that applies to the people in our society who are the most vulnerable—people who have chronic health problems, disabilities, injuries, or illnesses. For many of these Americans, finding and holding a job that fits their abilities and interests is not an easy task. For many of these people, there are additional issues related to daily living, caring for children, maintaining a home, transportation, paying the bills, that are particularly challenging for them. The last thing they need, on top of all that, is to be denied health insurance. Most of them have been paying into insurance plans for their whole lives. Now, because they have left their employer, they risk losing everything. It is unfair.

Mr. President, it isn't just the worker who benefits from portability reform. In the same way that an employee can become unhappy with his job, sometimes the employer has reasons to let one of his workers go. These employers face tough decisions. It might be a small business owner who finds that he can't balance his books without making some reductions. It is always a tough situation to face, but these are the economic realities of the business world.

But what if this same small business owner knows that an employee, perhaps a close friend, has a preexisting condition of a family member with one? This employer has a terribly difficult decision on his hands. He can keep his employee on, just so that the employee can maintain his health coverage—perhaps risking bankrupting the business—or he can lay him off and let him go without insurance. Health portability is probusiness, because it would allow a small business to make those tough decisions while having the peace-of-mind in knowing that the employee and his family would not lose their health coverage.

I have said publicly for years that Congress should do something about portability, and that we do not need socialized medicine to do it. This bill proves that. My State already has an extensive guarantee issue law, so the group-to-individual portability provisions would be superseded by the New Hampshire law. But, frankly, the Kassebaum-Kennedy portability provisions are much more modest than those enacted in my State of New Hampshire.

Next, I would like to address the important provision in the bill that provides for an 80 percent tax deduction for health insurance for the self-employed.

Mr. President, in discussing the portability provisions, I briefly touched on the issue of individuals who, for one reason or another, choose to be a self-employed. Whether it is running a corner store, or even a family farm, many Americans rely on self-employment for their survival. Additionally, these are many Americans who, for a variety of reasons, from physical disability to spending time with their children, find working at home to be the most appropriate and fulfilling way to earn their income.

For these self-employed Americans, health insurance can be a very expensive proposition—so expensive that many choose to go without coverage. There are three main reasons for this.

The first and most obvious reason is that the self-employed have to pick up the full cost of the premiums. Most Americans get insurance through their employer. They pay a portion of the premium, but the best is paid by their employers. For these Americans, there is a big incentive to take advantage of this benefit. But the self-employed are forced to pick up the entire premium. This just goes with the territory. The reason I am pointing it out is to highlight the fact that tax deductibility is particularly important for these Americans.

The second reason it is so expensive is that individual insurance is much more expensive than group insurance. When I say group insurance, I am generally talking about employer-based insurance.

The reason that group plans are cheaper is because the risk is spread over a broad group of people, sick people and healthy people. But, due to the costly nature of individual insurance and the unfavorable tax situation, healthy individuals are less inclined to buy individual plans. Many of them simply choose to go uninsured. Consequently, because there are fewer healthy individuals to spread the risk, individual insurance is very expensive.

But the primary reason is the tax situation. And this is very easy to fix. Employers get a 100-percent tax deduction for their contribution to an employee's health premiums. Earlier their year, we did raise the self-employed tax deduction to 30 percent. But, I believe that this is still unfair. It ought to be 100 percent for everyone—employers, self-employed, and the individual policy buyer whose employer does not offer health insurance.

This bill raises the deduction for the self-employed insurance premiums to 80 percent. This will go a long way toward eliminating the powerful disincentives for self-employed Americans to buy insurance. It phases the deduction in over 10 years. While I still wish it were 100 percent, and I would like to see it changed right away, this is indeed progress.

In addition to helping the self-employed, this bill has a provision that is of great concern to Americans who wish to purchase long-term care insurance. Just today, I had a constituent visit my office from the Alzheimer's Association. Among her primary concerns was this provision to amend the tax code to make long-term care insurance and expenses tax deductible. I know this disease very well, because my father-in-law had Alzheimer's, and I know how expensive long-term care can be.

Health care is important, but for many, such as those with Alzheimer's disease, it is activities related to daily

living that are the problem. The bill specifically defines these activities to include "eating, toileting, transferring, bathing, dressing, and continence."

Under current law, health insurance is tax deductible. But long-term care insurance gets taxed. This bill would provide the same deductibility for long-term care that is currently afforded to health care.

Mr. President, the final provision that I would like to discuss is not in this bill, and that is the tax deductibility for Medical Savings Accounts. It was in the Senate Finance Committee's amendment, and it was in the House bill. Unfortunately, this vital provision was defeated on the Senate floor by a vote of 52 to 46.

I have discussed the important provisions for self-employed Americans, and employer-based benefits. But, there is another group of people who are in desperate need of help, and that is individuals who are not self-employed, but whose employers do not offer an insurance plan. Many of them are restaurant workers, farm workers, or other people who work for a small employer who cannot offer or chooses not to offer an insurance package.

Under current law, these workers get no tax deduction whatsoever. Not 100 percent, not 30 percent—nothing. It is the same for Americans who are unemployed.

Huge corporations get a 100-percent tax deduction to subsidize their employees' insurance premiums—from the CEO on down. But someone living paycheck to paycheck whose employer can not provide them with insurance—or someone who is unemployed—gets taxed on the full premium.

There are provisions in both the House and Senate bills to allow small businesses join together and form purchasing pools in order to buy insurance at lower rates. The House provisions were somewhat stronger than those in the Senate bill. I am confident that the conferees will work to produce a final version that would greatly increase the number of small businesses that offer insurance to their employees.

As helpful as these provisions will be in increasing access to insurance, there will still be millions of Americans whose employers don't offer insurance, or who are unemployed. For these Americans, there is only one provision that would have helped them—and that is the full tax deductibility for Medical Savings Accounts, or MSA's.

I can't understand why my colleagues would have voted against it. It will obviously be an important issue in Conference, and I am hopeful that it will make it into the final package.

Some have suggested that if we include MSA's in the conference report that it will provoke opposition or even a filibuster by the Democrats. I find it very hard to accept the proposition that Senators would filibuster health care portability reform solely on the basis that we give tax relief for Americans to put money in a savings account for health expenses.

I believe that MSA's are vital to true health care portability. By definition, MSA's are the very essence of portability. When we talk about insurance "portability" as it pertains to the underlying Kassebaum-Kennedy bill, we are using the term figuratively. The employee isn't really bringing his insurance with him, we are just providing him the freedom to shift from one plan to another without being denied coverage.

So, lets take the example of an individual who works for a company for 20 years, and becomes disabled or ill, and must leave his job and give up his employer-based health insurance. Under the bill, he would be able to buy an individual insurance policy. The insurers would have to take him. But it says nothing about how much the insurer could charge.

So, when he goes to the individual insurance company, the company is going to evaluate him in terms of the health risk that he poses to the plan. It does not matter if he was insured for 3 years or 30 years, the insurance company would consider only his current health status in determining the premium he would pay. Those 30 years of payments mean nothing to the new insurance company.

The only provision that would allow him to transport at least a portion of his coverage is the medical savings account [MSA]. MSA's allow individuals to supplement their insurance policy by investing a certain amount into a tax-free savings account and using that account to pay for their predeductible medical expenses. Any money that the patient has not spent at the end of the year would remain in his account.

It is portability in its most pure form. Because it stays with the employee if he change jobs, because it is his account. If he gets fired, and cannot find a job, he still has the MSA. He could even use the MSA to pay his insurance premiums while he tries to find a job. If he moves to a plan that provides a lower level of coverage, he would still have his MSA money to pay for the uncovered expenses. I feel that he should get a tax deduction for this account, just like Americans get for their individual retirement accounts, mortgages, charitable contributions, and health insurance.

But, there is another reason that MSA's are important to real health care reform, and that is the increased use of preventive health services. I really believe that preventive health care is the solution to many of our health problems.

Most insurance plans have a deductible that people need to meet before their insurance company pays for coverage. This acts as a built-in disincentive for individuals to use preventive health services, and I believe it needs to be at the center of health care reform.

For example, let us say a person has an illness such as diabetes. In order to avoid major health problems, they need to maintain an adequate insulin balance, appropriate diet, and so forth. This can become very costly when the patient must pay for needles, insulin, monitoring devices, perhaps dietitian services, and other costs. If these services are not covered, the individual must pay out of pocket. This discourages the use of preventive health care.

The unfortunate result is major health problems for these people. For diabetes patients, it might even mean a foot or leg amputation—major short term and long term costs to the insurer, the individual, and his family. Of course, add to that the years of pain and hardship that result from this perhaps preventable situation.

Let me explain why MSA's encourage preventive health care. The three major issues that result in individuals not getting preventive health care are: deductibles, copayments, and uncovered or partially covered services. In these three situations, the individual is forced to come up with the money on their own, without help from the insurer. In some cases, this forces the individual to choose between the expenses of daily life—food, rent, heating bill—and paying for the preventive health services. Not surprisingly, it is the preventive services that are often pushed aside.

Millions of Americans believe that managed care, so-called health maintenance organizations [HMO's], are the solution to cost control and preventive health care. I would concede that HMO's have done some great things in controlling health care costs in our country. But HMO's still leave the issue of uncovered expenses. There is also the problem where many Americans do not want to join the HMO because they might not be able to keep going to their family doctor, if the doctor does not belong to the HMO.

With an MSA, there are no predeductible expenses, no uncovered health expenses, no copayment as long as the individual still has money in his MSA. So the disincentives that discourage individuals from obtaining preventive health care are greatly diminished.

A March 14, 1995, policy analysis done by the Cato Institute addressed the successes of MSA's in the current system. Even without the favorable tax treatment, the paper states that in its experience with MSA's under the current system, Golden Rule Insurance Co.'s employees increased their use of preventive care.

> About 20 percent of the workers with MSAs reported that they used their MSA funds to pay for a medical service they would not

VOL
142
PT
6
AP
15
—
24
1996
UMI

have bought under the traditional health insurance policy. That is because the MSA provided the funds at hand that they could use to pay for such services, whereas the traditional policy imposed deductible and coinsurance fees that actually discouraged the use of such services. Moreover, the traditional policy might not cover some services, and the uncertainty alone discouraged workers from obtaining preventive care. But workers know that MSA funds can be used for whatever services they choose.

So we can philosophize all we want about why it happens, but I like to look at the hard evidence. When we look at the facts, MSA's increase the use of preventive care.

Mr. President, recently this issue has somehow become a partisan issue. Some Democrats have put themselves in the awkward position of saying that people should have to pay taxes on their predeductible health care expenses, copayments, prescription drugs, and other uncovered expenses. They can try to explain that to the voters when the election comes around.

But, I think it is worthwhile to briefly review the record here, because historically, this has been a very bipartisan issue, and my colleagues on the other side should be aware of this before they fall on their swords over this so-called controversial provision.

I have a series of letters and a television transcript here from House and Senate Democrats in support of MSA's, including Representatives ANDREW JACOBS, ROBERT TORRICELLI, and House Minority Leader DICK GEPHARDT, as well as Senators JOHN BREAUX, SAM NUNN, and the distinguished Senate Democratic leader, Senator DASCHLE. I also have a letter from the National Mineworkers.

These materials clearly show that MSA's have enjoyed broad bipartisan support in the past, and I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

Mr. President, this bill is not perfect. I am sure all of us have changes we would make. I know there are a number of provisions that I would like to see added to the bill. But I am going to vote for it, because I believe it is a big step in the right direction. After the failure of the Clinton socialized medicine plan, Republicans said that we needed a change. We promised Americans that if they gave us a chance, we would give them a real health reform bill—without Big Brother, without the "standard benefits package," without rationing care. We promised them portability and tax relief for the self-employed, and long-term care. We have made good on our promise to the American people and I urge my colleagues to support this legislation.

I ask unanimous consent that letters and a television transcript to which I earlier referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, April 17, 1996.
Hon. WILLIAM J. CLINTON,
President, The White House, Washington, DC.

DEAR PRESIDENT CLINTON: As original cosponsors of Medical Savings Accounts (MSA) legislation in the House of Representatives, we urge your review of and your public support for this wonderfully innovative idea.

The recent vote on the House Republican plan should not be used to judge the Democratic Party's position on MSAs. As you know, MSAs have become a major plank in Congressman Torricelli's health care platform in his Senate race.

We cannot think of a more Democratic idea than MSAs. In fact, it *was* originally our idea. We want Democrats to get the credit for it. In the Senate, Democrats John Breaux, Tom Daschle, Sam Nunn and David Boren initiated the idea.

Dick Gephardt included MSA's in the House Democratic Leadership bill in 1994. There were 28 House Democrats who cosponsored our initial MSA legislation. There are currently three Democratic U.S. Senate candidates who have supported MSA legislation: Dick Durbin, Tim Johnson and, of course, Bob Torricelli.

You also should know that the current contract of the United Mine Workers provides its members with MSAs. We do not believe the UMW qualifies as healthier and wealthier than the general population—a charge leveled by uninformed MSA opponents.

MSAs will hold down health costs and be a boon to lower income employees, single working mothers, as well as the lower and middle income employees all across America. With MSAs, people are rewarded for shopping around and can, in many cases, for the first time spend first dollar health insurance dollars (there are no deductibles or copayments) on dental care, vision, mammograms, alternative medical therapies, etc.

Mr. President, we believe MSAs will be a huge benefit to the American public. MSAs are not a partisan issue. Democrats supported MSAs in the 102nd and 103rd Congresses and we support them in this Congress because they are a good idea that increases access, controls costs and extends options.

Sincerely,
ROBERT G. TORRICELLI,
Member of Congress.
ANDREW JACOBS, Jr.,
Member of Congress.

CONGRESS OF THE UNITED STATES,
Washington, DC, March 27, 1996.
Medical Savings Accounts

DEAR DEMOCRATIC COLLEAGUE: Many interest groups are posturing on the health insurance reform issue. A few are to draw an imaginary line in the sand on Medical Savings Accounts. Medical Savings Accounts should not be a partisan issue.

Please note:

1. Democrats were the initial sponsors of MSAs.
2. MSAs passed the House Ways & Means Committee unanimously in May 1994—when Democrats were in control. Obviously, in 1994, we believed it was part of the solution.
3. MSAs are included as the "sense of the committee" in the Kassebaum-Kennedy bill.
4. MSAs do not favor the young and healthy any more than optional conventional health insurance in the workplace. MSA funds can be used for diabetic maintenance testing and other procedures not generally covered by traditional health insurance. MSA funds can be used for orthodontia care which is also not generally covered.

Health insurance reform is too important to allow the posturing of a few to kill it.

Sincerely,
ANDY JACOBS, JR.
BILL LIPINSKI.
GLENN POSHARD.

U.S. SENATE,
Washington, DC, September 8, 1992.

DEAR COLLEAGUE: The United States is faced with a crisis in health care on two fronts: access and cost control. So far, most of the proposals before Congress attempt to deal with access but do not adequately address the more important factor—cost control. We have introduced legislation that will begin to get medical spending under control by giving individual consumers a larger stake in spending decisions.

We have introduced a bill, the Medical Cost Containment Act of 1992 (S. 2873), which would allow employers to provide their employees with an annual allowance in a "Medical Care Savings Account" to pay for routine health care needs. This allowance would not be subject to income tax if used for qualified medical expenses. Any money not spent out of a given year's allowance could be kept by the employee in an account for future medical needs during times of unemployment or for long term care. In order to protect employees and their families from catastrophic health care expenses above the amount in the Medical Care Savings Account, an employer would be required to purchase a high-deductible catastrophic insurance policy.

Unlike many standard third party health care coverage plans, Medical Care Savings Accounts would give consumers in incentive to monitor spending carefully because to do otherwise would be wasting their "own" money. That is, money that they would otherwise be able to save in their account for future needs.

Once a Medical Care Savings Account is established for an employee, it is fully portable. Money in the account can be used to continue insurance while an employee is between jobs or on strike. Recent studies show that at least 50% of the uninsured are uninsured for four months or less.

Today, even commonly required small dollar deductible (typically $250 to $500) create a hardship for the financially stressed individual or family seeking regular, preventive care services. With Medical Care Savings Accounts, however, that same individual or family would have this critical money in their account to pay for the needed services.

We feel that, while the Medical Care Savings Account concept does not provide the total solution to the crisis in health care access, it does begin to address the critical aspects of increasing costs and utilization by consumers.

We hope that you will join us as cosponsors of this legislation. If you have any questions please contact us or have your staff contact Laird Burnett of Senator Breaux's staff at 4-4623.

Sincerely,
JOHN BREAUX.
DAVID BOREN.
TOM DASCHLE.
RICHARD LUGAR.
DAN COATS.
SAM NUNN.

[From CNBC's "Equal Time"—Aug. 2, 1994]

MARY MATALIN. You think the Medical Savings Accounts are going to make it through conference?

DICK GEPHARDT. Absolutely. This is an idea the Ways and Means Committee has worked

on for three or four years. It's very popular. A lot of people like that option and I think it will be in the final bill. I think it's a great option.

JULY 29, 1994.
Hon. PAUL SIMON,
U.S. Senate, Dirksen Building, Washington, DC.

DEAR SENATOR SIMON: An amendment to the Health Care Package has been offered to add a medical care savings account provision. The United Mine Workers have a similar provision in our current contract that is anticipated to produce a significant savings to our previous insurance. If the amendment offered is consistent with the objectives of our contractual health care provisions, the United Mine Workers in Illinois would support it. The options of utilizing a medical care savings account may assist in solving the Health Care problems in this country.

Another concern of our members is the possible taxation of benefits. Any provisions that allow for taxation of health care benefits would be totally unacceptable. Over the years, the United Mine Workers have negotiated a total package for our members. Advances in wages and other fringe benefits have suffered because of the high cost of health insurance. Taxation of health care benefits would be a slap in the face to the miners in Illinois who agreed to maintaining their health care in lieu of other benefit increases.

I appreciate your efforts on behalf of our members as well as all Americans during the health care debate. I believe that everyone in the United States must be afforded quality comprehensive health benefits without the fear of losing these benefits through job loss.

Sincerely,
DAN REITZ,
COMPAC Coordinator, District 12, U.M.W.A.

Mr. KEMPTHORNE. Mr. President, I support the Health Insurance Reform Act, for the simple reason it will help provide more accessible and affordable health insurance to more Americans.

The Health Insurance Reform Act helps those who are now unable, for reasons beyond their control, to buy health insurance. It prevents insurance companies from denying coverage to individuals with preexisting conditions, while ensuring that individuals are not able to take unfair advantage of the system by only purchasing coverage when it is actually needed. It prevents job-lock by guaranteeing that individuals who are covered by an employer-sponsored policy will not lose their coverage by changing jobs. It also allows individuals and small businesses to join together to purchase insurance, thereby leveraging their negotiating power to gain better rates and/or benefits. In addition, the bill makes health care more affordable by gradually increasing the deductibility of premium costs for the self-employed to 80 percent—a move which will be of great benefit to the more than 56,000 self-employed Idahoans. I am also pleased to note the bill allows for the cost of long-term care insurance and expenses to be deductible—another of the reforms I have supported since before I joined the Senate. And the Health Insurance Reform Act achieves all these goals without unnecessary Federal intrusion into the health care system.

This bill is the result of the heated and controversial debate over health care policy 2 years ago. You will recall Congress and the American public rejected the proposed Government takeover of health care, but recognized that targeted reforms were needed in health insurance.

The crisis in health care is that too many people are being denied health insurance. That is why, 2 years ago I introduced legislation to address those market reforms on which I knew there was broad agreement. While the details of my bill differ in many ways from the bill we passed, I am pleased to note many of the concepts I embraced then—increasing access to health insurance, portability, renewability, and an end to preexisting conditions exclusions—are found in the Health Insurance Reform Act. The American public said they wanted us to keep the Government out of health care, and to target our health insurance reforms to the market. With this bill, I can say the Congress listened.

I just had a clear example of why this legislation is needed. An Idahoan contacted my office last week asking if the Health Insurance Reform Act would help him. He is currently receiving disability benefits but would rather be working. His American dream is to start his own business. But he fears that becoming more productive will cause him to lose the Federal benefits which now provide him with his only access to adequate health care. If he knew that his disability, his preexisting condition, would not prevent him from gaining access to health insurance, he could start that business, to provide for himself and his family without the Federal assistance he does not really want, anyway.

During the previous Congress many of us had the opportunity to learn a great deal about the way health care is provided in this Nation. We saw aspects of the system which worked, and I would point out that the overwhelming majority of the system works very well, providing most Americans with the best health care in the world. We also learned about those aspects which needed some adjustments. And that is what we are trying to do—not rebuild health care in the United States, but make appropriate corrections to specific aspects of the system to make it work even better. Most importantly, we are achieving more affordable and accessible health care through private sector reforms.

I must, however, express my disappointment with the vote to exclude medical savings accounts MSA's from this bill. MSA's allow people to save money, tax free, to cover medical expenses. In cases where an employer provides health insurance, the employer contributes to the MSA and, again, these funds are not taxable provided they are used for medical expenses. When combined with a high-deductible, catastrophic insurance policy, MSA's provide individuals with low-cost health care coverage which provides the maximum level of consumer choice and eases many of the financial concerns which face those who need health care services. MSA's are the responsible way to increase both accessibility and affordability in health care coverage.

States are the proving ground for many innovative ideas. Idaho is one of many States to have enacted MSA legislation in recent years and numerous Idahoans have expressed their support for MSA's as a health insurance option. While I believe Idaho, among other States, should be commended for its efforts on this issue, regrettably, the full benefits of MSA's will not be discovered until they are recognized by the Federal Government and given appropriate treatment under the Tax Code. Once again, the States have shown initiative and it is time for the Federal Government to get out of the way and give our citizens the options for which they have asked. As a recent editorial in the Idaho Statesman noted, The nation loses if medical savings accounts are stripped out of the final legislation.

The bill is not perfect. Small insurers have shared their views with me that the provisions related to small group and individual coverage will actually increase the cost of individual policies, thus adding to one of the current insurance problems we face—the lack of affordability. As premium costs increase people will drop out of the system, leaving us with more uninsured and, with a shrinking market, even fewer options for those who continue to purchase health insurance coverage. Obviously, this is not the result for which we are aiming and addressing these questions should be a priority.

That said, I support the Health Insurance Reform Act because I believe it steps in the right direction toward increasing accessibility to health care insurance. Allowing those with preexisting conditions to get and keep health insurance will help ensure coverage for Americans unfairly denied access to health insurance. Providing for portability of health care coverage will help end job-lock and will ensure that those who have faithfully paid into the system will not suddenly be dropped from it. And providing for more favorable tax treatment of insurance premiums for the self-employed, and for long-term care insurance, will make insurance more affordable for numerous other Americans. These are significant reforms which I believe all of us should support, and I urge my colleagues to pass this bill.

Mr. LEVIN. Mr. President, many Americans today, particularly middle-income working families face the declining purchasing power of their wages. They are saddled with the high

VOL
142
PT
6
AP
15
—
24
1996
UMI

cost of child care, are trying to get a college education for their children, working to reach the traditional American dream of home ownership and some security for their own retirement years. But perhaps most difficult is the struggle to keep up with the sky-rocketing costs of health care which many are forced to face without adequate health insurance.

Americans want health insurance which covers all Americans, which is affordable, protects the quality of their health care, and can never be taken away. Today, the Senate, I hope, will take a first step in that direction. This legislation does not address the costs, but takes a very important step in protecting the availability of health insurance for many Americans.

I support the legislation before the Senate today. I am pleased to be a cosponsor of this health insurance reform measure, along with 55 of my colleagues in the Senate. Although it does not solve and does not attempt to solve all of the problems of the present system, it does address some of the most pressing concerns that middle-income Americans have expressed about the diminishing availability and portability of health coverage for themselves and their families.

This bill makes important changes that will protect those who currently lose their insurance coverage because they lose their job or change jobs. And, it protects those who are unable to attain health insurance because of a preexisting medical condition, or who now lose it when they get sick.

One of the consequences of the present health insurance system is that it creates what is often called "job lock"; that is workers who want to change jobs to improve their careers are forced to give up the opportunity because it means losing their health insurance. A quarter of all Americans say they have been forced to stay in a job they otherwise would have left, because they were afraid of losing their health insurance. This bill ends job lock.

Under the Kennedy-Kassebaum reform bill, exclusion of a preexisting condition will be limited. Employer-provided health plans will not be able to limit or deny coverage for new employees for more than a year because of a medical condition that was diagnosed or treated during the previous 6 months for employees changing plans. No new limit on preexisting conditions may then ever be imposed on those who maintain their coverage, even if they change jobs or their employer changes insurance companies. Cancellation of policies for employees who continue to pay their premiums will be prohibited. Employees coverage can no longer be terminated because they become sick. No employers who want to buy policies can be turned down because of the health of their employees.

Mr. President, I am especially pleased with significant improvements in coverage for pregnant women and newborn children. Under the bill, pregnancy can no longer be considered a preexisting medical condition as is presently the case with some health plans. In some such situations, the mother has no prenatal coverage for pregnancy related services.

The bill also contains a special enrollment period for change in family composition. Under this provision, newborns whose parents wish to enroll them in their group health plan within 30 days of birth may not be excluded from coverage under a group or individual health plan during the child's first 12 months of life.

Additionally, as is the case with individuals who are previously enrolled, children cannot be subject to a preexisting condition exclusion once the condition has been diagnosed, if the condition was previously covered. This provision is intended to ensure that children under the age of 1 are not subjected to new preexisting condition exclusions when their parents change jobs or health plans simply because of their age.

Mr. President, this legislation helps real people. It will help Mike and Elizabeth Gregory of Gains Township, MI. When Mike Gregory was left jobless due to his company's downsizing, his wife Elizabeth and their two daughters lost their health coverage. This situation primarily impacted their youngest child, Danielle, who has cerebral palsy. Only one of the three plans at Mike's new place of employment offers insurance that will not limit coverage for Danielle's preexisting condition, thereby limiting their choice and therefore their selection of benefits.

Barbara Barton of Grand Rapids suffers from MS. She was forced to leave her job in order to reduce the stress that worsened her symptoms, which included temporary blindness and difficulty walking. Ms. Barton was forced to wait 6 months to get health coverage, since MS is classified as a preexisting condition. Under this bill, she would have been eligible to move to an individual health insurance plan immediately.

Fear of losing health coverage for Mr. Al Miller's preexisting condition prevents his wife from seeking a higher-paying job. The Millers are from Charlotte, MI. Mr. Miller has MS.

Mr. Michael Peel of Flint recently changed jobs and is covered under COBRA has a 2-year-old son with a number of physical ailments. He and his wife are expecting their second child and fear they will not be able to get coverage under Mr. Peel's new job that does not exclude his preexisting condition.

Steven West of Nashville, MI, spoke to me about problems he and his wife Lori have experienced in attaining health insurance coverage for their son, Jacob. Jacob has multiple birth defects. Steven has been able to negotiate coverage at his current job, but fears that he is trapped there by Jacob's needs. Steven has an opportunity to move to a better job, but has been unable to do so because the health coverage would not take care of Jacob.

Mr. President, these are just a few real people in my home State of Michigan who stand to benefit from this legislation, there are thousands like them. I want to commend my colleagues Senator KASSEBAUM and Senator KENNEDY for forging a bipartisan approach to addressing this critical issue. While I would prefer for the Senate to be passing more far-reaching health reform today, perhaps covering all American children, for example, I believe this bill is an important step forward and I urge its enactment.

Mr. MACK. Mr. President, I would like to thank my colleagues for postponing final passage of the Health Insurance Reform Act until my return. The legislation which we will pass today is the straightforward health insurance reform which my constituents have been telling me they want for many years.

The American people rejected the big-government, big-bureaucracy social experiment which the Clinton administration developed—in secrecy, I might add—in 1994. People don't want a one-size-fits-all, government-controlled health insurance system. Americans won't tolerate having a Government board deciding for them which procedures are medically necessary and appropriate. And we know from leading economists that price controls produce shortages, black markets, and reduced quality. Therefore, most Americans and those of us who serve them in Congress rejected the Clinton health care plan.

Two years later, under Republican leadership, we are addressing the aspects of health insurance reform which most people outside the beltway want us to address. We will provide portability of health insurance, which will help put an end to job lock. Insurers will no longer be able to deny coverage due to preexisting conditions. As a cancer survivor, I know personally how important this provision of health insurance reform is to patients.

The legislation ensures guaranteed renewability of policies, with the exceptions of fraud and nonpayment of premiums. It will help the self-employed by increasing the deductibility of health insurance premiums. It facilitates the establishment of voluntary coalitions of small businesses and individuals to negotiate and purchase health insurance. Finally, the legislation provides tax incentives for the purchase of long-term care insurance, and tax-free treatment of accelerated life insurance benefits for those with chronic or terminal illnesses.

I am especially grateful to Senators KASSEBAUM and KENNEDY for agreeing to include genetic information in this important legislation.

I cochaired a hearing with Senator FEINSTEIN last September to examine the issue of genetic information and health insurance. We listened to patients, researchers, biomedical ethics experts, consumer advocates, and others who made the case that Congress must address this complex issue now.

Why now? Because the scientific data and technology for genetic testing are here; but the social, ethical, and legal ramifications have only begun to resonate beyond the scientific community. Put another way: The science of human genetics research is on the Concorde. Yet the legal, social, and ethical debate about how to handle the information in our society has been stuck at Kitty Hawk trying to get off the ground.

This legislation takes an important first step by clarifying that employer-based plans cannot deny coverage, or charge higher premiums, to individual employees based upon their health status, including health status based upon genetic information. While this may not have significant implications today, it certainly will by the end of the decade when international scientists complete the mapping of the entire human genome.

There is still more which needs to be accomplished in this area, such as ensuring the privacy of medical records and prohibiting employment discrimination based upon an applicant's genetic information. Senator HATFIELD, Senator FEINSTEIN, and I look forward to working with our colleagues to enact our legislation to address these concerns.

Today is an historic moment in our Nation's history. We will ensure that all Americans have access to health insurance coverage while maintaining the freedom to choose providers and benefits. We will preserve our system with the highest quality of care and continue to foster research, innovation, and competition. We will provide employers with the positive incentives to provide health insurance coverage for their employees, and provide tax equity for the self-employed to acquire insurance for themselves and their families.

All of this will be accomplished under the system which has served as the bedrock of every great stride our Nation has made—not through higher taxes, more Government, and more bureaucracy, but rather through free markets and free choice.

Mr. THOMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent I be allowed to speak briefly as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERM LIMITS

Mr. INHOFE. Mr. President, I have been watching and listening with a great deal of interest to the debate on term limits. I think there are a lot of us who believe that, regardless of the arguments that come forth on term limits, there are not many minds that will be changed in this Chamber. But many of us have been concerned about the term limits issue long before we got to Congress. I know I became interested in it back in the 1970's, long before I was a Member of Congress.

I think a lot of the reason is that you look and you see the things that are going on in this country, and you see that there is a necessity to change the way we have been doing business.

One argument that has not been used during the course of this debate, that I have heard anyway, is the argument that if we had term limits, it would deter a lot of people from getting into a legislative position for perhaps the wrong reasons. I think quite often people with whom I have served who came here to Congress directly out of college never really had a real job in terms of the real world and did not have any idea of how tough it was out there.

I look at a lot of the things that passed, such as the deficit that has piled up over the years. Certainly, in my position, I look at this as if this is a moral issue, and it is not going to be changed until we are able to change the type of individuals that serve here.

We have excellent people serving here in Congress, but the thing that has always been a problem with me is that people who come to Congress, never having been exposed to the real world, have a different set of values and have a different outlook on life than we have.

I would agree with some of the previous speakers that we ought to have a situation in America where Members of Congress should all have to go out and make a living under the laws that they pass, and we would not have these problems.

Someone not too long ago said that we have an overregulated society here. We certainly do. It is overregulation which mostly came about by people who have been in Congress for their entire adult life. This is something that can be changed.

I am not optimistic that anything is going to happen with this today. But I will say this. There is going to be a record that will be established so that people who are running for office will know that the public will know how they stand on this very contentious issue. Over in the other body, in the House of Representatives, there is a Contract With America; 9 of the 10 items were passed over there. The tenth one that was not passed was term limitation.

I believe it is something that is very healthy for our system, something that we all need to get on the record, and I think we will have that opportunity today. I believe that is in the best interest of this country.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH INSURANCE REFORM ACT

The Senate continued with the consideration of the bill.

Mrs. KASSEBAUM. Mr. President, first before we go to the closing statements on the health insurance reform bill, I would like to yield the floor 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota, [Mr. GRAMS] is recognized for 5 minutes.

Mr. GRAMS. Thank you very much, Mr. President.

Mr. President, I rise today to offer my strong support for the Health Insurance Reform Act, and I commend the distinguished chairman from Kansas and the Senator from Massachusetts for drafting legislation which seeks to ensure affordable, accessible health insurance for all Americans.

In September of 1993, President Clinton and the First Lady presented a sweeping health care reform proposal which they believed would resolve the health care problems facing many in our country. They said we needed to make insurance portable . . . they said we needed to protect individuals with pre-existing conditions . . . and they said we needed to bring down the rising costs of health insurance. I agreed with the problems identified by the President, however, I strongly disagreed with the solutions he proposed.

Crafted during a year of closed-door meetings by the White House's Health Care Task Force, the Clinton plan set in place global budgets, price controls, tax increases, reduced choice and rationing—all housed within a massive, new layer of Federal bureaucracy. Fortunately, Americans recognized the President's plan for what it really was—a government takeover of the Nation's health care system, and they had the good sense to reject it.

Mr. President, I believe government-controlled health care failed in 1994 because the President underestimated

VOL
142
PT
6
AP
15
—
24
1996
UMI

the ability and desire of Americans to make their own health care choices, free from government intrusion or control. Only by empowering consumers, rather than the Government, will we allow the marketplace to evolve into a quality, cost-effective, and responsive health care provider, able to offer affordable insurance to all Americans.

While socialized medicine failed in 1994, Americans did embrace four important concepts which emerged from the health care debate: health insurance should be accessible, it should be affordable, it should be portable, and pre-existing conditions shouldn't disqualify anyone from obtaining health insurance. Those principles lie at the heart of the Health Insurance Reform Act.

It is estimated that 43 million Americans went without health insurance in 1995. According to the Minnesota Health Care Commission, the number of uninsured Minnesotans has remained stable for the last 5 years at approximately 400,000 individuals, or nearly 9 percent of the State's population. That is below the national average of close to 15 percent uninsured but still too high.

Mr. President, what keeps health insurance out of the reach of so many? The two main barriers are access and affordability.

A majority of Americans under the age of 65 are insured through their workplace. Many job providers, however—small employers in particular—find themselves shut out of the health insurance market when it comes to obtaining affordable coverage for their employees.

And even insurance obtained through a job doesn't last forever, because few Americans stay with a single employer throughout their entire work career. Each year, 18 million Americans change insurance when a family member moves between jobs, often stranding them without insurance and usually forcing them to find new coverage. Many who are unwilling or unable to risk going without insurance just stay put. A Washington Post/CBS News survey found that one quarter of all American workers experience "job lock"—they are staying in jobs they would otherwise leave because they are afraid of losing their health coverage.

Another flaw of our insurance system is that it offers little protection to individuals or their family members suffering from major health disorders. Because they are victims of what are known as "preexisting conditions," these Americans are denied insurance because of the cost they represent to the system.

Americans who play by the rules, who buy health insurance when they are healthy, should be allowed to keep it when they get sick. This is why I supported Senator JEFFORDS' amendment which would have raised the lifetime cap on insurance policies.

Individuals buy health insurance to not only ensure treatment for relatively minor medical problems—strep throat and the occasional broken bone, for example—but also to protect themselves against crippling accidents or catastrophic illness. It is important that these individuals continue to be covered by their private insurance company. If they are dropped, their only alternative is to spend-down their assets in order to qualify for Medicaid.

This moves more patients into the Medicaid program, overloading the taxpayers and a system that is already buckling under heavy costs.

This is unfair to those individuals who have played by the rules, and I will continue to work with the Senator from Vermont to address this issue.

Expanding access to insurance, allowing individuals to move between jobs with insurance policies that can move with them, and preventing insurance companies from denying coverage based on a preexisting condition, is precisely what the Health Insurance Reform Act attempts to provide.

The Federal Government's General Accounting Office estimates this legislation would open the door to health insurance for 25 million more Americans.

Americans will no longer be forced to decide between taking a new job or losing their medical coverage—the Health Insurance Reform Act guarantees health care that is always there, regardless of where an employee works or even if they work at all.

My own State of Minnesota embarked on reforming its health care delivery system long before most of the rest of the country.

For three decades, we have debated these very same issues and worked long and hard to achieve portability, renewability, and the elimination of preexisting condition exclusions, thereby increasing the number of insured.

Minnesotans have been innovative and progressive in reform of our health care marketplace.

We have celebrated success and we have endured failure.

While our system is far from perfect, our legislators, our health care community, and our constituents continue to work to improve the delivery of quality health care and guarantee its affordability in Minnesota.

One of this bill's most beneficial aspects is the flexibility it gives States to create and administer their own health insurance reform programs—away from Washington's control.

Under this legislation, States such as Minnesota, which have already implemented reforms, are exempted from any changes established by the Kassebaum-Kennedy bill.

Furthermore, Minnesota has already enacted laws in the large group, small group, and individual markets which go beyond what is laid out in the Kassebaum-Kennedy legislation.

That includes guarantee issue, guaranteed renewability, limits on pre-existing condition exclusions, a State risk pool for uninsurable individuals, and reforms to enhance and encourage the bargaining power of small businesses.

The Kassebaum bill will have minimal effect on most of my constituents, but it will provide new portability and access protections for Minnesota employees and their dependents.

It does so by requiring insurers to guarantee issue coverage to plans with 50 or more employees, which includes self-insured plans not currently providing these protections.

I am disappointed that medical savings accounts are not part of the Senate bill.

I am encouraged, however, by the large number of my colleagues who share the majority leader's commitment to including MSA's in the conference report. I believe MSA's would substantially enhance the legislation before us.

While this legislation will go a long way toward expanding access to health insurance, I am still concerned that the bill does not provide enough affordable access. Keep in mind that health insurance which is accessible yet unaffordable will not improve the current problems in our marketplace.

The inclusion of MSA's in this legislation is not a Republican issue or a Democrat issue—it is a Main Street issue. MSA's enhance portability and promote consumer choice, while they empower individuals with the same tax equity large corporations receive under our Tax Code.

I am deeply concerned that many of those who claim to be advocates for the so-called little guy want to deny lower income Americans the choice of medical savings accounts.

I believe MSA's are the best way we can put low-income wage earners on an equal footing with their corporate cousins in the health care marketplace.

I received a letter last week from a coalition of rural Minnesotans based in Fergus Falls called Communicating for Agriculture.

Comprised of farmers, ranchers, and agribusinesses, and boasting a national membership of 80,000, Communicating for Agriculture has been advocating an MSA-type plan since 1978.

They write;

> Managed care is not an option to hold down health care costs since [rural Minnesota] has little or no competition in health care. Without competition, you can't have managed care. MSA's allow us to spend our medical dollars where it is most convenient.
>
> It also eliminates a great amount of administrative expense which is a major contributor to health inflation over the years.

A recent study by Blue Cross and Blue Shield revealed that 43 percent of employees would definitely or probably switch to an MSA if given the opportunity. In light of this broad, public support for MSA's, we should at the very least allow individuals this choice. While the Kassebaum legislation is good and worth passing on its own merits, I certainly hope that the conference committee will adopt MSA's as part of the final version of our health insurance reform efforts this year.

As I conclude, I want to assure my colleagues and my constituents that my position on the issues before us has not wavered since I first ran for public office in 1992:

I strongly support legislation ensuring portability.

I strongly support legislation ensuring limiting preexisting condition exclusions.

I strongly support legislation providing tax equity for all Americans through medical savings accounts, and increasing deductibility to 100 percent.

And I strongly support the efforts of this Congress to deliver these desperately needed reforms to the American people.

As Congress prepares a final bill to send to the President, I will be working to ensure that provisions promoting greater access and affordability are incorporated into the final bill.

Only through such comprehensive reforms will we encourage more Americans to purchase health insurance, thereby expanding the ranks of those with coverage and eventually making health insurance more accessible and affordable for all.

Again, Mr. President, I strongly support this bill. I thank the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). Who yields time?

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas, [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. I thank the Senator from Minnesota for his support on this legislation.

If I may speak for a few moments in closing before our vote this afternoon on the health insurance legislation. For a bill that is a very modest bill with a broad consensus of support, the Health Insurance Reform Act certainly has attracted a lot of controversy. It is not a Trojan pony. It is a bill that was carefully put together, learning from the mistakes of the past and building together in the Labor and Human Resources Committee legislation that we believed could garner the broadest possible support and yet represent a meaningful step forward in health care legislation.

During the debate in the last Congress on health care, there were many questions raised of particular concern to most people. One was portability, a sense of insecurity where many Americans found they were not able to maintain health insurance if they lost their job or changed jobs. That is what we started with—something that is clearly, I believe, a small but important step forward. It is what I believe will be very valuable to many people in this country. We recognized we were only going to be able to achieve success if the bill had the broadest support possible. And indeed, the legislation has garnered over 60 cosponsors. From there, of course, the legislation has grown to be more expansive than what we initially started with.

It has been our goal all along, Senator KENNEDY as the ranking member of the Labor and Human Resources Committee and myself, to say that amendments which did not have broad-based support—amendments which were controversial—were ones that we would have to object to, whether we favored them individually or opposed them individually. And that is what we have tried to do throughout this debate.

This legislation now reflects, I think, two very positive amendments that had unanimous support here on the Senate floor and that were offered by the chairman of the Finance Committee, Senator ROTH, and Senator DOLE, who has been a long supporter of these two initiatives. One was to increase the percentage of deduction that would be allowed to those who are self-employed from 30 to 80 percent. The second was to provide tax deductions for long-term care coverage, an issue which many of us have believed was very important and of which Senator DOLE has long been a leader. Those were valuable additions to the underlying bill.

As my colleagues know, Senator KENNEDY has for many years in his legislative career in the Senate, both as chairman of the Labor Committee and as ranking member, been a strong advocate of improving the health care system. This bill certainly does not go as far as Senator KENNEDY would like it to go, but he was realistic about the possibilities of what we could achieve with a more limited bill.

Whether this legislation helps 25 million people, as has been estimated by the General Accounting Office, or whether it only helps 10 million people or if it helps 50 million people, the important fact is that the Health Insurance Reform Act does provide some peace of mind for those who desperately want to have some assurance that they will not be excluded from coverage because of a preexisting medical condition if they lose their job or change their job.

That is an important sense of security for many Americans, and I believe one of the main reasons this legislation has garnered such strong support.

It is my hope, Mr. President, that out of this bipartisan effort we can go to conference and we can come through conference with a bill that will be acceptable to everyone, because what we can accomplish with this more limited legislation will be of value and far better to have accomplished than to try for too much and to fail again.

Other aspects that have been added as amendments in both the House and the Senate, may have some value. But because they are extremely controversial, I would suggest that they need to be debated on their own merits at another time. The clear danger is that if we add too much, we will again fail to deliver real reform for the American people.

Mr. President, this is an effort that has had a great deal of help along the way from all sides—from consumers, from the medical community, from the insurance community, from employers, and certainly from colleagues in the Senate and in the House of Representatives. I particularly thank staff members who have worked tirelessly on this effort, certainly on my own staff, Dean Rosen, who has spent months and months trying to pull together a consensus of support, as well as Susan Hattan, Rebecca Jones, and Ann Rufo, and all of the staff of the Republican members of the Labor and Human Resources Committee. I also thank David Nexon and Lauren Ewers of Senator KENNEDY's staff for their hard work and dedication on this issue as well.

I do not think today's vote would have been possible without the efforts of Senator KENNEDY, who has championed this legislation even though, as I said earlier, his own interests would have been more expansive than what we would have been able to achieve. It also would not have been possible without the support of those on my side of the aisle, as well, who have been willing to settle for what is possible and of greatest value to most people.

So it has been a collaborative effort. It has been an effort that garnered unanimous support when it came out of the committee in August, and I believe will have if not unanimous support here in the U.S. Senate, close to that. I think it will be an important moment in advancing health care efforts on the part of the U.S. Government today.

I want to thank the staff who worked countless hours on this legislation. I want to thank Susan Hattan, Dean Rosen, Rebecca Jones, and Anne Rufo of my staff for their contributions and persistence in helping to make this legislation a reality. I want to thank David Nexon and Lauren Ewers of Senator KENNEDY's staff for their hard work and dedication. And I want to commend the Republican staff of the Senate Labor and Human Resources Committee: Elaina Goldstein of Senator JEFFORD's staff, Vince Ventimiglia of Senator COAT's staff, Kimberly Spaulding with Senator GREGG, Susan Ramthun with Senator FRIST, Saira Sultan of Senator DEWINE's staff, Annie Billings of Senator ASHCROFT's staff. Greg Willhauck with Senator ABRAHAM, and Tammi Brueske with Senator GORTON. I also

VOL
142
PT
6
AP
15
—
24
1996
UMI

want to thank Bill Baird with legislative counsel for his patience and hard work, and Beth Fuchs of the Congressional Research Service for her invaluable guidance. Finally, I would like thank Michael Gutowski and Mark Nadel of the General Accounting Office for their analysis of the impact of S. 1028.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts has 10 minutes 30 seconds.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senator PRYOR be able to speak for not to exceed 10 minutes at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, first of all, I would like to express my appreciation to a number of our colleagues. I start with our chairman of the Labor and Human Resources Committee, the leading sponsor of the bill, Senator KASSEBAUM. I think that when this legislation becomes law—and I believe that it will become law—the American people will owe her a debt of gratitude. I am proud to have joined her in recommending to the Senate this legislation and to join her in recommending the passage of the legislation, as well.

I think the entire Senate understands the extraordinary leadership that she has provided on this legislation, and it is important, I believe, that the American people do as well.

When the Senate votes on the Health Insurance Reform Act today, the bill will pass overwhelmingly for many reasons. It will pass because it is broadly bipartisan. It will pass because it is solidly supported by over 200 organizations and a coalition of consumer groups, business and labor and responsible insurance companies. It will pass because the Senate acted responsibly last week in rejecting a killer amendment that would serve special interests rather than the public interest.

Senators have made important contributions to the construction of this legislation, and I would like to mention several of my colleagues. This is not a complete list, but those who I have had the chance to work with most closely.

First of all, Senator HARKIN, who was a leader in the effort to protect people against health insurance discrimination based on genetic information.

Senator WELLSTONE worked hard to assure similar protections for victims of domestic violence.

Senator JEFFORDS was a key leader on the provisions of the bill enabling small business to create purchasing pools to increase their bargaining power.

Senator FRIST contributed key ideas to address the special needs of the disabled.

Senator DODD worked with the responsible insurance companies to see that their concerns were addressed while protecting the interests of consumers and gathering considerable support within the insurance industry for this proposal on the basis of its merits.

Senator ABRAHAM contributed to the State flexibility provisions which was a matter of considerable concern and interest to many different Members of this body.

Senator ROCKEFELLER was an early supporter of this effort and provided enormous assistance during the floor debate.

Senator BENNETT worked hard to bring this bill to the floor and to build a consensus behind it.

Others contributed as well.

We are grateful for the additions that were made by Senator DOLE and Senator ROTH focusing on making the availability of insurance more attractive to small businesses, that provided the support for extended care for many of our seniors, which is the great gap in the Medicare system today, and also for the initiatives for terminally ill patients to permit them greater flexibility to deal with some of their particular financial interests.

So we are grateful for all of their support and for many others. For Senator DOMENICI and Senator WELLSTONE who offered their amendment dealing with mental health, that was accepted by the Senate. Senator KASSEBAUM and I resisted that amendment on the basis of our earlier understandings and agreements that we would resist all amendments. But, nonetheless, I think there is great value of that particular provision as well.

The Kassebaum-Kennedy bill will end many of the most serious health insurance abuses and provide greater protections to millions of families. It is an opportunity that we cannot afford to miss.

Before some final brief remarks about the legislation, I want to recognize some of our very good staff people for their hard work.

On our side, my staff, Nick Littlefield, Dave Nexon, and Lauren Ewers were particularly active; Susan Castleberry, Sara Thom, Brian Moran, Ron Weich, and Melody Barnes.

For Senator HARKIN: Peter Reineke and Anne Ford.

For Senator WELLSTONE: Alex Clyde.

For Senator DODD: Jane Lowenson.

For Senator PRYOR: Bonnie Hoque.

For Senator ROCKEFELLER: Ellen Doneski and also Mary Ella Payne.

For Senator DASCHLE: Rima Cohen and Cybele Bjorklund. All of them were involved and helpful.

Senator KASSEBAUM has mentioned those Republican staff who have been involved and worked very closely with us. But in this instance, as in many others, some of them worked very closely with all of us, the Members of the Senate, as well as our staffs: Susan Hattan; Dean Rosen, Anne Rufo, and Rebecca Jones.

For Senator JEFFORDS: Elaine Goldstein.

And for Senator FRIST: Sue Ramthun.

We are grateful to all of them. They have a remarkable sense of knowledge and awareness in very special segments of this legislation, and their experience and knowledge and understanding of these nuances were valuable to all of us. We are grateful for their help.

Finally, Mr. President, briefly, the abusive practices addressed by this bill create endless, unnecessary suffering. It was our attempt to address that unnecessary suffering by focusing on language to provide millions of Americans with a new sense of hope in the workplace, Americans who are today forced to pass up jobs that would improve their standard of living or offer greater opportunities because they are afraid they will lose their health insurance.

Many others have to abandon the goal of starting their own business because health insurance would be unavailable to them or members of their families. We have tried to provide ways in which they can come together to provide coverage for their families and for the families of those who work in many of the mom-and-pop stores and smaller businesses of this country.

Children who "age out" of their parents policies often find themselves unable to obtain their own insurance if they have significant health problems. We have addressed that.

Early retirees can find themselves uninsured just when they are entering the years of highest health risks. We tried to address those issues.

Many other Americans lose their health insurance because they become sick or lose their job or change their job, even when they have faithfully paid their insurance premiums for many years. This is perhaps the most difficult concept for people to understand, where they have paid their premiums for 20, 25 years, suddenly have an illness and they are either dropped from coverage or their premiums go up extraordinarily to the point where they cannot effectively afford it. We have really provided some important reassurances to families.

More than half of all insurance policies impose exclusions for preexisting conditions and, as a result, insurance is often denied for the very illness most likely to require medical care. The purpose of such exclusions is reasonable, to prevent people from gaming the system by purchasing coverage only when they get sick. But current practices are indefensible, and no matter how faithfully people pay their premiums, they have to start all over again with new exclusions if they change jobs or lose their coverage.

The Health Insurance Reform Act is a modest, responsible bipartisan solution to many of the most obvious

abuses in the health insurance market today. In fact, the only active opposition to the legislation comes from those who profit from the abuses in the current system. In his State of the Union Address last January, President Clinton challenged the Congress to pass this bill. Now the Senate is poised to fulfill that pledge.

Mr. President, the only thing that stands between this bill and the President's signature are controversial provisions added in the House of Representatives. These objectionable provisions include the medical savings accounts which we have debated——

Mr. President, I ask for 3 more minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. The federalization of multiple employer welfare arrangements. A number of years ago we provided the States the power regulate these arrangements. It is rather strange now that those provisions which permit the States to enforce these regulations are effectively being preempted so that the Federal Government will regulate them.

Repeal of the MediGap rules protecting senior citizens against profiteers. That is a very dangerous provision. Up until 1984, we found that many elderly people would buy 2, 3, 4, 5, 10 different programs which people thought would cover various gaps in their insurance—instead the policies duplicated one another with no additional benefit to the individual. We found all kinds of abuses. We passed legislation to protect seniors against these abuses. It has been effective. We should not go back to the earlier period.

The provisions making it more difficult to combat waste, fraud, and abuse in the current Medicare-Medicaid programs. I think that issue is one that is not going to go away. There are many concerns that some of the provisions that have been made in the House bill will lower the standard, make it more difficult to prove the abuse and waste and fraud. I am not sure we want to go in those directions.

The malpractice issues were debated earlier in the Congress. I think they ought to be addressed outside of this legislation.

We go to conference in a bipartisan spirit, committed to trying to get this legislation passed—obviously they have a right to pass their bills and we have a responsibility to work through the differences—but we hope that, given the spirit with which this legislation started, both in the House and the Senate, that we will be able to do it. Every day that is delayed, there are millions of our fellow citizens who are denied the kinds of protections that this legislation will provide for them. It is an extremely important piece of legislation, in many respects I think maybe the most important piece of legislation that we will pass in this Congress.

When the Senate votes on the Health Insurance Reform Act today, the bill will pass overwhelmingly for many reasons. It will pass because it is broadly bipartisan. It will pass because it is solidly supported by over 200 organizations in a coalition of consumer groups, business and labor, and responsible insurance companies. It will pass because the Senate acted responsibly last week in rejecting killer amendments that serve special interests rather than the public interest.

I commend the chairman of the Labor Committee and the leading sponsor of the bill, Senator KASSEBAUM. She worked long and well to make this day a reality. Her leadership resulted in a unanimous vote for this bill in our committee. Her courage and commitment made it possible for this bill to pass the Senate without crippling amendments. The American people owe her a debt of gratitude, and I am proud to serve with her and join her and recommend passage of this legislation.

Other Senators have also made important contributions. Senator HARKIN was a leader in the effort to protect people against health insurance discrimination based on genetic information. Senator WELLSTONE worked hard to assure similar protection for victims of domestic violence. Senator JEFFORDS was a key leader on the provisions of the bill enabling small businesses to create purchasing pools to increase their bargaining power. Senator FRIST contributed key ideas to address the special needs of the disabled. Senator DODD worked with the responsible insurance companies to see that their concerns were addressed while protecting the interests of consumers.

Senator ABRAHAM contributed to the State flexibility provisions. Senator ROCKEFELLER was an early supporter of this effort and provided enormous assistance during the floor debate. Senator BENNETT worked hard to bring this bill to the floor and to build consensus behind it. Others contributed as well.

The Kassebaum-Kennedy bill will end many of the most serious health insurance abuses and provide greater protection to millions of families. It is an opportunity we cannot afford to miss.

The abusive practices addressed by this bill create endless unnecessary suffering:

Millions of Americans are forced to pass up jobs that would improve their standard of living or offer greater opportunities because they are afraid they will lose their health insurance.

Many others have to abandon the goal of starting their own business, because health insurance would be unavailable to them or members of their families.

Children who age out of their parent's policies often find themselves unable to obtain their own insurance if they have any significant health problems.

Early retirees can find themselves uninsured just when they are entering the years of highest health risks.

Many other Americans lose their health insurance because they become sick, or lose their job, or change their job—even when they have faithfully paid their insurance premiums for many years.

Each year, the flaws in the private health insurance market become more serious. More than half of all insurance policies impose exclusions for preexisting conditions. As a result, insurance is often denied for the very illnesses most likely to require medical care. The purpose of such exclusions is reasonable—to prevent people from gaming the system by purchasing coverage only when they get sick. But current practices are indefensible. No matter how faithfully people pay their premiums, they often have to start over again with a new exclusion period if they change jobs or lose their coverage.

Eighty-one million Americans have conditions that could subject them to such exclusions if they lose their current coverage. Sometimes, the exclusions make them completely uninsurable.

Insurers impose exclusions for preexisting conditions on people who don't deserve to be excluded from the coverage they need. Sometimes, insurers deny coverage to entire firms if one employee of the firm is in poor health, or at least exclude that employee from coverage. In other cases, entire categories of businesses, with millions of employees, are redlined out of coverage.

Even if people are fortunate enough to gain coverage and have no pre-existing condition, their insurance can be canceled if they have the misfortune to become sick—even after paying premiums for years.

One of the most serious consequences of the current system is job lock. Workers who want to change jobs must often give up the opportunity because it means losing their health insurance. A quarter of all American workers say they are forced to stay in a job they otherwise would have left, because they are afraid of losing their health insurance.

During the debate on this legislation, we have heard from Americans who have been victimized by the abuses in the current system.

Robert Frasher, of Mansfield, OH, works for an employer who offers health coverage to employees, but the insurance company won't cover him. Why? Because he has Crohn's disease.

Jean Meredith of Harriman TN, and her husband Tom owned Fruitland USA, a mom and pop convenience store. They had insurance through their small business for 8 years, until

VOL
142
PT
6
AP
15
—
24
1996
UMI

Tom was diagnosed with non-Hodgkin's lymphoma and their insurance company dropped them. When the Merediths asked why, they were told they were no longer profitable insurance risks. Without health insurance, Tom Meredith had to wait a year to get the surgery he needed. After spending $60,000 of his own funds, his cancer recurred and he died about a year ago. Tom Meredith might still be alive today if he had not been forced to wait that year.

Diane Bratten, of Grove Heights, MN, and her family have insurance through Diane's employer. Because of a history of breast cancer now in remission, Diane and her family would not be able to get decent coverage if she decided to change jobs or was laid off.

Nancy Cummins, of Louisville, KY, lost her health insurance when her husband's employer went bankrupt. When their COBRA coverage expired, they were uninsured for 3 years, until they qualified for Medicare. During this period, she suffered three heart attacks, which left their family with $80,000 in debts.

Jennifer Waldrup, of Massachusetts, was covered by her husband's health insurance until his employer went out of business. When she applied for coverage under her own employer, she was turned down because she had multiple sclerosis. Her employer tried to help, but could not find an insurer who would offer coverage. Her husband had to cash in his life insurance to pay her medical bills.

Tom Hall, of Oklahoma City, faithfully paid his premiums for 30 years under the group insurance policy of the construction business that he co-owned. When the company dissolved and he became self-employed, the insurer refused to give him coverage because he had a heart condition. He lives in fear that his life savings will be wiped out.

The legislation we will pass this afternoon will address these problems effectively. The Health Insurance Reform Act is a health insurance bill of rights for every American, and for every business as well.

The legislation contains many of the provisions from the 1994 health reform debate which received broad bi-partisan support—such as increased access to health insurance, increased portability, protection of health benefits for those who lose their jobs or want to start their own business, and greater purchasing power for small businesses.

Those who have insurance deserve the security of knowing that their coverage cannot be canceled, especially when they need it the most. They deserve the security of knowing that if they pay their insurance premiums for years, they cannot be denied coverage or be subjected to a new exclusion for a preexisting condition when they change jobs and join another group policy, or when they need to purchase coverage in the individual market. Businesses—especially small businesses—deserve the right to purchase health insurance for their employees at a reasonable price.

Our Health Insurance Reform Act addresses these fundamental flaws in the private insurance system. The bill limits the ability of insurance companies to impose exclusions for preexisting conditions. Under the legislation, no such exclusion can last for more than 12 months. Once someone has been covered for 12 months, no new exclusion can be imposed as long there is no gap in coverage—even if someone changes jobs, loses their job, or changes insurance companies.

The bill requires insurers to sell and renew group health policies for all employers who want coverage for their employees. It guarantees renewability of individual policies. It prohibits insurers from denying insurance to those moving from group coverage to individual coverage. It prohibits group health plans from excluding any employee based on health status.

The portability provisions of the bill mean that individuals with coverage under a group plan will not be locked into their job for fear that they will be denied coverage or face a new exclusion for a preexisting condition. These provisions will benefit at least 25 million Americans annually, according to the General Accounting Office. In addition, the provisions will provide greater security for the 131 million Americans currently covered under group health plans.

The bill will also help small businesses provide better and less expensive coverage for their employees. Purchasing cooperatives will enable small groups and individuals to join together to negotiate better rates in the market. As a result, they can obtain the kind of clout in the marketplace currently available only to large employers.

The bill also provides great flexibility for States to meet the objective of access to affordable health care for individuals who leave their group health plans.

The bottom line is that this legislation guarantees that those who faithfully pay their premiums will not have their insurance taken away or preexisting conditions imposed, even if they change jobs or lose their job.

The Health Insurance Reform Act is a modest, responsible, bipartisan solution to many of the most obvious abuses in the health insurance marketplace today. The bill was approved by the Senate Labor and Human Resources Committee last August by a unanimous vote of 16 to 0. It is similar to proposals made by President Clinton in his recent balanced budget plan.

In fact, the only opposition to this legislation comes from those who profit from the abuses in the current system.

In his State of the Union Address last January, President Clinton challenged Congress to pass this bill. Now the Senate is poised to fulfill that pledge.

The only thing that stands between this bill and the President's signature are controversial and harmful provisions added by the Republican majority in the House of Representatives to their version of the bill. These objectionable provisions include medical savings accounts, federalization of multiple employer welfare arrangements, Federal caps on malpractice awards, repeal of MediGap rules protecting senior citizens against profiteers, and provisions making it more difficult to combat the waste, fraud, and abuse in the current Medicare and Medicaid programs. Almost all of the 200 groups that support the legislation have urged Congress to pass a clean bill, without these controversial amendments.

Each of these provisions represents a special interest agenda that has no place in this legislation. Medical savings accounts are a $3.2 billion Federal giveaway that provides special tax breaks for the healthy and the wealthy at the expense of the average taxpayer. They raise premiums for the vast majority of Americans, by siphoning the healthiest people out of the insurance pool. As premiums rise for those remaining in the pool, the number of the uninsured grows.

In fact, in the words of the Congressional Budget Office, medical savings accounts "could threaten the existence of standard health insurance." They discourage the use of preventive care and raise health costs in this way as well. The House provision is also the first step toward similar accounts for Medicare—a key part of the Republican plan to undermine Medicare by privatizing it.

Impartial health analysts agree that medical savings accounts are a bad idea. They have nothing to do with genuine insurance reform or health security for American families. They are in the House bill as a reward to Golden Rule Insurance Co. and other insurance companies that profit from the worst abuses of the current system. Golden Rule alone has made over $1.6 million in political contributions over the last 5 years. Medical savings accounts should be dropped in conference, so that this bill can be quickly signed into law.

Several other special interest provisions in the House bill also jeopardize the hopes of American families for genuine insurance reform. The House provision to exempt multiple employer welfare plans, or MEWA's from State regulation will turn back the clock to a time when these arrangements were rife with fraud and abuse and millions of workers and their employers were

victimized. Inclusion of this provision would seriously weaken the constructive small business insurance reforms enacted by many States in recent years.

The other House provisions, such as those imposing Federal caps on malpractice awards, opening new opportunities to defraud senior citizens by unscrupulous insurance companies, and weakening Medicare protections against fraud and abuse are equally counterproductive and controversial, and they have no place in this consensus bill.

Because of the importance of enacting the broad-based insurance reforms included in this bill, Senator KASSEBAUM and I announced early in the process that we would oppose all controversial amendments to our legislation. Along with almost all of the more than 200 groups supporting the legislation, we urge our colleagues in the House to support this approach.

The Senate has acted responsibility. None of these controversial amendments are included in the bill that we will pass later this afternoon. Some were rejected but most were never even offered.

If the Republican majority in the House insists on including these controversial provisions they will kill this bill, and destroy the hopes of millions of Americans for the kind of modest but effective reform that is now well within our grasp, and that leaders and member of both parties have supported in the past. This measure is a test of the Congress' seriousness and its ability to put the interests of the American people ahead of the special interests.

Finally, this legislation is not comprehensive health reform. It will not solve all the problems in the current system. But it is a constructive step forward—a step that will help millions of Americans. Above all, it is proof positive that progress is again possible on health reform, and that the ghosts of gridlock for the 1994 debate no longer haunt our work on health care.

I urge the Senate to pass this bill by the largest margin possible. The larger the margin, the louder the message, and the more likely the Senate-House conferees will send this bill to the President expeditiously, without controversial amendments, and ready for his signature. On this issue, every day we delay is a day that brings unnecessary misery to large numbers of our fellow citizens.

Mr. President, I would like to discuss with the Senator from Kansas how H.R. 3103 treats association plans which arrange to provide their members the option to buy group health insurance. These association plans frequently are made up of self-employed individuals or small businesses. Is it not correct that our legislation imposes no new regulatory requirements on association plans, other than the general requirements affecting other health plans?

Mrs. KASSEBAUM. The bill establishes standards regarding portability, renewability, and pre-existing conditions, but does not otherwise disturb the association plan world. States will still regulate and certify insured plans, and the Secretary of Labor will continue to regulate self-insured plans that are currently exempt from State regulation.

Mr. KENNEDY. It is my understanding that the bill authorizes creation of health plan purchasing cooperatives, a concept discussed frequently in Congress over the past few years. The purpose of these cooperative provisions is to provide clear statutory authorization and guidance to groups of small employers and individuals who want to join together to buy health insurance at a lower cost. Is there any provision that requires these groups to join or create mandatory purchasing cooperatives?

Mrs. KASSEBAUM. No. Health purchasing cooperatives are purely voluntary. Subtitle D is intended to create special benefits for cooperatives that meet the standards in the bill. Congress does not intend that these provisions in any way affect the legal status or rights of purchasing cooperatives, employer coalitions, multiemployer plans, MEWA's, association plans, or other similar arrangements that do not meet the standards of this subtitle. The statute clearly states this intent.

Mr. KENNEDY. For example, could association plans sponsored by professional organizations or local chambers of commerce be forced to form or join a purchasing cooperative as the result of this bill?

Mrs. KASSEBAUM. No. The bill does not require groups to form or join a purchasing cooperative. Nor does the legislation preclude any other type of groups purchasing arrangements from existing.

Mr. KENNEDY. So aside from having to meet the insurance reforms contained in the bill and standards like portability, renewability, and preexisting conditions, your bill does not disturb association plans at all?

Mrs. KASSEBAUM. That is correct. Congress intends that association plans may continue to do business as they always have, except that they must meet the same insurance reform standards as other health plans under the bill.

Mr. KENNEDY. An additional matter that I would like to discuss is the provisions under the bill forbidding discrimination in the provision of health insurance in the group market. Section 101(a)(1)(B) forbids an employee health benefit plan or a health plan issuer from conditioning eligibility, enrollment, or premium contributions for individual participants or beneficiaries on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, genetic information, or disability. The purpose of this provision is to prevent health plans from denying coverage to individuals or charging them higher premiums because the plan believes they may have higher than average health costs. Is this correct?

Mrs. KASSEBAUM. Yes. This provision is meant to prohibit insurers or employers from excluding employees in a group from coverage or charging them higher premiums based on their health status and other related factors that could lead to higher health costs. This does not mean that an entire group cannot be charged more. But it does preclude health plans from singling out individuals in the group for higher premiums or dropping them from coverage altogether.

Mr. KENNEDY. We intend the words "health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, genetic information, or disability" to have a broad meaning, do we not?

Mrs. KASSEBAUM. Yes. These words are meant to broadly preclude the use of any of the categories insurance companies have historically used to deny people coverage based on health status and related factors—that reasonably could lead a health plan to believe that an individual would incur high health costs or be uninsurable. They are meant to preclude use of any of the categories insurance companies have historically used to deny people coverage based on their expected health costs—not only medical history or the presence of preexisting conditions, but also including such factors as family history, likelihood of experiencing domestic violence—or actual experience of domestic violence, genetic predispositions or other genetic information, or residence in a low-income neighborhood.

I want to just mention a few measures that we will have to address in the conference. The Health Insurance Reform Act is a modest, responsible bipartisan solution to many of the most obvious abuses in the health insurance market today. In fact, the only active opposition to the legislation comes from those who profit from the abuses in the current system. In his State of the Union Address last January, President Clinton challenged the Congress to pass this bill. Now the Senate is poised to fulfill that pledge.

Mr. President, the only thing that stands between this bill and the President's signature are controversial provisions added in the House of Representatives. These objectionable provisions include, again, the medical savings accounts which we have debated, the federalization of multiple employer welfare arrangements—Mr. President, I ask for 3 more minutes.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. The federalization of multiple employer welfare arrangements. A number of years ago we provided the States the power for the enforcement of those arrangements. It is rather strange now that those provisions which permit the States to enforce it are effectively being preempted so that the Federal Government will support it.

Repeal of the MediGap rules protecting senior citizens against profiteers. That is a very dangerous provision. Up to 1984 we found that many elderly people would buy 2, 3, 4, 5, 10 different programs to cover various gaps in their insurance. We found all kinds of abuses. We passed legislation to deal with that. It has been effective. I am not sure that we ought to go back to the earlier period.

The provisions making it more difficult to combat waste, fraud and abuse in the current Medicare-Medicaid programs, I think that issue is one that is not going to go away. There are many concerns that the provisions that have been made in the House bill will lower the standard, make it more difficult to prove the abuse and waste and fraud. I am not sure we want to go in those directions.

I think the malpractice issues have been debated earlier in the Congress. I think they ought to be addressed outside of this legislation.

We go to that conference in a bipartisan spirit, committed to trying to get this legislation—obviously they have a right to pass their bills and we have a responsibility to work through the differences—but we hope that, given the spirit with which this legislation started, both in the House and the Senate, that we will be able to do it. Every day that is delayed, there are millions of our fellow citizens who are denied the kinds of protections that this legislation will provide for them. It is an extremely important piece of legislation, in many respects I think maybe the most important piece of legislation that we will pass in this Congress.

Mr. President, I urge the passage of the legislation when the Senate votes on it this afternoon.

The PRESIDING OFFICER. Under the previous order, a vote on passage of H.R. 3103, as amended, will occur at 2:15. All time has expired.

Mrs. KASSEBAUM. Mr. President, I ask for the yeas and nays on final passage of H.R. 3103.

The yeas and nays were ordered.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 10 minutes.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

Before I speak, Mr. President, on the subject that I have chosen here for the next few minutes, I compliment my colleagues from Massachusetts and Kansas for the tremendously fine work they have done in this whole field of health care over a long period of time. This, today, I think is the culmination of their sincere effort, their tedious effort, and certainly demonstrates their commitment to improving the health care available in our country. So, Mr. President, this Senator certainly congratulates these two fine Senators for their commitment and their work.

AT WHAT COST?

Mr. PRYOR. Mr. President, the Senate special Whitewater committee resumes its hearings tomorrow. The committee's tentative schedule is, as I understand—I am not on the committee—to have a hearing on every Tuesday, Wednesday, and Thursday of each week until the authorization of the committee expires on June 17, 1996. As I have said before, the time and money being spent by this special committee could be better spent on other issues of greater importance and magnitude to this country of ours.

Mr. President, I will take just a moment to discuss, if I might, the amount of money and the time and the resources being spent on the Whitewater investigation, both here and in my home State of Arkansas. The Senate has called 121 witnesses during its 47 days of its special committee review. In an earlier statement, Mr. President, I mentioned the fact that in 1995 alone the Senate held 34 hearings on Whitewater, while we held only six hearings on Medicaid funding and only one hearing—only one hearing—on Medicare reform. After all the time we have already spent on Whitewater, these types of issues are far more deserving of our attention in the remainder of this session of the Congress.

However, Mr. President, it is not just the amount of time and money that the Senate has spent on the Whitewater review that concerns me. There is another side of this discussion, and it is the amount of money, the amount of resources, that our Government has spent on the issue of Whitewater.

The Senate has spent roughly $1.35 million on its Whitewater investigation in the 104th Congress. That is just the amount that the Senate has specifically appropriated to the Whitewater review panel. This does not include, Mr. President, the money spent by the Senate Banking Committee on its Whitewater efforts. It does not include the amount of money spent by the House of Representatives in its Whitewater review.

Of course, it does not even begin to take into consideration the amount of money spent by our special counsels. In addition to the congressional efforts in this issue, I would also like to discuss the independent counsel review. According to the General Accounting Office, Robert Fiske, the special counsel originally named to investigate the Whitewater issue, spent $2,498,744 from January 22, 1994, through September 30, 1995, which was the latest date which the GAO had this information. I am sure more tallies will be coming in soon. On his investigation alone, almost $2.5 million was spent. Then he was fired from the case. The GAO also points out that Kenneth Starr, the independent counsel appointed to replace Mr. Fiske, has spent $4,512,065 from August 5, 1994, through September 30, of 1995. We have no more recent figures, Mr. President, since September 30 of last year.

But today's Washington Post had an article, I must say, Mr. President, that caught my attention. It is an article which illustrates where some of this money is going. Sam Dash, the Watergate chief counsel, famed, well known, well respected, is now being paid $3,200 a week for his service as ethics adviser to Mr. Starr. I am going to repeat that, Mr. President. Sam Dash, the Watergate chief counsel, is now being paid $3,200 each week for his service as ethics adviser to Mr. Kenneth Starr.

Mr. Starr is the first independent counsel in the history of our Republic to see the need to hire an independent counsel that advises him on ethics.

I think I echo, Mr. President, the statement made by Stephen Gillers, a legal ethics professor and scholar at New York University, who recently said in a Baltimore Sun article:

> When the public hears that the independent counsel—who is there supposedly because of his distance from the traditional prosecutorial office—needs an independent counsel for ethics advice [at a substantial cost] it's almost impossible to explain how that can be so. The perception is that something's amiss.

Mr. President, that was Stephen Gillers, a legal ethics scholar from New York University, who made that particular statement.

Mr. President, I have other concerns as well. I have recently asked the Federal Bureau of Investigation to share with me the five top cases currently being investigated by the Federal Bureau of Investigation. Mr. President, here are the top five cases. One is the Oklahoma City bombing. That makes sense. Second, the Unabomber. That makes sense. Thriftcon—a national bank fraud and embezzlement case. Fourth, Mr. President, is Whitewater. Fifth is the World Trade Center bombing.

Now, this is based upon the number of personnel, the amount of resources, the number of dollars, and the establishment of priorities of our own Federal Bureau of Investigation. Whitewater, today, comes right after Thriftcon, Unabomber, Oklahoma City bombing, and before resources and dollars that the Federal Bureau of Investigation have used to investigate the

World Trade Center bombing in the city of New York. Mr. President, I do not know how in the world we could go home and explain such a poor allocation of priorities as the one demonstrated by this particular chart.

Mr. President, the money spent by the independent counsel does not tell the whole story. Those numbers do not even include the moneys spent by the FBI and other agencies to support the independent counsels.

Under the statute authorizing the independent counsel, each independent counsel is able to request and receive assistance from Federal agencies. Mr. President, most of the independent counsels are using the talents of the Federal employees and the resources of the Federal Government available to them. According to the figures supplied by GAO, the IRS has spent over $1 million to support the Fiske-Starr Whitewater investigation. The Justice Department, apart from the FBI, has spent $86,000 on the investigation. However, Mr. President, the FBI has spent far and away the most money of any agency working for Mr. Fiske, the former independent counsel, and Mr. Starr, the present independent counsel.

According to the numbers reported by the GAO, the FBI spent $3,473,000 in support of Mr. Fiske's investigation, and already has surpassed $8,064,000 supplying staff for Mr. Starr's investigation. To get a sense of what these figures mean, Mr. President, I asked the FBI how many people that number represents. They told me that the $11.5 million represents 41 special agents and 81 support staff.

Thus far, I know I have thrown around a lot of numbers and my time has expired. When we add everything together, the Whitewater independent counsels have spent $19,673,809, Mr. President, almost $20 million, in less than a year and a half, has been spent on the Whitewater investigation. That, Mr. President, is why I continue to have grave concerns about appropriating any more money to start up the second phase of the Whitewater investigation.

Mr. President, I ask unanimous consent to have printed in the RECORD a story in this morning's Washington Post, dated April 23, 1996, and I ask unanimous consent to have printed in the RECORD an article of April 15, 1996, as published in the Baltimore Sun.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 23, 1996]

SAY IT AGAIN, SAM

(By Lloyd Grove)

He's the brilliant chief counsel of Senate Watergate Committee fame and a drafter of the independent counsel statute. He's an arbiter of professional conduct for the American Bar Association and an oracle of criminal law, an internationally acclaimed advocate for human rights and a widely revered guru of legal ethics.

But it seems to have come to this for the distinguished Samuel Dash:

"I don't want to be in a situation where you're asking me a lot of questions and I'm not commenting, and the story makes me look like a Mafia figure who's pleading the Fifth Amendment," says Dash, 71. He is beginning an interview about his role as the highly paid ethics adviser to Kenneth Starr, the Whitewater special prosecutor whose own legal ethics come under searing attack.

"Mafia figure"?

Surely Sam Dash not has not worked so hard, for so long, to take a swift tumble from wise man to wiseguy. He has spent much of his time in recent weeks mounting pained public defenses of Starr's simultaneous work as a government prosecutor—investigating President Clinton & Co.—and as a private lawyer for an array of corporate clients opposed to the president's policies. But Dash certainly hasn't cultivated his envirable reputation to sell his birthright for a mess of pottage—in this case, a consulting fee of $3,200 a week.

In his memo-strewn office at the Georgetown University Law Center, where he has been a full professor for the last three decades, Dash expresses himself in bursts of nervous energy, interrupting his questioner—and frequently himself—to spray fusillades of self-protective verbiage and twist his winding sentences into word-pretzels.

"Once again, I do not want to do an interview," he protests. "It isn't that I haven't been available for interviews. I have. I've helped set a policy now—not because there's anything to hide. I think [Starr's] office has become very visible as a result of these issues, and they have so much important work to do, it's all distracting the work to always—even when they to read about what I may be saying—it distracts the work and calls for [phone] calls and things like that, but I don't want, I really don't want to be distracting anymore."

Dash, whose regular public statements about the work of the special prosecutor have made him something of a de facto spokesman for the press-averse Starr, is providing more than his share of distractions. In the past few weeks, he has been forced to justify his recently revealed consulting fee-astronomical by government standards. And he has been caught defending Starr's behavior while, at the same time, appearing to criticize it in publications ranging from the New York Observer (with which he has tangled over the accuracy of damaging quotes) to the New Yorker.

He may have had enough of the hot seat. Dash says he'll suspend his Starr consultancy as of May 23, to spend two months on a long-planned teaching vacation in Europe. He won't commit himself to returning to Starr's employ. "If Ken asks me, I'll consider it," is as far as he'll go.

Dash presents himself as a man who wants, in so many words, to have and eat his cake.

He was cited by the New Yorker's Jane Mayer as giving his seal of approval to Starr's pursuit of a million-dollar private practice—even though he wished Starr wouldn't to it: "If I had my own preferences, I'd hope he'd be a full-time independent counsel. . . . What he's doing is proper. . . . But it does have an odor to it."

Dash explains that what he actually meant to say is that others, but not he, might detect an ordor—as though recusing his sense of smell. Trying to move away from another published statement, he says, with an insistence on precision: "I didn't use the word 'proper.' 'Proper' is a weasel word. I think what I tried to say—and maybe I misstated—is everything he's doing is 'legal' and 'ethical' and 'lawful'—not 'proper.'"

On the issue of whether he wants Starr to be a full-time prosecutor, Dash is equally microscopic. "I didn't say, 'I wish he would be.' I say: 'I prefer he would be.' No, no, no: 'My preference is . . .'"

Why the hair-splitting? Isn't it all the same thing?

"It is essentially the same thing," he concedes with a deep breath. "I'm not trying to split hairs. All I'm saying is, I am expressing myself as an independent person. I'm not saying I would do the same thing he would do." Yet a moment later Dash draws another fine distinction. "I'm not passing on his judgment. I don't think I have the right to. If I were a private independent professor . . . I could speak freely my mind. But—"

Wait a minute. So he's not independent?

"I may be constrained, but I'm only constrained because when I speak I can't speak as Sam Dash, private [citizen]. I am speaking as Sam Dash in the role of ethics counsel to Ken Starr and the office. Therefore, I don't have a right . . to express judgments which I could have as an independent person. I don't even know why it's relevant."

Does Dash at least know the identity of all Starr's private clients?

"I'm not sure," he says. "The relationship isn't one in which, like coming to Mommy, he has to tell me. 'Can I do this? Can I do that? . . . He has to bring to my attention any situation that he feels could possibly be considered a problem. I would think as a lawyer, and he's been a federal judge, he's been a solicitor general, with his reputation for integrity—and he does have it—that he doesn't have to come to me initially. His first screen is himself."

In the New Yorker, Dash bemoaned the dismissal of Robert Fiske, Starr's predecessor as Whitewater prosecutor. (Dash went to work for Starr in the fall of 1994, initially for a weekly fee of $1,600, long after Fiske was gone.) "Should Fiske have been reappointed? My answer is probably yes," Dash mused to the magazine. "It may have been a mistake" to remove him. "But that's not Ken's fault."

A month after signing him up, Starr doubled Dash's compensation (billed as eight hours of work a week at $400 per hour). And he broadened his role from simply ethics to advising on prosecutorial strategy and a host of other issues. The money is clearly a sore spot for Dash.

"I'm putting in not eight hours, I'm putting in 20 to 30 hours," he says. "If one were to take what I'm being paid and divided it into the hours I'm working, I'm being paid at what a paralegal earns in most law firms"—a debatable claim, to be sure.

Last Wednesday, Dash had the novel (for him) experience of receiving a hard editorial slap from the New York Times. The paper demanded that Starr give up the "major national responsibility" of Whitewater prosecutor because of his "conspicuously fastpaced and politically freighted private practice," and added sharply: "Mr. Dash is right about the odor, but wrong about the propriety."

"I'll just say this to that," Dash says dismissively. "I testify all over the country as an expert [on legal ethics], and judges ask me about the law and I answer. I don't recall a single time when any judge of a federal court or a state court ever asked me: 'What does the New York Times think?'"

He displays less equanimity when it comes to other critics, such as Democratic spinmeister James Carvell—the public voice

VOL
142
PT
6
AP
15
—
24
1996
UMI

of the White House's energetic campaign to undermine Starr's integrity as the Whitewater special prosecutor.

"If Sam Dash was my doctor, I'd be happy," Carville says. "If you wanna smoke, fine. High blood pressure? Fine. Eat a lot of steaks and drink some whiskey! Go ahead. I'm not worried. He's the Alfred E. Neuman of ethics counselors, he doesn't worry about anything."

"What does he know?" Dash demands with a frown. "He doesn't know what I'm doing, he doesn't know who I am. Maybe he does know who I am. But he actually should be very grateful that I am in this position—that at least somebody like me is doing this. . . . But by challenging my independence and the professional role I play, he in effect is harming his own partisan interests. And I'm not a partisan and my role is not to protect anybody, but it certainly is to see that this prosecution is conducted fairly and objectively without any political overtones to it."

But that is quite impossible. The Starr matter has become intensely political—for Rep. Martin Meehan (D–Mass.), a harsh critic of Starr, the political overtones are all but deafening. "I thought it was a good political move by Starr to pick Sam Dash, with his outstanding reputation. . . . Clearly his role is to provide advice to Mr. Starr, and that advice is interpreting technically the basis upon which Starr can justify his representing a tobacco company and other clients. And Mr. Dash makes statements giving technical, legal interpretations on why it's okay."

New York University Law School Professor Stephen Gillers agrees.

"I think Starr was wise, even brilliant, to choose Sam Dash, because of Sam's prestige and credibility with the media. That has given Starr some cover, which actually worked for a while to stave off criticism. But Sam Dash has no cover. Sam is exposed in ways that I don't think he fully could have anticipated."

Harvard Law School Professor Lawrence Tribe is also concerned about Dash's exposure. "I would not have agreed to play that role," he says. "I would feel ethically compromised. Providing legal consultation and trying to make legal arguments on behalf of the independent counsel is one thing. But I wouldn't want in effect to be allowing my reputation to be used as a shield for someone whose circumstances, in the end, I don't have the ability to influence. That would make me feel extremely uncomfortable."

Dash insists that such worries are misplaced.

"I'm not giving Ken Starr my reputation," he says. "I'm giving him my expertise."

He adds that Starr and others in the prosecutor's office are following his advice. And Washington lawyer Abbe Lowell, a longtime acquaintance, finds this claim persuasive.

"Sam Dash isn't a shrinking violet," Lowell says. "He wouldn't have gotten involved in this if he didn't think he could have an important impact. To say he's a fig leaf for Ken Starr does an injustice to Sam Dash."

For his part, Dash sees his current preoccupation as a fitting capstone to a career in which he has been, by turns, the district attorney in Philadelphia, a hero of Watergate, a legal theoretician and international human rights activist, the first American citizen to visit Nelson Mandela in a South African jail.

"I'm not a stranger to controversy," Dash says. "And I don't want to look like I run away from it. I think Harry Truman's statement was correct: If you can't stand the heat, get out of the kitchen. I like being in the kitchen."

But the Cuisinart?

[From the Baltimore Sun, Apr. 15, 1996]

ETHICS INSURANCE AT $3,200 A WEEK; WHITEWATER COUNSEL'S ADVISER ASSUMES A LARGER ROLE IN PROBE

(By Susan Baer)

WASHINGTON—Samuel Dash, the celebrated lawyer who was hired by Whitewater independent counsel Kenneth W. Starr in 1994 to advise him on ethics issues, is now playing a much broader role in the investigation—and collecting a sizable government-paid fee for his services.

Mr. Dash said that while Mr. Starr hired him to work on ethics questions, he is now weighing in on everything from prosecutorial strategy to dealing with witnesses.

"He's asked me to go beyond ethics issues," said Mr. Dash, a 71-year-old full-time law professor at Georgetown University who gained fame as chief counsel to the Senate Watergate Committee.

For his part-time services—which include advising Mr. Starr on how much of his $1 million-a-year private law practice he may retain while leading the government's Whitewater investigation—Mr. Dash is paid a flat fee of $3,200 a week.

The professor, whose pay was raised by Mr. Starr from $1,600 a week in July, said he works an average of 20 hours a week, sometimes up to 30 hours, for the Whitewater prosecutor, but is charging Mr. Starr for only eight hours a week, at his regular consulting rate of $400 an hour.

"This is pro bono," Mr. Dash said with a laugh, referring to the public-interest work lawyers do for no pay.

When it was suggested to him that only by superlawyer standards would $3,200 a week be considered "pro bono," he said, with apologies for immodesty, "People of my stature charge way more than I do."

Mr. Dash, whose Whitewater pay was disclosed recently by the Arkansas Times, was hired by Mr. Starr in October 1994, two months after Mr. Starr was chosen to head the inquiry, which reaches up to the Clinton presidency.

A highly respected lawyer and a Democrat, Mr. Dash was retained to calm concerns about Mr. Starr's impartiality, given his background as an active and partisan Republican, and his selection by judges with ties to conservative Republicans.

In the 1970s, Mr. Dash assisted Chief Justice Warren E. Burger in devising the American Bar Association's ethical standards for prosecutors and criminal defense lawyers.

Mr. Dash, who also helped draft the law that established the independent counsel's office, noted that he is the first person to be an outside ethics adviser to an independent counsel.

"This is somewhat unique," Mr. Dash said. "Starr felt when he was appointed, fairly or unfairly, there was quite a bit of criticism because he was a partisan Republican. There was some concern, at the White House and other places, that he may not be objective.

"My personal belief is he didn't need me. But he was thinking of perception problems. He thought it was proper, to preserve public confidence, to bring someone like me in. He felt he needed somebody to assure the public that his decisions are being made on the basis of the right judgments."

Mr. Dash's weekly fee would amount to an annual rate of about $160,000 a year. But officials with Mr. Starr's office have said he won't receive that much because they are applying to Mr. Dash, an independent contractor, the same salary cap of $115,700 that applies to employees of the independent counsel's office. So far, Mr. Dash has been paid $147,200 for the 16 months he has worked for Mr. Starr.

Many lawyers believe the hiring of Mr. Dash was a masterful strategic move by Mr. Starr, insulating him from political-bias charges by having a prominent Democrat look over his shoulder each step of the way.

But some have questioned the need for such a sizable expense, given that an independent counsel is hired precisely because of his or her ostensible impartiality.

Lawrence E. Walsh, the independent counsel in the Iran-contra case, said he thought it was "regrettable" that such an expense must be incurred to ensure the perception of objectivity.

A DEFENSIVE MEASURE

"It's really a defensive measure," said Mr. Walsh, a Republican former federal judge. "But the question is, why do you get in a position where you have to defend yourself? The real thing [an independent counsel] brings that nobody else can bring is his independence. That's the excuse for this very expensive procedure."

Mr. Walsh said that during the Iran-contra investigation, he sought the help of Laurence Tribe, a Harvard law professor, for ethics concerns about the publication of his final report. But, he said, Mr. Tribe did not accept a fee.

Stephen Gillers, a professor of legal ethics at New York University who was critical of Mr. Starr's appointment because of his history as an outspoken Republican, said he thought such a six-figure expense could be damaging.

"When the public hears that the independent counsel—who is there supposedly because of his distance from the traditional prosecutorial office—needs an independent counsel for ethics advice [at a substantial cost], it's almost impossible to explain how that can be so," Mr. Gillers said. "The perception is that something's amiss."

Mr. Starr did not respond to questions, submitted to him in writing, regarding Mr. Dash's role and pay.

Terry Eastland, author of a book on independent counsels, said he did not consider the expense for an ethics consultant unreasonable. "Lawyers are expensive," he said.

And other ethics consultants say $400 an hour is reasonable for top-level experts, although they also say they bill far less—and occasionally, nothing—if the government is the client.

Geoffrey C. Hazard Jr., a University of Pennsylvania law professor and ethics consultant, called Mr. Dash's fee as a part-time adviser "pretty high pay." But, he added, "The value of having somebody just a little bit more credible is very high."

So far, the independent counsel's Whitewater inquiry has cost about $26 million. Mr. Starr is spending about $1 million a month on the investigation.

Mr. Dash said he may suspend has involvement this summer, when he plans to serve as a visiting professor at the University of Heidelberg Law School in Germany.

For now, Mr. Dash said, his work for the Whitewater office includes such activities as advising Mr. Starr on whether there is enough evidence to sustain a charge, reviewing all cases referred to the grand jury, and consulting on issues of fairness.

For example, when false reports surfaced that Gov. Jim Guy Tucker of Arkansas had sought a plea bargain after being indicted,

Mr. Starr asked Mr. Dash for advice on whether the usual policy of issuing a "no comment" to questions about the case should be followed, according to Mr. Dash.

The ethics counselor advised Mr. Starr that the more proper response, in fairness to Mr. Tucker, was to issue a statement denying the accuracy of the reports.

Mr. Dash has also been advising Mr. Starr on the propriety of the private work he has continued to do. Critics have charged that Mr. Starr, who earned $1.1 million in private practice in 1994, is spending too much time on lucrative high-profile cases for his firm, some of which could compromise—or appear to compromise—his independence as special counsel.

For instance, Mr. Starr has argued a federal appeals case on behalf of the Brown & Williamson Tobacco Corp., and has represented Gov. Tommy G. Thompson of Wisconsin, a potential Republican vice presidential nominee, in school-voucher case before the Wisconsin Supreme Court.

CONFLICT OF INTEREST ALLEGED

Rep. Martin Meehan, a Massachusetts Democrat, wrote to Mr. Starr last week, imploring him to end his representation of the tobacco company on the ground that it created a conflict of interest because President Clinton has been an opponent of big tobacco.

A potential problem area—cited by those who believe Mr. Starr should have taken a leave from his law firm, the Chicago-based Kirkland & Ellis—is a lawsuit filed against the firm by the Resolution Trust Corp., a federal agency that figures prominently in the Whitewater affair.

Defending his private work, Mr. Starr, in an address last week in San Antonio, said: "My ethics counselor is Professor Sam Dash of Georgetown University, legend of Watergate fame, and he has affirmed that it's completely appropriate."

Mr. Dash said that while he has advised Mr. Starr that there is nothing wrong, legally or ethically, with his outside work, his own "preference"—"because of questions reasonable people ask" about conflicts—is that Mr. Starr not take on as much.

"I have discussed with him that he should take heed, and I think he will take heed," Mr. Dash said. "He is concerned. But he doesn't think he's doing anything wrong. I tell him he's not doing anything wrong."

Richard Ben-Veniste, the Democratic counsel for the Senate Whitewater Committee who was an assistant to the Watergate special prosecutor, said Mr. Starr's full plate of outside work illustrates the need for Mr. Dash's services.

"Given the list of things Mr. Starr is engaged in outside of his job as independent counsel, he's kept Mr. Dash pretty busy," Mr. Ben-Veniste said.

"I think Sam's earning his money."

Mr. LEAHY. Will the Senator yield?

Mr. PRYOR. I am happy to yield to the Senator.

Mr. LEAHY. Mr. President, I heard the distinguished Senator from Arkansas say something that struck me. All this money that is being spent is taxpayers' money?

Mr. PRYOR. Every bit is taxpayers' money.

Mr. LEAHY. I have been reading a number of articles in the national press raising some very serious questions about the appearance of conflict of interest on the part of Mr. Starr, the special prosecutor. As a former prosecutor myself, I feel strongly that there is at the very least an appearance of a conflict of interest. But notwithstanding what appears to be conflict of interest, are you telling me that he is paying somebody out of tax money, on a part-time basis, the equivalent of about $160,000 a year to give him ethical advice?

Mr. PRYOR. This is the first time, I answer my friend from Vermont, in the history of all of the legal independent counsels that we have had, that an independent counsel has felt the necessity of retaining an ethics attorney or an ethics adviser. In this one, the taxpayers are paying $3,200 each week. I imagine that is more than a member—I do not know what a member of the Supreme Court gets.

Mr. LEAHY. A member of a Supreme Court who works full time is paid less. The attorney retained as the ethics adviser is, I realize, a wonderful man and a good friend of mine, but this is extraordinary—this ethics adviser is paid on a part-time basis with taxpayer money?

Mr. PRYOR. That is correct. He is a fine law professor. Mr. Starr gave him this job in order to advise Mr. Starr on ethics. I do not know one time yet that Mr. Dash has not told Mr. Starr what he was doing was OK, including making $1.3 million last year.

RECESS

The PRESIDING OFFICER. Under the previous order, vote on passage of H.R. 3103 will occur at 2:15.

Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:47 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Ms. SNOWE].

HEALTH INSURANCE REFORM ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on H.R. 3103. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—100

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

So the bill (H.R. 3103), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3103) entitled "An Act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Insurance Reform Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

Subtitle A—Group Market Rules

Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.

Subtitle B—Individual Market Rules

Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.

Subtitle C—COBRA Clarifications

Sec. 121. COBRA clarifications.

Subtitle D—Private Health Plan Purchasing Cooperatives

Sec. 131. Private health plan purchasing cooperatives.

TITLE II—APPLICATION AND ENFORCEMENT OF STANDARDS

Sec. 201. Applicability.
Sec. 202. Enforcement of standards.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. HMOs allowed to offer plans with deductibles to individuals with medical savings accounts.
Sec. 302. Health coverage availability study.
Sec. 303. Reimbursement of telemedicine.
Sec. 304. Sense of the Committee concerning medicare.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Sec. 305. Parity for mental health services.
Sec. 306. Waiver of foreign country residence requirement with respect to international medical graduates.
Sec. 307. Organ and tissue donation information included with income tax refund payments.
Sec. 308. Sense of the Senate regarding adequate health care coverage for all children and pregnant women.
Sec. 309. Sense of the Senate regarding available treatments.
Sec. 310. Medical volunteers.
Sec. 311. Effective date.
Sec. 312. Severability.

TITLE IV—TAX-RELATED HEALTH PROVISIONS

Sec. 400. Short title; amendment of 1986 Code.

Subtitle A—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

Sec. 401. Increase in self-employed individuals' deduction for health insurance costs.

Subtitle B—Long-Term Care Provisions

CHAPTER 1—LONG-TERM CARE SERVICES AND CONTRACTS

SUBCHAPTER A—GENERAL PROVISIONS

Sec. 411. Treatment of long-term care insurance.
Sec. 412. Qualified long-term care services treated as medical care.
Sec. 413. Certain exchanges of life insurance contracts for qualified long-term care insurance contracts not taxable.
Sec. 414. Exception from penalty tax for amounts withdrawn from certain retirement plans for qualified long-term care insurance.
Sec. 415. Reporting requirements.

SUBCHAPTER B—CONSUMER PROTECTION PROVISIONS

Sec. 421. Policy requirements.
Sec. 422. Requirements for issuers of long-term care insurance policies.
Sec. 423. Coordination with State requirements.
Sec. 424. Effective dates.

CHAPTER 2—TREATMENT OF ACCELERATED DEATH BENEFITS

Sec. 431. Treatment of accelerated death benefits by recipient.
Sec. 432. Tax treatment of companies issuing qualified accelerated death benefit riders.

Subtitle C—High-Risk Pools

Sec. 451. Exemption from income tax for State-sponsored organizations providing health coverage for high-risk individuals.

Subtitle D—Penalty-Free IRA Distributions

Sec. 461. Distributions from certain plans may be used without penalty to pay financially devastating medical expenses.

Subtitle E—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

Sec. 471. Revision of tax rules on expatriation.
Sec. 472. Information on individuals expatriating.
Sec. 473. Report on tax compliance by United States citizens and residents living abroad.

CHAPTER 2—COMPANY-OWNED INSURANCE

Sec. 495. Denial of deduction for interest on loans with respect to company-owned insurance.

TITLE V—HEALTH CARE FRAUD AND ABUSE PREVENTION

Sec. 500. Amendments.

Subtitle A—Fraud and Abuse Control Program

Sec. 501. Fraud and abuse control program.
Sec. 502. Medicare integrity program.
Sec. 503. Beneficiary incentive programs.
Sec. 504. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health care programs.
Sec. 505. Guidance regarding application of health care fraud and abuse sanctions.

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

Sec. 511. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 512. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.
Sec. 513. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.
Sec. 514. Sanctions against practitioners and persons for failure to comply with statutory obligations.
Sec. 515. Intermediate sanctions for medicare health maintenance organizations.
Sec. 516. Additional exceptions to anti-kickback penalties for risk-sharing arrangements.
Sec. 517. Effective date.

Subtitle C—Data Collection and Miscellaneous Provisions

Sec. 521. Establishment of the health care fraud and abuse data collection program.

Subtitle D—Civil Monetary Penalties

Sec. 531. Social Security Act civil monetary penalties.

Subtitle E—Amendments to Criminal Law

Sec. 541. Health care fraud.
Sec. 542. Forfeitures for Federal health care offenses.
Sec. 543. Injunctive relief relating to Federal health care offenses.
Sec. 544. False statements.
Sec. 545. Obstruction of criminal investigations of Federal health care offenses.
Sec. 546. Theft or embezzlement.
Sec. 547. Laundering of monetary instruments.
Sec. 548. Authorized investigative demand procedures.

TITLE VI—INTERNAL REVENUE CODE AND OTHER PROVISIONS

Sec. 600. References.

Subtitle A—Foreign Trust Tax Compliance

Sec. 601. Improved information reporting on foreign trusts.
Sec. 602. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.
Sec. 603. Foreign persons not to be treated as owners under grantor trust rules.
Sec. 604. Information reporting regarding foreign gifts.
Sec. 605. Modification of rules relating to foreign trusts which are not grantor trusts.
Sec. 606. Residence of estates and trusts, etc.

Subtitle B—Repeal of Bad Debt Reserve Method for Thrift Savings Associations

Sec. 611. Repeal of bad debt reserve method for Thrift Savings Associations.

Subtitle C—Other Provisions

Sec. 621. Extension of medicare secondary payor provisions.
Sec. 622. Annual adjustment factors for operating costs only; restraint on rent increases.
Sec. 623. Foreclosure avoidance and borrower assistance.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))), or any health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)), that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(10) PLAN SPONSOR.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(11) SECRETARY.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(12) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

Subtitle A—Group Market Rules

SEC. 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish, under the terms of such plan, eligibility, enrollment, or premium contribution requirements for individual participants or beneficiaries, except that such requirements shall not be based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability (including conditions arising out of acts of domestic violence), genetic information, or disability.

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(c) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market or to require a health plan issuer to involuntarily issue a group health plan to a group health plan purchaser in a particular market if the group health plan was specifically designed for a different market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with more than one employee and not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARTICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this Act.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan, a group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status or insurability of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 202(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan; and

(ii) all group health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State

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law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status or the insurability of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may, with respect to a participant or beneficiary, impose a limitation or exclusion of benefits, otherwise available under the terms of the plan only if—

(1) such limitation or exclusion is a limitation or exclusion of benefits relating to the treatment of a preexisting condition; and

(2) such limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to a participant or beneficiary described in subsection (e)(2)(A) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries whose coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation to such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or a group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsections (a) and (b) may be excluded, except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse selection as approved by the applicable certifying authority (as defined in section 202(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITION.—

(1) IN GENERAL.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(2) BIRTH, ADOPTION AND PREGNANCY EXCLUDED.—The term "preexisting condition" does not apply to—

(A) an individual who, within 30 days of the date of the birth or placement for adoption of a child (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; or

(B) pregnancy.

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3); or

(3) require health plan issuers to have a lookback period that is shorter than the period described in subsection (e)(1);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUERS.—

(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more

than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates;

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsections (c) and (d), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (described in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to, or deny enrollment of, such individual; or

(B) impose a limitation or exclusion of benefits, otherwise available under such plan, for which coverage was available under the group health plan or employee health benefit plan in which the individual was previously enrolled.

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph is a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) DEFINITION OF ELIGIBLE INDIVIDUAL.—As used in subsection (a)(1), the term "eligible individual" means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans or employee health benefit plans for not less than 18 months (without a lapse of more than 30 days) immediately prior to the date on which such individual applies for enrollment in the individual health plan;

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, elected coverage and exhausted the maximum period of coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under a State program providing an extension of such coverage.

(c) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENTS.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this Act shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

(4) CONSTRUCTION.—Nothing in this Act shall be construed to require that a State replace or dissolve high risk pools or other similar State mechanisms which are designed to provide individuals in such State with access to health benefits.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan;

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status or insurability of particular individuals.

(2) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 202(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined

VOL 142 PT 6 AP 15 — 24 1996 UMI

in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status or the insurability of particular individuals.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) ADOPTION OF ALTERNATIVE MECHANISMS.—

(1) IN GENERAL.—A State, in accordance with this section, may adopt alternative mechanisms (public or private) that are designed to provide access to affordable health benefits for individuals meeting the requirements of sections 110(b) and 111 (such as mechanisms providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, mandatory conversion policies, or any combination thereof).

(2) PROCEDURE FOR STATE ELECTION.—If, not later than 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that—

(A) the State has adopted an alternative mechanism that achieves the goals of sections 110 and 111; or

(B) the State intends to implement an alternative mechanism that is designed to achieve the goals of sections 110 and 111;

such State alternative mechanism shall, except as provided in paragraphs (3) and (4), apply in lieu of the standards described in sections 110 and 111.

(3) NONAPPLICATION OF MECHANISM.—A State alternative mechanism adopted under paragraph (1) shall be presumed to achieve the goals of sections 110 and 111 and shall apply in lieu of such sections, unless the Secretary of Health and Human Services, in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, finds that the State alternative mechanism fails to—

(A) offer coverage to those individuals who meet the requirements of sections 110(b) and 111;

(B) prohibit a limitation or exclusion of benefits relating to treatment of a preexisting condition that was covered under the previous group health plan or employee health benefit plan of an individual who meets the requirements of sections 110(b) and 111;

(C) offer individuals who meet the requirements of sections 110(b) and 111 a choice of individual health plans, including at least one plan comparable to comprehensive plans offered in the individual market in such State or a plan comparable to a standard option plan available under the group or individual health insurance laws of such State; or

(D) except as provided in paragraph (4), implement a risk spreading mechanism, cross subsidy mechanism, risk adjustment mechanism, rating limitation or other mechanism (such as mechanisms described in the NAIC Model Health Plan for Uninsurable Individuals Act) designed to reduce the variation among the cost of such plans and other individual health plans offered by the carrier or available in such State.

(4) CHOICE OF PLANS.—The Secretary of Health and Human Services shall waive the requirement in subparagraph (D) of paragraph (3) with respect to a State if individuals who meet the requirements of sections 110(b) and 111 in such State are provided with a choice of all individual health plans otherwise available in the individual market.

(5) FUTURE ADOPTION OF MECHANISMS.—With respect to a State that implements an alternative mechanism under paragraph (1) after the period referred to in paragraph (2)—

(A) the State shall provide notice to the Secretary that such alternative mechanism achieves the goals of sections 110 and 111;

(B) the State alternative mechanism shall apply in lieu of sections 110 and 111;

(C) except as provided in subsections (d) and (e), the Secretary may make a determination as provided for in paragraph (3); and

(D) the procedures described in subsection (c) shall apply.

(b) TIMEFRAME FOR SECRETARIAL DETERMINATION.—

(1) IN GENERAL.—With respect to a State election under subsection (a)(2)(B), the Secretary of Health and Human Services shall not make a determination under subsection (a)(3) until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later.

(2) RULE APPLICABLE TO CERTAIN STATES.—With respect to a State that makes an election under subsection (a)(2)(B) and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary of Health and Human Services shall not make a determination under subsection (a) prior to January 1, 1999.

(c) NOTICE TO STATE.—If the Secretary of Health and Human Services determines that a State alternative mechanism fails to meet the criteria described in subsection (a)(3), or that such mechanism is no longer being implemented, the Secretary of Health and Human Services shall notify the Governor of such State of such preliminary determination and permit the State a reasonable opportunity in which to modify the alternative mechanism or to adopt another mechanism that is designed to meet the goals of sections 110 and 111. If, after an opportunity to modify such State alternative mechanism, the mechanism fails to meet the criteria described in subsection (a)(3), the Secretary shall notify the Governor of such State that sections 110 and 111 shall apply in the State.

(d) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, has adopted a model act or acts including provisions addressing portability from a group health plan or employee health benefit plan into the individual health insurance market; and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC model act or acts, that such act or acts comply with the goals of sections 110 and 111;

a State that elects to adopt such model act or acts shall be deemed to have met the requirements of sections 110 and 111 and shall not be subject to a determination under subsection (a)(3).

(e) STATE HIGH RISK POOLS DEEMED IN COMPLIANCE.—If the Governor of a State notifies the Secretary of Health and Human Services in a timeframe consistent with either subsection (a)(2) or (a)(5) that such State has a high risk pool open to those individuals meeting the requirements of sections 110(b) and 111, that limits preexisting condition waiting periods consistent with section 110(a)(1)(B) and that with respect to premium rates and covered benefits is consistent with standards included in the NAIC Model Health Plan for Uninsurable Individuals Act, such State high risk pool shall be deemed to have met the requirements of sections 110 and 111 and shall not be subject to a determination under subsection (a)(3).

SEC. 113. DEFINITION.

(a) IN GENERAL.—As used in this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital or fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(2) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb–6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(3) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb–8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) PERIOD OF COVERAGE.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) NOTICES.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(3) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section";

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1995"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(3) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring on or after the date of the enactment of this Act for plan years beginning after December 31, 1997.

(e) NOTIFICATION OF CHANGES.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this Act, the term "health plan purchasing cooperative" means a group of employees or a group of individuals and employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers.

(b) CERTIFICATION.—

(1) REQUIREMENT.—If a group described in subsection (a), desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion and shall oversee the operations of such cooperative in order to ensure continued compliance with the requirements of this section. Each such cooperative shall also be registered with the Secretary.

(2) STATE REFUSAL TO CERTIFY.—

(A) IN GENERAL.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this Act, the Secretary shall certify and oversee the operations of such cooperatives in such State.

(B) EXCEPTION.—The Secretary shall not certify a health plan purchasing cooperative described in this section if, upon the submission of an application by the State to the Secretary, the Secretary determines that under a State law in effect on the date of enactment of this Act, all small employers have a means readily available that ensures—

(i) that individuals and employees have a choice of multiple, unaffiliated health plan issuers;

(ii) that health plan coverage is subject to State premium rating requirements that are not based on the factors described in subsection (f)(3) and that contains a mandatory minimum loss ratio; and

(iii) that comparative health plan materials are disseminated consistent with subsection (e)(1)(D);

and that otherwise meets the objectives of this Act.

(3) INTERSTATE COOPERATIVES.—For purposes of this section, a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a broad cross-section of representatives of employers, employees, and individuals participating in the cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by health plan purchasing cooperatives to ensure that cooperatives do not discriminate on the basis of the health status or insurability of the populations that reside in the area served. A State may not use such rules to arbitrarily limit the number of health plan purchasing cooperatives.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) objectively evaluate potential health plan issuers and enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible;

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State;

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) broadly solicit and actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this Act, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers; and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers;

VOL
142
PT
6
AP
15
—
24
1996
UMI

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, enrollment, or premium contribution requirements for individual participants or beneficiaries based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, genetic information, or disability;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization or organizations—

(A) in which membership in such organization is not based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, genetic information, or disability; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of an employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this Act.

(g) CONFLICT OF INTEREST.—

(1) PROHIBITION.—No individual, partnership, or corporation shall serve on the board of a health plan purchasing cooperative, be employed by such a cooperative, receive compensation from such a cooperative, or initiate or finance such a cooperative if such individual, partnership, or corporation—

(A) fails to discharge the duties and responsibilities of such individual, partnership or corporation in a manner that is solely in the interest of the members of the cooperative; or

(B) derives personal benefit (other than in the form of ordinary compensation received) from the sale of, or has a financial interest in, health plans, services or products sold by or distributed through that cooperative.

(2) CONTRACTS WITH THIRD PARTIES.—Nothing in paragraph (1) shall be construed to prohibit the board of directors of a health plan purchasing cooperative, or its officers, at the initiative and under this direction of the board, from contracting with third parties to provide administrative, marketing, consultive, or other services to the cooperative.

(h) LIMITED PREEMPTION OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—Except as provided in subparagraph (B), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section shall comply with all State rating requirements that would otherwise apply if the health plan were offered outside of the cooperative.

(B) EXCEPTION.—A State shall permit a health plan issuer to reduce premium rates negotiated with a health plan purchasing cooperative that meets the requirements of this section to reflect savings derived from administrative costs, marketing costs, profit margins, economies of scale, or other factors, except that any such reduction in premium rates may not be based on the health status, demographic factors, industry type, duration, or other indicators of health risk of the members of the cooperative.

(C) BENEFITS.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category of care, or services of any class or type of provider.

(D) EXCEPTION.—In those States that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(i) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives;

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) preempt a State from requiring licensure for individuals who are involved in directly supplying advice or selling health plans on behalf of a purchasing cooperative;

(5) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State;

(6) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans;

(7) confer authority upon a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, association plans, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section; or

(8) except as specifically provided otherwise in this subsection, prevent the application of State laws and regulations otherwise applicable to health plan issuers offering group health plans or individual health plans through a health plan purchasing cooperative.

(j) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health plan purchasing cooperative as if such plan were an employee welfare benefit plan.

TITLE II—APPLICATION AND ENFORCEMENT OF STANDARDS

SEC. 201. APPLICABILITY.

(a) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this Act on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this Act. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements or standards imposed under this Act shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this Act.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this Act as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a State enforce the requirements or standards of this Act as they relate to employee health benefit plans.

(2) PREEMPTION OF STATE LAW.—Nothing in this Act shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this Act; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this Act and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) CONTINUATION.—Nothing in this Act shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary, to all participants or beneficiaries, or to any class or group of participants or beneficiaries, in excess of or other than those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this Act pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement plan.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this Act in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this Act with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this Act in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this Act, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term "applicable certifying authority" means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this Act for the State involved; and

(2) an employee health benefit plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this Act.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security Act of

1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1996" before the period.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. HMOS ALLOWED TO OFFER PLANS WITH DEDUCTIBLES TO INDIVIDUALS WITH MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 1301(b) of the Public Health Service Act (42 U.S.C. 300e(b)) is amended by adding at the end the following new paragraph:

"(6)(A) If a member certifies that a medical savings account has been established for the benefit of such member, a health maintenance organization may, at the request of such member reduce the basic health services payment otherwise determined under paragraph (1) by requiring the payment of a deductible by the member for basic health services.

"(B) For purposes of this paragraph, the term 'medical savings account' means an account which, by its terms, allows the deposit of funds and the use of such funds and income derived from the investment of such funds for the payment of the deductible described in subparagraph (A).".

(b) MEDICAL SAVINGS ACCOUNTS.—It is the sense of the Committee on Labor and Human Resources of the Senate that the establishment of medical savings accounts, including those defined in section 1301(b)(6)(B) of the Public Health Service Act (42 U.S.C. 300e(b)(6)(B)), should be encouraged as part of any health insurance reform legislation passed by the Senate through the use of tax incentives relating to contributions to, the income growth of, and the qualified use of, such accounts.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the Congress should take measures to further the purposes of this Act, including any necessary changes to the Internal Revenue Code of 1986 to encourage groups and individuals to obtain health coverage, and to promote access, equity, portability, affordability, and security of health benefits.

SEC. 302. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conduct a three-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a non-group basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a non-group basis.

(d) EVALUATION OF ACCESS AND CHOICE.—Not later than June 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning—

(1) an evaluation of the extent to which patients have direct access to, and choice of, health care provider, including specialty providers, within a network of providers, as well as the opportunity to utilize providers outside of the network, under the various types of coverage offered under the provisions of this Act;

(2) an evaluation of the cost to the insurer of providing out-of-network access to providers, and the feasibility of providing out-of-network access in all health plans offered under provisions of this Act; and

(3) an evaluation of the percent of premium dollar utilized for medical care and administration of the various types of coverage offered, including coverage which permits out-of-network access and choice of provider, under provisions of this Act.

SEC. 303. REIMBURSEMENT OF TELEMEDICINE.

The Health Care Financing Administration is directed to complete their ongoing study of reimbursement of all telemedicine services and submit a report to Congress with a proposal for reimbursement of fee-for-service medicine by March 1, 1997. The report shall utilize data compiled from the current demonstration projects already under review and gather data from other ongoing telemedicine networks. This report shall include an analysis of the cost of services provided via telemedicine.

SEC. 304. SENSE OF THE COMMITTEE CONCERNING MEDICARE.

(a) FINDINGS.—The Committee on Labor and Human Resources of the Senate finds that the Public Trustees of Medicare concluded in their 1995 Annual Report that—

(1) the Medicare program is clearly unsustainable in its present form;

(2) "the Hospital Insurance Trust Fund, which pays inpatient hospital expenses, will be able to pay benefits for only about 7 years and is severely out of financial balance in the long range"; and

(3) the Public Trustees "strongly recommend that the crisis presented by the financial condition of the Medicare trust fund be urgently addressed on a comprehensive basis, including a review of the programs's financing methods, benefit provisions, and delivery mechanisms".

(b) SENSE OF THE COMMITTEE.—It is the Sense of the Committee on Labor and Human Resources of the Senate that the Senate should take measures necessary to reform the Medicare program, to provide increased choice for seniors, and to respond to the findings of the Public Trustees by protecting the short-term solvency and long-term sustainability of the Medicare program.

SEC. 305. PARITY FOR MENTAL HEALTH SERVICES.

(a) PROHIBITION.—An employee health benefit plan, or a health plan issuer offering a group health plan or an individual health plan, shall not impose treatment limitations or financial requirements on the coverage of mental health services if similar limitations or requirements are not imposed on coverage for services for other conditions.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed as prohibiting an employee health benefit plan, or a health plan issuer offering a group health plan or an individual health plan, from requiring preadmission screening prior to the authorization of services covered under the plan or from applying other limitations that restrict coverage for mental health services to those services that are medically necessary.

SEC. 306. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking "June 1, 1996" and inserting "June 1, 2002".

(b) CONDITIONS ON FEDERALLY REQUESTED WAIVERS.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1184(e)) is amended by inserting after "except that in the case of a waiver requested by a State Department of Public Health or its equivalent" the following: "or in the case of a waiver requested by an interested United States Government agency on behalf of an alien described in clause (iii)".

(c) RESTRICTIONS ON FEDERALLY REQUESTED WAIVERS.—Section 214(k) (8 U.S.C. 1184(k)) is amended to read as follows:

"(k)(1) In the case of a request by an interested State agency or by an interested United States Government agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver; and

"(B)(i) in the case of a request by an interested State agency—

"(I) the alien demonstrates a bona fide offer of full-time employment, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest; or

"(ii) in the case of a request by an interested United States Government agency—

"(I) the alien demonstrates a bona fide offer of full-time employment that has been found to be in the public interest, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest;

"(C) in the case of a request by an interested State agency, the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than three years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

"(D) in the case of a request by an interested State agency, the grant of such a waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed 20.

"(2)(A) Notwithstanding section 248(2) the Attorney General may change the status of an alien that qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of the contract with the health facility or organization named in the waiver application shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

VOL
142
PT
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AP
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24
1996
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"(3) Notwithstanding any other provisions of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien in clause (iii) of that section who has not otherwise been accorded status under section 101(a)(27)(H)—

"(A) in the case of a request by an interested State agency, if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C); and

"(B) in the case of a request by an interested United States Government agency, if at any time the alien engages in employment for a health facility or organization not named in the waiver application.".

SEC. 307. ORGAN AND TISSUE DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall include with any payment of a refund of individual income tax made during the period beginning on February 1, 1997, and ending on June 30, 1997, a copy of the document described in subsection (b).

(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ and tissue (including eye) donation, prepare a document suitable for inclusion with individual income tax refund payments which—

(1) encourages organ and tissue donation;

(2) includes a detachable organ and tissue donor card; and

(3) urges recipients to—

(A) sign the organ and tissue donor card;

(B) discuss organ and tissue donation with family members and tell family members about the recipient's desire to be an organ and tissue donor if the occasion arises; and

(C) encourage family members to request or authorize organ and tissue donation if the occasion arises.

SEC. 308. SENSE OF THE SENATE REGARDING ADEQUATE HEALTH CARE COVERAGE FOR ALL CHILDREN AND PREGNANT WOMEN.

(a) FINDINGS.—The Senate finds the following:

(1) The health care coverage of mothers and children in the United States is unacceptable, with more than 9,300,000 children and 500,000 expectant mothers having no health insurance.

(2) Among industrial nations, the United States ranks 1st in wealth but 18th in infant mortality, and 14th among such nations in maternal mortality.

(3) 22 percent of pregnant women do not have prenatal care in the first trimester, and 22 percent of all poor children are uninsured, despite the medicaid program under title XIX of the Social Security Act.

(4) Of the 1,100,000 net increase in uninsured persons from 1992 to 1993, 84 percent or 922,500 were children.

(5) Since 1987, the number of children covered by employment based health insurance has decreased, and many children lack health insurance despite the relative affordability of providing insurance for children.

(6) Health care coverage for children is relatively inexpensive and in 1993 the medicaid program spent an average of $1,012 per child compared to $8,220 per elderly adult.

(7) Uninsured children are generally children of lower income workers, who are less likely than higher income workers to have health insurance for their families because they are less likely to work for a firm that offers insurance, and if such insurance is offered, it is often too costly for lower income workers to purchase.

(8) In 1993, 61 percent of uninsured children were in families with at least one parent working full time for the entire year the child was uninsured, and about 57 percent of uninsured children had a family income at or below 150 percent of the Federal poverty level.

(9) If Congress eliminates the Federal guarantee of medicaid, an estimated 4,900,000 children may lose their guarantee of health care coverage, and those same children may be added to the currently projected 12,600,000 children who will be uninsured by the year 2002.

(10) Studies have shown that uninsured children are less likely than insured children to receive needed health and preventive care, which can affect their health status adversely throughout their lives, with such children less likely to have routine doctor visits, receive care for injuries, and have a regular source of medical care.

(11) The families of uninsured children are more likely to take the children to an emergency room than to a private physician or health maintenance organization.

(12) Children without health insurance are less likely to be appropriately immunized or receive other preventive care for childhood illnesses.

(13) Ensuring the health of children clearly increases their chances to become productive members of society and averts more serious or more expensive health conditions later in life, and ensuring that all pregnant women receive competent prenatal care also saves social costs.

(14) Although the United States has made great improvements in health care coverage through the medicaid program, it is still the only developed nation that does not ensure that all of its children and pregnant women have health care coverage.

(15) The United States should not accept a status quo in which children in many neighborhoods are more likely to have access to drugs and guns than to doctors, or accept a status quo in which health care is ensured for all prisoners but not for all children.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the issue of adequate health care for our mothers and children is important to the future of the United States, and in consideration of the importance of such issue, the Senate should pass health care legislation that will ensure health care coverage for all of the United States's pregnant women and children.

SEC. 309. SENSE OF THE SENATE REGARDING AVAILABLE TREATMENTS.

It is the sense of the Senate that the Senate finds that patients deserve to know the full range of treatments available to them and Congress should thoughtfully examine these issues to ensure that all patients get the care they deserve.

SEC. 310. MEDICAL VOLUNTEERS.

(a) SHORT TITLE.—This title may be cited as the "Medical Volunteer Act".

(b) TORT CLAIM IMMUNITY.—

(1) GENERAL RULE.—A health care professional who provides a health care service to a medically underserved person without receiving compensation for such health care service, shall be regarded, for purposes of any medical malpractice claim that may arise in connection with the provision of such service, as an employee of the Federal Government for purposes of the Federal tort claims provisions in title 28, United States Code.

(2) COMPENSATION.—For purposes of paragraph (1), a health care professional shall be deemed to have provided a health care service without compensation only if, prior to furnishing a health care service, the health care professional—

(A) agrees to furnish the health care service without charge to any person, including any health insurance plan or program under which the recipient is covered; and

(B) provides the recipient of the health care service with adequate notice (as determined by the Secretary) of the limited liability of the health care professional with respect to the service.

(c) PREEMPTION.—The provisions of this section shall preempt any State law to the extent that such law is inconsistent with such provisions. The provisions of this section shall not preempt any State law that provides greater incentives or protections to a health care professional rendering a health care service.

(d) DEFINITIONS.—For purposes of this section:

(1) HEALTH CARE PROFESSIONAL.—The term "health care professional" means a person who, at the time the person provides a health care service, is licensed or certified by the appropriate authorities for practice in a State to furnish health care services.

(2) HEALTH CARE SERVICE.—The term "health care service" means any medical assistance to the extent it is included in the plan submitted under title XIX of the Social Security Act for the State in which the service was provided.

(3) MEDICALLY UNDERSERVED PERSON.—The term "medically underserved person" means a person who resides in—

(A) a medically underserved area as defined for purposes of determining a medically underserved population under section 330 of the Public Health Service Act (42 U.S.C. 254c); or

(B) a health professional shortage area as defined in section 332 of such Act (42 U.S.C. 254e);

and who receives care in a health care facility substantially comparable to any of those designated in the Federally Supported Health Centers Assistance Act (42 U.S.C. 233 et seq.), as shall be determined in regulations promulgated by the Secretary.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Department of Health and Human Services.

SEC. 311. EFFECTIVE DATE.

Except as otherwise provided for in this Act, the provisions of this Act shall apply as follows:

(1) With respect to group health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997.

(2) With respect to individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after the date that is 6 months after the date of enactment of this Act, or January 1, 1997, whichever is later.

(3) With respect to employee health benefit plans, such provisions shall apply to such plans on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 312. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE IV—TAX-RELATED HEALTH PROVISIONS

SEC. 400. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Health Insurance and Long-Term Care Affordability Act of 1996".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

SEC. 401. INCREASE IN SELF-EMPLOYED INDIVIDUALS' DEDUCTION FOR HEALTH INSURANCE COSTS.

(a) IN GENERAL.—Section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended—

(1) by striking "30 percent" in paragraph (1) and inserting "the applicable percentage", and

(2) by adding at the end the following new paragraph:

"(6) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means the percentage determined in accordance with the following table:

"In the case of taxable years beginning in:	*The applicable percentage is:*
1997	35
1998	40
1999	45
2000	50
2001	55
2002	60
2003	65
2004	70
2005	75
2006 and thereafter	80.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Long-Term Care Provisions

CHAPTER 1—LONG-TERM CARE SERVICES AND CONTRACTS

Subchapter A—General Provisions

SEC. 411. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE.

"(a) IN GENERAL.—For purposes of this title—

"(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

"(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

"(4) except as provided in subsection (e)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

"(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—For purposes of this title—

"(1) IN GENERAL.—The term 'qualified long-term care insurance contract' means any insurance contract if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

"(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(C) such contract is guaranteed renewable,

"(D) such contract does not provide for a cash surrender value or other money that can be—

"(i) paid, assigned, or pledged as collateral for a loan, or

"(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C), and

"(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits.

"(2) SPECIAL RULES.—

"(A) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) SPECIAL RULES RELATING TO MEDICARE.—

"(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(ii) No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

"(C) REFUNDS OF PREMIUMS.—Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

"(A) are required by a chronically ill individual, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) CHRONICALLY ILL INDIVIDUAL.—

"(A) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity,

"(ii) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i), or

"(iii) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

"(B) ACTIVITIES OF DAILY LIVING.—For purposes of subparagraph (A), each of the following is an activity of daily living:

"(i) Eating.

"(ii) Toileting.

"(iii) Transferring.

"(iv) Bathing.

"(v) Dressing.

"(vi) Continence.

Nothing in this section shall be construed to require a contract to take into account all of the preceding activities of daily living.

"(3) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

"(4) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(d) AGGREGATE PAYMENTS IN EXCESS OF LIMITS.—

"(1) IN GENERAL.—If the aggregate amount of periodic payments under all qualified long-term care insurance contracts with respect to an insured for any period exceeds the dollar amount in effect for such period under paragraph (3), such excess payments shall be treated as made for qualified long-term care services only to the extent of the costs incurred by the payee (not otherwise compensated for by insurance or otherwise) for qualified long-term care services provided during such period for such insured.

"(2) PERIODIC PAYMENTS.—For purposes of paragraph (1), the term 'periodic payment' means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

"(3) DOLLAR AMOUNT.—The dollar amount in effect under this subsection shall be $175 per day (or the equivalent amount in the case of payments on another periodic basis).

"(4) INFLATION ADJUSTMENT.—In the case of a calendar year after 1997, the dollar amount contained in paragraph (3) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(11).

"(e) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as a part of a life insurance contract—

"(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

"(2) APPLICATION OF 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(3) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

"(4) PORTION DEFINED.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a qualified long-term care insurance contract.".

(b) RESERVE METHOD.—Clause (iii) of section 807(d)(3)(A) is amended by inserting "(other than a qualified long-term care insurance contract, as defined in section 7702B(b))" after "insurance contract".

(c) LONG-TERM CARE INSURANCE NOT PERMITTED UNDER CAFETERIA PLANS OR FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—Section 125(f) is amended by adding at the end the following

VOL
142
PT
6
AP
15
—
24
1996
UMI

new sentence: "Such term shall not include any long-term care insurance contract (as defined in section 4980C).".

(2) FLEXIBLE SPENDING ARRANGEMENTS.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) INCLUSION OF LONG-TERM CARE BENEFITS PROVIDED THROUGH FLEXIBLE SPENDING ARRANGEMENTS.—

"(1) IN GENERAL.—Effective on and after January 1, 1997, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(c)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

"(2) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage.".

(d) CONTINUATION COVERAGE EXCISE TAX NOT TO APPLY.—Subsection (f) of section 4980B is amended by adding at the end the following new paragraph:

"(9) CONTINUATION OF LONG-TERM CARE COVERAGE NOT REQUIRED.—A group health plan shall not be treated as failing to meet the requirements of this subsection solely by reason of failing to provide coverage under any qualified long-term care insurance contract (as defined in section 7702B(b)).".

(e) AMOUNTS PAID TO SPOUSE OR RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—Section 213(d) is amended by adding at the end the following new paragraph:

"(10) CERTAIN PAYMENTS TO SPOUSE OR RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

"(A) by the spouse of the individual or a relative (directly or through a partnership, corporation, or other entity) unless the spouse or relative is a licensed professional with respect to such services, or

"(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in any of paragraphs (1) through (8) of section 152(a). This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance.".

(f) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of qualified long-term care insurance.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after December 31, 1996.

(2) CONTINUATION OF EXISTING POLICIES.—In the case of any contract issued before January 1, 1997, which met the long-term care insurance requirements of the State in which the contract was issued at the time the contract was issued—

(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), and

(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

(3) EXCHANGES OF EXISTING POLICIES.—If, after the date of enactment of this Act and before January 1, 1998, a contract providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

(4) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a rider which is treated as a qualified long-term care insurance contract under section 7702B, and

(B) the addition of any provision required to conform any other long-term care rider to be so treated,

shall not be treated as a modification or material change of such contract.

SEC. 412. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702B(c)), or".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(2)(A) Paragraph (1) of section 213(d) is amended by adding at the end the following new flush sentence:

"In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (11)) shall be taken into account under subparagraph (D).".

(B) Subsection (d) of section 213 is amended by adding at the end the following new paragraph:

"(11) ELIGIBLE LONG-TERM CARE PREMIUMS.—

"(A) IN GENERAL.—For purposes of this section, the term 'eligible long-term care premiums' means the amount paid during a taxable year for any qualified long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

"In the case of an individual with an attained age before the close of the taxable year of:	**The limitation is:**
40 or less	$200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	2,000
More than 70	2,500.

"(B) INDEXING.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(ii) MEDICAL CARE COST ADJUSTMENT.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(II) such component for August of 1996.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence.".

(3) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(4) Paragraph (7) of section 213(d) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 413. CERTAIN EXCHANGES OF LIFE INSURANCE CONTRACTS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS NOT TAXABLE.

(a) IN GENERAL.—Subsection (a) of section 1035 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting "; or", and by adding at the end the following new paragraph:

"(4) a contract of life insurance or an endowment or annuity contract for a qualified long-term care insurance contract (as defined in section 7702B(b)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 414. EXCEPTION FROM PENALTY TAX FOR AMOUNTS WITHDRAWN FROM CERTAIN RETIREMENT PLANS FOR QUALIFIED LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

"(D) PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3), to the extent such distributions do not exceed the premiums for a qualified long-term care insurance contract (as defined in section 7702B(b)) for such individual or the spouse of such individual. In applying subparagraph (B), such premiums shall be treated as amounts not paid for medical care.".

(b) DISTRIBUTIONS PERMITTED FROM CERTAIN PLANS TO PAY LONG-TERM CARE PREMIUMS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for the payment of premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of the employee or the spouse of the employee.".

(3) Subparagraph (A) of section 457(d)(1) is amended by striking "or" at the end of clause (ii), by striking "and" at the end of clause (iii) and inserting "or", and by inserting after clause (iii) the following new clause:

"(iv) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".

(c) CONFORMING AMENDMENT.—Section 72t(2)(B) is amended by striking "subparagraph (A) or (C))" and inserting "subparagraph (A), (C), or (D))".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996.

SEC. 415. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

"SEC. 6050Q. CERTAIN LONG-TERM CARE BENEFITS.

"(a) REQUIREMENT OF REPORTING.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the person making the payments, and

"(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) LONG-TERM CARE BENEFITS.—For purposes of this section, the term 'long-term care benefit' means any amount paid under a long-term care insurance policy (within the meaning of section 4980C(e)).".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

"(ix) section 6050Q (relating to certain long-term care benefits),".

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

"(Q) section 6050Q(b) (relating to certain long-term care benefits),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050Q. Certain long-term care benefits.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits paid after December 31, 1996.

Subchapter B—Consumer Protection Provisions

SEC. 421. POLICY REQUIREMENTS.

Section 7702B (as added by section 411) is amended by adding at the end the following new subsection:

"(f) CONSUMER PROTECTION PROVISIONS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any contract if any long-term care insurance policy issued under the contract meets—

"(A) the requirements of the model regulation and model Act described in paragraph (2),

"(B) the disclosure requirement of paragraph (3), and

"(C) the requirements relating to nonforfeitability under paragraph (4).

"(2) REQUIREMENTS OF MODEL REGULATION AND ACT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any policy if such policy meets—

"(i) MODEL REGULATION.—The following requirements of the model regulation:

"(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

"(II) Section 7B (relating to prohibitions on limitations and exclusions).

"(III) Section 7C (relating to extension of benefits).

"(IV) Section 7D (relating to continuation or conversion of coverage).

"(V) Section 7E (relating to discontinuance and replacement of policies).

"(VI) Section 8 (relating to unintentional lapse).

"(VII) Section 9 (relating to disclosure), other than section 9F thereof.

"(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

"(IX) Section 11 (relating to minimum standards).

"(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

"(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(ii) MODEL ACT.—The following requirements of the model Act:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

"(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

"(3) DISCLOSURE REQUIREMENT.—The requirement of this paragraph is met with respect to any policy if such policy meets the requirements of section 4980C(d)(1).

"(4) NONFORFEITURE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any level premium long-term care insurance policy, if the issuer of such policy offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

"(B) REQUIREMENTS OF PROVISION.—The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

"(i) The nonforfeiture provision shall be appropriately captioned.

"(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying policies approved by the appropriate State regulatory authority for the same policy form.

"(iii) The nonforfeiture provision shall provide at least one of the following:

"(I) Reduced paid-up insurance.

"(II) Extended term insurance.

"(III) Shortened benefit period.

"(IV) Other similar offerings approved by the Secretary.

"(5) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this subsection, the term 'long-term care insurance policy' has the meaning given such term by section 4980C(e).".

SEC. 422. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

"SEC. 4980C. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

"(a) GENERAL RULE.—There is hereby imposed on any person failing to meet the requirements of subsection (c) or (d) a tax in the amount determined under subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be $100 per policy for each day any requirements of subsection (c) or (d) are not met with respect to each long-term care insurance policy.

"(2) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

"(c) RESPONSIBILITIES.—The requirements of this subsection are as follows:

"(1) REQUIREMENTS OF MODEL PROVISIONS.—

"(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

"(i) Section 13 (relating to application forms and replacement coverage).

"(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

VOL 142 PT 6 AP 15 — 24 1996 UMI

"(iii) Section 20 (relating to filing requirements for marketing).

"(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

"(I) in addition to such requirements, no person shall, in selling or offering to sell a long-term care insurance policy, misrepresent a material fact; and

"(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

"(v) Section 22 (relating to appropriateness of recommended purchase).

"(vi) Section 24 (relating to standard format outline of coverage).

"(vii) Section 25 (relating to requirement to deliver shopper's guide).

"(B) MODEL ACT.—The following requirements of the model Act must be met:

"(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

"(ii) Section 6G (relating to outline of coverage).

"(iii) Section 6H (relating to requirements for certificates under group plans).

"(iv) Section 6I (relating to policy summary).

"(v) Section 6J (relating to monthly reports on accelerated death benefits).

"(vi) Section 7 (relating to incontestability period).

"(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(f)(2)(B).

"(2) DELIVERY OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the issuer shall deliver to the applicant (or policyholder or certificateholder) the policy (or certificate) of insurance not later than 30 days after the date of the approval.

"(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificateholder (or representative)—

"(A) provide a written explanation of the reasons for the denial, and

"(B) make available all information directly relating to such denial.

"(d) DISCLOSURE.—The requirements of this subsection are met if the issuer of a long-term care insurance policy discloses in such policy and in the outline of coverage required under subsection (c)(1)(B)(ii) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b).

"(e) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the term 'long-term care insurance policy' means any product which is advertised, marketed, or offered as long-term care insurance.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

"Sec. 4980C. Requirements for issuers of long-term care insurance policies.".

SEC. 423. COORDINATION WITH STATE REQUIREMENTS.

Nothing in this subchapter shall prevent a State from establishing, implementing, or continuing in effect standards related to the protection of policyholders of long-term care insurance policies (as defined in section 4980C(e) of the Internal Revenue Code of 1986), if such standards are not in conflict with or inconsistent with the standards established under such Code.

SEC. 424. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this subchapter shall apply to contracts issued after December 31, 1996. The provisions of section 411(g) of this Act (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 422 shall apply to actions taken after December 31, 1996.

CHAPTER 2—TREATMENT OF ACCELERATED DEATH BENEFITS

SEC. 431. TREATMENT OF ACCELERATED DEATH BENEFITS BY RECIPIENT.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, the following amounts shall be treated as an amount paid by reason of the death of an insured:

"(A) Any amount received under a life insurance contract on the life of an insured who is a terminally ill individual.

"(B) Any amount received under a life insurance contract on the life of an insured who is a chronically ill individual (as defined in section 7702B(c)(2)) but only if such amount is received under a rider or other provision of such contract which is treated as a qualified long-term care insurance contract under section 7702B.

"(2) TREATMENT OF VIATICAL SETTLEMENTS.—

"(A) IN GENERAL.—In the case of a life insurance contract on the life of an insured described in paragraph (1), if—

"(i) any portion of such contract is sold to any viatical settlement provider, or

"(ii) any portion of the death benefit is assigned to such a provider,

the amount paid for such sale or assignment shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

"(B) VIATICAL SETTLEMENT PROVIDER.—The term 'viatical settlement provider' means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

"(i) such person is licensed for such purposes in the State in which the insured resides, or

"(ii) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes—

"(I) such person meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners, and

"(II) meets the requirements of the Model Regulations of the National Association of Insurance Commissioners (relating to standards for evaluation of reasonable payments) in determining amounts paid by such person in connection with such purchases or assignments.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) TERMINALLY ILL INDIVIDUAL.—The term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 24 months or less after the date of the certification.

"(B) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)).

"(4) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1996.

SEC. 432. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract if the only payments under the rider are payments meeting the requirements of section 101(g).

"(3) EXCEPTION FOR LONG-TERM CARE RIDERS.—Paragraph (1) shall not apply to any rider which is treated as a long-term care insurance contract under section 7702B.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on January 1, 1997.

(2) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), and

(B) the addition of any provision required to conform an accelerated death benefit rider to the requirements of such section 818(g),

shall not be treated as a modification or material change of such contract.

Subtitle C—High-Risk Pools

SEC. 451. EXEMPTION FROM INCOME TAX FOR STATE-SPONSORED ORGANIZATIONS PROVIDING HEALTH COVERAGE FOR HIGH-RISK INDIVIDUALS.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end the following new paragraph:

"(26) Any membership organization if—

"(A) such organization is established by a State exclusively to provide coverage for medical care (as defined in section 213(d)) on a not-for-profit basis to individuals described in subparagraph (B) through—

"(i) insurance issued by the organization, or

"(ii) a health maintenance organization under an arrangement with the organization,

"(B) the only individuals receiving such coverage through the organization are individuals—

"(i) who are residents of such State, and

"(ii) who, by reason of the existence or history of a medical condition, are unable to acquire medical care coverage for such condition through insurance or from a health maintenance organization or are able to acquire such coverage only at a rate which is substantially in excess of the rate for such coverage through the membership organization,

"(C) the composition of the membership in such organization is specified by such State, and

"(D) no part of the net earnings of the organization inures to the benefit of any private shareholder or individual.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle D—Penalty-Free IRA Distributions

SEC. 461. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PAY FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) IN GENERAL.—Section 72(t)(3)(A) is amended by striking "(B),".

(b) PENALTY-FREE DISTRIBUTIONS FOR PAYMENT OF HEALTH INSURANCE PREMIUMS OF CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t), as amended by section 414, is amended by adding at the end the following new subparagraph:

"(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS FOR HEALTH INSURANCE PREMIUMS.—Distributions from an individual retirement plan to an individual after separation from employment—

"(i) if such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation,

"(ii) if such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year, and

"(iii) to the extent such distributions do not exceed the amount paid during the taxable year for insurance described in section 213(d)(1)(D) with respect to the individual and the individual's spouse and dependents (as defined in section 152).

To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of clause (i) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed.".

(c) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2), as amended by section 414, is amended by striking "or (D)" and inserting ", (D), or (E)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle E—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

SEC. 471. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If an expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph) shall not apply to the expatriate, but

"(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

"(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

"(C) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property—

"(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain from such property for the taxable year of the sale, but

"(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

"(2) DEFERRED TAX AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

"(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

"(ii) an amount of interest on the amount described in clause (i) determined for the period—

"(I) beginning on the 91st day after the expatriation date, and

"(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

"(B) ALLOCATION OF LOSSES.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

"(3) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(4) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(5) DISPOSITIONS.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

"(A) immediately before death if such property is held at such time, and

"(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—The term 'covered expatriate' means an expatriate—

"(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

"(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) PROPERTY TO WHICH SECTION APPLIES.—For purposes of this section—

VOL
142
PT
6
AP
15
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24
1996
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"(1) IN GENERAL.—Except as otherwise provided by the Secretary, this section shall apply to—

"(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be includible in the gross income of the expatriate if such interest had been sold for its fair market value on such date in a transaction in which gain is recognized in whole or in part, and

"(B) any other interest in a trust to which subsection (f) applies.

"(2) EXCEPTIONS.—This section shall not apply to the following property:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(B) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(i) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(ii) FOREIGN PENSION PLANS.—

"(I) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(II) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(I) which is organized under, and governed by, the laws of the United States or a State, and

"(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) to prevent double taxation by ensuring that—

"(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

"(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

"(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

"(k) CROSS REFERENCE.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).".

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).".

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.".

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

"(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).".

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence:

"For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).".

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) SPECIAL RULES RELATING TO CERTAIN ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 472. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

"(2) TIMING.—

"(A) CITIZENS.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

"(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

"(ii) provided to the person or court referred to in section 877A(e)(3).

"(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

"(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

VOL
142
PT
6
AP
15
—
24
1996
UMI

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(e) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals expatriating.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

SEC. 473. REPORT ON TAX COMPLIANCE BY UNITED STATES CITIZENS AND RESIDENTS LIVING ABROAD.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report—

(1) describing the compliance with subtitle A of the Internal Revenue Code of 1986 by citizens and lawful permanent residents of the United States (within the meaning of section 7701(b)(6) of such Code) residing outside the United States, and

(2) recommending measures to improve such compliance (including improved coordination between executive branch agencies).

CHAPTER 2—COMPANY-OWNED INSURANCE

SEC. 495. DENIAL OF DEDUCTION FOR INTEREST ON LOANS WITH RESPECT TO COMPANY-OWNED INSURANCE.

(a) IN GENERAL.—Paragraph (4) of section 264(a) is amended—

(1) by inserting ", or any endowment or annuity contracts owned by the taxpayer covering any individual," after "the life of any individual", and

(2) by striking all that follows "carried on by the taxpayer" and inserting a period.

(b) EXCEPTION FOR CONTRACTS RELATING TO KEY PERSONS; PERMISSIBLE INTEREST RATES.—Section 264 is amended—

(1) by striking "Any" in subsection (a)(4) and inserting "Except as provided in subsection (d), any", and

(2) by adding at the end the following new subsection:

"(d) SPECIAL RULES FOR APPLICATION OF SUBSECTION (a)(4).—.

"(1) EXCEPTION FOR KEY PERSONS.—Subsection (a)(4) shall not apply to any interest paid or accrued on any indebtedness with respect to policies or contracts covering an individual who is a key person to the extent that the aggregate amount of such indebtedness with respect to policies and contracts covering such individual does not exceed $50,000.

"(2) INTEREST RATE CAP ON KEY PERSONS AND PRE-1986 CONTRACTS.—

"(A) IN GENERAL.—No deduction shall be allowed by reason of paragraph (1) or the last sentence of subsection (a) with respect to interest paid or accrued for any month to the extent the amount of such interest exceeds the amount which would have been determined if the applicable rate of interest were used for such month.

"(B) APPLICABLE RATE OF INTEREST.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The applicable rate of interest for any month is the rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

"(ii) PRE-1986 CONTRACT.—In the case of indebtedness on a contract to which the last sentence of subsection (a) applies—

"(I) which is a contract providing a fixed rate of interest, the applicable rate of interest for any month shall be the Moody's rate described in clause (i) for the month in which the contract was purchased, or

"(II) which is a contract providing a variable rate of interest, the applicable rate of interest for any month in an applicable period shall be such Moody's rate for the last month preceding such period.

For purposes of subclause (II), the taxpayer shall elect an applicable period for such contract on its return of tax imposed by this chapter for its first taxable year ending on or after October 13, 1995. Such applicable period shall be for any number of months (not greater than 12) specified in the election and may not be changed by the taxpayer without the consent of the Secretary.

"(3) KEY PERSON.—For purposes of paragraph (1), the term 'key person' means an officer or 20-percent owner, except that the number of individuals who may be treated as key persons with respect to any taxpayer shall not exceed the greater of—

"(A) 5 individuals, or

"(B) the lesser of 5 percent of the total officers and employees of the taxpayer or 10 individuals.

"(4) 20-PERCENT OWNER.—For purposes of this subsection, the term '20-percent owner' means—

"(A) if the taxpayer is a corporation, any person who owns directly 20 percent or more of the outstanding stock of the corporation or stock possessing 20 percent or more of the total combined voting power of all stock of the corporation, or

"(B) if the taxpayer is not a corporation, any person who owns 20 percent or more of the capital or profits interest in the employer.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of paragraph (4)(A) and applying the $50,000 limitation in paragraph (1)—

"(i) all members of a controlled group shall be treated as 1 taxpayer, and

"(ii) such limitation shall be allocated among the members of such group in such manner as the Secretary may prescribe.

"(B) CONTROLLED GROUP.—For purposes of this paragraph, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as members of a controlled group.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to interest paid or accrued after December 31, 1995.

(2) TRANSITION RULE FOR EXISTING INDEBTEDNESS.—

(A) IN GENERAL.—In the case of—

(i) indebtedness incurred before January 1, 1996, or

(ii) indebtedness incurred before January 1, 1997 with respect to any contract or policy entered into in 1994 or 1995,

the amendments made by this section shall not apply to qualified interest paid or accrued on such indebtedness after October 13, 1995, and before January 1, 1999.

(B) QUALIFIED INTEREST.—For purposes of subparagraph (A), the qualified interest with respect to any indebtedness for any month is the amount of interest which would be paid or accrued for such month on such indebtedness if—

(i) in the case of any interest paid or accrued after December 31, 1995, indebtedness with respect to no more than 20,000 insured individuals were taken into account, and

(ii) the lesser of the following rates of interest were used for such month:

(I) The rate of interest specified under the terms of the indebtedness as in effect on October 13, 1995 (and without regard to modification of such terms after such date).

(II) The applicable percentage rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

For purposes of clause (i), all persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 or subsection (m) or (o) of section 414 of such Code shall be treated as one person.

(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (B), the applicable percentage is as follows:

For calendar year:	**The percentage is:**
1995	100 percent
1996	90 percent
1997	80 percent
1998	70 percent.

(3) SPECIAL RULE FOR GRANDFATHERED CONTRACTS.—This section shall not apply to any contract purchased on or before June 20, 1986, except that section 264(d)(2) of the Internal Revenue Code of 1986 shall apply to interest paid or accrued after October 13, 1995.

(d) SPREAD OF INCOME INCLUSION ON SURRENDER, ETC. OF CONTRACTS.—

(1) IN GENERAL.—If any amount is received under any life insurance policy or endowment or annuity contract described in paragraph (4) of section 264(a) of the Internal Revenue Code of 1986—

(A) on the complete surrender, redemption, or maturity of such policy or contract during calendar year 1996, 1997, or 1998, or

(B) in full discharge during any such calendar year of the obligation under the policy or contract which is in the nature of a refund of the consideration paid for the policy or contract,

then (in lieu of any other inclusion in gross income) such amount shall be includible in gross income ratably over the 4-taxable year period beginning with the taxable year such amount would (but for this paragraph) be includible. The preceding sentence shall only apply to the extent the amount is includible in gross income for the taxable year in which the event described in subparagraph (A) or (B) occurs.

(2) SPECIAL RULES FOR APPLYING SECTION 264.—A contract shall not be treated as—

(A) failing to meet the requirement of section 264(c)(1) of the Internal Revenue Code of 1986, or

(B) a single premium contract under section 264(b)(1) of such Code,

solely by reason of an occurrence described in subparagraph (A) or (B) of paragraph (1) of this subsection or solely by reason of no additional premiums being received under the contract by reason of a lapse occurring after October 13, 1995.

(3) SPECIAL RULE FOR DEFERRED ACQUISITION COSTS.—In the case of the occurrence of any event described in subparagraph (A) or (B) of paragraph (1) of this subsection with respect to any policy or contract—

(A) section 848 of the Internal Revenue Code of 1986 shall not apply to the unamortized balance (if any) of the specified policy acquisition expenses attributable to such policy or contract immediately before the insurance company's taxable year in which such event occurs, and

(B) there shall be allowed as a deduction to such company for such taxable year under chapter 1 of such Code an amount equal to such unamortized balance.

TITLE V—HEALTH CARE FRAUD AND ABUSE PREVENTION

SEC. 500. AMENDMENTS.

Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

Subtitle A—Fraud and Abuse Control Program

SEC. 501. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 1997, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to health plans,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse,

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D, and

"(E) to provide for the reporting and disclosure of certain final adverse actions against health care providers, suppliers, or practitioners pursuant to the data collection system established under section 1128E.

"(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

"(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

"(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payor, or otherwise.

"(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 541(b) and 542(c) of the Health Insurance Reform Act of 1996, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT FOR FRAUD AND ABUSE CONTROL PROGRAM, ETC.—

"(A) DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND JUSTICE.—

"(i) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (C), to be available without further appropriation, in an amount not to exceed—

"(I) for fiscal year 1997, $104,000,000, and

"(II) for each of the fiscal years 1998 through 2003, the limit for the preceding fiscal year, increased by 15 percent; and

"(III) for each fiscal year after fiscal year 2003, the limit for fiscal year 2003.

"(ii) MEDICARE AND MEDICAID ACTIVITIES.—For each fiscal year, of the amount appropriated in clause (i), the following amounts shall be available only for the purposes of the activities of the Office of the Inspector General of the Department of Health and Human Services with respect to the medicare and medicaid programs—

"(I) for fiscal year 1997, not less than $60,000,000 and not more than $70,000,000;

"(II) for fiscal year 1998, not less than $80,000,000 and not more than $90,000,000;

"(III) for fiscal year 1999, not less than $90,000,000 and not more than $100,000,000;

"(IV) for fiscal year 2000, not less than $110,000,000 and not more than $120,000,000;

"(V) for fiscal year 2001, not less than $120,000,000 and not more than $130,000,000;

"(VI) for fiscal year 2002, not less than $140,000,000 and not more than $150,000,000; and

"(VII) for each fiscal year after fiscal year 2002, not less than $150,000,000 and not more than $160,000,000.

"(B) FEDERAL BUREAU OF INVESTIGATION.—There are hereby appropriated from the general fund of the United States Treasury and hereby appropriated to the Account for transfer to the Federal Bureau of Investigation to carry out the purposes described in subparagraph (C)(i), to be available without further appropriation—

"(i) for fiscal year 1997, $47,000,000;

"(ii) for fiscal year 1998, $56,000,000;

"(iii) for fiscal year 1999, $66,000,000;

"(iv) for fiscal year 2000, $76,000,000;

"(v) for fiscal year 2001, $88,000,000;

"(vi) for fiscal year 2002, $101,000,000; and

"(vii) for each fiscal year after fiscal year 2002, $114,000,000.

VOL
142
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AP
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24
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"(C) USE OF FUNDS.—The purposes described in this subparagraph are to cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(ii) investigations;

"(iii) financial and performance audits of health care programs and operations;

"(iv) inspections and other evaluations; and

"(v) provider and consumer education regarding compliance with the provisions of title XI.

"(4) APPROPRIATED AMOUNTS TO ACCOUNT FOR MEDICARE INTEGRITY PROGRAM.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under section 1893, subject to subparagraph (B) and to be available without further appropriation.

"(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1997, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1998, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1999, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 2000, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2001, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2002, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For each fiscal year after fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 502. MEDICARE INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(5) Developing (and periodically updating) a list of items of durable medical equipment in accordance with section 1834(a)(15) which are subject to prior authorization under such section.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement;

"(4) the entity meets such other requirements as the Secretary may impose; and

"(5) in the case of any contract entered into for years prior to 2000, the entity has entered into an agreement under section 1816 or a contract under section 1842.

In the case of the activity described in subsection (b)(5), an entity shall be deemed to be eligible to enter into a contract under the Program to carry out the activity if the entity is a carrier with a contract in effect under section 1842.

"(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

"(1) Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to Federal acquisition and procurement.

"(2) Competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary, except that the Secretary may contract with entities that are carrying out the activities described in this section pursuant to agreements under section 1816 or contracts under section 1842 in effect on the date of the enactment of this section.

"(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

"(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.".

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No payment may be made for carrying out any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.".

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No payment may be made for carrying out any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).".

SEC. 503. BENEFICIARY INCENTIVE PROGRAMS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide an explanation of benefits under the medicare program under title XVIII of the Social Security Act with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(b) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(c) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 504. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(1) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(2) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(3) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(4) In the second sentence of subsection (a)—

(A) by striking "a State plan approved under title XIX" and inserting "a Federal health care program", and

(B) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(5) In subsection (b), by striking "title XVIII or a State health care program" each place it appears and inserting "a Federal health care program".

(6) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(7) By adding at the end the following new subsection:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government (other than the health insurance program under chapter 89 of title 5, United States Code); or

"(2) any State health care program, as defined in section 1128(h).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

SEC. 505. GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 501, is amended by inserting after section 1128C the following new section:

"GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS

"SEC. 1128D. (a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

"(1) IN GENERAL.—

"(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1997, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

"(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

"(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

"(iii) interpretive rulings to be issued pursuant to subsection (b); and

"(iv) special fraud alerts to be issued pursuant to subsection (c).

"(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

"(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the 'Inspector General') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

"(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

"(A) An increase or decrease in access to health care services.

"(B) An increase or decrease in the quality of health care services.

"(C) An increase or decrease in patient freedom of choice among health care providers.

"(D) An increase or decrease in competition among health care providers.

"(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

"(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

"(G) An increase or decrease in the potential overutilization of health care services.

"(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

"(i) whether to order a health care item or service; or

"(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

"(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

"(b) INTERPRETIVE RULINGS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B (in this section referred to as an 'interpretive ruling').

"(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

"(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 90 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

"(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 60 days after receiving such a request and shall identify the reasons for such decision.

"(2) CRITERIA FOR INTERPRETIVE RULINGS.—

"(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

"(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

"(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

"(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

"(c) SPECIAL FRAUD ALERTS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under the medicare program or a State health care program, as defined in section 1128(h) (in this subsection referred to as a 'special fraud alert').

"(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

"(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

"(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

"(B) the volume and frequency of the conduct that would be identified in the special fraud alert.".

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

SEC. 511. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Insurance Reform Act of 1996, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted

VOL
142
PT
6
AP
15
—
24
1996
UMI

after the date of the enactment of the Health Insurance Reform Act of 1996, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Insurance Reform Act of 1996, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 512. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 513. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—(A) Any individual—

"(i) who has a direct or indirect ownership or control interest in a sanctioned entity and who knows or should know (as defined in section 1128A(i)(6)) of the action constituting the basis for the conviction or exclusion described in subparagraph (B); or

"(ii) who is an officer or managing employee (as defined in section 1126(b)) of such an entity.

"(B) For purposes of subparagraph (A), the term 'sanctioned entity' means an entity—

"(i) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(ii) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 514. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 515. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1997.

SEC. 516. ADDITIONAL EXCEPTIONS TO ANTI-KICKBACK PENALTIES FOR RISK-SHARING ARRANGEMENTS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) any remuneration between an organization and an individual or entity providing items or services pursuant to a written agreement between the organization and the individual or entity if the organization is an eligible organization under section 1876, or if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services, or a combination thereof, which the individual or entity is obligated to provide, whether through a withhold or capitation, or other similar risk arrangements which places the individual or entity at substantial financial risk.".

(b) REGULATIONS.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended by adding at the end the following new paragraph:

"(4) The Secretary, in consultation with the Attorney General, not later than 1 year after the date of enactment of Health Insurance Reform Act of 1996, and not less than every 2 years thereafter, shall promulgate regulations to define substantial financial risk as necessary to protect against program or patient abuse.".

SEC. 517. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect January 1, 1997.

Subtitle C—Data Collection and Miscellaneous Provisions

SEC. 521. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 501 and 505, is amended by inserting after section 1128D the following new section:

"HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

"SEC. 1128E. (a) GENERAL PURPOSE.—Not later than January 1, 1997, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

"(b) REPORTING OF INFORMATION.—

"(1) IN GENERAL.—Each Government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

"(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

"(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

"(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

"(C) The nature of the final adverse action and whether such action is on appeal.

"(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

"(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

"(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

"(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

"(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

"(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

"(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

"(B) procedures in the case of disputed accuracy of the information.

"(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

"(d) ACCESS TO REPORTED INFORMATION.—

"(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

"(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

"(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

"(f) COORDINATION WITH NATIONAL PRACTITIONER DATA BANK.—The Secretary shall implement this section in such a manner as to avoid duplication with the reporting requirements established for the National Practitioner Data Bank under the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11101 et seq.).

"(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) FINAL ADVERSE ACTION.—

"(A) IN GENERAL.—The term 'final adverse action' includes:

"(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

"(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

"(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or

"(III) any other negative action or finding by such Federal or State agency that is publicly available information.

"(iv) Exclusion from participation in Federal or State health care programs due to program violations.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) EXCEPTION.—The term does not include any action with respect to a malpractice claim.

"(2) PRACTITIONER.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

"(3) GOVERNMENT AGENCY.—The term 'Government agency' shall include:

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

"(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

"(D) State law enforcement agencies.

"(E) State medicaid fraud control units.

"(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

"(4) HEALTH PLAN.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(5) DETERMINATION OF CONVICTION.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(i).".

(b) IMPROVED PREVENTION IN ISSUANCE OF MEDICARE PROVIDER NUMBERS.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.".

Subtitle D—Civil Monetary Penalties

SEC. 531. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(f)(1))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Insurance Reform Act of 1996 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C).".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))",

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)", and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of

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142
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the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection—

"(i) retains a direct or indirect ownership or control interest in an entity that is participating in a program under title XVIII or a State health care program, and who knows or should know of the action constituting the basis for the exclusion; or

"(ii) is an officer or managing employee (as defined in section 1126(b)) of such an entity;".

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(d) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)), as amended by subsection (b), is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking the semicolon and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or should know is not medically necessary; or".

(e) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c–5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(f) PROCEDURAL PROVISIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 515(a)(2), is amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (B)(i) or (C)(i) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128A(a).".

(g) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program (as so defined);".

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Insurance Reform Act of 1996; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1997.

Subtitle E—Amendments to Criminal Law

SEC. 541. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§1347. Health care fraud

"Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health care program, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care program in connection with the delivery of or payment for health care benefits, items, or services; shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 501(b), an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 542. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act; and

"(iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.".

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 501(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been

forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 543. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".

SEC. 544. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§1033. False statements relating to health care matters

"Whoever, in any matter involving a health care program, knowingly and willfully—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or

"(2) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry,

shall be fined under this title or imprisoned not more than 5 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"1033. False statements relating to health care matters.".

SEC. 545. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§1518. Obstruction of criminal investigations of Federal health care offenses

"(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

"(c) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"1518. Obstruction of Criminal Investigations of Federal Health Care Offenses.".

SEC. 546. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§669. Theft or embezzlement in connection with health care

"Whoever willfully embezzles, steals, or otherwise willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care program, shall be fined under this title or imprisoned not more than 10 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or Embezzlement in Connection with Health Care.".

SEC. 547. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 548. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§3486. Authorized investigative demand procedures

"(a)(1)(A) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control.

"(B) A custodian of records may be required to give testimony concerning the production and authentication of such records.

"(C) The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served.

"(D) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(E) A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any health care program, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care program in connection with the delivery of or payment for health care benefits, items, or services.

"(b)(1) A subpoena issued under this section may be served by any person designated in the subpoena to serve it.

"(2) Service upon a natural person may be made by personal delivery of the subpoena to such person.

"(3) Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

"(4) The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c)(1) In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena.

"(2) The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony required under subsection (a)(1)(B).

"(3) Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(4) All process in any such case may be served in any judicial district in which such person may be found.

"(d) Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e)(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefor.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3405 the following new item:

"3486. Authorized investigative demand procedures.".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

TITLE VI—INTERNAL REVENUE CODE AND OTHER PROVISIONS

SEC. 600. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Subtitle A—Foreign Trust Tax Compliance

SEC. 601. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) In General.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) Notice of Certain Events.—

"(1) General rule.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) Contents of notice.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

"(3) Reportable event.—For purposes of this subsection—

"(A) In general.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) Exceptions.—

"(i) Fair market value sales.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) Deferred compensation and charitable trusts.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) Responsible party.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) United States Grantor of Foreign Trust.—

"(1) In general.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) Trusts not having United States agent.—

"(A) In general.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) United States agent required.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) Other rules to apply.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) Reporting by United States Beneficiaries of Foreign Trusts.—

"(1) In general.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) Inclusion in income if records not provided.—

"(A) In general.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) Application of accumulation distribution rules.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) Special Rules.—

"(1) Determination of whether United States person receives distribution.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) Domestic trusts with foreign activities.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) Time and manner of filing information.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) Modification of return requirements.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.".

(b) Increased Penalties.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) Civil Penalty.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) Special Rules for Returns Under Section 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) Gross Reportable Amount.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) Reasonable Cause Exception.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(c) Conforming Amendments.—

(1) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting ", or", and by inserting after subparagraph (T) the following new subparagraph:

"(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).".

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts.".

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts.".

(d) Effective Dates.—

(1) Reportable events.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) Grantor trust reporting.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) Reporting by United States beneficiaries.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 602. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) Treatment of Trust Obligations, Etc.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) Transfers at fair market value.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.".

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) Certain obligations not taken into account under fair market value exception.—

"(A) In general.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) Treatment of principal payments on obligation.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) Persons described.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.".

(b) Exemption of Transfers to Charitable Trusts.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) Other Modifications.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) Special rules applicable to foreign grantor who later becomes a United States person.—

"(A) In general.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) Treatment of undistributed income.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) Residency starting date.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) Outbound trust migrations.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.".

(d) Modifications Relating to Whether Trust Has United States Beneficiaries.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) Certain United States beneficiaries disregarded.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.".

(e) Technical Amendment.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) Regulations.—Section 679 is amended by adding at the end the following new subsection:

"(d) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(g) Effective Date.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 603. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) General Rule.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) Subpart Not To Result in Foreign Ownership.—

"(1) In general.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) Exceptions.—

"(A) Certain revocable and irrevocable trusts.—Paragraph (1) shall not apply to any trust if—

"(i) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) Compensatory trusts.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) Special rules.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) Recharacterization of purported gifts.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) Special rule where grantor is foreign person.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.".

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) Credit for Certain Taxes.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.".

(c) Distributions by Certain Foreign Trusts Through Nominees.—

VOL
142
PT
6
AP
15
—
24
1996
UMI

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 604. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 605. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.".

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.".

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.".

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 606. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.".

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.".

(2) PENALTY.—Section 1494 is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

Subtitle B—Repeal of Bad Debt Reserve Method for Thrift Savings Associations

SEC. 611. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence: "Paragraphs (1)(A), (2)(A), and (4) of section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995.".

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7) Sections 595 and 596 are hereby repealed.

(8) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The",

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(9) Paragraph (3) of section 992(d) is amended by striking "or 593".

(10) Section 1038 is amended by striking subsection (f).

(11) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(12) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(13) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(14) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 593, 595, and 596.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) REPEAL OF SECTION 595.—The repeal of section 595 under subsection (b)(7) shall apply to property acquired in taxable years beginning after December 31, 1995.

(d) 6-YEAR SPREAD OF ADJUSTMENTS.—

(1) IN GENERAL.—In the case of any taxpayer who is required by reason of the amendments made by this section to change its method of computing reserves for bad debts—

(A) such change shall be treated as a change in a method of accounting,

(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

(i) shall be determined by taking into account only applicable excess reserves, and

(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

(2) APPLICABLE EXCESS RESERVES.—

(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

(i) the balance of the reserves described in section 593(c)(1) of such Code (as in effect on the day before the date of the enactment of this Act) as of the close of the taxpayer's last taxable year beginning before January 1, 1996, over

(ii) the lesser of—

(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

(II) the balance of the reserves described in subclause (I), reduce by an amount determined in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581 of such Code) which is not a large bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995—

(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserve as of the close of its last taxable year beginning before January 1, 1996, if the additions to such reserve for all taxable years had been determined under section 585(b)(2)(A), and

(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5), (6), and (7).

(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in subparagraph (A)(ii) except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

(A) IN GENERAL.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for a taxable year beginning after December 31, 1995, and before January 1, 1998—

(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

(ii) such taxable year shall be disregarded in determining—

(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

(II) the amount of such adjustment.

(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term "residential loan" means any loan described in clause (v) of section 7701(a)(19)(C) of such Code but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning before January 1, 1996. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after December 31, 1995, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary of the Treasury or the Secretary's delegate.

(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1) of such Code, subparagraph (B) shall be applied with respect to such group.

(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995:

(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii) of such Code, there shall be taken into account only the excess of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

(B) TREATMENT UNDER ELECTIVE CUT-OFF METHOD.—For purposes of applying section 585(c)(4) of such Code—

VOL
142
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24
1996
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(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

(ii) no amount shall be includible in gross income by reason of such reduction.

(6) CONTINUED APPLICATION OF SECTION 593(e).—Notwithstanding the amendments made by this section, in the case of a taxpayer to which paragraph (1) of this subsection applies, section 593(e) of such Code (as in effect on the day before the date of the enactment of this Act) shall continue to apply to such taxpayer as if such taxpayer were a domestic building and loan association but the amount of the reserves taken into account under subparagraphs (B) and (C) of section 593(e)(1) (as so in effect) shall be the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

(7) CERTAIN ITEMS INCLUDED AS SECTION 381(c) ITEMS.—The balance of the applicable excess reserves, and the balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection, shall be treated as items described in section 381(c) of such Code.

(8) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c)(14)(A)—

(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

(9) REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall prescribe such regulations as may be necessary to carry out this subsection, including regulations providing for the application of paragraphs (4) and (6) in the case of acquisitions, mergers, spin-offs, and other reorganizations.

Subtitle C—Other Provisions

SEC. 621. EXTENSION OF MEDICARE SECONDARY PAYOR PROVISIONS.

Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking clause (iii) and redesignating clause (iv) as clause (iii); and

(B) in the matter following clause (ii) of subparagraph (C), by striking ", and before October 1, 1998"; and

(2) in paragraph (5)(C), by striking clause (iii).

SEC. 622. ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY; RESTRAINT ON RENT INCREASES.

(a) ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended—

(1) by striking "(2)(A)" and inserting "(2)(A)(i)";

(2) by striking the second sentence and all that follows through the end of the subparagraph; and

(3) by adding at the end the following new clause:

"(ii) Each assistance contract under this section shall provide that—

"(I) if the maximum monthly rent for a unit in a new construction or substantial rehabilitation project to be adjusted using an annual adjustment factor exceeds 100 percent of the fair market rent for an existing dwelling unit in the market area, the Secretary shall adjust the rent using an operating costs factor that increases the rent to reflect increases in operating costs in the market area; and

"(II) if the owner of a unit in a project described in subclause (I) demonstrates that the adjusted rent determined under subclause (I) would not exceed.the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary, the Secretary shall use the otherwise applicable annual adjustment factor.".

(b) RESTRAINT ON SECTION 8 RENT INCREASES.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), as amended by subsection (a) of this section, is amended by adding at the end the following new clause:

"(iii)(I) Subject to subclause (II), with respect to any unit assisted under this section that is occupied by the same family at the time of the most recent annual rental adjustment, if the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor, and if the rent for the unit is otherwise eligible for an adjustment based on the full amount of the annual adjustment factor, 0.01 shall be subtracted from the amount of the annual adjustment factor, except that the annual adjustment factor shall not be reduced to less than 1.0.

"(II) With respect to any unit described in subclause (I) that is assisted under the certificate program, the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area in which the unit is located.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be construed to have become effective on October 1, 1995.

SEC. 623. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) EFFECTIVENESS AND APPLICABILITY.—Section 407 of The Balanced Budget Downpayment Act, I (Public Law 104-99) is amended—

(1) in subsection (c)—

(A) by striking "Except as provided in subsection (e), the" and inserting "The"; and

(B) by striking "only with respect to mortgages insured under the National Housing Act that are originated before October 1, 1995" and inserting "to all mortgages insured under the National Housing Act"; and

(2) by striking subsection (e).

(b) TECHNICAL AMENDMENT.—Section 230(d) of the National Housing Act (12 U.S.C. 1715u(d)) is amended by striking "the Departments" and all that follows through "1996" and inserting "The Balanced Budget Downpayment Act, I".

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The PRESIDING OFFICER. The clerk will now report Senate Joint Resolution 21.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms.

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. The time until 3:45 is equally divided.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, who controls the time? I would like to speak in favor of the matter before the Senate. My understanding is the Senator from Tennessee or the Senator from Missouri.

The PRESIDING OFFICER. The time is divided between the Senate majority leader and the Senate minority leader or their designees.

Mr. WARNER. Madam President, I inquire of the distinguished Senator from Tennessee if I might have 5 minutes within which to speak in favor of the pending matter.

Mr. THOMPSON. I yield 5 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I intend to vote in favor of the constitutional amendment limiting the number of terms Members of Congress can serve.

I voted for a similar sense-of-the-Senate amendment on October 17, 1995, and despite the clarity of my position and the documented record thereof in the Senate, the official records of my votes are continually distorted by my detractors. But that is nothing new in the life of a Senator. I wish to say exactly what I believe on this issue.

I think the public is entitled to a national referendum on this issue, and the procedures outlined by the Constitution of the United States as to how the Nation addresses such an issue are very clear. It is not the duty nor the power of the Congress to enact this. It has to be done by the requisite number of State legislatures, and I am highly in favor of that process beginning at the earliest possible date.

In my view, however, we already have term limits, and should this debate unfold in my State and across America, I will take an active role in it, and I will address my concerns about the adoption of such an amendment.

I feel the current constitutional procedures for the election of U.S. Senators and Members of the House of Representatives are themselves adequate protection that could be afforded by any constitutional amendment. It gives the right of the electorate of the States to make their own decision, as they think best for their State at that point in time, as it relates to their Senators and Members of the House of Representatives.

Finally, I am concerned about if we were to adopt for the Nation such a procedure that we would be shifting too much power to the executive branch and also, too, I say candidly, to those individuals who have spent much time here in the U.S. Senate as very capable, very knowledgeable, well trained, dedicated and committed staff persons. If they were to stay here for periods much longer than their respective committee chairmen, for example, or Senators themselves, it seems to me that, too, adds to the imbalance of power.

Then it comes to the question of the seniority procedures and tradition in the U.S. Senate. Seniority is a very important part of the rules and traditions followed by both sides of the aisle, particularly as it relates to the election of committee chairmen or ranking members. That system was adopted because earlier procedures by the Senate were found to lend themselves to what I call pleasing politics. In other words, an individual would run for chairmanship of a committee and promise and promise to all the members of the committee that whatever they brought up, he or she would vote for.

Fortunately, in the period I have been privileged to serve in the U.S. Senate on behalf of Virginia, we have had very strong and resolute chairmen in the several committees on which I have served. I mention only the Senate Armed Services Committee. Richard Russell, John Stennis, John Tower, Barry Goldwater and now STROM THURMOND, Scoop Jackson for a period and SAM NUNN. What finer men have ever served in the U.S. Senate. But they had to make tough decisions, often inimical and in opposition to their own colleagues of their own party. But they could do so knowing full well that the traditions of how one becomes eventually a chairman could withstand what I call the politics of trying to please everyone.

If a chairman has to please everyone, in my mind it is very doubtful that you will have the strong leadership that is needed in the office of chairman and in the ranking member of our committees.

So I put that out as an open question, and I hope we might address it in the context of this amendment.

Madam President, I thank the distinguished floor leaders for the time, and I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Madam President, I yield myself 3 minutes in the absence of anyone else, and then 5 minutes to the Senator from California and 5 minutes to the Senator from New Jersey.

Madam President, I think I can speak without anyone saying, "He is trying to help himself," because I am going to be retiring at the end of this year.

Government is complicated. No one here would go to the yellow pages of their phone book when they had plumbing difficulties and get a plumber and he advertises, "I have no experience with plumbing, call" whatever the number is. If that is true with something as relatively simple as plumbing, it is infinitely more true of the decisions that we have to make in this body.

BENNETT JOHNSTON, for example, who is retiring, has huge knowledge in the scientific area that I think is unequaled in this body. Meaning no disrespect to whomever may succeed him, that person is not going to have that kind of knowledge.

Senator BYRD brings a wealth of knowledge here from that experience. On the other side of the aisle, a former colleague of yours and mine, Madam President, HENRY HYDE—I differ with Congressman HENRY HYDE on a lot of things, but he is a class act. He brings a wealth of experience, and he has improved the end product of the laws of our country because of what he has contributed. To cut off a HENRY HYDE or a BENNETT JOHNSTON or a ROBERT BYRD arbitrarily and take that decision away from the people of the Nation and of their respective States and districts, I think, is wrong. This is a constitutional amendment that should be defeated.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much, Madam President. I think the remarks of the Senator from Illinois are very important.

I want to put on the table my position on term limits which is, I support them if they are applied retroactively to all of us, to sitting officeholders. I had planned to support an amendment which Senator LEAHY had planned to offer to make these term limits apply retroactively. Unfortunately, through a series of parliamentary maneuvers known as "filling the amendment tree," the Republican leadership has made it impossible for us to amend this resolution. It is either up or down. So here we are unable to make these term limits apply to us.

Advocates of this proposal assert that in its present form, it limits Senators to two terms. That is simply untrue. Without retroactivity, Senators in this Chamber—every one of us—can serve an additional two terms if this amendment passes.

That is very convenient for Members here, but it really, to me, does not get at the issue of term limits.

Let me cite two specific examples. Under this proposal, the majority leader would be limited to seven terms, or 42 years, in the U.S. Senate. The distinguished chairman of the Armed Services Committee will be limited to nine terms, or 54 years, in the U.S. Senate.

I do not think that most supporters of term limits will be satisfied with so-called limits that allow politicians to stay in office for more than half a century.

One Senator now serving in this body was serving here before another sitting Senator was 2 years old. It is incredible that the Members who would be serving over 50 years or 42 years are going to vote for this term-limit proposal.

So I think the situation undermines the credibility of the Senate. We cannot offer amendments, we cannot make it apply to us, and I do not think we should be congratulating ourselves for supporting term limits when it is obvious that the limits proposed are little more than what I consider to be a sham for every Member serving in this Chamber. It is more of "do as I say not as I do," and I think the public is very tired of that.

So let us offer our retroactivity amendment and not exempt ourselves from this law. Perhaps the majority leader will allow us that chance if we vote down cloture. Let me be clear. At that time, if we vote down cloture and the majority leader allows us a vote on retroactivity, I will support cloture. I think it is very important that we be allowed to make sure that this amendment that so many are congratulating themselves on applies to each and every one of us.

I thank the Chair very much. I believe Senator BRADLEY now has 5 minutes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Madam President, I rise in opposition to the cloture motion. I oppose term limits at this time. I think the answer to the problems of democracy is not less democracy, but is more democracy. Why should we say to people in this country who want a particular Senator or Congressman to return to office that they arbitrarily cannot return them to office?

I also regret the parliamentary circumstance here, the constitutional amendment on term limits. Many of us believe that the problems of democracy have deeper root causes than Senators and Congressmen staying in office more than 12 years and that, indeed, money is at the root of the problem in our democracy.

I had hoped to be able to offer a constitutional amendment as an amendment here in these proceedings that would allow the Congress and the States to limit what an individual may spend on his or her campaign. In my view, it is money that is creating a much greater problem for our democracy than somebody staying in office for 13 years.

I think fundamental campaign finance reform is what we need. I think it has to be radical. I think money and politics is a little bit like ants in your kitchen—you either have to get them all out, block all the holes, or some of them are going to find a way in.

A fundamental campaign finance reform proposal would be limits in primaries and would be also, I think, financing the election in the general election, dividing it equally among Republican, Democrat, and qualified independents, and it would mean a constitutional amendment. That would allow the Congress and States to limit what an individual spends on his or her own campaign. Everybody knows that a wealthy person has a microphone and everybody else has a megaphone here. The ability to raise money is often the prerequisite for deciding to run for Congress.

VOL 142 PT 6 AP 15 — 24 1996 UMI

When everybody goes in to visit their campaign committee, whether it is Republican or Democrat, the first question that is asked them is not, "Gee, have you been a good citizen? Do you have a good record? Do you have ideas on how to make the country better? Are you willing to put yourself on the line to do that? Are you willing to stand up for your convictions?" It is, "Can you raise $1 million?" Better yet, "Do you have $1 million to spend on your campaign?"

Imagine a world in which there are term limits, but without strong campaign finance laws. How is democracy going to be improved? You will have the Senators and Congressmen coming from the same cast, raising money from the same sources, in some cases financing their own campaigns themselves, and will simply have a more active turnover of the same problem that we have now. It will not solve the problem—money in politics—which is the root cause of a lot of our problems. It will simply bring more people who are dependent on a special interest who have to finance their own campaigns themselves.

On the other hand, imagine a campaign or situation where you had strong finance laws but no term limits. Imagine general elections where Republicans and Democrats divided the money in a fund and they each had equal amounts of money, and the money could only come from people in their own State, and that is all the money that they had to spend. You would then have the possibility of a battle of ideas. There is no possibility of a battle of ideas where money dominates the process as much as it does today. Even if term limits passes but we do not address the issue of money in politics, we are not going to have as vibrant a democracy as we otherwise could have. There are no two ways about that.

I rise today simply to make this point because I had hoped, as I said earlier, to offer an amendment, a constitutional amendment, that would allow the Congress and the States to limit what an individual can spend on his or her own campaign as a part of an overall campaign finance proposal. Unfortunately, I cannot do that. I regret that I cannot do that because of the parliamentary circumstance. I hope that I will before the end of this Congress. I think it is absolutely essential. Anything that fails to address the issue of money in politics and claims to be the answer to the problems of democracy is false advertising. I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. I yield 7 minutes to the Senator from Wyoming.

Mr. THOMAS. I thank the Senator. I thank him for his effort to bring this issue to the floor. It is an issue certainly that all of us who were elected in 1994 had a great interest in because that is what people were talking about. Frankly, had it not been for the Senator from Tennessee and the Senator from Missouri and the leader, we would not be here talking about it.

I rise in strong support of Senate Joint Resolution 21 as a cosponsor of the bill and a long-time advocate of responding to the voice of voters and the voice of the people. I am pleased that the Senate will finally go on record on this important issue.

Obviously, there are different points of view about it. We have heard a number of things just in the last few minutes. Let me comment on some of them.

One of them is the idea of amending. That certainly, if I ever heard a political response, is one. The Senator from California would not vote for this under any circumstances. So the idea that it cannot be amended to be retroactive is simply an obstruction to what we are trying to do.

Limiting dollars. We have talked about that a lot. I think it is a great idea. The only trouble is it does not work. How are you going to do that? Reporting is the best issue. Talk about limiting dollars that can be spent by candidates, we are looking this year at the AFL–CIO spending $35 million, which would not count because they are not in the campaign.

You have heard a little bit about the idea of people having the chance to make their own choice. It makes some sense. They are going to have a chance to make a choice. This is a constitutional amendment. The Congress does not pass this; it simply submits it to the States. The people will have an opportunity to express their feeling on it. This comes up from time to time.

I hear it at home, "Well, you know, if the folks in that district want someone to continue to serve, they should be able to." I thought about that some. I was in the House before I came here. One of the very good Members of the House just 2 years ago had been in the House since before Pearl Harbor. I simply want to make the point that that person, who had a congressional district, as I did, had 10 times as much thrust in the Congress as I did because of the seniority. So the people from every other congressional district had no input into that. But the folks in that district are never going to change because here is a guy who has more authority than anybody else in the Congress. Of course, he is going to continue to be there. That is kind of what we are up against, it seems to me.

In 1992, 77 percent of the Wyoming voters supported term limits, and 70 to 80 percent of Americans support term limits. I think it is important to note that the majority and the freshmen who came in last year support term limits, people who were elected last year when the voters were saying, "Yes, we're for term limits."

I think it is important that we consider not just the term limits, but what has to be done to make some institutional change in the Congress. If you do not like the way things have been done for 40 years, if you want to see some fundamental change, then it is difficult to imagine that there is going to be change if we continue to do things the same way.

That is what term limits is about. It is about the end of career politicians in Congress. I happen to think that is a good idea. I happen to think that is what the drafters of the Constitution had in mind, to return to the Founders' vision, to the extent possible, of citizen legislators.

I was impressed this morning by someone's observation that one of the necessary things to represent your constituents in this Congress is to have had some experience in the private sector, to have had some experience in the real world. I think that is terribly important.

We need fundamental change that has some impact on reducing the size of Government. I think it is pretty evident that the longer you are here, the less likely you are to be enthusiastic about reducing the size of the Government. Someone mentioned this morning, and I think it is exactly right, when people first come here they seem to have objective questions. They seem to have ideas. How can we do this better? How can we change? After being here for a very long time, you are advocates for the status quo, sort of defensive about what has been going on. We do not need more of that.

I am very much in favor of term limits. I think that it is important. There is, indeed, a considerable turnover. I think the point was made this morning that 51 percent of the Senate has been here less than two terms. That is true. The same thing is true in the House. The difficulty is that you live in the seniority system, and the other 50 percent has been here a very long time. They are the ones, of course, that have all the leadership positions, so change does not come about. That is what we are talking about.

Madam President, I am delighted that we are here. I suggest to my associates here in the Senate that it is time to come to the snubbing post. We have talked about it. It is time to support what we think people have said to us or not. It is time to support change that brings about fundamental change here—smaller Government, less expensive Government, less restrictive Government. That is what we are voting on today—changing the direction that will take us into the next century. I urge support.

Mr. DOLE. Madam President, was leader's time reserved?

The PRESIDING OFFICER. It was.

Mr. DOLE. I ask for my leader time on this issue plus another issue I will speak to briefly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, today the Senate takes a historic step on whether to move forward to pass a constitutional amendment to limit the terms of Members of both the House and the Senate. I am proud this step is one promised by the Republican Party in our last two party platforms. I am proud we made this promise in 1994. I am proud that the Republicans in the House of Representatives delivered on this promise that the Senate will have a chance to do so in about 45 minutes.

I acknowledge the fine leadership of our newer Members, such as Senators THOMPSON, ASHCROFT, INHOFE, THOMAS and others, who have joined other leaders like Senator BROWN for fighting for this reform. After years of rhetoric and stonewalling, this is a huge step forward for the American people.

I am mindful this is not the last step. While the vast majority of Republicans in both the House and the Senate support term limits, the fact is that this is a constitutional amendment. We cannot do it without substantial support on the other side of the aisle.

With President Clinton leading the opposition, it appears no such support exists on the other side of the aisle. It is pretty much like the debate on the constitutional amendment for a balanced budget we had last year. President Clinton not only has consistently opposed term limits, but he sent his Solicitor General to the U.S. Supreme Court to argue against the term limits law that passed overwhelmingly in his own State of Arkansas. He should drop his opposition to term limits and help deliver the votes necessary to pass the constitutional amendment.

Madam President, I share my view of why I believe this is important. As someone who has served this country for most of his adult life, I am not one that subscribes to the notion that this is about the people who serve in representative democracy. I know it is fashionable to attack politicians, but the truth is that those elected represent the people, at whatever level of Government, reflect both the strength and weakness of the electorate in a thousand different ways.

What this is about is the institution of representative democracy itself. I believe that the notion of a citizen legislator is an honorable one. I believe that representing your constituents to the best of your abilities is at the core of the success of the American experiment over the last 200 years. It is not an effort to tear down this relationship. Term limits certainly are not that. Instead, they are an effort to strengthen that bond.

This is an issue that not many Americans—in fact, not many legislators, not many anybody—thought about until recently. Now, I think it is clear that I have been lukewarm to the idea for some time and only started indicating 2 or 3 years that it seems to me if we want to send it back to the legislatures—the people send it back, want to ratify—that is fine.

I think we are capable also of keeping up with the American people. The American people, 75 to 80 percent, favor term limits. There clearly is a sense of something going wrong. We owe it to them and the future generation to think about whether the comfortable status quo is doing the job.

For me, it has come down to this. We are a Republic founded on the rule of law. There are many ways to define what the rule of law means, but it is the genius of republican democracy that those who make the laws also live under them. That is what the rule of law means to me. I think in some respects we sort of drifted away from that.

It was only last year in a Republican Congress that we insisted for the first time that all those laws that apply to the private sector had to apply to Congress, as well. I think that is probably a pretty good step in the right direction. When legislators leave Congress to start a business or do whatever, they will have to bear the consequence of those actions in a way that they may be insulated from if they served 15, 20, or 30 years in Congress.

Now, obviously, I feel like I understand these consequences, and I'll bet most of my colleagues do too. But, studies that show that the longer a legislator spends in Congress, the more readily he or she spends taxpayers' money, suggest that this is not always the case.

In such situations, I think it is wise to rely on the good sense of the American people. They are the ones most affected, and that brings me to my final point on why I support a constitutional amendment.

The very nature of the process surrounding a constitutional amendment is that we let the people decide. Issues that go to the core of our Republican institutions are properly the province of the people.

All we do when we pass a resolution on a constitutional amendment is allow the people in all of the States to decide—and, in fact, three-fourths of those States have to decide in the affirmative before an amendment becomes part of our Constitution.

As I have said before, the Federal Government of today is not the same as that envisioned by our Founders. We need to dust off the 10th amendment, and return power back to the States and to the people.

I say, give those we represent this opportunity to debate, consider, and decide. It is particularly appropriate that we do so, when the issue before us goes to the core of the relationship between those elected and those represented. This is not an issue we should decide alone.

Mr. President, there should be no mistake about the importance of the vote today. The vote today is about whether we move forward and give the people the opportunity to make that choice.

As with other constitutional amendments, you don't always succeed the first time. Nor should we necessarily. Constitutional amendments almost always involve great issues.

But in State after State, the American people have already indicated their views on term limits. A vote today to end debate and move toward final passage is a vote to take the American people at their word and build momentum for support.

I urge my colleagues to vote to end debate and support allowing the American people we represent the opportunity to choose for themselves.

This is an opportunity for all of us who believe in sending power back to the States, back to the people. Also, it is an indication that we listen. Yes, we can change our mind. We listen. We listen to the American people. The American people have spoken, and I believe it is time for us to speak.

I hope when the vote comes at 3:45, we will have a resounding vote for cloture—maybe 100 to 0, like we had on the last vote here at 2:15.

Mr. THOMPSON. Madam President, I thank the majority leader. The fact of the matter is that we have not had a vote such as this—a constitutional amendment on term limits—for almost 50 years in this country. Were it not for the majority leader, we still would not have a vote on a constitutional amendment for term limits. He is very right when he says this is not the last vote on it. This is really the first vote in a succession of votes. This will be with us from now on. He is also right in pointing out that you could probably measure people's desire for term limits with different fervor, but you cannot deny the fact that 75 percent of the people now are in favor of it.

What we are here about today is giving the States an option of considering whether or not they want to pass a constitutional amendment. As we know, 22 States, on their own volition and for their own good reasons, have sought to limit themselves, even without other States acting. So there can be no doubt about what the sentiment of the American people is regarding this.

With regard to a couple of earlier comments by our colleagues in opposition to term limits, a statement has been made that we need the expertise that long experience brings to us and that, if you are going to have surgery performed, you would want a surgeon

VOL
142
PT
6
AP
15
—
24
1996
UMI

with some experience. I have no quarrel with either one of those propositions. Certainly, expertise and experience in any area, standing alone, in and of itself, is not a bad thing. In most cases, it is a good thing. But what we are suffering from, I respectfully submit, in this body is not a lack of expertise. We have all of the know-how, all of the brain power that any such institution would ever hope to have.

Madam President, I simply suggest that we do not have the willpower that is necessary. It has nothing to do with expertise and experience. It has to do with motivation. It is not because of a lack of expertise that we are bankrupting this Nation. It is not because of a lack of expertise that we have the situation that Senator SIMPSON described, wherein it was demonstrated that Social Security only has another set number of days before it is going to be bankrupt and Medicare is going to be bankrupt.

Senator DANFORTH's comments, as he left this body when he retired, were that we are doing something terrible to the next generation. We are bankrupting them for the sake of our own reelection. That is at the root of the problem—the motivation of those who serve here, on out into the next century. It will take years for this to be ratified, and a person would have years to serve. It is not about the Members serving today, and it is not about the Members who served before in this body. Many, many good people have done so. It is about what will equip us best to meet the challenges that we are clearly not meeting now because we do not have the willpower, because we cannot resist the temptation to do those things which are necessary for perpetual reelection. Those things usually translate into one word, and that is "spending." Spending. People descend upon us from all directions, from all walks of life, each wanting their programs funded, and you do not make friends and influence people by saying "no," and you do not perpetuate a professional political career by saying "no." Therein lies the root of the problem.

I might also say, if I went to a surgeon, I would ask what his survival ratio was. I think if people came to this body and asked what our success rate is and looked at the numbers and what we are doing to the next generation, our inability to even take the first step to balance the budget, and even if we got everything that we on this side of the aisle wanted, at the end of the 7 years we would still be looking at a $6 trillion-plus deficit, even if we did not have a recession or a war, even if nothing really untoward happened. If we got everything we wanted—and we cannot even take the first step on that scenario, which would still put us in a hopeless situation because so much of the proposals are back-end loaded, which are simply hopes and desires that future Congresses will have the courage to do what we do not have the courage to do. We put the numbers down on the paper, saying that future Congresses, when we are long out of office, will do the right thing and, therefore, we balance the budget.

So we cannot even put this—to put it charitably—questionable approach into operation, much less go any further. That is what all this is about.

One of my colleagues mentioned the role of money. As I am sure he would agree, I have taken a very clear stance with regard to that in disagreement. But some of my colleagues on my own side of the aisle say—and I agree with them—that money plays a much too important part in our process. But money alone is not the process. The reason money is important is because money buys those television ads to tout how great we are and how lousy our opponent is. Money is what keeps us up here. It is the money and the desire for perpetual reelection that is getting us into the problem with the deficit and the debt and the ruination of the next generation.

So, if we have campaign finance reform without term limits, we will never have such reform that totally takes the role of money out of politics. There is always going to be some money involved in politics. You can have all the reform that you want, and if the motivation is still there to use whatever the system would then give you to continue to perpetuate yourself, the situation would not really improve.

On the other hand, if you had term limits without campaign finance reform—and I assure you I am for both of them—as one example, in the U.S. Senate you could serve your second term, one full term of 6 years, without having to raise a dime. What would that be like?

One of the other Members implied that if we did not have the threat of voter sanctions, we would kind of steal and pillage and do all kinds of terrible things. I do not know what his feeling is with regard to a President who is term limited and has a lame duck 4-year term when he wins his second term. But I think it would be a very beneficial thing to have Members serving in the U.S. Senate under all of the scrutiny and all of the disclosure that you would always have, but not have to worry about raising one dime from one soul. That is what term limits would do, even if you did not have campaign finance reform.

Finally, Madam President, I, again, echo the leader's comments because he gets to the heart of the problem.

He, above all—and all the other Members who have served this body so well—would not imply in any way, or reflect in any way, on the service of those Members—valiant service over the years. We are talking about the future. We are talking about a system over here that has served us pretty well for a long period of time, but now it is not working anymore. We were balancing the budget up to 1969. But we are not anymore. The pressures are too great anymore with the growth of Government, the growth of programs, and the growth of spending.

What do we do? We do what the Founding Fathers envisioned. They could not have envisioned all the technological advances, pressures, all the interest groups and the way the political parties behave, but they could envision change of circumstances that would need an amendment to the Constitution.

So we are talking about the future and something that would not diminish Congress, something that would enhance Congress and enhance Congress in the eyes of the American people because we would once again be a part of them.

I thank the Chair.

Mr. KYL. Madam President, I rise in support of Senate Joint Resolution 21, a resolution proposing an amendment to the Constitution to limit congressional terms to two in the Senate and six in the House—12 years in each body.

Madam President, I want to begin my remarks by thanking the majority leader, Senator DOLE, for making good on his promise to schedule Senate action on the term limit amendment this month. Without his support and his commitment to term limits, this initiative probably would never have seen the light of day.

It would have been easy to dodge a vote—as many opponents, no doubt, would like to have been able to do—since the House already voted down a term limit amendment last year. But Senator DOLE followed through on his commitment to ensure that there would be a full and fair debate and that we would have an opportunity to vote on the issue. The American people deserve to know where their Senators stand.

Madam President, term limits are no panacea. They will not guarantee the election of sensible and honest individuals to Congress. They will not put an end to the influence that special interests can sometimes wield on Capitol Hill. However, term limits will help.

They will help by ensuring regular turnover in Congress—guaranteeing that the people who make our laws have to live under the laws they have passed. It is too easy for legislators, who have been on Capitol Hill too long, to forget what it is like to struggle in the marketplace to survive—what it means to try to meet a payroll when the Federal Government is constantly imposing new mandates on a small business. New taxes, new regulations, more redtape. They forget what it is like for a family to try to make ends meet, when more and more is taken

from their paychecks in taxes every week—higher gasoline and FICA taxes, for example.

Members of Congress have learned a lot in just the short time that the Congressional Accountability Act has been in place. The myriad of workplace laws and regulations had little meaning before last year because they never applied to Congress. When we finally had to live under the same laws and regulations as the rest of the country, the people's frustrations took on a whole new meaning.

It is that kind of connection with what people have to endure from their government on a daily basis that term limits will foster. Congressional service should not be a life-long career.

Term limits would also help to disperse some of the power that has become concentrated in the hands of a few very senior Members of both bodies. It would also help to ensure that all of us make decisions that are in accord with the views of the electorate.

Take the Federal budget, for example. The American people have been demanding less spending, lower taxes, and a balanced budget in more forceful terms every year. Newer Members of Congress tend to vote for less Federal spending than those who have served for a long time. In fact, a recent National Taxpayers Union [NTU] survey found a correlation between tenure in Congress and increased spending.

NTU found that the 88 freshmen members of the House who were elected in 1994 voted for an average of $26 billion less in spending than non-freshmen did. The 11 new Senators elected in 1994 supported an average of $26.2 billion more in spending reduction than their senior colleagues.

That is not to say that all of the more senior Members voted for more Government spending. But as a group, newer Members more closely reflected the desires of their constituents for less spending and leaner Government. It is a trend that term limits would help to promote.

Madam President, 23 States, including my home State of Arizona, have attempted to impose term limits on their congressional delegations. But a year ago, the U.S. Supreme Court held that all State term-limit laws that apply to U.S. Senators and Congressmen are unconstitutional. The majority held that the Constitution fixes the qualifications for congressional service, and that neither Congress nor the States may supplement them. That is why we have a constitutional amendment before us today—because all other legislative avenues have been foreclosed.

More than 200 years ago, Thomas Jefferson wrote a friend suggesting ways that the newly drafted Constitution could be improved. Jefferson said three things were missing: a Bill of Rights, limits on the tenure of the Chief Executive, and term limits for Congress. Since then, we have seen Jefferson's first two ideas implemented; the resolution before us today embraces the last.

Madam President, I urge support for the term limits amendment.

Mr. GRASSLEY. Madam President, I rise today in support of term limits. By overwhelming margins, the American people support term limits for Members of Congress. In a democratic society, the people's elected officials have a responsibility to respond to what the people want. Of course, we in Washington have a duty to exercise leadership—but leadership means responding to the strongly held preferences of the American people.

Although there is a long history both at the State and Federal levels in limiting the service of executives, term limits for legislators have a short history. So, we are participating in a work in progress when we debate this amendment.

It may be that term limits enhance the power of lobbyists, as some say, or term limits may lessen the power of lobbyists. Term limits may weaken the legislative branch or they may strengthen it. Term limits may cause the loss of valuable experience or it may lead to passage of reform legislation. There's no way to tell at this point. But with fresh faces with new ideas in Congress, it seems to me that reform and common sense change are far more likely.

And of course, the Constitution was made to be amendable. Since 1791, we have amended the Constitution 17 times. Each of these amendments brought about significant changes in the nature of American Government. Similarly, I believe that a term limits amendment will make needed and beneficial changes.

Prior to the Supreme Court's Thornton decision last year, I intended to introduce a statute to set term limits. That option is no long longer possible. We are in a situation where the Supreme Court has unequivocally spoken—the Constitution as currently written does not give Congress or the States the power to impose term limits by statute. So, this is not a willy-nilly amendment we are debating. This amendment is the only way to have term limits.

If we do not vote to pass this amendment, the States won't even have the chance to pass term limits. They won't even be able to consider the idea of term limits. This is an important debate, and I think that Congress should not stand in the way. Voting to pass this amendment doesn't create term limits. It just lets the debate go forward. Let's pass this amendment. The American people want it. They deserve it, and it would do much good.

Mr. DODD. Madam President, I rise today in strong opposition to this constitutional amendment.

I understand that much of what is driving today's debate is the belief among the American people that Congress is out of touch with their needs and their concerns. And to some extent their frustration is genuine and justified.

We spend too much of our time engaging in partisan political games and not enough time working together in a bipartisan manner to craft legislation that benefits all Americans.

There are many things we could do to reform Congress and make this body work more effectively. Term limits is not one of them.

If we truly want to renew the American people's faith in democracy and return their voices to our debates in Washington then we need to remove the corrosive influences of money on our campaign system.

I believe that all the goals proponents of term limits hope to achieve through this amendment, would be realized if we simply passed genuine and comprehensive campaign finance reform.

For example, public service is more and more restricted to those Americans who have the deep pockets necessary to run for Congress. And term limits would not change that.

Even if we passed this amendment, candidates would still be forced to raise millions of dollars in order to win election. And the aspirations of public service would continue to remain unachievable for the vast majority of the American people.

In order to change the way Washington operates and level the campaign playing field, we need to remove the pervasive, almost epidemic, role of money in our political system.

That is why I have long supported steps to reform our campaign system. And it's the reason I've sponsored the McCain-Feingold campaign finance reform bill.

We need to change our campaign system and allow access to public service for the American people. But, term limits is simply not the solution.

We have term limits in this country. They're called elections. And they are already enshrined in our Constitution. Look it up, article 1, section 2; article 2, section 4; and of course the 17th amendment, which dictated the manner by which we as Senators would be chosen.

These provisions of the Constitution describe the specific process of how our elected officials are chosen. And nowhere in the Constitution is there any mention of term limits, or the amount of time a Senator or Congressman must serve.

Over the past few days, I've listened to my colleagues invoke the name of the Founding Fathers in justifying their support for this amendment.

Well, I would remind them to go back to their history books, to the Constitutional Convention of 1787, which debated the issue of term limits and see

VOL
142
PT
6
AP
15
—
24
1996
UMI

what James Madison, the father of our Constitution said about this issue:

> Frequent elections; that's the answer, that a voter should be able to decide whether he wants somebody new or whether he wants somebody with experience.

Or look to the words of Robert Livingston, who said:

> The people are the best judges who ought to represent them. To dictate and control them, to tell them whom they shall not elect is to abridge their natural rights. * * * This is an absolute abridgement of the people's rights.

A years and a half ago the American people made an overwhelming decision on who would represent them. Although I can't say that I agreed with their choice and while I would have preferred that they had selected different leaders, their ballot was a reflection of our freedoms and rights as a people and a nation to choose our leaders.

And in the past few years the American people have loudly made their voices heard. In fact, more than 50 percent of the current Members of the House of Representatives were elected in the past 6 years alone.

And, in January 1997, there will be at least 38 new Senators, elected since 1992.

That represents an enormous infusion of new people and new ideas to this Congress. And, all this change came about without term limits and without a Constitutional amendment telling voters from whom they could or could not choose to represent them.

But even with these historic changes, proponents of this amendment would still have us believe that we need term limits in order provide greater choices for the American people.

Instead, term limits would limit the alternatives of the American people, because they would be precluded from voting for an incumbent. Abrogating the right of the American people to freely choose their leaders subverts the democratic principles and full rights of franchise that are every American's birthright.

Over the past few days, I've listened to the debate here in the Senate. And over and over I've heard the recurring notion that America needs term limits in order to prevent lawmakers from being contaminated by special interests and institutional corruption.

I've served in the Senate for 16 years and my belief in the dignity of public service has not dissipated. And when I look around this body at my fellow Senators I see other dedicated public servants.

I see men and women who withstand personal attacks on their character; I see men and women who give up both their privacy and a stable family life; I see men and women who labor tirelessly in these halls for one reason and one reason only—because they want to make America a better country.

Now, we may not agree on every issue. In fact, some of us may not agree on any issues. But whatever our personal beliefs, our goals and our reasons for being here are the same—to uphold our duty to our constituents, the Constitution and most important the American people.

And what about all those who came before us? The great leaders from both sides of the political aisle who have served in this austere body: Henry Clay, Daniel Webster, Everett Dirksen, Lyndon Johnson, Richard Russell, Sam Ervin and today ROBERT BYRD and BOB DOLE, to name a few.

Were they corrupted by their tenure in the United States Senate? Or was their experience integral in helping them pass legislation that made this nation a better place to live? I for one think it is the latter.

But, if we passed this amendment the hard-earned experience of lawmakers would be supplanted by a dramatic increase in the reliance on permanent staff, lobbyists and special interests.

Instead of ending careerism in Congress, we would create a permanent and unelected staff bureaucracy that would run the Federal Government.

They would have no responsibility to the American people because unlike the so-called career politicians they wouldn't be held accountable for their actions.

They wouldn't have to go to the town meetings, political rallies, Chamber of Commerce banquets and the other events that politicians in this body regularly attend to keep themselves in touch and culpable to their constituents.

What's more, small States like my home State of Connecticut would be irreparably weakened. Through the seniority system, elected officials from small States can make sure that their voices are heard when important policy decisions are being made.

But, if we enact term limits small States Would be shut out by larger States with greater representation in Congress.

Consider that just nine States can command a voting majority in the House of Representatives.

Those nine States, through their voting power, could assure that the vast majority of Federal spending be concentrated in their locales at the expenses of forty-one other States, with fewer representation and less clout.

I know that this amendment is popular among the American people.

But, the popular way isn't always the right way.

As Senators, we must always be cognizant and accountable to the will of our constituents. But, at the same time we are sworn to uphold the Constitution. And we owe the American people the wisdom of our best judgment in maintaining that solemn duty.

Adlai Stevenson once said that "My definition of a free society is a society where it is safe to be unpopular." And I think we all need to be reminded of those words when any one of us holds a view that runs contrary to the popular opinion of the American people.

Today, I will cast a vote against the popular will of the American people not because I reject their beliefs, but because I must cast my ballot for what I think is best for the country.

I hope my colleagues join me in upholding our Constitutional oath and rejecting this amendment.

Mr. SMITH. Madam President, I rise in support of Senate Joint Resolution 21, which proposes a constitutional amendment to limit congressional terms.

Mr. President, I strongly support term limits for both U.S. Senators and Representatives. The American people want term limits because they recognize that service in Congress should not be a lifetime career, but rather a temporary stewardship. Term limits will bring fresh blood and new ideas into the Congress and dilute the power of the seniority system.

Last year's U.S. Supreme Court decision on term limits made clear that the goal of limiting congressional terms cannot be accomplished except by means of a constitutional amendment. This is consistent, of course, with the manner in which Presidential term limits were established more than four decades ago.

Madam President, I am proud to be an original cosponsor of Senate Joint Resolution 21, which, in its original form, would have amended the Constitution to limit service in the Senate to two terms of 6 years each and service in the House to three terms of 2 years each.

As we wait what I believe is the inevitable addition of a term limits amendment to the Constitution, it is important to keep in mind that term limits are already happening in different ways. Voters already can and do impose term limits in the voting booths. Moreover, voluntary retirements continue at a record pace. Already in 1996, a record 13 Senators have announced their retirements.

It is also important, Madam President, to keep in mind that term limits are not a panacea. But they are a start—a start toward a Congress that is even more representative and responsive to "We the People."

Mr. LEVIN. Madam President, I will vote against ending debate on the constitutional amendment to limit congressional terms. Term limits is a serious matter which deserves serious debate. Amending the Constitution of the United States is always a serious matter and should not be done without adequate deliberation. The majority leader filed a cloture petition immediately upon calling the term limits amendment up for debate even though there has been no effort to filibuster this issue. Invoking cloture at this stage would have the affect of cutting off debate.

The Senate should have a full and open debate on this matter, and fully consider amendments which have been offered and other amendments which Senators wish to propose. For example, there is no amendment before the Senate which conforms to the language contained in the Michigan Constitution which calls for a limit on Representatives of three terms in any 12-year period, and a limit on Senators of two terms in any 24-year period. That amendment would not be allowed, for instance, if cloture is invoked. Ending the debate now would also preclude other amendments from being offered, including an amendment which would count the terms of office already served by those presently in office.

Madam President, I will oppose cloture which would prematurely cut off that debate and make it impossible to offer relevant modifications to the constitutional amendment on the ground that they are not technically germane. If there is a filibuster on this amendment, I will then vote to cut off debate so that we can vote on the constitutional amendment. In the absence of a filibuster, stopping debate will unfairly restrict consideration of possible modifications and a fair consideration of the amendment itself.

Mr. MACK. Madam President, I rise today to express my strong support for a constitutional amendment to limit congressional terms. I commend the Senators from Tennessee and Missouri for their tireless efforts on behalf of this measure and I also commend the majority leader for allowing us the opportunity to vote on this amendment. This is a truly historic debate and one that the American people would do well to note and remember.

The amendment before the Senate today is very simple. It would limit future Senators and House Members to two and six terms respectively and it further outlines the procedure for Members who assume office in midterm.

This measure's simplicity, Mr. President, is only matched by its popularity in the country and its exceeding difficulty to pass. The American people have consistently indicated their overwhelming support for term limits. This support remains solid regardless of who controls the Congress or how much the issue is debated. I remain amazed that the people's representatives continually refuse to do their bidding on this issue.

This is not the first time the Senate has considered this measure, nor will it likely be the last. The first proposal to limit congressional terms was offered in 1789. In the modern era, hearings on term limits were held in 1945, and the only straightforward Senate vote on a term limits amendment in history occurred in 1947.

It is interesting to note, Mr. President, that Republicans controlled the Senate at that time as well. At no time since have the Democrats attempted to constructively deal with the term limits issue. It is only because of the Republican majority that we stand here today. We made the commitment to the American people in the last election to bring this measure to the floor and we are keeping our word.

In the past year, we have seen several measures come and go on this floor that—in one way or another—have attempted to curb Senators' and Representatives' appetites for continual public service. All failed.

Due to the utter lack of Democratic support for the concept of term limits, it appears that the measure before us today will fail as well. This is one more battle, however, in a larger—and longer—fight. In the end, I remain confident that a meaningful, binding term limits amendment will be passed by Congress and ratified by the necessary number of States.

Mr. President, we live in a democracy that thrives on the free exchange of innovative ideas. These ideas are the lifeblood of our progress and it is critical to bring them into the political process and into the public arena. Term limits will ensure that the people's representatives continually bring fresh, new perspectives to public service and create a more responsible and respected government.

We suffer not from a dearth of new ideas in America, Mr. President; we are lacking only in the opportunity to express them in public service. The amendment before us today will change that, and I again offer it my unqualified support.

Mr. CONRAD. Madam President, today, the Senate considers a constitutional amendment regarding term limits for Members of Congress. The debate over the term limits constitutional amendment has shown that both sides of this issue are passionate about the importance of congressional service. The proponents of the term limits amendment argue that it is time to change our Constitution to address the length of congressional service. The opponents of the term limits amendment respond that not only is a term limits constitutional amendment unnecessary, it threatens the foundation of our system of government and principles of democracy. I cast my vote against the term limits constitutional amendment.

My service in the Senate began as a result of an election held in North Dakota in the fall of 1986. I won election to the U.S. Senate by defeating an incumbent who served North Dakota for 6 years in the Senate and 17 years in the House. Because of this election, I can appreciate arguments about the power of incumbency. However, most importantly, I appreciate the power of the voters. Voters have the power to vote for the candidate they feel best fits the elective office, whether the person is an incumbent or a challenger. It concerns me that a term limits constitutional amendment would limit the voters' choice to only those persons who are not disqualified because of this amendment.

It is my view that in a democracy, voters should be able to choose whomever they want to represent them. We should not deny voters the opportunity to vote for someone they believe best represents their interests simply because that person has been in the office for 12 years. According to the Congressional Research Service, at the beginning of the 104th Congress, the average length of service of a Member of the House of Representatives was 7.75 years, while the average length of service of a Member of the Senate was 10.2 years. So despite the lack of a constitutional term limits amendment of 12 years, the voters have successfully managed their own system of term limits, commonly known as the elective system.

Term limitations might be more detrimental than beneficial. It takes time to develop real expertise and experience on the wide variety of issues that come before Congress. Term limitations could result in the loss of this experience. In a sense, the voters already have the power of term limits in their hands: they can vote their elected representatives out of office at any election, from their local sheriff to their U.S. Senator. Additionally, the loss of the seniority system would prevent small States such as North Dakota from getting and keeping clout in Congress. Large State delegations would dominate the leadership and become even more powerful, and small States would be hurt as a result. California has 54 seats in Congress; New York has 33; Texas has 32; Florida has 25; and Pennsylvania has 23. North Dakota has only three.

Rather than impose arbitrary term limits, I believe we should focus our attention on campaign finance reform to allow a larger number of people to enter congressional races. I supported campaign reform in past legislative sessions, and I will continue to support campaign reform in the 104th Congress.

Mr. MCCONNELL. Mr. President, congressional term limits are the most toxic of the seemingly magical elixirs called reform. Alluring in their simplicity. Enticing in their popularity. Term limits are the blunt ax of political reforms.

Conveniently, the term limits would not kick in until most current Senators, under recent rates of attrition, were long gone from this Chamber. Prospective term limits such as are before us today have a buy now, pay later appeal as nearly two decades would elapse between their passage, ratification, and the moment at which they

VOL
142
PT
6
AP
15
—
24
1996
UMI

began to clear the decks in Washington.

If term limits are the medicine for what ails the Nation, it is ludicrous to wait so long for their curative powers. Retroactive limits would be in order.

Dissenting from the majority in my party is not something I relish. While I have often observed, with some irritation, that in the eyes of the media it seems the only thoughtful Republican is a dissenting Republican, it is not a role I seek. My colleagues, with whom I disagree on this issue, arrived at their positions for a host of reasons. It is not my place or privilege, nor would I presume, to cast aspersion on motives. But I must disagree as strongly and forcefully as decorum, and facility with the English language, will allow.

Never more than in this instance, am I conscious of Edmund Burke's eloquent assertion that: "Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion." All of us exercise this wisdom, though rarely all in the same way, at the same time or on the same issue. Sometimes our judgment and popular opinion converge. Sometimes not. And we answer to the voters, in any event. On this issue, the polls and my judgment are at variance.

Mr. President, in a bit of an aside but touching on the climate of cynicism in which term limit polls are conducted, I would like to draw attention to an article David Shaw wrote in the Los Angeles Times on April 17 entitled "A Negative Spin on the News." The subtitle is: "Many journalists are worried that cynicism is poisoning their profession. Displaying such an attitude may erode respect for their craft and also harm confidence in public institutions." A telling passage from the article:

> The most scathing—and most widely publicized—indictment of the news media by the news media has come from James Fallows, Washington editor of the Atlantic Monthly, in his book "Breaking the News."
>
> "Step by step," he writes, "mainstream journalism has fallen into the habit of portraying public life in America as a race to the bottom, in which one group of conniving, insincere politicians ceaselessly tries to outmaneuver another."
>
> The journalistic implication—and often it's more than an implication—that all politicians are liars and hypocrites who invariably act out of self-interest and self-aggrandizement rather than out of a commitment to the public good, has created a self-fulfilling phenomenon.
>
> As Fallows puts it: "By choosing to present public life as a contest between scheming political leaders, all of whom the public should view with suspicion, the news media brings about that very result."

Mr. President, political reform debates, especially term limits and campaign finance, should carry an advisory—"Warning: profoundly disturbing to impressionable Americans who thought democracy was a good thing." Term limits and campaign finance reform proponents wrongly assume democracy as we have known it for 200 years, has failed. They may characterize their proposals as fine-tuning democracy but I and others see it as far more serious than that. Quite simply, we have gone with such proposals from Let Freedom Ring to Rein Freedom In—in the name of reform.

For the past few years, there has been a furious race to embrace the disaffected, disgusted and dissatisfied. Thoroughly probed by prolific pollsters, the prognosis is in: people hate politicians, so go with it. Pander or perish. This destructive phenomenon is not the exclusive province of any party. The essential point is that having for so long been a convenient receptacle for hateful bile from within and out, it should surprise no one that all who serve in Congress are sullied. We are reaping what we have sown, with ample assistance from a cynical media.

Having examined the climate of cynicism which breeds demand for term limits, I turn now to the merits of the proposal before us. What term limits would do is restrict the freedom of voters to elect whomever they please. Like them or not, term limits undeniably, fundamentally restrict freedom. A Senator in the 21st century may be Daniel Webster reincarnate, but under two terms-and-out limits, merit, performance and voter sentiment matter not after the first term.

Under term limits, merit, performance and voter sentiment hold no sway in the second term except to the extent Members are guided by their own morals and sense of place in history. That is sufficient restraint for most Members now, and probably even in a term limited future. But this lack of accountability under term limits should greatly trouble people who believe that power breeds corruption.

The dominant theme of the term limit movement is populist—that term limits will wrest the system away from the career politicians and return power to the people. Yet one of the most prominent term limit advocates, conservative columnist George Will, supports term limits because they would establish a constitutional distance between people and politicians. Just this last Sunday, in the Washington Post, Will wrote that ". . . term limits would make Congress less subservient to public opinion. . ."

There is a news flash: the revolutionary motive behind term limits is to insulate Congress from popular accountability at the ballot box. Remove all concerns about reelection, the theory goes, and Congress will do the right thing. The presumption is that the right thing must be contrary to the will of the people. This confirms how anti-populist and undemocratic term limits really are.

That is why last year I introduced a bill to repeal the 22d amendment limiting Presidents to two terms. In 1947, with great haste a Republican majority—fresh from political exile—rammed through the 22d amendment imposing presidential term limits. Fifty years ago, the zeal was in response to the unprecedented tenure of President Franklin Delano Roosevelt. Not one Republican in the House or Senate voted against that proposal. Ironically, the only Presidents since limited by it have been Dwight D. Eisenhower and Ronald Reagan.

We were very fortunate that those two-term Presidents were such honorable men. But we should consider a bleak alternative. The prospect of a second term of a scoundrel, unconcerned with reelection to a third term, is very disturbing. With the prospect of another election, even the most scurrilous are more likely to at least pretend to be thoughtful, honest, and responsive to the concerns of voters. In my view, the 22d amendment was a mistake that should be repealed, not compounded with congressional limits.

Alexander Hamilton was succinct in Federalist Paper No. 72—which presented the case against Presidential term limits:

> There is an excess of refinement in the idea of disabling the people to continue in office men who had entitled themselves, in their opinion, to approbation and confidence, the advantages of which are at best speculative and equivocal, and are overbalanced by disadvantages far more certain and decisive.

Term limits make elected representatives less accountable to voters and public service less appealing to middle class citizens. Thus, would term limits engender a new elitism and create ethical quagmires. People of moderate means, with family responsibilities and promising private careers, would pass on a congressional career certain to be cut short. Only the rich could afford such a brief dilettante fling with politics. And on the other hand, those who did interrupt private pursuits for a term-limited stint in Congress would feel pressed to keep an eye on post-congressional employment—a conflict rife with ethical potholes and considered by Alexander Hamilton two centuries ago when he observed that the prospect of reelection would promote better representation than would term limits. Hamilton said, "when a man knows he must quit his station, let his merit be what it may, he will turn his attention chiefly to his own emolument."

Term limits would transform Congress into an exclusive haven for the independently wealthy, the comfortably retired, and those who see public service as nothing more than a profitable resume-builder.

I put this forth in jest, but if the goal is to make Congress older and richer, we should just raise the minimum age requirements set in the Constitution. Two hundred years ago, when the limits were set at 25 for the House and 30

for the Senate, the average life expectancy was 34. Perhaps age requirements should be doubled—just as life expectancy has—and made retroactive. An argument could be made that the problem is not that members serve too long but that they arrive too young.

Congressional term limits would make Government overall less accountable by vesting far more power in unelected and un-term limited staff, bureaucrats, the judiciary and lobbyists, rather than in the people's elected representatives. This is self-evident and surely is not a desirable effect in the minds of most Americans. As a former staffer I do not say this to denigrate staff, but it has been my experience that courage is not a staff-driven quality. Staff—in their desire to serve and protect their boss—is far more likely to opt to trim the political sails, so to speak. This is conjecture on my part but certainly warrants serious consideration when increasing staff influence is contemplated.

As a Senator from Kentucky, I am very concerned about the power shift from small and medium-sized States to more populous States, resulting from the diminution of seniority under term limits. Since the power of small States is greatly amplified by the Senate's seniority system, they stand to lose the most when the sheer size of a State's House delegation becomes the principal congressional power gauge. David Broder explored this side effect in the Washington Post (12/6/95):

> Large-state delegations are not nearly as subject to the caprice of resignation or political defeat. Their leverage lies in their numbers, and they would not be nearly as disadvantaged should term limits be imposed someday. Indeed, there is good reason to speculate that, in the constant bargaining for leadership positions that would probably take place in a term-limited Congress, the mega states like California and Texas would use their numbers to grab off the best spots for themselves and install their allies in the rest.
>
> You can make a selfish argument for term limits if you come from one of the mega states. But there is every reason for small- and medium-sized states to oppose that change in the Constitution.

Mr. President, term limits are premised on an illusion of rampant careerism. The fact is, voters already are limiting tenure—selectively. And many members have bowed out voluntarily. Over half of the House of Representatives arrived since 1990 and over half of the Senate was elected since 1984. The right to vote is the right to limit tenure. Much ado is made over the high reelection rates of those incumbents who choose to run for reelection. However, this ignores the self-selection element inherent in those rates. Some members—it can only be speculated which ones—choose to retire rather than risk defeat. Particularly, those wounded by scandal. Moreover, incumbents—but for the few who were first appointed to office—were first elected as challengers or in open seats. It stands to reason that the qualities which made them admirable in their first election would often propel them to victory in subsequent elections.

And what of competition, post-term limits? It is persuasively argued that competition would actually decrease because able candidates would bide their time until a seat opened up rather than risk an uphill fight against an incumbent. This is a phenomenon we see on occasion in the current system. I expect the frequency would increase dramatically under term limits.

People should not be denied the right to vote for someone simply because of an arbitrary term limit. As Robert Livingston noted two centuries ago: "The people are the best judges who ought to represent them. To dictate and control them, to tell them whom they shall not elect, is to abridge their natural rights."

Yet at its root, term limits conclude that people are capable of only limited self-governance. I wonder, do people in these polls that are cited fault themselves in their support of term limits or are they passing judgment on the irresponsibility of other electorates, in states and districts other than their own? It has been argued by term limit proponents that voters' inability to vote against candidates in other states and districts cries out for arbitrary term limits. Evidently, voters in other states and districts are not trustworthy. Take that premise and run with it.

Perhaps Americans should be able to vote in every election everywhere because lawmakers at all levels of Government can increasingly affect people outside the scope of their own electorate. That is a reform that surely, and correctly, would be rejected. In any event, citizens in one State can affect election outcomes in another by participating in politics through campaign contributions. That is a laudable, legal and constitutional manner in which to hold accountable lawmakers one cannot legally vote against.

In hindsight, among the most interesting observations made by term limit supporters two hundred years ago was that they were necessary because the Federal City would be an Eden from which Members and their families could not bear to part.

The reality hardly needs elaborating. At best, Washington, DC—with its crime, potholes, filth, and corruption—has become a sort of purgatory from which most of us can hardly wait to flee and go home to our States.

Where is the logic in the absurd notion that Government is the only arena in which experience is a bad thing? Experience is desirable in every other venue—professional and otherwise—that I am aware of. Experience certainly did not impair Henry Clay, John Sherman Cooper, Howard Baker, Everett Dirksen, Sam Rayburn, Arthur Vandenburg, and Sam Ervin's commitment to serve the national interest. To name just a few.

There are many in this Senate today who have served far more than two terms whose service has been nothing short of heroic. Experience has made them better and braver. It steels them against many shortsighted proposals. But I will not name names because in this environment to highlight a Member's lengthy service on national television could be construed as a rule 19 transgression. In a term limited future, we would see fewer of their caliber.

God willing, the Senate will never again be confronted with a war resolution. But if it is in, say, another generation, I hope there are some Members who experienced the Persian Gulf war debate. And who had to cast that vote. It was a debate which itself benefited from the presence of Members who served in the Vietnam-era Senate.

Senators, no matter how bright, educated, eager, or accomplished, do not know anywhere near all they need to when they arrive here. Parliamentary procedure is mastered with experience. Defense, commerce, finance, environment, energy, and agriculture issues take time to learn. Does any nonincumbent candidate even know upon which committees they will serve?

Term limits, however well-intentioned, are terribly dangerous. We would do the American people no favor in passing this constitutional amendment and would cause great harm in the future. Constitutional amendments such as this one are forever. Only one—the 18th instituting prohibition—has ever been repealed. And we cannot presume to ever be missed so much as Americans missed their bourbon.

Mr. FEINGOLD. Madam President, I want to begin by commending the Senator from Tennessee, the Senator from Missouri, and others, who I believe are sincere in their belief on the need for fundamental reforms in Congress.

I disagree with their approach on this issue, but it would be nearly impossible to dispute that the American people expect the Congress to pass meaningful reforms of this institution and they are expecting those reforms soon.

Madam President, it is a troubling reality that more and more Americans are finding it difficult to trust their Government and their elected officials. Trusting your Government and having faith in your elected leaders is perhaps the most fundamental tenet of American democracy.

Unfortunately, this trust and faith has been shattered by a culture of special interest influence that has convinced the American people that their elected representatives are no longer working in the people's interest, but rather for their own and special interests.

But the proposed solution to changing those negative perceptions that we

VOL
142
PT
6
AP
15
—
24
1996
UMI

are debating today would, I believe, represent a profound retreat from the principle of representative government itself.

Moreover, what we are debating is yet another proposed fundamental change to the U.S. Constitution. Consider that already in the 104th Congress we have debated and voted on a constitutional amendment to balance the budget and a constitutional amendment to prohibit individuals from dishonoring the American flag.

It should be pointed out that in the entire 209-year history of our Nation that, excluding the Bill of Rights, we have amended the Constitution just 17 times. Just 17 times Mr. President, in over 200 years.

And yet in the 104th Congress alone, almost 140 constitutional amendments have been introduced, from issues ranging from the balanced budget, to tax increases, to flag burning, to school prayer, to the abortion issue and so on.

Madam President, I do not believe that we should seek to solve every social ill in our country by making radical alterations to a document that was so carefully crafted 200 years ago and that has provided remarkable guidance to our Nation for so long. We must find alternative solutions.

It has, in fact, been well established that the Framers of the Constitution did not believe congressional term limits would be beneficial to the new nation.

Let me quote James Madison, the architect of the Constitution, in Federalist Paper No. 53. He wrote the following about his vision of a Congress:

> A few of the members, as happens in all such assemblies, will possess superior talents; will, by frequent re-elections, become members of long standing; will be thoroughly masters of public business. . . . The greater the proportion of new members and the less the information of the bulk of the members, the more apt they will be to fall into the snares that may be laid for them.

It is this point of Madison's that I would like to underscore and that I believe illustrates why it is so important to have a mix of individuals—some experienced and seasoned, others newly elected—serving in the U.S. Senate. Moreover, it is important for us to consider how the history of the U.S. Senate and this Nation might have been different had term limitations been in effect for the past 200 years.

We have had some truly outstanding individuals serve in the U.S. Senate. Republican or Democratic, Conservative, or Liberal, these individuals, whether you agreed with them or not, were defined not only by their tremendous legislative accomplishments but also by their character and the principles they often stood and fought for.

Had we had term limits, a great number of these individuals would have been needlessly forced out of office.

I am sure that all of my colleagues at one time or another have spent time in the Senate reception room, just outside this Chamber, and noticed the magnificent portraits hanging in that room.

In 1955, the U.S. Senate established a commission headed by Senator John F. Kennedy, charging that commission with the responsibility of designating the five greatest U.S. Senators in our Nation's history.

After substantial input from other Senators and the academic community, the commission chose Henry Clay, Daniel Webster, John C. Calhoun, Robert M. LaFollette, Sr., and Robert A. Taft, Sr., Portraits of these five Senators are hanging today in the Senate reception room.

Clearly, the great legislative and oratory skills exercised by these great figures can be directly attributed to their extended years of service in the U.S. Senate. Interestingly, not a single one of these five greatest Senators served in the Senate for less than 12 years. Taft was the novice, having served only 14 years. Calhoun served 19 years, LaFollette served 22 years and Clay and Webster each served 24 years.

And these five Senators are certainly not alone. The history books are full of names such as Humphrey, Dirksen, Goldwater, Hart, and so on.

I believe that having experienced Senators in this body is not only healthy for our democracy, but critical to our ability to responsibly carry out the constitutional duties of the legislative branch of Government.

Madam President, as a relatively new Member to this body, it has been personally beneficial and an honor to serve with some of the more senior Members, such as the senior Senator from West Virginia, whose mere presence reminds us all of the importance of maintaining a sense of respect and civility and the need to pay deference to this institution and the traditions associated with it that have enduring value.

And think about so many effective and honorable Members of the current U.S. Senate whose services would be lost if a term limits law was in effect.

In all, 44 current Members of this body—almost half—would not have the ability to continue as U.S. Senators because they have been here for more than 12 years.

Mr. President, judging an elected official's commitment, their dedication and their competence by an arbitrary time limit is senseless. Term limits supporters seem to suggest that representing the people is the one profession in America in which having experience makes you underqualified for the job.

We must remember that what term limits supporters are asking us to do is to take away the cornerstone of a representative democracy—the right to vote for the candidate of your choice. More than anything else, the freedoms associated with the right to vote are what make Americans the envy of the modern world. We should not take that right away from the American people.

We have heard a lot of talk, Mr. President, during this Congress about the importance of devolution, and returning control over local matters to State and local governments. The majority leader wants to "dust off the 10th amendment" and we have been told time after time that the Federal Government should stay out of State and local decisionmaking.

Well, Mr. President, the legislation before us today makes a mockery out of that principle. The legislation before us provides that the Federal Government will automatically disqualify certain individuals from representing their States and local communities.

I believe, and the Framers clearly believed, that neither residents of other States nor elected representatives of other States have the right to tell the people of Wisconsin who they can and cannot vote for, other than the qualifications that are enumerated in the Constitution.

And that is what term limits is all about—telling the American people that they are prohibited from voting for a particular representative because that individual has bumped up against some arbitrary deadline.

Supporters of term limits argue that if elected officials know that they are only serving for a set amount of time and do not have to be concerned with frequent campaigning, these representatives will be more apt to work in the public's interest, and not their own.

Quite frankly, I find this hard to believe. Numerous historical documents demonstrate that the Framers included the concept of frequent elections to the Congress to make representatives directly accountable to those they represent.

The rationale was, if a legislator did his job, and adequately represented his constituents and advanced what was in their collective best interests, that representative would be rewarded by reelection. If the legislator was irresponsible, did not perform or fulfill his duties, the voters would exercise their right to replace that particular representative. The ballot box, as it was intended to be by the Framers, is essentially a job performance review for Members of Congress.

But term limits would nullify this check, taking these sort of decisions out of the hands of the voters.

Moreover, if a Senator is in their final term, knowing they cannot be reelected, it would seem to me that they would be less likely to represent the best interests of their constituents and more likely to represent their own self-interests.

After all, they can no longer serve in Congress, they will have to seek future outside employment—maybe with a Washington DC, special interest group

or lobbying firm. The argument that term limits would make elected officials more responsible legislators was raised over 200 years ago at the New York ratification convention, to which Alexander Hamilton replied, "When a man knows he must quit his station, let his merit be what it may, he will turn his attention chiefly to his own emolument."

Supporters would have us believe that our current system would be supplanted with a class of citizen-legislators, who are less concerned about a career of politics and more concerned about being a truly deliberative body than they are with responding to the whims of the electorate.

This line of reasoning sounds like an attempt to reinvent the wheel. First of all, the Congress of the United States is already comprised of a diverse groups of individuals with unique backgrounds in a variety of fields, including education, law, business, journalism, medicine, and yes, politics. Virtually every one of us held jobs in the private sector before we ran for public office, and we will all eventually return to the private sector either when we decide to retire or when our employers, the voters, believe we have overstayed our welcome.

I would like to briefly respond to those who suggest that seeking a career in public service is somehow an inherent character flaw. First, let me say that the list of "professional politicians" begins with names such as Madison and Jefferson, and ends with figures such as Roosevelt and Kennedy. We should remember that these individuals were truly public servants, and gave little thought to what Alexander Hamilton referred to as "personal emolument."

They inspired many of us to enter into public service because we too thought it was a noble and honorable thing to do.

Madam President, as I said from the outset, I agree with many of the assumptions and concerns that term limits supporters put forth in their arguments.

The election scales today are unquestionably weighted unevenly toward incumbents, and challengers do not have an adequate opportunity to unseat sitting Members of Congress.

One very viable alternative to term limits that does not require amending the Constitution—and what I believe represents one of the most important issues facing us today—is the opportunity to reform our campaign finance laws. I am convinced that fundamental campaign finance reform would cure the ills of incumbency that have been derided by term limits supporters and what have unquestionably contributed to the deterioration of fair and competitive congressional elections.

That is why I have joined others, including some very noted term limits supporters such as the senior Senator from Arizona, Senator McCAIN, the Senator from Tennessee, Senator THOMPSON, and others in offering the first bipartisan and bicameral campaign finance reform bill in nearly a decade.

This bill has an enormously broad range of bipartisan support. Fifty-six Members of the 104th Congress, including 25 Republicans and 31 Democrats, have signed on to the House and Senate bills. The President supports it. The Ross Perot organization supports it. Common Cause, Public Citizen and newspaper editorials from around the country have endorsed the McCain-Feingold-Thompson legislation.

And while only 45 Senators voted earlier this year for a sense of the Senate that we should consider term limits legislation, 57 Senators voted for the resolution I offered last year stating that we should consider campaign finance reform legislation prior to the conclusion of the 104th Congress.

This body recently demonstrated on the issue of health reform that Senators from the two parties can set aside their partisan and ideological differences, compromise when necessary and produce a meaningful piece of legislation that will help a great number of people.

Campaign finance reform is no different, and I am convinced that there are enough Senators who care about this issue, including many of the supporters of term limits, who can come together and pass a meaningful and comprehensive reform bill.

Term limits are no doubt a popular idea, but so is comprehensive campaign finance reform. And if we can solve a problem that all parties seem to agree exists—that is, the unfair advantages held by incumbents—by means other than a constitutional amendment, we should aggressively pursue that avenue before considering such a fundamental change to our Constitution.

In a society that considers the right to vote its national treasure and most sacred natural resource, term limits may be the ultimate form of an intrusive and overreaching Federal Government. I urge my colleague to reject this latest proposed change to our Constitution.

Mr. KEMPTHORNE. Mr. President, I rise today in support of Senate Joint Resolution 21 proposing a constitutional amendment to limit the terms for Members of Congress to two terms in the Senate and six terms in the House of Representatives.

This Congress has passed some critical pieces of legislation, many of which effectively limit the role of the Federal Government in the everyday lives of citizens and shift power back to the States. Members on both sides of the aisle worked together in a bipartisan manner to enact legislation such as the Congressional Accountability Act, the Unfunded Mandate Reform Act, and even the Line-Item Veto Act, all which improve the responsiveness of Congress to the people. In this same vein of limited government, accountability, and States rights I strongly support passage of Senate Joint Resolution 21 before us today.

Term limit legislation is an important issue to the voters of Idaho. Since 1990, 23 States, including Idaho, have clearly voiced their support for limiting congressional terms. In 1994, Idahoans overwhelmingly approved a ballot measure supporting term limits. However, on May 22, 1995, the U.S. Supreme Court, in U.S. Term Limits versus Thorton ruled that State-imposed term limits are unconstitutional. With the Supreme Court decision against State-imposed term limits, the only avenue left to implement the will of the people is through passage of a constitutional amendment.

Our Founding Fathers envisioned a citizen legislature where Members would do their civic duty and then return home. Individuals from all walks of life could bring new ideas and special talents to this body. The natural rotation in office was what was expected by the public and demonstrated by the public servants. But over the years, this practice has changed.

The Framers of our Constitution pictured private citizens—not career politicians—who took time to serve their country. A rotation of service in Congress allows for new people to participate in the legislative process. As Thomas Jefferson stated about tenure for congressional Members, he said, "(m)y reason for fixing them for a term of years, rather than life, was that they might have an idea that they were at a certain period to return into the mass of the people and become the governed instead of the governors * * *."

Far too many Members stay in our Nation's Capital too long, losing touch with their constituency. The time is here for Congress to pass legislation to constitutionally limit the tenure of Members of Congress. I believe we should let the States have the opportunity to ratify a constitutional amendment to limit the terms of Members of Congress.

As we discuss term limitations, we are not without precedent for Federal term limitations. We are a co-equal branch of Government with the executive branch. But with the ratification of the 22d amendment in 1957, the American people imposed term limits on the executive branch. If service for the President of the United States should be limited, why shouldn't the legislative branch be treated equally?

In 1992, on the 4th of July, in fact, as a candidate for the U.S. Senate, I pledged my support to constitutionally limit the length of time a citizen may serve in the U.S. House of Representatives and the U.S. Senate. I have kept

VOL
142
PT
6
AP
15
—
24
1996
UMI

my promise. During my first year in the U.S. Senate I cosponsored term limit legislation. And last year, I cosponsored Senate Joint Resolution 21, which is before us today, to propose a constitutional amendment to limit the terms of Members of Congress.

Not only do I believe I have kept my promise to the people of Idaho, I believe I have kept an unspoken promise to the Framers of our Constitution.

In fact, as presented in the Federalist Papers, No. 57, James Madison wrote,

> The aim of every political constitution is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and * * * to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public office.

James Madison continued to write, that the most effective way to prevent degeneracy of representation is that "a limitation of the term of appointments * * * will maintain a proper responsibility to the people."

In conclusion, I believe we can achieve this ideal envisioned by our Founding Fathers by enacting 12-year term limits within each Chamber of Congress—two terms in the Senate and six terms in the House. It is this Senator's view that term limits would improve the efficiency of the Congress and make it more responsible to the people of this great Nation. Let us pass Senate Joint Resolution 21 and give the States the power to decide if there ought to be term limitations on Members of Congress.

Mr. THOMPSON. Madam President, how much time do we have remaining?

The PRESIDING OFFICER. Twenty-two minutes.

Mr. LEAHY. How much time is on this side, Madam President?

The PRESIDING OFFICER. I am told it is 22 on the Democratic side, and 12 minutes and 15 seconds on the Republican side.

Mr. LEAHY. Madam President, if the Senator from Tennessee and the Senator from Missouri do not mind, I will yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I hope that the American people are not being fooled by what is going on in connection with Senate "nonconsideration" of this proposed constitutional amendment to impose term limits. Basically, the way it was zipped through the Judiciary Committee and called up here with a protective series of amendments and a cloture petition was done in such a way that you cannot even attempt to amend it. It is bumper-sticker politics. It is campaign fodder. But it is not a serious debate. I say that meaning no disrespect for the handful of Senators—and it really is only a handful of Senators—in this body who actually do want a constitutional amendment on term limits.

The way this has been set up almost guarantees that there will be no cloture voted. Certainly guarantees that my amendment, which would make it apply to each of us and thus make it real term limits, could not be voted on. Some want to be able to stand up and say, "I was for term limits. Gosh, what a shame we did not get to vote on it." And they will blame everybody else.

I suspect that we will probably see the Whitewater prosecutor coming in and blaming the President and the First Lady for this. Lord knows, he is blamed for just about everything else, from tornadoes to whether they made $1,000 or lost $1,000.

Frankly, I feel sorry for my good friend from Tennessee, whom I know does believe strongly in favor of term limits but is being put through a charade. The charade is this: In the first 5 minutes of consideration last Friday, the Republican leadership acted to ensure two things—that the proposal would not be fully debatable and amendable, and that there would be no votes on the merits in the Senate this year.

I regret that the American people have to endure this surreal display by a body that is yet to complete action on the budget, or appropriations, for the fiscal year that is more than half over.

Debate has been cut out. This constitutional amendment is really an incumbent's protection limit bill. Understand, Madam President, what it means. The American people think that we are voting for term limits. We are not.

If we were to pass this in the House and Senate and send it to the States for ratification, do you know what this means? It means that a five-term Senator in this body who voted for term limits could have three more terms. They are not limited to two. They could have eight. I know that there are Senators who say they are for term limits, and apparently, on at least one occasion, have been for term limits before I was born. But they will keep on being here. They will keep on running. This does not limit them.

For example, consider a fourth-term Senator under this provision. The Senator could have at the very least two more terms and probably have three more terms under this amendment for a total of six or seven, not just two terms. That Senator could end up voting for term limits and become a seven-term Senator.

What the proposed amendment does say is that somewhere way out into the next century those men and women running for office could be limited, but not those of us who are here. We protect ourselves under this.

What we have is a case where you could say you are voting for a constitutional amendment to consider limits on everybody else, but we end up protecting ourselves.

So it is like Moliere's "Tartuffe." In that play, a hypocrite succeeds for a time in fooling others and profiting from their naivete and trust. In the play, as here, in the end the hypocrisy is revealed and justice is done.

The fundamental hypocrisy in this term limits debate is that is has been orchestrated to include a special exemption for current Members of Congress. It has been designed expressly to disregard the full terms of service of current Members. This is guaranteed.

For example—I only take these out as examples—I have great respect for our distinguished President pro tempore who was first elected to the Senate some 40 years ago—some 40 years ago, when I was 15, and has served in the Senate since I was 15. He would be able to run for at least three more terms. Knowing him, I suspect that he would be healthy enough to do it.

Our Judiciary Chairman observed in his additional views to the Committee report: "[I] have no personal interest in the prospects of such an amendment. Even were it to be passed by Congress and ratified by the States in relatively short order, it likely would not bar me from running for reelection until the year 2012, when I would be a spry 78 years of age. There are many things that I hope to be doing in the year 2012. Running for reelection is not on the list."

I want to commend the House Judiciary Committee Chairman and our Senate Judiciary Committee Chairman for being honest in their views and declaring their opposition to term limits from the outset. Chairman Hyde made an impassioned speech on the House floor during their debate last year and Chairman HATCH observed in his additional views in the Committee report his "strong reservations" against the proposal and his reasons for them.

I just worry that what much of the Senate is saying is one thing but what we are doing is something entirely different. In his column over the last weekend, George Will may have said it best when he noted that the Republican majority is "deceiving the country about a principle of constitutional dimension."

If people really want to take this seriously, they would be moving to vote on the Leahy amendment, which would say any constitutional amendment would take effect immediately upon ratification without a special exemption for sitting Members. Obviously, you could finish serving the term you were in, but if that was your second or greater term, you could not run again. Instead, the way this is set up, a Senator can be in his fourth or fifth term, and run for as many as three more terms.

If we intend to consider term limits, let us make it a real term limit. If not, then what we are doing is simply playing games.

When I look at my own State, my predecessor Republican was elected the year I was born and served until I got here. The people in each of our States make up their minds about what makes sense in term limits. As the representative of a small State, I am acutely aware that we fulfil the purposes of the Senate and the best interests of our States when we obtain a bit of seniority and a track record on the issues. I urge all of our colleagues from smaller States to consider on this point the additional views of Senator BIDEN and Senator HATCH from the Committee report. As Senator BIDEN eloquently noted, the Connecticut Compromise and the equality of small States are put at issue by this proposed constitutional amendment. Term limits were viewed by the Founders as both "pernicious" and "ill-founded".

I have an enormous amount of respect for the distinguished majority leader. I have served with him throughout my whole Senate career. But he would have had to leave at the end of my first term had there been a 2-term limit in effect. The distinguished majority leader is one of the most able legislators of either party with whom I have served. I think that the country is better off because he is here. I hope that does not hurt his standing back home, but I mean it most sincerely.

This could be said of all of the majority and minority leaders we have had here in both parties. These have been extremely able people—Senator Mansfield, Senator Baker, Senator BYRD, Senator Mitchell, Senator DOLE, and Senator Scott. These are people that we would not have seen under term limits.

I must oppose what I perceive to be a growing fascination with laying waste to our Constitutions and the protections that have served us well for over 200 years. The First Amendment, separation of powers, the power of the purse, the right of the people to elect their representatives, should be supported and defended. That is the oath that we swore when we entered this public service. That is our duty to those who forged this great document, our commitment to our constituents and our legacy to those who will succeed us.

The Constitution should not be amended by sound bite. This proposed constitutional amendment evidences a distrust not just of congressional representatives but of those who sent us here, the people of our States. Term limits would restrict the freedom of the electorate to choose and are based on disdain for their unfettered judgment. These are not so much term limits as limits on the electorate to choose their representatives.

To those who argue that this proposal will embolden us or provide us added independence because we will not be concerned about reelection, I would argue that you are turning our democracy on its head. This proposal would have the effect of eliminating accountability, not increasing it.

It is precisely when we stand for reelection that the people, our constituents, have the opportunity to hold us accountable. This proposal would eliminate that accountability by removing opportunities for the people to reaffirm or reject our representation. It would make each of us a lame duck immediately upon reelection.

My fundamental objection to the proposed constitutional amendment is this: It is, at base, distrustful of the electorate. It does not limit candidates so much as it limits the rights of the people to choose whoever they want to represent them. We should be acting to legislate more responsively and responsibly, not to close off elections by making some candidates off limits to the voters. I will put my faith in the people of Vermont and keep faith with them to uphold the Constitution.

Now, let me ask, Madam President, I would like the opportunity to call up my amendment. I filed it to the underlying bill and to the variety of procedural alternatives filed by the Republican majority. It is my understanding that in the procedural posture that we have been put, I cannot call up my amendment as Leahy amendment Nos. 3700, 3701, 3702, or the four second-degree amendments I filed earlier this afternoon.

Is my understanding correct that no Leahy amendment is in order?

The PRESIDING OFFICER. At this point, there is no amendment in order, and the Senator's time has expired.

Mr. LEAHY. I yield myself 1 more minute.

Madam President, would my amendments be in order if cloture was voted?

The PRESIDING OFFICER. Until an amendment is acted upon, no further amendment is in order.

Mr. LEAHY. At some time, Madam President, when my amendments are still pending and all other amendments have been acted on, would they be in order under cloture?

The PRESIDING OFFICER. If the pending amendments are not acted on within the 30 hours, no other amendments would be in order.

Mr. LEAHY. Is it the Chair's ruling that if you had an amendment pending and the 30 hours ran out, that it would not be voted on even though there was no time for debate?

The PRESIDING OFFICER. All of the pending amendments could be acted on but no further amendment could be called up.

Mr. LEAHY. Madam President, what the Chair is saying, for a layman, is that the Republican leadership has set up a way to make sure that nobody would be able to vote on a true term limit amendment, that is, one that was retroactive in the sense that it would apply to us. Rather, the situation we are in is one in which we could only vote on something that would allow a fourth or fifth or sixth-term Senator to still run for as many as three more terms.

I yield the floor. I reserve the remainder of my time.

Mr. THOMPSON. Madam President, I yield the remaining time to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Madam President, I thank you very much for this opportunity to speak. I express my deep appreciation to the majority leader for scheduling this historic opportunity for the Senate to act in a way which will allow the States to make a decision about whether or not to amend the Constitution of the United States to limit the terms of those of us who serve in the Congress.

Senator DOLE, by bringing this issue to the floor when no other leader has been willing to do so for the last several decades, has staked himself clearly on the side of the American people, the 70 to 80 percent of the American people who have endorsed term limits. And they have done so knowingly. They have done so having had experience. They understand that the President of the United States has been term limited since the early 1950's, that the Governors of 41 States are term limited, that legislatures in a number of States are term limited, that city councils are term limited from New York to Los Angeles and many cities in between, and State officials in addition to the Governor. What we find is that there is a tremendous exception that has been carved out for the Congress.

The suggestion that somehow the proposal before the Congress today does not involve real term limits because they are not retroactive really flies in the face of what the people across this country have done regarding term limits at home, for their city councils, for their Governors, for their State legislatures. It flies in the face of their efforts because none of their efforts really provide for all this retroactivity.

When the people have spoken, they have decided that our laws should operate prospectively. This amendment would say that after its enactment, if it were to be embraced by the States, no person could be elected more than twice.

I believe that is a step in the right direction. It is a step in the right direction, and it is a necessary step because it reflects the will of the people. We need to accord to the people the opportunity to make a judgment about whether they want to amend the Constitution of the United States so as to impose term limits on the Congress.

VOL 142 PT 6 AP 15 — 24 1996 UMI

There have been those who have come to say that this is an idea of passionate demagogs, who as a result of frustration in the body politic have now somehow embraced this issue because it is one for demagogs.

This issue was close to the heart of Thomas Jefferson. It was close to the heart of Richard Henry Lee. It was part of the debate at the founding of our Republic. And then when they find out they do not want to call Thomas Jefferson a demagog and they do not want to say that Richard Henry Lee was a passionate individual just trying to play upon the passions of the voters, they say, well, they decided against term limits for the Senate and House and therefore the decision has been made and we must respect it.

In all honesty, we have to understand that the Senate is a different body than it was when the Founding Fathers created it. When the Founding Fathers assembled our Constitution and when it was embraced by the colonies which were States, the Senate was not composed of people elected in popular elections. It was composed of individuals who were sent here by the State legislatures. None of the problems with elections, none of the problems with campaign financing, none of the incredible value to incumbents had surfaced. The Founding Fathers could not possibly have anticipated that the Senate would need term limits because none of them really anticipated the popular election of Senators.

So for us to say that we need to give States the opportunity to implement or employ term limits is for us to allow the people of the United States to fine tune a change they have already made to the Constitution. The change already made was to provide for the popular election of Senators which resulted in the campaigns we see, resulted in the influence of resources in the campaigns, and it is high time that we be able to correct an adjustment which we already made.

It is an adjustment which has tilted the playing field so dramatically toward incumbents that incumbency is a virtual guarantee of reelection. Nine out of every 10 incumbents end up being reelected. It is no wonder then when there are incumbencies the number of people who are running for office is constricted. People do not bother to try to get involved. That offends a fundamental value of America which is access and participation.

It is kind of interesting to look back. Two years ago I was running for the Senate. One of my opponents was a Member of the House. In the year before he chose to step down and run for the Senate, there were only two candidates. This year there are only two candidates for his seat. But in the year it was an open seat, there were 11 candidates. Some people say that to have term limits would reduce the number of choices. If you reduce it from 11 to 2, I think it is an exponential explosion in the number of choices. So the real choice would be expanded by term limits, not limited.

Then there are those who say we have to have experience in the House and Senate. Nothing would keep us from having experience. People who are experienced in State government, people experienced in the House move to the Senate. People experienced in the Senate move to the House. They would not have the value of incumbency to tilt the playing field.

More importantly, I think it is essential that we recognize there is experience in this life that counts every bit as much as experience in the House or the Senate, and the people of America know about that experience. It is the experience of raising families. It is the experience of living under the laws. It is the experience of the private sector.

One of our colleagues said that we needed the experience of one Senator who is particularly good in the area of scientific awareness. Well, for Heaven's sake, the Senate is not the repository of science in America. We need to welcome people from outside who know about science. And as I think about my colleague from Tennessee, who is a surgeon in heart transplantation, that is the kind of experience you cannot get in the Senate. When we talk about things relating to medical challenges and how we are going to solve problems of access for people regarding health care, we have to listen carefully to experience that comes from beyond Government. People of America know that the future of this country is far too important to trust to Government alone or to those who are experienced in Government alone. We need to welcome experience from far beyond just the governmental sector. I think it is important to listen to what George Washington said. Washington said:

> Nor can the Members of Congress exempt themselves from consequences of any unjust and tyrannical acts which they may impose upon others for in a short time they will mingle with the mass of the people.

It was anticipated that Members of the Congress would shortly mingle with the mass of the people. One of those who has debated in this Chamber suggested that the anticipation of mingling with the mass of the people might somehow undermine the commitment of a person for service.

George Washington saw it absolutely opposite. He thought that people who knew they were going to have to go out there and live with the people would render better service, not render lesser service; that their service would be more noble. And how do you measure nobility? By whether or not it makes it better for the general public, whether it elevates the general welfare. George Washington said beware because you will have to be mingling with the public. I think every Member of the House and Senate should look forward to mingling with the public. They should look forward to going home. They should look forward to being in a situation at a time and place when they live under the laws that we not only propose but under the laws which we enact.

So we have a tremendous opportunity. It is an opportunity which will reinforce fundamental values of America.

The people's will must be served. Let me just reinforce this point. Seventy to 80 percent of Americans, with the knowledge of 50 years of experience of term limits, say, "It is something we want, we like."

I think we ought to represent the people to the extent we are saying, "If you think you like that, let us give you a choice," not impose term limits on them, but let us send it out to the States and create a great debate about it and let States determine whether or not they want term limits. Let the people participate.

Seventy-four percent of the American people, according to one poll, support term limits. Twenty-three States, almost all of which had the initiative so that people could start the movement for term limits themselves with petitions, have enacted term limits.

We have the new "electronics to petition the Congress." Over 50,000 people visited the home page for term limits here in the U.S. Senate. Well over 7,000 people signed the petition. Of those—it was overwhelmingly in favor of term limits.

I believe that, in a democracy, we should accord to the people the opportunity to make decisions. We should trust them.

Then there is this idea, "Oh, somehow we have to be careful that we do not find ourselves absent the talent." There has been a wonderful parade of public figures oratorically through the Chamber of all the people who were here and who might not have been able to serve for life or for extended periods had we had term limits.

If George Washington had thought that he was the only person who could lead America, he would not have walked away after two terms. If Thomas Jefferson had thought that there was a limited pool of talent, that the American people were a very shallow pool and you could not trust anyone else but them, he would not have walked away. President after President walked away for the first 100 years of this Republic because they had a different kind of confidence in the American people than we have heard expressed all too often here. They had a confidence that there was greatness in this Republic and it was not limited to a few who had been elected.

I was interested in what those people who wrote me on the Internet had to say. One was "7100" who communicated, who said:

> I see that you're a Republican. I'm not. This is one issue, however, more important to me than the success of any party.

Another said:

> Serving the public was never meant to be a way to amass power and money. Our Founding Fathers would be ashamed. Please stop the insanity and pass term limits now.

I think what we have is a great opportunity to say to the people, "We welcome your participation in Government." We hope that more people will find their way into elections, and they will if there are fewer incumbencies that are extremely well funded. We hope that more people will find their way into office to bring the wisdom of America to Washington, DC.

We do not distrust the talent of the American people. We think there are plenty of people who are capable of serving.

We think that the nature of real choice will be expanded, and we think that there will be the evidence of a discipline in the Senate which will come from individuals who expect to return to mingle with the public.

There are those who have said, "Well, unless we make term limits retroactive so that we will virtually say anybody who has already served two terms will be out from the date of enactment forward, we will not have real term limits." Let me tell you, that is not the way term limits have ever worked. The American people know how term limits work. They have seen it work in their city councils, they have seen it work in their States, they have seen it work for 40-plus Governors, and they have seen it work for the President of the United States. The truth of the matter is, so many of those individuals who suggest they want that kind of term limits are opposing term limits altogether.

Madam President, I ask unanimous consent for 1 minute in which to conclude.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Madam President, the fundamental values of the American people compel us to accord them the opportunity to evaluate an amendment to the Constitution proposing term limits, the value of choice, the value of representing the people, the value of access and participation in politics and the value of limited power.

All of these components of American history, all of these principles by which we have stood are the principles which call upon us now in the voices of 70 to 80 percent of the population in saying to us, "Give us the opportunity to participate in Government by ratifying an amendment to the U.S. Constitution which would limit terms of Members of the U.S. Congress."

I thank the Chair.

The PRESIDING OFFICER. All time has expired for the majority side. Is there anyone seeking recognition from the minority side?

Mr. THOMPSON. Madam President, I am informed that we have permission to yield back the time of the minority.

CLOTURE MOTION

The PRESIDING OFFICER. All time having been yielded back, under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the committee substitute to Calendar No. 201, Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit Congressional terms.
>
> Bob Dole, Fred Thompson, Spence Abraham, Rod Grams, Mike DeWine, John Ashcroft, Craig Thomas, Jon Kyl, Trent Lott, John McCain, Slade Gorton, Rick Santorum, Bill Frist, Larry E. Craig, Paul Coverdell, Lauch Faircloth.

CALL OF THE ROLL

The PRESIDING OFFICER. The mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the committee substitute to Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 58, nays 42, as follows:

[Rollcall Vote No. 79 Leg.]

YEAS—58

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Exon
Faircloth
Feinstein
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—42

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Feingold
Ford
Glenn
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wyden

The PRESIDING OFFICER (Mr. COVERDELL). On this vote, the yeas are 58, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. DASCHLE. I move to reconsider the vote.

Ms. MOSELEY-BRAUN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

Mr. President, I withdraw that request. I understand the Senator from Maryland has some remarks he would like to make.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

A TRIBUTE TO CHRISTINE MIKULSKI

Mr. SARBANES. Mr. President, as I think most of our colleagues know, Mrs. Christine Mikulski, the mother of our dear friend and colleague, Senator BARBARA MIKULSKI, passed away on March 31, during our Easter recess.

My wife and I were fortunate to know "Miss Chris," as she was known to all, for many years, and were privileged to call her our friend.

Miss Chris was enormously proud of the accomplishments of her daughter, our colleague, Senator BARBARA MIKULSKI, as indeed are we all. Miss Chris played a key role in all of BARBARA's campaigns, and a key role in BARBARA's life, to really be very explicit about it. She was an effective and enthusiastic volunteer in Senator MIKULSKI's constituent service office in her home neighborhood of Highlandtown in east Baltimore. Indeed, she became known as Miss Chris, the First Lady of Highlandtown. And, indeed, she was a first lady.

Miss Chris was an extraordinary woman beloved by her family and friends. She was part of that immigrant generation—her father was born in Poland—that built our Nation over the early decades of this century. She reflected that determination of spirit, courage and strength of character, which are exactly the values we hold out to our young people to emulate today.

In an eloquent and heartfelt tribute at the funeral service on Wednesday, April 3, Senator MIKULSKI spoke movingly about her mother and about the many ways in which her mother was so special to her family, her community, her church, and all who were privileged to know her. I simply wanted to take this opportunity to share with my colleagues Senator MIKULSKI's eloquent tribute to her mother on that occasion.

VOL 142 PT 6 AP 15 — 24 1996 UMI

I ask unanimous consent that her tribute be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR BARBARA A. MIKULSKI

My mother would have been pleased by this gathering. She would have been honored that so many people came today. She would have been pleased to have her family here today. She would have been honored that the Governor and the mayor were here.

My mother would have been honored that Senator Paul Sarbanes, members of Congress, and the Baltimore City Council were here today. She would have loved that members of her clubs and organizations were here.

She would have also loved the fact that she made the headlines in the Baltimore Sun and the Washington Post. That she was on radio and television. That Richard Scher announced her favorite name—the First Lady of Highlandtown.

She would have been touched by the fact that the President of the United States called to express his condolences and that Vice President Al Gore called because he very much wanted me to bring my mother to lunch at their home in Washington. He was sorry that he and Tipper never met my mother.

My mother, as you know was a very determined lady. She always planned ahead. She had very specific instructions about today and the way she wanted to be remembered. In her final days, with the illness fast overtaking her, she gave me some very specific instructions about today.

One of those was to be sure to thank everybody. You know my mother was an enormously courteous and considerate woman. So there were certain thank you's she wanted me to give for her. I'd also like to say they are from me and my family.

First she said be sure to thank the priests. Thank the priests of Loyola College. Other priests in the audience.

My mother particularly wanted me to thank the priest of Holy Rosary, where she was baptized, went to school, and married. She also wanted me to thank the priests here at Sacred Heart, her home parish for more than 50 years. She said say thanks to the priests at Sacred Heart for their prayers, where we made our first communion, graduation, and where we went to school.

Father Ed Foley, she particularly wanted me to thank you for bringing her communion every day throughout the days she was shut-in. As she would always say to you when you left, "Father, I am very grateful."

She wanted me particularly to thank the nuns. All of those who are here, who taught my sisters and me. The holy nuns who ran the day care center, she wanted to say thanks to you all for the good work that you do and for what you meant to our family.

My mother wanted me to thank the Sisters of Mercy. The Sisters of Mercy who educated my sisters and me, who ran the hospital where my sisters and me were born. My mother said thank you. It was there that we were born, it was there that she died. It was there she went during so many emergencies and was rescued. And she was very grateful for your comfort until the end. So she asked me to thank you.

She also said to say thank you to the Polish Women's Alliance ladies, who were her honorary pall bearers today. She loved being a member of the Alliance. She was very proud of her Polish heritage. She was very proud to be a member of a Polish Heritage Association. She loved the friendship. She loved the fellowship. She loved the bingo. She loved you, Lorraine. She loved your mother, Miss Viki.

She asked me to remind you that when she was 16 years old, she won an essay contest run by the Polish Falcons. The prize was a trip to Poland. She was very proud of that and very thankful for the opportunity to go to the land of her heritage.

She wanted me to thank the ladies at the Altar Society, who gave her a candle light honor guard today. She wanted me to give a special thanks to the "Cheer-up Club," of which she was a perpetual member.

My mother also wanted me to thank the neighbors. To Rosie, to Pat, to Mel—thanks for helping out and being there during the hard days. But, she said, remember the good days and the grocery store.

As you know my mother and my father, Willie, ran a grocery store in Highland. They saw many people through hard times. My mother asked me to thank all the people for coming to the store. There were so many of you who told so many stories to me about going to the store.

My mother was Miss Chris and my father was Mr. Willie. My sisters and I were known as little Willies. We heard all the stories about the extra candy my mother distributed to the children. She was known as the lollipop lady. Also she was the lady who, along with my father, would give extra store credit to families during those hard times.

My mother would stand at the back of the store by the cash register and give tips to the homemakers and favorite recipes. She always pretended she liked to cook, but as my sisters and I know, my mother really liked carry out. She was a woman of the 90's—in the 1950's and the 1960's.

She and my father were a fantastic team running that grocery store. And as you know, they brought a tremendous amount of goodness and generosity into this community.

My mother and father were also wonderful parents. My sisters and I could not have had a better mother than our mother. She saw to it that we had a good home.

They worked very hard so that we would have a good education, and that we would also have the extras. Whether it was the ballet lessons or whether it was the trip for leadership training. Whatever it was—slumber parties, the prom, all of those things—they wanted us to have a very good life. They didn't realize though that the greatest gift they gave us was themselves and their love.

My mother really loved her family. She loved her husband, her daughters, her brothers, her sisters, her in-laws.

She remembered the great times when we would all go down to my grandfather's shore. We played scrabble and canasta. My mother loved the lottery. You have to know that over the last days, my mother had five of us buying her little lotto tickets. Why? Not because she liked to gamble. She liked the action. She loved being involved.

When our grocery store closed in the 1970's, mother volunteered in my office. That's where she got the great name—Miss Chris, The First Lady of Highlandtown.

She helped run my neighborhood office. She worked with me in the City Hall when I served on the City Council. Then she worked in my Congressional office on Eastern Avenue and then my Senate office on Highland Avenue.

She ran my neighborhood office. Whenever people would call she would say, "Hi. I'm Barb's mother. What can I do to help you?"

If anyone asked where I was, my mother would say, "Don't worry about. I'll take care of it. I'll tell her tonight, because I talk to her everyday." And she did.

When I looked at the flowers at the funeral home, I noticed that many of the flowers were from workers. They were from the workers at General Motors. They came from the workers at the Coast Guard Yard. They came from the workers at Goddard. Why? Not because of me, but because many of them knew her. They often spoke to her on the phone.

When Congress threatened to close Goddard, the workers called my mother looking for me. They came last night to the funeral home. They brought a poem. They told me they had a great time talking to my mother. She told them I loved the space program. My mother didn't know I ever loved the space program, but she made them feel special, feel valued and reassured like she did for so many.

Well for all of us, my sister, her grandchildren, she always loved us. She would leave us little messages on the answering machine. She would leave us little notes. She would send us notes in the mail that said, "Be aware." And then she would ask about them.

My mother would also send us prayers. Because she believed that for every problem, there wasn't always a solution, but for every problem, there was always a prayer that helped us get to the solution. She was devoutly religious. It was her faith and her prayers that sustained her.

Mother had a very keen mind, incredible attention to detail, and was a superb organizer. She had an enormously strong presence.

Now, as we come close to the end, and we can all think back to the wonderful days and years we had together. She was a wonderful neighbor. She was always taking care of someone. She was always taking care of her family. She was always taking care of people in need.

But I want you also to know that our mother was a lot of fun. She had a great sense of humor. She loved getting out with her friends. She loved family outings and social occasions. She loved going to political events.

My mother loved hearing about the new restaurants with names like "Wild Mushroom." And she loved the old favorites that she and my father went to like Haussner's. She loved going to Eastern House with her friend Ethel.

Mother was so outgoing. She was so strong. She had incredible presence. And because of this presence and because of her outgoingness, we all wondered with some apprehension how she would cope with being a shut in.

Two years after my father's death, she was so ill, she could no longer go out. Diabetes had given her diabetic neuropathy. Illness had taken its toll. She was to stay at home—most often in a wheelchair.

Once more, our mother surprised us. She amazed us. And she inspired us. Though she had to give up going out or going to the office, she just didn't give up. Her presence was strong to the end.

In her wheel chair, or welcoming visitors or being on the phone, she was full of great cheer. She called me to tell us what was happening and always wanted us to do the same.

My mother was intellectually inquisitive until the last days, reading The Paper. She wanted a subscription to People magazine so she could be "up on it" and be able to talk to her grandsons and granddaughters. Even when her eyes were going, she would read with a magnifying glass with a light so that she could be involved.

My mother faced her illness the way she faced life itself—with great dignity and with great courage. My mother was incredible. She had great spirit, great stamina and great spunk.

She insisted on being self-sufficient. Whenever we wanted to help, she would say, "let me do it myself, that's how I keep going." And she did, right up to the end.

Mother's faith inspired us all. She adopted a prayer ministry when she was at home with her illness, praying for the sick, for a special intention someone had requested, for her family, friends and her country.

She took it very seriously. Like everything else, she believed in doing her duty. She did it with a combination of great determination, great devotion and great love.

My mother had a good life. She celebrated her 50th wedding anniversary with my father, who was still well enough to participate. She saw my two sisters, Chris and Fran, marry two wonderful men, both named Ed. She had five fantastic grandchildren. One is a Captain in the United States military. She has a granddaughter who is a nurse at Johns Hopkins. Another soon will be a nurse. A grandson planning on medical school. And another grandson contemplating about what he can do to bring about social change.

She saw me elected to the United States Senate. She was very proud that I was the first woman of Polish heritage ever elected to Congress and the first Democratic woman elected to the Senate in her own right. So she saw many good things. She loved life.

So in closing, we ask you to remember our mother. We ask you to remember the good times. To her friends of many years, remember her young and dancing. To those who were her neighbors and her constituents, remember her at the store and at the office, helping out with a helping hand.

We, her family, will remember her playing with us, playing with her grandchildren. We'll remember her playing cards and just having a good time. We'll remember her being there for us in so many ways.

We ask that you remember her during the holidays and the Holy days. She and my father would have been getting ready now for Easter. Now she is with her own mother, and with our dear father. I know she will remember us in paradise.

Ms. MIKULSKI. Mr. President, I want to, in the most heartfelt way, thank Senator SARBANES for the very kind words he said about my mother and for his gracious generosity in putting that statement in the RECORD. My mother thought the world of Senator SARBANES, but she also thought the world of the U.S. Senate and was very honored that I was in it. I thank the Senate for its courtesy at this moment.

I yield the floor.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The Senate continued with the consideration of the joint resolution.

Mr. DOLE. Mr. President, we have just had a very historic vote. I commend my colleagues on both sides for this bipartisan vote. I think it was 58 to 42. But it is an indication that term limits will not go away. I want to commend my colleagues, as I have done before, particularly the freshmen on this side, many of whom have pledged to serve only two terms. They have made their point. They have made it in a very objective way and a nonpartisan way. They have listened to the American people.

I congratulate Senator THOMPSON, Senator ASHCROFT, Senator THOMAS, and others who worked so hard, and also Senator BROWN, who has been pursuing this matter for some time, and thank all of my colleagues who voted, in effect, with us on cloture.

That would not have determined whether or not we would have term limits, but we could have gone on to the debate on term limits.

Perhaps there will be another day. There will be another day, not "perhaps." There will be another day. I believe the American people can now sift through the records and make a determination on who was for and who was against even debating or going to term limits.

I think that is very significant. I think the vote just held in the U.S. Senate is a most significant vote, and it will have a far-reaching impact.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I ask unanimous consent for permission to proceed as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAHAM. Thank you, Mr. President.

HAITI

Mr. GRAHAM. Mr. President, a week ago today the last of the United States troops who had been sent to Haiti came home. These brave soldiers, as well as others from countries around the world, helped bring enormous changes to that troubled nation, that troubled neighbor of the United States. Last Tuesday's withdrawal provides us an opportunity to reflect upon what has been accomplished, what is left to be done, and what special role the United States—and particularly those of us who have a responsibility in the National Government of the United States—will play in this next series of chapters of the nation of Haiti.

There has been considerable attention focused on the problems that remain in Haiti, and any observer would admit that there are very substantial challenges yet to be overcome in that nation. But I believe that an analysis would also require some comparison of what is the circumstance in Haiti today, in April of 1996, as compared to the recent past.

Let us take the period of 1993. Haiti in 1993 was a scene of anarchy and lawlessness. Haiti's military dictatorship ruled by machete. There had been an estimated 3,000 political killings per year during the reign of terror of the military dictatorship.

I remember, Mr. President, visiting a Catholic church in downtown Port-au-Prince where a Government official had been removed from a mass in front of his terrorized family and friends, taken into the street, and summarily executed.

A few weeks later, with a delegation from the United States, I had the honor of placing a wreath at the point at which that brave citizen of Haiti gave his life. For that action and others, I was declared persona non grata and was not allowed to reenter Haiti as long as the military dictatorship was in control.

Haiti continues as a violent society. It has been a violent society since the establishment of the republic, the second republic—second only to the United States of America—in the Western Hemisphere.

But since the arrival of United States troops and other international military and civilian participants in an effort to restore democracy to Haiti, 30,000 weapons have been removed from the streets. Today there is the fledgling beginnings of civilian law enforcement and a judicial system.

In 1993, there was no independent law enforcement capability in Haiti. Law enforcement was an adjunct of a corrupt military. There was no semblance of an independent judiciary. The judiciary was subservient to the autocratic military dictatorship. While there is a long road to travel to bring Haiti to a mature justice system, the first steps have been taken.

In 1993 and again in 1994, thousands of refugees left Haiti headed for the United States in man-made rafts. Mr. President, 25,600 persons were rescued at sea during the first half of 1994 alone—25,600 persons rescued at sea during a 6-month period. Countless others were less fortunate. They died of dehydration or were eaten by sharks.

After the United States-led operation, the flow of refugees from Haiti has plummeted. In 1995, the Coast Guard intercepted only 5 percent of the number that had been intercepted in

VOL
142
PT
6
AP
15
—
24
1996
UMI

1994, the first 9 months of 1994 having been under the rule of the military regime. The total numbers intercepted in 1995 were 1,204 individuals.

On democracy, Haiti has been an independent Republic with the pretense of democracy for 192 years. But during the first 191 of those 192 years, there has never been in the history of the country a transition of power peacefully from one democratically elected President to a successor democratically elected President—191 years in which the democratically elected President was either toppled by a military regime, beheaded, forced into exile, or in some other manner involuntarily relinquished political responsibility and another, often nondemocratically elected, successor took his place.

In February of this year, for the first time, that historic event occurred. President Aristide voluntarily, peacefully, pursuant to the Haitian Constitution, transferred the power to the new President. The United States, during an equivalent period of time of our history as a Republic, had 40 peaceful democratic changes of administration. This was the first time that had occurred in the history of Haiti.

So, Mr. President, as we talk about the things yet to be done, I think we as a democratic nation, we as a nation which has had a long and intimate history with Haiti, we as a nation which decided that it was intolerable to have old-style military autocratic regimes using their power of the machete, power of the sword, and power of the gun in order to displace a democratically elected government, we who are willing to organize the international community in an effective effort to restore democracy to Haiti, I think should take some pride in the changes that have occurred and the steps, beginning though they may be, toward respect for human rights and democracy in Haiti.

But much remains to be done. Since Operation Restore Hope, the United States troops and their civilian counterparts have given the people in Haiti the chance to rebuild their country. Some of the things that remain to be done include poverty and unemployment, which continue to plague the Haitian people. The estimates are that unemployment now is in the range of 80 percent plus. With an uncertain future, the Haitian people lack a sense of optimism for what the future holds for themselves and their children. International investors have been wary about returning to Haiti and continuing the rebuilding of the economy.

I applaud those of my colleagues who are dissatisfied with actions that have occurred in Haiti such as the limited investigation of some of the political killings. We must insist upon continued progress in this area. This Congress and this Federal Government have special responsibilities to help the Haitian people maintain their momentum toward democracy and respect for human rights and an improved economic future.

Some of the things that are particular responsibilities of this Congress include a role to play in training the new Haitian Parliament, the first Parliament that truly justifies the characterization of being an independent legislative branch in the history of the Republic of Haiti.

The Haitian police force needs continued guidance. We have assisted in selecting and training some 5,000 Haitian police officers who will be the beginnings of an independent police presence in that nation. It is like having a police force made up of 5,000 rookie police, each with approximately 4 months of training before being placed on the streets. We now have a role to play in the maturing of that police force, the development of a leadership cadre, the development of a culture of how a police force maintains itself in that democratic society.

Probably the most difficult task that we face is in assisting the Haitian people in the revitalization of their economy. We must work with President Preval, and we must assure that there is a movement toward a marketplace, privatized economy in Haiti. For too long the Haitian people have suffered under an economy which has been highly centralized, highly socialized, and enormously corrupt and inefficient. The Haitian Government must also work with international financial institutions to create a climate that will make it again receptive for foreign investment.

President Aristide established the goal of Haitian economic progress which was to move from misery to poverty with dignity. The Haitian people should have a friend and partner in the United States in that road that they have yet to walk.

Mr. President, a concern that I have at this juncture is the ability of the United States to build on the progress that has been made and to assist the Haitian people in overcoming the challenges that still remain. It has become bogged down in domestic partisan politics, and we have been less constructive than we need to be in assisting our neighbors in Haiti. We have wasted valuable energy and time trying to either establish the grandeur of the gains that we have made or to point out each shortcoming. As difficult as those shortcomings may be, they have been given a proportion which is out of relationship to the totality of the circumstances in Haiti.

Both the Congress and the administration, both Republicans and Democrats, have some legitimate opportunity to share in the successes that have been achieved in Haiti and to accept the responsibilities for the future. We will do a disservice to the United States ability to influence the progress and future of a country which is important enough to us that we have just invested almost $2 billion and the lives of thousands of U.S. uniformed and civilian personnel, and we will have lost the opportunity to demonstrate our serious commitment to assisting a country which is trying to go through some of the most difficult transitions—from tyranny to democracy, from anarchy to a civilized society, from misery to poverty with dignity.

Those are our challenges. Those challenges are only going to be met if we do it on a bipartisan basis. This Senate met that challenge in times past. In 1948, when many felt it would be impossible for a divided Government—with a Republican-controlled Congress and a Democrat in the White House, a Democrat who appeared to be vulnerable and therefore should be exploited by emphasizing differences—men of the stature of Senator Arthur Vandenberg recognized that the American national interest was in unifying behind policies that would serve our Nation's need to constrain the expansion of communism. We followed the enlightened leadership of Senator Vandenberg, and now, 50 years later, we see the fruits of that policy by the collapse of the Soviet Union and our ability, through almost a half a century of bipartisan commitment to that policy, to have avoided the need to use nuclear power and an excessive amount of United States military force in order to achieve that objective of the collapse of the Soviet Union and communism. We need to use that example as our standard as we set our policy for Haiti.

Mr. President, there are very real consequences if we continue a policy of treating Haiti as a partisan domestic political issue rather than an American foreign policy opportunity. We do not need to ask ourselves what will happen if we allow the progress that has occurred in Haiti to wither. We have already seen what will happen. We will see it again on our beaches with the dead bodies of Haitians who tried but failed to make it to our shores. We will see it at the tarmac of Guantanamo with hundreds of tents of refugees who have been able to survive and are awaiting their fate in limbo as they were just 3 years ago. We are not playing our role today in termination of a constructive American policy toward Haiti.

I am concerned that within the Senate we see a blocking of humanitarian assistance which will be critical to this next stage of Haiti's development. Assistance in the form of health care, funding that will be needed to procure essential medical supplies, vaccines, and for the operation of health clinics throughout Haiti is being held up by this Congress. The shutting down of humanitarian programs will exacerbate adverse conditions in Haiti and

could contribute to further economic and political instability.

Equally disturbing, it has become fashionable to denounce Haiti's efforts to make a transition to democracy. If the question is, were the elections that were held in 1995 a standard of perfection by a mature democracy, the answer is clearly no. If the question is, were they the fairest, most accurate reflections of the opinion of the Haitian people in the 192-year history of that country, the answer is, with as much energy and confidence, yes.

We need to build on these successes, and we must do so in a bipartisan manner. I support the efforts of Congress to assist and demand that there be performance, performance in areas such as investigation of political murders. But I also ask us to recognize the reality of the situation. We are asking a government, whose President told us in person-to-person communication in this very Capitol just a few days ago, that his government had reached the point of financial stringency, that it could not pick up the garbage. To now expect that this government is going to have American or Western European standards of sophistication in forensic investigation is to ask what is not going to exist.

We must work with the people of Haiti and with their government. If we fail to do so, we will, again, see the kind of pictures that we saw in the very recent past of U.S. Coast Guard ships picking up overladen small wooden boats with refugees reaching out for salvation. We will see, again, the pictures of the butchered citizens of Haiti, like the man dragged from the Catholic church during mass.

At that point, we will ask ourselves not whether we scored appropriate political points, but whether we serve the national interest.

It is ironic that at the very time Congress is about to turn again to the question of illegal immigration and how to frustrate its imposition on the United States, that we are close to bringing about a crisis on an island which has been the source of so much of that illegal immigration. Clearly, one of the most fundamental things that the United States can do to reduce the amount of illegal immigration is to turn serious attention to assist in the social and economic development of those countries which are the most likely sources of illegal immigration.

We have made progress on that front as it relates to Haiti. Illegal immigration is down by over 20 times in the last 3 years. The question is, are we going to lose this momentum or are we going to build on the progress that we have made?

During the period of military rule in Haiti, as has been the case for decades previously, Haitians, in a time of desperation, stripped the country's hilly terrain of trees in order to make charcoal for heat and for cooking.

Today, actions by the Federal Government and the White House and the Congress threaten to cause a mud slide that will bury the progress that Haiti has made with our cooperation and assistance over the past 2 years. It is our challenge to see that we can plant trees and stabilize the soil of Haiti so that, together, the people of Haiti, the people of the Western Hemisphere, and particularly the people of the nation which has been their longest and truest friend, the United States of America, can look forward to a new century of prosperity, a new century in which at least the people of Haiti have realized the goal of moving from misery to poverty with dignity.

Thank you, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are considering Senate Joint Resolution 21.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENT CLINTON'S PERFORMANCE

Mr. GRASSLEY. Mr. President, since March 19, I have been delivering a series of statements on the Senate floor. The common thread of my statements is my observation of the President's performance in office. I have concluded that he is not setting a good example for the people whom he serves. Basically, I mean that he does not perform in office commensurate with the rhetoric.

This also soon becomes an issue of the failure to show moral leadership, which basically means that you do what you say you are going to do. It is the single most important attribute of any President. I have quoted Franklin Delano Roosevelt on the floor of this Senate on this issue many, many times. One of his President leadership flaws is the fact that he says one thing and yet does another.

Last night, I had an opportunity to talk about a clue that I discovered as to why the President of the United States might say one thing and do another. I quoted from last week's Time magazine article, which quoted the President's senior adviser, George Stephanopoulos. His quote was just three words: "Words are actions." So if the President says something, that means that is what people know he is going to do. In other words, you say something, the President either thinks it is happening or he wants us to think it is happening. I have not quite discovered which one it is, Mr. President.

Yesterday provided a further case in point to illustrate what I am saying. Yesterday, we celebrated Earth Day across the country. There is nothing wrong with celebrating Earth Day. There has been great progress made in this country on the environment, and maybe it would not have been made without annually remembering the things that come about through Earth Day and the movements connected with them.

Also, it has become kind of a political event, as well. The TV news shows were full of slick photo ops of President Clinton and Vice President GORE cleaning up the C&O Canal outside of Washington and visiting a national park. They also took the opportunity to campaign against Republicans on the issue of the environment.

Never have I seen an Earth Day used for such pure politics as it was yesterday by the President. The President would have us believe that the only thing standing between the public and dirty air and dirty water is President Clinton himself. If you would listen long enough to the President, you would think that his environmental record is unblemished. Unfortunately for the President, the facts belie the image that he is trying to present.

I want to briefly show this by discussing two items that were brought to my attention yesterday that clearly illustrate that President Clinton's deeds are different from his rhetoric. First, the director of the Iowa Department of Natural Resources, Mr. Larry Wilson, sent a letter to my office regarding President Clinton's fiscal year budget proposals for the Army Corps of Engineers. The letter states: "The President's proposal will have substantial adverse impacts on several environmental programs important to my State. One of these programs focuses on habitat restoration, which is vital to supporting endangered species. This program will be shut down due to the President's administration budget proposals." This is an environmental issue, and the President is cutting the budget. That belies the fact that yesterday he was out saying the great things he was doing about the environment.

As President Clinton demagogs against Republican programs to reform the Endangered Species Act, he is shutting down an existing program that has actually been successful in saving endangered species. Again, his rhetoric does not match his words.

Other programs that will be shut down affect the wetlands in my State. There are several wetland restoration and enhancement projects that will be terminated if the President's budget is

VOL
142
PT
6
AP
15
—
24
1996
UMI

adopted. According to the Iowa Department of Natural Resources, these projects not only provide critical habitat for wildlife, but they also provide hunting, fishing, and other outdoor recreational opportunities for all Iowans. As the President talks about his initiative to protect national parks, he is jeopardizing these same resources in Iowa with his budget proposals.

The second item that I will discuss concerns an article in this morning's Washington Post. It says that the President, out on the C&O Canal, talking abut the good he does for the environment, is saying one thing, but there is an Agency of his Government, in his administration, that is causing environmental damage in another place.

This is where the Sierra Club alleges that the U.S. Government is responsible for illegal dumping of PCB's, lead, mercury, and arsenic in the Anacostia River right here in Washington, DC. The Sierra Club is a group that often supports the President on his environmental initiatives and is often critical of Republican proposals. So, it is very unusual that this organization would question this administration on an environmental issue.

Yet, the Sierra Club is alleging that the Washington Navy Yard and Southeast Federal Center are violating the Clean Water Act and polluting this local river.

Mr. President, I can tell you that if a family farmer was thought to have violated the Clean Water Act, that farm would be shut down immediately. I know of cases in Iowa where the EPA showed up armed and without warning to close down small businesses because of potential violations of environmental laws. Yet, the Federal Government remains the biggest polluter in the country and is not subject to the same rules that apply to small businesses and family farms. This is hypocrisy. This is a double standard.

President Clinton should stop playing politics with the environment. The public health is too important to be used as a campaign issue. The more politics he plays, the less he is able to bring fairness and uniformity to our Nation's environmental laws. I urge the American people to look behind the political demagoguery that was characterized on Earth Day and take a good look at the deeds of this administration. You my find that, once again, President Clinton's action falls short of his rhetoric.

This country is suffering from a severe bout of cynicism. That is exactly why we have this legislation on the floor regarding term limits, because term limits are the people's expression of dissatisfaction with Washington, DC, with the Congress, and with other institutions of Government. The cause of this is that politicians say one thing and do another. This has reflected an absence of moral leadership over time of our elected officials. Usually the public does not discover this until they have come and gone. I want to lay the record out right now because we need accountability right now. We need leadership right now.

What we do not need now is the same old "say one thing and do another" routine. To stop the growth of cynicism and the fact that we must restore trust of the American people in our institutions of Government, we in Washington need to show the American people that they can trust our words, that our words not only can be trusted, but our words are followed up by actions.

Mr. President, I ask unanimous consent that two documents I referred to be printed in the RECORD, the newspaper article and the letter from the director of the Iowa Department of Natural Resources.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From the New York Times, Apr. 23, 1996]

NEW MEDICARE TRUST FUND DATA SHOW UNUSUALLY LARGE SHORTFALL

WASHINGTON, April 22,—Medicare's Hospital Insurance Trust Fund lost $4.2 billion in the first half of the current fiscal year, according to new Government data, which suggest that the financial condition of the program is worse than projected by Administration officials last year.

The trust fund, which pays hospital bills for the elderly and disabled, lost money last year for the first time since 1972. But the loss for all of last year was only $35.7 million.

The new data show that the losses are growing. In the first half of the current fiscal year, from October 1995 through March of this year, the trust fund spent $60.5 billion and took in $56.3 billion, a shortfall of $4.2 billion, the Treasury said.

There is little chance that the trust fund will actually run out of money. It still contains more than $120 billion, and Congress would almost surely act to rescue the program before it ran out of money. But the new data provide fresh evidence that, after months of acrimonious debate between the White House and Congress, Medicare remains a budget problem of immense and growing proportions.

Chris Jennings, a special assistant to President Clinton for health policy, said today that the new numbers were not surprising. "They indicate the need to move forward, balance the budget and enact some changes in Medicare that will strengthen the trust fund," he said. "Republicans and Democrats should work together to address the problem."

In a letter to Congress last week, Treasury Secretary Robert E. Rubin suggested that Congress and the Administration resume discussions to reach an agreement on Medicare and the budget.

Republicans proposed many changes in Medicare last year to help control costs, but President Clinton said the changes would hurt beneficiaries. Republicans may hesitate to put forward new proposals after they were bloodied in that battle. Representative Bill Archer, the Texas Republican who is chairman of the Ways and Means Committee, said, "The President preferred to scare seniors and play politics instead of saving Medicare."

It is not entirely clear why the hospital trust fund is running out of money faster than expected. One factor, Administration officials said, is an unanticipated increase in the number of admissions of Medicare patients to hospitals, but that does not explain all of the discrepancy.

The new losses accelerate a trend that started several years ago, when spending by the hospital trust fund began to increase faster than the money coming into the fund. The Administration had predicted that the amount of money in the trust fund would increase by $4.7 billion in the 1995 fiscal year, which ended Sept. 30, but instead the trust fund spent $35.7 million more than it took in.

Likewise, the Administration predicted last April that the trust fund would take in $45 million more than it would spend in the current fiscal year. But that now appears highly unlikely. Treasury Department data show that the trust fund has lost money in five of the last six months.

In the first half of the last fiscal year, from October 1994 to March 1995, the trust fund lost $135 million.

Any trust fund money not immediately needed to pay hospital bills is invested in Government securities. The amount of such holdings has declined, to $126.1 billion on March 31 from $129.9 billion on Oct. 1, 1995.

If nothing is done to change the financing and design of Medicare, losses from the trust fund are expected to grow from year to year. Payroll taxes account for most of the trust fund's income, and no tax increases are scheduled under current law. Unless President Clinton and Congress arrive at a long-term budget deal, Federal officials said, there is no reason to expect a significant reduction in the rate of growth of Medicare spending.

But no such deal is in sight. In this election year, lawmakers and Administration officials are wary of any action that might offend elderly voters by restricting Medicare spending.

Last year, Republicans proposed vast changes in Medicare to slow the program's growth. But the proposals were included in a bill to balance the Federal budget, and Mr. Clinton vetoed that bill in December, saying it contained "the biggest Medicare and Medicaid cuts in history."

Republicans said their proposals were needed to prevent Medicare from going bankrupt, but Democrats said the changes would devastate the program and push beneficiaries into health maintenance organizations.

The new Treasury data do not indicate when Medicare's Hospital Insurance Trust Fund will run out of money. In April 1995, the Administration predicted that the trust fund would be depleted at some point from October to December 2002, but it now appears that the money could run out earlier because the trust fund is spending more than expected and is taking in less than expected.

Senator Pete V. Domenici, the New Mexico Republican who is chairman of the Budget Committee, said he believed that the trust fund would run out of money by May 2001.

Roland E. King, former chief actuary of the Health Care Financing Administration, which runs Medicare, said today that he believed the Hospital Insurance Trust Fund "will run out in late 2000 or early 2001." Richard S. Foster, who succeeded Mr. King as chief actuary, said he could not discuss the financial condition of Medicare without permission from top officials at the Department of Health and Human Services, and such permission was not given today.

Under Federal law, the trustees of the Medicare trust fund, including four Administration officials, were supposed to submit a

report to Congress on the financial condition of the program by April 1. But Administration officials say that report has been delayed because of Government shutdowns and snowstorms last winter and will probably not be issued until late May or early June.

Some Democrats have played down the significance of the losses from Medicare's Hospital Insurance Trust Fund. Representative Pete Stark, Democrat of California, said, "The past is littered with inaccurate forecasts of Medicare's demise." Moreover, he said, "The Democrats will not let Medicare go insolvent."

Hospital executives and Medicare officials said they were puzzled by the recent increase in admissions. James D. Bentley, senior vice president of the American Hospital Association, said tonight, "Hospital admissions of Medicare patients are rising more than could be explained by growth in the number of beneficiaries—but not enough to account for all of the unexpected increase in Medicare spending."

[From the U.S. Senate—Republican Policy Committee, Apr. 23, 1996]

TODAY'S NEW YORK TIMES DEMONSTRATES URGENT NEED TO SOLVE MEDICARE'S IMPENDING CRISIS, NOW

Today's New York Times front-page article (on the reverse side) once again reveals the Medicare Part A trust fund's uncontrolled hemorrhaging. It remains uncontrolled because the Clinton Administration decided to play "Medi-Scare" with Medicare last year. Clinton vetoed the plan from Congress that would have allowed it to grow at twice the rate of inflation and would have kept it solvent for the next generation. In contrast, President Clinton's latest unbalanced budget—his ninth, scored last week by CBO—would barely keep the current trust fund solvent through fiscal year 2002.

Medicare's Hospital Insurance trust fund, commonly known as "Part A," has lost $4.2 billion in the first half of FY 96 [says the New York Times, citing government data].

This compares with a loss in the first half of FY 95 of $135 million, and the Clinton Administration's prediction that Part A would run a $45 million surplus for FY 96.

These losses indicate that Medicare's bankruptcy is even closer than the 2002 date the Administration reported April 3, 1995.

Because the Administration has still not produced a report this year, we must rely on outside estimates. Budget Committee Chairman Domenici has stated Part A could be bankrupt by May of 2001; former chief HCFA actuary Roland King predicts bankruptcy as soon as late 2000.

Clinton's latest budget would only push bankruptcy back a year beyond its last year's estimate. According to CBO under his budget—without utilizing for gimmick of cost-shifting $60 billion to the taxpayer—Part A would be barely solvent in FY 2002 ($1.5 billion) and would be bankrupt by FY 2003.

In contrast, Congress' Balanced Budget Act would have preserved Part A beyond 2010—when Baby Boomers begin retiring—while allowing spending to grow at twice the inflation rate.

While the Republican party in Congress wants to protect Medicare for the next generation, Clinton wants to abandon it to the next Administration.

DEPARTMENT OF
NATURAL RESOURCES,
Des Moines, IA, April 10, 1996.

Re Mississippi River Environmental Management Program (EMP) and Missouri River Fish and Wildlife (F&W) Mitigation—Affects in Iowa of the President's FY 1997 Budget Request.

Hon. CHARLES E. GRASSLEY,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY: I want to alert you to the impacts that the Administration's FY 1997 budget proposal will have in Iowa with regard to two programs administered by the U.S. Army Corps of Engineers: (1) Missouri River Fish and Wildlife Mitigation and (2) Mississippi River EMP. The President's proposal will have substantial adverse impacts on both of these programs which in recent years have been operating at close to full authorized funding and providing long-awaited benefits to Iowans. I urge you to do whatever you can to restore the appropriations in FY 1997 to levels that equal or at least come closer to the amounts available in prior years.

The Corps has explained their priorities for funding which are navigation, flood control, and environment projects. While we understand how the Corps developed these priorities, their application results in a disproportionate impact on projects that are important to Iowa. For example, funding of only $100,000 for mitigation projects on the Missouri in the Omaha District, means projects on hold for years while habitat restoration is viewed as a key way to resolve historic conflicts between uses while enhancing support for endangered species. The Mississippi River EMP is slated for cuts of nearly $4 million in FY 97, and projections are for cuts of about $7 million for FY 98 and nearly $11 million in future years. These levels will delay projects for years while threatening the viability of an essential long-term monitoring effort.

It has been difficult for us to obtain information as to whether the Administration's budget cuts are greater for the North Central and Omaha Divisions than for other regions. If these divisions suffered proportionally greater reductions than other divisions, it could help to explain the difficulty that they have had trying to meet all of their obligations and ensure the timely completion of Iowa projects.

MISSOURI RIVER FISH AND WILDLIFE MITIGATION

Mitigation was authorized in the Water Resources Development Act of 1986 to satisfy the federal requirement to mitigate for the loss of fish and wildlife habitat with the construction of the navigation and flood control works on the river in Iowa and the other lower basin states. Appropriations commenced in 1989. While the program includes land acquisition, that has been less important in Iowa than habitat development. The state already owns numerous sites along the river that can be improved by the mitigation program. The Corps of Engineers has purchased some land adjacent to existing public land as required to make the habitat development projects work. Mitigation is critical on the Missouri River if the Corps is going to make progress in supporting endangered species. There is a terrible shortage of fisheries habitat in the lower river. These conditions have economic consequences as well, since the lack of habitat reduces the quality of the fishery. The net result is less recreational opportunity on the river, which impacts businesses that provide goods and services along the river.

Missouri River Fish and Wildlife Mitigation has received as much as $8 million a year, which was fairly evenly split between the Kansas City and Omaha Corps Districts. The administration's budget for FY 1997 includes $1.6 million for mitigation, of which $1.5 million is programmed for the Kansas City District and only $100,000 for the Omaha District. Iowa projects are in the Omaha District, so Missouri River fish and wildlife mitigation will essentially come to a halt in Iowa. The discrepancy among the two districts is based upon individual district priorities. Fish and wildlife mitigation requires more than a token $100,000 in the Omaha District.

The following are the specific projects programmed for work in FY 97 that will not happen if current funding levels remain:

Blackbird/Tieville/Decatur Bend near Onawa is an $8.8 million project that includes 3,500 acres and 11.8 miles of wetlands and river side channels. The definite project report (DPR) is complete, design and engineering is near completion, and construction was programmed in begin in Fall 1996 and be completed during FY 97.

California Bend near Missouri Valley just north of Council Bluffs is a $785,000 project to restore a running side chute connected to the Missouri River. The plans and specifications are close to completion and construction was scheduled for FY 96 and 97.

Winnebago Bend near Sloan is a $1.3 million project to add water into a rapidly disappearing wetland. It too was programmed for FY 96 & 97 construction.

In addition to the improvement or creation of critical habitat, all of these projects would provide hunting, angling and outdoor recreation opportunities to Iowans along the Missouri River.

The Corps' report proposing these projects was completed in 1981. With nearly two decades of delays, the lack of habitat continues to frustrate efforts to maintain several fish species. It would be most unfortunate to lose the momentum that has developed as these projects have moved this close to construction.

MISSISSIPPI RIVER ENVIRONMENTAL MANAGEMENT PROGRAM (EMP)

EMP was also authorized in the Water Resources Development Act of 1986 and has become a model program for the restoration of fish and wildlife on big rivers. Its authorized funding is $19.4 million per year and it has been receiving that amount in recent years. It too is a program that has taken a long time to attain solid momentum, but is now providing increasing benefits. EMP contains two primary components; (1) habitat rehabilitation and enhancement projects (HREP) and (2) long-term resource monitoring (LTRM). The Administration's budget contains $15.6 million for EMP in FY 97, which is not devastating in itself. Our concern lies with the Corps' projections in FY 98, 99, and 00, which are $12.4 million, $8.7 million, and $9.8 million, respectively. Reductions of that magnitude will have serious adverse implications in Iowa.

EXAMPLES OF COMPLETED HREPS IN IOWA ARE:

Bussey Lake dredging near Guttenberg—Dredging will improve the fishery by providing deeper water, diversity of habitat and wintering-over areas.

Brown's Lake restoration near Green Island—This area has been protected from sedimentation by dike improvements and a water control structure. A deeper channel through the project and dredging in the lake have improved the fishery, while the dredge spoil was collected on site to create terrestrial habitat. This project along with the improvements at Green Island will be beneficial for both hunting and fishing.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Big Timber backwater rehabilitation and pothole creation near Muscatine—Dredging at this site restored an area that was nearly completely filled in with sediment.

Lansing Big Lake side channel closures—This project is designed to decrease sedimentation and flow rates in the lake to maintain its currently very popular panfishery. We are currently proposing some follow-up work in Lansing Big Lake to further assure project objectives are obtained.

Iowa's Princeton HREP project near Princeton is hit the hardest by the proposed change in funding. This project is designed to create new wetlands and improve the dike system for waterfowl management. The construction contract was close to being let to a minority contractor. Our local DNR biologist was ready to issue a news release explaining to local hunters that Princeton would be closed this fall due to construction. The Corps is considering delaying construction until late 1997. Making this decision at the last minute is inefficient and will cost time and money if the Corps decides to shelve the project. Because of great interest in this project by local hunters and others who live along the river, the delay will cause many to become extremely upset.

Iowa's Lake Odessa EMP project near Wapello is currently undergoing planning, engineering, and design. The Corps has informed us that it will complete this work, but will not construct the project under current EMP authorization. The Lake Odessa HREP project would therefore only become reality if authorization for EMP is extended beyond 2002.

HREP projects for Huron Island near Burlington, Molo Slough near Dubuque, and Peosta Channel also near Dubuque were also programmed to be completed under the current EMP authorization. The Corps is now considering deletion of these projects completely from EMP.

The Long-Term Resource Monitoring (LTRM) element of EMP is collecting data on Mississippi River water quality, aquatic and floodplain habitat, microinvertebrates, and fisheries. LTRM also evaluates the physical, chemical, and biological responses of habitat projects. This program was designed to identify trends and support decisions about river management including such projects as the current navigation study.

Iowa DNR operates one of six monitoring stations that are located throughout the river. Iowa's station is in Bellevue and is staffed by six permanent employees and typically hires up to five seasonal workers during summer months. These are all state employees, but funding for their salaries and operations comes totally from federal EMP dollars. Reductions in the LTRM budget will likely occur because of overall EMP cutbacks, which means that Iowa's station in Bellevue and its employees will be affected. It is important that data gathering not be curtailed to the extent that the integrity of the data base created over the past several years is jeopardized. In addition, the loss of jobs at the station will impact the economy in Bellevue due to the loss of employment. Bellevue along with other cities along the Mississippi will see reduced recreational activity as the maintenance of the natural resources of the river are neglected.

Budget reductions are difficult, and we understand that there will be some impacts on programs that we believe to be important to the long term viability of the natural river systems. It appears that the Missouri River Fish and Wildlife Mitigation and Mississippi River Environmental Management Programs are expected by the Administration to bear proportionally greater budget reductions than other programs. We also fear that the North Central and Missouri River Divisions are taking a greater share of cuts than those in other parts of the country. This further harms Iowa projects. If budget reductions that are currently being proposed happen, Missouri River Fish and Wildlife Mitigation in Iowa will come to a complete halt, Mississippi River EMP habitat projects in Iowa will be delayed and some will be eliminated. The Bellevue monitoring station will face cuts that could mean its demise with the added cuts proposed in future years. As noted above, reductions in these efforts will have economic as well as natural resource consequences that should not be underestimated given the Corps' own study showing an annual value of recreation in the Upper Mississippi River basin of over $1 billion. We ask for your help to do whatever you can to assure these programs and their respective projects in Iowa are not forced to take on more than their fair share of setbacks.

Sincerely,

LARRY J. WILSON,
Director.

Mr. GRASSLEY. Mr. President, I ask unanimous consent for 5 additional minutes. How much time do I have left?

The PRESIDING OFFICER. Eight minutes 56 seconds.

Mr. GRASSLEY. I ask unanimous consent for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE

Mr. GRASSLEY. Mr. President, about a year ago the President appointed trustees for the Medicare fund to study Medicare, to project its problems, its solvency, and everything like that. A year ago, six trustees of the Medicare fund—and these are four people in the President's Cabinet and two citizens, one Republican and one Democrat, so altogether there would be five Democrats and one Republican—unanimously said that the Medicare program would be bankrupt in the year 2002. They also said that Congress should take immediate action to keep the long-term viability of Medicare. They asked the Republican Congress to take action to do that. We did that.

The Balanced Budget Act of 1995 is this 1,800-page bill, which took 13 committees over an 8-month period of time to put together, the first Balanced Budget Act passed by Congress in a quarter of a century, to balance the budget in 7 years. Part of this document is not only doing what President Clinton's trustees of the Medicare system asked us to do, to save it from bankruptcy, but we also gave senior citizens of America a choice that if they did not want to have traditional Medicare, we would pay for other forms of health care delivery. We would take their money and pay for it, so that they could have something if they wanted something different than Medicare. That is all in this document.

In November of last year, we presented the President of the United States not only the balanced budget, but also provisions to save Medicare, to strengthen Medicare, and to give people on Medicare, for the first time in 30 years, a choice of their medical care.

The President vetoed it. The President vetoed those Medicare reforms. He wanted people to believe that we were cutting Medicare. He was on television every day on these paid ads saying that "Republicans are cutting Medicare." Under the Balanced Budget Act, Medicare would have grown at 7 percent every year. What we are spending on Medicare per beneficiary is $4,900 this year, and in 7 years we would have been spending $6,700 per Medicare recipient. Maybe it is even closer to $7,000 per Medicare recipient. So, obviously, we were not cutting anything. We were saving Medicare from bankruptcy. We were extending the life of it for another 9 or 10 years.

Well, the President vetoed it. One person is standing in the way of doing what his trustees said should be done, what the people want done, and what the Congress did. The President of the United States vetoed the first balanced budget act passed in a quarter of a century, balancing the budget in 7 years, and saving Medicare, as his trustees said. Well, the President kind of ignored what his trustees said.

But, more importantly, even before last year was out, we were finding out that Medicare was coming up short of expectations of what the income and outgo of it was, to a point of where it was going to be broke before the year 2002.

Senator PETE DOMENICI says that it is going to be May of the year 2001, just 6 years from now. Roland King, former chief actuary of the Health Care Financing Administration, says that it will run out in late 2000—that is 4 years from now—or early 2001, 5 years from now. There is a Richard S. Foster, who succeeded Mr. King as chief actuary, who said that the top officials at the Department of Health and Human Services would not give him permission to talk about this issue. What I am referring to here, Mr. President, is the New York Times article of today that is headlined "New Medicare Trust Fund Data Shows Unusually Large Shortfalls." The subheadline is: "Program is Solvent, But Gap Shows Weakening."

What has happened in the 12 months since the last report? Instead of Medicare starting to spend out more than the income in 1996, it actually started to happen in 1995, and it is happening at a much faster rate than we anticipated. So, Medicare will be broke not in 7 years, not in 6 years, but maybe in 5 years.

What is kind of special about this article is this. Normally this report would be out in April every year by the trustees. It is not out yet, I imagine because it is an election year. This is bad news for this administration, which was told 12 months ago that Medicare was going to be bankrupt in the year 2002, and they vetoed the only bill presented to extend the life of it. Not only that, but the situation is worse than the report said it was 12 months ago.

It says here that Chris Jennings, a special assistant to President Clinton for health policy, said today that the new numbers were not surprising: "They indicate the need to move forward to balance the budget and enact some changes in Medicare that will strengthen the trust fund. Republicans and Democrats should work together to address the problem."

Get that—"Republicans and Democrats should work together to address the problem." Immediately after Labor Day last year, constantly Senator DOLE and Speaker GINGRICH were inviting the White House to sit down and reach some sort of an agreement with us, a long time before we ever put this together and finally passed it. But, no, they did not want to sit down and talk about it. Yet, we are being admonished by the White House that "Republicans and Democrats should work together to address the problem."

A letter to Congress last week from Treasury Secretary Robert E. Rubin suggested that Congress and the administration resume discussions to reach an agreement on Medicare and the budget. Well, we do not have that report. They say it might come out in June or July.

Do you know what they are blaming for the delay? The fact that we had snow in January. We have snow every January in the Midwest, and it does not slow down the deadlines that we have to get reports out. But the longer this report can languish in the bureaucracy downtown, as long as some faceless bureaucrat can keep it under control, then it is less out there for public consideration and for the shots that it is going to take because of that.

Mr. President, I hope that the administration will forget the fact that we had snow in January, because what is news about that? This report that is supposed to be issued in April, that was issued in April of last year, would be issued, and I will bet we will see the same Presidential appointees to the trustees tell us that Congress should do something about it. Well, if you ever wonder as part of the cynical public about Washington, DC whether Congress will ever balance the budget, it is right here in these 1,800 pages. We passed that last year. The President vetoed it. It saved Medicare from bankruptcy. We would not have to be dealing with this issue. Instead of Senator DOMENICI saying that we will run out of money in May of the year 2001, we would be saving that deadline for another decade down the road.

I hope, Mr. President, that the President of the United States will come forth with his report. The longer you wait to make public bad news, the worse it is for the people that are giving the bad news.

It would seem to me that the right thing to do is to simply state what the facts are, and the fact is that the situation with Medicare is much worse. It could be bankrupt in 5 more years—at the most, 6 years—and the situation is deteriorating considerably because this administration vetoed the bill that we passed last year to save Medicare.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OUR PRESIDENT AND EARTH DAY

Mr. PRYOR. Mr. President, I thank the Chair very much for recognizing me, and I will not belabor this issue very long. I know the Senate is leaving early this afternoon, and I do not want to delay the departure of our staff members who have been so loyal in helping us this afternoon and today. It has been an interesting day in the U.S. Senate.

I just was listening to one of the monitors and watching one of the monitors. I happened to note my very, very good friend from Iowa, the Honorable Senator CHARLES GRASSLEY, a wonderful long-time friend of mine, someone I have worked with very closely on the issues of oversight and overstepping of the Internal Revenue Service, of defense spending, which we thought at the time had gotten out of hand and was very unfair. We worked on several issues over these years together. I look forward to the remainder of my term in working with him further on various matters that affect our respective States and certainly our great country.

But I was a little taken aback when my friend from Iowa got up and started talking about our President, Earth Day, and what happened yesterday nearby, just a few miles away, I think, on the upper reaches of the Potomac River. My friend from Iowa sort of took our President to task and the Vice President to task I guess for even appearing at an Earth Day event. I do not know what his concern was. But if in fact the President did mention that the other political party's proposals on some of our environmental concerns were in fact lacking, then, Mr. President, I am going to have to disagree with my friend from Iowa, and I am going to have to, yes, agree with our President. For example, legislation recently circulated to rewrite the Clean Air Act by our good friends on the other side of the aisle would repeal the toxic air pollution standards and would absolutely cripple the enforcement of the Clean Air Act.

I do not think that is a piece of legislation we can go to future generations with and say we were very proud of ourselves when we attempted to cripple the enforcement of the Clean Air Act.

I think our President was right when he said that there is a difference between the two political parties and the way that they look at the environment and legislation that would perhaps undo all of the progress that has been made in cleaning up the air we breathe under the Clean Air Act over the last 25 years.

Some 25 years ago, when I first came to the House of Representatives as a young Member, as a new Member of that great body, I remember during that time I had three small sons, and from time to time on a Sunday afternoon or Saturday afternoon, perhaps, we would get a fishing pole or swimming suit and we would go down to the banks of the Potomac River, and I will never forget—and this was not long ago—there were signs up and down the banks of the Potomac River: no swimming allowed; do not eat any fish, the fish will be contaminated if caught in this river.

Mr. President, in this quarter of a century what we have done as a body, Republicans and Democrats alike, has not only helped to clean up that river, but we are helping today to clean up our air, and we cannot make a retreat, especially in a political year when it might have a short-term appeal to some local interests, maybe some local business interests that want to compromise and that want to sacrifice the environment we have to pass on to future generations.

I think the President was right when he implied yesterday that some of the legislation as proposed—we call them riders—to the VA appropriations bill would delay the issuance of toxic standards, air standards, that is, and would allow for the exemption of industries, exempt industries—just say we are sorry; we are going to apply this to some industries, but the rest of you are going to get off; you do not have to comply with the law; you do not have to obey the law; there is no law that impacts you.

As we speak today, Fort Smith and Van Buren, AR, Sebastian and Crawford Counties in Arkansas, 48 hours ago were hit with massive tornadoes, two dead, hundreds of homes damaged. At this very moment, as we stand in the Senate Chamber and talk about clean air and clean water, because of necessity we are dumping raw sewage into the Arkansas River. We have no other option. Senator BUMPERS

VOL
142
PT
6
AP
15
—
24
1996
UMI

and I will be calling in the morning Carol Browner of the EPA to say that we have an emergency; we have to do something.

We have emergencies all over this country not caused by a recent natural disaster but emergencies that are existing today where we are polluting our streams and our air and where we have to do something about it. This generation cannot back away. Our President yesterday was talking sincerely and earnestly about what we can do together as political parties.

The Republicans, by the way, at that Earth Day event yesterday, several Republican Representatives from Congress were agreeing with our President. I hope that we can make this a nonpolitical issue and talk about the facts, those facts being we do have a difference of opinion, but we do need to join together and do what is right for the environment.

Budget cuts—and I know the Presiding Officer realizes this—and the Government shutdowns, what have they done? What have they accomplished? Have they saved any money? Probably not much. What have they really done? They have delayed the EPA's issuance of new standards for toxic industrial air pollutants—new standards for toxic industrial air pollutants. Those standards are now on hold. Why? Because of Government shutdowns and budget cuts.

The delay in the issuance of air toxic standards has resulted in the continued release of harmful chemicals—mercury, chromium, formaldehyde, and lead—into our air. More than 45 million people, Mr. President—the distinguished occupant of the chair realizes this—in our country still live in areas with unhealthy levels of ground level ozone or smog. I did not know this until just lately, but the EPA reports that the United States refineries alone, and I quote, "emit more than 78,000 tons per year of established hazardous air pollutants, or 9 tons of toxics emitted into the air every hour nationwide."

How can we repeal some of these rules? How can we say that some companies and some industries are exempt and do not need to comply with making progress in eliminating this unclean air and unclean water.

My good friend from Iowa also talked about another issue. I am going to come back to this issue of the environment in a moment. I was hoping that my friend from Iowa was going to be here because he made reference to not only the President of the United States, but he made reference to another gentleman, a gentleman who is very close to my heart. His name is Chris Jennings. He says, who is this man, Chris Jennings? He said that this Chris Jennings, whoever he is, said, and then he quoted something that Chris Jennings had said.

First, Chris Jennings for many years worked for the Senate Special Committee on Aging, probably one of the finest staff people who ever worked for that particular committee or has ever worked in the Senate, and I would daresay that most of the Members on this side of the aisle at one time or the other have worked closely with this so-called man named Chris Jennings. I would say that Members on the other side of the aisle have worked closely with Chris Jennings. If I could only jog the memory of my friend from Iowa, Senator GRASSLEY, who has been for years a loyal member of the Special Committee on Aging, I am sure that Mr. Jennings has not only worked for Senator GRASSLEY in many capacities, has served him in many capacities, but also I am sure that should Mr. GRASSLEY see Mr. Jennings and reacquaint himself with him, he would know him and would respect him, as all of us do in the Senate.

Chris Jennings is a remarkable individual, a splendid and dedicated servant. But, somehow or another, I did not quite appreciate the tone of my friend from Iowa. I know he did not mean in any way to be disparaging of our friend, Mr. Jennings, I am sure, today. I hope our friend, Senator GRASSLEY, will realize the dedication of this fine former member of our Senate Special Committee on Aging staff. I am sure he knows his great qualifications and his great commitment.

Our friend from Iowa was talking, of course, about the Medicare funding. We think it is very important to point this out. Absolutely. We know what the dollars and cents are. I do not think we are arguing with those figures. But I think we also need to point out there remains today over $120 billion in the trust fund for Medicare. There is no imminent danger that claims are not going to be paid—absolutely none. There is no imminent danger that these claims are not going to be paid.

The updated information should not be used to scare the 37 million elderly citizens in this country or people with disabilities. They should not be used for partisan political purposes. The trust fund will pay out the claims. I repeat, the trust fund will pay out the claims, at least through the turn of this century, no matter what, and much longer if the Congress would only enact the President's balanced budget proposal.

We think it is very, very important to lay on the table the facts, as I have stated. We think there is equal importance not to intentionally scare the seniors of this country and to lead them to believe, or to imply, that their checks may not be paid and their claims will go unnoticed.

We think, too, the information validates the President's position on Medicare that he has maintained during his Presidency. The latest information simply provides additional validation for the President's position that we should move forward and balance the budget to strengthen the trust fund. In fact, I have not talked to the President about this matter in a long time, but I would imagine, when the President read the Post or the New York Times or wherever this appeared this morning, about the trust fund, I imagine that the President said, "Those are not very pretty figures, but we think that those figures will put people to thinking and start people to believing that we have to do something about our budget."

The President has offered a proposal that achieves $124 billion in Medicare savings that would extend the life of the trust fund by at least 10 years from now. This proposal builds on the President's successes in strengthening the Medicare trust fund.

Let me say this, and I hope I will not be accused of being too partisan. In 1993, let me remind my good friend from Iowa and the distinguished Members on the other side of the aisle that in 1993, without one Republican vote, not one, the President signed into law Medicare savings and other financing charges that extended the life of the trust fund from 2 to 3 years. That was a major accomplishment.

So, as we enter now the real meat, I guess you would say, approaching a Presidential election, I think we should inform the citizenry of this wonderful country of ours that from time to time there will be skirmishes in this body because of necessity, because of beliefs, because of different ideologies. We will see those debates.

I never thought this particular Chamber should become a political convention hall. I hope it does not. But I do think it can become the proper forum for us to discharge our obligations and certainly to debate the issues of our time and our generation.

I would like to say I am sorry my friend from Iowa was not here. I do not mean in any way to be disparaging of him or question his sincerity. I just wanted to sort of set the record straight, after I heard my good friend's remarks.

I hope in the coming days, again, we will have ample opportunity to lay these issues out on the table, out in the public, let the sunshine shine among them, and let us, at that time, bring to the people what we consider important questions of today.

Mr. President, I see no Senator seeking recognition. Therefore, I yield the floor, Mr. President, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSNIA, SERBIA, AND THE WAR CRIMES TRIBUNAL IN THE HAGUE

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on a trip which I made recently, earlier this month to The Hague, Serbia, and Bosnia for the purpose of taking a look at the situation with our military forces in Bosnia and taking a look at what is happening at The Hague with the War Crimes Tribunal. I would like to highlight a few of my observations because there are a few moments available on the Senate floor this afternoon.

In visiting Tuzla on April 4, which followed the visit to Serbia on April 3 and the visit to The Hague on April 2, before returning to Paris en route back to the United States, in Tuzla, I saw the presence of the U.S. Army of which people of the United States can be very, very proud.

The United States moved in as part of the NATO force, the IFOR force, short for the Implementation Force, with an overwhelming strength to stop the fighting and preserve the peace. It is a truly remarkable scene to see an army moved halfway around the world with the power and force of the United States, really the one remaining superpower in the world.

As I have had the opportunity to travel abroad, to see the great respect and admiration in which the United States is held, it is something that we ought to focus on in this country. A mark of our power is our military force. When we spend as much as we do on the defense budget, some $243 billion this year, we see it in operations; we have gone in there with overwhelming force. All of the participants to the conflict have stopped fighting and are observing the rules and regulations set up by IFOR, the NATO forces and U.S. forces.

We had the opportunity to talk to many in the military there on a tour provided by General Cherrie. We visited a military installation on Mount Viz, 450 meters through solid mud, virtually straight up, traveling on a tracked military vehicle in order to climb an incline 60 degrees on terrain which did not seem possible to move up. But the mechanism of the military force carried us to the top where we had a briefing on the military operation where we were briefed by military personnel and where I visited with quite a number of military personnel from Pennsylvania, my State, as well as from other States. They had very high morale and were glad to see a visitor from the United States. We had an excellent lunch prepared in the field.

I talked to a young lieutenant colonel who was in command of the operation. The lieutenant colonel told us about taking over the mount from a Serbian major who talked about the killing, the military casualty of his brother-in-law in the fighting which had occurred prior to the time the United States and NATO forces took over. As a matter of fact, in a professional way, with no animus, at least by all surface indications, the Bosnian Serb major said to the U.S. colonel, "Take care of my mountain. I intend to take it back." It was sort of foreboding as to what may occur after the United States and the NATO forces depart the premises.

But as of the moment, there is peace there. I had heard, and was glad to have repeated, that we have had only two casualties. Of course, two is two too many, but the casualties occurred, one from a motor vehicle accident and the other when someone was dismantling a landmine contrary to regulations.

When we arrived in Tuzla, we heard about the visit just the day before of Secretary of Commerce Ron Brown. General Cherrie, who met us on our arrival there, midmorning of April 4, told us that Secretary Brown had been there the day before, arriving at about 6:20 in the morning and departing shortly before 2 p.m. when the tragic accident occurred.

We had seen Secretary Brown the night before in Paris at a reception at the residence of Ambassador Pamela Harriman. We renewed our longstanding friendship, talked about possibly meeting in either Sarajevo or in Zagreb. Of course, that was not to be.

When I flew out of Paris on the morning of April 3 and went to Belgrade, we had planned to fly to Sarajevo. Because of the weather conditions, the very high winds, our plane was grounded. We did not undertake the flight. I think those may have been the same weather conditions which caused or related to the fatality involving Secretary BROWN, whose presence will be sorely missed, as will the presence of all those 34 people who were on board with him on that ill-fated flight.

We had an opportunity to talk to the people in Bosnia about the efforts to gather evidence, which is very important for the War Crimes Tribunal. They have drawn a fine line. That is, IFOR will protect the personnel of the War Crimes Tribunal, but they will not protect the evidence itself. But the War Crimes Tribunal personnel are engaged there and are taking a look at a lot of the grave sites, gathering evidence for prosecutions. So long as the personnel from the war crimes prosecution team are there gathering evidence, then military personnel will protect the prosecution team.

We discussed with the military personnel, General Cherrie, the issue about the potential of taking into custody the Bosnian Serb President Karadzic and General Mladic. The word was that individuals, such as those two people, under indictment would be taken into custody if the NATO and U.S. forces came upon them, but they would not be sought out or hunted.

While we were there at the headquarters at Tuzla, we saw posters, candidly not very good identifying pictures, but, as to the major people under indictment including Bosnian Serb President Karadzic and General Mladic.

We heard about an incident where IFOR forces had come upon General Mladic, but he was surrounded by many of his own military personnel, and to attempt on that occasion to take him into custody would have precipitated a battle. Since the IFOR forces were outnumbered, they did not seek to take him into custody at that time.

But I think it is very important that, ultimately, President Karadzic and General Mladic be taken into custody so they can be prosecuted at the War Crimes Tribunal. I believe prosecutions at the War Crimes Tribunal are a very, very important aspect of what the United States and NATO are doing there. That may be the event of the decade or perhaps the event of the century if international legal precedence can be established that genocide and the atrocities will not be tolerated and they will in fact be prosecuted by an international tribunal.

The establishment of the rule of law as an outgrowth of what has happened in Bosnia would be an enormous step forward in international law, and is something which has to be pursued.

I had traveled to the Hague on January 4th this year and talked to the prosecution team at that time. I found that there were a number of very serious problems and I undertook to write to the Secretary of State, the Attorney General, the Director of the FBI, the Director of the CIA, and the Secretary of Defense. Their letter replies are attached and I ask that they be printed at the conclusion of my remarks along with the full text of my statement.

A great deal has been done. The prosecution team was much more encouraged when I met with them on April 2; I was impressed with their approach back on January 4. I am pleased to say that CIA Director John Deutch has been very cooperative in working hard to make information available which is necessary to obtain the convictions of those under indictment at the War Crimes Tribunal.

Mr. President, a very fundamental issue is what will happen with Bosnia, when our forces are due to withdraw by December 1996. The Intelligence Committee, which I chair, heard from General Pat Hughes about the problems which exist there at the present time and the prognosis is that if there is not a significant improvement in the infrastructure, the economy and the local police forces in Bosnia, there is likely to be a problem of fighting erupting

VOL
142
PT
6
AP
15
—
24
1996
UMI

again. We heard about the implementation of the Dayton accord, that it is proceeding on schedule, as detailed in the statement that I will introduce into the RECORD. I was pleased to see in the press Sunday April 21, statements by the military commanders in Bosnia, Adm. Leighton Smith and Lt. Col. Ben Barry, about the compliance by the warring faction in withdrawing their military forces and complying with the Dayton accord. That is certainly good news. A great deal more has to be done in terms of fulfilling the commitments which have been made by the major Western democracies, by Japan and by other countries, to see to it that local police forces are established, that the infrastructure is built up, that the economy is supported, so that there is a realistic opportunity for peace to prevail there.

Mr. President, that is a brief summary of the highlights. I ask unanimous consent to have printed in the RECORD certain letters.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, I would like to take this opportunity to report on my recent visit to the War Crimes Tribunal in The Hague on April 2, Serbia on April 3, and Bosnia on April 4. The primary purpose of this trip was to assess the progress being made on implementation of the Dayton accords, particularly the prosecution of war criminals, and the degree of intelligence support to the War Crimes Tribunal and the Implementation Force [IFOR].

Our first stop was The Hague, where the International War Crimes Tribunal sits. There, we met with Judge Antonio Cassese, the President of the Tribunal prosecuting crimes against humanity committed in the former Yugoslavia. Judge Cassese stated that the first trial of indicted war criminals will commence on the 7th of May. At this time, there are five other trials planned against six indictees—two Moslems, one Bosnian-Croat, and three Bosnian-Serbs, all of whom are being held in custody.

The Tribunal is in the somewhat delicate position of needing to maintain judicial independence while relying heavily on the political support of the former Yugoslavian adversaries and the IFOR countries. One of the issues I discussed with Judge Cassese was the role of IFOR support of the tribunal. While some progress has been made in this effort, there is apparently still some disagreement between the Court and U.S. force commanders on the degree of IFOR support. Of particular importance is the issue of United States support for the apprehension of indicted war criminals, especially Bosnia-Serb President Karadzic and General Mladic. Judge Cassese indicated that the Europeans believe that only the Americans have the capacity to arrest Karadzic and Mladic. Neither the French, British or Italians appear ready to arrest these individuals for various unspecified reasons.

President Cassese advised that he had initiated a meeting with the Russian Foreign Minister who urged the War Crimes Tribunal not to proceed against Mladic or Karadzic until after the September elections. The judge commented that he advised the Russian Minister that he would take his views into account but would not be influenced as to what action the Judicial Tribunal would take. As evidence of the conflicting pressures on the tribunal, at least one NATO country has reportedly urged that as many suspected war criminals as possible should be indicted before the elections in order to preclude their running in those elections, but that no additional suspects should be indicted after elections so that there is no risk of indicting newly elected officials.

We also met with the one American judge on the tribunal, Judge Gabrielle McDonald, formerly a U.S. District Court judge in Texas, who is currently the presiding judge on two trials. Judge McDonald highlighted the difficulties the tribunal faces in attempting to move promptly against indicted war criminals. For example, she pointed out that while the first trial is scheduled for May 7, 1996, against a Bosnian-Serb by the name of Tadic, there may be a delay if the tribunal does not receive some key equipment—simultaneous translation equipment with a 2 to 3 second broadcast time delay—by April 23 and if the U.N. fails to accept this equipment as a gift. The delayed transmission is required to ensure there is no inadvertent broadcast of names. Judge McDonald also expressed her view that there are not enough tribunal courtrooms to try all the cases and attempting to try multiple defendants won't work in this particular situation.

We also met with the prosecution team which is assisting Judge Goldstone in investigating and prosecuting the war crimes. Included in this group are representatives from the Department of Justice, Department of State, Defense Department, and the FBI. The 10 individuals with whom I met were very impressive and very dedicated to the task of trying to bring justice to this great tragedy in current history.

I had met with this team earlier this year, on January 4, 1996. After assessing their needs at that time, I wrote to the President, the Secretary of State, the Secretary of Defense, the Attorney General, the Director of the CIA, the Director of the FBI and the Ambassador to the United Nations.

When I met with the prosecution team on January 4, they were concerned with cooperation by IFOR and the various agencies of the U.S. Government in supplying personnel and assistance in carrying out the efforts of the tribunal investigators. At the April 2 meeting, attended by many of the same people who were present on January 4, there was considerably more optimism because they had received assurances of support, including replacement personnel for the team, and assistance was being given to the gathering of evidence in Bosnia.

To date the United States has been the biggest supporter of the tribunal and its chief contributor. By the end of this fiscal year 1997, the U.S. will have contributed nearly $35 million to the court. Included in this figure is $3 million in services from more than 23 prosecutors, investigators and other experts from the departments and agencies of the U.S. Government.

It is clear, however, that this U.S. support alone is not sufficient. International pressure is needed on all parties to the Dayton accords to abide by that agreement to force them to turn over indicted personnel to the tribunal. The tribunal team reported that there is a prevailing view among potential witnesses that the tribunal will not be continually supported and this is affecting witness willingness to step forward.

The prosecution team highlighted one particular set of indictments in which greater Serbian cooperation is needed. A Serbian army colonel by the name of Veselin Sljidancanin and two other Serbians have been indicted for ordering the mass killings of 260 Croatians near Vukovar, Croatia after they forcibly removed these people from a hospital on March 20, 1991. Sljidancanin is free in Serbia and there is no indication that the Serbian Government intends to extradite him to the tribunal.

I advised the prosecution team that I would raise this issue with Serbian officials. The next day, April 3, I raised the issue with Serbian Foreign Minister Milutinovic and Assistant Foreign Minister Jovanovic. I discussed the charges which had been filed against three men and gave the Foreign Minister a copy of the indictment and the transcript of the argument made by the prosecutor before the War Crimes Tribunal on this issue. I ask unanimous consent that the indictment and the transcript of the argument be inserted in the CONGRESSIONAL RECORD.

Foreign Minister Milutinovic said that Serbia could not extradite Colonel Sljivancanin because it was prohibited by the Serbian constitution. It appears that the other two men, Mrksic and Radic, are not in Serbia at the present time.

I responded to Foreign Minister Milutinovic that a legal analysis had been made showing that the Serbian

constitution only prohibited extradition to another nation but the constitution did not prohibit extradition to the War Crimes Tribunal. Foreign Minister Milutinovic showed little interest in having his government assist in bringing Colonel Sljivancanin to the trial.

I asked Foreign Minister Milutinovic if his government would cooperate in bringing Bosnian Serb President Karadzic and General Mladic to trial before the War Crimes Tribunal. While Foreign Minister Milutinovic said that Karadzic and Mladic should be ousted from power, he would not assist in taking those men into custody so they could be tried under pending indictments issued by the War Crimes Tribunal.

On April 4 we traveled to Tuzla, the headquarters of the American contingent of IFOR. Our military operation there was enormously impressive. The United States had moved an army of nearly 18,000 men and women with spectacular results. I noted that women comprised between 10 to 15 percent of the American force serving in a variety of jobs including military police and senior intelligence.

Our host was Brig. Gen. Stan Cherrie. Due to weather, we were unable to visit one of the mass grave sites that was being investigated by the War Crimes Tribunal. Instead, we visited one of the intelligence surveillance outposts at the top of Mount Vis. The purpose of our force on Mount Vis is to monitor the perimeter areas to be sure there are no violations of the accords. Getting there in knee-deep mud was accomplished riding in a track vehicle up the mountainside. This turned out to be an adventure in itself.

Foremost in my mind during this visit was what happens in December 1996 when U.S. forces, which make up approximately one-third of the Implementation Force, are scheduled to withdraw from the region. By coming in with overwhelming force, IFOR has been able to dominate the entire scene. The United States has suffered only two deaths; one was an individual who was dismantling a mine without following instructions and the other was a motor vehicle fatality. It is problematic what will happen when IFOR leaves.

Of particular concern is the prospect that while IFOR may have completed its mission to stabilize the area militarily and allow political, economic and law enforcement initiatives to generate peace to the region, the civil mission to rebuild the economy and infrastructure will not have made sufficient progress.

In testimony on March 27, 1996, before the Senate Select Committee on Intelligence, Gen. Pat Hughes, the Director of the Defense Intelligence Agency, stated that violence is likely to resume in Bosnia unless allied forces quickly help improve living conditions and provide the basis for a stable economy.

The message I heard in Bosnia was similar: there is a need for economic development to take hold. One senior military officer highlighted the danger of not providing sufficient incentive to maintain the peace, noting that the region is marked by the greatest level of hatred and distrust that he has ever seen. There is some evidence that the fighting forces on all sides are tired. There are other indications that fighting will resume once IFOR leaves. Many at the scene predict that stability can be maintained if the economy and infrastructure are developed and the local authorities are able to put their police forces into operation.

Some of our military personnel in Bosnia were more optimistic about Bosnia's future. One ranking officer noted that if the September elections result in moderates replacing the current corrupt regime, then the prospects for peace were good. He further advised that the schedule of confidence-building measures is proceeding according to the Dayton accords. On day 1, a one kilometer zone of separation was established. On days 30 to 45, both factions—Bosnians and Bosnians Serbs—gave the locations of their heavy weapons to the United States and to each other. On D+90, the Dayton accords called for the consolidation of air-defense weapons systems into approved sites. Seventy-five percent of those weapons were located and moved into those sites by the deadline. Now it's up to 90 percent. On D+120 days, which will be on April 20, all armed forces are to be in their containment and barrack areas. Inspection teams will visit those areas. Any deployments from containment areas will give IFOR a warning of intentions to initiate possible military action.

I raised with General Cherrie the role of IFOR in assisting the War Crimes Tribunal. He stated what he understood to be IFOR's mission: U.S. forces in IFOR would not seek out those indicated, such as General Mladic, for example, but would be prepared to arrest him if IFOR forces came upon him. All checkpoints have picture posters of those indicted. We saw one of those posters. Regrettably, the photographs on many of them are nearly impossible to make a clear identification.

I also asked General Cherrie for more details on IFOR's tasking in regard to support for the War Crimes Tribunal investigators examining the sites of atrocities. He answered that it was to protect the War Crimes Tribunal personnel but not the war crimes sites. When War Crimes Tribunal personnel leave a site, IFOR will leave. If the War Crimes Tribunal personnel were to remain overnight, then IFOR would remain to protect them.

At the top of Mount Vis we were treated to lunch with the military personnel. There we found their morale to be very high. They are doing an excellent job under an extraordinarily difficult situation. Wherever we turned, the mud was ankle deep. One quip which seemed particularly appropriate was that Bosnia was Latin for mud.

I also had a chance to meet several soldiers from Pennsylvania; including one young man from Philadelphia, S.Sgt. Michael J. Smith, another from Pittsburgh, Christopher Klauer, and a third from Allentown, M.Sgt. Douglas Sleeth.

We departed Tuzla by 2:15 p.m. and headed for Aviano Air base in Italy where we received an operational and intelligence brief on air support capabilities to the Bosnia area. Air support and air strikes may be one option in which military force can be brought to bear after the pullout of IFOR forces.

We had been scheduled to travel to Zagreb, where we were to meet with Croatian President Tudjman, but that part of the trip was canceled after the tragic crash of the plane carrying Secretary of Commerce Ron Brown and his delegation.

Instead, we held a series of meetings on April 5 with officials in our Embassy in Paris. These discussions also focused primarily on the situation in the former Yugoslavia, where France is a key player.

Ambassador Harriman noted that France is now probably the most important United States ally in Europe. She is concerned that a planned 40-percent cut in the U.S. embassy in Paris will severely hamper her ability to deal with the political and economic requirements of this increasingly important relationship. She noted that, in spite of press accounts to the contrary, there is excellent United States-French cooperation in the evolution of NATO, on the Former Yugoslavia, arms control issues, terrorism, and organized crime. The Ambassador further noted that the implementation of embassy cuts also will affect their ability to encourage free trade and to promote U.S. exports.

We also discussed with Ambassador Harriman the issue of economic espionage and the impact of the recent controversy when France accused the United States of using spies based at the Embassy to attempt to recruit French government officials to gather information on economic policies. We talked with the Embassy team about the history of French activities targeting United States economic information, including proprietary information of United States firms. I sought their views regarding legislation we are considering on the Intelligence Committee to criminalize theft of trade secrets, as well as a bill to prevent corrupt trade practices by foreign firms along the lines of the prohibitions currently in place for U.S. firms.

VOL
142
PT
6
AP
15
—
24
1996
UMI

As amplified in a floor statement on April 17, we were very favorably impressed by the operation of the U.S. Embassy in Paris.

EXHIBIT 1

UNITED STATES SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, January 18, 1996.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: When you called me on November 25, 1995 seeking support for your Bosnian policy, we had an opportunity to talk briefly about the International Criminal Tribunal for the former Yugoslavia.

On January 4, I had an opportunity to meet with the prosecution team in The Hague and was enormously impressed with what they are doing.

In my view, these prosecutions are of historic importance. I strongly believe that the United States government should do everything in its power to assist in the prosecutions. Toward that end, I have written the various Department and Agency heads urging cooperation in a number of specific ways. I believe that support by the American people and by the Congress could be enhanced by successful prosecutions by the War Crimes Tribunal.

I am sending to your National Security Council head, Tony Lake, a copy of this letter and copies of my letters to the respective Department and Agency heads.

I look forward to an opportunity to discuss this issue with you further at your earliest convenience.

My best.
Sincerely,

ARLEN SPECTER.

THE WHITE HOUSE,
Washington, DC, February 21, 1996.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: Thank you for your recent letter expressing your support for the International Criminal Tribunal for the former Yugoslavia. I agree with you that its work is of historic importance. The United States government will continue to assist the Tribunal in its work.

The United States already has contributed more to the Tribunal than any other nation—upwards of $14 million. This includes the services of more than 22 prosecutors, investigators and other experts. Assistant Secretary of State for Democracy, Human Rights and Labor John Shattuck has traveled to the former Yugoslavia eight times since July 1995—most recently in January 1996—to investigate and communicate news of the serious violations of human rights that occurred around Srebrenica and Zepa last summer.

The IFOR Commander, Admiral Leighton Smith, and Justice Goldstone met on January 22 and agreed on how they can coordinate their respective missions under the Dayton Accords. Admiral Smith expressed his satisfaction that IFOR will be able to provide appropriate assistance to ensure security for Tribunal teams carrying out investigations at mass grave sites. Justice Goldstone expressed his satisfaction with the level of support offered by Admiral Smith recently when he met with my National Security Advisor, Anthony Lake.

Your continuing support and ideas are greatly appreciated, as always. I look forward to discussing with you the implementation of human rights in the former Yugoslavia as we work together to restore peace to the Balkans. .

Sincerely,

BILL CLINTON.

U.S. DEPARTMENT OF STATE,
Washington, DC, March 26, 1996.

Hon. ARLEN SPECTER,
Chairman, Select Committee on Intelligence,
U.S. Senate.

DEAR MR. CHAIRMAN: We regret the delayed response to your letters of January 18, 1996 to Secretary Christopher and Ambassador Albright, in which you underline the importance of pursuing defendants indicted by the International Tribunal for the former Yugoslavia.

Demanding an accounting for injustices perpetrated in the former Yugoslavia is a fundamental tenet of our policy there. In the long term, peace can be secured only through justice.

The Parties to the Dayton Agreement obliged themselves to cooperate fully in the investigation and prosecution of war crimes and other violations of international humanitarian law in Article IX of the General Framework Agreement. This obligation has been reaffirmed several times since, most recently in a meeting held among the Parties in Rome on February 18 when the Parties agree to provide unrestricted access to places, including mass grave sites, relevant to such crimes and to persons with relevant information. At this meeting, IFOR repeated its readiness to work to provide a secure environment for the completion of these tasks.

The Parties also acknowledged in Rome that persons other than those already indicted by the Tribunal, would be arrested and detained for serious violations of international humanitarian law only pursuant to a previously issued order, warrant or indictment that has been reviewed and deemed consistent with international legal standards by the International Tribunal. Although IFOR will not pursue persons indicted by the Tribunal, it will detain any persons indicted by the International War Crimes Tribunal who come into contact with IFOR in its execution of assigned tasks and will transfer these persons to the Tribunal.

You mentioned that the Tribunal's prosecution staff expressed concerns about adequate financing and the need for the help of more U.S. Government detailees. The United States is the leading supporter of the Tribunal, having contributed since 1994 over 12 million dollars (of a total 19 million) and 22 U.S. government detailees to the Tribunal. We are arranging to send in the near future an additional investigative team of nine (seven investigators and two translator) to aid the prosecution staff of the Tribunal for Rwanda. We understand that the Department of Justice is also detailing two prosecutors to the Tribunal.

The Yugoslav Tribunal is preparing its 1996–97 budget. We understand that the preliminary two-year estimate is in excess of 85 million dollars for operations related to the former Yugoslavia. The UN has adopted a funding formula that covers half of the Tribunal's cost through unencumbered UN peacekeeping balances and half through the normal UN scale of assessments—a rate of 25 percent for the U.S. Of course, actual expenses will depend in large part on the demands placed on the Tribunal—especially trials—in the next two years. Our ability to pay our UN assessment in full in 1996 and 1997 is dependent on Congressional approval of funds for U.S. contributions to international organizations.

We appreciate your strong and ongoing commitment to the work of the Tribunal and hope this information is responsive to your concerns. Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

BARBARA LARKIN,
Acting Assistant Secretary,
Legislative Affairs.

THE SECRETARY OF DEFENSE,
Washington, DC, March 9, 1996.

Hon. ARLEN SPECTER,
Chairman, Select Committee on Intelligence,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In response to your letter of January 18, the Department of Defense (DoD) is participating with others in the Intelligence Community (IC) to provide U.S. intelligence support to the International Criminal Tribunal for the Former Yugoslavia (ICTFY). IC participation is guided by the State Department Bureau of Intelligence and Research (INR), which acts as the point of contact for the IC with the Office of the Prosecutor.

The Defense Intelligence Agency (DIA) is the focal point for DoD support to the ICTFY. The initial search of DoD data bases was designed to locate all intelligence information which might be of evidentiary value to the Office of the Prosecutor. As a result of that search, and others in response to specific requests from the Office of the Prosecutor, DIA initially identified over 3,000 documents, the majority of which were Information Intelligence Reports (IIRs). Approximately 1,000 documents were determined to be of no value to the ICTFY. Of the remainder, 444 IIRs were forwarded to State INR and have been delivered to the Office of the Prosecutor. The remaining 1,550 IIRs are undergoing review, and those with information responsive to the ICTFY requests will be delivered to the State Department by 15 March.

The Office of the Prosecutor, through State INR, has given assurance that our responses to their various requests have been concurrent with their needs. Adequate resources are assigned to the job. You may be assured we are monitoring requests from the Office of the Prosecutor, through the State Department, on a daily basis and are prepared to increase our efforts if necessary. We are committed to continuing both intelligence and Judge Advocate support to the Office of the Prosecutor within the scope of available resources.

Sincerely,

WILLIAM J. PERRY.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, February 29, 1996.

Hon. ARLEN SPECTER,
Chairman, Select Committee on Intelligence,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter to the Attorney General regarding the International Criminal Tribunal for the former Yugoslavia.

At the outset, I would like to convey the Department's deep appreciation for the critical role you have played in this area. We are grateful for your efforts in passing legislation that gives the United States full authority to obtain evidence for, and to extradite offenders to, the Tribunal.

The Department of Justice remains firmly committed to supporting the important work of the Tribunal. We share your pride in

the work done by the Department's prosecutors currently detailed to the Tribunal, and it is our goal to carry that work forward.

In addition, as Director Freeh states in his separate letter on this topic, the Department remains committed to continuing to provide Federal Bureau of Investigation agents to the Tribunal. The United States also has already provided, and will continue to provide, information to the Tribunal.

Finally, we have on occasion been contacted by the Tribunal on witness protection issues. As you know, however, the federal Witness Security Program is designed to protect persons who are expected to testify in proceedings in the United States. While there has been one relocation of a witness in connection with Tribunal proceedings, that was a most unusual case. Yet, the Department remains willing to work with Tribunal authorities on alternative solutions to this problem.

Thank you again for you efforts and your support. Please do not hesitate to contact this office if we can be of further assistance with regard to this or any other matter.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, February 27, 1996.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: Thank you for your letter of January 18, 1996. I appreciate the interest and support that you expressed in the FBI's involvement in the United Nation's International War Crimes Tribunal at the Hague. As background, in June 1994, three FBI Special Agents were assigned to the Tribunal for a one-year assignment. The Department of State requested our investigative expertise to help in "jump starting" the investigative arm of the Tribunal. In June 1995, the Department of State petitioned Deputy Attorney General Jamie S. Gorelick for a one-year extension of these resources. I remain committed to continue this level of support in the work of the Tribunal.

As you are aware, the efforts of the Tribunal have yielded indictments against war criminals. I share your opinion that the work of the Tribunal must continue and they must bring the individuals responsible for these atrocities to justice.

As you are aware, the Witness Security Program is administered by the U.S. Marshals Service under the aegis of the Department of Justice. I have been informed by the U.S. Marshals Service that there is no statutory or budgetary authority to use this program for witnesses of the Tribunal. I am aware, however, that they have relocated one witness from Bosnia with the assistance of the Department of Justice and the Marshals Service. I have been advised that this relocation involved extraordinary circumstances. The FBI Special Agents assigned to the Tribunal have been advised by FBIHQ that any requests for witness assistance should be brought to the direct attention of the Criminal Division.

You may be aware that the Department of State has put forth a plan to establish an international, unarmed law enforcement contingent to develop civilian law enforcement programs in Bosnia. The protection of witnesses developed by the Tribunal may be addressed as a function of this proposed police force.

If I can be of any further assistance to you, please do not hesitate to call upon me.

Sincerely yours,

LOUIS J. FREEH,
Director.

Mr. SPECTER. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR—SENATE JOINT RESOLUTION 21

Mr. DOLE. Mr. President, I ask unanimous consent that Senate Joint Resolution 21 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak therein for up to 5 minutes each.

CLINTON JUDGES

Mr. DOLE. Last week, Vice President GORE stated that Republican criticism of Clinton-appointed judges was misguided—A "smoke screen," as he put it, "to hide our own poor record on crime."

While the Vice President is off-base with his smoke screen comments, he is absolutely right to suggest that it is important to look at the record.

The record is that the number of prosecutions initiated by the Clinton Justice Department for crimes involving guns and drugs has dropped significantly since the Bush administration.

The record is that the Clinton Justice Department has virtually ignored the enforcement of the Federal death penalty, established by the 1994 crime bill.

The record is that the Clinton administration's top lawyer has actually argued in favor of narrowly interpreting and weakening the Federal child pornography laws.

The record is that President Clinton has vetoed legislation that would help stop the thousands of frivolous lawsuits filed every year by convicted criminals that serve only to clog the courts and waste millions of taxpayer dollars.

Of course, there is the Clinton record on drugs. Drug enforcement is down. Drug interdiction is down. And the antidrug bully pulpit has been all but abandoned. Just say no has become just say nothing. Not surprisingly, teenage drug use has nearly doubled since President Clinton first took office.

Yes, Vice President GORE is right: It is important to look at the record.

Then there's the issue of Federal judges. With all due respect to the Vice President, I suggest that he take a close look at the decisions of Judge Martha Craig Daughtrey, a former member of the Tennessee Supreme Court and a Clinton appointee to the Sixth Circuit Court of Appeals.

In an important search and seizure case, Judge Daughtrey ruled that the police acted improperly when they searched the trunk of a car that they had pulled over early one morning after the car made a left turn without signaling. At the time of the stop, the police suspected that the driver might have been driving under the influence of alcohol. During the search, the police frisked the car's passenger for weapons and found a cellular phone, a pocket beeper, and $2,100 in cash. The police then asked the car's driver and passenger whether they could search the trunk. The driver and the passenger consented—consented—and the police found a shopping bag containing a baggie with a large amount of crack cocaine.

Yet, Judge Daughtrey ruled that the police acted unreasonably and she voted to suppress the crack cocaine evidence. Judge Ryan, a Reagan appointee, dissented on the grounds that the police acted appropriately.

In another fourth amendment case, Judge Daughtrey dissented from a decision upholding a police search that led to the discovery of a large stash of vicious child pornography. The two Republican-appointed judges upheld the constitutionality of the search, saying that it was fully consistent with fourth amendment precedent.

Unfortunately, Judge Daughtrey is not an aberration. Last year, in an important case before the D.C. Court of Appeals, two Clinton-appointed judges dissented from the court's majority opinion upholding the FCC's regulations prohibiting the transmission of indecency on television and radio during certain hours of the day. The purpose of these regulations is, obviously, to protect our children from images that would be harmful to their moral and psychological development. Yet, the two Clinton judges on the court joined with the two Carter appointees in arguing that these regulations somehow violate the first amendment.

So while President Clinton touts the V–chip and holds high-profile White House conferences with television executives, his judges are attempting to strip the very protections that he supposedly supports. President Clinton

VOL 142 PT 6 AP 15 — 24 1996 UMI

may talk a moderate game, but his appointees to the Federal bench are attempting to stamp their own brand of stealth liberalism on America.

And that is my point: Selecting who sits on the Federal bench is one of the most critical responsibilities of any President. Long after a President has left office, the judges he appoints will leave their mark on American society. While the Vice President may say that the Clinton administration appoints judges on the basis of excellence, not ideology, the facts—regrettably—tell a much different story.

PLEASE, MR. PRESIDENT, NO UNITED STATES FORCES IN LIBERIA

Mr. HELMS. Mr. President, 2½ years ago, 18 American soldiers were gunned down in the streets of Mogadishu, Somalia. What happened October 3, 1993, in Somalia was another one of those tragic mistakes. U.S. servicemen should not be asked to risk their lives in so-called peacekeeping missions where there is really no peace, and where no U.S. national interests are at stake.

As the last of United States forces pull out of Haiti, the American people are learning that Operation Uphold Democracy was not the resounding success President Clinton led us to believe. The bottom line, it seems to me, is that America's military cannot achieve what the people and leaders of Somalia and Haiti refuse to do. This so-called nation building is fanciful rhetoric for fleecing the American taxpayers.

I had hoped and prayed that President Clinton had learned his lesson from Somalia, and Haiti, but President Clinton has already landed several hundred Marines, from Camp Lejeune, NC, inside Liberia. More than 1,600 Marines and 1,900 sailors on warships are awaiting further orders.

But, Liberia is in, quite literally, a state of anarchy, and I fear there is little the United States can do about it. Consider, Mr. President, that since 1990, American taxpayers have given Liberia—a country of 3 million people—at least $429 million of foreign aid, according to A.I.D.—and President Clinton proposes to forgive Liberian debt to the American taxpayers. And what has all this assistance accomplished? Since the outbreak of the civil war in 1989, intensive fighting has been the cause of the United States having to evacuate Americans and others from the country on three separate occasions. tens of thousands of Liberians are dead and thousands more fled.

Tragically, the lives saved by $429 million in U.S. foreign aid are today being gunned-down at the hands of heavily armed drunken teenagers, looting the capital city of Monrovia, raping and killing for sport. The so-called leaders in Liberia, as in Somalia, are bloodthirsty warlords who are more vicious criminals than national leaders. In fact, one warlord, Charles Taylor, escaped from Plymouth County Jail in Massachusetts in 1985.

Mr. President, on April 15, the Foreign Relations Committee was assured that if United States Marines went into Liberia, they would only be protecting the United States Embassy and assisting with evacuations, although all Americans who have asked to leave are already evacuated. The Sunday Washington Times, however, reported that several hundred Marines landed in Liberia over the weekend, and that they "would be able to provide humanitarian assistance." This makes me very concerned about mission creep.

Congress does not want United States Marines hunting down Liberian warlords, as in Somalia, or picking up trash on the streets of Monrovia, as in Port-au-Prince. Mr. President, there are no United States interests in Liberia worth the life of even one United States service man or woman.

I have written President Clinton to raise a number of questions about his policy. Congress and the American people deserve answers. Of course, I pray the President does not get the United States into another Somalia or Haiti.

Mr. President, I ask unanimous consent that my letter to the President be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, April 22, 1996.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In response to the most recent outbreak of violence in Liberia and the mass evacuation that followed, I note that the Administration has undertaken a comprehensive review of its policy toward Liberia. Congress is also fully aware of the likelihood of further humanitarian tragedy in Liberia.

With the unnecessary deaths of eighteen U.S. servicemen in Somalia (October 3, 1993) lingering on our minds, the landing of several hundred U.S. Marines in Liberia over the weekend has Congress to be all the more concerned about developments in Liberia—and, frankly, the Administration's response to that crisis.

Administration officials briefed Congressional staff this past week about the situation in Liberia, but a number of important questions went unanswered. The Foreign Relations Committee will appreciate prompt answers to the following questions:

(1) What is the exit strategy for the U.S. troops currently in Liberia?

(2) Under what rules of engagement are U.S. servicemen in Liberia operating?

(3) As humanitarian concerns are necessarily incidental—as important as they may be—what the U.S. national interests in Liberia, besides protecting U.S. citizens?

(4) What interests in Liberia are worth risking the life of one American citizen?

(5) Inasmuch as Liberia is in anarchy, why should any U.S. Embassy personnel remain?

(6) To whom is the U.S. Embassy accredited?

(7) If U.S. Embassy personnel remain, what kind of security will they have?

(8) Has the U.S. Government received any assistance with evacuations or security from France, Britain or any other country?

(9) What countries have overseas bases in African countries in proximity to Liberia?

(10) How many people, and from which countries, have been evacuated from Liberia by U.S. forces?

(11) How many private Americans and U.S. citizens working at the Embassy remain in Liberia?

(12) Do any United Nations Development Program personnel remain in Liberia?

(13) Are personnel from any United Nations agency on the ground in Liberia?

(14) To date, what is the total cost of the evacuation effort?

(15) How many U.S. Navy vessels have arrived off Liberia, and how many Marines and sailors does this represent?

(16) Under what circumstances would these Marines go into Liberia?

(17) Is an expanded role for U.S. military forces being contemplated? If so, please explain.

(18) If a contingent of U.S. forces goes into Liberia, from where will they be supported?

(19) What would such an operation cost?

(20) Given the state of anarchy in Liberia, and the individuals with whom diplomats are forced to deal, how does the Administration expect to influence events?

(21) To date, how much U.S. funding has ECOMOG received, including equipment, and how effective has it been?

(22) To date, how much U.S. funding have the countries of ECOWAS received, including equipment, and how effective has it been?

(23) As Nigeria has been decertified on account of noncooperation in the fight against illegal narcotics, how does the Administration intend to provide funding to Nigerian troops, which make up a majority of ECOMOG in Liberia—will the Administration seek a waiver in order to provide funding or equipment to Nigerian forces?

(24) How much money and equipment does the Administration propose giving ECOMOG and ECOWAS, and from where will the funds come?

(25) Since the outbreak of the civil war in 1989, how much U.S. Government assistance has gone to Liberia?

(26) Since the outbreak of the civil war in 1989, what is the total amount of international assistance that has gone to Liberia, including from United Nations agencies and all international financial institutions?

(27) Have any of the Liberian warlords ever been wanted, or are currently wanted, in the United States for any violation of law? If so, please explain.

Many thanks.

Sincerely,

JESSE HELMS.

MEDICARE

Mr. DOLE. Mr. President, 2 years ago, the Medicare trustees—three of whom are members of the President's Cabinet—reported to President Clinton and Congress that Medicare would be bankrupt by the year 2002.

From the day the Medicare trustees issued their report, Republicans have worked to preserve and strengthen Medicare. We proposed to do this not by cutting Medicare—but by slowing its rate of growth. Under the Republican plan adopted by Congress, annual spending per Medicare beneficiary would increase from $4,800 this year to more than $7,200 in 2002.

If you believed what President Clinton and some of my friends on the other side of the aisle had to say, however, you would have thought that instead of increasing Medicare spending from $4,800 per beneficiary to $7,200 per beneficiary, Republicans were trying to throw America's seniors out on the streets. And to the President's credit as a public speaker, a lot of Americans believed what he was saying.

There is, however, a very big difference between leading and misleading. Republicans chose to lead—and we suffered in the polls because of it. President Clinton chose to mislead—and he gained in the polls because of it.

But as a story in this morning's New York Times makes very clear, the President's gain came at the expense of the millions and millions of Americans who depend on Medicare.

The story reveals the fact that Medicare's hospital insurance trust fund, which pays hospital bills for the elderly and disabled, lost $4.2 billion—that is billion with a "B"—in the first half of the current fiscal year. Those losses are more than 100 times larger than the $35.7 million loss the trust fund experienced all last year.

The $4.2 billion loss is also in stark contrast to the rosy scenario coming out of the White House last year. As part of their attempt to lead the public to believe that Republicans concern with Medicare was "much ado about nothing," they predicted that the Medicare trust fund would take in $45 million more than it would spend in the current fiscal year. Obviously, the White House was as off base in its economic projections as they were in their political accusations.

The article also reports that Roland King, former chief actuary of the Health Care Financing Administration, which runs Medicare, said that after analyzing these new numbers, he believes the hospital insurance trust fund will not run out in 2002 as the trustees originally projected. Instead, it will run out in 2000 or 2001.

I am sure that a number of Republicans are tempted to say "I told you so," this morning. But saying that will get us no closer to the solutions necessary to save Medicare from bankruptcy.

And so, Mr. President, this Senator stands ready to work on a bipartisan basis to save, preserve, and strengthen Medicare. It is my hope that in the face of these alarming new numbers, the President will choose the path of leading rather than the path of misleading.

SENATOR EDMUND S. MUSKIE: THE SENATE'S FIRST ENVIRONMENTAL LEADER

Mrs. BOXER. Mr. President. As all senators know, former Senator Edmund S. Muskie passed away on March 26, two days before his 82d birthday. Senator Muskie served in this body from January, 1959, until May 1980, when he resigned to become Secretary of State in the Carter administration.

As a freshman Senator, Ed Muskie ardently desired a position on the Foreign Relations Committee. He was disappointed to be appointed to the Public Works Committee instead. But his loss proved to be the Nation's gain. As a member of the Public Works Committee, later the chairman of the Environmental Pollution Subcommittee, Senator Muskie became the chief architect of America's first environmental laws.

At the funeral service for Senator Muskie, his protege and former chief of staff, George Mitchell, who took Muskie's Senate seat and went on to become the Senate majority leader, delivered a wonderful tribute to Senator Muskie's environmental leadership. I would like to share his remarks with the Senate today by asking unanimous consent that they be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF GEORGE MITCHELL

Jane, Steve and Lexi, Ellen and Ernie, Melinda and Eddie, Martha, Ned and Julia, and other members of the family, Cardinal Hickey, Bishop Gerry and other members of the clergy, President and Mrs. Carter and other distinguished guests and friends of Ed Muskie. Senator Muskie once said that he didn't like being called "Lincolnesque" but it fit. With his lanky frame, his long and craggy face, his powerful voice, he was an imposing figure. He was loved and trusted by the people of Maine because they saw in him the qualities they most admire, independence, fairness, the lack of pretense, the willingness to speak the truth even when it hurt. He was plain spoken even blunt at times and they admired him for it. He had his faults and he made mistakes as do all human beings but he conquered his faults and he learned from his mistakes and as a result, he became the greatest public official in Maine's history and one of the most effective legislators in our nation's history. He accomplished much in a long and distinguished career. In that impressive record, nothing surpasses what he did to protect America's natural environment.

Harry Truman once said that men make history, not the other way around. In periods where there is no leadership society stands still. Progress occurs when courageous skillful leaders seize the opportunity to change things for the better. Ed Muskie changed things for the better. When he went to the Senate, there were no national environmental laws, there was no environmental movement, there was hardly an awareness of the problem. Industries and municipalties dumped their wastes into the nearest river and America's waters were, for the most part, stinking open sewers. The air was unhealthy, the water polluted, Ed Muskie changed that.

It's one thing to write and pass a law, it's another thing to change the way people live, it's yet another and a far more difficult thing to change the way people think. Ed Muskie did that. With knowledge, skill, determination and patience he won approval of the Clean Air Act and the Clean Water Act and America was changed forever for the better. Any American who wants to know what Ed Muskie's legacy is need only go to the nearest river. Before Ed Muskie it was almost surely not fit to drink or to swim or to fish in, because of Ed Muskie it is now almost surely clean. A source of recreation even revenue. Despite the efforts of some to turn back the clock, these landmark laws will survive because the American people know what a difference he has made in their lives

It has been said that what we do for ourselves, leaves this world with us, what we do for others remains behind. That's our legacy, our link with immortality. Ed Muskie's legacy will stand as a living memorial to his vision. It is his immortality.

Each of us could say much more about Ed Muskie's public career but we are here today to pay tribute to Ed Muskie the man, so I would like to say a few words about the man who was my hero, my mentor, my friend. Thirty-four years ago this week, I received a telephone call that changed my life. It was from Don Nicoll, Senator Muskie's Administrative Assistant and close friend who is here today. He invited me to come up to Capitol Hill to meet the Senator who was looking for someone from Maine to fill a vacancy on his staff. To help him evaluate me, Don asked that I prepare a memorandum on the legal aspects of an issue that was then being considered by the Senate. I prepared the memo and went up for the interview. I thought the memo was pretty good, but unknowingly I had made a huge mistake. I reached a conclusion that was the opposite of the Senator's. I had never met him but he didn't bother with any small talk. Within minutes of our introduction, he unleashed a ferocious cross-examination. He came out from behind his desk, he towered over me, he shook his finger at me and he took my memo apart, line by line. I was stunned, so intimidated that I couldn't control the shaking of my legs even though I was sitting down. I tried as best as I could to explain my point of view and we had what you might call a lively discussion. As I left he said the next time you come in here, you'll be better prepared. That's how I learned I'd been hired and I sure was better prepared the next time.

Ed Muskie was even more imposing intellectually than he was physically. He was the smartest person that I ever met with an incisive analytical mind that enabled him to see every aspect of a problem and instantly to identify possible solutions. He challenged everyone around him to rise to his level of excellence. No one quite reached his level, but those who took up the challenge were improved by the effort. Those who know him learned from that relationship, those of us who worked for him, most of all. Just about everything I know about politics and government I learned from him. Just about everything I have accomplished in public life, can be traced to his help. No one ever had a better mentor or a better friend.

No discussion of Ed Muskie would be complete without mention of his legendary temper. After he became Secretary of State, a news magazine in an article described his temper as entirely tactical, something that he turned on and off at will to help him get his way. I saw him a few days later, he

VOL
142
PT
6
AP
15
—
24
1996
UMI

showed me the article, in fact he read it to me, and then he said laughingly, "all these years you thought my temper was for real." Well, I said, you sure fooled me, and a lot of other people. I think the reality is that it was both. When he yelled at you it was terrifyingly real, but you could never be sure that it wasn't also a tactic to move you his way, to get you to do what he wanted done and that's the way he wanted it and liked it.

Almost as unnerving as one of his eruptions was the swiftness with which it passed and was forgotten. He was a passionate man and expressed himself with emotion. His point having been made, he moved on, he didn't believe in looking back or nursing grudges and maybe that's how he got past the disappointments he suffered. It surely also helped that he was a secure man, confident in, and comfortable with his values. Those values were simple, yet universal in their reach and enduring in their strength. They were faith, family and country. He was constant in his faith. He was comforted by it and he was motivated by its message. The prayer printed on the back of the program today written by Senator Muskie more than a quarter century ago with its emphasis on compassion and tolerance was the essence of his faith. He was totally devoted to his family, especially to Jane. They would have celebrated their 48th anniversary in May and for all those years, she supported him, she comforted him, she helped him. He was a passionate believer in democracy and especially in American democracy.

I have the privilege of traveling all over Maine and all this country with him. Back when I was on Senator Muskie's staff we didn't have the resources available today so we used to share a motel room in small towns all across Maine as I drove him from one appearance to another. And I can recall the many times he spoke of his Father who he greatly admired and who he was very much influenced by. His Father was a Polish immigrant who, like many others who fled from tyranny, flourished in the free air of this blessed land. No person I have ever heard and few in our history could match Ed Muskie's eloquence on the meaning of America. Once in public office, his profound respect for American democracy led him to act always with dignity and restraint, lest he dishonor those he represented. As a result, he was the ideal in pubic service, a man who accomplished much without ever compromising his principles or his dignity. Character is what you are when you are alone in the dark as well as with others in the daylight. Ed Muskie's character was strong. Strong enough to light up other people's lives. He taught us that integrity is more important than winning. That real knowledge counts more than slogans or sound bites. That we should live our values rather than parading them for public approval.

Many years ago, Maine's greatest poet, Henry Wadsworth Longfellow, wrote of another great man these words: "Were a star quenched on high for ages would its light still traveling downward from the sky shine on our mortal sight. So when a great man dies for years beyond our kin, the light he leaves behind him lies upon the paths of men." A great man has died and for years his life will shine upon our paths. Goodbye Ed, may God bless you and welcome you.

Mrs. BOXER. Finally, Mr. President, I would also like to share with my colleagues a beautiful prayer, written by Senator Muskie for the occasion of the Presidential Prayer Breakfast in January, 1969. The message of this prayer—a plea on behalf of all public officials for mutual trust and understanding, cooperation and compassion—is more relevant today than ever. I ask unanimous consent that the full text of the prayer be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESIDENTIAL PRAYER

(Written by Senator Edmund S. Muskie and delivered at the Presidential Prayer Breakfast January 30, 1969—Washington, DC)

Our Father—we are gathered here this morning, perplexed and deeply troubled.

We are grateful for the many blessings You have bestowed upon us—the great resources of land and people—the freedom to apply them to uses of our own choosing—the successes which have marked our efforts.

We are preplexed that, notwithstanding these blessings, we have not succeeded in making possible a life of promise for all our people in that growing dissatisfaction threatens our unity and our progress toward peace and justice.

We are deeply troubled that we may not be able to agree upon the common purposes and the basis for mutual trust which are essential if we are to overcome these difficulties.

And so, Our Father, we turn to you for help.

Teach us to listen to one another, with the kind of attention which is receptive to other points of view, however different, with a healthy skepticism as to our own infallibility.

Teach us to understand one another with the kind of sensitivity which springs from deeply-seated sympathy and compassion.

Teach us to trust one another, beyond mere tolerance, with a willingness to take the chance on the perfectibility of our fellow men.

Teach us to help one another, beyond charity, in the kind of mutual involvement which is essential if a free society is to work.

We ask it in Jesus' name. Amen.

HONORING THE COLLARDS FOR CELEBRATING THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data is undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor James and Esther Morales of Neosho, MO who on March 9, 1996 celebrated their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. George and Barbara's commitment to the principles and values of their marriage deserves to be saluted and recognized. I wish them and their family all the best as they celebrate this substantial marker on their journey together.

HONORING THE MORALES FOR CELEBRATING THEIR 50TH WEDDING ANNIVERSARY

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For these important reasons, I rise today to honor George and Barbara Morales of Costa Mesa, CA who on March 29, 1996 celebrated their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. George and Barbara's commitment to the principles and values of their marriage deserves to be saluted and recognized. I wish them and their family all the best as they celebrate this substantial marker on their journey together.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Monday, April 22, 1996, the Federal debt stood at $5,101,586,172,580.18.

On a per capita basis, every man, woman, and child in America owes $19,273.81 as his or her share of that debt.

TRIBUTE TO JIMMY JONES

Mr. HEFLIN. Mr. President, I am proud to pay tribute today to a dear friend to me and several members of my staff, James L. Jones. Jimmy is a long-time employee of the Senate Superintendent's Office of the Architect of the Capitol, where his friendliness, dedication, and warm personality have become familiar to many of us. On April 26, Jimmy will be retiring from his position with the Superintendent's Office after 31 years of service to the U.S. Senate. He started out working on the grounds and worked his way up to become the Senate garage attendant foreman. For many years, he has headed up the entire Senate parking garage operation.

Jimmy Jones is one of those individuals who takes extreme pride in his work and who truly loves the Senate as an institution. He and his capable staff are welcome sights to those who routinely park in the various garages in the Senate office buildings. He is fun to joke around with and he really goes the

extra mile to take care of those who use the parking facilities. He is a Maryland native, and his delicious crabcakes have been most appreciated over the years. He never fails to greet us with a joke or humorous story to brighten our day, and his special brand of generosity and humor never fail to uplift our spirits and provide a welcome reprieve from the rigors of Senate business.

Jimmy Jones is one of those colorful Senate institutions who will be sorely missed after he retires. His friendliness, cheerfulness, and willingness to accommodate are genuine. He is a person of character. I join my colleagues in thanking him, commending him, and wishing him all the best as he embarks upon a well-earned retirement. I do hope he will continue to bring us his crabcakes from time to time. Since he is such an avid stock car racing fan, I also expect to see him at the Talladega International Motor Speedway on occasion after my own retirement.

TRIBUTE TO SHERIFF MEL BAILEY

Mr. HEFLIN. Mr. President, Jefferson County Sheriff Mel Bailey announced earlier this month that he will be retiring after a distinguished 33-year record as the county's chief law enforcement official. This means that for the first time since the early days of the Civil Rights Movement, Jefferson County will have a new sheriff. He is the dean of Alabama law enforcement officers.

Mel Bailey has provided outstanding leadership, guidance, and service to the State of Alabama as Jefferson County's sheriff since 1963. Throughout his terms in office, he has made tremendous strides in preparing the sheriff's department for its fight against crime and in serving the citizens who elected him. In the process, he has become known as a symbol of law and order in Alabama.

Since he has been in office, Mel Bailey has come to epitomize the office in the minds of many citizens. He joined the Birmingham Police Department in 1946 and was promoted to detective in 1953, resigning in 1962 to successfully campaign for sheriff. He didn't draw an opponent until 1978, when he still received 70 percent of the vote.

When Sheriff Bailey began his tenure, there were 77 sheriff's department employees working within a $735,000 budget. Today, the department has about 600 workers and a $28 million budget. He began the Turn in a Pusher [T.I.P.] program, the United Narcotic Detail Operation Program, and developed one of the first SWAT teams in the United States. He also initiated a countywide radio network that linked 34 cities with the sheriff's department.

Many give Sheriff Bailey credit for creating a modern, professional law enforcement agency. He put deputies in uniforms and into marked cars, and got his department to start investigating automobile accidents and keeping records. During the 1960's, he dramatically improved working conditions for deputies. In the 1970's, he established the county's substation system and the special deputies program. A training program for jailers was implemented in 1982. He worked to provide his deputies with the best equipment possible and began a standard training procedure which provided them with the expertise necessary to meet any threat. He has been instrumental in obtaining innovative equipment for use in fighting crime.

For example, he implemented a radio-controlled toy airplane which can be used to drop tear gas or small bombs to stop a sniper lodged in a protected place. He also added a robot which police agencies can send into a building to dismantle a bomb. In both of these cases, a highly dangerous problem can now be handled without threat to the life of an officer.

The outstanding contributions Sheriff Mel Bailey has made during his long tenure in office are the result of his great capabilities, his ability to delegate responsibility, and by his professional attitude. He has also surrounded himself with outstanding people who hold the same qualities of professionalism and commitment to fighting crime. He is a prominent symbol of law and order throughout Alabama. He has enjoyed the full confidence of the people of Jefferson County for good reason: his fundamental effectiveness in battling crime, as evidenced by the fact that he was named Alabama's Law Officer of the Year in 1971 and was inducted into the Alabama Peace Officers Hall of Fame in 1991.

I commend and congratulate Sheriff Mel Bailey for his many years of service to the cause of law enforcement in Alabama's most populous county. All are proud of his achievements and thankful for his long period of excellent service. He has done an outstanding job and I wish him well as he enters retirement.

TRIBUTE TO WILLIAM MANSEL LONG, SR.

Mr. HEFLIN. Mr. President, my dear friend William Mansel Long, Sr., passed away on March 31, 1996, at the age of 92. Mr. Long was an outstanding civil rights leader and senior citizens advocate and was one of the founding members of the Alabama Democratic Conference. His son, William Mansel, Jr., has been on my staff ever since I came to the Senate, and has been my legislative director for several years.

Mansel Long made his mark on society in many ways during his long life. His tenacity and accomplishments were an inspiration to so many who knew him. His was a life of struggle, but also one of extraordinary achievement spurred by an unusual devotion to duty. He dedicated himself to improving the quality of life for his fellow citizens and to enriching his community and society as a whole. His life was marked by many varied accomplishments—he excelled on both a professional and personal level. Even late in life, he continued to be a vital force in political and religious affairs.

Mr. Long received the certificate of appreciation from the Northwest Alabama Council of Local Governments Area Agency on Aging; the Quality of Life Award, presented by the Mental Health Association; the Community Leadership Award, presented by the Shoals National Bank; and awards of appreciation for his long years of service to Lesley Temple Christian Methodist Episcopal Church. He was my appointee to the 1981 White House Conference on Aging, where he helped formulate the recommendations for developing national policy on aging.

Mansel Long was a gifted orator, organizer, and a moral force in his community. Over the course of several decades, he fought for civil rights and for social and economic equality for all people. In addition to helping establish the Alabama Democratic Conference, he was a member of the board of directors of the Alabama Legal Services Corporation; served as president of the Colbert County League of Voters; a member of the Council on Human Relations; a member of the board of directors of the Young Volunteers in Action; and was chairman of the Board of Stewards and a leader of the trustee board of his beloved Lesley Temple church in Tuscumbia.

After serving for 30 years as a chemical analyst with the Tennessee Valley Authority, Mr. Long began a career as an advocate of the rights of the elderly. His record of accomplishment in this field was awesome. His many, many years of tireless leadership in the North Alabama community are unmatched in time and in scope. He commanded the respect of all those who met him and was one of the most hardworking, dedicated, and selfless individuals I have ever known. He was not only an exemplary citizen and community leader, but also a loving husband, father, grandfather, and great-grandfather. As the patriarch of his family, he passed on his legacy of community involvement and concern for others to his children and grandchildren.

One of the most moving stories about Mansel Long which I will always cherish is how he graduated from college in 1985 at the age of 81. He had entered Alabama's Talladega College in 1925 at the age of 22 after working 4 years to save enough money to pay his tuition. He studied biology and chemistry there for more than 3½ years, but had to leave to take a job in order to help his family financially. Sixty years later,

VOL
142
PT
6
AP
15
—
24
1996
UMI

his life-long goal of being a college graduate was fulfilled as he received his bachelor of arts degree.

Mansel Long was a prime example of those ideals that we hold dear in our country. He was a model to emulate and one of Tuscumbia's and Alabama's most revered citizens. He was a credit to his family, church, community, state, and country who will be solely missed by all of those fortunate to have know him. His legacy of service and duty will serve as an inspiration to many future generations.

NOTICE OF ISSUANCE OF FINAL REGULATIONS

Mr. THURMOND. Mr. President, pursuant to section 304(d) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(d)), various notices of issuance of final regulations, together with a copy of the final regulations, were submitted by the Office of Compliance, U.S. Congress. These regulations relate to the Family and Medical Leave Act of 1993, the Employee Polygraph Protection Act of 1988, the Fair Labor Standards Act of 1938, and the Worker Adjustment and Retraining Notification Act of 1988. The notices announce the issuance of final regulations on these matters with an effective date of April 16, 1996. The Congressional Accountability Act specifies that the notices and regulations be printed in the Congressional Record. Therefore, I ask unanimous consent that the notices and issued regulations be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Office of Compliance—The Congressional Accountability Act of 1995: Extension of Rights and Protections Under the Family and Medical Leave Act of 1993

NOTICE OF ISSUANCE OF FINAL REGULATIONS

On January 22, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record final regulations implementing section 202 of the Congressional Accountability Act of 1995 ("CAA") (2 U.S.C. §§1302 *et seq.*), which applies certain rights and protections of the Family and Medical Leave Act of 1993. On April 15, 1996, pursuant to section 304(c) of the CAA, the House and the Senate agreed to resolutions approving the final regulations. Specifically, the Senate agreed to S. Res. 242, to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate; the House agreed to H. Res. 400, to provide for the approval of final regulations that are applicable to the House and the employees of the House; and the House and the Senate agreed to S. Con. Res. 51, to provide for approval of final regulations that are applicable to employing offices and employees other than those offices and employees of the House and the Senate. Accordingly, pursuant section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for the regulations to become effective on April 16, 1996, rather than 60 days after issuance. Were the regulations not effective immediately upon the expiration of the interim regulations on April 15, 1996, covered employees, employing offices and the Office of Compliance would be forced to operate under the same kind of regulatory uncertainty that the Board sought to avoid by adopting interim regulations effective as of the January 23, 1996, which was the effective date of the relevant provisions of the CAA.

Signed at Washington, DC, on this 19th day of April 1996.

Glen D. Nager,
Chair of the Board, Office of Compliance.

[Final Regulations]

Part 825—Family and Medical Leave

825.1 Purpose and scope

Subpart A—What is the Family and Medical Leave Act, and to Whom Does it Apply under the Congressional Accountability Act?

825.100 What is the Family and Medical Leave Act?
825.101 What is the purpose of the FMLA?
825.102 When are the FMLA and the CAA effective for covered employees and employing offices?
825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?
825.104 What employing offices are covered by the FMLA, as made applicable by the CAA?
825.105 [Reserved]
825.106 How is "joint employment" treated under the FMLA as made applicable by the CAA?
825.107–825.109 [Reserved]
825.110 Which employees are "eligible" to take FMLA leave under these regulations?
825.111 [Reserved]
825.112 Under what kinds of circumstances are employing offices required to grant family or medical leave?
825.113 What do "spouse," "parent," and "son or daughter" mean for purposes of an employee qualifying to take FMLA leave?
825.114 What is a "serious health condition" entitling an employee to FMLA leave?
825.115 What does it mean that "the employee is unable to perform the functions of the position of the employee"?
825.116 What does it mean that an employee is "needed to care for" a family member?
825.117 For an employee seeking intermittent FMLA leave or leave on a reduced leave schedule, what is meant by "the medical necessity for" such leave?
825.118 What is a "health care provider"?

Subpart B—What Leave Is an Employee Entitled to Take Under the Family and Medical Leave Act, as Made Applicable by the Congressional Accountability Act?

825.200 How much leave may an employee take?
825.201 If leave is taken for the birth of a child, or for placement of a child for adoption or foster care, when must the leave be concluded?
825.202 How much leave may a husband and wife take if they are employed by the same employing office?
825.203 Does FMLA leave have to be taken all at once, or can it be taken in parts?
825.204 May an employing office transfer an employee to an "alternative position" in order to accommodate intermittent leave or a reduced leave schedule?
825.205 How does one determine the amount of leave used where an employee takes leave intermittently or on a reduced leave schedule?
825.206 May an employing office deduct hourly amounts from an employee's salary, when providing unpaid leave under FMLA, as made applicable by the CAA, without affecting the employee's qualification for exemption as an executive, administrative, or professional employee, or when utilizing the fluctuating workweek method for payment of overtime, under the Fair Labor Standards Act?
825.207 Is FMLA leave paid or unpaid?
825.208 Under what circumstances may an employing office designate leave, paid or unpaid, as FMLA leave and, as a result, enable leave to be counted against the employee's total FMLA leave entitlement?
825.209 Is an employee entitled to benefits while using FMLA leave?
825.210 How may employees on FMLA leave pay their share of group health benefit premiums?
825.211 What special health benefits maintenance rules apply to multi-employer health plans?
825.212 What are the consequences of an employee's failure to make timely health plan premium payments?
825.213 May an employing office recover costs it incurred for maintaining "group health plan" or other non-health benefits coverage during FMLA leave?
825.214 What are an employee's rights on returning to work from FMLA leave?
825.215 What is an equivalent position?
825.216 Are there any limitations on an employing office's obligation to reinstate an employee?
825.217 What is a "key employee"?
825.218 What does "substantial and grievous economic injury" mean?
825.219 What are the rights of a key employee?
825.220 How are employees protected who request leave or otherwise assert FMLA rights?

Subpart C—How do Employees Learn of Their Rights and Obligations under the FMLA, as Made Applicable by the CAA, and What Can an Employing Office Require of an Employee?

825.300 [Reserved]
825.301 What notices to employees are required of employing offices under the FMLA as made applicable by the CAA?
825.302 What notice does an employee have to give an employing office when the need for FMLA leave is foreseeable?
825.303 What are the requirements for an employee to furnish notice to an employing office where the need for FMLA leave is not foreseeable?
825.304 What recourse do employing offices have if employees fail to provide the required notice?
825.305 When must an employee provide medical certification to support FMLA leave?
825.306 How much information may be required in medical certifications of a serious health condition?
825.307 What may an employing office do if it questions the adequacy of a medical certification?
825.308 Under what circumstances may an employing office request subsequent recertifications of medical conditions?

825.309 What notice may an employing office require regarding an employee's intent to return to work?
825.310 Under what circumstances may an employing office require that an employee submit a medical certification that the employee is able (or unable) to return to work (*i.e.*, a "fitness-for-duty" report)?
825.311 What happens if an employee fails to satisfy the medical certification and/or recertification requirements?
825.312 Under what circumstances may an employing office refuse to provide FMLA leave or reinstatement to eligible employees?

Subpart D—What Enforcement Mechanisms Does the CAA Provide?

825.400 What can employees do who believe that their rights under the FMLA as made applicable by the CAA have been violated?
825.401–825.404 [Reserved]

Subpart E—[Reserved]

Subpart F—What Special Rules Apply to Employees of Schools?

825.600 To whom do the special rules apply?
825.601 What limitations apply to the taking of intermittent leave or leave on a reduced leave schedule?
825.602 What limitations apply to the taking of leave near the end of an academic term?
825.603 Is all leave taken during "periods of a particular duration" counted against the FMLA leave entitlement?
825.604 What special rules apply to restoration to "an equivalent position?"

Subpart G—How Do Other Laws, Employing Office Practices, and Collective Bargaining Agreements Affect Employee Rights Under the FMLA as Made Applicable by the CAA?

825.700 What if an employing office provides more generous benefits than required by FMLA as Made Applicable by the CAA?
825.701 [Reserved]
825.702 How does FMLA affect anti-discrimination laws as applied by section 201 of the CAA?

Subpart H—Definitions

825.800 Definitions.
Appendix A to Part 825—[Reserved]
Appendix B to Part 825—Certification of Physician or Practitioner
Appendix C to Part 825—[Reserved]
Appendix D to Part 825—Prototype Notice: Employing Office Response to Employee Request for Family and Medical Leave
Appendix E to Part 825—[Reserved]

§825.1 Purpose and scope

(a) Section 202 of the Congressional Accountability Act (CAA) (2 U.S.C. 1312) applies the rights and protections of sections 101 through 105 of the Family and Medical Leave Act of 1993 (FMLA) (29 U.S.C. 2611–2615) to covered employees. (The term "covered employee" is defined in section 101(3) of the CAA (2 U.S.C. 1301(3)). See §825.800 of these regulations for that definition.) The purpose of this part is to set forth the regulations to carry out the provisions of section 202 of the CAA.

(b) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 202(d) and 304 of the CAA, which direct the Board to promulgate regulations implementing section 202 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 202 of the CAA requires regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202 of the CAA]."

(c) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

SUBPART A—WHAT IS THE FAMILY AND MEDICAL LEAVE ACT, AND TO WHOM DOES IT APPLY UNDER THE CONGRESSIONAL ACCOUNTABILITY ACT?

§825.100 What is the Family and Medical Leave Act?

(a) The Family and Medical Leave Act of 1993 (FMLA), as made applicable by the Congressional Accountability Act (CAA), allows "eligible" employees of an employing office to take job-protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 workweeks in any 12 months because of the birth of a child and to care for the newborn child, because of the placement of a child with the employee for adoption or foster care, because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition, or because the employee's own serious health condition makes the employee unable to perform the functions of his or her job (*see* §825.306(b)(4)). In certain cases, this leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

(b) An employee on FMLA leave is also entitled to have health benefits maintained while on leave as if the employee had continued to work instead of taking the leave. If an employee was paying all or part of the premium payments prior to leave, the employee would continue to pay his or her share during the leave period. The employing office or a disbursing or other financial office of *the House of Representatives or*[1] the Senate may recover its share only if the employee does not return to work for a reason other than the serious health condition of the employee or the employee's immediate family member, or another reason beyond the employee's control.

(c) An employee generally has a right to return to the same position or an equivalent position with equivalent pay, benefits and working conditions at the conclusion of the leave. The taking of FMLA leave cannot result in the loss of any benefit that accrued prior to the start of the leave.

(d) The employing office has a right to 30 days advance notice from the employee where practicable. In addition, the employing office may require an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee's immediate family member. Failure to comply with these requirements may result in a delay in the start of FMLA leave. Pursuant to a uniformly applied policy, the employing office may also require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition (*see* §825.311(c)). The employing office may delay restoring the employee to employment without such certificate relating to the health condition which caused the employee's absence.

§825.101 What is the purpose of the FMLA?

(a) FMLA is intended to allow employees to balance their work and family life by taking reasonable unpaid leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition. The FMLA is intended to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity. It was intended that the FMLA accomplish these purposes in a manner that accommodates the legitimate interests of employers, and in a manner consistent with the Equal Protection Clause of the Fourteenth Amendment in minimizing the potential for employment discrimination on the basis of sex, while promoting equal employment opportunity for men and women.

(b) The enactment of FMLA was predicated on two fundamental concerns the needs of the American workforce, and the development of high-performance organizations. Increasingly, America's children and elderly are dependent upon family members who must spend long hours at work. When a family emergency arises, requiring workers to attend to seriously-ill children or parents, or to newly-born or adopted infants, or even to their own serious illness, workers need reassurance that they will not be asked to choose between continuing their employment, and meeting their personal and family obligations or tending to vital needs at home.

(c) The FMLA is both intended and expected to benefit employers as well as their employees. A direct correlation exists between stability in the family and productivity in the workplace. FMLA will encourage the development of high-performance organizations. When workers can count on durable links to their workplace they are able to make their own full commitments to their jobs. The record of hearings on family and medical leave indicate the powerful productive advantages of stable workplace relationships, and the comparatively small costs of guaranteeing that those relationships will not be dissolved while workers attend to pressing family health obligations or their own serious illness.

§825.102 When are the FMLA and the CAA effective for covered employees and employing offices?

(a) The rights and protection of sections 101 through 105 of the FMLA have applied to certain Senate employees and certain employing offices of the Senate since August 5, 1993 (*see* section 501 of FMLA).

(b) The rights and protection of sections 101 through 105 of the FMLA have applied to

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[1] Italicized language is in only the House and Instrumentalities versions of the regulations.

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any employee in an employment position and any employment authority of the House of Representatives since August 5, 1993 (*see* section 502 of FMLA).

(c) The rights and protections of sections 101 through 105 of the FMLA have applied to certain employing offices and covered employees other than those referred to in paragraphs (a) and (b) of this section for certain periods since August 5, 1993 (*see, e.g.*, Title V of the FMLA, sections 501 and 502).

(d) The provisions of section 202 of the CAA that apply rights and protections of the FMLA to covered employees are effective on January 23, 1996.

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee eligibility.

§825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?

(a) An eligible employee's right to take FMLA leave began on the date that the rights and protections of the FMLA first went into effect for the employing office and employee (*see* §825.102(a)). Any leave taken prior to the date on which the rights and protections of the FMLA first became effective for the employing office from which the leave was taken may not be counted for purposes of the FMLA as made applicable by the CAA. If leave qualifying as FMLA leave was underway prior to the effective date of the FMLA for the employing office from which the leave was taken and continued after the FMLA's effective date for that office, only that portion of leave taken on or after the FMLA's effective date may be counted against the employee's leave entitlement under the FMLA, as made applicable by the CAA.

(b) If an employing office-approved leave is underway when the application of the FMLA by the CAA takes effect, no further notice would be required of the employee unless the employee requests an extension of the leave. For leave which commenced on the effective date or shortly thereafter, such notice must have been given which was practicable, considering the foreseeability of the need for leave and the effective date.

(c) Starting on January 23, 1996, an employee is entitled to FMLA leave under these regulations if the reason for the leave is qualifying under the FMLA, as made applicable by the CAA, even if the event occasioning the need for leave (*e.g.*, the birth of a child) occurred before such date (so long as any other requirements are satisfied).

§825.104 What employing offices are covered by the FMLA, as made applicable by the CAA?

(a) The FMLA, as made applicable by the CAA, covers all employing offices. As used in the CAA, the term "employing office" means—

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(b) [Reserved]

(c) Separate entities will be deemed to be parts of a single employer for purposes of the FMLA, as made applicable by the CAA, if they meet the "integrated employer" test. A determination of whether or not separate entities are an integrated employer is not determined by the application of any single criterion, but rather the entire relationship is to be reviewed in its totality. Factors considered in determining whether two or more entities are an integrated employer include:

(i) Common management;

(ii) Interrelation between operations;

(iii) Centralized control of labor relations; and

(iv) Degree of common financial control.

§825.105 [Reserved]

§825.106 How is "joint employment" treated under the FMLA as made applicable by the CAA?

(a) Where two or more employing offices exercise some control over the work or working conditions of the employee, the employing offices may be joint employers under FMLA, as made applicable by the CAA. Where the employee performs work which simultaneously benefits two or more employing offices, or works for two or more employing offices at different times during the workweek, a joint employment relationship generally will be considered to exist in situations such as:

(1) Where there is an arrangement between employing offices to share an employee's services or to interchange employees;

(2) Where one employing office acts directly or indirectly in the interest of the other employing office in relation to the employee; or

(3) Where the employing offices are not completely disassociated with respect to the employee's employment and may be deemed to share control of the employee, directly or indirectly, because one employing office controls, is controlled by, or is under common control with the other employing office.

(b) A determination of whether or not a joint employment relationship exists is not determined by the application of any single criterion, but rather the entire relationship is to be viewed in its totality. For example, joint employment will ordinarily be found to exist when:

(1) an employee, who is employed by an employing office other than the personal office of a Member of the House of Representatives or of a Senator, is under the actual direction and control of the Member of the House of Representatives or Senator; or

(2) two or more employing offices employ an individual to work on common issues or other matters for both or all of them.

(c) When employing offices employ a covered employee jointly, they may designate one of themselves to be the primary employing office, and the other or others to be the secondary employing office(s). Such a designation shall be made by written notice to the covered employee.

(d) If an employing office is designated a primary employing office pursuant to paragraph (c) of this section, only that employing office is responsible for giving required notices to the covered employee, providing FMLA leave, and maintenance of health benefits. Job restoration is the primary responsibility of the primary employing office, and the secondary employing office(s) may, subject to the limitations in §825.216, be responsible for accepting the employee returning from FMLA leave.

(e) If employing offices employ an employee jointly, but fail to designate a primary employing office pursuant to paragraph (c) of this section, then all of these employing offices shall be jointly and severally liable for giving required notices to the employee, for providing FMLA leave, for assuring that health benefits are maintained, and for job restoration. The employee may give notice of need for FMLA leave, as described in §§825.302 and 825.303, to whichever of these employing offices the employee chooses. If the employee makes a written request for restoration to one of these employing offices, that employing office shall be primarily responsible for job restoration, and the other employing office(s) may, subject to the limitations in §825.216, be responsible for accepting the employee returning from FMLA leave.

§825.107 [Reserved]

§825.108 [Reserved]

§825.109 [Reserved]

§825.110 Which employees are "eligible" to take FMLA leave under these regulations?

(a) An "eligible employee" under these regulations means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

(b) The 12 months an employee must have been employed by any employing office need not be consecutive months. If an employee worked for two or more employing offices sequentially, the time worked will be aggregated to determine whether it equals 12 months. If an employee is maintained on the payroll for any part of a week, including any periods of paid or unpaid leave (sick, vacation) during which other benefits or compensation are provided by the employer (e.g., workers' compensation, group health plan benefits, etc.), the week counts as a week of employment. For purposes of determining whether intermittent/occasional/casual employment qualifies as "at least 12 months," 52 weeks is deemed to be equal to 12 months.

(c) If an employee was employed by two or more employing offices, either sequentially or concurrently, the hours of service will be aggregated to determine whether the minimum of 1,250 hours has been reached. Whether an employee has worked the minimum 1,250 hours of service is determined according to the principles established under the Fair Labor Standards Act (FLSA) , as applied by section 203 of the CAA (2 U.S.C. 1313), for determining compensable hours of work. The determining factor is the number of hours an employee has worked for one or more employing offices. The determination is not limited by methods of record-keeping, or by compensation agreements that do not accurately reflect all of the hours an employee has worked for or been in service to the employing office. Any accurate accounting of actual hours worked may be used. For this purpose, full-time teachers (*See* §825.800 for definition) of an elementary or secondary school system, or institution of higher education, or other educational establishment or institution are deemed to meet the 1,250 hour test. An employing office must be able to clearly demonstrate that such an employee did not work 1,250 hours during the previous 12 months in order to claim that the employee is not "eligible" for FMLA leave.

(d) The determinations of whether an employee has worked for any employing office for at least 1,250 hours in the previous 12 months and has been employed by any employing office for a total of at least 12 months must be made as of the date leave commences. The "previous 12 months" means the 12 months immediately preceding

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the commencement of the leave. If an employee notifies the employing office of need for FMLA leave before the employee meets these eligibility criteria, the employing office must either confirm the employee's eligibility based upon a projection that the employee will be eligible on the date leave would commence or must advise the employee when the eligibility requirement is met. If the employing office confirms eligibility at the time the notice for leave is received, the employing office may not subsequently challenge the employee's eligibility. In the latter case, if the employing office does not advise the employee whether the employee is eligible as soon as practicable (*i.e.*, two business days absent extenuating circumstances) after the date employee eligibility is determined, the employee will have satisfied the notice requirements and the notice of leave is considered current and outstanding until the employing office does advise. If the employing office fails to advise the employee whether the employee is eligible prior to the date the requested leave is to commence, the employee will be deemed eligible. The employing office may not, then, deny the leave. Where the employee does not give notice of the need for leave more than two business days prior to commencing leave, the employee will be deemed to be eligible if the employing office fails to advise the employee that the employee is not eligible within two business days of receiving the employee's notice.

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee's eligibility.

(f) [Reserved]

§825.111 [Reserved]

§825.112 Under what kinds of circumstances are employing offices required to grant family or medical leave?

(a) Employing offices are required to grant leave to eligible employees:

(1) For birth of a son or daughter, and to care for the newborn child;

(2) For placement with the employee of a son or daughter for adoption or foster care;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and

(4) Because of a serious health condition that makes the employee unable to perform the functions of the employee's job.

(b) The right to take leave under FMLA as made applicable by the CAA applies equally to male and female employees. A father, as well as a mother, can take family leave for the birth, placement for adoption or foster care of a child.

(c) Circumstances may require that FMLA leave begin before the actual date of birth of a child. An expectant mother may take FMLA leave pursuant to paragraph (a)(4) of this section before the birth of the child for prenatal care or if her condition makes her unable to work.

(d) Employing offices are required to grant FMLA leave pursuant to paragraph (a)(2) of this section before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed. For example, the employee may be required to attend counseling sessions, appear in court, consult with his or her attorney or the doctor(s) representing the birth parent, or submit to a physical examination. The source of an adopted child (*e.g.*, whether from a licensed placement agency or otherwise) is not a factor in determining eligibility for leave for this purpose.

(e) Foster care is 24-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement between the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family that the foster family will take care of the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

(f) In situations where the employer/employee relationship has been interrupted, such as an employee who has been on layoff, the employee must be recalled or otherwise be re-employed before being eligible for FMLA leave. Under such circumstances, an eligible employee is immediately entitled to further FMLA leave for a qualifying reason.

(g) FMLA leave is available for treatment for substance abuse provided the conditions of §825.114 are met. However, treatment for substance abuse does not prevent an employing office from taking employment action against an employee. The employing office may not take action against the employee because the employee has exercised his or her right to take FMLA leave for treatment. However, if the employing office has an established policy, applied in a non-discriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking FMLA leave. An employee may also take FMLA leave to care for an immediate family member who is receiving treatment for substance abuse. The employing office may not take action against an employee who is providing care for an immediate family member receiving treatment for substance abuse.

§825.113 What do "spouse," "parent," and "son or daughter" mean for purposes of an employee qualifying to take FMLA leave?

(a) Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

(b) Parent means a biological parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a son or daughter as defined in (c) below. This term does not include parents "in law".

(c) Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability."

(1) "Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in three or more of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

(2) "Physical or mental disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. See the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)).

(3) Persons who are "*in loco parentis*" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

(d) For purposes of confirmation of family relationship, the employing office may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship. This documentation may take the form of a simple statement from the employee, or a child's birth certificate, a court document, *etc.* The employing office is entitled to examine documentation such as a birth certificate, *etc.*, but the employee is entitled to the return of the official document submitted for this purpose.

§825.114 What is a "serious health condition" entitling an employee to FMLA leave?

(a) For purposes of FMLA, "serious health condition" entitling an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:

(1) *Inpatient care* (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of *incapacity* (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(2) *Continuing treatment* by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(i) A period of *incapacity* (*i.e.*, inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(A) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(B) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(ii) Any period of incapacity due to pregnancy, or for prenatal care.

(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(A) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(B) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(C) May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, *etc.*).

(iv) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's.

VOL
142
PT
6
AP
15
—
24
1996
UMI

a severe stroke, or the terminal stages of a disease.

(v) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), kidney disease (dialysis).

(b) Treatment for purposes of paragraph (a) of this section includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (a)(2)(i)(B), a regimen of continuing treatment includes, for example, a course of prescription medication (*e.g.*, an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (*e.g.*, oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(c) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, *etc.*, are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(d) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(e) Absences attributable to incapacity under paragraphs (a)(2)(ii) or (iii) qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

§825.115 What does it mean that "the employee is unable to perform the functions of the position of the employee"?

An employee is "unable to perform the functions of the position" where the health care provider finds that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee's position within the meaning of the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)). An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment. An employing office has the option, in requiring certification from a health care provider, to provide a statement of the essential functions of the employee's position for the health care provider to review. For purposes of FMLA, the essential functions of the employee's position are to be determined with reference to the position the employee held at the time notice is given or leave commenced, whichever is earlier.

§825.116 What does it mean that an employee is "needed to care for" a family member?

(a) The medical certification provision that an employee is "needed to care for" a family member encompasses both physical and psychological care. It includes situations where, for example, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor, etc. The term also includes providing psychological comfort and reassurance which would be beneficial to a child, spouse or parent with a serious health condition who is receiving inpatient or home care.

(b) The term also includes situations where the employee may be needed to fill in for others who are caring for the family member, or to make arrangements for changes in care, such as transfer to a nursing home.

(c) An employee's intermittent leave or a reduced leave schedule necessary to care for a family member includes not only a situation where the family member's condition itself is intermittent, but also where the employee is only needed intermittently—such as where other care is normally available, or care responsibilities are shared with another member of the family or a third party.

§825.117 For an employee seeking intermittent FMLA leave or leave on a reduced leave schedule, what is meant by "the medical necessity for" such leave?

For intermittent leave or leave on a reduced leave schedule, there must be a medical need for leave (as distinguished from voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. The treatment regimen and other information described in the certification of a serious health condition (*See* §825.306) meets the requirement for certification of the medical necessity of intermittent leave or leave on a reduced leave schedule. Employees needing intermittent FMLA leave or leave on a reduced leave schedule must attempt to schedule their leave so as not to disrupt the employing office's operations. In addition, an employing office may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule.

§825.118 What is a "health care provider"?

(a)(1) The term "health care provider" means:

(i) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(ii) Any other person determined by the Office of Compliance to be capable of providing health care services.

(2) In making a determination referred to in subparagraph (1)(ii), and absent good cause shown to do otherwise, the Office of Compliance will follow any determination made by the Secretary of Labor (under section 101(6)(B) of the FMLA, 29 U.S.C. 2611(6)(B)) that a person is capable of providing health care services, provided the Secretary s determination was not made at the request of a person who was then a covered employee.

(b) Others "capable of providing health care services" include only:

(1) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law;

(2) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law;

(3) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employing office that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement.

(4) Any health care provider from whom an employing office or the employing office's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and

(5) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

(c) The phrase "authorized to practice in the State" as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider.

SUBPART B—WHAT LEAVE IS AN EMPLOYEE ENTITLED TO TAKE UNDER THE FAMILY AND MEDICAL LEAVE ACT, AS MADE APPLICABLE BY THE CONGRESSIONAL ACCOUNTABILITY ACT?

§825.200 How much leave may an employee take?

(a) An eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during any 12-month period for any one, or more, of the following reasons:

(1) The birth of the employee's son or daughter, and to care for the newborn child;

(2) The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and,

(4) Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job.

(b) An employing office is permitted to choose any one of the following methods for determining the "12-month period" in which the 12 weeks of leave entitlement occurs:

(1) The calendar year;

(2) Any fixed 12-month "leave year," such as a fiscal year or a year starting on an employee's "anniversary" date;

(3) The 12-month period measured forward from the date any employee's first FMLA leave begins; or

(4) A "rolling" 12-month period measured backward from the date an employee uses any FMLA leave (except that such measure may not extend back before the date on which the application of FMLA rights and protections first becomes effective for the employing office; see §825.102).

(c) Under methods in paragraphs (b)(1) and (b)(2) of this section an employee would be entitled to up to 12 weeks of FMLA leave at any time in the fixed 12-month period selected. An employee could, therefore, take 12 weeks of leave at the end of the year and 12 weeks at the beginning of the following year. Under the method in paragraph (b)(3) of this section, an employee would be entitled to 12 weeks of leave during the year beginning on the first date FMLA leave is taken; the next 12-month period would begin the first time FMLA leave is taken after completion of any previous 12-month period. Under the method in paragraph (b)(4) of this section, the "rolling" 12-month period, each time an employee takes FMLA leave the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months. For example, if an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee used four weeks beginning February 1, 1997, four weeks beginning June 1, 1997, and four weeks beginning December 1, 1997, the employee would not be entitled to any additional leave until February 1, 1998. However, beginning on February 1, 1998, the employee would be entitled to four weeks of leave, on June 1 the employee would be entitled to an additional four weeks, *etc.*

(d)(1) Employing offices will be allowed to choose any one of the alternatives in paragraph (b) of this section provided the alternative chosen is applied consistently and uniformly to all employees. An employing office wishing to change to another alternative is required to give at least 60 days notice to all employees, and the transition must take place in such a way that the employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee. Under no circumstances may a new method be implemented in order to avoid the CAA's FMLA leave requirements.

(2) [Reserved]

(e) If an employing office fails to select one of the options in paragraph (b) of this section for measuring the 12-month period, the option that provides the most beneficial outcome for the employee will be used. The employing office may subsequently select an option only by providing the 60-day notice to all employees of the option the employing office intends to implement. During the running of the 60-day period any other employee who needs FMLA leave may use the option providing the most beneficial outcome to that employee. At the conclusion of the 60-day period the employing office may implement the selected option.

(f) For purposes of determining the amount of leave used by an employee, the fact that a holiday may occur within the week taken as FMLA leave. has no effect; the week is counted as a week of FMLA leave. However, if for some reason the employing office's activity has temporarily ceased and employees generally are not expected to report for work for one or more weeks (*e.g.*, a school closing two weeks for the Christmas/New Year holiday or the summer vacation or an employing office closing the office for repairs), the days the employing office's activities have ceased do *not* count against the employee's FMLA leave entitlement. Methods for determining an employee's 12-week leave entitlement are also described in §825.205.

(g)(1) If employing offices jointly employ an employee, and if they designate a primary employer pursuant to §825.106(c), the primary employer may choose any one of the alternatives in paragraph (b) of this section for measuring the 12-month period, provided that the alternative chosen is applied consistently and uniformly to all employees of the primary employer including the jointly employed employee.

(2) If employing offices fail to designated a primary employer pursuant to §825.106(c), an employee jointly employed by the employing offices may, by so notifying one of the employing offices, select that employing office to be the primary employer of the employee for purposes of the application of paragraphs (d) and (e) of this section.

§825.201 If leave is taken for the birth of a child, or for placement of a child for adoption or foster care, when must the leave be concluded?

An employee's entitlement to leave for a birth or placement for adoption or foster care expires at the end of the 12-month period beginning on the date of the birth or placement, unless the employing office permits leave to be taken for a longer period. Any such FMLA leave must be concluded within this one-year period.

§825.202 How much leave may a husband and wife take if they are employed by the same employing office?

(a) A husband and wife who are eligible for FMLA leave and are employed by the same employing office may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken:

(1) for birth of the employee's son or daughter or to care for the child after birth;

(2) for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; or

(3) to care for the employee's parent with a serious health condition.

(b) This limitation on the total weeks of leave applies to leave taken for the reasons specified in paragraph (a) of this section as long as a husband and wife are employed by the "same employing office." It would apply, for example, even though the spouses are employed at two different worksites of an employing office. On the other hand, if one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full 12 weeks of FMLA leave.

(c) Where the husband and wife both use a portion of the total 12-week FMLA leave entitlement for one of the purposes in paragraph (a) of this section, the husband and wife would each be entitled to the difference between the amount he or she has taken individually and 12 weeks for FMLA leave for a purpose other than those contained in paragraph (a) of this section. For example, if each spouse took 6 weeks of leave to care for a healthy, newborn child, each could use an additional 6 weeks due to his or her own serious health condition or to care for a child with a serious health condition.

§825.203 Does FMLA leave have to be taken all at once, or can it be taken in parts?

(a) FMLA leave may be taken "intermittently or on a reduced leave schedule" under certain circumstances. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time, normally from full-time to part-time.

(b) When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the employing office agrees. Such a schedule reduction might occur, for example, where an employee, with the employing office's agreement, works part-time after the birth of a child, or takes leave in several segments. The employing office's agreement is not required, however, for leave during which the mother has a serious health condition in connection with the birth of her child or if the newborn child has a serious health condition.

(c) Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition. It may also be taken to provide care or psychological comfort to an immediate family member with a serious health condition.

(1) Intermittent leave may be taken for a serious health condition which requires treatment by a health care provider periodically, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy. A pregnant employee may take leave intermittently for prenatal examinations or for her own condition, such as for periods of severe morning sickness. An example of an employee taking leave on a reduced leave schedule is an employee who is recovering from a serious health condition and is not strong enough to work a full-time schedule.

(2) Intermittent or reduced schedule leave may be taken for absences where the employee or family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition even if he or she does not receive treatment by a health care provider.

(d) There is no limit on the size of an increment of leave when an employee takes intermittent leave or leave on a reduced leave schedule. However, an employing office may limit leave increments to the shortest period of time that the employing office's payroll system uses to account for absences or use of leave, provided it is one hour or less. For example, an employee might take two hours off for a medical appointment, or might work a reduced day of four hours over a period of several weeks while recuperating from an illness. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the

VOL 142 PT 6 AP 15 — 24 1996 UMI

need for the leave, except as provided in §§825.601 and 825.602.

§825.204 May an employing office transfer an employee to an "alternative position" in order to accommodate intermittent leave or a reduced leave schedule?

(a) If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee or a family member, including during a period of recovery from a serious health condition, or if the employing office agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption or foster care, the employing office may require the employee to transfer temporarily, during the period the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. See §825.601 for special rules applicable to instructional employees of schools.

(b) Transfer to an alternative position may require compliance with any applicable collective bargaining agreement and any applicable law (such as the Americans with Disabilities Act, as made applicable by the CAA). Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent or reduced leave.

(c) The alternative position must have equivalent pay and benefits. An alternative position for these purposes does not have to have equivalent duties. The employing office may increase the pay and benefits of an existing alternative position, so as to make them equivalent to the pay and benefits of the employee's regular job. The employing office may also transfer the employee to a part-time job with the same hourly rate of pay and benefits, provided the employee is not required to take more leave than is medically necessary. For example, an employee desiring to take leave in increments of four hours per day could be transferred to a half-time job, or could remain in the employee's same job on a part-time schedule, paying the same hourly rate as the employee's previous job and enjoying the same benefits. The employing office may not eliminate benefits which otherwise would not be provided to part-time employees; however, an employing office may proportionately reduce benefits such as vacation leave where an employing office's normal practice is to base such benefits on the number of hours worked.

(d) An employing office may not transfer the employee to an alternative position in order to discourage the employee from taking leave or otherwise work a hardship on the employee. For example, a white collar employee may not be assigned to perform laborer's work; an employee working the day shift may not be reassigned to the graveyard shift; an employee working in the headquarters facility may not be reassigned to a branch a significant distance away from the employee's normal job location. Any such attempt on the part of the employing office to make such a transfer will be held to be contrary to the prohibited-acts provisions of the FMLA, as made applicable by the CAA.

(e) When an employee who is taking leave intermittently or on a reduced leave schedule and has been transferred to an alternative position no longer needs to continue on leave and is able to return to full-time work, the employee must be placed in the same or equivalent job as the job he/she left when the leave commenced. An employee may not be required to take more leave than necessary to address the circumstance that precipitated the need for leave.

§825.205 How does one determine the amount of leave used where an employee takes leave intermittently or on a reduced leave schedule?

(a) If an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken may be counted toward the 12 weeks of leave to which an employee is entitled. For example, if an employee who normally works five days a week takes off one day, the employee would use 1/5 of a week of FMLA leave. Similarly, if a full-time employee who normally works 8-hour days works 4-hour days under a reduced leave schedule, the employee would use ½ week of FMLA leave each week.

(b) Where an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled is determined on a pro rata or proportional basis by comparing the new schedule with the employee's normal schedule. For example, if an employee who normally works 30 hours per week works only 20 hours a week under a reduced leave schedule, the employee's ten hours of leave would constitute one-third of a week of FMLA leave for each week the employee works the reduced leave schedule.

(c) If an employing office has made a permanent or long-term change in the employee's schedule (for reasons other than FMLA, and prior to the notice of need for FMLA leave), the hours worked under the new schedule are to be used for making this calculation.

(d) If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the leave period would be used for calculating the employee's normal workweek.

§825.206 May an employing office deduct hourly amounts from an employee's salary, when providing unpaid leave under FMLA, as made applicable by the CAA, without affecting the employee's qualification for exemption as an executive, administrative, or professional employee, or when utilizing the fluctuating workweek method for payment of overtime, under the Fair Labor Standards Act?

(a) Leave taken under FMLA, as made applicable by the CAA, may be unpaid. If an employee is otherwise exempt from minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA), as made applicable by the CAA, as a salaried executive, administrative, or professional employee (under regulations issued by the Board, at part 541), providing unpaid FMLA-qualifying leave to such an employee will not cause the employee to lose the FLSA exemption. This means that under regulations currently in effect, where an employee meets the specified duties test, is paid on a salary basis, and is paid a salary of at least the amount specified in the regulations, the employing office may make deductions from the employee's salary for any hours taken as intermittent or reduced FMLA leave within a workweek, without affecting the exempt status of the employee. The fact that an employing office provides FMLA leave, whether paid or unpaid, or maintains any records regarding FMLA leave, will not be relevant to the determination whether an employee is exempt within the meaning of the Board's regulations at part 541.

(b) For an employee paid in accordance with a fluctuating workweek method of payment for overtime, where permitted by section 203 of the CAA (2 U.S.C. 1313), the employing office, *during the period* in which intermittent or reduced schedule FMLA leave is scheduled to be taken, may compensate an employee on an hourly basis and pay only for the hours the employee works, including time and one-half the employee's regular rate for overtime hours. The change to payment on an hourly basis would include the entire period during which the employee is taking intermittent leave, including weeks in which no leave is taken. The hourly rate shall be determined by dividing the employee's weekly salary by the employee's normal or average schedule of hours worked during weeks in which FMLA leave is not being taken. If an employing office chooses to follow this exception from the fluctuating workweek method of payment, the employing office must do so uniformly, with respect to all employees paid on a fluctuating workweek basis for whom FMLA leave is taken on an intermittent or reduced leave schedule basis. If an employing office does not elect to convert the employee's compensation to hourly pay, no deduction may be taken for FMLA leave absences. Once the need for intermittent or reduced scheduled leave is over, the employee may be restored to payment on a fluctuating work week basis.

(c) This special exception to the "salary basis" requirements of the FLSA exemption or fluctuating workweek payment requirements applies only to employees of employing offices who are eligible for FMLA leave, and to leave which qualifies as (one of the four types of) FMLA leave. Hourly or other deductions which are not in accordance with the Board's regulations at part 541 or with a permissible fluctuating workweek method of payment for overtime may not be taken, for example, where the employee has not worked long enough to be eligible for FMLA leave without potentially affecting the employee's eligibility for exemption. Nor may deductions which are not permitted by the Board's regulations at part 541 or by a permissible fluctuating workweek method of payment for overtime be taken from such an employee's salary for any leave which does not qualify as FMLA leave, for example, deductions from an employee's pay for leave required under an employing office's policy or practice for a reason which does not qualify as FMLA leave, *e.g.*, leave to care for a grandparent or for a medical condition which does not qualify as a serious health condition; or for leave which is more generous than provided by FMLA as made applicable by the CAA, such as leave in excess of 12 weeks in a year. The employing office may comply with the employing office's own policy practice under these circumstances and maintain the employee's eligibility for exemption or for the fluctuating workweek method of pay by not taking hourly deductions from the employee's pay, in accordance with FLSA requirements, or may take such deductions, treating the employee as an "hourly" employee and pay overtime premium pay for hours worked over 40 in a workweek.

§825.207 Is FMLA leave paid or unpaid?

(a) Generally, FMLA leave is unpaid. However, under the circumstances described in this section, FMLA, as made applicable by the CAA, permits an eligible employee to choose to substitute paid leave for FMLA leave. If an employee does not choose to substitute accrued paid leave, the employing office may require the employee to substitute accrued paid leave for FMLA leave.

(b) Where an employee has earned or accrued paid vacation, personal or family leave, that paid leave may be substituted for all or part of any (otherwise) unpaid FMLA leave relating to birth, placement of a child for adoption or foster care, or care for a spouse, child or parent who has a serious health condition. The term "family leave" as used in FMLA refers to paid leave provided by the employing office covering the particular circumstances for which the employee seeks leave for either the birth of a child and to care for such child, placement of a child for adoption or foster care, or care for a spouse, child or parent with a serious health condition. For example, if the employing office's leave plan allows use of family leave to care for a child but not for a parent, the employing office is not required to allow accrued family leave to be substituted for FMLA leave used to care for a parent.

(c) Substitution of paid accrued vacation, personal, or medical/sick leave may be made for any (otherwise) unpaid FMLA leave needed to care for a family member or the employee's own serious health condition. Substitution of paid sick/medical leave may be elected to the extent the circumstances meet the employing office's usual requirements for the use of sick/medical leave. An employing office is not required to allow substitution of paid sick or medical leave for unpaid FMLA leave "in any situation" where the employing office's uniform policy would not normally allow such paid leave. An employee, therefore, has a right to substitute paid medical/sick leave to care for a seriously ill family member only if the employing office's leave plan allows paid leave to be used for that purpose. Similarly, an employee does not have a right to substitute paid medical/sick leave for a serious health condition which is not covered by the employing office's leave plan.

(d)(1) Disability leave for the birth of a child would be considered FMLA leave for a serious health condition and counted in the 12 weeks of leave permitted under FMLA as made applicable by the CAA. Because the leave pursuant to a temporary disability benefit plan is not unpaid, the provision for substitution of paid leave is inapplicable. However, the employing office may designate the leave as FMLA leave and count the leave as running concurrently for purposes of both the benefit plan and the FMLA leave entitlement. If the requirements to qualify for payments pursuant to the employing office's temporary disability plan are more stringent than those of FMLA as made applicable by the CAA, the employee must meet the more stringent requirements of the plan, or may choose not to meet the requirements of the plan and instead receive no payments from the plan and use unpaid FMLA leave or substitute available accrued paid leave.

(2) The FMLA as made applicable by the CAA provides that a serious health condition may result from injury to the employee "on or off" the job. If the employing office designates the leave as FMLA leave in accordance with §825.208, the employee's FMLA 12-week leave entitlement may run concurrently with a workers' compensation absence when the injury is one that meets the criteria for a serious health condition. As the workers' compensation absence is not unpaid leave, the provision for substitution of the employee's accrued paid leave is not applicable. However, if the health care provider treating the employee for the workers' compensation injury certifies the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline the employing office's offer of a "light duty job". As a result the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the 12-week entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the employing office may require the use of accrued paid leave. *See* also §§825.210(f), 825.216(d), 825.220(d), 825.307(a)(1) and 825.702 (d) (1) and (2) regarding the relationship between workers' compensation absences and FMLA leave.

(e) Paid vacation or personal leave, including leave earned or accrued under plans allowing "paid time off," may be substituted, at either the employee's or the employing office's option, for any qualified FMLA leave. No limitations may be placed by the employing office on substitution of paid vacation or personal leave for these purposes.

(f) If neither the employee nor the employing office elects to substitute paid leave for unpaid FMLA leave under the above conditions and circumstances, the employee will remain entitled to all the paid leave which is earned or accrued under the terms of the employing office's plan.

(g) If an employee uses paid leave under circumstances which do not qualify as FMLA leave, the leave will not count against the 12 weeks of FMLA leave to which the employee is entitled. For example, paid sick leave used for a medical condition which is not a serious health condition does not count against the 12 weeks of FMLA leave entitlement.

(h) When an employee or employing office elects to substitute paid leave (of any type) for unpaid FMLA leave under circumstances permitted by these regulations, and the employing office's procedural requirements for taking that kind of leave are less stringent than the requirements of FMLA as made applicable by the CAA (*e.g.*, notice or certification requirements), only the less stringent requirements may be imposed. An employee who complies with an employing office's less stringent leave plan requirements in such cases may not have leave for an FMLA purpose delayed or denied on the grounds that the employee has not complied with stricter requirements of FMLA as made applicable by the CAA. However, where accrued paid vacation or personal leave is substituted for unpaid FMLA leave for a serious health condition, an employee may be required to comply with any less stringent medical certification requirements of the employing office's sick leave program. *See* §§825.302(g), 825.305(e) and 825.306(c).

(i) Compensatory time off, if any is authorized under applicable law, is not a form of accrued paid leave that an employing office may require the employee to substitute for unpaid FMLA leave. The employee may request to use his/her balance of compensatory time for an FMLA reason. If the employing office permits the accrual of compensatory time to be used in compliance with applicable Board regulations, the absence which is paid from the employee's accrued compensatory time "account" may not be counted against the employee's FMLA leave entitlement.

§825.208 Under what circumstances may an employing office designate leave, paid or unpaid, as FMLA leave and, as a result, enable leave to be counted against the employee's total FMLA leave entitlement?

(a) In all circumstances, it is the employing office's responsibility to designate leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee as provided in this section. In the case of intermittent leave or leave on a reduced schedule, only one such notice is required unless the circumstances regarding the leave have changed. The employing office's designation decision must be based only on information received from the employee or the employee's spokesperson (*e.g.*, if the employee is incapacitated, the employee's spouse, adult child, parent, doctor, etc., may provide notice to the employing office of the need to take FMLA leave). In any circumstance where the employing office does not have sufficient information about the reason for an employee's use of paid leave, the employing office should inquire further of the employee or the spokesperson to ascertain whether the paid leave is potentially FMLA-qualifying.

(1) An employee giving notice of the need for unpaid FMLA leave must explain the reasons for the needed leave so as to allow the employing office to determine that the leave qualifies under the FMLA, as made applicable by the CAA. If the employee fails to explain the reasons, leave may be denied. In many cases, in explaining the reasons for a request to use paid leave, especially when the need for the leave was unexpected or unforeseen, an employee will provide sufficient information for the employing office to designate the paid leave as FMLA leave. An employee using accrued paid leave, especially vacation or personal leave, may in some cases not spontaneously explain the reasons or their plans for using their accrued leave.

(2) As noted in §825.302(c), an employee giving notice of the need for unpaid FMLA leave does not need to expressly assert rights under the FMLA as made applicable by the CAA or even mention the FMLA to meet his or her obligation to provide notice, though the employee would need to state a qualifying reason for the needed leave. An employee requesting or notifying the employing office of an intent to use accrued paid leave, even if for a purpose covered by FMLA, would not need to assert such right either. However, if an employee requesting to use paid leave for an FMLA-qualifying purpose does not explain the reason for the leave consistent with the employing office's established policy or practice and the employing office denies the employee's request, the employee will need to provide sufficient information to establish an FMLA-qualifying reason for the needed leave so that the employing office is aware of the employee's entitlement (i.e., that the leave may not be denied) and, then, may designate that the paid leave be appropriately counted against (substituted for) the employee's 12-week entitlement. Similarly, an employee using accrued paid vacation leave who seeks an extension of unpaid leave for an FMLA-qualifying purpose will need to state the reason. If this is due to an event which occurred during the period of paid leave, the employing office may count the leave used after the FMLA-qualifying event against the employee's 12-week entitlement.

(b)(1) Once the employing office has acquired knowledge that the leave is being taken for an FMLA required reason, the employing office must promptly (within two business days absent extenuating circumstances) notify the employee that the paid leave is designated and will be counted as FMLA leave. If there is a dispute between an employing office and an employee as to whether paid leave qualifies as FMLA leave,

VOL
142
PT
6
AP
15
—
24
1996
UMI

it should be resolved through discussions between the employee and the employing office. Such discussions and the decision must be documented.

(2) The employing office's notice to the employee that the leave has been designated as FMLA leave may be orally or in writing. If the notice is oral, it shall be confirmed in writing, no later than the following payday (unless the payday is less than one week after the oral notice, in which case the notice must be no later than the subsequent payday). The written notice may be in any form, including a notation on the employee's pay stub.

(c) If the employing office requires paid leave to be substituted for unpaid leave, or that paid leave taken under an existing leave plan be counted as FMLA leave, this decision must be made by the employing office within two business days of the time the employee gives notice of the need for leave, or, where the employing office does not initially have sufficient information to make a determination, when the employing office determines that the leave qualifies as FMLA leave if this happens later. The employing office's designation must be made before the leave starts, unless the employing office does not have sufficient information as to the employee's reason for taking the leave until after the leave commenced. If the employing office has the requisite knowledge to make a determination that the paid leave is for an FMLA reason at the time the employee either gives notice of the need for leave or commences leave and fails to designate the leave as FMLA leave (and so notify the employee in accordance with paragraph (b)), the employing office may not designate leave as FMLA leave retroactively, and may designate only prospectively as of the date of notification to the employee of the designation. In such circumstances, the employee is subject to the full protections of the FMLA, as made applicable by the CAA, but none of the absence preceding the notice to the employee of the designation may be counted against the employee's 12-week FMLA leave entitlement.

(d) If the employing office learns that leave is for an FMLA purpose after leave has begun, such as when an employee gives notice of the need for an extension of the paid leave with unpaid FMLA leave, the entire or some portion of the paid leave period may be retroactively counted as FMLA leave, to the extent that the leave period qualified as FMLA leave. For example, an employee is granted two weeks paid vacation leave for a skiing trip. In mid-week of the second week, the employee contacts the employing office for an extension of leave as unpaid leave and advises that at the beginning of the second week of paid vacation leave the employee suffered a severe accident requiring hospitalization. The employing office may notify the employee that both the extension and the second week of paid vacation leave (from the date of the injury) is designated as FMLA leave. On the other hand, when the employee takes sick leave that turns into a serious health condition (*e.g.*, bronchitis that turns into bronchial pneumonia) and the employee gives notice of the need for an extension of leave, the entire period of the serious health condition may be counted as FMLA leave.

(e) Employing offices may not designate leave as FMLA leave after the employee has returned to work with two exceptions:

(1) If the employee was absent for an FMLA reason and the employing office did not learn the reason for the absence until the employee's return (*e.g.*, where the employee was absent for only a brief period), the employing office may, upon the employee's return to work, promptly (within two business days of the employee's return to work) designate the leave retroactively with appropriate notice to the employee. If leave is taken for an FMLA reason but the employing office was not aware of the reason, and the employee desires that the leave be counted as FMLA leave, the employee must notify the employing office within two business days of returning to work of the reason for the leave. In the absence of such timely notification by the employee, the employee may not subsequently assert FMLA protections for the absence.

(2) If the employing office knows the reason for the leave but has not been able to confirm that the leave qualifies under FMLA, or where the employing office has requested medical certification which has not yet been received or the parties are in the process of obtaining a second or third medical opinion, the employing office should make a preliminary designation, and so notify the employee, at the time leave begins, or as soon as the reason for the leave becomes known. Upon receipt of the requisite information from the employee or of the medical certification which confirms the leave is for an FMLA reason, the preliminary designation becomes final. If the medical certifications fail to confirm that the reason for the absence was an FMLA reason, the employing office must withdraw the designation (with written notice to the employee).

(f) If, before beginning employment with an employing office, an employee had been employed by another employing office, the subsequent employing office may count against the employee's FMLA leave entitlement FMLA leave taken from the prior employing office, except that, if the FMLA leave began after the effective of these regulations (or if the FMLA leave was subject to other applicable requirement under which the employing office was to have designated the leave as FMLA leave), the prior employing office must have properly designated the leave as FMLA under these regulations or other applicable requirement.

§825.209 *Is an employee entitled to benefits while using FMLA leave?*

(a) During any FMLA leave, the employing office must maintain the employee's coverage under the Federal Employees Health Benefits Program or any group health plan (as defined in the Internal Revenue Code of 1986 at 26 U.S.C. 5000(b)(1)) on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. All employing offices are subject to the requirements of the FMLA, as made applicable by the CAA, to maintain health coverage. The definition of "group health plan" is set forth in §825.800. For purposes of FMLA, the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that:

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and,

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

(b) The same group health plan benefits provided to an employee prior to taking FMLA leave must be maintained during the FMLA leave. For example, if family member coverage is provided to an employee, family member coverage must be maintained during the FMLA leave. Similarly, benefit coverage during FMLA leave for medical care, surgical care, hospital care, dental care, eye care, mental health counseling, substance abuse treatment, *etc.*, must be maintained during leave if provided in an employing office's group health plan, including a supplement to a group health plan, whether or not provided through a flexible spending account or other component of a cafeteria plan.

(c) If an employing office provides a new health plan or benefits or changes health benefits or plans while an employee is on FMLA leave, the employee is entitled to the new or changed plan/benefits to the same extent as if the employee were not on leave. For example, if an employing office changes a group health plan so that dental care becomes covered under the plan, an employee on FMLA leave must be given the same opportunity as other employees to receive (or obtain) the dental care coverage. Any other plan changes (*e.g.*, in coverage, premiums, deductibles, *etc.*) which apply to all employees of the workforce would also apply to an employee on FMLA leave.

(d) Notice of any opportunity to change plans or benefits must also be given to an employee on FMLA leave. If the group health plan permits an employee to change from single to family coverage upon the birth of a child or otherwise add new family members, such a change in benefits must be made available while an employee is on FMLA leave. If the employee requests the changed coverage it must be provided by the employing office.

(e) An employee may choose not to retain group health plan coverage during FMLA leave. However, when an employee returns from leave, the employee is entitled to be reinstated on the same terms as prior to taking the leave, including family or dependent coverages, without any qualifying period, physical examination, exclusion of pre-existing conditions, etc. *See* §825.212(c).

(f) Except as required by the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) or 5 U.S.C. 8905a, whichever is applicable, and for "key" employees (as discussed below), an employing office's obligation to maintain health benefits during leave (and to restore the employee to the same or equivalent employment) under FMLA ceases if and when the employment relationship would have terminated if the employee had not taken FMLA leave (*e.g.*, if the employee's position is eliminated as part of a nondiscriminatory reduction in force and the employee would not have been transferred to another position); an employee informs the employing office of his or her intent not to return from leave (including before starting the leave if the employing office is so informed before the leave starts); or the employee fails to return from leave or continues on leave after exhausting his or her FMLA leave entitlement in the 12-month period.

(g) If a "key employee" (*See* §825.218) does not return from leave when notified by the

employing office that substantial or grievous economic injury will result from his or her reinstatement, the employee's entitlement to group health plan benefits continues unless and until the employee advises the employing office that the employee does not desire restoration to employment at the end of the leave period, or FMLA leave entitlement is exhausted, or reinstatement is actually denied.

(h) An employee's entitlement to benefits other than group health benefits during a period of FMLA leave (*e.g.*, holiday pay) is to be determined by the employing office's established policy for providing such benefits when the employee is on other forms of leave (paid or unpaid, as appropriate).

§825.210 *How may employees on FMLA leave pay their share of group health benefit premiums?*

(a) Group health plan benefits must be maintained on the same basis as coverage would have been provided if the employee had been continuously employed during the FMLA leave period. Therefore, any share of group health plan premiums which had been paid by the employee prior to FMLA leave must continue to be paid by the employee during the FMLA leave period. If premiums are raised or lowered, the employee would be required to pay the new premium rates. Maintenance of health insurance policies which are not a part of the employing office's group health plan, as described in §825.209(a), are the sole responsibility of the employee. The employee and the insurer should make necessary arrangements for payment of premiums during periods of unpaid FMLA leave.

(b) If the FMLA leave is substituted paid leave, the employee's share of premiums must be paid by the method normally used during any paid leave, presumably as a payroll deduction.

(c) If FMLA leave is unpaid, the employing office has a number of options for obtaining payment from the employee. The employing office may require that payment be made to the employing office or to the insurance carrier, but no additional charge may be added to the employee's premium payment for administrative expenses. The employing office may require employees to pay their share of premium payments in any of the following ways:

(1) Payment would be due at the same time as it would be made if by payroll deduction;

(2) Payment would be due on the same schedule as payments are made under COBRA or 5 U.S.C. 8905a, whichever is applicable;

(3) Payment would be prepaid pursuant to a cafeteria plan at the employee's option;

(4) The employing office's existing rules for payment by employees on "leave without pay" would be followed, provided that such rules do not require prepayment (*i.e.*, prior to the commencement of the leave) of the premiums that will become due during a period of unpaid FMLA leave or payment of higher premiums than if the employee had continued to work instead of taking leave; or,

(5) Another system voluntarily agreed to between the employing office and the employee, which may include prepayment of premiums (*e.g.*, through increased payroll deductions when the need for the FMLA leave is foreseeable).

(d) The employing office must provide the employee with advance written notice of the terms and conditions under which these payments must be made. (*See* §825.301.)

(e) An employing office may not require more of an employee using FMLA leave than the employing office requires of other employees on "leave without pay."

(f) An employee who is receiving payments as a result of a workers' compensation injury must make arrangements with the employing office for payment of group health plan benefits when simultaneously taking unpaid FMLA leave. *See* paragraph (c) of this section and §825.207(d)(2).

§825.211 *What special health benefits maintenance rules apply to multi-employer health plans?*

(a) A multi-employer health plan is a plan to which more than one employer is required to contribute, and which is maintained pursuant to one or more collective bargaining agreements between employee organization(s) and the employers.

(b) An employing office under a multi-employer plan must continue to make contributions on behalf of an employee using FMLA leave as though the employee had been continuously employed, unless the plan contains an explicit FMLA provision for maintaining coverage such as through pooled contributions by all employers party to the plan.

(c) During the duration of an employee's FMLA leave, coverage by the group health plan, and benefits provided pursuant to the plan, must be maintained at the level of coverage and benefits which were applicable to the employee at the time FMLA leave commenced.

(d) An employee using FMLA leave cannot be required to use "banked" hours or pay a greater premium than the employee would have been required to pay if the employee had been continuously employed.

(e) As provided in §825.209(f), group health plan coverage must be maintained for an employee on FMLA leave until:

(1) the employee's FMLA leave entitlement is exhausted;

(2) the employing office can show that the employee would have been laid off and the employment relationship terminated; or,

(3) the employee provides unequivocal notice of intent not to return to work.

§825.212 *What are the consequences of an employee's failure to make timely health plan premium payments?*

(a)(1) In the absence of an established employing office policy providing a longer grace period, an employing office's obligations to maintain health insurance coverage cease under FMLA if an employee's premium payment is more than 30 days late. In order to drop the coverage for an employee whose premium payment is late, the employing office must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. If the employing office has established policies regarding other forms of unpaid leave that provide for the employing office to cease coverage retroactively to the date the unpaid premium payment was due, the employing office may drop the employee from coverage retroactively in accordance with that policy, provided the 15-day notice was given. In the absence of such a policy, coverage for the employee may be terminated at the end of the 30-day grace period, where the required 15-day notice has been provided.

(2) An employing office has no obligation regarding the maintenance of a health insurance policy which is not a "group health plan." See §825.209(a).

(3) All other obligations of an employing office under FMLA would continue; for example, the employing office continues to have an obligation to reinstate an employee upon return from leave.

(b) The employing office may recover the employee's share of any premium payments missed by the employee for any FMLA leave period during which the employing office maintains health coverage by paying the employee's share after the premium payment is missed.

(c) If coverage lapses because an employee has not made required premium payments, upon the employee's return from FMLA leave the employing office must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed, including family or dependent coverage. See §825.215(d)(1)–(5). In such case, an employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

§825.213 *May an employing office recover costs it incurred for maintaining "group health plan" or other non-health benefits coverage during FMLA leave?*

(a) In addition to the circumstances discussed in §825.212(b), the share of health plan premiums paid by or on behalf of the employing office during a period of unpaid FMLA leave may be recovered from an employee if the employee fails to return to work after the employee's FMLA leave entitlement has been exhausted or expires, unless the reason the employee does not return is due to:

(1) The continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member which would otherwise entitle the employee to leave under FMLA; or

(2) Other circumstances beyond the employee's control. Examples of "other circumstances beyond the employee's control" are necessarily broad. They include such situations as where a parent chooses to stay home with a newborn child who has a serious health condition; an employee's spouse is unexpectedly transferred to a job location more than 75 miles from the employee's worksite; a relative or individual other than an immediate family member has a serious health condition and the employee is needed to provide care; the employee is laid off while on leave; or, the employee is a "key employee" who decides not to return to work upon being notified of the employing office's intention to deny restoration because of substantial and grievous economic injury to the employing office's operations and is not reinstated by the employing office. Other circumstances beyond the employee's control would not include a situation where an employee desires to remain with a parent in a distant city even though the parent no longer requires the employee's care, or a parent chooses not to return to work to stay home with a well, newborn child.

(3) When an employee fails to return to work because of the continuation, recurrence, or onset of a serious health condition, thereby precluding the employing office from recovering its (share of) health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. Such certification is not required unless requested by

VOL
142
PT
6
AP
15
—
24
1996
UMI

the employing office. The employee is required to provide medical certification in a timely manner which, for purposes of this section, is within 30 days from the date of the employing office's request. For purposes of medical certification, the employee may use the optional form developed for this purpose (see §825.306(a) and Appendix B of this part). If the employing office requests medical certification and the employee does not provide such certification in a timely manner (within 30 days), or the reason for not returning to work does not meet the test of other circumstances beyond the employee's control, the employing office may recover 100% of the health benefit premiums it paid during the period of unpaid FMLA leave.

(b) Under some circumstances an employing office may elect to maintain other benefits, *e.g.*, life insurance, disability insurance, *etc.*, by paying the employee's (share of) premiums during periods of unpaid FMLA leave. For example, to ensure the employing office can meet its responsibilities to provide equivalent benefits to the employee upon return from unpaid FMLA leave, it may be necessary that premiums be paid continuously to avoid a lapse of coverage. If the employing office elects to maintain such benefits during the leave, at the conclusion of leave, the employing office is entitled to recover only the costs incurred for paying the employee's share of any premiums whether or not the employee returns to work.

(c) An employee who returns to work for at least 30 calendar days is considered to have "returned" to work. An employee who transfers directly from taking FMLA leave to retirement, or who retires during the first 30 days after the employee returns to work, is deemed to have returned to work.

(d) When an employee elects or an employing office requires paid leave to be substituted for FMLA leave, the employing office may not recover its (share of) health insurance or other non-health benefit premiums for any period of FMLA leave covered by paid leave. Because paid leave provided under a plan covering temporary disabilities (including workers' compensation) is not unpaid, recovery of health insurance premiums does not apply to such paid leave.

(e) The amount that self-insured employing offices may recover is limited to only the employing office's share of allowable "premiums" as would be calculated under COBRA, excluding the 2 percent fee for administrative costs.

(f) When an employee fails to return to work, any health and non-health benefit premiums which this section of the regulations permits an employing office to recover are a debt owed by the non-returning employee to the employing office. The existence of this debt caused by the employee's failure to return to work does not alter the employing office's responsibilities for health benefit coverage and, under a self-insurance plan, payment of claims incurred during the period of FMLA leave. To the extent recovery is allowed, the employing office may recover the costs through deduction from any sums due to the employee (*e.g.*, unpaid wages, vacation pay, *etc.*), provided such deductions do not otherwise violate applicable wage payment or other laws. Alternatively, the employing office may initiate legal action against the employee to recover such costs.

§825.214 What are an employee's rights on returning to work from FMLA leave?

(a) On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. *See* also §825.106(e) for the obligations of employing offices that are joint employing offices.

(b) If the employee is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the employing office's obligations may be governed by the Americans with Disabilities Act (ADA), as made applicable by the CAA. *See* §825.702.

§825.215 What is an equivalent position?

(a) An equivalent position is one that is virtually identical to the employee's former position in terms of pay, benefits and working conditions, including privileges, perquisites and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority.

(b) If an employee is no longer qualified for the position because of the employee's inability to attend a necessary course, renew a license, fly a minimum number of hours, *etc.*, as a result of the leave, the employee shall be given a reasonable opportunity to fulfill those conditions upon return to work.

(c) *Equivalent Pay.* (1) An employee is entitled to any unconditional pay increases which may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed would not have to be granted unless it is the employing office's policy or practice to do so with respect to other employees on "leave without pay." In such case, any pay increase would be granted based on the employee's seniority, length of service, work performed, *etc.*, excluding the period of unpaid FMLA leave. An employee is entitled to be restored to a position with the same or equivalent pay premiums, such as a shift differential. If an employee departed from a position averaging ten hours of overtime (and corresponding overtime pay) each week, an employee is ordinarily entitled to such a position on return from FMLA leave.

(2) Many employing offices pay bonuses in different forms to employees for job-related performance such as for perfect attendance, safety (absence of injuries or accidents on the job) and exceeding production goals. Bonuses for perfect attendance and safety do not require performance by the employee but rather contemplate the absence of occurrences. To the extent an employee who takes FMLA leave had met all the requirements for either or both of these bonuses before FMLA leave began, the employee is entitled to continue this entitlement upon return from FMLA leave, that is, the employee may not be disqualified for the bonus(es) for the taking of FMLA leave. *See* §825.220 (b) and (c). A monthly production bonus, on the other hand, does require performance by the employee. If the employee is on FMLA leave during any part of the period for which the bonus is computed, the employee is entitled to the same consideration for the bonus as other employees on paid or unpaid leave (as appropriate). *See* paragraph (d)(2) of this section.

(d) *Equivalent Benefits.* "Benefits" include all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office through an employee benefit plan.

(1) At the end of an employee's FMLA leave, benefits must be resumed in the same manner and at the same levels as provided when the leave began, and subject to any changes in benefit levels that may have taken place during the period of FMLA leave affecting the entire work force, unless otherwise elected by the employee. Upon return from FMLA leave, an employee cannot be required to requalify for any benefits the employee enjoyed before FMLA leave began (including family or dependent coverages). For example, if an employee was covered by a life insurance policy before taking leave but is not covered or coverage lapses during the period of unpaid FMLA leave, the employee cannot be required to meet any qualifications, such as taking a physical examination, in order to requalify for life insurance upon return from leave. Accordingly, some employing offices may find it necessary to modify life insurance and other benefits programs in order to restore employees to equivalent benefits upon return from FMLA leave, make arrangements for continued payment of costs to maintain such benefits during unpaid FMLA leave, or pay these costs subject to recovery from the employee on return from leave. *See* §825.213(b).

(2) An employee may, but is not entitled to, accrue any additional benefits or seniority during unpaid FMLA leave. Benefits accrued at the time leave began, however, (*e.g.*, paid vacation, sick or personal leave to the extent not substituted for FMLA leave) must be available to an employee upon return from leave.

(3) If, while on unpaid FMLA leave, an employee desires to continue life insurance, disability insurance, or other types of benefits for which he or she typically pays, the employing office is required to follow established policies or practices for continuing such benefits for other instances of leave without pay. If the employing office has no established policy, the employee and the employing office are encouraged to agree upon arrangements before FMLA leave begins.

(4) With respect to pension and other retirement plans, any period of unpaid FMLA leave shall not be treated as or counted toward a break in service for purposes of vesting and eligibility to participate. Also, if the plan requires an employee to be employed on a specific date in order to be credited with a year of service for vesting, contributions or participation purposes, an employee on unpaid FMLA leave on that date shall be deemed to have been employed on that date. However, unpaid FMLA leave periods need not be treated as credited service for purposes of benefit accrual, vesting and eligibility to participate.

(5) Employees on unpaid FMLA leave are to be treated as if they continued to work for purposes of changes to benefit plans. They are entitled to changes in benefits plans, except those which may be dependent upon seniority or accrual during the leave period, immediately upon return from leave or to the same extent they would have qualified if no leave had been taken. For example if the benefit plan is predicated on a pre-established number of hours worked each year and the employee does not have sufficient hours as a result of taking unpaid FMLA leave, the benefit is lost. (In this regard, §825.209 addresses health benefits.)

(e) *Equivalent Terms and Conditions of Employment.* An equivalent position must have substantially similar duties, conditions, responsibilities, privileges and status as the employee's original position.

(1) The employee must be reinstated to the same or a geographically proximate worksite (*i.e.*, one that does not involve a significant increase in commuting time or distance) from where the employee had previously been employed. If the employee's original worksite has been closed, the employee is entitled to the same rights as if the employee had not been on leave when the worksite closed. For example, if an employing office transfers all employees from a closed worksite to a new worksite in a different city, the employee on leave is also entitled to transfer under the same conditions as if he or she had continued to be employed.

(2) The employee is ordinarily entitled to return to the same shift or the same or an equivalent work schedule.

(3) The employee must have the same or an equivalent opportunity for bonuses and other similar discretionary and non-discretionary payments.

(4) FMLA does not prohibit an employing office from accommodating an employee's request to be restored to a different shift, schedule, or position which better suits the employee's personal needs on return from leave, or to offer a promotion to a better position. However, an employee cannot be induced by the employing office to accept a different position against the employee's wishes.

(f) The requirement that an employee be restored to the same or equivalent job with the same or equivalent pay, benefits, and terms and conditions of employment does not extend to *de minimis* or intangible, unmeasurable aspects of the job. However, restoration to a job slated for lay-off, when the employee's original position is not, would not meet the requirements of an equivalent position.

§825.216 Are there any limitations on an employing office's obligation to reinstate an employee?

(a) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. An employing office must be able to show that an employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment. For example:

(1) If an employee is laid off during the course of taking FMLA leave and employment is terminated, the employing office's responsibility to continue FMLA leave, maintain group health plan benefits and restore the employee ceases at the time the employee is laid off, provided the employing office has no continuing obligations under a collective bargaining agreement or otherwise. An employing office would have the burden of proving that an employee would have been laid off during the FMLA leave period and, therefore, would not be entitled to restoration.

(2) If a shift has been eliminated, or overtime has been decreased, an employee would not be entitled to return to work that shift or the original overtime hours upon restoration. However, if a position on, for example, a night shift has been filled by another employee, the employee is entitled to return to the same shift on which employed before taking FMLA leave.

(b) If an employee was hired for a specific term or only to perform work on a discrete project, the employing office has no obligation to restore the employee if the employment term or project is over and the employing office would not otherwise have continued to employ the employee.

(c) In addition to the circumstances explained above, an employing office may deny job restoration to salaried eligible employees ("key employees," as defined in paragraph (c) of §825.217) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the employing office; or may delay restoration to an employee who fails to provide a fitness for duty certificate to return to work under the conditions described in §825.310.

(d) If the employee has been on a workers' compensation absence during which FMLA leave has been taken concurrently, and after 12 weeks of FMLA leave the employee is unable to return to work, the employee no longer has the protections of FMLA and must look to the workers' compensation statute or ADA, as made applicable by the CAA, for any relief or protections.

§825.217 What is a "key employee"?

(a) A "key employee" is a salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees employed by the employing office within 75 miles of the employee's worksite.

(b) The term "salaried" means paid on a salary basis, within the meaning of the Board's regulations at part 541, implementing section 203 of the CAA (2 U.S.C. 1313) (regarding employees who may qualify as exempt from the minimum wage and overtime requirements of the FLSA, as made applicable by the CAA, as executive, administrative, and professional employees).

(c) A "key employee" must be "among the highest paid 10 percent" of all the employees both salaried and non-salaried, eligible and—ineligible—who are employed by the employing office within 75 miles of the worksite.

(1) In determining which employees are among the highest paid 10 percent, year-to-date earnings are divided by weeks worked by the employee (including weeks in which paid leave was taken). Earnings include wages, premium pay, incentive pay, and non-discretionary and discretionary bonuses. Earnings do not include incentives whose value is determined at some future date, *e.g.*, benefits or perquisites.

(2) The determination of whether a salaried employee is among the highest paid 10 percent shall be made at the time the employee gives notice of the need for leave. No more than 10 percent of the employing office's employees within 75 miles of the worksite may be "key employees."

§825.218 What does "substantial and grievous economic injury" mean?

(a) In order to deny restoration to a key employee, an employing office must determine that the restoration of the employee to employment will cause "substantial and grievous economic injury" to the operations of the employing office, not whether the absence of the employee will cause such substantial and grievous injury.

(b) An employing office may take into account its ability to replace on a temporary basis (or temporarily do without) the employee on FMLA leave. If permanent replacement is unavoidable, the cost of then reinstating the employee can be considered in evaluating whether substantial and grievous economic injury will occur from restoration; in other words, the effect on the operations of the employing office of reinstating the employee in an equivalent position.

(c) A precise test cannot be set for the level of hardship or injury to the employing office which must be sustained. If the reinstatement of a "key employee" threatens the economic viability of the employing office, that would constitute "substantial and grievous economic injury." A lesser injury which causes substantial, long-term economic injury would also be sufficient. Minor inconveniences and costs that the employing office would experience in the normal course would certainly not constitute "substantial and grievous economic injury."

(d) FMLA's "substantial and grievous economic injury" standard is different from and more stringent than the "undue hardship" test under the ADA (see, also §825.702).

§825.219 What are the rights of a key employee?

(a) An employing office which believes that reinstatement may be denied to a key employee, must give written notice to the employee at the time the employee gives notice of the need for FMLA leave (or when FMLA leave commences, if earlier) that he or she qualifies as a key employee. At the same time, the employing office must also fully inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the employing office should determine that substantial and grievous economic injury to the employing office's operations will result if the employee is reinstated from FMLA leave. If such notice cannot be given immediately because of the need to determine whether the employee is a key employee, it shall be given as soon as practicable after being notified of a need for leave (or the commencement of leave, if earlier). It is expected that in most circumstances there will be no desire that an employee be denied restoration after FMLA leave and, therefore, there would be no need to provide such notice. However, an employing office who fails to provide such timely notice will lose its right to deny restoration even if substantial and grievous economic injury will result from reinstatement.

(b) As soon as an employing office makes a good faith determination, based on the facts available, that substantial and grievous economic injury to its operations will result if a key employee who has given notice of the need for FMLA leave or is using FMLA leave is reinstated, the employing office shall notify the employee in writing of its determination, that it cannot deny FMLA leave, and that it intends to deny restoration to employment on completion of the FMLA leave. It is anticipated that an employing office will ordinarily be able to give such notice prior to the employee starting leave. The employing office must serve this notice either in person or by certified mail. This notice must explain the basis for the employing office's finding that substantial and grievous economic injury will result, and, if leave has commenced, must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of the leave and the urgency of the need for the employee to return.

(c) If an employee on leave does not return to work in response to the employing office's notification of intent to deny restoration, the employee continues to be entitled to maintenance of health benefits and the employing office may not recover its cost of health benefit premiums. A key employee's rights under FMLA continue unless and until either the employee gives notice that he or she no longer wishes to return to work,

VOL
142
PT
6
AP
15
—
24
1996
UMI

or the employing office actually denies reinstatement at the conclusion of the leave period.

(d) After notice to an employee has been given that substantial and grievous economic injury will result if the employee is reinstated to employment, an employee is still entitled to request reinstatement at the end of the leave period even if the employee did not return to work in response to the employing office's notice. The employing office must then again determine whether there will be substantial and grievous economic injury from reinstatement, based on the facts at that time. If it is determined that substantial and grievous economic injury will result, the employing office shall notify the employee in writing (in person or by certified mail) of the denial of restoration.

§ 825.220 How are employees protected who request leave or otherwise assert FMLA rights?

(a) The FMLA, as made applicable by the CAA, prohibits interference with an employees' rights under the law, and with legal proceedings or inquiries relating to an employees' rights. More specifically, the law contains the following employee protections:

(1) An employing office is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the FMLA as made applicable by the CAA.

(2) An employing office is prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) for opposing or complaining about any unlawful practice under the FMLA as made applicable by the CAA.

(3) All employing offices are prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) because that covered employee has

(i) Filed any charge, or has instituted (or caused to be instituted) any proceeding under or related to the FMLA, as made applicable by the CAA;

(ii) Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA;

(iii) Testified, or is about to testify, in any inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA.

(b) Any violations of the FMLA, as made applicable by the CAA, or of these regulations constitute interfering with, restraining, or denying the exercise of rights provided by the FMLA as made applicable by the CAA. "Interfering with" the exercise of an employee's rights would include, for example, not only refusing to authorize FMLA leave, but discouraging an employee from using such leave. It would also include manipulation by covered an employing office to avoid responsibilities under FMLA, for example:

(1) [Reserved];

(2) changing the essential functions of the job in order to preclude the taking of leave;

(3) reducing hours available to work in order to avoid employee eligibility.

(c) An employing office is prohibited from discriminating against employees or prospective employees who have used FMLA leave. For example, if an employee on leave without pay would otherwise be entitled to full benefits (other than health benefits), the same benefits would be required to be provided to an employee on unpaid FMLA leave. By the same token, employing offices cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions; nor can FMLA leave be counted under "no fault" attendance policies.

(d) Employees cannot waive, nor may employing offices induce employees to waive, their rights under FMLA. For example, employees (or their collective bargaining representatives) cannot "trade off" the right to take FMLA leave against some other benefit offered by the employing office. This does not prevent an employee's voluntary and uncoerced acceptance (not as a condition of employment) of a "light duty" assignment while recovering from a serious health condition (*see* § 825.702(d)). In such a circumstance the employee's right to restoration to the same or an equivalent position is available until 12 weeks have passed within the 12-month period, including all FMLA leave taken and the period of "light duty."

(e) Covered employees, and not merely eligible employees, are protected from retaliation for opposing (*e.g.*, file a complaint about) any practice which is unlawful under the FMLA, as made applicable by the CAA. They are similarly protected if they oppose any practice which they reasonably believe to be a violation of the FMLA, as made applicable by the CAA or regulations.

SUBPART C—HOW DO EMPLOYEES LEARN OF THEIR RIGHTS AND OBLIGATIONS UNDER THE FMLA, AS MADE APPLICABLE BY THE CAA, AND WHAT CAN AN EMPLOYING OFFICE REQUIRE OF AN EMPLOYEE?

§ 825.300 [Reserved]

§ 825.301 What notices to employees are required of employing offices under the FMLA as made applicable by the CAA?

(a)(1) If an employing office has any eligible employees and has any written guidance to employees concerning employee benefits or leave rights, such as in an employee handbook, information concerning both entitlements and employee obligations under the FMLA, as made applicable by the CAA, must be included in the handbook or other document. For example, if an employing office provides an employee handbook to all employees that describes the employing office's policies regarding leave, wages, attendance, and similar matters, the handbook must incorporate information on FMLA rights and responsibilities and the employing office's policies regarding the FMLA, as made applicable by the CAA. Informational publications describing the provisions of the FMLA as made applicable by the CAA are available from the Office of Compliance and may be incorporated in such employing office handbooks or written policies.

(2) If such an employing office does not have written policies, manuals, or handbooks describing employee benefits and leave provisions, the employing office shall provide written guidance to an employee concerning all the employee's rights and obligations under the FMLA as made applicable by the CAA. This notice shall be provided to employees each time notice is given pursuant to paragraph (b), and in accordance with the provisions of that paragraph. Employing offices may duplicate and provide the employee a copy of the FMLA Fact Sheet available from the Office of Compliance to provide such guidance.

(b)(1) The employing office shall also provide the employee with written notice detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. The written notice must be provided to the employee in a language in which the employee is literate. Such specific notice must include, as appropriate:

(i) that the leave will be counted against the employee's annual FMLA leave entitlement (see § 825.208);

(ii) any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so (see § 825.305);

(iii) the employee's right to substitute paid leave and whether the employing office will require the substitution of paid leave, and the conditions related to any substitution;

(iv) any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments (see § 825.210), and the possible consequences of failure to make such payments on a timely basis (i.e., the circumstances under which coverage may lapse);

(v) any requirement for the employee to present a fitness-for-duty certificate to be restored to employment (see § 825.310);

(vi) the employee's status as a "key employee" and the potential consequence that restoration may be denied following FMLA leave, explaining the conditions required for such denial (*see* § 825.218);

(vii) the employee's right to restoration to the same or an equivalent job upon return from leave (see §§ 825.214 and 825.604); and,

(viii) the employee's potential liability for payment of health insurance premiums paid by the employing office during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave (see § 825.213).

(2) The specific notice may include other information—*e.g.*, whether the employing office will require periodic reports of the employee's status and intent to return to work, but is not required to do so. A prototype notice is contained in Appendix D of this part, or may be obtained from the Office of Compliance, which employing offices may adapt for their use to meet these specific notice requirements.

(c) Except as provided in this subparagraph, the written notice required by paragraph (b) (and by subparagraph (a)(2) where applicable) must be provided to the employee no less often than the first time in each six-month period that an employee gives notice of the need for FMLA leave (if FMLA leave is taken during the six-month period). The notice shall be given within a reasonable time after notice of the need for leave is given by the employee—within one or two business days if feasible. If leave has already begun, the notice should be mailed to the employee's address of record.

(1) If the specific information provided by the notice changes with respect to a subsequent period of FMLA leave during the six-month period, the employing office shall, within one or two business days of receipt of the employee's notice of need for leave, provide written notice referencing the prior notice and setting forth any of the information in subparagraph (b) which has changed. For example, if the initial leave period were paid leave and the subsequent leave period would be unpaid leave, the employing office may need to give notice of the arrangements for making premium payments.

(2)(i) Except as provided in subparagraph (ii), if the employing office is requiring medical certification or a "fitness-for-duty" report, written notice of the requirement shall be given with respect to each employee notice of a need for leave.

(ii) Subsequent written notification shall not be required if the initial notice in the

six-month period *and* the employing office handbook or other written documents (if any) describing the employing office's leave policies, clearly provided that certification or a "fitness-for-duty" report would be required (*e.g.*, by stating that certification would be required in all cases, by stating that certification would be required in all cases in which leave of more than a specified number of days is taken, or by stating that a "fitness-for-duty" report would be required in all cases for back injuries for employees in a certain occupation). Where subsequent written notice is not required, at least oral notice shall be provided. (*See* § 825.305(a).)

(d) Employing offices are also expected to responsively answer questions from employees concerning their rights and responsibilities under the FMLA as made applicable under the CAA.

(e) Employing offices furnishing FMLA-required notices to sensory impaired individuals must also comply with all applicable requirements under law.

(f) If an employing office fails to provide notice in accordance with the provisions of this section, the employing office may not take action against an employee for failure to comply with any provision required to be set forth in the notice.

§ 825.302 What notice does an employee have to give an employing office when the need for FMLA leave is foreseeable?

(a) An employee must provide the employing office at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If 30 days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. For example, an employee's health condition may require leave to commence earlier than anticipated before the birth of a child. Similarly, little opportunity for notice may be given before placement for adoption. Whether the leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee shall advise the employing office as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown.

(b) "As soon as practicable" means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case. For foreseeable leave where it is not possible to give as much as 30 days notice, "as soon as practicable" ordinarily would mean at least verbal notification to the employing office within one or two business days of when the need for leave becomes known to the employee.

(c) An employee shall provide at least verbal notice sufficient to make the employing office aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave. The employee need not expressly assert rights under the FMLA as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed for an expected birth or adoption, for example. The employing office should inquire further of the employee if it is necessary to have more information about whether FMLA leave is being sought by the employee, and obtain the necessary details of the leave to be taken. In the case of medical conditions, the employing office may find it necessary to inquire further to determine if the leave is because of a serious health condition and may request medical certification to support the need for such leave (see § 825.305).

(d) An employing office may also require an employee to comply with the employing office's usual and customary notice and procedural requirements for requesting leave. For example, an employing office may require that written notice set forth the reasons for the requested leave, the anticipated duration of the leave, and the anticipated start of the leave. However, failure to follow such internal employing office procedures will not permit an employing office to disallow or delay an employee's taking FMLA leave if the employee gives timely verbal or other notice.

(e) When planning medical treatment, the employee must consult with the employing office and make a reasonable effort to schedule the leave so as not to disrupt unduly the employing office's operations, subject to the approval of the health care provider. Employees are ordinarily expected to consult with their employing offices prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the employing office and the employee. If an employee who provides notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglects to consult with the employing office to make a reasonable attempt to arrange the schedule of treatments so as not to unduly disrupt the employing office's operations, the employing office may initiate discussions with the employee and require the employee to attempt to make such arrangements, subject to the approval of the health care provider.

(f) In the case of intermittent leave or leave on a reduced leave schedule which is medically necessary, an employee shall advise the employing office, upon request, of the reasons why the intermittent/reduced leave schedule is necessary and of the schedule for treatment, if applicable. The employee and employing office shall attempt to work out a schedule which meets the employee's needs without unduly disrupting the employing office's operations, subject to the approval of the health care provider.

(g) An employing office may waive employees' FMLA notice requirements. In addition, an employing office may not require compliance with stricter FMLA notice requirements where the provisions of a collective bargaining agreement or applicable leave plan allow less advance notice to the employing office. For example, if an employee (or employing office) elects to substitute paid vacation leave for unpaid FMLA leave (see § 825.207), and the employing office's paid vacation leave plan imposes no prior notification requirements for taking such vacation leave, no advance notice may be required for the FMLA leave taken in these circumstances. On the other hand, FMLA notice requirements would apply to a period of unpaid FMLA leave, unless the employing office imposes lesser notice requirements on employees taking leave without pay.

§ 825.303 What are the requirements for an employee to furnish notice to an employing office where the need for FMLA leave is not foreseeable?

(a) When the approximate timing of the need for leave is not foreseeable, an employee should give notice to the employing office of the need for FMLA leave as soon as practicable under the facts and circumstances of the particular case. It is expected that an employee will give notice to the employing office within no more than one or two working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible. In the case of a medical emergency requiring leave because of an employee's own serious health condition or to care for a family member with a serious health condition, written advance notice pursuant to an employing office's internal rules and procedures may not be required when FMLA leave is involved.

(b) The employee should provide notice to the employing office either in person or by telephone, telegraph, facsimile ("fax") machine or other electronic means. Notice may be given by the employee's spokesperson (*e.g.*, spouse, adult family member or other responsible party) if the employee is unable to do so personally. The employee need not expressly assert rights under the FMLA, as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed. The employing office will be expected to obtain any additional required information through informal means. The employee or spokesperson will be expected to provide more information when it can readily be accomplished as a practical matter, taking into consideration the exigencies of the situation.

§ 825.304 What recourse do employing offices have if employees fail to provide the required notice?

(a) An employing office may waive employees' FMLA notice obligations or the employing office's own internal rules on leave notice requirements.

(b) If an employee fails to give 30 days notice for foreseeable leave with no reasonable excuse for the delay, the employing office may delay the taking of FMLA leave until at least 30 days after the date the employee provides notice to the employing office of the need for FMLA leave.

(c) In all cases, in order for the onset of an employee's FMLA leave to be delayed due to lack of required notice, it must be clear that the employee had actual notice of the FMLA notice requirements. This condition would be satisfied by the employing office's proper posting, at the worksite where the employee is employed, of the information regarding the FMLA provided (pursuant to section 301(h)(2) of the CAA, 2 U.S.C. 1381(h)(2)) by the Office of Compliance to the employing office in a manner suitable for posting. Furthermore, the need for leave and the approximate date leave would be taken must have been clearly foreseeable to the employee 30 days in advance of the leave. For example, knowledge that an employee would receive a telephone call about the availability of a child for adoption at some unknown point in the future would not be sufficient.

§ 825.305 When must an employee provide medical certification to support FMLA leave?

(a) An employing office may require that an employee's leave to care for the employee's seriously-ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member. An employing office must give notice of a requirement for medical certification each time a certification is required; such notice must be written notice whenever required by § 825.301. An employing office's oral request to an employee to furnish any subsequent medical certification is sufficient.

VOL
142
PT
6
AP
15
—
24
1996
UMI

(b) When the leave is foreseeable and at least 30 days notice has been provided, the employee should provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(c) In most cases, the employing office should request that an employee furnish certification from a health care provider at the time the employee gives notice of the need for leave or within two business days thereafter, or, in the case of unforeseen leave, within two business days after the leave commences. The employing office may request certification at some later date if the employing office later has reason to question the appropriateness of the leave or its duration.

(d) At the time the employing office requests certification, the employing office must also advise an employee of the anticipated consequences of an employee's failure to provide adequate certification. The employing office shall advise an employee whenever the employing office finds a certification incomplete, and provide the employee a reasonable opportunity to cure any such deficiency.

(e) If the employing office's sick or medical leave plan imposes medical certification requirements that are less stringent than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (see §825.207), only the employing office's less stringent sick leave certification requirements may be imposed.

§825.306 How much information may be required in medical certifications of a serious health condition?

(a) The Office of Compliance has made available an optional form ("Certification of Physician or Practitioner") for employees' (or their family members') use in obtaining medical certification, including second and third opinions, from health care providers that meets FMLA's certification requirements. (*See* Appendix B to these regulations.) This optional form reflects certification requirements so as to permit the health care provider to furnish appropriate medical information within his or her knowledge.

(b) The Certification of Physician or Practitioner form is modeled closely on Form WH-380, as revised, which was developed by the Department of Labor (*see* 29 C.F.R. Part 825, Appendix B). The employing office may use the Office of Compliance's form, or Form WH-380, as revised, or another form containing the same basic information; however, no additional information may be required. In all instances the information on the form must relate only to the serious health condition for which the current need for leave exists. The form identifies the health care provider and type of medical practice (including pertinent specialization, if any), makes maximum use of checklist entries for ease in completing the form, and contains required entries for:

(1) A certification as to which part of the definition of "serious health condition" (see §825.114), if any, applies to the patient's condition, and the medical facts which support the certification, including a brief statement as to how the medical facts meet the criteria of the definition.

(2)(i) The approximate date the serious health condition commenced, and its probable duration, including the probable duration of the patient's present incapacity (defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) if different.

(ii) Whether it will be necessary for the employee to take leave intermittently or to work on a reduced leave schedule basis (i.e., part-time) as a result of the serious health condition (see §825.117 and §825.203), and if so, the probable duration of such schedule.

(iii) If the condition is pregnancy or a chronic condition within the meaning of §825.114(a)(2)(iii), whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.

(3)(i)(A) If additional treatments will be required for the condition, an estimate of the probable number of such treatments.

(B) If the patient's incapacity will be intermittent, or will require a reduced leave schedule, an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any.

(ii) If any of the treatments referred to in subparagraph (i) will be provided by another provider of health services (e.g., physical therapist), the nature of the treatments.

(iii) If a regimen of continuing treatment by the patient is required under the supervision of the health care provider, a general description of the regimen (see §825.114(b)).

(4) If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), whether the employee:

(i) is unable to perform work of any kind;

(ii) is unable to perform any one or more of the essential functions of the employee's position, including a statement of the essential functions the employee is unable to perform (see §825.115), based on either information provided on a statement from the employing office of the essential functions of the position or, if not provided, discussion with the employee about the employee's job functions; or

(iii) must be absent from work for treatment.

(5)(i) If leave is required to care for a family member of the employee with a serious health condition, whether the patient requires assistance for basic medical or personal needs or safety, or for transportation; or if not, whether the employee's presence to provide psychological comfort would be beneficial to the patient or assist in the patient's recovery. The employee is required to indicate on the form the care he or she will provide and an estimate of the time period.

(ii) If the employee's family member will need care only intermittently or on a reduced leave schedule basis (*i.e.*, part-time), the probable duration of the need.

(c) If the employing office's sick or medical leave plan requires less information to be furnished in medical certifications than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (see §825.207), only the employing office's lesser sick leave certification requirements may be imposed.

§825.307 What may an employing office do if it questions the adequacy of a medical certification?

(a) If an employee submits a complete certification signed by the health care provider, the employing office may not request additional information from the employee's health care provider. However, a health care provider representing the employing office may contact the employee's health care provider, with the employee's permission, for purposes of *clarification* and authenticity of the medical certification.

(1) If an employee is on FMLA leave running concurrently with a workers' compensation absence, and the provisions of the workers' compensation statute permit the employing office or the employing office's representative to have direct contact with the employee's workers' compensation health care provider, the employing office may follow the workers' compensation provisions.

(2) An employing office that has reason to doubt the validity of a medical certification may require the employee to obtain a second opinion at the employing office's expense. Pending receipt of the second (or third) medical opinion, the employee is provisionally entitled to the benefits of the FMLA as made applicable by the CAA, including maintenance of group health benefits. If the certifications do not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave and may be treated as paid or unpaid leave under the employing office's established leave policies. The employing office is permitted to designate the health care provider to furnish the second opinion, but the selected health care provider may not be employed on a regular basis by the employing office. See also paragraphs (e) and (f) of this section.

(b) The employing office may not regularly contract with or otherwise regularly utilize the services of the health care provider furnishing the second opinion unless the employing office is located in an area where access to health care is extremely limited (*e.g.*, a rural area where no more than one or two doctors practice in the relevant specialty in the vicinity).

(c) If the opinions of the employee's and the employing office's designated health care providers differ, the employing office may require the employee to obtain certification from a third health care provider, again at the employing office's expense. This third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the employing office and the employee. The employing office and the employee must each act in good faith to attempt to reach agreement on whom to select for the third opinion provider. If the employing office does not attempt in good faith to reach agreement, the employing office will be bound by the first certification. If the employee does not attempt in good faith to reach agreement, the employee will be bound by the second certification. For example, an employee who refuses to agree to see a doctor in the specialty in question may be failing to act in good faith. On the other hand, an employing office that refuses to agree to any doctor on a list of specialists in the appropriate field provided by the employee and whom the employee has not previously consulted may be failing to act in good faith.

(d) The employing office is required to provide the employee with a copy of the second and third medical opinions, where applicable, upon request by the employee. Requested copies are to be provided within two business days unless extenuating circumstances prevent such action.

(e) If the employing office requires the employee to obtain either a second or third opinion the employing office must reimburse an employee or family member for any reasonable "out of pocket" travel expenses incurred to obtain the second and third medical opinions. The employing office may not require the employee or family member to travel outside normal commuting distance for purposes of obtaining the second or third medical opinions except in very unusual circumstances.

(f) In circumstances when the employee or a family member is visiting in another country, or a family member resides in another country, and a serious health condition develops, the employing office shall accept a medical certification as well as second and third opinions from a health care provider who practices in that country.

§825.308 Under what circumstances may an employing office request subsequent recertifications of medical conditions?

(a) For pregnancy, chronic, or permanent/long-term conditions under continuing supervision of a health care provider (as defined in §825.114(a)(2) (ii), (iii) or (iv)), an employing office may request recertification no more often than every 30 days and only in connection with an absence by the employee, unless:

(1) Circumstances described by the previous certification have changed significantly (*e.g.*, the duration or frequency of absences, the severity of the condition, complications); or

(2) The employing office receives information that casts doubt upon the employee's stated reason for the absence.

(b)(1) If the minimum duration of the period of incapacity specified on a certification furnished by the health care provider is more than 30 days, the employing office may not request recertification until that minimum duration has passed unless one of the conditions set forth in paragraph (c) (1), (2) or (3) of this section is met.

(2) For FMLA leave taken intermittently or on a reduced leave schedule basis, the employing office may not request recertification in less than the minimum period specified on the certification as necessary for such leave (including treatment) unless one of the conditions set forth in paragraph (c) (1), (2) or (3) of this section is met.

(c) For circumstances not covered by paragraphs (a) or (b) of this section, an employing office may request recertification at any reasonable interval, but not more often than every 30 days, unless:

(1) The employee requests an extension of leave;

(2) Circumstances described by the previous certification have changed significantly (*e.g.*, the duration of the illness, the nature of the illness, complications); or

(3) The employing office receives information that casts doubt upon the continuing validity of the certification.

(d) The employee must provide the requested recertification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(e) Any recertification requested by the employing office shall be at the employee's expense unless the employing office provides otherwise. No second or third opinion on recertification may be required.

§825.309 What notice may an employing office require regarding an employee's intent to return to work?

(a) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. The employing office's policy regarding such reports may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation.

(b) If an employee gives unequivocal notice of intent not to return to work, the employing office's obligations under FMLA, as made applicable by the CAA, to maintain health benefits (subject to requirements of COBRA or 5 U.S.C. 8905a, whichever is applicable) and to restore the employee cease. However, these obligations continue if an employee indicates he or she may be unable to return to work but expresses a continuing desire to do so.

(c) It may be necessary for an employee to take more leave than originally anticipated. Conversely, an employee may discover after beginning leave that the circumstances have changed and the amount of leave originally anticipated is no longer necessary. An employee may not be required to take more FMLA leave than necessary to resolve the circumstance that precipitated the need for leave. In both of these situations, the employing office may require that the employee provide the employing office reasonable notice (i.e., within two business days) of the changed circumstances where foreseeable. The employing office may also obtain information on such changed circumstances through requested status reports.

§825.310 Under what circumstances may an employing office require that an employee submit a medical certification that the employee is able (or unable) to return to work (i.e., a "fitness-for-duty" report)?

(a) As a condition of restoring an employee whose FMLA leave was occasioned by the employee's own serious health condition that made the employee unable to perform the employee's job, an employing office may have a uniformly-applied policy or practice that requires all similarly-situated employees (*i.e.*, same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health care provider that the employee is able to resume work.

(b) If the terms of a collective bargaining agreement govern an employee's return to work, those provisions shall be applied. Similarly, requirements under the Americans with Disabilities Act (ADA), as made applicable by the CAA, that any return-to-work physical be job-related and consistent with business necessity apply. For example, an attorney could not be required to submit to a medical examination or inquiry just because her leg had been amputated. The essential functions of an attorney's job do not require use of both legs; therefore such an inquiry would not be job related. An employing office may require a warehouse laborer, whose back impairment affects the ability to lift, to be examined by an orthopedist, but may not require this employee to submit to an HIV test where the test is not related to either the essential functions of his/her job or to his/her impairment.

(c) An employing office may seek fitness-for-duty certification only with regard to the particular health condition that caused the employee's need for FMLA leave. The certification itself need only be a simple statement of an employee's ability to return to work. A health care provider employed by the employing office may contact the employee's health care provider with the employee's permission, for purposes of clarification of the employee's fitness to return to work. No additional information may be acquired, and clarification may be requested only for the serious health condition for which FMLA leave was taken. The employing office may not delay the employee's return to work while contact with the health care provider is being made.

(d) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

(e) The notice that employing offices are required to give to each employee giving notice of the need for FMLA leave regarding their FMLA rights and obligations as made applicable by the CAA (see §825.301) shall advise the employee if the employing office will require fitness-for-duty certification to return to work. If the employing office has a handbook explaining employment policies and benefits, the handbook should explain the employing office's general policy regarding any requirement for fitness-for-duty certification to return to work. Specific notice shall also be given to any employee from whom fitness-for-duty certification will be required either at the time notice of the need for leave is given or immediately after leave commences and the employing office is advised of the medical circumstances requiring the leave, unless the employee's condition changes from one that did not previously require certification pursuant to the employing office's practice or policy. No second or third fitness-for-duty certification may be required.

(f) An employing office may delay restoration to employment until an employee submits a required fitness-for-duty certification unless the employing office has failed to provide the notices required in paragraph (e) of this section.

(g) An employing office is not entitled to certification of fitness to return to duty when the employee takes intermittent leave as described in §825.203.

(h) When an employee is unable to return to work after FMLA leave because of the continuation, recurrence, or onset of the employee's or family member's serious health condition, thereby preventing the employing office from recovering its share of health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. (*See* §825.213(a)(3).) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

§825.311 What happens if an employee fails to satisfy the medical certification and/or recertification requirements?

(a) In the case of foreseeable leave, an employing office may delay the taking of FMLA leave to an employee who fails to provide timely certification after being requested by the employing office to furnish such certification (i.e., within 15 calendar days, if practicable), until the required certification is provided.

(b) When the need for leave is not foreseeable, or in the case of recertification, an employee must provide certification (or recertification) within the time frame requested by the employing office (which must allow at least 15 days after the employing office's request) *or* as soon as reasonably possible under the particular facts and circumstances. In the case of a medical emergency, it may not be practicable for an employee to provide the required certification

VOL
142
PT
6
AP
15
—
24
1996
UMI

within 15 calendar days. If an employee fails to provide a medical certification within a reasonable time under the pertinent circumstances, the employing office may delay the employee's continuation of FMLA leave. If the employee never produces the certification, the leave is not FMLA leave.

(c) When requested by the employing office pursuant to a uniformly applied policy for similarly-situated employees, the employee must provide medical certification at the time the employee seeks reinstatement at the end of FMLA leave taken for the employee's serious health condition, that the employee is fit for duty and able to return to work (see §825.310(a)) if the employing office has provided the required notice (see §825.301(c); the employing office may delay restoration until the certification is provided. In this situation, unless the employee provides either a fitness-for-duty certification or a new medical certification for a serious health condition at the time FMLA leave is concluded, the employee may be terminated. See also §825.213(a)(3).

§825.312 Under what circumstances may an employing office refuse to provide FMLA leave or reinstatement to eligible employees?

(a) If an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, the employing office may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the employing office of the need for FMLA leave. (*See* §825.302.)

(b) If an employee fails to provide in a timely manner a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, an employing office may delay continuation of FMLA leave until an employee submits the certificate. (*See* §§825.305 and 825.311.) If the employee never produces the certification, the leave is not FMLA leave.

(c) If an employee fails to provide a requested fitness-for-duty certification to return to work, an employing office may delay restoration until the employee submits the certificate. (*See* §§825.310 and 825.311.)

(d) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. Thus, an employee's rights to continued leave, maintenance of health benefits, and restoration cease under FMLA, as made applicable by the CAA, if and when the employment relationship terminates (*e.g.*, layoff), unless that relationship continues, for example, by the employee remaining on *paid* FMLA leave. If the employee is recalled or otherwise re-employed, an eligible employee is immediately entitled to further FMLA leave for an FMLA-qualifying reason. An employing office must be able to show, when an employee requests restoration, that the employee would not otherwise have been employed if leave had not been taken in order to deny restoration to employment. (*See* §825.216.)

(e) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intention to return to work. (See §825.309.) If an employee unequivocally advises the employing office either before or during the taking of leave that the employee does not intend to return to work, and the employment relationship is terminated, the employee's entitlement to continued leave, maintenance of health benefits, and restoration ceases unless the employment relationship continues, for example, by the employee remaining on *paid* leave. An employee may not be required to take more leave than necessary to address the circumstances for which leave was taken. If the employee is able to return to work earlier than anticipated, the employee shall provide the employing office two business days notice where feasible; the employing office is required to restore the employee once such notice is given, or where such prior notice was not feasible.

(f) An employing office may deny restoration to employment, but not the taking of FMLA leave and the maintenance of health benefits, to an eligible employee only under the terms of the "key employee" exemption. Denial of reinstatement must be necessary to prevent "substantial and grievous economic injury" to the employing office's operations. The employing office must notify the employee of the employee's status as a "key employee" and of the employing office's intent to deny reinstatement on that basis when the employing office makes these determinations. If leave has started, the employee must be given a reasonable opportunity to return to work after being so notified. (See §825.219.)

(g) An employee who fraudulently obtains FMLA leave from an employing office is not protected by job restoration or maintenance of health benefits provisions of the FMLA as made applicable by the CAA.

(h) If the employing office has a uniformly-applied policy governing outside or supplemental employment, such a policy may continue to apply to an employee while on FMLA leave. An employing office which does not have such a policy may not deny benefits to which an employee is entitled under FMLA as made applicable by the CAA on this basis unless the FMLA leave was fraudulently obtained as in paragraph (g) of this section.

SUBPART D—WHAT ENFORCEMENT MECHANISMS DOES THE CAA PROVIDE?

§825.400 What can employees do who believe that their rights under the FMLA as made applicable by the CAA have been violated?

(a) To commence a proceeding, a covered employee alleging a violation of the rights and protections of the FMLA made applicable by the CAA must request counseling by the Office of Compliance not later than 180 days after the date of the alleged violation. If a covered employee misses this deadline, the covered employee will be unable to obtain a remedy under the CAA.

(b) The following procedures are available under title IV of the CAA for covered employees who believe that their rights under FMLA as made applicable by the CAA have been violated:

(1) counseling;

(2) mediation; and

(3) election of either—

(A) a formal complaint, filed with the Office of Compliance, and a hearing before a hearing officer, subject to review by the Board of Directors of the Office of Compliance, and judicial review in the United States Court of Appeals for the Federal Circuit; or

(B) a civil action in a district court of the United States.

(c) Regulations of the Office of Compliance describing and governing these procedures are found at [proposed rules can be found at 141 Cong. Rec. S17012 (November 14, 1995)].

§825.401 [Reserved]
§825.402 [Reserved]
§825.403 [Reserved]
§825.404 [Reserved]

SUBPART E—[RESERVED]

SUBPART F—WHAT SPECIAL RULES APPLY TO EMPLOYEES OF SCHOOLS?

§825.600 To whom do the special rules apply?

(a) Certain special rules apply to employees of "local educational agencies," including public school boards and elementary schools under their jurisdiction, and private elementary and secondary schools. The special rules do not apply to other kinds of educational institutions, such as colleges and universities, trade schools, and preschools.

(b) Educational institutions are covered by FMLA as made applicable by the CAA (and these special rules). The usual requirements for employees to be "eligible" apply.

(c) The special rules affect the taking of intermittent leave or leave on a reduced leave schedule, or leave near the end of an academic term (semester), by instructional employees. "Instructional employees" are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include, and the special rules do not apply to, teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

(d) Special rules which apply to restoration to an equivalent position apply to all employees of local educational agencies.

§825.601 What limitations apply to the taking of intermittent leave or leave on a reduced leave schedule?

(a) Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively rather than intermittently. The period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee's FMLA leave entitlement. An instructional employee who is on FMLA leave at the end of the school year must be provided with any benefits over the summer vacation that employees would normally receive if they had been working at the end of the school year.

(1) If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the employing office may require the employee to choose either to:

(i) Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or

(ii) Transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

(2) These rules apply only to a leave involving more than 20 percent of the working days during the period over which the leave extends. For example, if an instructional employee who normally works five days each

week needs to take two days of FMLA leave per week over a period of several weeks, the special rules would apply. Employees taking leave which constitutes 20 percent or less of the working days during the leave period would not be subject to transfer to an alternative position. "Periods of a particular duration" means a block, or blocks, of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave.

(b) If an instructional employee does not give required notice of foreseeable FMLA leave (see §825.302) to be taken intermittently or on a reduced leave schedule, the employing office may require the employee to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the employing office may require the employee to delay the taking of leave until the notice provision is met. See §825.207(h).

§825.602 What limitations apply to the taking of leave near the end of an academic term?

(a) There are also different rules for instructional employees who begin leave more than five weeks before the end of a term, less than five weeks before the end of a term, and less than three weeks before the end of a term. Regular rules apply except in circumstances when:

(1) An instructional employee begins leave more than five weeks before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if—

(i) The leave will last at least three weeks, and

(ii) The employee would return to work during the three-week period before the end of the term.

(2) The employee begins leave for a purpose other than the employee's own serious health condition *during* the five-week period before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if—

(i) The leave will last more than two weeks, and

(ii) The employee would return to work during the two-week period before the end of the term.

(3) The employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a term, and the leave will last more than five working days. The employing office may require the employee to continue taking leave until the end of the term.

(b) For purposes of these provisions, "academic term" means the school semester, which typically ends near the end of the calendar year and the end of spring each school year. In no case may a school have more than two academic terms or semesters each year for purposes of FMLA as made applicable by the CAA. An example of leave falling within these provisions would be where an employee plans two weeks of leave to care for a family member which will begin three weeks before the end of the term. In that situation, the employing office could require the employee to stay out on leave until the end of the term.

§825.603 Is all leave taken during "periods of a particular duration" counted against the FMLA leave entitlement?

(a) If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

(b) In the case of an employee who is required to take leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. The employing office has the option not to require the employee to stay on leave until the end of the school term. Therefore, any additional leave required by the employing office to the end of the school term is not counted as FMLA leave; however, the employing office shall be required to maintain the employee's group health insurance and restore the employee to the same or equivalent job including other benefits at the conclusion of the leave.

§825.604 What special rules apply to restoration to "an equivalent position?"

The determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave will be made on the basis of "established school board policies and practices, private school policies and practices, and collective bargaining agreements." The "established policies" and collective bargaining agreements used as a basis for restoration must be in writing, must be made known to the employee prior to the taking of FMLA leave, and must clearly explain the employee's restoration rights upon return from leave. Any established policy which is used as the basis for restoration of an employee to "an equivalent position" must provide substantially the same protections as provided in the FMLA, as made applicable by the CAA, for reinstated employees. See §825.215. In other words, the policy or collective bargaining agreement must provide for restoration to an "equivalent position" with equivalent employment benefits, pay, and other terms and conditions of employment. For example, an employee may not be restored to a position requiring additional licensure or certification.

SUBPART G—HOW DO OTHER LAWS, EMPLOYING OFFICE PRACTICES, AND COLLECTIVE BARGAINING AGREEMENTS AFFECT EMPLOYEE RIGHTS UNDER THE FMLA AS MADE APPLICABLE BY THE CAA?

§825.700 What if an employing office provides more generous benefits than required by FMLA as Made Applicable by the CAA?

(a) An employing office must observe any employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established by the FMLA. Conversely, the rights established by the FMLA, as made applicable by the CAA, may not be diminished by any employment benefit program or plan. For example, a provision of a collective bargaining agreement (CBA) which provides for reinstatement to a position that is not equivalent because of seniority (*e.g.*, provides lesser pay) is superseded by FMLA. If an employing office provides greater unpaid family leave rights than are afforded by FMLA, the employing office is not required to extend additional rights afforded by FMLA, such as maintenance of health benefits (other than through COBRA or 5 U.S.C. 8905a, whichever is applicable), to the additional leave period not covered by FMLA. If an employee takes paid or unpaid leave and the employing office does not designate the leave as FMLA leave, the leave taken does not count against an employee's FMLA entitlement.

(b) Nothing in the FMLA, as made applicable by the CAA, prevents an employing office from amending existing leave and employee benefit programs, provided they comply with FMLA as made applicable by the CAA. However, nothing in the FMLA, as made applicable by the CAA, is intended to discourage employing offices from adopting or retaining more generous leave policies.

(c) [Reserved]

§825.701 [Reserved]

§825.702 How does FMLA affect anti-discrimination laws as applied by section 201 of the CAA?

(a) Nothing in FMLA modifies or affects any applicable law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability (e.g., Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act), as made applicable by the CAA. FMLA's legislative history explains that FMLA is "not intended to modify or affect the Rehabilitation Act of 1973, as amended, the regulations concerning employment which have been promulgated pursuant to that statute, or the Americans with Disabilities Act of 1990, or the regulations issued under that act. Thus, the leave provisions of the [FMLA] are wholly distinct from the reasonable accommodation obligations of employers covered under the [ADA] . . . or the Federal government itself. The purpose of the FMLA is to make leave available to eligible employees and employing offices within its coverage, and not to limit already existing rights and protection." S. Rep. No. 3, 103d Cong., 1st Sess. 38 (1993). An employing office must therefore provide leave under whichever statutory provision provides the greater rights to employees.

(b) If an employee is a qualified individual with a disability within the meaning of the Americans with Disabilities Act (ADA), the employing office must make reasonable accommodations, *etc.*, barring undue hardship, in accordance with the ADA. At the same time, the employing office must afford an employee his or her FMLA rights. ADA's "disability" and FMLA's "serious health condition" are different concepts, and must be analyzed separately. FMLA entitles eligible employees to 12 weeks of leave in any 12-month period, whereas the ADA allows an indeterminate amount of leave, barring undue hardship, as a reasonable accommodation. FMLA requires employing offices to maintain employees' group health plan coverage during FMLA leave on the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period, whereas ADA does not require maintenance of health insurance unless other employees receive health insurance during leave under the same circumstances.

(c)(1) A reasonable accommodation under the ADA might be accomplished by providing an individual with a disability with a part-time job with no health benefits, assuming the employing office did not ordinarily provide health insurance for part-time employees. However, FMLA would permit an employee to work a reduced leave schedule until the equivalent of 12 workweeks of leave were used, with group health benefits maintained during this period. FMLA permits an employing office to temporarily transfer an employee who is taking leave intermittently or on a reduced leave schedule to an alternative position, whereas the ADA allows an accommodation of reassignment to an equivalent, vacant position only if the employee cannot perform the essential functions of the employee's present position and an accommodation is not possible in the employee's present position, or an accommodation in

VOL 142 PT 6 AP 15 — 24 1996 UMI

the employee's present position would cause an undue hardship. The examples in the following paragraphs of this section demonstrate how the two laws would interact with respect to a qualified individual with a disability.

(2) A qualified individual with a disability who is also an "eligible employee" entitled to FMLA leave requests 10 weeks of medical leave as a reasonable accommodation, which the employing office grants because it is not an undue hardship. The employing office advises the employee that the 10 weeks of leave is also being designated as FMLA leave and will count towards the employee's FMLA leave entitlement. This designation does not prevent the parties from also treating the leave as a reasonable accommodation and reinstating the employee into the *same* job, as required by the ADA, rather than an equivalent position under FMLA, if that is the greater right available to the employee. At the same time, the employee would be entitled under FMLA to have the employing office maintain group health plan coverage during the leave, as that requirement provides the greater right to the employee.

(3) If the same employee needed to work part-time (a reduced leave schedule) after returning to his or her same job, the employee would still be entitled under FMLA to have group health plan coverage maintained for the remainder of the two-week equivalent of FMLA leave entitlement, notwithstanding an employing office policy that part-time employees do not receive health insurance. This employee would be entitled under the ADA to reasonable accommodations to enable the employee to perform the essential functions of the part-time position. In addition, because the employee is working a part-time schedule as a reasonable accommodation, the employee would be shielded from FMLA's provision for temporary assignment to a different alternative position. Once the employee has exhausted his or her remaining FMLA leave entitlement while working the reduced (part-time) schedule, if the employee is a qualified individual with a disability, and if the employee is unable to return to the same full-time position at that time, the employee might continue to work part-time as a reasonable accommodation, barring undue hardship; the employee would then be entitled to only those employment benefits ordinarily provided by the employing office to part-time employees.

(4) At the end of the FMLA leave entitlement, an employing office is required under FMLA to reinstate the employee in the same or an equivalent position, with equivalent pay and benefits, to that which the employee held when leave commenced. The employing office's FMLA obligations would be satisfied if the employing office offered the employee an equivalent full-time position. If the employee were unable to perform the essential functions of that equivalent position even with reasonable accommodation, because of a disability, the ADA may require the employing office to make a reasonable accommodation at that time by allowing the employee to work part-time or by reassigning the employee to a vacant position, barring undue hardship.

(d)(1) If FMLA entitles an employee to leave, an employing office may not, in lieu of FMLA leave entitlement, *require* an employee to take a job with a reasonable accommodation. However, ADA may require that an employing office offer an employee the opportunity to take such a position. An employing office may not change the essential functions of the job in order to deny FMLA leave. See §825.220(b).

(2) An employee may be on a workers' compensation absence due to an on-the-job injury or illness which also qualifies as a serious health condition under FMLA. The workers' compensation absence and FMLA leave may run concurrently (subject to proper notice and designation by the employing office). At some point the health care provider providing medical care pursuant to the workers' compensation injury may certify the employee is able to return to work in a "light duty" position. If the employing office offers such a position, the employee is permitted but not required to accept the position (*see* §825.220(d)). As a result, the employee may no longer qualify for payments from the workers' compensation benefit plan, but the employee is entitled to continue on unpaid FMLA leave either until the employee is able to return to the same or equivalent job the employee left or until the 12-week FMLA leave entitlement is exhausted. See §825.207(d)(2). If the employee returning from the workers' compensation injury is a qualified individual with a disability, he or she will have rights under the ADA.

(e) If an employing office requires certifications of an employee's fitness for duty to return to work, as permitted by FMLA under a uniform policy, it must comply with the ADA requirement that a fitness for duty physical be job-related and consistent with business necessity.

(f) Under Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act, and as made applicable by the CAA, an employing office should provide the same benefits for women who are pregnant as the employing office provides to other employees with short-term disabilities. Because Title VII does not require employees to be employed for a certain period of time to be protected, an employee employed for less than 12 months by any employing office (and, therefore, not an "eligible" employee under FMLA, as made applicable by the CAA) may *not* be denied maternity leave if the employing office normally provides short-term disability benefits to employees with the same tenure who are experiencing other short-term disabilities.

(g) For further information on Federal anti-discrimination laws applied by section 201 of the CAA (2 U.S.C. 1311), including Title VII, the Rehabilitation Act, and the ADA, individuals are encouraged to contact the Office of Compliance.

SUBPART H—DEFINITIONS

§825.800 Definitions.

For purposes of this part:

ADA means the Americans With Disabilities Act (42 U.S.C. 12101 *et seq.*).

CAA means the Congressional Accountability Act of 1995 (Pub. Law 104–1, 109 Stat. 3, 2 U.S.C. 1301 *et seq.*).

COBRA means the continuation coverage requirements of Title X of the Consolidated Omnibus Budget Reconciliation Act of 1986 (Pub. Law 99–272, title X, section 10002; 100 Stat. 227; as amended; 29 U.S.C. 1161–1168).

Continuing treatment means: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(1) A period of *incapacity* (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(ii) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(2) Any period of incapacity due to pregnancy, or for prenatal care.

(3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(i) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(iii) May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, *etc.*).

(4) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(5) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), kidney disease (dialysis).

Covered employee—The term "covered employee", as defined in the CAA, means any employee of—(1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Office of Compliance; or (9) the Office of Technology Assessment.

Eligible employee—The term "eligible employee", as defined in the CAA, means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

Employ means to suffer or permit to work.

Employee means an employee as defined in the CAA and includes an applicant for employment and a former employee.

Employee employed in an instructional capacity. See Teacher.

Employee of the Capitol Police—The term "employee of the Capitol Police" includes any member or officer of the Capitol Police.

Employee of the House of Representatives—The term "employee of the House of Representatives" includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in

subparagraphs (3) through (9) under "covered employee" above.

Employee of the Office of the Architect of the Capitol—The term "employee of the Office of the Architect of the Capitol" includes any employee of the Office of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants.

Employee of the Senate—The term "employee of the Senate" includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Employing Office—The term "employing office", as defined in the CAA, means:

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

Employment benefits means all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office or through an employee benefit plan. The term does not include non-employment related obligations paid by employees through voluntary deductions such as supplemental insurance coverage. (See §825.209(a)).

FLSA means the Fair Labor Standards Act (29 U.S.C. 201 *et seq.*).

FMLA means the Family and Medical Leave Act of 1993, Public Law 103-3 (February 5, 1993), 107 Stat. 6 (29 U.S.C. 2601 *et seq.*).

Group health plan means the Federal Employees Health Benefits Program and any other plan of, or contributed to by, an employing office (including a self-insured plan) to provide health care (directly or otherwise) to the employing office's employees, former employees, or the families of such employees or former employees. For purposes of FMLA, as made applicable by the CAA, the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that:

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and,

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

Health care provider means:

(1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or

(2) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law; and

(3) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law; and

(4) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

(5) Any health care provider from whom an employing office or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

(6) A health care provider as defined above who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country.

"Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

Instructional employee: See *Teacher.*

Intermittent leave means leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.

Mental disability: See *Physical or mental disability.*

Office of Compliance means the independent office established in the legislative branch under section 301 of the CAA (2 U.S.C. 1381).

Parent means the biological parent of an employee or an individual who stands or stood in loco parentis to an employee when the employee was a child.

Physical or mental disability means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. See the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)).

Reduced leave schedule means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

Secretary means the Secretary of Labor or authorized representative.

Serious health condition entitling an employee to FMLA leave means: (1) an illness, injury, impairment, or physical or mental condition that involves:

(i) *Inpatient care* (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of *incapacity* (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(ii) *Continuing treatment* by a health care provider. A serious health condition involving continuing treatment by a health care provider includes:

(A) A period of *incapacity* (*i.e.*, inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(*1*) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(*2*) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(B) Any period of incapacity due to pregnancy, or for prenatal care.

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(*1*) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(*2*) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(*3*) May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, *etc.*).

(D) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(E) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), kidney disease (dialysis).

(2) Treatment for purposes of paragraph (1) of this definition includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (1)(ii)(A)(2) of this definition, a regimen of continuing treatment includes, for example, a course of prescription medication (*e.g.*, an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (*e.g.*, oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as

VOL
142
PT
6
AP
15
—
24
1996
UMI

aspirin, antihistamines, or salves; or bedrest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(3) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, *etc.*, are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(4) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(5) Absences attributable to incapacity under paragraphs (1)(ii)(B) or (C) of this definition qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.

Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

State means any State of the United States or the District of Columbia or any Territory or possession of the United States.

Teacher (or *employee employed in an instructional capacity*, or *instructional employee*) means an employee employed principally in an instructional capacity by an educational agency or school whose principal function is to teach and instruct students in a class, a small group, or an individual setting, and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily noninstructional employees.

APPENDIX A TO PART 825—[RESERVED]

APPENDIX B TO PART 825—CERTIFICATION OF PHYSICIAN OR PRACTITIONER

CERTIFICATION OF HEALTH CARE PROVIDER (FAMILY AND MEDICAL LEAVE ACT OF 1993 AS MADE APPLICABLE BY THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

1. Employee's Name:

2. Patient's Name (if different from employee):

3. The attached sheet describes what is meant by a "serious health condition" under the Family and Medical Leave Act as made applicable by the Congressional Accountability Act. Does the patient's condition qualify under any of the categories described? If so, please check the applicable category.

(1)___ (2)___ (3)___ (4)___ (5)___ (6)___, or None of the above ___

4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

5.a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity if different):

b. Will it be necessary for the employee to take work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in Item 6 below)? _____

If yes, give probable duration:

c. If the condition is a chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.

6.a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments:

If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments:

c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

7.a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind? _____

b. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)? ___ If yes, please list the essential functions the employee is unable to perform:

c. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment? _____

8.a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? _____

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? _____

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:

(Signature of Health Care Provider):

(Address):

(Type of Practice):

(Telephone number):

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

(Employee signature):

(Date):

A "Serious Health Condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. *Hospital Care:* Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.

2. *Absence Plus Treatment:*

(a) A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:

(1) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider: or

(2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

3. *Pregnancy:* Any period of incapacity due to pregnancy, or for prenatal care.

4. *Chronic Conditions Requiring Treatments:* A chronic condition which:

(1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(3) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, *etc.*)

5. *Permanent/Long-term Conditions Requiring Supervision:* A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6. *Multiple Treatments (Non-Chronic Conditions):* Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

APPENDIX C TO PART 825—[RESERVED]

APPENDIX D TO PART 825—PROTOTYPE NOTICE: EMPLOYING OFFICE RESPONSE TO EMPLOYEE REQUEST FOR FAMILY AND MEDICAL LEAVE

Employing Office Response to Employee Request for Family or Medical Leave

(Optional use form—see § 825.301(b)(1) of the regulations of the Office of Compliance)

(Family and Medical Leave Act of 1993, as made applicable by the Congressional Accountability Act of 1995)

(Date):
To: ________________
(Employee's name)
From: ________________
(Name of appropriate employing office representative)

Subject: Request for Family/Medical Leave

On (*date*) ________, you notified us of your need to take family/medical leave due to:

☐ the birth of your child, or the placement of a child with you for adoption or foster care; or

☐ a serious health condition that makes you unable to perform the essential functions of your job; or

☐ a serious health condition affecting your ☐ spouse, ☐ child, ☐ parent, for which you are needed to provide care.

You notified us that you need this leave beginning on (*date*) ________ and that you expect leave to continue until on or about ________.

Except as explained below, you have a right under the FMLA, as made applicable by the CAA, for up to 12 weeks of unpaid leave in a 12-month period for the reasons listed above. Also, your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work, and you must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from leave. If you do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (2) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

This is to inform you that: (*check appropriate boxes; explain where indicated*)

1. You are ☐ eligible ☐ not eligible for leave under the FMLA as made applicable by the CAA.

2. The requested leave ☐ will ☐ will not be counted against your annual FMLA leave entitlement.

3. You ☐ will ☐ will not be required to furnish medical certification of a serious health condition. If required, you must furnish certification by ________ (*insert date*) (must be at least 15 days after you are notified of this requirement) or we may delay the commencement of your leave until the certification is submitted.

4. You may elect to substitute accrued paid leave for unpaid FMLA leave. We ☐ will ☐ will not require that you substitute accrued paid leave for unpaid FMLA leave. If paid leave will be used the following conditions will apply: (*Explain*)

5(a). If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments as follows: (*Set forth dates, e.g., the 10th of each month, or pay periods, etc.* that specifically cover the agreement with the employee.)

(b). You have a minimum 30-day (*or, indicate longer period, if applicable*) grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, *provided* we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work. We ☐ will ☐ will not pay your share of health insurance premiums while you are on leave.

(c). We ☐ will ☐ will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on FMLA leave. If we do pay your premiums for other benefits, when you return from leave you ☐ will ☐ will not be expected to reimburse us for the payments made on your behalf.

6. You ☐ will ☐ will not be required to present a fitness-for-duty certificate prior to being restored to employment. If such certification is required but not received, your return to work may be delayed until the certification is provided.

7(a). You ☐ are ☐ are not a "key employee" as described in §825.218 of the Office of Compliance's FMLA regulations. If you are a "key employee," restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us.

(b). We ☐ have ☐ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. (*Explain (a) and/or (b) below. See § 825.219 of the Office of Compliance's FMLA regulations.*)

8. While on leave, you ☐ will ☐ will not be required to furnish us with periodic reports every ___ (*indicate interval of periodic reports, as appropriate for the particular leave situation) of your status and intent to return to work (See § 825.309 of the Office of Compliance's FMLA regulations)*. If the circumstances of your leave change and you are able to return to work earlier than the date indicated on the reverse side of this form, you ☐ will ☐ will not be required to notify us at least two work days prior to the date you intend to report for work.

9. You ☐ will ☐ will not be required to furnish recertification relating to a serious health condition. (*Explain below, if necessary, including the interval between certifications as prescribed in § 825.308 of the Office of Compliance's FMLA regulations.*)

APPENDIX E TO PART 825—[RESERVED]

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

NOTICE OF ISSUANCE OF FINAL REGULATION

On January 22, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record final regulations implementing Sections 204(a) and (b) of the Congressional Accountability Act of 1995 ("CAA"), which relate to the Employee Polygraph Protection Act of 1988. On April 15, 1996, pursuant to section 304(c) of the CAA, the House and the Senate agreed to resolutions approving the final regulations. Specifically, the Senate agreed to S. Res. 242, to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate; the House agreed to H. Res. 400, to provide for the approval of final regulations that are applicable to the House and the employees of the House; and the House and the Senate agreed to S. Con. Res. 51, to provide for approval of final regulations that are applicable to employing offices and employees other than those offices and employees of the House and the Senate. Accordingly, pursuant to section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for the regulations to become effective on April 16, 1996, rather than 60 days after issuance. Were the regulations not effective immediately upon the expiration of the interim regulations on April 15, 1996, covered employees, employing offices and the Office of Compliance would be forced to operate under the same kind of regulatory uncertainty that the Board sought to avoid by adopting interim regulations effective as of January 23, 1996, the effective date of the relevant provisions of the CAA.

Signed at Washington, D.C. on this 19th day of April, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby issues the following final regulations:

[Final Regulations]

Application of Rights and Protections of the Employee Polygraph Protection Act of 1988

Subpart A—General

Section—
1.1 Purpose and scope.
1.2 Definitions.
1.3 Coverage.
1.4 Prohibitions on lie detector use.
1.5 Effect on other laws or agreements.
1.6 Notice of protection.
1.7 Authority of the Board.
1.8 Employment relationship.
Subpart B—Exemptions
1.10 Exclusion for employees of the Capitol Police. [Reserved]
1.11 Exemption for national defense and security.
1.12 Exemption for employing offices conducting investigations of economic loss or injury.
1.13 Exemption for employing offices authorized to manufacture, distribute, or dispense controlled substances
Subpart C—Restrictions on Polygraph Usage Under Exemptions
1.20 Adverse employment action under ongoing investigation exemption.
1.21 Adverse employment action under controlled substance exemption.
1.22 Rights of examinee—general.
1.23 Rights of examinee—pretest phase.
1.24 Rights of examinee—actual testing phase.
1.25 Rights of examinee—post-test phase.
1.26 Qualifications of and requirements for examiners.
Subpart D—Recordkeeping and Disclosure Requirements
1.30 Records to be preserved for 3 years.
1.35 Disclosure of test information.
Appendix A—Notice to Examinee

Authority: Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. 1314(c) .

SUBPART A—GENERAL

Sec. 1.1 Purpose and scope.

Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA") directly applies the rights and protections of

VOL
142
PT
6
AP
15
—
24
1996
UMI

eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 204(a) of the CAA, 2 U.S.C. §1314(a) provides that no employing office may require any covered employee (including a covered employee who does not work in that employing office) to take a lie detector test where such test would be prohibited if required by an employer under paragraphs (1), (2) or (3) of section 3 of the Employee Polygraph Protection Act of 1988 (EPPA), 29 U.S.C. §2002(1), (2) or (3). The purpose of this part is to set forth the regulations to carry out the provisions of Section 204 of the CAA.

Subpart A contains the provisions generally applicable to covered employers, including the requirements relating to the prohibitions on lie detector use. Subpart B sets forth rules regarding the statutory exemptions from application of section 204 of the CAA. Subpart C sets forth the restrictions on polygraph usage under such exemptions. Subpart D sets forth the rules on recordkeeping and the disclosure of polygraph test information.

Sec. 1.2 Definitions

For purposes of this part:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) *EPPA* means the Employee Polygraph Protection Act of 1988 (Pub. L. 100-347, 102 Stat. 646, 29 U.S.C. §§2001-2009) as applied to covered employees and employing offices by Section 204 of the CAA.

(c) The term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Congressional Budget Office; (5) the Office of the Architect of the Capitol; (6) the Office of the Attending Physician; (7) the Office of Compliance; or (8) the Office of Technology Assessment.

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means (1) the personal office of a Member of the House of Representatives or of a Senator; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment. The term *employing office* includes any person acting directly or indirectly in the interest of an employing office in relation to an employee or prospective employee. A polygraph examiner either employed for or whose services are retained for the sole purpose of administering polygraph tests ordinarily would not be deemed an employing office with respect to the examinees. Any reference to "employer" in these regulations includes employing offices.

(j) (1) The term *lie detector* means a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical or electrical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual. Voice stress analyzers, or psychological stress evaluators, include any systems that utilize voice stress analysis, whether or not an opinion on honesty or dishonesty is specifically rendered. (2) The term *lie detector* does not include medical tests used to determine the presence or absence of controlled substances or alcohol in bodily fluids. Also not included in the definition of *lie detector* are written or oral tests commonly referred to as "honesty" or "paper and pencil" tests, machine-scored or otherwise; and graphology tests commonly referred to as handwriting tests.

(k) The term *polygraph* means an instrument that—

(1) Records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards; and

(2) Is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(l) *Board* means the Board of Directors of the Office of Compliance.

(m) *Office* means the Office of Compliance.

Sec. 1.3 Coverage.

The coverage of Section 204 of the Act extends to any "covered employee" or "covered employing office" without regard to the number of employees or the employing office's effect on interstate commerce.

Sec. 1.4 Prohibitions on lie detector use.

(a) Section 204 of the CAA provides that, subject to the exemptions of the EPPA incorporated into the CAA under section 225(f) of the CAA, as set forth in Sec. 1.10 through 1.12 of this Part, employing offices are prohibited from:

(1) Requiring, requesting, suggesting or causing, directly or indirectly, any covered employee or prospective employee to take or submit to a lie detector test;

(2) Using, accepting, or inquiring about the results of a lie detector test of any covered employee or prospective employee; and

(3) Discharging, disciplining, discriminating against, denying employment or promotion, or threatening any covered employee or prospective employee to take such action for refusal or failure to take or submit to such test, or on the basis of the results of a test. The above prohibitions apply irrespective of whether the covered employee referred to in paragraphs (1), (2) or (3), above, works in that employing office.

(b) An employing office that reports a theft or other incident involving economic loss to police or other law enforcement authorities is not engaged in conduct subject to the prohibitions under paragraph (a) of this section if, during the normal course of a subsequent investigation, such authorities deem it necessary to administer a polygraph test to a covered employee(s) suspected of involvement in the reported incident. Employing offices that cooperate with police authorities during the course of their investigations into criminal misconduct are likewise not deemed engaged in prohibitive conduct provided that such cooperation is passive in nature. For example, it is not uncommon for police authorities to request employees suspected of theft or criminal activity to submit to a polygraph test during the employee's tour of duty since, as a general rule, suspect employees are often difficult to locate away from their place of employment. Allowing a test on the employing office's premises, releasing a covered employee during working hours to take a test at police headquarters, and other similar types of cooperation at the request of the police authorities would not be construed as "requiring, requesting, suggesting, or causing, directly or indirectly, any covered employee * * * to take or submit to a lie detector test." Cooperation of this type must be distinguished from actual participation in the testing of employees suspected of wrongdoing, either through the administration of a test by the employing office at the request or direction of police authorities, or through reimbursement by the employing office of tests administered by police authorities to employees. In some communities, it may be a practice of police authorities to request testing by employing offices of employees before a police investigation is initiated on a reported incident. In other communities, police examiners are available to covered employing offices, on a cost reimbursement basis, to conduct tests on employees suspected by an employing office of wrongdoing. All such conduct on the part of employing offices is deemed within the prohibitions of section 204 of the CAA.

(c) The receipt by an employing office of information from a polygraph test administered by police authorities pursuant to an investigation is prohibited by section 3(2) of the EPPA. (*See* paragraph (a)(2) of this section.)

(d) The simulated use of a polygraph instrument so as to lead an individual to believe that an actual test is being or may be performed (e.g., to elicit confessions or admissions of guilt) constitutes conduct prohibited by paragraph (a) of this section. Such use includes the connection of a covered employee or prospective employee to the instrument without any intention of a diagnostic purpose, the placement of the instrument in a room used for interrogation unconnected to the covered employee or prospective employee, or the mere suggestion that the instrument may be used during the course of the interview.

(e) The Capitol Police may not require a covered employee not employed by the Capitol Police to take a lie detector test (on its own initiative or at the request of another employing office) except where the Capitol Police administers such lie detector test as part of an "ongoing investigation" by the Capitol Police. For the purpose of this subsection, the definition of "ongoing investigation" contained section 1.12(b) shall apply.

Sec. 1.5 Effect on other laws or agreements.

(a) Section 204 of the CAA does not preempt any otherwise applicable provision of federal law or any rule or regulation of the House or Senate or any negotiated collective bargaining agreement that prohibits lie detector tests or is more restrictive with respect to the use of lie detector tests.

(b)(1) This provision applies to all aspects of the use of lie detector tests, including procedural safeguards, the use of test results, the rights and remedies provided examinees, and the rights, remedies, and responsibilities of examiners and employing offices.

(2) For example, a collective bargaining agreement that provides greater protection to an examinee would apply in addition to the protection provided in section 204 of the CAA.

Sec. 1.6 Notice of protection.

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 204 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

Sec. 1.7 Authority of the Board.

Pursuant to sections 204 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections of the EPPA. Section 204(c) directs the Board to promulgate regulations implementing section 204 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 204 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA]."

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

Sec. 1.8 Employment relationship.

Subject to the exemptions incorporated into the CAA by section 225(f), section 204 applies the prohibitions on the use of lie detectors by employing offices with respect to covered employees irrespective of whether a covered employee works in that employing office. Sections 101(3), (4) and 204 of the CAA also apply EPPA prohibitions against discrimination to applicants for employment and former employees of a covered employing office. For example, an employee may quit rather than take a lie detector test. The employing office cannot discriminate or threaten to discriminate in any manner against that person (such as by providing bad references in the future) because of that person's refusal to be tested. Similarly, an employing office cannot discriminate or threaten to discriminate in any manner against that person because that person files a complaint, institutes a proceeding, testifies in a proceeding, or exercises any right under section 204 of the CAA. (*See* section 207 of the CAA.)

SUBPART B—EXEMPTIONS

Sec. 1.10 Exclusion for employees of the Capitol Police. [Reserved]

Sec. 1.11 Exemption for national defense and security.

(a) The exemptions allowing for the administration of lie detector tests in the following paragraphs (b) through (e) of this section apply only to the Federal Government; they do not allow covered employing offices to administer such tests. For the purposes of this section, the term "Federal Government" means any agency or entity within the Federal Government authorized to administer polygraph examinations which is otherwise exempt from coverage under section 7(a) of the EPPA, 29 U.S.C. §2006(a).

(b) Section 7(b)(1) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any counterintelligence function, to any expert, consultant or employee of any contractor under contract with the Department of Defense; or with the Department of Energy, in connection with the atomic energy defense activities of such Department.

(c) Section 7(b)(2)(A) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function of the National Security Agency, the Defense Intelligence Agency, or the Central Intelligence Agency, to any individual employed by, assigned to, or detailed to any such agency; or any expert or consultant under contract to any such agency; or any employee of a contractor to such agency; or any individual applying for a position in any such agency; or any individual assigned to a space where sensitive cryptologic information is produced, processed, or stored for any such agency.

(d) Section 7(b)(2)(B) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function, to any covered employee whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.2(a) of Executive Order 12356 (or a successor Executive Order).

(c) *Counterintelligence* for purposes of the above paragraphs means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, terrorist activities, or assassinations conducted for or on behalf of foreign governments, or foreign or domestic organizations or persons.

(d) Lie detector tests of persons described in the above paragraphs will be administered in accordance with applicable Department of Defense directives and regulations, or other regulations and directives governing the use of such tests by the United States Government, as applicable.

Sec. 1.12 Exemption for employing offices conducting investigations of economic loss or injury.

(a) Section 7(d) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides a limited exemption from the general prohibition on lie detector use for employers conducting ongoing investigations of economic loss or injury to the employer's business. An employing office may request an employee, subject to the conditions set forth in sections 8 and 10 of the EPPA and Secs. 1.20, 1.22, 1.23, 1.24, 1.25, 1.26 and 1.35 of this part, to submit to a polygraph test, but no other type of lie detector test, only if—

(1) The test is administered in connection with an ongoing investigation involving economic loss or injury to the employing office's operations, such as theft, embezzlement, misappropriation or an act of unlawful industrial espionage or sabotage;

(2) The employee had access to the property that is the subject of the investigation;

(3) The employing office has a reasonable suspicion that the employee was involved in the incident or activity under investigation;

(4) The employing office provides the examinee with a statement, in a language understood by the examinee, prior to the test which fully explains with particularity the specific incident or activity being investigated and the basis for testing particular employees and which contains, at a minimum:

(i) An identification with particularity of the specific economic loss or injury to the operations of the employing office;

(ii) A description of the employee's access to the property that is the subject of the investigation;

(iii) A description in detail of the basis of the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; and

(iv) Signature of a person (other than a polygraph examiner) authorized to legally bind the employing office; and

(5) The employing office retains a copy of the statement and proof of service described in paragraph (a)(4) of this section for at least 3 years.

(b) For the exemption to apply, the condition of an ongoing investigation must be met. As used in section 7(d) of the EPPA, the ongoing investigation must be of a specific incident or activity. Thus, for example, an employing office may not request that an employee or employees submit to a polygraph test in an effort to determine whether or not any thefts have occurred. Such random testing by an employing office is precluded by the EPPA. Further, because the exemption is limited to a specific incident or activity, an employing office is precluded from using the exemption in situations where the so-called "ongoing investigation" is continuous. For example, the fact that items are frequently missing would not be a sufficient basis, standing alone, for administering a polygraph test. Even if the employing office can establish that unusually high amounts of property are missing in a given month, this, in and of itself, would not be a sufficient basis to meet the specific incident requirement. On the other hand, polygraph testing in response to missing property would be permitted where additional evidence is obtained through subsequent investigation of specific items missing through intentional wrongdoing, and a "reasonable suspicion that the employee to be polygraphed was involved" in the incident under investigation. Administering a polygraph test in circumstances where the missing property is merely unspecified, statistical shortages, without identification of a specific incident or activity that produced the missing property and a reasonable suspicion that the employee was involved,

VOL 142 PT 6 AP 15 — 24 1996 UMI

would amount to little more than a fishing expedition and is prohibited by the EPPA as applied to covered employees and employing offices by the CAA.

(c)(1)(i) The terms *economic loss or injury to the employing office's operations* include both direct and indirect economic loss or injury.

(ii) Direct loss or injury includes losses or injuries resulting from theft, embezzlement, misappropriation, espionage or sabotage. These examples, cited in the EPPA, are intended to be illustrative and not exhaustive. Another specific incident which would constitute direct economic loss or injury is the misappropriation of confidential or trade secret information.

(iii) Indirect loss or injury includes the use of an employing office's operations to commit a crime, such as check-kiting or money laundering. In such cases, the ongoing investigation must be limited to criminal activity that has already occurred, and to use of the employing office's operations (and not simply the use of the premises) for such activity. For example, the use of an employing office's vehicles, warehouses, computers or equipment to smuggle or facilitate the importing of illegal substances constitutes an indirect loss or injury to the employing office's business operations. Conversely, the mere fact that an illegal act occurs on the employing office's premises (such as a drug transaction that takes place in the employing office's parking lot or rest room) does not constitute an indirect economic loss or injury to the employing office.

(iv) Indirect loss or injury also includes theft or injury to property of another for which the employing office exercises fiduciary, managerial or security responsibility, or where the office has custody of the property (but not property of other offices to which the employees have access by virtue of the employment relationship). For example, if a maintenance employee of the manager of an apartment building steals jewelry from a tenant's apartment, the theft results in an indirect economic loss or injury to the employer because of the manager's management responsibility with respect to the tenant's apartment. A messenger on a delivery of confidential business reports for a client firm who steals the reports causes an indirect economic loss or injury to the messenger service because the messenger service is custodian of the client firm's reports, and therefore is responsible for their security. Similarly, the theft of property protected by a security service employer is considered an economic loss or injury to that employer.

(v) A theft or injury to a client firm does not constitute an indirect loss or injury to an employing office unless that employing office has custody of, or management, or security responsibility for, the property of the client that was lost or stolen or injured. For example, a cleaning contractor has no responsibility for the money at a client bank. If money is stolen from the bank by one of the cleaning contractor's employees, the cleaning contractor does not suffer an indirect loss or injury.

(vi) Indirect loss or injury does not include loss or injury which is merely threatened or potential, e.g., a threatened or potential loss of an advantageous business relationship.

(2) Economic losses or injuries which are the result of unintentional or lawful conduct would not serve as a basis for the administration of a polygraph test. Thus, apparently unintentional losses or injuries stemming from truck, car, workplace, or other similar type accidents or routine inventory or cash register shortages would not meet the economic loss or injury requirement. Any economic loss incident to lawful union or employee activity also would not satisfy this requirement.

(3) It is the operations of the employing office which must suffer the economic loss or injury. Thus, a theft committed by one employee against another employee of the same employing office would not satisfy the requirement.

(d) While nothing in the EPPA as applied by the CAA prohibits the use of medical tests to determine the presence of controlled substances or alcohol in bodily fluids, the section 7(d) exemption of the EPPA does not permit the use of a polygraph test to learn whether an employee has used drugs or alcohol, even where such possible use may have contributed to an economic loss to the employing office (e.g., an accident involving an employing office's vehicle).

(e) Section 7(d)(2) of the EPPA provides that, as a condition for the use of the exemption, the employee must have had access to the property that is the subject of the investigation.

(1) The word *access*, as used in section 7(d)(2), refers to the opportunity which an employee had to cause, or to aid or abet in causing, the specific economic loss or injury under investigation. The term "access", thus, includes more than direct or physical contact during the course of employment. For example, as a general matter, all employees working in or with authority to enter a property storage area have "access" to unsecured property in the area. All employees with the combination to a safe have "access" to the property in a locked safe. Employees also have "access" who have the ability to divert possession or otherwise affect the disposition of the property that is the subject of investigation. For example, a bookkeeper in a jewelry store with access to inventory records may aid or abet a clerk who steals an expensive watch by removing the watch from the employing office's inventory records. In such a situation, it is clear that the bookkeeper effectively has "access" to the property that is the subject of the investigation. (2) As used in section 7(d)(2), *property* refers to specifically identifiable property, but also includes such things of value as security codes and computer data, and proprietary, financial or technical information, such as trade secrets, which by its availability to competitors or others would cause economic harm to the employing office. (f)(1) As used in section 7(d)(3), the term "reasonable suspicion" refers to an observable, articulable basis in fact which indicates that a particular employee was involved in, or responsible for, an economic loss. Access in the sense of possible or potential opportunity, standing alone, does not constitute a basis for "reasonable suspicion." Information from a co-worker, or an employee's behavior, demeanor, or conduct may be factors in the basis for reasonable suspicion. Likewise, inconsistencies between facts, claims, or statements that surface during an investigation can serve as a sufficient basis for reasonable suspicion. While access or opportunity, standing alone, does not constitute a basis for "reasonable suspicion", the totality of circumstances surrounding the access or opportunity (such as its unauthorized or unusual nature or the fact that access was limited to a single individual) may constitute a factor in determining whether there is a reasonable suspicion.

(2) For example, in an investigation of a theft of an expensive piece of jewelry, an employee authorized to open the establishment's safe no earlier than 9 a.m., in order to place the jewelry in a window display case, is observed opening the safe at 7:30 a.m. In such a situation, the opening of the safe by the employee one and one-half hours prior to the specified time may serve as the basis for reasonable suspicion. On the other hand, in the example given, if the employee is asked to bring the piece of jewelry to his or her office at 7:30 a.m., and the employee then opened the safe and reported the jewelry missing, such access, standing alone, would not constitute a basis for reasonable suspicion that the employee was involved in the incident unless access to the safe was limited solely to the employee. If no one other than the employee possessed the combination to the safe, and all other possible explanations for the loss are ruled out, such as a break-in, a basis for reasonable suspicion may be formulated based on sole access by one employee.

(3) The employing office has the burden of establishing that the specific individual or individuals to be tested are "reasonably suspected" of involvement in the specific economic loss or injury for the requirement in section 7(d)(3) of the EPPA to be met.

(g)(1) As discussed in paragraph (a)(4) of this section, section 7(d)(4) of the EPPA sets forth what information, at a minimum, must be provided to an employee if the employing office wishes to claim the exemption.

(2) The statement required under paragraph (a)(4) of this section must be received by the employee at least 48 hours, excluding weekend days and holidays, prior to the time of the examination. The statement must set forth the time and date of receipt by the employee and be verified by the employee's signature. This will provide the employee with adequate pre-test notice of the specific incident or activity being investigated and afford the employee sufficient time prior to the test to obtain and consult with legal counsel or an employee representative.

(3) The statement to be provided to the employee must set forth with particularity the specific incident or activity being investigated and the basis for testing particular employees. Section 7(d)(4)(A) of the EPPA requires specificity beyond the mere assertion of general statements regarding economic loss, employee access, and reasonable suspicion. For example, an employing office's assertion that an expensive watch was stolen, and that the employee had access to the watch and is therefore a suspect, would not meet the "with particularity" criterion. If the basis for an employing office's requesting an employee (or employees) to take a polygraph test is not articulated with particularity, and reduced to writing, then the standard is not met. The identity of a coworker or other individual providing information used to establish reasonable suspicion need not be revealed in the statement.

(4) It is further required that the statement provided to the examinee be signed by the employing office, or an employee or other representative of the employing office with authority to legally bind the employing office. The person signing the statement must not be a polygraph examiner unless the examiner is acting solely in the capacity of an employing office with respect to his or her own employees and does not conduct the examination. The standard would not be met, and the exemption would not apply if the person signing the statement is not authorized to legally bind the employing office.

(h) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in Secs. 1.20, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to remedial actions, as provided for in section 6(c) of the EPPA.

Sec. 1.13 Exemption of employing offices authorized to manufacture, distribute, or dispense controlled substances.

(a) Section 7(f) of the EPPA, incorporated into the CAA by section 225(f) of the CAA, provides an exemption from the EPPA's general prohibition regarding the use of polygraph tests for employers authorized to manufacture, distribute, or dispense a controlled substance listed in schedule I, II, III, or IV of section 202 of the Controlled Substances Act (21 U.S.C. §812). This exemption permits the administration of polygraph tests, subject to the conditions set forth in sections 8 and 10 of the EPPA and Sec. 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part, to:

(1) A prospective employee who would have direct access to the manufacture, storage, distribution, or sale of any such controlled substance; or

(2) a current employee if the following conditions are met:

(i) The test is administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employing office; and

(ii) The employee had access to the person or property that is the subject of the investigation.

(b)(1) The terms *manufacture, distribute, distribution, dispense, storage, and sale*, for the purposes of this exemption, are construed within the meaning of the Controlled Substances Act (21 U.S.C. §812 et seq.), as administered by the Drug Enforcement Administration (DEA), U.S. Department of Justice.

(2) The exemption in section 7(f) of the EPPA applies only to employing offices that are authorized by DEA to manufacture, distribute, or dispense a controlled substance. Section 202 of the Controlled Substances Act (21 U.S.C. §812) requires every person who manufactures, distributes, or dispenses any controlled substance to register with the Attorney General (i.e., with DEA). Common or contract carriers and warehouses whose possession of the controlled substance is in the usual course of their business or employment are not required to register. Truck drivers and warehouse employees of the persons or entities registered with DEA and authorized to manufacture, distribute, or dispense controlled substances, are within the scope of the exemption where they have direct access or access to the controlled substances, as discussed below.

(c) In order for a polygraph examination to be performed, section 7(f) of the Act requires that a prospective employee have "direct access" to the controlled substance(s) manufactured, dispensed, or distributed by the employing office. Where a current employee is to be tested as a part of an ongoing investigation, section 7(f) requires that the employee have "access" to the person or property that is the subject of the investigation.

(1) A prospective employee would have "direct access" if the position being applied for has responsibilities which include contact with or which affect the disposition of a controlled substance, including participation in the process of obtaining, dispensing, or otherwise distributing a controlled substance. This includes contact or direct involvement in the manufacture, storage, testing, distribution, sale or dispensing of a controlled substance and may include, for example, packaging, repackaging, ordering, licensing, shipping, receiving, taking inventory, providing security, prescribing, and handling of a controlled substance. A prospective employee would have "direct access" if the described job duties would give such person access to the products in question, whether such employee would be in physical proximity to controlled substances or engaged in activity which would permit the employee to divert such substances to his or her possession.

(2) A current employee would have "access" within the meaning of section 7(f) if the employee had access to the specific person or property which is the subject of the on-going investigation, as discussed in Sec. 1.12(e) of this part. Thus, to test a current employee, the employee need not have had "direct" access to the controlled substance, but may have had only infrequent, random, or opportunistic access. Such access would be sufficient to test the employee if the employee could have caused, or could have aided or abetted in causing, the loss of the specific property which is the subject of the investigation. For example, a maintenance worker in a drug warehouse, whose job duties include the cleaning of areas where the controlled substances which are the subject of the investigation were present, but whose job duties do not include the handling of controlled substances, would be deemed to have "access", but normally not "direct access", to the controlled substances. On the other hand, a drug warehouse truck loader, whose job duties include the handling of outgoing shipment orders which contain controlled substances, would have "direct access" to such controlled substances. A pharmacy department in a supermarket is another common situation which is useful in illustrating the distinction between "direct access" and "access." Store personnel receiving pharmaceutical orders, i.e., the pharmacist, pharmacy intern, and other such employees working in the pharmacy department, would ordinarily have "direct access" to controlled substances. Other store personnel whose job duties and responsibilities do not include the handling of controlled substances but who had occasion to enter the pharmacy department where the controlled substances which are the subject of the investigation were stored, such as maintenance personnel or pharmacy cashiers, would have "access." Certain other store personnel whose job duties do not permit or require entrance into the pharmacy department for any reason, such as produce or meat clerks, checkout cashiers, or baggers, would not ordinarily have "access." However, any current employee, regardless of described job duties, may be polygraphed if the employing office's investigation of criminal or other misconduct discloses that such employee in fact took action to obtain "access" to the person or property that is the subject of the investigation—e.g., by actually entering the drug storage area in violation of company rules. In the case of "direct access", the prospective employee's access to controlled substances would be as a part of the manufacturing, dispensing or distribution process, while a current employee's "access" to the controlled substances which are the subject of the investigation need only be opportunistic.

(d) The term *prospective employee*, for the purposes of this section, includes a current employee who presently holds a position which does not entail direct access to controlled substances, and therefore is outside the scope of the exemption's provisions for preemployment polygraph testing, provided the employee has applied for and is being considered for transfer or promotion to another position which entails such direct access. For example, an office secretary may apply for promotion to a position in the vault or cage areas of a drug warehouse, where controlled substances are kept. In such a situation, the current employee would be deemed a "prospective employee" for the purposes of this exemption, and thus could be subject to preemployment polygraph screening, prior to such a change in position. However, any adverse action which is based in part on a polygraph test against a current employee who is considered a "prospective employee" for purposes of this section may be taken only with respect to the prospective position and may not affect the employee's employment in the current position.

(e) Section 7(f) of the EPPA, as applied by the CAA, makes no specific reference to a requirement that employing offices provide current employees with a written statement prior to polygraph testing. Thus, employing offices to whom this exemption is available are not required to furnish a written statement such as that specified in section 7(d) of the EPPA and Sec. 1.12(a)(4) of this part.

(f) For the section 7(f) exemption to apply, the polygraph testing of current employees must be administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employing office.

(1) Current employees may only be administered polygraph tests in connection with an ongoing investigation of criminal or other misconduct, relating to a specific incident or activity, or potential incident or activity. Thus, an employing office is precluded from using the exemption in connection with continuing investigations or on a random basis to determine if thefts are occurring. However, unlike the exemption in section 7(d) of the EPPA for employing offices conducting ongoing investigations of economic loss or injury, the section 7(f) exemption includes ongoing investigations of misconduct involving potential drug losses. Nor does the latter exemption include the requirement for "reasonable suspicion" contained in the section 7(d) exemption. Thus, a drug store operator is permitted to polygraph all current employees who have access to a controlled substance stolen from the inventory, or where there is evidence that such a theft is planned. Polygraph testing based on an inventory shortage of the drug during a particular accounting period would not be permitted unless there is extrinsic evidence of misconduct.

(2) In addition, the test must be administered in connection with loss or injury, or potential loss or injury, to the manufacture, distribution, or dispensing of a controlled substance.

(i) Retail drugstores and wholesale drug warehouses typically carry inventory of so-called health and beauty aids, cosmetics, over-the-counter drugs, and a variety of other similar products, in addition to their product lines of controlled drugs. The non-controlled products usually constitute the majority of such firms' sales volumes. An economic loss or injury related to such non-controlled substances would not constitute a basis of applicability of the section 7(f) exemption. For example, an investigation into

VOL
142
PT
6
AP
15
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the theft of a gross of cosmetic products could not be a basis for polygraph testing under section 7(f), but the theft of a container of Valium could be.

(ii) Polygraph testing, with respect to an ongoing investigation concerning products other than controlled substances might be initiated under section 7(d) of the EPPA and Sec. 1.12 of this part. However, the exemption in section 7(f) of the EPPA and this section is limited solely to losses or injury associated with controlled substances.

(g) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in Secs. 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to the remedies authorized in section 204 of the CAA. The administration of such tests is also subject to collective bargaining agreements, which may either prohibit lie detector tests, or contain more restrictive provisions with respect to polygraph testing.

SUBPART C—RESTRICTIONS ON POLYGRAPH USAGE UNDER EXEMPTIONS

Sec. 1.20 Adverse employment action under ongoing investigation exemption.

(a) Section 8(a)(1) of the EPPA provides that the limited exemption in section 7(d) of the EPPA and Sec. 1.12 of this part for ongoing investigations shall not apply if an employing office discharges, disciplines, denies employment or promotion or otherwise discriminates in any manner against a current employee based upon the analysis of a polygraph test chart or the refusal to take a polygraph test, without additional supporting evidence.

(b) "Additional supporting evidence", for purposes of section 8(a) of the EPPA, includes, but is not limited to, the following:

(1)(i) Evidence indicating that the employee had access to the missing or damaged property that is the subject of an ongoing investigation; and

(ii) Evidence leading to the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; or

(2) Admissions or statements made by an employee before, during or following a polygraph examination.

(c) Analysis of a polygraph test chart or refusal to take a polygraph test may not serve as a basis for adverse employment action, even with additional supporting evidence, unless the employing office observes all the requirements of sections 7(d) and 8(b) of the EPPA, as applied by the CAA and described in Secs. 1.12, 1.22, 1.23, 1.24 and 1.25 of this part.

Sec. 1.21 Adverse employment action under controlled substance exemption.

(a) Section 8(a)(2) of the EPPA provides that the controlled substance exemption in section 7(f) of the EPPA and section 1.13 of this part shall not apply if an employing office discharges, disciplines, denies employment or promotion, or otherwise discriminates in any manner against a current employee or prospective employee based solely on the analysis of a polygraph test chart or the refusal to take a polygraph test.

(b) Analysis of a polygraph test chart or refusal to take a polygraph test may serve as one basis for adverse employment actions of the type described in paragraph (a) of this section, provided that the adverse action was also based on another bona fide reason, with supporting evidence therefor. For example, traditional factors such as prior employment experience, education, job performance, etc. may be used as a basis for employment decisions. Employment decisions based on admissions or statements made by an employee or prospective employee before, during or following a polygraph examination may, likewise, serve as a basis for such decisions.

(c) Analysis of a polgraph test chart or the refusal to take a polygraph test may not serve as a basis for adverse employment action, even with another legitimate basis for such action, unless the employing office observes all the requirements of section 7(f) of the EPPA, as appropriate, and seciton 8(b) of the EPPA, as described in sections 1.13, 1.22, 1.23, 1.24 and 1.25 of this part.

Sec. 1.22 Rights of examinee—general.

(a) Pursuant to section 8(b) of the EPPA, the limited exemption in section 7(d) of the EPPA for ongoing investigations (described in Secs. 1.12 and 1.13 of this part) shall not apply unless all of the requirements set forth in this section and Secs. 1.23 through 1.25 of this part are met.

(b) During all phases of the polygraph testing the person being examined has the following rights:

(1) The examinee may terminate the test at any time.

(2) The examinee may not be asked any questions in a degrading or unnecessarily intrusive manner.

(3) The examinee may not be asked any questions dealing with:

(i) Religious beliefs or affiliations;

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or behavior; or

(v) Beliefs, affiliations, opinions, or lawful activities concerning unions or labor organizations.

(4) The examinee may not be subjected to a test when there is sufficient written evidence by a physician that the examinee is suffering from any medical or psychological condition or undergoing any treatment that might cause abnormal responses during the actual testing phase. Sufficient written evidence shall constitute, at a minimum, a statement by a physician specifically describing the examinee's medical or psychological condition or treatment and the basis for the physician's opinion that the condition or treatment might result in such abnormal responses.

(5) An employee or prospective employee who exercises the right to terminate the test, or who for medical reasons with sufficient supporting evidence is not administered the test, shall be subject to adverse employment action only on the same basis as one who refuses to take a polygraph test, as described in Secs. 1.20 and 1.21 of this part.

(c) Any polygraph examination shall consist of one or more pretest phases, actual testing phases, and post-test phases, which must be conducted in accordance with the rights of examinees described in Secs. 1.23 through 1.25 of this part.

Sec. 1.23 Rights of examinee—pretest phase.

(a) The pretest phase consists of the questioning and other preparation of the prospective examinee before the actual use of the polygraph instrument. During the initial pretest phase, the examinee must be:

(1) Provided with written notice, in a language understood by the examinee, as to when and where the examination will take place and that the examinee has the right to consult with counsel or an employee representative before each phase of the test. Such notice shall be received by the examinee at least forty-eight hours, excluding weekend days and holidays, before the time of the examination, except that a prospective employee may, at the employee's option, give written consent to administration of a test anytime within 48 hours but no earlier than 24 hours after receipt of the written notice. The written notice or proof of service must set forth the time and date of receipt by the employee or prospective employee and be verified by his or her signature. The purpose of this requirement is to provide a sufficient opportunity prior to the examination for the examinee to consult with counsel or an employee representative. Provision shall also be made for a convenient place on the premises where the examination will take place at which the examinee may consult privately with an attorney or an employee representative before each phase of the test. The attorney or representative may be excluded from the room where the examination is administered during the actual testing phase.

(2) Informed orally and in writing of the nature and characteristics of the polygraph instrument and examination, including an explanation of the physical operation of the polygraph instrument and the procedure used during the examination.

(3) Provided with a written notice prior to the testing phase, in a language understood by the examinee, which shall be read to and signed by the examinee. Use of Appendix A to this part, if properly completed, will constitute compliance with the contents of the notice requirement of this paragraph. If a format other than in Appendix A is used, it must contain at least the following information:

(i) Whether or not the polygraph examination area contains a two-way mirror, a camera, or other device through which the examinee may be observed;

(ii) Whether or not any other device, such as those used in conversation or recording will be used during the examination;

(iii) That both the examinee and the employing office have the right, with the other's knowledge, to make a recording of the entire examination;

(iv) That the examinee has the right to terminate the test at any time;

(v) That the examinee has the right, and will be given the opportunity, to review all questions to be asked during the test;

(vi) That the examinee may not be asked questions in a manner which degrades, or needlessly intrudes;

(vii) That the examinee may not be asked any questions concerning religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations;

(viii) That the test may not be conducted if there is sufficient written evidence by a physician that the examinee is suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination;

(ix) That the test is not and cannot be required as a condition of employment;

(x) That the employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against the examinee based on the analysis of a polygraph test, or based on the examinee's refusal to take such a test, without additional evidence which would support such action;

(xi)(A) In connection with an ongoing investigation, that the additional evidence required for the employing office to take adverse action against the examinee, including termination, may be evidence that the examinee had access to the property that is the subject of the investigation, together with evidence supporting the employing office's reasonable suspicion that the examinee was involved in the incident or activity under investigation;

(B) That any statement made by the examinee before or during the test may serve as additional supporting evidence for an adverse employment action, as described in paragraph (a)(3)(x) of this section, and that any admission of criminal conduct by the examinee may be transmitted to an appropriate government law enforcement agency;

(xii) That information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(A) To the examinee or any other person specifically designated in writing by the examinee to receive such information;

(B) To the employing office that requested the test;

(C) To a court, governmental agency, arbitrator, or mediator pursuant to a court order;

(D) By the employing office, to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct;

(xiii) That if any of the examinee's rights or protections under the law are violated, the examinee has the right to take action against the employing office under sections 401-404 of the CAA. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees;

(xiv) That the examinee has the right to obtain and consult with legal counsel or other representative before each phase of the test, although the legal counsel or representative may be excluded from the room where the test is administered during the actual testing phase.

(xv) That the employee's rights under the CAA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the CAA, agreed to and signed by the parties.

(b) During the initial or any subsequent pretest phases, the examinee must be given the opportunity, prior to the actual testing phase, to review all questions in writing that the examiner will ask during each testing phase. Such questions may be presented at any point in time prior to the testing phase.

Sec. 1.24 Rights of examinee—actual testing phase.

(a) The actual testing phase refers to that time during which the examiner administers the examination by using a polygraph instrument with respect to the examinee and then analyzes the charts derived from the test. Throughout the actual testing phase, the examiner shall not ask any question that was not presented in writing for review prior to the testing phase. An examiner may, however, recess the testing phase and return to the pre-test phase to review additional relevant questions with the examinee. In the case of an ongoing investigation, the examiner shall ensure that all relevant questions (as distinguished from technical baseline questions) pertain to the investigation.

(b) No testing period subject to the provisions of the Act shall be less than ninety minutes in length. Such "test period" begins at the time that the examiner begins informing the examinee of the nature and characteristics of the examination and the instruments involved, as prescribed in section 8(b)(2)(B) of the EPPA and Sec. 1.23(a)(2) of this part, and ends when the examiner completes the review of the test results with the examinee as provided in Sec. 1.25 of this part. The ninety-minute minimum duration shall not apply if the examinee voluntarily acts to terminate the test before the completion thereof, in which event the examiner may not render an opinion regarding the employee's truthfulness.

Sec. 1.25 Rights of examinee—post-test phase.

(a) The post-test phase refers to any questioning or other communication with the examinee following the use of the polygraph instrument, including review of the results of the test with the examinee. Before any adverse employment action, the employing office must:

(1) Further interview the examinee on the basis of the test results; and

(2) Give to the examinee a written copy of any opinions or conclusions rendered in response to the test, as well as the questions asked during the test, with the corresponding charted responses. The term "corresponding charted responses" refers to copies of the entire examination charts recording the employee's physiological responses, and not just the examiner's written report which describes the examinee's responses to the questions as "charted" by the instrument.

Sec. 1.26 Qualifications of and requirements for examiners.

(a) Section 8 (b) and (c) of the EPPA provides that the limited exemption in section 7(d) of the EPPA for ongoing investigations shall not apply unless the person conducting the polygraph examination meets specified qualifications and requirements.

(b) An examiner must meet the following qualifications:

(1) Have a valid current license, if required by the State in which the test is to be conducted; and

(2) Carry a minimum bond of $50,000 provided by a surety incorporated under the laws of the United States or of any State, which may under those laws guarantee the fidelity of persons holding positions of trust, or carry an equivalent amount of professional liability coverage.

(c) An examiner must also, with respect to examinees identified by the employing office pursuant to Sec. 1.30(c) of this part:

(1) Observe all rights of examinees, as set out in Secs. 1.22, 1.23, 1.24, and 1.25 of this part;

(2) Administer no more than five polygraph examinations in any one calendar day on which a test or tests subject to the provisions of EPPA are administered, not counting those instances where an examinee voluntarily terminates an examination prior to the actual testing phase;

(3) Administer no polygraph examination subject to the provisions of the EPPA which is less than ninety minutes in duration, as described in Sec. 1.24(b) of this part; and

(4) Render any opinion or conclusion regarding truthfulness or deception in writing. Such opinion or conclusion must be based solely on the polygraph test results. The written report shall not contain any information other than admissions, information, case facts, and interpretation of the charts relevant to the stated purpose of the polygraph test and shall not include any recommendation concerning the employment of the examinee.

(5) Maintain all opinions, reports, charts, written questions, lists, and other records relating to the test, including, statements signed by examinees advising them of rights under the CAA (as described in section 1.23(a)(3) of this part) and any electronic recordings of examinations, for at least three years from the date of the administration of the test. (See section 1.30 of this part for recordkeeping requirements.)

SUBPART D—RECORDKEEPING AND DISCLOSURE REQUIREMENTS

Sec. 1.30 Records to be preserved for 3 years.

(a) The following records shall be kept for a minimum period of three years from the date the polygraph examination is conducted (or from the date the examination is requested if no examination is conducted):

(1) Each employing office that requests an employee to submit to a polygraph examination in connection with an ongoing investigation involving economic loss or injury shall retain a copy of the statement that sets forth the specific incident or activity under investigation and the basis for testing that particular covered employee, as required by section 7(d)(4) of the EPPA and described in 1.12(a)(4) of this part.

(2) Each examiner retained to administer examinations pursuant to any of the exemptions under section 7(d), (e) or (f) of the EPPA (described in sections 1.12 and 1.13 of this part) shall maintain all opinions, reports, charts, written questions, lists, and other records relating to polygraph tests of such persons.

Sec. 1.35 Disclosure of test information.

This section prohibits the unauthorized disclosure of any information obtained during a polygraph test by any person, other than the examinee, directly or indirectly, except as follows:

(a) A polygraph examiner or an employing office (other than an employing office exempt under section 7 (a), or (b) of the EPPA (described in Secs. 1.10 and 1.11 of this part)) may disclose information acquired from a polygraph test only to:

(1) The examinee or an individual specifically designated in *writing* by the examinee to receive such information;

(2) The employing office that requested the polygraph test pursuant to the provisions of the EPPA (including management personnel of the employing office where the disclosure is relevant to the carrying out of their job responsibilities);

(3) Any court, governmental agency, arbitrator, or mediator pursuant to an order from a court of competent jurisdiction requiring the production of such information;

(b) An employing office may disclose information from the polygraph test at any time to an appropriate governmental agency without the need of a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

(c) A polygraph examiner may disclose test charts, without identifying information (but not other examination materials and records), to another examiner(s) for examination and analysis, provided that such disclosure is for the sole purpose of consultation and review of the initial examiner's opinion concerning the indications of truthfulness or deception. Such action would not constitute disclosure under this part provided that the other examiner has no direct or indirect interest in the matter.

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APPENDIX A TO PART 801—NOTICE TO EXAMINEE

Section 204 of the Congressional Accountability Act, which applies the rights and protections of section 8(b) of the Employee Polygraph Protection Act to covered employees and employing offices, and the regulations of the Board of Directors of the Office of Compliance (Sections 1.22, 1.23, 1.24, and 1.25), require that you be given the following information before taking a polygraph examination:

1. (a) The polygraph examination area [does] [does not] contain a two-way mirror, a camera, or other device through which you may be observed.

(b) Another device, such as those used in conversation or recording, [will] [will not] be used during the examination.

(c) Both you and the employing office have the right, with the other's knowledge, to record electronically the entire examination.

2. (a) You have the right to terminate the test at any time.

(b) You have the right, and will be given the opportunity, to review all questions to be asked during the test.

(c) You may not be asked questions in a manner which degrades, or needlessly intrudes.

(d) You may not be asked any questions concerning: Religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual preference or behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations.

(e) The test may not be conducted if there is sufficient written evidence by a physician that you are suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination.

(f) You have the right to consult with legal counsel or other representative before each phase of the test, although the legal counsel or other representative may be excluded from the room where the test is administered during the actual testing phase.

3. (a) The test is not and cannot be required as a condition of employment.

(b) The employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against you based on the analysis of a polygraph test, or based on your refusal to take such a test without additional evidence which would support such action.

(c)(1) In connection with an ongoing investigation, the additional evidence required for an employing office to take adverse action against you, including termination, may be (A) evidence that you had access to the property that is the subject of the investigation, together with (B) the evidence supporting the employing office's reasonable suspicion that you were involved in the incident or activity under investigation.

(2) Any statement made by you before or during the test may serve as additional supporting evidence for an adverse employment action, as described in 3(b) above, and any admission of criminal conduct by you may be transmitted to an appropriate government law enforcement agency.

4. (a) Information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(1) To you or any other person specifically designated in writing by you to receive such information;

(2) To the employing office that requested the test;

(3) To a court, governmental agency, arbitrator, or mediator that obtains a court order.

(b) Information acquired from a polygraph test may be disclosed by the employing office to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

5. If any of your rights or protections under the law are violated, you have the right to take action against the employing office by filing a request for counseling with the Office of Compliance under section 402 of the Congressional Accountability Act. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees.

6. Your rights under the CAA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the CAA, and agreed to and signed by the parties.

I acknowledge that I have received a copy of the above notice, and that it has been read to me.

(Date):

(Signature):

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988—EXCLUSION OF CAPITOL POLICE

NOTICE OF ISSUANCE OF FINAL REGULATION

On January 22, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record a final regulation authorizing the Capitol Police to use lie detector tests under Section 204(a)(3) and (c) of the Congressional Accountability Act of 1995 ("CAA"). On April 15, 1996, pursuant to section 304(c) of the CAA, the House and the Senate agreed to resolutions approving the final regulations. Specifically, the Senate agreed to S. Res. 242, to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate; the House agreed to H. Res. 400, to provide for the approval of final regulations that are applicable to the House and the employees of the House; and the House and the Senate agreed to S. Con. Res. 51, to provide for approval of final regulations that are applicable to employing offices and employees other than those offices and employees of the House and the Senate. Accordingly, pursuant section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for the regulations of become effective on April 16, 1996, rather than 60 days after issuance. Were the regulations not effective immediately upon the expiration of the interim regulations on April 15, 1996, covered employees, employing offices and the Office of Compliance would be forced to operate under the same kind of regulatory uncertainty that the Board sought to avoid by adopting interim regulations effective as of the January 23, 1996, which was the effective date of the relevant provisions of the CAA.

Signed at Washington, D.C. on this 19th day of April, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby issues the following final regulation:

[Final Regulation]

EXCLUSION FOR EMPLOYEES OF THE CAPITOL POLICE

None of the limitations on the use of lie detector tests by employing offices set forth in Section 204 of the CAA apply to the Capitol Police. This exclusion from the limitations of Section 204 of the CAA applies only with respect to Capitol Police employees. Except as otherwise provided by law or these regulations, this exclusion does not extend to contractors or nongovernmental agents of the Capitol Police; nor does it extend to the Capitol Police with respect to employees of a private employer or an otherwise covered employing office with which the Capitol Police has a contractual or other business relationship.

SCOPE OF REGULATIONS

These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 204(a)(3) and 304 of the CAA, which authorize the Board to issue regulations governing the use of lie detector tests by the Capitol Police. The regulations issued by the Board herein are on all matters for which section 204(a)(3) of the CAA requires a regulation to be issued.

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

NOTICE OF ISSUANCE OF FINAL REGULATIONS

On January 22, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record final regulations implementing section 203 of the Congressional Accountability Act of 1995 (CAA), which apply certain rights and protections of the Fair Labor Standards Act of 1938. On April 15, 1996, pursuant to section 304(c) of the CAA, the House and the Senate agreed to resolutions approving the final regulations. Specifically, the Senate agreed to S. Res. 242, to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate; the House agreed to H. Res. 400, to provide for the approval of final regulations that are applicable to the House and the employees of the House; and the House and the Senate agreed to S. Con. Res. 51, to provide for approval of final regulations that are applicable to employing offices and employees other than those offices and employees of the House and the Senate. Accordingly, pursuant section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for the regulations to become effective on April 16, 1996, rather than 60 days after issuance. Were the regulations not effective immediately upon the expiration of the interim regulations on April 15, 1996, covered employees, employing offices and the Office of Compliance would be forced to operate under the same kind of regulatory uncertainty that the Board sought to avoid by adopting interim regulations effective as of the January 23, 1996, which was the effective date of the relevant provisions of the CAA.

Signed at Washington, D.C. on this 19th day of April, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby issues on an the following final regulations:

[Final Regulations]

SUBTITLE B—REGULATIONS RELATING TO THE HOUSE OF REPRESENTATIVES AND ITS EMPLOYING OFFICES—H SERIES

CHAPTER III—REGULATIONS RELATING TO THE RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

PART H501—GENERAL PROVISIONS

Sec.
H501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
H501.101 Purpose and scope.
H501.102 Definitions.
H501.103 Coverage.
H501.104 Administrative authority.
H501.105 Effect of Interpretations of the Labor Department.
H501.106 Application of the Portal-to-Portal Act of 1947.

§H501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
Part 531—Wage payments under the Fair Labor Standards Act of 1938.	Part H531
Part 541—Defining and delimiting the terms "bona fide executive," "administrative," and "professional" employees.	Part H541
Part 547—Requirements of a "Bona fide thrift or savings plan".	Part H547
Part 553—Application of the FLSA to employees of public agencies.	Part H553

SUBPART A—MATTERS OF GENERAL APPLICABILITY

§H501.101 Purpose and scope.

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§206(a)(1) & (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to Sections 203(c) and 304 of the CAA, which require that the Board promulgate regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of §203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

(d) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 203(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 203 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection a [of section 203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 203 of the CAA requires regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA]."

(e) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§H501.102 Definitions.

For purposes of this chapter:

(a) *CAA* means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) *FLSA* or Act means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201 et seq.), as applied by section 203 of the CAA to covered employees and employing offices.

(c) *Covered employee* means any employee of the House of Representatives, including an applicant for employment and a former employee, but shall not include an intern.

(d) *Employee* of the House of Representatives" includes any individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(e) *Employing office and employer* mean (1) the personal office of a Member of the House of Representatives; (2) a committee of the House of Representatives or a joint committee; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives.

(f) *Board* means the Board of Directors of the Office of Compliance.

(g) *Office* means the Office of Compliance.

(h) *Intern* is an individnal who (a) is performing services in an employing office as part of a demonstrated educational plan, and (b) is appointed on a temporary basis for a period not to exceed 12 months; *provided* that if an intern is appointed for a period shorter than 12 months, the intern may be reappointed for additional periods as long as the total length of the internship does not exceed 12 months; *provided further* that the defintion of intern does not include volunteers, fellows or pages.

§H501.103 Coverage.

The coverage of Section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§H501.104 Administrative authority.

(a) The Office of Compliance is authorized to administer the provisions of Section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of Sections 203(c) and 304 of the CAA.

§H501.105 Effect of Interpretations of the Department of Labor.

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutorily-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See *Batterton* v. *Francis*, 432 U.S. 416, 425 n.9 (1977). See also 29 C.F.R. §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No. 8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: "[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its

VOL
142
PT
6
AP
15
—
24
1996
UMI

reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *Skidmore* v. *Swift*, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing Section 203 of the CAA shall be "the same as substantive regulations promulgated by the Secretary of Labor" except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§H501.106 Application of the Portal-to-Portal Act of 1947.

(a) Consistent with Section 225 of the CAA, the Portal to Portal Act (PPA), 29 U.S.C. §§216 and 251 et seq., is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. §259, provides in pertinent part:

> [N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, . . . if he pleads and proves that the act or omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] . . . or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect."

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided*, that such regulation, order, ruling approval or interpretation had not been superseded at the time of reliance by any regulation, order, decision, or ruling of the Board or the courts.

PART H531—WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Subpart A—Preliminary Matters

Sec.
H531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
H531.1 Definitions.
H531.2 Purpose and scope.

Subpart B—Determinations of "Reasonable Cost;" Effects of Collective Bargaining Agreements

H531.3 General determinations of 'reasonable cost'.
H531.6 Effects of collective bargaining agreements.

SUBPART A—PRELIMINARY MATTERS

§H531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations		OC Regulations
531.1	Definitions	H531.1
531.2	Purpose and scope	H531.2
553.3	General determinations of "reasonable cost"	H531.3
531.6	Effects of collective bargaining agreements	H531.6

§H531.1 Definitions.

(a) Administrator means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) Act means the Fair Labor Standards Act of 1938, as amended.

§H531.2 Purpose and scope.

(a) Section 3(m) of the Act defines the term 'wage' to include the 'reasonable cost', as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the 'fair value.' of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of 'fair value.' Whenever so determined and when applicable and pertinent, the 'fair value' of the facilities involved shall be includable as part of 'wages' instead of the actual measure of the costs of those facilities. The section provides, however, that the cost of board, lodging, or other facilities shall not be included as part of 'wages' if excluded therefrom by a bona fide collective bargaining agreement. Section 3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the 'reasonable cost' and 'fair value' of board, lodging, or other facilities having general application.

SUBPART B—DETERMINATIONS OF "REASONABLE COST" AND "FAIR VALUE"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

§H531.3 General determinations of 'reasonable cost.'

(a) The term reasonable cost as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5 1/2 percent) for interest on the depreciated amount of capital invested by the employer: *Provided*, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term good accounting practices does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term depreciation includes obsolescence.

(d)(1) The cost of furnishing 'facilities' found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§H531.6 Effects of collective bargaining agreements.

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be "bona fide" when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

PART H541—DEFINING AND DELIMITING THE TERMS "BONA FIDE EXECUTIVE," "ADMINISTRATIVE," OR "PROFESSIONAL" CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN SECONDARY SCHOOL)

Subpart A—General Regulations

Sec.
H541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
H541.01 Application of the exemptions of section 13(a)(1) of the FLSA.
H541.1 Executive.
H541.2 Administrative.
H541.3 Professional.
H541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.
H541.5d Special provisions applicable to employees of public agencies.

SUBPART A—GENERAL REGULATIONS

§H541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
541.1—Executive	H541.1
541.2—Administrative	H541.2
541.3—Professional	H541.3
541.5b—Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees.	H541.5b
541.5d—Special provisions applicable to employees of public agencies.	541.5d

§H541.01 Application of the exemptions of section 13 (a)(1) of the FLSA.

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of Section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c) and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections under §203.

§H541.1 Executive.

The term *employee employed in a bona fide executive * * * capacity* in section 13(a) (1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department of subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided*, That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: Provided, That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section.

§H541.2 Administrative.

The term *employee employed in a bona fide * * * administrative * * * capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either:

(1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or

(2) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or

(2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers in the school system, educational establishment or institution by which employed: Provided, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§H541.3 Professional.

The term *employee employed in a bona fide * * ** professional capacity in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of:

(1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or

(3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in the school system, educational establishment or institution by which employed, or

(4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided*, That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further*, That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6 1/2 times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§H541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially "equal work," the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

VOL
142
PT
6
AP
15
—
24
1996
UMI

§H541.5d Special provisions applicable to employees of public agencies.

(a) An employee of a public agency who otherwise meets the requirement of being paid on a salary basis shall not be disqualified from exemption under Sec. H541.1, H541.2, or H541.3 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because—

(1) permission for its use has not been sought or has been sought and denied;

(2) accrued leave has been exhausted; or

(3) the employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid "on a salary basis" except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

PART H547—REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN"

Sec.
H547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
H547.0 Scope and effect of part.
H547.1 Essential requirements of qualifications.
H547.2 Disqualifying provisions.

§H547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
547.0—Scope and effect of part.	H547.0
547.1—Essential requirements of qualifications.	H547.1
547.2—Disqualifying provisions.	H547.2

§H547.0 Scope and effect of part.

(a) The regulations in this part set forth the requirements of a "bona fide thrift or savings plan" under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§H547.1 Essential requirements of qualifications.

(a) A "bona fide thrift or savings plan" for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in §H547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: *Provided*, That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§H547.2 Disqualifying provisions.

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

PART H553—OVERTIME COMPENSATION: PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION; OVERTIME AND COMPENSATORY TIME-OFF FOR EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE HOUSE

Introduction

Sec.
H553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
H553.1 Definitions
H553.2 Purpose and scope

Subpart C—Partial Exemption for Employees Engaged in Law Enforcement and Fire Protection

H553.201 Statutory provisions: section 7(k).
H553.202 Limitations.
H553.211 Law enforcement activities
H553.212 Twenty percent limitation on nonexempt work.
H553.213 Public agency employees engaged in both fire protection and law enforcement activities
H553.214 Trainees.
H553.215 Ambulance and rescue service employees.
H553.216 Other exemptions.
H553.220 "Tour of duty" defined.
H553.221 Compensable hours of work.
H553.222 Sleep time.
H553.223 Meal time.
H553.224 "Work period" defined.
H553.225 Early relief.
H553.226 Training time.
H553.227 Outside employment.
H553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)
H553.231 Compensatory time off.
H553.232 Overtime pay requirements.
H553.233 "Regular rate" defined.

Subpart D—Compensatory Time-off for Overtime Earned by Employees Whose Work Schedule Directly Depends upon the Schedule of the House

H553.301 Definition of "directly depends."
H553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.
H553.303 Using compensatory time off.
H553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

Introduction

§H553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
553.1—Definitions	H553.1
553.2—Purpose and scope	H553.2
553.201—Statutory provisions: section 7(k).	H553.201
553.202—Limitations.	H553.202
553.211—Law enforcement activities.	H553.211
553.212—Twenty percent limitation on nonexempt work.	H553.212
553.213—Public agency employees engaged in both fire protection and law enforcement activities.	H553.213
553.214—Trainees.	H553.214
553.215—Ambulance and rescue service employees.	H553.215
553.216—Other exemptions.	H553.216
553.220—"Tour of duty" defined.	H553.220
553.221—Compensable hours of work.	H553.221
553.222—Sleep time.	H553.222
553.223—Meal time.	H553.223
553.224—"Work period" defined.	H553.224
553.225—Early relief.	H553.225
553.226—Training time.	H553.226
553.227—Outside employment.	H553.227
553.230—Maximum hours standards for work periods of 7 to 28 days—section 7(k).	H553.230
553.231—Compensatory time off.	H553.231
553.232—Overtime pay requirements.	H553.232
553.233—"Regular rate" defined.	H553.233

Introduction

§H553.1 Definitions

(a) Act or FLSA means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201-219), as applied by the CAA.

(b) 1985 Amendments means the Fair Labor Standards Amendments of 1985 (Pub. L. 99-150).

(c) Public agency means an employing office as the term is defined in §—501.102 of this chapter, including the Capitol Police.

(d) Section 7(k) means the provisions of §7(k) of the FLSA as applied to covered employees and employing offices by §203 of the CAA.

§H553.2 Purpose and scope

The purpose of part H553 is to adopt with appropriate modifications the regulations of the Secretary of Labor to carry out those provisions of the FLSA relating to public agency employees as they are applied to covered employees and employing offices of the CAA. In particular, these regulations apply section 7(k) as it relates to fire protection and law enforcement employees of public agencies.

SUBPART C—PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION

§H553.201 Statutory provisions: section 7(k).

Section 7(k) of the Act provides a partial overtime pay exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. This section of the Act formerly permitted public agencies to pay overtime compensation to such employees in work periods of 28 consecutive days only after 216 hours of work. As further set forth in §H553.230 of this part, the 216-hour standard has been replaced, pursuant to the study mandated by the statute, by 212 hours for fire protection employees and 171 hours for law enforcement employees. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 (or 171) hours to 28 days.

§H553.202 Limitations.

The application of §7(k), by its terms, is limited to public agencies, and does not apply to any private organization engaged in furnishing fire protection or law enforcement services. This is so even if the services are provided under contract with a public agency.

Exemption Requirements

§H553.211 Law enforcement activities.

(a) As used in §7(k) of the Act, the term 'any employee . . . in law enforcement activities' refers to any employee (1) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by law to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power to arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

(b) Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as 'trainee,' 'probationary,' or 'permanent,' and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing, or to support activities of the type described in paragraph (g) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's law enforcement activities. See Sec. H553.215.

(c) Typically, employees engaged in law enforcement activities include police who are regularly employed and paid as such. Other agency employees with duties not specifically mentioned may, depending upon the particular facts and pertinent statutory provisions in that jurisdiction, meet the three tests described above. If so, they will also qualify as law enforcement officers. Such employees might include, for example, any law enforcement employee within the legislative branch concerned with keeping public peace and order and protecting life and property.

(d) Employees who do not meet each of the three tests described above are not engaged in 'law enforcement activities' as that term is used in sections 7(k). Employees who normally would not meet each of these tests include:

(1) Building inspectors (other than those defined in Sec. H553.213(a)),

(2) Health inspectors,

(3) Sanitarians,

(4) Civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points,

(5) Civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices,

(6) Wage and hour compliance officers,

(7) Equal employment opportunity compliance officers, and

(8) Building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(e) The term 'any employee in law enforcement activities' also includes, by express reference, 'security personnel in correctional institutions. Typically, such facilities may include precinct house lockups. Employees of correctional institutions who qualify as security personnel for purposes of the section 7(k) exemption are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution. These employees are considered to be engaged in law enforcement activities regardless of their rank or of their status as 'trainee,' 'probationary,' or 'permanent,' and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

(f) Not included in the term 'employee in law enforcement activities' are the so-called 'civilian' employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

§H553.212 Twenty percent limitation on nonexempt work.

(a) Employees engaged in fire protection or law enforcement activities as described in Sec. H553.210 and H553.211, may also engage in some nonexempt work which is not performed as an incident to or in conjunction with their fire protection or law enforcement activities. For example, firefighters who work for forest conservation agencies may, during slack times, plant trees and perform other conservation activities unrelated to their firefighting duties. The performance of such nonexempt work will not defeat the §7(k) exemption unless it exceeds 20 percent of the total hours worked by that employee during the workweek or applicable work period. A person who spends more than 20 percent of his/her working time in nonexempt activities is not considered to be an employee engaged in fire protection or law enforcement activities for purposes of this part.

(b) Public agency fire protection and law enforcement personnel may, at their own option, undertake employment for the same employer on an occasional or sporadic and part-time basis in a different capacity from their regular employment. The performance of such work does not affect the application of the §7(k) exemption with respect to the regular employment. In addition, the hours of work in the different capacity need not be counted as hours worked for overtime purposes on the regular job, nor are such hours counted in determining the 20 percent tolerance for nonexempt work discussed in paragraph (a) of this section.

§H553.213 Public agency employees engaged in both fire protection and law enforcement activities.

(a) Some public agencies have employees (often called 'public safety officers') who engage in both fire protection and law enforcement activities, depending on the agency needs at the time. This dual assignment would not defeat the section 7(k) exemption, provided that each of the activities performed meets the appropriate tests set forth in Sec. H553.210 and H553.211. This is so regardless of how the employee's time is divided between the two activities. However, all time spent in nonexempt activities by public safety officers within the work period, whether performed in connection with fire protection or law enforcement functions, or with neither, must be combined for purposes of the 20 percent limitation on nonexempt work discussed in Sec. H553.212.

(b) As specified in Sec. H553.230, the maximum hours standards under section 7(k) are different for employees engaged in fire protection and for employees engaged in law enforcement. For those employees who perform

VOL 142 PT 6 AP 15 — 24 1996 UMI

both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ H553.214 Trainees.

The attendance at a bona fide fire or police academy or other training facility, when required by the employing agency, constitutes engagement in activities under section 7(k) only when the employee meets all the applicable tests described in Sec. H553.210 or Sec. H553.211 (except for the power of arrest for law enforcement personnel), as the case may be. If the applicable tests are met, then basic training or advanced training is considered incidental to, and part of, the employee's fire protection or law enforcement activities.

§ H553.215 Ambulance and rescue service employees.

Ambulance and rescue service employees of a public agency other than a fire protection or law enforcement agency may be treated as employees engaged in fire protection or law enforcement activities of the type contemplated by § 7(k) if their services are substantially related to firefighting or law enforcement activities in that (1) the ambulance and rescue service employees have received training in the rescue of fire, crime, and accident victims or firefighters or law enforcement personnel injured in the performance of their respective, duties, and (2) the ambulance and rescue service employees are regularly dispatched to fires, crime scenes, riots, natural disasters and accidents. As provided in Sec. H553.213(b), where employees perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ H553.216 Other exemptions.

Although the 1974 Amendments to the FLSA as applied by the CAA provide special exemptions for employees of public agencies engaged in fire protection and law enforcement activities, such workers may also be subject to other exemptions in the Act, and public agencies may claim such other applicable exemptions in lieu of § 7(k). For example, section 13(a)(1) as applied by the CAA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in Part H541. The section 13(a)(1) exemption can be claimed for any fire protection or law enforcement employee who meets all of the tests specified in part H541 relating to duties, responsibilities, and salary. Thus, high ranking police officials who are engaged in law enforcement activities, may also, depending on the facts, qualify for the section 13(a)(1) exemption as 'executive' employees. Similarly, certain criminal investigative agents may qualify as "administrative" employees under section 13(a)(1).

Tour of Duty and Compensable Hours of Work Rules

§ H553.220 "Tour of duty" defined.

(a) The term "tour of duty" is a unique concept applicable only to employees for whom the section 7(k) exemption is claimed. This term, as used in section 7(k), means the period of time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Such periods include 'shifts' assigned to employees often days in advance of the performance of the work. Scheduled periods also include time spent in work outside the "shift" which the public agency employer assigns. For example, a police officer may be assigned to crowd control during a parade or other special event outside of his or her shift.

(b) Unscheduled periods include time spent in court by police officers, time spent handling emergency situations, and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance.

(c) The tour of duty does not include time spent working for a separate and independent employer in certain types of special details as provided in Sec. H553.227.

§ H553.221 Compensable hours of work.

(a) The rules under the FLSA as applied by the CAA on compensable hours of work are applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (Sec. H553.222) apply to both law enforcement and firefighting employees for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of firefighters (Sec. H553.223).

(b) Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

(c) Time spent away from the employer's premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, where a police station must be evacuated because of an electrical failure and the employees are expected to remain in the vicinity and return to work after the emergency has passed, the entire time spent away from the premises is compensable. The employees in this example cannot use the time for their personal pursuits.

(d) An employee who is not required to remain on the employer's premises but is merely required to leave word at home or with company officials where he or she may be reached is not working while on call. Time spent at home on call may or may not be compensable depending on whether the restrictions placed on the employee preclude using the time for personal pursuits. Where, for example, a firefighter has returned home after the shift, with the understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensable. On the other hand, where the conditions placed on the employee's activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call is compensable.

(e) Normal home to work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer's premises.

(f) A police officer, who has completed his or her tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time even where the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls is compensable.

§ H553.222 Sleep time.

(a) Where a public agency elects to pay overtime compensation to firefighters and/or law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude sleep time from hours worked if all the conditions for the exclusion of such time are met.

(b) Where the employer has elected to use the section 7(k) exemption, sleep time cannot be excluded from the compensable hours of work where

(1) The employee is on a tour of duty of less than 24 hours, and

(2) Where the employee is on a tour of duty of exactly 24 hours.

(c) Sleep time can be excluded from compensable hours of work, however, in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude such time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes means at least 5 hours), the entire time must be counted as hours of work.

§ H553.223 Meal time.

(a) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude meal time from hours worked if all the statutory tests for the exclusion of such time are met.

(b) If a public agency elects to use the section 7(k) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less, provided that the employee is completely relieved from duty during the meal period, and all the other statutory tests for the exclusion of such time are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., stakeouts'), they are not considered to be completely relieved from duty, and meal periods would be compensable.

(c) With respect to firefighters employed under section 7(k), who are confined to a duty station, the legislative history of the Act indicates Congressional intent to mandate a departure from the usual FLSA 'hours of work' rules and adoption of an overtime standard keyed to the unique concept of 'tour of duty' under which firefighters are employed. Where the public agency elects to use the section 7(k) exemption for firefighters, meal time cannot be excluded from the compensable hours of work where (1) the firefighter is on a tour of duty of less than 24 hours, and (2) where the firefighter is on a tour of duty of exactly 24 hours.

(d) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the statutory tests for exclusion of such hours are met.

§ H553.224 "Work period" defined.

(a) As used in section 7(k), the term "work period" refers to any established and regularly recurring period of work which, under the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28 consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the duty cycle or pay period or with a particular day of the week or hour of the day. Once the beginning and ending time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within the period. The beginning and ending of the work period may be changed, provided that the change is intended to be permanent and is not designed to evade the overtime compensation requirements of the Act.

(b) An employer may have one work period applicable to all employees, or different work periods for different employees or groups of employees.

§ H553.225 Early relief.

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work.

§ H553.226 Training time.

(a) The general rules for determining the compensability of training time under the FLSA apply to employees engaged in law enforcement or fire protection activities.

(b) While time spent in attending training required by an employer is normally considered compensable hours of work, following are situations where time spent by employees in required training is considered to be noncompensable:

(1) Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

(2) Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government, does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§ H553.227 Outside employment.

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) the special detail work is performed solely at the employee's option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department may maintain a roster of officers who wish to perform such work. The department may also select the officers for special details from a list of those wishing to participate, negotiate their pay, and retain a fee for administrative expenses. The department may require that the separate and independent employer pay the fee for such services directly to the department, and establish procedures for the officers to receive their pay for the special details through the agency's payroll system. Finally, the department may require that the officers observe their normal standards of conduct during such details and take disciplinary action against those who fail to do so.

(e) Section 7(p)(1) applies to special details even where a State law or local ordinance requires that such work be performed and that only law enforcement or fire protection employees of a public agency in the same jurisdiction perform the work. For example, a city ordinance may require the presence of city police officers at a convention center during concerts or sports events. If the officers perform such work at their own option, the hours of work need not be combined with the hours of work for their primary employer in computing overtime compensation.

(f) The principles in paragraphs (d) and (e) of this section with respect to special details of public agency fire protection and law enforcement employees under section 7(p)(1) are exceptions to the usual rules on joint employment set forth in part 791 of this title.

(g) Where an employee is directed by the public agency to perform work for a second employer, section 7(p)(1) does not apply. Thus, assignments of police officers outside of their normal work hours to perform crowd control at a parade, where the assignments are not solely at the option of the officers, would not qualify as special details subject to this exception. This would be true even if the parade organizers reimburse the public agency for providing such services.

(h) Section 7(p)(1) does not prevent a public agency from prohibiting or restricting outside employment by its employees.

Overtime Compensation Rules

§ H553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).

(a) For those employees engaged in fire protection activities who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 212 as the number of days in the work period bears to 28.

(b) For those employees engaged in law enforcement activities (including security personnel in correctional institutions) who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 171 as the number of days in the work period bears to 28.

(c) The ratio of 212 hours to 28 days for employees engaged in fire protection activities is 7.57 hours per day (rounded) and the ratio of 171 hours to 28 days for employees engaged in law enforcement activities is 6.11 hours per day (rounded). Accordingly, overtime compensation (in premium pay or compensatory time) is required for all hours worked in excess of the following maximum hours standards (rounded to the nearest whole hour):

Work period (days)	Maximum hours standards	
	Fire protection	Law enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

§ H553.231 Compensatory time off.

(a) Law enforcement and fire protection employees who are subject to the section 7(k) exemption may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum for their work period as set forth in Sec. H553.230.

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if a firefighter's work period is 28 consecutive days, and he or she works 80 hours in each of the first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same firefighter had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

§ H553.232 Overtime pay requirements.

If a public agency pays employees subject to section 7(k) for overtime hours worked in cash wages rather than compensatory time off, such wages must be paid at one and one-half times the employees' regular rates of pay.

§ H553.233 'Regular rate' defined.

The statutory rules for computing an employee's 'regular rate', for purposes of the Act's overtime pay requirements are applicable to employees or whom the section 7(k) exemption is claimed when overtime compensation is provided in cash wages.

VOL 142 PT 6 AP 15—24 1996 UMI

SUBPART D—COMPENSATORY TIME-OFF FOR OVERTIME EARNED BY EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE HOUSE

§H553.301 Definition of "directly depends."

For the purposes of this Part, a covered employee's work schedule "directly depends" on the schedule of the House of Representatives only if the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House and the Senate.

§H553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.

No employing office shall be deemed to have violated section 203(a)(1) of the CAA, which applies the protections of section 7(a) of the Fair Labor Standards Act ("FLSA") to covered employees and employing office, by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under section 7(a) of the FLSA where the employee's work schedule directly depends on the schedule of the House of Representatives within the meaning of §H553.301, and: (a) the employee is compensated at the rate of time-and-a-half in pay for all hours in excess of 40 and up to 60 hours in a workweek, and (b) the employee is compensated at the rate of time-and-a-half in either pay or in time off for all hours in excess of 60 hours in a workweek.

§H553.303 Using compensatory time off.

An employee who has accrued compensatory time off under §H553.302 upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of the request. An employee may renew the request at a subsequent time. An employing office may also, upon reasonable notice, require an employee to use accrued compensatory time-off.

§H553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

An employee who has accrued compensatory time authorized by this regulation shall, upon termination of employment, be paid for the unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

NOTICE OF ISSUANCE OF FINAL REGULATIONS

On January 22, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record final regulations implementing section 203 of the Congressional Accountability Act of 1995 (CAA), which apply certain rights and protections of the Fair Labor Standards Act of 1938. On April 15, 1996, pursuant to section 304(c) of the CAA, the House and the Senate agreed to resolutions approving the final regulations. Specifically, the Senate agreed to S. Res. 242, to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate; the House agreed to H. Res. 400, to provide for the approval of final regulations that are applicable to the House and the employees of the House; and the House and the Senate agreed to S. Con. Res. 51, to provide for approval of final regulations that are applicable to employing offices and employees other than those offices and employees of the House and the Senate. Accordingly, pursuant section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for the regulations to become effective on April 16, 1996, rather than 60 days after issuance. Were the regulations not effective immediately upon the expiration of the interim regulations on April 15, 1996, covered employees, employing offices and the Office of Compliance would be forced to operate under the same kind of regulatory uncertainty that the Board sought to avoid by adopting interim regulations effective as of January 23, 1996, which was the effective date of the relevant provisions of the CAA.

Signed at Washington, D.C. on this 19th day of April, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby issues the following final regulations:

[Final Regulations]

SUBTITLE A—REGULATIONS RELATING TO THE SENATE AND ITS EMPLOYING OFFICES—S SERIES

CHAPTER III—REGULATIONS RELATING TO THE RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

PART S501—GENERAL PROVISIONS

Sec.
S501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S501.101 Purpose and scope.
S501.102 Definitions.
S501.103 Coverage.
S501.104 Administrative authority.
S501.105 Effect of Interpretations of the Labor Department.
S501.106 Application of the Portal-to-Portal Act of 1947.

§S501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
Part 531— Wage payments under the Fair Labor Standards Act of 1938.	Part S531
Part 541—Defining and delimiting the terms "bona fide executive," "administrative," and "professional" employees.	Part S541
Part 547—Requirements of a "Bona fide thrift or savings plan".	Part S547
Part 553—Application of the FLSA to employees of public agencies.	Part S553
Part 570—Child labor	Part S570

SUBPART A—MATTERS OF GENERAL APPLICABILITY.

§S501.101 Purpose and scope.

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§206(a)(1) & (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to Sections 203(c) and 304 of the CAA, which require that the Board promulgate regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of §203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

(d) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 203(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 203 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection a [of section 203 of the CAA] except insofar as the Board may determine, for good cause shown . . .that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 203 of the CAA requires a regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA]."

(e) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§S501.102 Definitions.

For purposes of this chapter:

(a) *CAA* means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *FLSA* or *Act* means the Fair Labor Standards Act of 1938, as amended (29 U.S.C.

§201 et seq.), as applied by section 203 of the CAA to covered employees and employing offices.

(c) *Covered employee* means any employee of the Senate, including an applicant for employment and a former employee, but shall not include an intern.

(d) *Employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(e) *Employing office* and *employer* mean (1) the personal office of a Senator; (2) a committee of the Senate or a joint committee; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the Senate.

(f) *Board* means the Board of Directors of the Office of Compliance.

(g) *Office* means the Office of Compliance.

(h) *Intern* is an individual who (a) is performing services in an employing office as part of a demonstrated educational plan, and (b) is appointed on a temporary basis for a period not to exceed 12 months; provided that if an intern is appointed for a period shorter than 12 months, the intern may be reappointed for additional periods as long as the total length of the internship does not exceed 12 months; *provided further* that an intern for purposes of section 203(a)(2) of the CAA also includes an individual who is a senior citizen appointed under S. Res. 219 (May 5, 1978, as amended by S. Res. 96, April 9, 1991), but does not include volunteers, fellows or pages.

§S501.103 Coverage.

The coverage of Section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§S501.104 Administrative authority.

(a) The Office of Compliance is authorized to administer the provisions of Section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of Sections 203(c) and 304 of the CAA.

§S501.105 Effect of Interpretations of the Department of Labor.

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutorily-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See *Batterton v. Francis*, 432 U.S. 416, 425 n. 9 (1977). See also 29 C.F.R. §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No. 8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: "[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *Skidmore v. Swift*, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing Section 203 of the CAA shall be "the same as substantive regulations promulgated by the Secretary of Labor" except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§S501.106 Application of the Portal-to-Portal Act of 1947.

(a) Consistent with Section 225 of the CAA, the Portal to Portal Act (PPA), 29 U.S.C. §§216 and 251 et seq., is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. §259, provides in pertinent part:

"[N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, . . . if he pleads and proves that the act or omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] . . . or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect."

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided*, that such regulation, order, ruling approval or interpretation had not been superseded at the time of reliance by any regulation, order, decision, or ruling of the Board or the courts.

PART S531—WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Subpart A—Preliminary Matters

Sec.
S531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S531.1 Definitions.
S531.2 Purpose and scope.
Subpart B—Determinations of "Reasonable Cost;" Effects of Collective Bargaining Agreements
S531.3 General determinations of 'reasonable cost'.
S531.6 Effects of collective bargaining agreements.

SUBPART A—PRELIMINARY MATTERS.

§S531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
531.1 Definitions	S531.1
531.2 Purpose and scope	S531.2
531.3 General determinations of "reasonable cost"	S531.3
531.6 Effects of collective bargaining agreements	S531.6

§S531.1 Definitions.

(a) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) *Act* means the Fair Labor Standards Act of 1938, as amended.

§S531.2 Purpose and scope.

(a) Section 3(m) of the Act defines the term 'wage' to include the 'reasonable cost', as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the 'fair value.' of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of 'fair value.' Whenever so determined and when applicable and pertinent, the 'fair value' of the facilities involved shall be includable as part of 'wages' instead of the actual measure of the costs of those facilities. The section provides, however, that the cost of board, lodging, or other facilities shall not be included as part of 'wages' if excluded therefrom by a bona fide collective bargaining agreement. Section

VOL
142
PT
6
AP
15
—
24
1996
UMI

3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the "reasonable cost" and "fair value" of board, lodging, or other facilities having general application.

SUBPART B—DETERMINATIONS OF "REASONABLE COST" AND "FAIR VALUE"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

§S531.3 General determinations of "reasonable cost."

(a) The term *reasonable cost* as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5½ percent) for interest on the depreciated amount of capital invested by the employer: *Provided*, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term *good accounting practices* does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term *depreciation* includes obsolescence.

(d)(1) The cost of furnishing "facilities" found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§S531.6 Effects of collective bargaining agreements.

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be "bona fide" when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

PART S541—DEFINING AND DELIMITING THE TERMS "BONA FIDE EXECUTIVE," "ADMINISTRATIVE," OR "PROFESSIONAL" CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN SECONDARY SCHOOL).

Subpart A—General Regulations

Sec.
S541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S541.01 Application of the exemptions of section 13(a)(1) of the FLSA.
S541.1 Executive.
S541.2 Administrative.
S541.3 Professional.
S541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.
S541.5d Special provisions applicable to employees of public agencies.

SUBPART A—GENERAL REGULATIONS

§S541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
541.1 Executive	S541.1
541.2 Administrative	S541.2
541.3 Professional	S541.3
541.5b Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees.	S541.5b
541.5d Special provisions applicable to employees of public agencies.	S541.5d

§S541.01 Application of the exemptions of section 13(a)(1) of the FLSA.

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of Section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c) and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections under §203.

§S541.1 Executive.

The term *employee employed in a bona fide executive* * * * capacity in section 13(a) (1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department of subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided*, That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: *Provided*, That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section.

§S541.2 Administrative.

The term *employee employed in a bona fide* * * * *administrative* * * * *capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either:

(1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or

(2) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or

(2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers in the school system, educational establishment or institution by which employed: *Provided*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§S541.3 Professional.

The term *employee employed in a bona fide* * * * *professional capacity* in section 13(a)(1) of

the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of:

(1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or

(3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in the school system, educational establishment or institution by which employed, or

(4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided*, That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further*, That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6 1/2 times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§S541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially "equal work," the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

§S541.5d Special provisions applicable to employees of public agencies.

(a) An employee of a public agency who otherwise meets the requirement of being paid on a salary basis shall not be disqualified from exemption under Sec. S541.1, S541.2, or S541.3 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because—

(1) permission for its use has not been sought or has been sought and denied; (2) accrued leave has been exhausted; or

(3) the employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid "on a salary basis" except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

PART S547—REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN"

Sec.
S547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S547.0 Scope and effect of part.
S547.1 Essential requirements of qualifications.
S547.2 Disqualifying provisions.

§S547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
547.0 Scope and effect of part.	S547.0
547.1 Essential requirements of qualifications.	S547.1
547.2 Disqualifying provisions.	S547.2

§S547.0 Scope and effect of part.

(a) The regulations in this part set forth the requirements of a "bona fide thrift or savings plan" under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§S547.1 Essential requirements for qualifications.

(a) A "bona fide thrift or savings plan" for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in §S547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year.

(f) The employer's contributions shall be apportioned among the individual employees

VOL
142
PT
6
AP
15
—
24
1996
UMI

in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calcuiation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: *Provided*, That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§ S547.2 Disqualifying provisions.

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

PART S553—OVERTIME COMPENSATION: PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION; OVERTIME AND COMPENSATORY TIME-OFF FOR EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE HOUSE

Introduction

Sec.
S553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S553.1 Definitions.
S553.2 Purpose and scope.

Subpart C—Partial Exemption for Employees Engaged in Law Enforcement and Fire Protection

S553.201 Statutory provisions: section 7(k).
S553.202 Limitations.
S553.211 Law enforcement activities.
S553.212 Twenty percent limitation on nonexempt work.
S553.213 Public agency employees engaged in both fire protection and law enforcement activities.
S553.214 Trainees.
S553.215 Ambulance and rescue service employees.
S553.216 Other exemptions.
S553.220 "Tour of duty" defined.
S553.221 Compensable hours of work.
S553.222 Sleep time.
S553.223 Meal time.
S553.224 "Work period" defined.
S553.225 Early relief.
S553.226 Training time.
S553.227 Outside employment.
S553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).
S553.231 Compensatory time off.
S553.232 Overtime pay requirements.
S553.233 "Regular rate" defined.

Subpart D—Compensatory Time-off for Overtime Earned by Employees Whose Work Schedule Directly Depends upon the Schedule of the House

S553.301 Definition of "directly depends."
S553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.
S553.303 Using compensatory time off.
S553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

Introduction

§ S553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
553.1 Definitions	S553.1
553.2 Purpose and scope	S553.2
553.201 Statutory provisions: section 7(k).	S553.201
553.202 Limitations	S553.202
553.211 Law enforcement activities.	S553.211
553.212 Twenty percent limitation on nonexempt work	S553.212
553.213 Public agency employees engaged in both fire protection and law enforcement activities.	S553.213
553.214 Trainees	S553.214
553.215 Ambulance and rescue service employees	S553.215
553.216 Other exemptions	S553.216
553.220 "Tour of duty" defined	S553.220
553.221 Compensable hours of work	S553.221
553.222 Sleep time	S553.222
553.223 Meal time	S553.223
553.224 "Work period" defined	S553.224
553.225 Early relief	S553.225
553.226 Training time	S553.226
553.227 Outside employment	S553.227
553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).	S553.230
553.231 Compensatory time off	S553.231
553.232 Overtime pay requirements	S553.232
553.233 "Regular rate" defined	S553.233

Introduction

§ S553.1 Definitions.

(a) Act or FLSA means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201-219), as applied by the CAA.

(b) 1985 Amendments means the Fair Labor Standards Amendments of 1985 (Pub. L. 99-150).

(c) Public agency means an employing office as the term is defined in §—501.102 of this chapter, including the Capitol Police.

(d) Section 7(k) means the provisions of §7(k) of the FLSA as applied to covered employees and employing offices by § 203 of the CAA.

§ S553.2 Purpose and scope.

The purpose of part S553 is to adopt with appropriate modifications the regulations of the Secretary of Labor to carry out those provisions of the FLSA relating to public agency employees as they are applied to covered employees and employing offices of the CAA. In particular, these regulations apply section 7(k) as it relates to fire protection and law enforcement employees of public agencies.

SUBPART C—PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION

§ S553.201 Statutory provisions: section 7(k).

Section 7(k) of the Act provides a partial overtime pay exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. This section of the Act formerly permitted public agencies to pay overtime compensation to such employees in work periods of 28 consecutive days only after 216 hours of work. As further set forth in § S553.230- of this part, the 216-hour standard has been replaced, pursuant to the study mandated by the statute, by 212 hours for fire protection employees and 171 hours for law enforcement employees. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 (or 171) hours to 28 days.

§S553.202 Limitations.

The application of §7(k), by its terms, is limited to public agencies, and does not apply to any private organization engaged in furnishing fire protection or law enforcement services. This is so even if the services are provided under contract with a public agency.

Exemption Requirements

§ S553.211 Law enforcement activities.

(a) As used in §7(k) of the Act, the term "any employee * * * in law enforcement activities" refers to any employee (1) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by law to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power to arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

(b) Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as "trainee," "probationary," or "permanent," and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing, or to support activities of the type described in paragraph (g) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's law enforcement activities. See Sec. S553.215.

(c) Typically, employees engaged in law enforcement activities include police who are regularly employed and paid as such. Other agency employees with duties not specifically mentioned may, depending upon the particular facts and pertinent statutory provisions in that jurisdiction, meet the three tests described above. If so, they will also qualify as law enforcement officers. Such employees might include, for example, any law enforcement employee within the legislative branch concerned with keeping public peace and order and protecting life and property.

(d) Employees who do not meet each of the three tests described above are not engaged in "law enforcement activities" as that term is used in sections 7(k). Employees who normally would not meet each of these tests include:

(1) Building inspectors (other than those defined in Sec. S553.213(a)),

(2) Health inspectors,

(3) Sanitarians,

(4) Civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points,

(5) Civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices,

(6) Wage and hour compliance officers,

(7) Equal employment opportunity compliance officers, and

(8) Building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(e) The term "any employee in law enforcement activities" also includes, by express reference, "security personnel in correctional institutions." Typically, such facilities may include precinct house lockups. Employees of correctional institutions who qualify as security personnel for purposes of the section 7(k) exemption are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution. These employees are considered to be engaged in law enforcement activities regardless of their rank or of their status as "trainee," "probationary," or "permanent," and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

(f) Not included in the term "employee in law enforcement activities" are the so-called "civilian" employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

§S553.212 Twenty percent limitation on nonexempt work.

(a) Employees engaged in fire protection or law enforcement activities as described in Sec. S553.210 and S553.211, may also engage in some nonexempt work which is not performed as an incident to or in conjunction with their fire protection or law enforcement activities. For example, firefighters who work for forest conservation agencies may, during slack times, plant trees and perform other conservation activities unrelated to their firefighting duties. The performance of such nonexempt work will not defeat the §7(k) exemption unless it exceeds 20 percent of the total hours worked by that employee during the workweek or applicable work period. A person who spends more than 20 percent of his/her working time in nonexempt activities is not considered to be an employee engaged in fire protection or law enforcement activities for purposes of this part.

(b) Public agency fire protection and law enforcement personnel may, at their own option, undertake employment for the same employer on an occasional or sporadic and part-time basis in a different capacity from their regular employment. The performance of such work does not affect the application of the §7(k) exemption with respect to the regular employment. In addition, the hours of work in the different capacity need not be counted as hours worked for overtime purposes on the regular job, nor are such hours counted in determining the 20 percent tolerance for nonexempt work discussed in paragraph (a) of this section.

§ S553.213 Public agency employees engaged in both fire protection and law enforcement activities.

(a) Some public agencies have employees (often called 'public safety officers') who engage in both fire protection and law enforcement activities, depending on the agency needs at the time. This dual assignment would not defeat the section 7(k) exemption, provided that each of the activities performed meets the appropriate tests set forth in Sec. S553.210 and S553.211. This is so regardless of how the employee's time is divided between the two activities. However, all time spent in nonexempt activities by public safety officers within the work period, whether performed in connection with fire protection or law enforcement functions, or with neither, must be combined for purposes of the 20 percent limitation on nonexempt work discussed in Sec.S553.212.

(b) As specified in Sec. S553.230, the maximum hours standards under section 7(k) are different for employees engaged in fire protection and for employees engaged in law enforcement. For those employees who perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ S553.214 Trainees.

The attendance at a bona fide fire or police academy or other training facility, when required by the employing agency, constitutes engagement in activities under section 7(k) only when the employee meets all the applicable tests described in Sec. S553.210 or Sec. S553.211 (except for the power of arrest for law enforcement personnel), as the case may be. If the applicable tests are met, then basic training or advanced training is considered incidental to, and part of, the employee's fire protection or law enforcement activities.

§ S553.215 Ambulance and rescue service employees.

Ambulance and rescue service employees of a public agency other than a fire protection or law enforcement agency may be treated as employees engaged in fire protection or law enforcement activities of the type contemplated by §7(k) if their services are substantially related to firefighting or law enforcement activities in that (1) the ambulance and rescue service employees have received training in the rescue of fire, crime, and accident victims or firefighters or law enforcement personnel injured in the performance of their respective duties, and (2) the ambulance and rescue service employees are regularly dispatched to fires, crime scenes, riots, natural disasters and accidents. As provided in Sec. S553.213(b), where employees perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ S553.216 Other exemptions.

Although the 1974 Amendments to the FLSA as applied by the CAA provide special exemptions for employees of public agencies engaged in fire protection and law enforcement activities, such workers may also be subject to other exemptions in the Act, and public agencies may claim such other applicable exemptions in lieu of §7(k). For example, section 13(a)(1) as applied by the CAA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in Part S541. The section 13(a)(1) exemption can be claimed for any fire protection or law enforcement employee who meets all of the tests specified in part S541 relating to duties, responsibilities, and salary. Thus, high ranking police officials who are engaged in law enforcement activities, may also, depending on the facts, qualify for the section 13(a)(1) exemption as 'executive' employees. Similarly, certain criminal investigative agents may qualify as "administrative" employees under section 13(a)(1).

Tour of Duty and Compensable Hours of Work Rules

§ S553.220 "Tour of duty" defined.

(a) The term "tour of duty" is a unique concept applicable only to employees for whom the section 7(k) exemption is claimed. This term, as used in section 7(k), means the period of time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Such periods include 'shifts' assigned to employees often days in advance of the performance of the work. Scheduled periods also include time spent in work outside the "shift" which the public agency employer assigns. For example, a police officer may be assigned to crowd control during a parade or other special event outside of his or her shift.

(b) Unscheduled periods include time spent in court by police officers, time spent handling emergency situations, and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance.

(c) The tour of duty does not include time spent working for a separate and independent employer in certain types of special details as provided in Sec. S553.227.

§ S553.221 Compensable hours of work.

(a) The rules under the FLSA as applied by the CAA on compensable hours of work are applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (Sec. S553.222) apply to both law enforcement and firefighting employees for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of firefighters (Sec. S553.223).

(b) Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

(c) Time spent away from the employer's premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, where a police station must be evacuated because of an electrical failure and the employees are expected to remain in the vicinity and return to work after the emergency has passed, the entire time spent away from the premises is compensable. The employees in this example cannot use the time for their personal pursuits.

(d) An employee who is not required to remain on the employer's premises but is merely required to leave word at home or with company officials where he or she may be reached is not working while on call. Time spent at home on call may or may not be compensable depending on whether the restrictions placed on the employee preclude

VOL
142
PT
6
AP
15
—
24
1996
UMI

using the time for personal pursuits. Where, for example, a firefighter has returned home after the shift, with the understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensable. On the other hand, where the conditions placed on the employee's activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call is compensable.

(e) Normal home to work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer's premises.

(f) A police officer, who has completed his or her tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time even where the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls is compensable.

§S553.222 Sleep time.

(a) Where a public agency elects to pay overtime compensation to firefighters and/or law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude sleep time from hours worked if all the conditions for the exclusion of such time are met.

(b) Where the employer has elected to use the section 7(k) exemption, sleep time cannot be excluded from the compensable hours of work where

(1) The employee is on a tour of duty of less than 24 hours, and

(2) Where the employee is on a tour of duty of exactly 24 hours.

(c) Sleep time can be excluded from compensable hours of work, however, in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude such time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes means at least 5 hours), the entire time must be counted as hours of work.

§S553.223 Meal time.

(a) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude meal time from hours worked if all the statutory tests for the exclusion of such time are met.

(b) If a public agency elects to use the section 7(k) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less, provided that the employee is completely relieved from duty during the meal period, and all the other statutory tests for the exclusion of such time are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., stakeouts'), they are not considered to be completely relieved from duty, and any such meal periods would be compensable.

(c) With respect to firefighters employed under section 7(k), who are confined to a duty station, the legislative history of the Act indicates Congressional intent to mandate a departure from the usual FLSA 'hours of work' rules and adoption of an overtime standard keyed to the unique concept of 'tour of duty' under which firefighters are employed. Where the public agency elects to use the section 7(k) exemption for firefighters, meal time cannot be excluded from the compensable hours of work where (1) the firefighter is on a tour of duty of less than 24 hours, and (2) where the firefighter is on a tour of duty of exactly 24 hours.

(d) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the statutory tests for exclusion of such hours are met.

§S553.224 "Work period" defined.

(a) As used in section 7(k), the term 'work period' refers to any established and regularly recurring period of work which, under the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28 consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the duty cycle or pay period or with a particular day of the week or hour of the day. Once the beginning and ending time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within the period. The beginning and ending of the work period may be changed, provided that the change is intended to be permanent and is not designed to evade the overtime compensation requirements of the Act.

(b) An employer may have one work period applicable to all employees, or different work periods for different employees or groups of employees.

§S553.225 Early relief.

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work.

§S553.226 Training time.

(a) The general rules for determining the compensability of training time under the FLSA apply to employees engaged in law enforcement or fire protection activities.

(b) While time spent in attending training required by an employer is normally considered compensable hours of work, following are situations where time spent by employees in required training is considered to be noncompensable:

(1) Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

(2) Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government, does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class or at a training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§S553.227 Outside employment.

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) the special detail work is performed solely at the employee's option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department may maintain a roster of officers who wish to perform such work. The department may also select the officers for special details from a list of those wishing to participate, negotiate their pay, and retain a fee for administrative expenses. The department may require that the separate and independent employer pay the fee for such services directly to the department, and establish procedures for the officers to receive their pay for the special details through the agency's payroll system. Finally, the department may require that the officers observe their normal standards of conduct during such details and take disciplinary action against those who fail to do so.

(e) Section 7(p)(1) applies to special details even where a State law or local ordinance requires that such work be performed and that only law enforcement or fire protection employees of a public agency in the same jurisdiction perform the work. For example, a city ordinance may require the presence of city police officers at a convention center during concerts or sports events. If the officers perform such work at their own option, the hours of work need not be combined with the hours of work for their primary employer in computing overtime compensation.

(f) The principles in paragraphs (d) and (e) of this section with respect to special details of public agency fire protection and law enforcement employees under section 7(p)(1) are exceptions to the usual rules on joint employment set forth in part 791 of this title.

(g) Where an employee is directed by the public agency to perform work for a second employer, section 7(p)(1) does not apply. Thus, assignments of police officers outside of their normal work hours to perform crowd control at a parade, where the assignments are not solely at the option of the officers, would not qualify as special details subject

to this exception. This would be true even if the parade organizers reimburse the public agency for providing such services.

(h) Section 7(p)(1) does not prevent a public agency from prohibiting or restricting outside employment by its employees.

Overtime Compensation Rules

§S553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).

(a) For those employees engaged in fire protection activities who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 212 as the number of days in the work period bears to 28.

(b) For those employees engaged in law enforcement activities (including security personnel in correctional institutions) who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 171 as the number of days in the work period bears to 28.

(c) The ratio of 212 hours to 28 days for employees engaged in fire protection activities is 7.57 hours per day (rounded) and the ratio of 171 hours to 28 days for employees engaged in law enforcement activities is 6.11 hours per day (rounded). Accordingly, overtime compensation (in premium pay or compensatory time) is required for all hours worked in excess of the following maximum hours standards (rounded to the nearest whole hour):

Work period (days)	Maximum hours standards	
	Fire protection	Law enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

§S553.231 Compensatory time off.

(a) Law enforcement and fire protection employees who are subject to the section 7(k) exemption may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum for their work period as set forth in Sec. S553.230.

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if a firefighter's work period is 28 consecutive days, and he or she works 80 hours in each of the first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same firefighter had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

§S553.232 Overtime pay requirements.

If a public agency pays employees subject to section 7(k) for overtime hours worked in cash wages rather than compensatory time off, such wages must be paid at one and one-half times the employees' regular rates of pay.

§S553.233 'Regular rate' defined.

The statutory rules for computing an employee's 'regular rate', for purposes of the Act's overtime pay requirements are applicable to employees or whom the section 7(k) exemption is claimed when overtime compensation is provided in cash wages.

SUBPART D—COMPENSATORY TIME-OFF FOR OVERTIME EARNED BY EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE SENATE

§S553.301 Definition of "directly depends."

For the purposes of this Part, a covered employee's work schedule "directly depends" on the schedule of the Senate only if the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House and the Senate.

§S553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the Senate.

No employing office shall be deemed to have violated section 203(a)(1) of the CAA, which applies the protections of section 7(a) of the Fair Labor Standards Act ("FLSA") to covered employees and employing office, by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under section 7(a) of the FLSA where the employee's work schedule directly depends on the schedule of the Senate within the meaning of § S553.301, and: (a) the employee is compensated at the rate of time-and-a-half in pay for all hours in excess of 40 and up to 60 hours in a workweek, and (b) the employee is compensated at the rate of time-and-a-half in either pay or in time off for all hours in excess of 60 hours in a workweek.

§S553.303 Using compensatory time off.

An employee who has accrued compensatory time off under § S553.302, upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of the request. An employee may renew the request at a subsequent time. An employing office may also, upon reasonable notice, require an employee to use accrued compensatory time-off.

§S553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

An employee who has accrued compensatory time authorized by this regulation shall, upon termination of employment, be paid for the unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

PART S570—CHILD LABOR REGULATIONS

Subpart A—General

Sec.
S570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S570.1 Definitions.
S570.2 Minimum age standards.

Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)

S570.31 Determination.
S570.32 Effect of this subpart.
S570.33 Occupations.
S570.35 Periods and conditions of employment.

SUBPART A—GENERAL

§S570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance Regulations under Section 202 of the CAA:

Secretary of Labor Regulations	OC Regulations
570.1 Definitions.	S570.1
570.2 Minimum age standards.	S570.2
570.31 Determinations.	S570.31
570.32 Effect of this subpart.	S570.32
570.33 Occupations.	S570.33
570.35 Periods and conditions of employment.	S570.35

§S570.1 Definitions.

As used in this part:

(a) *Act* means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219).

(b) *Oppressive child labor* means employment of a minor in an occupation for which he does not meet the minimum age standards of the Act, as set forth in Sec. S570.2 of this subpart.

(c) *Oppressive child labor age* means an age below the minimum age established under the Act for the occupation in which a minor is employed or in which his employment is contemplated.

(d) [Reserved]

(e) [Reserved]

(f) *Secretary* or *Secretary of Labor* means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(g) *Wage and Hour Division* means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

(h) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative.

§S570.2 Minimum age standards.

(a) All occupations except in agriculture. (1) The Act, in section 3(1), sets a general 16-year minimum age which applies to all employment subject to its child labor provisions in any occupation other than in agriculture, with the following exceptions:

(i) The Act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being (see subpart C of this part); and

(ii) The Act sets an 18-year minimum age with respect to employment in any occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such age or detrimental to their health or well-being.

(2) The Act exempts from its minimum age requirements the employment by a parent of

VOL
142
PT
6
AP
15
—
24
1996
UMI

his own child, or by a person standing in place of a parent of a child in his custody, except in occupations to which the 18-year age minimum applies and in manufacturing and mining occupations.

SUBPART B [RESERVED]

SUBPART C—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REG. 3)

§S570.31 Determination.

The employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

§S570.32 Effect of this subpart.

In all occupations covered by this subpart the employment (including suffering or permitting to work) by an employer of minor employees between 14 and 16 years of age for the periods and under the conditions specified in §S570.35 shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938.

§S570.33 Occupations.

This subpart shall apply to all occupations other than the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations which the Secretary of Labor may, pursuant to section 3(l) of the Fair Labor Standards Act and Reorganization Plan No. 2, issued pursuant to the Reorganization Act of 1945, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being;

(f) Occupations in connection with:

(1) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

(2) Warehousing and storage;

(3) Communications and public utilities;

(4) Construction (including demolition and repair); except such office (including ticket office) work, or sales work, in connection with paragraphs (f)(1), (2), (3), and (4) of this section, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

§S570.35 Periods and conditions of employment.

(a) Except as provided in paragraph (b) of this section, employment in any of the occupations to which this subpart is applicable shall be confined to the following periods:

(1) Outside school hours;

(2) Not more than 40 hours in any 1 week when school is not in session;

(3) Not more than 18 hours in any 1 week when school is in session;

(4) Not more than 8 hours in any 1 day when school is not in session;

(5) Not more than 3 hours in any 1 day when school is in session;

(6) Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

NOTICE OF ISSUANCE OF FINAL REGULATIONS

On January 22, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record final regulations implementing section 203 of the Congressional Accountability Act of 1995 (CAA), which apply certain rights and protections of the Fair Labor Standards Act of 1938. On April 15, 1996, pursuant to section 304(c) of the CAA, the House and the Senate agreed to resolutions approving the final regulations. Specifically, the Senate agreed to S. Res. 242, to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate; the House agreed to H. Res. 400, to provide for the approval of final regulations that are applicable to the House and the employees of the House; and the House and the Senate agreed to S. Con. Res. 51, to provide for approval of final regulations that are applicable to employing offices and employees other than those offices and employees of the House and the Senate. Accordingly, pursuant to section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for the regulations to become effective on April 16, 1996, rather than 60 days after issuance. Were the regulations not effective immediately upon the expiration of the interim regulations on April 15, 1996, covered employees, employing offices and the Office of Compliance would be forced to operate under the same kind of regulatory uncertainty that the Board sought to avoid by adopting interim regulations effective as of January 23, 1996, which was the effective date of the relevant provisions of the CAA.

Signed at Washington, D.C. on this 19th day of April, 1996.

GLEN D. NAGER,
Chair of the Board,
Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby issues the following final regulations:

[Final Regulations]

SUBTITLE C—REGULATIONS RELATING TO THE EMPLOYING OFFICES OTHER THAN THOSE OF THE SENATE AND THE HOUSE OF REPRESENTATIVES—C SERIES

CHAPTER III—REGULATIONS RELATING TO THE RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

PART C501—GENERAL PROVISIONS

Sec.
C501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C501.101 Purpose and scope.
C501.102 Definitions.
C501.103 Coverage.
C501.104 Administrative authority.
C501.105 Effect of Interpretations of the Labor Department.
C501.106 Application of the Portal-to-Portal Act of 1947.

§C501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
Part 531—Wage payments under the Fair Labor Standards Act of 1938.	Part C531
Part 541—Defining and delimiting the terms "bona fide executive," "administrative," and "professional" employees.	Part C541
Part 547—Requirements of a "Bona fide thrift or savings plan".	Part C547
Part C553—Application of the FLSA to employees of public agencies.	Part C553
Part 570—Child labor	Part C570

SUBPART A—MATTERS OF GENERAL APPLICABILITY.

§C501.101 Purpose and scope.

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§206(a)(1) & (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to Sections 203(c) and 304 of the CAA, which requires that the Board promulgate regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of §203 of the CAA] except insofar as the Board may determine, for good cause shown * * * that a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

(d) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 203(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 203 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection a [of section 203 of the CAA] except insofar as the Board may determine, for good cause shown * * * that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 203 of the CAA requires a regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA]."

(e) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§C501.102 Definitions.

For purposes of this chapter:

(a) *CAA* means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) *FLSA* or *Act* means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201 et seq.), as applied by section 203 of the CAA to covered employees and employing offices.

(c) *Covered employee* means any employee, including an applicant for employment and a former employee, of the (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment, but shall not include an intern.

(d)(1) *Employee of the Office of the Architect of the Capitol* includes any employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants;

(2) *Employee of the Capitol Police* includes any member or officer of the Capitol Police.

(e) *Employing office* and *employer* mean (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(f) Board means the Board of Directors of the Office of Compliance.

(g) *Office* means the Office of Compliance.

(h) *Intern* is an individual who (a) is performing services in an employing office as part of a demonstrated educational plan, and (b) is appointed on a temporary basis for a period not to exceed 12 months; *provided* that if an intern is appointed for a period shorter than 12 months, the intern may be reappointed for additional periods as long as the total length of the internship does not exceed 12 months; *provided further* that the defintion of *intern* does not include volunteers, fellows or pages.

§C501.103 Coverage.

The coverage of Section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§C501.104 Administrative authority.

(a) The Office of Compliance is authorized to administer the provisions of Section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of Sections 203(c) and 304 of the CAA.

§C501.105 Effect of Interpretations of the Department of Labor.

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutorily-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See *Batterton* v. *Francis*, 432 U.S. 416, 425 n.9 (1977). See also 29 C.F.R. §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No.8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: "[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *Skidmore* v. *Swift*, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing Section 203 of the CAA shall be "the same as substantive regulations promulgated by the Secretary of Labor" except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§C501.106 Application of the Portal-to-Portal Act of 1947.

(a) Consistent with Section 225 of the CAA, the Portal to Portal Act (PPA), 29 U.S.C. §§216 and 251 *et seq.*, is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. §259, provides in pertinent part:

> * * * [N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, * * * if he pleads and proves that the act or omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] * * * or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided*, that such regulation, order, ruling approval or interpretation had not been superseded at the time of reliance by any regulation, order, decision, or ruling of the Board or the courts.

PART C531—WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Subpart A—Preliminary Matters

Sec.
C531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C531.1 Definitions.
C531.2 Purpose and scope.

Subpart B—Determinations of "Reasonable Cost" and "Fair Value"; Effects of Collective Bargaining Agreements

C531.3 General determinations of 'reasonable cost'.
C531.6 Effects of collective bargaining agreements.

SUBPART A—PRELIMINARY MATTERS.

§C531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
531.1—Definitions.	C531.1
531.2—Purpose and scope.	C531.2
531.3—General determinations of "reasonable cost".	C531.3
531.6—Effects of collective bargaining agreements.	C531.6

§C531.1 Definitions.

(a) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) *Act* means the Fair Labor Standards Act of 1938, as amended.

§C531.2 Purpose and scope.

(a) Section 3(m) of the Act defines the term 'wage' to include the 'reasonable cost', as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such

VOL
142
PT
6
AP
15
—
24
1996
UMI

board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the 'fair value.' of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of 'fair value.' Whenever so determined and when applicable and pertinent, the 'fair value' of the facilities involved shall be includable as part of 'wages' instead of the actual measure of the costs of those facilities. The section provides, however, that the cost of board, lodging, or other facilities shall not be included as part of 'wages' if excluded therefrom by a bona fide collective bargaining agreement. Section 3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the 'reasonable cost' and 'fair value' of board, lodging, or other facilities having general application.

SUBPART B—DETERMINATIONS OF "REASONABLE COST" AND "FAIR VALUE"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

§C531.3 General determinations of 'reasonable cost.'

(a) The term *reasonable cost* as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5 1/2 percent) for interest on the depreciated amount of capital invested by the employer: *Provided*, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term *good accounting practices* does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term *depreciation* includes obsolescence.

(d)(1) The cost of furnishing 'facilities' found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§C531.6 Effects of collective bargaining agreements.

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be "bona fide" when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

PART C541—DEFINING AND DELIMITING THE TERMS "BONA FIDE EXECUTIVE," "ADMINISTRATIVE," OR "PROFESSIONAL" CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN SECONDARY SCHOOL).

Subpart A—General Regulations.

Sec.
C541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C541.01 Application of the exemptions of section 13(a)(1) of the FLSA.
C541.1 Executive.
C541.2 Administrative.
C541.3 Professional.
C541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.
C541.5d Special provisions applicable to employees of public agencies.

SUBPART A—GENERAL REGULATIONS.

§C541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
541.1—Executive	C541.1
541.2—Administrative.	C541.2
541.3—Professional.	C541.3
541.5b—Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees..	C541.5b
541.5d—Special provisions applicable to employees of public agencies.	C541.5d

§C541.01 Application of the exemptions of section 13 (a)(1) of the FLSA.

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of Section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c) and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections under §203.

§C541.1 Executive.

The term *employee employed in a bona fide executive * * * capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department of subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided*, That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: *Provided*, That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section

§C541.2 Administrative.

The term *employee employed in a bona fide * * * administrative * * * capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either:

(1) The performance of office or nonmanual work directly related to management policies or general operations of hia employer or his employer's customers, or

(2) The performance of functions in the administration of a school system, or educational establishment or institution,or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or

(2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers of in the school system, educational establishment or institution by which employed: *Provided*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§C541.3 Professional.

The term *employee employed in a bona fide * * * professional capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of:

(1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or

(3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in school system, educational establishment or institution by which employed, or

(4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided*, That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further*, That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6½ times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§C541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially "equal work," the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

§C541.5d Special provisions applicable to employees of public agencies.

(a) An employee of a public agency who otherwise meets the requirement of being paid on a salary basis shall not be disqualified from exemption under Sec. C541.1, C541.2, or C541.3 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because—

(1) permission for its use has not been sought or has been sought and denied;

(2) accrued leave has been exhausted; or

(3) the employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid "on a salary basis" except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

PART C547—REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN."

Sec.
C547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C547.0 Scope and effect of part.
C547.1 Essential requirements of qualifications.
C547.2 Disqualifying provisions.

§C547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
547.0—Scope and effect of part.	C547.0
547.1—Essential requirements of qualifications.	C547.1
547.2—Disqualifying provisions.	C547.2

§C547.0 Scope and effect of part.

(a) The regulations in this part set forth the requirements of a "bona fide thrift or savings plan" under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§C547.1 Essential requirements for qualifications.

(a) A "bona fide thrift or savings plan" for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in §547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

VOL 142 PT 6 AP 15 — 24 1996 UMI

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: *Provided*, That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§C547.2 Disqualifying provisions.

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

PART C553—OVERTIME COMPENSATION: PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION; OVERTIME AND COMPENSATORY TIME-OFF FOR EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE HOUSE

Introduction

Sec.
C553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C553.1 Definitions.
C553.2 Purpose and scope.

Subpart C—Partial Exemption for Employees Engaged in Law Enforcement and Fire Protection

C553.201 Statutory provisions: section 7(k).
C553.202 Limitations.
C553.211 Law enforcement activities.
C553.212 Twenty percent limitation on nonexempt work.
C553.213 Public agency employees engaged in both fire protection and law enforcement activities
C553.214 Trainees.
C553.215 Ambulance and rescue service employees.
C553.216 Other exemptions.
C553.220 "Tour of duty" defined.
C553.221 Compensable hours of work.
C553.222 Sleep time.
C553.223 Meal time.
C553.224 "Work period" defined.
C553.225 Early relief.
C553.226 Training time.
C553.227 Outside employment.
C553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)
C553.231 Compensatory time off.
C553.232 Overtime pay requirements.
C553.233 "Regular rate" defined.

Subpart D—Compensatory Time-off for Overtime Earned by Employees Whose Work Schedule Directly Depends upon the Schedule of the House and the Senate

C553.301 Definition of "directly depends."
C553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.
C553.303 Using compensatory time off.
C553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

Introduction

§C553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
553.1 Definitions	C553.1
553.2 Purpose and scope	C553.2
553.201 Statutory provisions: section 7(k)	C553.201
553.202 Limitations.	C553.202
553.211 Law enforcement activities.	C553.211
553.212 Twenty percent limitation on nonexempt work.	C553.212
553.213 Public agency employees engaged in both fire protection and law enforcement activities.	C553.213
553.214 Trainees.	C553.214
553.215 Ambulance and rescue service employees.	C553.215
553.216 Other exemptions.	C553.216
553.220 "Tour of duty" defined.	C553.220
553.221 Compensable hours of work.	C553.221
553.222 Sleep time.	C553.222
553.223 Meal time.	C553.223
553.224 "Work period" defined.	C553.224
553.225 Early relief.	C553.225
553.226 Training time.	C553.226
553.227 Outside employment.	C553.227
553.230 Maximum hours standards for work periods of 7 to 28 days - section 7(k).	C553.230
553.231 Compensatory time off.	C553.231
553.232 Overtime pay requirements.	C553.232
553.233 "Regular rate" defined.	C553.233

Introduction

§C553.1 Definitions

(a) Act or FLSA means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219), as applied by the CAA.

(b) 1985 Amendments means the Fair Labor Standards Amendments of 1985 (Pub. L. 99-150).

(c) Public agency means an employing office as the term is defined in §—501.102 of this chapter, including the Capitol Police.

(d) Section 7(k) means the provisions of §7(k) of the FLSA as applied to covered employees and employing offices by §203 of the CAA.

§C553.2 Purpose and scope

The purpose of part C553 is to adopt with appropriate modifications the regulations of the Secretary of Labor to carry out those provisions of the FLSA relating to public agency employees as they are applied to covered employees and employing offices of the CAA. In particular, these regulations apply section 7(k) as it relates to fire protection and law enforcement employees of public agencies.

SUBPART C—PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION

§C553.201 Statutory provisions: section 7(k).

Section 7(k) of the Act provides a partial overtime pay exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. This section of the Act formerly permitted public agencies to pay overtime compensation to such employees in work periods of 28 consecutive days only after 216 hours of work. As further set forth in §C553.230 of this part, the 216-hour standard has been replaced pursuant to the study mandated by the statute, by 212 hours for fire protection employees and 171 hours for law enforcement employees. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 (or 171) hours to 28 days.

§C553.202 Limitations.

The application of §7(k), by its terms, is limited to public agencies, and does not apply to any private organization engaged in furnishing fire protection or law enforcement services. This is so even if the services are provided under contract with a public agency.

Exemption Requirements

§C553.211 Law enforcement activities.

(a) As used in §7(k) of the Act, the term "any employee . . . in law enforcement activities" refers to any employee (1) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by law to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power to arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

(b) Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as "trainee," "probationary," or "permanent," and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing, or to support activities of the type described in paragraph (g) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's law enforcement activities. See Sec. C553.215.

(c) Typically, employees engaged in law enforcement activities include police who are regularly employed and paid as such. Other agency employees with duties not specifically mentioned may, depending upon the particular facts and pertinent statutory provisions in that jurisdiction, meet the three tests described above. If so, they will also qualify as law enforcement officers. Such employees might include, for example, any law enforcement employee within the legislative branch concerned with keeping public peace and order and protecting life and property.

(d) Employees who do not meet each of the three tests described above are not engaged in "law enforcement activities" as that term is used in sections 7(k). Employees who normally would not meet each of these tests include:

(1) Building inspectors (other than those defined in Sec. C553.213(a)),

(2) Health inspectors,

(3) Sanitarians,

(4) civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points,

(5) Civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices,

(6) Wage and hour compliance officers,

(7) Equal employment opportunity compliance officers, and

(8) Building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(e) The term "any employee in law enforcement activities" also includes, by express reference, "security personnel in correctional institutions". Typically, such facilities may include precinct house lockups. Employees of correctional institutions who qualify as security personnel for purposes of the section 7(k) exemption are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution. These employees are considered to be engaged in law enforcement activities regardless of their rank or of their status as "trainee," "probationary," or "permanent," and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

(f) Not included in the term "employee in law enforcement activities" are the so-called "civilian" employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

§C553.212 Twenty percent limitation on nonexempt work.

(a) Employees engaged in fire protection or law enforcement activities as described in Sec. C553.210 and C553.211, may also engage in some nonexempt work which is not performed as an incident to or in conjunction with their fire protection or law enforcement activities. For example, firefighters who work for forest conservation agencies may, during slack times, plant trees and perform other conservation activities unrelated to their firefighting duties. The performance of such nonexempt work will not defeat the §7(k) exemption unless it exceeds 20 percent of the total hours worked by that employee during the workweek or applicable work period. A person who spends more than 20 percent of his/her working time in nonexempt activities is not considered to be an employee engaged in fire protection or law enforcement activities for purposes of this part.

(b) Public agency fire protection and law enforcement personnel may, at their own option, undertake employment for the same employer on an occasional or sporadic and part-time basis in a different capacity from their regular employment. The performance of such work does not affect the application of the §7(k) exemption with respect to the regular employment. In addition, the hours of work in the different capacity need not be counted as hours worked for overtime purposes on the regular job, nor are such hours counted in determining the 20 percent tolerance for nonexempt work discussed in paragraph (a) of this section.

§C553.213 Public agency employees engaged in both fire protection and law enforcement activities.

(a) Some public agencies have employees (often called "public safety officers") who engage in both fire protection and law enforcement activities, depending on the agency needs at the time. This dual assignment would not defeat the section 7(k) exemption, provided that each of the activities performed meets the appropriate tests set forth in Sec. C553.210 and C553.211. This is so regardless of how the employee's time is divided between the two activities. However, all time spent in nonexempt activities by public safety officers within the work period, whether performed in connection with fire protection or law enforcement functions, or with neither, must be combined for purposes of the 20 percent limitation on nonexempt work discussed in Sec.C553.212.

(b) As specified in Sec.C553.230, the maximum hours standards under section 7(k) are different for employees engaged in fire protection and for employees engaged in law enforcement. For those employees who perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§C553.214 Trainees.

The attendance at a bona fide fire or police academy or other training facility, when required by the employing agency, constitutes engagement in activities under section 7(k) only when the employee meets all the applicable tests described in Sec. C553.210 or Sec. C553.211 (except for the power of arrest for law enforcement personnel), as the case may be. If the applicable tests are met, then basic training or advanced training is considered incidental to, and part of, the employee's fire protection or law enforcement activities.

§C553.215 Ambulance and rescue service employees.

Ambulance and rescue service employees of a public agency other than a fire protection or law enforcement agency may be treated as employees engaged in fire protection or law enforcement activities of the type contemplated by §7(k) if their services are substantially related to firefighting or law enforcement activities in that (1) the ambulance and rescue service employees have received training in the rescue of fire, crime, and accident victims or firefighters or law enforcement personnel injured in the performance of their respective duties, and (2) the ambulance and rescue service employees are regularly dispatched to fires, crime scenes, riots, natural disasters and accidents. As provided in Sec. C553.213(b), where employees perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§C553.216 Other exemptions.

Although the 1974 Amendments to the FLSA as applied by the CAA provide special exemptions for employees of public agencies engaged in fire protection and law enforcement activities, such workers may also be subject to other exemptions in the Act, and public agencies may claim such other applicable exemptions in lieu of §7(k). For example, section 13(a)(1) as applied by the CAA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in Part C541. The section 13(a)(1) exemption can be claimed for any fire protection or law enforcement employee who meets all of the tests specified in part C541 relating to duties, responsibilities, and salary. Thus, high ranking police officials who are engaged in law enforcement activities, may also, depending on the facts, qualify for the section 13(a)(1) exemption as "executive" employees. Similarly, certain criminal investigative agents may qualify as "administrative" employees under section 13(a)(1).

Tour of Duty and Compensable Hours of Work Rules

§C553.220 "Tour of duty" defined.

(a) The term "tour of duty" is a unique concept applicable only to employees for whom the section 7(k) exemption is claimed. This term, as used in section 7(k), means the period of time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Such periods include 'shifts' assigned to employees often days in advance of the performance of the work. Scheduled periods also include time spent in work outside the "shift" which the public agency employer assigns. For example, a police officer may be assigned to crowd control during a parade or other special event outside of his or her shift.

(b) Unscheduled periods include time spent in court by police officers, time spent handling emergency situations, and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance. (c) The tour of duty does not include time spent working for a separate and independent employer in certain types of special details as provided in Sec. C553.227.

§C553.221 Compensable hours of work.

(a) The rules under the FLSA as applied by the CAA on compensable hours of work are applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (Sec. C553.222) apply to both law enforcement and firefighting employees for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of firefighters (Sec. C553.223).

(b) Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

(c) Time spent away from the employer's premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal

VOL
142
PT
6
AP
15
—
24
1996
UMI

pursuits also constitutes compensable hours of work. For example, where a police station must be evacuated because of an electrical failure and the employees are expected to remain in the vicinity and return to work after the emergency has passed, the entire time spent away from the premises is compensable. The employees in this example cannot use the time for their personal pursuits.

(d) An employee who is not required to remain on the employer's premises but is merely required to leave word at home or with company officials where he or she may be reached is not working while on call. Time spent at home on call may or may not be compensable depending on whether the restrictions placed on the employee preclude using the time for personal pursuits. Where, for example, a firefighter has returned home after the shift, with the understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensable. On the other hand, where the conditions placed on the employee's activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call is compensable.

(e) Normal home to work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer's premises.

(f) A police officer, who has completed his or her tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time even where the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls is compensable.

§C553.222 Sleep time.

(a) Where a public agency elects to pay overtime compensation to firefighters and/or law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude sleep time from hours worked if all the conditions for the exclusion of such time are met.

(b) Where the employer has elected to use the section 7(k) exemption, sleep time cannot be excluded from the compensable hours of work where

(1) The employee is on a tour of duty of less than 24 hours, and

(2) Where the employee is on a tour of duty of exactly 24 hours.

(c) Sleep time can be excluded from compensable hours of work, however, in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude such time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes means at least 5 hours), the entire time must be counted as hours of work.

§C553.223 Meal time.

(a) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude meal time from hours worked if all the statutory tests for the exclusion of such time are met.

(b) If a public agency elects to use the section 7(k) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less, provided that the employee is completely relieved from duty during the meal period, and all the other statutory tests for the exclusion of such time are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., stakeouts'), they are not considered to be completely relieved from duty, and any such meal periods would be compensable.

(c) With respect to firefighters employed under section 7(k), who are confined to a duty station, the legislative history of the Act indicates Congressional intent to mandate a departure from the usual FLSA 'hours of work' rules and adoption of an overtime standard keyed to the unique concept of 'tour of duty' under which firefighters are employed. Where the public agency elects to use the section 7(k) exemption for firefighters, meal time cannot be excluded from the compensable hours of work where (1) the firefighter is on a tour of duty of less than 24 hours, and (2) where the firefighter is on a tour of duty of exactly 24 hours.

(d) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the statutory tests for exclusion of such hours are met.

§C553.224 "Work period" defined.

(a) As used in section 7(k), the term 'work period' refers to any established and regularly recurring period of work which, under the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28 consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the duty cycle or pay period or with a particular day of the week or hour of the day. Once the beginning and ending time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within the period. The beginning and ending of the work period may be changed, provided that the change is intended to be permanent and is not designed to evade the overtime compensation requirements of the Act.

(b) An employer may have one work period applicable to all employees, or different work periods for different employees or groups of employees.

§C553.225 Early relief.

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work.

§C553.226 Training time.

(a) The general rules for determining the compensability of training time under the FLSA apply to employees engaged in law enforcement or fire protection activities.

(b) While time spent in attending training required by an employer is normally considered compensable hours of work, following are situations where time spent by employees in required training is considered to be noncompensable:

(1) Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

(2) Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government, does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class or at a training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§C553.227 Outside employment.

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) the special detail work is performed solely at the employee's option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department may maintain a roster of officers who wish to perform such work. The department may also select the officers for special details from a list of those wishing to participate, negotiate their pay, and retain a fee for administrative expenses. The department may require that the separate and independent employer pay the fee for such services directly to the department, and establish procedures for the officers to receive their pay for the special details through the agency's payroll system. Finally, the department may require that the officers observe their normal standards of conduct during such details and take disciplinary action against those who fail to do so.

(e) Section 7(p)(1) applies to special details even where a State law or local ordinance requires that such work be performed and that only law enforcement or fire protection employees of a public agency in the same jurisdiction perform the work. For example, a city ordinance may require the presence of city police officers at a convention center during concerts or sports events. If the officers perform such work at their own option,

the hours of work need not be combined with the hours of work for their primary employer in computing overtime compensation.

(f) The principles in paragraphs (d) and (e) of this section with respect to special details of public agency fire protection and law enforcement employees under section 7(p)(1) are exceptions to the usual rules on joint employment set forth in part 791 of this title.

(g) Where an employee is directed by the public agency to perform work for a second employer, section 7(p)(1) does not apply. Thus, assignments of police officers outside of their normal work hours to perform crowd control at a parade, where the assignments are not solely at the option of the officers, would not qualify as special details subject to this exception. This would be true even if the parade organizers reimburse the public agency for providing such services.

(h) Section 7(p)(1) does not prevent a public agency from prohibiting or restricting outside employment by its employees.

Overtime Compensation Rules

§C553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).

(a) For those employees engaged in fire protection activities who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 212 as the number of days in the work period bears to 28.

(b) For those employees engaged in law enforcement activities (including security personnel in correctional institutions) who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 171 as the number of days in the work period bears to 28.

(c) The ratio of 212 hours to 28 days for employees engaged in fire protection activities is 7.57 hours per day (rounded) and the ratio of 171 hours to 28 days for employees engaged in law enforcement activities is 6.11 hours per day (rounded). Accordingly, overtime compensation (in premium pay or compensatory time) is required for all hours worked in excess of the following maximum hours standards (rounded to the nearest whole hour):

Maximum hours standards	Work period (days)	
	Fire protection	Law enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

§C553.231 Compensatory time off.

(a) Law enforcement and fire protection employees who are subject to the section 7(k) exemption may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum for their work period as set forth in Sec. C553.230.

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if a firefighter's work period is 28 consecutive days, and he or she works 80 hours in each of the first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same firefighter had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

§C553.232 Overtime pay requirements.

If a public agency pays employees subject to section 7(k) for overtime hours worked in cash wages rather than compensatory time off, such wages must be paid at one and one-half times the employees' regular rate of pay.

§C553.233 'Regular rate' defined.

The statutory rules for computing an employees' 'regular rate', for purposes of the Act's overtime pay requirements are applicable to employees or whom the section 7(k) exemption is claimed when overtime compensation is provided in cash wages.

SUBPART D—COMPENSATORY TIME-OFF FOR OVERTIME EARNED BY EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE HOUSE AND THE SENATE

§C553.301 Definition of "directly depends".

For the purposes of this Part, a covered employees' work schedule "directly depends" on the schedule of the House of Representatives and the Senate only if the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House and the Senate.

§C553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House and Senate.

No employing office shall be deemed to have violated section 203(a)(1) of the CAA, which applies the protections of section 7(a) of the Fair Labor Standards Act ("FLSA") to covered employees and employing office, by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under section 7(a) of the FLSA where the employees' work schedule directly depends on the schedule of the House of Representatives or the Senate within the meaning of §C553.301, and: (a) the employee is compensated at the rate of time-and-a-half in pay for all hours in excess of 40 and up to 60 hours in a workweek, and (b) the employee is compensated at the rate of time-and-a-half in either pay or in time off for all hours in excess of 60 hours in a workweek.

§C553.303 Using compensatory time off.

An employee who has accrued compensatory time off under §C553.302 upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of the request. An employee may renew the request at a subsequent time. An employing office may also, upon reasonable notice, require an employee to use accrued compensatory time-off.

§C553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

An employee who has accrued compensatory time authorized by this regulation shall, upon termination of employment, be paid for the unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

PART C570—CHILD LABOR REGULATIONS

Subpart A—General

Sec.
C570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C570.1 Definitions.
C570.2 Minimum age standards.

Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)

C570.31 Determination.
C570.32 Effect of this subpart.
C570.33 Occupations.
C570.35 Periods and conditions of employment.

Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age or Detrimental to Their Health or Well-Being

C570.50 General.
C570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1).
C570.52 Occupations of motor-vehicle driver and outside helper (Order 2).
C570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5).
C570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7).
C570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8).
C570.62 Occupations involved in the operation of bakery machines (Order 11).
C570.63 Occupations involved in the operation of paper-products machines (Order 12).
C570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14).
C570.66 Occupations involved in wrecking and demolition operations (Order 15).
C570.67 Occupations in roofing operations (Order 16).
C570.68 Occupations in excavation operations (Order 17).

SUBPART A—GENERAL

§C570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance Regulations under Section 202 of the CAA:

Secretary of Labor Regulations	OC Regulations
570.1—Definitions	C570.1
570.2—Minimum age standards	C570.2
570.31—Determinations	C570.31
570.32—Effect of this subpart	C570.32
570.33— Occupations	C570.33
570.35—Periods and conditions of employment	C570.35
570.50—General	C570.50
570.51—Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1).	C570.51

VOL 142 PT 6 AP 15 — 24 1996 UMI

Secretary of Labor Regulations	OC Regulations
570.52—Occupations of motor-vehicle driver and outside helper (Order 2).	C570.52
570.55—Occupations involved in the operation of power-driven woodworking machines (Order 5).	C570.55
570.58—Occupations involved in the operation of power-driven hoisting apparatus (Order 7).	C570.58
570.59—Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8).	C570.59
570.62—Occupations involved in the operation of bakery machines (Order 11).	C570.62
570.63—Occupations involved in the operation of paper-products machines (Order 12).	C570.63
570.65—Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14).	C570.65
570.66—Occupations involved in wrecking and demolition operations (Order 15).	C570.66
570.67—Occupations in roofing operations (Order 16) ___	C570.67
570.68—Occupations in excavation operations (Order 17)	C570.68

§C570.1 Definitions.

As used in this part:

(a) *Act* means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219).

(b) *Oppressive child labor* means employment of a minor in an occupation for which he does not meet the minimum age standards of the Act, as set forth in Sec. 570.2 of this subpart.

(c) *Oppressive child labor age* means an age below the minimum age established under the Act for the occupation in which a minor is employed or in which his employment is contemplated.

(d) [Reserved]

(e) [Reserved]

(f) *Secretary* or *Secretary of Labor* means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(g) *Wage and Hour Division* means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

(h) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative.

§C570.2 Minimum age standards.

(a) All occupations except in agriculture. (1) The Act, in section 3(1), sets a general 16-year minimum age which applies to all employment subject to its child labor provisions in any occupation other than in agriculture, with the following exceptions:

(i) The Act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being (see subpart C of this part); and

(ii) The Act sets an 18-year minimum age with respect to employment in any occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such age or detrimental to their health or well-being.

(2) The Act exempts from its minimum age requirements the employment by a parent of his own child, or by a person standing in place of a parent of a child in his custody, except in occupations to which the 18-year age minimum applies and in manufacturing and mining occupations.

SUBPART B [RESERVED]

SUBPART C—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REG. 3)

§C570.31 Determination.

The employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

§C570.32 Effect of this subpart.

In all occupations covered by this subpart the employment (including suffering or permitting to work) by an employer of minor employees between 14 and 16 years of age for the periods and under the conditions specified in § 570.35 shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938.

§C570.33 Occupations.

This subpart shall apply to all occupations other than the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations which the Secretary of Labor may, pursuant to section 3(1) of the Fair Labor Standards Act and Reorganization Plan No. 2, issued pursuant to the Reorganization Act of 1945, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being;

(f) Occupations in connection with:

(1) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

(2) Warehousing and storage;

(3) Communications and public utilities;

(4) Construction (including demolition and repair); except such office (including ticket office) work, or sales work, in connection with paragraphs (f)(1), (2), (3), and (4) of this section, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

§C570.35 Periods and conditions of employment.

(a) Except as provided in paragraph (b) of this section, employment in any of the occupations to which this subpart is applicable shall be confined to the following periods:

(1) Outside school hours;

(2) Not more than 40 hours in any 1 week when school is not in session;

(3) Not more than 18 hours in any 1 week when school is in session;

(4) Not more than 8 hours in any 1 day when school is not in session;

(5) Not more than 3 hours in any 1 day when school is in session;

(6) Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

SUBPART D [RESERVED]

SUBPART E—OCCUPATIONS PARTICULARLY HAZARDOUS FOR THE EMPLOYMENT OF MINORS BETWEEN 16 AND 18 YEARS OF AGE OR DETRIMENTAL TO THEIR HEALTH OR WELL-BEING

§C570.50 General.

(a) Higher standards. Nothing in this subpart shall authorize non-compliance with any Federal law or regulation establishing a higher standard. If more than one standard within this subpart applies to a single activity the higher standard shall be applicable.

(b) Apprentices. Some sections in this subpart contain an exemption for the employment of apprentices. Such an exemption shall apply only when: (1) The apprentice is employed in a craft recognized as an apprenticeable trade; (2) the work of the apprentice in the occupations declared particularly hazardous is incidental to his training; (3) such work is intermittent and for short periods of time and is under the direct and close supervision of a journeyman as a necessary part of such apprentice training; and (4) the apprentice is registered by the Executive Director of the Office of Compliance as employed in accordance with the standards established by the Bureau of Apprenticeship and Training of the United States Department of Labor.

(c) Student-learners. Some sections in this subpart contain an exemption for the employment of student-learners. Such an exemption shall apply when:

(1) The student-learner is enrolled in a course of study and training in a cooperative vocational training program under a recognized State or local educational authority or in a course of study in a substantially similar program conducted by a private school and;

(2) Such student-learner is employed under a written agreement which provides:

(i) That the work of the student-learner in the occupations declared particularly hazardous shall be incidental to his training;

(ii) That such work shall be intermittent and for short periods of time, and under the direct and close supervision of a qualified and experienced person;

(iii) That safety instructions shall be given by the school and correlated by the employer with on-the-job training; and

(iv) That a schedule of organized and progressive work processes to be performed on the job shall have been prepared. Each such written agreement shall contain the name of student-learner, and shall be signed by the employer and the school coordinator or principal. Copies of each agreement shall be kept on file by both the school and the employer. This exemption for the employment of student-learners may be revoked in any individual situation where it is found that reasonable precautions have not been observed for the safety of minors employed thereunder. A high school graduate may be employed in an occupation in which he has completed training as provided in this paragraph as a student-learner, even though he is not yet 18 years of age.

§C570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1).

(a) Finding and declaration of fact. The following occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components are particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being:

(1) All occupations in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in paragraph (a)(2) of this section) manufacturing or storing explosives or articles containing explosive components except where the occupation is performed in a 'nonexplosives area' as defined in paragraph (b)(3) of this section.

(2) The following occupations in or about any plant or establishment manufacturing or storing small-arms ammunition not exceeding .60 caliber in size, shotgun shells, or blasting caps when manufactured or stored

in conjunction with the manufacture of small-arms ammunition:

(i) All occupations involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small-arms ammunition and all other occupations requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.

(ii) All occupations involved in the manufacturing, transporting, or handling of primers and all other occupations requiring the performance of any duties in the same building in which primers are manufactured.

(iii) All occupations involved in the priming of cartridges and all other occupations requiring the performance of any duties in the same workroom in which rim-fire cartridges are primed.

(iv) All occupations involved in the plate loading of cartridges and in the operation of automatic loading machines.

(v) All occupations involved in the loading, inspecting, packing, shipping and storage of blasting caps.

(b) Definitions. For the purpose of this section:

(1) The term *plant or establishment manufacturing or storing explosives or articles containing explosive component* means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.

(2) The terms *explosives* and *articles containing explosive components* mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the Interstate Commerce Commission in regulations for the transportation of explosives and other dangerous substances by common carriers (49 CFR parts 71 to 78) issued pursuant to the Act of June 25, 1948 (62 Stat. 739; 18 U.S.C. 835).

(3) An area meeting all of the criteria in paragraphs (b)(3) (i) through (iv) of this section shall be deemed a "nonexplosives area":

(i) None of the work performed in the area involves the handling or use of explosives;

(ii) The area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings;

(iii) The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and

(iv) Satisfactory controls have been established to prevent employees under 18 years of age within the area from entering any area in or about the plant which does not meet criteria of paragraphs (b)(3) (i) through (iii) of this section.

§C570.52 Occupations of motor-vehicle driver and outside helper (Order 2).

(a) Findings and declaration of fact. Except as provided in paragraph (b) of this section, the occupations of motor-vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in §C570.68(a) are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) Exemption—Incidental and occasional driving. The findings and declaration in paragraph (a) of this section shall not apply to the operation of automobiles or trucks not exceeding 6,000 pounds gross vehicle weight if such driving is restricted to daylight hours;, *provided*, such operation is only occasional and incidental to the minor's employment; that the minor holds a State license valid for the type of driving involved in the job performed and has completed a State approved driver education course; and *provided further*, that the vehicle is equipped with a seat belt or similar restraining device for the driver and for each helper, and the employer has instructed each minor that such belts or other devices must be used. This paragraph shall not be applicable to any occupation of motor-vehicle driver which involves the towing of vehicles.

(c) Definitions. For the purpose of this section:

(1) The term *motor vehicle* shall mean any automobile, truck, truck-tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

(2) The term *driver* shall mean any individual who, in the course of employment, drives a motor vehicle at any time.

(3) The term *outside helper* shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

(4) The term *gross vehicle weight* includes the truck chassis with lubricants, water and a full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body and special chassis and body equipment, and payload.

§C570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5).

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven wood-working machines are particularly hazardous for minors between 16 and 18 years of age:

(1) The occupation of operating power-driven woodworking machines, including supervising or controlling the operation of such machines, feeding material into such machines, and helping the operator to feed material into such machines but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.

(3) The occupations of off-bearing from circular saws and from guillotine-action veneer clippers.

(b) Definitions. As used in this section:

(1) The term *power-driven woodworking machines* shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer.

(2) The term *off-bearing* shall mean the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this section include: (i) The removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expulsion roller, and (ii) the following operations when they do not involve the removal of material or refuse directly from a saw table or from the point of operation: The carrying, moving, or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling, or loading of materials.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec. 570.50 (b) and (c).

§C570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7).

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven hoisting apparatus are particularly hazardous for minors between 16 and 18 years of age:

(1) Work of operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic operation passenger elevator or an electric or air- operated hoist not exceeding one ton capacity.

(2) Work which involves riding on a manlift or on a freight elevator, except a freight elevator operated by an assigned operator.

(3) Work of assisting in the operation of a crane, derrick, or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like occupations.

(b) Definitions. As used in this section:

(1) The term *elevator* shall mean any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators (including portable elevators or tiering machines), but shall not include dumbwaiters.

(2) The term *crane* shall mean a power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot-pouring, jib, locomotive, motor-truck, overhead traveling, pillar jib, pintle, portal, semi-gantry, semi-portal, storage bridge, tower, walking jib, and wall cranes.

(3) The term *derrick* shall mean a power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with an hoisting mechanism or operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy and stiff-leg derrick.

(4) The term *hoist* shall mean a power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term shall include all types of hoists, such as base mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum and trolley suspension hoists.

(5) The term *high-lift* truck shall mean a power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term shall mean and include highlift trucks known under such names as fork lifts, fork trucks, fork-lift trucks, tiering trucks, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of but not the tiering of material.

(6) The term *manlift* shall mean a device intended for the conveyance of persons which

VOL
142
PT
6
AP
15
—
24
1996
UMI

consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; such belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom.

(c) Exception. (1) This section shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all such doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive over travel by the car.

(2) For the purpose of this exception the term *automatic elevator* shall mean a passenger elevator, a freight elevator, or a combination passenger-freight elevator, the operation of which is controlled by pushbuttons in such a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic.

(3) For the purpose of this exception, the term *automatic signal operation elevator* shall mean an elevator which is started in response to the operation of a switch (such as a lever or pushbutton) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors—from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

§ C570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8).

(a) Finding and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operator of or helper on the following power-driven metal forming, punching, and shearing machines:

(i) All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.

(ii) All pressing or punching machines, such as punch presses except those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the area between the dies; power presses; and plate punches.

(iii) All bending machines, such as apron brakes and press brakes.

(iv) All hammering machines, such as drop hammers and power hammers.

(v) All shearing machines, such as guillotine or squaring shears; alligator shears; and rotary shears.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those with automatic feed and ejection.

(b) Definitions. (1) The term *operator* shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(2) The term *helper* shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.

(3) The term *forming, punching, and shearing machines* shall mean power-driven metal-working machines, other than machine tools, which change the shape of or cut metal by means of tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving parts. Types of forming, punching, and shearing machines enumerated in this section are the machines to which the designation is by custom applied.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec. 570.50 (b) and (c).

§ C570.62 Occupations involved in the operation of bakery machines (Order 11).

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven bakery machines are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operating, assisting to operate, or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machine; or cake cutting band saw.

(2) The occupation of setting up or adjusting a cooky or cracker machine.

§ C570.63 Occupations involved in the operation of paper-products machines (Order 12).

(a) Findings and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operation or assisting to operate any of the following power-driven paper products machines:

(i) Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single-or-double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, or vertical slotter.

(ii) Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those which do not involve hand feeding.

(b) Definitions. (1) The term *operating or assisting to operate* shall mean all work which involves starting or stopping a machine covered by this section, placing or removing materials into or from the machine, or any other work directly involved in operating the machine. The term does not include the stacking of materials by an employee in an area nearby or adjacent to the machine where such employee does not place the materials into the machine.

(2) The term *paper products* machine shall mean all power-driven machines used in:

(i) The remanufacture or conversion of paper or pulp into a finished product, including the preparation of such materials for recycling; or

(ii) The preparation of such materials for disposal. The term applies to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishment.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

§ C570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14).

(a) Findings and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operator of or helper on the following power-driven fixed or portable machines except machines equipped with full automatic feed and ejection:

(i) Circular saws.

(ii) Band saws.

(iii) Guillotine shears.

(2) The occupations of setting-up, adjusting, repairing, oiling, or cleaning circular saws, band saws, and guillotine shears.

(b) Definitions. (1) The term *operator* shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(2) The term *helper* shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.

(3) The term *machines equipped with full automatic feed and ejection* shall mean machines covered by this Order which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any part of his body in the point-of-operation area.

(4) The term *circular saw* shall mean a machine equipped with a thin steel disc having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.

(5) The term *band saw* shall mean a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.

(6) The term *guillotine shear* shall mean a machine equipped with a movable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

§ C570.66 Occupations involved in wrecking and demolition operations (Order 15).

(a) Finding and declaration of fact. All occupations in wrecking and demolition operations are particularly hazardous for the employment of minors between 16 and 18 years of age and detrimental to their health and well-being.

(b) Definition. The term *wrecking and demolition operations* shall mean all work, including clean-up and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, or other structure.

§ C570.67 Occupations in roofing operations (Order 16).

(a) Finding and declaration of fact. All occupations in roofing operations are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health.

(b) Definition of roofing operations. The term *roofing operations* shall mean all work performed in connection with the application of weatherproofing materials and substances (such as tar or pitch, asphalt prepared paper, tile, slate, metal, translucent materials, and shingles of asbestos, asphalt or wood) to roofs of buildings or other structures. The term shall also include all work performed in connection with: (1) The installation of roofs, including related metal work such as flashing and (2) alterations, additions, maintenance, and repair, including painting and coating, of existing roofs. The term shall not include gutter and downspout work; the construction of the sheathing or base of roofs; or the installation of television antennas, air conditioners, exhaust and ventilating equipment, or similar appliances attached to roofs.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

§ C570.68 Occupations in excavation operations (Order 17).

(a) Finding and declaration of fact. The following occupations in excavation operations are particularly hazardous for the employment of persons between 16 and 18 years of age: (1) Excavating, working in, or backfilling (refilling) trenches, except (i) manually excavating or manually backfilling trenches that do not exceed four feet in depth at any point, or (ii) working in trenches that do not exceed four feet in depth at any point.

(2) Excavating for buildings or other structures or working in such excavations, except: (i) Manually excavating to a depth not exceeding four feet below any ground surface adjoining the excavation, or (ii) working in an excavation not exceeding such depth, or (iii) working in an excavation where the side walls are shored or sloped to the angle of repose.

(3) Working within tunnels prior to the completion of all driving and shoring operations.

(4) Working within shafts prior to the completion of all sinking and shoring operations.

(b) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec.C570.50 (b) and (c).

OFFICE OF COMPLIANCE—The Congressional Accountability Act of 1995: Extension of Rights and Protections Under the Worker Adjustment and Retraining Notification Act of 1988

NOTICE OF ISSUANCE OF FINAL REGULATIONS

On January 22, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record final regulations implementing section 205 of the Congressional Accountability Act of 1995 ("CAA"), relating to the Worker Adjustment and Retraining Act. On April 15, 1996, pursuant to section 304(c) of the CAA, the House and the Senate agreed to resolutions approving the final regulations. Specifically, the Senate agreed to S. Res. 242, to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate; the House agreed to H. Res. 400, to provide for the approval of final regulations that are applicable to the House and the employees of the House; and the House and the Senate agreed to S. Con. Res. 51, to provide for approval of final regulations that are applicable to employing offices and employees other than those offices and employees of the House and the Senate. Accordingly, pursuant section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for the regulations of become effective on April 16, 1996, rather than 60 days after issuance. Were the regulations not effective immediately upon the expiration of the interim regulations on April 15, 1996, covered employees, employing offices and the Office of Compliance would be forced to operate under the same kind of regulatory uncertainty that the Board sought to avoid by adopting interim regulations effective as of the January 23, 1996, which was the effective date of the relevant provisions of the CAA.

Signed at Washington, D.C. on this 19th day of April, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby issues on an the following final regulations:

Accordingly, the Board of Directors of the Office of Compliance hereby issues following final regulations:

[Final Regulations]

APPLICATION OF RIGHTS AND PROTECTIONS OF THE WORKER ADJUSTMENT RETRAINING AND NOTIFICATION ACT OF 1988 (IMPLEMENTING SECTION 204 OF THE CAA)

Section
639.1 Purpose and scope.
639.2 What does WARN require?
639.3 Definitions.
639.4 Who must give notice?
639.5 When must notice be given?
639.6 Who must receive notice?
639.7 What must the notice contain?
639.8 How is the notice served?
639.9 When may notice be given less than 60 days in advance?
639.10 When may notice be extended?

§ 639.1 Purpose and scope.

(a) *Purpose of WARN as applied by the CAA.* Section 205 of the Congressional Accountability Act, P.L. 104-1 ("CAA"), provides protection to covered employees and their families by requiring employing offices to provide notification 60 calendar days in advance of office closings and mass layoffs within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act of 1988, 29 U.S.C. § 2102. Advance notice provides workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market. As used in these regulations, WARN shall refer to the provisions of WARN applied to covered employing offices by section 205 of the CAA.

(b) *Scope of these regulations.* These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 205(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 205 that are the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA] except insofar as the Board may determine, for good cause shown. . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section. The regulations issued by the Board herein are on all matters for which section 205 of the CAA requires a regulation to be issued. Specifically, it is the Board s considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA]."

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these sections and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

These regulations establish basic definitions and rules for giving notice, implementing the provisions of WARN. The objective of these regulations is to establish clear principles and broad guidelines which can be applied in specific circumstances. However, it is recognized that rulemaking cannot address the multitude of employing office-specific situations in which advance notice will be given.

(c) *Notice in ambiguous situations.* It is civically desirable and it would appear to be good business practice for an employing office to provide advance notice, where reasonably possible, to its workers or unions when terminating a significant number of employees. The Office encourages employing offices to give notice in such circumstances.

(d) *WARN not to supersede other laws and contracts.* The provisions of WARN do not supersede any otherwise applicable laws or collective bargaining agreements that provide for additional notice or additional rights and remedies. If such law or agreement provides for a longer notice period, WARN notice shall run concurrently with that additional notice period. Collective bargaining agreements may be used to clarify or amplify the terms and conditions of WARN, but may not reduce WARN rights.

§ 639.2 What does WARN require?

WARN requires employing offices that are planning an office closing or a mass layoff to give affected employees at least 60 days' notice of such an employment action. While the 60-day period is the minimum for advance notice, this provision is not intended to discourage employing offices from voluntarily providing longer periods of advance notice. Not all office closings and layoffs are subject to WARN, and certain employment thresholds must be reached before WARN applies. WARN sets out specific exemptions, and provides for a reduction in the notification period in particular circumstances. Remedies authorized under section 205 of the CAA may be assessed against employing offices that violate WARN requirements.

VOL
142
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AP
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24
1996
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§639.3 Definitions.

(a) *Employing office.* (1) The term "employing office" means any of the entities listed in section 101(9) of the CAA, 2 U.S.C. §1301(9) that employs—

(i) 100 or more employees, excluding part-time employees; or

(ii) employs 100 or more employees, including part-time employees, who in the aggregate work at least 4,000 hours per week, exclusive of overtime. Workers on temporary layoff or on leave who have a reasonable expectation of recall are counted as employees. An employee has a "reasonable expectation of recall" when he/she understands, through notification or through common practice, that his/her employment with the employing office has been temporarily interrupted and that he/she will be recalled to the same or to a similar job.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN, are nonetheless counted as employees for purposes of determining coverage as an employing office.

(3) An employing office may have one or more sites of employment under common control.

(b) *Office closing.* The term "office closing" means the permanent or temporary shutdown of a "single site of employment", or one or more "facilities or operating units" within a single site of employment, if the shutdown results in an "employment loss" during *any 30-day period* at the single site of employment for *50 or more* employees, excluding any part-time employees. An employment action that results in the effective cessation of the work performed by a unit, even if a few employees remain, is a shutdown. A "temporary shutdown" triggers the notice requirement only if there are a sufficient number of terminations, layoffs exceeding 6 months, or reductions in hours of work as specified under the definition of "employment loss."

(c) *Mass layoff.* (1) The term "mass layoff" means a reduction in force which first, is not the result of an office closing, and second, results in an employment loss at the single site of employment during *any 30-day period* for:

(i) *At least 33 percent* of the active employees, excluding part-time employees, and

(ii) *At least 50 employees*, excluding part-time employees.

Where 500 or more employees (excluding part-time employees) are affected, the 33% requirement does not apply, and notice is required if the other criteria are met. Office closings involve employment loss which results from the shutdown of one or more distinct units within a single site or the entire site. A mass layoff involves employment loss, regardless of whether one or more units are shut down at the site.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN are nonetheless counted as employees for purposes of determining coverage as an office closing or mass layoff. For example, if an employing office closes a temporary project on which 10 permanent and 40 temporary workers are employed, a covered office closing has occurred although only 10 workers are entitled to notice.

(d) *Representative.* The term "representative" means an exclusive representative of employees within the meaning of 5 U.S.C. §§7101 *et seq.*, as applied to covered employees and employing offices by section 220 of the CAA, 2 U.S.C. §1351.

(e) *Affected employees.* The term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed office closing or mass layoff by their employing office. This includes individually identifiable employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such individual workers reasonably can be identified at the time notice is required to be given. The term "affected employees" includes managerial and supervisory employees. Consultant or contract employees who have a separate employment relationship with another employing office or employer and are paid by that other employing office or employer, or who are self-employed, are not "affected employees" of the operations to which they are assigned. In addition, for purposes of determining whether coverage thresholds are met, either incumbent workers in jobs being eliminated or, if known 60 days in advance, the actual employees who suffer an employment loss may be counted.

(f) *Employment loss.* (1) The term "employment loss" means (i) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (ii) a layoff exceeding 6 months, or (iii) a reduction in hours of work of individual employees of more than 50% during each month of any 6-month period.

(2) Where a termination or a layoff (see paragraphs (f)(1)(i) and (ii) of this section) is involved, an employment loss does not occur when an employee is reassigned or transferred to employing office-sponsored programs, such as retraining or job search activities, as long as the reassignment does not constitute a constructive discharge or other involuntary termination.

(3) An employee is not considered to have experienced an employment loss if the closing or layoff is the result of the relocation or consolidation of part or all of the employing office's operations and, prior to the closing or layoff—

(i) The employing office offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment, or

(ii) The employing office offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

(4) A "relocation or consolidation" of part or all of an employing office s operations, for purposes of paragraph §639.3(f)(3), means that some definable operations are transferred to a different site of employment and that transfer results in an office closing or mass layoff.

(g) *Part-time employee.* The term "part-time" employee means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required, including workers who work full-time. This term may include workers who would traditionally be understood as "seasonal" employees. The period to be used for calculating whether a worker has worked "an average of fewer than 20 hours per week" is the shorter of the actual time the worker has been employed or the most recent 90 days.

(h) *Single site of employment.* (1) A single site of employment can refer to either a single location or a group of contiguous locations. Separate facilities across the street from one another may be considered a single site of employment.

(2) There may be several single sites of employment within a single building, such as an office building, if separate employing offices conduct activities within such a building. For example, an office building housing 50 different employing offices will contain 50 single sites of employment. The offices of each employing office will be its single site of employment.

(3) Separate buildings or areas which are not directly connected or in immediate proximity may be considered a single site of employment if they are in reasonable geographic proximity, used for the same purpose, and share the same staff and equipment.

(4) Non-contiguous sites in the same geographic area which do not share the same staff or operational purpose should not be considered a single site.

(5) Contiguous buildings operated by the same employing office which have separate management and have separate workforces are considered separate single sites of employment.

(6) For workers whose primary duties require travel from point to point, who are outstationed, or whose primary duties involve work outside any of the employing office's regular employment sites (e.g., railroad workers, bus drivers, salespersons), the single site of employment to which they are assigned as their home base, from which their work is assigned, or to which they report will be the single site in which they are covered for WARN purposes.

(7) Foreign sites of employment are not covered under WARN. U.S. workers at such sites are counted to determine whether an employing office is covered as an employing office under §639.3(a).

(8) The term "single site of employment" may also apply to truly unusual organizational sitnations where the above criteria do not reasonably apply. The application of this definition with the intent to evade the purpose of WARN to provide notice is not acceptable.

(i) *Facility or operating unit.* The term "facility" refers to a building or buildings. The term "operating unit" refers to an organizationally or operationally distinct product, operation, or specific work function within or across facilities at the single site.

§639.4 Who must give notice?

Section 205(a)(1) of the CAA states that "[n]o employing office shall be closed or a mass layoff ordered within the meaning of section 3 of [WARN] until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff. . ." Therefore, an employing office that is anticipating carrying out an office closing or mass layoff is required to give notice to affected employees or their representative(s). (See definitions in §639.3 of this part.).

(a) It is the responsibility of the employing office to decide the most appropriate person within the employing office's organization to prepare and deliver the notice to affected employees or their representative(s). In most instances, this may be the local site office manager, the local personnel director or a labor relations officer.

(b) An employing office that has previously announced and carried out a short-term layoff (6 months or less) which is being extended beyond 6 months due to circumstances not reasonably foreseeable at the time of the initial layoff is required to give notice when it becomes reasonably foreseeable that the extension is required. A layoff extending beyond 6 months from the date the layoff commenced for any other reason shall be treated as an employment loss from the date of its commencement.

(c) In the case of the privatization or sale of part or all of an employing office's operations, the employing office is responsible for providing notice of any office closing or mass layoff which takes place up to and including the effective date (time) of the privatization or sale, and the contractor or buyer is responsible for providing any required notice of any office closing or mass layoff that takes place thereafter.

(1) If the employing office is made aware of any definite plans on the part of the buyer or contractor to carry out an office closing or mass layoff within 60 days of purchase, the employing office may give notice to affected employees as an agent of the buyer or contractor, if so empowered. If the employing office does not give notice, the buyer or contractor is, nevertheless, responsible to give notice. If the employing office gives notice as the agent of the buyer or contractor, the responsibility for notice still remains with the buyer or contractor.

(2) It may be prudent for the buyer or contractor and employing office to determine the impacts of the privatization or sale on workers, and to arrange between them for advance notice to be given to affected employees or their representative(s), if a mass layoff or office closing is planned.

§639.5 When must notice be given?

(a) *General rule.* (1) With certain exceptions discussed in paragraphs (b) and (c) of this section and in §639.9 of this part, notice must be given at least 60 calendar days prior to any planned office closing or mass layoff, as defined in these regulations. When all employees are not terminated on the same date, the date of the first individual termination within the statutory 30- day or 90-day period triggers the 60-day notice requirement. A worker's last day of employment is considered the date of that worker's layoff. The first and each subsequent group of terminees are entitled to a full 60 days' notice. In order for an employing office to decide whether issuing notice is required, the employing office should—

(i) Look ahead 30 days and behind 30 days to determine whether employment actions both taken and planned will, in the aggregate for any 30-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement; and

(ii) Look ahead 90 days and behind 90 days to determine whether employment actions both taken and planned each of which separately is not of sufficient size to trigger WARN coverage will, in the aggregate for any 90-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement. An employing office is not, however, required under section 3(d) to give notice if the employing office demonstrates that the separate employment losses are the result of separate and distinct actions and causes, and are not an attempt to evade the requirements of WARN.

(2) The point in time at which the number of employees is to be measured for the purpose of determining coverage is the date the first notice is required to be given. If this "snapshot" of the number of employees employed on that date is clearly unrepresentative of the ordinary or average employment level, then a more representative number can be used to determine coverage. Examples of unrepresentative employment levels include cases when the level is near the peak or trough of an employment cycle or when large upward or downward shifts in the number of employees occur around the time notice is to be given. A more representative number may be an average number of employees over a recent period of time or the number of employees on an alternative date which is more representative of normal employment levels. Alternative methods cannot be used to evade the purpose of WARN, and should only be used in unusual circumstances.

(b) *Transfers.* (1) Notice is not required in certain cases involving transfers, as described under the definition of employment loss at §639.3(f) of this part.

(2) An offer of reassignment to a different site of employment should not be deemed to be a "transfer" if the new job constitutes a constructive discharge.

(3) The meaning of the term "reasonable commuting distance" will vary with local conditions. In determining what is a "reasonable commuting distance," consideration should be given to the following factors: geographic accessibility of the place of work, the quality of the roads, customarily available transportation, and the usual travel time.

(4) In cases where the transfer is beyond reasonable commuting distance, the employing office may become liable for failure to give notice if an offer to transfer is not accepted within 30 days of the offer or of the closing or layoff (whichever is later). Depending upon when the offer of transfer was made by the employing office, the normal 60-day notice period may have expired and the office closing or mass layoff may have occurred. An employing office is, therefore, well advised to provide 60-day advance notice as part of the transfer offer.

(c) *Temporary employment.* (1) No notice is required if the closing is of a temporary facility, or if the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking.

(2) Employees must clearly understand at the time of hire that their employment is temporary. When such understandings exist will be determined by reference to employment contracts, collective bargaining agreements, or employment practices of other employing offices or a locality, but the burden of proof will lie with the employing office to show that the temporary nature of the project or facility was clearly communicated should questions arise regarding the temporary employment understandings.

§639.6 Who must receive notice?

Section 3(a) of WARN provides for notice to each representative of the affected employees as of the time notice is required to be given or, if there is no such representative at that time, to each affected employee.

(a) *Representative(s) of affected employees.* Written notice is to be served upon the chief elected officer of the exclusive representative(s) or bargaining agent(s) of affected employees at the time of the notice. If this person is not the same as the officer of the local union(s) representing affected employees, it is recommended that a copy also be given to the local union official(s).

(b) *Affected employees.* Notice is required to be given to employees who may reasonably be expected to experience an employment loss. This includes employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such workers can be identified at the time notice is required to be given. If, at the time notice is required to be given, the employing office cannot identify the employee who may reasonably be expected to experience an employment loss due to the elimination of a particular position, the employing office must provide notice to the incumbent in that position. While part-time employees are not counted in determining whether office closing or mass layoff thresholds are reached, such workers are due notice.

§639.7 What must the notice contain?

(a) *Notice must be specific.* (1) All notice must be specific.

(2) Where voluntary notice has been given more than 60 days in advance, but does not contain all of the required elements set out in this section, the employing office must ensure that all of the information required by this section is provided in writing to the parties listed in §639.6 at least 60 days in advance of a covered employment action.

(3) Notice may be given conditional upon the occurrence or nonoccurrence of an event only when the event is definite and the consequences of its occurrence or nonoccurrence will necessarily, in the normal course of operations, lead to a covered office closing or mass layoff less than 60 days after the event. The notice must contain each of the elements set out in this section.

(4) The information provided in the notice shall be based on the best information available to the employing office at the time the notice is served. It is not the intent of the regulations that errors in the information provided in a notice that occur because events subsequently change or that are minor, inadvertent errors are to be the basis for finding a violation of WARN.

(b) As used in this section, the term "date" refers to a specific date or to a 14-day period during which a separation or separations are expected to occur. If separations are planned according to a schedule, the schedule should indicate the specific dates on which or the beginning date of each 14-day period during which any separations are expected to occur. Where a 14-day period is used, notice must be given at least 60 days in advance of the first day of the period.

(c) Notice to each representative of affected employees is to contain:

(1) The name and address of the employment site where the office closing or mass layoff will occur, and the name and telephone number of an employing office official to contact for further information;

(2) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(3) The expected date of the first separation and the anticipated schedule for making separations;

(4) The job titles of positions to be affected and the names of the workers currently holding affected jobs.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

(d) Notice to each affected employee who does not have a representative is to be written in language understandable to the employees and is to contain:

(1) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(2) The expected date when the office closing or mass layoff will commence and the expected date when the individual employee will be separated;

VOL
142
PT
6
AP
15
—
24
1996
UMI

(3) An indication whether or not bumping rights exist;

(4) The name and telephone number of an employing office official to contact for further information.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

§639.8 How is the notice served?

Any reasonable method of delivery to the parties listed under §639.6 of this part which is designed to ensure receipt of notice of at least 60 days before separation is acceptable (e.g., first class mail, personal delivery with optional signed receipt). In the case of notification directly to affected employees, insertion of notice into pay envelopes is another viable option. A ticketed notice, i.e., preprinted notice regularly included in each employee's pay check or pay envelope, does not meet the requirements of WARN.

§639.9 When may notice be given less than 60 days in advance?

Section 3(b) of WARN, as applied by section 205 of the CAA, sets forth two conditions under which the notification period may be reduced to less than 60 days. The employing office bears the burden of proof that conditions for the exceptions have been met. If one of the exceptions is applicable, the employing office must give as much notice as is practicable to the union and non-represented employees and this may, in some circumstances, be notice after the fact. The employing office must, at the time notice actually is given, provide a brief statement of the reason for reducing the notice period, in addition to the other elements set out in §639.7.

(a) The "unforeseeable business circumstances" exception under section 3(b)(2)(A) of WARN, as applied under the CAA, applies to office closings and mass layoffs caused by circumstances that were not reasonably foreseeable at the time that 60-day notice would have been required.

(1) An important indicator of a circumstance that is not reasonably foreseeable is that the circumstance is caused by some sudden, dramatic, and unexpected action or condition outside the employing office's control.

(2) The test for determining when circumstances are not reasonably foreseeable focuses on an employing office's business judgment. The employing office must exercise such reasonable business judgment as would a similarly situated employing office in predicting the demands of its operations. The employing office is not required, however, to accurately predict general economic conditions that also may affect its operations.

(b) The "natural disaster" exception in section 3(b)(2)(B) of WARN applies to office closings and mass layoffs due to any form of a natural disaster.

(1) Floods, earthquakes, droughts, storms, tidal waves or tsunamis and similar effects of nature are natural disasters under this provision.

(2) To qualify for this exception, an employing office must be able to demonstrate that its office closing or mass layoff is a direct result of a natural disaster.

(3) While a disaster may preclude full or any advance notice, such notice as is practicable, containing as much of the information required in §639.7 as is available in the circumstances of the disaster still must be given, whether in advance or after the fact of an employment loss caused by a natural disaster.

(4) Where an office closing or mass layoff occurs as an indirect result of a natural disaster, the exception does not apply but the "unforeseeable business circumstance" exception described in paragraph (a) of this section may be applicable.

§639.10 When may notice be extended?

Additional notice is required when the date or schedule of dates of a planned office closing or mass layoff is extended beyond the date or the ending date of any 14-day period announced in the original notice as follows:

(a) If the postponement is for less than 60 days, the additional notice should be given as soon as possible to the parties identified in §639.6 and should include reference to the earlier notice, the date (or 14-day period) to which the planned action is postponed, and the reasons for the postponement. The notice should be given in a manner which will provide the information to all affected employees.

(b) If the postponement is for 60 days or more, the additional notice should be treated as new notice subject to the provisions of §§639.5, 639.6 and 639.7 of this part. Rolling notice, in the sense of routine periodic notice, given whether or not an office closing or mass layoff is impending, and with the intent to evade the purpose of the Act rather than give specific notice as required by WARN, is not acceptable.

REPORT RELATIVE TO NARCOTICS TRAFFICKERS—MESSAGE FROM THE PRESIDENT—PM 140

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on the developments concerning the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order No. 12978 of October 21, 1995. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c).

1. On October 21, 1995, I signed Executive Order No. 12978, "Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers" (the "Order") (60 *Fed. Reg.* 54579, October 24, 1995). The Order blocks all property subject to U.S. jurisdiction in which there is any interest of four significant foreign narcotics traffickers who are principals in the so-called Cali drug cartel centered in Colombia. They are listed in the annex to the Order. In addition, the Order blocks the property and interests in property of foreign persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, (a) to play a significant role in international narcotics trafficking centered in Colombia or (b) to materially assist in or provide financial or technological support for, or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order. In addition the Order blocks all property and interests in property subject to U.S. jurisdiction of persons determined by the Secretary of the Treasury in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the Order (collectively "Specially Designated Narcotics Traffickers" or "SDNTs").

The Order further prohibits any transaction or dealing by a United States person or within the United States in property or interests in property of SDNTs, and any transaction that evades or avoids, has the purpose of evading or avoiding, or attempts to violate, the prohibitions contained in the Order.

Designations of foreign persons blocked pursuant to the Order are effective upon the date of determination by the Director of the Department of the Treasury's Office of Foreign Assets Control (FAC) acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the *Federal Register*, or upon prior actual notice.

2. On October 24, 1995, the Department of the Treasury issued a notice containing 76 additional names of persons determined to meet the criteria set forth in Executive Order No. 12978 (60 *Fed. Reg.* 54582–84, October 24, 1995). A copy of the notice is attached to this report.

The Department of the Treasury issued another notice adding the names of one additional entity and three additional individuals, as well as expanded information regarding addresses and pseudonyms, to the List of SDNTs on November 29, 1995 (60 *Fed. Reg.* 61288–89). A copy of the notice is attached to this report.

3. On March 8, 1996, FAC published a notice in the *Federal Register* adding the names of 138 additional individuals and 60 entities designated pursuant to the Order, and revising information for 8 individuals on the list of blocked persons contained in the notices published on November 29, 1995, and October 24, 1995 (61 *Fed. Reg.* 9523–28). A copy of the notice is attached to this report. The FAC, in coordination with the Attorney General and the Secretary of State, is continuing to expand the list of Specially Designated Narcotics Traffickers, including both organizations and individuals, as additional information is developed.

4. On October 22, 1995, FAC disseminated details of this program to the financial, securities, and international trade communities by both electronic

and conventional media. This information was updated on November 29, 1995, and again on March 5, 1996. In addition to bulletins to banking institutions via the Federal Reserve System and the Clearing House Inter-bank Payments System (CHIPS), individual notices were provided to all State and Federal regulatory agencies, automated clearing houses, and State and independent banking associations across the country. The FAC contacted all major securities industry associations and regulators, posted electronic notices to 10 computer bulletin boards and 2 fax-on-demand services, and provided the same material to the U.S. Embassy in Bogota for distribution to U.S. companies operating in Colombia.

5. There were no funds specifically appropriated to implement this program. The expenses incurred by the Federal Government in the 6-month period from October 21, 1995, through April 20, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the national emergency with respect to Significant Narcotics Traffickers are estimated at approximately $500,000 from previously appropriated funds. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of Justice, and the Department of State.

6. Executive Order No. 12978 provides this Administration with a new tool for combating the actions of significant foreign narcotics traffickers centered in Colombia, and the unparalleled violence, corruption, and harm that they cause in the United States and abroad. The Order is designed to deny these traffickers the benefit of any assets subject to the jurisdiction of the United States and to prevent United States persons from engaging in any commercial dealings with them, their front companies, and their agents. Executive Order No. 12978 demonstrates the U.S. commitment to end the scourge that such traffickers have wrought upon society in the United States and beyond.

The magnitude and the dimension of the problem in Colombia—perhaps the most pivotal country of all in terms of the world's cocaine trade—is extremely grave. I shall continue to exercise the powers at my disposal to apply economic sanctions against significant foreign narcotics traffickers and their violent and corrupting activities as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 23, 1996.*

MESSAGES FROM THE HOUSE

At 4:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker appoints Mr. STOKES, of Ohio, as a primary conferee to fill the vacancy occasioned by the resignation of Mr. HOYER, of Maryland, and reappoints Mr. HOYER of Maryland, as a conferee for consideration of section 101(c) of the House bill and section 101(d) of the Senate amendment and modifications committed to conference in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further appropriations for fiscal year 1996 to make a further a downpayment toward a balanced budget, and for other purposes.

At 5:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 166. Concurrent resolution authorizing the use of the Capitol Grounds for the Washington for Jesus 1996 prayer rally.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BREAUX:

S. 1693. A bill to require the Secretary of Labor to submit to Congress the report on method of allocating administrative funds among states required under section 304 of the Emergency Unemployment Compensation Act of 1991; to the Committee on Finance.

By Ms. SNOWE:

S. 1694. A bill to prohibit insurance providers from denying or canceling health insurance coverage, or varying the premiums, terms, or conditions for health insurance coverage on the basis of genetic information or a request for genetic services, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. McCAIN:

S. 1695. A bill to authorize the Secretary of the Interior to assess up to $2 per person visiting the Grand Canyon or other national park to secure bonds for capital improvements to the park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 1696. A bill to provide antitrust clarification, to reduce frivolous antitrust litigation, to promote equitable resolution of disputes over the location of professional sports franchises, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JEFFORDS (for himself, Mrs. KASSEBAUM, Mr. SIMON, and Mr. FEINGOLD):

S. Con. Res. 53. A concurrent resolution congratulating the people of the Republic of Sierra Leone on the success of their recent democratic multiparty elections; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 1694. A bill to prohibit insurance providers from denying or canceling health insurance coverage, or varying the premiums, terms, or conditions for health insurance coverage on the basis of genetic information or a request for genetic services, and for other purposes; to the Committee on Labor and Human Resources.

THE GENETIC INFORMATION NONDISCRIMINATION IN HEALTH INSURANCE ACT OF 1996

• Ms. SNOWE. Mr. President, I introduce the Genetic Information Nondiscrimination in Health Insurance Act of 1996. I join Representative LOUISE SLAUGHTER, who introduced this bill in the House, in calling for an end to discrimination on the basis of genetic information in health insurance.

Progress in the field of genetics is accelerating at a breathtaking pace. Who could have predicted 20 years ago that scientists today could accurately identify the genes associated with cystic fibrosis, cancer, Alzheimers' and Huntington's disease? Today, scientists can, and as a result doctors are increasingly able to identify predispositions to certain diseases based on the results of genetic testing, and to successfully treat and manage such diseases. These scientific advances hold tremendous promise for the approximately 15 million people affected by the over 4,000 currently known genetic disorders, and the millions more who are carriers of genetic diseases who may pass them on to their children.

But as our knowledge of genetic predisposition to disease has grown, so has the potential for discrimination in health insurance.

As a legislator who has worked for many years on the issue of breast cancer, and as a woman with a history of breast cancer in her family, I am delighted with the possibilities for further treatment advances based on the recent discoveries of two genes related to breast cancer—BRCA1 and BRCA2. Women who inherit mutated forms of either gene have an 85-percent risk of developing breast cancer in their lifetime. Although there is no known treatment to ensure that women who carry the mutated gene do not develop breast cancer, genetic testing makes it possible for carriers of these mutated genes to take extra precautions—such as mammograms and self-examinations—in order to detect cancer at its earliest stages. This discovery is truly a momentous breakthrough.

VOL
142
PT
6
AP
15
—
24
1996
UMI

However, the tremendous promise of genetic testing is being significantly threatened by insurance companies that use the results of genetic testing to deny or limit coverage to consumers. Unfortunately, this practice is relatively common today. In fact, a recent survey of individuals with a known genetic condition in their family revealed that 22 percent had been denied health insurance coverage because of genetic information.

In addition to the potentially devastating consequences health insurance denials on the basis of genetic information can have on American families, the fear of discrimination has equally harmful consequences for consumers and for scientific research. For example, many women who might take extra precautions if they knew they had the breast cancer gene may not seek testing because they fear losing their health insurance. Patients may be unwilling to disclose information about their genetic status to their physicians out of fear, hindering treatment or preventive efforts. And people may be unwilling to participate in potentially ground-breaking research trials because they do not want to reveal information about their genetic status.

The bill I am introducing today addresses these serious concerns by prohibiting health insurance providers from denying or canceling health insurance coverage or varying the terms, premiums, or conditions for health insurance for individuals or their family members on the basis of genetic information. It also prohibits insurance companies from discriminating against individuals who have requested or received genetic services.

My bill also contains important confidentiality provisions which prohibit insurance companies from disclosing genetic information about an individual without that person's written consent. And it prohibits an insurance provider from requesting someone to undergo, and from disclosing, genetic information about that person.

Finally, the bill allows individuals to sue for monetary damages or injunctive relief if an insurance company violates, or threatens to violate, these nondiscrimination or disclosure provisions.

I urge my colleagues to end the unfair practice of denying health care coverage to individuals on the basis of genetic information by supporting the bill I am introducing today.●

By Mr. McCAIN:

S. 1695. A bill to authorize the Secretary of the Interior to assess up to $2 per person visiting the Grand Canyon or other national parks to secure bonds for capital improvements to the park, and for other purposes; to the Committee on Energy and Natural Resources.

THE NATIONAL PARKS CAPITAL IMPROVEMENTS ACT

● Mr. McCAIN. Mr. President, I introduce legislation to make desperately needed improvements within America's national parks.

The National Parks Capital Improvements Act would allow private fund-raising organizations, under agreement with the Secretary of the Interior, to issue taxable capital development bonds to finance park improvement projects. The bonds would be secured by an entrance fee surcharge of up to $2 per visitor at participating parks.

Our National Park System has enormous capital needs—by last estimate over $3 billion of high priority projects such as improved transportation systems, trail repairs, visitor facilities, historic preservation, and the list goes on and on. The unfortunate reality is that even under the rosiest budget scenarios our growing park needs far outstrip the resources available.

A good example of this funding gap is at Grand Canyon National Park. The park's newly approved park management plan calls for over $300 million in capital improvements, including a desperately needed transportation system to reduce congestion. Compare that to the $12 million the Grand Canyon received last year for operating costs. The gap is as wide as the Grand Canyon itself. Clearly, we must find new means of financing park needs.

Revenue bonding is an integral part of the solution. Based on current visitation rates, a $2 surcharge at the Grand Canyon would enable us to raise $100 million dollars from a bond issue amortized over 20 years. That is significant amount of money with which we could accomplish a lot of critical work.

I want to point out that the Grand Canyon would not be the only park eligible for the program. Any park unit with capital needs in excess of $5 million is eligible to participate. Among eligible park the Secretary will determine which shall take part in the program.

I also want to stress that only projects approved as part of park's General Management Plan can be funded through bond revenue. This proviso eliminates any concern that the revenue could be used for projects of questionable value to the park.

Finally, the bill requires that all professional standards apply and that the issues are subject to the same laws, rules and regulatory enforcement procedures as any other bond issue.

In addition, only organizations under agreement with the Secretary will be authorized to administer the bonding, so the Secretary can establish any rules or policies he deems necessary and appropriate.

Under, no circumstances, however would investors be able to attach liens against Federal property in the very unlikely event of default. The bonds will be secured only by the surcharge revenues.

Will the bond markets support park improvement issues, guaranteed by an entrance surcharge? The answer is yes, emphatically. Americans are eager to invest in our Nation's natural heritage, and with park visitation growing stronger, the risks would appear minimal.

Are visitors willing to pay a little more at the entrance gate if the money is used for park improvement? Again, yes. Time and time again visitors have expressed their support provided the revenue is used where collected and not diverted for some other purpose devised by Congress.

Finally, I want to point out that the bill will not cost the Treasury any money? On the contrary it will result in a net increase in Federal revenue. First, the bonds will be fully taxable, and, second, making disparately needed improvements sooner rather than later will reduce project costs.

America has been blessed with a rich natural heritage. The National Park Organic Act enjoins us to protect our precious natural resources for future generations and to provide for their enjoyment by the American people. The National Parks Capital Improvements Act must pass if we are to successfully fulfill the enduring responsibilities of stewardship with which we have been vested.●

By Mr. THURMOND:

S. 1696. A bill to provide antitrust clarification, to reduce frivolous antitrust litigation, to promote equitable resolution of disputes over the location of professional sports franchises, and for other purposes; to the Committee on the Judiciary.

THE PROFESSIONAL SPORTS ANTITRUST CLARIFICATION ACT OF 1996

Mr. THURMOND. Mr. President, I rise today to introduce the Professional Sports Antitrust Clarification Act of 1996 to address underlying problems which have resulted in recent franchise instability and movement in professional sports, particularly the National Football League. My legislation clarifies that the antitrust laws do not apply to professional sports leagues and their member franchises when they establish rules and make decisions about whether a team may change its home territory. This antitrust protection is obtained, however, only if the sports league provides notice and a hearing and examines appropriate factors prior to its decision on relocation, and institutes revenue sharing of the public benefits received by its teams, in order to reduce the incentive for teams to move simply to reap large public subsides. I will clarify the importance of these points in a moment.

Let me initially explain why this issue deserves the attention of the Congress. First, larger and larger amounts of public funds seem to be spent subsidizing professional sports, by building new or improved stadiums, providing rent abatement and special tax treatment, and even making direct cash

payments. Cities and States are being pitted against each other by the threat or promise that a team will relocate depending on the subsidy offered, which raises serious questions about the appropriate use of scarce public resources. Baltimore and Cleveland made headlines last winter by competing to be the hometown of the Browns football team, with hundreds of millions of public dollars at stake. The resolution, of course, was for both cities to pour hundreds of millions of dollars into new or improved stadiums so each could secure a football team. Even more remarkable, perhaps, is the report that Cincinnati has been handing over $3 million in cash to its football team in each of the last several years to stave off relocation.

Second, professional sports are an important part of American life, emotionally as well as financially, and relocation of a popular team can devastate its fans and shake the confidence of its hometown. The Browns' announcement that they intended to move to Baltimore upset the team's fans tremendously both in Cleveland and around the country. The current willingness of so many teams to consider moving frightens fans of all teams, regardless of whether their own team is openly threatening a move.

The current level of sports franchise instability is at its highest since the Congress focused its attention on these issues in the 1980's. In 1982 and 1985, I held several hearings as chairman of the Judiciary Committee on legislation dealing with sports franchise relocation. Since that time, the financial stakes for local and State governments have escalated. The public funds routinely expended to keep a team in place or entice a team to move seem to have risen from tens of millions to hundreds of millions of dollars. At a time when public resources at all levels of government are becoming ever tighter, this transfer of scarce public funds to rich owners and rich players is remarkable. Accordingly, it is time to address these issues.

Two hearings have been held in the Senate Judiciary Committee in recent months on these issues. As chairman of the Antitrust, Business Rights, and Corporation Subcommittee, I chaired a hearing on November 29, 1995, which analyzed sports franchise movement. Witnesses included a range of elected officials, sports league commissioners, and antitrust and economic experts. Senator HATCH chaired a second hearing of the full Judiciary Committee on January 23, 1996, in order to further examine these issues. This legislation is an outgrowth of those hearings.

Let me turn to the specifics of the legislation I am introducing today. My bill does not grant a special exemption from current antitrust law, but essentially codifies existing judicial interpretations which permit a sports league to determine where its member franchises may operate, provided certain requirements are met. My legislation clarifies and provides certainty in this complex area of the law, where costs of defending claims are always high, and any damages resulting from liability or an incorrect judicial decision are trebled and may amount to hundreds of millions of dollars or more. Antitrust certainty would restore integrity to the decision-making processes of professional sports leagues which have been chilled by the prospect of huge treble damage judgments.

A sports league cannot enjoy this antitrust certainty, however, unless it meets three requirements set forth in the legislation. First, the league must provide notice and a hearing to all interested parties concerning a team's proposed move. Second, the league must protect the public interest by considering specified factors in deciding whether to permit the move. Last, the league must promote comparable economic opportunities for its teams by sharing revenue derived from the public benefits and subsidies the teams receive.

This conditional antitrust protection will help resolve the problems of franchise instability caused by large public subsidies. The antitrust certainty provided by this bill will permit a sports league to take more decisive action to stop teams from moving when the league believes relocation will not serve the public interest. The requirements that the league analyze specific factors and provide notice and a hearing to interested parties before deciding whether a team can relocate will help ensure that proper decisions are made. The third requirement, instituting revenue sharing of public benefits, is crucial to address an underlying cause of sports franchise instability. Unlike the first two requirements, the effectiveness of revenue sharing does not depend on the opinion of the league about a particular move. Let me briefly explain the economic background of this revenue sharing requirement.

As revealed during my Antitrust Subcommittee hearing, the franchise instability we are now experiencing is largely the result of changing economics within major league sports. Now that players are free agents, competition among owners for the best talent has driven player salaries to amazing heights. This, in turn, has increased pressure on owners to increase their revenues, particularly relative to other owners, in order to compete for the best players. In this competition for talent, the total amount of an owner's revenue matters less than whether that owner has fallen behind the other owners.

Football, hockey, and basketball each share a significant portion of total revenues among the teams in the league. Because owners seek to better their positions compared to other owners, however, they naturally seek to raise revenue in areas where revenue is not shared. As a result, owners aggressively seek new public benefits and subsidies, often through new or improved stadiums with more luxury suites as we have seen in football, because they have not been required to share that revenue. In this effort, owners routinely use threats of relocation to another city as leverage.

Let me emphasize that my legislation would not in any way prohibit public funds from being used to attract or keep a team, if a city or State voluntarily decides to allocate its resources in that way. Instead, my legislation would require the league to promote comparable opportunities for all teams by equalizing the public benefits among them. This would level the playing field, so to speak, so that teams need not move or threaten to move in order to obtain more public funds to keep from falling behind others in the league. Let me illustrate how this is intended to work in practice.

Last Fall, Art Modell, owner of the Cleveland Browns, announced that he planned to move his team from Cleveland to Baltimore. His move reportedly was motivated by financial pressure on the franchise caused by rapidly increasing player salaries, plus promises of large public benefits from Baltimore. If my revenue-sharing provision had been in place, however, Mr. Modell would have faced different options. Under my legislation, the league would have instituted procedures to promote comparable economic opportunities to address disparities in team revenue due to public benefits and subsidies. So in our example, if Mr. Modell was obtaining fewer public benefits in Cleveland than average, he would receive transfers to bring his team up to the league average. On the other hand, if the annual public benefits received for moving to Baltimore pushed Mr. Modell above the average, he would have to share some of the value of the public benefits in order to keep his team at the league average. Faced with these choices and a hometown that loved his team, it is hard to imagine that Mr. Modell would have chosen to move—and endure tremendous criticism—if he would receive the league average either way. Even if Mr. Modell still wished to relocate, however, the league might well have blocked the move, based on the factors established and the antitrust certainty provided by this legislation.

Of course, it is sometimes appropriate and even desirable for a team to relocate, such as when the fans and local business community do not adequately appreciate and support their team. My revenue-sharing requirement would not stop such moves, but would encourage professional sports to look more to private funding than to public subsidies in such cases.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Nor does this revenue-sharing requirement stop a community from using public funds to construct or improve a stadium or arena if it wishes to do so. The provision would require the team using the facility to share revenue only if the team receives financial benefits as a result of the public expenditures, such as rent abatement or extra luxury suite income, which exceed the league average. In other words, if the city chose to build or renovate a stadium, and used any additional revenues to repay the public expenditures for the construction, those new revenues would not be included in any revenue-sharing arrangement.

As I indicated earlier, the recent problems with franchise instability have occurred largely in the National Football League. It may be no coincidence that since a $49 million antitrust judgment was levied against the NFL for trying to block the Raiders' move to Los Angeles in the 1980's, football has been more reluctant than basketball and hockey to risk antitrust litigation over the propriety of league actions. It should be noted that my legislation does not require any league to take any action, but simply provides antitrust certainty to those leagues which choose to comply with the bill's requirements. Some leagues may not choose to participate initially.

Certainly this legislation should not be taken as any indication that joint conduct by a league in addressing franchise movement or any other issue would be illegal under the current state of antitrust law. The conduct of a league may very well be found lawful under the antitrust laws when making and enforcing rules governing franchise relocation by its teams, without consideration of this legislation. My bill simply provides certainty to leagues that choose to comply with its terms.

Finally, this bill does not limit its antitrust clarification to the major sports, but defines professional sports league broadly. It should be noted, however, that major league baseball is excluded from the bill as long as baseball's judicially created antitrust exemption concerning franchise relocation remains in place. I would hasten to add that franchise relocation issues are expressly not affected by the separate baseball legislation, S. 627, that I introduced with Senator HATCH and others, to limit baseball's judicially created antitrust exemption. Let me repeat so there is no confusion: neither this legislation I am introducing today, nor our baseball legislation, S. 627, which has passed both the Antitrust Subcommittee and the full Judiciary Committee, would in any way impact baseball's current ability to control franchise movement. Indeed, this new legislation along with S. 627 would go a long way toward putting all professional sports on an even footing under our Nation's antitrust laws.

Mr. President, the instability of sports franchises caused by large public subsidies of professional sports raises important issues which have a direct and significant impact on the lives and finances of most Americans. The Professional Sports Antitrust Clarification Act will help to resolve these concerns.

I send the bill to the desk and ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Professional Sports Antitrust Clarification Act of 1996".

SEC. 2. ACTIONS AUTHORIZED.

(a) IN GENERAL.—Notwithstanding any provision of the antitrust laws, and subject to section 3 and subsection (b) of this section, a professional sports league or its member franchises may establish and enforce rules and procedures for the purpose of deciding whether a member franchise may change its home territory.

(b) CONSTRUCTION.—Nothing in this section shall be construed to exempt from the antitrust laws any conduct which would be unlawful under any antitrust law if engaged in by a single entity.

SEC. 3. REQUIREMENTS FOR ANTITRUST PROTECTION.

(a) IN GENERAL.—This Act applies to a professional sports league and its member franchises if such league—

(1) establishes applicable rules and procedures to govern whether a member franchise may change its home territory that are available upon request to any interested party;

(2) affords due process, including 180 days notice and an opportunity to be heard, to interested parties prior to deciding whether a member franchise may change its home territory; and

(3) promotes comparable economic opportunities by sharing revenue among member franchises to account for disparities in revenue received or costs saved due to direct or indirect public benefits and subsidies, including publicly financed facilities, rent abatement, special tax treatment, favorable arrangements for parking, concessions, and other amenities, and other public benefits not generally available to businesses as a whole within the jurisdiction.

(b) RULES AND PROCEDURES.—Rules and procedures established under subsection (a)(1) shall require consideration of various factors to protect the public interest, including—

(1) the extent to which fan support for a member franchise has been demonstrated through attendance, ticket sales, and television ratings, during the period in which the member franchise played in its home territory;

(2) the extent to which the member franchise has, directly or indirectly, received public financial support through publicly financed facilities, rent abatement, special tax treatment, favorable arrangements for parking, concessions, and other amenities, and any other public benefits not generally available to businesses as a whole within the jurisdiction, and the extent to which such support continues;

(3) the effect that relocation would have on contracts, agreements, and understandings between the member franchise and public and private parties;

(4) the extent of any net operating losses experienced by the member franchise in recent years and the extent to which the member franchise bears responsibility for such losses; and

(5) any bona fide offer to purchase the member franchise at fair market value, if such offer includes the continued location of such member franchise in its home territory.

SEC. 4. JUDICIAL REVIEW.

(a) STANDARD OF REVIEW.—The standard of judicial review shall be de novo in any action challenging the establishment and enforcement of rules and procedures for deciding whether a member franchise may change its home territory, except that the reviewing court shall give deference to actions of the professional sports league regarding compliance with paragraphs (1) and (3) of section 3(a).

(b) DECLARATORY ACTIONS.—A professional sports league or any interested party may seek a declaratory judgment with respect to whether paragraphs (1) and (3) of section 3(a) are adequately satisfied by the professional sports league for this Act to apply.

(c) LIMITATION ON MONETARY DAMAGES.—A judicial finding that a professional sports league did not comply with any provision of section 3 shall result only in further proceedings by the professional sports league and shall not result in liability under the antitrust laws or monetary damages, if—

(1) the professional sports league implemented a revenue sharing plan in a good faith attempt to comply with section 3(a)(3) prior to the specific dispute in issue; or

(2) a prior declaratory judgment held that the revenue sharing plan of the professional sports league complied with section 3(a)(3).

(d) VENUE.—In any action challenging the establishment and enforcement of rules and procedures to decide whether a member franchise may change its home territory, venue shall be proper only in the United States District Court for the District of Columbia, except that—

(1) venue shall be proper only in the United States District Court for the Southern District of New York if the existing or proposed home territory of a member franchise is located within 100 miles of the United States District Court for the District of Columbia; and

(2) venue shall be proper only in the United States District Court for the Northern District of Illinois if—

(A) the existing home territory of a member franchise is located within 100 miles of the United States District Court for the District of Columbia or the Southern District of New York; and

(B) the proposed home territory of the member franchise is located within 100 miles of the United States District Court for the District of Columbia or the Southern District of New York.

SEC. 5. DEFINITIONS.

For purposes of this Act—

(1) the term "antitrust laws"—

(A) has the same meaning as in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section relates to unfair methods of competition; and

(B) includes any State law comparable to the laws referred to in subparagraph (A);

(2) the terms "professional sports team", "team", "member franchise", and "franchise" mean any team of professional athletes that is a member of a professional sports league;

(3) the terms "professional sports league" and "league" mean—

(A) an association of 2 or more professional sports teams that governs the conduct of its members and regulates the contests and exhibitions in which such teams regularly engage;

(B) whose decisions relating to franchise relocation would otherwise be subject to the antitrust laws; and

(C) that has combined franchise revenues of more than $10,000,000 per year;

(4) the term "interested party" means the member franchise at issue, local and State government officials, owners and operators of playing facilities, concessionaires, and others whose business relations would be directly and significantly affected by the franchise relocation at issue, and representatives of organized civic and fan groups; and

(5) the term "playing facility" means the stadium, arena, or other venue in which professional sports teams regularly conduct their contests and exhibitions.

SEC. 6. EFFECTIVE DATE.

This Act applies to any action occurring on or after the date of enactment of this Act.

ADDITIONAL COSPONSORS

S. 334

At the request of Mr. MCCONNELL, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 334, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes.

S. 673

At the request of Mrs. KASSEBAUM, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 673, a bill to establish a youth development grant program, and for other purposes.

S. 773

At the request of Mrs. KASSEBAUM, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 773, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

S. 837

At the request of Mr. WARNER, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 837, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 1002

At the request of Mr. CHAFEE, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1002, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 1493

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from California [Mrs. BOXER], the Senator from Nevada [Mr. REID], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Wisconsin [Mr. KOHL], the Senator from Massachusetts [Mr. KERRY], the Senator from Illinois [Mr. SIMON], the Senator from Maryland [Ms. MIKULSKI], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 1493, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1524

At the request of Mr. LAUTENBERG, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 1524, a bill to amend title 49, United States Code, to prohibit smoking on any scheduled airline flight segment in intrastate, interstate, or foreign air transportation.

S. 1578

At the request of Mr. FRIST, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Illinois [Mr. SIMON], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1578, a bill to amend the Individuals with Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

S. 1612

At the request of Mr. HELMS, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1628

At the request of Mr. BROWN, the names of the Senator from Colorado [Mr. CAMPBELL], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 1628, a bill to amend title 17, United States Code, relating to the copyright interests of certain musical performances, and for other purposes.

S. 1660

At the request of Mr. GLENN, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1660, a bill to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes.

S. 1690

At the request of Mr. CONRAD, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1690, a bill to provide a grace period for the prohibition on Consolidated Farm Service Agency lending to delinquent borrowers, and for other purposes.

SENATE JOINT RESOLUTION 21

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms.

At the request of Mr. THOMPSON, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of Senate Joint Resolution 21, supra.

SENATE JOINT RESOLUTION 51

At the request of Mr. DOLE, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from Colorado [Mr. BROWN] were added as cosponsors of Senate Joint Resolution 51, a joint resolution saluting and congratulating Polish people around the world as, on May 3, 1996, they commemorate the 205th anniversary of the adoption of Poland's first constitution.

SENATE CONCURRENT RESOLUTION 42

At the request of Mrs. KASSEBAUM, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of Senate Concurrent Resolution 42, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week."

SENATE RESOLUTION 248

At the request of Mr. FEINGOLD, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Resolution 248, a resolution relating to the violence in Liberia.

AMENDMENT NO. 3693

At the request of Mr. THOMPSON the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of amendment No. 3693 proposed to Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms.

AMENDMENT NO. 3695

At the request of Mr. THOMPSON the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of amendment No. 3695 proposed to Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms.

AMENDMENT NO. 3697

At the request of Mr. THOMPSON the name of the Senator from Michigan

VOL 142 PT 6 AP 15 — 24 1996 UMI

[Mr. ABRAHAM] was added as a cosponsor of amendment No. 3697 proposed to Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms.

AMENDMENT NO. 3699

At the request of Mr. THOMPSON the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of amendment No. 3699 proposed to Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms.

SENATE CONCURRENT RESOLUTION 53 RELATIVE TO THE REPUBLIC OF SIERRA LEONE

Mr. JEFFORDS (for himself, Mrs. KASSEBAUM, Mr. SIMON, and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 53

Whereas since 1991 the people of the Republic of Sierra Leone have endured a horrific civil war that has killed thousands of individuals and displaced more than half the population of the country;

Whereas for the first time in almost 30 years, the Republic of Sierra Leone held its first truly democratic multiparty elections to elect a president and parliament and put an end to military rule;

Whereas the elections held on February 26, 1996, and the subsequent runoff election held on March 15, 1996, were deemed by international and domestic observers to be free and fair and legitimate expressions of the will of the people of the Republic of Sierra Leone;

Whereas success of the newly elected democratic government led by President Ahmad Tejan Kabbah could have a positive effect on the West African neighbors of the Republic of Sierra Leone; and

Whereas the historic event of democratic multiparty elections in the Republic of Sierra Leone should be honored: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) congratulates the people of the Republic of Sierra Leone for holding their first democratic multiparty presidential and parliamentary elections in nearly 30 years;

(2) encourages all people of the Republic of Sierra Leone to continue to negotiate an end to the civil war and work together after taking the critical first step of holding democratic elections in that country;

(3) reaffirms the commitment of the United States to help nations move toward freedom and democracy; and

(4) further reaffirms that the United States is committed to encouraging peace, democracy, and economic development on the African continent.

• Mr. JEFFORDS. Mr. President, I am submitting for myself and several of my colleagues a concurrent resolution recognizing the people of the Republic of Sierra Leone for their recent elections and democratic transition. The elections held this February and March were the first multiparty democratic elections in Sierra Leone in almost 30 years. They marked what could well be the key turning point in the civil war which has tormented Sierra Leone since 1991. In the face of ongoing civil war and violence, Sierra Leoneans—SEE-AIR-AH LEE-OH-NEE-UNS—turned out in impressive numbers to vote, literally putting their lives on the line for democracy. They clearly believed that the ballot is more powerful than the bullet, and voted to end military rule and the rule of the gun. Their courage and resolve remind us of the blessings of democracy and liberty which we so often take for granted in the United States. This example is particularly timely for us in this year of American elections.

As well as helping move Sierra Leone toward a peaceful resolution of its own civil conflict, this successful transition from military rule to democracy can serve as a positive example for the region. Sierra Leone's potential role in the region was underlined last week during the tragic events in Liberia. The new government of Sierra Leone allowed the United States to use the airport in Freetown as a transit point for the evacuation of Americans and third country nationals from Liberia. We are grateful for this assistance.

I also wish to take this opportunity to recognize the important contribution of the various Americans involved in Sierra Leone's transition, notably the United States Embassy in Freetown led by Ambassador John Hirsch, and the African-American Institute, which sent a nonpartisan election observation group to monitor the elections throughout Sierra Leone and train local monitors for this and future democratic elections there.

I have long believed that there are many positive developments in Africa, and that they often are overshadowed by the problems and crises. It is my pleasure today to be able to recognize one such positive development, and in that spirit, I hope that my colleagues in the Senate and in the House will join me and my colleagues to pass this resolution congratulating the Republic of Sierra Leone on its democratic transition.•

• Mrs. KASSEBAUM. Mr. President, I am pleased to join with Senator JEFFORDS, Senator FEINGOLD, and others in submitting this resolution commending the people of Sierra Leone on their successful transition to democracy.

At a time of much instability in west Africa—from Liberia, to the Gambia, to Nigeria—the changes in Sierra Leone represent a beacon of hope for the region.

Many people questioned the wisdom of proceeding with a multi-party election in the midst of a civil war, but the people of Sierra Leone would not be denied their opportunity to vote. They stood in line for many hours, desperate to cast their ballot. Their will was strong: the military simply had to go. Through their determination, the election succeeded, and on March 29, 1996, the military handed over power to a democratically elected head of state.

Mr. President, I am pleased to join with my distinguished colleagues in congratulating the new President, Ahmad Tejan Kabbah, on his election. He brings to the job a distinguished background in international affairs, and I believe is well prepared to lead Sierra Leone from its troubled past to a prosperous and peaceful future. It is my hope that the Senate Foreign Relations Committee will soon be able to welcome the new President to Washington.

The head of the Interim National Election Commission, Mr. James Jonah, also deserves special congratulations. Under extremely difficult circumstances—from financial to logistical to political—Mr. Jonah guided his country toward democracy and civilian rule. His steady hand contributed greatly to the success of the process.

I also want to pay special tribute to the United States Ambassador to Sierra Leone, John Hirsch. Despite limited resources, Ambassador Hirsch played a critically important role in pushing for democratic change. We often fail to recognize our skilled diplomats in small embassies like Freetown, but their dedicated efforts are extremely important and appreciated.

Finally, I want to commend the former military ruler of the country, Julius Amaada Bio, for respecting the results of the elections. Until the last moment, many questioned whether the military would actually hand over power. Of course, many military rulers—including some in west Africa—have ignored elections. But Brigadier Bio demonstrated statesmanlike leadership in guiding his country to democracy, and I believe history will look upon him kindly.

Mr. President, the path ahead for Sierra Leone will not be easy. While a tentative cease-fire holds, instability continues to plague the Sierra Leonian countryside. I hope the Revolutionary United Front [RUF] will negotiate in good faith with the new President of the country and that a lasting peace agreement can soon be reached. The time for fighting is over as Sierra Leone moves toward a new era.

At the same time, reform of the military must be a top priority. There is little doubt that the people of Sierra Leone lack confidence in the integrity and professionalism of their own protectors. That must change.

As the peace process moves forward, the South African mercenaries should also return to their homes. As I told Chairman Strasser, the former head of state, during his visit to Washington last October, the continued presence of mercenaries will only contribute to instability over the long-run.

While elections are important, Sierra Leone must get back on its feet economically for democracy to take root. The civil war and instability have devastated the formal economy. But Sierra Leone is gifted with many natural resources and great beauty. I urge the new government to work closely with the international financial institutions to move the economy forward, and I urge our Government to closely examine what contribution we can make to Sierra Leone's recovery.

Mr. President, as chair of the Africa subcommittee, many people ask whether I get frustrated watching events in Africa—and sometimes I do. But for every Rwanda or Liberia, there is a South Africa, a Mozambique, or even—as we recognize today—a Sierra Leone.

Again, I congratulate the people of Sierra Leone on their historic election and am pleased to join my colleagues in cosponsoring this important resolution.•

SENATE RESOLUTION 242—TO PROVIDE FOR THE APPROVAL OF FINAL REGULATIONS

Mr. WARNER submitted the following resolution; which was considered and agreed to on April 15, 1996:

S. RES. 242

Resolved, That the following regulations issued by the Office of Compliance on January 22, 1996 are hereby approved as follows:

PART 825—FAMILY AND MEDICAL LEAVE

825.1 Purpose and scope.
825.2 [Reserved].

SUBPART A—WHAT IS THE FAMILY AND MEDICAL LEAVE ACT, AND TO WHOM DOES IT APPLY UNDER THE CONGRESSIONAL ACCOUNTABILITY ACT?

825.100 What is the Family and Medical Leave Act?
825.101 What is the purpose of the FMLA?
825.102 When are the FMLA and the CAA effective for covered employees and employing offices?
825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?
825.104 What employing offices are covered by the FMLA, as made applicable by the CAA?
825.105 [Reserved].
825.106 How is "joint employment" treated under the FMLA as made applicable by the CAA?
825.107—825.109 [Reserved].
825.110 Which employees are "eligible" to take FMLA leave under these regulations?
825.111 [Reserved].
825.112 Under what kinds of circumstances are employing offices required to grant family or medical leave?
825.113 What do "spouse", "parent", and "son or daughter" mean for purposes of an employee qualifying to take FMLA leave?
825.114 What is a "serious health condition" entitling an employee to FMLA leave?
825.115 What does it mean that "the employee is unable to perform the (functions of the position of the employee"?
825.116 What does it mean that an employee is "needed to care for" a family member?
825.117 For an employee seeking intermittent FMLA leave or leave on a reduced leave schedule, what is meant by "the medical necessity for" such leave?
825.118 What is a "health care provider"?

SUBPART B—WHAT LEAVE IS AN EMPLOYEE ENTITLED TO TAKE UNDER THE FAMILY AND MEDICAL LEAVE ACT, AS MADE APPLICABLE BY THE CONGRESSIONAL ACCOUNTABILITY ACT?

825.200 How much leave may an employee take?
825.201 If leave is taken for the birth of a child, or for placement of a child for adoption or foster care, when must the leave be concluded?
825.202 How much leave may a husband and wife take if they are employed by the same employing office?
825.203 Does FMLA leave have to be taken all at once, or can it be taken in parts?
825.204 May an employing office transfer an employee to an "alternative position" in order to accommodate intermittent leave or a reduced leave schedule?
825.205 How does one determine the amount of leave used where an employee takes leave intermittently or on a reduced leave schedule?
825.206 May an employing office deduct hourly amounts from an employee's salary, when providing unpaid leave under FMLA, as made applicable by the CAA, without affecting the employee's qualification for exemption as an executive, administrative, or professional employee, or when utilizing the fluctuating workweek method for payment of overtime, under the Fair Labor Standards Act?
825.207 Is FMLA leave paid or unpaid?
825.208 Under what circumstances may an employing office designate leave, paid or unpaid, as FMLA leave and, as a result, enable leave to be counted against the employee's total FMLA leave entitlement?
825.209 Is an employee entitled to benefits while using FMLA leave?
825.210 How may employees on FMLA leave pay their share of group health benefit premiums?
825.211 What special health benefits maintenance rules apply to multi-employer health plans?
825.212 What are the consequences of an employee's failure to make timely health plan premium payments?
825.213 May an employing office recover costs it incurred for maintaining "group health plan" or other non-health benefits coverage during FMLA leave?
825.214 What are an employee's rights on returning to work from FMLA leave?
825.215 What is an equivalent position?
825.216 Are there any limitations on an employing office's obligation to reinstate an employee?
825.217 What is a "key employee"?
825.218 What does "substantial and grievous economic injury" mean?
825.219 What are the rights of a key employee?
825.220 How are employees protected who request leave or otherwise assert FMLA rights?

SUBPART C—HOW DO EMPLOYEES LEARN OF THEIR RIGHTS AND OBLIGATIONS UNDER THE FMLA, AS MADE APPLICABLE BY THE CAA, AND WHAT CAN AN EMPLOYING OFFICE REQUIRE OF AN EMPLOYEE?

825.300 [Reserved].
825.301 What notices to employees are required of employing offices under the FMLA as made applicable by the CAA?
825.302 What notice does an employee have to give an employing office when the need for FMLA leave is foreseeable?
825.303 What are the requirements for an employee to furnish notice to an employing office where the need for FMLA leave is not foreseeable?
825.304 What recourse do employing offices have if employees fail to provide the required notice?
825.305 When must an employee provide medical certification to support FMLA leave?
825.306 How much information may be required in medical certifications of a serious health condition?
825.307 What may an employing office do if it questions the adequacy of a medical certification?
825.308 Under what circumstances may an employing office request subsequent recertifications of medical conditions?
825.309 What notice may an employing office require regarding an employee's intent to return to work?
825.310 Under what circumstances may an employing office require that an employee submit a medical certification that the employee is able (or unable) to return to work (i.e., a "fitness-for-duty" report)?
825.311 What happens if an employee fails to satisfy the medical certification and/or recertification requirements?
825.312 Under what circumstances may an employing office refuse to provide FMLA leave or reinstatement to eligible employees?

SUBPART D—WHAT ENFORCEMENT MECHANISMS DOES THE CAA PROVIDE?

825.400 What can employees do who believe that their rights under the FMLA as made applicable by the CAA have been violated?
825.401—825.404 [Reserved].

SUBPART E—[RESERVED]

SUBPART F—WHAT SPECIAL RULES APPLY TO EMPLOYEES OF SCHOOLS?

825.600 To whom do the special rules apply?
825.601 What limitations apply to the taking of intermittent leave or leave on a reduced leave schedule?
825.602 What limitations apply to the taking of leave near the end of an academic term?
825.603 Is all leave taken during "periods of a particular duration" counted against the FMLA leave entitlement?
825.604 What special rules apply to restoration to "an equivalent position"?

VOL
142
PT
6
AP
15
—
24
1996
UMI

SUBPART G—HOW DO OTHER LAWS, EMPLOYING OFFICE PRACTICES, AND COLLECTIVE BARGAINING AGREEMENTS AFFECT EMPLOYEE RIGHTS UNDER THE FMLA AS MADE APPLICABLE BY THE CAA?

825.700 What if an employing office provides more generous benefits than required by FMLA as Made Applicable by the CAA?
825.701 [Reserved].
825.702 How does FMLA affect anti-discrimination laws as applied by section 201 of the CAA?

SUBPART H—DEFINITIONS

825.800 Definitions.
Appendix A to Part 825—[Reserved].
Appendix B to Part 825—Certification of Physician or Practitioner.
Appendix C to Part 825—[Reserved].
Appendix D to Part 825—Prototype Notice: Employing Office Response to Employee Request for Family and Medical Leave.
Appendix E to Part 825—[Reserved].

PART 825—FAMILY AND MEDICAL LEAVE

§825.1 Purpose and scope

(a) Section 202 of the Congressional Accountability Act (CAA) (2 U.S.C. 1312) applies the rights and protections of sections 101 through 105 of the Family and Medical Leave Act of 1993 (FMLA) (29 U.S.C. 2611–2615) to covered employees. (The term "covered employee" is defined in section 101(3) of the CAA (2 U.S.C. 1301(3)). See §825.800 of these regulations for that definition.) The purpose of this part is to set forth the regulations to carry out the provisions of section 202 of the CAA.

(b) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 202(d) and 304 of the CAA, which direct the Board to promulgate regulations implementing section 202 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section". The regulations issued by the Board herein are on all matters for which section 202 of the CAA requires regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202 of the CAA]".

(c) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§825.2 [Reserved]

SUBPART A—WHAT IS THE FAMILY AND MEDICAL LEAVE ACT, AND TO WHOM DOES IT APPLY UNDER THE CONGRESSIONAL ACCOUNTABILITY ACT?

§825.100 What is the Family and Medical Leave Act?

(a) The Family and Medical Leave Act of 1993 (FMLA), as made applicable by the Congressional Accountability Act (CAA), allows "eligible" employees of an employing office to take job-protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 workweeks in any 12 months because of the birth of a child and to care for the newborn child, because of the placement of a child with the employee for adoption or foster care, because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition, or because the employee's own serious health condition makes the employee unable to perform the functions of his or her job (see §825.306(b)(4)). In certain cases, this leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

(b) An employee on FMLA leave is also entitled to have health benefits maintained while on leave as if the employee had continued to work instead of taking the leave. If an employee was paying all or part of the premium payments prior to leave, the employee would continue to pay his or her share during the leave period. The employing office or a disbursing or other financial office of the Senate may recover its share only if the employee does not return to work for a reason other than the serious health condition of the employee or the employee's immediate family member, or another reason beyond the employee's control.

(c) An employee generally has a right to return to the same position or an equivalent position with equivalent pay, benefits and working conditions at the conclusion of the leave. The taking of FMLA leave cannot result in the loss of any benefit that accrued prior to the start of the leave.

(d) The employing office has a right to 30 days advance notice from the employee where practicable. In addition, the employing office may require an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee's immediate family member. Failure to comply with these requirements may result in a delay in the start of FMLA leave. Pursuant to a uniformly applied policy, the employing office may also require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition (see §825.311(c)). The employing office may delay restoring the employee to employment without such certificate relating to the health condition which caused the employee's absence.

§825.101 What is the purpose of the FMLA?

(a) FMLA is intended to allow employees to balance their work and family life by taking reasonable unpaid leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition. The FMLA is intended to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity. It was intended that the FMLA accomplish these purposes in a manner that accommodates the legitimate interests of employers, and in a manner consistent with the Equal Protection Clause of the Fourteenth Amendment in minimizing the potential for employment discrimination on the basis of sex, while promoting equal employment opportunity for men and women.

(b) The enactment of FMLA was predicated on two fundamental concerns "the needs of the American workforce, and the development of high-performance organizations". Increasingly, America's children and elderly are dependent upon family members who must spend long hours at work. When a family emergency arises, requiring workers to attend to seriously-ill children or parents, or to newly-born or adopted infants, or even to their own serious illness, workers need reassurance that they will not be asked to choose between continuing their employment, and meeting their personal and family obligations or tending to vital needs at home.

(c) The FMLA is both intended and expected to benefit employers as well as their employees. A direct correlation exists between stability in the family and productivity in the workplace. FMLA will encourage the development of high-performance organizations. When workers can count on durable links to their workplace they are able to make their own full commitments to their jobs. The record of hearings on family and medical leave indicate the powerful productive advantages of stable workplace relationships, and the comparatively small costs of guaranteeing that those relationships will not be dissolved while workers attend to pressing family health obligations or their own serious illness.

§825.102 When are the FMLA and the CAA effective for covered employees and employing offices?

(a) The rights and protection of sections 101 through 105 of the FMLA have applied to certain Senate employees and certain employing offices of the Senate since August 5, 1993 (see section 501 of FMLA).

(b) The rights and protection of sections 101 through 105 of the FMLA have applied to any employee in an employment position and any employment authority of the House of Representatives since August 5, 1993 (see section 502 of FMLA).

(c) The rights and protections of sections 101 through 105 of the FMLA have applied to certain employing offices and covered employees other than those referred to in paragraphs (a) and (b) of this section for certain periods since August 5, 1993 (see, e.g., title V of the FMLA, sections 501 and 502).

(d) The provisions of section 202 of the CAA that apply rights and protections of the FMLA to covered employees are effective on January 23, 1996.

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee eligibility.

§825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?

(a) An eligible employee's right to take FMLA leave began on the date that the rights and protections of the FMLA first went into effect for the employing office and employee (see §825.102(a)). Any leave taken prior to the date on which the rights and protections of the FMLA first became effective for the employing office from which the leave was taken may not be counted for purposes of the FMLA as made applicable by the CAA. If leave qualifying as FMLA leave was underway prior to the effective date of the FMLA for the employing office from which the leave was taken and continued after the FMLA's effective date for that office, only that portion of leave taken on or after the FMLA's effective date may be counted against the employee's leave entitlement under the FMLA, as made applicable by the CAA.

(b) If an employing office-approved leave is underway when the application of the FMLA by the CAA takes effect, no further notice would be required of the employee unless the employee requests an extension of the leave. For leave which commenced on the effective date or shortly thereafter, such notice must have been given which was practicable, considering the foreseeability of the need for leave and the effective date.

(c) Starting on January 23, 1996, an employee is entitled to FMLA leave under these regulations if the reason for the leave is qualifying under the FMLA, as made applicable by the CAA, even if the event occasioning the need for leave (e.g., the birth of a child) occurred before such date (so long as any other requirements are satisfied).

§825.104 What employing offices are covered by the FMLA, as made applicable by the CAA?

(a) The FMLA, as made applicable by the CAA, covers all employing offices. As used in the CAA, the term "employing office" means—

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(b) [Reserved]

(c) Separate entities will be deemed to be parts of a single employer for purposes of the FMLA, as made applicable by the CAA, if they meet the "integrated employer" test. A determination of whether or not separate entities are an integrated employer is not determined by the application of any single criterion, but rather the entire relationship is to be reviewed in its totality. Factors considered in determining whether two or more entities are an integrated employer include:

(i) Common management;

(ii) Interrelation between operations;

(iii) Centralized control of labor relations; and

(iv) Degree of common financial control.

§825.105 [Reserved]

§825.106 How is "joint employment" treated under the FMLA as made applicable by the CAA?

(a) Where two or more employing offices exercise some control over the work or working conditions of the employee, the employing offices may be joint employers under FMLA, as made applicable by the CAA. Where the employee performs work which simultaneously benefits two or more employing offices, or works for two or more employing offices at different times during the workweek, a joint employment relationship generally will be considered to exist in situations such as:

(1) Where there is an arrangement between employing offices to share an employee's services or to interchange employees;

(2) Where one employing office acts directly or indirectly in the interest of the other employing office in relation to the employee; or

(3) Where the employing offices are not completely disassociated with respect to the employee's employment and may be deemed to share control of the employee, directly or indirectly, because one employing office controls, is controlled by, or is under common control with the other employing office.

(b) A determination of whether or not a joint employment relationship exists is not determined by the application of any single criterion, but rather the entire relationship is to be viewed in its totality. For example, joint employment will ordinarily be found to exist when—

(1) an employee, who is employed by an employing office other than the personal office of a Member of the House of Representatives or of a Senator, is under the actual direction and control of the Member of the House of Representatives or Senator; or

(2) two or more employing offices employ an individual to work on common issues or other matters for both or all of them.

(c) When employing offices employ a covered employee jointly, they may designate one of themselves to be the primary employing office, and the other or others to be the secondary employing office(s). Such a designation shall be made by written notice to the covered employee.

(d) If an employing office is designated a primary employing office pursuant to paragraph (c) of this section, only that employing office is responsible for giving required notices to the covered employee, providing FMLA leave, and maintenance of health benefits. Job restoration is the primary responsibility of the primary employing office, and the secondary employing office(s) may, subject to the limitations in §825.216, be responsible for accepting the employee returning from FMLA leave.

(e) If employing offices employ an employee jointly, but fail to designate a primary employing office pursuant to paragraph (c) of this section, then all of these employing offices shall be jointly and severally liable for giving required notices to the employee, for providing FMLA leave, for assuring that health benefits are maintained, and for job restoration. The employee may give notice of need for FMLA leave, as described in §§ 825.302 and 825.303, to whichever of these employing offices the employee chooses. If the employee makes a written request for restoration to one of these employing offices, that employing office shall be primarily responsible for job restoration, and the other employing office(s) may, subject to the limitations in §825.216, be responsible for accepting the employee returning from FMLA leave.

§825.107 [Reserved]

§825.108 [Reserved]

§825.109 [Reserved]

§825.110 Which employees are "eligible" to take FMLA leave under these regulations?

(a) An "eligible employee" under these regulations means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

(b) The 12 months an employee must have been employed by any employing office need not be consecutive months. If an employee worked for two or more employing offices sequentially, the time worked will be aggregated to determine whether it equals 12 months. If an employee is maintained on the payroll for any part of a week, including any periods of paid or unpaid leave (sick, vacation) during which other benefits or compensation are provided by the employer (e.g., workers' compensation, group health plan benefits, etc.), the week counts as a week of employment. For purposes of determining whether intermittent/occasional/casual employment qualifies as "at least 12 months", 52 weeks is deemed to be equal to 12 months.

(c) If an employee was employed by two or more employing offices, either sequentially or concurrently, the hours of service will be aggregated to determine whether the minimum of 1,250 hours has been reached. Whether an employee has worked the minimum 1,250 hours of service is determined according to the principles established under the Fair Labor Standards Act (FLSA), as applied by section 203 of the CAA (2 U.S.C. 1313), for determining compensable hours of work. The determining factor is the number of hours an employee has worked for one or more employing offices. The determination is not limited by methods of record-keeping, or by compensation agreements that do not accurately reflect all of the hours an employee has worked for or been in service to the employing office. Any accurate accounting of actual hours worked may be used. For this purpose, full-time teachers (see §825.800 for definition) of an elementary or secondary school system, or institution of higher education, or other educational establishment or institution are deemed to meet the 1,250 hour test. An employing office must be able to clearly demonstrate that such an employee did not work 1,250 hours during the previous 12 months in order to claim that the employee is not "eligible" for FMLA leave.

(d) The determinations of whether an employee has worked for any employing office for at least 1,250 hours in the previous 12 months and has been employed by any employing office for a total of at least 12 months must be made as of the date leave commences. The "previous 12 months" means the 12 months immediately preceding the commencement of the leave. If an employee notifies the employing office of need for FMLA leave before the employee meets these eligibility criteria, the employing office must either confirm the employee's eligibility based upon a projection that the employee will be eligible on the date leave would commence or must advise the employee when the eligibility requirement is met. If the employing office confirms eligibility at the time the notice for leave is received, the employing office may not subsequently challenge the employee's eligibility. In the latter case, if the employing office does not advise the employee whether the employee is eligible as soon as practicable (i.e., two business days absent extenuating circumstances) after the date employee eligibility is determined, the employee will have satisfied the notice requirements and the notice of leave is considered current and outstanding until the employing office does advise. If the employing office fails to advise the employee whether the employee is eligible prior to the date the requested leave is to commence, the employee will be deemed eligible. The employing office may not, then, deny the leave. Where the employee does not give notice of the need for leave more than two business days prior to commencing leave, the employee will be deemed to be eligible if the employing office fails to advise the employee that the employee is not eligible within two business days of receiving the employee's notice.

VOL
142
PT
6
AP
15
—
24
1996
UMI

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee's eligibility.

(f) [Reserved]

§825.111 [Reserved]

§825.112 Under what kinds of circumstances are employing offices required to grant family or medical leave?

(a) Employing offices are required to grant leave to eligible employees:

(1) For birth of a son or daughter, and to care for the newborn child;

(2) For placement with the employee of a son or daughter for adoption or foster care;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and

(4) Because of a serious health condition that makes the employee unable to perform the functions of the employee's job.

(b) The right to take leave under FMLA as made applicable by the CAA applies equally to male and female employees. A father, as well as a mother, can take family leave for the birth, placement for adoption or foster care of a child.

(c) Circumstances may require that FMLA leave begin before the actual date of birth of a child. An expectant mother may take FMLA leave pursuant to paragraph (a)(4) of this section before the birth of the child for prenatal care or if her condition makes her unable to work.

(d) Employing offices are required to grant FMLA leave pursuant to paragraph (a)(2) of this section before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed. For example, the employee may be required to attend counseling sessions, appear in court, consult with his or her attorney or the doctor(s) representing the birth parent, or submit to a physical examination. The source of an adopted child (e.g., whether from a licensed placement agency or otherwise) is not a factor in determining eligibility for leave for this purpose.

(e) Foster care is 24-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement between the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family that the foster family will take care of the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

(f) In situations where the employer/employee relationship has been interrupted, such as an employee who has been on layoff, the employee must be recalled or otherwise be re-employed before being eligible for FMLA leave. Under such circumstances, an eligible employee is immediately entitled to further FMLA leave for a qualifying reason.

(g) FMLA leave is available for treatment for substance abuse provided the conditions of §825.114 are met. However, treatment for substance abuse does not prevent an employing office from taking employment action against an employee. The employing office may not take action against the employee because the employee has exercised his or her right to take FMLA leave for treatment. However, if the employing office has an established policy, applied in a non-discriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking FMLA leave. An employee may also take FMLA leave to care for an immediate family member who is receiving treatment for substance abuse. The employing office may not take action against an employee who is providing care for an immediate family member receiving treatment for substance abuse.

§825.113 What do "spouse", "parent", and "son or daughter" mean for purposes of an employee qualifying to take FMLA leave?

(a) Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

(b) Parent means a biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a son or daughter as defined in (c) below. This term does not include parents "in law".

(c) Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability".

(1) "Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in three or more of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

(2) "Physical or mental disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. See the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)).

(3) Persons who are "in loco parentis" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

(d) For purposes of confirmation of family relationship, the employing office may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship. This documentation may take the form of a simple statement from the employee, or a child's birth certificate, a court document, etc. The employing office is entitled to examine documentation such as a birth certificate, etc., but the employee is entitled to the return of the official document submitted for this purpose.

§825.114 What is a "serious health condition" entitling an employee to FMLA leave?

(a) For purposes of FMLA, "serious health condition" entitling an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:

(1) Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(2) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(i) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(A) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(B) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(ii) Any period of incapacity due to pregnancy, or for prenatal care.

(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(A) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(B) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(C) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

(iv) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(v) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

(b) Treatment for purposes of paragraph (a) of this section includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (a)(2)(i)(B), a regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be

initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(c) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(d) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(e) Absences attributable to incapacity under paragraphs (a)(2) (ii) or (iii) qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

§825.115 What does it mean that "the employee is unable to perform the functions of the position of the employee"?

An employee is "unable to perform the functions of the position" where the health care provider finds that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee's position within the meaning of the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)). An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment. An employing office has the option, in requiring certification from a health care provider, to provide a statement of the essential functions of the employee's position for the health care provider to review. For purposes of FMLA, the essential functions of the employee's position are to be determined with reference to the position the employee held at the time notice is given or leave commenced, whichever is earlier.

§825.116 What does it mean that an employee is "needed to care for" a family member?

(a) The medical certification provision that an employee is "needed to care for" a family member encompasses both physical and psychological care. It includes situations where, for example, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor, etc. The term also includes providing psychological comfort and reassurance which would be beneficial to a child, spouse or parent with a serious health condition who is receiving inpatient or home care.

(b) The term also includes situations where the employee may be needed to fill in for others who are caring for the family member, or to make arrangements for changes in care, such as transfer to a nursing home.

(c) An employee's intermittent leave or a reduced leave schedule necessary to care for a family member includes not only a situation where the family member's condition itself is intermittent, but also where the employee is only needed intermittently "such as where other care is normally available, or care responsibilities are shared with another member of the family or a third party."

§825.117 For an employee seeking intermittent FMLA leave or leave on a reduced leave schedule, what is meant by "the medical necessity for" such leave?

For intermittent leave or leave on a reduced leave schedule, there must be a medical need for leave (as distinguished from voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. The treatment regimen and other information described in the certification of a serious health condition (see §825.306) meets the requirement for certification of the medical necessity of intermittent leave or leave on a reduced leave schedule. Employees needing intermittent FMLA leave or leave on a reduced leave schedule must attempt to schedule their leave so as not to disrupt the employing office's operations. In addition, an employing office may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule.

§825.118 What is a "health care provider"?

(a)(1) The term "health care provider" means:

(i) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(ii) Any other person determined by the Office of Compliance to be capable of providing health care services.

(2) In making a determination referred to in subparagraph (1)(ii), and absent good cause shown to do otherwise, the Office of Compliance will follow any determination made by the Secretary of Labor (under section 101(6)(B) of the FMLA, 29 U.S.C. 2611(6)(B)) that a person is capable of providing health care services, provided the Secretary's determination was not made at the request of a person who was then a covered employee.

(b) Others "capable of providing health care services" include only:

(1) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law;

(2) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law;

(3) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employing office that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement.

(4) Any health care provider from whom an employing office or the employing office's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and

(5) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

(c) The phrase "authorized to practice in the State" as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider.

SUBPART B—WHAT LEAVE IS AN EMPLOYEE ENTITLED TO TAKE UNDER THE FAMILY AND MEDICAL LEAVE ACT, AS MADE APPLICABLE BY THE CONGRESSIONAL ACCOUNTABILITY ACT?

§825.200 How much leave may an employee take?

(a) An eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during any 12-month period for any one, or more, of the following reasons:

(1) The birth of the employee's son or daughter, and to care for the newborn child;

(2) The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and

(4) Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job.

(b) An employing office is permitted to choose any one of the following methods for determining the "12-month period" in which the 12 weeks of leave entitlement occurs:

(1) The calendar year;

(2) Any fixed 12-month "leave year", such as a fiscal year or a year starting on an employee's "anniversary" date;

(3) The 12-month period measured forward from the date any employee's first FMLA leave begins; or

(4) A "rolling" 12-month period measured backward from the date an employee uses any FMLA leave (except that such measure may not extend back before the date on which the application of FMLA rights and protections first becomes effective for the employing office; see §825.102).

(c) Under methods in paragraphs (b)(1) and (b)(2) of this section an employee would be entitled to up to 12 weeks of FMLA leave at any time in the fixed 12-month period selected. An employee could, therefore, take 12 weeks of leave at the end of the year and 12 weeks at the beginning of the following year. Under the method in paragraph (b)(3) of this

VOL
142
PT
6
AP
15
—
24
1996
UMI

section, an employee would be entitled to 12 weeks of leave during the year beginning on the first date FMLA leave is taken; the next 12-month period would begin the first time FMLA leave is taken after completion of any previous 12-month period. Under the method in paragraph (b)(4) of this section, the "rolling" 12-month period, each time an employee takes FMLA leave the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months. For example, if an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee used four weeks beginning February 1, 1997, four weeks beginning June 1, 1997, and four weeks beginning December 1, 1997, the employee would not be entitled to any additional leave until February 1, 1998. However, beginning on February 1, 1998, the employee would be entitled to four weeks of leave, on June 1 the employee would be entitled to an additional four weeks, etc.

(d)(1) Employing offices will be allowed to choose any one of the alternatives in paragraph (b) of this section provided the alternative chosen is applied consistently and uniformly to all employees. An employing office wishing to change to another alternative is required to give at least 60 days notice to all employees, and the transition must take place in such a way that the employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee. Under no circumstances may a new method be implemented in order to avoid the CAA's FMLA leave requirements.

(2) [Reserved]

(e) If an employing office fails to select one of the options in paragraph (b) of this section for measuring the 12-month period, the option that provides the most beneficial outcome for the employee will be used. The employing office may subsequently select an option only by providing the 60-day notice to all employees of the option the employing office intends to implement. During the running of the 60-day period any other employee who needs FMLA leave may use the option providing the most beneficial outcome to that employee. At the conclusion of the 60-day period the employing office may implement the selected option.

(f) For purposes of determining the amount of leave used by an employee, the fact that a holiday may occur within the week taken as FMLA leave has no effect; the week is counted as a week of FMLA leave. However, if for some reason the employing office's activity has temporarily ceased and employees generally are not expected to report for work for one or more weeks (e.g., a school closing two weeks for the Christmas/New Year holiday or the summer vacation or an employing office closing the office for repairs), the days the employing office's activities have ceased do not count against the employee's FMLA leave entitlement. Methods for determining an employee's 12-week leave entitlement are also described in §825.205.

(g)(1) If employing offices jointly employ an employee, and if they designate a primary employer pursuant to §825.106(c), the primary employer may choose any one of the alternatives in paragraph (b) of this section for measuring the 12-month period, provided that the alternative chosen is applied consistently and uniformly to all employees of the primary employer including the jointly employed employee.

(2) If employing offices fail to designated a primary employer pursuant to §825.106(c), an employee jointly employed by the employing offices may,. by so notifying one of the employing offices, select that employing office to be the primary employer of the employee for purposes of the application of paragraphs (d) and (e) of this section.

§825.201 If leave is taken for the birth of a child, or for placement of a child for adoption or foster care, when must the leave be concluded?

An employee's entitlement to leave for a birth or placement for adoption or foster care expires at the end of the 12-month period beginning on the date of the birth or placement, unless the employing office permits leave to be taken for a longer period. Any such FMLA leave must be concluded within this one-year period.

§825.202 How much leave may a husband and wife take if they are employed by the same employing office?

(a) A husband and wife who are eligible for FMLA leave and are employed by the same employing office may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken—

(1) for birth of the employee's son or daughter or to care for the child after birth;

(2) for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; or

(3) to care for the employee's parent with a serious health condition.

(b) This limitation on the total weeks of leave applies to leave taken for the reasons specified in paragraph (a) of this section as long as a husband and wife are employed by the "same employing office". It would apply, for example, even though the spouses are employed at two different work sites of an employing office. On the other hand, if one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full 12 weeks of FMLA leave.

(c) Where the husband and wife both use a portion of the total 12-week FMLA leave entitlement for one of the purposes in paragraph (a) of this section, the husband and wife would each be entitled to the difference between the amount he or she has taken individually and 12 weeks for FMLA leave for a purpose other than those contained in paragraph (a) of this section. For example, if each spouse took 6 weeks of leave to care for a healthy, newborn child, each could use an additional 6 weeks due to his or her own serious health condition or to care for a child with a serious health condition.

§825.203 Does FMLA leave have to be taken all at once, or can it be taken in parts?

(a) FMLA leave may be taken "intermittently or on a reduced leave schedule" under certain circumstances. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time, normally from full-time to part-time.

(b) When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the employing office agrees. Such a schedule reduction might occur, for example, where an employee, with the employing office's agreement, works part-time after the birth of a child, or takes leave in several segments. The employing office's agreement is not required, however, for leave during which the mother has a serious health condition in connection with the birth of her child or if the newborn child has a serious health condition.

(c) Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition. It may also be taken to provide care or psychological comfort to an immediate family member with a serious health condition.

(1) Intermittent leave may be taken for a serious health condition which requires treatment by a health care provider periodically, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy. A pregnant employee may take leave intermittently for prenatal examinations or for her own condition, such as for periods of severe morning sickness. An example of an employee taking leave on a reduced leave schedule is an employee who is recovering from a serious health condition and is not strong enough to work a full-time schedule.

(2) Intermittent or reduced schedule leave may be taken for absences where the employee or family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition even if he or she does not receive treatment by a health care provider.

(d) There is no limit on the size of an increment of leave when an employee takes intermittent leave or leave on a reduced leave schedule. However, an employing office may limit leave increments to the shortest period of time that the employing office's payroll system uses to account for absences or use of leave, provided it is one hour or less. For example, an employee might take two hours off for a medical appointment, or might work a reduced day of four hours over a period of several weeks while recuperating from an illness. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the need for the leave, except as provided in §§825.601 and 825.602.

§825.204 May an employing office transfer an employee to an "alternative position" in order to accommodate intermittent leave or a reduced leave schedule?

(a) If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee or a family member, including during a period of recovery from a serious health condition, or if the employing office agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption or foster care, the employing office may require the employee to transfer temporarily, during the period the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. See §825.601 for special rules applicable to instructional employees of schools.

(b) Transfer to an alternative position may require compliance with any applicable collective bargaining agreement and any applicable law (such as the Americans with Disabilities Act, as made applicable by the

CAA). Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent or reduced leave.

(c) The alternative position must have equivalent pay and benefits. An alternative position for these purposes does not have to have equivalent duties. The employing office may increase the pay and benefits of an existing alternative position, so as to make them equivalent to the pay and benefits of the employee's regular job. The employing office may also transfer the employee to a part-time job with the same hourly rate of pay and benefits, provided the employee is not required to take more leave than is medically necessary. For example, an employee desiring to take leave in increments of four hours per day could be transferred to a half-time job, or could remain in the employee's same job on a part-time schedule, paying the same hourly rate as the employee's previous job and enjoying the same benefits. The employing office may not eliminate benefits which otherwise would not be provided to part-time employees; however, an employing office may proportionately reduce benefits such as vacation leave where an employing office's normal practice is to base such benefits on the number of hours worked.

(d) An employing office may not transfer the employee to an alternative position in order to discourage the employee from taking leave or otherwise work a hardship on the employee. For example, a white collar employee may not be assigned to perform laborer's work; an employee working the day shift may not be reassigned to the graveyard shift; an employee working in the headquarters facility may not be reassigned to a branch a significant distance away from the employee's normal job location. Any such attempt on the part of the employing office to make such a transfer will be held to be contrary to the prohibited-acts provisions of the FMLA, as made applicable by the CAA.

(e) When an employee who is taking leave intermittently or on a reduced leave schedule and has been transferred to an alternative position no longer needs to continue on leave and is able to return to full-time work, the employee must be placed in the same or equivalent job as the job he/she left when the leave commenced. An employee may not be required to take more leave than necessary to address the circumstance that precipitated the need for leave.

§825.205 How does one determine the amount of leave used where an employee takes leave intermittently or on a reduced leave schedule?

(a) If an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken may be counted toward the 12 weeks of leave to which an employee is entitled. For example, if an employee who normally works five days a week takes off one day, the employee would use ⅕ of a week of FMLA leave. Similarly, if a full-time employee who normally works 8-hour days works 4-hour days under a reduced leave schedule, the employee would use ½ week of FMLA leave each week.

(b) Where an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled is determined on a pro rata or proportional basis by comparing the new schedule with the employee's normal schedule. For example, if an employee who normally works 30 hours per week works only 20 hours a week under a reduced leave schedule, the employee's ten hours of leave would constitute one-third of a week of FMLA leave for each week the employee works the reduced leave schedule.

(c) If an employing office has made a permanent or long-term change in the employee's schedule (for reasons other than FMLA, and prior to the notice of need for FMLA leave), the hours worked under the new schedule are to be used for making this calculation.

(d) If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the leave period would be used for calculating the employee's normal workweek.

§825.206 May an employing office deduct hourly amounts from an employee's salary, when providing unpaid leave under FMLA, as made applicable by the CAA, without affecting the employee's qualification for exemption as an executive, administrative, or professional employee, or when utilizing the fluctuating workweek method for payment of overtime, under the Fair Labor Standards Act?

(a) Leave taken under FMLA, as made applicable by the CAA, may be unpaid. If an employee is otherwise exempt from minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA), as made applicable by the CAA, as a salaried executive, administrative, or professional employee (under regulations issued by the Board, at part 541), providing unpaid FMLA-qualifying leave to such an employee will not cause the employee to lose the FLSA exemption. This means that under regulations currently in effect, where an employee meets the specified duties test, is paid on a salary basis, and is paid a salary of at least the amount specified in the regulations, the employing office may make deductions from the employee's salary for any hours taken as intermittent or reduced FMLA leave within a workweek, without affecting the exempt status of the employee. The fact that an employing office provides FMLA leave, whether paid or unpaid, or maintains any records regarding FMLA leave, will not be relevant to the determination whether an employee is exempt within the meaning of the Board's regulations at part 541.

(b) For an employee paid in accordance with a fluctuating workweek method of payment for overtime, where permitted by section 203 of the CAA (2 U.S.C. 1313), the employing office, during the period in which intermittent or reduced schedule FMLA leave is scheduled to be taken, may compensate an employee on an hourly basis and pay only for the hours the employee works, including time and one-half the employee's regular rate for overtime hours. The change to payment on an hourly basis would include the entire period during which the employee is taking intermittent leave, including weeks in which no leave is taken. The hourly rate shall be determined by dividing the employee's weekly salary by the employee's normal or average schedule of hours worked during weeks in which FMLA leave is not being taken. If an employing office chooses to follow this exception from the fluctuating workweek method of payment, the employing office must do so uniformly, with respect to all employees paid on a fluctuating workweek basis for whom FMLA leave is taken on an intermittent or reduced leave schedule basis. If an employing office does not elect to convert the employee's compensation to hourly pay, no deduction may be taken for FMLA leave absences. Once the need for intermittent or reduced scheduled leave is over, the employee may be restored to payment on a fluctuating workweek basis.

(c) This special exception to the "salary basis" requirements of the FLSA exemption or fluctuating workweek payment requirements applies only to employees of employing offices who are eligible for FMLA leave, and to leave which qualifies as (one of the four types of) FMLA leave. Hourly or other deductions which are not in accordance with the Board's regulations at part 541 or with a permissible fluctuating workweek method of payment for overtime may not be taken, for example, where the employee has not worked long enough to be eligible for FMLA leave without potentially affecting the employee's eligibility for exemption. Nor may deductions which are not permitted by the Board's regulations at part 541 or by a permissible fluctuating workweek method of payment for overtime be taken from such an employee's salary for any leave which does not qualify as FMLA leave, for example, deductions from an employee's pay for leave required under an employing office's policy or practice for a reason which does not qualify as FMLA leave, e.g., leave to care for a grandparent or for a medical condition which does not qualify as a serious health condition; or for leave which is more generous than provided by FMLA as made applicable by the CAA, such as leave in excess of 12 weeks in a year. The employing office may comply with the employing office's own policy/practice under these circumstances and maintain the employee's eligibility for exemption or for the fluctuating workweek method of pay by not taking hourly deductions from the employee's pay, in accordance with FLSA requirements, or may take such deductions, treating the employee as an "hourly" employee and pay overtime premium pay for hours worked over 40 in a workweek.

§825.207 Is FMLA leave paid or unpaid?

(a) Generally, FMLA leave is unpaid. However, under the circumstances described in this section, FMLA, as made applicable by the CAA, permits an eligible employee to choose to substitute paid leave for FMLA leave. If an employee does not choose to substitute accrued paid leave, the employing office may require the employee to substitute accrued paid leave for FMLA leave.

(b) Where an employee has earned or accrued paid vacation, personal or family leave, that paid leave may be substituted for all or part of any (otherwise) unpaid FMLA leave relating to birth, placement of a child for adoption or foster care, or care for a spouse, child or parent who has a serious health condition. The term "family leave" as used in FMLA refers to paid leave provided by the employing office covering the particular circumstances for which the employee seeks leave for either the birth of a child and to care for such child, placement of a child for adoption or foster care, or care for a spouse, child or parent with a serious health condition. For example, if the employing office's leave plan allows use of family leave to care for a child but not for a parent, the employing office is not required to allow accrued family leave to be substituted for FMLA leave used to care for a parent.

(c) Substitution of paid accrued vacation, personal, or medical/sick leave may be made for any (otherwise) unpaid FMLA leave needed to care for a family member or the employee's own serious health condition. Substitution of paid sick/medical leave may be elected to the extent the circumstances meet the employing office's usual requirements for the use of sick/medical leave. An employing office is not required to allow substitution of paid sick or medical leave for unpaid FMLA leave "in any situation" where

VOL
142
PT
6
AP
15
—
24
1996
UMI

the employing office's uniform policy would not normally allow such paid leave. An employee, therefore, has a right to substitute paid medical/sick leave to care for a seriously ill family member only if the employing office's leave plan allows paid leave to be used for that purpose. Similarly, an employee does not have a right to substitute paid medical/sick leave for a serious health condition which is not covered by the employing office's leave plan.

(d)(1) Disability leave for the birth of a child would be considered FMLA leave for a serious health condition and counted in the 12 weeks of leave permitted under FMLA as made applicable by the CAA. Because the leave pursuant to a temporary disability benefit plan is not unpaid, the provision for substitution of paid leave is inapplicable. However, the employing office may designate the leave as FMLA leave and count the leave as running concurrently for purposes of both the benefit plan and the FMLA leave entitlement. If the requirements to qualify for payments pursuant to the employing office's temporary disability plan are more stringent than those of FMLA as made applicable by the CAA, the employee must meet the more stringent requirements of the plan, or may choose not to meet the requirements of the plan and instead receive no payments from the plan and use unpaid FMLA leave or substitute available accrued paid leave.

(2) The FMLA as made applicable by the CAA provides that a serious health condition may result from injury to the employee "on or off" the job. If the employing office designates the leave as FMLA leave in accordance with §825.208, the employee's FMLA 12-week leave entitlement may run concurrently with a workers' compensation absence when the injury is one that meets the criteria for a serious health condition. As the workers' compensation absence is not unpaid leave, the provision for substitution of the employee's accrued paid leave is not applicable. However, if the health care provider treating the employee for the workers' compensation injury certifies the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline the employing office's offer of a "light duty job". As a result the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the 12-week entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the employing office may require the use of accrued paid leave. See also §§ 825.210(f), 825.216(d), 825.220(d), 825.307(a)(1) and 825.702(d) (1) and (2) regarding the relationship between workers' compensation absences and FMLA leave.

(e) Paid vacation or personal leave, including leave earned or accrued under plans allowing "paid time off", may be substituted, at either the employee's or the employing office's option, for any qualified FMLA leave. No limitations may be placed by the employing office on substitution of paid vacation or personal leave for these purposes.

(f) If neither the employee nor the employing office elects to substitute paid leave for unpaid FMLA leave under the above conditions and circumstances, the employee will remain entitled to all the paid leave which is earned or accrued under the terms of the employing office's plan.

(g) If an employee uses paid leave under circumstances which do not qualify as FMLA leave, the leave will not count against the 12 weeks of FMLA leave to which the employee is entitled. For example, paid sick leave used for a medical condition which is not a serious health condition does not count against the 12 weeks of FMLA leave entitlement.

(h) When an employee or employing office elects to substitute paid leave (of any type) for unpaid FMLA leave under circumstances permitted by these regulations, and the employing office's procedural requirements for taking that kind of leave are less stringent than the requirements of FMLA as made applicable by the CAA (e.g., notice or certification requirements), only the less stringent requirements may be imposed. An employee who complies with an employing office's less stringent leave plan requirements in such cases may not have leave for an FMLA purpose delayed or denied on the grounds that the employee has not complied with stricter requirements of FMLA as made applicable by the CAA. However, where accrued paid vacation or personal leave is substituted for unpaid FMLA leave for a serious health condition, an employee may be required to comply with any less stringent medical certification requirements of the employing office's sick leave program. See §§825.302(g), 825.305(e) and 825.306(c).

(i) Compensatory time off, if any is authorized under applicable law, is not a form of accrued paid leave that an employing office may require the employee to substitute for unpaid FMLA leave. The employee may request to use his/her balance of compensatory time for an FMLA reason. If the employing office permits the accrual of compensatory time to be used in compliance with applicable Board regulations, the absence which is paid from the employee's accrued compensatory time "account" may not be counted against the employee's FMLA leave entitlement.

§825.208 Under what circumstances may an employing office designate leave, paid or unpaid, as FMLA leave and, as a result, enable leave to be counted against the employee's total FMLA leave entitlement?

(a) In all circumstances, it is the employing office's responsibility to designate leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee as provided in this section. In the case of intermittent leave or leave on a reduced schedule, only one such notice is required unless the circumstances regarding the leave have changed. The employing office's designation decision must be based only on information received from the employee or the employee's spokesperson (e.g., if the employee is incapacitated, the employee's spouse, adult child, parent, doctor, etc., may provide notice to the employing office of the need to take FMLA leave). In any circumstance where the employing office does not have sufficient information about the reason for an employee's use of paid leave, the employing office should inquire further of the employee or the spokesperson to ascertain whether the paid leave is potentially FMLA-qualifying.

(1) An employee giving notice of the need for unpaid FMLA leave must explain the reasons for the needed leave so as to allow the employing office to determine that the leave qualifies under the FMLA, as made applicable by the CAA. If the employee fails to explain the reasons, leave may be denied. In many cases, in explaining the reasons for a request to use paid leave, especially when the need for the leave was unexpected or unforeseen, an employee will provide sufficient information for the employing office to designate the paid leave as FMLA leave. An employee using accrued paid leave, especially vacation or personal leave, may in some cases not spontaneously explain the reasons or their plans for using their accrued leave.

(2) As noted in §825.302(c), an employee giving notice of the need for unpaid FMLA leave does not need to expressly assert rights under the FMLA as made applicable by the CAA or even mention the FMLA to meet his or her obligation to provide notice, though the employee would need to state a qualifying reason for the needed leave. An employee requesting or notifying the employing office of an intent to use accrued paid leave, even if for a purpose covered by FMLA, would not need to assert such right either. However, if an employee requesting to use paid leave for an FMLA-qualifying purpose does not explain the reason for the leave—consistent with the employing office's established policy or practice—and the employing office denies the employee's request, the employee will need to provide sufficient information to establish an FMLA-qualifying reason for the needed leave so that the employing office is aware of the employee's entitlement (i.e., that the leave may not be denied) and, then, may designate that the paid leave be appropriately counted against (substituted for) the employee's 12-week entitlement. Similarly, an employee using accrued paid vacation leave who seeks an extension of unpaid leave for an FMLA-qualifying purpose will need to state the reason. If this is due to an event which occurred during the period of paid leave, the employing office may count the leave used after the FMLA-qualifying event against the employee's 12-week entitlement.

(b)(1) Once the employing office has acquired knowledge that the leave is being taken for an FMLA required reason, the employing office must promptly (within two business days absent extenuating circumstances) notify the employee that the paid leave is designated and will be counted as FMLA leave. If there is a dispute between an employing office and an employee as to whether paid leave qualifies as FMLA leave, it should be resolved through discussions between the employee and the employing office. Such discussions and the decision must be documented.

(2) The employing office's notice to the employee that the leave has been designated as FMLA leave may be orally or in writing. If the notice is oral, it shall be confirmed in writing, no later than the following payday (unless the payday is less than one week after the oral notice, in which case the notice must be no later than the subsequent payday). The written notice may be in any form, including a notation on the employee's pay stub.

(c) If the employing office requires paid leave to be substituted for unpaid leave, or that paid leave taken under an existing leave plan be counted as FMLA leave, this decision must be made by the employing office within two business days of the time the employee gives notice of the need for leave, or, where the employing office does not initially have sufficient information to make a determination, when the employing office determines that the leave qualifies as FMLA leave if this happens later. The employing office's designation must be made before the leave starts, unless the employing office does not have sufficient information as to the employee's reason for taking the leave until after the leave commenced. If the employing office has the requisite knowledge to make a determination that the paid leave is for an

FMLA reason at the time the employee either gives notice of the need for leave or commences leave and fails to designate the leave as FMLA leave (and so notify the employee in accordance with paragraph (b)), the employing office may not designate leave as FMLA leave retroactively, and may designate only prospectively as of the date of notification to the employee of the designation. In such circumstances, the employee is subject to the full protections of the FMLA, as made applicable by the CAA, but none of the absence preceding the notice to the employee of the designation may be counted against the employee's 12-week FMLA leave entitlement.

(d) If the employing office learns that leave is for an FMLA purpose after leave has begun, such as when an employee gives notice of the need for an extension of the paid leave with unpaid FMLA leave, the entire or some portion of the paid leave period may be retroactively counted as FMLA leave, to the extent that the leave period qualified as FMLA leave. For example, an employee is granted two weeks paid vacation leave for a skiing trip. In mid-week of the second week, the employee contacts the employing office for an extension of leave as unpaid leave and advises that at the beginning of the second week of paid vacation leave the employee suffered a severe accident requiring hospitalization. The employing office may notify the employee that both the extension and the second week of paid vacation leave (from the date of the injury) is designated as FMLA leave. On the other hand, when the employee takes sick leave that turns into a serious health condition (e.g., bronchitis that turns into bronchial pneumonia) and the employee gives notice of the need for an extension of leave, the entire period of the serious health condition may be counted as FMLA leave.

(e) Employing offices may not designate leave as FMLA leave after the employee has returned to work with two exceptions:

(1) If the employee was absent for an FMLA reason and the employing office did not learn the reason for the absence until the employee's return (e.g., where the employee was absent for only a brief period), the employing office may, upon the employee's return to work, promptly (within two business days of the employee's return to work) designate the leave retroactively with appropriate notice to the employee. If leave is taken for an FMLA reason but the employing office was not aware of the reason, and the employee desires that the leave be counted as FMLA leave, the employee must notify the employing office within two business days of returning to work of the reason for the leave. In the absence of such timely notification by the employee, the employee may not subsequently assert FMLA protections for the absence.

(2) If the employing office knows the reason for the leave but has not been able to confirm that the leave qualifies under FMLA, or where the employing office has requested medical certification which has not yet been received or the parties are in the process of obtaining a second or third medical opinion, the employing office should make a preliminary designation, and so notify the employee, at the time leave begins, or as soon as the reason for the leave becomes known. Upon receipt of the requisite information from the employee or of the medical certification which confirms the leave is for an FMLA reason, the preliminary designation becomes final. If the medical certifications fail to confirm that the reason for the absence was an FMLA reason, the employing office must withdraw the designation (with written notice to the employee).

(f) If, before beginning employment with an employing office, an employee had been employed by another employing office, the subsequent employing office may count against the employee's FMLA leave entitlement FMLA leave taken from the prior employing office, except that, if the FMLA leave began after the effective date of these regulations (or if the FMLA leave was subject to other applicable requirement under which the employing office was to have designated the leave as FMLA leave), the prior employing office must have properly designated the leave as FMLA under these regulations or other applicable requirement.

§825.209 Is an employee entitled to benefits while using FMLA leave?

(a) During any FMLA leave, the employing office must maintain the employee's coverage under the Federal Employees Health Benefits Program or any group health plan (as defined in the Internal Revenue Code of 1986 at 26 U.S.C. 5000(b)(1)) on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. All employing offices are subject to the requirements of the FMLA, as made applicable by the CAA, to maintain health coverage. The definition of "group health plan" is set forth in §825.800. For purposes of FMLA, the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that—

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

(b) The same group health plan benefits provided to an employee prior to taking FMLA leave must be maintained during the FMLA leave. For example, if family member coverage is provided to an employee, family member coverage must be maintained during the FMLA leave. Similarly, benefit coverage during FMLA leave for medical care, surgical care, hospital care, dental care, eye care, mental health counseling, substance abuse treatment, etc., must be maintained during leave if provided in an employing office's group health plan, including a supplement to a group health plan, whether or not provided through a flexible spending account or other component of a cafeteria plan.

(c) If an employing office provides a new health plan or benefits or changes health benefits or plans while an employee is on FMLA leave, the employee is entitled to the new or changed plan/benefits to the same extent as if the employee were not on leave. For example, if an employing office changes a group health plan so that dental care becomes covered under the plan, an employee on FMLA leave must be given the same opportunity as other employees to receive (or obtain) the dental care coverage. Any other plan changes (e.g., in coverage, premiums, deductibles, etc.) which apply to all employees of the workforce would also apply to an employee on FMLA leave.

(d) Notice of any opportunity to change plans or benefits must also be given to an employee on FMLA leave. If the group health plan permits an employee to change from single to family coverage upon the birth of a child or otherwise add new family members, such a change in benefits must be made available while an employee is on FMLA leave. If the employee requests the changed coverage it must be provided by the employing office.

(e) An employee may choose not to retain group health plan coverage during FMLA leave. However, when an employee returns from leave, the employee is entitled to be reinstated on the same terms as prior to taking the leave, including family or dependent coverages, without any qualifying period, physical examination, exclusion of pre-existing conditions, etc. See §825.212(c).

(f) Except as required by the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) or 5 U.S.C. 8905a, whichever is applicable, and for "key" employees (as discussed below), an employing office's obligation to maintain health benefits during leave (and to restore the employee to the same or equivalent employment) under FMLA ceases if and when the employment relationship would have terminated if the employee had not taken FMLA leave (e.g., if the employee's position is eliminated as part of a nondiscriminatory reduction in force and the employee would not have been transferred to another position); an employee informs the employing office of his or her intent not to return from leave (including before starting the leave if the employing office is so informed before the leave starts); or the employee fails to return from leave or continues on leave after exhausting his or her FMLA leave entitlement in the 12-month period.

(g) If a "key employee" (see §825.218) does not return from leave when notified by the employing office that substantial or grievous economic injury will result from his or her reinstatement, the employee's entitlement to group health plan benefits continues unless and until the employee advises the employing office that the employee does not desire restoration to employment at the end of the leave period, or FMLA leave entitlement is exhausted, or reinstatement is actually denied.

(h) An employee's entitlement to benefits other than group health benefits during a period of FMLA leave (e.g., holiday pay) is to be determined by the employing office's established policy for providing such benefits when the employee is on other forms of leave (paid or unpaid, as appropriate).

§825.210 How may employees on FMLA leave pay their share of group health benefit premiums?

(a) Group health plan benefits must be maintained on the same basis as coverage would have been provided if the employee had been continuously employed during the FMLA leave period. Therefore, any share of group health plan premiums which had been paid by the employee prior to FMLA leave must continue to be paid by the employee during the FMLA leave period. If premiums are raised or lowered, the employee would be required to pay the new premium rates. Maintenance of health insurance policies which are not a part of the employing office's group health plan, as described in

VOL
142
PT
6
AP
15
—
24
1996
UMI

§825.209(a), are the sole responsibility of the employee. The employee and the insurer should make necessary arrangements for payment of premiums during periods of unpaid FMLA leave.

(b) If the FMLA leave is substituted paid leave, the employee's share of premiums must be paid by the method normally used during any paid leave, presumably as a payroll deduction.

(c) If FMLA leave is unpaid, the employing office has a number of options for obtaining payment from the employee. The employing office may require that payment be made to the employing office or to the insurance carrier, but no additional charge may be added to the employee's premium payment for administrative expenses. The employing office may require employees to pay their share of premium payments in any of the following ways:

(1) Payment would be due at the same time as it would be made if by payroll deduction;

(2) Payment would be due on the same schedule as payments are made under COBRA or 5 U.S.C. 8905a, whichever is applicable;

(3) Payment would be prepaid pursuant to a cafeteria plan at the employee's option;

(4) The employing office's existing rules for payment by employees on "leave without pay" would be followed, provided that such rules do not require prepayment (i.e., prior to the commencement of the leave) of the premiums that will become due during a period of unpaid FMLA leave or payment of higher premiums than if the employee had continued to work instead of taking leave; or

(5) Another system voluntarily agreed to between the employing office and the employee, which may include prepayment of premiums (e.g., through increased payroll deductions when the need for the FMLA leave is foreseeable).

(d) The employing office must provide the employee with advance written notice of the terms and conditions under which these payments must be made. (See §825.301.)

(e) An employing office may not require more of an employee using FMLA leave than the employing office requires of other employees on "leave without pay".

(f) An employee who is receiving payments as a result of a workers' compensation injury must make arrangements with the employing office for payment of group health plan benefits when simultaneously taking unpaid FMLA leave. See paragraph (c) of this section and §825.207(d)(2).

§825.211 What special health benefits maintenance rules apply to multi-employer health plans?

(a) A multi-employer health plan is a plan to which more than one employer is required to contribute, and which is maintained pursuant to one or more collective bargaining agreements between employee organization(s) and the employers.

(b) An employing office under a multi-employer plan must continue to make contributions on behalf of an employee using FMLA leave as though the employee had been continuously employed, unless the plan contains an explicit FMLA provision for maintaining coverage such as through pooled contributions by all employers party to the plan.

(c) During the duration of an employee's FMLA leave, coverage by the group health plan, and benefits provided pursuant to the plan, must be maintained at the level of coverage and benefits which were applicable to the employee at the time FMLA leave commenced.

(d) An employee using FMLA leave cannot be required to use "banked" hours or pay a greater premium than the employee would have been required to pay if the employee had been continuously employed.

(e) As provided in §825.209(f), group health plan coverage must be maintained for an employee on FMLA leave until:

(1) the employee's FMLA leave entitlement is exhausted;

(2) the employing office can show that the employee would have been laid off and the employment relationship terminated; or

(3) the employee provides unequivocal notice of intent not to return to work.

§825.212 What are the consequences of an employee's failure to make timely health plan premium payments?

(a)(1) In the absence of an established employing office policy providing a longer grace period, an employing office's obligations to maintain health insurance coverage cease under FMLA if an employee's premium payment is more than 30 days late. In order to drop the coverage for an employee whose premium payment is late, the employing office must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. If the employing office has established policies regarding other forms of unpaid leave that provide for the employing office to cease coverage retroactively to the date the unpaid premium payment was due, the employing office may drop the employee from coverage retroactively in accordance with that policy, provided the 15-day notice was given. In the absence of such a policy, coverage for the employee may be terminated at the end of the 30-day grace period, where the required 15-day notice has been provided.

(2) An employing office has no obligation regarding the maintenance of a health insurance policy which is not a "group health plan". See §825.209(a).

(3) All other obligations of an employing office under FMLA would continue; for example, the employing office continues to have an obligation to reinstate an employee upon return from leave.

(b) The employing office may recover the employee's share of any premium payments missed by the employee for any FMLA leave period during which the employing office maintains health coverage by paying the employee's share after the premium payment is missed.

(c) If coverage lapses because an employee has not made required premium payments, upon the employee's return from FMLA leave the employing office must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed, including family or dependent coverage. See §825.215(d)(1)–(5). In such case, an employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

§825.213 May an employing office recover costs it incurred for maintaining "group health plan" or other non-health benefits coverage during FMLA leave?

(a) In addition to the circumstances discussed in §825.212(b), the share of health plan premiums paid by or on behalf of the employing office during a period of unpaid FMLA leave may be recovered from an employee if the employee fails to return to work after the employee's FMLA leave entitlement has been exhausted or expires, unless the reason the employee does not return is due to:

(1) The continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member which would otherwise entitle the employee to leave under FMLA;

(2) Other circumstances beyond the employee's control. Examples of "other circumstances beyond the employee's control" are necessarily broad. They include such situations as where a parent chooses to stay home with a newborn child who has a serious health condition; an employee's spouse is unexpectedly transferred to a job location more than 75 miles from the employee's worksite; a relative or individual other than an immediate family member has a serious health condition and the employee is needed to provide care; the employee is laid off while on leave; or, the employee is a "key employee" who decides not to return to work upon being notified of the employing office's intention to deny restoration because of substantial and grievous economic injury to the employing office's operations and is not reinstated by the employing office. Other circumstances beyond the employee's control would not include a situation where an employee desires to remain with a parent in a distant city even though the parent no longer requires the employee's care, or a parent chooses not to return to work to stay home with a well, newborn child; or

(3) When an employee fails to return to work because of the continuation, recurrence, or onset of a serious health condition, thereby precluding the employing office from recovering its (share of) health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. Such certification is not required unless requested by the employing office. The employee is required to provide medical certification in a timely manner which, for purposes of this section, is within 30 days from the date of the employing office's request. For purposes of medical certification, the employee may use the optional form developed for this purpose (see §825.306(a) and Appendix B of this part). If the employing office requests medical certification and the employee does not provide such certification in a timely manner (within 30 days), or the reason for not returning to work does not meet the test of other circumstances beyond the employee's control, the employing office may recover 100 percent of the health benefit premiums it paid during the period of unpaid FMLA leave.

(b) Under some circumstances an employing office may elect to maintain other benefits, e.g., life insurance, disability insurance, etc., by paying the employee's (share of) premiums during periods of unpaid FMLA leave. For example, to ensure the employing office can meet its responsibilities to provide equivalent benefits to the employee upon return from unpaid FMLA leave, it may be necessary that premiums be paid continuously to avoid a lapse of coverage. If the employing office elects to maintain such benefits during the leave, at the conclusion of leave, the employing office is entitled to recover only the costs incurred for paying the employee's share of any premiums whether or not the employee returns to work.

(c) An employee who returns to work for at least 30 calendar days is considered to have "returned" to work. An employee who transfers directly from taking FMLA leave to retirement, or who retires during the first 30 days after the employee returns to work, is deemed to have returned to work.

(d) When an employee elects or an employing office requires paid leave to be substituted for FMLA leave, the employing office may not recover its (share of) health insurance or other non-health benefit premiums for any period of FMLA leave covered by paid leave. Because paid leave provided under a plan covering temporary disabilities (including workers' compensation) is not unpaid, recovery of health insurance premiums does not apply to such paid leave.

(e) The amount that self-insured employing offices may recover is limited to only the employing office's share of allowable "premiums" as would be calculated under COBRA, excluding the 2 percent fee for administrative costs.

(f) When an employee fails to return to work, any health and non-health benefit premiums which this section of the regulations permits an employing office to recover are a debt owed by the non-returning employee to the employing office. The existence of this debt caused by the employee's failure to return to work does not alter the employing office's responsibilities for health benefit coverage and, under a self-insurance plan, payment of claims incurred during the period of FMLA leave. To the extent recovery is allowed, the employing office may recover the costs through deduction from any sums due to the employee (e.g., unpaid wages, vacation pay, etc.), provided such deductions do not otherwise violate applicable wage payment or other laws. Alternatively, the employing office may initiate legal action against the employee to recover such costs.

§825.214 What are an employee's rights on returning to work from FMLA leave?

(a) On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. See also §825.106(e) for the obligations of employing offices that are joint employing offices.

(b) If the employee is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the employing office's obligations may be governed by the Americans with Disabilities Act (ADA), as made applicable by the CAA. See §825.702.

§825.215 What is an equivalent position?

(a) An equivalent position is one that is virtually identical to the employee's former position in terms of pay, benefits and working conditions, including privileges, perquisites and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority.

(b) If an employee is no longer qualified for the position because of the employee's inability to attend a necessary course, renew a license, fly a minimum number of hours, etc., as a result of the leave, the employee shall be given a reasonable opportunity to fulfill those conditions upon return to work.

(c) Equivalent Pay:

(1) An employee is entitled to any unconditional pay increases which may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed would not have to be granted unless it is the employing office's policy or practice to do so with respect to other employees on "leave without pay". In such case, any pay increase would be granted based on the employee's seniority, length of service, work performed, etc., excluding the period of unpaid FMLA leave. An employee is entitled to be restored to a position with the same or equivalent pay premiums, such as a shift differential. If an employee departed from a position averaging ten hours of overtime (and corresponding overtime pay) each week, an employee is ordinarily entitled to such a position on return from FMLA leave.

(2) Many employing offices pay bonuses in different forms to employees for job-related performance such as for perfect attendance, safety (absence of injuries or accidents on the job) and exceeding production goals. Bonuses for perfect attendance and safety do not require performance by the employee but rather contemplate the absence of occurrences. To the extent an employee who takes FMLA leave had met all the requirements for either or both of these bonuses before FMLA leave began, the employee is entitled to continue this entitlement upon return from FMLA leave, that is, the employee may not be disqualified for the bonus(es) for the taking of FMLA leave. See §825.220 (b) and (c). A monthly production bonus, on the other hand, does require performance by the employee. If the employee is on FMLA leave during any part of the period for which the bonus is computed, the employee is entitled to the same consideration for the bonus as other employees on paid or unpaid leave (as appropriate). See paragraph (d)(2) of this section.

(d) Equivalent Benefits. "Benefits" include all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office through an employee benefit plan.

(1) At the end of an employee's FMLA leave, benefits must be resumed in the same manner and at the same levels as provided when the leave began, and subject to any changes in benefit levels that may have taken place during the period of FMLA leave affecting the entire workforce, unless otherwise elected by the employee. Upon return from FMLA leave, an employee cannot be required to requalify for any benefits the employee enjoyed before FMLA leave began (including family or dependent coverages). For example, if an employee was covered by a life insurance policy before taking leave but is not covered or coverage lapses during the period of unpaid FMLA leave, the employee cannot be required to meet any qualifications, such as taking a physical examination, in order to requalify for life insurance upon return from leave. Accordingly, some employing offices may find it necessary to modify life insurance and other benefits programs in order to restore employees to equivalent benefits upon return from FMLA leave, make arrangements for continued payment of costs to maintain such benefits during unpaid FMLA leave, or pay these costs subject to recovery from the employee on return from leave. See §825.213(b).

(2) An employee may, but is not entitled to, accrue any additional benefits or seniority during unpaid FMLA leave. Benefits accrued at the time leave began, however, (e.g., paid vacation, sick or personal leave to the extent not substituted for FMLA leave) must be available to an employee upon return from leave.

(3) If, while on unpaid FMLA leave, an employee desires to continue life insurance, disability insurance, or other types of benefits for which he or she typically pays, the employing office is required to follow established policies or practices for continuing such benefits for other instances of leave without pay. If the employing office has no established policy, the employee and the employing office are encouraged to agree upon arrangements before FMLA leave begins.

(4) With respect to pension and other retirement plans, any period of unpaid FMLA leave shall not be treated as or counted toward a break in service for purposes of vesting and eligibility to participate. Also, if the plan requires an employee to be employed on a specific date in order to be credited with a year of service for vesting, contributions or participation purposes, an employee on unpaid FMLA leave on that date shall be deemed to have been employed on that date. However, unpaid FMLA leave periods need not be treated as credited service for purposes of benefit accrual, vesting and eligibility to participate.

(5) Employees on unpaid FMLA leave are to be treated as if they continued to work for purposes of changes to benefit plans. They are entitled to changes in benefits plans, except those which may be dependent upon seniority or accrual during the leave period, immediately upon return from leave or to the same extent they would have qualified if no leave had been taken. For example if the benefit plan is predicated on a pre-established number of hours worked each year and the employee does not have sufficient hours as a result of taking unpaid FMLA leave, the benefit is lost. (In this regard, §825.209 addresses health benefits.)

(e) Equivalent Terms and Conditions of Employment. An equivalent position must have substantially similar duties, conditions, responsibilities, privileges and status as the employee's original position.

(1) The employee must be reinstated to the same or a geographically proximate worksite (i.e., one that does not involve a significant increase in commuting time or distance) from where the employee had previously been employed. If the employee's original worksite has been closed, the employee is entitled to the same rights as if the employee had not been on leave when the worksite closed. For example, if an employing office transfers all employees from a closed worksite to a new worksite in a different city, the employee on leave is also entitled to transfer under the same conditions as if he or she had continued to be employed.

(2) The employee is ordinarily entitled to return to the same shift or the same or an equivalent work schedule.

(3) The employee must have the same or an equivalent opportunity for bonuses and other similar discretionary and non-discretionary payments.

(4) FMLA does not prohibit an employing office from accommodating an employee's request to be restored to a different shift, schedule, or position which better suits the employee's personal needs on return from

VOL
142
PT
6
AP
15
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24
1996
UMI

leave, or to offer a promotion to a better position. However, an employee cannot be induced by the employing office to accept a different position against the employee's wishes.

(f) The requirement that an employee be restored to the same or equivalent job with the same or equivalent pay, benefits, and terms and conditions of employment does not extend to de minimis or intangible, unmeasurable aspects of the job. However, restoration to a job slated for lay-off, when the employee's original position is not, would not meet the requirements of an equivalent position.

§825.216 Are there any limitations on an employing office's obligation to reinstate an employee?

(a) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. An employing office must be able to show that an employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment. For example:

(1) If an employee is laid off during the course of taking FMLA leave and employment is terminated, the employing office's responsibility to continue FMLA leave, maintain group health plan benefits and restore the employee ceases at the time the employee is laid off, provided the employing office has no continuing obligations under a collective bargaining agreement or otherwise. An employing office would have the burden of proving that an employee would have been laid off during the FMLA leave period and, therefore, would not be entitled to restoration.

(2) If a shift has been eliminated, or overtime has been decreased, an employee would not be entitled to return to work that shift or the original overtime hours upon restoration. However, if a position on, for example, a night shift has been filled by another employee, the employee is entitled to return to the same shift on which employed before taking FMLA leave.

(b) If an employee was hired for a specific term or only to perform work on a discrete project, the employing office has no obligation to restore the employee if the employment term or project is over and the employing office would not otherwise have continued to employ the employee.

(c) In addition to the circumstances explained above, an employing office may deny job restoration to salaried eligible employees ("key employees", as defined in paragraph (c) of §825.217) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the employing office; or may delay restoration to an employee who fails to provide a fitness for duty certificate to return to work under the conditions described in §825.310.

(d) If the employee has been on a workers' compensation absence during which FMLA leave has been taken concurrently, and after 12 weeks of FMLA leave the employee is unable to return to work, the employee no longer has the protections of FMLA and must look to the workers' compensation statute or ADA, as made applicable by the CAA, for any relief or protections.

§825.217 What is a "key employee"?

(a) A "key employee" is a salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees employed by the employing office within 75 miles of the employee's worksite.

(b) The term "salaried" means paid on a salary basis, within the meaning of the Board's regulations at part 541, implementing section 203 of the CAA (2 U.S.C. 1313) (regarding employees who may qualify as exempt from the minimum wage and overtime requirements of the FLSA, as made applicable by the CAA, as executive, administrative, and professional employees).

(c) A "key employee" must be "among the highest paid 10 percent" of all the employees "both salaried and non-salaried, eligible and ineligible "who are employed by the employing office within 75 miles of the worksite":

(1) In determining which employees are among the highest paid 10 percent, year-to-date earnings are divided by weeks worked by the employee (including weeks in which paid leave was taken). Earnings include wages, premium pay, incentive pay, and non-discretionary and discretionary bonuses. Earnings do not include incentives whose value is determined at some future date, e.g., benefits or perquisites.

(2) The determination of whether a salaried employee is among the highest paid 10 percent shall be made at the time the employee gives notice of the need for leave. No more than 10 percent of the employing office's employees within 75 miles of the worksite may be "key employees".

§825.218 What does "substantial and grievous economic injury" mean?

(a) In order to deny restoration to a key employee, an employing office must determine that the restoration of the employee to employment will cause "substantial and grievous economic injury" to the operations of the employing office, not whether the absence of the employee will cause such substantial and grievous injury.

(b) An employing office may take into account its ability to replace on a temporary basis (or temporarily do without) the employee on FMLA leave. If permanent replacement is unavoidable, the cost of then reinstating the employee can be considered in evaluating whether substantial and grievous economic injury will occur from restoration; in other words, the effect on the operations of the employing office of reinstating the employee in an equivalent position.

(c) A precise test cannot be set for the level of hardship or injury to the employing office which must be sustained. If the reinstatement of a "key employee" threatens the economic viability of the employing office, that would constitute "substantial and grievous economic injury". A lesser injury which causes substantial, long-term economic injury would also be sufficient. Minor inconveniences and costs that the employing office would experience in the normal course would certainly not constitute "substantial and grievous economic injury".

(d) FMLA's "substantial and grievous economic injury" standard is different from and more stringent than the "undue hardship" test under the ADA (see, also §825.702).

§825.219 What are the rights of a key employee?

(a) An employing office which believes that reinstatement may be denied to a key employee, must give written notice to the employee at the time the employee gives notice of the need for FMLA leave (or when FMLA leave commences, if earlier) that he or she qualifies as a key employee. At the same time, the employing office must also fully inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the employing office should determine that substantial and grievous economic injury to the employing office's operations will result if the employee is reinstated from FMLA leave. If such notice cannot be given immediately because of the need to determine whether the employee is a key employee, it shall be given as soon as practicable after being notified of a need for leave (or the commencement of leave, if earlier). It is expected that in most circumstances there will be no desire that an employee be denied restoration after FMLA leave and, therefore, there would be no need to provide such notice. However, an employing office who fails to provide such timely notice will lose its right to deny restoration even if substantial and grievous economic injury will result from reinstatement.

(b) As soon as an employing office makes a good faith determination, based on the facts available, that substantial and grievous economic injury to its operations will result if a key employee who has given notice of the need for FMLA leave or is using FMLA leave is reinstated, the employing office shall notify the employee in writing of its determination, that it cannot deny FMLA leave, and that it intends to deny restoration to employment on completion of the FMLA leave. It is anticipated that an employing office will ordinarily be able to give such notice prior to the employee starting leave. The employing office must serve this notice either in person or by certified mail. This notice must explain the basis for the employing office's finding that substantial and grievous economic injury will result, and, if leave has commenced, must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of the leave and the urgency of the need for the employee to return.

(c) If an employee on leave does not return to work in response to the employing office's notification of intent to deny restoration, the employee continues to be entitled to maintenance of health benefits and the employing office may not recover its cost of health benefit premiums. A key employee's rights under FMLA continue unless and until either the employee gives notice that he or she no longer wishes to return to work, or the employing office actually denies reinstatement at the conclusion of the leave period.

(d) After notice to an employee has been given that substantial and grievous economic injury will result if the employee is reinstated to employment, an employee is still entitled to request reinstatement at the end of the leave period even if the employee did not return to work in response to the employing office's notice. The employing office must then again determine whether there will be substantial and grievous economic injury from reinstatement, based on the facts at that time. If it is determined that substantial and grievous economic injury will result, the employing office shall notify the employee in writing (in person or by certified mail) of the denial of restoration.

§825.220 How are employees protected who request leave or otherwise assert FMLA rights?

(a) The FMLA, as made applicable by the CAA, prohibits interference with an employee's rights under the law, and with legal proceedings or inquiries relating to an employee's rights. More specifically, the law contains the following employee protections:

(1) An employing office is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the FMLA as made applicable by the CAA.

(2) An employing office is prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) for opposing or complaining about any unlawful practice under the FMLA as made applicable by the CAA.

(3) All employing offices are prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) because that covered employee has—

(i) Filed any charge, or has instituted (or caused to be instituted) any proceeding under or related to the FMLA, as made applicable by the CAA;

(ii) Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA;

(iii) Testified, or is about to testify, in any inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA.

(b) Any violations of the FMLA, as made applicable by the CAA, or of these regulations constitute interfering with, restraining, or denying the exercise of rights provided by the FMLA as made applicable by the CAA. "Interfering with" the exercise of an employee's rights would include, for example, not only refusing to authorize FMLA leave, but discouraging an employee from using such leave. It would also include manipulation by an employing office to avoid responsibilities under FMLA, for example—

(1) [Reserved];

(2) changing the essential functions of the job in order to preclude the taking of leave;

(3) reducing hours available to work in order to avoid employee eligibility.

(c) An employing office is prohibited from discriminating against employees or prospective employees who have used FMLA leave. For example, if an employee on leave without pay would otherwise be entitled to full benefits (other than health benefits), the same benefits would be required to be provided to an employee on unpaid FMLA leave. By the same token, employing offices cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions; nor can FMLA leave be counted under "no fault" attendance policies.

(d) Employees cannot waive, nor may employing offices induce employees to waive, their rights under FMLA. For example, employees (or their collective bargaining representatives) cannot "trade off" the right to take FMLA leave against some other benefit offered by the employing office. This does not prevent an employee's voluntary and uncoerced acceptance (not as a condition of employment) of a "light duty" assignment while recovering from a serious health condition (see §825.702(d)). In such a circumstance the employee's right to restoration to the same or an equivalent position is available until 12 weeks have passed within the 12-month period, including all FMLA leave taken and the period of "light duty".

(e) Covered employees, and not merely eligible employees, are protected from retaliation for opposing (e.g., file a complaint about) any practice which is unlawful under the FMLA, as made applicable by the CAA. They are similarly protected if they oppose any practice which they reasonably believe to be a violation of the FMLA, as made applicable by the CAA or regulations.

SUBPART C—HOW DO EMPLOYEES LEARN OF THEIR RIGHTS AND OBLIGATIONS UNDER THE FMLA, AS MADE APPLICABLE BY THE CAA, AND WHAT CAN AN EMPLOYING OFFICE REQUIRE OF AN EMPLOYEE?

§825.300 [Reserved]

§825.301 What notices to employees are required of employing offices under the FMLA as made applicable by the CAA?

(a)(1) If an employing office has any eligible employees and has any written guidance to employees concerning employee benefits or leave rights, such as in an employee handbook, information concerning both entitlements and employee obligations under the FMLA, as made applicable by the CAA, must be included in the handbook or other document. For example, if an employing office provides an employee handbook to all employees that describes the employing office's policies regarding leave, wages, attendance, and similar matters, the handbook must incorporate information on FMLA rights and responsibilities and the employing office's policies regarding the FMLA, as made applicable by the CAA. Informational publications describing the provisions of the FMLA as made applicable by the CAA are available from the Office of Compliance and may be incorporated in such employing office handbooks or written policies.

(2) If such an employing office does not have written policies, manuals, or handbooks describing employee benefits and leave provisions, the employing office shall provide written guidance to an employee concerning all the employee's rights and obligations under the FMLA as made applicable by the CAA. This notice shall be provided to employees each time notice is given pursuant to paragraph (b), and in accordance with the provisions of that paragraph. Employing offices may duplicate and provide the employee a copy of the FMLA Fact Sheet available from the Office of Compliance to provide such guidance.

(b)(1) The employing office shall also provide the employee with written notice detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. The written notice must be provided to the employee in a language in which the employee is literate. Such specific notice must include, as appropriate—

(i) that the leave will be counted against the employee's annual FMLA leave entitlement (see §825.208);

(ii) any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so (see §825.305);

(iii) the employee's right to substitute paid leave and whether the employing office will require the substitution of paid leave, and the conditions related to any substitution;

(iv) any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments (see §825.210), and the possible consequences of failure to make such payments on a timely basis (i.e., the circumstances under which coverage may lapse);

(v) any requirement for the employee to present a fitness-for-duty certificate to be restored to employment (see §825.310);

(vi) the employee's status as a "key employee" and the potential consequence that restoration may be denied following FMLA leave, explaining the conditions required for such denial (see §825.218);

(vii) the employee's right to restoration to the same or an equivalent job upon return from leave (see §§ 825.214 and 825.604); and

(viii) the employee's potential liability for payment of health insurance premiums paid by the employing office during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave (see §825.213).

(2) The specific notice may include other information—e.g., whether the employing office will require periodic reports of the employee's status and intent to return to work, but is not required to do so. A prototype notice is contained in Appendix D of this part, or may be obtained from the Office of Compliance, which employing offices may adapt for their use to meet these specific notice requirements.

(c) Except as provided in this subparagraph, the written notice required by paragraph (b) (and by subparagraph (a)(2) where applicable) must be provided to the employee no less often than the first time in each six-month period that an employee gives notice of the need for FMLA leave (if FMLA leave is taken during the six-month period). The notice shall be given within a reasonable time after notice of the need for leave is given by the employee—within one or two business days if feasible. If leave has already begun, the notice should be mailed to the employee's address of record.

(1) If the specific information provided by the notice changes with respect to a subsequent period of FMLA leave during the six-month period, the employing office shall, within one or two business days of receipt of the employee's notice of need for leave, provide written notice referencing the prior notice and setting forth any of the information in subparagraph (b) which has changed. For example, if the initial leave period were paid leave and the subsequent leave period would be unpaid leave, the employing office may need to give notice of the arrangements for making premium payments.

(2)(i) Except as provided in subparagraph (ii), if the employing office is requiring medical certification or a "fitness-for-duty" report, written notice of the requirement shall be given with respect to each employee notice of a need for leave.

(ii) Subsequent written notification shall not be required if the initial notice in the six-month period and the employing office handbook or other written documents (if any) describing the employing office's leave policies, clearly provided that certification or a "fitness-for-duty" report would be required (e.g., by stating that certification would be required in all cases, by stating that certification would be required in all cases in which leave of more than a specified number of days is taken, or by stating that a "fitness-for-duty" report would be required in all cases for back injuries for employees in a certain occupation). Where subsequent written notice is not required, at least oral notice shall be provided. (See §825.305(a).)

(d) Employing offices are also expected to responsively answer questions from employees concerning their rights and responsibilities under the FMLA as made applicable under the CAA.

(e) Employing offices furnishing FMLA-required notices to sensory impaired individuals must also comply with all applicable requirements under law.

(f) If an employing office fails to provide notice in accordance with the provisions of this section, the employing office may not take action against an employee for failure to comply with any provision required to be set forth in the notice.

VOL
142
PT
6
AP
15
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24
1996
UMI

§825.302 What notice does an employee have to give an employing office when the need for FMLA leave is foreseeable?

(a) An employee must provide the employing office at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If 30 days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. For example, an employee's health condition may require leave to commence earlier than anticipated before the birth of a child. Similarly, little opportunity for notice may be given before placement for adoption. Whether the leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee shall advise the employing office as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown.

(b) "As soon as practicable" means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case. For foreseeable leave where it is not possible to give as much as 30 days notice, "as soon as practicable" ordinarily would mean at least verbal notification to the employing office within one or two business days of when the need for leave becomes known to the employee.

(c) An employee shall provide at least verbal notice sufficient to make the employing office aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave. The employee need not expressly assert rights under the FMLA as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed for an expected birth or adoption, for example. The employing office should inquire further of the employee if it is necessary to have more information about whether FMLA leave is being sought by the employee, and obtain the necessary details of the leave to be taken. In the case of medical conditions, the employing office may find it necessary to inquire further to determine if the leave is because of a serious health condition and may request medical certification to support the need for such leave (see §825.305).

(d) An employing office may also require an employee to comply with the employing office's usual and customary notice and procedural requirements for requesting leave. For example, an employing office may require that written notice set forth the reasons for the requested leave, the anticipated duration of the leave, and the anticipated start of the leave. However, failure to follow such internal employing office procedures will not permit an employing office to disallow or delay an employee's taking FMLA leave if the employee gives timely verbal or other notice.

(e) When planning medical treatment, the employee must consult with the employing office and make a reasonable effort to schedule the leave so as not to disrupt unduly the employing office's operations, subject to the approval of the health care provider. Employees are ordinarily expected to consult with their employing offices prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the employing office and the employee. If an employee who provides notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglects to consult with the employing office to make a reasonable attempt to arrange the schedule of treatments so as not to unduly disrupt the employing office's operations, the employing office may initiate discussions with the employee and require the employee to attempt to make such arrangements, subject to the approval of the health care provider.

(f) In the case of intermittent leave or leave on a reduced leave schedule which is medically necessary, an employee shall advise the employing office, upon request, of the reasons why the intermittent/reduced leave schedule is necessary and of the schedule for treatment, if applicable. The employee and employing office shall attempt to work out a schedule which meets the employee's needs without unduly disrupting the employing office's operations, subject to the approval of the health care provider.

(g) An employing office may waive employees' FMLA notice requirements. In addition, an employing office may not require compliance with stricter FMLA notice requirements where the provisions of a collective bargaining agreement or applicable leave plan allow less advance notice to the employing office. For example, if an employee (or employing office) elects to substitute paid vacation leave for unpaid FMLA leave (see §825.207), and the employing office's paid vacation leave plan imposes no prior notification requirements for taking such vacation leave, no advance notice may be required for the FMLA leave taken in these circumstances. On the other hand, FMLA notice requirements would apply to a period of unpaid FMLA leave, unless the employing office imposes lesser notice requirements on employees taking leave without pay.

§825.303 What are the requirements for an employee to furnish notice to an employing office where the need for FMLA leave is not foreseeable?

(a) When the approximate timing of the need for leave is not foreseeable, an employee should give notice to the employing office of the need for FMLA leave as soon as practicable under the facts and circumstances of the particular case. It is expected that an employee will give notice to the employing office within no more than one or two working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible. In the case of a medical emergency requiring leave because of an employee's own serious health condition or to care for a family member with a serious health condition, written advance notice pursuant to an employing office's internal rules and procedures may not be required when FMLA leave is involved.

(b) The employee should provide notice to the employing office either in person or by telephone, telegraph, facsimile ("fax") machine or other electronic means. Notice may be given by the employee's spokesperson (e.g., spouse, adult family member or other responsible party) if the employee is unable to do so personally. The employee need not expressly assert rights under the FMLA, as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed. The employing office will be expected to obtain any additional required information through informal means. The employee or spokesperson will be expected to provide more information when it can readily be accomplished as a practical matter, taking into consideration the exigencies of the situation.

§825.304 What recourse do employing offices have if employees fail to provide the required notice?

(a) An employing office may waive employees' FMLA notice obligations or the employing office's own internal rules on leave notice requirements.

(b) If an employee fails to give 30 days notice for foreseeable leave with no reasonable excuse for the delay, the employing office may delay the taking of FMLA leave until at least 30 days after the date the employee provides notice to the employing office of the need for FMLA leave.

(c) In all cases, in order for the onset of an employee's FMLA leave to be delayed due to lack of required notice, it must be clear that the employee had actual notice of the FMLA notice requirements. This condition would be satisfied by the employing office's proper posting, at the worksite where the employee is employed, of the information regarding the FMLA provided (pursuant to section 301(h)(2) of the CAA, 2 U.S.C. 1381(h)(2)) by the Office of Compliance to the employing office in a manner suitable for posting. Furthermore, the need for leave and the approximate date leave would be taken must have been clearly foreseeable to the employee 30 days in advance of the leave. For example, knowledge that an employee would receive a telephone call about the availability of a child for adoption at some unknown point in the future would not be sufficient.

§825.305 When must an employee provide medical certification to support FMLA leave?

(a) An employing office may require that an employee's leave to care for the employee's seriously ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member. An employing office must give notice of a requirement for medical certification each time a certification is required; such notice must be written notice whenever required by §825.301. An employing office's oral request to an employee to furnish any subsequent medical certification is sufficient.

(b) When the leave is foreseeable and at least 30 days notice has been provided, the employee should provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(c) In most cases, the employing office should request that an employee furnish certification from a health care provider at the time the employee gives notice of the need for leave or within two business days thereafter, or, in the case of unforeseen leave, within two business days after the leave commences. The employing office may request certification at some later date if the employing office later has reason to question the appropriateness of the leave or its duration.

(d) At the time the employing office requests certification, the employing office must also advise an employee of the anticipated consequences of an employee's failure to provide adequate certification. The employing office shall advise an employee whenever the employing office finds a certification incomplete, and provide the employee a reasonable opportunity to cure any such deficiency.

(e) If the employing office's sick or medical leave plan imposes medical certification requirements that are less stringent than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (see §825.207), only the employing office's less stringent sick leave certification requirements may be imposed.

§825.306 How much information may be required in medical certifications of a serious health condition?

(a) The Office of Compliance has made available an optional form ("Certification of Physician or Practitioner") for employees' (or their family members') use in obtaining medical certification, including second and third opinions, from health care providers that meets FMLA's certification requirements. (See Appendix B to these regulations.) This optional form reflects certification requirements so as to permit the health care provider to furnish appropriate medical information within his or her knowledge.

(b) The Certification of Physician or Practitioner form is modeled closely on Form WH-380, as revised, which was developed by the Department of Labor (see 29 C.F.R. Part 825, Appendix B). The employing office may use the Office of Compliance's form, or Form WH-380, as revised, or another form containing the same basic information; however, no additional information may be required. In all instances the information on the form must relate only to the serious health condition for which the current need for leave exists. The form identifies the health care provider and type of medical practice (including pertinent specialization, if any), makes maximum use of checklist entries for ease in completing the form, and contains required entries for:

(1) A certification as to which part of the definition of "serious health condition" (see §825.114), if any, applies to the patient's condition, and the medical facts which support the certification, including a brief statement as to how the medical facts meet the criteria of the definition.

(2)(i) The approximate date the serious health condition commenced, and its probable duration, including the probable duration of the patient's present incapacity (defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) if different.

(ii) Whether it will be necessary for the employee to take leave intermittently or to work on a reduced leave schedule basis (i.e., part-time) as a result of the serious health condition (see §825.117 and §825.203), and if so, the probable duration of such schedule.

(iii) If the condition is pregnancy or a chronic condition within the meaning of §825.114(a)(2)(iii), whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.

(3)(i)(A) If additional treatments will be required for the condition, an estimate of the probable number of such treatments.

(B) If the patient's incapacity will be intermittent, or will require a reduced leave schedule, an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any.

(ii) If any of the treatments referred to in subparagraph (i) will be provided by another provider of health services (e.g., physical therapist), the nature of the treatments.

(iii) If a regimen of continuing treatment by the patient is required under the supervision of the health care provider, a general description of the regimen (see §825.114(b)).

(4) If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), whether the employee—

(i) is unable to perform work of any kind;

(ii) is unable to perform any one or more of the essential functions of the employee's position, including a statement of the essential functions the employee is unable to perform (see §825.115), based on either information provided on a statement from the employing office of the essential functions of the position or, if not provided, discussion with the employee about the employee's job functions; or

(iii) must be absent from work for treatment.

(5)(i) If leave is required to care for a family member of the employee with a serious health condition, whether the patient requires assistance for basic medical or personal needs or safety, or for transportation; or if not, whether the employee's presence to provide psychological comfort would be beneficial to the patient or assist in the patient's recovery. The employee is required to indicate on the form the care he or she will provide and an estimate of the time period.

(ii) If the employee's family member will need care only intermittently or on a reduced leave schedule basis (i.e., part-time), the probable duration of the need.

(c) If the employing office's sick or medical leave plan requires less information to be furnished in medical certifications than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (see §825.207), only the employing office's lesser sick leave certification requirements may be imposed.

§825.307 What may an employing office do if it questions the adequacy of a medical certification?

(a) If an employee submits a complete certification signed by the health care provider, the employing office may not request additional information from the employee's health care provider. However, a health care provider representing the employing office may contact the employee's health care provider, with the employee's permission, for purposes of clarification and authenticity of the medical certification.

(1) If an employee is on FMLA leave running concurrently with a workers' compensation absence, and the provisions of the workers' compensation statute permit the employing office or the employing office's representative to have direct contact with the employee's workers' compensation health care provider, the employing office may follow the workers' compensation provisions.

(2) An employing office that has reason to doubt the validity of a medical certification may require the employee to obtain a second opinion at the employing office's expense. Pending receipt of the second (or third) medical opinion, the employee is provisionally entitled to the benefits of the FMLA as made applicable by the CAA, including maintenance of group health benefits. If the certifications do not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave and may be treated as paid or unpaid leave under the employing office's established leave policies. The employing office is permitted to designate the health care provider to furnish the second opinion, but the selected health care provider may not be employed on a regular basis by the employing office. See also paragraphs (e) and (f) of this section.

(b) The employing office may not regularly contract with or otherwise regularly utilize the services of the health care provider furnishing the second opinion unless the employing office is located in an area where access to health care is extremely limited (e.g., a rural area where no more than one or two doctors practice in the relevant specialty in the vicinity).

(c) If the opinions of the employee's and the employing office's designated health care providers differ, the employing office may require the employee to obtain certification from a third health care provider, again at the employing office's expense. This third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the employing office and the employee. The employing office and the employee must each act in good faith to attempt to reach agreement on whom to select for the third opinion provider. If the employing office does not attempt in good faith to reach agreement, the employing office will be bound by the first certification. If the employee does not attempt in good faith to reach agreement, the employee will be bound by the second certification. For example, an employee who refuses to agree to see a doctor in the specialty in question may be failing to act in good faith. On the other hand, an employing office that refuses to agree to any doctor on a list of specialists in the appropriate field provided by the employee and whom the employee has not previously consulted may be failing to act in good faith.

(d) The employing office is required to provide the employee with a copy of the second and third medical opinions, where applicable, upon request by the employee. Requested copies are to be provided within two business days unless extenuating circumstances prevent such action.

(e) If the employing office requires the employee to obtain either a second or third opinion the employing office must reimburse an employee or family member for any reasonable "out of pocket" travel expenses incurred to obtain the second and third medical opinions. The employing office may not require the employee or family member to travel outside normal commuting distance for purposes of obtaining the second or third medical opinions except in very unusual circumstances.

(f) In circumstances when the employee or a family member is visiting in another country, or a family member resides in a another country, and a serious health condition develops, the employing office shall accept a medical certification as well as second and third opinions from a health care provider who practices in that country.

§825.308 Under what circumstances may an employing office request subsequent recertifications of medical conditions?

(a) For pregnancy, chronic, or permanent/long-term conditions under continuing supervision of a health care provider (as defined in §825.114(a)(2) (ii), (iii) or (iv)), an employing office may request recertification no

VOL
142
PT
6
AP
15
—
24
1996
UMI

more often than every 30 days and only in connection with an absence by the employee, unless:

(1) Circumstances described by the previous certification have changed significantly (e.g., the duration or frequency of absences, the severity of the condition, complications); or

(2) The employing office receives information that casts doubt upon the employee's stated reason for the absence.

(b)(1) If the minimum duration of the period of incapacity specified on a certification furnished by the health care provider is more than 30 days, the employing office may not request recertification until that minimum duration has passed unless one of the conditions set forth in paragraph (c) (1), (2) or (3) of this section is met.

(2) For FMLA leave taken intermittently or on a reduced leave schedule basis, the employing office may not request recertification in less than the minimum period specified on the certification as necessary for such leave (including treatment) unless one of the conditions set forth in paragraph (c) (1), (2) or (3) of this section is met.

(c) For circumstances not covered by paragraphs (a) or (b) of this section, an employing office may request recertification at any reasonable interval, but not more often than every 30 days, unless:

(1) The employee requests an extension of leave;

(2) Circumstances described by the previous certification have changed significantly (e.g., the duration of the illness, the nature of the illness, complications); or

(3) The employing office receives information that casts doubt upon the continuing validity of the certification.

(d) The employee must provide the requested recertification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(e) Any recertification requested by the employing office shall be at the employee's expense unless the employing office provides otherwise. No second or third opinion on recertification may be required.

§825.309 What notice may an employing office require regarding an employee's intent to return to work?

(a) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. The employing office's policy regarding such reports may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation.

(b) If an employee gives unequivocal notice of intent not to return to work, the employing office's obligations under FMLA, as made applicable by the CAA, to maintain health benefits (subject to requirements of COBRA or 5 U.S.C. 8905a, whichever is applicable) and to restore the employee cease. However, these obligations continue if an employee indicates he or she may be unable to return to work but expresses a continuing desire to do so.

(c) It may be necessary for an employee to take more leave than originally anticipated. Conversely, an employee may discover after beginning leave that the circumstances have changed and the amount of leave originally anticipated is no longer necessary. An employee may not be required to take more FMLA leave than necessary to resolve the circumstance that precipitated the need for leave. In both of these situations, the employing office may require that the employee provide the employing office reasonable notice (i.e., within two business days) of the changed circumstances where foreseeable. The employing office may also obtain information on such changed circumstances through requested status reports.

§825.310 Under what circumstances may an employing office require that an employee submit a medical certification that the employee is able (or unable) to return to work (i.e., a "fitness-for-duty" report)?

(a) As a condition of restoring an employee whose FMLA leave was occasioned by the employee's own serious health condition that made the employee unable to perform the employee's job, an employing office may have a uniformly-applied policy or practice that requires all similarly-situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health care provider that the employee is able to resume work.

(b) If the terms of a collective bargaining agreement govern an employee's return to work, those provisions shall be applied. Similarly, requirements under the Americans with Disabilities Act (ADA), as made applicable by the CAA, that any return-to-work physical be job-related and consistent with business necessity apply. For example, an attorney could not be required to submit to a medical examination or inquiry just because her leg had been amputated. The essential functions of an attorney's job do not require use of both legs; therefore such an inquiry would not be job related. An employing office may require a warehouse laborer, whose back impairment affects the ability to lift, to be examined by an orthopedist, but may not require this employee to submit to an HIV test where the test is not related to either the essential functions of his/her job or to his/her impairment.

(c) An employing office may seek fitness-for-duty certification only with regard to the particular health condition that caused the employee's need for FMLA leave. The certification itself need only be a simple statement of an employee's ability to return to work. A health care provider employed by the employing office may contact the employee's health care provider with the employee's permission, for purposes of clarification of the employee's fitness to return to work. No additional information may be acquired, and clarification may be requested only for the serious health condition for which FMLA leave was taken. The employing office may not delay the employee's return to work while contact with the health care provider is being made.

(d) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

(e) The notice that employing offices are required to give to each employee giving notice of the need for FMLA leave regarding their FMLA rights and obligations as made applicable by the CAA (see §825.301) shall advise the employee if the employing office will require fitness-for-duty certification to return to work. If the employing office has a handbook explaining employment policies and benefits, the handbook should explain the employing office's general policy regarding any requirement for fitness-for-duty certification to return to work. Specific notice shall also be given to any employee from whom fitness-for-duty certification will be required either at the time notice of the need for leave is given or immediately after leave commences and the employing office is advised of the medical circumstances requiring the leave, unless the employee's condition changes from one that did not previously require certification pursuant to the employing office's practice or policy. No second or third fitness-for-duty certification may be required.

(f) An employing office may delay restoration to employment until an employee submits a required fitness-for-duty certification unless the employing office has failed to provide the notices required in paragraph (e) of this section.

(g) An employing office is not entitled to certification of fitness to return to duty when the employee takes intermittent leave as described in §825.203.

(h) When an employee is unable to return to work after FMLA leave because of the continuation, recurrence, or onset of the employee's or family member's serious health condition, thereby preventing the employing office from recovering its share of health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. (See §825.213(a)(3).) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

§825.311 What happens if an employee fails to satisfy the medical certification and/or recertification requirements?

(a) In the case of foreseeable leave, an employing office may delay the taking of FMLA leave to an employee who fails to provide timely certification after being requested by the employing office to furnish such certification (i.e., within 15 calendar days, if practicable), until the required certification is provided.

(b) When the need for leave is not foreseeable, or in the case of recertification, an employee must provide certification (or recertification) within the time frame requested by the employing office (which must allow at least 15 days after the employing office's request) or as soon as reasonably possible under the particular facts and circumstances. In the case of a medical emergency, it may not be practicable for an employee to provide the required certification within 15 calendar days. If an employee fails to provide a medical certification within a reasonable time under the pertinent circumstances, the employing office may delay the employee's continuation of FMLA leave. If the employee never produces the certification, the leave is not FMLA leave.

(c) When requested by the employing office pursuant to a uniformly applied policy for similarly-situated employees, the employee must provide medical certification at the time the employee seeks reinstatement at the end of FMLA leave taken for the employee's serious health condition, that the employee is fit for duty and able to return to work (see §825.310(a)) if the employing office has provided the required notice (see §825.301(c)); the employing office may delay restoration until the certification is provided. In this situation, unless the employee provides either a fitness-for-duty certification or a new medical certification for a serious health condition at the time FMLA leave is concluded, the employee may be terminated. See also §825.213(a)(3).

§825.312 Under what circumstances may an employing office refuse to provide FMLA leave or reinstatement to eligible employees?

(a) If an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, the employing office may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the employing office of the need for FMLA leave. (See §825.302.)

(b) If an employee fails to provide in a timely manner a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, an employing office may delay continuation of FMLA leave until an employee submits the certificate. (See §§ 825.305 and 825.311.) If the employee never produces the certification, the leave is not FMLA leave.

(c) If an employee fails to provide a requested fitness-for-duty certification to return to work, an employing office may delay restoration until the employee submits the certificate. (See §§ 825.310 and 825.311.)

(d) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. Thus, an employee's rights to continued leave, maintenance of health benefits, and restoration cease under FMLA, as made applicable by the CAA, if and when the employment relationship terminates (e.g., layoff), unless that relationship continues, for example, by the employee remaining on paid FMLA leave. If the employee is recalled or otherwise re-employed, an eligible employee is immediately entitled to further FMLA leave for an FMLA-qualifying reason. An employing office must be able to show, when an employee requests restoration, that the employee would not otherwise have been employed if leave had not been taken in order to deny restoration to employment. (See §825.216.)

(e) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intention to return to work. (See §825.309.) If an employee unequivocally advises the employing office either before or during the taking of leave that the employee does not intend to return to work, and the employment relationship is terminated, the employee's entitlement to continued leave, maintenance of health benefits, and restoration ceases unless the employment relationship continues, for example, by the employee remaining on paid leave. An employee may not be required to take more leave than necessary to address the circumstances for which leave was taken. If the employee is able to return to work earlier than anticipated, the employee shall provide the employing office two business days notice where feasible; the employing office is required to restore the employee once such notice is given, or where such prior notice was not feasible.

(f) An employing office may deny restoration to employment, but not the taking of FMLA leave and the maintenance of health benefits, to an eligible employee only under the terms of the "key employee" exemption. Denial of reinstatement must be necessary to prevent "substantial and grievous economic injury" to the employing office's operations. The employing office must notify the employee of the employee's status as a "key employee" and of the employing office's intent to deny reinstatement on that basis when the employing office makes these determinations. If leave has started, the employee must be given a reasonable opportunity to return to work after being so notified. (See §825.219.)

(g) An employee who fraudulently obtains FMLA leave from an employing office is not protected by job restoration or maintenance of health benefits provisions of the FMLA as made applicable by the CAA.

(h) If the employing office has a uniformly-applied policy governing outside or supplemental employment, such a policy may continue to apply to an employee while on FMLA leave. An employing office which does not have such a policy may not deny benefits to which an employee is entitled under FMLA as made applicable by the CAA on this basis unless the FMLA leave was fraudulently obtained as in paragraph (g) of this section.

SUBPART D—WHAT ENFORCEMENT MECHANISMS DOES THE CAA PROVIDE?

§825.400 What can employees do who believe that their rights under the FMLA as made applicable by the CAA have been violated?

(a) To commence a proceeding, a covered employee alleging a violation of the rights and protections of the FMLA made applicable by the CAA must request counseling by the Office of Compliance not later than 180 days after the date of the alleged violation. If a covered employee misses this deadline, the covered employee will be unable to obtain a remedy under the CAA.

(b) The following procedures are available under title IV of the CAA for covered employees who believe that their rights under FMLA as made applicable by the CAA have been violated—

(1) counseling;

(2) mediation; and

(3) election of either—

(A) a formal complaint, filed with the Office of Compliance, and a hearing before a hearing officer, subject to review by the Board of Directors of the Office of Compliance, and judicial review in the United States Court of Appeals for the Federal Circuit; or

(B) a civil action in a district court of the United States.

(c) Regulations of the Office of Compliance describing and governing these procedures are found at [proposed rules can be found at 141 Cong. Rec. S17012 (November 14, 1995)].

§825.401 [Reserved]

§825.402 [Reserved]

§825.403 [Reserved]

§825.404 [Reserved]

SUBPART E—[RESERVED]

SUBPART F—WHAT SPECIAL RULES APPLY TO EMPLOYEES OF SCHOOLS?

§825.600 To whom do the special rules apply?

(a) Certain special rules apply to employees of "local educational agencies", including public school boards and elementary schools under their jurisdiction, and private elementary and secondary schools. The special rules do not apply to other kinds of educational institutions, such as colleges and universities, trade schools, and preschools.

(b) Educational institutions are covered by FMLA as made applicable by the CAA (and these special rules). The usual requirements for employees to be "eligible" apply.

(c) The special rules affect the taking of intermittent leave or leave on a reduced leave schedule, or leave near the end of an academic term (semester), by instructional employees. "Instructional employees" are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include, and the special rules do not apply to, teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

(d) Special rules which apply to restoration to an equivalent position apply to all employees of local educational agencies.

§825.601 What limitations apply to the taking of intermittent leave or leave on a reduced leave schedule?

(a) Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively rather than intermittently. The period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee's FMLA leave entitlement. An instructional employee who is on FMLA leave at the end of the school year must be provided with any benefits over the summer vacation that employees would normally receive if they had been working at the end of the school year.

(1) If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the employing office may require the employee to choose either to:

(i) Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or

(ii) Transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

(2) These rules apply only to a leave involving more than 20 percent of the working days during the period over which the leave extends. For example, if an instructional employee who normally works five days each week needs to take two days of FMLA leave per week over a period of several weeks, the special rules would apply. Employees taking leave which constitutes 20 percent or less of the working days during the leave period would not be subject to transfer to an alternative position. "Periods of a particular duration" means a block, or blocks, of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave.

(b) If an instructional employee does not give required notice of foreseeable FMLA leave (see §825.302) to be taken intermittently or on a reduced leave schedule, the employing office may require the employee to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the employing office may require the employee to delay the taking of leave until the notice provision is met. See §825.207(h).

VOL
142
PT
6
AP
15
—
24
1996
UMI

§825.602 What limitations apply to the taking of leave near the end of an academic term?

(a) There are also different rules for instructional employees who begin leave more than five weeks before the end of a term, less than five weeks before the end of a term, and less than three weeks before the end of a term. Regular rules apply except in circumstances when:

(1) An instructional employee begins leave more than five weeks before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if—

(i) the leave will last at least three weeks, and

(ii) the employee would return to work during the three-week period before the end of the term.

(2) The employee begins leave for a purpose other than the employee's own serious health condition during the five-week period before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if—

(i) the leave will last more than two weeks, and

(ii) the employee would return to work during the two-week period before the end of the term.

(3) The employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a term, and the leave will last more than five working days. The employing office may require the employee to continue taking leave until the end of the term.

(b) For purposes of these provisions, "academic term" means the school semester, which typically ends near the end of the calendar year and the end of spring each school year. In no case may a school have more than two academic terms or semesters each year for purposes of FMLA as made applicable by the CAA. An example of leave falling within these provisions would be where an employee plans two weeks of leave to care for a family member which will begin three weeks before the end of the term. In that situation, the employing office could require the employee to stay out on leave until the end of the term.

§825.603 Is all leave taken during "periods of a particular duration" counted against the FMLA leave entitlement?

(a) If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

(b) In the case of an employee who is required to take leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. The employing office has the option not to require the employee to stay on leave until the end of the school term. Therefore, any additional leave required by the employing office to the end of the school term is not counted as FMLA leave; however, the employing office shall be required to maintain the employee's group health insurance and restore the employee to the same or equivalent job including other benefits at the conclusion of the leave.

§825.604 What special rules apply to restoration to "an equivalent position"?

The determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave will be made on the basis of "established school board policies and practices, private school policies and practices, and collective bargaining agreements". The "established policies" and collective bargaining agreements used as a basis for restoration must be in writing, must be made known to the employee prior to the taking of FMLA leave, and must clearly explain the employee's restoration rights upon return from leave. Any established policy which is used as the basis for restoration of an employee to "an equivalent position" must provide substantially the same protections as provided in the FMLA, as made applicable by the CAA, for reinstated employees. See §825.215. In other words, the policy or collective bargaining agreement must provide for restoration to an "equivalent position" with equivalent employment benefits, pay, and other terms and conditions of employment. For example, an employee may not be restored to a position requiring additional licensure or certification.

SUBPART G—HOW DO OTHER LAWS, EMPLOYING OFFICE PRACTICES, AND COLLECTIVE BARGAINING AGREEMENTS AFFECT EMPLOYEE RIGHTS UNDER THE FMLA AS MADE APPLICABLE BY THE CAA?

§825.700 What if an employing office provides more generous benefits than required by FMLA as made applicable by the CAA?

(a) An employing office must observe any employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established by the FMLA. Conversely, the rights established by the FMLA, as made applicable by the CAA, may not be diminished by any employment benefit program or plan. For example, a provision of a collective bargaining agreement (CBA) which provides for reinstatement to a position that is not equivalent because of seniority (e.g., provides lesser pay) is superseded by FMLA. If an employing office provides greater unpaid family leave rights than are afforded by FMLA, the employing office is not required to extend additional rights afforded by FMLA, such as maintenance of health benefits (other than through COBRA or 5 U.S.C. 8905a, whichever is applicable), to the additional leave period not covered by FMLA. If an employee takes paid or unpaid leave and the employing office does not designate the leave as FMLA leave, the leave taken does not count against an employee's FMLA entitlement.

(b) Nothing in the FMLA, as made applicable by the CAA, prevents an employing office from amending existing leave and employee benefit programs, provided they comply with FMLA as made applicable by the CAA. However, nothing in the FMLA, as made applicable by the CAA, is intended to discourage employing offices from adopting or retaining more generous leave policies.

(c) [Reserved]

§825.701 [Reserved]

§825.702 How does FMLA affect anti-discrimination laws as applied by section 201 of the CAA?

(a) Nothing in FMLA modifies or affects any applicable law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability (e.g., title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act), as made applicable by the CAA. FMLA's legislative history explains that FMLA is "not intended to modify or affect the Rehabilitation Act of 1973, as amended, the regulations concerning employment which have been promulgated pursuant to that statute, or the Americans with Disabilities Act of 1990, or the regulations issued under that Act. Thus, the leave provisions of the [FMLA] are wholly distinct from the reasonable accommodation obligations of employers covered under the [ADA] * * * or the Federal government itself. The purpose of the FMLA is to make leave available to eligible employees and employing offices within its coverage, and not to limit already existing rights and protection". S. Rep. No. 3, 103d Cong., 1st Sess. 38 (1993). An employing office must therefore provide leave under whichever statutory provision provides the greater rights to employees.

(b) If an employee is a qualified individual with a disability within the meaning of the Americans with Disabilities Act (ADA), the employing office must make reasonable accommodations, etc., barring undue hardship, in accordance with the ADA. At the same time, the employing office must afford an employee his or her FMLA rights. ADA's "disability" and FMLA's "serious health condition" are different concepts, and must be analyzed separately. FMLA entitles eligible employees to 12 weeks of leave in any 12-month period, whereas the ADA allows an indeterminate amount of leave, barring undue hardship, as a reasonable accommodation. FMLA requires employing offices to maintain employees' group health plan coverage during FMLA leave on the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period, whereas ADA does not require maintenance of health insurance unless other employees receive health insurance during leave under the same circumstances.

(c)(1) A reasonable accommodation under the ADA might be accomplished by providing an individual with a disability with a part-time job with no health benefits, assuming the employing office did not ordinarily provide health insurance for part-time employees. However, FMLA would permit an employee to work a reduced leave schedule until the equivalent of 12 workweeks of leave were used, with group health benefits maintained during this period. FMLA permits an employing office to temporarily transfer an employee who is taking leave intermittently or on a reduced leave schedule to an alternative position, whereas the ADA allows an accommodation of reassignment to an equivalent, vacant position only if the employee cannot perform the essential functions of the employee's present position and an accommodation is not possible in the employee's present position, or an accommodation in the employee's present position would cause an undue hardship. The examples in the following paragraphs of this section demonstrate how the two laws would interact with respect to a qualified individual with a disability.

(2) A qualified individual with a disability who is also an "eligible employee" entitled to FMLA leave requests 10 weeks of medical leave as a reasonable accommodation, which the employing office grants because it is not an undue hardship. The employing office advises the employee that the 10 weeks of leave is also being designated as FMLA leave and will count towards the employee's FMLA leave entitlement. This designation does not prevent the parties from also treating the leave as a reasonable accommodation and reinstating the employee into the same job, as required by the ADA, rather than an equivalent position under FMLA, if that is the greater right available to the employee. At the same time, the employee would be entitled under FMLA to have the employing office maintain group health plan coverage

during the leave, as that requirement provides the greater right to the employee.

(3) If the same employee needed to work part-time (a reduced leave schedule) after returning to his or her same job, the employee would still be entitled under FMLA to have group health plan coverage maintained for the remainder of the two-week equivalent of FMLA leave entitlement, notwithstanding an employing office policy that part-time employees do not receive health insurance. This employee would be entitled under the ADA to reasonable accommodations to enable the employee to perform the essential functions of the part-time position. In addition, because the employee is working a part-time schedule as a reasonable accommodation, the employee would be shielded from FMLA's provision for temporary assignment to a different alternative position. Once the employee has exhausted his or her remaining FMLA leave entitlement while working the reduced (part-time) schedule, if the employee is a qualified individual with a disability, and if the employee is unable to return to the same full-time position at that time, the employee might continue to work part-time as a reasonable accommodation, barring undue hardship; the employee would then be entitled to only those employment benefits ordinarily provided by the employing office to part-time employees.

(4) At the end of the FMLA leave entitlement, an employing office is required under FMLA to reinstate the employee in the same or an equivalent position, with equivalent pay and benefits, to that which the employee held when leave commenced. The employing office's FMLA obligations would be satisfied if the employing office offered the employee an equivalent full-time position. If the employee were unable to perform the essential functions of that equivalent position even with reasonable accommodation, because of a disability, the ADA may require the employing office to make a reasonable accommodation at that time by allowing the employee to work part-time or by reassigning the employee to a vacant position, barring undue hardship.

(d)(1) If FMLA entitles an employee to leave, an employing office may not, in lieu of FMLA leave entitlement, require an employee to take a job with a reasonable accommodation. However, ADA may require that an employing office offer an employee the opportunity to take such a position. An employing office may not change the essential functions of the job in order to deny FMLA leave. See §825.220(b).

(2) An employee may be on a workers' compensation absence due to an on-the-job injury or illness which also qualifies as a serious health condition under FMLA. The workers' compensation absence and FMLA leave may run concurrently (subject to proper notice and designation by the employing office). At some point the health care provider providing medical care pursuant to the workers' compensation injury may certify the employee is able to return to work in a "light duty" position. If the employing office offers such a position, the employee is permitted but not required to accept the position (see §825.220(d)). As a result, the employee may no longer qualify for payments from the workers' compensation benefit plan, but the employee is entitled to continue on unpaid FMLA leave either until the employee is able to return to the same or equivalent job the employee left or until the 12-week FMLA leave entitlement is exhausted. See §825.207(d)(2). If the employee returning from the workers' compensation injury is a qualified individual with a disability, he or she will have rights under the ADA.

(e) If an employing office requires certifications of an employee's fitness for duty to return to work, as permitted by FMLA under a uniform policy, it must comply with the ADA requirement that a fitness for duty physical be job-related and consistent with business necessity.

(f) Under title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act, and as made applicable by the CAA, an employing office should provide the same benefits for women who are pregnant as the employing office provides to other employees with short-term disabilities. Because title VII does not require employees to be employed for a certain period of time to be protected, an employee employed for less than 12 months by any employing office (and, therefore, not an "eligible" employee under FMLA, as made applicable by the CAA) may not be denied maternity leave if the employing office normally provides short-term disability benefits to employees with the same tenure who are experiencing other short-term disabilities.

(g) For further information on Federal anti-discrimination laws applied by section 201 of the CAA (2 U.S.C. 1311), including title VII, the Rehabilitation Act, and the ADA, individuals are encouraged to contact the Office of Compliance.

SUBPART H—DEFINITIONS

§825.800 Definitions.

For purposes of this part:

ADA means the Americans With Disabilities Act (42 U.S.C. 12101 et seq.).

CAA means the Congressional Accountability Act of 1995 (Pub. Law 104–1, 109 Stat. 3, 2 U.S.C. 1301 et seq.).

COBRA means the continuation coverage requirements of title X of the Consolidated Omnibus Budget Reconciliation Act of 1986 (Pub. Law 99–272, title X, section 10002; 100 Stat. 227; as amended; 29 U.S.C. 1161–1168).

Continuing treatment means: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(1) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(ii) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(2) Any period of incapacity due to pregnancy, or for prenatal care.

(3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(i) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(iii) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

(4) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(5) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

Covered employee—The term "covered employee", as defined in the CAA, means any employee of—(1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Office of Compliance; or (9) the Office of Technology Assessment.

Eligible employee—The term "eligible employee", as defined in the CAA, means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

Employ means to suffer or permit to work.

Employee means an employee as defined in the CAA and includes an applicant for employment and a former employee.

Employee employed in an instructional capacity: See Teacher.

Employee of the Capitol Police—The term "employee of the Capitol Police" includes any member or officer of the Capitol Police.

Employee of the House of Representatives—The term "employee of the House of Representatives" includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Employee of the Office of the Architect of the Capitol—The term "employee of the Office of the Architect of the Capitol" includes any employee of the Office of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants.

Employee of the Senate—The term "employee of the Senate" includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Employing Office—The term "employing office", as defined in the CAA, means—

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or

VOL
142
PT
6
AP
15
—
24
1996
UMI

privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congessional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

Employment benefits means all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office or through an employee benefit plan. The term does not include non-employment related obligations paid by employees through voluntary deductions such as supplemental insurance coverage. (See §825.209(a)).

FLSA means the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

FMLA means the Family and Medical Leave Act of 1993, Public Law 103-3 (February 5, 1993), 107 Stat. 6 (29 U.S.C. 2601 et seq.).

Group health plan means the Federal Employees Health Benefits Program and any other plan of, or contributed to by, an employing office (including a self-insured plan) to provide health care (directly or otherwise) to the employing office's employees, former employees, or the families of such employees or former employees. For purposes of FMLA, as made applicable by the CAA, the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that—

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

Health care provider means:

(1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or

(2) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law; and

(3) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law; and

(4) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

(5) Any health care provider from whom an employing office or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

(6) A health care provider as defined above who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country.

"Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

Instructional employee: See Teacher.

Intermittent leave means leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.

Mental disability: See Physical or mental disability.

Office of Compliance means the independent office established in the legislative branch under section 301 of the CAA (2 U.S.C. 1381).

Parent means the biological parent of an employee or an individual who stands or stood in loco parentis to an employee when the employee was a child.

Physical or mental disability means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. See the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)).

Reduced leave schedule means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

Secretary means the Secretary of Labor or authorized representative.

Serious health condition entitling an employee to FMLA leave means:

(1) An illness, injury, impairment, or physical or mental condition that involves:

(i) Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(ii) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes:

(A) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(1) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(B) Any period of incapacity due to pregnancy, or for prenatal care.

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(3) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

(D) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(E) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

(2) Treatment for purposes of paragraph (1) of this definition includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (1)(ii)(A)(2) of this definition, a regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(3) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(4) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(5) Absences attributable to incapacity under paragraphs (1)(ii) (B) or (C) of this definition qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.

Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

State means any State of the United States or the District of Columbia or any Territory or possession of the United States.

Teacher (or employee employed in an instructional capacity, or instructional employee) means an employee employed principally in an instructional capacity by an educational agency or school whose principal function is to teach and instruct students in a class, a small group, or an individual setting, and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily noninstructional employees.

APPENDIX A TO PART 825—[RESERVED]

APPENDIX B TO PART 825—CERTIFICATION OF PHYSICIAN OR PRACTITIONER

CERTIFICATION OF HEALTH CARE PROVIDER

(FAMILY AND MEDICAL LEAVE ACT OF 1993 AS MADE APPLICABLE BY THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

1. Employee's Name:

2. Patient's Name (if different from employee):

3. The attached sheet describes what is meant by a "serious health condition" under the Family and Medical Leave Act as made applicable by the Congressional Accountability Act. Does the patient's condition[1] qualify under any of the categories described? If so, please check the applicable category.

(1) _______
(2) _______
(3) _______
(4) _______
(5) _______
(6) _______, or
None of the above _______

4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

5.a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity[2] if different):

b. Will it be necessary for the employee to take work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in Item 6 below)? _______

If yes, give probable duration:

c. If the condition is a chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated[2] and the likely duration and frequency of episodes of incapacity[2]:

6.a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments:

If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments:

c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

7.a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind? _______

b. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)? _______ If yes, please list the essential functions the employee is unable to perform: _______

c. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment? _______

8.a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? _______

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? _______

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:

(Signature of Health Care Provider)

(Type of Practice)

(Address)

(Telephone number)

To be completed by the employee needing family leave to care for a family member:
State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

(Employee signature)

(Date)

A "Serious Health Condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. Hospital Care.—Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity[1] or subsequent treatment in connection with or consequent to such inpatient care.

2. Absence Plus Treatment.—A period of incapacity[2] of more than three consecutive calendar days (including any subsequent treatment or period of incapacity[2] relating to the same condition), that also involves:
(1) Treatment[3] two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
(2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment[4] under the supervision of the health care provider.

3. Pregnancy.—Any period of incapacity due to pregnancy, or for prenatal care.

4. Chronic Conditions Requiring Treatments.—A chronic condition which:
(1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
(2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
(3) May cause episodic rather than a continuing period of incapacity[2] (e.g., asthma, diabetes, epilepsy, etc.).

5. Permanent/Long-term Conditions Requiring Supervision.—A period of incapacity[2] which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6. Multiple Treatments (Non-Chronic Conditions).—Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity[2] of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

VOL
142
PT
6
AP
15
—
24
1996
UMI

FOOTNOTES

[1] Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

[2] "Incapacity", for purposes of FMLA as made applicable by the CAA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefrom.

[3] Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

[4] A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

APPENDIX C TO PART 825—[RESERVED]

APPENDIX D TO PART 825—PROTOTYPE NOTICE: EMPLOYING OFFICE RESPONSE TO EMPLOYEE REQUEST FOR FAMILY AND MEDICAL LEAVE

EMPLOYING OFFICE RESPONSE TO EMPLOYEE REQUEST FOR FAMILY OR MEDICAL LEAVE

(OPTIONAL USE FORM—SEE §825.301(B)(1) OF THE REGULATIONS OF THE OFFICE OF COMPLIANCE)

(FAMILY AND MEDICAL LEAVE ACT OF 1993, AS MADE APPLICABLE BY THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

(Date)

To:______________

(Employee's name)

From:______________

(Name of appropriate employing office representative)

Subject: Request for Family/Medical Leave

On_______, (date) you notified us of your need to take family/medical leave due to:

(Date)

The birth of your child, or the placement of a child with you for adoption or foster care; or

A serious health condition that makes you unable to perform the essential functions of your job; or

A serious health condition affecting your spouse, child, parent, for which you are needed to provide care.

You notified us that you need this leave beginning on _______(date) and that you expect leave to continue until on or about_______ (date).

Except as explained below, you have a right under the FMLA, as made applicable by the CAA, for up to 12 weeks of unpaid leave in a 12-month period for the reasons listed above. Also, your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work, and you must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from leave. If you do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (2) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

This is to inform you that: (check appropriate boxes; explain where indicated)

1. You are ☐ eligible ☐ not eligible for leave under the FMLA as made applicable by the CAA.

2. The requested leave ☐ will ☐ will not be counted against your annual FMLA leave entitlement.

3. You ☐ will ☐ will not be required to furnish medical certification of a serious health condition. If required, you must furnish certification by_______ (insert date) (must be at least 15 days after you are notified of this requirement) or we may delay the commencement of your leave until the certification is submitted.

4. You may elect to substitute accrued paid leave for unpaid FMLA leave. We ☐ will ☐ will not require that you substitute accrued paid leave for unpaid FMLA leave. If paid leave will be used the following conditions will apply: (Explain)

5(a). If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments as follows: (Set forth dates, e.g., the 10th of each month, or pay periods, etc. that specifically cover the agreement with the employee.).

(b). You have a minimum 30-day (or, indicate longer period, if applicable) grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled: *Provided*, That we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work. We ☐ will ☐ will not pay your share of health insurance premiums while you are on leave.

(c). We ☐ will ☐ will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on FMLA leave. If we do pay your premiums for other benefits, when you return from leave you ☐ will ☐ will not be expected to reimburse us for the payments made on your behalf.

6. You ☐ will ☐ will not be required to present a fitness-for-duty certificate prior to being restored to employment. If such certification is required but not received, your return to work may be delayed until the certification is provided.

7(a). You ☐ are ☐ are not a "key employee" as described in §825.218 of the Office of Compliance's FMLA regulations. If you are a "key employee", restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us.

(b). We ☐ have ☐ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. (Explain (a) and/or (b) below. See §825.219 of the Office of Compliance's FMLA regulations.)

8. While on leave, you ☐ will ☐ will not be required to furnish us with periodic reports every _______ (indicate interval of periodic reports, as appropriate for the particular leave situation) of your status and intent to return to work (see §825.309 of the Office of Compliance's FMLA regulations). If the circumstances of your leave change and you are able to return to work earlier than the date indicated on the reverse side of this form, you ☐ will ☐ will not be required to notify us at least two work days prior to the date you intend to report for work.

9. You ☐ will ☐ will not be required to furnish recertification relating to a serious health condition. (Explain below, if necessary, including the interval between certifications as prescribed in §825.308 of the Office of Compliance's FMLA regulations.)

Subtitle A—Regulations Relating to the Senate and Its Employing Offices—S Series

CHAPTER III—REGULATIONS RELATING TO THE RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

PART S501—GENERAL PROVISIONS

Sec.
S501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S501.101 Purpose and scope.
S501.102 Definitions.
S501.103 Coverage.
S501.104 Administrative authority.
S501.105 Effect of Interpretations of the Labor Department.
S501.106 Application of the Portal-to-Portal Act of 1947.
S501.107 [Reserved]

§S501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (OC) Regulations under section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
Part 531 Wage payments under the Fair Labor Standards Act of 1938	Part S531
Part 541 Defining and delimiting the terms "bona fide executive", "administrative", and "professional" employees	Part S541
Part 547 Requirements of a "Bona fide thrift or savings plan"	Part S547
Part 553 Application of the FLSA to employees of public agencies	Part S553
Part 570 Child labor	Part S570

SUBPART A—MATTERS OF GENERAL APPLICABILITY

§S501.101 Purpose and scope.

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§206 (a)(1) and (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal Government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to sections 203(c) and 304 of the CAA, which require that the Board promulgate regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of §203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section".

(d) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 203(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 203 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section". The regulations issued by the Board herein are on all matters for which section 203 of the CAA requires regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA]".

(e) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§S501.102 Definitions.

For purposes of this chapter:

(a) CAA means the Congressional Accountability Act of 1995 (P.L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) FLSA or Act means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201 et seq.), as applied by section 203 of the CAA to covered employees and employing offices.

(c) Covered employee means any employee of the Senate, including an applicant for employment and a former employee, but shall not include an intern.

(d) Employee of the Senate includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(e) Employing office and employer mean (1) the personal office of a Senator; (2) a committee of the Senate or a joint committee; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the Senate.

(f) Board means the Board of Directors of the Office of Compliance.

(g) Office means the Office of Compliance.

(h) Intern is an individual who (a) is performing services in an employing office as part of a demonstrated educational plan, and (b) is appointed on a temporary basis for a period not to exceed 12 months: *Provided*, That if an intern is appointed for a period shorter than 12 months, the intern may be reappointed for additional periods as long as the total length of the internship does not exceed 12 months: *Provided further*, That an intern for purposes of section 203(a)(2) of the CAA also includes an individual who is a senior citizen appointed under S. Res. 219 (May 5, 1978, as amended by S. Res. 96, April 9, 1991), but does not include volunteers, fellows or pages.

§S501.103 Coverage.

The coverage of section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§S501.104 Administrative authority.

(a) The Office of Compliance is authorized to administer the provisions of section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of sections 203(c) and 304 of the CAA.

§S501.105 Effect of Interpretation of the Department of Labor.

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutory-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See Batterton v. Francis, 432 U.S. 416, 425 n.9 (1977). See also 29 CFR §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No. 8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: "[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control", Skidmore v. Swift, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing section 203 of the CAA shall be "the same as substantive regulations promulgated by the Secretary of Labor" except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§S501.106 Application of the Portal-to-Portal Act of 1947.

(a) Consistent with section 225 of the CAA, the Portal-to-Portal Act (PPA), 29 U.S.C. §§216 and 251 et seq., is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. §259, provides in pertinent part: "[N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, . . . if he pleads and proves that the act of omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] . . . or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect".

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided*, That such regulation, order, ruling approval or interpretation had not been superseded at the time or reliance by any regulation, order, decision, or ruling of the Board or the courts.

§S501.107 [Reserved].

PART S531—WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

SUBPART A—PRELIMINARY MATTERS

Sec.
S531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S531.1 Definitions.
S531.2 Purpose and scope.

VOL
142
PT
6
AP
15
—
24
1996
UMI

SUBPART B—DETERMINATIONS OF "REASONABLE COSTS"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

S531.3 General determinations of "reasonable cost".
S531.6 Effects of collective bargaining agreements.

SUBPART A—PRELIMINARY MATTERS

§S531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
531.1 Defintions	S531.1
531.2 Purpose and scope	S531.2
531.3 General determinations of "reasonable cost"	S531.3
531.6 Effects of collective bargaining agreements	S531.6

§S531.1 Definitions.

(a) Administrator means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) Act means the Fair Labor Standards Act of 1938, as amended.

§S531.2 Purpose and scope.

(a) Section 3(m) of the Act defines the term "wage" to include the "reasonable cost", as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the "fair value" of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of "fair value". Whenever so determined and when applicable and pertinent, the "fair value" of the facilities involved shall be includable as part of "wages" instead of the actual measure of the costs of those facilities. The section provides, however, the cost of board, lodging, or other facilities shall not be included as part of "wages" if excluded therefrom by a bona fide collective bargaining agreement. Section 3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the "reasonable cost" and "fair value" of board, lodging, or other facilities have general application.

SUBPART B—DETERMINATIONS OF "REASONABLE COST" AND "FAIR VALUE"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

§S531.3 General determinations of "reasonable cost".

(a) The term "reasonable cost" as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5½ percent) for interest on the depreciated amount of capital invested by the employer: *Provided*, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term good accounting practices does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term depreciation includes obsolescence.

(d)(1) The cost of furnishing "facilities" found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§S531.6 Effects of collective bargaining agreements.

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be "bona fide" when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

PART S541—DEFINING AND DELIMITING THE TERMS "BONA FIDE EXECUTIVE", "ADMINISTRATIVE", OR "PROFESSIONAL" CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN SECONDARY SCHOOL)

SUBPART A—GENERAL REGULATIONS

Sec.
S541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S541.01 Application of the exemptions of section 13(a)(1) of the FLSA.
S541.1 Executive.
S541.2 Administrative.
S541.3 Professional.
S541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.
S541.5d Special provisions applicable to employees of public agencies.

§S541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
541.1 Executive	S541.1
541.2 Administrative	S541.2
541.3 Professional	S541.3
541.5b Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees	S541.5b
541.5d Special provisions applicable to employees of public agencies	S541.5d

§S541.01 Application of the exemptions of section 13(a)(1) of the FLSA

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in a capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c) and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections under §203.

§S541.1 Executive

The term employee employed in a bona fide executive * * * capacity in section 13(a)(1) of the FSLA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department or subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided*, That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: *Provided*, That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and

whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of work of two or more other employees therein, shall be deemed to meet all the requirements of this section

§S541.2 Administrative

The term employee employed in a bona fide * * * administrative * * * capacity in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either:

(1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or

(2) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or

(2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers in the school system, educational establishment or institution by which employed: *Provided*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§S541.3 Professional

The term employee employed in a bona fide * * * professional capacity in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of:

(1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) Work that is original and creative in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or

(3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in the school system, educational establishment or institution by which employed, or

(4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided*, That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a)(1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further*, That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6½ times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§S541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially "equal work", the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

§S541.5d Special provisions applicable to employees of public agencies

(a) An employee of a public agency who otherwise meets the requirement of being paid on a salary basis shall not be disqualified from exemption under section S541.1, S541.2, or S541.3 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy for practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one workday when accrued leave is not used by an employee because—

(1) permission for its use has not been sought or has been sought and denied;

(2) accrued leave has been exhausted; or

(3) the employee chooses to use leave without pay.

(b) Deductions from the pay for an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid "on a salary basis" except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

PART S547—REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN"

Sec.
S547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S547.0 Scope and effect of part.
S547.1 Essential requirements of qualifications.
S547.2 Disqualifying provisions.

§S547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
547.0 Scope and effect of part	S547.0
547.1 Essential requirements of qualifications	S547.1
547.2 Disqualifying provisions	S547.2

§S547.0 Scope and effect of part

(a) The regulations in this part set forth the requirements of a "bona fide thrift or savings plan" under section 7(3)(e)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires

VOL
142
PT
6
AP
15
—
24
1996
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to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§ S547.1 Essential requirements for qualifications

(a) A "bona fide thrift or savings plan" for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in § S547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: *Provided*, That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§ S547.2 Disqualifying provisions

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

PART S553—OVERTIME COMPENSATION: PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION; OVERTIME AND COMPENSATORY TIME-OFF FOR EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE HOUSE INTRODUCTION

Sec.
S553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S553.1 Definitions.
S553.2 Purpose and scope.

SUBPART C—PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION

S553.201 Statutory provisions: section 7(k).
S553.202 Limitations.
S553.211 Law enforcement activities.
S553.212 Twenty percent limitation on nonexempt work.
S553.213 Public agency employees engaged in both fire protection and law enforcement activities.
S553.214 Trainees.
S553.215 Ambulance and rescue service employees.
S553.216 Other exemptions.
S553.220 "Tour of duty" defined.
S553.221 Compensable hours of work.
S553.222 Sleep time.
S553.223 Meal time.
S553.224 "Work period" defined.
S553.225 Early relief.
S553.226 Training time.
S553.227 Outside employment.
S553.230 Maximum hours standard for work periods of 7 to 28 days—section 7(k).
S553.231 Compensatory time off.
S553.232 Overtime pay requirements.
S553.233 "Regular rate" defined.

SUBPART D—COMPENSATORY TIME-OFF FOR OVERTIME EARNED BY EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE HOUSE

S553.301 Definiton of "directly depends".
S553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.
S553.303 Using compensatory time off.
S553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

INTRODUCTION

§ S553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
553.1 Definitions	S553.1
553.2 Purpose and scope	S553.2
553.201 Statutory provisions: section 7(k)	S553.201
553.202 Limitations	S553.202
553.211 Law enforcement activities	S553.211
553.212 Twenty percent limitation on nonexempt work	S553.212
553.213 Public agency employees engaged in both fire protection and law enforcement activities	S553.213
553.214 Trainees	S553.214
553.215 Ambulance and rescue service employees	S553.215
553.216 Other exemptions	S553.216
553.220 "Tour of duty" defined	S553.220
553.221 Compensable hours of work	S553.221
553.222 Sleep time	S553.222
553.223 Meal time	S553.223
553.224 "Work period" defined	S553.224
553.225 Early relief	S553.225
553.226 Training time	S553.226
553.227 Outside employment	S553.227
553.230 Maximum hours standard for work periods of 7 to 28 days—section 7(k)	S553.230
553.231 Compensatory time off	S553.231
553.232 Overtime pay requirements	S553.232
553.233 "Regular rate" defined	S553.233

INTRODUCTION

§ S553.1 Definitions

(a) Act or FLSA means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219), as applied by the CAA.

(b) 1985 Amendments means the Fair Labor Standards Act Amendments of 1985 (Pub. L. 99–150).

(c) Public agency means an employing office as the term is defined in § 501.102 of this chapter, including the Capitol Police.

(d) Section 7(k) means the provisions of § 7(k) of the FLSA as applied to covered employees and employing offices by § 203 of the CAA.

§ S553.2 Purpose and scope

The purpose of part S553 is to adopt with appropriate modifications the regulations of the Secretary of Labor to carry out those provisions of the FLSA relating to public agency employees as they are applied to covered employees and employing offices of the CAA. In particular, these regulations apply section 7(k) as it relates to fire protection and law enforcement employees of public agencies.

SUBPART C—PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION

§ S553.201 Statutory provisions: section 7(k)

Section 7(k) of the Act provides a partial overtime pay exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. This section of the Act formerly permitted public agencies to pay overtime compensation to such employees in

work periods of 28 consecutive days only after 216 hours of work. As further set forth in § S553.230 of this part, the 216-hour standard has been replaced, pursuant to the study mandated by the statute, by 212 hours for fire protection employees and 171 hours for law enforcement employees. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 (or 171) hours to 28 days.

§ S553.202 Limitations

The application of § 7(k), by its terms, is limited to public agencies, and does not apply to any private organization engaged in furnishing fire protection or law enforcement services. This is so even if the services are provided under contract with a public agency.

EXEMPTION REQUIREMENTS

§ S553.211 Law enforcement activities

(a) As used in § 7(k) of the Act, the term "any employee . . . in law enforcement activities" refers to any employee (1) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by law to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power to arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

(b) Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as "trainee", "probationary", or "permanent", and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing, or to support activities of the type described in paragraph (g) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's law enforcement activities. See section S553.215.

(c) Typically, employees engaged in law enforcement activities include police who are regularly employed and paid as such. Other agency employees with duties not specifically mentioned may, depending upon the particular facts and pertinent statutory provisions in that jurisdiction, meet the three tests described above. If so, they will also qualify as law enforcement officers. Such employees might include, for example, any law enforcement employee within the legislative branch concerned with keeping public peace and order and protecting life and property.

(d) Employees who do not meet each of the three tests described above are not engaged in "law enforcement activities" as that term is used in section 7(k). Employees who normally would not meet each of these tests include:

(1) Building inspectors (other than those defined in section S553.213(a)),

(2) Health inspectors,

(3) Sanitarians,

(4) Civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points,

(5) Civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices,

(6) Wage and hour compliance officers,

(7) Equal employment opportunity compliance officers, and

(8) Building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(e) The term "any employee in law enforcement activities" also includes, by express reference, "security personnel in correctional institutions". Typically, such facilities may include precinct house lockups. Employees of correctional institutions who qualify as security personnel for purposes of the section 7(k) exemption are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution. These employees are considered to be engaged in law enforcement activities regardless of their rank or of their status as "trainee", "probationary", or "permanent", and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

(f) Not included in the term "employee in law enforcement activities" are the so-called "civilian" employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

§ S553.212 Twenty percent limitation on nonexempt work

(a) Employees engaged in fire protection or law enforcement activities as described in sections S553.210 and S553.211, may also engage in some nonexempt work which is not performed as an incident to or in conjunction with their fire protection or law enforcement activities. For example, firefighters who work for forest conservation agencies may, during slack times, plant trees and perform other conservation activities unrelated to their firefighting duties. The performance of such nonexempt work will not defeat the § 7(k) exemption unless it exceeds 20 percent of the total hours worked by that employee during the workweek or applicable work period. A person who spends more than 20 percent of his/her working time in nonexempt activities is not considered to be an employee engaged in fire protection or law enforcement activities for purposes of this part.

(b) Public agency fire protection and law enforcement personnel may, at their own option, undertake employment for the same employer on an occasional or sporadic and part-time basis in a different capacity from their regular employment. The performance of such work does not affect the application of the § 7(k) exemption with respect to the regular employment. In addition, the hours of work in the different capacity need not be counted as hours worked for overtime purposes on the regular job, nor are such hours counted in determining the 20 percent tolerance for nonexempt work discussed in paragraph (a) of this section.

§ S553.213 Public agency employees engaged in both fire protection and law enforcement activities

(a) Some public agencies have employees (often called "public safety officers") who engage in both fire protection and law enforcement activities, depending on the agency needs at the time. This dual assignment would not defeat the section 7(k) exemption: *Provided*, That each of the activities performed meets the appropriate tests set forth in sections S553.210 and S553.211. This is so regardless of how the employee's time is divided between the two activities. However, all time spent in nonexempt activities by public safety officers within the work period, whether performed in connection with fire protection or law enforcement functions, or with neither, must be combined for purposes of the 20 percent limitation on nonexempt work discussed in section S553.212.

(b) As specified in section S553.230, the maximum hours standards under section 7(k) are different for employees engaged in fire protection and for employees engaged in law enforcement. For those employees who perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ S553.214 Trainees

The attendance at a bona fide fire or police academy or other training facility, when required by the employing agency, constitutes engagement in activities under section 7(k) only when the employee meets all the applicable tests described in section S553.210 or section S553.211 (except for the power of arrest for law enforcement personnel), as the case may be. If the applicable tests are met, then basic training or advanced training is considered incidental to, and part of, the employee's fire protection or law enforcement activities.

§ S553.215 Ambulance and rescue service employees

Ambulance and rescue service employees of a public agency other than a fire protection or law enforcement agency may be treated as employees engaged in fire protection or law enforcement activities of the type contemplated by § 7(k) if their services are substantially related to firefighting or law enforcement activities in that (1) the ambulance and rescue service employees have received training in the rescue of fire, crime, and accident victims or firefighters or law enforcement personnel injured in the performance of their respective, duties, and (2) the ambulance and rescue service employees are regularly dispatched to fires, crime scenes, riots, natural disasters and accidents. As provided in section S553.213(b), where employees perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ S553.216 Other exemptions

Although the 1974 Amendments to the FLSA as applied by the CAA provide special exemptions for employees of public agencies engaged in fire protection and law enforcement activities, such workers may also be

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subject to other exemptions in the Act, and public agencies may claim such other applicable exemptions in lieu of §7(k). For example, section 13(a)(1) as applied by the CAA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in Part S541. The section 13(a)(1) exemption can be claimed for any fire protection or law enforcement employee who meets all of the tests specified in Part S541 relating to duties, responsibilities, and salary. Thus, high ranking police officials who are engaged in law enforcement activities, may also, depending on the facts, qualify for the section 13(a)(1) exemption as "executive" employees. Similarly, certain criminal investigative agents may qualify as "administrative" employees under section 13(a)(1).

TOUR OF DUTY AND COMPENSABLE HOURS OF WORK RULES

§ S553.220 "Tour of duty" defined

(a) The term "tour of duty" is a unique concept applicable only to employees for whom the section 7(k) exemption is claimed. This term, as used in section 7(k), means the period of time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Such periods include "shifts" assigned to employees often days in advance of the performance of the work. Scheduled periods also include time spent in work outside the "shift" which the public agency employer assigns. For example, a police officer may be assigned to crowd control during a parade or other special event outside of his or her shift.

(b) Unscheduled periods include time spent in court by police officers, time spent handling emergency situations, and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance.

(c) The tour of duty does not include time spent working for a separate and independent employer in certain types of special details as provided in section S553.227.

§ S553.221 Compensable hours of work

(a) The rules under the FLSA as applied by the CAA on compensable hours of work are applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (section S553.222) apply to both law enforcement and firefighting employees for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of firefighters (section S553.223).

(b) Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

(c) Time spent away from the employer's premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, where a police station must be evacuated because of an electrical failure and the employees are expected to remain in the vicinity and return to work after the emergency has passed, the entire time spent away from the premises is compensable. The employees in this example cannot use the time for their personal pursuits.

(d) An employee who is not required to remain on the employer's premises but is merely required to leave word at home or with company officials where he or she may be reached is not working while on call. Time spent at home on call may or may not be compensable depending on whether the restrictions placed on the employee preclude using the time for personal pursuits. Where, for example, a firefighter has returned home after the shift, with the understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensable. On the other hand, where the conditions placed on the employee's activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call is compensable.

(e) Normal home to work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer's premises.

(f) A police officer, who has completed his or her tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time even where the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls is compensable.

§ S553.222 Sleep time

(a) Where a public agency elects to pay overtime compensation to firefighters and/or law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude sleep time from hours worked if all the conditions for the exclusion of such time are met.

(b) Where the employer has elected to use the section 7(k) exemption, sleep time cannot be excluded from the compensable hours of work where—

(1) the employee is on a tour of duty of less than 24 hours, and

(2) the employee is on a tour of duty of exactly 24 hours.

(c) Sleep time can be excluded from compensable hours of work, however, in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude such time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes means at least 5 hours), the entire time must be counted as hours of work.

§ S553.223 Meal time

(a) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude meal time from hours worked if all the statutory tests for the exclusion of such time are met.

(b) If a public agency elects to use the section 7(k) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less: *Provided*, That the employee is completely relieved from duty during the meal period, and all the other statutory tests for the exclusion of such time are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., stakeouts), they are not considered to be completely relieved from duty, and any such meal periods would be compensable.

(c) With respect to firefighters employed under section 7(k), who are confined to a duty station, the legislative history of the Act indicates congressional intent to mandate a departure from the usual FLSA "hours of work" rules and adoption of an overtime standard keyed to the unique concept of "tour of duty" under which firefighters are employed. Where the public agency elects to use the section 7(k) exemption for firefighters, meal time cannot be excluded from the compensable hours of work where (1) the firefighter is on a tour of duty of less than 24 hours, and (2) where the firefighter is on a tour of duty of exactly 24 hours.

(d) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the statutory tests for exclusion of such hours are met.

§ S553.224 "Work period" defined

(a) As used in section 7(k), the term "work period" refers to any established and regularly recurring period of work which, under the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28 consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the duty cycle or pay period or with a particular day of the week or hour of the day. Once the beginning and ending time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within the period. The beginning and ending of the work period may be changed: *Provided*, That the change is intended to be permanent and is not designed to evade the overtime compensation requirements of the Act.

(b) An employer may have one work period applicable to all employees, or different work periods for different employees or groups of employees.

§ S553.225 Early relief

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work.

§ S553.226 Training time

(a) The general rules for determining the compensability of training time under the FLSA apply to employees engaged in law enforcement or fire protection activities.

(b) While time spent in attending training required by an employer is normally considered compensable hours of work, following are situations where time spent by employees in required training is considered to be noncompensable:

(1) Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

(2) Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of Government, does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class or at a training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§ S553.227 Outside employment

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) the special detail work is performed solely at the employee's option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department may maintain a roster of officers who wish to perform such work. The department may also select the officers for special details from a list of those wishing to participate, negotiate their pay, and retain a fee for administrative expenses. The department may require that the separate and independent employer pay the fee for such services directly to the department, and establish procedures for the officers to receive their pay for the special details through the agency's payroll system. Finally, the department may require that the officers observe their normal standards of conduct during such details and take disciplinary action against those who fail to do so.

(e) Section 7(p)(1) applies to special details even where a State law or local ordinance requires that such work be performed and that only law enforcement or fire protection employees of a public agency in the same jurisdiction perform the work. For example, a city ordinance may require the presence of city police officers at a convention center during concerts or sports events. If the officers perform such work at their own option, the hours of work need not be combined with the hours of work for their primary employer in computing overtime compensation.

(f) The principles in paragraphs (d) and (e) of this section with respect to special details of public agency fire protection and law enforcement employees under section 7(p)(1) are exceptions to the usual rules on joint employment set forth in part 791 of this title.

(g) Where an employee is directed by the public agency to perform work for a second employer, section 7(p)(1) does not apply. Thus, assignments of police officers outside of their normal work hours to perform crowd control at a parade, where the assignments are not solely at the option of the officers, would not qualify as special details subject to this exception. This would be true even if the parade organizers reimburse the public agency for providing such services.

(h) Section 7(p)(1) does not prevent a public agency from prohibiting or restricting outside employment by its employees.

OVERTIME COMPENSATION RULES

§ S553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)

(a) For those employees engaged in fire protection activities who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 212 as the number of days in the work period bears to 28.

(b) For those employees engaged in law enforcement activities (including security personnel in correctional institutions) who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 171 as the number of days in the work period bears to 28.

(c) The ratio of 212 hours to 28 days for employees engaged in fire protection activities is 7.57 hours per day (rounded) and the ratio of 171 hours to 28 days for employees engaged in law enforcement activities is 6.11 hours per day (rounded). Accordingly, overtime compensation (in premium pay or compensatory time) is required for all hours worked in excess of the following maximum hours standards (rounded to the nearest whole hour):

Work period (days)	Maximum hours standards	
	Fire protection	Law enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

§ S553.231 Compensatory time off

(a) Law enforcement and fire protection employees who are subject to the section 7(k) exemption may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum for their work period as set forth in section S553.230.

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if a firefighter's work period is 28 consecutive days, and he or she works 80 hours in each of the first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same firefighter had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

§ S553.232 Overtime pay requirements

If a public agency pays employees subject to section 7(k) for overtime hours worked in cash wages rather than compensatory time off, such wages must be paid at one and one-half times the employees' regular rates of pay.

§ S553.233 "Regular rate" defined

The statutory rules for computing an employee's "regular rate", for purposes of the Act's overtime pay requirements are applicable to employees for whom the section 7(k) exemption is claimed when overtime compensation is provided in cash wages.

SUBPART D—COMPENSATORY TIME-OFF FOR OVERTIME EARNED BY EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE SENATE

§ S553.301 Definition of "directly depends"

For the purposes of this Part, a covered employee's work schedule "directly depends" on the schedule of the Senate only if the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House and the Senate.

§ S553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the Senate

No employing office shall be deemed to have violated section 203(a)(1) of the CAA, which applies the protections of section 7(a) of the Fair Labor Standards Act ("FLSA") to covered employees and employing office, by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under section 7(a) of the FLSA where the employee's work schedule directly depends on the schedule of the Senate within the meaning of § S553.301, and: (a) the employee is compensated at the rate of time-and-a-half in pay for all hours in excess of 40 and up to 60 hours in a workweek, and (b) the employee is compensated at the rate of time-and-a-half in either pay or in time off for all hours in excess of 60 hours in a workweek.

§ S553.303 Using compensatory time off

An employee who has accrued compensatory time off under § S553.302, upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of the request. An employee may renew the request at a subsequent time. An employing office may also, upon reasonable notice, require an employee to use accrued compensatory time-off.

VOL
142
PT
6
AP
15
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24
1996
UMI

§ S553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service

An employee who has accrued compensatory time authorized by this regulation shall, upon termination of employment, be paid for the unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

PART S570—CHILD LABOR REGULATIONS

SUBPART A—GENERAL

Sec.
S570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S570.1 Definitions.
S570.2 Minimum age standards.

SUBPART C—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REG. 3)

S570.31 Determination.
S570.32 Effect of this subpart.
S570.33 Occupations.
S570.35 Periods and conditions of employment.

SUBPART A—GENERAL

§ S570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance Regulations under section 202 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
570.1 Definitions	S570.1
570.2 Minimum age standards	S570.2
570.31 Determinations	S570.31
570.32 Effect of this subpart	S570.32
570.33 Occupations	S570.33
570.35 Periods and conditions of employment	S570.35

§ S570.1 Definitions

As used in this part:

(a) Act means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219).

(b) Oppressive child labor means employment of a minor in an occupation for which he does not meet the minimum age standards of the Act, as set forth in section S570.2 of this subpart.

(c) Oppressive child labor age means an age below the minimum age established under the Act for the occupation in which a minor is employed or in which his employment is contemplated.

(d) [Reserved]

(e) [Reserved]

(f) Secretary or Secretary of Labor means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(g) Wage and Hour Division means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

(h) Administrator means the Administrator of the Wage and Hour Division or his authorized representative.

§ S570.2 Minimum age standards

(a) All occupations except in agriculture. (1) The Act, in section 3(1), sets a general 16-year minimum age which applies to all employment subject to its child labor provisions in any occupation other than in agriculture, with the following exceptions:

(i) The Act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being (see subpart C of this part); and

(ii) The Act sets an 18-year minimum age with respect to employment in any occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such age or detrimental to their health or well-being.

(2) The Act exempts from its minimum age requirements the employment by a parent of his own child, or by a person standing in place of a parent of a child in his custody, except in occupations to which the 18-year age minimum applies and in manufacturing and mining occupations.

SUBPART B—[RESERVED]

SUBPART C—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REG. 3)

§ S570.31 Determination

The employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

§ S570.32 Effect of this subpart

In all occupations covered by this subpart the employment (including suffering or permitting to work) by an employer of minor employees between 14 and 16 years of age for the periods and under the conditions specified in § S570.35 shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938.

§ S570.33 Occupations

This subpart shall apply to all occupations other than the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations which the Secretary of Labor may, pursuant to section 3(1) of the Fair Labor Standards Act and Reorganization Plan No. 2, issued pursuant to the Reorganization Act of 1945, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being;

(f) Occupations in connection with:

(1) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

(2) Warehousing and storage;

(3) Communications and public utilities;

(4) Construction (including demolition and repair); except such office (including ticket office) work, or sales work, in connection with paragraphs (f) (1), (2), (3), and (4) of this section, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

§ S570.35 Periods and conditions of employment

(a) Except as provided in paragraph (b) of this section, employment in any of the occupations to which this subpart is applicable shall be confined to the following periods:

(1) Outside school hours;

(2) Not more than 40 hours in any 1 week when school is not in session;

(3) Not more than 18 hours in any 1 week when school is in session;

(4) Not more than 8 hours in any 1 day when school is not in session;

(5) Not more than 3 hours in any 1 day when school is in session;

(6) Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

APPLICATION OF RIGHTS AND PROTECTIONS OF THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

SUBPART A—GENERAL

Sec.
1.1 Purpose and scope.
1.2 Definitions.
1.3 Coverage.
1.4 Prohibitions on lie detector use.
1.5 Effect on other laws or agreements.
1.6 Notice of protection.
1.7 Authority of the Board.
1.8 Employment relationship.

SUBPART B—EXEMPTIONS

1.10 Exclusion for employees of the Capitol Police. [Reserved]
1.11 Exemption for national defense and security.
1.12 Exemption for employing offices conducting investigations of economic loss or injury.
1.13 Exemption for employing offices authorized to manufacture, distribute, or dispense controlled substances.

SUBPART C—RESTRICTIONS ON POLYGRAPH USAGE UNDER EXEMPTIONS

1.20 Adverse employment action under ongoing investigation exemption.
1.21 Adverse employment action under controlled substance exemption.
1.22 Rights of examinee—general.
1.23 Rights of examinee—pretest phase.
1.24 Rights of examinee—actual testing phase.
1.25 Rights of examinee—post-test phase.
1.26 Qualifications of and requirements for examiners.

SUBPART D—RECORDKEEPING AND DISCLOSURE REQUIREMENTS

1.30 Records to be preserved for 3 years.
1.35 Disclosure of test information.

SUBPART E—[RESERVED]

1.40 [Reserved]
Appendix A—Notice to Examinee

Authority: Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. 1314(c)

SUBPART A—GENERAL

SEC. 1.1 PURPOSE AND SCOPE.

Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA") directly applies the rights and protections of eleven Federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 204(a) of the CAA, 2 U.S.C. § 1314(a) provides that no employing office may require any covered employee (including a covered employee who does not work in that employing office) to take a lie detector test where such test would be prohibited if required by an employer under paragraphs (1), (2) or (3) of section 3 of the Employee Polygraph Protection Act of 1988 (EPPA), 29 U.S.C. § 2002 (1), (2) or (3). The purpose of this Part is to set forth the regulations to carry out the provisions of section 204 of the CAA.

Subpart A contains the provisions generally applicable to covered employers, including the requirements relating to the prohibitions on lie detector use. Subpart B sets forth rules regarding the statutory exemptions from application of section 204 of the CAA. Subpart C sets forth the restrictions on polygraph usage under such exemptions. Subpart D sets forth the rules on recordkeeping and the disclosure of polygraph test information.

SEC. 1.2 DEFINITIONS.

For purposes of this part:

(a) Act or CAA means the Congressional Accountability Act of 1995 (P.L. 104–1, 109 Stat. 3, 2 U.S.C. §§ 1301–1438).

(b) EPPA means the Employee Polygraph Protection Act of 1988 (Pub. L. 100–347, 102 Stat. 646, 29 U.S.C. §§ 2001–2009) as applied to covered employees and employing offices by section 204 of the CAA.

(c) The term covered employee means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Congressional Budget Office; (5) the Office of the Architect of the Capitol; (6) the Office of the Attending Physician; (7) the Office of Compliance; or (8) the Office of Technology Assessment.

(d) The term employee includes an applicant for employment and a former employee.

(e) The term employee of the Office of the Architect of the Capitol includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term employee of the Capitol Police includes any member or officer of the Capitol Police.

(g) The term employee of the House of Representatives includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term employee of the Senate includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term employing office means (1) the personal office of a Member of the House of Representatives or of a Senator; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment. The term employing office includes any person acting directly or indirectly in the interest of an employing office in relation to an employee or prospective employee. A polygraph examiner either employed for or whose services are retained for the sole purpose of administering polygraph tests ordinarily would not be deemed an employing office with respect to the examinees. Any reference to "employer" in these regulations includes employing offices.

(j)(1) The term lie detector means a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical or electrical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual. Voice stress analyzers, or psychological stress evaluators, include any systems that utilize voice stress analysis, whether or not an opinion on honesty or dishonesty is specifically rendered.

(2) The term lie detector does not include medical tests used to determine the presence or absence of controlled substances or alcohol in bodily fluids. Also not included in the definition of lie detector are written or oral tests commonly referred to as "honesty" or "paper and pencil" tests, machine-scored or otherwise; and graphology tests commonly referred to as handwriting tests.

(k) The term polygraph means an instrument that—

(1) records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards; and

(2) is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(l) Board means the Board of Directors of the Office of Compliance.

(m) Office means the Office of Compliance.

SEC. 1.3 COVERAGE.

The coverage of section 204 of the Act extends to any "covered employee" or "covered employing office" without regard to the number of employees or the employing office's effect on interstate commerce.

SEC. 1.4 PROHIBITIONS ON LIE DETECTOR USE.

(a) Section 204 of the CAA provides that, subject to the exemptions of the EPPA incorporated into the CAA under section 225(f) of the CAA, as set forth in section 1.10 through 1.12 of this Part, employing offices are prohibited from:

(1) Requiring, requesting, suggesting or causing, directly or indirectly, any covered employee or prospective employee to take or submit to a lie detector test;

(2) Using, accepting, or inquiring about the results of a lie detector test of any covered employee or prospective employee; and

(3) Discharging, disciplining, discriminating against, denying employment or promotion, or threatening any covered employee or prospective employee to take such action for refusal or failure to take or submit to such test, or on the basis of the results of a test.

The above prohibitions apply irrespective of whether the covered employee referred to in paragraphs (1), (2) or (3), above, works in that employing office.

(b) An employing office that reports a theft or other incident involving economic loss to police or other law enforcement authorities is not engaged in conduct subject to the prohibitions under paragraph (a) of this section if, during the normal course of a subsequent investigation, such authorities deem it necessary to administer a polygraph test to a covered employee(s) suspected of involvement in the reported incident. Employing offices that cooperate with police authorities during the course of their investigations into criminal misconduct are likewise not deemed engaged in prohibitive conduct: *Provided*, That such cooperation is passive in nature. For example, it is not uncommon for police authorities to request employees suspected of theft or criminal activity to submit to a polygraph test during the employee's tour of duty since, as a general rule, suspect employees are often difficult to locate away from their place of employment. Allowing a test on the employing office's premises, releasing a covered employee during working hours to take a test at police headquarters, and other similar types of cooperation at the request of the police authorities would not be construed as "requiring, requesting, suggesting, or causing, directly or indirectly, any covered employee * * * to take or submit to a lie detector test". Cooperation of this type must be distinguished from actual participation in the testing of employees suspected of wrongdoing, either through the administration of a test by the employing office at the request or direction of police authorities, or through reimbursement by the employing office of tests administered by police authorities to employees. In some communities, it may be a practice of police authorities to request testing by employing offices of employees before a police investigation is initiated on a reported incident. In other communities, police examiners are available to covered employing offices, on a cost reimbursement basis, to conduct tests on employees suspected by an employing office of wrongdoing. All such conduct on the part of employing offices is deemed within the prohibitions of section 204 of the CAA.

(c) The receipt by an employing office of information from a polygraph test administered by police authorities pursuant to an investigation is prohibited by section 3(2) of the EPPA. (See paragraph (a)(2) of this section.)

(d) The simulated use of a polygraph instrument so as to lead an individual to believe that an actual test is being or may be performed (e.g., to elicit confessions or admissions of guilt) constitutes conduct prohibited by paragraph (a) of this section. Such use includes the connection of a covered employee or prospective employee to the instrument without any intention of a diagnostic purpose, the placement of the instrument in a room used for interrogation unconnected to the covered employee or prospective employee, or the mere suggestion that the instrument may be used during the course of the interview.

(e) The Capitol Police may not require a covered employee not employed by the Capitol Police to take a lie detector test (on its own initiative or at the request of another employing office) except where the Capitol Police administers such lie detector test as part of an "ongoing investigation" by the Capitol Police. For the purpose of this subsection, the definition of "ongoing investigation" contained in section 1.12(b) shall apply.

SEC. 1.5 EFFECT ON OTHER LAWS OR AGREEMENTS.

(a) Section 204 of the CAA does not preempt any otherwise applicable provision of Federal law or any rule or regulation of the House or Senate or any negotiated collective bargaining agreement that prohibits lie detector tests or is more restrictive with respect to the use of lie detector tests.

(b)(1) This provision applies to all aspects of the use of lie detector tests, including procedural safeguards, the use of test results, the rights and remedies provided examinees,

VOL 142 PT 6 AP 15 — 24 1996 UMI

and the rights, remedies, and responsibilities of examiners and employing offices.

(2) For example, a collective bargaining agreement that provides greater protection to an examinee would apply in addition to the protection provided in section 204 of the CAA.

SEC. 1.6 NOTICE OF PROTECTION.

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 204 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

SEC. 1.7 AUTHORITY OF THE BOARD.

Pursuant to sections 204 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections of the EPPA. Section 204(c) directs the Board to promulgate regulations implementing section 204 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section". The regulations issued by the Board herein are on all matters for which section 204 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA]".

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

SEC. 1.8 EMPLOYMENT RELATIONSHIP.

Subject to the exemptions incorporated into the CAA by section 225(f), section 204 applies the prohibitions on the use of lie detectors by employing offices with respect to covered employees irrespective of whether a covered employee works in that employing office. Sections 101 (3), (4) and 204 of the CAA also apply EPPA prohibitions against discrimination to applicants for employment and former employees of a covered employing office. For example, an employee may quit rather than take a lie detector test. The employing office cannot discriminate or threaten to discriminate in any manner against that person (such as by providing bad references in the future) because of that person's refusal to be tested. Similarly, an employing office cannot discriminate or threaten to discriminate in any manner against that person because that person files a complaint, institutes a proceeding, testifies in a proceeding, or exercises any right under section 204 of the CAA. (See section 207 of the CAA.)

SUBPART B—EXEMPTIONS

SEC. 1.10 EXCLUSION FOR EMPLOYEES OF THE CAPITOL POLICE [RESERVED].

SEC. 1.11 EXEMPTION FOR NATIONAL DEFENSE AND SECURITY.

(a) The exemptions allowing for the administration of lie detector tests in the following paragraphs (b) through (e) of this section apply only to the Federal Government; they do not allow covered employing offices to administer such tests. For the purposes of this section, the term "Federal Government" means any agency or entity within the Federal Government authorized to administer polygraph examinations which is otherwise exempt from coverage under section 7(a) of the EPPA, 29 U.S.C. §2006(a).

(b) Section 7(b)(1) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any counterintelligence function, to any expert, consultant or employee of any contractor under contract with the Department of Defense; or with the Department of Energy, in connection with the atomic energy defense activities of such Department.

(c) Section 7(b)(2)(A) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function of the National Security Agency, the Defense Intelligence Agency, or the Central Intelligence Agency, to any individual employed by, assigned to, or detailed to any such agency; or any expert or consultant under contract to any such agency; or any employee of a contractor to such agency; or any individual applying for a position in any such agency; or any individual assigned to a space where sensitive cryptologic information is produced, processed, or stored for any such agency.

(d) Section 7(b)(2)(B) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function, to any covered employee whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.2 (a) of Executive Order 12356 (or a successor Executive order).

(c) Counterintelligence for purposes of the above paragraphs means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, terrorist activities, or assassinations conducted for or on behalf of foreign governments, or foreign or domestic organizations or persons.

(d) Lie detector tests of persons described in the above paragraphs will be administered in accordance with applicable Department of Defense directives and regulations, or other regulations and directives governing the use of such tests by the United States Government, as applicable.

SEC. 1.12 EXEMPTION FOR EMPLOYING OFFICES CONDUCTING INVESTIGATIONS OF ECONOMIC LOSS OR INJURY.

(a) Section 7(d) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides a limited exemption from the general prohibition on lie detector use for employers conducting ongoing investigations of economic loss or injury to the employer's business. An employing office may request an employee, subject to the conditions set forth in sections 8 and 10 of the EPPA and sections 1.20, 1.22, 1.23, 1.24, 1.25, 1.26 and 1.35 of this part, to submit to a polygraph test, but no other type of lie detector test, only if—

(1) The test is administered in connection with an ongoing investigation involving economic loss or injury to the employing office's operations, such as theft, embezzlement, misappropriation or an act of unlawful industrial espionage or sabotage;

(2) The employee had access to the property that is the subject of the investigation;

(3) The employing office has a reasonable suspicion that the employee was involved in the incident or activity under investigation;

(4) The employing office provides the examinee with a statement, in a language understood by the examinee, prior to the test which fully explains with particularity the specific incident or activity being investigated and the basis for testing particular employees and which contains, at a minimum:

(i) An identification with particularity of the specific economic loss or injury to the operations of the employing office;

(ii) A description of the employee's access to the property that is the subject of the investigation;

(iii) A description in detail of the basis of the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; and

(iv) Signature of a person (other than a polygraph examiner) authorized to legally bind the employing office; and

(5) The employing office retains a copy of the statement and proof of service described in paragraph (a)(4) of this section for at least 3 years.

(b) For the exemption to apply, the condition of an "ongoing investigation" must be met. As used in section 7(d) of the EPPA, the ongoing investigation must be of a specific incident or activity. Thus, for example, an employing office may not request that an employee or employees submit to a polygraph test in an effort to determine whether or not any thefts have occurred. Such random testing by an employing office is precluded by the EPPA. Further, because the exemption is limited to a specific incident or activity, an employing office is precluded from using the exemption in situations where the so-called "ongoing investigation" is continuous. For example, the fact that items are frequently missing would not be a sufficient basis, standing alone, for administering a polygraph test. Even if the employing office can establish that unusually high amounts of property are missing in a given month, this, in and of itself, would not be a sufficient basis to meet the specific incident requirement. On the other hand, polygraph testing in response to missing property would be permitted where additional evidence is obtained through subsequent investigation of specific items missing through intentional wrongdoing, and a reasonable suspicion that the employee to be polygraphed was involved in the incident under investigation. Administering a polygraph test in circumstances where the missing property is merely unspecified, statistical shortages, without identification of a specific incident or activity that produced the missing property and a "reasonable suspicion that the employee was involved", would amount to little more than a fishing expedition and is prohibited by the EPPA as

applied to covered employees and employing offices by the CAA.

(c)(1)(i) The terms economic loss or injury to the employing office's operations include both direct and indirect economic loss or injury.

(ii) Direct loss or injury includes losses or injuries resulting from theft, embezzlement, misappropriation, espionage or sabotage. These examples, cited in the EPPA, are intended to be illustrative and not exhaustive. Another specific incident which would constitute direct economic loss or injury is the misappropriation of confidential or trade secret information.

(iii) Indirect loss or injury includes the use of an employing office's operations to commit a crime, such as check-kiting or money laundering. In such cases, the ongoing investigation must be limited to criminal activity that has already occurred, and to use of the employing office's operations (and not simply the use of the premises) for such activity. For example, the use of an employing office's vehicles, warehouses, computers or equipment to smuggle or facilitate the importing of illegal substances constitutes an indirect loss or injury to the employing office's business operations. Conversely, the mere fact that an illegal act occurs on the employing office's premises (such as a drug transaction that takes place in the employing office's parking lot or rest room) does not constitute an indirect economic loss or injury to the employing office.

(iv) Indirect loss or injury also includes theft or injury to property of another for which the employing office exercises fiduciary, managerial or security responsibility, or where the office has custody of the property (but not property of other offices to which the employees have access by virtue of the employment relationship). For example, if a maintenance employee of the manager of an apartment building steals jewelry from a tenant's apartment, the theft results in an indirect economic loss or injury to the employer because of the manager's management responsibility with respect to the tenant's apartment. A messenger on a delivery of confidential business reports for a client firm who steals the reports causes an indirect economic loss or injury to the messenger service because the messenger service is custodian of the client firm's reports, and therefore is responsible for their security. Similarly, the theft of property protected by a security service employer is considered an economic loss or injury to that employer.

(v) A theft or injury to a client firm does not constitute an indirect loss or injury to an employing office unless that employing office has custody of, or management, or security responsibility for, the property of the client that was lost or stolen or injured. For example, a cleaning contractor has no responsibility for the money at a client bank. If money is stolen from the bank by one of the cleaning contractor's employees, the cleaning contractor does not suffer an indirect loss or injury.

(vi) Indirect loss or injury does not include loss or injury which is merely threatened or potential, e.g., a threatened or potential loss of an advantageous business relationship.

(2) Economic losses or injuries which are the result of unintentional or lawful conduct would not serve as a basis for the administration of a polygraph test. Thus, apparently unintentional losses or injuries stemming from truck, car, workplace, or other similar type accidents or routine inventory or cash register shortages would not meet the economic loss or injury requirement. Any economic loss incident to lawful union or employee activity also would not satisfy this requirement.

(3) It is the operations of the employing office which must suffer the economic loss or injury. Thus, a theft committed by one employee against another employee of the same employing office would not satisfy the requirement.

(d) While nothing in the EPPA as applied by the CAA prohibits the use of medical tests to determine the presence of controlled substances or alcohol in bodily fluids, the section 7(d) exemption of the EPPA does not permit the use of a polygraph test to learn whether an employee has used drugs or alcohol, even where such possible use may have contributed to an economic loss to the employing office (e.g., an accident involving an employing office's vehicle).

(e) Section 7(d)(2) of the EPPA provides that, as a condition for the use of the exemption, the employee must have had access to the property that is the subject of the investigation.

(1) The word access, as used in section 7(d)(2), refers to the opportunity which an employee had to cause, or to aid or abet in causing, the specific economic loss or injury under investigation. The term "access", thus, includes more than direct or physical contact during the course of employment. For example, as a general matter, all employees working in or with authority to enter a property storage area have "access" to unsecured property in the area. All employees with the combination to a safe have "access" to the property in a locked safe. Employees also have "access" who have the ability to divert possession or otherwise affect the disposition of the property that is the subject of investigation. For example, a bookkeeper in a jewelry store with access to inventory records may aid or abet a clerk who steals an expensive watch by removing the watch from the employing office's inventory records. In such a situation, it is clear that the bookkeeper effectively has "access" to the property that is the subject of the investigation.

(2) As used in section 7(d)(2), property refers to specifically identifiable property, but also includes such things of value as security codes and computer data, and proprietary, financial or technical information, such as trade secrets, which by its availability to competitors or others would cause economic harm to the employing office.

(f)(1) As used in section 7(d)(3), the term reasonable suspicion refers to an observable, articulable basis in fact which indicates that a particular employee was involved in, or responsible for, an economic loss. Access in the sense of possible or potential opportunity, standing alone, does not constitute a basis for "reasonable suspicion". Information from a co-worker, or an employee's behavior, demeanor, or conduct may be factors in the basis for reasonable suspicion. Likewise, inconsistencies between facts, claims, or statements that surface during an investigation can serve as a sufficient basis for reasonable suspicion. While access or opportunity, standing alone, does not constitute a basis for reasonable suspicion, the totality of circumstances surrounding the access or opportunity (such as its unauthorized or unusual nature or the fact that access was limited to a single individual) may constitute a factor in determining whether there is a reasonable suspicion.

(2) For example, in an investigation of a theft of an expensive piece of jewelry, an employee authorized to open the establishment's safe no earlier than 9 a.m., in order to place the jewelry in a window display case, is observed opening the safe at 7:30 a.m. In such a situation, the opening of the safe by the employee one and one-half hours prior to the specified time may serve as the basis for reasonable suspicion. On the other hand, in the example given, if the employee is asked to bring the piece of jewelry to his or her office at 7:30 a.m., and the employee then opened the safe and reported the jewelry missing, such access, standing alone, would not constitute a basis for reasonable suspicion that the employee was involved in the incident unless access to the safe was limited solely to the employee. If no one other than the employee possessed the combination to the safe, and all other possible explanations for the loss are ruled out, such as a break-in, a basis for reasonable suspicion may be formulated based on sole access by one employee.

(3) The employing office has the burden of establishing that the specific individual or individuals to be tested are "reasonably suspected" of involvement in the specific economic loss or injury for the requirement in section 7(d)(3) of the EPPA to be met.

(g)(1) As discussed in paragraph (a)(4) of this section, section 7(d)(4) of the EPPA sets forth what information, at a minimum, must be provided to an employee if the employing office wishes to claim the exemption.

(2) The statement required under paragraph (a)(4) of this section must be received by the employee at least 48 hours, excluding weekend days and holidays, prior to the time of the examination. The statement must set forth the time and date of receipt by the employee and be verified by the employee's signature. This will provide the employee with adequate pre-test notice of the specific incident or activity being investigated and afford the employee sufficient time prior to the test to obtain and consult with legal counsel or an employee representative.

(3) The statement to be provided to the employee must set forth with particularity the specific incident or activity being investigated and the basis for testing particular employees. Section 7(d)(4)(A) of the EPPA requires specificity beyond the mere assertion of general statements regarding economic loss, employee access, and reasonable suspicion. For example, an employing office's assertion that an expensive watch was stolen, and that the employee had access to the watch and is therefore a suspect, would not meet the "with particularity" criterion. If the basis for an employing office's requesting an employee (or employees) to take a polygraph test is not articulated with particularity, and reduced to writing, then the standard is not met. The identity of a co-worker or other individual providing information used to establish reasonable suspicion need not be revealed in the statement.

(4) It is further required that the statement provided to the examinee be signed by the employing office, or an employee or other representative of the employing office with authority to legally bind the employing office. The person signing the statement must not be a polygraph examiner unless the examiner is acting solely in the capacity of an employing office with respect to his or her own employees and does not conduct the examination. The standard would not be met, and the exemption would not apply if the person signing the statement is not authorized to legally bind the employing office.

(h) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in sections 1.20, 1.22, 1.23,

VOL
142
PT
6
AP
15
—
24
1996
UMI

1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to remedial actions, as provided for in section 6(c) of the EPPA.

SEC. 1.13 EXEMPTION OF EMPLOYING OFFICES AUTHORIZED TO MANUFACTURE, DISTRIBUTE, OR DISPENSE CONTROLLED SUBSTANCES.

(a) Section 7(f) of the EPPA, incorporated into the CAA by section 225(f) of the CAA, provides an exemption from the EPPA's general prohibition regarding the use of polygraph tests for employers authorized to manufacture, distribute, or dispense a controlled substance listed in schedule I, II, III, or IV of section 202 of the Controlled Substances Act (21 U.S.C. §812). This exemption permits the administration of polygraph tests, subject to the conditions set forth in sections 8 and 10 of the EPPA and sections 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part, to:

(1) A prospective employee who would have direct access to the manufacture, storage, distribution, or sale of any such controlled substance; or

(2) A current employee if the following conditions are met:

(i) The test is administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employing office; and

(ii) The employee had access to the person or property that is the subject of the investigation.

(b)(1) The terms manufacture, distribute, distribution, dispense, storage, and sale, for the purposes of this exemption, are construed within the meaning of the Controlled Substances Act (21 U.S.C. §812 et seq.), as administered by the Drug Enforcement Administration (DEA), United States Department of Justice.

(2) The exemption in section 7(f) of the EPPA applies only to employing offices that are authorized by DEA to manufacture, distribute, or dispense a controlled substance. Section 202 of the Controlled Substances Act (21 U.S.C. §812) requires every person who manufactures, distributes, or dispenses any controlled substance to register with the Attorney General (i.e., with DEA). Common or contract carriers and warehouses whose possession of the controlled substance is in the usual course of their business or employment are not required to register. Truck drivers and warehouse employees of the persons or entities registered with DEA and authorized to manufacture, distribute, or dispense controlled substances, are within the scope of the exemption where they have direct access or access to the controlled substances, as discussed below.

(c) In order for a polygraph examination to be performed, section 7(f) of the Act requires that a prospective employee have "direct access" to the controlled substance(s) manufactured, dispensed, or distributed by the employing office. Where a current employee is to be tested as a part of an ongoing investigation, section 7(f) requires that the employee have "access" to the person or property that is the subject of the investigation.

(1) A prospective employee would have "direct access" if the position being applied for has responsibilities which include contact with or which affect the disposition of a controlled substance, including participation in the process of obtaining, dispensing, or otherwise distributing a controlled substance. This includes contact or direct involvement in the manufacture, storage, testing, distribution, sale or dispensing of a controlled substance and may include, for example, packaging, repackaging, ordering, licensing, shipping, receiving, taking inventory, providing security, prescribing, and handling of a controlled substance. A prospective employee would have "direct access" if the described job duties would give such person access to the products in question, whether such employee would be in physical proximity to controlled substances or engaged in activity which would permit the employee to divert such substances to his or her possession.

(2) A current employee would have "access" within the meaning of section 7(f) if the employee had access to the specific person or property which is the subject of the on-going investigation, as discussed in section 1.12(e) of this part. Thus, to test a current employee, the employee need not have had "direct" access to the controlled substance, but may have had only infrequent, random, or opportunistic access. Such access would be sufficient to test the employee if the employee could have caused, or could have aided or abetted in causing, the loss of the specific property which is the subject of the investigation. For example, a maintenance worker in a drug warehouse, whose job duties include the cleaning of areas where the controlled substances which are the subject of the investigation were present, but whose job duties do not include the handling of controlled substances, would be deemed to have "access", but normally not "direct access", to the controlled substances. On the other hand, a drug warehouse truck loader, whose job duties include the handling of outgoing shipment orders which contain controlled substances, would have "direct access" to such controlled substances. A pharmacy department in a supermarket is another common situation which is useful in illustrating the distinction between "direct access" and "access". Store personnel receiving pharmaceutical orders, i.e., the pharmacist, pharmacy intern, and other such employees working in the pharmacy department, would ordinarily have "direct access" to controlled substances. Other store personnel whose job duties and responsibilities do not include the handling of controlled substances but who had occasion to enter the pharmacy department where the controlled substances which are the subject of the investigation were stored, such as maintenance personnel or pharmacy cashiers, would have "access". Certain other store personnel whose job duties do not permit or require entrance into the pharmacy department for any reason, such as produce or meat clerks, checkout cashiers, or baggers, would not ordinarily have "access". However, any current employee, regardless of described job duties, may be polygraphed if the employing office's investigation of criminal or other misconduct discloses that such employee in fact took action to obtain "access" to the person or property that is the subject of the investigation—e.g., by actually entering the drug storage area in violation of company rules. In the case of "direct access", the prospective employee's access to controlled substances would be as a part of the manufacturing, dispensing or distribution process, while a current employee's "access" to the controlled substances which are the subject of the investigation need only be opportunistic.

(d) The term prospective employee, for the purposes of this section, includes a current employee who presently holds a position which does not entail direct access to controlled substances, and therefore is outside the scope of the exemption's provisions for preemployment polygraph testing, provided the employee has applied for and is being considered for transfer or promotion to another position which entails such direct access. For example, an office secretary may apply for promotion to a position in the vault or cage areas of a drug warehouse, where controlled substances are kept. In such a situation, the current employee would be deemed a "prospective employee" for the purposes of this exemption, and thus could be subject to preemployment polygraph screening, prior to such a change in position. However, any adverse action which is based in part on a polygraph test against a current employee who is considered a "prospective employee" for purposes of this section may be taken only with respect to the prospective position and may not affect the employee's employment in the current position.

(e) Section 7(f) of the EPPA, as applied by the CAA, makes no specific reference to a requirement that employing offices provide current employees with a written statement prior to polygraph testing. Thus, employing offices to whom this exemption is available are not required to furnish a written statement such as that specified in section 7(d) of the EPPA and section 1.12(a)(4) of this part.

(f) For the section 7(f) exemption to apply, the polygraph testing of current employees must be administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employing office.

(1) Current employees may only be administered polygraph tests in connection with an ongoing investigation of criminal or other misconduct, relating to a specific incident or activity, or potential incident or activity. Thus, an employing office is precluded from using the exemption in connection with continuing investigations or on a random basis to determine if thefts are occurring. However, unlike the exemption in section 7(d) of the EPPA for employing offices conducting ongoing investigations of economic loss or injury, the section 7(f) exemption includes ongoing investigations of misconduct involving potential drug losses. Nor does the latter exemption include the requirement for "reasonable suspicion" contained in the section 7(d) exemption. Thus, a drug store operator is permitted to polygraph all current employees who have access to a controlled substance stolen from the inventory, or where there is evidence that such a theft is planned. Polygraph testing based on an inventory shortage of the drug during a particular accounting period would not be permitted unless there is extrinsic evidence of misconduct.

(2) In addition, the test must be administered in connection with loss or injury, or potential loss or injury, to the manufacture, distribution, or dispensing of a controlled substance.

(i) Retail drugstores and wholesale drug warehouses typically carry inventory of so-called health and beauty aids, cosmetics, over-the-counter drugs, and a variety of other similar products, in addition to their product lines of controlled drugs. The non-controlled products usually constitute the majority of such firms' sales volumes. An economic loss or injury related to such non-controlled substances would not constitute a basis of applicability of the section 7(f) exemption. For example, an investigation into the theft of a gross of cosmetic products could not be a basis for polygraph testing under section 7(f), but the theft of a container of valium could be.

(ii) Polygraph testing, with respect to an ongoing investigation concerning products other than controlled substances might be initiated under section 7(d) of the EPPA and section 1.12 of this part. However, the exemption in section 7(f) of the EPPA and this section is limited solely to losses or injury associated with controlled substances.

(g) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in sections 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to the remedies authorized in section 204 of the CAA. The administration of such tests is also subject to collective bargaining agreements, which may either prohibit lie detector tests, or contain more restrictive provisions with respect to polygraph testing.

SUBPART C—RESTRICTIONS ON POLYGRAPH USAGE UNDER EXEMPTIONS

SEC. 1.20 ADVERSE EMPLOYMENT ACTION UNDER ONGOING INVESTIGATION EXEMPTION.

(a) Section 8(a)(1) of the EPPA provides that the limited exemption in section 7(d) of the EPPA and section 1.12 of this part for ongoing investigations shall not apply if an employing office discharges, disciplines, denies employment or promotion or otherwise discriminates in any manner against a current employee based upon the analysis of a polygraph test chart or the refusal to take a polygraph test, without additional supporting evidence.

(b) "Additional supporting evidence", for purposes of section 8(a) of the EPPA, includes, but is not limited to, the following:

(1)(i) Evidence indicating that the employee had access to the missing or damaged property that is the subject of an ongoing investigation; and

(ii) Evidence leading to the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; or

(2) Admissions or statements made by an employee before, during or following a polygraph examination.

(c) Analysis of a polygraph test chart or refusal to take a polygraph test may not serve as a basis for adverse employment action, even with additional supporting evidence, unless the employing office observes all the requirements of sections 7(d) and 8(b) of the EPPA, as applied by the CAA and described in sections 1.12, 1.22, 1.23, 1.24 and 1.25 of this part.

SEC. 1.21 ADVERSE EMPLOYMENT ACTION UNDER CONTROLLED SUBSTANCE EXEMPTION.

(a) Section 8(a)(2) of the EPPA provides that the controlled substance exemption in section 7(f) of the EPPA and section 1.13 of this part shall not apply if an employing office discharges, disciplines, denies employment or promotion, or otherwise discriminates in any manner against a current employee or prospective employee based solely on the analysis of a polygraph test chart or the refusal to take a polygraph test.

(b) Analysis of a polygraph test chart or refusal to take a polygraph test may serve as one basis for adverse employment actions of the type described in paragraph (a) of this section: *Provided*, That the adverse action was also based on another bona fide reason, with supporting evidence therefor. For example, traditional factors such as prior employment experience, education, job performance, etc. may be used as a basis for employment decisions. Employment decisions based on admissions or statements made by an employee or prospective employee before, during or following a polygraph examination may, likewise, serve as a basis for such decisions.

(c) Analysis of a polygraph test chart or the refusal to take a polygraph test may not serve as a basis for adverse employment action, even with another legitimate basis for such action, unless the employing office observes all the requirements of section 7(f) of the EPPA, as appropriate, and section 8(b) of the EPPA, as described in sections 1.13, 1.22, 1.23, 1.24 and 1.25 of this part.

SEC. 1.22 RIGHTS OF EXAMINEE—GENERAL.

(a) Pursuant to section 8(b) of the EPPA, the limited exemption in section 7(d) of the EPPA for ongoing investigations (described in sections 1.12 and 1.13 of this part) shall not apply unless all of the requirements set forth in this section and sections 1.23 through 1.25 of this part are met.

(b) During all phases of the polygraph testing the person being examined has the following rights:

(1) The examinee may terminate the test at any time.

(2) The examinee may not be asked any questions in a degrading or unnecessarily intrusive manner.

(3) The examinee may not be asked any questions dealing with:

(i) Religious beliefs or affiliations;

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or behavior; or

(v) Beliefs, affiliations, opinions, or lawful activities concerning unions or labor organizations.

(4) The examinee may not be subjected to a test when there is sufficient written evidence by a physician that the examinee is suffering from any medical or psychological condition or undergoing any treatment that might cause abnormal responses during the actual testing phase. "Sufficient written evidence" shall constitute, at a minimum, a statement by a physician specifically describing the examinee's medical or psychological condition or treatment and the basis for the physician's opinion that the condition or treatment might result in such abnormal responses.

(5) An employee or prospective employee who exercises the right to terminate the test, or who for medical reasons with sufficient supporting evidence is not administered the test, shall be subject to adverse employment action only on the same basis as one who refuses to take a polygraph test, as described in sections 1.20 and 1.21 of this part.

(c) Any polygraph examination shall consist of one or more pretest phases, actual testing phases, and post-test phases, which must be conducted in accordance with the rights of examinees described in sections 1.23 through 1.25 of this part.

SEC. 1.23 RIGHTS OF EXAMINEE—PRETEST PHASE.

(a) The pretest phase consists of the questioning and other preparation of the prospective examinee before the actual use of the polygraph instrument. During the initial pretest phase, the examinee must be:

(1) Provided with written notice, in a language understood by the examinee, as to when and where the examination will take place and that the examinee has the right to consult with counsel or an employee representative before each phase of the test. Such notice shall be received by the examinee at least forty-eight hours, excluding weekend days and holidays, before the time of the examination, except that a prospective employee may, at the employee's option, give written consent to administration of a test anytime within 48 hours but no earlier than 24 hours after receipt of the written notice. The written notice or proof of service must set forth the time and date of receipt by the employee or prospective employee and be verified by his or her signature. The purpose of this requirement is to provide a sufficient opportunity prior to the examination for the examinee to consult with counsel or an employee representative. Provision shall also be made for a convenient place on the premises where the examination will take place at which the examinee may consult privately with an attorney or an employee representative before each phase of the test. The attorney or representative may be excluded from the room where the examination is administered during the actual testing phase.

(2) Informed orally and in writing of the nature and characteristics of the polygraph instrument and examination, including an explanation of the physical operation of the polygraph instrument and the procedure used during the examination.

(3) Provided with a written notice prior to the testing phase, in a language understood by the examinee, which shall be read to and signed by the examinee. Use of Appendix A to this part, if properly completed, will constitute compliance with the contents of the notice requirement of this paragraph. If a format other than in Appendix A is used, it must contain at least the following information:

(i) Whether or not the polygraph examination area contains a two-way mirror, a camera, or other device through which the examinee may be observed;

(ii) Whether or not any other device, such as those used in conversation or recording will be used during the examination;

(iii) That both the examinee and the employing office have the right, with the other's knowledge, to make a recording of the entire examination;

(iv) That the examinee has the right to terminate the test at any time;

(v) That the examinee has the right, and will be given the opportunity, to review all questions to be asked during the test;

(vi) That the examinee may not be asked questions in a manner which degrades, or needlessly intrudes;

(vii) That the examinee may not be asked any questions concerning religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations;

(viii) That the test may not be conducted if there is sufficient written evidence by a physician that the examinee is suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination;

(ix) That the test is not and cannot be required as a condition of employment;

(x) That the employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate

VOL
142
PT
6
AP
15
—
24
1996
UMI

against the examinee based on the analysis of a polygraph test, or based on the examinee's refusal to take such a test, without additional evidence which would support such action;

(xi)(A) In connection with an ongoing investigation, that the additional evidence required for the employing office to take adverse action against the examinee, including termination, may be evidence that the examinee had access to the property that is the subject of the investigation, together with evidence supporting the employing office's reasonable suspicion that the examinee was involved in the incident or activity under investigation;

(B) That any statement made by the examinee before or during the test may serve as additional supporting evidence for an adverse employment action, as described in paragraph (a)(3)(x) of this section, and that any admission of criminal conduct by the examinee may be transmitted to an appropriate Government law enforcement agency;

(xii) That information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(A) To the examinee or any other person specifically designated in writing by the examinee to receive such information;

(B) To the employing office that requested the test;

(C) To a court, governmental agency, arbitrator, or mediator pursuant to a court order;

(D) By the employing office, to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct;

(xiii) That if any of the examinee's rights or protections under the law are violated, the examinee has the right to take action against the employing office under sections 401–404 of the CAA. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees;

(xiv) That the examinee has the right to obtain and consult with legal counsel or other representative before each phase of the test, although the legal counsel or representative may be excluded from the room where the test is administered during the actual testing phase.

(xv) That the employee's rights under the CAA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the CAA, agreed to and signed by the parties.

(b) During the initial or any subsequent pretest phases, the examinee must be given the opportunity, prior to the actual testing phase, to review all questions in writing that the examiner will ask during each testing phase. Such questions may be presented at any point in time prior to the testing phase.

SEC. 1.24 RIGHTS OF EXAMINEE—ACTUAL TESTING PHASE.

(a) The actual testing phase refers to that time during which the examiner administers the examination by using a polygraph instrument with respect to the examinee and then analyzes the charts derived from the test. Throughout the actual testing phase, the examiner shall not ask any question that was not presented in writing for review prior to the testing phase. An examiner may, however, recess the testing phase and return to the pre-test phase to review additional relevant questions with the examinee. In the case of an ongoing investigation, the examiner shall ensure that all relevant questions (as distinguished from technical baseline questions) pertain to the investigation.

(b) No testing period subject to the provisions of the Act shall be less than ninety minutes in length. Such "test period" begins at the time that the examiner begins informing the examinee of the nature and characteristics of the examination and the instruments involved, as prescribed in section 8(b)(2)(B) of the EPPA and section 1.23(a)(2) of this part, and ends when the examiner completes the review of the test results with the examinee as provided in section 1.25 of this part. The ninety-minute minimum duration shall not apply if the examinee voluntarily acts to terminate the test before the completion thereof, in which event the examiner may not render an opinion regarding the employee's truthfulness.

SEC. 1.25 RIGHTS OF EXAMINEE—POST-TEST PHASE.

(a) The post-test phase refers to any questioning or other communication with the examinee following the use of the polygraph instrument, including review of the results of the test with the examinee. Before any adverse employment action, the employing office must:

(1) Further interview the examinee on the basis of the test results; and

(2) Give to the examinee a written copy of any opinions or conclusions rendered in response to the test, as well as the questions asked during the test, with the corresponding charted responses. The term "corresponding charted responses" refers to copies of the entire examination charts recording the employee's physiological responses, and not just the examiner's written report which describes the examinee's responses to the questions as "charted" by the instrument.

SEC. 1.26 QUALIFICATIONS OF AND REQUIREMENTS FOR EXAMINERS.

(a) Section 8 (b) and (c) of the EPPA provides that the limited exemption in section 7(d) of the EPPA for ongoing investigations shall not apply unless the person conducting the polygraph examination meets specified qualifications and requirements.

(b) An examiner must meet the following qualifications:

(1) Have a valid current license, if required by the State in which the test is to be conducted; and

(2) Carry a minimum bond of $50,000 provided by a surety incorporated under the laws of the United States or of any State, which may under those laws guarantee the fidelity of persons holding positions of trust, or carry an equivalent amount of professional liability coverage.

(c) An examiner must also, with respect to examinees identified by the employing office pursuant to section 1.30(c) of this part:

(1) Observe all rights of examinees, as set out in sections 1.22, 1.23, 1.24, and 1.25 of this part;

(2) Administer no more than five polygraph examinations in any one calendar day on which a test or tests subject to the provisions of EPPA are administered, not counting those instances where an examinee voluntarily terminates an examination prior to the actual testing phase;

(3) Administer no polygraph examination subject to the provisions of the EPPA which is less than ninety minutes in duration, as described in section 1.24(b) of this part; and

(4) Render any opinion or conclusion regarding truthfulness or deception in writing. Such opinion or conclusion must be based solely on the polygraph test results. The written report shall not contain any information other than admissions, information, case facts, and interpretation of the charts relevant to the stated purpose of the polygraph test and shall not include any recommendation concerning the employment of the examinee.

(5) Maintain all opinions, reports, charts, written questions, lists, and other records relating to the test, including, statements signed by examinees advising them of rights under the CAA (as described in section 1.23(a)(3) of this part) and any electronic recordings of examinations, for at least three years from the date of the administration of the test. (See section 1.30 of this part for recordkeeping requirements.)

SUBPART D—RECORDKEEPING AND DISCLOSURE REQUIREMENTS

SEC. 1.30 RECORDS TO BE PRESERVED FOR 3 YEARS.

(a) The following records shall be kept for a minimum period of three years from the date the polygraph examination is conducted (or from the date the examination is requested if no examination is conducted):

(1) Each employing office that requests an employee to submit to a polygraph examination in connection with an ongoing investigation involving economic loss or injury shall retain a copy of the statement that sets forth the specific incident or activity under investigation and the basis for testing that particular covered employee, as required by section 7(d)(4) of the EPPA and described in 1.12(a)(4) of this part.

(2) Each examiner retained to administer examinations pursuant to any of the exemptions under section 7 (d), (e) or (f) of the EPPA (described in sections 1.12 and 1.13 of this part) shall maintain all opinions, reports, charts, written questions, lists, and other records relating to polygraph tests of such persons.

SEC. 1.35 DISCLOSURE OF TEST INFORMATION.

This section prohibits the unauthorized disclosure of any information obtained during a polygraph test by any person, other than the examinee, directly or indirectly, except as follows:

(a) A polygraph examiner or an employing office (other than an employing office exempt under section 7 (a) or (b) of the EPPA (described in sections 1.10 and 1.11 of this part)) may disclose information acquired from a polygraph test only to:

(1) The examinee or an individual specifically designated in writing by the examinee to receive such information;

(2) The employing office that requested the polygraph test pursuant to the provisions of the EPPA (including management personnel of the employing office where the disclosure is relevant to the carrying out of their job responsibilities);

(3) Any court, governmental agency, arbitrator, or mediator pursuant to an order from a court of competent jurisdiction requiring the production of such information;

(b) An employing office may disclose information from the polygraph test at any time to an appropriate governmental agency without the need of a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

(c) A polygraph examiner may disclose test charts, without identifying information (but not other examination materials and records), to another examiner(s) for examination and analysis, provided that such disclosure is for the sole purpose of consultation and review of the initial examiner's

opinion concerning the indications of truthfulness or deception. Such action would not constitute disclosure under this part provided that the other examiner has no direct or indirect interest in the matter.

SUBPART E—[RESERVED]

SEC. 1.40 [RESERVED].

APPENDIX A TO PART 801—NOTICE TO EXAMINEE

Section 204 of the Congressional Accountability Act, which applies the rights and protections of section 8(b) of the Employee Polygraph Protection Act to covered employees and employing offices, and the regulations of the Board of Directors of the Office of Compliance (sections 1.22, 1.23, 1.24, and 1.25), require that you be given the following information before taking a polygraph examination:

1. (a) The polygraph examination area [does] [does not] contain a two-way mirror, a camera, or other device through which you may be observed.

(b) Another device, such as those used in conversation or recording [will] [will not] be used during the examination.

(c) Both you and the employing office have the right, with the other's knowledge, to record electronically the entire examination.

2. (a) You have the right to terminate the test at any time.

(b) You have the right, and will be given the opportunity, to review all questions to be asked during the test.

(c) You may not be asked questions in a manner which degrades, or needlessly intrudes.

(d) You may not be asked any questions concerning: Religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual preference or behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations.

(e) The test may not be conducted if there is sufficient written evidence by a physician that you are suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination.

(f) You have the right to consult with legal counsel or other representative before each phase of the test, although the legal counsel or other representative may be excluded from the room where the test is administered during the actual testing phase.

3. (a) The test is not and cannot be required as a condition of employment.

(b) The employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against you based on the analysis of a polygraph test, or based on your refusal to take such a test without additional evidence which would support such action.

(c)(1) In connection with an ongoing investigation, the additional evidence required for an employing office to take adverse action against you, including termination, may be (A) evidence that you had access to the property that is the subject of the investigation, together with (B) the evidence supporting the employing office's reasonable suspicion that you were involved in the incident or activity under investigation.

(2) Any statement made by you before or during the test may serve as additional supporting evidence for an adverse employment action, as described in 3(b) above, and any admission of criminal conduct by you may be transmitted to an appropriate Government law enforcement agency.

4. (a) Information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(1) To you or any other person specifically designated in writing by you to receive such information;

(2) To the employing office that requested the test;

(3) To a court, governmental agency, arbitrator, or mediator that obtains a court order.

(b) Information acquired from a polygraph test may be disclosed by the employing office to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

5. If any of your rights or protections under the law are violated, you have the right to take action against the employing office by filing a request for counseling with the Office of Compliance under section 402 of the Congressional Accountability Act. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees.

6. Your rights under the CAA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the CAA, and agreed to and signed by the parties.

I acknowledge that I have received a copy of the above notice, and that it has been read to me.

____
(Date)

____
(Signature)

APPLICATION OF RIGHTS AND PROTECTIONS OF THE WORKER ADJUSTMENT RETRAINING AND NOTIFICATION ACT OF 1988 (IMPLEMENTING SECTION 204 OF THE CAA)

Sec.
639.1 Purpose and scope.
639.2 What does WARN require?
639.3 Definitions.
639.4 Who must give notice?
639.5 When must notice be given?
639.6 Who must receive notice?
639.7 What must the notice contain?
639.8 How is the notice served?
639.9 When may notice be given less than 60 days in advance?
639.10 When may notice be extended?
639.11 [Reserved].

§ 639.1 Purpose and scope

(a) PURPOSE OF WARN AS APPLIED BY THE CAA.—Section 205 of the Congressional Accountability Act, Public Law 104–1 ("CAA"), provides protection to covered employees and their families by requiring employing offices to provide notification 60 calendar days in advance of office closings and mass layoffs within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act of 1988, 29 U.S.C. § 2102. Advance notice provides workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market. As used in these regulations, WARN shall refer to the provisions of WARN applied to covered employing offices by section 205 of the CAA.

(b) SCOPE OF THESE REGULATIONS.—These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 205(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 205 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section". The regulations issued by the Board herein are on all matters for which section 205 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA]".

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these sections and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

These regulations establish basic definitions and rules for giving notice, implementing the provisions of WARN. The objective of these regulations is to establish clear principles and broad guidelines which can be applied in specific circumstances. However, it is recognized that rulemaking cannot address the multitude of employing office-specific situations in which advance notice will be given.

(c) NOTICE IN AMBIGUOUS SITUATIONS.—It is civically desirable and it would appear to be good business practice for an employing office to provide advance notice, where reasonably possible, to its workers or unions when terminating a significant number of employees. The Office encourages employing offices to give notice in such circumstances.

(d) WARN NOT TO SUPERSEDE OTHER LAWS AND CONTRACTS.—The provisions of WARN do not supersede any otherwise applicable laws or collective bargaining agreements that provide for additional notice or additional rights and remedies. If such law or agreement provides for a longer notice period, WARN notice shall run concurrently with that additional notice period. Collective bargaining agreements may be used to clarify or amplify the terms and conditions of WARN, but may not reduce WARN rights.

§ 639.2 What does WARN require?

WARN requires employing offices that are planning an office closing or a mass layoff to give affected employees at least 60 days' notice of such an employment action. While the 60-day period is the minimum for advance notice, this provision is not intended to discourage employing offices from voluntarily providing longer periods of advance

VOL
142
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6
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24
1996
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notice. Not all office closings and layoffs are subject to WARN, and certain employment thresholds must be reached before WARN applies. WARN sets out specific exemptions, and provides for a reduction in the notification period in particular circumstances. Remedies authorized under section 205 of the CAA may be assessed against employing offices that violate WARN requirements.

§639.3 Definitions

(a) Employing Office.—(1) The term "employing office" means any of the entities listed in section 101(9) of the CAA, 2 U.S.C. §1301(9) that employs—

(i) 100 or more employees, excluding part-time employees; or

(ii) employs 100 or more employees, including part-time employees, who in the aggregate work at least 4,000 hours per week, exclusive of overtime.

Workers on temporary layoff or on leave who have a reasonable expectation of recall are counted as employees. An employee has a "reasonable expectation of recall" when he/she understands, through notification or through common practice, that his/her employment with the employing office has been temporarily interrupted and that he/she will be recalled to the same or to a similar job.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN, are nonetheless counted as employees for purposes of determining coverage as an employing office.

(3) An employing office may have one or more sites of employment under common control.

(b) Office Closing.—The term "office closing" means the permanent or temporary shutdown of a "single site of employment", or one or more "facilities or operating units" within a single site of employment, if the shutdown results in an "employment loss" during any 30-day period at the single site of employment for 50 or more employees, excluding any part-time employees. An employment action that results in the effective cessation of the work performed by a unit, even if a few employees remain, is a shutdown. A "temporary shutdown" triggers the notice requirement only if there are a sufficient number of terminations, layoffs exceeding 6 months, or reductions in hours of work as specified under the definition of "employment loss".

(c) Mass Layoff.—(1) The term "mass layoff" means a reduction in force which first, is not the result of an office closing, and second, results in an employment loss at the single site of employment during any 30-day period for:

(i) At least 33 percent of the active employees, excluding part-time employees, and

(ii) At least 50 employees, excluding part-time employees.

Where 500 or more employees (excluding part-time employees) are affected, the 33 percent requirement does not apply, and notice is required if the other criteria are met. Office closings involve employment loss which results from the shutdown of one or more distinct units within a single site or the entire site. A mass layoff involves employment loss, regardless of whether one or more units are shut down at the site.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN are nonetheless counted as employees for purposes of determining coverage as an office closing or mass layoff. For example, if an employing office closes a temporary project on which 10 permanent and 40 temporary workers are employed, a covered office closing has occurred although only 10 workers are entitled to notice.

(d) Representative.—The term "representative" means an exclusive representative of employees within the meaning of 5 U.S.C. §§7101 et seq., as applied to covered employees and employing offices by section 220 of the CAA, 2 U.S.C. §1351.

(e) Affected Employees.—The term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed office closing or mass layoff by their employing office. This includes individually identifiable employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such individual workers reasonably can be identified at the time notice is required to be given. The term affected employees includes managerial and supervisory employees. Consultant or contract employees who have a separate employment relationship with another employing office or employer and are paid by that other employing office or employer, or who are self-employed, are not "affected employees" of the operations to which they are assigned. In addition, for purposes of determining whether coverage thresholds are met, either incumbent workers in jobs being eliminated or, if known 60 days in advance, the actual employees who suffer an employment loss may be counted.

(f) Employment Loss.—(1) The term employment loss means (i) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (ii) a layoff exceeding 6 months, or (iii) a reduction in hours of work of individual employees of more than 50 percent during each month of any 6-month period.

(2) Where a termination or a layoff (see paragraphs (f)(1) (i) and (ii) of this section) is involved, an employment loss does not occur when an employee is reassigned or transferred to employing office-sponsored programs, such as retraining or job search activities, as long as the reassignment does not constitute a constructive discharge or other involuntary termination.

(3) An employee is not considered to have experienced an employment loss if the closing or layoff is the result of the relocation or consolidation of part or all of the employing office's operations and, prior to the closing or layoff—

(i) The employing office offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment, or

(ii) The employing office offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

(4) A "relocation or consolidation" of part or all of an employing office's operations, for purposes of paragraph §639.3(f)(3), means that some definable operations are transferred to a different site of employment and that transfer results in an office closing or mass layoff.

(g) Part-time Employee.—The term "part-time" employee means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required, including workers who work full-time. This term may include workers who would traditionally be understood as "seasonal" employees. The period to be used for calculating whether a worker has worked "an average of fewer than 20 hours per week" is the shorter of the actual time the worker has been employed or the most recent 90 days.

(h) Single Site of Employment.—(1) A single site of employment can refer to either a single location or a group of contiguous locations. Separate facilities across the street from one another may be considered a single site of employment.

(2) There may be several single sites of employment within a single building, such as an office building, if separate employing offices conduct activities within such a building. For example, an office building housing 50 different employing offices will contain 50 single sites of employment. The offices of each employing office will be its single site of employment.

(3) Separate buildings or areas which are not directly connected or in immediate proximity may be considered a single site of employment if they are in reasonable geographic proximity, used for the same purpose, and share the same staff and equipment.

(4) Non-contiguous sites in the same geographic area which do not share the same staff or operational purpose should not be considered a single site.

(5) Contiguous buildings operated by the same employing office which have separate management and have separate workforces are considered separate single sites of employment.

(6) For workers whose primary duties require travel from point to point, who are outstationed, or whose primary duties involve work outside any of the employing office's regular employment sites (e.g., railroad workers, bus drivers, salespersons), the single site of employment to which they are assigned as their home base, from which their work is assigned, or to which they report will be the single site in which they are covered for WARN purposes.

(7) Foreign sites of employment are not covered under WARN. United States workers at such sites are counted to determine whether an employing office is covered as an employing office under §639.3(a).

(8) The term "single site of employment" may also apply to truly unusual organizational situations where the above criteria do not reasonably apply. The application of this definition with the intent to evade the purpose of WARN to provide notice is not acceptable.

(i) Facility or Operating Unit.—The term "facility" refers to a building or buildings. The term "operating unit" refers to an organizationally or operationally distinct product, operation, or specific work function within or across facilities at the single site.

§639.4 Who must give notice?

Section 205(a)(1) of the CAA states that "[n]o employing office shall be closed or a mass layoff ordered within the meaning of section 3 of [WARN] until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff . . . ". Therefore, an employing office that is anticipating carrying out an office closing or mass layoff is required to give notice to affected employees or their representative(s). (See definitions in §639.3 of this part.)

(a) It is the responsibility of the employing office to decide the most appropriate person within the employing office's organization to prepare and deliver the notice to affected employees or their representative(s). In most instances, this may be the local site office manager, the local personnel director or a labor relations officer.

(b) An employing office that has previously announced and carried out a short-term layoff (6 months or less) which is being extended beyond 6 months due to circumstances not reasonably foreseeable at the time of the initial layoff is required to give notice when it becomes reasonably foreseeable that the extension is required. A layoff extending beyond 6 months from the date the layoff commenced for any other reason shall be treated as an employment loss from the date of its commencement.

(c) In the case of the privatization or sale of part or all of an employing office's operations, the employing office is responsible for providing notice of any office closing or mass layoff which takes place up to and including the effective date (time) of the privatization or sale, and the contractor or buyer is responsible for providing any required notice of any office closing or mass layoff that takes place thereafter.

(1) If the employing office is made aware of any definite plans on the part of the buyer or contractor to carry out an office closing or mass layoff within 60 days of purchase, the employing office may give notice to affected employees as an agent of the buyer or contractor, if so empowered. If the employing office does not give notice, the buyer or contractor is, nevertheless, responsible to give notice. If the employing office gives notice as the agent of the buyer or contractor, the responsibility for notice still remains with the buyer or contractor.

(2) It may be prudent for the buyer or contractor and employing office to determine the impacts of the privatization or sale on workers, and to arrange between them for advance notice to be given to affected employees or their representative(s), if a mass layoff or office closing is planned.

§639.5 When must notice be given?

(a) General Rule.—(1) With certain exceptions discussed in paragraphs (b) and (c) of this section and in §639.9 of this part, notice must be given at least 60 calendar days prior to any planned office closing or mass layoff, as defined in these regulations. When all employees are not terminated on the same date, the date of the first individual termination within the statutory 30-day or 90-day period triggers the 60-day notice requirement. A worker's last day of employment is considered the date of that worker's layoff. The first and each subsequent group of terminees are entitled to a full 60 days' notice. In order for an employing office to decide whether issuing notice is required, the employing office should—

(i) look ahead 30 days and behind 30 days to determine whether employment actions both taken and planned will, in the aggregate for any 30-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement; and

(ii) look ahead 90 days and behind 90 days to determine whether employment actions both taken and planned each of which separately is not of sufficient size to trigger WARN coverage will, in the aggregate for any 90-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement. An employing office is not, however, required under section 3(d) to give notice if the employing office demonstrates that the separate employment losses are the result of separate and distinct actions and causes, and are not an attempt to evade the requirements of WARN.

(2) The point in time at which the number of employees is to be measured for the purpose of determining coverage is the date the first notice is required to be given. If this "snapshot" of the number of employees employed on that date is clearly unrepresentative of the ordinary or average employment level, then a more representative number can be used to determine coverage. Examples of unrepresentative employment levels include cases when the level is near the peak or trough of an employment cycle or when large upward or downward shifts in the number of employees occur around the time notice is to be given. A more representative number may be an average number of employees over a recent period of time or the number of employees on an alternative date which is more representative of normal employment levels. Alternative methods cannot be used to evade the purpose of WARN, and should only be used in unusual circumstances.

(b) Transfers.—(1) Notice is not required in certain cases involving transfers, as described under the definition of "employment loss" at §639.3(f) of this part.

(2) An offer of reassignment to a different site of employment should not be deemed to be a "transfer" if the new job constitutes a constructive discharge.

(3) The meaning of the term "reasonable commuting distance" will vary with local conditions. In determining what is a "reasonable commuting distance", consideration should be given to the following factors: geographic accessibility of the place of work, the quality of the roads, customarily available transportation, and the usual travel time.

(4) In cases where the transfer is beyond reasonable commuting distance, the employing office may become liable for failure to give notice if an offer to transfer is not accepted within 30 days of the offer or of the closing or layoff (whichever is later). Depending upon when the offer of transfer was made by the employing office, the normal 60-day notice period may have expired and the office closing or mass layoff may have occurred. An employing office is, therefore, well advised to provide 60-day advance notice as part of the transfer offer.

(c) Temporary Employment.—(1) No notice is required if the closing is of a temporary facility, or if the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking.

(2) Employees must clearly understand at the time of hire that their employment is temporary. When such understandings exist will be determined by reference to employment contracts, collective bargaining agreements, or employment practices of other employing offices or a locality, but the burden of proof will lie with the employing office to show that the temporary nature of the project or facility was clearly communicated should questions arise regarding the temporary employment understandings.

§639.6 Who must receive notice?

Section 3(a) of WARN provides for notice to each representative of the affected employees as of the time notice is required to be given or, if there is no such representative at that time, to each affected employee.

(a) Representative(s) of Affected Employees.—Written notice is to be served upon the chief elected officer of the exclusive representative(s) or bargaining agent(s) of affected employees at the time of the notice. If this person is not the same as the officer of the local union(s) representing affected employees, it is recommended that a copy also be given to the local union official(s).

(b) Affected Employees.—Notice is required to be given to employees who may reasonably be expected to experience an employment loss. This includes employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such workers can be identified at the time notice is required to be given. If, at the time notice is required to be given, the employing office cannot identify the employee who may reasonably be expected to experience an employment loss due to the elimination of a particular position, the employing office must provide notice to the incumbent in that position. While part-time employees are not counted in determining whether office closing or mass layoff thresholds are reached, such workers are due notice.

§639.7 What must the notice contain?

(a) Notice Must be Specific.—(1) All notice must be specific.

(2) Where voluntary notice has been given more than 60 days in advance, but does not contain all of the required elements set out in this section, the employing office must ensure that all of the information required by this section is provided in writing to the parties listed in §639.6 at least 60 days in advance of a covered employment action.

(3) Notice may be given conditional upon the occurrence or nonoccurrence of an event only when the event is definite and the consequences of its occurrence or nonoccurrence will necessarily, in the normal course of operations, lead to a covered office closing or mass layoff less than 60 days after the event. The notice must contain each of the elements set out in this section.

(4) The information provided in the notice shall be based on the best information available to the employing office at the time the notice is served. It is not the intent of the regulations that errors in the information provided in a notice that occur because events subsequently change or that are minor, inadvertent errors are to be the basis for finding a violation of WARN.

(b) Definition.—As used in this section, the term "date" refers to a specific date or to a 14-day period during which a separation or separations are expected to occur. If separations are planned according to a schedule, the schedule should indicate the specific dates on which or the beginning date of each 14-day period during which any separations are expected to occur. Where a 14-day period is used, notice must be given at least 60 days in advance of the first day of the period.

(c) Notice.—Notice to each representative of affected employees is to contain:

(1) The name and address of the employment site where the office closing or mass layoff will occur, and the name and telephone number of an employing office official to contact for further information;

(2) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(3) The expected date of the first separation and the anticipated schedule for making separations;

(4) The job titles of positions to be affected and the names of the workers currently holding affected jobs.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

VOL
142
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6
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24
1996
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(d) EMPLOYEES NOT REPRESENTED.—Notice to each affected employee who does not have a representative is to be written in language understandable to the employees and is to contain:

(1) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(2) The expected date when the office closing or mass layoff will commence and the expected date when the individual employee will be separated;

(3) An indication whether or not bumping rights exist;

(4) The name and telephone number of an employing office official to contact for further information.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

§639.8 How is the notice served?

Any reasonable method of delivery to the parties listed under §639.6 of this part which is designed to ensure receipt of notice of at least 60 days before separation is acceptable (e.g., first class mail, personal delivery with optional signed receipt). In the case of notification directly to affected employees, insertion of notice into pay envelopes is another viable option. A ticketed notice, i.e., preprinted notice regularly included in each employee's pay check or pay envelope, does not meet the requirements of WARN.

§639.9 When may notice be given less than 60 days in advance?

Section 3(b) of WARN, as applied by section 205 of the CAA, sets forth two conditions under which the notification period may be reduced to less than 60 days. The employing office bears the burden of proof that conditions for the exceptions have been met. If one of the exceptions is applicable, the employing office must give as much notice as is practicable to the union and non-represented employees and this may, in some circumstances, be notice after the fact. The employing office must, at the time notice actually is given, provide a brief statement of the reason for reducing the notice period, in addition to the other elementa set out in §639.7.

(a) The "unforeseeable business circumstances" exception under section 3(b)(2)(A) of WARN, as applied under the CAA, applies to office closings and mass layoffs caused by circumstances that were not reasonably foreseeable at the time that 60-day notice would have been required.

(1) An important indicator of a circumstance that is not reasonably foreseeable is that the circumstance is caused by some sudden, dramatic, and unexpected action or condition outside the employing office's control.

(2) The test for determining when circumstances are not reasonably foreseeable focuses on an employing office's business judgment. The employing office must exercise such reasonable business judgment as would a similarly situated employing office in predicting the demands of its operations. The employing office is not required, however, to accurately predict general economic conditions that also may affect its operations.

(b) The "natural disaster" exception in section 3(b)(2)(B) of WARN applies to office closings and mass layoffs due to any form of a natural disaster.

(1) Floods, earthquakes, droughts, storms, tidal waves or tsunamis and similar effects of nature are natural disasters under this provision.

(2) To qualify for this exception, an employing office must be able to demonstrate that its office closing or mass layoff is a direct result of a natural disaster.

(3) While a disaster may preclude full or any advance notice, such notice as is practicable, containing as much of the information required in §639.7 as is available in the circumstances of the disaster still must be given, whether in advance or after the fact of an employment loss caused by a natural disaster.

(4) Where an office closing or mass layoff occurs as an indirect result of a natural disaster, the exception does not apply but the "unforeseeable business circumstance" exception described in paragraph (a) of this section may be applicable.

§639.10 When may notice be extended?

Additional notice is required when the date or schedule of dates of a planned office closing or mass layoff is extended beyond the date or the ending date of any 14-day period announced in the original notice as follows:

(a) If the postponement is for less than 60 days, the additional notice should be given as soon as possible to the parties identified in §639.6 and should include reference to the earlier notice, the date (or 14-day period) to which the planned action is postponed, and the reasons for the postponement. The notice should be given in a manner which will provide the information to all affected employees.

(b) If the postponement is for 60 days or more, the additional notice should be treated as new notice subject to the provisions of §§639.5, 639.6 and 639.7 of this part. Rolling notice, in the sense of routine periodic notice, given whether or not an office closing or mass layoff is impending, and with the intent to evade the purpose of the Act rather than give specific notice as required by WARN, is not acceptable.

§639.11 [Reserved]

AMENDMENTS SUBMITTED

CONGRESSIONAL TERMS LIMIT CONSTITUTIONAL AMENDMENT

LEAHY AMENDMENT NO. 3703

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to amendment No. 3692 proposed by Mr. ASHCROFT to the joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms; as follows:

In lieu of the matter proposed, insert the following: "(two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. No person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 3. A member of the Senate serving a term of office on the date of the ratification of this article, who upon completion of that term will have served two or more terms in the Senate, may complete that term. A member of the House of Representatives serving a term of office on the date of ratification of this article, who upon completion of that term will have served six or more terms in the House of Representatives, may complete that term.".

LEAHY AMENDMENT NO. 3704

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to amendment No. 3694 proposed by Mr. ASHCROFT to the joint resolution (S.J. Res. 21) supra; as follows:

In lieu of the matter proposed, insert the following: "of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. No person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the states by the Congress.

"SECTION 3. A member of the Senate serving a term of office on the date of the ratification of this article, who upon completion of that term will have served two or more terms in the Senate, may complete that term. A member of the House of Representatives serving a term of office on the date of ratification of this article, who upon completion of that term will have served six or more terms in the House of Representatives, may complete that term.".

LEAHY AMENDMENT NO. 3705

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to amendment No. 3696 proposed by Mr. THOMPSON to the joint resolution (S.J. Res. 21) supra; as follows:

In lieu of the matter proposed, insert the following: "of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. No person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than

thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 3. A member of the Senate serving a term of office on the date of the ratification of this article, who upon completion of that term will have served two or more terms in the Senate, may complete that term. A member of the House of representatives serving a term of office on the date of ratification of this article, who upon completion of that term will have served six or more terms in the House of Representatives, may complete that term.".

LEAHY AMENDMENT NO. 3706

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to amendment No. 3698 proposed by Mr. ASHCROFT to the joint resolution (S.J. Res. 21) supra; as follows:

Strike all after "SECTION 1." and insert the following: "No person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 3. A member of the Senate serving a term of office on the date of the ratification of this article, who upon completion of that term will have served two or more terms in the Senate, may complete that term. A member of the House of Representatives serving a term of office on the date of ratification of this article, who upon completion of that term will have served six or more terms in the House of Representatives, may complete that term.".

THOMPSON AMENDMENTS NOS. 3707–3720

(Ordered to lie on the table.)

Mr. ASHCROFT (for Mr. THOMPSON) submitted 14 amendments intended to be proposed by Mr. THOMPSON to the joint resolution (S.J. Res. 21) supra; as follows:

AMENDMENT NO. 3707

In lieu of the matter proposed to be inserted, insert the following: "*two-thirds of each House concurring therein*), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislature of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3708

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3709

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3710

Strike all after the first word and insert the following: "instructions to report the resolution back to the Senate forthwith with an amendment as follows: *two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3711

In lieu of the matter proposed to be inserted, insert the following: *two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than three times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3712

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than three times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected

VOL
142
PT
6
AP
15
—
24
1996
UMI

shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT No. 3713

In lieu of the matter proposed to be inserted, insert the following: *"of each House concurring therein),* That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than three times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT No. 3714

Strike all after the first word and insert the following: "instructions to report the resolution back to the Senate forthwith with an amendment as follows: *two-thirds of each House concurring therein),* That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than three times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT No. 3715

In lieu of the matter proposed to be inserted, insert the following: "After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT No. 3716

In lieu of the matter proposed to be inserted, insert the following "After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT No. 3717

Strike all after the first word and insert the following: "instructions to report the resolution back to the Senate forthwith with an amendment as follows: *two-thirds of each House concurring therein),* That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT No. 3718

In lieu of the matter proposed to be inserted, insert the following: "After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than three times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT No. 3719

In lieu of the matter proposed to be inserted, insert the following: "After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than three times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT No. 3720

Strike all after the first word and insert the following: "instructions to report the resolution back to the Senate forthwith with an amendment as follows: *two-thirds of each House concurring therein,* That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than three times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occuring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

THE IMMIGRATION AND NATIONALITY ACT AMENDMENT ACT OF 1996

ABRAHAM (AND OTHERS) AMENDMENT NO. 3721

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. FEINGOLD, Mr. DEWINE, Mr. INHOFE, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by them to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

Strike sections 111–115.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, April 23, 1996, to conduct a hearing about the status of assets held in Swiss banks deposited by European Jews and others in the years preceding the Holocaust.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, April 23, 1996 session of the Senate for the purpose of conducting a hearing on the reauthorization of the Consumer Product Safety Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Tuesday, April 23, at 9:30 a.m., Hearing Room (SD–406), on S. 1285, the Accelerated Cleanup and Environmental Recovery Act of 1996 ("Superfund"), as modified by an amendment in the nature of a substitute, Senate Amendment Number 3563, dated March 21, 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 23, 1996, at 11:00 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet to conduct a mark up during the session of the Senate on Tuesday, April 23, 1996 on the committee's letter to the Senate Committee on the Budget containing the committee's budget views and estimates on the President's budget request for fiscal year 1997 for Indian programs. The business meeting/mark up will be held at 9 p.m. in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, April 23, 1996, at 10 a.m. to hold a hearing on "Proposed Constitutional Amendment To Establish a Bill of Rights for Crime Victims".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate at 9:30 a.m., Tuesday, April 23, 1996, for a hearing on organ tissue donation awareness.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing on Tuesday, April 23, 1996, at 10 a.m., in room 428A of the Russell Senate Office Building, to conduct a hearing entitled "Keeping Up With the Trend: Issues Affecting Home-Based Business Owners."

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Tuesday, April 23 at 10 a.m., to hold a hearing to discuss Alzheimer's disease.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

EARTH DAY

• Mr. BURNS. Mr. President, I rise today with my colleagues to recognize April 22, 1996, as Earth Day.

On their 1804 expedition through my present day State of Montana, Meriwether Lewis and William Clark wrote of the abundant game, vast horizons, shining mountains and crystal clear streams littered with rainbow and cutthroat trout.

Today the Treasure State remains largely unchanged. As stewards of the land, Montana's farmers realize the importance of sound conservation methods in cultivating the soil. Montana ranchers have employed grazing practices that renew healthy foragable grasslands.

In an effort to increase the sustainability of Montana's ranges, Montana stockgrowers with grazing lands around Fleecer Mountain just south of Butte and in the Wall Creek area near Ennis participate in a rotational grazing practice that utilizes and stimulates healthier forage on state lands.

This new grazing practice ensures that livestock and wildlife alike will have access to healthy forage without overgrazing lands managed by the Montana Fish, Wildlife, and Parks Department.

This effort of cooperation is just one example of what can be accomplished when local decisions are made in place of those coming out of Washington, DC. It is another piece of evidence that Montanans make sound environmental decisions compared to what has been mandated at a Federal level.

I believe we need to protect our environment. Generations of Montanans have made their living off the land and in return have learned to reap the benefits of preserving the land.

I greatly appreciate the environmental beauty of Big Sky Country, and I want my children and grandchildren to be able to appreciate it in the same way I have been able to.•

DOCTORS WILLING TO ACCEPT MEDICAID PATIENTS

• Mr. BAUCUS. Mr. President, I would like to call to your attention to the extraordinary generosity of a few outstanding citizens in my home State. Dr. James Elliot, Dr. Rae Johnston, and Dr. Van Kirke Nelson treated more Medicaid patients than any other doctors in Montana. These doctors are willing to accept Medicaid patients—and lots of them—even though they know that Medicaid will reimburse only a fraction of what a private insurance company would pay.

I want to publicly thank these doctors for their dedication to the medical profession and for helping people who depend on Medicaid. Dr. Elliot, Dr.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Johnston, and Dr. Nelson are willing to make sacrifices for the benefit of others. We can learn from their benevolence and their valuable community service.

On average, Medicaid pays only 70 percent of what a doctor charges. The doctor is forced to either swallow the cost, or choose not to see Medicaid patients. This is what makes physicians like Dr. Elliot, Dr. Johnston, and Dr. Nelson so special.

For example, Dr. Elliot averages a staggering caseload of 40 to 60 patients a day, not counting the trips he makes to the emergency room. In 1995, he treated more Medicaid patients than any other doctor in Montana. His Medicaid caseload was so high that the State audited him a few years ago. The State not only found no evidence of improprieties, they also found that Dr. Elliot charges less than average for most services.

And listen to Dr. Nelson, a personal friend of mine, describe his Medicaid patients to the Daily Inter Lake:

> These are real people who may be on tough luck—

He explains,—

> people struggling to make ends meet on low-paying jobs, and single mothers with little income. These are the sons and daughters of a lot of my friends.

So when the Senate debates legislation concerning Medicaid, I urge you to remember these outstanding citizens—these doctors who are willing to make sacrifices in order to assure that "people on tough luck" receive the health care they deserve. Dr. Elliot, who serves Medicaid recipients in the Havre area; Dr. Johnston, a Missoula area physician; and Dr. Nelson of Kalispell, whose daughter and daughter-in-law, both physicians, will probably continue the tradition of caring for underprivileged patients, deserve our admiration. The State of Montana is indebted to them, and to all the physicians in my State who serve Medicaid patients, regardless of their income or ability to pay. I am proud to commend them before the U.S. Senate today.•

WELCOME TO MICHIGAN CONSTITUENTS

• Mr. **ABRAHAM**. Mr. President, I rise today to welcome a large group of Michigan constituents who have come here to Washington, DC, to express their opinions on the recent violence in Lebanon. I was pleased to be able to welcome them to the Senate this morning and host them for morning coffee prior to their planned events for the day.

Mr. President, this group comes here today with very deep sentiments and emotions about this issue. In fact many of them have family or friends who have lost their loved ones in the tragic bombing of the U.N. shelter in Qana. I share their deep sentiments and support the overall message of the urgency of an immediate end to this bloodshed in the form of a cease-fire and the need to deliver humanitarian aid to the refugees in Lebanon.

As I have been reiterating the past 2 days on the floor of the Senate, I urge the administration to persist in trying to negotiate a cease-fire in this region and to bring an end to the hostility immediately. The resulting peace will benefit everyone, but especially those innocent civilians and refugees in Lebanon, who have been most affected by the violence.•

IN MEMORY OF JUDGE WILL

• Ms. **MOSELEY-BRAUN**. Mr. President, today, there is a memorial service for Judge Hugh Will, a distinguished Illinois jurist and active humanitarian, who died in December after a long and productive career. Unfortunately, my Senate duties prevent me from being in Illinois to share my memories of Judge Will with his family, friends, and colleagues, so I would like to take this opportunity to express my gratitude for his many contributions and my sense of loss at his passing.

Judge Will had a long history of public service. Upon graduation from University of Chicago Law School in 1937, Judge Will came to Washington, working at the Securities and Exchange Commission, and then the Department of Justice. When the United States entered World War II, he served as chief of the Office of Strategic Services counterespionage branch in Europe. His country awarded him a Bronze Star for his work in organizing counterintelligence groups, which handled captured German agents. In 1946, he returned to Chicago, first working at the firm of Pope & Ballard, and then becoming a partner at Nelson, Boodell & Will, where he worked until 1961, when President Kennedy appointed him to the Federal bench.

Thousands of cases came before Judge Will, all of which received the same high level of careful attention. His handling of complex, high profile cases was widely renowned, but he derived as much pleasure and satisfaction from smaller cases, where he provided solutions for the problems of ordinary people. He considered judging to be an art form, comparing the perfect trial to the perfect symphony. And what a conductor he was! No jurist, in any court, engendered the respect and admiration commanded by Hugh Will. He was at once a judges' judge and a "people person." His extraordinary intellect could at times be astonishing, but his overarching humanity was so much a part of his approach to the law that litigants were forewarned not to expect special interests ever to overcome the public good. He was a patriot, who retained an optimistic vision of America. That vision guided a consistent search for a living Constitution which kept faith with the highest ideals of our Nation. Had timing and opportunity been otherwise, Hugh Will would have distinguished himself and honored his country by serving on the Supreme Court of the United States.

Judge Will's contributions to the judiciary do not end with his case law. He pioneered the use of innovative administrative procedures, such as establishing a final pretrial order now used in courts nationwide. His guiding hand helped many budding jurists at the onset of their careers. He served as a mentor for many judges and participated in seminars for newly appointed jurists for over 20 years. Finally, he served as lead plaintiff in a class-action lawsuit, challenging the congressional withholding of cost-of-living adjustments due to judges under Federal law. In 1980, the Supreme Court decided Will versus U.S. in favor of the judges, protecting the Constitutional separation of powers our Founding Fathers intended.

Judge Will was also active in the community, serving on dozens of committees and boards of directors throughout his career, and receiving numerous honors and awards, including the Clarence Darrow Humanitarian Award in 1962. In 1991, he received one of the highest honors available to judges, the Edward J. Devitt Distinguished Service to Justice Award, bestowed by judges across the country to the Nation's outstanding jurists.

Judge Will also showed strength in times of personal adversity. When his beloved daughter died in 1982 at age 39, Judge Will founded the Wendy Will Case Cancer Fund. The fund has distributed over $1.5 million to cancer researchers, in the hope that they may someday put an end to the suffering experienced by cancer victims and their survivors.

Judge Will has served in many ways, he will be sorely missed by all. However, his legacy of service will live on, through his deeds, and most importantly through the people whose lives he has touched.

I will miss him. He reached out to me, when I was just starting a career in the law, and became a mentor to me. Upon my election to the Senate, he sought to help me get established in the best traditions of this body.•

RECOGNITION OF THE SUNNYSIDE SCHOOL DISTRICT VOLUNTEER PROGRAM

• Mr. **GORTON**. Mr. President, today I would like to recognize the Sunnyside School District's volunteer program for its dedication to the enrichment of the lives of children in Washington State.

I applaud the effort and enthusiasm of the many members of our community working to ensure a bright future

for our children, and I believe the innovative and resourceful programs developed by educators and community members deserve more recognition. In January 1994, I began recognizing outstanding school programs through the U.S. Senate Award for Excellence in Education. The 300 volunteers who selflessly dedicate their time to the children of the Sunnyside School District deserve such recognition.

Whether working one-on-one with children in academic subjects, helping on the playground, or sharing their talents and hobbies, the volunteers for the Sunnyside School District can be found assisting in every aspect of school operations. During the 1994–95 school year, these volunteers gave 37,226 hours of service to the district. This kind of partnership between families, community members and schools has made Sunnyside School District a leader in promoting a health learning environment for its students.

I hope their vision of excellence in education serves as an example to others in Washington State and the rest of the country.•

ROBERT DONOVAN

• Mr. **DODD**. Mr. President, I wanted to take a few moments today to commemorate the life of Robert Donovan, President of ABB Incorporated, who so tragically perished with Commerce Secretary Ron Brown in Croatia.

Over the past few weeks, the Nation has come together in an outpouring of support and remembrance for the life of Commerce Secretary Ron Brown.

And deservedly so. Ron Brown was a great American who faithfully, and with quiet dignity, served his country and his party.

But, we must not forget those in our own community who were taken away from us on that wind-swept mountain in Croatia.

Robert Donovan, as well as all the others who were killed, deserve our special praise and commemoration because they died while on a humanitarian mission of mercy.

Robert Donovan didn't have to travel to the Balkans. He certainly could have stayed in Connecticut. But, Robert Donovan believed, as did everyone else on that plane, that in the global economy of the 21st century, Americans have a need and a responsibility to reach beyond their borders.

And, what's more, he believed the business community had a solemn obligation to do all it could to help those nations that are in the midst of the difficult process of rebuilding and reconciliation.

Some may cynically suggest that Robert Donovan and the other business leaders who traveled to Croatia were interested only in a financial bottom line. But one doesn't journey to Bosnia to make money.

Robert Donovan went to the Balkans because he believed that the dynamism of American business could help bring lasting peace to regions that for years knew only violence and hatred.

And he believed that his efforts could make a real difference in healing the lingering anguish of ethnic violence.

This spirit of altruism was evident in everything that Robert Donovan did.

At a time when pundits and politicians alike have made corporate CEO's Public Enemy No. 1, Robert Donovan proved the stereotype wrong. He was a man who remained strongly committed and loyal to his workers and his company.

He was as comfortable dealing with ABB employees, either in the workplace or running in the neighborhoods around this plant as he was dealing with international wheelers and dealers.

And his generosity spread beyond the workplace. He took an active, personal interest in helping out at the 1995 Special Olympics World Games in New Haven.

But, Robert Donovan was a man who didn't hesitate from taking on difficult tasks and that was never more obvious than on his last mission to the Balkans.

And, while I know this is a difficult time for Robert Donovan's friends, family and colleagues, it is important to remember that last mission and all the tireless work that he did on behalf of ABB, his family, and his country. It's that enduring legacy that we must all remember in this time of tragedy.

My thoughts and prayers remain with his wife Margaret, and his children Kevin and Kara.

CLAUDIO ELIA

Mr. President, I also wanted to take a few moments to remember another Connecticut resident who tragically perished with Commerce Secretary Brown in Croatia—Claudio Elia, of Greenwich, CT, who was chairman and CEO of Air & Water Technologies Corp.

Like Ron Brown and all the others who died in Croatia, Claudio Elia was on a solemn mission of mercy and he deserves particular recognition from this body.

Claudio Elia came to this country from Italy and took advantage of the vast economic opportunities available to all Americans. He started his business career in 1968 at the Boston Consulting Group and from there he quickly worked his way up the corporate ladder.

In fact, Elia's value at Air & Water Technologies was so significant that it took three top executives to replace him.

But, as Claudio Elia reveled in the economic opportunities that he received in his country, he traveled to Bosnia so that others would realize the same opportunities.

Claudio Elia didn't have to travel to the Balkans. There are excellent business opportunities elsewhere. But, Claudio Elia recognized that in the global economy of the 21st century, Americans must often look beyond its borders for new possibilities.

One of Claudio Elia's former classmates said at his funeral that: "His presence on that flight was vintage Claudio. He was constantly pushing the envelope, looking for new opportunities and business relationships."

And those words were most true on the final mission of his life to the former Yugoslavia. He believed that American businessmen have an obligation to play a role in helping nations that are on the difficult journey toward peace.

There are those who have cynically insinuated that Claudio Elia and the other business leaders who traveled to Croatia were interested more in their financial bottom line then the well-being of the Bosnian people. Well, as I said before, one doesn't journey to Bosnia to make money.

I believe that Claudio Elia and everyone else on that flight ventured to the Balkans because they shared the vision of Ron Brown.

They believed that through the machinations of the free market they could make a real difference in the lives of the Bosnian, Serb, and Croatian people. They understood that even though peace had been achieved, the chance for a real and lasting peace would depend on all peoples having the same opportunity for a brighter future.

Claudio Elia took with him to the Balkers who unquenchable spirit of American optimism and idealism that has infused our Nation for 220 years.

That spirit was as evident when he was in the boardroom or on an overseas mission, as it was when he was sailing his yacht in the Long Island Sound or dealing with his employees in the same manner he dealt with everyone else.

Claudio Elia was a man who didn't hesitate from taking on difficult tasks and that was never more obvious than on his last mission to the Balkans.

And, while I know this is a difficult time for Claudio Elia's friends, family and colleagues, it is important to remember that last mission and all the tireless work that he did on behalf of his family, and his country.

My thoughts and prayers remain with his wife Susan and his children Christine and Marc.•

CONGRATULATING THE NAACP ON THE OCCASION OF ITS 41ST ANNUAL FREEDOM FUND DINNER

• Mr. **ABRAHAM**. Mr. President, I rise today to congratulate and extend warm greetings to the Detroit chapter of the National Association for the Advancement of Colored People [NAACP] on the occasion of its 41st Annual Freedom Fund Dinner, to be held on April 28.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The struggles of the NAACP have had an immeasurable impact on local, national, and world events, advancing educational, housing and employment opportunities for America's voiceless. The Detroit chapter of this organization in particular has shown a commitment to both local and national action in the interests of its neighbors and community. The rewards of these efforts are shared by all throughout Michigan and our entire Nation.

Of course, Mr. President, we must continue to pursue every means by which to improve the quality of life for all Michigan residents. Ensuring that all of our citizens share in the resurgence of Michigan as a national and world leader is an important priority to me, as it is to the Detroit NAACP. My voice echoes with the many members and supporters of the Detroit NAACP in their calls for more jobs, better schools, and safer communities.

It is clear to me that the NAACP stands, as it always has stood, for self-determination, hard work, and leadership. I think Frederick Douglass best captured this philosophy when he said: "The whole history of the progress of human liberty shows that all concessions yet made to her August claims have been born of earnest struggle. . . If there is no struggle there is no progress."

I am sure that all concerned citizens who hope and pray for a unified America where we can celebrate opportunity and justice join me in extending our sincere best wishes to the Detroit chapter of the NAACP.●

ORDERS FOR WEDNESDAY, APRIL 24, 1996

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m., Wednesday, April 24; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and there be a period for the transaction of morning business until the hour of 10 a.m., with Senators permitted to speak therein for 5 minutes each, with Senator HATCH to speak for up to 15 minutes; further, that the Senate then immediately resume consideration of S. 1664, the immigration bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, the Senate will resume consideration of the immigration bill tomorrow at 10 a.m. Rollcall votes are expected in relation to the immigration bill during Wednesday's session. It is also expected that the House will complete action on a short-term continuing resolution tomorrow. Therefore, I would expect the Senate to consider that appropriations matter when it is received from the House. Additional rollcall votes can therefore be expected during Wednesday's session of the Senate. The Senate may also be asked to turn to any other legislative items that can be cleared for action.

I hope to complete action on the immigration bill this week. So we will see what we can accomplish tomorrow. Senator SIMPSON is prepared to proceed, and we will try to complete action sometime late on Thursday. But on Friday I think my colleagues on the other side of the aisle have a conference outside Washington. We are going to try to accommodate them.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DOLE. Mr. President, if there be no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:27 p.m., adjourned until Wednesday, April 24, 1996, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, April 23, 1996*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. FUNDERBURK].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 23, 1996.

I hereby designate the Honorable DAVID FUNDERBURK to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER] for 5 minutes.

EARTH DAY

Mr. MILLER of California. Mr. Speaker, today the Republican leadership of the House will bring forward several noncontroversial bills that are designed for one purpose only, to camouflage the Republican Party's dreadful and irresponsible record on the environment in the 104th Congress. We know that is the spin of the Republican leadership, thanks to a March 29 memo from Majority Leader ARMEY advising Republican Members how to drive our Republican themes home each week.

This week, following Earth Day, their theme is trying to make the Republican voter believe that antienvironment Republicans really care about protecting the environment and public health despite their horrible voting records. But these bills are not about making the environment green, they are about giving a faint green cover to the Republican Members who have voted time and again against clean water, against national parks, against endangered species, and against protecting Americans from pollution that threatens their health and safety. Four out of five Americans want the Environmental Protection Agency maintained or strengthened and they are shocked by the statements of Majority Whip TOM DELAY who declared the EPA the Gestapo of government. Eighty-five percent of Americans who say they are environmentalists are baffled when they hear Resources Chairman DON YOUNG denigrate them as a despicable group of individuals, a self-centered bunch of waffle-stomping, Harvard-graduating, intellectual bunch of idiots. They are outraged when they hear Congresswoman CHENOWETH say that environmentalism is repugnant to America's values.

The fact is that simply is not true, but the effort is underway to create some political coverage and as they bring these bills to the floor as a result of discussions, apparently within the environmental task force that the Speaker promoted to suggest that the Republicans care about the environment, we now see, we now see that the average voting record on environmental issues of that task force is only 18 percent and nearly half of the members of that task force have earned a zero on their record.

Later today as we watch a parade of Republicans come down here and tell us how they support the environment by supporting these noncontroversial bills, we will offer them a figleaf, a figleaf that shows that while the vote on the noncontroversial coastal zone management legislation to give them a better environmental record, what we really see is that they voted in the past of this session killing coastal zone nonpoint pollution control, the dirty water bill, more sewage in oceans, ocean dumping of sewage, keeping the antienvironmental riders on legislation to harm the ability of that agency to clean up the Superfund sites and our coastal zones and gutting the wetlands protection provisions of legislation, of which 70, 80, and 90 percent of the Republicans voted for that very harmful legislation. But today most of them will vote for this and try to tell the people back home that they are for the environment. This is a sham. It is a bluff. It is inconsistent with the record of the Republicans in this Congress to date because when they had the votes, when they had the momentum, when they had the initiative, what they chose to do was to do the work of those who have spent so long bashing the environmental laws of this country.

The fact is what they have now discovered is the clean environment, environmental protection is part of the ethic of the American value system. It is ingrained in us. It is ingrained in our children that we must preserve this environment. We must protect this environment to hand it on to future generations.

But unfortunately, the Republican leadership and a vast majority of their caucus has sought to do otherwise when they voted to gut the Clean Air Act, when they voted to gut the Clean Water Act, when they voted to hamper the Environmental Protection Agency from working, when they voted to repeal water reform in California, when they voted to clearcut the Tongass forests. These are provisions that are destroying and harming our environment for future generations. So the figleaf will provide a little cover but what it will not cover up is the massive antienvironmental voting record of the Republicans in this Congress.

HAITI

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Mr. Speaker, I am not going to address the subject of the environment today, but I happen to be a Republican. I believe that the environment knows no partisanship and it should know no extremism.

I think the environment is something we are all concerned about. I am proud as a Republican that under Republican leadership we have finally gotten some kind of relief for the Florida Everglades in my home State under Republican leadership, something we have been trying long to do. So there are indeed many sides of the story about who is doing what to help out the environment.

Mr. Speaker, I return to the floor to talk about Haiti today because I want to be certain that all of my colleagues are aware of the staff delegation report on Haiti that was issued last week. Although I hoped for good news for both the American taxpayers who footed the $2 billion plus bill for United States operations in Haiti and for the Haitian people, there doesn't seem to be much. In fact, more than anything, this report reinforces the idea that the White House has been glossing over the rough spots in Haiti—hailing it as a success—and hoping that no one would dig deep enough to know the difference. The staff delegation concluded that little

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL
142
PT
6
AP
15
—
24
1996
UMI

progress, if any, is being made on compliance with the Dole amendment regarding political murders in Haiti. In fact, they see little chance of those conditions being met in the foreseeable future. These investigations may in fact be irreparably tainted because the Haitian special investigative unit has been colonized by three American lawyers working for the Government of Haiti.

Whether or not these individuals will be more interested in protecting their meal ticket or in getting to the bottom of the killing remains open for question, but it is a question that should be asked.

Beyond these specific investigations, the report also notes that the United States embassy in Haiti continues to have a passive policy on human rights violations. One might ask why the White House does not seem to understand the actions they decried during the coup are no less unacceptable in post-Cedras Haiti.

The report also finds that there are probably more rough spots than smooth ones with regard to law and order. The Haitian National Police are not always readily accepted by the Haitian people, but nothing can excuse the heavyhanded responses we have seen from them in places like Cite Soleil.

In addition, the staff delegation reports that there are at least four other armed governmental security units with unclear chains of command, but about whom there are credible reports of serious human rights abuses.

On the economic front, the news is little better. More than 60 percent of the Haitian national budget is still sustained by foreign dollars and Haitians still rely heavily on food aid and remittances from abroad. The lack of tangible progress on privatization and other reforms, added to the pervasive breakdown in law and order, continues to act as a damper on investment. Ultimately, the staff delegation concluded that private investment in Haiti is unlikely to even reach the low baseline level of 1985 before this century ends.

In terms of United States development projects in Haiti, the delegation found that the majority of the projects they reviewed failed to meet the one test that matters: Sustainability. In other words, we are feeding Haitians fish today but we are not teaching them to catch their own for tomorrow.

There are many more issues raised in the report, but I want to draw attention to the section entitled "Clinton Administration Politicization of Haiti Policy." The Congress has long been frustrated by the lack of good information from the administration regarding United States operations in Haiti, but that is only half of the story.

The staff delegation found that the administration is going beyond mere stonewalling to scapegoating and what they called a sustained and coordinated interagency effort designed to blame the legislative branch for the shortcomings of its own policies in Haiti.

This finding is based on numerous instances when incomplete, inaccurate, and intentionally misleading information about the role that this Congress has played in Haiti was provided by the White House to staff, the AID mission, officials of the Government of Haiti, and to the Haitian business community.

This just adds to the evidence to suggest that of all of the items on the list of things the Clinton administration's policy in Haiti has lacked over the past 3 years, the most important item is candor. Whether we are fibbing to ourselves about what is happening in Haiti or to the Haitians about what is happening in Washington isn't the issue. Either way, the net effect has been to undercut genuine efforts to bring peace, prosperity, and democracy to that small Caribbean nation.

That, Mr. Speaker, is the real tragedy here and we should begin hearings based on the staff report.

REPUBLICANS AND EARTH DAY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 5 minutes.

Mr. PALLONE. Mr. Speaker, yesterday, April 22, was Earth Day, the 26th anniversary of Earth Day. Because we were not in session yesterday, we had an opportunity to be in our districts and in my case in New Jersey and to celebrate the day by participating in various events and talking about some of the environmental issues that are important to America these days.

It is very unfortunate though that last year, in 1995, when Speaker GINGRICH and the Republican majority and the Republican leadership first took office and it was the 25th anniversary of Earth Day, we saw a systematic effort on the part of the Republican majority, the Republican leadership, to try to tear down 25 years of environmental progress that had been made on a bipartisan basis in this Congress and with the cooperation of Presidents, again both Democrat and Republican.

Today, because of the fact that many in the Republican leadership—specifically the Speaker—saw that the efforts, those efforts to tear down environmental protection, to weaken environmental laws, to not provide funding for enforcement and for investigation against polluters, because that effort did not meet a favorable response with the American public and because the polling the Republican leadership did show very emphatically that the public did not like the antienvironmental tactics that the Republican majority here was taking, all of a sudden now we see Speaker GINGRICH and the Republican majority saying that, or trying to give the impression that, somehow they are pro-environment.

Today for the first time we have three or more environmentally friendly bills that are going to be brought to the floor of the House. It is no accident that it is the day after Earth Day. Just like planting trees and visiting zoos and other things that GINGRICH had suggested that Republican Members do, now he is proposing legislation on the day after Earth Day to try to basically give the impression that the GOP is environmental friendly. They are not. Like a wolf dressed in sheep's clothing, many of the Republicans in this body are trying to give off the false appearance of concern for the environment and the health and safety of the American people. But they have worked consistently in this Congress to gut successful environmental laws such as the Clean Water Act, the Clean Air Act, Superfund, and the Safe Drinking Water Act. They have voted to substantially reduce funding for key environmental agencies such as the EPA and the Interior Department. They have tied the hands of these agencies by attaching antienvironmental riders onto their appropriation bills.

These bills that we will be voting on today are nothing more than a figleaf being used to hide the shameful voting record of many Republican Members on the environment. Unfortunately, the leaf they have chosen just is not big enough.

I want to use this chart to talk about the battery recycling bill, which is going to come up today and is a very good bill; but many of the Republicans cannot hide, by voting for this bill today, their previous votes on issues that are related.

For example, most of them voted—if I could turn this over, Mr. Speaker—basically against protecting children from arsenic in their drinking water. They voted against adequate funding for our Nation's toxic waste cleanup programs. They voted to stop the EPA from protecting Americans from exposure to arsenic, dioxin, lead, and other cancer causing pollutants and to allow corporate polluters to dump up to 70,000 chemicals into our Nation's rivers, lakes and streams and, finally, to allow industry to pollute our drinking water.

I want to make certain that the American public knows what is going on here today on the floor of this House. I will be supporting these bills today, the Coastal Zone Management Act, the battery recycling bill, the national wildlife refuge bills, and I have supported pro-environment initiatives throughout this Congress. Unfortunately, many of my friends on the other side of the aisle cannot say the same.

For that, we are going to give them today the figleaf award. The figleaf

award is given to those Republicans, the majority of them, who are essentially using Earth Day antics to try to cover up their environmental records.

Mr. Speaker, it is not fair. When I came to Congress in 1988, I came here because many of my constituents were concerned about the environment and hoped that by coming down here I could do something to turn around the dismal situation at the Jersey shore where we had medical waste and a lot of debris washing up on our beaches and our beaches were closed. I am very proud to say that Democratic Congresses, in cooperation with Republican and Democratic Presidents over the last 8 years, have done a lot to clean up our water. But this Congress has tried to turn back the clock.

The Republican majority and its leadership should not be allowed to hide what they are doing behind a figleaf.

Mr. VENTO. Mr. Speaker, if the gentleman will yield, the gentleman's figleaf, if they wore that figleaf in public they probably would be arrested for indecent exposure. The fact is, there is not any figleaf that is big enough to cover up the damage and the effort to undo environmental public policy that this Congress has done. In fact this Congress has not done the big things right. It is not doing the little things right.

Earth Day is not just the 26th day. Earth Day was not just yesterday. It is every day, not just 1 week but 52 weeks a year.

Mr. PALLONE. Mr. Speaker, I appreciate the comments of the gentleman from Minnesota.

GLOBAL ENVIRONMENTAL CLEANUP ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. MICA] is recognized during morning business for 5 minutes.

Mr. MICA. Mr. Speaker, today is the day after Earth Day, and I am one of those Members of Congress from the Republican side who feels that every day should be an Earth Day because really, if you stop and think about it, most of the rest of the world is destroying our planet.

We have taken some corrective actions in this Congress and through Republican efforts. The Environmental Protection Agency was first proposed by President Nixon in 1972. Republicans have a long history of supporting cleaning up the environment, not only in this country but also in the world. One reason I came to the floor today is to announce that I am reintroducing legislation that I introduced in my first term. I have only been here 38 months, but this was probably the first place of legislation I introduced as a new Member. It deals with cleaning up our global environment.

As a former businessman, I had a chance in the international trade field to travel the world and see the mass destruction of our planet by so many nations. What disturbed me in traveling around the world and looking at what is going on was that in fact the U.S. policy, the U.S. financial backing was supporting some of these efforts at destruction of our planet.

So one of the first bills I introduced was called the Global Environmental Cleanup Act. I introduced it; it never got a hearing with the old majority. Really never got a fair airing. I felt that it was important that the United States, through legislation and through a directive from Congress, state as a firm policy that countries who receive any type of financial assistance should in fact be obligated to clean up the environment.

That is exactly what this bill will do. And I invite my colleagues to join me in being cosponsors of the legislation this week when it is introduced. Basically what it says is if you receive U.S. financial assistance, financial aid, that a certain percent of that financial aid, and whether it is to build a dam or whether it is to create an industry or some activity in a foreign nation, that in fact that portion of those funds from the United States and the taxpayer goes to clean up the environment in these countries. It is a reasonable approach and a reasoned approach.

The other thing that I noticed is that because of the way other countries, third world countries and other competing countries compete with the United States in manufacturing and other activities, often using lower environmental standards. They bring products into the United States at a lower cost, with less environmental protection, less attention to environmental cleanup and protection and they compete with our businessmen and women on an unfair basis. So this is a little bit of an equalizer.

This bill is also interesting because it also impacts every agency of the United States that deals in financial support or assistance or backing. The United States actually supports the finances of almost all third world nations. If we pulled out our financial backing through the United Nations, through the World Bank, through the various development banks and regional banks, many of these countries could collapse.

What this bill says, in its second part, is in fact that cleaning up the environment and environmental policy will be part of our policy and our financial backing. We will direct our representatives to these organizations to express not only by their voice but also by their vote support for environmental cleanup so our taxpayer dollars will help clean up and establish a policy for cleaning up these third world nations that abuse the world environment.

Let me provide examples. In Egypt, the second largest recipient of United States foreign assistance and we see pollution that would startle any environmentalist, and certainly should be a concern to every American. If you look in the Western Hemisphere in Mexico, a major trade recipient, a recipient of the largess of the United States, environmental pollution is a disaster. This bill and my colleagues' action in cosponsoring will help clean up that mess.

VARIOUS REFUGE BILLS ON SUSPENSION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. HINCHEY] is recognized during morning business for 4 minutes.

Mr. HINCHEY. Mr. Speaker, I am from the State of New York where we have a long history of protecting the environment on a bipartisan basis. As a matter of fact, New York was the State that gave to the Nation Theodore Roosevelt, who more than any other person was responsible for the establishment of our system of national parks. It is also the State where Nelson Rockefeller was the Governor, a great Republican Governor, one who led the fight in the early 1960's for environmental protection and particularly in cleaning up our waterways with the New York Clean Water Act.

Unfortunately in this Congress the sense of bipartisan responsibility and protection for the environment has just flown out the window. It is completely absent. However, later on this afternoon, we will see part of what can only be described as a great American confidence game, a con game.

In a con game what happens is this, the confidence man or person tries to gain your confidence so that he can put a fast one over on you. That is what is happening here this afternoon. The Republican majority of this Congress will try to gain the confidence of the American people with regard to the environment by passing some very simply, noncontroversial environmental bills, while all the time hiding the fact that over the course of the last year and a half throughout this Congress, they have systematically gone aggressively forward with attempts to destroy the environment. The figleaf of this confidence game that they will be promoting this afternoon, when that is taken away, shows clearly what the record is. There it is.

They voted earlier this year for including waivers of environmental laws to mandate salvage logging in the national forests. That will result in the cutting of old growth trees in national forests in the Northwest and all across the country. Fiscal year 1995 rescission bill, H.R. 1158, vote No. 204, on March 15, 1995, the Yates amendment to delete

VOL
142
PT
6
AP
15
—
24
1996
UMI

the salvage rider, the Republican vote was 208 to 17 in support of that kind of cutting, logging without laws, rollcall 204. They voted also for opening the Arctic National Wildlife Refuge for oil and gas development. That was the Budget Reconciliation Act, H.R. 2491, vote No. 812 on November 17 of last year. The Republicans voted 232 to 1 in favor of the budget bill with the ANWR Act in it, oil drilling in the wildlife refuge, opening up the wildlife refuge to rapacious oil drilling. At least twice they voted for an Interior appropriations bill which guts the Endangered Species Act, increasing logging in the Tongass National Forest, allowing pesticides to be used in national wildlife refuges and undermining the Mohave National Preserve. That was the fiscal year 1996 Interior appropriations bill, H.R. 1977, vote No. 853. It occurred on December 13 of last year. And on that vote the Yates motion to recommit to conference was opposed, and the Republicans voted 229 to 3 against recommiting that measure to conference.

Also the veto override, vote No. 5 on January 4, 1996, the Republican majority in this House voted 225 to 4 in favor of overriding the President's veto; 98 percent of them voted for that veto override, which gutted the Endangered Species Act. And also they voted for slashing the Land and Water Conservation Act programs which protect fish and wildlife habitat, fiscal year 1996 Interior Appropriations Act, H.R. 1977, vote No. 502, which occurred on June 12, 1995.

The gentleman from California, GEORGE MILLER, introduced an amendment to restore the administration's $235.1 million budget request for Land and Water Conservation Act land acquisition. The Republican majority voted 228 against that act. So they slashed the land and water conservation fund.

So let us not be conned. Let us not be conned by the figleaf of environmental protection when what has really been happening here on a systematic and aggressive basis is an attempt by this majority to undermine every significant environmental protection law that this country has.

MEDICARE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. MILLER] is recognized during morning business for 5 minutes.

Mr. MILLER of Florida. Mr. Speaker, I rise today to talk about Medicare, but my colleagues on the other side of the aisle keep bringing up the issue of the environment. I am glad the previous speaker talked about all the environmental Republicans from the fact that President Nixon was one that brought forth the Environmental Protection Agency. The real core difference we have, we are all for the environment. The difference is whether Washington has all the answers or we know better in Florida what to do with the Florida environment and New York knows better what to do with their environment. I do not believe that Washington is the expert on every single subject. We need to let the States have the power to make some of those decisions.

What I rise today to talk about is Medicare. There are two articles in today's papers about Medicare; one in the New York Times, the front page, and one in the Wall Street Journal.

The New York Times article talks about how Medicare is in a bigger financial problem than we realize. And the Wall Street Journal article talks about how the Democrats are making it a campaign issue, which is too bad because Medicare is far too important to play politics with and to scare seniors.

The New York Times article says that the Medicare Program is in worse than projected financial problems. They talk about the fact that last year, for example, in the Medicare Program, the part A Program, was projected to have a $4.7 billion surplus. Instead it ran a $35.7 million deficit. So we started the problem a year ago. In this current fiscal year, the first 6 months, during this whole year the projection has been that Medicare would have a $4.2 billion surplus. We are losing money already this year. We are projected to have a surplus of $45 million this year. Instead we are going to have a $4.2 billion deficit for the first 6 months alone. Medicare is going bankrupt faster than we ever thought it was.

We said it was going to go bankrupt in 7 years. It is probably going to go bankrupt now in another 5 years or so, and we are anxious to get the trustees' report to see how serious the problem really is.

The one thing good about the New York Times article is Chris Jennings, who is a special assistant to President Clinton, says, Republicans and Democrats should work together to address the problem. That is exactly what we need to do. This is a bipartisan problem. It is too important to demagog and scare seniors. I have an 87-year-old mother who is dependent on Medicare. In 11 years I will be on Medicare. We all have family and relatives and friends on Medicare. We cannot allow the program to go bankrupt and we are not going to. We are going to save the system. We all agree to save the system.

President Clinton, my friends on the other side of the aisle, everybody wants to keep the system alive, keep it going. We have to do that. It is too important. But we should not scare seniors. Being from Florida, we know what happens when you scare seniors. Gov. Lawton Chiles used that in his campaign back in 1994, and there were hearings in the State legislature how they had a mediscare campaign in Florida. That is wrong and we should stop doing it here.

It was brought out in the Wall Street Journal article today. Let me read a couple comments from that.

> Democrats and their allies are mounting an aggressive drive to paint Republicans as Medicare's undertakers, ignoring the Democrats own overhaul proposals and charging instead in a national advertising campaign that the GOP wants to savage the program.

Come on. Let us get serious about this. Medicare is too important. We agree; they agree. We have to save the program. Stop using rhetoric like that. These are ads run by, whether it is the Democratic Party or the AFL–CIO spending their $35 million to beat up on Medicare, they say it is wrong to start cutting Medicare.

Minority Leader GEPHARDT has a quote in here, the extremist Republican Medicare cuts would destroy and devastate the program.

Again, let us get serious. That is not right. That is scaring seniors. I have more seniors in my district than anyone else. We have to take care of Medicare and we will.

Robert Reischauer is quoted in here, former head of the Congressional Budget Office, appointed by Democrats, saying, if you keep it in proper perspective, we are within striking distance of each other. We are going to spend $1.6 trillion over the next 7 years on Medicare. The difference between the Republican proposal and the Democratic proposal is $44 billion. We are not talking about big differences.

We have learned a great deal over the past year about what is wrong with it. It is full of waste and fraud and abuse. If we cannot find $44 billion over 7 years, more waste, fraud, and abuse, then we are not doing a very good job.

That is what we have to focus on, the waste, fraud, and abuse. The Republicans are allowing Medicare to be the fastest growing part of our budget. If you look at it on a per person basis, we are going from $4,800 per person on Medicare to $7,100 per person on Medicare over the 7 years, more money every year to spend on Medicare. So we are going to take care of Medicare but we have to slow the rate of growth. To say we are destroying and devastating the program, that is wrong, and all you are doing is getting senior citizens scared. I have got too many senior citizens to have scared like that. I think it is wrong and we need to stand back and say this is a bipartisan issue. Let us work together to save the Medicare Program.

THE MINIMUM WAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from North

Carolina [Mrs. CLAYTON] is recognized during morning business for 4 minutes.

Mrs. CLAYTON. Mr. Speaker, every person who works desires to earn a livable wage. That is the reason for working.

That is not true today.

Some 12 million workers earn a mere minimum wage.

What is a minimum wage?

A minimum wage is the least, the lowest, the smallest wage possible—a minimal wage.

It is not a wage that reflects the cost of living.

It is a wage that the law allows an employer to pay, without regard to the cost of basics—food, clothing, and shelter.

A worker can work very hard and be productive—40 hours a week—and his boss is only required to pay the least, the lowest, the smallest possible wage—a minimal wage.

Mr. Speaker, is it fair to allow employers to pay a wage that is 50 cents less in value than it was when the wage was set 5 years ago? That is a 40-year low.

The price of living has steadily risen, while the pay for working has steadily fallen.

The proposal to increase wages to make them more livable is a constrained proposal.

The increase would be a barely significant 90-cents per hour—in two installments of 45 cents each, over 2 years—raising the minimum wage from $4.25 to $5.15.

Yet, while the 90-cent increase is barely significant when compared to wage and income increases among managers, politicians, and other professionals—it is an increase that could make life livable for millions of Americans.

A 90-cent raise in pay for minimum-wage workers would add $1,800 in additional income over a year.

That amount of money—$1,800—could buy 7 months' worth of groceries for the humble and unassuming family.

That amount of money—$1,800—for a single mother, with children—could cover 4 months of basic housing costs; 9 months of utility bills; more than a full year's tuition at a junior college; and 1 year of health care costs.

That amount of money could make a substantial difference in the quality of life for the working poor in America.

Who are the working poor in America, Mr. Speaker?

Most are adults—20 years old or older. In fact, more than 7 out of every 10 of the working poor are adults.

Also, most are women, and many are single, heads of households, with children. In fact, about 6 out of every 10 of the working poor are women.

Mr. Speaker, the least, the lowest, the smallest possible wage—the minimum wage—that the working poor can earn has increased just once in the past quarter of a century. That one increase in 25 years was by 90 cents in two installments as well.

Thoughful economists and scholars throughout the United States have closely monitored and studied the impact of minimum wage increases on the economy.

An impressive list of those economists and scholars have concluded that increasing the minimum wage had no significant, long-term, adverse impact on employment.

Indeed, a higher minimum wage can make it easier to fill vacancies and can decrease employee turnover.

We will soon debate welfare reform proposals. How can we realistically expect cooperation from those on public assistance when, at current minimum wage levels, a person who leaves welfare and takes a job would simply move from one poverty status to another?

In 1955, more than four decades ago, the value of the minimum wage was a little less than $4. Today, the value of the minimum wage is a little more than $4. Surely, we should not expect a worker in 1996 to live on 1955 wages.

Historically, the issue of a fair minimum wage has enjoyed broad, bipartisan support. The issue deserves no less today.

I urge all my colleagues, Republicans and Democrats, to join in supporting a livable wage for all Americans.

I urge my colleagues to support H.R. 940, a bill with a modest increase in the minimum wage.

MORE ON THE MINIMUM WAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. RIGGS] is recognized during morning business for 5 minutes.

Mr. RIGGS. Mr. Speaker, I wanted to rise to address the minimum wage issue for just a moment as one of seven Republicans who a few weeks ago voted for a procedural motion on this floor that would have allowed the House to then consider actually a vote on increasing the minimum wage and as 1 of 20 Republicans who have now joined together to introduce our own version of legislation increasing the minimum wage. This is our competing version with the version that has been offered by our Democratic colleagues.

What I wanted to first point out before this minimum wage bandwagon gets too far along in the process is that some of our Democratic friends, especially those in the other body, are not leveling with the American people. They are not telling the American people, for example, that during the past 2 years, when they controlled both Houses of the Congress and of course the Presidency, they did not entertain legislation to increase the minimum wage. That sort of begs the question: Why, if you think it was such a high priority, if you think it is such a high priority now, why did you not address it when you had the chance, when you controlled both Houses of the Congress and the Presidency?

Second, Mr. Speaker, let me say that one reason, in fact the main reason that I supported increasing the minimum wage is because I believe we have to make work more attractive than welfare. I campaigned in 1994 on a promise of supporting an increase in the minimum wage provided it was coupled with meaningful welfare reform. I was concerned, first of all, that the minimum wage has lost a lot of its purchasing power to inflation and that we ought to increase the minimum wage to at least keep pace with inflation. Second, we ought to increase the minimum wage, as I said before, to make work more attractive than welfare.

Over the past 15 months, the new Republican majority in the Congress has been attempting to help President Clinton, who, as candidate Clinton back in 1992, campaigned on a promise of ending welfare as we know it, made good on the promise. We have been dealing with meaningful welfare reform. We want to end the Federal entitlement for welfare. We want to make block grant programs which the States would administer. We want to impose a time limit of 2 years or less at the discretion of the States on receiving welfare benefits and a 5-year lifetime limit on receiving welfare benefits.

Second and probably even more importantly, we want to require able-bodied welfare recipients to work at least part time or enter a job training program in exchange for their benefits. That is emphasizing work over welfare. We recognize because so many welfare recipients are single mothers and that they struggle against heroic odds that we have to increase funding for child care and transportation to help those welfare recipients make that difficult transition from welfare to work. But again part of making that transition from welfare to work, at least in my view, is to increase the minimum wage.

Mr. Speaker, that is why I am cosponsoring legislation which would increase the minimum wage, the Federal minimum wage to $5.25 per hour over the next year. If we are going to reform welfare by moving people from welfare to work, they need to be able to earn a more living wage. They ought to be in a position as a former welfare recipient to enter the work force in an entry level position, at least being able to meet their own needs, hopefully as well as the needs of dependents.

Mr. Speaker, one glaring problem, one major flaw with our current welfare system is that in many cases it pays more for some people to stay on welfare. That is to say, welfare benefits in the aggregate pay more than what a person can make in a minimum wage

VOL
142
PT
6
AP
15
—
24
1996
UMI

job. If we want to reform welfare as the Republican majority in the Congress has been attempting to do with no help or support or cooperation from our Democratic colleagues, we have got to make work pay more than welfare. We have got to reverse that perverse incentive where welfare is more attractive than work. So reverse the equation, if you will, and that is why I support raising the minimum wage.

It is a sad fact that a full-time minimum wage worker in America today would earn approximately $8,840 for a year's work, which is far less than many States pay in welfare cash benefits and well below the Nation's poverty level. We need to correct this inequity so that people who want to work are not forced to choose between work and welfare because welfare pays better.

Again, Mr. Speaker, the point I wanted to emphasize is that the minimum wage increase in my view should be coupled with meaningful welfare reform like the welfare reforms that President Clinton promised back in 1992 and like the welfare reform legislation that President Clinton has twice vetoed over the last 15 months.

THE MINIMUM WAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Massachusetts [Mr. OLVER] is recognized during morning business for 4 minutes.

Mr. OLVER. Mr. Speaker, last week 20 House Republicans introduced a bill to raise the minimum wage by $1.50 each over the next 2 years. They broke from their leadership and agreed with what we Democrats have been saying all along. People working 40 hours a week ought to earn a livable wage.

Now Speaker GINGRICH and Senator DOLE are joining the game, but it is certainly not a done deal. The Republican leadership still plans to weigh any bill down with union-bashing provisions and maybe different minimum wages for different people. They wanted to slow the bill down. Senate Republicans have been blocking a minimum wage vote for months now, and opposition to the minimum wage from Majority Leader ARMEY is well documented.

So the future of this minimum wage movement remains to be seen. But the movement must succeed. We must fight to bring the minimum wage back in line with what working people in America need to get by. These are the facts: 10 million American workers earn only the minimum wage. The minimum wage has not been raised in 6 years, but the buying power of $4.25 an hour is 50 cents less than it was in 1991. Two-thirds of minimum wage earners are adults, 40 percent of these adults are sole breadwinners; almost 60 percent of minimum wage workers are women.

Here are some more points to consider: 75 percent of Americans favor increasing the minimum wage. A reasonable minimum·wage combined with the earned income tax credit rewards work and is the best way to keep families off welfare. But right now the minimum wage is so low that the earned income tax credit cannot fill the gap, just the 90-cent increase in the minimum wage combined with food stamps and the earned income tax credit would put a family of four that relies on a minimum wage earner back up to the poverty line.

The ripple effect of raising the minimum wage also helps another 2 million workers who now earn between $4.25 and $5.25 an hour. Yesterday's Washington Post stated what is clear to everyone except the Republican leadership: "There ought to be a clean vote in Congress on raising the minimum wage."

Speaker GINGRICH and Senator DOLE should stop fishing around for provisions they can add to the bill hoping to kill it. They should listen to the moderate wing of their own party. Raising the minimum wage lifts all boats. Keeping the minimum at the 1991 level keeps everyone's boat tied to the dock.

LAND AND WATER CONSERVATION FUND

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. FARR] is recognized during morning business for 4 minutes.

Mr. FARR of California. Mr. Speaker, I rise today on Earth Day to remind us that Mother Earth giveth, but the 104th Congress taketh away. Look at the battle of this year: Tried to take away Medicare benefits, affordability of Medicare, tried to take away the school lunch program. And now on Earth Day we see that they are trying to take away the Endangered Species Act, but that is not all.

Mr. Speaker, we have heard earlier today that the 104th Congress decided also to take away the public enjoyment of public lands and sell those to private interests. They want to sell the mountains to the ski resorts, the forests to the logging companies, the rivers to hydropower and to development. They want to sell wildlife refuges to oil and gas development and to hunters. They want to sell the minerals that belong to the people to the mining companies. Lastly, they want to take the Indian lands and sell those to the gambling interests.

In addition to these takeaways from the U.S. public, because the public owns these lands, and give these to private interests; they also want to take away the money that has been derived from the sale of all these resources because we receive value for when we sell the land and water of this country and the grazing lands and so on. What do they want to do with that money? It is our money, sitting in a trust account here in Washington called a lockbox, known as the land and water conservation fund. The lockbox now has our money, $12 billion in there that cannot be spent.

Should we tolerate this? I say no. Look what we can do. Look what happened with a little politics in this House last week, for a similar lockbox. In the transportation funds, the Highway Trust Fund, this House voted 284 to 143 to open that box and allow that money to be spent on the public interests.

In fact, the leader of that movement, the gentleman from Pennsylvania, Chairman SHUSTER, said, Congress imposes taxes on gasoline, on airline tickets and other transportation goods with the assurance that those funds would be spent on the infrastructure improvement, but the problem is that the accumulated surpluses of these dedicated user-generated trust funds are not being spend to build anything. They are just sitting in bank accounts. He went on to say, this is patently unfair to the American traveling public. Well, it is also unfair on Earth Day to the American public that enjoys the out-of-doors to lock up all of their moneys in a trust fund, $12 billion.

My colleagues, the 1995 Republican budget resolution called for a moratorium on the land and water conservation funds. The total balance in that fund is $12 billion, as I said. What is good for the goose is good for the gander. Good roads leading to bad environment sounds like the road to hell paved with good intentions.

RAISING THE MINIMUM WAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Puerto Rico [Mr. ROMERO-BARCELÓ] is recognized during morning business for 4 minutes.

Mr. ROMERO-BARCELÓ. Mr. Speaker, I rise in strong support of the Democratic efforts to raise the Federal minimum wage. I am proud to have joined in sponsoring legislation which was introduced in February of last year to raise the minimum wage by 90 cents. I am chagrined that over the last 14 months minimum wage opponents have prevented this legislation even getting a hearing.

When Henry Ford founded the Ford Motor Co., it was his philosophy to pay his workers well enough that they could afford to buy the products they were making. It made sense then and it continues to make sense now. An underpaid labor force cannot provide the consumer demand which is necessary to the long-term strength of our economy. Increased poverty ultimately brings harm to all sectors of our economy, not just the poor.

A 90-cent increase in the minimum wage will add $1,800 to the annual earnings of a minimum wage worker. To them and their families, $1,800 can and will make a significant difference in their ability to meaningfully participate in the American dream.

For an average family, $1,800 is enough to buy 1 year of health-care costs. We in Congress have struggled with the difficulties and expense of providing adequate health care to those who cannot afford their own. We know the tax cost to individuals and businesses when government must step in to provide healthcare benefits to the needy. The minimum wage is part of the solution.

For the average family, $1,800 is enough to buy 7 months of groceries. Businesses cannot prosper when their employees' productivity is impaired by malnutrition. Children will not learn in school if they are not receiving regular, healthy meals at home. The minimum wage is part of the solution.

For the average family, $1,800 is enough to pay basic housing costs for almost 4 months. Is there anything which is more important to a family's well-being and dignity, and a workers' productivity, than adequate housing? The minimum wage is part of the solution.

At a 2-year college, $1,800 is enough to pay for more than a full-year's tuition. The changes in the American economy over the last two decades have left no doubt that only through education and training can American workers hope to better the lot for themselves and their children. Only with a large pool of well-trained workers can American industry compete with foreign companies. The minimum wage is part of the solution.

Contrary to the disingenuous claims of minimum wage opponents, the typical minimum wage worker is not a teenager flipping burgers after school to earn a little extra money to spend at the mall. The typical minimum wage worker is an adult woman, working full-time, and supporting at least one child in her household. She is working increasing hours in her struggle to support her family and to avoid having to rely on the government for her child's next meal.

Recent studies suggest that 300,000 people would be lifted out of poverty if the minimum wage is raised to $5.15 per hour. This figure includes 100,000 children who are currently living in poverty.

We have allowed the minimum wage to drop to its lowest value in 40 years. In 1979, the minimum wage was the equivalent of about $6 per hour in 1996 dollars. It is now only $4.25. We have allowed this decline to happen, not during a time when our economy is suffering, but during a time when corporate profits, executive salaries, and the stock market are at record highs.

A 90-cent increase can make the difference between a family living in dignity and a family living in poverty. It can make the difference between a family being able to afford adequate health care and a family having to rely on woefully inadequate public health programs. It can make the difference between a family being able to improve its lot by participating in available educational opportunities and a family doomed to a downward economic spiral.

Henry Ford's philosophy of paying his workers enough to allow them to buy his products is still a good philosophy. America must pay its workers enough for them to be able to buy a dignified place in our economy.

I urge my colleagues to support raising the minimum wage to $5.15 an hour. Millions of hard working Americans who deserve a better life will appreciate our leadership.

ERMA BOMBECK

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 2½ minutes.

Mrs. SCHROEDER. Mr. Speaker, while I am all in favor of raising the minimum wage, I take the floor today to salute a wonderful woman whose loss I will certainly, certainly feel, and I think all American women will, whether they are getting the minimum wage or whether they are working at home with no wage. Erma Bombeck's loss will really go to the heart of all of us. The laughter that we will lose because of her death really seems very sad.

Mr. Speaker, Erma Bombeck made us laugh about all of the things that we live with every day: husbands' socks having so much fuzz on them you have to shave them, the green fuzz in the refrigerator that people kept asking about and then you were clearly trying to grow your own penicillin, all the problems you have with children who get dressed in the morning in some outfit that really looked more like a costume and you were afraid that somebody would think the child had been drinking before they even got to school.

The problems and the advice that she had for all of us that were so terribly important. She taught me one thing that was very critical; that was never loan a car to anyone you gave birth to. That was very good advice. And you should never have more children than you have car windows in an automobile. It prevents so many fights.

She also went on to tell us all the things about men and watching football. She really thought that there should be a law in this country that, if men watched more than 16 consecutive quarters of football, they should be declared legally dead. I think that there was some accuracy in that, too.

Yes, Erma Bombeck was a person who, even though she became very, very ill and her transplant finally got her and claimed her life, she never stopped laughing. She never stopped making us laugh. She saw the beautiful wit and wisdom in everyday life. So many of us sometimes try to escape everyday life, but she showed us the poetry in it, the philosophy in it and the fun we should all have with it every single day. So her incredible uncommon wit will be missed by every single one of us. How very much sadder the planet is going to be without her penning away about her life as a domestic goddess in Phoenix, AZ.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess until 2 p.m.

Accordingly (at 1 o'clock and 25 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. UPTON] at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With praise and adoration, with thanksgiving and gratitude, we offer our prayers to You, O God, and place our petitions before You. We pray for our world and our Nation, for our communities and the people of every background and tradition, for family and friends and for ourselves. We place before You, gracious God, our needs that are both great and small, those supplications that we hold in the secret places of our own hearts, asking that You would forgive us where we are weak or selfish, and strengthen us to do those good works that do justice and mercy. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT]

VOL
142
PT
6
AP
15
—
24
1996
UMI

come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

POSTPONING FURTHER CONSIDERATION OF VETO MESSAGE ON H.R. 1561, AMERICAN OVERSEAS INTERESTS ACT

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that notwithstanding the order of the House of Monday, April 15, 1996, further consideration of the veto message on H.R. 1561 be postponed until Tuesday, April 30, 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LET US WORK TOGETHER TO PROTECT OUR ENVIRONMENTAL RESOURCES

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, yesterday President Clinton drove a few miles from the White House and picked up a few logs for Earth Day to try to show his dedication to the environment. I have to ask, why is this President trying to make the environment one of his key campaign issues? He has no monopoly on concern for the environment, just exaggerated rhetoric.

It seems that ever since the Democrats became an endangered species here in Washington, they have turned up the heat on their big-lie campaign in an attempt to take back the majority in Congress. It just so happens that their shameful big-lie campaign is now politicizing the environment.

Mr. Speaker, I want a clean and healthy environment for my children and grandchildren. I support using modern technology and scientific evidence to make sure our environmental protection laws are effective. Mr. Speaker, let us work together to protect our environmental resources, not use them as pawns in cheap political games.

LET US NOT BE MEAN-SPIRITED

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, Members of the House, the radical Republican majority is still bent on cutting educational funds, especially title I funds. It is mean-spirited. Who does it impact on? Not the local school districts, but it impacts on children; children, preschool children in the first and second grade; children like the two that I visited with and many others in my district while I was out there. These young children, without these reading skills, will be destined to a future that they will not be able to participate in in this great society of ours because they will not be able to read.

The Republicans say that we do not need those funds for title I. I say we do. I say that the future of this country is bound by the education that our children receive, and it is necessary that they have the skills of reading and math, and that is what title I provides.

I say to the Republicans, let us not be mean-spirited.

DEMOCRATS SIT BACK AND DO NOTHING TO SAVE MEDICARE

(Ms. DUNN of Washington asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN of Washington. Mr. Speaker, this morning's New York Times carried a disturbing report that I believe deserves notice. The banner reads "New Medicare Trust Fund Data Show Unusually Large Shortfall."

Mr. Speaker, the article says the Medicare hospital insurance trust fund lost $4.2 billion in the first half of the current fiscal year, since the first of October, which suggests that the financial condition of this program is even worse than what was projected by the administration last year. During all of fiscal year 1995 the Medicare trust fund lost $35.7 million, when it should have been a surplus. But now, just in the first half of this year, Medicare has lost over $4 billion.

Last year Bill Clinton vetoed the Congress' Medicare Preservation Act, which would have reformed Medicare. The issue is clear, Mr. Speaker. Liberals would rather sit back and do nothing to save Medicare and then demonize conservatives for their good faith effort to deal with the problem. I think it is outrageous that the other party would risk our parents and grandparents to score political points.

MAYBE THE TYPES OF JOBS BEING CREATED ARE TO BLAME

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Medicare trust funds lost another $4 billion. Payroll contributions keep going down. Maybe it is the type of jobs that are being created.

Check this out: How about a handkerchief folder, a drawstring knotter, a hooker inspector, a pantyhose crotch closer machine operator supervisor, a muff winder, a fur blower, a wizzer operator, a brassiere cup molder fitter.

Evidently, Mr. Speaker, when American workers become muff winding brassieras fitters, and fur blowing wizzer operators, the Medicare trust fund will continue to lose money. Maybe we better take a look at the issue and also take a look at these jobs that do not pay a whole lot of money.

How about a dreawstring knotter? That is really a goal in life.

SHORTFALL GROWING IN MEDICARE HOSPITAL TRUST FUND

(Mr. CHABOT asked and was given permission to address the House for 1 minute).

Mr. CHABOT. Mr. Speaker, I would like to read from the front page of this morning's Cincinnati Enquirer in my district. It says, "Losses Hit Medicare Trust Fund. $4.2 Billion Shortfall Growing." The article quotes a special assistant to President Clinton, who says the new numbers indicate the need to move forward, balance the budget and enact some changes in Medicare that will strengthen the trust fund. Well, no kidding. This from the same administration that for the last year has been opposing every effort to do just that.

Now that President Clinton's own team that has belatedly figured out that the Medicare trust fund is going bankrupt, perhaps the President is ready to abandon his campaign rhetoric finally and join those of us in Congress who have been working to save Medicare for this generation and for future generations of American citizens. Maybe it will stop the shameless "medicare" campaign and we can work together to save Medicare.

LET US PASS AN INCREASE IN THE MINIMUM WAGE NOW

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, what issue is supported by 85 percent of the American people? What issue is supported by 61 percent of Republican voters? Increasing the minimum wage.

So why do we not do it cleanly, without amendments that will clutter the issue?

Mr. Speaker, the last vote to increase the minimum wage occurred in 1989, and due to inflation much of this increase has been eroded. Who does an increase in the minimum wage help? Twelve million Americans. Sixty percent of these are adults over 25 years old; mainly women.

Mr. Speaker, this is not a teenager-plus issue. It is an issue that affects all Americans.

Twelve million Americans would benefit from an increase to $5.15 an hour, including 100,000 New Mexico workers.

Raising the minimum wage is a critical step in moving people from welfare

to work. Someone can make more on welfare than they can by working right now. Is $8,400 a year sufficient to help a family? The answer is "no," Mr. Speaker.

Let us end the politics, let us pass a minimum wage bill. Let us move on to health care. Let us leave a lot of these issues that need to be done uncluttered with many amendments. Let us pass an increase in the minimum wage now.

CRIME: A SERIOUS ISSUE IN OUR COUNTRY TODAY

(Mrs. CUBIN asked and was given permission to address the House for 1 minute).

Mrs. CUBIN. Mr. Speaker, I want to talk about a very serious issue in our country today—crime. With all of the freedoms we enjoy in our country today, if we as citizens do not have confidence in our judicial system to keep the criminals off the streets, we do not have total freedom, because we will always be looking over our shoulders or will be too scared to participate in social activities outside of our homes.

Many, many people feel this way today. And who can blame them—when they read stories about Clinton-appointed judges who side with the criminals and blame society. Like the Clinton judge who insisted that the killer had "socially redeeming values," even though he stabbed his victim repeatedly, shot him twice, and laughed at the victim while he pled for his life.

This is wrong. Our justice system should protect the rights of crime victims—not invent newer and more expansive rights for criminal defendants. Our justice system should distribute justice, not liberal social experiments that coddle criminals.

We need to appoint judges who represent and understand America's values.

STOP PLAYING POLITICAL GAMES WITH THE MINIMUM WAGE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. To quickly respond to my colleagues who spoke about Medicare, the congressional Republicans in this body do not want to fix Medicare. They, in fact, want to destroy Medicare. They proposed a $270 billion cut in Medicare to pay for a $245 billion tax break for the wealthiest Americans. Do not let us let them get away with it.

Mr. Speaker, on the front page of today's Washington Times, a Republican Senator says of congressional Republicans, "We have no agenda."

Mr. Speaker, in the spirit of bipartisanship, I want to offer some assistance to my Republican colleagues. For starters, the Republican leadership can schedule a vote on raising the minimum wage in this Nation. Most families are working harder in a mad scramble to pay their bills every single week. They need a raise, and we should raise the minimum wage.

Today the minimum wage is at a 40-year low. Democrats have proposed boosting it by a mere 90 cents, but the Republican leadership continues to block any effort to bring forward a vote on the minimum wage. Let us do it, let us give hard-working Americans the raise that they need to take care of their families.

THE TIME IS RIGHT TO DO RIGHT: RAISE THE MINIMUM WAGE

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, the time is always right to do right. And raising the minimum wage is the right thing to do.

This is not just an economic issue, Mr. Speaker, this is a moral issue. Hard working people deserve the right to earn a livable wage. The minimum wage is at a 40-year low. No one can live, much less support a family, on $8,400 a year.

Mr. Speaker, stop playing politics with people's lives. Bring a clean minimum wage bill to this floor. Do not load it up and bring it down with your pet programs.

The American people, hard-working people, are watching and waiting. Raise the minimum wage.

CAN THE AMERICAN PEOPLE AFFORD ANY MORE CLINTON-APPOINTED JUDGES?

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, one of the most important things that a President, any President, does during his tenure is to fill the vacant Federal judgeships in the Federal judiciary. The other body does have the responsibility to "advise and consent," but ultimately, the responsibility for who sits on the Federal bench is the President's.

President Clinton has a miserable track record for appointing judges. His picks are by and large doctrinaire liberals. Let's take the Judge Baer debacle.

Judge Baer, a Federal judge in New York, refused to admit into evidence 75 pounds of cocaine and 4 pounds of heroin even though the person caught with the drugs gave a full confession. His reasoning in the case was faulty at best, and implied that the New York City police were corrupt and wrong for investigating a clear case of probable cause involving a huge amount of drugs.

Mr. Speaker, Bill Clinton has already appointed 25 percent of all Federal judges. Can the American people afford any more?

□ 1415

COMMENDING PRESIDENT CLINTON'S CALL TO CURB OVERFLIGHT NOISE ABOVE NATIONAL PARK UNITS

(Mrs. MINK of Hawaii asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MINK of Hawaii. Mr. Speaker, yesterday President Clinton announced his commitment to our national parks by ordering that agencies protect them against noise intrusions from park overflights. I applaud this announcement as it joins a hard-fought battle I have waged for 6 years in the State of Hawaii on behalf of residents adjacent to parks, hikers and other park visitors, and precious indigenous species protected by our parks.

I urge the Federal Aviation Administration and National Park Service to act quickly to respond to the President's directive. For the parks in my State, the President has called for a notice of proposed rulemaking by the end of 1996.

My files are full of petitions and letters protesting noise disturbances caused by fixed-wing and helicopter flights over Haleakala National Park on the Island of Maui and Hawaii Volcanoes National Park on the big island. Some hikers report that they can enjoy no peace in pristine areas because air tour operators seek to impress passengers by flying as close as possible to certain park features. Some have sent me pictures of helicopter tours flying close to canopies of trees above their houses, reporting of noise being generated that rudely awakens their children, drops and shatters dishes from kitchen counters, and denies them peace of mind. Some have presented logs documenting an average of 10 flyovers each day.

The President yesterday provided similar rationale for increased regulation of these flights by saying,

> Aircraft flying at low altitudes over national parks can, if not properly managed, mar the natural beauty of the parks and create significant noise problems as well. The intrusion of such aircraft can interfere with wildlife (included endangered and threatened species), cultural resources and ceremonies, and visitors' enjoyment of parks, including the ability to experience natural sounds without interruption from mechanical noise.

I reintroduced legislation in this session of the Congress which aims to provide the relief the President has mandated in the State of Hawaii. H.R. 1369 would restrict flights over Hawaii's National Park System units and create

VOL
142
PT
6
AP
15
—
24
1996
UMI

flight-free corridors over certain areas. I urge my colleagues to support H.R. 1369, which would provide necessary relief for the people of Hawaii. And I once again commend the President for his statement that bolsters my efforts.

I welcome the efforts of the executive agencies, but in reality what is needed is legislative enactment of this protection for our national parks.

THE REPUBLICAN MAJORITY IS HOLDING UP THE BUDGET BY INSERTING ANTI-ENVIRONMENTAL RIDERS IN THE BILL

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, Democrats and Republicans have almost come together on a budget that would carry us through the rest of the year, but the one thing that is holding it up are the anti-environmental riders that the Republican leadership insists on putting in the bill.

Today they insist on environmental riders that would bar new listings under the Endangered Species Act, prevent the EPA from protecting wetlands, provide no drinking water standards to protect the public from radon, and also to limit and cap the number of hazardous waste cleanup sites around the country.

It is no surprise to me that today the only reason we are held up on this budget bill is because the Republican leadership continues to insist on putting these anti-environmental riders in the appropriations in the budget process. It is because fundamentally, from the very beginning of this Congress, they took an anti-environmental stance because they wanted to cater to the special interests, the corporate interests, that wanted to continue to pollute and tear down our environmental laws that we have worked so hard for since Earth Day 1970.

Mr. Speaker, I know we are going to hear all kinds of rhetoric today from the Republicans about how they are so pro-environmental, but the real test is if they would eliminate the environmental riders and not put them in the budget bill. All the rest is simply rhetoric for Earth Day.

LET US ADJUST THE MINIMUM WAGE TO $5.15 PER HOUR OVER 2 YEARS

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, one of the issues which Congress must periodically address is the adjusting of the level of minimum wage. I did not say raise the minimum wage, I said adjust the minimum wage. The last adjustment of the minimum wage dollars took place in 1991. At that time the minimum wage was adjusted from $3.80 to the current level of $4.25. Despite that adjustment of 45 cents, the actual buying power of basic hourly compensation is estimated to have fallen by 50 cents because of inflation. In fact, the minimum wage is now 29-percent lower than it was in 1979 and, left unchanged, its real value will be at a 40-year low by January. In the absence of any kind of automatic cost-of-living adjustment, let us take the necessary step to bring this basic entry-level wage up to where it needs to be today.

In the most simple way, we can positively affect the lives of millions of working Americans. Let us approve an adjustment in the minimum wage to $5.15 per hour over the next 2 years.

BILL CLINTON'S JUDICIAL APPOINTEES ARE SOFT ON CRIME

(Mr. COOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOLEY. Mr. Speaker, Bill Clinton's judges are soft on crime.

All of our antidrug and anticrime legislation is useless if Clinton's judges refuse to enforce the law.

One of Clinton's nominees to the Federal bench—a Democrat fund-raiser from Miami—didn't even know about the Supreme Court's 1995 affirmative action decision.

Another Clinton judge dismissed a defendant's confession and 75 pounds of cocaine.

Why?

The judge ruled that police are corrupt, and that drug dealers should be allowed to run away.

Bill Clinton has already appointed 25 percent of all Federal judges.

If Clinton is elected again, he will have the chance to appoint up to 50 of all Federal judges, as well as one, two, or three Supreme Court judges.

Do the American people want President Clinton to appoint half the Federal judges?

I hope not.

I, for one, would rather see a Federal judiciary that cares about crime victims.

REDUCE DEPENDENCE ON GOVERNMENT BY INCREASING THE RESPONSIBILITY OF EMPLOYERS TO PAY A MINIMUM WAGE

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, we tried welfare reform without jobs. Do we want to put these same people to work without enough pay to live on? All the welfare reform in the world will not do what a raise in the minimum wage will do. One hundred thousand kids would come out of poverty the day we lift the minimum wage. No bureaucrats, no training, just a small hike in the minimum wage. Not 1 cent added to the deficit.

Why should we subsidize employers with food stamps and other benefits in order to allow them to pay less than a minimum wage? Reduce dependency on Government by increasing the responsibility of employers to pay a minimum wage.

CORRECTIONS CALENDAR

The SPEAKER pro tempore (Mr. UPTON). This is the day for the call of the Corrections Calendar.

The Clerk will call the first bill on the Corrections Calendar.

CONTINUITY OF BOARD OF TRUSTEES OF INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

The Clerk called the bill (H.R. 3049) to amend section 1505 of the Higher Education Act of 1965 to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

The Clerk read the bill, as follows:

H.R. 3049

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTINUITY BOARD.

Section 1505(i) of the Higher Education Amendments of 1968 (20 U.S.C. 4412(i)) is amended—

(1) in paragraph (1), by inserting before the period at the end of the first sentence the following: "or to recommend another individual if the member does not consent to be reappointed"; and

(2) by striking paragraph (2) and inserting the following:

"(2) If the President has not transmitted to the Senate a nomination to fill the position of a member covered by such a recommendation within 60 days from the date that the member's term expires—

"(A) if the member consents to reappointment, the member shall be deemed to have been reappointed for another full term to the Board, with all the appropriate rights and responsibilities; or

"(B) if the member does not consent to reappointment, an individual recommended by the Board under paragraph (1) shall be deemed to have been appointed for a full term to the Board with all the appropriate rights and responsibilities.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia [Mr. NORWOOD] and the gentleman from Michigan [Mr. KILDEE] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 3049, which simply corrects a

board of trustees appointment problem for the Institute of American Indian Arts. This legislation was introduced in a bipartisan manner by our colleagues Mr. GOODLING and Mr. KILDEE at the request of the Institute. This simple fix will help maintain the continuity of the Institute's board of trustees, and will help the Institute to continue to fulfill its mission of educating those who wish to preserve our native American arts and culture.

The Institute of American Indian Arts is a federally created institution of higher education. Its primary purposes are to provide scholarly study of and instruction in Indian art and culture, and to establish programs which culminate in the awarding of degrees in the various fields of Indian art and culture. The Institute is authorized under title XV of the Higher Education Amendments of 1986, and policy for the Institute is set by a board of trustees which includes 13 voting members appointed by the President with the advice and consent of the Senate.

Unfortunately, the board appointment process has proven to be overly cumbersome and this has resulted in a number of board members serving additional terms, sometimes beyond the time they wished to serve, in order to insure that the board could maintain a quorum.

The legislation we are considering today would simply amend section 1505 of the Higher Education Amendments of 1986 to allow the board to recommend successors for the board members whose terms are expiring and who do not wish to serve additional terms. The President would have the prerogative to act on these recommendations, or to appoint another qualified individual of his choosing subject to confirmation by the other body.

However, should the President fail to act within 2 months of the expiration of the sitting member's term, and should that member not wish to serve an additional term, then the individual recommended for appointment by the Board would be automatically seated.

Mr. Speaker, this legislation is bipartisan and revenue neutral. It does not limit the options of the President in making appointments to the board, but merely streamlines the appointment process for this one institute. This is a small step in our efforts to make Government more responsive and less burdensome for those it is intended to serve. But it will make a real difference for those at the Institute, who are preparing the next generation and preserving an important part of our heritage.

This is commonsense legislation, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to rise in support of this legislation that I cosponsored with my friend, BILL GOODLING.

Ten years ago, I worked with BILL GOODLING, and a number of other Members, to create the Institute of American Indian Arts. The Institute was to provide a place of study and instruction in the culture, history, and arts of the native American people. Mr. Speaker, the Institute has been very successful in accomplishing this mission, as the gentleman from Georgia has pointed out. Today, the Institute offers degree granting programs in a variety of fields, and has served a vital purpose in helping educate people on the native American culture. The policy of the Institute is set by a 13-member voting board, which is appointed by the President of the United States.

The problem that brings us here today, is the appointments to the Institute's board of trustees have not been made in a timely fashion. As a result, the board of trustees does not have the ability to function in the best interest of the Institute.

This legislation, very simply, will allow the board to appoint an individual to the board if the President does not act within 2 months of the expiration of a sitting member's term.

This legislation will allow the board to operate in a more effective and efficient manner, as the gentleman from Georgia has pointed out.

I believe this legislation makes good sense, and I urge my colleagues to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. NORWOOD. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman from Georgia for yielding time to me.

Mr. Speaker, I am pleased to rise today in support of H.R. 3049 and H.R. 3055, the second and third bills brought to the floor this session under the corrections day process.

Since the commencement of corrections day, seven bills have been signed into law by the President, and six bills have passed the House and are waiting further action in the Senate. I believe we are compiling a record of success, and that the corrections calendar will continue to be relied upon by the House.

The American people are demanding a more responsive Government, and corrections day plays a key part in meeting their demands. I believe that the two bills we will consider today are superb examples of how corrections day is a process that works for the American people.

I would like to thank the members of the corrections day advisory group, especially Mr. WAXMAN, who through his and their efforts, make corrections day truly bipartisan in nature. I also want to thank Chairman GOODLING, Mr. NORWOOD, Mr. KILDEE, and the Opportunities Committee for their hard work in getting these bills to the floor. I am hopeful that the Senate will recognize the need for quick action and send these bills to the President without delay.

Mr. KILDEE. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I want to thank the chairman and ranking member of the committee, and the gentleman from Georgia [Mr. NORWOOD], in addition, for their attention to the Institute of American Indian Arts, which is located in my district in Santa Fe, NM. I especially want to commend the gentleman from Michigan [Mr. KILDEE]. It is true he is one of, if not the, father of this institution, with some very valuable legislation that he offered over the years, along with the Committee on Education and Labor.

Let me say, Mr. Speaker, that I will at this time support the bill, but I do have some concerns about the precedent this bill sets in putting restrictions on Presidential appointments, so this is not a Democratic or Republican issue. I believe that in the future, before we consider legislation which in any way limits a President's duty to appoint boards, that we should really take a hard look at the precedent it sets.

☐ 1430

Nonetheless, this bill addresses one of the biggest obstacles the Institute faces. The Institute has lost its Federal funding, half of it, last year, and has directions from this body to become totally privately funded in a matter of years.

In times like this, you need a strong board of directors that is going to raise money, that is going to find other sources of money, and which can provide strong leadership. This is very important at this time.

However, let me just state that besides that concern that I have of putting restrictions on board appointments, let me say that the board at the institute for American Indian Arts has not always been the most stable force there. They have a board now that I believe is offering leadership.

I see the gentleman from New Mexico [Mr. SKEEN] here, my good friend who is responsible for keeping the Institute alive 1 more year, and hopefully, with the help of the gentleman from Ohio [Mr. REGULA], for 3 more years in a transition to it becoming a private institution.

Again, I think this legislation is well meaning, but I think we have to be very careful about limiting Presidential appointments to boards. One of the problems has been the White House, regrettably, delayed naming many of these board members.

VOL
142
PT
6
AP
15
—
24
1996
UMI

This is not a big fish, this issue. This fish happens to be in my congressional district, nonetheless, and it is an institute that is teaching young men and women, native American men and women, an ability to express themselves in art. Some outstanding art comes from here. The institute has gotten its act together. Let us not object to this bill.

I think as we move ahead in the other body, we should just be sure that we are not infringing on a Presidential priority, infringing on a Presidential prerogative. But I think this legislation is in response to a situation that needs to be corrected. For that reason, I will be supporting it. I hope in the days ahead we can deal with some of these concerns, but this is not the time to derail good legislation as it moves forward.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of H.R. 3049, a bill providing for the continuity of the Board of Trustees of the Institute for American Indian and Alaska Native Culture and Arts Development. Since 1988, I have been appointed by the Speaker's office to fulfill the Board of Trustee position for the two congressional seats of the U.S. House of Representatives and I thank the Speaker for this honor.

As you know, the Institute is a federally created institution for higher education, authorized under title 15 of the Higher Education Amendments of 1986. Its primary function is to provide instruction in Indian arts and culture and establish a program which completes with the award of degrees in the contemporary and traditional fields of Indian art and culture.

Unfortunately, the appointment/reappointment process of fulfilling the Board of Trustees vacancies has proven to be extremely cumbersome and the appointments of voting members to the board has not been made in a timely manner. H.R. 3049 would prevent the situation where board members have felt obligated to serve additional terms in order to maintain a quorum for the purpose of conducting business. I urge my colleagues to vote yes on this purely technical corrections bill and thank the Speaker for the opportunity to voice my concerns.

Mr. KILDEE. Mr. Speaker, I yield back the balance of my time.

Mr. NORWOOD. Mr. Speaker, my compliments to the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Michigan [Mr. KILDEE] for this excellent corrections day bill. Since I have no further requests for time, I will also yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). Pursuant to the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

The title of the bill was amended so as to read: "A bill to amend section 1505 of the Higher Education Amendments of 1986 to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.".

A motion to reconsider was laid on the table.

CONTINUED GRANT PARTICIPATION BY HISTORICALLY BLACK GRADUATE PROFESSIONAL SCHOOLS

The Clerk called the bill (H.R. 3055) to amend section 326 of the Higher Education Act of 1965 to permit continued participation by Historically Black Graduate Professional Schools in the grant program authorized by that section.

The Clerk read the bill, as follows:

H.R. 3055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The Historically Black Graduate Professional Schools identified under section 326 of the Higher Education Act may receive grant funds if the Secretary of Education determines that such institutions make a substantial contribution to the legal, medical, dental, veterinary, or other graduate opportunity for African Americans.

(2) The health professions schools which participate under section 326 train 50 percent of the Nation's African American physicians, 50 percent of the Nation's African American dentists, 50 percent of the Nation's African American pharmacists, and 75 percent of the Nation's African American veterinarians.

(3) A majority of the graduates of these schools practice in poor urban and rural areas of the country providing care to many disadvantaged Americans.

(4) The survival of these schools will contribute to the improved health status of disadvantaged persons, and of all Americans.

SEC. 2. ELIMINATION OF GRANT RENEWAL LIMITATION.

Section 326(b) of the Higher Education Act of 1965 (20 U.S.C. 1063b(b)) is amended by striking the second sentence.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia [Mr. NORWOOD] and the gentleman from Missouri [Mr. CLAY] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank you for allowing me and my colleague from Missouri, Mr. CLAY, to bring to the floor a small yet important bill. H.R. 3055 corrects a situation going on here in Washington that has a big effect on five historically black colleges and universities, including two major Georgia colleges that supply health care professionals to nearly every county in my district.

Because of a technicality in the Higher Education Act of 1965, both Morehouse School of Medicine and Clark-Atlanta University could stand to lose their ability to compete for Federal education grants. Under that 1965 Act, grant eligibility is limited to two 5-year grants. These schools have received their two 5-year grants.

This was originally done to make sure a small number of schools didn't monopolize the few grants that were available, but over the years that situation has proven not to be an issue. At present, the other 11 schools covered by the Act have said that they have no objection to Morehouse and Clark, as well as the other three schools, continuing to compete, yet this unnecessary rule still is on the books, which means both colleges will be shut out of the process starting next year unless we act now.

H.R. 3055 will correct this situation. Here's why this is so important—the five schools who will lose grant eligibility under this rule provide more than half of the entire country's African-American physicians, pharmacists, and dentists, and three-quarters of all African-American veterinarians.

For the most part, these health-care professionals practice in poor urban and rural areas, where they serve a large number of poor Americans regardless of their race. It would be inexcusable to allow these colleges' ability to put qualified health-care providers in the field to be compromised because of a rule that should no longer apply.

Mr. Speaker, H.R. 3055 contains no new spending, and does not increase the Federal deficit. H.R. 3055 contains no new Federal mandates. But what H.R. 3055 does contain is a small measure of help for those who would provide medical help to many in rural and poor areas. I urge my colleagues to vote in favor of H.R. 3055.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume. I rise in support of H.R. 3055 and commend my colleague, Mr. NORWOOD, for cosponsoring this legislation. I am proud to note that this bill was favorably reported by the Committee on Economic and Educational Opportunities with unanimous, bipartisan support.

Mr. Speaker, this bill corrects a problem with respect to section 326 of title III of the Higher Education Act. That section was added to the act in 1986 as a way to provide support for historically black graduate and professional institutions of higher education which perform vitally important services for our Nation.

As Mr. NORWOOD stated, the five schools initially included in section 326 educate more than half of all black doctors, dentists, and pharmacists, as well as 75 percent of all black veterinarians each year. That is a major return on the small investment provided by the Federal Government.

H.R. 3055 allows those five institutions to continue to do what they do so well. It will allow them to remain eligible to receive section 326 support at no additional cost to the Federal Government.

I urge my colleagues to support this bipartisan effort.

Mr. Speaker, I yield back the balance of my time.

Mr. NORWOOD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

A motion to reconsider was laid on the table.

RESIGNATION AS CONFEREE AND APPOINTMENT OF REPLACEMENT CONFEREE ON H.R. 3019, BALANCED BUDGET DOWN PAYMENT ACT, II

The SPEAKER pro tempore laid before the House the following resignation as a conferee:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 23, 1996.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I hereby resign as a conferee for the entire bill, H.R. 3019, the omnibus appropriations measure for Fiscal 1996. I intend to remain a conferee for the Labor, Health and Human Services, and Education portion of the bill.

Thanking you and with best regards, I am
Sincerely yours,
STENY H. HOYER.

The SPEAKER pro tempore. Without objection, the resignation of Mr. HOYER as a conferee on the primary panel of conferees is accepted, the gentleman from Ohio, Mr. STOKES is appointed to fill the resulting vacancy among the primary panel of conferees, and is reappointed as a conferee for consideration of section 101(c) of the House bill and section 101(d) of the Senate amendment and modifications committed to conference.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules but not before 5 p.m. today.

BATTERY RECYCLING AND OTHER ENVIRONMENTAL ISSUES

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Without objection, the gentleman from New Mexico is recognized for 1 minute.

There was no objection.

Mr. RICHARDSON. Mr. Speaker, on the issue of the environment and Earth Day, we have to be very careful not to politicize these issues. We are about to take up a battery recycling bill, which is a good bill. By the way, it used to be my bill and FRANK PALLONE' bill, now is a Republican bill. We accept that. Things change.

But we should not, by passing this bill, say that we have ended our tasks in protecting the environment. Battery recycling is important, but it does not correct the environmental rollbacks that many in this Republican majority have pursued this year: Weakening the Clean Water Act, slashing funding for the EPA, weakening the Endangered Species Act, attempting to close down some of our national parks.

We want to take some positive steps on the environment. We also should pass a bipartisan Superfund bill that does not pass the cost of cleanups on to the taxpayer, a safe drinking water bill that keeps public health as a top priority, a park concessions bill that allows fair competition to concessionaires and keeps the cost of visiting our parks down to all Americans.

I do want to commend, I will be commending Chairman BLILEY, Chairman OXLEY, Chairman DINGELL, and ranking member PALLONE for their efforts to bring this battery recycling bill to the floor. Hopefully this will be a good precedent for the Republican majority to celebrate our environment, not just on Earth Day by going to a zoo and exhibiting concern for animals, but by passing concrete legislation.

Mr. Speaker, I think that this is starting to happen with our majority here that realizes that taking on the environment has not been a good issue, that going out and weakening our environmental laws has rebounded negatively with voters. This is a good bill, and our colleague, the gentleman from Wisconsin [Mr. KLUG], should be commended for it.

I especially want to commend the work of the gentleman from New Jersey [Mr. PALLONE], who has been a leader in the fight on mercury poisoning; that is, reducing it. He has been a leader in many issues relating to recycling.

Mr. Speaker, I yield to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from New Mexico for those very kind remarks and, of course, say the same thing about him. I know this battery bill has been very important to him and the whole issue of battery recycling and concern for mercury in the atmosphere.

I agree with him completely when he says that as much as we believe that this bill is important today and we certainly do want it to pass, that that should not take away from what the Republican majority and the Republican leadership are doing about the environment in general, and how they are continuing to try to move legislation on the floor of this House that would tear down the environmental protections we have had in place for a number of years.

Particularly, today I found out in the Committee on Appropriations, although they are very close to agreement on a spending bill that would take us through the remainder of this year, that the disagreement once again is over environmental issues and over the fact that the Republican leadership insists on these environmental riders or antienvironmental riders that are placed in the appropriations bill that would, among other things, prohibit new Superfund sites from being designated, prohibit the EPA from designating standards for radon in drinking water, prohibit the EPA from being involved in wetlands protection, and the list goes on and on.

☐ 1445

So they are continuing their assault on the environment; that is, the Republican majority, at the same time they are making an effort today, or at least to seem to try to show today, that they do bring some environmental legislation to the floor. We cannot mask the fact that some of these measures like the battery recycling bill, even though they are very important, are small measures compared to the damage the Republican majority is doing to the environment.

If I could just for a minute quote what I thought was a great editorial in yesterday's New York Times, just some of it, that is called "Defunding Mother Earth." It says:

> There are many destructive proposals on the Congressional agenda, including several bills that would transfer millions of acres of public land to state and commercial jurisdiction. But the most urgent example of bad legislation is an omnibus appropriations bill now under consideration in a House Senate conference. The bill sharply reduces appropriations for the Environmental Protection Agency and the Interior Department and contains a dozen or so crippling anti-environmental riders.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Today marks the 26th anniversary of Earth Day. In full knowledge of that, House Speaker Newt Gingrich recently formed a 77-member Republican environmental task force. Although 36 members of this task force earned "zero" ratings from the League of Conservation Voters for their routine support of anti-environmental legislation, many of them are likely to spend the week planting trees, visiting zoos and striking friendly poses next to recycling bins. But the best thing Mr. Gingrich could do for his country and his party would be to recognize that what counts here is content, not imagery—and remove those riders from the appropriations bill.

Once again, we need to keep pressing the point that you cannot talk about the environment in a favorable way, and move some bills, and at the same time continue the assault on the environment to tear down the last 25 years of environmental protection since Earth Day.

Mr. RICHARDSON. Mr. Speaker, reclaiming my time, I thank the gentleman from New Jersey. I hope our friends from the majority are on their way. Here is their opportunity to do a real environmental bill. I hope they are not hesitating. I am sure they are on their way. I thank the Chair for allowing this dialog.

This does not diminish the fact this is a good bill, this battery recycling bill. It is something I will say industry, some industry, has taken a very positive role in changing this, in being constructive about change. Hopefully, it will lead to other issues that involve protecting the environment. I think it is very important that we have a bipartisan bill on Superfund, a meaningful bipartisan bill, that does not pass the cost of cleanups on to the taxpayer.

Next, this is the very glorious Committee on Commerce, a safe drinking water bill that keeps public health as a top priority.

MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2024) to phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and certain other batteries, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mercury-Containing and Rechargeable Battery Management Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) it is in the public interest to—

(A) phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and other regulated batteries; and

(B) educate the public concerning the collection, recycling, and proper disposal of such batteries;

(2) uniform national labeling requirements for regulated batteries, rechargeable consumer products, and product packaging will significantly benefit programs for regulated battery collection and recycling or proper disposal; and

(3) it is in the public interest to encourage persons who use rechargeable batteries to participate in collection for recycling of used nickel-cadmium, small sealed lead-acid, and other regulated batteries.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) Administrator.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Button cell.—The term "button cell" means a button- or coin-shaped battery.

(3) Easily removable.—The term "easily removable", with respect to a battery, means detachable or removable at the end of the life of the battery—

(A) from a consumer product by a consumer with the use of common household tools; or

(B) by a retailer of replacements for a battery used as the principal electrical power source for a vehicle.

(4) Mercuric-oxide battery.—The term "mercuric-oxide battery" means a battery that uses a mercuric-oxide electrode.

(5) Rechargeable battery.—The term "rechargeable battery"—

(A) means 1 or more voltaic or galvanic cells, electrically connected to produce electric energy, that is designed to be recharged for repeated uses; and

(B) includes any type of enclosed device or sealed container consisting of 1 or more such cells, including what is commonly called a battery pack (and in the case of a battery pack, for the purposes of the requirements of easy removability and labeling under section 103, means the battery pack as a whole rather than each component individually); but

(C) does not include—

(i) a lead-acid battery used to start an internal combustion engine or as the principal electrical power source for a vehicle, such as an automobile, a truck, construction equipment, a motorcycle, a garden tractor, a golf cart, a wheelchair, or a boat;

(ii) a lead-acid battery used for load leveling or for storage of electricity generated by an alternative energy source, such as a solar cell or wind-driven generator;

(iii) a battery used as a backup power source for memory or program instruction storage, timekeeping, or any similar purpose that requires uninterrupted electrical power in order to function if the primary energy supply fails or fluctuates momentarily; or

(iv) a rechargeable alkaline battery.

(6) Rechargeable consumer product.—The term "rechargeable consumer product"—

(A) means a product that, when sold at retail, includes a regulated battery as a primary energy supply, and that is primarily intended for personal or household use; but

(B) does not include a product that only uses a battery solely as a source of backup power for memory or program instruction storage, timekeeping, or any similar purpose that requires uninterrupted electrical power in order to function if the primary energy supply fails or fluctuates momentarily.

(7) Regulated battery.—The term "regulated battery" means a rechargeable battery that—

(A) contains a cadmium or a lead electrode or any combination of cadmium and lead electrodes; or

(B) contains other electrode chemistries and is the subject of a determination by the Administrator under section 103(d).

(8) Remanufactured product.—The term "remanufactured product" means a rechargeable consumer product that has been altered by the replacement of parts, repackaged, or repaired after initial sale by the original manufacturer.

SEC. 4. INFORMATION DISSEMINATION.

The Administrator shall, in consultation with representatives of rechargeable battery manufacturers, rechargeable consumer product manufacturers, and retailers, establish a program to provide information to the public concerning the proper handling and disposal of used regulated batteries and rechargeable consumer products with nonremovable batteries.

SEC. 5. ENFORCEMENT.

(a) Civil Penalty.—When on the basis of any information the Administrator determines that a person has violated, or is in violation of, any requirement of this Act (except a requirement of section 104) the Administrator—

(1) in the case of any violation, may issue an order assessing a civil penalty of not more than $10,000 for each violation, or requiring compliance immediately or within a reasonable specified time period, or both; or

(2) in the case of any violation or failure to comply with an order issued under this section, may commence a civil action in the United States district court in the district in which the violation occurred or in the district in which the violator resides for appropriate relief, including a temporary or permanent injunction.

(b) Contents of Order.—An order under subsection (a)(1) shall state with reasonable specificity the nature of the violation.

(c) Considerations.—In assessing a civil penalty under subsection (a)(1), the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(d) Finality of Order; Request for Hearing.—An order under subsection (a)(1) shall become final unless, not later than 30 days after the order is served, a person named in the order requests a hearing on the record.

(e) Hearing.—On receiving a request under subsection (d), the Administrator shall promptly conduct a hearing on the record.

(f) Subpoena Power.—In connection with any hearing on the record under this section, the Administrator may issue subpoenas for the attendance and testimony of witnesses and for the production of relevant papers, books, and documents.

(g) Continued Violation After Expiration of Period for Compliance.—If a violator fails to take corrective action within the time specified in an order under subsection (a)(1), the Administrator may assess a civil penalty of not more than $10,000 for the continued noncompliance with the order.

(h) Savings Provision.—The Administrator may not take any enforcement action against a person for selling, offering for sale, or offering for promotional purposes to the ultimate consumer a battery or product covered by this Act that was—

(1) purchased ready for sale to the ultimate consumer; and

(2) sold, offered for sale, or offered for promotional purposes without modification.

The preceding sentence shall not apply to a person—

(A) who is the importer of a battery covered by this Act, and

(B) who has knowledge of the chemical contents of the battery

when such chemical contents make the sale, offering for sale, or offering for promotional purposes of such battery unlawful under title II of this Act.

SEC. 6. INFORMATION GATHERING AND ACCESS.

(a) Records and Reports.—A person who is required to carry out the objectives of this Act, including—

(1) a regulated battery manufacturer;

(2) a rechargeable consumer product manufacturer;

(3) a mercury-containing battery manufacturer; and

(4) an authorized agent of a person described in paragraph (1), (2), or (3),

shall establish and maintain such records and report such information as the Administrator may by regulation reasonably require to carry out the objectives of this Act.

(b) Access and Copying.—The Administrator or the Administrator's authorized representative, on presentation of credentials of the Administrator, may at reasonable times have access to and copy any records required to be maintained under subsection (a).

(c) Confidentiality.—The Administrator shall maintain the confidentiality of documents and records that contain proprietary information.

SEC. 7. STATE AUTHORITY.

Nothing in this Act shall be construed to prohibit a State from enacting and enforcing a standard or requirement that is identical to a standard or requirement established or promulgated under this Act. Except as provided in sections 103(e) and 104, nothing in this Act shall be construed to prohibit a State from enacting and enforcing a standard or requirement that is more stringent than a standard or requirement established or promulgated under this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

TITLE I—RECHARGEABLE BATTERY RECYCLING ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Rechargeable Battery Recycling Act".

SEC. 102. PURPOSE.

The purpose of this title is to facilitate the efficient recycling or proper disposal of used nickel-cadmium rechargeable batteries, used small sealed lead-acid rechargeable batteries, other regulated batteries, and such rechargeable batteries in used consumer products, by—

(1) providing for uniform labeling requirements and streamlined regulatory requirements for regulated battery collection programs; and

(2) encouraging voluntary industry programs by eliminating barriers to funding the collection and recycling or proper disposal of used rechargeable batteries.

SEC. 103. RECHARGEABLE CONSUMER PRODUCTS AND LABELING.

(a) Prohibition.—

(1) In general.—No person shall sell for use in the United States a regulated battery that is ready for retail sale or a rechargeable consumer product that is ready for retail sale, if such battery or product was manufactured on or after the date 12 months after the date of enactment of this Act, unless the labeling requirements of subsection (b) are met and, in the case of a regulated battery, the regulated battery—

(A) is easily removable from the rechargeable consumer product; or

(B) is sold separately.

(2) Application.—Paragraph (1) does not apply to any of the following:

(A) The sale of a remanufactured product unit unless paragraph (1) applied to the sale of the unit when originally manufactured.

(B) The sale of a product unit intended for export purposes only.

(b) Labeling.—Each regulated battery or rechargeable consumer product without an easily removable battery manufactured on or after the date that is 1 year after the date of enactment of this Act, whether produced domestically or imported shall bear the following labels:

(1) 3 chasing arrows or a comparable recycling symbol.

(2)(A) On each regulated battery which is a nickel-cadmium battery, the chemical name or the abbreviation "Ni-Cd" and the phrase "BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY.".

(B) On each regulated battery which is a lead-acid battery, "Pb" or the words "LEAD", "RETURN", and "RECYCLE" and if the regulated battery is sealed, the phrase "BATTERY MUST BE RECYCLED.".

(3) On each rechargeable consumer product containing a regulated battery that is not easily removable, the phrase "CONTAINS NICKEL-CADMIUM BATTERY. BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY." or "CONTAINS SEALED LEAD BATTERY. BATTERY MUST BE RECYCLED.", as applicable.

(4) On the packaging of each rechargeable consumer product, and the packaging of each regulated battery sold separately from such a product, unless the required label is clearly visible through the packaging, the phrase "CONTAINS NICKEL-CADMIUM BATTERY. BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY." or "CONTAINS SEALED LEAD BATTERY. BATTERY MUST BE RECYCLED.", as applicable.

(c) Existing or Alternative Labeling.—

(1) Initial period.—For a period of 2 years after the date of enactment of this Act, regulated batteries, rechargeable consumer products containing regulated batteries, and rechargeable consumer product packages that are labeled in substantial compliance with subsection (b) shall be deemed to comply with the labeling requirements of subsection (b).

(2) Certification.—

(A) In general.—On application by persons subject to the labeling requirements of subsection (b) or the labeling requirements promulgated by the Administrator under subsection (d), the Administrator shall certify that a different label meets the requirements of subsection (b) or (d), respectively, if the different label—

(i) conveys the same information as the label required under subsection (b) or (d), respectively; or

(ii) conforms with a recognized international standard that is consistent with the overall purposes of this title.

(B) Constructive certification.—Failure of the Administrator to object to an application under subparagraph (A) on the ground that a different label does not meet either of the conditions described in subparagraph (A) (i) or (ii) within 120 days after the date on which the application is made shall constitute certification for the purposes of this Act.

(d) Rulemaking Authority of the Administrator.—

(1) In general.—If the Administrator determines that other rechargeable batteries having electrode chemistries different from regulated batteries are toxic and may cause substantial harm to human health and the environment if discarded into the solid waste stream for land disposal or incineration, the Administrator may, with the advice and counsel of State regulatory authorities and manufacturers of rechargeable batteries and rechargeable consumer products, and after public comment—

(A) promulgate labeling requirements for the batteries with different electrode chemistries, rechargeable consumer products containing such batteries that are not easily removable batteries, and packaging for the batteries and products; and

(B) promulgate requirements for easy removability of regulated batteries from rechargeable consumer products designed to contain such batteries.

(2) Substantial similarity.—The regulations promulgated under paragraph (1) shall be substantially similar to the requirements set forth in subsections (a) and (b).

(e) Uniformity.—After the effective dates of a requirement set forth in subsection (a), (b), or (c) or a regulation promulgated by the Administrator under subsection (d), no Federal agency, State, or political subdivision of a State may enforce any easy removability or environmental labeling requirement for a rechargeable battery or rechargeable consumer product that is not identical to the requirement or regulation.

(f) Exemptions.—

(1) In general.—With respect to any rechargeable consumer product, any person may submit an application to the Administrator for an exemption from the requirements of subsection (a) in accordance with the procedures under paragraph (2). The application shall include the following information:

(A) A statement of the specific basis for the request for the exemption.

(B) The name, business address, and telephone number of the applicant.

(2) Granting of exemption.—Not later than 60 days after receipt of an application under paragraph (1), the Administrator shall approve or deny the application. On approval of the application the Administrator shall grant an exemption to the applicant. The exemption shall be issued for a period of time that the Administrator determines to be appropriate, except that the period shall not exceed 2 years. The Administrator shall grant an exemption on the basis of evidence supplied to the Administrator that the manufacturer has been unable to commence manufacturing the rechargeable consumer product in compliance with the requirements of this section and with an equivalent level of product performance without the product—

(A) posing a threat to human health, safety, or the environment; or

(B) violating requirements for approvals from governmental agencies or widely recognized private standard-setting organizations (including Underwriters Laboratories).

(3) Renewal of exemption.—A person granted an exemption under paragraph (2) may apply for a renewal of the exemption in accordance with the requirements and procedures described in paragraphs (1) and (2). The Administrator may grant a renewal of such an exemption for a period of not more than 2 years after the date of the granting of the renewal.

VOL
142
PT
6
AP
15
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24
1996
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SEC. 104. REQUIREMENTS.

(a) BATTERIES SUBJECT TO CERTAIN REGULATIONS.—The collection, storage, or transportation of used rechargeable batteries, batteries described in section 3(5)(C) or in title II, and used rechargeable consumer products containing rechargeable batteries that are not easily removable rechargeable batteries, shall, notwithstanding any law of a State or political subdivision thereof governing such collection, storage, or transportation, be regulated under applicable provisions of the regulations promulgated by the Environmental Protection Agency at 60 Fed. Reg. 25492 (May 11, 1995), as effective on May 11, 1995, except as provided in paragraph (2) of subsection (b) and except that—

(1) the requirements of 40 CFR 260.20, 260.40, and 260.41 and the equivalent requirements of an approved State program shall not apply, and

(2) this section shall not apply to any lead acid battery managed under 40 CFR 266 subpart G or the equivalent requirements of an approved State program.

(b) ENFORCEMENT UNDER SOLID WASTE DISPOSAL ACT.—(1) Any person who fails to comply with the requirements imposed by subsection (a) of this section may be subject to enforcement under applicable provisions of the Solid Waste Disposal Act.

(2) States may implement and enforce the requirements of subsection (a) if the Administrator finds that—

(A) the State has adopted requirements that are identical to those referred to in subsection (a) governing the collection, storage, or transportation of batteries referred to in subsection (a); and

(B) the State provides for enforcement of such requirements.

TITLE II—MERCURY-CONTAINING BATTERY MANAGEMENT ACT

SEC. 201. SHORT TITLE.

This title may be cited as the "Mercury-Containing Battery Management Act".

SEC. 202. PURPOSE.

The purpose of this title is to phase out the use of batteries containing mercury.

SEC. 203. LIMITATIONS ON THE SALE OF ALKALINE-MANGANESE BATTERIES CONTAINING MERCURY.

No person shall sell, offer for sale, or offer for promotional purposes any alkaline-manganese battery manufactured on or after the date of enactment of this Act, with a mercury content that was intentionally introduced (as distinguished from mercury that may be incidentally present in other materials), except that the limitation on mercury content in alkaline-manganese button cells shall be 25 milligrams of mercury per button cell.

SEC. 204. LIMITATIONS ON THE SALE OF ZINC-CARBON BATTERIES CONTAINING MERCURY.

No person shall sell, offer for sale, or offer for promotional purposes any zinc-carbon battery manufactured on or after the date of enactment of this Act, that contains mercury that was intentionally introduced as described in section 203.

SEC. 205. LIMITATIONS ON THE SALE OF BUTTON CELL MERCURIC-OXIDE BATTERIES.

No person shall sell, offer for sale, or offer for promotional purposes any button cell mercuric-oxide battery for use in the United States on or after the date of enactment of this Act.

SEC. 206. LIMITATIONS ON THE SALE OF OTHER MERCURIC-OXIDE BATTERIES.

(a) PROHIBITION.—On or after the date of enactment of this Act, no person shall sell, offer for sale, or offer for promotional purposes a mercuric-oxide battery for use in the United States unless the battery manufacturer, or the importer of such a battery—

(1) identifies a collection site in the United States that has all required Federal, State, and local government approvals, to which persons may send used mercuric-oxide batteries for recycling or proper disposal;

(2) informs each of its purchasers of mercuric-oxide batteries of the collection site identified under paragraph (1); and

(3) informs each of its purchasers of mercuric-oxide batteries of a telephone number that the purchaser may call to get information about sending mercuric-oxide batteries for recycling or proper disposal.

(b) APPLICATION OF SECTION.—This section does not apply to a sale or offer of a mercuric-oxide button cell battery.

SEC. 207. NEW PRODUCT OR USE.

On petition of a person that proposes a new use for a battery technology described in this title or the use of a battery described in this title in a new product, the Administrator may exempt from this title the new use of the technology or the use of such a battery in the new product on the condition, if appropriate, that there exist reasonable safeguards to ensure that the resulting battery or product without an easily removable battery will not be disposed of in an incinerator, composting facility, or landfill (other than a facility regulated under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.)).

The SPEAKER pro tempore. (Mr. UPTON). Pursuant to the rule, the gentleman from Ohio [Mr. OXLEY] and the gentleman from New Jersey [Mr. PALLONE] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to be on the House floor today with broad bipartisan support for pro-environmental legislation that originated in the subcommittee I chair.

H.R. 2024, the Mercury-Containing and Rechargeable Battery Management Act, is the second bipartisan environmental bill we have brought to the floor from the Subcommittee on Commerce, Trade, and Hazardous Materials, the first being the Land Disposal Flexibility Act, which has been signed into law. Any discussion of this Congress' environmental record needs to acknowledge the good bipartisan work we are doing.

This battery bill proves an important point: we can improve the environment by reducing government regulations, and by reducing burdens on industry. This bill reduces regulations, and the result will be less cadmium in our ground water and our air.

Right now, cadmium is classified as a hazardous waste, so spent nickel-cadmium rechargeable batteries are hazardous wastes too. Hazardous wastes are subject to all sorts of disposal, handling, storage, and transportation regulations, like disposal in specially permitted subtitle C landfills, recordkeeping, reporting, manifesting and so on.

If your nickel-cadmium battery at home ran out of power, you could just throw it in the trash and not be subject to the hazardous waste regulations, because the law exempts household waste. But if you took the battery back to the store to recycle it, all of a sudden it would be subject to the hazardous waste regulations.

We want consumers to take rechargeable batteries back to the store and have them recycled. But retail stores don't want to touch used batteries under the current hazardous waste requirements, because it would cost them an arm and a leg, and subject them to fines and penalties if they don't comply.

This bill solves the problem by exempting rechargeable batteries from hazardous waste regulations so we can recycle. Retailers collecting these batteries for recycling will only need comply with the Universal Waste Rule, which does away with most of the onerous hazardous waste regulations. The reduced regulation doesn't pose an environmental threat. After all, the batteries are in the same condition when you throw them away as they are when you buy them. They don't become more hazardous in between.

This bill also requires battery labeling so consumers know the batteries can be recycled, and it bans mercury in several battery types, which will reduce mercury in our air and ground water.

We made two minor changes since this bill passed the Commerce Committee by voice vote. First, we changed the effective date of the mercury ban to the date of enactment. Second, we clarified the enforcement provision so importers who have knowledge of the contents of the batteries they import can be enforced against if the batteries violate the mercury ban.

I want to thank the bill's sponsor, Congressman KLUG, for his efforts, as well as the gentleman from New Jersey, Congressman PALLONE. I would also like to thank the chairman of the full committee for his leadership on this issue in bringing the bill to the floor in a timely fashion.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the legislation. This is a bipartisan bill that is supported by the Clinton administration and was reported out of the committee unanimously last week. I will include in the RECORD a letter from the Clinton administration in support of the legislation.

Mr. Speaker, I first became involved with this legislation because New Jersey has a very serious mercury problem. In February of 1994, the State released a study that showed some fish in over half of the State's lakes with elevated mercury levels. These fish reflected increased mercury levels in the

atmosphere. In addition, the Asbury Park Press, a newspaper in my district, did an outstanding investigative report over a number of days on the dangers and sources of mercury.

Mercury enters the atmosphere and the food chain in a number of ways, but among the most significant sources are coal-fired utilities and solid waste incinerators. Many of the components of garbage burned by incinerators contain mercury, and incinerators then release the mercury into the atmosphere, which then reaches the ground through rain, snow, and other precipitation.

As its title implies, the bill deals with mercury in a comprehensive fashion, including a user fee on mercury air emissions, reduction of mercury in packaging, mandatory separation of mercury-containing items from the waste stream, and a requirement for an EIS in order to site an incinerator.

At one time, batteries may have accounted for as much as 60 percent of the mercury being released from municipal solid waste incinerators, but today batteries basically do not account for anywhere nearly as high a percentage of the mercury emitted into the atmosphere.

I think it is clearly important to recognize the battery industry for its accomplishments in this area. The industry has made tremendous strides in reducing the mercury content of batteries, and now we are considering legislation that is supported by the industry that bans virtually all mercury containing batteries. That is no small feat.

But non-mercury-containing batteries also contain other heavy metals and chemicals which can prove hazardous to human health and the environment if they are incinerated or landfilled. The bill before us that the gentleman from Wisconsin [Mr. KLUG], myself, and others have introduced, and I have to specifically mention the gentleman from New Mexico [Mr. RICHARDSON] who is the original sponsor of this bill in previous Congresses, but basically what this bill does for these other issues, such as nickel-cadmium and other hazardous items other than mercury, it provides a coherent national system of handling for batteries and products, it streamlines regulatory requirements for battery collection programs, and it encourages voluntary industry programs by eliminating barriers to funding the collection and recycling or proper disposal of used rechargeable batteries.

I just wanted to mention one more thing, Mr. Speaker. At the hearings our subcommittee held, the EPA raised some concerns about certain provisions in this bill. I criticized the agency for bringing its concerns to our attention many months after the bill passed the Senate and had been introduced.

Working together, the gentleman from Ohio [Mr. OXLEY] myself, the gentleman from Wisconsin [Mr. KLUG], the gentleman from Michigan [Mr. DINGELL] and others were able to address these concerns. Among other things, the amendments adopted by the committee close unintended loopholes in enforcement, allow States to implement and enforce the act, and make clear that the Administrator can invoke the Solid Waste Disposal Act against those who fail to comply with the provisions of the bill.

I also want to note one change that has been made to the bill since it left committee. This change as reported by the committee is a change to the bill as reported and clarifies that the Administrator of EPA may enforce title II against any retailer-importer who has knowledge of the general chemical content of the general chemical content of the imported battery. However, the change allows the defense where the retailer-importer lacks such information, because, for example, of the duplicity of the overseas manufacturer.

I do not want to get into more detail. It is a good bill. It has bipartisan support. I commend the chairman and the other members, the gentleman from New Mexico [Mr. RICHARDSON], the gentleman from Wisconsin [Mr. KLUG] for their involvement.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding me time and for his support and work on this legislation.

Let me just say, Mr. Speaker, that this legislation will not clean up. It may recycle batteries, but it will not clean up the record of the Republicans on the environment as this agenda is supposed to do.

I note the previous speaker, the chairman of the subcommittee, that just spoke, recently voted five times against protecting our environment, against protecting children from arsenic in their drinking water, against adequate funding for our Nation's toxic cleanup program, to stop EPA from protecting America's exposure to arsenic, dioxin, and other cancer causing pollutants, to allow corporate polluters to dump 70,000 chemicals into our Nation's rivers, lakes, and streams, and to allow industry to pollute our drinking water.

So while the gentleman and others who will speak on this bill from your side of the aisle can earn a figleaf, and we will be glad to give them a figleaf to cover themselves when they support this legislation, but, under that figleaf, what you will see is in fact their environmental record for the past 16 months, which has been against environmental protection and, in many instances, providing much more pollution than we will ever be able to prevent by passing this recycling bill. This is a good bill, but it does not erase that record.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I cannot resist responding to what I guess is a predictable response from the far left. Here we are, trying to craft a bipartisan environmental bill dealing with rechargeable batteries and recycling. It is unfortunate we have to already in the early part of the day resort to political palaver about the environmental issues. It is unfortunate, but I guess predictable.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KLUG], the sponsor of the battery bill.

Mr. KLUG. Mr. Speaker, I would like to thank the gentleman from Ohio [Mr. OXLEY], the gentleman from Virginia [Mr. BLILEY], and the gentleman from New Jersey [Mr. PALLONE], for all of their help in this legislation and helping to move it forward.

Mr. Speaker, the American people are consumers of millions of rechargeable ni-cad batteries. I introduced this legislation because it offers a sound solution to a serious environmental problem. This legislation gives the battery industry the ability to implement a fully private, let me say that again, fully private, voluntary, national program to collect and recycle spent ni-cad batteries.

This recycling program is already running in several pilot programs in different areas of the country, but a multitude of different State labeling and collection regulations, as well as Federal waste regulations, have prevented the industry from fully implementing it on a national level.

Under H.R. 2024, regulations governing battery collection and recycling programs will be streamlined and a comprehensive, uniform system of battery labeling will now be established nationwide.

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In addition to establishing a nationwide recycling program for ni-cad batteries, H.R. 2024, importantly phases out the use of mercury in other batteries. Studies have shown mercury is a serious health threat to both human health and the environment. It can damage the brain, the kidneys, in addition, and also the developing fetus. It is time that Congress take the lead in removing this dangerous element from our waste stream.

H.R. 2024 is not controversial and enjoys wide bipartisan support. The other body passed similar legislation by unanimous consent last September. In addition, H.R. 2024 is supported by the National Retail Federation, the U.S. Conference of Mayors, the National Electrical Manufacturers Association, the Electronic Industries Association, the Central Virginia Waste Management Authority and, perhaps more importantly, my home Governor, Governor Thompson of Wisconsin.

VOL 142 PT 6 AP 15—24 1996 UMI

Again, Mr. Speaker, this legislation has tremendous support across the board and across the aisle, and let me reiterate one more time my deep thanks to my colleague, the gentleman from New Jersey, Mr. PALLONE, for his great help in moving this legislation forward and to my friend and colleague from Ohio, Mr. OXLEY, for having the courtesy and good sense to move this legislation forward as well. Both regulator and the regulated community agree that the Government should take steps to reduce the presence of nickel cadmium and mercury from the solid waste stream.

I also believe we must do something about this problem and I am hopeful we can quickly implement this bipartisan legislation. Within a matter of days of signing this bill into law we can set forth a completely voluntary and industry financed recycling program that will provide enhanced environmental protection without burdening the States or without burdening the taxpayers.

I urge my colleagues to support H.R. 2024.

Mr. PALLONE. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Again to state, Mr. Speaker, that we will be delivering a fig leaf to the gentleman from Wisconsin's office so he can use it to try to hide his environmental record when earlier this year he voted to stop EPA from protecting against the dumping of 70,000 chemicals in our Nation's rivers and allowing industry to pollute our drinking water.

Voting to recycle batteries will not cover that up, and the fig leaf will be delivered to his office later today.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I am sorry the gentleman from California [Mr. MILLER] has chosen to make a partisan political debate with fig leaves and gimmicks. This afternoon was structured to be productive and it was structured, in particular, in a bipartisan way.

We, for example, are going to consider a bill this afternoon known as the Coastal Zone Protection Act, which has 130 signatures, about half Republicans and half Democrats. We are going to have a number of bills, one sponsored by the gentlewoman from Hawaii [Mrs. MINK], a Democrat; another sponsored by the gentleman from New York [Mr. FORBES], a Republican; we will have another, the North Platte Refuge Act, by the gentleman from Nebraska [Mr. BARRETT]; another sponsored by the genteman from Louisiana [Mr. MCCRERY], a Republican. So we have gone out of our way, Mr. Speaker, to make this a bipartisan effort this afternoon to do some things that are good that we all agree on in the name of the environment.

I am sorry that the gentleman from California, insists on performing the way he has with fig leaves and other gimmicks. I think it is not what the American people expect. My constituents expect me to come to Washington to pass legislation that does things they want done. I would think the gentleman's constituents would want the same.

Mr. PALLONE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time, and I appreciate the sensitivity of the gentleman because he too will earn a fig leaf since he voted wrong three out of five times.

The issue is not about these bills. The issue is about the continued record that has not been bipartisan, where Members have again chosen time and again to increase the ability of polluters to dump pollution, to dump toxics into the rivers, the lakes, and the waterways of this Nation. That is the gentleman's voting record.

The gentleman is not going to hide that voting record by voting on bills that have basically unanimous support and that are noncontroversial, and then suggest that represents his environmental voting record, at the same time that we see the Committee on Appropriations continuing the riders that have been so detrimental to the environment.

Those are the facts and I appreciate the gentleman's sensitivity.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SCHAEFER], the chairman of the Subcommittee on Energy and Power.

Mr. SCHAEFER. Mr. Speaker, I rise today in strong support of this commonsense legislation. I commend industry, the Environmental Protection Agency [EPA], and the environmental community in their efforts to craft consensus proposal.

Currently, businesses, trying to do the right thing by implementing battery recycling programs are stymied by a patchwork of State laws. This legislation replaces the current random system with reasonable uniform national standards for the transporting, selling, recycling, and disposing of batteries.

With this bill, the battery industry will be able to launch a voluntary recycling campaign that will keep batteries out of local landfills and incinerators. Additionally, this measure will phase out mercury-based batteries that currently threaten our Nation's groundwater and air.

I am particularly pleased with the process that resulted in the development of this bill. The business community was able to come together with environmental regulators to produced a sensible piece of legislation with broad bipartisan backing.

It is my hope that we can continue this cooperative spirit as we move forward with consideration of additional environmental initiatives.

Mr. Speaker, I urge my colleagues to adopt this reasonable, consensus bill.

Mr. PALLONE. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Again, Mr. Speaker, I want to award a fig leaf to the gentleman from Colorado who has voted five out of five times against improving our environment and allowing arsenic to continue in the drinking water of children and against adequate funding for cleaning up the Nation's toxic waste program and to continue to allow corporate polluters to dump up to 70,000 chemicals in our Nation's rivers and lakes. The gentleman has a perfect score of five for five that he was on the wrong side of the environment, and he earned his fig leaf.

Mr. OXLEY. Mr. Speaker, it is always good to hear from the far left, even if it is just 30 seconds.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. BURR].

Mr. BURR. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I say to my good friend from California that I accept my fig lead before I speak, knowing that I am going to get one, and saying proudly that I am not accepting it to hide behind. I do not hide behind anything I have done while I have been here that I think is in fact right, and in fact I have done what I think voters sent me here to do. That is to try to strike the right balance.

But I rise today in support of H.R. 2024. This legislation, passed out of the Committee on Commerce on a bipartisan basis, will promote recycling of used batteries that currently end up in landfills and incinerators. Innocently, consumers like myself dispose of batteries that leak mercury and cadmium into the groundwater and cause toxic air emissions when incinerated. Today, batteries account for 68 percent of the cadmium in landfills and 85 percent of the mercury. This possible hazard is not acceptable, and I, for one, will appreciate the opportunity to dispose of my batteries in an environmentally sound manner.

With passage of H.R. 2024, consumers will be able to walk into any store that sells batteries and leave them for recycling. Consumers will be able to read right on the label, through uniformed labeling, that the battery they have purchased is recyclable. All retailers have to do is to set up battery recycling receptacles. Furthermore, H.R. 2024 allows the battery industry to launch a voluntary recycling program which will promote the shipments of used batteries to a central recycling center directly from the retailer.

This is perfect common-sense environmental legislation. H.R. 2024 does not create an expensive, out-of-control Government program. The shipments of batteries to the recycling center will be prepaid for by the Rechargeable Battery Recycling Corp., which is made up of nearly every one of the battery manufacturers and consumer industry interests.

I cannot imagine a more convenient process. This bill will accomplish removing batteries related mercury and cadmium from the waste stream, which means a healthier safer environment for all.

This is common sense, Mr. Speaker, commonsense legislation that we should enact today on a bipartisan basis.

Mr. PALLONE. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding me the time.

The previous speaker in the well quite properly predicted he too will earn a fig leaf. He quite properly stated he will not be able to hide behind it because right now we are sending all the heavy hitters against the environment to the well. He, too, had a perfect score of five for five against protecting children from arsenic in their drinking water, against adequate funding for our Nation's toxic waste cleanup programs to allow industry to pollute our drinking water and an effort to stop EPA from protecting Americans from exposure to arsenic, dioxin, lead and other cancer-causing pollutants. The gentleman has a perfect score; he earned his fig leaf.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it appears the other side does not have a whole lot of substantive arguments in favor of this legislation, which is unfortunate. Our good friend from New Mexico and good friend from New Jersey are carrying a lot of water for some other folks. It is nice they drafted somebody from the other committee to come in and be a designated hitter, and I do mean hitter.

Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Speaker, I thank the gentleman for yielding me time.

I walked in and thought this was a debate about horticulture. I would suggest to the gentleman from California his analogy to the realm of the horticultural area would be more in the nature of sour grapes rather than fig leafs, however.

Let us talk about the issue here, however. The issue is one that is important to our Nation and my State. I recently had an opportunity to visit one of the manufacturing plants in my State that utilizes the batteries that will be used in this recycling process. I think that H.R. 2024, which is the Mercury Containing and Rechargeable Battery Management Act, is the kind of bill all of us certainly will support. It would maximize the environmental protection and resource recovery through a vigorous voluntary recycling program.

I think it is the kind of legislation that all of us should support in that it encourages people to do voluntarily both at the consumer level, at the retail level and at the manufacturer's level what all of us would like to do, and that is to reduce the toxins in our environment.

H.R. 2024, the Mercury Containing and Rechargeable Battery Management Act, is a bill which maximizes environmental protection and resource recovery through a vigorous, voluntary recycling program. H.R. 2024 will make it more efficient, and less costly to handle batteries in an environmentally sound manner. It will phase out the use of mercury in batteries nationally and is consistent with many State laws. Last, H.R. 2024 is an important step in reducing toxics in the waste stream without imposing expensive mandates on local governments. The bill has enjoyed bipartisan support in both the House and Senate and is supported by the Clinton administration.

I would like to make two additional comments in regard to this legislation that I hope the public will take note of. First, I would like to recognize and commend both the Republican and Democratic staff for their hard work in crafting a bill that all parties could agree on. While there may have been differences along the way, you established a common ground from which you could work together to develop a solution. It is unfortunate that bipartisan environmental efforts such as these are too often overlooked.

Second, let me emphasize that Republicans are respectful of American's desire to protect the environment. We embrace opportunities to work with our colleagues across the aisle in any effort to strengthen and improve our Nation's environmental laws.

H.R. 2024 is an important example of our commitment. It is my hope that the public will look beyond the political rhetoric and media bias that is typically associated with environmental legislation. The fact is that Republicans have the same environmental concerns as our constituents. H.R. 2024 is but one example of how we are addressing the issue of solid waste disposal. This is a bill that we can all be proud of. I believe that many more opportunities exist for me to return to this well and tell the public what Republicans are doing to protect the environment.

Mr. PALLONE. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, my only regret is that this legislation has taken so long to progress through the Congress. As I mentioned before, I introduced a similar bill in the 103d Congress. It is good that we are making this initiative now so that it becomes law.

Mr. Speaker, this legislation that we are considering today seeks to protect our environment by providing real relief from the toxic effects of mercury, lead and cadmium in landfills and incinerators. This bill, which I am a cosponsor of, and its counterpart in the other body shares the same goal of removing regulatory barriers to the implementation of an industry sponsored program to collect and recycle ni-cad rechargeable batteries.

Currently, 350 million nickel batteries are being sold in the country each year, and about 40 percent are sold to household consumers. Most of these batteries will therefore end up in solid waste landfills, since households have no alternative opportunity to recycle.

The legislation we are discussing today is going to inform consumers that these batteries can be recycled. In fact, consumers are conveniently going to be able to return used recharageable batteries to battery retailers who will have collection containers at their stores.

There is wide consensus and support of this issue. The bills have been endorsed by the Conference of Mayors, the National Conference of State Legislators, and industry has made a positive effort in moving this bill. I am pleased to join these groups in supporting legislation that does offer workable solutions.

Mr. Speaker, I understand that there are some concerns regarding this legislation. I hope we can work them out to resolve these concerns so that we can finally see this important issue become law.

Mr. Speaker, I think the point that needs to be made is, now that it appears that we are moving with some environmental initiatives in the Committee on Commerce, I would commend the gentleman from Ohio [Mr. OXLEY], the chairman, and urge him to move ahead on some other very important initiatives, a bipartisan bill that does not pass a cleanups on the taxpayer, a safe drinking water bill that keeps public health as a top priority.

I think for those of us that also serve on the Committee on Resources, let us move ahead with a sensible parks reform bill, not a bill that moves ahead to try to shut down some of our national parks. A fair concessions bill that does not make it easier for concessionaires and the big operators to have a sweetheart deal as they manage the national parks.

In addition to that, a bill that is fair on the grazing issue is coming up in the Committee on Resources very soon. Let us make these bipartisan. Chairman OXLEY is somebody who has crafted bipartisan bills. I urge him in the days ahead, besides this commendable effort, to move in that direction on some of the bills I mentioned.

Today, though, this battery recycling bill is a good bill. It should be approved. It is bipartisan. But we have to move beyond this small bill into the major issues affecting the environment in the days ahead.

VOL
142
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Mr. OXLEY. Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield such time as he may consume to the gentleman from California, [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I would just say that if the Yankees had such heavy hitters in their lineup as you have against the environment, they would win the World Series. The gentleman from Georgia, [Mr. DEAL], who just spoke earlier in the well in favor of this legislation, in fact has a perfect record of voting 5 for 5 against the environment, against protecting children from arsenic in their drinking water and against adequate funding for our Nation's toxic waste cleanup to allow corporate polluters to dump 70,000 chemicals in our Nation's rivers and to allow industry to pollute our drinking water and to stop the EPA from protecting America from arsenic, dioxin, lead and other cancer-causing pollutants. So, again, a perfect score for Mr. DEAL of Georgia against the environment. Once again, he has earned his fig leaf, but he will not be allowed to hide it when his real environmental record is exposed against the legislation today.

Mr. OXLEY. Mr. Speaker, if the gentleman from New Jersey will proceed, then I will be glad to close.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say, that I believe that this battery recycling bill is an important bill, as is the Coastal Zone Management Act which I believe we will be taking up next. They are important to my district, to the State of New Jersey. But I think that what we are hearing from our side of the aisle is a tremendous frustration over the fact that major pieces of legislation that relate to the environment, such as the Superfund, which is before the Committee on Commerce, such as safe drinking water, such as the Clean Water Act, which already passed this House, that consistently over the last year, since the beginning of 1995, the Republican leadership has made an effort to weaken major environmental laws and also has made a major effort to cut back on the amount of money that is available through appropriation bills, through the budget bill for environmental enforcement.

I was very saddened really to learn today that even though it is the day after Earth Day and even though the Republican leadership and my colleagues on the Committee on Commerce on the other side are bringing up these bills today that are important, that nonetheless, we continue to see an effort by Speaker GINGRICH and the leadership to press on through the appropriations process in providing less money for environmental enforcement and also in insisting on continuing with these antienvironmental riders in the appropriation bills.

We were out on the lawn in front of the Capitol just about an hour ago, Mr. MILLER and myself, and also the gentleman from Wisconsin [Mr. OBEY]. And we were told that the gentleman from Louisiana [Mr. LIVINGSTON] and the Republican leadership insist on antienvironmental riders that would eliminate the EPA's role in wetlands protection, eliminate the possibility of designating for Superfund sites, not allowing the EPA to proceed with standards for radon, even though in my home State of New Jersey that is a major issue because of the radon and radiation contamination that has been found in some of the drinking water in Ocean County.

So we are extremely upset over the fact that the Republican leadership continues this effort to turn back the clock on environmental protection. As much as we are supportive of the bills that are coming up today, we insist upon the fact that we will make a point over the next few weeks and certainly over the next few months until such time as we are successful in stopping this Republican raid on the environment.

Mr. Speaker, I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, we have been blessed by the chairman of the Committee on Resources who has been drawn to this debate.

Mr. Speaker, I yield 2 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I came to the floor because I have been listening to the tirade. Very frankly, I was questioning the validity of some of the arguments. We are talking about a very good bill here on this side of the aisle.

All I hear Members say on the other side is that for some reason Republicans are going to sell the national parks. That is an outright distortion. That is an outright distortion that is being said by Secretary Babbitt. In fact, it is being said by that side of the aisle.

I just wanted the people that might be watching this show to say, and show me anyplace, anytime anywhere we ever suggested such an action on this side. The bill, in fact, Mr. Babbitt says that we are trying to pass to sell the park was his bill. It was supported by the gentleman from Minnesota [Mr. VENTO]. It was voted on by Mr. MILLER. It was voted on that side of the aisle last session when they were in power.

Now all of a sudden we are the bad guys. Now, shame on you. I am going to suggest respectfully what is occurring here is a gamut for this television for people that watch it to tell some things that have been distorted completely out of context and where they do not take the responsibility. I have listened to the gentleman from New Jersey be on the floor one time. One time I was sitting in the chair. I had to listen to the nonsense that he spouts, and it is nonsense about how bad we are. And I challenged him, show us where. What have we done in our committee that has been bad? Nothing. We have done everything good, 13 bills have been signed out of the committee by this President. Some of those he did not vote for, but the President did sign them.

So I think it is time we bring a little light to this subject here, a little back to what we are talking about, this bill today, this small battery bill to try to dispose of something that could be damaging, a bill that came out of Mr. OXLEY's committee that is noncontroversial. To have this kind of rhetoric continued on and on is totally, I think, irresponsible.

Mr. PALLONE. Mr. Speaker, I ask unanimous consent to reclaim my time. My understanding, from the gentleman from Ohio [Mr. OXLEY], was that he was going to be the last speaker and that he would close. Now that the gentleman from Alaska [Mr. YOUNG] has spoken, I would ask to reclaim my time.

The SPEAKER pro tempore [Mr. UPTON]. Is there objection to the request of the gentleman from New Jersey?

Mr. YOUNG of Alaska. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume to close.

Mr. Speaker, it is unfortunate, given all of the work that was done on this battery bill, the fact that we heard testimony from the EPA. Much of the testimony at the time when it was taking place in our subject committee, was criticized by the gentleman from New Jersey as being unrealistic and rather nitpicking, I think was the term he used. But despite that, we worked very hard on a bipartisan basis to put together a good piece of legislation, a bill that passed unanimously in the Senate.

It had a great deal of momentum, that was supported by industry, as a matter of fact encouraged by industry, supported by virtually every environmental group. To bring it to the floor and end up with some kind of a dog and pony show orchestrated by the gentleman from New Jersey and his cohort from California is really, I think, unfortunate in this situation.

When we start dealing with bills like Superfund, I am assuming the gentleman from California and I know my friend from New Jersey are very supportive of getting a good Superfund reform bill out there. Everybody assumes, everybody knows that the existing Superfund law is badly flawed and needs fixing. That is what we have been working on. I would hate to think, Mr. Speaker, that somehow if we brought a bipartisan Superfund bill to this floor, which is our goal, that we would have the kind of cheap shots that are taking place on the floor of this House on a very important issue.

So I am very disappointed today. If the gentleman wants to vote against the battery bill, then go ahead and yell "no" as loud as you want to. But I would suggest if you are serious about environmental protection, instead of making slogans and little cutouts for television, you would by very supportive of this strong bipartisan bill that will get a lot of mercury and cadmium out of the system and help clean up the environment.

You can have it one or two ways, but you cannot have it both ways.

Mr. GILLMOR. Mr. Speaker, I rise in strong support of H.R. 2024, the Mercury-Containing and Rechargeable Battery Management Act. I am an original cosponsor of this legislation and am glad that we are able to finally bring this bill to the floor.

Mercury and cadmium are elements that can cause significant environmental harm. The U.S. Public Health Service's Agency for Toxic Substances and Disease Registry report serious problems with mercury and cadmium containment in landfills. In fact, within New York alone, batteries account for 68 percent of the cadmium at landfills and 85 percent of the mercury. The legislation before us today would help to make our landfills safer and less toxic by providing a more environmentally friendly alternative to current practices for battery disposal.

Specifically, H.R. 2024 addresses three necessary areas that are essential to getting an effective, private sector-driven program established. First, it educates consumers on the need to recycle by setting up a uniform labeling system for nickel-cadmium and other rechargeable batteries. Second, it removes command-and-control regulatory hurdles that now prohibit a viable, voluntary recycling program from existing. Third and lastly, it bans the use of mercury in some batteries and limits its use in others. These reforms should provide us commonsense benefits that resonate on several levels.

Mr. Speaker, this bill has suffered deaths in two previous Congresses that should not have occurred. Today's consideration is proof of the worthiness of the ideas contained in this bill. I am pleased that, unlike so many other bills in this Congress, we were able to work in a bipartisan fashion to find common ground and pass this legislation. I commend Chairman BLILEY, the chairman of the subcommittee, Mr. OXLEY, Mr. PALLONE, and Mr. KLUG for their hard work on this bill.

Throughout this Congress, the House Commerce Committee and this House have spent time debating cleanup of hazardous waste sites, allocation of spectrum, reform of the telecommunications industry, and collection and management of waste streams. This bill has implications on all of them in that nickel-cadmium and related mercury containing batteries are used for cellular phones and laptop computers, whose widespread use will be escalating.

Yesterday, our country took time out during Earth Day activities to reflect on ways to make our environment better. Recycling has long been considered part of the environmental triumvirate of: reduce, reuse, and recycle. In fact, I believe this bill accomplishes all three of these tenets by limiting the use of mercury in batteries, moving these batteries out of the waste stream, and collecting the batteries for future purposes. I hope all my colleagues will see the wisdom of the efforts contained in herein and will overwhelmingly support this legislation.

Mr. STEARNS. Mr. Speaker, I rise today in support of this environmentally sound legislation. Through its comprehensive collection, education, and recycling programs, the Mercury-containing and Rechargeable Battery Management Act will effectively reduce the presence of mercury, cadmium, and other metals from batteries in the solid waste stream.

The use of as many as 2.5 billion dry cells every year has made significant contributions to the high levels of mercury and cadmium in the solid waste stream. As dry cell batteries break down, their toxic contents are released into groundwater resources. In incinerators, toxins are emitted through the combustion of these dry-cell batteries.

Through industry's collaboration with the EPA, State and local governments, retailers, and the recycling industry, a voluntary recycling program for nickel-cadmium batteries has been developed. The final step toward implementation of this program will be completed by passing this legislation today.

Two important provisions in this legislation establish uniform labeling procedures, and uniform collection, storage, and transportation requirements for these recyclable batteries. The labeling requirement will clearly inform those who buy the batteries that they are recyclable. The transportation requirements are streamlined, providing further encouragement for participation in this voluntary program.

The recycling program will promote the shipment of used batteries to a central recycling center, keeping them out of our local landfills and incinerators. The battery industry strongly supports this program, as well as the American people. At no cost to the Federal Government, we have the opportunity to efficiently and swiftly put these recycling programs into action.

Mr. Speaker, I am proud to support this legislation which takes a positive step in working for the common goal of preserving the environment.

Mrs. THURMAN. Mr. Speaker, I am delighted to express my strong support for H.R. 2024, the Mercury-containing and Rechargeable Battery Management Act. Today, we will take an important step toward making this earth a cleaner place. The battery bill will ensure that nickel-cadmium batteries get out of the waste stream and into the recycling stream.

In my district, energizer power systems employ 1,400 people. In fact, our Alachua plant is one of only two facilities in the United States that produces nickel-cadmium batteries.

We may be one of the only one's producing them, but you all use them. Nickel-cadmium batteries are used in power tools, appliances, cellular and cordless phones, and so many other every day products.

Recognizing the danger the disposal of these batteries posed, 13 States, including Florida, took the initiative to label and recycle the batteries. Industry has done a terrific job in promoting the labeling and recycling programs, particularly through the creation of the Rechargeable Battery Recycling Corporation [RBRC] Manufacturers fund the recycling programs and the RBRC is charged with collecting and recycling the used batteries. The Federal Government isn't spending tax dollars to set up a new bureaucracy, industry is financing and administering the program itself.

Actions like these are examples of the kind of good corporate citizenship we want to encourage. More than 100 companies helped to create the RBRC and, together, they work to ensure that their products do no harm to our environment.

The problem is that conflicting State regulations about labeling and collecting have hindered the RBRC's ability to fully achieve its goals. Today, we will enact uniform environmental labeling standards and allow for national collection of nickel-cadmium batteries by retail stores. These actions will help the energizer bunny keep going and going—then be recycled—so he can keep going and going again.

I am delighted that we have bipartisan support for this bill that not only addresses nickel-cadmium, but also phases out the use of mercury in batteries. I am pleased that the 1,400 hard-working energizer employees in my district have taken an active role in promoting this legislation.

I commend their efforts and urge the House to vote for the passage of H.R. 2024.

Mr. TORRES. Mr. Speaker, I am pleased to see the House addressing the issue of recycling. The bill under consideration today would encourage voluntary battery recycling, curtail the use of mercury-containing batteries and improve the procedures for recycling such batteries. The bill is a step in the right direction, but it's only a very small, half-step. We can and we should be doing much more to fix our country's critical solid waste disposal problems.

Common items such as lead acid batteries, newsprint, motor oil and tires continue to clog neighborhood landfills, incinerators and sewers. Communities all over America continue to grapple with the serious health and safety hazards that result. There is a way, however, to turn these items usually treated as trash into valuable resources. And there is a way to meet this environmental challenge, which does not rely on command and control regulation.

Mr. Speaker, 7 years ago, along with the late Senator John Heinz and former Senator Wirth, I introduced a innovative concept in environmental protection. The idea was simple—use market forces to achieve environmental protection. Very simply, our legislation offered a solution to the demand side of the supply-and-demand equation.

Recycling is not just the process of having a product collected, recycling means turning the old product into a new product and using it again. Garbage is still garbage unless it has value throughout its lifecycle. Unfortunately, because there is currently no stable market for

VOL
142
PT
6
AP
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24
1996
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recycled materials, our separated garbage too often ends up buried in the dump.

The legislation I have reintroduced this Congress would give companies an incentive to recycle the goods they produce, while giving them the freedom to determine the most efficient and least expensive way to do so. The bills employ a system of tradable credits. The credits serve as the medium of exchange in recycling markets. Manufacturers would be required to use an annually increasing percentage of recycled materials. If unable to meet the content standard for a given year, a manufacturer could achieve compliance by purchasing recycling credits from other manufacturers who exceed their targets.

The bills, H.R. 1522, H.R. 1523, H.R. 1524, and H.R. 1525, represent innovative proposals to foster the lead battery, oil, newsprint, and tire recycling industries. I encourage my colleagues to consider these incentive-based bills and join me in promoting a more comprehensive approach to addressing the serious solid waste challenges we face as a nation.

Mr. OXLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. OXLEY] that the House suspend the rules and pass the bill, H.R. 2024, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2024, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

EXTENDING TIME FOR DEBATE ON H.R. 1965, COASTAL ZONE PROTECTION ACT OF 1996

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that during the consideration today of H.R. 1965 under suspension of the rules, debate be limited to 60 minutes, equally divided and controlled by the chairman and the ranking member of the Committee on Resources or their designees.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

COASTAL ZONE PROTECTION ACT OF 1996

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1965) to reauthorize the Coastal Zone Management Act of 1972, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal Zone Protection Act of 1996".

SEC. 2. FINANCIAL ASSISTANCE FOR DEVELOPMENT OF STATE COASTAL PROGRAMS.

(a) REAUTHORIZATION OF PROGRAM.—Section 305(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(a)) is amended—

(1) by striking "1991, 1992, and 1993" and inserting "1997, 1998, and 1999"; and

(2) by striking "two" and inserting "four".

(b) TERMINATION OF PROGRAM.—

(1) IN GENERAL.—Section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454) is amended—

(A) by striking subsection (a);

(B) by striking "(b)"; and

(C) by amending the heading to read as follows:

"SUBMITTAL OF STATE PROGRAM FOR APPROVAL".

(2) CONFORMING AMENDMENTS.—Section 308(b)(2)(B) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1457(b)(2)(B)) is amended—

(A) in clause (iv) by adding "and" after the semicolon;

(B) by striking clause (v); and

(C) by redesignating clause (vi) as clause (v).

(3) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1999.

SEC. 3. IMPLEMENTATION ASSISTANCE FOR COASTAL ZONE ENHANCEMENT.

Section 309(b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456b(b)) is amended—

(1) by inserting "(1)" before "Subject to"; and

(2) by adding at the end the following new paragraph:

"(2)(A) In addition to any amounts provided under section 306, and subject to the availability of appropriations, the Secretary may make grants under this subsection to States for implementing program changes approved by the Secretary in accordance with section 306(e).

"(B) Grants under this paragraph to implement a program change may not be made in any fiscal year after the second fiscal year that begins after the approval of that change by the Secretary.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.

Section 318 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464) is amended—

(1) by striking "SEC. 318." and all that follows through subsection (a) and inserting the following:

"SEC. 318. (a) There are authorized to be appropriated to the Secretary, to remain available until expended—

"(1) for grants under sections 306, 306A, and 309—

"(A) $47,600,000 for fiscal year 1997;

"(B) $49,000,000 for fiscal year 1998; and

"(C) $50,500,000 for fiscal year 1999; and

"(2) for grants under section 315—

"(A) $4,400,000 for fiscal year 1997;

"(B) $4,500,000 for fiscal year 1998; and

"(C) $4,600,000 for fiscal year 1999.";

(2) by striking subsection (b); and

(3) by redesignating subsections (c) and (d) in order as subsections (b) and (c).

SEC. 5. COASTAL ZONE MANAGEMENT FUND.

(a) AUTHORIZATION FOR ADMINISTRATIVE EXPENSES.—Section 308(b)(2)(A) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(b)(2)(A)) is amended to read as follows:

"(A) Expenses incident to the administration of this title, in an amount not to exceed for each of fiscal years 1997, 1998, and 1999 the higher of—

"(i) $4,000,000; or

"(ii) 8 percent of the total amount appropriated under this title for the fiscal year.".

(b) AUTHORIZATION FOR PROGRAM DEVELOPMENT GRANTS.—Section 308(b)(2)(B)(v) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(b)(2)(B)(v)) is amended to read as follows:

"(v) program development grants as authorized by section 305, in an amount not to exceed $200,000 for each of fiscal years 1997, 1998, and 1999; and".

SEC. 6. MATCHING REQUIREMENT.

Section 315(e)(3) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461(e)(3)) is amended by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraphs (A) and (B), financial assistance under this subsection provided from amounts recovered as a result of damage to natural resources located in the coastal zone may be used to pay 100 percent of the costs of activities carried out with the assistance.".

SEC. 7. AQUACULTURE IN THE COASTAL ZONE.

The Coastal Zone Management Act of 1972 is amended—

(1) in section 306A(b) (16 U.S.C. 1455a(b)) by adding at the end of the following:

"(4) The development of a coordinated process among State agencies to regulate and issue permits for aquaculture facilities in the coastal zone."; and

(2) in section 309(a) (16 U.S.C. 1456b(a)) by adding at the end the following:

"(9) Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, which will enable States to formulate, administer, and implement strategic plans for marine aquaculture.".

SEC. 8. APPEALS TO THE SECRETARY.

The Coastal Zone Management Act of 1972 is amended by adding at the end the following new section:

"APPEALS TO THE SECRETARY

"SEC. 319. (a) NOTICE.—The Secretary shall publish in the Federal Register a notice indicating when the decision record has been closed on any appeal to the Secretary taken from a consistency determination under section 307(c) or (d). No later than 90 days after the date of publication of this notice, the Secretary shall—

"(1) issue a final decision in the appeal; or

"(2) publish a notice in the Federal Register detailing why a decision cannot be issued within the 90-day period.

"(b) DEADLINE.—In the case where the Secretary publishes a notice under subsection (a)(2), the Secretary shall issue a decision in any appeal filed under section 307 no later than 45 days after the date of the publication of the notice.

"(c) APPLICATION.—This section applies to appeals initiated by the Secretary and appeals filed by an applicant.".

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from New Jersey [Mr. SAXTON] and the gentleman from California [Mr. MILLER] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. SAXTON asked and was given permission to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, I am pleased that the House is considering H.R. 1965, the Coastal Zone Protection Act of 1996. It is certainly an appropriate way to show our commitment to the environment and to celebrate Earth Day.

I introduced H.R. 1965 10 months ago, and 129 of my colleagues are now cosponsors. Certainly this broad bipartisan support shows the popularity of the Coastal Zone Program and the need to act on this reauthorization.

In light of the enormous growth of coastal populations, Congress passed, and President Richard Nixon signed into law, the Coastal Zone Management Act—also known as CZMA—in 1972. That growth has not abated in the 24 years since the original Act was passed, and forecasts predict that significant growth will continue in coastal areas. The CZMA provides grants to States that develop federally approved coastal zone management—or CZM—plans. It also allows States with approved plans to review Federal actions for consistency with those plans.

Twenty-nine of the thirty-five eligible coastal States and territories have federally approved CZM plans, and five others are working to prepare acceptable plans. These twenty-nine approved plans include 95,000 miles of coastline, almost 95 percent of the national total.

For a relatively small expenditure of Federal dollars and without imposing any additional Federal regulatory burden, this program has been very successful in getting States to improve their coastal planning programs on a totally voluntary basis.

H.R. 1965 reauthorizes funding for grants to States to develop, implement, and update their coastal zone management programs for fiscal years 1997 through 1999; bases authorization levels for State grants and Federal administrative expenses on the amounts appropriated for these programs; provides the States with more discretion in the use of their grants; and sets a time limit for final decisions on consistency appeals.

This is an excellent bill. It continues the existing program with only minor modifications. However, those changes provide additional flexibility to the States, establish fiscally responsible authorization levels, and streamline the consistency review process. These are all positive accomplishments, and they deserve the enthusiastic support of this body.

I urge an "aye" vote on this most important environmental bill.

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Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, I rise in support of this legislation, as I did with the previous legislation, and I want to commend the gentleman from New Jersey [Mr. SAXTON] for his work on getting this reauthorization of the coastal zone management legislation passed in our committee and to the floor.

This is a good bill. The substitute amendment that has been suggested has been agreed to on a bipartisan basis and has the support of the administration.

Let me say, Mr. Speaker, that this discussion today is not just abut coastal zone management or not just about battery recycling. What we went through with the presentation of the previous bill, and with this bill also, is that at a time when we were talking about recycling batteries and, therefore, removing toxics from the environment, what we saw is that most of the people who came and supported recycling batteries and removing toxins from the environment, in fact, had voted five out of five times against, in crucial bills, in the clean water bill and regulatory reform and amendments and motions to recommit, had voted against removing arsenic from drinking water, had voted against removing arsenic dioxin, lead and other cancer-causing pollutants, had voted to liberalize the rules on pollution.

So it was not about recycling batteries, and I daresay if the speakers on this legislation have the same voting record with respect to coastal zone management, then we, too, will award them fig leafs to show that they, in fact, cannot hide behind this good and noncontroversial bill when, in fact, they have voted previously in this session against coastal nonpoint pollution control to try to regulate many of the pollutions that flow into our coastal zones for dumping more sewage into our oceans.

At a time when we want to regulate the coastal zone of our States and improve them for our citizens, they voted to liberalize how much more sewage we can put into the ocean. They voted against the protection of the wetlands in many of these same areas, an amendment that was offered on a bipartisan basis.

They voted for gutting the Clean Water Act where, if we do not clean up our rivers and our streams and sewage and others, then it all flows into the coastal zone and we have an increased amount of pollution floating.

So what we are saying is we cannot have it both ways, we cannot engage in hyprocrisy, we cannot say well, we are for coastal zone management because the whole Congress is for it, apparently. It is a unanimously supported legislation. It is a bipartisan bill. It is supported by the administration. But on these key issues earlier in this session of Congress, in this session of Congress, our colleagues voted five for five against the environment, just as many of the speakers on the previous legislation sought to support battery recycling, which is good, but the hypocrisy of their position when they voted not to remove lead and arsenic and dioxin and other materials from our environment.

Those are the records. Those are the votes. those are the ones that are taken, and that is the record of their votes.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, I thank the gentleman for yielding.

So let me understand that unless every Member votes the liberal line on every environmental issue, then he is not——

Mr. MILLER of California. Reclaiming my time, no; that is not the issue. the issue is whether my colleagues vote for or against the environment, whether they vote for or against the environment on a consistent basis.

There is nothing liberal or conservative about taking arsenic out of the drinking water of children. There is nothing liberal or conservative about taking dioxin, lead, and other cancer-causing agents out of the environment of the children. There is nothing liberal or conservative about keeping people from dumping pollution into our oceans, about dumping sewage into our oceans that comes back to haunt the people who want to use the beaches, the wetlands, and the recreational area.

This is not about liberal or conservatism. This is about people's voting records who, on the day after Earth Day, under the direction of the majority leader, want to present a theme to America that somehow the Republicans are back on the environment.

The fact is for 16 months our colleagues have led the most comprehensive assault on the basic environmental laws of this country, and we think there is a certain amount of hypocrisy in that, and we are seeking to point that out. And it has nothing to do with ideology. It has to do with the recorded votes taken by Members of this Congress in the previous four sessions on dealing with these issues of nonpoint pollution control, on ocean dumping of sewage, on protecting wetlands, on the Clean Water Act, on the question of removing arsenic from drinking water, votes that we all remember that we had on the floor of this Congress where the gentleman and others, myself and others, are all recorded on those measures.

Mr. Speaker, I reserve the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I thank the gentleman for yielding this time to

VOL
142
PT
6
AP
15
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24
1996
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me, and I cannot resist responding to my friend from California because it is really how he defines these votes, that somehow, if we happen to vote against his particular position, that happens to be allegedly a vote against the environment or some of his left friends who define it that way.

The fact is that all of us share this same goal of environmental protection, but we find that there are different ways to get there, sometimes more effective ways, if we used the power of the market, for example, to do that.

We did that in the clean air bill. My friend from California will remember when we provided SO_2 emissions allowances that are now being traded by companies in Chicago. It is a very effective way to delay with air pollution. I think there is a different way to do it, and I think a better way and a more effective way and a more efficient way. We differ on that. We do not differ on our goals, and I think that is where the gentleman is in error.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from California and point out how strongly I feel that what we are engaged in here today and what the Republican leadership is engaged in here today is essentially what I call a "green scam." They are putting up the Coastal Zone Management Act for reauthorization, which is certainly a good bill, but they are putting it up a day after Earth Day, an effort to try and give the impression that the Republican majority and that their leadership is in favor of protecting the ocean environment. And, in fact, nothing could be further from the truth.

The fact of the matter is, from the very beginning, this Republican leadership, from the very beginning of this Congress in 1995, brought up what I call the Dirty Water Act, an effort to essentially gut the Clean Water Act and many of the provisions of that bill which passed the House but, fortunately, has not passed the Senate, has been stopped in the Senate, would have turned back the clock on efforts over the last 25 or 26 years to protect the ocean investment.

The gentleman from New Jersey [Mr. SAXTON], my colleague, has been very effective in trying to get this CZMA Act out of committee and brought to the floor, and I want to congratulate him today for the accomplishment of bringing it here to the floor. But the fact of the matter is that many times the Republican leadership fought very hard to have this bill not brought out of committee and to prevent it from coming to the floor. And they also tried to take away all the funding from the CZMA.

At one time I remember specifically there was no funding for the bill, and if it was not for the fact that he and some of the other Republicans that do care about clean water were willing to take a stand, we would not be here today.

But that does not take away from the fact that the Republican majority and their leadership has been adamant in their effort to cut back on the Clean Water Act.

I just want to mention a few of those things today. I am going to give out two fig leaves to two individuals: The gentleman from Alaska [Mr. YOUNG] stated before, he talked about what he was trying to do to protect the environment. And, of course, now the gentleman from Ohio [Mr. OXLEY] was saying the same thing. But on five key votes, both gentlemen, the gentleman from Alaska and the gentleman from Ohio, joined with the Republican leadership five out of five times to vote against coastal nonpoint pollution control, for dumping more sewage in the ocean, something that I think is very important to me, that we not have ocean pollution in the dumping of sewage; against protecting wetlands; for gutting the Clean Water Act; and, finally, against allowing the EPA to enforce wetlands protection. This continues. They are joining with the Republican leadership on these points, and, therefore, I give both of them a fig leaf at this time.

Mr. SAXTON. Mr. Speaker, I yield 3 minutes to the gentleman from Fort Yukon, AK [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, we only get figleaves from fruit trees.

Now that we have got in this debate seriously, and I have listened to the people on the other side of the aisle talk about the environment, let us talk about Congressmen that want total central control. Let us talk about Congressmen that want power in mighty Washington's hands. Let us talk about Congressmen who vote for socialized Government. Let us talk about Congressmen that, in reality, do not believe that private property rights, owners have any rights at all. Let us talk about Congressmen that decide what is the environmental agenda as being touted by the 57 environmental organizations when they are rated 100 percent by the Sierra Club and Friends of the Earth, et cetera.

Let us talk about the Congressmen that do not care about jobs, about people that want to work. Let us talk about Congressmen that believe a kangaroo rat is more important than a man's livelihood or the homes that were burnt down because a person could not farm that land, and after they could not farm the land the rats left because there was nothing to eat.

Let us talk about a Government that does not listen to the people any more and the Congressmen that support that type of Government. Congressmen have believed, in reality, that there is no freedom of individuals that is good for the masses, control from Washington, DC.

And this is what this talk about the environment is all about.

On my side of the aisle, I have said the environment must include man. We cannot exclude man or eventually man will destroy the environment. But on that side of the aisle, we cannot touch anything or that person is against the environment. One cannot build a house, one cannot drill for oil, one cannot take and build a dam. One, in fact, cannot catch a fish, let alone do anything else, because they are destroying the environment. It is part of the zealism of that side of the aisle by certain leaders that believe that man is the enemy and he is not to be included. And that is what the two gentlemen from California and New Jersey are talking about, centralized government power over the individual person.

If I own a piece of property and it is mine, and I have an endangered species there and it is there because I have taken care of it, I can be punished because of these two gentlemen. I should be rewarded because I protect the species.

But under this administration and past administrations, the agencies themselves have come in and told me: "You are a sinner because you have the species on your property; thus, you no longer can do anything with your property. You, in fact, ought to be punished."

That is the philosophy of these two gentlemen.

Today the House is considering H.R. 1965, the Coastal Zone Protection Act of 1996. This bill was introduced by JIM SAXTON, and he deserves a great deal of credit for his efforts on behalf of this program.

Enacted in 1972, the CZMA encourages States to regulate land and water uses which affect their coastal zones. The program is voluntary, but States receive grant money to develop a plan which, when approved by the National Oceanic and Atmospheric Administration (NOAA), makes the States eligible for more Federal assistance to help manage their coastal program. In addition, States can review and, in some cases, veto certain Federal activities which affect their coastal zones and which are inconsistent with their approved programs. Twenty-nine States and territories have approved coastal zone programs.

In fact, to use my home State as an example, the Alaska Coastal Management Program coordinates the permitting process between Alaska's 33 coastal districts and local, State and Federal agencies. This coordination assures that localities have the opportunity to have their views on Federal activities fully considered, and reduces the time and cost of permit approvals. The coastal zone program has also funded development of comprehensive wetlands management plans in Juneau and Anchorage. These plans emphasize local decisionmaking and reduce the regulatory burden for low value wetlands.

The bill before us today re-auathorizes the Coastal Zone Management Act through fiscal

year 1999. It provides the States with more flexibility in program management, and it sets fiscally responsible authorization levels. I urge you to support this bill.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I am so glad that the previous speaker, the chairman of the committee, brought up this job-versus-the-environment issue, because I think it is really crucial. The fact of the matter is that a good environment mean good jobs and better jobs and a better economy. No better illustration of that took place than in 1988 when I was first elected to Congress. We had medical waste, we had sewage sludge washing up on the Jersey shore. Our beaches were closed. Billions of dollars were lost to the New Jersey tourism industry because we had dirty water.

The Clean Water Act made it possible for us to clean up those beaches and provided the funding to do so by upgrading sewage treatment plants. Now that tourism is back, the people are back, the jobs are back. A good environment and a clean ocean means good jobs, and it means a bigger economy.

Do not let anybody from the other side or anybody try to kid and to say that there is an issue here of jobs versus the environment. The two go together, and a clean environment means more and better jobs.

Mr. SAXTON. Mr. Speaker, I yield 5 minutes to the gentleman from Utica, NY [Mr. BOEHLERT], my good friend.

Mr. BOEHLERT. Mr. Speaker, I rise this afternoon in strong support of H.R. 1965, the Coastal Zone Management Reauthorization Act of 1996.

As we celebrate Earth Day, it is important that we remember the many successes we have had in improving the quality of America's waters since the first Earth Day in 1970. The Coastal Zone Management Act of 1972 has been an important component of our Nation's efforts to improve coastal waters, and today's consideration of legislation to reauthorize this act is in keeping with the spirit and intent of Earth Day.

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The Coastal Zone Management Act of 1972 was signed by President Nixon and was one of his many environmental initiatives, which included the creation of the Environmental Protection Agency, the enactment of the Clean Air Act, and the establishment of the Endangered Species Act. I am proud that a Republican Congress is forwarding legislation to reauthorize the Coastal Zone Management Act.

Before I go further, I would like to thank the leadership of the Committee on Resources, the gentleman from Alaska [Mr. YOUNG] and the gentleman from New Jersey [Mr. SAXTON]. This bill is an excellent example of a bipartisan commonsense approach to protecting the Nation's coastal resources.

The Coastal Zone Management Act of 1972 responds to this environmental need with a Federal-State partnership intended to encourage wise coastal resource management. The program consists of limited Federal funding, planning requirements, and tools for the States to ensure consistency and coordination in their management efforts. In general, it has worked well and has helped to supplement other important programs, such as the Clean Water Act.

Today the needs for a strong partnership for coastal perfection are greater than ever. For example, the Environmental Protection Agency has documented that 97 percent of the Great Lakes shoreline miles surveyed have water quality that is impaired. In addition, many estuaries are not meeting their designated uses due to excessive loadings of pollutants. This can be devastating to not only our environment but our economy as well.

For example, most of our Nation's fish and shellfish industry relies on bays and estuaries and their adjacent wetlands as a breeding ground for the species they harvest. The future of America's multibillion dollar recreational fishing industry also depends on clean, healthy coastal waters.

Because of this connection to water quality, the Clean Water Act, and coastal protection, the Committee on Transportation and Infrastructure has a significant interest in the Coastal Zone Management Act and H.R. 1965. This is particularly true for the Subcommittee on Water and Power Resources in the Committee on Resources.

At the outset of the 104th Congress, the Committee on Transportation and Infrastructure acquired jurisdiction over marine affairs, including coastal zone management, as they relate to oil and other pollution of the navigable waters. This is in addition to our existing jurisdiction over pollution in coastal waters. The Committee on Transportation and Infrastructure also has jurisdiction over natural resources damages programs under the Clean Water Act, the Oil Pollution Act, and Superfund.

Section 6 of H.R. 1965 has provisions relating to natural resource damages. It is our understanding, however, that nothing in the bill expands or affects authorities under those acts.

Mr. Speaker, I would like to engage the chairman of the subcommittee in a colloquy with the gentleman from Ohio [Mr. OXLEY].

Mr. Speaker, I would say to the gentleman from New Jersey, as he knows, the Comprehensive Environmental Response, Compensation and Liability Act, the Clean Water Act, the National Marine Sanctuaries Act, and the Oil Pollution Act authorize natural resource damages to be used only to restore, replace or acquire the equivalent of such damaged natural resources.

Is that correct?

Mr. SAXTON. Mr. Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Speaker, that is correct.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, it is our understanding that section 6 of this legislation does not in any way alter the determination and use of natural resource damages collected pursuant to the Clean Water Act, the Oil Pollution Act, the Natural Marine Sanctuaries Act, or the Comprehensive Environmental Response, Compensation and Liability Act, is that correct?

Mr. SAXTON. If the gentleman from New York will continue to yield, Mr. Speaker, that is also correct.

Mr. BOEHLERT. If we could follow up with a hypothetical, for example, natural resource damages might be paid to a Federal, State, or Indian tribal trustee for the restoration, replacement, or acquisition of equivalent resources in order to compensate for those resources that are damaged at a specific location or site. Is that correct?

Mr. SAXTON. Mr. Speaker, that too is correct.

Mr. OXLEY. Mr. Speaker, if the gentleman will continue to yield, some have raised the issue that section 6 could be used to facilitate the development and use of regional restoration plans. Is it your understanding that under this legislation, NOAA would have no authority to create regional restoration plans?

Mr. SAXTON. That is correct, under this legislation. However, I do want to point out that they could have such authority under some other existing law. This provision will not give them any such authority.

Mr. BOEHLERT. I want to thank the chairman of the committee and the gentleman from Ohio [Mr. OXLEY] for participating in this colloquy.

Mr. Speaker, in closing, let me say this: Pollution knows no political affiliation, it knows no artificial geographic boundary. There are those on the right and those on the left who are trying to get this into a heated battle on the floor of the House of Representatives to lead the American people to believe that one party or another has exclusive concern about the environment.

Let me tell the Members, Republicans care about the environment just as Democrats care about the environment. We are concerned for our families and we are concerned for future

VOL 142 PT 6 AP 15 — 24 1996 UMI

generations. I urge passage of this important bill, and I urge us to go forward in the spirit of bipartisanship to do what is good for America for generations to come.

Mr. MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, this week we celebrate the wonder and beauty of the Earth. As we celebrate, I feel especially grateful for the area I represent. I am privileged to represent Marin and Sonoma Counties in California, the two counties just north of San Francisco, across the Golden Gate Bridge. The diversity of nature is prominent in this area where the rolling hills, redwood forests, and rugged coastline meet.

I am privileged to represent 140 miles of the northern California coastline. Each year, numerous visitors come to Marin and Sonoma Counties to see one of our Nation's most picturesque scenes: Our coasts. It is hard for visitors to the area to even imagine that there are troubled waters off our beautiful coasts, but there are. Due to extensive recreational and commercial use, a serious toll has been taken on our coasts, a toll that threatens the health of our marine resources and of our coastal economies.

If California's coast is to be utilized by future generations, Mr. Speaker, as it is today, it must have strong protection now. Passing this legislation to reauthorize the Coastal Zone Management Act will help meet this need and the needs of all America's coasts. Coastal zone management programs offer tremendous opportunities for conserving and maintaining this country's most outstanding marine resources. Mr. Speaker, coastal programs are not only successful, they are also cost effective.

H.R. 1965 will assist in the effort to be good stewards of our coasts. Let us pass this bill and continue the vital work of the Coastal Zone Management Act. Let this not be a figleaf. Let this not be a Band-Aid, but let it be a precedent for future meaningful legislation to protect our fragile environment.

Mr. SAXTON. Mr. Speaker, I yield 30 seconds to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I want to bring forth to the body here that we want to protect the environment, and we also want to protect private property, the basis of our Constitution.

The gentleman from New Jersey [Mr. PALLONE] had a zero, a zero rating for private property. He does not believe in private property. The gentleman from California [Mr. MILLER] did a little better. He had 7 percent. He slipped up; I do not know what happened. I think the gentleman from Rhode Island [Mr. REED], he has not spoken as yet, he also got a zero.

What we are saying is private property and the environment, together we can prevail. We ignore private property, we destroy the Constitution.

Mr. MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, I rise in strong support of H.R. 1965, the Coastal Zone Management Reauthorization Act of 1995, and in particular, the manager's substitute, which has incorporated an important provision on aquaculture. Also I want to thank the chairman of the committee, the gentleman from Alaska [Mr. YOUNG], the gentleman from California [Mr. MILLER], and the gentleman from Massachusetts [Mr. STUDDS] for their support of this important provision.

This provision was originally part of H.R. 2046, a bill I introduced this year to authorize States to formulate, administer, and implement strategic plans for marine aquaculture. Indeed, H.R. 2046 was based on previous legislation sponsored in the last Congress by myself and the gentleman from Massachusetts [Mr. STUDDS].

This provision will foster economic growth and create jobs by encouraging aquaculture development in our lakes and coastal areas. Aquaculture represents a promising economic development opportunity for the State of Rhode Island. At the turn of the century, Rhode Island's shellfishermen harvested so much shellfish from Narragansett Bay that this harvest would be worth almost $1 billion in today's dollars.

This provision would enable States like Rhode Island that have no comprehensive plan for aquaculture development to get started in the process of creating jobs and economic development through aquaculture.

It is important to recognize that development of a marine aquaculture industry will not be easy. Difficult issues such as private use of public resources, conflicts with other coastal user groups, and the development of streamlined regulatory and permitting requirements will have to be addressed.

However, other nations around the world have already recognized the potential of aquaculture and the important role government can play in developing this industry. The Governments of Japan, Norway, and Chile are supporting aquaculture development programs and giving their citizens the opportunity to reap the accompanying economic rewards. In fact, these countries are exporting their aquaculture harvests of fish and shellfish to America.

Mr. Speaker, this provision will go a long way in helping States like Rhode Island become competitive in this growing global industry. Again, I thank the gentleman from Massachusetts [Mr. STUDDS] for his strong support of this provision, and I urge my colleagues to join with me in support of the passage of this bill.

Mr. SAXTON. Mr. Speaker, I yield 2 minutes to the gentleman from Sanibel, FL [Mr. GOSS], who, as Mayor of that community, helped to initiate and found Florida's coastal zone management program.

Mr. GOSS. Mr. Speaker, I am very pleased to rise in support of this bill because it is a solid, responsible piece of bipartisan environmental legislation, and by the by, a great bill for Florida.

I want to commend the tremendous work done by my good friend, the gentleman from New Jersey [Mr. SAXTON], who has put this thing together and moved it to the floor in a timely fashion. This should be held up as model environmental legislation. It is a rare example where we finally got the Federal Government doing a program that is both effective and voluntary. I think its success can well be measured by the fact that since its creation in 1972, 34 out of 35 of the eligible States in this Nation have become involved in the program. Twenty-nine have approved programs, and five more are working towards that goal.

The CZMA is a cooperative effort that recognizes States as full partners, sharing the costs and the responsibilities for setting standards geared towards protecting local coastal environments. The good thing about it is the flexibility. Michigan can do what is best for the Great Lakes, Florida can do what is right for the situation along the Gulf and the Atlantic coast in Florida.

Specifically I would like to single out two other aspects of the CZMA because of their importance to my State of Florida. One is the question of consistency, and the other is the question of the National Estuarine Reserve System. Consistency simply says that the Federal Government cannot come along and do something that the State of Florida does not think is good for the State of Florida.

We have seen this work and help us in our protection of our Outer Continental Shelf and in the oil and gas exploration issues we have faced in the State of Florida throughout the years. Without these consistency provisions, we would not have been able to succeed, and we are in fact relying on them today.

Mr. Speaker, it is important to us. Florida has lots of tourists, many visitors. Many in this body go there at this time of year and enjoy themselves. We want to keep it that way, at a place where you will continue to go back. This act will help us do that.

With regard to the reserve areas, the estuarine research reserve areas here are areas where we are protecting pristine estuaries, while at the same time we are opening up the area for public study and education. This has had an

extraordinary residual benefit for the people of this country. This is a good bill, and it deserves Members' support.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the gentleman from Alaska [Mr. YOUNG] made the point that we are making. That is, there are those individuals who seek to come to the floor to support this legislation and try to hide an atrocious environmental record where they have voted 5 for 5, in some cases 15 for 10, against very important environmental protections: the removal of arsenic from drinking water; the removal of dioxin from our environment, from our drinking water; the removal of lead, to protect children; those kinds of measures. The gutting of the Clean Air Act, they supported it.

The gentleman from Alaska [Mr. YOUNG] has a perfect record on that. He needs a fig leaf, because he is trying to hide that record by supporting this legislation. The gentleman would say that the last three speakers in fact do not need a fig leaf, because their environmental records have been consistent. They have been consistent because of the tough environmental bills they have supported true environmental protection, and on this legislation they are supporting a good piece of legislation.

That is not what is going on here. That is because of the fact that under a directive from the caucus they are putting this measure forward. The gentleman from Alaska has always found some reason why he could not support environmental legislation. He does not like the Federal government. He does not think we should be able to have some kind of national standards for clean air or clean water.

But as I think one of the previous speakers said in support of this legislation, the environment knows no geographic boundaries. If you have dirty air, if you have dirty air in California, people in Nevada and Arizona end up breathing it.

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If we put dirty water into the Mississippi River at the top, the people down in Louisiana and elsewhere end up having to contend with that dirty water. That is because we need those standards, and before we had those standards, that was a problem.

Coastal zone management: What moves up and down the coast between the Carolinas and Virginia and Florida has to be somehow managed in a fashion to protect all coastal communities. That is true on the West Coast and others.

That is what we are talking about, that there is some consistency between people's records. You cannot just trot out unanimous bills that there is complete agreement on and therefore say that somehow you have created the environmental record when for 16 months, when given the opportunity, people have voted and earned themselves a zero rating. That is the point being made.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from California for yielding.

Mr. Speaker, I just simply want to say, we were talking about fig leaf awards as well. We were talking about seaweed awards. We had a number of gimmicks we were thinking about. I think it might be a question of approach.

Mr. MILLER of California. Seaweed?

Mr. GOSS. For the Coastal Zone Management Act, we thought seaweed might be appropriate. You can drape it around yourself in certain ways and get the same result as with a fig leaf. It is really heavy, though.

The reason we thought it was appropriate, I recall the gentleman actually caused us a great deal of problem with our Outer Continental Shelf protections back in 1992. The gentleman is well known as a champion of the environment. It is just we had a different agreement on how to protect our Outer Continental Shelf. I am glad we have done a better job of doing that, and I am glad to see the gentleman's support for this bill.

Mr. MILLER of California. And the point made by the gentleman is in fact historically we have worked on a bipartisan basis on most of these measures.

Mr. GOSS. We have.

Mr. MILLER of California. The Outer Continental Shelf was passed on a bipartisan basis, as was Clean Air, Clean Water, Endangered Species Act, all of the other great environmental laws.

Mr. GOSS. We have.

Mr. MILLER of California. What we have seen is unfortunately people like the gentleman from Alaska apparently prevail in the caucus, rather than the gentleman himself.

Mr. Speaker, I reserve the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, the California coast is one of the world's natural treasures, and Californians know that they must preserve these wonderful shores so that not only will Californians enjoy them but people from all over the world will enjoy them.

The Coastal Zone Management Reauthorization Act of 1996 will help California meet this responsibility. The bill's annual grant program will ensure that the wisest protections and the best usage of the coastal areas are maintained.

California's coast belongs to the generations yet to come. This legislation ensures that this great treasure will remain for a very, very long time.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I am pleased that the previous speaker is supporting this bipartisan noncontroversial bill to reauthorize the Coastal Zone Management Act, but this is really again just a fig leaf to hide the fact that Republicans have consistently voted against protecting the environment and the health and safety of the American people.

On five key votes that I mentioned before, the gentleman from California who previously spoke four out of five times joined with the Republican leadership: first against coastal nonpoint pollution control; second, for dumping more sewage into the ocean; third, against protecting wetlands; and, finally, for gutting the Clean Water Cat, the dirty water bill that we mentioned before.

So for the gentleman from California [Mr. HORN], I give him his fig leaf.

Mr. SAXTON. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, I am bemused and amused by my colleague from New Jersey. The same reason that some have said these are not really environmental votes stands in that case. They were private property votes, most of them.

I believe that if you are going to save the environment, you have got to follow the fifth amendment to the Constitution of the United States, just as the Supreme Court said you have to follow it with reference to the California coast. You cannot take people's property and say, "Well, sorry, you lived there for five generations and you are going to give it up to the State at no cost." That is nonsense, and I will continue to vote for private property.

Mr. MILLER of California. Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I appreciate what the gentleman said, because I think it harks back to what the gentleman from Alaska said before when he talked about the ratings from this private property group and said that I had received a zero. He, on the other hand, the gentleman from Alaska, received a zero from the League of Conservation Voters for being anti-environment.

If we track the votes that the League of Conservation Voters used and the private property rights group used, they basically used the same votes. If you get a zero on private property, you get 100 percent from the league, and vice versa.

Mr. SAXTON. Mr. Speaker, I yield 1 minute to the gentleman from Vineland, NJ [Mr. LOBIONDO].

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. LoBIONDO. Mr. Speaker, I rise in support of the Coastal Zone Protection Act.

This legislation reauthorizes the Coastal Zone Management Act, established by Congress in 1972. Intense use of the coastal zone—defined as the coastal waters and adjacent shorelands—has significant impacts on water quality, the abundance of wildlife, coastal ecosystems, and shoreline erosion.

Over 60 percent of all Americans live within 50 miles of the Atlantic, Pacific and Great Lakes coasts, and this population is expected to grow by 15 percent in the next 20 years. As such, it is important to have protective measures in place for the fragile coastal ecosystem.

I support this bill and urge all Members to vote "aye."

Mr. MILLER of California. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, that is to say, those who want to not only have a fig leaf to hide behind, as the gentleman from California just earned by his voting record, but those who now want to suggest they were hiding behind property rights, I do not know what the property right is that allows you to take pollution from your land and dump it into the streams and the bays and the waterways of this Nation. I do not know what that property right is that allows you to take non-point pollution, pesticides and toxics, and dump them into the bays and the rivers and eventually end up in our coastal zone. There is no property right that gives you the right to pollute the public waterways and to diminish the resources available to other Americans.

I know the gentleman came on the floor a little late, and so maybe he got caught up in the rhetoric of the gentleman from Alaska [Mr. YOUNG] about private property. That had nothing to do with the voting records, on whether or not you voted to dump sewage into the oceans or control nonpoint pollution, or voted for the Clean Water Act or allow EPA to enforce wetlands protections.

Mr. Speaker, I reserve the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Santa Barbara, CA [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I rise in strong support of H.R. 1965 to reauthorize the Coastal Zone Management Act of 1972.

Coastal zone management has been a significant priority for my home State of California for over 30 years now. Since the establishment of our Federally Approved Program in 1976, we have attempted to take full advantage of assistance offered to States through the Coastal Zone Management Act. I feel that the accomplishments of the California coastal management program indicate how worthwhile, efficient and cost effective State management can be.

Now, in the absence of the Coastal Zone Management Act, our State participation would not be possible. Californians recognize that our robust economy and superior quality of life depend on a healthy and scenic cost, especially true on the central coast of California, Santa Barbara and San Luis Obispo County, and they strongly support sound management of the State's coastal zone.

Eighty percent of Californians live and work within 50 miles of our coast. Millions of other people from all over the United States and the world come to California for business and pleasure. Coastal and ocean dependent industries generate $17 billion for California's economy each year, and nearly $10 billion of that comes from recreation and tourism. It is clear that State coastal management programs advance the national interest in healthy coastal economies, necessary infrastructure and the protection of vital natural resources.

Since 1981, the California Coastal Zone Management Program has used $20 million to leverage another $100 million from both public and private sources. We have applied for these funds to over 60 coastal projects, such as establishing networks of coastal parks to improve public access to our coastlines, constructing docks and marine berths to assist the commercial fishing industry, and building public piers and fishing wharfs to restore our urban waterfronts.

Also under the direction of the Coastal Zone Management Program, the State of California and Vandenberg Air Force Base have become partners in water conservation planning, in the creation of miles of shoreline access trails, and in the protection for endangered and threatened species. Again, after thorough Federal consistency reviews by our State program, billions of dollars worth of Federal projects have been allowed to proceed, all while protecting the environment, enhancing communities, and increasing recreational access to coastal resources.

Clearly, the Coastal Zone Management Act deserves to be reauthorized. In California, and in coastal States across the Nation, coastal zone management programs have long demonstrated that the delicate balance between responsible coastal development and sound environmental policy can be achieved.

I applaud the gentleman from New Jersey [Mr. SAXTON] for his leadership on this, and I encourage an "aye" vote on this bipartisan bill.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, again, I am glad the previous speaker, the gentlewoman from California, is supporting this reauthorization of this CZMA.

Again, she has earned her fig leaf and she cannot hide behind it, because she consistently voted against protecting the environment and the health and safety of the American people on five key votes. The gentlewoman joined with the Republican leadership five out of five times to vote against coastal nonpoint pollution control, for dumping more sewage into the ocean, against protecting wetlands, for cutting the Clean Water Act, and against allowing the EPA to enforce wetlands protection, and she earned a zero voting record from the League of Conservation Voters. So I present her with this fig leaf.

Mr. SAXTON. Mr. Speaker, I yield 30 seconds to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I thank my colleague on the other side of the aisle for yielding the time. I would just say I am one of those freshmen that came here to Washington, DC, to take care of the bureaucrats here in this city and to make sure that the people on the central coast of California got what they wanted for their tax dollar: cleaner water, cleaner air, and to make it a better place.

They realize that the bureaucrats here can usurp a lot of those tax dollars and not accomplish what we truly want on the central coast of California. They want to do away with the regulations, the duplicity of laws, and they want to get on with it.

So I would just say that I am proud of my voting record that I have had here and I will continue to do so.

Mr. SAXTON. Mr. Speaker, I yield 2 minutes to the gentleman from Eastern Long Island, NY [Mr. FORBES].

Mr. FORBES. Mr. Speaker, I rise in support of the Coastal Zone Management Act.

This is an important tool for America. It is important to my own State of New York, in which we have some of the most pristine beaches in the world and some of the most beautiful coastline, obviously, in the world. A good, healthy environment obviously is a good economic environment.

On Long Island, where tourism is a key industry, we believe the Coastal Zone Management Act has been a wonderful, wonderful tool. I am pleased to have played a role last year in the funding of the Coastal Zone Management Act, in making sure that that very important law was fully funded.

My own State of New York benefits to the tune of $2 million to have adequate planning, to provide for the future safety of our estuaries, our bays, our creeks. In Nassau and Suffolk County, the Coastal Zone Management Act is an incredibly important device. One million dollars goes to the good planning efforts. I rise in support of this very important measure.

Mr. SAXTON. Mr. Speaker, may I ask the time remaining on each side?

The SPEAKER pro tempore (Mr. UPTON). The gentleman from New Jersey has 8 minutes remaining and the gentleman from California has 12 minutes remaining.

Mr. SAXTON. Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. We have no further speakers, but I reserve the balance of my time, given what happened on the last bill.

Mr. SAXTON. Does the gentleman intend to yield back the balance of his time?

Mr. MILLER of California. Mr. Speaker, it depends on how many speakers the gentleman from New Jersey has. If I can say to the gentleman, at the moment, I would not yield back my time. Does the gentleman have additional speakers?

Mr. SAXTON. Mr. Speaker, we have three additional speakers, I would prefer at this point that the gentleman alternate on time as we go along.

Mr. MILLER of California. Mr. Speaker, I have pending no further requests for time, and I reserve the balance of my time.

The gentleman wants to close, I assume. I will yield back the balance of my time to allow the gentleman to close.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume to speak for a moment with the gentleman from California [Mr. MILLER].

☐ 1615

Mr. Speaker, the problem is that much of the debate on the gentleman's side has been about matters other than the bill, and I suspect that one of the strategies that you could have would be to save your 12 minutes to continue the same kind of rhetoric which I do not think is helpful to the debate. That is why I am reluctant at this time to yield time.

I would further point out that the gentleman has missed a couple of turns here, and I think it would be prudent for the gentleman to use whatever time is available at this time.

Mr. MILLER of California. Mr. Speaker, if I might inquire of the Chair, am I correct in my understanding that the gentleman has the right to close and I have the right to reserve my time? I have no pending requests at this moment. He has additional speakers. I obviously at some point will yield back my time, when the gentleman is ready to close.

The SPEAKER pro tempore (Mr. UPTON). The gentleman from California is correct. The gentleman from California [Mr. MILLER] has 12 minutes remaining, and the gentleman from New Jersey [Mr. SAXTON] has 8 minutes remaining.

Mr. SAXTON. Mr. Speaker, I yield 1 minute to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I rise in strong support of H.R. 1965, a bill to reauthorize the Coastal Zone Management Act..

Mr. Speaker, summer is rapidly approaching, marking the start of a time when an estimated 94 million people a year enjoy boating and fishing along the coast.

Soon much of the Washington, DC, population as well many other people across the country and throughout my State will head to southern Delaware to enjoy our many beaches and beautiful coastline.

I think the Delaware beaches truly are one of this region's most treasured assets, as many people enjoy fishing in Lewes, surf boarding at Indian River Inlet, swimming in Dewey Beach, and walking on the boardwalk in Rehoboth.

The Coast Zone Management Act is one of the reasons why Delaware's inland bays, wetlands, estuaries and dunes have been protected throughout the years, thereby helping our environmental areas as well as providing a tremendous boost to tourism in the Delmarva region.

This bill, which reauthorizes the Coastal Zone Management Act, assists Delaware and 28 other coastal States in developing management programs to preserve our beaches and natural areas.

This bill is voluntary for States, and provides grants to those coastal States which develop programs protecting natural areas, under several Federal parameters. I am pleased that most of our coastal States participate in this program.

This bill is a good example of how Federal State and local governments and communities can work together to protect the environment and ensure an environmental legacy for our future generations.

This bill will help preserve the dunes, keep the water clean, safe and pollution-free, and protect coastal wildlife—all of which will make our beaches and natural areas more enjoyable for many Americans.

I am proud to cosponsor this important environmental initiative, and I am pleased to see a bipartisan commitment to reauthorize and fund this important program.

Mr. SAXTON. Mr. Speaker, I yield 1 minute to the gentleman from West Palm Beach, FL [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, representing 42 miles of ocean coastline, I strongly support H.R. 1965.

Many States such as Florida depend on a healthy coastline for commerce, transportation, fishing, and recreation. In fact, over half of our Nation's population live in coastal areas and this population is expected to grow by 15 percent in the next 20 years.

Under this voluntary program. States receive Federal matching grants to implement a plan to protect coasts and prevent ocean pollution.

This program also extends to our Nation's estuaries. In my community, the St. Lucie River Initiative, a group of concerned citizens, businesses and local community leaders, have worked together to protect the St. Lucie Estuary, the largest tributary to the Indian River Lagoon. This once vibrant body of water and habitat for plant and wildlife species is in serious decline today due to federally built canals that have disrupted the natural flow of water into the river.

Today, we have an opportunity to continue the Federal-State partnership in protecting our Nation's estuaries and coastlines.

I urge my colleagues to support the passage of H.R. 1965.

Mr. MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, again I am pleased that the previous speaker, who said that he represents part of the ocean coastline in the great State of Florida, which practically the whole State is along the coast, is supporting this Coastal Zone Management Act reauthorization. But he deserves a fig leaf. He earned a fig leaf and he cannot hide behind it. He cannot hide the fact that Republicans and he have consistently voted against protecting the environment and the health and safety of the American people.

On five key votes, the gentleman from Florida has joined with the Republican leadership four out of five times to vote for dumping more sewage into the ocean, against protecting wetlands, for gutting the Clean Water Act, and against allowing the EPA to enforce wetlands protection. So I give him his fig leaf that is duly earned.

Mr. FOLEY. I thank the gentleman from New Jersey [Mr. PALLONE]. I appreciate it. It is a great honor.

Mr. SAXTON. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I rise in strong support of H.R. 1965, the Coastal Zone Protection Act of 1996, and I look forward to its passage today.

The Coastal Zone Management Act [CZMA] is a voluntary, incentive-based program which protects coastal States, such as Massachusetts by giving States the authority over Federal activities that affect the State's coastal resources. The Federal CZMA has a strong track record of successes and bipartisan support because it is voluntary. CZMA enables States to protect their rights while protecting and promoting important coastal dependent industries such as shipping, fisheries, tourism, and recreation. CZMA continues to play an important role in Massachusetts promoting environmentally sustainable economic development.

In 1978, the Massachusetts Coastal Zone Management Program [MCZM] became the first on the east coast to

VOL
142
PT
6
AP
15
—
24
1996
UMI

receive Federal approval. Since that time the Massachusetts program has played an integral role serving as liaison among local, State, and Federal agencies providing technical review and assistance in marine policy, law, and the sciences.

Today, it works to reduce water pollution from point and non-point sources thereby enabling hundreds of acres of commercially important shellfish beds to be reopened. Last year, over 400 acres were reopened and predictions are 1,000 acres will be reopened in the next year.

Currently, Massachusetts Coastal Zone Management is assisting important ports and harbors throughout Massachusetts to assess their dredging needs and develop cost effective and environmentally safe disposal solutions. At the request of Governor Weld, Massachusetts is leading the development of a State strategy for aquaculture. These initiatives are expected to assist in the economic revitalization of Massachusetts ports hard hit by the New England fisheries collapse.

Mr. Speaker, I strongly urge an "aye" vote on H.R. 1965.

Mr. SAXTON. Mr. Speaker, I have no further requests for time on my side.

Mr. MILLER of California. Mr. Speaker, I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman for yielding back the balance of his time.

Mr. Speaker, let me just make a couple of points. First, Mr. Speaker, I believe that inasmuch as this bill has made it to the level that it has in this debate, and inasmuch as I think Members on both sides of the aisle understand how important it is to protect the environmental ecosystems in all coastal areas around our state, that the bill certainly deserves the full support of all Members of the House. I hope it will pass unopposed.

I would point out, Mr. Speaker, that in states like New Jersey, where the gentleman from New Jersey, [Mr. PALLONE] and I come from, this bill take on enormous importance, because in highly populated areas like our State, east of the Garden State Parkway and to the Atlantic ocean, the people who reside in those areas and the wildlife that reside there and the wildlife that reside in the ocean, for that matter, participate in a unabashed way in being able to use those ecosystems which are protected through this act.

I must also say, Mr. Speaker, I was somewhat disappointed by the tenor of this debate, because we have tried to approach this matter from the beginning, in the subcommittee and thereafter, as a bipartisan issue. As a matter of fact, I think many members of the subcommittee on both sides are proud to have participated in the various debates that have led us to today.

So, Mr. Speaker, without further ado, I ask that the vote be considered at this point, and again I ask for the affirmative support by Members on both sides of the aisle.

Mr. FARR of California. Mr. Speaker, I rise today in strong support of H.R. 1675 because it will reauthorize the 1972 Coastal Zone Management Act. There are many reasons to champion the CZMA. But one reason stands above all others: This law saved our coasts. Back in the late sixties and early seventies we all saw runaway urban sprawl eating up some of our most precious coastlines at breakneck speed.

And my own home State of California led the race. At the development rates of the time, we thought that the entire California coast would be an unbroken chain of housing tracts, hotels, and condos by the turn of the century. The entire burden of planning and coping with this coastal development was left to local counties—which didn't have the resources or expertise to deal with the problem. They also only focused on their stretch of coast and could not see the forest through the trees.

Then came the CZMA. It said to the States "If you come up with a plan to manage your State's coastal resources, then the Federal Government will provide funding to help you implement the plan." California and 28 other States took up the offer and designed and implemented coastal plans.

In California, voters passed the Coastal Act which created the California Coastal Commission and the California Coastal Conservancy. These twin State agencies have worked over the past 20 years to manage growth along California's coast and to preserve the coast's most unique and valuable resources.

These State agencies have used the CZMA to help stem the runaway sprawl along the California coast and we are the only statewide land use planning body in California.

And that kind of planning has helped protect California's economy. My friend Doug Wheeler, California's Secretary of Resources, recently released a report on the role of California's coastal resources in its future. The report found that coastal dependent industries contributed over $17 billion a year to California's economy and supported over 370,000 jobs. Coastal tourism alone contributes $10 billion a year to the State's economy.

In closing I want to thank JIM SAXTON, chairman of the Oceans and Fisheries Subcommittee, for his leadership and hard work in getting this bill passed. It has been a hard up-hill fight for him. Although reauthorization of the CZMA now seems noncontroversial, the chairman had to fight against his own party's leadership which held up this legislation for over 1 year.

In fact, one of the assumptions of the failed 1995 budget resolution was the termination of the entire Coastal Zone Management Program. So I think that any credit claimed by the Republican leadership for the passage of this bill belongs solely to JIM SAXTON.

H.R. 1965 is crucial to the environment and economies of all 35 coastal States. I urge its passage.

Mr. SAXTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and pass the bill, H.R. 1965, as amended.

The question was taken.

Mr. SAXTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

COOPERATIVE FISHERIES MANAGEMENT ACT OF 1996

Mr. TORKILDSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2160) to authorize appropriations to carry out the Interjurisdictional Fisheries Act of 1986 and the Anadromous Fish Conservation Act, as amended.

The Clerk read as follows:

H.R. 2160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cooperative Fisheries Management Act of 1996".

SEC. 2. REAUTHORIZATION OF INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

"(1) $3,400,000 for fiscal year 1996;

"(2) $3,900,000 for fiscal year 1997; and

"(3) $4,400,000 for fiscal year 1998.";

(2) in subsection (c) by striking "$350,000 for each of the fiscal years 1989, 1990 1991, 1992, and 1993, and $600,000 for each of the fiscal years 1994 and 1995," and inserting "$650,000 for fiscal year 1996, $700,000 for fiscal year 1997, an $750,000 for fiscal year 1998,"; and

(3) in subsection (d)—

(A) in the heading by striking "GRANTS" and inserting "ASSISTANCE";

((B) in paragraph (1) by striking "award grants to person engaged in commercial fisheries, for uninsured losses determined by the Secretary to have been suffered" and inserting "help persons engaged in commercial fisheries, either by providing assistance directly to those persons or by providing assistance indirectly through State and local government agencies and nonprofit organizations, for projects or other measures to alleviate harm determined by the Secretary to have been incurred";

(C) in paragraph (3), by striking "a grant" and inserting "direct assistance to a person";

(D) in paragraph (3) by striking "gross revenues annually," and inserting "net revenues annually from commercial fishing,";

(E) by striking paragraph (4) and inserting the following:

"(4)(A) Assistance may not be provided under this subsection as part of a fishing capacity reduction program in a fishery unless

the Secretary determines that adequate conservation and management measures are in place to rebuild the fishery over a reasonable time period.

"(B) As a condition of awarding assistance with respect to a vessel under a fishing capacity reduction program, the Secretary shall—

"(i) prohibit the vessel from being used for fishing; and

"(ii) require that the vessel be—

"(I) scrapped or otherwise disposed of in a manner approved by the Secretary; or

"(II) donated to a nonprofit organization and thereafter used only for purposes of research, education, or training.

"(C) A vessel that is prohibited from fishing under subparagraph (B) shall not be eligible for a fishery endorsement under section 12108(a) of title 46, United States Code, and any such endorsement for the vessel shall not be effective."; and

(F) in paragraph (5) by striking "for awarding grants" and all that follows through the end of the paragraph and inserting "for receiving assistance under this subsection.".

SEC. 3. REAUTHORIZATION OF THE ANADROMOUS FISH CONSERVATION ACT.

Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

"Sec. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

"(A) $4,000,000 for each of fiscal years 1996 and 1997.

"(B) $4,250,000 for fiscal year 1998.

"(2) Sums appropriated under this subsection are authorized to remain available until expended.

"(b) Not more than $625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.".

SEC. 4. AMENDMENT TO THE FISHERIES ACT OF 1995.

Section 309(b) of the Fisheries Act of 1995 (Public Law 104–43) is amended by striking "July 1, 1996" and inserting "July 1,1997".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. TORKILDSEN] and the gentleman from Massachusetts [Mr. STUDDS] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2160, the Cooperative Fisheries Management Act of 1995 reauthorizes two important fisheries laws: the Interjurisdictional Fisheries Act of 1986 and the Anadromous Fish Conservation Act.

Both these laws help coordinate the management of species that migrate between Federal and State waters, as well as those species migrating between neighboring States' waters. With the reauthorization of these two laws, we will provide much needed resources to States to coordinate the management of these migrating species of fish.

In addition, this legislation allows the National Oceanic and Atmospheric Administration to release disaster assistance funds in New England, the Northwest, and the Gulf of Mexico. It is important to note that these disaster assistance funds have already been appropriated and this bill only makes legislative changes to allow the money to be used in the regional assistance programs.

For example, NOAA is conducting a vessel buy-out program in the Northeast to reduce fishing capacity. Currently, NOAA is limited to purchasing vessels valued under $100,000. This does not allow NOAA to buy-out the larger vessels, which tend to catch more fish, and are often valued at well over $100,000. During the pilot vessel buy-out program, over 95 percent of the 114 voluntary bids received were over $100,000. This legislation lifts this cap to allowing NOAA to include the vast majority of fishing vessels in this buy-out program.

Additionally, this bill changes the term "gross revenues" to "net revenues from commercial fishing." This change will allow the New England buy-out program to target high-liners and large vessels which might not be eligible because the vessel owner earned too much money either from fishing or from other related ventures. This type of large, successful vessel may be the very type of vessel we need to remove from the fishery. This change will allow NOAA the flexibility to target those vessels which have had the most impact on groundfish stocks, buy them out, and remove them from the fishery.

H.R. 2160, assures that vessels bought under this program will be removed from fishing in any fishery, including State waters, by invalidating the commercial fishing endorsement on the Coast Guard documentation for any vessel participating in the buy-out program. Vessels purchased through this buy-out program must either be scrapped, disposed of in a manner approved by the Secretary, or donated to a nonprofit for the purposes of education, training or research.

As I previously stated this bill also makes legislative changes allowing NOAA to expend the much needed disaster assistance funding in the Northwest and the Gulf of Mexico.

Mr. Speaker, fishing families in my district, and throughout the country, are struggling to adjust to new Federal restrictions on groundfishing. And while some new regulations are necessary, we in Congress have an obligation to assist fishing families survive the difficult transition period ahead.

This bill takes several steps to provide relief to fishing families who have never asked for anything more than the chance to make an honest living.

Mr. Speaker, I urge the passage of this important legislation, and I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill which reauthorizes appropriations for two small, but important Federal grants programs, the Interjurisdictional Fisheries Act and the Anadromous Fish Conservation Act.

These two acts authorize grants to States to encourage them to develop cooperative agreements, research, and management plans to conserve and protect anadromous and other coastal fishery resources. These are not new programs. Both have been successfully implemented for many years, and both share broad support among State and Federal fisheries management agencies and the three interstate fisheries management commissions.

In addition, the bill authorizes the Secretary of Commerce to implement a vessel buyout program to reduce overcapacity in the decimated New England groundfish fishery. This buyout will be an integral part of the effort to rebuild the stocks in New England, but it will not do the entire job. For that reason, the bill also requires that a rebuilding plan, recently developed by the New England Fishery Management Council, must be approved by the Secretary before the buyout may proceed.

This is a noncontroversial bill that extends two programs which have enjoyed years of success and ensures that taxpayer dollars spent on a buyout in New England will achieve the desired results. I ask Members to support it passage.

Mr. Speaker, to the best of my knowledge, there are no further figleaves at the moment on this side, although I must say to the gentleman I find it difficult to picture either Venus or Neptune so attired. Maybe we are immune here.

Mr. Speaker, I reserve the balance of my time.

Mr. TORKILDSEN. Mr. Speaker, in the spirit of a fig leaf-free Congress, I yield such time as he may consume to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the gentleman for being here today to manage this bill and for the very important role that he played in supporting this bill to get it here.

I would also like to say to the gentleman from Massachusetts [Mr. STUDDS], I thank him for his very fine cooperation on this and many other bills we have worked on together during his tenure here.

Mr. Speaker, I rise in strong support of H.R. 2160, the Cooperative Fisheries Management Act. This legislation will reauthorize two important fishery Acts: the Inter-jurisdictional Fisheries Act and the Anadromous Fish Conservation Act.

These two acts have done an exceptional job of getting the States, the Federal Government, non-Federal interests and, in some cases, foreign nations to cooperate in the management of transboundary fishery resources.

Both of these acts use grant money to fund research done by the States.

VOL
142
PT
6
AP
15
—
24
1996
UMI

interstate commissions, or other interested parties. This allows us to gain a greater understanding of the resource and improve our management techniques.

By reauthorizing these acts, we are demonstrating our commitment to the survival and longevity of these unique fishery resources. Without cooperative management, these resources will likely become depleted, and some species could become extinct. I think it is important to note that we have reduced authorization levels for both of these programs by almost 50 percent.

Mr. Speaker, this is an important piece of legislation and I urge my colleagues to vote "aye" on H.R. 2160.

□ 1630

Mr. TORKILDSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Speaker, I want to speak on behalf of the act. I think the bill authorizes two important fisheries management laws, the Interjurisdictional Fisheries Act of 1986 and the Anadromous Fish Conservation Act. These laws promote, through grant programs, coordination between State and Federal agencies in the management of migrating species of fish.

H.R. 2160, in addition, will allow for the expenditure of already appropriated disaster relief money in the Northwest, the Gulf of Mexico, and for a vessel buyout program in New England.

Mr. Speaker, I end my remarks by urging Members to support this bill, but with a particular reference to the very difficult time that many of the fishermen from Maine are having dealing with the depletion of the species and the need to restore our stocks. There is a limited amount that the Federal Government can do, but we are trying to do what we can to provide some relief to the fishermen that are under such distress.

So, again, I compliment my colleagues from Massachusetts on both sides of the aisle for their efforts in support of this legislation.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume to say that I have no further requests for time, and I note the return of a bipartisan comity down here, and I am tempted to call up a number of other bills but I will resist.

Mr. Speaker, I yield back the balance of my time.

Mr. TORKILDSEN. Mr. Speaker, I yield myself such time as I may consume to say, in closing, I would like to applaud my colleague from Massachusetts as ranking member of the subcommittee, also in his previous role as chairman of the Committee on Merchant Marine and Fisheries, a very, very strong advocate of this program and many other programs, both to protect the environment and to assist fishing families. We certainly appreciate the spirit in which he has offered many pro-environmental and pro-fishing pieces of legislation, and we will certainly miss that contribution to the House Chamber when he retires at the end of this year.

Mr. Speaker, I also want to applaud the effort of our colleague from New Jersey, the chairman of the subcommittee, for the leadership he has shown in bringing this important legislation to the floor. Again, on behalf of the environment, on behalf of States managing coastal areas, I urge all Members to vote for this legislation.

Ms. FURSE. Mr. Speaker, I rise today in strong support of H.R. 2160, the Cooperative Fisheries Management Act. Oregon's fishermen and women who have been devastated by plummeting salmon populations will benefit greatly from this bill.

The bill accomplishes three important goals. First, the bill will allow emergency Federal assistance for fishery disasters to be provided directly to the fishers affected. Second, the measure eliminates the current cap which limits the amount of disaster assistance a fisher may receive. And finally, the bill will eliminate the $100,000 limit on assistance to any individual.

While not a cure for the complex problem of restoring the world-class salmon runs of the Pacific Northwest, this bill will help alleviate some of the hardships felt by displaced fishers. In short, H.R. 2160 helps cut out the road blocks and redtape in the fishing disaster relief program.

In August 1995, we were fortunate enough to receive a multimillion dollar assistance package for Northwest salmon fishers who had been hard-hit by the collapse of fishery resources from the effects of El Nino and drought. Passage of this legislation will ensure that we can distribute these funds in a more efficient manner and gain the most relief per dollar for struggling Northwest fishing communities.

I greatly appreciate the leadership of Chairman YOUNG and Representative STUDDS on this legislation and their willingness to honor the requests of Pacific Northwest legislators like myself to move this bill quickly so that fishers in our districts can benefit immediately from its provisions.

Mr. TORKILDSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from Massachusetts [Mr. TORKILDSEN] that the House suspend the rules and pass the bill, H.R. 2160, as amended.

The question was taken.

Mr. TORKILDSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

WAIHEE MARSH INCLUSION IN OAHU NATIONAL WILDLIFE REFUGE COMPLEX

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1772) to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex, as amended.

The Clerk read as follows:

H.R. 1772

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ACQUIRE INTERESTS FOR INCLUSION IN THE OAHU NATIONAL WILDLIFE REFUGE COMPLEX.

(a) AUTHORITY TO ACQUIRE.—The Secretary of the Interior may acquire, for inclusion in the Oahu National Wildlife Refuge Complex, the area known as the Waihee Marsh, located on the northeast coast of the Island of Oahu, Hawaii, consisting of approximately 36 acres (as determined by the Secretary) along both sides of Kamehameha Highway.

(b) MANAGMENT OF ACQUIRED INTERESTS.—Lands and interests acquired by the United States under this section shall be managed by the Secretary of the Interior as part of the Oahu National Wildlife Refuge Complex.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Massachusetts [Mr. STUDDS] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, thank you for the opportunity to speak about H.R. 1772, the Oahu National Wildlife Refuge Complex Act, introduced by Congresswoman PATSY MINK. H.R. 1772 would facilitate an agreement to allow the Secretary of the Interior to add 36 acres of wetlands to the Oahu National Wildlife Refuge Complex.

These wetlands are home to several threatened and endangered species including the Hawaiian stilt, Hawaiian coot, and Hawaiian duck. The wetlands also capture and retain stormwater runoff.

This bill provides protection for the fragile Hawaiian ecosystem and I urge all Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

This bill, as the gentleman said, is both without controversy and with merit, which is something we should see around here more often.

Mr. Speaker, I am delighted to yield such time as she may consume to its author, the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentleman for recognizing my presence here today and acknowledging my great State of Hawaii. I

want to thank both gentlemen from Massachusetts for according me the opportunity to speak today in support of a very important bill.

It is connected with the whole concept of preserving our environment, and particularly our coastal areas. This bill is a very important component in Hawaii's battle against the endangered species crisis, and I think most people in the House recognize that Hawaii represents the State with the most endangered and threatened species. So it is not simply a matter of pleasure in having this one bill reported today, but the recognition of the total devastation of our unique species that really is in the forefront today through the passage of this bill.

The decline in the critical habitat in my State has escalated over the last 100 years, during massive development and other kinds of activity. So currently we have 222 endangered and threatened species, birds, mammals, plants, and so forth, which represent 23.2 percent of the total national list of all endangered species. So I think that gives Members an idea that this small place on this Earth has suffered this tragedy of the loss of so many unique species.

Today, through the passage of this bill, we hope that one small acreage of only 36 acres in an important area of the Island of Oahu can be preserved and set aside as a wetland for a number of important reasons.

The status of our wetland ecosystems in Hawaii has also degraded to a point where it has declined by 30 percent in the last 100 years or so, leaving only 15,000 acres of wetland. So the Fish and Wildlife Service has become very concerned about this loss, and although 36 acres is not very much, when we realize that the Fish and Wildlife has only 2,000 acres under its management, we understand how the addition of 36 acres is very important.

The Waihee Marsh wetlands is split already by a major highway that cuts both the ocean fronting portion together with the lands that are inland, and this of course makes it very difficult for preservation. Urban development around the area also has threatened to dispose of this very important wetlands. So this intervention of this bill today and allowing the Secretary of the Interior to establish this unit of 36 acres, together with the existing Oahu National Wildlife Refuge System, is a very important step and we hope that the Secretary of Interior will see fit to do so.

The Fish and Wildlife has long recommended this acquisition. The lands under question are now owned by a private individual, a Florida developer, who has indicated his willingness to sell the property if it is possible for him to obtain like properties in the same vicinity. He alleges that he has intended to be a good neighbor and to be in agriculture.

So the Trust for Public Land that has been an important entity in the State in helping the Federal, State, and local governments to acquire important properties has written a letter, which, Mr. Speaker, I will insert at the end of my statement.

The Trust for Public Land has indicated that they are interested in acquiring the parcel expeditiously and perhaps after doing so to make a contribution of the parcels to the Federal Government. That is to be worked out later. But the interest of the public trust is very important and with their rapid all cash acquisition of the properties promised, we feel that this valuable asset is ready for inclusion into the wildlife system.

So I am very much encouraged by this bill coming to the floor today and, with the support of the Members of this body, we hope that this acquisition will be made possible. It is an important wetland not only for the purposes of the endangered species, but it is in fact the drainage system for the whole area and, through the wetlands, is sort of a sponge for the sediments and other kinds of floodwaters going through this particular valley. It happens to preserve the quality of Kane'ohe Bay, which is adjoining and a very important asset for all of us.

So with the enactment of this bill, Mr. Speaker, the conservation of this marsh will be applauded by all segments of my community and all government agencies and all political and social, environmental interests. So I commend the committee for giving this House the opportunity to pass this bill and hope that the Members will give it a unanimous accord.

I would like to thank Chairman DON YOUNG and Ranking Member GEORGE MILLER of the Resources Committee, as well as Chair JIM SAXTON and Ranking Member GERRY STUDDS of the Subcommittee on Fisheries Wildlife and Oceans for moving forward my bill H.R. 1772 which is before us today.

My bill, H.R. 1772, represents an important component in Hawaii's battle against its current endangered species crisis. H.R. 1772 aims to preserve the 36-acre Waihee Marsh wetland in Kahaluu, on the Island of Oahu, which the Department of Interior has testified provides habitat to endangered and threatened species including the Hawaiian Stilt, Hawaiian coot, Hawaiian duck, and several migratory birds.

A decline in critical habitat in the State of Hawaii due to escalated development and agricultural activity has led to the listing of 222 endangered and threatened bird, mammal, plant and snail species, 23.2 percent of the national total of 956 listed species. This is despite the fact that Hawaii represents a mere 0.2 percent of the United States in land area. The biggest tragedy is that many species native to the Hawaiian Islands are unique in the world and can never be found anywhere else once populations in Hawaii become extinct.

The last hundred years of human activity in Hawaii has resulted in deterioration of all major ecosystems, according to the Hawaii Heritage Program. Land development and the introduction or the intrusion of non-native vegetation has forced most native ecosystems up into the mountain ranges away from the coastal areas—also from the Waihee Marsh on the northeastern windward coast.

The status of Hawaii's wetland ecosystems in particular is grim, as my State's coastal wetland habitat declined 31 percent between 1880 and 1980, leaving only 15,474 acres of wetland, according to the U.S. Fish & Wildlife Service [FWS] in 1990; the wetlands loss in the areas surrounding Waihee Marsh was between 80 and 90 percent. Only 2,000 of the remaining 15,474 areas are currently managed by FWS.

The Waihee Marsh wetland to be protected by H.R. 1772 was split apart by a major highway. The wetland was further threatened in previous years as the subject of several urban development proposals successfully blocked by the Kahaluu Neighborhood Board No. 29, which strongly supports retention of the area's rural character and Federal acquisition.

The U.S. Fish & Wildlife Service identified Waihee Marsh in its 1993 revised Hawaiian Waterbirds Recovery Plan as essential habitat for the recovery of endangered waterbirds. FWS in 1990 identified Waihee Marsh as a priority wetland acquisition site in its Regional Wetlands Concept Plan: Emergency Wetlands Resource Act. FWS reiterated the wetland's significance in its December 15, 1994 Report on the Potential Rehabilitation and Management of the Waihee Wetland.

On July 13, 1994, the Honolulu City Council unanimously passed a resolution requesting action by Hawaii's Congressional Delegation to provide for the acquisition of the Waihee Marsh.

On November 18, 1994, a major parcel of Waihee Marsh was sold to a Florida developer who sought to divide the wetland once again by building an access road directly through the middle of the wetland; however, efforts by State and county government convinced the landowner to build the road at the parcel's border.

Approached by the Trust for Public Land [TPL] in August, 1995, the landowner expressed interest in selling the parcel, should another parcel of comparable value be made available. TPL this month wrote to the landowner to express willingness to work toward a rapid, all-cash acquisition of the property to preserve the land's valuable natural resources.

Clearly, the range of efforts to conserve Waihee Marsh are wide in scope.

My bill seeks to allow the Secretary of the Interior to acquire and add the Waihee Marsh to the existing Oahu Natural Wildlife Refuge Complex managed out of Haleiwa on Oahu. Establishment of a new on-site management office would not be necessary because Haleiwa staff would visit the wetland on a rotating basis, along with the Pearl Harbor and James Campbell National Wildlife Refuges on Oahu and the Kakahaia National Wildlife Refugee on the Island of Molokai.

This palustrine wetland contains bird habitat mainly in its interior, which is subject to prolonged ponding during rainy seasons and

VOL
142
PT
6
AP
15
—
24
1996
UMI

overgrown at the edges with introduced vegetation that serves as a buffer for the inner wetlands. Waihee Marsh is also framed by embankments to protect the wetland from surrounding man-made developments.

In addition to having conservation value, the wetland provides flood control for nearby areas of Waihee and Kaalaea. It also captures and retains stormwater runoff to preserve coral ecosystems and water quality of the adjacent Kaneohe Bay.

Passage of my bill will allow FWS to fulfill several management priorities it has recognized, which would restore and maintain Waihee Marsh as a healthy, naturally-functioning wetland: First, dredging of sediments to improve water quality and recreate suitable waterbird habitat, second, predator control to humanely trap cats, mongooses and rats; prevent entry of dogs by fences, and prevent predator access to nesting sites, third, removal of introduced plant species which have overgrown parts of the wetland, and fourth, general habitat improvement to create and maintain a mosaic of waterbird habitats such as shallow mudflats, deeper open water areas, dense vegetative areas and other natural wetland features.

FWS has also found possibilities of educational benefits through establishment of outlooks along the adjacent Kamehameha Highway and student field-trips. Because Waihee Marsh was once farmed by Native Hawaiians, the analysis of archaeological and cultural sites would contribute to the study of Hawaii's indigenous people.

I strongly urge the enactment of H.R. 1772. Conservation of Waihee Marsh has unanimous support from the community, Federal, State, and local government, and environmental interests, and would play an important role in Hawaii's efforts to combat its endangered species crisis.

The Trust for Public Land,
San Francisco, CA, April 22, 1996.

Hon. Patsy Mink,
Rayburn House Office Building, Washington, DC.

Dear Congresswoman Mink: I am writing to commend you on your efforts through H.R. 1772 to secure the protection of the important wetland habitat of Waihee Marsh on Oahu.

As you know well, the 36-acre Waihee Marsh area contains some of the last remaining unprotected habitat for the federally listed Hawaiian moorhen and provides critical feeding grounds and nesting cover for a wide diversity of other migratory and residential species. Additionally, the marsh, which is subject to periodic flooding, also provides essential filtration of waters flowing to the coral reefs and estuarine areas of nearby Kane'ohe Bay. Public management of this property therefore would not only preserve and enhance the resources of the marsh itself, but will also contribute substantially to the restoration of this larger ecosystem, a major environmental goal towards which your recent work with us (and the federal/state/local investment of over $6 million) to protect the 2.5 miles of Kane'ohe Bay shoreline of the Marks Estate also plays a major role. With the progress to date in this effort, and the current threat of incompatible activity and development at Waihee Marsh, the time is right for consideration of H.R. 1772.

As you also know, the Trust for Public Land is prepared to take an active role, to the extent we can, in assisting in the acquisition of these private lands if such assistance is necessary. In any event, we appreciate the commitment and leadership you have shown in this effort, and look forward to the ultimate preservation of this vital wetland area.

Sincerely.

Alan Front,
Vice President.

Mr. STUDDS. Mr. Speaker, I second the remarks of the gentlewoman from Hawaii, all of Hawaii except for Honolulu.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I want to congratulate the gentlewoman on the fine job she has done in putting this bill together and in helping us to bring it to the floor.

Mr. ABERCROMBIE. Mr. Speaker, I rise today to voice my strong support for H.R. 1772, to authorize the Secretary of the Interior to acquire certain interests in the Waihe'e Marsh for inclusion in the Oahu National Wildlife Refuge, introduced by my colleague from Hawaii, Representative Patsy Mink.

The Waihe'e Marsh, also called the Kahalu'u wetland, is located on the windward side of Oahu. Acquisition of Waihe'e Marsh is vital to the integrity of the Oahu National Wildlife Refuge [Refuge]. The purpose of the refuge is to protect and manage a network of wetlands throughout Oahu for the recovery of endangered waterbirds, migratory birds, and other values of natural wetlands. Specifically, Waihe'e Marsh is identified as a priority wetland site in the U.S. Fish and Wildlife Service's regional wetlands concept plan: Emergency Wetlands Resource Act [USFWS 1990]. Throughout Hawaii there has been a substantial cumulative loss of wetlands.

I would like to point out to my colleagues in the House that the natural environment of Hawaii is one of our planet's most significant treasures. The islands are home to more unique species than any place of similar size on the Earth. Yet, Hawaii has the most alarming concentration of species teetering on the brink of extinction. While Hawaii makes up only 0.2 percent of the land area we account for nearly 75 percent of the Nation's historically documented plant and bird extinctions of the United States. Currently, more than one-fourth of the 959 animals and plants on the U.S. endangered and threatened species list come from Hawaii.

Under H.R. 1772 Waihe'e Marsh would be rehabilitated and managed for the recovery and support of endangered Hawaiian waterbirds, such as the endangered Hawaiian Stilt, Hawaiian coot, Hawaiian moorhen and Hawaiian duck, which are all protected under the Endangered Species Act. Also, wetlands in Hawaii provide habitat for several species of migratory shorebirds and waterfowl which are protected under the Migratory Bird Treaty Act.

I want to mention to my colleagues that the importance of Waihe'e Marsh is not limited to plants and animals. This has been an issue that has been worked from the grassroots. I commend all the hard work put in by the local communities. The Waihe'e Marsh is important for the surrounding communities because it naturally serves as a flood control holding area and the vegetation contributes to the control of shoreline erosion for nearby residential areas. Also, the marsh serves as a filter to protect water quality and coral reef communities in Kaneohe Bay.

Mr. Speaker, this is a worthwhile piece of legislation that deserves the full support of all my colleagues.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 1772, introduced by our colleague from Hawaii, Patsy Mink, to add some 36 acres of wetlands to the Oahu National Wildlife Refuge complex.

It is my understanding that these wetlands are essential habitat for a number of native Hawaiian birds and migratory waterfowl.

While the U.S. Fish and Wildlife Service has apparently been interested in acquiring the entire Waihe'e Marsh wetlands for a number of years, the purchase costs have been prohibitive.

This bill will simply tell the Secretary of the Interior that he may obtain these lands for inclusion in the refuge without providing any money to buy them.

While I intend to support H.R. 1772, I do so with the stipulation that if these wetlands are purchased by the Federal Government, all private property owners must be willing sellers and they must be fully compensated for their land interests.

I urge an "aye" vote on H.R. 1772.

Mr. SAXTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. Saxton] that the House suspend the rules and pass the bill, H.R. 1772, as amended.

The question was taken.

Mr. SAXTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

AMAGANSETT NATIONAL WILDLIFE REFUGE

Mr. LONGLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1836) to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, NY, for inclusion in the Amagansett National Wildlife Refuge.

The Clerk read as follows:

H.R. 1836

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ACQUIRE PROPERTY FOR INCLUSION IN THE AMAGANSETT NATIONAL WILDLIFE REFUGE.

(a) Authority to Acquire Property.—The Secretary of the Interior may acquire, for inclusion in the Amagansett National Wildlife

Refuge, the area known as the Shadmoor Parcel, consisting of approximately 98 acres (as determined by the Secretary) located along the Atlantic Ocean adjacent to municipal park land in the town of East Hampton, Suffolk County, New York.

(b) Management of Acquired Interests.—Lands and interests acquired by the United States under this section shall be managed by the Secretary of the Interior as part of the Amagansett National Wildlife Refuge.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maine [Mr. Longley] and the gentleman from Massachusetts [Mr. Studds] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maine [Mr. Longley].

Mr. LONGLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 1836, a bill to authorize the Secretary of the Interior to acquire property in the town of East Hampton, NY, for inclusion in the Amagansett National Wildlife Refuge. This legislation was introduced by Congressman Michael Forbes on June 14, 1995. An identical bill was proposed by New York Senators Patrick Moynihan and Al D'Amato on November 17, 1995.

These measures would allow the Secretary of the Interior to acquire a 98-acre ocean-front parcel of land in Montauk, East Hampton Town, NY, known as Shadmoor. The land would be added to the Amagansett National Wildlife Refuge, which is part of the Long Island Refuge complex located 10 miles to the west. The town of East Hampton owns a 20-acre parcel of land adjacent to the eastern boundary of the Shadmoor property.

Currently, title to the Shadmoor property is held by private individuals who are interested in developing a housing project on this site. In fact, the owners are proposing to build 14 homes and have a development permit pending before the town of East Hampton.

The Shadmoor parcel does contain one of the largest populations of New York State's most endangered plant, a flowering plant that lives in only 12 places in the world; 4 of these locations are on Long Island. In addition, this property contains six other rare plants and historic World War II coastal defenses. The Shadmoor property consists of maritime shrub land, freshwater wetlands, and maritime grasslands.

The U.S. Fish and Wildlife Service has been interested in this property for a number of years. In fact, the Shadmoor parcel was targeted for acquisition in the Service's 1991 Northeast Coastal Areas study. To date, they have lacked the financial resources to buy this 98-acre parcel of land. On November 3, 1995, the East Hampton Town Board approved a resolution expressing their commitment to share the acquisition cost of the Shadmoor property with the Fish and Wildlife Service. The Service hopes to pursue acquisition in partnership with the town and private land protection groups.

The National Wildlife Refuge System is comprised of Federal lands that have been acquired for the conservation and enhancement of fish and wildlife. Totaling about 91.7 million acres, the System provides habitat for hundreds of fish and wildlife species, including more than 165 species listed as threatened or endangered under the Endangered Species Act. The first wildlife refuge was established by President Theodore Roosevelt at Pelican Island, FL, in 1903 to protect egrets, herons, and other birds that were being killed to provide feathers for the fashion industry.

The Shadmoor property will provide a useful addition to the System, and I urge an "aye" vote on this bill.

□ 1645

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, the gentleman is absolutely correct. As a matter of fact, there is probably not much left to be said, which has probably been noticed by the gentleman from New York.

Mr. Speaker, I reserve the balance of my time.

Mr. LONGLEY. Mr. Speaker, I yield 10 minutes to the gentleman from New York [Mr. Forbes].

Mr. FORBES. Mr. Speaker, I thank my colleague from Maine and my colleague from Massachusetts.

Mr. Speaker, H.R. 1836 has been described quite adequately, and I take the well today to urge the adoption of H.R. 1836, legislation to authorize the Secretary of the Interior to move forward in the purchase of Shadmoor and make it a part of the Amagansett National Wildlife Refuge.

Mr. Speaker, this is a very important activity, one that I think is of eminent importance, given the fact that the Town of East Hampton has before it an application to develop this esthetic, historical and ecologically delicate property, something I think that we do not want to see certainly in my part of the world. The Shadmoor property, which has been described as a 98-acre dramatic ocean front property, is critical to the area of Montauk that this parcel rests on.

It is fitting, I think, also to recognize that Theodore Roosevelt, who began the national refuge system, spent some time on this parcel. In fact in 1898, when the 10th Black Cavalry returned from Cuba with the Rough Riders, they deployed from this site. So there is some ironic association between this parcel and of course the individual who started the whole national refuge system.

The Amagansett Wildlife Refuge would be well served to have this important parcel included. Not only is this parcel the siting of some habitat of plant species that are rather rare, and my colleague has already alluded to the fact that the sandplain gerardia, one of New York State's rarest plants, there are only five places left on Long Island where this rare species of plant is located. Of course Shadmoor is one of those critically located sites.

Shadmoor also is home to six State rare species, including the grasslead ladies tresses orchid and the New England blazing star. Shadmoor, as I said, was the site of the deployment of the 10th Black Cavalry as well as the site during World War II where bunkers were built that can still be seen today.

This legislation is critically important. I think, before we go too further, I would like to recognize first of all some individuals who have been laboring long and hard to try to preserve Shadmoor in perpetuity. Certainly I think the Nature Conservancy, Sara Davidson and Stuart Lowry from the Nature Conservancy on Long Island. Also Carol Morrison and Rau Fridel of the Concerned Citizens of Montauk. And of course the Town Board and Town of East Hampton have all championed the preservation of Shadmoor.

It is critical that this legislation receive approval not just by the House of Representatives and the U.S. Senate but that it be signed into law. I believe that, thanks to the support of director Mollie Beatty of the U.S. Fish and Wildlife Service, that we have moved forward and that it is highly likely that we can get this included in the Amagansett Wildlife Refuge.

This important parcel obviously needs to be preserved. Long Island and New York State have received almost no Federal dollars over the last 20 years for the acquisition of lands to protect endangered species. Nationally few dollars have been used to protect the habitat of critically imperiled plant species. Preserving 98 acres of dramatic ocean front at Montauk, Long Island will be an important addition to this whole national refuge system.

I thank both the gentleman from Alaska [Mr. Young] and the gentleman from New Jersey [Mr. Saxton] my good friend, for moving this legislation forward and for making it possible for the House to take into consideration this legislation today.

I urge its adoption.

Mr. STUDDS. Mr. Speaker, I was wrong. There was more to be said. I agree with this gentleman, too.

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to present to the House H.R. 1836, introduced by our colleague from New York, Mike Forbes, to add a 98-acre ocean-front parcel of land in Montauk, NY, to the Long Island National Wildlife Refuge.

During our committee's deliberations on this bill, a local supervisor and a group of concerned citizens testified in strong support of

VOL 142 PT 6 AP 15 — 24 1996 UMI

protecting this property called Shadmoor, which is essential habitat for several highly endangered plants.

While it is unclear how much it will cost the Federal Government to purchase this tract of land, I am encouraged by the fact that the local community in the Town of East Hampton, NY, has voted to share in the acquisition costs. This is a positive step in the right direction.

I am prepared to support H.R. 1836 based on this innovative cost-sharing commitment and the stipulation that those private citizens who now own Shadmoor are fully compensated for their property prior to its inclusion in the Long Island National Wildlife Refuge complex.

I urge an "aye" vote on H.R. 1836 and I compliment Congressman MIKE FORBES for his outstanding leadership in this matter.

Mr. SAXTON. Mr. Speaker, I am pleased that the House is considering H.R. 1836, the Amagansett National Wildlife Refuge Act, which was introduced by Representative MICHAEL FORBES.

H.R. 1836 would allow the Secretary of the Interior to acquire a 98-acre ocean-front parcel of land in Montauk, East Hampton Town, NY, known as Shadmoor.

This parcel contains one of the largest populations of New York State's most endangered plant, the sandplain gerardia.

The Shadmoor property represents valuable habitat for this endangered plant. I urge all Members to support the legislation.

Mr. STUDDS. I yield back the balance of my time.

Mr. LONGLEY. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from Maine [Mr. LONGLEY] that the House suspend the rules and pass the bill. H.R. 1836.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LONGLEY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 1836, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maine?

There was no objection.

TENSAS RIVER NATIONAL WILDLIFE REFUGE AUTHORIZATION INCREASE

Mr. JONES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2660) to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge, as amended.

The Clerk read as follows:

H.R. 2660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN AMOUNT AUTHORIZED TO BE APPROPRIATED TO THE DEPARTMENT OF THE INTERIOR FOR THE TENSAS RIVER NATIONAL WILDLIFE REFUGE.

Section 5(1) of the Act entitled "An Act to establish the Tensas River National Wildlife Refuge", approved June 28, 1980 (Public Law 96–285, 94 Stat. 597), as amended by section 2 of Public Law 99–191 (99 Stat. 1327), is amended to read as follows:

"(1) beginning October 1, 1995, not to exceed $20,000,000 to the Department of the Interior; and".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. JONES] and the gentleman from Massachusetts [Mr. STUDDS] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 2660, a bill to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge. This bill was introduced by Congressman JIM MCCRERY on November 17, 1995. It will increase the amount that is authorized to be appropriated, for the acquisition of land, in the Tensas River National Wildlife Refuge in Talulah, LA.

The Tensas River National Wildlife Refuge was established on June 28, 1980, by Public Law 96–285 to preserve the largest remaining privately owned bottom land and hardwood tract in the Lower Mississippi River Delta. The act has authorized $20 million for land acquisition, through the Department of the Interior's Land and Water Conservation Fund.

The diverse habitat at the Tensas River Refugee supports a tremendous variety of wildlife, including the largest white-tailed deer herd in Louisiana, bald eagles, numerous species of small mammals and birds, and the Louisiana black bear. The Tensas River population is one of only two known populations of this subspecies in existence.

The wetlands, lakes, and bayous in the refuge provide habitat for an equally diverse variety of aquatic life including fish, reptiles, amphibians, crustaceans, and the American alligator. This aquatic habitat is particularly important because the Tensas River is the only major waterway in the Louisiana delta that has not been extensively altered by channelization.

To date, Congress has appropriated $20 million for land acquisition at the refuge, but additional funds may be necessary to complete the acquisition process. H.R. 2660 authorizes an additional $20 million for land acquisition, subject of course to appropriations. The bill will allow the Fish and Wildlife Service to acquire the remaining critical lands necessary to complete the Tensas River National Wildlife Refuge.

At present,the National Wildlife Refuge System is comprised of 508 refuges, which are located in all 50 States and 5 U.S. territories. These units range in size from a single acre refuge in Minnesota, to the 19.3 million-acre Arctic National Wildlife Refuge in Alaska. In the last decade, 81 refugees and approximately 3.6 million acres have been added to the System.

The Tensas River Refuge is an important component in this nationwide system, and I urge an "aye" vote on this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, this is a good bill and, I hesitate to add, costs a little bit more than the Boston Harbor Island so I can assume we are going to get enormous support when the time comes. It is an excellent bill, and I urge Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. JONES. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Speaker, I thank the gentleman from North Carolina [Mr. JONES] for yielding me this time. I do not intend to use all of it. Mr. JONES eloquently stated the reasons for introduction of the bill and reasons for Members to vote for it today.

Mr. Speaker, I want to thank Chairman SAXTON and the ranking member, Mr. STUDDS, from the Subcommittee on Fisheries, Wildlife and Oceans for their willingness to support this bill and for their work in bringing it to the floor today.

The Tensas River National Wildlife Refuge is a case study in responsible environmental policy. Created in 1980, the refuge now includes some 64,000 acres in Madison and Tensas parishes in northeastern Louisiana and represents a commitment to preserving the largest single tract of bottomland hardwoods remaining in the Mississippi River Delta. Widely supported in the community, the refuge has been constituted entirely from land acquired through donations or by purchases from willing sellers.

The bottomland forests in the refuge provide habitat for a diverse array of greenery. In addition, over 400 animal species make their home in the Tensas Refuge. Among endangered species, the bald eagle and the peregrine falcon make occasional appearances. Of particular note, the Tensas Refuge is the home of the largest remaining population of the Louisiana Black Bear.

H.R. 2660 would increase the authorization for the Tensas Refuge from $10 million to $20 million. These additional funds are needed to purchase

inholdings and corridor easements. Again, all this will be accomplished with the full cooperation and support of the surrounding community. My constituents who live and work near the refuge fully understand the need to maintain this haven of natural beauty.

Completion of land purchase for the Tensas River National Wildlife Refuge will preserve a unique slice of southern habitat for enjoyment by countless future generations. Once again, I thank the members of the Resources Committee for their swift action in bringing this bill before the full House and strongly urge all Members to support its passage.

Mr. STUDDS. Mr. Speaker, to my utter astonishment, I have a request for time.

Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I am pleased to be here with the majority today in support of this legislation. It is a noncontroversial bill. It does the right thing in extending this area. But as we are handing out fig leaves today, this is clearly a case where fig leaves are deserved to both previous speakers on the other side.

On the key votes before the Congress and particularly for the one that authorized this particular program, rollcall 502, both individuals voted against the general proposition. It is as if to say today that if Jesse James had in one instance deposited funds in a bank, it would absolve him of being referred to as a bank robber.

We have had a year and a half of a general assault on the environment, that the basic legislation that establishes these programs was resisted and opposed, that if you went down each one of these bills, on the Republican side, 99 percent voted to open the Arctic National Wildlife Refuge to oil drilling; 99 percent voted to keep destructive riders in the fiscal year 1996 Interior appropriations bill; 86 percent of the Republicans voted against an amendment to the fiscal year 1996 Interior appropriations act which would restore land and water conservation funds vitally important to the refuge system; 82 percent voted to keep the salvage rider in the rescission bills.

It seems to me that while this is a good thing we are doing here today, we welcome the last two speakers on the other side, that they do deserve the fig leaf here because you cannot just come to the floor when it is one instance in your district or in your party and claim that you are taking some kind of environmental action. The assault on the environment over the last year and a half has been so extreme, it has frightened people that are not simply environmental activists but average citizens who have some concern about the state of this country and the state of our natural resources.

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Mr. Speaker, again I would commend the gentleman for what they do today, but I would hope that we would not see them in every instance oppose the major pieces of legislation. Give this opportunity to the entire country and not just to one place and one district.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I rise in strong support of H.R. 2660, the Tensas River National Wildlife Refuge Act, introduced by Representative JIM MCCRERY.

H.R. 2660 would increase the authorization level for the Tensas River National Wildlife Refuge from $10 million to $20 million, and would make those funds available as of October 1 last year. This increase is necessary to cover the costs of buying critical habitat for the threatened Louisiana black bear. It is imperative that this legislation move forward, so the management plan for the threatened black bear can continue to be implemented.

We in Congress have been discussing prevention in the context of the Endangered Species Act. Here is a case where public input has resulted in the prevention of endangerment. This legislation deserves all our support.

Mr. YOUNG of Alaska. Mr. Speaker, H.R. 2660 has been introduced by our distinguished colleague from Louisiana, JIM MCCRERY. This is a noncontroversial bill that simply increases the amount of the authorization level for the Tensas River National Wildlife Refuge.

It is my understanding that there is interest in expanding the boundaries of this refuge, but these efforts are constrained by the provisions of Public Law 96–285 that legislatively created the refuge.

H.R. 2660 will increase from $10 million to $20 million the amount of funds that may be appropriated to the Department of the Interior, and it makes those funds available as of October 1 last year. These modifications are necessary because the cost of acquiring certain lands for inclusion in the Refuge were more expensive than anticipated.

Finally, the Tensas River National Wildlife Refuge had been deemed critical habitat for the threatened Louisiana black bear and the river is the only major waterway in the Louisiana delta that has not been extensively altered by channelization.

Congressman JIM MCCRERY has made a persuasive case, and I compliment him for his outstanding leadership on this legislation. I urge an "aye" vote on H.R. 2660.

Mr. JONES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 2660, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2660, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

NORTH PLATTE NATIONAL WILDLIFE REFUGE BOUNDARY REVISION

Mr. METCALF. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2679) to revise the boundary of the North Platte National Wildlife Refuge.

The Clerk read as follows:

H.R. 2679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF BOUNDARY OF NORTH PLATTE NATIONAL WILDLIFE REFUGE.

(a) TERMINATION OF JURISDICTION.—The secondary jurisdiction of the United States Fish and Wildlife Service over approximately 2,470 acres of land at the North Platte National Wildlife Refuge in the State of Nebraska, as depicted upon a map entitled "Relinquishment of North Platte National Wildlife Refuge Secondary Jurisdiction", dated August 1995, and available for inspection at appropriate offices of the United States Fish and Wildlife Service, is hereby terminated.

(b) REVOCATION OF EXECUTIVE ORDER.—Executive Order Number 2446, dated August 21, 1916, is hereby revoked with respect to the lands referred to in section 1.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. METCALF] and the gentleman from Massachusetts [Mr. STUDDS] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. METCALF].

Mr. METCALF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2679, introduced by the gentleman from Nebraska [Mr. BARRETT] will remove about 2,470 acres of land from the North Platte National Wildlife Refuge.

This legislation is a direct result of a report issued by the U.S. Fish and Wildlife Service that recommended that these lands be divested from the refuge because they provide nothing significant toward the refuge or the national refuge systems' purposes and goals.

While these lands may have limited value within the refuge unit, they offer recreational opportunities to thousands of citizens who enjoy boating, fishing, sightseeing and swimming in Nebraska. Under the terms of this legislation, which is strongly supported by the Department of the Interior, these lands would be removed from the

VOL
142
PT
6
AP
15
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24
1996
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refuge, and they will be managed by the Nebraska Game and Parks Commission through a lease from the Bureau of Reclamation.

While title to these lands would remain with the Federal Government, this measure is beneficial to the refuge system and the thousands of Americans who will enjoy utilizing Lake Minatare in the future.

I urge an "aye" vote on H.R. 2679, and I compliment the gentleman from Nebraska [Mr. BARRETT] for his leadership in behalf of his constituents and this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this has been an exhilarating half hour, and we are for this one, too.

Mr. Speaker, I reserve the balance of my time.

Mr. METCALF. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. BARRETT], the sponsor of the bill.

Mr. BARRETT of Nebraska. Mr. Speaker, I thank the gentleman for yielding this time to me. Mr. Speaker, I rise today in support of H.R. 2679, and I would like to thank the subcommittee chairman, the gentleman from New Jersey [Mr. SAXTON], and the ranking member of the subcommittee, the gentleman from Massachusetts [Mr. STUDDS], and the chairman of the full committee, the gentleman from Alaska [Mr. YOUNG], for their support and for their work on this particular measure.

The House is debating this week several pieces of legislation relating to the environment and divestiture of 2,470 acres of land from the North Platte National Wildlife Refuge, which is just outside of Scottsbluff, NE, which would enhance the effectiveness of the national wildlife refuge system.

H.R. 2679 was developed with the support of the community local leaders and the U.S. Fish and Wildlife Service, and it is a very good example, Mr. Speaker, of cooperation between Federal, State, and local individuals.

The Lake Minatare refuge was established in the early part of the century as a preserve and breeding ground for water fowl which were native to that particular area. The refuge is also a part of a Bureau of Reclamation irrigation project. The Fish and Wildlife Service managed the wildlife aspect of the project, while the bureau managed the other aspects of the land, like recreation and cabins and so forth. And following a 1990 directive that the Fish and Wildlife Service bring all of the areas under its jurisdiction into compliance local, residents realized that this would essentially prohibit recreational and residential use of Lake Minatare, and this was absolutely and totally unacceptable.

The testimony before the fisheries subcommittee fully illustrated, I think, that Lake Minatare is an essential part of this Scottsbluff area community, and because of the significant local interest and the complex management nature of the refuge, the Fish and Wildlife Service did an environmental assessment. It determined that the best course of action would be to terminate the service's authority over certain portions of the land, as some areas were no longer effective as a wildlife refuge.

I am pleased to report, Mr. Speaker, to the House the broad support of the Fish and Wildlife Service.

My Scottsbluff district office, incidentally, reported we have over 5,000 different letters in support of this particular transfer.

The local citizens, the Fish and Wildlife Service, and I have had a great amount of success in working together on this project. It is a unique win-win situation, and it sets an example for Congress as we strive to effectively manage our Nation's natural resources.

I urge my colleagues to support H.R. 2679.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not know where the gentleman from Alaska is, but we could use a little color here. But I do not see him. I have nothing further to say. One would never know the government is coming to an end tomorrow, but apparently it is, and we are having a wonderful afternoon.

We are very strongly for this bill; and I have no requests for time.

Mr. Speaker, I yield back the balance of my time.

Mr. METCALF. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the gentleman from Washington for yielding this time to me. I certainly will not use anywhere near 5 minutes.

Mr. Speaker, I would just like to say to the gentleman from Nebraska [Mr. BARRETT], that this is obviously the result of a good deal of consideration by a lot of people, and I am pleased that the gentleman has brought this bill to us, which has obviously moved through the committee and is now here for a vote on the floor.

The Fish and Wildlife Service has found nothing significant, that the North Platte wildlife refuge adds nothing, in their words, significant toward the refuge or the National Refuge System purposes and goals. And it is the position of the Department of the Interior to support the bill as well.

So I congratulate the gentleman on the fine job that he has done in ushering this to the House floor, and I am sure it will pass. Congratulations.

Mr. Speaker, I rise in strong support of H.R. 2679, the North Platte National Wildlife Refuge Act, which was introduced by Representative BILL BARRETT.

H.R. 2679 would remove about 2,470 acres of land from the North Platte National Wildlife Refuge, which the Fish and Wildlife Service has found to provide "nothing significant towards the Refuge or the National Refuge System purposes and goals."

The title to these lands would remain with the Federal Government, and they would be managed by the Nebraska Game and Parks Commission through a lease with the Bureau of Reclamation.

I think it is important that when the Fish and Wildlife Service recognizes that a refuge is no longer serving the function for which it was founded, it takes steps to remove the land from the Refuge System. This bill is strongly supported by the Department of the Interior, and I urge all Members to support it.

Mr. DON YOUNG of Alaska. Mr. Speaker, H.R. 2679, introduced by our colleague from Nebraska, BILL BARRETT, will remove about 2,470 acres of land from the North Platte National Wildlife Refuge.

This legislation is a direct result of a report issued by the U.S. Fish and Wildlife Service that recommended that these lands be divested from the refuge because they provide "nothing significant toward the refuge or the National Refuge System purposes and goals."

While these lands may have limited value within the refuge unit, they offer recreational opportunities to thousands of our citizens who enjoy boating, fishing, sightseeing, and swimming in Nebraska.

Under the terms of this legislation, which is strongly supported by the Department of the Interior, these lands would be removed from the refuge and they will be managed by the Nebraska Game and Parks Commission through a lease from the Bureau of Reclamation.

While title to these lands would remain with the Federal Government, this measure is beneficial to the Refuge System and the thousands of Americans who will enjoy utilizing Lake Minatare in the future.

I urge an "aye" vote on H.R. 2679 and I compliment BILL BARRETT for his outstanding leadership on behalf of his constituents and this legislation.

Mr. METCALF. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington [Mr. METCALF] that the House suspend the rules and pass the bill, H.R. 2679.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. METCALF. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and to include extraneous material on H.R. 2679, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING USE OF CAPITOL GROUNDS FOR WASHINGTON FOR JESUS 1996 PRAYER RALLY

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 166) authorizing the use of the Capitol Grounds for Washington for Jesus 1996 prayer rally.

The Clerk read as follows:

H. CON. RES. 166

Whereas One Nation Under God, Inc. has sponsored two previous prayer rallies entitled Washington for Jesus in the city of Washington and plans a third such event over a two-day period on April 29 and 30, 1996;

Whereas public assembly for giving thanks and praying for the United States is a tradition in this Nation dating from before the Nation's founding and commemorated each year by a national Thanksgiving holiday; and

Whereas the Washington for Jesus prayer rally provides for the peaceable assembly and public expression of peoples of all faiths to pray and give thanks for the United States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

SECTION. 1. USE OF CAPITOL GROUNDS FOR WASHINGTON FOR JESUS 1996 PRAYER RALLY.

(a) IN GENERAL.—One Nation Under God, Inc. (in this resolution referred to as the "sponsor") shall be permitted to sponsor a public event (in this resolution referred to as the "event") over a two-day period on April 29 and 30, 1996 (plus one day before and one day after the event to fully accommodate for setup, takedown, and cleanup).

(b) TERMS AND CONDITIONS.—The event shall be free of any admission charge to the public and arranged so as not to interfere with the needs of Congress, subject to conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board. The sponsor shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

(c) STRUCTURES AND EQUIPMENT.—For the purposes of this resolution, the sponsor is authorized to erect upon the Capitol Grounds such stage, sound amplification devices, and related structures and equipment as may be required to conduct the event, subject to approval of the Architect of the Capitol.

(d) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements as may be necessary to carry out the event consistent with good order, public health, safety, and protection of the Capitol and the Capitol Grounds.

SEC. 2. SPONSORSHIP OR ENDORSEMENT.

Nothing contained in this resolution shall be construed as an endorsement of the sponsor or the event (or any related activities or expressions, religious or otherwise). The sponsor shall not represent either directly or indirectly that this resolution or any activity carried out under this resolution in any way constitutes approval or endorsement by the United States Government, or any of its agencies, of any activity or expression, religious or otherwise, of the sponsor or the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Minnesota [Mr. OBERSTAR] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 166; a resolution to authorize the use of the Capitol Grounds for the 1996 prayer rally.

The first rally took place in 1980 and drew approximately 750,000 people. The second one in 1988 was somewhat smaller at approximately 500,000 people.

Both of these rallies took place on the Mall and were conducted under permits issued by the National Park Service.

The Capitol Police Board has notified the organization that because of the extent of the event, Congressional authorization this time is necessary.

On April 18, 1996, Congressman STOCKMAN introduced House Concurrent Resolution 166 which would authorize the use of Capitol Grounds for the 1996 prayer rally. Pursuant to the resolution the sponsor, would be authorized to sponsor an event on the Capitol Grounds on April 29, and April 30. This would include 1 day before and 1 day after the event for set up, take down, and clean up.

The event would be conducted without any admission charge to the public and would be arranged so as not to interfere with congressional activities. It would be subject to the conditions prescribed by the Architect of the Capitol and the Capitol Police Board.

The resolution would require the sponsor to assume full responsibility for the expenses and liabilities associated with the event. The resolution would also authorize the sponsor to erect stage, and sound amplification devices, and related structures and equipment required to conduct the rally, subject to the approval of the Architect of the Capitol.

The Architect of the Capitol and the Capitol Police Board would be authorized to make any additional arrangements necessary to carry out the event in order to protect order, public health, safety, and property.

Finally, the resolution states that the resolution does not either directly or indirectly, endorse the sponsor or any related activities or expressions, religious or otherwise. Further, the sponsor may not represent that the resolution or any activity carried out under it constitutes endorsement by the U.S. Government or any of its agencies.

Mr. Speaker, I urge adoption of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the concept underlying this resolution, the principle that any group, including religious organizations, should have the same rights to use the Capitol grounds to express their views as other organizations.

I do not have a problem with the basic purpose of the resolution under consideration. But I do have very serious concerns about process, about lack of process, and that is the reason that I objected, or said I would object, to the proposal to bring up this resolution under unanimous consent procedures.

We are facing today what we faced when the proposal was made for unanimous consent procedure as another example of the leadership in this body steamrolling hastily drafted legislation through the House without an opportunity for the legislation to be reviewed either by the committee of jurisdiction or by the House itself. This has been the rule, not the exception. I went back and checked. Of the 16 bills considered under rules this year, 11, or 72 percent, have been brought to the floor without any committee reporting them; 72 percent of bills brought under a rule were brought to the floor without a committee having considered them, and that includes the crime bill, two continuing resolutions, and the constitutional amendment on taxation.

Mr. Speaker, the same pattern of bypassing the normal legislative process is evident in unanimous consent requests. According to the House Information Resources, which I asked to review this matter, of the 25 measures brought to the House under unanimous consent during this Congress, 21, 84 percent, were not reported by the committee of jurisdiction. In fact, 16 of the 21 had no committee action at all.

Now, this is not, and I am not talking about a matter of committee jurisdiction, I am not talking about a matter of turf. I am talking about a matter that goes to the very essence of a deliberative body. There ought to be free, fair, and open discussion of the matters that come before the House. The committee is the filtering process, the filtering organization where issues of state are aired and discussed and given opportunity for people to ask questions, to find out who is behind the legislation, what its purpose is, who are its sponsors.

We had no advance notice in this committee, the Committee on Transportation and Infrastructure, which has jurisdiction over this matter, about this issue. None of the sponsors of the organization came before our committee, nor to me individually, nor do I know whether they came, nor does it matter whether they came, to see the leadership on the committee. The point is we have had before our committee matters in which other organizations have wanted to use the Capitol grounds for their purposes, had the

VOL
142
PT
6
AP
15
—
24
1996
UMI

Soap Box Derby, we had the Olympic Torch organization.

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Mr. Speaker, we have had the stock car people that wanted to have a display on the Capitol grounds. Those were all aired, they were discussed, they were reviewed. We had questions, we raised those questions. Members' concerns were satisfied. That is the way the committee process should work, an opportunity for all of us; not just us but through us, the public, who will be affected by the legislation, to understand what this legislation is, who is behind it and what is behind it.

When we do not have that process, all of us suffer as a result. I have been very much a stickler for process, as members of the Committee on Transportation and Infrastructure know, for 20 years. This is not something new. However, this example of bypassing the committee process is unwarranted, unreasonable, and it is unnecessary. Frankly, I think it is an abuse visited upon the chairman of the subcommittee, a very fair, decent, scholarly, and thoughtful person. He did not have an opportunity to discuss this matter in committee, to exercise his jurisdiction.

Now we find out, Mr. Speaker, just in the last couple of days, that it was known way back in February that this prayer rally would need a resolution of Congress to waive limitations imposed by Capitol Police regulations on use of the Capitol grounds. Why was the resolution not introduced at that time? I am not asking the gentleman, I am just raising the question. Why was the resolution not introduced then? If it had been, the leadership knew this was a problem. We could have followed the proper process of review, consideration, discussion, air the matter.

Mr. Speaker, who is behind this? Who are the groups? Who are the religious organizations? Who are they that want to use these grounds, and for what purpose? We should have been informed right from the beginning, when there would have been time to ask questions and inform our Members, inform the public. Instead, nothing was done until a week before the event, and then late last week, a proposal to bring this resolution up by unanimous consent, and we had no knowledge of who is behind it and what it is all about.

Mr. Speaker, I respect every person's right to pray in the way that they wish to pray, and I respect wanting to use a public event for that purpose. It is not my way, it is some other people's way, but that is fine, and I respect it.

However, Mr. Speaker, I want to ask the chairman of the subcommittee: Will the rally be allowed to construct different structures than are permitted by the regulations?

Mr. GILCHREST. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Speaker, I respect the concerns of the gentleman from Minnesota [Mr. OBERSTAR] about the process, and I will try to address some of those concerns. To specifically answer his question, the rally will not be able to construct any structure that is not permitted under the regulations.

Mr. OBERSTAR. Mr. Speaker, I would ask the gentleman: Will the rally or its members or its participants be permitted to sell goods on the Capitol grounds?

Mr. GILCHREST. Mr. Speaker, I would say to the gentleman, no goods will be able to be sold whatsoever on the Capitol grounds.

Mr. OBERSTAR. Will fundraising for the organizations involved be permitted?

Mr. GILCHREST. There will be no fundraising activities involved under this permit.

Mr. OBERSTAR. I thank the gentleman, Mr. Speaker.

Will the rally be permitted to claim that in any way Congress endorses the sponsoring organization or endorses the rally or its purposes?

Mr. GILCREST. No. Mr. Speaker, as I said in my opening remarks, the rally will not be able to claim endorsement by the Congress for any of their activities.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for his responses. Those are reassuring and very helpful.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. TRAFICANT], the ranking member of the Subcommittee on Public Buildings and Economic Development of the Committee on Transportation and Infrastructure.

Mr. TRAFICANT. Mr. Speaker, I have many of the same concerns that I guess have been voiced by the gentleman from Minnesota [Mr. OBERSTAR]. I have complete confidence in the gentleman from Maryland [Mr. GILCHREST]. I am sure many of these issues he has made decisions that are appropriate.

Mr. Speaker, the only thing I would like to say is that, even though it is not a major event, there is a process that is involved. Once we start to deviate from that process, there could be things that could develop that may at some point come back to maybe embarrass the Congress. So I am not going to stand in apposition, and I have complete confidence that the gentleman from Maryland has probably reviewed this well, and I can at this particular point accept this.

In the future, however, Mr. Speaker, I think the words of caution from the gentleman from Minnesota should be well taken, not just on this committee but on every committee. Once we start, no matter how we look at any particular issue, some certainly much more serious in nature and presenting more of a problem to the Congress than others, nevertheless, there sometimes could be things developed that set a precedent, and then people begin to talk about being treated differently.

I am from the old school, and I think all people should be treated alike. That is one of the reasons why Vince Lombardi was loved so much. He treated everybody alike. Willie Davis said, "He treated us all alike; like dogs, but all alike." I think the Congress must do that and ensure that we do that. We have a process. I think we should adhere to that process.

Mr. Speaker, I have no opposition, I would say to the chairman of the subcommittee. I would like to echo, though, and associate myself with the remarks of the gentleman from Minnesota. I think it was wise counsel. I hope in the future we could adhere to that counsel. I think it makes a lot of sense.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to address the issue that the gentleman from Ohio [Mr. TRAFICANT] and the gentleman from Minnesota [Mr. OBERSTAR] raised. I would like to extend my concurrence with the gentleman's sense of concern about the process not being followed.

I would also like to extend an invitation to work with both of the gentlemen, starting right now, that the process for these kinds of resolutions not be superseded, so that we get the information in a timely fashion and the committee process can fully review some of these reservations and some of these activities.

Mr. Speaker, this particular activity was brought to our attention very recently. This particular activity, this prayer rally, is going to happen, I believe, next Monday. So as a result of that, we have been asked to expedite this process. When we were asked to do that, we looked into a number of other activities that were very similar to this activity over the years.

There have been numerous prayer rallies on the Capitol Grounds very similar to this particular activity that is occurring next Monday. The only difference is that this activity will go beyond 24 hours. As a result of that extension of time, it is necessary for the permit to go through the Congress, as opposed to the permit just going through the Capitol Police.

In the future, however, Mr. Speaker, whenever an extension of time like this is necssary, I would like to work with the gentlemen, the gentleman from Ohio [Mr. TRAFICANT] and the gentleman from Minnesota [Mr. OBERSTAR], to make sure the process is not superseded, that we go through the committee process, and all of the concerns the Members have raised here today would be fully aired in this process.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. STOCKMAN].

Mr. STOCKMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I just want to point out to the gentleman that from what I understand, the Capitol Police knew about the rally for 2 years, and the organizers were not notified until February. They got ahold of us soon thereafter. We were working on the legislation, so we expedited it as quickly as we were notified by the Capitol Police. But from our understanding, the Capitol Police knew about it for 2 years and they did not tell them they had this requirement until February.

I agree with what some of what the Members said, in that we would try to obey the process. We will ask also, too, for the record, that the Capitol Police set out policies in advance that are known to the organizers.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope the rally is conducted in a way that will make all of us proud.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the remarks of the gentleman from Texas [Mr. STOCKMAN]. I would simply observe that if it was known in February, in our committee we work on a very bipartisan, cooperative basis. Had our side known about this, and had the gentleman from Maryland [Mr. GILCHREST] been fully informed about it at the time, we could have long ago resolved this matter in an appropriate, proper fashion.

I say this out of deep respect for the gentleman from Maryland, who is scholarly and thoughtful, professorial, deliberative in all his works, and for our full committee chair, the gentleman from Pennsylvania [Mr. SHUSTER] who has endeavored mightily to be open and fair and inclusive in the spirit of our committee over all of its years. It is painful to see something like this happen, in derogation of the committee process.

Again, to repeat, committees are supposed to be the filtering mechanism in this body, to provide information through us to the public, so people know and openly have an understanding of what we are about to do and what legislation we are about to enact, what access we are about to provide for this very precious Capitol Grounds.

I am glad that we have had this discussion. It would have been better to have had it in committee. We could have brought the bill to the floor, I think, knowing what we know now, under that unanimous consent procedure that was proposed, but I appreciate the gentleman from Maryland's willingness to make the effort in the future. I think the leadership of the House needs to operate in the same way.

In closing, I wish the sponsors of the rally a prayerful success.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 166.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 166, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceeding were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 1965, de novo; H.R. 2160, de novo; and H.R. 1772, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

COASTAL ZONE PROTECTION ACT OF 1996

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1965, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore.. The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and pass the bill, H.R. 1965, as amended.

The question was taken.

Mr. LONGLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional motions to suspend the rules on which the Chair had postponed further proceedings.

The vote was taken by electronic device, and there were—yeas 407, nays 0, not voting 25, as follows:

[Roll No. 127]

YEAS—407

Abercrombie
Ackerman
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley

VOL
142
PT
6
AP
15
—
24
1996
UMI

Lowey
Lucas
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Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Millender-
McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor

Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)

Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—25

Allard
Barr
Bryant (TX)
Collins (IL)
Coyne
de la Garza
Doyle
English
Fattah

Flake
Foglietta
Ford
Goodling
Greenwood
Hastings (WA)
Hutchinson
Inglis
Jefferson

McDade
Menendez
Rush
Shuster
Thompson
Torricelli
Wilson

☐ 1744

Mr. PACKARD and Mr. SMITH of Texas changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I was unavoidably delayed from voting on two bills under suspension on Tuesday, April 23, since the Pennsylvania primary election required my voting in the 21st district of Pennsylvania that same morning. Had I been present, I would have voted "yes" on H.R. 2024, and "yes" on H.R. 1965.

COOPERATIVE FISHERIES MANAGEMENT ACT OF 1996

The SPEAKER pro tempore (Mr. UPTON). The pending business is the question of suspending the rules and passing the bill, H.R. 2160, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. TORKILDSEN] that the House suspend the rules and pass the bill, H.R. 2160, as amended.

The question was taken.

RECORDED VOTE

Mr. LONGLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which this vote will be taken.

The vote was taken by electronic device, and there were—ayes 406, noes 0, not voting 26, as follows:

[Roll No. 128]

AYES—406

Abercrombie
Ackerman
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cardin

Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson

Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flanagan
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)

Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott

McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Millender-
McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo

Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—26

Allard
Bryant (TX)
Buyer
Collins (IL)
Coyne
de la Garza
Doyle
Fattah
Flake

Foglietta
Foley
Ford
Goodling
Greenwood
Hutchinson
Inglis
Jefferson
McDade

Menendez
Rush
Shuster
Smith (MI)
Smith (WA)
Thompson
Torricelli
Wilson

☐ 1754

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SMITH of Michigan. Mr. Speaker, on rollcall No. 128, I was outside the Chamber. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mrs. SMITH of Washington. Mr. Speaker, I was unavoidably detained and was not able to cast a vote on H.R. 2160. If I would have been present, I would have voted "yes."

This bill contains provisions that make changes to existing law and allows disaster assistance to be continued to be made available in the Pacific Northwest for salmon fishermen. As we know, the salmon industry has been devastated in the Northwest because of a variety of factors. In Pacific and Grays Harbor Counties, this once thriving industry has almost disappeared, causing severe economic dislocation. This disaster assistance made available in this bill will help mitigate the impact of the decline in the salmon industry in Washington State.

Again, I would like to advocate my strong support for the Cooperative Fisheries Management Act. I appreciate the fine work of Chairman SAXTON in bringing this important legislation to the floor.

PERSONAL EXPLANATION

Mr. HUTCHINSON. Mr. Speaker, this past weekend a destructive tornado hit northwest Arkansas. As a result of the devastation which was wrought by this natural disaster, I assisted my constituents in the district and consequently missed two rollcall votes.

I would like the record to show that had I been present I would have voted "yea" on rollcall No. 127 and "yea" on rollcall No. 128.

WAIHEE MARSH INCLUSION IN OAHU NATIONAL WILDLIFE REFUGE COMPLEX

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1772, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and pass the bill, H.R. 1772, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2715, PAPERWORK ELIMINATION ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–532) on the resolution (H.R. 409) providing for consideration of the bill (H.R. 2715) to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small business, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1675, NATIONAL WILDLIFE REFUGE IMPROVEMENT ACT OF 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–533) on the resolution (H. Res. 410) providing for the consideration of the bill (H.R. 1675) to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

☐ 1800

GENERAL LEAVE

Mr. DICKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on all legislation passed today.

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–200)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

I hereby report to the Congress on the developments concerning the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order No. 12978 of October 21, 1995. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c).

1. On October 21, 1995, I signed Executive Order No. 12978, "Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers" (the "Order") (60 Fed. Reg. 54579, October 24, 1995). The Order blocks all property subject to U.S. jurisdiction in which there is any interest of four significant foreign narcotics traffickers who are principals in the so-called Cali drug cartel centered in Colombia. They are listed in the annex to the Order. In addition, the Order blocks the property and interests in property of foreign persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, (a) to play a significant role in international narcotics trafficking centered in Colombia or (b) to materially assist in or provide financial or technological support for, or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order. In addition the Order blocks all property and interests in property subject to U.S. jurisdiction of persons determined by the Secretary of the Treasury in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the Order (collectively "Specially Designated Narcotics Traffickers" or "SDNTs").

The Order further prohibits any transaction or dealing by a United States person or within the United States in property or interests in property of SDNTs, and any transaction that evades or avoids, has the purpose of evading or avoiding, or attempts to violate, the prohibitions contained in the Order.

Designations of foreign persons blocked pursuant to the Order are effective upon the date of determination by the Director of the Department of the Treasury's Office of Foreign Assets Control (FAC) acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the Federal Register, or upon prior actual notice.

2. On October 24, 1995, the Department of the Treasury issued a notice containing 76 additional names of persons determined to meet the criteria set forth in Executive Order No. 12978 (60 Fed. Reg. 54582–84, October 24, 1995). A copy of the notice is attached to this report.

The Department of the Treasury issued another notice adding the names

VOL
142
PT
6
AP
15
—
24
1996
UMI

of one additional entity and three additional individuals, as well as expanded information regarding addresses and pseudonyms, to the List of SDNTs on November 29, 1995 (60 Fed. Reg. 61288–89). A copy of this notice is attached to this report.

3. On March 8, 1996, FAC published a notice in the Federal Register adding the names of 138 additional individuals and 60 entities designated pursuant to the Order, and revising information for 8 individuals on the list of blocked persons contained in the notices published on November 29, 1995, and October 24, 1995 (61 Fed. Reg. 9523–28). A copy of the notice is attached to this report. The FAC, in coordination with the Attorney General and the Secretary of State, is continuing to expand the list of Specially Designated Narcotics Traffickers, including both organizations and individuals, as additional information is developed.

4. On October 22, 1995, FAC disseminated details of this program to the financial, securities, and international trade communities by both electronic and conventional media. This information was updated on November 29, 1995, and again on March 5, 1996. In addition to bulletins to banking institutions via the Federal Reserve System and the Clearing House Inter-bank Payments System (CHIPS), individual notices were provided to all State and Federal regulatory agencies, automated clearing houses, and State and independent banking associations across the country. The FAC contacted all major securities industry associations and regulators, posted electronic notices to 10 computer bulletin boards and 2 fax-on-demand services, and provided the same material to the U.S. Embassy in Bogota for distribution to U.S. companies operating in Colombia.

5. There were no funds specifically appropriated to implement this program. The expenses incurred by the Federal Government in the 6-month period from October 21, 1995, through April 20, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the national emergency with respect to Significant Narcotics Traffickers are estimated at approximately $500,000 from previously appropriated funds. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of Justice, and the Department of State.

6. Executive Order No. 12978 provides this Administration with a new tool for combating the actions of significant foreign narcotics traffickers centered in Colombia, and the unparalleled violence, corruption, and harm that they cause in the United States and abroad. The Order is designed to deny these traffickers the benefit of any assets subject to the jurisdiction of the United States and to prevent United States persons from engaging in any commercial dealings with them, their front companies, and their agents. Executive Order No. 12978 demonstrates the U.S. commitment to end the scourge that such traffickers have wrought upon society in the United States and beyond.

The magnitude and the dimension of the problem in Colombia—perhaps the most pivotal country of all in terms of the world's cocaine trade—is extremely grave. I shall continue to exercise the powers at my disposal to apply economic sanctions against significant foreign narcotics traffickers and their violent and corrupting activities as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 23, 1996.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CLOSING A PROFITABLE PLANT MAY LEAD TO A CHANGE IN THE RULES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, this is a speech I was hoping I would not have to give. It is a speech I may have to repeat at greater length, and I hope I will not have to do that.

In the City of New Bedford, which I represent, there is a plant, the J.C. Rhodes Co., which has been for a very long time a successful manufacturing plant, manufacturing metal fasteners, manufacturing some basic devices, and they have been profitable. We have heard a lot about American industry not being able to compete. Well, we have a plant here with an excellent dedicated work force. This plant has been around 100 years, and it is successful and profitable.

Recently the plant was bought, not by another primary metal producer, but by a financial organization. This financial organization then decided that it would shut down this profitable plant because they could make more money by shutting the plant down and consolidating the production at a plant in a different part of the country. They did not argue that it was a problem of lack of profitability. They did not argue there was no way they could make a go of it in Massachusetts. They did not argue it was because our costs were too high.

Mr. Speaker, it was simply that because of the financial manipulations involved they now found it more profitable to shut down the plant. No one is asking them to lose money.

I have not gotten into detail about the names of individuals; I hope there will not be a need to do that, because I do not want to interfere with negotiations going on now. But it would be a failure on my part not to make clear to all concerned what the stakes are.

The stakes are these. We have a profitable plant in a part of the country where industry has, for a variety of reasons, been diminishing. Heavy industry. This plant is still profitable. It was bought. We have responsible, successful business people, themselves in the manufacturing business, working with the city government and the city of New Bedford, working with the union, the United Electrical Union, working with others, and they are ready to buy the plant at a reasonable price and keep it going. We are being told that we cannot have that, by some, not because this plant is not profitable but because, to be honest, some extremely wealthy people can add incrementally to their great wealth by throwing these people out of work.

That is why this is so important. The question that America has to confront right now is, are we at a point in our economic system, with the rules that have been set forth legally and in every other way, in which the jobs of the 100 people and of families dependent on them count for zero; in which the fact these people have been working very hard for many years profitably for their employer counts for zero; in which the great costs that would be imposed on the city of New Bedford and the surrounding area, the city of Fall River and surrounding areas where these people work, does that count for zero solely so that some people who are already quite wealthy can become a little bit wealthier?

They can increase wealth that will make no difference in their lives except when they chortle over the balance sheets.

I am not asking anyone to take a loss or to keep open a building or a plant that cannot make it. I am saying that, if we are going to be told that the rules are such that this financial conglomerate can come in and simply buy up a plant and shut it down and throw these people out of work and have no concern for the disastrous financial consequences, no concern for the tax losses, no concern for the unemployment compensation that will be paid out, for the mortgage loans that will be defaulted, the student loans that will not be paid back; if the system allows a small number of people to get a little wealthier by causing this degree of financial havoc when the plant can make it on their own and people are willing to buy it and keep it running at a price that would be a reasonable price, then the rules have to be changed.

Mr. Speaker, I have met with the owners of the plant, along with business people from my district, along with the union and people from the mayor's office working with our Senators, Senators KENNEDY and KERRY. We are trying to persuade the owners to be reasonable, not to take a loss, not to subsidize anybody, but to tell us that the lives of these working people do not count for zero, that a marginal increment in their great wealth is not going to be the only factor. If in the end their answer is that nothing else counts in the balance, that nothing but their ability to maximize their already high profits will count, that all of the serious real economic costs that will be imposed on working people and on the city and on the State of Massachusetts, that those will count for nothing, then they are helping to convince me we have to change the rules.

☐ 1815

I want the free market system to work. I do not want to interfere with it. But I cannot as a Representative sit idly by and allow the system to go forward if the consequence is that extraordinarily decent hard-working people are penalized and victimized solely for the financial gain of a small number of people with no real economic improvement for society. I hope I will not have to again be at this microphone on this subject.

EDUCATION

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I come to the floor this evening to address my colleagues in the House on the subject of education. Everywhere you turn, in fact I just read this recent article in U.S. News and World Report, there is criticism about United States education. This U.S. News and World Report article and cover story is entitled Dumb and Dumber. It talks about the failure of the United States education.

Part of the debate here before Congress has been the question of how much money we throw at different programs. One of the questions I have always raised is, are we paying more and getting less?

One of the criticisms of the new Republican majority is that they were cutting "education." In fact, that really is not the case. If you just took a few minutes, Mr. Speaker, to look at the initial budget that we proposed for the House of Representatives and spending for education over the next 7 years, you will find that we proposed an increase over those 7 years of $24 billion in additional education spending.

The question, Mr. Speaker, is not just how much money that we throw at these problems, because we have increased the expenditures in almost every educational field over the past decade by tremendous sums of money. Then we get these headlines on our magazines, Dumb and Dumber. We find the results, the SAT scores have dropped, total average of, from 1972, a score of 937 to 902 in 1994. We find our 17-year-olds scored 17 points worse in science than in 1970. We find reading also at proficient levels, the scores have fallen since 1992. In math, U.S. students scored worse in math than all other large countries except for Spain. Thirty percent of college freshmen must take remedial education courses. This is nationwide. And my community college, the president of our local community college said it is up to 70 percent of his entering freshmen need remedial education. So we must look at how we are spending these tremendous sums of dollars and the amounts.

That is part of what this debate is about here, whether it is education or whether it is environment.

Let me give you two more examples. Here is an article, I brought this to the House before but it is absolutely astounding. It talks about job training programs and education programs, job education programs in the state of Florida.

This is just out in the last month, a State study. Florida, in Florida, State, local and Federal expenditures for these training programs were $1 billion. Listen to this: Most students who entered the program never graduated. In all, 37 percent of 347 training and vocational programs performed poorly according to this report and only 20 percent of those enrolled in high school vocational programs completed that. The report found, and listen to this, of that figure only 19 percent found a full-time job after graduating and then were employed in just above a minimum wage, at a minimum wage level and out of that position in less than six months.

The examples go on and on. Here is another story that was in the Washington Post. Department of Labor spent about $305,000 for each participant in a job program in Puerto Rico. The problem is, we are paying more and we are getting less. Part of it deals with the Department of Education, which now has 4,786 employees, of which 3,322 are in Washington, D.C., just a few blocks from here.

So part of this argument is paying more, getting less. Part of it is command and control in Washington. Part of it is giving these 3,322 bureaucrats down the street in the Federal Department of Education something to do. They do that. It is time that we brought that to a halt.

TRIBUTE IN HONOR OF VICTIMS RIGHTS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this evening to pay a special tribute and certainly with a great deal of remorse to the victims of crime throughout America. We honor this week Victims Rights Week, and we pay tribute to all of the men and women and children in this country whose lives have been cut short by hideous acts of violence.

In particular, I must cite several heinous crimes in my community: the vicious murders of Jennifer Ertman, Elizabeth Pena and Monique Miller of Houston, TX. Jennifer Ertman, 14, and Elizabeth Pena, 16, left a party and were taking a shortcut home near a park on June 24, 1993, when they crossed paths with 6 youths engaged in a drunken gang initiation rite. The two girls were repeatedly raped before being strangled and stomped to death by a mob.

Monique Miller was murdered and sexually abused by a repeat offender.

These teenagers and this very young child will never live out their dreams and live up to the great potential that each of them possessed. Their families will never see them achieve all that they should have. They will never attend a school dance again, go to college, get married or have their own families. Their dreams and the dreams that their parents had for them have been destroyed by senseless violence.

There is growing recognition in this country that most sex offense victims are children and that reporting of these offenses is still low. The FBI law enforcement bulletin reported that only 1 to 10 percent of child molestation cases are ever reported to police, and a National Victim Center survey estimated that 61 percent of rape victims are less than 18 years of age; 29 percent are less than 11 years of age.

A recent United States Department of Justice study of 11 jurisdictions and the District of Columbia reported that 10,000 women under the age of 18 were raped in 1992 in these jurisdictions. At least 3,800 were children under the age of 12.

According to the Bureau of Justice Statistics and the FBI, children under the age of 18 accounted for 11 percent of all murder victims in the United States in 1994. Between 1976 and 1994, an estimated 37,000 children were murdered. And half of all murders in 1994 were committed with a handgun; about 7 in 10 victims age 15 to 17 were killed with a handgun.

Clearly, we must do more to protect our children from violence. This requires more than jailing sex offenders

VOL
142
PT
6
AP
15
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24
1996
UMI

and violent criminals after they commit crimes, although swift and effective punishment is important. This requires strong prevention and education which will keep our children from becoming victims of violent crime.

Tomorrow the House Committee on the Judiciary, of which I am a member, will mark up H.R. 2137, also known as Megan's Law, in honor of 7-year old Megan Kanka who was raped, strangled and murdered by a twice-convicted pedophile who lived across the street from her. I will be a cosponor of this legislation.

This bill would amend the 1994 crime bill to require States to release relevant information regarding persons convicted of molesting or kidnapping children and certain other sex crimes, when it is necessary to protect the public. This bill would guarantee the appropriate dissemination of information so that parents, school officials and community groups can responsibly use the information in order to protect their children.

Today I pay tribute to these teenagers, Jennifer and Elizabeth and children like Monique and Megan, and I ask during Victims Rights Week we take time to recognize the victims of violent crime and work together to prevent senseless violence in our communities. Let us stand up against the repeal of the assault weapons ban. Let us recognize that the Brady bill must be reinforced to prevent reckless utilization of handguns. Let us understand that we must stop the siege of our children by pedophiles who recklessly go from State to State and perpetrate their violent acts on our innocent children.

Let us bring back innocence to America again so that men and women and children can be safe in their homes. Let us stand up for the victims of America.

We owe it to Jennifer, Elizabeth, Monique and Megan and all of the others whose lives have been snuffed out as a result of violent crimes. We owe it to the victims of Oklahoma City, and we owe it to ourselves. We owe it to America. Let us stand up against crime and let us stand for victims.

THE MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. COX] is recognized for 5 minutes.

Mr. COX of California. Mr. Speaker, I would like to share with my colleagues some words that come from a 67-year-old woman who works at the minimum wage in Santa Ana, CA:

> Dear Congressman—she wrote me recently—I strongly advise you not to raise the minimum wage. In my working career, I have had a lot of under, slightly over and straight minimum wage jobs. As a single parent, I managed to raise my son without any handout from the government. Although raising the minimum wage may should like a great humanitarian idea, it really isn't.
>
> In the past every time minimum wages were raised, the entire national work force, plus welfare recipients, also demanded and received raises. The cost of goods and services rose to meet the higher cost of labor, and you forced me to work a lot of overtime to maintain the same buying power I had before my "generous" raise.
>
> I am now 67 years old and consider myself extremely lucky to have an employer willing to hire elderly people like myself. My employer is a small businessman. Recently because of the economy he was forced to raise his prices and cut his overhead just to stay in business. I took a Small Business Administration class in college, and I know that he has to match my Social Security payments, pay higher State disability and workers compensation. He and others like him will have no alternative but to close their doors and I will be unemployed.
>
> When I lose my job, because my employer can no longer afford to stay in business, what is the government going to do about me, someone who is willing to work? How is the government going to help support me? Who is going to pay for this?
>
> Very truly yours, Joanna B. Menser, Santa Ana, CA.

That is a personal story, but how about the big picture? How about macroeconomics, and how about the views of such institutional stalwarts of the liberal point of view as the New York Times? Some time ago the New York Times ran an editorial on the minimum wage. The headline was, the right minimum wage, zero. By that the New York Times did not mean that people should actually work for nothing. Rather, what they meant is that wages, the cost and the price of labor should be determined in a free market and in fact no one should be held to a so-called minimum wage but, rather, everyone should have the opportunity to make an increasing wage in return for higher skills and higher productivity.

☐ 1830

Let me read from that editorial in the New York Times which was titled, "The Right Minimum Wage: $0.00."

"Anyone working in America," the New York Times says, "surely deserves a better living standard than can be managed on the minimum wage."

I think we can all agree with that.

But there is a virtual consensus among economists that the minimum wage is an idea whose time has passed. Raising the minimum wage by a substantial amount would price poor working people out of the job market, people like Joanna Menser, whose remarks we just heard.

"An increase in the minimum wage," the New York Times wrote in their editorial, "would increase unemployment."

Let me repeat this line from the New York times editorial: "An increase in the minimum wage would increase unemployment, raise the legal minimum price of labor above the productivity of the least skilled worker, and fewer will be hired."

"If a higher minimum wage means fewer jobs, why does it remain on the agenda of some liberals," the New York Times asked.

"Those at greatest risk from a higher minimum wage would be young poor workers who already face formidable barriers to getting and keeping jobs."

They conclude their editorial in the New York Times as follows:

"The idea of using a minimum wage to overcome poverty is old, honorable, and fundamentally flawed."

This is the New York Times now. This is not Congressman CHRIS COX from California.

"The idea of using a minimum wage to overcome poverty is old, honorable, and fundamentally flawed. It's time to put this hoary debate behind us and find a better way to improve the lives of people who work very hard for very little."

Finally, the New York Times of Friday, April 19, just last Friday, is worth noticing here on the floor in this debate among our colleagues. Three factoids from the New York Times, Friday April 19, 1996, I commend to all of my colleagues:

Number of times in 1993 and 1994, when Democrats controlled Congress, that President Clinton mentioned in public his advocacy of a minimum wage increase: zero. Number of times he has done so in 1995 and 1996, when Republicans have controlled Congress, 47. Number of congressional hearings Democrats held on the minimum wage in 1993 and 1994: zero.

NOBEL PRIZE WINNERS AND OTHER ECONOMISTS SUPPORT INCREASE IN MINIMUM WAGE

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I am pleased that 20 of our Republican colleagues in the House now support an increase in the minimum wage.

They join 3 recipients of the Nobel Prize in Economics, 7 past presidents of the American Economics Association and more than 100 distinguished economists nationwide who have signed a "Statement of Support for a Minimum Wage Increase."

Clearly, Mr. Speaker, the issue is compelling.

Those economists recognize that profits are soaring, wages for workers are declining, and consumer demand is stagnant.

That is a prescription for economic trouble.

Middle and moderate-income Americans now feel the squeeze between profits and wages as much as the low income and the unemployed.

Almost half of the money in America is in the hands of just 20 percent of the people.

That top 20 percent is made up of families with the highest incomes. The bottom 20 percent has less than 5 percent of the money in their hands.

A modest increase in the minimum wage could help the bottom 20 percent, and, it will not hurt the top 20 percent.

The President has proposed such a modest increase in the minimum wage—an increase of 90 cents, over 2 years.

Such an increase would mean an additional $1,800 a year for the working poor.

That amount of money makes a big difference in the ability of families to buy food and shelter, to pay for energy to heat their homes, and to be able to clothe, care for and educate their children.

That amount of money makes the difference between families with abundance and families in poverty.

An increase in the minimum wage won't provide abundance, but it can raise working families out of poverty.

As indicated, while the cost of bread, milk, eggs, a place to sleep, heat, clothing to wear, a bus ride and a visit to the doctor has been going up, the income of low, moderate and middle-income people has been going down.

Between 1980 and 1992, income for the top 20 percent increased by 16 percent. During that same period, income for the bottom 20 percent declined by 7 percent.

For the first 10 of those 12 years, between 1980 and 1990, there were no votes to increase the minimum wage.

Without an increase in the minimum wage, those with little money end up with less money. That is because the cost of living continues to rise.

By 1993, families in the top 20 percent had an average income of $104,616.

In contrast, families in the bottom 20 percent in America had an average income of just $12,964.

That is an astounding gap of more than $90,000!

The bottom 20 percent of our citizens can have a full-time employee in the family, working at least 40 hours a week, and still not able to make ends meet.

In fact, the earnings of that family could place them below the poverty line.

Recent studies indicate that job growth in America is lowest where the income gap is widest.

Closing the gap helps create jobs rather than reduce jobs.

Those who argue that an increase in the minimum wage will cause job losses, fail to look at all the facts.

Othe recent studies have shown that an increase in the minimum wage tends to cause an increase in jobs, rather than a loss of jobs. What are we waiting for, Mr. Speaker:

The Statement of the Nobel Prize winners, the past presidents of the American Economics Association and the more than 100 economic scholars across America makes the following point: "After adjusting for inflation, the value of the minimum wage is at its second lowest annual level since 1955."

Let us bring minimum wages into the modern age. Let us support H.R. 940, a bill that will help create a livable wage for millions of workers by permitting a modest increase in the minimum wage.

REVISED ALLOCATIONS AND AGGREGATES TO H. CON. RES. 67, CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1996

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, pursuant to Public Law 104–121, the Contract With America Advancement Act of 1996, I hereby submit for printing in the CONGRESSIONAL RECORD revised allocations and aggregates to House Concurrent Resolution 67, the Concurrent Resolution on the budget for fiscal year 1996. Section 103(e)(1) of Public Law 104–121 requires that upon enactment "the Chairmen of the Committees on the Budget of the Senate and House of Representatives shall make adjustments * * * (to the Appropriations Committee 602(a) allocations) * * * to reflect $15,000,000 in additional new budget authority and $60,000,000 in additional outlays for continuing disability reviews * * *"

The required adjustments are as follows:

COMMITTEE ON APPROPRIATIONS

[Dollar in millions]

	Current allocation		Change		Revised allocation	
	BA	O	BA	O	BA	O
General purpose discretionary	$485,074	$531,768	+$15	+$60	$485,089	$531,828
Violent crime reduction trust fund	4,087	2,227			$4,087	2,227
Total	489,161	533,995	+15	+60	489,176	534,055

AGGREGATE LEVELS

[Dollar in millions]

	Budget resolution (H. Con. Res. 67)	Change	Revised level
Budget authority	$1,285,500	+$15	$1,285,515
Outlays	1,288,100	+60	1,288,160

REPUBLICANS' SAFE DRINKING WATER ACT MEANS DIRTIER TAP WATER IN GEORGIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Georgia [Ms. MCKINNEY] is recognized for 5 minutes.

Ms. MCKINNEY. Mr. Speaker, we are also told that some of the slaves actually asked for and fought for a continuation of slavery. That did not make slavery right. America needs a raise.

Now, I came down here to talk about the Republican agenda with respect to the environment. I am not surprised that for his Earth Day stunt Speaker GINGRICH took young children to the zoo. If Speaker GINGRICH has his way on the Endangered Species Act, about the only place we will be able to find endangered species, or even nonendangered species, will be in the zoo.

Mr. Speaker, constituents have a particular problem, my constituents have a particular problem, with the health effects from chronic exposure to arsenic. In fact, I have constituents who now suffer from arsenical keratosis because of their exposure to arsenic. Yet, if the Republicans have their way, not only the communities of Hyde Park and Virginia subdivisions will be reeling from the effects of chronic exposure to arsenic, we all may be, because their version of the Safe Drinking Water Act means dirtier tap water in Georgia. They voted against an amendment that would have prohibited the introduction of arsenic into the water supply. It is almost unbelievable, but it is true.

With respect to the Safe Drinking Water Act, that would result in dirtier tap water from my State of Georgia. The Republicans' draft legislation of the Safe Drinking Water Act would weaken the laws' basic health standard, delay health standards for highly hazardous contaminants, and reduce the public's right to know about health threats from contaminated drinking water.

In 1993 and 1994, over 150,000 Georgians drank tap water that failed to meet the EPA's basic health standards for bacterial toxic chemicals, fecal matter and other dangerous microbes. The House of Representatives would have cut $15 million to help cities and towns upgrade drinking water plants.

With respect to the Clean Water Act, lakes, rivers and beaches in Georgia would have been fouled. If the Clean Water Act became law, it would have allowed untreated sewage to be discharged into coastal waters. It would

VOL 142 PT 6 AP 15 — 24 1996 UMI

have made the cleanup of toxic chemicals in the Great Lakes voluntary, it would have redefined most of the Nation's wetlands out of existence, and, of course, it would have gutted the EPA's efforts to control farm runoff, the single largest source of unregulated water pollution today.

In 1993 and 1994, over 140,000 Georgians drank tap water that was contaminated by fecal matter or other bacteria, in part because of sewage discharges into rivers and lakes at 31 locations throughout the State.

In terms of wetlands, the Clean Water Act creates a new definition of wetlands protection for 73 million acres of wetlands, or 71 percent of the remaining wetlands in 48 States. This would leave these lands to be developed with no Federal oversight or restrictions whatsoever. Of the 5.3 million acres of wetlands in Georgia, an estimated 4.7 million acres, 90 percent of the total wetlands remaining in the State, would no longer be considered wetlands under the proposed bill.

With respect to Superfund, the Republicans have introduced legislation that would bail out polluters and severely slow down cleanup of toxic dumps.

The most recent draft of the bill released by House Republicans would abolish all liability for polluters who generated and transported waste prior to 1987. Even giant corporations would get off the hook for all toxic waste they sent off site prior to 1987.

With respect to the toxics released inventory, their proposal would curtail reporting requirements for up to 90 percent of toxic chemical emissions that factories must report to the EPA.

Mr. Speaker, I would just conclude by saying that Kevin Phillips said that this may be the worst Congress in 50 years. The Republicans are well on their way to proving that.

☐ 1845

WE MUST BALANCE THE BUDGET IN THE FAIREST POSSIBLE WAY FOR EVERY FAMILY IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MARKEY] is recognized for 5 minutes.

Mr. MARKEY. Mr. Speaker, we have reached the critical juncture in this Congress, debating whether or not in fact we will deal with the critical issues that face our country, the issues that the families of this country want to see addressed, and whether we will do so in a reasonable and responsible fashion.

The Republican Party has argued that we should balance the Federal budget by the year 2002. The Democratic Party has responded that they, as well, want to balance the Federal budget by the year 2002. We will agree upon that. We are going to do that as a Congress and as a nation. The issue becomes how do we do it, how can it be done in the fairest possible fashion to every family in our country. How can the sacrifice be distributed that ensures that every family is treated fairly? That is the great debate going on in this Congress.

The Republican Party says that as part of balancing the budget, they must fulfill their commitment to ensure that their crown jewel in the Contract With America is given over to the wealthy, those who are in the upper-income brackets. They must receive huge tax breaks.

Ordinary families say, well, that does not sound too fair. If you look back over the last 20 years, we have not had any increase in the wages, those of us in the bottom 60 percentile or 70 percentile of wages in this country, people making $20,000 and $30,000 and $40,000 a year.

So if there are going to be tax breaks given out, the tax breaks should not be given out to the wealthy. We should get the tax breaks, so we can educate our children in high school and grammar school and in college. That is where the tax breaks should go, not to the wealthy.

And if you are going to cut programs, you cannot cut Medicare part B and make Grandma pay an extra $400 a year when she only makes $13,000 a year on average; all of the elderly, senior, retired women, when at the same time you are not going to touch the timber subsidies and the mining subsidies and the grazing subsidies, et cetera, et cetera, that the big business interests get. It has got to be fair.

Grandma or Grandpa, they do not mind sacrificing. God knows, they do not mind sacrificing. They took us through the Depression, they took us through World War II, and they built us into the greatest country in the world in the 1950's and the 1960's, so they do not mind sacrificing. They have sacrificed their whole lives. What they want is fairness. The tax breaks cannot go to the wealthy. The tax breaks have to go to people who can educate their kids. The programs that get cut cannot be for the elderly: Medicare, Medicaid. The programs have to be grazing subsidies and timber subsidies and Star Wars and all the rest of these crazy programs that should not be given Federal subsidies anymore. That is the only fair way of doing it.

The Republicans say, do not worry about it, because if you balance the budget by the year 2000, interest rates are going down 2 points and the oil, the water of prosperity, will flow evenly across all of those in this great country, and we will not have to do anything else for ordinary working people. The reality is that it has not flowed that way for the last 15 years, since Reaganomics began.

We have seen this distortion in terms of who are the beneficiaries of the wealth in our country. The rich are getting richer and the rest are just paying taxes. That is how this system has wound up in this country. Ordinary people are the ones who are afraid that their jobs are not going to produce the income they need for their families.

The fallacy in the Republican argument that interest rates are automatically going down two points—and by the way, the Democrats would wish that that would be the case, too, because we support a balanced budget, just as much as the Republicans do now—is that there is a doctrine. It is called NAIRU. It is called the non-accelerating inflationary rate of unemployment, the non-accelerating inflationary rate of unemployment. That means that the rate of unemployment, once it goes below a certain point, and, for these purposes below about 5.5 percent, about 6 to 8 million Americans unemployed.

Mr. Speaker, I will return at a later date to continue my discourse on this subject.

IN HONOR OF MARY BETH BLEGEN, TEACHER OF THE YEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. MINGE] is recognized for 5 minutes.

Mr. MINGE. Mr. Speaker, I rise today to pay tribute to a resident of my district, Mary Beth Blegen. She was honored by President Clinton with the National Teacher of the Year Award. This type of recognition is not new to Mary Beth. She has been honored before by the accolades of her community and the success of her students.

Mary Beth lives and teaches in my hometown of Worthington, MN, where she has also written an occasional column for the local paper. On several of these occasions, others in my district have sent me copies of these columns for my benefit and instruction.

I remember one in particular that provided good hometown advice from the local coffee shop on how to balance the budget and dispense with the politics that so often contaminate the process. The restaurant, after all, is a repository of much wisdom in our society, and Worthington is typical of small communities with such restaurants in rural America. Unfortunately, we did not take all of the advice from the restaurant, and our balanced budget has not yet been accomplished.

Mary Beth graciously accepted the Teacher of the Year Award this afternoon in a typical fashion, downplaying her achievement by recognizing the dedication and skill of teachers throughout America. She states that she accepted the award for all of her fellow teachers who are committed to their profession and their students.

Mr. Speaker, I urge that you and other Members of this body join me in congratulating Mary Beth Belgen of Worthington, MN, as National Teacher of the Year. Also join me in congratulating the teachers from the other States throughout the country that were named teachers of the year in their respective areas, and finally, let all of us join in acknowledging that there are thousands, tens of thousands of teachers throughout this Nation who are not being recognized today except by the students whose lives they enrich and whose lives are so important, and education is so important to the future of our Nation.

A DIALOG ON INCREASING THE MINIMUM WAGE

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 60 minutes as the designee of the minority leader.

Ms. DELAURO. Mr. Speaker, what I want to do is to engage in this effort tonight to have a dialog, if you will, and discussion with several of my colleagues to talk about the minimum wage. I will yield to my colleague, the gentleman from Texas [Mr. GENE GREEN], and thank him for participating with us tonight. I would ask him to just kick off this effort tonight for us.

Mr. GENE GREEN of Texas. Mr. Speaker, I would like to thank my colleague, the gentlewoman from Connecticut [Mr. DELAURO], for organizing this very special order on the minimum wage.

Mr. Speaker, I join a number of our colleagues tonight in support of an increase in the minimum wage. Since the President proposed increasing the minimum wage to 5.15 over 2 years, a river of ink has flowed on both sides for this issue. According to the latest national poll, 87 percent of Americans favor an increase in the minimum wage. Howver, some of my colleague in the Republican Party continue to oppose a minimum wage increase, and they even oppose the minimum wage.

In fact, I may have taken the gentlewoman's poster, because this is such a great quote: "Emotional appeals about working families trying to get by on $4.25 an hour are hard to resist. Fortunately, such families don't really exist." That is why my colleague and a good friend of mine, the gentleman from Texas [Mr. TOM DELAY], I want him to know that I have these families in my district that are trying to get by on $4.25 an hour tonight, Maybe that is our problem. Maybe they have lost touch with what is actually happening out in America, with families trying to get by on $4.25 an hour. There ar families that are trying to do that, and it is a shame that maybe some of our colleagues in Washington do not understand that.

Mr. Speaker, Republicans continue to argue that an increase may lead to higher unemployment and increase the number of welfare recipients. Mr. Speaker, the logic of this just does not match. Ask anybody on the street if increasing the minimum wage will increase welfare recipients. Mr. Speaker, the best welfare reform we can pass is a job that pays a decent wage to get people off welfare.

Additionally, some of these same critics claim that the minimum wage is paid mainly to teenagers, and that an increase would cause layoffs of these teenagers. Americans know that the real value of the minimum wage has steadily declined for the past 15 years, and that minimum wage earners have not seen an increase since April 1, 1991. Fifty-seven years ago Congress passed its first minimum wage of 25 cents an hour, and 57 years later, Americans are working to find that the real value of the minimum wage has steadily declined during these past 15 years. Minimum wage increases have been passed bipartisanly. In fact, our current Senate majority leader and our current Speaker voted to increase the minimum wage in the late 1980's.

Minimum wage earners today have seen a fall of 45 cents in real value since the 1991 increase. The idea that an increase in the minimum wage could lead to an increased number of welfare recipients is simply not correct. In fact, the opposite is true. Again, the best welfare reform is a job that pays a livable wage. What critics fail to recognize is that the current minimum wage does not even provide a livable wage. Using today's minimum wage, workers putting in their 40 hours a week for 52 weeks a year will earn just over $8,800.

In my district, the current poverty line for a family of three is $12,000. You can work full-time, one wage-earner in your family, minimum wage, and still be eligible for food stamps, so this quote by my colleague, and again, a good friend, I would say to the gentleman from Texas, I have families in my district who are trying to struggle on the minimum wage at $4.25 an hour.

This working family is supported by a minimum wage earner well below the national poverty rate and is eligible in collecting food stamps. However, this same family, if we had an increase to $5.15 an hour, figuring in the maximum earned income tax credit, would be $1,500 above the poverty level if we increase the minimum wage. This increase would give my constituents and other working Americans the ability to work their way off of the welfare rolls.

It is argued that the minimum wage is a wage for teenagers, and therefore only at entry level. While this may have been true in the past, in fact, I remember working for minimum wage at $1.25 an hour, and I was glad when Congress increased that minimum wage, but the Bureau of Labor Statistics shows that the average minimum wage earner today is over 20, 20 or over, and more likely to be female and working full-time. The minimum wage is demonstratively no longer just for teenagers.

If Congress does not increase the minimum wage our welfare rolls will grow, quite to the contrary of what may be said on the other side of the aisle. But with a minimum wage increase, these families will have the opportunity to be more self-sufficient. We should have a clear vote on a minimum wage increase, without cluttering up or including tax cut issues or other issues the Republican majority may want.

One of the complaints I hear so often, and my colleague, the gentlewoman from Houston, TX [Ms. JACKSON-LEE], knows this, people ask us all the time, they say, "Why can you not just vote on a bill on its issue, instead of putting in everything but the kitchen sink?" That is what I am worried we are going to see. We are going to see extraneous issues thrown in the minimum wage. If 87 percent of the American people want a minimum wage increase, they deserve a vote straight up and down on a minimum wage increase.

House Republicans are talking a lot about working families, but they continue to show that they may be out of touch with where reality is at. American families are working harder than ever, and it is tougher to get ahead when working full time does not even put enough money in your pocket to put food on the table without food stamps.

Republicans have a golden opportunity to give the American families what they really need, a decent wage for a decent day's work. If Congress is serious about getting people off of the welfare rolls, Congress should allow Americans to work their way off of it by increasing the minimum wage.

I would like to thank the gentlewoman from Connecticut for this opportunity tonight to talk about that, and also for swiping your poster for a few minutes.

Ms. DELAURO. Mr. Speaker, I want to thank my colleague for his comments, which are just incredibly accurate about what we want to try to do in getting people off of welfare, to work. With regard to the comments by your colleague and my colleague, the gentleman from Texas [TOM DELAY] I might add, he is the third ranking member of the Republican hierarchy in the House of Representatives, and his commentary is "Emotional appeals about working families trying to get by on $4.25 an hour and hard to resist. Fortunately, such families don't really exist."

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This is the same gentleman. Let me tell the Members about his comments

VOL
142
PT
6
AP
15
—
24
1996
UMI

earlier this year during the Government shutdown. He said, and I quote:

> I am not a Federal employee. I am a constitutional officer. My job is in the Constitution of the United States. I am not a government employee. I am in the Constitution.

These were his comments, which is why he would not support suspending congressional paychecks during the Federal Government shutdown in December of 1995. One of the architects of this shutdown says that he is not a government employee, he should not give back his paycheck during the Government shutdown, someone who makes over $130,000 a year.

Now he has the nerve just today to say that families who are struggling on $4.25 an hour, roughly about $8,500 a year, do not exist. This will give us a little bit of a taste of what we are dealing with in this body, and how out of touch some of our colleagues are with the people that they purport to represent in this body.

Mr. Speaker, I would like to yield now to my colleague from Texas [Ms. JACKSON-LEE] and thank her for joining us this evening.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman from Connecticut, and I thank her very much for giving us an opportunity to visit this question, as we have been visiting it now for a year.

We, as Democrats, have said that the increase in a minimum wage has been long overdue. Let me say to the Members that I remained open on the question as relates to listening to all those who would counter with a rebuttal of that concept. Why not open the door and hear what the discussion is all about?

I listened to someone more clearly, however, and that was the Honorable Barbara Jordan, who held this particular seat in the 18th Congressional District prior to certainly her demise this year, but certainly held this seat as it was first originated in 1972.

She came to this Congress offering to propose an increase in the minimum wage on the basis of social justice, and her comment was that she came here to remedy the social inequity and the economic inequity of her constituents in the 18th Congressional District in the State of Texas. She realized that if there was high unemployment there in communities where people were seeking to work, the point was that we needed to create jobs and we needed to create a decent wage.

So I come today to be able to say to all of those naysayers that in fact increasing the minimum wage will not decrease jobs. For example, the jobs are created mostly—and I have great respect for my constituents and others in the small business community, I know that we have done many things to try to lift their load—but the major jobs are created by major corporations in this country, and we realize that those major corporations are now benefiting by enormous profits. We can look at corporate CEO salaries and see the enormous increase that has come about. We are just asking for the plain working citizen to have this opportunity.

In 1979, if we looked at the minimum wage at that time, it was equal to today's $6.25. We are not even looking to increase it to that amount; 90 or 95 percent, to lift it to something like $5.25, a bare increase for our working families who have opted to work instead of get on welfare.

In fact, those families that have been mentioned that do not exist, they exist in my community and many communities out through America. In fact, they are not teenagers, they are heads of households who are trying to maintain a family unit. In fact, our increase will give a mere $1,800 increase per year that will allow those families to do something like pay their utility bills, their water bill, their rent, to provide the necessities for their children that go to school, because we have people making $4.25 an hour who have a family of four.

I am aghast at the interpretation and, as well, the definitions that have been attributed to middle class and lower middle class and upper middle class. I am just maybe trying to find the dictionary that these definitions are coming from.

I have a colleague here in the House, a Republican who has indicated, "When I see someone who is making anywhere from $300,000 to $750,000 a year, that is middle class. When I see anyone above that, that is upper middle class." This is a statement by the Republicans, and they have here listing $100,000 to $200,000, that is lower middle class; $300,000 to $750,000, that is middle class. I guess $750,000 and above is upper middle class.

We are talking about the basic infrastructure of this country, the kind of people who day to day get up and drive that 1979 car or that 1982 car, that get on our public transportation, that work every day, grown-ups, not teenagers, who need this kind of increase to make them whole. This is certainly evidence that we are not connecting on the other side of the aisle, that they are not listening to the American people, the 87 percent.

My colleagues from Texas and of course from Connecticut are so right that we have got to speak for those individuals who are simply asking for a better day to see the end of the tunnel. Let me just say as I bring my comments to a close, thanking the gentlewoman so very much for giving us this very vital opportunity, when we begin to talk about welfare reform, it really pains me that we are not talking realistically.

We are not talking realistically because we are suggesting that an individual should rid themselves of a safety net, not because they want to be a hold or a deadbeat, if you will, a hold on this Nation, or to draw on taxpayers' dollars or working Americans' dollars, but because they simply have to survive, and because of whatever reasons, viable reasons, their children have to survive.

When we reach the point where these individuals have made commitments to work, and everyone I speak to that is on welfare wants to work, then we must be able to provide the opportunity for them to support themselves and their children. That requires child care sometimes. It requires health care, of course, with that, and it requires making ends meet by paying for your food and your housing.

How can they do that on $4.25, when a grown man will come to me and say, "I don't know, I'm prepared to give up, and maybe welfare is the best alternative because I'm working but I can't make ends meet on $4.25. I want to stay in the work force. I want to work."

Those companies who have people employed, it is well known that the increase of minimum wage will not in any way generate a major loss of jobs or a loss of profits. It may even increase productivity. We must begin to work together on this issue, small businesses, large businesses, Republicans, Democrats, working America to make America better.

I will simply say let us get rid of the politics, just like we wanted to pass a clean continuing resolution to keep the Government open. Let us pass a clean minimum wage bill, and anyone who wants to come and debate us on the loss of jobs, I am prepared to debate them, to show the numbers, that there is no documentation in fact that will show that there will be a demise of productivity.

My last point is that we have had over 100 economists tell us that an increase in the minimum wage will not cause a demise of this country. We should listen and move forward to make Americans whole.

Mr. Speaker, I thank the gentlewoman from Connecticut for this time to discuss this very important issue.

Ms. DELAURO. Mr. Speaker, I thank the gentlewoman from Texas for her remarks and for participating this evening. When the gentlewoman holds up a chart that has someone in this body who truly believes that middle class America's salary range is somewhere between $300,000 and $750,000 a year, and literally believes that, and then we have someone who says that such families do not really exist, families that make $4.25 an hour, roughly about $8,500 a year, once again it emphasizes how truly out of touch that some Members and Members in the majority are in this body with the people that we represent.

We took this special order tonight really to urge our colleagues on the other side of the aisle, Speaker GINGRICH, the Republican leadership, really to stop their cynical effort to stiff working Americans. Bring to this floor legislation to raise the minimum wage. Do not do what the public believes we do all of the time, and that is to cloud the issue of minimum wage with a variety of other pieces that will kill a 90-cent increase in the minimum wage.

My colleagues and I know that hard-working American families are scrambling just to make ends meet. They scramble to put together the money that they need to pay their bills every week. These families have done the responsible thing to raise their families. They work hard every day. They try to feed their kids. They try to pay their bills. They work and they struggle. They pay taxes that seem always to be going up but their salaries do not go up.

These are good citizens who want to know that they are going to be rewarded for a lifetime of work, and that is that they have taken the personal responsibility in their lives to do the right thing, and that that needs to get recognized by those of us who serve in this body.

Plainly, working Americans need a break. They are working harder and they are working longer hours and they are working for less and less. The rewards of all of this hard work just do not meet the needs of today's families.

All the while, our country has forgotten workers struggle and they scramble, and countless working Americans find themselves the victims of downsizing. The stock market booms to record the highs and the corporate executives line their pockets with outrageous compensation.

Since 1990, the salaries of corporate CEO's have surged by 9 percent a year, yet the minimum wage is at its lowest level in purchasing power since Dwight Eisenhower occupied the Oval Office. In fact, last year, the median income of corporate executives in this country was $2 million—$2 million. That is over 200 times the annual salary of a minimum wage worker.

The Nation's minimum wage today is a paltry $4.25 an hour, and I am really proud to join my Democratic colleagues and President Clinton to sponsor legislation to boost this wage to $5.15. That is 90 cents. A mere 90 cents, while we have individuals in this country who are making on average $2 million a year and some much more than that, sometimes $40 and $50 million a year, which does not include their stock options.

We have people who serve in this body who make a very good salary, over $130,000 a year, the people who have gotten up and who have said that families that make $4.25 do not exist and that middle class Americans are making $300,000 to $700,000 a year.

What are we going to do? Again, another quote from the majority leader, the majority leader of the House of Representatives, let me tell the Members what his quote is. His quote is: "The minimum wage is a very destructive thing. I will resist a minimum wage increase with every fiber in my being." This from the House majority leader.

It is truly unconscionable and disingenuous for people to stand here and say these kinds of things and purport to represent working men and women in this country.

Mr. Speaker, I see my colleague on his feet here, the gentleman from New York [Mr. OWENS]. Please go ahead and join the debate.

Mr. OWENS. Mr. Speaker, I want to thank my colleague for taking this special order on the minimum wage.

The kind of quote that the gentlewoman just read, that "the minimum wage is a very destructive thing. I will resist a minimum wage increase with every fiber in my being," that is House Majority Leader DICK ARMEY, who is at least honest enough to say what he believes.

□ 1915

The danger now is that we have entered a new period where there are people now who recognize that the common sense of the American people, as expressed through opinion polls, and I am sure people are on the phone calling their Members of Congress, common sense says that people deserve an increase.

We are talking about pennies here, a 90 cent increase over a two year period. But that adds up over a whole year, and there are people that say, "That would put some more food on my table and make it easier for me to pay my bills, so I want the 90 cents."

Having recognized that there is a rising tide out there among the voters for a minimum wage increase, we have now some Members of the Republican majority who want to pretend they are concerned about an increase. They want to pretend, and then come with obfuscating, devious moves, to bog down the debate.

I sent out a special alert today to all my Democratic colleagues. I serve as the ranking Democrat on the subcommittee on Workplace, Protections, which is responsible for the minimum wage as an issue, and I thought that I should alert them right away as to what is coming.

I got a letter from the Republican side that showed that we are not going to see any rapidly escalating recognition of the will of the people resulting in a passage of the minimum wage. We are going to see a new kind of diversionary tactic.

So I sent out this item which I called "Special alert. Republican wage ambush is coming. The diversionary quagmire."

> DEAR COLLEAGUE: Pretending to be suddenly concerned about livable wages for workers the Republican majority is preparing a legislative obstacle course to forestall the passage of meaningful legislation. We must avoid this quagmire of quicksand.
>
> A simple Straightforward Increase Is Best for America. Our current position must be reaffirmed and kept focused: we demand an immediate increase in the minimum wage. Step by step let us go rapidly all the way to $6.25 per hour which would bring the lowest paid person even with inflation. Step one requires passage of a 90 cents increase to $5.15 per hour.

No bureaucracy, government intrusion, and no cannibalizing of EITC should be allowed to take place behind the banner of raising the minimum wage. Hearings may be scheduled very soon to promote a Byzantine proposal that makes a mockery of livable wage legislation. It proposes more corporate welfare through wage subsidies for employers, it imposes government intrusions on a scale greater than the present socialism of the farm subsidy programs, and, finally, the Republicans propose to raid the EITC program and siphon funds away from low income workers into a tax cut.

Emergency action is needed. I am calling on all the Members of my party, Democrats, to sign up to cosponsor the true minimum wage increase bill, the Gephardt-Clay bill, H.R. 940.

Now, what am I talking about? What did I receive from the Republicans? What did I have sent to me by somebody? It is a letter which is sent by my chairman of the Subcommittee on Workplace Protection, the gentleman from North Carolina [Mr. BALLENGER], and another member of the committee, the gentleman from Arkansas [Mr. HUTCHINSON]. I am going to read portions from their letter to give them equal time. I am quoting from the letter sent out by Mr. BALLENGER and Mr. HUTCHINSON. It reads as follows:

> We will be introducing legislation which would accomplish the goal of helping America's working families, while avoiding the economic pitfalls associated with a minimum wage increase. "The Minimum Wage for Families Act" would fundamentally redesign the Earn Income Tax Credit (EITC) by: converting the large annual lump sum EITC payments into monthly payments so as to more practically supplement family income; by denying credit to undocumented workers; by eliminating credit for childless adults; by increasing the support credit for parents; by renaming the EITC the Working Families Support Credit.
>
> If you believe that those people who are in need of wage assistance are America's working families, as opposed to teenagers employed during their summer vacation, please join us in support of this proposal.

This is a proposal coming from the Republican side. This is the ambush that is waiting for us before we get to that goal of a minimum wage increase.

They propose a three-tiered minimum wage. They want individuals to be employed at $4.25 an hour, and families with one child would get $7 an hour, and families with two or more children would get $8 an hour.

VOL
142
PT
6
AP
15
—
24
1996
UMI

How does it work? Employers would be able to hire as many job applicants as possible at the current starting wage of $4.25. The Federal Government would provide families with children a monthly cash payment to bring these families up to the $7 or $8 level as outlined above. The payments would be administered through the Internal Revenue Service.

You talk about the intrusion of government into lives of Americans? You talk about corporate welfare? Here are two blatant examples of it. They are going to subsidize the salaries so the corporations can hire people at $4.25 an hour. Then they are going to have the government get involved in determining who should make $7, who should make $8, and the Internal Revenue is going to be the administrator of all this.

The proposal is expected to be scored by the Joint Tax Committee they say, and it is going to save, according to the Republicans at least $15 billion over six years.

Now, this is really a quagmire we are headed into. I am reminded of the story of the young sophomore who came home from college, and he sat down at the table with his father, who was a factory worker, and the rest of the family, and they had a big chicken on the table they were about to eat. The young sophomore had just taken a course in philosophy. So he told his father, dad, there are really two chickens on this table. I can show you starting with the right a priori assumptions and using ontological progression and based on epistemological reasoning, I can show you where there are two chickens on this table.

His father looked at him for a while and listened, and suddenly reached over and grabbed the chicken, pulled it to him, and started carving the chicken and said, "Look, son, if there are two chickens on this table, I am going to carve this one, and we are going to eat this one, and you can have the other one all by itself."

This is what we have here. The Republicans are giving us a chicken in a pot, a dodo in a pot, to confuse the issue, and we are going to have long-winded sermons about how EITC is the answer to the minimum wage problem.

Never before have I seen a proposal which so much ran against the grain of the Republican ideology. They are going to put government in the business of subsidizing wages and have government administering the difference between the $4.25, determining who should get the $7 and who should get the $8.

So I think we have a long way to go. I was getting very optimistic myself about the rising tide of public opinion and how everybody suddenly is responding. There are 20 Republicans proposing a bill to increase the minimum wage by $1, not 90 cents, and I was getting euphoric about the democratic process.

But now I see we are going to get bogged down, and only the image of being concerned is what they are after. They want to appear to be concerned about working Americans and play with the lives of working Americans, and play with it with all of these highfalutin proposals to have government put people through some kind of obstacle course or maze and finally come out with an EITC that is going to be robbed in order to create some more money for a tax cut.

So I agree very much with the gentlewoman, that we must keep our eyes on the price, and focus, because the kind of straightforward statement that Mr. ARMEY has made, we should be grateful for that. We are going to have something far worse to deal with in the days ahead, the ambush that is being prepared for the minimum wage.

Ms. DELAURO. I want to thank my colleague from New York. You are absolutely right. This is a move, it is called rehabilitation here, to talk about how we are going to try to help working families. These are from the same crowd that just not too long ago wanted to cut $23.2 million from the EITC, take 14 million families in this country and say, and these are people working, remember, this is Earned Income Tax Credit, not someone on welfare, Earned Income Tax Credit. They were willing to set adrift 14 million families, not too many months ago, by cutting that Earned Income Tax Credit.

Now, so that they can delay and they can stall and they can stonewall on the opportunity to vote on a minimum wage and to raise that minimum wage a mere $.90, they are going to come up with all kinds of bells and whistles and tricky programs here. We must recognize it for what it is, a stalling tactic and an unwillingness to bring before this body the opportunity to vote on the minimum wage yes or no, with no fancy language, just a plain and simple vote. That is what the American public wants to hear. I thank my colleague for joining this conversation.

Let me recognize the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I thank the gentlewoman for yielding to me. I just want to say I want to thank Ms. DELAURO, the gentlewoman, for raising the issue of the minimum wage. I believe we will eventually have a vote on the minimum wage. It is primarily, I believe, because of your efforts to force the Republicans to give us a vote. They do not want to do it.

As you have mentioned, they are stalling, they will continue to stall, they are going to find every way around it. But already I notice that because of your activities and because you have raised the issue so often on the House floor, we have gotten to a position now where Speaker GINGRICH and some of the others have said that they may have to or be forced to bring up a vote on the minimum wage. I think a lot of that has to do with your efforts.

To me this is a very important issue. My own State of New Jersey actually has a much higher minimum wage, and it has worked very well. As you mentioned, with a minimum wage right now at $4.25 an hour, that adds up to $8,800 a year. To me it is an absolute disgrace that someone in America can work a 40-hour week for 52 weeks a year and only earn $8,800. Basically I guess what they have to do is go out and get a second job. When you are working 40 hours a week, what are you going to do, work another job for the same amount of time, and then make only twice that amount?

My understanding is that a minimum wage worker right now is below the poverty level. It is just as easy to go on welfare rather than work for the minimum wage. Here we have a Republican majority constantly bringing up the fact, suggesting in some way part of their reasoning is they want to get more people off the welfare roles. This belies that. If they want to do that, they should raise the minimum wage. Otherwise we are basically saying that a person might as well go on the dole or get welfare from the Government.

The other thing I was going to say is that I really do not see any one legitimately coming on the floor of this House and saying that the minimum wage should not be raised. I think that is why you get some of the Republican leadership like the gentleman from Texas [Mr. DELAY], the majority whip, making the statement that you showed before, where he says that fortunately such families do not really exist.

The only way out of this is to basically say there is no such person, because if you say no such person, then you eliminate the need to raise the minimum wage. But of course there are people, there are a lot of people out there, who are just making minimum wage. There are a lot in my district and they have come up to me. They are young people, they are senior citizens, they are people from every walk of life.

Let me just make a few points, if I could. I know we do not have a lot of time. I just think one of the most important aspects is how this is a good thing for the economy. An increase in wages will increase purchasing power and improve the quality of life for millions of hard working Americans, not only the wage earners, but the local economy. Greater purchasing power will bring more money to our local economies and in the long run provide more stability and jobs for many small businesses. The purchasing power of our minimum wage earners is the lowest it has been since the early 1950's. I know you pointed that out over and over again.

One of the things that really gets me mad is when I hear Republicans talk about how an increase in the minimum wage will cause an increase in inflation. You have to be kidding me. You have the nerve to tell people who work for $4.25 an hour that they cannot have a modest 90-cent increase in their wages because you are worried about how it will affect inflation. I think there are a lot of things we can do in our economy to keep inflation at reasonable levels. But to tell hard working Americans that their below poverty levels will have that effect on our economy and inflation is ludicrous.

Let me talk briefly about our home State of New Jersey and our experience if I could. We have already seen the wisdom of raising our minimum. It is now $5.05 an hour. This increase has been a complete success. We have increased the purchasing power of our minimum wage workers and they have used that increase to purchase more goods from our local grocery stores and department stores.

This is not pie in the sky. There are studies that clearly show this on a bipartisan basis that the leaders in our State legislature and our Governor have pointed this out. It actually helped to keep our unemployment rate from growing too high, even with the downsizing and corporate restructuring that is so heavily affecting the State of New Jersey. It also provided for long-term growth. We have seen in New Jersey more jobs have been created and our economy has benefited from the higher wages.

Let me say what I see in my own State, this is the right thing to do. I just want to join my Democratic colleagues, and a few Republicans, I think Ms. DELAURO has pointed out there are some Republicans that have joined us who are going to help us in our efforts to get this passed. This is ultimately going to benefit all Americans. I just want to thank the gentlewoman from Connecticut again for her work on this, because I know you do not like to take credit, but I think you have single-handedly done the most in this House to bring this issue to the floor.

Ms. DELAURO. Thank you very much. Before I recognize the gentleman from California, let me just say there are going to be other people out here tonight trying to talk about statistics and the fact that this increase in the minimum wage is going to lose jobs.

☐ 1930

I will set the record straight. One hundred and one economists, Nobel prize laureates in economics, public statement they signed. "We believe that the Federal minimum wage can be increased by a moderate amount without significantly jeopardizing employment opportunities."

Mr. DELAY will say that if you are on a minimum wage, you receive the earned income tax credit in food stamps. Reminder: They wanted to cut the earned income tax credit by $23.2 million. They will shred the Food Stamp Program. Also the crowd that brought you a $245 billion tax break for the wealthiest Americans at the expense of those who are today on Medicare.

So just to set the record straight a little bit, and, also, final point. Who are the minimum wage workers? Who are these $4.25 an hour folks who do exist in every single Member's district? And if you close your eyes to them, you do it at your peril in this body. Two-thirds of minimum wage workers are adults, 60 percent are women, 40 percent are the sole bread winners in their family.

So that what you have here is the opportunity to lift these households up so that they can raise their families. We could lift up 300,000 families out of poverty in this country, 100,000 children who are currently living in poverty. Again, just to set this record straight.

I want to recognize the gentleman from California, Mr. MILLER, and thank him for all of his efforts in this area.

Mr. MILLER of California. I thank the gentlewoman for taking this time, and this very opportune time. Not only are we struggling to get a clean vote on increasing the minimum wage for those millions of American workers who need it to support themselves and their family, but now we start to see the limits to which the Republicans will go to keep us from having a clean vote.

They talk about attaching all kinds of anti-labor riders or attaching a lot of legislation that they think will be unacceptable to us and to the President so that he would have to veto the bill. Majority Leader ARMEY has said he will resist the minimum wage increase with every fiber in his being. Apparently, that is what is going on here.

But what they have done in the last couple of hours by suggesting this proposal to take the earned income tax credit away from poor single workers to provide for people with families with children is incredible, because what the Republicans are saying is they are now going to tax the poorest of workers in this country. They are going to raise their taxes because those people will have less income after this action than before and they are going to give it to other poor people to increase their income.

But why are they doing it? Because they have decided they would rather have the taxpayers in this country subsidize low-income jobs than have the marketplace provide a livable wage.

Now, it is ludicrous on its face. As was pointed out by the gentleman from New York, they are talking about one tax rate for workers without children, workers with one child, with two children. We just passed the farm bill, where we provided hundreds of millions of dollars in subsidies to farm families. We did not distinguish between farm families with children, farm families with one child, farm families with two children, farm families where only one person is working with farm without children. We based it upon their outcome and output of that farm.

Why do we not tax rich people? Rich people with a lot of children would be at one tax rate and single rich people would be at another tax rate and we could give that to poor people.

What do we say about work in this country? Equal work for equal pay. But now what the Republicans have decided is in fact it is going to be some other classification to determine whether or not Americans will get paid. It does not say the employer cannot provide an increase in the minimum wage. Under this the incentive is for the employer not to provide any increase. The Government will pick up the tab. The Government will go into the marketplace and subsidize his employment. In fact, we essentially have an incentive not to pay an increase in the minimum wage, not to increase your wages. Why? Because the Government will pick it up.

We could understand this on its face if we did not know the history of this party, the Republicans on the other side, because not only are they against the minimum wage, but they also have been slashing all of the supports to those people who are working at the minimum wage and cannot sustain a livable wage for their family even though they go to work every day.

So what we see is there are only two places people can go. They can either go to the Government or they can go to the marketplace. But what the Republicans are saying is the market has no obligation to provide you a livable wage, a wage that will support you or your family. So what we will do is we will just have the Government subsidize those employers who simply choose not to pay the minimum wage. This is ludicrous. It is absolutely ludicrous.

If that is a conscious decision, and they will be back here cutting the EITC, as they did the beginning of this year when there was no intent that they were going to pass it on, they were simply going to use it to balance the budget or pay for their tax cuts. We simply cannot allow that to happen.

I think there is a fundamental decision. If you choose, if you chose and you admit that the American economy cannot provide livable wages, then you may be dissident. But I do not think that is what this is. This is an effort to derail a clean vote on the minimum wage. This is an effort to try to put something up here so people can look, sort of like we saw today, where they put some bills so they could look like they were friends of the environment

VOL
142
PT
6
AP
15
—
24
1996
UMI

but their voting record was completely to the contrary. That is what this is.

It is an outrageous proposal to tell two people who work hard side-by-side that somehow that the employer has no obligation to them to provide an increase in their wage, if in fact they have a child or they have more than one child, even though they are doing the same job, they are working the same hours and working the same schedule.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I will in a moment. It is actually the gentlewoman's time.

Mr. DREIER. The gentleman referred to me.

Mr. MILLER of California. I did not refer to you.

Mr. DREIER. Well, you pointed to me. I considered that a reference.

Mr. MILLER of California. Well.

The point is this, that what this country deserves and what its low income wage earners deserve is they deserve a raise, they deserve the dignity of having the ability to stay even with the increasing costs in our economy; to be able to provide for their family; hopefully maybe even to reach out and provide health care, which is unreachable to most of these individuals.

But what happens? The employers in this country simply choose not to pay that wage. Quite legitimately, there are some owners that may not be able to, but there is no distinction in this provision. You simply choose not to pay it and the Government comes in and picks up your costs. There is a lot of people in the same business side-by-side in the same towns, we know them all, people pay more than the minimum wage and other people choose not to. People offer health care in the same business, the other person chooses not to.

Do not offer health care, the Government will pick up the cost. Do not offer a pension, the Government will pick up the cost. Now do not offer a minimum wage, the Government will pick up the cost. This is starting to sound like corporate welfare. This is starting to sound like people who decide they are simply not going to meet their obligations to their fellow human beings in terms of their work, their labor, and their efforts on their behalf.

This is the suggestion that the corporate body, the working party, is only because of the owner of that capital, or somehow that they are the only people that contributed as opposed to the employees who work every day for these individuals.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. What we need is we need an up or down vote on the minimum wage. We now have a majority in this House asking for that up or down vote. We have a majority in the Senate asking for that up or down vote, and what they ought to stop doing is throwing all of these things to try to throw people off the track and suggest that somehow they are there for low income working people in this country, because the fact of the matter is they are not there for low income working people in this country.

These people are going to work every day, and when they get done at the end of the year after working every day, they end up poor and they cannot provide for themselves or for others, and that simply is unacceptable in this country. The country recognizes it is unacceptable. Apparently only the leadership in the House of Representatives and the Republican Party fails to recognize the need to do this and the need to do it now and to do it in a clean fashion.

Mr. DREIER. Will the gentleman yield?

Mr. MILLER of California. It is the time of the gentlewoman from Connecticut. I want to thank the gentlewoman for raising this issue and taking this time so that we could discuss this issue.

Mr. DREIER. Will the gentlewoman yield?

Ms. DELAURO. I want to thank the gentleman from California for his eloquent remarks, and for pointing out that in fact what this is about is a basic and fundamental—these words are accurate. These words are accurate. There are those in this body who feel the same way about resisting a minimum wage increase with every fiber in their beings, which is what this is about in terms of bringing up a program that will try to borrow from an earned income tax credit, set some folks adrift.

One of the most interesting commentaries we have heard in the last few weeks on this issue is that the Republican Presidential nominee said recently he wanted to use the issue of the minimum wage increase to pass some things, quote, that the Democrats might not be so crazy about. Those kinds of threats represent political posturing that in fact sells the American people short, as you were pointing out.

Instead of trying to stick it to Democrats, what the Gingrich-Dole Congress should be doing is to do something for working Americans, not just talking about it when it becomes a political albatross.

Mr. DREIER. Would the gentlewoman yield?

Ms. DELAURO. I am sorry, you will have your own time in a few minutes.

Mr. DREIER. I do not have any time at all. My friend from California indicated that he was going to yield.

Mr. MILLER of California. Mr. Speaker, could we have regular order here?

Ms. DELAURO. If I can continue. Rather than trying to lend a hand——

Mr. DREIER. Mr. Speaker, may I ask, is the gentleowman not going to yield; so should I sit down?

Mr. MILLER of California. The gentlewoman is not going to yield.

The SPEAKER pro tempore (Mr. COLLINS of Georgia). The gentlewoman from Connecticut controls the time.

Mr. DREIER. OK. Thank you.

Ms. DELAURO. The Republican leadership continues to try to score points with these political ploys.

Mr. DELAY. Would the gentlewoman yield? She used my name. Would she yield?

Mr. MILLER of California. If the gentlewoman would yield to me.

Ms. DELAURO. Be happy to yield.

Mr. MILLER of California. What we have seen is time and again, time and again, that as this issue has been discussed, they have tried to avoid it. Now, because a few Republicans have broken ranks, a few Republicans have even suggested they would be prepared to sign a discharge petition, as necessary, because apparently what we will not get is we will not get a clean vote on this matter. They will try to trick up the bill in the Committee on Economic and Educational Opportunities or trick it up with an amendment on the floor or in the Committee on Rules.

We have watched this process now time and again for the last 16 months in the House of Representatives. What the committees do does not matter, so, then, they go to Rules and they trick it up there.

The fact of the matter is this, what a majority of this House of Representatives has now asked for is a vote on the minimum wage, to raise it either 90 cents or to raise it a dollar. And what we now are starting to see are a whole series of proposals suggesting what they could do to load down that legislation so that either people who would support the minimum wage will not be able to get a vote.

One of the things that angers the public the most is the notion of riders, is the notion of taking subject matter A and attaching subject matter B to it. When President Reagan stood here and said never again would he sign a continuing resolution with all of these riders on it, he was cheered across the Nation. So what do we see now? We see the same old parliamentary tricks that are going to be used to try to keep this House away from a direct up or down vote on raising the minimum wage.

Raising the minimum wage, I think the gentlewoman said, I do not know, that it is the lowest now that it has been in?

Ms. DELAURO. In 40 years.

Mr. MILLER of California. In 40 years. To restore the purchasing power to where people who have——

Mr. DREIER. Would the gentleman yield on that point?

Mr. MILLER of California. I will not yield. We have our time. We are here to make a point.

Mr. DREIER. But I think the debate is something that is very important here.

Ms. DELAURO. Regular order, Mr. Speaker.

Mr. DREIER. I just think it is a very important matter.

Ms. DELAURO. Regular order, Mr. Speaker.

Mr. MILLER of California. Mr. Speaker, may we have regular order?

The SPEAKER pro tempore. The gentlewoman from Connecticut controls the time.

Mr. DELAY. Well, then, would the gentlewoman yield to me, because she used my name on the floor?

Ms. DELAURO. The gentleman has his own time, which is coming up, so the answer to that question is no.

Mr. MILLER of California. The point is that what we are talking about is taking people who have continued to lose purchasing power, who have continued to lose their ability to support their families, to purchase the very basics, the very basics of the American economy, health care, put away money for a pension, put away money in savings, to be able to have decent housing for themselves and their children.

Those basics are now not afforded to people who go to work and work 8 hours a day, work 52 weeks a year, in many instances find that they have to try to work overtime, all of those things simply to try to reach the poverty line. That is what we are here for and that is what the gentlewoman has talked about restoring. That is what the President of the United States has talked about restoring, and it is absolutely fundamental and important that it be done.

Ms. DELAURO. I would just make the point that the Members of this Congress made more money when they shut down the Government during the Christmas holidays than a minimum wage worker makes in a full year. I think that that speaks volumes as to where some of the folks in this body are.

One of the other comments that has been made in the last few days is that what we need to do is to have hearings, again one more way in which to delay the process of this.

□ 1945

The revolutionary Republican leaders last week wanted to rewrite the Constitution of the United States without a single hearing. We have called for $270 billion that they have called for in cuts in Medicare where they have had one hearing, $168 billion in cuts in Medicaid and no hearings. We do not need any hearings. What we need to do, this is a no-brainer. Bring up the minimum wage as this body wants, 84 percent of the American public wants to see an increase in the minimum wage. That is what we need to be doing, bring it up for a clean vote, a vote that says that we recognize what hard-working Americans are doing every single day in this country and that we need to recognize what they do instead of just talking about it, when we are sent here by them and that card that they give us, which allows us to vote here, which is what we are supposed to do, is vote on the minimum wage, when there is clamoring in this country to do that and when we have one party that will just hold it up except for a few who split off, and I welcome their participation, I am not sure that they are welcome in their own ranks. But we welcome them because what we need to do here is in fact what the public has asked us to do, is to represent their interests.

I will tell you what some of my constituents say to me these days, why are you arguing back and forth. I will tell you that I think there is a fundamental difference in people who stand in this well, those people who believe we ought to have an increase in that minimum wage to reward hard-working Americans and those who truly do not believe that they should. There is some fear in that belief and the debate and the issue is worth fighting about. That is what this Nation stands for, what its values and what its priorities are. And its values have to do with working middle-class family values of work and personal responsibility and rewarding people to do that and not fighting it with every fiber of their beings and not saying that these families do not exist in this nation.

Mr. MILLER of California. Mr. Speaker, if the gentlewoman will continue to yield, when we see all of this concern all of a sudden about whether or not an increase in the minimum wage is going to contribute to inflation, when in fact at best what we would be doing is allowing people to partially catch up for purchasing power that they have lost, but I do not see that echoed when we see all of these other indices that are raising way ahead of inflation, CEO salaries, increased values in stock, stock options provided to people, apparently none of that contributes to inflation. The fact that people, that people have increased their earning power thousands of times.

Ms. DELAURO. Repealing the alternate minimum tax, which is something that they would like to do.

Mr. MILLER of California. So these people can escape taxation; they can have all of their deductions. But what we said was at the end of the day, you pay something for the privileges of living in America. They have tried to repeal that. So even the wealthiest of people and corporations do not have to pay. But all of a sudden we are worried about whether somebody making $4.25, $4.30, $5 an hour, whether these people are going to be those who spark inflation. I think there is something wrong with the priorities of the people who suggest that, that somehow the culprits in this fight, these low income people who are doing in many instances some of the most difficult jobs in our society, in some cases some of the dirtiest jobs, some of those thankless jobs, some of the most tiring jobs, and we have all been in business institutions where we have looked at people who are much older than we are, who are still out there pounding, trying to stay equal in our society, working at the minimum wage, working there, trying to support their own children, trying to support themselves, and very often I am sure we have said, boy, I am a lot more fortunate than they are. But now all of sudden they are the bad people. They are the bad people in the war against inflation, somebody who is trying to catch up because they have lost their purchasing power, that that is going to ignite it.

I think the gentlewoman is right. It is fundamentally a different set of values about human beings, about the values of their work, about the value of their families, about the needs that these people have and the dignity that they are entitled to when they work as hard as they do and yet they still end up poor at the end of the year. We owe them better than that. I thank the gentlewoman for taking this time.

Ms. DELAURO. Mr. Speaker, I thank the gentleman from California. I would like to really close with what a great American President Theodore Roosevelt, a Republican President of the United States said. I quote, "No man can be a good citizen unless he has a wage more than sufficient to cover, to bear cost of living so that after his day's work is done, he will have time and energy to bear his share in the management of the community to help in carrying the general load."

Theodore Roosevelt, a great American President, said this. He was not a revolutionary but he did, in fact, understand progress and what it means.

I just finish by saying that it is time to assist working men and women in this country. Bring the minimum wage vote to this floor. Make it a clean vote and let people do what they sincerely believe ought to be done as to whether or not we ought to raise or not raise the minimum wage in this country.

In my view, it needs to be raised.

Mr. FRAZER. Mr. Speaker, I want to thank the Congresswoman from Connecticut for holding this very important special order on the minimum wage.

Today, I want to join my colleagues in urging the Speaker to bring the minimum wage increase legislation to the floor for a vote.

Approximately 30 percent of the Virgin Island work force is employed in the service industry. A majority of these workers are adults who support families. It is very difficult to support a family on $4.25 an hour. The Virgin Islands is considered the American paradise, yet 36 percent of the population live below poverty.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. Speaker we need a commonsense approach to solving our economic problems. If we can give small businesses 100 percent deductibility for health care, then we can raise the minimum wage by 90 cents.

I urge my colleagues to support raising the minimum wage, its good for small business, its good for workers and its good for the Nation.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 175, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–534) on the resolution (H. Res. 411) providing for consideration of the joint resolution (H.J. Res. 175) making further continuing appropriations for the fiscal year 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

MORE ON THE MINIMUM WAGE

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas [Mr. DELAY] is recognized for 60 minutes as the designee of the majority leader.

Mr. DELAY. Mr. Speaker, I take this special order to point out to the American people what we are going through, you just witnessed, here in the House. The liberal Democrats do not want to debate. They would not yield time even when they used a colleague's name and pulled out quotes of what a colleague has used on the floor. They did not even have the courtesy to debate that colleague because they know that they have taken the words of their colleagues and taken them out of context and twisted them.

They are not the points that the colleagues were trying to make. They know it. That is why they will not yield to us. That is why they will not debate us. All they are doing is calling for a vote on minimum wage, and they really do not care about entry level workers or the poor in this country because, if they did, they would really want to debate this issue. But they do not want to debate. They want to get up and talk and talk and talk and talk, misrepresenting everything that these Members are doing down here, and trying to allow the American family to take home more pay by getting big government and Washington Government out of their pocket.

Mr. Speaker, that is the way to help the American family in America, not some arbitrary Government-set wage and price controls that disrupts the market and actually puts people out of work and lowers the ability of people to create jobs, to put people to work.

I yield to the gentleman from California [Mr. DREIER]. I am very happy to yield to the gentleman from California. Unfortunately, the liberal Democrats do not want to debate the gentleman from California.

Mr. DREIER. Mr. Speaker, let me say to my very dear friend that this is a historic moment for me. I wondered if at any point in my life anyone from the well would in fact yield time to me. So we have gotten to that point, and I would like to express my gratitude and say that I plan to use it briefly but, I hope, very wisely. It is unfortunate, as my friend said, that on the other side of the aisle that our colleagues refuse to engage in any kind of discussion on this issue. They want to simply embark on a monolog.

Mr. Speaker, if I could just take a couple of moments to respond to some of the preposterous claims that were made on the other side of the aisle. First let me offer a disclaimer and say that I concur with my friend who has worked long and hard on this issue that having a federally mandated minimum wage is in fact not a benefit to working Americans. In fact it is something that will jeopardize job creation and economic growth, something which we seek very sincerely.

During this special order I did not hear this but it was just written down by one of our crack staff members on the floor. Our colleague from Connecticut reportedly said their taxes keep going up but their wages do not go up.

The fact of the matter is we on this side of the aisle tried to help President Clinton comply with one of his campaign promises back in 1992 by giving him an opportunity to reduce the tax burden on working Americans. We all know what happened with that opportunity that he had. He chose to veto that legislation and prevent those working Americans who, and the gentlewoman from Connecticut is absolutely right, saw their taxes keep going up, prevent them from having the chance, the chance to have a reduction.

Mr. DELAY. Not only did the President veto tax cuts for the American family, the people that have been calling the loudest for a minimum wage voted against tax cuts for the American family.

Mr. DREIER. That is absolutely right. Those people who argue that their taxes keep going up are the ones who keep increasing their taxes as opposed to those of us who want to reduce that burden.

The other thing that I found to be preposterous is that my friend from California proceeded to say that we now see the minimum wage at the lowest level in 40 years. Assuming that you are a strong supporter of increasing the minimum wage, the last time the minimum wage was increased was in 1989, and it was increased to $4.25 an hour.

Mr. Speaker, now we know that the Democrats controlled this institution and the other body during the entire first 2 years of the Clinton administration. They had the opportunity, if they believed in increasing the minimum wage, to bring it up and it would sail right through this institution. But why did they not do it? They did not do it for several important reasons.

Top advisors within that administration have made it very clear that they oppose increasing the minimum wage. Mr. Stiglitz, this was written up in the Wall Street Journal and has been said on several occasions, the chairman of the President's Council of Economic Advisors said a higher minimum wage does not seem to be a particularly useful way to help the poor. That is President Clinton's chairman of the Council of Economic Advisors.

The President, who is one of the founders of the Democratic Leadership Council, regularly associates himself with them when he is trying to be on the sort of moderate to conservative side. They said increasing the minimum wage is the wrong strategy to promote the goals of helping people work their way out of poverty and raising living standards and in reducing inequality. So the fact of the matter is, while they say that we are responsible for not bringing this up and doing it in the way that they want, when they had the opportunity to deal with what they said has been the lowest wage in four decades, they clearly had that chance in the 103d Congress, they ignored it. And only a few months before this election, when they think that it is politically appealing, do they choose to come forward and say that this is a critical item when we know it is going to cost jobs.

Mr. Speaker, I want to congratulate the majority whip for his fine efforts in trying to address this issue responsibly and soberly so that we can look at it and debate it, unlike our colleagues on the other side of the aisle.

Mr. DELAY. The gentleman from California is so right in what he says. This is the kind of thing that we have been going through for months now, if not for a solid year, of statements, commercials, moneys, millions and millions of dollars, talking about things like cutting Medicare when actually we are increasing the Medicare benefits to senior citizens, cutting school lunches.

It was just said on the floor, just a minute ago, that we wanted to cut school lunches when in fact we were increasing the spending on school lunches and they just keep talking about it this way. They used a quote of mine, and I need to answer that. It is a true quote taken out of context. The quote was, as put up by their chart, but they refused to answer or refused to yield to me so that we could debate the issue, emotional appeals about working families trying to get by on $4.25 an hour are hard to resist.

Mr. Speaker, let me put it in context of exactly what I wrote and sent to my colleagues in a dear colleague. What I wrote was, and I will read it so that people can understand it and there will not be any misrepresentation about what my position is. "Supporters of raising the minimum wage argue that no one can afford to raise a family on $4.25 an hour. That may be true. However, their argument conveniently ignores the fact that no one actually has to."

As the table below shows, and I hold the table up that is in the piece, any parent who is earning the minimum wage is eligible for food stamps and earned income tax credit. They may also be eligible for other government programs such as Medicaid. Once these two benefits are added to the minimum wage, a single parent with one child has a total income of $5.76 an hour while a married couple with two children has a total income of $7.47 an hour. These amounts could be even higher depending on child care and housing expenses. As the chart shows, a married couple with one child on minimum wage makes $8,840 a year.

□ 2000

With EITC, the earned income tax credit, benefits, they pick up another $2,152. That is a direct tax credit that is refundable to them by the Federal Government. On food stamps they would pick up $2,142, for a total income of $13,134 amounting to $6.31 an hour. So when they trot out here and talk about $4.25 and American families trying to live on $4.25, they are misrepresenting the truth.

The other part of this that they keep trotting out here is that, and I have heard it, different numbers used, is that in some cases they said that 65 percent of those on minimum wage are families and so forth. I would be willing to submit to this House a study done by the Employment Policies Institute that uses 1992 and 1994 census data that shows that 90 percent of the people on minimum wage are single, living with parents or, living with a relative, and what I cannot understand is where do they get these figures? Most people know that people living on minimum wage are people that are on the entry level, just coming into the job market, are usually single and usually living at home, and usually living at home, in many cases, living at home with parents that are doing quite well.

This is not a debate. This is a dialog back and forth. You see where the liberal Democrats do not want to debate. What they want is to present a picture that is not exactly true. But we want the debate. We want to lay it out for the American people so that the American people know exactly what is going on with this political agenda of the liberal Democrats.

As the gentleman from California has already pointed out, the Democrats have had control of the House and the Senate and the White House for 2 years, in 1993 and 1994, and they chose not to bring the minimum wage to the floor. But because they think this puts the Republicans in a politically vulnerable position, they are throwing up their hands and wailing and gnashing their teeth by calling for increasing the minimum wage. The minority party has made the minimum wage their cause celebre. They are fixated on a government mandate that most experts agree will kill jobs and kill opportunities for people who just want a chance to achieve the American dream.

Proponents of increasing the minimum wage argue that work must pay, that the minimum wage is not a living ago. They argue that simply adjusting the minimum wage upward will help poor people out of poverty. They say that a family of four cannot afford to live on a wage that pays $4.25 an hour. Of course, they forget to tell you that a single parent with two children actually gets close to $7 an hour once you figure in EITC and food stamps, and that is only part of the intellectual dishonesty that surrounds this debate.

The proposition to raise the minimum wage is fools' gold. It appeals to the naked eye, but upon closer inspection it is fraud, pure and simple.

I am not an economist, so I will not give the economists' view of the mandated minimum wage, but I am a former small business owner, and I do understand the impact that this will have on entry level jobs. Raising the minimum wage will kill entry level jobs. Without entry level jobs, low-skilled and young workers cannot gain valuable work skills that will lead to later higher-wage positions.

The liberal Democrats make the point as if people lived the rest of their lives making minimum wage. What usually happens is that it is the first job that you get, either as a teenager or right out of high school, and it is your first job right off of welfare, and that is your entry level job, and you gain skills by working on the job and then move on to higher pay. In life you have to learn, you must learn to crawl before you can walk, and you must walk before you can run. Similarly, you must gain experience doing the tough work before you can move on to better paying, more complex positions.

Raising the minimum wage takes away that opportunity to realize the American dream for too many citizens. As a former small business owner, I know that raising the minimum wage will kill jobs. But do not just take my word for it. Bruce Johnston of the Chamber of Commerce said this:

Raising the minimum wage is a recipe for more unemployment where America needs it the least, in inner-city neighborhoods and among the rural poor.

In Europe, where they have huge and high minimum wages, they have locked in unemployment at 11 percent, at 15 percent, and, in Spain, about 20 percent. They have locked it in because they have set such a high wage that the people will not, and raised the labor costs so high that they will not create jobs to bring on people in the entry-level positions.

Joseph Stiglitz, who the gentleman from California has just quoted, the chairman, the chairman of President Clinton's Council on Economic Advisers, said this: "A minimum wage does not seem to be a particularly useful way to help the poor."

The Democrat Leadership Council, a group often used by President Clinton to promote his themes, said in a statement, "Increasing the minimum wage is the wrong strategy to promote the goals of helping people work their way out of poverty in raising living standards and in reducing inequality." And President Clinton, the President himself, has said raising the minimum wage is the wrong way to raise incomes of low-wage workers.

Why is this the case? Why all of a sudden is the President interested in raising the minimum wage when he had the House and the Senate for 2 whole years? All of a sudden in an election year, just 6 months before the November election, they have seen the light.

Why is this the case? Why does not the minimum wage really work in helping low-wage workers? Here are some reasons:

According to the Democrat Leadership Council, the President's own favorite think tank, the vast majority of minimum-wage workers are in families that do not need public wage supports because their incomes are well above the poverty level. Seventy percent of minimum-wage workers are families well above the poverty level, and nearly 40 percent are in families with incomes of the top half, the top half of the Nation's income distribution.

More than 75 percent of all poor Americans are ineligible fcr the minimum wage and would not benefit from an increase. These are people who do not get the minimum wage, for a variety of reasons, including they do not work, they already earn more than the minimum wage, but only work part of the year, or they may be self-employed, or they work in jobs not covered by minimum-wage law.

The costs of an increase in the minimum wage would hit the poor the hardest.

Now, this is coming from the Democrat Leadership Council, the President's think tank. The cost of an increase in the minimum wage would hit the poor the hardest. The vast majority of the poor and the poor families would have to pay higher prices brought on by an increase in the minimum wage. Increasing the minimum wage would produce a regressive transfer, making poor people a little worse

VOL 142 PT 6 AP 15 — 24 1996 UMI

off in order to improve the lives of people who are not poor.

And I submit to my colleagues standing here on the floor of the House that one of the reasons that we are hearing all of this call for the minimum wage is because the Washington union bosses know that their contracts are coming up and most of their contracts are tied to the minimum wage. Therefore, if they can get the government to raise the minimum wage, they will be able to easily raise the wage to union workers.

According to the Employment Policies Institute Foundation, if the Federal minimum wage were to increase to $5.15, America would lose 625,600 jobs. Now, my friends, that means that there will be 625,000 fewer opportunities for Americans to get a start on seizing the American dream.

Some say that any negative impact on hiring is a small price to pay for higher wages. These are the people that claim that they work and protect the poor. They say that while we may hurt a few people, we will help many, many more. Well, unfortunately, the facts suggest otherwise. Even workers who keep their jobs after an increase in the minimum wage will be worse off.

Workers are not paid solely in terms of cash wages. Even minimum-wage workers receive fringe benefits such as on-the-job training, flexible work schedules, commissions, bonuses, and employee discounts. When employers are forced to pay higher wages, they will have to reduce the value of these nonwage benefits in order to remain competitive.

Students show that for every 10-percent increase in the minimum wage, workers are made 2 percent worse off. That means that the proposed 90 cent increase in the minimum wage would reduce the other fringe benefits by $1.08. The affected workers would be 18 cents per hour in the hole after the Democrats get through with them. With friends like that, who needs enemies?

But the worst part of this unfunded mandate is the impact on the underclass, the underprivileged, of this country. Raising the minimum wage expands the number of people in the underclass while killing opportunities for people to escape it.

These are the people, the liberal Democrats, who voted and tried to kill welfare reform and said many, many times in the well of this House that our welfare reform that eliminates entitlements, saves money to taxpayers but, more importantly, forces welfare recipients to go to work cannot happen because there are no jobs out there. Yet, now get the irony of this, they are against welfare and asking able-bodied welfare recipients to stay on welfare because you cannot get off of welfare and go to work because there are no jobs out there, and then on the other hand they want to raise the minimum wage so that there are no jobs out there. And what happens, and what I know as a former business owner, I understand how businesses think.

This is not helping. Raising the minimum wage is not opposed by small businesses because it helps small businesses keep wages low. The victims are the underprivileged. The victims are the people on welfare. They are the true victims because when the cost of labor goes up, which will happen when the minimum wage is increased, the small business owner will look for alternatives to remain competitive. Instead of hiring a person to wish dishes at a minimum wage, the small business could very well go buy a dishwasher if the price of that real person gets too high. That is how the market works.

Now, if you want to, and I am trying to remember the quote: not to everyone according to their wants, but to everyone according to their needs, as the gentleman from California [Mr. MILLER] suggests, is that the Government, or the market, should give different wages for different people. If he has three cooks working at the same restaurant, and one cook is single and one cook has a family with two children and one cook has a family with 11 children, yet they all three do the same job, they ought to be paid differently because they need more money. Then what would that do to our economy? What would that do to the opportunity of having more jobs for everyone out there to compete for? And what would that real person do?

Well, if too many of these entry-level jobs are eliminated, that poor person might very well go on welfare, and instead of getting people off of welfare and working in entry-level jobs, gaining the experience and the knowhow necessary to make it to higher-paying jobs, we will have people enter the underclass unable to participate fully in our economy, and obviously the liberal Democrats want to keep them there. They want to keep them there.

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In fact, according to a study of the Employment Policies Institute, based upon the Census, mothers on welfare in States that raised their minimum wage stayed on public assistance an average of 44 percent longer than welfare mothers living in States that did not raise their minimum wage.

The gentleman from New Jersey was very eloquently talking about New Jersey has a real high minimum wage. They also have a huge welfare roll, because these jobs for entry level people, jobs that would be available for people who want to get off of welfare, are not there because labor costs are too high and artificially kept high because New Jersey's government decides that they will set the wages just by arbitrary means.

If it makes sense to have a $6 minimum wage, why not have a $20 minimum wage, and just raise it and let us all decide that we are all going to make the same thing. We are being accused, as Congressmen, for making too much money; that we are making $133,000 a year and we are against the minimum wage, how terrible that is. Well, we are in Congress. We work at a different job. What we want and what we feel strongly about are those that are in poverty, on welfare, and hopefully getting them to understand the dignity and the self-esteem that is gained by holding a job. It is no small irony that the party that vetoed welfare reform now proposes to expand the welfare state by increasing the minimum wage.

Mr. Speaker, I just urge the American people to take notice; liberal Democrats favor efforts that will expand the underclass while vetoing efforts to end it. I do not believe that the Federal Government should be actively limiting the opportunities of the American people.

Of course, we should not be surprised by this newest policy initiative of the House Democrat Caucus. They make the Luddites look progressive in their economic theory. But the American people are tired of fighting over a shrinking pie. They want policies that will lead to a growing economy, better job opportunities, a greater chance to capture the American dream.

It is not surprising that liberal Democrats are fighting for an increase in the minimum wage, just as they fight against comprehensive welfare reform; that they battle to preserve the welfare handouts while fighting against an economic growth agenda is part and parcel of their efforts to bring greater economic equality to the American society. This is no theory, this has been going on for years. Just look at history.

But is equality of misery really better than the equality of opportunity? I do not think so. Fighting for greater opportunity means giving the private sector the tools to create jobs. It means lowering the costs of job creation, and it means encouraging small business expansion. Increasing the minimum wage has exactly the opposite effect. It takes away the important tools that create jobs. It increases the cost of job creation. It encourages small business retrenchment. It is simply the wrong answer.

But the question remains, how do we increase opportunities for lower-wage workers? Let me just sketch out briefly several ideas that would lead to a boom in economic growth and opportunity and more jobs available to those trying to come into the job market.

Number one, enact commonsense regulatory reform. Reducing the costs of labor and capital will give companies more opportunities to pay the government less and their employees more. It will also lead to the creation of more small businesses and more jobs. Yet, that side of the aisle opposed us every step of the way on commonsense regulatory reform.

Enact commonsense welfare reform. Welfare is now more profitable than work in most States across this country. In Hawaii, for example, the average welfare recipient receives the equivalent of $17.50 an hour. In my own State of Texas, that number is more than $7 an hour. But welfare is a dead-end road that leads not to the American dream, but to a nightmare of dependency and despair. Rewarding work, rather than welfare, is a necessary component to economic growth.

Get rid of the Internal Revenue Service. There is no bigger job killer than the IRS. We need a simpler tax system that does not drain the critical resources away from businesses that can create jobs.

Target relief for families. Give parents with children relief, to help them achieve certain acceptable standards, while maintaining job opportunities for those who simply want a chance at the American dream. By targeting subsidies to families who are supported by entry-level jobs, we would not put an unfunded government mandate on small businesses, but, rather, give a refund to parents who work hard to provide for their children. In fact, Republican proposals to enact the targeted relief will yield far greater benefits to working Americans than a simple mandate to raise the minimum wage; relief that goes on for years and years and years.

Mr. Speaker, I just urge my colleagues who support the expansion of the Federal minimum wage for entry-level workers to rethink their position. Will an increase in the minimum wage help lower-wage workers? The answer is no. Will it improve American competitiveness across the world? The answer is no. Will it lead to greater economic growth? The answer is no. Will it increase opportunities for the poor? The answer is no. Will it help small businesses grow? The answer, once again, is no.

Should we blindly increase the minimum wage to help Washington labor union bosses achieve their anti-growth goals? The answer is no. That leads me to the real reason why the Democrats are pushing for an increase in the minimum wage. The reason is pure partisan politics. Let there be no mistake about it; if big labor did not want a mandated minimum wage increase, we would not be discussing this issue today. Indeed, when Democrats ran the Congress and the White House a year and a half ago, they did not do anything to raise the minimum wage. Back then, they knew this would hurt job creation. Back then, they knew this would slow economic growth. Back then, they knew this was a misguided policy.

But now, in this political year, with big labor giving them big money to buy big ads, we have this sudden push for an increase in the minimum wage. Mr. Speaker, a political payoff is a lousy reason to limit opportunities for entry-level workers, for poor workers. We must say no to the minimum wage increase. This is not the time for the United States to take away the American dream from so many people who just want a chance to achieve it.

A TRIBUTE TO THE U.S. ARMY RESERVES

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Under the Speaker's announced policy of May 12, 1995, the remainder of the majority leader's hour is designated to the gentleman from Kentucky [Mr. LEWIS].

The gentleman from Kentucky is recognized for 25 minutes.

Mr. LEWIS of Kentucky. Mr. Speaker, I rise tonight to pay tribute to the men and women who serve in our U.S. Army Reserves. Today, April 23, is the 88th birthday of the U.S. Army Reserves. I hope the American people pause for a moment to reflect on the contributions of the more than 600,000 soldiers in our Selected and Ready Reserve Forces.

For less than 6 percent of the total Army budget, reservists help fellow Americans with floods, hurricane, and other emergency relief; support peace operations in Bosnia, Somalia, southwest Asia, and Haiti. More than 3,000 Army reservists are in Bosnia. They help with counternarcotic operations in South America and elsewhere. They do a tremendous job for this country.

From the early stages of our Nation, Americans have served as citizen soldiers. Indeed, it was ordinary men who left their jobs and fired the first shots of the Revolutionary War. We had no standing Army then. Eventually this citizen militia gave way to trained reservists who have served proudly in wartime and peacetime for more than 200 years.

Today's Army reservists are a highly trained, highly motivated group. Many of them hold down full-time jobs with families, and then offer their services one weekend every month and an additional 2 weeks each year. Even then, they never know when they will be called upon for greater sacrifice. This is nothing to take lightly in the post-cold-war era, not when we have reservists in Bosnia and a number of other dangerous places.

Mr. Speaker, let us also pay tribute to the employers of today's reservists and National Guardsmen. I am sure some of them are occasionally inconvenienced when a valuable employee changes uniform for a weekend or 2 weeks or longer. The men and women who employ our reservists and guardsmen also play a part in their valuable mission, and we should thank them for their heroic and patriotic contribution.

Mr. Speaker, let me close by recognizing the contributions of a valuable Reserve unit in Kentucky's Second Congressional District, the 100th Army Division. Though its name, mission, and even headquarters has changed over the years, these soldiers have served proudly for 78 years. They just missed action in World War I, but were critical components to our armed services in the Battle of Europe during World War II. They helped capture many towns, took nearly 6,000 prisoners, and three "Century Division" soldiers were awarded the Medal of Honor.

In January 1991, more than 1,100 soldiers again went to war in Operation Desert Shield and Desert Storm. The 100th Division truly represents the finest tradition of volunteerism in our country. These men and women have all the responsibilities and challenges most of us face every day, but for 30 days and often more each year they shed their business suits for cammies and fatigues. I am proud to pay tribute to our Army reservists and National Guardsmen on their 88th anniversary, and to their families and their employers.

Mr. Speaker, I yield to my good friend, the gentleman from Indiana [Mr. HOSTETTLER].

Mr. HOSTETTLER. Mr. Speaker, I thank my friend, the gentleman from Kentucky, for this opportunity to celebrate the citizen soldier; the citizen soldier that goes to the very heart of America. The heart of the Reserves is the heart of true Americans, and I congratulate the Army Reserves on its formal 88th birthday.

However, I think it is appropriate to note that the spirit which drives what we now call the Army Reserves is the spirit upon which America was founded over 200 years ago. When the British garrison at Boston marched against the Massachusetts provincial military stores at Concord on April 18, 1775, the citizen soldiers at the Massachusetts militia gathered together to drive them back into the city. These patriotic Americans realized that if they did not take it upon themselves, their values, faith, and livelihood were in jeopardy.

Fortunately, since the time of the War of Independence, America has always had citizen soldiers ready to protect the liberty we value in America. The Reserves and National Guard are special. I do not want to detract from our professional active services. They are certainly needed, and we could not maintain our defenses without them.

But I must confess that there is something special about America's Reserves and the Guard. There is something special about taking the butcher, the mechanic, the engineer, the pilot, men and women who would, in other

VOL
142
PT
6
AP
15
—
24
1996
UMI

times, be at home with their children, mowing the lawn and washing the car, and suddenly whisking them into action as needed by their country.

There is something special about men and women who do not feel led to pursue the military as a career, but feel strongly enough about their country to be there when needed; people who agree, for modest benefit, to train on a regular basis and develop the necessary skills to operate today's modern war fighting machines. The Reserves and Guard are critical to America. The Reserves and the Guard are absolutely necessary if America is to maintain the level of security that we have been accustomed to.

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We simply cannot financially maintain our force structure without them. However, even if we could afford to maintain our defenses only with active forces, I am not so sure that this would be the best idea. We must allow Americans the opportunity to be able to stand up and be counted. We must allow them to say, "I will be there if you need me." And frankly, under today's force structure we need them more than ever, which is perhaps our country's highest possible compliment to the Guard and Reserves. Thank God there are Americans who continue to volunteer.

Tonight, I salute the Guard and Reserves. I also salute those employers who work so hard to enable their employees to serve. America would not be the same without them.

I thank the gentleman again, RON LEWIS, for this opportunity to speak.

Mr. LEWIS of Kentucky. Mr. Speaker, later this week I will be introducing a resolution to honor the men and women in all our Reserve forces, and it will call upon the American people to honor the families of employers and all those who assist reservists in their valuable mission. I encourage all Members of this body to honor our reservists.

I now yield time to the gentleman from Indiana [Mr. BUYER], who is a major in the Reserves, and we certainly appreciate him coming tonight.

Mr. BUYER. I thank the gentleman from Kentucky very much for yielding me time. Also let me compliment both of the gentlemen, who are valued members of the Committee on National Security. The support by the gentlemen of the total force concept in this Nation is to be congratulated, and I appreciate your service.

Actually, gentlemen, kind of what was going through my mind as I listened to both your comments is that while time marches on, there are certain values and principles which most of us hold dear, which are ageless, and that is duty, honor, and country. They are ageless.

When I think of the citizen soldier, the citizen soldier was a concept that was brought about by General George Washington who presented it, the idea, before a congressional committee created by Alexander Hamilton in 1783. So it has been a concept and principle that has been with us for a very long time.

The other thought that was going through my mind as I listened to both of the gentlemen is that there are many things and there are many places which define our national character, our struggles and our triumphs, from the revolution that the gentleman from Indiana [Mr. HOSTETTLER] mentioned, where enraged revolutionaries first ran at Lexington Green.

We do not like to talk about that, though, do we? It is interesting, we forget about that part. But they first ran at Lexington Green to the Old North Bridge in Concord, Massachusetts. It marks the spot where merchants and farmers actually grabbed the muskets and took a stand. That is why the Old North Bridge now is so famous, is because that is where the first stand was taken. They challenged the British army on April 19, 1775.

So from the Civil War to the Spanish-American War, World War I, World War II, Korea, Vietnam, the Gulf War, a lot of these peace operations that are about, whether it is Somalia or Haiti or in fact in Bosnia, that the gentleman from Kentucky [Mr. LEWIS] in fact mentioned, the Reserves have been there. They are citizen soldiers who have answered the call to duty.

But when I said nothing defines our national character more, it is the individual who steps forward to answer the call to duty. The easiest thing when an individual is called is to say, "I am too busy," or "I have got other things to do. I have other commitments. I have my family to take care of. I have my business to take care of. Oh, the Nation, you do not need me."

We, as a nation, struggled through that during the Vietnam era, where there were many that disagreed with the war and chose their personal values over that of the country or the national interest at the time. But when I said nothing defines our character more, I think it has to do with through the emotions of war, because why is it that the soldier serves?

The soldier serves for the protection of the liberties, the freedoms, the economic opportunities, the sense of equality, justice, and equity from a free society. These are men and women that said, "Yes, we will protect the motherland of America, but we will also protect the vital national security interests of the United States," which goes far beyond the continental borders of the United States.

War has been with us through the ages of time, and from those of whom have participated and others of whom have witnessed, stories have been told and have been written, each capturing some form of glory about war, but war may not be glorious in verse or prose. In reality, it is the soldier, it is the airman, it is the marine, sailor, whether they are on active, whether they are a guardsman, whether they are a reservist.

They are the individuals who answered the call to duty, a sense of honor and commitment to country, and they have felt the cold stings of battle. They have witnessed new levels of fear and new levels of courage that mankind would never witness had it not been for the theater of war. They see the long dark shadow afore, and they have challenged and spat into the face of death.

War is not glorious. But what the writers seem to try to capture is that citizen soldier who answers the call to duty, left their family, and felt new levels of fear and courage that could only be felt as exhibited from the American character.

That is what is exciting. That is why my two colleagues have come here today to say happy birthday. What they are saying, really, happy birthday because they are paying tribute to many men and women who have answered the call to duty who are a cut above, because the easiest thing is not to participate. The easiest thing is to sit at home and to reap the reward and benefit of a free society without the responsibility.

It is common, everyday people called upon to perform uncommon acts of valor, and we witness that in a theater of war, but it does not necessarily take a war to define it. We also see it as individuals in our society respond to natural disasters. We have that, we have seen that.

But we are here talking about the Army Reserves, and I congratulate the gentlemen for coming to the floor to discuss that.

Mr. LEWIS of Kentucky. Mr. Speaker, will the gentleman yield?

Mr. BUYER. Mr. Speaker, I yield to the gentleman.

Mr. LEWIS of Kentucky. Mr. Speaker, I think as the gentleman mentioned, we see these men and women not just willing to sacrifice themselves to go to war, but they are usually the very people that are willing to help out in any area, in their church, in their community. They may be volunteer firemen, and they may be whatever they need, they are usually there willing to help, help their community. They are there to look out for the best interest of what is good in our society.

Mr. BUYER. Mr. Speaker, if I can reclaim my time.

Mr. LEWIS of Kentucky. Yes.

Mr. BUYER. I think the challenge of those responsibilities that we face on the Committee on National Security is that in this new modern era, I guess that post-cold-war era, we have such greater reliance now as the force has been downsized. Our belief in the total

force concept places great stress on the Reserve system and that of the National Guard.

We have to be forever mindful and thoughtful with our hearts with regard to the stressors that we are placing upon the employers that both of the gentlemen mentioned, upon the families. Take the Air force Reserve, for example. It is not like advertisements where they say well, it is 1 weekend a month and 2 weeks in the summer or some plan. They are spending so much time now with that Reserve commitment that employers are being stressed and it is a great stress on the family, and we have to be forever mindful with regard to how we take care of the Reserves so we can keep quality men and women in the reserves.

Mr. HOSTETTLER. If the gentleman will yield, as we have discussed and debated the issue of the force structure drawdown for the active duty forces, one thing that I have notices is absent from all of this, and that is the fact that there are no complaints from the Reserve components of our national security system, no complaints about having to be more active, having to be more accessible, more available for our national security needs. I think that goes to the heart of the points the gentlemen have made, especially earlier in their comments, is that they do have this sense of duty to country, and even at a time when we are using them at the most elevated levels probably in their history, except for the Revolutionary War, there are no complaints. It is strictly, "I will be there when I am called."

Mr. BUYER. Makes you feel good, does it not?

Mr. HOSTETTLER. Sure does.

Mr. BUYER. I think America right now can be very proud of the Reserves and the Guard as they stand side-by-side, toe-to-toe with the active forces. We have a total force concept today that works. Sure, there are areas for which we can try to work out those differences, but I stand here in the well of the U.S. Congress giving assurance to the American people that they have a quality force.

We can discuss whether or not it is of the correct size, whether it is prepared and the readiness, and those are debates that we have with the administration, but there are individuals who came before us who laid the groundwork which we are very proud of. There is an individual, he is going to be leaving us soon, but we are ever mindful reverent and respectful for the gentleman from Mississippi who has laid a lot of groundwork with regard to making sure that the total force concept and the volunteer force works.

I yield back my time to the gentleman from Kentucky.

Mr. LEWIS of Kentucky. I would like to yield now to the gentleman that Mr. BUYER was just mentioning, a great American, a gentleman that has given his heart in service to this country and to the great group of men and women that make up the National Guard. I would like to yield now to our friend, the gentleman from Mississippi, SONNY MONTGOMERY.

Mr. MONTGOMERY. Well, I thank the gentleman for giving me this time. I was watching the three gentlemen and I was very, very impressed, the gentlemen from Kentucky, from Indiana and Indiana, by what they said tonight. It is close to my heart. I have been a citizen soldier all of my life and very, very proud of it most of my life.

I have worked with the three gentlemen on the Armed Services Committee for a number of years, and it has been a real privilege to be a part of the citizen soldier and the National Guard and Reserve. Finally, thanks to the gentlemen and others, we do have the total force that is now working.

Like some of the Members, I just returned from Bosnia and Germany, and without the guardsmen and reservists they could not make it over there now. Today we are talking, and the other gentleman from Indiana, we are talking about military construction, about the problems of funding for the National Guard and Reserve.

It was pointed out in this construction bill for next year recommended by the Defense Department, 3 percent of those funds will go to the National Guard and Reserve for construction. That is not enough. If we are going to keep a strong defense and citizen soldiers, they are going to have to get more funding on military construction and also on equipment.

But that was pointed out today. It is distressing. They are going to have to, the Defense Department is going to have to share and these assets. The Guard and Reserve have between 35 and 40 percent of all the missions of our Defense Department, so they do deserve fair treatment.

Thank you very much for doing this. This is a wonderful idea to let Members, our colleagues, know how important the citizen soldier is. I thank the gentleman very much for yielding me this time.

□ 2045

Mr. BUYER. If the gentleman will yield, let me just say, SONNY, when I look back, I am going to look back with warm memories of having served in this Congress with you. You are really one of the true statesmen that serve in this body. I want to recognize you for that.

Also I want to share with you, I read a passage not long ago, you are one of the American heroes. You landed there at D–Day and you marched across Europe, and I read a passage, a story about the policing of the battlefield. As a battlefield in Europe was policed of the dead, they came upon a body where there was no one around to listen to a soldier's last words. He pulled out a pad and wrote his last words down on a piece of paper and it was found. And it said, "When you go home, tell them that I gave this day for their tomorrow."

It is very powerful. There are many people, unfortunately, that take our freedoms and liberty and economic opportunities for granted. That is unfortunate. But hopefully people will begin to recognize that there are men and women who serve in the Army Reserve, in the National Guard, who are committed to duty, honor, and country, and recognize that upon their first breath was free air, because of the sacrifices given by a lot of people who came before them.

General Patton went and paid homage at a cemetery there in Europe, and he said "I didn't come here to pay homage that they died; I came here to pay homage that they lived." And that is what is exciting. That is the rejoicing part, that we have men and women in the Army Reserve and the National Guard, that we stand here tonight to celebrate their service to country, out of their value and commitment to freedom and liberty and preservation for future generations.

SONNY, you are one of my heroes. Thank you.

Mr. LEWIS of Kentucky. I just wanted to say in closing tonight that I agree with you, SONNY, 100 percent, that if these men and women are going to be willing, and they are always willing, to serve their country, we need to be willing to meet their needs, to make sure that they are provided for, to make sure that we are able to recruit and to keep fine men and women in our reserves and National Guard and in our active military.

FEDERAL TAX DOLLARS AT WORK

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the Chair recognizes the gentleman from Illinois [Mr. POSHARD] for 60 minutes, as the designee of the minority leader.

Mr. POSHARD. Mr. Speaker, in a few weeks back in Illinois we will get a property tax bill from the county assessor, and it will tell each of us who owns property in Williamson County, where I live, or in any other county in Illinois, and I suspect this is true across most parts of this country where property taxes are assessed and paid, it will tell us to the penny precisely what our property taxes get for us. It may very well tell us that out of the, let us say, $2,000 of property taxes that person might pay, that about $1,500 of that is going to our local schools. Maybe $50 of it is going to country law enforcement. Maybe $15 is going to the local airport authority for our airport. But it will be detailed so

VOL
142
PT
6
AP
15
—
24
1996
UMI

that we know precisely to the penny what every penny of our property taxes is getting for us as a taxpayer in that county.

Thinking about that I thought, well, why do we not attempt to give the folks in this country some idea about what their particular Federal taxes are buying for them by their Federal Government.

We do not get a printout like that to tell us that so much of the taxes that you pay into the Federal Government are going to pay for the defense of this Nation or for the health care of our elderly. We do not get any kind of tax bill to tell us that so much of your tax dollar is going to educate our children or to build our roads, or anything else. Agriculture research, science, space and technology, protecting the environment, we do not know as a people just exactly what percentage of our Federal taxes go to support any function of government.

But we hear all kinds of things. In fact, there was a survey done just recently that was printed in newspapers all over this country, and they asked a number of American citizens what percentage of the Federal budget do you believe is spent on foreign aid? and the most common answer given was 30 percent.

Can you imagine that, that American citizens think the Federal Government is spending 30 cents of every tax dollar that they send to Washington, sending it abroad to foreign countries? That is what they thought. And there is probably a good deal of people in this country that feel that way.

Well, we got to thinking about this, my staff and I, and we said, "Why don't we do in the best fashion we can what the county does for us back home with our property taxes? Why don't we try to give the American people some idea of what their Federal taxes are buying for them?"

So, we began working with the Congressional Budget Office, with the Congressional Research Service, with the Library of Congress, and the Budget Division and so on, and we have come up with a procedure that we think is pretty accurate to help the American people understand just as well as we can what their tax dollars are buying for them that they send to Washington.

I just want to discuss that with the American people tonight. I am not here to try to debate with anyone about whether they feel this is the best way to expend our Federal dollars. I am just here to try to provide some information on a factual basis, rather than a mythical basis, what the Federal tax dollar buys for our people.

We have had a lot of folks in the last week or so come down here into the well of the House and say to the American people, "Well, this year you are working until May 7 to send your money to Washington to pay taxes for the Government," as though you are working until May 7 and not getting anything out of the tax dollars that you send to Washington. It is as if you send them here and they go into some black hole and they disappear forever, and they do not help anybody with anything.

Well, that is not a fair way to present it to the American people. If we want to be honest with the American people, we ought to tell the other half of the story. We ought to say, here is what your tax dollar buys for you. Now, you may disagree with us, you may disagree with the percentage of your tax dollars that go to certain services that are provided for the American people with it. But you must know that there are many services that are provided for the American people with your tax dollar. You have a right to know what those services are and the proportion of your tax dollar that goes to pay for them.

That is what I want to discuss with you tonight. Now, over here to my right I have several charts. I need to back this up so I can see it a little bit, and I am hopeful that the cameras can pretty much stay on these charts as I begin to explain this to the American people.

The first thing I want to talk to you about are the revenues that come into the Federal Government. In the last year that we have calculated these things, which is fiscal year 1995, how many revenues come in, and where do they come from.

Well, as you can see, the greatest percentage of Federal revenues come from the individual income taxes, which totaled about $590 billion, or 43.6 percent of the Federal revenue.

The next largest proportion that came in came from social insurance taxes and contributions, about $484 billion, or 35.7 percent of the total revenues to the Federal Government.

Now, social insurance taxes include Social Security, Social Security disability, Medicare, railroad retirement, unemployment compensation insurance, and Federal employees retirement contributions. Those together constitute about 35.7 percent of the revenues that come to the Federal Government, or about $484 billion.

The next highest class of revenues are corporate income taxes, about $157 billion, or about 11.6 percent of the revenues to the Federal Government.

Excise taxes, which include things such as gasoline tax, jet fuel tax, alcohol tax, cigarette tax and so on, brought in about $57,484 million, or about 4.2 percent of the Federal revenues.

All other forms of Federal revenues, be it rents, royalties, interest or whatever, are about 4.9 percent of the total taxes or revenues that came to the Federal Government.

This totals for fiscal year 1995 about $1,355,213,000.

Now, during fiscal year 1995, we took in $1,355,213,000 and we spent $1,519,133,000, or we deficit spent about $163.9 billion. That is, we borrowed that much money to make up the difference for what we spent over what we took in.

Now, that is a lot of borrowing, it is true. But just 3 years ago we were deficit spending $302 billion a year. We have cut the deficit nearly 50 percent in that period of time. And while we should not make any excuses for the deficit spending, we want a balanced budget, we need a balanced budget, we want to get this down to the point in 7 years hopefully where we spend no more than we take in. We have made great progress on this account in the last 3 years, cutting it by nearly 50 percent in terms of the Federal Government deficit spending.

So the revenues come from individual income taxes, corporate income taxes, social insurance taxes and contributions, excise taxes, and others.

Next chart, please.

Now, what we have done, with the help of the Congressional Budget Office, is we have taken each of the five different divisions of family income in this country, in other words, those families in the lowest 20 percent of family income, in the second lowest 20 percent of family income, in the third lowest 20 percent of family income, in the fourth highest, and the highest 20 percent of family income, and we have calculated the average family income in each of these quintiles.

You can see that among those families who are in the lowest 20 percent of family income in America, the average family income is $8,500 a year. In those families that are in the second lowest 20 percent of family income, their average family income is $20,500 a year. In the third quintile, it is $33,500 a year, which is the average family income nationwide in America. The average family income and those people in the fourth highest 20 percent is $49,000 a year. And in the highest 20 percent of family incomes in the country, the average family income is $111,500 a year.

We went back and we calculated the total of all forms of Federal taxes in terms of its percentage for each of these levels of family income averages, and you can see that the average tax rate here includes Federal individual income tax, Medicare tax, Social Security tax, corporate income tax, estate and gift taxes, and all forms of excise taxes, such as Federal airlines, gasoline taxes, cigarette taxes, alcohol, and so on.

□ 2100

Mow, in 1981, you can see for the average family income of $8,500 a year, that family paid a total of 8.3 percent of its average family income in all of these taxes combined. As you go on up to 1990, that rose to 8.9 percent; in 1994

it fell to 5.1 percent, which it remains at today.

So for all four of these quintiles of family income, $8,500 a year average, $20,500 a year average, $33,500 a year average and $49,000, the income tax rate, which includes all of these together, these Federal taxes, has fallen from, for the lowest quintile, 8.3 percent to 5.1 percent in 1995; the second quintile from 15.3 percent to 14.9 percent in 1995; the third quintile from 20 percent to 19.4 percent in 1995; the fourth quintile, from 23.4 percent to 22.2 percent in 1995; and the highest quintile has risen slightly from 27.4 percent to 27.7 percent between 1981 and 1995.

So with respect to all of the four lower categories of family income, total Federal taxes has gone down; for the highest it has gone up slightly, so that if you are a family in 1995 making an average of $33,500 a year, you will pay for all of these Federal taxes combined, an average over $6,499. If you are a family making $49,000 a year in 1995, all forms of Federal taxes will cost you $10,878. If you are a family making $111,500 a year in 1995, all forms of Federal taxes will cost you $30,885.

Now, what we have done, and we only have delineated here the three family incomes of $33,500, $49,000 and $111,500, the top three quintiles, what we have done, then, is go to the Federal budget and we have applied all of those incomes to each of the broad general functions of the Federal Government. That is the services that the Federal Government provides to each of its citizens, and we have calculated these family incomes to include what percentage of the tax actually goes to each of these functions as well as that percentage in actual tax dollars.

So you can see that the function of Government which takes the highest percentage of our Federal taxes combined is Social Security, to which Americans paid $335,846,000,000 in fiscal year 1995, which was 22 cents of each tax dollar sent to Washington. And for a family making $33,500 a year, the average family income in this country, that would have meant a tax bill of $1,436.50 for Social Security. For a family making $49,000 a year it would have meant as a portion of their total tax bill of $10,844, $2,404 going to Social Security. For a family making $111,000 a year, $6,825 of their $30,000 tax bill goes to Social Security.

So in order of most to least with respect to the amount of your tax moneys that go to different functions of Government, this is the order in which you pay your Federal taxes for, going from highest to lowest. Social Security takes 22.1 of your tax dollar. So slightly in excess of 22 cents of each of your total Federal tax dollars go to Social Security.

National defense is the second highest expenditure at $272 billion. It takes 17.9 or right at 18 cents of each tax dollar that you send to Washington. The net interest on the debt, which today stands at $4.9 trillion, the net interest on that debt takes 15¼ cents of each tax dollar that the American family sends to Washington, DC.

Income security is the fourth highest expenditure of the Federal Government. That includes general retirement and disability, unemployment compensation, Federal employee retirement, disability, housing, food and nutrition assistance and other forms of welfare. All of those things all together take 14½ cents of each Federal tax dollar. Medicare is the next highest expenditure, the fifth highest expenditure. It takes 10½ cents of each Federal tax dollar. Health is the next highest expenditure. It takes right at 7½ cents of each Federal tax dollar that you send to Washington, DC.

Now, let me point out something here. These top six items, Social Security, national defense, interest on the debt, income security, to include all those things I just mentioned, retirement, disability, unemployment compensation, and Federal employee retirement, housing, food, et cetera, Medicare and health, those top six functions of the Federal Government, take 88 cents of every tax dollar that you send to Washington—88 cents of all Federal tax dollars combined that are sent to Washington are consumed by those top six expenditures.

If you go on down the line, education, training, employment and social services take 3½ cents of your tax dollar; or for the average American family, $229 of your tax bill. Transportation takes 2½ cents, or $162 of your tax bill. Veterans benefits and services take 2½ cents, or $161 of your overall tax bill, if you are a family making $33,500 a year.

Natural resources and the environment take nearly 1½ cents or $92 of your tax bill. General science and space technology takes a little over 1 cent on each tax dollar you send out here. Foreign affairs takes a little over 1 cent of your tax dollar that you send to Washington. Administration of justice takes a little over 1 cent of your tax dollar that you send to Washington.

General government, which includes the executive and the legislative branches and other areas that support those, other agencies, takes a little less than 1 cent of your tax dollar, about 91 hundredths of one cent. Community and regional development take about three-quarters of one cent of your tax dollar. Agriculture takes about two-thirds of one cent of your tax dollars. Energy takes about one-third of one cent of your tax dollar. And then you get back about 3.8 or nearly 4 cents in offsets to that through various credits and offsetting receipts to the Federal Government.

That constitutes 100 percent of your tax bill. And all of these things together, education, training, employment, social services, transportation, veterans benefits and services, natural resources and environment, general science, space and technology, foreign affairs, international affairs. administration of justice, general government, community and regional development, agriculture, and energy, all of those together take 12 cents of your tax dollar. Social Security, national defense, interest on the debt, income security, Medicare and health take 88 cents of your tax dollar.

Now what we want to do is break down each of these general functions of government in a more specific way to show you with some definitive nature here exactly what percentage of your tax dollar goes to each of these functions in a more specific way.

Social Security, which is the No. 1 item of Federal spending, which takes 22.1 cent of each tax dollar, just goes to what it says, Social Security. It is the money that you pay in over a lifetime, along with your employer, to support a person who has reached Social Security retirement age, as well as other disabled people in our country who may qualify for Social Security. For a family earning $33,500 a year, that amounts to about $1,436; for a family earning $490,000 it is about $2,404; and for a family earning $111,000 it is about $6,825.

The second highest expenditure of the National Government, which takes 17.9 or right at 18 cents of each tax dollar you send here, is national defense. How is that broken down? Military personnel take about 4⅔ cents of your tax dollar for their salaries, for their living and so on. Operation and maintenance of our military systems, about 6 cents of each tax dollar. Procurement of all of the things which it takes to run our military on, about 3.6 cents of each tax dollar. Research, development, testing and evaluation of all of our systems and so on, about 2¼ cents of your tax dollar. Military construction, about ½ cent of each tax dollar goes toward military construction. Family housing takes a little less than ¼ of 1 cent for the housing for our military families.

We have some offsets where the military performs certain functions and makes back about $2 billion a year in terms of sales of equipment and so on. That is an offset a little bit to your tax bill.

The atomic energy defense takes a little over ¾ of one cent and other defense related activities about 5/100 of 1 cent, for a total of 17.9 or about 18 cents of each tax dollar for all of these functions of our national defense spending.

For a family, again, earning $33,500 a year, that is about $1,161; for a family earning $49,000, that is about $1,944 in taxes; and if you are earning $111,500, it is about $5,519 in your taxes.

The third highest expenditure which your Federal tax dollars pay for is the interest on the national debt. As you

VOL
142
PT
6
AP
15
—
24
1996
UMI

can see, the interest on the public debt this year is about $332 billion, or about 21.88 percent of each tax dollar sent here, and that is offset by some of the on-budget trust funds that we have, which include the transportation trust fund, our black lung trust fund, the Superfund trust funds and so on, which goes specifically to be sent on those items I just mentioned. That is an offset of nearly 4 cents on the dollar. And our off-budget trust funds, which include Social Security, is an offset of a little over 2 cents on the dollar.

So our total net interest paid by your Federal taxes is about a little over 15 cents of each tax dollar, or about $993 for a family earning $33,500, $1,663 for a family earning $49,000, and $4,722 for a family earning $111,500 a year.

Our next highest expenditure is what we call income security spending, and this includes general retirement and disability insurance. This entire category takes up 14.5 cents of each tax dollar which you send to Washington. A little less than ⅓ of one cent goes to the general retirement and disability insurance, that excludes Social Security; about 4⅓ cents goes to pay Federal employees retirement and disability; 1½ cents goes to pay unemployment compensation;about 1.8 cents of your tax dollar goes for housing assistance, run through HUD; about 2½ cents goes for food and nutrition assistance, including food stamps, the Women, Infant and Children Program and so on; and about 4 cents of each tax dollar goes for all other forms of welfare programs.

□ 2115

So about 14½ cents of each tax dollar you send here goes for income security spending, which amounts to, for a family earning $33,500 a year, about $941; $49,000 family income, about $1,575; and for a family earning $111,000 a year, about $4,472.

Next chart, please.

The next highest expenditure of your Federal tax dollar is Medicare. Medicare is the Government-run health care system, as you know, for our elderly. It takes 10½ cents of each tax dollar which you send here to Washington, or, for a family earning $33,500, about $683 of your tax total; for a family earning $49,000, about $1,144; and for a family earning $111,000, about $3,249 of your total tax bill will support Medicare spending in this country.

Next chart, please.

The next highest level of Federal spending is health spending, which includes health care services, including Medicaid. This entire category takes up about 7½ cents of each tax dollar you send here. Medicaid gets about 6.7 cents of that.

Health research and training, about three quarters of 1 cent to keep us in the forefront of the best health care provisions in the world.

Consumer and occupational health and safety including the functions of OSHA, get a very small amount, about 12/100ths of 1 cent of each tax dollar.

Total combined for Medicaid, health research and training, for consumer and occupational health and safety, about 7½ cents of each tax dollar that you send here. For a family making $33,500 a year, that is $492; for a family earning $49,000, that is $824; for a family making $111,500, it is $2,341 that go to these functions.

Next chart, please.

Let me remind you of one thing. Those six categories of Federal spending that we just talked about from Social Security, national defense, interest on the debt, Medicare, income security and health spending, consume 88 cents of each tax dollar that you send to Washington, DC.

Now we get into the last 12 cents of each tax dollar that you send here.

Education, training, employment and social services spending consume 3½ cents of each tax dollar that you send to Washington. About 1 cent of that goes to elementary, secondary, and vocational education; mainly to vocational education because we at the Federal level assume a major responsibility for helping to finance vocational education in our high schools, our communities colleges and so on.

The higher education gets a little less than one cent of each tax dollar you send here, and most of that goes to student grant and loan programs and work-study programs to try to help our students get through college. That amounts to about $14 billion a year.

Research and general education aids get about 13 hundredths of 1 cent of each tax dollar. Training and employment, which is very important for our country because we have a turnover of people in our jobs and employment throughout this country, people get laid off, they lose their jobs, they need to be retrained, re-employed at another job. We spend about $7 billion, or about a half of 1 cent of each tax dollar that you send to Washington, on that function.

Other labor services, including the NLRB and those agencies and so on, about a 6/100ths of 1 cent, and the social services that we provide, including mental health and other kinds of things at the Federal level, less than one cent of each tax dollar that you send here.

So for all of these things: elementary, secondary and vocational education, higher education, research and general education aids, training and employment, other labor services and social services, we spend 3½ cents of each tax dollar that you send to Washington. For an American family making $33,500 a year, that is about $229 of your tax bill; for a family making $49,000 a year, that is about $384 of your tax bill, and for a family making $111,000 a year, that is about $1,090 of your tax bill on education training employment and social services.

Next chart, please.

The next expenditure is 2½ cents of each tax dollar you send here goes to support the transportation system in this country. I think this is personally one of the biggest bargains the American people can possibly get. This comes in to the Federal Government in the form of excise taxes on gasolines and other types of energy consumption. We spend 1.6 cents of each tax dollar you send to Washington for ground transportation, maintaining the largest network of interstates in any country in the world, maintaining State roads with part of the Federal funding that we send through the States, and we do that for 1.6 cents of each tax dollar that you send to Washington. We spend two-thirds of 1 cent on air transportation, maintaining the greatest network of airports, of airport safety, of air transportation in any country in the world, two-thirds of 1 cent of each tax dollar. We spend about 1 quarter of 1 cent for water transportation, maintaining locks and dams and the things that move our commercial commerce goods and services up and down the rivers of this Nation, one-quarter of 1 cent. And other forms of transportation, less than 1 one-hundredth of 1 cent.

A total of 2½ cents of every tax dollar you send to Washington maintains ground, air, water and other forms of transportation. If you are a family making $33,500 a year, that is a $162 a year; a family making $49,000, that is $271 a year; a family making $111,000, that is $772 a year from your tax bill.

Next chart, please.

The next highest expenditure is for veterans benefits and services. We spend 2½ cents of your tax dollar to support our veterans. How do we do that? One-and-a-quarter cents goes for income security for veterans, retirements, pensions and so on. Seven one-hundredths of 1 cent goes to veterans' education, training, and rehabilitation. A little over 1 cent goes to veterans' hospital and medical care. A very small portion goes to veterans' housing, and other benefits and services take an equally small portion; 2½ cents of your tax dollar goes to support veterans benefits. For a family making $33,500, that is $161 a year; for a family making $49,000, that is $269 a year; for a family making $111,500, it is $765 a year.

Next chart, please.

Our next highest expenditure, taking up about 1½ cents of each tax dollar that you send to Washington, is our natural resources and environment spending. To protect the environment, to conserve our natural resources, we spend about 1½ cents of each tax dollar that you send to Washington, and how is that spent? One-third of 1 cent goes to protect our water resources. One-third of 1 cent goes to conservation and land management. Through our Federal Bureau of Land Management, managing all the Federal lands that we own throughout this country, our recreational resources take up 18/100ths of 1 cent.

Now, you can take your family to the Grand Teton National Forest today, you can take them to Yellowstone National Forest, you can bring them here to Washington, DC, and spend 3 weeks. It will cost you $5 a carload to go through those great national forests which our tax dollars manage for recreational purposes for our people. It costs you nothing to go through the museums here in Washington, DC, and the Smithsonian, which we manage. All of those recreational things combined, including our lakes, et cetera, cost a family making $33,000 a year $11.70 a year in their Federal taxes. If you are making $49,000, it costs you about $19.58.

So, for all of these things, including pollution control and abatement, which we spend about a half of 1 cent of your tax dollars on, for all of these things combined, water resources, conservation and land management, recreational resources, pollution control and abatement, and protecting our other natural resources, we spend 1½ cents of every tax dollar you send to Washington. I think that is a tremendous bargain for the American people.

Next chart, please.

The next highest expenditure is a little over 1 cent of your tax dollar; 1.10 hundredths of a percent goes to general science and space spending. We spend one-quarter of 1 cent on science and basic research, maintaining government laboratories, maintaining grant researches in our major land grant universities and private universities across this country, which has kept this country on the cutting edge of technologies from aviation technology to computer technology, areas in which we lead the world, contribute to our commerce, to jobs for our people. We spend, for the family making $33,000 a year, $17 of your tax bill goes to support science and basic research. NASA gets a little over three-quarters of 1 cent, space flight research and other supporting activities of NASA.

There are thousands of products that have spun off of the research that NASA has performed over the years in our general space exploratory activities in this country that have accrued to the benefit of private industry in this country and to every public citizen, and for a family making $33,000 a year, that is about $53 of your Federal tax bill.

So for general science and space spending we spend a little over 1 cent of your tax dollar for all of that combined.

Next chart please.

International affairs spending. To support our efforts in the international community, which includes international development and humanitarian assistance, international security assistance, conduct of foreign affairs, foreign information and exchange activities, and our participation in international financial programs, we spend a little over 1 cent of each tax dollar.

□ 2130

What is this? Half of 1 cent, or nearly half of that money, goes to international development and humanitarian assistance. When the deserts are consuming Africa and rolling over the only arable land we have to feed people there, and famine is across the land, and disease, and hunger we send food. We send medicine.

When the Ebola virus is threatening to kill people in other parts of the world, we send medical technicians who shut it off, who try to trace down its origins. When AIDS and other things threaten to ravage countries, we help. That is part of who we are as a country. We spend one-half of 1 cent of each tax dollar for that kind of international humanitarian assistance as the greatest economic, military, and democratic power in the world.

International security assistance. This includes peacekeeping operations, nuclear disarmament approaches, military loans, et cetera. One-third of 1 cent of your tax dollar goes to support international security assistance.

Conduct of foreign affairs, the State Department, a quarter of 1 cent of your tax dollar goes to our State Department to carry on its functions.

Foreign information and exchange, about nine one-hundredths of a cent, and our participation in our international financial programs returns about $2 billion a year in forms of interest to us. So for a little over 1 cent on the dollar, we engage in these activities as a leading international power in the world. Most Americans think we spend 30 cents of every tax dollar on this alone.

In the next chart, the next expenditure is the administration of justice. The Justice Department and its various activities takes a little over 1 cent of each tax dollar that you send here. Federal law enforcement activities, a little less than half of 1 cent. Federal litigative and judicial activities, including our U.S. attorney's offices, the people who speak for us in the government in prosecutorial areas, a little less than a half of 1 cent.

Federal corrections activities, including our Federal corrections systems and our criminal justice assistance, including legal services and so on, a little over 1 cent of each tax dollar goes to support our justice spending in this country.

In the next chart, general government spending is the next category of Federal spending. It takes up less than 1 cent of each dollar that you send here. The legislative functions of the Congress take up three one-hundredths of 1 cent. The executive branch, one one-hundredths of 1 cent. The central fiscal operations, the Treasury Department, a half of 1 cent; the general property and records management, or General Services Administration, six one-hundredths of 1 cent; the central personnel management, or Office of Personnel Management, does not even register, hardly. Our general purpose fiscal activities, other general government, and so on, the running our Federal Government and the functions of it in terms of general government spending, a little less than 1 cent of each tax dollar goes to that.

Community and regional development spending, which is a major activity back in our home districts, to help our local community regional economic development associations and so on go out and entice businesses to locate in our communities by showing them what infrastructure we have in place, what our labor force is like, et cetera, the aid and assistance we give them takes less than three-fourths of 1 cent of each tax dollar that you send here, and that includes about a quarter of 1 cent to FEMA and our disaster relief and emergency agencies that serve our communities when they have floods and other forms of natural disasters to face.

For a family making $33,000 a year, that is about $44 a year. For a family making $49,000 it is about $7 a year. For a family making $111, it is about $213 a year.

In the next chart, agriculture spending. I never have a town meeting without folks standing up saying, "Stop giving those subsidies to all those farmers. Those farmers are the fat cats. They are taking up half of the Federal budget."

We spend exactly two-thirds of 1 cent of each tax dollar on our agriculture community. About half of 1 cent goes to farm income stabilization programs, which we are cutting now, incrementally over the next 7 years, and eliminating totally.

The remainder of that goes into agriculture research and services so about two-thirds of 1 cent goes to support agriculture spending by the Federal Government, which helps supply our agriculture community: the largest supply of food in the world, the safest supply of food in the world, and the cheapest supply of food in the world for the American citizen. The subsidies that people complain about to our farmers really accrue to the benefits of our consumers, but even those we are cutting out now.

In the next chart, our next category is energy spending. We spend one-third of 1 cent on maintaining our energy supplies, our energy conservation, our emergency energy preparedness, such

VOL 142 PT 6 AP 15 — 24 1996 UMI

as our strategic petroleum reserves and others, in case we get into a war or supplies are cut off from other parts of the world, and our energy information policy; less than three one-hundredths of a cent.

So for the average American family making $33,000 a year, they are spending $20 a year in the form of Federal taxes to support an energy supply, which, again, is the cheapest energy in the world. Today, a gallon of gasoline in America averages $1.26 cents a gallon. In Canada, it is well over $3. In Europe, it is over $4.

There are the offset which accrue of about 4 cents on the dollar to the American taxpayers. The Federal Government gets a mortgage credit of about $1 billion back; in the Postal Service, about $1 billion 800 million in FDIC deposit insurance, about $17 billion. It costs us a little over $6 billion for the Commerce Department to advertise and try to advance our commerce around the world.

The employer share of employee retirement is about $34 billion. The rents and royalties on the Outer Continental Shelf for drilling and exploring and so on, about $2.4 billion. Other offsetting receipts, about $7 billion. So we get back, for the taxpayer, nearly 4 cents on the tax dollar in terms of these offsetting receipts and credits.

I want to go back to this one chart again, because this capsulizes everything. Again, by function of government, what is it the tax dollar buys, from top to bottom? Twenty-two cents of each dollar buys Social Security for our people; 17.9 cents, or 18 cents, buys national defense; 15 cents, a little more, is interest on the debt; 14½ cents is income security for all those things we talked about previously; 10½ cents goes to Medicare. Nearly 8 cents goes to health; education, training, employment, and social services, 3½ cents of the dollar; transportation, 2½ cent; veterans' benefits, 2½ cents; natural resources and environment, 1½ cents; general science, space and technology, a little over 1 cent; international affairs, 1 cent; administration of justice, 1 cent; general government, 1 cent; community and regional development, three-quarters of 1 cent; agriculture, two-thirds of 1 cent; energy, one-third of 1 cent; and about 4 cents of the dollar in offsets and credits. That is what the Federal tax dollar buys for the American public.

For a family making $33,500 a year, that is $6,478 in all forms of Federal taxes. For a family making $49,000 a year, that is $10,800, in all forms of Federal taxes. For a family making $111,500, that is $30,786, in all forms of Federal taxes.

The point is, Mr. Speaker, we can do better. We can do better in some of these categories. There are debates raging out here right now about what we do to stabilize the Social Security fund before it goes broke in the year 2030. How do we continue to provide for my generation, which is in its fifties, and for my son's generation, in their twenties, to have Social Security that they have paid in all their life, as the present generation has provided? Maybe there are things we can do to invest more wisely, or allow people to invest more wisely to stabilize that fund.

We have cut national defense considerably over the past several years. We are downsizing that area of the Federal Government, but we cannot downsize it much more.

Our net interest is the area we have to work on, because we need a balanced budget. We need to balance this budget. We need to reduce interest as a portion of our Federal debt. We are making headway on that deficit, but we have to go all the way to zero deficit spending.

That is why the debate is raging out here about how we get there, and the two great political parties are sharing their philosophical notions about how we get there. It is my hope and prayer we will get there, for the benefit of our children.

Medicare and part of the income security and health dealing with Medicaid and other health care services, we are right now debating here ways to lower the cost of the government with respect to those health care programs which are the fastest rising parts of the Federal budget. We are going more toward managed care. Other types of things we are doing to try to lower the cost in these major areas. This is the discretionary area of the budget. These things are the entitlement areas of the budget. Everything has to be on the table.

But let me say this, Mr. Speaker. For those people who come down here and say, "Well, we have worked until May 7 this year for the Federal Government," please tell the rest of the story. Please say that for those 4 months, we provided Social Security for our elderly and defense for our Nation, and we took care of health care problems and Medicare and health research and education and training for our unemployed; that we provided the best transportation system in the world; we helped our veterans; we took care of our environment and preserved our natural resources; we engaged in general science and space exploration; we conducted our international affairs as the leading power in the world; we had a justice system in which we maintained the FBI, the CIA, the BATF, the Federal prison system.

Please say that we spent only 1 cent on the dollar to operate this Congress and the executive department and the various agencies that serve this Congress and the executive department, and the General Services Administration and the Department of the Treasury, the Office of Personnel Management, and all these things; less than a cent on the tax dollar.

We have to tell the rest of the story, that we have engaged in community and regional development to the benefit of our communities in providing for sewer systems, water systems, other infrastructure developments that we have helped with, which greatly promote the economy and the commerce of this Nation, on very little as a percentage of our tax dollar; that we have supported the income security of our farm community, which has provided the cheapest, most plentiful, safest food supply in the history of any country in the world, and we have fed most of the world for many, many years. Say that.

The only thing I want to say is this: that the whole story is that it may be true that we worked until May 7 to pay our taxes to the Federal Government, but the rest of the story is that we get a lot of very good benefits. We can do better. We can save more, we can spend less, and we shall. But the American people ought to know, too, that we are struggling to give them what I think is the best we can do for the tax dollars that they send. It is not just coming here and going into a black hole. It is not just coming here and being wasted away.

Is there fraud and abuse? Yes. Should we get it out? Yes. It is incumbent upon every agency of the Federal Government and the oversight function of this Congress to give assurance to the American people that we are tightening restrictions, we are doing everything possible to make sure that we are spending this money in the most cost-effective, efficient way possible on behalf of the American people.

□ 2145

We are trying to do that.

My only purpose here tonight was to try to give the American people some sense of what their tax dollar is being spent for. That is all. I hope that we can agree that it is being spent not in some of the ways that the Americans people are thinking, like 30 percent of it going to foreign aid, but that we are trying to do our best to serve our people with the income that they do send us.

COMPETING PHILOSOPHIES FUEL DEBATE OVER ROLE OF GOVERNMENT

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Under the Speaker's announced policy of May 12, 1995, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 60 minutes.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Illinois who preceded me here in the well. Indeed amidst all the talk of a lack of civility, amidst all the talk of hostility in this Chamber, Mr. Speaker, I can personally say without equivocation that one of

the honors of serving in this House in addition to being here representing the people of the Sixth District of Arizona is to serve alongside my good friend from Illinois. Because without venom or vitriol, he states a case, and he makes mention of the fact that, yes, there are two predominant philosophies at work in the Congress of the United States, by and large two philosophies represented within the two-party system, and I applaud him for his efforts to go beyond mere accountancy and figures to try and explain what many of us have come into contact with with various road projects, both at the Federal and State level, where we have all seen the sign that says, Your Tax Dollars At Work.

Mr. Speaker, I appreciate the efforts of my good friend from Illinois. But, as he says, there are basically two philosophies, and, indeed, Mr. Speaker, it is not my intent to put words in the mouth of the gentleman who preceded me here in the well but simply to challenge his fundamental thesis, the underlying argument, Mr. Speaker, that he presents tonight to the American people.

My friend seems to say that American citizens laboring from January through May to account for the huge Federal tax bite, well, that is money well spent, so my friend says. And, yes, there are problems, but incremental reform and fine-tuning and some adjustment can give us the necessary change to confront the next century.

Again I applaud my friend's effort and it is not a spirit of one-upmanship that brings me to the well of this House tonight, Mr. Speaker. But again I feel compelled to challenge the assertion nor the assumption of my dear friend from Illinois. For, you see, Mr. Speaker, I believe true reform and true effective use of tax dollars stems first and foremost from this document, the Constitution of the United States. And while I appreciate my friend's effort to account for your tax dollars at work, I do not believe that any of us can improve on the assertions of our Founders who in a beautiful and indeed inspiring Preamble to the Constitution offered, Mr. Speaker, I suppose in the buzz phrase of the mid-1990's, their vision statement, if you will, for this constitutional republic, and I quote:

> We the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

And indeed, although I am joined on the floor by a dear friend who is a practicing physician, most of what transpires in this Chamber and upon this hill does not equate with brain surgery nor complex accounting. Instead, its most fundamental premise is founded upon the notions set forth in this document, what one historian, I believe, rightly called the Miracle at Philadelphia. This document, timeless, timeless in its ability if not to predict the future but to provide us with a framework for a free people to determine what should transpire within this free society. And I cannot help but note the irony of those who purport to represent the party of Jefferson who all too often forget his words, and this is something that becomes misunderstanding given the theatrics and the rhetorical excesses bound to occur in an election year, but it is worth noting again the Jeffersonian ideal. It was not for elimination of government but, as Mr. Jefferson pointed out, the ideal of a limited and effective government with the proper role for the Federal Government and a far more active role for State governments, for counties and for urban jurisdictions.

And so that frames the debate as we approach the next century.

Are we to assume that history occurs in a vacuum? Are we to assume that because at previous junctures in our Nation's history we should only subscribe to a philosophy that would dictate that power should reside primarily here in Washington, D.C.? And, further, that that power be exercised not by those elected but by those appointed or those who have sought career service within a vast bureaucracy?

That is the crux of the debate. Let me pause here, lest someone misunderstand.

Mr. Speaker, this is not a diatribe directed toward those who find themselves in the employ of the Federal Government. Indeed, I would be the first to say, Mr. Speaker, that there are many hardworking, dedicated people employed in the service of the Federal Government. But, Mr. Speaker, it is to say this: At this juncture in our history, is it preferable for power to be concentrated here on the banks of the Potomac in the hands of unelected officials accountable really only to themselves? And is it proper to issue the assertion that, Mr. and Mrs. America, if you work from January until May to satisfy your Federal level of taxation, well, well and good, because you are receiving incredible benefits? Is that really the course we should follow? Or is instead it more proper to understand that the average family in 1948, the average family of 4, surrendered 3 percent of its income in taxes to the Federal Government as opposed to the average family of 4 one year ago which surrendered almost one-quarter of its income to the Federal Government? And, mindful of that, is it a good and fair deal that the families of this Nation now spend more, Mr. Speaker, on taxes than on food, clothing and shelter combined?

For, you see, Mr. Speaker, this argument is made not out of avarice or greed or selfishness or any of those labels so many in this election year are willing to bandy about akin to playground taunts. No, the question is asked legitimately because it helps define what type of future we should have. And indeed as I look beyond the Preamble to this Constitution, I cannot help but note the first clause in article I, section 1, which reads as follows, Mr. Speaker:

"All legislative powers herein granted shall be vested in a Congress of the United States."

All legislative powers, Mr. Speaker, vested in this institution and the other body across this magnificent structure, the Congress of the United States.

Yet what has transpired in this century? Often for the most noble of motives, this Congress has established agencies within the executive branch and those agencies in turn issue regulations.

Let me again pause at this juncture to make sure I am not misunderstood, Mr. Speaker. I am not saying that regulation in and of itself is a bad thing. No, quite the contrary. Certainly, Mr. Speaker, in my profession as a broadcaster, I know firsthand that a modicum of regulation was necessary to create order out of chaos on the airwaves, first at the behest of a Secretary of Commerce by the name of Herbert Hoover, then through a Federal Radio Commission established in the late 1920's, and ultimately within a Federal Communications Commission, and I think we can all agree with the developments in technology, with the changes we have seen throughout this Nation with the wonderful expansion of the economy and opportunity, some modicum of regulation must continue. But what I am saying and indeed what I propose in H.R. 2727, the Congressional Responsibility Act, is to indeed make sure that the first section of Article I of the Constitution is followed, that all legislative powers be vested here. Accordingly, H.R. 2727 would provide that every proposed regulation return here to the Congress of the United States for an up-or-down vote before it is printed in the Federal Register.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. HAYWORTH. I yield to the gentleman from Georgia who joins my good friend the physician from Florida.

Mr. KINGSTON. I do not want to jump in front of the gentleman from Florida [Mr. WELDON] but on the point of regulation one of the bills that we have pending now is reauthorization of the Safe Drinking Water Act. One of the current regulations that water systems have to operate under requires small systems that use ground water to test for contaminants that are only found in surface water systems.

□ 2200

So here we have EPA, taxpayer funded, requiring groundwater systems to

VOL
142
PT
6
AP
15
—
24
1996
UMI

do the same tests as surface water systems. Absolutely absurd.

The same act also requires that EPA post new regulations for 25 contaminants each 3 years, whether the regulations are needed or not. It is just absurd. It goes under what you are saying, we do need regulation, but we do need common sense in the regulatory authority.

Mr. HAYWORTH. Even in addition to common sense, which I laud the gentleman for mentioning, and which many observers would say time and again seems to be absent not only from this Chamber at times, but also through the vast bureaucracy, we need a proper reassertion of constitutional authority. That is why every proposed regulation should not be enacted by bureaucratic fiat, for as my two colleagues know, Mr. Speaker, what oft times happens is you have a shift in the power. Instead of the power being conferred by the people on their duly elected representatives to make laws, the power is bequeathed or ceded to the regulators who can come up with regulatory expansion, as my friend from Georgia mentions, that exceeds what the average person would deem to be reasonable. In doing so, it subverts the whole notion of laws and by the expansion of what I choose to call the tyranny of the bureaucracy and the power being conferred on government bureaucrats, what we have done is allowed those bureaucrats in essence through the issuance of regulation to make laws, because as my two colleagues know, certainly my physician friend from Florida understands, those folks with the sanctions of imprisonment or fine are basically enacting laws.

Of course I yield to my good friend from Florida.

Mr. WELDON of Florida. I appreciate the gentleman yielding. I very much applaud you in your efforts to reassert the authority of the Constitution of the United States, because I feel very strongly that not just for years, but for decades, the language of our Constitution has been either subverted or totally ignored. There is probably no better example than the rampant, wanton, overwhelming number of regulations that have come from Federal bureaucrats that have tremendous impact on the day-to-day lives of American families who are very, very often just struggling to make ends meet.

You were talking about tax policy before. What is so amazing to me is that the callous, casual attitude that many politicians have about raising taxes, when many families, they are on such a tight margin that those slight increases in taxes mean a cutback in their ability to plan for a vacation, to plan for higher education for their children, to plan for an expansion on their home.

But getting back to the subject you were talking about, regulations, the other body, their Governmental Affairs Committee recently reported out that Federal regulations cost the average American household $6,000 annually in higher prices, diminished wages, and increased taxes or reduced services.

Furthermore, under the Clinton Administration, there has been a record increase in the number of Federal regulations. They have increased at 4.6 percent per year during the Clinton administration. This is a record, it stands at an all time record of now 67,518 pages of regulations, 18 percent higher than what they were in 1992.

Some people think this is just an abstract concept. But when you talk to a small businessman who is trying to start a new business and discovers that he has to fill out form after form after form of regulations dealing with multiple different layers of bureaucracy, and that inability to get himself started in his business frequently results in lost income for his family, and sometimes in bankruptcy, businesses not even being started, jobs not created because of the burden of Federal regulations, this indeed I think is one of the silent crimes of our government against our people, the fact that there has just been this endless amount of regulation issuing forth from Washington, DC.

Mr. HAYWORTH. Mr. Speaker, reclaiming my time, I think my friend from Florida, indeed on the front lines of not only health care as a physician, but also on the front lines here representing very capably the people of this district, again points out something which we should note with more than curiosity, indeed with widespread concern, for taking the model offered by our dear friend from Illinois, who preceded us here in the well, who said well, let us set up the construct, if you are paying from January to May for the tax bill, it is money well spent, there is in fact a hidden tax, and this is what the gentleman from Florida refers to, a hidden tax of overregulation that by many estimates means that the average American is really in essence working for governmental entities far beyond May, indeed past the day upon which we celebrate our independence, and that the true Independcence Day for the American citizen in terms of taxes and fees levied by excessive regulation, either through higher costs or other things, does not come until really mid-July.

So there you have it, more than six months, in reality, six and a half or almost seven months, where the hard working people of the United States work and labor essentially to propagate a system of excessive regulation and a system of centralized control.

What we offer in the new majority is very simple, and this is something that we need to articulate here once again, free from the diatribes and the playground taunts and the interesting interpretations that some of our friends in the media would offer. What we are simply saying is this: Mr. Speaker, the citizens of the United States of America work hard for the money they earn. They ought to hand onto more of that money and send less of it to Washington, and they should have not only the money in their pockets, but they should ultimately decide what is best for their families and their futures, instead of ceding that power and that revenue to a centralized governmental authority.

Let me yield to my friend from Georgia.

Mr. KINGSTON. A story of one of your freshmen colleagues really fits in there, and that is that of SONNY BONO, one of your better known freshmen.

He tells the story of leaving Hollywood and going to Palm Springs to start a restaurant. He needed to make some changes in the building that he bought and so forth. So he went down to the city hall to get building permits, thinking that he was going to be creating jobs and additional tax revenues and all kinds of positive things for the area that they would say "Mr. BONO, we are so happy to have you in here, we need entrepreneurs, employers. This is a great boost for our economy." Instead, he was given the runaround. "Why do you need these permits? How have you chosen the contractor who is going to do the work?"

They started nickeling and diming him and micromanaging the project. He thought it was going to take 15 minutes. Six months later he still had not gotten his permits for his building, the renovation and building permits, from the city there.

Mr. BONO. tells a great story of walking in one day and saying "I have got my permit problem solved." The bureaucrat behind the desk said, "No you don't." SONNY BONO said "Yes, I do". The bureaucrat said "No, you don't, Mr. BONO. Nobody solves permit problems without me. I am the one who decides. I represent the government. You can't do anything on your own without me."

SONNY BONO looked at him and said, "Oh, yes, I can. I have solved my permit problem. I am going to run for mayor, and I am going to fire you."

That in essence is a true story of how SONNY BONO got into politics. He did run for mayor, he was successful. He points out, he is not inhumane. He did fire the guy, but turned around and let him be his gardener, so all was not lost.

But the point of the story is you have in the U.S. Congress now people who have experience with real world bureaucratic red tape. They have not been raised in the political ranks, where they have chief of staffs and administrative assistants and directors who protect them from the dirty world of red tape which the real world has to contend with.

So as your 73 freshmen Members came to the House floor, you have fought for less regulation and more individual responsibility and more indivdual freedom. I think you have made it. You have got a securities reform litigation signed by the President, the Paperwork Reduction Act signed by the President. We have stopped the practice of passing local laws and making local county commissions pay for it after we decide how to run every county in Arizona and Florida and Georgia. We are trying to back off that.

So the impact of the 73 freshmen has been tremendous, and yet it is just a start as to what we need to do to truly get government off the back and out of the pocketbooks of small businesses all over the country.

Mr. HAYWORTH. Reclaiming my time, my friend from Georgia makes an excellent point, and indeed relating once again to us the real life experience of our colleague from California and what prompted his entry into pursuit of elective office I think is especially appropriate.

But there is something that undergirds it entirely, Mr. Speaker, and that is the notion of those who put together this document, the notion of our Founders, which was unique in human history. For in contrast to our English forbearers, or our British cousins, as some of us affectionately refer to our friends across the Atlantic, in this new Nation, in this constitutional republic, we did not choose to recognize one person or one family as sovereign or as sovereigns.

Instead, in this Nation we operate from the assumption that, first, power is conferred upon us by a creator, and that in this Nation, the people are sovereign and they in turn confer their power, or political power, if you will, on governmental institutions. Yet, as our friend from Georgia relates the story, what all too often happens is that notion is twisted or turned to where American citizens are suddenly accountable to unelected career Washington bureaucrats, instead, Mr. Speaker, of what was intended, and that is for government to be accountable to the people.

So, indeed, this so-called revolution, which, by the way, can only be defined as extreme in terms of the context of making extremely good sense, what is in fact a resolution not born of something radical but something entirely reasonable, simply says that the power, indeed, Mr. Speaker, it is reminiscent of a popular slogan in the 1960's, that power belongs to the people, and that power goes to the people.

Let me yield to my friend from Florida.

Mr. WELDON of Florida. I appreciate the gentleman yielding. I just want to add to your comments about the so-called revolution. In my opinion, the revolution that people talk about here in Washington is nothing more than a dose of common sense coming from the people that you talk about, which is where the power truly lies with, a dose of common sense coming to the people of this city.

This city is insulated from the people that put them here. This so-called revolution is nothing more in my opinion than the people that work in Washington at the bidding of the governed who elect them and put them here, finally having to start acting on some of these things that people have been crying out for for years and years and years and years, like reforming the Congress itself, making the Congress live under the laws that they have been passing on to the people.

Madison, in Federalist Paper Number 37, which I am sure as a student of history as you are, J.D., you would know that he said in that federalist paper that the Congress should not be allowed to pass any law that does not have its full operation on themselves or on their friends. In reality, as we know from the past 25 or 30 years, they have repeatedly passed major pieces of legislation, including the Civil Rights Act, the Americans with Disabilities Act, the Family Leave Act, even the labor laws themselves and OSHA regulations they exempted themselves from.

And OSHA regulations, they have exempted themselves from it. As I understand it, the people from OSHA right now are beginning to do their audits on all these buildings here on Capitol Hill, and that some of them have some very, very serious problems. And those problems would have never been recognized if it had not been for the fact that this so-called revolution, which I think is nothing more than common sense reform coming to this body and coming to this city, and it is something that the American people have been asking for for years and years.

☐ 2215

Mr. HAYWORTH. I thank my friend from Florida and I would be happy to yield to my good friend from Georgia after I offer this parenthetical note to quantify what the gentleman from Florida just said.

Indeed, if we were to define this, Mr. Speaker, despite the sensationalistic notion of revolution, what in essence we have here is rather than revolution, a reclamation, a reclaiming of this government for its rightful role in society, and that is what is at stake here and a reevaluation of the role of government.

I thank our good friend from Florida for joining us, making those points, and once again I am happy to yield to my friend from Georgia.

Mr. KINGSTON. The gentleman from Florida had mentioned OSHA, the Occupational Safety and Health Administration, and for years this has been the group that was kind of the government watchdog on health and safety in the workplace. Certainly it came into being under the Nixon administration. It was a pro-worker law, but it was not an anti-business law either. It just had some common sense.

And yet we are now in a situation where over 60 percent of the OSHA fines are for paperwork violations. You have to list such hazardous substances as that of the ink that you use in a Xerox machine. If you store that, you have to have a material safety and data sheet. And if you do not fill that out properly, you are fined. There have been cases of OSHA coming in and laying a heavy hand on small businesses and putting them in some cases almost out of business because of the financial crunch, litigation, and so forth. Yet in the agriculture side of our economy, there is the Soil Conservation Service which gives farmers technical assistance to prevent erosion, which is a pro-environment type agency, but giving technical assistance to farmers, which they need, a very good working relationship between soil conservation and farmers.

And here you have the same type relationship between OSHA and businesses, only it is an antagonistic one. What we would like to do is have OSHA be more like Soil Conservation is to the farmer, helping the businesses make their worker environment safer, because one of the things I learned when I sold workers compensation insurance is that the price of the accident, a hundred dollars for stitching up somebody's thumb, is four times when you consider the time lost and the problems with worker morale and so forth. Businesses have every motivation in the world besides government to take care of their employees; if nothing else, just from the production standpoint.

Mr. HAYWORTH. Mr. Speaker, reclaiming the time, I thank my friend from Georgia for making this fundamental point, for as certain as the sun rises in the morning, there are those who will willfully distort or mischaracterize what we are saying here tonight.

And the gentleman is quite right, Mr. Speaker, for he talks of regulation that is there to establish order and also there to offer a helping hand, not in terms of money or tax dollars allocated to business, that is not what we are talking about, but to work in a cooperative fashion with business and industry as opposed to an adversarial relationship, or a game that is ofttimes played in the Nation's press, in the common vernacular it is called a game of "gotcha". So that we pass so many regulations, so cumbersome, so out of touch with what is reality or in any way, shape or form reasonable so that those responsible for enforcement can

VOL
142
PT
6
AP
15
—
24
1996
UMI

come in and say, "Ah, 'gotcha'." Part B of subparagraph 1 of section 325 states this. You made an effort but you did not quite reach what I believe, as the regulator, as the arbiter of this, to be the right decision.

It comes back not only to this document, our Constitution, but also to the simple notion I mentioned earlier, Mr. Speaker. And it is this question. What is reasonable? What would a reasonable person do?

As my friend from Georgia mentioned a second ago, even if we accept the notions that some in our society seem to adopt, that business, by its very existence is greedy or motivated out of avarice; even if we were to accept that notion wholeheartedly, we would have to understand that it is in the best interest of business to make sure that employees are productive. And to be productive they need to work in a safe environment.

So even if we were to proffer the notion, as some in this Chamber do from time to time, that the profit motive is inherently evil or selfish or somehow misguided, even if we were to accept that notion, there would be the corollary offered by my friend from Georgia, which is this: Those folks owning the business would like to keep it productive, and to do so there has to be a modicum of worker safety.

I want to yield to my friend from Georgia.

Mr. KINGSTON. The other thing is that if we want to help workers, we do want to have a safe work environment. Everybody, an employer, government employees, everybody will agree on that. But if we want to help the workers across America, the key thing we have to do is honor why they are working, and that is to make money and make a better society.

Now, if we want to help those workers, let us let them keep more of their own paycheck. And the President has vetoed a $500 per child tax credit. He has vetoed an earned income tax credit that would have helped America's working poor. He has vetoed a balanced budget amendment which would have brought down interest rates so that they could borrow money less expensively for their cars, for their homes and so forth. But I think one of the things that really adds insult to the American workers is his veto of a bipartisan welfare reform bill, a welfare reform bill which would have only required people to work 20 hours a week.

Now, I ask the gentleman from Arizona, is there anybody in Arizona who can provide for their families working 20 hours a week?

Mr. HAYWORTH. Mr. Speaker, reclaiming my time, I know of no one who works from dawn to dusk to provide for their families who could do that for 20 hours a week.

Mr. KINGSTON. I want to make sure the American people know this, because here we are talking about workers' safety and we are talking about the quality of the job done, allowing workers to keep more of their paycheck, and the President of the United States says it is not good enough to require able-bodied people on welfare to work 20 hours a week.

The working men and women in Georgia and Arizona are working 40, 50, 60 hours a week. They are in debt. They are barely getting by, and the President says I am not going to make people work 20 hours a week for their welfare benefit.

Now, for crying out loud, here it is an election year and he is saying 20 hours a week is too much? I think that is absurd, and I think the people of Arizona are probably just as outraged as the people in Georgia are about it.

Mr. HAYWORTH. Reclaiming my time, and again I thank the gentleman from Georgia for bringing forth this very cogent observation. And again, Mr. Speaker, we should note this is not said with venom nor vitriol, not in the form of a playground taunt, but, really, Mr. Speaker, just to examine the record of the gentleman who resides at the big White House at the other end of Pennsylvania Avenue, for if words are to mean something, actions should correspond to the words.

And, indeed, as my friend from Georgia points out, we have a President who campaigned in 1992 on balancing the Federal budget in 5 years. Yet when confronted with a realistic plan that actually gave him a 2-year grace period, if you will, a balanced budget plan which was introduced by the new majority, back I believe last October, the President chose to veto that; instead putting in its place a document of suspicious foundation from this standpoint, Mr. Speaker.

It would be akin, and I will use a personal example, I am fighting the battle of the bulge around my waistline, it would be akin to saying to someone we are going to give you a year to lose 50 pounds. We ask you to lose two pounds in the first 50 weeks of the year, and in the final 2 weeks of the year we ask you to lose the remaining 48 pounds. On paper the mathematical operation can work, in real life that would be very difficult.

That is what we are dealing with. And as my friend knows full well, we have, at the other end of Pennsylvania Avenue, a President elected by saying that middle class taxes were too high and that people should hang on to more of the money they earned, yet adopting the philosophy upon his inauguration of those proponents of big government who said, oh, no, no, no, more of your money should come here to Washington. Thus, the largest tax increase in American history.

But especially galling, as my friend from Georgia points out, and this is something that happened on my watch, if you will, after I was elected to the Congress of the United States to represent the good people of the 6th District of Arizona, we provided this President, Mr. Speaker, with a welfare reform plan, taking him at his word when he said we should end welfare as we know it, and as my friend pointed out, with a modest work requirement.

Mr. KINGSTON. If the gentleman would yield.

Mr. HAYWORTH. He chose to veto it not once but twice. And I yield to my friend from Georgia.

Mr. KINGSTON. If the gentleman would yield. What is interesting is, last September, I think it was September 15, 1995, it was on Larry King Live, the President said about the Republican welfare bill, I like it, it would end welfare as we know it.

And that welfare bill passed the U.S. Senate, which certainly is not an activist conservative body. It passed the U.S. Senate by a vote of 87 to 12. We had all the liberals voting for this one, and the President indicated he was going to sign it and he vetoed it. Vetoed that tough requirement for 20 hours a week work. Vetoed that tough requirement saying illegal aliens could not get taxpayer dollars. And vetoed that tough requirement saying that teenagers need to identify the dads so that they could participate in the uprearing of that baby financially, if nothing else.

But you know what? I think it is probably our fault, and I will tell you why, Mr. HAYWORTH. When the President said I am going to end welfare as we know it, we were not listening. He said I am going to extend welfare as we know it. We missed the E-X-T. I think what he really meant was not end welfare but extend welfare. Because in the 3 years that his watch has taken place on Pennsylvania Avenue, all that we have seen is an extension of welfare, more folks who are able-bodied staying home than ever before.

The poverty rate is up 2 percent higher than when Ronald Reagan was President, and we have now spent $5 trillion on welfare since 1965 and we are not bringing down the poverty rate.

Mr. HAYWORTH. Reclaiming my time, little wonder, then, that the so-called credibility gap of the 1960s, Mr. Speaker, has expanded to this credibility canyon involving the President of the United States who says one thing and then has actions totally, totally in opposition to his rhetoric.

And, Mr. Speaker, again this is not said to score partisan points. Indeed, the irony of what has transpired in the last year and a half is that this new majority has moved to enact many of the programs that our current President championed on the hustings only to abandon once he moved in to 1600 Pennsylvania Avenue.

But it is especially galling to have this situation. And now, in addition to

the credibility canyon, now in addition to the reality of this President extending welfare as we know it rather than ending it, you have the whole new wrinkle known as the Clinton crunch. For, yes, Mr. Speaker, there will be a day of reckoning.

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When this President has the audacity to come back to this Chamber, after standing here at this podium a few short months ago telling us the era of big government is over, and insist that this government, already in arrears to the tune of $5 trillion with the national debt, should expend yet $8 billion more of those dollars which we do not have, it is an incredible assertion, not something to be championed or applauded, but something to be questioned for its very absurdity.

It is indeed frustrating to find those who would give lip service to reform and think not of the next generation but instead of the next election. That is something that my friend from Georgia and I are not here to do, for we are not career politicians.

Let me yield to my friend from Georgia.

Mr. KINGSTON. As the gentleman pointed out, with the veto of the balanced budget and not offering an alternative, what you have done is you said no to lower interest rates because a balanced budget would have lowered interest rates 2 percent. Businesses would have been able to expand. Jobs would have been created. Therefore, you are saying no to lower interest rates, no to new jobs. And also, you are saying no to the $500 per child tax credit, the much-needed tax relief to the middle class in America. That is what we need so desperately.

Mr. HAYWORTH. Reclaiming my time, when you talk about that $500 per child tax credit, I cannot help but think of the people of the Sixth District of Arizona who send me here to represent them. I cannot help but think of a single mother who may have three children, whose spouse may have deserted her, who is working hard, playing by the rules, trying to provide for her family and yes, seeking outside educational skills to heighten her earning potential, despite the trauma that has most assuredly occurred in her personal life.

By denying the $500 per child tax credit, the champions of big government, the champions of expansive and excessive bureaucracy are saying to that single mother, "No, indeed, ma'am. You do not need that $1,500 to spend or save for your family as you see fit. That money instead should be taken from you and given to the bureaucracy in Washington, D.C."

How fundamentally cynical, how philosophically bankrupt, how essentially immoral that notion is. For what we do here is to establish the primacy of the State, the primacy of the bureaucracy instead of the power of the people. In a free society, that young lady struggling to provide for those three children should have that money to spend on those children as she sees fit.

Let me yield to my friend from Georgia.

Mr. KINGSTON. If the gentleman would yield, as things go, had our bill passed into law instead of been vetoed by the President, your constituent would have in her pocket today $1,500 extra which she could use for clothes, for textbooks, for college education accounts and so forth. Instead, that $1,500 did not go to deficit reduction, it went to welfare expansion, other programs such as the AmeriCorps program which pays "volunteers" $26,000 a year, and most of them who end up going through the program end up working for the government, and just countless other bureaucratic, Washington-based command and control programs. You know, I have a lot of faith in the people of Arizona. I have never lived there. I have not visited your fine State as much as I want to.

Mr. HAYWORTH. Reclaiming my time, we absolutely invite you to the great State of Arizona, Mr. KINGSTON. I hope you will visit often.

Mr. KINGSTON. I would like to do that.

Mr. HAYWORTH. You will be back.

Mr. KINGSTON. But I have just as much faith in your folks as I do in mine, and my people would do fine without Washington command and control bureaucrats telling them how they need to run education, telling them how to run the environment, telling them how to run health care, telling them how to run welfare. We have ideas of our own in the First District of Georgia, and we can do fine without Washington bureaucrats.

Just think about what we are doing. We send our money to bureaucrats and then they tell us how to spend it. They get their cut and they send part of it back to us to run programs, and we know these people better than they do. We can do a better job on poverty, right down the street, than people in Washington can.

I often think about that story, and you have heard it, "The Star Tosser." I do not remember the author, do not even remember the name, but the guy walks up and down the beach picking up starfish and he throws them in the water. Every morning he does that after high tide. He throws these starfish back in the water.

Somebody came up to him one day and said, "What are you doing? You cannot save all these washed ashore starfish. There are thousands of them. On a good day, you maybe get 150 of them back in the ocean. What difference could you possibly make?"

The man picked up a starfish and said, "I do not know what difference I make, but I am going to make a heck of a difference to this one right here," and he threw it in the ocean.

Now, the point is, I cannot clear up poverty in Arizona or in California or all over the country. I might not even be able to do it in my own hometown, but I know this: I am going to have a heck of a lot better shot at taking care of poverty in my hometown than I will in your hometown.

Mr. BILBRAY. Will the gentleman yield?

Mr. KINGSTON. What the bureaucrats in Washington are telling us is they are so smart, they can do it in all of our hometowns.

Mr. HAYWORTH. Reclaiming my time, I will be happy to yield to my friend from California.

Mr. BILBRAY. The gentleman from Georgia was just pointing out that the people in the community know how to serve their poor the best and that Washington does not know best.

Let me tell you, as somebody who was a county supervisor in a county of 2.5 million plus people, that we operated a welfare system larger than 32 States. When we ran into welfare fraud, we actually ran into a situation where we realized we did not have pictures on the identification cards that welfare recipients use.

Maybe being a little naive, I, as an administrator of a large welfare system, decided that it was time that we brought the system into the 20th century and put pictures on welfare cards. That is all we were saying, the ability to try to reduce fraud. Washington, D.C. said, "We are not so sure we can allow you to do that because it might violate the privacy of the welfare recipients."

Now I want you to remember that every time you look at your driver's license, and think about the fact that do you honestly think your government is violating your privacy by having you take a photo? I think that common sense approach that we fought so hard for in San Diego, in trying to get the Federal Government off our back and allow us to administer these programs in a reasonable, logical way, just really has to ring true here of saying guys, it has gotten out of control.

Washington is not the only well of wisdom and compassion, and we have got to allow people to address the problems they see in their community and in the programs. As a past administrator, I sure hope this city learns to finally understand to trust the people with freedom and trust them to do the right thing. The American people are good people, and if Washington would just give them enough latitude to do the right thing, American people will do the right thing.

I appreciate the time. I would just like to point out and to say to the gentleman from Georgia, I would like to offer him happy birthday tomorrow. I

VOL
142
PT
6
AP
15
—
24
1996
UMI

hear it is the gentleman's 41st birthday.

Mr. HAYWORTH. Would the gentleman yield?

Mr. BILBRAY. Go ahead.

Mr. HAYWORTH. Forty-one for the youthful visage of the gentleman from Georgia, it is truly amazing.

Mr. KINGSTON. Yes, but I still like rock and roll and do so any chance I get. I just do not want my 13-year-old daughter to know about it.

Mr. BILBRAY. Well, I would just like to say congratulations, and I would like to say it must be the fact they do not get as much sun in the West, so they are better preserved for a while, right?

Mr. HAYWORTH. It could be that, reclaiming my time, or the fact that our dear friend, as my friend from California knows, is just the perfection of physical fitness, as you are, spending time as I know that you do, surfing. I also know that my colleague from California and my friend from Georgia——

Mr. KINGSTON. I hear people laughing through the camera at this point, but I just want to say one think you two could do is eat a little more Vidalia onions.

Mr. HAYWORTH. We would be happy to. I thank my friend for the offer and I am expecting those Vidalia onions, providing they do not violate the gift ban any day now.

Mr. BILBRAY. We will make that ambition our goal.

Mr. HAYWORTH. Let me say, Mr. Speaker, to my friend from California and also my friend from Georgia, as we talked about what in essence has become the act of extending welfare as we know it, and my friend from California especially knows this, we are not only extending welfare benefits to American citizens. No, indeed. We have extended those benefits to folks who are not United States citizens, to those who commonly cross our borders in illegal fashion. I know that is a problem within the State of Arizona and also within the area my friend from California represents.

Mr. BILBRAY. Would the gentleman yield?

Mr. HAYWORTH. I gladly yield to my friend.

Mr. BILBRAY. As somebody who grew up on the border, the absurdity of the way local governments are required to handle these situations, to give you an example, you have the mother of a person born here in the United States, but she is an illegal alien. She will get the check for that child. But the law says that while she is here in the United States, she cannot work and she cannot spend one cent of that money on herself.

Then we wonder why the studies in Los Angeles show that over 70 percent of the recipients that are receiving welfare checks that are illegal aliens are committing welfare fraud. It is because the law is absurd, and I want to point this out.

I think the one thing we do is, we focus on the illegal alien issue or the immigrant issue. It is the absurdity of the rules we make in Washington and that they do not apply in the real world. This is a situation where we may be called mean-spirited, but the fact in Washington is stupid and it is irresponsible. We need to change these things and do something that is maybe a little radical to somebody, and that is do the reasonable thing in Washington, so those of us in California and Arizona and Georgia and across this country can do the reasonable thing.

Mr. HAYWORTH. Reclaiming my time, what is radical within this beltway is reasonable to the people of the United States. I thank my good friend from California for mentioning that fact, and I thank my friend from Georgia for offering real-life experiences of his constituents and the challenges they face.

Indeed, Mr. Speaker, that brings me back to H.R. 2727, the Congressional Responsibility Act, which I sponsor, which simply again redesignates and reemphasizes what Article 1, Section 1 of our Constitution says: All legislative powers herein granted shall be vested in a Congress of the United States.

Mr. Speaker, H.R. 272 does not outlaw executive agencies enacted by this very Congress which now exist within the executive branch. All it does is say that all of those proposed regulations, before they become in essence law published in the Federal Register, should come here to the Congress of the United States in expedited fashion for an up or down vote.

Now, the government experts say, "My goodness, that would require too much time on the part of the Congress of the United States." But, Mr. Speaker and my colleagues, as has been my honor on several occasions of preside as Speaker Pro Tem of this house, I have presided on at least two occasions where this body was engaged in largely ceremonial debate for a ceremonial vote to name Federal installations after noteworthy Americans. Now, I do not criticize that process, but instead I ask this simple question, Mr. Speaker: If this Congress, in the wake of over the last year having cast more votes than any other Congress before it, still can find the time to expend hours of its energy on largely ceremonial votes, cannot this same Congress take the time to fulfill its constitutional obligation as stated in Article 1, Section 1 of the sacred document we call the Constitution of the United States?

Mr. Speaker, it is about this: Reclaiming this government for the American people. As my friend from California pointed out earlier, it is nothing radical; instead, it is reasonable. Indeed, the only way it can be called extreme is in the fashion of making extremely good sense.

Let me yield to my friend from Georgia.

Mr. KINGSTON. I wanted to get back to the gentleman's statement and also Mr. BILBRAY's. He said the Washington bureaucracy is stupid and irresponsible. I do not think anybody paying taxes back home would disagree with that. It is also inefficient.

What really happens, though, I know there are a lot of good people involved in government, elected and unelected. A lot of good folks are called bureaucrats. But you know what I think of having been around a lot of teenagers? I know a lot of teenagers who individually are fine folks, but when you get a pack of them in your living room or a pack of them in your kitchen, strange things happen and all those individual good people turn out to do some pretty stupid things as a pack.

☐ 2245

That is what happens in Washington. These folks need to go back home so they can continue to be good folks, because when they get together the association causes some real inefficient and irresponsible results.

Mr. HAYWORTH. Reclaiming my time, Mr. Speaker, I thank the gentleman, who fast approaches his 45th birthday tomorrow, and again provides the wisdom of his age in the interaction of the teenagers in his household.

Mr. Speaker, I simply thank my good friend, the gentleman from California [Mr. BILBRAY] and my good friend, the gentleman from Georgia [Mr. KINGSTON], who joined us during our special hour.

Mr. Speaker, it is all about this document, the Constitution of the United States, and people being free to decide what is best for themselves and their families, instead of relinquishing that power to a centralized authority in Washington, DC.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of official business.

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT), for today, on account of personal reasons.

Mr. FIELDS of Texas (at the request of Mr. ARMEY), for April 17, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DOGGETT) to revise and extend their remarks and include extraneous material:)

Ms. McKINNEY, for 5 minutes, today.

Mr. FRANK of Massachusetts, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. MINGE, for 5 minutes, today.

(The following Members (at the request of Mr. DICKEY) to revise and extend their remarks and include extraneous material:)

Mr. BILIRAKIS, for 5 minutes, on April 24.

Mr. MICA, for 5 minutes each day, on today and April 24.

Mr. RADANOVICH, for 5 minutes, on April 24.

Mr. COX of California, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

Mr. KASICH, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. MARKEY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following members (at the request of Mr. DOGGETT) and to include extraneous matter:)

Mr. MANTON.
Mr. UNDERWOOD.
Mr. FAZIO of California.
Mr. HAMILTON.
Mr. MILLER of California.
Mrs. KENNELLY.
Mr. LANTOS in two instances.
Ms. McCARTHY.
Mr. KENNEDY of Massachusetts.
Mr. LIPINSKI in three instances.
Mrs. THURMAN.
Mr. DELLUMS in two instances.
Mr. TORRES.
Mr. STARK.
Mr. SCHUMER.
Mr. HOYER in two instances.
Mr. BONIOR

(The following Members (at the request of Mr. DICKEY) and to include extraneous matter:)

Mr. CRANE.
Mr. BACHUS.
Mr. WICKER.
Mr. ZIMMER.
Mr. BURTON of Indiana.
Mr. GILMAN.
Mr. BEREUTER.
Mr. DAVIS.
Mr. NETHERCUTT.
Mr. WOLF.
Mr. BAKER of California.
Mr. PORTER.
Ms. ROS-LEHTINEN.
Mr. TAYLOR of North Carolina.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. COOLEY of Oregon.
Mr. FRAZER.
Mr. ROMERO-BARCELÓ.
Mr. GILCHREST.
Mr. GILLMOR.
Mr. PALLONE.
Mr. TEJEDA.
Mr. STUMP.
Mr. KENNEDY of Rhode Island.
Mr. STOKES in two instances.

ADJOURNMENT

Mr. KINGSTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 24, 1996, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2435. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification that the Department of the Navy intends to offer transfers by grant of two vessels to the Government of Greece, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on National Security.

2436. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification that the Department of the Navy intends to offer transfer by grant of one vessel to the Government of Portugal, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on National Security.

2437. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled the "Maritime Administration Authorization Act for Fiscal Year 1997," pursuant to 31 U.S.C. 1110; to the Committee on National Security.

2438. A letter from the Comptroller of the Currency, transmitting the Department's final rule—Uniform Rules of Practice and Procedure (RIN: 1557–AB43), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

2439. A letter from the Secretary of Education, transmitting notice of final schedule of arbitration fees and expenses—Vending Facility Program for the Blind on Federal and Other Property, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Economic and Educational Opportunities.

2440. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Title I, Part C—Education of Migratory Children (RIN: 1830–ZA03), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Economic and Educational Opportunities.

2441. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's report on the notice of selection criteria, selection procedures, and application procedures for challenge grants for technology in education, pursuant to 5 U.S.C. 801(a)(1)(B); to the Committee on Economic and Educational Opportunities.

2442. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's report on the notice of final funding priorities for Jacob K. Javits Gifted and Talented Students Education Program, pursuant to 5 U.S.C. 801(a)(1)(B); to the Committee on Economic and Educational Opportunities.

2443. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's report on the notice of final funding priorities for Fund for the Improvement of Education Program, pursuant to 5 U.S.C. 801(a)(1)(B); to the Committee on Economic and Educational Opportunities.

2444. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

2445. A letter from the Comptroller General of the United States, transmitting the list of all reports issued or released in March 1996, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

2446. A letter from the Executive Director, Advisory Council on Historic Preservation, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2447. A letter from the Chairman, National Capital Planning Commission, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2448. A letter from the Chairman, National Capital Planning Commission, transmitting the 1995 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100–504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

2449. A letter from the Executive Director, Neighborhood Reinvestment Corporation, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2450. A letter from the President and CEO, U.S. Enrichment Corporation, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2451. A letter from the Clerk, U.S. House of Representatives, transmitting list of reports pursuant to clause 2, rule III of the Rules of the House of Representatives, pursuant to Rule III, clause 2, of the Rules of the House (H. Doc. No. 104–199); to the Committee on House Oversight and ordered to be printed.

2452. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Electronic Filing of International Air Passenger Service Rules (RIN: 2105–AC23), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2453. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Medals of Honor (RIN: 2105–AC41), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2454. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—National Security Information (RIN: 2105–AC40), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2455. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Use of the Official Seal (RIN: 2105–AC39), pursuant to 5

VOL
142
PT
6
AP
15
—
24
1996
UMI

U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2456. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Staff Assignments and Review of Actions Under Assignments (RIN: 2105–AC38), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2457. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Release of Internal Staff Memoranda Relating to Public Meetings of the Civil Aeronautics Board (RIN: 2105–AC42), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2458. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Aviation Economic Rules: Correcting Obsolete References (RIN: 2105–AC46), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2459. A letter from the Chief, Regulations Unit, Department of the Treasury, transmitting the Department's final rule—Revenue Procedure 96–30, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2460. A letter from the Secretary of Labor, transmitting the Department's report to Congress on the number of training waivers issued under section 231(c)(1) of the Trade Act of 1974 to workers determined eligible for trade readjustment allowances [TRA], pursuant to section 231(c)(3) of the Trade Act of 1974, as amended; to the Committee on Ways and Means.

2461. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the Board's sixth annual report to Congress on health and safety activities; jointly, to the Committees on National Security and Commerce.

2462. A letter from the Acting Director, Office of Thrift Supervision, transmitting the Office's 1995 annual consumer report to Congress, pursuant to public Law 101–73, Section 301, (103 Stat. 279); jointly, to the Committees on Banking and Financial Services and Commerce.

2463. A letter from the Physician Payment Review Commission, transmitting the Commission's 1996 annual report, pursuant to 42 U.S.C. 1395w–1(c)(1)(D); jointly, to the Committees on Ways and Means and Commerce.

2464. A letter from the Assistant Secretary of the Army, transmitting a draft of proposed legislation entitled the "Water Resources Development Act of 1996"; jointly, to the Committees on Transportation and Infrastructure, Resources, Commerce, and Banking and Financial Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee on Commerce. H.R. 2024. A bill to phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and certain other batteries, and for other purposes; with an amendment (Rept. 104–530). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1823. A bill to amend the Central Utah Project Completion Act to direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and November 26, 1985, and for other purposes; with an amendment (Rept. 104–531). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules. House Resolution 409. Resolution providing for consideration of the bill (H.R. 2715) to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies (Rept. 104–532). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 410. Resolution providing for consideration of the bill (H.R. 1675) to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes (Rept. 104–533). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 411. Resolution providing for consideration of the joint resolution (H.J. Res. 175) making further continuing appropriations for the fiscal year 1996, and for other purposes (Rept. 104–534). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MONTGOMERY:

H.R. 3285. A bill to amend title 38, United States Code, to restore the authority of the Secretary of Veterans Affairs to establish research corporations at medical centers in the Veterans Health Administration; to the Committee on Veterans' Affairs.

By Ms. MOLINARI (for herself, Mr. Archer, Mr. Bunning of Kentucky, Ms. Pryce, Mr. Solomon, Mr. Tiahrt, and Mr. Shaw):

H.R. 3286. A bill to help families defray adoption costs, and to promote the adoption of minority children; to the Committee on Ways and Means for a period ending not later than May 3, 1996, and in addition to the Committees on Resources and Economic and Educational Opportunities for a period ending not later than April 30, 1996, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARRETT of Nebraska:

H.R. 3287. A bill to direct the Secretary of the Interior to convey the Crawford National Fish Hatchery to the city of Crawford, NE; to the Committee on Resources.

By Mr. BROWDER:

H.R. 3288. A bill to direct that funds appropriated to the Department of Defense for fiscal year 1996 for certain medical research relating to illnesses suffered by veterans who served in the Persian Gulf war shall be obligated in accordance with peer review procedures of the Food and Drug Administration; to the Committee on National Security.

H.R. 3289. A bill to grant jurisdiction to the States over new gambling activities conducted on Indian lands; to the Committee on Resources.

By Mr. COOLEY (for himself, Mr. Young of Alaska, Mr. Hansen, and Mr. Regula):

H.R. 3290. A bill to authorize appropriations for the Bureau of Land Management for each of the fiscal years 1997 through 2002; to the Committee on Resources.

By Ms. DUNN of Washington:

H.R. 3291. A bill to require the President to submit a separately identified appropriation request to provide priority funding for the national parks of the United States, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. HINCHEY (for himself, Mr. Filner, Mr. DeFazio, and Mr. Dellums):

H.R. 3292. A bill to amend title XVIII of the Social Security Act to provide for coverage of qualified acupuncturist services under part B of the Medicare Program, and to amend title 5, United States Code, to provide for coverage of such services under the Federal Employees Health Benefits Program; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY:

H.R. 3293. A bill to amend title XIV of the Public Health Service Act (commonly known as the Safe Drinking Water Act) to establish a screening program for estrogenic substances; to the Committee on Commerce.

By Mr. MORAN (for himself, Mr. Kennedy of Massachusetts, Mr. Frazer, Mr. Green of Texas, Ms. Norton, Mr. Stupak, Mr. Bryant of Texas, Mr. Wilson, Mr. Lipinski, Mr. Rangel, Ms. Kaptur, Mr. Sanders, and Ms. McKinney):

H.R. 3294. A bill to amend the Foreign Assistance Act of 1961 to withhold U.S. assistance from countries determined to be violating the human rights of working children, and for other purposes; to the Committee on International Relations.

By Mrs. MORELLA:

H.R. 3295. A bill to amend title 5, United States Code, to extend the treatment currently afforded to Federal judges under the Federal Employees Group Life Insurance Program to certain other judicial officials, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NETHERCUTT (for himself, Mr. Calvert, Ms. Lofgren, Mr. Weller, Ms. Dunn of Washington, Mr. Bereuter, and Mr. Skeen):

H.R. 3296. A bill to amend the Family and Medical Leave Act of 1993 to apply the same employer requirements to all persons; to the Committee on Economic and Educational Opportunities, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBERSTAR:

H.R. 3297. A bill to provide for improved access to and use of the Boundary Waters Canoe Area Wilderness, and for other purposes; to the Committee on Resources.

H.R. 3298. A bill to provide for the establishment of the Voyageurs National Park Intergovernmental Council, and for other purposes; to the Committee on Resources.

By Mr. ROMERO-BARCELO (for himself and Mr. Underwood):

H.R. 3299. A bill to amend the Federal Water Pollution Control Act to allow certain States, including the territories of the United States, to apply for waivers from secondary treatment requirements for certain ocean discharges, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SMITH of New Jersey (for himself, Mr. Bartlett of Maryland, and Mr. Dornan):

H.R. 3300. A bill to amend title 10, United States Code, to prohibit the Department of Defense from selling, renting, or otherwise providing sexually explicit material to any individual; to the Committee on National Security.

By Ms. WATERS:

H.R. 3301. A bill to amend the Community Reinvestment Act of 1977 to require consideration of a depository institution's record with regard to the number and amount of fees imposed by the institution on consumer accounts and consumer transactions, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 3302. A bill to amend the Federal Deposit Insurance Act to provide additional deposit insurance coverage for accounts at depository institutions which reduce net fee income in any year by 50 percent or more, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. WELDON of Pennsylvania (for himself and Mr. Kennedy of Rhode Island):

H.R. 3303. A bill to establish a national oceanographic partnership program to promote the national goals of assuring national security, advancing economic development, protecting quality of life, and strengthening science education through oceanographic research and development; to the Committee on Resources, and in addition to the Committees on National Security, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Florida:

H.R. 3304. A bill to amend the Water Resources Development Act of 1986 and the Internal Revenue Code of 1986 to authorize expenditures from the harbor maintenance trust fund for certain beach erosion projects; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LIVINGSTON:

H.J. Res. 175. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations, and in addition to the Committees on Banking and Financial Services, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 72: Mr. Gibbons.
H.R. 206: Mr. Farr.
H.R. 448: Mr. English of Pennsylvania.
H.R. 449: Mr. English of Pennsylvania.
H.R. 940: Mr. Hall of Ohio.
H.R. 973: Mr. Hayes.
H.R. 1202: Mr. Dornan.
H.R. 1210: Mr. DeFazio and Mr. Mascara.
H.R. 1500: Mr. Fawell.
H.R. 1627: Mr. Campbell.
H.R. 1692: Mr. Fox.
H.R. 1693: Mr. Fox.
H.R. 1694: Mr. Fox.
H.R. 1695: Mr. Fox.
H.R. 1713: Mr. Ney.
H.R. 1776: Mr. Foglietta, Mr. Condit, Ms. DeLauro, Mr. Torricelli, Mr. McCrery, and Mr. Ehrlich.
H.R. 1889: Mr. Campbell, Ms. Woolsey, and Mrs. Lowey.
H.R. 1893: Mr. Engligh of Pennsylvania.
H.R. 2011: Mr. Ramstad and Mr. Jackson.
H.R. 2024: Mr. Weller.
H.R. 2026: Mr. Cardin, Mr. Manton, Mr. Brewster, Mrs. Lowey, Mr. Oberstar, Ms. Furse, Mr. Ballenger, Mr. Herger, Mr. Gibbons, and Mr. Moakley.
H.R. 2128: Mr. Sam Johnson and Mr. Bliley.
H.R. 2193: Mr. Coleman, Mr. McKeon, Mr. Dellums, Mr. Ortiz, and Mr. Combest.
H.R. 2270: Mr. Calvert.
H.R. 2342: Mr. Rohrabacher.
H.R. 2548: Mr. Montgomery, Mr. Orton, Mr. Manzullo, and Mr. Frelinghuysen.
H.R. 2651: Ms. Waters, Mr. Ensign, and Mr. Jackson.
H.R. 2724: Mr. Oberstar, Mr. Holden, Mr. Yates, Mr. Markey, and Mr. Brown of Ohio.
H.R. 2725: Mr. Oberstar, Mr. Holden, Mr. Yates, Mr. Markey, and Mr. Brown of Ohio.
H.R. 2795: Mr. English of Pennsylvania.
H.R. 2796: Mr. Green of Texas and Mr. Gordon.
H.R. 2803: Mr. Hamilton.
H.R. 2807: Mr. Manton, Mr. Frazer, and Mr. Gilman.
H.R. 2820: Mrs. Fowler and Mr. English of Pennsylvania.
H.R. 2910: Mr. Lipinski and Ms. Norton.
H.R. 2933: Mr. Johnson of South Dakota.
H.R. 2968: Mr. Baker of Louisiana.
H.R. 2978: Mr. Fazio of California.
H.R. 3059: Mr. Borski and Mr. Engel.
H.R. 3067: Mr. Brown of California, Mr. Deutsch, and Mr. Bereuter.
H.R. 3119: Mr. Ney
H.R. 3142: Mr. Thornberry, Mr. Collins of Georgia, Mr. Young of Alaska, Mr. Gilman, Mr. Herger, Mr. Everett, and Mr. Pastor.
H.R. 3149: Mr. Camp.
H.R. 3195: Mr. Inglis of South Carolina, Mr. Calvert, Mr. Clyburn, and Mr. Spratt.
H.R. 3226: Mrs. Morella.
H.R. 3246: Ms. DeLauro.
H.R. 3261: Ms. Furse and Mr. Orton.
H.R. 3267: Mrs. Kelly, Mr. Traficant, Mr. Nadler, Mr. Boehlert, and Mr. Coble.
H.J. Res. 127: Mr. Allard.
H. Con. Res. 10: Mr. Johnson of South Dakota.
H. Con. Res. 47: Mr. Obey, Mr. Johnson of South Dakota, Mr. Bryant of Texas, and Ms. DeLauro.
H. Con. Res. 50: Mr. Emerson.
H. Con. Res. 154: Mr. Lazio of New York, Mr. Kennedy of Rhode Island, Mr. Gonzalez, Mr. Lewis of California, Mr. Jackson, Mr. Ballenger, Mr. Tate, Mrs. Fowler, Mr. Kildee, Mr. Stupak, Mr. Bilirakis, Mr. Andrews, Mr. Zeliff, Mr. Lewis of Georgia, Mr. Blute, Mr. Barton of Texas, Mr. Taylor of North Carolina, Mr. Moran, Mrs. Myrick, Mr. Orton, Ms. Kaptur, Mr. Hastings of Florida, Mr. Hyde, Mr. Kennedy of Massachusetts, Mr. Dellums, Mr. Payne of New Jersey, Ms. Woolsey, Mr. DeFazio, Mr. Franks of New Jersey, and Ms. DeLauro.
H. Res. 49: Mr. Waxman and Mr. Bereuter.

AMENDMENTS

Under clause 6 of the rule XXIII, proposed amendments were submitted as follows:

H.R. 1675

Offered By: Mr. Nadler

(Page and line number references are to Amendment No. 1)

Amendment No. 3: Strike section 10 (page 23, lines 3 through 10).

H.J. Res. 175

Offered By: Mr. Gekas

Amendment No. 1: At the appropriate place, insert the following new section:

SEC. . AUTOMATIC CONTINUING RESOLUTION.

(a) In General.—Chapter 13 of title 31, United States Code, is amended by inserting after section 1310 the following new section:

"§1311. Continuing appropriations

"(a)(1) If any regular appropriation bill for a fiscal year does not become law prior to the beginning of such fiscal year or a joint resolution making continuing appropriations is not in effect, there is appropriated, out of any moneys in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, such sums as may be necessary to continue any project or activity for which funds were provided in the preceding fiscal year—

"(A) in the corresponding regular appropriation Act for such preceding fiscal year; or

"(B) if the corresponding regular appropriation bill for such preceding fiscal year did not become law, then in a joint resolution making continuing appropriations for such preceding fiscal year.

"(2) Appropriations and funds made available, and authority granted, for a project or activity for any fiscal year pursuant to this section shall be at a rate of operations not in excess of the lower of—

"(A) the rate of operations provided for in the regular appropriation Act providing for such project or activity for the preceding fiscal year,

"(B) in the absence of such an Act, the rate of operations provided for such project or activity pursuant to a joint resolution making continuing appropriations for such preceding fiscal year,

"(C) the rate of operations provided for in the House or Senate passed appropriation bill for the fiscal year in question, except that the lower of these two versions shall be ignored for any project or activity for which there is a budget request if no funding is provided for that project or activity in neither version,

"(D) the rate provided in the budget submission of the President under section 1105(a) of title 31, United States Code, for the fiscal year in question, or

"(E) the annualized rate of operations provided for in the most recently enacted joint resolution making continuing appropriations for part of that fiscal year.

"(3) Appropriations and funds made available, and authority granted, for any fiscal year pursuant to this section for a project or activity shall be available for the period beginning with the first day of a lapse in appropriations and ending with the earlier of—

"(A) the date on which the applicable regular appropriation bill for such fiscal year becomes law (whether or not such law provides

VOL
142
PT
6
AP
15
—
24
1996
UMI

for such project or activity) or a continuing resolution making appropriations becomes law, as the case may be, or

"(B) the last day of such fiscal year.

"(b) An appropriation or funds made available, or authority granted, for a project or activity for any fiscal year pursuant to this section shall be subject to the terms and conditions imposed with respect to the appropriation made or funds made available for the preceding fiscal year, or authority granted for such project or activity under current law.

"(c) Appropriations and funds made available, and authority granted, for any project or activity for any fiscal year pursuant to this section shall cover all obligations or expenditures incurred for such project or activity during the portion of such fiscal year for which this section applies to such project or activity.

"(d) Expenditures made for a project or activity for any fiscal ear pursuant to this section shall be charged to the applicable appropriation, fund, or authorization whenever a regular appropriation bill or a joint resolution making continuing appropriations until the end of a fiscal year providing for such project or activity for such period becomes law.

"(e) No appropriation is made by this section for a fiscal year for any project or activity for which there is no authorization of appropriations for.such fiscal year.

"(f) This section shall not apply to a project or activity during a fiscal year if any other provision of law (other than an authorization of appropriations)—

"(1) makes an appropriation, makes funds available, or grants authority for such project or activity to continue for such period, or

"(2) specifically provides that no appropriation shall be made, no funds shall be made available, or no authority shall be granted for such project or activity to continue for such period.

"(g) For purposes of this section, the term 'regular appropriation bill' means any annual appropriation bill making appropriations, otherwise making funds available, or granting authority, for any of the following categories of projects and activities:

"(1) Agriculture, rural development, and related agencies programs.

"(2) The Departments of Commerce, Justice, and State, the judiciary, and related agencies.

"(3) The Department of Defense.

"(4) The government of the District of Columbia and other activities chargeable in whole or in part against the revenues of the District.

"(5) The Departments of Labor, Health and Human Services, and Education, and related agencies.

"(6) The Department of Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices.

"(7) Energy and water development.

"(8) Foreign assistance and related programs.

"(9) The Department of the Interior and related agencies.

"(10) Military construction.

"(11) The Department of Transportation and related agencies.

"(12) The Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

"(13) The legislative branch.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1310 the following new item:

"1311. Continuing appropriations.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning after September 30, 1995.

EXTENSIONS OF REMARKS

TRIBUTE TO STEPHEN FLATOW

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. ZIMMER. Mr. Speaker, I rise today to honor Mr. Stephen Flatow, who will be the grand marshall of the Israel Independence Day Parade in Flemington, NJ, on Wednesday, April 24, 1996.

Stephen has suffered a tragic loss—his 20-year-old daughter was killed in a bus bombing in the Gaza Strip last year. Alisa Flatow has gone to Israel to continue the religious studies that were so important to her and her Jewish faith when a suicide bomber drove his car into the bus carrying Alisa and other students to a vacation spot near the Red Sea.

Although his loss was devastating and irreplaceable, Stephen Flatow has been able to help other families by giving speeches and attending events to talk about the tragic bombings that occur in Israel all too frequently and to raise money for the Alisa Flatow Memorial Fund to help send young Jews to Israel to continue their religious studies.

Stephen will be the grand marshal at this parade to celebrate Israel's 48th birthday, to express Jewish solidarity with Israel, and to show support for the more than 1,000 people who have been injured or killed in terrorist attacks in Israel.

I would like to take this opportunity to join the Jewish community, the parade participants and the members of the Flemington Jewish Center in honoring Stephen Flatow. His faith and courage have helped him through this tragedy and allowed him to educate and help others. He is well deserving of the honor to serve as grand marshall of the Salute to Israel Parade this week.

TRIBUTE TO THE MEMBERS OF THE GIRL SCOUTS OF OUR LADY OF CHARITY AND LINCOLN SCHOOLS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to a group of outstanding young women from my district who are a credit to the Girl Scouts and their community.

Ten members of the troop based at Our Lady of Charity and Lincoln Schools in Cicero, IL were recently recognized for their good works with two different religious awards.

Chantel Bruno, Nicole Grimes, and Lindsay Pisarczyk were honored with the Marion Award during a ceremony at Holy Name Cathedral in Chicago. Christine Braun, Trisha Esparza, Emilia Huerta, Dalese White, Laura Vietmeyer, and Rose Villareal received the "I Live My Faith" award at a ceremony in our Lady of Charity Church in Cicero.

Among the girls' activities was a Christmas party they organized at a local nursing home, including preparing treats to meet the special dietary needs of residents.

Mr. Speaker, I commend these outstanding Girl Scouts on these honors, and extend to them my best wishes for the future.

NATIONAL CRIME VICTIMS WEEK

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. GILMAN. Mr. Speaker, April 21 through April 27 has been designated as National Crime Victims Week. I was pleased to participate in the commemoration of this important observance yesterday by attending a tree planting and memorial ceremony in our Orange County Park in Montgomery, NY.

Too often, victims are forgotten or overlooked by society in its efforts to combat violent crime. The search for justice and the punishment of criminals frequently takes precedence over compassion and support for the victims they violated. Justice, however, includes the assistance of victims as well as the punishment of criminals. Promotion of victim awareness and the provision of necessary services to those caught in crime's way are vital components of our outlook toward crime.

I thank Dimitrios Lambros and Patty Bodnar of MADD, as well as the Orange County Probation Department, for sponsoring yesterday's ceremonies. I also commend the Rape Crisis Services, Survivors of Homicide Victims, Orange County Safe Homes, Stop DWI, and all the other victims' groups who were in attendance. Each of these volunteer organizations perform a valuable service by highlighting the plight of all those victimized by crime, be it violent or otherwise. Through compassionate counseling and sensitive assistance, these nonprofit groups help people overcome the trauma and human suffering which often result from violent crime.

This week I salute victims' groups everywhere in their noble efforts to provide support and assistance to all victims of crime.

IN OBSERVANCE OF EARTH DAY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. STOKES. Mr. Speaker, it was just 1 year ago when this nation celebrated the 25th anniversary of the original Earth Day. In the time since last year's observance, our Nation has engaged in one of the most spirited debates ever about the environment. What this debate highlights is that there is a delicate balance between our Nation's overall well-being and the ecosystem in which we live. There can be no doubt that protecting the environment is important—the health and economic future of this country and its well being are dependent upon this essential investment.

In my own city of Cleveland, we have much to be proud about when we consider the enormous gains the city has made with regards to our natural resources. Cleveland now enjoys a river and lake free from many pollutants and hazards. In addition, the region was recently advised by EPA that it now meets Federal health-based ozone standards. For many years it had not.

Unfortunately, despite the progress that we have made to improve the environment across the Nation, under the new leadership in Congress, environmental progress and programs are now in question. In fact, I worry that in their efforts to enact the "Contract With America", our Republican colleagues seek to turn back the clock on environmental achievements by squandering this country's precious natural resources. A prime example of how low a priority the environment is on their agenda, the GOP Contract With America did not even contain the word environment. We know, however, of the contract's proposal for sweeping language calling for so-called "Regulatory Reform" that in fact would eliminate and cut back proven and essential regulations designed to protect the public health and environment.

Further, Mr. Speaker, as we celebrate Earth Day, the Congress has yet to resolve the fiscal year 1996 appropriations bill for the Environmental Protection Agency. The proposed reductions to critical EPA programs were among the key reasons that the President vetoed the bill when it was first passed by the Congress—not to mention the fact that this piece of legislation would roll back decades of progress in environmental protection. I commend the President for vetoing this bill.

However, even after all that the Democrats in Congress and the administration have done to safeguard the environment, the assault against the environment is not over. While it appears that additional funds may be provided for the fiscal year 1996 EPA appropriations, harmful language is still included. Furthermore, our Republican colleagues are still pushing legislation that ultimately may reverse many environmental regulations.

Mr. Speaker, Americans from all walks of life have let us know loud and clear that reversing this nation's progress toward clean streams and lakes, clean air, safe drinking water, food safety and other national environmental goals is not acceptable. Let us heed their call and enact genuine environmentally-safe legislation this Congress.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 142 PT 6 AP 15 — 24 1996 UMI

IN COMMEMORATION OF EARTH DAY 1996

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LANTOS. Mr. Speaker, I rise today to celebrate Earth Day 1996 with citizens from around the world. The first Earth Day in 1970 rallied over 20 million Americans from around the country to learn about our environment. Conceived by Senator Gaylord Nelson and organized by Dennis Hayes, Earth Day events have featured some of the largest grassroots mobilizations in U.S. history. These early events helped create the modern environmental movement and led directly to the first environmental legislation—the Clean Air and Clean Water Acts.

In the late 1980's, Dennis Hayes decided it was time to expand Earth Day internationally and to renew environmental concern in the United States. Earth Day is now a highly anticipated annual event held in April that draws upon the resources, concern, and energy of countless individuals throughout our planet for the critical purpose of preserving it.

Earth Day is a gentle reminder to all of us that the environment is everyone's issue. Earth Day observance rekindles public commitment, broadens the base of support for environmental programs, and encourages participation from every group, including the business community. Earth Day is a successful catalyst for ongoing environmental education, action and change. Earth Day activities offer important points of entry to address worldwide environmental concerns as well as opportunities for individuals and communities to focus on their local environmental problems.

Residents of my congressional district are planning a variety of events under the direction of the Bay Area Action group. Some community gardens will host volunteer work parties on Earth Day weekend while some restaurants will offer "Earth Day Meals." These events and efforts characterize a national will to improve and protect our environment for ourselves, our children, and our grandchildren.

There is clearly a hunger in our Nation today, not only for more security or for more economic opportunity, but also for something which we can all be involved in that is larger than ourselves and that will have a lasting and positive impact. Reclaiming our rivers, our forests, improving the quality of our air, and limiting the volume of waste we generate, are the causes of a committed generation of human beings doing their part for the betterment of our planet as a whole.

We are fighting a serious uphill battle, however. The new majority in Congress, this past year, has turned its back repeatedly on our environment. There is no question that this has been the most antienvironmental Congress in recent history and the blame, undoubtedly, falls squarely upon the shoulders of the majority of this House. Let us not belittle the meaning of Earth Day with phony rhetoric; let us match the commitment from our citizens with actions that safeguard our future.

Three decades ago, President Kennedy said, "It is our task and our time in our generation to hand down, undiminished to those who come after us, as was handed down to us by those who came before, the natural wealth and beauty which is ours." It is time to recommit ourselves to these same values that originally made America unique.

The preservation of our environment is not synonymous with erosion of the economy. It does mean, however, that Congress has tough choices to make. We cannot deny the fact that Government has an important role in helping to preserve the natural beauty of our rivers, our forests, our mountains, our beaches, and our parks.

Earth Day reminds us that we share the air, the water, the planet and our destiny with all the people of the world. Our efforts must extend beyond our borders to help people in poorer countries understand the effects of their actions. Every country is interconnected; a potential environmental catastrophe can affect us all. That certainly is the message as we come upon the 10th anniversary of the Chernobyl disaster in Russia, at the same time that we mark Earth Day. The United States should lead the world by being a shining example.

Mr. Speaker, that is why I stand here today, requesting the support of my colleagues. We must never turn our back on our Nation's environment. I hope that the antienvironment trend of this Congress can be overcome with tangible legislation that recommits our Government to protecting our environment.

Mr. Speaker, we can all learn from the millions of individuals who will participate in Earth Day this year and years to follow. Ultimately, it is through them that we must come to understand that part of our common responsibility to the future is preserving our environment today. Let us not acquiesce to the defilement of our environment; we must not let our inaction serve as a precedent for emerging nations throughout the world to ignore their role in preserving it. There can be no greater legacy that we leave behind for our children and grandchildren than a world secure in its commitment to a healthy and environmentally sound future.

TRIBUTE TO WILLIAM C. CASSELL ON THE OCCASION OF HIS RETIREMENT FROM HEIDELBERG COLLEGE

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to an outstanding citizen from Tiffin, OH. Dr. William C. Cassell, president of Heidelberg College has announced he will retire at the end of this school year.

Dr. Cassell's retirement marks the end of a 16 year era in Heidelberg's development. In 1980, William Cassell became the 11th President of Heidelberg College, one of Ohio's oldest colleges. Under his leadership, the college has made a significant turnaround, enjoying a large increase in enrollment, the elimination of huge deficits, and widespread recognition as a leaders in innovation liberal arts and international education.

Heidelberg College is a selective, independent, liberal arts college situated atop College Hill in Tiffin, OH. For 8 consecutive years, it has been ranked as "One of America's Best Colleges" by U.S. News and World Report.

There is a saying about education that brings President Cassell to mind. "When you teach the people, you reap hundred harvests." William Cassell, after a career of distinguished service, should feel the deep satisfaction that comes from creating the harvests of our future. He has been a creative, innovative, and reliable education leader. Over the years, he has worked tirelessly to make the best possible use of Heidelberg's resources for the sake of the education of each student. In the process, he has led a staff and an education community that has mirrored his special sense of dedication and service.

William Cassell's commitment to education has stretched far beyond Heidelberg's campus. He was chosen by the former President of the United States as one of 10 appointees to the Advisory Council on the White House Conference on Library and Information Services. In 1988, the former Governor of Ohio appointed Cassell as one of nine members of the Ohio Higher Education Facilities Commission. Internationally, Cassell is the Honorary Royal Cousul General of Nepal. He was a member of missions for American Management Techniques to Indonesia and Jamaica, and chief of a mission to Thailand. He is on the executive committee of the International Education of the American Council of Education. Along the way, he has always earned the respect and admiration of his peers in the field.

I ask my colleagues to join me today in recognizing Dr. William Cassell on the occasion of his retirement, and wish him, his wife Jeanne, and their three children, Paul, Susan, and David, all the best in the years ahead.

EARTH DAY 1996

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. MANTON. Mr. Speaker, I rise today in recognition of Earth Day 1996. During this Congress it is especially crucial to emphasize the significance and purpose of this nationally recognized day. Since 1970, this country has set aside 1 day a year to highlight the importance of environmental conservation and preservation. But protecting the environment and our national resources is not a once a year project, it is about the way we choose to live our lives.

Mr. Speaker, the nationwide recognition of this day illustrates the overwhelming public concern over how the natural and man-made world should interact. While I support efforts to relieve businesses of undue redtape, I believe it is possible to do so without also reducing protection of our air, water and other natural resources. Although striking a balance is often difficult, it is necessary for the long-term health of both the environment and the economy.

As a Member of this esteemed body, I am pleased with the role Congress has played over the past 26 years. Passage of legislation such as the Clean Water Act, Clean Air Act, the Endangered Species Act, among others, has been instrumental in cleaning our environment and protecting our valuable natural resources. It is our responsibility as legislators to continue to respond to the public and its priorities through enactment and renewal of these most important environmental laws.

Mr. Speaker, I am hopeful that this day will be a reminder to Congress that the management of our resources is of vital importance. The decisions we make today will impact not only our future, but all future generations.

TRIBUTE TO OUR LADY OF THE RIDGE'S FIFTH GRADE GIRLS' BASKETBALL TEAM

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to an outstanding group of young ladies from my district, the fifth grade girls' basketball team of Our Lady of the Ridge School in Chicago Ridge.

This squad of eight determined players won the South Suburban Catholic Basketball League title this season, the school's first ever championship. The girls combined strong rebounding, spirited defense, and relentless hustle into a 14 win season.

Mr. Speaker, I congratulate coaches Brad Grove and Mike Liston, as well as their players: Katie Pratl, Kellie Pratl, Jackie Grove, Colleen Madej, Kelly Liston, Megan Liston, Laura Dirschl, Katie Roe, and the ever so accurate score keeper, Ron Pratl. I wish them continued success on and off the court for a job well done.

HONORING THE BEST OF RESTON AWARD WINNERS FOR 1996

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. DAVIS. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to the individuals and businesses who are this years winners of the Best of Reston Awards. The Best of Reston Community Service Award was created to recognize companies, organizations and individuals who have made outstanding contributions to community service, and/or who have improved the lives of people in need in Reston, VA.

Tom Bartelt for his 25 years of service to the Greater Reston community through his role as the television eyes and ears of the community. As community program manager for Warner Cable, Tom Bartelt was there at the beginning, first as a volunteer, and then as staff, covering events big and small. He also helps local charities, giving selflessly of his time and talents to encourage young people in the broadcasting field and keeping community television alive and directed in the right spirit.

James Cleveland for his unique and direct impact on the quality of life in Reston and for serving as a role model for others in his approach to community service. As a driving force behind Mobile Land, Jim Cleveland has created the atmosphere for corporate pride and participation in support of civic causes as demonstrated in Reston's status as an internationally recognized example of excellence in community planning. He has also demonstrated a true sense of community and civic affairs, including Greater Reston Arts Center, YMCA of Metropolitan Washington, Washington Airports Task Force, Northern Virginia Transportation Alliance and the Greater Reston Chamber of Commerce. By both his positioning of Reston Land as a good corporate citizen and through his own leadership role in the community, Jim Cleveland has served the social, artistic, and business fabric of the Reston community.

Judy Duncan for her selfless dedication and willingness to go above and beyond to serve the needs for those in crisis through her Duncan Answering Service and the Herndon-Reston F.I.S.H. (Friendly, Instant, Sympathetic Help). Judy Duncan has been a key part of F.I.S.H. for many years and has touched and assisted hundreds of people during those years. From her initial role as one needing help during a medical crisis to being a volunteer to becoming the person who initiated a way for others to receive help through an answering service, Judy Duncan is one of the quiet people who make things happen. When a void developed, Judy created the Duncan Answering Service to field the many calls F.I.S.H. receives from those in need. On average, 75 to 100 calls are received daily and are referred to appropriate agencies or individuals to assist. For her role in volunteering and creating this selfless service, we honor Judy Duncan.

Lee A. Rau for years of consistent volunteer and community involvement. Motivated by a strong desire to give back, Lee has made a lifetime commitment to making Reston a better place. He is a longtime supporter of Reston Interfaith and the Greater Reston Arts Center and has served as President of the Board of both organizations. He supported early efforts to establish both Laurel Learning Center and the Embry Rucker Community Shelter. Early on, Lee recognized a need for more affordable housing and he has worked tirelessly for over 20 years to see that it would be built. Currently and concurrently, he is taking a lead to develop a permanent home for GRACE. Lee Rau is a dedicated member of the community and is honored for his work in many areas.

Patriot National Bank is honored for its role as a good corporate citizen and for going beyond the purpose of a business to help, care and contribute to the quality of life of all citizens of the community, not just its customers. Patriot National Bank has demonstrated its commitment through many avenues: number one provider of SBA loans in Reston area; providing funding for the Market in the Woods; providing below market funding for homeowner's associations and South Lakes High School student bank; and encouraging service on community boards and committees by its officers and employees. The activities and outreach of Patriot National Bank, a "homegrown bank," have made Reston a better place to live and work.

Reston Hospital Center for its role as a corporate leader in community service and for its commitment to improve the health of our entire community by an extensive outreach program of health and wellness. Since its inception, Reston Hospital Center has demonstrated its concern for the welfare of others in the community through active participation in the United Way Campaign, American Heart Association, area religious organizations, Greater Reston Chamber of Commerce, Reston Interfaith, Meals on Wheels, Reston Triatholon, Red Cross blood drives. In 1995, Reston Hospital Center provided millions of dollars in taxes, charity and uncompensated care to the community. The hospital employs more than 800 area residents, have over 200 weekly volunteers and has a dedicated staff which contributes to local high school health care scholarship programs. More than 5,000 people benefited from screening and health programs sponsored by the hospital in 1995. As an integral part of the community, Reston Hospital Center provides unsurpassed care and reaches out to all citizens as an exemplary health care resource.

Reston Town Center Associates for further developing Reston's sense of community by providing a vibrant place for people to come together and for their support of worthy causes. Reston Town Center Associates have always been willing to offer a gathering place and to support many groups who do volunteer and non-profit work. They have improved the quality of life of all members of the community, especially the elderly and children through free events such as Take-a-Break Concerts, the Holiday Parade, Meet Me at the Movies, and Mother's and Father's Day events. They have supported many worthy causes such as GRACE, Cystic Fibrosis, American Diabetes, Reston Interfaith, Children's Hospital and the Multiple Sclerosis Society. More than $309,385 has been raised for non-profit groups. In addition, another $17,900 has been donated to local non-profit groups by the Mobil Foundation and the Mercury Foundation. In 1995 more than 5 million people visited Reston Town Center.

Mr. Speaker, I know my colleagues join me in honoring the "Best of Reston" Award winners for all of their hard work in making their community a better place to live.

HAIL TO THE "CHIEF"

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. DELLUMS. Mr. Speaker, it brings me sadness and honor to pay final tribute to Charles Alfred "Chief" Anderson, the "father of black aviation." He died on Saturday, April 12, 1996, at his home in Tuskegee, AL, at the age of 89. A premier aviator, the apex of his career came in 1941 when Mrs. Eleanor Roosevelt, the wife of President Franklin D. Roosevelt, asked him to take her for a flight over Tuskegee Institute, Alabama, against the tremendous opposition of her entourage. Mrs.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Roosevelt risked her life with a Negro aviator because she saw no reason why Negro men could not fly. Shortly thereafter, Tuskegee was selected to participate in a program with the U.S. Army Air Corps to find out if Negro men could measure up as military pilots. Their records speak for themselves.

Anderson's love for flying began at an early age when he lived in Virginia. When he heard there was an airplane in the vicinity, he would run to see it. People said about him, "That boy's crazy. He'd have to be crazy to be thinking about flying." To that, Chief replied: "I thought they were the crazy ones."

For Anderson, getting a pilot's license was not easy. Anderson continuously ran into clouds of racial prejudice. He was denied entry to Drexel Institute Aviation School in 1920 because of his race. He was also told "no" by the Army which did not allow black pilots before World War II. He finally found a friend in Mr. Ernest Buehl, a German World War I pilot, known as the Flying Dutchman, who started an airport in Philadelphia, PA. Under Buehl's guidance and instruction, Anderson finally received a transport license in 1932, thus becoming the first black pilot to hold an air transport license.

Chief's constant companion was his dog, Yo Yo, a mongrel who shared his love for flying. Before his dog died, Anderson said, "He's smart. He can tell if a student is not flying right. If a student is doing all right, YoYo lies down. If the student makes a bad landing, Yo Yo won't fly with him again."

Chief Anderson was held in the highest regard by his peers. Two of Anderson's most famous students are Lt. Gen. Benjamin O. Davis, Jr., who became commander of the 99th Pursuit Squadron and later the first black Air Force general, and General Daniel "Chappie" James, the first black four-star general. During World War II, the 332nd Fighter Group, comprised of our all black squadrons, and under Colonel Davis' command flew more than 1,500 missions and destroyed 409 enemy aircraft. In more recent times, Air Force Colonel Guion L. Bluford led black aviators into space. Dr. Ronald McNair, a black American, died in flight aboard the orbiter Challenger. Today, there are countless thousands of military, commercial, and civilian black pilots—all of whom owe their presence in the cockpit and other aviation-related jobs to the undauntable character and perseverance of C. Alfred "Chief" Anderson.

Mr. Anderson's wife of 62 years, Gertrude, died just over a year ago. I invite my colleagues to join me as I offer condolences to his loving family, including his sons, Charles A. Anderson, Jr. of Chicago, and Alfred of Seattle; three grandchildren, and one great-granddaughter. He will be greatly missed, however his legacy will live on as a source of inspiration for generations to come. I wish Charles Alfred "Chief" Anderson "high flight."

TRIBUTE TO THE KNIGHTS OF COLUMBUS, COUNCIL 155, WATERTOWN, MA

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to pay tribute to the Knights of Columbus, Council 155, of Watertown, MA, who celebrate their centennial this year. I would like to recognize the Watertown Knights for their invaluable service to their community.

The chapter was first granted its charter by the Supreme Council on February 29, 1896. They met at various locations until 1923 when the council purchased the George H. Beynon Estate in Watertown. After 38 years on this site, in 1961, they replaced the building with their current structure which could easily accommodate the membership of 700 at the time.

There has been a local square dedicated to the proud members of the Knights of Columbus, many of whom served our country during World War I, and World War II as well as the Korean and Vietnam conflicts.

The council has been instrumental in encouraging community involvement, including youth activities such as baseball and a basketball tournament. They have also worked with the handicapped, sponsoring Special Olympics and their annual Tootsie Roll Drive for handicapped Children. The council also proudly sponsors many other charities too numerous to list, including Project Literacy and the Walk for Hunger.

Mr. Speaker, this is truly a great organization of service, dedication, and honor and so I ask my colleagues to join me in extending best wishes to the Knights of Columbus, Council 155, in Watertown, MA on this momentous centennial celebration.

IN SUPPORT OF DECENT WAGES FOR WORKING AMERICANS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. STOKES. Mr. Speaker, America needs to live up to its pledge of being one nation that will provide every American an opportunity to earn a decent living. In today's society there can be no advancement without a decent job and a decent wage. Under the leadership of the current Republican majority, the Congress has veered away from this pledge to working Americans who are most in need of fair pay for a job well done.

For months, Democrats have been pushing for a modest 90-cent increase in the minimum wage. When House Democrats called for a vote on a reasonable increase in the minimum wage on March 28, Republicans abused House procedures to stop a Democratic effort to increase the minimum wage.

For working Clevelanders, the proposed Democratic minimum wage increase could provide families as much as 7 months of groceries, a year of health care costs, 9 months of utility bills or 4 months of housing. Despite the fact that Republicans have pledged to fight an increase in the minimum wage I will continue to fight for the raise in pay Clevelanders deserve.

Mr. Speaker, in closing, we all should be aware of the fact that it's been 5 years since America's minimum wage workers got a raise. The minimum wage provides reasonable living for some of America's most productive citizens. The time has come for Members of Congress to take this one small step toward economic justice—raising the minimum wage.

THE CONGREGATION OF CHRIST CHURCH, LUTHERAN OF SAN FRANCISCO IS CELEBRATING THE 25TH ANNIVERSARY OF THE INSTALLATION OF PASTOR DAVID ROHRER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LANTOS. Mr. Speaker, I rise today, on the 25th anniversary of the installation of Pastor David Rohrer, to pay his tribute on his impressive and extremely productive tenure as pastor for Christ Church, Lutheran in my congressional district in San Francisco and to recognize his outstanding service to our community.

Pastor Rohrer was born January 10, 1937, in Richmond, CA. His commitment to the Christian ministry has been nearly lifelong. He was ordained into the Lutheran Church ministry in June, 1961, and since that time has dedicated himself fully to his profession. Before his installation as senior pastor at Christ Church, Lutheran in San Francisco in 1970, he served as assistant pastor at Our Saviors Lutheran Church in Sparks, NV.

Pastor Rohrer's commitment to his congregation and church bound him to the outside community. His religious leadership outside of Christ Church includes membership on the board of directors of the Sunny View Lutheran Home in Cupertino, CA, Pacific Lutheran Seminary in Berkeley, CA, and the Lutheran Lesbian and Gay Ministries. He has served several terms as president of Sunny View Lutheran Home and is currently treasurer of the Lutheran Lesbian and Gay Ministries. He was elected and served as dean of the San Francisco Conference, Evangelical Lutheran Church in America for 1993–94.

Pastor Rohrer has not shied away from tackling the most controversial of issues throughout his illustrious career. His leadership in creating equal standing for gay and lesbian clergy has earned him nationwide recognition. The opposition from his parent church and hostility from his own congregation could not dissuade or intimidate Pastor Rohrer from his efforts.

The most telling mark of Pastor Rohrer's leadership and Christian compassion can be found in the individual relationships he has made with his congregation throughout the years. He has been a pastor to over 600 people, has baptized 172, and performed countless marriages. Pastor Rohrer has served his

community for the greater part of his life and that is why it is especially befitting that on this day the community has come together to honor him as leader, a friend, and a fellow human committed to the betterment of society as a whole.

Mr. Speaker, on this day, when we celebrate the 25 years of a remarkable career, I ask my colleagues to join me in paying tribute to Pastor David Rohrer for his admirable acccomplishment and outstanding determination.

IN CELEBRATION OF EARTH DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. GILMAN. Mr. Speaker, Monday marked the 26th anniversary of Earth Day. As a member of the party of Teddy Roosevelt, the great Republican who enlarged our national parks and established our national wildlife refuges, I am pleased to recall the great environmental gains our country has made in cleaning up our rivers, streams, and lakes.

Our waterways are one of our Nation's most important resources. They are an important part of the surrounding ecosystem, providing an important source of income to surrounding communities and businesses, as well as providing potable drinking water for families and communities. Acknowledging this, I voted against the so-called Clean Water Act Amendments due to its lack of Federal protection of important water resources, and its rolling back of nearly a decade of invaluable water protection resources.

I know no better way of providing jobs in our Hudson Valley, New York region than by approving a responsible Clean Water Act that provides strong environmental protection and the restoration of our natural water resources. Relaxed water quality standards will jeopardize many of our Nation's largest industries, including the $400 billion a year travel and tourism industry and the $55 billion a year fishing industry.

Similarly, we must not forget the air we breathe, our most precious resource. No matter what our party affiliation we are not immune from having to breathe clean air to survive. Air pollution has been linked to cancer, birth defects, brain and nerve damage, and long-term injury to our lungs and breathing passages. Moreover, air pollution damages our environmental surroundings. Tree, lakes, and animals have been harmed by air pollution. Accordingly, Congress passed the Clean Air Act Amendments of 1990 to improve our air quality standards. I was pleased to be an original cosponsor of that landmark legislation.

Today, we are rethinking our approach to environmental policy. As has been reported by my colleague, Representative SHERWOOD BOEHLERT, "the first fruits of that re-evaluation can be seen in the landmark conservation section of the farm bill Congress passed last month."

The farm bill has set aside billions of dollars for conservation programs to assist farmers in preserving wetlands and reducing agricultural runoff. I would argue that this bill is one of the most important environmental pieces of legislation to come out of Congress since the Clean Air Act Amendments of 1990.

We in the Congress must never forget the need for clean air and water, as well as the need to preserve our important natural resources. More importantly, we should never forget the great environmental gains we have made during the past decade.

In recognition of Earth Day, let us all commit ourselves in our own communities to do our part. Together we can ensure that our environment will be a clean, safe, and beautiful place for generations to come.

THE CALIFORNIA PACIFIC MEDICAL CENTER

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. DELLUMS. Mr. Speaker, I rise to express the profound appreciation felt by many of my constituents for the transplant physician team at the California Pacific Medical Center [CPMC] in San Francisco.

The patients, their families, and their loved ones through their organization, the CPMC heart transplant support group, are gathering today for their 11th Annual Heart to Heart Gala. The gala celebrates their appreciation, and their gratitude, for the work, the extraordinary skill, and the love given by the CPMC heart transplant team. They celebrate as a way to acknowledge the gift of life and the gift in the improved quality of life received as a result of heart transplant surgery, a truly lifesaving procedure for many in the bay area. This form of extension of life is so awesome that there are few words that can adequately express their feelings of respect and gratitude for the exceptional CPMC physicians and support staff who have dedicated themselves to this cause.

The first heart transplant at CPMC was performed in January 1984. Since that time, 20 to 25 transplants have been performed each year at CPMC, totaling over 250. The majority of candidates who receive a transplant have advanced disabling heart disease remediable by no other known therapy. The CPMC transplant physician staff, consisting of J. Donald Hill, M.D., chairman of the department of cardiac surgery; G. James Avery, M.D., transplant surgeon; Ernest Haensslein, M.D., medical director, heart transplant service, and James Hershon, M.D., director of the medical surgical intensive care unit, are to be commended for the exceptional skills, knowledge, compassion, and tireless efforts they routinely demonstrate while treating and caring for their patients.

Although we are awed by the art of the transplant process and recognize the transplant team's exceptional knowledge and technical abilities, it is apparent that the high esteem in which the patients and their families hold this surgical team is due to the very special attentiveness and the love that they give throughout the arduous preoperation, operation and postoperation period. Such a combination of attributes is indeed rare and must be recognized.

It is therefore a privilege for me to join with my constituents, and I invite you to join us, in recognizing, saluting, and honoring this exceptional group of professionals today.

TRIBUTE TO ROSE AND CHARLES MATT ON THEIR 61ST ANNIVERSARY AND 85TH BIRTHDAYS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to two people in my district who made, and have kept, a lifetime commitment to one another, Rose and Charles Matt of Riverside, IL.

The Matts recently celebrated their 61st wedding anniversary and their 85th birthdays with family and friends at a local restaurant. They were married June 16, 1934, at Mary Queen of Heaven Church in Cicero, IL. Over the years, the Matts have been active in the local business community and involved in civic affairs.

The Matts opened a successful appliance store and two bowling alleys in Cicero. In addition, Mr. Matt served as a member of Morton High School District Board and is a past president of the Cicero Rotary Club. Mrs. Matt is a past president of her church's Alter and Rosary Society.

Mr. Speaker, I congratulate the Matts on 61 years of commitment to each other and their community, and wish them many more years of wedded bliss.

EARTH DAY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. GILLMOR. Mr. Speaker, as the House was not in formal session on April 22, Earth Day, I wanted to take the floor and talk about the importance of protecting the environment. While I recognize this day was used by many to feign interest in appearing "Green," not to mention fund raise, I think it is time to cast aside the "sound-bites" and have an honest and open discussion about the best way to improve our environment.

While some people planted trees, posed for pictures with fuzzy birds, or made fiery speeches set against a scenic backdrop, it takes more than symbolism and scorecard votes to make our environment safe. Even though Russell Peterson of the National Audubon Society coined the phrase "Think Globally, Act Locally," our national environmental policy has been void of local control, flexibility, or involvement. We need the efforts and input of every thoughtful and concerned person to move environmental protection from the sloganeering stage to a daily reality.

Several times during this Congress, we have been presented with legislation in which

VOL
142
PT
6
AP
15
—
24
1996
UMI

it has been suggested that passing these bills would improve the environment. Now, without commenting on the merits of these bills, I want to suggest that many of them were dismissed out of hand because they did not follow a "traditional" protocol for environmental protection, greater regulation and/or use of expensive technology. This development troubles me in that collegiality of thought is continuing to be sacrificed on this issue.

Many here in Congress, on both sides of the aisle, as well as those in the media, propose and advance the notion that the only way to enhance environmental protection is to use the most expensive technology available or institute more restrictive regulations. I reject that notion. While new technology or tough restrictions are not in themselves evil, it shows lack of foresight and depth of understanding that other means can accomplish the same end. The bottom line is that tighter regulations and "Cadillac" technologies cost money. And, regardless of what people may think, we only have a limited amount of resources, private and public, that we can commit to environmental protection. We should be placing our resources toward the most pressing environmental concerns of our day, and getting them remediated, not chasing allegations of hearsay or negligible, scientifically defensive problems.

Let me propose one of my favorite examples of what I mean to illustrate this point. Federal regulations currently require cities to keep atrazine levels in drinking water below three parts per billion—which on the surface sounds reasonable, nobody wants to be serving up a glass of weed killer to their friends or family. However, under these levels, a human would have to drink 3,000 gallons of water, or 38 bathtubs, per day with three parts per billion atrazine to equal the dose found to be cancerous in rates. Of note, the U.S. Environmental Protection Agency issued a "Health Advisory" for atrazine, which states that a child can drink water containing 100 parts per billion for 10 days or 50 parts per billion for 7 years without adverse health effects—this "Health Advisory" is much lower than the EPA guideline. Yet, the city of Columbus, OH found that compliance with this regulation could require a new $80 million water purification plant. For the same amount of money, the city could hire an extra 2,300 teachers at the average State teacher's salary. We must remember that protecting our environment has real costs and that we cannot squander those resources on minimal threat, extreme cost environmental boondoggles.

Another thing that we, as Americans, cannot tolerate in our environmental trek, is a cumbersome bureaucracy that makes environmental protection difficult to attain. The Endangered Species Act first passed with strong bipartisan support, all of us can agree that we should not be willfully trying to eradicate the creatures important to our ecosystem. However, the two pronged efforts of the act, protection and recovery, have become stymied in bureaucracy and court cases so that many species have become protected, but very few species have been recovered at all. This undermines the real intention of the law.

But as bad as the bureaucracy has been with the Endangered Species Act, the Superfund Program has been worse. This program, which was put into law 16 years ago to clean our Nation's worst toxic dumps, has been a miserable failure; it is the archetypical government program. Everyone believes this program needs to be reformed. We have spent billions of dollars on this program only to see hazardous waste sites sit uncleaned, with lawyers and bureaucrats drawing ever-increasing paychecks. The American people deserve a much better return on their investment. I have successfully offered an amendment to congressional efforts to reform Superfund that would force greater amounts of the Superfund's cleanup budget—the money that should be going to "dirt moving" activity, not bureaucrats, desks, and reams of studies—to go to site remediation. The private sector generally spends over 200 percent less on administrative costs in cleanup projects than the Government. The money we save here could be used for tangible environmental improvements and I am hopeful that this important provision can be enacted into public law.

Our country has made significant strides over the last 30 years to make our environment safer, cleaner, and healthier. We should not abdicate the responsibility to protect our air, land, and water that has been establish and been successful. However, we should not forget to reform or improve those laws that have actually perpetuated the problems. More of a bad thing does not make it a good thing, it only becomes a bigger bad thing—and delay is worse. This should be our credo in finding environmental problems, as well as in proposing their solutions. Trying something new, or looking at the problem in another way, does not immediately constitute an infringement on environmental protection, we all want a clean environment.

Mr. Speaker, much of the public debate on the environment has been cast in purely partisan tones, yet, I am here to set the record straight that making our natural inheritance better for present and future generations should not be confined to party identification. If we were to keep score from that perspective, as most people do in this town, I would like to remind people that the Republicans were the first ones to embrace the cause of conservation. Teddy Roosevelt, the first real standard bearer for the National Park System, was a Republican. And, the Environmental Protection Agency was established by Richard Nixon and would have been elevated to Cabinet-level status under President Bush had certain political considerations not come to the fore.

Our environment is too important to become a political football, filled with hot air every election cycle. Emotional pleas and incendiary direct mail pieces only clutter the burgeoning waste stream of environmental perspectives. We need a science-based policy which gives us solid, substantiated information; governing by fearmongering is no way to responsibly lead. Using informed, expert opinion and legitimate data, we can make our natural inheritance better for present and future generations.

I am hopeful that this Earth Day will be an opportunity for us all to consider the environment and how we can make it better. Billions of tax dollars are spent to ensure our public health and safety, they should not fund unreasonable regulations or stifling bureaucracies. We should take a prudent, realistic course, that realizes we are currently able to accomplish a finite set of objectives, as our resources allow. And, we should see that local involvement in priority setting, on top of proven and substantiated research, lead us to environmental quality in which we can all take pride.

THE 26TH ANNUAL CELEBRATION OF EARTH DAY

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Ms. McCARTHY. Mr. Speaker, yesterday marked the 26th Annual celebration of Earth Day. In the time since the first Earth Day, much has been accomplished in to the way of environmental protection. Landmark legislation such as the Clean Water Act, the Clean Air Act, the Endangered Species, Act, and the establishment of the Environmental Protection Agency have resulted from a commitment to protection of our natural resources that is exemplified by Earth Day.

There is no question that today our water is more clean and our air is more breathable than it was 25 years ago. Species that were threatened or endangered 25 years ago, such as the American Bald Eagle, are now thriving. Wetlands are better protected, toxic dump sites are more quickly identified and treated, environmentally sensitive sources of energy are being developed and put into use, and our public lands are more sensitively preserved and maintained.

The job is certainly not complete. Much can be done to strengthen the laws on the books, but much can de done to make compliance with those laws more achievable. Long-term environmental protection can only be accomplished through a partnership between the environmental and business communities. In seeking to expand and improve environmental protection, we must also consider the legitimate concerns raised by those who live with the regulations.

Despite all the positive and popular steps that have been taken to protect the environment in the past quarter century, and the additional work that needs to be done, the leadership of the 104th Congress has attempted to halt, roll back, and eliminate many of the protections for the environment we hold sacred. Legislation has passed the House during this Congress to dramatically reduce one of the most successful laws on our books, the Clean Water Act. While not perfect, the Clean Water Act has gone a long way towards cleaning up our Nation's rivers, lakes, and streams; but the bill that passed the House rejects those successes and represents a major step backward in cleanup of polluted waterways.

Another target of this Congress has been the Environmental Protection Agency. In pursuit of a worthy cause—streamlining and making more efficient the environmental regulatory process—legislation has passed the House to establish stringent new requirements for risk assessment and cost benefit analysis of major federal regulations affecting health, safety, or

the environment. Should this bill become law, it would hamstring EPA's ability to promulgate and enforce regulations designed to protect the environment.

In addition, funding for EPA has been slashed by more than 25 percent. The House Leadership's commitment to reducing environmental protection funding has resulted in fewer hazardous waste cleanups, a reduction in enforcement, and a decrease in needed water infrastructure and treatment programs.

Today, as we celebrate the 26th anniversary of Earth Day, it is important to reflect on the successes that have been achieved in environmental protection over the years, and the work that must continue to be done to ensure our natural resources will be preserved for generations to come. Instead of misguided attempts to roll back protection, we need to develop ways to preserve our environment that are cost-effective, efficient, and responsible.

I participated in the first Earth Day celebration in 1970 by walking to my teaching job rather than driving, and discussing with my students the responsibility each individual has to the environment. I have marked the anniversary of Earth Day each year since, and this year I helped to create a community garden with Americorps volunteers in my district.

All of my life I have worked for sound environment, and I practice conservation and recycling at home and in my offices. As a member of the Transportation Committee's Subcommittee on Water Resources and Environment, and the Science Committee's Subcommittee on Energy and Environment, I work as an advocate for substantive changes in law and policy that will ensure a quality environment.

Concern about our environment must be reflected in each of our lives daily. From recycling our newspapers, to planting trees, to using public transportation whenever possible, together we can make our environment cleaner and safer. Let us each pledge to make every day, Earth Day.

COMMEMORATION OF THE OKLAHOMA CITY BOMBING

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. FAZIO of California. Mr. Speaker, I rise today to commemorate the Oklahoma City bombing and to pay tribute to those who lost their lives or loved ones as a result of the bombing of the Federal building at Oklahoma City.

On such a solemn occasion it is difficult to find the words which accurately express my sorrow and my outrage. My heart goes out in full to the innocent men, women, and children who were robbed of their lives or permanently wounded in this savage attack just 1 year ago. I also extend my deepest sympathies to the victims families and loved one's, who have suffered such loss.

On this day, I must restate my commitment to preventing such acts of terror from ever happening again. By learning from this tragedy, we ensure that those who died did not do so in vain. The time has come to adopt a new vigilance. While nothing will bring back the lost lives, justice must be upheld. We will do everything possible to ensure that the perpetrators of this act do not escape punishment.

A year has gone by and still the memory of this horrific day is embedded in our minds as if it occurred yesterday.

While I am pleased to see the people of Oklahoma City rebuilding both their city and their lives, I realize that their wounds still run very deep. I urge them to continue pushing forward. Their strength and unity throughout this crisis serves as an example for us all.

INTRODUCTION OF LEGISLATION TO AUTHORIZE THE BUREAU OF LAND MANAGEMENT

HON. WES COOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. COOLEY of Oregon. Mr. Speaker, today I am introducing a bill to provide for a 6-year "clean authorization" for the Bureau of Land Management [BLM]. The Bureau of Land Management is the only agency in the Department of Interior that is not permanently authorized. Since 1982, the BLM has been operating without an authorization forcing the Appropriations Committee to do the work of the authorizing committee.

Chairman DON YOUNG of the Resources Committee, Chairman HANSEN of the authorizing subcommittee, Chairman RALPH REGULA of the Interior Appropriations Subcommittee, and I are introducing this bill that will authorize the BLM. The Federal Land Policy and Management Act of 1976 [FLPMA] requires the reauthorization of the BLM, but due to political wrangling, the BLM is without an authorization.

Last Congress, under the leadership of Congressman BRUCE VENTO, a bipartisan effort passed a 2-year clean authorization that made it through the House. This bill is adding onto that effort and will go one step farther and provide the BLM with a clean 6-year authorization.

This clean authorization will provide the agency with the ability to conduct long-term planning and make the management decisions necessary to properly care for more than 270 million acres under BLM control.

I would urge my colleagues to support this clean authorization.

CONGRATULATIONS TO THE STUDENTS AT AMADOR VALLEY HIGH SCHOOL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. STARK. Mr. Speaker, I rise today to recognize the students in Mr. Skip Mohatt's civics class at Amador Valley High School in Pleasanton, CA. These students recently placed first in Sacramento, CA, to win the statewide "We the People" civics class competition.

Amador Valley High School and Mr. Mohatt have had a long history of success in this competition. This is the third year in a row that Amador Valley High Students have come in first and the fourth time in 5 years that they have won the State title. Last year, Amador Valley High School was the national champion. I want to commend Mr. Mohatt and his students for this extraordinary achievement and to wish the class luck. They are here to defend their national championship title in 2 weeks.

I would like to take this opportunity to mention the students by name, In alphabetical order, the 1996 California State champions are: Evan Anderson, Jamie Bartlett, Matthew Brehm, Jarold Bunas, MacKenzie Bundgard, Erin Callahan, Michael Campbell, Ryan Darst, Leah Dellanini, Chad Duffy, Heather Erskine, Jared Fixmer, Michelle Gilbert, Kristin Johnson, Erin Kettwig, Beatrice Korbel, Jason Lew, David Loughnot, Abimbola Majekodunmi, Christina Nystrom, Tina O'Keefe, Angie Picco, Bill Reaugh, Joseph Sabbagh, Olivia San wong, Christine Splitt, Paula Tee, Randall Wat, Eric Willett, and Katrine Wilson.

Mr. Speaker, I hope that you and my colleagues will join me in congratulating these students on their recent first place finish and to wish them luck in the upcoming competition.

COMMEMORATION OF RADIO VISION AND ITS 15TH ANNUAL VOLUNTEER RECOGNITION DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. GILMAN. Mr. Speaker, on May 4, 1996, Radio Vision, a service organization in my 20th Congressional District of New York which is staffed entirely by volunteers will celebrate its 15th annual "Volunteer Recognition Day."

Radio Vision provides day-to-day information and local news to those who are most in need of it. A visually handicapped person's access to the media is limited to radio and TV broadcasts which primarily focus on national and world news stories. For someone that has difficulty holding or reading a newspaper, local news and information—such as stories which are having sales, new facilities opening in the vicinity and the accomplishments of our neighbors—are difficult to obtain.

Radio Vision is a closed-circuit radio broadcasting service that provides news and information free of charge to blind and sight-impaired individuals throughout four counties in the Hudson Valley region of New York. Its volunteers read local news, topical literature, shopping hints, and other vital information to the more than 400 blind, sight-impaired or otherwise disabled Hudson Valley residents who subscribe to the Radio Vision service.

One hundred and five volunteers contributed their time and talents this past year to make Radio Vision a success. These volunteers are highly deserving of our gratitude and special recognition. Without their efforts, sight-impaired people would have no access to the day-to-day information, especially regarding

VOL
142
PT
6
AP
15
—
24
1996
UMI

local events, that the rest of us all take for granted. The visually handicapped have come to count on Radio Vision as a reliable source for information about their communities.

For the past 15 years, Daniel Hulse has done superlative work as program director. In addition, Carol Cleveland and many others have done a tremendous job, working tirelessly to coordinate the volunteers who find time to aid disadvantaged members of their community. All of these volunteers deserve our recognition and appreciation.

We are all indebted to these selfless volunteers whose hard work has enriched the lives of so many of my constituents, and I am proud to honor them today by calling to the attention of my colleagues their outstanding services.

TRIBUTE TO THE LATE RAYMOND T. CHMELA, HAWTHORNE PARK DISTRICT BOARD PRESIDENT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to the memory of an outstanding public servant in my community, Mr. Raymond Chmela, president of the Hawthorne Park District Board, who passed away March 31, 1996.

Mr. Chmela also served as a building inspector for the town of Cicero and coordinated the town's July 4 festival. A Korean war Army veteran, Mr. Chmela was active in many youth organizations in Cicero, including serving as past president of the South Cicero Baseball Association. He served on the Park District Board for 9 years.

Mr. Speaker, I extend my condolences to the family of this fine public servant, including his wife Roberta.

TRIBUTE TO REV. DONALD W. MORGAN

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mrs. KENNELLY. Mr. Speaker, I rise today to honor an outstanding individual, Rev. Donald Walker Morgan of Wethersfield, CT; who is retiring as the senior minister of the First Church of Christ in Wethersfield, CT. During his 18-year tenure as the spiritual leader of the historic Wethersfield Church which dates back to 1635. Reverend Morgan has significantly contributed to the growth of the church membership bringing it to over 2,800 members—the largest, fastest growing congregational-UCC Church in New England.

Born in Lexington, MA, Donald Morgan served in World War II as a member of a B–17 Flying Fortress bomber crew. For over 2 years, he was part of the 8th Air Force Division in Great Britain, and flew numerous missions over Germany. He then matriculated at Tufts University in Boston where he received a bachelor of science degree in clinical psychology. Reverend Morgan earned a master of divinity degree from the Union Theological Seminary in New York, and was ordained to the Christian ministry in 1953.

Since 1953, Reverend Morgan has served in churches in Northfield, VT; Litchfield, CT; Rutland, VT; and Lakewood, OH. In June 1978, Reverend Morgan accepted the senior minister position at First Church in Wethersfield, CT. Reverend Morgan brought new vitality and a dynamic vision reaching well beyond the confines of the historic colonial community. He expanded the services of the church by providing new ministries in a myriad of social and religious areas and hired professional staff to handle the administrative affairs of the church.

The Reverend Donald W. Morgan is currently chairman of Churches Uniting in Global Mission, a national movement of pastors and churches and is frequently a featured speaker at the Robert Schuller Institute for Successful Church Leadership. He is the author of "How To Get It Together When Your World Is Coming Apart," published in 1988, and "Sermons In American History," an acclaimed volume which addresses selected issues in the American pulpit from 1630 to the present. Reverend Morgan's ministry and church have been cited in two recent publications "How To Reach Secular People" by George Hunter, and "Good News From Growing Churches" by Robert Burt.

He is married to the former Alice Grace Gingles of Bowling Green, KY, a graduate of Wellesley College and Union Theological Seminary who had served until recently as the director of Caring Ministries at the First Church in Wethersfield, CT. They have 6 children and 13 grandchildren.

Reverend Donald Morgan is a nationally respected spiritual leader who with dedicated fortitude and vision transformed a colonial era church into one of the most dynamic, energetic religious institutions in New England. Having participated in a service or two at First Church, I can attest to the great works of Reverend Morgan and the impact he has had on the lives of those in his congregation and community. His calling to First Church was fortunate for the church community, the town of Wethersfield, the greater Hartford region and the State of Connecticut.

We recognize his achievements. We have learned from his example. He has touched the lives of many in so many ways. We sincerely extend our wishes of gratitude and wish him the best upon his retirement.

TRIBUTE TO DR. NEAL R. BERTE

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. BACHUS. Mr. Speaker, Birmingham-Southern College in Birmingham, AL, one of the Nation's top liberal arts colleges, is observing the twentieth anniversary of Dr. Neal R. Berte as its President. Dr. Berte came to Birmingham-Southern on February 1, 1976 from the University of Alabama, where he was the Vice President for Educational Development and the Dean of the New College. Under Dr. Berte's two decades of leadership, Birmingham-Southern College has seen its enrollment more than double, its students' test scores rise to among the highest in the Southeast, its faculty size which includes some of the finest scholars in the country, increase more than 60 percent, its endowment grow from fourteen million dollars to more than eighty-two million dollars, the construction of seven new buildings with more planned, and its graduates accepted to the nation's top medical and law schools at rates far exceeding the national average. These achievements have not gone unnoticed. Respected publications such as U.S. News and World Report, Money, and The Princeton Review consistently name Birmingham-Southern College as one of the country's outstanding liberal arts colleges. Dr. Berte's untiring dedication to education has been recognized by many organizations, including the American Council on Education, which named him one of America's Leaders in Higher Education, and the Council For Advancement and Support of Education, which selected him as one of the 100 Most Effective College Presidents. Dr. Berte is also a respected civic leader in Birmingham who is dedicated to improving the quality of life for his city and state. He is chairman of Leadership Birmingham and the Birmingham Business Leadership Group, which is made up of the chief executive officers of 45 of Birmingham's largest businesses. Dr. Berte has served as chairman of the Birmingham Area Chamber of Commerce, and campaign chairman and president of the United Way of Central Alabama. For his civic and community leadership, he has received many honors, including being named Birmingham's citizen of the year and being inducted into the city's Distinguished Gallery of Honor. Working with Dr. Berte during his 20 years at Birmingham-Southern College is his wife, the First Lady of Birmingham-Southern, Anne Berte, a tireless civic and community leader in her own right. I want to congratulate Neal and Anne Berte on the outstanding job they have done at Birmingham-Southern College during the past 20 years, and I wish them continued happiness and success in the years to come.

TRIBUTE TO CHARLES-RUSSELL'S 25TH ANNIVERSARY

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. TORRES. Mr. Speaker, on April 28, 1996, Charles-Russell International will gather its 150 employees, well wishers and followers to celebrate 25 years of creative hairstyling and entrepreneurship. The vision toward new trends in hair styling and hair care can be credited to a man arriving on the American scene some three decades ago.

Born in Leicester, England in May 1938, Edward Joseph Russell Breakwell earned his stylist stripes in the hairdressing industry as an apprentice to Steiner's of Mayfair, in London. At 21 years of age he owned his first salon and traveled as a guest lecturer to the United States. Impressed by the country, he

moved to the Washington, D.C. area and worked for the Vincent and Vincent chain of salon, eventually acquiring one of them. Later, he entered into a joint venture with another businessman, Charles Morra, and together they established the first Charles-Russell salon on Quaker Lane in Alexandria, VA.

Today, the Charles-Russell enterprise consists of 12 salons throughout the Washington, D.C. metropolitan area. The joint venture between Charles and Russell has contributed greatly to the economic development of the community, including restaurant ownership and a major construction company, C-R Properties.

There is much discussion nowadays about immigrants coming to the United States and the myth that they take from our society and our social safety net. to the contrary, the hard work and contributions of Charles-Russell, has added to the wealth of this country and has translated into careers and the well-being of many families. Russell Breakwell epitomizes this vision and contribution to our society.

Russell Breakwell today, is an American citizen who participates not only in the business arena, but in the civic affairs of his community in Lake Bancroft, VA. He is married to the former Laurie Jones, who along with their 5-year-old child, Charles, reside in Lake Barcroft and the Florida Keys. A source of much pride and father-son kinship 22-year old Alexander Breakwell is following in this father's footsteps as a hairdresser at Charles-Russell.

Mr. Speaker, I ask that my colleagues here assembled join me in saluting Charles-Russell International for its spirit and vitality as a progressive employer. It is fitting that on its 25 anniverary Charles-Russell plans to announce an innovative salary and employee health benefit plan. The company is to be praised for rewarding and motivating hard work and loyalty among its many employees.

DON'T REWRITE HISTORY!

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. BURTON of Indiana. Mr. Speaker, much has been said in the U.S. Congress regarding events in the eastern part of the Ottoman Empire toward the end of World War I. Yet I urge my colleagues to consider all sides and not rush to judgment.

Many of my colleagues condemn Turkey and its predecessor, the Ottoman Empire, for perpetrating genocide against its Christian Armenian population 80 years ago. Genocide is the most heinous of crimes, and before we make such charges, we should be absolutely certain of the facts.

Many of our Nation's renowned historians and academics specializing in Ottoman history tell us that the events in question require more scholarly study. Historical evidence does not justify the genocide charge. While it is not disputed that Armenians died in eastern Anatolia during the period from 1915–1922, over 2 million Turks and other non-Christians also died. Although many died as a result of intercommunal fighting, many more died because of starvation and epidemic disease.

No reasonable person can dispute the unfortunate events in eastern Anatolia some 80 years ago. But do we dare ignore the deaths of 2 million non-Christian people, many at the hands of Armenian revolutionary groups who had allied themselves with Russian forces which were invading Ottoman land for territorial gains?

Ottoman responsibility lies in the Empire's inability to protect its civilian population, Christian and Moslem alike, from threats of wide-scale fighting, famine, and disaster.

There is little to be gained from inflaming past animosities, which are invariably grounded in the complex political and military dynamics of the time. It is far more productive for all parties to look toward the future. Armenia and Turkey would only benefit from improved relations. Turkey was among the first countries to recognize Armenia upon its secession from the Soviet Union. Just after taking office, Turkish Prime Minister Mesut Yilmaz emphasized Turkey's readiness to develop close relations and cooperation with Armenia in every field once the Nagorno-Karbagh conflict is resolved. He also expressed his government's determination and willingness to open the border posts with Armenia once the declaration of principles is reached between Armenia and Azerbaijan regarding the settlement of the conflict. Armenian President Ter Petrosian, while addressing the Association of Armenian Manufacturers and Businessmen last March noted Turkey's importance as an economic partner for his country, referring to Turkey as Armenia's shortest path to the outside world. The U.S. Congress should encourage progress in Turkish-Armenian relations. Any efforts which would hinder these developments inevitably threaten Armenia's economic viability.

Western interests are served through the stabilization of the Caucasus. The Caspian Sea region contains oil and gas reserves second only to the Middle East. A pipeline passing from Azerbaijan through Armenia and Turkey to markets in the West would not only create an important alternative energy source for the West, but also would create necessary conditions for economic growth and development for the region. Commercial cooperation would lead to enhanced relations. By providing economic strength, this pipeline would also ensure the independence of new states, and would help bolster democracy and democratic institutions.

Mr. Speaker, now is the time for all states in the Caucasus, Muslim and Christian, to put their differences behind them and work together for a prosperous future. I urge my colleagues interested in stability in the Caucasus to oppose any efforts to undermine regional cooperation.

TRIBUTE TO RAY LUJAN

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. UNDERWOOD. Mr. Speaker, on Friday, March 22, 1996, a happy outing at the beach ended in tragedy and grief for a father and his two young sons. The father, a surfing enthusiast, brought along his sons, aged 3 and 5, to Talofofo Bay, one of the most popular surfing spots in my home district, Guam. Since the water was rough that day, many surfers were drawn to the bay. The two boys played at the water's edge while the father challenged the waves on his surfboard.

Sometime after lunch, several people noticed that the two boys were gone. Their father was still surfing, but the boys were nowhere in sight. Word soon spread along the beach that two small boys were missing, and a search began. Police and Fire Rescue were called, and the search widened. At approximately 2 p.m. the 3-year-old was found floating face down in the water. He was unresponsive, but was later revived and transported to the hospital. The search for his older brother continued until nightfall and was resumed at daybreak the next day. The body of the 5-year-old was recovered just before 9 a.m.

As islanders, the people of Guam are particularly sensitive to water-related tragedies such as this, especially when they involve children and youngsters. This incident received considerable media attention from the initial call for help to the discovery of the second little boy's body the next day. News accounts credited an unidentified surfer with the rescue of the first little boy.

I wish to share that surfer's name because he truly is a lifesaver and merits this recognition. Mr. Speaker, Mr. Ray Lujan is well-known within Guam's surfing community, but he is not one to seek publicity for himself or sing his own praises. He much prefers the sun on his back and a good wave under his surfboard. During the many years that he has spent pursuing the waves, Mr. Lujan has witnessed many water-related tragedies. To his credit, many of the near tragedies are just that, because Mr. Lujan got involved. He has rescued swimmers who were swept over the reef. He has pulled drowning swimmers and surfers out of the water and brought them safely back to shore.

In this incident, Mr. Lujan not only discovered the 3-year-old. In a desperate bid to keep death from claiming a victim, he also performed mouth-to-mouth resuscitation on the little boy, even though he has had no prior training. Today, that little boy is alive and well on his way to a full recovery. The Guam Fire Department has since nominated Mr. Lujan for an award recognizing his admirable and selfless contribution to the rescue of this young boy.

Mr. Speaker, I take great pride and pleasure in praising Mr. Ray Lujan and in commending him for being a valuable member of the Guam community. I am confident that Mr. Lujan's humanitarianism will remain forever as deep as his enthusiasm for surfing.

TRIBUTE TO THE WINNERS OF THE STICKNEY POST, AMERICAN LEGION ORATORICAL CONTEST

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LIPINSKI. Mr. Speaker, I would like to pay tribute to two outstanding young women

VOL
142
PT
6
AP
15
—
24
1996
UMI

from Edison School in Stickney, IL, who were the winners in the American Legion, Stickney Post's Sixth Annual Oratorical Contest for eighth grade students.

Sarah Ellen Jones received a medal and a check for $50 for her oration on the duties and obligations of a citizen under the U.S. Constitution and Bill of Rights, Sara Chapin, the runner-up, received $25. Other participants in the contest were Allen Aguilar and Gregory Biziarek of Home School in Stickney and Julie LaPointe and Jacqueline Galvan of St. Pius X School in Stickney.

Mr. Speaker, I congratulate these fine young people for participating in this important exercise in civics and wish them continued success as they develop into the leaders of the future.

A TRIBUTE TO CAROL BERGER, A QUEENS ACTIVIST AND CIVIC LEADER

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. SCHUMER. Mr. Speaker, I rise today to honor and pay tribute to Carol Berger for her leadership in spearheading community activism and civic volunteerism throughout Kew Gardens, NY. Carol has worked tirelessly to improve the quality of life in numerous neighborhoods, often doing more than what was needed to successfully serve her community. I have always admired the civic-minded spirit that has thrived in Queens and feel especially proud of Carol for energizing community participation that has established Kew Gardens as one of the most desirable areas in New York.

The parents, students, teachers and principals that live in and around Kew Gardens are particularly familiar with Carol's volunteer work in strengthening neighborhood schools like P.S. 99, J.H.S. 190, and the Hillcrest High School. Carol has also held several leadership positions in local school boards, such as the Queens Confederation of High School Parents Associations where she served as president and the Citywide Confederation of High School Parents Associations as Chair. She also served as Chair of the Forest Hills Adult Education Systems Advisory Council and Secretary of the Citywide Adult Education Association.

Her commitment and remarkable understanding of the parent/teacher partnership has done much to establish Queens schools as first-rate. However, even after a long period of serving community schools, Carol continued her local activism through the Kew Gardens Civic Association. She is well-known almost everywhere in Queens for inspiring a sense of honor and duty in every neighborhood. Our city owes enormous gratitude to Carol's fearless leadership and indomitable will to make Queens a better place to live. On behalf of the people of Kew Gardens, I congratulate her for her outstanding community work.

THE FAMILY AND MEDICAL LEAVE ACT

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. NETHERCUTT. Mr. Speaker, today I am introducing a bill to correct a provision in the Family and Medical Leave Act that imposes an inequity on married couples working for the same employer.

I first learned about the need to change section 102(f) of the Family and Medical Leave Act from a constituent who directs human services for a small business in the fifth district of Washington. My constituent was approached by two couples, one married and the other unmarried, who worked at her firm. Both couples were expecting a child and wanted to know how much family leave they were entitled to under the Family and Medical Leave Act.

The answer? Because of section 102(f), the unmarried couple was entitled to twice as much family and medical leave—24 weeks—as the married couple, which was limited to a total of 12 weeks to care for their newborn child. The only reason for this difference was that the Family and Medical Leave Act limits benefits for spouses—and only spouses—working for the same employer.

This section was included in the bill so that the Family and Medical Leave Act does not create a double burden on businesses that hire married couples or have employees who marry. However, the law does not similarly limit the leave entitlement of siblings or unmarried couples working for the same employer even though they may also require simultaneous leave periods. This discrepancy creates an inadvertent "marriage penalty" in the Family and Medical Leave Act.

When the Department of Labor asked for comments on this provision, several respondents reacted unfavorably. According to the introduction to the final family and medical leave regulations,

> Several commenters took issue with the reasoning for limiting leave entitlements for spouses employed by the same employer. Two individuals opposed the limitations as being *discriminatory against spouses* . . . [T]he regulations provide no guidance in connection with siblings employed by the same employer. *The Society for Human Resource Management noted that two employees living together but not legally married can each take 12 weeks for the birth or placement of a child, and recommended revising the regulations to provide that the 12-week-total limitation would also apply where both parents of a child work for the same employer.* (emphasis added).

The legislation I have introduced addresses the concerns of my constituent and the experts who reviewed the regulations issued by the Department of Labor. My bill corrects this marriage penalty by applying the same 12-week limitation to siblings and to both married and unmarried parents. As in the current law, this limitation applies when leave is available for the birth or adoption of a child or to care for a parent. This legislation is a positive step toward improving our Federal workplace laws and I urge my colleagues to support it.

IN MEMORY OF HAROLD F. OGDEN

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. WOLF. Mr. Speaker, I have the sad duty to report the passing last month of a remarkable American patriot, Harold F. Ogden, of Fairfax, VA, who died on March 14 at the age of 98.

Harold Ogden, a retired colonel in the Army reserve, was a native of Melrose, MA and had lived in the Washington, DC., area since 1946. He began his military career with the 1st Calvary of the Massachusetts Volunteer Militia in 1916. The following year, he took part in the punitive expedition against Pancho Villa in Mexico. He was called to active Army duty for World War I service in Europe as a motorcycle courier, then served in the army of occupation in Germany.

He retired from the Army as a captain in 1926 and worked as a construction engineer in Melrose before being recalled to active duty as a major near the outbreak of World War II. During the war, he served in the United States, Europe and the Middle East before retiring in 1946. He retired from the reserves in 1955.

I will always remember Colonel Ogden for his devoted service to the American Legion, which he served for 74 years, and the opportunities I had to participate with him in wreath laying ceremonies in the 10th District of Virginia to honor our Nation's veterans on Veterans Day. He never aspired to high office in the American Legion, but he served when called and was a past commander and chaplain emeritus of Unknown Soldier Post 44 in Arlington, VA; chaplain emeritus of the Virginia Department of American Legion's 17th District. He also held and committee posts for the department of Virginia including serving on the finance committee and chairing a Legion beautification project in Arlington.

He was a member of the La Societe of the Forty & Eight and served Voiture Locale 934 offices up to and including Chef de Gare, and was chaplain emeritus of both Voiture 934 and the Grande du Virginia.

In 1991, Colonel Ogden was among the World War I veterans that took part in special memorial services in France in rememberance of the American Expeditionary Force. He had been decorated with the Silver Star during the War and received the French Croix de Guerre at the memorial service.

Mr. Speaker, we honor the memory of Harold Ogden and the devoted service he gave to this Nation and send our sympathies to his wife Ruth Ogden of Fairfax, his children and grandchildren.

EARTH DAY TRIBUTE TO CHESAPEAKE BAY ALLIANCE

HON. WAYNE T. GILCHREST

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. GILCHREST. Mr. Speaker, in recognition of the nationwide celebration of Earth Day, I would like to pay special tribute to the Chesapeake Bay Alliance, a group of dedicated men and women who for 25 years have sought to leave this planet just a little bit better than the way we found it.

The Alliance has proven that when Americans feel strongly about something—in this case the health of the Chesapeake Bay—all they need to do is work together for the common good.

It brings together businesses, citizen groups, industries, farmers, environmentalists, scientists, government leaders, and others, to achieve the mission of restoring and preserving the Chesapeake Bay.

Whether it's through their public policy program, which encourages public participation in restoration strategies, their information services program, which helps educate all of us about the Bay, or the watershed restoration program, involving hundreds of volunteers who take a hands-on approach to restoring this unique ecosystem.

For 25 years, the Chesapeake Bay Alliance has served as a model of how citizens can work together and make a difference. I hope we can look forward to many more years of their dedicated service.

MITSUBISHI MOTORS STILL DOESN'T GET IT—PROTESTING THE EEOC SUIT DOES NOT DEAL WITH SEXUAL HARASSMENT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LANTOS. Mr. Speaker, like many of my colleagues I was both amused and appalled by the actions yesterday of the Mitsubishi Motor Manufacturing of America. In response to a suit filed by the U.S. Equal Opportunity Commission [EEOC] alleging sexual harassment of female workers at its Normal, IL, manufacturing plant, Mitsubishi chartered 59 buses to carry employees of the company plant in Normal to Chicago, where they held a protest rally outside the EEOC office there. Mitsubishi not only paid for the buses, they also closed the assembly line for two full shifts, they paid regular salaries to those workers who made the trip to Chicago, and they provided lunch for the protesters.

Mr. Speaker, this is not the way we in the United States settle discrimination suits. Under the rule of law, these issues are decided upon in a court of law based upon their merits. The EEOC is a Federal agency entrusted with enforcing our country's laws against discrimination based on race, sex, religion, age, etc. That agency takes seriously those responsibilities, and it does not file frivolous lawsuits. A protest outside the EEOC's office in Chicago indicates to me that Mitsubishi's legal case must be particularly weak. In addition, a rowdy protest does not strike me as doing anything to resolve the serious legal issues involved here. It may, however, be beneficial to the careers of the American managers of the Normal plant.

Second, Mr. Speaker, this protest strikes me as a tactic to pressure the workers at the Mitsubishi plant to oppose the EEOC suit. Those who went to Chicago to protest against the sexual harassment suit publicly signed a list to indicate their intention to go to Chicago. Those employees who chose not to go were forced to appear at the factory in order to be paid. Clearly the way in which that protest was organized put intolerable pressure on Mitsubishi employees. Such pressure tactics against its employees should be firmly condemned.

Third, Mr. Speaker, based on some of my own activities here in the Congress, there is sound basis for concern about the real possibility of sexual harassment in this case. For 6 years during the 100th through the 102d Congresses, I had the privilege of serving as Chairman of the Subcommittee on Employment and Housing of the Government Operations Committee. During that period of time I held a series of hearings on "Employment Discrimination by Japanese Firms in the United States" (July 23, August 8, September 24, 1991, and February 26 and June 18, 1992). We found a pervasive pattern of lack of sensitivity to issues of discrimination by a number of Japanese firms. Among our very serious concerns was strong evidence of sexual discrimination.

What our hearings found was a surprising and very disturbing insensitivity on the part of Japanese management to American laws and American practices against sexual harassment and against sexual discrimination. Mr. Speaker, these practices by Japanese management were exposed and in some cases changes were made by the firms involved, but I would be surprised indeed to find that these problems have been eliminated completely. Clearly if the EEOC charges are true, it reflects a serious lack of sensitivity on the part of Mitsubishi management, and that management has the responsibility to see that sexual harassment does not take place at its plant.

Mr. Speaker, I commend the EEOC for its vigilance in dealing with these serious charges, and I urge the Commission to move forward. These charges should be completely aired and resolved through our legal system. I also urge the management of Mitsubishi to put aside its tawdry and counterproductive public relations tactics and respect the rights of its own workers.

JEWISH WAR VETERANS, NEW JERSEY DEPARTMENT CELEBRATES CENTENNIAL ANNIVERSARY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. PALLONE. Mr. Speaker, this year, 1996, the Jewish War Veterans of the United States of America is celebrating its 100th anniversary. As part of these nationwide commemorations, the Jewish War Veterans Department of New Jersey is having a military ball at the Officers Club, Gibbs Hall, Fort Monmouth, on Thursday, April 25.

The Centennial Journal being issued by the New Jersey Department in conjunction with this important anniversary is dedicated to the memory of Stanley J. Wides, past department commander and executive director. Thursday's event is also an opportunity to honor past national commanders.

Mr. Speaker, it is always a pleasure for me to pay tribute to the New Jersey Jewish War Veterans. The Jewish War Veterans is the oldest active veterans organization in the country, and it is an honor to work on behalf of their agenda and on behalf of those men and women who sacrificed so much to safeguard our freedoms here at home and to make the world safe and free for future generations. I wish them great success on tomorrow evening's ball at Fort Monmouth, and I look forward to continued partnership with this great organization with its long, distinguished and proud history.

TRIBUTE TO ALOIS VANA, RETIRED EXECUTIVE DIRECTOR OF THE BERWYN PARK DISTRICT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LIPINSKI. Mr. Speaker, today I pay tribute to an outstanding gentlemen from my district who has devoted himself to his community, Mr. Alois Vana, the retired executive director of the Berwyn, IL, Park District, who will receive the All Berwyn Committee's 1996 Merit Award April 26.

Mr. Vana, a Berwyn native who grew up across the street from one of the parks he would eventually oversee, joined the district as superintendent in 1958, and he served his community for 37 years before retiring December 31, 1995.

Mr. Vana, an Army veteran, also served as president of the Berwyn Kiwanis Club and United Way, and has contributed to many other charitable and civic organizations, including the West Suburban Council of the Boy Scouts of America and the Berwyn Tree Board.

Mr. Speaker, I congratulate Mr. Vana on receiving this honor from the All Berwyn Committee and wish him many more years of service to his community.

COMMENDING THE NEW YORK TIMES ON ITS EARTH DAY EDITORIAL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. MILLER of California. Mr. Speaker, I would like to bring the attention of my colleagues to the following Earth Day editorial which appeared in the April 22, 1996, New York Times.

This editorial correctly points out that the American public will not be fooled by the hollow illustrations of environmentalism displayed today in the districts of many congressional Republicans—the same Members of Congress

VOL
142
PT
6
AP
15
—
24
1996
UMI

who, over the past year, have consistently voted for legislation to repeal decades of environmental protection for our air, our water, and our public lands. Planting a tree, collecting litter or visiting a zoo today will do little to mask the year-long environmental assault orchestrated by the Republican Congress.

As noted in the editorial, the persistent Republican efforts to include antienvironmental riders on the appropriations bills for the Environmental Protection Agency and the Department of the Interior are most egregious. Although both of these bills have been vetoed by President Clinton, Republicans still insist on including many of the most offensive provisions in an omnibus budget bill to fund the agencies through the end of the fiscal year. Even Speaker GINGRICH has acknowledged that including objectional policy riders in appropriations bills greatly reduces their chances of eluding another Presidential veto. Today's Washington Post quotes the Speaker as estimating that the chances of passing a funding bill for the remaining agencies is "probably about 50-50" but that the odds improve if the contentious policy riders were removed and debated separately.

I commend the New York Times for its continually excellent editorials and note that the 1996 Pulitzer Prize awarded to Robert B. Stemple, Jr., for his editorials on environmental issues is richly deserved.

DEFUNDING MOTHER NATURE

The television networks and cable channels are falling over each other to satisfy a growing public appetite for nature programming. An article in The Times last week noted that wildlife programs, once the preserve of the Public Broadcasting Service, have spread like mangroves to NBC, Turner Broadcasting, the Discovery Channel and Disney, among others. This is welcome news. Quite apart from the fact that such programming is of a higher order than most television fare, its popularity is further evidence of what the polls have already told us. Americans care about what is left of their natural resources and the threatened creatures who inhabit them.

Viewers would be equally well served, however, if television stole just a few minutes from the air time now devoted to wolves, wildflowers, sharks and salmon and trained its cameras on the denizens of the United States Congress, where a less inspiring show is taking place. Undaunted by a string of Presidential vetoes, heedless of public opinion and deaf to the pleas of their moderate colleagues, conservative Republicans and a few stray Democrats are pressing forward with their efforts to undermine the country's basic environmental laws.

There are many destructive proposals on the Congressional agenda, including several bills that would transfer millions of acres of public land to state and commercial jurisdiction. But the most urgent example of bad legislation is an omnibus appropriations bill now under consideration in a House-Senate conference. The bill sharply reduces appropriations for the Environmental Protection Agency and the Interior Department and contains a dozen or so crippling anti-environmental riders. The worst of these riders would authorize increased logging in old-growth forests, reduce protection for the Mojave National Preserve, strip the Environmental Protection Agency of its power to protect wetlands and extend an earlier moratorium on any new listings of endangered plants and animals under the Endangered Species Act.

The listings rider should be of special interest to the viewers of those nature programs. Under law, the Interior Department cannot act to preserve the habitat of an endangered species unless it is listed as such. Among the 250 species that scientists think are dangerously close to extinction, but cannot now be listed by the department's Fish and Wildlife Service, are three that occasionally pop up on TV—the Florida black bear, the Atlantic salmon and the Mexican jaguar. Unless Congress comes to its senses, these and other creatures may survive only on celluloid.

Today marks the 26th anniversary of Earth Day. In full knowledge of that, House Speaker Newt Gingrich recently formed a 77-member Republican environmental task force. Although 36 members of this task force earned "zero" ratings from the League of Conservation Voters for their routine support of anti-environmental legislation, many of them are likely to spend the week planting trees, visiting zoos and striking friendly poses next to recycling bins. But the best thing Mr. Gingrich could do for his country and his party would be to recognize that what counts here is content, not imagery—and remove those riders from the appropriations bill.

TRIBUTE TO JACK ELLIS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. BONIOR. Mr. Speaker, I proudly rise to pay tribute to a distinguished educator and a good friend, Mr. Jack Ellis. Jack is the music director at Lakeview High School in St. Clair Shores and was recently named as the Michigan Band/Orchestra Director of the Year.

I have known Jack for many years and he richly deserves the honor bestowed upon him. As in the hit film, Mr. Holland's *Opus*, Jack has been inspiring aspiring musicians and sharing his love of music for years. As one of his many talented students says, "[Jack] knows his music, but he teaches it in a down-to-earth way * * * He's humorous and he puts things at a level where we can understand it have fun."

It is obvious that his students "understand" because Lakeview's band and orchestra have received numerous awards and honors under Jack's tutelage. The band was Michigan's representative at the re-lighting of the Statue of Liberty and they have received many division one ratings at district festivals.

"Mister E," as Jack is fondly known by his students, makes sure to give all his students the individual attention they need. One thing I know he is proud of is the fact that he has never turned a student away. As Jack says. "Not everyone has the gift of music. But if they've had a desire to be a part of this program, then we've found them a place."

While Jack also teaches honors European history and world studies, his passion is music. He says that the lessons learned in music cannot be gotten anywhere else. The discipline and cooperation required to create music brings diverse students together in a setting seldom found in any other subject or extracurricular activity. It is obvious that the harmonies created in Jack Ellis' class go far beyond what is merely heard by the ear.

Jack's wife Joellyn is also an award-winning teacher. She was honored as Lakeview Public School's Elementary Teacher of the Year. The students at Ardmore Elementary and Lakeview High School are lucky to have such gifted teachers and I am pleased to recognize their contributions. I commend both of them for their educational and civic contributions.

I congratulate Jack Ellis for the recognition he received from the State of Michigan and I urge my colleagues to join with me in thanking him for his work. He is proud to be a music teacher and he richly deserves being named Director of the Year.

IN TRIBUTE—NATIONAL CRIME VICTIMS' RIGHTS WEEK

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to join with countless Americans who are staunch supporters of the rights of victims of crime. This is National Crime Victims' Rights Week. Almost any daily newspaper you read will have front page headlines that scream out accounts of violent acts perpetrated against a host of victims. Readers are bombarded by statistics on murders, armed robberies, rapes, gang violence, domestic violence, drugs and much, much more. Where are the stories about the victims of those crimes? When is the last time that you read an account of the impact of a victim's statement on the outcome of a legal proceeding? All too often, victims are the last thought of while the criminal is protected by a long list of rights.

Those who work on behalf of victims of crime rarely receive the recognition that they deserve. Advocates come from all walks of life. Some are professionals, people who try to make a difference. Most, however, are volunteers who give selflessly of their time, energy and talents.

They are tireless; they are insistent; they are creative.

Along with my husband, Dexter Lehtinen, I worked on placing the protection of victims' rights in Florida's Constitution and then pressured the agencies to implement the provisions.

National Crime Victims' Rights Week is a time of reflection and a call to action. As an example of what a concerned community can achieve, I would like to share with you just a few of the accomplishments of victims' rights advocates from the Miami area. In selecting just a few examples, I salute the work of these individuals. But more importantly, by extension, I would like to pay tribute to all to have taken up this cause.

Victims themselves are often the best advocates. They have turned their misfortune, their grieving toward some wonderfully positive activities. John Walsh, father of six-year-old Adam, was instrumental in the founding of the National Center for Missing and Exploited Children. He will never have Adam back, but Adam's spirit is alive through the Center.

Mr. and Mrs. Donald Ryce, grieving over the loss of their son, Jimmy, have stepped forward to share their message with anyone who will listen. They are working to establish a special training center at the National Center for Missing and Exploited Children which will be dedicated to educating law enforcement officers in how to investigate these sensitive cases, as well as bettering coordination among all our law enforcement agencies.

Mr. and Mrs. Luis Melendi lost their daughter, Shannon, over 2 years ago. Shannon disappeared from a softball field near the campus of Emory University in Atlanta, GA, and has not been heard from since. The Melendi's have taken their case to the public, pushing for stronger measures to prevent known criminals from victimizing others.

Potential victims can help themselves before they become victims. Taking a proactive approach, the Miami Junior League, in conjunction with AT&T, is collecting used cellular telephones in order to give them to women at risk of domestic violence. The phones will be preprogrammed with access to 911, so that help can be summoned immediately in case of attack.

These examples highlight just a few of the many, diverse ways in which victims can assert their rights. I would especially like to highlight the work of Howard Greenstein, the Director of the Dade County Department of Justice System Support, who has been a staunch defender of victims' rights for years. May these individuals and their organizations have great success; may their creativity be encouraged and supported. May we remember the victims.

SIKH INDEPENDENCE DAY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. CRANE. Mr. Speaker, I rise today to congratulate the Sikh nation on the 297th anniversary of its founding, Vaisakhi Day, which occurred this past April 13. We join in celebrating the heritage of these courageous people.

On this Vaisakhi Day, the Sikh nation struggles to secure the blessings of liberty which we in America and most the Western World enjoy. Sikhs have long supported the idea of freedom for all people. As a free nation, it is our duty to help them live in freedom in their own country.

The Sikh nation's heritage of freedom most recently manifested itself on October 7, 1987, when the Sikh nation declared the independence of the Sikh homeland, Khalistan. Sikhs had previously ruled themselves from 1710 through 1716 and again between the years of 1765 and 1849. When Britain left the subcontinent in 1947, the Sikh nation was one of only three nations granted power. The Hindu leaders of India assured the Sikhs that they would enjoy the glow of freedom and that no law affecting their rights would pass without the consent of the Sikh nation, and on that basis the Sikh leadership joined with india. But as soon as India achieved its independence, its repression of the Sikhs began.

I am proud to have been among the members of this House who have helped to publicize these cases, such as the September 6 kidnapping of Jaswant Singh Khalra. Concerned Members of this House have helped bring to light reports by Amnesty International, Human Rights Watch/Asia, and other human rights groups which provide a mountain of evidence of India's genocide and tyranny against the Sikhs and others. We will continue to raise our voices for the freedom of the Sikhs, the Kasmiris, the Nagas, the Assamese, the Manipuris, the Dalits, and others. Freedom is the universal birthright of all mankind. On Vaisakhi Day, let us join the Sikh nation in recommitting to the cause of freedom.

I believe the Sikhs should have the right to and opportunity for self-determination, and they should be allowed to decide the question of independence in a free and fair vote. To help accomplish this goal, I hope my colleagues will cosponsor H.R. 1425, which will halt all United States developmental aid to India until the President certifies that India is respecting human rights. To further explain this need, I am inserting for the record a letter from Dr. Gurmit Singh Aulakh, president of the Council of Khalistan. In celebration of Vaisakhi Day, I hope my colleagues will read his letter and will consponsor H.R. 1425.

VAISAKHI DAY MESSAGE TO THE SIKH NATION ON THE BIRTHDAY OF THE SIKH NATION, RECOMMIT TO A FREE KHALISTAN

Dear Khalsa Ji: It is Vaisakhi Day again, the 297th anniversary of the Sikh nation. We celebrate our Sikh identify and the courage of the Sikh nation. On this occasion, we must remember our heritage: Khalsa Bagi Yan Badshah: Either the Khalsa is in rebellion or it is a ruler. We have been enslaved by the brutal genocide of the Indian tyrants for too long. It is time to renew our commitment to free the Sikh nation by starting a shantmai morcha to liberate Khalistan. Only a free Khalistan will insure that the Sikh nation can live in freedom, security, peace, and dignity.

Elections are scheduled to be held on April 27th. Simranjit Singh Mann has filed to challenge S.S. Barnala in Sangrur. We are to feel deeply betrayed by the Akalis shameful eagerness to fight elections under a government that has made every effort to destroy us as a nation. The Akalis have been fighting elections since 1950. What have they achieved? Are we any closer to freedom because of their desire to cow-tow to the Indian regime? It is clear that a nation-wide shantmai morcha is the only way to liberate Khalistan. The sooner we as a nation realize this, the sooner we will enjoy the fruits of freedom so long denied us. I ask the Khalsa Panth to remember that the Sikh nation won the Jaito morcha by peaceful means. We also liberated the Gurdwaras in the 1920s by peaceful means. Likewise, it is through peaceful means and the grassroots involvement of the Sikh nation that we will achieve freedom for Khalistan. The time is now to start a shantmai morcha. We must boycott the Indian government. Protest by the hundreds of thousands. Court arrest. Fill the jails. We cannot allow the Indian regime to deny us our sovereignty. Free Khalistan today?

India's tyranny continues to be exposed, hastening the inevitable breakup of India's bloody empire. The new video documentary "Disappearances in Punjab" shows a Punjab policewoman speaking about the brutality of the Indian regime. She says, "I joined out of patriotic sentiments, but what I saw, atrocities—including those against women—that I cannot bear. Women suffer much. Male officers torture them. They also rape detainees. Some who had been picked up were in the interrogation center. Then I read that they had been killed in an encounter. But I had seen them in detention." Here is a member of the Punjab police admitting that rape and torture is common? She also reveals that victims' legs were broken as part of the Indian regime's campaign of terror against the Sikh nation. According to the documentary, the Chief Medical Officer at Patti Hospiatl in Punjab, Khalistan admits that he provided quick, fraudulent postmortum reports to police so that the authorities could cremate the bodies of their victims, destroying any evidence of state-sponsored murder. "My example set the precedent in Punjab," the Chief Medical Officer says in the video. "Five minutes a postmortem, five minutes a postmortem." The modus operandi of the India police is exposed? This video, produced by a Hindu human rights activist, has blown the cover off India's genocide against the Sikh nation.

India has also been hit in print. On November 4, The Pioneer ran an article by Iqbal Masud called "The Bogus Peace of Beant and Gill." Masud reports that "the Beant-Gill duo committed mass incarceration and called it 'normalcy.'" He also writes about the case of Sarabjit Singh, who was brought in for an autopsy but found to be alive. The regime then killed him and brought his body back to the same hospital. "When I read that," writes Masud, "I said, Welcome to Super Nazi State."

The U.S. Congress continues to speak out for freedom for the Sikh nation. Recently, seven more statements were inserted into the Congressional Record. Members of Congress were vocal in their support for the liberation of Khalistan and exposed India brutal history of human rights abuses against the Sikhs. Members of Congress also strongly supported two bills, H. Con. Res. 32 and H.R. 1425 which would respectively recognize the Sikhs nation's right of self-determination and cut off U.S. development aid to India until human rights are observed. These Congressional statements are covered in the April 5 issues of India Abroad, News-India Times and Navjyoti, a Hindi language Indian newspaper.

Within Khalistan, human rights activist continue to raise their voice about Indian repression. A group of human rights activists have written to Indian President Sharma "to point out that the rule of law is yet to be restored to Punjab. Examples like the disappearance of human rights activist S. Jaswant Singh Khalra are continuing. There is an urgent need to carry out a census under the supervision of UNO, on illegal killings and disappearance as these may be over a hundred thousand," these activists wrote. Amnesty International has also issued two recent reports on Indian repression. Amnesty points out that it is routine for people to be arrested for their political views, that preventive detention is widespread, torture "remains endemic," and "disappearances" are rampant. These are just a few examples that show that awareness of India's repression of the Sikh nation is rising.

I urge all Sikhs to renew their commitment to the liberation of Khalistan. A shantmai morcha is the only means by which we can reclaim our sovereignty. Indian's state terrorism will not deny the Sikh nation the freedom to which we are entitled. If

VOL
142
PT
6
AP
15
—
24
1996
UMI

India could not suppress our struggle for freedom by killing over 150,000 Sikhs, kidnapping and murdering more than 25,000 young Sikh men, and holding over 70,000 Sikhs in detention under the expired TADA law, then how does it think that more repression will end our movement? Let us liberate Khalistan the way that India got its own freedom. Peaceful resistance is the only way to liberate Khalistan, and an independent Khalistan is the only way that the Sikh nation can live in freedom, security, and dignity.

On this Vaisakhi Day, the dawn of freedom in Khalistan is closer than ever. We look forward to celebrating Vaisakhi Day 1999, the 300th birthday of the Sikh nation, in an independent Khalistan where the glow of freedom shines brightly, bringing peace and prosperity to the Sikh nation and the South Asian subcontinent. On this Vaisakhi Day, let us recommit ourselves to this goal. Khalistan Zindabad.

Panth Da Sewadar,
DR. GURMIT SINGH AULAKH,
President, Council of Khalistan.

HONORING JAMES J. SWEENY

HON. BILL BAKER

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 23, 1996

Mr. BAKER of California. Mr. Speaker, Moraga, CA, is a lovely city in the heart of my congressional district. It is a great place to live, work, raise a family, and develop a true sense of community with one's friends and neighbors. Moraga is the kind of place many Americans idealize as representative of the best small town virtues—except that in Moraga, these ideals are realities.

This year's Moraga Citizen of the Year is Jim Sweeny. The list of Jim's contributions to the Moraga community is remarkable. His two-term tenure as the town's mayor, his work with the Moraga Fire Protection District Board of Commissioners, his service with the Moraga Chamber of Commerce and the Hearst Art Gallery, and his involvement with a host of other organizations is the stuff of local legend. His faithful service is a tribute to his dedication to making Moraga the wonderful place it is.

Too often we fail to honor the people who care enough to make a decisive difference in our local communities. Jim Sweeny is such a person, and is richly deserving of recognition as Moraga's Citizen of the Year. After all, citizenship is about loyalty to the people and institutions that comprise a good and decent society. In so many ways, Jim Sweeny defines what true citizenship is all about. I am very pleased to recognize this outstanding American in the CONGRESSIONAL RECORD.

INTRODUCTION OF DEEP WATER OUTFALL TREATMENT SYSTEMS ACT

HON. CARLOS A. ROMERO-BARCELÓ

OF PUERTO RICO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 23, 1996

Mr. ROMERO-BARCELÓ. Mr. Speaker, today I am introducing the Deep Water Outfall Treatment Systems Act. The purpose of this legislation is to amend section 301(h) of the Federal Water Pollution Control Act. This bill would allow public agencies in Hawaii and the insular areas of the United States to apply, within a limited time period, for permits to construct new deep ocean outfalls for their wastewater treatment plants.

Under existing law territories and other insular areas of the United States are prohibited from constructing deep oceans outfalls for their wastewater treatment plants [WWTP's] that would: Protect the ocean environment, operate efficiently and save significant sums of money. The Environmental Protection Agency [EPA] is not allowed to accept new applications for waivers from secondary treatment requirements.

This bill intends to amend section 301(h) of the Clean Water Act would allow such applications, and authorize EPA to review new deep ocean outfall proposals pursuant to the current, stringent Clean Water Act standards for such outfalls. This bill does not alter the rigorous criteria for issuing a waiver nor does it override the judgement of EPA. The bill reflects the goal of both Congress and the administration to find innovative, alternative and less-costly ways to apply existing statutes without compromising the environmental objectives underlying existing law.

Many scientists and experts agree that plans to construct deep ocean outfalls at locations in certain States, including the territories of the United States, can provide the best environmental and economic alternative for wastewater treatment. The plans would not only preserve but would even improve the coastal environments where these discharges occur.

Under the 1977 Clean Water Act, coastal communities—mainland and island—were permitted a time-limited opportunity to apply for exemptions from secondary treatment requirements, if they met very stringent environmental standards for ocean discharges. Overall EPA has granted 39 waivers. All applications were required to be submitted to EPA by December 29, 1982.

Puerto Rico has proposed construction of a deep water outfall situated more than 300 feet deep and several miles from shore as an alternative to secondary treatment at the Mayaguez POTW. This would save the Government about $65 million. Substantial scientific data gathered from similarly situated POWT's with deep ocean outfalls indicates that such methods can achieve the equivalent of secondary treatment standards or even better.

The evidence was so compelling in the instance of San Diego, CA, that Congress last year enacted and the President signed into law, legislation permitting EPA to consider a section 301(h) waiver application proposing a similar alternative to secondary treatment—notwithstanding that such waiver otherwise would be time-barred under the Clean Water Act. I believe we deserve the same opportunity to implement cost-effective alternatives and seek a section 301(h) waiver.

There are numerous precedents of such limited exceptions to the requirements of section 301. The municipal Wastewater Construction Grant Amendments of 1981 included a provision that extended the date under which section 301(h) waivers could be requested and specifically permitted the city of Avalon, CA, to receive such waiver. The Water Quality Act of 1987 included a specific exception for the Irvine Ranch Water District that permitted it also to file for a waiver after the deadline.

I especially urge my colleagues on the Committee on Resources and on the Transportation and Infrastructure Committee to consider this bill and its commonsense approach to the regulatory burden.

The proposed bill allows EPA to avoid the risk of requiring treatment for treatment's sake and from demanding expenditure of funds which could be better used to achieve additional water standards benefits elsewhere. It permits EPA to review new applications and proceed with the flexibility and latitude intended under the act. It would not require EPA to issue any waivers or modify the standards under which EPA considers such waivers. It allows certain States and the territories to apply to EPA under existing section 301(h) standards for modifications that best serve the marine environment and will at the same time, permit the implementation of wastewater treatment plans based upon sound science and technology that meet existing Clean Water Act standards.

This bill is limited and targeted, provides for an efficient process, does not modify existing standards and would be implemented by EPA only if environmental and economic objectives are accomplished. I am hopeful that it will receive favorable congressional action at an early date.

TRIBUTE TO THE MORTON HIGH SCHOOL GIRLS BASKETBALL TEAM

HON. WILLIAM O. LIPINSKI

OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 23, 1996

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to the girls' basketball team of Morton High School in my district.

The squad recently won its first ever regional title in the Illinois State basketball tournament. In fact, this was the Morton team—boys or girls—to advance past the regional round of the playoffs since 1972.

Unfortunately, Morton's dream season ended with a defeat to perennial power Mother McCauley in the sectional semifinals last week.

Nonetheless, I congratulate the team and its first year coach John Molitor, for bringing home the regional championship and basketball pride to Morton High School.

IRANIAN BAHAIS FACE EXECUTION

HON. JOHN EDWARD PORTER

OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 23, 1996

Mr. PORTER. Mr. Speaker, we just received the distressing news that the Supreme Court of Iran confirmed on February 18, 1996, the

death sentences of Mr. Kayvan Khalajabadi and Mr. Bihnam Mithaqi. These two Bahais had been arrested without charge in April 1989 and sentenced to death on November 23, 1993, by the Islamic Revolutionary Court of Karaj for their religious activities. The verdict had been appealed to the Supreme Court. If these men are executed, they will be the first Bahais executed since 1992.

Mr. Speaker, just last month on March 27 I stood here calling for the passage of House Concurrent Resolution 102, a resolution concerning the emancipation of the Iranian Bahai community. In calling for its passage, I said that there are disturbing signals that the repression of Bahais has increased during this past year. Unfortunately, I could have not been more right.

Mr. Speaker, since the fundamentalist Islamic regime took power in Iran in 1979, hundreds of Bahais, the largest religious minority in Iran, have been executed, and thousands have been imprisoned solely because of their religion. Because the regime does not recognize the Bahai faith, calling it a conspiracy and a heresy, tens of thousands of Bahais are today deprived of jobs, housing, schools, and other social services. Furthermore, it is common practice for Bahais to be denied pensions and food ration cards purely because of their religious affiliation. And what, you ask, could the Bahais possibly do that could justify this atrocious, asinine treatment? They simply ask to be able to peacefully practice their faith.

Intolerance, Mr. Speaker, is the trail of the backward, the ignorant, and the insecure. In Iran, intolerance of Bahais, people who threaten no one and who accede to legitimate, civil authority wherever they reside, defines not the Bahais, but the Iranian fundamentalists.

Mr. Speaker, Iran must continue to be ostracized from the community of nations until its conduct can begin to approach a respect for the basic rights of each human being to live, worship, and speak according to the dictates of his or her own conscience. We must continue to stand up and denounce each barbarous and inhumane action the Iranian regime takes. We must let Mr. Khalajabadi and Mr. Mithaqi know that the world cares about them and will not stand idly by in their time of need.

A TRIBUTE TO AMY COURNOYER

HON. PATRICK J. KENNEDY

OF RHODE ISLAND
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 23, 1996

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today with the proud honor of announcing that Amy Cournoyer of the First District in Rhode Island is our State's winner for the Voice of Democracy broadcast scriptwriting contest. This past year, more than 116,000 secondary school students participated in the contest competing for 54 national scholarships.

The contest theme this year was "Answering America's Call". In Amy's script she discusses that the time has come for a new generation of leadership to cope with new problems and new opportunities. She explains how the elders are called on to pass on the wisdom that they have gained through experience to youth so that they will attain greater knowledge. This sharing of ideas between adults and adolescents brings about the virtue of understanding. In sum, if we want to truly answer America's call and create a better country, we must better ourselves.

Mr. Speaker, I extend to Ms. Cournoyer my heartfelt congratulations and ask that Ms. Cournoyer's winning script be inserted into the CONGRESSIONAL RECORD. Finally, I also want to thank Amy for helping us to recognize today's youth and all that they have to offer to our country and its future.

"ANSWERING AMERICA'S CALL"

1995–96 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM, RHODE ISLAND WINNER: AMY COURNOYER, POST 2274, ASHTON, RHODE ISLAND

America is not simply "calling" each one of us. It is yearning, urging, and persistently imploring. Its concerns echo in the halls of schools across the country. After all, youth is the essence of this country, for it is the collaboration of new ideas that have maintained America's longevity. If I may borrow a quote from John F. Kennedy, "It is time for a new generation of leadership, to scope with new problems and new opportunities. For there is a new world to be won."

Retracting America's history, it is evident that the very passion and integrity of youth and rebirth of ideas have had a positive impact on society. After all, the very foundation of our country is the Constitution which was created by people with this undying thirst for reform. Events such as the Boston Tea Party, the Civil Rights Movement, Space Exploration, and other advances in technology were all made possible thanks to youthful minds.

So, as a contemporary society we must have the wisdom to heed that very call. The call for youth of all ages to express themselves. The elders are called to pass on the wisdom that they have gained through experience to the youth so that they will attain greater knowledge. Moreover, this sharing of ideas between adults and adolescents brings about the third and most important virtue, understanding. For it is through understanding one another that things can be accomplished.

America is a tune. It must be sung together. Arguing with or belittling others are only obstructions in our quest for knowledge, wisdom, and understanding. America is calling each person, young and old, black and white, Catholic or Jewish, to break away from their old, cemented ways, and return to the simple, innocent, and unbigoted ways of youth. I am not advocating a break in tradition, nor am I depicting a society of fools. I am simply suggesting that if we sing our tune in harmony, combining our individual talents to create a beautiful melody, then we are truly answering each others' call, which is indeed America's call—a microcosm of the macrocosm. We all contribute to the future of the world. Understanding is a building block for nonviolence. Martin Luther King professed that "Nonviolence is the answer to the crucial political and moral questions of our time, the need for man to overcome oppression and violence without resorting to oppression and violence."

Man must evolve for all human conflict a method which rejects aggression and retaliation. The foundation of such a method is love.

"So do not ask for whom the bell tolls; it tolls for thee." Everyone talks about a better world, a better place. But, actions speak much louder than words. In order to truly answer America's call we must begin with ourselves. Then we will radiate like sunbeams on the community. Adults, listen to the call of the youth, they have a lot to give. And youth, listen to your elders, they have much wisdom to offer also.

In conclusion, I am yearning, urging, and persistently imploring that we heed each other's call. Whether it be doing volunteer work, becoming a politician and working for the betterment of our democratic system, becoming a research scientist and working for a cure for such deadly diseases as cancer and AIDS, or simply giving a friendly smile and treating each other with dignity and respect. Everything is a microcosm of the macrocosm. So if we want to truly answer America's call and create a better country, we must better ourselves. Then, and only then, are we truly answering America's call.

A TRIBUTE TO THE FIREFIGHTER CONGRESSMAN

HON. STENY H. HOYER

OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 23, 1996

Mr. HOYER. Mr. Speaker, on April 30, 1996, the Congressional Fire Services Caucus will pay tribute to the champions of public safety at the Eighth Annual National Fire and Emergency Services Dinner. Over 3 million citizens throughout our great Nation dedicate their lives to preserving our communities against the threat of fire and other types of disasters. They include firefighters, EMS providers, search and rescue teams, arson investigators, and instructors. The list goes on for somewhere, in each of our communities, we can name an acquaintance of ours who is prepared to respond when the alarm sounds.

Our understanding in Congress of the many challenges facing first responders has been enhanced throughout the years primarily because of one individual. CURT WELDON, our firefighting Congressman, is unique to Washington politics. Very few individuals who have served in this institution have been able to unite members from both sides of the aisle behind one cause.

Today, the Congressional Fire Services Caucus is the largest caucus in Congress. With an equal number of Republicans and Democrats, the Fire Caucus is a tribute to the relentless efforts of CURT WELDON to achieve greater recognition for first responders on Capitol Hill. Throughout the 8-year history of the Caucus, our dear colleague has traveled to the scenes of our country's worst disasters in recent memory. He was in New York City to witness the horrible aftermath of the World Trade Center bombing, in Dade County, FL, following Hurricane Andrew, and southern California after the Northridge earthquake. And each time he would return from these incidents, CURT would share his findings with fellow members to help us better understand the significance of these events and what Congress can learn from them.

On issues of great significance to the fire service and EMS, my colleagues and I often defer judgment so that we can follow Congressman WELDON's lead. When casting his

VOL
142
PT
6
AP
15
—
24
1996
UMI

vote on fire service issues, CURT is guided by his years of experience as a firefighter, where he rose through the ranks to become chief of the Marcus Hook Fire Department in Marcus Hook, PA. Each of the seven major fire service organizations, despite their differences on issues, can all come to an agreement when the issue is the benefits they have derived from one man's belief in their respective missions. That man being CURT WELDON.

When my fellow Fire Caucus cochairmen and I join the 2,000 national fire service leaders at the forthcoming dinner, we do so in thanks and appreciation to our dear friend, CURT WELDON. This past year, he has endured some setbacks, most recently the passing of his mother, Catherine Weldon. A volunteer for charitable causes throughout her lifetime, Mrs. Weldon leaves behind a legacy supporting the fire service, American Red Cross, and other local causes. Her attributes touched many, most importantly her nine children.

What amazes me most about CURT is despite these setbacks, he continues to perform as if he were still a fire chief for Marcus Hook. Whenever the alarm sounds on Capitol Hill, CURT takes expedient action, always working in cooperation with his colleagues, to resolve whatever the emergency might be.

A friend first, and colleague second CURT WELDON represents the best in public service.

UNICEF HELPING CHINESE ORPHANS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues the following exchange of letters concerning the efforts of the United Nations Children's Fund (UNICEF) to improve the plight of orphans in the People's Republic of China. The exchange of letters was precipitated by a well-documented investigation by Human Rights Watch—Asia, published in January 1996 under the title, "Death by Default."

Earlier this year, this Member wrote to Carol Bellamy, Executive Director of UNICEF, urging that agency to expand its programs in China and to work with the United Nations Committee on the Rights of the Child to examine China's performance in implementing its responsibilities under the UN Convention. In Ms. Bellamy's response, she describes UNICEF's program in China and provides some useful information on steps the Chinese Government is taking to improve conditions in the orphanages.

CONGRESS OF THE UNITED STATES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, February 2, 1996.

MS. CAROL BELLAMY,
Executive Director, United Nations Children's Fund, New York, NY.

DEAR MS. BELLAMY: I am writing to you regarding the tragic reports on the mistreatment of orphans in the People's Republic of China. As you know, these reports are based on a well-documented investigation by Human Rights Watch—Asia, published in January 1996 under the title, "Death by Default."

I was pleased to see the January 22, 1996, UNICEF announcement of an agreement with China to start a program to improve the care of orphans and disabled children in that country. The two training projects involved, while rather limited, represent a solid basis for increased cooperation between China and UNICEF in this crucial area. I urge you to continue to try to deepen UNICEF's involvement by expanding into all areas of the country and working with as wide a range of Chinese orphanages as possible.

There is another area where I believe UNICEF and the international community can contribute to improving conditions in China's orphanages. As a signatory to the United Nations Convention on the Rights of the Child, the People's Republic of China has certain responsibilities regarding the care of children in state-run institutions. It is apparent from the Human Rights Watch report that China has failed to live up to those responsibilities in fundamental ways.

I urge appropriate agencies of the United Nations, including UNICEF and WHO, to work closely with the UN Committee on the Rights of the Child in Geneva to examine China's performance in implementing its responsibilities under the UN Convention.

Thank you for your efforts in this area. Please keep me informed of any developments.

Best wishes,

DOUG BEREUTER,
Vice Chairman.

UNICEF HOUSE,
New York, NY, March 11, 1996.

Hon. DOUG BEREUTER,
Vice Chairman, Committee on International Relations, House of Representatives, Washington, DC.

DEAR MR. BEREUTER: Many thanks for your letter of February 2 regarding the situation of children in the Child Welfare Institutes (CWIs) in the Peoples Republic of China. My apologies for the delay in responding, but I have been out of the country for much of the time since we met on February 9.

Over these past five or six weeks, our UNICEF country office in Beijing has continued its dialogue with the Government of China regarding the CWIs and I believe that they are producing some progress for the children who are living in them. As you may recall from our discussion, an understanding had already been developed with the Government in January regarding two specific adjuncts to our ongoing work in the country. The first, which implies a Needs Assessment of all institutes in the country, will identify the most "at risk" institutes throughout the 30 provinces and autonomous regions in need of a capacity building strategy which will train their staff, improve the standard of rehabilitation services, and establish improved management procedures. One Institute in each province will be upgraded to serve as a model and resource center for training and improvement of rehabilitation skills. The second focuses on in-service training of staff and trainers on child care, rehabilitation and management through National Training and Rehabilitation Centers under the Ministry of Civil Affairs.

However, in addition to the addition to these specific program activities, we have learned in the last two weeks of some importance policy changes that are underway as a result of UNICEF's cooperation with the Ministry of Civil Affairs on the situation of China's orphans. First, our China office has been advised that the Government will increase action at all administrative levels to heighten advocacy and mobilization to reduce abandonment of children. Following ratification of the Convention, the Government of China enacted the Law on the protection of Minors which considers abandonment of children a criminal activity. Second, the Ministry of Health will now provide all children found abandoned and to be admitted to any of the Institutes a complete health evaluation at a nearly hospital. Very sick children will not be forwarded to the Institutes, which do not have up-to-date medical equipment, until they have been treated. This was not done previously and will reduce the risk to seriously ill children. Third, the Government has decided to amend its present policy that the living standards of the children in the CWIs be the same as in the surrounding community. This policy has caused some disparities in the CWIs. The new policy will require a living standard that is somewhat higher than that of families living in the surrounding communities. Fourth, the Government has decided to increase the budgetary investment in the CWIs to renovate and improve their physical infrastructure.

Of course, as you have noted, the Convention on the Rights of the Child is a powerful tool with which to promote the minimum standards for the survival, development and protection of children that are now a part of international law. The Government of China has ratified the Convention and we look forward to our continuing cooperation with the Government to ensure that these standards become a reality for all of China's children.

Many thanks for your support.

Sincerely,

CAROL BELLAMY,
Executive Director.

ARIZONA'S VOICE OF DEMOCRACY SCHOLARSHIP RECIPIENT

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. STUMP. Mr. Speaker, it gives me great pleasure to announce that Matthew P. Reece, who resides in the Third Congressional District of Arizona, is the Arizona State winner of the Veterans of Foreign Wars Voice of Democracy Scholarship. Matt, a senior at Bradshaw Mountain High School, was named a national winner in the 1996 Voice of Democracy Program and the recipient of the $1,000 Department of Wyoming and its Ladies Auxiliary Scholarship Award. VFW Post 10227 in Prescott Valley, AZ sponsored him. I am pleased that Matt was among the 54 national scholarship recipients who received more than $118,000. I commend to the attention of my colleagues Matt's award winning essay on "Answering America's Call."

ANSWERING AMERICA'S CALL

(By Matthew P. Reece)

Answering America's call is taking the time to pick up the phone and just listen. America is calling but if we fail to answer the call, America's voice will soon die away. So come on, pick up the phone.

Ring . . . Ring . . . Ri . . .

Hello.

Yes, this is America calling for the leaders of the 21st century.

Is this a crank call or what?

No. I'm surveying young people of America. I want to know your definition of democracy and if you think democracy will survive in the next century.

I don't know about definitions. I guess democracy is a government of, by, and for the people. Democracy is about freedom for the people. It's difficult to put in words. Some have tried. H.L. Mencken called democracy, "The art of running a circus from the monkey cage." George Bernard Shaw sneered, "It substitutes selection by the incompetent many for the appointment by the corrupt few." Educator Alexander Meiklejohn panned it as, "A government where you can say what you think, even if you don't think." Finally, Winston Churchill said, "Democracy is the worst system devised by the wit of man, except for all others. Obviously the intellectuals can't define democracy. Democracy defies definition. I, however, know that democracy is about people and their yearning for freedom, assuming responsibility for that freedom, and grabbing the golden ring of opportunity for life and the pursuit of happiness.

Young person . . . In speaking with others like you, democracy appears in disrepair: Voter turnout is at an all-time low, political campaigns are financed by the wealthy, special interest groups; the media has frozen our common sense and critical thinking. Our people are intensely concerned about drugs, crime, the crazies on the right and left; children having children, teens killing teens, sex and violence, soleless materialism and a gridlocked government that can't curb a national debt headed for the moon.

I've also heard that the "Political Vehicle" built by the founding fathers has degenerated into a "Runaway Antique at the risk of losing its wheels." I don't agree with the perception. I see democracy on a roll with new regeneration for the 21st century.

You see, Government is not democracy. Democracy includes; Sam Adams staging the Boston Tea Party, Martin Luther King leading a march on Washington, Rosa Parks refusing to give up her seat. Democracy is what happens when free men and women get together and make something for the good of all.

We have the freedom; we can assume the responsibility; we have the faith for opportunity. We can change a community, create a business, or even become president. We always have the choice.

In exercising that choice we have to recognize the freedoms given to us; such as the bill of Rights, where mankind is given; the right to free speech, the right to a trial by jury, the right to petition and protest against people or events that are unpopular.

In turn we must assume the responsibility for our freedom. We need to vote for what we believe in and continue what past generations have started; such as peaceful relations with other nations.

Finally, we must keep the faith that freedom of choice will exist in the 21st century. That faith can be bolstered by: participation in the community, information gathering that is fair and accurate and balancing our endeavors. We need to sacrifice our personal wants and needs for the common good.

America, I need to go—I have another call, but don't worry, I'm not hanging up on you. I'm putting you on hold or on an answering service. You can call me collect anytime. I owe America and I guarantee I'll repay my debt in the 21st century.

I'll take charge of a local reforestation project and participate in discussions affecting my local area or even the nation. I'll make sure and stay informed and help others to do the same. Freedom is a part of the human spirit and helping others is what freedom is all about.

Thank you, young person for taking the time to listen to my call for action. If I have gotten through to you then there is hope for all of us.

Always remember what President Truman said at his inaugural address: "Only by helping the least fortunate of its members can the human family achieve the decent, satisfying life that is the right of all people."

TRIBUTE TO THOMAS E. MOSELEY

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. TEJEDA. Mr. Speaker, I rise to pay tribute to a veteran of education, Mr. Thomas E. Moseley. Mr. Moseley has touched the lives of students for 41 years, expanding minds and intellects as a teacher, a coach, a principal, and as superintendent. Mr. Moseley will retire at the end of this school year, and I could not let this event pass without commenting on his many achievements.

Mr. Moseley has served on every level of education. He began as a biology teacher and golf coach, first at Hondo High School and later at Robert E. Lee High School in San Antonio. After serving as a teacher and a State champion golf coach at Lee High School for 4 years, he moved up as the assistant principal of the school. Five years later, Mr. Moseley achieved the rank of principal of Nimitz Middle School. He held this title for 3 years and then moved over to Roosevelt High School to serve as principal. In 1980, Mr. Moseley became the superintendent of the Fort Sam Houston school district, where he has served for the past 16 years. Through these work experiences, Mr. Moseley developed a philosophy which took schools to higher educational levels.

As superintendent of Fort Sam Houston ISD, Mr. Moseley achieved numerous personal and educational honors. Both of the Fort Sam Houston schools have been named blue ribbon schools by the U.S. Department of Education through their excellence as impact aid schools. The Texas School of Business named Mr. Moseley the "March Educator of the Month" in 1990. In 1986, Mr. Moseley was named as "Superintendent of the Year" by region 20, an honor which speaks for itself. The University of North Texas named the educator "Outstanding Alumni of the Year" in 1992. In addition to his many honors, he currently serves on the University of North Texas Alumni Board, the USO Board, the Texas Academic Decathlon Board, as well as the Greater San Antonio Chamber of Commerce.

However, if Mr. Moseley were standing with me here today, he would not allow me to brag about his achievements. He is most honored by his students, his teachers, his friends—the people who benefited from his leadership and personal philosophy. Mr. Moseley's style of leadership is best described by his quote, "much can be accomplished if you don't mind who gets credit." This justly sums up Mr. Moseley's method of leadership. This educator believed in the education business. He saw teaching as a service to the classroom and the students. His decisions on administration duties, teaching priorities, even coaching, were always based on what was best for the kids. Through the actions of Mr. Moseley, others benefited.

Mr. Thomas E. Moseley will close the book this year on one of the most successful educational campaigns—his own. As the educational career of this 41-year veteran comes to a conclusion, I stand here to applaud him for a job well done. Mr. Moseley, thank you for instilling the value of education in the numerous lives that you have touched. Thank you for your dedication to impact aid schools and the schools of San Antonio. I trust that in your retirement you will touch just as many lives as you have in your educational career.

IN SUPPORT OF H.R. 3249, THE MARINE MINERAL RESOURCES INSTITUTE ACT

HON. ROGER F. WICKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. WICKER. Mr. Speaker, today I am pleased to join my colleague from Hawaii, Mr. ABERCROMBIE, in support of H.R. 3249, legislation to continue a valuable marine minerals resource program. Since its inception in 1988, this program has had as its primary goal the environmentally responsible exploration and development of mineral resources found within our Nation's Exclusive Economic Zone [EEZ]. This region covers more area than the United States proper and contains a resource base estimated in the trillions of dollars. By successfully merging the skills of academia and the talents of industry, this program is working to place the United States well above its international competitors in underwater technology development. At the same time, this program invests in the future by providing graduate students with first-hand training in marine mineral development.

At present, the United States is in danger of being surpassed by other nations that are aggressively pursuing the development of environmentally friendly ocean mining technology. Japan, the United Kingdom, France, and China, in particular, have devoted considerable time and money toward developing such technologies and promoting industry support. This program directs successful applied research efforts with numerous concrete accomplishments. To meet future challenges, researchers are working to develop surveying and sampling systems for use in locating important mineral deposits. The systems can

VOL
142
PT
6
AP
15
—
24
1996
UMI

be used for locating sand resources for coastline stabilization and beach replenishment. In addition, they are essential in assessing and monitoring pollutants in river and oceanic sediments. Researchers are also working to develop an acoustical filter system to control dredging turbidity and to process industrial waste.

For a relatively small input of Federal money, a strong relationship has been forged between Federal, academic, and industry teams to address problems in marine resources and the environment. I ask my colleagues to join us in supporting this exceptional program.

SENATE—*Wednesday, April 24, 1996*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. Today's prayer will be offered by the guest Chaplain, Maj. Tom Sillanpa of the Salvation Army.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Maj. Tom Sillanpa, Salvation Army, Westfield, IN, offered the following prayer:

O righteous Father and merciful God of hope, we would pause and ponder Thy Word from the psalmist: "Mercy and truth are met together; righteousness and peace have kissed each other."—Psalm 85:10. O Lord, Your covenant love and justice, our faithfulness and heart's repose, happily bless and unite Your people. It is the answer of hope, a message of peace and salvation, certain when God and men meet upon this terrestrial plain. We see an upright beam upholding Thy law. Ah! yet another, a horizontal beam picturing Thy loving-kindness—outstretched arms of mercy which would embrace the whole world. O Father, grant Thy well-being to our dear Senators serving Thee in righteousness. It exalts our Nation and brings glory to Thy name. Continue to mold a godly character in us all as we face the future unafraid and show unexpected strength and vision. For evil shall perish and righteousness shall reign in God's own good time as surely as the morning cometh. We pray in Jesus' holy name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Good morning, Mr. President. Thank you very much.

SCHEDULE

Mr. LOTT. Mr. President, today there will be a period for morning business until the hour of 10 a.m. with Senators permitted to speak for up to 5 minutes each with Senator HATCH permitted to speak for up to 15 minutes.

At 10 a.m. the Senate will resume consideration of Calendar No. 361, which is S. 1664, the immigration bill. Amendments are pending now to the immigration bill. Therefore, rollcall votes can be anticipated on that measure during today's session.

We may receive a short-term continuing resolution also from the House today. It is expected that the Senate would consider that appropriations matter when it is received.

The Senate may also consider any other legislation that can be cleared for action.

Mr. President, I yield the floor.

Mr. ROTH addressed the Chair.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak for up to 5 minutes each.

The Senator from Delaware is recognized.

RUSSIAN AGRICULTURAL IMPORT QUOTAS

Mr. ROTH. Mr. President, there are few things more disappointing and disturbing than broken promises. Despite repeated assurances from Russian officials that they sincerely desire to fully abide by the principals of free and fair trade, they are once again considering barriers against the import of agricultural products.

I have to add that there are few things more worrisome than to have our President visit Russia and tell us everything is OK when it is not. And this appears to be the case when it comes to United States-Russian trade relations.

Yesterday, Russian Deputy Prime Minister Alexander Zaveryukha announced his Government's plans to introduce food import quotas that will focus primarily on poultry purchases, the vast majority of which come from the United States. The Deputy Prime Minister himself even emphasized that it is American poultry products against which these import quotas are directed.

This is particularly outrageous in light of Russian Prime Minister's Chernomyrdin's assurances to Vice President GORE that Moscow was going to back away from unfair trade practices that the Prime Minister announced last February against agricultural imports into Russia.

Russia's new effort to restrict the import of American poultry products should not surprise us. For the last 6 months Moscow has persistently been trying to ban the import of American poultry products. First, they tried to impose a bogus health ban. When it became clear that could not fly, they have been trying to increase tariffs against our poultry products. Now, they are talking about import quotas.

A decision by Moscow to impose import quotas, higher tariffs, or any other sanctions against American agricultural products would be most unfortunate. This is particularly true in the case of poultry. The amazing growth of in our chicken sales in Russia over the past 5 years demonstrates that Russian consumers recognize the quality and reasonable price of United States poultry. Needless to say, import quotas will only end up hurting United States poultry producers, Russian consumers, and the United States-Russian trade relationship.

I want to emphasize that this issue has repercussions that go well beyond poultry. Indeed, agricultural import quotas are very much part of a broad turn toward protectionism in Russian economy policy.

This trend toward protectionism is particularly disturbing when seen in the light of overall United States-Russian Trade and United States foreign assistance programs to Russia. Today, the United States is running a trade deficit with Russia that amounts to over $2 billion annually. Import quotas against poultry and other agricultural imports will only further restrict access to the Russian market by our most competitive exports and will further widen our trade deficit with Russia.

This is particularly outrageous when one considers that since 1992 the United States has provided some $2.44 billion in foreign assistance to Russia. Much of this assistance is designed to help Russia develop a fully functioning free market economy. The American people would be well justified in questioning such assistance to countries that close their markets to U.S. exports.

Should Russia actually decide to impose trade quotas against American exports, it is essential that United States Government respond with forceful and immediate measures.

How we respond to protectionist policies by Moscow will be closely watched by other beneficiaries of American foreign assistance, particularly those among the former Republics of the Soviet Union. Thus, Russia's increasing protectionism and our response to it must be viewed through the lens not only of trade, but also the broader dimensions of United States relations with Russia, Central and Eastern Europe, and the world.

Mr. President, I am convinced that we must send a strong message to Russia that we will not tolerate such blatant protectionism. Any less of a response will only send the wrong signal

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

VOL
142
PT
6
AP
15
—
24
1996
UMI

to Moscow and other nations that protectionism is a legitimate policy tool that they can use with impunity.

The Russian Government must understand that free trade is a two-way street. If they want to benefit from our foreign assistance, sell their products and services to us, expand their economy, and become a full participant in the global market place, then they are going to have to let us sell our products and services to them. If they insist on erecting protectionist trade barriers, such as the import quotas, then they must fully understand that there will be a heavy price to pay.

Mr. President, I yield the floor.

I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be permitted to speak for up to 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. I thank the Chair.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 1697 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

COMMEMORATING THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. KENNEDY. Mr. President, today marks the 81st anniversary of the Armenian genocide. Between 1915 and 1923, the Ottoman Empire in Turkey subjected the Armenian people to a brutal campaign of genocide that resulted in the deaths of 1½ million people. Those who were not immediately killed died during the forced deportation of the Armenian population. One-third of the Armenian people died during these 8 tragic years.

The crimes committed against the Armenians are among the worst atrocities in human history. Tragically, this cruel and massive slaughter was only the first of a succession of state-sponsored genocides carried out in this century. The recent mass graves uncovered in Bosnia remind us that the world has still not learned the lessons of the history of the Armenian, Jewish, and Cambodian people.

I commend the Armenian Assembly of America and the Armenian National Committee of America for their impressive continuing efforts to educate Americans about Armenian history and culture. The tireless work of these two effective organizations gives renewed hope and assurance that the extraordinary sacrifices of the Armenian people will never be forgotten, and that the remarkable continuing contributions of Armenians to this country and many other lands will always be remembered and honored.

HEALTH INSURANCE REFORM ACT

Mr. HATCH. Mr. President, yesterday the Senate reported by a unanimous vote of 100 yeas to 0 the Health Insurance Reform Act, S. 1028.

This legislation is designed to help millions of Americans gain access to health insurance coverage as well as keep their coverage when changing or losing their jobs.

Over the past several days, I have received numerous telephone calls and inquiries from across the country regarding the antifraud and abuse provisions which were added to the bill last week. I understand that many of my colleagues in the Senate and House have received similar phone calls. These individuals have expressed concern over the bill's implications for alternative medicine as well as for services provided by nonmedical health care providers.

As my colleagues know, the Senate approved on Thursday, April 18, 1996, an amendment by Senators DOLE and ROTH that contained a substantive new health care antifraud and abuse program. These provisions, now contained under title V of S. 1028, were essentially developed by my colleague, the distinguished Senator from Maine, Senator COHEN.

The antifraud and abuse provisions are designed to provide for a more coordinated Federal and State approach in addressing health care fraud and abuse, which is currently costing the Federal Government and private payers billions of dollars a year.

This is an issue which has been the subject of numerous congressional hearings in both the Senate Judiciary Committee and in the Special Committee on Aging over the past several years.

It is evident there is a need for a more enhanced program to appropriately address the growing and deliberate menace by perpetrators who deliberately scheme to defraud public and private payers of scarce health care dollars.

The health care antifraud and abuse provisions are not new to the Senate or the House. In large part, they were formulated from the legislation developed by Senator COHEN, S. 1088, and were, in fact, similar to the provisions included in the Balanced Budget Act as passed by the Congress late last year.

Mr. President, I am concerned, however, that the antifraud provisions could have unintended consequences and adversely impact the care provided by health care professionals who utilize alternative therapies, such as herbal treatments, or other nonmedical health care providers.

It is certainly not my desire, and based on my discussions, nor the intent of my colleague Senator COHEN who drafted the original antifraud language, that these provisions in any way impede consumers from access to alternative or nonmedical treatment therapies.

And, I would add that Senator COHEN and I specifically addressed these concerns in our colloquy on the floor of the Senate last Thursday, April 18, 1996, although I know that many people still have concerns.

I want to assure my colleagues in both the Senate and House—and especially those individuals in the alternative and nonmedicine community—that I will continue my efforts to clarify, where necessary, and fine-tune the language as the bill moves to the conference committee.

FOREIGN OIL CONSUMED BY THE UNITED STATES. HERE'S THE WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending April 19, the United States imported 7,300,000 barrels of oil each day—712,000 barrels fewer than the 8,012,000 barrels imported during the same period a year ago.

This is one of those rare weeks when less oil was imported in 1996 than in 1995. Nevertheless, as the box scores I regularly insert into the RECORD indicate, the trend is steadily upward.

Americans now rely on foreign oil for more than 50 percent of their needs, and there is no sign that this upward trend will abate. Before the Persian Gulf war, the United States obtained 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the calamity that will result if and when foreign producers shut off our supply, or double the already enormous cost of imported oil flowing into the United States.

THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. LIEBERMAN. Mr. President, today we commemorate the 81st anniversary of the Armenian genocide, a horrendous crime against humanity which cannot be denied.

Beginning on April 24, 1915—81 years ago today—the declining Ottoman Empire undertook a systematic effort to kill or drive out the Armenian people. By 1923, more than 1 million Armenians perished as a result of execution, starvation, disease, the harsh environment, and physical abuse. Others were driven from their homeland.

The terrible tragedy that befell the Armenian people was the first systematic genocide in this century. Unfortunately, it was not the last. The Nazi Holocaust, Stalin's purges, and the killings of Cambodians by the Khmer Rouge are all further examples of brutality and death carried out in the name of the state. In Bosnia, American leadership and united international diplomacy and intervention has finally brought an end to the genocidal ethnic cleansing, though ethnic divisions there will be long in healing.

We mark this date in history because it is so important that we remember. We must remember the Armenian genocide and other abuses of state authority against ethnic minorities. We must remember all of the victims of crimes against humanity. Our memory, our vigilance, is essential to ensuring that these acts do not happen again, to Armenians or any other group.

The Armenian people and their culture have survived. The Armenian-American community is thriving in a land where cultural and ethnic diversity are increasingly valued. And the collapse of the Soviet Union gave rise to an independent, democratic Armenian state.

So let us remember the Armenian genocide, let us be vigilant to prevent such crimes in the future, and let us celebrate the Armenian people, who have overcome this tragedy to thrive in independent Armenia and in America.

GOLDEN GAVEL AWARD RECIPIENTS

Mr. DOLE. Mr. President, I am pleased today to announce the Senate's Golden Gavel Awards for the 104th Congress.

Each Congress, one important tradition we have is to honor colleagues who preside over the Senate for more than 100 hours. As all Senators know, presiding is frequently a difficult, thankless, and tiring task.

I would like to take this opportunity to thank all of the Golden Gavel recipients today for their tireless efforts. I know that all Senators join me in congratulating our colleagues.

The recipients are as follows: Senator MIKE DEWINE, Senator ROD GRAMS, Senator BILL FRIST, Senator JOHN ASHCROFT, Senator RICK SANTORUM, Senator FRED THOMPSON, Senator SPENCE ABRAHAM, Senator CRAIG THOMAS, Senator JON KYL, and Senator JIM INHOFE.

CHILD LABOR—NOT WITH THE RUGMARK LABEL

Mr. KENNEDY. Mr. President, a year ago this month, a young child labor activist, Iqbal Masih, was killed in his village in Pakistan. In 1994, when Iqbal traveled to the United States to receive the Reebok Human Rights Award, he also met with the students at Broad Meadows Middle School in Quincy, MA. After Iqbal's death, the students at Broad Meadows decided to honor his memory by building a school in Iqbal's village.

Earlier this month, the students announced that they have raised $100,000 for a school which will be built by Sudhaar, a nongovernmental organization in Pakistan. Their dedication and commitment to Iqbal's dream assure that he will live on in the hearts and minds of all those who will have a better chance in life because of the school they are building. Armed with the advantages of education, these children in Pakistan will be able to improve their own lives and the lives of their families, their communities, their country, and even our common planet.

Last November, one of the recipients of the Robert F. Kennedy Human Rights Award was Kailash Satyarthi, head of the South Asian Coalition on Child Servitude, an independent nongovernmental organization dedicated to the eradication of child labor and bonded labor in the carpet industry.

Mr. Satyarthi and his colleagues have established what is known as the Rugmark label, to identify carpets which have not been made with child labor. They are urging consumers to purchase only carpets which carry the label.

Mr. President, on the anniversary of Iqbal's death, Albert Shanker, president of the American Federation of Teachers, has urged all Americans to honor the Rugmark label. I ask unanimous consent that Mr. Shanker's appeal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 14, 1996]

KNOTTED RUGS

(By Alert Shanker)

The murder of Iqbal Masih, a year ago this week, forced many Americans to look at a problem they would have preferred to avoid: child labor in developing countries. Iqbal was a world-famous human rights activist. He was also a young Pakistani boy whose mother had sold him to a rug maker when he was four. Iqbal eventually freed himself, and by the time he was murdered, at the age of twelve, he had helped free 3,000 other bonded child laborers. That is probably why he was murdered. But many millions of children in Pakistan, India, and other developing nations continue to work as gem stone polishers, glass blowers, and makers of matches, fireworks, clothing and hand-knotted rugs, often conditions that are unspeakable.

Children who knot rugs are crowded into filthy, poorly lit shops that have minimal ventilation for as many as 16 hours a day, 7 days a week. They are often chained to their looms, and they risk being beaten or even killed if they try to escape. Many die anyway because of horrible conditions under which they work. Manufacturers consider young children to be desirable "employees" because they work hard and put up with pay and conditions that adults would not tolerate. The children receive no more than a couple of cents a day for their work; many get nothing.

A number of developing nations—India and Nepal, for example—have laws on the books banning child labor. Nevertheless, you hear some people using hard-nosed economic arguments to justify exploitation of children. They say that if child labor is what it takes to bolster the economy in a developing country, that's the price the country has to pay. And it's really nobody else's business anyway. But many of these countries also have very high unemployment among adults. Why shouldn't companies hire adults so that parents can support their children instead of having to sell them into bondage?

However, we don't have to wait for the companies making hand-knotted rugs to get religion (or for countries that are dragging their feet to start enforcing their child labor laws). These rugs are an important export item, and people who buy them can have a big say about the conditions under which they are made. The traditional weapon used by people who want to protest economic injustice is the boycott: Don't buy the product. But a boycott only punishes, and it often punishes those who act responsibly as well as those who don't.

An Indian child advocate named Kailash Satvarthi had a better idea. He established a nonprofit foundation that allows consumers to identify and buy hand-knotted rugs that are not made with child labor. Rugmark, as the foundation is called, inspects companies that apply for certification and vouches for the fact that they are not using child labor to make their hand-knotted rugs. Inspectors also pay surprise visits to Rugmark-certified companies to make sure they continue to abide by their commitment to use adult labor only. Consumers can recognize Rugmark rugs by a label that only they will carry.

Rugmark, which is now two years old, has signed up and certified 15 percent of the companies producing hand-knotted rugs in India. A number of others are moving toward certification, but the process is complicated and many carpet makers are understandably hostile to the idea of losing a cheap, excellent, and plentiful supply of labor. So far, the total production of Rugmark rugs has gone to Germany, where the country's largest mail order firm and several large department stores have agreed to carry them. But Rugmark has recently opened up shop in Nepal, with the support of 70 percent of the carpet manufacturers there. These rugs will soon be available for import to the U.S. It's up to American consumers to start talking to stores and catalog companies that carry hand-knotted rugs. They should let the businesses know that they do not want rugs made by children, and they should urge them to put pressure on the importers they deal with.

This coming week, the first Rugmark-certified rugs imported to the U.S. will be auctioned off at a ceremony commemorating the anniversary of Iqbal Masih's death last year. If American consumers do their part, these rugs should be the first of many.

CONFERENCE REPORT TO ACCOMPANY S. 735

Mr. BYRD. Mr. President, 1 year ago last week the American people were

VOL
142
PT
6
AP
15
—
24
1996
UMI

forced to experience the unimaginable when terrorists placed a bomb in a Federal building in Oklahoma City, killing 168 innocent citizens, some of them children. In response to that grisly deed, as well as the earlier bombing of the World Trade Center in New York City, and the downing of Pan American flight 103 over Scotland, the United States Senate passed S. 735, the "Comprehensive Terrorism Prevention Act," on June 7, 1995. The measure, I think it is important to note, was supported by 91 Senators, myself included.

I supported that bill because I believed it was a good piece of legislation that went a long way toward helping law enforcement agencies combat the rising scourge of domestic terrorism. It was an effective measure with many important provisions—important crime-fighting tools—specifically designed to thwart this growing menace. Our goal, or so I thought, had been to stop domestic terrorism before it could happen; to let terrorists know that they were going to be put down before they could carry out their cowardly acts.

When S. 735 left the Senate last June, there were provisions in the bill that would have permitted Federal law enforcement agencies to pursue known or suspected terrorist groups with the same means that those agencies now employ when pursuing organized crime, or murderers, or bank swindlers. And, as I said, those provisions were endorsed by 91 Senators.

Unfortunately, though, what started out last June as a very worthwhile effort, has this past week been reported back by the conference committee disemboweled. In fact, this measure has been so thoroughly gutted that I do not see how anyone can honestly call it a terrorism "prevention" bill. Almost every provision designed to enhance the effectiveness of law enforcement officials, almost every provision designed to make it more difficult for the terrorist to operate, and almost every provision that was fashioned to put a stop to this type of activity, was simply sacrificed in conference.

Mr. President, consider this: The original Dole-Hatch bill, and the version that passed the Senate, contained language that would have added certain terrorist offenses to the current long list of crimes for which Federal law enforcement authorities can seek a wiretap. Using weapons of mass destruction, providing material support to terrorists, or engaging in violence at international airports—all of these were activities for which a wiretap could have been sought. But the language that would have added those crimes to the wiretap list was dropped by the conference committee. Consequently, what that means is that, right now, the FBI can institute a wiretap on someone suspected of bribing a bank officer, but not on someone who may be about to attack the New York City subway system with poisonous gas.

That is ludicrous. It simply boggles the mind. If this is supposed to be a bill to "prevent" terrorism, then how can we tie the hands of law enforcement authorities like that? What kind of message does that send to some deranged individual who may be plotting a terrorist activity? What does that say to those organizations that practice international terrorism and may be planning to target the United States? Chasing terrorists with fewer tools than we would use to apprehend someone suspected of bribing a bank official is not, in my opinion, the way to "prevent" terrorism.

When the Senate considered S. 735 last year, it added, by a vote of 77 to 19, a provision that would have allowed law enforcement authorities to obtain what are called multipoint wiretaps. In effect, these special wiretaps allow officials to target an individual suspect rather than an individual telephone. Given the rapid development of communications technology, it is nearly impossible for Federal officials to conduct meaningful investigations of suspected terrorists when all that person has to do is change telephones. Right now, a terrorist can move from his home phone to a car phone to a cellular phone and law enforcement officials—unless they can prove such movement is intentionally meant to thwart the surveillance—will be left in the dust. But the provision to allow multipoint wiretaps was dropped in conference.

Again, such action defies logic. How can we say that we are seriously working to prevent terrorism when we will not even allow officials to keep pace with the terrorists. What message are we sending when we say that the only terrorists worthy of stopping before they act are those stupid enough to use a single telephone? This is not, I am sorry to say, prevention.

Mr. President, last June the Senate also adopted an amendment to S. 735 that would have allowed the Attorney General to request the technical and logistical assistance of the U.S. military in emergency situations involving biological and chemical weapons of mass destruction. Such authority already exists in the case of nuclear weapons. The amendment the Senate adopted merely extended that authority to include biological and chemical weapons.

I believe this was an important amendment because the Armed Forces of this Nation have special capabilities in this area, with individuals who possess the training to counter biological or chemical weapons. The police departments of our country and the fire departments of our country are not equipped to deal with these emergencies. They simply do not have the expertise to handle a biological or chemical weapons attack. So the Senate adopted the provision, by unanimous consent I would note, that allows for the technical expertise of the military to be used should a terrorist attack occur in which biological or chemical weapons are used.

But that provision, too, was dropped by the conference committee. Consequently, we have a bill that purports to prevent terrorism, but hamstrings Federal, State, and local authorities in any case involving biological or chemical weapons.

The citizens of New York City, or of Los Angeles, or of any city in this Nation should not be forced to suffer a nuclear attack from a terrorist organization before they can expect help from the Federal Government. The American people should not be told, as this bill implicitly tells them, that an imminent attack with chemical weapons is not serious enough to warrant the use of the military. The American people should not have to experience, as did the citizens of Tokyo in March 1995, a gas attack in a subway system before their Congress is willing to act.

Last, when S. 735 was passed by the Senate last year, it contained a provision that would have made it a Federal crime for any person to distribute material that teaches someone how to make a bomb if that person intends or knows that the bomb will be used to commit a crime. That provision, offered by Senator FEINSTEIN, was included in the Senate bill by unanimous consent. Not one of our colleagues stood up and objected to it. But, like many of these preventive tools, the Feinstein amendment was dropped by the conference committee.

It is simply absurd to expect this bill to negatively impact terrorists if the Congress is not even willing to prevent the distribution of what amounts to terrorist training manuals. How can anyone say that this legislation—absent the Feinstein amendment—is a serious effort aimed at prevention? How do we intend to stop a future terrorist from blowing up a Federal building if we will not even take away his instruction manual?

Mr. President, the provisions that I have highlighted here are just some of the provisions that I believe made S. 735, the Comprehensive Terrorism Prevention Act, a good, tough, worthwhile bill. But as I have noted, each of those was dropped from the final product. As such, we have been left with a measure that, in many ways, is simply untrue to its title. No longer, in my opinion, is this bill comprehensive, or directed at prevention. Accordingly, I was compelled to vote against the conference report.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, we are in morning business?

The PRESIDING OFFICER. The Chair advises the Senator from Iowa we are in morning business with Senators allowed to speak up to 5 minutes each.

THE VOID IN MORAL LEADERSHIP—PART SIX

Mr. GRASSLEY. Mr. President, yesterday I continued my series of talks on this floor on the failure of moral leadership in the White House. I understand that sometime after I spoke—and I am sorry I was not here on the floor to politely listen to what he had to say—my friend from Arkansas, Senator PRYOR, addressed my comments. So I would like to respond to his comments.

First, I want to echo what he said about our long friendship and relationship working together, particularly to protect the taxpayers' interests. And that cooperation includes not just saving billions in defense cost overruns and defective weapons, as he mentioned yesterday, it also included the work that he and I did in passing the taxpayers' bill of rights. That was a bill to protect our taxpayers and to give them more protections against the abusive practices of the IRS.

I have not known a Senator in this body who has been more dedicated to good Government than Senator PRYOR has been. When he retires after this Congress, we will lose not just a respected colleague and friend, but an effective consensus builder. I will miss his leadership and I know my colleagues will as well.

Yesterday my friend from Arkansas defended the President's record on the environment in the wake of criticism that I had raised. What Senator PRYOR said is fair enough. I do not have any problems with that, because the Senator has a right to protect his friend, the former Governor of his home State, when his record has been critiqued, as I have been doing in several speeches on the floor of the Senate.

Apparently my friend from Arkansas misunderstood my comments regarding Earth Day. I did not mean to take exception to the President celebrating Earth Day at our national parks. Earth Day should be celebrated. Environmental protection is and should be a very high priority, and the President should continue to show his commitments to this issue.

But put yourself in my position, or the position of a constituent from my State. I was referring yesterday to the director of the Iowa Department of Natural Resources, who wrote a letter that I placed in the RECORD yesterday.

You can all read it. The director of the Iowa Department of Natural Resources is charged with protecting the environment in my State of Iowa. Yet, as he watched the President tout his environmental record on Earth Day, he is faced with the fact that the President's budget will result in the termination of many important environmental programs. So, for the director of the Iowa Department of Natural Resources, he clearly sees President Clinton's actions falling far short of the rhetoric of the President of the United States.

However, I do find it interesting, Mr. President, that the Senator from Arkansas yesterday, in response to me, failed to address the main points of my remarks. You see, my point was not to critique the President's record on the environment. Rather, it was a troubling pattern that this President has in saying one thing and doing another. My point was also to explain why a pattern like that can be so damaging, because it does two things—first, it continues to nourish the climate of cynicism that has swept the country, and, second, it fails to set a good record for the country, especially for the young people. A country without leaders is a country without direction.

There is no more important attribute for a President, any President, than moral leadership. That is according to a former great President, FDR, former member of the same party as my good friend from Arkansas. I know Senator PRYOR has regard for the judgment and wisdom of Franklin Delano Roosevelt. What did FDR mean when he said moral leadership is the most important attribute of any President? He meant simply it is important for a President to set a good example, the kind of example that we would like to see set for our children by our teachers, by our community leaders, by our little league coaches, and, yes, even our parents.

I have laid out specifically in seven previous speeches where I thought our President has failed to set a proper example. The practice cuts across all issues, not just on the environment. It has happened on the budget, happened on Travelgate, happened on Whitewater, on AmeriCorps, and on combating drugs.

Simply put, the programs do not do what the lofty rhetoric says they do. There is tremendous damage done with this false advertising. It erodes the ability of our Nation's leaders to lead and undercuts their moral authority to lead. That is when cynicism grows.

Mr. President, could I have 3 more minutes, please?

Mr. KENNEDY. Reserving the right to object; I do not intend to object. There was an agreement to lay down the immigration bill at 10 a.m. So, if we can get an agreement to extend the morning hour, if the Senator would ask to extend the morning hour.

Mr. GRASSLEY. By 3 minutes? Five minutes? Ten minutes?

Mr. KENNEDY. Ten minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRASSLEY. I thought my friend from Arkansas, Senator PRYOR, would have taken issue with my observations that the President has not set a good example for the country and for the young people. I thought he would take issue with some of the people I quoted who made other observations, and I would like to give some examples.

The observation that James Stewart made in his book "Blood Sport." He said the story of Whitewater is about the arrogance of power, about "what people think they can get away with as an elected official, and then how candid and honest they are when questioned about it."

Charles Krauthammer, a syndicated columnist, observed why the White House was covering up Travelgate and Whitewater even though there were not any crimes. In January, he noted that "the vanity of the Clintons is . . . that they are morally superior." He said, "The offense is hypocrisy of a high order. Having posed as moral betters, they had to cover up. At stake is their image."

The observation of Rouvain Benison, a Democrat, who was quoted in the Washington Post on March 24. He said, "Whitewater is a symptom, the lack of moral leadership, of moral integrity, strength, courage—all the good things in a person's character."

The observation of Eric Pooley of Time magazine. He wrote recently that, with this White House, "speeches are as important as substance and rhetoric becomes its own reality." He then quotes a senior White House adviser as saying, "Words are actions." In other words, it is not important what the President does; just listen to what he says.

These are all examples that I have given over the past months in speeches on the floor. I am merely compiling the observations of others, of respected, credible individuals. This is what I thought my friend from Arkansas would have responded to, because the important issue is moral leadership, leading by example, and the many instances—across the board—in which this President has failed to show such leadership.

My friend from Arkansas knows, Mr. President, that I take seriously and sincerely what Teddy Roosevelt said. I have quoted Teddy Roosevelt a few times on this floor. To paraphrase, he said Americans have a responsibility to critique the President more than any other person in America. To not do so is both base and servile.

My friend also knows that I have spoken out about the leadership of Presidents of my own party. President Reagan busted the budget with his defense spending. I questioned his wisdom and leadership in cracking down on welfare queens while letting welfare queens in the defense industry squeeze through the cracks. I questioned President Bush when he proposed raising

VOL
142
PT
6
AP
15
—
24
1996
UMI

taxes in 1990. He promised he would not, but he did; and I criticized him.

Now I am criticizing this President, President Clinton, for failing to set a good example across the board. It is a pattern. It is pervasive. It encourages more cynicism by our people.

If we want to set a good example for the young people of this country and for the next generation, if we want to stop the growing cynicism in this country toward our elected leaders and our institutions, then we must begin by setting higher standards of conduct for ourselves. We must set a good example for our country.

When we do not, Mr. President, when we do not do that, it is precisely because of a failure of moral leadership. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. As I understand it, we are in morning business and entitled to address the Senate for 5 minutes.

The PRESIDING OFFICER. The Senator is correct.

THE MINIMUM WAGE

Mr. KENNEDY. I thank the Chair. Mr. President, in just a few moments we are going to return to the immigration bill. We have orders for votes on various amendments. Then, hopefully, we will have the legislation that will be open for amendment. I intend at the earliest possible time to offer an amendment on increasing the minimum wage. I would be more than glad to enter into a time limitation so that our side would have 30 minutes and the other side would have 30 minutes. It seems to me that the 13 million families that will be affected by the minimum wage are entitled to have at least 30 minutes of the U.S. Senate's time in order to make their case before the U.S. Senate, and it seems to me that they are entitled to a decision by the U.S. Senate as to whether we are going to provide some economic justice and decency for those Americans who have been left out and left behind on the lower rung of the economic ladder—who are working hard, trying to provide for their families, and still existing in poverty.

Mr. President, I think the urgency for offering that amendment is just emphasized once again by what the leader in the House of Representatives talked about just yesterday, that he, Mr. ARMEY, as the House majority leader, has indicated his continued opposition to the increase in the minimum wage. What he is basically talking about is a brand new entitlement program, the elimination of the earned income tax credit, which is a lifeline to working families, particularly working families with children. All of us understand that the earned income tax credit, which Ronald Reagan himself said was the best poverty program, provides help and assistance for working families with children. The minimum wage makes a difference for those families. For the individual or couple who does not have children, the increase in the minimum wage makes the greatest difference to them.

But what Mr. ARMEY is talking about is the elimination of the earned income tax credit. He says we will develop a program. Who will run it? The IRS, the Internal Revenue Service. They are going to be the ones who run a new entitlement program.

Now, Mr. President, he says this will save $15 billion. You know where that $15 billion is going to come from? It will come from those who benefit from the earned income tax credit, who are the neediest working families in this country.

The increase in the minimum wage will provide $3.7 billion a year to these families. So, in effect, what he is saying is we will take the earned income tax credit away from those families, we will put in the Internal Revenue Code a subsidy program, and the subsidy program, which will be paid for by Federal taxpayers, generally will be contributed to by other workers.

Mr. President, it is about time we had a clear vote and a clean vote on the increase in the minimum wage. We have a bipartisan group here in the U.S. Senate, Republicans and Democrats alike, who have supported the increase in the minimum wage. We are going to take the first opportunity that presents itself, after the disposition of these votes, to offer that with a time limit so the American people will be able to find out who is on their side.

I would hope that we would be able to work that out as a matter of comity, but we are going to continue to press that issue as we move through with this legislation and other legislation until we have an opportunity to speak for those 13 million families that are, today, being left out and left behind.

There is no excuse for the majority leader not to schedule this program. We would not need to offer this amendment if we were given a reasonable time to debate this on a clean bill and do it at any time of the day or evening that the majority leader wants to do it.

Let us have at least an opportunity to speak to this issue. Mr. Majority Leader, do not deny us economic justice for working families.

Mr. LOTT. Noticing that the manager of the bill is not on the floor yet, I ask unanimous consent that the time for morning business be extended for 10 minutes so I may address some comments to the ones just made and speak briefly about this bill.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Massachusetts.

Mr. KENNEDY. Reserving the right to object, I will not object as long as my friend and colleague will somehow be recognized during consideration of morning business.

Mr. DORGAN. Parliamentary inquiry. My understanding was that morning business was already extended 10 minutes by the unanimous consent, agreed to by the Senator from Iowa, Senator GRASSLEY. If that is the case, the Senator from Mississippi is asking the 10 minutes be added to that time?

Mr. HATCH. Will the Senator yield?

Mr. LOTT. I am happy to yield to the Senator. First, Mr. President, is that correct, it had already been extended?

The PRESIDING OFFICER. Morning business closes at 10:10.

Mr. HATCH. Mr. President, I was supposed to be accorded 15 minutes for my remarks. I have to make these remarks this morning. I appreciate if it could be extended. I was on the list. Could I follow the distinguished Senator from Mississippi?

Mr. LOTT. Mr. President, if I could inquire of the Chair, does the distinguished Senator from North Dakota desire time also?

Mr. DORGAN. Yes.

Mr. LOTT. How much time is he interested in?

Mr. DORGAN. Eight minutes.

Mr. LOTT. Mr. President, I ask unanimous consent that the time for morning business be extended until 10:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Could it be in this order: the distinguished Senator from Mississippi, then the Senator from Utah, then the Senator from North Dakota?

Mr. LOTT. I modify the unanimous consent to that effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Thank you, Mr. President. I thank my colleagues for working with us as we get that worked out.

IMMIGRATION

Mr. LOTT. Mr. President, we are here today going to take up legislation that I hope will pass before the end of this legislative week. It is very important legislation. It is major immigration reform.

We have a problem in America with illegal immigration. We are not controlling our borders. We have illegal immigrants in this country that are taking advantage of the taxpayers of this country. There needs to be some changes. There needs to be some relief in the way we handle immigration in America, particularly as it applies to illegal immigrants.

This legislation has already been delayed a week now while we argue over whether or not to allow extraneous matters, amendments that are not relevant to this legislation. Whether or not they will be added, it is a distraction. We can work out these matters. They can be offered on other occasions, on other bills. I plead with my colleagues for us to keep our focus on the bill before us—illegal immigration reform. If you want this problem to be dealt with, you have to give us the time to deal with the amendments that are relevant, those that are pending. Others, I am sure, will be welcomed.

We can work on this legislation today and hopefully finish it tomorrow. If we get sidetracked with issues that are not relevant, have not been considered by the committee that is bringing this bill up, it will delay it, maybe even cause it to be withdrawn or maybe not be completed. The American people want this action. We need to face up to doing the right thing.

The Senator makes the point about the minimum wage. I know there are discussions going on now in a bipartisan way, and among the leadership on all sides of the Capitol, both sides of the Capitol, to come up with a way to consider how we address the problems of job security in America.

I am worried about job security. I am worried about people that will lose their jobs and small businesses that could lose jobs in their business or have to pay the costs of what the Senator from Massachusetts is proposing. We need to think about how we proceed on this. I think we can come up with a degree to proceed.

In the meantime, we need to address this problem: How we can help State and local officials in dealing with illegal immigrants. The bill reported from the Committee on the Judiciary focuses on the problem of illegal immigration, entry into the territory without official approval as an immigrant, refugee, or alien. That illegal entry is a crime. We need to start with that. It is a crime. "Illegal" means you are doing something that is wrong and is a crime.

It may have extenuating circumstances. It may make sense for those who undertake it to come into this country. Obviously, they are attracted to the free enterprise system in America. They have economic and social concerns for their families. It is a crime and strikes at the heart of one of the conditions of nationhood: the ability to control the borders of our own country. That is what this bill is about and what our debate this week should be about.

I hope we will not be treated to accusations of xenophobia and racism from those who oppose a legitimate crackdown on illegal immigration. You talk about job loss; there are problems where jobs are being improperly taken by these illegal immigrants. What we are trying to do with this legislation is reestablish order and control over the process of entering the United States. Orderly immigration has always been a net good for our country. If we tried to catalog the major contributions—scientific, economic, cultural, patriotic—of immigrants in the last few decades, it would take more time than we could spare here. Just as industrial America grew strong from the human capital of Ellis Island, so is our country's future being created anew by our new citizens that come in from every corner of the world. That is fine.

The Republican platform in 1992, the one some of the news media denounce as antiimmigrant, put it this way:

> Our Nation of immigrants continues to welcome those seeking a better life. This reflects our past, when some newcomers fled intolerance; some sought prosperity, some came as slaves. All suffered and sacrificed but hoped their children would have a better life. All searched for a shared vision—and found one in America. Today we are stronger for their diversity.

Uncontrolled immigration, however, is a different matter. We simply cannot allow our borders to be overrun, our laws flouted, and our national generosity abused. Every year, over one million persons are turned back while attempting illegal entry into this country. But many more are not apprehended and get into the country. There are probably more than 4 million illegal aliens now in this country. Their numbers are growing at about 300,000 to 400,000 people each year. That is unacceptable. The American people are paying a tremendous price because of it.

It was not so long ago that Congress legislated amnesty for persons then illegally in the United States. Hundreds of thousands illegal aliens and undocumented aliens, they were preferred to be called, took the opportunity to regularize their presence here. Many of them have now become citizens. More power to them. But to balance that unprecedented amnesty—and to make sure it need never be repeated—we need to pass this legislation.

I urge my colleagues to keep their focus on this important legislation. We should get it done. It is overdue.

JUDGES AND CRIME

Mr. HATCH. Mr. President, I wish to respond to some of the extraordinary remarks President Clinton made during the recent congressional recess on crime and judicial appointments. Let me note, again, that there is simply no substitute, as a practical matter, for the sound exercise of Presidential judgment in nominating persons to lifetime Federal judgeships.

I find President Clinton's remarks on April 2—which have been echoed by Vice President GORE and by White House aides—concerning the administration's record on judges to be a remarkable effort to dodge the consequences of his own judicial selections and to deflect the attention of the American people from these selections. I welcome the opportunity to set the record straight and to dispel the administration's myths they are attempting to weave to protect their judges and themselves.

MYTH NO. 1

The President said, regarding criticism of his judicial selections, that this side is "sort of embarrassed" by our crime record. Vice President GORE repeated this assertion before a group of newspaper editors, and Jack Quinn, the White House counsel, echoed it in yesterday's USA Today. This simply is not true, no matter how many times the President repeats himself. And this from a President AWOL—absent without leadership—in the war on drugs. He mentioned the Brady bill, the so-called assault weapon ban pertaining to 19 firearms, the 100,000 police he keeps talking about, and the 1994 crime bill. I will examine each in turn.

It is the swift apprehension, trial, and certain punishment of criminals that is our best crime prevention mechanism, not the gun control measures the President mentions. Hard-nosed judges, tough prosecution policies, and adequate prison space will do more to control crime than these measures. I might add that it is particularly ironic to hear the President's comment this month. This side of the aisle has just sent the President the product of over a decade of Republican efforts to curb endless, frivolous death row appeals. The bill also places prohibitions on terrorist fundraising; contains provisions on terrorist and criminal alien removal and exclusion; strengthens the laws pertaining to nuclear, biological, and chemical weapons; authorizes $1 billion over 4 years for the FBI, the Drug Enforcement Agency, the INS, U.S. attorneys, the Customs Service, and other law enforcement agencies; and a number of other tough provisions.

Although I expect the President to sign the antiterrorism bill today, he worked against its key restrictions on the abuse of the writ of habeas corpus. He even sent his former White House Counsel, Abner Mikva, to lobby on the Hill to dilute these provisions, which will provide for the swifter execution of death row murderers.

Meanwhile, his Solicitor General, Drew Days, has failed to appeal decisions, such as the case of United States versus Cheely, that may hamper efforts to impose the death penalty on terrorists such as the unabomber in California. During a November hearing chaired by myself and my good friend Senator THOMPSON, the Judiciary Committee learned that the Clinton administration's Solicitor General generally has ceased the efforts of the Reagan and Bush administration to vigorously defend the death penalty and tough criminal laws.

Instead, the Clinton administration's Solicitor General has refused to appeal soft-on-crime decisions to the Supreme Court, and he even has argued before the Court to narrow Federal child pornography laws.

VOL 142 PT 6 AP 15 — 24 1996 UMI

The President talks about 100,000 new police officers. His plan will not add 100,000 police officers to the rolls of our law enforcement agencies.

The 1994 crime bill? When it left the Senate, it was a reasonably tough bill, not perfect, but a solid contribution to the swift apprehension of criminals and tough, certain punishment. By the time the other body and the Clinton administration got through with it, it was softened and loaded with billions and billions of dollars of wasteful pork—old-fashioned Great Society social spending boondoggles. This is why some of us opposed the bill.

Meanwhile, the President abandoned the bully pulpit in the fight against drugs. In 1993, he slashed the drug czar's office. He proposed significant drug enforcement personnel cuts to the Drug Enforcement Agency, the FBI, the INS, the Customs Service, and the Coast Guard. President Clinton has cut America's ability to interdict drug shipments in the transit zone. Through the 1980's and early 1990's, the United States experienced dramatic and unprecedented reductions in casual drug use. But since 1992 drug use among young people has shot back up.

MYTH NO. 2

According to the Clinton administration, there are decisions by Reagan and Bush judges that favor criminals. That is no doubt the case. I do not agree with every decision made by a Republican-appointed judge, nor do I disagree with every decision made by a Democratic-appointed judge. But, on the whole, Republican-appointed judges are going to be tougher on crime. And the American people will never see a Republican President appoint a Rosemary Barkett or a Lee Sarokin or a Martha Daughtrey to the Federal appellate bench.

Presidents Reagan and Bush appointed 573 judges to the Federal courts, and some of them have served for more than a decade. They have thousands of decisions they have written, and some of these no doubt will find in favor of a criminal defendant, and sometimes, of course, it is the case that the police or prosecutors have stepped over the line.

President Clinton has appointed 185 judges so far to the Federal bench, and many of them have served for only 2 years. Furthermore, several of these judges consistently have issued decisions that are soft on crime—not just because of their result, but because of their reasoning. That is why I take such care to describe the facts and reasoning of these decisions, because once the American people learn what these activist judges have written, it is clear that they display a tolerant attitude toward crime and drugs.

MYTH NO. 3

The Clinton administration alleges that I and other Republicans have focused on only the same dozen criminal cases. They find references to these cases meaningless, because they do not accurately represent the large number of cases decided correctly.

This answer is a red herring at best. It ignores the obvious fact that some decisions by some courts are more important than others. Decisions by the Supreme Court are far more important than hundreds of decisions by district court judges, because it is the decision of the High Court that binds all others.

Perhaps the most important judges are those who sit upon the 13 Federal courts of appeals, because these courts effectively exercise the final say on most of the cases brought in the Federal courts. President Clinton has appointed 30 judges of the 175 judges who sit on the appellate courts. Most of these judges have been on the bench 2 years of less. But in those 2 years, more than half of those Clinton judges—at least 17 of the 30—have issued or joined activist opinions that have been sympathetic to criminal defendants at the expense of legitimate law enforcement interests, or that have sought to substitute their policy preferences for those of the people as expressed in written law. Judges Sarokin, Baird, and Daughtrey are only the most egregious examples, because their crystal clear track records reflected their activist bent.

But take, for example, Judges Judith Rogers and David Tatel, who have voted with the liberal wing of the D.C. Circuit—probably the second most powerful court in the land—in every important en banc case. In particular, both judges dissented in *Action for Children's Television* v. *F.C.C.* [58 F.3d 654 (CADC 1995) (en banc)], in which the majority—all Reagan and Bush appointees—held that the Government could restrict indecent broadcasts on television during certain hours. Judges Rogers and Tatel joined two Carter judges in arguing that the Government was somehow violating the first amendment. This is activism of the worst sort, and, as the distinguished majority leader pointed out yesterday, at odds with the President's posturing on the V-chip legislation.

Or take, for example, the performance of Judge Martha Daughtrey of the sixth circuit. As I recall it, Vice President GORE was a strong supporter of then Tennessee State Supreme Court Justice Martha Daughtrey when she was nominated to the Court of Appeals for the Sixth Circuit. We had a rollcall vote in the Judiciary Committee on Judge Daughtrey, where I voted against her. I believed she was insufficiently tough on crime. Among the concerns I expressed, when she was a member of an intermediate State court, "she voted frequently, often in dissent, to reduce prison sentences for convicted criminals or to eliminate them entirely in favor of mere probation."

My concerns about Judge Daughtrey have been realized in certain respects. In *United States* v. *Garnier* [28 F.3d 1214 (CA6 1994)], police in Johnson City, TN, stopped a car for making a left turn without signaling and for erratic driving. The police believed that the driver might have been under the influence. The traffic infractions alone provided grounds to stop the car.

A field sobriety test of the driver was negative. But, during the stop, police noticed that a passenger reached several times into a bag on the floorboard of the car. Reasonably concerned for their safety, police asked the passenger to exit the vehicle and asked to look in the bag. Passenger Rudolph Garnier consented, but nothing was found.

When police frisked Garnier for weapons, they found a cellular phone, a pocket beeper, and two rolls of cash totaling about $2,100. Police then asked if they could search the trunk. Both the driver and Garnier consented. The police found a shopping bag belonging to Garnier that contained a baggie with a large amount of crack cocaine.

Here, we had erratic driving early in the morning, motions toward a bag, large amounts of cash, a cellular phone, and beeper. Law enforcement officers well know that drug dealers often carry large amounts of cash and use cellular phones and beepers to set up sales. I think most people would find the search reasonable, especially since it came after the voluntary consent of the driver and passenger.

Judge James Ryan of the sixth circuit, appointed by President Reagan, would also agree. When this case came up for appeal, he voted to uphold the legality of the police search. He wrote,

> These items provided the officer with sufficient articulable suspicion to extend the purpose and scope of the stop. No competent police officer in America, in 1993, would fail to suspect, reasonably, that these items suggested that narcotics might well be present somewhere in the vehicle.

Unfortunately for law abiding citizens, Judge Ryan's opinion was a dissent. The majority opinion, written by Judge Daughtrey, and joined by Judge Damon Keith, a Carter appointee, threw the evidence out of the case. They held that unless police had found a weapon on Garnier, police had no right to ask to search the trunk.

Frankly, Judge Daughtrey created this rule out of thin air. The fourth amendment, which Judge Daughtrey did not even quote in her opinion, prohibits only "unreasonable searches and seizures." There is no per se rule that a weapon must be found before an officer can even ask to search further. He only asked for permission to search, it was not a coercive search. And, in fact, the defendant gave permission.

Think about it. In Judge Daughtrey's world, police are not even allowed to ask for permission to search a vehicle unless certain predicates are found to

have occurred. Unfortunately, the citizens of Michigan, Ohio, Tennessee, and Kentucky are going to have to live with Judge Daughtrey long after President Clinton has left office.

I will mention one more case involving Judge Daughtrey. In United States versus Long, customs inspectors discovered child pornography videos mailed from overseas to defendant's address. Police obtained a warrant to search the defendant's residence and found 19 magazines, books, and drugs. Judge Milburn, a Reagan appointee, and senior Judge Weis, a Nixon appointee, upheld the search. Judge Daughtrey dissented on the ground that there was no probable cause to search for additional pornographic material at the defendant's home. She flatly ignored a law enforcement officer's unrebutted affidavit, who said that based on his experience and from experts in the field that it was likely that more examples of child pornography would be found.

These judges are typical of more than half of the Clinton appellate judges. These judges sit on high above the district court judges who make the hundreds and thousands of usually uncontroversial, run-of-the-mill rulings that come up in a trial. These appellate judges make rulings on issues of law that will extend from the case before them to bind the other judges in that circuit on every similar case. The White House has cited decisions by Reagan-Bush judges as being soft on crime, but these decisions are almost exclusively at the trial level and seem to be an aberration for the particular judge. By contrast, I have focused attention previously on the important appellate decisions, and I have focused on particular judges rather than particular aberrational cases. It is clear that President Clinton has put on the bench particular individual judges who are continually activist.

To be sure, there are 13 Clinton appellate judges who have yet to issue activist decisions. But many of them have been on the bench for only a few months, and have yet to issue any significant opinions. And, quite honestly, I have not yet researched all of the decisions of all of these judges. who knows what I will find when I have more time to read these other decisions.

MYTH NO. 4

The Clinton administration maintains that it has appointed only moderate, highly qualified judges because its nominees have received better ratings from the American Bar Association than those received by judges appointed by Republican Presidents. This is truly unconvincing, because the ABA itself is no longer just an impartial trade association; over time it has been transformed into an ideological advocacy group.

The ABA has taken positions on some of the most divisive issues of our day, such as abortion, and it has vigorously lobbied on Capitol Hill against many of the sensible legislation and reforms that we, in the 104th Congress, have pursued. It has lobbied against the flag desecration amendment, against mandatory minimum sentences, against changes in the exclusionary rule, and against habeas corpus reform. It has lobbied for proracial preference and quota legislation and against the 104th Congress' efforts to end them. I question whether an ideological organization such as the ABA can be trusted to play an impartial role in any governmental process, such as judicial selection. It is my hope that the ABA can play an impartial role. Only the future and the ABA's willingness to depoliticize itself, will tell.

MYTH NO. 5

The Clinton administration believes that it is hypocritical for Republicans in the Senate to criticize the Clinton judiciary, because we only voted against confirming a handful of the nominees. To be sure, sometimes we cannot predict how a nominee will act. In those cases where we can, in good faith, predict how a nominee will act, we have opposed the nomination, as in the cases of Judges Barkett, Sarokin, and Daughtrey.

But my main response is to remind the President of first constitutional principles. The Senate's job is only to advise and consent to those individuals nominated by the President. When Presidents Reagan and Bush lived with a Democratic Senate, we, Republicans, argued that the Senate owed some discretion to the President.

We have remained consistent in that position even under a Democratic President. As Alexander Hamilton explained in the Federalist No. 66:

> It will be the office of the president to nominate, and with the advice and consent of the senate to appoint. There will of course be no exertion of choice on the part of the senate. They may defeat one choice of the executive, and oblige him to make another; but they cannot themselves choose—they can only ratify or reject the choice of the president.

The words of our Founding Fathers clearly explain why this election is so important. As a practical and as a constitutional matter, the Senate gives every President some deference in confirming judicial candidates nominated by the President. It is the President's power to choose Federal judges, and his alone. A Republican President would not nominate the same judges that a Democrat would, and vice versa. Thus, the American people should keep in mind that when they elect a President, they elect his judges too—and not just for 4 years, but for life. There simply is no substitute for the power to nominate Federal judges.

Finally, I would like to say this: We are not going to treat the Clinton judges the way our judges were treated in the Reagan and Bush administrations. We have treated them fairly. Yes, I would not have appointed very many of those judges. Neither would any other Republican. Neither will Senator DOLE when he becomes President. But the fact of the matter is President Clinton was elected. He is our President. He has a right to choose these judges, and we have an obligation to support those judges unless we can show some very valid constitutional reason or other reason why we should not.

As a general rule, we follow that rule and we do it even though we may not agree with these particular selections. But that does not negate the fact that in retrospect as you look over the record these judges are more liberal. They are deciding cases in a more liberal fashion. They are deciding cases in an activist fashion. They are deciding cases that are soft on crime. And I have to say this is one of the big issues of our time. Are we going to continue to put up with this? Are we going to start realizing that these are important issues? And that is not to say that there are not Republican judges who make mistakes too. But these are more mistakes. These involve philosophy of judging that literally should not be a philosophy of judging. Judges are not elected to these positions. Judges are appointed for life and confirmed for life. They should be interpreting the laws made by those elected to make them, and they should not be making laws as legislators from the bench. Unfortunately, that is what we are getting today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota is recognized for 8 minutes.

ILLEGAL IMMIGRATION

Mr. DORGAN. Mr. President, I hope the Senator from Wyoming, if he has a moment, would have an opportunity to hear what I have to say. The business of the Senate as I understand from the majority leader's announcement is to come back to the bill on illegal immigration which is to be managed by the Senator from Wyoming, Senator SIMPSON.

Let me just in a couple of minutes of morning business say that I will likely vote for the illegal immigration bill. There are a couple of issues in it that I think will be the subject of some controversy. But I think the piece of legislation that has been constructed is worthy, and it is a reasonably good piece of legislation. It addresses a subject that needs addressing, and that should be addressed. I have no problem with this bill at all.

I believe we find ourselves in the following circumstances. Consent was given when the piece of legislation was

VOL
142
PT
6
AP
15
—
24
1996
UMI

introduced. Following the introduction of the Dorgan amendment, consent was given to the Simpson amendments. I think they were offered, and those amendments are pending. There is an underlying amendment that I offered that has been second-degreed by Senator KEMPTHORNE from Idaho. That is apparently where we find ourselves.

I wanted to explain again briefly what compelled me to offer an amendment on this piece of legislation. And, if we can reach an understanding with the majority leader, I have no intention to keep the amendment on this legislation. But here are the circumstances.

The majority leader has the right to bring a reconsideration vote on the constitutional amendment to balance the budget at any time without debate and without amendment. He understands that. We understand that. He has indicated to me now that he does not intend to do that in the coming days. It will probably be in a couple of weeks. But he had previously announced that he would, at some point in April, perhaps mid-April, the end of April, force a reconsideration vote on the constitutional amendment to balance the budget.

The result was because we were going to have no opportunity to debate or to offer an amendment, and because some of us feel very strongly we will vote for a constitutional amendment provided it takes the Social Security trust funds and sets them outside of the other Government revenues and protects those trust funds. If it does that, we would vote for an amendment. We had done that before. There are a number of us on this side who have done that before. We offered it as an amendment. We voted for it. But we will have no opportunity to do a similar thing at this time, and my point was we would like the Senate to express itself on that issue.

The only way I could conceive of doing that was to offer a sense-of-the-Senate resolution. The sense-of-the-Senate resolution was to say that when a constitutional amendment to balance the budget is brought back to the floor of the Senate, it ought to include a provision that removes the Social Security trust funds from the other operating revenues of the Federal Government. We, incidentally, did that previously in an amendment that I believe got 40 votes. If it does, I would vote for it and I think there are probably a half dozen or dozen other Members who would similarly vote for it and we would have 70 or 75 votes for a constitutional amendment to balance the budget.

Because of circumstances and because of the parliamentary situation, I offered that as a sense-of-the-Senate resolution. It was then second-degreed. The Senator from Wyoming became fairly upset about that, and I understand why. He is managing a bill dealing with immigration. He said, "What does this have to do with immigration?"

Plenty of people have offered amendments that are not germane in the Senate. We do not have a germaneness rule. They have offered them because they felt the circumstances required them to offer them.

The Senator from Massachusetts indicated that he intends to offer an amendment on the minimum wage, increasing the minimum wage on this piece of legislation. My expectation would be, if there were an agreement reached by which the Senate would be able to agree to a vote on the minimum wage at some point, that amendment would go away as well. I do not intend to press my amendment if I can reach an agreement with the majority leader to give us an opportunity to offer, either a constitutional amendment to balance the budget that protects the Social Security trust funds, or some other device that allows us to register on that issue before we are forced to vote on reconsideration.

I want to make just another point on the Social Security issue because I think it is so important. We are not talking about just politics, as some would suggest. Some say there is no money in the Social Security trust fund. That is going to be a big surprise to some kid who tries to ask his father what he has in his savings account, and his father says you have Government savings bonds, but there is really no money there. That is what is in the Social Security trust fund, savings bonds, Government securities. Of course there is money there.

The problem is continuing to do as we have done for recent years, and that is, instead of save the surplus that we every year now accumulate in the Social Security system, $71 billion this year, if we instead use it as an offset against other Government revenues we guarantee there will be no money available in the Social Security trust funds when the baby boomers retire. It is about a $700 billion issue in 10 years, and we ought to address it. It is not unimportant. It is not politics. It might be a nuisance for some for us to require that it be addressed at some point or another, but those of us who want it addressed are not going to go away.

I guess I would say at this point that the two issues that have been raised—the one I have raised by the sense-of-the-Senate resolution I think can be resolved if the majority leader, who was, from our last conversation yesterday, going to be visiting with the Parliamentarian to see if we could find a way to provide a method for a vote on the approach I have suggested and we have previously offered on the constitutional amendment to balance the budget. If that happens, I do not intend to be continuing to press the sense-of-the-Senate resolution that I had previously offered.

I wanted to speak in morning business only to describe what the circumstances are on this piece of legislation. I am not here to make life more difficult for the Senator from Wyoming. I have great respect for him. I think the legislation he has brought to the floor has a great deal to commend it.

Even if we do not resolve this issue on the Social Security trust funds, I would not intend to ask for more than 10, 15, 20 minutes debate. I am not interested in holding up the bill. Under any conditions, I am not interested in holding up this bill.

I would agree to the shortest possible debate time, if we are not able to resolve the issue in another way. But my hope would be in the next hour or so we might be able to resolve that issue in another way. We would still, then, be asking, it seems to me, based on the discussions of Senator KENNEDY, for some kind of commitment to allow the Senate to proceed to deal with the issue of the minimum wage.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1664, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dorgan amendment No. 3667, to express the sense of the Senate that a balanced budget constitutional amendment should protect the Social Security system by excluding the receipts and outlays of the Social Security trust funds from the budget.

Simpson amendment No. 3669, to prohibit foreign students on F–1 visas from obtaining free public elementary or secondary education.

Simpson amendment No. 3670, to establish a pilot program to collect information relating to nonimmigrant foreign students.

Simpson amendment No. 3671, to create new ground of exclusion and of deportation for falsely claiming U.S. citizenship.

Simpson amendment No. 3672 (to amendment No. 3667), in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, just a prefatory remark, with regard to my friend from North Dakota.

I enjoy working with the Senator from North Dakota. We are near neighbors in that part of the world. I can understand the depth of his very honest conviction about Social Security and the balanced budget. It is not an opinion I share, because I feel that the Social Security System is going to go broke, whether you have it on budget, off budget, hanging from space or coming out of the Earth. It is going to go broke in the year 2029. It is going to start its huge swan song in 2012, and the reason we know that is because the trustees of the system are telling us that. So I understand completely.

He is sincere in what he is doing. He is a believer in that cause and he is persistent, dogged, and I know that very well. So, in that situation we will just see how it all plays out.

AMENDMENT NO. 3669

Mr. SIMPSON. So the status of the floor is that the bill is now reported.

I, therefore, ask that the Chair lay before the Senate amendment No. 3669.

The PRESIDING OFFICER. The amendment is now before the Senate.

(The text of amendment No. 3669 was printed in the RECORD of April 15, 1996.)

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 3722 TO AMENDMENT NO. 3669

Mr. SIMPSON. I send a second-degree amendment to the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3722 to amendment No. 3669.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert:

214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof' public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ':*Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'; and

"(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

This section shall become effective 1 day after the date of enactment.

AMENDMENT NO. 3670

Mr. SIMPSON. Mr. President, I now ask the Chair lay before the Senate amendment No. 3670.

The PRESIDING OFFICER. The amendment is now before the Senate.

(The text of amendment No. 3670 was printed in the RECORD of April 15, 1996.)

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 3723 TO AMENDMENT NO. 3670

Mr. SIMPSON. I send a second-degree amendment to the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3723 to amendment No. 3670.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert:

PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) IN GENERAL.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney general and the Secretary of State determine necessary to carry out the pilot program.

(d) PARTICIPATION BY COLLEGES AND UNIVERSITIES.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

VOL
142
PT
6
AP
15
—
24
1996
UMI

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expended, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

This section shall become effective 1 day after the date of enactment.

AMENDMENT NO. 3671

Mr. SIMPSON. I ask the Chair lay before the Senate amendment No. 3671.

The PRESIDING OFFICER. The amendment is now before the Senate.

(The text of amendment No. 3671 was printed in the RECORD of April 15, 1996.)

Mr. KENNEDY. Mr. President, I send a second-degree amendment on the minimum wage.

Mr. SIMPSON. Mr. President, I do have the floor.

AMENDMENT NO. 3724 TO AMENDMENT NO. 3671

Mr. SIMPSON. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3724 to amendment No. 3671.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert:

115A. FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

This section shall become effective 1 day after the date of enactment.

MOTION TO RECOMMIT

Mr. SIMPSON. Mr. President, I move to recommit S. 1664 to the Judiciary Committee with instructions to report back forthwith. I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] moves to recommit S. 1664 to the Committee on the Judiciary.

Mr. SIMPSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SIMPSON. Mr. President, I now send an amendment to the desk to the motion.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. KENNEDY. Mr. President, a point of order, there was not a sufficient second.

The PRESIDING OFFICER. There was not a sufficient second.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

Mr. SIMPSON. Mr. President, I ask for the yeas and nays. There is a sufficient second on the floor.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I shall renew the request, Mr. President, and ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3725 TO INSTRUCTIONS OF MOTION TO RECOMMIT

Mr. SIMPSON. Mr. President, I now send to the desk an amendment to the motion.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes amendment numbered 3725 to instructions of motion to recommit S. 1664.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the instructions the following: "that the following amendment be reported back forthwith.

After sec. 213 of the bill, add the following new section:

"SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if(I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'; and

"(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if(I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

Mr. SIMPSON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3726 TO AMENDMENT NO. 3725

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes amendment numbered 3726 to amendment No. 3725.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment to the instructions to the motion to recommit, insert the following new section:

SEC. . PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) IN GENERAL.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) consists of—

(A) the identify and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) PARTICIPATION BY COLLEGES AND UNIVERSITIES.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

Mr. SIMPSON. Mr. President, I appreciate the good will of my friend from Massachusetts. I think after an explanation of what the procedure was, even though I know that that is a difficult one, that nevertheless, it is appropriate under the rules. I had expressed to the Senator from Massachusetts and to the Senator from North Dakota that it would be my intent to proceed and move forward with regard to this issue. These other issues, I hope, can be addressed at some other forum.

The pending business of the U.S. Senate for the last week has been the illegal immigration bill, not the balanced budget amendment, not Social Security, not the minimum wage, not anything. It has been set aside, and we have handled some very significant legislation in the interim.

I want to commend Senator KENNEDY and Senator KASSEBAUM for the work that they did, which was quite evident, the worth of it and the success of it, by a vote of 100 to 0, on an issue that has been creating tremendous difficulty with all of us. We have started down the road of reform with regard to health care, incremental as it is, but certainly something that the Senator from Massachusetts has been involved in in his entire career in the U.S. Senate.

Sometimes he is a vexing adversary, sometimes he is a warm and helpful ally; but there is one thing the Senator from Massachusetts is, he is a master legislator. We do not have to agree, but if there is anyone who knows more about legislating in this place, I mean day-to-day legislating, the rules, the procedures of legislating, not simply

VOL
142
PT
6
AP
15
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24
1996
UMI

procedure—that helps—then it certainly is the Senator from Massachusetts who is one of the most able in this arena. With that—and I do not want to get too heavy; that would be totally uncharacteristic and unnecessary, Mr. President—I am pleased that we are once again considering the very important issue of immigration reform. This is about immigration reform.

As the majority leader mentioned last week, wherever one visits in this country, the issue is: When is Congress going to do something about immigration? That always comes up. The people of this country want reform. They want those who are not supposed to be in this country to be removed from this country. They do not want those who are subject to deportation to be allowed to roam the United States at will while awaiting their removal, also, working and taking away the jobs of American citizens. They want a reduction in overall immigration numbers. That is what they tell us on a consistent basis.

We now have an opportunity to accomplish all of that. We have a very good bill before us, and we have many amendments proposed, some of which will improve the legislation. There will be amendments. Those have been submitted. Those should be known to Members and staff by this time. We will proceed with those. I trust my colleagues will bring these amendments to the floor so we may conclude this contentious but important and consistent and ever-present debate and pass comprehensive immigration reform during this week.

The Barbara Jordan Commission left a statement which I think is worthy of all of us to be reminded of on this date. It was to this effect: The credibility of immigration policy can be measured by a simple yardstick. These are the words of Barbara Jordan, former Congresswoman, remarkable, remarkable American, a woman I greatly admired and respected and was honored to participate at the memorial service on her behalf at the Kennedy Center. That was a very, very emotional and touching thing for me. She said the simple yardstick is this: People who should get in, do get in; people who should not get in are kept out; and people who are judged deportable are required to leave. You cannot state it any more clearly than that.

The pending business is a Simpson second-degree amendment on a motion to recommit. This is the Simpson amendment No. 2, the pilot program. I believe that is now the pending business. I believe the debate on that amendment has been had. It was at the desk. Let me just refresh your memory on that. That was the amendment to provide a pilot student-tracking program. The aim was to enable the INS to keep track of foreign students studying in this country. The amendment would provide a source of funding to the INS to establish a very basic, computer-based system for keeping track of foreign students. It is a measure supported by the FBI Director, who expressed deep concerns about our ability to track such students in a 1994 memo regarding possible entry venues for tourists.

This is not an intrusive provision. Colleges and universities already are required to provide this sort of information to the INS. The problem in the past has been that the INS has not devoted sufficient resources to this activity to create a body of reliable information. So the amendment's aim is to provide funding so the INS can implement a system to keep track of foreign students studying here. It seems reasonable that such funding should come from the students themselves and not from the taxpayer. A student who is willing to pay $10,000 or $20,000 in this country or $80,000 to $100,000 over the course of study, is unlikely to be greatly concerned at being asked to pay an additional fee of $50 or $100 for the issuance of a student visa.

That is the substance of the amendment. I inquire if there is further debate on the amendment, or move the question on the amendment.

Mr. KENNEDY. Mr. President, effectively, in terms of the substance of the legislation that we have before the Senate, I support these three amendments, for the reasons we outlined the other evening when we commenced the debate on these items. One allows us to be able to track foreign students to find out what happens to those students. We are unable to do so now. There is a serious question about whether the foreign student visas are being used for real education or as another way to circumvent the laws. That is reasonable.

The second amendment deals with the situation where a young person gets a students visa to be able to come in and attend a private university and is able to demonstrate he or she has the resources to be able to do it and then makes a decision, after he or she is here, to go to a public university. It is a drain on the taxpayer funds. We want to address that situation. It is not unimportant. We are supportive of that particular legislation.

A final amendment deals with an individual who, either for employment or to get some kind of support funding, makes a false claim that they are a citizen when they are not. The amendment makes them subject to deportation. I think that makes a good deal of sense. If an individual is trying to either displace an American in a job and misrepresents his or her status by lying to the employer and stating that he or she is a citizen, or stating to other local or State or Federal officials that he or she is a citizen, when they are not, in order to benefit from some other kind of emergency services, that individual, I believe, ought to be subject to deportation.

On the substance of these amendments, I support all of them. The second-degree amendments are only a means for effectively denying the opportunity to amend the underlying amendments. As I understand, the substance of those is to change the date of enactment of those particular provisions by a day, meeting the requirements of the Senate rules in not changing the substance of it.

Finally, Mr. President, I understand that because of the changes in the parliamentary situation, now we will address those three at whatever time it is fine to move ahead on those amendments as far as this Senator is concerned. There may be other considerations which would dictate a time designated by the majority-minority leaders for the consideration of those measures.

Instead, moving back, then, to what would have been the Dorgan amendment and have that the pending business through the changes in the parliamentary situation which were just agreed to. The Dorgan amendment, for all intents and purposes, would not be the pending business. There would be then an opportunity after these amendments are addressed to amend the underlying legislation at that time. The pending business would no longer be the Dorgan amendment.

For those who are interested, both Senator DORGAN and myself will, at least hopefully, have some opportunity to address for a brief time, but hopefully within an agreement of a short timeframe, either the minimum wage or Senator DORGAN's amendment.

I was glad to try to place the minimum wage as a second degree to underlying amendments previously. We did not have the opportunity to do so. Perhaps there will be an effort to completely foreclose the opportunity to address it, but it is certainly my intention not to delay this legislation but for a short timeframe to address the minimum wage. This legislation will be before the Senate for a time, and we will try to at least see if there is some opportunity to do so. I know that is not the desire of the floor manager to move ahead. In any event, that would be my intention.

I yield to the majority leader without losing the right of recognition after he has concluded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTING THE ENROLLMENT OF S. 735

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed

to the immediate consideration of Senate Concurrent Resolution 54 and Senate Concurrent Resolution 55, submitted earlier by Senator HATCH. I further ask unanimous consent that these resolutions be agreed to, en bloc, the motions to reconsider be laid upon the table, en bloc, and that any statements relating to either of these resolutions appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolutions (S. Con. Res. 54 and S. Con. Res. 55) were agreed to, en bloc, as follows:

S. CON. RES. 54

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 735) shall make the following corrections:

In the table of contents of the bill, strike the item relating to section 431 and redesignate the items relating to sections 432 through 444 as relating to section 431 through 443 respectively.

In section 620G(a), proposed to be inserted after section 620F of the Foreign Assistance Act of 1961, by section 325 of the bill, strike "may" and insert "shall".

In section 620H(a), proposed to be inserted after section 620G of the Foreign Assistance Act of 1961, by section 325 of the bill—

(1) strike "may" and insert "shall";

(2) strike "shall be provided"; and

(3) insert "section" before "6(j)".

In section 219, proposed to be inserted in title II of the Immigration and Nationality Act, by section 302 of the bill—

(1) in subsection (a)(1), insert "foreign" before "terrorist organization";

(2) in subsection (a)(2)(A)(i), strike "an" before "organization under " and insert "a foreign";

(3) in subsection (a)(2)(C), insert "foreign" before "organization"; and

(4) in subsection (a)(4)(B), insert "foreign" before "terrorist organization".

In section 2339B(g), proposed to be added at the end of chapter 113B of title 18, United States Code, by section 303 of the bill, strike paragraph (5) and redesignate paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

In section 2332d(a), proposed to be added to chapter 113B of title 18, United States Code, by section 321(a) of the bill—

(1) strike "by the Secretary of State" and insert "by the Secretary of the Treasury";

(2) strike "with the Secretary of the Treasury" and insert "with the Secretary of state"; and

(3) add the words "the government of" after "engages in a financial transaction with";

At the end of section 321 of the bill, add the following:

"(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.".

In section 414(b) and 422(c) of the bill, strike "90" and insert "180".

In section 40A(b), proposed to be added to chapter 3 of the Arms Expert Control Act, by section 330 of the bill strike "essential" and insert "important".

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill, strike "security".

Strike section 431 of the bill and redesignate sections 432 and 444 as section 431 through 443, respectively.

In section 511(c) of the bill, strike "amended—" and all that follows through "(2)" and insert "amended".

In section 801 of the bill, strike "subject to the concurrence of" and insert "in consultation with".

In section 443, by striking subsection (d) in its entity and inserting:

(d) EFFECTIVE DATE.—the amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulation that shall be published on or before January 1, 1997.

S. CON. RES. 55

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 735) shall make the following corrections:

In the table of contents of the bill, strike the item relating to section 431 and redesignate the items relating to sections 432 through 444 as relating to sections 431 through 443, respectively.

Strike section 1605(g) of title 28, United States Code, proposed to be added by section 221 of the bill, and insert the following:

"(g) LIMITATION ON DISCOVERY.—

"(1) IN GENERAL.—(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

"(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

"(2) SUNSET.—(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

"(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—

"(i) create a serious threat of death or serious bodily injury to any person;

"(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

"(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

"(3) EVALUATION OF EVIDENCE.—The court's evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

"(4) BAR ON MOTIONS TO DISMISS.—A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(5) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.".

In section 620G(a), proposed to be inserted after section 620F of the Foreign Assistance Act of 1961, by section 325 of the bill, strike "may" and insert "shall".

In section 620H(a), proposed to be inserted after section 629G of the Foreign Assistance Act of 1961, by section 326 of the bill—

(1) strike "may" and insert "shall";

(2) strike "shall be provided"; and

(3) insert "section" before "6(j)".

In section 219, proposed to be inserted in title II of the Immigration and Nationality Act, by section 302 of the bill—

(1) in subsection (a)(1), insert "foreign" before "terrorist organization";

(2) in subsection (a)(2)(A)(i), strike "an" before "organization under" and insert "a foreign";

(3) in subsection (a)(2)(C), insert "foreign" before "organization"; and

(4) in subsection (a)(4)(B), insert "foreign" before "terrorist organization".

In section 2339B(g), proposed to be added at the end of chapter 113B of title 18, United States Code, by section 303 of the bill, strike paragraph (5) and redesignate paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

In section 2332d(a), proposed to be added to chapter 113B of title 18, United States Code, by section 321(a) of the bill—

(1) strike "by the Secretary of State" and insert "by the Secretary of the Treasury";

(2) strike "with the Secretary of the Treasury" and insert "with the Secretary of State";

(3) add the words "the government of" after "engages in a financial transaction with";

At the end of section 321 of the bill, add the following:

"(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.".

In section 414(b) and 422(c) of the bill, strike "90" and insert "180".

In section 40A(b), proposed to be added to chapter 3 of the Arms Expert Control Act, by section 330 of the bill strike "essential" and insert "important".

In section 40A(b), proposed to be added to chapter 3 of the Arms Expert Control Act, by section 330 of the bill, strike "security".

Strike section 431 of the bill and redesignate sections 432 through 444 as sections 431 through 443, respectively.

In section 511(c) of the bill, strike "amended—" and all that follows through "(2)" and insert "amended".

In section 801 of the bill, strike "subject to the concurrence of" and insert "in consultation with".

In section 443, by striking subsection (d) in its entirety and inserting: (d) EFFECTIVE DATE.—The amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulations that shall be published on or before January 1, 1997.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

VOL
142
PT
6
AP
15
—
24
1996
UMI

AMENDMENT NO. 3726

Mr. KENNEDY. Mr. President, we will have a brief quorum call to discuss with the floor manager whether or not they want to have a series of rollcalls. I hope we will dispose of the amendments in a timely way. If we can move ahead with voice votes on all of those—well, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. We will proceed now, but I would make a remark because I certainly can understand the position of Senator KENNEDY and the issue that is driving him in this debate, but not necessarily on this bill, and also Senator DORGAN. As I heard Senator KENNEDY describing what is out there, eventually, it reminded me of Edgar Allan Poe in "The Pit and the Pendulum," as the arc of the blade swung closer and closer to the object. I just wanted to state that. It was a great iteration that came over me—the blade swinging back and forth, and eventually it will hit, and we will have to do what we always do here, which is sometimes difficult. It is called vote. And that is a time to come.

So with that, I urge the adoption of amendment No. 3726.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. KENNEDY. Mr. President, we were just trying to follow the numbers. We had a series of amendments. Could the Senator just restate that amendment number.

Mr. SIMPSON. That is the pilot program, originally Simpson No. 2.

Mr. KENNEDY. I appreciate that.

I urge support of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3726) was agreed to.

AMENDMENT NO. 3727 TO AMENDMENT NO. 3725

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3727 to amendment No. 3725.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the last word in the pending amendment and insert: "act (8 U.S.C. 110(a)(15)

"SEC. . FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) Exclusion of Aliens Who Have Falsely Claimed U.S. Citizenship.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) Falsely claiming citizenship.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) Deportation of Aliens Who Have Falsely Claimed U.S. Citizenship.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) Falsely claiming citizenship.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

Mr. SIMPSON. Mr. President, this amendment, which was the original Simpson amendment No. 3, creates a new ground of exclusion and of deportation for falsely claiming U.S. citizenship.

Mr. President, this amendment would add a new section to the bill. This is repetitive of remarks when we began the legislation, but this section would create a new ground of exclusion and of deportation for falsely representing oneself as a U.S. citizen.

This amendment is a complement to another one I am proposing. The other amendment would modify the bill section providing for pilot projects on systems to verify work authorization and eligibility to apply for public assistance.

One of the requirements of that other amendment is that the Attorney General conduct certain specific pilot projects including one in which employers would be required to verify the immigration status of aliens but not persons claiming to be citizens. Such persons would be required only to attest to being citizens. That came up in debate in the markup in the Judiciary Committee, that Americans, U.S. citizens, should not have to do some of the things that we require of others, and so there would be an attest provision.

Obviously, the major weakness in any such system as that is the potential for false claims of citizenship. That is why I am offering the present amendment, which would create a major new disincentive for falsely claiming U.S. citizenship. Lawful, permanent resident aliens who falsely claim citizenship risk deportation and being permanently barred from entering the United States of America. Since they are authorized to work, they would have little reason to make a false claim of citizenship.

Illegal aliens, on the other hand, would know that they could not be verified if they admitted to being aliens and the verification process was conducted; yet they would also know that if they falsely claimed to be citizens and were caught, they could be deported and permanently barred. Thus, the risk involved in making false claims would be high for them, too, under such a pilot project if the present amendment were enacted into law.

Therefore, if this amendment were enacted, and the pilot project involving citizenship attestation were conducted, a significant number even of illegal aliens might well be deterred from seeking jobs in the United States.

That is the purpose of the amendment.

Mr. KENNEDY. Mr. President, the Senator has made a very clear statement on the substance of the legislation. It is, I think, an important addition to the effort that we are undertaking to try and control illegal immigration, and I think it is very worthwhile. I hope the Senate will support it.

The PRESIDING OFFICER. Is there further debate on the amendment No. 3727?

Mr. SIMPSON. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3727) was agreed to.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3728 TO AMENDMENT NO. 3725

(Purpose: To criminalize voting by aliens for candidates for a Federal office, and to make unlawful voting a ground for exclusion and deportation)

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk report the amendment.

The assistant legislative clerk read as follows.

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3728 to amendment No. 3725.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the last word in the amendment and insert: "deportable.

"SEC. . VOTING BY ALIENS.

"(a) Criminal Penalty for Voting by Aliens in Federal Election.—Title 18, United States Code, is amended by adding the following new section:

'§611. Voting by aliens

'(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

'(1) the election is held partly for some other purpose;

'(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

'(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.

'(b) Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than one year or both.';

"(b) Exclusion of Aliens Who Have Unlawfully Voted.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) Unlawful voters.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excludable.'; and

"(c) Deportation of Aliens Who Have Unlawfully Voted.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) Unlawful voters.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable.'.".

Mr. SIMPSON. Mr. President, this is the amendment to criminalize voting by aliens in Federal elections and make unlawful voting a ground for exclusion and deportation. That is what this amendment is. This is the original Simpson No. 4.

This amendment has three parts. It has been changed from the discussion that we had in the markup of this particular amendment. First, the amendment would create a criminal penalty for voting by aliens in any Federal election.

Please note that this new criminal offense would cover only Federal elections, unlike the provision that was in the original version of the bill and that was deleted at the committee markup, because you will recall there was debate and discussion as to what that would do in a school board election or county commissioner election, and certainly those States should have the options to control that. That is the substance of this amendment.

This new offense would be a misdemeanor. It is not a felony. It would be a misdemeanor.

An alien who voted in any election, who voted solely or in part electing a candidate for President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia or resident commissioner, would be punishable by up to 6 months in prison and a $1,000 fine—not a felony.

The second part of the amendment would create a ground of exclusion for aliens who have unlawfully voted in any election, Federal, State, or local, in violation of a Federal, State or local constitutional provision, statute, ordinance, or regulation.

And, third, the amendment would create a ground of deportation for such unlawful voting by an alien.

This amendment would help to guarantee that a majority of citizens of the United States, those who owe their full political allegiance to this country, retain political control of every political unit and every political issue.

If aliens aré allowed to vote, it becomes quite possible that a relatively small group of citizens in a particular jurisdiction could outvote a citizen majority, if the group had enough noncitizen allies. I do not feel that that is acceptable. That is not consistent with the form of government that the Founding Fathers believed to be a fundamental right of the American people.

I have not covered State or local elections in the criminal offense provision, in the provision I just described, because of the objections of some Members who believe, and sincerely believe—as I believe my friend from Illinois indeed believes—that a temporary majority of citizens in a local jurisdiction or a State should be able to authorize voting by aliens. They believe this, despite the fact that if aliens are once given the right to vote in a jurisdiction, it might be difficult or nigh impossible for a majority of citizens in that jurisdiction to reverse the decision later.

However, my amendment also creates new grounds of exclusion and deportation for voting, if it is unlawful. It applies to any election. Therefore, there would be an additional disincentive for aliens to vote if there is a law prohibiting them from doing so.

During the markup and subsequently, some have raised the issue of constitutionality of this prohibition. At this time, just may I say a few words about that issue of constitutionality. A doubt has been expressed about whether Congress has the authority to prohibit voting by aliens. I believe that view is unfounded. There are several constitutional grounds for this authority, including the plenary power of Congress over immigration matters, which has been referred to so many times over the years by the U.S. Supreme Court and also the clause that guarantees what is called a republican form of government. That standard to be applied is a "rational relationship to a legitimate Federal Government purpose."

So, obviously, enforcing the immigration laws of the United States and, in particular, the naturalization laws—the requirements and procedures an alien must follow to become a naturalized U.S. citizen is a legitimate Federal Government purpose. Indeed, immigration and naturalization is, along with national defense, the most fundamental of the Federal Government's responsibilities. That is undoubtedly why the Supreme Court has made such extraordinary statements over the years, about just how plenary—"plenary" meaning complete and absolutely—how plenary that power is.

Just one example, quote from the case of Oceanic Steam Navigation Co. versus Stranahan, and then quoted later with approval in Fiallo versus Bell and Kleindienst versus Mandel:

> Over no conceivable subject is the legislative power of Congress more complete than it is over the admission of aliens.

The encouragement of naturalization has been explicitly recognized by the Supreme Court as a legitimate purpose of Federal actions favoring citizens. That was the case of Hampton versus Mow Sun Wong.

So the prohibition of voting by aliens in Federal elections only would clearly be rationally related to a purpose encouraging naturalization, which is, as I say, one of the premium subjects in the legislative power of Congress. So that is the extent of the amendment and my explanation of the amendment.

Further debate?

The PRESIDING OFFICER (Mr. FRIST). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we support this legislation. I want to make sure this does not displace what we have already agreed to in the motor-voter legislation, which also deals with fraudulent elections, and where the penalty is somewhat larger. As I understand, this would apply in the Federal, as compared to the participation in local or State, elections. At least I am informed by the Justice Department that they, too, would feel illegal voting in a Federal election could be prosecuted under the Federal law. I am glad to accept this measure, or urge the measure be accepted. We can work this thing through to clarify it, perhaps, on our way to the conference.

We want to do what the Senator has rightfully pointed out is necessary to be done, in ways that are not going to minimize other provisions which might deal with this, also in a substantive way, that may be even more effective. I will be glad to recommend we accept this now. We can work through this and get a clearer definition as to how this interacts with motor voter. I completely agree with the Senator in terms of the objectives.

I just inquire of the Senator what his feeling would be on this.

Mr. SIMPSON. Mr. President, the concern my friend from Massachusetts expresses, and what he has pointed out as something disturbing to him, certainly is not the intent of this author, especially with regard to motor voter. There may be some things that would have to be done here, because I believe in motor voter we had a criminal penalty when we passed that legislation. So I will just leave it in good faith, as we have done for 17 years, with the Senator from Massachusetts to work that out.

Mr. KENNEDY. That is fine.

Mr. SIMPSON. And be certain the things that cause him concern are not anything that I am intending to do in this amendment. We can work that out.

VOL 142 PT 6 AP 15 — 24 1996 UMI

Mr. KENNEDY. Yes, Mr. President, I think we might as well move ahead. I think we are absolutely—and the Senate would be—in accord with the description by the Senator. I urge we accept it. We will review those measures together to make sure we are consistent with what both the Senator wants to do and any other potential inconsistencies in current law.

Mr. SIMPSON. Mr. President, I appreciate that. My amendment is not intended to supersede the present prohibition on unlawful voting. I make that assurance once again. I therefore urge the adoption of the amendment under those conditions.

The PRESIDING OFFICER. If there is no further debate, the question is agreeing to amendment numbered 3728.

The amendment (No. 3728) was agreed to.

AMENDMENT NO. 3729 TO AMENDMENT NO. 3725

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes amendment numbered 3729 to amendment No. 3725.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the last word and insert the following: "deportable

"SEC. . USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'; and

"(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

This section shall become effective 1 day after the date of enactment.

Mr. SIMPSON. Mr. President, this is in essence Simpson No. 1 which we discussed the other day when we began our debate on this issue. There is a minor change, of course, to accomplish one thing so that we can address it here since it is the original underlying anchor on the procedural aspects of where we are at this moment.

So the purpose of the amendment—again, it is a bit repetitive from our discussion when we proceeded with this legislation originally—this is an issue brought to us by Senator FEINSTEIN. I want to say at this moment that I have received a tremendous amount of support and assistance from Senator FEINSTEIN. She, of course, represents a State that is most powerfully affected by everything that is happening today and everything that is happening tomorrow with regard to illegal immigration and legal immigration. So I say that I am deeply appreciative of her and her staff who have worked with my staff on many issues.

These children who are involved here are described as parachute kids. And that is a concern. This amendment is intended to prevent foreign students coming to the United States to obtain a free taxpayer-financed education at a public elementary, secondary school. This is a growing problem of children who come to the United States, stay with friends or relatives, or even strangers, to whom they pay a fee, and attending public schools then as residents of the school district.

This amendment prohibits consular officers from issuing visas for attendance at such public schools or the INS from approving such cases unless the foreign student can demonstrate that he or she would reimburse the public elementary or secondary school for the full unsubsidized per capita cost of providing such education or unless the school waives reimbursement.

The amendment also provides for the exclusion and deportation of students who are admitted to attend private elementary or secondary schools but who do not remain enrolled then at the private school for the duration of their elementary or secondary study in the United States. The purpose here is designed to prevent students from obtaining admission to a private school, which they often do, and then switching to a taxpayer-funded public school soon after arrival in the United States.

The amendment would not prevent these children who are validly in the United States as dependents of persons lawfully residing here from applying for admission to public schools nor would it prevent public schools hosting foreign exchange students. We do not want to intrude on that wonderful program, those who would continue to be admitted as exchange visitors on J visas.

The amendment is, however, designed to deal specifically with the problem of the parachute kids which has received some attention and certainly in California and in other locations, those who come here to receive a U.S. education at taxpayer expense.

That is the conclusion of my remarks with regard to the amendment. I look forward to further debate.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this has been a phenomenon that has developed in very recent years. It is now becoming more frequently utilized to the disadvantage of taxpayers in these local communities. The Senator has made an excellent presentation. It is increasingly a problem. We ought to address it. This particular proposal does address it. I hope, for the reasons that have been outlined earlier, that the amendment will be accepted.

Mr. SIMPSON. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3729 to amendment No. 3725.

The amendment (No. 3729) was agreed to.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3730 TO AMENDMENT NO. 3725

(Purpose: To repeal the ban on the search of open-fields by employees of the INS when they have probable cause to believe an illegal act has occurred)

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes amendment numbered 3730 to amendment No. 3725.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the last word in the amendment and insert: "enactment

"SEC. . OPEN-FIELD SEARCHES.

"(a) REPEAL.—Section 116 of Public Law 99-603 and section 287(e) of the Immigration and Nationality Act (8 U.S.C. 1357(e)) are repealed.

"(b) REDESIGNATION OF PROVISION.—Subsection (f) of section 287 of that Act is redesignated as subsection (e) of that section."

Mr. SIMPSON. Mr. President, this is not one that will pass by voice vote. We will require a rollcall vote on this issue. It is and always has been contentious. This is the original Simpson amendment No. 8 which is to repeal the current ban on open field searches. Therefore, any staff watching these proceedings at this moment will have immediately pressed a button, and the ejection device will propel their principal here to the floor to proceed with vigorous, vigorous debate on this issue. But this one, like all, up or down, and then move on.

But here is where we are, ladies and gentlemen. Do not miss the impact of this. This happened back in the days of putting together the original legislation and what you want to recall is that no other U.S. law enforcement agency—none—except the Immigration and Naturalization Service requires a warrant, a search warrant, to enter and/or search open agricultural farmland. No other agency of enforcement in the United States is required to do that. That requirement that the INS agents obtain a warrant for such a search was placed in the law in 1986 by what I refer to as an unholy alliance between the agricultural growers and the ACLU. You really will not find the ACLU and the agricultural growers in the same sack very often.

All other law enforcement agents—that is a DEA agent, a local police officer, even a local sheriff—can, without a warrant, and if they have probable cause, search an open field for drugs or for a dead body. INS officers alone are prohibited by law from entering a field to enforce immigration laws. Of course, the effect of this requirement is to make it extremely difficult to enforce our laws against the employment of illegal agricultural workers. There are tremendous abuses in that field.

A further effect is to make it safer—that is the word—for employers to use illegal workers, at a time when the experts tell us that there are more than 1 million American agricultural workers that could perform that work. The present ban on open field searches, in other words, then protects those who hire illegal workers. That helps to deny those jobs to American workers. As a result, up to 40 percent of the agricultural workers on the west coast are illegal aliens.

One of our Nation's most noted immigration experts, Prof. Barry Fuchs of Brandeis University, and the executive director, Rev. Ted Hesburgh, Select Committee on Immigration Policy and a member of the current Commission on Immigration Reform, has specifically recommended to us that a high priority be placed on repealing the ban on open field searches. Professor Fuchs has noted that the ban has taken away an "important enforcement tool of the INS."

I hope we might listen to the words of our friend, Larry Fuchs. He is our friend. Senator KENNEDY has known him longer than I. Larry Fuchs is a remarkable resource for this country on legal and illegal immigration reform.

As I have indicated in the past, Senator KENNEDY and I were both original Members of the U.S. Senate on the Select Commission on Immigration Refugee Policy, chaired so ably by Father Ted Hesburgh, who was an inspiration to us and who is, to this day, one of the most remarkable people in this land and a loving friend.

We should heed the words of Professor Fuchs. Proponents of the requirement—and you will hear that argument coming forth momentarily—proponents of the requirement for warrants argue that it prevents INS officers from entering an open field simply because those who are working there "look Hispanic." That argument ignores the fact that seeing workers who look Hispanic is not probable cause. That is not probable cause for a search. You cannot use that argument in that sense in any way. Entering a field for that purpose, that particular purpose, would be illegal, even if search warrants were not required. I think that is a very important distinction. I hope we will hold closely as we debate this issue.

The American public wants us to enforce our laws against illegal immigration. The case is even stronger when, by doing so, we would be making jobs available to hundreds of thousands of U.S. agricultural workers, and there are hundreds of thousands of U.S. agricultural workers.

Even though this is not quite ancillary to the debate, I was fascinated in my work in this field many years ago to find out what happens when they go to the open field. Some agriculture employers back then—not now, I do not know what the situation may be now—but they were often putting some expendable people next to the highway with el émigrés and the green truck came by so that there would be someone to pick up, and then when all of that took place there was another rank in the foothills who would come down and be ready to go right back to work again.

Further, way up in the foothills where we were told there were never children, never spouses, personal investigation of the select committee found obvious, obvious hovels of people who were just simply slave labor for some agricultural pursuits—pampers, diapers, cans of milk all there in the foothills.

That was, as I say, not truly on target with this, but let me tell you there is no reason in the world why the INS should be the only Agency of the Federal Government that cannot do a search with a search warrant in an open field. And to say, then, the target would simply be to target people who "look Hispanic" so you can add a racist touch to the argument, it will not sell, because if that was the only reason you would not get the search warrant. That is not probable cause.

With that initial volley on this contentious issue, I look forward to the debate.

Mr. KENNEDY. Mr. President, I intend to speak on this issue. I saw my friend and colleague from California, Senator BOXER, who had wanted to address the underlying issue briefly, has been waiting here for some period of time. If she can be recognized, I will come back to address this amendment before the Senate.

The PRESIDING OFFICER (Mr. GREGG). The Senator from California.

Mrs. BOXER. Thank you, I say to both my friends who are managing this bill, Senator SIMPSON and Senator KENNEDY, who have been so helpful to me as I work on a couple of amendments that I hope will be accepted, which I will talk about briefly.

Mr. President, I am pleased to be here today to speak about an issue that profoundly impacts my State of California. That issue is illegal immigration. I know that there has been a big debate in the Senate committee of jurisdiction over whether we should blend in the issues of legal and illegal immigration.

I want to restate and reaffirm my position that I hope they will be handled separately. I know that Chairman SIMPSON, who has worked so hard, would prefer to combine these two issues. The reason I believe it is important to have a separate debate is that one group of people, illegal immigrants, choose to break our laws, and

VOL
142
PT
6
AP
15
—
24
1996
UMI

legal immigrants choose to follow our laws. Those are two distinct and important differences.

Mr. President, no State in the entire country receives more illegal immigrants than the State of California. Out of the approximately 300,000 illegal immigrants that come to the United States and stay each and every year, about 35 percent to 40 percent of them live in California.

Why do most illegal immigrants come to America? Clearly, it is to find work. They are hired because we are not fully enforcing the laws we have on the books, which make it unlawful to hire illegal immigrants. That is clear. It is against the law.

Now, it seems to me we have to do more to enforce those laws.

I have always said that in order to control the problem of illegal immigration, we need to do it at the border and at the workplace. To intercede elsewhere, in my opinion, is not particularly effective. Clearly, if you enforce the immigration laws at the border, you stop the problem immediately. If you miss that opportunity, the workplace is the next best place to go.

The bill before us that deals with the issue of illegal immigration has many provisions I very strongly support. I strongly support the provisions in title I of the bill, which strengthens law enforcement's ability to stop illegal immigration. For instance, the bill will increase the number of Border Patrol agents by 4,000 for the next 4 fiscal years—a 90-percent increase over current levels, and it is needed.

I also strongly support the bill's provisions to add up to 900 new INS investigators over the next 3 fiscal years to enforce the laws against alien smuggling and the unlawful employment of illegal immigrants. This increase of 900 new INS investigators is a 100-percent increase over current law. So, clearly, this bill is moving us in the right direction in regard to stopping illegal immigration at the border and the workplace.

I want to take an opportunity to thank and compliment the Clinton administration for getting serious about enforcement at the Southwest border. It is long overdue. We have had protestations from detractors of this administration that they do not do enough. The fact is that this is the first administration to do anything about illegal immigration.

Let me repeat that. The Clinton administration is the first administration to do anything about illegal immigration. Whether it is to begin to reimburse the States for the costs they have to bear, which are outrageous—costs for emergency medical care, costs for putting those criminal aliens into prison—we are finally beginning to see some reimbursement here. However, it is not enough, and we need to do more.

I compliment the leaders of this bill because there is an authorization in there for full reimbursement for the costs of providing emergency medical assistance to illegal immigrants.

We have also seen an increase in the National Guard at the border. Their presence relieves Border Patrol agents from desk jobs, and their work on such things as building fences and roads and repairing sensors and night scopes is very important.

At the time that I recommended bringing more National Guard to the border, the National Guard at that time was about 145 in San Diego. Now they number up to 400. So we see that there has been an increase in National Guard at the border, doing such things as relieving the Border Patrol of desk jobs and these other engineering jobs that I have outlined for you.

When I first injected more National Guard presence, people thought I was going to send them down to the border in uniform with weaponry. That was never the point. We said it is a resource that ought to be used, and I think we ought to use them more.

In 1994, the Immigration and Naturalization Service kicked off Operation Gatekeeper, its initiative along California's border with Mexico. In the last 2 fiscal years, we have seen an increase of 500 Border Patrol agents in San Diego.

So we see that this administration is moving forward. But this bill is very necessary and gives us more resources at the border than we have had up until now, and, I might add, more technology and equipment that we need at the border—equipment such as infrared scopes, sensors, automated fingerprint ID systems. INS will be installing a new radio network in San Diego to handle encrypted voice communication, and that is very important.

As I said before, we have to stop illegal immigration at the border, and if we fail there, at the workplace. I think we have to remember that that is why illegal immigrants come here—for work.

Now, how badly are our wage and hour laws being violated? We only have to look at the case of the sweatshop uncovered in El Monte, CA, to get an idea. In El Monte, alien smugglers brought in 72 foreign workers from Thailand, where they were subsequently forced into involuntary servitude at a garment sweatshop. We thought we saw the end of that in the pre-Depression era. The El Monte case is an extreme example, but it is not an isolated incident.

Mr. President, most employers in our country abide by our immigration and our labor laws, but, unfortunately, some choose not to, and they are undermining our laws and the wages of our workers as well. They are guilty of the lowest form of greed—human exploitation—and it must be stopped.

It is well known that employers engaging in wage and hour law violations are often the same ones who hire illegal workers. I am very pleased that the bill before us provides for 350 new wage and hour investigators at the Department of Labor over the next 2 fiscal years to enforce the existing employer sanctions we already have on the books. The bill also contains enhanced civil penalties for repeated or willful violations of our Federal labor laws, which I strongly support.

I am disappointed that the committee voted to delete provisions to increase the sanctions on employers who violate immigration laws. I am disappointed about that. But I am glad that there are enhanced penalties for those who violate Federal labor laws.

Now, I think it is important that we give employers a better tool so they can identify who is legal and who is not. The bill before us moves us forward toward worker verification. I have always opposed a national ID card because I think if someone is walking in the street, they should never be stopped and asked to show an ID card. But when they go for a job, right now it is virtually impossible for employers to verify whether they are legal or not. I think the approach taken in this bill is a good one, and I hope it will be part of the bill when it leaves this Chamber.

I also think it is important that the bill authorizes an increase of 300 new investigators at INS to go after the visa overstayers, because so many of our illegal immigrants are those who overstay their visa. So that is excellent.

I have long supported cracking down on those who manufacture and use fraudulent documents. The last time I had a chance, on the crime bill, I offered an amendment that increased the penalties on those who manufacture forged documents. But I think we need to do more, and this bill does go further to increase civil and criminal penalties for crimes involving document fraud.

I want to take just a moment to talk about a problem we are seeing in California now more and more, where smugglers are driving vehicles crashed through a checkpoint and lead local law enforcement on high-speed chases. We all know what happened nationally when we saw one case where there was apparent overreaction from the police and use of excessive force—that is what it appears to be.

But the fact of the matter is, we have to stop that kind of recklessness, driving on a 60-, 70-mile chase where you endanger the lives of the police following you and you endanger the lives of those people you are smuggling. Following that case when force was used, we had seven illegal immigrants killed, who fell over a cliff when the smuggling attempt led to disaster.

So, I was very surprised to see that there are no Federal penalties for such reckless behavior. What I am offering,

and what Senator SIMPSON and Senator KENNEDY are working with me on, is a Federal penalty for those who crash through a Federal checkpoint and, in fact, do not stop.

We want to make sure there is a Federal penalty of 5 years in prison for those who do that, and perhaps—we are working with Senator SIMPSON on this—an even tougher penalty where those people could be deported. Because anyone who would lead law enforcement on a high-speed chase not only endangering the police officers themselves but also the cargo they are carrying—by that I mean human cargo—and all the drivers on the road, they deserve to be thrown in jail or deported.

I also want to briefly touch on an amendment that I am cosponsoring with Senator FEINSTEIN which deals with the triple fence authorized in the bill. I will not go into all of the details in the interest of time. But we feel that the Border Patrol could do better if we did not dictate exactly that a $12 million fence should be built, or inhibit their ability to design fencing in the way they want and to use some of the money for other needed infrastructure improvements. Moreover, we certainly do not want to force law enforcement to build a triple fence if they feel it would endanger their lives. And that is what they have told us.

Mr. President, I am pleased to be here today to speak about an issue that profoundly impacts the State of California. That issue is illegal immigration.

And before I go any further, I want to reaffirm my position that legal and illegal immigration must be treated separately. I know that Chairman SIMPSON, who has worked very hard on the issue of immigration, would prefer to link these two issues together.

However, I believe having a separate debate on the two issues will better ensure that Congress recognizes the critical difference between those illegal immigrants who choose to break our laws, and those legal immigrants who choose to follow them.

Mr. President, no State in the entire country receives more illegal immigrants than California. Out of the approximately 300,000 illegal immigrants that come to the United States and stay every year, about 35 to 40 percent of them live in California.

Why do they come here? Most of them come to find work. And they are hired because we are not enforcing the laws we have on the books which make it unlawful to hire illegal immigrants. That must change.

I have always said that in order to control the problem of illegal immigration, we need to do it at the border and the workplace. To intercede elsewhere, in my opinion, is not effective.

The bill before us today is S. 1664, the Immigration Control and Financial Responsibility Act of 1996. The bill contains many provisions which are praiseworthy. I strongly support the provisions in title I of the bill which strengthen law enforcement's abilities to stop illegal immigration. For instance, the bill would increase the number of Border Patrol agents by 4,000 for the next 4 fiscal years—a 90-percent increase over current levels.

I also strongly support the bill's provisions to add up to 900 new INS investigators to enforce the laws against alien smuggling and the unlawful employment of illegal immigrants. This is an increase of about 100 percent over current law.

I want to take this opportunity to compliment the Clinton administration for getting serious about enforcement at the Southwest border. It is about time and long overdue, for despite protestations from detractors of this administration in California—this is the first administration to do anything about illegal immigration.

And we have seen an increase in the National Guard at the border. Their presence relieves Border Patrol agents from desk jobs, and their work on such things as building fences and roads, and repairing sensors and night scopes. At the time I recommended bringing more National Guard at the border, they numbered 145 at the San Diego border. Now they number as high as 400.

In 1994, the Immigration and Naturalization Service [INS] kicked off Operation Gatekeeper—its initiative along California's border with Mexico. In the last 2 fiscal years, we have seen an increase of 1,150 border patrol agents nationally—more than 500 of whom have been deployed in San Diego.

Counting the 800 new Border Patrol agents for this fiscal year, the Border Patrol force will have been increased by 40 percent since the Clinton administration took over. California now has over 1,500 Border Patrol agents patrolling our border and enforcing our immigration laws.

But as we all know, Mr. President, any smart strategy to regain control of our borders will take heightened technology which is being used in Operation Gatekeeper. Infrared scopes, low-light-level television systems, and ground sensors are all being used to enhance our effectiveness at the border. San Diego has been the recipient of new infrared scopes, sensors, and a new automated fingerprint identification system. INS will be installing a new radio network in San Diego to handle encrypted voice communication.

And we cannot forget why most illegal immigrants come here in the first place: work. How badly are our wage and hour laws being violated? We only have to look at the case of the sweatshop uncovered in El Monte, CA, to get an idea. In El Monte, alien smugglers brought in 72 foreign workers from Thailand where they were subsequently forced into involuntary servitude at a garment sweatshop. The El Monte case is an extreme example. But it is not an isolated incident.

Mr. President, most employers in our country abide by our immigration and labor laws. However, those who choose not to, not only undermine our laws, but the wages of American workers as well. They are guilty of the lowest form of greed—human exploitation. It must be stopped.

It is well-known that employers engaging in wage and hour law violations are often the same ones who hire illegal workers. I am pleased that the bill before us provides for 350 new wage and hour investigators at the Department of Labor over the next 2 fiscal years to enforce the existing employer sanctions we already have on the books.

Furthermore, the bill contains enhanced civil penalties for repeated or willful violations of our Federal labor laws, which I strongly support. However, I am deeply disappointed that the committee voted to delete provisions to increase the sanctions on employers who violate immigration laws.

Of course it is imperative for employers to better ascertain who is authorized to work, and who is not. The bill before us moves us toward improved verification for work and public benefits through the creation of several regional or local demonstration projects.

After the pilots have been tested, the administration will be required to return to Congress to make a recommendation on a permanent system. Implementation of a recommended system will require congressional action. The approach contained in the bill will allow Congress to review which methods of verification are the most effective before enacting a larger scale system.

I support the privacy protections contained in the bill to provide balance as we move toward a national verification system. I am further pleased that the bill explicitly prohibits a national ID card which I oppose.

It is important to have a foolproof method to ensure a potential employee is legal—I believe it would be dangerous to put in place a system where someone walking down the street could be stopped and asked for their papers. That situation would infringe on our lives.

A key fact of illegal immigration which often is overlooked is that approximately half of the illegal aliens currently in our country entered legally and overstayed their visas. This bill authorizes an increase of 300 new investigators at INS to go after these visa overstayers. I support this.

Mr. President, I strongly support the provisions in the bill to increase penalties on alien smugglers and those committing document fraud. I have

VOL
142
PT
6
AP
15
—
24
1996
UMI

long supported cracking down on those who manufacture and use fraudulent documents. When I toured the California-Mexico border with Attorney General Reno and Senator FEINSTEIN, we met with INS agents who told us it was key to beef up penalties for document forgery. Thousands of illegal immigrants each year use these documents to enter the United States illegally or continue to stay and work here illegally.

In the 1994 crime bill, I proposed an amendment to double the criminal penalties for forgers and distributors of fraudulent documents. These heightened penalties passed and are now law.

The provisions contained in S. 1664 go even further to increase criminal and civil penalties for crimes involving document fraud. We must send a message to these wrongdoers that we will not tolerate those who flout our immigration and criminal laws. These tougher penalties should serve as an effective deterrent to such actions.

For instance, for fraudulent use of government-issued documents, the bill increases the maximum fine from $250,000 to $500,000, and the maximum criminal sentence from 5 years to 15 years.

I would like to take a minute to specifically discuss alien smuggling. Recent incidents involving alien smugglers have received considerable press attention. The beating of two illegal immigrants after a 80-mile chase ending in El Monte put a face on the human cargo being brought into our country by alien smugglers.

Recently in California, 7 people were killed and 19 injured when a pickup carrying immigrants being smuggled into the country skidded, flipped over, and plunged off a rural road west of Temecula while being followed by Border Patrol agents. We must stop such occurrences.

S. 1664 stiffens criminal penalties for alien smuggling. The bill also contains provisions to expand the Federal Government's ability to pursue alien smugglers through expansion of the RICO [Racketeer Influenced and Corrupt Organizations] statute and wiretap authority.

I plan to offer an amendment to provide a new, tough Federal penalty on those who flee border checkpoints, creating dangerous high-speed chases. My amendment would provide a Federal penalty of imprisonment of up to 5 years. I am working with Senator SIMPSON and Senator KENNEDY and hope this amendment will be accepted.

Alien smugglers do deserve to be punished. They take advantage of people in desperate situations—often threatening their safety and potentially those of hundreds who could be exposed to them. We must make every effort to ensure that such tragedies do not continue to occur.

One concern I have with the bill relates to the authorization of a 14-mile triple fence for the 14 miles eastward of the Pacific Ocean in San Diego. Let me be clear about one thing: I support fencing and reinforcement of physical barriers along the border. But when the Border Patrol itself says these provisions would endanger the physical safety of their personnel, I think we should defer to their expertise.

Along with the INS, the Border Patrol points to the tactical and logistical problems of a contiguous triple fence. They also raise concerns about alien smugglers taking advantage of the triple fence configuration to ambush Border Patrol agents.

That is why I am cosponsoring an amendment with Senator FEINSTEIN to put the $12 million authorized for the triple fence toward needed border infrastructure improvements—including construction of all-weather roads, low-light television systems, lighting, sensors, and multiple fencing where it makes sense to do so.

Title II of the bill addresses immigrant—legal and illegal—use of public benefits. Illegal immigrants are largely ineligible for public welfare benefits. Where they are eligible, I support full Federal reimbursement for any resulting costs to States and localities.

The bill sets out the general prohibition barring illegal immigrants from receiving public benefits but exempts a limited number of services. In fiscal year 1994, the General Accounting Office estimated that the cost of providing elementary and secondary education, emergency Medicaid, and incarceration of alien felons was $2.35 billion for my State of California.

Immigration is a Federal responsibility. However, until this administration, California had not received any reimbursement for its costs resulting from illegal immigration. Today, California is receiving reimbursement for its costs of incarcerating criminal aliens under the State Criminal Alien Assistance Program. And while the crime bill authorized $1.7 billion to reimburse these costs, California has yet to receive full repayment.

I want to commend the chairman for including an authorization to fully reimburse States and localities for emergency medical services provided to illegal immigrants. Right now, the Federal Government pays half of this cost and the remainder is borne by the State. In California, this amounted to a cost for California of $395 million in fiscal year 1994. I strongly support reimbursement for these costs.

With respect to benefits for legal immigrants, I support strengthening the responsibility of sponsors. That is why I agree we must make affidavits of support signed by sponsors legally enforceable. Individuals who want to sponsor a family member must not shirk their responsibilities to the immigrant once they arrive.

By making the affidavits legally enforceable, the agency providing assistance to a needy legal immigrant has the ability to be repaid for their costs. This approach makes sense.

As a final note, Mr. President, I want to briefly discuss the importance of naturalization. Naturalization—the process by which a legal immigrant is granted the full rights and responsibilities of citizenship—represents the final step in a journey toward the American dream, a journey played by the rules.

The latest surge in naturalization applications submitted is nowhere more evident than in California. In fiscal year 1995, over 380,000 eligible legal immigrants applied to naturalize in California. This is a 500 percent increase over the totals for fiscal year 1991.

I am pleased that we now have a leader at INS who is doing something about it. Under Commissioner Doris Meissner, INS has been actively attempting to meet the latest surge in naturalization through its initiative, Citizenship USA. I commend Commissioner Meissner for the agency's efforts to put the "N" back in INS.

However, an immigrant who has already waited for at least 5 years to become eligible to naturalize can wait for an additional 12 to 16 months in cities like San Francisco and San Jose, CA, for their application to be processed because of enormous increases in demand.

We owe it to those who patiently follow the rules to do better.

Mr. President, I plan to offer an amendment to create demonstration projects around the country that set up citizen swearing-in ceremonies around July 4. The amendment which passed the House, authored by Congressman SAM FARR, would authorize INS to use the fees it already collects to fund the minimal additional costs of holding these symbolic ceremonies for 500 people.

Under the amendment, 10 demonstration projects would be authorized each year for 5 years. The demonstration projects would enable INS to reach out to local communities to encourage their involvement in the celebration of citizenship. The swearing-in ceremonies would be a communitywide celebration reminding citizens why we are proud to be Americans.

Mr. President, I am committed to those who want to follow the rules and become full participants in American society. Earlier this month, I introduced S. 1677, the Citizenship Promotion Act.

My bill would establish a Citizenship Promotion Agency [CPA] within INS to assist eligible immigrants with naturalization. The CPA would be able to work with government agencies as well as nonprofit organizations to assist in its naturalization outreach obligations.

My bill would also create a nine-member National Advisory Board on Citizenship to advise on naturalization

objectives. And finally, my legislation would establish a naturalization examinations fee account within the U.S. Treasury to ensure that naturalization fees are spent on naturalization—not redirected elsewhere. Such naturalization activities could include English language instruction for immigrants trying to become citizens.

In closing, I would like to reiterate my support for many of the provisions in the illegal immigration bill. I look forward to working with both Chairman SIMPSON and Senator KENNEDY in making further improvements to this legislation. Thank you.

I will close by saying this. I said at the outset that there is a real difference between illegal immigration and legal immigration. My own mother became a naturalized citizen in 1937. When she died in 1991, she left me a very special little pouch that had two things in it: Her wedding band and her certificate of naturalization. I think Americans understand how much naturalized citizens cherish this homeland.

Therefore, I am working with Senator SIMPSON and Senator KENNEDY to get an amendment adopted which would recognize the beauty of those naturalization ceremonies. And I pick up on an amendment that passed overwhelmingly in the House that would give some modest sums of money to conduct those naturalization ceremonies. We want to put the "N" back into the INS—"naturalization." It is a beautiful ceremony, and those are some of our finest citizens.

I could give you the list of some of those naturalized citizens. But I think you all know how many of our wonderful leaders in this country in entertainment, in politics, and in all fields are naturalized citizens.

So I want to thank the Senator from Massachusetts for yielding me so generously of his time. I feel this is such an important issue to my State. I wanted to have this opportunity to compliment my friends who have led on this bill, for what they have done, and I hope to be able to support it.

Again, I thank you very much, Mr. President.

I yield the floor.

Mr. KENNEDY. Mr. President, I see a number of our colleagues who have been very interested in this issue that would like to speak to it. I will respond at an appropriate time after they speak to the current amendment—to the Simpson amendment.

But I want to just point out to the Members about where we are. The parliamentary situation effectively excludes the opportunity for recognition of the minority, the Democratic manager of this legislation. Under the right of recognition it always goes to the majority as the time-honored tradition, and we understand that and respect that. But given the parliamentary situation we are effectively denied on our side any Member offering an amendment. I mean, with respect to the processing of amendments, we are at the point now where we are processing nongermane amendments because eventually at some time we will move toward cloture. By beginning to understand what the situation is we will dispose of various amendments that apparently are agreeable to the floor managers prior to the time that a cloture petition is put down which will exclude any chance of other Members to come back in here and offer any amendments. That is an extraordinary process and procedure.

We have to ask ourselves about how long we really want to put up with that. I have been trying as a matter of comity in working with the Senator from Wyoming to move through this in a way which permits us to try to deal with some of the basic substantive issues. But we, as the time moves on, are caught in this particular situation. We are effectively dealing, and only dealing, with the amendments represented by the majority, and we are precluded under this whole process of offering any amendments.

This is not a personal comment on my good friend, the Senator from Wyoming, because he is responding to the wishes of the majority leader in this case. And the matters that he is raising here are matters that have been raised in the Judiciary Committee, matters which he had indicated to us that during the course of the debate he was going to raise, and matters which are of very fundamental importance in terms of the substance of the issue.

But we are still in a situation where we are being told we can only—the Senate of the United States on an important piece of legislation like this can only—deal with those amendments that are put forward by the manager of the bill because under the right of recognition he gets it. If there are other Members that want to have amendments considered they would go to him. If he thinks that he may support them, I imagine he will put them forward. And, if he does not, he will not.

So we are in a situation where we have effectively a very small gate. My good friend and colleague—again I say with deference to him—because he has always, as I have stated on every occasion, been entirely up front and entirely fair in dealing with all the members of the committee, Republicans and Democrats alike. But he is caught in this position was well.

So it does seem to me that our colleagues ought to understand that effectively we have a clearance system here that unless an amendment is cleared through the acting majority leader we are being closed out. And I think the American people and our Senators ought to know that this is not a freewheeling debate where we are going to have the opportunity for the Members who want to represent their States and their interests-to be able to get recognized to be able to pursue that.

This is an extremely important amendment, and I hope we can deal with this amendment in a timely way. But at some time we are going to have to ask ourselves whether we are going to just go ahead and consider all of the nongermane amendments that come through our colleague over here and none of the nongermane amendments to be considered by other Members. Then we get into cloture, and they have taken care of those nongermane amendments. We will be just back on the germane amendments. It is a rather unusual way to proceed.

I just raise that now because there are those, myself included, who want to try to get at least some opportunity for recognition so that we would have a chance to offer at least a minimum wage amendment on this with a very short time agreement. We are effectively being closed out from that possibility. We understand that. But the other Members of the Senate ought to understand that as well. Hopefully the majority and minority leaders can bring their good common sense and judgment to help us find a way through this particular dilemma.

I will yield the floor because others want to speak. I will come back and speak to the substance of this measure. I want to again point out that the substance of this issue is enormously important. It is absolutely relevant. We ought to address it. It is extremely significant. But some time in the not-too-distant future I think we ought to have some kind of a decision about how we want to proceed.

This issue of illegal immigration is extremely important. We have supported the expansion of the border guards. We have supported the measures that Senator SIMPSON and I cosponsored—measures to try to create a more effective process for being able to identify the legitimate Americans versus illegals in the job market, which is extraordinarily important. There are other provisions as well in the illegal immigration bill which are very, very important and some which there is some difference on.

But we are in an unusual situation, and it is something that I know Members have to be concerned with as well.

Mr. SIMPSON. Mr. President, I can understand the frustration of the Senator from Massachusetts. He expressed that frustration in a very clear way. Let us then review the bidding so that we do all hear what we are doing.

We are dealing with illegal immigration. That has been the pending business before this body for over a week. The pending business of the Senate is the measure with regard to illegal immigration, which when we finish the amending process will probably pass by a rather significant vote. So if we are

VOL
142
PT
6
AP
15
—
24
1996
UMI

talking about important legislation, then surely we should be talking about this.

So what occurred here today is nothing mysterious, nothing sinister, nothing harsh. It is called legislating, and it is called using the rules of procedure, and it is done beautifully by the Democrats when they are in the majority and by the Republicans when they are in the majority.

So if we are talking about what is germane, what could be more nongermane than Social Security and an attempt to say that Social Security somehow is not to be dealt with when we do a balanced budget, when Social Security is $360 billion of the national budget.

That is what we are talking about, nothing mysterious, nothing sinister. What are we talking about that is germane about minimum wage? But there might be something very interesting and germane with minimum wage because the same people who are seeking an increase in the minimum wage are at the same time restricting efforts—some—restricting efforts to reduce the number of low-skilled immigrants who are entering under the family preference system.

I hope that we are able to divine that extraordinary difference. It is these low-skilled newcomers who flood the labor market which results then in stagnant wages. That is what happens. So this is one of the most curious parts of the entire debate to me.

I am not attributing that to Senator KENNEDY. I am attributing it to some who continue to resist the fact that we are trying to say that low-skilled persons are no longer required to come here under our immigration laws. We need people with skills. We need people with ability. We need people who are here to pull their share. We need people to come here whose sponsors say, "When you come here, I will assure that you do not become a public charge." That is what we are up to here. No mystery, nothing sinister.

You asked how we could be precluded from dealing with things that are very important to Senator KENNEDY or to Senator DORGAN. The same would be my argument. I am being precluded from dealing with illegal immigration reform. And I think that we want to keep all those interesting balances before the body. That is a very important thing.

I wish to insert in the RECORD a very interesting column that was in the Washington Post in the Outlook section last Sunday about this extraordinary argument about the minimum wage and the extraordinary, remarkable flight from common sense of those who will not allow us to reduce the number of those people presently entering under the preference system.

We have a situation now with regard to naturalization, with regard to a movement toward naturalization created by the legalization of the 1986 bill, created by people who are stunned and alarmed by proposition 187 and think, boy, if they are going to treat people who are permanent resident aliens like that, I want to get naturalized. There is another movement toward that, and so you are going to have more numbers coming to the United States than you ever did before, even if we did the minimum under the "legal immigration bill."

And remember, there is a legal immigration bill at the desk which passed the committee by a vote of 13 to 4. That is legal immigration. There is also the illegal immigration bill, which passed the committee by a vote of 13 to 4, and that is what we are considering at the present time.

Let me assure you that if you are talking about germane and nongermane, there should be not much question, at least in the eyes of the general American public, of a certain thing which is total reality, which is sometimes difficult to attain here, that the reason we talk about them together—whether you split them or puree them is not the issue—split, whole or pureed, you do not escape the fact that over one half of the people who come here legally become the illegal aliens which are the subject of this bill.

Please hear that, I hope, and know that we are talking about people who come here, half of them who come here legally become illegal. They then go out of status with a tourist visa. They go out of status with a student visa. They then become part of the illegal community.

So those are some things, and we are not here to disrupt things but we are here to deal with the bill as we do health care, we do line-item veto, we do this and we do that, and try and proceed. If the entire exercise should end in an hour, I can assure you that it will come back at some future time, but I thank my colleagues on both sides of the aisle for at least processing four or five amendments. That is what we should be doing. There are two choices here: Be about our business on an illegal immigration bill or the leader will be required to pull up something else and the issue will simply never go away, either of the issues or all of the issues.

So I just wanted to express that with I hope some clarity, that we are moving on an illegal immigration bill with a significant amendment here at the present time.

Mr. FORD. Mr. President, will the distinguished Senator from Wyoming allow me to ask him a question?

Mr. SIMPSON. Indeed, I say to my friend from Kentucky, Mr. President.

Mr. FORD. The Senator from Wyoming understands better than most why the minimum wage amendment is being placed here. That is about the only place we can get a chance to do it. He understands that well. And also the sense of the Senate on the balanced budget amendment, not using Social Security. He understands that question well. Could it not be worked out and taken off the bill? If a time agreement to vote on this bill—on those two questions be agreed to in 30 seconds, they would both be off the bill, would they not?

Mr. SIMPSON. Mr. President, it will be up to our leader to determine the course of business. The Senator from Kentucky and I both filled the role as assistant leader of our parties, and I think we both realize that we were somewhat muted on final decisions.

Mr. FORD. I understand that. But we do know that if the leaders would make a decision and give us the time for a stand-alone vote on it, these two items would not be on the immigration bill. And as we have seen both sides do in the past, you take an opportunity when it is presented to you. All I wish to know is if the Senator would agree that if the leaders would give us an opportunity to vote on minimum wage and the opportunity to vote on a sense of the Senate as it relates to the balanced budget, not using Social Security, that they would not be on this bill.

Mr. SIMPSON. Mr. President, I think that all of us know when we reach these sticking points in this body—and that is often—people then huddle and decide what to do. The leaders trust and admire each other and they will work together and move the legislation of the Senate. And that is the way it will always work.

On the other issue of minimum wage, I understand there are serious discussions going on about minimum wage, training wage, and getting the minimum wage to the people who do require it most and not to someone from a fine family that decided to go work in McDonald's for the summer and pretend that that is the issue of minimum wage when someone is a privileged young person who is simply in the work force.

There are real things here. For every horror story on one side, we have the horror story on the other side. That is the only way I have been able to exist in this body for 18 years.

So, for every one that is presented to us, then there is something on the other side about people who lose their jobs, employers who are on the edge and say, "Minimum wage? I cannot do it."

You can make fun of those people and say they should, I guess, be subsidized by the Government or something to pay the minimum wage. But the issue is, they say "I will go broke. So, therefore, I will not do that. Or, if that is the law, I cannot do it and I'm out." That is an argument just as valid as the one about children and spouses and the working man, and all of those things are what the American people know and see that is what we do. And that is what we do.

So, I am going to leave the issue for resolvement to that. And know that, at this point, this procedure of filling the tree and moving forward is not a patented process by the Republican majority; it is a patented process by the Democratic majority when they are in power. It is a tool to move legislation.

We have two choices here. Pull up something else or move forward. How can anyone argue—regardless of the passion of what you want to present to the body—how can you argue about not moving forward with a very important bill, and that is what we are attempting to do. It really is not as strange as it would appear.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I agree that the points the Senator from Wyoming made are valid points which ought to be part of a debate on the minimum wage. But effectively we are being precluded from the opportunity for action and for resolution. That is all we are asking for, whether 13 million families are entitled to 30 minutes of the Senate's time so we can make a decision on the issue of the minimum wage and also the proposal of Senator DORGAN. That is really what we are asking. It is not a great deal, but in order to preclude the Senate from taking that action we are finding out that we are using the unusual—and it is unusual—process by which the only amendments we are going to debate are going to be the amendments of the Senator from Wyoming or amendments that come through the process of the Senator from Wyoming.

So this is not progress in the sense it is giving Members of the Senate an opportunity to be able to raise issues that are important. They are effectively precluded from that because they are denied the right of recognition.

So we have to press, again, and indicate at the first opportunity we are going to offer it. Eventually the opportunity is going to come, because eventually—and people ought to understand it—when the time comes, and the final amendment is either agreed to or rejected, that prior to the time there is going to be disposition or a vote on this, it is going to be open, and others will be able to offer their amendments. So it might take a little while to be able to do that. We understand that. But that will eventually be the reality on that.

Mr. SIMPSON. Mr. President, if I might.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I enjoy, obviously, the Senator from Massachusetts because he does his work with a—down there, always—a crinkle in his eye and a twinkle. I know that one. I have seen it many times. This is, really—this is theater. It is Shakespeare—minor, minor, I can assure you. It is street Shakespeare. I do it, too. I will be Lear, raging into the wind, and Senator KENNEDY will be Puck.

Let me tell you, the minimum wage, when the Democrats had the control of this body and the House of Representatives and the Presidency, never appeared in this Chamber under any scenario from the wings—not once. Not once did President Clinton ever suggest we deal with the minimum wage. And since it became something that appeared in the focus groups, or the Knight tracking polls, it has been mentioned 47 times by the President.

So it is theater. But, really, if you stay in this game long enough—and I have been legislating for 30 years and obviously love it, but I am ready to do something else—if you play with the wheel with the fanny kicker on it, it will come around and get you. Hear this from my friend, Senator Ted KENNEDY, as we dealt with the health care reform bill. The CONGRESSIONAL RECORD, April 18, 1996, page S3513, quote of my friend, Senator KENNEDY:

> Members of the Senate who are serious about insurance reform should vote against all controversial amendments—including medical savings accounts. Senator KASSEBAUM and I have agreed that we will vigorously oppose all such amendments—even those that we might support under other circumstances.

Now, with the approval of the body, I ask unanimous consent that we insert the phrase "illegal immigration reform" and then just adopt that, because that is exactly what I am saying.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, Senator SIMPSON may say that this is theater, but it has dramatic results, by our action or inaction, for the 13 million families that would be affected about whether we are going to address the increase in the minimum wage, No. 1.

No. 2, the Senator, by mentioning the health care debate, understands—or should understand or may understand after this—that the increase in the minimum wage was deferred at that time because the impact and the effect on the hourly worker was considered to be a 40-cent to 50-cent increase as a result of a health care system. Those of us who had responsibility in that asked the workers do they want us to fight for an increase in the minimum wage, or do they want us to try and fight for health care, and overwhelmingly they said health care. We know it is 40 to 50 cents an hour. That was the battle. That was the battle then.

So the idea that we did not bring it up then—we did not bring it up then because we were fighting for the expansion of health care for the protection of workers, and we were denied that opportunity to have it because of Republican opposition.

I keep reading about who is responsible and who is not responsible about it. It was basically a Republican decision not to permit a vote on the U.S. Senate floor on health care, in order to show that we could not deal with that issue, and the Congress was ineffective in dealing with it. We understand that. We are not trying to rewrite history at this particular time, and we should not attempt to do it here today. That was the bottom line.

The value of health care, if we had gotten it, would have been that 40 to 50 cents an hour. So, once the Republicans effectively defeated it we moved on in, in terms of the introduction of the minimum wage as one of the first orders of business, if you look on our side. It was one of the first six pieces of legislation, and we have been asking for a vote on it for over 1 year and still are denied it, even though the Republicans support it and even though Republican Presidents Eisenhower, Nixon, and Bush actually voted in support of that measure.

So, I welcome the opportunity to have a substantive judgment and decision on that matter, which, eventually, when we go through these various amendments, we will have the chance to do, because we are not going to be closed out. We can go on and use these Senate rules in a way to put our good friend and colleague as the gatekeeper for the amendments, and he can use the rules in that particular way. But you are not going to get away from acting on the minimum wage at some particular time.

Finally, I do not think I really have to justify the decision that was made with regard to health care. That was a judgment that was made by Senator KASSEBAUM as well as myself.

So, if the Senator wants to have that kind of dispute as a way of getting legislation effectively through, it is a procedure which is used at other times, generally when the floor manager and the minority agree. We differed on this legislation, for some very important substantive reasons.

So, I think the circumstances are very much different. All we are looking for is 30 minutes on the minimum wage. Then we can get about concluding this very important legislation and be able to vote on it. We had, as the Senator from Wyoming knows, excellent markups with overwhelming participation, Republicans and Democrats, in the Judiciary Committee.

It was a great tribute to the Senator from Wyoming, for the involvement of the Members and the expression of differing views, that this legislation was

VOL
142
PT
6
AP
15
—
24
1996
UMI

reported out of committee. I am sure the Senate is going to make a judgment on this measure as well. But the idea that taking 30 minutes or an hour out of this kind of debate while we are processing amendments is unreasonable is incorrect—I would be glad to cut back our time.

I do not think I have used very much time in agreeing with the amendments of the Senator from Wyoming on these measures. Surely, we can cut out 1 hour of this day or tomorrow or whenever to debate the minimum wage when we have had important Republican support. The issue will not go away. I appreciate and understand the Senator's position on it.

Mr. SIMON. Will my colleague yield for a question?

Mr. KENNEDY. I will be glad to.

Mr. SIMON. When Senator SIMPSON mentions the health care bill and your statement and Senator KASSEBAUM's statement that they would resist any amendments, is it not true that any Member could offer an amendment, and, in fact, Senator DOMENICI offered an amendment with Senator KERRY here in this body? Any single Member could have offered a minimum wage amendment at that point. The procedure we are following here is dramatically different. Is that not correct?

Mr. KENNEDY. The Senator is entirely correct. We did not attempt to gag the membership, which effectively this process does. The only way you get consideration is to have the Senator from Wyoming, with the position of the majority leader, recognized. That has been a time-honored tradition which I respect and support. If not, then it goes to the minority leader. Under the Senate rules, Senator DASCHLE could come out here and offer that amendment. Then Senator DOLE would have to come out here and proceed in order to block that amendment.

We could go through that kind of a routine and put the Senate in stalemate. I mean, we are all dealing with this and understand the nature of these rules. I suppose sometime that will come to pass. But what we are trying to do is get an orderly procedure to be able to go forward.

Just finally, I say to my friend and colleague, maybe these discussions about how we could try to find common ground in the minimum wage are going on, but I do not know where they are going on. I do not think those of us who have been most involved—myself, Senator KERRY, Senator WELLSTONE, other Members, and, to the best of my knowledge, Senator DASCHLE—are aware of these negotiations.

What we are aware of is the preposterous position that the majority leader of the House of Representatives put forward yesterday as a position of the Republicans in the House, which effectively would say we are going to repeal the EITC, and therefore save $15 billion. That would be funds that would go to the people who are working on the lowest rung of the ladder, the economic ladder, and then we will set up an entirely new entitlement with the Internal Revenue Code to subsidize these workers who are working in restaurants and as teachers aides and as other health aides, working in Head Start programs, cleaning out buildings, that they would still get the $4.25 but get another subsidy from the Federal Government—a new entitlement.

Of course, that subsidy will be paid for by taxes that are coming from other workers. That is a new entitlement, a new bureaucracy, a new subsidy for companies. If that is the proposal, why do we not just get about the business of debating it and disposing of it. Maybe there are those who want to do it. But as the Senator from Illinois points out, let us at least permit a vote on this measure. Let us at least permit the Senate to speak. Let us get a short time period and have a debate on it.

That is what we are prepared to do. We are not trying to say, well, we are not prepared to go through, even though we are being denied an opportunity to vote on the minimum wage, which has received Republican and Democratic support. We are not at this point saying, well, we are not going to play ball with you on immigration. We could certainly have done that. We believe that is an important measure. But up to this time that has not been done. Eventually we will, under the Senate rules, have an opportunity to have these offerings of amendments on the minimum wage on other measures.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I think we could go on—and we may—but I think, as we get back to the substance of minimum wage—and apparently the Senator does that—and I think I misspoke earlier about Shakespeare. I think Senator KENNEDY is King Lear and I am puck, because certainly he launched one end of the tempest there, and here I am. But we will resolve this.

We will move forward perhaps, or we will not. If suddenly the procedure fails at this time, we will come back to it tomorrow or the next day, whatever it may be. But since we want to talk about the substance of minimum wage, I think it is important then just quickly, if I may, to talk about it in connection with immigration, because the other day in debate the Senator from Massachusetts talked about janitors.

Do you know what happened to janitors in the last 15 years? Janitors in Los Angeles in public buildings were making $12 an hour or $14. You know what they make now? $6. You know why? Because we in this body have allowed a glut of immigration to come to the United States and especially to that city, and the union janitors no longer are in a job at $12. The nonunion foreign immigrants came and knocked off the union wage.

Now we have the situation—if we are wanting to talk about the plight of janitors—there is a study by the General Accounting Office noting that janitors in downtown Los Angeles office buildings had won excellent wages and working conditions through their unions since World War II. By 1983, the prevailing wage reached $12 an hour—this is a GAO report. The ability to deliver credible threats to strike if wage increases were not forthcoming played a very important role in that success.

I know where Senator KENNEDY is on that one. But Congress, those of us in Congress, overriding the recommendations of a Federal commission on which Senator KENNEDY and I served, continued a legal immigration program that poured hundreds of thousands of foreign workers into the country annually during the 1980's—hundreds of thousands. Thus, Washington, thus us, inadvertently provided the opportunity for aggressive, nonunion businesses to take the jobs or deflate the wages of union workers, union workers in the Los Angeles area, taking over the office building contracts. Most of the native born workers were then driven from their jobs. Real wages for the foreign born and remaining native born have fallen further toward and even down to the minimum wage. There is a tie here somewhere, and we will get to it. We will discuss it. Now I have opened Pandora's box once again, but realizing the hazard of that. But there is where we are. We go ping pong all day long. It is theater, any way you cut it.

Mr. KENNEDY addressed the Chair.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. The Senator from Florida has been very accommodative. I will just take one moment.

The Senator's comments are old news, old news to certainly this Senator and, I think, to most Senators. That is why in the legal immigration we have effectively cut out the unskilled workers. That was initially either a proposal of mine or Senator SIMPSON on which we both had agreement. So that particular feature is excluded.

The reason we are continuing to see the depression in terms of those wages is because of illegal, not the legal, because we have effectively terminated that.

I will welcome the opportunity for debate about how this legislation and the legal immigration is going to protect American workers. I say in fairness that the Senator from Wyoming had included in initial proposals some additional provisions for the protections of American workers which I supported. I think we could have expanded on it.

Now, with regard to the legislation actually reported out of the committee, we have moved back from those kinds of protections. I think it is enormously important that we have those kind of protections. We will have a chance to talk about that as well.

Mr. GRAHAM. Mr. President, the issue of illegal immigration is an extremely serious one for America. Few places are as affected by that issue as my State of Florida. My State represents approximately 6 percent of the population in the United States. It is estimated that 10 percent to 15 percent of the illegal aliens who are in the United States are in the State of Florida. Within the last 4 years there were periods in which over 4,000 persons from Haiti alone entered into small boats in order to get to the United States, primarily through Florida, and would have added further to that population of illegal aliens.

Mr. President, my concern, therefore, is not that this Congress should deal with this subject. It is important, critical that we do. Rather, I believe there are at least two areas of this bill through which a serious fault line runs. This is not Shakespearian theater. This is structural engineering. The first of those fault lines, and the two are related, is that while this bill has as its label, illegal immigration, S. 1664 says in its heading, in its title, "To Amend the Immigration and Nationality Act to Increase Control Over Immigration to the United States by Increasing Border Patrol," et cetera. The focus of this bill is illegal immigration.

The first fault line, however, is that within this bill on illegal immigration there are major provisions which affect legal aliens, either totally affect legal aliens or substantially affect legal aliens. To pick one specific example which I hope will be dealt with before we complete action on this legislation, this bill that purports to deal with illegal immigration would change the conditions under which persons who are in this country with a legal status are allowed to adjust that legal status.

Since the early 1980's, the United States has recognized the special circumstances of Cubans coming to the United States and have had special provisions in which persons who were here legally of Cuban nationality can adjust their status. This bill, which purports to deal with illegal aliens would substantially restrict that right. This is only available to persons who are here legally. I cite that as just one example.

Other examples of the mixture of illegal and legal go to the fact that by changing the eligibility standards for legal aliens, substantial additional costs are going to be imposed upon the communities and States in which these aliens live. So the second faultline in this legislation are significant unfunded mandates which are being imposed upon States and local communities.

It is ironic, Mr. President, that the very first bill introduced in this Congress, S. 1, was a bill which had as its title the Unfunded Mandates Reform Act of 1995. Let me read from the statement of the purpose of the Unfunded Mandates Reform Act of 1995. The purpose of this act, which is now Public Law 104–4, the fourth bill that became law as a result of actions of the 104th Congress, the purposes of the act are:

> To strengthen the partnership between the Federal Government and State, local, and tribal governments; 2, to end the imposition in the absence of full consideration by Congress of Federal mandates on State, local, and tribal governments without adequate Federal funding in a manner that may displace other essential State, local, and tribal governmental priorities . . . 6, to establish a point of order vote on the consideration in the Senate and the House of Representatives of legislation containing significant Federal intergovernmental mandates without providing adequate funding to comply with such mandates.

Those were some of the purposes that led this Congress to adopt as its fourth legislative action of the 104th Congress the Unfunded Mandates Reform Act of 1995.

When the Senate was debating this proposal, Mr. President, the majority leader, Senator DOLE, stated,

> Mr. President, the time has come for a little legislative truth in advertising. Before Members of Congress vote for a piece of legislation, they need to know how it would impact the States and localities they represent. If Members of Congress want to pass a new law, they should be willing to make the tough choices needed to pay for it.

That statement by our majority leader was an important part of this Senate's determination to pass the Unfunded Mandates Reform Act of 1995.

So what are we about today, Mr. President? We are about legislation which would impose massive unfunded mandates on States and local communities in America. The Congressional Budget Office has, in a very limited time, reviewed this legislation's very broad sweeping impact on State and local governments. They have determined that this bill does, in fact, meet the $50 million threshold for unfunded mandates procedures due to the bill's requirements governing just two items: Birth certificates and drivers' licenses. Thus, although the bill would impact literally hundreds of programs run by State and local governments, just these two relatively minor programs reach the threshold of $50 million, which under the legislation constitutes unfunded mandates.

With respect to the all-encompassing deeming requirements imposed on hundreds of Federal, State, and local programs in this legislation, the Congressional Budget Office says,

> Given the scope and complexity of the affected programs, however, the Congressional Budget Office has not been able to estimate either the likelihood or magnitude of such cost at this time. These costs could be significant, depending on how strictly the deeming requirements are enforced by the Federal Government.

On another issue, the Congressional Budget Office has stated under the terms of means tested State and local tested programs,

> It is likely that some aliens displaced from Federal assistance programs would turn to assistance programs funded by State and local governments, thereby increasing the cost of these programs. While several provisions of the bill could mitigate these costs, CBO states that such tools would be used only in limited circumstances in the near future. At some point, State, and particularly local governments, become the providers of last resort, and as such we anticipate that they would face added financial pressure on their financial assistance programs.

Mr. President, this bill fails to meet the majority leader's truth-in-advertising test. It is not strictly an illegal immigration bill, and it does have serious financial implications for States and local communities. We are preparing to vote on a bill that we truly have not the foggiest idea what the impact will be on our constituents. They certainly are extremely concerned and strongly supportive of resolving this issue of unfunded mandates.

I have a letter dated April 16 from the National Conference of State Legislatures. This letter is also joined by the National Association of Counties and the National League of Cities. This letter urges all Senators to support a point of order against S. 1664, the illegal immigration bill, based on the violation of the unfunded mandates bill. This so states—the President of the National Conference of State Legislatures, the President of the National Association of Counties, and the President of the National League of Cities—"This constitutes a critical test of your commitment to preventing cost shifts to an unfunded administrative burden on State and local governments." This is what the leaders of State and local governments have described as the seriousness of the issue of unfunded mandates raised by this bill.

During the Judiciary Committee markup of this bill, Gov. Tommy Thompson of Wisconsin and Gov. Bob Miller of Nevada wrote in a letter, dated March 6, on behalf of the National Governors' Association, expressing concern about "administrative provisions contained in the bill," which, if enacted, "could result in an unfunded mandate being passed on to State and local governments."

This concern of Governors Thompson and Miller has, of course, now been confirmed by the Congressional Budget Office. Moreover, the National Association of Public Hospitals wrote to all Senators on April 12, noting, "This bill will lead to an increase in the number of uninsured patients and exacerbate an already tremendous burden of uncompensated care on public hospitals."

VOL
142
PT
6
AP
15
—
24
1996
UMI

This gets to another point that I offered in the unfunded mandates bill, which seemingly has gone unnoticed by the Congressional Budget Office, despite a vote of 93 to 6. That was a provision, which is now part of the Public Law 104–4, which states that any Federal reductions in "reimbursements to State, local, and tribal governments for the costs associated with illegal, deportable, and excludable aliens, including court-mandated expenses related to emergency health care, education, or criminal justice," constitute part of the potential new obligations imposed upon States and are subject to the point of order as unfunded mandates.

In numerous ways, S. 1664 does exactly that. It eliminates Federal reimbursement to the States, according to the Congressional Budget Office, by about $7 billion. I repeat, it eliminates Federal reimbursement to the States by about $7 billion over the period 1996 to 2002, a substantial portion of which is in health care costs associated with immigrants.

In short, this bill, once again, creates an enormous unfunded mandate on State and local governments. Once again, I repeat the quote from the Congressional Budget Office: "Given the scope and complexity of the affected programs, however, CBO has not been able to estimate either the likelihood or magnitude of such costs at this time. These costs could be significant, depending on how strictly the deeming provisions are enforced by the Federal Government."

Mr. President, while the CBO has been unable to do a comprehensive report, the National Conference of State Legislatures has undertaken that task. Our colleagues in the State capitals across the Nation, legislators, as are we, who administer these programs we are talking about today, have assessed what the impact will be on States. Although they were, like the Congressional Budget Office, limited in the time available to complete this analysis, the National Conference of State Legislatures developed a very conservative cost estimate for just 10 of the affected programs.

This study did not include Medicaid and 40 other Federal means-tested programs. What did the National Conference of State Legislatures find?

First, after contacting more than 10 States, States of varying size, they concluded that "regardless of the size of the immigrant population, all States and localities will have to implement these unfunded mandates."

In other words, the bill impacts a city in Iowa or Delaware just as it might in Los Angeles, CA, or Miami, FL. The bill requires all Federal, State, and local means-tested programs to have a new citizenship verification bureaucracy imposed upon them.

All programs, regardless of whether the new bureaucracy costs exceed benefits, regardless of whether it imposes a very large unfunded mandate on State and local programs, all programs are impacted by this bill. What are the estimated costs, even for just the 10 programs which have been studied? According to the NCSL study, "The cost of these new requirements for 10 selected programs would result in a $744 million unfunded mandate." Repeating, "The cost of new requirements for 10 selected programs would result in a $744 million unfunded mandate."

The National Conference of State Legislatures adds, "Of course, if the 40 other programs, including Medicaid, adoption assistance, and the WIC programs, are included, the unfunded administrative burdens on States and localities would substantially increase."

Mr. President, the NCSL study indicates that unfunded mandates for just 10 programs will be $744 million. Once the other multitude of programs are analyzed, the costs imposed on State and local government could far exceed a billion dollars. It could very well amount to several billion dollars.

However, Mr. President, there are no provisions in the pending legislation to reimburse State and local governments for the administrative costs and the cost shifts which will be imposed upon them by this bill.

As the majority leader said on January 4, 1995, when we were passing the unfunded mandates bill:

> We do not have all the answers in Washington, DC. Why should we tell Idaho, or the State of Kansas, or the State of South Dakota, or any other State, that we are going to pass this Federal law and we are going to require that you do certain things, but we are not going to send you any money? So you raise taxes in the local communities or in your State. You tax the people, and when they complain about it, say, "Well, we cannot help it because the Federal Government passed this mandate." So we are going to continue our drive to return power to our States and our people through the 104th Congress.

Those were the words of Senator DOLE on January 4, 1995. Mr. President, we have now come to a point of decision as to our credibility. When we passed this legislation, as the fourth bill of the 104th Congress, one of the items in the Contract With America, one of the items upon which State and local governments are now making important decisions, which they have believed the legitimacy of our representations that we are no longer going to be casually and in an unstudied way, imposing major costs upon them. Are we now going to be prepared to meet the test?

We have a bill which says that it only relates to illegal aliens; yet, an analysis indicates that it clearly has major impacts on legal aliens.

Second, we find that a significant part of that impact on legal aliens is to impose significant new unfunded mandates—financial responsibilities—on States and local communities. I do not think that is what we want to do. We have a choice. Clearly, a point of order is now available against this bill. We could end further discussion. I am reticent to raise that point of order because I believe it is important that we pass an illegal immigration bill that will in fact strengthen our ability to protect the borders of America and to assure that our lawful means by which persons can come to the United States are available and are not dismissed, as they have been so frequently in the recent past, by persons who come here illegally.

I also am reluctant to raise this point of order at this time because we still have an opportunity to correct this legislation and to remove those provisions which are imposing these mammoth unfunded mandates on States and local communities.

We are in a strange parliamentary process, but I hope that even through this byzantine process we will be able to consider those amendments that will be faithful to our commitments not to impose new unfunded mandates in the manner in which we are doing in this legislation upon our citizens at the State and local level.

So, Mr. President, my purpose in these remarks is to raise these two important structural defects in the bill—a mixture of impacts on legal aliens, and a bill that is labeled "illegal immigration" and the imposition of major unfunded mandates on States and local communities.

It is my hope that by raising these issues, it will contribute to reforming this bill in a way that brings a good engineer into the foundation of this legislation, pour some concrete, and strengthen the integrity of this legislation. If that is done, then the unfunded mandate point of order would no longer be available.

If that is not done, I want to assure my colleagues that the point of order will be raised because I am committed that we not only strengthen our resolve against illegal immigration but that we also demonstrate our credibility to not impose mammoth unfunded mandates on our State and local governments.

I ask unanimous consent that the letter and other material from the National Conference of State Legislatures be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CONFERENCE OF STATE LEGISLATURES, NATIONAL ASSOCIATION OF COUNTIES, NATIONAL LEAGUE OF CITIES.

April 16, 1996.

DEAR SENATOR: On behalf of the National Conference of State Legislatures (NCSL), the National Association of Counties (NACo) and the National League of Cities (NLC), we are writing to alert you that according to both the Congressional Budget Office (CBO) and

our own analysis S. 1664, The Immigration and Financial Responsibility Act of 1996, is in violation of P.L. 104–4, The Unfunded Mandates Reform Act.

Certain portions of S. 1664 would place unfunded federal mandates on states and localities through new national requirements for driver's licenses and birth certificates and by extending legal immigrant benefit restrictions to all federal means-tested programs. CBO estimates that the driver's license and the birth certificate mandates alone could cost states and localities in excess of $200 million. This clearly exceeds the $50 million threshold needed for a point of order against S. 1664 in accordance with P.L. 104–4.

In addition, a study by the National Conference of State Legislatures has found that the deeming requirements of S. 1664 would impose even greater unfunded federal costs on state and local governments. (CBO was unable to conduct an analysis of the deeming requirements, but stated that "it is possible that the administrative costs associated with applying deeming requirements to some federal means-tested entitlement programs would be considered mandate costs as defined in P.L. 104–4.") The NCSL study of just ten affected programs, not including Medicaid and 40 other programs, reveals that the costs to state and local government of these new requirements is $744 million.

As you know, "deeming" is attributing a sponsor's income to the immigrant when determining program eligibility. S. 1664 would extend deeming from three programs (AFDC, SSI and Food Stamps) to 50 federal means-tested programs including foster care, adoption assistance, school lunch and WIC. Regardless of the size of the immigrant population, all states and localities will have to implement these unfunded mandates. By mandating that state and local governments deem for all these programs, the legislation requires states and localities to extend a complicated administrative procedure to more than 50 federal programs. These mandates will require states to verify citizenship status, immigration status, sponsorship status, and length of time in the U.S. in each eligibility determination for the deemed federal programs. They will also require state and local governments to implement and maintain costly data information systems.

Therefore, we urge you to support a point of order against S. 1664 based on the violation of P.L. 104–4. This is a critical test of your commitment to preventing cost-shifts to and unfunded administrative burdens on state and local government.

NCSL, NACo and NLC will support subsequent amendments to reduce the scope of the deeming provisions and the onerous administrative requirements. We oppose the provision to extend the deeming requirements to all non-cash, federal means-tested programs. These mandates also garner almost no federal savings and should be eliminated as part of the Congressional commitment to eliminating cost shifts to state and local budgets and taxpayers. We urge you to support amendments to limit deeming to the federal programs that deliver income support and food assistance and to ensure that states and localities will not have to implement deeming for any program where administrative costs would exceed any estimated net savings or benefit expenditures.

Without this amendment, states and localities will have to deem applicants for everything funded by federal means-tested programs from foster care to children's soccer leagues to mobile meals to after-school tutoring programs. The administrative burden would severely restrict the number of services that could be provided and be a bureaucratic nightmare, especially for states and localities with fewer immigrants.

We also strongly support amendments to exempt vulnerable populations such as legal immigrants who become disabled after arrival, children under 18, pre-natal and post-partum women, and veterans and their families from the deeming restrictions. These groups are among the most vulnerable members of our communities. NCSL, NACo and NLC are also concerned about immigrants who enter the U.S. legally and comply with U.S. immigration laws in good faith. Legal immigrants who play by the rules should not be barred from the SSI program if they become disabled after arrival. No one can predict when they might suffer a disability; these immigrants must be included in the SSI program.

We are especially concerned about the impact of extending the deeming requirements to the Medicaid program. Without this program eligibility, many legal immigrants will not have access to health care. Legal immigrants will be forced to turn to state indigent health care programs, public hospitals, and emergency rooms for assistance or avoid treatment altogether. This will in turn endanger the public health and increase the cost of providing health care to everyone. Furthermore, without Medicaid reimbursement, public hospitals and clinics and states and localities would incur increased unreimbursed costs for treating legal immigrants. Exempting emergency Medicaid services from sponsor deeming is especially justified because emergency medical care must be provided by all hospitals with emergency rooms without regard to the patient's ability to pay or immigration status.

Finally, we are also concerned about the provisions mandating national standards for state and local documents such as birth certificates and driver's licenses. We support maintaining state and local choice in the design of these documents. These are very sensitive public policy issues. S. 1664 would preempt a number of state laws including those that specifically prevent using social security numbers as identification on driver's licenses and other identification cards. These mandates may violate the Supreme Court decision in New York v. United States that prohibits making states the administrative arm of the federal government. Furthermore, these provisions also place costly unfunded mandates on state and local governments that prevent such use of social security numbers or do not use tamper-proof paper for birth certificates.

We appreciate your consideration of our concerns and urge you to support these amendments to minimize the cost shift and unfunded mandates to states and localities.

Sincerely,

JAMES J. LACK,
New York Senate, President, NCSL.
DOUGLAS R. BOVIN,
Commissioner, Delta County, MI, President, NACo.
GREGORY S. LASHUTKA,
Mayor, Columbus, Ohio, President, NLC.

MEMORANDUM

To: Interested Parties.
From: Sheri Steisel, National Conference of State Legislatures. Jon Dunlap, National Conference of State Legislatures. Marilina Sanz, National Association of Counties.
Date: April 15, 1996.
Re: Unfunded Mandate Violations of More Than $900 Million In S.1664/S.269.

As you may be aware, on Friday (4/12/96) the Congressional Budget Office released its score of S.269 (now S.1664), the Immigration Control and Financial Responsibility Act of 1996. In this score, CBO states that a number of provisions in S.1664 would place unfunded federal mandates on states and localities. CBO estimates that the driver's license and birth certificate provisions alone could cost states and localities in excess of $200 million. This alone is a violation of the provisions of S.1, the Unfunded Mandates Act of 1995 and is certainly more than the $50 million threshold needed for a point of order against S.1664 on the Senate floor.

As for S.1664's new deeming requirements for all federal means-tested programs, CBO states that given the scope and complexity of the affected programs, they were unable to estimate these costs at this time. CBO found that "it is possible that the administrative costs associated with applying deeming requirements to some federal means-tested entitlement programs would be considered mandate costs as defined in Public Law 104–4." As you know, S.1664 would extend deeming from the 3 current programs (AFDC, SSI, and Food Stamps) to more than 50 federal means-tested programs, most of which provide social services at the local level.

The National Conference of State Legislatures (NCSL) has developed cost estimates for 10 affected programs (not including one of the largest, Medicaid, and 40 other federal means-tested programs). We have consulted with more than 10 states of varying size. However, regardless of the size of the immigrant population, all states and localities will have to implement these unfunded mandates. The NCSL study found that the cost of these new requirements for 10 selected programs would result in a $744 million unfunded mandate. Of course, if the 40 other programs, including Medicaid, Adoption Assistance, and WIC, are included the unfunded administrative burden on states and localities would substantially increase.

In the Senate debate, NCSL and NACo will strongly support a point of order against S.1664 and subsequent amendments to reduce the scope of the deeming requirements and the administrative burden the requirements place on states and localities.

NATIONAL CONFERENCE OF STATE LEGISLATURES

UNFUNDED MANDATES IN IMMIGRATION BILL: COST ESTIMATE OF S.269/S.1664 DEEMING MANDATE

Enclosed are the following: (1) the list of programs that we believe meet the unfunded mandate criteria contained in S.1 Unfunded Mandates Act and CBO's interpretation of the law; (2) an estimate of the infrastructure, training and implementation costs that states and localities would incur in order to implement deeming for these 10 programs; and (3) the list of over 40 additional federal means-tested programs that do not meet the criteria in S.1 but the states and localities would also have to implement deeming for. We estimate that the total cost of the deeming unfunded mandate in S. 1664 for the 10

VOL
142
PT
6
AP
15
—
24
1996
UMI

programs that meet S.1 criteria is $743.66 million. These costs rise substantially when all other federal means-tested programs, such as Medicaid, Adoption Assistance, WIC, and others, are included (see attachment part III).

Assumptions about deeming

In order to comply with the deeming mandates in S.269 ("to implement deeming for all federal means-tested programs") we believe that states and localities will have to adhere to a process similar to the following.

A citizenship verification must be made for all applicants of all federal means-tested programs. This means that each applicant must have an interview with a caseworker who will verify citizenship status and check valid documentation (e.g., birth certificate, passport, etc.). We do not believe that a written attestation of citizenship will be sufficient because any applicant for assistance could claim citizenship status, even illegal immigrants. Federal means-tested programs that do not have an intake process and an eligibility determination system in place will have to create them to provide a credible verification of citizenship status. We believe that creating these systems and hiring staff to administer them will be very costly (see #1 below).

After establishing who the noncitizens are, the caseworker must use the System of Alien Verification of Eligibility (SAVE) secondary verification process to determine which noncitizens have sponsors. As with the citizenship verification, we believe that requiring a written attestation of sponsorship status is not credible because of the enormous loophole in creates. At this time the SAVE secondary verification process is the only credible way to verify sponsorship status. With extensive training, caseworkers may be able to identify as many as ⅓ of all noncitizen applicants who would not have sponsors without accessing SAVE through secondary verification. Therefore, we estimate that ⅔ of all noncitizen applicants will need to be checked for sponsorship through the SAVE secondary verification process.

States and localities report that it currently takes INS an average of 3.5 weeks to respond through secondary verification on sponsorship requests for the three programs that deem. We would expect this time lag to increase as more programs deem (whether it be the 10 that meet S.1 criteria or the 50-odd possible means-tested programs) and SAVE's secondary verification process is overwhelmed. This may conflict with federal application processing requirements leading to difficulties with audits and quality control sanctions, especially in programs like AFDC, Medicaid, Foster Care and IV–D Child Support.

After INS informs the caseworkers about sponsorship, caseworkers must calculate deemed income. State and local administrative staff will have to be trained to verify citizenship, identify immigration documents, use the SAVE secondary verification process, calculate deemed income and understand deeming exceptions to make this process workable and credible. In addition to infrastructure and training costs, states and localities will also experience on-going implementation costs associated with the staff time needed to access SAVE and make the complicated deeming calculation.

For more information please contact Jon Dunlap, or Sheri Steisel, in NCSL's Washington, DC office.

I. SELECTED FEDERAL MEANS-TESTED PROGRAMS AFFECTED BY DEEMING UNFUNDED MANDATE IN S. 269:

No Intake Process and No Current Deeming Requirement: School Lunch, School Breakfast, Child and Adult Care Food Program, Vocational Rehabilitation, Title XX Social Services Block Grant.

No Current Deeming Requirement: Foster Care, IV–A Child Care, IV–D Child Support, Medicare—QMB.

Deeming: Food Stamps, AFDC.

II. COST ESTIMATE

We have separated the costs into three parts: (1) capital/infrastructure; (2) staff training; and (3) on-going/implementation.

1. Capital and Infrastructure Costs: A citizenship verification must be made for all applicants of all federal means-tested programs. This means that each applicant must have an interview with a caseworker who will verify citizenship status and check valid documentation (e.g., birth certificate, passport, etc.). Federal means-tested programs that do not have an intake process and an eligibility determination system in place will have to create them to provide a credible verification of citizenship status.

A. What federal means-tested programs do not have an intake process?

1. Examples: School Lunch/Breakfast, Child and Adult Care Food, Title XX, Voc. Rehab.

B. What is the cost for creating an intake process?

1. Number of programs needing intake process = 4.

2. Number of new staff/program needed to admin. new intake processes:

a. School Lunch-Breakfast = 1 staff/school district 14,881 school districts = 14,881 staff (American School Food Service Association).

b. Adult and Child Care Food = 1 staff/county x 3,042 counties = 3,042 staff.

c. Title XX SSBG = 1 staff/county 3,042 counties = 3,042 staff.

d. Vocational Rehabilitation = 1 staff/county 3,042 counties = 3,042 staff.

3. Total number of new staff to create new intake processes = 24,007 staff.

4. Average annual salary of new staff = $30,000/staff/year (National Eligibility Workers Association and National Association of Social Workers).

5. Total cost of new staff = 24,007 new staff $30,000 avg. staff salary = $720.21 million.

6. Creating or updating eligibility manual (including pictures of acceptable documentation) and reprogramming computers = $2 million (this could be higher, we are checking with state welfare agencies)

Subtotals: New Staff = $720.21 million, Other Costs = $2.0 million, Federal Administration Contribution = $0 (None of these programs would be federal admin. funds).

Total: $722.21 − $0 (Fed Share) = $722.21 million.

2. Staff Training for Immigration Verification, SAVE and Deeming Administration: After establishing who the noncitizens are, the caseworker must use the System of Alien Verification of Eligibility (SAVE) secondary verification process to determine which noncitizens have sponsors. With extensive training, caseworkers may be able to identify as many as ⅓ of all noncitizen applicants who would not have sponsors without accessing SAVE through secondary verification. Therefore, we estimate that ⅔ of all noncitizen applicants must be checked for sponsorship through the SAVE secondary verification process. When INS informs the caseworkers about sponsorship, caseworkers must calculate deemed income. State and local administrative staff will have to be trained to verify citizenship, identify immigration documents, use the SAVE secondary verification process, calculate deemed income and understand deeming exceptions.

A. Staff time costs: 1 day training at $15.00/hour8 hours=$120.00/day/person.

B. Trainer's costs: $1200/training session (Center for the Development of Human Services—NY).

C. Number of people needing training:

1. school lunch-breakfast=14,881 staff.

2. child and adult care food=3,042 staff.

3. Title XX=3,042 staff.

4. Vocational Rehabilitation=3,042 staff.

5. IV–E Foster Care=3,042 staff.

6. Medicare QMB=3,042 staff.

7. IV–A Child Care=3,042 staff.

8. IV–D Child Support=3,042 staff.

Total=36,175 staff.

D. Number of people trained per session=35 (Ctr. for Dev. of Human Services—NY).

F. Total number of training sessions: 36,175 staff/35=1,033 sessions.

G. Total cost/session=$1,200 trainer+($120/person35 attendees=$4,200 staff time/session)=$5,400.

Subtotal: Total cost of start-up training=$5,400 (cost/session)1033 (number of sessions)=$5.58 million Total Federal Administration Contribution=$1.8 million (30% Federal reimbursement after accounting for average of 50% federal administrative reimbursement for most programs but no federal assistance for the large nutrition programs such as school lunch/breakfast and child and adult care food admin. cost).

Total: $5.58 million − $1.8 million (Fed Share)=$3.78 million.

3. On-Going Implementation Costs: After consulting with a range of state and local officials, including LA County, Colorado, New York, Rhode Island, Iowa, West Virginia, Virginia, Minnesota, and Texas, we believe that the on-going implementation of deeming will be cost prohibitive. According to the 1994 Census, 15 million noncitizens reside in the U.S. After consulting with the INS and the urban Institute, we estimate the approximately 10%, or 1.5 million, will apply for a federal means-tested program each year. This percentage would be even higher if we used research from George Borjas, a well-known immigration demographer, who estimates immigrant public assistance use at closer to 20%. Many noncitizens will apply for multiple programs or apply for a single program multiple times. We are unsure about how to account for the number of noncitizens who might file multiple applications. Because no comprehensive information system exists to record and unify data on all federal means-tested programs, each application will require a separate verification and inquiry of the SAVE secondary verification system. After consulting with Los Angeles County, we multiply the number of applicants by a factor of 1.5 to account for additional procedures resulting from multiple applications. After consulting with the INS, we estimate that if caseworkers receive extensive training in reading immigration documents, they will be able to vet up to ⅓ of all noncitizen applications. The remaining applications will have to be referred to the SAVE secondary verification process. We estimate that 50% of all secondary SAVE inquiries will require a deeming procedure (Congressional Research Service). We divide the total number of SAVE inquiries in half to bet the total number of deeming procedures per year.

A. Total number of noncitizens applying for selected federal means-tested programs per year = # SAVE 2nd verifications inquiries to be scored by CBO: 15 million non-citizens in U.S. (census 1994)—10% (1.5 million) apply for one of the selected federal means-tested programs—we use a 1.5 multiplier for selected federal means-tested programs (1.5 million 1.5 multiplier = 2.25 million applications)—One-third of applications can be vetted through immigration document checking (2.25 mil − 742,500 = 1.49 million) = 1.49 million SAVE inquiries per year for the selected federal means-tested programs.

B. Total number of deeming procedures/year = 1.49 million 2nd SAVE inquiries .5 for noncitizens without sponsors = 742,500 deeming procedures/year for selected programs.

C. Average cost per inquiry of SAVE 2nd verification (staff time, costs for accessing save):

1. 30 min. of staff time per 2nd verification inquiry at $15.00/hour = $7.50/inquiry of staff time (HHS Office of Inspector General).

2. Other costs for accessing SAVE might include phone, copying, mailing, etc. = $1 million.

D. Average additional cost of administering deeming procedures (reinterview, calculation, exemptions).

1. 1.5 hours staff time/deeming procedure at $15.00/hour = $22.50/deeming procedure (National Eligibility Workers Association survey).

E. On-going training costs:

1. Avg. annual turnover of caseworker staff = 10% (National Association of Social Workers).

2. Number of new staff/year = 36,175 staff 10% turnover = 3,617 new staff/year.

3. Number of new training sessions/year = 3,617 new staff/35 per session = 103 sessions/year.

4. Total cost of on-gong training/year = 103 sessions $4,500/session = 556,200/year.

Subtotals: SAVE inquiry costs = $7.50/per inquiry 1.49 inquiries = $11.18 million. Other ongoing admin. costs = $1.0 million. Deeming staff costs = $22.50/per deeming procedure 742,500 procedures = $16.71 million. On-going training cost = $556,200.

Federal Administrative contribution: $8.84 million (30% Federal reimbursement after accounting for average of 50% federal administrative reimbursement for most programs but no federal assistance for the large nutrition programs such as school lunch/breakfast and child and adult care food admin. costs).

Net Total: $29.45 million (On-going cost) − $8.84 million (Fed Share) = $17.67 million.

Estimated total net Capital/Infrastructure cost: $722.21 million.

Estimated total net training cost: $3.78 million.

Estimated total net on-going implementation cost: $17.67 million.

Estimated total net cost: $722.21 million + $3.78 million + $17.67 million = $743.66 million.

IV. OTHER FEDERAL MEANS-TESTED PROGRAMS

Medical Benefits: Medicaid, Maternal and Child Health Services Block Grant, Migrant Health Centers, Community Health Services, Title XX Family Planning Services.

Cash Benefits: SSI-Supplement, Adoption Assistance, Emergency Assistance to Needy Families with Children. Child Care Development Block Grant.

Food Benefits: WIC, Summer Food Service Program for Children, Commodity Supplemental Food Program, Special Milk.

Housing Benefits: Section 8 Housing Assistance, Public Housing, Rural Housing Loans, HOME, Rural Rental Housing Loans, Section 236 Interest Reduction, Farm Labor Housing Loans and Grants, Section 101 Rent Supplements.

Education Benefits: Title I Grants for Educationally Deprived Children, Pell Grants, Head Start, Stafford Loans, Even Start, College Work Study, Supplement Education OPP. Grants, Perkins Loans, State Student Incentive Grants.

Services: Community Service Block Grant, IV–B Child Welfare, Emergency Food and Shelter Program.

Jobs and Training: Adult Training Program, Summer Youth Employment, Youth Training Program, Foster Grandparents, Senior Companions, Senior Community Service Empl.

Energy Assistance: LIHEAP, Weatherization Assistance.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Ohio.

Mr. DEWINE. Mr. President, let me first compliment my colleague and friend from Florida for his very fine statement, particularly in regard to his recitation of the unfunded mandates that are in this bill. I have several of the same concerns that he does.

We have an employer verification system here that is going to cost money. It is going to cost money for employers. It is going to cost money for States and local communities.

I have other serious concerns about this employer verification system as well.

My colleague from Michigan, Senator ABRAHAM, will be offering later in this debate an amendment dealing with that employer verification problem that is in the bill. My friend from Florida has also pointed out another, I think, very important problem, a huge unfunded mandate; that is, the birth certificate changes that are required in this bill.

I think it is going to come as a shock, when we get into this debate, to my colleagues and to the American people to find that under the terms of this bill the birth certificates that every American has are still going to be valid after the bill passes. They just will not be able to use them much for anything. You are going to have to go back to the place where the birth took place and get a new birth certificate if you want to get a passport or if you want to use it for other official business. It is just going to be absolutely a total nightmare.

Now is not the time to get into this in detail, but I will be offering an amendment at the appropriate time to strike that provision because it would be very, very ironic that a U.S. Congress that has put itself on the block and said finally we are going to heed what local elected officials are telling us, finally we are going to listen, finally we passed this unfunded mandate bill saying we are not going to do this anymore, or at least, if we do, we are going to recognize that we are doing it and admit that we are doing it—it would be the height of irony if this Congress which said that would pass such a huge unfunded mandate that my colleague from Florida has pointed out is absolutely huge.

Imagine telling everybody in this country that your birth certificate is still valid technically but you just cannot use it for much of anything. Imagine the cost to the counties, or whatever local jurisdiction you have in your home State that issues birth certificates, when people start flocking back and going home to get these new birth certificates issued to qualify. The only way they qualify is if some Federal bureaucrat in Washington, DC, says, "Well, yes, that is OK. That type of format is OK. The paper is OK. The format is OK. The information is OK. Yes, you can use that type of birth certificate." A huge unfunded mandate that is absolutely crazy.

I think when my colleagues look at this issue and we get into the debate about the cost of this, people are going to really be shocked.

Let me turn, if I could, Mr. President, to what I understand is the pending business; that is, the Simpson amendment that deals with open field searches.

Let me just bring my colleagues up to date, or kind of capsulize exactly where we are on this issue. This issue was looked at by the Judiciary Committee. In fact, by a vote of 12 to 5, Senator SIMPSON's position was rejected. The position that he has taken and the position that this amendment would take would be to reverse—let me say that again—reverse a very delicate compromise that was reached in 1986 in the Simpson-Mazzoli bill in regard to open field searches.

Let me go back and review very quickly some of the history behind this. In 1984, the U.S. Supreme Court said that a search warrant was not required for open field searches but in its opinion invited Congress to look at the issue and to take action in this regard.

In 1986, some 2 years later, when we looked at this whole issue of illegal immigration, Congress did speak, and it was an integral part of that compromise. A very delicate compromise was worked out when I was in the House of Representatives. Senator SIMPSON was the leader here in the Senate. That compromise provided that, for an open field search, a search warrant would, in fact, be required. So, if we accept the Simpson amendment, it really is a rejection of a compromise that was made in 1986.

The bill, Mr. President, as it currently stands on the Senate floor with the vote by the Judiciary Committee—a 12 to 5 vote to reject the Simpson position on open field searches—the current bill is the status quo. The current bill is where the law is today. I want to emphasize that.

Let me talk a little bit about the merits of this issue. The current law is that the INS has to get permission to conduct a search in an open field involving agricultural workers. That is the same situation that exists today if

VOL
142
PT
6
AP
15
—
24
1996
UMI

the INS wants to go into a restaurant or wants to go into some other building and conduct a search. If they want to conduct a search, under current law, they can get permission, which oftentimes is granted; but if they cannot get permission, then current law treats all employers and all employees equally in this regard. The INS has to go in and get a search warrant, if they do not get permission. That is true whether they are dealing with a building or whether they are dealing with work that is taking place on a farm or a ranch.

To change this, as the Simpson amendment would do—first of all, there is no compelling reason to do it. In fact, there is no reason to do it at all.

In fact, there is no reason to do it at all, if you ask the INS. They are the ones enforcing it. They are the ones who have the duty imposed by Congress to get the search warrant.

What the INS says is we do not need to change the law. They are not here asking for the change. We do not need the change in the law is what the INS says. They are the ones who in a sense we have been restricting.

Second, a change in the law, which adoption of the Simpson amendment would be, puts a burden on farmers, and, yes, on ranchers. I do not have to remind anyone in this body who has a farmer or a rancher in their State—and that includes every State I guess—how time sensitive the harvest of any crop is.

I experienced this in my home county. My family ran a seed business for many years. And when it came time to harvest the wheat, they harvested the wheat. You had a fine window in there to get it done. If you did not do it at the time to do it, you might lose the crop. It might rain; you might have problems. The same is true for any perishable crop—tremendous disruption of going in and conducting these searches without a search warrant. That is one of the compelling reasons that this was such an important part of the compromise that was reached in 1986 in the Simpson-Mazzoli bill.

In addition to the burden that this amendment would place on employers, equally important, and maybe even more important, is the burden it is going to place on employees.

Open fields. Let us think of the real world. Let us think of the real world. INS would drive by and look at this open field. Where are they going to go? It is not unreasonable to think that there is certainly a distinct possibility, however well intentioned people who work at INS are, that they are going to go where they see people look a little different than the vast majority of Americans, or at least the vast majority of people in most parts of the country, that they are going to go where maybe someone's skin is a little browner. They are going to go where they have some suspicions.

I think that is wrong. I think they should be held to the same standard they have been held to for the last decade under the Simpson-Mazzoli compromise, and that is they have to get a search warrant. It is not too burdensome.

Again, I think it is important that all employers be treated equally and all employees be treated equally. The situation has to be dealt with in the same sense, and that is true of the status quo, and that will be changed if the Simpson amendment today is adopted.

What was the background of this? What led to people looking at this and saying, "Hey, there is a problem." It is my understanding that before the 1986 act was passed, 15 percent of the illegal immigration problem in the work force was in agriculture and yet 75 percent of all searches, all the raids occurred in agriculture. That is no coincidence. They went where it was easier. They went where they could see into the open fields. I would submit they sometimes may have gone where somebody's skin was brown or somebody looked a little different, looking at that as a good prospect. I think it is wrong to change that law.

We are going to hear the argument in the Chamber that the only law enforcement agency that is required to have a search warrant in an open field situation is the INS. Yes, that is technically true. To state that is to state the obvious, but it is also looking at it from a very simplistic point of view. Those of us who have been involved in law enforcement know that searches by law enforcement agencies that are looking at what we consider to be crimes historically—rape, murder, theft—they are not just going and looking at fields and walking into those fields because they see who is working there. That just is not the way it works. There is a normal progression of the research that has to be done, the evidence that has to be presented, even if the plain view doctrine to go onto a field does in fact apply, which I think it does. That is frankly the argument that proponents might make, comparing apples and oranges—just a totally different situation.

Senator HATCH received a letter on March 13, and this letter is signed by a number of groups in this country that oppose the Simpson position. Let me read the names of these groups and then let me take a brief excerpt from the letter itself.

Groups that oppose this amendment include the American Farm Bureau Federation, Agricultural Affiliates, American Association of Nurserymen, American Sheep Industry Association, California Farm Bureau Federation, Florida Strawberry Growers Association, Florida Fruit and Vegetable Association, Illinois Specialty Growers Association, Michigan Farm Bureau, National Cattlemen's Beef Association, National Council of Farmer Cooperatives, Northern Christmas Trees and Nursery, Northwest Horticultural Council, Society of American Florists, Sun-Maid Growers of California, Texas Produce Association, United Fresh Fruit and Vegetable Association, Ventura County Agricultural Association, Virginia State Horticultural Society, Wasco County Fruit Produce League, Washington Growers Clearinghouse, Western Growers Association, Wisconsin Christmas Tree Producers' Association, and Wisconsin Nursery Association.

Let me point out that this letter, dated March 13, obviously did not have to do with this specific amendment. What it did have to do with is the same identical subject. Let me quote from this letter. This letter was signed by the groups that I just read. This is paragraph 2.

> S. 269 also proposes to repeal the open agricultural field search warrant requirement enacted as part of the Immigration Reform and Control Act of 1986. This provision requires Immigration and Naturalization Service to obtain the permission of the property owner prior to entering the property searching for illegal aliens, or to obtain a search warrant. This is the same procedure required of INS searching for illegal aliens in any other workplace, such as factories, restaurants, and retail establishments enclosed by buildings or other structures. This provision of current law affords growers the same protections from warrantless searches and unreasonable disruption of business activity enjoyed by any other businesses with walls and doors.

The fourth paragraph reads in part as follows, again the same letter signed by the same groups:

> Prior to enactment of the open agricultural field search warrant requirement, INS was accused in several instances of unlawful detention of America's citizens and legal permanent resident aliens, damage to crops and property, violations of property rights, and injuries to agricultural workers fleeing INS searches. We believe the requirement that INS obtain either property owner permission or a search warrant prior to conducting a search for illegal aliens has fostered cooperation between INS and growers, and has reduced property damage, crop losses and farmworker injuries.

Again I would point out in light of this statement that I just read, that is INS' position in the sense that they are not asking for a change in the law.

Let me also cite, if I could, Mr. President, a letter from the American Farm Bureau Federation—actually not a letter but a statement that was put out. I have no date on this but it was within the last month. Let me just read a portion of this:

> Farm Bureau has been very active in lobbying Capitol Hill to seek retention of the open-field search warrant provision enacted as part of the 1986 Immigration Reform bill. The provision of S. 269 repealing the open-field search warrant requirement has received no examination in public hearings, despite the fact that it reverses policy adopted by clear majorities of both Houses of Congress during the 1986 reform debate.

Continuing the quote now:

> Congress enacted the so-called open-field search warrant requirement as a part of the 1986 immigration reform bill in response to concerns among the agriculture community that farmers were treated differently by Immigration and Naturalization Service as a result of the nature of their business; that it is conducted outdoors rather than indoors and it thus had been more vulnerable to abusive searches.

That is a partial quote from the letter.

Let me also point out what the INS can do today, again under the current status of the law, again under the 1986 compromise, the Simpson-Mazzoli compromise.

They can go in property in hot pursuit. They can do that today. We do not need to change the law today to do that. They can do that hot pursuit. Further, they do not need a search warrant if the land is located within 25 miles of the border. So, again, two of the problems, or what you might think would be serious problems, have been dealt with and were dealt with in 1986.

Finally, of course, to again restate the obvious, if permission is granted, consent is given, they can go on right now.

So let me state I think this is an important issue. The Simpson amendment changes the status quo. I see my friend is on the floor and may at this point or later want to respond. But I think the status quo is correct. The Judiciary Committee voted by a 12-to-5 vote to keep the status quo. The INS does not see a reason to change the law, and therefore I ask my colleagues to vote against the Simpson amendment.

The PRESIDING OFFICER. The Senator from Wisconsin [Mr. FEINGOLD], is recognized.

Mr. FEINGOLD. Mr. President, I rise today in opposition to the legislation before us. Before I do, let me just say a word or two about the comments about the minimum wage. I am pleased that that issue is being discussed at this time. I am pleased to see the reemergence of some bipartisan support for an increase in the minimum wage. I think the time is now. Whether it be on this piece of legislation with a limited time agreement or some other piece of legislation in the near future, I think it is something we ought to take up now rather than wait until later. It is at least of as great importance as the matter before us today.

But I do rise in opposition to this bill. I fear this legislation not only embraces the wrong approach to curbing illegal immigration, but I think it contradicts past efforts to reform the Federal regulatory framework and to prevent the Congress from passing unfunded Federal mandates that will needlessly burden employers and local governments alike.

In 1994, we witnessed a very emotional and pointed debate in California over a ballot issue that we have all come to know and describe as proposition 187. That debate, which evolved into a rhetorical backlash against both legal and illegal immigrants, clearly demonstrated that the issue of immigration has the very strong potential to further divide and alienate those in our communities who are now faced, even more than at any time in the past, with the daily anxieties of economic insecurity and social instability.

During the extensive consideration of this legislation in the Senate Judiciary Committee, I did oppose certain efforts to curtail legal immigration, whether it was an effort to prevent families from reuniting with loved ones or an effort to place additional hurdles before persons who are fleeing persecution in their home countries and have a legitimate right to ask for asylum. As I indicated then, my strong support for preserving ample levels of legal immigration does not compromise in any way my feeling, and the feeling I think of every Member of this body, that we do need to take bold and aggressive steps to curtail illegal immigration.

I do believe there are reforms that are responsible and reasonable, and that we should make every effort to pursue on this bill. For example, the bill authorizes the hiring of over 4,500 new Border Patrol agents over the course of the next 5 years. This massive increase in personnel will nearly double the existing number of Border Patrol agents under the jurisdiction of the INS.

I was also, therefore, pleased that an amendment I offered in committee was adopted by the committee, which provides that these many new personnel will be hired and adequately trained, pursuant to appropriate standards of law enforcement.

I am also strongly supportive of provisions in S. 269, offered by Senator KENNEDY, to enhance the penalties for virtually all forms of alien smuggling and document fraud, as well as related offenses.

Additionally, these provisions provide stiff penalties for those individuals who operate sweatshops which force people, many in this country illegally, to work in often inhumane conditions for minimal compensation. Like these new enforcement personnel and alien smuggling penalties, it is critical that any measure we consider to curtail illegal immigration be targeted against those who are actually breaking our laws.

Nothing stands in more stark contrast to this sort of targeted approach than what I believe to be the single most troubling component of this legislation and that is the creation of a new, costly and massive worker verification demonstration project which is intended by the proponents, I believe, to lead to a nationwide verification system within a few years.

The worker verification proposal contained in this legislation, and the worker verification concept itself, is not a targeted approach to confronting the problem of illegal immigration. Instead, it is an approach which seeks to deputize thousands of business owners and farmers and other entrepreneurs, and virtually turn our Nation's workplaces into some kind of internal border patrol, mini-INS's, if you will. These employers are then charged with the responsibility of navigating a complex new electronic verification system in an effort to root illegal immigrants out from a massive American work force.

I find it shortsighted and untenable to suggest that we cannot combat illegal immigration without requiring every person in America to have his or her identity checked by a Federal data base each time each person in this country applies for a job or for Government assistance. Despite good-faith efforts by the proponents of this provision to try to build in adequate privacy protections, the fact remains that every time an American applies for a job he or she will be stepping into a civil liberties minefield, if this system develops as I am concerned the authors intend.

Who in our society will be required to have their identities verified? Potentially everyone. It could be the 40-year-old father of four, applying for an executive position with a Fortune 500 company. It could be a 20-year-old college student applying for student aid. If I am reading this bill correctly, even a 12-year-old paper boy could have to have his identity verified by a Washington official before he could be hired to deliver newspapers. That, I am afraid, is the practical effect of a national worker verification system. It is light-years away from a targeted approach. And it is based on the proposition that it is perfectly appropriate to have ID checks potentially required from 98 percent of our population, that which consists of U.S. citizens and legal immigrants, in order to root out the 2 percent of our population that is here illegally.

During judiciary hearing consideration of this bill, the junior Senator from Michigan and I offered a bipartisan amendment to strike the worker verification concept from this legislation and replace it with stronger enforcement and penalties for those who break the law by overstaying their legal visas. Although the committee accepted these new provisions relating to visa overstayers, our amendment to strike worker verification proposals lost on a tie 9 to 9 vote.

The original nationwide system was later replaced by the so-called demonstration projects. But make no mistake, Mr. President, the fundamental flaws contained in the original proposal remain. Only now we will go

VOL
142
PT
6
AP
15
—
24
1996
UMI

through a somewhat longer process before it is actually imposed nationwide on all Americans.

Senator ABRAHAM and I will offer an amendment later on during this debate to strike those demonstration projects and programs and will speak more on this at another time. But it is strangely ironic, Mr. President, that some of the same Senators who stood here on the Senate floor a year ago and cried out for meaningful regulatory reform legislation now are some of the strongest advocates for a massive national worker verification system and that somehow that is an appropriate solution for our illegal immigration problems.

Another provision of this legislation that is troubling to me relates to birth certificates and driver's licenses. The bill currently requires all Government agencies to begin issuing uniform Federal birth certificates based on standards developed here in Washington, DC. Moreover, no Government agency may accept for official purposes a birth certificate or driver's license that does not meet the Federal guidelines established in this and presumably future legislation.

Originally, this provision required agencies to collect fingerprints or other biometric data. The Department of Justice referred to these fingerprinted birth certificates as "de facto national identification documents."

Thankfully, we were able to delete the fingerprinting requirement in the Judiciary Committee, but I think it demonstrates the steps that some are willing to take in this area. I do not believe for 1 minute that we have seen the last of this fingerprinting idea. Even without the fingerprints, I think this provision is still distressing. For example, the bill language requires every State department of motor vehicles to begin issuing driver's licenses with safety features as prescribed by a Federal regulatory agency. This language also states that anyone applying for a driver's license must present certain information as designated by the National Department of Transportation to establish their identity.

So, if the Department of Transportation elects to promulgate a regulation next year requiring every State department of motor vehicles to begin collecting fingerprints, it would be legal under this legislation. So we see the fingerprints very easily coming back in, despite our efforts in the committee, through another route. Moreover, this section seems to ignore one of the 104th Congress' few bipartisan successes so far, the enactment of legislation to stop the Federal Government from passing unfunded mandates on to local and State government agencies.

I think the Chair and I both know that one of the most consistent themes you hear in our home States is that they did not want new unfunded mandates.

I recently received a letter from the Wisconsin Department of Transportation outlining their very justifiable concerns with these birth certificate and driver's license provisions. They are concerned, of course, with the cost that they will incur as a result of this new Federal mandate. The Wisconsin Department of Transportation has estimated these provisions could cost my State alone up to $3 million to comply with requirements relating to a specific Federal format for these documents and antifraud security features, not to mention Federal verification of all birth certificates and driver's licenses.

This letter states that the Wisconsin Department of Transportation "views this bill as yet another unfunded Federal mandate. The costs associated with it are substantial."

The letter also points out that this State agency has had its operating budget reduced by 6 percent by the Wisconsin State legislature and Governor and would have no means, Mr. President, no way by which to pick up these additional costs that this new Federal mandate would impose.

Mr. President, that is why I and the Senator from Ohio, Senator DEWINE, and others view this provision as completely contrary to the letter and the spirit of the unfunded mandates legislation passed by this body just over a year ago and signed into law by President Clinton.

There is not a word in this bill, Mr. President, about how the local and State agencies are to pay for this costly new procedure of issuing uniform Federal birth certificates and driver's licenses, even though it is plainly obvious that such a process is going to be an enormous financial burden on such entities.

Mr. President, let me also take this opportunity to express my concerns about provisions in the legal immigration bill that are likely to surface in the near future. Although the Judiciary Committee, on a strong vote, split the two bills, split the legal and illegal immigration bills, there may well be another attempt to put these provisions back in this bill. I hope not, because these are very different issues.

In committee, Mr. President, I was a cosponsor of the Kennedy-Abraham amendment to restore adequate levels of family immigration because I consider it to be essential to allow U.S. citizens to reunite with their children, their parents, and other loved ones who may be residing in other countries.

There may be some abuse of our current family immigration system, but that does not mean we should completely prohibit a U.S. citizen from reuniting with their 22-year-old daughter, their 66-year-old parent, or their 15-year-old brother. Those were in fact the so-called reforms that were included in the original Simpson legislation and later expunged from the bill during committee markup.

Considering the House voted decisively to remove all cutbacks of legal immigration from their bill, it is my hope that we have seen the last of efforts to further restrict family immigration.

Mr. President, I also have serious concerns with the provisions in the legal immigration bill relating to persons seeking asylum in this country.

Originally the bill required anyone seeking asylum to do so within 30 days of entering the United States or their claims would be invalid. I joined the junior Senator from Ohio and others in fighting this 30-day time limit because it was harsh, it was arbitrary, and would have likely had disastrous consequences for thousands of persons who have, in most cases, fled their homelands to escape persecution, torture or worse for expressing thoughts and opinions counter to those held by those governments in other lands.

We have had, no doubt, serious problems and abuses with our past asylum process. Previously, a large number of nonmeritorious claims were filed in an effort to obtain certain benefits that asylum claimants are entitled to, such as automatic work authorization. This practice did result in a mammoth backlog of pending applications that have prevented or delayed some very legitimate claims from being processed in a timely fashion.

Unfortunately, though, Mr. President, lost in all the hyperbole about this problem is the fact that the Clinton administration has made tremendous progress in clamping down on asylum fraud and abuse. As a result of these new administration reforms, in the past year alone, new asylum claims have been cut in half, and INS has more than doubled their productivity in terms of processing pending claims.

Mr. President, these promising reforms by the Clinton administration are in their infancy, and we should not mandate such a harsh and arbitrary deadline that is likely to not only be disastrous for legitimate asylum seekers, but also completely unnecessary. During committee markup, an amendment was adopted that extended the 30-day deadline to 1 year and also provided an exception to this time limit if the applicant had good cause to wait for more than 1 year. I found this acceptable because it provided legitimate asylum seekers a waiver if they had justifiable reasons for waiting beyond the 1-year period.

Unfortunately, the committee report language is more restrictive with respect to this waiver process than I had anticipated and hoped.

Mr. President, America has a proud history of representing a safe haven for

those who believe in democracy and who have been tormented for embracing particular political and religious viewpoints. We should continue to do so. I intend to work with the Senator from Ohio, Senator DEWINE, and others in restoring and guaranteeing a fair and suitable waiver process.

Mr. President, as we debate this issue over the next few days, we must be mindful of the inherent dangers that this immigration issue encompasses. We find ourselves today in the heart of an election year. History has shown that it is not uncommon for politicians, not only here, but in many countries, to use the issue of immigration to further divide people, in this country to divide Americans along racial, ethnic, and cultural lines.

Playing to the fears of the American people on this issue may only provide further ammunition to those who seek to exploit those fears and coax the American people into believing that immigrants come to the United States only to commit crimes, to collect welfare benefits, and to steal jobs away from working Americans. That is an injustice, not only to the immigrants who currently reside in the United States, but an injustice as well to the historical legacy of immigrants who came here with purpose and promise and, as we must acknowledge, built this great Nation.

Let me say this at this point. I do not doubt for a minute the intentions of the Senator from Wyoming in this regard. In many ways he has been a very important source of not only expertise but moderation and thoughtfulness on this issue. I believe he has made a good-faith effort to reform a system that is clearly in need of some repair. I do regret that I have some fundamental disagreements with respect to how we should address those flaws in the current immigration system.

I look forward to working with other Senators in attempts to improve this legislation and passing reforms that truly differentiate between those who play by the rules and those who choose to break them.

Mr. SIMON. Mr. President, I want to join, first of all, in the comments that Senator FEINGOLD made about Senator SIMPSON.

Our title here is "United States," not Senator from Wyoming, Senator from Colorado, Senator from Illinois, Senator from California or Wisconsin. ALAN SIMPSON has served the people of Wyoming well. But he has also been a U.S. Senator who has looked at the broad scope of things and has been a real legislator and has contributed immensely.

I will differ with him on this particular amendment. Let me add, I will differ with my friend from Wisconsin, Senator FEINGOLD, with whom I rarely differ, on this matter of pilot verification that he was just talking about.

Senator SIMPSON has reminded us over and over again on the floor that we have to stop the magnet that is the economic pull to people to come into this country illegally. So we passed, a few years ago, employer sanctions. It was a matter of controversy. I ended up being a minority on this side, joining the Senator from Wyoming and voting for that.

Employer sanctions have not worked as well as we had hoped. I think the key is verification. Unless we are willing to try a pilot verification program, and here is where I differ with my friend from Wisconsin, I do not think you will have any meaningful way of stopping a steady flow of people who come up here for economic reasons. To say we are going to just have a slight tap on the wrist to employers and tell people who are desperate, "We are going to be tougher on you if you come up here and try to work," they will still come up here and try to work.

I point out one other reason on the verification, and that is the GAO report that says there is discrimination. If you appear to be Hispanic or Polish or Asian, and particularly if you speak with a bit of an accent, it is inevitable, unless we have some system of verification, that there is going to be discrimination. I think it is important, and I think we will have a close vote on this, but I think it is important that we have a pilot verification program.

The question on this immediate amendment is, is it worthwhile to give up some basic liberties in order to have this amendment, and are we going to accomplish that much? I think we will not accomplish very, very much at all in terms of discouraging the employment of illegal workers here. I think it is one more step in taking away basic civil liberties.

The reason this passed originally, we had a lot of problems with people who would be driving down the highway, and all of a sudden they look at a field and it looks like there are a bunch of "foreign-looking workers there." They stop, go out, and make a raid.

We have a tradition in our country with the fourth amendment you have to go into court in order to have a search. We ought to abide by that. Now, the argument is made, well, you can have that search. You can go into court. How many farmers are going to go into court? It just is not going to happen. It makes it very costly.

Second, whenever you give people in any field arbitrary power, whether it is law enforcement or anything else, there is an invitation to corruption. I think we have to recognize that. This can be a shakedown kind of thing.

My staff has given me two examples of the kind of abuses that take place when you do not go in to court. As far as I know, and the Senator from Wyoming can correct me, as far as I know, there have been no denials for any Immigration Service requests to have a search of the field by the courts. Maybe they have existed—I do not know. In Pasco, WA, INS agents entered a field for 29 straight days searching for undocumented workers. On some occasions the agents drove their trucks across the bean fields, causing substantial damage to the bean crop. The latter part of that is not that significant, but if you want to go 29 straight days to search somebody's field, you ought to go into court 29 straight days to get a court OK for doing that.

In Othello, WA, INS agents entered a farm four times in 1 month looking for undocumented workers. Their last three trips were without a warrant, and they found no undocumented workers. They arrested two workers who were Japanese, but it turned out they were exchange students who had a lawful right to be in this country.

Finally, Mr. President, I have been here, now, 22 years in the House and the Senate. We always find some excuse for giving up basic civil liberties. I think we ought to be very, very careful on this. If there is an overwhelming reason to have an infringement on the fourth amendment that is kind of gray, maybe we should consider it. It ought to be an overwhelming reason. This is not an overwhelming reason to violate that basic constitutional protection.

My hope is the amendment will be defeated. My vote, with all due respect to my friend from Wyoming, will be in opposition to his amendment.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Chair. Mr. President, I join with those in thanking the distinguished chairman of the Immigration Subcommittee of the Judiciary Committee, the Senator from Wyoming, for what is extraordinarily thankless on a subject that perhaps has more controversy than almost any other I have seen since I have been in the U.S. Senate.

I will give my views on the bill that is now before us, the Immigration and Nationality Act of 1996. I come, obviously, along with my colleague, Senator BOXER, from the State most heavily impacted by illegal immigration in the Nation. The presentation of the Immigration and Naturalization Service to the Judiciary Committee showed that California is on a tier all by itself. The estimates on numbers vary, but they go anywhere from 1.6 million to 2 million, 3 million, and even 4 million people in our State illegally, depending upon whom one chooses to believe. Most authorities agree that the right number is in the vicinity of 2 million people in California illegally right now.

One concern is overriding—that illegal immigration is a serious problem. Additionally, it is the responsibility of

VOL 142 PT 6 AP 15 — 24 1996 UMI

the Federal Government, not the States, to prevent it. Californians went to the ballot and overwhelmingly approved the most stringent of propositions, proposition 187.

One part of proposition 187 provided that if a youngster is in this country illegally, he or she could not go to a public school. A teacher would have to act as an INS agent and ferret out that youngster and remove him or her from school. Even more strongly, the people said that if the parents are here illegally, that youngster would still be denied the right to a basic elementary school education.

The people of California overwhelmingly approved it. I believe one of the reasons they did was out of frustration, because the Federal Government has not responded to what is an increasing and growing problem.

The bill before us today tackles illegal immigration at the border, mainly by adding strength to our Border Patrol and border facilities. In the past 3 years, the administration and the Congress, both Houses and both parties, have come together, recognizing the need and beginning to improve border infrastructure, such as lights and infrared-seeing devices, and manpower. And the Border Patrol has, for 3 years in a row, had additions of about 700 agents a year.

This legislation would add an additional 700 Border Patrol agents in the current fiscal year, and 1,000 more for the next 4 years, bringing the total number of agents to 4,700 by the year 1999. That is more than double the entire force that was in place when I came to the U.S. Senate 3 years ago. It would establish a 2-year pilot program for interior repatriation. The reason for that is, people come across, they are picked up, they are held for an hour, they are sent back right across the border to Tijuana. Three hours later, they try again, the same thing happens, and they try again and again. The pilot project would try to determine whether people who are repatriated into the interior of the country are less inclined or less able to cross that border again illegally than those not repatriated to the interior of the country.

The bill would add 300 full-time INS investigators for the next 3 fiscal years to enforce laws against alien smuggling, something that, today in America, is a $3 billion industry.

As a matter of fact, last week, the Justice Department made 23 arrests in California, which showed that organized gangs from New York to California were all participating in the alien smuggling of illegals from China to the United States in boats, transferring them to fishing boats, landing them, providing drop houses, and moving them back to New York.

The bill would add alien smuggling and document fraud offenses to the list of predicate acts under our Nation's racketeering laws, something many Federal prosecutors have told me is extremely important.

The bill would increase the maximum penalty for involuntary servitude to discourage cases like the one we saw recently, where scores of illegal workers from Thailand were smuggled into our country, then put in an apartment building with a fence around it and forced to work in subhuman conditions against their will in southern California.

This bill would strengthen staffing and infrastructure at the border, and it would provide for facilities for incarcerating illegal aliens. It would require all land border crossings to be fully staffed to facilitate legal crossing.

I can tell you that in San Diego, CA, at the border crossing gates, there are hours of waiting. There are 24 crossing gates at this one station. Only one-half of them are manned. Consequently, people engaged in legal, normal commerce sit at that gate and wait, sometimes for many hours, backed up in traffic.

This bill would increase space at Federal detention facilities to at least 9,000 beds. That is a 66-percent increase in detention capacity for the incarceration of criminal aliens. I can tell you, Mr. President, out of 120,000 inmates in the California Department of Corrections, between 15,000 and 20,000 of them are illegal immigrants, serving felony time in California. The cost to the State is literally hundreds of millions of dollars a year.

The bill would create a demonstration project in Anaheim, CA, to use INS personnel to identify illegal immigrants in prison, so that they can be more rapidly deported.

Historically, the way Congress has handled illegal immigration is through what are called employer sanctions. I think the intent—although I was not here, and the Senator from Wyoming knows far better than I—was that the reason most illegals—and I say "most"—come here illegally is because of the lure of jobs. That is the magnet. Therefore, if you remove this magnet and prevent people from working illegally, you will deter illegal immigration.

In order to work, though, employer sanctions need an accurate method of verifying whether an applicant for a job is legally entitled to work. Up to this point, relying primarily on employer sanctions, the basis on which all illegal immigration is handled in the United States, has been a colossal failure. The reason for the failure is that employers have no reliable way to determine if a prospective employee is legally entitled to work.

Let me explain why. Presently, if an employer is interviewing someone for a job, he or she might say, "Can you show me that you are legally entitled to work?" They can present to the employer 29 different documents, under present law. Under present law, no prospective employer can say, "May I see your green card?" That is a violation of law. So they must take one, two, three or four of the 29 different methods of identification offered.

If somebody came in to me and I said, "Do you have an identification to show that you are a resident of California?" They would say, "Oh, yes," and hold up this card. I would see that it is a California identification card, and its address is Interlock, CA, and it has a State seal on it. It is encased in plastic, and it looks very legal to me. Wrong. This very card is a forgery. Or they might hand me a Social Security card, and I would look at it and see all the traditional signs. The paper looks right, the color looks right. There is a number on it and a signature, just like on my own Social Security card. Could I trust it? No. This is a forgery.

The fact of the matter is that on the streets of Los Angeles, CA, you can buy both of these cards for under $50, and you can get them in 20 minutes, and they can have your photograph printed on them. You can purchase documents there anywhere from——

Mr. SIMPSON. Mr. President, I object to this procedure. This is totally out of order.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator has a right to——

Mr. SIMPSON. It is a crude exercise, a truly crude exercise.

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will report.

Mr. SIMPSON. What is the status of the present situation?

The PRESIDING OFFICER. A cloture motion has been sent to the desk.

The clerk will report.

Mr. SIMPSON. What is the correct procedure? Is that motion appropriate in the midst of a singular address, at the time of an opening statement with regard to a piece of legislation?

The PRESIDING OFFICER. Allow the Chair to consult with the Parliamentarian.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not have the floor.

The clerk will report.

Mrs. FEINSTEIN. I believe I had the floor, Mr. President.

Mr. SIMPSON. Mr. President, the Senator from California has the floor.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Dorgan amendment No. 3667 regarding Social Security:

Byron L. Dorgan, Max Baucus, Daniel P. Moynihan, Barbara A. Mikulski, Tom Daschle, J.J. Exon, Joe Biden, Paul Simon, Joe Lieberman, John F. Kerry, Paul Sarbanes, Fritz Hollings, D.K. Inouye, Wendell Ford, Claiborne Pell, John Glenn, Russell D. Feingold.

The PRESIDING OFFICER. The Senator from California has the floor.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, before I was interrupted, the point I was trying to make is that no matter how well intended an employer is, it is extraordinarily difficult to tell the difference between real documents and counterfeit documents, and that is what enables illegal immigrants to obtain welfare. They are ineligible for cash welfare programs under Federal law now. However, if they have false documents, they can obtain the very things that they are prohibited from obtaining—whether it is Social Security, whether it is SSI, or whether it is AFDC.

An entire industry of counterfeit documents has grown up in California. The most frequently counterfeited document is a birth certificate. You can pay anything from $25 for a Social Security card to $1,000 or more for a passport, as well as personal identification documents.

These documents are so authentic-looking that employers cannot tell the difference. In fact, it is estimated that tens of thousands of illegal immigrants today receive welfare benefits in California by using counterfeit documents. This bill makes a major effort to reduce this problem. It reduces the number of acceptable employment verification documents from the current 29 to 6 so that employers are better able to determine which documents are valid. Employers will only have to review 6, not 29.

Also, the bill doubles the maximum penalties against employers who knowingly hire illegal aliens, increasing them from $2,000 to $4,000 for a first offense with graduated penalties for subsequent offenses. Therefore, the bill adds substantial teeth to the employer-sanction laws. It establishes a pilot program to test the verification system under so that employers can readily and accurately determine an applicant's eligibility to work.

The system could also be used to determine an applicant's eligibility for public benefits, therefore, avoiding welfare fraud. It also attacks the serious problem of document fraud by setting Federal standards for making key identification documents, birth certificates, and drivers' licenses tamperproof and counterfeit resistant. The result is that the most counterfeited document, a birth certificate, would be counterfeitproof, as would drivers' licenses.

The bill before us would increase the criminal penalties for document fraud, including raising the maximum fine for fraudulent use of the Government's seal to $500,000, and increasing the fine for lying on immigration documents to $250,000 and 5 years in prison. The bill also denies the earned-income tax credit to persons here illegally.

You might say, is this a strong, tough bill? I would have to say, yes. It is a strong, tough bill. Former Congresswoman Barbara Jordan and the immigration commission which she chaired said this eloquently. "We are a Nation of laws." We are also a Nation that has the most liberal immigration quotas in the world today. No country absorbs more foreign-born people than does the United States of America in the course of a year.

So there is more opportunity for an individual to come to the United States than virtually any other place on Earth. Therefore, because we are a Nation of laws and because we have a liberal immigration system, it is not unjust, unfair, or unwise to require that we follow our laws and make sure that we enforce the prohibition against illegal entry into our country.

The largest source of illegal immigration, next to visa overstays, comes from people who slip across our borders. That is what this bill addresses. The bill also addresses visa overstays. As many as 700,000 people a year overstay their visas. This bill would require that immigrants who overstay their visas either be deported or be denied future visas. So there is some visa enforcement in this legislation.

The need for the legislation has been and will be explained at length over the course of this debate. From the point of view of my State, the problem of illegal immigration is severe. Forty-five percent of the Nation's illegal immigrants now reside in California. That is between 1.6 million and 2.3 million, as I mentioned earlier. Fifteen percent of illegal aliens are in our State prisons. Forty-five percent, or 150,000, of all pending asylum applications come from people in California, and 35 percent, or 40,000, of the 113,000 refugees entering the U.S. claimed residency in California in 1993.

Our county governments are being forced to absorb more and more of the costs of medical care, social services, and incarceration for illegal immigrants, and those costs are going up—not down. In the 1996–1997 fiscal year, California will spend $454 million in incarceration costs for criminal aliens.

So it is fair to say that the State most affected by this bill is the State of California. This U.S. Senator strongly supports this legislation. The need is very clear.

Mr. President, at a later time, I would like to complete this statement, and also at the appropriate time to present a series of amendments that deal with certain unresolved issues.

I have some major concerns about the triple fence in the bill, about the fact that cases brought under the bill be tried in Federal court rather than in State court, and that the deportation documents be written in Spanish as well as in English. I hope I can offer these amendments at a later time.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank my colleagues for their patience in the procedure intervening there. Without question, I see why you are all gathered at the desk for some reason. Yes. Is there something sinister going on?

Nevertheless, we have a cloture petition which was quite surreptitiously slid to the desk, which was remarkable to watch. I have never seen that in 18 years of my presence here. I have found in my time here that those who remain obsessed about certain aspects of legislation almost always find that that obsessive behavior is often visited subsequently on the perpetrator.

That is not my idea. That is just the way that works. It is always a more genial approach. I visited with Senator DORGAN this morning, told him exactly what the lay of the land was and why. I did not receive that same courtesy.

Enough of that. We can debate that at any time in the future. It seems to me the present status of the issue is with regard to this amendment on the current ban on open-field searches. That is the amendment at hand. I would just add one dimension to that, and then I think we are ready to go to a rollcall vote on that, unless there is further debate. I ask any of those who wish to further debate this issue to present themselves.

Senator SIMON asked a valid question, and I cannot tell you how much I have enjoyed working with that gentleman through the years. We met when we were State legislators in 1971. We kept close ties and worked together here in a very steady, bipartisan fashion.

He asked a question. He wondered if there were denials when INS agents sought warrants to search open fields and inquired if I knew of any.

I do not know of any denials either, but I do know this, that the requiring of agents to prepare an affidavit, find a judge, and get a search warrant has resulted in a great reduction in immigration enforcement in agriculture. That I do know. In fact, it has practically eliminated employer sanctions enforcement in agriculture. Of course, that was the purpose of it. As I say, it was a rather unholy alliance at the time, still perhaps defined as that, when you have the ACLU joining with the agricultural growers, who I found to be absolutely insatitable with regard to everything I ever proposed. It is estimated now that 40 percent or more of

VOL
142
PT
6
AP
15
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24
1996
UMI

the field workers in west coast agriculture are illegal.

Some of my colleagues in the debate have pointed out that although probable cause requires more than mere appearance, immigration officers will search on that basis anyway. I would say, in response to that argument, if immigration officers would be willing to ignore the legal requirements for warrantless searches, why do my colleagues believe that these officers follow the current requirements for a warrant? I believe that we should assume that immigration officers, like other law enforcement officers, generally follow the law. Of course, there are exceptions. We should try to minimize the number of such exceptions by vigorous oversight of INS and disciplinary action against the INS officers who do violate the law.

Mr. President, I remind my colleagues the reason the present ban was added to the law in 1986 was that there was no constitutional right at all of the type that my friend from Illinois, Senator SIMON, had described. That is why only—only—INS officers are required to have a warrant to enter and to search open agricultural fields even when they have probable cause to believe that unlawful activity is taking place, which is the present constitutional standard and the one applied to law enforcement officials in every other Federal or State agency.

Why—and this is the purpose of my amendment—should only the INS officers need a warrant? Of all Federal law enforcement personnel, why should the INS alone and their officers need a warrant even when they have probable cause, and only for agricultural fields? It makes no sense.

That is a phrase that has been used in the debate from time to time, that something may make no sense, and in this event I think this is a classic case of that. Why should every single other law enforcement agency of the Federal Government have this power to do warrantless searches except the INS? The reason: to take care of growers who use blatantly so many illegal agricultural workers and say they are dependent upon them, and if they did not have them, they would go broke.

I have heard that argument now for 17 years. In the course of responding to some of the arguments in the opening statements or comments, let me assure my colleagues that all of this effort here is not the creation of Senator ALAN SIMPSON of Wyoming. Every single thing that has been presented to the body has not been possibly more considered, more debated, more crafted—I do not know what it could be—than this issue because we have had it through the years with the Select Commission on Immigration Refugee Policy.

That is where the ideas came from. That was the Commission in 1980. Some say, where do these things come from? Where does this evil spirit come from?

There is no evil spirit. Everything I have been trying to do with regard to legal immigration is a direct result of the work of the Barbara Jordan Commission. I hope that that will be heard. I notice that sometimes detractors of the legislation will say, "How could it possibly be that we are turning our back?"

"How can it possibly be that we are so treating these people who play by the rules?"

"How can it possibly be that we could turn our back on the Statue of Liberty?"

Ladies and gentlemen, we are not doing that. Does anyone here believe that former Congresswoman Barbara Jordan would be involved in such an effort? That is absurd and bizarre.

When someone says, "Well, do you realize this is going to apply to everyone?" the answer is, yes, it will apply to everyone. When we do this final procedure, whether it is this year or in 6 years or in 10 years, and when we have a more secure and verifiable document and when we have a more secure system, whether it is the call system or whether it is documentation or whatever it may be, of course, it will apply to everyone. If it did not, then it would be truly discriminatory.

If it is some document, are we going to ask it only of people who look foreign? Of course not. It is for people who look foreign and bald Anglo-Saxons like me, too. That is how it works. It happens only twice in a lifetime. You use it when you are seeking funds from a State or Federal Government on welfare or public assistance; you present or go through this verification procedure. That is one. The other one is simply at the time of seeking employment. That is two. That is it. There is no third strike and you are out. That is it.

We hear of the great burden placed on American citizens. Ladies and gentlemen, why do you think proposition 187 came about? It came about because of the great burden on the people of California who are tired of that burden. The greatest burden on the people of the United States is people who are gimmicking and using our systems. That is a lot greater gimmick, a lot greater burden than somebody asking when they go to work—and remember you already do that when you go to work. There is a form called the I-9. It is one page. I hear the argument, what will employers think when they have to go through this exercise? I tell you what they will probably think: "Thank Heaven somebody came to change the law so we wouldn't have to go through 29 documents. Thank Heaven somebody changed the law so that if I ask a person for a different or additional document, I am not charged with discrimination. Thank Heaven they are going to start working out something where I do not need the I-9." That is in this bill. That is what we have. All of these so-called reforms that are sometimes rather negatively portrayed, all came from either the Select Commission on Immigration and Refugee Policy, chaired by Ted Hesburgh, or the Commission on Immigration Reform chaired by former Congresswoman Barbara Jordan. They were not ripped from the air to vex American employers, nor were they ripped from the air to turn our back on our heritage of legal immigration. That is not where they came from. They have a fine-founded, deep-rooted source in the realistic work of two very splendid commissions. I hope that will be recalled in the course of the activities.

I call the question on the amendment with regard to open field searches.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this issue, although a fresh one for Congress, is an issue that has been out there and around for a number of years. It was debated on the floor of the U.S. Senate in 1983 and 1986. I will make some brief comments. I know there have been some excellent comments made by Senator SIMON, Senator DEWINE, and others, but I will just very briefly mention my concerns about what this proposal would do and what it would not do.

It is important to point out exactly what the statutory prohibition against open field searches is about. It does not prevent law enforcement authorities from engaging in searches if they observe criminal conduct such as drug activity taking place. So, if they observe criminal conduct, they can move towards the presence in the field in pursuit of the illegal activity which has been observed.

All this does is it simply prevents INS officials from walking onto a field without a warrant and demanding that workers produce immigration documents. If the INS conducts a search, for example, in the front office, they need a warrant. If they conduct a search in the barn, they need a search warrant. In 1986, provisions simply stated if they do it in the fields, they have to get a warrant as well.

The prohibition against warrantless open-field searches ensures that foreign-looking agricultural workers are not subjected to harassment or unfair treatment simply because of the color of their skin. We know now, by and large, those who are working out in the fields are American citizens, ever since we freed ourselves from the bracero program. There are a number of illegals out there as well. It is difficult to estimate the percentage, to be sure. But, by most observations, the great majority of the individuals who are

working out in those fields are American citizens. So we are talking about protecting American citizens.

If, as we said, the search is going to be in the front office or out in the barn, there has to be a warrant. Why? Because we are concerned about the rights and liberties of American citizens. The American citizens working out in the field, if there are observations about activities, there is every legitimate reason and authority to pursue those. But, nonetheless, what we have to do is look at what the conditions were prior to 1986. We see the abuses that were rampant in many parts of the country by the INS, just for the very reasons we are outlining our opposition to the amendment which has been identified today.

This is not just an issue of protection for the individuals. It is also an issue of safety. I will not take the time to read into the RECORD about what has happened when there is a sudden INS raid in some of these agricultural areas in the fields, about trucks moving across the open fields, sometimes in the evening time, and the great distress and the panic that anyone would feel when they are confronted with significant numbers of police authority chasing them through the fields in search of various identity cards.

That happened. That was more the case than not during that period of time. Then, in 1986, we insisted on getting a warrant in order to try to address that issue. I find there has been very little, other than general observations, that would justify going back to the law prior to 1986.

The prohibition against the warrantless open-field searches ensures that foreign-looking agricultural workers are not subjected to harassment or unfair treatment simply because of the color of their skin. Those who support the repeal of the statutory ban contend that the fourth amendment provides sufficient protection against the unreasonable searches of agricultural workers. This is simply not the case. Nor is the fact that INS officers, without this provision, would be able to enter open fields with impunity and be able to ask anyone for identification. The fourth amendment was around prior to 1986, and this is when all these abuses occurred.

The reason for this warrant has been well documented in the abuses that took place prior to 1986. If anyone goes back and reads the record during that period, there is page after page about what was happening out in the fields and the real issues of safety for many American citizens who were working in the fields at that time as a result of these kinds of raids.

Since then, we have had the warrant. I do not believe the case has really been made in the course of the hearings that that has really impeded the effectiveness in trying to deal with the fundamental issues of jobs in the workplace. We are working on that issue. We have provided very important, I think, additional steps, both in trying to reach documents in terms of the antifraud provisions that have been built into this legislation, including the pilot programs that will be initiated to find out what is effective, and in protecting American workers from displacement or as a result of foreign workers. The prohibition against the warrantless open-field searches is working well. It is a necessary safeguard against the abuses of individual rights. We should retain it.

I have a more extensive comment upon that measure, which I will perhaps get into later on, or include it as part of the RECORD.

Mr. President, it is now 2:30, 20 minutes of 3. We have been on this legislation since 10:30 this morning. We have taken a number of the amendments, half a dozen amendments that might have been found to be not germane if we moved toward cloture. I know there are others as well, and those are important, extremely important, measures. I think the Senate should address them at some time on the basis of their merits. But we are in the situation now where we have a cloture motion that has been entered on the Dorgan amendment that will ripen, based upon the Senate schedule, probably an hour after we go into business on Friday or at a time when the majority leader effectively chooses, based upon his ability to move toward this measure.

We are faced, again, with the situation that if we move toward a cloture motion—for example, say, we were able to move it on the underlying amendment—that would have to be done prior to a cloture motion on the bill. Because if we put a cloture motion on the bill, all that we have done today would effectively be discarded. So we would need to have a cloture motion on the underlying amendments in order to have them acceptable, so that we would have them irrelevant. Then you would need a cloture motion, and if that was not taken, or if we did get it, there would still be 30 hours on that proposal and then you would get a cloture motion on the underlying legislation on which there would be some 30 hours.

So we have ourselves now wrapped into a situation in which, I must say, in terms of the overall progress on this legislation, even though we have spent the full day on it, is difficult really to perceive what is being accomplished. Even if we continue to go on to additional amendments that would be offered, we would, by necessity, have to address the Dorgan amendment first. Or there is the possibility of possible disposition of the Dorgan amendment prior to the time that we would move toward other action.

That is really a question and issue up to the majority leader. But I am reminded now as we come to a quarter of 3 in the afternoon, that we are going to be voting cloture on the Dorgan amendment. Even if they get cloture, we would still have some period of time before we would be able to move to these other issues. If we get cloture on the underlying amendment, which has been amended today, there still would be a period of time for Senators to comment on that before we ever got a cloture motion on the bill itself, and all because we have not had the ability to get a limited period of time to vote on the minimum wage, effectively, and Senator DORGAN's as well. We will have spent all of this time, whichever amount of time that we have that is now going to be required for Senate action—and I am prepared on these matters to vote. I would like to speak and address the Senate briefly. But I think, as we see during the course of the day, we have not trespassed on the Senate's time.

Basically, on the earlier amendments, we were making brief comments in support of them. These are measures which we have debated and discussed during the course of our own deliberations. As a matter of fact, this amendment, I think, was rejected in the Judiciary Committee when it was addressed by the members of the committee. So these are not really new issues for many of us on the Judiciary Committee, very important measures for all of the members. But many of us have—all of us, I think, on the committee have—taken positions on it.

So, we are quite prepared to justify those positions, raise some of our concerns, and move forward. But because we are denying at least a 1-hour consideration—we could cut that even further on this legislation—or giving us a time definite on a clear bill on the minimum wage with time allocated, we have effectively spun the wheels of the Senate during the course of the day. We will be coming back to revisit these measures, as well as the underlying measure, as well as the Dorgan amendment because of the cloture motion, in the next several days.

So it gets back to the question whether we are going to do this nicely or not do it nicely. We are quite ready to try to work out a time definite for a vote on the minimum wage and to do it with a short timeframe. I know the Senator from North Dakota is prepared to do that, to move ahead in terms of all the different amendments on this legislation and consider those. I certainly would support that way of proceeding.

But, effectively, all of our interests and all of our rights are being shaved because of the unwillingness of the majority leader, in this case, to give us a chance to vote on this measure. Here we are at a quarter of 3, having thought we were really making progress, and finding ourselves tied up

VOL
142
PT
6
AP
15
—
24
1996
UMI

on an issue which is of enormous importance and in which the Senator from Wyoming and the Senator from California and other Members have spent a long time and understand how important it is as an issue for this country.

So we are caught in this particular dilemma. We are caught in the dilemma where we want to see action or resolution on the illegal immigration, but we also feel that we ought to be able to have a short time period set aside to speak to the issues which are of fundamental economic importance to 13 million American families. We think their interests are important, too. We think their interests should at least demand a half hour or an hour of the Senate's time this afternoon. We think their interests should be addressed in a reasonable way or an agreement made that, if not upon this bill, that we will be at least afforded an opportunity to do it as a clean bill so as not to interfere with the ordinary deliberations of the Senate.

We have had brief discussions and comments earlier today about why we did not bring this up before. We have explained about those major issues that we were addressing in the last Congress, the comprehensive health program that would have made about a 40- or 50-cents-an-hour additional benefit to workers. The workers themselves and working families have said they would prefer that measure to just the increase in the minimum wage. After we had disposed of that, unfortunately, the workers themselves were left further behind, and now it gives an additional sense of urgency for the increase in the minimum wage.

A number of us over a year ago began the process of raising this issue in sense-of-the-Senate resolutions, as amendments, or wherever we possibly could. Each and every time, even though a large number of the Members of the Senate supported the Senate addressing this issue—and on the last vote that we had, we had Republican and Democrat Senators alike; a majority, including unanimity among the Democrats and a very strong group of Republicans who indicated that they supported it. Raising the minimum wage is the majority will of the Senate.

We are just asking for the Senate to be able to make a statement, make a judgment. We may be successful; we may not be. But I do believe that we are entitled to a determination of what the will of the Senate is on that particular issue. So, we are caught in this situation where we effectively are being denied that. But we are still asked to go ahead and consider some of the measures on the immigration bill.

On the one hand, they are saying, look, why are we not just going ahead on the immigration bill and trying to move ahead? And on the other hand, we are asking, at least—we are quite prepared to move ahead on immigration, but at some time, somewhere, somehow, we ought to be permitted to get a time where we can address this question of the minimum wage.

None of us were denied the opportunity to make some progress this morning on some of these measures. But at some time we have to ask ourselves, when and who is going to speak for those Americans and American families that are on the bottom rung of the economic ladder and speak for them to make sure that their economic interests are attended to? We continue every single day—every single day—to read more about corporate profits and corporate salaries. We read about the increasing accumulation of wealth in the top 1 percent, 5 percent. We have come to understand the continued loss of those working families that are on the bottom rung of these matters.

We have seen in the last 20 years a 25-percent increase in productivity and about a 25-percent reduction in terms of purchasing power for workers earning the minimum wage, which is completely incongruous.

What is most troublesome of all, Mr. President, is when we have had this issue that has been before us and where we have had statements, "Well, we're trying to work out a process to be able to address it," we have the majority leader in the House of Representatives coming up today—and it is printed in newspapers all over this country—who says, "Well, we've got a new way of addressing the economic problems of the needy in our society. What we are going to do is abolish the earned-income tax credit," which President Reagan had indicated was the best program to address the problems of poverty in this country—strong support by a Republican President.

We have the statements that were made by Mr. Armey that we are going to phase that down and collect $15 billion in the next 5 years, 5 to 7 years—$15 billion. We know where that is going to be collected from with the elimination of the earned-income tax credit. That is going to come from these same working families that are eligible for the increase in the minimum wage. Then what we will do is we will still keep the minimum wage where it is, but we will develop a massive new subsidy entitlement program that will be run by the Internal Revenue Service that will provide the difference between the $4.25 and the $7 or $8 an hour depending upon how many children the particular worker had, which would be basically a subsidy to these industries—a taxpayer subsidy to the industries. It would cost the taxpayers a great deal more because they would have to provide for the funding and the resources to be able to pay that subsidy, and at the same time instead of letting these families rise out of poverty, which effectively would reduce their ability to draw upon the various safety net programs, because their incomes would move up to be too high. If we raise the minimum wage, on the other hand, they would go out of those safety net programs and thereby be less of a drag on the American taxpayers because they would then no longer be eligible for these programs. So we would save tax revenues there.

That is an important part of this whole proposal. By providing the increase in the minimum wage, we would be cutting some in those safety net programs by moving people above the eligibility thresholds. They would be making more than they had been, so they would not be eligible for support systems. That saves funds and resources that would have to be paid in by American taxpayers.

But, no, our Republican friends say, no, we will leave it at $4.25. We will draw down some $15 billion from these same families. We will put in place a new entitlement program run by the Internal Revenue Service. When I heard that I was so surprised that the leaders of the Republican House who have been spending all of their time castigating the IRS, now believe they can run a complicated program that will pay so much an hour to someone that has one child, so much an hour to someone that has two children, if they are married, so much, so much if they are separated, and follow this monthly, evidently, across the landscape wherever these needy people are going to be—imagine the bureaucracy that will be needed, imagine what the costs will be for that bureaucracy, and what it would mean for these people.

Mr. President, this is a wonderful, wonderful program because as Mr. ARMEY pointed out, they would save $15 billion out of the earned-income tax credit. The value of the increase in the minimum wage is $3.7 billion in one year. For those people that say that this is an inflationary kind of impact, $3.7 billion in 1 year when the total GDP is about $7 trillion, and our budget, $1.65 or $1.7 trillion we are talking about—of course it is not inflationary. We are talking about $3.7 billion that will be added to the value of good work, for working families in this country.

There is another reason that I believe it was urgent to bring this measure up on the floor today. We do not see, really, any interest by the leadership, the opposition leadership, in trying to work out, at least, some important and responsible alternative.

I am basically opposed to trying to compromise this measure any longer, because quite frankly, when my initial proposal was advanced, it was for three 50-cent increases with an inflator to correspond to the increased cost of living.

What did we do in terms of compromising that effort to try and bring people together on it? We said, "All right, we will drop the third year even though by that time it will be justified merely to maintain the cost of living. We will put that aside, and beyond that we will put aside the cost of living inflator as well. We will put those two aside." Mr. President, that was a painful decision in terms of trying to protect the purchasing power of working families.

Now we are being asked to say, "All right. Just wait around a little while. Sometime when we get ready to do it, we are going to do something. You will get a vote on something that will deal with wages, something that will deal with some other matters that you might not like." That is generally the way it is put. "You might not like the combination of things we put together but you will get your vote."

We reject that out of hand. Working families ought to reject it because that is failing to provide the kind of respect for those families that they deserve. You are toying with the lives of those families that are at such high risk today. So many of those, Mr. President, are women that are out there, working, and working hard, and the impact of the increase in the minimum wage is very, very important in terms of their children.

This is basically a women's issue and basically a children's issue. There will be 7 million females that will be affected; 5 million of those are adult women. Four million of those women are 25 years of age or older. Of the 12 to 13 million that will be affected, 4 million will be women 25 years of age or older. We find when we study this measure, when we look at those that are heads of households and those that are being affected or impacted by this, we find that, once again, it is the great majority of women that are the ones that are affected.

Mr. President, 60 percent of all the women who are working to earn the minimum wage are married and 23 percent are single heads of household. That represents 2 million women who are the heads of household with children. It is almost unbelievable that any person in this country who is a head of a household, single, woman, dependent on the minimum wage at $4.25 an hour is going to be able to make it for herself and for her children. And this is at a time when we have seen our own earnings here in the Senate increase three times since the last increase in the minimum wage. We see where corporate income has gone up 23 percent in this last year alone.

Mr. President, in all of the reports that we have seen, even as of this morning from the Council of Economic Advisers, all of them describe how well this economy is basically doing, how sound it is today. We did not have nearly the strength in the American economy in 1989 that we have at the present time. At that time we had President Bush supporting this measure and a majority of the Republicans, including Senator DOLE, Congressman GINGRICH, supporting the increase of the minimum wage. What has changed? We have the real purchasing power now for those workers being as low as it was in 1989, when the economy was not as strong and when we still took action on the minimum wage. Why not now?

One of the arguments, of course, is that we will lose jobs. This is very interesting, Mr. President, because sometime in the future we will talk about the various studies, 12 in all, that show just the opposite. I will not take the time this afternoon to get into them, but if you look at the various studies that have been done with regard to the minimum wage, you cannot make that case about losing the jobs. You can take a more important relevant factor, and that is what is happening in the States recently.

My State of Massachusetts, over the objection and over the veto of our Republican Governor, increased the minimum wage by 50 cents. What has happened since the increase took effect in January of this year? What has happened is unemployment has gone down in Massachusetts, and unemployment in our neighboring State of New Hampshire, which did not raise it, has gone up.

I hope we will have a chance to debate those issues about loss of jobs. It is always interesting to hear those who are opposed to an increase in the minimum wage saying, "I am concerned about those young minorities and all those Americans that are needy. We want to protect them." All you have to do is look at the studies that are out there, about what they want—94 percent of them want an increase. They are prepared to see an increase in the minimum wage because they do not believe, as I do not believe, that it will threaten their job.

Imagine you had over 120 million Americans working.

If you took 100 people that were making the minimum wage today and said it will be a 1-percent loss of jobs, but you can have a 25-percent increase in your pay, what do you think their reaction is going to be? "We want to get that increase, and we will take our chances." We believe that job loss is a myth, as has been demonstrated in study after study. Job growth is happening in my own State of Massachusetts, and in other States, and nationally we will be able to see an expansion of the job market, which has been true in many cases.

So, Mr. President, we find that the case is compelling. We have the various studies about the minimum wage, about what has happened historically on this minimum wage, going back to the year 1949, on the issues of job growth or job loss. We went, in 1949, from 40 cents to 75 cents. The national economy improved from 5.9 unemployment to 5.3 percent. In 1955, it went from 75 cents to $1. In 1961, from $1 to $1.15. Unemployment decreased from 6.7 to 5.5 percent. It went from $1.25 to $1.40 in 1967. In 1974, it went from $1.60 to $2. Despite a recession, retail employment increased from 1978 to 1981. Employment increased by 8.3 million jobs and 1.4 million retail jobs. From 1990 to 1991, a recession that was underway quickly leveled off.

Mr. President, I do not believe that those statements and studies that proclaim the dangers of job loss can really be justified. They certainly cannot in terms of the history of the increase in the minimum wage. Mr. President, all you have to do is look at this chart here, which demonstrates the increase in the total number of jobs, up to about 118 million jobs from 108 million in 1991.

Since we had the increase in 1991, we have seen the steady increase in the total employment numbers. And look at what has happened in the most recent times, in my own State of Massachusetts, and look at what happened the last time we increased the minimum wage.

Mr. President, this chart is another indication about what has been happening. This is from 1979 to 1993. "Growing apart. Real family income." This is what happened in terms of America's working families. From 1959 to 1970, each of these groups, the bottom 20, second 20, and mid 20, all across the top all moved up together. From 1980 to 1993, we have seen a growing apart in America. Those on the bottom rungs have been falling further and further behind.

Mr. President, you can see on this chart here about what has been happening to the purchasing power of the minimum wage. In constant dollars, you go as high as $6.45 in 1966, and $5.95 in 1976. It went up a small amount in 1990–91 as the increase in the minimum wage took effect—some 90 cents, and since that time, it has been dropping. It would, today, be right down there at the lowest level in 40 years. That is measuring the real purchasing power.

At the same time, Mr. President, here we have the difference between what has been happening to the Dow Jones Industrial Average, somewhat below 2,000 here, and up over above 5,000 now. This is between 1979 and 1995. This is good. This is an indication of economic strength and growth. We are glad these are the circumstances. But, on the other hand, look at what has been happening, in purchasing power, to the minimum wage. As the Dow Jones has been going up in that very steep rise, we see the real minimum wage going lower and lower.

Mr. President, this chart here shows what is happening to the real pay of workers, and in terms of the CEOs'

VOL
142
PT
6
AP
15
—
24
1996
UMI

pay. "Green Tree is a Money Tree." "$65.6 Million Package Angers Compensation Critics." These are newspaper articles. We find these extraordinary increases.

Mr. President, compare CEO pay with what happens in a minimum wage family. Three weeks of earnings. This chart indicates the $510 a minimum wage family would have earned compared with the tens of thousands of dollars a CEO of a major company would have earned and the dramatic disparity that has taken place.

Here are the final two charts, Mr. President. Wage earners from $4.25 to $5.14. Who are these individuals? What you see here is 31 percent are 16 to 19 years old. Over 20 years of age, almost 70 percent.

Mr. President, if you take the total value of earnings of the 90-cent increase in the minimum wage, 76 percent of that money will go to a family that is below the average income for the Nation. That is, 76 percent will accrue to families in the lower half of incomes.

That is an important figure. I do not believe it is as dramatic as the 2 million American women that are single heads of households with children, trying to make a go of it, but it is dramatic.

This chart shows 60 percent are women and for men, some 40 percent. Again, it is an issue for women, an issue for children, and it is an issue of fundamental economic justice. This Senate is familiar with this issue. It is uncomplicated. We have debated it and discussed it. It is time that the majority leader gives us a time to vote on a clean bill with time limits.

Mr. SIMPSON. Mr. President, I will inquire of my friend from Massachusetts, Senator KERRY. How much time do you require?

Mr. KERRY. I ask my friend for maybe 10 minutes. I do not think I will use it all.

Mr. SIMPSON. I am trying to get a unanimous-consent request to a time certain for the vote on this amendment. So if I might get Senator KENNEDY's attention. I am trying to obtain a unanimous-consent agreement that a vote occur on or in relation to the pending amendment at the hour of 3:40, or at a time when the group returns from the White House with regard to the activities in the signing of the antiterrorist bill. Would that be appropriate at 3:40 so our Members might be apprised of this?

Mr. KENNEDY. Well, Mr. President, I will consult with the leadership to find out what the disposition is. At that time, I will report immediately to the Senator. They will not be returning until 3:30 or 3:45, Republicans and Democrats alike. So we are in a situation where we are not in a position to make the judgment at this time. As soon as the leaders return, we will consult with them to find out what their disposition would be in terms of this issue.

Mr. SIMPSON. The pending business is the amendment. Let me respond briefly to the remarks of Senator KENNEDY. I am fully aware—I think all of us are aware—of what this is. It is, again, an attempt to drive the issue of minimum wage into the work of the U.S. Senate. There is nothing else to this. I referred to it earlier in the day as somewhat like theater, with myself in the role of Puck and Senator KENNEDY in the role of King Lear. It is about class warfare.

It is about the rich versus the poor. It is about poor women and poor children. Ladies and gentleman, if we cannot grasp the issue of what we are talking about—we are talking about an issue which on one side the economists tell us that, if it passes, employers will quit hiring anybody.

I love the debate about human rights. It is a touching thing. But the best human right is a job. You do not get a job if the employer is not hiring people.

It is always stunning to me that some—I do not attribute to a person in any sense—but some who have this strange feeling that they love employees and hate employers. Employers employ employees.

I heard one part of the debate several days ago that the taxpayers are not going to pay this—that the employers are going to pay it. Well, who are employers? Employers are taxpayers.

It is the most remarkable flight of phantasmagoria, whether it is spun—whatever way you spin it—or whether we do it nicely, or whether we have to do it harshly, or whether we just watch a continual obsessive activity with two amendments that everybody knows are good stuff. It is pretty molten right now—dealing, mix them while they are hot. And they are molten, and everybody is watching. But that is really not the way it is.

What we ought to do is just get right with it because if we do not America will stop, and we will be dealing with illegal immigration in a separate matter.

I am not obsessed with illegal immigration. Let me say that. If you want to bury the dead right now on that, that is fine with me. I do not think the issue will go away. But I want the RECORD to be very clear where the sponsor of the legislation is. And the sponsor of this legislation is saying you can do anything you want with this. I have plenty of work to do. I am missing a hearing today on veterans that I was to chair as chairman of that committee.

I am stunned at the essence of the debate and the class warfare aspects about it.

So I just want to throw into the mix so we all chomp around on it. It is like bear meat. The more you chew it, the bigger it gets.

I know this is shocking. We should not really ever do this. But the Congressional Budget Office reports. Guess who pays the taxes in America? Who pays the most taxes? The rich. I know that is a shocking thing. I wish I had not said it.

So let us just put it in. The top 1 percent of all tax, the top 1 percent of the people in America, pay 15.8 percent of all taxes. The top 5 percent of all the rich in America pay 31 percent of all taxes. The top 10 percent of all the ugly rich in America pay 42.7 percent of the taxes. And the top 20 percent pay 59.2 percent of the taxes that fuel the Government of the United States. And most of them are called "employers." I guess the rest of them are called "rich."

But I have always had a philosophy that we should not talk about the rich versus the poor. We should not talk about hitting them a little more. What we should do is confiscate every cent of those on the Forbe's list and the Fortune 500—take it all, every stock certificate, every Treasury bill, every yacht, every ranch—and guess what? It would be about $349 billion, and would run the country for 83 days.

It is absolutely bizarre to hear exercises of that nature with regard to the rich versus the poor while the real issue is how do you get a job and how do you keep a job? If we are talking about the women, the children, and all the rest of it in theater, then let us let the American people know. No wonder they look at both sides and all of us in these types of debates and say, "I mean, I cannot believe it."

Does anybody here think that those—some of us—over here care less about children, or less about women, or less about men, or the poor? Bizarre, absurd, and offensive, best described as absolutely offensive that somehow those of us on the other side of an issue are simply uncaring, and do not have any compassion. That is balderdash of the first order.

And I guess, as someone said, "minimum wages" mean minimum jobs. As one person said, they say there are 8 million new jobs. I know. I have three of them.

So that is where we are. But where we really are is dealing with illegal immigration and that is going to be difficult enough.

I just have been advised of a remarkable thing which I will put in the RECORD—a news release that the INS has given us phony figures on legal immigration. Instead of 800,000, it would be closer to 1 million, and here they were—their minions were giving us a press conference the day we are debating this bill on March 28 so that everybody could read up and see how we are diddling America. We do not need to do anything up here because the report released that day said "widely circulated." Oh, indeed it was. They said,

"Well, we reported what it was. We just did not spin the future."

So they have left us now with a situation under any scenario where legal immigration is going to go up a million a year, and that they have lied to us and given us phony figures that there are at least 100,000 to 150,000 persons a year off.

So now we are going to have that debate. Somewhere along the line we are going to have an honest debate about honest numbers. I think the people of America will demand that. I would like to know how anyone is going to get around addressing that issue with this kind of Jim Crackry, and it is extraordinary. It is hard to imagine.

I cannot imagine my friend, Doris Meissner, being part of that. I am sure she will have an opportunity to explain her position because there will certainly be hearings that will be joined in a bipartisan way on that particular bizarre and false information which was to prevent us from doing anything in the law to lower legal immigration because they, bless them, were doing it themselves, and they lied. That is another one in this line of work that goes with our particular conduct.

So now I ask unanimous consent that the vote occur on or in relation to the pending amendment 3730 at the hour of 3:30, and, further, that time be divided as follows: Senator KERRY, 10 minutes; and Senator DEWINE, 5 minutes.

Mr. CRAIG. Mr. President, reserving the right to object.

Mr. KERRY. Reserving the right to object, those times go beyond 3:30. It is contradictory. If you have 5 minutes and 10 minutes, it goes beyond 3:30. Therefore, if the order is set for 3:30, to fill the time we do not vote at 3:30. The unanimous consent request asked for a total of 15 minutes and it is now almost 20 after. I am trying to reconcile.

Mr. SIMPSON. I amend my request to the time of 3:40.

Mr. KERRY. Thank you.

Mr. CRAIG. Reserving the right to object, Mr. President, I must tell the chairman that I am opposed to this amendment. I need the time to express that opposition, and I would ask for 5 minutes to do so.

Mr. SIMPSON. Mr. President, that is perfectly appropriate. We have been holding the amendment open and asking for those who wished to debate it, and Senator DEWINE has been good and vigorous in that. I appreciate having the participation.

I would expand the unanimous-consent request to 3:45 for an extra 5 minutes for the Senator from Idaho.

Mr. CRAIG. Mr. President, I appreciate the chairman for accommodating me. I have been chairing the Veterans' Committee in his behalf. I thank him very much.

Mr. SIMPSON. Now wait. That deserves a little added comment, Mr. President. He indeed can have any time he wants.

Mr. CRAIG. I thank the manager.

Mr. SIMPSON. I was required to chair a hearing and could not do that, and my friend from Idaho graciously agreed to do that with the Secretary of Veterans Affairs. I deeply appreciate that. Here I am urging him to come forth and he was doing my work. My abject apologies. I appreciate what he did do for me today in every respect.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Wyoming? The Chair hears none, and it is so ordered.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for up to 10 minutes.

Mr. KERRY. I thank the Chair, and I thank the Senator from Wyoming.

Mr. President, let me respond, if I may, to a couple of comments made by the Senator from Wyoming. I am pleased to support the efforts of my senior colleague from Massachusetts, Senator KENNEDY, and I thank him for his persistent efforts to try to push this on the agenda. I regret that the reaction of my colleague from Wyoming is to suggest that raising the minimum wage is somehow not an appropriate effort in the Senate; that it is intruding on business of the Senate.

Raising the minimum wage is the business of the Senate. It is the business of the Senate particularly when you consider the fact that all four of the amendments approved for debate are amendments of the Republican Party. In effect, what is happening here is that the legitimate process of the Senate under the rules by which amendments are permitted, are part of the business of the Senate, the minimum wage is being closed out by parliamentary tactics of the Republican Party that does not want a vote on it.

I would suggest respectfully to my friend that this is not an issue of class warfare. There are countless rich people in America who support raising the minimum wage. There are countless people at the middle, at the upper, and at the very top level of our economy, all of whom believe that it is fair to raise the minimum wage.

I ask unanimous consent that an article which appeared in the Wall Street Journal, which one might have thought would not have articulated such an opinion, on April 19, last week, be printed in the RECORD. It is an article which says, "Minimal Impact From Minimum Wage. Increase Won't Have Much Effect on Economy."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 19, 1996]

MINIMAL IMPACT FROM MINIMUM WAGE

INCREASE WON'T HAVE MUCH EFFECT ON ECONOMY

(By Jackie Calmes)

WASHINGTON.—Here's an economic prediction should Congress, as suddenly seems likely, raise the minimum wage: The costs will be smaller than opponents suggest, just as the benefits will fall short of supporters' claims.

While nearly all economists agree a minimum-wage increase can theoretically cost jobs and spike inflation if some employers cut payrolls or raise prices in response, they add hastily that actual effects depend on the specific proposal at hand. And President Clinton's relatively modest call for a 90-cent increase over two years, to $5.15 an hour, would have little negative impact, most agree. The same would be true if a liberal Republican proposal for a $1 increase became law.

But even if such increases wouldn't hurt the economy, they likewise would do little to help average workers even though Democrats have made the issue a fundamental part of their response to the problem of continued wage stagnation. Labor economist Gary Burtless of the Brookings Institution, a proponent of the minimum-wage increase, says flatly, "It's not going to help the middle-class worker."

Whenever an increase is the issue, some conservative economists and lawmakers always are tempted to refight the original Depression-era battle over whether there should be such a law in the first place. "I find it hard to support an increase in the minimum wage at all," says economist Marvin Kosters at the American Enterprise Institute.

But on the narrower question of the increase now proposed, a broad range of economists generally come together. That is illustrated by the endorsement from 101 of them, including several Nobel laureates, of the president's initiative. They concluded the overall impact on workers and the economy would be positive.

Likewise, Chairman Joseph Stiglitz of Mr. Clinton's Council of Economic Advisers cites the modest level of the proposed increase and the declining value of the current $4.25-an-hour rate, now at a 40-year low in buying power. He says this explains why his current support for an increase doesn't contradict the negative things that, as a university professor, he once wrote about the minimum wage in an economics textbook.

Yesterday, at a meeting with House Democrats, Treasury Secretary Robert Rubin said a moderate increase would have "no statistical effect on the economy." He called the proposal "without question . . . the right thing to do four our economy."

Still, there are costs; the question is how much.

Lawrence Lindsey, a governor at the Federal Reserve Board, says internal staff studies suggest a 90-cent increase would reduce employment by about 400,000 jobs over the long term. And that could have implications for inflation, he said. Assuming roughly half of those who lose jobs join the ranks of the structurally unemployed, the "natural rate" of unemployment—that is, the rate below which inflation begins to accelerate—would rise somewhat. And Fed Chairman Alan Greenspan recently told a House subcommittee, "I think the evidence is persuasive" that a boost in the wage floor increases unemployment.

John Taylor, an economics professor at Stanford University who was a member of President George Bush's Council of Economic Advisers, says of a minimum-wage increase, "I'm pretty much of the view, having looked at it and written about it, that it costs jobs of low-skilled and minority workers." Of the specific proposals on the table,

VOL
142
PT
6
AP
15
—
24
1996
UMI

he says, "This is not as bad as raising it to $6, but it's still going to cost jobs."

And just last month, House Majority Leader Dick Armey of Texas dismissed the idea that Congress would vote to increase the minimum wage, snapping, "I'm not interested in increasing the number of nonworking poor."

But Mr. Burtless argues, "When the minimum wage is as low in relationship to average wages as $4.25 is now to average wages in the United States, then even a rise of $1 an hour is not going to dis-employ that many people." Moreover, he says the effect on inflation would be small because, he has calculated, the pay of minimum-wage employees equals less than 1% of all compensation paid to U.S. workers.

At Harvard University, economics professor Lawrence Katz says "there are no ways of improving the conditions of poor or low-wage working people that don't have some costs or some distortions." But he says the current low minimum wage argues for "a modest increase," adding that "the evidence suggests that the gains to low-income working people outweigh the employment costs."

Meanwhile, the current debate has heightened attention to a recent study of Princeton professors Alan Krueger and David Card, who found no drop in employment among New Jersey's fast-food restaurants after the state raised its minimum wage in 1992 by 80 cents, to $5.05 an hour. (New Jersey is one of 10 states that have set minimum-wage levels above the federal standard.) Critics have challenged their methodology but, Mr. Krueger says, "most academic studies find very little or no job loss. Indeed, about two dozen impartial academic studies have found insignificant evidence of job loss."

So who benefits? Last year just over 5% of workers were paid the minimum wage. Economists generally agree those making just above the minimum wage, up to $6 an hour, could see a bump in pay as an indirect consequence of a minimum-wage increase. The liberal Economic Policy Institute estimates that 11.7% of the work force, of about 12.2 million people, make between $4.25 and $5.15.

* * * * *

Mr. KERRY. In fact, 101 economists have all signed a letter, three of them Nobel laureates, suggesting this would have absolutely minimal impact just as it has since 1938.

It is not as if we are suddenly coming to the floor and debating some new concept in America. This was passed in 1938, and it has been passed again and again and again, that we have increased the minimum wage. On some occasions we have increased the minimum wage when it has been worth more than it is today. It is now worth 27 percent of what it was in 1979. If we let it go to the end of this year, it will be at a record 40-year low.

Leaving aside rhetoric about rich and poor, let us consider the rhetoric of work, the rhetoric of getting off welfare, the rhetoric of the values of our society. If you are going to value work, you have to pay people a fair wage for the day's work. What we are effectively saying, if we are going to ask people to vote below the level of poverty, is that we do not believe that a day's work in the United States is what it has been worth since 1938 or at those periods where we have raised the minimum wage to reflect what we thought it ought to be with respect to that day's work.

Someone in my office was walking down to Union Station for lunch today and on the way back bumped into a panhandler and had a conversation with the panhandler, and asked him, "How much do you manage to collect out here during lunch hour?" He said, "I usually make about six bucks out here during lunch hour."

So what the Republican Party is suggesting is that people ought to go to work for a wage that is worth less than a panhandler can make in 1 hour during lunch hour near the Nation's Capitol.

Is that a value of work? It seems to me, Mr. President, that if we are going to tell people you ought to get off of welfare and you ought to go to work, we ought to reflect the reality of who is working for what in this country. The fact is that, of those people on the minimum wage, 62 percent of the people on the minimum wage now live in a household in which someone else is also working. The vast majority, 46 percent, of those people in the work force in America are women; 60-plus percent of those working for the minimum wage are women. They are not teenagers; they are people out there struggling to try to work to break out of poverty.

The fact is that you can work at the minimum wage in the United States today for the full 40-hour week without health care, without a pension benefit, without any of the kinds of benefits that most workers get, and you are working at three-quarters the rate of poverty. The maximum salary you take home is $8,500 a year. Our Republican friends seem to suggest it is OK for people to work for $8,500 a year and it is OK for them simultaneously to suggest taking away $32 billion of the earned-income tax credit over a 7-year period.

So they want to have it both ways. They want to suggest that they can give a $245 billion tax break, most of which—these are not our words; this is the result of their construction—most of which goes to people who already have money. It is just a fact. If you are earning $300,000 a year, in the Republican tax break, you get about $12,000 a year. But if you are working at $30,000 a year or less and you are getting the earned-income tax credit, your taxes go up.

That is not class warfare. That is just a fundamental question of fairness. Is it fair to give somebody who earns $300,000 a year $12,000 more and take away money from somebody earning $30,000 a year? The theory of that is that if you do make a lot of money and you work harder, you ought to make a lot more, but if you do not make a lot of money and you work harder, you ought to earn less. It is the most incredible equation I have ever heard of in my life.

We are going to raise the minimum wage sometime around here. We are going to do it. We are going to do it because this issue is not going away. It is just like in the past. In 1989, we finally raised the minimum wage. Eighty-six Senators joined together to raise the minimum wage. All we are trying to do is get it back to that level when 86 of us were able to agree that it was the right thing to do. We will raise the minimum wage, but it will be after an extraordinary amount of expended political capital and energy and, frankly, wasted time. Ultimately, we are going to come to some kind of agreement around here because that is ultimately what I think most people will agree is fair.

The last time we raised the minimum wage—it is very interesting—Senator DOLE, the majority leader, said and I quote:

> This is not an issue where we ought to be standing and holding up anybody's getting 30 to 40 cents an hour pay increase at the same time that we are talking about capital gains.
>
> I never thought the Republican Party should stand for squeezing every last nickel from the minimum wage.

But here we are in 1996; it is worth less, and yet we are not just squeezing every nickel from it; we are squeezing every penny out of it at the very same time Republicans are talking about a tax break for a whole lot of people who make a lot more money than people on the minimum wage.

Mr. President, I do not think we ought to be talking about rich versus poor. We ought to be talking about basic economics and what is good for the Nation. Every decade we have debated this you hear the same arguments. People come back and say: "Oh, you can't do this because we are going to lose jobs." But in fact we do not lose jobs. America keeps growing. America gets stronger. America is creating more jobs.

The fact is that studies have shown, for instance, in New Jersey, when New Jersey raised the minimum wage, measured against Pennsylvania, the argument was, "Oh, don't do this because Pennsylvania will have an unfair advantage, and all the jobs are going to go across the border to Pennsylvania."

Well, lo and behold, Messrs. Card and Krueger did a study, Princeton University did a study, Rutgers University did a study, and it showed that jobs increased. We have had testimony from chief executive officers of businesses who not only pay the minimum wage but they also give full health care to their workers, and they find that their business grows, they prosper, and they are able to actually hold on to people because they treat them decently.

So I think this is an issue, the time of which has come, because the minimum wage is simply worth less than it

was worth a few years ago. If we do not raise the minimum wage, we will have reached the unconscionable fact in this country that it is at the lowest it has been in 40 years at the very time that people are making the most political hay out of the rhetoric of going to work, getting off welfare, and living out American values. American values also require fairness. I hope we are going to have that fairness in this debate somewhere in the next days.

The PRESIDING OFFICER. The Senator from Idaho is recognized for up to 5 minutes.

Mr. CRAIG. Mr. President, I come to the floor in opposition to the amendment that we will soon be voting on, that the chairman of the committee has brought to the floor. I say that because I believe that America, out of fairness and justness, wants to stay with current law. Current law, now known as the McClure amendment, treats agricultural growers the same as all other businesses and business owners. I think it is important that we maintain the balance of fair play and property rights as recognized by current law.

The Simpson amendment in effect says if a farmer could put walls around or a roof over his or her fields, then the INS could not conduct an open-field warrantless search. But since this farmer cannot do that in a 10-acre, 50-acre, 100-acre, 500-acre field, since he cannot build a roof over his or her field, that workplace does not enjoy the same private property rights as all other workplaces. The McClure amendment, now current law, is applying the same INS search warrant procedures to all employers.

In this instance, I would argue the Senate ought to maintain the kind of fairness of the current law. If you want to search for illegal aliens, then you get the employer's permission, or if you have probable cause, then you get a search warrant. That is called fairness and equity in this society. I think that is what we have to strive for.

The McClure amendment applies only to unjustified searches and only to the Immigration and Naturalization Service. It does not apply to any other law enforcement agency such as DEA or State or local law enforcement officers. I think that is important to specify. INS agents in hot pursuit of illegal aliens or others who are violating the law could still enter the field. In other words, we have not created a wall here; we have created a protection of property rights.

The McClure amendment was originally passed because of evidence that the INS was abusing open-field searches. In my State of Idaho, prior to this law being in place, we had numerous occasions when, without notification, INS agents, with drawn guns, were running through orchards in the State of Idaho. That, to me, is a formula for disaster. Innocent people could accidentally become hurt as a result of this. And it did nothing, absolutely nothing, to enforce the laws as they currently were at that time.

The McClure amendment was originally passed for a lot of these reasons. The unlawful detaining of American citizens I have already mentioned. If current law protects property rights, then apparently there was a violation of property rights. I believe the Simpson amendment—not intending to do so—could see us fall backwards into that circumstance that I think would be very dangerous to do. It could result in the injuring of agricultural workers, causing damage to crops and property that is already well documented, that has occurred in the past.

Here is what is interesting. The Judiciary Committee voted 12 to 5 to reject a similar Simpson amendment and retain basically current law. They were right to do so. I cannot understand for the life of me, if that was the vote of the committee, that we are back here on the floor with this amendment.

I ask unanimous consent a letter from the National Council of Agricultural Employers and also a letter from Dean R. Kleckner, president of the American Farm Bureau Federation, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

> NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS,
> *Washington, DC, April 16, 1996.*
>
> DEAR SENATOR: The Senate will begin voting on amendments to the Simpson Immigration Reform bills tomorrow. Two of those amendments are detrimental to agricultural employers:
>
> 1. Simpson Amendment to repeal the agricultural search warrant provisions of the Immigration Reform and Control Act of 1986.
> 2. Kennedy Amendment to strike the intent standard for document abuse discrimination.
>
> The search warrant provision under current law requires the Immigration and Naturalization Service (INS) to obtain permission from the property owner prior to entering the property to search for illegal aliens, or to obtain a search warrant. This provision affords growers the same protection from warrantless searches and unreasonable disruption of business activity enjoyed by any other business. By a vote of 12 to 5 in the Judiciary Committee mark-up, Senator DeWine successfully struck from the immigration reform bill earlier language to repeal the search warrant provision. Please uphold this decision and vote against Senator Simpson's amendment.
>
> Also during Judiciary Committee mark-up, an intent standard for document abuse discrimination was added to the legislation. Under current law, employers are held strictly liable for document abuse discrimination if they ask a job applicant to provide a specific employment authorization document or request more documents than are required under the law. Even though applicants are not denied a job and alternative documents are accepted by the employer, the Office of Special Counsel at the Department of Justice has taken the position that the mere requesting (as opposed to requiring) of particular documents is an automatic violation of the law. This position is held regardless of the employer's intent and whether or not anyone was denied employment. Senator Kennedy's amendment would delete the intent standard from the reform legislation and replace it with language that essentially restates current law. Please vote against the Kennedy amendment.
>
> Thank you for your consideration on these issues.
>
> Sincerely,
>
> SHARON M. HUGHES,
> *Executive Vice President.*

> A FARM BUREAU SPEEDLINE,
> *Washington, DC, April 16, 1996.*
>
> DEAR SENATOR: The American Farm Bureau has two concerns with regard to the illegal immigration reform bill under consideration by the Senate today. First, Sen. Alan Simpson (R–WY) will offer an amendment to his illegal immigration reform bill, S. 1664, to repeal the current-law requirement that INS agents obtain either a property owner's permission or a search warrant prior to entering agricultural fields in search of illegal aliens.
>
> This requirement was enacted as part of the Immigration Reform and Control Act of 1986. The amendment to accomplish this, offered by then-Sen. James McClure (R–ID), attracted bi-partisan support. An amendment to strike a similar proposal originally included in the predecessor bill to S. 1664 was stricken by the Senate Judiciary Committee on a bipartisan 12–5 vote, approving a motion offered by Sen. Mike DeWine (R–OH).
>
> The Administration has indicated neutrality on this issue, and has further indicated that the Department of Justice will not change its enforcement practices even if the open-field search warrant requirement is repealed.
>
> Second, Sen. Edward Kennedy (D–MA) will offer an amendment to strike the intent standard provision of S. 1664. This provision of S. 1664 would create a new intent standard for discrimination allegations based on employer requests for more or different employment eligibility documents to prove work authorization. Farm Bureau supports this provision, and we oppose Sen. Kennedy's amendment to strike it.
>
> The American Farm Bureau Federation urges you to oppose the Simpson and Kennedy amendments.
>
> DEAN R. KLECKNER,
> *President,*

Mr. CRAIG. Mr. President, I urge my colleagues, when this vote occurs in a few moments, to abide by current law and private property rights and the protection of the security of individuals. Consider the risks that could result as a result of us voting for the Simpson amendment and returning to law what this Congress rejected by substantial margin several years ago and has retained as the right position to hold when it comes to open-field searches and agriculture employers.

I yield the remainder of any time that I have.

The PRESIDING OFFICER. The Senator from Ohio is recognized for up to 5 minutes.

Mr. DEWINE. Mr. President, I want to speak again in opposition to the Simpson amendment. I commend my colleague from Idaho for his very eloquent statement.

VOL
142
PT
6
AP
15
—
24
1996
UMI

I urge my colleagues to retain current law, to retain the compromise that was made in 1986, and to vote the same way as the Judiciary Committee did, by an overwhelming vote of 12 to 5.

This bill does represent, as it is written today, the status quo. I think it would be a mistake to change that. It is interesting to note that the INS says there is no reason to change current law.

What is the history of this? Go back to 1984. You had a Supreme Court decision that said, in fact, you did not need a search warrant to go into an open field. But the court, in essence, invited Congress to speak on the issue.

Two years later, with the Simpson-Mazzoli bill, Congress did speak on the issue and said that an open field, when used for agriculture employment, should have the same basic protection, that the employees and employers should have the same basic protection that they had if that business had been conducted within a building, if we had been in a restaurant or another form of business. So, what the status quo does is keep a level playing field and keep both types of businesses being dealt with by the INS the same way.

We look at this many times from the point of view of the employer and say it would be unfair to ranchers, unfair to farmers, because of the time-sensitive nature of agriculture, to allow these searches without a search warrant. That is true. I think we also have to look at it from the point of view of the employee, because the reality is that before the law was passed, even though agriculture represented only 15 percent of the problem of illegal workers in the work force, 75 percent of the raids occurred in agriculture. I do not think you have to stretch your imagination too far to understand one reason why. It is easier. It is easier.

The other reason is, however good, however well intentioned the employees of the INS are and the agents are, when they look into a field and see brown faces, they think that may be a place we need to go. That is a problem. It is a problem that we do not need to return to.

My friend has just pointed out we need to talk about what the current status of the law is and what it is not. It says you have to have a search warrant. But many cases are resolved, obviously, by consent. If you have consent, the INS can go onto the property. Current law also provides that if INS is in hot pursuit, they can go onto the open field. Finally, current law also says if you are within 25 miles of the border, this provision does not apply; INS can go onto the property.

So I urge my colleagues—we are just a few minutes away from the scheduled vote—I urge them to support the position of the Judiciary Committee, a 12 to 5 vote. Support current law. Support the employees and employers. Keep in mind the position of the INS who sees no reason for any change in law.

I would also ask my colleagues to keep in mind the position of the American Farm Bureau. I also talked about this issue. I already read the names on the other letter that I talked about, a letter dated March 13, 1996, to all the members of the Judiciary Committee—American Farm Bureau, Agricultural Affiliates, American Association of Nurserymen. It goes on and on and on with basically a page of names. Their position is to keep the current State of the law and to oppose the Simpson amendment. I thank the Chair.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, it has been a good debate. I think I know where it is going with the vote, that all the votes are not there for my particular activity. But let us be very clear. I say to Senator DEWINE and Senator CRAIG—let me tell you, the law before 1986 was that the INS could go do a warrantless search, ladies and gentlemen. Before we changed the law, with this linkage of the ACLU and the agricultural workers and the growers, the law of the United States was just like this for everybody else.

The FBI could go into a field in plain view for a body or drugs, and with a warrantless search go forward. The INS could do that, the FBI could do that, the DEA. In 1986 we changed it. So the requirement that we have now is the special law. That is what is fascinating in this debate, I must say. I just think I have been here too long. This was on the books.

There is not a single other law enforcement agency in the United States, when they come upon an open field and in plain view see something that gives them probable cause to believe there is a violation of the law—they go and do it. The only agency of the Federal Government that cannot is the INS. That is where we are. At least let us be realistic about what we have done. We retain it. That is the way it is. Move on to the next item of business.

But let us be totally candid. And let us not have anybody with their own opinion; let us all have our own facts. That was the law before 1986.

But I just want to add—since we were talking, I think, about the minimum wage for a moment—here is the one you want to keep in mind with the minimum wage and all you have heard all day long. This is from the New York Times of April 19, 1996. It is called "Minimum Wage: A Portrait." Here is the portrait as compiled by the New York Times. There are three little items of interest.

> Number of times in 1993 and 1994, when Democrats controlled Congress, that President Clinton mentioned in public his advocacy of a minimum wage increase: 0.

Next little item:

> Number of times the President has done so in 1995 and 1996—through March 11—when Republicans have controlled Congress: 47.

Since March 11 there have probably been 47 more. Then finally:

> Number of Congressional hearings Democrats held on the minimum wage in 1993 and 1994: 0.

Pure theater.

Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 3730 offered by the Senator from Wyoming. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

The PRESIDING OFFICER (Mr. THOMPSON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 20, nays 79, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—20

Bryan
Byrd
Chafee
Glenn
Grassley
Gregg
Hollings
Johnston
Lautenberg
Levin
Lieberman
Murkowski
Nunn
Reid
Rockefeller
Simpson
Stevens
Thomas
Thompson
Thurmond

NAYS—79

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bumpers
Burns
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Harkin
Hatch
Hatfield
Helms
Hutchison
Inhofe
Inouye
Jeffords
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Leahy
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Nickles
Pell
Pressler
Pryor
Robb
Roth
Santorum
Sarbanes
Shelby
Simon
Smith
Snowe
Specter
Warner
Wellstone
Wyden

NOT VOTING—1

Heflin

The amendment (No. 3730) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS FOR 1996

Mr. SIMPSON. Mr. President, this has been cleared with the Democratic leader. I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 175 regarding a 1-day extension of the continuing resolution.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> A joint resolution (H.J. Res. 175) making further continuing appropriations for the fiscal year 1996 and for other purposes.

The Senate proceeded to consider the joint resolution.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the measure be considered read the third time and passed, the motion to reconsider be laid upon the table, that any statements relating to the measure be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 175) was read the third time and passed.

Mr. SIMPSON. Mr. President, I ask unanimous consent that Senator GRAHAM now be recognized for up to 15 minutes for debate on the continuing resolution.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I wish to be recorded as voting no on the continuing resolution.

Mr. President, nearly 1 month ago, after passing the 12th continuing resolution, we are now enacting the 13th continuing resolution. At the time we passed the 12th extension of the budget for fiscal year 1995, I said it was the last one that I would support.

Mr. President, I am here to keep my word. Frankly, the lack of leadership by this Congress is a national embarrassment. It is nearly 7 months into the fiscal year 1996, and we still do not have five budgets for five of the most important agencies of the Federal Government. This is no way for the world's largest economic entity to manage its resources.

It is almost as if the Congress has become addicted to this form of Band-Aid budgeting. When you think about it, there is a correlation between a drug addict's action and those of this Congress. We began this process on September 30, 1995, when we passed the first continuing resolution.

I analogize that action on September 30, 1995, as a casual, occasional user of marijuana. As we have proceeded over the days, weeks, and months since then, we have continued to become more and more addicted to this approach, to this avoidance of difficult decisions, to the willingness to say we failed to do it today so we will put it off until tomorrow.

Today, Mr. President, we are mainline injecting heroin as we sell ourselves: "Oh, we only need one more day and we will be able to resolve this impasse." We have heard that "one more day" so many times. I remember distinctly when we voted on the 12th continuing resolution that the leadership of the appropriations process in the House of Representatives said they were so close to reaching a final resolution that would have carried us through the balance of the fiscal year and avoided the necessity of the 12th continuing resolution, and that failing that small increment to close on a final agreement, now we were going to have to use the period made available by the Easter-Passover recess. That certainly would be a period of time in which we could come to closure on this matter.

We failed again. Now, again, we are taking the heroin of a temporary extension of a budget that is more than a year old as a means of avoiding difficult decisions. We are acting, also, Mr. President, like the drug addict who is in a state of denial. We are denying that our failure to reach decisions was having serious effects on Americans. I believe that clearly our actions are having serious effects. They are not just the serious effects on the faceless bureaucrats under which we often wish to assign our failures to act.

The fact is that the Band-Aid approach to budgeting has broad ramifications. Just last month when we voted on the 12th continuing resolution, I used examples that have been brought to my attention from my State of Florida. As an example, the Salvation Army in Fort Myers, FL, when I last discussed this case a month ago, I explained that the Salvation Army used funds which were provided by the Federal Emergency Management Agency to promote food and housing to the homeless.

In February 1996, the Salvation Army received its first installment for the fiscal year. In a normal year, that first installment would have been made available in October 1995. This is anything but a normal year. The Salvation Army was expecting they would receive their final allotment of Federal funds in early March. True to form, these funds have not yet been provided. There is only one thing consistent about this year, and that is total inconsistency.

On April 10, I visited the Florida State Legislature in its session. The question that many members of the legislature asked me is: When are you going to make up your mind? The less charitable members of the legislature asked the question: Have you lost your mind? Here is our State legislature, trying to prepare a budget for the fourth largest State in the Nation, with many of their important decisions based on a partnership with the Federal Government in health, education, job training, and many other areas. Yet, they do not know what their Federal partner's policy, what the Federal partner's commitment will be to that program halfway through the fiscal year.

Mr. President, we have had almost a month to work out this appropriations bill. When I was speaking to the legislature, I apologized for the fact we were so negligent in performing our work. I gave them hopeful assurances that we would soon end this too long impasse. Again, today, for the 13th time we are passing a continuing resolution putting off the decisions, putting off the commitment to shape up and get sober, put it off until another day, until we need another injection.

Mr. President, this continuing resolution is passed by a voice vote. This Congress has reasserted its addiction and that it cannot be expected to go cold turkey. The 13th continuing resolution will pass with one less vote than the 12th, and I hope if we have a 14th, I hope it will pass with substantially fewer votes than the 13th, and finally we will end this process of procrastination, delay, indecision, and pass the consequences on to the American people.

We cannot deny that this Congress is addicted to Band-Aid budgeting and that there are not serious ramifications to these actions. We must stop this cycle of dependency and face up to the difficult decisions which are ours.

Thank you, Mr. President.

I ask unanimous consent to be recorded as voting "no" on the continuing resolution.

The PRESIDING OFFICER. Without objection, it is so ordered. The RECORD will so indicate.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I further ask unanimous consent that I may proceed for up to 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOL
142
PT
6
AP
15
—
24
1996
UMI

CHANGING OF THE PALESTINIAN CHARTER

Mr. SPECTER. Mr. President, the action by the PLO today changing its charter and eliminating the provision calling for the destruction of Israel should put all Palestinian terrorists on notice that terrorism and the destruction of Israel is no longer the order of the day as far as the PLO is concerned.

This was a vote of 10 to 1; some 500 voted in favor of changing the PLO charter, some 54 voted against, a vote of 10 to 1 by the Palestinian national authority saying that the charter ought to be changed. No longer is it the PLO position that Israel ought to be destroyed. That ought to have a significant effect on changing the attitude of the terrorists who are trying to destroy Israel and trying to destroy the peace process, because now technically it is the Palestinian Parliament in exile which has called for the dropping of that language. It is the Palestinian National Council which voted 504 in favor of amending the 32-year-old charter, 54 against, and 4 abstaining saying that no longer is it the PLO policy to seek to destroy Israel.

You have at the present time Hezbollah, Hamas, and other terrorist organizations carrying on a reign of terror, of bloodshed, killing, an effort to destroy Israel and an effort to defeat the peace process. But with this action today by the PLO officially formally changing the charter, eliminating the call for the destruction of Israel, it is now evident that terrorism is out of step with the dominant Palestinian view. That ought to be followed, and every Palestinian who seeks to destroy Israel, every terrorist who seeks to destroy Israel, knows now that it is the official position, led by Chairman Yasser Arafat, that that idea has changed, that idea is passe, that idea is gone, and that the emphasis by responsible Palestinian leaders is to promote the peace process and to end terrorism.

With action by the U.S. Congress in 1994 in adopting the amendment put forward by Senator SHELBY and myself, which conditions U.S. aid on the change in the charter and more active action on the part of the PLO in combating terrorism, at least the first part has now been fulfilled.

The issue of the Mideast peace process has been tortuous. There have been so many developments since Israel emerged as a state in 1949. The enmity which has existed for thousands of years has meant senseless killing, terrorism against women and children as well as men in Israel, Hezbollah firing rockets into northern Israel, prompting the justified retaliation by Israel as a matter of national self-defense.

That killing and those terrorist activities ought now to stop in view of this official declaration by the Palestinian leaders that no longer does the charter of the PLO call for the destruction of Israel.

Mr. President, I am hopeful that the activities by Secretary of State Christopher will reach fruition. It is not an easy matter. The press is full of reports about how President Assad of Syria is keeping Secretary Christopher cooling his heels while President Assad talks to others or President Assad is otherwise busy. It is not an easy matter to negotiate in the Mideast. I compliment Secretary of State Christopher, and I compliment the President on the accomplishments which have been made.

The Mideast has been a particular point of interest to me. I made my first trip to Israel back in 1964. I traveled there again as a private citizen in 1969, again in 1978, again in 1980, and after being elected to the Senate traveled there considerably. I have had the opportunity to visit Damascus on many occasions. I made my first trip there in 1984.

As long as the Secretary of State has cooled his heels, this Senator cooled his heels a lot longer. I returned there in 1988 after the Soviets had advised the Syrians they were no longer going to finance Syrian military operations, and in 1988 President Assad was prepared to see ARLEN SPECTER; I had a meeting of 4 hours and 35 minutes, and I have made many trips back and have had an opportunity to gain some understanding as to the negotiating process in the Mideast.

I suggest that the attitude of the Syrians has changed considerably in the 12 years which have intervened since my first trip to Damascus in 1984 and today, 1996. When I first had an opportunity to talk to President Assad, the idea of negotiations with Israel was totally out of the question. We have seen problems that the United States has had in Lebanon with the killing of so many of our marines, and we have seen grave difficulties in Lebanon in 1982 with Israeli action there. I believe that a cease-fire can be attained there, and I believe the peace process can be promoted.

We had the historic activity of President Sadat of Egypt in the first breakthrough back in 1978 and 1979. We have since seen the peace process with an Israeli-Jordanian peace agreement. We have seen an event at the White House lawn back on September 13, 1993, that I never thought would have been possible with Chairman Arafat honored there. But when then Prime Minister Rabin shook the hand of Chairman Arafat and then Foreign Minister Peres shook the hand of Chairman Arafat, the U.S. policy was to support the peace process. If Israel, which had been the principal object of PLO terrorism, was prepared to deal with Chairman Arafat, then so was the United States.

I have had an opportunity to meet with Chairman Arafat on three occasions since that historic event at the White House on September 13, 1993. I have gone there in a visit with Senator BROWN in August of last year, carrying with us a list of specific terrorists where we thought the Palestinian authority had not turned them over to Israeli officials in accordance with the agreements which had been made, presented them one by one, and, candidly, heard many excuses offered by Chairman Arafat.

Senator SHELBY and I had an opportunity to visit again with Chairman Arafat this past January 2 and again talked about the language of the PLO charter and pushed to have it revised. At that time, Chairman Arafat said he would do his utmost. The elections were coming up with the Palestinians on January 20. Those elections were held, and now we have had this historic event with the Palestinian Parliament in exile dropping the language by a vote of 504 in favor of eliminating the language calling for the destruction of Israel, 54 against, and 14 abstaining. That language had been in the charter for some 32 years.

So, you have a vote of 10 to 1, a very, very sizable majority, which ought to put all of the Palestinian terrorists on notice that it is no longer acceptable, even from the Palestinian point of view, to call for the destruction of Israel and to carry out acts of terrorism.

So it is my hope that this historic vote, when it is communicated to the Palestinians in that region, when it is communicated to the Palestinians around the world, may have the effect of letting the Palestinian terrorists know—Hezbollah, Hamas, and the other terrorist organizations—that it is no longer appropriate, it is no longer proper, it is condemned by the Palestinian authority itself, that terrorist acts against Israel ought not to be carried forward. If we can stop Hezbollah, if we can stop Hamas and the other terrorist organizations, then I think we can move forward with the peace process.

I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3672

Mr. SIMPSON. Mr. President, I now submit a request. It has been cleared through the leadership on both sides of the aisle, as I have been advised.

I ask unanimous consent that the Senate now resume consideration of amendment No. 3672, the Simpson-Kempthorne amendment, as modified, and that there be 30 minutes for debate, 20 minutes under the control of Senator DORGAN, 10 minutes under the control of Senator DOMENICI; to be followed by a vote on or in relation to the amendment without further action or debate. And immediately following that vote, regardless of the outcome, the Senate proceed to vote on or in relation to the Dorgan amendment, No. 3667.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3672, AS MODIFIED

Mr. SIMPSON. Mr. President, I send the modification of the amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

Amendment No. 3672, as modified, is as follows:

At the end of the amendment add the following:

(1) social security is supported by taxes deducted from workers' earnings and matching deductions from their employers that are deposited into independent trust funds;

(2) over 42,000,000 Americans, including over 3,000,000 children and 5,000,000 disabled workers and their families, receive social security benefits;

(3) social security is the only pension program for 60 percent of older Americans;

(4) almost 60 percent of older beneficiaries depend on social security for at least half of their income and 25 percent depend on social security for at least 90 percent of their income;

(5) 138,000,000 American workers pay taxes into the social security system;

(6) social security is currently a self-financed program that is not contributing to the Federal budget deficit; in fact, the social security trust funds now have over $400,000,000,000 in reserves and that surplus will increase during fiscal year 1995 alone by an additional $70,000,000,000;

(7) these current reserves will be necessary to pay monthly benefits for current and future beneficiaries when the annual surpluses turn to deficits after 2018;

(8) recognizing that social security is currently a self-financed program, Congress in 1990 established a "firewall" to prevent a raid on the social security trust funds;

(9) raiding the social security trust funds would further undermine confidence in the system among younger workers;

(10) the American people overwhelmingly reject arbitrary cuts in social security benefits; and

(11) social security beneficiaries throughout the nation deserve to be reassured that their benefits will not be subject to cuts and their social security payroll taxes will not be increased as a result of legislation to implement a balanced budget amendment to the United States Constitution.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any legislation required to implement a balanced budget amendment to the United States Constitution shall specifically prevent social security benefits from being reduced or social security taxes from being increased to meet the balanced budget requirement.

Mr. SIMPSON. Mr. President, I yield the floor to Senator DORGAN.

The PRESIDING OFFICER. Who yields time? The Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield myself such time as I may consume. A couple of colleagues wish to come to speak on this amendment as well.

First of all, the circumstances are we will vote on a Kempthorne amendment. I have no objection to that amendment. I intend to vote for it.

It contains conclusions that I support, talks about the desire to balance the budget, to do so without Social Security benefits being reduced or Social Security taxes being increased. I have no objection to that. I intend to vote for it.

But that is not the issue. The issue is the second vote on the amendment that I offered, a sense-of-the-Senate resolution. That amendment is very simple. It is an amendment that says that when a constitutional amendment to balance the budget is brought to the floor of the Senate it ought to include a firewall between the Social Security trust funds and the other revenues of the Federal Government.

The reason I feel that way is because we are now accumulating a yearly surplus in the Social Security trust funds. It is not an accident. It is a deliberate part of public policy to create a surplus in the Social Security trust funds now in order to save for the future.

The reason I know that is the case is because in 1983 I helped write the Social Security reform bill. I was a member of the House Ways and Means Committee at the time. We decided in the Social Security reform bill to create savings each year. This year $71 billion more is coming into the Federal Government in receipts from Social Security taxes over what we will spend this year—a $71 billion surplus this year alone, not accidental but a surplus designed to be saved for the future.

It is not saved for the future if it is used as an offset against other revenue of the Federal Government. If it is simply becoming part of the revenue stream that is used to balance the budget and the operating budget deficit, it means this $71 billion will not be there when it is needed.

I have heard all of the debate about, well, this is just an effort by some of those who would not vote for the other constitutional amendment to balance the budget, just an effort to justify their vote. No. There were two constitutional amendments to balance the budget offered in the U.S. Senate last year. One of them balanced the budget and did so by the year 2002, using the Social Security trust funds as part of the operating revenue in the Federal Government. I do not happen to think that is the way we ought to do it.

The Senator from Illinois, Senator SIMON, is on the floor. He has been one of the authors of that particular amendment. I happen to know that he changed his mind on this issue. He originally felt we should not include the Social Security trust fund money as part of the operating revenue of the Federal budget.

I still believe fervently we should not do that. One of the sober, sane things that was done in the 1980's in public policy was to create a surplus each year in the Social Security accounts to save for the future when it is needed, when the baby boomers retire. To simply decide to throw that all in as operating revenues and provide for it in a constitutional amendment to the Constitution, and use it to help balance the operating budget of the Federal Government, is in my judgment not honest budgeting.

We are either going to save this or not. If we are not going to save it we ought not collect it from the workers. If the workers have it taken from their paychecks and are told, "This money coming from your paycheck goes into a Social Security trust fund," and if it goes into the Social Security trust fund and then is used as other revenue to balance the Federal operating budget, it is not going to be there when the baby boomers retire.

That is the import of this amendment. If those who propose a constitutional amendment to balance the budget would bring to the floor a constitutional amendment with section 7 changed as we proposed it previously and voted on it that says it is identical in every respect to the constitutional amendment offered by Senator SIMON, Senator DOLE, and others with the exemption that the Social Security trust funds shall not be used as operating revenue in the Federal budget to balance the budget, they would get 70 or 80 votes, 75 votes perhaps for a constitutional amendment to balance the budget.

Because they did not do that, they fell one vote short. They intend to bring a constitutional amendment to balance the budget to the floor of the Senate again, and have announced they intend to do it under a reconsideration vote. They have a right to do that. We simply want an opportunity to provide a sense-of-the-Senate resolution to say to all of those in the Senate, when you bring this, do it the right way this time. If you do it the right way you will, in my judgment, pass a constitutional amendment to balance the budget out of this Senate and send it to the States for ratification.

That is what this sense-of-the-Senate vote is about. It is not about protecting anybody. It is not about setting up a scarecrow. It is about very serious, important public policy issues. Anyone who says this is not an important or serious issue apparently misunderstands what the policy issues are here. I did not vote to reform the Social Security system—I did not vote to increase payroll taxes in the 1980's, as did most Members of Congress, in order to have that money go into the operating budget of the United States and not be

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saved for the future in the Social Security trust funds as we promised the American people it would be.

Last year the Budget Committee brought to the floor of the U.S. Senate a budget. They said, "Here is our balanced budget." And on page 3 it says, "Deficits—" in 2002, $108 billion. How can that be the case? Because technically they say, "We haven't yet balanced the budget, technically in law, but what we have done is promised we will use this money to show a zero balance because these Social Security trust funds, to the tune of $108 billion, will be used to balance the Federal budget."

It is not an honest way to do business. It ought not be done. We can, in my judgment, remedy this problem very quickly. Voting for my sense-of-the-Senate resolution, and including in the constitutional amendment to balance the budget that is brought to the floor of the Senate, the provision I have described, which is fair to the American workers, keeps our promise with the American workers, is fair to senior citizens in this country, and does what we said in 1983 we were going to do for the future of the Social Security system.

I am a little weary of hearing people stand on the floor of the Senate saying the Social Security system is going broke. The system has been around 60 years. In the year 2029, which is 30-some years from now, we have financing problems with it, yes, but we are going to respond to those long before 2029. For someone to say a system that has been around here for some 60 years is going to go broke because in the year 2029—33 years from now—we have financing trouble is, in my judgment, unfathomable.

This is a wonderful contribution to this country of ours, the Social Security system. We can and have made it work, and will make it work in the future. But I will guarantee you that it will not work in the future the way we expect it to, to help the people who are going to retire in the future in this country, the baby boomers especially, if we do not take steps to protect the Social Security trust funds and use them for the purpose that they were intended back in the 1983 Social Security Reform Act.

Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The time is under the control of Senator DOMENICI and Senator DORGAN. Senator DORGAN has approximately 12 minutes left of his time. Senator DOMENICI, who I do not see at this point, has 10 minutes under his time.

Mr. SIMON. Mr. President, since I have not spoken to Senator DOMENICI, I ask unanimous consent that I be permitted to speak for 3 minutes and not have it charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SIMON. Mr. President, I agree with 90 percent of what my friend from North Dakota has to say. Where I do differ is—and let me add in the Budget Committee I supported Senator FRITZ HOLLINGS in saying that we should exclude Social Security as we balance the budget. I cosponsored that legislation. What is true, however, is that the balanced budget amendment that we proposed, as it was, protects Social Security more than the present law does. Bob Myers, chief actuary for Social Security for 21 years, strongly supported the balanced budget amendment saying it was essential to the protection of Social Security.

I recognize that we are close to getting something worked out. I hope we can. I do think it is unrealistic, the amendment offered by my friend from North Dakota, that by the year 2002, we can do this, excluding Social Security. I think if we go on a glidepath for a few years later, that can be worked out.

To those who question that, that provides a great deal more protection than you have in the present law. The present law gives theoretical protection, but it is not there. The Constitution gives muscle to that.

Now, I add that I want to make sure that, in the years we have deficits, we fill those deficits, that we do not exclude both the receipts and the deficits, because the time will come—I may not be around to need it but the Senator from North Dakota will—when we need to protect those deficits and make clear that is a liability of the Federal Government.

I am hopeful something can get worked out yet. There are various versions floating around right now. It would be a great day for the American public if we could get it worked out.

Mr. DOMENICI. Mr. President, parliamentary inquiry. How much time do the Democrats have and how much time do I have?

The PRESIDING OFFICER. There is remaining 12 minutes 15 seconds under the control of Senator DORGAN and 9 minutes 50 seconds under the control of the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not sure I need all my time. Let me yield myself 5 minutes at this point.

Mr. President, I guess I start this by paraphrasing Ronald Reagan: Here we go again. Every time we get into a balanced budget debate, someone tries to claim that Congress is raiding the Social Security trust fund. Every single time it happens, somebody gets up and claims we are not doing it right.

I simply want to note that there is a bit of irony in this debate in the Dorgan amendment. In 1995, we saw a plethora of budget proposals from both sides of the aisle. We saw a number from that side of the aisle. Indeed, at last count, the President himself has proposed 10 different budgets since January 1995. Each and every one of those budgets, including the President's 1997 budget, includes Social Security in the deficit calculations.

I am not suggesting that is in any way violating the law, because it is not. It is not violating the law to produce a balanced budget and call it a balanced budget under the unified concept which has been used since Lyndon Johnson's time, when at the direction of Arthur Burns, one of the best economists we have ever had serve us, the United States decided to put everything on budget, because everything on that budget had an impact on the economy of the United States. So does the trust fund have an impact on the economy. The unified budget was a concept of putting everything on there that has any economic impact on the people of the United States and the American economy.

Somehow, it seems to me, we have some kind of a gap here. Unless I am reading wrong, Senator DASCHLE, Senator DORGAN, two of the sponsors of this so-called Social Security amendment, promoted a balanced budget here in the U.S. Congress. If I am wrong, the Senator can tell me I am wrong. Somehow, it seems to me that something must have escaped, escaped the mind, because that plan could only claim to reach balance in 2002 including the Social Security trust fund.

As a matter of fact, I have not seen any budget produced that has been offered as an instrument upon which we would vote here in the Senate that produces the kind of balanced budget that is now being encouraged by this sense-of-the-Senate resolution. The Republican budget, the first one that balanced the budget, the first one to pass Congress to balance the budget in two generations, also included the Social Security trust funds in this deficit calculation.

That does not mean that in doing that you are detracting from the solvency of the Social Security fund. As a matter of fact, in each and every one of the budgets I have been discussing, to my recollection, the nine the President has offered, two of which have been balanced, the others that I have referred to in a very, very formidable way, those budgets do not touch Social Security. They do not touch the benefits. They do not touch the taxes that are attributable to Social Security. You get a balanced budget without in any way doing harm to the Social Security trust fund and the taxes that are imposed on the American people in order to get that done.

Frankly, it seems to me, for those who would like to make sure we get a

balanced budget and not use the Social Security trust fund in the calculations, I wonder how they get to balance. I have not seen any proposals that have accomplished that. From this Senator's standpoint, if we are going to get there by 2002, which I think is everybody's agenda, I believe it is inconceivable that you can get there and in the final calculations—that is why I am saying in the calculations—you do not use the unified budget concept, which for more than 20 years has been used in almost every examination of the impact of the Federal budget on the people of this country.

Maybe I am missing something. Maybe somebody knows another way to do it by 2002 and reduce the expenditures of our Government by another $190 to $200 billion. I do not believe, in my efforts, which I think have been at least, if not successful, at least we have shown various ways—and it has been a rather formidable exercise—I do not think we have ever come up with anything that could do that.

While I understand the debate is a useful debate, we ought to be very concerned about it. I think it is truly, "Here we go again," and I hope the U.S. Senate decides we ought to get on with the subject, get a balanced budget, and get a constitutional amendment and not do the sense of the Senate at this point.

Mr. DORGAN. I yield 7 minutes to the Senator from South Carolina, Senator HOLLINGS.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from North Dakota.

Obviously, I do not take any pleasure in correcting the record made by my distinguished chairman of the Budget Committee. I served as chairman of the Budget Committee and had the best of cooperation from the distinguished Senator from New Mexico. I hope we can cooperate again in getting a balanced budget amendment to the Constitution that protects Social Security.

Last year on March 1, 1995, five Senators signed a letter to the majority leader stating that we were ready, willing and able to vote "aye" on a balanced budget amendment to the Constitution so long as we did not repeal the statutory law of the United States that prohibits the use of Social Security trust funds in computing either deficits or surpluses of the Federal Government.

Now my distinguished friend from New Mexico says that both sides use it, and he starts, of course, with President Lyndon Johnson.

Mr. President, I ask unanimous consent to have printed in the RECORD a budget table of the deficits and surpluses for the past 40 years.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

President and year	U.S. budget (outlays in billions)	Trust funds	Real deficit	Gross Federal debt (billions)	Gross interest
Truman:					
1945	92.7	5.4	....	260.1	(1)
1946	55.2	3.9	−10.9	271.0	(1)
1947	34.5	3.4	+13.9	257.1	(1)
1948	29.8	3.0	+5.1	252.0	(1)
1949	38.8	2.4	−0.6	252.6	(1)
1950	42.6	−0.1	−4.3	256.9	(1)
1951	45.5	3.7	+1.6	255.3	(1)
1952	67.7	3.5	−3.8	259.1	(1)
1953	76.1	3.4	−6.9	266.0	(1)
Eisenhower:					
1954	70.9	2.0	−4.8	270.8	(1)
1955	68.4	1.2	−3.6	274.4	(1)
1956	70.6	2.6	+1.7	272.7	(1)
1957	76.6	1.8	+0.4	272.3	(1)
1958	82.4	0.2	−7.4	279.7	(1)
1959	92.1	−1.6	−7.8	287.5	(1)
1960	92.2	−0.5	−3.0	290.5	(1)
1961	97.7	0.9	−2.1	292.6	(1)
Kennedy:					
1962	106.8	−0.3	−10.3	302.9	9.1
1963	111.3	1.9	−7.4	310.3	9.9
Johnson:					
1964	118.5	2.7	−5.8	316.1	10.7
1965	118.2	2.5	−6.2	322.3	11.3
1966	134.5	1.5	−6.2	328.5	12.0
1967	157.5	7.1	−11.9	340.4	13.4
1968	178.1	3.1	−28.3	368.7	14.6
1969	183.6	−0.3	+2.9	365.8	16.6
Nixon:					
1970	195.6	12.3	−15.1	380.9	19.3
1971	210.2	4.3	−27.3	408.2	21.0
1972	230.7	4.3	−27.7	435.9	21.8
1973	245.7	15.5	−30.4	466.3	24.2
1974	269.4	11.5	−17.6	483.9	29.3
Ford:					
1975	332.3	4.8	−58.0	541.9	32.7
1976	371.8	13.4	−87.1	629.0	37.1
Carter:					
1977	409.2	23.7	−77.4	706.4	41.9
1978	458.7	11.0	−70.2	776.6	48.7
1979	503.5	12.2	−52.9	829.5	59.9
1980	590.9	5.8	−79.6	909.1	74.8
Reagan:					
1981	678.2	6.7	−85.7	994.8	95.5
1982	745.8	14.5	−142.5	1,137.3	117.2
1983	808.4	26.6	−234.4	1,371.7	128.7
1984	851.8	7.6	−193.0	1,564.7	153.9
1985	946.4	40.6	−252.9	1,817.6	178.9
1986	990.3	81.8	−303.0	2,120.6	190.3
1987	1,003.9	75.7	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−255.2	2,601.3	214.1
Bush:					
1989	1,143.2	114.2	−266.7	2,868.0	240.9
1990	1,252.7	117.2	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−403.6	4,002.1	292.3
Clinton:					
1993	1,408.2	94.2	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−292.3	4,643.7	296.3
1995	1,514.4	113.4	−277.3	4,921.0	332.4
1996	1,572.0	126.0	−270.0	5,191.0	344.0
Est. 1997	1,651.0	127.0	−292.0	5,483.0	353.0

[1] Budget realities: Senator Hollings, April 17, 1996.

Note: Historical Tables, Budget of the U.S. Government FY 1996; Beginning in 1962 CBO's 1995 Economic and Budget Outlook.

Mr. HOLLINGS. If you look at this table, you can refer to 1969 when we had the last budget balanced. I happened to have been here and to have voted for it. That is a unique experience.

If you look down to the 1997 budget that we will be working on, you can see the intent to use $127 billion—$127 billion in trust funds. Up, up and away.

I hold in my hand this light blue book entitled "Budget Process Law Annotated." You will not find the word "unified" in it. You, will, however, find section 13301 of the statutory laws of the United States.

I ask unanimous consent to have that section printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUBTITLE C—SOCIAL SECURITY

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

Mr. HOLLINGS. Mr. President, section 13301 says you cannot use Social Security. In our failure to follow that law, we should not wonder why the people do not have any faith or trust in their Government.

Let us go back to Social Security. In 1983, we increased the Social Security payroll taxes in order to save the program. We said these moneys would be used only for Social Security. We were going to balance the budget for general government and build up Social Security surpluses to ensure that money would be there when they baby boomers retire. However, working in the Budget Committee with the distinguished Senator from New Mexico, you could see what was happening. Budget deficits went up, up and away. We had less than a trillion-dollar debt when Reagan came to town. It is now $5 trillion. So in the Budget Committee, on July 10, 1990, I offered an amendment to protect the surpluses in the Social Security trust fund. It was my amendment that passed the committed by a vote of 20–1.

I ask unanimous consent to have the vote printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOLLINGS MOTION TO REPORT THE SOCIAL SECURITY PRESERVATION ACT

The Committee agreed to the Hollings motion to report the Social Security Preservation Act by a vote of 20 yeas to 1 nay:

Yeas: Mr. Sasser, Mr. Hollings, Mr. Johnston, Mr. Riegle, Mr. Exon, Mr. Lautenberg, Mr. Simon, Mr. Sanford, Mr. Wirth, Mr. Fowler, Mr. Conrad, Mr. Dodd, Mr. Robb, Mr. Domenici, Mr. Boschwitz, Mr. Symms, Mr. Grassley, Mr. Kasten, Mr. Nickles, Mr. Bond.

Nays: Mr. Gramm.

Mr. HOLLINGS. Mr. President, after our success in the Budget Committee, I worked with Senator Heinz to offer the same amendment on the Senate floor on October 18, 1990. The vote was 98–2, and the distinguished Senator from New Mexico voted both in July, and in October to not use Social Security trust funds.

VOL 142 PT 6 AP 15 — 24 1996 UMI

I ask unanimous consent that that vote be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hollings-Heinz, et al., amendment which excludes the Social Security Trust Funds from the budget deficit calculation, beginning in FY 1991.

YEAS (98)

Democrats (55 or 100%)—Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Boren, Bradley, Breaux, Bryan, Bumpers, Burdick, Byrd, Conrad, Cranston, Daschle, DeConcini, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Graham, Harkin, Helfin, Hollings, Inouye, Johnston, Kennedy, Kerrey, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Pell, Pryor, Reid, Riegle, Robb, Rockefeller, Sanford, Sarbanes, Sasser, Shelby, Simon, Wirth.

Republicans (43 or 96%)—Bond, Boschwitz, Burns, Chafee, Coats, Cochran, Cohen, D'Amato, Danforth, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatch, Hatfield, Heinz, Helms, Humphrey, Jeffords, Kassebaum, Kasten, Lott, Lugar, Mack, McCain, McClure, McConnell, Murkowski, Nickles, Packwood, Pressler, Roth, Rudman, Simpson, Specter, Stevens, Symms, Thurmond, Warner, Wilson.

NAYS (2)

Republicans (2 or 4 %)—Armstrong, Wallop.

Mr. HOLLINGS. Mr. President, when the both sides continued to use the surpluses—I teamed up with Senator MOYNIHAN. I said, "Look, you are using these moneys for defense, education, housing, foreign aid, for everything but Social Security. Let us just stop the increase in taxes on Social Security."

So exactly 5 years ago, on April 24, 1991, the distinguished Senator from New Mexico moved to table the Moynihan-Kasten-Hollings amendment that would have reduced Social Security revenues in the budget resolution by about $190 billion.

I ask unanimous consent that that vote be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Domenici motion to table the Moynihan-Kasten-Hollings amendment which reduces Social Security revenues in the budget resolution by $24.6 billion in FY 1992, $27.6 billion in 1993, $38.2 billion in 1994, $44.0 billion in 1995, and $61.7 billion in 1996; and returns Social Security to pay-as-you-go financing.

YEAS (60)

Democrats (26 or 47%)—Baucus, Bentsen, Bingaman, Bradley, Breaux, Bumpers, Burdick, Byrd, Conrad, Daschle, DeConcini, Dixon, Ford, Glenn, Graham, Heflin, Johnston, Kohl, Lautenberg, Levin, Mikulski, Robb, Rockefeller, Sasser, Shelby, Simon.

Republicans (34 or 79%)—Bond, Brown, Burns, Chafee, Coats, Cochran, Cohen, D'Amato, Danforth, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatfield, Jeffords, Kassebaum, Lott, Lugar, McCain, McConnell, Murkowski, Packwood, Pressler, Roth, Rudman, Simpson, Smith, Specter, Stevens, Thurmond, Warner.

NAYS (38)

Democrats (29 or 53%)—Adams, Akaka, Biden, Boren, Bryan, Cranston, Dodd, Exon, Fowler, Gore, Harkin, Hollings, Inouye, Kennedy, Kerrey, Kerry, Leahy, Lieberman, Metzenbaum, Mitchell, Moynihan, Nunn, Pell, Reid, Riegle, Sanford, Sarbanes, Wellstone, Wirth.

Republicans (9 or 21%)—Craig, Hatch, Helms, Kasten, Mack, Nickles, Seymour, Symms, Wallop.

NOT VOTING (1)

Democrats (1)—Pryor.

Mr. HOLLINGS. Mr. President, on November 13, 1995, the Senator from New Mexico again joined with us on a vote of 97–0 not to use Social Security trust funds. But in March of last year they were trying to get a balanced budget amendment to the Constitution that used an additional $636 billion in Social Security trust funds.

Under that approach, we would come around to the year 2002 and say, "Whoopee, we have finally done our duty under the Constitution and we have balanced the budget." But we would have at the same time caused at least a trillion-dollar deficit in Social Security. Who is going to vote to increase Social Security taxes, or any other tax, to bring in a trillion dollars?

That is our point here. That is why we have offered this sense of the Senate. What happens is the media goes right along. I want to quote from an April 15 article in Time magazine which talks about the surpluses in the highway trust fund:

> Supporters argue, rightly, that the money would go where it was intended—building roads and operating airports. But the supposedly untapped funds are actually an accounting figment.

That is what we will have to say about Social Security in 2002 because the money will not be there. Let us cut out this charade, stop the fraud, and be honest with each other. Let us get truth in budgeting.

I reserve the remainder of our time.

Mr. DORGAN. Mr. President, I yield 2 minutes to Senator FORD.

Mr. FORD. Mr. President, I thank my friend from North Dakota. I think everyone should have listened to my friend from South Carolina. He has been there from year one. He knows the history of it. He understands it, and he says it straight.

I listened to my good friend from New Mexico, chairman of the Budget Committee, one of the smartest financial wizards in the Senate. I believe, honestly and sincerely, that he knows how to operate to be sure that Social Security funds are not used. He says he only wants to use them for calculation. He does not touch the fund, the taxes; he does not touch anything. If you do not touch them, why use them? If you do not touch them, why use them?

We have a contract with the people of this country. Social Security is doing better. There are 8.4 million new jobs, all of them paying into Social Security. Things are beginning to look a little better. But if we take Social Security funds to balance the budget, then we are deceiving the American public.

I voted for a balanced budget every time except the last time because, before that, it excluded Social Security funds. This last time, it included Social Security funds. You had at least seven more votes—we would be in the seventies on the balanced budget amendment had you said we exclude Social Security moneys.

So when you say you are not using them, you will not spend them, you are not going to touch taxes, there ought to be a way, and there should be a way, that we can pass a balanced budget here without using those funds.

I hope my colleagues will listen to Senator DORGAN and Senator HOLLINGS and that we approve this sense-of-the-Senate resolution.

I suspect my time has expired. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI. How much time does the Senator from New Mexico have?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. DOMENICI. Mr. President, I told Senator DORGAN I would use our time up and he could close. Senator SIMPSON has arrived. He is never without something to say on this subject. I yield half of my remaining time to the Senator from Wyoming.

Mr. SIMPSON. I thank the Senator. It will not take 2 minutes. It does not take too many minutes to explain that there is no Social Security trust fund. To come to this floor time after time and listen to the stories about the Social Security trust fund is phantasmorgia and alchemy. There is no Social Security trust fund. The trustees know it, we know it, everyone in this Chamber knows it.

What you have is a law that says if there are any reserves in the Social Security system, they will be invested in securities of the United States, based on the full faith and credit of the United States. Therefore, they are. They consist of the bills, savings bonds, and they are issued all over the United States. Some here own them, and banks own them. The interest on those is paid from the General Treasury, not some great kitty or some Social Security piggy bank. This is the greatest deception of all time.

The sooner we wake up and realize that the trustees of the Social Security system, consisting of three Members of the President's Cabinet, consisting of Dona Shalala, Robert Rubin, and Robert Reisch, Commissioner Shirley Chater, one Republican and one Democrat, are telling us this system will be broke in the year 2029 and will begin to go broke in the year 2012—there is no way to avoid it unless you cut the benefit or raise the payroll tax. Guess which one we will do at the urging of the senior citizens? We will raise the payroll tax one more time.

Mr. DOMENICI. Mr. President, we have a letter dated January 19 signed

by Senator EXON, Senator DASCHLE, and Senator DORGAN with reference to a proposed balanced budget that they wanted the Republicans to join them in with some common ground.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, January 19, 1996.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, DC.

DEAR MR. LEADER: We are disturbed by several remarks you made yesterday at your news conference on the status of budget negotiations. It is unclear to us why your public comments concerning the budget continue to grow more pessimistic even as the gap between our two plans continues to narrow.

We believe a workable solution to balancing the budget is indeed at hand. Since our House counterparts appear less willing, or less able, to discuss alternatives, we ask that you take the initiative and join us to build support for a "common ground" balance budget. This budget would be based on the $711 billion in reductions to which all parties in the budget negotiations have already agreed. (Please see the attached chart outlining those areas of agreement.)

Democrats and Republicans have made a great deal of progress over the past few weeks in narrowing the gap between our two plans. The biggest remaining gap, of course, it the difference between our two tax cut proposals. The current Republican plan calls for $115 billion more in tax cuts than does the plan offered by the President and Congressional Democrats. Your plan pays for these additional tax breaks by cutting $132 billion—above and beyond what Democrats have agreed to—from programs that are essential to working families.

Spefically, your plan cuts Medicare by $44 billion more than the Democratic plan. It cuts Medicaid by $26 billion more. It cuts domestic investments in areas such as education and the environment by $52 billion more. And it raises taxes on working families by $10 billion.

The Democratic plan, by contrast, allows us to balance the budget in seven years using CBO numbers, provide a reasonable tax cut of $130 billion for working families, and still protect Medicare, Medicaid, education and the environment.

We should act decisively to balance the budget immediately. If balancing the budget is the goal, we can reach it now by banking the "common ground" savings on which we all agree.

We ask you to return with us to the White House to resume budget negotiations with the Administration before the current continuing resolution expires next Friday, January 26. If you will agree to return to the table, reduce your tax cut, and adopt the "common ground" reductions to which we have all agreed, we can reach an agreement immediately. We can balance the budget in seven years—and provide America's families with tax relief—without eviscerating the programs on which their economic security depends.

Sincerely,

J. JAMES EXON,
TOM DASCHLE,
BYRON L. DORGAN.

Mr. DOMENICI. Mr. President, I note that the proposed balanced budget is in the unified budget manner using the Social Security trust funds in calculating the balance.

I just want to close by saying that we can go on with these arguments as long as we want. The truth of the matter is seniors should know that, if you can get a unified balanced budget by the year 2002 which helps the American economy grow, prosper, and which brings interest rates down, it is the best thing you can do for the Social Security trust fund. That is exactly what it needs.

There is no chance of success unless the American economy is growing and prospering. For that to happen you have to balance the unified budget. If you want to say 4 years after that you will balance without the use of the funds, fine. You put that on a line and show it.

I say to my friend, Senator HOLLINGS, that we are engaged now in trying to write some language for a balanced budget constitutionally which would put it in balance in the unified way by a certain time, and under the ideas that the Senator from South Carolina has, by 4 years later to try to put that in the constitutional amendment. We are working with the Senator and others. We hope to have it done very soon, at which point when it clears with the Senator from South Carolina and others, we will be glad to give it to the leadership to see what they want to do with it.

I thank the Senator for his comments. Even though they were not all directed to agreeing with me, we are working on the same wavelength.

I yield the floor and yield any time which I may have.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. Three minutes twenty-one seconds.

Mr. DORGAN. Mr. President, let me use the remaining time.

I guess now we have heard the three stages of denial. Let me rephrase the three stages of denial.

One, there are no Social Security trust funds;

Two, if there are Social Security trust funds, we are not using them to balance the budget;

Or, three, if there are Social Security trust funds and we are using them to balance the budget, we will stop by the year 2006.

All three positions have been given us in response to our position on this floor—the three stages of denial.

I watched the debate on the floor of the House of Representatives the other night. A fellow had a chart, and he talked about the income tax burden by various groups of taxpayers. He said, you look at the folks at the bottom level here. They are not paying higher income taxes. We have not increased their income tax burden. He strutted around and talked about how wonderful that was. He did not say with his chart what had happened to those folks in the last decade with respect to payroll taxes. No, their income tax has not increased. Their payroll tax skyrocketed because this Congress increased the payroll tax, determined to want to save the payroll taxes in the trust fund and build that trust fund for the future.

That is why people are paying higher payroll taxes. In fact, this year, $71 billion more is collected in receipts in the Social Security system than will be paid out. The question is, What is that for? If there is no trust fund, what is that for? Did the Congress increase payroll taxes so they could take the most regressive form of taxation and say to people, By the way, we will use that to finance the Government? Is that what they did? That would not have gotten one vote in the House nor the Senate, even by accident.

You all know it is wrong. There is not one person in here in a silent moment who would not admit that it is wrong to increase these payroll taxes and promise workers that you are going to take their money, put it in a trust fund and save it and say, "By the way. It is either not here, or it is here and we are misusing it, or, by the way, if we are misusing it, we will stop in 2006." What on Earth kind of debate is that?

Let us decide what is wrong, and when we see what is wrong, let us fix it.

This sense-of-the-Senate resolution says there is a very serious problem. This problem is not a nickel and dime problem. It might be an inconvenience to some. But this problem is $600 billion to $700 billion in the next 7 years. This is big money. This has to do with the future of Social Security. This has to do with very important financial considerations in this Government.

My point is, let us balance the Federal budget. Yes; let us even put a requirement to do so in the Constitution. But let us not enshrine in the Constitution a provision that we ought to take money from workers in this country, promise them we will save it in a trust fund, and then misuse it by saying it becomes part of the operating revenue of this country.

I have heard all of the debate about what is wrong with what Senator HOLLINGS, I, Senator FORD, and others have said. I have not heard one piece of persuasive evidence that the payroll taxes are not being systematically misused when we promised that it would be saved in trust, and in fact they are used as an offset to other operating revenues to try to show a lower budget balance.

That is why I say to those who say that they produce a balanced budget, show us a document that shows even

VOL
142
PT
6
AP
15
—
24
1996
UMI

when they say it is in balance. It is $108 billion in deficit. But they say we will fix that because we will take the $108 billion out of Social Security and pledge to you it is in balance.

Mr. FEINGOLD. Mr. President, I am pleased to cosponsor the amendment of the Senator from North Dakota.

The failure to formally segregate the Social Security trust funds is not the only reason I oppose the balanced budget amendment to the Constitution, but it is certainly one of the reasons.

Even if there were no other reasons, the assault on Social Security is reason enough to oppose the proposed constitutional amendment.

And make no mistake, Mr. President.

The unwillingness to formally exempt it from the proposed constitutional language is nothing less than an assault on Social Security.

The opponents of this exemption want those funds, pure and simple.

Mr. President, it is unlikely that we will hear a plain statement to that effect here on the floor.

Other reasons will be provided.

But the bottom line is that the opponents of exempting Social Security in a constitutional amendment want to be able to tap into Social Security revenues for the rest of Government.

To a certain extent, we already have that.

The so-called unified budget includes the Social Security surpluses with the on-budget deficit to reduce our apparent budget deficit.

I do not single out one party; both Democrats and Republicans have used that technique.

To date, it has been a bookkeeping maneuver.

But in a few years, when the Social Security Program begins to draw on the surpluses that have built up over the past several years, the free ride will stop, and many of the favorite spending programs of the advocates of the constitutional amendment will be at risk.

Programs which have been so successful in escaping the budget scalpel, including our bloated defense budget and the billions in wasteful spending done through the Tax Code, may finally be asked to justify themselves a little more carefully.

Mr. President, it is precisely that moment that those who oppose excluding Social Security from the constitutional amendment are anticipating.

I fear that many would prefer to put Social Security on the block rather than ask these other areas to bear their fair share of reducing the deficit.

Mr. President, some may argue that current law provides adequate protection for Social Security, or that if the balanced budget amendment is ratified, Social Security can be protected as part of implementing legislation.

We should recall, though, that many of those who make that argument also maintain that mere statutory mandates are insufficient to move Congress to do what it needs to do.

They argue that only constitutional authority is sufficient to engender the will necessary to reduce the deficit.

Using the reasoning of the supporters of the balanced budget amendment, the willpower needed to resist the temptation to raid the Social Security cookie jar can only come from a constitutional mandate.

Those who oppose giving this extra, constitutional protection for Social Security often suggest that there is no practical need for the protection because Social Security will compete very well with other programs.

Let me respond to that argument with two comments.

First, Social Security should not have to compete with anything.

As many have noted, it is a separate program with a dedicated funding source, intended to be self-funding.

Second, any assessment of the political potency of any particular program must be reappraised when we enter the brave new world of the balanced budget amendment.

One prominent Governor was reported as suggesting that areas many claim are untouchable should be subject to cuts.

Specifically including Social Security in that list, this Governor worried that

> Otherwise, the states are going to bear a disproportionate share. We're the ones who are going to have to raise taxes.

And in a moment of revealing honesty, another Governor argued that Social Security must be asked to shoulder the burden of reducing the deficit.

Reports quote him as saying that to take Social Security off the table, and then impose a burden on other spending systems is not going to be acceptable.

There can be no more revealing statement of intent by many of those who oppose constitutionally separating Social Security than this statement.

Given the growing support of State-based approaches to problems—a development I applaud—as well as the resurgent influence of States on Federal policy, how can anyone confidently predict that Social Security will remain untouched while we cut programs in which States have a significant interest.

Mr. President, Social Security is fiscally and politically a special program.

Apart from the fiscal problems of not excluding Social Security, the special political nature of the program makes it worthy of protection.

Social Security is singular as a public contract between the people of the United States and their elected government.

The elected government promised that if workers and their employers paid into the Social Security fund, they would be able to draw upon that fund when they retired.

But the singular nature of Social Security, and the special regard in which it is held by the public, does not flow from some transitory nostalgia.

Social Security has provided real help for millions of seniors.

According to the Kerrey-Danforth Bipartisan Entitlement Commission, the poverty rate for senior households is about 13 percent, but without Social Security, it could increase to as much as 50 percent.

For almost half of the senior households below the poverty line, Social Security provides at least 90 percent of total income.

For those seniors, and for millions of others, the Social Security contract is very real and vitally necessary.

Anything other than partitioning Social Security off from the rest of the budget risks a breach of that public contract.

Mr. President, some may try to characterize the proposed exemption for Social Security in a possible balanced budget amendment to the Constitution as pandering to senior citizens.

With that assertion is the implication that somehow there is something wrong with older Americans who want their Social Security benefits.

But, Mr. President, I do agree with those proponents of the balanced budget amendment who argue that no one will touch the benefits of today's retirees.

Today's retirees are not at risk if the balanced budget amendment passes without exempting Social Security.

However, there are three generations that are very much at risk.

The first is my own generation—the baby boomers.

If Congress has the ability to monkey around with Social Security benefits, under cover of a constitutional mandate, I can guarantee you there will not be anything left when the baby boomer generation reaches retirement age.

There are a lot of Americans in that generation, and they also have a right to the benefits that they paid for and were told they were going to get by participating in this system.

Mr. President, a second generation is very concerned about the future of Social Security.

They are young adults in their late twenties and early thirties—the so-called Generation X.

They are skeptical of there being any Social Security system on which to rely when they retire.

They see today's retirees, and the huge group of baby boomers ahead of them, and they are concerned that the system into which they are now paying will not be around when they need it.

Mr. President, there is a third generation—the generation of my children.

They do not understand all of this debate.

But some are aware of the big Federal deficit we have.

And some are coming to realize that as they graduate from high school and go into the work force, they will be the ultimate victims of our fiscal irresponsibility if we do not protect Social Security.

For those three generations, the future health of the Social Security system is a real concern.

One of the most important results of the Kerrey-Danforth Entitlement Commission was to highlight this issue, and as I have mentioned on other occasions, I for one am willing to consider some of the proposals put forward by that commission to help ensure the long-term health of Social Security.

Mr. President, if we are ever to address the long-term solvency of Social Security in an honest way, especially in the context of a constitutional balanced budget requirement, keeping Social Security separate is vital.

Just as a Social Security system that is enmeshed in the rest of the Federal budget poses a temptation when the system is in surplus, so too will it become an enormous drain on resources if it starts to compete for general revenue.

Providing a constitutional partition will serve both to protect Social Security, and to highlight the need for long-term reform.

Mr. President, those who advocate a balanced budget amendment to our Constitution frequently argue that it is needed if we are to protect our children and grandchildren.

How ironic if in the name of helping those children and grandchildren we deny them the protection of Social Security.

We risk taking away the same rights and protections that so many of us hope to enjoy.

Mr. DORGAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment No. 3672, as modified.

Mr. SIMPSON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment of the Senator from Wyoming, as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. SMITH] is necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire [Mr. SMITH] would vote "yea."

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

The result was announced—yeas 92, nays 6, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—92

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Pressler
Pryor
Reid
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thomas
Thurmond
Warner
Wellstone
Wyden

NAYS—6

Bradley
Hatfield
Nunn
Pell
Robb
Thompson

NOT VOTING—2

Heflin
Smith

So, the amendment (No. 3672), as modified, was agreed to.

Mr. DOLE. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3667, AS MODIFIED

The PRESIDING OFFICER. The business is now amendment No. 3667.

Mr. DORGAN. Mr. President, I ask for the yeas and nays.

Mr. DOLE. Mr. President, I make a motion to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Dorgan amendment No. 3667, as modified. The yeas and nays have been ordered. The clerk will call the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. SMITH] is necessarily absent.

The PRESIDING OFFICER (Mr. BROWN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 82 Leg.]

YEAS—57

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Pressler
Robb
Rockefeller
Roth
Santorum
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—42

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Sarbanes
Wellstone
Wyden

NOT VOTING—1

Smith

The motion to lay on the table the amendment (No. 3667), as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. SIMPSON. Mr. President, I have a unanimous-consent request, Mr. President.

I have 10 unanimous-consent requests for committees to meet during today's session of the Senate. They all have the approval of the Democratic leader. I ask that these requests be agreed to, en bloc, and that each request be printed in the RECORD.

Mr. KENNEDY. Reserving the right to object, Mr. President. We have done this a number of times now. This changes the process and procedure where we had the opportunity, if consent was going to be asked for, to object to when the Senate was going to be considering business. Now we are in the situation where at the end of the day, we ask unanimous consent that they would have sat during the course of the day.

I understand now that this was in order for earlier today. But I want to make it very clear that I raised this at an earlier time. If the Senate does not get the clearance, the chairmen pay the bills. That is a good order for why we require this to be done beforehand, whether it is our side or their side. I

VOL 142 PT 6 AP 15 — 24 1996 UMI

just want to make sure. We are dealing with a lot of very important legislation as we are going on. I have not objected to committee meetings. But I want to make it very clear that we are going to preserve that institutional right where overriding other ones that will be addressed as well. But we are not going to get into a situation where we are clearing at the end of the day, whether it is on our side or theirs.

I will not object at this time. I want to make it very clear that the next time it comes across, I reserve that right to object.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3734 TO AMENDMENT NO. 3725

(Purpose: To provide for an increase in the minimum wage rate)

Mr. KENNEDY. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 3734.

At the appropriate place add the following:

SEC. . INCREASE IN THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 4, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;".

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order and that I be able to withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right.

Mr. KENNEDY. Mr. President, there had been an understanding which I had not been aware of by the two leaders on the particular matters which they had intended to address. To comply with their agreement, I withdraw that amendment at this time. But we want to indicate to all of the Members that if there is not an opening that presents itself, this Senator intends to press forward with that measure. Obviously, I will comply with any of the agreements that are made by our leaders.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Democratic leader.

Mr. DASCHLE. Mr. President, let me reiterate the desire addressed just now by the senior Senator from Massachusetts.. I had indicated to the majority leader that it was not our desire tonight to bring up minimum wage in an effort to expedite some of these other immigration-related amendments. We have that understanding.

It may be that we do not have a colleague here tonight to offer the amendments that I anticipated at least on our side. But that was my intention.

I want to emphasize, as well, what the Senator from Massachusetts has said so ably. It is our desire to continue to press for a minimum wage amendment and a vote. We will not do it tonight—not under these circumstances. But it is our desire to continue to find a way with which to get an up-or-down vote. We want it sooner rather than later. Let us hope we can do it sometime very soon. But with the understanding that I had with the majority leader, tonight we certainly want to accommodate our colleagues providing an opportunity to offer other amendments. We are prepared to do that tonight.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I appreciate those remarks by the distinguished Democratic leader. I did understand that agreement had been reached with the leader. I appreciate the minority leader coming back out and clarifying the situation—that we would go forward with some amendments tonight related to the immigration bill which is pending. I think we have at least one Senator who is ready to offer an amendment, and maybe others that relate to the immigration bill. So we are prepared to go forward.

Mr. KYL addressed the Chair.

Mr. SIMPSON. Mr. President, let me assure colleagues, too, as Senator KENNEDY has assured, that there will be no amendment with regard to minimum wage, there will be no amendment tonight of mine with regard to the issue of numbers and legal immigration as expressed by the majority commission. The issue will come up tomorrow. But if we can take amendments tonight while there are still some of us here, we are prepared to do that. I know the Senator from Massachusetts has another obligation. But perhaps Senator Kyl could deal with his amendment, I believe on immunization.

Is this correct?

Mr. KYL. Yes.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3735 TO AMENDMENT NO. 3725

Mr. KYL. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 3735 to amendment numbered 3725.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following: Notwithstanding any other provision in this act, section 154 shall read as follows:

SEC. 154. PHYSICAL AND MENTAL EXAMINATIONS.

Section 234 (8 U.S.C. 1224) is amended to read as follows;

"PHYSICAL AND MENTAL EXAMINATIONS

"SEC. 34. (a) ALIENS COVERED.—Each alien within any of the following classes of aliens who is seeking entry into the United States shall undergo a physical and mental examination in accordance with this section:

"(1) Aliens applying for visas for admission to the United States for permanent residence.

"(2) Aliens seeking admission to the United States for permanent residence for whom examinations were not made under paragraph (1).

"(3) Aliens within the United States seeking adjustment of status under section 245 to that of aliens lawfully admitted to the United States for permanent residence.

"(4) Alien crewmen entering or in transit across the United States.

"(b) DESCRIPTION OF EXAMINATION.—(1) Each examination required by subsection (a) shall include—

"(A) an examination of the alien for any physical or mental defect or disease and a certification of medical findings made in accordance with subsection (d); and

"(B) an assessment of the vaccination record of the alien in accordance with subsection (e).

"(2) The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to carry out the medical examinations required by subsection (a).

"(c) MEDICAL EXAMINERS.—

"(1) MEDICAL OFFICERS.—(A) Except as provided in paragraphs (2) and (3), examinations under this section shall be conducted by medical officers of the United States Public Health Services.

"(B) Medical officers of the United States Public Health Service who have had specialized training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at such ports of entry as the Secretary may designate, in consultation with the Attorney General.

"(2) CIVIL SURGEONS.—(A) Whenever medical officers of the United States Public Health Service are not available to perform examinations under this section, the Attorney General, in consultation with the Secretary, shall designate civil surgeons to perform the examinations.

"(B) Each civil surgeon designated under subparagraph (A) shall—

"(i) have at least 4 years of professional experience unless the Secretary determines that special or extenuating circumstances justify the designation of an individual having a lesser amount of professional experience; and

"(ii) satisfy such other eligibility requirements as the Secretary may prescribe.

"(3) PANEL PHYSICIANS.—In the case of examinations under this section abroad, the medical examiner shall be a panel physician designated by the Secretary of State, in consultation with the Secretary.

"(d) CERTIFICATION OF MEDICAL FINDINGS.—The medical examiners shall certify for the information of immigration officers and special inquiry officers, or consular officers, as the case may be, any physical or mental defect or disease observed by such examiners in any such alien.

"(e) VACCINATION ASSESSMENT.—(1) The assessment referred to in subsection (b)(1)(B) is an assessment of the alien's record of required vaccines for preventable diseases, including mumps, measles, rubella, polio, tetanus, diphtheria toxoids, pertussis, hemophilus-influenza type B, hepatitis type B, as well as any other diseases specified as vaccine-preventable by the Advisory Committee on Immunization Practices.

"(2) Medical examiners shall educate aliens on the importance of immunizations and shall create an immunization record for the alien at the time of examination.

"(3)(A) Each alien who has not been vaccinated against measles, and each alien under the age of 5 years who has not been vaccinated against polio, must receive such vaccination, unless waived by the Secretary, and must receive any other vaccination determined necessary by the Secretary prior to arrival in the United States.

"(B) Aliens who have not received the entire series of vaccinations prescribed in paragraph (1) (other than measles) shall return to a designated civil surgeon within 30 days of arrival in the United States, or within 30 days of adjustment of status, for the remainder of the vaccinations.

"(f) APPEAL OF MEDICAL EXAMINATION FINDINGS.—Any alien determined to have a health-related grounds of exclusion under paragraph (1) of section 212(a) may appeal that determination to a board of medical officers of the Public Health Service, which shall be convened by the Secretary. The alien may introduce at least one expert medical witness before the board at his or her own cost and expense.

"(g) FUNDING.—(1)(A) The Attorney General shall impose a fee upon any person applying for adjustment of status to that of an alien lawfully admitted to permanent residence under section 209, 210, 245, or 245A, and the Secretary of State shall impose a fee upon any person applying for a visa at a United States consulate abroad who is required to have a medical examination in accordance with subsection(a).

"(B) The amounts of the fees required by subparagraph (A) shall be established by the Secretary, in consultation with the Attorney General and the Secretary of State, as the case may be, and shall be set at such amounts as may be necessary to recover the full costs of establishing and administering the civil surgeon and panel physician programs, including the costs to the Service, the Department of State, and the Department of Health and Human Services for any additional expenditures associated with the administration of the fees collected.

"(2)(A) The fees imposed under paragraph (1) may be collected as separate fees or as surcharges to any other fees that may be collected in connection with an application for adjustment of status under section 209, 210, 245, or 245A, for a visa, or for a waiver of excludability under paragraph (1) or (2) of section 212(g), as the case may be.

"(B) The provisions of the Act of August 18, 1856 (Revised Statutes 1726–28, 22 U.S.C. 4212–14), concerning accounting for consular fees, shall not apply to fees collected by the Secretary of State under this section.

"(3)(A) There is established on the books of the Treasury of the United States a separate account which shall be known as the 'Medical Examinations Fee Account'.

"(B) There shall be deposited as offsetting receipts into the Medical Examinations Fee Account all fees collected under paragraph (1), to remain available until expended.

"(C) Amounts in the Medical Examinations Fee Account shall be available only to reimburse any appropriation currently available for the programs established by thia section.

"(h) DEFINITIONS.—As used in this section—

"(1) the term 'medical examiner' refers to a medical officer, civil surgeon, or panel physician, as described in subsection (c); and

"(2) the term 'Secretary' means the Secretary of Health and Human Services.".

Mr. KYL. Mr. President, this is an amendment which we offered in the subcommittee which Senator KENNEDY and I worked on, and I believe that we have reached an agreement on this matter of immunization.

I note that I have two other amendments. But I think Senator KENNEDY would have an interest in both of them. So if he is going to have to leave, I will defer offering those amendments until he has an opportunity to be here.

Might I inquire of Senator KENNEDY? After we do the immunization amendment, it is my intention to offer two other amendments. But I believe the Senator from Massachusetts would have an interest in both of them. Would he prefer that we offer those tomorrow?

Mr. KENNEDY. The Senator is very kind. I was going to be absent for a short while. Senator SIMON is coming, and then I was coming back at 8:30 so we can continue through it. I think we have worked this out.

I appreciate the cooperative efforts of the Senator from Arizona. These are issues involving immunization, legitimacy of immunization, and public health matters related thereto. We have worked out those measures.

I think really the problem was because of lack of proper immunization, and we wanted to address that particular question. We have worked out an accommodation on that program. We are hopeful that we would get acceptance of this amendment, but if the Senator wanted to proceed, I believe, on the others, if I could just go over them, review them quickly, I will be in touch.

Mr. KYL. I will be very brief in describing this amendment, and we can lay it aside.

The next one that I would propose to offer relates to public housing and the qualification for being able to receive public housing. That one there may be some difference of opinion on because the Department of Housing and Urban Development agrees with all of the amendment except they would prefer a 6-month rather than 3-month qualification period. My amendment tracks the House of Representatives, specifically the amendment which was adopted there as part of the managers' amendment and provided for a 3-month qualification period.

Perhaps, as I am describing in more detail the immunization amendment, the Senator or his staff would determine how they want to proceed.

Very briefly, this immunization amendment, which was tentatively approved in the Immigration Subcommittee, simply requires that an individual applying for permanent residency status must be immunized for vaccine-preventable diseases.

To give you an idea of what it would require, before a visa is approved, an individual applying for permanent residency status must receive a vaccination assessment or be vaccinated against measles and polio for those under 5 years of age and any other vaccination determined necessary by Health and Human Services before they arrive in the United States.

Aliens who have not received the entire series of vaccinations as recommended by the Advisory Committee on Immunization Practices—and this includes a list of about 10 different particular diseases—would be required to return within 30 days of entry to the United States to a civil surgeon to receive these vaccinations. Mumps is actually required before entry into the United States.

To recover costs of establishing and administering the civil surgeon and panel physician programs, the Attorney General would be required to impose a fee on aliens applying for permanent resident status.

Currently, when any of the approximately 800,000 legal immigrants arrive annually in the United States, they are not required to be immunized against vaccine-preventable diseases. This amendment will help ensure that immigrants receive the recommended immunizations.

It should not present a financial difficulty for the immigrant. The estimated cost for all childhood vaccines is estimated to be $248.

The Department of Health and Human Services has made immunization of the U.S. population a top priority and by the year 2000 hopes to eradicate or reduce infinitely vaccine-preventable diseases.

So, Mr. President, this amendment is needed to prevent the spread of these diseases. I believe it has the support of everyone.

Unless there is further discussion on this, I would inquire of the Senator from Wyoming what procedure he would like to follow with respect to moving on to additional amendments and call for votes since I doubt that this would need a vote.

Mr. SIMPSON. Mr. President, it would be a wonderful opportunity to do

VOL
142
PT
6
AP
15
—
24
1996
UMI

something, but I will not. Senator KENNEDY is absent from the Chamber.

I understand that Senator SIMON will be here to deal with the issues that might arise if we can do some further business. But I believe, if I heard what transpired, we might adopt the amendment, and we will then have a quorum call until a Member of the Democratic Party is here.

Mr. KYL. I thank the Senator.

Mr. President I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. KYL. I will not call for the yeas and nays.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3735) was agreed to.

Mr. SIMPSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent to speak as in morning business for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Kansas is recognized.

THE APPROPRIATIONS PROCESS WORKS

Mr. DOLE. Mr. President, late this afternoon the conference committee on the five major appropriations bills had a breakthrough and reached an agreement. I want to reinforce what has been said by other Members of leadership and by Chairman HATFIELD, Chairman LIVINGSTON on the House side, and their Democratic counterparts.

In my view, after a long, long difficult process, I believe we have a package that can be supported by hopefully nearly everybody on both sides of the aisle. Some will complain the cuts are not deep enough. Others are going to complain the cuts go too far. But I believe that in the final analysis we will save about $23 billion over the last fiscal year through the appropriations process. That is very significant. That is a lot of money.

That is an indication that the appropriations process has worked and we can make reductions, the Government can continue even though we make reductions. Many of us hoped we could do better.

There are also a number of environmental issues that were resolved to the satisfaction, I believe, of most everyone in the conference. Some will be raised again on subsequent appropriations bills. But I wanted to take a moment to thank all those who were involved in the negotiations and all those who were willing to give and take so that this matter could be resolved and get it behind us.

It is time to move on to 1997 appropriations. We look forward to that. We hope we can pass all the appropriations bills by August 1 of this year. So keep in mind, we will take this up tomorrow. The House will act first. We hope to dispose of it before we go out tomorrow evening. We need to dispose of it before we go out tomorrow evening. But the bottom line is, according to those who have been keeping track of the numbers, we will save $23 billion this fiscal year because of the appropriators and the appropriations process and their good work.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with consideration of the bill.

AMENDMENT NO. 3737 TO AMENDMENT NO. 3725

(Purpose: To establish grounds for deportation for offenses of domestic violence, stalking, crimes against children, and crimes of sexual violence without regard to the length of sentence imposed)

Mr. COVERDELL. Mr. President, I send a second-degree amendment to the pending amendment to the desk on behalf of the majority leader and myself.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. COVERDELL], Mr. DOLE, for himself and Mr. COVERDELL, proposes an amendment numbered 3737 to amendment 3725.

Mr. COVERDELL. Mr. President, I ask unanimous-consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, insert the following:

SEC. . EXCLUSION GROUNDS FOR OFFENSES OF DOMESTIC VIOLENCE, STALKING, CRIMES AGAINST CHILDREN, AND CRIMES OF SEXUAL VIOLENCE.

(a) IN GENERAL.—Section 241(a)(2) (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following:

"(E) DOMESTIC VIOLENCE, VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND STALKING.—(i) Any alien who at any time after entry is convicted of a crime of domestic violence is deportable.

"(ii) Any alien who at any time after entry engages in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable.

"(iii) Any alien who at any time after entry is convicted of a crime of stalking is deportable.

"(iv) Any alien who at any time after entry is convicted of a crime of child abuse, child sexual abuse, child neglect, or child abandonment is deportable.

"(F) CRIMES OF SEXUAL VIOLENCE.—Any alien who at any time after entry is convicted of a crime of rape, aggravated sodomy, aggravated sexual abuse, sexual abuse, abusive sexual contact, or other crime of sexual violence is deportable.".

(b) DEFINITIONS.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

"(47) The term 'crime of domestic' means any felony or misdemeanor crime of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

"(48) The term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(c) This section will become effective one day after the date of enactment of the Act.

Mr. COVERDELL. Mr. President, aliens are deportable for criminal offenses under section 241(a)(2) under four broad headings: General crime, controlled substances, certain firearm offenses, and miscellaneous crimes. This proposed amendment to S. 1664 creates two new headings: Domestic violence, violation of a protection order, crimes against children, and stalking. The other heading, crimes of sexual violence.

We are adding as offenses for grounds for deportation, the following offenses: Conviction of a crime of domestic violence; violation of a judicial protection order in a domestic violence context; conviction for stalking; conviction for child abuse, child sexual abuse, child negligence, or child abandonment; conviction of rape, aggravated sodomy, aggravated sexual abuse, sexual abuse, abusive sexual contact, or other crimes of sexual violence.

Mr. President, while some of these offenses may be deportable under existing headings of crimes of moral turpitude or aggravated felony, they are not necessarily covered. Uniformity is also a problem. Whether a crime is one of

moral turpitude is a question of State law and thus varies from State to State. An offense may be deportable in one State and not deportable in another. Misdemeanor offenses would not be covered under existing law.

Mr. President, under our amendment, stalkers would be deportable on their first offense. The second offense may be too late for their victims, who could well be injured or dead as a result.

Mr. President, it is estimated that over 200,000 women are stalked each year in the United States. Approximately 5 percent of all women will be stalked at some time in their lives. Investigations by State child protective service agencies in 48 States determined that 1.12 million children were victims of child abuse and negligence in 1994. This represents a 27 percent increase since 1990 when approximately 800,000 children were found to be victims of maltreatment.

Among the children, Mr. President, for whom maltreatment was substantiated or indicated in 1994, 53 percent suffered negligence, 26 percent physical abuse, 14 percent sexual abuse, 5 percent emotional abuse, and 3 percent medical negligence.

Mr. President, this is a good amendment. Mr. President, this will protect women and children in our society. As I said, it will have a very positive affect on the ability to deport an alien involved with these offenses that we are adding through these two new headings.

I yield the floor.

Mr. DOLE. Mr. President, under Title 8 of the U.S. Code, a number of criminal offenses are deemed deportable offenses. However, although aliens are deportable for criminal offenses, there are a number of crimes that should be grounds for deportation that are left unaddressed; and the wording of the statute itself uses vague language like crimes of moral turpitude that lack the certainty we should desire.

The amendment offered by Senator COVERDELL and myself seeks to remedy this problem by making clear that our society will not tolerate crimes against women and children. The criminal law should be a reflection of the best of our values, and it is important that we not only send a message that we will protect our citizens against these assaults, but that we back it up as well.

Under our amendment, certain criminal offenses would be grounds for deportation. These offenses include: conviction of a crime of domestic violence; violation of a judicial protection order in a domestic violence context; conviction for stalking; conviction for child abuse, child sexual abuse, child neglect, or child abandonment, and conviction of rape, aggravated sodomy, aggravated sexual abuse, sexual abuse, abusive sexual contact, or other crimes of sexual violence.

CRIMES OF DOMESTIC VIOLENCE

Adding these additional and specified categories of offenses closes the existing loopholes. Many crimes, ranging from simple assault to murder can be committed in a domestic violence context. Simple assault or assault and battery are not necessarily going to be interpreted as crimes of moral turpitude. Yet, because they may not otherwise fall within the other definitions—such as an aggravated felony—of deportable offenses, an alien convicted of such a crime might not be deported.

Our amendment would cover all convictions for domestic violence offenses, including those for which a sentence of less than 1 year is available.

VIOLATION OF A PROTECTIVE ORDER

In many States, protective orders in domestic violence situations have been ineffective due to problems with enforceability and insufficient penalties for violations. This is undoubtedly one reason all 50 States have passed anti-stalking legislation.

Greater attention to the problem has influenced a number of States to make violation of a protective order a separate criminal offense. However, making violation of a protective order a grounds for deportation will put more teeth into such an order.

The amendment does not require a conviction of violating protection order and thus would cover violations even in States where violating an order is not a separate criminal offense. This is an important loophole that must be closed.

STALKING

It is long past time to stop the vicious act of stalking in our country. We cannot prevent in every case the often justified fear that too often haunts our citizens. But we can make sure that any alien that commits such an act we no longer remain within our borders.

It is estimated that over 200,000 women are stalked each year in the United States. Approximately 5 percent of all women will be stalked at some point in their lives. Stalking behavior often leads to violence which may result in the serious injury or death of stalking victims.

Stalkers often repeat their stalking behavior and escalate to violence. Of all the women killed in the United States by husbands or boyfriends, 90 percent were stalked before being murdered.

But since stalking laws are fairly new, they may not be defined as crimes of moral turpitude in many States—they thus may not be covered by existing law. Similarly, in many States, the maximum penalty for stalking is less than 1 year—which strikes me as far too little—and therefore an alien may be convicted of a stalking offense and yet not be deported.

We can't wait for stalkers to strike a second time. Let's deport them the first time.

Mr. President, we face the same kinds of problems with existing law when we confront other crimes against women and children. While some of these offenses may be deportable under the existing headings of crimes of moral turpitude or aggravated felony, they are not necessarily and always covered. They should be.

Uniformity is also a problem. Whether a crime is one of moral turpitude is a question of State law and thus varies from State to State. An offense may be deportable in one State and not deportable in another.

Mr. President, America already bears a horrendous burden when it comes to the level of violence among our citizens. It is not asking too much that we insist that we treat crimes against women and children as seriously as we do other offenses. Nor should we have to wait for that last violent act. When someone is an alien and has already shown a predisposition toward violence against women and children, we should get rid of them the first time. We owe that much to our citizens.

Mr. SIMON. Mr. President, I was just shown this amendment a few minutes ago by Senator COVERDELL and Senator DOLE. I have every reason to believe that we can work out, if not this specific language, some modification to do this. I commend my colleague from Georgia for the amendment.

I ask, and we have an understanding on this, I ask unanimous consent that it be set aside until tomorrow.

Mr. COVERDELL. Mr. President, I also acknowledge that the Senator from Illinois has only had a brief moment to scan the outline of the amendment. We understand that and have agreed to set it aside so there is a more appropriate period of time for his side to view the contents of the amendment.

The PRESIDING OFFICER. The amendment is laid aside.

MORNING BUSINESS

Mr. SIMPSON. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

YANKEE FOUNDATION

Mr. PRESSLER. Mr. President, on April 10, 1996, the New York Yankees baseball organization held its annual homecoming dinner. This year's dinner raised money for the Yankee Foundation, and paid special tribute to one of the Yankees' and indeed one of pro baseball's great players, the late Mickey Mantle. Former and current Yankees along with their friends and family will be on hand.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The Yankee Foundation raises money for youth programs and youth organizations throughout the Greater New York City area. The Yankees' principal owner George Steinbrenner presented the traditional "Pride of the Yankees" award to Mr. James M. Benson, president and chief operating officer of the Equitable Life Insurance Society. Mr. Benson received this honor for his tireless work on behalf of the numerous philanthropic causes the Yankees are involved in.

Mr. William Denis Fugazy of Fugazy International also deserves mention. I know Bill Fugazy. He has been the general chairman of this dinner since its inception. Through Bill Fugazy's leadership, many young people have been given a chance to participate in some of the youth programs supported by the Yankees. The opportunity to participate in these programs helps young people develop skills which they can carry with them always. It is good to see sports franchises like the New York Yankees offer their communities more than just baseball games, and associate themselves with quality people like Bill Fugazy.

This year's dinner also honored the late great Mickey Mantle. All of us know of his well chronicled, storied career. Many of us followed his achievements on the field when we were kids. From his exciting rookie year through his triple crown, and MVP years, all of the World Series in which he participated, to his election to the Baseball Hall of Fame, Mantle provided many exciting memories for young and old fans alike. Few would disagree that he will remain the Pride of the Yankees, and all of baseball.

THE ARMENIAN GENOCIDE

Mr. BIDEN. Mr. President, I rise to pay tribute to the victims of the Armenian genocide, the first such crime against a people in the 20th century.

On April 24, 1915, 81 years ago today, the Ottoman Turkish Empire began the systematic rounding up and slaughter of Armenian intellectuals, clergy, businessmen, and other leaders of the community. Ultimately the horror claimed 1½ million lives and resulted in the exile of Armenians from much of their historic homeland in Asia Minor.

I like to think that some good can come from even the most horrifying evil. In this case a large segment of the Armenian diaspora, banished from its ancestral home, reached these shores. They and their descendents have immeasurably enriched the United States of America. In remembering the martyrdom of their fellow Armenians eight decades ago, we are also paying tribute to Armenian-Americans—to their patriotism, and to their many contributions to this land of freedom.

Mr. President, unfortunately there are some who would trivialize the Armenian genocide or even attempt to deny that it ever took place, just as there remain a twisted few who continue to deny the Holocaust that claimed 6 million Jews.

But, Mr. President, there is no denying the undeniable. The Armenians in the Ottoman Empire were not murdered because they were talented businessmen. They were not butchered because their community produced outstanding intellectuals. They were not slaughtered for any socioeconomic reason, however perverted. No, the Armenians were murdered because they were Armenians. This Mr. President, was genocide.

Unfortunately, genocide is a recurring fact of the 20th century. Fifteen years after the Armenian genocide occurred, Stalin began his insane collectivization that decimated the Ukrainian people.

I have already mentioned the Nazis' extermination of 6 million Jews in the Holocaust.

The 1970's witnessed Cambodia's killing fields where a significant proportion of the Khmer people perished.

The 1990's have seen the mass murder of Tutsis in Rwanda and the unspeakable horrors perpetrated upon Bosnian Muslims, cynically given the euphemism, ethnic cleansing.

Mr. President, we must endeavor to ensure that these vile deeds are never repeated yet another time. The first step in that process is to ensure that the memory of genocide is kept alive so that the truth will prevail over the purveyors of historical lies. The Holocaust memorial Museum here in Washington is serving a vital function in that regard.

Similarly, the proposed Armenian Genocide Memorial Museum of America promises to be an important vehicle for preserving and disseminating the truth.

On this solemn day of remembrance, I join millions of other Americans in commemorating the martyrdom of the Armenians and praying that their eternal sacrifice shall not have been in vain.

"LEGISLATING THE REVOLUTION"—HISTORY OF THE 104TH CONGRESS' FIRST 100 DAYS

Mr. PRESSLER. Mr. President, having written two books myself, I appreciate the great time and energy involved in preparing, researching, and writing a book, especially one recounting a complex series of historical events. As an enthusiast and lifelong student of history, I am pleased to bring to my colleagues' attention "Legislating the Revolution," by James G. Gimpel. Jim is a native of western South Dakota. His thorough recounting of the Contract With America during the first 100 days of this Congress so impressed me that I hope my colleagues will take the opportunity to read it.

The book is fair, factual, and comprehensive. Appealing to a spectrum of readers ranging from the social scientist to the concerned citizen, Jim's book already is being used in college classrooms across the country as a resource and reference book. After countless interviews with Members of Congress, congressional staff, interest group representatives, pollsters and party leadership, the product is a detailed, thoughtful chronological record of the events which shaped the so-called Contract With America. The book examines the many individuals who, behind the scenes, created the Contract itself and the campaign that played such a significant part in the Republican takeover of Congress in November 1994. The first 100 days of the 104th Congress may have been history in the making, but the period prior to the Contract With America was a new and equally historic era. Republicans had not controlled both Houses of Congress simultaneously for more than 40 years. The late House Speaker Tip O'Neil coined the famous phrase, "All politics is local." The Contract With America challenged that notion by nationalizing the congressional elections and unifying the Republican Party around common goals.

Jim Gimpel's examination of Republican and Democratic National Committee fundraising and campaigning, party and committee leadership, Southern Democratic influence and the mass electoral revolution, presents readers with a cornucopia of information and an understanding of the historic scope of the 1994 Congressional Revolution. He offers an overview of the efforts to pass the Contract in Congress, examining voting records and providing political analysis. The detailed accounts of the voting and the behind-the-scenes efforts made on both sides of the aisle paint a dramatic picture of the grueling give-and-take that produced unprecedented legislation. Through a series of theory testing, graphical representation, voting distributions, and the Perot factor, Gimpel thoroughly explains the background and the planks of the Contract With America, and forecasts the implications of these efforts on future elections and legislation.

Although Jim Gimpel covers each plank in the Contract with America, I would like to highlight several areas of personal interest, first, the Fiscal Responsibility Act and second, the Personal Responsibility Act. Jim's analysis of the balanced budget amendment and term limits—the Fiscal Responsibility Act—was outstanding. Jim offers a truly compelling and easy to grasp explanation of the importance of a balanced budget for the United States. As more and more Americans are beginning to realize, if the Federal

Government continues to spend beyond our means, more and more of our taxes must finance debt repayment, instead of important programs such as agriculture, education, Social Security, and veterans programs. Jim brings this vital point home clearly and effectively.

He is equally clear and effective in his coverage of the welfare reform debate. As we all know, the original intent of the welfare system was to provide a simple safety net for the needy. The reality is the opposite: The current system acts as a harness holding down the recipients from taking personal responsibility for their own lives. Jim's tracking of the history, legislation, debates, and votes that produced the House welfare reform bill—Personal Responsibility Act—is precise and accurate. I know my constituents would find this chapter of particular interest, if not shocking. South Dakotans work hard every day to provide for their families without Government assistance. They pride themselves on hard work, but as the book points out, the failed welfare system promotes costly dependency. Jim offers more than just a legislative history of this sensitive issue. He demonstrates the basic social need that requires Congress to act on this problem.

The importance of history cannot adequately be underscored. History—the understanding of history—is our map of not only our past, but also our future. "Legislating the Revolution" is a compelling map of an exciting past and an extraordinary future for policymakers and voters. It is a must read for every American.

ARMENIAN GENOCIDE

Mr. PRESSLER. Mr. President, today, I join with many of our colleagues in commemorating the 81st anniversary of the Armenian genocide. Today marks the exact day when 200 of the Armenia's academic, political, and religious leaders were taken from the city of Istanbul in 1915. The ability of Armenians to free themselves from the Ottoman Empire rested heavily on the plans and ideas of those who vanished. It was an ominous beginning to one of this century's darkest tragedies. This Senate should recognize and all Americans should remember, what occurred over there 81 years ago. That is why I stand here with my colleagues to urge an accurate remembrance of the past, of those who were slain by the Ottoman Turks, and plead that such hateful crimes against humanity never happen again. We stand in honor of those who were unable to take a stand 81 years ago today. We must try to heal the wounds of the past by remembering and recording the historical truths.

The Ottoman Empire's actions—deliberate, planned, and deceitful actions—against the Armenian people should be remembered for what it actually was—genocide. The Armenian genocide was a hateful act whose objective was focused on the systematic annihilation of a people, their heritage, their culture, their identity, and their future. It is unfortunate that in recent years historians and politicians alike have tried to soften the terms used to describe this heinous crime against humanity. What occurred involves deportation, slavery, the loss of basic human rights, and wholesale murder—all targeted deliberately and methodically against one ethnic group. The record is clear. Genocide is genocide. To shy away from recognizing the Armenian genocide is to ignore and deny the historic truth, and that would put at risk the harsh lessons that must be learned if we are to avoid repeating that tragic history. The Armenians remember, but all must recognize and embrace the past, painful as it may be. It is said that the bitter pills of the past are the better tonics of a brighter future.

About 600,000 Americans who consider themselves to be Armenians live in the United States. Many are survivors of the genocide, or are the children of survivors. About 1.5 million Armenians were killed or died during the mass deportation which began in 1915 and continued for many years. Two-thirds of all Armenians in Turkey were killed. In the region of Anatolia and western Armenia, the entire community of Armenians was extinguished or deported.

It has been 81 years since that awful tragedy. Turkey has not apologized to the Armenians. That is unfortunate.

Armenians are a strong, resilient people, struggling to heal the wounds of the past. But the wounds cannot be sealed until the story is complete. Until the Armenian genocide is officially acknowledged, the wounds will remain unhealed and the lessons will not be firmly learned. We do not deny the brutal nature of the Holocaust to the Jewish-American community. We are coming to grips with the severe violence against the people of Bosnia. We should not deny the Armenian people a similar place in history. To do so would dishonor ourselves, and spoil accurate understanding of the past. It is in the best interest of the American people and the entire global community to remember the past accurately. That is why we commemorate and honor those who were affected by the Armenian genocide.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, April 23, 1996, the Federal debt stood at $5,106,372,425,943.99.

On a per capita basis, every man, woman, and child in America owes $19,291.37 as his or her share of that debt.

81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. DOLE. Mr. President, today marks the 81st anniversary of the Armenian Genocide. As Armenians gather worldwide today to commemorate the anniversary, I rise to pay tribute to the victims of this tragedy. Although some still refuse to recognize historical fact, there should be no doubt that the Armenian people suffered the first genocide of the modern age.

As many of my colleagues know, between the years 1915–23, 1.5 million Armenians were subjected to systematic extermination through a policy of deportation, torture, starvation, and massacre. At the time, the world recognized that the Ottoman Empire had committed a crime against humanity, though the term "genocide" would not be coined until years later. The United States condemned the brutal treatment of the Armenians. The United States rendered humanitarian assistance to many of the survivors in the largest relief effort every organized by this country. Yet even with all the facts that we have before us, most of which have been compiled by U.S. sources, some still refuse to acknowledge that there was a genocide.

Most of us are willing to look history in the eye and see the danger of closing our eyes and hearts to the truth of the tragedy which took place. We will not cease in our efforts to remember what happened. This year, along with 25 of my colleagues, I signed a bipartisan letter urging the President to use the word "genocide" in his statement commemorating the anniversary. Mr. President, while nearly every other nation recognizes the Genocide, one nation still insists that the Genocide never happened—the Government of Turkey. As I have stated in the past, no responsibility for the history of the Genocide rests with either the Turkish people or their modern-day government. The Ottoman Empire, which committed the Genocide against the Armenians, has not existed since October 19, 1923. As Operation Desert Storm again demonstrated, Turkey is an important friend and partner to the United States, and we highly value our friendship with the Turkish Government and people. That friendship would not suffer from, and in fact, would be strengthened, by recognizing the fact of the Armenian Genocide.

At a time when the world is beset by problems, including acts of genocide, the United States cannot fail to send a unified message. Only by issuing a clear statement on genocide can the United States convey to the world our Nation's resolve and determination to prevent such crimes from recurring. We cannot allow history to dictate the future, but neither can we forget history nor turn our backs on the truth. On this 81st anniversary of the Armenian Genocide, let all of us as Americans,

VOL
142
PT
6
AP
15
—
24
1996
UMI

even as we remember the tragic events of the past, rededicate ourselves to making sure it never happens again. Finally, I would add that President Clinton has just issued his statement commemorating the anniversary of the Genocide. It is unfortunate that unlike his statement in 1992, this year's statement does not use the historically correct word of "genocide" to describe what happened to the Armenian people from 1915 to 1923.

Mr. President, I ask unanimous consent that our letter to the President be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, April 23, 1996.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: This year marks the 81st anniversary of the Armenian Genocide. Armenian-Americans throughout the United States and the world will be commemorating this event on April 24th.

As you know, the Armenian people of the Ottoman Empire were subjected to a ruthless, systematic and well-organized policy of deportation, confiscation of property, slave labor, denial of basic rights and, ultimately, murder. It is estimated that a million and a half Armenians eventually perished. The world recognized at the time that a crime against humanity had been committed. The United States condemned the brutal treatment of the Armenians and rendered humanitarian assistance to many of the survivors in the largest relief effort ever organized by this country.

This year, in a bi-partisan initiative, members of Congress will again call on you to reaffirm the Armenian Genocide as a crime against humanity. We believe there is a difference between using the word "massacres", rather than the word "genocide", to describe the systematic annihilation of 1.5 million Armenians. This is a distinction between a random series of atrocities and a methodical, ethnically-based policy of extermination. The historical record—much of it compiled from American sources—clearly indicates that the latter description reflects the truth.

Mr. President, the survivors and their descendants, who now number one million Americans, have not forgotten the Armenian Genocide. We again ask you to issue a clear and unambiguous statement reaffirming the Armenian Genocide as a crime against humanity.

At a time when the world is beset by problems, including acts of genocide, the United States cannot fail to send a unified message that can prevent future acts of inhumanity. Only by issuing such a statement can the United States convey to the world our nation's resolve and determination to prevent such crimes from recurring.

Sincerely,

Bob Dole, Olympia Snowe, Nancy Landon Kassebaum, Larry Pressler, Chuck Robb, Mike DeWine, Jesse Helms, Alfonse D'Amato, John Ashcroft, Frank R. Lautenberg, Joe Lieberman, Ted Kennedy, Daniel Patrick Moynihan, Barbara Boxer, John F. Kerry, Claiborne Pell, Carl Levin, —— ——, Mark O. Hatfield, Bill Bradley, Spencer Abraham, Herbert Kohl, Dianne Feinstein, Paul Sarbanes, Carol Moseley-Braun, John Glenn.

MESSAGES FROM THE HOUSE

At 12:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1772. An act to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex.

H.R. 1836. An act to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, New York, for inclusion in the Amagansett National Wildlife Refuge.

H.R. 1965. An act to reauthorize the Coastal Zone Management Act of 1972, and for other purposes.

H.R. 2024. An act to phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and certain other batteries, and for other purpose.

H.R. 2160. An act to authorize appropriations to carry out the Interjurisdictional Fisheries Act of 1986 and the Anadromous Fish Conservation Act.

H.R. 2660. An act to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge.

H.R. 2679. An act to revise the boundary of the North Platte National Wildlife Refuge.

H.R. 3049. An act to amend section 1505 of the Higher Education Amendment of 1986 to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

H.R. 3055. An act to amend section 326 of the Higher Education Act of 1965 to permit continued participation by Historically Black Graduate Professional Schools in the grant program authorized by that section.

ENROLLED BILL SIGNED

The following enrolled bill was signed by the President pro tempore [Mr. THURMOND].

S. 735. An act to deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes.

At 12:36 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate.

H.J. Res. 175. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 55. Concurrent resolution to correct the enrollment of the bill S. 735, to prevent and punish acts of terrorism, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

At 6 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 175. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1772. An act to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex; to the Committee on Environment and Public Works.

H.R. 1965. An act to reauthorize the Coastal Zone Management Act of 1972, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2660. An act to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge; to the Committee on Environment and Public Works.

H.R. 2679. An act to revise the boundary of the North Platte National Wildlife Refuge; to the Committee on Environment and Public Works.

H.R. 3049. An act to amend section 1505 of the Higher Education Act of 1965 to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development; to the Committee on Labor and Human Resources.

MEASURE PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 1836. An act to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, New York, for inclusion in the Amagansett National Wildlife Refuge.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 2937. An act for the reimbursement of attorney fees and costs incurred by former employees of the White House Travel Office with respect to the termination of their employment in that Office on May 19, 1993.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on April 24, 1996, he had presented to the President of the United States, the following enrolled bill.

S. 735. An act to deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2295. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Review of

the Financial and Administrative Activities of the Boxing and Wrestling Commission for Fiscal Year 1995"; to the Committee on Governmental Affairs.

EC-2296. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the report entitled "Final Allocations of the District of Columbia's Fiscal Year 1996 Budget"; to the Committee on Governmental Affairs.

EC-2297. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC-2298. A communication from the Director of the Office of Government Ethics, transmitting, pursuant to law, the annual report for calendar years 1994 and 1995; to the Committee on Governmental Affairs.

EC-2299. A communication from the Director of the Executive Office of the President, Office of Management and Budget, transmitting, a draft of proposed legislation entitled "The Statistical Confidentiality Act"; to the Committee on Governmental Affairs.

EC-2300. A communication from the Director of the Executive Office of the President, Office of Management and Budget, transmitting, pursuant to law, the report under the Computer Matching and Privacy Protection Act for calendar years 1992 and 1993; to the Committee on Governmental Affairs.

EC-2301. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2302. A communication from the Chairman of the Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, the report under the Chief Financial Officers Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2303. A communication from the U.S. Commissioner of the Delaware River Basin Commission, transmitting, pursuant to law, the report under the Inspector General Act; to the Committee on Governmental Affairs.

EC-2304. A communication from the U.S. Commissioner of the Susquehanna River Basin Commission, transmitting, pursuant to law, the report under the Inspector General Act; to the Committee on Governmental Affairs.

EC-2305. A communication from the Executive Director of the Japan-U.S. Friendship Commission, transmitting, pursuant to law, the report under the Inspector General Act; to the Committee on Governmental Affairs.

EC-2306. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC-2307. A communication from the Chair of the Foreign Claims Settlement Commission, Department of Justice, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC-2308. A communication from the Employee Benefits Manager of the AgFirst Farm Credit Bank, transmitting, pursuant to law, the annual reports of federal pension plans for calendar year 1995; to the Committee on Governmental Affairs.

EC-2309. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, pursuant to law, the report under the Chief Financial Officers Act for fiscal year 1995; to .the Committee on Governmental Affairs.

EC-2310. A communication from the Office of Special Counsel, transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2311. A communication from the Director of the Institute of Museum Services, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2312. A communication from the Executive Director of the Interstate Commission on the Potomac River Basin, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2313. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of General Accounting Office reports and testimony for February 1996; to the Committee on Governmental Affairs.

EC-2314. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2315. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of proposed regulations; to the Committee on Rules and Administration.

EC-2316. A communication from the Director of Audit Oversight and Liaison, General Accounting Office, transmitting, pursuant to law, the report of the audit of the U.S. Government Printing Office's financial statements for fiscal year 1995; to the Committee on Rules and Administration.

EC-2317. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on direct spending or receipts legislation within five days of enactment; referred jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget, and to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself, Mr. DASCHLE, and Mr. DORGAN):

S. 1697. A bill to amend the independent counsel statute to require that an individual appointed to be an independent counsel must agree to suspend any outside legal work or affiliation with a law firm until the individual's service as independent counsel is complete; to the Committee on Governmental Affairs.

By Mr. DASCHLE:

S. 1698. A bill entitled the "Health Insurance Reform Act of 1996"; read the first time.

By Mr. BINGAMAN:

S. 1699. A bill to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. KERRY, Mr. HARKIN, Mr. REID, and Mr. D'AMATO):

S. 1700. A bill to reduce interstate street gang and organized crime activity, and for other purposes; to the Committee on the Judiciary.

By Mr. PELL:

S. 1701. A bill to end the use of steel jaw leghold traps on animals in the United States, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWN (for himself, Mr. FAIRCLOTH, Ms. MOSELEY-BRAUN, and Mr. SHELBY):

S. Res. 250. A resolution expressing the sense of the Senate regarding tactile currency for the blind and visually impaired; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH:

S. Con. Res. 54. A concurrent resolution to correct the enrollment of the bill S. 735, to prevent and punish acts of terrorism, and for other purposes; considered and agreed to.

S. Con. Res. 55. A concurrent resolution to correct the enrollment of the bill S. 735, to prevent and punish acts of terrorism, and for other purposes; considered and agreed to.

By Mr. LAUTENBERG (for himself, Mr. DOLE, Mr. HELMS, Mr. PELL, and Mr. LEVIN):

S. Con. Res. 56. A concurrent resolution recognizing the tenth anniversary of the Chernobyl nuclear disaster, and supporting the closing of the Chernobyl nuclear power plant; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. DASCHLE and Mr. DORGAN):

S. 1697. A bill to amend the independent counsel statute to require that an individual appointed to be an independent counsel must agree to suspend any outside legal work or affiliation with a law firm until the individual's service as independent counsel is complete; to the Committee on Governmental Affairs.

THE INDEPENDENT COUNSEL AMENDMENT ACT OF 1996

Mr. BINGAMAN. Mr. President, I rise to introduce legislation on behalf of the distinguished Minority leader and myself that amends the independent counsel statute.

In my opinion recent events have made clear that Congress should review the statute providing for the appointment of an independent counsel. The specific problem that concerns me, and which my bill will address, is the perception that an independent counsel who continues to practice law and represent clients while serving as independent counsel opens himself or herself to charges of conflict of interest resulting from continued representation of private clients.

The bill I am introducing today amends the independent counsel statute to eliminate the possibility that

VOL
142
PT
6
AP
15
—
24
1996
UMI

such a conflict of interest will arise by requiring that, upon assuming the duties of independent counsel, an attorney refrain from representing clients until her duties as independent counsel have been completed. Additionally, my bill requires that the independent counsel not receive any compensation for affiliating with or being employed by an entity that provides professional legal services during the time of their service as independent counsel.

This bill would not apply to the current independent counsel investigating the Whitewater matter. It would only apply to independent counsels appointed after the effective date of this legislation.

Mr. President, as my friend and colleague from Arkansas, Senator PRYOR pointed out yesterday, the Washington Post reported that the current independent counsel, Mr. Starr, has retained the services of Sam Dash, former chief counsel to the Senate Watergate Committee and a noted scholar on issues relating to legal ethics to advise Mr. Starr on matters stemming from his continued affiliation with his law firm and continued representation of clients.

Setting aside for a moment the fact that Mr. Starr has seen fit to retain Mr. Dash on a part-time basis at a cost to the taxpayers of over $166,000, it strikes many as a little odd, Mr. President, that an independent counsel has for the first time hired someone to advise him on what is ethical and what is not. It is my understanding from published reports in the Washington Post, the New Yorker, and other sources, that the primary "ethical" concern that Mr. Dash is advising the Whitewater independent counsel on, is related to issues that have arisen as a result of Mr. Starr's continued private practice of law and his continued representation of clients who, at the very least, have agendas that are diametrically opposed to one of the primary targets of the Whitewater investigation—the Clinton administration. Commenting on the issues that have been raised by Mr. Starr's involvement with the Bradley Foundation, a conservative foundation that gives money to many virulent critics of the Clinton administration, Ellen Miller, executive director of the Center for Responsive Politics said, "But you don't have to scratch far beneath the surface to find not just one but many, many, many conflicts of interest."

Mr. President, I am not here to judge the numerous allegations of conflicts of interests that have been brought against the current Whitewater independent counsel. Those issues need to be addressed by the special panel of judges from the U.S. Court of Appeals for the District of Columbia which appointed Mr. Starr. However, I do think that the Congress has an opportunity and indeed the obligation to ensure that the current troubles plaguing Mr. Starr do not plague future independent counsels.

Mr. President, I think that too often we search for complicated solutions to simple problems. We devise complex mechanisms to deal with rather straightforward issues. I believe that we can and should avoid doing that in this case. My legislation addresses a serious concern with a simple and straightforward response. Potential conflicts of interest resulting from continued, outside employment by a law firm and from representation of outside clients can be avoided by simply requiring that the independent counsel devote her fulltime attention to the duties of the independent counsel's office.

No one will argue, Mr. President, that the office of independent counsel has not served an important function since the days of Watergate. The integrity and impartiality of the office is far too important to its proper functioning to risk under circumstances like those swirling around the current Whitewater independent counsel. That is why I offer this legislation. I am trying by this pro-active legislation to eliminate the need for other independent counsel to hire Mr. Dash or anyone else to advise them on potential conflicts of interest they might have.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1697

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STANDARDS OF CONDUCT FOR INDEPENDENT COUNSELS.

Paragraph (1) of section 594(j) of title 28, United States Code, is amended to read as follows:

"(1) RESTRICTIONS ON EMPLOYMENT WHILE INDEPENDENT COUNSEL AND APPOINTEES ARE SERVING.—(A) During the period in which an independent counsel is serving under this chapter, the independent counsel shall not—

"(i) engage in any legal work other than as required for service under this chapter; or

"(ii) receive any compensation for affiliating with or being employed by an entity that provides professional legal services.

"(B) During the period in which an independent counsel is serving under this chapter, any person associated with a firm with which such independent counsel is associated, may not represent in any matter any person involved in any investigation or prosecution under this chapter. During the period in which any person appointed by an independent counsel under subsection (c) is serving in the office of independent counsel, such person may not represent in any matter any person involved in any investigation or prosecution under this chapter.".

By Mr. BINGAMAN:

S. 1699. A bill to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

THE NATIONAL CAVE AND KARST RESEARCH INSTITUTE ACT OF 1996

Mr. BINGAMAN. Mr. President, in December 1994, Congress received the National Cave and Karst Research Institute Study from the National Park Service. The report studied the feasibility of creating a National Cave and Karst Research Institute in the vicinity of Carlsbad Caverns National Park, NM, as directed by Public Law 101–578. Today, I am here to introduce a bill which follows the guidelines of that report and which will establish the National Cave and Karst Research Institute in Carlsbad, NM.

While other nations have recognized the importance of cave resource management information and have sponsored cave and karst research, the United States has failed, until recently, to appreciate or work to understand cave and karst systems and their importance. As we approach the 21st century, the protection and management of our water resources has been identified as one of the major issues facing the world. In America, the majority of the Nation's freshwater is ground water—of which 25 percent is located in cave and karst regions.

Recent studies have also indicated that caves contain valuable information related to global climate change, waste disposal, ground water supply and contamination, petroleum recovery, and biomedical investigations. Caves provide a unique understanding of the historic events of humankind. Further they are considered sacred and have religious significance for American Indians and other native Americans.

According to the Federal Cave Resources Protection Act, karst is defined as a landform characterized by sinkholes, caves, dry valleys, fluted rocks, enclosed depressions, underground streamways and spring resurgences. As a whole, 20 percent of the United States is karst. In fact, east of central Oklahoma, 40 percent of the country is karst. Our National Park System manages 58 units with caves and karst features, yet academic programs on these systems are virtually nonexistent. Most research is conducted with little or no funding and the resulting data is scattered and often hard to locate. The few cave and karst organizations and programs which do exist, have substantially different missions, locations, and funding sources and there is no centralized program to analyze data or determine future research needs.

In 1988, Congress directed the Secretaries of the Interior and Agriculture to provide an inventory of caves on Federal lands and to provide for the management and dissemination of information about the caves. That directive has served only to make Federal land management agencies more aware of the need for a cave research program and a repository for cave and karst resources. In 1990, Congress further directed the Secretary of the Interior, through the Director of the National Park Service, to establish and administer a cave research program and prepare a proposal for Congress on the feasibility of a centralized National Cave and Karst Research Institute.

The National Cave and Karst Research Institute study report to Congress was released in December 1994 and not only supports establishing the institute, but lists several serious threats to continued uninformed management practices. Threats such as: alterations in the surface waterflow patterns in karst regions, alterations in or pollution of water infiltration routes, inappropriately placed toxic waste repositories, and poorly managed or designed sewage systems and landfills. The findings of the report conclude that it is only through a better understanding of cave resources that we can prevent detrimental impacts to America's natural resources and cave ecosystems.

The goals of the National Cave and Karst Research Institute, as outlined in the report, would be to further the science of speleology, to centralize speleological information, to further interdisciplinary cooperation in cave and karst research programs, and to promote environmentally sound, sustainable resource management practices. These goals would work hand in hand with the proposed objectives of the institute to establish a comprehensive cave and karst library and information data base, to sponsor national and international cave and karst symposiums, to develop longterm research studies, to produce cave-related educational publications and to develop cooperative agreements with all Federal agencies having cave management responsibilities.

The vicinity of Carlsbad Caverns National Park is ideal due to the community support which already exists for the establishment of the institute and the diverse cave and karst resources which are found throughout the region.

Carlsbad, NM has grown from a small railroad stop on what is now the Santa Fe Railroad to a growing city with a population of over 170,000 in the tricounty area. It continues to attract new businesses, small manufacturers, retirees, and research facilities, including the U.S. Department of Energy's Carlsbad area office. In addition, Carlsbad Caverns National Park attracts over 700,000 visitors per year.

The National Cave and Karst Research Institute would be jointly administered by the National Park Service and another public or private agency, organization or institution as determined by the Secretary. The Carlsbad Department of Development [CDOD], after reviewing the National Cave and Karst Research Institute study report, has developed proposals to obtain financial support from available and supportive organizational resources—including personnel, facilities, equipment, and volunteers. They further believe that they can obtain serious financial support from the private sector and would seek a matching grant from the State of New Mexico equal to the available Federal funds.

Carlsbad already has in place many of the needed cooperative institutions, facilities, and volunteers that will work toward the success of the National Cave and Karst Institute. I strongly urge my colleagues to support this legislation to increase our understanding of cave and karst systems.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Cave and Karst Research Institute Act of 1996".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to further the science of speleology;

(2) to centralize and standardize speleological information;

(3) to foster interdisciplinary cooperation in cave and karst research programs;

(4) to promote public education;

(5) to promote national and international cooperation in protecting the environment for the benefit of cave and karst landforms; and

(6) to promote and develop environmentally sound and sustainable resource management practices.

SEC. 3. ESTABLISHMENT OF THE INSTITUTE.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the "Secretary"), acting through the Director of the National Park Service, shall establish the National Cave and Karst Research Institute (referred to in this Act as the "Institute").

(b) PURPOSES.—The Institute shall, to the extent practicable, further the purposes of this Act.

(c) LOCATION.—The Institute shall be located in the vicinity of Carlsbad Caverns National Park, in the State of New Mexico. The Institute shall not be located inside the boundaries of Carlsbad Caverns National Park.

SEC. 4. ADMINISTRATION OF THE INSTITUTE.

(a) MANAGEMENT.—The Institute shall be jointly administered by the National Park Service and a public or private agency, organization, or institution, as determined by the Secretary.

(b) GUIDELINES.—The Institute shall be operated and managed in accordance with the study prepared by the National Park Service pursuant to section 203 of the Act entitled "An Act to conduct certain studies in the State of New Mexico", approved November 15, 1990 (Public Law 101–578; 16 U.S.C. 4310 note).

(c) CONTRACTS AND COOPERATIVE AGREEMENTS.—The Secretary may enter into a contract or cooperative agreement with a public or private agency, organization, or institution to carry out this Act.

(d) FACILITY.—

(1) LEASING OR ACQUIRING A FACILITY.—The Secretary may lease or acquire a facility for the Institute.

(2) CONSTRUCTION OF A FACILITY.—If the Secretary determines that a suitable facility is not available for a lease or acquisition under paragraph (1), the Secretary may construct a facility for the Institute.

(e) ACCEPTANCE OF GRANTS AND TRANSFERS.—To carry out this Act, the Secretary may accept—

(1) a grant or donation from a private person;

(2) a transfer of funds from another Federal agency.

SEC. 5. FUNDING.

(a) MATCHING FUNDS.—The Secretary may spend only such amount of Federal funds to carry out this Act as is matched by an equal amount of funds from non-Federal sources.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. KERRY, Mr. HARKIN, Mr. REID, and Mr. D'AMATO):

S. 1700. A bill to reduce interstate street gang and organized crime activity, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL GANG VIOLENCE ACT OF 1996

Mr. HATCH. Mr. President, I rise today to introduce the Federal Gang Violence Act. I am pleased to be joined in this important effort by Senator FEINSTEIN, as well as by Senators KERRY, HARKIN, REID, and D'AMATO.

Gang violence in many of our communities is reaching frightening levels. Recently, Asipeli Mohi, a 17-year-old Utahn, was tried and convicted of the gang-related beating and shooting death of another teenager, Aaron Chapman. Why was Aaron Chapman murdered? He was wearing red, apparently the color of a rival gang. Ironically, Mr. Chapman was on his way home from attending an antigang benefit concert when he was killed. Before committing this murder, the killer had racked up a record of 5 felonies and 15 misdemeanors in juvenile court. Sadly, this example of senseless gang violence is not an isolated incident in my State or elsewhere. It is a scene replayed daily with disturbing frequency.

Gang violence is now common even in places where this would have been unthinkable several years ago. Indeed, many people find it hard to believe that Salt Lake City or Ogden could have such a problem—gangs, they think, are a problem in cities like New York, Chicago, and Los Angeles, but not in our smaller cities.

However, reality is much grimmer. Since 1992, gang activity in Salt Lake City has increased tremendously. For instance, the number of identified gangs has increased 55 percent, from 185 to 288, and the number of gang members has increased 115 percent, from 1,438 to 3,104.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The number of gang-related crimes has increased a staggering 388 percent, from 1,741 in 1992 to 8,496 in 1995. In 1995, 174 of these involved drive-by shootings, and in the first quarter of 1996 alone, there were 64 gang-related drive-by shootings.

Our problem is severe. Moreover, there is a significant role the Federal Government can play in fighting this battle. I am not one to advocate the unbridled extension of Federal jurisdiction. Indeed, I often think that we have federalized too many crimes. However, in the case of criminal street gangs, which increasingly are moving interstate to commit crimes, there is a very proper role for the Federal Government to play.

This bill will strengthen the coordinated, cooperative response of Federal, State, and local law enforcement to criminal street gangs by providing more flexibility to the Federal partners in this effort. Among the important provisions of this bill:

This legislation increases the ability of the Federal Government to prosecute criminal street gangs that operate interstate or commit Federal or State gang related crimes, by updating the criminal gang and Travel Act provisions of the Federal criminal code. Under our bill, these laws will cover criminal activities typically engaged in by gangs.

Our bill adds a 1- to 10-year sentence for the recruitment of persons into a gang. Importantly, there are even tougher penalties for recruiting a minor into a gang, including a 4-year mandatory minimum sentence.

The bill adds the use of a minor in a crime to the list of offenses for which a person can be prosecuted under the Federal racketeering laws, known as RICO.

It enhances the penalties for transferring a handgun to a minor, knowing that it will be used in a crime of violence; and adds a new Federal penalty for the use of body armor in the commission of a Federal crime.

Finally, the legislation we introduce today adds serious juvenile drug offenses to the list of predicates under the Federal Armed Career Criminal Act, and authorizes $20 million over 5 years to hire Federal prosecutors to crack down on criminal gangs.

Mr. President, this legislation is not a panacea for our youth violence crisis. But it is a large and critical step in addressing this issue. I look forward to working with my colleagues on this bill, and urge their support.

Mr. President, I ask unanimous consent that the bill and a section analysis be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Gang Violence Act".

SEC. 2. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS GANG MEMBER.

(a) Amendment of Sentencing Guidelines.—

(1) In general.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 3 of the Federal Sentencing Guidelines so that, except with respect to trafficking in cocaine base, if a defendant was a member of a criminal street gang at the time of the offense, the offense level is increased by 6 levels.

(2) Construction with other guidelines.—The amendment made pursuant to paragraph (1) shall provide that the increase in the offense level shall be in addition to any other adjustment under chapter 3 of the Federal Sentencing Guidelines.

(3) Definition.—For purposes of this section, the term "criminal street gang" has the meaning given that term in section 521(a) of title 18, United States Code, as amended by section 3 of this Act.

SEC. 3. AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMINAL STREET GANGS.

Section 521 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a) Definitions.—" and inserting "(a) Definitions.—For purposes of this section the following definitions shall apply:";

(B) by striking "'conviction'" and inserting the following:

"(1) Conviction.—The term 'conviction'";

(C) in paragraph (1), as so designated, by striking "violent or controlled substances felony" and inserting "predicate gang crime"; and

(D) by striking "'criminal street gang'" and all that follows through the end of the subsection and inserting the following:

"(2) Criminal street gang.—The term 'criminal street gang' means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informal—

"(A) a primary activity of which is the commission of 1 or more predicate gang crimes;

"(B) the members of which engage, or have engaged during the 5-year period preceding the date in question, in a pattern of criminal activity involving 1 or more predicate gang crimes; and

"(C) the activities of which affect interstate or foreign commerce.

"(3) Pattern of criminal activity.—The term 'pattern of criminal activity' means the commission of 2 or more predicate gang crimes—

"(A) at least 1 of which was committed after the date of enactment of the Federal Gang Violence Act;

"(B) the last of which was committed not later than 3 years after the commission of another predicate gang crime; and

"(C) which were committed on separate occasions.

"(4) Predicate gang crime.—The term 'predicate gang crime' means—

"(A) an offense described in subsection (c);

"(B) a State offense—

"(i) involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is imprisonment for not less than 5 years; or

"(ii) that is a felony crime of violence that has as an element the use or attempted use of physical force against the person of another;

"(C) any Federal or State felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense, including—

"(i) assault with a deadly weapon;

"(ii) homicide or manslaughter;

"(iii) shooting at an occupied dwelling or motor vehicle;

"(iv) kidnaping;

"(v) carjacking;

"(vi) robbery;

"(vii) drive-by-shooting;

"(viii) tampering with or retaliating against a witness, victim, informant, or juror;

"(ix) rape;

"(x) mayhem;

"(xi) torture; and

"(xii) arson;

"(D) any Federal or State offense that is—

"(i) grand theft;

"(ii) burglary;

"(iii) looting;

"(iv) felony extortion;

"(v) possessing a concealed weapon;

"(vi) grand theft auto;

"(vii) money laundering;

"(viii) felony vandalism;

"(ix) unlawful sale of a firearm; or

"(x) obstruction of justice; and

"(E) a conspiracy, attempt, or solicitation to commit any offense described in subparagraphs (A) through (D)."; and

(2) in subsection (d)—

(A) in paragraph (1), by striking "continuing series of offenses described in subsection (c)" and inserting "pattern of criminal activity; and

(B) in paragraph (3), by striking "years for—" and all that follows through the end of the paragraph and inserting "years for a predicate gang crime.".

SEC. 4. INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF CRIMINAL STREET GANGS.

(a) Travel Act Amendments.—

(1) Prohibited conduct and penalties.—Section 1952(a) of title 18, United States Code, is amended to read as follows:

"(a) Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

"(1) distribute the proceeds of any unlawful activity;

"(2) commit any crime of violence to further any unlawful activity; or

"(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity,

and thereafter performs, attempts to perform, or conspires to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 10 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be sentenced to death or be imprisoned for any term of years or for life.".

(2) Unlawful activities.—Section 1952(b) of title 18, United States Code, is amended to read as follows:

"(b) As used in this section—

"(1) the term 'unlawful activity' means—

"(A) activity of a criminal street gang as defined in section 521 of this title;

"(B) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as defined in section

102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), or prostitution offenses in violation of the laws of the State in which the offense is committed or of the United States;

"(C) extortion; bribery; arson; robbery; burglary; assault with a deadly weapon; retaliation against or intimidation of witnesses, victims, jurors, or informants; assault resulting in bodily injury; possession or trafficking of stolen property; trafficking in firearms; kidnapping; alien smuggling; shooting at an occupied dwelling or motor vehicle; or insurance fraud; in violation of the laws of the State in which the offense is committed or of the United States; or

"(D) any act that is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title; and

"(2) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) Sentencing Guidelines.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal Sentencing Guidelines so that—

(1) the base offense level for traveling in interstate or foreign commerce in aid of a street gang or other racketeering enterprise is increased to 12; and

(2) the base offense level for the commission of a violent crime in aid of a street gang or other racketeering enterprise is increased to 24.

SEC. 5. SOLICITATION OR RECRUITMENT OF PERSONS IN CRIMINAL GANG ACTIVITY.

(a) Prohibited Acts.—Chapter 26 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 522. Recruitment of persons to participate in criminal gang activity

"(a) Prohibited Act.—It shall be unlawful for any person to—

"(1) use any facility of, or travel in, interstate or foreign commerce, or cause another to do so, to solicit, request, induce, counsel, command, cause or facilitate the participation of, a person to participate in a criminal street gang, or otherwise cause another to do so, or conspire to do so; or

"(2) solicit, request, induce, counsel, command, cause, or facilitate the participation of a person to engage in crime for which such person may be prosecuted in a court of the United States, or otherwise cause another to do so, or conspire to do so.

"(b) Penalties.—A person who violates subsection (a) shall—

"(1)(A) if the person is a minor, be imprisoned for not less than 4 years and not more than 10 years, fined not more than $250,000, or both; or

"(B) if the person is not a minor, be imprisoned for not less than 1 year and not more than 10 years, fined not more than $250,000, or both; and

"(2) be liable for any cost incurred by the Federal Government or by any State or local government for housing, maintaining, and treating the minor until the minor reaches the age of 18.

"(c) Definitions.—For purposes of this section—

"(1) the term 'criminal street gang' has the same meaning given such term in section 521; and

"(2) the term 'minor' means a person who is younger than 18 years of age.".

(b) Sentencing Guidelines.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal Sentencing Guidelines so that the base offense level for recruitment of a minor to participate in a gang activity is 12.

(c) Technical Amendment.—The analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following new item:

"522. Recruitment of persons to participate in criminal gang activity.".

SEC. 6. CRIMES INVOLVING THE USE OF MINORS AS RICO PREDICATES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(E)"; and

(2) by inserting before the semicolon at the end of the paragraph the following: ", or (F) any offense against the United States that is punishable by imprisonment for more than 1 year and that involved the use of a person under the age of 18 years in the commission of the offense".

SEC. 7. TRANSFER OF FIREARMS TO MINORS FOR USE IN CRIME.

Section 924(h) of title 18, United States Code, is amended by striking "10 years, fined in accordance with this title, or both" and inserting "10 years, and if the transferee is a person who is under 18 years of age, not less than 3 years; fined under this title; or both".

SEC. 8. PENALTIES.

Section 924(a) of title 18, United States Code, is amended—

(1) by redesignating paragraph (5), as added by section 110201(b)(2) of the Violent Crime Control and Law Enforcement Act of 1994, as paragraph (6); and

(2) in paragraph (6), as so redesignated—

(A) by striking subparagraph (A);

(B) in subparagraph (B)—

(i) by striking "(B) A person other than a juvenile who knowingly" and inserting "(A) A person who knowingly";

(ii) in clause (i), by striking "1 year" and inserting "not less than 1 year and not more than 5 years"; and

(iii) in clause (ii), by inserting "not less than 1 year and" after "imprisoned"; and

(C) by adding at the end of the following new subparagraph:

"(B) Notwithstanding subparagraph (A), no mandatory minimum sentence shall apply to a juvenile who is less than 13 years of age.".

SEC. 9. THE JAMES GUELFF BODY ARMOR ACT.

(a) In General.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 931. Use of body armor in Federal offenses

"(a) Prohibited Activity.—It shall be unlawful to use body armor in the commission of a Federal crime.

"(b) Applicability.—This section shall not apply if the Federal crime in which the body armor is used constitutes a violation of the civil rights of a person by a law enforcement officer acting under color of the authority of such law enforcement officer.

"(c) Definitions.—For purposes of this section—

"(1) the term 'body armor' means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment; and

"(2) the term 'law enforcement officer' means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

"(d) Penalties.—

"(1) Imprisonment.—Whoever knowingly violates this section shall be imprisoned for a term of 2 years.

"(2) Construction.—A sentence under this paragraph shall be consecutive to any sentence imposed for the Federal crime in which the body armor was used.".

(b) Conforming Amendment.—The analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following new item:

"931. Use of body armor in Federal offenses.".

SEC. 10. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by adding "or" at the end of clause (ii); and

(3) by adding at the end the following new clause:

"(iii) any act of juvenile delinquency that if committed by an adult would be an offense described in clause (i) or (ii);".

SEC. 11. INCREASE IN TIME LIMITS FOR JUVENILE PROCEEDINGS.

Section 5036 of title 18, United States Code, is amended by striking "thirty" and inserting "70".

SEC. 12. APPLYING RACKETEERING OFFENSES TO ALIEN SMUGGLING AND FIREARMS OFFENSES.

Section 1961(1) of title 18, United States Code, as amended by section 6 of this Act, is amended by inserting before the semicolon at the end the following: ", (G) any act, or conspiracy to commit any act, in violation of section 274(a)(1)(A), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), 1327, or 1328), or (H) any act or conspiracy to commit any act in violation of chapter 44 of this title (relating to firearms)".

SEC. 13. USE OF LINGUISTS.

(a) In General.—The Secretary of State shall identify qualified translators who the Secretary shall identify qualified translators who the Secretary shall make available to assist Federal law enforcement agencies in criminal investigations by monitoring legal wiretaps and translating recorded conversations.

(b) Emphasis.—In carrying out subsection (a), the Secretary of State shall place special emphasis on translators in States in which most criminal street gangs and organized crime syndicates operate.

SEC. 14. ADDITIONAL PROSECUTORS.

There are authorized to be appropriated $20,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001 for the hiring of additional Assistant United States Attorneys to prosecute violent youth gangs.

SUMMARY OF THE FEDERAL GANG VIOLENCE ACT

(Senators Orrin Hatch, Dianne Feinstein, John Kerry, Tom Harkin, Harry Reid, and Alfonse D'Amato, April 24, 1996)

Section 1. Short title

This section identifies the Act as the "Federal Gang Violence Act."

Section 2. Increase in offense level for participation of crime as gang member

This legislation doubles the penalty for any member of an organized criminal street gang who commits a federal crime.

Current federal law increases the penalties for organizers, leaders, managers and supervisors of criminal activity—including gang

VOL
142
PT
6
AP
15
—
24
1996
UMI

leaders—who commit a federal crime. However, members of known criminal street gangs currently are not subjected to higher penalties when a federal crime is committed. Many prosecutors and law enforcement leaders indicate that gang members—in addition to the leaders and supervisors of gangs—should see their penalties increased to provide a stronger deterrent for children to stay away from gangs.

This legislation amends the Sentencing Guidelines so that individual gang members convicted of felonies would have their sentencing level approximately doubled, by adding six levels to the base offense level for the crime they committed. Gang leaders and organizers would also have their sentences increased by six sentencing levels.

There are some examples of the effect of this increase for gang members, assuming they have no other aggravating or mitigating factors:

Crime	First-time offender		Second-time offender	
	Current	Proposed	Current	Proposed
Drive-by shooting related to 20 grams of cocaine	1¼ to 1¾	2¾ to 3½	1¾ to 2¼	3½ to 4¼
Burglary	2 to 2½	4 to 4¾	2½ to 3	4¾ to 6
Extortion	2¾ to 3½	5¼ to 6½	3½ to 4¼	6¾ to 8
Witness intimidation	2¾ to 3½	5¼ to 6½	3½ to 4¼	6½ to 8
Gun trafficking	4¾ to 6	9 to 11¼	6 to 7¼	11¼ to 14
Robbery with a handgun	5¼ to 6½	10 to 12½	6½ to 8	12½ to 15¾

Section 3. Amendment to title 18 with respect to criminal street gangs

This legislation expends the definition of criminal street gangs to better reflect modern day gang activity.

Current federal law bases the definition and penalties for criminal street gangs upon the commission of a *federal crime of violence or a federal crime involving a controlled substance*. Under existing federal law, a person eligible for prosecution as a criminal street gang member must have been convicted within the previous 5 years of a federal or state drug crime or crime of violence, as well as having participated in, or furthered the activities of, a gang. This legislation broadens the definition of criminal street gang activity to include many types of state crimes, such as drive-by shootings, rape, torture, carjacking, kidnaping, and assault with a deadly weapon.

By expanding the definition of gang membership, more gang members—who commit state crimes—will be subjected to the higher penalties if they subsequently commit a federal crime.

Current federal law also requires that there must be five members to meet the requirements of being a gang. Prosecutors and law enforcement officials indicate this number is arbitrary and that some dangerous street gangs consist of fewer members. For that reason, this legislation also lowers the number of participants—from five members to three members—required to meet the definition of a gang.

Section 4. Interstate and foreign travel of transportation in aid of criminal street gangs

Doubles penalties for inter-state, gang-related crimes. Also expands Travel Act, passed in 1961 with Mafia-related criminal activity in mind, to respond more effectively to the growing problem of highly sophisticated, mobile and organized street gangs.

The Travel Act now makes it a federal crime to travel in interstate commerce, or use the mail or other facilities of interstate commerce, to commit or help establish, promote, manage, or carry out extortion, bribery, arson, or any business enterprise involving narcotics, controlled substances, prostitution, gambling, or liquor on which the excise taxes were not paid.

While the Travel Act allows prosecutors to target some gang activities—such as drug trafficking—the list is not complete. Law enforcement leaders and prosecutors have indicated that the Act needs to be "modernized" to better reflect current crimes by gang members.

Under this legislation, the list of unlawful activities in the Travel Act will be expanded to include crimes that are most committed by gang members. The expanded list will include: drive-by shooting, robbery, burglary, assault with a deadly weapon, intimidation of witnesses, victims, jurors or informants, assault resulting in bodily injury, possession and/or trafficking in stolen property, alien smuggling, firearms trafficking, kidnaping, and insurance fraud.

In addition, under this legislation, the maximum penalties are doubled from 5 to 10 years for those who violate these provisions without intending to commit violent crimes themselves.

A conspiracy provision is also added to this statute to make it easier to prosecute all the gang members who help to commit these crimes.

This Act also doubles the base offense levels for:

Traveling in interstate or foreign commerce in aid of a street gang, from 6 to 12, which increases the base sentencing rage from a low of zero to six months and a high of twelve to eighteen months, to a new low of ten to sixteen months and a new high of thirty to thirty-seven months; and

Committing violent crimes in aid of street gang or racketeering activity from 12 to 24, which increases the base sentencing range from a low of ten to sixteen months and a high of thirty to thirty-seven months, to a new low of 51–63 months and a new high of 100–125 months.

Section 5. Solicitation or recruitment of persons in gang activity

Current federal law contains no penalty for recruiting minors to participate in gang activity. Law enforcement officials indicate that sophisticated crime syndicates will recruit minors to do the "dirty work" so that the organizers of the criminal activity cannot be convicted of a crime.

This legislation makes the recruitment or solicitation of persons to participate in gang activity subject to a one-year minimum and 10-year maximum penalty, or a fine of up to $250,000. If a minor is recruited or solicited, the minimum penalty is increased to four years. In addition, the person convicted of this crime would have to pay the costs of housing, maintaining and treating the juvenile until the juvenile reaches the age of 18 years.

Section 6. Crimes involving the use of minors as RICO predicates

To identify a racketeering influenced corrupt organization (RICO), the organization must have engaged in at least two of the more than 25 criminal activities listed under the RICO statute.

This bill makes the use of a minor in the commission of a federal crime a RICO predicate.

Section 7. Transfer of firearms to minors for use in crime

It is now a crime under federal law to knowingly transfer a firearm to be used to commit a violent crime or a drug trafficking crime.

This legislation adds a mandatory minimum penalty of three years imprisonment if the gun to be used in crime is transferred to a minor.

Section 8. Penalties

Increases penalties for transferring handguns to minors.

The Youth Handgun Safety Act, passed by Congress as part of the 1994 Crime Bill, does not contain sufficient penalties. In fact, one provision of the current Youth Handgun Safety Act requires mandatory probation for a first-time juvenile offender who possesses a handgun. Such a weak penalty meant few prosecutors would utilize the Youth Handgun Safety Act to target gang members. In addition, current law sets different penalties for juveniles and adults who transfer a weapon to a minor.

The Federal Gang Violence Act toughens the penalties against juveniles and adult who transfer a handgun to a minor—and subjects juveniles and adults to the same penalties for violating this law.

This legislation changes the Youth Handgun Safety Act by:

(A) Setting a one-year minimum sentence for anyone—adult or juvenile—who provides a minor with a handgun.

(B) Holding juveniles accountable when they unlawfully give another minor a handgun by applying the same five-year maximum sentence now given to adults.

(C) Setting a one-year minimum sentence and applying the same 10-year maximum sentence to adults and juveniles who give a handgun to a minor and should have known the gun would be used in a crime of violence. Currently, the 10-year maximum sentence only applies to adults.

Section 9. The James Guelff Body Armor Act

Many police officers around the country are confronting heavily-armed gang members who are wearing bullet-proof vests. This legislation creates a two-year mandatory, consecutive sentence for anyone who wears body armor in the commission of a federal offense.

Section 10. Serious juvenile drug offense as Armed Career Criminal Act predicates

The Armed Career Criminal Act provides that if a person has three or more prior convictions of certain crimes (is a career criminal), and he possess, ships, transports or receives a gun or ammunition (is armed), he will be subject to a mandatory minimum 15 year penalty and fine of up to $25,000. Serious drug offenses are already in the list of crimes which count toward the three-conviction minimum; this bill would allow juvenile convictions for serious drug offenses to also count toward that three-conviction minimum.

Section 11. Increase in time limits for juvenile proceedings

Expands the time limit for bringing juvenile proceedings to trial.

Presently, a 30-day time limit exists. With crimes being committed by juveniles becoming increasingly violent and complex, prosecutors need additional time to adequately develop cases. This legislation increases the time limit to 70 days.

Section 12. Applying racketeering offenses to firearms offenses

Adds firearms violations, such as trafficking, to the list of crimes that can be attacked by prosecutors under RICO.

Currently, firearms violations are not RICO predicate acts. Prosecutors and law enforcement officials indicate an increasing use of firearms by criminal street gangs to commit home robberies, business invasions, and attacks on rival gangs. Since most of the firearms have moved in interstate commerce—and because firearms are such an integral part of the gang's activity—law enforcement officials have suggested that firearms violations become predicate acts under RICO. Since two criminal activities must be proven before RICO organizations can be identified, firearms violations alone would not lead a group to be pursued under the RICO laws.

This legislation would amend the list of RICO predicate acts to include firearms violations.

Identifying an organization dedicated to criminal activity in accordance with the RICO statute results in asset forfeiture and a maximum of 20 years in prison. In addition, the RICO Statute allows federal prosecutors to charge such an organization with state crimes they may have committed as well as federal crimes.

Section 13. Use of linguists

Promotes the use of State Department linguists to assist in translating and monitoring wiretaps in gang investigations. Federal law enforcement and courts are experiencing difficulty and high costs in locating and employing certified translators for southeastern Asian languages and Chinese dialects used by some gangs.

Section 14. Additional prosecutors

The Federal Gang Violence Act authorize appropriations of $100 million over the next five years for hiring additional federal prosecutors to prosecute violent youth gangs.

Mrs. FEINSTEIN. Mr. President, I rise today, along with Senators, HATCH, KERRY, HARKIN, REID, and D'AMATO to introduce the Federal Gang Violence Act of 1996—legislation that makes the Federal Government a more active partner in the war against violent and deadly organized gangs.

Mr. President, today's gangs are not the bands of loosely organized street kids glamorized in West Side Story. Today's gangs are very different. Consider this:

Just last week, the U.S. attorney's office in San Francisco made arrests in a major alien smuggling operation run by organized gangs based in New York and San Francisco. Operation Sea Dragon netted 23 people in connection with a large-scale plan to smuggle two boatloads of more than 270 aliens from China into the United States in 1993.

According to the U.S. attorney's office, a number of powerful New York-based gangs, including the White Tigers, Fuk Ching, and the Broom Street Boys joined forces with two bay area gangs to off load the smuggled aliens. A San Francisco-based Vietnamese gang was responsible for furnishing the fishing boats to ferry the smuggled aliens ashore, where a Chinese gang out of Oakland had provided land transportation and drop houses to facilitate the aliens travel to New York. Presumably, once in New York, these illegal aliens were to live in indentured servitude while they paid off the up to $30,000 in crossing debts that the gangs typically charge each passenger.

Alien smuggling is a very lucrative international business—law enforcement estimates it brings in $3 billion a year for smugglers.

But alien smuggling is just one example of the kinds of dangerous criminal activities modern gangs are engaged in. Today's gangs are organized and sophisticated traveling crime syndicates—much like the Mafia—that regularly cross State lines to recruit new members, traffick in drugs, weapons, and illegal aliens, and steal and murder.

In just one city, Los Angeles, nearly 7,300 of its citizens were murdered in the last 16 years from gang warfare. This is more people than have been killed in all the terrorist fighting in northern Ireland.

Gangs were responsible for: 43 percent of all homicides in Los Angeles in 1994; 41 percent of homicides in Omaha, Nebraska in 1995; and more than half of all violent crimes in Buffalo, NY, in 1994.

In Phoenix, AZ, gang-related homicides jumped 800 percent between 1990 and 1994; and

In Wichita, KS, drive-by shootings jumped from 8 in 1991 to 267 in 1993—a 3000-percent increase in just 2 years. This in a small city of 300,000.

These are just a few examples of the alarming rise in gang violence gripping our streets. We are becoming numb to the violence.

In Los Angeles in February, City Councilwoman Laura Chick, chair of the LA Public Safety Committee, received a faxed report that six people had been murdered over the weekend in LA—and it was not even reported in the press.

Criminal gangs are now engaged in million dollar heists, home and business invasions, major narcotics and weapons trafficking, and yes, illegal alien smuggling.

And they are crossing State lines to establish criminal operations in other States looking for untapped markets.

Sgt. Jerry Flowers with the gang crime unit in Oklahoma City captured the migration instinct of these gangs when he said: "the gang leaders realized that the same ounce of crack cocaine they sold for $300 in Los Angeles was worth nearly $2,000 in Oklahoma City."

BLOODS AND CRIPS

The Bloods and the Crips, gangs that originated in Los Angeles in the late 1960's, are the Nation's two largest street gangs. And they are expanding.

Local police and the FBI have traced factions of these gangs to more than 119 cities in the West and Midwest with more than 60,000 members. According to the FBI, narcotics trafficking is their principle source of income.

GANGSTER DISCIPLES

The Gangster Disciples, according to local authorities, is a Chicago-based 30,000 member multimillion dollar gang operation spanning 35 States.

They traffic in narcotics and weapons, and are said to operate much like a "Fortune 500 Company" with two boards of directors—one in prison and one outside—a layer of Governors and regents, a tax collector and some 6,000 salespersons. Their income is estimated at $300,000 daily.

RUSSIAN CRIME GANGS

Russian organized crime activity in the United States has been expanding for the past 20 years, but its most significant growth has occurred during the past 5 years. Twenty-nine States now report activities by Russian crime groups.

FBI Director Louis Freeh stated that more than 200 of Russia's 6,000 crime gangs operate with American counterparts in the United States.

Russian gangs tend to be more loosely organized than other gangs, but they have formed networks that operate and shift alliances to meet particular needs.

The California Attorney General indicates that the most common criminal activities by Russian organized crime gangs are fraud schemes involving fuel tax, insurance, and credit card fraud. But they also engage in more common organized crime activities-extortion, loan sharking, drug trafficking, auto theft, and prostitution.

ASIAN GANGS

The Department of Justice indicates that, among ethnic gangs, Jamaican and Asian gangs are considered by many law enforcement officials to pose the largest threat. Asian gangs have been identified as major threats in more than 17 cities.

In Los Angeles alone there are more than 100 Asian gangs with 10,000 members.

Illegal activities include: alien smuggling, murder, kidnapping, extortion, home invasion robberies, high-technology heists, and firearms trafficking.

Vietnamese gangs, in particular, have become a serious threat in many cities. They tend to be very violent, are more sophisticated organizationally, and have specialized in stealing multimillion dollar quantities of computer chips.

At least 400 Silicon Valley businesses that deal in computer chips have been

VOL 142 PT 6 AP 15 — 24 1996 UMI

hit in the last year and a half, losing tens of millions of dollars. Computer firms lose as much as $1 million a week in thefts.

CURRENT LAWS NOT ENOUGH

Mr. President, Federal laws now on the books were designed to fight one type of organized crime—the Mafia. And I believe today's laws just are not enough to take on these modern gangs.

For the past 7 months, my staff has met with prosecutors, law enforcement officers, and community leaders to search for solutions to the problem of gang violence. The legislation I am introducing today, The Federal Gang Violence Act of 1996, is the result of our work.

This legislation strengthens Federal law by attacking gang violence on three fronts:

It doubles the sentence for any member of an organized criminal gang who commits a Federal crime;

Expands the scope of gang-related criminal acts to include such activities as carjacking and drive-by shootings, and significantly increases penalties for those crimes; and

Checks the growth of gangs by making the recruitment of minors into criminal gangs a Federal offense with stiff penalties.

Specifically, this legislation:

First, doubles the actual sentence for any member of an organized criminal street gang who commits a Federal crime.

Current Federal law increases the penalties for organizers, leaders, managers, and supervisors of criminal activity—including gang leaders—who commit a federal crime. However, members of known criminal street gangs currently are not subjected to higher penalties when a Federal crime is committed.

Many prosecutors and law enforcement leaders indicate that gang members—in addition to the leaders and supervisors of gangs—should see their penalties increased to provide a stronger deterrent for children to stay away from gangs.

This legislation amends the sentencing guidelines so that individual gang members convicted of felonies would have their sentencing level approximately doubled. For example: Now if a first-time offender who is a member of a gang is convicted of gun trafficking, he would get a minimum of 4¾–6 years in jail. Under this legislation, the sentence would be increased to 9–11¼ years.

Second, expands the definition of criminal street gangs in Federal law to better reflect modern-day gang activity.

The bill broadens the definition of criminal street gang activity in title 18 of the Criminal Code to include many types of State crimes, such as drive-by shootings, rape, torture, carjacking, kidnaping, and assault with a deadly weapon.

This legislation also lowers the number of participants—from five members to three members—required to meet the definition of a gang.

Third, doubles penalties for interstate, gang-related crimes and expands the Travel Act to respond more effectively to the growing problem of highly sophisticated, mobile, and organized street gangs.

The Travel Act was originally written in 1961 with Mafia-style activity in mind. While the Travel Act as it is now written allows prosecutors to target some gang activities—such as drug trafficking—the list is not complete. Law enforcement leaders and prosecutors have indicated that the act needs to be modernized to better reflect current crimes by gang members.

Under this legislation, the list of unlawful activities in the Travel Act will be expanded to include the following crimes: Drive-by shooting; robbery; burglary; assault with a deadly weapon; intimidation of witnesses, victims, jurors, or informants; assault resulting in bodily injury; possession and/or trafficking of stolen property; alien smuggling; firearms trafficking; kidnaping; and insurance fraud.

In addition, under this legislation, the maximum penalties are doubled from 5 to 10 years for those who violate these provisions without intending to commit violent crimes themselves.

A conspiracy provision is also added to this statute to make it easier to prosecute all the gang members who help to commit these crimes.

This act also doubles the base offense levels under the sentencing guidelines for: Traveling in interstate or foreign commerce in aid of a street gang, from 6 to 12, which increases the base sentencing range from a low of zero to 6 months and a high of 12 to 18 months, to a new low of 10 to 16 months and a new high of 30 to 37 months; and committing violent crimes in aid of street gang or racketeering activity from 12 to 24, which increases the base sentencing range from a low of 10 to 16 months and a high of 30 to 37 months, to a new low of 51 to 63 months and a new high of 100 to 125 months.

Fourth, solicitation or recruitment of persons into gang activity: Current Federal law contains no penalty for recruiting minors to participate in gang activity. Law enforcement officials indicate that sophisticated organized crime syndicates will recruit minors to do the dirty work so that the organizers of the criminal activity cannot be convicted of a crime.

This legislation makes the recruitment or solicitation of persons to participate in gang activity subject to a 1-year minimum and 10-year maximum penalty, or a fine of up to $250,000. If a minor is recruited or solicited, the minimum penalty is increased to 4 years. In addition, the person convicted of this crime would have to pay the costs of housing, maintaining and treating the juvenile until the juvenile reaches the age of 18 years.

Fifth, this bill makes the use of a minor in the commission of a Federal crime a RICO predicate.

Identifying an organization dedicated to criminal activity in accordance with the RICO Statute results in asset forfeiture and a maximum of 20 years in prison.

Sixth, transfer of firearms to minors for use in crime.

It is now a crime under Federal law to knowingly transfer a firearm to be used to commit a violent crime or a drug trafficking crime.

This legislation adds a mandatory minimum penalty of 3 years imprisonment if the gun to be used in crime is transferred to a minor.

Seventh, this legislation increases penalties for transferring handguns to minors.

The Youth Handgun Safety Act, passed by Congress as part of the 1994 crime bill, does not contain sufficient penalties against juveniles who possess handguns.

In fact, one provision of the current Youth Handgun Safety Act requires only mandatory probation for a first-time juvenile offender who possesses a handgun. Such a weak penalty has meant few prosecutors would utilize the Youth Handgun Safety Act to target gang members. In addition, current law sets different penalties for juveniles and adults who transfer a weapon to a minor.

The Federal Gang Violence Act toughens the penalties against juveniles and adults who transfer a firearm to a minor—and subjects juveniles and adults to the same penalties for violating this law.

This legislation changes the Youth Handgun Safety Act by:

Setting a 1-year minimum sentence for anyone—adult or juvenile—who provides a minor with a handgun.

Holding juveniles accountable when they unlawfully give another minor a firearm by applying the same 5-year maximum sentence now given to adults.

Setting a 1-year minimum sentence and applying the same 10-year maximum sentence to adults and juveniles who give a firearm to a minor and should have known the gun would be used in a crime of violence. Currently, the 10-year maximum sentence only applies to adults.

Juveniles under 13 years old, however, would not be subject to these mandatory minimum sentences.

Eighth, the James Guelff Body Armor Act: Many police officers around the country are confronting heavily armed gang members who are wearing bullet-proof vests. This legislation makes it a separate crime to wear body armor in the commission of a Federal offense, which would be punished by automatically adding 2 years to the sentence for the original crime.

Ninth, serious juvenile drug offenses as Armed Career Criminal Act predicates:

The Armed Career Criminal Act provides that if a person has three or more prior convictions for certain crimes—is a career criminal—and he possesses, ships, transports, or receives a gun or ammunition, is armed, he will be subject to a mandatory minimum 15-year penalty and fine of up to $25,000.

Serious drug offenses are already in the list of crimes which count toward the three-conviction minimum; this bill would allow juvenile convictions for serious drug offenses to also count toward that three-conviction minimum. This would not apply to nickel-and-dime possession offenses, but to drug dealing which is punishable by ten or more years in prison.

Tenth, expands the time limit for bringing juvenile proceedings to trial.

Presently, a 30-day time limit exists. With crimes being committed by juveniles becoming increasingly violent and complex, prosecutors need additional time to adequately develop cases. This legislation increases the time limit to 70 days.

Eleventh, adds firearms violations, such as trafficking, to the list of crimes that can be attacked by prosecutors under RICO.

Currently, firearms violations are not RICO predicate acts. Prosecutors and law enforcement officials indicate an increasing use of firearms by criminal street gangs to commit home robberies, business invasions, and attacks on rival gangs.

Since most of the firearms have moved in interstate commerce—and because firearms are such an integral part of the gang's activity—law enforcement officials have suggested that firearms violations become predicate acts under RICO.

Twelfth, this legislation promotes the use of State Department linguists to assist in translating and monitoring wiretaps in gang investigations. Federal law enforcement and courts report that they are experiencing difficulty and high costs in locating and employing certified translators for Southeastern Asian languages and Chinese dialects used by some gangs.

Thirteenth, this legislation provides $100 million over the next 5 years for hiring additional Federal prosecutors to prosecute violent youth gangs.

Mr. President, the legislation I have laid out for you today is a starting point, and I think it is long overdue. I know there is no silver bullet to cure our Nation of the ills wrought by street gangs. But this legislation takes an important step forward by adding the Federal Government's weight to what has thus far been largely State and local war on gangs by significantly strengthening the Federal laws that deal with gang crime.

It is my belief that the only real long-term solution lies in combining forces at the Federal, State, and local level.

And I am pleased to say that thus far, this legislation has received nearly 80 endorsements from local California law enforcement, including Los Angeles County District Attorney Gil Garcetti, Los Angeles County Sheriff Sherman Block, and Police Chiefs in Fresno, Oakland, and Sacramento.

I urge my colleagues to support this legislation, and I welcome their input as this bill moves forward.

Mr. KERRY. Mr. President, today I rise to support the Federal Gang Violence Act which we are introducing to combat the growing problem of gang violence. According to the FBI, juvenile gang killings rose by 371 percent from 1980 to 1992, the fastest growing of all the homicide categories. But, Mr. President, this problem is not just a series of statistics.

Less than a year ago in Massachusetts, a young prosecutor, Assistant Attorney General Paul McLaughlin, was gunned down by a hooded youth in a display of gang violence and brutality unprecedented in my State. It was a brutal assassination of a public servant doing his job—the kind of violence we see in other nations, but thankfully, only rarely in America.

Earlier this year, I met with law enforcement officials, local elected officials, and Justice Department officials in western Massachusetts where gang activity has grown dramatically. The officials told me that in the Route 91 corridor, gangs operate from Connecticut through Massachusetts and up into Vermont. In fact, last year a major incident involving gangs from western Massachusetts occurred in Rutland, VT.

Because of this and similar meetings with law enforcement officials across Massachusetts, I went to Senators FEINSTEIN and HATCH to offer my assistance in developing this antigang legislation. Although officials in western Massachusetts told me that the area is already benefiting from the COPS Program, we must do more. I am proud of the role I played in getting the COPS Program expanded in the crime bill, so that we will put 100,000 police officers on the beat to fight crime. The COPS Program is beneficial but not a sufficient Federal response to youth gangs.

Nationally, juvenile arrests for violent crime increased by 75 percent during the past decade. According to a Department of Justice survey of law enforcement officials in 35 cities with organized antigang programs, there are almost 1,500 gangs and over 120,000 gang members across the country.

The legislation we are introducing today would crack down on violent gangs by toughening Federal penalties against criminal street gangs and organized crime syndicates. Gang members who commit Federal crimes or recruit other youths—and especially gangs who cross State lines to commit crimes—would receive stricter penalties.

Of course, the overwhelming majority of America's 27 million youths between the ages of 10 and 17 never commit violent crimes or enter the juvenile or criminal justice systems. Overall, children remain far more likely to be the victims of violent crime than offenders. According to the most recent data from the Department of Justice, one in nine children ages 12 to 19 was a victim of violent crime in 1993, while fewer than one in 200 youths was arrested for a violent offense.

But ultimately, Mr. President, the solution to youth violence must address the fact that too many young people live in poverty, which puts children at particular risk for violent behavior by reducing the quality of their community supports such as housing and schools, limiting their opportunities for education and employment, and dimming their sense of hope about the future. We can pass tougher and tougher laws but without at least an ounce of prevention we will not solve the problem.

We also must deal with the fact that handguns are too accessible. Handguns pose an ever-increasing danger to the safety and welfare of the American public. Nearly one-third of children ages 10 to 17 surveyed in 1993 said they knew how to get a gun. The source is often their own home. School security and law enforcement officials estimate that 80 percent of the firearms that students bring to school come from home. And according to the most recent figures, over 25 Americans are killed each day by handguns. If it's true that "people kill people," it's also true that they most frequently do so with handguns.

But we must also learn more about gang violence. Despite continuing research on the nature and extent of gang problems, data on youth gangs remain spotty. The Department of Justice's Office of Juvenile Justice and Delinquency Prevention [OJJDP] recently reported that "because research has been limited and because researchers have no real consensus on the definition of a gang or gang incident, the scope and seriousness of the youth gang problem are not reliably known." Better information is clearly needed.

I look forward to working with Senators FEINSTEIN and HATCH to making further refinements to the bill to ensure the delicate balance between bringing criminals to justice and protecting civil liberties. In particular, I'm interested in examining the provision which requires serious drug offenses committed as a juvenile to count toward the provision which imposes a mandatory minimum 15 year sentence for juveniles or adults who

VOL
142
PT
6
AP
15
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24
1996
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have a record of three serious drug offense convictions and commit a gun offense. We must be careful not to eliminate the juvenile justice system as the "second chance" it is intended to provide.

Finally, I want to recognize the leadership of Senator FEINSTEIN and Senator HATCH for their efforts to combat gang violence through this legislation. I also want to express my admiration for the Senator from California for her leadership on the assault weapons ban, both in her courageous efforts to pass it through Congress and her tenacity in stopping efforts to repeal it.

Too many children in the United States go to sleep to the sounds of gunfire and accept as normal the violent deaths of siblings, friends, and schoolmates. Working together, we can combat gang violence, poverty, and handguns to ensure we no longer have to live under the constant threat of violence.

Mr. D'AMATO. Mr. President, I am pleased to join my colleagues in introducing the Federal Gang Violence Act. The provisions of this bill are greatly needed in order to reduce the growing threat of gang violence.

The Department of Justice released a report last month stating that 79 of our largest cities have over 3,800 youth gangs, with a total of 200,000 gang members. The gangs are taking over our cities and towns. With an increase in the presence of gangs comes an increase in their criminal activities.

The Justice Department reports that while gang presence seems to be increasing, these gangs are also establishing an organizational sophistication that they did not possess before. With an expected surge in juvenile violent crimes, loopholes in the law must be corrected. And now.

Let me clarify one thing first. Gangs are not an urban problem; gangs are located in every geographical location—cities, suburbs, and rural areas. There is not one common gang activity; each gang performs different illegal activities. Gang activities are not restricted to certain areas of cities; the gangs' reach extends to our schools. It is clear that the response must be as varied as the problem. This bill takes the diversity into account and responds to those different activities by taking the most effective action—increasing the sentences. The penalty is doubled for any interstate gang-related crimes. Doubles the penalty for gang members that extort, bribe, deal in drugs, intimidate a witness or participate in a drive-by shooting. Any violent crime committed as part of gang activity gets an increased sentencing offense level.

Stiffer punishment is essential if we are to combat gang violence. A Department of Justice report states that 68 percent of male inmates in juvenile correctional facilities admit that their gang had regularly bought and sold guns and over 60 percent described driving around shooting at people regularly.

Because recruitment is so important to perpetuate the criminal gang activities, whether the person recruited is a minor or an adult, a new offense must be created. And this bill will do just that. It is imperative to stop the recruitment. Gangs can only continue to wreak havoc if they have the members to carry out their misdeeds.

A provision of the Federal Gang Violence Act treats alien smuggling as a predicate act under the RICO—racketeering. It will also make alien smuggling a money laundering crime. This is especially timely after the indictment last February of 64 violent organized crime gang members of the Flying Dragons in Chinatown. These smugglers brought in hundreds of illegal Chinese immigrants and then proceeded to kidnap, torture, and extort money. These provisions could only add to their sentences if convicted. These people should be in prison for decades for the acts alleged.

These provisions are a commonsense approach. For instance, any criminal who wears body armor during the commission of a felony certainly deserves to get an additional 2 years mandatory minimum. The intent is clear; the gang member committing a felony wearing body armor knows the dangers involved.

The potential gang members have much to fear themselves. A special report completed by the National Gang Crime Research Center found that two-thirds of gang members have had friends or family members killed because of the gang violence. These victims may never have chosen the route of gang violence but were swept in by the activities of the gang members.

The violence committed by gangs affects our entire country. The wreak havoc on business owners, individuals, family members, and themselves. It is time to do something about it. I thank my colleagues for working to enhance the penalties of the crimes committed by gang members and am pleased to be an original cosponsor of this legislation. I urge my colleagues to cosponsor this bill.

By Mr. PELL:

S. 1701. A bill to end the use of steel jaw leghold traps on animals and for other purposes; to the Committee on Environment and Public Works.

STEEL JAW TRAP LEGISLATION

Mr. PELL. Mr. President, I rise today to introduce legislation to prohibit the use of steel jaw leghold traps in the United States.

While this bill does not prohibit trapping, it does outlaw a particularly savage method of trapping. Anything—wild animals, family pets, children—that comes in contact with a leghold trap is subjected to its bone-crushing force. Other, more discriminating trapping methods exist and should be used.

I think it is also instructive to note that well over 60 nations around the globe including all the nations of the European Community have already outlawed the use of this device and have also prohibited the sale of fur caught by leghold traps.

I should make it clear to my colleagues that I oppose the cruel treatment of any animal and support efforts to curb the unnecessary use of animals for purposes such as medical testing, especially when alternative testing procedures are available or when the tests are conducted for nonvital reasons and result in inhumane animal treatment. I do, however, support the humane use of animals which may provide crucial information for life-saving technologies when no other alternative testing mechanism exists.

ADDITIONAL COSPONSORS

S. 301

At the request of Mr. KYL, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 301, a bill to provide for the negotiation of bilateral prisoner transfer treaties with foreign countries and to provide for the training in the United States of border patrol and customs service personnel from foreign countries.

S. 358

At the request of Mr. WYDEN, his name was added as a cosponsor of S. 358, a bill to amend the Internal Revenue Code of 1986 to provide for an excise tax exemption for certain emergency medical transportation by air ambulance.

S. 553

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 553, a bill to amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers, and for other purposes.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1183, a bill to amend the act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the act, and for other purposes.

S. 1483

At the request of Mr. KYL, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1483, a bill to control crime, and for other purposes.

S. 1512

At the request of Mr. LUGAR, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 1512, a bill to amend title 23, United States Code, to improve safety at public railway-highway crossings, and for other purposes.

S. 1521

At the request of Mr. DOLE, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 1521, a bill to establish the Nicodemus National Historic Site in Kansas, and for other purposes.

S. 1578

At the request of Mr. FRIST, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1578, a bill to amend the Individuals with Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1623

At the request of Mr. WARNER, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

S. 1669

At the request of Mr. LOTT, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1669, a bill to name the Department of Veterans Affairs medical center in Jackson, MS, as the "G.V. (Sonny) Montgomery Department of Veterans Affairs Medical Center".

S. 1675

At the request of Mr. GRAMM, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Colorado [Mr. CAMPBELL], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1675, a bill to provide for the nationwide tracking of convicted sexual predators, and for other purposes.

S. 1690

At the request of Mr. CONRAD, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 1690, a bill to provide a grace period for the prohibition on Consolidated Farm Service Agency lending to delinquent borrowers, and for other purposes.

SENATE JOINT RESOLUTION 51

At the request of Mr. DOLE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 51, a joint resolution saluting and congratulating Polish people around the world as, on May 3, 1996, they commemorate the 205th anniversary of the adoption of Poland's first constitution.

SENATE CONCURRENT RESOLUTION 41

At the request of Mr. INOUYE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Concurrent Resolution 41, a concurrent resolution expressing the sense of the Congress that the George Washington University is important to the Nation and urging that the importance of the university be recognized and celebrated through regular ceremonies.

SENATE RESOLUTION 85

At the request of Mr. WYDEN, his name was added as a cosponsor of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 243

At the request of Mr. ROBB, the names of the Senator from Nevada [Mr. BRYAN], the Senator from North Dakota [Mr. CONRAD], the Senator from New York [Mr. D'AMATO], the Senator from New Mexico [Mr. DOMENICI], the Senator from Alabama [Mr. HEFLIN], the Senator from North Carolina [Mr. HELMS], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Resolution 243, a resolution to designate the week of May 5, 1996, as "National Correctional Officers and Employees Week."

AMENDMENT NO. 3667

At the request of Mr. DORGAN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Amendment No. 3667 proposed to S. 1664, an original bill to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

SENATE CONCURRENT RESOLUTION 54—TO CORRECT THE ENROLLMENT OF THE BILL S. 735

Mr. HATCH submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 54

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 735) shall make the following corrections:

In the table of contents of the bill, strike the item relating to section 431 and redesignate the items relating to sections 432 through 444 as relating to sections 431 through 443, respectively.

In section 620G(a), proposed to be inserted after section 620F of the Foreign Assistance Act of 1961, by section 325 of the bill, strike "may" and insert "shall".

In section 620H(a), proposed to be inserted after section 620G of the Foreign Assistance Act of 1961, by section 326 of the bill—

(1) strike "may" and insert "shall";

(2) strike "shall be provided"; and

(3) insert "section" before "6(j)".

In section 219, proposed to be inserted in title II of the Immigration and Nationality Act, by section 302 of the bill—

(1) in subsection (a)(1), insert "foreign" before "terrorist organization";

(2) in subsection (a)(2)(A)(i), strike "an" before "organization under" and insert "a foreign";

(3) in subsection (a)(2)(C), insert "foreign" before "organization"; and

(4) in subsection (a)(4)(B), insert "foreign" before "terrorist organization".

In section 2339B(g), proposed to be added at the end of chapter 113B of title 18, United States Code, by section 303 of the bill, strike paragraph (5) and redesignate paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

In section 2332d(a), proposed to be added to chapter 113B of title 18, United States Code, by section 321(a) of the bill—

(1) strike "by the Secretary of State" and insert "by the Secretary of the Treasury";

(2) strike "with the Secretary of the Treasury" and insert "with the Secretary of State"; and

(3) add the words "the government of" after "engaged in a financial transaction with";

At the end of section 321 of the bill, add the following:

"(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.".

In section 414(b) and 422(c) of the bill, strike "90" and insert "180".

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill strike "essential" and insert "important".

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill, strike "security".

Strike section 431 of the bill and redesignate sections 432 through 444 as sections 431 through 443, respectively.

In section 511(c) of the bill, strike "amended—" and all that follows through "(2)" and insert "amended".

In section 801 of the bill, strike "subject to the concurrence of" and insert "in consultation with".

In section 443, by striking subsection (d) in its entirety and inserting:

"(d) EFFECTIVE DATE.—The amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulation that shall be published on or before January 1, 1997."

SENATE CONCURRENT RESOLUTION 55—TO CORRECT THE ENROLLMENT OF THE BILL S. 735

Mr. HATCH submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 55

Resolved by the Senate (the House of Representatives concurring), That the Secretary

VOL
142
PT
6
AP
15
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24
1996
UMI

of the Senate, in the enrollment of the bill (S. 735) shall make the following corrections.

In the table of contents of the bill, strike the item relating to section 431 and redesignate the items relating to sections 432 through 444 as relating to sections 431 through 443, respectively.

Strike section 1605(g) of title 28, United States Code, proposed to be added by section 221 of the bill, and insert the following:

"(g) LIMITATION ON DISCOVERY.—

"(1) IN GENERAL.—(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

"(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

"(2) SUNSET.—(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

"(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—

"(i) create a serious threat of death or serious bodily injury to any person;

"(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

"(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

"(3) EVALUATION OF EVIDENCE.—The court's evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

"(4) BAR ON MOTIONS TO DISMISS.—A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) of 56 of the Federal Rules of Civil Procedure.

"(5) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.".

In section 620G(a), proposed to be inserted after section 620F of the Foreign Assistance Act of 1961, by section 325 of the bill, strike "may" and insert "shall".

In section 620H(a), proposed to be inserted after section 620G of the Foreign Assistance Act of 1961, by section 326 of the bill—

(1) strike "may" and insert "shall";

(2) strike "shall be provided"; and

(3) insert "section" before "6(j)".

In section 219, proposed to be inserted in title II of the Immigration and Nationality Act, by section 302 of the bill—

(1) in subsection (a)(1), insert "foreign" before "terrorist organization";

(2) in subsection (a)(2)(A)(i), strike "an" before "organization under" and insert "a foreign";

(3) in subsection (a)(2)(C), insert "foreign" before "organization"; and

(4) in subsection (a)(4)(B), insert "foreign" before "terrorist organization".

In section 2339B(g), proposed to be added at the end of chapter 113B of title 18, United States Code, by section 303 of the bill, strike paragraph (5) and redesignate paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

In section 2332d(a), proposed to be added to chapter 113B of title 18, United States Code, by section 321(a) of the bill—

(1) strike "by the Secretary of State" and insert "by the Secretary of the Treasury";

(2) strike "with the Secretary of the Treasury" and insert "with the Secretary of State";

(3) add the words "the government of" after "engages in a financial transaction with".

At the end of section 321 of the bill, add the following:

"(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.".

In section 414(b) and 422(c) of the bill, strike "90" and insert "180".

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill strike "essential" and insert "important".

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill, strike "security".

Strike section 431 of the bill and redesignate sections 432 through 444 as sections 431 through 443, respectively.

In section 511(c) of the bill, strike "amended—" and all that follows through "(2)" and insert "amended".

In section 801 of the bill, strike "subject to the concurrence of" and insert "in consultation with".

In section 443, by striking subsection (d) in its entirety and inserting:

"(d) EFFECTIVE DATE.—The amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulations that shall be published on or before January 1, 1997."

SENATE CONCURRENT RESOLUTION 56—RECOGNIZING THE 10TH ANNIVERSARY OF THE CHORNOBYL NUCLEAR DISASTER

Mr. LAUTENBERG (for himself, Mr. DOLE, Mr. HELMS, Mr. PELL, and Mr. LEVIN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 56

Whereas April 26, 1996, marks the tenth anniversary of the Chornobyl nuclear disaster;

Whereas United Nations General Assembly resolution 50/134 declares April 26, 1996, as the International Day Commemorating the Tenth Anniversary of the Chornobyl Nuclear Power Plant Accident and encourages member states to commemorate this tragic event;

Whereas serious radiological, health, and socioeconomic consequences for the populations of Ukraine, Belarus, and Russia, as well as for the populations of other affected areas, have been identified since the disaster;

Whereas over 3,500,000 inhabitants of the affected areas, including over 1,000,000 children, were exposed to dangerously high levels of radiation;

Whereas the populations of the affected areas, especially children, have experienced significant increases in thyroid cancer, immune deficiency diseases, birth defects, and other conditions, and these trends have accelerated over the 10 years since the disaster;

Whereas the lives and health of people in the affected areas continue to be heavily burdened by the ongoing effects of the Chornobyl accident;

Whereas numerous charitable, humanitarian, and environmental organizations from the United States and the international community have committed to overcome the extensive consequences of the Chornobyl disaster;

Whereas the United States has sought to help the people of Ukraine through various forms of assistance;

Whereas humanitarian assistance and public health research into Chornobyl's consequences will be needed in the coming decades when the greatest number of latent health effects is expected to emerge;

Whereas on December 20, 1995, the Ukrainian Government, the governments of the G-7 countries, and the Commission of the European Communities signed a memorandum of understanding to support the decision of Ukraine to close the Chornobyl nuclear power plant by the year 2000 with adequate support from the G–7 countries and international financial institutions;

Whereas the United States strongly supports the closing of the Chornobyl nuclear power plant and improving nuclear safety in Ukraine; and

Whereas representatives of Ukraine, the G-7 countries, and international financial institutions will meet at least annually to monitor implementation of the program to close Chornobyl: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) recognizes April 26, 1996, as the tenth anniversary of the Chornobyl nuclear power plant disaster;

(2) urges the Government of Ukraine to continue its negotiations with the G–7 countries to implement the December 20, 1995, memorandum of understanding which calls for all nuclear reactors at Chornobyl to be shut down in a safe and expeditious manner; and

(3) calls upon the President—

(A) to support continued and enhanced United States assistance to provide medical relief, humanitarian assistance, social impact planning, and hospital development for Ukraine, Belarus, Russia, and other nations most heavily afflicted by Chornobyl aftermath;

(B) to encourage national and international health organizations to expand the scope of research into the public health consequences of Chornobyl, so that the global community can benefit from the findings of such research;

(C) to support the process of closing the Chornobyl nuclear power plant in an expeditious manner as envisioned by the December 20, 1995, memorandum of understanding; and

(D) to support the broadening of Ukraine's regional energy sources which will reduce its dependence on any individual country.

Mr. LAUTENBERG. Mr. President, I rise to submit a resolution to commemorate the 10th anniversary of one

of the most tragic, devastating events in the history of nuclear power—the Chernobyl nuclear disaster. The resolution also expresses Congress' unequivocal support for the closing of the Chernobyl nuclear power plant. I am pleased that Senators DOLE, HELMS, PELL, and LEVIN are joining me in submitting this resolution.

Friday, April 26, 1996, marks the 10th anniversary of the world's worst nuclear accident. Ten years ago, nuclear reactor No. 4 at Ukraine's Chernobyl nuclear power plant malfunctioned. The ensuing explosion and fire spewed a cloud of radiation across Europe, releasing 200 times more radioactivity than the atomic bombings of Hiroshima and Nagasaki combined.

The results were devastating. Millions of people were exposed to dangerously high levels of radiation.

Chernobyl's legacy is much more than the worst technological disaster in the history of nuclear power. It is a continuing humanitarian tragedy that will always be remembered the world over. The inhabitants of Ukraine, Belarus, and Russia continue to be heavily burdened by the social, economic, and health effects of the accident, and the entire international community continues to be threatened by the specter of another Chernobyl.

Ten years ago, millions of Ukrainians, Belarussians, and Russians, including over one million children and thousands of people who cleaned up after the explosion, were exposed to dangerously high levels of radiation. A 30-kilometer radius around Chernobyl was rendered uninhabitable. Families were forced from their homes. Most have never returned.

The tragic effects of this disaster have devastated millions. A 200-fold increase in thyroid cancer among children has ensued. Immune deficiency disorders, respiratory problems, and birth defects have increased at alarming rates since the disaster. The region's soil and water supplies have remained contaminated. Ukraine's economy has been overwhelmed by the costs of rebuilding.

Mr. President, the people of Chernobyl and Ukraine have not been alone in their efforts to overcome the tremendous loss. Numerous charitable and humanitarian organizations have assiduously worked to ameliorate the consequences of the Chernobyl disaster. Americans for Human Rights in Ukraine and the Children of Chernobyl Relief Fund, from my State of New Jersey, have lent considerable support to that effort along with many others in the Ukrainian-American community. These and millions of other Americans in New Jersey and elsewhere continue to provide valuable assistance to the victims of the Chernobyl disaster. All private organizations who have been at the forefront to help Ukraine deserve commendation for their tireless efforts to assist Cherbobyl's victims.

Unfortunately, more work needs to be done. Cherbobyl's two working reactors continue to churn out electricity. The protective concrete covering over the obliterated reactor No. 4, the sarcophagus, has developed cracks which dangerously weaken its structure. Corrosion of this structure threatens to release even more radioactivity into the region. Experts warn that another accident is imminent.

Just yesterday, a fire started within 10 kilometers of Cherbobyl. While initial assessments by specialists conclude that the abundant smoke produced by the fire may not pose further contamination dangers, all bets are off in the future. The region's inhabitants cannot be assured that radioactive particles which settled in the areas surrounding Cherbobyl after the accident will not be carried into their villages or water supplies. They cannot be assured that future fires or even floods will not release dangerous levels of contamination.

This event underscores the ongoing threat Cherbobyl poses to safety and the urgent need to close Cherbobyl forever.

On December 20, 1995, the Ukrainian Government, the governments of the G–7 countries, and the Commission of the European Communities signed a memorandum of understanding supporting Ukraine's decision to close Cherbobyl by the year 2000 and the international community has pledged financial support to facilitate the closure. Last week, President Clinton met in Moscow with Ukrainian President Leonid Kuchma and leaders of other G–7 nations, and Ukraine reaffirmed its commitment to close Cherbobyl.

Support from the international community is vital to help Ukraine move forward and close Cherbobyl. Ukraine is working hard to implement open economic and social reforms, and its economy is strapped. At this very delicate time in Ukraine's history, the United States should support Ukraine's efforts to rebuild its infrastructure and to secure the alternative ·energy sources it needs to close Cherbobyl in a safe and expeditious manner.

Mr. President, the devastating health effects, social distress, and economic hardship remains in the hearts and minds of the people of Ukraine who lived through the Cherbobyl explosion. They cannot forget the radioactive blanket of despair that covered their homes and forced them from their villages. They cannot forget that their livelihoods have been destroyed. For their sake and for the sake of future generations, we should commemorate this event on April 26, 1996, and redouble our efforts to ensure that the devastation of 10 years ago will not be repeated.

I urge my colleagues to support this resolution.

SENATE RESOLUTION 250—EXPRESSING THE SENSE OF THE SENATE REGARDING TACTILE CURRENCY FOR THE BLIND AND VISUALLY IMPAIRED PERSONS

Mr. BROWN (for himself, Mr. FAIRCLOTH, Ms. MOSELEY-BRAUN, and Mr. SHELBY) submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 250

Whereas currency is used by virtually everyone in everyday life, including blind and visually impaired person;

Whereas the Federal reserve notes of the United States are inaccessible to individuals with visual disabilities;

Whereas the Americans with Disabilities Act enhances the economic independence and equal opportunity for full participation in society for individuals with disabilities;

Whereas most blind and visually impaired persons are therefore required to rely upon others to determine denominations of such currency;

Whereas this constitutes a serious impediment to independence in everyday living;

Whereas electronic means of bill identification will always be more fallible than purely tactile means;

Whereas tactile currency already exists in 23 countries world wide; and

Whereas the currency of the United States is presently undergoing significant changes for security purposes: Now, therefore, be it

Resolved, that the Senate—

(1) endorse the efforts recently begun by the Bureau of Engraving and Printing to upgrade the currency for security reasons; and

(2) strongly encourages the Secretary of the Treasury and the Bureau of Engraving and Printing to incorporate cost-effective, tactile features into the design changes, thereby including the blind and visually impaired community in independent currency usage.

AMENDMENTS SUBMITTED

THE IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

SIMPSON AMENDMENT NO. 3722

Mr. SIMPSON proposed an amendment to amendment No. 3669 proposed by him to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

Strike all after the first word and insert:

214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

VOL
142
PT
6
AP
15
—
24
1996
UMI

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following:': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) Exclusion of Student Visa Abusers.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) Student visa abusers.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.', and

"(c) Deportation of Student Visa Abusers.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) Student visa abusers.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

This section shall become effective 1 day after the date of enactment.

SIMPSON AMENDMENT NO. 3723

Mr. SIMPSON proposed an amendment to amendment No. 3670 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the first word and insert:

PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) In General.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) Covered Countries.TThe Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) Information To Be Collected.—

(1) In general.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) Participation by Colleges and Universities.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15)(F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) Funding.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States Government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States Government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) Joint Report.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) Worldwide Applicability of the Program.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) Definition.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 110(a)(15)).

This section shall become effective 1 day after the date of enactment.

SIMPSON AMENDMENT NO. 3724

Mr. SIMPSON proposed an amendment to amendment No. 3671 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the first word and insert:

115A. FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) Exclusion of Aliens Who Have Falsely Claimed U.S. Citizenship.—Section 212(a)(9)(8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) Falsely claiming citizenship.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) Deportation of Aliens Who Have Falsely Claimed U.S. Citizenship.—Section 241(a)(8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) Falsely claiming citizenship.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

This section shall become effective 1 day after the date of enactment.

SIMPSON AMENDMENT NO. 3725

Mr. SIMPSON proposed an amendment to the motion to recommit proposed by him to the bill S. 1664, supra; as follows:

Add at the end of the instructions the following: "that the following amendment be reported back forthwith.

(1) After sec. 213 of the bill, add the following new section:

"SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) Persons Eligible for Student Visas.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) Exclusion of Student Visa Abusers.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) Student visa abusers.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if(I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'; and

"(c) Deportation of Student Visa Abusers.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) Student visa abusers.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if(I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

SIMPSON AMENDMENT NO. 3726

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed by him to the bill S. 1664, supra; as follows:

At the end of the amendment to this instructions to the motion to recommit, insert the following new section:

SEC. PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) In General.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15(F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) Covered Countries.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). the Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) Information To Be Collected.—

(1) In general.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney general and the Secretary of State determine necessary to carry out the pilot program.

(d) Particiaption by Colleges and Universities.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15)(F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) Funding.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those"J" visa holders whose presence in the United States is sponsored by the United States government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) Joint Report.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) Worldwide Applicability of the Program.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) Definition.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

SIMPSON AMENDMENT NO. 3727

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed

VOL
142
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24
1996
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by him to the bill S. 1664, supra; as follows:

Strike the last word in the pending amendment and insert: "Act (8 U.S.C. 110(a)(15)).

"SEC. . FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

SIMPSON AMENDMENT NO. 3728

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the last word in the amendment and insert: "deportable.

"SEC. . VOTING BY ALIENS.

"(a) CRIMINAL PENALTY FOR VOTING BY ALIENS IN FEDERAL ELECTION.—Title 18. United States Code, is amended by adding the following new section:

'§611. Voting by aliens

'(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

'(1) the election is held partly for some other purpose;

'(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

'(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.'

'(b) Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than one year or both.';

"(b) EXCLUSION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excludable.'; and

"(c) DEPORTATION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable.'.".

SIMPSON AMENDMENT NO. 3729

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the last word and insert the following "deportable.

"USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F)(8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.', and

"(c) DEPORTTION OF STUDENT VISA ABUSERS.—Section 241(a)(8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

This section shall become effective 1 day after the date of enactment.

SIMPSON AMENDMENT NO. 3730

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the last word in the amendment and insert: "enactment.

"SEC. . OPEN-FIELD SEARCHES.

(a) REPEAL.—Section 116 of Public Law 99-603 and section 287(e) of the Immigration and Nationality Act (8 U.S.C. 1357(e)) are repealed.

"(b) REDESIGNATION OF PROVISION.—Subsection (f) of section 287 of that Act is redesignated as subsection (e) of that section."

ROBB (AND WARNER) AMENDMENT NO. 3731

(Ordered to lie on the table.)

Mr. ROBB (for himself and Mr. WARNER) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . CHANGES IN SPECIAL IMMIGRANT STATUS.

(a) REPEAL OF CERTAIN OBSOLETE PROVISIONS.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking subparagraphs (B), (E), (F), (G), and (H).

(b) SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is further amended—

(1) by striking "or" at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting "; or", and

(3) by adding at the end the following subparagraph:

"(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

"(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference at the North Atlantic Treaty Organization (NATO);

"(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO-6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty or as a dependent); and

"(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the Immigration in the National Interest Act of 1995.".

(c) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OR SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)(i)", and

(2) by inserting "(or under analogous authority under paragraph (27)(L))" and "(27)(I)".

(d) EXTENSION OF SUNSET FOR RELIGIOUS WORKERS.—Section 101(a)(27)(C)(ii) (8 U.S.C. 1101(a)(27)(C)(ii)) is amended by striking "1997" and inserting "2005" each place it appears.

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 201(b)(1)(A) (8 U.S.C. 1151(b)(1)(A)) is amended by striking "or (B)".

(2) Section 203(b)(4) (8 U.S.C. 1153(b)(4)) is amended by striking "or (B)".

(3) Section 214(k)(3) (8 U.S.C. 1184(1)(3)), (3)(A), is amended by striking ", who has not otherwise been accorded status under section 101(a)(27)(H),".

(4) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by striking "101(a)(27) (H), (I)," and inserting "101(a)(27)(I),".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TRANSITION.—The amendments made by subsection (a) shall not apply to any alien with respect to whom an application for special immigrant status under a subparagraph repealed by such amendments has been filed by not later than September 30, 1996.

SHELBY (AND OTHERS) AMENDMENT NO. 3732

(Ordered to lie on the table.)

Mr. SHELBY (for himself, Mr. COCHRAN, Mr. COVERDELL, Mr. FAIRCLOTH, Mr. HELMS, Mr. INHOFE, Mr. THOMAS, Mr. BYRD, Mr. COATS, Mr. GRAMS, Mr. LOTT, Mr. THURMOND, Mr. WARNER, and Mr. PRESSLER) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . LANGUAGE OF GOVERNMENT ACT OF 1996.

(a) SHORT TITLE.—This section may be cited as the "Language of Government Act of 1996".

(b) FINDINGS AND CONSTRUCTION.—

(1) FINDINGS.—The Congress finds and declares that—

(A) the United States is comprised of individuals and groups from diverse ethnic, cultural, and linguistic backgrounds;

(B) the United States has benefited and continues to benefit from this rich diversity;

(C) throughout the history of the Nation, the common thread binding those of differing backgrounds has been a common language;

(D) in order to preserve unity in diversity, and to prevent division along linguistic lines, the United States should maintain a language common to all people;

(E) English has historically been the common language and the language of opportunity in the United States;

(F) Native American languages have a unique status because they exist nowhere else in the world, and in creating a language policy for the United States Government, due consideration must be given to Native American languages and the policies and laws assisting their survival, revitalization, study, and use;

(G) a purpose of this Act is to help immigrants better assimilate and take full advantage of economic and occupational opportunities in the United States;

(H) by learning the English language, immigrants will be empowered with the language skills and literacy necessary to become responsible citizens and productive workers in the United States;

(I) the use of a single common language in the conduct of the Federal Government's official business will promote efficiency and fairness to all people;

(J) English should be recognized in law as the language of official business of the Federal Government; and

(K) any monetary savings derived by the Federal Government from the enactment of this Act should be used for the teaching of non-English speaking immigrants the English language.

(2) CONSTRUCTION.—The amendments made by subsection (c)—

(A) are not intended in any way to discriminate against or restrict the rights of any individual in the United States;

(B) are not intended to discourage or prevent the use of languages other than English in any nonofficial capacity; and

(C) except where an existing law of the United States directly contravenes the amendments made by subsection (c) (such as by requiring the use of a language other than English for official business of the Government of the United States), are not intended to repeal existing laws of the United States.

(c) ENGLISH AS THE OFFICIAL LANGUAGE OF GOVERNMENT.—

(1) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 6—LANGUAGE OF THE GOVERNMENT

"Sec.
"161. Declaration of official language of Government.e of Government.
"162. Preserving and enhancing the role of the offici42"163. Official Government activities in English.
"164. Standing.
"165. Definitions.

"§161. Declaration of official language of Government

"The official language of the Government of the United States is English.

"§162. Preserving and enhancing the role of the official language

"The Government shall have an affirmative obligation to preserve and enhance the role of English as the official language of the United States Government. Such obligation shall include encouraging greater opportunities for individuals to learn the English language.

"§163. Official Government activities in English

"(a) CONDUCT OF BUSINESS.—The Government shall conduct its official business in English.

"(b) DENIAL OF SERVICES.—No person shall be denied services, assistance, or facilities, directly or indirectly provided by the Government solely because the person communicates in English.

"(c) ENTITLEMENT.—Every person in the United States is entitled to—

"(1) communicate with the Government in English;

"(2) receive information from or contribute information to the Government in English; and

"(3) be informed of or be subject to official orders in English.

"§164. Standing

"Any person alleging injury arising from a violation of this chapter shall have standing to sue in the courts of the United States under sections 2201 and 2202 of title 28, United States Code, and for such other relief as may be considered appropriate by the courts.

"§165. Definitions

"For purposes of this chapter:

"(1) GOVERNMENT.—The term 'Government' means all branches of the Government of the United States and all employees and officials of the Government of the United States while performing official businesses.

"(2) OFFICIAL BUSINESS.—the term 'official business' means those governmental actions, documents, or policies which are enforceable with the full weight and authority of the Government, but does not include—

"(A) use of indigenous languages or Native American languages, or the teaching of foreign languages in educational settings;

"(B) actions, documents, or policies that are not enforceable in the United States;

"(C) actions, documents, or policies necessary for international relations, trade, or commerce;

"(D) actions or documents that protect the public health or the environment;

"(E) actions that protect the rights of victims of crimes or criminal defendants;

"(F) documents that utilize terms of art or phrases from languages other than English;

"(G) bilingual education, bilingual ballots, or activities pursuant to the Native American Languages Act (25 U.S.C. 2901 *et seq.*); and

"(H) elected officials, who possess a proficiency in a language other than English, using that language to provide information orally to their constituents.".

(2) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following new item:

"6. Language of the Government .... 161".

(d) PREEMPTION.—This section (and the amendments made by this section) shall not preempt any law of any State.

(e) EFFECTIVE DATE.—The amendments made by subsection (c) shall take effect upon the date of enactment of this Act, except that no suit may be commenced to enforce or determine .rights under the amendments until January 1, 1997.

FAIRCLOTH AMENDMENT NO. 3733

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill S. 1664, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REVIEW OF CONTRACTS WITH ENGLISH AND CIVICS TEST ENTITIES.

(a) IN GENERAL.—The Attorney General of the United States shall investigate and submit a report to the Congress regarding the practices of test entities authorized to administer the English and civics tests pursuant to section 312.3(a) of title 8, Code of Federal Regulations. The report shall include any findings of fraudulent practices by the testing entities.

(b) PRELIMINARY AND FINAL REPORTS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a preliminary report of the findings of the investigation conducted pursuant to subsection (a) and shall submit to the Congress a final report within 275 days after the submission of the preliminary report.

KENNEDY AMENDMENT NO. 3734

Mr. KENNEDY proposed an amendment to amendment No. 3725 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the appropriate place add the following:

SEC. INCREASE IN THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during

VOL 142 PT 6 AP 15 — 24 1996 UMI

the period ending July 4, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;".

KYL AMENDMENT NO. 3735

Mr. KYL proposed an amendment to amendment No. 3725 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the end of the amendment add the following: Notwithstanding any other provision in this Act, section 154 shall read as follows:

SEC. 154. PHYSICAL AND MENTAL EXAMINATIONS.

Section 234 (8 U.S.C. 1224) is amended to read as follows:

"PHYSICAL AND MENTAL EXAMINATIONS

"SEC. 234. (a) ALIENS COVERED.—Each alien within any of the following classes of aliens who is seeking entry into the United States shall undergo a physical and mental examination in accordance with this section:

"(1) Aliens applying for visas for admission to the United States for permanent residence.

"(2) Aliens seeking admission to the United States for permanent residence for whom examinations were not made under paragraph (1).

"(3) Aliens within the United States seeking adjustment of status under section 245 to that of aliens lawfully admitted to the United States for permanent residence.

"(4) Alien crewmen entering or in transit across the United States.

"(b) DESCRIPTION OF EXAMINATION.—(1) Each examination required by subsection (a) shall include—

"(A) an examination of the alien for any physical or mental defect or disease and a certification of medical findings made in accordance with subsection (d); and

"(B) an assessment of the vaccination record of the alien in accordance with subsection (e).

"(2) The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to carry out the medical examinations required by subsection (a).

"(c) MEDICAL EXAMINERS.—

"(1) MEDICAL OFFICERS.—(A) Except as provided in paragraphs (2) and (3), examinations under this section shall be conducted by medical officers of the United States Public Health Services.

"(B) Medical officers of the United States Public Health Service who have had specialized training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at such ports of entry as the Secretary may designate, in consultation with the Attorney General.

"(2) CIVIL SURGEONS.—(A) Whenever medical officers of the United States Public Health Service are not available to perform examinations under this section, the Attorney General, in consultation with the Secretary, shall designate civil surgeons to perform the examinations.

"(B) Each civil surgeon designated under subparagraph (A) shall—

"(i) have at least 4 years of professional experience unless the Secretary determines that special or extenuating circumstances justify the designation of an individual having a lesser amount of professional experience; and

"(ii) satisfy such other eligibility requirements as the Secretary may prescribe.

"(3) PANEL PHYSICIANS.—In the case of examinations under this section abroad, the medical examiner shall be a panel physician designated by the Secretary of State, in consultation with the Secretary.

"(d) CERTIFICATION OF MEDICAL FINDINGS.—The medical examiners shall certify for the information of immigration officers and special inquiry officers, or consular officers, as the case may be, any physical or mental defect or disease observed by such examiners in any such alien.

"(e) VACCINATION ASSESSMENT.—(1) The assessment referred to in subsection (b)(1)(B) is an assessment of the alien's record of required vaccines for preventable diseases, including mumps, measles, rubella, polio, tetanus, diphtheria toxoids, pertussis, hemophilus-influenza type B, hepatitis type B, as well as any other diseases specified as vaccine-preventable by the Advisory Committee on Immunization Practices.

"(2) Medical examiners shall educate aliens on the importance of immunizations and shall create an immunization record for the alien at the time of examination.

"(3)(A) Each alien who has not been vaccinated against measles, and each alien under the age of 5 years who has not been vaccinated against polio, must receive such vaccination, unless waived by the Secretary, and must receive any other vaccination determined necessary by the Secretary prior to arrival in the United States.

"(B) Aliens who have not received the entire series of vaccinations prescribed in paragraph (1) (other than measles) shall return to a designated civil surgeon within 30 days of arrival in the United States, or within 30 days of adjustment of status, for the remainder of the vaccinations.

"(f) APPEAL OF MEDICAL EXAMINATION FINDINGS.—Any alien determined to have a health-related grounds of exclusion under paragraph (1) of section 212(a) may appeal that determination to a board of medical officers of the Public Health Service, which shall be convened by the Secretary. The alien may introduce at least one expert medical witness before the board at his or her own cost and expense.

"(g) FUNDING.—(1)(A) The Attorney General shall impose a fee upon any person applying for adjustment of status to that of an alien lawfully admitted to permanent residence under section 209, 210, 245,or 245A, and the Secretary of State shall impose a fee upon any person applying for a visa at a United States consulate abroad who is required to have a medical examination in accordance with subsection (a).

"(B) The amounts of the fees required by subparagraph (A) shall be established by the Secretary, in consultation with the Attorney General and the Secretary of State, as the case may be, and shall be set at such amounts as may be necessary to recover the full costs of establishing and administering the civil surgeon and panel physician programs, including the costs to the Service, the Department of State, and the Department of Health and Human Services for any additional expenditures associated with the administration of the fees collected.

"(2)(A) The fees imposed under paragraph (1) may be collected as separate fees or as surcharges to any other fees that may be collected in connection with an application for adjustment of status under section 209, 210, 245, or 245A, for a visa, or for a waiver of excludability under paragraph (1) or (2) of section 212(g), as the case may be.

"(B) The provisions of the Act of August 18, 1856 (Revised Statutes 1726–28, 22 U.S.C. 4212–14), concerning accounting for consular fees, shall not apply to fees collected by the Secretary of State under this section.

"(3)(A) There is established on the books of the Treasury of the United States a separate account which shall be known as the 'Medical Examinations Fee Account'.

"(B) There shall be deposited as offsetting receipts into the Medical Examinations Fee Account all fees collected under paragraph (1), to remain available until expended.

"(C) Amounts in the Medical Examinations Fee Account shall be available only to reimburse any appropriation currently available for the programs established by this section.

"(h) DEFINITIONS.—As used in this section—

"(1) the term 'medical examiner' refers to a medical officer, civil surgeon, or panel physician, as described in subsection (c); and

"(2) the term 'Secretary' means the Secretary of Health and Human Services.".

BROWN AMENDMENT NO. 3736

(Ordered to lie on the table.)

Mr. BROWN submitted an amendment intended to proposed by him to the bill S. 1664, supra; as follows:

At the appropriate place in title II of the bill, insert the following new section:

SEC. . PILOT PROGRAMS TO PERMIT BONDING.

(a) IN GENERAL.—The Attorney General of the United States shall establish a pilot program in 5 States (at least 2 of which are in States selected for a demonstration project under section 112 of this Act) to permit aliens to post a bond in lieu of the affidavit requirements in section 203 of the Immigration Control and Financial Responsibility Act of 1996 and the deeming requirements in section 204 of such Act. Any pilot program established pursuant to this subsection shall require an alien to post a bond in an amount sufficient to cover the cost of benefits for the alien and the alien's family under the programs described in section 241(a)(5)(D) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(5(D)) and shall remain in effect until the alien and all members of the alien's family permanently depart from the United States, are naturalized, or die.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations for establishing the pilot programs, including

(1) criteria and procedures for——

(A) certifying bonding companies for participation in the program, and

(B) debarment of any such company that fails to pay a bond, and

(2) criteria for setting the amount of the bond to assure that the bond is in an amount that is not less than the cost of providing benefits under the programs described in section 241(a)(5)(D) for the alien and the alien's family for 6 months.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

DOLE (AND COVERDELL) AMENDMENT NO. 3737

Mr. COVERDELL (for Mr. DOLE, for himself and Mr. COVERDELL) proposed an amendment to amendment No. 3725 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the end of the amendment, insert the following:

SEC. . EXCLUSION GROUNDS FOR OFFENSES OF DOMESTIC VIOLENCE, STALKING, CRIMES AGAINST CHILDREN, AND CRIMES OF SEXUAL VIOLENCE.

(a) IN GENERAL.—Section 241(a)(2) (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following:

"(E) DOMESTIC VIOLENCE, VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND STALKING.—(i) Any alien who at any time after entry is convicted of a crime of domestic violence is deportable.

"(ii) Any alien who at any time after entry engages in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable.

"(iii) Any alien who at any time after entry is convicted of a crime of stalking is deportable.

"(iv) Any alien who at any time after entry is convicted of a crime of child abuse, child sexual abuse, child neglect, or child abandonment is deportable.

"(F) CRIMES OF SEXUAL VIOLENCE.—Any alien who at any time after entry is convicted of a crime of rape, aggravated sodomy, aggravated sexual abuse, sexual abuse, abusive sexual contact, or other crime of sexual violence is deportable.".

(b) DEFINITIONS—Section 101(a) (8) U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

"(47) The term 'crime of domestic violence' means any felony or misdemeanor crime of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

"(48) The term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(c) This section will become effective one day after the date of enactment of the Act

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NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT AND THE DISTRICT OF COLUMBIA

Mr. COHEN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Governmental Affairs, will hold a hearing on Tuesday, April 30, 1996, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building, on Aviation Safety: Are FAA Inspectors Adequately Trained, Targeted, and Supervised?

COMMITTEE ON ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, May 2, 1996, at 2:00 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 742, a bill to amend the Wild and Scenic Rivers Act to limit acquisition of land on the 39-mile segment of the Missouri River, Nebraska and South Dakota, designated as a recreational river, to acquisition from willing sellers; S. 879, a bill to amend the Wild and Scenic Rivers Act to limit acquisition of land on the 39-mile headquarters segment of the Missouri River, Nebraska and South Dakota, designated as a recreational river, to acquisition from willing sellers; S. 1167, a bill to amend the Wild and Scenic Rivers Act to exclude the South Dakota segment from the segment of the Missouri River designated as a recreational river; S. 1168, a bill to amend the Wild and Scenic Rivers Act to exclude any private lands from the segment of the Missouri River designated as a recreational river; S. 1174, a bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Lamprey River in New Hampshire as components of the National Wild and Scenic Rivers System; and S. 1374, a bill to require adoption of a management plan for the Hells Canyon National Recreation Area that allows appropriate use of motorized and nonmotorized river craft in the recreation area.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Wednesday, April 24, 1996, session of the Senate for the purpose of conducting a hearing on S. 1278 and Distance Learning.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, April 24, 1996, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Wednesday, April 24, at 9:30 a.m., hearing room SD–406, on S. 1285, the Accelerated Cleanup and Environmental Recovery Act of 1996 ("Superfund"), as modified by an amendment in the nature of a substitute, Senate Amendment No. 3563, dated March 21, 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 24, 1996, at 2:00 p.m., to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, April 24, 1996, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. SIMPSON. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on the President's fiscal year 1997 budget proposals for veterans' programs. The hearing will be held on April 24, 1996, at 2:00 p.m., in room 418 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 24, 1996, at 9:00 a.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the

VOL
142
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Senate on Wednesday, April 24, 1996, at 3:00 p.m. to hold a closed mark-up.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT AND RELATED MATTERS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Special Committee to Investigate Whitewater Development and Related Matters be authorized to meet during the session of the Senate on Wednesday, April 24, and Thursday, April 25, 1996, to conduct hearings pursuant to Senate Resolution 120.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts of the Senate Committee on the Judiciary, be authorized to meet during a session of the Senate on Wednesday, April 24, 1996, at 2:00 p.m., in Senate Dirksen room 226, on "The need for additional bankruptcy judgeships and the role of the U.S. trustee system".

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IN SOLIDARITY WITH ISRAEL TO FIGHT TERRORISM

• Mr. MACK. Mr. President, I submit for the RECORD the following American-Jewish Committee message of solidarity with Israel against terrorism. The message appeared as a full-page advertisement in the New York Times on March 17, 1996.

The message follows:

We stand with Israel—in grief, in solidarity, in our resolve to fight terrorism.

Again and again, terrorists intent on destroying Israel and halting the Arab-Israeli peace process have taken their deadly toll of innocent lives. In the latest horrific attacks, scores have been killed: Israelis young and old; Jews and non-Jews; citizens and visitors, including two young Americans.

We stand as one in our condemnation of those who commit and assist such heinous acts. The murderers and their supporters serve no agenda other than blind, fanatical hatred. Israelis, Palestinians, the international community must act to stop these killers now. Through every practical means, the promoters of terror must be defeated, their pipelines of financial and logistical support choked off.

We stand as one with the people of Israel and Jews the world over in mourning the victims of terrorist murder—as we have stood with Israel in other times of peril, and in times of accomplishment and hope. We stand with Israel in its age-old quest for peace and security.

This is a time of sorrow and reflection for the people of Israel, and for all who seek peace. It is a time of challenge for a country that has maintained its commitment to peace and freedom under relentless attack. We stand with Israel—in grief, in solidarity, and in our resolve to fight terrorists committed to the death of innocents and the death of hope.

Rep. Neil Abercrombie, Hawaii.

Sen. Spencer Abraham, Michigan.

Rep. Gary L. Ackerman, New York.

Gov. George Allen, Virginia.

Rep. Robert E. Andrews, New Jersey.

Mayor Dennis W. Archer, Detroit.

Dr. Don Argue, President, National Association of Evangelicals.

Rep. Bob Barr, Georgia.

Rep. Thomas M. Barrett, Wisconsin.

Mayor Marion Barry, Washington, DC.

Rep. Herbert H. Bateman, Virginia.

Rep. Howard L. Berman, California.

Joseph Cardinal Bernardin, Archbishop of Chicago.

Sen. Joseph R. Biden, Jr., Delaware.

Prof. Thomas E. Bird, Queens College.

David Blewett, Executive Director, National Christian Leadership Conference for Israel.

Rep. Thomas J. Bliley, Jr., Virginia.

Rep. Robert A. Borski, Pennsylvania.

Prof. David M. Bossman, Seton Hall University.

Sen. Barbara Boxer, California.

Sen. Bill Bradley, New Jersey.

Rep. Sherrod Brown, Ohio.

Mayor Willie L. Brown, Jr., San Francisco.

Rep. Sam Brownback, Kansas.

Rep. John Bryant, Texas.

Rev. Alfred S. Burnham, Ecumenical and Interreligious Director, Archdiocese of Los Angeles.

Right Rev. John Burt, President, National Christian Leadership Conference for Israel.

Rep. Dave Camp, Michigan.

Sen. Ben Nighthorse Campbell, Colorado.

Mayor Bill Campbell, Atlanta.

Del. Eric Cantor, Virginia.

Rep. Benjamin L. Cardin, Maryland.

Gov. Mel Carnahan, Missouri.

David Chen, Executive Director, Chinese American Planning Council.

Mayor Emanuel Cleaver II, Kansas City.

Sen. William S. Cohen, Maine.

Robert E. Cooley, President, Gordon-Conwell Theological Seminary.

Dr. James H. Costen, President, Inter-Denominational Theological Center.

Rep. William J. Coyne, Pennsylvania.

Rep. Randy Cunningham, California.

Sen. Alfonse M. D'Amato, New York.

Rep. Pat Danner, Missouri.

Sen. Thomas A. Daschle, South Dakota, Senate Minority Leader.

Rep. Thomas M. Davis III, Virginia.

Rep. Rosa L. DeLauro, Connecticut.

Rep. Peter Dentsch, Florida.

Guarione M. Diaz, President, Cuban American National Council.

Rep. Julian C. Dixon, California.

Sen. Christopher J. Dodd, Connecticut.

Sr. Audrey Doetzel, N.D.S., Sisters of Our Lady of Zion.

Rep. Lloyd Doggett, Texas.

Sen. Robert Dole, Kansas, Senate Majority Leader.

Most Rev. John F. Donoghue, Archbishop of Atlanta.

Rep. Michael F. Doyle, Pennsylvania.

Rev. Robert F. Drinan, S.J., Professor, Georgetown University Law Center.

Rev. James M. Dunn, Executive Director, Baptist Joint Committee on Public Affairs.

Rev. Nicholas B. van Dyck, President, Religion in American Life.

Clint Eastwood Actor/Director, Los Angeles.

Gov. Jim Edgar, Illinois.

Rep. Eliot L. Engel, New York.

Gov. John Engler, Michigan.

Dr. Paul Eppinger, Executive Director, Arizona Ecumenical Council.

Rep. Anna Eshoo, California.

Rev. Dr. Robert A. Everett, Pastor, Emanuel United Church of Christ, Irvington, New Jersey.

Sen. Dianne Feinstein, California.

Juan A. Figueroa, President and General Counsel, Puerto Rican Legal Defense and Education Fund.

Rep. Thomas M. Foglietta, Pennsylvania.

Rep. Mark Foley, Florida.

Dr. James Forbes, Jr., Senior Minister, Riverside Church of New York.

Rep. Michael P. Forbes, New York.

Ken Foster, Chair, Palm Beach County Commission.

Rep. Jon D. Fox, Pennsylvania.

Rep. Barney Frank, Massachusetts.

Rep. Gary A. Franks, Connecticut.

Rep. Rodney P. Frelinghuysen, New Jersey.

Rep. Dan Frisa, New York.

Henry Louis Gates, Jr., Chairman, Department of African American Studies, Harvard University.

David Geffen, DreamWorks SKG, Los Angeles.

Rep. Sam Gejdenson, Connecticut.

Rep. Richard A. Gephardt, Missouri, House Minority Leader.

Rep. Benjamin A. Gilman, New York.

Rep. Newt Gingrich, Georgia, Speaker of the House.

Mayor Rudolph Giuliani, New York.

Gov. Parris N. Glendening, Maryland.

Rep. William F. Goodling, Pennsylvania.

Rep. Bart Gordon, Tennessee.

Joseph E. Gore, President and Executive Director, The Kosciuszko Foundation.

Sen. Slade Gorton, Washington.

Dr. Alfred Gottschalk, Chancellor, Hebrew Union College.

Sen. Bob Graham, Florida.

Mayor Nancy Graham, West Palm Beach.

Sen. Phil Gramm, Texas.

Gov. Bill Graves, Kansas.

E. Brandt Gustavson, President, National Religious Broadcasters.

Right Rev. Ronald H. Haines, Episcopal Bishop of Washington, DC.

Rep. Tony P. Hall, Ohio.

Rep. Lee H. Hamilton, Indiana.

Mayor Susan Hammer, San Jose.

Rep. James V. Hansen, Utah.

Rep. Jane Harman, California.

Mayor Elihu Harris, Oakland.

Rev. Linda B. Harter, Minister of Pastoral Care, Presbyterian Church of Falling Spring, Chambersburg, Pennsylvania.

Rev. Dr. William H. Harter, Pastor, Presbyterian Church of Falling Spring, Chambersburg, Pennsylvania.

Rep. Alcee L. Hastings, Florida.

Sen. Orrin G. Hatch, Utah.

Dr. John W. Healey, S.T.D., Director, Archbishop Hughes Institute, Fordham University.

Sen. Howell Heflin, Alabama.

Sen. Ernest F. Hollings, South Carolina.

Rep. Stephen Horn, California.

Dean Joseph C. Hough, Jr., Vanderbilt Divinity School.

Rep. Steny H. Hoyer, Maryland.

Most Rev. Howard J. Hubbard, Bishop of Albany.

Rep. Tim Hutchinson, Arkansas.

Archbishop Iakovos, Greek Orthodox Archdiocese of North and South America.

Sen. Daniel K. Inouye, Hawaii.

Rep. Tim Johnson, South Dakota.

Rep. Harry Johnston, Florida.

Elaine R. Jones, Director-Counsel, NAACP Legal Defense and Education Fund.

Sen. Nancy Landon Kassebaum, Kansas.

Jeffrey Katzenberg, DreamWorks SKG, Los Angeles.

Sr. Dorothy Ann Kelly, O.S.U., President, College of New Rochelle.

Rep. Sue W. Kelly, New York.

Hon. Jack Kemp, Washington, DC.

Sen. Edward M. Kennedy, Massachusetts.

Rep. Barbara B. Kennelly, Connecticut.

Sen. John F. Kerry, Massachusetts.

Rev. Diane C. Kessler, Executive Director, Massachusetts Council of Churches.

Rep. Peter T. King, New York.

Rep. Gerald D. Kleczka, Wisconsin.

Rev. Kenneth Kliever, Region Minister, American Baptist Churches of the Pacific Southwest.

Rep. Scott L. Klug, Wisconsin.

Rep. Joseph Knollenberg, Michigan.

Sen. Herbert H. Kohl, Wisconsin.

Dr. Norman Lamm, President, Yeshiva University.

Rev. Richard Land, President, Christian Life Commission of the Southern Baptist Convention.

Rep. Tom Lantos, California.

Rep. Tom Latham, Iowa.

Rep. Greg Laughlin, Texas.

Sen. Frank R. Lautenberg, New Jersey.

Rep. Rick Lazio, New York.

Rev. Christopher M. Leighton, Executive Director, Institute for Christian and Jewish Studies.

Most Rev. William J. Levada, Archbishop of San Francisco.

Sen. Carl Levin, Michigan.

Rep. John Lewis, Georgia.

Dr. David A. Lewis, President, Christians United for Israel.

Sen. Joseph I. Lieberman, Connecticut.

Brother James A. Liguori, C.F.C., President, Iona College.

Archbishop Oscar H. Lipscomb, Archdiocese of Mobile.

Rep. Nita M. Lowey, New York.

Gov. Michael Lowry, Washington.

Sen. Connie Mack, Florida.

Dean W. Eugene March, Louisville Presbyterian Theological Seminary.

Bernard Marcus, President and CEO, The Home Depot, Atlanta.

Rep. Frank R. Mascara, Pennsylvania.

Dr. Prema Mathai-Davis, National Executive Director, YWCA of the U.S.A.

Rep. Robert T. Matsui, California.

H. Carl McCall, Comptroller of New York.

Most Rev. Theodore E. McCarrick, Archbishop of Newark.

Rep. Karen McCarthy, Missouri.

Rep. Bill McCollum, Florida.

Rep. Paul McHale, Pennsylvania.

Rep. Cynthia McKinney, Georgia.

Msgr. John R. McMahon, St. Joan of Arc Roman Catholic Church, Boca Raton.

Rep. Marty Meehan, Massachusetts.

Rep. Carrie P. Meek, Florida.

Hon. Thomas Patrick Melady, Former Ambassador to the Vatican, President Emeritus, Sacred Heart University.

Rep. Jack Metcalf, Washington.

Rep. Jan Meyers, Kansas.

Hon. Kweisi Mfume, President and CEO, NAACP.

Sen. Barbara A. Mikulski, Maryland.

Rep. Dan Miller, Florida.

Gov. Zell Miller, Georgia.

Luis A. Miranda, President, Hispanic Federation of New York City.

Rep. James P. Moran, Virginia.

Rep. Constance A. Morella, Maryland.

Dr. Milton D. Morris, Vice President of Research, Joint Center for Political and Economic Studies.

Sen. Carol Moseley-Braun, Illinois.

Edward J. Moskal, President, Polish American Congress.

Sen. Daniel Patrick Moynihan, New York.

Sen. Patty Murray. Washington.

Rep. Jerrold Nadler, New York.

Rep. George R. Nethercutt, Jr., Washington.

Rev. Richard John Neuhaus, Editor in Chief, First Things.

Most Rev. John J. Nevins, Bishop of the Diocese of Venice, Florida.

Rep. David R. Obey, Wisconsin.

Most Rev. Thomas J. O'Brien, Bishop of Phoenix.

Rep. John W. Olver, Massachusetts.

Andrew P. O'Rourke, County Executive, Westchester County.

Rep. Frank Pallone, Jr., New Jersey.

Mario J. Paredes, Executive Director, Northeast Hispanic Catholic Center.

Rep. Ed Pastor, Arizona.

Gov. George E. Pataki, New York.

Rev. John T. Pawlikowski, O.S.M., Professor of Social Ethics, Catholic Theological Union.

Sen. Claiborne Pell, Rhode Island.

Rev. Kate Penfield, President, American Baptist Churches, U.S.A.

Most Rev. Daniel Pilarczyk, Archbishop of Cincinnati.

Jeanine Pirro, District Attorney, Westchester County.

Dr. Alvin F. Poussaint, Director, Judge Baker Children's Center, Boston.

Hugh B. Price, President and CEO, National Urban League.

Mayor Roxanne Qualls, Cincinnati.

Rep. Jim Ramstad, Minnesota.

Rep. Charles B. Rangel, New York.

Rep. Jack Reed, Rhode Island.

Dr. Ralph Reed, Executive Director, Christian Coalition.

Mayor Norman B. Rice, Seattle.

Mayor Edward G. Rendell, Philadelphia.

Gov. Tom Ridge, Pennsylvania.

Mayor Richard J. Riordan, Los Angeles.

Rep. Pat Roberts, Kansas.

Rep. Tim J. Roemer, Indiana.

Gov. Roy Romer, Colorado.

Rep. Ileana Ros-Lehtinen, Florida.

Bishop Catherine S. Roskam, Bishop Suffragan of New York.

Sen. William V. Roth, Jr., Delaware.

Fred Rotondaro, Executive Director, National Italian American Foundation.

Rep. Matt Salmon, Arizona.

Sen. Rick Santorum, Pennsylvania.

Rep. Thomas C. Sawyer, Ohio.

Rep. Jim Saxton, New Jersey.

Rep. Steven Schiff, New Mexico.

Rev. Theodore F. Schneider, Bishop, Metropolitan Washington, DC, Synod, ELCA.

Dr. Ismar Schorsch, Chancellor, Jewish Theological Seminary of America.

Rep. Patricia Schroeder, Colorado.

Mayor S.J. Schulman, White Plains.

Rep. Charles E. Schumer, New York.

Rep. E. Clay Shaw, Jr., Florida.

Dr. Franklin Sherman, Director, Institute for Jewish-Christian Understanding, Muhlenberg College.

Dr. James M. Shuart, President, Hofstra University.

Sen. Paul Simon, Illinois.

Rep. David E. Skaggs, Colorado.

Rep. Ike Skelton, Missouri.

Rev. Gary F. Skinner, Synod Executive, Synod of the Southwest Presbyterian Church (U.S.A.).

Rep. Louise McIntosh Slaughter, New York.

Rep. Linda Smith, Washington.

Sen. Olympia J. Snowe, Maine.

Sen. Arlen Specter, Pennsylvania.

Ann Stallard, National President, YWCA of the U.S.A.

David Steinberg, President, Long Island University.

Rep. Louis Stokes, Ohio.

Rep. Gerry E. Studds, Massachusetts.

Rep. Bart Stupak, Michigan.

Bishop Joseph M. Sullivan, Auxiliary Bishop, Diocese of Brooklyn.

Rt. Rev. William E. Swing, Episcopal Bishop of California.

Rep. Charles H. Taylor, North Carolina.

Rep. Frank Tejeda, Texas.

Dr. David A. Teutsch, President, Reconstructionist Rabbinical College.

Sr. Rose Thering, O.P., Executive Director, Emerita National Christian Leadership Conference for Israel.

Bishop Herbert Thompson, Jr., Bishop of the Episcopal Diocese of Southern Ohio.

Rep. Todd Tiahrt, Kansas.

Rep. Peter G. Torkildsen, Massachusetts.

Rep. Esteban E. Torres, California.

Rep. Robert G. Torricelli, New Jersey.

Rep. Edolphus Towns, New York.

Dr. Stephen Joel Trachtenberg, President, George Washington University.

Prof. Albert Truesdale, Nazarene Theological Seminary.

Rep. Nydia M. Velázquez, New York.

Dr. James L. Waits, Executive Director, Association of Theological Schools in the United States and Canada.

Dennis M. Walcott, President and CEO, New York Urban League.

Rep. James T. Walsh, New York.

Rep. Zach Wamp, Tennessee.

Rep. Mike Ward, Kentucky.

Rep. J.C. Watts, Jr., Oklahoma.

Rep. Henry A. Waxman, California.

Mayor Wellington E. Webb, Denver.

George Weigel, President, Ethics and Public Policy Center.

Gov. William F. Weld, Massachusetts.

Rep. Curt Weldon, Pennsylvania.

Sen. Paul Wellstone, Minnesota.

State Sen. Robert Wexler, Florida.

Prof. Roger Wilkins, George Mason University.

Gov. Pete Wilson, California.

Rep. Robert E. Wise, Jr., West Virginia.

Rev. R. Stewart Wood, Bishop of the Episcopal Diocese of Michigan.

Rep. Albert Wynn, Maryland.

Rep. Sidney R. Yates, Illinois.

Amb. Andrew Young, Atlanta.

Rep. C.W. Bill Young, Florida.

Raul Yzaguirre, President and CEO, National Council of La Raza.

Rep. Richard A. Zimmer, New Jersey.•

A FAIR FLAT TAX TO RALLY BEHIND

• Mr. SIMON. Mr. President, there is a great deal of talk about what we will do long term to protect Social Security.

One relatively simple method of buttressing that fund and also putting the Federal Government in better financial shape is to follow the advice of former Massachusetts Gov. Michael Dukakis.

He had an op-ed piece recently in the Los Angeles Times that really makes sense, which I ask to be printed in the RECORD after my remarks.

The difficulty rests with our system of campaign financing. Those who benefit by the present system of not taxing incomes above $62,700 are the big contributors to our campaigns. Even if

VOL
142
PT
6
AP
15
—
24
1996
UMI

you do not buy the idea of lowering the Social Security tax, revising the exemption certainly makes our tax system a much more just system.

Mike Dukakis is right.

The article follows:

[From the Los Angeles Times, Mar. 15, 1996]

A Fair Flat Tax to Rally Behind

(By Michael Dukakis)

Steve Forbes hoped to ride into the White House on a flat income tax with a low-earner exemption. He apparently had a lot of company, at least on the Republican side of the street.

Of course, when you look at it closely, the flat tax is nothing more than another attempt to give a huge tax break to wealthy taxpayers like Forbes. But it sounded good at least when he first proposed it, and it transformed him, at lest temporarily, into a serious challenger for the Republican nomination.

Suppose, however, that a candidate for the presidency ran on a plan for a flat tax with a high-earner exemption. We'd think he was out of his mind.

Yet that's exactly how the Social Security tax works. We pay a flat tax of 6.2% on every dollar we make, up to $62,700. All wages above that are tax exempt.

The high-earner exemption is as regressive as it sounds. And it's taking a huge chunk out of the wages of average working Americans. A worker making $60,000 a year pays eight times the rate paid by someone pulling in a half-million a year and 80 times the rate paid by someone making 5 million a year. To put it another way: A $60,000 earner pays 6.2% on all her earnings; a $500,000 earner pays the 6.2% on the first $62,700, which is 0.78% of all his earnings, and the earner of $5 million pays the same, which is 0.078% of his earnings.

It's bad enough that working middle class Americans are feeling less and less secure. For those lucky enough to still have a job in these days of massive corporate downsizing, the Social Security tax is the unkindest cut of all.

In fact, more than half the people in this country pay more in Social Security taxes than they do in income taxes. And you can bet they aren't among the wealthiest 20% to whom virtually all income growth has gone since 1980.

What can we do about it? It's a simple as it is common sense. Get rid of the high-earner exemption, cut the Social Security tax rate and apply it to all earned income—just what the flat-taxers say they want to do to the income tax.

If we made this one move, the Social Security flat tax rate would decrease by 12%. Everyone earnings less than $82,000—that's more than 97% of American workers—would get a tax break. It wouldn't increase the federal deficit one dime. But it would eliminate the necessity for the kind of tax cut that budget negotiators are wrestling with, which would add billions to the deficit.

Lower taxes for the overwhelming majority of working Americans. Heightened fairness. A fiscally responsible tax cut for the middle class. These are the goals that all fair-minded Republicans and Democrats should be able to support.

Of course, people like Steve Forbes would have to pay the same rate as the rest of us. But wasn't that the principle behind the flat tax in the first place?•

TERM LIMITS

• Mr. MURKOWSKI. Mr. President, yesterday the Senate failed to invoke cloture on the resolution that would have allowed the States to decide whether the Constitution should be amended to impose term limits on Congress. I supported invoking cloture and I want to express my disappointment that we were not able to limit debate on this important issue.

Mr. President, in 1994, 63 percent of Alaskans who voted cast their ballot in favor of congressional term limits. I want to explain why I support the resolution and also cite some reservations I have concerning this idea.

As a majority of Alaskan voters believe, term limits may indeed provide for the infusion of fresh ideas and new perspectives through the Halls of Congress. Term limits may also make Congress more responsive to its constituents; decrease the possibility of corruption that some see as stemming from longevity in office; and enhance the role of merit, rather than seniority, in the distribution of power.

However, term limits unquestionably restrict the ability of voters to vote for whom they wish, thereby indiscriminately terminating the public service work of both good legislators and bad legislators, alike.

Term limits would remove many of the most competent and experienced Members from office prematurely, thereby destroying the so-called institutional memory. The only individuals who would retain an institutional memory would be professional staff. Term limits may very well enhance their ability to shape legislation and become entrenched as the permanent bureaucracy of Capitol Hill.

Similarly, the professional lobbyists in Washington may also find their influence with Members of Congress improved, as they are far more familiar with the details of issues affecting their industries than new Members of Congress.

Finally, I would note that term limits could well diminish the influence of Senators and Congressmen from States with small populations, such as Alaska. I am especially concerned that term limits in the House will increase the power of States like California, Texas, and New York, which have delegations as large as 52 Members as opposed to States such as Alaska and Wyoming, each of which only has one Representative.

Despite my reservations, Mr. President, the people of Alaska have clearly indicated their preference for term limits and I abide by that decision. I would support the constitutional term limit amendment because it would establish a uniform term-limit rule which would apply to all 50 States.

Uniformity among States is imperative not only because the Supreme Court has ruled that individual States cannot constitutionally limit mandated uniformity, but also because States with term limits would be placed at a serious disadvantage in the Congress with States that do not limit Members' terms.

A uniform term-limit amendment would place all 50 States on equal footing in representing constituents in Congress and that is why I support such an amendment. I will therefore vote in favor of the constitutional amendment approach to term limits to ensure that Alaskans are guaranteed equal representation in the Congress.

I hope the majority leader will be able to bring this measure back before the Senate this year so that we can bring this issue to a final vote.•

TRIBUTE TO RON VAN DE HEY

• Mr. KOHL. Mr. President, today I would like to honor Ronald Van De Hey for his outstanding service to Outagamie County and the entire Fox Valley area as he resigns from his position as county executive. Ron started his career in public service as a school board member in 1972. In 1982 he was elected mayor of Kaukauna, where he served for 9 years. His experience as mayor made him an excellent choice for the position of Outagamie County executive, where he has served with distinction since 1991.

Ronald Van De Hey has always had a strong commitment to the people of his community. He was active not only in his elected positions but as a member of charitable and professional organizations as well. Foremost in Ron's mind was always the desire to improve the lives of his fellow citizens.

His colleagues will remember his diplomatic manner. His ability to work with people on all sides of an issue and achieve a compromise everyone can feel good about will be sorely missed. While Ron was flexible, he also knew when to stick to his guns and rely on the strength of his convictions. In the role of the executive he was willing to make the tough decisions, even when it was not the popular thing to do.

Ronald Van De Hey is an excellent illustration of the quality people who serve in local government. He has set an example of public service, not only for other county officials, but for everyone who holds elected office at the local, State or Federal level.

I wish him all the best in his future endeavors. I am sure he will continue to be a valuable asset to the Fox Valley area.•

WOUND, OSTOMY AND CONTINENCE NURSES SOCIETY

• Mr. GORTON. Mr. President, I am pleased to welcome the Wound, Ostomy and Continence Nurses Society [WOCN] to Seattle, WA, June 15–19, for their 28th annual conference. The theme of the conference, "The Future Is Ours To Create," will focus on future opportunities and challenges relating to the

changing and expanding role of enterostomal therapist [ET] nurses and other nurses specializing in wound, ostomy, and continence care.

Founded in 1968, the WOCN is the only national organization for nurses who specialize in the prevention of pressure ulcers and the management and rehabilitation of persons with ostomies, wounds, and incontinence. WOCN, an association of ET nurses, is a professional nursing society which supports its members by promoting educational, clinical, and research opportunities, to advance the practice and guide the delivery of expert health care to individuals with wounds, ostomies, and incontinence.

In this age of changing health care services and skyrocketing costs, the WOCN nurse plays an integral role in providing cost-effective care for their patients. This year's Seattle conference will provide a unique opportunity for WOCN participants to learn about the most current issues and trends related to their practice. I am honored that WOCN has chosen Seattle to host its conference and wish them every success.•

SEA-LAND CELEBRATES 30 YEARS OF SERVICE IN CHARLESTON

• Mr. HOLLINGS. Mr. President, I would like to pay tribute to the contribution of Sea-Land Services to the city of Charleston over the past 30 years. Not only my hometown, but the entire State of South Carolina has benefited from the services of this company.

Sea Land's founder, Malcolm McLean, is the father of modern containerization. It was his idea to use standardized boxes for shipping goods internationally by sea. By limiting the handling of a container's contents, this technique afforded rapid, safe, and inexpensive transportation of goods all over the world, thus having a profound impact on world trade and economic development. It is a simple concept, containerization of goods to be handled only at their origin and their destination, but it is one of the more important innovations in recent history.

Since its arrival in 1966, Sea-Land has enjoyed a prosperous relationship with the city of Charleston. It has expanded to meet the growing trade needs of South Carolinians, and now moves cargo to and from more than 35 countries. In 1966, Sea-Land's containership, *Gateway City*, first sailed into Charleston harbor; 30 years later, Charleston's container cargo has grown from 80,000 tons to over 8.2 million tons, with the value growing from $512 million to more than $20 billion.

Charleston's efficient inland links and close access to the open sea led other steamship companies to follow Sea-Land's lead and make the city their south Atlantic base of operations. The trading potential offered by these ocean carriers has opened markets around the world for U.S. products. Cargo ships provide many opportunities for economic development in the regions they serve.

Due to the relatively transparent movement of goods these days, few people realize that 95 percent of our international trade moves by ship. This is a tribute to the success of containerization and the transportation industry. The effects of Sea-Land's contribution to the shipping industry go beyond Charleston to the entire State and the Southeast. Manufacturers in 26 States use the extensive shipping services in Charleston. The trade relationships that Sea-Land makes possible bring countries together across the world.

The State of South Carolina has enjoyed tremendous economic growth recently, attracting interest and investments from all over the globe. Without the capital commitments of our ports and ocean carriers like Sea-Land, this would not be possible. We appreciate the continued commitment Sea-Land has made to our area and look forward to another 30 prosperous years.•

CONGRATULATIONS TO DR. MAHMOUD FAHMY

• Mr. ABRAHAM. Mr. President, I rise today to offer my warm congratulations to Dr. Mahmoud H. Fahmy of Dallas, PA who will be honored by his colleagues, friends, and family at a testimonial dinner this evening. Dr. Fahmy has recently retired from Wilkes University in Wilkes-Barre, PA where he spent 30 years of his professional life. Although formally retired from Wilkes University, Dr. Fahmy is currently the President of his own business, serves as chairman of the Luzerne County Community College Board of Trustees, and is a member of countless community service organizations.

I have had the pleasure of personally knowing Dr. Fahmy and appreciating his dedication, not only to domestic educational endeavors, but to international projects as well. Dr. Fahmy's exemplary duty and service to the community at large has earned him the great respect of his colleagues, friends, and family. I would like to join them in commending him for his dedication to his community and to his profession. Dedicating one's career to education is something very special and should be recognized by all of us who enjoy the fruits of this great country.

The State of Pennsylvania is very lucky to have Dr. Fahmy amongst its citizens, and should be very proud of his accomplishments. I would like to conclude by extending to him my best wishes for a happy retirement and much success in his future endeavors.•

COMMEMORATION OF THE ARMENIAN VICTIMS

• Mr. FEINGOLD. Mr. President, I join my colleagues again this year in remembering today the 1.5 million Armenians who died in 1915 in the hands of the Ottoman Empire. These Armenians were victims of a policy explicitly intended to isolate, exile, and even extinguish the Armenian population. As we look at world events today—in Bosnia, Rwanda, and elsewhere—we must remember the events of 1915, with the hope that with history as a guide, humanity will not engage in such brutality again.

We will also learn from history that America served as a haven for those Armenians fleeing persecution. At the time of the atrocities, America spoke out in defense of a defenseless people, and provided massive amounts of humanitarian assistance to the Armenian people. Today, America still leads the world in championing human rights, and our shores offer refuge to those fleeing persecution throughout the world. On days like today, we must remember what we stand for, and ensure that the U.S. continues to be a beacon of strength and hope for the heroes that stand up and survive such atrocities.

I compliment President Clinton on his commitment to the Armenian cause, and I am proud to join him and my colleagues today in commemorating this important occasion.•

TEACHER OF THE YEAR

• Mr. BIDEN. Mr. President, the city of Washington, DC, is blessed this week with the presence of some of the most dedicated people in America—its teachers. Each state's Teacher of the Year is visiting Washington to be honored for their top notch work in educating our children.

As a husband of a teacher, I know how some people view the teaching profession. I have heard all of the jokes. And, I have read the articles—including some recent ones—deriding the Nation's teaching force and claiming that teachers are the root of our educational problems.

Well, Mr. President, the Teachers of the Year that are here this week should dispel those myths. These teachers are simply among the best and the brightest our Nation has to offer.

For most of us, there was at least one teacher along the way who touched us, who motivated us, who inspired us. A teacher who was more than just a body at the blackboard. For students in the Indian River School District in my State of Delaware, one of those teachers is Darryl Hudson. He is Delaware's Teacher of the Year, and I want to congratulate him and take just few minutes to honor him.

Mr. Hudson—named the top teacher among over 6,000 public school teachers in Delaware—teaches seventh grade science at Sussex Central Middle

VOL
142
PT
6
AP
15
—
24
1996
UMI

School in Millsboro, DE. And, although I have never experienced his teaching first hand, I think the biggest testament about what he does in the classroom comes from what his fellow teachers say about him. They talk admiringly of the energy he brings to school each day, of his dedication to educating all children, and of the uplifting inspiration he provides to staff, parents, and most importantly, the students.

But, as is the case with many teachers, Mr. Hudson's involvement in and dedication to education go beyond the classroom. He is a cooperative teacher for Salisbury State University students, a member of the New Directions Educator Corps, and a Mentor for a Wilmington College student.

I should also note that we in Delaware are proud that Mr. Hudson is a product of our own higher education system. In fact, he and I are both Fightin' Blue Hens. For my colleagues who do not know, that means we are both graduates of the University of Delaware. He received his masters degree from Wilmington College. And, at the same time he is teaching seventh graders—a daunting task in and of itself, in my view—he continues to pursue his own education at Salisbury State University just across the Delaware border in Maryland.

Mr. President, a moment ago, I mentioned the way in which a teacher has inspired almost every one of us. And, to give you a perfect illustration of the power of a teacher to mold a mind and build a citizen, Mr. Hudson—a teacher—was himself inspired by a teacher. He says that his sixth grade teacher had more influence on him than anyone else outside his immediate family. And, now, he is having that same influence on countless others.

Again, I want to congratulate Darryl Hudson on his selection as Delaware Teacher of the Year.●

PREPARING STUDENTS FOR THE COMING CENTURY

● Mr. SIMON. Mr. President, every study that is made suggests that the United States has to do a better job in the field of education.

No one disputes it.

And yet at the congressional level and candidly also at the State level we are going along blissfully ignoring this reality, mouthing pious statements about education, but not really doing much.

One of many economists who has been telling us that we have to do better in the field of education is Lester Thurow of the Massachusetts Institute of Technology and probably the most widely read economist in the country.

He is also one of the most thoughtful.

Recently in the Washington Post he had an article titled "Preparing Students for the Coming Century," which I ask to be printed in the RECORD after my remarks.

I am sure some of my colleagues read it, but since it was in the Education Section of the Sunday edition of the Washington Post, some of you may not have read it.

It is worth reading for Senators, for House Members, for staffers, and for anyone who may pick up a CONGRESSIONAL RECORD and go through it. The article follows:

[From the Washington Post, Apr. 7, 1996]

PREPARING STUDENTS FOR THE COMINO CENTURY

(By Lester C. Thurow)

Consider an alphabetical list of the 12 largest companies in America at the turn of the 20th century: the American Cotton Oil Company, American Steel, American Sugar Refining Company, Continental Tobacco, Federal Steel, General Electric, National Lead, Pacific Mail, People's Gas, Tennessee Coal and Iron, U.S. Leather and U.S. Rubber. Ten of the 12 were natural resource companies. The economy then was a natural resource economy, and wherever the most highly needed resources were to be found, employment opportunities would follow.

In contrast consider the list made 90 years later by the Japanese Ministry of International Trade and Industry, enumerating what it projected to be the most rapidly growing industries of the 1990s: microelectronics, biotech, the new material-science industries, telecommunications, civilian aircraft manufacturing, machine tools and robots, and computers (hardware and software). All are brainpower industries that could be located anywhere on the face of the earth. Where they will take root and flourish depends upon who organizes the brainpower to capture them. And who organizes the power most efficiently will depend on who educates toward that objective best.

But back to the industries for the moment: Think of the video camera and recorder (invented by Americans), the fax (invented by Americans), and the CD player (invented by the Dutch). When it comes to sales, employment and profits, all have become Japanese products despite the fact that the Japanese did not invent any of them. Product invention, if one is also not the world's low-cost producer, gives a country very little economic advantage. Being the low-cost producer is partly a matter of wages, but to a much greater extent it is a matter of having the skills necessary to put new things together.

Wages don't depend on an individual's skill and productivity alone. To a great extent they reflect team skills and team productivities. The value of any single person's knowledge depends upon the smartness with which that knowledge is used in the overall economic system—the abilities of buyers and suppliers to absorb that individual's skills.

In an era of brainpower industries, however, the picture is even more complicated: The economy is a dynamic economy always in transition—the companies that do best are those able to move from product to product within technological families so quickly that they can always keep one generation ahead. Keeping one jump ahead in software, for instance, Bill Gates's Microsoft had a net income running at 24 percent of sales in 1995.

If a country wants to stay at the leading edge of technology and continue to generate high wages and profits, it must be a participant in the evolutionary progress of brainpower industries so that it is in a position to take advantage of the technical and economic revolutions that occasionally arise. Knowledge has become the only source of long-run sustainable competitive advantage. Recent studies show that rates of return for industries that invest in knowledge and skill are more than twice those of industries that concentrate on plant and equipment. In the past, First World citizens with Third World skills could earn premium wages simply because they lived in the First World. They had more equipment, better technology and more skilled co-workers than those who lived in the Third World. But that premium is gone. Today's transportation and communications technologies have become so sophisticated that high-wage skilled workers in the First World can work together effectively with low-wage unskilled workers in the Third World. America's unskilled now get paid based on their own abilities and not on those of their better-trained co-workers.

Industrial components that require highly skilled manufacturers can be made in the First World and then shipped to the Third World to be assembled with "low skill" components. Research and design skills can be electronically brought in from the First World. Sales results can be quickly communicated to the Third World factory, and retailers know that the speed of delivery won't be significantly affected by where production occurs. Instant communications and rapid transportation allow markets to be served effectively from production points on the other side of the globe.

Multinational companies are central in this process: Where they develop and keep technological leadership will determine where most of the high-level jobs will be located. If these firms decide to locate their top-wage leadership skills in the United States, it will not be because they happen to be American firms but because America offers them the lowest cost of developing these skills. The decisions will be purely economic. If America is not competitive in this regard, the market will move on. The countries that offer companies the lowest costs of developing technological leadership will be the countries that invest the most in research and development, education and infrastructure (telecommunications systems, etc.).

If the person on a loading dock runs a computerized inventory-control system in which he logs delivered materials right into his hand-held computer and the computer instantly prints out a check that is given to the truck driver to be taken back to his firm (eliminating the need for large white-collar accounting offices that process purchases), the person on the loading dock ceases to be someone who just moves boxes. He or she has to have a very different skill set.

Factory operatives and laborers used to be high school graduates or even high school dropouts. Today 16 percent of them have some college education and 5 percent have graduated from college. Among precision production and craft workers, 32 percent have been to or graduated from college. Among new hires those percentages are much higher. In the last two decades, the linkage between math abilities and wages has tripled for men and doubled for women.

The skill sets required in the economy of the future will be radically different from those required in the past. And the people who acquire those skill sets may not be the unskilled workers who currently live in the first world. With the ability to make anything anywhere in the world and sell it anywhere else in the world, business firms can

"cherry pick" the skilled or those easy (i.e., cheap) to teach wherever they live. American firms don't have to hire an American high school graduate if that graduate is not world-class. His or her educational defects are not their problem. Investing to give the necessary market skills to a well-educated Chinese high school graduate may well end up being a much more attractive (i.e., less costly) investment than having to retrain an American high school dropout or a poorly trained high school graduate.

Take Korea for example. In a global economy, what economists know as "the theory of factor price equalization" holds that an American worker will have to work for wages commensurate with a Korean's wages unless he works with more natural resources than a Korean (and no American can, since there is now a world market for raw material to which everyone has equal access); unless he has access to more capital than a Korean (and no American can since there is a global capital market where everyone borrows in New York, London and Tokyo); unless he has more skilled co-workers than a Korean (and no American can claim to since multi-national companies can send needed knowledge and skills anywhere in the world); and unless he has access to better technology than a Korean (and few Americans have, since reverse engineering—tearing a product apart to learn how it is made—has become an international art form, highly refined in Korea). Adjusted for skills, Korean wages will rise and American wages will fall until they equal each other. At that point, factor price equalization will have occurred.

The implications for the future are simple. If America wants to generate a high standard of living for all of its citizens, skill and knowledge development are central. New brainpower industries have to be invented and captured. Organizing brainpower means not just building a research and development system that will put us on the leading edge of technology, but organizing a top-to-bottom work force that has the brainpower necessary to make us masters of the new production and distribution technologies that will allow us to be the world's low-cost producers.

To do this will require a very different American educational system. And building such a system is the new American challenge.

Progress has to start by ratcheting up the intensity of the American high school. The performance of the average American high school graduate simply lags far behind that found in the rest of the industrial world. Those Americans who complete a college course of study end up catching up (the rest of the industrial world doesn't work very hard in the first couple of years of university education), but three quarters of the American work force doesn't ever catch up.

The skill gap doesn't end there. Non-college-bound high school graduates elsewhere in the industrial world go on to some form of post-graduate skill training. Germany has its famous apprenticeship system; in France every business firm by law has to spend one percent of its sales revenue on training its work force; and with lifetime employment as a fact of life, Japanese companies invest heavily in the work force's skills since they know that it is impossible to hire skilled workers from the outside. In America, government-funded programs are very limited in nature, and, with high labor-force turnover rates, American companies quite rationally don't want to make skill investments in people who will leave and take their skills elsewhere. The net result is a compounded skill gap for those Americans who do not graduate from college. Closing this gap and giving the country a competitive edge should be America's number one educational priority.●

ARMENIAN GENOCIDE

● Mrs. BOXER. Mr. President, I rise today to commemorate the anniversary of a most tragic chapter in history—the genocide of the Armenian people. Eighty-one years ago today, the Ottoman Empire began the systematic elimination of the people of Armenia. It is of paramount importance that we recall this horrible time so that it will never be repeated.

On April 24, 1915, the Ottoman Empire began arresting hundreds of political, religious, and intellectual leaders throughout Anatolia. In the following 2 years, the Ottoman regime carried out a systematic, premeditated, centrally planned genocide, taking the lives of approximately 1.5 million people.

The Armenian genocide remains one of the most horrifying events in human history. Armenians perished from execution, starvation, disease, physical abuse, and exposure to a harsh environment. More than 500,000 people were forced from their homes, and within a few years, the entire Armenian population had been either killed or exiled.

On May 28, 1918, the Armenians were able to defeat a Turkish attack, with the help of volunteers from abroad. They gained freedom for a brief period, but in 1920 the Soviet Union joined the Ottoman Empire and subjugated the Armenians once again. It was not until 1991, after the breakup of the Soviet Union, that independence was restored and the Republic of Armenia was born.

I salute the Armenian people for their strength and courage. Yet even though they have gained independence, their struggle still continues. To this day, many people continue to refute the facts of the Armenian Genocide. We cannot let the suffering inflicted upon the armenian people be forgotten or denied. Only through remembrance can we prevent ourselves from repeating the horrors of the past.

The Armenian tragedy is the world's tragedy, and we must work together to discourage prejudice, to end discrimination, and to prevent genocide at all costs. In a country where we so often take our liberty for granted, we must renew our commitment to preserving the freedom of others.●

CARLSBAD CAVERNS NATIONAL PARK

● Mr. BINGAMAN. Mr. President, in December 1994, Congress received the National Cave and Karst Research Institute study from the National Park Service. The report studied the feasibility of creating a National Cave and Karst Research Institute in the vicinity of Carlsbad Caverns National Park, NM, as directed by Public Law 101–578. Today, I am here to introduce a bill which follows the guidelines of that report and which will establish the National Cave and Karst Research Institute in Carlsbad, NM.

While other Nations have recognized the importance of cave resource management information and have sponsored cave and karst research, the United States has failed, until recently, to appreciate or work to understand cave and karst systems and their importance. As we approach the 21st century, the protection and management of our water resources has been identified as one of the major issues facing the world. In America, the majority of the Nation's fresh water is ground water—of which 25 percent is located in cave and karst regions.

Recent studies have also indicated that caves contain valuable information related to global climate change, waste disposal, ground water supply and contamination, petroleum recovery, and biomedical investigations. Caves provide a unique understanding of the historic events of humankind. Further they are considered sacred and have religious significance for American Indians and other Native Americans.

According to the Federal Cave Resources Protection Act, karst is defined as a landform characterized by sinkholes, caves, dry valleys, fluted rocks, enclosed depressions, underground streamways and spring resurgences. As a whole, 20 percent of the United States is karst. In fact, east of central Oklahoma, 40 percent of the country is karst. Our National Park System manages 58 units with caves and karst features, yet academic programs on these systems are virtually nonexistent. Most research is conducted with little or no funding and the resulting data is scattered and often hard to locate. The few cave and karst organizations and programs which do exist, have substantially different missions, locations and funding sources and there is no centralized program to analyze data or determine future research needs.

In 1988 Congress directed the Secretaries of the Interior and Agriculture to provide an inventory of caves on Federal lands and to provide for the management and dissemination of information about the caves. That directive has served only to make Federal land management agencies more aware of the need for a cave research program and a repository for cave and karst resources. In 1990, Congress further directed the Secretary of the Interior, through the Director of the National Park Service, to establish and administer a Cave Research Program and prepare a proposal for Congress on the feasibility of a centralized National Cave and Karst Research Institute.

VOL
142
PT
6
AP
15
—
24
1996
UMI

The National Cave and Karst Research Institute Study Report to Congress was released in December 1994 and not only supports establishing the Institute, but lists several serious threats to continued uninformed management practices.

Threats such as: alterations in the surface water flow patterns in karst regions, alterations in or pollution of water infiltration routes, inappropriately placed toxic waste repositories and poorly managed or designed sewage systems and landfiles. The findings of the report conclude that it is only through a better understanding of cave resources that we can prevent detrimental impacts to America's natural resources and cave ecosystems.

The goals of the National Cave and Karst Research Institute, as outlined in the report, would be to further the science of speleology, to centralize speleological information, to further interdisciplinary cooperation in cave and karst research programs, and to promote environmentally sound, sustainable resource management practices. These goals would work hand in hand with the proposed objectives of the Institute to establish a comprehensive cave and karst library and information data base, to sponsor national and international cave and karst symposiums, to develop long term research studies, to produce cave-related educational publications and to develop cooperative agreements with all Federal agencies having cave management responsibilities.

The vicinity of Carlsbad Caverns National Park is ideal due to the community support which already exists for the establishment of the institute and the diverse cave and karst resources which are found throughout the region.

Carlsbad, NM, has grown from a small railroad stop on what is now the Santa Fe Railroad to a growing city with a population of over 170,000 in the tri-county area. It continues to attract new businesses, small manufacturers, retirees and research facilities, including the U.S. Department of Energy's Carlsbad area office. In addition, Carlsbad Caverns National Park attracts over 700,000 visitors per year.

The National Cave and Karst Research Institute would be jointly administered by the National Park Service and another public or private agency, organization, or institution as determined by the Secretary. The Carlsbad Department of Development [CDOD], after reviewing the National Cave and Karst Research Institute study report, has developed proposals to obtain financial support from available and supportive organizational resources, including personnel, facilities, equipment and volunteers. They further believe that they can obtain serious financial support from the private sector and would seek a matching grant from the State of New Mexico equal to the available Federal funds.

Carlsbad already has in place many of the needed cooperative institutions, facilities and volunteers that will work toward the success of the National Cave and Karst Institute. I strongly urge my colleagues to support this legislation to increase our understanding of cave and karst systems.●

ANNIVERSARY OF THE ARMENIAN GENOCIDE

● Mr. D'AMATO. Mr. President, I rise to call my colleagues' attention to the solemn anniversary of the Armenian genocide. In 1915, the Ottoman Turkish Government launched an extermination campaign against all Armenians on its territory. The result of that gruesome policy was the death of about 1.5 million people, the destruction of a once flourishing community, and the scattering of the survivors around the globe.

Many Armenians came to America, where they have rebuilt their communities, prospered and become a vital part of the American body politic. They have nurtured our democracy, while maintaining their traditions and always remembering the circumstances that forced them from their homeland. Meanwhile, their brothers and sisters in Armenia endured communism and Joseph Stalin, but despite the different fates of these two communities, they remained stubbornly and proudly Armenian, even when contact between them was difficult.

In 1991, Armenia became an independent country and has worked hard to consolidate its independence since then. Today Armenia is a respected member of the international community, its progress toward democratization and economic well-being promoted by the worldwide Armenian Diaspora and by supportive governments, especially the United States.

Independence confers freedom, but not necessarily freedom from hardship. Apart from the devastating December 1988 earthquake, Armenia has also endured the consequences of the Nagorno-Karabakh conflict and the adversities caused by blockades imposed by neighboring Azerbaijan and Turkey. Happily, the Nagorno-Karabakh cease-fire has held since May 1994, offering grounds to hope that the conflict will be peacefully resolved in the foreseeable future. All the parties to this dispute must pursue its peaceful resolution through the OSCE process, and with active American involvement, bring about a lasting, stable peace.

In the spirit of reconciliation and looking ahead to Armenia's future, President Ter-Petrossyan said in Washington last year that "Armenia has no enemies." All of us who are friends of Armenia are working for precisely that future, for an Armenia without enemies, while remembering the victims of the Armenian Genocide.

Mr. President, in light of the fact that, for the first time since World War II, there are international tribunals investigating two current genocides, one in Bosnia and one in Rwanda, it is very important that all of us remember the first genocide of the 20th century, and dedicate ourselves to the proposition that there will be no new genocides in the future.●

THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

● Ms. MIKULSKI. Mr President, 81 years ago today one of the most horrific events of our century began. On this day in 1915, hundreds of Armenian political and religious leaders were arrested, taken to the Turkish interior, and executed. This began a terrible chapter of history—the Armenian genocide.

In the 8 years that followed, over a million Armenians were killed at the hands of the Ottoman authorities. Men, women, and children were brutally taken from their homes to be abused and killed in mass slayings. Others were rounded-up and marched for weeks through the Syrian desert where many more perished. Symbols of culture—churches, libraries, and towns—were razed.

On this, the 81st anniversary of the Armenian genocide, we must remember and we must speak out.

Many call this tragedy "the forgotten genocide". In our world of terror and continued upheaval it is essential that we never forget. We must remember our history and the lesson of the Armenian genocide. As Americans blessed with security and freedom, we must never let oppression and persecution pass without loud condemnation. By remembering the Armenian genocide, we renew our ongoing commitment to fight for human dignity and freedom throughout the world.

We must also honor the Armenians throughout the world who left their homes in tragedy. They have maintained their proud culture and traditions throughout the world. Their strength and perseverance is a triumph of the human spirit. We should specifically recognize those Armenians who fled from their homes and into our communities. Today we thank them for their invaluable contributions to our society.

Even today, the Armenian people are living under a unfair and unjust blockade preventing needed humanitarian aid. Last year, the Congress enacted the Humanitarian Aid Corridor Act that would prohibit U.S. aid to countries that prevent our humanitarian aid from reaching places in need. I was proud to support this act and see it signed into law.

Despite a long history of pain, persecution, and tragedy, the Armenian people have shown remarkable strength,

pride, and resilience. We as Americans are proud of their contributions to our society. We will always remember their tragedy and we salute their achievements.●

HONORING THE VOLUNTEERS OF HOSPICE CARE, INC.

● Mr. LIEBERMAN. Mr. President, today I would like to recognize the volunteers of Hospice Care, Inc. in southwestern Fairfield County, CT. For 15 years Hospice Care has provided care and comfort to people with terminal illnesses. But beyond providing palliative care, Hospice is a program for individuals who are dealing with the emotional and spiritual changes that follow the diagnosis of a life-ending illness.

Hospice could not offer its many meaningful services without its volunteers; they are an integral part of Hospice. Together with professional staff, volunteers work to relieve the physical, emotional and spiritual pain experienced by the patient and family. Volunteers provide direct patient and family services, including companionship and support, transportation, assistance with chores and errands, and pastoral and bereavement care. Volunteers visit patients and families in their homes and hospitals, nursing homes, homeless shelters, and residences for people with AIDS. These volunteers offer a listening ear and a shoulder to lean on during a family's most challenging times.

Other volunteers work behind the scenes, serving on the Board of Directors, assisting in fundraising and public education efforts, and with administrative tasks. In 1994, 100 active volunteers donated more than 12,000 hours of public service, valued at over $250,000. But one cannot put a price tag on this dedicated service—these efforts are priceless, and Hospice could not operate as successfully as it does without its volunteers.

It is with great pride and pleasure that I commend the volunteers of Hospice Care for their many hours of difficult and dedicated service.●

ARMENIAN GENOCIDE

● Mr. SARBANES. Mr. President, I rise to join my colleagues in commemorating the 81 years since the tragedy of the Armenian genocide unfolded. Today we pause to remember the victims of this great tragedy and to pay our respects to the survivors.

Indeed it is important that we take this occasion to educate ourselves about the events that constituted the Armenian genocide, and to resolve never to remain indifferent in the face of such assaults on humanity. Respect for the memories of the Armenians who were martyred in this great tragedy demands that humanity never forget this day. It also represents an opportunity for people of goodwill to honestly confront the past and move to genuine reconciliation.

We are also pleased that after centuries of oppression, the Armenian people are again now free and independent. The Republic of Armenia is proof that the Armenian spirit is alive and vibrant and, despite enormous outside pressures, is making progress and flourishing. As Armenia struggles to reenter the society of nations, it is instructive for us to recognize the sacrifices of the victims of the genocide.

The anniversary of this tragedy holds special meaning to Armenians everywhere and, in spite of a history of many hardships, difficulties and adversity faced by the Armenian people, the community has strengthened its resolve to survive and prosper. Armenian-Americans are one of the best examples of an indomitable human spirit. The contribution of the Armenian community to the cultural, social, economic, and political landscape of America is a source of great strength and vitality in our Nation. Americans of Armenian origin have kept alive, and not let tragedy shatter, the rich faith and traditions of Armenian civilization.

As we recall the Armenian genocide, it is important to recognize that it was the culmination of an abhorrent pattern of persecution against the Armenian community living in the Ottoman Empire. During the period 1894–1896, and again in 1909, tens of thousands of Armenians lost their lives. On April 24, 1915, 300 Armenian intellectuals, religious and political leaders, and professionals were rounded up by Ottoman authorities and taken to remote parts of Anatolia from where they never returned. At least 250,000 Armenians who loyally served in the Ottoman army were expelled and forced into labor battalions where executions and starvation were common. Men, women, and children were deported from their villages and obliged to march for weeks in the Syrian desert where a majority of them lost their lives.

The unfortunate campaign against this community earlier in this century resulted in widespread deportations and death. More than 1.5 million innocent men, women, and children, out of a total of 2.5 million Armenians living within the Ottoman Empire, lost their lives. Entire families were destroyed, and thousands of survivors were scattered around the world. In fact, contemporaneous newspaper accounts in the United States describing these atrocities inspired Americans to contribute $113 million in humanitarian assistance from 1915 to 1930 to help the survivors. Americans eventually adopted 132,000 Armenian orphans into this country.

One of the most prominent and reliable accounts of the Armenian genocide is provided by the distinguished United States ambassador to the Ottoman Empire at the time, Henry Morgenthau. In an article published in the Red Cross magazine in 1918, Morgenthau described the wide-scale and systematic attempts by the Ottomans to crush the Armenian community as, "the Greatest Horror in History." Abram Elkus, Morgenthau's successor, also cabled the State Department that the Young Turks policy against the Armenians was an "unchecked policy of extermination through starvation, exhaustion, and brutality of treatment hardly surpassed even in Turkish history."

Both the German and Austrian ambassadors, apprehensive about the attacks against the Armenians, conveyed their concerns directly to the Ottoman leadership. In July of 1915, Hans Von Wangenheim, the German Ambassador to the Ottomans, advised his own government to distance itself from the Ottoman leadership for what he viewed as a campaign to rid "the Armenian race in the Turkish empire."

Extensive evidence, documentation, and first hand accounts have been collected over the years regarding this dark period, much of which is held in our own National Archives. In 1987, it was fitting that the Holocaust Council expressed its support for making the Armenian genocide part of the permanent exhibits at the United States Holocaust Memorial Museum. In its statement, the council declared that "the fate of the Armenians should be included in any discussion of genocide in the twentieth century."

Several years ago, Elie Wiesel spoke at a Holocaust memorial service here in the Congress and expressed the importance of recognizing the Armenian genocide. He stated, "Before the planning of the final solution, Hitler asked, "Who remembers the Armenians?" He was right. No one remembered them, as no one remembered the Jews. Rejected by everyone, they felt expelled from history."

Mr. President, we must never forget the moral lesson of the Armenian genocide and honor it by renewing our commitment to human rights and democratic principles.●

COMMEMORATING THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

● Mr. PELL. Mr. President, each year on this day, we solemnly join Armenians worldwide in observing the anniversary of the genocide perpetrated against the Armenian people between 1915 and 1923.

Eighty-one years ago today, Ottoman leaders launched a systematic campaign to eradicate the Armenian people from Ottoman Empire territory. In

VOL
142
PT
6
AP
15
—
24
1996
UMI

that year, hundreds of Armenian religious, political, and intellectual leaders were rounded up and exiled, or murdered. During the next 8 years, an estimated 1.5 million Armenians were executed. Many were raped, tortured, or enslaved. In addition to those killed, an estimated 500,000 Armenians were exiled from the Ottoman Empire. Many of those exiles found their way to freedom in the United States where they and their descendants have made—and are continuing to make—a significant contribution to the cultural, political, and commercial life of this country.

Despite the many challenges they have faced over the years, the Armenian people have demonstrated a high degree of independence, resilience, and national pride. I believe the anniversary of the genocide offers an opportunity to reflect upon the challenges Armenia is facing today. In particular, Armenia continues to struggle under blockades by its neighbors, and as a result, it continues to depend heavily on humanitarian assistance. I would note that the United States has responded to Armenia's plight. Armenia receives more assistance per capita than any other Newly Independent State. I know we all look forward to the day when Armenia—a country of great human resources—will be a donor, rather than a recipient of assistance.

In fact, despite the blockades, Armenia has made significant economic progress during the past year. Its currency has stabilized, inflation has decreased, and the economy showed a positive growth rate. Armenia is also working hard to enact the necessary legal and regulatory framework for true reform to take root.

Regrettably, a lasting diplomatic settlement to the Nagorno-Karabagh crisis also remains elusive. I hope that the memory of the Armenian genocide, as well as the continuing of the suffering of the Armenian and Azeri peoples, will spur a peaceful resolution to the dispute.

There are, in fact, some hopeful signs. For the past 2-years, a cease-fire has held in Nagorno-Karabagh. Over the weekend, President Ter Petrosian of Armenia and President Aliyev of Azerbaijan issued a joint communique agreeing that direct dialog between the parties must be intensified to facilitate an end to the conflict.

Armenia is continuing to talk with its neighbors not only about how to resolve the Nagorno-Karabagh conflict, but about the importance of economic development of the region. In fact, just this week in Luxembourg, the leaders of Armenia, Azerbaijan, and Georgia each signed bilateral cooperation agreements with the European Union.

I would note that Armenia is also engaging in a dialog with Turkey about a range of bilateral and regional issues. This is a courageous, and very practical, decision. Both countries acknowledge that it is in their interest to talk, and I believe that we should do what we can to encourage such discussions between Yerevan and Ankara.

Sadly, the legacy of the Armenian genocide has not succeeded in deterring subsequent acts of genocide in other parts of the world nor did it represent an end to the suffering of the Armenian people. However, it is only by continuing to remember and discuss the horrors which befell the Armenian and other peoples that we can hope to achieve a world where genocide is finally relegated to the realm of history books, rather the newspaper headlines.

I hope my colleagues and leaders throughout the world will join me in commemorating the anniversary today, and thus ensure that the tragedy of the Armenian genocide will not be forgotten.●

THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

● Mrs. FEINSTEIN. Mr. President, today, April 24, marks the 81st anniversary of the beginning of the Armenian genocide. I rise today to acknowledge and commemorate this terrible chapter in our history, to help ensure that it will never be forgotten.

Eighty-one years ago today, one of the darkest chapters in human history began. On that day, Ottoman authorities began arresting Armenian political and religious leaders throughout Anatolia. Over the ensuing months and years, some 1.5 million Armenians were killed at the hands of the Ottoman authorities, and hundreds of thousands more were exiled from their homes.

On this 81st anniversary of the Armenian genocide, let us renew our commitment never to forget the horror and barbarism of this event. We must remember, we must speak out, and we must teach the next generation about the systematic persecution and murder of millions of Armenians by the Ottoman Government. I know that I am joined by every one of my colleagues, by the Armenian American community, and by people across the United States in commemorating the genocide and paying tribute to the victims of this crime against humanity.

As Americans, we are blessed with freedom and security, but that blessing brings with it an important responsibility. We must never allow oppression and persecution to pass without condemnation. By commemorating the Armenian genocide, we renew our commitment always to fight for human dignity and freedom, and we send out a message that the world can never allow genocide to be perpetrated again.

Even as we remember the tragedy and honor the dead, we also honor the living. Out of the ashes of their history, Armenians all across the world have clung to their identity and have prospered in new communities. My State of California is fortunate to be home to a community of Armenian-Americans a half a million strong. They are a strong and vibrant community whose members participate in every aspect of civic life, and California is the richer for their presence.

The strength and perseverance of the Armenian people is a triumph of the human spirit, which refuses to cede victory to evil. The best retort to the perpetrators of oppression and destruction is rebirth, renewal, and rebuilding. Armenians throughout the world have done just that, and today they do it in their homeland as well. A free and independent Armenia stands today as a living monument to the resilience of a people. I am proud that the United States, through our friendship and assistance, is contributing to the rebuilding and renewal of Armenia.

Let us never forget the victims of the Armenian genocide; let their deaths not be in vain. We must remember their tragedy to ensure that such crimes can never be repeated. And as we remember Armenia's dark past, we can take some consolation in the knowledge that its future is bright with possibility.●

GENOCIDE REMEMBERED

● Mr. MOYNIHAN. Mr. President, I rise today to mark the 81st anniversary of the Armenian genocide that took place during the final years of the Ottoman Empire. From 1915 to 1923, some 1,500,000 persons of Armenian ancestry are reported to have died at the hands of their Ottoman rulers, through a deliberate policy of deportation, confiscation of property, slave labor, and murder.

Although we now recognize this policy as genocide, no such word existed at the time of its commission. The American Ambassador to the Sublime Porte, New Yorker Henry Morgenthau, described the Ottoman atrocities as a "campaign of race extermination." A chilling prologue, if you will, to the twentieth century.

The word "genocide" comes from the Greek genos (clan or breed) and the Latin caedere (to kill). It was coined in 1944 by Raphael Lemkin, a Polish Jew who emigrated to the United States in 1941.

In the early 1930's, after studying the slaughter of the Armenians, Lemkin began a campaign to outlaw the crime now known as genocide. He took his case before the Legal Council of the League of Nations in 1933 but the learned jurists would not heed him. Finally—after the Nazi Holocaust shook the conscience of the world—the United Nations adopted the Convention on the Prevention and Punishment of the Crime of Genocide on December 9, 1948. The first human rights treaty of the new world body was finally ratified by the United States in 1988. Raphael Lemkin's legacy.

During the Days of Remembrance Commemoration in 1981, Elie Wiesel stated:

> Before the planning of the Final Solution, Hitler asked, "Who remembers the Armenians?" He was right. No one remembered them, as no one remembered the Jews. Rejected by everyone, they felt expelled from history.

Mr. President, today the United States Senate pauses to remember the Armenian victims of genocide. But remembrance alone is not enough. Remembrance must be the first step toward justice and, ultimately, toward prevention of future atrocities.

On December 13, 1995, the Senate adopted Senate Joint Resolution 44, concerning the deployment of United States Armed Forces in Bosnia and Herzegovina. The resolution affirmed that the population of Bosnia and Herzegovina had "suffered egregious violations of the international law of war including * * * the Convention on the Prevention and Punishment of the Crime of Genocide." To redress and punish these crimes, the United Nations established the International Criminal Tribunal for the Former Yugoslavia. The United States must continue to support the work of the Tribunal and insist on cooperation with the Tribunal as mandated by the Dayton Accords.

The horrors of this century—beginning with the Armenian genocide—gave birth to a new vocabulary of inhumanity. As this genocidal century draws to a close, let us remember these events, mourn the victims, and strengthen our resolve that such outrages never again be perpetrated against the human race.

I thank the Chair and I ask that the text of Ambassador Henry Morgenthau's telegram of July 16, 1915, and the 'genocide' entry in the Fontana Dictionary of Modern Thought be printed in the RECORD.

The text follows:

[Telegram received from Constantinople, July 16, 1915]

Secretary of State,
Washington.

> Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in progress under a pretext of reprisal against rebellion.
>
> Protests as well as threats are unavailing and probably incite the Ottoman government to more drastic measures as they are determined to disclaim responsibility for their absolute disregard of capitulations and I believe nothing short of actual force which obviously United States are not in a position to exert would adequately meet the situation. Suggest you inform belligerent nations and mission boards of this.
>
> American Ambassador, Constantinople.

THE FONTANA DICTIONARY OF MODERN THOUGHT

[Edited by Alan Bullock and Oliver Stallybrass]

[New and revised edition by Alan Bullock and Stephen Trombley assisted by Bruce Eadie]

GENOCIDE.

> Term coined by American jurist Raphael Lemkin in 1944 to denote the physical destruction of a national, racial or ethnic population. The term was included in the indictment at Nuremberg of German war criminals accused of involvement in Nazi attempts to exterminate the Jewish population of Europe. It acquired still wider currency in a United Nations Resolution of 11 December 1946 and UN Convention of 9 December 1948 which sought to make genocide a crime under international law. Details of the UN definition of the term are contested, for example by radical critics of colonialism who view as genocide the destruction of the social fabric of a colonized people, but it remains the most widely accepted definition.
>
> Bibl: L. Kuper, Genocide (Harmondsworth and New York, 1981).●

UNITED STATES MUST SUPPORT A SOVEREIGN LEBANON

● Mr. ABRAHAM. Mr. President, I rise today to express my strong support for the sovereignty, independence, and territorial integrity of the country of Lebanon. As you know, Mr. President, Lebanon has again been the most recent victim of the fighting in the Middle East. The hostilities of last week which continue today have caused a great loss of Lebanese lives.

The United States has always supported the independence and territorial integrity of Lebanon. However, in the most recent negotiations to end the fighting in the region, the U.S. administration has been focusing its efforts on Syria and Israel.

I believe that the State Department is sincere in upholding it support for the sovereignty of Lebanon. But I am afraid that the United States views a resolution to the Israel-Syria conflict as the only priority—and the consequence is the plight of the civilian population in Lebanon is ignored. It is Lebanon that is suffering the most in this conflict, and it is with that country which the United States should focus its immediate attention.

The influence and support of the United States is critical to giving Lebanon the help it needs to move forward and rebuild after two decades of civil war.

As its stands, the presence of all foreign forces in Lebanon irritates the situation, making it difficult for the Lebanese to find a peaceful solution to their quest for independence and sovereignty. Only until there is the withdrawal of all foreign forces from Lebanon, combined with a diplomatic solution, will peace in the Middle East be achievable.

I believe that Lebanon will than be on its way to returning to the independent, sovereign and unoccupied land that it once was—free of all non-Lebanese forces. Not only will this advance the case of Middle East peace in the region, but it will also be in America's best interest to have its friend, Lebanon, stable once more.

Today, President Clinton is meeting with President Elias Hrawi of Lebanon. It is my hope that the territorial integrity, sovereignty and independence of Lebanon is the subject of much discussion. President Clinton will also be announcing a humanitarian aid package for Lebanon, and I was pleased to lead the efforts in the Senate to insist upon this assistance for the innocent civilians of Lebanon.

But the humanitarian assistance is only one part of the equation. I, once again, urge the administration to persist in trying to negotiate a cease fire in this region and to bring an end to the hostility immediately.●

THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

● Mr. GLENN. Mr. President, once again I rise to join my colleagues, and Armenian Americans in Ohio and across the Nation, to remember the Armenian genocide of 1915–1923. Over this period the Armenian population of the Ottoman Empire was systematically destroyed. Some were killed, others left to die of deprivation, still others uprooted and expelled from their homeland. In the end, some 1.5 million Armenians perished and another 0.5 million were displaced.

Evidence of the Armenian genocide is available from a number of sources, among the most compelling is the reporting of our own United States Ambassador to the Ottoman Empire, Henry Morgenthau. In a cable to the Secretary of State, Ambassador Morgenthau wrote: "Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in process under a pretext of reprisal against rebellion."

Some may ask why it is important to take time each year to commemorate an event which occurred over half a century ago. In reply I would recall the reported observation of Adolph Hitler as he contemplated the "final solution"—"Who remembers the Armenians?"

Today we remember the 1½-million victims of the Armenian genocide. Undeniably it is not comfortable to repeatedly revisit this tragedy, or to visit the Holocaust Memorial Museum, or to have contemporary atrocities played out nightly on our television screens, as in Bosnia or Rwanda. But we remember today, we did last year and the year before, so that we will not become complacent about or indifferent to any example of man's inhumanity to man, wherever and whenever it may occur. For in the words of Edmund

VOL
142
PT
6
AP
15
—
24
1996
UMI

Burke, "the only thing necessary for the triumph of evil is for good men to do nothing."•

DAVID L. FORD

• Mr. LEVIN. Mr. President, I rise today to honor one of the remarkable individuals we lost on April 3, 1996, in the plane crash in Croatia which took the life of Commerce Secretary Ron Brown and many other fine Americans. David L. Ford, CEO of InterGuard Corp., a subsidiary of Guardian Industries, headquartered in Auburn Hills, MI, was on that flight to donate 23 metric tons of flat glass to Sarajevo, enough to produce 8,000 windows for the reconstruction of a hospital that was damaged in the war.

When David was first given the opportunity to travel to Bosnia, he thought of how he could best help the city of Sarajevo. He decided that he would help the city recover from the constant shelling of the past 3 years. David was very excited about being able to help the people of Sarajevo. Though he was unable to see his plan fulfilled, his wish was honored when the glass was later delivered by the U.S. Embassy. A plaque commemorating the efforts of David Ford to rebuild Bosnia will be displayed in front of the hospital in Sarajevo.

David worked for Guardian for over 25 years. He was the driving force in opening the European market for the company, which now operates four plants across Europe. He was a diligent and dedicated worker. He was also a deep thinker who was a student of foreign cultures. He traveled extensively in European countries and studied their cultures.

David was a dedicated family man. His wife, Debra Ann Ford, and their children, Kathryn and Douglas, will remember him as a person who brought much happiness into their lives. He was an involved parent who would often accompany his children to school. He recently took a class on a trip to Israel, imparting his knowledge of the world to the children.

David was a man who was very committed to his faith. David was a born-again Christian and a member of Christian Community Church. He was very involved in his community and was the leader of the youth group Teen Section. David has said that, "to be born again means a new beginning, it means change—a new direction." David had this faith in a new direction for Bosnia and the world.

David's own words best show how he viewed his life. "Yes, I had to change. That meant I had to sacrifice some things—the changes are not a list of things to do or not to do. The changes are in your heart. We cannot make these changes alone, by ourselves. God sends us a helper to be with us." The people of Sarajevo were indeed sent such a helper in David Ford.

I know that my Senate colleagues join me in honoring the life of David L. Ford.•

THE 205TH ANNIVERSARY OF POLAND'S CONSTITUTION

• Mr. D'AMATO. Mr. President. I rise today in support of Senate Joint Resolution 51, a resolution to commemorate the 205th anniversary of Poland's constitution. This resolution was introduced by my good friend, the distinguished Republican leader and senior Senator from Kansas, BOB DOLE. The purpose of the resolution is to salute and congratulate Polish people around the world, including Americans of Polish descent, as on May 3, 1996 they commemorate the 205th anniversary of the first Polish constitution, to recognize the rebirth of Poland as a free and independent nation in the spirt of the 1791 constitution, and to urge the people and state and local governments of the United States to observe this anniversary with appropriate ceremonies and activities.

The Polish constitution of 1791 is closely related to our own constitution, because it was heavily influenced by a Polish hero of the American Revolution, General Thaddeus Kosciuszko, who returned to his native land after the war, carrying with him the concepts we fought to establish and preserve in the revolution. While Poland enjoyed this new constitution for less than 2 years, it established principles and ideals that still live in modern Poland.

Polish people have made major contributions to the United States in all fields of endeavor. The first manufacturing facility in America was established by a Pole in Jamestown, VA. The first institution of higher learning in New Amsterdam was established by Dr. Alexander Kurcyusz. In addition to General Kosciuszko, another famous Pole, Count Casimir Pulaski, aided our fight for independence from Great Britain. He is known as the "Father of the American Cavalry" because General Washington put him in charge of developing and leading that arm in the war. He had a brilliant career in the Continental Army. Unfortunately, he was mortally wounded in the siege of Savannah and later buried at sea.

More modern Polish-Americans who made notable contributions range from Arthur Rubenstein to Stan Musial and Leon Jawarski. In every field, Polish-Americans worked hard to make America what it is today.

New York is home to a great many Americans of Polish descent. Almost 1.2 million New Yorkers claim a Polish heritage. According to the Census Bureau, about 17 percent of all U.S. residents who speak Polish at home live in New York.

I am confident that our adoption of this resolution will be met with appreciation and that May 3 will be a date that will be met with appropriate celebration in the Polish-American community. I again express my strong support for this resolution and I urge my colleagues to vote for it.•

THE 81ST ANNIVERSARY OF ARMENIAN GENOCIDE

• Mr. LEVIN. Mr. President, George Santayana wrote that "those who cannot remember the past are condemned to repeat it." We have an obligation, just as our forebears had, to teach following generations what occurred in the world before they were born. It is this passing of information from generation to generation that weaves the fabric of our collective history and serves as a guide for the future. We can never change the facts of history, but we can work to make sure that injustices are not repeated out of ignorance of those facts. It is only through the constant and vigilant education of our children and each other that we can hope to end man's inhumanity to man.

When Adolf Hitler was planning the Jewish Holocaust he said, "Who today remembers the extermination of the Armenians?" I am here today to bear witness to the fact that we do remember the Armenians who fell prey to genocide and we will continue to work to spread that knowledge so that similar events never again occur.

Today, April 24, 1996, we commemorate the 81st anniversary of the 1915–1923 genocide of the Armenian people. In a world that sometimes seems to have gone mad with random violent acts, we must remember the victims of a government organized terror, the genocide perpetrated by the Turkish Ottoman Empire against the Armenian people.

Eighty-one years ago this week, the 8-year-long savagery against the Armenian people began. Each year we remember and honor the victims and pay respect to the survivors we still are blessed to have in our midst. We vow to remember, to always remember, the attempt to eliminate the Armenian people from the face of the Earth, not for what they had done as individuals, but because of who they were.

For the most part, nations did not learn from history—the world looked away during the Armenian genocide and those horrors later revisited the planet. As Elie Wiesel said, the Armenians "felt expelled from history." So the genocide we remember each April, the century's first genocide—is the genocide the world forgot, to its shame, and for which it paid dearly.

Each year we vow that the incalculable horrors suffered by the Armenian people will not be in vain. We make this solemn vow because we believe that it is within our power to confront evil in the world, and to prevent genocidal attacks on people because of who they are. That is surely the highest tribute we can pay to the Armenian

victims and how the horror and brutality of their deaths can be given redeeming meaning.•

HONORING THE WALTMANS ON THEIR 50TH WEDDING ANNIVERSARY

• Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data is undeniable: individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "til death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Lelslie and Isabella Waltman of West Plains, MO, who on March 28, will celebrate their 50th wedding anniversary. They understand the meaning of the word "covenant." My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Waltmans' commitment to the principles and values of their marriage deserves to be saluted and recognized. I wish them and their family all the best as they celebrate this substantial marker on their journey together.•

MEASURE READ THE FIRST TIME—H.R. 2937

Mr. SIMPSON. Mr. President, I inquire of the Chair if H.R. 2937 has arrived from the House of Representatives.

The PRESIDING OFFICER. The bill has arrived, and it is at the desk.

Mr. SIMPSON. Therefore, I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 2937) for the reimbursement of attorneys' fees and costs incurred by former employees of the White House travel office with respect to the termination of their employment in that office on May 19, 1993.

Mr. SIMPSON. I now ask for its second reading.

Mr. SIMON. I object.

The PRESIDING OFFICER. Objection is heard.

MEASURE READ THE FIRST TIME—S. 1698

Mr. SIMPSON. Mr. President, I inquire of the Chair if S. 1698 is at the desk.

The PRESIDING OFFICER. S. 1698 is at the desk.

Mr. SIMPSON. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 1698) entitled the Health Insurance Reform Act of 1996.

Mr. SIMPSON. Mr. President, I ask for the second reading and object on behalf of the Republican leader.

The PRESIDING OFFICER. Objection is heard.

Mr. SIMON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

AMENDING THE HIGHER EDUCATION ACT OF 1965

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3055 just received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3055) to amend section 326 of the Higher Education Act of 1965 to permit continued participation by Historically Black Graduate Professional Schools in the grant program authorized by that section.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the bill be deemed read the third time, passed, and the motion to reconsider be laid on the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3055) was deemed read the third time, and passed.

MEASURE INDEFINITELY POSTPONED—S. 1298

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 1298, a bill to authorize documentation of the vessel, Shooter, and that the measure then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, APRIL 25, 1996

Mr. SIMPSON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 8:30 a.m. on Thursday, April 25; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, and the morning hour be deemed to have expired, and that there then be a period for morning business until the hour of 10 a.m., with Senators to speak therein for up to 5 minutes each, except for the following: Senators CHAFEE or BREAUX for up to 60 minutes total; Senator DODD for up to 15 minutes; Senator MURKOWSKI for up to 5 minutes; Senator STEVENS for up to 5 minutes; Senator BRYAN for up to 10 minutes.

I further ask that at the hour of 10 a.m. the Senate resume consideration of S. 1664, the immigration bill, and at that time Senator SIMPSON be recognized to offer the next two amendments to the immigration bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SIMPSON. For the information of all Senators, Mr. President, the Senate will resume the immigration bill and the pending amendments tomorrow morning. Senators can expect rollcall votes throughout the day on the immigration bill. We hope to complete action on that measure on Thursday.

It is also anticipated that the omnibus appropriations conference report will be available for consideration during tomorrow's session. Therefore, action on that legislation is also expected.

The Senate may also be asked to turn to any other legislative items that can be cleared for action.

Mr. President, let me thank my colleague from Illinois for his cooperation and willingness to come to the floor this evening and interrupt his evening to see if we can proceed with other business. I am most appreciative. We will try to complete our work tomorrow. I hope we can do that—certainly Friday morning. Hopefully, we can avoid that.

But I want to thank the staff, the people that make it possible for us to function in this remarkable arena on both sides of the aisle—here at the desks on the both sides of the aisle. These people I have come to know so well we cannot function without. This has been a remarkable day, and the Parliamentarian must be dealing with some kind of a gumball by now. It has more cords and knots in it than we could ever untangle. So we will just keep it there, if we can.

But I want to thank the Senator from Illinois, and thank these remarkable people who patiently watch us grapple with the issues of the day.

ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. SIMPSON. Mr. President, if there is no further business—unless my colleague from Illinois would care to make remarks—to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:05 p.m. adjourned until tomorrow, Thursday, April 25, 1996, at 8:30 a.m.

VOL
142
PT
6
AP
15
—
24
1996
UMI

HOUSE OF REPRESENTATIVES—*Wednesday, April 24, 1996*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. RADANOVICH].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 24, 1996.

I hereby designate the Honorable GEORGE P. RADANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Help us to acknowledge, O gracious God, that Your creation extends from the east to the west, that there is no boundary to Your goodness and Your grace. Forgive us when we seek to make our action the center of all action and our concerns the focus of all humanity. Remind us that we ought not remake Your graces to look only like our face or make our concerns to be the center of Your entire creation. As You are the God of all so let us focus on Your blessings and Your will in every place and for every person so that justice will flow down as waters and righteousness like an everflowing stream. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Illinois [Mr. FLANAGAN] come forward and lead the House in the Pledge of Allegiance.

Mr. FLANAGAN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed bills of the following titles in which the concurrence of the House is requested:

S. Con. Res. 54. Concurrent resolution to correct the enrollment of the bill S. 735, to prevent and punish acts of terrorism, and for other purposes; and

S. Con. Res. 55. Concurrent resolution to correct the enrollment of the bill S. 735, to prevent and punish acts of terrorism, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain fifteen 1-minute presentations from each side of the aisle.

MEDICARE

(Ms. DUNN of Washington asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN of Washington. Mr. Speaker, I want to talk about Medicare. Yesterday the Treasury Department reported a new and totally unexpected $4.2 billion shortfall in the Medicare trust fund during the first half of the current fiscal year. Just a year ago, this very same fund had projected a surplus of $45 million for fiscal year 1996.

My parents, the Blackburns in Bellevue, WA, probably did not read that news story, but it is critically important to them because they, like millions of others, count on the Medicare system being solvent. More than a year ago President Clinton's Medicare trustees, including three members of his own Cabinet, warned that Medicare would be bankrupt by 2002 if no changes were made. Yet the President did nothing to change it. He offered no long-term solutions and he offered no leadership. In fact, all he offered was election year scare tactics designed to frighten senior citizens.

Mr. Speaker, enough is enough. Congressional Republicans in response to people like my parents have offered leadership. We want to save benefits for our seniors and save the Medicare trust fund, and we want to do it now while it is still possible.

RAISING THE MINIMUM WAGE

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute.)

Mrs. CLAYTON. Mr. Speaker, there are 117,000 minimum wage workers in North Carolina. Those workers are not just numbers, they are people with families and children. They are day care providers, farmers and food service workers, mechanics and machine operators. They are in construction work and sales, health and cleaning services, and a range of other occupations.

Their families helped build America, and they can help rebuild it. They do not need charity, they need a check—a check that includes a reasonable increase in the minimum wage, as proposed by the President.

Work should be a benefit, it should not be a burden. Work is a burden when, despite an individual's best efforts, living is a daily struggle. Work is a benefit when enough is earned to pay for what we need.

Reward work, and pass the minimum wage increase.

THE 10TH ANNIVERSARY OF VIETNAM WAR MUSEUM IN CHICAGO

(Mr. FLANAGAN asked and was given permission to address the House fore 1 minute and to revise and extend his remarks.)

Mr. FLANAGAN. Mr. Speaker, I rise today to recognize the Vietnam Memorial Museum, in the heart of the Vietnamese community in Chicago, for its commitment to uniting both American and Vietnamese veterans on issues relating to Vietnam and veterans' affairs.

The museum was founded 10 years ago with the intent of honoring those who participated and served in the Vietnam war and educating future generations about personal experiences of those who performed such service. It contains a fascinating exhibit of various memorabilia, artifacts, photographs, artwork, and period publications, reminding us all of the sacrifices made by our veterans during the Vietnam war.

The Vietnam Memorial Museum of Chicago is not a war museum. It is a memorial, a place where those who survived the hardships of the Vietnam war can meet, reflect on their personal experiences and share memories and emotions.

The museum also serves the community by housing a drop-off center where American and Vietnamese veterans channel valuable goods to needy Vietnamese refugees living in the Chicago area. This museum is truly a community based and community oriented operation.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The Vietnam War Museum is a tribute to Vietnam veterans and their families and all veterans. It is a valuable resource to the Chicagoland community that honors all, veterans and civilians alike, who served our country during the Vietnam era on behalf of the cause of freedom.

THE MINIMUM WAGE

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute.)

Mrs. KENNELLY. Mr. Speaker, I rise today to talk about increasing the minimum wage. I would like to focus on one particular type of low-wage worker—women. Almost 60 percent of those making minimum wage are female. Many times, these are women with children to support—women whose alternative would be to go on welfare. As one who has participated in the debate on welfare reform for many years, I can tell you this: The single best way to keep people off welfare is to make work pay.

Raising the minimum wage will make an enormous difference for many of these families. For them, it would mean an extra $1,800 a year to put in the family bank account. This one increase equates to an average spent for 7 months of groceries, or 4 months of housing, or 9 months of utility bills. This is no time for political games—raising the minimum wage is long overdue. The wage earners struggling to support their families know it. The President has said and I agree: if you work full-time, year-round, you shouldn't be poor. Raising the minimum wage takes us toward that goal. I believe we should raise it now.

IMPROVING THE NATION

(Mr. FRANKS of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANKS of Connecticut. Mr. Speaker, like a chain, in order to improve our Nation we must strengthen even the weakest links in our society. By doing so it would make it more likely that under known or unknown pressures, we would be able to pull together rather than fall apart as a nation.

Hope and opportunity are key elements. They go hand in hand with success. It is hard to have one without the other. However, for many in our inner cities, opportunities seem limited. Thus hopelessness often creeps into their lives, and the prospect of success becomes nothing more than a pipe dream. We as leaders owe our society much more, but, unlike the beliefs of many, we do not have to throw taxpayers' dollars at the problem. There are other solutions.

Mr. Speaker, I will soon be offering initiatives that in a meaningful way will attempt to address these grave concerns.

SOMETHING IS WRONG

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Rodney Hamrick, who is in prison for threatening the life of Ronald Reagan, threatened to blow up a Federal courthouse, a judge, the NAACP headquarters, and an airplane. Then he went beyond and he sent a bomb in the mail, that did not explode, to the U.S. attorney that had convicted him. He was naturally convicted.

But a three-judge panel at the Fourth Circuit Court overturned the decision by saying, since the bomb did not detonate, it was not deadly. Beam me up, Mr. Speaker. I believe that these three judges must have received a defective mail-order law degree from Sears Roebuck. Something is wrong when Gorbachev gets slapped in the face in Russia while campaigning and they call it an assassination. In America, a prisoner sends a mail bomb and it is treated like a misdemeanor. If that does not explain it all, I do not know what does.

MORE MEDICARE

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I come to the well once again heartened by the remarks of my colleague from the great State of Ohio. I just wish we could get past some of the name calling and some of the, to be frank, disinformation that has infested itself here on the banks of the Potomac; to wit, fact, yesterday the Treasury Department reports that Medicare is losing money, $4.2 billion in the first 6 months of this year.

Yet what does the minority leader say on television? Last summer, when queried about allowing Medicare to grow at a rate less than 10 percent a year, he says, and I am quoting him, the reforms the majority tried to make amounted to this, "This is a hoax."

Mr. Speaker, it is no hoax. The hoax comes when those on the left would deliberately employ medi-scare tactics to try and get through the next election rather than to save and transform Medicare for the next generation. We are all to be held accountable. Let us deal with the truth.

ALCOHOL AND CHILDREN

(Mr. KENNEDY of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. KENNEDY of Massachusetts. Mr. Speaker, we in this country, every one of us understands what this sign says. It is three frogs saying Budweiser. The trouble is that if you ask the average fourth and fifth graders in this country, they also know what it says. They know what it says more than they know what Tony the Tiger says. They know more about Budweiser than they know about Smokey Bear or the Mighty Morphin Power Rangers.

People that do not think there is a problem with young people drinking alcohol in this country do not understand the facts. Alcohol abuse kills more young people in America than all other drugs combined. Junior high school and high school students drink 1.1 billion cans of beer each year, and Anheuser Busch's market share of this number is 70 million 6-packs of Budweiser, equaling $200 million of sales to children.

Let us put an end to trying to market to children a drug that unnecessarily kills far too many of our Nation's most vital natural resources.

APPRECIATING BALANCE

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, every spring I plant natural resource trees, over the past 2 months, nearly 600: crab apples, redbuds, oaks, cherries, dogwoods, cypress, and cedar, just to name a few. I also cut down trees, mostly stunted or overgrown pine, to make room for others to grow. I was raised to appreciate that kind of balance.

This spring I will join other volunteers in Habitat for Humanity, hammering and sawing lumber to build suitable housing for poor families in Louisiana. I was raised to understand that kind of balance, too.

Unfortunately, many of our bureaucrats do not. Every week nearly 1 square mile of Louisiana washes away in coastal marsh and barrier island erosion. Private landowners are prepared to spend their own money to save those marshes and wetlands, but our wetlands permit system says no. Hundreds of such applications have been abandoned.

The Corps of Engineers in Louisiana still refuses as yet to authorize a private mitigation bank. So 30 to 50 square miles in my State washes away while bureaucrats squabble over so-called wetlands that no self-respecting duck would land on.

We need to spend less money on lawyers and bureaucrats and more money really saving wetlands in America.

SUPPORT H.R. 3244

(Ms. NORTON asked and was given permission to address the House for 1

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minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, the Capital of the United States is in serious disrepair, and I mean a lot more than potholes. It is trying to recover by downsizing a loan as no insolvent city has ever done. There is Federal responsibility here, including the unfunded pension liability that is taking 10 percent of our budget, and that is entirely my colleagues' responsibility.

The time has come to act now. We are a hemorrhaging population. We want to revive the District the old-fashioned way, by keeping and attracting middle-income residents here. Please support my Federal tax cut bill for the District of Columbia; support H.R. 3244. My colleagues should assume their share of the responsibility for the Capital of the United States.

TRAVEL AND TOURISM SHRINKS TRADE IMBALANCE

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, did my colleagues see yesterday where the trade deficit is down by over 18 percent? Now that is something to cheer about.

But do my colleagues know why the trade deficit is down? According to the Commerce Department, it is because the travel and tourist industry reported a temporary surge in foreign visitors to the United States. Unfortunately, this trend cannot continue unless we in Congress work right now to continue the trend by passing the Travel and Tourism Partnership Act.

Now we have 226 cosponsors. That is terrific. I want everyone to cosponsor this bill. We want to do even more, because terrific is not good enough when it comes to travel and tourism.

Travel and tourism is the largest industry in America. Travel and tourism employs one out of every nine working Americans, and it is time that we in Congress, and we are, awaken to the tremendous potential in this industry, and I ask everyone to help me.

Let us cosponsor this bill, and let us pass it so we can get our trade deficit down even further.

GIVE OUR STUDENTS AN OPPORTUNITY TO WORK THEIR WAY THROUGH SCHOOL

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, one of the great arguments that I have heard in this debate about the minimum wage has been that there are many students who receive minimum wage. I stand here this morning as a product of the family of 13 children, parents who could not afford to send me to college, and the only way I could get through was to work.

I do not see anything wrong with trying to provide a wage that allows a student to be able to work their way through school particularly when we are cutting back in so many areas that affect and impact the lives of students who have been able to get scholarships, be able to get grants and loans. It seems to me that if we are going to be fair, we have to be fair to every American citizen, even those who are students who have a desire, a will, to work.

Mr. Speaker, my mother taught me how to cook, wash, iron, and sew. That is how I got through college. There are many other young people who could do the same thing if we were fair enough to them to give them that opportunity, give them the best wages. I have waited tables, I have bussed tables, I have shined shoes, I have done everything, and we ought to let them do it. Pay them a good enough salary so that we can indeed come to that point where maybe if we reduce the scholarships, they will know they can work their way through.

Mr. Speaker, I think it is a good thing. I am a product and a witness of it.

INTRODUCTION OF THE PARENTAL FREEDOM OF INFORMATION ACT

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, today I am introducing the Parental Freedom of Information Act to provide parents in America with the information they need to guide the education of their children. Teachers have told me that involved parents are the most important thing the public schools need to help students learn. Involved parents must be informed parents.

The Parental Freedom of Information Act will guarantee that parents have access to their child's curriculum, the contents and result of standardized tests and medical records, including psychiatric and/or counseling records.

Recently, parents have been denied access to instructional materials used in classes which they might find objectionable. They have been denied achievement tests that have been administered and then withheld from parental inspection, and treatments by unqualified school counselors have been administered to children contrary to the expressed objections of parents, and the records of this treatment were denied to the parents. Parents have been forced into the courtroom to find out what is going on in the classroom.

This act in no way seeks to influence curriculum or standardized tests. It simply provides the basic information which involved parents need to guide the education of their children.

RAISE THE MINIMUM WAGE

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, good morning. The battle about the minimum wage rages on. Some people would have our colleagues believe that the minimum wage only affects kids, so we should not worry about it. Not true—10 million Americans are affected by the minimum wage. Some 75 percent of them are adults and 58 percent of them are women.

We need to increase the minimum wage. The minimum wage has not been increased in 5 years. The purchasing power of people who earn the minimum wage has decreased by 15 percent. We are talking about people who make about $8,400 a year operating under the current minimum wage.

I am pleased to say today, Mr. Speaker, that there is some bipartisan support for increasing the minimum wage. I am distressed, however, that there are still some Republicans who believe that we should not increase the minimum wage and want to fight it.

We do not need any convoluted bureaucratic plans to pay employers. What we need is a very simple solution: Raise the minimum wage.

Mr. Speaker, if we raise the minimum wage, we will bring 300,000 families out of poverty, we will bring 100,000 children out of poverty.

Raise the minimum wage.

MINIMUM WAGE: MINIMUM OPPORTUNITIES

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, I really wonder if the President and the Democrats are truly interested in raising the minimum wage or is it just that they want to score some political points? When they controlled Congress back in 1992 and 1993 with President Clinton in the White House, why was not an increase in the minimum wage on the agenda? Maybe they were too busy raising taxes on gas, on Social Security, on small businesses.

Mr. Speaker, I have to look at this comment that the President made in 1993. President Clinton said, "The minimum wage," and I am quoting, "The minimum wage is the wrong way to raise incomes of low-wage earners." But then again, I guess we really cannot believe what the President says from day to day or time to time.

By the way, if my colleagues think 90 cents an hour is going to save working families, I say my colleagues' priorities are in the wrong place. We need to provide tax relief to our families, not 90 cents an hour. Lowering taxes will raise incomes.

FAMILIES NEED TO EARN A LIVABLE WAGE

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, we are hearing a lot of excuses from the majority these days about why we do not need to increase the minimum wage. Mr. Speaker, I know firsthand why families need to earn a livable wage.

Over 28 years ago I was a single working mother with three small children, receiving no child support. Even though I was working, I was earning so little that I had to go on welfare to take care of my children. I tell my colleagues this, Mr. Speaker, because too many families today face the same situation.

In spite of what the majority whip has said about minimum wage and about earning $4.25 an hour, almost 5 million Americans work for at or below minimum wage, and I am not talking about teenagers looking for extra cash. Rather, the average minimum wage earner looks a lot like I did 28 years ago, an adult woman supporting her family by herself. Today that mother is worse off because the purchasing power of the minimum wage has plummeted to a 40-year low.

Clearly, it is time to make work pay by increasing the minimum wage now.

TRIBUTE TO THE LATE GILBERT MURRAY

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, I rise to honor Gilbert Murray, former President of the California Forestry Association. Today marks the 1-year anniversary of Gil's tragic death at the hands of the Unabomber.

Today, I will not dwell on the tragedy of Gil's death, but rather on the greatness of his life. Gil was a respected professional leader. He advocated good stewardship of our forests to keep them beautiful and productive for our children and grandchildren.

More importantly, Gil was a leader in his home. Despite his professional commitments, he always made his family his priority. He was never too busy for his wife and two sons.

In every way Gilbert Murray was an exemplary man. I speak for many in northern California in saying that we remember him fondly and miss him greatly.

THE AMERICAN PEOPLE HAVE SPOKEN: RAISE THE MINIMUM WAGE

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. VELÁZQUEZ. Mr. Speaker, the American people have spoken. The latest polls show that 85 percent of Americans are in favor of raising the minimum wage.

I will say to my Republican colleagues, they have lost the battle in the court of public opinion.

So what does the Republican leadership now plan to do? Instead of following the will of the American people, they are following the will of corporate America and the fat cats who have funded their campaigns. That is immoral.

The latest Republican shell game will eliminate the earned income tax credit and then exclude workers without children from getting a raise. The rationale is to save $15 billion and give more breaks to big, big business. This ridiculous proposal takes working families one step forward and knocks them two steps back.

My colleagues, if we want to help working families, we must insist on a clean minimum wage bill with no strings attached, and vote to raise the minimum wage without delay.

RENEWABLE ENERGY EXPO 1996

(Mr. SCHAEFER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Speaker, I would like to urge Members to visit the Renewable Energy Expo 1996, taking place today from noon to 3 p.m. in the Cannon Caucus Room.

This exhibit, being sponsored by three dozen trade associations, industry groups, and businesses, offers you the opportunity to inspect the latest American renewable energy and energy-efficient technologies. You can ask the groups' representatives questions about their projects throughout the country, including some which may be operating in your own district.

The renewable energy expo is being put on in cooperation with the House Renewable Energy Caucus, a bipartisan group I founded in February along with six other Members. This caucus has grown 10 times in size—to 70 members—in less than 3 months, demonstrating the broad support renewables enjoy in Congress and throughout the country, renewables for our children and their grandchildren.

I hope you can stop by the Cannon Caucus Room today to see vivid demonstrations of our country's energy future.

REPUBLICAN LEADERSHIP DENIES MINIMUM-WAGE WORKERS EVEN EXIST

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, my Republican colleagues are reaching new heights of desperation as they scurry to dodge a vote on raising the minimum wage, even though the minimum wage is at a 40-year low, even though a 90-cent increase would help over 10 million workers in this country, and even though the average minimum-wage worker brings home more than half of his or her family's income.

It might be interesting to note that Members of this Congress earned more during the shutdown of this Government during the Christmas holidays than a full-time minimum-wage worker makes in an entire year. But despite all that, the Republican leadership will go to any length to kill an increase in the minimum wage. They are not even afraid of resorting to fantasy.

Yesterday the House majority whip said, "Emotional appeals about working families trying to get by on $4.25 an hour are hard to resist. Fortunately, such families don't really exist."

They do not believe that people do exist on the $8,500 a year or are trying to exist on that amount of money. Tell it to the 300,000 families in this country who are minimum-wage workers. Let us go to a clean, straight vote on raising the minimum wage.

LIBERALS REACHING NEW HEIGHTS IN DEMAGOGUERY

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, the liberals in Congress have reached new heights in demagoguery in the last few months, and with the help of the liberal media and the big special interests, AFL–CIO, they have been able to label anything that Republicans attempt to do as extreme or radical.

Mr. Speaker, truth always has a way of rearing its ugly head, and while the liberal Democrats were misleading Americans about the environment and while they were out demagoging about the balanced budget, the Medicare Program has incurred the largest losses in its history.

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In the first half of this fiscal year Medicare has lost $4.2 billion, and I would just say it has got to be true because I am holding the Santa Barbara News-Press, owned by the New York Times, and here is the front page article from the April 22 issue: "Medicare Trust Fund Loses $4 Billion. Clinton Administration Downplays Apparent

VOL
142
PT
6
AP
15
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24
1996
UMI

Miscalculations." So as I said, even the liberal press is exposing that, and I would just say the President vetoed it and now we see his party's inaction on solving and preserving Medicare.

REPUBLICANS FIX MEDICARE BY CUTTING BENEFITS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, here they go again. My colleagues on the other side, the Republicans, are now talking about how they want to fix Medicare essentially by cutting Medicare and using the money to pay for tax breaks for the wealthy. We had this all through 1995. Now they are trying to distort the information that came out in the New York Times about the Medicare trust fund, to go ahead with their radical plan to cut Medicare in order to pay for these tax breaks for wealthy Americans.

Well, let me tell the Members that this trust fund is not broke. We know now that it has $126.1 billion in surplus. This small deficit that was incurred in the first 6 months of this year does not justify going ahead with this radical plan to cut Medicare and give back these tax breaks to wealthy Americans.

The Republican leadership has refused to sit down with President Clinton and try to work on a bipartisan basis to come up with an answer for Medicare to make sure it is solvent. We are not talking about today. We are not even talking about the next few years. This insolvency, if it occurs, is I think 2001 or 2002. Do not let it be an excuse on the part of the Republicans to give these tax breaks to wealthy Americans.

INTRODUCING THE REGULATORY FAIR WARNING ACT

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, too often we hear stories about the small businessman who hires and employs three or four people, and then gets slapped with a legal action by a Federal agency on a matter on which the small businessman knows very little about its background or its effect. So what does a small businessman have as an option? One, he can hire a lawyer to try to defend against a wrong about which he did not know; or, in the second place, just pay the fine or other sanction that the agency requires because that is the easiest way to go.

I am today introducing the Regulatory Fair Warning Act, which would require the agencies to provide reasonable notice ahead of time of the change of a regulation or how it is to be enforced so that the small businessman, the employer, can try to comply with that without having been hit with a legal action, not knowing what he was supposed to do. This is a fair warning whose time has come.

REPUBLICAN MEDICARE CURE IS WORSE THAN THE AILMENT

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, my Republican colleagues who come here to sound an alarm on Medicare, even though this alleged shortfall has already been known by CBO and they have taken it into account, although almost every year we have been responding within Ways and Means to make sure the Medicare fund stays solvent.

The trouble with the Republican approach is that their cure has been far worse than the ailment, a heavy hit on seniors and providers to fund a tax cut for a very wealthy few. Their proposal gambles with the health of older Americans by excessive expenditure cuts and risky proposals.

In contrast, the President has proposed a plan that would extend the solvency of the part A hospital insurance trust fund through the next decade without hurting seniors.

What the Republicans are doing, sounding an alarm to put out a fire, they want to tear down the Medicare house The public rejected it last year. They will reject it again this year.

THE PRESIDENT'S SOFT AND LIBERAL JUDICIAL APPOINTMENTS

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, what the President does and what he says about judicial appointments are the mental equivalent of the great Joe Montana's play action, fake to the right and run to the left—and in this case, it is talking tough and acting soft. The President constantly talks about putting 100,000 cops on the beat but his judicial appointments are releasing felons back on the streets where they can again prey on the unsuspecting American public. We need more than just laws against felons if the soft and liberal judges appointed by the President simply ignore the law and free them. What we really need are judges that will adhere to the spirit and letter of the law and punish violent criminals to the full extent of the law. We must not punish the American public again by allowing this disgraceful revolving door of justice.

If we want judges who are as concerned about the rights of law-abiding citizens and victims as they are about those of violent criminals, then we need a new President in the White House.

SUPPORT A CLEAN MINIMUM WAGE INCREASE

(Ms. McKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McKINNEY. Mr. Speaker, yesterday I sent this letter to my colleague from Georgia, Speaker GINGRICH, urging him to hold a vote on a clean minimum wage increase before the Memorial Day district work period.

And today, Mr. Speaker, I would like to reiterate on the floor of the House what I stated to Speaker GINGRICH in this letter.

In the letter I said:

> The false link you are creating between a minimum wage increase and a reduction in worker protections, is little more than a cynical ploy to convince people earning $8,400 a year that less safe working conditions are the price they must pay for a living wage. This Machiavellian approach is insensitive to the needs of thousands of working Georgians who struggle just to put food on the table. As of 1994, 11.9% of Georgia's workforce was earning between $4.25 and $5.14 an hour. A 90-cent increase would help these nearly 362,000 people make ends meet.

Once again, Mr. Speaker, I urge my colleague from the Sixth District of Georgia to permit a vote on a clean minimum wage increase.

CAMPAIGN REFORM

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, during the 104th Congress, we have made some very positive changes in how we do business around here. We have legislated more stringent lobbyist registration requirements, disclosure requirements of their activities. We have passed a new House rule that prohibits Members and staffs from accepting any gifts, including meals or event tickets, from lobbyists or any other individuals other than family and close friends.

This is a good start, but it has not changed the persistent perception across our country that special interest groups have an edge over individual contributors when it comes to election time.

Our next step is to change how we run our campaigns. I have introduced H.R. 3274 to do just that. My bill does limit PAC contributions, and it requires that contributions come from within the candidate's State and that 50 percent of contributions come from within the candidate's district. If we are here to represent the people from our district, then they are the ones that should help us get here. They are

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the Americans we work for and are accountable to.

It is time for meaningful campaign reform. We can pass some. We should do it. It makes sense.

AMERICA'S WORKING FAMILIES NEED AN INCREASED WORKING WAGE

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute.)

Mr. FAZIO of California. Mr. Speaker, when Franklin D. Roosevelt first proposed a national minimum wage, he described it as a "fair day's pay for a fair day's work." Now, 50 years later, the minimum wage has plummeted to its lowest value ever and its purchasing power has fallen to a 40-year low. On an annual income of $8,400 a year, paying the bills and keeping food on the table is a daily challenge for minimum wage workers.

The 90-cent increase proposed by the President and Democrats in Congress would make the minimum wage a living wage. An extra 90 cents an hour would pay for 7 months of groceries, a year of health care costs, 9 months of utility bills, or 4 months of housing.

Contrary to Republican rhetoric, the average minimum wage worker is not a teenager looking for a little extra cash. She is a working mother, often the only wage earner in her family.

Let us not load up a minimum wage increase with all sorts of special breaks and goodies that would cause the President to veto the bill.

America's working families need an increased working wage, protections for their pensions, an effective education for their children, and affordable health care. Is that too much to ask?

Let us start by raising the minimum wage.

WAKEUP CALL

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, politicians excoriate liberal judges for releasing dangerous criminals and the Clinton appointees are among the worst. But defense and plaintiff attorneys have found an even greater ally, the bleeding-heart juries.

Half of the jury in the first case hung up the jury saying the Menendez brothers who murdered their parents for insurance money were afraid of their parents and should be released. It reminds me of the case in Richmond, CA, where the burglar fell through the roof and sued the property owner for having a faulty roof and won. Yesterday's decision that Bernhard Goetz who defended himself from subway muggers should pay $43 million because he injured one of the muggers was among the worst cases.

The real problem is not just liberal judges or bleeding-heart juries but a lack of absolute values. Our Nation's switch to situational ethics does not allow us to hold people responsible for their own misdeeds.

Should people who murder their parents prosper? Should burglars sue innocent property owners? Should thugs and muggers enrich themselves through court action when their victims rise up and defend themselves.

Wake up, America, before your ability to move safely in urban areas joins the 40 percent of your income taken by a loving and caring government.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole under the 5-minute rule:

Committee on Agriculture; Committee on Banking and Financial Services; Committee on Commerce; Committee on Economic and Educational Opportunities; Committee on Government Reform and Oversight; Committee on International Relations; Committee on the Judiciary; committee on National Security; Committee on Resources; Committee on Science; Committee on Transportation and Infrastructure; and Committee on Veterans' Affairs.

Mr. Speaker, it is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. RADANOVICH). Is there objection to the request of the gentleman from Florida?

There was no objection.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 175, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 411 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 411

> *Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 175) making further continuing appropriations for the fiscal year 1996, and for other purposes, modified by striking title II of the joint resolution. The joint resolution as modified shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the joint resolution as modified to final passage without intervening motion except one motion to recommit. The motion to recommit may include instructions only if offered by the minority leader or his designee.

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from South Boston, MA [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. DREIER asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. DREIER. Mr. Speaker, this rule provides for the consideration in the House of House Joint Resolution 175, making further continuing appropriations for fiscal year 1996. It provides for 1 hour of debate equally divided between the chairman and ranking minority member of the Appropriations Committee.

It orders the previous question to final passage without intervening motion except one motion to recommit which, if containing instructions, may only be offered by the minority leader or his designee.

Mr. Speaker, the rule also modifies House Joint Resolution 175 by striking out title II, which contained language to recapitalize the Savings Association insurance fund, better known as SAIF, and avoid another taxpayer bailout of yet another deposit insurance fund. Let me underscore that again. The plan was designed to avoid a taxpayer bailout and look for a private sector solution. This is an unfortunate but necessary step that was taken by the Rules Committee because passage of this 1-day continuing resolution is needed to forestall a disruption in Government services while congressional leaders and the administration work out the details of a permanent continuing resolution. As my colleagues know, the funding authority that much of the Government is currently now operating under expires in about 12 hours and 16 minutes.

Mr. Speaker, I want to take a moment to explain why I believe that the SAIF recapitalization legislation is needed, and why I hope that the majority and minority leadership in both the House and the Senate will work with the administration to bring this legislation before the House just as expeditiously as possible.

Mr. Speaker, because the bank insurance fund became fully capitalized last year, deposit insurance premiums to that fund fell from 23 cents per $100 to 4 cents. Consequently, there is a premium disparity that exists now between the bank insurance fund and the Savings Association insurance fund.

VOL
142
PT
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AP
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24
1996
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That creates a situation that could undermine the competitive balance between the two industries.

To address this disparity, language was added to House Joint Resolution 175, but stricken by this rule, to require thrifts to pay a one-time assessment of $5.5 billion to recapitalize the Savings Association Insurance Fund. The Bank Insurance Fund would assume 75 percent of the responsibility for annual payments on the financing corporation bonds used to pay for the 1987 thrift industry rescue plan.

In return, Mr. Speaker, banks would receive a rebate of up to $500 million for excessive premiums paid to the Federal Deposit Insurance Corporation, and the two FDIC funds would be merged in 2 years.

The reason the legislation is needed to be enacted sooner rather than later is that, to avoid the premium disparity, many thrifts will seek to transfer their deposits to BIF-insured institutions. If this happens, there will not be enough premiums in the safe to cover the $600 million a year in FICA bond obligations. That could happen by the end of this year, forcing a Government default and sometime thereafter another potential Federal bailout of the S&L insurance fund.

Every banking regulator agrees that the system needs to be fixed today, including the FDIC, the Treasury Department, the Federal Reserve Board Chairman Alan Greenspan. In fact, as Chairman Greenspan pointed out in a March 4 letter he sent to my California colleague, Mr. ROYCE, he said,

> Even if there were no evolving problem with two different insurance premiums, the existing deposit insurance system, with its reliance on two funds, is inherently unstable.

Mr. Speaker, the safe recapitalization legislation is the first step toward merging the funds and the industries. Today there is little of a material nature that distinguishes a bank charter from a thrift charter. The consequences of having two funds is that one industry can have a competitive advantage, even though the funds are both operated by the Federal Deposit Insurance Corporation. This is not a logical deposit insurance system.

Many of my friends in the banking industry argue that they should not have to help pay for the thrift bailout because banks did not cause the problem. Mr. Speaker, neither did the well-run, healthy thrifts cause the problem that exists today.

Since the only other option, which is another taxpayer bailout of a deposit insurance fund, is not a realistic option from my perspective, the only solution is a shared private sector solution. The result will be to enhance the safety and soundness of the banking system, benefiting consumers of financial products and services and strengthening the competitiveness and long-term health and profitability of the industry.

Mr. Speaker, Congress' failure to deal with a looming threat to the deposit insurance system 10 years ago led to the biggest financial calamity since the Great Depression. Let us not make that same mistake twice. There will be no better opportunity than now to deal with this problem, and I look forward to working with the leadership, the gentleman from Iowa, Chairman LEACH, and the administration, to get this matter once and for all resolved.

In the meantime, we must address the need to keep the Government operating. So I urge adoption of this rule and adoption of the one-day continuing resolution.

Mr. Speaker, I include for the RECORD the following material:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of April 23, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	62	59
Modified Closed[3]	49	47	26	25
Closed[4]	9	9	17	16
Total	104	100	105	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process onder House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of April 23, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17 H.J. Res. 1	Social Security Balanced Budget Amdt	A: 255–172 (1/25/95).
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of April 23, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109 H.R. 2491	Social Security Earnings Reform Seven-Year Balanced Budget	PQ: 228–191 A: 235–185 (10/26/95).
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H.Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/21/96).
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96).
H. Res. 388 (3/20/96)	C	H.R. 125	Gun Crime Enforcement	A: 244–166 (3/22/96).
H. Res. 391 (3/27/96)	C	H.R. 3136	Contract w/America Advancement	PQ: 232–180 A: 232–177, (3/28/96).
H. Res. 392 (3/27/96)	MC	H.R. 3103	Health Coverage Affordability	PQ: 229–186 A: Voice Vote (3/29/96).
H. Res. 395 (3/29/96)	MC	H.J. Res. 159	Tax Limitation Const. Amdmt.	PQ: 232–168 A: 234–162 (4/15/96).
H. Res. 396 (3/29/96)	O	H.R. 842	Truth in Budgeting Act	A: voice vote (4/17/96).
H. Res. 409 (4/23/96)	O	H.R. 2715	Paperwork Elimination Act	
H. Res. 410 (4/23/96)	O	H.R. 1675	Natl. Wildlife Refuge	
H. Res. 411 (4/23/96)	O	H.J. Res. 175	Further Cont. Approps. FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House is considering a noncontroversial 1-day temporary spending bill. Although today's continuing resolution is the 13th since last October, we finally can see the light at the end of the tunnel of continuing resolutions.

As I understand it, Mr. Speaker, my Republican colleagues are just about to complete the long-term continuing resolution which will provide funding until the beginning of the next fiscal year. For that reason, we must pass this 1-day continuing resolution to ensure that the Government continues to function while my Republican colleagues complete their work.

I hope they will be able to do so today so that the 14th continuing resolution is the last one that we will pass this year. The House needs to put the 1996 appropriations bills behind us and get started on the 1997 appropriation bills. So I urge my Republican colleagues to get our Government back on its feet and start running this place the way it should be.

Mr. Speaker, at the beginning of this Congress, the Republican majority claimed that this House was going to consider bills under an open process. It was going to be much more open than the Congress before it. I would like to point out at this time, Mr. Speaker, that 92 percent of the legislation this session has been considered under a restricted process. Not only are the Republicans restricting the process on the floor, they are also restricting Members' input during the committee process.

I find it unfortunate that 72 percent of the legislation considered this session has not been reported from committee. In fact, 13 out of 18 measures brought up this session have been unreported.

Mr. Speaker, I include the following material for the RECORD.

VOL 142 PT 6 AP 15 — 24 1996 UMI

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes; PQ	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provice for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference; PQ2	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision; PQ.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered; PQ.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(l)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language; PQ.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(l)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins; PQ.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget; PQ.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments; PQ.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ); PQ.	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr; PQ.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment; PQ.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments; PQ.	N/A.
H.R. 1977 "Rule Defeated"	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority; PQ.	N/A.
H.R. 1977	Interior Appropriations	H. Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority; PQ.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority; PQ.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority; PQ.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority; PQ. *RULE AMENDED*.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title.	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the King and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	1D.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title; PQ.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority; PQ.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes); PQ.	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes); PQ.	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A

VOL
142
PT
6
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15
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24
1996
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FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res. 293	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate; PQ.	N/A.
H.R. 1745	Utah Public Lands Management Act of 1995	H. Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min).	N/A.
H. Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions: H.R. 2770 (Dorman), H. Res. 302 (Buyer), and H. Res. 306 (Gephardt); 1 hour of debate on each.	1D; 2R
H. Res. 309	Revised Budget Resolution	H. Res. 309	Closed; provides 2 hours of general debate in the House; PQ	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H. Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.
PROCEDURE IN THE 104TH CONGRESS 2D SESSION				
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered. ** NR; PQ.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131. ** NR; PQ.	N/A.
H.R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the house the motion printed in the Rules Committee report; 1 hr. of general debate; previous quesetion is considered as ordered. ** NR; PQ.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed; ** NR; PQ	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate; makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law; Chairman has en bloc authority for amends in report (20 min.) on each en bloc; PQ.	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H. Res. 368	Open rule; makes in order the Hyde substitute printed in the Record as original text; waives cl 7 of rule XVI against the substitute; Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A.
H.R. 3021	To Guarantee the Continuing Full Investment of Social security and Other Federal Funds in Obligations of the United States.	H. Res. 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H. Res. 372	Restrictive; self-executes CBO language regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report; Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which if contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	2D/2R.
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735. ** NR.	6D; 7R; 4 Bipartisan.
H.R. 2202	The Immigration and National Interest Act of 1995	H. Res. 384	Restrictive; waives all points of order against the bill and amendments in the report except for those arising under sec. 425(a) of the Budget Act (unfunded mandates); 2 hrs. of general debate on the bill; makes in order the committee substitute as base text; makes in order only the amends in the report; gives the Judiciary Chairman en bloc authority (20 min.) of debate on the en blocs; self-executes the Smith (TX) amendment re: employee verification program; PQ.	12D; 19R; 1 Bipartisan.
H.J. Res. 155	Making further continuing appropriations for FY 1996	H. Res. 386	Closed; provides for the consideration of the CR in the House and gives one motion to recommit which may contain instructions only if offered by the Minority Leader; the rule also waives cl 4(b) of rule XI against the following: an omnibus appropriations bill, another CR, a bill extending the debt limit. ** NR.	N/A.
H.R. 125	The Gun Crime Enforcement and Second Amendment Restoration Act of 1996.	H. Res. 388	Closed; self-executes an amendment; provides one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee. ** NR.	N/A
H.R. 3136	The Contract With America Advancement Act of 1996	H. Res. 391	Closed; provides for the consideration of the bill in the House; self-executes an amendment in the Rules report; waives all points of order, except sec. 425(a)(unfunded mandates) of the CBA, against the bill's consideration; orders the PQ except 1 hr. of general debate between the Chairman and Ranking Member of Ways and Means; one Archer amendment (10 min.); one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; Provides a Senate hookup if the Senate passes S. 4 by March 30, 1996. **NR.	N/A
H.R. 3103	The Health Coverage Availability and Affordability Act of 1996	H. Res. 392	Restrictive; 2 hrs. of general debate (45 min. split by Ways and Means) (45 split by Commerce) (30 split by Economic and Educational Opportunities); self-executes H.R. 3160 as modified by the amendment in the Rules report as original text; waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA; makes in order a Democratic substitute (1 hr.) waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA, against the amendment; one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; waives cl 5(c) of Rule XXI (requiring 3/5 vote on any tax increase) on votes on the bill, amendments or conference reports.	N/A
H.J. Res. 159	Tax Limitation Constitutional Amendment	H. Res. 395	Restrictive; provides for consideration of the bill in the House; 3 hrs of general debate; Makes in order H.J. Res. 169 as original text; allows for an amendment to be offered by the Minority Leader or his designee (1 hr) ** NR.	1D

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 842	Truth in Budgeting Act	H. Res. 396	Open; 2 hrs. of general debate; Pre-printing gets priority	N/A
H.R. 2715	Paperwork Elimination Act of 1996	H. Res. 409	Open; Preprinting get priority	N/A
H.R. 1675	National Wildlife Refuge Improvement Act of 1995	H. Res. 410	Open; Makes the Young amendment printed in the 4/16/96 Record in order as original text; waives cl 7 of rule XVI against the amendment; Preprinting gets priority; **NR.	N/A
H.J. Res. 175	Further Continuing Appropriations for FY 1996	H. Res. 411	Closed; provides for consideration of the bill in the House; one motion to recommit which, if containing instructions, may be offered by the Minority Leader or his designee. **NR.	N/A

* Contract Bills, 67% restrictive; 33% open. ** All legislation 1st Session, 53% restrictive; 47% open. *** All legislation 2d Session, 92% restrictive; 8% open. **** All legislation 104th Congress, 63% restrictive; 37% open. ***** NR indicates that the legislation being considered by the House for amendment has circumvented standard procedure and was never reported from any House committee. ****** PQ Indicates that previous question was ordered on the resolution. ******* Restrictive rules are those which limit the number of ameodments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

LEGISLATION IN THE 104TH CONGRESS, 2D SESSION

To date 13 out of 18, or 72 percent, of the bills considered under rules in the 2nd session of the 104th Congress have been considered under an irregular procedure which circumvents the standard committee procedure. They have been brought to the floor without any committee reporting them. They are as follows:

H.R. 1643—To Authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.

H.J. Res. 134—Making Continuing Appropriations for FY 1996.

H.R. 1358—Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.

H.R. 2924—The Social Security Guarantee Act.

H.R. 3021—To Guarantee the Continuing Full Investment of Social Security and Other Federal Funds in Obligations of the United States.

H.R. 3019—A Further Downpayment Toward a Balanced Budget.

H.R. 2703—The Effective Death Penalty and Public Safety Act of 1996.

H.J. Res. 165—Making Further Continuing Appropriations for FY 1996.

H.R. 125—The Crime Enforcement and Second Amendment Restoration Act of 1996.

H.R. 3136—The Contract With America Advancement Act of 1996.

H.J. Res. 159—Tax Limitation Constitutional Amendment.

H.R. 1675—National Wildlife Refuge Improvement Act of 1995.

H.J. Res. 175—Making Further Continuing Appropriations for FY 1996.

Mr. MOAKLEY. Mr. Speaker, I have no additional requests for time, but I reserve the balance of my time, pending my very dear friend's action on the other side of the aisle.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to say I have no further requests for time and I urge support of this rule. Let us move ahead. We are now down to 12 hours and 10 minutes until the Government is scheduled to shut down. We have moved ahead with this rule rapidly. Let us move ahead just as quickly with the continuing resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, with that, I urge strong support of this rule and of the resolution.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CORRECTING TECHNICAL ERRORS IN THE ENROLLMENT OF S. 735, ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996

Mr. LUCAS of Oklahoma. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 55) to correct the enrollment of the bill S. 735, to prevent and punish acts of terrorism, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. RADANOVICH). Is there is objection to the request of the gentleman from Oklahoma?

Mr. MOAKLEY. Mr. Speaker, reserving the right to object, although we do not object to the substance of this concurrrent resolution, the gentleman from Michigan [Mr. CONYERS], the ranking member of the Committee on the Judiciary, who could not be here because of a Committee on the Judiciary markup, would like to note the deficiencies in the process leading up to this unanimous-consent request. The ranking member of the Committee on the Judiciary was not informed of the problems in this bill, nor was he included in the discussions as to how to fix this bill.

The support of the gentleman from Michigan [Mr. CONYERS] was enlisted only after the text of the resolution was agreed to. So, in the future, if the majority seeks a unanimous-consent request, we expect the Democrats to be consulted at the beginning of the process, and not at the end.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is their objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 55

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 735) shall make the following corrections:

(a) In the table of contents of the bill, strike the item relating to section 431 and redesignate the items relating to sections 432 through 444 as relating to sections 431 through 443 respectively.

(b) Strike section 1605(g) of title 28, United States Code, proposed to be added by section 221 of the bill, and insert the following:

"(g) LIMITATION ON DISCOVERY.—

"(1) IN GENERAL.—(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

"(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

"(2) SUNSET.—(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

"(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—

"(i) create a serious threat of death or serious bodily injury to any person;

"(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

"(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

"(3) EVALUATION OF EVIDENCE.—The court's evaluation of any requst for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

"(4) BAR ON MOTIONS TO DISMISS.—A Stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(5) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.".

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(c) In section 620G(a), proposed to be inserted after section 620F of the foreign Assistance Act of 1961, by section 325 of the bill, strike "may" and insert "shall".

(d) In section 620H(a), proposed to be inserted after section 620G of the Foreign Assistance Act of 1961, by section 326 of the bill—

(1) strike "may" and insert "shall";

(2) strike "shall be provided"; and

(3) insert "section" before "6(j)".

(e) In section 219, proposed to be inserted in title II of the Immigration and Nationality Act, by section 302 of the bill—

(1) in subsection (a)(1), insert "foreign" before "terrorist organization";

(2) in subsection (a)(2)(A)(i), strike "an" before "organization under" and insert "a foreign";

(3) in subsection (a)(2)(C), insert "foreign" before "organization"; and

(4) in subsection (a)(4)(B), insert "foreign" before "terrorist organization".

(f) In section 2339B(g), proposed to be added at the end of chapter 113B of tile 18, United States Code, by section 303 of the bill, strike paragraph (5) and redesignate paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(g) In section 2332d(a), proposed to be added to chapter 113B of title 18, United States Code, by section 321(a) of the bill—

(1) strike "by the Secretary of State" and insert "by the Secretary of the Treasury";

(2) strike "with the Secretary of the Treasury" and insert "with the Secretary of State"; and

(3) add the words "the government of" after "engaged in a financial transaction with".

(h) At the end of section 321 of the bill, add the following:

"(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.".

(i) In sections 414(b) and 422(c) of the bill, strike "90" and insert "180".

(j) In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill strike "essential" and insert "important".

(k) In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill, strike "security".

(l) Strike section 431 of the bill and redesignate sections 432 through 444 as sections 431 through 443, respectively.

(m) In section 511(c) of the bill, strike "amended—" and all that follows through "(2)" and insert "amended".

(n) In section 801 of the bill, strike "subject to the concurrence of" and insert "in consultation with".

(o) In section 443, by striking subsection (d) in its entirety and inserting:

"(d) EFFECTIVE DATE.—The amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulations that shall be published on or before January 1, 1997.".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, pursuant to House Resolution 411, I call up the joint resolution (H.J. Res. 175) making further continuing appropriations for the fiscal year 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 411, House Joint Resolution 175 is modified by striking title II.

The text of the joint resolution, as modified, is as follows:

H.J. RES. 175

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CONTINUING APPROPRIATIONS

SEC. 101. Public Law 104-99 is further amended by striking out "April 24, 1996" in sections 106(c), 112, 126(c), 202(c), and 214 and inserting in lieu thereof "April 25, 1996"; and that Public Law 104-92 is further amended by striking out "April 24, 1996" in section 106(c) and inserting in lieu thereof "April 25, 1996".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [MR. OBEY] will each control 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 175, and that I may be permitted to include extraneous and tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope that it will not be necessary to use anywhere near the time allotted for this measure. This is a 24-hour continuing resolution intended primarily to allow the negotiators in the conference between the House and Senate Republicans and Democrats to finalize the negotiations with the White House and Mr. Panetta, the Chief of Staff, on the omnibus wrap-up appropriations bill for fiscal year 1996.

This wrap-up bill would conclude all of the remaining as yet unsigned into law subcommittee bills, namely Commerce-Justice-State, Interior, VA-HUD, Labor-Health, and the District of Columbia. The intent would be that, because I think that we have narrowed the issues now, within the next few hours hopefully we can finalize the deliberations on all of the remaining outstanding issues of difference between the White House and both houses of Congress, and that we will indeed have a bill ready to bring to the House of Representatives tomorrow morning after going to the Committee on Rules.

That is my expectation at this point. There are still some real and meaningful differences, between all the parties, between the Houses, and between the Congress and the White House, but my expectation is those differences will be resolved in a matter of hours and that we will have a final agreement to bring here to the floor. If that is not to be, then we will have other statements to make later on, but that is our plan at this point. I would hope that, frankly, everything I have said will come to pass.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, this is, what, the 13th continuing resolution? Let me simply say that if this continuing resolution were for longer than 1 day, I would not support it, because it would be yet another confession of futility on the part of the Congress. But the gentleman from Louisiana [Mr. LIVINGSTON], the distinguished chairman of the committee, is correct. We are that close to having agreement on the omnibus continuing resolution, which would finally, finally, put to bed all of the appropriation issues for the fiscal year into which we are now halfway.

Let me just say that I think Members have had a right to be concerned, because school districts are being squeezed. You still have the problem of some 40,000 title I teachers who are about to be pink-slipped if there is not a resolution of the problem.

The conferees have met ad nauseam the last 3 days, actually since Friday, and I think at this point virtually every issue seems to be resolved except the issues surrounding the environmental riders and two other issues, which I expect can be resolved.

So it is my hope that when we reconvene meetings with Mr. Panetta at 2 or 2:30 today, that we will have agreement. To do so, the White House has made clear the remaining environmental riders, which are simply causing problems, will need to be dropped, or at least reshaped in a way that allows the President to protect the public interest as he sees it.

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And if that is accomplished, then we can bring that bill to the floor and finally finish this and move on to next year's appropriation matters.

It is my deep hope that that will, in fact, occur, but I thought it was going to happen yesterday but at 9 o'clock last night we were further apart than we were at 5 o'clock in the afternoon which I find interesting and incredible and frustrating but I guess it sometimes happens in legislative bodies.

So I simply hope that cooler heads will prevail and we will wind up with those riders being dropped so that we can bring legislation to the floor which solves the problem.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, let me thank my colleague for yielding time to me. When the rule was before the body to bring up this continuing resolution, the gentleman from California [Mr. DREIER] was very lengthy and eloquent in his support of a provision that was in the resolution but was struck by adoption of the rule. That provision had to deal with the resolve for a problem we are facing with the savings and loan insurance fund, which is the SAIF fund.

It was kind of surprising to me that the gentleman from California spoke in strong support of it even though the Committee on Rules that he served on did pull it out of the product that we are ready to vote on the floor.

I would like the chairman of the committee, Mr. LIVINGSTON, to possibly yield for a question, because I am aware that he also supported this provision. Is it possible that the long-term continuing resolution that we should be seeing hopefully tomorrow would contain a fix for that very knotty problem?

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. KLECZKA. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would say to the gentleman it is not my intention to put that on the bill tomorrow. We have a very tough situation on a bill that has been pounded out over months and months, and, frankly, I do not think it can bear any more weight. So I would, frankly, be not inclined to put it on.

Mr. KLECZKA. Well, Mr. Speaker, it seems surprising to me that the gentleman from California, who serves on the Committee on Rules, was supporting a provision although he supported pulling it out of this resolution. If I had known that was the opinion of the chair of the committee, I surely would have tried to object to adoption of the rule, which we have just adopted in the House, and called for a roll call to see if we could not retain that in this short-term CR.

It seems it is an important issue, which I think we have to address before the end of the session, because it will just keep floating around out there. And, naturally, it is looking for a vehicle to be attached to because as a stand-alone, chances are it will not come before us.

So I am very disappointed to hear it will not be a part of the product that we will be addressing probably tomorrow. I thank the gentleman for yielding.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute to say that I hope that by this afternoon we will have a resolution of this long-term problem. It would be a shame if the continued existence of these legislative provisions on environmental issues would prevent us from reaching agreement on the budget, and I hope that they are dropped so that we can proceed to give the country what it needed 6 months ago, which is completion of congressional action on all of these appropriation bills.

Mr. Speaker, I yield back the balance of my time.

Mr. LIVINGSTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RADANOVICH). Pursuant to House Resolution 411, the previous question is ordered on the joint resolution, as modified.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 14, not voting 18, as follows:

[Roll No. 129]

YEAS—400

Abercrombie
Ackerman
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—14

Barton
Becerra
Clyburn
Coble
Gibbons
Hastings (FL)
Hyde
McHale
Owens
Scarborough
Stearns
Thurman
Velazquez
Williams

NOT VOTING—18

Allard
Berman
Bryant (TX)
Coyne
Fazio
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VOL
142
PT
6
AP
15
—
24
1996
UMI

Johnston	Oxley	Schroeder
Laughlin	Parker	Towns
McDade	Riggs	Vento
Menendez	Schaefer	Wilson

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Mr. STEARNS changed his vote from "yea" to "nay."

Mr. DORNAN changed his vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RIGGS. Mr. Speaker, on rollcall No. 129, I was unavoidably detained on other congressional business and could not be present to vote. Had I been present, I would have voted "yea."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE JOINT RESOLUTION 175, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that the Clerk be directed to make the following technical change in the engrossment of House Joint Resolution 175:

> Strike the matter designating title I and section 101 and insert in lieu thereof "That".

This is a technical change. It corrects the section numbering. It has been cleared by the minority.

The SPEAKER pro tempore (Mr. RADANOVICH). Is there objection to the request of the gentleman from California?

There was no objection.

PAPERWORK ELIMINATION ACT OF 1996

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 409 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 409

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2715) to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Small Business now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1230

The SPEAKER pro tempore (Mr. BURTON of Indiana). The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. LINDER asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. LINDER. Mr. Speaker, House Resolution 409 is an open rule providing for the consideration of H.R. 2715, the Paperwork Elimination Act of 1996. This rule provides 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Small Business.

House Resolution 409 makes in order as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute recommended by the Committee on Small Business now printed in the bill. Any Member will have the opportunity to offer an amendment to the bill under the 5-minute rule. Finally, the rule provides for one motion to recommit with or without instructions as is the right of the minority. Under this rule, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has had that amendment preprinted in the CONGRESSIONAL RECORD.

I am pleased this bill will be considered under an open rule, which was unanimously approved by the Rules Committee yesterday. While the chairman of the Small Business Committee testified to the Rules Committee that she did not expect many amendments, this rule will provide the entire House with sufficient time to offer amendments and express any persisting apprehension about the bill.

Mr. Speaker, the American people have endured a brutal winter and welcome the arrival of spring. Unfortunately, our citizens still must deal with a blizzard of Federal paperwork requirements. As we approach the 21st century, the Paperwork Elimination Act recognizes the coming of non-paper-dependent information technologies, and will help reduce the avalanche of paper that has covered American taxpayers and small businesses.

I strongly supported the Paperwork Reduction Act that this Congress passed during the consideration of the Contract With America. That bill reduced the information collection burdens on the public and assured a more efficient and productive administration of information resources. Today's legislation builds upon the progress in paperwork reduction brought about by the enactment of that reform legislation.

The legislation before us today will further reduce the burden of Federal paperwork on small businesses and individuals by providing for the optional use of electronic technologies to meet the demands of Federal paperwork regulations. The American people spend billions of hours every year filling out Federal forms and submitting records to the Government, and it makes sense to allow those who have the capacity to comply with regulations by computer to take advantage of the information superhighway.

The Rules Committee heard testimony that the amount of time and effort spent by our citizens in complying with Federal regulatory paperwork represents a dollar value equal to 9 percent of the gross domestic product. The time and effort filling out paperwork would be better spent on the creation of new jobs.

I have always believed that those nations that have achieved the most impressive growth in the past have not been those with rigid Government controls, and we all know that Federal regulations and paperwork requirements are strangling job creation and productivity. Excessive Government regulatory mandates are not beneficial to economic development, and this bill enables small businesses and all taxpayers to save valuable time and money.

The Paperwork Elimination Act of 1996 has received considerable support, and I want to recognize Chairman JAN MEYERS and Representative PETER TORKILDSEN, chairman of the Small Business Committee's Government

Programs Subcommittee. Their bill effectively reduces the paperwork burden, and also benefits the environment by reducing both the need for and the disposal of paper products. They have crafted sound legislation which I believe will receive overwhelming bipartisan support.

Mr. Speaker, H.R. 2715 was favorably reported out of the Committee on Small Business by voice vote, and this rule received the unanimous support of the Rules Committee. I urge my colleagues to support this rule, and I look forward to a thoughtful debate on the Paperwork Elimination Act of 1996.

Mr. Speaker, I submit the following extraneous material for inclusion in the CONGRESSIONAL RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of April 23, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	62	59
Modified Closed[3]	49	47	26	25
Closed[4]	9	9	17	16
Total	104	100	105	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of April 23, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).

VOL 142 PT 6 AP 15 — 24 1996 UMI

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of April 23, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H.Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/21/96).
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96).
H. Res. 388 (3/20/96)	C	H.R. 125	Gun Crime Enforcement	A: 244–166 (3/22/96).
H. Res. 391 (3/27/96)	C	H.R. 3136	Contract w/America Advancement	PQ: 232–180 A: 232–177, (3/28/96).
H. Res. 392 (3/27/96)	MC	H.R. 3103	Health Coverage Affordability	PQ: 229–186 A: Voice Vote (3/29/96).
H. Res. 395 (3/29/96)	MC	H.J. Res. 159	Tax Limitation Const. Amdmt.	PQ: 232–168 A: 234–162 (4/15/96).
H. Res. 396 (3/29/96)	O	H.R. 842	Truth in Budgeting Act	A: voice vote (4/17/96).
H. Res. 409 (4/23/96)	O	H.R. 2715	Paperwork Elimination Act	
H. Res. 410 (4/23/96)	O	H.R. 1675	Natl. Wildlife Refuge	
H. Res. 411 (4/23/96)	O	H.J. Res. 175	Further Cont. Approps. FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 409 is an open rule which will allow full and fair debate on H.R. 2715, a bill to reduce the burden of Federal paperwork requirements for small businessmen and individuals.

The bill, the Paperwork Elimination Act, follows last year's enactment of the Paperwork Reduction Act. It is a continuation of Congress' efforts to reduce the demands made on our citizens as a result of Federal regulation.

As my colleague from Georgia has described, this rule provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business.

Under this rule, amendments will be allowed under the 5-minute rule, the normal amending process in the House. All Members, on both sides of the aisle, will have the opportunity to offer amendments.

This rule is an easy one for me to support. The normal committee process was followed before the bill was presented to the Rules Committee. The Small Business Committee held a public hearing to consider the bill's provisions. Then the committee held a markup, amended the bill, and reported it by voice vote.

Mr. Speaker, this is an example of the kind of rule the Rules Committee should be reporting. This is the kind of process the House should be following.

I urge the adoption of the rule.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. REGULA). Pursuant to House Resolution 409 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2715.

The Chair designates the gentleman from North Carolina [Mr. TAYLOR] Chairman of the Committee of the Whole, and requests the gentleman from Indiana [Mr. BURTON] to assume the chair temporarily.

☐ 1237

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2715) to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies, with Mr. BURTON of Indiana, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentlewoman from Kansas [Mrs. MEYERS] and the gentleman from New York [Mr. LAFALCE] each will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to cosponsor and support the Paperwork Elimination Act of 1996, legislation which is sponsored by Congressman TORKILDSEN.

This legislation is a winner. Potentially, it will contribute to billions of dollars of savings in reduced regulatory compliance costs that small business and the public must pay in order to meet the Federal Governments paperwork demands. It is not only user friendly, it is also environmentally and public friendly.

I urge my colleagues vote for this bill.

Congressman TORKILDSEN is the chairman of the Subcommittee on Government Programs of the Small Business Committee. As a result of his work, the full committee voted unanimously on March 29 to report the bill favorably. This bill enjoys bipartisan support. The administration testified, welcomed the congressional support and attention the bill represents, and suggested an amendment which was adopted. The Chief Counsel for Advocacy of the Small Business Administration joined in the support. So did the small business witnesses.

We on the Small Business Committee have heard testimony that the dollar cost of Federal paperwork demands approximates $510 billion annually. In 1992 that dollar amount estimate of the time and effort the American public spends to meet regulatory paperwork requirements equalled 9 percent of the gross domestic product. I believe that percentage would be about the same today.

Small business pays a disproportionate share of that burden. That huge figure gives you a picture of the cumulative costs. Too frequently, these costs are barriers to job creation, job preservation, and economic productivity. They are the costs of Government which are hidden taxes because the money must be paid, and it is not paid by Government spending or collected by the Internal Revenue Service.

Given the significant role small business and small business entrepreneurs play in our economy, it makes common sense to do what is possible to eliminate and reduce these costs. The Paperwork Elimination Act emphasizes the opportunity provided to reduce costs by electronic compliance with the information demands of regulatory compliance.

This bill builds on the Paperwork Reduction Act of 1995. We passed that legislation as part of the Contract With America last session. Every Democrat and Republican voted for that measure and the President enthusiastically singed it last May. It went into effect his past October.

The Congress established burden reduction goals for the executive branch in that act. We in the House were particularly enthusiastic that the goals be established and that we try to meet them. For the next 2 years, the goals is to reduce the overall burden of Federal paperwork requirements by 10 percent. For the following 4 years the goal becomes 5 percent each year.

There were and continue to be serious skeptics as to whether these goals can be reached. We all agree that the Federal Government should aspire and do what it can to reach them. After all, 10 percent of $510 billion would be a hidden tax reduction of $51 billion.

For many of us, and I think we should thank Mr. TORKILDSEN for continuing to work on this, what makes those goals reasonable is the promise of the information age we live in. New information technologies, such as the growing use of computers and modems, which even the children are learning to use, holds out the promise that the paperwork costs can be reduced. If the Government gets smarter in leading the way for the public's use of new technology, those reduction goals can be reached.

The Paperwork Elimination Act is intended to help.

It requires Federal agencies to think strategically and consider how to provide electronic options to regulatory compliance each and every time an agency comes up with a new proposal for reporting, recordkeeping, or disclosure of information.

It requires that the electronic option be considered when agencies review their continuing information demands every 3 years. And it requires the Director of OMB, through the Office of Information and Regulatory Affairs [OIRA], to oversee and implement the Governmentwide adoption of the electronic option.

Lastly, it adds to the existing reporting requirement to Congress that instances of successes and failures be brought to the Congress' attention. That will enhance our oversight function and give us feedback on whether the reduction goals are being met.

Mr. Chairman, I believe this bill strikes a blow for a commonsense approach to regulatory and paperwork relief that all of us should support.

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I want to thank the gentleman from Pennsylvania [Mr. CLINGER], chairman of the Committee on Government Reform and Oversight. We share jurisdiction with that committee, and Chairman CLINGER reviewed the work that we had done on it and waived his jurisdiction.

Mr. Chairman, I reserve the balance of my time.

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of my chairman.

H.R. 2715, the Paperwork Elimination Act of 1996, was originally referred to both the Committee on Government Reform and Oversight and to the Small Business Committee; however, after reviewing the legislation as reported from the Small Business Committee, the Government Reform Committee waived jurisdiction to formally consider the bill.

I believe that this legislation should be considered and passed without any delay. It is good for the Government and is good for those who are required to provide information to the Government. Moreover, it does not cost money.

Mr. Chairman, this bill simply provides that the Government should take steps to allow, and even encourage, the use of electronic information technology in order to reduce the burden on individuals and businesses that disclose information to the Government. It does not require these information providers to use electronic means to supply the data; it merely permits them to do so if they have the capacity, and many do.

Enactment of this bill will simply recognize that paper copies are not the only way to provide data to the Government. It may well be easier for citizens to transmit data electronically and it is certainly easier for the Government to receive it this way. Thus, I view this bill as a winner for all concerned.

I know of no opposition to the bill, and I urge all Members to support it.

Mr. Chairman, I reserve the balance of my time.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Chairman, I thank the gentlewoman for yielding me the time, and I want to applaud the gentlewoman's leadership in moving this bill through the full committee and to the House floor.

Mr. Chairman, the legislation before us, the Paperwork Elimination Act of 1996, will require the Federal Government to get smart about the information age we live in. It requires the executive branch to become computer user friendly and allow small business and individuals the option to file all information required by the Federal Government electronically. It also requires Federal agency to make documents and publications available electronically as well.

Small business bears the disproportionate share of these reporting costs. The legislation today focuses on how the use of electronic submission, maintenance and disclosure of information demanded by the Federal Government can reduce the cost on small business. But State and local governments, government contractors, educational and nonprofit institutions, and the public at large will also benefit by the improvements in this bill.

This legislation potentially eliminates billions of dollars of cost that small business and others face in meeting Federal information demands.

I would also like to thank the bill's cosponsors for their support of this effort, as well, and also the bipartisan comments of support from the other side of the aisle. This really has been a bill that we have worked together with support from both sides of the aisle, from both the White House as well as the legislative branch, and that is why the bill is moving as quickly as it is.

Mr. Chairman, where I come from in New England, small business represents 53 percent of the private work force. Viewing our economy, small business plays an increasing role in creating new jobs as well as sustaining existing jobs. In 1993, industries dominated by small firms, from banking to tourism and everything in between, posted a net gain of over 1 million jobs, as opposed to industries dominated by large firms which lost 200,000 jobs. So clearly small business has been the engine for job growth in New England and other areas.

VOL
142
PT
6
AP
15
—
24
1996
UMI

On the national level, the role that small business plays in the health of our economy is compelling. Small business accounts for more than three-quarters of all businesses that export. Small business contributed roughly 40 percent of the Nation's new high technology jobs during the last decade.

The health of small business is vital to our economy. The focus of the Paperwork Reduction Act is to find ways to reduce the costs of complying with government mandates by using electronic means to meet regulatory paperwork requirements. This will promote the advantages of the information age we live in, and explore the use of new information technologies and eliminate barriers to job creation caused by wasteful paperwork requirements.

Mr. Chairman, the information needs of the Federal regulatory system touch everything. Paperwork demands range from tax returns, health care reimbursement forms, and contract bids, to OSHA material data work sheets and EPA chemical reporting forms. Over and over again, there is a need, and sometimes it is very legitimate, a need for information for the Federal Government to fulfill its functions. This legislation says the Government must provide an electronic option for these demands.

The bill builds upon and complements the Paperwork Reduction Act of last year, legislation which this Congress passed unanimously. It amends that Act by specifying that small business and people with access to computers and modems should be able to use them when dealing with the Federal Government.

Again, let me emphasize this is an option for small business and individuals. It is not a requirement that they go out and computerize, although most small businesses do have at least one computer now. This is an option for them to report electronically.

I want to stress that that option is key to the bill's success. We would not be here if it were another mandate on small business. Indeed, this is an option, but one that will save small business extensive money in meeting their reporting requirements.

Also importantly, though, this bill will save money for the Federal Government, as well. Once an agency is online to receive computer-generated information, it will reduce its own cost of manually inputting information for paper reports.

Federal paperwork requirements are nothing more than hidden taxes of Government programs. The Committee on Small Business has heard testimony that these costs easily run into the hundreds of billions of dollars, and they are costs that have to be paid. They are not paid in cash to the Federal Government, but they are paid nonetheless. It is important that we reduce some of those costs through this bill.

Mr. Chairman, this legislation importantly is also environmentally friendly, as it substitutes paper with an electronic option. You do not need the paperwork. You do not need the actual forms to file with the Federal Government. Therefore, you do not have to produce the paper. Therefore, you do not have to cut down the number of trees you would need for those reams and reams of paper.

Let me give just a little example. For example, if you are a physician, you have to file this form, this one-page form, with HCFA on average about 8,000 times per physician. Now, 8,000 times is represented by the reams of paper right here. In 1 year, one physician just filing this one form, not counting the other forms they have to file with HCFA and other agencies, would have to use this much paper just for this one form.

Instead of producing all these forms that have to be filed, for every physician to file with HCFA, that information could be filed electronically. It could be stored on something as small as this disk.

So you are saving space. You are helping the environment by not needing to produce as much paper. You are saving costs to the Federal Government as well, because they will not have to convert these handwritten forms into computer information, which is what their normal practice is. Most Federal agencies, when they receive these forms, do have someone convert them back from paper technology into computer technology. By taking out this paper mid-step, we will be able to save a great deal of cost, both for the private sector as well as for the taxpayers who have to pay the costs of that Federal agency.

Again, that is just one example out of thousands of reports that are required each and every year. In addition, there is a cost savings associated with this as well.

Filing the old-fashioned way on paper, one may find out in 6 or 8 weeks that there was a mistake. Maybe the person filling out the form left one space blank. Maybe they had the wrong serial number, some minor error. It will take 6 to 8 weeks just to receive notice that an error was made. The form has to be resubmitted.

In the meantime, your business, your operation is not receiving reimbursement for the service provided, or perhaps you are not in technical compliance with the reporting requirement, if it is a different type of form. By filing electronically, errors will be able to be spotted and corrected much more quickly, again saving time and money both for the private sector as well as for the Federal agency involved.

I think it is important to note that this is a step that will make the Federal Government friendly to the computer age; that we are saying that the Federal Government should be doing everything it can to make use of the great advances in technology that have happened, that have been developed mostly here in America, to see that anyone trying to create jobs will not have to pay any more than is necessary to meet these requirements.

This bill, the Paperwork Elimination Act, does not replace the Paperwork Reduction Act. At the same time we want to make sure that people can file any information electronically, we still want to keep an eye on reducing the actual cost of putting that information together and make sure that no information is being requested unless it is absolutely necessary for the public good and for the Federal Government to meet its legally obligated mission.

But this bill, this legislation, will go a long way in saying the Federal Government is willing to take the steps necessary to see that a small business, whether 1 or 5 or 50 employees, to see that small business has no more cost required on it than is absolutely necessary. That savings is good for that small business, it is good for job creation, it is good for the economy in general, and it is also good for the taxpayers.

I again applaud the gentlewoman from Kansas [Mrs. MEYERS], the Chair of the committee, for the great leadership she has shown on this bill and all issues dealing with small business. I again urge all my colleagues to vote for this legislation.

Mr. LAFALCE. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Chairman, I rise today in support of H.R. 2715, the Paperwork Elimination Act of 1996, and to commend Chairwoman MYERS for her work on this issue.

In this age of growing technology, we should encourage and offer even more opportunities for small businesses to improve productivity through technology. H.R. 2715 will make it easier for many small businesses to provide information electronically to the Government, resulting in a reduced paperwork burden.

I would caution though, this legislation is not the answer to all small business problems. As the use of information technology flourishes, a gap is growing larger between the technology haves and the have-nots.

It is true that a great many Americans send and receive electronic mail with their personal computers. Many conduct bank transactions online, from home. The Internal Revenue Service reported that at least 11 million Americans filed their Federal income taxes electronically.

But the whole truth is, the technology users I just described do not live in the lower-income communities, like mine. Most of my constituents do not have access to technology. This means many of the small businesses in my community are quickly falling into the widening technology gap.

These businesses cannot afford to hire experts to develop software applications. They will not be taking advantage of the electronic option provided by this bill—let alone afford the expensive initial investment in computer equipment.

Although I encourage my colleagues to support this legislation—keep in mind that we need to take this bill a step further. We must continue to look for ways that will help small, disadvantaged businesses again access to information technology. If we fail to do so, we may very well lose one of the most vibrant sectors of our economy.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. LOBIONDO].

Mr. LOBIONDO. Mr. Chairman, I come to the floor today as a proud cosponsor of the Paperwork Elimination Act. I commend the gentleman from Massachusetts [Mr. TORKILDSEN] for introducing this legislation and the gentlewoman from Kansas [Mrs. MEYERS], chairwoman, for her role in bringing this to the floor.

Last year we passed the Paperwork Reduction Act. Now we are going to pass the Paperwork Elimination Act to further improve agency efficiency and responsiveness to the public. This bill recommends that our country's small businesses and Federal agencies move into the electronic information age. Some small businesses are required to file forms with up to 50 different Federal, State and local agencies.

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This is absolutely incredible when you think about it. I believe that more of their time should be spent concentrating on providing quality goods and services to their customers. I believe this is an important piece of legislation for small businesses in my own district in southern New Jersey, as well as for small businesses around the country.

It provides small business owners with a more efficient and effective means to quickly complete agency requirements, thereby allowing them to get on with growing and improving their small businesses.

Mr. Chairman, before serving in Congress, I spent my time in a small business, in a small family business in southern New Jersey. Along with my father and my brother and some other family members, we struggled with some of the very problems that we are attempting to address today. I witnessed year after year where the requirements just seemed to grow more and more on what we were expected to provide back in the form of paperwork.

Now, as it was stated before, this will not be an answer to the entire problem, but it is certainly a step in the right direction, because for the district that I represent in southern New Jersey that has so many small businesses that are trying to make ends meet, that are trying to do the right thing to provide jobs, this will give them an opportunity to see a small glimmer of hope.

I try, as I am sure my colleagues do, to attend as many business and Chamber meetings as I can when home on district work periods. This is something that I hear over and over again: Will you please put a human face on what you are doing in Washington and understand the implications of the decisions you make on those of us who live in the real world?

Mr. Chairman, in that real world, the paperwork requirements are a tremendous problem. It is one we are beginning to recognize today, and I am very proud that we will have the opportunity to move this forward.

So again, I am asking all my colleagues to yet again demonstrate our commitment, the commitment of this Congress, to easing the regulatory burden on American small businesses by supporting this Paperwork Elimination Act.

Mr. LAFALCE. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. LUTHER].

Mr. LUTHER. Mr. Chairman, I rise in strong support of the Paperwork Elimination Act. This legislation builds on the Paperwork Reduction Act passed by the House last year, which was one of the top recommendations of the White House Conference on Small Business held last year.

I think Members of both parties can agree that the Federal paperwork demands on small businesses and individuals have become too time-consuming, expensive, and burdensome. It is estimated that business owners and ordinary citizens spend as much as 6 billion hours per year responding to Federal reporting requirements, ranging from employment forms from the Bureau of Labor Statistics to Internal Revenue Service returns, 6 billion hours of time that could be spent generating increased economic growth or helping kids with a school project.

H.R. 2715 provides the option of electronically submitting information needed to comply with Federal regulations. Small businesses and individuals can now send and receive mail, complete financial transactions, and read magazines and newspapers from their personal computer. There is no reason why they should not have the option of completing Federal Government forms by computer. Where possible, we need to simplify and streamline Government so that interaction with Government becomes more of a positive experience rather than a chore.

As a Member of the Committee on Small Business, I urge support for this legislation in order to better enable small businesses to compete and individuals to be productive in today's world.

Mr. Chairman, I thank the author, the ranking member, and the chairman.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN of Washington. Mr. Chairman, I rise in support of H.R. 2715 and would like to thank the gentlewoman from Kansas, Chairman MEYERS, and the gentleman from Massachusetts, Chairman TORKILDSEN, for their steadfast work on this legislation. The Paperwork Elimination Act is excellent legislation, and the efforts of the committee are to be commended.

This bill is a streamlining government bill, and my original intent was to offer a pro-small business friendly amendment to this legislation. After being informed, however, that the amendment would be opposed by the minority on technical grounds, I have decided to withdraw the amendment, with the intent of proposing it as part of some future legislation. I do, however, want to explain the rationale for the amendment.

Quite simply, the language I intended to offer requires that in-House agency printing of Government information be limited to certain levels so as to allow for agency convenience. Meanwhile, however, it ensures that larger non-classified jobs are outsourced to the private sector for maximum savings to the taxpayer.

Under my proposal, in-House convenience would be a limit of 1,000 units, or sheets of paper, or for a multipage document up to 5,000 sheets of paper. The current regulatory limit is 5,000 and 25,000, but clearly this limit is much too high. There is no question, for example, that a job requiring 50 reams of paper is a job a local printer can do for less than the Government Printing Office.

Mr. Chairman, so you can see that my amendment was intended to act in unison and as a complement toward the goal of H.R. 2715, which is streamlining Government.

My amendment is pro-small business. Most private printers are the mom and pop types of shops that all of us have in our own districts. If we insist that the Federal Government send its work out for a competitive bid, all of those small businesses will have an opportunity to bid on this work and drive down the cost to the taxpayer in the process.

The beauty of it, is it is the small business community who would have benefited most, small businesses and the American taxpayer. Of course, with more work going to the private sector, small businesses may have the need to step up their work force to meet the increased demand, thereby making this a worker-friendly amendment as well.

VOL 142 PT 6 AP 15 — 24 1996 UMI

My amendment is highly taxpayer friendly. The Government Printing Office has an outstanding procurement office with a proven record of purchasing printing more cheaply from the private sector than can be done by the Federal Government. The agencies are not fully availing themselves of this service, and that is the heart of this issue.

My amendment would save the taxpayers precious resources at a time when every dollar counts. This amendment is efficiency in Government. The amendment makes Government smaller by streamlining printing operations.

How many print shops do we need in the Federal Government, Mr. Chairman? Certainly not one in every Federal agency. In the President's own words from a statement dated July 22, 1994, he says "Reform legislation can improve the efficiency and cost effectiveness of Government printing by maximizing the use of the private sector printing capability through open competitive procedures and by limiting Government-owned printing resources to those necessary to maintain a minimum core capacity."

In explanation of the amendment, Mr. Chairman, we visited this issue before, and I would add under Democratic leadership. Section 207 of the Legislative Branch Appropriations Act of 1995 reaffirms congressional intent that the GPO, and the GPO only, is the sole source of procurement of printing, including duplicating, for the entire Federal Government.

Mr. Chairman, as we look for ways to decrease the paperwork burden generated by the Federal Government, we must look at both the unnecessary paperwork it demands, as well as the unnecessary paperwork it does. As you might say, there are two sides to the paper, especially when the paper generated within the Federal Government is costing taxpayers millions more than they should be paying.

A preliminary CBO score of this provision which I have revised from legislation that I introduced earlier in this Congress indicates a savings to the taxpayer of around $150 million per year. I would have hoped my colleagues might have supported my amendment on this basis, and because it is pro-small business, protaxpayer, prostreamlining Government.

Mr. Chairman, I look forward to the adoption of my amendment in some future legislation, and I urge the support of the Paperwork Elimination Act.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in closing, I would like to comment that there are more than 21 million small businesses in this country, according to current estimates. In recent years, these small enterprises have employed 54 percent of the private work force, contributed 52 percent of all sales in the United States, generated 50 percent of the private gross domestic product, and in 1994, they were responsible for an estimated 62 percent of the new jobs created. Thus, the term small is rather misleading when it comes to the real impact on our economy of small business.

I think it is important that we let them do what they do best, and that is generate innovative ideas, create jobs, and stimulate the economy. That is why this bill is so important, that we release them as much as possible from the burdens of paperwork.

These paperwork demands range from tax forms, loan applications, contract bids, EPA's chemical reporting for manufacturers to OSHA's material data sheets; all of these are informational requirements. We all know what we are talking about when we are talking about paperwork reduction and elimination.

Mr. Chairman, the bill is important, and I urge the support of my colleagues.

Mr. Chairman, I reserve the balance of my time.

Mr. HORN. Mr. Chairman, as America rushes forward into the information age, the Federal Government is not keeping up. Instead of using new technology to streamline the application and reporting processes that individuals, State and local governments, businesses and nonprofits must provide—the paper pile continues to grow ever higher. For those at the grassroots, time, money, and jobs are lost in the process.

The Paperwork Elimination Act serves to cut through the reams of documents—particularly those which affect small businesses, and educational, and nonprofit institutions. It will minimize their burden through the use of computer technology. As a former University president, I know how effective this act will be.

I urge a "yes" vote on the Paperwork Elimination Act. In a few days, I will introduce a measure authorizing and encouraging electronic reporting. But today's vote is a beginning in reducing and eliminating unnecessary steps in the governmental processes.

Mrs. CLAYTON. Mr. Chairman, I rise today in support of H.R. 2715, the Paperwork Elimination Act.

At the end of March, Mr. Chairman, this legislation was reported out of the Small Business Committee by a voice vote.

Mr. Chairman, this is a non-controversial bill. It would accomplish several much needed reforms. First, Mr. Speaker, this bill would minimize the burden of Federal paperwork demands on small businesses through the use of alternative electronic information technologies. Second, this bill would direct the Office of Management and Budget to act as the administrative body responsible for directing the Federal Government's efforts to promote and monitor the use of this new technology. Although, this would increase the administrative costs to OMB, it would not significantly impact the budget. Nor, Mr. Speaker, would it create new mandates for Federal agencies because it does not require agencies to acquire and implement these new technologies. The authority to do this already exists.

Mr. Chairman, small businesses are the engine that drive our economy. They employ a large percentage of our work force and indeed, job growth in small firms is far outstripping that in large companies, which are laying off whole sections of the work force.

Mr. Chairman, this legislation will go a long way in removing the onerous paperwork burdens of small businesses, freeing them to concentrate their energies and creativity to producing higher quality products and expanding the economy.

Mr. Chairman, I commend Chairwoman MEYERS for her diligent efforts in bringing this worthwhile legislation to the House floor and I encourage my colleagues to support H.R. 2715.

Mr. LAFALCE. Mr. Chairman, I yield back the balance of my time.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

The committee amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment. Pursuant to the rule, each section is considered as having been read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the RECORD. Those amendments will be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paperwork Elimination Act of 1996".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. PURPOSES.

The purpose of this Act is to—

(1) minimize the burden of Federal paperwork demands upon small businesses, educational and non-profit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies, including the use of electronic maintenance, submission, or disclosure of information to substitute for paper; and

(2) more effectively enable Federal agencies to achieve the purposes of chapter 35 of title 44, United States Code, popularly known as the "Paperwork Reduction Act."

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. AUTHORITY AND FUNTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

(a) DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.—Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies, such as the use of electronic submission, maintenance, or disclosure of information to substitute for paper.".

(b) PROMOTION OF USE OF ELECTRONIC INFORMATION TECHNOLOGY.—Section 3504(h) of title 44, United States Code, is amended by striking "and" after the semicolon at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting "; and", and by adding at the end the following:

"(6) specifically promote the optional use of electronic maintenance, submission, or disclosure of information where appropriate, as an alternative information technology to substitute for paper.".

The CHAIRMAN. Are there any amendments to section 3?

If not, the Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. ASSIGNMENT OF TASKS AND DEADLINES.

Section 3505(a)(3) of title 44, United States Code, is amended by striking "and" after the semicolon at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; and", and by adding at the end the following:

"(D) a description of progress in providing for the use of electronic submission, maintenance, or disclosure of information to substitute for paper, including the extent to which such progress accomplishes reduction of burden on small businesses or other persons.".

The CHAIRMAN. Are there any amendments to section 4?

If not, the Clerk will designate section 5.

The text of section 5 is as follows:

SEC. 5. FEDERAL AGENCY RESPONSIBILITIES.

(a) PROVIDING FOR USE OF ELECTRONIC INFORMATION MANAGEMENT.—Section 3506(c)(1)(B) of title 44, United States Code, is amended by striking "and" after the semicolon at the end of clause (ii) and by adding at the end the following:

"(iv) provides for the optional use, where appropriate, of electronic maintenance, submission, or disclosure of information; and".

(b) PROMOTION OF ELECTRONIC INFORMATION MANAGEMENT.—Section 3506(c)(3)(C) of title 44, United States Code, is amended by striking "or" after the semicolon at the end of clause (ii), by adding "or" after the semicolon at the end of clause (iii), and by adding at the end the following:

"(iv) the promotion and optional use, where appropriate, of electronic maintenance, submission, or disclosure of information.".

(c) USE OF ALTERNATIVE INFORMATION TECHNOLOGIES.—Section 3506(c)(3)(J) of title 44, United States Code, is amended to read as follows:

"(J) to the maximum extent practicable, uses alternative information technologies, including the use of electronic maintenance, submission, or disclosure of information, to reduce burden and improve data quality, agency efficiency and responsiveness to the public.".

The CHAIRMAN. Are there any amendments to section 5?

If not, the Clerk will designate section 6.

The text of section 6 is as follows:

SEC. 6. PUBLIC INFORMATION COLLECTION ACTIVITIES; SUBMISSION TO DIRECTOR; APPROVAL AND DELEGATION.

Section 3507(a)(1)(D)(ii) of title 44, United States Code, is amended by striking "and" after the semicolon at the end of subclause (V), by adding "and" after the semicolon at the end of subclause (VI), and by adding at the end the following:

"(VII) a description of how respondents may, if apprppriate, electronically maintain, submit, or disclose information under the collection of information.".

The CHAIRMAN. Are there any amendments to section 6?

If not, the Clerk will designate section 7.

The text of section 7 is as follows:

SEC. 7. RESPONSIVENESS TO CONGRESS.

Section 3514(a)(2) of title 44, United States Code, is amended by striking "and" after the semicolon at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting "; and", and by adding at the end the following:

"(E) reduced the collection of information burden on small businesses and other persons through the use of electronic maintenance, submission, or disclosure of information to substitute for paper maintenance, submission, or disclosure of information, including—

"(i) a description of instances where such substitution has added to burden; and

"(ii) specific identification of such instances relating to the Internal Revenue Service.".

The CHAIRMAN. Are there any amendments to section 7?

If not, the Clerk will designate section 8.

The text of section 8 is as follows:

SEC. 8. EFFECTIVE DATE.

This Act shall take effect October 1, 1997.

The CHAIRMAN. Are there any amendments to section 8?

If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BURTON of Indiana) having assumed the chair, Mr. TAYLOR of North Carolina, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2715) to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies, pursuant to House Resolution 409, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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The SPEAKER pro tempore (Mr. BURTON of Indiana). Under the rule, the previous question is ordered.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. TORKILDSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 14, as follows:

[Roll No 130]

YEAS—418

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
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Edwards
Ehlers
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English
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Fields (LA)
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Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
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Frost
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Gephardt
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Goss
Graham
Green (TX)
Greene (UT)
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Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock

VOL
142
PT
6
AP
15
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24
1996
UMI

Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
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Hilliard
Hinchey
Hobson
Hoekstra
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Holden
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
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Millender-McDonald
Miller (CA)
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Owens
Oxley
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Pastor
Paxon
Payne (NJ)
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Peterson (MN)
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Ramstad
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Regula
Richardson
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Roberts
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Rogers
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Ros-Lehtinen
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Roybal-Allard
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Serrano
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Smith (MI)
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Smith (TX)
Smith (WA)
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Spence
Spratt
Stark
Stearns
Stenholm
Stockman
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Studds
Stump
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Talent
Tanner
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Taylor (MS)
Taylor (NC)
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Thornberry
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Weller
White
Wicker
Williams
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Woolsey
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Yates
Young (AK)
Young (FL)
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Zimmer

NOT VOTING—14

Dicks
Fields (TX)
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Hastings (FL)
Houghton
Kasich
Laughlin
Livingston
McDade
Menendez
Parker
Schroeder
Whitfield
Wilson

☐ 1332

Mr. OWENS changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. MEYERS of Kansas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 2715, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kansas.

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1675, NATIONAL WILDLIFE REFUGE IMPROVEMENT ACT OF 1995

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 410 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 410

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1675) to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment recommended by the Committee on Resources now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in the Congressional Record on April 16, 1996 and numbered 1 pursuant to clause 6 of rule XXIII. Each section of that amendment in the nature of a substitute shall be considered as read. Points of order against that amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the Committee on Rules has reported an open rule for the consideration of H.R. 1675, the National Wildlife Refuge Improvement Act. This is a very straightforward rule, allowing any and all germane amendments to the bill—and providing priority in recognition to those Members who have caused their amendments to be printed in the CONGRESSIONAL RECORD. Finally, the rule makes in order a substitute amendment that was filed and printed in the RECORD on April 16 by Chairman YOUNG. The Rules Committee sent out a notice last week explaining that amendments to the bill should be drafted to this substitute.

Mr. Speaker, I have a great interest in this legislation—after all, Florida is the home of the first National Wildlife Refuge, created by President Theodore Roosevelt in 1903 and located on Pelican Island. The 14th Congressional District boasts four refuges, including the J.N. "Ding" Darling Refuge on Sanibel Island, which enjoys an international reputation for its abundant population of waterfowl and other wildlife. The legacy of "Ding" Darling—the nationally syndicated editorial cartoonist and avid sportsman—provides a good starting point for one of the debates that will take place with regard to H.R. 1675—specifically over the role of hunting, fishing, and wildlife observation in the refuge system. As a lifelong hunter and fisherman, "Ding" Darling argued for setting aside areas to protect and nurture wildlife species—such as the ducks he loved to hunt. The primary mission of these areas is to promote conservation, but he recognized that the goals of sportsmen and environmentalists were intertwined—and that indeed conservation and these sporting activities could peacefully coexist.

Some have criticized this bill for going too far in establishing hunting, fishing, and wildlife observation as purposes of the refuge system—later on today my colleague Mr. BOEHLERT and I hope to offer an amendment to clarify that this bill isn't expanding hunting on wildlife refuges—but simply recognizing that when compatible with the overall mission of conservation, hunting, fishing, and observation can and should continue to take place.

Mr. Speaker, as the chairman of the Resources Committee said in his testimony yesterday—right now there are no stated purposes for the National Wildlife Refuge System. It's a complex system to manage, and I believe that this bill is a legitimate effort to address this problem. I would urge my colleagues to support the rule and stay tuned to the debate.

Mr. Speaker, I include for the RECORD the following information:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of April 24, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	62	59
Modified Closed [3]	49	47	26	25
Closed [4]	9	9	17	16
Total	104	100	105	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of April 24, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17 H.J. Res. 1	Social Security Balanced Budget Amdt	A: 255–172 (1/25/95).
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109 H.R. 2491	Social Security Earnings Reform Seven-Year Balanced Budget	PQ: 228–191 A: 235–185 (10/26/95).

VOL
142
PT
6
AP
15
—
24
1996
UMI

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of April 24, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.x. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H.Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/21/96).
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96).
H. Res. 388 (3/20/96)	C	H.R. 125	Gun Crime Enforcement	A: 244–166 (3/22/96).
H. Res. 391 (3/27/96)	C	H.R. 3136	Contract w/America Advancement	PQ: 232–180 A: 232–177, (3/28/96).
H. Res. 392 (3/27/96)	MC	H.R. 3103	Health Coverage Affordability	PQ: 229–186 A: Voice Vote (3/29/96).
H. Res. 395 (3/29/96)	MC	H.J. Res. 159	Tax Limitation Const. Amdmt.	PQ: 232–168 A: 234–162 (4/15/96).
H. Res. 396 (3/29/96)	O	H.R. 842	Truth in Budgeting Act	A: voice vote (4/17/96).
H. Res. 409 (4/23/96)	O	H.R. 2715	Paperwork Elimination Act	A: voice vote (4/24/96).
H. Res. 410 (4/23/96)	O	H.R. 1675	Natl. Wildlife Refuge	
H. Res. 411 (4/23/96)	O	H.J. Res. 175	Further Cont. Approps. FY 1996	A: voice vote (4/24/96).

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume. I thank the distinguished gentleman from Florida [Mr. GOSS] for yielding me the customary half hour of debate time.

Mr. Speaker, we support this rule. It is an open rule, so Members may offer any amendments that are in order under the standing House rules. Under the rule, priority in recognition for the offering of those amendments may be accorded to Members who have printed their amendments in the CONGRESSIONAL RECORD.

Although we have no objections to the rule itself, many of us believe that the legislation that it makes in order, H.R. 1675, would cause serious harm to our Nation's wildlife refuges, which provide vital habitat for hundreds of species of birds and mammals.

Since the first national wildlife refuge was established at Pelican Island, FL, in 1903, the fundamental purpose of the refuge system has been the conservation of wildlife and natural habitat. This legislation would change that by making hunting, fishing, and other recreational uses a primary purpose of the system as well.

Thus, this bill would, for the first time, direct the U.S. Fish and Wildlife Service to place as much importance on providing recreational opportunities in these refuges as on conserving the resources that make these opportunities possible. The Service, whose budget is already inadequate for its currently mandated responsibilities, would be required to divert its scarce funds away from protecting wildlife, to managing people and their recreational activities. That change would clearly undermine the protection of these valuable reserves.

Recreational activities, including hunting and fishing, are permitted under existing law where such activities are appropriate. Currently, more than half of all of our refuges are open to some form of hunting; in those areas, the Fish and Wildlife Service has determined that animal populations are abundant, and hunting is compatible with wildlife protection. But hunting is not appropriate in all refuges, and therefore should not be presumed to be compatible with the purpose of the refuges, as it would be under this bill.

□ 1345

Mr. Speaker, furthermore, the bill would alter the way national wildlife refuges are established by requiring Congress to specifically authorize any refuges established using the land and water conservation fund. Only 16 of our more than 500 refuges have been specifically established by legislation, and this new requirement could delay and complicate the process of protecting imperiled wildlife. Fortunately, the House will have the opportunity to change this provision by adopting the amendment that will be offered by the gentleman from New York [Mr. NADLER].

Another drawback of the bill is that it would allow up to 15 years to elapse between reviews of the compatibility of fish-dependent and wildlife-dependent recreational uses, whereas other uses would be required to be reviewed at least every 4 years. The long interval for reviewing hunting and fishing could result in the continuation of activities for many years that are detrimental to the conservation of wildlife.

Finally, the bill would authorize expanded military activities and other potentially damaging Federal activities on wildlife refuges, allowing them to be exempted from the protective standards of the National Wildlife Refuge Administration Act.

For all of these reasons, all the major U.S. environmental protection organizations oppose this legislation. They believe that there should be one clear overriding purpose for our wildlife refuges, and that is the conservation of wildlife and natural habitat.

Mr. Speaker, to repeat: We support this rule, which is an open rule. But we urge Members to oppose the legislation itself.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just simply say in response to my esteemed colleague and friend, the gentleman from California [Mr. BEILENSON], that many of the concerns he has raised on the subject, in fact, will be dealt with in the amendment process, and I, too, am hopeful that we can make some further improvements in this bill through the amendment process and am prepared to do that.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no speakers, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I, too, yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the able.

RECESS

The SPEAKER pro tempore (Mr. BURTON of Indiana). Pursuant to clause 12 of rule I, the House stands in recess until 2:30 p.m.

Accordingly (at 1 o'clock and 47 minutes p.m.), the House stood in recess until 2:30 p.m.

□ 1430

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MCCRERY) at 2 o'clock and 30 minutes p.m.

NATIONAL WILDLIFE REFUGE IMPROVEMENT ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 410 and rule XXIII, the Chair Declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1675.

□ 1431

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1675) to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes, with Mr. GILLMOR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. MILLER] each will control 30 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as the author of H.R. 1675, I am pleased that the House is considering this important legislation, which would be the first comprehensive reform of our refuge law since the enactment of the National Wildlife Refuge System Administration Act of 1966.

I am also grateful that the author of that historic law, Congressman JOHN DINGELL, and a number of other distinguished Members including the cochairman of the House Sportsmen's Caucus, PETE GEREN, and the chairman of the Subcommittee on Fisheries, Wildlife and Oceans, JIM SAXTON, have joined with me in this bipartisan effort. Their contributions and input into this legislation have been invaluable.

Our Nation's Wildlife Refuge System, which was created by President Theodore Roosevelt more than 90 years ago, provides both essential habitat for hundreds of species and recreational opportunities for millions of Americans. At present, the system is comprised of 508 refuges, which are located in all 50 States and the 5 U.S. Territories. These units, which cover some 91 million acres of Federal lands, range in size from the smallest of less than 1 acre to the largest, the 19.3-million-acre Arctic National Wildlife Refuge.

Regrettably, in recent years the public's confidence in our refuge system has been shaken by arbitrary decisions made by refuge managers; the diversion of funds to other higher profile issues; the elimination of all existing uses on newly acquired lands; lawsuits designed to prohibit certain secondary uses on a refuge; and the lack of either a vision or a comprehensive plan on how our refuge system will be managed in the future.

H.R. 1675 is the product of several years of hard work, countless meetings with various interest groups, and extended negotiations with the Departments of Interior and Defense. The bill was the subject of an extensive public hearing and was favorably reported by voice vote by both the subcommittee and the full Resources Committee, with only 5 Members filing dissenting views.

This legislation is a modest, proactive conservation measure that has been carefully refined to address most of the concerns raised by the Clinton administration.

While I will later discuss the substitute proposal in detail, it is time we had a statutory list of purposes; a definition of what is a compatible use; allow existing wildlife-dependent recreational uses to continue on new refuge lands unless they are found to be incompatible; a conservation plan for each refuge; and clarification that fishing and hunting should be permitted unless a finding is made that these activities are inconsistent with sound fish and wildlife management, the purpose of the refuge, or public safety.

Furthermore, it will strengthen the management of the refuge system and it implements a better, more uniform system-wide planning and compatibility review process. This had been a goal of the environmental community for some time.

While H.R. 1675 does not attempt to solve all of the problems facing our refuges, it will ensure that the system is effectively managed, that essential habitats are protected, and that the American people have an opportunity to fully utilize those Federal lands that are paid for with their tax dollars, their entrance fees, and from purchases of duck stamps.

This is a sound piece of legislation. It is supported by many groups, including the American Sportfishing Association, the California Waterfowl Association, the Congressional Sportsmen's Caucus, the International Association of Fish and Wildlife Agencies, the New Jersey Federation of Sportsmen, the National Rifle Association, and the Wildlife Legislative Fund of America. This bill will ensure that our refuge system has the support of the American people into the 21st century.

Finally, a word of caution. I know there are Members who would like to see H.R. 1675 become a vehicle to solve a whole range of problems in individual units, including mosquito abatement, public health, and additions or deletions of land from existing refuges. While these changes may have merit, I would hope they would not be offered to this measure but instead the sponsors would allow the Resources Committee to fully review them.

Mr. Chairman, at the appropriate time I intend to engage in a colloquy with the co-author of this bill, JOHN DINGELL, on the issues of open until closed refuge lands and water rights. I am confident that this clarification and the substitute will remove most, if not all, of the confusion about the scope of this measure.

It will also restore the fundamental goals of H.R. 1675, which are to conserve, manage, and recover wildlife and to ensure that Americans have an opportunity to participate in compatible wildlife-dependent recreation.

I urge the adoption of H.R. 1675.

Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would certainly support improvement of the National Wildlife Refuge System if it really needed it, but it does not.

Much of the momentum behind this bill has been generated by sporting groups that seek to elevate the role of hunting and fishing off our National Wildlife Refuges. Now, the plain truth is that hunting and fishing are already allowed on more than half of the 508 wildlife refuges and on more than 94 percent of the 92 million acres of the System. I respectfully submit that is a lot of hunting and fishing.

Moreover, President Clinton, far from closing refuges to hunting and fishing, on March 25 issued an Executive order reaffirming the administration's commitment to a diversity of recreation of refuge lands so long as it is compatible with the longstanding primary purpose of the Refuge System—fish and wildlife conservation.

Some were fearful that the administration's settlement of a lawsuit regarding the compatibility of secondary uses of the refuges would result in restrictions on sporting activities. After reviewing more than 1,000 activities throughout the System, not one wildlife refuge was closed to hunting.

In fact, the Clinton administration has opened more refuges to hunting

VOL
142
PT
6
AP
15
—
24
1996
UMI

and fishing in its first 2 years than did the Bush administration during its last 2 years.

So, this legislation attempts to fix a problem that does not exist. And along the way, it actually undermines the ability of the wildlife management professionals of the Fish and Wildlife Service, with whom the job is properly left, to manage the many competing public uses of the National Wildlife Refuge System. This bill is not an improvement. It is bad for the wildlife, and that is ultimately bad for the sportsmen and sportswomen whose activities depend on abundant wildlife populations.

In addition, the bill contains provisions which will create overly broad exemptions for military activities on wildlife refuges, and strip refuges of reserved water rights.

The substitute before the House fortunately drops a provision included by the Resources Committee to allow harmful pesticides to be used on refuges lands leased by farmers. That is a positive step, although the same provisions were contained in the long-term CR recently passed by the House and Senate. There were some other changes made that were mostly cosmetic and do not address the fundamental problems with the bill.

I am also aware that the gentleman from New York [Mr. BOEHLERT] will offer en block amendments to the bill. While I applaud the gentleman's efforts to improve the bill, these amendments do not do the trick either.

No, the problems with this bill are much more fundamental. As Secretary of the Interior Bruce Babbitt said to Chairman YOUNG in an April 23 letter concerning this bill: "This bill is not the right way to celebrate Earth Week or the environment."

The President has addressed the legitimate concerns about hunting and fishing in our refuges. There is an appropriate balance between wildlife conservation and public recreation. That balance already exists in our National Wildlife Refuge System. This bill will upset that delicate balance. I urge my colleagues to oppose H.R. 1675.

Mr. Chairman, I include for the RECORD the statement of administration policy on H.R. 1675.

STAEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)

H.R. 1675—NATIONAL WILDLIFE REFUGE IMPROVEMENT ACT (REP. YOUNG (R) AK AND 27 COSPONSORS)

If H.R. 1675, as reported by the Rules Committee (the Young substitute amendment), is presented to the President in its current form, the Secretary of the Interior will recommend that he veto the bill.

H.R. 1675, as reported by Rules Committee (the Young substitute amendment), would greatly weaken the U.S. Fish and Wildlife Service's ability to protect the National Wildlife Refuge System from harmful activities. The Young substitute amendment does not address many of the bill's fundamental problem and creates significant new problems by:

Eliminating consideration of the "public interest" in opening wildlife refuges to recreational interests.

Establishing an unneeded exemption process to facilitate expanded military use of refuge lands, despite no showing that military needs are not currently being accommodated.

Calling into question the validity of existing reserved water rights of individual refuges and thus undermining the ability of the Service to provide suitable habitat for the species on such refuges.

Allowing some present and future refuges to be transferred to the States as "coordination areas" to be managed free from the provisions of refuge law.

Restricting the needed expansion of the System by imposing new limits on the use of the Land and Water Conservation Fund monies for refuge acquisition.

Elevating certain public uses of refuges, including hunting and trapping, into purposes of the System.

Compromising the process for determining whether certain recreational uses are compatible with refuge purposes and should be allowed at any given refuge.

Waiving refuge law to allow the dumping of chemicals into aquatic habitats on refuges in order to kill certain nuisance species.

☐ 1445

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, some opponents of this bill would like everyone to believe that its only purpose is to permit fishing and hunting in our National Wildlife Refuge System. This is simply not true. This is a comprehensive bill that will improve and enhance wildlife management of the national wildlife refuges throughout our entire country.

This bill addresses a broad range of concerns expressed in a variety of Government reports going back 25 years about the need for better, more uniform system-wide management of refuges. For the first time, this bill establishes a system-wide mission statement. Those purposes include not only compatible fish and wildlife oriented recreation, including fishing and hunting, it also includes wildlife observation and environmental education and also conservation management, restoration of fish and wildlife, the preservation of endangered species and the implementation of the international treaty obligations regarding fish and wildlife.

Those are a broad-ranging set of objectives that this reform bill has inherent within it. The bill also gives the Secretary of the Interior comprehensive direction on the administration of the system and establishes a management planning process that will be uniform throughout the system, something that has been sorely needed in my opinion for many years.

It assures public involvement in the planning process and requires that those plans be reviewed at least every 15 years. One aspect of the bill that I believe is critically important is the requirement that refuges remain open until closed. Let me explain why I believe this section of the law is critically important.

Under the system which currently exists, as refuges expand or as new refuges are created, the minute the Fish and Wildlife Service or the Federal Government takes title to land, it is closed to all wildlife-related public uses. I do not believe that it is anyone's intent that that happen.

We changed the provisions so that, when the Fish and Wildlife Service assumes title and assumes, therefore, the management of new lands, that these historic wildlife-related uses continue to occur until a management plan is adopted. This is a very important change because in some areas of the country, the refuge system, which at one time enjoyed almost unanimous public support, today the system does not enjoy and the plans do not enjoy unanimous public support because the minute someone, the minute the refuge system acquires additional land, it is closed to hunting and fishing and bird watching and any other use that is related to wildlife pursuits. So this bill, I believe, is important for that reason and it should be considered, I think, one of the very important provisions.

This bill also codifies the existing regulatory definition of "compatible use" that the Fish and Wildlife Service has obviously used for many years. The committee expects that there will be some wildlife refuges, particularly in urban areas, that will not be appropriate settings for all forms of wildlife-dependent recreation. Therefore, there is no reason to believe that this measure will greatly change the current management system.

Finally, this bill establishes a broad goal of wildlife protection for our refuge system, establishes purposes that reflect the current goals of the system, institutes a long overdue systemwide comprehensive planning process, and assures that taxpayers who purchase the refuge lands can utilize them in many legitimate ways.

This bill merits your support, and I obviously think that everyone should vote for it. I would just conclude, Mr. Chairman, by mentioning that there are a broad, a large number, a broad array of organizations that support this bill. For example, let me just read some of them, the American Sportfishing Association, the California Waterfowl Association, Congressional Sportsmen's Foundation, Foundation for North American Wild Sheep, the International Association of Fish

and Wildlife Agencies, the Mzuri Wildlife Foundation, the National Wild Turkey Federation, the New Jersey Federation of Sportsmen, the North American Waterfowl Federation, Quail Unlimited, the Ruffed Grouse Society, Safari Club International, Wildlife Forever, and the Wildlife Legislative Fund of America.

Mr. Chairman, I think that these organizations know that this is a good bill. I believe it is a good bill. I incidentally think it will even be enhanced by the Boehlert amendment when it is offered. I urge everyone to support the bill.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

The gentleman from California mentioned the fact that there was a statement from the administration opposing my bill. I am amazed. I cannot believe that, because four of the things that they are opposing my bill on, two of them were their language.

One was on establishing an unneeded exemption process to facilitate expanded military use of refuge lands, despite no showing that military needs are not currently being accommodated. That is their language.

The other one is calling into question the validity of existing reserved water rights. We did not even talk about water rights. Then we have two of them that they are objecting to the gentleman from New York [Mr. BOEHLERT] is going to solve in his amendment, and we agreed to accept that amendment. Of course, the one thing that bothers me the most is that they are opposed to hunting. They are also opposed to fishing. By Executive order the President says, no, I am all for this, but it is by Executive order. What we are trying to do is revive and establish what refuges were set up for and by whom and who supports them.

All the refuges that I have served under in 24 years were created with the full support of the fishermen and the hunters and the recreation users. Now we are having managers say, no, you cannot fish in Arkansas, because we believe that the way you fish is wrong so fishing is closed. This is by a manager. I talked to Mollie Beattie. She says I cannot override the manager's position.

Then we have a case in Oklahoma where a manager, this refuge was created for migratory waterfowl and they managed it for migratory waterfowl by planting crops that would be something for the geese and the ducks as they flew down the byway to eat. The manager said, no, this is not natural. We will not plant this food so they can eat. And around the refuge the farmers were still farming so all the ducks and geese went to the farms outside the refuge so there is no longer any birds in the refuge. This is all documented.

But now the same manager says, oh, by the way, fishing is prohibited on this refuge because it might interfere with the waterfowl. Wait a minute. Where are the waterfowl? Off the refuge because they stopped growing feed. So the fishermen are terribly upset. The hunters are upset. The birds are upset. And the refuge has no support. And when the people stop supporting refuges, there will be no more refuges, nor the existence will not be funded.

I am asking for passage of this legislation so that the sportsmen of America, the little child that has a cane pole, the person in the wheelchair that goes out on the dock and tries to catch a fish has an opportunity to do so and not letting one person arbitrarily say, no, you cannot do it because I do not think it is compatible.

All this bill does is set a criteria and allows uses, as long as they are compatible, to take place. And it takes away the discretion of a manager to arbitrarily impose his philosophy upon a refuge that was created for other reasons.

If he decides to try to do that, he has to justify and prove that it is not compatible. If it endangers the public, yes; if it endangers a species, yes; if it in fact does some harm, he has that latitude. But if there is not a reason, then he cannot disallow it.

So this is what this bill is all about. It is unfortunate that this administration for some reason is against the American sportsmen. They do not support the American sportsmen and do not let anyone say they do just because the President goes on to an area to shoot 1 duck, and by the way he missed 42. He might be called a conservationist. Do not let the American sportsmen be fooled by this position.

What they want is to eliminate what the original refuges were set up for, the purposes of them. And in fact, they do not recognize the danger of not having the support by those people.

Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Arkansas [Mrs. LINCOLN].

Mrs. LINCOLN. Mr. Chairman, I rise in strong support of H.R. 1675. I want to congratulate Chairman YOUNG and Mr. DINGELL for putting together a bipartisan piece of legislation. Additionally, I am encouraged that this is a clean bill and one that recognizes all the traditional recreational uses of our refuges as purposes.

The original principal behind the establishment of our wildlife refuges was to ensure the viability and health of wildlife populations. H.R. 1675 recognizes this principal by adopting five purposes: First, conserve and manage fish, wildlife, plants and their habitats; second, preserve, restore and recover endangered or threatened species; third, fulfill international treaty obligations; fourth, conserve and manage migratory birds, anadromous fish, and mammals; and fifth, provide opportunities for compatible wildlife-dependent recreation, including hunting, fishing, wildlife observation, and environmental education. Each refuge may adopt all the stated purposes or select just a few, depending on the compatibility of the purpose to the refuge. Under the bill, each purpose must be compatible with the underlying principal of protecting the health of wildlife populations in order to be a purpose at a specific refuge. Under this legislation, the underlying principal will not be compromised.

Some of my colleagues may have concerns because hunting is listed as a purpose of wildlife refuges. First of all, hunting is recognized by the general wildlife science community as a valid wildlife management tool if done in a proper manner. Second, if the refuge manager or the Secretary finds that hunting is not compatible with a certain refuge, hunting will not be allowed. The reason we have put this language into this bill is to avoid the situation we were faced with a few years ago where hunters were put on notice that they may lose their hunting rights on lands they have always hunted on. Hunters are avid users of refuges—billions of their dollars have gone to wildlife and habitat conservation through excise taxes, licenses, and stamps. It has been estimated that over three-fourths of the lands acquired for the refuge system were purchased through migratory bird conservation dollars through the sale of duck stamps.

As an example, in the 1st District of Arkansas, land was acquired to enlarge the Cache River Refuge. These lands were used for hunting for decades before they were added to the refuge system. It is the ultimate slap in the face to these hunters that they may lose the opportunity to hunt on land they have hunted on for generations and that the land was purchased with their dollars.

Many changes have been made to this bill to address the administration's concerns and I believe that the final bill is a good product. I urge my colleagues to support H.R. 1675.

☐ 1500

Mr. YOUNG of Alaska. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I rise in strong support, as the gentlewoman from Arkansas [Mrs. LINCOLN], and I know the gentlewoman is set with twins and that she would be participating in the Sportsmen Caucus, Republican versus Democrat, shootoff on May 6, but I do not think her doctor would let her do that.

Mrs. LINCOLN. That is right; the gentleman is lucky I am not.

Mr. CUNNINGHAM. But she would be there, I understand, and I speak as one

VOL
142
PT
6
AP
15
—
24
1996
UMI

of the new cochairmen for the Sportsmen Caucus along with the gentleman from Tennessee [Mr. TANNER], and the Sportsmen Caucus is founded to support the rights of fishermen and families that are interested not only in conservation, in the environment as far as fishing and hunting and a national treasure that we have enjoyed over a lifetime.

This is a pro-environment bill, although there will be some that say it is not, and I think what we need in this body is more of a middle-of-the road kind of direction instead of those that want to pave over the world, like those groups like Earth First, Earth Island, in which the Unabomber's manifesto was drafted and the extremist groups and special-interest groups on both sides, and I think that this bill tries to come somewhat in the middle.

Mr. Chairman, I would say to my colleagues that there is a very good Jewish proverb that was born out of the movie called "Jazz Singer," and I am old enough, like the gentleman from Alaska [Mr. YOUNG], the chairman, to remember a guy named Al Jolson, and later Neil Diamond played in a movie, and it is about a father who has lost his son, not to a death but because of an argument, and the Jewish proverb goes like this:

The father says, "Son come home. We have argued too long."

And the son replies, "Father, I cannot. There has been too much between us."

And the father's reply to his son is, "Son, come as far as you can, and I will come the rest of the way."

I think this bill comes the rest of the way and meets somewhere in the middle, and we would ask our colleagues from both sides of the aisle to make that distance in between because that is the intent.

We are trying to protect a long history of the ability of people to use recreational areas, to hunt to fish, to look at birds, to preserve the environment and conserve. And if you take a look at those groups like Sportsmen Caucus, those are the groups that have provided, for example, the duck and the wetlands up in Canada. The species would be almost totally eliminated if they had not purchased the land that will allow the nesting of our migratory birds. And all of those efforts have come about from the Sportsmen Caucus-type groups and have actually enhanced our environment.

The environmental groups opposing this will claim that unlimited hunting and fishing will occur on all refuges. This is not true. This is not the case. The bill provides the U.S. Fish and Wildlife Service with the option to disallow hunting on refuges if it is decided that these activities pose a treat to public safety or conservation purposes of the refuge.

What it does do: It eliminates an individual with a certain agenda at the head of each of these refuges from making an arbitrary decision to just cut off recreational use, and we think that this is wrong. I believe that that is median policy and, I think, can be supported, and I think will be supported, just like the gentlewoman from Arkansas and my friend, the gentleman from Tennessee [Mr. TANNER]. It establishes conservation plans for each of the 504 refuges within 15 years.

Mr. Chairman, the bill is the first significant refuge reform bill considered by Congress since 1966. I would ask my colleagues to support it.

I look back when I grew up. I lost my dad about a year and a half ago, but I can still remember as a youngster going to Swan Lake in Missouri and hunting with my dad and fishing. I can remember just recently going over with my dad to the Imperial Valley at Wooster and doing the same thing, and I got some duck mud between the toes of both of my daughters, and I would like to be able to continue that because I think that communication between father and son and father and daughter and grandfather, which also takes some hunting, is very important to the tradition of this country.

I thank the chairman for sponsoring the bill and supporting it, and I ask an "aye" vote on it.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES. Mr. Chairman, I came down mostly because I wanted to be able to say for the only time in the 9 years I have been in Congress that I think that the gentleman from Alaska [Mr. YOUNG] and the gentleman from Michigan [Mr. DINGELL] are right in their joint effort in legislation, and I intend to support them. I will probably never have an opportunity to utter that sentence again, the reason being the context here and one that has been overlooked in the course of the previous discussion, which has been more of a discussion than a debate because of the wide range of support behind this legislation.

But the fact that since 1966 we have had no review of the means by which we make conservation and comprehensive planning is in and of itself somewhat disgraceful.

Imagine if our foreign policy were conducted by diplomats who were basing their 1996 on their 1966 views. Imagine if we had economists who were sitting there projecting the manner in which they have projected 30 years ago. The answer is through everything from propagation programs that have been able to save some endangered species. In my own State of Louisiana, believe me, what was the endangered alligator species is now a fulfillment of what was a common expression that "you are up to your you know what in alligators." That is now both literally and figuratively true because of efforts made in wildlife refuges and accomplished in Cameron and Vermilion Parish.

The second thing is, as my colleagues know, nature does not adhere to legislation even, regulations. That would probably astonish some bureaucrats to believe there is a force higher than they are, but nature itself sometimes does things like hurricanes, reroutes canals, uproots trees, moves levees. If we do not have comprehensive planning that also is revisited and adjusted, then we are going to do great untold harm to neighboring communities, to fish, to wildlife, and all the public.

So for that reason I think you see such a wide array of those of us who serve in the House and who may disagree on how to get to some end results supporting the same vehicle here today, and it is truly unfortunate that the Secretary of the Interior does not reflect that same wide range and broad-based support.

I would hope that he would read the bill. I would hope that he would indeed urge the President to sign the bill rather than urge him to veto it. For that reason he would do untold good to not only those who are here today voting but to the future generations of all Americans.

Mr. MILLER of California. Mr. Chairman, I yield 7 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I thank my good friend the gentleman from California [Mr. MILLER] for his kindness in yielding me this time.

Mr. Chairman, I thank my good friend the gentleman from California [Mr. MILLER] for his kindness in granting me this time.

I want to pay tribute to the gentleman from Alaska [Mr. YOUNG], my good friend, the chairman of the committee, with whom I have worked very hard on this legislation.

I would like the House to know that this is good legislation, and I would like to tell them a little bit as to why.

In my young days between about 1966 and about 1974, I was chairman of a little subcommittee called the subcommittee on fisheries and wildlife conservation. It was one of the components of the Committee on Merchant Marine and Fisheries. It had jurisdiction overall of the national refuge system. And during that time we wrote the National Wildlife Refuge System Act of 1966.

Since that time I have also served for 26 years as a Democratic Representative of the House to the Migratory Bird Conservation Commission, which is in charge of buying land for the migratory bird refuge system, and in that time the Nation has acquired over 600,000 acres of habitat for the protection of migratory birds and other wildlife. This is a great treasure and one of my principal purposes has been to protect it to assure that it would not be destroyed or dissipated. Indeed one of

the early things which we confronted was an attempt by the then-Secretary of the Interior McKay to dissipate the entirety of the refuge system. That was brought to a halt, and, as a result of that, the Refuge Administration Act was put together. This legislation has been called the best piece of public land management legislation ever.

Some 30 years now after that was done, I am proud to see the accomplishments which have taken place as a result of that bill. The system is now providing well-managed habitat for the protection of resident and migratory species. It is also helping to recover threatened and endangered species. It is contributing to the diversity of refuge areas, and it is serving for all of the people much more traditional and wildlife-related purposes, such as hunting, fishing, and wildlife observation.

It is a system which, I would remind my colleagues, is funded in the largest part by the contributions of the hunters of this Nation who, by their purchase of duck stamps, make it possible for this Nation to acquire the lands which are set aside forever as a part of the refuge system. It is important to recognize then the inequal part that our Nation's hunters and fishermen pay—play in providing constant support for the expansion and the maintenance of our refuge system.

America's sportsmen and sports women provide this help not only with their votes but also through the purchase of duck stamps, a substantial portion of the public dollars then which are expended in support of the refuge system.

A few weeks ago the President expressed his support of the sportsmen community by issue of executive order. It recognizes supporting uses as a priority use of the system, and this is one of the reasons that we are able to sustain that system and to encourage patriotic sportsmen, hunters, outdoors men and women for contributing to the system.

Now, I have hunted with the President, and I know of his strong interest in our refuge systems, and I am pleased that he took the initiative with this executive order. It is my hope that he will see the merits of the legislation here which codifies much of that order.

H.R. 1675 is the result of some long-sought legislative improvements in the refuge system. For many years, environmentalists and sportsmen and women have called for an organic act which lays out clear purposes of the system and requires the completion of the conservation management plans for each refuge. A number of studies by the General Accounting Office and the Fish and Wildlife Service have found many problems in our refuges. These problems range from overuse to toxic contamination to a lack of proper funding and proper management. H.R. 1675 is the result of thorough examination of these problems and an attempt to make improvements of the management of the system which will require better planning, compatible uses, and a clear identification of the purposes of the system.

Chairman YOUNG last year talked to me about cosponsoring this legislation. I agreed to do so so that this body could give the Fish and Wildlife Service the tools that it needs to do the job.

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In fact, I decided to cosponsor this bill only after consulting with the Fish and Wildlife Service and being convinced that the bill is in the best interest of the National Wildlife Refuge System and the wildlife that it protects.

I want to commend again the distinguished gentleman from Alaska for his leadership in this. This is a good bill. It is one which will make progress in terms of protecting the refuge system and one which will make real progress in terms of protecting the wildlife that are dependent upon it, and in assuring that we can continue the public support which has made possible the success of one of the greatest systems of public lands and the greatest systems of public land management for an important national purpose, and that is the protection of wildlife.

There is no doubt that this bill has, I would observe, some reservations. I have worked for several months with the Fish and Wildlife Service, the Interior Department, the Council on Environmental Quality, and other organizations to address problems that they have brought to my attention. I would observe that in each instance my good friend from Alaska has been most helpful in addressing those concerns.

Now, one major source of concern is the question of hunting and wildlife-dependent recreation on the system. Well, first of all, under this legislation no hunting and no refuge use can take place which is inconsistent with the purposes for which this system is set up.

Remember, this system is set up and paid for in good part by the hunters of America who contribute to this. I would observe that the critics of this bill have probably in toto contributed nothing to the purchase of refuge system lands over the years. I think that tells us a great deal, that people who love it enough to put their money where their mouth is are the hunters and the sportsmen. They will use this, and they will use it in a fashion which is consistent with the purpose of the refuge and in a fashion which is consistent with the best interests of not only the habitat but also the wildlife.

I would urge my colleagues to support this legislation, to understand that basic good sense and basic hunting, not only as a purpose of the refuge but also as a device for the management of the wildlife there, makes the best of good sense. This is a good piece of legislation. I urge my colleagues to support it. I tell the Members, both as a hunter and a conservationist and as one who has authored much of the legislation that relates not only to the refuge system but protection of the environment, that this is good legislation. I urge my colleagues strongly to support it. It is in the public interest, it is in the interest of the refuge system, it is in the interest of the wildlife, and future generations will thank us for passing this legislation.

Mr. YOUNG of Alaska. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from Alaska [Mr. YOUNG] has 9 minutes, and the gentleman from California [Mr. MILLER] has 15 minutes.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. I thank the gentleman for yielding me the time.

Mr. Chairman, I think that whenever the U.S. Congress passes legislation, they should keep several important things in mind which I am going to describe. I think those things that enhance legislation in this House, which enhance laws, are present in this legislation.

First of all, I think with the amendments by the gentleman from New York [Mr. BOEHLERT], this legislation will improve existing law.

No. 2, this legislation provides a structure which will enhance local managers' ability to work much more closely with the State government, with the local government, with private landowners, with environmental groups, with anybody that has any kind of an interest in America's wildlife refuges.

No. 3, this particular legislation continues to give local managers the flexibility they need to provide what they feel is necessary to manage wildlife in any way that they think is conducive for their conservation.

I want to make a comment to an earlier statement by the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM described the story where a father and son had a falling out, and the father called the son and said, "Let's get together." The son said, "I can't, there is too much between us". Then Mr. CUNNINGHAM said the father told the son, "Just come as far as you can go, and I will go the rest of the way".

If we want to legislate good laws for this country, then this particular piece of legislation, I might add to the gentleman from Alaska [Mr. YOUNG], this particular piece of legislation brings opposing forces together. Each side has come just as far as they can go and there has been a compromise.

If we are going to be successful in managing the Nation's resources, then

VOL
142
PT
6
AP
15
—
24
1996
UMI

this type of discussion, this type of debate, this type of legislation is the kind of example that we need to show to our constituents and we need to show to our Nation. So I would urge the Members that this is a good bill. We should vote for this bill.

I want to compliment the chairman of the Committee on Resources for his work.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Chairman, I rise today in support of H.R. 1675, the National Wildlife Refuge Improvement Act. This bill clarifies the original intent of the National Wildlife Refuge System Administration Act of 1966.

That intention being: wildlife based recreation, including hunting and fishing, being a primary purpose of the system.

As many of you know I am an avid and responsible sportsman. This legislation erases 30 years of over zealous regulation by the Fish and Wildlife Service. It is high time we give back the refuge system to the people—not to the Government.

It is becoming harder and harder for individuals to enjoy the sports of hunting and fishing. Most people don't have the ability to own private land for these activities.

H.R. 1675 brings wildlife-dependent recreation back as one of the primary goals of the refuge system.

Our refuge system is in dire need of reform, and this is the vehicle in which it can be accomplished.

H.R. 1675 has bipartisan support including wildlife conservation groups, and State fish and wildlife agencies.

I urge my colleagues to vote "yes" on H.R. 1675.

PARLIAMENTARY INQUIRY

Mr. MILLER of California. Mr. Chairman, I have a parliamentary inquiry. Just for the sake of a clarification so I know whether I can yield back or not, can the Chair advise me with respect to the Nadler amendment? Must that be offered prior to?

The CHAIRMAN. the Nadler amendment was printed in the RECORD. Prior to what?

Mr. MILLER of California. The question is, is that impacted by the Boehlert amendment? I do not know if the gentleman from New York [Mr. BOEHLERT] is going to offer his amendment now.

Mr. YOUNG of Alaska. Mr. Chairman, the gentleman from New York [Mr. BOEHLERT] will be offering his amendment.

The CHAIRMAN. Under the rule, the amendment of the gentleman from New York [Mr. BOEHLERT] was not printed in the RECORD. The amendment of the gentleman from New York, Mr. NADLER, was printed in the RECORD, and under the rule, Mr. NADLER could have priority of recognition.

Mr. MILLER of California. Mr. Chairman, can the gentleman from Alaska sing for 5 minutes? We are looking for the gentleman from New York [Mr. NADLER]. I think I need to protect his rights to offer his amendment. Maybe the gentlewoman from Arkansas can offer her amendment.

Mr. YOUNG of Alaska. If the gentleman from California will yield back the balance of his time.

Mr. MILLER of California. That is what I am trying to determine.

Mr. YOUNG of Alaska. I yield back the balance of my time. I will have the gentlewoman's amendment made in order right off the bat.

Mr. MILLER of California. Then we will do the Nadler amendment and the Boehlert amendment.

Mr. YOUNG of Alaska. Whatever is right. I will do hers.

Mr. MILLER of California. I thank the Chair for indulging our concerns. The gentleman from New York [Mr. NADLER] is here.

Mr. ACKERMAN. Mr. Chairman, I rise this evening to stand together with my colleagues in commemoration of the Armenian genocide of 1915–23. Eighty-one years ago, while Europe was embroiled in war and the Ottoman Empire was crumbling, a concerted campaign to eradicate the Armenian people began. In the course of 8 brutal years, at least 1.5 million Armenian men, women, and children were massacred.

What was the reason behind this deliberate and calculated effort to destroy any Armenian presence in Turkey? We will probably never know. The official Turkish Government position is that, during World War I, a series of internal conflicts contributed to the unfortunate deaths of many Armenians. In my opinion, that symbolizes a categorical denial of what really happened. It is the denial of an event that has been documented by scholars the world over. That denial is disrespectful to the memories of those that perished, those that survived, and to the civilized world. Quite simply, it is reprehensible. As a Jewish Member of Congress, and a human being, I cannot stand idly by while this denial continues to be perpetrated.

It has been said that when Adolf Hitler was planning the Final Solution to the Jewish problem, he recalled the international reaction to the Armenian genocide: "Who remembers the Armenians?" he offered. In the same vein, who then would stand up for the Jews and remember them? Well, we do remember that Holocaust, as well as the innocent victims of the Armenian genocide, and we will continue doing so, that it may never happen again.

The Armenian genocide was the first of the 20th century, but because the world did not learn its lesson, we were forced to endure the horrors of the Jewish Holocaust. Therefore, we have pledged, and stand together, as Jews, as Armenians, as people, that we will never allow this kind of tragedy to befall us again.

I thank my colleagues, Congressmen JOHN PORTER and FRANK PALLONE, for leading this effort in the House of Representatives, and am proud to be a member of the Armenian Issues Caucus in order to work on this issue of concern to all human beings.

Mr. MATSUI. Mr. Chairman, I rise to express my support for the amendment offered by my colleague from New York, Mr. NADLER. I strongly agree that we must eliminate the provisions of this legislation that would require specific congressional authorization for the creation of new national wildlife refuges.

It is clearly the case that Congress ought to be involved in decisions about the creation of wildlife refuges. In fact, we are already intimately involved in this process. Federal purchase of lands for any wildlife refuge—whether the refuge is new or already in existence—cannot occur unless the Interior appropriations bill specifically allocates funding from the Land and Water Conservation Fund for this purpose.

However, this bill goes too far in requiring that authorizing legislation be approved before a wildlife refuge can be created. Such a requirement would sharply limit the creation of wildlife refuges—taking away from the Federal Government a key tool in protecting critically important lands and wildlife in a manner that imposes very limited regulatory burdens.

If this bill had been in effect in 1992, it could potentially have prevented the creation of the Stone Lakes National Wildlife Refuge in southern Sacramento County. Stone Lakes is a fine example of the opportunities that the National Wildlife Refuge System presents for cooperative, voluntary environmental protection. Since the creation of the refuge, the Fish and Wildlife Service has acquired approximately 800 acres from willing sellers and is in the process of arranging the donation of an additional 1,400 acres for the refuge. The agency is also working to develop cooperative land management agreements with other governmental bodies that own some 5,500 acres within the refuge boundaries.

Through these arrangements, the Federal Government is maximizing environmental benefits while minimizing its costs as well as impacts on private property owners. The benefits are tremendous. The site is a key link for the migratory birds that inhabit California's Central Valley. In addition, Stone Lakes is already a part of nonregulatory solutions to the challenge of species and resource protection—serving as a mitigation site for wetlands and endangered species preservation. Finally, the proximity of this rich resource to the urbanized Sacramento area provides an invaluable opportunity for area residents to enjoy the refuge's benefits.

Stone Lakes exemplifies the possibilities of the National Refuge System. This bill makes a grave mistake in creating major obstacles for the creation of similar sites elsewhere in the country. I strongly oppose these provisions and urge their removal from the bill.

Mrs. COLLINS of Illinois. Mr. Chairman, H.R. 1675, a bill to amend the National Wildlife Refuge System should be called the Republican Bill To Kill the National Wildlife Refuge System. Throughout my 20-plus years in Congress, I have actively supported legislation which would provide increased protection for

America's dwindling natural resources and endangered wildlife, thus ensuring their preservation for the benefit of future generations. I have been mindful of the concerns about the continuing reports of neglect and mistreatment on National Wildlife Refuge lands. However, the bill before us today, instead of helping a delicate system, it would hurt the National Wildlife Refuge System.

This bill to amend the National Wildlife Refuge Act, would in fact significantly alter the management of national wildlife refuges in this country. This bill would weaken the ability of the Fish and Wildlife Service to manage competing public uses of the system; dilute consideration of the public interest from refuge management decisions; open refuges to new or expanded "recreational' activities, including commercial trapping; severely limit the use of the Land and Water Conservation Fund to create new refuges; would create an unneeded exemption process to facilitate military use of refuge lands; and, would strip refuges of reserved water rights. There are currently existing protections and innovative supports for the valuable and precious refuge system. President Clinton's Executive order of March 15, 1996 assures that hunting and fishing will continue to be priority uses of the refuge system. This bill, H.R. 1675 is unnecessary to advance the interests of hunting and fishing and would do serious environmental damage to an "unrenewable" system of lands this nation relies on for conservation of precious fish and wildlife, which we must protect and preserve for our children and grandchildren.

There are good laws currently on the books that need to be funded and supported. Providing recreational activities compatible with wildlife conservation is already an extremely high priority for the National Wildlife Refuge System. As of fiscal year 1995, over 95 percent of the 92 million acres in the Refuge System were open to hunting. Most recently, President Clinton further amplified this emphasis by last month issuing Executive Order 12996 which directs the Secretary of the Interior to "provide expanded opportunities" for priority public uses including hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

Major environmental protection groups oppose this bill. The Washington Post this morning said in an editorial that the wildlife refuge system should be left alone. There is a report that the President would veto this bill as currently written. Again, the Gingrich Republicans in the Congress have exercised the option of wasting time to forward their conservative agenda in a meaningless exercise instead of negotiating and compromising for responsible governing.

I intend to continue to work to ensure that America's beautiful public lands and wildlife are enjoyed and treasured for years to come. For these reasons, I urge my colleagues to vote against H.R. 1675.

Ms. ESHOO. Mr. Chairman, earlier this month, I held eight townhall meetings throughout my district to celebrate Earth Day and listen to what people think about how this Congress is handling the environment.

Time and time again, I heard people say that they strongly favor measures to preserve our natural heritage and oppose efforts by Republican leaders to gut important conservation laws, like the National Wildlife Refuge Act that we're now considering.

This bill will open up national wilderness areas to hunting and fishing, as well as make it more difficult to establish new refuges.

This underscores why other environmental legislation we passed earlier this week was a mere figleaf to hide what the majority in the House do not want the American people to see—its unrelenting assault on our clean air, clean water, clean drinking water, and wilderness areas.

No wonder Bob Herbert wrote in last Friday's New York Times that when you free associate about Republican leaders on the environment, "life-affirming" is the last term that comes to mind.

Mr. Speaker, this week, while people in my district and throughout the Nation are stressing the importance of protecting the environment, Republican leaders are once again rejecting the American value of conservation. I urge my colleagues to vote no on the National Wildlife Refugee Act.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

The amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD on April 16, 1996, and numbered 1 shall be considered by sections as an original bill for the purpose of amendment. Pursuant to the rule, each section is considered read.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE; REFERENCES

(a) SHORT TITLE.—This Act may be cited as the "National Wildlife Refuge Improvement Act of 1996".

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or provision of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. FINDINGS.

(a) FINDINGS.—The Congress finds the following:

(1) The National Wildlife Refuge System is comprised of over 91,000,000 acres of Federal lands that have been incorporated within 508 individual units located in all 50 States and our territories.

(2) The System was created to conserve fish, wildlife, and other habitats and this conservation mission has been facilitated by providing Americans opportunities to participate in wildlife-dependent recreation, including fishing and hunting, on System lands and to better appreciate the value of and need for fish and wildlife conservation.

(3) The System is comprised of lands purchased not only through the use of tax dollars but also through the sale of Duck Stamps and refuge entrance fees. it is a System paid for by those utilizing it.

(4) On March 25, 1996, the President issued Executive Order 12996 which recognized "wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation as priority general public uses of the Refuge System".

(5) Executive Order 12996 is a positive step in the right direction and will serve as the foundation for the permanent statutory changes made by this Act.

The CHAIRMAN. Are there any amendments to section 2?

If not, the clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 5 (16 U.S.C. 668ee)—

(1) is redesignated as section 4; and

(2) as so redesignated is amended to read as follows:

The CHAIRMAN. Are there any amendments to section 3?

Mr. YOUNG of Alaska. Mr. Chairman, instead of going through all the sections, I ask unanimous consent that the remainder of the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The text of the remainder of the amendment in the nature of a substitute is as follows:

"SEC. 4. DEFINITIONS.

"For purposes of this Act:

"(1) The term 'compatible use' means a use that will not materially interfere with or detract from the fulfillment of the purposes of a refuge or the purposes of the System specified in section 4(a)(3), as determined by sound resource management, and based on reliable scientific information.

"(2) The terms 'conserving', 'conservation', 'manage', 'managing', and 'management', when used with respect to fish and wildlife, mean to use, in accordance with applicable Federal and State laws, methods and procedures associated with modern scientific resource programs including protection, research, census, law enforcement, habitat management, propagation, live trapping and transplantation, and regulated taking.

"(3) The term 'Coordination Area' means a wildlife management area that is acquired by the Federal Government and subsequently made available to a State—

"(A) by cooperative agreement between the United States Fish and Wildlife Service and the State fish and game agency pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661–666c); or

"(B) by long-term leases or agreements pursuant to the Bankhead-Jones Farm Tenant Act (50 Stat. 525; 7 U.S.C. 1010 et seq.).

VOL
142
PT
6
AP
15
—
24
1996
UM

"(4) The term 'Director' means the Director of the United States Fish and Wildlife Service.

"(5) The terms 'fish', 'wildlife', and 'fish and wildlife' mean any wild member of the animal kingdom whether alive or dead, and regardless of whether the member was bred, hatched, or born in captivity, including a part, product, egg, or offspring of the member.

"(6) The term 'hunt' and 'hunting' do not include any taking of the American alligator (Alligator mississippiensis) or its eggs.

"(7) The term 'person' means any individual, partnership, corporation or association.

"(8) The term 'plant' means any member of the plant kingdom in a wild, unconfined state, including any plant community, seed, root, or other part of a plant.

"(9) The terms 'purposes of the refuge' and 'purposes of each refuge' mean the purposes specified in or derived from the law, proclamation, executive order, agreement, public land order, donation document, or administrative memorandum establishing, authorizing, or expanding a refuge, refuge unit, or refuge subunit.

"(10) The term 'refuge' means a designated area of land, water, or an interest in land or water within the System, but does not include navigational servitudes, or Coordination Areas.

"(11) The term 'Secretary' means the Secretary of the Interior.

"(12) The terms 'State' and 'United States' mean the several States of the United States, Puerto Rico, American Samoa, the Virgin Islands, Guam, and the insular possessions of the United States.

"(13) The term 'System' means the National Wildlife Refuge System designated under section 4(a)(1).

"(14) The terms 'take', 'taking', or 'taken' mean to pursue, hunt, shoot, capture, collect, or kill, or to attempt to pursue, hunt, shoot, capture, collect, or kill.".

(b) CONFORMING AMENDMENT.—Section 4 (16 U.S.C. 668dd) is amended by striking "Secretary of the Interior" each place it appears and inserting "Secretary".

SEC. 4. MISSION AND PURPOSES OF THE SYSTEM.

Section 4(a) (16 U.S.C. 668dd(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively;

(2) in clause (i) of paragraph (6) (as so redesignated), by striking "paragraph (2)" and inserting "paragraph (5)"; and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) The overall mission of the System is to conserve and manage fish, wildlife, and plants and their habitats within the System for the benefit of present and future generations of the people of the United States.

"(3) The purposes of the System are—

"(A) to provide a national network of lands and waters designed to conserve and manage fish, wildlife, and plants and their habitats;

"(B) to conserve, manage, and where appropriate restore fish and wildlife populations, plant communities, and refuge habitats within the System;

"(C) to conserve and manage migratory birds, anadromous or interjurisdictional fish species, and marine mammals within the System;

"(D) to provide opportunities for compatible uses of refuges consisting of fish- and wildlife-dependent recreation, including fishing and hunting, wildlife observation, and environmental education;

"(E) to preserve, restore, and recover fish, wildlife, and plants within the System that are listed or are candidates for threatened species or endangered species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) and the habitats on which these species depend; and

"(F) to fulfill as appropriate international treaty obligations of the United States with respect to fish, wildlife, and plants, and their habitats.".

SEC. 5. ADMINISTRATION OF THE SYSTEM.

(a) ADMINISTRATION, GENERALLY.—Section 4(a) (16 U.S.C. 668dd(a)) (as amended by section 3 of this Act) is further amended by inserting after new paragraph (3) the following new paragraph:

"(4) In administering the System, the Secretary shall—

"(A) ensure that the mission and purposes of the System described in paragraphs (2) and (3), respectively, and the purposes of each refuge are carried out, except that if a conflict exists between the purposes of a refuge and any purpose of the System, the conflict shall be resolved in a manner that first protects the purposes of the refuge, and, to the extent practicable, that also achieves the purposes of the System;

"(B) provide for conservation of fish and wildlife and their habitats within the System;

"(C) ensure effective coordination, interaction, and cooperation with owners of land adjoining refuges and the fish and wildlife agency of the States in which the units of the System are located;

"(D) assist in the maintenance of adequate water quantity and water quality to fulfill the purposes of the System and the purposes of each refuge;

"(E) acquire under State law through purchase, exchange, or donation water rights that are needed for refuge purposes;

"(F) plan, propose, and direct appropriate expansion of the System in the manner that is best designed to accomplish the purposes of the System and the purposes of each refuge and to complement efforts of States and other Federal agencies to conserve fish and wildlife and their habitats;

"(G) recognize compatible uses of refuges consisting of wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation as priority general public uses of the System through which the American public can develop an appreciation for fish and wildlife;

"(H) provide expanded opportunities for these priority public uses within the System when they are compatible and consistent with sound principles of fish and wildlife management;

"(I) ensure that such priority public uses receive enhanced attention in planning and management within the System;

"(J) provide increased opportunities for families to experience wildlife-dependent recreation, particularly opportunities for parents and their children to safely engage in traditional outdoor activities, such as fishing and hunting;

"(K) ensure that the biological integrity and environmental health of the System is maintained for the benefit of present and future generations of Americans;

"(L) continue, consistent with existing laws and interagency agreements, authorized or permitted uses of units of the System by other Federal agencies, including those necessary to facilitate military preparedness;

"(M) plan and direct the continued growth of the System in a manner that is best designed to accomplish the mission of the System, to contribute to the conservation of the ecosystems of the United States, and to increase support for the System and participation from conservation partners and the public;

"(N) ensure timely and effective cooperation and collaboration with Federal agencies and State fish and wildlife agencies during the course of acquiring and managing refuges;

"(O) ensure appropriate public involvement opportunities will be provided in conjunction with refuge planning and management activities; and

"(P) identify, prior to acquisition, existing wildlife-dependent compatible uses of new refuge lands that shall be permitted to continue on an interim basis pending completion of comprehensive planning.".

(b) POWERS.—Section 4(b) (16 U.S.C. 668dd(b)) is amended—

(1) in the matter preceding paragraph (1) by striking "authorized—" and inserting "authorized to take the following actions:";

(2) in paragraph (1) by striking "to enter" and inserting "Enter";

(3) in paragraph (2)—

(A) by striking "to accept" and inserting "Accept"; and

(B) by striking ", and" and inserting a period;

(4) in paragraph (3) by striking "to acquire" and inserting "Acquire"; and

(5) by adding at the end the following new paragraph:

"(4) Subject to standards established by and the overall management oversight of the Director, and consistent with standards established by this Act, enter into cooperative agreements with State fish and wildlife agencies and other entities for the management of programs on, or parts of, a refuge.".

SEC. 6. COMPATIBILITY STANDARDS AND PROCEDURES.

Section 4(d) (16 U.S.C. 668dd(d)) is amended by adding at the end the following new paragraph:

"(3)(A)(i) Except as provided in clause (ii), on and after the date that is 3 years after the date of the enactment of the National Wildlife Refuge Preservation Act of 1996, the Secretary shall not initiate or permit a new use of a refuge or expand, renew, or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use.

"(ii) On lands added to the System after the date of the enactment of the National Wildlife Refuge Preservation Act of 1996, any existing fish or wildlife-dependent use of a refuge, including fishing, hunting, wildlife observation, and environmental education, shall be permitted to continue on an interim basis unless the Secretary determines that the use is not a compatible use.

"(iii) The Secretary shall permit fishing and hunting on a refuge if the Secretary determines that the activities are consistent with the principles of sound fish and wildlife management, are compatible uses, and are consistent with public safety. No other determinations or findings, except the determination of consistency with State laws and regulations provided for in subsection (m), are required to be made for fishing and hunting to occur. The Secretary may make the determination referred to in this paragraph for a refuge concurrently with the development of a conservation plan for the refuge under subsection (e).

"(B) Not later than 24 months after the date of the enactment of the National Wildlife Refuge Preservation Act of 1996, the Secretary shall issue final regulations establishing the process for determining under subparagraph (A) whether a use is a compatible use, that—

"(i) designate the refuge officer responsible for making initial compatibility determinations;

"(ii) require an estimate of the timeframe, location, manner, and purpose of each use;

"(iii) identify the effects of each use on refuge resources and purposes of each refuge;

"(iv) require that compatibility determinations be made in writing and consider the best professional judgment of the refuge officer designated under clause (i);

"(v) provide for the expedited consideration of uses that will likely have no detrimental effect on the fulfillment of the purposes of a refuge or the purposes of the System specified in subsection (a)(3);

"(vi) provide for the elimination or modification of any use as expeditiously as practicable after a determination is made that the use is not a compatible use;

"(vii) require, after an opportunity for public comment, reevaluation of each existing use, other than those uses specified in clause (viii), when conditions under which the use is permitted change significantly or when there is significant new information regarding the effects of the use, but not less frequently than once every 10 years, to ensure that the use remains a compatible use;

"(viii) require after an opportunity for public comment reevaluation of each fish and wildlife-dependent recreational use when conditions under which the use is permitted change significantly or when there is significant new information regarding the effects of the use, but not less frequently than in conjunction with each preparation or revision of a conservation plan under subsection (e) or at least every 15 years;

"(ix) provide an opportunity for public review and comment on each evaluation of a use, unless an opportunity for public review and comment on the evaluation of the use has already been provided during the development or revision of a conservation plan for the refuge under subsection (e) or has otherwise been provided during routine, periodic determinations of compatibility for fish- and wildlife-dependent recreational uses; and

"(x) provide that when managed in accordance with principles of sound fish and wildlife management, fishing, hunting, wildlife observation, and environmental education in a refuge are generally compatible uses.

"(4) The provisions of this Act relating to determinations of the compatibility of a use shall not apply to—

"(A) overflights above a refuge; and

"(B) activities authorized, funded, or conducted by a Federal agency (other than the United States Fish and Wildlife Service) which has primary jurisdiction over the refuge or a portion of the refuge, if the management of those activities is in accordance with a memorandum of understanding between the Secretary or the Director and the head of the Federal agency with primary jurisdiction over the refuge governing the use of the refuge.

"(5) Overflights above a refuge may be governed by any memorandum of understanding entered into by the Secretary that applies to the refuge.".

SEC. 7. REFUGE CONSERVATION PLANNING PROGRAM.

(a) IN GENERAL.—Section 4 (16 U.S.C. 668dd) is amended—

(1) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1)(A) Except with respect to refuge lands in Alaska (which shall be governed by the refuge planning provisions of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)), the Secretary shall—

"(i) propose a comprehensive conservation plan for each refuge or related complex of refuges (referred to in this subsection as a 'planning unit') in the System;

"(ii) publish a notice of opportunity for public comment in the Federal Register on each proposed conservation plan;

"(iii) issue a final conservation plan for each planning unit consistent with the provisions of this Act and, to the extent practicable, consistent with fish and wildlife conservation plans of the State in which the refuge is located; and

"(iv) not less frequently than 15 years after the date of issuance of a conservation plan under clause (iii) and every 15 years thereafter, revise the conservation plan as may be necessary.

"(B) The Secretary shall prepare a comprehensive conservation plan under this subsection for each refuge within 15 years after the date of enactment of the National Wildlife Refuge Preservation Act of 1996.

"(C) The Secretary shall manage each refuge or planning unit under plans in effect on the date of enactment of the National Wildlife Refuge Preservation Act of 1996, to the extent such plans are consistent with this Act, until such plans are revised or superseded by new comprehensive conservation plans issued under this subsection.

"(D) Uses or activities consistent with this Act may occur on any refuge or planning unit before existing plans are revised or new comprehensive conservation plans are issued under this subsection.

"(E) Upon completion of a comprehensive conservation plan under this subsection for a refuge or planning unit, the Secretary shall manage the refuge or planning unit in a manner consistent with the plan and shall revise the plan at any time if the Secretary determines that conditions that affect the refuge or planning unit have changed significantly.

"(2) In developing each comprehensive conservation plan under this subsection for a planning unit, the Secretary, acting through the Director, shall identify and describe—

"(A) the purposes of each refuge comprising the planning unit and the purposes of the System applicable to those refuges;

"(B) the distribution, migration patterns, and abundance of fish, wildlife, and plant populations and related habitats within the planning unit;

"(C) the archaeological and cultural values of the planning unit;

"(D) such areas within the planning unit that are suitable for use as administrative sites or visitor facilities;

"(E) significant problems that may adversely affect the populations and habitats of fish, wildlife, and plants within the planning unit and the actions necessary to correct or mitigate such problems; and

"(F) the opportunities for fish- and wildlife-dependent recreation, including fishing and hunting, wildlife observation, environmental education, interpretation of the resources and values of the planning unit, and other uses that may contribute to refuge management.

"(3) In preparing each comprehensive conservation plan under this subsection, and any revision to such a plan, the Secretary, acting through the Director, shall, to the maximum extent practicable and consistent with this Act—

"(A) consult with adjoining Federal, State, local, and private landowners and affected State conservation agencies; and

"(B) coordinate the development of the conservation plan or revision of the plan with relevant State conservation plans for fish and wildlife and their habitats.

"(4)(A) In accordance with subparagraph (B), the Secretary shall develop and implement a process to ensure an opportunity for active public involvement in the preparation and revision of comprehensive conservation plans under this subsection. At a minimum, the Secretary shall require that publication of any final plan shall include a summary of the comments made by States, adjacent or potentially affected landowners, local governments, and any other affected parties, together with a statement of the disposition of concerns expressed in those comments.

"(B) Prior to the adoption of each comprehensive conservation plan under this subsection, the Secretary shall issue public notice of the draft proposed plan, make copies of the plan available at the affected field and regional offices of the United States Fish and Wildlife Service, and provide opportunity for public comment.".

SEC. 8. EMERGENCY POWER; PRESIDENTIAL EXEMPTION; STATE AUTHORITY; WATER RIGHTS; COORDINATION.

(a) IN GENERAL.—Section 4 (16 U.S.C. 668dd) is further amended by adding at the end the following new subsections:

"(k) Notwithstanding any other provision of this Act the Secretary may temporarily suspend, allow, or initiate any activity in a refuge in the System in the event of any emergency that constitutes an imminent danger to the health and safety of the public or any fish or wildlife population, including any activity to control or eradicate sea lampreys, zebra mussels, or any other aquatic nuisance species (as that term is defined in section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702)).

"(l)(1) The President may exempt from any provision of this Act any activity conducted by the Department of Defense on a refuge within the System if the President finds that—

"(A) the activity is in the paramount interest of the United States for reasons of national security; and

"(B) there is no feasible and prudent alternative location on public lands for the activity.

"(2) After the President authorizes an exemption under paragraph (1), the Secretary of Defense shall undertake, with the concurrence of the Secretary of the Interior, appropriate steps to mitigate the effect of the exempted activity on the refuge.

"(m) Nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of fish and resident wildlife on lands or waters not within the System.

"(n) Nothing in this Act shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area within the System. Regulations permitting hunting or fishing of fish and resident wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws, regulations, or management plans.

VOL
142
PT
6
AP
15
—
24
1996
UMI

"(o)(1) Nothing in this Act shall—

"(A) create a reserved water right, express or implied, in the United States for any purpose;

"(B) affect any water right in existence on the date of enactment of the National Wildlife Refuge Preservation Act of 1996; or

"(C) affect any Federal or State law in existence on the date of the enactment of the National Wildlife Refuge Preservation Act of 1996 regarding water quality or water quantity.

"(2) Nothing in this Act shall diminish or affect the ability to join the United States in the adjudication of rights to the use of water pursuant to the McCarran Act (43 U.S.C. 666).

"(p) Coordination with State fish and wildlife agency personnel or with personnel of other affected State agencies pursuant to this Act shall not be subject to the Federal Advisory Committee Act.".

(b) CONFORMING AMENDMENT.—Section 4(c) (16 U.S.C. 668dd(c)) is amended by striking the last sentence.

SEC. 9. STATUTORY CONSTRUCTION.

Nothing in this Act is intended to affect—

(1) the provisions for subsistence uses in Alaska set forth in the Alaska National Interest Lands Conservation Act (Public Law 96-487), including those in titles III and VIII of that Act;

(2) the provisions of section 102 of the Alaska National Interest Lands Conservation Act, the jurisdiction over subsistence uses in Alaska, or any assertion of subsistence uses in the Federal courts; and

(3) the manner in which section 810 of the Alaska National Interest Lands Conservation Act is implemented in refuges in Alaska, and the determination of compatible use as it relates to subsistence uses in these refuges.

SEC. 10. NEW REFUGES.

Notwithstanding any other provision of law, no funds may be expended from the Land and Water Conservation Fund established by Public Law 88-578, for the creation of a new refuge within the National Wildlife Refuge System without specific authorization from Congress pursuant to recommendation from the United States Fish and Wildlife Service, to create that new refuge.

SEC. 11. REORGANIZATIONAL TECHNICAL AMENDMENTS.

(a) REORGANIZATIONAL AMENDMENTS.—The Act of October 15, 1966 (16 U.S.C. 668dd et seq.) is amended—

(1) by adding before section 4 the following new section:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'National Wildlife Refuge System Administration Act of 1966'.";

(2) by striking sections 6, 7, 8, 9, and 10; and

(3) in section 4 (16 U.S.C. 668dd), as in effect immediately before the enactment of this Act—

(A) by redesignating that section as section 2;

(B) by striking "SEC. 4."; and

(C) by inserting before and immediately above the text of the section the following new heading:

"SEC. 4. NATIONAL WILDLIFE REFUGE SYSTEM.".

(b) CONFORMING AMENDMENT.—Section 12(f) of the Act of December 5, 1969 (83 Stat. 283) is repealed.

(c) REFERENCES.—Any reference in any law, regulation, or other document of the United States to section 4 of the National Wildlife Refuge System Administration Act of 1966 is deemed to refer to section 2 of that Act, as redesignated by subsection (a)(4) of this section.

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. NADLER: Strike section 10 (page 23, lines 3 through 10).

Mr. NADLER. Mr. Chairman, I rise today to offer an amendment to protect both the environment and property owners from further government micromanagement.

My amendment seeks to strike from the bill section 10, the provision calling for specific congressional authorization for the purchase of every single new wildlife refuge that uses money from the land and water conservation fund. The current system, which my amendment would retain, allows the use of funds from the land and water conservation fund to establish a wildlife refuge either by a specific act of Congress or by administrative act of the U.S. Fish and Wildlife Service.

Historically, when a refuge is being sought through the administration process, the Fish and Wildlife Service submits a list of proposed purchases to the Congress for our approval through the Interior appropriations bill. Whether a refuge is being purchased due to a specific legislation initiative or administratively, land is purchased at fair market value as determined by approved appraisal procedures according to Federal law.

The land is purchased, Mr. Chairman, only from willing sellers. While the Fish and Wildlife Service does have condemnation authority, it has not acquired land from condemnation for many years and does not have any plans to do so in the future. In fact, the Fish and Wildlife Service states:

> Condemnation has been used sparingly throughout the service's land acquisition history. The service recognizes the possible social and economic impacts of acquiring private property by exercising the right of eminent domain and does its utmost to avoid using this approach.

Mr. Chairman, the era of big government is supposed to be behind us. Creating the need for Congress to authorize no specific legislation every single refuge is unnecessary and burdensome. The current process of using land and water conservation funds is working for landowners and for the environment. The landowners, who again are willing sellers, receive fair compensation quickly. In turn, the habitats and animals that are in need of protection receive it in a timely manner.

☐ 1530

Adding another layer of bureaucracy, the entire congressional authorization process, to this process, will do nothing but create a backlog of pending purchases of land for refuges. Then while Congress muddles through authorizing each single potential purchase, landowners, willing sellers, would be left waiting for Congress to act to collect the funds to which they are entitled.

While the debate rates on about how to best protect property owners and the environment at the same time, we have in this amendment an opportunity to protect both property owners and the environment by providing a way for the landowner to be fairly compensated and the environment to be protected. I urge my colleagues to protect the property owners who want to sell the land and environment, which needs the land at the same time.

Mr. BOEHLERT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, purchases made with money from the land and water conservation fund operate differently from virtually every other type of Federal land acquisition. Now, there is a legitimate reason for that. The land and water conservation fund needs to be available for emergencies. I will offer a substitute amendment to address any conceivable emergency situation.

The Nadler amendment goes a step further to extract the Congress from legitimate policy making. I think that goes too far.

The section the gentleman from New York [Mr. NADLER] is amending is already very narrow. The bill would not change the procedures for expanding any existing refuge and, with my amendment, it would not change the procedures for any emergency acquisitions of new refuges. So we are talking about very few cases where the new restriction in section 10 would apply. In those cases, it is perfectly legitimate to exercise congressional oversight. That is what the people send us here for.

I would also add that this discussion is quite hypothetical. Given the budget crunch, the Interior Department is not going to be able to manage much new land in the near future. The administration has projected in its budget that no new refuge land will be acquired in fiscal year 1997.

In short, my amendment takes care of the problem with section 10 of the original bill. Therefore, Mr. Chairman, I urge defeat of the Nadler amendment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding. When the gentleman talked about "your" language, he is talking about his language in the en bloc amendments that he is going to offer, is that correct?

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, it is essentially the same language, the 500.

Mr. MILLER of California. What I do not understand, I am looking at two different languages. One deals with the issue of expansion.

Mr. BOEHLERT. The staff will bring that over.

Mr. MILLER of California. The language originally, correct me if I am wrong, it was my understanding that the language in the en bloc amendment that the gentleman was going to offer went with the creation of the refuge in excess of 500 acres. This language that the gentleman is now discussing goes both to the creation and to the expansion.

Mr. BOEHLERT. That is the same language as in my en bloc amendment.

Mr. MILLER of California. The same language in the original. So is the gentleman going to offer his en bloc language to Nadler?

Mr. BOEHLERT. Because of the way this is flowing, the gentleman from New York [Mr. NADLER] is first up, his amendment was printed in the RECORD, so it is timely for me to address his specific amendment.

Mr. MILLER of California. The gentleman would in that event require the Congress' specific authorization for the expansion of an existing refuge?

Mr. BOEHLERT. No, for new refuges in excess of 500 acres, and the expansion of any of those refuges.

Mr. MILLER of California. If one looks at the second to the last line, it says "create or expand that new refuge."

Mr. BOEHLERT. That is correct. We are just talking about new refuges over 500 and if you expand those.

Mr. MILLER of California. You are grandfathering all of the existing refuges in?

Mr. BOEHLERT. That is right.

Mr. MILLER of California. They can be expanded without direct authorization. The new refuge, from today forward, if you expand that new refuge, would you require specific authorization?

Mr. BOEHLERT. That is correct.

Mr. MILLER of California. So if there was an inholding of 501 acres, we would have to get a direct authorization from Congress?

Mr. BOEHLERT. That is correct, to expand it.

Mr. MILLER of California. OK. If there is an inholding of 501 acres in an existing refuge, they can do that under the Secretary's discretion in the land and water conservation?

Half the heads are going up and down and half sideways.

Mr. BOEHLERT. None of this applies to existing refuges. What I am suggesting is as we go forward and we develop new refuges, we should have the authority to go and acquire refuges of less than 500 acres just like that, because they are time sensitive. We all know the reasons why. If we go into a massive refuge, in excess of 500 acres, I think then the Congress should have authorizing responsibility and fulfill that responsibility.

The gentleman and I, as so often on these issues, are on the same wavelength.

Mr. MILLER of California. If the new refuge needed to be expanded, it would take a direct authorization?

Mr. BOEHLERT. That is correct.

Mr. MILLER of California. If an existing refuge in existence today needs to be expanded beyond 500 acres, that would not take a direct authorization?

Mr. BOEHLERT. That is correct.

AMENDMENT OFFERED BY MR. BOEHLERT AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. NADLER

Mr. BOEHLERT. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. BOEHLERT as a substitute for the amendment offered by Mr. NADLER: Strike the text of the amendment and insert instead:
>
> "Strike section 10 and insert instead:
>
> 'Notwithstanding any other provision of law, no funds may be expended from the Land and Water Conservation Fund established by Public Law 88-578, for the creation of a new refuge having a total area greater than 500 acres or the expansion of a new refuge of any acreage within the National Wildlife Refuge System without specific authorization of Congress pursuant to a recommendation of the United States Fish and Wildlife Service, to create or expand that new refuge. For purposes of this section, a new refuge is a refuge created after the date of enactment of the National Wildlife Refuge Improvement Act.'".

Mr. BOEHLERT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOEHLERT. I will not take up more time, because we have already had the argument for the rationale for the amendment in my exchange with the gentleman from California [Mr. MILLER].

The CHAIRMAN. The gentleman will suspend.

The amendment offered by the gentleman from New York is not in order. The gentleman from New York [Mr. NADLER] has a motion to strike. The gentleman from New York may have a substitute.

Mr. BOEHLERT. That is what I asked for. I said I had a substitute amendment.

The CHAIRMAN. The gentleman cannot have a substitute to the Nadler amendment. What the gentleman could do is have a substitute to section 10, and what Mr. NADLER's motion is is an amendment to strike section 10.

PERFECTING AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

> Perfecting amendment offered by Mr. BOEHLERT: "Strike section 10 (page 23, lines 3 through 10) and insert instead:
>
> 'Notwithstanding any other provision of law, no funds may be expended from the Land and Water Conservation Fund established by Public Law 88-578, for the creation of a new refuge having a total area greater than 500 acres or the expansion of a new refuge of any acreage within the National Wildlife Refuge System without specific authorization of Congress pursuant to a recommendation of the United States Fish and Wildlife Service, to create or expand that new refuge. For purposes of this section, a new refuge is a refuge created after the date of enactment of the National Wildlife Refuge Improvement Act.'".

Mr. BOEHLERT (during the reading). Mr. Chairman, I ask unanimous consent that the perfecting amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was not objection.

Mr. BOEHLERT. Mr. Chairman, once again, the same holds true. I think we have had the discussion, the colloquy I had with the gentleman from California [Mr. MILLER], and I have made the case for the perfecting amendment. I ask that it be considered.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I would ask the gentleman from New York [Mr. BOEHLERT], and correct me if I am wrong, please, but as I read his whatever kind of amendment it is, if I read the perfecting amendment correctly, if I read the language, it says "The creation of a new refuge having a total area greater than 500 acres of the expansion of a new refuge of an acreage needs specific Congressional authorization," and then it says "for the purpose of this section, new refuges are refuges created after the date of enactment."

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, let me stress, the new refuge in excess of 500 acres, that is what I want Congress to have a say on. I want emergency situations taken care of, obviously, with the authority to proceed with 20, 30, 50, 100, 200 acres. Very often they are very time-sensitive. You need to grab the deal when you can get it. We are talking about a sizeable number of acres, 500 or more, where I think the elected body of the people's House should have its say.

Mr. NADLER. Mr. Chairman, if the gentleman will yield further, that may be his intent, but as I read the amendment, I think what it says, and the gentleman may not intend for it to say that, is if next year, without congressional authorization, the Fish and Wildlife Service were to establish a 200-acre refuge, which the gentleman thinks should not need congressional authorization, and 3 years later they decide they want another 20 acres, that is an expansion of a new refuge and they would need authority.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, I think the gentleman is performing a very valuable public service by this colloquy, because we are enlightening future generations with this exchange.

My clear intent is to deal with new refuges of more than 500 acres, and then if you expand them. But the illustration the gentleman just gave us, 200 acres, which they have the authority to acquire immediately right now, if next year in their wisdom they decide to acquire 20 more acres, no problem, you do not have to come up to the people's House to ask our permission to do so. We do not have to have any hearings. We just proceed.

Mr. NADLER. Mr. Chairman, if the gentleman will yield further, I appreciate his explanation, and this is legislative history. But I think Mr. Scalia and the Supreme Court and several others have scant regard for legislative history. I would submit that the plain language of the amendment says very clearly that a new refuge is a refuge created after a given date, and the expansion of a new refuge of any acreage needs congressional authorization. So "new refuge" is one of any acreage, 200 acres. If you want to expand it later by 20 more, you need congressional authorization.

That may not have been the gentleman's intent, but that is what it says. This colloquy, as enlightening a it is, I do not think will be regarded by the courts.

I would urge the gentleman, I do not agree with the amendment in any event, but I would urge him, sir, even to effectuate what he wants to do, that he ought to change the wording of the perfecting amendment.

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, I think we have had a good, healthy exchange. Everyone has had the opportunity to listen to our respective points of view.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the Boehlert amendment and compliment the gentleman in his effort.

Mr. Chairman, I object to the amendment of the gentleman from New York [Mr. NADLER] for two basic reasons. You talk about a willing seller-willing buyer. A willing buyer, yes, but not always the seller. There have been cases where Fish and Wildlife has gone into an area and drawn a refuge around different landholders in long, spidery ways, surrounding them, and then declaring the area around these private landholders as a refuge, and they are inside the refuge, being then an inholder.

Then what happens, the land value decreases dramatically from anybody else, because they are under certain restrictions because it is called a buffer zone. So what would occur under the gentleman's thoughts here would be in reality an agency willing to go in and get 499 acres around an area, and the willing seller would only have one buyer. Any time you have one buyer, and that buyer being the U.S. Government, and one owner being put in that kind of spot, it has a devastating effect on that one owner. We have seen that occur not just with this administration, but other administrations also. So this is not partisan.

We are trying to avoid that. We are allowing them to get a certain amount of acreage in an emergency case. But every other time they have got to come back to this Congress to authorize, for us to say it is the right thing to do, and not be put into the position of making the landowners subvergent to the Federal Government.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, I just want to underline the importance of the gentleman's remarks and agree with them fully, and tell the body that in my own case in the 6th District of Wisconsin years ago, Fish and Wildlife Service was acquiring land without Congressional authorization, and sending letters to landowners, farmers principally, which they thought meant they were subject to eminent domain and were being forced to sell. There were outrages and protests. Finally we heard they did not have any legal authority for doing what they did and managed to get it stopped.

I would not let this completely out of the box. I would keep some type of opportunity to review and make them justify to neutral, informed observers what they are actually doing, so we do not see Government get a little too heavyhanded.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I am suggesting with the Boehlert amendment we have solved the problems of the emergency. But we have also put a cap on the administration or the agency itself of misusing its power as it has done in the past.

The gentleman from New York may not be aware of this, but this has occurred. All we are saying is we have a responsibility as Congressmen, and the Member of that district has the responsibility if a refuge is in fact proposed that is beyond 500 acres, then in reality they ought to come back here and talk to the chairman of the subcommittee and the Members, and especially the Member of that district. So I support the Boehlert amendment, and I definitely oppose the Nadler amendment.

☐ 1545

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I thank the gentleman for his valuable support. This is a significant improvement to the bill because it allows emergency purchases of environmentally sensitive lands and that is exactly what we want to do. Keep in mind the overwhelming majority of refuges around the country are less than 500 acres.

Mr. NADLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all, I am told that the statement that was made a moment ago is not correct—408 of the 503 refuges in the country are over 500 acres. That is the first point.

The second point is that I understand the remarks of the gentleman from Alaska, but the normal procedure admittedly not followed this past year because Congress did not pass any appropriations bills, or the relevant appropriations bills, but the normal procedure is when a refuge is sought, the Fish and Wildlife Service submits a list of proposed purchases to the Congress and the Congress approves it through the committee report on the Subcommittee on the Interior appropriations bill. And that that has been invariably followed, that the report language of the Subcommittee on the Interior of the Committee on Appropriations lists which refuges should be bought with the LWCF appropriation and that the committee is only appropriated enough money to cover the cost of purchasing the refuges that it lists.

Now, it is true this is not binding, but all parties have abided by this list except this past year when there was no appropriations bill and, therefore, no appropriations language.

Mr. Chairman, I would submit that rather than requiring authorizing legislation, which we know can take a long time and add whole layers of proceedings before we get a refuge, that the process we have now, where essentially Congress signs off on it through the report of the Subcommittee on the Interior, is a better way to go. And, therefore, I would oppose the gentleman's perfecting amendment.

I think that as long as we have that control through the Subcommittee on the Interior language, and maybe we ought to codify that, but the fact is that is the way we have been doing it, Congress has the control.

The second point I would make is simply again, with all due deference, the fact is the language of the perfecting amendment says very clearly that you need congressional authorizing legislation for the creation of a new refuge having a total greater than 500 acres or the expansion of a new refuge of any acreage, period; a new refuge being defined as anything created after this date.

So what that clearly means, whatever the intent of the author of the amendment and what the courts will clearly read into it, it is not interpretation, just read the clear language, it

says that if a new refuge is created of less than 500 acres you do not need congressional approval for that, but for the expansion of such a new refuge a year or two later, also less than 500 acres, totaling less than 500 acres, you would need congressional authorizing approval for that.

It is clearly not what the gentleman intends but it is what the language suggests. So even if you agree with the gentleman, it should be changed before we vote on it.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding, and I want to say that I think that he is correct and that I concur on the plain reading of the amendment and I have some concerns with it. And that is that when we originally discussed this, I believe the original Pombo amendment was to go to the creation of a new refuge, that Congress ought to be involved in that decision and that ought to take a direct authorization.

I think there was sort of general agreement about that, but what we have here is not only the creation but the expansion of that new refuge. And I think what the gentleman from New York [Mr. NADLER] is reading is in fact correct on its face; and that is that any expansion, be it 20 acres or 200 acres, would require a direct authorization. I think that would be even true in the case where you have a willing seller and a willing buyer. So you would have to come back to Congress and wait around for that.

There has been the discussion of an emergency situation, but there is no reference or I do not understand the reference to an emergency situation of 20 or 30 acres, because it says quite specifically, pursuant to recommendations of the Fish and Wildlife Service to create or expand a new refuge, that it cannot be done without specific authorization of Congress. And that goes to the expansion, and there is no acreage limitation on the issue of expansion.

Very often we have willing sellers and willing buyers, either that are inholdings or on the boundary, that seek to have the purchase of their lands made. And I think in that particular case we ought not to require that to come to Congress.

So, Mr. Chairman, I would hope prior to either the acceptance of this amendment, or if it would be voted on or what have you, I do not know if it would be prevailed on or not; but I think that language should be corrected because I think it is going to be an obstacle. And if we are concerned, and I think in our committee we had some legitimate concerns raised——

The CHAIRMAN. The time of the gentleman from New York [Mr. NADLER] has expired.

(On request of Mr. MILLER of California, and by unanimous consent, Mr. NADLER was allowed to proceed for 2 additional minutes.)

Mr. NADLER. I continue to yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, where we had the notion of creating a new refuge, and some of that may or may not have been speculative in nature, and landholders did not know what was going to happen or not happen, and that the authorization was a way to tell people what their situation was with respect to the creation of that. It is not a speculation that could go on year after year after year after year and inhibit people's ability to possibly use or sell their land.

But I think this amendment goes way beyond that. I think this amendment does not do what the author wants it to do and it ought to be reconfigured certainly with respect to the problems regarding expansion.

I thank the gentleman for yielding.

Mr. NADLER. Mr. Chairman, reclaiming my time, I would point out simply that the language of this amendment says the expansion of a new refuge of any acreage. That clearly means a new refuge that is less than 500 acres. If we want to expand it by 32 acres or 60 acres, it requires the authorization of Congress. And if the gentleman did not intend that, I would hope the gentleman would change by unanimous consent his own amendment to make clear what he does intend because the language is very clear.

Mr. POMBO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the gentleman from California [Mr. MILLER] knows, when this bill originally came up before the committee and my amendment was offered to restrict the creation of a new wildlife refuge without the direct authorization of Congress, it met very little resistance in the committee and, in fact, passed on a voice vote in the committee; because it only made common sense that if we are obligating funds, taxpayer money, if we are obligating Federal funds from a Federal account, that Congress and the authorizing committee, of which the gentleman from California [Mr. MILLER] is the ranking member, and the gentleman from Alaska [Mr. YOUNG] is the chairman, ought to have the ability to ask questions about what the priorities are.

There are limited amounts of money that can be expended every year. So it is extremely important that we prioritize where those dollars are going to be spent, what scientific basis there is for creating that refuge, where they want to create it, and that Congress does take that authorization stance.

Now, the gentleman from New York [Mr. NADLER] brought up that Congress does appropriate the money and it does come through the Subcommittee on Interior appropriations, which is correct. That does happen. But the reason that it happens that way is because Fish and Wildlife goes out, creates a new refuge somewhere, with no congressional oversight whatsoever, obligates the U.S. taxpayer to millions of dollars to purchase that refuge, plus additional operating expenses to continue to maintain that refuge on an annual basis, and our property owners come to us and say, look, we have just been put in the middle of a wildlife refuge. I am now a willing seller because I cannot use my property anymore; or I live under restrictions of the Fish and Wildlife Service now and the only person that will purchase my property now is the Federal Government because they have just designated me a wildlife refuge. So we have to go to the Committee on Appropriations and say, please buy these people's land that we have already taken.

There is absolutely nothing wrong with congressional oversight. There is nothing wrong with the U.S. Congress doing the job that they are supposed to be doing, and that is watching over the people's money.

I do not understand, Mr. Chairman, how anybody could come down here and seriously say that we should create wildlife refuges, for example, according to Fish and Wildlife Service they purchased a little over 1,200 acres in California last year for a wildlife refuge at the cost of $10.5 million. Now, that is a lot of money. They did that without any congressional oversight whatsoever, without us determining whether or not this was a priority site. And it may have been a priority site, but Congress ought to take an affirmative step, step in and say whether or not it is a priority, whether or not the science backs it up or whether or not there may be someplace else that is a higher priority.

To have someone seriously say that Congress should not, and should abdicate its responsibilities and let the unelected bureaucrats, the unelected faceless, nameless bureaucracy take control of money that should be under the direct control of Congress, I do not understand. This is a very important issue. This is not just something that someone came up with at night.

Now, Mr. Chairman, the gentleman from New York [Mr. BOEHLERT] and I have disagreed on a lot of things. He came in with concerns about this and we sat down and we worked out an agreement, and we said anything over 500 acres, or if they want to expand that new refuge so that in 1 year they do not come in and say we are going to buy 490 acres and the next year we are going to expand it with 10,000 acres. We felt this was a reasonable compromise. We felt it was something everyone should support and it should be totally noncontroversial.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. Chairman, when the gentleman from New York [Mr. BOEHLERT] and I are on the same side of something, it should be noncontroversial. It is a good amendment that should pass, and I believe that Congress should not abdicate its responsibilities and we should have full oversight authority over these refuges.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I want to point out that this is consistent with the existing policy that the Secretary of the Interior is already familiar with as it pertains to national parks. If there is going to be an addition to the national parks, the Secretary of the Interior is used to coming to Capitol Hill to get the authorization.

Mr. POMBO. Mr. Chairman, reclaiming my time, that is absolutely correct. If we want to add to a national park, which may be very important and it may be a priority, Congress must approve that in order to do it. If we want to add to the Forest Service lands, they have to come to Congress to do it. But in this one instance we do not have to do that, and we are trying to correct an oversight.

The CHAIRMAN. The time of the gentleman from California [Mr. POMBO] has expired.

(By unanimous consent, Mr. POMBO was allowed to proceed for 1 additional minute.)

Mr. POMBO. Mr. Chairman, I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I thank the gentleman for yielding to me.

I want to know if the gentleman from California [Mr. POMBO] and the gentleman from New York [Mr. BOEHLERT], regardless of the merits of the entire question, would at least agree to a unanimous-consent request to amend Mr. BOEHLERT's amendment to make it do what he says it would do; so to say it would then read, withstanding any other provision of law, no funds would be expended, et cetera, et cetera, for the creation of a new refuge for a total area greater than 500, or the expansions of any refuge of any acreage that would result in the new refuge than being 500 or more acres.

If the gentleman put in that language, it would at least make clear it would do what the gentleman from New York [Mr. BOEHLERT] says he intends to do and do what the gentleman from California [Mr. POMBO] seem to want to do.

Mr. YOUNG of Alaska, Mr. Chairman, will the gentleman yield?

Mr. POMBO. Mr. Chairman, reclaiming my time, I yield to the chairman, the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, my problem is the gentleman from New York spoke so fast and said et cetera,. et cetera, et cetera. When I see a few et ceteras, I get a little concerned.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words and I yield to the gentleman from New York [Mr. NADLER].

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Mr. NADLER. Mr. Chairman, what I am proposing is that the gentleman would amend the amendment to read as follows: Notwithstanding any other provision of law, no funds may be expended from the land and water conservation fund established by Public Law 88–578 for the creation of a new refuge having a total area greater than 500 acres or the expansion of a new refuge of any acreage that would result in the new refuge having a total land area greater than 500 acres within the national wildlife refuge system, and so forth.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I will accept that. In the spirit of comity, two New Yorkers working something out, that is very positive and very constructive.

The CHAIRMAN. The Chair would point out that if there is to be a modification by unanimous consent, the gentleman from New York [Mr. BOEHLERT] may request unanimous consent to modify his amendment. That amendment modification must be submitted in writing.

MODIFICATION OF PERFECTING AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I ask unanimous consent that the perfecting amendment be modified as proposed by the gentleman from New York [Mr. NADLER] and that the modification be adopted.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification of perfecting amendment offered by Mr. BOEHLERT:

In lieu of the matter proposed insert "Strike section 10 and insert instead:

"Notwithstanding any other provision of law, no funds may be expended from the Land and Water Conservation Fund established by Public Law 88–578, for the creation of a new refuge having a total area greater than 500 acres or the expansion of a new refuge of any acreage that would result in the new refuge have an acreage of more than 500 acres within the National Wildlife Refuge System without specific authorization of Congress pursuant to a recommendation of the United States Fish and Wildlife Service, to create or expand that new refuge. For purposes of this section, a new refuge is a refuge created after the date of enactment of this act.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The perfecting amendment is modified.

The question is on the perfecting amendment offered by the gentleman from New York [Mr. BOEHLERT], as modified.

The perfecting, as modified, was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT:

COORDINATION AREAS

In section 6, in the matter proposed as section 4(d)(3)(A) of the National Wildlife Refuge System Administration Act of 1966, add at the end the following new clause:

"(iv) A new use of a Coordination Area first made available to a State after the date of enactment of the National Wildlife Refuge Improvement Act of 1996 may not be initiated or permitted unless the Secretary determines that the use is a compatible use.

In section 6, in the matter proposed as section 4(d)(3)(B) of the National Wildlife Refuge System Administration Act of 1966, after "a use" the first place it appears insert "of a refuge".

COMPATIBILITY OF FISHING AND HUNTING

In section 3(a)(2), in the matter amended to read as section 4(1) of the National Wildlife Refuge System Administration Act of 1966, strike "the purposes of the System specified in section 4(a)(3)" and insert "the overall mission and purposes of the System specified in sections 4(a)(2) and (3), respectively,".

In section 6, in the matter proposed as section 4(d)(3)(A)(iii) of the National Wildlife Refuge System Administration Act of 1966, after "uses" insert "(consistent with the purposes of the System under subsection (a)(3))".

In section 8(a), strike the close quotation marks and the second period at the end, and add the following new subsection:

"(q) Nothing in this Act shall be construed as requiring or prohibiting fishing or hunting on any particular refuge except pursuant to a determination by the Secretary in accordance with this Act.".

Mr. BOEHLERT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOEHLERT. Mr. Chairman, the purpose of this amendment is to eliminate some legitimate concerns that have been raised about this bill. We want to ensure that this bill strengthens the refuge system and it is built to carry out its vital conservation mission. I think this package of amendments will accomplish that objective.

The amendment addresses three problems with the bill as reported out of the Committee on Rules. That bill, by the way, was a significant improvement over the version that was reported out of the Committee on Resources originally.

The first problem concerns coordination areas. These are Federal lands

that are managed by the States. Now, neither we nor anyone else I know of has any problem with the concept of cooperative management. But we want to ensure that no one can ever use coordination areas as a back door way to allow damaging activities on refuges. The refuge system is Federal, and Federal standards are essential.

The first amendment in this package makes it clear that coordination areas have to be managed using the same standards as refuges. As a practical matter, what that means is that if some use, say jogging, was not permitted in a refuge because it would damage the wildlife and a piece of that refuge became a coordination area, jogging would still be forbidden.

I should add that this applies only to coordination areas created by the transfer of land after the bill is signed into law. We are not interfering with any existing agreements between the Federal Government and any State.

The second problem addressed by this package is the key issue of when wildlife dependent recreation, hunting, fishing, wildlife observation, and so forth, when that recreation is permitted at the refuge. Over the years the Fish and Wildlife Service has struck a delicate balance between protection of species and human enjoyment of the refuge. By and large, no one I have spoken to has a problem with that balance, not sportsmen, not environmentalists. Everyone wants to protect the balance. But the language in this bill could be interpreted as throwing aside that balance and replacing it with a new one that could be damaging to wildlife protection.

That would be intolerable. My amendment is designed to ensure that no one will ever interpret the bill in that matter. The amendments, there are three of them, make clear that recreational activities can be permitted only when the secretary determines that they would not detract form the overall mission of the refuge system. That is conservation.

The amendment makes clear that we are still requiring a balancing act here, that recreational activities can occur only when they would cause no harm. Let me repeat that: Recreational activities can occur only when they would cause no harm.

I would like to engage the gentleman from Alaska [Mr. YOUNG] in a colloquy on this essential point.

I appreciate the willingness of the Committee on Resources to work with us on this amendment, but I would like to clarify some issues. As I understand it, this bill is not intended to require that wildlife dependent recreation be allowed on every refuge; is that correct?

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, the gentleman is correct. The bill is intended to make it clear that wildlife dependent recreation must be allowed when it would not detract from the other purposes of the refuge system. It does not require that recreational activities always be allowed.

Mr. BOEHLERT. Mr. Chairman, I thank the gentleman.

What we all are looking for is a balancing act here between protecting species and allowing the public to enjoy the species that have been protected. Just to reemphasize that point, I would ask the chairman this question: Does the elevation of compatible wildlife dependent recreation to a purpose mean that hunting and fishing and wildlife observation and other recreational activities must always be permitted in the refuge?

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will continue to yield, once again, it does not.

Mr. BOEHLERT. I thank my distinguished chairman.

Mr. Chairman, I thank my colleagues for their indulgence. I also would like to thank the gentleman from Florida [Mr. GOSS], the cosponsor of this amendment, who is much more intimately familiar with the details of some of these issues than I am. He has lived with this for a long time. Mr. GOSS and his staff have provided invaluable guidance on this issue.

Mr. Chairman, let me give particular credit to my own staff. This may be viewed as a self-serving declaration, but I happen to think I have got one of the best staffs anyplace on Capitol Hill. Two of those valued members, three of them are sitting right here with me: David Goldston, my legislative director; Jeff More, who is my professional staff member on the Committee on Transportation and Infrastructure Subcommittee on Water Resources and Environment; and Dr. Natalie D'Nicola, who is a science fellow. We have science-based decisionmaking in our office.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

(By unanimous consent, Mr. BOEHLERT was allowed to proceed for 30 additional seconds.)

Mr. BOEHLERT. Mr. Chairman, this is a difficult issue in which the future survival of species and the availability of open land for the American people are at stake. This amendment, I believe, restores a sense of balance that was lacking in the original bill. I urge my colleagues to support the amendment and the bill as amended.

The CHAIRMAN. The Chair will clarify for the record, the adoption of the previous Boehlert amendment had the effect of causing the Nadler amendment, which was an amendment to strike, to fall and, therefore, that amendment would not be voted on because of the passage of the first Boehlert amendment, and the question is now on the pending Boehlert amendment.

PARLIAMENTARY INQUIRY

Mr. NADLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. NADLER. Mr. Chairman, would the Chair restate that? I could not follow what the Chair was saying.

The CHAIRMAN. As stated on page 233 of the House Rules and Manual, when a motion to strike out a section is pending and the section is perfected by an amendment striking and inserting to rewrite the entire section, the pending motion to strike out must fall, since it would not be in order to strike out exactly what had been inserted. Therefore, by adoption of the Boehlert amendment as modified, the Nadler amendment fell and, therefore, the Committee did not vote on the Nadler amendment to strike.

Mr. NADLER. Mr. Chairman, bottom line, the language that we all agreed to is now in the bill?

The CHAIRMAN. The gentleman is correct.

Mr. NADLER. I thank the Chair.

Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take 5 minutes. I simply have an inquiry of the gentleman from New York. I assume that the language in the gentleman's en bloc amendment that dealt with the same subject that we dealt with a moment ago is no longer in your amendment?

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, that is correct.

Mr. NADLER. I thank the gentleman.

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in an effort to finetune the bill before us, we are offering our amendment to address three specific concerns raised about H.R. 1675. Frankly, these are concerns raised by some who may oppose the bill altogether. However, it has been our approach to sit down with the interested parties, roll up our sleeves and attempt to solve the problems with the legislation in a reasonable and workable manner. Many Members and their staff have spent hours working out the details of this amendment, and we are grateful for the cooperation shown by Chairman YOUNG and SAXTON in getting to this point.

Mr. Chairman, the heart of our amendment addresses three issues:

First, what is the role of the hunting, fishing, and wildlife observation in the refuge system?

Second, how much freedom should the Fish and Wildlife Service have in

VOL
142
PT
6
AP
15
—
24
1996
UMI

establishing—and expanding—refuges without congressional approval?

And third, what safeguards exist to ensure that the management standards of existing refuges are maintained if the management authority is put in the hands of an individual State?

In my remarks during the rule, I mentioned the legacy of J.N. "Ding" Darling—a hunter who was a steadfast conservationist. He understood that given the proper balance, hunting and conservation were compatible. The clarifications in the Boehlert-Goss amendment aim to achieve that balance, and indeed, clarify that hunting, fishing, and wildlife observation are legitimate options in some of our refuges, as long as they are compatible with the overall higher mission of conservation and preservation of wildlife.

The second issue involves the authority of the Fish and Wildlife Service to use the land and water conservation fund to establish new refuges. It is the case that unlike all other uses of the LWCF, Fish and Wildlife is not required to seek any specific authorization to establish a new refuge. I agree that Congress has the responsibility to exercise better oversight over these funds, but the broad nature of the bill language in this area has caused some concern. Our amendment would still give Fish and Wildlife the flexibility to purchase areas of 500 acres or less, while ensuring that major expenditures of taxpayer dollars are subjected to the normal, established budget process.

Finally, the last concern takes care of a consistency issue, and would ensure that land set aside for wildlife purposes today—under the wildlife refuge system—continues to be managed in a responsible manner should authority for that refuge be given to a State agency.

Again, these are not dramatic changes, but they are significant clarifications—and I would hope that my colleagues would support them.

□ 1615

Mr. Chairman, I would like to say that the cooperation on this bill I think proves once again that the environment does not know partisanship and the environment should not know extremism. There are sensible, well-balanced answers to these matters, and we are offering them in this amendment.

I thank the gentleman who have taken the opportunity to get us this far. I admire them for their persistence and patience.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I rise in support of the substitute under consideration, as modified by the Boehlert amendment, because I think the Boehlert amendment and the substitute improve existing law. I am going to support the bill, as amended.

The bill represents a significant effort to factor environmental interests into the balance, and I compliment the gentleman from Alaska [Mr. YOUNG], and the gentleman from New York [Mr. BOEHLERT], for their effort.

First, the problematic section of the State management of coordination areas is resolved by the amendment requiring that management of those areas meet the compatibility standard. We just went through an interesting debate about whether or not 500 acres should come before this House to be authorized, and I think that was clarified and that was debated and more clearly understood.

Finally, my greatest concern is that we remember the reason we have refuges in the first place. First and foremost is for conservation of wildlife and plants. Whether the purpose for that conservation is to provide hunting and fishing opportunities, to preserve endangered species or to save wild spaces so our children in this world can know that there is something more than cars, pavements and sidewalks, this bill, the mission of this bill, is for conservation. The Boehlert amendment insures that compatibility means compatibility with the conservation mission.

Mr. Chairman, the last two Congresses have seen a stalemate on environmental issues which has benefited neither landowners, nor industry, nor environment, nor conservation. We have seen both sides occasionally trip over their hyperbole, and the mistrust that has grown has made consensus impossible.

This admittedly imperfect bill at least contains a tremendous attempt at consensus, and for that reason I believe it deserves our support.

It should come as no surprise that generally, I believe, good science is critical for environmental legislation. I also recognize that good environmental legislation has always been developed by consensus.

The bill before us will do no practical harm to the refuge system, and if it can become the first step toward building a consensus on conservation issues, then it does a tremendous amount of good, and I urge support for the amendment and I urge support for the adoption of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. BOEHLERT].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MRS. LINCOLN

Mrs. LINCOLN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. LINCOLN: At the end of the bill add the following new section:

SEC. —. AUTHORITY OF SECRETARY OF THE INTERIOR TO ACCEPT STATE DONATIONS OF STATE EMPLOYEE SERVICES DURING GOVERNMENT BUDGETARY SHUTDOWN.

After section 2 of the Act, as redesignated by section 11(a)(3) of this Act add the following new section:

"SEC. 3. AUTHORITY OF SECRETARY OF THE INTERIOR TO ACCEPT STATE DONATIONS OF STATE EMPLOYEE SERVICES DURING GOVERNMENT BUDGETARY SHUTDOWN.

"(a) IN GENERAL.—The Secretary shall accept from any qualified State donations of services of State employees to perform in a refuge, in a period of Government budgetary shutdown, fish- and wildlife-dependent recreation management functions otherwise authorized to be performed by Department of Interior personnel.

"(b) LIMITATIONS.—An employee of a State may perform functions under this section only—

"(1) within areas of a refuge that are located in the State; and

"(2) in accordance with an agreement entered into by the Secretary and the Governor of the State under subsection (c).

"(c) AGREEMENTS.—

"(1) IN GENERAL.—For purposes of this section, the Secretary may enter into an agreement in accordance with this subsection with the Governor of any State in which is located any part of a refuge.

"(2) TERMS CONDITIONS.—An agreement under this subsection shall—

"(A) contain provisions to ensure resource and visitor protection acceptable under the standards of the United States Fish and Wildlife Service;

"(B) require that each individual performing functions under the agreement shall have—

"(i) adequate safety training;

"(ii) knowledge of the terrain in which the individual will perform those functions; and

"(iii) knowledge of and adherence to Federal regulations relating to those functions; and

"(C) specify other terms and conditions under which a State employee may perform such functions.

"(d) EXCLUSION FROM TREATMENT AS FEDERAL EMPLOYEES.—A State employee who performs functions under this section shall not be treated as a Federal employee for purposes of any Federal law relating to pay or benefits for Federal employees.

"(e) ANTI-DEFICIENCY ACT NOT APPLICABLE.—Section 1341(a) of title 31, United States Code, shall not apply with respect to the acceptance of services of, and the performance of functions by, State employees under this section.

"(f) DEFINITIONS.—In this section—

"(1) the term 'Government budgetary shutdown' means a period during which there are no amounts available for the operation of the System, because of-

"(A) a failure to enact an annual appropriations bill for the period for the Department of the Interior; and

"(B) a failure to enact a bill (or joint resolution) continuing the availability of appropriations for the Department of the Interior for a temporary period pending the enactment of such an annual appropriations bill; and

"(2) the term 'qualified State' means a State that has entered into an agreement with the Secretary in accordance with subsection (c)."

Mrs. LINCOLN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Arkansas?

There was no objection.

Mrs. LINCOLN. Mr. Chairman, my amendment to H.R. 1675 would alleviate the burdens faced by our constituents during Federal governmental shutdowns.

This Congress has seen two shutdowns that have adversely affected individuals wishing to use our wildlife refuges. In Arkansas, the first shutdown occurred during a 4-day deer hunt and the second occurred right in the middle of duck hunting season. Hunters had scheduled family vacations and purchased hunting permits, only to be turned away from the gates.

This did not need to happen. Officials at the Arkansas Game and Fish Commission volunteered their services when a shutdown was imminent, and had actually signed an agreement with the Fish and Wildlife Service in Atlanta. However, right before the shutdown, Interior Department attorneys determined that this agreement was not allowed under current law.

My amendment fixes this problem. If this language is adopted, States will be able to step in for the Federal Government for all fish- and wildlife-dependent recreational management activities only during governmental shutdowns if they have a prior agreement with the Department of the Interior. This amendment would not allow the States to conduct commercial management functions such as timbering, haying, or grazing. Such agreement would ensure both the protection of the land and the people using the refuge by demanding proper safety training, knowledge of the local terrain and knowledge of the Federal regulations by State employees before they take over Fish and Wildlife Service's duties.

This amendment has the support of the Congressional Sportsmen's Caucus, the Congressional Sportsmen's Foundation, B.A.S.S., Ducks Unlimited, and the International Association of Fish and Wildlife Agencies.

We should never encourage the closure of our Federal Government. However, these shutdowns periodically arise and there should be a plan in place to address such occurrences.

Additionally, because the Federal budget and appropriations process concludes at the end of September, if the Government closes, it oftentimes occur during the time where the demand for access to these lands for hunting and other recreational activities is quite high. I know that the constituents in the First District of Arkansas look forward to using the refuges during the fall and early winter and many have planned family vacations around the hunting seasons.

Lack of funding for the refuges and reduced access due to Government closures may also jeopardize public support for the Refuge System. Hunters who have invested a lot of money in the purchase and management of these refuges may look elsewhere for their needs if their access to the lands is diminished or becomes unpredictable.

As my friend, the gentleman from Michigan [Mr. DINGELL], stated, I am a strong conservationist and a hunter, and I certainly urge my colleagues to support this simple, commonsense amendment.

Mr. MILLER of California. Mr. Chairman, I rise in support of the amendment and to say that we have looked at this amendment and we do not object to the acceptance of this amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to congratulate the gentlewoman from Arkansas [Mrs. LINCOLN] on this amendment. It is long overdue. The administration supports this amendment. It is something we should have in the tools to make sure that what happened last October, November, December should not occur again because the agency said it could not be done legally. This amendment takes care of that problem.

I strongly support the amendment.

Mr. Chairman, I have carefully reviewed the amendment offered by our distinguished colleague from Arkansas [BLANCHE LAMBERT LINCOLN].

I intend to support this amendment and I compliment our colleague for the many months of hard work she has spent perfecting this language.

Under the terms of this amendment, a State would be able to enter into an agreement with the Secretary of the Interior for the purpose of allowing State employees to operate units of our Federal Wildlife Refuge System should, in the unlikely event, a Government budgetary shutdown occur in the future.

These employees will have to receive adequate safety training, be knowledgeable about the terrain of the particular refuge unit, and adhere to all appropriate Federal regulations.

While it is unclear whether these agreements will ever be necessary, it is an innovative approach and it provides the kind of legislative fail-safe that the Secretary should have administratively used last winter to save our States thousands of dollars of lost hunting revenues.

Finally, I am pleased that this language has been expanded to include not only hunting but also fishing, wildlife observation, and environmental education. There are millions of Americans who regularly enjoy these forms of wildlife-dependent recreation, and this amendment will help to ensure that our Nation's refuge doors remain open in the years ahead.

It is my understanding that the administration has no objection to this System-wide solution and I urge an "aye" vote on the Lincoln amendment.

Mr. HAYES. Mr. Chairman, last year, I stood in this well on several occasions regarding dubious actions taken by the Department of the Interior.

On the first occasion, I was addressing a comment made by Secretary Babbitt in which he mistakenly referred to my party affiliation. While the Secretary was wrong when he made his statement, as we will know, his prophecy has come to pass.

The second instance during the debate on H.R. 450, the Regulatory Transition Act, dealt with threats by the United States Fish and Wildlife Service [USFWS] to potentially delay the opening of migratory bird hunting seasons. During the Government shutdowns this winter, the Department of the Interior was at it again—holding hunters and fishermen hostage during the Government shutdown even though many States, like my home State of Louisiana, agreed to keep the Federal wildlife refuges open.

In fact, a satellite office of the USFWS solicited Louisiana Department of Wildlife and Fisheries assistance in maintaining smooth operation of Federal refuges in preparation for the first Government shutdown. But, Department of the Interior lawyers in Washington told the State they could not proceed. Clearly, the best interests of the wildlife and recreation on the refuges were being seriously overlooked.

The USFWS also specifically requested that these same State officials promulgate special regulations to extend deer season 2 additional days over the weekend of January 6 and 7 due to the first shutdown. After the State did so at its own expense, those additional days and the importance of hunting to Louisiana's economy were again threatened during the second shutdown by the same Department of Interior lawyers.

This amendment today would clarify the States' authority to rectify the underlying problem leading to these situations.

The Lincoln amendment would require the Secretary of the Interior to accept voluntary services of state employees in the operations of National Wildlife Refuge units during any period of Federal budgetary shutdown for the management of hunting, fishing, and other recreational activities authorized on each refuge. States and the Department of the Interior would have to have an agreement in place prior to any shutdown.

The 17 Federal refuges in Louisiana are an integral part of the over $630 million in annual direct and indirect revenue that hunting brings into our State's economy. In fact, as much as one-third of the economies of several of the coastal parishes I represent are dependent on tourism related to hunting activities. Without the continued management of these refuges, the very lives and livelihoods of the people in these Parishes are at risk. While I do not advocate the general principle of shutting down the Federal Government, I refuse to allow Secretary Babbitt to jeopardize my constituents and their interests.

I urge my colleagues to adopt the Lincoln amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Arkansas [Mrs. LINCOLN].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

VOL
142
PT
6
AP
15
—
24
1996
UMI

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for purposes of engaging in a colloquy with my dear friend, the gentleman from Alaska.

Mr. Chairman, I would like to ask my good friend from Alaska to engage in a colloquy with me with regard to the existing reserve water rights on the national refuge system under H.R. 1675.

Mr. Chairman, I am concerned that a statement of the committee report on H.R. 1675 would be interpreted by some to mean that this bill eliminates, waives, or concedes existing Federal water rights which currently attach to lands which were previously withdrawn from the public domain from old military bases or from other lands owned by the Federal Government for use as refuges.

The statement I am referring to is on page 11 of the committee report and defines the term refuge under section 3(a) of H.R. 1675.

In particular, this section of the Report states that "* * * Federal reserved water rights do not constitute 'interests' within the meaning of the term 'refuge'." This statement appears to be contrary to the language in Section 7(a) of H.R. 1675 which addresses the status of various water rights under the original 1966 Refuge Administration Act and H.R. 1675. I would like to ask the gentleman from Alaska a series of questions to clarify the intent of the Committee with regard to these matters.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I would be pleased to answer the question and provide clarification of this issue to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, section 8(a) of H.R. 1675 would establish a new subsection 4(n)(1) in the Refuge System Administration Act to address the general question of water rights within the refuge system. This subsection appears to contain two important statements affecting reserved water rights in particular.

First, the subsection contains a disclaimer stating that nothing in H.R. 1675 should be interpreted as creating any new reserved water rights within the refuge system.

Is that an accurate interpretation of the legislation before us?

Mr. YOUNG of Alaska. Yes, this provision of the bill you are referring to is intended to clarify that no new reserved water rights are created for wildlife refuges as a result of the passage of this bill.

Mr. DINGELL. Second, this subsection contains another disclaimer stating that nothing in the bill should be interpreted as affecting any refuge water right in existence on the date of enactment of H.R. 1675. I interpret this provision to mean that nothing in H.R. 1675, including the definition of "refuge" in section 3(a), is intended to override, cede, or extinguish any refuge reserved water right which may have been previously created by a past land withdrawal for wildlife refuge purposes.

Is that the gentleman's intent and interpretation of this provision as well?

Mr. YOUNG of Alaska. Yes, the gentleman from Michigan is correct. This provision is intended to maintain the status quo with regard to existing reserved water rights in the system, and to clarify that reserved water rights previously created at the time of withdrawal of these lands for refuge purposes will not be expanded nor restricted, diminished, or eliminated due to the passage of H.R. 1675. As a result, refuge reserved water rights will remain exactly in the same position as they are today if H.R. 1675 becomes law.

Mr. DINGELL. I want to thank my good friend, and I have further questions: Therefore, it was the intention of my good friend that the exclusion of reserved water rights in the definition of the word "refuge" in section 3(a) of the substitute bill was designed to limit the geographic boundaries of a given refuge rather than to cede or extinguish any reserved water rights which might otherwise be asserted within the system?

Mr. YOUNG of Alaska. Again, the gentleman from Michigan is absolutely correct. The exclusion of reserved water rights in the definition section of H.R. 1675 is intended to impose a limitation on the geographic boundaries of individual refuges and is not intended to override the disclaimer protecting existing water rights in section 8(a) of this bill.

Mr. DINGELL. Finally, I am concerned that section 5 could be interpreted in a way which may limit or prohibit future Federal action to protect the system by its call for acquisitions under State law. Could the gentleman inform me how this provision would affect the current balance of Federal and State interests in the refuge system?

Mr. YOUNG of Alaska. This provision in section 5, like the rest of H.R. 1675, is intended to recognize long-established Federal-State relationships. States have traditional primacy regarding the allocation of water resources, and this merely directs the Secretary to use appropriate State forums in those cases where water is to be acquired for refuge units. This section should not be construed to otherwise alter or diminish the interests of the Federal Government as it pertains to ownership of or management authority for the National Wildlife Refuge System.

Mr. DINGELL. I want to thank the gentleman from Alaska [Mr. YOUNG], my dear friend.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 5 additional minutes.)

Mr. DINGELL. Mr. Chairman, I have some further questions of the gentleman from Alaska, and they relate to the question of open until closed.

Mr. Chairman, since the Resources Committee finished consideration of the legislation before us, considerable confusion has arisen over section 6 of the substitute. Specifically, I am referring to paragraph (3)(a)(2), which specifies that existing and compatible wildlife-dependent uses of a refuge are allowed to continue, on an interim basis, on lands added to the System once the legislation before us is enacted into law.

Would the gentleman please explain to us the intention of this paragraph in section 6?

□ 1630

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield further, this provision is intended to address a longstanding concern about a policy of the Fish and Wildlife Service where new refuge lands are "closed until opened." Accordingly, all preexisting uses are terminated when land is acquired by the Fish and Wildlife Service. This has created conflict at many refuges where sportsmen accustomed to using these lands suddenly find them closed for an unpredictable amount of time.

The purpose of this paragraph, which inserts new language in section 4(d)(3)(b)(x) of the National Wildlife Refuge System Administration Act, is to create the presumption that when the Fish and Wildlife Service brings new lands into the System, compatible wildlife recreation activities ought to be allowed to continue unless the Secretary makes a determination before the acquisition that such activities are not compatible with the purposes of the System.

Mr. DINGELL. There has been much discussion from interested parties about the fact that any recreational use would be allowed to continue on new refuge lands. Is this a correct reading of the bill?

Mr. YOUNG of Alaska. No, it is not. This provision applies only to wildlife-dependent use of a refuge. This includes fishing, hunting, wildlife observation and environmental education.

Mr. DINGELL. In that case, other activities such as the use of all-terrain vehicles, jet skis, and other uses are not covered under this provision?

Mr. YOUNG of Alaska. The gentleman is correct.

Mr. DINGELL. Is it correct to read this "open-until-closed" provision as applying only to lands brought into the National Wildlife Refuge System after this legislation is enacted?

Mr. YOUNG of Alaska. Yes, the bill states very clearly that only wildlife-dependent uses are permitted to continue only on lands added after the date of enactment of this bill. Wildlife-dependent recreation is expected to occur on existing refuge lands if the Secretary determines that the activities meet three requirements: first, they are consistent with the principles of sound fish and wildlife management; second, they are compatible with the purposes of the System; and third, they are consistent with public safety.

Mr. DINGELL. I am concerned and I want this clear on the Record. It is correct that the Secretary will retain significant discretion regarding the authorization of such activities on existing refuge lands?

Mr. YOUNG of Alaska. Once again, the gentleman is correct. Refuge lands may be closed for any one of three reasons specified in the bill thereby providing the Secretary with appreciable discretion. In essence, we are creating a rebuttable presumption that wildlife-dependent recreation is compatible unless it is contrary to one of these principles. This approach is conceptually the same as articulated by Secretary Babbitt to the Congressional Sportsman's Caucus in September 1994.

Mr. DINGELL. I would like to direct the gentleman's attention to the term compatible use. Under section 3 of the bill, concerns have been raised that the definition of "compatible use" will alter the intent and administration of the Refuge Recreation Act of 1962. Will the gentleman please enlighten the House as to his intent with regard to the definition of "compatible use?"

Mr. YOUNG of Alaska. First, I want to make clear that no provision of H.R. 1675 should be read or interpreted as altering in any way the purposes or administration of the Refuge Recreation Act of 1962. Second, the term "compatible use" is defined in a way that codifies an existing definition used by the Fish and Wildlife Service for many years, using reliable scientific information for reaching compatibility decisions.

Mr. DINGELL. Mr. Chairman, I thank the gentleman from Alaska who has helped me greatly with the concerns that I have had on this bill.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just in closing would like to thank the gentleman from Michigan. He was the father of the Refuge Act as far as this Congress goes and what occurred in the past. He has been very supportive. His staff has been extremely supportive.

But more than that, JOHN DINGELL has been a true sportsman all through the career I have known him. He has gone to Alaska. He has participated in Alaska sporting activities. He has seen what can be done and what should be done, and it is truly a conservation award that he should be receiving with this legislation.

What we have done here today is trying to improve the Act to make sure that we gain that support for a bill that has worked very well in the past, a position that can be worked well in the future. This working together can work for the conservation and for the sportsmen of America.

Mr. Chairman, today we are considering a substitute for H.R. 1675, the National Wildlife Refuge Improvement Act of 1996. This substitute is the result of many months of hard work and negotiations with the Department of Defense and Interior, interested Members, and many outside groups, and it goes a long way towards resolving concerns the administration had about earlier versions of the bill.

The National Wildlife Refuge System contains 508 wildlife refuges located throughout the United States, and comprises 91.7 million acres of Federal lands. These refuges are multiuse lands that offer recreational opportunities to millions of Americans each year. In fact, fishing and hunting occurs on over half of the refuges, more than 90 percent of the acreage in the System. Nearly 30 million people visit refuges each year to observe wildlife and over 50,000 students enjoy environmental education activities.

Over the last 30 years since the last major refuge reform legislation was enacted, a series of government reports and congressional hearings have found that the System needs a more standardized, centralized management regime. This bill addresses these findings. Under current law—the Refuge Recreation Act of 1962 and the National Wildlife Refuge Administration Act of 1966: there is no statutory list of purposes for the National Wildlife Refuge System; there is no statutory definition of what constitutes a "compatible use" of a refuge. As a result, individual refuge managers have broad discretion to prevent certain recreational activities and they are subject to tremendous pressure from various interest groups; refuges are not managed as a national system because of the lack of centralized guidelines from the Fish and Wildlife Service; secondary uses, such as fishing and hunting, are prohibited on new refuge lands until boundary studies, environmental assessments, and management plans are completed. This can take years; when a compatibility determination is made by a refuge manager, the public is denied any opportunity to comment on proposed changes or restrictions; and there is no requirement to complete comprehensive conservation plans for any of the 508 refuges. In fact, the Fish and Wildlife Service admits that it has completed such plans for only a fraction of all refuges.

The Young-Dingell substitute solves these problems. It establishes a nationwide set of purposes for the refuge system. These purposes are: (1) to provide a network of lands and waters to conserve fish, wildlife, and plants and their habitats; (2) to conserve, manage, and restore fish and wildlife populations, plant communities, and refuge habitats; (3) to conserve and manage migratory birds, interjurisdictional fish species, and marine mammals; (4) to provide opportunities for compatible fish- and wildlife-dependent recreational uses of refuges, including fishing and hunting, wildlife observation, and environmental education; (5) to preserve, restore, and recover threatened or endangered species; and (6) to fulfill international treaty obligations with respect to fish, wildlife, and plants.

The substitute statutorily defines "compatible use" by using the exact language the U.S. Fish and Wildlife Service has used for many years and is currently found in their operating regulations. While a refuge manager will retain the power to determine what is a "compatible use", this definition should provide the guidance needed to make the proper decision.

The bill allows traditional wildlife-dependent recreation—that is, hunting, fishing, wildlife observation, and environmental education—to continue during the interim period after the acquisition but before the implementation of a management plan.

The author of this "open until closed" provision is the gentleman from New Jersey, JIM SAXTON. It is an essential change because there are a growing number of Americans who are angry and frustrated over the Service's land acquisition process. These Americans have worked hard to protect certain lands, they have contributed millions of dollars to the purchase of refuge lands, and they have found, much to their dismay, that for no rational reason their favorite fishing spot is now off limits during an open-ended period of governmental studies.

This is a wrong-headed policy and I compliment JIM SAXTON for his contribution to restoring confidence to the System.

This bill requires conservation plans for each refuge within 15 years of enactment. It is important that we know what kind of archaeological, natural, or wildlife resources exist on these refuges. This inventory has been a goal of the environmental community for many years.

This substitute bill incorporates the President's March 25, 1996 Wildlife Refuge Executive Order, and his "Directives to the Secretary" are codified in section 5, the Administration of the System.

The substitute stipulates that no funds may be spent from the Land and Water Conservation Fund for the creation of a new wildlife refuge without a specific congressional authorization.

In the past, more than $1 billion in taxpayer money has been appropriated from this fund to acquire refuge lands. This money has been spent with little oversight from congressional authorizing committees and without the checks and balances of the Migratory Bird Commission. Congress must have a role in this process, and we should authorize new wildlife refuge units just as we authorize new parks, flood control projects, and weapons systems. In this way, private property owners and their tax dollars are well protected.

Finally, this substitute contains a number of other provisions negotiated with the Clinton administration. These include: overflights above a refuge, the eradication of aquatic nuisance species, and language allowing the President to exempt certain activities on military refuge lands because of national security reasons.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Much of the rhetoric surrounding this bill has been at best misleading. So I also want to make clear what this substitute does not do. It does not: permit or require hunting and fishing to occur on every wildlife refuge. These activities must be found "compatible" and must meet the three part of being based on sound fish and wildlife management practices, being fully consistent with the fundamental reasons the refuge was created, and not endangering public safety; affect Federal, State, or local water rights. This bill does not limit the ability of the Federal Government to secure water for a refuge; facilitate nonwildlife-dependent uses such as grazing, farming, mining, oil and gas development, jet skiing, et cetera. As under current law, nonwildlife-dependent uses may continue to occur when compatible, and when the Fish and Wildlife Service lacks legal authority or sufficient ownership interest in the property to prevent them. But this bill does not mandate, enhance, or protect such uses; increase or decrease the size of any of the 508 refuge units; permit the pesticides not approved by the Fish and Wildlife Service to be used by row farmers or anyone else in the Refuge System; permit the commercialization of our Refuge System. To repeat, it is limited to wildlife-dependent uses. They are clearly defined as fishing, hunting, wildlife observation, and environmental education; and limit the Fish and Wildlife Service's ability to acquire lands at existing refuges. In fiscal year 1997, the Service proposes to spend $19.2 million to acquire new acreage for our Refuge System. This provision will not delay, stop, or otherwise affect those acquisitions.

This legislation is the product of many months of hearings, discussions, and revisions. This measure was reported by voice vote by both the subcommittee and the full committee.

This legislation is supported by the American Archery Council, the American Sportfishing Association, B.A.S.S., Inc., the California Waterfowl Association, Congressional Sportsmen's Foundation, Foundation for North American Wild Sheep, International Association of Fish and Wildlife Agencies, International Bowhunters Organization, Masters of Foxhounds Association of America, Mzuri Wildlife Foundation, National Rifle Association, National Wild Turkey Federation, New Jersey Federation of Sportsmen, North American Waterfowl Federation, Quail Unlimited, Ruffed Grouse Society, Safari Club International, Wildlife Forever, and the Wildlife Legislative Fund of America. It has also been endorsed by the Congressional Sportsmen's Caucus, which has a membership of 204 Members of this body.

Mr. Chairman, H.R. 1675 is a sound piece of conservation legislation that reaffirms the legacy of President Theodore Roosevelt and the vision of the National Wildlife Refuge System Administration Act of 1966.

Finally, I want to express my sincere appreciation to the highly distinguished gentleman from Michigan, JOHN DINGELL. Without his dedication, tireless commitment, and leadership, this effort would not have been achievable.

I urge an "Aye" vote on H.R. 1675.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PETRI) having assumed the chair, Mr. GILLMOR, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 1675) to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes, pursuant to House Resolution 410, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YOUNG of Alaska. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 287, nays 138, not voting 7, as follows:

[Roll No. 131]

YEAS—287

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flake
Flanagan
Foley
Fowler
Fox
Franks (CT)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
(TX)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martinez
Mascara
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Williams
Wise
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—138

Abercrombie
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bonior
Borski
Brown (CA)
Brown (OH)
Bryant (TX)
Campbell
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Forbes
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gibbons
Gilman
Gonzalez
Gutierrez
Hall (OH)
Hastings (FL)
Hinchey
Jackson (IL)
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee

LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney
Markey
Martini
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Millender-
McDonald
Miller (CA)
Mink
Moakley
Moran
Morella
Nadler
Neal
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (NJ)
Stark
Stokes
Studds
Thompson
Torkildsen
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
White
Woolsey
Wynn
Yates
Zimmer

NOT VOTING—7

Ackerman
Foglietta
Hansen
McDade
Parker
Schroeder
Wilson

☐ 1656

The Clerk announced the following pair:

On this vote:

Mr. McDade for, with Mr. Ackerman against.

Messrs. FRELINGHUYSEN, DAVIS, CLAY, THOMPSON, MOAKLEY, and LAZIO of New York, Mrs. JOHNSON of Connecticut, and Mrs. MEYERS of Kansas changed their vote from "yea" to nay"

Mr. KLINK and Mrs. CUBIN changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. ROUKEMA. Mr. Speaker, on rollcall vote 131, House passage of the National Wildlife Refuge Improvement Act, H.R. 1675, I inadvertently voted "yea." I had intended to cast a "nay" vote on the legislation.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1675, the bill just passed.

The SPEAKER pro tempore (Mr. PETRI). Is there objection to the request of the gentleman from Alaska?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1675, NATIONAL WILDLIFE REFUGE IMPROVEMENT ACT OF 1995

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1675, the Clerk be authorized to make technical and conforming changes as are necessary to reflect the actions of the House on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 4 OF RULE XI WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–535) on the resolution (H. Res. 412) waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

☐ 1700

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1202

Mr. COBLE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1202.

The SPEAKER pro tempore (Mr. PETRI). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4, rule I, the Speaker signed the following enrolled bill earlier today: Senate 735, to deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundergan, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 175. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PETRI). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

STATEMENT ON ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, today, April 24, marks the 81st anniversary of the unleasing of the Armenian genocide, one of the most horrible events of the 20th century and probably in all of human history.

Mr. Speaker, each year Members of Congress from both the House and Senate take time to honor the memory of the 1.5 million Armenian men, women, and children who were slaughtered during the final years of the Ottoman Turkish Empire. I am proud to continue this congressional tradition today. I am joining with the gentleman from Illinois [Mr. PORTER] and other Members from both sides in these 5-minute special orders.

Mr. Speaker, between the years 1915 and 1923 in the Ottoman Turkish Empire, there were 1.5 million Armenians slaughtered and another 500,000 forced to leave from their homelands. What happened was not a series of random atrocities but a systematic policy of deportation, separation of family members, slave labor, torture, and murder. Although the killings finally ended in 1923, efforts to erase all traces of the Armenian presence in what is now eastern Turkey continued, such as the changing of geographical names and the destruction of Armenian religious and cultural monuments. This was the first genocide of the 20th century, a precursor to the Nazi Holocaust and the other cases of ethnic cleansing and mass extermination of peoples in our own time. We must call it by its correct name: genocide.

Yet to this day, the Government of Turkey maintains its disgraceful policy of denying that the genocide ever took place. The facts contradict those denials. The historical record, including documented accounts from American eyewitnesses, proves that the rulers of the Ottoman Empire, conceived in the name of Turkish national ideology, planned and carried out a program to eliminate ethnic minorities, especially the Armenians. The record includes the eyewitness accounts of journalists and diplomats on the scene and the eloquent and horrifying testimony of the survivors. The historic record is clear. At that time the word genocide had not yet been coined, but genocide is what it was. Yet there were no Nuremberg trials. There has been no official atonement by the Turkish nation. In fact, statements by me and other Members of Congress about the Armenian genocide are routinely dismissed by Turkey's Ambassador to the United States.

We must continue to persuade Turkey, the recipient of hundreds of millions of dollars each year in United

VOL
142
PT
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AP
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24
1996
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States aid, to officially acknowledge the truth, and in our own time we must insist that Turkey lift its illegal blockades of Armenia and accept the Armenian government's offer to normalize relations without preconditions.

Just a few weeks ago, Mr. Speaker, the Turkish President came to Washington on a state visit. For anyone who has held out the hope that the President would offer an olive branch of reconciliation to the Armenian people, the visit was a major disappointment, though not a major surprise. The Government of Turkey refused to lift the blockade of Armenia and accept the offer of the Government of Armenia to normalize relations without preconditions.

Sadly, Mr. Speaker, United States administrations have also avoided using the term genocide in describing what happened 80 years ago, no doubt under heavy pressure from the Government of Turkey. While President Clinton and his predecessors have acknowledged the Armenian people were the victims of tragic massacres, these Presidential statements have never sufficiently conveyed the full extent of the evil that occurred. Clearly this entire shameful and appalling period of history meets every definition of the term genocide.

Earlier this month, the gentleman from Illinois [Mr. PORTER] and I, as cochairmen of the Caucus on Armenian Issues, asked our colleagues to join us in urging the President to make a much stronger statement acknowledging the genocide. Fifty-nine Members of Congress signed on. Last year many of us signed a similar letter. Sadly, although President Clinton last year issued a powerful statement, he carefully avoided the word genocide. I want you to know that I support President Clinton on many issues and he has shown strong support for many pro-Armenian initiatives. He has appointed a special United States negotiator for the Nagorno-Karabagh situation, and the United States Agency for International Development has devoted great resources to Armenia, but I have no problem putting the President on the spot on the question of calling the genocide by its proper name. It is very important and a clear-cut case of doing the right thing.

Mr. Speaker, I want to say that while the purpose of our ceremony today is a solemn remembrance of a tragedy that affected an entire people, I would like to say a few words about the present and the future. The survivors of the genocide, their sons and daughters and grandchildren, have refused to accept the effort by the Ottoman Turks to destroy the Armenian people. In fact, in the decades since, the Armenian people have flourished.

One of the most inspiring events of recent years has been the emergence of the Republic of Armenia, and we as Americans must support the Republic of Armenia. It has, through great difficulty, registered positive growth in its gross domestic product. It has moved forward with the process of democratization. It has been having elections.

But the people of Armenia still need our help. They need American help now. Last year, in the Subcommittee on Foreign Operations, Export Financing and Related Programs of the Committee on Appropriations, again primarily through Congressman PORTER's help, $85 million in United States humanitarian aid was provided to Armenia, plus an additional $30 million for development assistance. Last year's foreign operations bill also included the Humanitarian Aid Corridor Act, which bars aid to Turkey for as long as Turkey blocks the delivery of United States aid to Armenia.

There are a number of things our caucus has been doing, and I am sure other Members tonight will also talk about more of them. But the main thing, Mr. Speaker, is we must continue our support for the Republic of Armenia, improving relations between the two countries, because that is one way that we can make it clear why this genocide, when it took place 80 years ago, was so wrong and what the accomplishments of the Armenian people have been since that time.

Mr. Speaker, today, April 24, 1996, marks the 81st anniversary of the unleashing of the Armenian genocide, one of the most horrible events of the 20th century, and in all of human history.

Each year Members of Congress from both the House and the Senate take time to honor the memory of the 1.5 million Armenian men, women, and children who were slaughtered during the final years of the Ottoman Turkish Empire. I am proud to continue this proud congressional tradition today.

I am joining with the gentleman from Illinois [Mr. PORTER] and other members from both sides in the aisle in a series of 5-minute special orders to commemorate this tragic anniversary. Other Members are submitting statements in writing testifying to their deep concern about this issue.

Mr. Speaker, between the years 1915 and 1923, in the Ottoman Turkish Empire, 1.5 million Armenians were slaughtered and another 500,000 were forced to leave from their homelands. What happened was not a series of random atrocities, but a systematic policy of deportations, separation of family members, slave labor, torture, and murder. Although the killings finally ended in 1923 efforts to erase all traces of the Armenian presence in what is now eastern Turkey continued, such as the changing of geographical names and the destruction of Armenian religious and cultural monuments. This was the first genocide of the 20th century, a precursor to the Nazi Holocaust and the other case of ethnic cleaning and mass extermination of peoples in our own time. We must call it by its correct name: genocide.

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We must continue to persuade Turkey, the recipient of hundreds of millions of dollars each year in United States aid, to officially acknowledge the truth. And in our own time, we must insist that Turkey lift its illegal blockade of Armenia and accept the Armenian government's offer to normalize relations without preconditions.

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While the purpose of today's ceremony is a solemn remembrance of a tragedy that affected an entire people, I would like to say a few words about the present and the future.

The survivors of the genocide, their sons and daughters and their grandchildren, have refused to accept the effort by the Ottoman Turks to destroy the Armenian people. In fact, in the decades since, the Armenian people have flourished. The Armenians who came to the United States and their descendants have made tremendous contributions to our business, professional, and cultural life. Armenians have made new lives and significant contributions in many other countries.

One of the most inspiring events of recent years has been the emergence of the Republic of Armenia. Rising out of the ashes of the former Soviet Union, the Republic of Armenia has shown a remarkable resilience, a commitment to democracy and a market economy. And it has not been easy: Armenia has been squeezed by cruel and illegal blockades imposed by modern Armenia's two neighbors, Turkey and Azerbaijan. Some of the noises coming out of Moscow, about a reunited Soviet Union, are most troubling. In spite of these difficulties, Armenia has been the only former Soviet Republic to register positive growth in its gross domestic product. The Republic of Armenia also moves forward with the process of democratization, having held Parliamentary elections last year and planning for Presidential elections this year.

But the people of Armenia need our help—American help—now. We must do everything possible to make sure that they get that assistance, and many of my colleagues are working equally hard.

The foreign operations appropriations for fiscal year 1996 provided $85 million in U.S. humanitarian aid, plus an additional $30 million for development assistance. Last year's foreign operations bill also included the Humanitarian Aid Corridor Act, which bars aid to Turkey for as long as Turkey blocks the delivery of United States aid to Armenia. We are working to have this provision reenacted, and to make sure that the administration strictly enforces this law. In addition, last year's foreign aid bill had a cut in aid to Turkey, as a direct statement of disapproval for Turkey's actions with regards to the Armenian blockade, as well as the mistreatment of the Kurdish people, its occupation of Cyprus and its generally bad human rights record. I find it incredible that a country that gets $600 million in U.S. taxpayers' funds can get away with blocking the delivery of American humanitarian assistance to its small, struggling neighbor.

Another way we can help Armenia is by ending the illegal blockade imposed by Armenia's neighbor to the east, Azerbaijan. Current U.S. law blocks the provision of American assistance to Azerbaijan until the Azeris lift their blockade. Unfortunately, last year, legislation to waive this law was included in the foreign operations bill. This year, we will try to be more vigilant to make sure that Azerbaijan is not rewarded for failure to comply with the conditions of United States under the Freedom Support Act.

Last year, Congressman PORTER and I founded the Congressional Caucus on Armenian Issues, to be a voice for a stronger United States-Armenia partnership and to better represent the interests of the Armenian-American community. We now have 49 Members, from both parties and all regions of the country. There is a lot of sympathy and moral support for Armenia in the Congress, in the administration, among state legislators around the country, and among the American people in general. But we should not kid ourselves: we are up against very strong forces, in the State Department and the Pentagon who believe we must continue to appease Turkey, and among United States and international business interests whose concerns with profits and sources of raw materials outweigh their concerns for the people of Armenia.

In closing, let me pay particular tribute to the survivors of the genocide. The horrors you have witnessed and experienced are unspeakable. Yet we must never forget what happened to you, your brothers and sisters, mothers and fathers, friends, and neighbors. I will do all that I can to keep alive the memory of what happened to the Armenian people in the past—and to play a role in working for a brighter future for the Armenian people.

Mr. THOMAS. Mr. Speaker, today, I join in commemoration of the 81st anniversary of the Armenian genocide. On April 24, 1915, under the direction of the Turkish Ottoman Empire, a campaign of Armenian extermination began. Armenian religious, political, and intellectual leaders from Istanbul were arrested and exiled—silencing the leading representatives of the Armenian community in the Ottoman Empire. Over the next 8 years, 1.5 million Armenians were murdered, with another 500,000 forced into Russian exile. Today we recognize the struggle of the Armenian people to live peacefully in their historic homeland.

Armenians in the United States and elsewhere should know that their history of suffering has not and will not be ignored. Like the Jewish and Cambodian holocausts, the Armenian genocide stands out as one of the world's most morally reprehensible acts. We need to address and trace the causal factors leading to the rise of totalitarian governments, and ensure that the seeds of fascism are never again planted.

On this day, we should remember those Armenians who died 81 years ago. I have cosponsored House Concurrent Resolution 47, which would put the House on record honoring the memory of the 1.5 million genocide victims. The House should pass this resolution and send a message to the world that we will never forget what happened during that terrible period in history and that we reaffirm our resolve to ensure that no nation will ever again have the opportunity to participate in mass genocide.

Mr. SCHUMER. Mr. Speaker, I rise today to join with my colleagues in remembering and paying tribute to the victims of the Armenian genocide. The tragedy of these murders cannot be overestimated—millions lost, a generation of mothers and fathers, children and grandchildren killed. I rise in solidarity with the people of the Armenian-American community, as well as with the people of Armenia, because I feel a connection through tragedy with them. I share that disabling sense of loss that many in the Armenian community feel because I lost members of my family in another Holocaust at the hands of the Nazis. I believe it is vitally important to talk about these heartbreaking events, to keep the spirit of those who died alive for the benefit of the world. And we must continue to call attention to the horror and the inhumanity of genocide whenever it takes place.

The Armenians who perished at the hands of the young Turk Committee between the years of 1915 and 1923 were people like you and me—they had raised families, worked hard, enjoyed holidays together, had petty arguments, shared joys and sorrows. These people, just like you and me, were killed because of who they were, and even today, 81 years later, this chills us to the bone.

The atrocities began on April 24, 1915, when 200 Armenian religious, political, and intellectual leaders from Istanbul were arrested and exiled from their community in the Ottoman capital. Over the next 8 years, more than 1 million men, women, and children experienced deportation, forced labor, and in some cases, torture and extermination. This tragedy set the tone for an entire century in which crimes against humanity plague our history books and continue to cover the front page of newspapers.

I am convinced of one thing—the Armenian genocide existed. We know it did. The National Archives holds the most comprehensive documentation in the world on this historic tragedy, over 30,000 pages. More importantly, I have talked with those who survived it. Armenians suffered then, and continue to do so, whenever the atrocity is denied.

I think the most important thing we can do as a nation is acknowledge this tragedy and continue to pay tribute to those Armenians who perished under such terrible circumstances. it is my hope that by preserving these victims and their terrible experiences in our communal memory, we not only honor them, but may even prevent similar situations in the future from occurring.

Mrs. KENNELLY. Mr. Speaker, today, on the 81st anniversary of the Armenian genocide, I rise to commemorate the lives of the 1.5 million Armenians who were enslaved, tortured and exterminated from 1915 to 1923 by the Ottoman Empire.

On this day in 1915, Armenian intellectuals, clergy and leaders were rounded up and taken to their deaths. What was to follow was the ethnic cleansing of the native homeland of the Armenian people. Over a period of 8 years, 1.5 million Armenians were murdered and another 500,000 were deported. Before World War I, over 2 million Armenians lived in the Ottoman Empire. By 1923, the entire population of Anatolia and Western Armenia had been killed or deported.

This was the first genocide of the 20th century, and, tragically, it was not the last. Prior to the invasion of Poland, Adolf Hitler asked, "Who today remembers the extermination of the Armenians?" In a climate where no one remembered, the death camps became a reality.

Today, as the slaughter continues in Bosnia and Rwanda, it is more important than ever to remember—and to stand up to oppose genocide, systematic extermination, or ethnic cleansing. I have cosponsored H. Con Res. 47, a resolution commemorating the Armenian genocide, because of my belief that we must never forget the victims of this terrible act, and that we must always be prepared to prevent further crimes against humanity.

VOL 142 PT 6 AP 15 — 24 1996 UMI

Mr. KENNEDY of Rhode Island. Mr. Speaker, one of the most profound calls to action ever written emerged from the Holocaust. Martin Niemuller expressed so well the guilty anguish of silence:

> First they came for the Socialists, and I did not speak out because I was not a socialist.
> Then they came for the trade unionists, and I did not speak out because I was not a trade unionist.
> Then they came for the Jews, and I did not speak because I was not a Jew.
> Then they came for me and there was no one left to speak for me.

This quote is telling because it can be said as much for the Armenian genocide as the Jewish Holocaust.

In fact, it has not been lost on historians of this century that the failure to recognize the Armenian genocide for what it was made it easier, not harder, for evil men like Hitler to believe they could do the same.

Today we in Congress are solemnly observing the tragedy of the Armenian genocide.

By observing this event we honor the bravery and courage of those who survived and we honor the memory of those who perished.

By observing this event we take a small step toward ensuring that such horrors will never occur again.

I am honored today to rise on behalf of Rhode Island's Armenian community—a vital and dynamic group that has made an incalculable contribution to the life of my State.

During my years in the Rhode Island General Assembly I joined my colleagues in consistently passing resolutions commemorating the Armenian genocide.

Additionally, we passed a resolution that condemned the removal of a photograph from the Ellis Island Museum which depicted horrors visited upon Armenians. Rhode Island was the first State in the Nation to issue such a resolution.

We can not erase the past by hiding it. We can not make today better by ignoring yesterday. While history may not be pleasant, it is grossly irresponsible to refuse to face the past and all the truths it contains. This photo was restored and visitors were allowed to see the past and learn from history.

As has often been remarked, those who forget the past are condemned to repeat it. Because of that ever-present risk we must all work to always remember and never forget the genocide, to cherish and preserve the Armenian culture, and to continue to fight for human rights and peace in this region.

Not until all Armenians are safe and secure, protected from harm and threat, will our work be done. Not until that day will our cause be won.

Not until that day can we rest.

Mr. VISCLOSKY. Mr. Speaker, I rise today to commemorate the 81st anniversary of the Armenian genocide. Each year, I join my House colleagues from both sides of the aisle in remembering the terrible atrocities that have been committed by Turkey against the Armenian people.

Members of Congress rise in this chamber every spring to publicly remember the genocide, but far too often these words and speeches are quickly forgotten. Far too often, people want nothing more than to forget that mankind can be so cruel. Far too often, people whisper quietly in the dark among themselves about how such a terrible thing as the Armenian genocide could never happen again.

Mr. Speaker, those people who whisper such words are wrong, terribly wrong. First, I would like to talk about how the Armenian genocide began. It began on April 24, 1915, when over 400 religious, political, and intellectual leaders of the Armenian community in Constantinople were executed by the Turkish Government. Thus began a war of ethnic genocide by the Ottoman Empire against Armenians that finally ended in 1923, when over half of the world's Armenian population—an estimated 1.5 million men, women, and children—had been killed. By the end of 1923, virtually the entire Armenian population of Anatolia and western Armenia was dead.

While it is important to remember this horrible fact of history in order to help comfort the survivors, we must also remain eternally vigilant in order to protect Armenia from new and more hostile aggressors. Even now, as we rise to commemorate the accomplishments of the Armenian people and mourn the tragedies they have suffered, Turkey and other countries are attempting to break Armenia down by maintaining a crushing and total blockade against this free nation.

For five consecutive years, Turkey and the former Soviet Republic of Azerbaijan have maintained a blockade of Armenia and Nagorno-Karabagh. The blockade has cut off the transport of food, fuel, medicine, and all other commodities. The blockade has driven over 90 percent of Armenia's population below a poverty level of $1.00 a day. As many as one-fifth of Armenia's 3.6 million people have fled the country. Because of the ongoing blockade and long winters without heat, thousands of Armenians have died from the harsh cold. These deaths are on Turkish hands, just as the deaths of 1.5 million Armenians earlier this century are on Turkish hands.

Last year, I led the fight in the House of Representatives to protect Armenia from this vicious blockade by Turkey and Azerbaijan by stripping out a provision in the fiscal year 1996 Foreign Operations appropriations bill that would have allowed the United Stated Government to provide direct cash payments to the Government of Azerbaijan before Azerbaijan had lifted its blockade of Armenia.

My amendment was approved by a voice vote, demonstrating widespread bipartisan support among House members for maintaining the strict sanctions against the Azerbaijani Government. There were over 2 hours of debate on the amendment, during which both Republicans and Democrats spoke strongly in favor of keeping prior U.S. law in place.

Although it has suffered greatly, Armenia is once again a sovereign, independent country. Its people are strong and determined to succeed. I am proud to support Armenia and the many noble ideals it represents. It is my sincere hope that the United States continues to strengthen its relationship with the nation and the people of Armenia.

Towards that end, I am extremely pleased that a strong and vibrant Armenian-American community is flourishing in northwest Indiana. In fact, my predecessor in the House of Representatives, the late Adam Benjamin, was of Armenian heritage. There are still strong ties to the Armenian homeland among Armenian-Americans. During the devastating Armenian winter of 1992–1993, Mrs. Vicki Hovanessian and her husband, Dr. Raffy Hovanessian, residents of Indiana's First Congressional district, helped to raise over $750,000 for purchases of winter rescue supplies of heating fuel and foodstuffs. In the last 12 months, alone, the Hovanessians have raised over $1,000,000 for charitable and educational purposes in Armenia and the United States. Two other Armenian families in my congressional district, Heratch and Sonya Doumanian and Ara and Rosy Yeretsian, have also contributed countless hours and resources toward charitable works in the United States and Armenia. One of the notable causes for which they have worked is the Saint Nersses Seminary in New York, which sponsors an exchange program between the United States and Armenia for new seminarians. I commend these generous families for their hard work and dedication to charitable giving.

In closing, I would like to commend my colleagues, Representatives PORTER and PALLONE, for organizing this special order to commemorate the 81st anniversary of the Armenian genocide. This remembrance will not only console the survivors and their families, but it may also serve to avert future atrocities.

Mr. FARR of California. Mr. Speaker, this is a solemn day in the history of the modern world. Eighty-one years ago today began a period of systematic persecution of the Armenian people—what would become one of the more terrible cases of state-sponsored terrorism against an ethnic group.

Beginning with the execution of some 200 leaders from the Armenian community on April 24, 1915, Armenians in Turkey were subjected to cruel and brutal treatment. Those of Armenian descent serving in the Ottoman army were subjected to forced labor and later executed. Women were raped or forced into prostitution. Thousands of men, women, and children were forced to leave their villages and either killed outright or sent on death marches through the desert, where they suffered horribly from disease and starvation.

When it was all over, nearly 10 years later, 1½ million Armenians were dead—victims of torture, executions, and forced labor—and hundreds of thousands of others were refugees. The terrible results of this systematic persecution can still be seen today: where once over 2 million Armenians lived in Ottoman Turkey, less than 80,000 live in the region today.

Many years have passed since the Armenian genocide, but we must never forget what happened to the Armenians of Ottoman Turkey solely because of their ethnicity. We must make sure that our children, and their children, learn about the genocide and understand the circumstances which led to such a horrific event in history.

In remembering the millions who died so tragically and unnecessarily, we would be well to remind ourselves of what the terrible effects of racism and bigotry can be. When a nation sees political gain in supporting ethnic persecution, as Ottoman Turkey did in persecuting the Armenian people, the result can only be disaster and tragedy.

We must also remember that individual cases of persecution are often followed by more extreme measures. The Armenian genocide of 1915–1923 had followed decades of anti-Armenian persecution in Ottoman Turkey.

For these reasons, we must never, never tolerate discrimination or bigotry in any form, whether it comes from a single individual or a whole government. We must work together to ensure that such a horrible tragedy as befell the Armenian people never happens again.

Mrs. KELLY. Mr. Speaker, I am pleased to stand and join with my colleagues in commemorating the 81st anniversary of the Armenian genocide. I would like to thank the other members of the Congressional Caucus on Armenian Issues, and particularly the cochairmen, Mr. PORTER and Mr. PALLONE, for their tireless efforts in organizing this fitting tribute.

On April 24, 1915, 81 years ago today, the nightmare in Armenia began. Hundreds of Armenian religious, political, and educational leaders were arrested, exiled, and murdered. These events marked the beginning of the systematic execution of the Armenian people by the Ottoman Empire, and also launched the first genocide of the 20th century. Over the next 8 years, 1.5 million Armenians were put to their deaths and more than 500,000 more were exiled from their homes. The details of these atrocities are among the most cruel and inhumane acts that have ever been recorded.

As we reflect today on the horrors that were initiated 81 years ago, I cannot help but be disturbed by the forces who wish to discredit or deny that these deeds occurred. Despite the overwhelming evidence to the contrary—eyewitness accounts, official archives, photographic evidence, diplomatic reports, and testimony of survivors—they reject the claim that genocide, or any other crime for that matter, was perpetrated against Armenians. Well, History tells a different story.

Let me read a quote from Henry Morgenthau, Sr., United States Ambassador to the Ottoman Empire at the time, which helps to set the record straight. He said, "When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race; they understood this well, and, in their conversations with me, they made no particular attempt to conceal the fact * * *."

The world knows the truth about this sad episode of human affairs. We will not allow those who wish to rewrite history to absolve themselves from responsibility for their actions. This evening's event here in the House of Representatives is testament to that fact. I would like to once again thank the organizers of this event and I would like to once again reaffirm my sincere thanks for being given the opportunity to participate in this solemn remembrance.

Mr. ZIMMER. Mr. Speaker, it is a privilege to join my colleagues today in remembering and honoring the 1½ million Armenians who were victims of a brutal campaign of genocide between 1915 and 1923 by the Ottoman Empire and its successor state.

This systematic campaign of murder and forced exile is one of the darkest events in this century, and as we recognize it we should also vow to do whatever we can to help prevent such atrocities again.

Today, we honor those who fell in the Armenian genocide. But we also honor the spirit of perseverance and courage that has enabled Armenians to transcend such horrible destruction by surviving not only as individuals but also as a vital people.

Eighty years after the onset of the genocide, Armenia is an independent, democratic state. It was the first among the former Soviet republics to privatize agricultural land and livestock production, and it is working hard to build a strong economy despite tremendous obstacles, both natural and manmade. The 1988 earthquake continues to leave deep scars, and the blockade of Armenia's rail lines and roads has severely limited international trade. Turkey's refusal to allow humanitarian relief to pass through its territory to Armenia also has taken a tragic human toll.

Armenians time and again have displayed enormous courage in the face of adversity, and it is that quality that we commemorate the most here today, even as we honor those Armenians who suffered the evil of the genocide eight decades ago.

Ms. ROUKEMA. Mr. Speaker, today we mourn the 1.5 million victims of an unspeakable 8-year genocide carried out 81 years ago.

From 1915 to 1923, over 1.5 million Armenians living in Turkey were systemically murdered by the Ottoman Empire. And, throughout history, the world has experienced other horrible acts of cruelty such as the killing of 12 million in the Holocaust, ethnic cleansing/tribal warfare in Bosnia and Rwanda and, most recently, the bombing in Oklahoma City. That is why it is so important for us to remember this senseless tragedy every year—so that we remain vigilant in our efforts to promote peace and democracy throughout the world in order to help prevent such atrocious crimes from repeating themselves. Only by remembering such heinous acts can we move forward as a nation.

As we pay tribute to those Armenians who lost their lives, we must also continue to denounce racism, sexism, anti-semitism, bigotry, religious persecution, and ethnic violence both in the United States and throughout the world. And, taking the necessary steps to eradicate these prejudices will allow us to celebrate the many contributions that all groups of people have made to our country.

As the world took steps to end the tremendous suffering endured over 80 years ago, thousands of Armenians came to the United States in search of better lives. Today, they, their children, and their children's children represent what is best in America. Having one of this Nation's largest Armenian community's in my district, I am proud to say that their strong sense of work ethic and family values, among other things, is a model for other families to follow.

But, despite everything that has been achieved over the past 81 years, we cannot forget the plight that Armenia continues to face. In the middle of the Nagorno-Karabagh conflict, Armenia finds itself in a struggle for survival. Not only must the international community continue to increase its efforts to bring about democracy and stability in the TransCaucuses, but the United States must also must continue its resolve to restore security in the region and cleanse it of ethnic hatred.

All of us will forever remember this horrible tragedy. But, by working together with other countries to resolve present international conflicts, we will hopefully never have to speak about a similar tragedy in the future.

Mr. DOOLEY of California. Mr. Speaker, I rise today to join my colleagues once again in remembrance of the Armenian genocide.

In commemorating this terrible human tragedy, it is important for us to remember other such tragedies that have occurred throughout history. In recent years, the horrifying reports of systematic ethnic cleansing and other atrocities in the war-ravaged former Yugoslavia have demanded the attention and response of the Western world. The Balkan conflict has proven to be a very powerful and chilling reminder that if such aggression is ignored, an event much like the Jewish Holocaust can all to easily occur again.

The events of the Balkan conflict have brought the Jewish Holocaust back to the center of human consciousness regarding the history of human tragedies and genocide. While it is important to remember that tragedy, we must not forget that Adolf Hitler's plan for the final solution was rooted in the Armenian genocide. Today, we must remember the Armenian genocide and reflect upon the suffering endured by Armenia and her people.

One and one-half million Armenian people were massacred by the Ottoman Turkish Empire between 1915 and 1923. More than 500,000 Armenians were exiled from a homeland that their ancestors had occupied for more than 3,000 years. A race of people was nearly eliminated.

However great the loss of human life and homeland that occurred during the genocide, a greater tragedy would be to forget that the Armenian genocide ever happened. Adolf Hitler, predicted that no one would remember the atrocities and human suffering endured by the Armenians, years prior to unleashing his plans for the Jewish Holocaust. After all, he claimed, "Who remembers the Armenians?" Our statements today are intended to preserve the memory of the Armenian loss, and to remind the world that the Turkish Government—to this day—refuses to acknowledge the Armenian genocide.

The 81st anniversary also brings to my mind the current plight of the Armenian people, who are still immersed in tragedy and violence. The unrest between Armenian and Azerbaijan continues in the enclave of Nagorno-Karabagh. Thousands of innocent people have already perished in this dispute, and still many more have been displaced and are homeless. In fact, families from my own district in central California have become tragically involved in this conflict.

In the face of this difficult situation comes an opportunity for reconciliation. Now is the time for Armenia and its neighbors, including Turkey, to come together, to work toward a sustaining peace and to rebuild relationships between countries. The first step, must be to recognize the facts of history, however painful or awkward that may be.

Meanwhile, in America, the Armenian-American community continues to thrive and to provide assistance and solidarity to its countrymen and women abroad. Now numbering

VOL 142 PT 6 AP 15 — 24 1996 UMI

nearly one million, the Armenian-American community is bound together by strong generational and family ties, an enduring work ethic and a proud tradition of ethnic heritage. Today we recall the tragedy of their past, not to place blame, but to answer a fundamental question, "Who remembers the Armenians?"

Today our commemoration of the Armenian genocide speaks directly to that end, and I answer—We do.

Mr. DURBIN. Mr. Speaker, I rise to honor the memory of the victims of the Armenian genocide.

Today is the 81st anniversary of the beginning of the genocide that ultimately took the lives of one-and-a-half million Armenian men, women and children. On April 24, 1915, 200 Armenian religious, intellectual and political leaders in Constantinople were arrested by the Government of the Ottoman Empire and murdered. It was the beginning of the first genocide of the 20th century, and it continued until 1923. It was a vicious, organized crime against humanity that included murder, deportation, torture and slave labor.

The permanent exhibition of the United States Holocaust Memorial Museum, just a few blocks from here, contains an excerpt from a speech by Adolf Hitler which says: "Who after all, speaks today of the annihilation of the Armenians?" Mr. Speaker, that is why we must speak today about the Armenian genocide of 1915–23. So that no individual or government can ever think that such a crime against humanity will be forgotten. By commemorating the 81st anniversary of the Armenian genocide we bring attention to an atrocity that most of the world knows very little about. It is a part of history that must not be forgotten.

The Armenian genocide was followed by a concerted effort to destroy any record of the Armenians in Asia Minor, including the destruction of religious and cultural monuments, and the changing of place names. I am saddened that there are those who would prefer to forget the Armenian genocide. To ignore it is to desecrate the memory of those who lost their lives. And such denial sends the message that genocide will be tolerated by the world.

To deny the genocide of the Armenians, or any atrocity of this scale, is to forsake the value we place on human life and the principles of liberty upon which this country is based. Those who turn a deaf ear to the Armenian genocide, knowingly or unknowingly, abet the future of genocide by failing to raise public consciousness about this tragic reality.

As we remember those whose lives were brutally taken during the Armenian genocide, we also pay tribute to the survivors—the living testimony of this historic crime—and to their families, many of whom are now Armenian-Americans. We must assure them that we, as the leaders of the democratic world, will not forget this tragedy, but rather gain the wisdom and knowledge necessary to ensure that we can prevent its repetition.

The surest way to honor the memory of the victims of the Armenian genocide and all crimes against humanity is to recognize their suffering and ensure that these acts are never repeated. As we pause to reflect upon this grievous example of man's inhumanity to man, let us strengthen our conviction that such atrocities never be allowed to happen again.

Mr. MARKEY. Mr. Speaker, on this solemn day of remembrance I join Armenians throughout the United States and around the world in commemorating the genocide of innocent Armenian men, women, and children slaughtered with ruthless precision during the closing days of the Ottoman Empire. It is crucial that we recall the chilling events of this dark chapter in world history, face the historical facts directly and without hesitation, and dedicate ourselves to preventing such atrocities in the future.

The historical record shows that in 1915, a systematic massacre of Armenian religious, political, and intellectual leaders began. Continuing until 1923, the cruelty and ruthlessness which marked this campaign of terror still shock the conscience more than 80 years later. Between 1915 and 1923, 1.5 million Armenians lost their lives, and more than 500 thousand were expelled from their homes. Innocent Armenians were rounded up and sent away to unknown destinations to be murdered. Uncovered by a researcher only a few years ago, a report from a United States consul stationed in eastern Turkey from 1914 to 1917 provides disturbing details of this coordinated effort to commit genocide against the Armenian people. This record of cold-blooded murder is harrowing.

Despite the calculated attempt to purge the Armenian people from their land and erase Armenian culture and traditions, today the Republic of Armenia is working to establish a vital and progressive nation built upon democratic institutions. The Armenian Government has drafted a constitution, launched a program of industrial reform, privatized agricultural land, and made substantial progress in small-enterprise privatization. Armenia also has taken steps toward resolving the Karabakh conflict and moved to stabilize its economy based upon free-market principles.

I am pleased that our Government has recognized the importance of Armenia and has been working closely with international lending institutions to help ease Armenia's transition to a market economy. Through a comprehensive assistance program, USAID has funded numerous initiatives in Armenia, including one aimed at improving the distribution of much-needed commodities such as kerosene. Armenia has cooperated with the World Bank and the International Monetary Fund, made the difficult fiscal decisions necessary to construct a market-based economy, and steadily progressed towards a free and open democratic system.

As we mark the anniversary of the Armenian genocide, we join with our Armenian friends in remembering those who lost their lives in the early years of this century. While we reflect upon the past and dedicate ourselves to preserving the history of this humanitarian disaster, we also look forward. We look forward to a future in which Armenia will, we hope, grow prosperous, achieve economic strength, and, above all else, enjoy peace.

Mr. BERMAN. Mr. Speaker, I rise today in commemoration of the Armenian genocide.

The genocide committed against the Armenian people in the late 19th century and the early years of our own ranks among the worst such occurrences in human history. That it took place during the supposedly civilized "modern" era makes the crime all the more abysmal—and the need to commemorate it that much more important. The essential features of the story can be summarized briefly. As the 19th century drew to a close, authorities in the crumbling Ottoman Empire decided to crack down against a growing movement for Armenian autonomy. After enduring brutal persecution, the Armenians refused to pay the taxes levied by their oppressors. As a result, thousands of innocent civilians lost their lives and thousands more witnessed the destruction of their homes—all because the Ottoman Government wanted to teach them a lesson.

When the Armenians sought to publicize their plight by seizing a government building in Constantinople, government forces instigated a vicious pogrom during which over 50,000 perished. Several years later during the First World War, Armenian service in the Allied cause prompted the Turkish authorities to order the deportation of almost the entire Armenian population from their homeland to two distant provinces of the Turkish Empire, Syria and Palestine. Well over 1 million died during this long forced march, many thousands at the hands of government soldiers and many more from disease and malnutrition.

Sadly, we have not managed to escape the consequences of these atrocities. The legacy of bitterness is readily observable in central Asia, where memories of past injustice have complicated the search for peace and stability in Nagorno-Karabakh. The Humanitarian Corridor Act is another echo of the tragedy that occurred so many years ago. We would have had less reason to prepare such legislation if we did not also have to deal with ethnic conflict in the Caucasus.

One bright element did emerge from what befell the Armenians. As the horror continued, thousands of Armenians came to this country; many of their heirs now live in my own State of California, where they have established an enviable record of prosperity and service to the United States and to the broader world community. To them, we all owe a considerable debt of gratitude.

The achievements of Armenian-Americans demonstrate once more that it is possible to pay homage to one's ancestors while rising above the traumas of the past and embracing the opportunities of the here and now. This spirit is one element—no doubt, an essential one—of the American genius. Let us pray that it begins to animate all the people of the Caucasus region. Without a willingness among all parties to put aside ancient feuds while working jointly to resolve the problems of the present day, it will be impossible for the region to achieve even half of what Armenian-Americans have managed to do in less than a century.

Mr. Speaker, please permit me to close by altering slightly what I said at the outset. Even though this is indeed a day of commemoration for the thousands who perished in the Armenian genocide, we must not forget the great duty of those now living to prepare a better world for generations to come.

Mr. DELLUMS. Mr. Speaker, I rise today to discuss genocide. According to the Genocide Convention, genocide constitutes killings and

other acts done "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group." Genocide has occurred throughout history. Genocide is a crime that has been committed far too many times than we want to acknowledge. It has been committed by many peoples against those perceived as ethnically or religiously different. Many of its perpetrators have gone unpunished; many of its victims have gone unrecognized.

We are immediately reminded of the genocide committed by the Nazi Germans against the European Jews during World War II. Mournful remembrance of its 6 million victims was commemorated by this body this past week. Less known is the genocide committed by the Nazi Germans against the Slavic peoples during World War II. More recently, we are reminded of the genocide committed by the Hutus against the Tutsis in Rwanda beginning April 6, 1994. One million were estimated killed; 2 million were forced to flee to neighboring countries. Neither can we forget the genocide committed during the past 5 years by the Orthodox Christian Serbs against the Muslim Slavs in the former Yugoslavia. The total number dead and homeless have yet to be determined. In addition to these, we need to be reminded of another—the genocide of Armenians by the Ottoman Turks, which occurred between 1915 and 1923. Although this persecution claimed the lives of 1.5 million people and resulted in the forced deportation of 500,000 people, too few of us are even aware of its occurrence.

The Genocide Convention entered into force January 12, 1951. It was ratified by the United States on February 23, 1989. It confirms that "genocide, whether committed in time of peace or in time of war, is a crime under international law." The convention recognizes that every nation in the world has an obligation "to prevent and punish" genocide. As a world power, the United States must do whatever it can to ensure that perpetrators of genocide are brought to justice and to ensure that genocide never happens again. As representatives of the American people, we must speak out and condemn genocide wherever it has occurred. Each of us, individually and collectively, has a moral obligation to acknowledge the wrongs of the past and to ensure that they are never again allowed to occur.

Mr. HOYER. Mr. Speaker, April 24 marks the commemoration of the massacre of Armenians in Turkey during and after the First World War. In what historians refer to as the first of this century's state-ordered genocides against a minority group, more than 1.5 million people were murdered. We mourn the dead and express our condolences to the descendants of those who perished. We must also reflect upon the meaning and lessons of their suffering and sacrifice.

As many have observed, the massacres and deportations inflicted upon the Armenian community during that period were to mark this century of horrors. Civilian populations, defined by ethnic, racial, or religious distinctiveness, have become the objects of persecution and genocide simply because of who they are—Armenian Christians, European Jews, Bosnian Muslims. The range of victims—geographical, ethnic, religious, and political—testifies to the universality of human cruelty and fanaticism. The response of the survivors, however, testifies to the indestructibility and the resilence of the human spirit, even in the face of the most virulent evil.

Like the phoenix of mythology, the Armenian people survived its bleakest days and arose with renewed vigor. Armenians' sense of national identity has been strengthened and the Armenian language is flourishing. Most important, independent Armenian statehood has been restored to guarantee the security and future of the nation. However, independent Armenia, the realized promise and the living memorial to the victims of 1915 and later years, has endured a difficult rebirth. The Nagorno-Karabakh conflict has cost thousands of lives, created hundreds of thousands of refugees, and kept the entire region from enjoying the blessings of independence. Blockaded by its neighbors, Armenia's people have suffered through cold, hunger and deprivation. But their spirit remains sturdy, and their sacrifices link them in an unbreakable bond with past generations of Armenians.

It is our fervent hope, Mr. Speaker, that future generations will not have to sacrifice as their ancestors have. It is also our hope that all parties to the conflict in Nagorno-Karabakh will build on the now 2-year-old cease-fire and renew their efforts through the OSCE process to reach a negotiated settlement. Nothing could honor the memory of the victims of 1915 more than a free, prosperous Armenia living in peace with all its neighbors, and moving and impressing the world with both the spiritual and material products of the unbreakable Armenian spirit.

Mr. WAXMAN. Mr. Speaker, I want to express my appreciation to Mr. PALLONE and Mr. PORTER for holding this special order today to commemorate the Armenian genocide.

Approximately 6 million people of Armenian descent live in the United States. The elderly among them still have memories of the systematic persecution of Armenians during the years of the Ottoman Empire, and the accounts of this terrible crime against humanity have been passed down through the generations.

It is impossible to comprehend all of the genocidal horrors that were perpetrated against the Armenians during this dark time. In a few short years, approximately 1½ million ethnic Armenians were killed. Another one-half million were driven from their homes, robbed of their property, and saw every sign and symbol of their religion and culture obliterated and replaced with Turkish nationalist symbols.

Journalist Marjorie Hagopian reported that when the Nazis contemplated the destruction of the Jewish people, one of the leaders asked whether or not there would be world repercussions for the planned atrocities. Hitler is said to have responded, "Who cared about the Armenians?"

Would that the moral outrage of past atrocities against Armenians, Jews, Romany—gypsies, gays, labor leaders, intellectuals, and clergy prevent any such occurrence again. Sadly, even today we see in the former Yugoslavia gross violations of human rights, "ethnic cleansing," massive forced relocation of populations, and other horrors for which the Armenian genocide was a horrible precedent.

April 24 has been set aside to remind us of George Santayana's prophetic warning that those who forget history are doomed to repeat it. Today we honor the memory of the victims of the Armenian genocide and reaffirm our unwavering commitment to fight all crimes against humanity.

Mr. MANTON. Mr. Speaker, I rise today to join my colleagues in commemorating the 81st anniversary of the Armenian genocide of 1915 to 1923 and pay tribute to the more than 1.5 million Armenians killed by the Turkish Ottoman Empire. I commend my colleagues, Congressman PORTER and Congressman PALLONE, for arranging this special order to observe this horrific event in world history.

On April 24, 81 years ago, the Ottoman Turkish Government launched their systematic and deliberate campaign of genocide against the Armenian people. This violent campaign resulted in the deaths of over one-third of the Armenian population living in the Ottoman Empire and the exile of approximately 500,000 Armenians from their homeland.

Unfortunately, the persecution of the Armenians did not end in 1923, but continues today. Since 1988, the Nagorno-Karabakh conflict involving Armenia and Azerbaijan, has left more than 1,500 Armenians dead and hundreds of thousands of refugees in the three territories. A withering blockade of economic disruption has made everyday life a struggle for Armenians. Acquiring necessities for survival has become a great obstacle.

As a member of the congressional Armenian caucus, I have been working with my colleagues on the caucus on issues which effect the Armenian community. Recently, I joined my colleagues in sending the President a letter asking him to join the congressional Armenian caucus to issue a strong statement of commemoration and to honor the memory of the survivors of the Armenian genocide. In addition, I urge my colleagues to join me in cosponsoring House Concurrent Resolution 47, honoring the memory of the victims of the Armenian genocide. It calls for the United States to encourage the Republic of Turkey to acknowledge and commemorate the atrocity committed against the Armenian population of the Ottoman Empire from 1915 to 1923.

New York State is one of the few States which has offered a human rights/genocide curricula for teachers to use at their discretion, which includes the story of the Armenian genocide. Educational programs such as this will allow our children to learn about the tragic past in Armenian history, ensuring a peaceful existence for future generations.

It is my hope that next year when we remember the 82d anniversary of Armenian Martyrs Day we will be able to celebrate a restored peace to the Armenian people and confidently proclaim that "never again" will the world allow such a senseless tragedy to occur.

Mr. DREIER. Mr. Speaker, there is a well-worn saying that "Time heals all wounds." As we reflected this past weekend on the one-year anniversary of the tragedy in Oklahoma City, we drew some solace from it. Mercifully, the immediate pain and sadness of that most horrendous American terrorist act in history have passed. However, while we draw comfort from the passing of time, it does not mean that we are expected or should forget.

This is an especially poignant time to recall another horrible act of hate and evil, the genocide committed against the Armenian people

VOL
142
PT
6
AP
15
—
24
1996
UMI

in Turkey 81 years ago. Just as we will never forget the terrorism committed in Oklahoma, it is important that we not forget the 1.5 million Armenian men and women and children who were brutally murdered in the inaugural genocide of the 20th century.

Each year, Americans, and not just Armenian-Americans, come together on this occasion. We do so to do more than simply remember that the Armenians were the first victims of what sadly has become man's bloodiest century. Rather, we each hope that raising the consciousness of past atrocities helps prevent similar tragedies in the future.

With tragedy so near and so fresh in our minds, we are easily reminded that hate and evil are unfortunate aspects of the human condition. However, it is our responsibility as Americans to remain vigilant against hate, violence, and intolerance, whenever and wherever it rears its ugly head.

Mr. Speaker, I yield back the balance of my time.

Mr. BLUTE. Mr. Speaker, I am pleased to join my colleagues for this commemoration, and I thank Mr. PORTER and Mr. PALLONE for arranging it.

Recent history has seen the Armenian people subjected to a number of very difficult, troubling and tragic circumstances. From being forced to live under the Soviet communist regime, to the terrible 1988 earthquake—much worse than any this Nation has ever seen, to the present blockade and violence imposed by the Azeris.

The Armenian people have long suffered.

But nothing is more tragic than the genocide which took place from 1915 to 1923. One and one-half million died, countless more lost mothers and fathers, sons and daughters, uncles and aunts, comrades and friends.

We stand here, more than half a century later, to ensure that others will not forget.

Not forget the massacres. Not forget the persecution. Not forget the death marches. Not forget the bloodshed. And not forget that all citizens in the world deserve to live in freedom without the threat of destruction by people that hate.

That is why it is important we commemorate this 81st anniversary of the Armenian genocide. We can not afford to let the people of this world forget that genocide can, and does happen. Already, this decade has been marred by events in Rwanda and the former Yugoslavia.

In light of the sorry events in those countries we must do everything in our power to make sure the people of the world remember the genocide in Armenia 81 years ago. For, if we forget the past we will be condemned to repeat it.

As part of this effort the distinguished minority whip, Congressman BONIOR and I introduced House Concurrent Resolution 47. This resolution would put the House on record honoring the memory of the 1.5 million genocide victims. The House must pass this resolution and send a message to the world that we can never forget.

Furthermore, we are hosting a congressional reception next week and encourage all Members to take a moment out of their schedules to honor the survivors and the memories of the victims of this dark event in world history.

Mr. GILMAN. Mr. Speaker, I am pleased to be able to join today in the special order organized by my colleagues, Congressman JOHN PORTER and Congressman FRANK PALLONE, to honor the 81st anniversary of the Armenian genocide. It has in fact been my privilege to participate in such observances throughout the time that I have served in the U.S. Congress.

Eighty-one years is certainly a long time, but the memory of the atrocities committed by the former Ottoman Empire at that time against those of Armenian descent still burns in the consciousness of Armenian-Americans. This is indeed an important occasion, not just for Armenian-Americans, but for all those concerned by human rights abuses and by campaigns of genocide.

Our observance of this anniversary can serve as a reminder that such atrocities will not be forgotten. That, in itself, is very important. It is also equally important, however, to take this opportunity to think of those innocent men, women, and children who fell victim to this genocidal campaign in 1915 and the years immediately following. Their lives were abruptly ended—in a brutal and revolting manner—but they can come to life in our memories each year at this time. Those of their descendants who migrated to the United States after this terrible event still carry the memory of these unfortunate victims on this day and every day, and I believe that their ancestors would be proud to know how those who lived through this terrible event worked hard to make a new, prosperous life as citizens of their adopted land, the United States of America—and how they worked hard to keep their memory alive.

Mr. Speaker, once again, I thank my colleagues for arranging this special order on this important anniversary.

Mr. MARTINEZ. Mr. Speaker, I join my colleagues tonight in commemorating the 81st anniversary of the Armenian genocide. It is a testament to the Members of the Chamber that year after year we stand in the well of the House and pay tribute to the memory of the 1.5 million Armenian who were systematically slaughtered by the Ottoman Turks from 1915 to 1923.

Mr. Speaker, April 24, 1915, represents a tragic day in the history of the Armenian people. It is a day that has left an indelible mark on the consciousness of mankind. Eighty-one years ago, the Ottoman Turks unleashed the forces of hatred upon Armenian men, women, and children in a deliberate policy of extermination. On this fateful night, the Ottoman turks ruthlessly rounded up and targeted for elimination Armenian religious, political, and intellectual leaders.

For 8 bloody years a reign of terror-ruled the daily lives of Armenians in the Ottoman empire. For 8, long, horrific years, Armenians were consumed by the fires of racial and religious intolerance. Tragically, by the end of 1923, the entire Armenian population of Anatolia and western Armenian had been either killed or deported.

On the eve of launching the jewish Holocaust, Adolph Hitler commented to his generals, "Who, after all, speaks of the annihilation of the Armenians?" Mr. Speaker, the Members of the U.S. Congress speak of the annihilation of the Armenians. We speak out tonight so that future generations of Americans will know the facts surrounding the first genocide of the 20th century. We observe this solemn anniversary, along with the Armenian-American community and the people of Armenia, so that no one will be able to deny the undeniable.

Many of the survivors of the Armenian genocide established new lives in America, contributing their considerable talents and energy to the economic prosperity and cultural diversity of our great Nation. Therefore, Mr. Speaker, it is with a sense of gratitude toward Americans of Armenian descent and a deep sense of moral obligation that I join my colleagues in honoring the memory of these fallen victims of genocide. They are not forgotten.

Mr. SMITH of New Jersey. Mr. Speaker, I rise to commemorate the Armenian genocide, as we do every year on April 24. This is a time of solemn remembrance, as Armenians everywhere set apart this day to mark the genocide perpetrated against them by the Ottoman empire in 1915 and afterwards. For friends of Armenians, this is an occasion to express condolences and to show solidarity with the worldwide Armenian community.

We not only mourn with them the loss of some 1.5 million Armenians but we voice our determination to prevent any such horrors from recurring. Unfortunately, the Armenian genocide was only the first in this bloody century of horrors. Since then, powerful states have singled out and massacred other ethnic, racial or religious minorities, and to judge by the atrocities committed in this decade in Yugoslavia, human cruelty knows no bounds of geography, race or religion.

Neverthleless, Armenians—the first victims of genocide this century—have served as models of strength, steadfastness and resistance. The most important target of resistance is amnesia. Armenians have taught us the lesson that some events are too important not to recall—no matter how painful—for the particular nation in question, and for all of us, but equally important is the lesson that a nation's hopes do not flicker out with the loss of so many of its children. Instead of being defeated, the wound can steel the soul and fertilize dreams of freedom and security.

Today, an independent Armenian state guarantees the security and future of the nation. Despite all the difficulties and travails of the last few years, Armenia has defended its people and will continue to do so. For our part, we today signal our commitment to foster all efforts to resolve the causes of tension between Armenia and its neighbors. The road to peace and normal relations among the states of Transcaucasia is arduous, but it must be pursued by all the peoples of the region with the decisiveness and strength that Armenians have demonstrated in keeping alive their traditions and striving for freedom.

Mrs. MORELLA. Mr. Speaker, it brings me no pleasure to stand before you in rememberance of the tragedy that mars this day in history. But the silent denial of wrongdoing that continues to accompany this date 81 years after the fact underscores the importance of this special order. April 24 stands as a black mark on the historical calendar; for the victims of the Armenian genocide perpetrated by an unapologetic government, I must call attention to these horrible deeds.

It was on April 24, 1915, that the Ottoman empire commenced a genocidal cleansing unlike any that had come before. In seizing 200 Armenian religious, political, and intellectual leaders on this date, the Ottomans announced that Armenians would no longer be considered worthy of the basic human rights which must be afforded to all humanity. For the next 8 years they would brutally demonstrate the extant of these beliefs as they slaughtered 1.5 million Armenian men, women, and children, and forced another half million from their homes.

On this solemn day, we must pay homage to the uncompensated families for whom this day brings nothing but sorrow. The genocide of the Armenian people has never been recognized by the Turkish Government; no apology or reparations have been made. Instead, 81 years later, the wholesale slaughter of human beings goes unrecognized and unpunished. This day stands in infamy as a precursor to the atrocities of Hitler, the unspeakable acts in Rwanda, and the recent attempts acts of ethnic cleansing in Bosnia-Herzebovina. In allowing these deeds to go unpunished we have said to the world that these heinous crimes are acceptable, that the rights of mankind are not universal. But human rights are not malleable ideas, subject to the whims of a nation and the inhumanity of its leaders, and the bonds which one person imposes on another can not be tolerated by a nation based on the concept of liberty and the rule of law. It is for these reasons that we must continue to honor this date, and in honoring it remember the evil of which we are capable.

In honor of the 1.5 million Armenians who lost their lives for no reason other than their heritage, we must ensure that the rights of humanity are protected regardless of the false boundaries of nationalism. We are all children of the same Creator; if we are not our brother's keeper, there will be no brother left in our hour of need. As we have said of the Holocaust, we say of this too, never again.

Mr. MOORHEAD. Mr. Speaker, first of all, let me thank the gentleman from New Jersey [Mr. PALLONE] for arranging this special order today. His support of the Armenian community has been, and continues to be tremendous.

Today we mark the 81st anniversary of the beginning of the Armenian genocide. On this date in 1915 hundreds of Armenian political and intellectual leaders were rounded up, exiled, and eventually murdered in remote places. In the ensuing 8 years, over 1.5 million men, women, and children were slaughtered in an attempted genocide of the Armenian people by the Government of the Ottoman Empire. This was a crime not just against the Armenian people. It was a crime against humanity. We must never forget this tragedy of unimaginable proportions.

I have friends who were present during that time. One friend of mine was turned over to a Turkish family by his own mother and father. He then had to endure watching the systematic murder of every single member of his family as well as the killing of many from his community. These kinds of unspeakable atrocities were commonplace in Armenia between 1915 and 1923.

A strong, resilient people, the Armenians survived these cruelties as they have survived persecution for centuries. Their descendants now include over 1 million Americans for whom marking this day is not only a way to remember those who perished, but a way to remind mankind that we must all come together in pursuit of a common goal: to see to it that slaughter of this size and scope has no chance of ever happening again.

Unfortunately, brutality against Armenians continues to this day. The current conflict with Azerbaijan in the Nagorno-Karabagh region has once again brought suffering to the Armenian people. It is my sincere hope that the U.S. Government will do whatever it can to aid in the reaching of peace. Karabagh Armenians currently under the rule of the Azerbaijiani Government must have their rights protected.

Today in America, Armenians flourish in the United States as prominent citizens and community leaders despite the pain they and their ancestors have endured. Many survivors of the genocide now live in my district. In fact, in my district, I have the greatest concentration of Armenians outside of Armenia. Armenians serve proudly and with great distinction as mayors, and members of local councils and school boards.

It is with great pride that I have had the chance to serve the Armenian citizenry of my district. On this, my last opportunity as a Member of Congress to observe this day, I wish to thank the Armenian community for its support.

Mr. LAFALCE. Mr. Speaker, today is the day we have set aside to commemorate a painful time in world history—the 81st anniversary of the deaths of more than 1½ million Armenians. While the magnitude of the loss and the depth of the sorrow do not dim with time for the descendants of those who died, I join my colleagues in this observance today in the hope that a day of remembrance can bring a measure of healing.

This is what good and caring people do the world over when a tragedy occurs—grieve, console, reminisce. The first anniversary of the Oklahoma City bombing was recently the occasion of such a day of thought and remembrance. The shocking jolt that the bombing last year wreaked on the security that Americans have long enjoyed in this country will never be forgotten and will join the all-too-long list of events that, through their sheer awfulness, forever alter a country or a people. Indeed, we are even now watching with empathy the victims of the war in Bosnia, who, even as they struggle to get their footing as they emerge from their national nightmare, learn of atrocities such as mass graves and, as incredible as it may be that this could be happening again, watch as individuals—so-called leaders—are being turned over to the appropriate authorities for serious war crimes.

As much as this day of remembrance brings home the moral frailty and potential for cruelty, however, it is, more important, also proof that the majority of us firmly denounce the hateful actions of a few. For us, there is no political jargon, ancestral enmity, or religious fervor that could ever justify the deeds perpetrated in Armenia that we commemorate today, the slaughter that we revisited last week in Oklahoma, or any similar actions anyplace, anytime.

As a member of the Congressional Caucus on Armenian Issues, I affirm my strong support for a strong and vibrant relationship between Armenia and the United States. I will work to do my part to ensure that the legacy of future generations of Armenians is not marked by persecution, but rather by personal and national security, democracy, freedom, and prosperity.

Mr. LIPINSKI. Mr. Speaker, I rise today on behalf of the Armenian community in my district to mark the 81st anniversary of an unspeakable tragedy. I am refering to the genocide of 1.5 million of their people by the Ottoman Empire.

On April 24, 1915, 200 Armenian religious, political, and intellectual leaders from Istanbul, taken to the interior of Turkey and summarily murdered. Thus began an 8-year campaign to eradicate or deport all Armenian citizens from Anatolia and western Armenia.

Yet, today, many people are unaware of this vicious crime against humanity. There is little mention of it in our history books. It is not taught to our children in school. And now, the Turkish Government is funding Chairs of Turkish history at prestigious American universities in order to cleanse its image and deny its past. For example, the Republic of Turkey endowed Princeton University with $1.5 million for its Ataturk Chair of Turkish Studies. The professor who holds this chair is the former executive director of a Turkish institute that works to discredit scholarship which mentions the Armenian genocide.

However, my colleagues and I are here today to let the Armenian people know that we will not forget. We will not forget the aggression of the Ottoman Empire against innocent lives, particularly those of women and children. We will not forget that when the genocide ended, half of the world's Armenian population had been decimated. We will not forget that by 1923, the Turks had successfully erased nearly all remnants of the Armenian culture which had existed in their homeland for 3,000 years.

I stand here today to say that the genocide did happen. Nobody can erase the painful memories of the Armenian community. Nobody can deny the photos and historical references. Nobody can deny that few Armenians live where millions lived over 80 years ago. It is our responsibility and our duty to keep the memories of this tragedy alive. A world that forgets these tragedies is a world that will see them repeated again and again.

We cannot right the terrible injustice inflicted upon the Armenian community and we can never heal the wounds. But by properly commemorating this tragedy, Armenians will be least know the world has not forgotten the misery of those years. Only then will Armenians begin to receive the justice they deserve.

Mr. HAMILTON. Mr. Speaker, I want to join my colleagues today in remembering the tragedy endured by the Armenian people in the years 1915–23.

Extensive massacres of Armenians took place during that period in eastern Anatolian plains in an atmosphere akin to a horrible civil war. Those events have indelibly and permanently marked the consciousness of many Americans, including Americans of Armenian descent, who are commemorating April 24, 1996, as a national day of remembrance of

VOL
142
PT
6
AP
15
—
24
1996
UMI

man's inhumanity to man and a special day of remembrance for the Armenian victims of strife in the early years of this century.

April 24 marks the 81st anniversary of the calamity. It is appropriate on this occasion to direct our attention and prayers to the memory of the vast number of victims who died in these tragic events.

It is in the interest of all of us and in the interest of mankind that this type of tragedy not occur again. The leading organizations of the Armenian-American community have been seeking to work within our political system for a statement concerning these critical events in their heritage.

This year in the House of Representatives that vehicle is House Concurrent Resolution 47, honoring the memory of the victims of the massacres of Armenians, of which I am proud to be a cosponsor. No one can deny these events and the centrality of these events in modern Armenian history. I am proud to be associated today with my colleagues on this important day of remembrance.

I would also like to salute the Republic of Armenia, which continues to move forward in its democratic and economic reforms. This country of 3.3 million people is already developing important ties with the United States. Americans have an interest in the economic development of Armenia, its progress toward a free market economy, and its development of democratic institutions. We want to work with Armenia and its neighbors to insure peace, stability, and progress in their search for greater freedom and security. There is no better way to honor the misdeeds of the past than rededicating ourselves to a better future.

Today in Europe, we have a chance to advance the cause of peace and stability more vigorously and on a wider scale than ever before. I salute all governments, private organizations, and individuals, including the Armenians, who are working toward this end. I hope that their efforts will make the world a safer place, where innocent people no longer suffer the unspeakable crimes of war and terror.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise today to remember the Armenian victims of the genocide brought upon them by the Ottoman Turks and to commend my colleagues, the gentleman from Illinois, Congressman JOHN EDWARD PORTER and the gentleman from New Jersey, Congressman FRANK PALLONE, for organizing special orders today so that Members of the House may take the time to remember the one-and-a-half million Armenians who were brutally slaughtered by the Ottoman Empire.

Eighty-one years ago on April 24, 1915, the Ottoman Empire's horrible operation against the Armenian community was inaugurated. During the eight grisly years that followed that infamous date, the Armenian people would be subjected to a sick, ghastly campaign of systematic genocide and deportation. During the years of 1915 to 1923, over 1.5 million Armenians were murdered by the genocidal Ottoman Turks while another 500,000 were subjected to forced exile from their homeland.

Mr. Speaker, the eight years of the Armenian genocide will always be considered one of the grimmest in the history of mankind. So that we never forget this travesty to the concept of human rights, we must always observe the date of April 24. To not do so would be equivalent to neglecting the remembrance of those Armenians who had perished, who were harmed or who were uprooted during the tyranny of the Ottoman Turks. Mr. Speaker, we must not and can not let that happen.

Therefore, Mr. Speaker, in honor of the Armenian people whose human rights were trodden upon, I encourage all of my colleagues to take the time and remember the plight and situation of the Armenian people and remember that we must always fight hatred and bigotry wherever it can be found.

THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. PORTER] is recognized for 5 minutes.

Mr. PORTER. Mr. Speaker, we mark the 81st anniversary of the Armenian genocide, which did not occur in 1 year, 1915, but lasted over an 8-year period from 1915 to 1923, during which time the Turks of the Ottoman Empire carried out a systematic policy of eliminating its Christian Armenian minority. This was the first example of genocide in the 20th century, a precursor to the Nazi Holocaust and other cases of ethnic cleansing and mass extermination in our own time; and we must never forget it, for forgetting history not only dishonors the victims and survivors, it encourages other tyrants to believe that they can kill with impunity.

Mr. Speaker, today's occasion is, of course, a time for solemn reflection, but it is also an occasion that affords us the opportunity to celebrate the human capacity of resilience, the ability even of people faced with the most horrendous disasters and challenges to rebuild their shattered lives. We can see this determination to overcome such an atrocious past in those of Armenian descent.

On a national level, the struggle for survival and the sense of a hope for a better future can be seen by the very existence of the young, independent, democratic Republic of Armenia.

Despite the preponderance of evidence about the historic fact of the genocide against the Armenian people, which is strong and undeniable, modern Turkey continues to deny that the Armenian genocide took place. While various Turkish sources expressed the view that certain unfortunate incidents took place, it denies there was ever any systematic ethnically based policy targeted against the Armenian people. There are those who say we should not offend our Turkish allies by using the word genocide, but let us call it what it was. It was genocide, a most horrible genocide where over 1.5 million people, including women and children, lost their lives and over 500,000 Armenians were killed, eradicating the Armenian historic homeland from Turkey.

Let us remind ourselves that our country and the rest of the world at that time turned away and did nothing to prevent these horrible human rights violations against innocent men, women, and children.

☐ 1715

The problems we face from Turkey historically with Armenia have not gone away, and they are continuing now in a different form against another minority people. Let us remind ourselves as well that today in Turkey another genocide is occurring by the Turkish Government against yet another Turkish minority, the Kurdish people.

Today, thousands of Turkish troops have not only driven through the southeastern portion of Turkey, executing those in the Kurdish minority who oppose them burning and tearing down Kurdish towns, but also crossed into the border in Iraq to attack Kurdish people in their refugee camps. And let us remind ourselves, Mr. Speaker, that our Government has not acted to prevent this additional genocide, but has actually supported this action against an innocent people.

We remind ourselves today of our responsibilities to other human beings, and in commemorating the 81st anniversary of the Armenian genocide, each one of us should say to ourselves we are our brother's keeper, and that we do have a responsibility to others to stand up and tell the world that a genocide occurred in 1915 to 1923, and that another is occurring today.

This past year in hammering out the fiscal 1996 foreign funding bill, the Foreign Operations Subcommittee sent a strong message to Turkey that we will not sit idly by as they commit egregious human rights violations not only against their own but also against their smaller struggling neighbors, including Armenia. We cut their economic assistance in the last year, Mr. Speaker.

We passed the Humanitarian Aid Corridor Act, which ensures that any country that henceforth prevents transit of U.S. humanitarian aid intended for other people will forfeit all U.S. economic military and military assistance, and we provided to the Armenian people support of $85 million of aid for food, fuel and medical supplies and an additional $30 million for economic and technical assistance.

We have made great progress in the last years in helping to establish a new Armenia, an Armenia that is free and democratic and forging ahead to provide through economic freedom a greater economic life to its people and a greater stability for its future.

Mr. Speaker, we have made that commitment previously. We have to renew it this year. Even in tough budgetary

times, we ought to realize that, if we can prevent the kind of foreign assistance, provide the kind of foreign assistance to Armenia, a struggling young country that does reflect the values that this country stands for and believes in, we will do a great deal to extend those values across the world.

GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. MILLER of Florida). Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

[Mr. DINGELL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, I rise today to join my colleagues in marking one of the most appalling violations of human rights in all of human history—as today marks the 81st anniversary of the Armenian genocide.

I want to commend my colleagues JOHN PORTER of Illinois and FRANK PALLONE of New Jersey, the cochairs of the Congressional Caucus on Armenian Issues, for sponsoring this special order.

The great Armenian massacre which took place between 1915 to 1916, shocked public opinion in the United States and Western Europe. As Henry Morgenthau, Sr., the former U.S. Ambassador to the Ottoman Empire, stated:

> I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915.

Mr. Speaker, in reality, this atrocity lasted over an 8-year period from 1915 to 1923. During this time, the Ottoman Empire carried out a systematic policy of eliminating its Christian Armenian population.

As a Greek-American, I have always felt a special kinship for the Armenian people. My Greek ancestors like those of Armenian descent, have also suffered at the hands of the Ottoman Empire, and as my colleagues may know, I hold a special order every year to celebrate Greek independence from over 400 years of Turkish oppression.

Mr. Speaker, I am proud to have cosponsored House Concurrent Resolution 47, which honors the memory of the victims of the Armenian genocide.

I have also joined my colleagues in sending a letter to President Clinton expressing disappointment in the fact that he used the word "massacres" rather than the word "genocide" to describe this systematic annihilation of 1.5 million Armenians. In my opinion this distinction is more than a matter of semantics; it is rather the difference between a random series of atrocities and a systematic, ethnically based policy of extermination.

In closing, Mr. Speaker, I would like to ask that we take a moment to reflect upon the hardships endured by the Armenians. In the face of adversity the Armenian people have persevered. The survivors of the genocide and their descendants have made great contributions to every country in which they have settled—including the United States, where Armenians have made their mark in business, the professions, and our cultural life. Commemorate seems the wrong word to use, Mr. Speaker, but it is fitting and right that we mark this dark event today. For it is only through focusing on it that we hold out hope for the future that no such event will occur again.

COMMEMORATING THE EIGHTY-FIRST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, I also would like to commend my colleagues, the gentleman from New Jersey, FRANK PALLONE, and the gentleman from Illinois, JOHN PORTER, for taking out this commemorative of the 81st anniversary of the Armenian genocide.

Mr. Speaker, beginning on the night of April 24 in 1915, the religious and intellectual leaders of the Armenian community of Constantinople were taken from their beds, imprisoned, tortured, and killed.

In the days that followed, the remaining males over 15 years of age were gathered in cities, towns, and villages throughout Ottoman Turkey, roped together, marched to nearby uninhabited areas, and killed.

Innocent women and children were forced to march through barren wastelands—urged on by whips and clubs—denied food and water.

And when they dared to step out of line, they were repeatedly attacked, robbed, raped, and ultimately killed.

When all was said and done, 1½ million Armenians lay dead, and a homeland which had stood for 3,000 years was nearly completely depopulated.

Mr. Speaker, we come to the floor this evening to remember the victims—and the survivors—of the Armenian genocide.

As we come to this floor, we do so with the knowledge that all of us have a responsibility to remember the victims, to speak out and to make sure that tragedies like this are never allowed to happen again.

That's one of the reasons why some of us have introduced a resolution, House Concurrent Resolution 47, sponsored by over 150 of our colleagues to remember the victims of the Armenian genocide.

Now more than ever, those of us who embrace democracy have a responsibility to speak out for all those who live under tyranny.

Because sadly, the world does not seem to have learned the lessons of the past.

We have seen bloodshed this decade in places like Bosnia and Nagorno Karabakh.

American leadership has helped to bring about a chance for peace in Bosnia.

Now we must do the same in Nagorno Karabakh.

For most Americans, Nagorno Karabakh is not a place that registers on the radar screen, for it is not a CNN war.

But it is a place where 100,000 people have been killed or wounded over the past 7 years, and 1 million others have been left homeless.

Mr. Speaker, we're all hopeful that this terrible tragedy ends soon. We're all hopeful that the case-fire in place for 2 years continues to hold while work continues to bring about a lasting peace.

People are slowly starting to return to their homes.

In recent months, our administration, the Russian government, the OSCE Minsk Group, Turkey, Azerbaijan, and Armenia have all begun efforts to resolve the conflict.

But our efforts must be intensified, and the integrity and security of the Armenians in Nagorno Karabakh must be guaranteed as we move forward.

We must also continue to speak out against the refusal of Turkey to allow humanitarian aid to flow into Armenia.

Mr. Speaker, we now have a provision in law, section 562, that cuts off aid to any country, that restricts the transport or delivery of U.S. humanitarian assistance.

It is utterly unconscionable to me that a country who is an ally of ours, who is a member of NATO, and who accepts U.S. aid, would think it has the right to block U.S. humanitarian assistance.

The third largest recipient of U.S. assistance must know that section 562

VOL
142
PT
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1996
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will be enforced and the aid will stop unless it ends its blockade of Armenia.

Mr. Speaker, we must pause today and say "Never again."

We can forget that in 1939, another leader used the Armenian genocide as justification for his own genocide.

This leader said, and I quote:

> I have given orders to my death units to exterminate without mercy or pity, men, women, and children belonging to the Polish-speaking race. After all,

Adolf Hitler asked,

> who today remembers the extermination of the Armenians?

Mr. Speaker, it is up to all of us to remember.

For centuries, the Armenian people have shown great courage and great strength.

The least we can do is match their courage with our commitment.

Because in the end, we are their voices and we must do all we can to remember.

Because if we don't, nobody else will.

ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RADANOVICH] is recognized for 5 minutes.

Mr. RADANOVICH. Mr. Speaker, between 1915 and 1923 the Ottoman Turkish Empire committed a terrible genocide against Armenians. In a systematic and deliberate campaign to eliminate the Armenian people and erase their culture and history of 3,000 years the Turks committed this atrocity. As a result, over one-half million Armenians were massacred. The Armenian genocide is a historical fact, and has been recognized by academics and historians all over the world. The documentary evidence is irrefutable and beyond question. Unfortunately, the Turkish Government is still persisting in their denial that the genocide took place.

Many survivors of the genocide have made the United States their new home. On April 24, 1996, Armenians all over the world will commemorate the 81st anniversary of the Armenian genocide. Commemoration activities will occur in Washington, DC, Los Angeles, and in my district in Fresno, CA. I have the honor of representing thousands of Armenians in California's Nineteenth Congressional District, and I send my sincerest condolences on this solemn occasion to all members of the Armenian community. As a member of the Congressional Caucus on Armenian Issues, I intend to join my colleagues, Representatives PORTER and FRANK PALLONE, in a special order on April 24, 1996 on the floor of the House of Representatives to commemorate the genocide victims.

I am an original cosponsor of House Concurrent Resolution 47 which calls on Congress to officially recognize the Armenian genocide and encourages the Republic of Turkey to do the same. This legislation would call on the Government of Turkey to turn away from its denials of the Armenian genocide, and instead, to openly acknowledge this tragic chapter in its history. By doing so, the Turkish Government can help to raise the level of trust in a strategic, yet highly unstable, region of the world and facilitate the normalization of relations between Turkey and Armenia. I encourage my colleagues to vote for the passage of House Concurrent Resolution 47.

Remembering this genocide against the Armenians will help ensure that this type of tragedy is never allowed to occur again.

☐ 1730

BRAD PELZER BONE MARROW DONOR DRIVE

The SPEAKER pro tempore (Mr. MILLER of Florida). Under a previous order of the House, the gentleman from Pennsylvania [Mr. MASCARA] is recognized for 5 minutes.

Mr. MASCARA. Mr. Speaker, I rise tonight to plead the case of 11-year-old Brad Pelzer from my district who needs a bone marrow transplant. Brad is suffering from CML, an adult form of leukemia.

Until early this year, Brad Pelzer was a typical 5th grader at Charleroi Elementary Center, located in my hometown of Charleroi, PA. Brad, an honor student, enjoys playing soccer, deck hockey, and using his family's computer.

But in February Brad became ill and by the end of the month he was diagnosed with leukemia. Now Brad and his parents, Joe and Josie Pelzer, are engaged in a desperate search for someone whose bone marrow will match Brad's.

Brad's doctors say a transplant from such a donor will offer him his best hope for beating this very serious illness.

Like hundreds of other parents faced with a similar situation, Joe and Josie are mustering every ounce of courage and hope they can. After discovering no family members were a match for Brad, they sought the help of local blood bank officials. They have organized three donor drives over the next several weeks to seek a potential donor from the local community.

As the chart reflects, the first will be held tomorrow, April 25, from 11 a.m. to 4 p.m. at California University in California, PA. Donors should go to the performance center located in the student union.

The second will be held Saturday, April 27, from 8 a.m. to 2 p.m. in the north Charleroi fire hall. The third will be held Monday, May 6, from 9 a.m. to 1:45 p.m. in the first floor conference room of the Washington County Courthouse in Washington, PA.

Anyone who is 18 to 60 years old is invited to come and give blood and be tested. The reward would be so great—giving life to Brad.

It is very ironic to me that Brad's situation came to my attention at this time when the Nation is observing National Organ and Tissue Donor Awareness Week.

His family are long-time friends of mine, his grandparents, Leroy and Susan Rotolo and Rita Pelzer, are my neighbors. They are very lovely people. Good, solid citizens. And now they must rely upon the goodness of the rest of us to help them through this very trying and difficult ordeal.

Situations like this make you reflect on the blessings that have been bestowed upon us and how important it is to reach out and be kind and helpful to our neighbors and friends.

Having children and grandchildren of my own, I know exactly how Joe and Josie feel. They are looking for an answer and the miracle might be a person who is viewing these special orders tonight. You could be the one to reach out to Brad Pelzer and help save his life.

According to material marking National Donor Awareness Week, provided by Congressman MOAKLEY, a transplant recipient himself, at any given time 43,000 Americans are awaiting a transplant. They are rich and poor. They are old and young. And they all need our help.

The amazing thing is even if you live nowhere near Charleroi, PA, you can still help Brad Pelzer, and the thousands of other youngsters in need of a bone marrow transplant. The American Red Cross has set up a 1–800 number you can call to locate the nearest blood bank where you can be tested and added to the national bone marrow transplant registry.

Since the bone marrow transplant registry was established in the mid-1980's, over 1.6 million people have been added to the registry. Because the base of donors is growing each year, I am told that 60 percent of patients find a matched donor on their first search.

The bottom line is please attend one of the drives in my district, or call 1-800–MARROW–2, and help improve the chances for Brad.

His mom and dad, his brother, Brent, and his grandparents, are all praying that you will answer the call. Please help. Hang in there Brad—we'll find a match.

LYON COUNTY WANTS EPA TO HALT SUPERFUND CLEANUP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I come before the House this evening to talk

about the environment. Last evening, I spoke to my colleagues about education, and this has been Earth Day this week, and Earth Week. People talk about saving the environment. And last night I talked about paying more for education and getting less. Tonight I wanted to address the House and my colleagues about paying more for preserving and protecting the environment and getting less.

Just a few hours ago the House passed, I believe, the 13th or 14th continuing resolution, and that is a temporary resolution to fund the Government for one more day, and you know we have had a tremendous amount of difficulty in trying to nail down the budget and nail down the expenditures for this year that we are in, 6 months into.

What we have not been able to do on our side of the aisle is really tell the American people or convince a majority of our colleagues here that we, in fact, are paying more in education. Tonight I use as an example the environment and getting less for cleanup. And part of the contest that the Congress is engaged in is not just a question of how much more money you spend on these programs, but how you spend it: Are we protecting the environment?

One of the things that I have learned as chairman of the House Civil Service Committee is where the bodies are buried or where the public servants are working in the large bureaucracy we have, with so many people employed by the Federal Government. Particularly, my concern is Washington, DC, and then some of the regional offices, if you just take a minute and look at what part of this debate is about with EPA.

The total number of EPA employees has grown to almost 18,000 EPA employees. There are 6,000 EPA employees in Washington, DC. Now, that 6,000 is equal to about the total number of employees in EPA about a little over a decade ago. If this were the only figure, this 17,000, it would be huge by any measure. But, in fact, you find thousands and thousands of contract employees. If you wonder where the rest of these employees are, there are 6,000 in Washington, there is another approximately 1,200, a 1,000 to 1,300 in 10 regional offices across the country.

When I get down to my State of Florida, we had a total, I believe, of 65 EPA employees in this particular fiscal year.

So people who think that EPA is out there in the States protecting the environment, it is not so. They are in Washington, and they are passing countless rules and regulations. A tremendous amount is spent on administration.

And then some of the programs we have heard talked about like Superfund. Superfund, I have explained to the House, over 80 percent of the funds on Superfund have been spent on attorney fees and studies.

I had a gentleman visit me in my office yesterday, and he said a Superfund site in Florida was identified in 1984. He said it went through a half a dozen project administrators and they still have not done anything to resolve the problems of the Superfund site. That is in Florida.

Here is a site in Nevada. Lyon County commissioners, and this is part of a release from them, asked the U.S. Environmental Protection Agency to halt mercury cleanup program of the Carson River. The mercury that they were going to clean up is left over from mining operations of the Comstock Lode in the 1800's.

Then we have another example, of Vermont here, Burlington, Vermont. Twelve years ago, after a site was picked there to clean up some hazardous waste left over from a coal gasification plant, nothing was done. They spent millions of dollars. Very little was done in the way of environmental cleanup.

So we are paying more, we are getting less, and the more I talk about this, the more examples that are brought for me from across the country, and that is part of the debate. Republicans favor protecting the environment, preserving the environment. Republicans favor clean water, clean air, clean land. But when you spend money like this, when the money goes for a bureaucracy like this, and it does not go for a cleanup, then we have a real problem.

I want to quote as I get towards the end here a comment from Carol Browner, EPA administrator, who said in the New York Times in 1993, in November: "When I worked at the state level, I was constantly faced with rigid rules that made doing something 110 times more difficult and expensive than it needed to be. It makes no sense to have a program that raises costs while doing nothing to reduce environmental threats."

Now, that is Carol Browner, former Florida EPA administrator, commenting on her experience in dealing with the Federal Government.

So, Mr. Speaker, I call on Carol Browner, I call on this administration, I call on my colleagues, to stop paying more and getting less. We can do a better job if we concentrate and effectively utilize our limited taxpayer dollars.

A SPECIAL DAY, A SPECIAL EVENT, AND VERY SPECIAL STUDENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DE LA GARZA] is recognized for 5 minutes.

Mr. DE LA GARZA. Mr. Speaker, this past weekend I participated in an Earth Day celebration back home in my district. The event was a Hometown Trees celebration and took place at the Kika de la Garza Elementary school whose principal is Mr. Jose Louis Trigo.

We planted a live oak tree in remembrance of the children of the Oklahoma bombing tragedy. This was donated by first grader Amy Sojak and her classmates. Amy and her classmates are students of Miss Veronica Galvan. Fourth grade student Joel Espinoza was the master of ceremonies. And awards were presented to the following students for their essays which emphasized the special and unique benefits provided by trees: Victor Villarreal, Brandi Martinez, Andres Aguilar, Juan Carlos Lopez, and Denise Sepulveda.

What was particularly exciting about the occasion is that 10 year old Victor Villarreal was recognized as the Hometown Trees National Essay Contest Winner for the Southwest region. He is the son of Guadalupe and Francisca Villarreal.

Over the past 5 years, Hometown Trees, sponsored by IGA supermarkets, Louisiana-Pacific and Coca-Cola, has teamed up with thousands of local volunteers in communities nationwide to ensure that the future generations will enjoy the ecological and aesthetic benefits of trees. This year, as part of the Hometown Trees initiative, IGA sponsored a nationwide environmental essay contest for children age 12 and under.

Young Victor won the contest—quite an accomplishment and one of which he can be very proud. His essay was chosen for its uniqueness and creativity. It vividly captures the importance of trees from a child's perspective.

It reads: "Trees are important in my hometown because at La Joya, 'The Jewel of the Valley,' we treasure trees—our jewels. They add that special spark that only nature can provide. Anything that mother nature creates, is a true treasure that no other power can originate. Treasure your jewels!"

To specifically honor Victor's accomplishment a tree donated by IGA and Carl's Grocery was planted. It will forever be a living monument to him. These trees will be enjoyed by all the community.

What made this occasion particularly unique for me is that I feel the sentiments expressed by Victory are shared by his fellow students. What I saw in the faces of the youngsters was an eagerness not just to participate in an event for the one day we officially recognize as Earth Day, but rather a desire to make every day Earth Day.

This tells me that as we celebrate this 26th Anniversary we have passed on to our children and grandchildren how important it is to look after our environment in the way we live our lives every day. That is quite an accomplishment—and Victor, and all of his fellow students, are quite an outstanding group of youngsters.

THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, I join all of my colleagues today in commemoration of April 24, 1996, the 81st anniversary of the Armenian genocide which

VOL 142 PT 6 AP 15 — 24 1996 UMI

occurred under such tragic circumstances 81 years ago, and it is my purpose to join with my colleagues to insist that such inhumanity never be repeated again.

Mr. Speaker, today we are recalling the loss of 1½ million Armenians who were killed and a half million more who were driven from Turkey. No person of any decency can do other than oppose this sort of inhumanity, and all join in a statement of hope for a world free of genocide and ethnic conflict.

I have the great privilege to represent a large and active Armenian population, many of whom have parents and grandparents who were amongst the persecuted religious, political, and intellectual leaders in the turn of the century Armenia.

Today's Michigan community of Armenians follow the great tradition of doing much to further the commercial, political, and intellectual growth of Michigan and of the country. It is my hope that today's effort to honor the victims and the survivors of this genocide will educate all of us, will educate our neighbors country men and all of the world's people so that peace remains a priority of this Nation.

Mr. Speaker, this is the 81st anniversary of the Armenian genocide. We look back to honor those who have died, but we also look forward and say, "Never again."

□ 1745

BUDGET SHORTFALL FOR NATIONAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, a couple of days ago I announced, along with the chairman of the Committee on National Security, that we were going to address a shortfall in funding under the Clinton administration budget that seriously impeded the capability of our pilots to operate their aircraft effectively and safely. That was done on the heels of the hearing in which we talked about the three, now four, F-14 crashes since the first of January and the three AV-8B Harrier Marine Corps jet aircraft crashes since the first of January.

We talked about the fact that the Clinton administration is not going to spend the money to make the safety upgrades to 24 of the Marine aircraft that are going to be piloted by young Americans. The chairman of the full committee, my friend FLOYD SPENCE and I made the decision that we would commit to spend the money that was necessary to upgrade those aircraft so that they are 50 percent safer than they would otherwise be, and we also made the commitment to make the $83 million in safety upgrades to the F-14 aircraft.

It was an indication to me, Mr. Speaker, that the Clinton administration's defense budget, which has been slashed in excess of $150 billion below the budget put together by Dick Cheney and Chairman of the Joint Chiefs Colin Powell, it was another indication to me that this budget is coming apart at the seams.

Today I have the duty of reporting to my colleagues and to the American people that there is another indicator that the Clinton defense budget is coming apart at the seams. That indicator is that we now have examined the ammunition supplies that the U.S. Marine Corps will depend on in the two major regional conflict scenarios. That means if they should get involved in a conflict in the Middle East and at the same time be involved in a conflict on the Korean peninsula, would they have the ammunition to carry out both of those operations, which is a requirement that the President of the United States has told the American people the Marines will be able to meet.

The answer, Mr. Speaker, unfortunately is no. The Marines do not have the basic ammunition load necessary to carry out two major regional contingencies. Their ammo pouches in those contingencies will at some point be empty, and they will be empty because the Clinton administration is not willing to spend the money to put that ammo in their ammo pouches.

I have received now from the Marines a list of ammo that they need to be able to fight those contingencies for the American people, and that ammo list comes to $369 million. I have talked this over with the chairman of the full committee, the gentleman from South Carolina, FLOYD SPENCE, and we have agreed that we are going to commit today to fund that full ammunition load for the U.S. Marine Corps.

It makes no sense, and it certainly is greatly lacking in compassion and consideration for our military people to suit them up and move them around the world to project American power and protect American interests and freedom, and not give them the doggone ammunition that they need to get the job done.

So once again the Clinton defense budget has come up this time $369 million short in the area of ammunition. We were first apprised of this when we saw the GAO report, the initial informal report that said that the Marines did not have the ammo to fight two wars. We examined it. We talked to people. We finally got the list of exactly what they need to have full ammunition pouches.

So the Republicans are riding to the rescue of America's fighting people. We are going to see to it that they have the right equipment and the right ammunition to get the job done, and we are committing today to spend the money that is necessary to do that.

THE 81ST ANNIVERSARY OF ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY. Mr. Speaker, this year marks the 81st anniversary of the Armenian genocide, an act of mass murder that took 1.5 million Armenian lives and led to the exile of the Armenian nation from its historic homeland.

It is of vital importance that we never forget what happened to the Armenian people. Indeed the only thing we can do for the victims is to remember, and we forget at our own peril.

The Armenian genocide, which began 15 years after the start of the 20th century, was the first act of genocide of this century, but it was far from the last. The Armenian genocide was followed by the Holocaust, Stalin's purges, and other acts of mass murder around the world.

Adolf Hitler himself said that the world's indifference to the slaughter in Armenia indicated that there would be no global outcry if he undertook the mass murder of Jews and others he considered less than human. And he was right. It was only after the holocaust that the cry "never again" arose throughout the world. But it was too late for millions of victims. Too late for the 6 million Jews. Too late for the 1.5 million Armenians.

Today we recall the Armenian genocide and we mourn its victims. We also pledge that we shall do everything we can to protect the Armenian nation against further aggression; in the Republic of Armenia, in Nagorno-Karabagh, or anywhere else.

Unfortunately, there are some who still think it is acceptable to block the delivery of U.S. humanitarian assistance around the world. Despite our success last year in including the Humanitarian Aid Corridor Act in the Foreign Operations Appropriations bill signed by the President, Azerbaijan has continued its blockade of United States humanitarian assistance to Armenia.

It is tragic that Azerbaijan's tactics have denied food and medicine to innocent men, women, and children in Armenia, and created thousands of refugees. The United States must stand firm against any dealings with Azerbaijan until it ends this immoral blockade. We must make clear that warfare and blockades aimed at civilians are unaccept5able as means for resolving disputes.

Mr. Speaker, after the genocide, the Armenian people wiped away their tears and cried out, "Let us never forget. Let us always remember the atrocities that have taken the lives of our parents and our children and our neighbors." I rise today to remember those cries and to make sure that they were not uttered in vain. The Armenian nation lives. We must do everything we

can to ensure that it is never imperiled again.

REMEMBER THE MARTYRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. TORKILDSEN] is recognized for 5 minutes.

Mr. TORKILDSEN. Mr. Speaker, I rise with my colleagues, the gentleman from New Jersey [Mr. PALLONE], the gentleman from Illinois [Mr. PORTER], and many others to remember the Armenian genocide.

Last week Members of Congress, the Nation and the world observed Yom HaShoah to honor and remember the millions of Jews who perished in the Holocaust. Sadly, one tragic truth about the Holocaust is that it occurred 20 years after the Armenian genocide, which took the lives of over 1½ million Armenians. In fact, it was Hitler who uttered the infamous statement, "Who remembers the Armenians?"

Today we stand here in this Chamber and in places around our Nation to do just that, to remember the Armenians, remember the martyrs, to say we will always remember them and we will never let the world forget the Armenian genocide that occurred at the hands of the Ottoman Turks.

It was just over 81 years ago that 1.5 million Armenians were systematically murdered and another 500,000 were driven from their homeland during the 8-year genocide. Revisionist historians have sadly doubted the historical reality of the genocide. The Armenians were not killed indiscriminately or at random. The Armenians murdered between 1915 and 1923 were the victims of a calculated extermination through starvation, torture and deportation, a genocide in every cruel meaning of the word and nothing less.

Earlier today back in my district, Mayor Peter Torigian of Peabody, MA held a remembrance and flag-raising ceremony that included 8 survivors of the genocide. These people are living proof that the genocide occurred. Their words bear witness to the reality of what happened 81 years ago.

Mayor Torigian often tells a terrifying but very sobering story of his mother, who survived the genocide. Any time someone tries to deny the historical reality of the genocide, he reminds them that his mother, who was quite ill and confined to a nursing home, often repeats an Armenian phrase which when translated means: "The soldiers are coming, the soldiers are coming." These are the words of a then terrified 14-year-old girl who was able to survive the atrocities inflicted upon her people many years ago.

I join with my colleagues in calling on President Clinton to use the word "genocide" as the only accurate description of the terror inflicted on the Armenian people. For the dead and the living, we must bear witness so that this horror will never happen again.

COMMEMORATING THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. TORRES] is recognized for 5 minutes.

Mr. TORRES. Mr. Speaker, I wish to thank my colleagues, Mr. PALLONE and Mr. PORTER, for once again organizing this special congressional opportunity for Congress to pause to honor the memory of the 1½ million Armenians who were killed between 1915 and 1923 by agents of the Turkish Ottoman Empire in what is known in infamy as the Armenian Genocide.

While we cautiously welcome the important gestures recently made by Turkey, in recognizing the independence of Armenia and the opening of an air corridor to Armenia, the history of the relationships between these two countries must be kept in perspective.

Some would claim that our remembrance today fans the flames of atavistic hatred and that the issue of the Ottoman government's efforts to destroy the Armenian people is a matter best left to scholars and historians. I do not agree. For whatever ambiguities may be invoked in the historic record of these events, one fact remains undeniable: the death and suffering of Armenians on a massive scale happened, and is deserving of recognition and remembrance.

This solemn occasion permits us to join in remembrance with the many Americans of Armenian ancestry, to remind this country of the tragic price paid by the Armenian community for its long pursuit of life, liberty and freedom.

Today, I rise, with my Colleagues, to recall and remember one of the most tragic events in history and through this act of remembrance, to make public and vivid the memory of the ultimate price paid by the Armenian community by this blot against human civility.

We come together each year with this act of commemoration, this year being the 81st anniversary of this genocide, to tell the stories of this atrocity so that we will not sink into ignorance of our capacity to taint human progress with acts of mass murder.

The Armenian genocide was a deliberate act to kill, or deport, all Armenians from Asia Minor, and takes its place in history with other acts of genocide such as Stalin's destruction of the Kulaks, Hitler's calculated wrath on the Jews, Poles, and Romany Gypsy community in Central Europe, and Pol Pot's attempt to purge incorrect political thought from Cambodia by killing all of his people over the age of fifteen, and more recently, the ethnic cleansing atrocities in Bosnia.

We do not have the ability to go back and correct acts of a previous time, or to right the wrongs of the past. If we had this capacity, perhaps we could have prevented the murders of millions of men, women and children.

We can, however, do everything in our power to prevent such atrocities from occurring again. To do this, we must educate people about these horrible incidents, comfort the survivors and keep alive the memories of those who died.

I encourage everyone to use this moment to think about the tragedy which was the Armenian Genocide, to contemplate the massive loss of lives, and to ponder the loss of the human contributions which might have been.

Although, the massacre we depict and describe started 81 years ago, the Armenian people continue to fight for their freedom and independence today, in the Nagorno Karabagh.

Again, this year, I would like to close my remarks with an urgent plea that we use this moment as an occasion to recommit ourselves to the spirit of human understanding, compassion, patience, and love.

For these alone are the tools for overcoming our tragic, and uniquely human proclivity for resolving differences and conflicts by acts of violence.

This century has been characterized as one of the bloodiest in our archives of human history. Certainly, the genocide perpetuated against the Armenian peoples has been a factor in this dismal record.

The dawning of a new century offers our human race two paths. One continues along a road of destruction, distrust, and despair. Those who travel this path have lost their connection to the primal directives, which permit us as a society to maintain balance, continuity, and harmony.

I would ask my colleagues, on this 81th anniversary of one of history's bloodiest massacres of human beings—and during a time in history when violent solutions to problems between peoples continue to hold sway—to contemplate the second path. The map to this path exists within the guiding teachings of all major world religions and are encapsulated in what Christians refer to as the 10 Commandments. I would ask my colleagues, no matter their religious or political persuasions and beliefs, to revisit these core teachings which form a common bond between all peoples. To use these common beliefs as the basis for action and understanding in these trying times. The surface differences between peoples, offer only an exciting diversity in form. At the core all peoples are united by common dreams, aspirations, and beliefs in a desire for harmony, decency, and peace with justice.

VOL
142
PT
6
AP
15
—
24
1996
UMI

Let these testimonies of the atrocities perpetuated against the Armenian people serve as a reminder that as a human race we can, and must, do better. It takes strength and wisdom to understand that the sword of compassion is indeed mightier than the sword of steel.

Certainly, as we reflect over the conflicts of this century, we can only come to the conclusion that violence begets violence, hatred begets hatred and that only understanding patience, compassion, and love can open the door to the realization of the dreams which we all hold for our children and for their children.

Let our statements today, remembering and openly condemning the atrocity committed against the Armenians, help renew a commitment of the American people to oppose any and all instances of genocide.

□ 1800

ECONOMIC REPERCUSSIONS OF INCREASING MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I would like to make some comments on how we should increase wages of workers in this country and how we should not increase those wages.

The debate over the minimum wage is a debate really about the fundamental principles of government and how our society is to be organized. Unfortunately, the debate has been framed in terms of politics rather than policy. In light of this, I would like to make three points:

First, historically it has been well noted by many economists, Frederich Bastiat pointed out in 1853 that a just government would not interfere in a person's right to contract with someone else for his or her labor services.

Now, what this minimum wage legislation will do is tell, for example, a senior that wants to work part-time at maybe a day-care center, and 48.5 percent of those receiving minimum wages are voluntary part-time workers, that she or he cannot work if the day-care center cannot afford to pay $5.15 per hour.

It says to the black teenager that he cannot try to get a first job and learn a skill if that employer cannot pay $5.15 per hour, and if his services are not worth that at the beginning of his employment, prior to training, then he will not have that opportunity.

Those who would support the minimum wage must hold the position that government can tell you at what rate you can sell your labor. So here is a Federal law saying you cannot work, you cannot sell your labor, for less than what the Federal Government mandates is a fair wage.

This is not consistent with a just society or the freedom of individuals.

Second, an increase in the minimum wage is really going to harm the poor. Increasing the minimum wage must result in some workers being laid off. So the question is, are we going to pass a law that helps some, because some will benefit from an increase in minimum wage, while at the same time telling a few of those who are no longer going to be employed that they cannot be employed because the employer will not pay them the higher minimum wage that is contemplated to be established?

It is just a matter of how many jobs will be lost. Assuming no job losses is equivalent to assuming a perfectly inelastic demand for unskilled labor, which clearly is not the case.

This is just a quick effort to represent the supply and demand for the market for unskilled, entry level jobs. If you have the demand curve going down; in other words, the higher the wages, the less number are going to be employed, and so as the demand curves down to a lower wage and a greater number being employed, and likewise the supply is going to increase so the higher the wages the more people that are going to be looking for those jobs, you end up at the intersection with what is the equilibrium wage. If we raise the minimum wage higher, that means this change will represent that number of people that are going to no longer be employed.

It just makes sense that there are some people in our society at the beginning that will no longer be able to be employed if we raise the minimum wage up to $5.15 an hour. But increasing the minimum wage will not make any dent in the poverty rate. Of the 23.5 million adults in poverty, just over 2 percent are working for the minimum wage. Increasing the minimum wage will cost the unskilled their job opportunities.

Professors Neumark and Wascher, in their paper in Industrial and Labor Relations Review, estimate a 90-cent increase in the minimum wage will destroy more than one-half million unskilled jobs.

Now, an increase in the minimum wage of 90 cents will raise prices by an estimated 2.2 billion, and those price increases will mostly affect poor people. This price rise will come about because some small businesses in competitive industries will go out of business or produce less. This decrease in supply will show up in the form of higher prices for the goods and services produced in low wage industries, and who buys their goods in stores are certainly the poor people. The wealthy are not going to lose their jobs or their businesses.

The way to increase wages is to cut the payroll taxes, cut the capital gains tax, balance the budget, make sure we do not have an increase in inflation, increase the skills of the future work force and current work force, and enact significant regulatory reform.

The debate over minimum wage is a debate about the fundamental principles of government and how our society is to be organized. Unfortunately, the debate has been framed in terms of politics rather than policy. In light of this, I'd like to make three points.

First, as Frederich Bastiat pointed out in 1853, a just government would not interfere in a person's right to contract with someone else for his or her labor services. What this minimum wage legislation will do is to tell the senior that wants to work part-time at the day care center, and 48.5 percent of minimum wage workers are voluntary part-time workers, that she cannot work if the day care center cannot afford to pay her $5.15 an hour. It says to the black teenager that he cannot try to get a first job, and the training that will go along with it, unless he can produce $5.15 per hour worth of services. Those who would support the minimum wage must hold the position that the government can tell you at what rate you can sell your labor services. This is not consistent with a just society of free individuals.

Second, an increase in the minimum wage will harm the poor. Increasing the minimum wage must result in workers being laid off and fewer job opportunities. It is just a matter of how many jobs will be lost. Assuming no job losses is equivalent to assuming a perfectly inelastic demand for unskilled labor, which clearly is not the case. Those that wish to increase the minimum wage assume that a majority of the Congress with the approval of the President may decide that those who lose their jobs, or are denied their first job, must suffer this in order to make others better off. But increasing the minimum wage will not make any dent in the poverty rate. Of the 23.5 million adults in poverty, just over 2 percent are working at minimum wage. And increasing the minimum wage will cost the unskilled their job opportunities. Professors Neumark and Wascher, in their paper in Industrial and Labor Relations Review, estimate a 90-cent increase in the minimum wage will destroy more than one-half million unskilled jobs. The unemployment rate among black teenage males is currently greater than 38 percent, while the national rate for adult males is 5 percent. Who is likely to suffer from the loss of low-skilled jobs?

An increase in the minimum wage of 90 cents will raise prices by $2.2 billion. This price rise will come about because some small businesses in competitive industries will go out of business or produce less. This decrease in supply will show up in the form of higher prices for the goods and services produced in low-wage industries. And who buys their goods at stores staffed by people making minimum wage? Who buys food at restaurants that hire first-time workers? The wealthy are not going to suffer from the higher prices. The wealthy are not going to lose their jobs or their business because of an increase in the minimum wage. But the poor, unskilled, job-seeker, and the small business owner on the edge of making it will suffer. How can we as a Congress claim that we can make the decision that these people must suffer in order for some other people to gain? It is time to admit that this increase in the minimum wage is an unjust interference of the Government in the lives of the working poor which will cause more harm than good.

COMMEMORATION OF THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MEEHAN] is recognized for 5 minutes.

Mr. MEEHAN. Mr. Speaker, I rise today to commemorate the 81st anniversary of the Armenian genocide. Once again, I join my colleagues and Armenians around the world to honor over 1.5 million Armenians who were killed in this tragic event.

Like every human tragedy, we must retell this terrible story to our children to teach a lesson: Hatred and bigotry must not be tolerated. Instead, as our world grows smaller every day, we must learn to live together in a global village. We must discover and treasure the differences among peoples around the world. We must promote tolerance and understanding. Only then will we have peace. When we remember the Armenian genocide we send a strong message to our global community that violence born of hatred and fear is unacceptable.

While reflecting on the tragedy that began in 1915, our thoughts inevitably turn to a present day tragedy: Bosnia. The world is just beginning to comprehend the atrocities that took place there. The international community is working tirelessly to piece this war torn country back together. However, like those lost in the Armenian genocide, no one can bring back the many precious lives that were lost for no valid reason in the Bosnian War.

I represent a large and active Armenian community in my district. They are hard working and proud of their heritage. As Representatives to the United States Congress, it is our duty to commemorate the Armenian genocide in the hope that future generations will never allow such a callous disregard for human rights to occur again.

RECOGNIZING THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. LEVIN] is recognized for 5 minutes.

Mr. LEVIN. Mr. Speaker, April 24, 1996 marks the 81st anniversary of one of the world's most tragic events—the genocide of the Armenian people by the Young Turk government of the Ottoman Empire. The genocidal process which began in the 1890's, came to a peak in 1915 when the Turkish government began a systematic and willful attempt to wipe out the Armenian population of Anatolia, their historic homeland.

The process continued in 1918 and 1920 when Turkish armies invaded the Armenian Republic in the Caucasus in a heartless attempt to eradicate the remnant of the Armenian people who had taken refuge in a newly freed homeland. The final act of genocide was committed in Smyrna in 1922 when the Turkish Nationalist armies burnt the beautiful coastal city on the Mediterranean and drove its Armenian and Greek population into the sea in full sight of American and other European warships.

In all, over 1.5 million Armenians perished and over 500,000 more were left homeless and driven into exile.

While the Sultan's government, that of Damat Ferit Pasha, directly after World War I held war crime trials and condemned to death the chief perpetrators of that heinous crime against humanity, the vast majority of the culpable were set free. From that day to the present, successive Turk governments have denied the Armenian Genocide and have attempted to spread doubt in the world community.

However, at the time, the United States had consular and embassy officials stationed in strategic locations in the Ottoman Empire and all these officials, including our Ambassador, Henry Morgenthau, reported the intent, the technique, and the results of Ottoman Turkey policy in detail to our own State Department. The records of these officials, demonstrate what the official records of all the European Powers revealed—including Turkey's allies Germany and Austria—that the genocide was a deliberate act on the part of the government to destroy a native ethnic and religious minority whose only crime was to be different.

All victims of man's inhumanity to man have the right to have their fate known and recorded. The survivors have the right to mourn the victims. And the world has the responsibility to see that the crime of genocide does not go unpunished, at the very least to the extent that the perpetrators are held up to universal opprobrium.

Genocide cannot be allowed to be a policy of state. A crime unpunished and unrepented is a crime which can and will be repeated. Even today, as I speak, the present Turkish Government is enforcing a blockade of Armenia blocking American humanitarian assistance from reaching that country. This aid, supported by this Congress, is prevented by the present government of Turkey from being transported to Armenia by land. Such a violation of fundamental principles of humane conduct cannot be allowed to continue.

This issue is not just an abstraction. Every year a substantial number of my constituents who I have known personally for many years, feel deep pain when April 24 comes about. A pain made worse by the fact that it is ignored by most media and the educated public. This is something that we must not let continue.

Take, for example, the Yessaian family, whose story is recorded in the book, "Out of Turkey," which is distributed by Wayne State University Press. Only six members out of a family of 37 survived the Genocide, and of the six, four had left Turkey prior to the onslaught. One of these survivors is alive today and can recall the heart wrenching experience of seeing his mother and his relatives perish before his very eyes. He still experiences nightmares to this very day.

Suren Aprahamian, also a survivor, has written his memoirs "From Van to Detroit: Surviving the Armenian Genocide," which were published in Ann Arbor, MI. He was among the few survivors of an extended family of over 40 and was forced to watch as old men, women, and other children died one by one due to hunger, thirst, slaughter, and exposure.

Hundreds of other tragic stories of survivors have been preserved on oral history tapes which are on file at the Armenian Research Center of the University of Michigan-Dearborn, directed by another of my constituents, Dr. Dennis R. Papazian. These hundreds of stories, recited by innocent victims, provide a human dimension to the chilling horror of this cataclysm.

Finally, Mr. Speaker, there are still many living survivors in my district. The memory of their tragedy still haunts them. They participate each year in commemoration ceremonies fighting against hope that the world will not forget their anguish. Fighting against hope that the present-day Turkish Government will show signs of remorse for a crime committed by their ancestors. Fighting against hope that the United States Government will again show signs of sympathy as it did in 1915–1920.

To me, Mr. Speaker, the Armenian Genocide is not just a footnote in history. It is something that many of my constituents feel very deeply about. It is an issue above politics and partisanship. It is a question of morality.

I am painfully aware of other recent and current acts of genocidal activities being carried on around the world. What began as an exception in the Armenian case, and which then shocked the civilized world, seems to be becoming almost commonplace. It is my belief that when governments are allowed to deny genocide with impunity, and its perpetrators escape punishment, it only encourages this dreadful virus to spread further in the international body politic.

Our Nation's strong support for human rights for all people is more important than ever as we witness the systematic extermination of innocent

VOL
142
PT
6
AP
15
—
24
1996
UMI

people caught up in ethnic and religious conflict.

We cannot let the Armenian Genocide be forgotten. To do so would be to doom future generations to the same curse. Only through remembering the past, and condemning genocide, can we stop such acts of hatred, cruelty and violence from happening again, again, and again.

□ 1815

SIEGE ON AFFIRMATIVE ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to speak out against the current siege on affirmative action. In my home State of Texas, the Fifth Circuit Court of Appeals recently struck down affirmative action in admissions at the University of Texas Law School in Hopwood versus State of Texas. Then just this week, a Federal judge in Houston temporarily barred the Houston Metropolitan Transit Authority from considering race or sex as factors in awarding contracts. I am very concerned about this case, and I have just asked that the Department of Transportation investigate this decision and the impact it will have on funding for the Houston Metro.

Wy are we so quick to eradicate these programs, when it took so many years of struggle to even begin these programs? We should not act impulsively to abandon affirmative action. As long as there is discrimination based on race and gender, we must fashion remedies that take race and gender into account. Race- and gender-conscious remedies have proved essential and remain essential. All Americans want a color- or gender-blind society. That is our goal. But serious discrimination persists and we cannot ignore it.

In the Hopwood versus State of Texas case, the opinion suggested that affirmative action conflicts with merit-based admissions because of small differences in index ratings among nonminority and minority applicants. This is an incorrect definition of merit.

The president of Harvard University, Neil Rudenstine, has said: "Standardized tests do not assess qualities such as competitiveness, decisiveness, creativity, or imagination." Standardized test scores should not be the sole criteria for admissions. The definition of merit should include an assessment of what each student would bring to the learning experience of classmates.

Having a racially and ethnically diverse student body produces benefits for the students, for educational institutions, and for society as a whole. The chancellor of the University of California at Berkeley, one of the most highly regarded schools in the California system said "Excellence and diversity are woven from the same cloth—they are inextricably linked."

The former president of the University of Pennsylvania has said: "The most compelling institutional interest in achieving diversity is the educational necessity of preparing students to live in an increasingly diverse society." Indeed, many students have benefited from affirmative action in education.

It is no accident that as recently as 1974 racial and ethnic minority groups constituted only 1 percent of the University of Texas Law School's student body, while the same groups constituted 30 percent of the State's population. Only a policy of ethnic and race-consciousness led to the 1995–96 presence at the law school of a 17-percent-minority population in a student body that is still 58 percent male and 75 percent white, despite the fact that the State's minority population now stands at 40 percent. Clearly, the school's policy of attempting to insure some degree of diversity, from which everyone benefits, in the student body has not denied, or even appreciably affected the basically white, mostly male character of the school.

The present law of the land for affirmative action in education is the Supreme Court's 1978 decision in Bakke versus Regents of the University of California. This decision established that a university, if it so chose, could employ race as one of the criteria to recruit and bring students of diverse backgrounds into its student population. This is a good rule which should not be rolled back.

I rise today to urge that we do not rush to tear down the affirmative action programs that have been essential in combating the pervasive discrimination that still exists in society today. Let us not roll back affirmative action just when we are beginning to see the benefits to society and business. A commitment to diversity in the work force is simply good business. Opening opportunities helps business compete in a global market and in a multicultural and multiethnic country such as ours.

We should not rush to scapegoat affirmative action as the cause of our economic problems. It is painfully ironic that affirmative action, which was put in place to correct the problems of discrimination, is now seen as a source of injustice. The appropriation of the language of the civil rights movement to now eliminate affirmative action is a perversion of the struggle for equality and justice that so many have fought so hard to begin. If we lose sight of the history of discrimination and injustice, we are doomed to repeat it.

THE ARMENIAN GENOCIDE

The SPEAKER PRO TEMPORE. Under a previous order of the House, the gentlewoman from New York [Mrs. MALONEY] is recognized for 5 minutes.

Mrs. MALONEY. Mr. Speaker, as a proud member of the Congressional Caucus on Armenian Issues and the representative of a large and vibrant community of Armenian-Americans, I rise to remember, to commemorate the Armenian genocide.

First, I would like to commend the gentleman from New Jersey [Mr. PALLONE] and the gentleman from Illinois [Mr. PORTER], cochairs of the caucus, for all their hard work on this issue and other issues of human rights and international decency.

April 24, 1996, marks the 81st anniversary of the beginning of the Armenian genocide. It was on that day in 1915 that over 200 Armenian religious, political, and intellectual leaders were arrested and subsequently murdered in central Turkey.

This date marks the beginning of an organized campaign by the "Young Turk" government to eliminate the Armenians from the Ottoman Empire. Over the next 8 years, 1.5 million Armenians died at the hands of the Turks, and a half million more were deported.

This tragedy is the first genocide of the 20th century and is well documented. The New York Times alone ran over 194 articles during the Turkish atrocities.

As the United States Ambassador to the Ottoman Empire, Henry Morgenthau, Sr., has written: "When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race. They understood this well and made no particular attempt to conceal the fact."

Mr. Speaker, the time has come for Congress to put our government unequivocally on the side of the truth in this tragedy. I commend our colleagues, the gentleman from Michigan, DAVID BONIOR, and the gentleman from Massachusetts, PETER BLUTE, for introducing House Resolution 47, which I have cosponsored. This resolution not only represents official United States recognition of the memory of those who died, but will also put pressure on the Turkish government to do what it has so far callously refused to do: acknowledge and commemorate the atrocities committed over 81 years ago.

We must not condone Turkey's attempts at historical revisionism and denial of the Armenian genocide's occurrence.

Another issue of great importance to Armenia and Armenian-Americans is the Humanitarian Aid Corridor Act. Mr. Speaker, I was in Greece several years ago and saw, firsthand, warehouses full of United States humanitarian aid destined Armenia which could not be sent because Turkey was refusing to allow its transport.

While the situation has improved, this hateful practice must not be permitted by this Congress. We have addressed the issue on a temporary basis in the 1996 foreign aid appropriations bill, which included a temporary Humanitarian Aid Corridor Act. We need to make this permanent.

Nothing we can do or say will bring those who perished back to life, but we can imbue their memories with everlasting meaning by teaching the lessons of the Armenian genocide to future generations.

Adolf Hitler, in 1939, cruelly justified the Holocaust with the haunting and hateful words, "Who, after all, speaks today of the annihilation of the Armenians?"

My fellow Members, tonight we remember the Armenians. We speak for the Armenians, and by doing so we salute their indomitable spirit. By remembering the past, by honoring the

Armenians' marthyrdom and sacrifice, we will hopefully prevent similar atrocities in the future.

COMMEMORATING THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. ESHOO] is recognized for 5 minutes.

Ms. ESHOO. Mr. Speaker, I'd like to thank Representative PALLONE, Representative PORTER, and all my colleagues participating in raising awareness on this, the 81st anniversary of the Armenian genocide and the 1.5 million Armenians who were systematically exterminated by Ottoman troops.

The slaughter began on April 24, 1915, when hundreds of Armenian leaders were arrested and executed in Istanbul and other areas.

By the time they were finished, Ottoman troops had executed 1.5 million Armenians including innocent women and children.

Tragically, the voices of these innocent victims fell upon deaf ears because the international community refused to confront the perpetrators of these atrocities.

As the only Member of Congress of Armenian descent, I know full well how the Ottoman Empire decimated a people—my people—and wrote one of the darkest chapters in human history. I'm committed to ensure that the suffering is not diminished, and not be denied by the perpetrators of this disgraceful policy.

By recalling the atrocities of the Armenian Genocide we remind the world that a great tragedy was inflicted upon the Armenian people, that the murder of Armenians was a catastrophe for the entire family of nations, and that unchecked aggression leads to atrocity.

By mourning the losses of our past, we renew our determination to forge a future in which the Armenian people can live in peace, prosperity, and freedom.

Despite the history of suffering at the hands of others, Armenians have remained a strong people, committed to family and united by an enduring faith.

The Armenian people have risen from the ashes of the Armenian Genocide to form a new country from the remains of the Soviet Union * * * a new country which flourishes in the face of severe winters, ongoing military conflict in Nagorno-Karabagh, and the absence of strong international assistance.

Today's Armenia is a living tribute to the indelible courage and perseverance of the Armenian people and the assurance that what took place 81 years ago will not be repeated.

As we remember the tragic history of the Armenian people, it's essential also for us to discuss the future of Armenia and the role which the United States can play in establishing peace in the Caucuses.

In my view, true peace in the Caucuses will only be achieved when the political and economic isolation of Armenia ceases and regional leaders recognize the inherent rights of Armenia—including its land and its history. Congress can continue to play an important part in this process.

The Humanitarian Aid Corridor Act, which became law for fiscal year 1996 as part of the Foreign Operations Appropriations Bill, is essential because it exerts the appropriate pressure on countries which block U.S. foreign assistance to the region. This measure must be made permanent law as soon as possible, and I look forward to working with my colleagues to do so.

In my view, it's not enough for third party nations to allow commercial flights into aid-recipient countries—land convoys must be allowed through in order to move necessary amounts of American food, medicine, and clothing.

In addition, we must maintain the Freedom of Support Act of 1992. We should reinstate Section 907, which would prevent United States foreign assistance going to Azerbaijan until they lift their blockade of Nagorno—Karabagh. The Freedom of Support Act must be upheld until the isolation of Armenia ends and its territorial rights are adhered to.

Mr. Speaker, if the tragedy of the Armenian genocide has taught us anything, it is sitting back is tantamount to helping Armenia's oppressors.

As Members of Congress, we have the responsibility of ensuring that an enhanced U.S. role in the affairs of the Caucuses follows a course sensitive to the region's history and culture. This includes a heightened sensitivity to Armenia, who's history and culture are often denied or misunderstood.

We must do all we can to prevent this tragic history from repeating itself and help advance a proactive foreign policy to bring lasting peace to the region.

I thank my colleagues who have joined us here today to commemorate the Armenian Genocide.

Mr. Speaker, I would like to conclude by saying my remarks also are in memory of someone that was a great leader in the Armenian community, a relative of mine, Aram Bayramian, who was, I think, the essence of what his forefathers were and continue to be, a great American, a great patriot, a man of great faith in family, someone that served this Nation and was devoted not only to the Armenian community but the entire community.

COMMEMORATION OF THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, today is the sad and solemn day when annually we remember one of the great tragedies of humankind. Today marks the 81st anniversary of the Armenian genocide, the first genocide of the 20th century.

I have come to the floor of the House today to acknowledge the atrocities suffered by the Armenian people at the hands of the Ottoman Turks. On April 23, 1915, over 200 Armenian religious, political and intellectual leaders were massacred in Turkey. Little did anyone know that April 23, 1915, would signify the beginning of a Turkish campaign to remove the Armenian people from the face of the earth.

Over the following 8 years, 1.5 million Armenians perished, and more than 500,000 were exiled from their homes. Armenian civilization, one of the oldest civilizations, virtually ceased to exist, which, of course, was the Turkish plan.

But despite the brutality, Armenian civilization lives on today. It lives on in the new independent republic of Armenia, and it lives on in communities throughout America, particularly in my home State of California.

Today we honor the innocent Armenians who barely got a chance to see the 20th century. Today we acknowledge that the Ottoman Turks committed genocide against the Armenian people and we demand that his undeniable fact be acknowledged by the current leaders in Istanbul.

I look forward to the day when the world says in one united voice, "We remember the Armenian genocide." Until that date comes, Mr. Speaker, I will continue to stand up with my colleagues to remind the House of Representatives of our responsibility to remember and of our responsibility to speak out against any genocide, past or present.

COMMEMORATING THE 81ST ANNIVERSARY OF THE ARMENIAN HOLOCAUST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island [Mr. REED] is recognized for 5 minutes.

Mr. REED. Mr. Speaker, I rise to commemorate the 81st anniversary of the Armenian Holocaust. On this date in 1915, the Ottoman Empire and the successor Turkish nationalist regime began a brutal policy of deportation and slaughter. Over the next 8 years, 1.5 million Armenians would be ruthlessly massacred at the hands of the Turks, and another 500,000 would have their property confiscated and be driver from their homeland. Engrossed in its own problems at the time, the world did little as a population was devastated.

As these memories stay eternally fresh in their minds and hearts, the

VOL
142
PT
6
AP
15
—
24
1996
UMI

people of the Armenian Republic continue to suffer. In recent years, attempting to establish their independence from the former Soviet Union, Armenia has suffered a series of setbacks, including an earthquake in 1988 and a Turkish-led economic blockade that has prevented humanitarian aid from entering the country.

Despite these tragic circumstances, the Armenian people continue to be an inspiration to people around the world. Indeed, last July's democratic elections and new Constitution are evidence of the Armenian devotion to democracy. At the same time, the Armenian community in the United States and in my home state of Rhode Island continues to enrich our society and culture. They have brought with them their unconquerable spirit, patriotism, and valor. Furthermore, they remind us that we must never forget those who perished 81 years ago. Along with the lives that were lost, the Armenian genocide resulted in the destruction of a society and a culture.

It is the memory of those whose perished that we remember today, but it is also those who have carried on, that we must honor. We know too well that history can repeat itself, and that the problems of far-off nations are often overlooked in the face of larger global issues. While nothing can undo the crime of the Armenian genocide, we can do our best to establish a new future.

I urge my colleagues to join me in this commemoration to remember the victims of this holocaust, pray for those who continue to suffer, and honor the truly inspirational spirit of the Armenian people. We must continue to stand side by side with the Republic of Armenia in her quest for democracy while ensuring that tragedies like the genocide never happen again.

□ 1830

ON THE MINIMUM WAGE

The SPEAKER pro tempore. (Mr. MILLER of Florida). Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I also want to join briefly, although I will talk about another subject, want to join my colleagues in respect for the human dignity of the Armenian people and hopefully that the tragedy and the history of that event will teach us as public policymakers that we should make sure that that does not happen again.

Mr. Speaker, over the past several days, the public has been privileged to hear the views of Members—from both sides of the aisle—on the issue of raising the minimum wage.

This is a good and healthy exercise.

Some of what the public has heard has been fact. However, some has been fiction.

This evening, I would like to address some of the major arguments that have been made and repeated during this debate and attempt to separate the fact from the fiction.

Some have suggested that most minimum wage workers are teenagers, working part-time. That is fiction. Most minimum wage workers are adults—7 out of 10 of them—and most are women—6 out of 10 of them. That is fact. But even if most minimum wage workers are teenagers, should they not be paid a fair day's wage for a fair day's work?

Many maintain that jobs will be lost and prices will rise with an increase in the minimum wage. That is fiction. But many more, including prominent economists, throughout the United States, have effectively disputed the job loss argument.

None on the other side have successfully challenged the three economics Nobel Prize recipients and the more than 100 economic scholars from every corner of America—all who maintain the job loss argument is without foundation.

And, on the issue of rising prices—first, prices have already risen, many times over the past 25 years, while the minimum wage has increased but once.

To the minimum wage worker, price increases combined with no increase in wages has meant more obligations, less money and more misery.

But, second, the claim that an increase in the minimum wage will mean higher prices for goods fails when examined against the experience in New Jersey.

New Jersey, like eight other States, now has a minimum wage higher than the Federal minimum wage.

It has been documented by empirical study, however, that when New Jersey raised its minimum wage, prices were not affected in any measurable way.

Price increase claims are fiction.

A few have stated that raising the minimum wage is a liberal Democrat idea—fortunately, that is fiction.

Both Speaker Gingrich and Majority Leader Dole voted for the only minimum wage increase in this quarter of a century in 1989—that is fact.

Moreover, twenty thoughtful Republicans in the House have joined the 113 Democrats in the call for a minimum wage increase—that too is fact.

Mr. Speaker, when the fact is weighed against the fiction, that fact rises and the fiction falls.

An increase in the minimum wage is not a gift—it is not charity. It is just and due compensation for work performed.

How is the value of work measured? That is a difficult question. I can, however, tell you what makes work seem valueless.

Work seems without value when, after doing a job, promptly and thoroughly, an employee earns less than what is required for basic needs—something to eat, something to wear, a place to stay.

If we are serious about moving citizens from welfare to work, we must make work pay. The public debate over the minimum wage has caused some to rethink their opposition to this vital matter. That is good.

This debate will go on—it will not go away.

Those who continue to watch as corporate profits soar, as the salaries of business managers spiral and as working America suffers, are missing an important moment in history—they are lost in fiction.

An increase in the minimum wage is justified, it is necessitated by conditions and it is the right thing to do—that is fact.

REPUBLICAN PLAN FOR RAISING THE MINIMUM WAGE

The SPEAKER pro tempore (Mr. LUCAS of Oklahoma). Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, today we have learned that not only are the Republicans opposed to the minimum wage, but their leadership in a joint statement issued today said that they will simply not allow the minimum wage to come to the floor of the House. Instead they will have a substitute package that prevents, prevents millions of Americans from ever getting an increase in the minimum wage.

Mr. Speaker, if you are a student who is working while you are going to college to help pay for your college education, under their plan you will never get an increase in the minimum wage. If you are a single person who is working at the minimum wage, today you are working 8 hours a day, you are working 40 hours a week, and you are still ending up poor under their plan, you will never get an increase in the minimum wage.

If you are a working person with a child or working person with two children, you will get an increase but you will not get it from the people you are working for. You will get it from the taxpayers, because the Republicans have decided, rather than ask the employers of this country to pay a livable wage, to pay an increase in the minimum wage, what they are going to do is ask the taxpayers to subsidize those jobs for those individuals who are working.

Mind you, today for an individual working at the minimum wage, a single parent with one child, the taxpayers are already paying $175 a month in AFDC payments, $28 a month in food stamps, $179 in EITC, and they are losing $56 on Social Security. We are already subsidizing low wage jobs in

America. Rather than have the marketplace, which so often we hear people pledge their allegiance to, rather than have the marketplace provide livable wages, rather than have McDonald's or Burger King increase the minimum wage, what they have decided is they are going to provide a government subsidy to those employers.

What that means is never again will McDonald's hire other people other than a single worker because those workers will never be entitled to an increase in the minimum wage. If they hire somebody that happens to have a child, they will know that whatever increases in living standards those people acquire, it will be acquired from the taxpayers, not from their hard work, not from the sweat of their brow and not certainly from their employers.

This is a complete capitulation to the special interests, the restaurant association, the fast food industries, and so many others opposed to an increase in the minimum wage. But now we find out that the Republican leadership in the joint statement of the Speaker and the House majority leader who said they will not bring the minimum wage to the floor of the House of Representatives. They have said that they are also going to go on the attack against the 8-hour day, the 40-hour work week, the Fair Labor Standards Act that protects people that, if you work more than 8 hours a day, if you work more than 40 hours a week, you are entitled to overtime compensation for that work.

What they are going to do is get rid of that standard. They have already done it in the Committee on Economic and Educational Opportunities where they have voted out legislation to deny people the guarantees of the 8-hour day, the 40-hour work week, and people ought to understand this.

Mr. Speaker, they have also decided that they say they are going to try and protect individuals' pensions. This comes from the same people who just a few months ago allowed people to raid the pension funds of employees. How are they going to provide this increase in the living standards of people who work at the minimum wage? They are going to increase the taxes on low income single working people, on low income students who happen to be single. They are going to tax those individuals, take away their earned income tax credit and give it to poor working people, poor working people who happen to have children.

So we are going to tax the poorest people in the country who are working every day. We are going to tax them and give that to other working poor people who happen to have children. We are going to do that under the Republican plan rather than ask the employers to provide an increase of 90 cents in the minimum wage over 2 years or $1, as some of our Republican colleagues have suggested, over 2 years.

This is a massive subsidy to employers who choose not to pay the minimum wage. The employer need not show that he cannot pay the minimum wage, that he cannot afford to pay the minimum wage, that their business would go on the rocks. There is no showing at all. You simply do not pay the minimum wage, and the taxpayers come in and subsidize your place of employment. You simply choose not to provide a livable wage to a single person, and that person has no right to any further remuneration because of their work or because of a loss of purchasing power that we have seen people who are currently at the minimum wage.

So what we have is we had a promise by Majority Leader ARMEY that he would fight the minimum wage with every fiber of his being. And now that we see he is carrying out that promise and that promise is in his joint statement that the minimum wage will not come to the floor of the House, they will not allow us to vote on it.

Mr. speaker, we are entitled to that vote. We should have a clean vote up or down on the minimum wage and give the American hard-working people the minimum wage that they need. They need a raise.

GREGORY PECK, FILM LEGEND, SAYS IT ALL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I would title my short remarks today, "Gregory Peck, Film Legend, Says It All." Here is a small article from a paper last week that film legend Gregory Peck says there is no place for him in Hollywood any longer because today's movies are too full of sex and violence.

The 80-year-old star, looking 10 years younger if not more, still elegant, whose last movie was "Cape Fear," says he is finished. Peck blasted new films for containing gratuitous violence, overt sex, and the massacre of the English language. Even though I know it is all fake, I still do not like to see a bullet going through someone's eyeball, generally in slow motion. He said today's movie heroes are sleazebags. They are motivated by hatred, greed, violence. They are all rude, vulgar, ill-educated, and incapable of making an effort because they are totally selfish and devoid of moral values.

□ 1845

He had especially harsh words for Joe Pesci, the star of "Good Fellows" and "Casino." "He is so far on the antihero side that he is almost not human. I myself have played gunslingers, sailors, intellectuals, peasants, and adventurers. I have played Abraham Lincoln and the terrible Dr. Mengele of Auschwitz, as well as a few drunks and bad boys, but generally, like James Stewart and Gary Cooper, my characters were dignified and brave men who did their duty."

Peck said there is only one decent hero in recent movies: Babe the Pig. In every sense, I thought Babe was a beautiful young lady pig. He said he is in every sense an old-fashioned hero.

Well, I would recommend to Mr. Peck that he see "Braveheart," the film which won Best Director for Mel Gibson and Best Movie of the Year. There, too, was a film where the hero was truly a hero who died with a beautiful word on his lips: freedom.

Mr. Speaker, how much time do I have left? 2½ minutes?

Mr. Speaker, I want to make brief note of something tragic that happened today in the legislative process. Bill Clinton, who successfully avoided serving his country three times, and the last time shamefully, had suppressed and politically destroyed his induction date to the U.S. Army. The exact date is July 28, 1969. He had it politically obliterated by a Senator, a Governor, and by compromising politically the draft board and by completely raping the truth to Col. Eugene Holmes, the head of the ROTC in Arkansas, the University of Arkansas.

So it is particularly offensive to this Air Force officer that my leadership caves to a threat of Bill Clinton back on February 10 when he signed the Defense authorization bill and stripped out three of the best provisions to defend this country in that bill, taking out ballistic missile defense to defend America, our homeland, stripping out the language that no U.S. service men and women would serve under foreign commanders without benefit of treaties, Senate approval or training together like NATO, and that he took out the congressional privileges of this House to decide when men go to fight in World War I or World War II or Somalia or Haiti or Bosnia or Desert Storm or Tibet tomorrow, if that is his whim, to sent the 82d Airborne or the 101st Air Mobile Division.

He said on February 10, after stripping those out, that there was one thing in the bill he was going to encourage disobedience toward, encourage people in the military to sue, and said Janet Reno, his Attorney General, would not enforce the law, and that was BOB DORNAN's language, to mercifully, with medical benefits and an honorable discharge, give about 1,000 people who played Russian roulette with drugs or unsanitary sex, most of it heterosexual, in Navy ports of call with prostitutes around this now very unsanitary world. He said, "That I will undo."

And because of weak Republican leadership and with my own, some of

VOL 142 PT 6 AP 15 — 24 1996 UMI

my leaders, telling me, "But it was authorization on an appropriation conference bill"; no, it was not. It was law. It was a few lame-duck Republicans in the other Chamber and Democrats who are catering to the homosexual lobby not realizing that most of these people are heterosexual victims of HIV that will eventually die of AIDS. They undid law. That is authorizing on an appropriation bill.

So of course I will have to vote against the bill tomorrow. But here is the irony. I am a chairman of military personnel. Tomorrow is my markup. It goes right back in, and here is what I put you on notice, Mr. Speaker. Homosexuals in the military goes in my markup tomorrow. I will win in subcommittee and committee. We are going back to the pre-July 19, 1993, policy, the Reagan-Bush, 50-year policy that this triple draft-dodger tried to undo.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LUCAS). The Speaker would like to remind Members that they should avoid personally offensive references to the President.

A MISSED OPPORTUNITY TO RAISE THE MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, I want to vote on the minimum wage. In this place, the Congress sometimes never fails to amaze me. Just when I think I am getting the hang of how things operate, it always pops up and does just the reverse. I thought that because of statements made by Senator DOLE and Speaker GINGRICH in previous remarks, I thought that there would be a vote in this House on this House floor for raising minimum wage, a minimum wage that has not been raised since 1989 and is at its lowest point in buying power in 40 years. I thought there might be an opportunity, and that is what I said today in a news statement.

I thought there would be a opportunity for the 110,000 folks in West Virginia that would see an increase if this minimum wage increase went through, 17 percent of all jobs on the payroll. I thought there would be a chance for them to have a little more takehome pay.

But what I learned today is, in this joint statement of the Speaker and the Republican majority leader, that is not to be. There is not to be a vote on the minimum wage, they say; instead there is to be a reform package.

I want to go through just what this reform package has in it.

The minimum wage increase was real simple: $4.25 an hour today, which is what it has been since 1989, to be raised over 2 years to $5.15. That is all: Flat, simple, fini.

But instead there is not to be a vote on that, says the Republican leadership. Instead there will be a reform package that includes significant family tax relief, including a $500-per-child tax credit.

Incidentally, what they are not telling you is that one-third of low-income children will never see any benefit from that and that in order to raise the money for it they are going to increase taxes on low-income working people who presently get a tax cut in the earned income credit.

The second part of the reform, so-called reform, package, is quote, "reforming the Earned Income Tax Credit." Well, what that means is that in order to give a little more to some, they are going to take from others in the same status. And, incidentally, that earned income tax credit applies to persons earning somewhere in the neighborhood of less than $26,000.

They say that they are going to enact reforms to protect employer pensions. Let me tell you about the last reform that they enacted in the reconciliation bill. That was: Did they reform the pension? What they did was make it easier for corporations to go in and raid the pension for certain types of purposes. And so what kind of reform is this if you make it easier to take the pension?

Third: Another one is improvements, that is what this package says, in the labor laws to allow workers to choose flextime. You're darn right you can choose flextime. The last reform that got in the Committee on Economic and Educational Opportunities is to do away with overtime for over 8 hours' work or over 40 hours in a week. What kind of reform is that? You get to continue earning the old minimum wage and be denied overtime at the same time.

The list goes on.

Mr. Speaker, what the American people want, the overwhelming majority have said clearly: We want a vote on the increase in the minimum wage. Do not load it up. Do not try to clog it up. Do not love it to death by making it a Christmas tree. Do not add a bunch of riders. Vote on raising it from $4.25 to $5.15 over a 2-year period.

I know that some say, well, this just goes to students. Well, actually it does not. About half the people are under the age of 25 that would receive a benefit of this, and two-thirds are under the age of 30, and 58 percent are single women, women who are single heads of household.

But as someone who, along with millions of others in this country, worked his way through college at the minimum wage, I can tell you that students need that increase as much as anyone else. Whether it is carrying bedpans, as I did for 3 years in a hospital, or carrying a tray up two flights of stairs in a restaurant, students are trying to work their way through, young people are trying to get ahead, and the minimum wage is their only way.

I learned a long time ago that as a student and as a young person, as someone working for minimum wage, there was only one collective bargaining agent for me. There were not any labor unions; nobody else was speaking for me. The only way I would ever see an increase was when Congress raised it.

And for those who are afraid that business is going to dry up and go away, the studies indicate that is not so.

But there has not been a minimum wage increase since 1989. Has anyone noticed the Big Mac price going down? How about that pizza that you order from the fast-food catering firm or when you go into any restaurant? You notice those prices going down? Of course you have not.

The fact of the matter is that the minimum wage being raised by this relatively low amount does not influence prices to that degree. And so the fact is, the point is, are we going to give people a working wage? For the 112,000 in West Virginia, 17 percent of our work force who are trying to make it the way the systems tells them to do, working at the minimum wage, they demand, and a lot of other citizens demand, a vote on the minimum wage increase.

THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to join my colleagues in commemorating the 80th anniversary of the Armenian genocide. As you know, 1.5 million Armenians were massacred by the Turkish Ottoman Empire between 1915 and 1923.

The Armenian community in the United States is mostly descended from survivors of this genocide who were forcibly exiled from their homeland. These citizens, many of whom reside in Pennsylvania's 13th Congressional District, have made tremendous contributions to American life while honoring their own rich traditions.

On the evening of April 24, 1915, the political, religious, and intellectual leaders of the Armenian community in Constantinople, now Instanbul, were arrested, exiled from the capital city, and murdered. After the "Young turk" government silenced the voices of the Armenian community in this horrific way, they began a systematic deportation and extermination of all Armenians.

Mr. Speaker, it is our duty to ensure that these reprehensible crimes against

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humanity are not forgotten. I am deeply concerned that the Turkish Government refuses to acknowledge this genocide, even today. We know all to well the consequences of forgetfulness. As Elie Wiesel reports, "Before planning the final solution, Hitler asked, 'Who remembers the Armenians?' "

Mr. Speaker, I would like to thank Mr. PALLONE and Mr. PORTER for their leadership in sponsoring this special order.

Finally, Mr. Speaker, I would like to salute the Pennypack Watershed Association in my district, through its director Tish Ryan, who has done such a great job of bringing people together in environmental education programs, environmental management programs, and especially bringing students together in the 13th District. She has done an outstanding job and should be saluted for her environmental trail blazing.

REMEMBERING THE GENOCIDE OF THE ARMENIANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. KENNEDY] is recognized for 5 minutes.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise this evening to speak on a matter that is very close to my heart, to stand with my Armenian friends and brothers and sisters across this country and around the world that today remember their parents and grandparents that were killed in a genocide that existed on April 24, 1915, and for several years following that date. That is a period of time that means so much to the Armenian people throughout the world, and it is a period of time that unquestionably was a genocide against a people simply because of their race, of their religion, and of their heritage, their ethnic heritage, which means so much to that people throughout the world today.

Mr. Speaker, it is interesting that on the floor of this House that we a few years ago, when I first was elected to the Congress of the United States, refused to acknowledge the word genocide despite the fact that the origin of the actually word genocide came as a result of the witnesses that bore truth to the facts that took place on April 24, 1915.

The truth of the matter is that this has become a highly political debate, a debate that is fueled by modern-day politics that somehow feel the squeeze of the invisible hand of the ancient Ottoman empire that continues to have its hidden hand in the policies that take place on the floor of this House and throughout the world today, and I call upon this administration, the Clinton administration, to acknowledge the fact that a genocide did, in fact, take place on April 24, 1915, and to recognize the tremendous contributions that the Armenian people continue to make to this country today. We see an unprecedented success story of ethnic heritage and of a completion of a complete taking part in American life by the Armenian people.

☐ 1900

A tremendous success story in terms of economic development, a success story that also remembers the roots of the American people. When you look at the kinds of schools, the kinds of language, the newspapers, the fact that in my district today there will be children walking down the streets of Watertown, MA, remembering that their parents and grandparents and great grandparents were killed simply because of who they were, it is important that we today in this House acknowledge the fact that a genocide took place and acknowledge the fact that still today prejudice takes place throughout the world against the Armenian people.

That is why I called upon and saw passed in this House the act which we refer to as the Humanitarian Aid Corridor Act, that calls upon the Turks to finally open up the borders between Armenia and Turkey, to open up trade between Armenia and Turkey, that talks about the fact that we need to break down the barriers that exist between Azerbaijan and Armenia and the Assyrians, to finally stop the fighting and to finally open up trade so that we can create peace in that region. We need to continue to work through IDA and through the World Bank to make certain that we are providing the necessary humanitarian aid.

Mr. Speaker, I visited Armenia just 2 or 3 years ago in the dead of winter and saw little babies freezing in their own urine inside hospitals where the temperature was 10 or 15 degrees because of the fact that that country has been so cut off from the rest of the world. This is a land that has had the greatest success story of the former Soviet states, and yet today still suffers not because of the drive and determination of the Armenian people, but because we allow and the world allows the prejudice to continue to take place against Armenia by both Turkey as well as Azerbaijan.

So on this date of April 24, let me call upon the people of the United States to remember the tremendous contributions that the Armenian people continue to make to the United States, and let us call upon our own sense of history and heritage to ask that the Russians, to ask that the Turks, to ask that the Assyrians finally come to grips with the true meaning of humanitarianism and provide decent, honorable and open trade with the Armenian people, with the country of Armenia, to bring about a continuation of democracy, a continuation of economic prosperity, and to recognize the tremendous contributions that the Armenians continue to make throughout the world and most particularly in the United States of America.

COMMEMORATING THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, I rise today to join my colleagues in observing the anniversary of the Armenian genocide. I commend my colleagues, Mr. PALLONE and Mr. PORTER, who are leaders in this Congress on Armenian issues and thank them for organizing this special order to draw attention to the tragic slaughter of the Armenian people.

On April 24, 1915, the Armenian people were subjected to a ruthless policy of deportation, property confiscation, slavery, and murder by the Ottoman Empire. This barbaric policy was unquestionably genocide. Over the 8 years between 1915 and 1923, 1.5 million Armenian men, women, and children were killed and more than 500,000 more had been forcibly removed from the country. The Ottoman Empire and subsequent Turkish regime engaged in a systematic campaign to destroy cultural and religious monuments, change the names of locations and places, and deny the very existence of the Armenian people in this region.

At the time, the world recognized this crime against humanity and organized a worldwide humanitarian relief effort under the leadership of the United States. It is time for us again to call attention to this genocide.

I have recently joined my colleagues, Mr. PALLONE and Mr. PORTER, in sending a letter to President Clinton urging him to reaffirm the Armenian genocide as a crime against humanity. In addition, I was pleased to work with a number of my colleagues in including the provisions of the Humanitarian Aid Corridor Act in the 1996 foreign operations appropriations bill which has been signed into law.

The Humanitarian Aid Corridor Act restricts United States aid to Turkey until the Turkish Government ceases its obstruction of United States humanitarian aid deliveries to Armenia. The foreign operations appropriations bill also provides funds to continue the United States program of humanitarian assistance to the Armenian people.

The Armenian-American descendants of the Armenian exiles make a vibrant contribution to the life and energy of the San Francisco bay area. I join with them today in observing this anniversary of the Armenian genocide and in honoring the memory of their ancestors.

I might add, Mr. Speaker, that as we remember these tragic events both of

VOL
142
PT
6
AP
15
—
24
1996
UMI

the Armenian genocide and of the Holocaust, we must remember that there are crimes against humanity that are being perpetrated today. The appropriate tribute to those who have given their lives in the past to these crimes against humanity is to make sure that these acts do not continue and that we must be ever vigilant and speak up against them.

In the remainder of my time, Mr. Speaker, I would like to take a few moments to talk about the minimum wage. Mr. Speaker, I am sure that all of us in this Chamber or all of us who serve in this Chamber would agree that the actions that we take here should serve to build family, to reward work, and to value the American worker.

That is why it is so hard to understand why the Republican leadership in the House is hesitating, indeed has said they probably will not bring up legislation to increase the minimum wage. To remind our colleagues, a person who works full-time at the minimum wage makes $8,840 a year. In a two-earner household where both parents work, they bring home a rip-roaring $17,000 a year. For a family of four, this is below the poverty line and indeed below the line of dignity that we owe the American worker.

I am disappointed that the Republican majority will not bring up an increase in the minimum wage, but I am further mystified by the Republican attempt to avoid raising the minimum wage by proposing something which they claim is an increase in the minimum wage combined with an expansion of the earned income tax credit. It is neither. It is simply an attempt to distract attention from the Republican failure to raise the wages of low-income families.

The Republican proposal would cut the earned income tax credit. That means it would increase the tax, if there were a tax, which there is not, so it would serve to put fewer dollars in the pockets of the lowest income people in our country. It would create a three-tiered Federal payment for low-income workers.

This is not only an insult to the American worker, but it is an insult to American business. We are saying to American businesses: We think you do not value the work that your workers do, so we are going to subsidize that work by having a government program to give you money to pay your workers, because obviously you do not value the contribution they make to your business.

What is happening here? How could it be that the Republicans, who talk about reducing the size of government and to promote the free enterprise system, are talking about subsidizing the wages officially that are paid to workers?

In conclusion, Mr. Speaker, I want to once again call to our attention, and I am going to have this blown up for future presentation, how long does it take to make $8,840. The full-time minimum wage earner, 1 year. What a full-time minimum wage earner makes in 1 year, the average CEO of a large U.S. corporation makes in one half a day. How could this be fair? How could this be just? We salute their entrepreneurial spirit and their success, but we reject the injustice of it all.

CONGRESS SHOULD LINK WELFARE REFORM TO MINIMUM WAGE INCREASE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. RIGGS] is recognized for 60 minutes as the designee of the majority leader.

Mr. RIGGS. Mr. Speaker, I appreciate you recognizing me, and I appreciate this opportunity to address what is now a pretty empty and still Chamber, but hopefully some of my colleagues are still following our discussion on the floor this evening.

I intend to talk about a number of very timely issues and concerns, but I want to begin my special order by addressing my colleagues who this evening, most recently just a couple of moments ago the gentlewoman from California, who brought up the minimum wage issue, but prior to her the gentleman from West Virginia [Mr. WISE] and the gentleman from California [Mr. MILLER] who brought up the minimum wage issue.

I want to also preface my remarks by inviting any of my colleagues who want to discuss any of the issues that I raise tonight to join in this special order. I will be happy to yield time, both to my Republican colleagues on the majority side of the aisle as well as my Democratic colleagues on the minority side of the aisle.

First of all, let me say with respect to the minimum wage issue, I am a little unclear why this has suddenly become—except for the possibility that it is being used now as a political football by the National Democratic Party—why this has become such a pressing issue here in Washington.

Now, do not get me wrong. Back in 1994, while campaigning for Congress, I committed to voting for a modest increase in the minimum wage. It was my feeling back then and it is my feeling today that the minimum wage needs to be increased to keep pace with inflation, and that without an increase in the minimum wage, we will be witnessing a further erosion of the purchasing power of the minimum wage, which is going to put very low-income workers further and further behind the economic curve and exacerbate this growing income gap and I guess you could say this potential economic chasm that is dividing American society.

Just a few weeks ago I was one of seven Republicans who on this floor voted for a procedural motion that would have allowed the House to, at that time and in a timely fashion, consider legislation increasing the minimum wage roughly $1 over the course of the next year. I am one of 20 or 21 Republicans who supported, who are cosponsoring our own separate freestanding bill, a competing measure to the Democratic bill that would actually raise the minimum wage slightly higher than the legislation proposed by the President and congressional Democrats.

But here is the part about the minimum wage debate I do not get. If this is such an enormous issue and pressing concern to the National Democratic Party, why did they not raise the minimum wage when they had the chance? That is to say, why did they not raise the minimum wage during the last 2 years or prior to last January, when they controlled both houses of the Congress and of course the White House? That is the part I do not get. There is a certain disconnect there because they did not act on legislation raising the minimum wage when they controlled both the legislative and executive branches of government.

Second, I have been maintaining all along and I have attempted to make this case to our leadership, the Republican leadership of the House of Representatives, that a modest increase in the minimum wage needs to be linked to real reform of the welfare system.

It seems to me that we have many perverse incentives in American life today that are the result of misguided Federal policy. For example, we have an economic policy or a tax policy, tax code, that seems to encourage consumption and spending over savings and investment, and that in turn has put a tremendous strain on the so-called old-age retirement programs, social security and Medicare.

But we also have in our welfare system today, especially in my home State of California, which has a fairly lucrative welfare benefit structure, a perverse incentive in that welfare in the aggregate oftentimes pays someone more than what they can make in a minimum wage job. It seems to me to be rather basic, that if we want to reform welfare by moving people from welfare to work, helping them make what is a very difficult transition, especially for single mothers who many times struggle against heroic odds, that we have to raise the minimum wage so that at least the minimum wage pays more than welfare benefits.

The gentlewoman from California was absolutely right in the statistics that she quoted. Unfortunately, she walked off the floor because I do not think she wants to engage in a debate about this issue. She is right, though, when she says that a full-time minimum-wage worker today would earn

only $8,840 a year, which is far less than many States pay in welfare cash benefits and well below the Nation's poverty level.

It is my belief that we need to correct this inequity, an inequity that the Democrat majority in the last Congress was unwilling to address, so that people who want to work are not forced to choose between work and welfare because welfare actually pays better than work. So again, it seems to me we have to reverse that equation, address this perverse incentive, which is one of many that riddle American life today.

The other point I wanted to make on the minimum wage issue, watching, I believe it was, a CNN program over the weekend, their Inside Edition on late Sunday afternoon, early Sunday evening, they were profiling the Republican revolution after 15, 16 months of this Congress and sort of begging the question, is that revolution alive or dead?

□ 1915

They focused specifically on the subject of welfare reform, and they actually interviewed several current welfare recipients who, looking right into the camera, said "I don't feel that I can support myself, much less my family"; that is, meet the needs of my dependents and loved ones in an entry level minimum wage job; that is to say, a job probably in the service sector of the economy, the kind of job that they would be most likely to find if they were to move from the welfare rolls to work now.

So there you have it. You have living, firsthand testimony, from several people right on that show Sunday evening, basically saying what I think many of us believe, and that is that we have to again address this perverse incentive, and we have, if we want to reform welfare by moving people from welfare to work, make a minimum wage job pay more than welfare benefits in the aggregate.

But that is the other party with a little bit of the grandstanding going on on the other side of the aisle with this particular issue. Again, I am trying to make a linkage to real reform of the welfare system. That is my rationale or justification for supporting an increase in the minimum wage, yet I think anyone who has followed the debate in this Chamber and the developments in this Congress, the 104th session of Congress in our Nation's history over the last 16 months, knows that while we promised in our Contract With America to reform the welfare system, to emphasize work, families and personal responsibility, we have gotten virtually no assistance from our Democratic colleagues in that effort in either the House or the Senate. In fact, we have already in these past 16 months, this session of Congress, sent the President two welfare reform bills which he has vetoed.

So here you have a certain irony in a Republican majority in this Congress trying to help this Democratic President, who back in 1992 as Candidate Clinton promised to end welfare as we know it, make good on that campaign promise. Yet he has refused to consider welfare reform legislation. I believe personally the President would have a political problem with the far left wing of his party, and this political constituency of dependency that we have built up in America over the last several decades, if he were to entertain signing welfare reform legislation, again, despite the promise he made back in the 1992 campaign for President, which was just one of several major promises that he has broken to date in his last 3-plus years as President of these United States.

We all remember, of course, back in the 1992 campaign when he promised to submit to the Congress a budget that balances in 5 years. Many of us recall he made a middle class tax cut the centerpiece of his economic plan, which he called putting people first. Of course, as I said a couple of months ago, he also campaigned on a promise of ending welfare as we know it, which made him look the centrist, new Democrat that he wanted to be during the 1992 election. But, of course, as the record now shows, he has tended to govern more as a traditional left wing, big government, tax and spend President.

So I find some of the rhetoric coming from my Democratic colleagues just a little disingenuous on this issue, because again I do not see how you divorce or separate an increase in the minimum wage from real reform of the welfare system, particularly if it is a bipartisan goal of both the Congress and the Presidency to try and help people make that transition from welfare to work.

We know that those experiments in workfare are succeeding around the country. Many States, including Virginia, just across the Potomac River, where I reside part-time while serving back here in Washington representing the 1st Congressional District of California, Virginia has launched a workfare program, welfare reform, over the last year or so, which to date has been a tremendous success. In fact, there was just a story in today's newspapers back here documenting again the success stories of those people who with the proper assistance from the Government in the form of education, skills training or job training, adequate child care and transportation, are making that transition from welfare to work. But, again, I submit to you that if we wanted to have large scale welfare reform, if we really do want to pursue this dream or this vision of ending welfare as we know it, we certainly have to make an entry level minimum wage job pay more than welfare benefits in the aggregate.

So again, I find just a little tad of hypocrisy in what some of my Democratic colleagues have had to say on the floor this evening, and on certainly prior occasions, with respect to the minimum wage issue, and I look forward to the coming debate on the minimum wage issue, so that we can hopefully constructively discuss the minimum wage, how we can move that legislation through the House. Again, I would like to see it move in the context of welfare reform.

There is one other thing I want to mention about welfare reform, and that is earlier this year, I think it was back in January or February of this year, we saw in this town a truly remarkable event. Now, I know that people tend to get, particularly the longer they stay back here in Washington, they tend to succumb to sort of the beltway culture. They become just a tad cynical, maybe just a little jaded. But we saw something earlier this year that even the most jaded Washingtonian, even the most skeptical pundit, I think would have to admit was truly a remarkable development, and that is when the Nation's Governors, meeting back herein Washington at their semiannual meeting, unanimously agreed on welfare reform proposals.

Unanimously. I did not say this was a consensus agreement, where a majority prevailed obviously over a minority in supporting and advancing welfare reform proposals. No, this was a unanimous agreement. We had 43 of the Nation's Governors, big State, little State, Democrat and Republican, meeting back here, all endorsing the welfare reform proposals.

Since that time, the other seven Governors have also endorsed those proposals, so we have the remarkable, the absolutely remarkable development of unanimity in the ranks of the Nation's Governors, all 50, again, big State, little State, Republican and Democrat, supporting welfare reform proposals.

I wonder just for a moment, in a perfect world, what would happen if we were to attach the minimum wage increase that, again, 20 or 21 of us Republicans and a solid majority of the Democrats in the House, to those unanimous welfare reform proposals of the Nation's Governors? Would that not give us the opportunity to do something on a truly bipartisan basis that we could be really genuinely proud of and which might stand as one of the shining accomplishments of this congress, the 104th in our Nation's history?

TRIBUTE TO GILBERT MURRAY

Mr. Speaker, I want to change subjects for just a moment and explain why I am wearing this green ribbon on my lapel, which is a question I have been asked many times today by many of my colleagues. I also want to acknowledge that hearing the comments of my colleagues earlier this evening,

VOL
142
PT
6
AP
15
—
24
1996
UMI

both sides of the aisle, talking about the reflecting upon the genocide in Eastern Europe that dates back a considerable amount of time, that on these kind of occasions, when Members stand in tribute, I think the Chamber takes on really its most formal and solemn atmosphere.

I want to follow that by mentioning that this green ribbon on my lapel is in memory of a man by the name of Gilbert Murray, Gil Murray, who 1 year ago today, on April 24, 1995, was killed in his office of the California Forestry Association in Sacramento, CA, by a seemingly innocuous mail package. We now know 1 year later that Gil was tragically the last victim of the so-called Unabomber.

I did not know him well, but as I knew him, he was a fine man, a family man, a dedicated professional, someone who was advancing the principles of responsible and sustainable forestry on both our public and private forest lands. I can tell you that Gil, 1 year later, is very much missed by his friends and his family certainly, and those of us who had the privilege of knowing him.

Now, I suspect that his death is something his family can never truly recover from, but I hope and I pray that they continue to heal from this tragic event, and that we all remember April 24, 1995, as a day that will forever change the way each of us look at our own lives and the world in which we live.

We can, of course, now today, April 24, 1996, take some solace knowing that with the apprehension of an individual who is strongly suspected of being the infamous Unabomber, no other families will suffer the tragedy of losing a friend and loved one like the way we lost Gil.

One year after his tragic death, the memory of Gil still touches those of us who work on forestry and resource issues on a daily basis. His death touches us deeply, and our love and affection go out again to his family, his friends, his extended family, if you will, which would certainly include the other fine folks at the California Forestry Association.

I hope we never forget his tragic death, because it was a senseless and evil act. Again, I personally asked a number of my colleagues today to show their solidarity and their respect for Gil by wearing a green ribbon on their lapel, such as I am doing now, and I am very pleased that so many of my colleagues would join me in this effort. Really, in their own way, or by extension, they honor all the victims of the Unabomber and their survivors.

I want to do one other thing that is related to Gil Murray's passing, and that is I want to address some of this, because I think Gil would approve of this, I want to address some of this environmental fear mongering and hysteria that we have been hearing in the halls of Congress in recent days and weeks. It sort of came to a head I guess on Monday of this week, Monday, April 22, the so-called National Earth Day, when we heard all kind of exaggerated and wild-eyed claims being made down here on this floor that, again, I think can only be described as environmental fear mongering or hysteria.

I think most of us, particularly those of us who live in the western United States and who represent resource-dependent congressional districts, that is to say, represent communities where the economy is based on resource use and development, most of us know that you have to find a balance between the need to protect the environment on the one hand, and the need to protect jobs on the other. We strive to find that balance in our congressional districts and certainly here on the floor of Congress when we, in our everyday professional lives, as we make policy decisions.

So I tend I guess over time to just sort of tune out this environmental fear mongering and hysteria. But when I hear Members, especially from the other side of the aisle, coming down to the floor, and let us be honest about it, most of them, and I am not going to name names, particularly since they do not have the opportunity to be here and debate the issues, but most of them come from metropolitan areas, they represent urban congressional districts where the thinking on environmental issues is about 180 degrees different than the more rural areas of America, like the district that I represent.

But I heard several of these Members come to the floor the other day and refer to our timber salvage legislation, the legislation authorizing the Forest Service to sell more of the dead, dying, and diseased trees on Federal forest lands, and referring to that legislation as so-called logging without laws.

Now, I want to be very clear about one thing. We are talking about logging, selective harvesting, of dead, dying, and diseased trees on Federal forest lands. Not in our national parks, not in our wilderness areas, not in an area that has a wild and scenic designation, but in our Federal forest lands, these vast forest preserves that were set aside in the 1940's in part to provide a growing Nation with a very valuable commodity and a steady supply of timber.

It just seemed prudent to those of us in the Committee on Appropriations who wrote this legislation that we ought to allow greater harvesting of the dead, dying, and diseased trees, if for no other reason than to deal with the tremendous fuel load, the buildup of combustible materials, the underbrush and downed trees, on Federal forest lands, particularly when just a couple of summers ago we saw wild fires raging out of control in our drought-stricken forests of the western United States, wild fires that I might add cost the taxpayer $1.1 billion and took the lives of 33 U.S. firefighters attempting to extinguish those fires.

□ 1930

So, Mr. Speaker, we thought we had a good bill, yet it has been called logging without laws, and we saw Members stand here on the floor and the other side of the aisle demagoging this issue, handing out fig leaves and saying, and this is an actual quote, "Let's not be conned", yet today a three-judge court of appeals upheld the timber salvage law. They said it was perfectly legal. It is not logging without laws. And at least one of the three judges is an appointee of President Clinton.

They specifically upheld the so-called 318 green sales provisions of this particular bill. This is the section of the timber salvage legislation that directed the Forest Service or the Federal Government to honor contractual sales commitments that had been made to private parties who had successfully bid for the rights to harvest trees on Federal forestlands in the Pacific Northwest, in Oregon and Washington. And the three-judge court of appeals today simply said that the Federal Government, in fact, will honor its longstanding legal obligations and proceed with those sales.

So there is no logging without laws. We know that, sadly, that right now, today, April 24, we are operating a portion of the Federal Government on a 24-hour so-called continuing resolution. This is a short-term funding measure for 5 of the 13 annual spending bills, which we call appropriations, that have not yet been enacted into law. And we are down to resolving, those of us who have been a party to these negotiations, as I have, as an individual member of the House Committee on Appropriations, we are down to just a few issues really now dividing us in this House, Republican Majority, Democrat Minority, and between the Congress and the White House. But those few issues have to do with the so-called environmental riders to the Interior appropriations bill, which is one of the five bills, again, not yet enacted into law.

And these were provisions that, again, Members were talking about here on this floor just a couple of days ago, on Earth Day, Monday. What are they? They are the idea of allowing expanded oil drilling in the Arctic National Wildlife Refuge and expanded timber harvesting in the Tongass National Forest of Florida.

We have Members running down here constantly claiming that by expanding oil drilling in the Arctic National Wildlife Refuge, and bear in mind this is a very small portion of the Arctic National Wildlife Refuge, it is presently

set aside for oil leasing and drilling, all the remainder staying as wilderness, and by expanding harvesting in the Tongass Forest, which is again surrounded by vast tracts, huge amounts of land, I mean hundreds of thousands of acres of wilderness, and by the way these are areas that maybe a handful of Members of Congress have ever visited; I must confess I have never visited them. But we want slightly increased resource use in Alaska, for one reason and one reason only, and that is the duly elected representatives of the State of Alaska, Congressman DON YOUNG, Congressman for all of Alaska, and the two United States Senators representing Alaska are strongly supporting these provisions. And one would presume since they have been duly elected by the people of Alaska that they have a support of the majority of Alaskans; yet by trying to pursue these provisions, we are then accused by the other side of attempting to gut environmental regulations.

Then they mention the Endangered Species Act. And, yes, it is true in the annual appropriations bill, one of the appropriation bills last year, we imposed a moratorium on the listing of any new endangered or threatened species under the Endangered Species Act. Now why would we do that? We have been accused of being radical by doing that. But what the other side never points out is that the Endangered Species Act is no longer authorized. The congressional authorization of the Endangered Species Act expired over 2 years ago. Rather than this law simply sunsetting, going off the books, it has remained in effect only because the Congress, the House specifically, would appropriate money on an annual basis to the Federal agencies which enforce that law; again, even though the original law itself, the statute, is no longer authorized. The authorization expired, again, over 2 years ago.

That sort of begs the question: Why didn't the last Congress, which was controlled by the Democratic Party, bring a reauthorization bill of the Endangered Species Act to this floor? And the answer is simple. Had they done it, there would be a bipartisan majority of Members, Republicans and Democrats, who would have wanted to amend the Endangered Species Act to include greater protection for jobs and greater consideration of the economic consequences of listing decisions. Again, trying to find that elusive balance between the need to protect species on the one hand and the need to consider and, hopefully, mitigate economic consequences and potential job losses on the other hand.

I do not think that is so radical. So, again, we have demagogueing going on in this House without the American people really being told both sides of the issue, not getting the full picture.

Lastly, one of the things that I wanted to mention on the environment is that earlier in this session of Congress, in fact during the first 100 days in this session of Congress, we passed by an overwhelming bipartisan majority in this House one of the provisions of the Contract With America that was signed into law by the President. We have this impression a lot of our Democratic colleagues would like to leave with the American people that the Contract With America is very radical. The reality is that 9 out of 10 provisions passed this House, 9 out of 10 provisions in the Contract With America passed this House and they passed this House, in many, many instances, with very strong support from the Democratic Members of the House. And one of those provisions, the Unfunded Mandates Reform Act, became law with the President's signature.

How could that be? That is one provision in the Contract With America, passed the House, passed the Senate, and was signed into law by the President. And that is radical?

That Unfunded Mandates Reform Act created a new commission, actually there was an existing commission within the Federal Government, but it gave them a new charge and that was to examine existing Federal laws to determine whether those existing laws constitute an unfunded, or perhaps a better word would be underfunded mandate, imposed on States and local communities by the Federal Government. In my view, it is sort of a heavy-handed, top-down, one-size-fits-all fashion, and of course we continue to write laws back here with the arrogance that, you know, the law is going to work as good in Portland, OR, as it does in Portland, ME. And sometimes I think we are sadly mistaken in that belief.

But we passed this Unfunded Mandates Reform Act. It became law. And the Unfunded Mandates Commission then began looking at existing Federal laws. And do you know what they found? They found that Federal environmental regulations, and they were very specific, they named the Endangered Species Act, they named the Clean Water Act, they named the Clean Air Act, they named the Superfund law and several others, that those existing Federal environmental regulations constitute, surprise, an unfunded mandate imposed on State and local communities by the Federal Government.

Furthermore, the unfunded mandates panel called on the Congress to rewrite these laws, to give greater consideration to the concerns of and the impacts upon States and local communities and to give States and local communities more of a say in the writing of these laws and in the administration of these laws. Since, again, we pass that responsibility for administering these laws on down to the States and to local communities.

And that is the flexibility that the State and local communities have been screaming for for years. That is why we passed the Clean Water Act Amendments in this House. And so many of our Democratic colleagues would have the American people believe that we passed the Clean Water Act Amendments because we are beholding to big business and corporate special interest. Well, to the contrary. The real impetus for amending the Clean Water Act came from the National League of Cities and the U.S. Conference of Mayors, both bipartisan organizations representing locally elected officials.

So I get a little tired when I hear this environmental fearmongering, this hysteria. I recognize it for what it is. It is a good political issue in a Presidential election year, but I think we are, by giving this hysteria any credence, we are really deceiving, misserving, or doing a disservice to the American people.

I want to read you very quickly a letter that appeared in a publication called Green Speak, that is put out by the National Hardwood Lumber Association. It is a letter from a mutual friend of mine and Gil Murray, again, the last victim of the Unabomber, for whom I wear a green lapel ribbon this evening. A mutual friend of ours by the name of Nadine Bailey, who was very involved just a couple of years ago, she lives just outside my congressional district, actually in Congressman HERGER'S congressional district in northeast California, in a little mill town called Hayfork, and her letter is dated March 11, 1996 and it is an open letter to the President.

It says, "Dear President Clinton, you made a promise to my daughter on a national television program."

This actually was the televised proceedings of the so-called forestry conference or timber summit held out in Portland, OR. I guess this would have been early 1993, soon after the President was elected, and both the President and the Vice President attended that particular timber summit or forestry conference, and Nadine starts her letter by making reference to it.

She then goes on to say "When Elizabeth", her daughter, "showed you her class yearbook, with the names of the children whose parents would lose their jobs because of the spotted owl", and of course those of us who hail from northwest California and the Pacific Northwest, we know very well about the spotted owl because it is listed as an endangered species and has had a tremendous impact on the economic well-being of our communities in northwest California, the Pacific Northwest.

"You made a promise to her and to all the children who live in timber-dependent communities. Do you remember what you said? Your promise was that you would solve the problems in the northwest and California, that you would bring everyone together and come up with a solution that would

VOL
142
PT
6
AP
15
—
24
1996
UMI

allow logging and protect the spotted owl. Do you remember? Do you care where Elizabeth is today? Do you care where her father is? Do you know how hard her family worked to bring about solutions that would save the community and ensure the health of the forest?

"I hope this brief summary of the last 3 years," the first 3 years of the Clinton administration, "will make you understand and regret your broken promise."

So this would be a broken promise that follows on the heel of the broken promise to balance the Federal budget, to end welfare as we know it, and to give the middle class a tax cut.

"1993. After the summit, I worked with the environmental community to develop a plan that would add jobs while protecting habitat and wildlife. I received a call from Vice President GORE asking for my support for the Option 9 forest plan.

"1993 to 1994." Two-year period. "The Option 9 plan is approved and the region gets an adaptive management area. These areas were specifically designated to have adaptive management techniques used to produce products that would enable local communities to survive the transition brought about by changes in forest management. Hopes are high in the region that some relief from the timber supply crisis will be felt.

"Spring 1994. Jobs become hard to find. Grants from Option 9 do not make their way to unemployed loggers. In fact, in public forums," your forestry policy adviser, "Tom Tuchman admits much of the money will go to infrastructure. In other words, the people most affected by the change in national forest policy will be the least likely to receive help. We no longer have our business. Years of work to build a business are gone, and my husband, Walley, works for five different employers, some as far away as 8 hours. Families are starting to leave the Trinity area. Some Trinity County School districts now have 96 percent of their children on free and reduced lunches, which means they now live below the poverty level.

"Fall 1994. The last large logger in Hayfork prepares to move operation because of lack of work." What she really meant to say was the lack of harvestable trees, or timber. The adaptive management area fails to produce any more timber than other areas under Option 9. In fact, there seems to be more study in the adaptive management area than other areas affected by the Option 9 plan.

"Spring 1995. We move our family from our home in Hayfork to Redding. At this point I contacted the many agencies that have been given money to help displaced workers for help with the move. We were told that we that we didn't qualify because my husband already has found work. We are forced to borrow money from a family member to move. We had been homeowners, now we are faced with renting and finding $2,000 needed for deposits. We cannot sell our home, partly because of the market and partly because the house was built by my mother and father and I cannot face losing my home."

□ 1945

Wally, my husband, becomes even more bitter about being betrayed by your administration. Despite my job at the California Forestry Association, we fall deeper in debt. My kids are not happy. City life in Sacramento or in Redding is much different. To leave a high school with 125 kids and start again in a high school with 1,000 is almost too much for country kids. I am very concerned about Elizabeth. She misses her friends so much. Wally finds work 6 hours from home. He moves out to live on the job site and I become a single mother again.

April 24, 1995, the date that I observe this evening, a bomb goes off at my office, killing my boss and friend, Gil Murray. I seem to have lost the heart to fight for our community. Nothing I have done in these last 4 years seems to have made a difference. My trust in Government and society as a whole is weakened. You use the Oklahoma bombings to attack right wing political groups. You never mentioned the Unabomber. Vice President GORE doesn't call this time.

Let me just parenthetically ask if anyone sees anything wrong with the fact that of course the President and some of his political allies have no hesitation or reservations about insinuating that somehow, some way the National Rifle Association and Rush Limbaugh might have been responsible for the very tragic, horrific Oklahoma City bombing, but yet they see no possible connection between the rantings of the Unabomber and the environmental hysteria that goes on in this Chamber with regularity or for that matter no connection between some of the things that Vice President GORE has written and some of the writings of the Unabomber himself.

Summer 1995, where did I go wrong? Was it in believing in your promises? Could I have done more? Everything is beginning to unravel. With the exception of some local groups that came together to seek solutions through consensus, like the Quincy Library Group in Quincy, California, everyone seems to be going back to war.

By that she means the timber wars which have polarized our communities and divided the environmental camp from folks who make their living in the forest products industry, either directly or indirectly:

I wonder if you realize what an opportunity you had to heal old wounds. Instead all hope is fading for the future of towns like Hayfork. I still get calls late at night from people not knowing how they will make it through the winter, wanting to know if they should stick it out, if there is any hope that things will change. For the first time in my life, I have no hope.

That is what Nadine, she goes on and wrote a few other personal comments about her family. She actually ended up moving to Wisconsin where she now works at the timber producers office of Wisconsin.

But it is a very, very sad commentary about our inability to find that balance, the balance really that was promised, I believe, by the President and Vice President when they convened this timber summit in Portland, the balance that was promised to communities like Hayfork and to families like Nadine Bailey's.

I wonder where all this is going to lead, because in today's paper, in the San Francisco Chronicle, on page 1 is a headline that says, Victory for Sierra Club Dissidents. I think most people know that the Sierra Club, with roughly 600,000 members, is probably the largest environmental organization in the country. It has become a major environmental organization, no question about it. They have a full-time professional lobby here in Washington and in State capitals around the country. And they have an energetic grass-roots membership.

The point I am getting at is that they also enjoy this image of being moderates on the environment, reasonable people, people that you can sit down and talk with and maybe hopefully reason with as we grapple with these very, very complex and difficult and seemingly intractable issues. But the headline says, Victory for Sierra Club Dissidents and then it goes on, the subhead is, Vote to ban logging in national forests, Vote to ban logging in national forests.

Now, I know some of my constituents do not like it when I say this, but I ask repeatedly, as someone who is very proud of my role in helping to make the timber salvage legislation law, what is more extreme? Harvesting dead, dying and diseased trees in our national forests, which the foresters, like the late Gil Murray tell us is good for forest health and for fire suppression purposes and, I might add, it makes, to me, certain economic sense to use those dead, dying and diseased trees to produce a much-needed resource, while those dead, dying and diseased trees still have some economic and monetary value. I have yet to encounter too many Americans who do not live in wood framed structures. And I would also point out that if we followed the lead of the Sierra Club, this moderate, reasonable, middle-of-the-road environmental organization and we banned all logging in national forests, not national parks, not wilderness areas, national forests, that that will only increase the pressure to harvest trees on privately owned lands and that we need to find that equilibrium, that balance between a sustainable timber harvest on public lands and a sustainable timber harvest on private lands.

If we follow their lead and we ban all logging on our national forests, in essence turning our Federal forest into additional national parks, then we will, in my view, not only increase the pressure to harvest on private land but we

will be creating a tremendous fire hazard in those Federal forest lands, particularly in our drought-stricken areas of the western United States.

So what is more extreme? Harvesting dead, dying and diseased trees to produce a resource, or those who are so opposed to timber harvesting that they do not want to harvest even a dead tree? I wonder. Because leading the pack in this whole debate back here, of course, is the Vice President, AL GORE and the Secretary of the Interior, Secretary Babbitt.

So I believe it is a very, very alarming and sad day, and I wonder about the terrible irony of the Sierra Club taking this particular position on the same day that we commemorate the tragic death of Gil Murray.

In fact, I should mention, the article goes on to say, Members of the Sierra Club have handed a dissident faction, it is no longer a dissident faction because they prevailed, they are now the majority within the club, handed a dissident faction an important victory by voting that the club for the first time in its 104 year history will support an end to commercial logging in national forests. The club's membership approved the measure 2 to 1, the San Francisco based conservation organization announced yesterday. Although the club has fought vigorously against logging in many situations, it has never formally opposed an outright ban on the common practice of commercial logging in national forests.

So the Sierra Club is now coming out and taking a position that we will not even thin these forests to selectively harvest the dead, dying and diseased trees. We will have no timber harvest in our Federal forest lands at all, even though that was largely the reason that those Federal forest lands were created to begin with.

So I mentioned the Vice President because I think a lot of this is, particularly the current impasse over the budget, the so-called omnibus appropriations bill, the conference report which we would like to bring to this floor tomorrow, a lot of this impasse right now is again over environmental issues.

I think my colleague, Mrs. SEASTRAND, would admit that. I will yield to her in just a moment. But to me it continues a very disturbing pattern back here in Washington of demagoging on issues. I take very strong exception to the demagoging that I see going on. I know it is a sad fact of political life. I know that we are going to see more, not less, as we approach the November election. But there are some issues that in my view are too important for this sort of common, everyday petty politics and this demagoging back and forth.

Let me give you one other example. That is Medicare, because a lot of the demagoging that we hear coming from the other side of the aisle in the Congress and from the Clinton administration has to do with the environment, Medicare, education. I think those are the three big ones that they like to hit all the time. So I want to mention Medicare.

I want to first of all just point out for my colleagues just how out of hand this demagoging is. This is an April 19, so this is a Congress Daily from last week, that reports on a press conference over on the other side of the Capitol outside the Senate Chamber where the Vice President was quoted as blasting Senator DOLE and Senate Republicans for attempting to push on, this is a quote, Push on the U.S. Senate a provision that would have led to serious and grave damage to the Medicare system.

There were just two problems: One, the amendment that the Vice President was referring to, having to do with medical savings accounts, had nothing to do with Medicare; it was in the context of health insurance reform. No. 2, Senator DOLE himself was standing behind the Vice President when the Vice President made these particular remarks. It is almost as if, again, certain figures in the administration cannot wait to demagogue an issue. And it is sort of the old mindset that my mind is made up, do not confuse me with the facts.

It had nothing to do with Medicare. It had to do with the health insurance reform legislation that we would like to move through Congress on a bipartisan basis and get to the President so he can sign.

But here, Mr. Vice President and other concerned colleagues, here is the real issue pertaining to Medicare, and that is the very stark headlines just out of yesterday's newspaper. I do not understand why, if we are going to have these Chicken Little folks running all over the Capitol saying the sky is falling, the sky is falling let us shift our focus from the environment and start talking about something that is really of crucial concern to this Nation and future generations; that is, Medicare.

It is going broke. It is going broke faster than expected. And we need to do something in this session of Congress about the problem. We have already sent the President a plan that would increase Medicare spending per recipient from $4,800 today to $7,300 per Medicare recipient in 7 years, increase spending, increase choices, and save the program from bankruptcy. But President Clinton vetoed that legislation, as we all know now.

But here is what is so alarming, because the facts and figures indicate the truth and we can see a trend developing. Back on February 5 of this year, February 5, 1996, the New York Times reported on page A1 with a Washington dateline, Washington, New government data shows Medicare's hospital insurance trust fund lost money last year for the first time since 1972, suggesting that the financial condition of the Medicare Program was worse than assumed by either Congress or the Clinton administration.

Then, as I mentioned, again, the New York Times yesterday, April 23, 1996, again on page A1, the New York Times is not exactly a conservative publication.

Mrs. SEASTRAND. Mr. Speaker, will the gentleman yield?

Mr. RIGGS. I yield to the gentlewoman from California.

Mrs. SEASTRAND. It was most interesting to see that New York Times article appears in the Santa Barbara News Press. The Santa Barbara News Press is owned by the New York Times, and to see the headline stating that Medicare is going broke faster than we here in the Congress think that it will go broke, $4.2 billion, it was interesting because the subheadline on the front page of that newspaper said that the Clinton administration was very much trying to cover up the calculations.

Mr. Speaker, I think the gentleman from northern California would agree with me that through all of this discussion, on trying to save Medicare for our moms and dads and for future generations, we have taken quite a bit of heat, not from necessarily the folks in the district but from those outside forces that come from Washington, DC. I know the gentleman is, like I am, one who has been besieged by television, radio ads, coming from Washington, DC, and trying to tell constituents in our district that the gentleman from California [Mr. RIGGS] and the gentlewoman from California [Mrs. SEASTRAND] were trying to cut and destroy Medicare, and so it is a little sad to see those headlines.

Mr. Speaker, when you take the stand, you argue your positions and you do battle. It is sad to, while I enjoy seeing the headline saying, yes, I was right, Mr. RIGGS of California was right, we support our bill to save Medicare. But when you do realize how much the people, our senior citizens presently, our children and our grandchildren are going to suffer just because of the fact that politics is played, demagoguery was taking place, and we did not get about to saving Medicare as of yet.

So, I agree with the gentleman from California [Mr. RIGGS]. It is a pretty sad day, but it is interesting to see that it has to be true. I mean that headline appeared in all of our newspapers across this land. I just say, if it is in the New York Times, I just guess it has to be true.

I think Mr. RIGGS would agree with me that we are being besieged. The gentleman was talking earlier about fear mongering, and it is interesting because the same ads have appeared in

VOL
142
PT
6
AP
15
—
24
1996
UMI

my district that have appeared in the gentleman's district, with the same 800 number. Whether it was some of the more extreme groups trying to scare our constituents that we are trying to poison the water, we have lead in the water and arsenic in the water, and we are going to pollute our oceans, I would just stand here, saying as a mom and one who hopes one day very soon to be a grandmother, I am definitely concerned about our environment and where we are going as we turn into the 21st century.

Mr. Speaker, so it is a bit bizarre. But to see the fear mongering not only from different organizations but amazingly the AFL–CIO, I think they played the same ad that we re definitely cutting into Medicare, destroying Medicare, cutting education.

□ 2000

They were destroying the environment, and we voted for a bad budget, and it is just interesting to note that again this fear is coming from the heart of this city, Washington, DC.

We know, it is those big labor bosses that are very, very disturbed that they lost power, and they do not seem to wield it here in this capital city as much as they used to for 40 years.

But, you know, when you were talking about not having the opportunity to do some timber salvaging in our national forest, I was thinking about how many working families, by that position that the Sierra Club took, how many working families it is going to affect in your district, and I often think, too, about the AFL–CIO, how many people because of their positions where I am trying to fight for a balanced budget to help my children and grandchildren and yours and taking the position of tax relief, of $500 tax credit for children, seeing that we cut through capital gains so we could help those small businesses in the northern end of California and on my central coast; all these things that are so important for our working families throughout our two districts, and because of the rhetoric, the yelling of radical extremists, how many, because of that, how is it going to affect our district and affect those very working families that belong to the very so-called AFL–CIO union.

And when you think just recently they had an annual convention here in Washington, DC, and they raised the dues of those working families in my district, in your district, and they are going to have to pay for those dues to fund a continuation of the fearmongering advertising that is taking place in our districts.

I have a quote here. At the convention, we had vice president Linda Chavez Thompson say, "We stopped the Contract with America dead in its tracks. Now we have to spend 7 times as much to bury it 6 feet under."

I tried to talk to my working families in my district and say the Contract with America; what is that? That is balancing the beget so that we can lower those interest rates so you can buy that home that you want to buy or buy that truck that you need, or to send your children to college so maybe they are going to be the first to graduate out of your family. Or it means tax relief, that $500 tax credit, or a tax credit for adoption of our children. Or it might mean welfare reform or saving, just cutting away at the big bureaucracy here in Washington, and I think the gentleman would agree with me that we are trying our very best to bring some sanity, and yet the rhetoric is very strong, especially on two freshmen.

And I just might say in this week we are commemorating Earth Day and talking about the environment. I will just say to the gentleman from northern California, you have been recycled as a Member of this Congress, and very gladly, because you served in this Congress for 2 years, and you were out for 2 years, and now you are back, and I am just glad to recognize you as one of the members of the freshman class.

But what we have been trying to do in this 104th Congress to make this place accountable to those working families that are way back on the West Coast of California and make some sense to the men and women, the moms and dads, that are trying to make it in this very hard economy.

So I just thank the gentleman for bringing up all the issues that you previously did, and I would just say that I guess we are going to have to tighten our seat belt because we are going to continue to see radical groups, big labor, especially the ones based here in Washington, such as the AFL–CIO, continuing to launch an assault on our efforts to bring about meaningful change in a way the Federal Government operates and undermine our efforts to secure a brighter future for the folks in California.

I think it is very obvious that at AFL–CIO they are not looking out for their union members and their families in our two districts. No; those Washington bosses, as far as I am concerned, are using those membership forced dues to fight against that balanced budget that would give them and the families such benefits as more take-home pay, and lower interest rates and the ability to decide how they are going to spend their dollars, and not a bureaucrat here in Washington, DC.

You know, I believe that the union members and the families in my district and yours, Mr. RIGGS, if they were given a choice, it is likely they would prefer their balanced budget bonus to a deceptive, dishonest, propaganda campaign against our voting record. And you know it is just amazing to see it transpire, and I would just say I guess we were going to see this until November.

Mr. RIGGS. I think so, and I thank the gentlewoman for her comments.

Again, she is so right. She is basically describing the so-called mediscare campaign that has been launched by big labor, the major Washington-based labor unions back here which have become the core constituency of the national Democratic Party, yet they are ignoring all the warning signs that we are heading towards bankruptcy, for one reason and one reason only: They want to use this as the political issue to regain control of the Congress.

Independent analysis indicates that you know Medicare is going broke. The gentlewoman from California [Mrs. SEASTRAND] mentioned that we both been targeted by radio and television ads in our congressional districts, giving us an F for our votes on preserving Medicare from bankruptcy. That is actually out of the union press release. Yet if you look at the independent analysis that has been done of some of these advertisements by Brooks Jackson of CNN, he talks about the ads being a big hoax on the American people, grossly misleading.

One of the ads running now says the Democrats want to protect Medicare the Republicans want to gut it. But then Jackson goes on to admit Republicans currently propose to cut the growth of Medicare by $168 billion over 7 years. President Clinton's budget calls for $124 billion in cuts, which he calls savings.

He also analyzes another allegation in these ads. Republicans cut school lunches, cut Head Start, cut health care. Then Jackson, Brooks Jackson of CNN, calls this Democrat National Committee ad false advertising.

Mr. Speaker, the Republican Congress appropriated more money for school lunches this year, just what President Clinton asked, in fact, and the Agriculture Department says it has increased the number of children served. Money from the Head Start preschool program has been cut 4 percent this year temporarily, but Republicans have agreed to a 1 percent increase once a permanent appropriations bill is passed. Meanwhile not a single child has been affected. In fact, Head Start enrollment is up this year.

On child health care, Republicans did pass a $164 billion cut in Medicaid growth, which Clinton vetoed. Now differences have narrowed. Republicans last proposed to cut only $85 billion over 7 years, again to save that program, which has been growing in an unsustainable rate, and President Clinton's own budget proposal cuts of $59 billion.

As we saw in this ad, the Democrats' strategy is to, exact quote, Brooks Jackson on CNN, "not let the facts get in the way of a pro-Clinton political spin."

So again I thank the speaker for the time this evening. I will have more to say about these ads in the future. I would simply try to admonish her to advise the American people, you know, do not believe the lies and the scare tactics. Research the issues for yourself. Be informed, and I think you will see that we are trying to do the right thing, the responsible thing here in Congress, and we are trying to remember the old admonition of Mark Twain, which is, always do right, you will make some people happy and astonish the rest.

POSITIVE ECONOMIC AMERICANISM

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 60 minutes as the designee of the minority leader.

Mr. LIPINSKI. Mr. Speaker, for too many Americans, the great American dream has been replaced by sleepless nights of worry. Worries about how to care for elderly parents, how to pay for a home, how to pay for a car, and how to pay for the children's college tuition, in a world where real wages have become stagnant, taxes are being raised, benefits are under assault, and jobs are being lost.

Second jobs often become the only job, because the main jobs have been lost to downsizing, or have been transferred elsewhere. That's what people are dreaming about. Their anxiety is real, not imagined.

American workers used to be in control of their own financial destinies. Hard work, loyalty, and ingenuity were rewarded and appreciated by American businesses. The result? Americans realized and lived the American dream, as generation after generation witnessed an increased standard of living. But younger generations do not believe they will have it better than their parents. For these days, hard work and loyalty are being rewarded with pink slips and unemployment checks.

Before Pat Buchanan enlightened America to the plight of the American worker, the issue of jobs and the state of the American economy was not a part of the political discussion. In the worlds of Democratic leader, RICHARD GEPHARDT, Pat "has, at the very least, recognized the crisis of falling wages and incomes. He has acknowledged what hard-working families go through to raise their children and put food on the table." And the New York Times stated that "until Patrick J. Buchanan made the issue part of the Presidential campaign, it seldom surfaced in political debate."

Pat pointed out the falling wages of the American worker. According to the Bureau of Labor Statistics, average hourly pay has fallen 11 percent since 1979. Why? Because of greedy corporations and the failed trade policy of the United States.

First, let me talk about the trade imbalance in America. For years I have been fighting to balance the playing field by introducing legislation to impose restrictions on imported steel and automobile. Not because foreign steel and cars are better than their American counterparts, but because foreign countries are restricting imports of American steel and cars. It is not fair to the American worker to allow foreign products to generously flow into this country without opening foreign markets to the same American products. And now the North American Free Trade Agreement [NAFTA], and the General Agreement on Tariffs and Trade [GATT], two deals I vociferously opposed, are only making things worse for Americans.

By Trade Representative Mickey Kantor's own figures, each $1 billion in exports equals 20,000 jobs.

In 1995 the U.S. merchandise trade deficit was over $175 billion. That means 3.5 million jobs were lost to foreign countries. And what is contributing to this deficit? NAFTA. In 2 years, we've gone from a trade surplus with Mexico of $1.35 billion to a trade deficit of $15.39 billion last year. In addition, in 1995 the United States trade deficit with Canada was also over $15 billion. That is 600,000 jobs lost because of NAFTA.

Many of our own companies have in effect thrown up their hands in surrender to low-wage countries and decided to ship their operations abroad to take advantage of minuscule labor costs. In Indiana, the Whirlpool Corp. has announced it is moving 265 positions to a plant in Monterey, Mexico in order to strengthen the plant and improve job security. Aided by NAFTA, Whirlpool has improved job security to such a degree that over 5,000 jobs have been lost at its plant in Indiana in the course of the last 10 years.

But this is not a unique case. In my own district, General Motors has slowly but steadily been decommissioning its Electro-Motive plant for the last 10 to 15 years and sending the same work down to a subsidiary in Mexico.

But Mexican and Canadian workers aren't any better off than American workers, and neither is our environment. Because of NAFTA, American roads may soon open to Mexican trucks—trucks that often weigh more than double the 80,000 pound United States limit. These trucks are lax in safety standards, and with only 1 in 700 trucks being inspected at the border, American roads will be filled with mammoth, unsafe trucks carrying materials to points throughout the United States.

And not only is the American worker paying for these bad trade agreements in lost jobs and extra peril to the environment, but a trade deficit also represents a liability on our national balance sheet—a loan that must be financed. If the trade deficit remains constant, by 2010 the United States will be paying the equivalent of 2.5 percent of our GDP in interest payments and capital outflows to foreign countries.

I agree with Pat Buchanan that global free trade should be judged by three simple rules: First, they maintain U.S. sovereignty; second, they protect vital American economic interests, and third, they ensure a rising standard of living for all American workers. It is clear that trade agreements like NAFTA and GATT are not following these rules and looking out for the welfare of working Americans, but are looking out for the interests of large multinational corporations whose sole loyalty is to the bottom line.

For too long, we have engaged in trade deals and foreign policy that serve foreign countries. The $50 billion loan bailout to Mexico, which I opposed, only proves that NAFTA is a failure. And GATT, which often places the settlements of trade disputes in the hands of the World Trade Organization and representatives of small, Third World countries, compromises our sovereignty. Moreover, we rebuilt Europe and Japan after the Second World War—we still provide for their security—but it's time to use our powerful resources to rebuild the American dream and rebuild security for American families. Not just through Government programs—but through a partnership where Government can set fair and compassionate rules. Where Government can be an impartial referee, and where Government helps provide the tools.

That leads me to the plight of the American worker. In the 1980's, mostly young, male, blue-collar workers dominated layoffs. Wages of the principal breadwinner were declining and families were making up for that by sending more family members into the workplace, and they worked longer hours. By the end of the decade, families were running out of hours, with both parents working at several different jobs.

In 1988, I joined other colleagues in passing legislation that would prevent employers from blindsiding blue collar workers with sudden layoffs. This legislation, the Worker Adjustment and Retraining Notification Act, requires the employers to notify three bodies—workers, State dislocated worker units and local governments—of impending major mass layoffs, plant closings, or plant relocations. Unfortunately, while this legislation prepares American workers and communities for what lies ahead, it does not stop employers from firing workers en masse and causing sleepless nights of worry.

But now, white collar people with college degrees, a large number of

VOL
142
PT
6
AP
15
—
24
1996
UMI

women included, are also being laid off, or downsized, as corporations like to call it. Large corporations account for many of the layoffs, and a large percentage of the jobs are lost to outsourcing—contracting out work to another company. While these outsourcing jobs contribute to the 8 million jobs that President Clinton claims have been added to the work force since 1992, these jobs are often with small companies that offer little benefits and low pay, and many are part-time positions with no benefits at all. Often, the laid off only get temporary work, tackling the tasks once performed by full timers. Even though I am happy that jobs have been created, the statistics don't show that these are part-time jobs that do not pay living wages. In fact, the country's largest employer is Manpower Inc., a temporary-help agency that rents out 767,000 workers a year.

A person who is dependent all of his life on low wages is a slave. This economic stagnation and loss of opportunity is sapping America of its boundless confidence and freedom. Clearly, the dignity of labor has been replaced by the slavery of insecurity. You can't do that to American workers and expect America to stay strong.

Often, in order to allay this insecurity, these low-paid or temporary workers try to join a union in hopes of raising pay or improving benefits. At a recent congressional hearing, a $5.50 per hour employee of a small business with annual sales of over $150 million testified that management told the employees that they would put a padlock on the door and move the business to another town if the employees formed a union. This is not an isolated case, for throughout the landscape of the American office, warehouse, and factory there are widespread fears of joining a union and expressing one's views.

The fear of job loss and anxiety about the future coupled with falling wages of Americans does not equate with America's economic figures. Profits of corporations are 50 percent higher than a decade ago, the gross domestic product is growing, and unemployment is lower. Then where is the money going? To fat cat corporations. The growing divide between Wall Street and mainstreet is causing a widening rift between the rich and the poor.

In 1974, U.S. CEO's were paid an average of 35 times the average worker. Today, that ratio has ballooned to 187 to 1. Comparably, in Germany that ratio is 21 to 1. In Japan the ratio is 16 to 1. There are great effects that result from the greed of these corporate CEO's. In 1979, the top 1 percent of earners in America held 22 percent of the wealth. Today, the top 1 percent hold 42 percent of the wealth. We even surpass Britain, long seen as the snooty example of a class structured society, in income disparity.

It is clear that multimillionaire CEO's are keeping more of the money for themselves. Workers once received compensation increases equal to 80 percent of productivity gains. Since 1979, workers have only received a 25-percent increase in compensation compared to their productivity gains. This is not fair, nor is it right. Workers who produce more and better products are being forced to labor longer for less compensation.

Furthermore, it is not secret that when a company announces a layoff that its stock soars. On the day of the announcement that 40,000 jobs would be cut, AT&T's stock when up 4 percent and Bob Allen, the CEO of AT&T, saw his stock increase by $1.6 million, in that 1 day alone. The day Sears announced that 50,000 jobs would be downsized, its stock climbed 4 percent. When Xerox said it would trim 10,000 jobs, it stock surged 7 percent. The list goes on and on.

Fortunately, not all corporations view their employees in simple terms of stock market statistics. Anheuser-Busch, Malden Mills, Inland Copper, and United Technologies have all respected their workers and treated them like assets. For, instance, United Technologies reeducates its workers and gives stock incentives to employees who go back to school, no matter if the studies are related to United Technologies or not. This is the kind of social contract that is needed in America between corporations and its workers. Even financial forecasters have foreseen that companies which invest in their employees are better investments in the long term than companies that recklessly fire workers for the benefit of the quick buck.

But currently, Wall Street is not reacting well to the news of employment gains. When on March 8, the Labor Department announced that 705,000 workers had been added to payrolls, the Dow Jones industrial average fell 171 points. The next day's headline in the Washington Post screamed, "Job Gains Send Markets Plunging." There is no doubt that the shortsighted interests of Wall Street investors conflict with the long-term interests of working Americans. Less jobs, more profits, that is what Wall Street wants. As White House Press Secretary Mike McCurry said about the markets' response to job gains, "Sometimes there's a disconnect between Wall Street and Main Street." No, Mr. McCurry, not sometimes. It happens more often than we care to admit.

Sure, change and some turnover was inevitable as the American economy evolved past the industrial age. Technological innovations now allow a corporation to do more work with less manpower. But as of late, the economy has been driven by a policy that transformed labor markets. Incentives increased on Wall Street to break the social contracts between corporations and workers. Capitalism and greed ran rampant without regulations, injuring the working man and woman and losing sight of a vision for America's economic future. Yes, I do believe in capitalism, but I hold democracy and the welfare of the working men and women of this country in higher regard. While I respect the right of the individual, this society cannot be one that lives by the rule of survival of the fittest.

There are solutions to the plight of the American worker. We must change trade policies, modify corporate behavior, strengthen workers' rights, and provide for a more effective social safety net for the unemployed.

I also believe in free trade, because America has the most productive work force and best minds in the world. But most often, the countries that we trade with, do not have open markets and are not playing by the same rules that we hold to ourselves. They do not believe in free trade and therefore take advantage of America's willingness to play at a disadvantage. The time has come for a comprehensive U.S. trade policy that emphasizes reciprocity and stems America's hemorrhage of jobs and incomes. Future trade deals should not be made with foreign countries until they open their closed markets. Current trade agreements, such as NAFTA, should be amended or repealed unless certain conditions are met.

To this end, I am a member of a bipartisan coalition of Members in the House and Senate that have introduced the NAFTA Accountability Act. This act would incorporate a comprehensive set of benchmarks against which to measure NAFTA's promises in regard to trade balances, net job growth, democracy, reduction of illicit drug activity, crime, and increased public health standards. If any of the benchmarks of a prudent trade policy are not met, Congress would instruct the President to withdraw from NAFTA. The American people themselves are clamoring for legislation of this kind, as recent polls indicate that 52 percent of the public in March 1994 believed that NAFTA would help the job situation here. By November 1995, only 36 percent of the public still held that belief, while 55 percent of the people believed that NAFTA is causing jobs to go to foreign countries.

Changing bad trade deals goes hand in hand with changing corporate behavior, since these corporations are taking advantage of agreements by using cheap foreign labor while CEOs reap the profits. Moreover, multinational corporations often escape from paying U.S. income taxes while retaining the rights of citizenship. These tax loopholes must be closed, and corporations that receive tax breaks only to subsequently downsize should have their tax breaks eliminated.

But eliminating corporate tax loopholes will not solve the whole problem. I propose going one step further and creating tax rates that reward those corporations which create higher quality and better paying jobs in America. A new social contract should be adopted between the Government, the business community, and the working people of America. Tax rates would be reduced for corporations if they pay living wages for their workers, maintain or add jobs, give good benefits, and train or upgrade skills.

Corporate America is constantly clamoring for tax breaks, as the Republican Contract With America proposed to do. But tax breaks have been given in the past to these corporations only to see jobs go to foreign nations, the American work force downsized, CEO's reap huge profits, and the budget deficit balloon out of control. So let's give corporate America what they want: A tax break. But let's hold them accountable for the welfare of the American worker.

Corporate America is not the only entity that can help the middle class. Unions, as the vanguard of the workers, also have a role to play. They ensure a stable economy. To quote from Ray Abernathy of the AFL–CIO, "When organized labor and minimum wage laws were passed during the Depression, it wasn't only to prevent the exploitation of workers, it was also because big business understood the need to ensure the buying power of its customers."

That statement makes sense, because in modern economies, wealth is created when labor, capital, skills, and natural resources are continuously recycled as profits, wages, operating costs, taxes, or social welfare payments within the society that produced them. Unions, in effect, promote a healthy society by making sure that a fair percentage of the wealth is recycled in the form of wages. But distributing to much wealth as welfare undermines the work ethic, and distributing to much as profits to a relatively few top executives, as has been happening in America in the last two decades, concentrates wealth in the hands of a few.

Therefore, this has undermined support for the community and has led to a weakened public school system, unsafe streets, a declining morale, and an anxiety about the future across America.

At the very least, Government can ease the pain of down sized workers by passing health insurance reforms currently before Congress that allows those who lose their jobs to keep their health insurance. It is not fair, nor is it right, to have health and other social benefits for the very poor while Americans who have worked all their lives and contributed to the U.S. economy cannot have the same peace of mind. Mechanisms such as health insurance portability need to be instituted so that working Americans will not have to spend all of their savings on health care bills and subsequently fall to a level of poverty where the only means of living is provided for by the Government. But this is just a minimal step. Much more can and should be done to ease the real anxiety and worries that Americans are now feeling.

We must all work together to not only reinforce America's place in the global economy, but to return the American worker and the American family to a prosperous place in society. Then we can progress on our course at the greatest industrial democracy in the world.

Mr. Speaker, tonight I have presented the problem and a few potential solutions to the economic quandary America faces. But I would like everyone within the sound of my voice to send me their solutions. And in a few weeks I will present those solutions and give a vision of what America can be.

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A VICTORY FOR THE AMERICAN PEOPLE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. KASICH] is recognized for 60 minutes as the designee of the majority leader.

Mr. KASICH. Mr. Speaker, I wanted to come to the floor tonight to essentially say that in my judgment, the American people have won a victory in the negotiations between the Republican House and Senate and the President of the United States. In fact, I want to just take a moment to congratulate the Republican Members of this Congress who decided early on that we wanted to have a comprehensive program to balance the budget and give Americans some of their hard-earned money back, reversing the tax increase that the President imposed in 1993.

As you know, Mr. Speaker, there have been intense negotiations going on in the area of discretionary spending. Discretionary spending is the kind of spending we must approve on a year-to-year basis, the only spending that the Congress actually must vote on.

As we are all aware in this body, there has been a debate going on in terms of the level of discretionary spending, or the spending we approve each and every year. That is separate from the spending known as entitlements, where if Congress did not even show up, spending would go up automatically.

When the President vetoed our balanced budget bill, he killed all efforts to reform and return the entitlement programs back to the communities and towns all across this country, where Americans could begin to design local solutions to local problems and save money, so that we can save the next generation and end the problem of stagnant wages and begin to solve the problems of job insecurity.

The entitlement side of this is something that we have not yet been able to lasso in, because the President is opposed to returning these entitlement programs to the American people, so that we can design them using local solutions to local problems at lesser costs.

But the one area where the President was forced to sit down and negotiate with us in order to keep the Government of the United States on its day-to-day efforts at being run, was the appropriations process, that spending we must approve each and every year.

In the announcement that is currently being made, it is very, very clear that the Republicans had won a tremendous victory from the standpoint that we will have the most dramatic change in that discretionary or year-to-year spending that we must approve since World War II. The people of this country should know that the Republican budget set spending limits, and we said that we wanted to reduce Washington spending.

As everybody knows, this has been an ongoing debate between us and the administration, and I am here tonight to make the case, the clear case, that saving $23 billion in spending in the fiscal year 1996 appropriation bill is historic; that in fact our children will look back upon the passage of this bill as a significant step forward towards balancing the Federal budget and bringing real change to this city. In a nutshell, Mr. Speaker, the $23 billion is, frankly, again, the most significant change that we have seen in this city since World War II.

In fact, many people said, "What have the Republicans gotten from their revolution? Have the Republicans really been able to achieve anything?"

I would argue that after only 17 months of holding office, we have been able to deliver and will deliver here tomorrow, a bill that will allow us to go forward, save $23 billion, and make that giant first payment, that giant first down payment on guaranteeing that we will get to a balanced budget, that we will empower Americans, that we will give them some of their own tax dollars back so they can spend money on their children.

Now, we went through a whole variety of programs that are actually eliminated. Mr. Speaker, tonight I can show you at least four pages of programs that have been excised, eliminated, cut, and we hope ultimately to take some of the dollars we saved in these programs and give these dollars back to the American people in some tax relief, after all, it is their money, and/or apply some of this money to

VOL 142 PT 6 AP 15 — 24 1996 UMI

saving the next generation or some of this money to balancing the budget so we can bring about lower interest rates.

Now, could we have done better? We sure could have. There are a number of programs here that the Congress of the United States will continue to fund, and programs that the Congress of the United States does not want to fund. Let me talk about one of them, the Goals 2000 program. That is a program that is being run in this city to try to tell our mothers and fathers across this country how our children are doing at learning.

Frankly, I do not think that the mothers and fathers that I know who have children in school across this country need to call the Department of Education to ask a bureaucrat, who does not even know what time zone they live in, whether their children are learning or not. But yet the Goals 2000 program that keeps power in this city, in the hands of bureaucrats, and denies the full determination of whether children are learning, denies mothers and fathers the opportunity to solely decide whether their children are learning, has been denied to them.

I will tell you that the chairman of the Committee on Appropriations, whenever he has somebody that wants to be part of this revolution to downsize government, will put mothers and fathers back in charge of evaluating how their children are doing in school. But we have a President, an administration, that has fought day after day after day for higher Washington spending and more control by Federal bureaucrats.

But we do not just want to focus on what we did not accomplish, because, frankly, what we have accomplished will be that one underlying sentence in modern history that will say that the Republican Congress was able to stand tall and was able to put the children of this country and the mothers and fathers who are worried about their economic future today first.

This bill that we will bring up tomorrow will represent the most significant change in the day-to-day spending habits of the Government of the United States since World War II.

I now would like to yield to the chairman of the Committee on Appropriations, the gentleman from Louisiana [Mr. LIVINGSTON], who has done an outstanding job on this bill. It has been a pleasure for me to be able to work with him as the chairman of the Committee on the Budget. We have had a great and growing friendship and great and growing respect for the job each of us is trying to do. I would like him to talk about how proud he is of the kind of change that this Republican Congress in just a short 17 months has been able to deliver. I will suggest that you ain't seen nothing yet.

Mr. LIVINGSTON. I thank my friend, the distinguished chairman of the Committee on the Budget, for yielding to me. I want to compliment him on articulating the agenda of this Republican Congress, the 104th Congress, which in fact is keeping its promise that it made to the American people when we ran.

☐ 2045

We told them, Mr. Speaker, we wanted to reduce the cost of Government. We wanted to get our hands out of the pockets of the taxpayers so that the American family would have more money to spend on the welfare of their own children, on the education of their children, and that we would reduce the role of Government in the way of cutting back on the numbers of programs, on agencies and on departments. And we have done just that.

The distinguished chairman of the Committee on the Budget has provided a road map for all of Congress to follow, along with the chairman of the Senate Committee on the Budget, Senator DOMENICI. The two of them have worked hand in glove together to put this country on a firm and financially sound footing.

And from our standpoint in the Committee on Appropriations, we have tried to accept their guidelines gladly and comply with their guidelines so that we have, indeed, been able to reap great savings to the American taxpayer.

Frankly, that is where we are, Mr. Speaker. Through this great effort, we can now say with great pride that 6 months ago the political and economic gurus were predicting that in fiscal year 1996 we would be faced with a $200 billion deficit for this year. And what do we hear now? It is now $144 billion for fiscal year 1996, the same fiscal year. In other words, we are coming in at $54 billion lower than we were expected to come in only 6 months ago.

I think that is largely due to the great work of the Committee on the Budget, working in tandem with all of the other committees in Congress to comply with their guidelines, as well as our own accomplishments.

On the Committee on Appropriations, we only have jurisdiction over one-third of the Federal spending in a single year, but in fiscal year 1995, since we took office, we were able to reap $20 billion of savings under what would have been otherwise spent; and this year, with the completed package that is now being finalized back in the back rooms of Congress and will be voted on tomorrow by, hopefully, a majority of the Members of the House and a majority of the Members of the Senate, so we can hopefully send the bill over to the President for his signature, we find that we are going to reap another "another" $23 billion in savings over and above the $20 billion in savings that we got in fiscal year 1995, for a net total of savings in the discretionary budget of some $43 billion under what would have been spent had the Republicans not taken control of Congress on January 1, 1995.

So I think when the dust is settled, and as the gentleman has pointed out, this is the greatest amount of savings since World War II, and when the dust is settled, when our children and our grandchildren sit there and thumb through the history books and say what was accomplished in that 104th Congress, they will totally disregard or totally not understand that some people had quarrels with the spending on one program, other people had quarrels with spending on another program, but what they will see are those bottom line figures.

For the first time in modern contemporary history, instead of spending more on discretionary spending, instead of finding new programs, instead of finding new agencies, instead of finding new departments and spending what we spent last year plus an inflation kicker on all of them, for the first time we have cut the number of programs, well over 200 programs in fiscal year 1996. We have eliminated agencies, we have cut down on the duplication and waste, and since January 1, 1995, we have saved the American taxpayer $43 billion.

That is not chicken feed. That is real savings to the taxpayer, and it shows the conclusion that the average vote had come to over the last 10 years, that there was no hope for turning back the ever-increasing cost and growth of Government, is false. It is simply not true. We are scaling back the cost of Government.

And if the President would start complying with his promises to reform welfare as we know it, to fix the Medicare system, as his own commissioners say must be done, to acknowledge the fact that many of our States today are in trouble on Medicaid, as we speak, and to know that with respect to Social Security, if you ask a large group of people under the age of 35, a majority of them think they are more likely to see a UFO, an unidentified flying object, than they are to collect on Social Security program, and you add that together, if we get the President to face up to those very real problems, we can do exactly what the chairman of the Committee on the Budget has accomplished in pushing through the House of Representatives along with his counterpart in the Senate, we can balance this budget by the year 2002.

We can do it. We all know that we can do it because we have got a floor plan that has been promoted and proposed and drawn up by the distinguished chairman and it can be done. All we need is the political will in the White House to do it.

Mr. KASICH. Let me just ask the chairman, if he would, let us just put this in terms that Americans can understand, so when they are going to work tomorrow they can turn to the person next to them and say, you know, we thought the Republicans were not getting anywhere, but did you hear that they were able to cut the Washington spending and the waste and the abuse, and they were actually able to save us $23 billion this year.

Is that right, I ask the chairman of the committee? Is there anything more complicated than that?

Mr. LIVINGSTON. No more complicated, and just a little bit better when one considers that 200 programs, each with its own good intent, but each with its overlapping and duplicative bureaucracy, ceases to exist with the signature of the President on this bill.

So 200 programs are no longer in existence, $23 billion is saved for the American taxpayer, and the cost of Government is no longer rising, it is falling.

Mr. KASICH. And what was the greatest obstacle, Mr. Chairman, that you faced in being able to accomplish this job of saving us this money?

Mr. LIVINGSTON. Well, quite frankly, the obstacles did not arise in the House or in the Senate, the obstacles arose and emanated there from 1600 Pennsylvania Avenue. Because if we had had the cooperation of those good folks, it would not have taken us a year and a quarter to complete this process.

Mr. KASICH. So, in other words, even though the President talks about his wanting to, well, he declares the era of big Government being over, he fought for virtually every dime of Washington spending that ends up in the hands of the Federal bureaucrats. He fought for this, and you fought against him, and this House and Senate stood tall and we actually were able to save the most significant amount of money for our children that we have since World War II; is that correct?

Mr. LIVINGSTON. That is correct. And in fairness to the negotiators who participated on behalf of the White House, the fact is that they did negotiate, we have a package, and I do hope that the President will sign that package. I have every reason to believe that he will. Had they been more obstinate, I suppose it might have been impossible to reach an agreement. But I am delighted an agreement has been reached.

And one thing I will say, from the very beginning, we never deviated from the ground rules. The Committee on the Budget gave us our instructions: Stay within your budget allocations, make sure that you save the American people that $23 billion. If you have to raise money for the President on some programs, take it out of that discretionary pot and make sure that you cut other programs. And that is what we did. We took the chairman's admonition to stay within our budget caps. We stayed within them, and the American people are $23 billion richer in that they have not spent another $23 billion that they would have spent had we not done what we set out to do.

Mr. KASICH. Of course, again, what the people need to understand is this is really the only spending that the Congress of the United States was forced to approve in cooperation with the President. Is that correct? This is the only spending where, if we didn't come to work, Government would shut down; is that correct?

Mr. LIVINGSTON. That is correct. And as we all remember, when this House passed an Interior bill, a Commerce, State, Justice bill, and one other appropriations bill before Christmas, the President vetoed all three of those bills and, in fact, the government did shut down.

Likewise, when the Senate did not pass the Labor, Health and Human Services bill, frankly, that was in jeopardy of closing the government.

But we tried that. That was done on all sides, and, frankly, nobody felt they came out the better for it. We had to go back to the table. But we couldn't override the President's vetoes and we were left with no choice. So the idea was to negotiate with the President and still reach those budget caps. We did that and we have those savings.

Mr. KASICH. But we had to drag them kicking and screaming all the way to the water bucket and force them to drink, did we not?

Mr. LIVINGSTON. The President wanted much more spending.

Mr. KASICH. Let me just say, though, and I do not want to give just a civic lesson this morning, but for our colleagues who are watching this special order, our own colleagues, the discretionary spending, this year-to year spending that we must approve in order to keep government working, is only one-third of the budget. The other two-thirds of the budget is interest on the national debt and the entitlement programs.

Now, if BOB LIVINGSTON and JOHN KASICH and CHRISTOPHER SHAYS and PETER TORKILDSEN would not even come to Washington, along with the rest of the Congress, that spending goes up automatically; is that correct?

Mr. LIVINGSTON. Automatically.

Mr. KASICH. Two-thirds of the budget is on automatic pilot going through the roof, threatening the future of our children, threatening economic security for every American today, and denying the American people a right to run their own programs with their own money, using their own judgments in their own communities.

We cannot force the President to sign a bill to give us those reforms, can we?

Mr. LIVINGSTON. Absolutely not. And I would point out to the gentleman, as he well knows, that the formula around here in Congress in the old days was very simple: We spent that much on that many programs. We need more programs, we will create several new programs, and we will throw in an inflation kicker, and for good will we will throw in a few more dollars on top of that.

So we were always spending more and more and more and more money. And then, all of a sudden, something funny happened on the way to the polls, Republicans took control of the House and the Senate and we have reversed that trend. We are now spending less and less. $20 billion of savings in fiscal year 1995 and $23 billion in 1996.

Mr. KASICH. It is just a shame that we cannot get or enter into with him the process that forces us to reform those entitlements, is it not?

Mr. LIVINGSTON. Well, if the President had signed the bill that you, Mr. Chairman, pushed through this Congress, frankly, we would be well on our way to a balanced budget by the year 2002. The fact he vetoes it makes me very, very frightened when I look at that chart that I have been showing around recently that shows that big red portion representing interest on the debt, which is so large that within a year or so it is going to exceed what we spend on the defense of this Nation.

We will spend more money just paying off the interest on our borrowings of past years than we will spend on the defense of this Nation. That is a frightening thought. And if that trend continues, our children will either have to pay extraordinary taxes to have the benefits at all and still will probably have to pay high taxes.

Mr. KASICH. But I would say to the gentleman, that staying within the blueprint that the Republicans laid out, you have achieved a major piece of that. If we were to achieve the other pieces of that blueprint, we would not only be able to balance the budget in the conventional terms in which we define it, we would also return an awful lot of power and money and influence to the American people and all the cities and towns across this country. We would guarantee a bright light at the end of this tunnel for our children so that they will have a beautiful American legacy, we would be able to give tax relief.

And, you know, in 1993 we raised taxes. The President says he raised them too much. What we are trying to do is cancel out those tax increases, frankly. And if we could just get the rest of this job done the right way, we would make for a better America, wouldn't we?

Mr. LIVINGSTON. So much so that we would also get the government out of competition for American dollars. We would cease to borrow money. And if we could cease to borrow money, that means interest rates would come down, and by Alan Greenspan's estimates, the chairman of the Federal Reserve, come down as much as two full

VOL
142
PT
6
AP
15
—
24
1996
UMI

percentage points, which means two points off the cost of your mortgage on your house; two points off the loan you use to send your kids to college; and two points off the loan you used to buy your car.

□ 2100

Significant savings to the American people, if only the Government would stop borrowing in order to conduct its business year after year.

Mr. KASICH. Mr. Speaker, I would ask the gentleman if he would stay for just a few more minutes. I would like to yield to the gentleman from Connecticut [Mr. SHAYS], a member of the Committee on the Budget who has felt passionately about the need to attack these problems.

Mr. SHAYS. Mr. Speaker, as I was hearing both of the gentlemen, both chairmen of this new Republican majority, I just kind of stood in awe thinking of the fact that the gentleman from Louisiana [Mr. LIVINGSTON] was the fifth ranking Member of the Committee on Appropriations. This new Republican majority said that we wanted the best and the brightest to take these positions. They were given that assignment. I was thinking what a thankless task it has been for them.

There is not a Member that has not been disappointed with certain parts of the hard decisions that they have had to make. I just wanted to come personally and thank my colleague for the extraordinary job he has done as the chairman of the Committee on Appropriations, the chairman who has actually had to make cuts in budgets.

We slowed the growth of Medicare and Medicaid but we still allow them to grow significantly. But you actually said, we are going to spend less dollars next year than the year we are in. And you are doing exactly what we intended to do. We wanted to get our financial house in order and balance our Federal budget. We want to save our trust funds for future generations. And most importantly, we want to transform this social and corporate welfare state, this caretaking society into a caring opportunity society. And I just wanted to thank you for the work you are doing and to celebrate the fact that it has been a long and arduous journey, but you have done it.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for his comments. I just know that he is one of the foremost among us in this House and empathizes with the hardship that the American family faces every day. Whether it is a two-parent family or a one-parent family who is struggling to raise his or her or their children, in this environment they have got to work maybe more than one job a day and they are struggling.

When the Government takes, continues to take that bite out of their pocketbooks and send the money to Washington because they say that Washington can spend their money better, those folks intuitively know that that is not true. They know that they have to balance their books, and they know that, if their expenses exceed their income, that they are going to run into financial trouble and possibly even legal trouble. Those people that run small businesses and large businesses as well know that at the end of the year they have got to balance their books or at the end of the month they have got to balance their books. Their income has to match their outflow.

Mr. Speaker, they just cannot understand that since World War II, the American people, the U.S. Congress has only balanced its books, I think, three times, three times. Otherwise we have been spending more than we receive, and we borrow the difference and just say, well, let our children pay the bill.

Mr. KASICH. Mr. Speaker, let me just say that it is in my judgment even more than about just adding up this column with this column. Frankly, Americans for a significant period of time now believe that their hard-earned tax dollars are going to programs that do not make sense, programs in this city, run by people addicted to Washington spending, who do not do it with a sign above their desk that says, this is not your money.

In other words, the American people believe the people in this city are not good stewards of their hard-earned pay. They are sick and tired of sending money, power and influence to this city, a city that has been proceeding on a course that is bankrupting this country and at the same time not solving the problems that we have.

Do my colleagues know what I think Americans are saying? Let me do it. Let me keep my money in my community. Let me have my influence back. Let me have control of my neighborhood.

Mr. Bureaucrat in Washington, I do not really need you in my neighborhood. Frankly, I wish you would just stay in Washington and let me run my own neighborhood.

What you have delivered to us, Mr. Chairman, is a new process. You have given us a new paradigm. That new paradigm is that this city counts less and people out across this countryside count more. This is a response to what the American people have wanted in this country.

Mr. Speaker, I will suggest that, if we had not stood on principle, if we had not made the fight that we have made, we would have lost this. It would have been business as usual. Did we get everything we wanted? Of course not, because we have a crowd downtown that does not want to put people back in charge of their neighborhoods. But we are going to fight for it. We are going to fight for it on this. We are going to fight for it on welfare. We are going to fight for it to give our senior citizens choice on Medicare. We are going to give people their tax dollars back. And we are going to save not only the future for our children, but we are going to guarantee economic security today for the American family. You cannot have it with runaway Washington spending and debt and bureaucracy and standing in line.

This does not get it all done, but that sure delivers a very strong message and accomplishes a great deal. And you, sir, should be very proud of what you and your committee were able to achieve.

Mr. LIVINGSTON. Mr. Speaker, we could not have done it without the cooperation of both the gentlemen who have addressed me.

I just want to say that the appropriations process for the 104th Congress is a three-act play. Fiscal year 1995 was act one. We saved $20 billion. Fiscal year 1996 is, and we are drawing to a closure, is almost to an end, and we are saving $23 billion. And we go next week to fiscal year 1997. With the help of the chairman of the Committee on the Budget and the gentleman from Connecticut and all of our other colleagues, I think we are going to have as much to crow about at the end of fiscal year 1997 or more than we do today.

ON THE BUDGET

The SPEAKER pro tempore (Mr. LUCAS of Oklahoma). Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, I am sorry that the gentlemen of the Budget and the Appropriations Committees ended so abruptly. I was about to ask a few questions and have them address those questions. They are still in the Chamber so I will go ahead and ask the questions. Maybe they will give me the answers later.

In the process of revamping the budget, do they realize that—they realize above all that money comes into Washington and then flows out. Why does Louisiana, why does Louisiana get so much more money from the Federal Government than it pays into the Federal Government? The gentleman who heads the Committee on Appropriations is from the State of Louisiana, and Louisiana gets $6.4 billion more from the Federal Government than it pays into the Federal Government.

You can downgrade Washington and talk about Washington spending money, but Washington does not spend money in Washington. The Federal Government is merely a transit, an exchange. They pull in the money and they appropriate it out as it is needed for various functions, and it flows into the States across the union. There have been studies done that I have

quoted here on this floor on several occasions about how much each State pays into the Federal Government and how much each State gets back.

Among the high roller States, the States that get more back from the Federal Government than they pay into the Federal Government, is Louisiana. Louisiana gets $6.4 billion more from the Federal Government. These are the 1994 figures, the only year the complete figures are available for. And these figures come from a study done by the Kennedy School of Government, a very thorough study which looks at all of the Federal expenditures for military installations, the salaries of servicemen, the various military related functions that are carried out by the States, as well as programs like food stamps and Medicaid. It is all totaled up.

Louisana is a big gainer. After this great revamping of the budget and revamping of the appropriations process, where they have saved so much money, will Louisiana be paying more of its fair share. Will Louisiana shoulder its own burden? New York, on the other hand, my State, pays $18.9 billion more into the Federal Government than it gets back from the Government. New York, New York.

I heard Mr. KASICH, the head of the Committee on the Budget, say that we do not need Government telling us what to do. Our neighborhoods should decide; our neighborhoods should be left alone. The neighborhoods of New York would like to have that $18.9 billion back and we could divide it up and take care of our own problems, but we are paying it into the Federal Government and not getting back an equal value.

In fact, we are the State of the Union at the very top of the list of the States that pay more than they get back. California is the largest State in the union. But whereas New York, in 1994, paid $18.9 billion into the Federal Government more than it got back, California only paid $2 billion more to the Federal Government than it got back.

California has had earthquakes and mud slides and large amounts of Federal money have gone to California in order to relieve those problems, but over the past 4 or 5 years, California has steadily paid less into the Federal Government than New York, although California is the largest State.

Mr. KASICH comes from Ohio, and Mr. SHAYS, who joined them at the last minute, he is from Connecticut. Ohio and Connecticut, like New York, are donor States. We pay more into the Federal Government than we get back from the Federal Government.

My great question is, after all of these changes are made, after they have cut the school lunch programs, after they have downsized and cut the housing programs, after they have gone after the Medicaid program, the Aid to Families with Dependent Children program, after food stamps have been cut, after they have made all these cuts of relatively small programs, they have not cut defense very much. In fact, these same gentlemen who stood here before us and talked abut a revolution in the budget and appropriations making process did not cut defense. They increased defense by $6 billion. At a time when the Soviet Union no longer exists and the threat to America is less than ever before, we have an increase of $6 billion.

The President did not want 46 billion more for defense. The President did not want a B-2 bomber. The President did not want extra money for certain kinds of programs that were beneficial to members of the Committee on Appropriations and members of the Committee on the Budget for their States.

We have a lot of waste in the defense budget, and these gentleman did not attack that at all. So I think it is very important to what I have to say today to recognize the fact that there is an America, this is a particular era in America where we have 2 basic approaches being taken, maybe 2 mentalities being shown. One is a big shot mentality which says that the rich and powerful can do no wrong, the rich and powerful should be allowed to waste money on a wholesale basis, because when you increase the defense budget by $6 billion, it is already above $200 billion, what are you doing? You are increasing the amount of money available to go into the payment for manufactured weapons and for supplies and for various items that are bought from huge corporations. And the corporations are owned by people who have stock on Wall Street. So you are feeding the richest people in America. They have their hooks into the defense, the military industrial complex.

So every dollar that goes for defense is a dollar you know is going to help rich people get richer, to help powerful people get more powerful, because there is a relationship between dollars and power. Those programs are not being cut, only the cuts for the people at the very bottom.

There was a hearing today in the Committee on Economic and Educational Opportunities, a markup at the subcommittee level dealing with a program for people with disabilities, the IDEA, Individuals with Disabilities Education Act. This is providing education for children in America who have probably the greatest needs. Extra money has to be spent to educate these children because of the fact that they have great needs. They have problems, learning disabilities, physical disabilities. And the amount of money that the Federal Government contributes to this program is very small. It is 7 percent of the total. States and local governments contribute more, most of the money.

Nevertheless, the committee is chipping away at the small amount of money being spend on children with disabilities all across America. They are chipping away at the programs. A great deal of time and energy has gone into nitpicking about this costs too much for attorney's fees, it costs too much to run a parents program where the parents have an opportunity to get educated about what the program is all about and they can, they are empowered to work with the schools in order to get a better education for their children, all these things suddenly cost too much.

These are programs for little people. These are programs for ordinary Americans, we the people. We the people do not seem to count very much. We the people are always the object of intense scrutiny. The microscope of the Committee on Appropriations, the microscope of the Committee on the Budget is focused on these little programs that have very small amounts of money, and they are trimming away at these little programs in order to save America from going bankrupt.

□ 2115

It is rank hypocrisy, rank hypocrisy. These same committees, the great Committee on Appropriations, the great Committee on the Budget, are not concerned at all about facts that are introduced by other entities. You know we do not find out here in Congress; other people have to tell us.

The General Accounting Office tells us the CIA has $2 billion, at least, in money that it did not spend over the years and it had lying around in the petty cash fund. The CIA has that kind of money lying around.

An audit revealed that they had $2 billion, $2 billion that the director of the CIA did not know about, $2 billion that the President did not know about.

Two billion dollars is a lot of money; ask these gentleman here. You know, $2 billion, we can stop the cuts in the school lunch programs with $2 billion for more than a year. Two billion dollars would mean that we could fund the title I programs for schools, provide money, the only money we provide, to elementary secondary education school, education. I mean most of the money comes out of the title I program. A $7 billion program, and they were proposing earlier in the year to cut it by $1.1 billion.

But $2 billion for the CIA could have ended that cut for 2 years. They were going to cut it by $1.1 billion per year. So that meant that in 2 years it would have been $2.2 billion. Take the money that the CIA has laying around, waste it, and you could end the cut, most of the cut, on title I.

The Federal Reserve Board, another big-shot agency, an agency where big shots, the rich and the powerful, run the agency. The rich and the powerful

VOL
142
PT
6
AP
15
—
24
1996
UMI

have money lying around to the tune of $3.7 billion. The General Accounting Office found that the Federal Reserve has $3.7 billion lying around that it has not used. They call it their Rainy Day Fund.

In 79 years, in the last 79 years, the Federal Reserve has never needed to use that Rainy Day Fund. They have never had any losses, never had any crisis or problems in 79 years. So why do they need to have $3.7 billion lying around? How much interests would you get on $3.7 billion to offset the payments on the deficit? If that $3.7 billion had been given to the Treasury, where it belongs, we would not have a situation where you pay interest on $3.7 billion worth of debt. You would have that much less to pay.

Combine the $3.7 billion in the Federal Reserve slush fund with the $2 billion in the CIA slush fund, and they have large amounts of money that could be appropriated for education.

Gentleman stood there and they talked about how proud they were that they made cuts in the education program. They were not just talking about cuts. But one of them said we, we, want the parents of America to know that we have stopped the Federal Government from telling them what to do by cutting out the Goals 2000 program.

Well, there are several things wrong with that statement. The gentleman is assuming that the Committee on Appropriations and the Committee on the Budget have all knowledge. The Committee on Economic and Educational Opportunities, of course, authorized the legislation which contains Goals 2000. The Committee on Economic and Educational Opportunities authorized the legislation which contains Opportunity To Learn standards.

I serve on the Education Committee. I know the process. We debated for 6 months the Opportunity To Learn standards. We debated for 3 months the Goals 2000 general program. We debated for another 2 months with the Senate. And the back and forth in the Senate conference and the House conference went on for 2 months on the Opportunity To Learn standards alone.

With all this deliberation and all of this marshaling of facts, hearing testimony that the authorizing committees went through in the Senate and the House, along come the lords of the appropriation committee, and they are in the appropriation process going to tell us it is no good. They have all the knowledge, they have all the wisdom, it is no good. The implication is that we should just abolish all of the other committees of Congress. You know, we do not need a Committee on Economic and Educational Opportunities. We do not need that. We do not need other committees if the Committee on Appropriations, after its large-scale deliberation on numerous topics and numerous programs, is going to come to the conclusion that they can wipe out a program in the appropriations process.

We all know that that is against the rules. We all know that the Committee on Appropriations has no authority to wipe out a program like Goals 2000, like Opportunity To Learn standards, and yet we have seen again and again on the floor of the House when we challenge the Appropriations Committee, we say you have violated the rules. They said, yes, we violated the rules; you do not like it, appeal to the Chair. And, of course, they have the numbers to vote down every appeal of the ruling of the Chair.

You know, every attempt to get the Chair to enforce the rules is frustrated by the fact that they have the numbers and they use those numbers. You know if we were in another arena, it would be illegal to use the numbers to do illegal things. Of course, the House rules are the House rules. You violate the House rules, and there is no punishment. We cannot put a committee in the little jail cells we have down in the Capitol. In this Capitol we still have from the old days, had some jail cells that they used to keep to put rowdy staff members and Congressmen. We do not use that any more. So when the Committee on Appropriations violates the rules, there is no enforcement mechanism, and the majority vote can always back up the Committee on Appropriations.

So what we are talking about tonight is America, does America exist for the rich and the powerful only, is there an America where we the people are still in charge, is there an America where we the people matter?

We the people have a little program helping children with disabilities. You know, does it cost $2 billion? No, it does not even cost $200 million. Tiny program, helping children with disabilities, a program that was supposed to deal with rural communities where children with disabilities were totally out of touch with the program, urban communities where poor people were out of touch and they were not being served, they were not participating. That tiny program was singled out today in the process of the markup of the subcommittee and wiped out, does not exist any more if that markup goes through.

They also cut other provisions.

They also implied that the commitment of the Federal Government for children with disabilities is too great. You know, in this great, rich country where we can afford to have a Federal Reserve keep a slush fund of $3.7 billion an the CIA have $2 billion lying around, we cannot afford to take care of the needs of children with serious disabilities.

Is America for the rich and powerful only? Are we a Nation of big shots versus ordinary, everyday people where the big shots walk away with everything, nothing is too good for them, anything is too much for ordinary people?

That is the way the Republican majority in this Congress has proceeded. The omnibus bill that they are bragging about and crowing about is a bill which has gone after little people, a bill that is focused on the small programs.

They also implied the big shots can never waste too much, big shots should never be chastised. They do not make speeches about the Federal Reserve Board having $3.67 billion lying around. They do not make speeches about the CIA having $2 billion lying around.

It is worse than that, of course. There is a much worse problem that we have to deal with.

A friend of mine, my colleague from New York State, CAROLYN MALONEY, has done a study of all the debt that is owed to various Federal agencies, debt that is owed that is uncollected.

Now, here we are cutting school lunch programs, here we are going after the Medicaid Program, a program for health care for poor children, a program that takes care of nursing home people, poor and cannot afford to pay for nursing homes. Here we are going after programs that are vitally needed by people who are in great, and we are not paying attention to the fact that $55 billion, according to the study done by my colleague, CAROLYN MALONEY, Congresswoman MALONEY, on the Government Oversight Committee has done, a study which is fantastic, and she really should be commended for the great work she has done in this area. She has pinpointed, and she has documented, and I have the charts here. She goes agency by agency and shows, according to the last data that was available, and things might have gotten worse since then, the last data that is available, what is owed in the Farmers' Home Loan Mortgage and other programs in the Department of Agriculture, one of the major offenders. Large amounts of money are owed in the farm programs. The Farmers' Home Loan Mortgage Program is the worst offender. Large amounts of money, debts have been forgiven, forgiven in the Farmers' Home Loan Mortgage Program.

I cannot find out yet what is the criteria for forgiving someone who owes a debt to the Federal Government. Who makes those decisions? From my poor constituents in Brownsville, and East New York, Crown Heights, back in Brooklyn, I am sure they would like to know who is the person you see that forgives debts when they are owed to the Federal Government.

There are people out there who owe a few thousand dollars to the IRS, and they are being continually pursued. There some people, a head of small programs, programs that have funds, and they did not quite know how to handle the bookkeeping. So they were in a situation where the grant funding came late from the State, and they needed supplies, and they needed various things, and they spent the money that they should have been each quarter sending to the IRS. IRS now wants its money. So it is some of the programs have gone out of business, so they are going after the homes of the members of the board of directors, these little people who came out to help make these programs work. They did not get paid; they were just members on the board. They must now have their homes jeopardized because the IRS wants to let unpaid taxes from that agency.

And yet talking about a few thousand dollars here. You know, you are not talking $1 million, not talking about a $100,000. Talking about a few thousand dollars that they are being pursued for. But in the Farmers' Home Loan Mortgage forgave over a 5-year period $11 billion, $11 billion they forgave.

How does that happen? I have asked questions for the last 2 years and tried to get answers as how do you go about forgiving that kind of debt? But in the Department of Agriculture somebody has the power to forgive.

On occasion we had the Department of Agriculture representatives before us in the Committee on Government Oversight, and we asked basic questions like how does it happen that people get so delinquent in the payment of there mortgage loans? You know. My mortgate is not paid in 1 month, you know I get a big penalty, and I get a notice second month that they are ready to start foreclosing procedures. How do millions of dollars accumulate for farmers home loan mortgage situation?

I was told by the man standing there who was a high ranking official that, you know, sometimes the addresses change, people move, and you just cannot find them when their addresses change. Now I do not know how anybody with a mortgage on a piece of property can have his address change so radically that you cannot find him. The property is still there, they still own it. How can you sit before a committee of Congress and give an answer like that, that we have a hard time finding people because their addresses change?

But it was done, you know, and I am not one of these guys who bashes the Federal Government and the bureaucracy, but that was a low point in the Federal bureaucracy when they give that kind of answer. Of course State bureaucracies, city bureaucracies, are just as bad. We heard all the discussion here about how terrible it is that money flows into Washington and it is not spend properly. Washington, you know is not alone. Probably Washington does a better job. Its bureaus and bureaucracy does a better job than most State governments and most municipal governments.

The spotlight of course is on Washington. One of the greatest things about the Federal Government is that it is always a gold fish bowl because there is the national media, and there are all kinds of people who are watching critically, but at the State and city level there are terrible things that happen in silence. Nobody says anything. A lot of terrible things happen, and it is not hidden, but everybody seems to be paralyzed.

In New York City, the mayor of New York City who prides himself on reestablishing efficient government, who has a deputy mayor who comes out of business, and he is always pounding away at expenditures by little people and little agencies driving the welfare rolls down by making a long application and requiring people who are hungry to wait 2 or 3 months before they can ever be interviewed.

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There are all kinds of ways they use to oppress the little people at the bottom. On the other hand, they let out a contract to an agency for $43 million. The City of New York, the Giuliani administration, they put out a contract for $43 million to an agency and the board of directors of the agency never saw the contract. The chairman of the board said he never saw the contract. A staff member of the agency negotiated the contract and signed the contract.

Of course it was later discovered that people in the agency that let the contract, negotiated the contract at the city level, they had some of them go and get jobs. They got jobs at the agency with which they had negotiated, so it is obvious that something more than mismanagement was going on here. We had mismanagement and corruption.

We have not heard of a single person being arrested as a result of this $43 million contract. Oh, yes, they took back the contract, they canceled the contract, closed down the agency, a lot of furor about "This cannot be," but no real answer as to why or how does an agency have a staff member negotiate a contract for $43 million.

I do not think you would have that happen in the Federal Government. Whatever things that you might find wrong, you will not have that kind of blatant violation of ordinary sophomoric rules of contracting, but it happens often at the level of municipal government. It happens often at the level of State government.

In our State, we have a governor who openly is saying he is going to move the functions of government around the State and place those agencies that employ large numbers of people in the areas where he got the most votes. It is no secret. It is all out there. How can a State allow the functions of government or the agencies of government, the resources of government, to be used for partisan purposes? But big shots seem to be able to do this.

In America now where the big shots can walk away, do anything they want, they owe the Federal Government millions of dollars. When the Farmers Home Loan Mortgage story was first broken, the Washington Post had a front page story and they talked about 5 millionaires who were perpetrators, who were guilty, 5 millionaires. One of them was sitting on a board appointed by President Reagan that made decisions about who got to keep and who got additional loans.

Five millionaires. I do not know of a single millionaire that was arrested, has been tried or convicted of anything, among those millionaires who were cited. They were named. The Washington Post named them. Four or five. At least four, who were named. Yet the rich and powerful were not worthy of a hearing. I do not know of any hearings that were held to deal with that story.

The chairman of the committee, one of the members of the committee I saw shortly after the story, the Committee on Agriculture here in Congress, I saw him shortly after the story broke. I asked him what he was going to do about it. He said, "You better believe we're going to hold some hearings and get to the bottom of this." I do not see any record of any hearings being held which got to the bottom of it.

Even now when I call and have my staff try to get information about where we are now with the Farmers Home Loan Administration program, you get vague answers. The figures are right now that at least $10 billion is outstanding, delinquent, at this point right now, $10 billion. How much of that will they forgive? They still will not tell us the rules of forgiveness. They still will not tell us how you get that.

We can go after children with disabilities, we can try to wipe those programs out because America cannot afford them. We imply that children with disabilities would bankrupt America. There is a smear campaign going now on all the special education programs.

There is a lot of furor being generated about children with disabilities not being held to the same standard as other children in the school. Yes, they are protected by law. You cannot suspend them or expel them in the same way you do children who do not have disabilities, so they have used that as pretext to smear the programs.

There is a great problem, they say. What if the kid brings a gun to school, a child with a disability brings a gun to school? That is a major problem, it has been played up now. We have got to get rid of guns in the hands of children with disabilities. Ask the question, the simple question, how big is the problem? How many instances of children with disabilities having guns do we have?

The answer is that we do not have any studies, nobody has collected any

VOL
142
PT
6
AP
15
—
24
1996
UMI

information. We just have one or two incidents that they can cite. You can cite one or two incidents to show or prove anything. You can cite some incidents but the problem when you probe a little further, the problem is minuscule. There is no great problem of children with disabilities bringing guns and weapons to school.

But a crisis has been manufactured because this is one more way to smear the programs of children with disabilities. It is one more way to play into a situation where local superintendents and administrators are upset because they have to spend more on the education of children with disabilities than they spend on other children. So they would like to be able to get their hands on that money, and they would do anything to discredit the program for children with disabilities.

I am not saying that the program for children with disabilities does not have some problems. I have been a major critic of certain kinds of excesses. The way they are administered, the way they are handled in New York City has resulted in large numbers of children with a delinquency problem, a discipline problem. They should not be in the program for children with disabilities.

It is a dumping ground for teachers who want to get rid of children who are a problem, but they are discipline problems. There ought to be some way to deal with it. We ought to provide them with some way to better deal with discipline problems, but there are not problems with disabilities. That has been an ongoing criticism that I have of the program. It is a valid criticism that most of them cannot answer.

So we need to deal with that. We need to deal with each problem as it arises. But to smear all of the programs for children with disabilities, and to set the children who do not have disabilities and their education against the smaller percentage of children who do have disabilities, and to try to take the money away from the disability programs in order to solve budget problems in the larger school budget, is unworthy of Americans.

Really we have a problem with funding for schools. These gentlemen here who pride themselves on having cut the budget have cut education funding. Oh, yes, they are going to put back the $1.1 billion they cut for Title I. I applaud that. I congratulate them. They will put back the $1.1 billion. But they have cut training programs, teacher education programs, a number of programs that still will not get the money back, and we should have been increasing the amount of money available for education. We should have been increasing it.

We should not be standing here proud of the fact that we made dramatic cuts in education. Instead of the citizens out there, teachers and children and administrators, all uniting to demand of their governments at every level, whether it is the city governments or the State governments or the Federal Government, instead of demanding at every level that they fund education programs consistent with 20th century demands before we go off into the 21st century, they fund money to bring the school buildings up to date so they can be wired properly and have high-tech equipment like computers and science equipment that is needed. Instead of making the demand on the government, instead of waging the war on the people who make decisions in our government, too many of them are willing to engage in cannibalism. Too many are willing to try to eat what exists. They are going to eat up, devour the special education programs in order to satisfy the needs of the rest of the budget.

I think that is a harsh way to put it, but I can think of no other way except to say that that is happening. Right now the programs for children with disabilities are in great trouble because that is being used as an excuse by certain decisionmakers here in Congress for chipping away at these tiny programs that are already too small, that serve children with disabilities.

Big shots, nobody wants to talk about that. We have not had a single hearing on the Federal Reserve slush fund. If the CIA oversight committee has had a hearing, then I have not heard about it. The Intelligence Committee probably is dealing with that but they do not tell us, so I cannot say a hearing did not take place.

Some people, however, have challenged me. Some people who have heard me talk about this before have called and said, "You know, you make these charges against the CIA. How do you know? On what basis do you make these charges?"

I want you to know that I am not a member of the Intelligence Committee, so I have no oversight responsibilities there. I do not get a chance to see the actual figures, and I am like any other American, I read the New York Times and I read the Washington Post, and I read other newspapers who have their sources.

On several occasions, in several of these papers, I have read that at least $2 billion was found in an audit of the CIA, and going beyond just stating that $2 billion was found in an audit, there was an article which appeared in the New York Times on Tuesday, February 27, 1996 which talked in great detail about actions taken to remedy the situation: "Spy Satellite Agency Heads Are Ousted For Lost Money." That is the headline for this article.

"The top two managers of the National Reconnaissance Office, the secret agency that builds spy satellites, were dismissed today after losing track of more than $2 billion in classified money." That is the first paragraph of this article by Tim Weiner. It does not say it is alleged. It does not say "sources say." It states it as a fact.

"The Director of Central Intelligence, John Deutsch, and Defense Secretary William Perry announced"—oh, there was an announcement—"that they had asked the director of the Reconnaissance Office, Jeffrey K. Harris, and the Deputy Director, Jimmie D. Hall, to step down." Then it goes on and explains how $2 billion got lost and the President did not know about it and the director of the agency did not know about it.

Mr. Speaker, I include this article that appeared on February 27 in the New York Times in its entirety in the Record because I do not want people to continue to question my accuracy. Here is an article which I think names names, talks about announcements, and it clearly establishes that $2 billion was lost.

[The New York Times National, Tuesday, Feb. 27, 1996]

Spy Satellite Agency Heads Are Ousted For Lost Money

(By Tim Weiner)

Washington, Feb. 26—The top two managers of the National Reconnaissance Office, the secret agency that builds spy satellites, were dismissed today after losing track of more than $2 billion in classified money.

The Director of Central Intelligence, John Deutch, and Defense Secretary William J. Perry announced that they had asked the director of the reconnaissance office, Jeffrey K. Harris, and the deputy director, Jimmie D. Hall, to step down.

"This action is dictated by our belief that N.R.O.'s management practices must be improved and the credibility of this excellent organization must be restored," Mr. Deutch and Mr. Perry wrote in a statement. A Government official close to Mr. Deutch said the intelligence chief had lost confidence in the officials' ability to manage the reconnaissance office's secret funds.

Keith Hall, a senior intelligence official who has managed satellite programs for the Pentagon, was named today as deputy director and acting director of the reconnaissance office.

The reconnaissance office is a secret Government contracting agency that spends $5 billion to $6 billion a year—the exact budget is a secret—running the nation's spy satellite program. The satellites take highly detailed pictures from deep space and eavesdrop on telecommunications; everything about them including their cost, is classified. The secret agency is hidden within the Air Force and is overseen jointly by Mr. Deutch and Mr. Perry.

But overseeing intelligence agencies, especially an agency as secretive as the reconnaissance office, whose very existence was an official secret until 1992, is no easy matter. Well-run intelligence services deceive outsiders; poorly run ones fool themselves. This apparently was the case with the reconnaissance office.

Its managers lost track of more than $2 billion that had accrued in several separate classified accounts over the past few years, according to the Senate Select Committee on Intelligence. The committee had thought the sum was a mere $1.2 billion until auditors called in by Mr. Deutch found at least

$800 million more in the reconnaissance office's secret books this winter.

The auditors told Mr. Deutch that the way the reconnaissance office handled its accounts was so arcane, so obscured by secrecy and complexity and so poorly managed that a $2 billion bulge in its ledgers had gone unreported.

"Deutch did not know, Perry did not know and Congress did not know" about the surplus, an intelligence official said. "There was a lack of clarity as to how much money was there and how much was needed." The audit is continuing and is expected to be completed by April.

The reconnaissance office also spent more than $300 million on a new headquarters outside Washington in the early 1990's. The Senate intelligence committee, which appropriates classified money for intelligence agencies, said it was unaware of the cost. In the only public hearing ever held on the subject of the National Reconnaissance Office, Mr. Hill testified in 1994 that the construction of the building was a covert operation and the money for it had been broken into separate classified accounts to conceal its existence.

The reconnaissance office is one of 13 intelligence agencies under Mr. Deutch. All will be covered in a report to be issued on Friday by a Presidential commission on the future of intelligence. The report will address the question of whether government spending for intelligence—an estimated $26 billion to $28 billion a year—should continue to be officially secret.

Of course the Federal Reserve Board has not denied the fact that $3.7 billion or more, it may be close to $4 billion that the Federal Reserve Board had on hand, unused, as part of its rainy day fund. That has not been denied. I will not quote articles. There are plenty of documents around which validate that.

Why do I go on like this? What does it have to do with the 11th Congressional District in Brooklyn? The 11th Congressional District in Brooklyn is made up of people, a large percentage of which are poor. We are 1 of the 25 poorest congressional districts in the country.

It varies, of course. There are some areas where we have middle class homes and people who have a little more substance, but in a community like Brownsville, for instance, or in a community like East Flatbush, for instance, there are large numbers of poor people. Then there are also middle-class people who have enough money to try to buy a co-op in a large building.

There is a building that I was in last Saturday which has more than 100 units. We have some pretty big buildings in my district. In fact, I have the smallest congressional district in the country. My congressional district covers only 10 square miles, 581,000 people in 10 square miles, so you can imagine how many tall buildings I must have in my district.

Here is a building that I went into at the request of lieutenants where, of the 100 units, a process was begun several years ago to co-op the building, so the owner of the building started selling co-ops. Twenty people paid down their down payments and they got their loans and they owned their apartments.

Along comes the savings and loan debacle. Remember that one? That, I have talked about so often, is this big shots again. I have talked about the savings and loan swindle, the biggest swindle in the history of mankind, where the total might become as high as a half a trillion dollars, $500 billion, before it is all over.

Savings and loans will be in front of us again soon. I understand we have to vote on a thrift fund package. The thrift fund package is a package established to help bail out savings and loan units. They sold bonds, and now the bonds will come due and there is no money to pay. It is very complicated.

I talk about it because I am not concerned with high finances and I am not concerned with trying to do the job of the Banking Committee. I am only concerned about the little people in my district in this building who are the victims of the ultimate slime, the ultimate feces that goes down as a result of failure of big banks that were loosely regulated, badly regulated, and they were allowed to give these loans without proper collateral. They were allowed to let landlords and owners do very tricky financing, so that in addition to a mortgage being on each apartment in this building that was sold, the landlord had a wraparound mortgage for the whole building.

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When the collapse came as a result of there not being the kind of value there that he had been allowed to assert was there, it was a savings and loan institution that had to suffer the collapse. It was a large organization like Freddie Mac here in Washington that ended up buying the building, and Freddie Mac is now the owner of the building. The 20 people who had equity, money invested, have lost all of their money, because through the complicated maneuverings of the high finance and the real estate financing, which I do not pretend to understand, the building reverted back to a rental building totally. So it is a rental building now, and the people who thought they owned their apartments who owe $90,000, $60,000 to $90,000 on their apartments, now own nothing, unless something drastic is done.

In addition to that, Freddie Mac, and Freddie Mac is a Washington-based institution, a national institution, and I am citing Freddie Mac because Freddie Mac, I intend to come after you. I want you to help resolve this problem. The little people in my district, little people, in this case who are working people, who have enough assets to be able to have started the process of trying to own their own apartment, they are out there in the cold. And Freddie Mac and its cohorts have hired rental agents and managing companies and they are trying to get their money by neglecting the building. The plumbing in the building is outrageous.

I was carried on a tour through the building, and I saw the building which is 10 stories high, it means the plumbing is bad, it is bad all the way down that line. And the people on the bottom, I guess they get the worst of it. And one lady talked about having to use boots in her apartment for a long period of time before they did some repairs. But the repairs have by no means been completed. The ceilings are open, the drips are still there.

What does this have to do with savings and loans swindles, what does it have to do with the failure of the Congress to properly regulate savings and loans? What does it have to do with the fact that most savings and loan crooks got off without going to prison, paying the money back? What does it have to do with the fact that we cannot get a decent clear report as to the status of the savings and loan bailout now? What does it have to do with the fact we are going to be voting very soon again on another appropriation for the savings and loan bailout, while we are cutting programs for children with disabilities, cutting programs for opportunities to learn education? How does it all tie together? How does it all tie together with my assertion that the rich and famous and powerful seem to get away with everything, while we scrutinize and oppress the people at the very bottom?

The people who are the tenants in this building, the people who thought they were owners of those co-ops, they are the people at the very bottom. They are in my district. I will not waste my time here on these high financial matters trying to reform government or expose the fact that there is no reform, that big government is as big as it ever was when it comes to the rich and powerful, and nobody is seeking to really bring the rich and powerful to heel. Nobody is dealing with the uncollected debts that amount to $55 billion. Nobody is dealing with the savings and loan scandal that keeps going, quietly. We are taking care of that. But every time the savings and loan debacle says to Congress we need more money, we appropriate more money. We get a message, it has to happen. The financial markets are going to collapse if we do not appropriate more money.

A very interesting matter arose in Japan. Here I am going across the water. You think I am rambling? No. In Japan they have a savings and loan scandal. They have a banking scandal similar to the American savings and loan scandal, a huge situation where large numbers of banks are collapsing, real estate markets are collapsing. The government is called upon to bail out the situation.

VOL
142
PT
6
AP
15
—
24
1996
UMI

I thought it was very interesting the reaction of some Japanese legislators. You know, we sweethearted the process here in America. Both parties, together, became mum and they never had hearings to expose the criminality of the savings and loan banks and the other banks that were also more regular banks collapsed. Savings and loan, we called it the savings and loan debacle because they started it. There were other banks, larger amounts of money, and they were also regular banks under the jurisdiction of the FDIC and Federal Reserve Board. We had all these controls and regulations, and still there was so much collusion from one level to another, the decision makers in bed with the regulators, and the regulators in bed with the banks.

It was a once-in-the-history-of-mankind situation. No swindle has ever been pulled off as great as that, and no swindle has ever taken place where so many people got away with it.

So much crime that did pay. It paid billions of dollars. But in Japan, you have a very unusual thing that happened. The story in the New York Times says that one Japanese party staged a sit-in in the legislature. They blocked the chambers where the debate was taking place on the bailout for the banks. Very interesting. If you want to know what the possibilities are, what more we could have done, then I will quote this article a little bit and you will see what the Japanese did, faced with the same situation.

The savings and loans collapsed, real estate market collapsed, it resulted in little people at the very bottom suffering greatly, like the people in my district who were suffering in this one building. All their money gone down the drain, now they have to fight a landlord and a management company that will not even repair the pipes. A group of tenants were taken to court on Monday, and I went down to the court. They postponed the case. Those people had all taken off from work to go. Now the case is postponed and they have to come back. The little people are harassed even by the court system.

How does it all relate back to Japan and the politicians in Japan becoming so militant and so angry that they staged a sit-in? Some of Japan's leading politicians are spending their time in a sit-in. This was reported in the New York Times on March 16, 1996.

"It is a battleground, said Kojimoro Moto," quoting from the article:

> a member of the House of Representatives who is also an organizer of the sit-in which at the time of this report was in its second week. When they said it is a battleground, that is a bit of an exaggeration perhaps, but there is no mistaking the seriousness of the conflict. Those protesting are the main opposition group, the New Frontier Party, and they have succeeded in paralyzing the Japanese budget process. The New Frontier Party's aim is to block the passage of the budget bill for next year. The party objects to an unpopular provision in the bill to use about $6.8 billion in taxpayer money to absorb losses in the liquidation of seven of the nation's bankrupt mortgage lenders.

Let me just repeat that:

> The New Frontier Party was sitting in in the legislature of Japan blocking the budget process from going forward, and their aim is to block the passage of the budget bill for next year.
>
> The party objects to an unpopular provision to use about $6.8 billion in taxpayer money to absorb losses in the liquidation of seven of the nation's bankrupt mortgage lenders.

This is a bailout for the banks similar to the savings & loan bailout in this country.

Now, I was in Congress when the bailout began here for the savings & loans in this country. We never had a figure as low as $6.8 billion. I think the first bailout money was $7 billion, and it got higher. It got to $50 billion, $75 billion, and we kept being told "it is off budget, so don't worry about it."

Off budget does not mean the taxpayers do not still pay. That means in the calculations for the budget that year, you do not have to figure it. It becomes part of the deficit.

We appropriated never as little as $6.8 billion. But the Japanese members of the legislature, the equivalent of Congresspersons, were sitting in to block that from going forward.

We are going to have on this floor within a few days a bill to continue the bailout of the savings & loans called the Thrift Fund. While we are cutting programs for children, programs for the elderly, while we are going after Medicaid, Medicaid is on the agenda, Medicaid will be cut, the bargaining process that goes on between the white House and the Republican majority here is such that the Republican majority always wins something, and every step of the way they have won some cuts, so we can expect Medicaid will be cut. That is the least that we can expect.

The most that we can expect is that Medicaid will be given to the States. All the Governors, both Democrat and Republican, have decided, voted, they wanted Medicaid to be made a block grant. Take away the entitlement and give it to the States.

So those cuts are going to go forward at the same time we have voted for a $6 billion increase in defense, and we are now going to be voting to bail out more of the banks. It is going to be billions of dollars. They will not come with a few hundred million, I assure you.

Let me go back to the Japanese. To quote from the article about the Japanese sit-in,

> "Critics of the bill say that $6.8 billion is just the beginning of the bailout, for the banks are saddled with at least $400 billion in bad debt. The provision has prompted a public outcry against bankers and bureaucrats, who many believe are responsible not only for the nation's bad debt, but also for the stagnant economy.

I will not read any more at this time. I just want to draw the parallel. Nobody on this floor has ever mentioned the fact that the Japanese have a swindle, a scandal, of the same dimensions, did you hear what I just said, the $6.8 billion is just the beginning. They think they have a problem of at least $400 billion.

In this country, we never got a figure, but it always kept growing. Stanford University at one point, who had more of the figures that anybody else, estimated that the savings & loan bailout in America, the greatest swindle in the history of mankind, would cost the American taxpayers $500 billion, half a trillion dollars, before it was over.

We cannot yet clear reports. We do not know how close we are to the $500 billion yet. But it is affecting everybody at the lower levels in this country, the ordinary Americans. You are being made to suffer for what the rich and powerful have walked off with.

Even the $5.15 per hour minimum wage now is being seen as a threat. We are told that the American economy will suffer. Industry is trembling because we have a proposal to raise the minimum wage by 45 cents per hour per year, 45 cents per hour in one year and 45 cents an hour in another year, which means after 2 years the minimum wage increases would go from $4.25 to $5.15 per hour. $5.15 per hour is called a threat to the American economy.

The little guys on the bottom, everything is too much for them. The guys on the top can get away with billion dollar slush funds, they can wreck the banking economy and the taxpayers are forced to bail them out through the Federal Deposit Insurance Corporation. But the little guys on the bottom asking for $5.15 per hours for their labor, it does not even come out of the Treasury. The American Government does not have to pay the $5.15 per hour. The Government does not subsidize wages paid by industry. It does not come out of the taxpayers' money. It comes out of the industries that hire the people.

But there are some here in the leadership of the recommend and majority who have indicated that they will not have any hearings or discussions on a minimum wage. They indicated that earlier in the year. And that if we pass the minimum wage increase this year, it will be "over their dead body." That strong statement was made by a leader of the Republican majority.

Fortunately, public opinion in America is galloping forward. Fortunately, public opinion understands that this is ridiculous. Public opinion is comparing the prosperity on Wall Street and the large amounts of money being paid to stockholders and the large amounts of money being paid to corporate executives. my colleague here before from Chicago was talking about the gap between the corporate pay of executives and the amount of money people are earning at the very bottom, and Americans are not dumb. Fortunately, public opinion, by more that 76 percent, says that we ought to have an increase in the minimum wage in America.

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Fortunately, the hearts of the American people are still not so hard and so corrupted that they cannot understand the arithmetic of $5.15 per hour, which comes out to a little more than $9,000 per year. Right now people are making about $8,000 a year on minimum wage. They would be making about $9,000.

Another thousand dollars would make a big difference in the lives of people in terms of groceries on the table, shoes for the kids, the payment of a light bill, the phone bill. It is not a small amount for poor people, for those at the very bottom, and most people cannot sympathize here in this Congress. We can forgive billions of dollars in loans for farmers' home loan mortgages, but we cannot see the need to give $5.15 as a wage, hourly wage, for people who are working.

We have had many attacks on welfare mothers, which is a misnomer, because the Federal Government does not pay money to mothers. The mothers of children who are considered dependent children receive the checks on behalf of the children. Aid to Families with Dependent Children has been under one steady stream of attack. It is all over just about now. They are going to take away the entitlement. They have made the cuts. But it is a small program. It is a tiny program compared to the farm subsidy program, for example.

The farm subsidy program, which allows Louisiana, part of the reason Louisiana gets so much money, and I am going to tie this together now, part of the reason Louisiana gets so much money from the Federal Government is because not only does it have military installations there, but it also has farm subsidies it gets from Washington.

The State that gets the highest amount of money from the Federal Government per capita is New Mexico. In terms of what it pays in, New Mexico gets back more per person than any other State. Why? Because New Mexico has the largest, a large number of farm subsidies, programs that receive subsidies from the Federal Government. New Mexico is at the top per capita, $3,255 more per person they get from the Federal Government than they pay into the Federal Government.

What did the gentleman who was speaking here before from the Committee on the Budget and the Committee on Appropriations, what do they do about the fact that New Mexico is at the top of the list? Farm subsidies for the rich and the powerful, because farmers do not have to prove they are poor in order the get subsidies. Farmers do not have to prove anything except that they are farmers and they have land. They get paid for not plowing the land or not planting grain and nobody asks them how poor are you or how many in your family. Farmers just get it. They are rich and they are powerful or they are hooked into organizations that are powerful. So in America the rich and the powerful are definitely not subjected to the kinds of budget cuts and the scrutiny that the children in the lunchroom are.

We are going to force teachers to walk around the lunchroom and pick out immigrant children and make sure no immigrant child gets a free lunch paid for partially by the Federal Government.

I want to make a correction here on my statement on minimum wage. The Republican majority said they would not have any hearings, no discussion on minimum wage at the beginning of this Congress. But because the pressure has been applied steadily by the American people, because common sense has said you ought to discuss it and you ought to pass and increase the minimum wage, we now have a situation where the Republicans are willing to discuss minimum wage and a proposal is being made.

Some Republicans, I think about 20, have introduced a bill which says they want to raise the minimum wage by not 90 cents over 2 years but a dollar over 2 years. That is a small group of the Republican majority, about 20 people. The leadership of the Republican majority has introduced a proposal. They do not want to increase the minimum wage. You will do that over their dead bodies, they say. But they have a proposal called the Minimum Wage for Families Act. I have a copy of the outline in my hand. And this proposal, which is going to sidestep making industry pay more than $4.25 per hour, will have the Federal Government step in to subsidize the wages.

Let the industries keep hiring people at $4.25 an hour, the Federal Government will then step in and give people additional money who are working. You talk about a farm subsidy; now we are going to have a subsidy for industry, corporations and businesses. You will get a subsidy, and every person who has one child will not get $4.25 hour, the Federal Government will give them an additional $3.75, so that they will get $7 an hour. And if they have two or more children, the Federal Government will give them enough money to make their pay come out to $8 an hour.

Now, can you see millions of workers across America having the Federal Government involved in their pay? This is an intrusion by Government that we have never had before. It will be on a scale greater than telling the farmers what to plant and telling the farmers how to grow their crops because they are getting money from the Government. We are going to have millions of workers involved in a program where the Government is going to help industry bring people's wages up.

How is it going to do this? The Government is going to take the money from the earned income tax credit. They want to raid the earned income tax credit and use it for working people in these industries and have the Internal Revenue Service, on a regular basis, every 2 weeks, the Internal Revenue Service will now have the job of paying the difference between the $4.25 per hour and the amount due to each person in accordance with what has been decided by the Government.

Can you imagine what kind of bureaucracy we are talking about there, in a Congress that prides itself on downsizing the Federal Government? The Federal Government will be intruding like it never has before in the lives of working people. Why do not we just give the $4.25 to each worker out there who is working? Why do not we just give it to the little people? Why are we going to put the people on the bottom? Because if you are making $4.25 an hour, economically you are on the very bottom. Why are we going to put them through that when we do not put farmers who receive subsidies?

In Kansas they say the subsidy averages about $40,000 a year per family. That is the average. Many get much more than that. Forty thousand dollars a year per family. They do not get through a process of scrutiny by the Federal Government to determine whether you have one child or two children or whatever.

Let me summarize. What I am saying is that we have allowed a situation to arise, generated by the majority in this Congress, where there are two sets of Americans, the 80 percent who are ordinary people struggling to make a living, the 80 percent are a part of what my colleague, Mr. LIPINSKI, was talking about, from Chicago, he was talking before I got here, 80 percent who are struggling to make ends meet are being given a hard time in every way by their government.

I think this 80 percent constitutes a caring majority and all together they have enough common sense to see what is happening. I think the caring majority all together will rise to take matters into their own hands at the polling places. I think the caring majority have had enough. I think the people with disabilities are not beggars. They are not people that we have to treat with charity. They have votes.

There are almost 40 million people in this country with disabilities, so when we treat them in a cavalier way in legislation, we are going to reap what we sow. I am confident that the average American on the bottom out there, we the people, will rise and at the ballot box demonstrate that this is a country still for the people and not for the rich

VOL
142
PT
6
AP
15
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24
1996
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and powerful. We are going to have justice and those who ignore this will have to suffer the consequences.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MENENDEZ (at the request of Mr. GEPHARDT), for April 23rd and 24th, on account of official travel.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.
Mr. DINGELL, for 5 minutes, today.
Mr. BONIOR, for 5 minutes, today.
Mr. REED, for 5 minutes, today.
Mr. KENNEDY of Massachusetts for 5 minutes today.
Mr. MASCARA, for 5 minutes, today.
Mrs. LOWEY, for 5 minutes, today.
Mr. DURBIN, for 5 minutes, today.
Mr. MANTON, for 5 minutes, today.
Mr. KENNEDY of Rhode Island for 5 minutes today.
Mr. TORRES, for 5 minutes, today.
Mr. MEEHAN, for 5 minutes, today.
Mr. LEVIN, for 5 minutes, today.
Ms. JACKSON-LEE of Texas for 5 minutes today.
Ms. FURSE, for 5 minutes, today.
Mr. ENGEL, for 5 minutes, today.
Ms. MCKINNEY, for 5 minutes, today.
Mrs. MALONEY, for 5 minutes, today.
Mr. TORRICELLI, for 5 minutes, today.
Ms. ESHOO, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. FRANKS of Connecticut, for 5 minutes, today.
Mr. HUNTER, for 5 minutes, today.
Mr. MCINTOSH, for 5 minutes, today.
Mr. TORKILDSEN, for 5 minutes, today.
Mr. GOSS, for 5 minutes, today.
Mr. SOUDER, for 5 minutes, today.
Mr. SHADEGG, for 5 minutes, today.
Mr. SMITH of New Jersey, for 5 minutes, today.
Mr. HOKE, for 5 minutes, today.
Mr. HANSEN, for 5 minutes, today.
Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DORNAN, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. ROTH.
Mr. CRAPO.
Mr. BOEHNER.
Mr. CALLAHAN.
Mr. DUNCAN.
Mr. GEKAS.
Mr. SMITH of Michigan.
Mr. NETHERCUTT.
Mr. DREIER.
Mr. EMERSON.

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. BONIOR.
Ms. JACKSON LEE of Texas.
Mr. KANJORSKI.
Mr. KILDEE.
Mr. STARK.
Mr. GORDON in 10 instances.
Mr. MARKEY.
Mr. BARRETT of Wisconsin.
Mr. CARDIN.
Mr. GEJDENSON.
Mr. WILLIAMS.
Mr. KLECZKA.
Mr. SERRANO in two instances.
Mr. FILNER in two instances.
Mr. LANTOS.
Mr. BORSKI.
Mr. WAXMAN.
Mr. JACOBS.

The following Members (at the request of Mr. OWENS) and to include extraneous material:

Mr. WHITFIELD.
Mr. PACKARD in two instances.
Mr. YOUNG of Alaska.
Mr. SAWYER.
Mr. COSTELLO.
Mr. RICHARDSON in two instances.
Mr. COX of California.
Mr. MARTINI in two instances.
Mr. CLEMENT.
Mr. VENTO.
Mr. KENNEDY of Massachusetts.
Mr. RADANOVICH in two instances.
Mr. SMITH of New Jersey.
Mr. HUTCHINSON.

ENROLLED JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 175. Joint resolution making further continuing appropriations for the fiscal year 1966, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 735. An act to deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 9 minutes p.m.), the House adjourned until tomorrow, Thursday, April 25, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2465. A letter from the Acting Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Grading and Inspection, General Specification for Approved Plants and Standards for Grades of Dairy Products; United States Standards for Nonfat Dry Milk (DA-93-03 FR), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2466. A letter from the Acting Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Olives Grown in California and Imported Olives; Establishment of Limited Use Olive Grade and Size Requirements During the 1995-96 Crop Year (FV-95-932-1), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2467. A letter from the Acting Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Hazelnuts Grown in Oregon and Washington; Order Further Amending Marketing Order (FV-94-982-1 FR), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2468. A letter from the Acting Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Milk in the Central Arizona Marketing Area; Suspension (DA-96-03 FR), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2469. A letter from the Acting Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Limes and Avocados Grown in Florida; Suspension of Certain Volume Regulations and Reporting Requirements (FV-95-911-2 IFR), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2470. A letter from the Acting Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Winter Pears Grown in Oregon, Washington, and California Order Amending the Order (FV-92-065), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2471. A letter from the Acting Under Secretary for Food Safety, Food Safety and Inspection Service, transmitting the Service's final rule—Use of Sodium Citrate Buffered with Citric Acid in Certain Cured and Uncured Processed Meat and Poultry Products (RIN: 0583-AB97), pursnant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2472. A letter from the Administrator, Grain Inspection, Packers and Stockyards Administration, transmitting the Administration's final rule—U.S. Standards for Barley (RIN: 0580-AA14), pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Agriculture.

2473. A letter from the Comptroller General of the United States, transmitting his review of the President's second, third, and fourth special impoundment message for fiscal year 1996, pursuant to 2 U.S.C. 685 (H. Doc. No. 104-205); to the Committee on Appropriations and ordered to be printed.

2474. A letter from the Director, Administration and Management, Department of Defense, transmitting a letter relative to a cost comprison study of cleaning services performed at the Pentagon; to the Committee on National Security.

2475. A letter from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting the Department's final rule—International Banking Activities (RIN: 1557-AB26), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

2476. A letter from the Assistant Chief Counsel, Office of Thrift Supervision, transmitting the Office's final rule—Uniform Rules of Practice and Procedure (RIN: 1550-AA79), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

2477. A letter from the Acting Director, Office of Thrift Supervision, transmitting the Office's 1996 compensation plan, pursuant to Public Law 101-73, section 1206 (103 Stat. 523); to the Committee on Banking and Financial Services.

2478. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the cooperative program for extended air defense (Transmittal No. 08-96), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

2479. A letter from the Senior Deputy Assistant Administrator, Agency for International Development, transmitting the Agency's report entitled "Report on Economic Conditions in Egypt 1994-95," pursuant to 22 U.S.C. 2346 note; to the Committee on International Relations.

2480. A letter from the Acting Administrator, Agency for International Development, transmitting a quarterly update report on development assistance program allocations as of April 19, 1996, pursuant to 22 U.S.C. 2413(a); to the Committee on International Relations.

2481. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-248, "Judgement Lien on Property Amendment Act of 1996," pursuant to D.C. Code, Section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2482. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-249, "Closing of a Public Alley in Square 484, S.O. 90-272, Covenant Filing Extension Temporary Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and oversight.

2483. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-253, "Washington Metropolitan Area Transit Regulation Compact Amendment Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2484. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-255, "Closing of a Portion of T Street, S.W., S.O., 92-56, Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2485. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-256, "Closing of a Public Alley in Square.672, S.O., 89-105, Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2486. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final comprehensive management plan, environmental impact statement and record of decision for the City of Rocks National Reserve, pursuant to Public Law 100-696, section 202(b) (102 Stat. 4574); to the Committee on Resources.

2487. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal Rules of Civil Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072 (H. Doc. No. 104-201); to the Committee on the Judiciary and ordered to be printed.

2488. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal Rules of Criminal Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072 (H. Doc. No. 104-202); to the Committee on the Judiciary and ordered to be printed.

2489. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal Rules of Appellate Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072 (H. Doc. No. 104-203); to the Committee on the Judiciary and ordered to be printed.

2490. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal Rules of Bankruptcy Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2075 (H. Doc. No. 104-204); to the Committee on the Judiciary and ordered to be printed.

2491. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zones: Elizabeth River and York River, VA (RIN: 2115-AA97), pursuant to 5 U.S.C. 801(a) (1) (A); to the Committee on Transportation and Infrastructure.

2492. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulation; Little Potato Slough (RIN: 2115-AE47), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2493. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; San Leondro Bay, CA (RIN: 2115-AE47), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2494. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Vessel Rebuilt Determinations (RIN: 2115-AE85), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2495. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations: City of Lake Worth, FL (RIN: 2115-AE46), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2496. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; River Race Augusta, GA (RIN: 2115-AE46), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2497. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F25 Mark 0100 Series Airplanes (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2498. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F27 Mark 050 and Model F28 Mark 0100 Series Airplanes (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2499. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Constructiones Aeronauticas, S.A. (CASA), Model C-212-CB, -CC, -CD, -CE, and -CF Series Airplanes (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2500. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Hamilton Standard Model 14RF-9 Propellers (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2501. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-9 Series Airplanes (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2502. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McCauley Accessory Division, The Cessna Aircraft Co. Model C35, C72, C75, C80, C86, C87, C92, and C93 Series Propellers (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2503. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Jetstream Model 4101 Airplanes (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2504. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320-111 Series Airplanes (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2505. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-9, DC-9-8, and MD-90-30 Series Airplanes, Model MD-88 Airplanes, and C-9 (Military) Series Airplanes (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2506. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Flight Trails Helicopters, Inc., Hardpoint Assemblies Installed on McDonnell Douglas Helicopter Systems Model 369D, 369E, 369F, 369FF, and 500N Helicopters (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2507. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron, Inc.,

VOL
142
PT
6
AP
15
—
24
1996
UMI

Model 214ST Helicopters (RIN: 2120–AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2508. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747–100, 747–200, and 747–300 Series Airplanes (RIN: 2120–AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2509. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (RIN: 2120–AA65), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2510. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–100 Series Airplanes (RIN: 2120–AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2511. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter Deutschland Gmbh (ECD) Model BO–105, BO–105A, BO–105C, BO–105S, and BO–105LS A–1 Helicopters (RIN: 2120–AA64) pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2512. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (Including Supportive Services); Report Requirements (RIN: 2125–AB15), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2513. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (RIN: 2120–AA65), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2514. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes (RIN: 2120–AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2515. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747–400, 757, and 767 Series Airplanes (RIN: 2120–AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2516. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—General Material Requirements; Warranty Clauses (RIN: 2125–AD61), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2517. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Design Standards for Highways; Geometric Design of Highways and Streets (RIN: 2125–AD38), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2518. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (RIN: 2120–AS65), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2519. A letter from the Secretary of Health and Human Services, transmitting the Department's report on Federal agency drug-free workplace plans, pursuant to Public Law 100–71, section 503 (a)(1)(A) (101 Stat. 468); jointly, to the Committees on Government Reform and Oversight and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. McINNIS: Committee on Rules. House Resolution 412. Resolution waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 104–535). Referred to the House Calendar.

Mr. BLILEY: Committee on Commerce. H.R. 2967. A bill to extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978, and for other purposes; with an amendment (Rept. 104–536). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HEFLEY:

H.R. 3305. A bill to recognize the heritage of certain areas of the United States, and for other purposes; to the Committee on Resources.

By Mr. GEKAS:

H.R. 3306. A bill to amend the Internal Revenue Code of 1986 to provide that the compensation of certain election officials and election workers which is exempt from Social Security taxes shall also be exempt from income taxes, and for other purposes; to the Committee on Ways and Means.

By Mr. GEKAS (for himself, Mr. Moorhead, Mr. Sensenbrenner, Mr. Coble, Mr. Smith of Texas, Mr. Inglis of South Carolina, Mr. Hoke, Mr. Bono, Mr. Bryant of Tennessee, Mr. Barr, Mr. Talent, Mr. Tauzin, and Mr. Zeliff):

H.R. 3307. A bill to amend title 5, United States Code, to provide for a limitation on sanctions imposed by agencies and for other purposes; to the Committee on the Judiciary.

By Mr. LONGLEY (for himself, Mr. Armey, Mr. DeLay, Mr. Cox, Mr. Spence, Mr. Gilman, Mr. Buyer, Mr. Chambliss, Mr. Cunningham, Mr. Dornan, Mr. Everett, Mr. Hansen, Mr. Hefley, Mr. Herger, Mr. Hilleary, Mr. Hoke, Mr. Hostettler, Mr. Hunter, Mr. Jones, Mr. Kim, Mr. McKeon, Mr. Metcalf, Mr. Radanovich, Mr. Saxton, Mr. Talent, Mr. Thornberry, Mr. Tiahrt, Mr. Torkildsen, Mr. Watts of Oklahoma, and Mr. Weldon of Pennsylvania):

H.R. 3308. A bill to amend title 10, United States Code, to limit the placement of U.S. forces under U.N. operational or tactical control, and for other purposes; to the Committee on National Security, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BATEMAN:

H.R. 3309. A bill to authorize the establishment of a pilot program to provide environmental assistance to non-Federal interests in the Chesapeake Bay watershed, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. DICKEY:

H.R. 3310. A bill to amend title 5, United States Code, to deny Federal retirement annuities to Members of Congress convicted of any felony, and for other purposes; to the Committee on House Oversight.

By Mr. EVANS:

H.R. 3311. A bill to amend title 5, United States Code, to provide that civilian employees of the National Guard may not be required to wear military uniforms while performing civilian service; to the Committee on Government Reform and Oversight, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARMAN:

H.R. 3312. A bill to expand the authority of the Department of Defense to donate unusable food; to the Committee on National Security.

By Mr. MORAN (for himself, Mr. Payne of Virginia, Mr. Scott, Mr. Boucher, Mr. Pickett, Mr. Williams, Mr. Martinez, Ms. Pelosi, Mr. Browder, Ms. Woolsey, and Mr. Miller of California):

H.R. 3313. A bill to amend the Goals 2000: Educate America Act to allow local educational agencies to participate in certain programs if the State in which the agency is located does not participate; to the Committee on Economic and Educational Opportunities.

By Mr. REGULA:

H.R. 3314. A bill to assess the impact of the NAFTA, to require further negotiation of certain provisions of the NAFTA, to establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THORNBERRY:

H.R. 3315. A bill to amend the Internal Revenue Code of 1986 to provide that the rate of tax on liquefied natural gas shall be equivalent to the rate of tax on compressed natural gas; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 3316. A bill to amend the Internal Revenue Code of 1986 to revise the treatment of deferred compensation plans of State and local governments, and for other purposes; to the Committee on Ways and Means.

By Mr. WILLIAMS:

H.R. 3317. A bill to establish the Yellowstone River Valley Heritage Area in the States of Montana, North Dakota, and Wyoming; to the Committee on Resources.

H.R. 3318. A bill to establish the Southwest Montana Heritage and Recreation Area in the State of Montana; to the Committee on Resources.

By Mr. ZIMMER:

H.R. 3319. A bill to require that the United States promptly sue for recovery of costs

and damages for the cleanup of the Stepan Property Superfund Site in Bergen County, NJ; to the Committee on the Judiciary.

By Mr. SAM JOHNSON (for himself, Mr. Hastert, Mr. Fields of Texas, Mr. Tauzin, Mr. Chrysler, Ms. Dunn of Washington, Mr. Crane, Mr. Christensen, Mr. Hancock, Mr. Cunningham, Mr. Bunning of Kentucky, Mr. Bartlett of Maryland, Mr. Skeen, Mr. Hansen, Mrs. Chenoweth, Mr. Laughlin, Mr. Rohrabacher, Mr. Hayworth, Mr. Hunter, Mr. Young of Alaska, Mrs. Seastrand, Mr. Ensign, Mr. Frisa, Mr. Bonilla, Mr. Stockman, Mr. Graham, Mr. Burr, Mr. Goss, Mr. Traficant, Mr. Collins of Georgia, Mr. Thomas, Mr. Largent, Mr. Dornan, Mr. Bono, Mr. Dreier, Mrs. Cubin, Mr. Hall of Texas, Mr. Dickey, Mr. Doolittle, Mr. Knollenberg, Mr. Hostettler, and Mr. Norwood):

H.J. Res. 176. Joint resolution proposing an amendment to the Constitution of the United States to abolish the Federal income tax; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey (for himself, Mr. Gilman, Mr. Wolf, Mr. Cardin, Mr. Markey, Mr. Salmon, Mr. Torricelli, Mr. Levin, Mr. Bonior, Mr. Durbin, and Mr. Gutierrez):

H. Con. Res. 167. Concurrent resolution recognizing the 10th anniversary of the Chornobyl nuclear disaster, and supporting the closing of the Chornobyl nuclear power plant; to the Committee on International Relations.

By Mr. SMITH of Michigan (for himself, Mr. Hall of Ohio, Mr. Emerson, Mr. Hamilton, Mr. Hyde, and Mr. Moakley):

H. Res. 413. Resolution recognizing the importance of a nationally designated "Character Counts Week" and of the character development of young people to the present and future of the United States, and encouraging community, school, and youth organizations to integrate the "six core elements of character" articulated in the Aspen Declaration into programs for students and children; to the Committee on Economic and Educational Opportunities.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 240: Mr. LoBiondo.

H.R. 791: Mr. Salmon.

H.R. 878: Mr. Lipinski, Mr. Foglietta, Mrs. Roukema, Mr. Hall of Ohio, and Mr. Torkildsen.

H.R. 940: Ms. Slaughter.

H.R. 1023: Mr. Durbin.

H.R. 1202: Mrs. Roukema.

H.R. 1210: Mr. Lipinski.

H.R. 1279: Mr. Graham and Ms. Greene of Utah.

H.R. 1386: Mr. Deutsch.

H.R. 1846: Mr. Brown of California.

H.R. 1998: Mr. Roth and Mr. Kingston.

H.R. 2009: Mr. Neal of Massachusetts.

H.R. 2019: Mr. Jackson.

H.R. 2092: Mr. Gallegly.

H.R. 2137: Ms. Jackson-Lee.

H.R. 2508: Mr. Abercrombie.

H.R. 2688: Mr. Fazio of California, Mr. Manton, and Mr. Evans.

H.R. 2697: Mr. Kleczka and Mr. Evans.

H.R. 2715: Mr. Weller.

H.R. 2764: Ms. Rivers and Mr. Thornberry.

H.R. 2827: Mr. Campbell.

H.R. 2925: Mr. Heineman, Mr. English of Pennsylvania, Mr. Gilman, Mr. Jones, and Mr. Burr.

H.R. 2939: Mr. Evans, Mr. Jacobs, Mr. Leach, Mr. Ward, Mr. Thompson, Mr. Petri, and Mr. Ehlers.

H.R. 2951: Ms. Eshoo, Mr. Dellums, Mr. Brown of California, Mr. Luther, and Mr. DeFazio.

H.R. 2976: Ms. DeLauro, Mr. Dingell, Mr. Evans, Mrs. Kelly, and Mr. Yates.

H.R. 3004: Mr. Durbin and Mr. Pallone.

H.R. 3052: Mrs. Clayton, Mr. Owens, Mr. Becerra, Ms. Brown of Florida, Ms. Eddie Bernice Johnson of Texas, Mr. Yates, Mr. Lewis of Georiga, Ms. Danner, Mrs. Thurman, Mr. Lipinski, and Mr. Fields of Louisiana.

H.R. 3114: Ms. Lofgren, Mr. Ganske, Mr. Gunderson, Mr. Zimmer, Mr. Moakley, and Mr. Norwood.

H.R. 3142: Mr. Weldon of Florida, Mr. Lucas, Mr. Taylor of Mississippi, Mr. Ramstad, and Mr. Lewis of Kentucky.

H.R. 3161: Mr. Moran.

H.R. 3173: Mr. Vento and Mr. Fox.

H.R. 3234: Mr. Bunning of Kentucky, Mr. Ewing, Mr. Gutknecht, Mr. Baker of California, Mr. Istook, Mr. Barr, Mr. Hancock, Mr. Boehner, Mr. Mica, Mr. Bass, Mr. Jones, Mr. Scarborough, Mr. LaHood, and Ms. Dunn of Washington.

H.R. 3246: Mr. Gejdenson.

H.R. 3257: Mr. Franks of New Jersey.

H.R. 3260: Mr. Brewster, Mr. Cramer, Mr. Livingston, Mr. Baker of Louisiana, and Mr. Lucas.

H.R. 3265: Mr. Green of Texas and Mr. Bachus.

H.R. 3303: Mr. Gilchrest, Mr. Farr, Mr. Abercrombie, Mr. Gejdenson, Mr. Ortiz, Mr. Meehan, Mr. McHugh, and Mr. Weldon of Florida.

H.J. Res. 16: Ms. Greene of Utah.

H. Con. Res. 51: Mr. Moorhead.

H. Con. Res. 105: Mr. Luther.

H. Con. Res. 120: Ms. DeLauro.

H. Con. Res. 152: Mr. Tejeda.

H. Res. 346: Mr. Livingston.

H. Res. 385: Mr. Murtha, Mrs. Meyers of Kansas, Ms. Brown of Florida, Ms. Norton, and Mr. Visclosky.

H. Res. 399: Mr. Houghton, Mr. Dellums, Mr. Fattah, Mr. Jackson, Ms. Waters, Mr. Yates, Mr. Porter, Ms. Lofgren, and Ms. Slaughter.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1202: Mr. Coble.

VOL
142
PT
6
AP
15
—
24
1996
UMI

EXTENSIONS OF REMARKS

COOPERATIVE TEAMS IN THE AMERICAN WORKPLACE

HON. THOMAS C. SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. SAWYER. Mr. Speaker, I rise today to insert in the RECORD the text of an address recently given by National Labor Relations Board Chairman William B. Gould on the subject of cooperative teams in the American workplace. I believe it is a significant contribution to the ongoing congressional debate on the legality of employee involvement structures.

Currently, the National Labor Relations Act prohibits employer-dominated teams if they discuss wages, hours or other conditions of employment. That policy was enacted over 60 years ago to prevent employers from setting up company unions as a means to block employee efforts to obtain truly independent representation for the purpose of collective bargaining.

Last year, Congressman STEVE GUNDERSON introduced H.R. 743, the Team Act, which was intended to make all workplace teams legal, regardless of the content of their discussions. When the House considered H.R. 743, I offered a substitute amendment that was intended to protect legitimate employee involvement structures, without allowing employer-dominated sham unions.

My substitute would have clarified that teams established to discuss productivity, efficiency or other competitiveness issues are currently legal under the National Labor Relations Act. More importantly, it would also have preserved one of the fundamental tenets of the NLRA—that employees must be able to choose effective independent representation for discussions of terms and conditions of employment, such as hours, wages, and other matters typically discussed in collective-bargaining negotiations.

However, my substitute also recognized that such issues are sometimes inextricably linked with competitiveness. It would have protected legitimate workplace teams, even if their discussions occasionally touched on directly related conditions of work.

In his speech, chairman Gould expresses support for this type of approach and issues a broad call for allowing the NLRB to conduct its statutory responsibility to apply the basic principles of the NLRA to specific cases. He specifically voices opposition to the Team Act, and makes the case that recent Board decisions have begun to address the concerns of Team Act supporters. He also reviews his successful efforts since becoming chairman 2 years ago to streamline and improve the Board's decision-making process.

Mr. Speaker, the Senate has begun to consider the legality of workplace teams, so these issues may be before the House again soon. In preparation for this, I commend chairman Gould's speech to my colleagues.

NATIONAL LABOR RELATIONS BOARD LUNCHEON ADDRESS

(By William B. Gould IV, Chairman)

I am honored to address this Seventeenth Annual Labor-Management Relations Seminar, which has a long history of constructive contributions to labor-management relations in the United States. It is a pleasure to be here to discuss with you some of the recent developments and issues of current concern involving the National Labor Relations Board.

Not only is this a chance to access the direction of the Board on the eve of the second anniversary of my confirmation as Chairman by the Senate—but also on a more personal note on that same day, March 2, I will be in Los Angeles to attend the wedding of my second oldest son, Timothy Samuel Gould, the first of the three Gould boys to exchange marital vows. Thus, both professionally and personally, it is a time for celebration as well as reflection about the past and contemplation on the years to come.

The two years have passed quickly and have been a real learning experience, not so much in labor law—though I am continuously dazzled by new doctrines and precedents which somehow escaped my scrutiny in a quarter of a century of teaching and writing and 6 years of practice—but in the ways and politics of Washington. This was not new to me in an intellectual sense, but to live it has been a unique experience.

As you know, the TEAM Act was passed by the House of Representatives in September 1995, and is now pending before the Senate.

That bill would make inoperative Section 8(a)(2)'s strictures against employer dominated or assisted labor organizations to most situations where a "sham" union necessitates the intervention of law. My sense is that the TEAM Act is an inappropriate response to whatever problems exist under Section 8(a)(2) and that they would promote the rise of sham or dependent labor organizations, a result most undesirable under a statutory policy which promotes autonomy and self-determination. And, most important, the Board since last summer, has attempted to affirmatively promote legitimate employee cooperation programs under the statute as written.

As you know, there are two parts of the legal problem under the NLRA. In order for a company union problem to arise under Section 8(a)(2) an employee organization must be found to be a "labor organization" within the meaning of the Act. In this regard, the Supreme Court in NLRB v. Cabot Carbon Co. established an extremely broad definition for labor organization almost 40 years ago—it covers far more entities than unions which we typically think of as labor organizations—and, thus, has made many such employee mechanisms fit the statutory definition.

This is an important part of the problem because an organization can be only "unlawfully" assisted or dominated under Section 8(a)(2) if it meets the labor organization test. Last summer I addressed both issues in my separate concurring opinion in Keeler Brass Co. Though I found that the Grievance Committee in that case was a labor organization within the meaning of the Act, I explicitly stated that I would not find other employee groups to fall within the definition. I stated that I agreed with the Board decisions of the 1970s which had held employee participation groups not to be labor organizations. In those cases the Board held that employee groups which rendered final decisions and did not interact with management performed "purely adjudicatory functions" which had been delegated to it by employers and thus did not "deal with" the employer within the meaning of Section 2(5) of the Act which defines a labor organization. I stated that I fully agreed with the Board's decision and rationale in those cases and that they are '. . . consistent with the movement toward cooperation and democracy in the workplace which I have long supported," I further stated:

"This movement is a major advance in labor relations because, in its best form, it attempts nothing less than to transform the relationship between employer and employees from one of the adversaries locked in unalterable opposition to one of partners with different but mutual interests who can cooperate with one another. Such a transformation is necessary for the achievement of true democracy in the workplace. However, it does pose a potential conflict with the National Labor Relations Act, enacted in 1935 at at time when the adversarial struggle between management and labor was at its height."

In Keeler Brass I concluded that the Committee, since it did not have the authority to adjudicate, was not covered by the precedent which I embraced in that opinion. Since it made recommendations about grievances and employment conditions—recommendations about which the Committee was not the final arbiter—it was a labor organization within the meaning of the Act. Accordingly, I then considered the question of whether the employer had unlawfully dominated or interfered with the labor organization in question.

In considering this issue I stated my approval of the Court of Appeals for the Seventh Circuit's approach to this issue in the landmark Chicago Rawhide decision. The court established in that case, as I noted in my concurring opinion, a demarcation line between support and cooperation. As I said:

"The court defined support as the presence of 'at least some degree of control or influence,' no matter how innocent. Cooperation, on the other hand, was defined as assisting the employees or their bargaining representatives in carrying out their 'independent intentions. The court went on to find that assistance or cooperation may be a means of domination, but that the Board must prove that the assistance actually produces employer control over the organization before a violation of Section 8(a)(2) can be established. Mere potential for control is not sufficient; there must be actual control or domination. The court set forth the following test: 'The test of whether an employee organization is employer controlled is not an objective one but rather subjective from the standpoint of the employees.'"

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I said in Keeler Brass—and say here again today—that I approve of the Seventh Circuit's statement holding promoting good and cooperative relationshipa. I also agree that the subjective views of the employees must be taken into account as the Seventh Circuit said in both Chicago Rawhide and Electromation—but that to rely completely upon employee satisfaction would undermine extant Supreme Court precedent.

Although the employee cooperative program in Chicago Rawhide originated with the employees, I said in Keeler Brass that an employee group does not have to originate with employees but can be promoted or suggested by the employer and not run afoul of the prohibitions against assistance and domination. As I said:

"I do not think these efforts are unlawful simply because the employer initiated them. The focus should, instead, be on whether the organization allows for independent employee action and choice. If, for example, the employer did nothing more than tell employees that it wanted their participation in decisions concerning working conditions and suggested that they set up a committee for such participation, I would find no domination provided employees controlled the structure and function of the committee and their participation was voluntary."

Thus, I noted in *Keeler Brass* that the factors in favor of dismissal were that the employer did not create the committee in response to a union organizational campaign, that the committee was voluntary and employees were the voting members of the committee and all of them were elected by employees. Accordingly, I was of the view that there was some measure of free choice and "scope for independence." On the other hand, the fact that the employer set time limits for terms for membership, established eligibility rules and election procedures and conducted the election, announced the results of the election, dictated the number of employees who could serve on the committee, established meeting days and allowed special meetings to be held only with management approval argued in favor of unlawful domination. As I said:

"These elements of control indicates that the committee is not capable of action independent of the employer. Perhaps the most telling aspect of dependency is that the committee cannot even make a decision about when it will meet without prior approval from the employer."

I am of the view that the Board in these past two years moved closer to the support for employee cooperative programs which I expressed last summer in a series of decisions issued on December 18, 1995. For instance, in *Stoody Company* a unanimous Board said: "We support an interpretation of the Act which would not discourage such [employee participation] programs." In this case the employer created a committee, the Handbook Committee, to gather information about sections in the handbook which were inconsistent with the current practice, that were obsolete or that were misunderstood by employees. The committee was not established to discuss wages, benefits or working conditions. But during the only meeting of the committee, which lasted one hour, employees raised questions concerning vacation time and the employer's representative participated in these discussions. Subsequently, the company stated again that the committee was not designed to discuss such subjects.

The Board in *Stoody Company* rejected the view that the employee group in question was a labor organization within the meaning of the Act. Thus, the prohibitions regarding unlawful assistance and domination were inapplicable. In an important passage which ought to get the attention of the Senate when it considers the TEAM Act in the coming months, the Board said the following:

"Drawing the line between a lawful employee participation program and a statutory labor organization may not be a simple matter because it may be difficult to separate such issues as operations and efficiency from those concerning the subjects listed in the statutory definition of labor organization. If parties are burdened with the prospect that any deviation, however temporary, isolated, or unintended, from the discussion of a certain subject, will change a lawful employee participation committee into an unlawfully dominated labor organization, they may reasonably be reluctant to engage in employee participation programs."

The Board then noted that employees had initiated the discussion of working conditions which would have argued for a labor organization finding and said the following:

"What happened here appears to us to be the kind of situation that is likely to occur when an employer is attempting something new and its supervisors have little or no experience with participation efforts. Absent evidence of a pattern or practice, or of a design to interfere with the organizing efforts of an independent labor organization, we do not think such conduct violates the Act."

The labor organization aspect of this issue was also presented in *Webcor Packaging, Inc.* where a plant council was designed to offer recommendations to management about proposed changes in working conditions, such as wages, and management would consider whether to accept or reject these recommendations. The Board found that the council existed to deal with variety of grievances involving employment conditions including issuing employee vacation paychecks, payment for safety shoes. Unlike the cases which the Board had decided in the '70s in which I found to be appropriate decisions in *Keeler Brass*, the council had no authority to make decisions on its own. All that was involved was an obligation on the part of management to take the matter under advisement and consider the employee proposal very seriously. Said the Board:

"We accordingly conclude that the record evidence establishes that the Plant Council existed for the purpose, at least in part, of following a pattern or practice of making proposals to management which would be considered and accepted or rejected, and that such a pattern in fact occurred."

"Accordingly, the Board found that the council was a labor organization which was "dealing with" management. Since the record established that the council was a creation of management and that its structure and function were essentially determined by it, unlawful domination under Section 8(a)(2) was found to exist."

In another decision, Vons Grocery Co., the question was whether an employee participation group interfered with the union's role as exclusive bargaining representative. In this case, the employer created an entity known as the Quality Circle Group (QCG). The group dealt with dress code matters and an accident point system for truck drivers, reaching agreement on the former matter. We concluded that there was no pattern of practice of making proposals to management and that the proposals on a dress code and accident point policy were ". . . an isolated incident in the long life of the QCG." And we noted that even in that situation, the union was informed of proposals and brought into consultation before any decision was made. When the union complained about the role of QCG representatives, the employer immediately changed the format so as to include a union steward at each meeting. The Board concluded, in a vein similar to Stoody, that one incident did not make a pattern of practice of dealing with the employer within the meaning of Section 2(5). We thus dealt with this matter in a manner similar to our conclusion in Stoody. We said:

"In sum, we do not believe that this one incident [the dress code and accident policy] should transform a lawful employee participation group into a statutory labor organization. We do not believe that what happened here poses the dangers of employer domination of labor organizations that Section 8(a)(2) was designed to prevent."

These four December 18 decisions are all compatible with the strong support for employee cooperation that I articulated in my July 14, 1995 concurring opinion in Keller Brass. Acceptance of this approach makes it clear that the TEAM Act, as presently drafted, is unnecessary.

Nonetheless, as I wrote 3 years ago in Agenda for Reform, a revision of Section 8(a)(2) is desirable. The difficulties involved in determining what constitutes a labor organization, under the Act as written, subjects employees to unnecessary and wasteful litigation and mandates lay people to employ counsel, when they are only attempting to promote dialogue and enhance participation and cooperation.

The law's insiatence upon a demarcation line—a line admittedly made less rigid by the common sense approach that we undertook in both Stoody and Vons Grocery—between management concerns like efficiency on the one hand, and employment conditions on the other, simply does not make sense. The line ia synthetic and inconsistent with contemporary realities of the workplace where it is impossible to distinguish between the pace of the work or production standards and quality considerations for which all employees can and should have responsibility.

Accordingly, Congress and the President should amend Section 8(a)(2) so as to allow all employee committees and councils and quality work circles to function, addressing any and all subjects outside any cloud of illegality—and to allow employers to devise proposals and assist such mechanisms free from liability so long as employee automony is protected and respected. In connection with such employee groups, the Act'a prohibition against assistance should be eliminated altogether. In this way, employee participation and involvement would be promoted, sham unions discouraged, and wasteful, sometimes acrimonious litigation about what constitutes a labor organization eliminated. But this is hardly the answer to what ails Section 8(a)(2) set forth in the TEAM Act.

This was the objective of Congressman Thomas Sawyer's bill which he proposed last fall as a substitute for the TEAM Act. It was designed to encourage productivity and quality teams without opening the door to sham unions—which I believe is a constructive approach.

We must move beyond the "them and us" mentality of an adversarial model which exclude cooperation between employees and management. Employees should be able to

VOL
142
PT
6
AP
15
—
24
1996
UMI

collaborate with management in establishing such teams, setting the agenda for meetings, determining voting procedures for election of representatives and on debated issues.

Only a month ago, in his State of the Union message, President Bill Clinton said:

> When companies and workers work as a team, they do better. And so does America.

The President's road is the road of dialogue, cooperation and settlement processes rather than litigation. That is the road taken by our small and independent administrative Agency through our new ALJ rules, my concurring opinion in Keeler Brass and our December 18 rulings.

HONORING THE TAYLORS CROSSROADS VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Taylors Crossroads Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These fireman must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

CHERNOBYL NUCLEAR DISASTER RESOLUTION

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to introduce a resolution which recognizes the 10th anniversary of the Chernobyl nuclear disaster, the worst in recorded history, and supports the closing of the Chernobyl nuclear powerplant. Yesterday, I chaired a Helsinki commission hearing that examined the devastating consequences of the Chernobyl disaster. That hearing, Mr. Speaker, featured the ambassadors of Ukraine and Belarus, the two countries most gravely affected by the disaster. Professor Murray Feshback of Georgetown University and Alexander Kuzma of the Children of Chernobyl Relief Fund also provided sound scientific and medical details about the public health crisis that exists.

A decade ago, in the early morning hours of April 26, 1986, reactor No. 4 at the Chernobyl nuclear powerplant exploded, releasing into the atmosphere massive quantities of radioactive substances. The highest amount of radioactive fallout was registered in the vicinity immediately surrounding Chernobyl, some 60 miles north of Ukraine's capital, Kiev. At that time, the prevailing winds were directed north to northwest, so that Belarus received some 70 percent of the total radioactive fallout. Subsequent shifts of the wind, and rainfall, affected northern Ukraine, southwest Russia and beyond, with excessive levels of radiation recorded in northern Scandinavia, various parts of continental Europe, and even as far away as coastal Alaska. Estimated total radioactivity from the blast was 200 times more radioactivity than was released from the atomic bombs dropped at Hiroshima and Nagasaki combined.

Ten years ago, Mr. Speaker, Chernobyl left its indelible mark on the world's consciousness. Given the monumental consequences of Chernobyl and its devastating toll on the environment and on the health of the surrounding population, this disaster must neither be forgotten nor repeated. Indeed, Chernobyl can never be forgotten by those most directly affected. The tragedy is ongoing. And with each passing anniversary, we uncover more and more about its devastating impact and serious radiological, health and socioeconomic consequences, especially on the populations of Ukraine, Belarus, and western Russia.

Millions of people—including about 1 million children—in Ukraine, Belarus and western Russian were exposed to dangerously high levels of radiation. Millions continue to live in areas contaminated to one degree or another. Children, in particular, have experienced alarming increases in thyroid cancer and other conditions. These trends have accelerated since the disaster and are expected to increase well into the future. In Belarus Gomel region, for instance, which was one of the hardest hit areas, thyroid cancer among children is at least 200 times that of preaccident. Scientists differ over the extent of Chernobyl-related diseases, but few deny that children have been hardest hit by the radiological aftermath. Given the devastating humanitarian, ecological and economic consequences, the resolution calls upon the President to support continued and enhanced U.S. assistance to provide medical relief, humanitarian assistance, social impact planning, and hospital development for Ukraine, Belarus, Russia and other nations most heavily afflicted.

Because this disaster is the only one of its magnitude, there is much about its long-term health consequences we do not yet know. Among the most affected were the so-called "liquidators", the hundreds of thousands of people who worked to clean up after the accident. Many received substantial doses of radiation. Estimates vary on how many of them have died or become seriously ill. However, we must learn more about the health of those most affected by the disaster, especially the children who were exposed to substantial doses of radiation. The resolution encourages national and international health organizations to expand the scope of research of the public health consequences of Chernobyl. Such research could help not only those directly affected, but can also ensure that the entire world can benefit from the findings.

By supporting assistance and research efforts, we will be doing our part to help overcome the devastating legacy of Chernobyl. Unfortunately, there are still 15 RBMK, Chernobyl-type reactors still being utilized in the former Soviet Union, most of them in Russia. The international community can help Ukraine and Russia improve the safety of their nuclear reactors, especially since Ukraine relies substantially on nuclear power for its energy needs.

Mr. Speaker, one very important component of this resolution is that it urges Ukraine to continue its negotiations with the G–7 to implement the December 20, 1995 memorandum of understanding which calls for all nuclear reactors at Chernobyl to be shut down in a safe and expeditious manner by the year 2000. The resolution calls upon the President to support the process of closing Chernobyl as envisioned by the MOU.

The signatories to the MOU recognize the tremendous costs involved in closing down Chernobyl and its impact on a country undergoing the unbelievably difficult transition from communism to a market-oriented democracy. Ukraine devotes more of its resources to dealing with the Chernobyl aftermath than for its military. According to testimony from the Belarusian Ambassador, Belarus is compelled to spend year in and year out up to 25 percent of its budget to try to cope with the aftermath of Chernobyl. In response, the G–7 has thus far committed some $3 billion in loans and grants to assist with the closure of Chernobyl. Recognizing the country's dire energy situation, equally important is the G–7's broader cooperation with Ukraine to impose market discipline on its inefficient energy sector and make it more rational. Moreover, the MOU recognizes the implications--for the thousands of workers and their families—of closing the Chernobyl plant.

The Chernobyl nuclear disaster marks a tragic milestone in the history of Ukraine, Belarus, and the world. This week we commemorate the 10th anniversary of this nuclear explosion, one of the most bitter legacies of Soviet communism. The legacy has had tremendous and mounting human costs. Its environmental, medical, social, political and economic consequences continue to have a profound impact on countries in the region, especially on Ukraine and Belarus and western Russia, which bore the brunt of Chernobyl's radioactive fallout.

Mr. Speaker, this resolution which is also being introduced in the Senate is important and timely. I am joined by my colleagues Rep. BEN GILMAN, Rep. FRANK WOLF, Rep. BEN CARDIN, Rep. ED MARKEY, Rep. MATT SALMON, Rep. BOB TORRICELLI, Rep. SANDER LEVIN, Rep. DAVID BONIOR, Rep. RICHARD DURBIN,

and Rep. LUIS GUTTIEREZ in introducing this resolution and I urge our colleagues to support the measure.

ELISEO VASQUEZ MEDINA: AN ORGANIZER'S ORGANIZER

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. FILNER. Mr. Speaker, I rise today to recognize Eliseo Medina, executive director of Local 2028 of the Service Employees International Union and the newly-elected executive vice president of the Service employees International Union, who will be honored with a Leadership Award by the San Diego-Imperial Counties Labor Council on April 27, 1996.

Eliseo Vasquez Medina entered the labor movement through the table grape vineyards of Delano, in California's San Joaquin Valley, where he joined the grape strike led by Cesar Chavez and the United Farm Workers, AFL–CIO in 1965. Quickly recognized as a natural leader and organizer, he was sent by Cesar Chavez to Chicago with a phone number and a bag of buttons to head up what became a successful boycott organization in the Midwest. From there he was sent wherever the need existed for his energy, intelligence, and organizational skills.

Within a few years, Eliseo Medina was elected to the executive board of the United Farm Workers, where he became second vice-president to Cesar Chavez. When the agricultural Labor Relations Act was passed in California, he returned to lead numerous successful election drives and negotiate numerous historic contracts.

Beginning in 1978, Eliseo Medina began the second part of his career as an organizer in diverse industries. He was tapped by the American Federation of State, County, and Municipal Employees [AFSCME] to organize employees of the University of California. Thereafter, he moved on to organize the Teas State Employees Union.

Five years later, the Service Employees International Union brought him to San Diego, where he has led and honed its Local 2028, increasing its membership threefold and providing service and leadership to thousands of my constituents in the 50th District of California.

Just this week, Eliseo Medina returned to Chicago, where the Service Employees International Union elected him to one of its highest levels of leadership, executive vice-president.

Mr. Speaker, I join labor leaders in San Diego and across the country in congratulating Eliseo Medina for receiving the San Diego-Imperial Counties Labor Council's Leadership Award. I know he will always be striving to improve the quality of life for the working people of San Diego.

TRIBUTE TO THE CONCERNED CITIZENS OF BELLEVILLE

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. MARTINI. Mr. Speaker, I rise today to pay tribute to a very special group of Americans from the Eighth Congressional District of New Jersey. Sally Hood, Lyda Panko, John Piecuch, Carol Smith, Angelo Veneziano, and Louise Cordasco, all founding trustees of the Concerned Citizens of Belleville, have embodied the definition of public service.

The individuals who make up the Concerned Citizens of Belleville have maintained a successful civic organization truly dedicated to the service and the betterment of the greater Belleville community. And, as they celebrate their 10th anniversary, I am proud and honored to offer my heartfelt congratulations and best wishes.

These citizens have given generously of their time, energy, and resources in order to foster goodwill and benevolence throughout their community. The Concerned Citizens of Belleville reminds all of us that a community is most profoundly changed not by huge, impersonal institutions, but by people determined to make a positive difference.

The Concerned Citizens of Belleville's 10 years of enduring dedication to their neighbors and friends has brought a sense of great pride and accomplishment to the community. Congratulations for a job well done.

HONORING THE TROUSDALE VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Trousdale County Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These firemen must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

DEFICIT REDUCTION

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. PACKARD. Mr. Speaker, as a member of the Appropriations Committee, I would like to take a moment to commend my Republican colleagues and Chairman LIVINGSTON for the tremendous progress made in returning fiscal responsibility to Washington.

The Congressional Budget Office recently projected the 1996 budget deficit will fall to $144 billion. This is due to the commitment of the Republican led Congress to rein in unwieldy Federal spending. We have cut spending to its lowest level in 14 years. This means a $23 billion savings for American taxpayers over last year. In fact, my colleagues and I have saved taxpayers $43 billion since gaining control of the Congress in 1995.

We have had to stand tough against the old, big spending culture of Washington. A great deal of credit must go to Chairman LIVINGSTON who has refused to raise spending caps or take spending off-budget. He insisted on finding offsets to pay for $1.3 billion in disaster aid, rather than adding to the deficit. In addition, my colleagues and I have reduced the Federal bureaucracy and eliminated wasteful programs.

The Republican led Congress has continued to fulfill its promise to the American people. We put the brakes on out of control spending and produced the largest down turn in Federal spending in history. We will continue to make tough decisions and keep on our glidepath to a balanced budget.

CLINTON'S BLIND EYE TOWARD IRAN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. SMITH of New Jersey. Mr. Speaker, yesterday the House Committee on International Relations held a timely hearing on U.S. policy toward Bosnia which delved into charges that the Clinton administration tacitly allowed Iran to ship arms to Bosnia via Croatia. Unfortunately, there were more serious questions raised during the course of that hearing than were answered by administration representatives.

As the House sponsor of a bipartisan effort to lift the arms embargo against Bosnia, I am extremely concerned about the implications and consequences of such a policy should these allegations indeed be substantiated. It is ironic that President Clinton apparently was willing to turn a blind eye toward Iran while blocking a majority in the Congress—a bipartisan majority—that called for the United

VOL
142
PT
6
AP
15
—
24
1996
UMI

States—not Iran—to take the lead in upholding Bosnia's legitimate and fundamental right to defend itself.

Should the Bosnians have been given the means to defend themselves in the face of aggression and genocide? Absolutely. Should those arms have come from Iran? Absolutely not.

In the past few years, Members from both sides of the aisle put aside their differences to respond to the senseless slaughter of innocent civilians by well-armed Serb militants in Bosnia-Herzegovina. Repeatedly we raised our voices calling upon the President to display determined U.S. leadership in the face of aggression and genocide. These calls were repeatedly rebuffed. When we voted in overwhelming support to lift the arms embargo, we were told by the White House that such an action was not in the interest of the United States as it would lead to an "Americanization" of the conflict, result in the deployment of thousands of U.S. troops, and undermine the U.S. Security Council.

Mr. Speaker, when all is said and done, the fundamental issue at stake here—as in so many other instances—is one of leadership.

For nearly 3 years the Clinton administration, like the one before it, largely passed the buck on Bosnia. The Europeans, for their part, raised the specter of Islamic fundamentalism as an excuse for inaction. Mr. Speaker, it is inexplicable how turning a blind eye toward Iran—a terrorist state—was in the interest of the United States.

Regrettably, the international community and the United States refused to undertake meaningful action themselves to end the genocide or to provide the Bosnians with the means to defend themselves. By default at best, and with U.S. acquiescence at worst, Teheran was allowed to fill in the gap resulting from the failure of the Clinton administration to act and to lead. By turning a blind eye in this instance, President Clinton has unwittingly strengthened a small nationalist minority in Bosnia at the expense of those truly committed to the preservation of a multiethnic state; damaged our position in the United Nations; and potentially expose the 20,000 American troops he ordered to Bosnia to even greater danger.

Mr. Speaker, I commend the House leadership for pursuing this matter given its implications for U.S. interests in the Balkans and beyond.

TRIBUTE TO THE VETERANS OF FOREIGN WARS, ALLWOOD MEMORIAL POST 6487

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. MARTINI. Mr. Speaker, I rise today to pay tribute to a very special group of Americans from the Eighth Congressional District of New Jersey.

The Veterans of Foreign Wars, Allwood Memorial Post 6487 has for a half century offered a steadfast portrait of loyalty, sacrifice, and self-resolve.

Our loyalties mark the kinds of persons we have chosen to become. Real loyalty endures inconvenience, withstands hardship, and does not flinch under assault. The individuals who make up the Allwood Memorial Post consistently allow this genuine loyalty to pervade the whole of their lives.

The members of VFW, Post 6487 remind us that the loyal, patriotic citizen expects no great reward for coming to his country's aid. On the contrary, a devoted patriot seeks only that his country flourishes.

When it comes to honoring their country, their faith, and their comrades, the veterans of Post 6487 have demonstrated both the wisdom to know the right thing to do, and the will to do it. Certainly, they have lived up to the obligations of loyalty, patriotism, and service.

To be a loyal citizen means to achieve a high standard of caring seriously about the well-being of one's nation. I am proud to honor and praise Memorial Post 6487 for exceeding this standard. Congratulations for your 50 year history of American pride and patriotism.

HONORING THE SUMNER COUNTY VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Sumner County Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These firemen must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

TRIBUTE TO MEREDITH TAYLOR

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. CRAPO. Mr. Speaker, I would like to submit the following essay by 16-year-old Meredith Taylor, one of my constituents. Meredith's essay won the Veterans of Foreign Wars Voice of Democracy Broadcast Scriptwriting Contest.

ANSWERING AMERICA'S CALL

(By Meredith Taylor)

A needy America called—a compassionate America answered. Listen:

"Give me liberty or give me death!" "Let the open arms of your Statue of Liberty shelter me from me land's potato famine!" "Just one more breath, please. The polio . . . it hurts . . . my iron lung . . . will it last?" "Don't whip me, master. Let me be free from slavery!" "We have a voice, let us women speak out and vote!" "Reporting NASA, this is one small step for man, one giant leap for mankind!" "Don't ask what your country can do for you, ask what you can do for your country!"

Patrick Henry called for the separation from England, and the colonists rallied for freedom. Oppression, tyranny and famine led helpless Irish and other immigrants to our encompassing harbors. America fed and clothed them. Agonizing pleas for life screamed to America's medical researchers to discover a cure for Polio. Dr. Jonas Salk answered with a vaccine. The Civil War split not only the North from the South, but families and friends because of the call to end slavery. President Lincoln died and so did slavery. Following the end of slavery the suffragette demanded the right to vote in America's future and the 19th Amendment to the U.S. Constitution was passed. Neil Armstrong walked on the silverdusted moon to answer the call of curiosity, "to know the unknown." President Kennedy called out to the citizens of America to step up and participate in a positive way in the reformation of each citizen's relationship to the United States. The response was civil rights legislation and Medicare for the elderly.

These were the inflammatory, pleading, demanding, awe-inspiring calls to America in the past, and each time America answered with justice, equality, research and compassion. Now Americans call out with greater intensity and passion.

"I never thought it could happen to me. I mean, I'm only fifteen and I have AIDs. And the baby . . . this means she could have it too." "One more man. Please just give me one more hit!" "i'm outta here. I quit school." "Don't hit me, momma, not again . . . please . . .!" "What's a divorce, daddy? Why does mommy have to leave?"

These are the present day calls—the opportunities for us, you—me, to give something back to our nation and those who helped make such a strong foundation. How many AIDS-caused deaths and teenage pregnancies must occur before sex education is engraved into the minds of the ignorant? Not just sex education, but comprehensive education will assist in the rebirth of an "A" rather than an "X" generation—a generation free of substance abuse, hatred and discrimination. In the past the patriots, libertarians, adventurers and risk-takers strived to overcome political barriers, hatred, disease and economic hardships. It is incumbent upon all of us to

unveil our loyalty and hope and to act with determination, desire and commitment. We must buttress the efforts of our civic organizations, city councils and religious groups. Each call can be answered if we listen.

As long as there are Americans, there will be the calls for clean air and water, conservation of resources and an effective educational system. But answering these calls with laws and money will fail unless we exhibit respect for people and property, love of God and country and compassion for the sick and poor. Then and only then can we answer the most important call—the right to be called an American.

TRIBUTE TO SISTER JOANNE M. CHIAVERINI AND FATHER PHILIP A. SCHMITTER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. KILDEE. Mr. Speaker, it gives me great pleasure to share with my colleagues in the U.S. House of Representatives the contributions to our community by two committed spiritual leaders. Sister Joanne M. Chiaverini, of the Sisters Servants of the Immaculate Heart of Mary, and Father Philip A. Schmitter are the two codirectors of the St. Francis Prayer Center. Sister Joanne and Father Phil have ministered to the spiritual, economic, and health needs of the people of northern Flint for many years.

Sister Joanne Chiaverini, a sister for 39 years, founded the St. Francis Prayer Center in July 1974 to be a spiritual oasis for persons of all denominational, economic, and ethnic backgrounds. She insisted the center be located where "the poor could walk" and has fostered a place that has provided programs, retreats, and classes for nurturing a healthy self image. She has lead the center to be a spiritual organization that ministers with and to the poor in roles of referral, initiation, and advocacy.

Father Philip Schmitter's commitment to the poor led him to move into HUD's River Park Apartments—a public housing complex—in 1978. He also became a full-time codirector of the St. Francis Prayer Center in 1978.

Sister Joanne, Father Phil, and the St. Francis Prayer Center have worked with neighborhood residents, civil rights groups, and environmentalists to raise awareness of the need for environmental equity. They have challenged the Federal Environmental Protection Agency and Michigan's Department of Natural Resources to do more to defend environmental quality in predominantly minority neighborhoods.

As a result of their hard work, the EPA has selected Flint as one of nine sites across the country where violations of environmental equity are being investigated. Flint was selected as the first site of the nine due to the well organized grass roots appeal initiated by Father Phil and Sister Joanne.

Mr. Speaker, the city of Flint is a better place to live in because of the good work of Sister Joanne, Father Phil and the St. Francis Prayer Center. They continue to stand as a symbol to all of the spirituality of St. Francis who saw all of us as part of the good gift of God's creation, to be kept clean, unpolluted, and preserved from exploitation.

CONGRATULATIONS WINNERS OF 1996 SPOKANE SCHOLARS FOUNDATION

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. NETHERCUTT. Mr. Speaker, I rise to congratulate the winners of the 1996 Spokane Scholars Foundation Awards. This award is solely based on the exceptional performance that these students have demonstrated in their course work and test scores in a specific academic subject. These students truly represent the finest young men and women in our community.

I am proud to announce this year's winners are: Mr. David Gosse from Cheney High School for his outstanding achievements in the area of science; Miss Sarah M. Westergren from Mead Senior High School for her outstanding achievements in the area of English; Mr. Robert M. Dirks from Lewis and Clark High School for his outstanding achievements in the area of mathematics; Miss Joy K. Crosby from North Central High School for her outstanding achievements in the area of foreign languages; Mr. Nicholas A. McCarthy from St. George's School for his outstanding achievements in the area of social sciences; and Miss Shayna Silverstein from Lewis and Clark High School for her outstanding achievements in the area of fine arts.

I congratulate all of these extraordinary students for their hard work in achieving this exceptional recognition and wish them the very best in all of their future endeavors.

HONORING THE WILLIAMSON COUNTY VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Williamson County Volunteer Fire Department. These brave, civic-minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These firemen must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

NATIONAL PUERTO RICAN AFFIRMATION DAY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. SERRANO. Mr. Speaker, National Puerto Rican Affirmation Day was held on March 29, 1996, and I would like to share with my colleagues the remarks I made as the host of a public policy forum on health issues affecting the Puerto Rican community.

Welcome to this public policy forum. Today we are going to discuss the health issues that are affecting the Puerto Rican community. We will try to find solutions to the problems and to develop public policy guidelines that would help improve the health and access to medical services for our community.

Participants in this forum are: Dr. Nilsa Gutierrez, former director of the AIDS Institute of the New York Department of Health; Dr. Eric Munoz, medical director at the University Hospital in New Jersey; Mr. Aldoph Falcon, vice president for policy and research of the National Coalition of Hispanic Health and Human Services Organizations; Ms. Suleika Cabrera-Drianane, founder and executive director of the Institute for Puerto Rican and Hispanic Elderly; Mr. Enrique Baquero, president of Cyber Tech and a member of the board of directors of the Puerto Rico Hospital Association; and Ms. Miguelina Maldonado, director of Government relations and policy at the National Minority AIDS Council in Washington, DC.

After we finish the presentations on the various health issues we will open the debate to answer questions from the audience.

Puerto Ricans in the United States and those living on the island often suffer from diseases which are related to their environmental and socioeconomic conditions. Puerto Ricans have a high incidence of chronic illnesses, infant mortality, alcohol and drug abuse, and more recently, HIV/AIDS infection.

Poor living conditions, hazardous working environments, lack of access to medical services, and the rising costs of health care are some of the health challenges that the Puerto Rican community faces.

Many in our community work in industries which have a high number of uninsured employees. A large portion of the population resides in inner-city areas which lack adequate medical services for our community. In addition, low median family income, the lowest of any other group in the nation, and a high cost

VOL
142
PT
6
AP
15
—
24
1996
UMI

of living in inner-city areas have prevented Puerto Ricans from purchasing private health insurance. In 1992, 50 percent of the population had no private health insurance and 21 percent had no health coverage whatever. These are alarming rates for any community.

Puerto Ricans are growing every day more dependent on Government programs for health care insurance. In 1992, 32.2 percent of the Puerto Rican population received Medicaid benefits, a higher percentage than that of African-Americans, and five times higher than that of non-Hispanic Whites. In addition, 60 percent of the population in Puerto Rico depend on Government health care programs.

The proposed cuts in funding for Medicaid and Medicare therefore pose a disproportionate threat to the health of the Puerto Rican population. Although President Clinton, in budget negotiations, has forced them to moderate their demands, the Republican leadership in Congress still proposes to slash the funding for Medicaid by $132 billion and Medicare by $270 billion. These cuts will force the elimination of health care services, such as dental care, physical therapy, and nursing facilities for children.

In addition, because Puerto Rico is a commonwealth of the United States, it does not receive funding at full parity in Government programs. Funding for Medicaid is at one-tenth the amount that Puerto Rico would receive if it was treated equally. This is not a statement in opposition to the commonwealth status, nor an expression in support of statehood or the independence of Puerto Rico. But it is a fact of disparity. Although Puerto Ricans are U.S. citizens, they receive a much lower share of Federal funding for Government programs than that which is allocated to programs for U.S. citizens who live in the United States. Reductions in funding would further jeopardize access to health care for Puerto Ricans.

The high incidence of HIV/AIDS infection among heterosexual drug users is a growing epidemic that requires special assistance in our community. In addition to the growing need to increase the access to medical services is the urgent need to provide culturally sensitive services to our community. Many providers do not have bilingual personnel or programs that identify with the culture of our community.

In short, low utilization rates of medical services, lack of prenatal and post partum care, low birth weights for infants, high infant mortality, and inadequate child immunization, are all indicators of a community that it is highly underserved.

We need to pursue a pro-active health care agenda which would provide coverage for the vulnerable population, the elderly, the poor, pregnant women, children, the medically disabled, and the working uninsured. We also need more effective outreach efforts to inform our community of the availability of health care services.

Community-based organizations which already provide culturally sensitive medical services could be one of the catalysts for increasing the access to adequate health care in our community. In addition, we need to increase the participation of the Puerto Rican community in the medical field by providing Federal scholarships and other programs that would enable our students to pursue careers in health professions. We should also provide incentives to educational institutions to develop scholarships for our medical students.

Slashing the funding for Government programs that are often the only source of health coverage for the poor will pose higher health risks to a population, such as ours, which is already disproportionally lacking access to medical services.

I would like now to ask the members of the panel to talk more in detail about the health issues which are afflicting our community.

TRIBUTE TO THEODORE ZUBAR

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. BORSKI. Mr. Speaker, I rise today in recognition of the outstanding contributions of Theodore Zubar to the Boy Scouts Organization and his community during his 60 years of service.

As a strong advocate for the Boy Scouts and the Philadelphia community, Theodore Zubar has greatly influenced the lives of many people who have been fortunate enough to know and work with him during his remarkable career.

In 1929, at the young age of 12, Ted began his long and prosperous career with the Boy Scouts. Six years later, Ted became the assistant Scoutmaster and by the time he was 24 years old he was appointed Scoutmaster. With his hard work and loyalty, Ted continued to move up the ladder with the Boy Scouts. In 1947, he was elected Neighborhood Commissioner and held that position for 12 years.

By 1955, Ted organized the Troop Committee which operated various committees in North Central and Woodland Districts of Pennsylvania. As the Boy Scouts continued to strengthen and grow, Ted became the assistant district commissioner of the Scout Roundtable until 1963 and then presided over the Troop Committee for the next 20 years. Continuing his commitment to the Boys Scouts Organization, Ted took on the responsibility of Scouting Coordinator until becoming a member of the Frontier District Advancement Committee and the Frontier District Dean of Merit Badges where he still is a member today.

Ted's work for the Boy Scouts not only extends here in the United States but throughout various parts of the world as well. He has spent much of his life as an ambassador of Scouting for the Boy Scouts and has visited Scout organizations in Zimbabwe, Australia, and Europe. For over 60 years this man has epitomized the Scouting spirit in Philadelphia and throughout the world.

Although Ted's vision and loyalty with the Boy Scout Organization summarizes his excellent accomplishments, he also extended a helping hand to those unfortunate children in the Philadelphia community as well. Being active in his community for over 50 years, Ted became a Lu Lu Temple Shriner and a member of the Quaker City Shrine Club—Hospital Committee for the Crippled Children in 1977. As a member of the Greater Philadelphia Stamp Club, he distributed stamps to the Benjamin Franklin Stamp clubs in Philadelphia's Public Schools. These are only a few examples where Ted has brought joy to hundreds of unfortunate children and people within his Philadelphia community.

For these accomplishments, and most importantly, for the positive effects that these accomplishments have had on the people associated with the Boy Scout Organization and his community, I would like to recognize and thank Theodore Zubar.

CORA SWEATT, 1996 TENNESSEE MOTHER OF THE YEAR

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. DUNCAN. Mr. Speaker, I would like to congratulate Mrs. Cora Sweatt for being named as the 1996 Tennessee Mother of the Year. This indeed is a great honor and one which Mrs. Sweatt should be very proud to receive.

I believe that if we are going to remain a strong country in years to come, we must strengthen the American family.

Mothers are special individuals who sacrifice a great deal for their families and especially their children, and often times they are not recognized for their hard work and devotion. I am proud to see that my home State of Tennessee has taken the time to honor a woman like Mrs. Sweatt. She has had great success at balancing many critical responsibilities for the family and even has taken time from a very busy schedule to serve the community as well.

I believe that true success is achieved by those who strive for excellency. I want to extend my congratulations to Cora Sweatt for receiving this honor.

I request that a copy of the article that appeared in the Daily Post-Athenian on Friday, March 22, 1996 honoring Mrs. Sweatt as 1996 Tennessee Mother of the Year be placed in the RECORD at this point so that I can call it to the attention of my colleagues and other readers of the RECORD.

CORA SWEATT NAMED TENNESSEE MOTHER OF THE YEAR

(By Anissa Hicks)

A local woman has achieved one of the highest honors in Tennessee.

Cora Beasley Sweatt of Athens has been named the Tennessee Mother of the Year by the Tennessee Mothers Association of American Mothers, Inc.

The selection was made from portfolios received by the Tennessee Mothers Association from organizations, churches and civic groups across the state in response to a statewide appeal for groups to nominate worthy mothers.

Sweatt was named Athens' Mother of the Year during a Chamber of Commerce Banquet in January. The award was sponsored by the Athens Area Chamber of Commerce and the chamber sent information they compiled on Sweatt to the state.

The people nominated for state Mother of the Year had to exemplify the qualities of the ideal mother, based on activities, character, and achievements and success in

rearing her children, as evidence of a happy home with a loving husband by her side, reaffirming the importance of spirituality as a key to strengthening family life.

From these portfolios of the life of the mother, a jury composed of leaders in religion, education, business, government and child rearing select the 1995 Tennessee Mother of the Year, who then represents Tennessee in Nebraska at the American Mothers Annual Conference in April.

"It's hard to believe I was chosen for this," Sweatt said. "To say the least, I'm deeply honored and very happy.

"I'll do my best to represent the state of Tennessee as Mother of the Year," she said. "I hope and pray I'll represent the state in a positive manner and carry out the purpose of American Mothers, Inc."

Sweatt said she's looking forward to going to Nebraska at the end of April for the national conference.

At the conference, the American Mother of the Year will be announced from all the portfolios of the mothers representing each state and from the appearance and personality of each mother there.

Sweatt is the sixth Mother of the Year who has come from the Athens area. The only city in the state that has more is Memphis, said Peggy Arterburn, president and CEO of the Athens Area Chamber of Commerce. Athens and Knoxville now are tied at the same number.

"We are fortunate to have Mrs. Sweatt selected to join with five former Athens honorees, Mary Anne Long, Dixie Liner, Mary Jane Hewgley, Grace Webb and Jean Edgar," Arterburn said.

A Tennessee Mothers Honor Luncheon will be held April 18 in Athens, hosted by the Athens Area Chamber of Commerce and First Baptist Church, honoring the new 1995 Mother of the Year and Merit Mothers also selected.

The state chairman for the mother of the year committee will be at the luncheon, as well as Merit Mothers (runners-up), past mothers of the year, the state's Young Mother of the Year, and special friends of Sweatt's.

The city, the state legislature and the governor's office will be presenting Sweatt with proclamations.

"This is a real honor for her and we want to make this special for her," Arterburn said. "This is certainly an honor for the Athens Area Chamber of Commerce and also our community."

Arterburn said each mother of the year is special and deserves recognition.

"We are very honored that we're always able to submit these great portfolios of local mothers," Arterburn said. "There are very competitive nominations from other parts of the state and it is a great honor for us to say the state mother of the year is also the Athens mother of the year."

It takes a lot of work on behalf of the Mother of the Year Committee, she said. There is also a lot of written materials the recipient has to get together for her portfolio that has to be submitted.

"There is a lot of work for a lot of people in order for this to happen," Arterburn said. "But we're always willing to do the work when we have the positive results we've had."

Sweatt expressed her appreciation to the Chamber of Commerce for its support.

"I'm so grateful we have an ever wonderful Chamber of Commerce," Sweatt said. "They do so much hard work to provide us with the services they provide.

"I just want to thank all the people who've written letters of recommendation," she said, "and I have to thank my friends and family for their support. I am indeed grateful to them."

HONORING THE GASSAWAY VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Gassaway Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These firemen must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

EXPOSING THE HARMFUL EFFECTS OF ALCOHOL ADVERTISING ON CHILDREN

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. KENNEDY of Massachusetts. Mr. Speaker, ask a child what these frogs say. Most of the fifth graders who were recently surveyed answered, "Bud-Weis-Er."

The California-based Center on Alcohol Advertising is releasing a study today that exposes the harmful effects of alcohol advertising on children. In this study, 221 fourth and fifth grade students were shown still, color images of characters from TV, including a picture of the frogs from a Budweiser television commercial. The students were asked to recall the slogan that they associated with each pictured character.

The results of the survey are astounding. The children demonstrated better recall of the Budweiser frogs' slogan, with 73 percent responding, "Bud-Weis-Er," than of the slogans associated with other characters, including Tony the Tiger, Smokey Bear, and Mighty Morphin Power Rangers. Only Bugs Bunny elicited more accurate responses, with 80 percent saying, "Eh, what's up Doc?"

What's more, 81 percent of the children identified beer as the product promoted by the frogs. Why is this dangerous, you ask? If you think children don't drink beer, listen up: The inspector general estimates that junior high and high school students consume 1.1 billion cans of beer each year. Based on Anheuser-Busch's market share, these students purchase more than 70 million six-packs of Budweiser and other Anheuser-Busch products, producing revenues of more than $200 million. Without question, these commercials influence our childrens' choices.

A 1991 alcohol-industry-funded poll found that 73 percent of the population believe that alcohol advertising is a major contributor to underage drinking, and a majority believe that the alcohol industry is on the wrong track in part because its advertisements target the young.

I will soon be introducing legislation that deals with a variety of alcohol abuse prevention issues, including the problem of alcohol advertising that appeals to children. I hope my colleagues will consider joining me in this effort.

Today is the annual Anheuser-Busch shareholders meeting. A group of shareholders for advertising reform have introduced a proposal requiring the company to produce a beer marketing report that analyzes the effects of their company's commercials on children. I certainly hope that the shareholders do the responsible thing today and vote to accept this proposal.

NATIONAL PUERTO RICAN AFFIRMATION DAY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. SERRANO. Mr. Speaker, National Puerto Rican Affirmation Day was held on March 29, 1996, and I would like to share with my colleagues the remarks I made at the Vietnam Veterans Memorial.

Ladies and gentlemen. We are here today in front of one of the most emotional tributes that Americans have erected to our soldiers. It is the Vietnam Veterans Memorial in honor of the thousands of men and women who served and lost their lives in the service of this nation.

On a day just like today, thousands of Puerto Ricans and Hispanics were called to serve in the Vietnam war and to fight as part of the American forces. When they were called to duty, Puerto Ricans were ready to serve valiantly.

What many people do not know and many history books do not tell us is that Puerto Ricans have fought in all foreign wars that this country has been involved in, from the War of Independence and World War I and II, to most recently, the Persian Gulf War, and the current peace keeping effort in Bosnia.

Puerto Ricans fought alongside a military force of Cuban, Mexican Indian, mulatto and

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Mestizo soldiers in what is now Louisiana during the War of Independence. In the Korean War, the 65th Infantry Regiment of Puerto Rico fought bravely, and to honor them, a highway in Puerto Rico was named after the regiment. Today, I have cosponsored two pieces of legislation introduced by Congresswoman NYDIA VELÁZQUEZ, which would commemorate the heroic efforts of the 65th Infantry Regiment of Puerto Rico. One of the bills would authorize the minting of a coin and the second one would recognize the regiment with a plaque to be placed at the Korean War Veterans Memorial.

During the Persian Gulf War, as in many other wars, Puerto Ricans were among the first to be sent to fight and among the last to leave. Former Bronx residents Capt. Manuel Rivera and Marine Cpl. Ismael Cotto were both killed in action in the Persian Gulf. Like many other Puerto Ricans who continue to join the service, both had entered military life with the hope of advancing themselves and improving the quality of life for their families. How very sad that they found death where they had once hoped to improve their lives.

If you glance at the Vietnam Veterans Memorial you will be surprised to see many last names and first names in Spanish that are carved on the wall. You will find Diaz, Rodriguez, Gonzalez, Cruz and many other names. These are the Hispanic soldiers, thousands of them Puerto Ricans, that gave their lives without hesitation in defense of what this Nation stands for.

No one asked if these Puerto Rican soldiers who were drafted had a proficient knowledge of English. They were sent to South Vietnam along with other Americans to fight.

Among the many who fought in Vietnam we know the story of U.S. Army Capt. Euripides Rubio. He was born in Ponce, PR and entered service at Fort Buchanan. While in Vietnam, Capt. Rubio left a safe position to aid the wounded during a massive attack. He had been wounded several times when he noticed a grenade which had fallen dangerously close. As he ran to throw the grenade back to the enemy he was killed.

Another Puerto Rican hero, Hector Santiago-Colon entered service in New York as a specialist fourth class in the U.S. Army. While serving in Vietnam, Santiago alerted his comrades to an approaching attack by the enemy. Suddenly fire broke out and his comrades tried to defend their position. An enemy soldier crawled close to Santiago's foxhole and dropped a grenade. Knowing that there was no time to throw the grenade, Santiago tucked it in close to his stomach and took the full impact of the blast.

These courageous Puerto Rican men fought at the risk of their own lives above and beyond the call of duty in defense of this Nation.

More than 200,000 Puerto Ricans have served in U.S. foreign wars and thousands have died fighting. Many made it back home but have lived their lives scarred from wounds and from the brutal images that are intrinsic to any military aggression.

We gather here today in front of this memorial to honor the men and women who at a given moment in the history of this Nation have worn the uniform of military service, whether in peace time or during war. On a peace keeping mission, or in wars, or in so-called police actions they served with courage, honor, and distinction.

The emotional stress of the military has affected all of our soldiers, and more intensely Puerto Rican soldiers from rural areas. Puerto Rican soldiers had to cope with military training, discrimination in the military, often not understanding the English language, being away from the familiar, and lastly the brutal experience of the battlefield.

In addition, a disproportionate number of Puerto Rican soldiers were exposed to the violence of war and still suffer from post-traumatic stress disorder. This long-term mental illness has prevented them from being able to hold jobs, acquire housing, and live normal lives.

Puerto Rican veterans have been advocating their needs in the public arena for more than 20 years, but not much has been accomplished. They need the help of Congress and the White House to improve their lives. On this National Puerto Rican Affirmation Day, they will make their voices heard and we will try to find solutions to their health and socio-economic problems.

Despite the existence of current veteran programs, many of them have failed to provide adequate health services and employment opportunities. In addition, lack of information, often unavailable in Spanish, has prevented Puerto Rican veterans from participating in these programs.

Puerto Rican veterans need access to a health care system that is culturally sensitive and appropriate to their needs. They also need job training programs that would successfully prepare them to hold a job in the workplace and to develop their careers.

Many Puerto Rican veterans have expressed their desire to buy homes and to own businesses. We need to expand the availability of low interest loans for small businesses and home ownership to minority veterans. We also need to develop programs that would effectively incorporate health, housing, and employment services to assist homeless veterans.

Puerto Rican veterans are eager to enjoy healthy and productive lives with their loved ones. We owe our veterans the opportunity to participate fully in society and to successfully reestablish their lives. United we can bring about positive change through social and economic justice.

We live in a society that has always honored those who have served this country. It is for that reason that today we will recognize the contributions of Puerto Rican men and women who have served in our Armed Forces. In whatever capacity they served, let us today reaffirm our desire never to forget their contributions to this country's military agenda and the missions that were assigned to them.

Puerto Ricans have contributed to the fabric of this Nation in all areas, from science and the military, to the arts and public policy. I would like to ask you to join me in thanking in particular the veterans that have come from all parts of the country and from Puerto Rico to be here with us, reaffirm our rights as Puerto Ricans and to show their support to this National Puerto Rican Reaffirmation Day.

PROFESSOR DONALD E. PIENKOS 1996 POLISH HERITAGE AWARD RECIPIENT

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. KLECZKA. Mr. Speaker, I rise today to congratulate my friend Prof. Donald Pienkos on receiving the Pulaski Council of Milwaukee's 1996 Polish Heritage Award.

I can think of few people who have dedicated so much of their time, talents, and energy to the study and promotion of our Polish-American heritage. Professor Pienkos, through his outstanding work as a scholar, educator, author, and activist has done much to ensure that the life-long efforts of those members of our Polish-American community who have gone before us will be long remembered.

Professor Pienkos is the author of several books including "PNA: Centennial History of the Polish National Alliance," "One Hundred Years Young: A History of the Polish Falcons of America," and "For Your Efforts on Poland's Behalf." These outstanding works provide us with a detailed and lasting account of the Polish-American peoples' ongoing efforts to improve the quality of life for Poles in the United States and in Poland.

As a professor of political science at the University of Wisconsin-Milwaukee, Donald Pienkos has dedicated his professional career to the study and teaching of Eastern European politics and government. Throughout the whirlwind of change which has taken place in Eastern Europe during recent years, Professor Pienkos has served as an invaluable source of information and insight not only to the students of UWM, but to our entire community.

Donald Pienkos also plays an active and leading role in a number of Polish-American organizations and has helped to shape the course and direction which these organizations have taken. Don has served as a national director of the Polish National Alliance and is also past president of the Wisconsin State Division of the Polish American Congress. Through his involvement in organizations such as these, Professor Pienkos has worked hard to ensure that our Nation's rich Polish-American heritage will remain alive and vibrant for years to come.

Mr. Speaker, I commend Don Pienkos on his worthwhile and outstanding work and congratulate him on receiving the 1996 Polish Heritage Award. I wish him continued success for years to come. Sto Lat!

HONORING THE EAST SIDE VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the East Side Volunteer Fire Department. These brave, civic-minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These firemen must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

TRIBUTE TO LINDA MARIE JONES

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. JACOBS. Mr. Speaker, this is the Indianapolis Star obituary of Linda Marie Jones who left this world on the 13th day of April last—at least for her. The world should know why she lead the effort for racial integration of a swimming club in Indianapolis.

Linda Jones was Africa-American. Her son and his friends were thoroughly racially integrated.

Years ago her son's friend who was of European descent took her son as a guest to the swimming club. Her son was refused admittance because he was an American of African descent. So the boys went to the nearby river to swim and her son drowned. "All these things she kept within her heart." And on that thirteenth day of April 1996, in the words of my wife, "Linda Marie Jones died of and with a broken heart." She was our loving neighbor. Our hearts go out to her husband, Don, one of the most remarkably successful businessmen of our era. May God have mercy on those who perpetrated this egregious and un-American wrong.

[The Star, Apr. 16, 1996]

LINDA MARIE JONES HELPED INTEGRATE RIVIERA CLUB, BOOSTED CHESS TEAM

Services for Linda Marie Young Jones, 56, Indianapolis, event coordinator for the Indiana Regional Minority Supplier Developmental Council [IRMSDC], will be at noon April 17 in Witherspoon Presbyterian Church, of which she was a member, with calling there from 10 a.m.

She died April 13.

Most recently, Mrs. Jones worked with her husband, Donald E. Jones, who survives, as event coordinator for IRMSDC. Previously, she founded and co-owned Systems Consultants, and worked for M. W. Jones and Sons Realty Co.

She headed a successful effort to integrate the Riviera Club in 1980 and was instrumental in organizing a rally on Monument Circle in celebration of apartheid opponent Nelson Mandela's release from a South African prison in 1990.

In 1984, Mrs. Jones received recognition from then-Mayor William H. Hudnut III for her leadership in securing sponsorship for the Masters of Disaster grade school chess team.

Memorial contributions may be made to the Dwight Jones Memorial Fund in care of Tabernacle Presbyterian Church, Tabernacle Recreation Fund.

She was a 1983 graduate of Butler University.

Other survivors: grandmother Marie Suggs.

Stuart Mortuary is handling arrangements.

YELLOWSTONE RIVER VALLEY AND SOUTHWEST MONTANA HERITAGE AND RECREATION AREA

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. WILLIAMS. Mr. Speaker, today I am introducing two legislative initiatives to designate locations in Montana as National Heritage areas under the National Heritage Area Partnership Program.

The first bill proposes to establish the Yellowstone River Valley National Heritage Area which will encompass the Yellowstone region from the headwaters of the Yellowstone River in Yellowstone National Park to the confluence of the Yellowstone and Missouri River in North Dakota. As the last major free-flowing river in the United States, the Yellowstone River Valley is a region steeped in history, rich in cultural diversity and patterned with a western landscape of fertile valleys, high plains and the Rocky Mountains.

The Yellowstone River Valley includes Yellowstone National Park,—a United Nations Education and Scientific Organization World Heritage site due to its importance as a resource with global significance—Fort Union Trading Post, Pompeys Pillar the Lewis and Clark Expedition Trail, the Battle of the Little Big Horn, Northern Pacific Railway Company Line, the Lower Yellowstone Irrigation Project, the Huntley Irrigation Project Chief Joseph Trail, the Crow and Northern Cheyenne Reservations and finally the Yellowtail Dam.

The National Heritage Partnership Program will provide a framework which will enable local communities to capitalize on their heritage and expand their economic base. Through collaboration with interpretation, preservation and marketing, communities in the Yellowstone Valley they will have opportunities to form alliances and partnerships among local, State, Federal and private entities. By sharing resources, transcending political boundaries and establishing creative initiatives, citizens in the Yellowstone Valley will have the ability to develop positive social and economic benefits of cultural and recreational tourism.

The second bill proposes to establish the Southwest Montana Heritage and Recreation Area which encompasses the area located along the Continental divide in Southwest Montana and is traversed by Interstates 90 and 15, one of Montana's most important tourism routes. in 1993 this constituted some 3 million vacationers indicating the potential economic impact of tourism of the region. The region is further characterized by a variety of tourism based activities including museums, historic sites, resorts and four season recreation opportunities. Small communities and towns under 5,000 predominantly serve both residents and visitors to this region. The city of Butte is the largest city—35,000—in the corridor.

The concept for the Southwest Montana Heritage and Recreation Area anticipates capital improvements of approximately $40 million to $60 million in interpretive and recreation infrastructure and $20 million to $30 million in tour routes, byways and trailways. At maturity in 10 to 15 years, the Southwest Montana Heritage and Recreation Area could be generating approximately $8 to $13 million in direct program maintenance and operating expenditures annually.

The Southwest Montana Heritage and Recreation Area creates a tourism infrastructure that will foster increased visitation while addressing the objectives, needs and concerns of local communities. Area businesses and residents would be encouraged to provide attractions and services to visitors through technical assistance and incentive programs.

The economic impact on the region could be substantial. When the Southwest Montana Heritage and Recreation Area reaches maturity in 15 years, an estimated 2.7 million additional travelers will be visiting sites, recreating and using services. Based on visitor expenditure estimates it can be estimated that direct annual visitor expenditure's could total an additional $170 million at project maturity. Combined with indirect expenditures a total economic impact of $260 million annually.

INTRODUCTION OF THE PUBLIC EMPLOYEE RETIREMENT SECURITY ACT OF 1996

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. VENTO. Mr. Speaker, workers in all sectors of the economy are feeling the pressure of economic changes and the concerns associated with planning for retirement. I am introducing legislation, The Public Employee Retirement Security Act of 1996, to update the retirement plans for public sector workers, giving them improved options and more security for their pensions.

Private sector 401(k) plans have benefited from improvements and updates over the years. The equivalent public sector plans, called 457 plans, have not kept pace with the necessary changes to such retirement-savings vehicles. My bill improves the public-sector plans and the rules that govern them.

Currently these 457 plans cap annual employee contributions to a set maximum limit of $7,500. My legislation would index this limit to inflation, as it is for 401(k) plans, increasing

VOL 142 PT 6 AP 15 — 24 1996 UMI

the ability of these workers to meet their retirement needs.

The bill also increases the flexibility of these governmental plans by allowing accounts that are inactive for at least 2 years and contain less than $3,500 to be cashed-out by the employee. Such a distribution would allow the employee with a changed life situation to access the funds, subject to normal taxation, and reduce the employer's costs of maintaining these dormant accounts. An employee could also alter the time when retirement benefits should begin. This provision recognizes that some public-sector employees, like firefighters and police officers, may retire early and move on to different careers. Altering the date when benefit distributions must occur gives these workers flexibility in their retirement.

The safety of governmental plans is also strengthened by this legislation. Currently employee accounts under 457 plans are the property of the employer and therefore subject to claims by creditors. The financial crisis in Orange County, CA highlighted this risk to governmental pensions. My bill would rectify this situation by placing 457 accounts into trusts, like 401(k) plans, maintaining them for the benefit of the employees. The accounts would be shielded from claims by an employer's creditors and others.

The bill improves the operation of government plans by enhancing their ability to maintain tax-exempt status. The rules governing pension plans limit the amounts paid out to prevent taxpayer subsidy of overly generous benefits. While geared toward benefits paid to top corporate executives, these limitations are also applied to governmental plans. Unfortunately, these limitations do not take into account the design and operation differences between public and private pensions. Some governmental pensions are designed to offer higher compensation to long-tenured, but low paid workers, or include special accounting of disability and survivor benefits, leading to violation of the pension limitations and endangering the plan's tax-exempt status. If this status is revoked, the benefits paid by such plans would be much smaller than otherwise. To prevent this, my bill lifts such restrictions on governmental pensions, allowing continuation of the special nature of these pensions without threatening their tax status.

This measure is key for public sector employees. Like those in the private sector, they need a reliable, safe retirement system and the flexibility to plan for retirement. My legislation provides the necessary changes to provide this security and flexibility. I urge my colleagues to join me by cosponsoring this legislation.

TRIBUTE TO TUFTS UNIVERSITY TUFTONIA'S DAY 1996

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. MARKEY. Mr. Speaker, I rise today to recognize Tufts University in Medford, MA and to honor its 88,000 plus alumni on the occasion of the 12th annual celebration of Tuftonia's Day.

On April 21, Tufts students, alumni, professors, administrators, and parents gathered on its campuses in Medford, Boston, and Grafton, MA and around the country and world to observe Tuftonia's' Day, a holiday that is dedicated to celebrating the achievements of the Tufts community. This day derives its name from the title of the revered Tufts football fight song written by E.W. Hayes, class of 1916. Tufts University is a world class institution of higher education that was founded in 1852 by Charles Tufts. From the undergraduate through the professional degree level Tufts University instills in its students the importance of volunteerism and the need to give something back to one's local community.

The theme of this year's Tuftonia's Day was TuftServe, which focused on volunteer alumni involvement in community service. Last year, Tufts University alumni recorded more than 19,000 volunteer hours of community service. This is an outstanding record that should serve as an inspiration to us all. I congratulate the alumni of Tufts University for their hard work, their dedication and their loyalty.

HONORING THE GASSAWAY VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Gassaway Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

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By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

THE IMPORTANCE OF MUSIC EDUCATION IN CHILDHOOD DEVELOPMENT

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. CLEMENT. Mr. Speaker, I rise today to talk about the important link between music and the brain—more specifically, how music makes us smarter. This is a timely subject as States and localities throughout the country are evaluating and reforming their education systems, and as we, at the Federal level, are determining funding priorities for education programs. In each case, the goal will be to ensure the highest academic achievement. Music is essential for making that goal a reality.

My hometown of Nashville, TN, is known as Music City, USA. Nashvillians are exposed to all types of music every day, and consequently, we have an inherent sense of the beneficial and profound impact that music has on our lives. But the impact extends far beyond making us feel good. We now have scientific evidence that instructing children in music leads to dramatically improved math and complex reasoning skills, in addition to the discipline and sense of self worth that we all know music provides. This research is described in the February 19, 1996, issue of Newsweek magazine. I recommend the article to parents, educators, Members of Congress, and anyone else who cares about the education and development of our children.

TRAVEL AND TOURISM PARTNERSHIP ACT

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. ROTH. Mr. Speaker, I am very pleased to report that today H.R. 2579, the Travel and Tourism Partnership Act, has 226 cosponsors—a majority of the House of Representatives.

Two hundred twenty-six Members of the House understand that travel and tourism means economic prosperity for millions of Americans.

Two hundred twenty-six Members understand that the travel and tourism industry is the first, second, or third largest employer in every congressional district in America.

Natiowide, the industry employs over 13 million people. That translates to one out of every nine Americans.

Mr. Speaker, last week you and I and millions of other Americans wrote out a check to the government and paid our taxes.

Thanks to the travel and tourism industry—the second largest industry in the Nation—you and I and every household in the United States paid $652 less on their tax bill.

That's because the travel and tourism industry puts $54 billion into the U.S. Treasury in the way of tax revenue.

Ironically, last week, on April 15, the U.S. Travel and Tourism Administration was forced to close its doors forever.

Closing USTTA means U.S. tourism promotion efforts drop to zero.

That's why H.R. 2579 is so important. The Travel and Tourism Partnership Act will make sure that in this $3.4-trillion industry, the United States claims its fair share of the pie.

According to futurist John Naisbitt, three industries will drive the global economy of the 21st century: telecommunications, information technology, and travel and tourism.

With the Travel and Tourism Partnership Act, we now have the chance to reshape our approach and our economic future with this monumental industry.

You've all heard the statistics before:

First, tourism employs 204 million people worldwide: almost as many people as we have living in the U.S., minus California. That equals 10 percent of the global workforce. And in the United States alone, travel and tourism accounts for one out of every nine employees.

Second, tourism produces $655 billion dollars in Federal, State, and local tax revenue.

Third, more than 10 percent of all capital investment worldwide goes into travel and tourism. Maybe that's why travel and tourism is growing 23 percent faster than the world economy.

However, in this vastly growing market, 2 million fewer visitors came to the United States last year. That's a 19 percent decrease.

H.R. 2579 addresses this critical problem of declining U.S. market share.

In a $300 billion international travel market, the United States of America should not be getting the short end of the stick.

Why is the U.S. losing ground?

The major reason for this slippage is that we are being out-classed and out-hustled by other nations' tourism promotion campaigns.

And, as I said before, when USTTA closed its doors on April 15, U.S. tourism promotion efforts plummeted to zero.

It's time to turn this situation around.

We're losing jobs.

We lost 177,000 jobs in the past 3 years to countries who are willing to promote tourism.

H.R. 2579 is the blueprint we need to increase our market share and save those jobs.

This 226 Member bipartisan bill will establish a ground-breaking cooperative effort between the tourism industry and the U.S. Government to promote of international travel to the United States.

This plan allows the United States to compete globally for tourism dollars against countries like Canada, Germany, Spain, and Australia.

Even small countries like Malaysia and Tunisia have been spending more than the United States year after year.

In the next 5 years, there will be an increase of some 50 million travelers worldwide.

This could mean tens of thousands of new jobs for American workers. But not if we in Congress don't have the foresight to take advantage of this remarkable opportunity.

That is precisely why, as chairman of the 304-member Travel and Tourism Caucus—the largest caucus in Congress, I introduced the Travel and Tourism Partnership Act.

It's time to take a bold new approach to our economic future.

Rather than creating another government-run program, this bill designs a partnership between the tourism industry and the public sector to devise and carry out a more effective marketing plan.

H.R. 2579 is vital to the United States.

This is a job-creating bill.

All over the world, and particularly in the United States, travel and tourism is the predominant industry for the jobs our people need.

With all this potential, the United States is losing its market share of travel and tourism in a growing market.

With one out of every nine American workers employed by travel and tourism, we can't afford not to take action.

I urge you to join the 226 Members who have already co-sponsored the Travel and Tourism Partnership Act.

Join us and get involved in the blockbuster industry of the 1990's and the 21st Century.

THE TRAVEL AND TOURISM PARTNERSHIP ACT OF 1995

(By Congressman Toby Roth)

FACTSHEET

Implements a central recommendation of the White House Conference on Travel and Tourism.

Forms a "public-private partnership" between the travel/tourism industry and the federal government to strengthen the promotion of international travel to the U.S.

Establishes a 36-member National Tourism Board (75% private sector)—to advise the President and Congress on policies to improve the competitiveness of the U.S. travel and tourism industry in global markets; appointed by the President with the advice of the travel and tourism industry

Establishes a National Tourism Organization as a not-for-profit corporation under federal charter—to implement the tourism promotion strategy developed by the national Tourism Board; to develop and operate a marketing plan in partnership with U.S. travel and tourism firms to increase the U.S. market share of the world travel market; governed by a 45-member board of directors, reflecting the breadth of the travel and tourism industry; board of directors develops a plan for a long-term financing; interim funding from industry; data and staff resources provided by federal government.

Requires federal agencies and U.S.C. overseas missions to cooperate in implementing promotion strategy developed by National Tourism Board.

THE RETIREMENT OF DEXTER MAYOR WILLIS CONNER

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. EMERSON. Mr. Speaker, I rise today to bring to this country's attention the retirement of a civic servant in my southeast Missouri congressional district. The Honorable Mayor Willis Conner of Dexter, MO, will be turning over his gavel on May 6, 1996.

A reason I feel compelled to mention Mayor Conner's retirement is that his life embodies the very meaning of community service. When he does step down, he will have served the city of Dexter as its chief elected officer for 30 straight years. All told, he has served our southeast Missouri region for nearly half this century—48 years to be exact including Democrat committeeman, Liberty Township collector, Stoddard County public administrator, and city of Dexter Ward I alderman. In fact, Mayor Conner was recently named this year's recipient of the Missouri Municipal League's [MML] highest honor. It named him the State's current or former municipal official who has made outstanding contributions and leadership to the MML.

In a position that isn't supposed to be a full-time job, Mayor Conner has always faithfully and diligently served his community while also delicately balancing his needs at home and at his paid occupation in real estate and insurance.

As the Eighth District's Congressman, I have had the personal privilege and high honor of working with Mayor Conner on a number of initiatives over the years. One of the most notable is the four-laning of Highway 60 which provides an East-West link through the southern part of the State. Mayor Conner joined me as a visionary who could see the direct benefits of improving our region's transportation infrastructure. He well understood that once we improved our roads and bridges more folks, more businesses, and more industries would be attracted to our region. Mayor Conner is one of those civic leaders who steadfastly supported important efforts such as the Highway 60 project to directly link Dexter, Stoddard County, and southeast Missouri to other reaches in the United States and the globe. From day one, Mayor Conner has helped to improve the quality of life for folks today and in generations to come.

As I close, I again want to bring to the rest of America's attention how impressive and remarkable Mayor Conner is as a person and as a pillar of is community. Thirty years in any job, elected or unelected, is a Herculean undertaking, let alone nearly a half-century of public service. The city of Dexter, Stoddard County, and the State of Missouri will certainly miss his leadership as Mayor; however, I truly believe, even in his so-called retirement, Mayor Conner will still be active and provide guidance, strength, and energy to overcome future hurdles. I am proud and honored to say thank you to Mayor Conner on behalf of his constituents, all Missourians, and our great country in general.

ALLIANCE FOR THE CHESAPEAKE BAY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to the Alliance for the Chesapeake Bay, an environmental organization concerned with cleaning up and preserving Maryland's greatest environmental treasure, the Chesapeake Bay.

It was most appropriate that on Monday, Earth Day, we turned our attention to the fine job done by the Alliance for the Chesapeake Bay. The Bay is a national resource that has a profound effect on much of the east coast.

VOL 142 PT 6 AP 15 — 24 1996 UMI

its 64,000-square mile drainage basin—from the Finger Lakes in New York to the Ports of Baltimore and Hampton Roads—provides millions of us with food, energy, recreation, and water.

Since its inception in 1971, the alliance has been dedicated to creating a healthier, cleaner Bay. It has proven equal to the task. The alliance's nonadversarial approach has enabled it to work with a wide range of people for a better Bay. Over the years, the alliance has successfully rallied support from the business community, citizens groups, environmentalists, industry, scientists, farmers, sports enthusiasts, and others to preserve and restore the Chesapeake Bay.

The alliance has accomplished its mission by establishing several important programs. The Alliance's Public Policy Program builds consensus on issues that directly affect the Bay. The Information Services Program provides unbiased information about issues. The Watershed Restoration Program gets people involved in hands-on habitat restoration work.

I urge my colleagues to acknowledge the fine work of the Alliance for the Chesapeake Bay and to commit themselves to preserving the important programs that are so vital to the health of the Chesapeake Bay.

HONORING THE MIDWAY VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Midway Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These fireman must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

IN HONOR OF G. NELSON PERRY OF SCOTLAND, CT

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GEJDENSON. Mr. Speaker, I rise today to honor a public servant of exemplary note and a man whom I am genuinely proud to represent, today and every day, Mr. G. Nelson Perry, former first selectman of Scotland, CT.

In November 1995, G. Nelson Perry completed his 32d consecutive year as the first selectman of the town of Scotland. Nelson is to be honored for his 50 years of distinguished and selfless service to his town, his State, and his country.

Nelson was born in Scotland, CT, in 1916 where as a child he attended elementary school in a two-room schoolhouse and later graduated from Windham High School. Immediately upon graduation, at the tender age of 19, he went to work in Hartford, CT, in the payroll department of Hartford Electric Light Co. where he worked diligently for more than 6 years.

Then came World War II, and like so many men of his generation, Nelson enlisted in the Army to serve his country. He fought and served with distinction in the 3d Army in Europe commanded by General Patton. He fought to liberate Europe from the shores of Normandy all the way to Czechoslovakia.

At home on leave from the Army toward the end of his enlistment, Nelson married Eileen Vennard of Manchester, CT, to whom he has remained married during the 52 years since. As the war ended, he returned to Scotland to farm and began to raise a family with his new bride. And Nelson and Eileen have raised a fine family of four sons and two daughters, all brought up in Scotland and instilled with the values taught by their parents and community. Their 6 children have given Nelson and Eileen the blessing of 17 grandchildren who live in Scotland close to their loving grandparents.

Nelson later moved from agriculture and farming to work as a cost accountant with the Amstar Corp. in Sprauge, CT. He remained with Amstar in that capacity for 17 years.

It was during this period of professional transition that Nelson began to feel an obligation and yearning to give something back to the local community which had been so good to him. And so, in 1951, he was elected to the Scotland Board of Education. And Nelson's constituents were inspired by his service to reelect him to six more 2-year terms, where he served as the board's secretary. In 1955, the Scotland electors elected him a State representative to the Connecticut General Assembly. And in 1963 we urged him to run for first selectman, a position where Nelson has served with distinction ever since.

The hallmarks of Nelson's career in public service have been his defense of the local taxpayer, his sense of bipartisanship, and his desire to remain completely accessible to his constituents.

In the words of one of his friends, Nelson "spends Scotland's money like it was his own." In the process of exercising careful fiscal management of Scotland's finances, Nelson has presided over the building and later expansion of a local elementary school, the fire department has been improved, bridges have been repaired and rebuilt, and Nelson established Scotland's annual Memorial Day celebration which continues today. Nelson has faithfully executed his duties of preparing Scotland's annual budget, issuing permits, producing annual town reports, and many other responsibilities.

G. Nelson Perry has had a remarkable career in public service and is a remarkable citizen of the town of Scotland. It is my honor and pleasure, Mr. Speaker, to share with you and the Members of this House Nelson Perry's achievements, and commend him for a lifetime of personal sacrifice and public service.

VOLUNTEER SPIRIT IS ALIVE AND WELL IN THE CITY OF HOUSTON

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Ms. JACKSON-LEE of Texas. Mr. Speaker, fellow Members of the House I rise today to thank and commend the volunteer work of Madgelean Bush, a friend and constituent of mine from Houston, Texas.

On April 19th, Madgelean Bush was named the recipient of the Joint Action in Community Service National Volunteer of the Year Award for 1996.

The Joint Action in Community Service better known as JACS is a national, nonprofit organization of thousands of volunteers, dedicated to assisting at-risk youths to enter the mainstream of American society. Committed to the key principles of volunteerism and collaboration, JACS has worked for over thirty years with government, business, labor, religious and private organizations to open doors of opportunity for generations of the most disadvantaged young men and women in America.

Nominated for the award by Southwest Regional Director Deloris Kenerson, Ms. Bush was described as "a dedicated, humble, yet dynamic advocate for the Job corps program." Madgelean and her staff have offered assistance to over 2,400 former Job Corps students in their transition from Job Corps training to community readjustment and the world of work."

Ms. Bush also offers the Job Corps students she is assigned the opportunity to take advantage of the benefits and services of the Martin Luther King, Jr. Community Center's half-way house, where she serves as its Executive Director. With management skills to rival any corporate manager, she supervises a staff of 45 and directs a $2.5 million in city, country, State, and Federal funds.

When not helping Job Corps youth, she is busy volunteering for a host of other worthy causes. She is affiliated with numerous civic organizations and has served on a variety of boards with concerns ranging from hunger to health, and from youth issues to those of the aged and disabled. She has contributed over two decades of service to the Houston Inter Faith Hunger Coalition, the Riverside Health

Clinic Advisory Board, Twilight Chapter #393 Order of the Eastern Star Prince Hall Masons, and the Dobson Elementary Advisory Group. She serves as a Precinct Judge, member of the Texas Democratic Executive Committee Precinct #247, and is a member of the United Methodist Church Conference of Church and Society, as well as the Texas Conference of Churches.

Madgelean Bush is the mother of a grown son and daughter.

I would like to thank you Madgelean for making a life long commitment to volunteerism that is a lesson for us all. You have taught me along with many Houstonians that the individual in this diverse and complex society can make a difference.

LOAN GUARANTEES FOR ISRAEL—A GREAT SUCCESS FOR ISRAEL AND U.S. ASSISTANCE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. LANTOS. Mr. Speaker, in this era when trashing government programs seems to be more politically correct than praising government success, it is a pleasure indeed to call attention to a program that has achieved remarkable success. This is the loan guarantee program that was instituted in 1992, under terms of which the United States Government guaranteed loans to the Government of Israel totally $2 billion per year for 5 years.

The funds were provided to assist the Government of Israel deal with the massive influx of 700,000 immigrants from the former Soviet Union and other areas. The United States did not loan the money; it had no other obligation than to co-sign the note and act as an insurer of the loans. There is no risk to the United States, unless Israel defaults on the loans—something Israel has never done on any previous United States loan. The Israelis receive loans at a substantially lower rate of interest, the United States is able to help our only democratic ally in the Middle East, and the United States receives from Israel a $90 million fee each year as a form of insurance against default.

Mr. Speaker, the great success of the loan guarantees is detailed in an excellent article by Douglas M. Bloomfield, which appeared in the April 11 issue of the Washington Jewish Week. Mr. Bloomfield is a former Congressional staffer and a distinguished journalist who has written extensively on Israel and the Middle East. Mr. Speaker, I ask that his analysis of the loan guarantees be placed in the RECORD, and I urge my colleagues to give thoughtful consideration to this fine report.

[From the Washington Jewish Week, Apr. 11, 1996]

LOAN GUARANTEES AN ISRAELI SUCCESS STORY

(By Douglas M. Bloomfield)

At a time when it is in vogue to trash government in general and foreign aid in particular, there is a dramatic success story about a program that did everything it was supposed to and then some. The recipient country reaped enormous benefit, and American taxpayers may wind up making a $450 million profit on the deal.

The program is the once-controversial $10 billion loan guarantees for Israel that played such an important role in U.S. and Israeli elections four years ago.

That was when President Bush withheld approval of the guarantees as leverage to pressure Prime Minister Yitzhak Shamir to alter Israeli settlement policies. In the ensuing confrontation between two leaders who didn't like each other very much, bilateral relations plunged.

Shamir turned unsuccessfully to American Jewish activists to get Congress to force Bush to give in. The president denounced the citizen lobbyists and questioned their loyalty as Americans.

Bush won his battle with Shamir over the loan guarantee and, to his satisfaction, Shamir lost the spring, 1992 Israeli elections. Then, to the satisfaction of the overwhelming majority of American Jewish voters, Bush lost the November, 1992 election.

Shamir's losing and bruising public campaign for the guarantees did cost him economically and politically at home. It was considered a major contributor to his own defeat.

Bush's use of the guarantees as a political weapon sent negative signals to the international money markets, said an Israeli economist. "It was tantamount to a no-confidence vote politically and economically," he said, making borrowing more difficult and more costly for Israel.

In a last attempt to salvage some Jewish support for his own reelection effort, and under pressure from the Congress, Bush invited newly-elected Israeli Prime Minister Yitzhak Rabin to Kennebunkport and bestowed upon him the gift of the loan guarantees. It was too late to help Bush, but it did a lot for Israel.

Here's how the guarantees work: The U.S. Government does not actually loan, much less give, any money to Israel; it co-signs or guarantees repayment of a specified amount of Israel borrowing. In this case, the amount was $10 billion in five equal, annual installments. The American guarantees assure lower borrowing rates from international banks for Israel.

Under the deal worked out with the Congress, Israel agreed to pay $90 million a year 4.5 percent of each $2 billion installment; the Bush administration had asked for a prohibitive 13.5 percent fee) to the U.S. Treasury as a form of insurance against default. Only if Israel defaulted—something it has never done on any previous U.S. loan—would American taxpayers ever have to pay anything.

The purpose of the guarantees is to help Israel borrow money at the best possible rate to finance economic expansion associated with the influx of nearly 700,000 new immigrants over the past seven years and the opportunities presented by the peace process. The money raised could only be used for investment and infrastructure, not the general government budget.

Although often misrepresented as housing guarantees for new immigrants, there never was any intention to use the money for the government to build houses or directly the newcomers. There is a separate $80 million annual U.S. refugee aid program for that.

Now in its fourth year, the program is widely considered a major success. American taxpayers are getting their $90 million annual "insurance premiums," trade between the two countries has increased more than 40 percent, and the program is doing just what it was intended to do. A Washington rarity.

The humanitarian objective of immigrant absorption is being achieved, and it is being done through the private sector, not by government-created jobs and housing projects, as in the past. In addition, the government is fulfilling its 1992 commitment to the U.S. government to accelerate deregulation, privatization of government-owned corporations and economic reforms began in the 1980s with prodding and assistance from the Reagan administration.

The guaranteed loans supply Israel with affordable foreign currency. An expanding economy that is absorbing new immigrants has to increase imports faster than exports, and it needs dollars to pay for that because the shekel is not a convertible currency. With the guarantees the Bank of Israel can borrow enough dollars to exchange for shekels from Israeli businesses making those foreign purchases.

The resultant strength of the economy can be seen in a few statistics:

Unemployment is down from 11 percent four years ago to six percent, the lowest level in more than a decade. For new immigrants, it dropped from about 25 percent to six percent.

Gross Domestic Product grew seven percent last year in real terms, up more than 40 percent since 1990.

Private sector growth is up eight percent for each of the past two years in real terms and 50 percent since 1990.

Inflation has dropped from 18 percent in 1991 to eight percent today.

90 percent of the jobs created in the last several years have been in the private sector.

The loan guarantees gave the Israeli economy an intended boost, and achieved the goals U.S. and Israeli policy makers sought. But will the economy cool off and go into a slump after the five-year program expires in 1997?

Not likely, says Ohad Marani, the minister for financial affairs in the Israeli embassy in Washington. About four months ago the Israeli treasury decided to test the waters by floating a bond issue on Wall Street in dollars without any American government guarantees or involvement.

The $250-million issue, known as Yankee bonds, was oversubscribed and Israel got a very favorable interest rate, demonstrating the government can raise money without American guarantees, he said. Marani attributed the success to Israel's strong economy, a favorable standing with Standard & Poors and other rating services and increased regional stability as a result of the peace process. A similar bond sale is planned in Europe next month.

"The guarantees gave Israel the confidence it had enough currency to absorb the new immigrants," said Dan Halperin, the Israeli Treasury's top official in Washington in the 1980's "and the Yankee bonds prove that today Israel can slowly begin raising money on its own credit."

CATHOLICS SUPPORT FOREIGN AID BILL

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. CALLAHAN. Mr. Speaker, I rise to discuss the reasons Catholic Americans should support the Republican approach to foreign assistance funding.

VOL
142
PT
6
AP
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24
1996
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The most obvious Catholic concern on foreign policy relates to U.S. taxpayer funding of abortion overseas. Our foreign operations appropriations bill last year was held up for nearly 6 months because of disagreements on funding for abortion. The Smith-Callahan amendment sought to approach reinstatement of the Mexico City policy that provided not taxpayer dollars would go to any organization that used any funding source to perform abortions.

Our bill also tried to strengthen restrictions against the U.N. Fund for Population Activities [UNFPA]. Specifically, we would prohibit the use of any American tax dollars provided to this organization that would support population programs in China. There is virtually no argument that Chinese policy promotes abortion and even coerced abortion and coerced sterilization as birth control measures. Under Republican foreign policy, this will not be tolerated.

The foreign operations appropriations bill also established child survival as a separate priority and provided $484 million for child survival and disease programs. Our intent is to protect the most vulnerable in the world society through a variety of programs and to make sure these funds could not be rechanneled to less critical programs. We will continue this initiative in the fiscal year 1997 bill.

Finally, our bill provided funding for the Fund for Ireland to help the peace process succeed through economic development. American Catholics have a special interest in the situation in Northern Ireland and support United States efforts to make the peace process succeed. We were successful in appropriating $19.5 million for the International Fund for Ireland.

As the national debt makes cuts in foreign aid inevitable, we must strive to ensure that limited dollars are spent wisely. Foremost, we must protect U.S. national security. In addition, we must be humanitarian, we must protect the unborn and the innocent, and we must seek to resolve conflict where possible. I think we did a good job last year on these priorities and I am confident we will continue these efforts.

HONORING THE SHORT MOUNTAIN VOLUNTEER DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Short Mountain Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These fireman must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer. firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

DR. FAHMY HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to Dr. Mahmoud H. Fahmy, a distinguished educator and community leader in my Congressional District. Tonight, Dr. Fahmy will be honored for his achievements at a testimonial banquet, and I am pleased to have been asked to participate in this event.

Mahmoud Fahmy was born in Alexandria, Egypt and earned a bachelors degree with honors from Alexandria University. He came to United States to complete his graduate work, earning a masters degree at Columbia University and a doctorate from Syracuse University.

Devoting his life to education, Dr. Fahmy instructed and administered programs in various colleges and universities nationwide, including the New School of Social Research of New York City, Syracuse University, Bucknell University, Bloomsburg University and the University of Pittsburgh. He also served as president of the Pennsylvania Association of Graduate Schools. Dr. Fahmy served as Special Assistant to the President for External Affairs at Wilkes University and held the academic rank of full Professor of Education as well as Dean of Graduate Affairs and Continuing Education. He currently serves as President of the Education and Training Center of Northeastern Pennsylvania.

In addition to his role as an educator, Dr. Fahmy has been a leader and an innovator in other areas of the community. He is currently a member of the advisory board of the Luzerne/Wyoming Counties Mental Health/Mental Retardation Association and chairs its legislative task force and public awareness committee. Dr. Fahmy is also a member of the Ethics Institute of Northeastern Pennsylvania and heads its education subcommittee. In addition, he is a member of the Board of the Economic Development Council of Northeastern Pennsylvania, and is in charge of its International Trade Development Council. Dr. Fahmy helped to establish the Luzerne County Youth and Violence Committee. Recently, Dr. Fahmy was selected by the County Commissioners to serve on the Board of Trustees of Luzerne County Community College where he was later elected chairman.

Internationally, Dr. Fahmy has directed several international educational projects for the U.S. Department of Education and other professional organizations. He is an international education consultant who has performed in various capacities in several foreign countries. He was selected as Citizen Ambassador for the "People to People" program, and served as a delegate to Russia and Czechoslovakia in the area of education organization and teacher education. Recently, he headed a Delegation from Northeastern Pennsylvania to Brazil.

Mr. Speaker, I feel very fortunate to have worked with Dr. Mahmoud Fahmy many times during my tenure in Congress and over the years we have become friends. I am extremely proud to join with his colleagues, family and friends in commending Dr. Fahmy on a lifetime of commitment to his profession and to the betterment of his community.

DOMINIC FRINZI RECIPIENT OF TED MAZZA COMMUNITY SERVICE AWARD, 1996

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. BARRETT of Wisconsin. Mr. Speaker, this Saturday evening, April 27, 1996, the Italian Community Center of Milwaukee will honor Attorney Dominic Frinzi with the Ted Mazza Community Service Award. I join the Italian Community Center in congratulating Mr. Frinzi on this well-deserved recognition.

Milwaukeeans will always remember Dominic Frinzi's quick action to defend the honor of Wisconsin baseball fans. In 1965, when the Milwaukee Braves decided to move to Atlanta, the team wanted to change its name to the Atlanta Braves during its last season in Milwaukee. There was just one problem, there was already a corporation named the Atlanta Braves registered in Wisconsin—courtesy of a certain quick-thinking Milwaukee attorney. Dominic Frinzi prevented the Braves' owners from adding insult to Wisconsin's injury, and earned the recognition of legendary New York Times sportswriter and Wisconsin native, Red Smith.

Wisconsinites are also well acquainted with the slogan "Go with Frinzi—he gets things done!," heard throughout our State during Dominic Frinzi's two bids for Wisconsin Governor. Candidate Frinzi was known for his straightforward answers, colorful quotes, and innovative policy ideas. Though he never found his way to the Governor's mansion, Dominic Frinzi's engaging style and his open relationship with the press drew many independent voters into the electoral process.

Born the son of an Italian immigrant in 1921, Dominic Frinzi was given the middle name Henry in honor of the renowned opera tenor, Enrico Caruso. He has lived up to that name, compiling a world-class collection of opera recordings, teaching the Italian Community Center's opera series and coordinating the Golden Age of Opera exhibit at Milwaukee's Festa Italiana. He also served as national president of UNICO, a nationwide Italian

American civic service organization, and earned its highest honor, the Dr. Anthony P. Vastola Gold Medal Award. Dominic Frinzi is an original member of the Italian Community Center of Milwaukee and serves on its board of directors.

Dominic Frinzi also served as a Milwaukee County Court Commissioner for 40 years and practiced law for 44. His work in the criminal and civil arenas has earned him the respect of the Wisconsin legal community.

Dominic Frinzi's long and distinguished career of public service, his work to expand our community's cultural horizons and his devotion to the Italian-American community exemplify the spirit of the Ted Mazza Community Service Award. I commend the Italian Community Center on an excellent selection, and I congratulate Dominic Frinzi on this well-deserved honor.

IN MEMORY OF GILBERT MURRAY

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. RADANOVICH. Mr. Speaker, today marks the first anniversary of the death of Gilbert Murray, the former president of the California Forestry Association.

Gil was known by all as someone who cared deeply about the outdoors. More specifically, he committed his personal and private life to maintaining the proper balance between protecting nature and developing the natural resources that are necessary to our civilization. He loved the outdoors and passed his appreciation of nature onto his friends and family.

Tragically, 1 year ago an environmental extremist took the life of Gilbert Murray, depriving his family of a loving husband and father. His death was senseless. While claiming to promote the environment, someone took the life of Gilbert Murray, a person who dedicated his career and life to promoting the sensible use of California's forest. As we continue to debate environmental issues in this country, let us remain wary of the arguments of those who are unwilling to accept a reasonable balance between the needs of nature and humans.

Mr. Speaker, I hope that all of my colleagues will join with me today in honoring Gilbert Murray by learning and promoting the ideals that Gil held so close to his heart.

THE LEGACY OF CHERNOBYL

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. BONIOR. Mr. Speaker, it was a silent killer, and people will continue to feel its direct effects well into the next millennium. Millions of lives have been unalterably changed by it. Sickness, death and dispossession arrived, stayed, and have yet to leave.

On April 26, 1986, reactor No. 4 at the Chernobyl Atomic Energy Station ignited, causing an explosion, fire, and partial meltdown of the reactor core. Ten years have now passed since that terrible day. Today, the ghosts of history's worst nuclear disaster can't be avoided in the pines and the farmland, now overgrown, that surround Chernobyl. The city of Pripyat, once housing 40,000, sits empty. Dozens of villages have been abandoned.

The 134,000 people who were evacuated from the area won't be returning to their homes. An area the size of Rhode Island is now a dead zone. The health effects are equally astonishing. Sadly, cancer among children has tripled. Ukraine now has the highest rate of infertility in the world. Birth defects have nearly doubled.

Mr. Speaker, our Government, many charitable organizations, and individuals have contributed to efforts to recover from the disaster. We must continue those efforts, and we must enhance them for the people of Ukraine. Ukraine faces many challenges, not the least of which are the human and economic costs of coping with the effects of Chernobyl.

Today we must pause to remember those who lost their lives and those whose lives were changed forever. We learned many lessons from that tragedy 10 years ago, and now we must move forward and help our friends in Ukraine prepare for the future.

REGULATORY FAIR WARNING ACT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GEKAS. Mr. Speaker, today I am introducing the Regulatory Fair Warning Act along with 12 cosponsors. This legislation codifies the principles of due process, fair warning and common sense that were always intended to be required by the Administrative Procedure Act [APA]. The bill requires that an agency give the regulated community adequate notice of its interpretation of a rule. Agencies will be deterred from pursuing penalties based on rules or policies which were either unclear or unavailable to the regulated community.

Specifically, the Regulatory Fair Warning Act would prohibit a civil or criminal sanction from being imposed by an agency or court if the agency or court finds that the rule or related policies published in the Federal Register failed to give the defendant fair warning of the required conduct; or the agency or court finds that the defendant, prior to the alleged violation, reasonably and in good faith determined, based upon information publish in the Federal Register or written statements made by an appropriate agency official, that the defendant was in compliance.

In reaching its conclusion regarding this matter, a court could not give deference to an agency's interpretation of a rule which was not timely published in the Federal Register, or otherwise made available to the defendant.

I am pleased to introduce this simple yet necessary measure. Without this fundamental protection, businesses must often operate in an atmosphere of uncertainty as to whether they are in compliance with an agency's most recent interpretation or reinterpretation of its regulations. If and when the day arrives when an agency chooses to enforce its latest interpretation against a regulated business, the business owner has two alternatives: First, roll the dice and hire a Washington lawyer to fight an unknown wrong; or Second, pay the penalty, regardless of culpability.

Adoption of this legislation will encourage agencies to keep the regulated public aware of what their regulations require of them. Before pursuing an enforcement action, an agency will need to consider whether the defendant has acted in good faith and whether the agency is acting within the confines of due process established by the APA. Nothing in this measure is intended to weaken the enforcement powers of the executive branch. This is a moderate measure, meant to provide a minimum of security and predictability to the regulated community and to improve the relationship between agencies and private citizens.

MEDICAL SAVINGS ACCOUNTS: WHY THEY ARE TAX BREAKS FOR THE UPPER INCOME AND BAD NEWS FOR WORKING AMERICANS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. STARK. Mr. Speaker, medical savings accounts are bad health policy. They are bad tax policy.

The following analysis from the Center on Budget and Policy Studies explains why:

WHO WILL USE MEDICAL SAVINGS ACCOUNTS AND WHY WILL THEY USE THEM?

(By Iris J. Lav)

Prior analysis of Medical Savings Account proposals has shown that MSAs would primarily benefit those at high income levels because MSAs create opportunities to accumulate tax-sheltered funs for purposes other than medical costs. Higher-income taxpayers would be most likely to take advantage of these tax shelter opportunities because the tax benefits are worth more to taxpayers in higher tax brackets and because such taxpayers can afford to pay substantial out-of-pocket medical costs if they choose to leave the tax-advantaged funds on deposit in the MSAs or if funds accumulated in the MSAs are insufficient to cover their medical bills.

Recently, the Joint Committee on Taxation has released data estimating what proportion of people in each income class would make use of Medical Savings Accounts, finding that a large portion of the participants would be middle class. These data have been used to bolster claims that MSAs would benefit middle class taxpayers as well as the wealthy. But the Joint Tax data are not incompatible with the conclusion that higher-income taxpayers would be the primary beneficiaries of MSAs.

As the text of the Joint Tax analysis makes clear, participation in an MSA may not be voluntary. Taxpayers who participate in MSAs because their employers offer no other option for health care coverage may not benefit from their participation and may become worse off as a result of their employers' switch from offering a conventional insurance policy or a managed care plan to a plan that offers only a high-deductible insurance plan with an MSA.

VOL 142 PT 6 AP 15 — 24 1996 UMI

JOINT TAX HIGHLIGHTS BENEFITS TO COMPANIES, NOT EMPLOYEES

The Joint Committee notes that its estimate is based "on the assumption that a large proportion of small- and medium-sized companies might potentially benefits from the MSA proposal and offer such plans to their employees." To assume that a company would benefit generally means that the company would pay less for its employees' insurance coverage. This suggests two further assumptions that likely underlie the Joint Tax analysis.

Small- and medium-sized companies that do not now offer any health insurance would not begin to offer high-deductible coverage with MSAs as a result of this legislation. Such an assumption would result in increased rather than decreased costs for the companies and thus would be incompatible with the statement that the companies would benefit. The analysis must instead assume that employers currently offering conventional coverage or managed care plans would begin to offer high-deductible insurance with MSAs.

Furthermore, companies would receive a cost-saving benefit from such a switch only if the total cost of the high-deductible insurance including the MSAs would be less than the cost of the insurance the company currently offers. Thus the small- and medium-sized companies that switch to high-deductible insurance with MSAs likely would not put the entire difference between the conventional insurance premium and the high-deductible insurance premium into their employees' MSAs. Companies would realize cost savings from the switch only if they choose to keep, as a profit-enhancing savings, at least a portion of the difference in premiums between the two types of plans.

LOW- AND MODERATE INCOME TAXPAYERS MAY PARTICIPATE IN MSAS INVOLUNTARILY

The Joint Committee on Taxation analysis goes on to say that "Employee wages for small- and medium-sized are weighted toward the lower- and middle-income classes. As a result, the revenue estimate assumes that taxpayers in the lower- and middle-income classes are more likely to be offered a high deductible plan coupled with an MSA as their primary health plan." (Emphasis added.) Although the Committee's use of the term "primary" is ambiguous, it suggests some further issues.

Low- and middle-income employees may be reluctant voluntarily to accept high-deductible insurance with MSAs, because they usually do not have the resources to pay large out-of-pocket health care costs. An assumption that substantial numbers of such employees would participate suggests that their employers might offer only high-deductible insurance with MSAs and would no longer offer either a conventional fee-for-service policy or a managed care plan. For low- and moderate-income employees who consume significant amounts of preventive care for their young families through a health maintenance organization, for example, or have chronic health problems that require continuing care, the restriction of choice to a high-deductible plan could substantially degrade their ability to afford necessary health care services.

INADEQUATE MSA DEPOSITS TRANSFER LARGE COSTS TO MODERATE-INCOME EMPLOYEES

Low- and middle-income employees are likely to face high out-of-pocket costs under the high-deductible insurance plans with MSAs because the MSA contributions made by their employers are likely to fall short of the annual deductible amounts under those insurance plans. In fact, employers are unlikely to be able to afford to deposit the full deductible amount. Consider the following. A company may currently offer its employees family coverage under a conventional insurance policy and pay an annual premium of $5,200 for that coverage. If the company switches to offering a high-deductible plan with an MSA, the annual premium for the high-deductible insurance policy would be approximately $3,900. These costs assume the insurance plans are comparable except that the conventional coverage includes a $200 deductible while the high-deductible plan has a $3,000 deductible. Because the company's annual premiums savings from switching to the high-deductible insurance plan is only $1,300 per family ($5,200 minus $3,900), the company is highly unlikely to be willing to deposit $3,000—the full amount of the deductible—into the employee's MSA. In addition, employers are likely to keep some of the difference as a cost-saving benefit to the company. Thus low- and middle-income employees likely would have significantly less than half of their annual deductible amount—and most likely no more than one-third of the deductible—deposited into MSAs by their employers and thereby available to meet ongoing health care costs.

Moreover, nothing in this bill requires employers to make any deposits to MSAs as a condition of offering high-deductible insurance. Once small- and medium-sized employers shift to offering only high-deductible insurance and no longer offer conventional insurance or managed care plans, they would be free to reduce or eliminate contributions to the MSAs at any time. If that occurred, the low- and moderate-income employees of those companies would be left to finance the entire deductible amounts out of their own pockets. Although the low- and moderate-income employees could make deposits on their own to an MSA, they would receive little or no tax advantage from using MSAs—because they either do not pay income taxes or pay taxes at much lower rates than the higher-income taxpayers who would be the primarily beneficiaries of this MSA legislation.

In short, if low- and moderate-income taxpayers use MSAs in substantial proportions, it will likely be because they have little alternative. And the use of the MSAs with high-deductible health insurance plans is likely both to increase their risk of incurring unaffordable health care costs and reduce their ability to afford adequate levels of health care services for themselves and their families.

ANSWERING AMERICA'S CALL

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. WHITFIELD. Mr. Speaker, I take this opportunity to bring to your attention a special constituent of mine, Kurt Martin, of Bardwell, KY. Kurt is a senior at Carlisle County High School and has been named a national winner in the 1996 Voice of Democracy Program. Kurt is the son of Mr. and Mrs. Rodney Martin of Bardwell.

The Voice of Democracy Program is an annual broadcast script writing scholarship contest. Kurt's winning script entitled "Answering America's Call" is an inspiration for all Americans. I would ask that Kurt's entire remarks be printed in the RECORD at this point.

ANSWERING AMERICA'S CALL

(By Kurt Martin)

I raced down the stairs trying to find my shoes as Dad impatiently honked the horn of the van outside. As I tied my shoes at record speed, the phone rang. Out of breath, I answered the phone soon realizing I was in a conversation with a military recruiter for the Marines. Great! I'm late for church, I don't have any idea what songs I'm going to play for the song service, and now I have to stand and make small talk with a military recruiter.

"So, what do you plan to do after high school? he asked rather abruptly.

"Well, I'm planning to go to college," I answered as politely as I could, trying to end the conversation quickly.

"Have you ever thought about going to the Marines to gain money for college?" he asked.

"To tell the truth, I have considered serving in the military, but I hurt my knee. I'm going to have to have surgery in a few weeks."

"Well, that pretty much counts you out of any military action. I'm sorry about your injury, and I hope your knee gets better. Best of luck to you in the future."

During church, my mind wandered to the conversation I just had with the Marine recruiter. I has always known that the military was strict about health regulations; but since my knee injury, the subject of serving in the military had never come up. I somehow couldn't come to grips with the idea of not being able to serve my country because of a basketball injury. How can anyone, especially a man, answer America's call when he can't serve in the military? I had read about my kind in history books. If there is another war, the "real men" will go risk their lives for our country, while I sit at home selling war bonds.

After pondering the subject for a few minutes, I began to realize exactly what "America's Call" is. Even though I may not be able to serve in the military because of my injury, my dedication to my country should not end there. Franklin Roosevelt didn't let a physical handicap keep him from helping his country recover from a major depression.

The confidence of the American people in his leadership ability during World War II got him reelected three times, even though he was confined to a wheelchair.

As a student, I can answer America's call each and every day by preparing myself for the future as I apply myself to my studies. I don't know yet what type of career I will be training for, but whatever it may be, hard work will enable me to make a difference in my profession, my country, and my world. The work ethic that enabled Abraham Lincoln to rise out of poverty to become President will allow our generation to preserve the reputation America has maintained for so long.

Another way to answer America's call is by upholding Christian morals and ethics. When I abstain from premarital sex, drugs, and alcohol I not only take a stand against those vices, but I also become a positive influence on my peers. Whey I fight against violence and corruption, I stand alongside the founding fathers of our country by trying to make America a better place to live.

America may call me to become involved in activities that benefit my neighbors, community, or country. If I volunteer to work at

the local nursing home or roadblock for a telethon supporting disabled children, I answer America's call by showing that I care about those who are in need. When I vote for local, state, and national candidates I show that I am concerned about the future leaders of our country.

I can also heed America's call by supporting those who serve or have served in the military. Those men and women deserve all of my support, honor, respect, and appreciation. They need to know that all Americans are striving to keep the freedom that they risked their lives for. This goal will be achieved if we resolve to do as John F. Kennedy advised in his inaugural address, "Ask not what your country can do for you, ask what you can do for your country." Only then can we truly "Answer America's Call."

HONORING THE WEST SIDE VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the West Side Volunteer Fire Department. These brave, civic-minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These firemen must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

GRANTING MOST-FAVORED-NATION TRADE STATUS TO ROMANIA

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. RICHARDSON. Mr. Speaker, I rise to urge my colleagues to give their wholehearted supported to the legislation offered by the gentleman from Illinois [Mr. CRANE] which would grant permanent most-favored-nation [MFN] trade status to Romania. As I am sure you are aware, Romania has been granted MFN for the past 3 years, but it is subject to periodic renewal. It is now time to bring an end to this renewal process and make Romania's MFN status permanent.

Romania meets all the criteria for permanent MFN: unhindered emigration; a free market economic system; a multiparty democratic political system with free and fair elections, and respect for basic human rights and freedoms. As a nation still in transition after the 1989 revolution, Romania is still working to institutionalize these changes. But I have no doubt about the commitment of the Government and people of Romania to staying on the course of full integration into the Western community of nations. Romania is a founding member of the World Trade Organization, and has strongly expressed its desire for membership in such Western institutions as the EU and NATO. The granting of permanent MFN is regarded by foreign governments as a manifestation of U.S. support. It represents our acknowledgment that a nation has expressed strong commitment to the values that we hold dear. In a case such as Romania, it also signals our encouragement and support for the reforms that are still being made and the progress yet to come.

Mr. Speaker, I am sure that my colleagues will agree that Romania is deserving of this support and acknowledgment. Since granting permanent MFN to Romania will not affect the United States budget, this legislation is literally a cost-free way for us to express to the people and Government of Romania our admiration for what they have accomplished in 6 short years, our encouragement for their efforts to continue on the path they have chosen, and our hope for a better future for their children.

TRIBUTE TO STANLEY AND GWEN McCRACKEN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. KILDEE. Mr. Speaker, it is with great pride that I rise before you today to pay tribute to two great Americans, Stanley and Gwen McCracken. In recognition of their exemplary service as the DAV and DAV Auxiliary State commanders of the great State of Michigan, their many friends and colleagues will join in honoring them during a Joint Testimonial Dinner to be held at DAV Chapter 129 Memorial Home, located in Utica, MI on Friday, April 26, 1996.

Commander McCracken is a veteran of both the U.S. Army and the U.S. Air Force, serving both services with honor and distinction. He enlisted in the Army in 1958, serving as an infantryman. In 1963, Stanley decided to reenlist in the Air Force. He was assigned to the Strategic Air Command, Ramey Air Force Base, Puerto Rico. His tour of duty included and encompassed many responsibilities, including being attached to the 42nd Bomber Wing, Combat Support Group. While at Ramey, he was assigned to a Recovery Team, as well as being an integral member of a ground crew, and finally assuming the duties of crew chief aboard a B–52 bomber.

Stanley McCracken earned the stripes of staff sergeant along with numerous decorations and awards for his outstanding military service before he was honorably discharged from the Air Force in 1967.

Commander McCracken has been elected to, and successfully held every chapter level office, including chapter commander for two terms. He has also been an active member of the St. Clair County, MI, Allied Veterans Council for several years, in addition to being a member of DAV Chapter 51. Mr. McCracken accumulated extensive experience before assuming the State commander's job. He was an elected member of the State Administrative Board for 4 years before he was picked by the membership as a department line officer. He ultimately progressed his way through the various chairs, of the department, and was elected as State commander of the DAV in June 1995.

Equal in service to the DAV, Mrs. Gwen McCracken was elected to serve as commander of the Disabled Americans Auxiliary, Department of Michigan, in June 1995. Gwen McCracken has a long, outstanding record of service to her community. She has been a driving force in a number of organizations that are committed to improving the quality of life for those who are less fortunate. Mrs. McCracken was instrumental in helping to found Volunteers Assisting the Disabled, an organization that provides summer camp opportunities to adult MDA patients, who would otherwise, simply because of their age, be exempted from participating in camp.

Gwen McCracken is a life member of the Corporal Ian M. Gray Unit 51. She has been an extremely active member of the DAVA, eagerly accepting the duties and responsibilities of the many positions and offices of the organization that she has held including; state chaplain, senior page, first vice commander, and senior vice commander.

The McCrackens, through their collective energy, enthusiasm, and zeal, have stood like sentinels on behalf of not only disabled veterans, but on behalf of all veterans and their families. Their many years of combined service have helped to preserve and protect the promise that was made to care for those who have borne the battle, their widows, and their children.

Mr. Speaker, it is with great pride that I stand before you today asking that you and my fellow Members of the 104th Congress join me in honoring Stanley and Gwen McCracken. They have spent their lives in dedicated service to their country and community. I am pleased to have this opportunity to join with their family, friends, and colleagues to extend my deepest thanks for their tireless efforts on behalf of Michigan veterans.

VOL
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TRIBUTE TO REV. CHARLES L. MOORE

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. BOEHNER. Mr. Speaker, the Reverend Charles L. Moore, at the age of 86, is the oldest active priest in the 19 county greater Cincinnati archdiocese. During his religious career, he has served as a parish priest, high school teacher, jail chaplain, mission administrator, church pastor, district moderator of the National Catholic Community Services, archdiocesan director of the Catholic Information Services, and military service counselor in World War II in Florida.

Father Moore has spent the last 16 years serving the parishioners at the Holy Family Parish in Middletown, OH, the students at Fenwick High School, and John XXIII Elementary School.

June 6, 1996 will be the 60th anniversary of Father Moore's ordination into the priesthood. I want to congratulate Father Moore on his years of service and dedication to helping the people of Southwestern Ohio.

A LEGACY OF LENIENCY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. PACKARD. Mr. Speaker, President Clinton loves to talk up his record on crime, but the facts are the facts. The best antidrug legislation and the best law enforcement are useless if judges are not willing to uphold the law. When judges such as the ones the President has appointed show more sympathy for the people they prosecute, than for victims, the heroic efforts of the police and the law are muted.

The American people deserve the best qualified judges that reflect their priorities and values. It does not serve America well when a judicial nominee to one of the highest courts in the land does not possess even rudimentary knowledge of constitutional law—even if he is a golfing buddy of the President. If the President and Washington special interests get their way, we will get a judge trainee. This venerable position requires experience and extensive knowledge of the law. The nominee, Charles Stark posses neither. He even testified before Congress that he could make up for his ignorance of landmark court decisions and constitutional law by taking some courses or asking other judges for help.

Mr. Speaker, this is no way to run a railroad. Most Americans will agree that we do not need a judge who needs on-the-job training. We need judges who will protect the rights of crime victims, not invent new, more expansive rights for criminals. We need judges who will follow through with the tough-on-crime measures my Republican colleagues and I have passed. But, perhaps more importantly, we need a President who will nominate such individuals.

JOSEPH 'S. FRANCIS: FOUR DECADES OF SERVICE TO SAN DIEGO

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. FILNER. Mr. Speaker, I rise today to recognize Joseph S. Francis, executive secretary-treasurer of the San Diego-Imperial Counties Labor Council, who will be honored with a Distinguished Service Award by the San Diego-Imperial Counties Labor Council on April 27, 1996.

After four terms and 16 years of exemplary service, Joe Francis is stepping down from his leadership position with the San Diego-Imperial Counties Labor Council, whose affiliates number 103 local unions representing approximately 108,000 members. His strong leadership, vast experience, and organizing skills have contributed much to the San Diego labor movement.

Raised in New Bedford, MA, Joe Francis moved to San Diego in 1953. Working first at Convair, he took a volunteer position as shop steward. Six years later, he joined the San Diego Fire Department, where he became involved in the local Firefighters Union. He was elected as director of the Union Board in 1965 and later served as secretary and then president of Local 145.

In 1980, after 21 years in the fire department, he was elected to the office of executive-treasurer of the San Diego-Imperial Counties Labor Council with two-thirds of the vote.

Noted for his calm but direct demeanor, Joe Francis reached out to the labor community during his term and brought attention to a broad list of concerns. The Labor Council made great strides under his leadership.

It is no wonder that the San Diego Business Journal called Joe Francis "San Diego's Top Labor Leader."

His involvement in countless community organizations is a testament to his dedication. He currently serves on the boards of United Way, the San Diego County Board of Economic Advisors, and the San Diego Technology Council. He previously served on the boards of the Salvation Army and the Regional Employment Training Consortium, among others, and was president of the San Diego Convention Center Corporation.

As he relinquishes his current post with the Labor Council, Joe Francis will retain his position as executive director of San Diego Labor's Community Service Agency.

Mr. Speaker, I join labor leaders in San Diego and across the country in congratulating Joe Francis for receiving the San Diego-Imperial Counties Labor Council's Distinguished Service Award, and I wish him well in all future endeavors.

EIGHTY-FIRST ANNIVERSARY OF THE ARMENIAN GENOCIDE

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. COSTELLO. Mr. Speaker, I rise to join my colleagues today to commemorate the 81st anniversary of the Armenian genocide. In 1915, Armenian religious, political, and intellectual leaders were arrested and executed. The campaign of genocide began with this act and resulted in the deaths of over 1.5 million Armenians by 1923.

April 24 is the symbolic day of remembrance for the Armenian community to join together and remember the horrible events of their ancestors. Residents of Armenian heritage in my congressional district believe remembering the past will prevent the world from forgetting.

In addition, because some try to argue the Armenian genocide never occurred, calling attention to the tragedy is particularly worthwhile. Denial of genocide harms the victims and their survivors. That is one reason why I have joined a number of my colleagues in Congress in cosponsoring House Concurrent Resolution 47 to honor the memory of the victims of the Armenian genocide.

I ask my colleagues to join me in remembering the tragedy of the Armenian genocide and in renewing our commitment to human rights. The Congress must stand firm in its resolve to oppose violence and repression against humanity.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 25, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 26

10:00 a.m.
Commission on Security and Cooperation in Europe
To hold a briefing on the ethnic Turkish minority of Greece.
2200 Rayburn Building

APRIL 29

3:00 p.m.
Armed Services
Personnel Subcommittee
Closed business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of a proposed National Defense Authorization Act for fiscal year 1997.
SR-222

APRIL 30

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Federal Emergency Management Agency.
SD-192

Commerce, Science, and Transportation
To hold hearings on the proposed nomination of Michael Kantor, of California, to be Secretary of Commerce.
SR-253

Governmental Affairs
Oversight of Government Management and the District of Columbia Subcommittee
To hold hearings to examine aviation safety, focusing on the training and supervision of Federal Aviation Administration inspectors.
SD-342

10:00 a.m.
Armed Services
Readiness Subcommittee
Business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of a proposed National Defense Authorization Act for fiscal year 1997.
SR-232A

Foreign Relations
To hold hearings on the nominations of Wendy Jean Chamberlin, of Virginia, to be Ambassador to the Lao People's Democratic Republic, Thomas C. Hubbard, of Tennessee, to be Ambassdor to the Republic of the Philippines and to serve concurrently and without additional compensation as Ambassador to the Republic of Palau, and Glen Robert Rase, of Florida, to be Ambassador to Brunel Darussalam.
SD-419

Judiciary
To hold hearings to examine affirmative action in Calfifornia.
SD-226

11:00 a.m.
Armed Services
Acquisition and Technology Subcommittee
Closed business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of a proposed National Defense Authorization Act for fiscal year 1997.
SR-222

2:30 p.m.
Armed Services
Airland Forces Subcommittee
Closed business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of a proposed National Defense Authorization Act for fiscal year 1997.
SR-222

Commerce, Science, and Transportation
Oceans and Fisheries Subcommittee
To hold hearings On S. 1420, to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean.
SR-253

4:30 p.m.
Armed Services
SeaPower Subcommittee
Closed business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of a proposed National Defense Authorization Act for fiscal year 1997.
SR-232A

6:00 p.m.
Armed Services
Strategic Forces Subcommittee
Closed business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of a proposed National Defense Authorization Act for fiscal year 1997.
SR-222

MAY 1

9:00 a.m.
Armed Services
Closed business meeting, to mark up a proposed National Defense Authorization Act for fiscal year 1997, and to receive a report from the Senate Select Committee on Intelligence on the Intelligence Authorization Act for Fiscal Year 1997.
SR-222

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Reserve and National Guard programs.
SD-192

Rules and Administration
To resume hearings on issues with regard to the Government Printing Office.
SR-301

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for foreign assistance programs, focusing on the New Independent States.
SD-138

2:30 p.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine airport revenue diversion.
SR-253

MAY 2

9:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for energy conservation programs.
SD-116

Armed Services
Closed business meeting, to continue to mark up a proposed National Defense Authorization Act for fiscal year 1997.
SR-222

9:30 a.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 1401, to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that Act with respect to surface coal mining and reclamation operations, and S. 1194, to amend the Mining and Mineral Policy Act of 1970 to promote the research, identification, assessment, and exploration of marine mineral resources.
SD-366

10:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for fossil energy, clean coal energy, the Strategic Petroleum Reserve, and the Naval Petroleum Reserve.
SD-116

MAY 3

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Veterans Affairs.
SD-192

MAY 7

10:00 a.m.
Judiciary
To resume hearings on S. 1284, to amend title 17 to adapt the copyright law to the digital, networked environment of the National Information Infrastructure.
SD-106

Joint Library
Business meeting, to consider a report of the General Accounting Office on the Library of Congress.
SR-301

MAY 8

10:00 a.m.
Veterans' Affairs
To hold hearings to examine the reform of health care priorities.
SR-418

2:00 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Housing and Urban Development.
SD-192

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Internal Revenue Service, Department of the Treasury.
SD-138

MAY 9

9:30 a.m.
Indian Affairs
To hold oversight hearings on the impact of the U.S. Supreme Court's recent decision in Seminole Tribe v. Florida on the Indian Gaming Regulatory Act of 1988.
SD-G50

VOL
142
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MAY 15

2:00 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the National Aeronautics and Space Administration.
SD–192

MAY 17

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Corporation for National and Community Service.
SD–192

MAY 24

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Environmental Protection Agency.
SD–192

SEPTEMBER 17

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.
334 Cannon Building

CANCELLATIONS

APRIL 25

10:00 a.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of State.
S–146, Capitol

POSTPONEMENTS

APRIL 25

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.
SR–253

VOL
142

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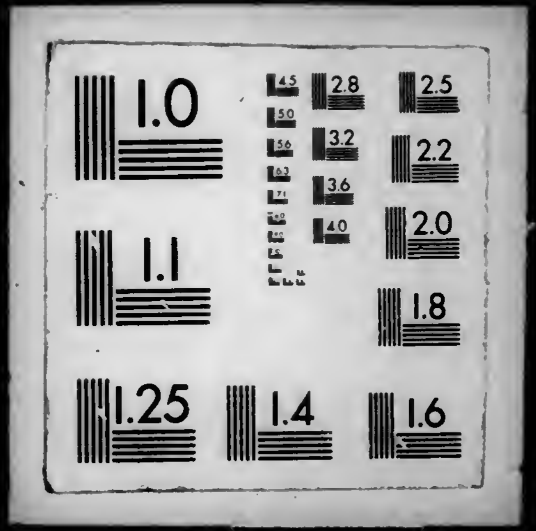
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